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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, June 23, 1980*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
June 28, 1980.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, June 23, 1980.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, in whom we live and move and have our being, graciously bestow upon people everywhere Your peace that passes all human understanding. In spite of the tumult and confusion of our world, grant us hope in a new and better day; in spite of pain and anxiety, grant us healing; and where there is weakness of spirit or any burden of daily living, give us the refreshing balm of Your presence. Ever give us courage to live in obedience to Your will, knowing that You are with us, even until the end of the age. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2245. An act to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1972. An act to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.

S. 2251. An act to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol;

S. 2476. An act to provide that the shipping vessel *Kailua* have the right to engage in coastwide trade; and

S. 2830. An act to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the 5th Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, La., to be known as the 5th Circuit, and the other to be composed of the States of Alabama, Florida, and Georgia with headquarters in Atlanta, Ga., to be known as the 11th Circuit, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2240) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT to be the conferees on the part of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON JUNE 24, 1980, THROUGH JUNE 27, 1980, DURING 5-MINUTE RULE

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit on June 24 through June 27, while the House is reading for amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TRIBUTE TO BARNABY C. KEENEY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, it is with sadness that I take this time to pay tribute to Dr. Barnaby C. Keeney, who died last week. Among Barnaby Keeney's many services to our country was his leadership as the first Chairman of the National Endowment for the Humanities.

Dr. Keeney, as many of my colleagues will recall, was chosen by President Johnson as the first Chairman of NEH after Congress enacted the statute establishing it and the National Endowment for the Arts in 1965.

As one of the sponsors of this legislation, I was very much aware of the able leadership Dr. Keeney provided in those important initial years of the National Endowment for the Humanities. Under his chairmanship, the Endowment became a major force in generating new support for the humanities, a sometimes neglected aspect of American culture.

Dr. Keeney, then president of Brown University, had headed the study group which recommended establishment of a humanities endowment. He served as Chairman of the endowment until 1970.

As president of Brown University from 1955 to 1966, Dr. Keeney was instrumental in leading that eminent institution to new heights of educational and physical growth. An outspoken scholar whose speciality was medieval history, Dr. Keeney never hid behind intellectual pomposity and rhetoric. He always had great concern for his students.

Beyond these qualities, Mr. Speaker, I must say that Barnaby Keeney was one of the most delightfully witty human beings I have ever known.

Mr. Speaker, Dr. Keeney was born in Halfway, Oreg., on October 17, 1914. He earned his bachelor of arts degree from the University of North Carolina in 1936, his master's degree from Harvard University in 1937 and his doctorate from

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Harvard in 1939. While a history instructor at Harvard, he joined the Army, serving in Europe as an infantry captain and was awarded the Silver Star, the Bronze Star, and the Purple Heart. He joined the faculty at Brown following World War II, rising through the university's hierarchy to the presidency.

Following his departure from the endowment for the humanities, Dr. Keeney served a year as chief executive officer of the Washington Consortium of Graduate Schools. He then became president of the Claremont Graduate School in California until his retirement in 1976.

Mr. Speaker, Dr. Keeney, held several honorary degrees, was a fellow of the American Academy of Arts and Sciences and received the first award for distinguished service to the humanities bestowed by Phi Beta Kappa, the honorary scholarship society of which he was a member.

Mr. Speaker, our country and all those who appreciate the importance of the humanities have lost an eminent and effective champion.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Dr. Barnaby Keeney.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

U.S. STRIPPER OIL

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, with the insecurity of our foreign oil supply, we need to address the problems of domestic production, and an important part of that production is stripper oil. Stripper oil accounts for over 14 percent of the U.S. total oil production. The U.S. total stripper production for 1978 was 391,633,146 barrels which came from the 347,635 wells. America gets 10 times as much energy from stripper oil as we do from all solar energy systems.

Stripper wells are located in 28 States. Texas is the No. 1 producer, with 96,713 wells, which is 28 percent of the U.S. total. These wells provided over 33 percent of the total U.S. stripper production. Total Texas oil production for 1978 was 1,048,966,000 barrels, which was 34 percent of the U.S. total for that year.

Let us focus on the importance of this issue. In 1978, stripper production was equivalent to 99 percent of the production from the entire North Slope of Alaska; it was also equivalent to 96 percent of the U.S. offshore production for 1978. If the United States had to import the amount of stripper oil we produced in 1978, it would cost us $15,665,326,000.

In 1973, stripper oil reserves increased 2.6 billion barrels as a direct result of decontrol, but the windfall profit tax will make recovery of this oil very unlikely. Joe B. McShane, Jr., president of the National Stripper Well Association, predicts that 67,500 additional wells will be abandoned during the 1980's, causing the United States to lose a year's worth of stripper well production, due to the windfall profit tax.

Executive vice president of the National Stripper Well Association, Mr. Taylor, says that over 70 percent of stripper wells are owned locally by small independent oilmen. The income from these wells contributes greatly to the local economy of the rural areas where the wells are found. The wells hire local workers, who spend their paychecks at local stores and pay local taxes.

Obviously, strippers play a major role in our domestic oil scene. By taxing strippers you are not hurting the big oil companies, you are hurting the overtaxed average American. When we continue to tax, tax, tax our oilmen, production will decline, our reserves will decline, drilling will decline, most of all, faith in our American free enterprise system will decline. We already have more government than we need, more regulations than we can carry, and more taxes than we can afford to pay.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Any such rollcall votes, if postponed, will be taken on Tuesday, June 24, 1980.

UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1980

Mrs. BYRON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6982) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to make permanent the existing special pay provisions for other health professionals in the uniformed services, as amended.

The Clerk read as follows:

H.R. 6982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers of the armed forces

"(a) (1) An officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection who is serving in a pay grade below pay grade O–7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training.

"(B) $5,000 per year, if the officer has less than six years of creditable service and is not undergoing medical internship training.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eight but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) (A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(B) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection and who is board certified is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a) (2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 perecnt of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c)(1) An officer may not be paid additional special pay under subsection (a)(4) of this section or incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining—

"(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a)(5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(g) For purposes of this section, creditable service of an officer is computed by adding—

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers of the armed forces.".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE PUBLIC HEALTH SERVICE

SEC. 3. (a)(1) Chapter 5 of such title is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: medical officers of the Public Health Service

"(a) A medical officer of the Public Health Service who is on active duty for a period of at least one year is entitled to special pay at the following rates:

"(1) $100 a month for each month of active duty if the officer has not completed two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(2) $350 a month for each month of active duty if the officer has completed at least two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to special pay under subsection (a) of this section and who is serving in a pay grade below pay grade O-7 may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary of Health and Human Services has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed 6 percent of the total amount paid in such year for special pay under section 311 of this title for medical officers of the Public Health Service, for special pay under section 313 of this title, and for special pay under this section.

"(c)(1) An officer may not be paid incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) Under regulations prescribed under section 303a(a) of this title, the Secretary of Health and Human Services may terminate at any time an officer's entitlement to the special pay authorized by subsection (b) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Health and Human Services under section 303a(a) of this title shall include standards for determining whether an officer is undergoing medical internship or initial residency training for purposes of subsection (b) of this section.

"(e) Special pay payable to an officer under subsection (b) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (b) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service.".

(b)(1) Subsection (a) of section 313 of such title, relating to special pay for medical officers who execute active duty agreements, is amended—

(A) by striking out "Secretary of Defense" and all that follows in such subsection through "Public Health Service," and inserting in lieu thereof "Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') and approved by the President, a medical officer of the Public Health Service"; and

(B) by striking out "Secretary concerned" each place it appears in such subsection and inserting in lieu thereof "Secretary".

(2) Subsection (b) of such section is amended by striking out "Secretary of Defense, the Secretary concerned" and inserting in lieu thereof "Secretary, the Secretary".

(3) Subsection (c) of such section is amended by striking out "by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate," and inserting in lieu thereof "by the Secretary,".

(4) Subsection (e) of such section is amended—

(A) by striking out "The Secretary" and all that follows in such subsection through "each year" the first place it appears and inserting in lieu thereof "Not later than July 31 of each year, the Secretary shall submit a written report"; and

(B) by striking out the third sentence in such subsection.

(5) The heading of such section is amended to read as follow:

"§ 313. Special pay: medical officers of the Public Health Service who execute active duty agreements".

(6) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active duty agreements.".

PERMANENT AUTHORITY FOR OTHER SPECIAL PAY PROVISIONS FOR HEALTH PROFESSIONALS IN THE UNIFORMED SERVICES

SEC. 4. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsection (b) and (c).

(b) Section 302b of such title, relating to special pay for dentists, is amended—

(1) by striking out ", in addition to any other pay or allowances to which he is entitled."; and

(2) by striking out the last sentence of such section.

(c) Section 303 of such title, relating to special pay for veterinarians, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(d)(1) Subsection (a) of sections (b) and (c).

(d)(1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended to read as follows:

"(a)(1) Under regulations to be prescribed by the Secretary of Defense, an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Defense;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay (under the rates of basic pay in effect on April 1, 1980) when he executes that agreement for each additional year that he agrees to remain on active duty. The eligibility of an officer for special pay under the preceding sentence, and the method of computing the amount of such special pay, shall be determined in accordance with the provisions of the regulations of the Secretary of Defense which on April 1, 1980, determined the eligibility for and method of computation of such special pay, except that in computing the amount of such special pay, the rates of basic pay to be applied are the rates of basic pay in effect on April 1, 1980.

"(2) Under regulations to be prescribed by the Secretary of Health and Human Services, a medical officer of the Public Health Service above the pay grade of O-6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on July 1, 1974, or a dental officer of the Public Health Service who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Health and Human Services;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty.

"(3) Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.".

(2) Subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) The heading of such section is amended to read as follows:

§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service".

(4) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service".

(e) Section 2 of the Act entitled, "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

GENERAL PROVISIONS; RELATING TO HEALTH PROFESSIONALS

SEC. 5. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

"§ 303a. Special pay: health professionals; general provisions

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b , 302c, 303, 311, and 313 of this title.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

TECHNICAL AMENDMENT

SEC. 6. Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303".

"SEC. 7. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, any officer of the Army, Navy, or Air Force who at any time before the effective date of the amendments made by this Act was entitled to special pay under section 302 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such section (as in effect on the day before such effective date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay in effect on the day before such date).

EFFECTIVE DATE

SEC. 8. The amendments made by sections 2 and 3 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

The SPEAKER pro tempore. Is a second demanded?

Mr. MITCHELL of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. BYRON) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am taking the place, today, of the distinguished chairman of the Military Compensation Subcommittee, the gentleman from Alabama (Mr. NICHOLS) who had a previous engagement. The gentleman from Alabama has been instrumental in bringing this bill to this point. He wanted very much to manage the bill on the floor but rather than delay the progress of the bill, he asked if I would handle the bill, today.

On March 11, 1980, the President vetoed H.R. 5235, a bill that would have revised the special pays for uniformed services physicians, dentists, optometrists, and podiatrists. The President expressed objection to the scope of that bill—it contained increases to the special pay for Public Health Service health professionals as well as for military dentists, optometrists, and podiatrists—and that the bill provided permanent authority for the special pays rather than temporary authority.

H.R. 6982 is the committee's response to the veto. We report back to the House a bill that addresses the President's objections by restricting the increases in special pay to military physicians and by not restructuring the special pay for other health professionals. H.R. 6982 does make permanent the present special pay for other health professionals including Public Health Service medical officers and dental officers.

The new special pay provisions for military physicians are the same as those contained in the vetoed bill and would replace the current special pay system for military physicians. None of the payments provided by the bill would be dependent on the obligated status of the physician; there would be no expiration date for the authority for these payments; and the level of the payments would be specifically delineated in statute and not subject to administrative change.

Four types of special pays are provided for military physicians under the bill: A payment while not in internship or initial residency training; a variable special pay; a payment for board certification; and an incentive special pay.

Under the current law the Secretary of Defense is authorized to issue regulations authorizing continuation pay of up to 4 months' basic pay to military dental officers who agree to serve for an additional year. Under the bill, the regulations governing the number of months of basic pay authorized for the various categories of military dentists which were in effect on April 1, 1980, are frozen and cannot thereafter be changed by the Secretary of Defense.

Current authority to pay special pay to medical officers of the commissioned corps of the Public Health Service and to uniformed services dentists, optometrists, and veterinarians, expires on September 30, 1980. The bill removes the expiration date for the special pays for these health professionals.

There has been a 3-month delay since the veto of H.R. 5235. This has had an adverse impact on retention of military and Public Health Service health professionals. This delay has been caused primarily by the delay in getting the budget resolution in place.

If we can get the bill to the President by the end of this month, however, the new pay system could be effective as early as July 1. This has a number of advantages, the primary one being a shot in the arm for the morale of the military medical corps. In addition, although the budget ceiling has been revised, there is no telling when it will be reached. Recent action on the supplemental appropriation bill indicates that the door may be closed sooner than expected.

The Senate has acted on a similar bill S. 2460.

In order to expedite passage of a bill, H.R. 6982 as reported by the committee was amended to reflect a position that we hope will be acceptable to the House and the Senate such that a conference can be avoided. I also believe that the bill upon which we are acting will be acceptable to the President.

The amended bill would do the following:

For military dentists, it would provide the current levels of bonuses as an entitlement with no discretionary ability to administratively modify these levels but would provide no future automatic adjustments to these levels—no adjustments are afforded the other special pays for health professionals. In effect, it would provide an entitlement to the existing set of bonuses for dental officers.

For Public Health Service physicians, it would continue the current levels of special pay, but in addition, it would authorize a discretionary component of special pay of up to $8,000. This would be limited to 6 percent of the total budget for Public Health Service physician special pays.

In addition, it would provide unexpiring authority for all special pays.

Finally, the amendment would strike language in the bill as reported that requires that the fiscal year 1980 cost must be absorbed within current Department of Defense appropriations. This provision was originally inserted to avoid Budget Act problems that have been subsequently eliminated by the adoption of the budget resolution.

Should the House pass the bill as amended today, I will subsequently ask to call up the Senate bill, amend the Senate bill with the bill under consideration, and send the bill back to the Senate for what I hope would be expeditious action.

I believe it is important to move on this bill as quickly as possible and urge the Members to support this approach.

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Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 6982, but I do it reluctantly. As one of our leaders used to say, I want to make it perfectly clear, I want this bill to pass. We definitely need it, but I am nowhere near as enthusiastic in support of it as I was a bill that the President vetoed that we passed in this House a couple of months ago, H.R. 6235.

I thought the veto by the President demonstrated a complete lack of understanding of the problems that we have in this area and a total insensitivity to the health care needs of the Armed Forces.

Health care in the armed services is deteriorating. We are not delivering what we promised at the time of recruitment and enlistment. This is one of the major complaints we receive when we interview young men who are leaving the services. It is one of the reasons they are getting out. It is seen as a part of a much bigger picture, as a breach of contract, as it were, or as an erosion of benefits for the people in the services by the Congress.

The cause of the health care shortage, Mr. Speaker, is the failure to retain the people we now have in the health professions, to retain sufficient practitioners. We get enough in the pipeline to begin with, but we keep very few of them. One of the reasons we cannot keep them is because of the huge disparity in earnings between what a health practitioner can make in the civilian sector as opposed to what he makes in the military. For example, a young physician who is a major, perhaps, who has been in 6 or 7 years can earn as much as $75,000 on the outside, but only $43,000 under present law. This bill will enable him to earn up to $48,000. So the difference between the $75,000 and even the $48,000 is huge; but it demonstrates to the health practitioner that we do care that he is in the service and we want to encourage him to remain.

Our original bill did an excellent job addressing the overall problem. It provided incentive for all health practitioners, including dentists, optometrists, veterinarians and podiatrists. It is not lavish or wasteful, but it did provide incentive pay by targeting it in areas where key decisions are being made in a person's career. It was innovative in its approach. It is just a shame that the bill was vetoed. After the veto, the new version addresses only the problems of the physicians in the armed services. It provides only token incentives to all others that were addressed in the original legislation.

I am hopeful that after a year or so of experience with this new program where we do address only the M.D. program that whoever is President will recognize the failure of this "half a loaf" approach and will accept the other half which will include the dentists, the optometrists, the veterinarians and podiatrists. I have introduced a bill to do just that. I have no pride in authorship. I simply took the portion of the program that is not included in this, that the President objected to, and put it in a new package.

Even though this bill is imperfect, even though it is inadequate, it is far better than nothing. We need it. It is a step in the right direction.

Mr. Speaker, let me be more specific:

As restructured under H.R. 6982, the special pay for military physicians would be composed of four elements:

First. A bonus to all military physicians not engaged in internship or residency training ($9,000 per year for those with less than 10 years of service; $10,000 per year for those with 10 or more years);

Second. A variable special pay ranging from $5,000 to $10,000 depending on years of service;

Third. A payment for board certification ranging from $2,000 to $5,000 depending on years of service; and

Fourth. An incentive special pay of up to $8,000 per year for physicians in critical specialties.

The regulations under which military dentists receive special pays today would be frozen and this would not be subject to secretarial change in the future.

The authority for all current special pays expires on September 30, 1980. The bill would remove this expiration date for all special pays, thereby providing unexpiring authority and a sense of pay stability among health professionals.

The Office of Management and Budget has indicated opposition to the provision in H.R. 6982 that would freeze existing regulations for the special pay for military dental officers, but only because the rates of pay would continue to be automatically adjusted with each pay increase in the future. The amended bill being considered today would freeze both the method of calculation and the amount of the special pay.

CBO estimates the first year cost to be $7.8 million. The fiscal year 1981 cost is estimated to be $26.2 million. The cost is expected to grow to $50.6 million by fiscal year 1984.

Mr. Speaker, I would like to discuss the provisions of the bill before us in some detail.

MILITARY PHYSICIANS

Military physicians would receive the same four types of special pay they would have received under the vetoed bill.

PAYMENT WHILE NOT IN TRAINING

An annual payment of $9,000 per year would be provide to all physicians with less than 10 years of creditable service who are not engaged in internship or initial residency training; this payment would be increased to $10,000 per year for physicians with 10 or more years of creditable service who are not in internship or initial residency training. This payment would be offered as a lump sum at the beginning of a year for which a physician agrees to remain on active duty.

VARIABLE SPECIAL PAY

The second component, variable special pay, would be payable to all military physicians on active duty regardless of status and would range from $5,000 to $10,000 per year depending on years of creditable service—$1,200 per year would be payable when a physician is engaged in internship. Variable special pay was set to achieve the desired shape and level of total physician compensation. It would be paid on a monthly basis. The annual rates of variable special pay are shown below:

Annual variable special pay

Years of creditable service:	
In internship	$1,200
Less than 6	5,000
6 to 8	10,000
8 to 10	9,500
10 to 12	9,000
12 to 14	8,000
14 to 18	7,000
18 to 22	6,000
Over 22	5,000

Flag officers would receive $1,000 as variable special pay regardless of years of service. They are also eligible for the other components of special pay if they meet the appropriate criteria.

PAYMENT FOR BOARD CERTIFICATION

The third component of special pay would be payable to physicians who have achieved board certification and would depend on years of creditable service. The amount would range from $2,000 to $5,000 per year and would be paid on a monthly basis. The annual rates are shown below:

Annual payment for board certification

Years of creditable service:	
Less than 10	$2,000
10 to 12	2,500
12 to 14	3,000
14 to 18	4,000
Over 18	5,000

INCENTIVE SPECIAL PAY

The fourth component of special pay would be payable in an amount not to exceed $8,000 per year and is intended to be used to provide additional incentive to physicians in specialties in critical supply. In addition, this component could be used to test the effectiveness of similar forms of additional pay to address other shortages in the physician force. The total incentive special pay for all physicians would be limited to 6 percent of the amount of total special pay expended for physicians in a fiscal year.

CREDITABLE SERVICE

For the purpose of establishing the amount of special pay, creditable service for a military physician is computed by adding all periods spent in medical intership and residency status while not on active duty plus all periods of active service as a military physician.

MILITARY DENTAL OFFICERS

The Secretary of Defense currently is authorized to pay of up to 4 months' basic pay to military dental officers who agree to serve for an additional year. Under the bill, as amended, the regulations in effect on April 1, 1980, that govern the number of months of basic pay authorized for the various categories of military dentists would be frozen and could not, thereafter, be changed by the Secretary of Defense. The calculation of the amount of continuation pay would be based on the basic pay tables in effect on October 1, 1979.

OTHER UNIFORMED HEALTH PROFESSIONALS

Current authority to pay special pay to medical officers of the commissioned corps of the Public Health Service and to uniformed services dentists, optometrists, and veterinarians, expires on September 30, 1980.

The bill removes the expiration date for the special pays for these health professionals.

Public Health Service physicians would continue under the current system but in addition would be eligible for an incentive special pay of up to $8,000 per year similar to that provided military physicians.

Although none of the special pays provided by the bill are automatically adjusted in the future, the bill does require a report every 2 years by the Secretary of Defense on the adequacy of the pay for health professionals and the impact of the pay on the ability to attract and retain qualified health professionals.

Mr. Speaker, we bring this amended bill to the floor today in an attempt to expedite final action on this matter. We are, in effect, offering a compromise before we go to conference. In the interest of time and in the interest of avoiding a further delay—that will only exacerbate an already deteriorating retention problem among our health professionals—I urge the Members of this body to accept this bill, today.

● Mr. **WON PAT**. Mr. Speaker, I rise in support of H.R. 6982, legislation which provides for special pay provisions for military physicians and other health professionals.

This bill is a good measure and I fully endorse the provisions it contains. The House Armed Services Committee, of which I am proud to be a member, put many hours into this bill to assure that it did the best possible job of addressing the pay problems of those concerned. As a cosponsor of H.R. 6982, I hope that my colleagues here today will give it their favorable consideration.

One point that I want to make clear is that the current bill is designed to meet the objections of President Carter who earlier vetoes the original version of the Health Professions Act. Our committee is deeply aware that health professionals have serious pay problems when compared with their counterparts in the civilian world and this bill is designed to meet that need.

The bill would revise the current system of special pay for military physicians and make permanent the current special pay provisions for military dentists, optometrists, veterinarians, and all health professionals in the public health service.

This is needed to assure that the military and the public health service retain the health professionals we need. I urge the adoption of this bill.●

Mr. **MITCHELL** of New York. Mr. Speaker, I have no requests for time. I yield back the balance of my time.

Mrs. **BYRON**. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. BYRON) that the House suspend the rules and pass the bill, H.R. 6982, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mrs. **BYRON**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill, (S. 2460) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers

"(a) (1) An officer who is an officer of the Medical Corps of the Army or the Navy, an officer of the Air Force designated as a medical officer, or a medical officer of the Public Health Service, and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection who is serving in a pay grade below pay grade O–7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training, as determined under regulations prescribed under section 303a(a) of this title.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) (A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training, as determined under regulations prescribed under section 303a(a) of this title.

"(B) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training, as determined under regulations prescribed under section 303a(a) of this title.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection who is board certified, as determined under regulations prescribed under section 303a(a) of this title, is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b)(1) Subject to paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training, as determined under regulations prescribed under section 303a(a) of this title.

"(2) An officer shall not be eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned had determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c)(1) An officer may not be paid additional special pay under subsection (a)(4) of this section or incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) The Secretary of the military department concerned, in accordance with regulations prescribed by the Secretary of Defense under section 303a(a) of this title, and the Secretary of Health and Human Services, in accordance with regulations prescribed by him for the Public Health Service under section 303a(a) of this title, may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations under section 303a(a) of this title which include standards for determining—

"(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a)(5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(g) For purposes of this section, creditable service of an officer is computed by adding—

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers.".

EXTENSION OF SPECIAL PAY FOR OPTOMETRISTS, DENTISTS, AND VETERINARIANS IN THE UNIFORMED SERVICES AND OF CONTINUATION PAY FOR DENTISTS IN THE ARMED FORCES AND DENTISTS IN THE PUBLIC HEALTH SERVICE

SEC. 3. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "In addition to any other basic pay, special pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each"; and

(2) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) No special pay may be paid under this section for any month after September 1983.".

(b) Section 302b of such title relating to special pay for dentists, is amended—

(1) by inserting "(a)" before "An officer";

(2) by striking out ", in addition to any other pay or allowances to which he is entitled,";

(3) by striking out the last sentence of such section; and

(4) by adding at the end thereof the following new subsections:

"(b) No special pay may be paid under this section to a dental officer of the Public Health Service for any month after September 1981.

"(c) No special pay may be paid under this section to an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer after September 1983.".

(c) Section 303 of such title, relating to special pay for veterinarians, is amended—

(1) by striking out "In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each"; and

(2) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) No special pay may be paid under this section for any month after September 1983.".

(d)(1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended by striking out "an officer of the Army" the first place it appears and all that follows in such subsection through "June 1, 1974," the third place it appears.

(2) The second sentence of subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) Such section is further amended by adding at the end thereof the following new subsections:

"(d) No special pay may be paid under this section to any dental officer of the Public Health Service for any month after September 1981.

"(e) No special pay may be paid under this section to any officer in the Dental Corps of the Army or Navy or to any officer in the Air Force who is designated as a dental officer for any month after September 1983.".

(4) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and dentists in the Public Health Service".

(5) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"311. Special pay: continuation pay for dentists in the armed forces and dentists in the Public Health Service.".

GENERAL PROVISIONS RELATING TO HEALTH PROFESSIONALS

SEC. 4. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

"§ 303a. Special pay: health professionals; general provisions

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 5. (a) Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303.".

(b)(1) Section 313 of such title, relating to medical officers who execute active duty agreements, is repealed.

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 313.

(c) Section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

TRANSITION PROVISION

SEC. 6. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, any officer who at any time before the effective date of the amendments made by this Act was entitled to special pay under sections 302 and 313 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such sections (as in effect on the day before such effective date) had such sections continued in effect, shall be paid basic pay and special pay under such sections (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date).

EFFECTIVE DATE

SEC. 7. The amendments made by section 2 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

FUNDS FOR FISCAL YEAR 1980

SEC. 8. This Act, and the amendments made by this Act, do not provide new budget authority or new spending authority for fiscal year 1980. Funds previously appropriated to the Department of Defense for fiscal year 1980 and not previously obligated or expended are hereby made available to carry out the amendments made by this Act during fiscal year 1980 in the amount of $7,800,000, and funds previously appropriated to the Department of Health and Human Services (previously the Department of Health, Education, and Welfare) for fiscal year 1980 and not previously obligated or expended are hereby made available to carry out the amendments made by this Act during fiscal year 1980 in the amount of $1,000,000.

MOTION OFFERED BY MRS. BYRON

Mrs. BYRON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. BYRON moves to strike out all after the enacting clause of the Senate bill (S. 2460) and to insert in lieu thereof the provisions of H.R. 6982, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to make permanent the existing special pay provisions for other health professionals in the uniformed services."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6982, was laid on the table.

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered, H.R. 6982.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

INLAND NAVIGATION RULES

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6671) to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Inland Navigational Rules Act of 1980".

SEC. 2. Inland Navigational Rules:

PART A—GENERAL

RULE 1

Application

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

(b) (i) These Rules constitute special rules made by an appropriate authority within the meaning of Rule 1(b) of the International Regulations.

(ii) All vessels complying with the construction and equipment requirements of the International Regulations are considered to be in compliance with these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Secretary of the Navy with respect to additional station or signal lights and shapes or whistle signals for ships of war and vessels proceeding under convoy, or by the Secretary with respect to additional station or signal lights and shapes or whistles for fishing vessels engaged in fishing as a fleet. These additional station or signal lights and shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light or signal authorized elsewhere under these Rules. Notice of such special rules shall be published in the Federal Register and, after the effective date specified in such notice, they shall have effect as if they were a part of these Rules.

(d) Vessel traffic service regulations may be in effect in certain areas.

(e) Whenever the Secretary determines that a vessel or class of vessels of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, without interfering with the special function of the vessel, the vessel shall comply with such other provisions in regard to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, as the Secretary shall have determined to be the closest possible compliance with these Rules. The Secretary may issue a certificate of alternative compliance for a vessel or class of vessels specifying the closest possible compliance with these Rules. The Secretary of the Navy shall make these determinations and issue certificates of alternative compliance for vessels of the Navy.

(f) The Secretary may accept a certificate of alternative compliance issued by a contracting party to the International Regulations if he determines that the alternative compliance standards of the contracting party are substantially the same as those of the United States.

RULE 2

Responsibility

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

RULE 3

General Definitions

For the purpose of these Rules and this Act, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water;

(b) The term "power-driven vessel" means any vessel propelled by machinery;

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used;

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability;

(e) The word "seaplane" includes any aircraft designed to maneuver on the water;

(f) The term "vessel not under command" means a vessel which through some exceptional circumstance is unable to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel;

(g) The term "vessel restricted in her ability to maneuver" means a vessel which from the nature of her work is restricted in her ability to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel;

Vessels restricted in their ability to maneuver shall include, but not be limited to:

(i) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(ii) a vessel engaged in dredging, surveying, or underwater operations;

(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(iv) a vessel engaged in the launching or recovery of aircraft;

(v) a vessel engaged in minesweeping operations;

(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The word "underway" means that a vessel is not at anchor, or made fast to the shore, or aground;

(i) The words "length" and "breadth" of a vessel mean her length overall and greatest breadth;

(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;

(k) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes;

(l) "Western Rivers" means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River.

(m) "Great Lakes" means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock.

(n) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(o) "Inland Waters" means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States and the waters of the Great Lakes on the United States side of the International Boundary.

(p) "Inland Rules" or "Rules" mean the Inland Navigational Rules and the annexes thereto, which govern the conduct of vessels and specify the lights, shapes, and sound signals that apply on inland waters;

(q) "International Regulations" means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States;

PART B—STEERING AND SAILING RULES

SUBPART I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

RULE 4

Application

Rules in this subpart apply in any condition of visibility.

RULE 5

Lookout

Every vessel shall at all times maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

RULE 6

Safe Speed

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) the state of visibility;

(ii) the traffic density including concentration of fishing vessels or any other vessels;

(iii) the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) at night the presence of background light such as from shores lights or from back scatter of her own lights;

(v) the state of wind, sea, and current, and the proximity of navigational hazards;

(vi) the draft in relation to the available depth of water.

(b) Additionally, by vessels with operatiional radar:

(i) the characteristics, efficiency and limitations of the radar equipment.

(ii) any constraints imposed by the radar range scale in use;

(iii) the effect on radar detection of the sea state, weather, and other sources of interference;

(iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) the number, location, and movement of vessels detected by radar;

(vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

RULE 7

Risk of Collision

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;

(ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

RULE 8

Action To Avoid Collision

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

RULE 9

Narrow Channels

(a) (i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(ii) Notwithstanding paragraph (a) (i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a) (i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to effect safe passage.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e) (i) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt she shall sound the danger signal prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

RULE 10

Vessel Traffic Services

Each vessel required by regulation to participate in a vessel traffic service shall comply with the applicable regulations.

SUBPART II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

RULE 11

Application

Rules in this subpart apply to vessels in sight of one another.

RULE 12

Sailing Vessels

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;

(iii) if a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

RULE 13

Overtaking

(a) Notwithstanding anything contained in Rules 4 through 18, any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam; that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

RULE 14

Head-on Situation

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line of both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

RULE 15

Crossing Situation

(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

(b) Notwithstanding paragraph (a), on the Great Lakes, Western Rivers, or waters specified by the Secretary, a vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

RULE 16

Action by Give-Way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

RULE 17

Action by Stand-on Vessel

(a) (i) Where one of two vessels is to keep out of the way, the other shall keep her course and speed.

(ii) The latter vessel may, however, take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with subparagraph (a) (ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

RULE 18

Responsibilities Between Vessels

Except where Rules 9, 10, and 13 otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(i) a vessel not under command;

(ii) a vessel restricted in her ability to maneuver;

(iii) a vessel engaged in fishing;

(iv) a sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:

(i) a vessel not under command;

(ii) a vessel restricted in her ability to maneuver;

(iii) a vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(i) a vessel not under command;

(ii) a vessel restricted in her ability to maneuver.

(d) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

SUBPART III—CONDUCT OF VESSELS IN RESTRICTED VISIBILITY

RULE 19

Conduct of Vessels in Restricted Visibility

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with Rules 4 through 10.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) an alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken;

(ii) an alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on course. She shall if necessary take all her way off and, in any event, navigate with extreme caution until danger of collision is over.

PART C—LIGHTS AND SHAPES

RULE 20

Application

(a) Rules in this Part shall be complied with in all weathers.

(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times as no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules.

RULE 21

Definitions

(a) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and after centerline of the vessel.

(b) "Sidelights" mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respecive side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.

(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

(g) "Special flashing light" means a yellow light placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to not less than 90 degrees nor more than 112.5 degrees on either side of the vessel, and flashing at regular intervals at a frequency of 50 to 70 flashes per minute.

RULE 22

Visibility of Lights

The lights prescribed in these Rules shall have an intensity as specified in Annex I to these Rules, so as to be visible at the following minimum ranges:

(a) In a vessel of 50 meters or more in length:

a masthead light, 6 miles;

a sidelight, 3 miles;

a sternlight, 3 miles;

a towing light, 3 miles;

a white, red, green or yellow all-round light, 3 miles; and

a special flashing light, 2 miles.

(b) In a vessel of 12 meters or more in length but less than 50 meters in length:

a masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;

a sidelight, 2 miles;

a sternlight, 2 miles;

a towing light, 2 miles;

a white, red, green or yellow all-round light, 2 miles; and

a special flashing light, 2 miles.

(c) In a vessel of less than 12 meters in length:

a masthead light, 2 miles;

a sidelight, 1 mile;

a sternlight, 2 miles;

a towing light, 2 miles;

a white, red, green, or yellow all-round light, 2 miles; and

a special flashing light, 2 miles.

(d) In an inconspicuous, partly submerged vessel or object being towed:

a white all-round light, 3 miles.

RULE 23

Power-Driven Vessels Underway

(a) A power-driven vessel underway shall exhibit:

(i) a masthead light forward; except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;

(ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(iii) sidelights;

(iv) a sternlight;

(b) An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

(d) A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

RULE 24

Towing and Pushing

(a) A power-driven vessel when towing astern shall exhibit:

(i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(ii) sidelights;

(iii) a sternlight;

(iv) a towing light in a vertical line above the sternlight;

(v) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

(c) A power-driven vessel when pushing ahead or towing alongside, except as required by paragraphs (b) and (i) of this Rule, shall exhibit:

(i) instead of the light prescribed in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line;

(ii) sidelights;

(iii) two towing lights in a vertical line.

(d) A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a)(i) and 23(a)(ii).

(e) A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

(i) sidelights;

(ii) a sternlight;

(iii) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel:

(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end sidelights, and a special flashing light.

(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end sidelights.

(g) An inconspicuous, partly submerged vessel or object being towed shall exhibit:

(i) if it is less than 25 meters in breadth, one all-round white light at or near each end;

(ii) if it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(iii) if it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in subparagraphs (i) and (ii) so that the distance between the lights shall not exceed 100 meters, provided that any vessels or objects being towed alongside each other shall be lighted as one vessel or object; and

(iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed.

(v) The towing vessel may direct a search light in the direction of the tow to indicate its presence to an approaching vessel.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or hibit:

(i) Notwithstanding paragraph (c), on the Western Rivers and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit:

(i) sidelights;

(ii) two towing lights in a vertical line.

(j) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distrss or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 may be used to illuminate the tow.

RULE 25

Sailing Vessels Underway and Vessels Under Oars

(a) A sailing vessel underway shall exhibit:

(i) sidelights;

(ii) a sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

(d)(i) A sailing vessel of less than seven meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

RULE 26

Fishing Vessels

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in the Rule.

(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) a masthead light abaft of and higher than the all-around green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so;

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear;

(iii) when making way through the water, in addition to the light prescribed in this paragraph, sidelights and a sternlight.

(d) A vessel engaged in fishing in close in addition to the lights prescribed in this ing may exhibit the additional signals described in Annex II to these Rules.

(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

RULE 27

Vessels Not Under Command or Restricted in Their Ability To Maneuver

(a) A vessel not under command shall exhibit:

(i) two all-round red lights in a vertical line where they can best be seen;

(ii) two balls or similar shapes in a vertical line where they can best be seen;

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver, except a vessel engaged in minesweeping operations, shall exhibit:

(i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) when making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (b)(i);

(iv) when at anchor, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii), the light, lights or shapes prescribed in Rule 30.

(c) A vessel engaged in a towing operation which severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24.

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in subparagraphs (b) (i), (ii), and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:

(i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(ii) two all-around green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass;

(iii) when at anchor, the lights or shape prescribed by this paragraph, instead of the lights or shapes prescribed in Rule 30 for anchored vessels.

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, the following shall instead be exhibited:

(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.

(ii) A rigid replica of the international Code flag "A" not less than 1 meter in height. Measures shall be taken to insure its all-round visibility.

(f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 meters astern or 500 meters on either side of the minesweeper.

(g) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Rules.

RULE 28

[Reserved]

RULE 29

Pilot Vessels

(a) A vessel engaged on pilotage duty shall exhibit:

(i) at or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(ii) when underway, in addition, sidelights and a sternlight;

(iii) when at anchor, in addition, to the lights prescribed in subparagraph (i), the anchor light, lights, or shape prescribed in Rule 30 for anchored vessels.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of her length.

RULE 30

Anchored Vessels and Vessels Aground

(a) A vessel at anchor shall exhibit where it can best be seen:

(i) in the fore part, an all-round white light or one ball;

(ii) at or near the stern at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:

(i) two all-round red lights in a vertical line;

(ii) three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

(f) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in subparagraphs (d) (i) and (ii) of this Rule.

(g) A vessel or less than 20 meters in length, when at anchor in a special anchorage area designated by the Secretary, shall not be required to exhibit the anchor signals required by this Rule.

RULE 31

Seaplanes

Where it is impractical for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

PART D—SOUND AND LIGHT SIGNALS

RULE 32

Definitions

(a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules.

(b) The term "short blast" means a blast of about one second's duration.

(c) The term "prolonged blast" means a blast of from four to six seconds' duration.

RULE 33

Equipment for Sound Signals

(a) A vessel of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

RULE 34

Maneuvering and Warning Signals

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

(i) shall indicate that maneuver by the following signals on her whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion".

(ii) upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

(i) These signals shall have the following significance: one flash to mean "I intend to leave you on my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

(ii) The duration of each flash shall be about one second;

(iii) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules.

(c) When in sight of one another in a narrow channel or fairway:

(i) a power-driven vessel intending to overtake another shall in compliance with Rule 9(e) indicate her intention by the following signals on her whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side";

(ii) the power-driven vessel about to be overtaken when acting in accordance with Rule 9(e) shall, if in agreement, sound a similar sound signal. If in doubt, she shall sound the danger signal prescribed in Paragraph (d).

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(g) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(h) A vessel that reaches agreement with another vessel in a meeting, crossing, or overtaking situation by using the radiotelephone as prescribed by the Bridge-to-Bridge Radiotelephone Act (85 Stat. 165; 33 U.S.C. 1207), need not sound the whistle signals prescribed by this Rule. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

RULE 35

Sound Signals in Restricted Visibility

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:

(a) A power-driven vessel making way through the water shall sound at intervals of not more than two minutes one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than two minutes two prolonged blasts in succession with an interval of about two seconds between them.

(c) A vessel not under command; a vessel restricted in her ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than two minutes, three blasts in succession; namely, one prolonged followed by two short blasts.

(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than two minutes sound four blasts in succession; namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(f) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about five seconds. In a vessel of

100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about five seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession; namely, one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(h) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than two minutes.

(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

(j) The following vessels shall not be required to sound signals as prescribed in paragraph (f) of this Rule when anchored in a special anchorage area designated by the Secretary:

(i) a vessel of less than 20 meters in length;

(ii) a barge, canal boat, scow, or other nondescript craft.

RULE 36

Signals To Attract Attention

If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

RULE 37

Distress Signals

When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Rules.

PART E—EXEMPTIONS

RULE 38

Exemptions

Any vessel or class of vessels, the keel of which is laid or which is at a corresponding stage of construction before the date of enactment of this Act, provided that she complies with the requirements of—

(a) The Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154–232) for vessels navigating the waters subject to that statute;

(b) Section 4233 of the Revised Statutes (33 U.S.C. 301–356) for vessels navigating the waters subject to that statute;

(c) The Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241–295) for vessels navigating the waters subject to that statute; or

(d) Sections 3, 4, and 5 of the Act of April 25, 1940 (54 Stat. 163), as amended (46 U.S.C. 526 b, c, and d) for motorboats navigating the waters subject to that statute; shall be exempted from compliance with the technical Annexes to these Rules as follows:

(i) the installation of lights with ranges prescribed in Rule 22, until four years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(ii) the installation of lights with color specifications as prescribed in Annex I to these Rules, until four years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(iii) the repositioning of lights as a result of conversion to metric units and rounding off measurement figures, are permanently exempt;

(iv) the horizontal repositioning of masthead lights prescribed by Annex I of these Rules:

(1) on vessels of less than 150 meters in length, permanent exemption.

(2) on vessels of 150 meters or more in length, until nine years after the effective date of these Rules.

(v) the vertical repositioning of masthead lights resulting from the prescriptions of Annex I to these Rules, until nine years after the effective date of these Rules.

(vi) the repositioning of sidelights resulting from the prescriptions of Annex I to these Rules, until nine years after the effective date of these Rules.

(vii) the requirements for sound signal appliances prescribed in Annex III to these Rules, until nine years after the effective date of these Rules.

(viii) the restructuring or repositioning of all lights to meet the prescriptions of Annex I to these Rules, until nine years after the effective date of these Rules, except that power driven vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and 23(a)(iv) provided that, in place of these lights, the vessel exhibits a white light aft visible all round the horizon.

SEC. 3. The Secretary may issue regulations necessary to implement and interpret this Act. The Secretary shall establish the following technical annexes to these Rules: Annex I, Positioning and Technical Details of Lights and Shapes; Annex II, Additional Signals for Fishing Vessels Fishing in Close Proximity; Annex III, Technical Details of Sound Appliances; and Annex IV, Distress Signals. These annexes shall be as consistent as possible with the respective annexes to the International Regulations. The Secretary may establish other technical annexes, including local pilot rules.

SEC. 4. (a) Whoever operates a vessel in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation.

(b) Every vessel subject to this Act, other than a public vessel being used for noncommercial purposes, that is operated in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which the vessel may be found.

(c) The Secretary may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(d) The Secretary of the Treasury shall withhold or revoke, at tht request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91) of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

SEC. 5. (a) The Secretary shall establish a Rules of the Road Advisory Council (hereinafter referred to as the Council) not exceeding twenty-one members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups: (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representative of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessel and port safety. Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions.

(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to any major proposals for changes to the Inland Rules. The Council may recommend changes to the Inland Rules and International Regulations to the Secretary. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.

(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council who are not officers or employees of the United States shall, while attending meetings of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while away from their home or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

(d) Unless extended by subsequent Act of Congress, the Council shall terminate five years from the date of enactment of this Act.

SEC. 6. The International Navigational Rules Act of 1977 (91 Stat. 308; 33 U.S.C. 1601), is amended as follows:

(1) in section 5 by amending subsection (a) to read as follows:

"The International Regulations do not apply to vessels while in the waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States.";

(2) in section 6, by adding a new subsection (d) as follows:

"(d) A certification authorized by this section may be issued for a class of vessels.";

(3) in subsection (a) of section 9 by striking "$500" and inserting in lieu thereof "$5,000".

(4) in subsection (b) of section 9 by striking "$500" and inserting in lieu thereof "not more than $5,000".

SEC. 7. Sections 2, 4, 6(1), and 8(a) are effective twelve months after the date of enactment of this Act, except that on the Great Lakes, the effective date of sections 2 and 4 will be established by the Secretary. Section 5 is effective October 1, 1981.

SEC. 8. (a) The laws specified in the following schedules are repealed. Any prior rights or liabilities existing under these laws are not affected by their repeal.

REVISED STATUTES

SEC. 4233.
SEC. 4233A.
SEC. 4233B.
SEC. 4233C.

Date	Chapter	Statutes at Large, sections	Volume	Page
1890: Aug. 19	802		26	320
1893: Mar. 3	202		27	557
1895: Feb. 19	102	1, 3, 4	28	672
1897:				
Mar. 3	389	5, 12, 13	29	689
June 7	4		30	96
1900: Feb. 19	22		31	30
1905: Mar. 3	1457	10	33	1032
1914: May 25	98		38	381
1933: Mar. 1	157		47	1417
1935: Aug. 21	595	2, 3, 4, 5	49	669
1936: May 20	433		49	1367
1940:				
Apr. 22	128	1, 3	54	150
Apr. 25	155	3, 4, 5,	54	164
Dec. 3	511	1, 2	59	590
1948:				
Mar. 5	99		62	69
May 21	328		62	249
1953: Aug. 8	386		67	497
1956: June 4	353		70	228

Date	Public Law	Sections	Volume	Page
1958:				
Aug. 14	85–635		72	590
Aug. 14	85–656		72	612
1963:				
Aug. 5	88–84		77	116
Oct. 30	88–163		77	281
1966: Nov. 5	89–764	1, 2, 5, 6	80	1313

(b) The following laws are repealed when the Secretary establishes an effective date under section 7.

Date	Chapter	Statutes at Large, sections	Volume	Page
1895: Feb. 8	64		28	645
1928: May 17	600		45	592
1929: Feb. 28	370		45	1405
1932: May 9	175		47	152
1940: Apr. 22	128	2	54	150
1948: Mar. 18	138		62	82
PUBLIC LAW				
1958: Mar. 28	85–350		72	49
1966: Nov. 5	89–764	3, 4	80	1313

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6671 is a bill to unify the domestic rules of the nautical road. The primary purpose of these rules is to prevent collisions between vessels. They do this by specifying the lights to be carried by vessels—the sound signals they must use—and the way in which they are to maneuver in relation to each other.

At the present time, there are three separate sets of rules in effect for our domestic waters. They are the inland rules, the Great Lakes rules, and the western rivers rules. In addition, vessels on the high seas are governed by a fourth set—the international rules.

While these various sets of rules are similar in most respects, there are numerous, significant differences between them. These differences mean that mariners have to, in many cases, be familiar with more than one set of rules and must remember which rule applies in a particular locality.

It has long been the hope of seafaring people that the various sets of navigational rules applicable to our inland waters could be merged into a single system. This bill fulfills that hope. It replaces the present inland, western rivers, and Great Lakes rules with a single unified system of rules applicable to our inland waters.

The bill does one thing more. It makes the new rules as consistent as possible with the international rules. In most instances, the rules are identical. The differences that remain are limited to those necessary for safety of navigation on our inland waters.

Enactment of this bill will fulfill the commitment of the United States that the rules applicable to our domestic waters conform as closely as possible to the international rules.

The rules in H.R. 6671 were developed over a period of many years by a group of experts in maritime safety, representing industry, labor, recreational boating, and Government. As they appear in the bill before the House today, they have the support of each of these elements. The bill is strongly supported by the administration. It has no significant cost impacts.

I urge enactment of H.R. 6671.

□ 1220

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6671, the Inland Navigational Rules Act of 1980, which would unify the rules for preventing collision on the inland waters of the United States. This legislation is the result of the hard work of the many qualified members of the industrywide Rules of the Road Advisory Committee sponsored by the Coast Guard in cooperation with the Coast Guard and our committee. These proposed rules are the logical and envisioned outgrowth of the effort in the international community which established the International Rules of the Road, known as 72 Colregs.

The basic purpose of the bill is to repeal the three existing sets of inland rules of the nautical road and to replace them with a unified set of rules that would govern the conduct of vessels in all inland waters of the United States and that would conform as closely as possible with international rules.

Mr. Speaker, the Coast Guard and Navigation Subcommittee closely examined these rules, their effect on the maritime industry, and the administrative and enforcement provisions needed for their implementation. Based on this examination, it particularly included provisions addressing the interaction and lighting of vessels, the flexibility needed for the small recreational boater, and an appropriate level for civil penalties.

The three existing sets of rules—the inland rules, the Great Lakes rules, and the western rivers rules—evolved somewhat independently of one another and resulting differences currently generate a degree of confusion among mariners. Unification of the inland rules into one uniform system will work to reduce this potential confusion and reduce the danger of collision.

The objection that these rules be simplified and aimed at the mariner, not the lawyer, so that costly and tragic collisions are avoided is one that I greatly endorse. The improved safety resulting from the unification and simplification proposed by these rules is a service not only to the mariner, but also to the commerce of this Nation, which is so greatly facilitated by our waterways. This bill will go a long way toward alleviating the problem associated with our increasingly congested waterways and those created by the interaction of vessels with vastly different capabilities.

Mr. Speaker, I urge enactment of H.R. 6671.

Mr. Speaker, I have no further requests for time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 6671, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TOWING SAFETY ADVISORY COMMITTEE

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6242), to establish a Towing Safety Advisory Committee in the Department of Transportation, as amended.

The Clerk read as follows:

H.R. 6242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a Towing Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

(1) seven members from the barge and towing industry, reflecting a regional geographic balance;

(2) one member from the offshore mineral and oil supply vessel industry; and

(3) two members from each of the following—

(A) port districts, authorities, or terminal operators;

(B) maritime labor;

(C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and

(D) the general public.

(b) The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") shall appoint the members of the Committee. The Secretary shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the vent of a vacancy in the office of, the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee.

(c) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Secretary shall consult with the Committee before taking any significant action affecting shallow-draft inland and coastal waterway navigation and towing safety. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall be open to the public, and a record of the proceedings shall be made available for public inspection.

(d) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded.

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Hughes) will be recognized for 20 minutes, and the gentleman from New York (Mr. Lent) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. 6242 establishes a Towing Safety Advisory Committee in the Department of Transportation under the provisions of the Federal Advisory Committee Act. Its charter is to improve the safety of shallow-draft navigation on the inland and coastal waterways of the United States.

The bill implements the recommendations of two recent Comptroller General reports—calling for the establishment of a formal system of consultation and communication between the Coast Guard and mariners on a regular basis—regarding significant regulatory and operational matters affecting the safety of shallow-draft navigaiton.

Given the rapid growth in certain segments of the domestic merchant marine—occasioned by the expansion of foreign and domestic waterborne trade—a significant increase in the transportation of hazardous substances by water—and the increasing frequency of casualties occurring on the inland and coastal waterways of the United States—a compelling need clearly exists for the establishment of such an advisory panel.

The committee, as constituted, is broadly based, encompassing persons with special knowledge and experience as well as a legitimate interest in towing vessel safety. Members to be appointed by the Secretary of Transportation will serve on a voluntary basis without compensation. Therefore, the cost of implementing this legislation is negligible.

The bill is consistent with and supplements the requirements of the Administrative Procedure Act by improving agency consultation procedures prior to the issuance of a proposed rulemaking. This reflects the fact that there will always be a need for the kind of consultation that cannot be accomplished through formal agency rulemaking procedures.

The committee will thus provide the public an early and meaningful opportunity to provide input to agency rulemaking and operational decisionmaking. In this respect, it strikes a proper balance between the public's need-to-know and desire for consultation with the agency's responsibility to exercise independent judgment and analysis in carrying out its statutory mandate.

I urge approval of this legislation.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6242, a bill which would establish a Towing Safety Advisory Committee within the Department in which the Coast Guard is operating, now Transportation, consisting of 16 members with particular expertise, knowledge and experience with shallow-draft inland and coastal navigation and towing safety matters providing essential advice and consultation to the Secretary of Transportation. Membership is balanced with representatives from—

The barge and towing industry;

The offshore mineral and oil supply vessel industry;

Port districts, authorities, or terminal operators;

Maritime labors;

Shippers; and

The general public.

The Towing Safety Advisory Committee is to replace the Towing Industry Advisory Committee (TIAC) which was first established in 1943. TIAC was terminated as of March 31, 1977, as a result of a zero-base review of all advisory committees by the administration presumably because it did not meet the tests of: First, compelling need; second, balanced membership; and third business conducted as openly as possible in accordance with the Federal Advsory Committee Act (Public Law 92-463).

This bill meets all of these objections as substantiated by the testimony received by the Coast Guard and Navigation Subcommittee in its hearings. The bill conforms with the provisions of the Federal Advisory Committee Act (Public Law 92-463). Since no compensation, travel or per diem will be paid to the members, the bill authorizes no funds or Government expense, except for staff support and other necessary services provided by the Coast Guard for the conduct of the committee's business. Finally, the bill contains a 5-year sunset provision.

Mr. Speaker, H.R. 6242 will fill a void now existing for the exchange of useful information between this maritime industry and the agency which regulates it. I urge its enactment.

Mr. Speaker, I have no further requests for time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Hughes) that the House suspend the rules and pass the bill, H.R. 6242, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative davs within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

YOUTH ACT OF 1980

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6711), to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

Mr. BAUMAN. Mr. Speaker, in view of the fact that this is a multibillion-dollar authorization bill that could change the course of the national history, I ask for a division on going into the Committee.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 10, nays 0.

So the motion was agreed to.

□ 1230

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6671, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. HAWKINS) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman. I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 6711 as reported by the Committee on Education and Labor, and urge its immediate passage.

While many aspects of this legislation are long term in nature, and in fact, the program impact will not be realized until fiscal 1982, I believe it is imperative that we keep in mind the urgency of the unemployment situation for our Nation's youth and take prompt action to assure the continuation of existing program authority and the expansion of services to meet the alarming increase in youth unemployment in the coming months.

In 1977, Congress passed the Youth Employment and Demonstration Projects Act which committed substantial Federal resources to demonstrating a variety of approaches to alleviating chronic youth unemployment. These programs authorized under title IV–A of the Comprehensive Employment and Training Act presently provide employment, training and other employment related services to approximately 270,000 youth at a cost of $826 million for fiscal year 1980. These programs will expire September 30 of this year unless we take action to extend the authorization. While many of the reported bill's changes to current programs would improve the ministartion of these programs and increase the link between employment and training programs and the schools, we must not lose valuable time waiting to implement these improvements. Therefore, the committee bill provides for a 1-year extension of the current program authority under title IV–A of CETA. Program modifications and improvement would not begin until 1982, but funds available in 1981 could be used to plan for implementation of the new programs in the following year.

Let us not delude ourselves that by passing this legislation we are solving the youth unemployment problem. As of May 1.8 million youths 16 to 19 were officially counted as unemployed. When one counts those who are entering the labor market for the first time unable to find jobs and those who have given up looking because they know jobs are not available, the number is probably over 3 million. Yet year around, only 200,000 employment and training opportunities are available through the funds currently provided under title IV–A.

When President Carter announced his youth initiative, he projected that only $100 million in outlays above current funding levels would be spent in 1981 for the employment half of the initiative. I think we are courting potential disaster in our communities by trumpeting these programs as a major Federal investment when we fail to back up the rhetoric with sufficient resources to begin to make a dent in the problem.

Nor should we be sanguine that by addressing the problems of youth, we are solving the problem of overall unemployment. It is true that the unemployment rate for youth 16 to 19 is 2½ times that of adults. But even if everyone of the 1.8 million officially unemployed youths were employed, 6.3 million adults would still be unemployed according to BLS official data. We cannot expect to overcome the effects of economic policies which have driven our major industries to their knees and forced millions of workers from their jobs.

Title I of H.R. 6711 was substantially amended in committee to reflect the findings of 15 days of hearings in the Subcommittee on Employment Opportunities and extensive field investigations on the effectiveness of current programs. The committee amendment revises and consolidates existing CETA title IV–A youth programs to provide disadvantaged youth with a wide range of employment and training opportunities. The bill also authorizes the youth incentive entitlement and supplemental work projects to fund part time and full time employment opportunities for eligible youth in selected poverty areas who are in high school or an equivalent program. The program also authorizes full time, year round employment in national priority projects such as energy conservation for eligible high school graduates who are unable to find jobs because of high unemployment in the poverty area. It is estimated that the committee bill would increase the number of work opportunities 100,000 over the administrations proposed level of 70,000.

The committee bill would also provide a uniform eligibility standard which would target funds for those most in need while allowing flexibility to serve youth who do not meet the income restriction but who have other barriers to employment.

The committee bill has as a primary objective the promotion of cooperative efforts between the providers of employment and training and education agencies. Key to this objective is the requirement in both titles that 22 percent of the funds be reserved for cooperative agreements between prime sponsors and education agencies. Moreover, the committee bill expands services to out of school youth and requires the establishment of alternative education programs. While I have reservations about funding the public schools which have failed to meet the needs of so many of our youth, this emphasis on serving out of school youth and providing alternative education opportunities is a substantial improvement over the introduced bill. I believe that it is highly significant that, for the first time, the education programs are required to meet performance standards set by the State in accordance with guidelines issued by the Federal Government.

The committee bill also provides substantial involvement of the business community in the design and implementation of youth employment and training programs. To the extent that private employers are willing to participate in training disadvantaged young people and are willing to provide employment opportunities, there is increased likelihood that the participants will be able to move to unsubsidized private employment upon completion of their CETA participation.

Finally, the committee bill authorizes a new program to be administered by the Job Service to establish youth employment services including labor market information, support services, job search skills development, and other services designed to assist both in-school and out-of-school youths to make career choices and obtain unsubsidized employment. These amendments to the Wagner-Peyser Act are significant because they recognize that concentrated efforts are needed to help young people enter the job market and because, for the first time, funds would be allocated on the basis of need, rather than placements. Placement based funding has tended to discourage the very services which help unemployed young people help themselves.

Mr. Chairman, I urge that the committee bill be adopted by the House and that the House acknowledge the critical nature of the youth unemployment problem which is sapping our resources and wasting countless lives. It accomplishes little if we approve this bill today and then refuse to provide the resources to enable the programs authorized to have any real impact on the lives of these young people.

□ 1240

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I thank the Chairman, and I thank the chairman of the committee. I just want to rise briefly in support of the legislation that has been guided through here by the gentleman from California and the chairman of the committee, as well as Members of the minority. I shall be very brief.

I came across this statistic the other day that I thought was fairly striking: One-half of the unemployment we have had in this Nation in the past 5 years has been in the age group 16 to 24; so that, when we take moves that permit this group to become a productive part of our society, we make a substantial contribution to the Nation's economy.

It is good and necessary to experiment, and we are talking about an experiment here to tie the job's needs into the educational program—we can, I hope, make the educational programs a little more responsive, a little more meaningful. I would yield to my colleague from Pennsylvania (Mr. GOODLING) and his much superior knowledge as a former educator himself in saying that generally, if you can get a student interested in one area of study, you can get that student to take an interest in other areas. It is much easier. If you do not have that interest in one area, it is difficult to get an interest in another area. This program will encourage that practical area of interest for many young people.

The Budget Committee, in the first budget resolution that has been adopted, allocates $600 million for fiscal year 1981 in budget authority to get this program launched. There would be no outlay until fiscal year 1982.

This is not a substitute for a complete and thorough jobs program that this Nation needs. We have yet to face up in our statutes and in our action to the mandate of the Humphrey-Hawkins Act; and we have yet to face up to this simple reality: We are going to pay people either for doing something or we are going to pay people for doing nothing, and it makes infinitely more sense to pay people for doing something, to give them job opportunities.

My colleague from California (Mr. MILLER), for whom I have great respect, has concerns with title II. Here again, we are talking about an experimental program, but I would point out that it is a highly targeted formula. Seventy-eight and a half percent is going to areas where there is this high concentration of poverty and unemployment, and title II is supported—as is the bill—by both the Secretary of Labor and the Secretary of Education.

I hope we move ahead with it. I think this can be a significant, if undramatic, piece of legislation that can move us in the direction we ought to be moving. I am pleased to join in supporting the legislation.

Mr. GOODLING. Mr. Chairman, I yield myself whatever time I may consume.

Mr. Chairman, according to the FBI report, "Crime in the United States, 1977," 41 percent of the more than 9 million persons arrested for serious crimes were under 18 years of age, as well as 21 percent of the more than 389,000 violent crimes, and 46 percent of the more than 1½ million property crimes. Furthermore, 53 percent of all those under 18 arrested were arrested for larceny theft.

Looking at it another way the total cost due to these offenses committed by young people 18 years of age and under in 1 year was $13.8 billion. This does not include, of course, the losses because of increased security or insurance or unemployment compensation of psychological costs. How expensive it is to have 50 percent unemployed youth in some urban areas and 25 percent nationally. What a tremendous loss to the economy of this Nation. Even more, what a terrible degrading life caused to some extent by their inability to obtain jobs because they do not have a salable skill and in many instances have only slightly mastered the three R's.

H.R. 6711, of course, is not a quick fix or an easy answer to the problems I have just mentioned, but H.R. 6711 is a step in the right direction. For the first time the Federal Government is insisting that all who are providing educational and work experience to young people must plan and work together if they wish to partake of the funds that will be made available by the passage of this legislation.

I will speak specifically about title II of H.R. 6711. Title II is an educational program that provides assistance to schools which enroll high concentrations of low-income youth. The purpose of this program is to provide basic skills to those youths ages 11 to 17 who need compensatory education services in addition to employment activities which, of course, are authorized under title I of this bill; 81 percent of the funds that would be appropriated under title II of this legislation would flow directly to the local education agency based on the concentration of low-income youth in the countries in which the LEA's are located.

Of that 81 percent, 22 percent is reserved for projects under the joint agreement between the local education agency and the CETA prime sponsor. The remaining funds shall be used to provide secondary education basic skills and vocational education activities. County eligibility under part A of this program is determined much like what is currently used for county eligibility for title I of ESEA concentration grant programs. The amount of county grants must be at least $25,000 while the minimum individual school grant is $15,000. In order for LEA to receive a grant it must have at least 200 youth aged 5 through 17 or at least 20 percent of the youth from low-income families.

The LEA's apply to the staff education agencies under title II of this bill and then the State education agencies has the authority to approve or disapprove the application. It is at this point that the LEA's must reserve a percentage amount equal to that amount required under title I of this act which is presently 22 percent, for the purposes of establishing joint agreements for activities linking education and employment skills for youth. This is probably the single most important feature of H.R. 6711. Any school receiving funds under this title must first submit a plan to the local education agency which describes the goals of the school and the methods by which that school will achieve those goals.

Emphasis in the school plan is put on involving the community in the implementation of this plan, bringing in the prime sponsor and the private sector to assist in the development of work experience in cooperative vocational education programs to students and alternative education programs for youths who are either in or have already dropped out of school. The bill includes a school site council whose responsibility is to advise the principal in the development of the school plan and to monitor the implementation of that plan.

Council members could be representatives from the community, teachers, local business, organized labor, prime sponsors, students and community based organizations. If the school has an existing council that meets the criteria they do not have to set up another council. If the school has failed its evaluation at the end of the first year it will be given a second year to correct the problems but if the problems still exist at the end of the second year the school would no longer be eligible for any of the funds.

It is important to understand that when the President sent his youth bill to the Congress, Chairman PERKINS and Chairman HAWKINS gave the members of their subcommittees the opportunity to try to write a youth employment and training program that would attack the youth employment problem we have in this country. All of the staffs of the members of these subcommittees who wanted to, worked day and night in preparing this legislation. Most staffs participated. My colleague writing the dissenting views and his staff chose not to participate.

All organizations and agencies which would somehow be affected by this legislation were constantly consulted. Many changes were made at their recommendation. This is truly a bipartisan effort on the part of the Congress as well as a cooperative effort by those most closely serving the youth of this country. I would hope that we could accept this program as written, since it is a finely balanced piece of legislation. Any changes could quickly throw it out of balance. We will have an opportunity to review whatever the Senate does and then in conference committee finely tune the finished product.

I believe this is a piece of legislation all Members of the Congress can support. Realizing that we cannot continuously see so many young people waste their lives because of their lack of training and education, and at the same time see $13, $14, $15 billion in losses each year because of juvenile crime, I urge your support of H.R. 6711.

□ 1250

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to my colleague, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I want to ask the gentleman if there is any room in this bill for a program which has been conspicuously successful in the training of young people for employment; that is the OIC, opportunities industrialization centers, under the leadership of Rev. Leon Sullivan. Is there any way those programs could be encouraged?

Mr. GOODLING. Mr. Chairman, there are two or three provisions in this bill which very definitely encourage participation in alternative education programs.

Mrs. FENWICK. Of groups such as these?

Mr. GOODLING. Yes.

Mrs. FENWICK. It would be a fine thing if we could have one of these in every single central city. I really think there has not been any other program that compares in efficiency and in net results to these programs proposed by Reverend Sullivan.

I have yet to hear from the subcommittee chairman if he shares my enthusiasm for these programs.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes, I yield to the subcommittee chairman.

Mr. HAWKINS. Mr. Chairman, I certainly would like to say to the gentlewoman from New Jersey that I do share her enthusiasm, and I think the specific answer lies in the amendment which has been adopted in the committee that gives recognition to the types of organizations such as OIC which was authorized by the gentleman from New York (Mr. WEISS).

I would think if the gentleman from Pennsylvania would yield to the gentleman from New York (Mr. WEISS), if he has the time, the gentleman from New York could specifically direct his answer to the question as it relates to the amendment which was offered by the gentleman from New York.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding.

I think that the distinguished chairman of the subcommittee has already really answered the question. At the behest of Reverend Sullivan, there was indeed a committee amendment adopted. Although the amendment does not mention the OIC by name, it details the programs that it dovetails, and the report clearly identifies by name the kind of programs OIC has been conducting. So there is no question that the legislation encourages that kind of activity.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, I am very grateful for that, and I would like to bring to the attention of the committee, if I could at this moment, one of the problems we have had in the CETA training.

Now, perhaps that is not directly involved here yet, and maybe I had better reserve my remarks on this for some other time. Or would it be part of the program?

I might say that we have had under title 7 excellent programs approved for this particular purpose, approved by the AFL-CIO Labor Council of the county, approved by businesses, and approved by the local CETA Administrator.

What did we find? We found that this program, designed for 15 or 20 young people, was put in a subsidiary of a very splendid corporation, one which paid good wages and has a good pension program. Then we found that it was being ended. The proposal was killed because the Department of Labor would not allow this program to continue except under the conditions that the company would guarantee that none of the work which these young people did in their training would redound to any profit for the company. The counsel for the corporation said that it is impossible to give such a guarantee.

Mr. HAWKINS. Mr. Chairman, if I may interrupt the gentlewoman, I will ask if the gentleman from Pennsylvania will yield further.

Mr. GOODLING. Mr. Chairman, I yield, since I am talking only to title II and the gentleman from Vermont (Mr. JEFFORDS) is going to talk to title I.

□ 1310

Mr. HAWKINS. I am familiar with the matter presented by the gentlewoman from New Jersey. The staff is presently involved in trying to analyze what really needs to be done in that type of situation. But I was going to suggest that it relates to title VII. There will be before the House shortly a continuation and an expansion of title VII. I would think that at that time we might relate what the gentlewoman is saying at that time.

Mr. GOODLING. We are dealing only with title IV at the present time.

Mrs. FENWICK. I see. It is very close to my heart. Here we have young people about to get jobs if they could only get the training. And then it is all torpedoed.

Mr. HAWKINS. I think the gentlewoman will be quite pleased in how this is dealt with in title VII when it is before the House.

Mrs. FENWICK. I am confident that if the gentleman from California (Mr. HAWKINS) and the ranking minority member have a hand in it that it will be dealt with properly.

Mr. HAWKINS. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, it is with some difficulty that I rise to oppose the provisions of this bill as they are embodied in title II. But it is after a great deal of thought and spending many, many hours and days in hearings, not only on this legislation, but also hearings which dealt with the high schools of this country and whether or not those high schools were successful or unsuccessful. It is my belief, and I will make these arguments more extensively tomorrow when this bill comes up for amendment, that title II of this legislation fails and that this Congress ought not to enact it. I think it fails because it goes contrary to all of the evidence that we heard in the committee. It goes contrary to many findings of the Vice President's Task Force on Youth Employment. It goes contrary to the testimony of the Secretary of Education. It goes contrary to the testimony of people who have been working with the problems of low-income youth, with job training of youth, and with the problems of school dropouts. But in spite of this, you are told to vote for it so that you can go home and say you did something for the unemployed youth of this country. What the unemployed youth of this country do not need is more political rhetoric about their troubles.

The statistics on unemployed youth in this country are unacceptable and they are awesome, and something must be done. But that which must be done is not embodied in title II of this legislation.

For all too long, Members of Congress and elected officials have gone to their constituents and said, "You know, no longer are we like the 1960's, no longer can you solve problems by just throwing money at them."

Let me tell you, on the eve of the eighties, right here in this legislation, we are throwing $50 million at a problem when solutions already exist. And on the eve when this Congress is being asked to spend $50 million, not for the problems of unemployed youth, but to design comprehensive education programs to deal with the problems of basic skills in schools with high concentrations of low-income youth. Does it sound familiar? It should be, because that is what title I talks about of the Elementary and Secondary Education Act (ESEA).

And yet on this floor, just last week we voted a rescission of $35 million in concentration grants which will cost school districts like Miami, Detroit, Philadelphia, Los Angeles, and New York, hundreds of thousands, and in some cases, millions of dollars which they would otherwise be using to work on the problems of concentrations of low-income youth.

When we heard this bill in committee for the first time, the discussion really centered like this: We said, "Would it not be great if we could bring the principles and goals of ESEA title I along further, bring them from the elementary school into junior high school, into the secondary schools. And would it not be great if we could bring the principles and the goals of vocational education down to the junior high schools?" And everybody nodded and said that that would be a great ideal. And then we brought witnesses who talked about this goal.

Does title II do that? No, title II does not do that.

In a sense, what we do is, we reverse that process. Rather than providing for a concentration of funds on seventh and eighth and ninth grade students, we start talking about going after students who are 16 to 21, who may already have completed school but who received a lousy education. And we are going to bring them back to the high school? I think it is a truism that those students who dropped out do not want to go back to the high schools. But the committee deleted the funding for community-based organizations that might attract these students to help them.

You ask: Why do we want to concentrate on seventh and eighth and ninth grade students? Because study after study tends to indicate that students who drop out of high school tend to make up their minds to do so when they are at the junior high school level.

I think, most importantly, for this Congress, at a time when we are into very restrictive budget procedures, at a time when we are trying to live within a balanced budget, that we ought to really look to see if all of the provisions of title II are in fact able to be carried out under existing law if this Congress has the guts to vote the money, if this Congress has the guts to back up their rhetoric and their alarm and their concern as they read the statistics about unemployed youth in this country. The laws are on the books today to take care of those problems.

We had a panel of people come before us who had successful vocational education programs, who were running what we called "the high schools that succeed." And in each case they said that they could do what we wanted to be done under this legislation today, but what they did not have was sufficient funding.

We say that this is a bold, new, innovative program under title II to force educators and job developers to work together. Title I allows that today. Title I of this legislation is going to expand on the 22 percent set-aside that was initiated and pioneered by the gentleman from California (Mr. HAWKINS), to bring these people together, because we know we have successes there.

The point is, I say to the Members of this body, that if you vote for title II this week, you are voting to spend $50 million to start planning in the 1981–82 school year. That is 18 months from now. This will be in schools if the money is funded by the 1982–83 school year. That is almost 3 years from now.

I think this is more political rhetoric. I do not think this legislation is aimed at the problems of unemployed youth—not when the Senate has provided for rescission to cut back $200 million in ESEA concentration grants, not when we voted last week to cut back $35 million in concentration money, not when we see CETA money being cut back by this administration.

Are they concerned about the problems of unemployed youth? That is what this legislation says. Then why do their budgetary actions cut so deeply into those programs that are designed to reach these very youth?

So I think that this is a chance, in this wonderful election year, for Members of Congress to make up their minds: Do they really believe it when they say what we need is, we need to make the laws that are already on the books work, and we need to have tough oversight, and sunset legislation, and the workings of our committee?

Do we need to start new programs that are duplicative of the efforts that are on the books today?

I think that is the test. Title I of this legislation that has been worked on extensively, I know, by the gentleman from Vermont (Mr. JEFFORDS), and by the gentleman from California (Mr. HAWKINS), addresses the problems of these unemployed youth. But title II fails. The Vice President's Task Force Report outlines that the overwhelming reasons why these students do not get jobs is because they lack in the basic skills, they cannot read, they cannot compute to a sufficient level that an employer could justify hiring them.

But then why do we not deal with the problems of the basic skills? This legislation does not do that. This legislation is a sham, and it is election year window dressing so that we can go out, puff up our chests, and say we did something for the unemployed youth. I would hope that the committee, when the bill is marked up, would consider very strongly the provision striking title II from this legislation, passing the legislation with title I in it, and let us get on with dealing with the problems. Then we can face what is the real problem for unemployed youth in this country and students who cannot read—that is the question of appropriations, and whether or not we are willing then to back up the rhetoric with our votes on appropriations, to make these programs work, programs that are working today in many high schools. But rather than starting over, what I would like to see the Congress do is to build on the successes that we already know about that the committee spent hours taking testimony about, the successes that are allowed under current law, without any changes. We can bring those to the students who so desperately need those programs.

I would hope that the committee would support the effort tomorrow to strike title II.

Mr. GOODLING. Mr. Chairman, I yield myself 30 seconds to merely say that it is not a sham or an election year rhetoric for this Member to be involved. This legislation does not win me any votes back in the district. This legislation does not win me too much support by a certain segment on my side of the aisle. So it is out of a sincere desire to try to do something about the problem and not just keep saying it does not do anything, and then do not give any specifics on what will do something. So it is not election year rhetoric to this Member.

Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, before I comment on the specifics of H.R. 6711 and my reasons for supporting the bill, I would like to address some of the issues raised by the gentleman from California (Mr. MILLER). I have been working in the area of youth unemployment for some time, and I have a great deal of admiration for the gentleman from California (Mr. MILLER). I must say though, that when I read his "Dear Colleagues," I became quite confused about his reasons for opposing title II of the bill.

Although the majority of my work has been on title I of the bill, I did work in cooperation with other Members on title II. My confusion stems from the fact that I thought everything we attempted to do in title II had somehow gone by the wayside when I listened to the comments of the gentleman from California (Mr. MILLER).

Mr. Chairman, I spent the weekend going over title II line by line, trying to find out where the problems are that the gentleman from California (Mr. MILLER) speaks to. I also reviewed the evidence. I looked at the letters from the Secretary of Education and others which have been referred to me. In fact, I have the letter here from the Secretary in strong support of the bill, in particular title II. I think that this is a very good bill. I cannot find anything but minor items that we may want to change to strengthen the bill. I think the people who worked on title II and brought it together really have done an excellent job.

Like the gentleman from Pennsylvania (Mr. GOODLING), when you take the rural State of Vermont, my district, our school dropout rate is not too high. Neither Mr. GOODLING nor I will go home and run for reelection on this bill. The main emphasis in this bill is on the tremendous problem in urban areas, where the dropout rates are 50 percent or better and unemployment is running at 30 or 40 percent. I am not going to gain any great political plaudits back home by supporting this bill. Instead I support the bill on its merits.

Let me review some of the points made by the gentleman from California. I have listened to the testimony presented before both subcommittees working on this bill, and the bill before us is totally consistent with that testimony. To me, it does a tremendous job of linking education and CETA youth programs together.

What we have right now is a lot of well-intentioned people around the country all going in different directions. There is a lot of energy being expended and wasted toward this effort.

I have traveled, as the subcommittee has, around this country, spending many hours and days in the big cities of this country, examining the youth programs, going to the schools, and talking to the teachers, and young people as well. This bill comes about not as a result of only my time, but the time of all subcommittee members as well. Additionally, this bill is the culmination of years of work in the Congress on this subject. Through the youth employment and training demonstration projects which were spawned primarily in the amendments of 1977 and before, the Congress examined the problems of youth unemployment and dropouts.

The committee felt that the best way to handle youth unemployment is through cooperation between education and labor and make sure that cooperation comes about by some Federal incentives. What we have now in many areas of the country is the CETA program going in one direction and school programs going in another direction. What this bill does is to mandate cooperation. Its basic premise is that if they want to get Federal help, the local education agencies and prime sponsors will have to develop programs similar to those we have seen in Baltimore, in Los Angeles and in Berkeley and in other areas. What we want to do is take that great learning experience and bring it together and put it in focus to say, "People, you have got to sit down to develop jointly effective programs that will meet the needs of youth."

We have taken a look at the GAO report on vocational education and read the criticisms of that area. We have seen the problems involved in vocational education, and have developed a program in title II where all of these people are going to have to sit down and decide how to work together, how to focus attention on basic skills.

The gentleman from California says that this bill does too much for the 10th, 11th, and 12th graders and too little for the 7th, 8th, and 9th graders. First of all, I can answer that by saying right now—and granted, there is some merit in looking backward—but right now the basic problems we have are the dropouts in the high school age group; and not only that, but the unemployment in that age group. A quarter of our total unemployment now is in that 16 to 19, or our teenage age group. One quarter of all of the unemployment, 2 million people that are unemployed, are in that age group. If you take the youth unemployed, which is also viewed within the age group above that, one-half of our unemployment in this country, 4 million people, are in that youth group. But there is nothing in this bill that says you cannot work with seventh, eighth, and ninth graders.

On one of the amendments, the gentleman from California would say you have to mandate a 50-50 split. That does not make any sense. You ought to give the local schools the kind of flexibility they need to mold their programs without mandating that so much goes in this grade or so much goes in that grade. The bill does not prohibit spending in the seventh, eighth and ninth grades. There is no real restriction except one planning area having to do with jobs.

So I do not see how the gentleman from California really raises any point. I would hope that he would review the bill, take another look at it, and see the wonderful things it does and not be confused perhaps by what people may have told him. I think this bill is an excellent bill. It ties programs together and it will be a tremendous step forward. This side of the aisle has worked very long and hard on it to incorporate some of the principles that we believe in. The bill embodies some of the principles that have already been espoused for getting people to work, reducing the fear of involvement with the private sector, and bringing the private sector in.

Over the past two decades the Congress has enacted a variety of programs to address the youth unemployment problem. These efforts began with the Manpower Development and Training Act of 1962, and the Economic Opportunity Act, which established the Neighborhood Youth Corps and Job Corps in 1964, and then continued with the Comprehensive Employment and Training Act of 1973 and the Youth Employment and Demonstration Projects Act of 1977. The bill before us draws upon the outcome of these efforts. H.R. 6711 represents the culmination of an extensive review of successful youth programs nationwide and approaches the endemic and chronic national problem of youth unemployment in a comprehensive and holistic manner.

This bill represents not only an effort to coordinate education and labor, but also a bipartisan, cooperative effort by all the members of the Education and Labor Committee. I especially would like to commend the chairmen, Mr. PERKINS, Mr. ASHBROOK, Mr. HAWKINS, and Mr. GOODLING for the hard work and commitment that was necessary to report a joint proposal out of committee. As a result of extensive hearings held by the subcommittees, we were able to develop a bill which reflects substantial insight and expertise of the committee members and of those who testified.

SCOPE OF THE PROBLEM

When I assumed the position of ranking Republican on the Employment Opportunities Subcommittee in 1978, I did not appreciate the scope and seriousness of the youth unemployment and undereducation problem in this country. Teenagers account for nearly a fourth of the unemployed, and persons under age 25 represent almost one-half, even though they constitute only a tenth and a fourth of the labor force respectively. The rate of unemployment among youth aged 16 to 19 is 2½ times the overall rate. In the month of May 1980 alone, the unemployment rate for teenagers jumped a dramatic 3 percentage points. The proportion of low-income youth who seek and obtain employment is only 36 percent compared with 64 percent for nonpoor youth.

Significantly, school dropout rates do not reflect a better situation. In 1978, 10 percent of whites, 14 percent of blacks, and 25 percent of Hispanics aged 14 through 22 were not enrolled in school and did not have high school diplomas. This month, it was reported that in the city of Chicago alone, 52 percent of the students who enrolled in high school 4 years ago did not graduate. The dropout figures from the 14 other largest cities are not any more optimistic.

I came to realize that part of the solution involved convincing the institutions that work with youth to change attitudes and habits which have prevailed for decades in order to make their efforts more relevant and more successful.

During the 96th Congress, the Subcommittee on Employment Opportunities held a long series of hearings in Los Angeles, New York and Washington, D.C. Additionally, in the course of the last 2 years, I have visited as many youth projects, schools, vocational education programs, and other youth employment and training efforts as my congressional schedule would allow. I traveled to Berkeley, San Francisco, Baltimore, New York, Los Angeles, Denver, Phoenix, and Portland to name a few. I spent hundreds of hours talking to school officials, CETA directors, representatives of community-based organizations, juvenile authorities and—most especially—young people themselves. I visited youth community conservation improvement programs, youth incentive programs, in-school programs, out-of-school programs, vocational education exploration programs, work experience programs, summer programs, young adult conservation corps programs, job corps programs, and almost every other kind of project being mounted under the YEDPA and related statutes.

In addition to visiting the sites personally, I also learned from the testimony, research, and writings of those whose business it is to understand the nature of youth unemployment. The National Commission on Employment Policy added to my understanding, and I participated in the discussions and work of the Vice President's Task Force on Youth Employment. I learned from the real life experiences of school officials such as Norris Hogans of Carver Comprehensive High School in Atlanta, who has effectively, but on a limited scale, addressed the problem of school dropouts and the failure of young people to obtain and hold a job.

Although these investigations have given me greater insight into the problem of youth unemployment, I also know that the situation is complex. To be a real expert on youth unemployment, you have to understand and experience the myriad of different situations in which young people find themselves. Youth are not a monolithic group, and we cannot effectively run youth programs the same way as public works projects. From the time they enter the formal education system, young people encounter an ever-changing and complex set of problems, challenges, and pressures. To approach a 14-year-old on the same level as an 18-year-old is senseless. To treat a teenage parent as an adult parent is equally illogical. To assume that all young people can be fit into career patterns, that they can be helped with a smattering of Federal work experience assistance, is also the wrong approach. And to assume that we can effectively resolve this unemployment situation without considering all the factors that impact on our youth is to take a narrow view of the issue. Yet in the past, this is exactly how we have handled the problem.

NEED FOR A NEW APPROACH

Neither our educational programs nor our remedial job efforts have done much to reduce the Nation's chronically high level of youth unemployment which has reached 19 percent and continues to rise as it has since World War II, regardless of employment conditions in other segments of the workforce. We need to adopt a total perspective of the situation, a systems concept, that recognizes the undeniable links among all of the factors. To change one is to affect all the rest.

The conclusions which I have drawn from studying the issue are:

First. Any resolution of youth unemployment must be flexible and, as much as possible, tailored to a young person's needs and expectations;

Second. The best place to determine these needs is at the local level;

Third. Schools, communities, employers, and parents must recognize that it is in their best interests to work together to address the problem;

Fourth. Training and CETA officials cannot resolve the problem alone; schools cannot do it alone; juvenile courts cannot do it alone; and the American family cannot do it alone—progress will come through working together;

Fifth. Young people, if given the chance and opportunity, are willing to believe that there is a future for them; and

Sixth. The need for Federal action to provide incentives for cooperation.

If we let the youth unemployment problem continue, we will pay a heavy economic and social cost by generating a future work force that simply cannot do the job. We will have relegated an entire generation to years of low productivity and dependency on the Government. If people remain largely unemployed for the first 10 years of their working life, it is exceedingly difficult for them to develop stable employment patterns. Those who work as teenagers do better as young adults. Likewise, those with training, education, and labor market information have more stable and remunerative employment as adults.

Youth joblessness is related to juvenile delinquency and other pathological ills. According to the FBI report, "Crime in the United States, 1977," 41 percent of the persons arrested for serious crimes were under 18 years of age, and the total cost to society of these offenses was more than $11 billion. I am sure you will agree that this cost is excessive and unnecessary.

THE YOUTH ACT OF 1980

H.R. 6711 builds on the experience gained through previous youth programs, especially YEDPA, as well as through committee hearings and individual study of the issue. In my view, the Youth Act represents the soundest and most promising approach I have seen to a difficult social problem. As we have learned, to be truly effective, programs for young people need to address both education and employment needs. It is generally accepted that, without basic literacy skills, youth are unable to take advantage of further education or training and will be permanently consigned to the bottom of the economic and social ladder.

The Youth Act closely links schools and training programs in a combined effort to instill in youth the basic educational and employability skills which they need to become productive members of society. It emphasizes this combination as a total approach to the structural unemployment problems faced by youth.

The fundamental premise of H.R. 6711 is that, to succeed, young people need to be able to communicate, both verbally and in writing; that they have to understand the world of work and the demands that will be made on them if they are to participate: and that there will be opportunities if they learn these skills. H.R. 6711 seeks to create an environment in which this can happen—an environment that reflects direct and ongoing cooperation among all those interested in youth and their problems. In my view, the bill requires a direct tie between education and labor. Education has fallen out of touch with the vast changes that have occurred in our labor markets: the move away from industries into a postindustrial era, and the corresponding radical change in technology. Employment in today's economy requires skills different from those in demand even 10 years ago. At the same time, private and public employers have failed to communicate to our schools what it really takes to get a meaningful job. The bottom line is that for young people to succeed they must have a grasp of the basics. Without a good high school education, or the equivalent, they will face serious obstacles to a productive life.

Early this session, the chance of enacting such a comprehensive youth bill was next to zero. The most we could expect was an extension of our current CETA programs, with some minor modifications. I was advised that it would be impossible to get education and labor interests to work together. There was also some question as to the administration's commitment to the idea.

Despite all the dire predictions, and the somewhat negative attitude of the Congress toward creating new authorizations, the atmosphere in our committee, particularly among the senior members, was ripe to explore a link between the two chief components of the committee; that is, education and labor. With the help of my colleague Bill Goodling and other members who felt similarly, work on a comprehensive youth bill was started.

Concurrently, the administration was developing its own bill, much of which stemmed from the work of the Vice President's task force. Before the President could send a bill to Congress, many of the difficult issues contributing to the schism between Education and Labor had to be resolved. Unfortunately, when the President's bill was received by Congress, it almost terminated the progress being made toward a comprehensive youth bill. If the committee had accepted any single concept during our lengthy study of the problem, it was to require that schools, employers, and Government work together to address the problem. Institutional cooperation is possible where the incentives are structured properly. Likewise, institutions can benefit from involvement of parents, the private sector, and unions. Yet only a few minor provisions in the administration bill would have initiated a joint approach. The administration had recognized the need to improve the basic skills of our Nation's citizens. However, in the view of some committee members, the administration's bill seemed to hand money over to the schools with no accountability. The administration also recognized the problem of providing young people with related work experience, but there was virtually nothing in the bill to relate work to school.

Members of the Employment Opportunities Subcommittee had been working on an extension of CETA youth programs. Thanks to the work of Chairman Hawkins, who deserves every praise for the difficult work he has had to do on this proposal, and to Chairman Perkins, whose leadership was vital in bringing all interested parties together, a joint proposal was made possible. We took a new attitude toward the CETA youth bill. In subcommittee I offered 13 amendments to the bill with the intent of tying education into CETA; all were adopted. Wherever the bill referred to employment and training, the word education was added. Numerous other amendments were offered to expand the opportunities for local officials and educators to deal with the kaleidoscope of youth's needs. These amendments were also accepted.

Even after the subcommittee had passed a bipartisan revision to CETA youth programs, which are contained in title I of the bill before us, there was concern that an education title equally committed to bringing in labor was not forthcoming. Major issues, some of which go to the heart of the difference between our education and labor communities, had to be resolved. Literally centuries of tradition and institutional habit had to be overcome.

Between the time the Employment Opportunities Subcommittee reported the CETA revision, and the Subcommittee on Elementary, Secondary, and Vocational Education marked up the education component, some of the most difficult, intense and unlikely debates in the history of the committee took place. It is a tribute to the members of the committee, to the committees' staff, and to representatives of the interest groups and the administration that these negotiations were successful and resulted in a bill that the subcommittee reported with only one objection. During the process, we resolved extremely sensitive issues: the role of the school site council; the involvement of vocational education; performance standards and goal development; and the role of the various levels of government in the total program. Any one of these could have unhinged the sensitive balance.

A MAJOR NEW STEP

One major provision that was adopted in the Elementary, Secondary, and Vocational Education Subcommittee sets aside 22 percent of the education moneys for joint programing with CETA. This provision matches a similar provision on the CETA side, which has been a part of the CETA youth program since 1977.

At full committee we truly tied the knot between the two titles of the bill. One significant amendment that I offered provided for a single line item appropriation for the Youth Act of 1980 and for forward funding of the title I provisions—the education portion is already forward funded. I believe a detailed explanation of the provision is in order:

First. Funds for the IV-A CETA programs are authorized for fiscal year 1981.

Second. Funds for fiscal year 1980 CETA title IV-A are held harmless.

Third. The $50,000,000 planning funds

for title II, Youth Act of 1980 (education title), are authorized for fiscal year 1981.

Fourth. Beginning in fiscal year 1982, the funds above the hold-harmless figure are to be split evenly between the two titles of this Act.

Fifth. Funds for both titles will be forward funded.

Each aspect of the provision fosters the principle of joint planning, joint agreements and joint activities. Specifically, forward funding is crucial if CETA and education officials are to reach joint agreements based upon the available funding. A single authorization is essential so that both sides will work with each other, not against each other, to support the program. The hold-harmless of the CETA title IV–A funding is a necessary condition to bringing the CETA programs into the joint approach. To further the joint efforts, a second amendment was offered that increases the set-aside for joint programing by 3 percent each year following the first 2 years of program operation, if the Secretaries jointly concur. This provision could result in an increase of the set-aside to 31 percent by fiscal year 1985.

OTHER IMPROVEMENTS

Some of the other amendments I offered indicate how far the Committee has come in altering the thrust of this bill. Bear in mind that these represent only the amendments which I proposed:

Linking the program with the Juvenile Justice and Delinquency Prevention Act;

Requiring school officials and CETA prime sponsors to jointly develop student employability development plans;

Requiring involvement of school officials in documenting a student's progress under the CETA program;

Adding the notion of basic education as part of any employment and training effort;

Expanding the concept of work to include activities that, while not necessarily a job in the Socratic sense, are critical to a young person's career goals;

Adding the concept of one-to-one counseling for youth in the incentive program;

Emphasizing remedial education as part of the CETA incentive program;

Adding the concept of a completion bonus for those youth who successfully graduate from high school or receive a certificate of high school equivalency; and

Anticipating the kinds of jobs youth will be holding in the future by emphasizing work experience and education in the field of solar and other alternative energy conservation.

The end result is a bill that, despite its internal complexities, is admirably straightforward in concept.

Title I consolidates CETA title IV youth programs, increases the involvement of education and maintains the 22-percent set-a-side for joint efforts. The new program has been written to accommodate the education title. The basic thrust of title I is work experience and employability development. It represents the employer's side of the coin—the demand side.

Title II is the education side, the supply side. Its emphasis is on remedial and basic education incorporating employability development and vocational education. Its provisions are targeted to needy schools and needy students. Included is the 22-percent set-aside provision for joint programs with CETA.

Title III brings title I and title II together with a single authorization and forward funding, and includes a potential increase in the joint set-asides.

INTENT OF THE YOUTH ACT

H.R. 6711 closely links education and training programs to help young people acquire the basic skills they need to become productive members of society. In addition to improving young people's success in the job market, the Youth Act seeks to increase the relevance of education to high school youth. By encouraging students to stay in school, the bill hopes to stem joblessness among high school dropouts, who are three times as likely to be unemployed as those who graduate.

Federal education benefits have been concentrated in the early grades and on college students. The total of all Federal dollars spent to improve elementary education for poor children is $3.2 billion, whereas the total Federal dollars spent on poor children in secondary schools, grades 7–12, is $1.2 billion. Additionally, $3,046 is spent per year on each low-income young person who goes on to college, but only $231 on each low-income high school student. For each young person who graduates from high school but does not go on to college, we invest only $161 per year for additional education and training. It is increasingly evident that high schools are not meeting the needs of all students.

The serious lack of basic skills among high school students emphasizes the need to launch a new effort at the secondary level. H.R. 6711 focuses on the secondary student. The Youth Act also targets employment, training and education programs to the neediest youth and to those groups that, based on pilot project results, can most benefit from these services. The major design, planning and initiation of programs are at the local level where the needs of the youth can best be recognized.

One matter in the bill which requires clarification is the 22-percent set-aside provision contained in title I. During full committee consideration, I offered an amendment to give greater flexibility to prime sponsors in reaching agreements with targeted schools under title II. The need for this amendment stems from several considerations:

In most instances, prime sponsors would have to enter separate agreements with more than one recipient local education agency (LEA). As drafted, a refusal by just one LEA would prevent the use of the prime sponsor's 22-percent set-aside, even for those agreements already reached.

The primes, with their existing program, already had devoted at least 22 percent to ongoing programs with CETA. As drafted, these funds could even be held hostage to a single recalcitrant LEA.

In order to avoid these potential difficulties, we needed to enable prime sponsors to implement agreements with schools, both targeted and nontargeted, despite a failure to enter into an agreement with only one targeted school. The amendment I offered, which was accepted by the committee, allows the Secretary of Labor to waive the requirement that the prime sponsor enter into agreements with each targeted school before any of the 22 percent could be released. The Secretary can use this waiver authority upon determining that the prime sponsor has made a good-faith effort to negotiate but has been unable to reach an agreement with a title II school.

Unfortunately, the language in the bill does not stipulate whether the waiver would release all the moneys devoted to targeted schools, or just the amount that would have been part of the agreement with the disagreeing LEA.

My intent in suggesting the waiver provision is to apply the waiver to the release of all the moneys under the 22-percent set-aside, but not in any way to change the requirement concerning joint agreements. The only exception to this requirement concerns agreements which the Secretary has found cannot be initiated despite good-faith efforts by the prime sponsor.

I suspect that we really will not know how this waiver will work until it is implemented. While I am extremely reluctant to advocate secretarial discretion, I am willing to support changes in these conditions if they foster the purpose of the bill; that is, joint planning with schools under title II. I believe that the Secretary of Education should be consulted in establishing the waiver procedure.

A COST-EFFECTIVE INITIATIVE

Youth unemployment is not a new problem. It is one which we have been facing, though not very successfully, for many years. H.R. 6711 builds on a decade of efforts and programs which have allowed Congress to place the problem among our highest priorities.

There is concern about the timeliness of a new initiative during a period of strict budget limitations. But without this bill, we can not make further progress toward solving the youth unemployment problem. If we fail to authorize these programs, we can not even consider them among our priorities for funding. The critical concern is to implement a policy which meets the needs of youth. With the principles of this legislation on the books, we can provide funding at levels deemed appropriate in the future.

The first concurrent resolution on the budget recommends maintaining the present level of funding for youth services through fiscal year 1981, and further provides $600 million in new budget authority for the youth initiative. Federal funds allocated for properly designed youth programs will be money well spent. It is more cost-effective to break the structural unemployment cycle in the beginning than to pay for supportive services, incarceration, and unemployment compensation later on.

Congress should pass the Youth Act of 1980 to follow through on efforts made by many of us over several Congresses; to continue on the educational and employment efforts that have proven successful; and to begin a comprehensive and holistic approach to helping America's young people find a satisfying and productive place in society.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Chairman, first, let me express my appreciation to the distinguished chairman of the subcommittee for allowing me this time. And let me say, at the outset, that what we are discussing, is the effectiveness of the legislation before us and not the motives or sincerity of the Members who have been working on this legislation. I think it has to be said that, without any doubt at all, the legislation that is on the floor at this point, through the efforts of both the minority and the majority members, is infinitely better than the legislation that was submitted by the administration.

The question really is whether it is sufficiently improved to warrant its adoption and, even beyond that, whether this is the best way to approach it.

I support the legislation before us because it happens to be the only game in town. But I would have much preferred the administration building upon the work that this Congress and the Education and Labor Committee and appropriate subcommittees have undertaken over the course of these last few years. Instead, I suspect, out of a desire to demonstrate in an election year that we are doing something about a very grave problem, the move was to come forward with a new youth initiative. And the rhetoric has been so strong and so broad that the distinguished majority leader, during the course of the debate on the budget not more than 2 weeks ago, got on this floor and said that this bill was providing a million new jobs in the coming fiscal year.

□ 1320

Of course, it is not true at all. What this legislation provides, as the administration wished it, was $150 million for both titles I and II for this coming fiscal year, and because of our action and the Senate's action, there is, in fact, no money, to the best of my knowledge, in this legislation for fiscal year 1981 at all; so I think we have to keep this legislation in perspective.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will correct that last statement tomorrow. It is somewhere between $600 and $800 million that is in, as a matter of fact, the last concurrent resolution which we passed. It is an argument whether it is $600 million or whether it is $800 million, because on one side they thought $200 million was going into this and on the other side they thought $200 million was going to another program.

Mr. WEISS. Mr. Chairman, if the gentleman will yield, that is in appropriations for fiscal year 1981?

Mr. GOODLING. In the first concurrent budget resolution which we passed.

Mr. WEISS. For fiscal year 1981?

Mr. GOODLING. Appropriations has not marked anything for this at this particular time. They have not even begun their work.

Mr. WEISS. For outlays or for authorization?

Mr. GOODLING. For authorization.

Mr. WEISS. Mr. Chairman, I thank the gentleman.

Mr. GOODLING. Mr. Chairman, there was an interesting editorial in the June 19 issue of the Christian Science Monitor titled, "Sam Brown and Self-Help." Mr. Brown is quoted as follows:

> Despite our best intentions, the government programs we have supported have unwittingly made the poor dependent and created a new bureaucratic and expert elite that too often denies poor people the opportunities to help themselves. We have allowed those who wish to scorn the poor the opportunity to foster the myth that poor people will not pull their own weight. We have, in short—

And I am quoting Sam Brown—

> created a system of helping that encourages the poor to be passive rather than active, dependent rather than self-reliant, recipients rather than producers, clients instead of people proud of their own work.

Then the editor, commenting on Mr. Brown's statements, said:

> We prefer to think that Mr. Brown's criticisms are consistent with a practical idealism of the sort that used to be summarized like this: It is good to give a hungry man a fish; it is better to prepare him to do his own fishing.

Mr. Chairman, I would submit that the purpose of title II of this Youth Act is to help thousands of young men and women to catch their own fish.

Mr. Chairman, I reserve the balance of my time.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Guam (Mr. Won Pat).

Mr. WON PAT. Mr. Chairman, I want to rise in support of H.R. 6711, the Youth Act of 1980.

As chairman of the Subcommittee on Pacific Affairs, I want to express the support of all the U.S. Pacific territories for this timely and much needed legislation. The problem of youth unemployment are as great, if not greater, in the territories as they are in the rest of our country. The opportunities and training that will result from this comprehensive approach to our youth employment needs should go a long way toward addressing and ameliorating this problem.

I am particularly encouraged that this legislation recognizes the importance of addressing education and employment needs together. I know that previous Federal efforts in the territories have suffered due to a failure to provide for an appropriate role for our secondary schools. I am also pleased that the legislation emphasizes placement of the design, planning, and initiation of programs at the local level. This is especially important in the territories where the conditions are truly unique.

I think that it is appropriate that the Carter administration's major domestic initiative in this year's budget is focused on the high school-aged youth of our country. There has been a large gap in educational services provided to our disadvantaged youth. Prior Federal efforts have addressed the needs of our elementary school-aged youth and college-aged population, but this will mark the first major Federal effort directed at the high school sector.

The initiative is needed and timely, and the people of Guam and the other Pacific territories fully endorse the effort.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6711, the Youth Act of 1980.

This bill provides a unique approach to America's growing youth unemployment rate, one which would target services to the most disadvantaged populations with an all-important linkage between education and employment.

Such legislative action comes at a time when youth employment problems are critical both due to the long-range hardships associated with such joblessness and the swelling ranks of teenagers commencing their productive years in the unemployment line.

As devastating as these effects appear for youth in general, the obstacles associated with youth unemployment are very inequitably distributed, with minority youth bearing the brunt of consequences. For this reason alone, it is imperative that speedy action be taken to attempt alleviation of what can be for many an unending spiral of hopelessness and despair.

The passage of this Youth Act would signal an innovative landmark in the field of youth programs, where never before has coordination been achieved between the two most important facets in the life of the adolescent—school and work. In the past, we have attempted to address each of these areas separately but have failed to provide the logical transition into the world of work. With the enactment of this bill, there would exist a positive monetary incentive for integration of programs initiated jointly by local educational agencies and prime sponsors in addition to ongoing efforts to remediate students in the basic skills and provide expertise in employment skills.

I would like to thank the chairman of the committee, Mr. Perkins, for his leadership and Mr. Hawkins for his efforts in coordinating employment issues throughout our deliberations. We have manufactured a product containing a delicate balance between titles I and II of this act, solely through the hard work and determined efforts of many committee members. This is perhaps an indication of the importance given to the topic by the Education and Labor Committee, a priority which I trust will be reflected as we take up its consideration on the floor.

Mr. Chairman, if we are indeed serious about the future of America's youth, we must begin immediately to provide them with the stepping stones to a productive career by approving this Youth Act.

I urge all of my colleagues to join me in support of this legislation.●

● Mrs. COLLINS of Illinois. Mr. Chairman—

> For Satan finds some mischief still for idle hands (and minds) to do.

Mr. Chairman, teenagers represent 10 percent of the civilian labor force; 20 percent are unemployed. The unemployment situation for blacks and minorities is much more severe and the gap between black and white youth unemployment has widened considerably over the last 20 years. In 1958, the unemployment rate for minority males—aged 16 to 19—was 26.8 percent, compared to 15.7 percent for white males.

In 1978, the rate for minority male teenagers was 26.8 percent compared to 13.5 percent for white youth. Presently, the teenage jobless rate in some inner cities is anywhere from 39 to 50 percent. Certainly, we are in critical need of a program that will not only provide training, but job opportunities for our youth.

Accordingly, I would like to express my support of H.R. 6411, the Youth Act of 1980 as a sound employment and training proposal for unemployed youth.

This measure revises and consolidates existing CETA title IV—A Youth Employment and Demonstration Projects Act—YEDPA—programs to provide disadvantaged youth with a wide range of employment and training opportunities and guarantees. Further, it creates a new program to provide disadvantaged youth with basic educational skills and abilities to get and keep a job.

While there are existing programs aimed at youth employment and training, such as those offered under CETA, I concur with the finding by the Education and Labor Committee, that there is a large gap in educational services provided to disadvantaged youth.

The link between education and employment opportunities have been firmly established. Also education problems seem to be concentrated among particular groups of youth, minority, and low income. Further, it is generally accepted that without basic literacy skills, youth are unable to take advantage of further education or training. Subsequently, many are consigned to the bottom of the economic social ladder.

I certainly agree with my friend and colleague, RONALD DELLUMS, in that the problem of youth unemployment seems unresponsive to traditional economic policy. It does not have any organized and politically sophisticated interest groups pressing for solutions. On the contrary, it is a source of alienation and hopelessness. It is a social time bomb for the future, and an economic waste, today.

In conclusion, I strongly urge you to oppose any weakening floor amendments, especially those who want to change the wage provisions of the bill and request that program participants be paid subminimum wage.●

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LLOYD) having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6711) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes, had come to no resolution thereon.

"ONE-THIRD OF THE NATION'S LAND"—THE 10TH ANNIVERSARY OF THE PLLRC REPORT

(Mr. UDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. UDALL. Mr. Speaker, 10 years ago today, on June 23, 1970, the Public Land Law Review Commission submitted its final report, "One-Third of the Nation's Land," to the President and the Congress.

Established by law in 1964, the Commission arose out of public demands for more effective and responsible arrangements for management of our public lands and their resources. The demands surfaced expressly in 1961 when President John F. Kennedy asked the Congress to enact a series of measures to repeal obsolete laws and provide new authorizations. Progress slowed on account of conflict with other urgent legislation affecting natural resources and conservation. Some Members of Congress wished to use the occasion as a means of reasserting congressional dominance over the executive branch in setting policy for public land administration. Legislation establishing the Commission emerged as part of a compromise which permitted passages of the Wilderness Preservation Act of 1964.

The job of carrying forward with the Commission devolved on its chief sponsor, Hon. Wayne N. Aspinall of Colorado, the chairman of the House Committee on Interior and Insular Affairs. He was joined by six Commissioners each from the House, Senate, and the public. The work proceeded with assistance from an advisory council, Governors' representatives, study contractors, and a capable staff. Inputs were received from the public land agencies. The public's views were obtained through a series of public hearings held throughout the United States.

The Commission's study embraced a wide scope—timber, range, minerals, water, fish and wildlife, agriculture, outdoor recreation, occupancy uses, land grants, and administrative procedures. The report was widely distributed to public libraries.

Three years ago Chairman Aspinall and many of the former Commission "family" gathered in Denver to review the Commission's work. Proceedings of this "PLLRC Revisited" conference are printed in volume 54, Nos. 3–4, of the University of Denver Law Journal. A general conclusion was that, although there has been no direct, overall carryover from the Commission into public land law, the Commission's recommendations have had a strong influence on legislation and regulatory reforms that have since come about.

Not all of the Commission's recommendations have been accepted, but a respectable number of them have formed the basis for new laws, updated regulations and procedures—and, yes, some new problems, too. The Federal Land Policy and Management Act of 1976 (Public Law 94–569) has become the charter for a revitalized Bureau of Land Management in the Department of the Interior. Similarly the payments in lieu of taxes measures (Public Law 94–565) and Public Law 94–429, prohibiting mining in national parks both derive from the Commission report.

As a former Commission member, I salute my friend and distinguished former colleague, Wayne Aspinall and our many colleagues who served the Commission faithfully and well.

As may be expected, some of the Commission's pronouncements of a decade ago seem out of style today. But many of its recommendations remain as sound as they were when "One-Third of the Nation's Land" was delivered to the President and Congress.

Unlike some Government documents which are promptly filed and merely gather dust upon the shelf, the PLLRC report is a living document that has served and will continue to serve as worthwhile information in our continuing search for proper ways to deal with the difficult problems of public land administration.

A listing of Commission and Advisory Council members and staff as it appeared in the report 10 years ago follows. The only Commission members remaining in Congress today are HENRY M. JACKSON, chairman of the Senate Energy and Natural Resources Committee, and MORRIS K. UDALL, chairman of the House Committee on Interior and Insular Affairs.

THE COMMISSION

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Philip H. Hoff, Former Governor of Vermont, Burlington, Vermont.

Laurence S. Rockefeller, Chairman, Rockefeller Brother Fund, New York, New York.

Nancy E. Smith, Supervisor, Fifth District, County of San Rebnardino, San Bernardino, California.

Former Members

Mrs. John Blessner Lee, Farmington, Conn., from inception until August 1965.

Senator Thomas H. Kuchel, California, from inception until January 1969.

Representative Leo W. O'Brien, New York, from inception until August 1966.

Representative Compton I. White, Jr., Idaho, from inception until January 1967.

Representative Rogers C. B. Morton, Maryland—February 1965–January 1967.

Representative Walter Rogers, Texas—July 1965-January 1967.

Representative Ralph J. Rivers, Alaska—August 1966-January 1967.

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TENTH ANNIVERSARY OF LENINGRAD HIJACKING ATTEMPT

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 60 minutes.

Mr. DRINAN. Mr. Speaker, 10 years ago this month, over a score of Soviet citizens noted for their advocacy of human rights were apprehended by Soviet authorities. At the famous "Leningrad trials" which followed, 11 were sentenced to death as traitors. Their sentences were eventually commuted to terms in prison ranging from 10 to 15 years. Today, 3 of the original 11 remain incarcerated in harsh labor camps, in ill health and with years of their sentences remaining. It is imperative for the continued survival of the three who remain that we remind the world of their plight.

Frustrated by their unsuccessful attempts to obtain exit visas to leave the Soviet Union, on June 15, 1970, while walking from the terminal in Smolny Airport in Leningrad to board an Aeroflot flight, these men were apprehended. Following their arrests, police searched the homes of at least 50 Jews in Leningrad, Riga, Moscow, and Kharkov in an attempt to intimidate and frustrate Jews throughout the Soviet Union who wished to leave for the West. In a trial which received international attention the would-be hijackers received stiff sentences; two Jewish defendents were condemned to death. The international community pressured the Soviet authorities to commute their sentences to harsh prison terms instead. Only through pressure from the West was the death penalty avoided for these men; only through pressure now can we hope that the sentences of Murzhenko, Federov, and Mendelevich will be commuted. Our goal today is to remind the world that tht Soviet Union continues to incarcerate these three individuals in a harsh and unreasonable manner, and that they should be allowed to leave the Soviet Union as they originally had planned.

Ten years later, each of the three remaining men have paid dearly for their desire to leave for the West. Iosif Mendelevich was a student of engineering at the Riga Polytechnical Institute and had long been involved in the Jewish activist movement. As an editor of the Jewish Samizdat he was accused of publishing anti-Soviet articles. After worldwide expressions of outrage, Mendelevich's original sentence of 15 years was reduced to 12 years in a strict-regime labor camp. Iosif Mendelevich is an observant Jew who refused to eat certain foods, and does not perform certain kinds of work on the Jewish Sabbath. For his religious observance he has been forced to endure additional hardships ranging from longer work hours during the week, to fasts when he was unable to eat the foods available to him.

Mendelevich's mother was allowed to leave Russia for Israel only after the death of her husband, and the intervention of the U.S. Government.

Yuri Federov was convicted and sentenced when he was 19 years old for anti-Soviet views and was forced to spend 3 years in a labor camp. Only wishing to leave the U.S.S.R. he joined the others in Leningrad on June 15, 1970. For his part, he was sentenced to 15 years in an especially strict regime camp. Federov suffers from chronic bronchitis, from severe kidney illness and other diseases. He became a practicing Christian-Orthodox and has been punished for insisting on wearing a crucifix. In 1976 he was hospitalized four times in the prison camp hospital. In 1977 he was hospitalized for breathing problems.

The third remaining prisoner of the original "Leningrad 11" is Aleksei Murzhenko who was originally arrested in 1962 for distributing leaflets and participating in a political seminar. After his release from a labor camp he was unable to secure employment in his chosen field, and was forced to work as a laborer despite the fact that he was in poor health. He too wished to leave the Soviet Union. After the Leningrad hijacking incident, Murzhenko was returned to a labor camp where he suffers from tuberculosis, an ulcer, and other maladies.

Under a Soviet law passed in 1972, the maximum sentence to be imposed in similar attempted hijacking cases is 10 years. Yet these three men are still languishing in Soviet prison camps. In the past year, the Soviet Union has released and pardoned seven Soviet prisoners who were being held on charges stemming from the same incident. Today, Federov, Murzhenko, and Mendelevich suffer from critical health problems which the Soviet prison authorities have refused to redress. It is imperative for the continued survival of the three who remain that we remind the world of their plight. Let the Soviet Union be on notice that we have not forgotten these three men, nor others who have been unjustly detained. Their release is more than justified. The West awaits the Soviet response to our plea.

● Mr. KEMP. Mr. Speaker, I am glad to have this opportunity to join my colleagues in the commemoration of the 10th-year anniversary of the Leningrad trials, the culmination of an act of desperation by 11 Soviet citizens, 9 of whom are Jews, who were denied permission to emigrate. Given no hope for a better life, they conspired to hijack a Soviet airplane to escape to freedom, but were apprehended before their plans were initiated. To this day, 3 of the 11 remain imprisoned, suffering from these past 10 years.

I join my colleague, Father DRINAN, whose leadership in this matter I admire and appreciate, in calling for the release of these three remaining prisoners, Yuri Federov, Aleksei Murzhenko, and Yosef Mendelevich, in light of a Soviet law which imposes a 10-year maximum sentence for similar cases of attempted hijacking. These people have been punished enough, from their forced residency in the Soviet Union to their current health problems, and for humanitarian reasons, they should be freed and permitted to leave the country at the earliest possible date.

Until the Jews of the Soviet Union are given their right to choose where to make their homes and to live in freedom and harmony with their neighbors, I will continue to consider this a major battle to be fought and won. The Soviets have repressed these people throughout history, and until we exert every pressure and utilize every tool available to us, we cannot put down our arms. More and more people are being pulled into the sphere of Soviet control unwillingly, and we owe it to ourselves beyond any other humanitarian considerations to halt and reduce Soviet obliteration of the right of their countries to self-determination before we find ourselves the lone voice on the side of democracy.

My thanks to Father DRINAN for arranging this special order in conjunction with the National Conference on Soviet Jewry, whose dedicated staff would be delighted to hear from those of my colleagues who would like to become active in this important effort.●

● Mr. WAXMAN. Mr. Speaker, it has been a decade since 11 Soviet dissidents were convicted for their attempt to steal an airliner to reach freedom in the West. Theirs was an act of utter desperation to force international attention on the plight of Soviet Jewry, and the pervasive anti-Semitism inside the Soviet Union. All but two of those involved had struggled for years to leave, but with no hope of success.

The Leningrad 11 were captured and harshly treated. All were sentenced to death as traitors. It was only after a worldwide uproar over the planned executions that their sentences were commuted to long terms in labor camps.

In 1979, all but three—Yuri Federov, Aleksei Murzhenko, and Iosif Mendelevich—gained their freedom. Several were pardoned by President Brezhnev, and two were exchanged for Soviet spies in the United States.

There is absolutely no reason why the three remaining prisoners should not be permitted to leave the Soviet Union. Their "crimes" are no greater than those who have already been released. Soviet law itself provides a 10-year penalty for hijacking—a penalty that has been served in full by Federov, Murzhenko, and Mendelevich. Their terrible ordeal must be ended.

I shall continue to join with my colleagues in speaking out on behalf of their freedom. The Leningrad trials were a major turning point in the development of the movement by Soviet Jews to exercise their right to freedom of emigration. We cannot forget those who have given so much for this great cause.

Mr. Speaker, I am pleased to insert in the RECORD an article describing this entire affair:

[From the New York Times, Apr. 30, 1979]

LENINGRAD HIJACKING: A DESPERATE ACT

(By Judith Cummings)

A band of 16 Soviet dissidents who in 1970 staged a desperate but unsuccessful attempt to steal an airplane to escape the Soviet Union did so with knowledge of a "99 percent" certainty they would be caught and sentenced to labor camps, two members of the group have said. But they carried it out anyway as the only means they saw to capture international attention for the dissident's movement.

Two participants in the escape bid, Eduard S. Kuznetsov and Mark Dymshits, described the motivation behind their act in an exclusive interview Saturday, a day after their release to the United States as part of an unprecedented exchange for convicted Russian spies.

Other points stressed by the two dissidents in the 90-minute interview included the following:

The most numerous category of offense laid to inmates serving time in Soviet prisons is that of "war criminal" for alleged World War II collaboration activities.

Emigrés and defectors who express a desire to return receive assurances of amnesty from the Soviet Government, but they are betrayed and sentenced to prison—commonly for a minimum of 10 years—once they are back on Soviet soil.

A majority of Jews and a minority of the general population feel stifled by a system that prescribes the course of their lives and inhibits their initiative, and this provides the main impetus for those who want to emigrate.

The authorities promote a false image of life for the dissidents in strict-regime prison camps as a privileged existence under the patronage of Western interests.

Mr. Kuznetsov, who is 40 years old, and Mr. Dymshits, 51, both were sentenced by the Soviet authorities to 15 years in strict-regime labor camps for their role in a plot to steal a small airplane at Leningrad's Smolny Airport and fly it to Sweden or Finland as a way to escape to Israel. Mr. Kuznetsov had originally been sentenced to death as a leader of the group. Mr. Dymshits, a former pilot in the Russian Army, was to have been pilot.

Mr. Kuznetsov said he was "almost sure" it was not any informant's betrayal that thwarted the escape of the plotters, who were seized just as they set out to board the airplane.

Rather what actually led to the capture, he said, was the fact that he and three of the others had served previous time in prison camps for alleged anti-Soviet activities. All the others, except for two Russian non-Jews who had joined the plot, had applied for exit visas at a time before emigration policies were eased. Both acts virtually assured them surveillance by agents of the KGB, or Russian secret police, he said.

"Almost all of us were sure, 99 percent sure the attempt would not be successful and we would be arrested," he said through an interpretor. But the real objective was to expose emigration policies regarding Jews, who he said at that time were accused of anti-Soviet subversion for as much as voicing a desire to leave. "A man must do what he ought to do," he said.

Mr. Kuznetsov smoked an occasional cigarette as he reflected and spoke, and he sipped strong tea. Mr. Dymshits sat straight-backed as though used to interrogation.

THREE STILL IN SOVIET PRISON

Although the number of people involved in the attempt has commonly been put at 12, the two reported that there actually were 16, including 4 women who were released prior to their December 1970 trial.

Of those convicted, all have got to the West except three men, who still remain in prison camps. They named them as Iosif Mendelevich, 31, and the two non-Jews, Aleksei Murzhenko, 36, and Yuri Federov, 35, who they said associated themselves with the Jews' cause after serving terms for distributing "anti-government" leaflets.

But Mr. Kuznetsov, a former mental-hospital aide, said he believed strongly all three would eventually win release. He repeated a conviction, expressed earlier at a news conference, that the step undertaken by the

Soviet that resulted in their freedom was part of a policy of promoting better relations with the West, a policy that demands the release of more and more prisoners.

Yesterday another group of five political prisoners, also involved in the hijacking attempt, climaxed their release last week with a tearful arrival in Tel Aviv. Among them was Vulf Zalmanson, the brother of Silva I. Zalmanson, Mr. Kuznetsov's wife. Miss Zalmanson, who served four years for the 1970 escape attempt, also was present during the interview, at the Drake Hotel.

Almost half the prisoners in Soviet prison camps are so-called "war criminals," convicted of Nazi collaboration in World War II, according to Mr. Kuznetsov, who said that Ukrainian nationalists and common criminals comprised other sizeable groups.

NEW ROUND OF TRIALS SEEN

He said that war criminals were used by the government as scapegoats to be accused, for example, of sabotage in cases of lagging production and other national problems. Both men said it was a government practice to announce periodically the "discovery" of new criminals at-large and to bring them to trial, when in reality their presence was on record all along. A new round of such trials is expected, they said, to beat the deadline for a statute of limitations on World War II crimes.

The Soviet press promotes an image of dissidents' imprisonment in hard labor camps, Mr. Kuznetsov said, such as Potma where he was held, as places where the prisoners are treated to special foods and other luxuries, delivered to them courtesy of indulgent friends in the West. In contrast, he said, they were denied all amenities, even the opportunity to possess books.

They said that "all the people who have come back" to the Soviet Union after defection or emigration to the West were now in jail, in most instances for a minimum 10 years sentence. They are imprisoned despite a public government policy of amnesty for those who want to return they said. They gave an example of an "especially interesting case" involving a man named Balakhonov—no first name was given—who they said quit a United Nations job in Geneva to return at the behest of his wife, was promised no sentence, and who is presently serving a 12-year term at the same camp where Anatoly B. Shcharansky is imprisoned.

At Perm, in the camp Mr. Dymshits just left, he said there were two such cases in his own unit of 18 men.

The two men were asked to speak about the reasons for people wanting to leave the Soviet Union, both Jews and non-Jews. They replied that the chief reason for both groups was dissatisfaction with a system that they said prescribed peoples lives and inhibited their initiative at the same time that it provided a measure of economic security.

They estimated that a majority of Jews and a minority among the general population felt that way, and that of the Jews 15 percent would actually leave if they could.

They noted, however, that many who leave seek to return.

"They overestimate their possibilities in the West," said Mr. Kuznetsov, who said that émigrés have too often unhappily discovered in the West that they were not the able competitors that they had imagined and had been handicapped by living in a system that denied them challenge.

But the Jewish population, they said repeatedly, faced the additional burden of official and unofficial discrimination—the denial of Jewish culture, for example, and the suppression of their language in an absence of textbooks, newspapers or magazines in Yiddish or Hebrew.

Mr. Dymshits complained of realizing at 51 that he had been "90 percent Russified" under what he termed a schizophrenic national policy that actively encouraged Jewish assimilation at the same time that it maintained discrimination.

Why did he seek to leave, already in middle age at the time of the escape attempt? He cited his inability to obtain a civilian pilot job in his home town, Leningrad, and the "liquidation of the Jewish theater." He said also he had faced the experience of searching for months for books that would afford him study opportunities in a Jewish language.

"I found some fiction, but no study books," he said.●

● Mr. LEHMAN. Mr. Speaker, I would like to open my remarks by commending my distinguished colleague from Massachusetts, Congressman BOB DRINAN, for having called for this special order commemorating the 10th anniversary of the first Leningrad trial.

The sentences passed on Christmas eve, 1970, marked the failure of a desperate attempt by 12 individuals to leave the Soviet Union so that they could live in Israel. The aborted effort to hijack a Russian plan was an act of desperation by a group of people for whom official Soviet repression and persecution had rendered life intolerable. All were actively involved in the dissident or democratic movements and had been subject to harassment, arrest, and imprisonment for their activities.

Of the 12, 10 were Jews who had repeatedly applied and been denied permission to leave the Soviet Union for Israel. The group had no intention to steal the plane, nor did they want to harm anyone. They had bought all the seats on the plane and intended to fly the plane themselves. Before attempting to leave, 9 of the 12 affixed their signatures to a letter explaining the true motivation for their action. The letter states:

> We, nine Jews living in the Soviet Union, are attempting to leave the territory of this state without requesting the permission of the authorities. We are part of those tens of thousands of Jews who, for many years now, have proclaimed to the appropriate organs of the Soviet regime their desire for repatriation to Israel. But unfailingly, with monstrous hypocrisy, distorting human, international, and even Soviet laws, the authorities deny us the right to leave. We are impudently told that we shall rot here that we will never set eyes on our fatherland. Jews who desire to become citizens of Israel are subjected in the USSR to all kinds of persecution, even to arrests. Being an alien element in that country, we are constantly threatened with a recurrence of the events of the 40s and 50s when the policy of spiritual genocide reached its apotheosis in the physical annihilation of Jews. The fate which awaits us here is, at best, spiritual assimilation . . . By our action we want to draw the attention of the leaders of the Soviet government to these eternal truths, to the endless tragic situation of Jews in the USSR, and to declare to them that it is in their own interests to let our people go home.

A decade later, 3 of the 12 are still in Soviet prisons. Iosif Mendelevich, an orthodox Jew, is now serving a 12-year sentence in a strict regime labor camp. Because of his religious observance he was given an additional 3 years in political prison for "defiance of orders and bad influence on others." In 1977, as a result of his refusal to work on the Sabbath, he was accused of "maliciously violating the regime of confinement"—though he worked extra hours on other days to compensate for the lost time. In punishment, he was transferred to the notorious Chistopol prison where he is today. Mendelevich suffers from severe malnutrition and chronic heart disease. His sister believes that under present conditions he will not survive his sentence.

Aleksei Murzhenko is currently serving a 14-year sentence at a strict regime camp. He suffers from tuberculosis and an ulcer, as well as other diseases. His wife and two young children, aged 7 and 1, are subject to continual harassment and are allowed to visit only twice a year.

Yuri Federov was sentenced to 15 years in a strict regime camp. He suffers from chronic bronchitis, severe kidney illness, and other diseases. As a practicing Orthodox Christian, he has been punished repeatedly for insisting on wearing a cross.

No official explanation has been offered for why these three men remain in prison while the others have since been released. All three are severely ill. On this 10th anniversary of their trial, I have joined my colleague Representative HOLLENBECK, in urging Secretary Brezhnev to release these three courageous victims of Soviet oppression.

The significance of their dramatic action and the subsequent trial extends far beyond the personal suffering of these three martyrs. A decade after their trial, the situation of Soviet Jewry has become more pressing than ever before. Recent reports point to a dramatic rise in anti-Semitic repression and an increased incidence of harassment and persecution. Many universities have closed their doors to Jews. In the past 6 months the number of Jews allowed to leave has fallen by 50 percent.

Furthermore, active efforts are being made by Soviet authorities to prevent the application of Jews for exit visas. OVIR offices across the country have been closed down. These practices have led to the creation of a new, undocumented class of refusniks, those refused permission to apply. Yet, despite all these obstacles, the actual number of applicants continues to rise dramatically; a fact which merely serves to illustrate the utter hopelessness of many Soviet Jews concerning their situation in that country.

The hijack-attempt in July 1970 constituted a desperate attempt to bring attention to the plight of Soviet Jewry. The act was an appeal to the international community to break its silence and to vocally and to actively support Soviet Jews in their struggle for the universally recognized right to freedom of emigration. As a signatory of both the Universal Declaration of Human Rights and the Helsinki Accords, the Soviet Union has formally recognized the universal right to emigration. On this anniversary of the first Leningrad trials, it is our responsibility to reaffirm our commitment to the sentiments expressed in those documents. The Leningrad 12 spoke to the free world from a Soviet court 10 years ago. Hopefully this special order will serve to remind us of our responsibility to demonstrate to the world, in words and deeds, that someone was listening.●

● Mr. PEYSER. Mr. Speaker, the life of Jewish and human rights minority activists in the Soviet Union is one of suffering and degradation. As concerned Americans, we are continually shocked at the attitude of the Russian Government. Officials there have consistently ignored the human rights of certain individuals in their country by denying citizens the right to emigrate to Israel and to other free nations.

Iosef Mendelevich, Yuri Federov, and Aleksie Murzhenko were refused permission to emigrate to other countries. Because of the intolerance on the part of the Soviet officials, these 3 men and 10 other colleagues chartered a plane to fly to Israel on June 15, 1970. Upon arriving at the airport, all were arrested for allegedly hijacking an airplane and, simultaneously, Soviet Jewish activists were apprehended in cities throughout the Soviet Union. At the now famous Leningrad trial, these three men were sentenced to a minimum of 12 years at extremely strict regime camps.

In April 1979, seven of the original defendants involved in the Leningrad trial were released and allowed to join their families in Israel. Today, Mendelevich, Federov, and Murzhenko remain in prison and all suffer from various serious illnesses brought on by their incarceration.

These brave individuals have suffered a long and arduous existence for the past 10 years. In acknowledging this solemn occasion, we must, once again, call on Soviet officials to release these three men who have, in their own way, become symbols of courage, bravery and humanitarian spirit. I am pleased that my colleagues are remembering the harsh sentences and that Congress shall continue to fight for the survival of these individuals.●

● Mr. SCHEUER. Mr. Speaker, I again rise to join my colleagues in calling attention to the plights of Yosif Mendelevich, Alexi Murzhenko, and Yuri Fiordorov, three brave and long suffering Soviet Jews.

A decade ago these three were among several convicted in the infamous "Leningrad trials" and sentenced to long years of hard labor. Soviet treatment of Mr. Mendelevich is demonstrative of the U.S.S.R. version of justice. Sentenced to a strict-regime labor camp, Mendelevich insisted on maintaining his religious identity by eating only ritually permitted food and abstaining for working on the Jewish Sabbath. Even though he offered to make up the lost work hours, he was accused of "maliciously violating the regime of confinement." His wearing a skull camp resulted in an accusation of "violation of the form of camp dress." Already eating as little as 300 grams of food, Mendelevich was transferred to the notorious Vladimir and Chistopol prisons of central Russia.

Mendelevich is a sick man and his already fragile health is rapidly deteriorating under the subhuman conditions in which he fights to exist. There are grave doubts as to this man's ability to survive his imprisonment.

Yosif Mendelevich, Alexi Murzhenko and Juri Fiordorov are waiting fair treatment and liberty in squalid conditions and poor health. Their stories are frighteningly similar. For the crime of yearning for freedom these men have suffered enough. We call upon the U.S.S.R. to uphold international law and simple human dignity and treat these men with humanity and the justice they are due.●

● Mr. SOLARZ. Mr. Speaker, we are once again uniting to speak on behalf of Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko. Much has been written and spoken about these three unfortunate souls on this, the 10th anniversary of their imprisonment, but it is not enough if they still remain in prison in the Soviet Union.

Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko are the only members of a group of 20 courageous young men and women who were arrested for attempting to flee the Soviet Union for Israel. As the only members of that group still in prison, they have become symbols of fortitude and humanitarian spirit upon which all freedom loving societies are based.

Iosif Mendelevich was born and raised in a family close to the Jewish tradition. He has tried to live up to the ideals and mandates of his religion even while serving his sentence in some of the harshest prisons in the Soviet Union. He adheres to a strictly kosher diet despite the restraints of an already severely restricted diet which is barely above the subsistence level in its entirety. Iosif continues to observe the Sabbath by working longer on other days—days on which the regular hours are taxing in and of themselves. Iosif has his faith, and a dream of freedom which will not die.

Yuri Federov is a practicing Christian-Orthodox, but he shares in Iosif's dream of freedom. He was first arrested and sentenced at the age of 19 for "anti-Soviet views" and was subjected to constant persecution on his release. This led him to join the desperate attempt to escape the Soviet Union. His subsequent imprisonment drastically affected his health—he suffers from chronic bronchitis and severe kidney problems as well as other illnesses. His only daughter was born while he was in prison and must grow up without her father.

Aleksei Murzhenko had also been arrested and sentenced for other "crimes"—the distribution of leaflets and participating in a political seminar—and felt his life sorely restricted. The risk of capture in 1970 seemed justified as he could no longer work or study within his field and saw little hope for the future. He now suffers in prison, the victim of tuberculosis and ulcers, among other diseases, and has been sentenced to some of the harshest Soviet prisons. His two daughters are also growing up without a father.

These three lives have been disrupted and three families have been separated for 10 years now. Their codefendants have all been released, and many have left the Soviet Union. I ask once again, in the spirit of the Helsinki accords and in the name of justice, that Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko be released and reunited with their families in freedom.●

● Mr. BARNES. Mr. Speaker, 6 weeks ago, several colleagues joined me in a similar special order to urge the Soviets to release the Leningrad three—Josif Mendelevich, Yuri Federov, and Aleksei Murzhenko. It was our hope that freedom—following nearly 10 painful and cruel years of imprisonment—might, at last, be within their grasp. But the Soviets—once again—ignored our plea.

Therefore, I commend Representative DRINAN and our colleagues today for renewing the effort of this legislative body to do whatever we can to continue to press the Soviets to set free these three ailing prisoners of conscience who seem doomed to remain incarcerated long after their comrades of the 1970 Leningrad trials have been released.

Certainly, we must continue to tell the Soviet leaders that we value the lives of Mendelevich, Federov, and Murzhenko as we do our own. And we will not cease to demand their right to exist as free men wherever they choose and to practice their religious faiths with dignity and without government interference.

On several occasions, I promised Rivka Drori, the sister of Josif Mendelevich, and Leib Khnokh, former prisoner sentenced at the Leningrad trials, that I would be among my colleagues who will speak for those silenced, oppressed persons who are muzzled against their will.

Leib Khnokh pleads that we not relent in our efforts to secure the release of these three heroic men. An absence of action by the Congress concerning dissidents, he said, is as noteworthy as repeated efforts to gain their liberty.

So let us rededicate ourselves to the cause of human rights in the Soviet Union. Let us continue to arouse world opinion until the day that Mendelevich, Federov, and Murzhenko emerge as full participants in the free world.●

FINE RECORD OF SOIL CONSERVATION OF IOWA FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, I would like to point out a very interesting trend to my colleagues in the House. At a time when the farm economy is worse than it has been in decades, soil conservation measures are not suffering in Iowa. According to Leon Foderberg of the Iowa Department of Soil Conservation, there is a healthy demand for soil conservation funds. Qualification for these funds requires a farmer to expend a considerable amount of private funds. Not only does this State program require a farmer to make an investment, a farmer must refund the entire payment if there is less than a 55-percent crop residue remaining.

Farming depends heavily on the availability of credit to finance the entire process until harvest. With tight credit and low crop prices, undertaking soil conservation practices is an added risk and expense. I am proud of all of the farmers of Iowa for rising to the challenge of preserving our soil in the face of one of the worst economic situations our agricultural community has seen in years. The demand by Iowa's farmers has been so great, an additional $400,000 had to be distributed to the local conservation districts.

I have sponsored a package of bills designed to improve soil conservation in all farming communities through Federal assistance of local programs and various tax measures. These measures should be of interest to all members, because the success of farmers in these environmental endeavors will directly relate to the amount of money all of your constituents will pay at the supermarket for food.

[From the Iowa Farm Bureau Spokesman, June 14, 1980]

Farmer Interest in Conservation High Despite Tight Economic Conditions

(By Dale Johnson)

Despite the tight economic conditions throughout Iowa this spring, farmer interest in state cost-share funds for soil conservation work did not slacken.

"It was thought that with money so tight this spring that farmers wouldn't want to do any work. But that wasn't the case," Leon Foderberg, resource conservationist with the Iowa Department of Soil Conservation, told the state soil conservation committee last week.

In fact, he told the committee that an additional $400,000 was distributed to Iowa's local conservation districts to meet the demand. This amount was somewhat higher than recent years, he said.

Foderberg said the fallout, the number of farmers deciding not to match state funding on soil conservation work, was very small. Cost-share funds that were dropped by some farmers were grabbed by other farmers in many counties.

The committee heard recommendations that the Iowa Till program and the Wind Erosion Control Incentive program, both launched for the 1980 crop year, be continued in 1981.

The programs are designed to serve as demonstration projects on the effectiveness of conservation practices. The Iowa Till program is funded with $500,000 from the state cost-share appropriation, while the Wind Erosion Control Incentive program is funded with $500,000 from the road use tax fund.

This year 15 counties participated in the programs. Under Iowa Till, contracts totaling $410,000 were signed with farmers in seven counties on 14,000 acres, most in watersheds covering at least 4,000 acres. Farmers received a one-time payment of $30 per acre and agreed to maintain the practice for 5 years.

However, 55 percent of the crop residues must remain to protect the soil after planting or the payment must be refunded. The committee decided to lower this requirement to 50 percent.

The wind erosion control incentive program pays farmers $1,000 per acre to plant field windbreaks and to maintain them for 10 years. Purpose of this program is to halt wind-blown dirt from filling road ditches.

Farmers are also paid $500 an acre to plant grass strips, also to halt wind-blown dirt. These must be maintained for 5 years. Conservation tillage, with payments of $30 per acre, is also included in this program.

However, there was less interest in this program. This year the department contracted with farmers for only $175,000 in practices.

The committee voted to add Badger Lake in Webster county and Union Grove in Tama county to the list of lakes eligible for 75 percent state cost-share funds to prevent continued siltation.

Other lakes on the list include: Ahquabi (Warren), Darling (Washington), Beeds (Franklin), Crystal (Hancock), Don Williams (Boone), Geode (Henry), Green Valley (Union), Macbride (Johnson), Pine (Hardin), Rock Creek (Jasper), Silver (Palo Alto), Springbrook (Guthrie), Bolga (Fayette) and Wapello (Davis).

The committee was also told that interest by individual counties in soil conservation continues to be strong. Lee county recently appropriated $45,000.

The funds are used for technical assistance, cost-sharing practices and special conservation work. Last year 25 counties contributed more than $500,000 for soil conservation.

The committee elected Ken Kassel of Ayrshire as chairman and Clifford Stille of Macedonia as vice-chairman for the upcoming year.

THE INTERNATIONAL MONETARY FUND AND PERU

The SPEAKER pro tempore (Mr. Lloyd). Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, the International Monetary Fund (IMF) has come under criticism in certain quarters lately for the allegedly "harsh rigidity of its stabilization programs and for its role in perpetuating Third World debt to private banks." Thus there arises opposition to H.R. 7244, which provides for an increase in the U.S. quota to the IMF. In a letter dated June 6, our energetic colleague Tom Harkin, makes the claim that the IMF monetarist austerity formula has had disastrous consequences for Peru, for example, with a particularly "pernicious impact * * * upon the poor," in that country.

Dr. William Cline of the Brookings Institution, on the other hand, who studied the economic stabilization in Peru during the 1975–78 period, has also addressed this particular issue. His conclusions, as set forth in his book, "Economic Stabilization in Peru, 1975–1978," differed with those of our friend Tom Harkin.

He writes:

> The real failure of stabilization policy in Peru was that it was not implemented earlier and more vigorously. The need for stabilization was evident by 1975. Yet the government kept pursuing excess demand policies through 1977, running budget deficits of 10 percent of GNP in 1975, 10 percent in 1976, and 9 percent in 1977, and increasing the heavy outlays for imported arms through 1977. Thus, while special factors helped cause the crisis (fishmeal decline, copper price decline, higher oil prices, failure to make major oil discoveries), the bulk of the problem was in fact caused by bad economic policies in terms of excess demand and distortions to foreign trade incentives.

Dr. Cline pointed out:

> It may be that the structuralist and neostructuralist critiques have merit and that devaluation, reduction in budget deficits, and credit restraint can be bad stabilization policies and can cause loss of real output rather than smooth correction of external and internal imbalances, in some cases. Peru was not one of those cases. Excess demand policies, external borrowing, and the delay in corrective policies, made the situation so bad that by 1977–78 there was virtually no alternative to the extreme measures taken. Furthermore, results did not begin to appear following the 1977–78 measures; devaluation and the slowing of aggregate demand did reduce the trade deficit (as the statistical tests above, rejecting the structuralist view, indicate).

Dr. Cline says:

> During the stabilization period there was clearly a decline of real earnings for urban workers in the organized sectors. However, because these workers are in the upper-middle part of the national income distribution, this decline probably tended to equalize the distribution of income nationally (at a minimum, the distribution of labor income). Even within the urban sector it was the income of the higher income group—the white-collar workers—that deteriorated the most (in part as the result of government measures that decreed absolute instead of percentage wage increases).

The author concludes:

> In summary the phasing out of government subsidies for food and petroleum, and increases in their prices, probably represented either a progressive, or, at worst, neutral redistribution of income. The measures shifted the terms of trade favorably for the rural areas.

I am not an economist but it seems to me that more often than not it is our leftist doctrinaire friends in Latin America, and elsewhere, often trained in Marxian economics which have been successful nowhere, who cause the problems which are later blamed on the IMF cleanup crew.

The problems of Peru are of a longstanding nature. Human suffering is the result of underdevelopment, and limited productive assets. It was largely because Peru followed very questionable economic policies imposed by leftist economic theorists over a period of years that the economy deteriorated severely. Peru, eventually, faced such a massive and entrenched balance-of-payments problem, with so little financing available, that a very large dose of medicine was required.

The objective of the IMF program is to correct the distortions in the economy and to provide a basis for sustained economy growth which will permit improved living conditions. In lending $120 million per year to Peru over the past 4 years, the Fund contributed to better living conditions than would otherwise have been possible. In the IMF program finally adopted in 1978 the Government is committed to curtail the public sector deficit but there are no constraints regarding the combination of revenue and spending levels to bring this about.

The policies adopted by the Peruvians to curtail the Government deficit, which were the Peruvians' own policies, included an emphasis on public investment, to restore growth and create jobs, on public enterprise price adjustments, and on austerity in current spending (including military). There was nothing in the standby arrangement to prevent expenditures aimed at easing the impact of price increases on the poor nor was the Government constrained from reducing unemployment with public work programs. Indeed, a program of nominal wage increases aimed at safeguarding real wages was built into the Government program. Since the IMF program was initiated in September 1971, the legal minimum wage has increased by 150 percent, while the inflation rate was under 90 percent.

Since the adoption of the IMF program in September 1978, there are very few domestic data to assess the program's results. Over a longer period prices in nominal terms have increased rapidly—because of Peru's raging inflation—but in real terms, much less: between December 1974 and June 1979, according to the IMF, French bread increased 480 percent in nominal terms but only 7 percent in real terms; rice rose 380 percent nominal but declined 11 percent real.

Controlling food prices does not necessarily help the poor either. In Peru, the greatest poverty is in the rural areas—where food is produced—and low prices subsidize the urban areas at the cost of the rural areas. So, it can be seen, that these issues are not so simple. Moreover, the assessment of the IMF program as excessively harsh is not universally shared. An article in Institutional Investor, July 1979, says:

> The story of how (Central Bank President) Moreyra "dealt with" the IMF is—the way he tells it—a saga of the clever little good guys against the canny but out-maneuvered big bad guys . . . (On targets for foreign reserves, liquidity, the budget deficit) the agreement was described at the time by Moreyra as "tight but manageable" and by local bankers as "distinctly generous."

There is more to the "IMF-in-Peru story," but there is a growing realization that leftist economists, while good at promoting spending binges, leave something to be desired in coping with the hangovers. Chile is a good example of what damage the Marxist theorists can do to an economy that must then be straightened out by the first team. But that is another story.●

PAPAGO WATER RIGHTS SETTLEMENT ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, today I am introducing a bill that seeks to resolve one of the most difficult, intractable and potentially disruptive problems the city of Tucson faces. The Papago Indian Reservation, our Nation's second largest, lies, in part, immediately south of the city of Tucson. Because of the needs for water by the city, by the great copper mines south of the reservation, and by non-Indian agriculture in the Upper Santa Cruz Valley, the groundwater table of the Papago Tribe has fallen dramatically.

Unable to head off the pressures on its groundwater table, the tribe brought a lawsuit over 4 years ago against these parties. The threat that the tribe might actually be able to enjoin the use of groundwater by the city and others has proven to be a powerful stimulus in promoting the negotiations that have resulted in this legislation. The major water-consuming interest in the valleys around Tucson have been meeting for months to ascertain what the current future uses of the groundwater have been and will be. Some of the participants have been:

Robert Condit, Cortaro-Marana Irrigation District.

Richard Walden, Farmer's Investment Co.

Don Williamson, Cyprus-Pima Mining Co.

Joseph L. Kirby, Duval Corp.

Ken Forian, Davis-Monthan Air Force Base.

George Percival, ASARCO.

Mark Ulmer, Papago Allottees.

William Strickland, Attorney, Papago Tribe.

Gene Cronk, City of Tucson, Water Department.

Jim DeCook, University of Arizona.

Ken Froehlick, Bureau of Indian Affairs.

Betsy Sukoski, private citizen.

Will Worthington, Corps of Engineers.

Robert Rice, Pima County Wastewater Department.

John Kai, Jr., Avra Valley Landowners Association.

Hamilton Catlin, Tucson Electric Power Co.

Without cavil or exception, all parties agreed that a negotiated settlement implemented by legislation would be the wisest course to pursue. With that argument I make common cause. Everyone who has ever looked deeply into the questions of Indian water rights has concluded similarly. The President's announced national water policy explicitly insists upon negotiations rather than the judicial process to settle these conflicts.

This bill would require the Papagos to waive their right to sue in exchange for the delivery of water to 4 points on the reservation: 90,000 acre-feet to San Xavier; 30,000 acre-feet to Garcia Strip; 40,000 acre-feet to Chuichu; 20,000 acre-feet to Gila Bend.

Some of these amounts could certainly be satisfied out of the water coming through the central Arizona project. But the Secretary is not told to use the CAP. To the contrary, the Secretary is not constrained to use any one source. The Congress will be more able to determine the legitimacy of the amounts claimed by the Papagos during the hearing process. I reserve the right to support different quantums of water if, during the committee hearings, we ascertain that the Papagos are entitled to a lesser amount.●

PRAISE FOR THE CLOSE-UP FOUNDATION AND THE LAUDER FOUNDATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, last week several of my colleagues in both the House and Senate paid tribute to the Close-Up Foundation on the occasion of its 10th anniversary. I would like to add my praise for the fine work of this nonpartisan, nonprofit educational organization. For the last 10 years, Close-Up has enabled thousands of students to participate in programs in Washington. These young people attend meetings, workshops and seminars to learn about the Democratic process firsthand. They are enthusiastic about being here, and we are enthusiastic about having them.

I would also like to point out that the New York program would have been dropped this year had it not been for the Lauder Foundation, an affiliate of the Estee Lauder Corp. The Lauder Foundation's $126,000 matching grant for the New York contingent was responsible for the youngster's experiences that are so well described in a recent New York Times article.

I would like to commend the Lauder Foundation's support of the Close-Up program and hope this example will encourage further private sector support for worthwhile educational programs. I also ask that Karen De Witt's excellent article be placed in the RECORD.

SEMINAR IN CAPITAL OFFERS MORE THAN A CLASS TRIP

(By Karen De Witt)

WASHINGTON, May 26.—As he sat in a committee room in the Rayburn House Office Building here last week, Elvis Vesquez's eyes sparkled like those of someone whose dream had come true.

"This is the classroom," he said softly, looking around the cavernous room banked with seats for Congressmen on one side. "This is where it all is."

Mr. Vesquez is a senior at Manhattan's Martin Luther King High School, and along with 125 other students from New York and Vermont, he was getting a closer look at the Federal Government.

The students were participants in Close-Up, a 10-year-old, nonpartisan, nonprofit organization that brings about 13,000 students a year to Washington for a weeklong program. The participants were being encouraged to form their own views on Federal policy and government through workshops, seminars and meetings with Federal officials.

BRIEFING ON CAMPAIGN

They sat quietly through a briefing on the Presidential campaign by Simmons Fentress, a correspondent here for Time magazine, and were enthusiastic about a chance to question Senator Jacob K. Javits, a Republican of New York. The occasion was dramatized by the sound of buzzers calling the Senator to the floor for a vote.

"You learn about your government first hand," said Elizabeth Carraballo, from Brooklyn's Eastern District High School. "I was really talking to my Senator. You don't have to write a letter, and you get to see how they really run things."

What most impressed Mr. Vesquez and five other students from Martin Luther King, however, was a briefing by Pentagon officials who urged the reinstatement of the draft.

"Though I'm against drafting, period, it was interesting to see how they defended their position," said Lisa Williams.

WORKSHOPS AFTER BRIEFINGS

Geraldy Antoine agreed: "I always thought we didn't need a draft, but when they tell you about the time it takes to mobilize our NATO forces, it makes you think again."

Changing opinions were even more evident in the 8-to-10 person workshop groups that the students joined after the briefings.

"Most of them are concerned with problems of New York," Vanessa Kidd, a workshop leader, said of the students. The workshops showed, she said, "how important participating in the political process is in order to change it."

At one workshop, 10 students engaged in a primary runoff, with five students as candidates and five others as voters. After the five candidates made their appeal, two out of the five student voters decided to abstain from voting.

"Despite the fact that one candidate had campaigned on a platform that called for rebuilding the slums of New York and curbing defense spending, it was the student who said we needed a stronger defense situation who won," said the workshop leader, Wendall Fisher.

The students themselves decide what issues they want to talk about. Another counselor, Suzette Green, said that in reviewing government priorities, the discussions can get rather basic.

"During one session in which they were trying to decide on government priorities, they debated whether it was a right that everyone should eat," she said. "And there were those who didn't think it was."

NOT JUST A SIGHTSEEING TOUR

The teachers who accompanied the students to Washington said that there was never any difficulty in eliciting interest in the program. The participants are chosen on the basis of interest in politics and government.

Florence Buschke, a Tottenville, S. I., social science teacher, explained: "This is an incredible experience for the kids to learn that government is there to serve them. It's not just a sightseeing tour."

The cost to participate works out to a little more than $200 a student. Some students pay part; scholarships and matching grants are also available. Margery Krause, vice president of the Close-Up Foundation, said that the New York program was almost dropped. This year, however, the Lauder Foundation, the nonprofit arm of the Estee Lauder Corporation, made a $126,000 matching grant for the New York contingent.●

SOVIET AGGRESSION IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

Mr. NELSON. Mr. Speaker, let us not be deceived by the Soviets' attempt, in saying they are withdrawing troops from the country of Afghanistan, as to their true intent. They are merely to try to diminish the world condemnation upon the Soviet Union for their invasion of that country of Afghanistan.

The Soviets have moved in a planned, coordinated, calculated attempt to bring about increased influence of their power in that region of the world.

I see this as a four-phased attempt at domination in that region of Southwestern Asia and the Middle East.

Phase 1 is what they are doing now in their consolidation of their power in Afghanistan and trying to tell the world that they are really not there, that they are really there at the invitation of the Afghanistan Government, and that they are really there now to keep peace and as a great gesture they are going to be having some of their troops go home.

Let us not be deceived about what they are really trying to do. Once they consolidate their power, of which they are having significant difficulty in doing in Afghanistan, then they will move into the phase of political subversion in neighboring countries such as Iran or Pakistan, there preying upon all the tumult and insurrection and division of the various minority and ethnic groups that form those lands.

Once they have politically subverted, then they will go into their phase 3 of political intimidation through all of the insurrection and tumult of governments that might have difficulty in quelling those problems, and they would then look outside to another power to help them.

The Soviets would then hope for their phase 4, which is to be invited in to quell the riots and the dissension. The Soviets at that point would have achieved what they had sought, their power position in that part of the world without having to fire the first Soviet rifle.

That puts a great burden upon the United States to prevent that kind of subversion from taking place in that part of the world. So let us not be deceived by what the Soviets have announced they intend to do, to withdraw troops.

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, on Friday, June 20, I missed several rollcall votes. The votes are as follows:

Rollcall No. 351, on agreeing to the Speaker's approval of the Journal of Thursday, June 19. The motion was agreed to by vote of 287 to 17, with three Members voting "present." Had I been present, I would have voted "yea."

Rollcall No. 352, on House Resolution 702, the rule providing for consideration of H.R. 6711, the Youth Act of 1980. The resolution was agreed to by vote of 330 to 1. I was paired for the resolution and had I been present, would have voted "yea."

Rollcall No. 353, on House Resolution 715, the rule providing for consideration of H.R. 7584, State, Justice appropriations, fiscal 1981. The resolution was agreed to by vote of 325 to 10. I was paired for this resolution and had I been present, would have voted "yea."

Rollcall No. 354, on a motion that the House resolve itself into the Committee of the Whole for consideration of H.R. 7584, State, Justice appropriations, fiscal 1981. The motion was agreed to by vote of 323 to 4. Had I been present I would have voted "yea."

Rollcall No. 356 on an amendment to H.R. 7584 State, Justice appropriations, fiscal 1981, offered by Mr. CRANE of Illinois. The amendment was rejected by vote of 80 to 252. I was paired against the amendment and had I been present I would have voted "no."

Rollcall No. 358 on an amendment to H.R. 7584 State, Justice appropriations fiscal 1981, offered by Mr. ASHBROOK of Ohio. The amendment was rejected by vote of 151 to 157. I was paired against the amendment and had I been present, would have voted "no."●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROYER) to revise and extend their remarks and include extraneous material:)

Mr. GRASSLEY, for 10 minutes, today.

Mr. DERWINSKI, for 5 minutes, today.

Mr. HILLIS, for 1 hour, on July 22.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 60 minutes, on June 24.

Mr. STRATTON, at the request of Mr. NELSON, to address the House for 60 minutes, on June 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROYER) and to include extraneous matter:)

Mr. COUGHLIN.

Mr. BEREUTER.

Mr. GOODLING.

Mr. PHILIP M. CRANE.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. MAVROULES.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. MURTHA.

Mr. SOLARZ.

Mr. JACOBS.

Mr. HARRIS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1972. An act to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; to the Committee on Interior and Insular Affairs;

S. 2251. An act to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol; to the Committee on the Judiciary;

S. 2476. An act to provide that the shipping vessel *Kailua* have the right to engage in coastwise trade; to the Committee on Merchant Marine and Fisheries; and

S. 2830. An act to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the 5th Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, La., to be known as the 5th Circuit, and the other to be composed of the States of Alabama, Florida, and Georgia with headquarters in Atlanta, Ga., to be known as the 11th

Circuit, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. NELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 41 minutes p.m.), the House adjourned until Tuesday, June 24, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4677. A letter from the Assistant Secretary of State for International Organization Affairs, transmitting a report issued by the United Nations Joint Inspection Unit, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4678. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

4679. A letter from the Records Officer, U.S. Postal Service, transmitting notice of a proposed change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4680. A letter from the Comptroller General of the United States, transmitting on status, progress, and problems in Federal agency accounting (FGMSD-80-52, June 20, 1980); to the Committee on Government Operations.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the Order of the House on June 19, 1980 the following report was filed June 21, 1980*]

Mr. STAGGERS, Committee of Conference. Conference report on S. 1308 (Rept. No. 96–1119). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL:

H.R. 7640. A bill to provide water to the Papago Tribe of Arizona and its members, to settle tribal and individual water rights claims in portions of the Papago Reservations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MARKEY (for himself, Mr. WAXMAN, Mr. KEMP, Mr. EDWARDS of Oklahoma, Mr. WOLPE, Mr. SHANNON, Mrs. CHISHOLM, Mr. BONIOR of Michigan, Mr. FAZIO, Mr. BEDELL, Mr. MITCHELL of Maryland, Mr. STARK, Mr. OTTINGER, Mr. MOTTL, Mr. LEACH of Iowa, Mr. MAGUIRE, Mr. HINSON, Mr. OBERSTAR, Mr. NOLAN, Mr. ERDAHL, Mr. SOLOMON, Mr. WEISS, Mr. MCKINNEY, Mr. GREEN, Mr. PORTER, Mr. ADDABBO, Mr. DRINAN, Mr. RATCHFORD, Mr. ROYER, Mr. GRAY, Mr. BROWN of California, Mr. EDGAR, Mr. KOSTMAYER, and Mr. VENTO):

H. Con. Res. 372. Concurrent resolution disapproving the proposed exports to India of low-enriched uranium for the Tarapur Atomic Power Station; to the Committee on Foreign Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

377. The SPEAKER presented a petition of the annual meeting of the Southern Baptist Convention, St. Louis, Mo., relative to prayer and Bible reading in the public schools; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6587: Mr. BRODHEAD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6711

By Mr. JEFFORDS:

—Page 17, line 3, insert "(A)" immediately after "provided", and on line 7, insert immediately before the period the following: ", and (B) to youth identified under section 215(b) of the Youth Act of 1980 (but use of funds for such identified youth shall not be counted as part of the funds described in section 414(b))".

—Page 24, line 13, strike out "under subpart 1" and insert in lieu thereof "under other provisions of this title".

Page 30, beginning on line 2, strike out "under subpart 1 of this part" and insert in lieu thereof "under other provisions of this title".

—Page 28, line 22, insert ", subject to the limitation contained in section 122(h)(2)," immediately after "employment".

—Page 44, after line 24, insert the following new section:

SUBMINIMUM WAGE FOR YOUTH IN CETA PROGRAMS

SEC. 104. Section 124 of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following:

"(e) Notwithstanding any other provision of this Act or of the Fair Labor Standards Act of 1938, the hourly equivalent of the combined wages and allowances paid under this Act to an individual aged 16 to 21, inclusive, shall be at a rate not less than 85 percent of (1) the wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938, or (2) in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) of such Act, the wage rate in effect under section 6(c) of such Act.".

Page 36, after line 21 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(3) by striking out section 442;

Page 41, in the table of contents, strike out the item pertaining to section 442.

H.R. 7590

By Mr. HARRIS:

—Page 30, after line 12, insert the following:

SEC. 503. No more than 20 percent of the total appropriations made available for any agency for any fiscal year under this Act may be obligated during the last two months of such fiscal year.

By Mr. MILLER of Ohio:

—Page 30, line 13, add:

SEC. 503. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

H.R. 7591

By Mr. MILLER of Ohio:

—Page 51, after line 26, add:

SEC. 612. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

H.R. 7592

By Mr. MILLER of Ohio:

—Page 14, line 6, add:

SEC. 122. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

H.R. 7593

By Mr. MILLER of Ohio:

—Page 33, line 14, add:

SEC. 307. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

SENATE—*Monday, June 23, 1980*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, in whom we live and move and have our being, as with renewed powers and restored souls we undertake our tasks in this forum of the Nation's Capitol, help us to be masters of ourselves that we may indeed be servants to others. May Thy word be a lamp unto our feet and a light upon our pathway. Give us a consuming passion, not to have our own way, but to find Thy way. May no cherished resentment, no camouflaged selfishness, no disguised hostility, no small loyalties or engrained prejudices obstruct our national service. Enlarge our spirits to match the enormity of our problems. When the day ends may there be less for which we need to be forgiven and more for which we may be glad because we have tried to show Thy goodness and mercy and justice in our daily lives.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 23, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am glad to yield my time to the distinguished minority leader or to any Senator who may wish to use it.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee, is recognized.

Mr. BAKER. Mr. President, I have no need for my time under the standing order, and I am prepared to yield it back.

I see no other Member in the Chamber requesting time.

Mr. President, I yield back my time under the standing order.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken from the two leaders' time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business to come out of the time of the two leaders, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE FEDERAL ELECTION COMMISSION'S PROPOSED FEC FORMS 4, 5, AND 7

Mr. PELL. Mr. President, on June 12, 1980, the Federal Election Commission transmitted to the Congress FEC forms 4, 5, and 7 with a detailed explanation and justification as required by the Federal Election Campaign Act. Either House of Congress may disapprove by resolution any forms proposed by the Commission during their time for consideration. Through Friday, June 20, 1980, 4 legislative days remain for the Senate to take action in this matter. A legislative day is any day on which the Senate is in session for purposes of these forms.

Generally, these proposals represent improvements and accommodate the changes to the Federal Election Campaign Act resulting from amendments enacted earlier this year. Form 4 is for the reporting of receipts and disbursements for a committee or organization supporting a nominating convention. Form 5 is to be used for the reporting of independent expenditures and contributions received, and form 7 provides for the reporting of communication costs by corporations and membership organizations.

Copies of the proposed forms, together with their explanation and justification, are available from the Senate Committee on Rules and Administration, Elections Section, 310 Russell Senate Office Building, 202-224-5647, or from the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463, 202-523-4143.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

RECOGNITION OF SENATOR ZORINSKY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska (Mr. ZORINSKY) is recognized for not to exceed 15 minutes.

Mr. ZORINSKY. Thank you, Mr. President.

INTIMIDATION AT FEDERAL CROP INSURANCE CORPORATION

Mr. ZORINSKY. Mr. President, by accident, a new Member of Congress comes upon what appears to be a great learning experience, though frustrating and time consuming.

For more than 3 years my office has worked on what we call a "case" in the Federal personnel system, initially involving a transfer of a Government official in the Federal Crop Insurance Corporation and, for more than 3 years exercised patience until I had no choice but to write the Comptroller General, Elmer B. Staats in order to obtain basic information related to the case.

My understanding of the work of that agency is that it is an investigative arm of the Government which reports to Congress annually on the receipt, disbursement, and application of public funds and recommends ways to make Government more effective, efficient, and economical. Government spending has been my concern ever since coming to this body. In reviewing the most recent GAO report, I note in the 1979 copy that only two reports were issued to the Agriculture Committee. In chapter 10 of this report I took note of the Federal Personnel and Compensation Division which states one of the duties of that division of the General Accounting Office is "to investigate retention of employees, employee relations, including equal employment opportunity programs, labor management relationships,

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

social responsibility programs and morale, welfare and recreation services * * * and that 45 percent of the division's work is in response to congressional requests."

I note further on page 112 of the same report that this agency "examines the organizational structure of various departments and agencies of the Government" and thus I wrote to the Comptroller General. My letter to him stated that out of this case of the transfer of an individual Government employee had come allegations of rampant abuses and disregard of the rules and regulations existing in the Federal Crop Insurance Corporation and other divisions of the Department of Agriculture.

On April 16 in my letter to the Comptroller General, I requested a meeting to look at the allegations and advise me of the procedure. Rather than receiving an immediate response, on May 5 I received a letter from Mr. H. L. Krieger, Director of the Federal Personnel Division, telling me that my letter had been sent to the Merit Systems Protection Board and that the General Accounting Office had no jurisdiction.

If a Member of Congress cannot believe what is presented in the reports furnished by the General Accounting Office which I have quoted, we are long delayed in the process of any immediate response in any problem we encounter. In these 3 years I have witnessed so many delays that my patience is exhausted. The bureauratic system is enough for us to contend with, even if it really works as so printed and as given power by the laws we have passed.

After these long delays I am informed that the Merit Systems Protection Board just cannot respond to Congress because of lack of funds and staff and further, at this late date does not know if it has jurisdiction over the problems presented to them by my office.

The Office of Personnel Management, which replaced the old Civil Service Commission, claims it has some oversight and will cooperate with any agency making such investigation. I have sought help in every bureaucracy recommended and only on May 29 did I finally succeed in getting a meeting together of the General Accounting Office, and the Office of Inspector General of the Department of Agriculture to try to set responsibility for an investigation. I am not certain that any department of government is able to investigate itself or "air its dirty linen," should some exist, but I feel a congressional inquiry merits immediate action.

My office has no door since I came to the Senate and I will not be accused of any cooperation in a coverup. The employees of the U.S. Government should have learned long ago that the Watergate episode can happen again when such methods are used, and they will be blown out of proportion in the press and many people will be hurt until the truth comes out. No administration will ever eliminate the attachment of "Gate" to an investigation if such practices continue—Is this now "Agri-gate"?

President Carter in his civil service reform message to Congress stated that legislation was necessary because:

> It (Civil Service Commission) has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights and mires every personnel action in redtape, delay and confusion.

And, in creating the Senior Executive Service, the President stated:

> A critical factor in determining whether Federal programs succeed or fail is the ability of the Senior Managers who run them. Throughout the Executive Branch these 9200 top administrators carry responsibilities that are often more challenging than comparable work in private industry. Under the Civil Service system they lack the incentives for first-rate performance that managers in private industry have. The Civil Service treats top managers like the 2.1 million employees they direct. They are equally insulated from the risks of poor performance and equally deprived of tangible rewards for excellence.

Allegations in the past 4 months of abuse of everything intended by the reform show me that the "Utopia" promised the civil servant is not forthcoming. It is apparent that what we have adopted is the old "responsiveness program" of the Nixon administration which was exposed in the Watergate hearings. It is the managers and Senior Executive Service which can now politicize the departments leaving the 2.1 million employees to fend for themselves.

The allegations I have presented attack the very structure of the Federal Crop Insurance Corporation and other departments and one can easily see why our farmers are in trouble. My office has become the depository of a deluge of "whistleblower" calls and I am honored with the confidence the Government employees place in me. The honest and hard-working employees of the Federal Government deserve to have faith in their Government and its leaders but too many are cynical and are leaving their posts rather than have their health broken or hire attorneys to fight, only to lose and pay court costs.

Fellow colleagues, I am a fairly new Member of this body and I am sure all of you realize my dedication to economize whenever and wherever possible and surely I have done so in the spending of my own Senate staff allowance—the only funds I personally control. I believe it is our duty, as those charged with the spending of the tax dollars, to see that the laws we have enacted are faithfully carried out. We took an oath to do so. We cannot correct all of the problems of this huge bureaucracy which we ourselves have created, and apparently it is just not possible to "oversee" them at this stage. But we can try.

I have again written to the Comptroller General as of June 20 requesting that he enter into an overall review and investigation of his own, and not to duplicate the efforts of those agencies who have professed cooperation and coordination. I believe as a member of the Agriculture Committee I deserve a response at an early date. Failing that, I serve notice here and now that I shall request an inquiry by the Senate Governmental Affairs Committee and the House Government Operations Committee.

I ask unanimous consent that my June 20 letter to the Comptroller General to be included with my remarks today as well as previous correspondence and recent newspaper articles relating to this ongoing investigation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 16, 1980.

Hon. ELMER B. STAATS,
Comptroller of the U.S., General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Through a personnel case developed during the past year on behalf of Mr. Jack Ketterer of the FCIC office in Lincoln, Nebraska, a great many questionable personnel practices in the FCIC have come to my attention. By mail and in telephone calls to my office, I am apprised of very strong allegations of corruption, violations of Federal law, illegal movement of personnel in Lincoln, Nebraska, Kansas City, Missouri, in Montana, Texas, the state of Washington and Washington, D.C. These allegations are of such a nature I believe it bears looking into by your agency.

I would appreciate an investigation to be started at the earliest possible date in order to complete the case of my constituent and those affected by this matter.

Thank you for your cooperation.

Sincerely,

EDWARD ZORINSKY,
U.S. Senator.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 12, 1980.

Hon. EDWARD ZORINSKY,
U.S. Senate.

DEAR MR. ZORINSKY: Your April 16, 1980, letter requesting an investigation into allegations of corruption and questionable personnel practices within the Federal Crop Insurance Corporation has been referred to our Federal Personnel and Compensation Division.

Sincerely yours,

MARTIN J. FITZGERALD,
Director, Office of Congressional Relations.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., May 2, 1980.

Hon. EDWARD ZORINSKY,
U.S. Senate.

DEAR SENATOR ZORINSKY: Your April 16, 1980 letter requested our assistance in investigating questionable personnel practices in the Lincoln, Nebraska Office of the Federal Crop Insurance Corporation.

It is our general policy not to investigate individual cases when they can be more appropriately handled through an existing administrative procedure. The Civil Service Reform Act of 1978 gave the Office of the Special Counsel, Merit Systems Protection Board, the authority and responsibility to investigate and prosecute violation of merit systems principles and personnel system abuses such as described in your letter.

Therefore, this matter has been referred by us to the Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419 (telephone 202-653-7107).

Sincerely yours,

H. L. KRIEGER,
Director.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., May 2, 1980.

MS. MARY O. EASTWOOD,
Acting Special Counsel,
Office of the Special Counsel,
Washington, D.C.

DEAR MS. EASTWOOD: We are forwarding for your review and action the enclosed letter from Senator Edward Zorinsky concerning possible prohibited personnel practices in the Lincoln, Nebraska Office of the Federal Crop Insurance Corporation, Department of Agriculture.

We have advised Senator Zorinsky that the matter has been referred to your Office for disposition.

Sincerely yours,
H. L. Krieger,
Director.

May 5, 1980.

Mr. H. L. Krieger,
Director, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Krieger: Thank you for your letter of the 2nd telling me that your office does not get involved in individual cases and that you are referring my letter of April 16th to the Merit Systems Protection Board. The Board has already taken up the individual case in Lincoln, Nebraska and I am now awaiting a ruling on the matter.

My letter specifically noted the allegations of widespread abuses within the Federal Crop Insurance Corporation in several states and my office has copies of these allegations on hand. I would appreciate your office as a branch of the Congress, assigning someone to come to my office to look over the materials I am presently holding for such investigation.

Thank you for your cooperation.

Sincerely,
Edward Zorinsky,
U.S. Senator.

May 19, 1980.

Ms. Ruth Prokop,
Chairperson, Merit Systems Protection Board, Washington, D.C.

Dear Ms. Prokop: Enclosed are allegations made from various areas of the United States regarding the personnel practices of the Federal Crop Insurance Corporation. I have presented the matter to the GAO over a month ago and to date the action has not been taken to begin the investigation required.

At this time, because of the widespread allegations made herein, I am requesting that your Board put a freeze on the movement of personnel within the FCIC. As you will note, there are many people awaiting moves or retirement because of the allegations made and I would like to be certain that the personnel are not being moved at "whim" spending millions of tax dollars for such practices.

Your offices are presently involved in the case of Mr. Jack Ketterer of Lincoln, Nebraska who originally brought some of these practices to light.

Thank you for your immediate attention to this matter.

Sincerely,
Edward Zorinsky,
U.S. Senator.

May 21, 1980.

Mr. Marty Fitzgerald,
Congressional Liaison, Department of Agriculture, Washington, D.C.

Dear Marty: Enclosed is a copy of the letter which I have just sent to Mr. Thomas McBride as you suggested.

I look forward to the proposed meeting as soon as possible.

Sincerely,
Edward Zorinsky,
U.S. Senator.

May 21, 1980.

Mr. Thomas F. McBride,
Inspector General, Department of Agriculture, Washington, D.C.

Dear Mr. McBride: In a meeting held today in my office, I have learned that your office has been involved in the investigation of the Federal Crop Insurance Corporation personnel practices and for other allegations which have come directly to your office.

On April 19, 1980 I wrote to Mr. Elmer Staats, Comptroller General, requesting an investigation into allegations which have been reaching my office over a period of months. Several letters have exchanged and no action has been taken to date, each agency stating they were not in control of the matter. I have also been in touch with the Merit Systems Protection Board requesting that a freeze on the movement of personnel be made until such an investigation is completed.

It is my understanding from the meeting today that your investigative staff force numbers about 800 people and I believe this is ample staff to undertake the investigation as quickly as possible.

Enclosed is a copy of the allegations received in my office from one source but I want you to know that many calls come in each week from the various areas of the country referred to in the enclosed, relating to the same practices.

I have passed on most of the information received here in my office to the press and television and have requested they hold off on any publicity until the investigation is completed. I would hope that not much more time passes before we can make public your findings.

Sincerely,
Edward Zorinsky,
U.S. Senator.

U.S. Department of Agriculture,
Washington, D.C., May 28, 1980.

Hon. Edward Zorinsky,
U.S. Senate,
Washington, D.C.

Dear Senator Zorinsky: This will acknowledge receipt of your letter dated May 21, 1980 forwarding information pertinent to our current investigation concerning the Federal Crop Insurance Corporation. Several of the allegations in the information enclosed with your letter are already under review, having come to us from other sources but you can be sure that all relevant issues will receive attention.

I know you understand that the results of our investigations are first reviewed for any legal or administrative actions that may be warranted, and any public disclosures must be deferred until this process is completed. Incidentally, field investigative resources of our office, which must be distributed to respond to all the investigative needs in the many programs of the Department, number less than 250. The staff level of 800 mentioned in your letter encompasses the audit force and administrative personnel supporting the Office of Inspector General.

I trust this reassures you that this situation is receiving appropriate investigative attention and that reports will be issued as soon as practicable.

Sincerely,
Margaret J. Gates,
Acting Inspector General.

U.S. Senate,
Washington, D.C., June 19, 1980.

Hon. Robert Bergland,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

Dear Bob: Under the Freedom of Information Act I would like you to furnish me with copies of all travel documents relating to the travel of Messrs. Deal, Johnson and Alton as well as travel records of all District Directors since 1977. Mr. Magee advised me that this information is easily accessible since it is on microfiche.

In addition, I would appreciate the names and personnel papers of all female personnel hired since 1977 in the FCIC and any travel made by them at the expense of the government, including WAE employees.

I would also like a list of all complaints and actions taken on transfer or downgrading of personnel in FCIC since 1977.

Further, I would like you to make available to members of my staff all Federal Crop Insurance records claims since 1977. My staff will be pleased to come to the designated area where such records are kept to research specific data I would like to have.

Your cooperation in getting this material to me as soon as possible will be very much appreciated.

Sincerely,
Edward Zorinsky,
U.S. Senator.

U.S. Senate,
Washington, D.C., June 20, 1980.

Hon. Elmer Staats,
Comptroller General, General Accounting Office, Washington, D.C.

Dear Mr. Staats: Since my April 16th letter to you, to which your Director H. L. Krieger responded by letter dated May 2, 1980 and my reply dated May 5, 1980 to Mr. Krieger and subsequent meeting with representatives of your office, much has happened with respect to widespread fraud, waste, and abuse in expenditures of public funds as it relates to questionable personnel policies and practices within the Federal Crop Insurance Corporation (FCIC). See attached clippings as reported by various newspapers.

As I mentioned in my May 5, 1980 letter to Mr. Krieger (and I agree with your general policy regarding investigating individual cases), I am aware of the investigation by the Merit Systems Protection Board and am awaiting its rulings on the allegations, as well as the results of the Department of Agriculture's own Inspector General Investigation.

My broader concern, however, as Chairman of the Agriculture Credit and Rural Electrification Subcommittee of the Agriculture, Nutrition and Forestry Committee, which oversees the FCIC and its programs, is the overall personnel system in use at FCIC and how efficiently, effectively, and economically the FCIC personnel system works and where you believe suggested improvements in FCIC's personnel management system could be made. It is in this spirit of goodwill, common interest, and cooperation that I am requesting a GAO review and evaluation of the FCIC personnel system—not to duplicate, overlap, or interfere in the Department of Agriculture Inspector General and the Merit Systems Protection Board's investigations of individual cases.

An overall review and evaluation of FCIC's personnel management system and how effective, efficient, and economically it is being implemented by the FCIC would be most appropriate, beneficial, and timely so that members such as myself, who have oversight responsibilities of the FCIC actions could ask direct penetrating questions during possible upcoming hearings. Since the timeliness is of great importance to me in this matter, I would appreciate your response to this request at the very earliest date.

In closing, after reviewing the GAO's role and mission in assisting the Congress, Committees, and Subcommittees, and Members (as described in your annual reports to the Congress), I wish to reemphasize that our goals are mutual. I, as much as you, wish to see greater economy, efficiency, and effectiveness in carrying out government programs of the Executive Branch, eliminating fraud, abuse, and waste and am looking forward to identifiable personnel management improvements that I am sure your review and evaluation can provide. Constituent mail and discussions to me and other members of Congress indicate they feel the personnel system in FCIC is inefficiently administered and mismanaged and that a full-scale review such as outlined above would provide concrete examples where savings, through suggested areas of improvements could be made.

Should you need any assistance from my staff, please feel free to call Carolyn Andrade at 224–3513 or my personally.

Sincerely,

EDWARD ZORINSKY,
Chairman, Agriculture Credit and Rural Electrification.

[From the Washington Star, June 21, 1980]

Bureaucratic Warfare: USDA Unit "Run by Intimidation," Official Reports

(By Bailey Morris)

The Federal Crop Insurance Corp. is "run by fear, sex and other forms of intimidation," says an FCIC official who recently gave a sworn statement to federal investigators.

In the past two and a half years, there have been at least two additional probes into allegations of wrongdoing at FCIC, including one involving the showing of pornographic films at the agency's Washington headquarters, said the official. The other, he said, involved complaints made by a female employee against a top FCIC official.

"Rules have been bent, personnel papers have been altered, people have been threatened, money has been spent on questionable trips—you name it, it's happened," the official said in an interview. The official, who works in the FCIC Washington office, asked not to be named.

He, himself, is "guilty of participating in questionable, most likely illegal practices," the official said.

"The tone is set at the top. I was ordered to do things, and I did them. They (federal investigators) won't find anything amiss in the paperwork because like any good bureaucrat, I made sure my ass and theirs' were covered," the official said.

Finally, after the inspector general's office of the Agriculture Department began investigating allegations of corruption, improper sexual conduct and improper personnel practices at FCIC, the official said he decided "to come forward."

Agriculture Secretary Bob Bergland said yesterday he expects the inspector general's investigation to be completed "by the end of next week."

Bergland said he would have no comment on the investigation or on the specific charges leveled against top FCIC officials until after the probe is completed.

"We were getting a lot of unsigned letters and now we have to see what's legitimate and what isn't," Bergland said.

Earlier, however, USDA officials said that based on a preliminary verbal report from the inspector general's office, there does not appear to be sufficient grounds for "action against any individual."

The FCIC official said this comment and others have "convinced people here that nothing is going to be done. As a result, a lot of them are afraid to say anything.

He decided to make certain disclosures about FCIC operations because "I couldn't live any more with what they were doing," the official said.

Like Bergland, agency officials accused of wrongdoing either declined to comment on the specifics of the charges until the investigation is completed or were not available.

The pornographic film investigation, conducted about a year ago by the inspector general's office, "is a good example of how things get glossed over and covered up around here," the official said.

A spokesman in the inspector general's office confirmed the pornographic film investigation had taken place but said details are not available.

According to the FCIC official, the showing of X-rated films in FCIC's conference room was blamed on a mail clerk who was forced to resign.

"The clerk was told to pick up the package at a downtown camera shop where the government does a lot of business. He signed for it and looked inside and saw a lot of X-rated cassettes," the official said.

Later, the clerk and three friends watched one of the movies in the conference room, he said.

"Personnel was told about it for six months. Nothing happened. Finally, it was investigated and most of the blame was pinned on the clerk. But who asked for the films and who had been watching them in the past? That's the real question," the official said.

"They finally named a man, an administrative chief, and he was given a reprimand, a slap on the wrist, and that was it. He's still here, in the same job," the official said.

The same man "approached young girls we would hire and ask them if they wanted to make extra money after hours by posing for pictures," the official said.

He said FCIC Manager James D. Deal and his top aides—including Otto Johnson, deputy manager, and Roy Alton, assistant manager for administrative management—developed a "hit list" of employees they considered unsatisfactory shortly after they took office in 1977.

"They treated the corporation like a toy. After years of being in lower-level positions they were finally in charge, at the top," the official said.

FCIC people were transferred for "no apparent reason," and transfers were "used as threats" to people "if their attitudes were deemed bad," the official said.

In the Kansas City office, a branch of FCIC called the "bone pile" which allegedly was used as a place of exile for out-of-favor employees, career people were "made to sit in the halls, day after day, without an office," the official said.

"One poor devil was sent out there and he later died. When his wife went to collect his personal things, she said, 'My God, he didn't even have an office. He was sitting out there in the hall,' " the official said.

It was widely known in the FCIC that top officials would arrange to be with "their girlfriends" by calling "think-tank conferences or study group committees," the official said.

The same women and the same officials would be included in the "conferences" and "committees," he said, even though "none of the women had the kind of background and knowledge you'd expect of a policy maker."

"If taxpayers only knew how their money is being used. I've been in government for a lot of years at several different agencies, and I've never seen anything like this," the FCIC official said.

[From the Lincoln (Nebr.) Journal, June 2, 1980]

A Thorough Airing at the FCIC

The FCIC (Federal Crop Insurance Corporation) is not a household acronym. Yet this government agency's place in U.S. agriculture is vital. Each year it provides some $2 billion in liability loss coverage for 26 crops involving about 6 percent of the total farm land in the nation. In Nebraska alone, 17,828 policies and contracts for crops were in force in 1979.

Serious allegations have been made against the FCIC, as this newspaper's Washington correspondent, Andy Montgomery, revealed in Sunday's Journal and Star.

While many of them involve personnel practices and thus affect most directly the employes of the agency, the charges call into question the FCIC's ability to function properly. A reflection of their seriousness can be seen in Agriculture Secretary Bob Bergland's unprecedented order withdrawing significant administrative authority from FCIC manager James D. Deal.

At this point nothing has been proved and the allegations are simply that. But a thorough airing of FCIC policies and practices is clearly in order. If the charges are untrue, the agency's administrators should be cleared of any suspicion. Whatever the outcome of the investigations now underway, the FCIC itself needs to have its credibility restored. Pending legislation affecting the agency deserves to be considered in an atmosphere unsullied by doubts about its leadership and performance.

The investigations are being carried on not only by the Agriculture Department but also by the federal Office of Personnel and Management, the Merit Systems Protection Board and Congress's investigative arm, the General Accounting Office. It is good to have this scrutiny coming from more than one source.

Whether any adequate examination of the rumblings of trouble within the FCIC would have been forthcoming in the normal course of events is debatable. Action seems to have been taken only after prodding by Sen. Edward Zorinsky, with assists from his fellow Democrats in the Nebraska congressional delegation, Sen. J. J. Exon and Rep. John Cavanaugh.

For their part in getting government to face up to the FCIC situation, our state's elected representatives in Washington merit a salute. What they have done demonstrates again that our lawmakers do not always have to be making laws in order to provide a valuable service to constituents.

By lending an interested ear to complaints of agency abuses within their state, and then demanding a response from the appropriate executive departments, the legislators perform a useful watchdog function within government.

[From the Lincoln (Nebr.) Journal, June 4, 1980]

Bergland Puts FCIC Manager on Leave

U.S. Secretary of Agriculture Bob Bergland has placed James D. Deal, manager of the Federal Crop Insurance Corporation, and Deal's deputy, Otto Johnson, on leave, according to the Washington office of Sen. Edward Zorinsky, D-Neb.

According to Zorinsky's office, the information about Bergland's action came from USDA Assistant Inspector General Bob McGee, who is participating in an investigation of the FCIC manager and some members of Deal's staff in connection with alleged improprieties in personnel practices in Nebraska, five other states and Washington.

The investigation has been reported in a series of articles in the Lincoln Journal.

Confirmation could not be obtained Wednesday from either McGee's office or Bergland's.

A receptionist in Deal's office said by telephone Wednesday that he was out of town. Roy Alton, assistant manager for administrative management, and acting manager in Deal's absence, acknowledged that the FCIC's top two officials took leave Tuesday, "at their own election."

"I don't think the investigation has anything to do with it," Alton said.

Alton, too, is under investigation by McGee's office, for allegedly improper travel.

Pending the completion of McGee's investigation, Bergland had already withdrawn Deal's authority "to take any personnel actions or effect any organizational changes."

The General Accounting Office, the Office of Personnel and Management and the Merit Systems Protection Board also are investigating various allegations against FCIC management.

Further, Zorinsky's office said officials in the Spokane, Wash., office of FCIC have been put on annual leave. Investigators are in Spokane, and more are on the way, Zorinsky's office was told.

McGee repeated assurances that there will be no reprisals to FCIC staff who cooperate with the investigations, according to Zorinsky's office.

[From the Lincoln (Nebr.) Journal, June 5, 1980]

Personnel Practices Said Improper

(By Dick Piersol)

New allegations of management abuses in the U.S. Department of Agriculture were to be taken Thursday afternoon to the USDA's inspector general, according to Carolyn Andradi, administrative aid in the Washington office of Sen. Edward Zorinsky, D-Neb.

Ms. Andradi said representatives of a professional employees group Thursday morning presented Zorinsky's office with the cases of 36 USDA employees, most of them with the Economics, Statistics and Cooperatives Service, alleging improper personnel practices similar to those alleged earlier against the Federal Crop Insurance Corp.

These allegations, reported this week in the Lincoln Journal, included forced transfers, forced retirements, assignments to unproductive jobs and others.

Zorinsky's office already had been working on the grievance of an ESCS employee in Lincoln, Ralph D. Johnson.

Ms. Andradi said the four people who visited Zorinsky's office Thursday brought the cases of 36 ESCS employees from all over the nation who have had their grievances denied at USDA employees' first complaint level and by the special counsel's office. In addition, all had hearings by the Merit Systems Protection Board, she said.

Zorinsky's aid in Lincoln, Tom Erixon, said he has been in contact with USDA's special counsel about the case of Johnson, an ESCS economist who has maintained for four years that the agency is trying to get rid of him for producing a report encouraging the marketing of livestock by electronic teletype—a method Johnson says is unpopular with livestock market middlemen.

RETALIATION?

Erixon said the special counsel's office is supposed to be reviewing the case to determine if there has been "retaliation" against Johnson for his report.

Johnson said the latest "ultimatum" given him by the agency is to be transferred to Washington, accept a disability status or discontinue service.

"I haven't had an assignment in two years," Johnson said. Lately, he has been trying to get authorization to produce a report on the possibility of electronic meat marketing, Johnson said, with support from the University of Nebraska's Institute of Agriculture and Natural Resources, the Nebraska Farmers Union and some members of the House of Representatives. So far, ESCS has not given the authorization, Johnson said.

ESCS administrators officially criticized Johnson's 1976 report on electric livestock marketing for "advocacy and undocumented statements."

Erixon said he believes "there is a lot of validity" to Johnson's claim that the agency is trying to force him out of employment for producing an unpopular report.

"It appears to be a real serious abuse," Erixon said.

Meanwhile, a source in USDA who asked to remain anonymous said it will be about 10 days before the USDA inspector general's office completes an investigation of FCIC manager James Deal, and allegations of management abuses against him. Another report, dealing with other allegations and with deputy manager Otto Johnson, will be released after the Deal report, the source said.

[From the Sunday Journal and Star, June 1, 1980]

FCIC's Alleged Wrongdoing Investigated

(By Andy Montgomery)

WASHINGTON.—Four federal agencies are investigating allegations of widespread wrongdoing and improper personnel practices within the Federal Crop Insurance Corp. in Nebraska and five other states and here in Washington.

Pending completion of one investigation by his own Office of Inspector General, Agriculture Secretary Bob Bergland has withdrawn the authority of FCIC Manager James D. Deal "to take any personnel actions or effect any organizational changes."

It is the first time in the corporation's 42-year history that an agriculture secretary has taken such action.

Notification of the "freeze" of Deal's authority was relayed personally by Bergland to Sen. Edward Zorinsky, D-Neb., Thursday. Zorinsky had questioned the delays and apparent reluctance of the department to investigate numerous complaints from Nebraskans and others involving top FCIC management.

The action will have the immediate effect of holding in abeyance the forced transfer of one FCIC employee from the state of Washington to Nebraska's Lincoln district office.

Deal is a close personal friend of fellow Minnesotans Bergland and Vice President Walter Mondale. Mondale had sponsored Deal for the appointment as FCIC chief.

The four agencies are looking into what Zorinsky, who sparked the investigations, called "very strong allegations of corruption, violations of federal law and illegal movement of personnel" in Nebraska, Missouri, Kansas, Montana, Texas, the state of Washington, and Washington, D.C.

REACH THE TOP

The various allegations reach to the very top of the corporation—Deal, Deputy Manager Otto Johnson, and Roy Alton, assistant manager for administrative management.

Bob McGee, USDA's assistant inspector general, said that while Nebraska and the other areas are the primary and immediate targets, the investigation by his agency alone will be nationwide in scope.

The other agencies exploring the various allegations include the Office of Personnel and Management, the successor to the Civil Service Commission, the Merit Systems Protection Board, an independent quasi-judicial body created to protect federal employees from partisan political and other bureaucratic abuses; and the General Accounting Office, Congress' investigative arm. The GAO at this point primarily is concerned with coordinating, monitoring and overseeing the progress and the direction of the overall investigation.

McGee assured Zorinsky that any attempt by FCIC management to take reprisals against any person volunteering information during the investigations would result in an "immediate" request to the Justice Department for criminal charges.

Investigators already have interviewed FCIC employees in Washington, D.C., and the state of Washington and are currently in Kansas City, Mo., and Texas. They are expected to be in Nebraska in the next few days.

LEGISLATION ENDANGERED?

USDA officials are known to be concerned that the investigations into the troubled corporation could endanger pending FCIC legislation. Bergland has banned FCIC employees from lobbying for the legislation.

The FCIC bill envisions replacement of the disaster payments program by an expanded and improved crop insurance program involving contracts with private insurance companies and extend the crop insurance program to all agricultural counties and to all crops important to the farm income of an area.

In a Thursday meeting with Zorinsky, McGee made reference to this concern by bluntly stating the investigations were "awkward timing" because of the "imminent conference" on the legislation. However, Zorinsky, a member of the Senate Agriculture Committee, said the revelations could have a "positive" impact on the legislation because the conferees would be impressed with the department's willingness "to clean up its own mess."

CONFEREES TO MEET

Senate-House conferees were scheduled to meet Monday, but the session was canceled abruptly Friday without further explanation. It is believed the postponement was related to the sudden change in the temper of the investigations in which Deal was stripped of his authority to dictate personnel and organizational actions.

McGee told Zorinsky the department was giving the investigation top priority because of the questions relating to Deal. He said "the thing we are dealing with here are allegations involving the administrator of an agency," affecting not only the "integrity" but the "structure of the system."

"Once we get done," he said, "there may be some legal action to be taken by U.S. attorneys." He said a preliminary report probably would be ready within a week or two.

Complaints Apparently Alarm Bergland

(By Andy Montgomery)

WASHINGTON.—Allegations about the Federal Crop Insurance Corp. raised in the complaints to Sen. Edward Zorinsky, D-Neb., obviously have alarmed the administration, especially Agriculture Secretary Bob Bergland.

In personally telephoning Zorinsky on Thursday to advise him of the "freeze" on some administrative authority of FCIC Manager James D. Deal, Bergland voiced his deep concerns.

According to the senator, Bergland—in the first Bergland-initiated call to Zorinsky in two years—said his investigators have found things are "even worse" in Texas and elsewhere than Zorinsky had painted in his request for investigations.

Bergland asked Zorinsky "to be patient" since "things are a lot bigger than anyone imagined." He indicated that "we may well go for criminal charges on this" and requested Zorinsky "to keep the pressure on from your end."

Zorinsky and the other Democratic members had been urging the department to look into the complaints for more than a year.

Zorinsky told Bergland that "it is refreshing to have the government step in" and attempt to correct its own wrongdoing. He said this would help restore "credibility" to government.

Shortly after Bergland telephoned the senator Thursday afternoon, the team of investigators, led by Bob McGee, the USDA's assistant inspector general, showed up with a copy of the "freeze on personnel organization changes" referred to by Bergland.

In the form of an undated memorandum to Deal, it was signed by Jim Williams as "acting secretary" of agriculture, not by Bergland even though he still was in Washington.

Apparently Bergland, while ordering the "freeze," did not want to directly involve himself in the action because of his close Minnesota ties to Deal.

As for Zorinsky, he feels the allegations "are broad enough to convince me that the complaints have merit and credibility to the extent that they may appear of an overwhelming nature to those we are trying to get to investigate. Since they are coming at us from enough places, there is some credibility to many of the complaints and allegations."

Lincolnite's Complaints Spark Involvement

WASHINGTON.—Nebraska's congressional delegation became involved in the investigation of the Federal Crop Insurance Corp. through grievance complaints filed by longtime FCIC employee Jack Ketterer of Lincoln.

Sen. Edward Zorinsky was most involved, but Sen. J. J. Exon and Rep. John Cavanaugh, fellow Democrats, also participated.

In February 1978, Ketterer voluntarily took a demotion in grade and position level rather than take a transfer to Kansas City. He exacted an understanding—made part of his personnel files—that in taking the demotion, he would remain in Lincoln where his wife, a bank employee, had amassed nearly 20 years of pension rights. These would have been lost had he accepted the transfer.

A year later, Ketterer was ordered to report to Kansas City or be dismissed from federal service. He refused and the dismissal occurred in May 1979, despite a recommendation by the FCIC's own hearing officer that retention in Lincoln would have been in the best interests of the government.

It is almost unprecedented for the agency to ignore the recommendations of its own appointive hearing officer.

Last August, a regional hearing examiner of the Merit Systems Protection Board from St. Louis held a hearing in Omaha on Ketterer's appeal. Roy Alton of Washington, the FCIC assistant manager for administrative management, was not only the corporation's representative in the appeal hearing but also was its sole witness, also unusual.

In October, the corporation's dismissal action was upheld by the hearing examiner. Ketterer appealed that ruling to the full board in Washington where it is still pending.

But in March of this year, FCIC Manager James D. Deal and Alton telephoned Ketterer, asking whether he would be interested in a newly created job—for him—in the Lincoln office—but at a still lower grade, a GS–11. Assured that his acceptance would have no bearing on his appeal for reinstatement as a GS–12 (still one grade lower than before 1978), Ketterer accepted.

Last Friday, Alton told a Sunday Journal and Star reporter that offering the position to Ketterer had no relationship to the previous personnel actions. Conceding the position was created just for Ketterer, Alton said it was done for "humanitarian" reasons, but admitted that the job would not have been offered had it not been for "political pressures" from the Democratic members of the Nebraska congressional delegation, in particular Zorinsky and Cavanaugh.

FCIC Established to Aid Farmers Who Lose Crops

The Federal Crop Insurance Corp., established in 1938 to aid farmers who lose crops through natural disasters, provides some $2 billion annually in liability loss coverage for 26 commodities, including corn and wheat, on 21.5 million acres, about 6 percent of the total U.S. farmland.

Crop coverage in the Lincoln region, encompassing 82 counties in Nebraska and three in Wyoming, totaled close to $102 million in 1979. Net insured acreage ran to 1.4 million acres. Last year, in Nebraska, 17,828 policies and contracts for crops were in force.

Summary of Allegations Against FCIC Operations

WASHINGTON.—Here is a summary of the allegations four federal agencies are investigating in connection with operations of the Federal Crop Insurance Corp. in Nebraska, five other states and Washington, D.C.

Unlawful personnel practices, covering forced transfers, forced retirements, illegal firing and questionable promotions.

Direct orders by top management to subordinates to sign as well as destroy Civil Service eligibility forms involving a woman described as a close friend of one of the top administrators.

Transfer of an out-of-state official—a male—to a position in the Nebraska regional office even though a qualified woman already was employed, resulting in her early retirement.

Questionable travel by Deal, Johnson and Alton—separately or together—to Texas, Minnesota, Nebraska, California and Florida.

Sexual harassment of female employees, in which individuals in Nebraska, Montana, Texas and Missouri were denied promotions after resisting advances by one or more of top management.

Questionable promotion of one woman in the Kansas City region who, after failing to qualify for the Civil Service job rolls in Missouri, was placed on the eligibility register in the state of Iowa and subsequently transferred to a key position in Kansas.

The circumstances surrounding $150,000 lawsuits against Deal and Texas regional manager Ben Jordan by a WAE (when actually employed) employee who was fired but then ordered reinstated by the Merit Systems Protection Board.

Pressure on Texas FCIC employees to contribute to an "entertainment fund" for use when Deal and other Washington officials visited that state.

Suspicious hunting and fishing trips in Nebraska, Kansas and Minnesota.

Maintenance in Kansas City of what has been called a "bonepile," "funny farm," "turkey farm," "punishment box," or "bullpen" to which employees incurring the displeasure of top management were exiled. Persons sent to the bonepile, according to the allegations, were assigned meaningless tasks, apparently with the expectation that boredom and ridicule would prompt them to resign.

Probe Focusing on Washington State FCIC Operations

(By Andy Montgomery)

WASHINGTON.—This story involves the states of Nebraska, Washington, and Texas and a motel room in Phoenix, Ariz.

What happened in those places has been enough to cause Agriculture Secretary Bob Bergland to freeze a close friend's authority to initiate and carry out personnel and organizational changes in the Federal Crop Insurance Corp.

Bergland's move has thrown into doubt the transfer of an FCIC district director from Washington state to a similar position in Nebraska.

The activities that aroused Bergland also interest federal investigators now probing allegations of wrongdoing and unlawful personnel practices within the multibillion-dollar FCIC, which writes insurance to cover farmers' crop losses.

It is an investigation that reaches to the very top management level of the corporation. It could become a political problem for President Carter and an embarrassment to Bergland, whose record as farm chief has been relatively unblemished to date.

But it came as no surprise to Sen. Edward Zorinsky, D-Neb., when Bergland told him last week that "things are a lot bigger than anyone imagined." The senator had been saying that all along but had been getting the cold shoulder from the U.S. Department of Agriculture and other federal agencies.

No longer. Four federal agencies, including Bergland's own investigators in the Office of Inspector General, have fanned out into several states, including Nebraska, to explore the allegations and complaints documented by Zorinsky and others.

FOCUS OF PROBE

The Washington-Nebraska-Arizona and the Texas connections have become the focus of the investigations at this point. The central figures include:

Roy Alton, FCIC's assistant manager for administrative management.

Jack Knox, former FCIC regional director in the state of Washington and now that state's insurance underwriter chief.

Del Primmer, an FCIC district director in Washington state who was transferred to Lincoln abruptly and now is in a hold position as a result of Bergland's freeze of authority exercised by James D. Deal, FCIC's manager.

These men are the players in the Washington-Nebraska-Arizona connection.

The principals in the Texas connection, involving allegations of illegal firings, $150,000 lawsuits and pressures on employees to contribute to an "entertainment fund" for Washington bigwigs, include:

Deal, FCIC head and close friend of Bergland and Vice President Walter Mondale.

Ben Jordan, FCIC regional director in Texas.

Certain facts are not in doubt. However, the reasons behind certain actions are not only unclear but downright fuzzy.

EVEN MORE UNCLEAR

Deal's role in all this is even more unclear because he disclaims any real knowledge of personnel actions, saying all of them have been handled by Alton, 38-year veteran of USDA bureaucratic infighting and acknowledged expert in personnel management and federal regulations.

On Jan. 3 of this year, the Spokane regional office received, via its electronic transmitting hookup with Washington FCIC headquarters, a Civil Service eligibility notice of a job opening in the state of Washington.

The form, prepared by and dispatched from Washington, contained only one name, that of Jeanette Bussler, a county office employee in Okanogan, Wash., said to be a close friend—at least then—of Otto Johnson, the No. 2 man in the FCIC hierarchy.

The job opening was in Okanogan; the criteria established by Washington called for an expert on apples. Okanogan, Bussler's hometown, is in north-central Washington close to the Canadian border—270 miles from Yakima Valley, the state's principal apple-producing area.

The message to Knox from Washington was to sign the form immediately, in effect sanctioning the eligibility of Bussler for the position, with the location in Okanogan.

In the absence of Knox, his assistant, Duane Lehrman, read the notice, signed it and appended a notation at the bottom of the signature portion on the form: "I do not select Jeanette Bussler. Please provide me with an OPM (Office of Personnel and Management) form of qualified applicants using WAE (when actually needed, meaning part-time federal employees) qualification requirements only." Lehrman underlined *only* twice.

What Lehrman had done was to throw a monkey wrench into Washington's plans to win Bussler a promotion.

PRESSURE CITED

Knox said he supported Lehrman's rejection action, observing that Johnson previously had "put the heat on me" to hire Bussler as a district director.

The scene now switches to Phoenix and a motel where FCIC management is meeting with regional directors. The date is Jan. 9, 1980.

What happened there is according to Knox and Lehrman; Johnson could not be reached to give his version of the episode.

Knox said he and Lehrman were confronted by Johnson, who questioned the reason for not signing the form for Bussler—they said she was not qualified—and ordered them to sign a second form, which he had with him.

Knox and Lehrman asked whether this constituted a direct order from a superior to a subordinate. Advised that it was a direct order, Knox said the form was signed but with the cautionary remark to Johnson that he felt the action was illegal and he intended to document it.

A legal problem was developing because there now were two Civil Service register notices out with only one name, one of which included the rejection comment by Lehrman.

According to Knox, Johnson insisted on knowing whether any copies of the first—and original—form were in existence. Lehrman acknowledged he had copies in his briefcase.

ORDERED DESTROYED

Knox said Johnson ordered them to destroy the copies on the spot, standing by as they tore them up. He then directed Knox to call his Spokane office and order his staff to destroy all office copies.

Knox said his administrative officer, Isaac "Ike" Henry, searched the files, called the staff in as witnesses, and destroyed the copies Henry, however, took one precaution: He ran off and retained copies, a fact not made known to Washington at the time.

Knox remembers Alton calling him several times that day from Washington, insisting on "complete assurances" there were no other copies of the register notice around.

On March 13, Knox was informed that the Spokane office was being moved to Boise, along with all personnel except himself. He was being removed from the regional directorship and assigned as chief of the state regional underwriting office, a new position.

Knox said he was advised to vacate his office in the Federal Building immediately and to have nothing to do with his replacement, Dee Christiansen, who was being transferred in from Billings, Mont.

OFFICE ASSIGNED

Knox said he was assigned an office in the abandoned post office building nearby, a structure housing a few other federal offces—none belonging to FCIC—but mostly empty. Promised a staff of three and furniture, Knox received only the services of one secretary.

On March 24, Alton showed up in the Spokane office and said Deal, the national FCIC manager, had rescinded the order moving the regional office to Boise. All employees retained their Spokane status except Knox, who was not reinstated as regional director, and Henry, who was ordered to move to Billings, Mont., a transfer he is now fighting.

Lehrman's status remains uncertain, although he still is in the Spokane office. The job Christiansen, a friend of the Washington management, had held at Billings was handed to an FCIC employee out of Springfield, Ill.

Deal told the Lincoln Journal last Friday the decision to move the Spokane office to Boise had been made at the secretarial level, that is, in the office of Secretary Bergland. However, this runs counter to what the Spokane personnel were told at the time, that Deal had made the decision.

HEART OF DISTRICT

Spokane is the heart of the congressional district of Rep. Tom Foley, chairman of the House Agriculture Committee and a man Bergland needs as a friend on Capitol Hill. That makes the activities politically sensitive.

And it is known that Foley, as well as other members of the Washington state congressional delegation, including the powerful Warren Magnuson, chairman of the Senate Appropriatons Committee, protested the closing to Bergland and that he, in turn, ordered Deal to rescind the closure directive.

Deal referred all inquiries concerning the closing and personnel actions to Alton.

Alton said the closing was rescinded after a more detailed review of the president's inflation-reducing economic measures. To carry out the intent of the presidential order, he said, the closing had to be rescinded.

Political pressures had nothing to do with the order rescinding the move, Alton said. Smiling, he added that "it later developed it was a smart decision on our part."

Primmer, the man who was to have been sent to Lincoln, appears to have been caught in the squeeze because of his friendship and support of Knox.

RECEIVED CALL

He said he received a telephone call from Gene Gantz, executive assistant in charge of the Kansas City operations, on March 14, informing him that since the Spokane office was to be closed, management had decided to transfer him to Lincoln in a lateral capacity as district director.

Primmer said he protested, noting that he had no experience in soybeans, corn, sorghum or other crops produced in Nebraska. Furthermore, he said, this would be the third move for him in 2½ years, moves that had cost him money because he had to sell his houses, even though the government picked up the $12,000 or so in moving costs.

Primmer immediately appealed the transfer order, went on sick leave at his doctor's orders because he began suffering from "acute stress." His May 5 reporting date to Lincoln has slipped by, and because of the freeze on Deal's personnel authority, the transfer remains in doubt.

Also in question was Vernon Overbeck's statement that he effected the transfer of Primmer to Lincoln. Overbeck is the Nebraska regional director.

NO CONNECTION

Alton told the Journal that Primmer's transfer—as well as the reassignment of Knox—had nothing to do with the Spokane-to-Boise move, that it had been in the works before the decision. He said the decision to transfer Primmer to Lincoln was based on the need to provide him with broader commodity exposure and to expand his expertise for the betterment of the corporation.

Alton said Knox had received no staff assistance, other than a secretary, and no furniture because those logistics were still "being worked out." He said there had been some difficulty in getting furniture through the General Services Administration and that three persons have expressed an interest in joining Knox's underwriting team.

Alton stressed that Knox's new position had no relationship to his action in the Bussler case.

Initially, when he was asked to react to the Civil Service eligibility register episode, Alton said, "It doesn't ring a bell."

"You are not familiar with it, then?" he was asked by a Journal reporter.

Alton stared into space and said after a long pause, "I am thinking back. I am trying to get it into perspective."

Another long pause. Alton then said, "Yes, he (Knox) was asked to sign a promotion register with one name on it. He was told to sign it and return it."

He said Knox "had one of his people do it."

Asked if anyone had refused to sign the notice, Alton said, "If anyone refused, I am not aware of it."

Pressed further, asked whether it was the first or second notice that was signed, Alton again paused and said, "The second promotion notice."

"What happened to the first?" he was then asked.

He said, "The first was signed by one of his (Knox's) people and he said he did not make the selection. He wanted a register of certain other people.

"That would have been discriminatory," Alton declared. Besides, he added, Knox had been requested to fill a position in his region "three times and he refused. So we decided to implement that decision." However, the position Knox earlier had been asked to fill had no bearing on the Bussler notice, according to Spokane officials.

Alton said that when the notice was sent out, it contained only one name because Bussler was the only one "in the entire region" eligible. But Knox points out that four or five persons were interested in applying for the position but that the criteria were written in Washington (D.C.), prepared in Washington and sent out from Washington with only the one name. He said he did not know whether others had applied in Washington for the job.

It is a traditional bureaucratic exercise to write job descriptions and qualifying criteria that ends up fitting only one person.

Asked to clear up what he meant by "discriminatory," Alton said that when Lehrman stated he wanted the register composed of qualified WAEs only and "if we had tried to give a register with the woman's name off it, it would have been discriminatory."

Had he done as Lehrman requested, Alton said, "he would have received a blank piece of paper. No one else was eligible."

Unable to get the job or a promotion, Bussler quit FCIC and went to work for the U.S. Forest Service—in her hometown.

ALTON: NOT VENDETTA

Alton said the action taken in Spokane was not a vendetta. He said "there is no animosity toward the people in Spokane." Knox thinks differently.

The Texas situation probably stacks up as the major headache for the corporation, Deal and Bergland.

The problems started to mount when FCIC management terminated the employment of a WAE by the name of Albert Owens of Lubbock, Texas. Alton said that "for years it had been the unwritten but accepted policy that if we have no use for a WAE, you just terminate them."

Owens, however, turned when he was terminated. He appealed his firing to the Merit Systems Protection Board, which ultimately ordered him reinstated, ruling that he had been terminated improperly and that he should have been given advance notice.

Alton claims that at the time Owens was terminated, FCIC knew it would become a test case.

Reinstated to the rolls with back pay, Owens promptly filed a $150,000 lawsuit against both Deal and Ben Jordan, the Texas regional director. He alleged that his firing constituted a "capricious act" and that his constitutional rights had been violated.

The lawsuits have in them a provision stipulating that Deal and Jordan must pay and provide for their own legal counsel and legal defense, not the taxpayers or the government.

There are indications that a class suit will soon be filed against the two officials.

LINCOLNITES JACK KETTERER, BETTY MCCOMB "VICTIMS" OF FCIC POLITICS

(By Andy Montgomery)

WASHINGTON.—The case of Jack Ketterer of Lincoln is viewed in some quarters here as a classic study in federal "gotcha."

That the Federal Crop Insurance Corp. snared Ketterer in a "Catch-22" situation is not in doubt. Whether the intent was to do so is unclear.

However, Ketterer's attorney, Harry J. Farnham of Elkhorn, Neb., is not far off the mark when he describes Ketterer as a political and bureaucratic "casualty."

If that description is apt, then Betty McComb of Lincoln could be labeled a "victim" of the same political and bureaucratic jungle that some federal employees have to hack their way through.

STRIPPED OF AUTHORITY

Both figure in the current investigation under way into the troubled FCIC, whose manager, James Deal, has been stripped of his authority to take any personnel actions or effect any organizational changes within the corporation.

The investigations by four federal agencies could lead to a shake-up at the top management level. It is well on its way to being a political thorn for the Carter administration and Agriculture Secretary Bob Bergland.

The fallout could hit the present Nebraska regional director in Lincoln, Vernon Overbeck, who is known here as a Deal-Otto Johnson "man"—Deal being the embattled national manager and Johnson the deputy manager. If either or both fall, it could affect Overbeck.

Attorney Farnham, both during a hearing last August and again in an appeal petition filed in October with the Federal Merit Systems Protection Board, suggests what happened to Ketterer may have been a bureaucratic scheme "to enhance Mr. Vernon Overbeck's chances of promotion."

It is a fact that Ketterer was caught—or placed—in a no-win situation which appeared to clear the way for Overbeck's ascent to the top managerial position in Nebraska's FCIC. It didn't hurt any that Overbeck, unlike Ketterer, has been an active Democratic worker, and was an active promoter of Deal's appointment as manager.

Mrs. McComb's problem was of a different gender—hers. She feels she was denied a promotion to the position of assistant regional director in Nebraska—it eventually went to an out-of-stater—because of her sex. When Overbeck brought someone in from Kansas, Leo Holthaus, to fill the position, she sensed discrimination and was set to appeal the decision. But she looked at the dragged-out Ketterer case and decided it wasn't worth the hassle. She took early retirement in February.

As part of a reorganization effected shortly after the Carter administration took office in 1977, the new FCIC management decided to transfer Ketterer to Kansas City, the new home of the National Service Office under the decentralization goals of the president.

Like events that were to follow, it is difficult to get a handle on who made the decision.

ALTON'S ROLE ACTIVE

Roy Alton attempted to shed some light on it during an interview last week. Alton, FCIC assistant manager for administrative management, has played an active role in the Ketterer case.

During the reorganization in 1977, Alton said, it was determined that there were two GS–13 "branch chiefs" on board in Lincoln, only one of whom figured in the new realignment plans. One, he said was Ketterer, who at the time was contract services chief. Alton said he could not recall who the second one was, but that in any event he outranked Ketterer, having more seniority in the GS–13 grade.

A records check shows only two GS–13s were in the Lincoln regional office during that period—Ketterer and Overbeck.

Alton said it was decided to dismiss Ketterer or transfer him to Kansas City. Because the other person—Overbeck in this instance—was more senior, he would be named assistant regional director under the new regional director, Lloyd Scheide, who had been brought in from out of state, according to Alton.

KETTERER HAD MORE SENIORITY

However, a records check shows that Ketterer had almost two years of seniority over Overbeck at the GS–13 level.

Whatever the case, as Farnham would later state, Ketterer's transfer would serve to enhance Overbeck's promotion opportunities.

It is no secret that Overbeck and Ed Finigan of Lincoln, one-time FCIC state director during the Kennedy administration and currently vice president of Nebraska Telephone Association, were active supporters of Deal's managership.

Finigan later was to break with Deal and Overbeck as a result of attempts to send Ketterer to Kansas City, which Finigan equated with a sentence to the "bonepile," composed of individuals out of favor with the manager and assigned to do little constructive work.

DIDN'T WANT TO TRANSFER

Ketterer did not want to transfer to Kansas City for personal reasons. His wife had nearly 20 years of pension rights with a Lincoln bank and this would all be lost if they moved to Kansas City.

So he elected to take a demotion in grade, from GS–13 to a GS–12, and in position, from contract service chief to district director in the Lincoln regional office.

But before he agreed to do so, Ketterer attached an addition to his personnel records, setting out the specific reasons for taking the demotion. He said: "I have declined accepting a lateral transfer to the National Service Office in Kansas City, Missouri. I prefer to take the position of district director in order that I can continue to maintain my residence in Lincoln, Nebraska."

To Ketterer, this constituted a firm understanding with the regional director, Lloyd Scheide, that he would remain in Lincoln. Last week, Alton said he didn't doubt that Scheide had made such an agreement. But it was not considered binding, he said, because no federal official had the power to make such a commitment.

WORTHLESS AGREEMENT

One year later, Ketterer found out the worth of that agreement. He was notified to either transfer to Kansas City or face removal from federal service. He refused to go and was subsequently removed.

Ronald E. McAdoo, assistant director of the Kansas City actuarial division, was assigned to take the oral testimony of Ketterer when he appealed the dismissal.

McAdoo met with the Lincolnite on May 7, 1979. On May 11, McAdoo completed a report on the "oral conference" with Ketterer and dispatched it to Deal in Washington.

"My recommendation," McAdoo said in the report, "is to offer Mr. Ketterer the option of transferring to Kansas City in a GS–13 position or remain in the GS–12 district director position (in Lincoln)." McAdoo recommended against dismissing Ketterer and questioned the feasibility of forcing him to relocate.

On the evening of May 17, Ketterer received a telephone call from Alton, informing him that the Washington office had just received McAdoo's report and that Deal would review the report "carefully" the next day and hand down a decision.

In a letter dated May 18 from Alton, Ketterer was advised that he was to be removed from his position for failing to accept the transfer to Kansas City. There is evidence Deal had never seen the report or had been aware of McAdoo's admonishment against removing Ketterer from service.

During this time, Ketterer never could pin down just who made the decision to transfer him.

Ketterer decided to appeal. By coincidence, it was about this time regional director Scheide asked to be transferred to Kansas City, noting he had agreed to remain in Nebraska for only a year.

Ketterer then applied for the regional directorship, even though his removal from service was in an appeal process. Mrs. McComb also expressed an interest.

But Ketterer received only cursory consideration. The reason: he was a GS-12, Overbeck was a GS-13 and the position was a GS-14 to be filled from the GS-13 level. Overbeck had one year of experience as assistant state director, a job to which he ascended after Ketterer's "voluntary" demotion to GS-12.

HEARING LAST AUGUST

On Aug. 20, Ketterer's appeal was heard by James Freet, a hearing examiner from the St. Louis field office of the Merit Systems Protection Board. FCIC's representative and sole witness was Roy Alton, who had signed the May 18 letter removing Ketterer from office. That meant that Alton not only was the FCIC representative in any cross-examination of Ketterer, he also appeared as the corporation's expert witness, a dual role unusual in any hearing.

During the hearing, Alton testified that the decision to transfer Ketterer was made by Deal and the deputy manager, Otto Johnson. He said his own role in the decision process was limited to a "brief discussion in terms of the overall organizational structure . . . "

In October, Freet handed down his decision, upholding the agency's removal order.

Last week, the Journal asked Deal to comment on who made the decision to transfer Ketterer. He said it would have been handled by Alton.

Ketterer has a strong following in Nebraska, in and out of FCIC. Interviews with almost half the FCIC permanent staff in Nebraska indicated morale is low and they felt Ketterer had received a raw deal.

APPEAL STILL PENDING

Ketterer appealed the hearing examiner's ruling to the full merit systems board in Washington. That appeal still is pending.

But then the unexpected occurred. In late March, Ketterer received a telephone call from Deal, saying they were creating a new position in the Lincoln office, as chief of a review and public relations team. Would he be interested?

Ketterer, anxious to build up his pension and to once again be in an earner's position, agreed—provided it would not affect his appeal and should it be favorable, his reinstatement as a GS-12. He received that assurance.

Last Friday, Alton said he had suggested to Deal that "in view of the continued interest" of Rep. John Cavanaugh, D-Neb., and Sen. Edward Zorinsky, D-Neb., "that maybe we might consider Ketterer for that job."

Alton said the action to rehire Ketterer—at a GS-11 grade, two levels below his original grade—was "simply a humanitarian move on our part. No one told us to do it."

CONGRESSIONAL INTEREST

But he added: "Had it not been for the congressional interest, I am not so sure we would have called him and offered him the job."

Alton repeatedly underscored that there was no relationship between Ketterer's "voluntary" demotion, his "involuntary" removal after refusing a transfer and the decision to rehire him. "These are three distinct and separate actions," Alton said.

"In hiring him back," Alton said, "there is no admission the initial decision was wrong."

Zorinsky, however, scoffed at this reasoning, declaring he still has to receive a "valid reason" for getting rid of Ketterer in the first place.

"If Deal and Alton are the types that will yield to congressional pressure when they think they are in the right, then they have no business being in management positions," Zorinsky said.

Ketterer's frustrations are shared somewhat by Mrs. McComb, who has won major awards, including a department-wide one that has been bestowed on only three persons.

SEXUAL DISCRIMINATION

Noting the position of assistant regional director was filled by someone from outside the state, she said she felt "quite strongly that this is a case of discrimination in that I, as a woman located in the same city in which the vacancy occurred, and for which I am highly qualified was not selected."

She wrote Zorinsky that "since there are no women within the two top positions of Federal Crop Insurance at a state level in the United States and Federal Crop Insurance failed to promote one who was qualified, it appears the agency has chosen to ignore the Equal Employment Opportunity Act."

Noting the "exercise in paper work" Ketterer has gone through in appealing his removal. Mrs. McComb said, "I would no doubt have the same hearing officer within the agency as he did, one Roy Alton. I am sure Mr. Alton would give me the same type of hearing as was afforded Ketterer."

With that, she dropped any plans for an appeal, opting instead of an early retirement.

She had come to government service as a 19-year-old in the early 1940s. She said she wasn't up to any additional frustration.

[From the Lincoln (Nebr.) Journal, June 4, 1980]

FCIC CHIEFS DENY "BONEPILE" EXISTS; DIARIST DISAGREES

(By Andy Montgomery)

KANSAS CITY, Mo.—Call it by any name and it still smacks of a bureaucratic Siberia to which those incurring the displeasure of the chiefs, for whatever reason, are exiled.

Bonepile! Turkey farm! Punishment box! Bullpen! Funny Farm!

Those are the names Federal Crop Insurance Corp. staff members have used for Kansas City, Mo., where certain employees have been banished.

There, they whiled away the hours in unproductive work, with the management expectation and hope they would get so bored and sufficiently shamed by the ridicule of fellow workers that they would finally quit in disgust.

It hasn't worked that way in the Kansas City FCIC office. None quit.

But federal inevstigators are interested, nevertheless, as they look into allegations of wrongdoing and improper personnel practices within FCIC. The practice of isolating the unwanted has occurred in past administrations, but, according to veteran federal workers, never on the scale as practiced by the FCIC.

"The steel desk behind which I sit 40 hours each week," reads a diary kept by one person who was isolated in that bureaucratic prison, "is 6½ by 3¼ and is rarely, if ever, cluttered, other than with my 'doodling' equipment."

The top FCIC management denies there is a bonepile. They say they really "don't know anything about it."

Interviewed in Washington, FCIC Manager James Deal, after a long pause, allowed that "something sticks in the back of my mind. But these (bonepile, turkey farm and the like) are not terms heard here, they are not something common and if anyone mentioned that about Kansas City, I would be offended because they are dedicated people there."

But the diarist says: "I must confess that more exciting (than watching the parking lot) is to observe that shapely female leg that always betrays its total beauty as that lovely blonde exits from the Volkswagen . . . each morning at precisely 8:18."

Roy Alton, assistant national manager for administrative management, says he never heard any of the terms until "bonepile" surfaced at the Omaha hearing on a removal appeal by Lincolnite Jack Ketterer.

"I have artistic ability just a shade above that of an earthworm," the writer of the diary declared, "but 40 working days of practice have enabled me to create some surprisingly enchanting 'doodies.' My concentric circles created by using my coffee cup and ashtray, interspersed with stars and multi-colored with various colored pens and pencils at my command are above and beyond what I ever dreamed I could create."

Vernon Overbeck of Lincoln, regional manager of FCIC for Nebraska and parts of Wyoming, says he never heard such expressions until brought up by one-time friend, Ed Finigan, also of Lincoln, active fellow Democrat, FCIC state director during the Kennedy administration and now vice president of the Nebraska Telephone Association.

"I have become an inveterate clock-watcher, and almost as a minute passes, I mentally compute the percentage of the 40 hour week that has passed," the diarist wrote. "Each hour passed means another 2½ percent of the week gone; each 15 minutes passed means another ⅝ percentage gone."

Gene Gantz, executive assistant and the top FCIC man in Kansas City, says he has heard such phrases as the "bonepile," but had treated it as a joke. Ironically, he is credited by many, including some who had served in the isolation area, as breaking the back of the practice.

But it has been no joke to dozens of FCIC employees in Washington, Nebraska, Kansas and elsewhere who kept looking over their shoulders as they talked to a Journal reporter, all fearing that being spotted by management could mean a sentence to the "funny farm" in Kansas City. These are words heard regularly in the states of Washington, Texas, Montana—and probably every other of the 39 states which FCIC operates.

They are or were not jokes to those once posted there—Jess Bishop, former regional director at Fresno, Calif; Howard Sjogren, ex-operations director in Washington, D.C; Henry Kling, out of Iowa; Ralph Weed, ex-Montana regional director who has since died—all names which surfaced in the public testimony during the Ketterer appeal. Ketterer himself feared being dispatched to Kansas City.

At one point, records indicate, annual salaries totaling more than $200,000 were represented in the "bonepile."

Certainly, it has been no joke to the diarist who asked: "Would you be interested in knowing how many tiny holes there are in the accoustically tiled ceiling?—104,286 holes in 180 full blocks and 83 partial blocks. I've counted each one of them. I've become a crossword puzzle and Jumble Scramble game expert."

There are people prepared to testify that Alton was aware of the "bonepile," that he had said management would "just starve them out."

Finigan said he had discussed the "bonepile" with Deal before Deal's appointment as FCIC manager. He insists that Overbeck was present during discussions in which Deal indicated plans to establish "a bonepile, to transfer these individuals into it and that there would be no work for them, and that they would resign because of it."

"It was my impression," Finigan said, "from talking to him (Deal) that this would be a short-term procedure, not a 2½-year procedure."

Finigan said he now regrets his part in condoning the action by Deal. He said he was not proud of his role, figuring those condemned to the "bonepile" would be there only for a couple of days.

Finigan broke with Deal when he got the distinct impression that Ketterer was earmarked for the "bonepile." He even wrote a letter to Deal asking him to withdraw the transfer action against Ketterer. He received no reply.

Finigan had helped Deal win the managerial spot. He had written a letter to Ted Sorensen, former Nebraskan and aide to President Kennedy who was acting as Carter's talent scout as the new administration was put together, urging that Deal be selected for the FCIC position.

Since Gantz took over as head of the Kansas City office last year, most everyone agrees, the bonepile has been slowly dismantled, the individuals assigned to it being given more meaningful work. The dismantling began about the time Sen. Edward Zorinsky, D–Neb., stepped up the pressure to get to the bottom of the complaints involving FCIC.

"I believe taxpayers have every right to know how their monies are being used," wrote the diarist. "As of this date, I know not how this . . . will end, possibly, with my forced resignation (if anyone finds out about it); possibly not until my retirement—several light-years away."

EDUCATION AMENDMENTS OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consideration of S. 1839, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1839) to extend the Higher Education Act of 1965, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Education Amendments of 1980".

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ADMINISTRATIVE AMENDMENT

SEC. 2. (a)(1) The Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by striking out "Commissioner" wherever it appears (except in section 1201(f) and inserting in lieu thereof "Secretary".

(2) The Act is further amended by striking out "Commissioner's" wherever it appears and inserting in lieu thereof "Secretary's".

(3) The Act is further amended by striking out "Secretary of Health, Education, and Welfare" wherever it appears (except in section 1201(e)) and inserting in lieu thereof "Secretary".

(b)(1) Section 1201(e) of the Act is amended to read as follows:

"(e) The term 'Secretary' means the Secretary of Education.".

(2) Section 1201(f) of the Act is repealed.

(3) Section 1201 of the Act is amended by adding at the end thereof the following:

"(m) The term 'Department' means the Department of Education.".

CONTRACT AUTHORITY

SEC. 3. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATE

SEC. 4. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 404(c)(2) of this Act to Section 415C(b)(4) of the Act shall be effective on October 1, 1979.

(2) The amendments made by part B of title IV of this Act shall apply to loans made on or after October 1, 1980.

(3) The provisions of part E in effect prior to October 1, 1980, shall apply to loans made from funds appropriated prior to September 30, 1980.

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

NEW PROGRAMS ESTABLISHED

SEC. 101. Title I of the Act is amended to read as follows:

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"PART A—COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"FINDINGS

"SEC. 101. The Congress finds—

"(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

"(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

"(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicap, national origin, geographic location, or economic status;

"(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

"(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

"(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

"(E) the efficient use of resources in postsecondary education, and the optional allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

"(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

"ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"SEC. 102. (a) There is established a Commission to be known as the Commission on National Development in Post-secondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

"(b) The Commission shall be composed of twenty-five members as follows:

"(1) Nine members shall be appointed by the President of the United States.

"(2) Eight of the members shall be appointed by the President pro tempore of the Senate.

"(3) Eight members shall be appointed by the Speaker of the House of Representatives.

"(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

"(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

"(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

"(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

"(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including travel-time for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"DUTIES OF THE COMMISSION

"SEC. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of—

"(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

"(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner;

"(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

"(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces; and

"(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs.

"(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than January 1, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

"(c) The Commission shall cease to exist 60 days after the submission of its final report.

"POWERS AND ADMINISTRATIVE PROVISIONS

"SEC. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 101 through 104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this section.

"(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

"(c) The Commission is authorized to—

"(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

"(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

"(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

"(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"AUTHORIZATION

"SEC. 105. From funds available to the Secretary for planning and evaluation pursuant to section 416 of the General Education Provisions Act, the Secretary shall make available to the Commission an amount necessary to carry out the provisions of this part but not less than $3,000,000 for the period beginning October 1, 1981 through March 1, 1983.

"PART B—STATE PLANNING AND CONTINUING EDUCATION

"FINDINGS

"SEC. 111. The Congress finds that—

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults;

"(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services about the availability of postsecondary educational opportunities;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

"(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATE ALLOTMENTS

"SEC. 112. (a) (1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall allot to each State with an agreement pursuant to section 1203 of this Act an amount equal to the amount available to the State in fiscal year 1979 for carrying out the provisions of title I, section 418A, and section 1203 of this Act for that year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the amount specified in the previous sentence, the amount of each State's allotment shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year exceed the amount specified in the first sentence for all States, the Secretary shall allot to each State an amount which bears the same ratio to such excess as the adult population of the State bears to the adult population of all States.

"(2) Ten per centum of the funds appropriated for this part shall be available for carrying out section 116.

"(b) If, in any fiscal year, a State does not wish to enter into an agreement pursuant to section 1203 and does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

"COMPREHENSIVE STATEWIDE PLANNING

"SEC. 113. (a) (1) Each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between activities assisted under this part and any other comprehensive statewide planning for postsecondary education.

"(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

"(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of this section.

"INFORMATION SERVICES

"SEC. 114. (a) Each State shall use not less than $50,000, nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"CONTINUING EDUCATION

"SEC. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this title.

"(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for—

"(1) the establishment or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

"(2) the removal of barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

"(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas;

"(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school; and

"(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education or the labor force.

"(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that—

"(1) the State will provide as part of the State plan made pursuant to section 113 assurances that the State has established a cooperative agreement between the State agency implementing the plan under section 113 and the agency responsible for coordinating child care services within the State; and

"(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

"(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section for the administration and operation of programs described in subsection (b) of this section.

"DISCRETIONARY GRANTS

"SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which—

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

"(3) promote the development of interstate education delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

"(6) support demonstration child care projects designed to promote participation by parents in postsecondary education; and

"(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203 an opportunity to comment on the relationship of the proposed grant to such planning.

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress. and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

"DEFINITIONS

"SEC. 118. For the purposes of this subpart—

"(1) the term 'Commission' means the Commission on National Development in Postsecondary Education established under section 102;

"(2) the term 'Advisory Council' means the National Advisory Council on Continuing Education established under section 117;

"(3) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(4) the term 'continuing education' means post-secondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

"(5) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED AND PAYMENTS

"SEC. 119. (a) There is authorized to be appropriated $18,500,000 for fiscal year 1981; $21,500,000 for fiscal year 1982; $24,000,000 for fiscal year 1983; $27,500,000 for fiscal year 1984; and $32,000,000 for fiscal year 1985 to carry out the provisions of this part.

"(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this subpart. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"PART C—INSTITUTIONAL ADAPTATION AND INNOVATION

"STATEMENT OF FINDINGS AND POLICY

"SEC. 121. The Congress finds that—

"(1) rapid shifts in the population of the United States have resulted in great pressures upon professional schools and disciplines in institutions of highter education, particularly among schools of education, and have complicated their role in preparing the Nation's college-educated individuals for work;

"(2) economic conditions pose severe financial risks for such institutions of higher education in the pursuit of their educational missions and require accommodation to changing circumstances which pose dangers to the quality of educational efforts; and

"(3) it is in the national interest to establish a program under which States and educational institutions may—

"(A) undertake programs of a time-limited nature which can be evaluated and which can provide information and experience valuable to the Commission on National Development in Postsecondary Education and to the State entity having an agreement under section 1203;

"(B) implement and evaluate on a pilot basis programs within and among institutions of higher education leading to cost-effective methods of high quality educational efforts adaptive to the pressures of demographic and economic change; and

"(C) implement and evaluate on a pilot basis programs holding promise for assisting institutions of higher education to deliver cost-effective, high quality educational services to heretofore unserved or underserved populations when such programs show potential to provide guidance with respect to changing demographic and economic patterns.

"DEFINITIONS

"SEC. 122. As used in this part, the term 'community college' means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

"(1) is legally authorized within such State to provide a program of education beyond secondary education;

"(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

"(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;

"(4) is a public or other nonprofit institution;

"(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

"(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

"(B) is an institution whose credits are acceptable on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

"Subpart 1—Institutional Planning and Adaptation Pilot Programs

"GRANTS AND CONTRACTS AUTHORIZED

"SEC. 131. The Secretary shall make grants to and enter into contracts with States and educational institutions to support demonstration projects under which such States and institutions will—

"(1) develop associations and consortia among institutions of higher education, particularly among schools of education, to plan with respect to—

"(A) sharing of faculty and other instructional personnel in such ways as to improve quality of education and to lower cost;

"(B) sharing of laboratory and other instructional equipment and resources in such ways as to improve quality and to lower cost;

"(C) collaboration in the design and conduct of research so as to promote knowledge development and dissemination; and

"(D) design and implementation of programs and projects of community service and technical assistance designed to promote community and citizen utilization of expertise available from various disciplines and professions;

"(2) design, implement and evaluate model projects which will—

"(A) provide in-service training and retraining of faculty so as to diversify and lead to cost-effective, high quality instruction;

"(B) create multidisciplinary and interdisciplinary programs of instruction, research and technical assistance leading to cost-effective, high quality programs of instruction;

"(C) diversify the curricula and educational offerings provided to individuals preparing for teaching careers so as to enable them to provide professional services in a variety of business, industrial and private school settings, including but not limited to settings which emphasize services to handicapped persons;

"(D) diversify the curricula and educational offerings provided to individuals who plan to work in settings assisted pursuant to the Comprehensive Employment and Training Act, including but not limited to individuals preparing for careers as professional educators;

"(E) utilize ways to lower costs and improve the quality of educational services through educational technology, including but not limited to telecommunications technology; and

"(F) prepare individuals to engage in work to implement and improve the urban policy of the United States.

"USES OF FUNDS

"SEC. 132. (a) Financial assistance under this subpart may be used for assistance to States and to educational institutions (including community colleges) in carrying out the policy set forth in section 121, or to assist subject disciplines and professions including, but not limited to, schools of education, liberal arts and the humanities, the social sciences, library and information sciences, social work, and other schools and areas of study experiencing difficulties and economic change which adversely affect the quality of the delivery of educational services.

"(b) Financial assistance under this subpart may be used to pay the reasonable costs of—

"(1) personnel employed for the coordination of the project carried out under this subpart generally, and

"(2) necessary travel, supplies and overhead.

"(c) Assistance under this subpart may not be used to pay costs not associated with conduct of activities authorized under this subpart.

"APPLICATIONS

"SEC. 133. Applications for grants and contracts under this subpart shall be submitted in such form, at such time, and in such manner as the Secretary may prescribe.

"PLANNING AND TECHNICAL ASSISTANCE FUNCTIONS

"SEC. 134. In order to contribute to carrying out the policy of section 121 with respect to particularly impacted schools of education the Secretary shall—

"(1) develop, in cooperation with the Fund for the Improvement of Postsecondary Education, a plan for the diversification and redirection of courses of study for elementary and secondary schoolteachers especially designed to use the skills of such teachers to provide educational services in areas of shortage and in alternative settings;

"(2) provide for technical assistance designed to encourage magnet schools of education; and

"(3) conduct a thorough study of the financing of teacher preparation with special consideration of the future needs of schools of education and the resources available to train elementary and secondary schoolteachers.

The Secretary shall prepare and submit a report, not later than July 31, 1982, on the study conducted under clause (3) of the previous sentence, together with recommendations for additional legislation, to the Commission on National Development in Postsecondary Education established under part A of this Act, to the State planning entities having an agreement under section 1203 and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"REPORTS AND EVALUATION

"SEC. 135. (a) Each State and educational institution receiving assistance under this subpart shall file with the Secretary and with the Commission on National Development in Postsecondary Education such reports of interim progress and final achievements as the Secretary may prescribe. Each final achievement report shall present, and support with ample documentation, an evaluation of the success and effectiveness of each project assisted under this subpart and shall meet the specifications set forth in subsection (c) of this section.

"(b) Each recipient of assistance under this subpart subject to jurisdiction of a State shall furnish to the appropriate State entity having an agreement pursuant to section 1203 of this Act a final achievement report in accordance with subsections (a) and (c) of this section.

"(c) The Secretary shall prescribe evaluation requirements and uniform report categories and requirements with respect to the reports required by this section. Such categories and requirements shall be prescribed following the receipt by the Secretary of the advice and recommendations of the Commission on National Development in Postsecondary Education.

"DEFINITION

"SEC. 136. (a) As used in this subpart the term 'school of education' means any school, department, college, program, or other identifiable unit specializing in the education of elementary and secondary schoolteachers, which is a part of an institution of higher education, or which is an institution of higher education.

"(b) For the purpose of this subpart, an 'educational institution' means—

"(1) any institution of higher education, including any community college;

"(2) any entity having an agreement pursuant to section 1203 of this Act;

"(3) any recognized statewide or nationwide association representing the subject discipline or profession and qualified as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue Code of 1954; and

"(4) any accrediting agency or association recognized by the Secretary as establishing eligibility of member institutions of higher education, including community colleges.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 137. There are authorized to be appropriated $9,500,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this subpart.

"Subpart 2—Women's Worksite Development Demonstration Program

"PROGRAM AUTHORIZED

"SEC. 141. (a) The Secretary shall make grants to and enter into contracts with eligible recipients to promote, plan, implement, and evaluate the delivery of postsecondary education to women at the place of their employment or in conjunction with their employment. In making grants and entering into contracts under this subpart, the Secretary shall assure that the program under this subpart will—

"(1) identify the most effective means to inform women at the place of their employment and through the aegis of their employment of the availability and relevance of postsecondary education;

"(2) test the most effective means for creating collaborative agreements among institutions of higher education, including community colleges, employers and labor organizations to deliver educational services;

"(3) develop formats for adapting educational content to career ladder progressions;

"(4) implement a program of postsecondary educational courses at or in conjunction with places of employment to promote occupational development; and

"(5) evaluate the effectiveness of the program in both its substantive and procedural aspects.

"(b) For the purpose of this subpart, an eligible recipient is—

"(1) any institution of higher education, including any community college;

"(2) any community-based organization which is organized as a nonprofit or not-for-profit organization and is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954, if such community-based organization has entered into a contract with an institution of higher education or a community college for the purpose of this subpart;

"(3) any employer, if the employer has entered into a contract with an institution of higher education, including a community college for the purpose of this part; and

"(4) any labor organization, if such organization has entered into a contract with an institution of higher education, including a community college, for the purpose of this part.

"APPLICATIONS

"SEC. 142. (a) Applications for grants or contracts under this subpart shall be submitted in such form, at such time, and in such manner as the Secretary may prescribe. Any application by a community-based organization, an employer, or labor organization shall be accompanied by the contract required by section 141(b) (2), (3), or (4), as the case may be.

"(b) Each such application shall contain provisions designed to assure that the eligible recipient will maintain efforts undertaken by the recipient prior to the financial assistance made available under the provisions of this subpart during the period during which financial assistance is made available under this subpart.

"USES OF FUNDS

"SEC. 143. (a) Financial assistance under this subpart shall be used for—

"(1) the establishment and operation of a panel composed of not less than twenty-one individuals representing employers, labor organizations, postsecondary education, secondary and vocational education, and public organizations concerned with employment, and organizations concerned with women's occupational and educational progress to undertake activities including but not limited to—

"(A) conducting not less than one community dialog annually at which information will be shared widely so as to apprise women of the educational, occupational and employment opportunities in the communities with respect to which the eligible recipient conducts its activities; and

"(B) assessing annually women's work-related development needs, opportunities and resources in the community with respect to which the eligible recipient conducts its activities and report thereon to the Secretary, the Commission on National Development in Postsecondary Education established under part A, and each respective State entity having an agreement under section 1203;

"(2) the designation of not less than one worksite employing signficant numbers or proportions of women as an educational development worksite and, in collaboration with the management and labor unions of that worksite the design, implementation and evaluation of comprehensive postsecondary education delivery programs; and

"(3) reporting the evaluation of the activities conducted pursuant to paragraph (2) of this subsection to the Secretary, the national organizations having a contract under section 144 of this subpart, the Commission on National Development in Postsecondary Education and each appropriate State entity having an agreement pursuant to section 1203.

"(b) Financial assistance under this subpart may be used to pay the reasonable costs of personnel, travel, supplies, and overhead generally. Financial assistance under this subpart may not be used to substitute personnel or activities previously supported by the eligible recipient.

"GRANTS FOR NATIONAL ORGANIZATIONS

"SEC. 144. (a) The Secretary shall enter into contracts with national organizations having expertise in the development, management, and evaluation of working women's educational and occupational development programs for the purpose of coordinating, evaluating, and providing technical assistance to, the demonstration projects assisted under this subpart.

"(b) Any contract entered into under the provisions of this section shall be let on a competitive basis in accordance with the provisions of this section.

"(c) In entering into any contract under the provisions of this section, the Secretary shall give priority to—

"(1) the extent and quality of experience of the national organization in promoting, implementing, and evaluating community development activities for women's educational and occupational development programs;

"(2) the extent and quality of experience of the national organization in promoting, implementing, and evaluating demonstration projects of a nature similar to projects assisted under this subpart; and

"(3) the capability of the national organization to commit the activities of employers, labor organizations, educational agencies, and associations of postsecondary education and institutions of higher education and community colleges in the work of the national organization.

"(d) The Secretary shall—

"(1) provide for periodic interchange of information and personnel among organizations having contracts with the Secretary under this subpart;

"(2) provide technical assistance to any organization awarded a contract under this subpart;

"(3) assess annually the progress of the organization entering into a contract under this subpart; and

"(4) submit to the Commission on National Development in Postsecondary Education established under part A of this title a report setting forth an evaluation of the achievement of the objectives of this subpart not later than July 1, 1982.

"LIMITATIONS ON FINANCIAL ASSISTANCE UNDER THIS SUBPART

"SEC. 145. (a) No financial assistance may be made under this part to an eligible recipient, except a national organization, which exceeds $75,000 in any fiscal year.

"(b)(1) Each grant agreement or contract entered into under the provisions of this subpart may contain provisions to assure that financial assistance will be available for more than one fiscal year.

"(2) Funds appropriated under this subpart shall be available until expended.

"(c) No grant may be made to any community-based organization, employer or labor organization if the contract required by section 141(b) (2), (3), or (4), as the case may be, contains provisions which are in conflict with any collective bargaining agreement which is applicable to the project for which assistance is sought under this subpart.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 146. (a) There are authorized to be appropriated $7,500,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, for the purpose of carrying out this subpart.

"(b) Of the sums appropriated under subsection (a) of this section, the Secretary shall set aside not less than 10 percent of such sums for financial assistance under contracts for national coordination and evaluation entered into under section 144.

"Subpart 3—Postsecondary Education and Youth Unemployment Transition Demonstration Program

"PROGRAM ESTABLISHED

"SEC. 161. (a) The Secretary shall make grants, in accordance with the provisions of this subpart, to educational institutions for projects to demonstrate the most feasible and effective means for such institutions to apply their instructional, research, and community service resources to promotion of the work preparation and the employment of unemployed or chronically underemployed youth in communities in which or with respect to which such eligible institutions customarily provide services.

"(b) For the purpose of this subpart—

"(1) 'community' means the geographic area served by a prime sponsor, other than a State, designated by the Secretary of Labor under section 101(c) of the Comprehensive Employment and Training Act, or served by the Secretary under section 102 of that Act; and

"(2) 'educational institution' means an institution of higher education, including a community college as defined in section 122.

"(c) The Secretary shall make at least 50 grants during fiscal year 1981 to eligible institutions to initiate and to carry out for a period of three years demonstration projects under this subpart. No grant may be made under this subpart unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) In making grants under this subpart, the Secretary shall give special consideration to educational institutions that primarily serve communities experiencing high youth unemployment and low per capita income. Insofar as practicable, the Secretary shall assure that funds are distributed under this subpart based upon the relative population of the several States.

"(e) Grants made under this subpart shall remain available for three years without regard to fiscal year limitation.

"RESERVATION OF FUNDS

"SEC. 162. (a) (1) For the purpose of making grants under this subpart, the Secretary shall reserve $22,500,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1983, from sums appropriated to carry out the education component of the youth employment initiative program proposed by the President on January 10, 1980, in the fiscal year for which such sums are made available.

"(2) In any fiscal year for which the provisions of paragraph (1) of this subsection do not apply, there are authorized to be appropriated $30,000,000 for the fiscal year 1981 and for each of the fiscal years ending prior to October 1, 1983.

"(b) Subject to the provisions of section 167(b) of this subpart, the Secretary of Labor shall reserve and transfer to the Secretary for grants under this subpart not less than $20,000,000 appropriated for carrying out the provisions of the Comprehensive Employment and Training Act for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1983.

"ACTIVITIES REQUIRED OF EDUCATIONAL INSTITUTIONS

"SEC. 163. (a) Each educational institution receiving a grant under this subpart shall provide assurances that the institution will—

"(1) demonstrate methods and techniques for promoting collaboration among agencies, institutions, and organizations in assisting youth to prepare for and obtain employment in occupations that have significant potential for career growth and advancement;

"(2) organize and establish in the community for which a project is assisted under this subpart a not-for-profit organization meeting the requirement of section 164 of this subpart, to be known as a community education work foundations;

"(3) develop, in consultation with such community education work foundation, the prime sponsor, and the State employment security agency, local labor market data capable of identifying needs and opportunities for skilled workers in the local economy and of forecasting occupational skill resources and needs for a 10-year period;

"(4) provide such assistance to the local prime sponsor, its grantees and subcontractors, and to the State employment security agency office serving the community, as the prime sponsor or the State employment security agency deems appropriate for the development of management information systems and techniques for assessing the needs of youth for education, training, and employment-related services and monitoring the success of such youth in benefiting from such services;

"(5) conduct, in consultation with such community education work foundation, studies and investigations leading to the establishment of standard benchmarks of individual progress of youth toward obtaining the basic, occupational, and workplace skills leading to career opportunities, including but not limited to—

"(A) basic skills in reading, writing, mathematics, and science;

"(B) preemployment skills indicating a basic awareness of workplace requirements, occupational options and opportunities, and methods of job search; and

"(C) work maturity as indicated by performance in a job;

"(6) conduct, in consultation with such community education work foundation, studies and investigations leading to the establishment of procedures for measuring the effectiveness of programs to prepare youth for employment and to assist their transition from work preparation to employment, including procedures for assessing such employment experience for a reasonable period of time;

"(7) formulate and recommend to the community education work foundation established for the purpose of this subpart, in such reports as may be necessary, a program for—

"(A) recording the individual progress of participating youth toward meeting the standard benchmarks described in subsection (a) (5) of this section;

"(B) administering a comprehensive assessment of the extent to which participating individual youth residing in the community have met such benchmarks of progress through previous education, training and experience;

"(C) tracking and recording the subsequent progress of each participating youth; and

"(D) protecting the privacy of persons for whom information is to be recorded, assuring that personal information with regard to any such person shall be available only to such person;

"(8) formulate and implement, in consultation with such community education work foundation, a plan for activities to be conducted by the eligible educational institution, in collaboration with other such institutions, secondary education agencies, public and proprietary vocational education agencies, the prime sponsor under the Comprehensive Employment and Training Act, labor organizations, and employers, to provide services to educate, train, and otherwise assist the employability development and occupational transitions of individuals of all ages who are most at risk of unemployment during current or projected periods of high unemployment in the community;

"(9) prepare, in consultation with the appropriate State Occupational Information Coordinating Committee and other developers and users of occupational information, a plan for a program of local comprehensive occupational information and a plan for educational brokering services to assist youth in work preparation and work transition, and report such plans to the community education work foundation;

"(10) provide to the community education work foundation such managerial, staff, advisory, and technical assistance as may be necessary to initiate and operationally maintain such community education work foundation for a period of at least two years following the date of incorporation of each such foundation, and include provisions designed to assure that—

"(A) such assistance may be extended for more than two years if (i) agreed to by the foundation and the educational institution and (ii) funds are available to support such agreement from sources other than this subpart; and

"(B) in the event that the educational institution and the foundation agree, with the approval of the Secretary, to terminate the assistance during such two-year period, the remainder of unused funds granted under this subpart for support of such assistance shall be returned to the United States; and

"(11) provided within two years following incorporation of the foundation a plan for sources of funds for the continued operation of the foundation and report such plan to the foundation.

"(b) In carrying out the studies and investigations specified in paragraph (6) of subsection (a), each institution receiving a grant under this subpart shall insure that standard benchmarks of individual achievement, developed for submission to its community education work foundation, conform to the requirements of the laws of the State in which the community is located.

"COMPOSITION AND FUNCTIONS OF COMMUNITY EDUCATION WORK FOUNDATIONS

"SEC. 164. (a) In order to comply with the provisions of section 163(a)(2) each educational institution desiring a grant under this subpart shall establish a community education work foundation that meets the requirements of this section.

"(b) Each community education work foundation established under this subpart shall be incorporated under the applicable law of the State in which the foundation is established as a not-for-profit organization and shall qualify as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1954.

"(c) Each such foundation shall be governed by a Board of Directors of not less than twenty-one nor more than twenty-seven individuals who, collectively, are broadly representative of educational institutions and agencies, employment and training agencies and organizations, labor organizations and other employee organizations, employers, parents, and other members of the general public in the community. The membership of the Board shall reflect significant segments of the population of the community (including minorities, women, and youth) and shall include, but not be limited to—

"(1) one or more representatives of local educational agencies receiving funds under title I of the Elementary and Seconary Education Act of 1965;

"(2) one or more representatives of the prime sponsor in whose area the foundation is established;

"(3) one or more representatives of education agencies, other than a local educational agency, receiving funds under the Vocational Education Act of 1963;

"(4) representatives of employee organizations conducting and implementing collective bargaining agreements under the National Labor Relations Act;

"(5) employers, including large business and industrial employers, small businesses, not-for-profit organizations, and public agencies;

"(6) representatives of community-based organizations, as defined in section 3(4) of the Comprehensive Employment and Training Act; and

"(7) representatives of the general public in the community.

"(d)(1) Each such foundation shall include in the articles govering its activities provisions assuring, to the extent foreseeable, eligibility for Federal, State, and local grants and contracts for which the foundation may be eligible.

"(2) Each such foundation shall assure participation in its activities by members of the community it serves, including youth aged fourteen to twenty-one, inclusive, and the parents of such youth.

"(e) Each such foundation shall—

"(1) assess the extent and effectiveness of current and recent youth work preparation and youth employment activities in the community;

"(2) consider and adopt, in consultation with the educational institution receiving a grant under this subpart, procedures for—

"(A) assessing local detailed labor market analyses and occupational forecasts developed pursuant to section 163(a)(3) of this subpart;

"(B) evaluating studies and investigations conducted pursuant to section 163(a) (5) and (6) of this subpart;

"(C) implementing recommendations of the Board of Directors for administering a comprehensive assessment of youth skills and recording individual progress toward full development of such skills; and

"(D) conducting the comprehensive education, training, and work preparation information and brokering services described in section 163(a)(9) of this subpart;

"(3) prepare, in collaboration with local educational agencies, vocational education agencies, the local prime sponsor, labor organizations, and employers, plans and procedures (A) for identifying youths who leave, or who are expected to leave, elementary or secondary school prior to receipt of a diploma or its equivalent and (B) for providing such individuals alternative methods of work preparation and school-to-work transition;

"(4) design, administer, and evaluate, in cooperation with the appropriate educational institution, feasible, cost-efficient, and paperwork-efficient individualized employability development plans for use by local education agencies and the constituent schools of such agencies, vocational education agencies and the constituent schools of such agencies, and employment and training agencies in determining the needs of and appropriate services for individual youth;

"(5) adopt and publish a system of standard criteria for measuring the individual progress of participating youth toward obtaining the basic, occupational, and workplace skills leading to career opportunities;

"(6) establish a program for maintaining a record of the progress of participating youth toward meeting the standard criteria, with strict provisions for assuring the privacy of individuals with respect to whom information is recorded, including provisions for assuring that personal information with regard to any such individual is made available only to such individual;

"(7) publish an annual report as to the status of coordination and collaboration among Federal, State, and local agencies and institutions offering services to assist youth in developing their basic occupational workplace skills; and

"(8) conduct such other studies and investigations as may be appropriate for carrying out the provisions of this subpart.

"(f) Plans and procedures required under clause (3) of subsection (e) shall include, but not be limited to—

"(1) cooperative agreements among education, training, and employment agencies to serve such youth comprehensively;

"(2) long-range, community-wide procedures for continuous followup and occupational improvement services to such youth;

"(3) education and training services for upgrading performance of employed youth;

"(4) secondary school cooperative education programs designed to retain youth in secondary school;

"(5) intensive counseling and career guidance services, including procedures for insuring that such services meet standards of high quality;

"(6) utilizing advanced educational technology to provide educational services designed to assist youth in achieving a high school diploma and in preparing themselves for contining education; and

"(7) application and evaluation of individualized employability development plans, under clause (4) of subsection (e).

"(g) In carrying out its activities under clauses (4), (5), and (6) of subsection (e), each foundation shall consult fully with each agency of the State having responsibility for educational activities subject to the project in which the community is located in order to insure that the procedures for assessing the competence of youth, the standard criteria for measuring individual progress, and the design of employability development plans for identifying the needs of individual youth for services conform to the requirements of State law.

"LIMITATIONS

"SEC. 165. (a) No grant may be made under this subpart for a demonstration project unless the project can be completed within a three-year period. The Secretary shall notify each grant applicant that additional funds for fiscal years other than the initial year will be contingent upon annual appropriations.

"(b)(1) The Secretary may establish review panels to review applications from an educational institution under this subpart. Insofar as practicable, the Secretary shall assure that each panel reviewing project applications prior to the making of a grant includes expert opinion and advice that is representative of all parties to the proposed project.

"(2) The Intergovernmental Advisory Council on Education shall periodically review the manner in which the Secretary is carrying out the provisions of this subpart.

"USES OF FUNDS

"SEC. 166. (a) Whenever the Secretary determines that it is necessary, funds made available pursuant to a grant under this subpart may be used for—

"(1) compensation, travel and related expenses for personnel of educational institutions, when necessarily employed as staff members for any project for which assistance is sought;

"(2) compensation for undergraduate students necessarily employed to carry out the project for which assistance is sought, subject to the provisions of subsection (c) of this section; and

"(3) the rental of space and the provision of necessary office supplies.

"(b)(1) No funds may be used to support directly or indirectly courses of instruction unrelated to the project for which assistance is sought.

"(2) No funds may be used to support directly or indirectly employment of any personnel or students for any period in excess of the period approved in the application for assistance under this subpart.

"(c) No funds may be used for the compensation of undergraduate students unless the application for assistance contains provisions designed to assure that procedures used under the project for which assistance is sought and the evaluation of the work performed by such students is conducted in a manner consistent with the provisions of title VIII of this Act.

"REGULATIONS

"SEC. 167. (a) Within 180 days after the enactment of the Education Amendments of 1980, the Secretary shall issue regulations for carrying out the provisions of this subpart.

"(b)(1) The regulations carrying out sections 163 and 164 of this subpart shall be developed in consultation with the Secretary of Labor.

"(2) No funds shall be transferred to the Secretary under section 162(b) of this subpart unless the Secretary of Labor concurs in such regulations.

"EVALUATION

"SEC. 168. (a) The Secretary shall, in each fiscal year, reserve and make available 2 per centum of the funds reserved pursuant to section 162 (a) and (b) of this subpart for use by the National Institute of Education to carry out a comprehensive program of evaluation of the impact and effectiveness of activities undertaken and projects conducted under this subpart.

"(b) Not later than 180 days following the enactment of the Education Amendments of 1980, the National Institute of Education shall submit to the Committee on Labor and Human Resources of the United States Senate and the Committee on Education and Labor of the House of Representatives a plan for the evaluation of the activities undertaken under this subpart. Such plan shall not be implemented by the National Institute of Education for a period of 60 days after its submission, during which time consultation on such plan shall be undertaken with each respective committee.

"(c) In formulating and implementing the plan for evaluation, the National Institute of Education shall develop an evaluation procedure which conforms to the specifications set forth by the General Accounting Office and the Congressional Research Service. The National Institute of Education shall consult with the General Accounting Office and the Congressional Research Service from time to time in the conduct and report of the evaluation required under this section.

"(d) The National Institute of Education shall issue not later than September 30, 1982, to the Commission on National Development in Postsecondary Education and to the Congress a report which shall include findings and conclusions including, but not limited to—

"(1) an assessment of the successes and failures in achieving coordination and interorganizational collaboration by community education work foundations receiving funds under this subpart;

"(2) an assessment of the achievements and predicted achievements of community education work foundations receiving funds under this subpart with respect to reducing or remediating youth unemployment;

"(3) an assessment of the impact of projects funded under this subpart upon the educational institutions receiving such funds;

"(4) an assessment of the extent to which projects funded under this subpart successfully reach objectives through the implementation of programs prescribed for the recipient educational institutions and each respective community education work foundation;

"(5) an assessment of the efforts funded under this subpart to apply individualized standard benchmarks of progress of youth toward obtaining basic, occupational and workplace skills; and

"(6) an assessment of the relationship of costs to benefits of outcomes achieved by projects funded under this subpart and a comparative analysis of such cost-benefit studies to youth work preparation and youth employment efforts not using community education work foundations or similar organizational forms.".

TITLE II—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

EXTENSION OF PROGRAM

SEC. 201. (a) The first sentence of section 201(b) of the Act is amended to read as follows: "For the purpose of making grants under parts A and B, there are authorized to be appropriated $15,000,000 for the fiscal year 1981, $17,000,000 for the fiscal year 1982, $19,500,000 for the fiscal year 1983, $22,000,000 for the fiscal year 1984, and $25,000,000 for the fiscal year 1985.".

(b) Section 232 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 232. There are authorized to be appropriated $8,000,000 for the fiscal year 1981, $9,000,000 for the fiscal year 1982, $10,500,000 for the fiscal year 1983, $12,000,000 for the fiscal year 1984, and $14,000,000 for the fiscal year 1985.".

NEW PROGRAM ESTABLISHED

SEC. 202. Title II of the Act is amended by adding at the end thereof the following:

"PART D—NATIONAL PERIODICAL SYSTEM

"PURPOSE

"SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248.

"(b) Any design for a national periodical system shall include provisions for such system to—

"(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

"(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

"(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

"(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

"(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

"(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation; and

"(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

"(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

"(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

"(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

"(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

"SEC. 245. (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manager the operations of the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

"SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

"AUTHORITY OF CORPORATION

"SEC. 247. (a) The Corporation is authorized to—

"(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a rembursable basis such administrative support services as the Corporation may request.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243.

"(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

"IMPLEMENTING THE DESIGN

"SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design.

"COPYRIGHT ACT

"SEC. 249. Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights.

"DEFINITIONS

"SEC. 250. As used in this part—

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'Board' means the Board of Directors of the National Periodical System Corporation;

"(3) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

"(4) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright;

"(5) the term 'Corporation' means the National Periodical System Corporation established under this part;

"(6) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(7) the term 'document' means any portion of the entire issue of a periodical;

"(8) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(9) the term 'private sector' means nongovernmental, nonprofit, and for-profit organizations.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years 1980, 1981, and 1982.

"(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 301. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"PART A—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"FINDINGS AND PURPOSES

"SEC. 301. (a) The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the solution of the problems of institutions with special needs would enable such institutions to become viable, thriving institutions of higher education; and

"(4) institutions with special needs play an important role in the American system of higher education, and there is a strong national interest in assisting such institutions in solving their problems and in stabilizing their management and fiscal operations.

"(b) It is the purpose of this part to assist institutions with special needs through a program of short-term Federal assistance.

"PROGRAM AUTHORIZED

"SEC. 302. (a) The Secretary shall carry out a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs.

"(b) Of the sums appropriated pursuant to section 331 and available for this part for each fiscal year, not less than 30 per centum shall be available only for institutions with special needs that are junior or community colleges. The remainder of the funds so appropriated shall be available to institutions with special needs that plan to award a bachelor's degree during that year.

"ELIGIBILITY FOR SPECIAL ASSISTANCE

"SEC. 303. (a)(1) For the purposes of this part, the term 'institution with special needs' means an institution of higher education in any State, and each branch of such institution which is located in a community different from that in which its parent institution is located, which—

"(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as is provided in paragraph (4), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this part;

"(D) meets the requirements of paragraph (2), with respect to special needs; and

"(E) meets such other requirements as the Secretary may prescribe.

"(2) Each such institution or branch shall be an institution or branch which enrolls not less than one hundred full-time equivalent students in the academic year for which the determination is made. In determining institutional eligibility under this part the Secretary must determine that each such institution or branch shall, for such academic year, have—

"(A) low general and educational expenditures per full-time equivalent undergraduate student, and

"(B) low cost of instruction per full-time equivalent undergraduate student.

"(3) In determining the eligibility of any institution for participation in this part, the Secretary may also consider the following factors:

"(A) extreme financial limitations requiring low faculty salaries, low percentage costs of instruction for students, and low library expenditures;

"(B) a little or no endowment, whether or not unrestricted;

"(C) a high student to faculty ratio;

"(D) a substantial percentage of students receiving need-based Federal student assistance;

"(E) limited library resources;

"(F) a low percentage of faculty with doctorate degrees;

"(G) poor physical facilities and limited resources to maintain physical facilities;

"(H) little or no support from foundations, alumni, or corporations;

"(I) limited or no sponsored research or faculty publications;

"(J) inadequate development offices and a limited capacity for long-range planning; and

"(K) poor or inadequate fiscal management and accounting procedures.

"(4) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of an institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(D) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(E) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"(b) For the purposes of this part, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

"(c) For the purpose of this part, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full time equivalent of the number of students enrolled part time in such institution.

"PURPOSE AND DURATION OF GRANT; COOPERATIVE ARRANGEMENTS

"SEC. 304. (a) From the sums appropriated under section 302(b), the Secretary may make grants to any institution with special needs with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(b)(1) The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year.

"(2) In the event of a multiple-year grant to any institution with special needs under this part, the Secretary shall make funds available for such grant from funds appropriated for this part for the fiscal year in which such funds are to be used by the recipient.

"(3)(A) The Secretary may also make grants to encourage cooperative arrangements between institutions with special needs eligible for assistance under this part for the activities described in subsection (a), so that the resources of the cooperating institutions with special needs might be combined and shared to achieve the purposes of this part and to avoid costly duplicative efforts.

"(B) The Secretary shall give priority to grants made under this paragraph whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

"(C) Grants may be made to institutions having a cooperative arrangement under this paragraph for not more than five years.

"APPLICATIONS FOR ASSISTANCE

"SEC. 305. (a) An institution with special needs desiring assistance under this part shall apply to the Secretary at such time, in such form, and containing or accompanied by such information, as may be necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as an institution with special needs.

"(b) Each application for assistance under this part shall be approved only if it—

"(1) sets forth a program for carrying out one or more of the activities described in section 304, and sets forth such policies and procedures for the administration of the program and the accomplishment of the purposes of this part;

"(2) sets forth such policies and procedures as will insure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in section 304, and in no case supplant such funds;

"(3) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of, and accounting for, funds made available under this part to the applicant; and

"(5) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this part, and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

In carrying out clause (3) and clause (5) of this subsection, the Secretary shall, to the extent practicable, after considering the burden of numerous reporting requirements on institutions with special needs and the interests of the United States, permit multiyear evaluations and reporting.

"(c) Subject to the availability of appropriations under this part, the Secretary may approve an application that meets the requirements of subsection (b) and shows that the applicant is an institution with special needs under section 303.

"FEDERAL SHARE

"SEC. 306. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant.

"LIMITATIONS

"SEC. 307. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305.

"CHALLENGE GRANTS FOR INSTITUTIONS WITH SPECIAL NEEDS

"SEC. 308. (a) From the sums available under section 331(c) for each fiscal year, the Secretary may award a challenge grant to each institution with special needs that—

"(1) is eligible for a grant under section 303;

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a postgraduate degree rather than a bachelor's degree.

A challenge grant under this section that is subject to all requirements of this part applicable to other grants made under this part, except that the application therefor complies with subsection (b) of this section.

"(b) An institution with special needs desiring a challenge grant may apply under section 305, except that the application for the purpose of this subsection shall—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 303(a)(3)(A) through (J), and lead to greater financial independence.

"(c) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive grants under this section and notify the institutions of the amount of the grant.

"(d) In approving applications for grants under this section, preference shall be given to institutions which are receiving, or have received, grants under part A of this title.

"PART B—ASSISTANCE TO INSTITUTIONS ENROLLING SUBSTANTIAL PERCENTAGES OF DISADVANTAGED STUDENTS

"STATEMENT OF POLICY

"SEC. 321. (a) The Congress finds that—

"(1) institutions of higher education with substantial percentages of students from low income families are contributing to carrying out the Federal policy of providing educational opportunities for all students who are qualified; and

"(2) institutions of higher education enrolling substantial percentages of students from low income families face unique burdens which prevent raising necessary financial resources to meet the ever increasing cost of educating such students.

"(b) It is therefore the purpose of this part to provide continuing Federal financial assistance to permit institutions of higher education described in subsection (a) of this section to survive.

"PROGRAM AUTHORIZED

"SEC. 322. (a) The Secretary shall carry out program in accordance with this part to provide grants to institutions of higher education with substantial percentages of students from low income families.

"(2) Of the sums appropriated pursuant to section 331 and available for this part for each fiscal year, not less than 30 per centum shall be available only for eligible institutions that are junior or community colleges. The remainder of the funds appropriated shall be available to eligible institutions that plan to award a bachelor's degree during that year.

"(b)(1) For the purposes of this part—

"(A) the term 'eligible institution' means an institution of higher education—

"(i) the enrollment of which includes a substantial percentage of students from low income families; and

"(ii) the average expenditures of which are low per full-time equivalent student, in comparison with the average expenditures of institutions that offer similar instructions; and

"(B) the term 'junior or community college' has the same meaning given the term in section 303(b).

"(2) Any entity which is a branch of an institution of higher education may be considered to be an eligible institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(3) For the purpose of this part, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time in such institution.

"AMOUNT OF THE GRANT

"SEC. 323. (a) Each eligible institution shall receive an amount in each fiscal year that bears the same ratio to the amount appropriated to carry out this part for that year as the eligibility factor of that institution, as determined in accordance with subsection (b) of this section, bears to the sum of such factors.

"(b) The Secretary shall establish an eligibility factor for each eligible institution based upon—

"(1) the percentage of students from low income families enrolled at the eligible institution;

"(2) the average expenditures per full-time equivalent student at that institution;

"(3) the amount of funds, from public and private sources, available to the institution; and

"(4) the institution's relative effort in providing student financial assistance from institutional sources.

"USE OF FUNDS; APPLICATION

"SEC. 324. An eligible institution may receive a grant under this part only upon application submitted at such time, in such manner and containing such information as the Secretary may reasonably require. Such application shall—

"(1) set forth such policies, assurances, and procedures as are designed and will ensure that—

"(A) the funds received by the institution under this section shall be used solely to defray instructional expenses and academic related programs of the institution;

"(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(C) the institution will submit to the Secretary such reports as the Secretary may by necessity require; and

"(2) contain such other assurances as the Secretary may require to protect the financial interests of the United States.

"PART C—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 331. (a) For the purpose of carrying out this title, there is authorized to be appropriated $161,000,000 for the fiscal year 1981, $185,000,000 for the fiscal year 1982, $213,000,000 for the fiscal year 1983, $245,000,000 for the fiscal year 1984, and $285,000,000 for the fiscal year 1985.

"(b) In each fiscal year 50 per centum of the sums appropriated shall be available to carry out part A of this title, and 50 per centum shall be available to carry out part B of this title.

"(c) The Secretary shall reserve not to exceed 10 per centum of the funds appropriated and available for part A for challenge grants under section 308. Any funds reserved under this subsection and not obligated for the purposes of carrying out the provisions of section 308 shall be used to make grants under section 303.".

TITLE IV—STUDENT ASSISTANCE

Part A—Grants to Students in Attendance at Institutions of Higher Education

STATEMENT OF PURPOSE

Sec. 401. Section 401(a) of the Act is amended—

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (defined in accordance with section 484)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need".

PELL GRANTS

Sec. 402. (a) Section 411(a)(1) of the Act is amended—

(1) by striking out "1980" and inserting in lieu thereof "1985";

(2) by striking out "student" the first time it appears and inserting in lieu thereof "eligible student (defined in accordance with section 484)"; and

(3) by inserting "(A)" after the paragraph designation "(1)" and by adding at the end thereof the following:

"(B) The purpose of this subpart is to provide a basic grant that, in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of the cost of attendance of a student, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(C) Basic grants made under this subpart shall be known as 'Pell Grants'.".

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended to read as follows:

"(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $1,900 for academic year 1981–1982,

"(II) $2,000 for academic year 1982–1983,

"(III) $2,200 for academic year 1983–1984,

"(IV) $2,400 for academic year 1984–1985, and

"(V) $2,600 for academic year 1985–1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.".

(2) Section 411(a)(2)(A)(ii) of this Act is amended by striking out "February 1" and inserting in lieu thereof "October 1".

(c)(1) Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart shall not exceed—

"(I) 50 per centum for academic years in which the maximum basic grant is less than $2,000;

"(II) 55 per centum for academic years in which the maximum basic grant is at least $2,000 but is less than $2,400; and

"(III) 60 per centum for academic years in which the maximum basic grant is at least $2,400, of the cost of attendance at the institution at which the student is in attendance for that year.".

(2) Section 411(a)(2)(B)(ii) of the Act is amended by striking out "actual" each time it appears.

(3) Section 411(a)(2)(B)(iv) of the Act is repealed.

(d)(1) Section 411(a)(3) of the Act is repealed.

(2) Paragraph (4) of section 411(a) of the Act is redesignated as paragraph (3).

(e) Section 411(a)(3) of the Act (as redesignated by subsection (d)(2)) is amended to read as follows:

"(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.".

(f) Section 411(b)(1)(B)(i) of the Act is amended to read as follows:

"(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements as calculated prior to the cost of attendance limitation provided in section 411(a)(2)(B)(i) under this subpart, the amount paid with respect to each such entitlement shall be—

"(I) the full amount in the case of any student's eligibility index which is less than 601;

"(II) 90 per centum of the amount when the student's eligibility index is 601 but less than 801;

"(III) 80 per centum of the amount when the student's eligibility index is 801 but less than 1001;

"(IV) 70 per centum when the student's eligibility index is 1001 but less than 1201;

"(V) 60 per centum when the student's eligibility index is 1201 but less than 1601; and

"(VI) 50 per centum when the student's eligibility index is 1601 or greated.

For the purpose of this division, a 'student's eligibility index' is the index of need of a student established by the Secretary in carrying out section 482, relating to the family contribution schedule.".

(g) Section 411(b)(5) of the Act is amended to read as follows:

"(5)(A) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $370,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment may be made on the basis of entitlements established under this subpart in excess of $1,900.

"(B) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $400,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment may be made on the basis of entitlements established under this subpart in excess of $2,000.

"(C) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $420,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment may be made on the basis of entitlements established under this subpart in excess of $2,200.

"(D) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $440,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment may be made on the basis of entitlements established under this subpart in excess of $2,400.

"(E) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $480,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not equal at least $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each fiscal year under part E of this title does not at least equal $286,000,000;

no payment may be made on the basis of entitlements established under this subpart which are equal to or in excess of $2,400, in the fiscal year succeeding the fiscal year specified in subparagraph (D) or in any succeeding fiscal year.".

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Sec. 403. (a) Section 413A(a) of the Act is amended by striking out "who, for lack of financial means, would be unable to obtain such benefits without such a grant" and inserting in lieu thereof "who demonstrate financial need in accordance with the provisions of section 482".

(b)(1) Section 413A(b)(1) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(2) Section 413A(b)(3) of the Act is amended by inserting "second" before "fiscal year" the second time it appears in such section.

(c)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows:

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable the student to pursue a course of study at the institution, except that such amount shall not exceed—

"(i) $2,000, or

"(ii) one-half the sum of the total amount of student financial aid provided to such student by such institution,

whichever is lesser.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled in less than a full academic year, the minimum payment shall be reduced proportionately.".

(3) Section 413B(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413B(b)(1) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.".

(5) Section 413B(b)(2) of the Act is amended to read as follows:

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484.".

(d) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484.

"(b) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484 other than the requirement of clause (2) of section 484(a).".

(e)(1) Section 413D(a)(2) is amended by striking out "section 431A(b)(2)" and inserting in lieu thereof "section 413A(b)(2)".

(2) Section 413D(b)(1)(B)(ii) of the Act is amended to read as follows:

"(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under subpart 2 by subtracting from 75 per centum of total student expenses the sum of expected parental or independent student contributions and awards made under subparts 1 and 3 of this part. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than it received under this section for fiscal year 1979.".

(f) Section 413D(b) of the Act is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Each institution receiving allocations under this subsection from apportionments made to the State under subsection (a)(1) and under subsection (a)(2) may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A(b)(1) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(b)(1) Section 415B(a)(1)(A) of the Act is amended to read as follows:

"(A) No State shall be allotted an amount under this subpart for any fiscal year less than the State received for fiscal year 1979. From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year in excess of the amount appropriated for fiscal year 1979, the Secretary shall allot to each State—

"(i) an amount which bears the same ratio to 90 per centum of such excess as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all States, and

"(ii) an amount which bears the same ratio to 10 per centum of such excess as the need-based student aid for students in attendance at institutions of higher education in such State bears to the total need-based student aid for all such students in such attendance in all States.".

(2) Section 415E of the Act is repealed.

(c)(1) Section 415C(b)(2) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(2) Section 415C(b)(4) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978".

(d) Section 415C(b) of the Act is amended by striking out "and" at the end of clause (5), by redesignating clause (6) as clause (7), and by inserting after clause (5) the following new clause:

"(6) provides that (A) an institution of higher education, with the approval of the State agency, may use its payments for initial grants and for continuing grants under this subpart in such manner as the institution determines will best achieve the purposes of this subpart; and (B) institutions of higher education, with the approval of the State agency, may use not more than 10 per centum of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(2); and".

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1981 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of Census.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this part by reason of such individual's age.

"TALENT SEARCH

"SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) oncampus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

"SEC. 417D. (a) The Secretary shall carry out a program to be known as special services for disadvantaged students (hereinafter referred to as 'special services') which shall be designed to provide supportive services to persons participating in the projects.

"(b) A special services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorials;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) and through (7) which are specially designed for students of limited English proficiency.

"(c) In approving applications for special services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for special services projects under this subpart for any fiscal year, the Secretary shall require on assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

SPECIAL PROGRAM FOR MIGRANT AND SEASONAL FARMWORK STUDENTS

SEC. 406. Subpart 5 of part A of title IV of the Act is amended to read as follows:

"Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

"SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include—

"(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success beyond high school, and in preparation for the GED examination;

"(2) personal and academic counseling;

"(3) outreach and recruitment, special admissions, and financial assistance;

"(4) tutorial services;

"(5) career-oriented work study;

"(6) housing support and on-campus residential programs;

"(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

"(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmworker students at the secondary and postsecondary levels.

"(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.".

REPEALER

SEC. 407. Section 419 of the Act is repealed.

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 408. Section 420 of the Act is amended to read as follows:

"SEC. 420. (a) (1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least 25.

"(2) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such academic year, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(3) For any fiscal year beginning after September 30, 1980, the Secretary may waive the provisions of paragraph (1) of this subsection for any institution of higher education which has qualified for payment under this section for any preceding fiscal year but subsequently became ineligible, if—

"(A) the institution would have been eligible had section 420(a)(2) been in effect when such institution became ineligible,

"(B) the institution has had a full-time office of veterans' affairs since that institution was so eligible, and

"(C) the appropriations made available in any such fiscal year for this section are in excess (i) $14,380,000, or (ii) the amount requested for carrying out this section in the budget of the President submitted under section 201 of the Budget and Accounting Act, 1921, whichever is greater, by an amount sufficient to make payments to all institutions meeting the requirements of clauses (A) and (B) of this paragraph.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connection disability as defined in section 101(16) of such title 38.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education under subchapter V of chapter 34 of title 38, United States Code,

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities and make maximum use for this purpose of benefits available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this clause with the readjustment counseling program carried out under section 612A of such title 38 and with veterans employment and training activities carried out under chapters 41 and 42 of such title 38 and under the Comprehensive Employment and Training Act,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C) may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (C)(i) of paragraph (1) of subsection (c), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 per centum requirement shall be used for implementing the requirements of subclauses (ii) through (v) of clause (C) of such paragraph (1), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.".

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

SEC. 411 (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

SEC. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) The matter preceding division (i) of section 428(b)(1)(A) of the Act is amended—

(1) by inserting after "student" the following: "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$15,000 in the case of any independent student who has not successfully completed a program of undegraduate education, and $25,000 in the case of any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

SEC. 413. (a) 427(a)(2)(C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period requires continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

SEC. 414. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h)(1) From sums paid by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in such State described in section 435(g)(1)(D) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1)(D) and which has an application approved under section 439(p)(2) may receive payments under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(3)(A) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

"(B) Notwithstanding any other provision of law, a State agency, a nonprofit private institution or organization, or an eligible lender in such State described in section 435(g)(1)(D) may use up to 10 per centum of the sums received under section 439(p) to make loans insurable under this part if the loan meets the requirements under paragraph (4).

"(4) A loan made under paragraph (3)(B) is insurable under this part if the loan is—

"(A) made to a student who has—

"(i) been accepted for enrollment at an eligible institution or in the case of a student already attending such institution is in good standing as determined by the institution;

"(ii) registered to take a course with not less than two nor more than six credits for the semester or quarter (or its equivalent) for which a loan is applicable;

"(iii) registered for a course which (I) is approved by the eligible institution as a requirement to satisfy the qualifications for any degree, diploma, certificate, or other credential granted by the eligible institution and (II) is not a noncredit course as defined by that institution; and

"(iv) provided to the eligible lender notification by the eligible institution of the course registration as required under this subsection not less than ninety days prior to the effective date of the loan; and

"(B) evidenced by a note or other written agreement which—

"(i) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required;

"(ii) provides for repayment to commence not earlier than four months after the first date on which the student begins study under this section except—

"(I) as provided in clause (C) of subsection (a)(2) of section 427,

"(II) that repayment of principal and interest shall be deferred for each consecutive year such study is continued not to exceed a maximum deferral period of four years and four months, and

"(III) that repayment of principal and interest shall be deferred beyond four years and four months only if the student is enrolled at least half-time but less than full-time in an eligible institution and such deferral may occur one year for each year the student is so enrolled not to exceed a maximum of eight years and nine months after the first date on which the student begins study under this section; and

"(iii) contains provisions which comply with clauses (D), (E), (G), (H), and (I) of subsection (a)(2) of section 427.

Loans made under paragraph (3)(B) of this subsection may not exceed $1,250 in any academic year for each year the student is enrolled and registered for courses as set forth in this paragraph and that the aggregate insured unpaid principal amount of loans made to any student for less than half-time study may not exceed $5,000. No loan may be made under paragraph (3)(B) for more than the cost of tuition, books, supplies, travel, and where necessary, child care expenses to the student in each academic year.".

INTEREST RATE AND PAYMENT

SEC. 415. (a) Section 427(b) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and by inserting in lieu thereof "four months".

(2) (A) Section 428(b) (1) (E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 428(b) (1) (E) is further amended by striking out "nine months nor later than one year" in both places that it appears and by inserting in lieu thereof "four months".

(c) Section 428(a) (3) (B) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(d) Section 428(b) (1) (F) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(e) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

COLLECTION PRACTICES

SEC. 416. (a) (1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) (A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A) (ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) (i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b) (3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a) (2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) (i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b) (2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c) (1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.".

ADMINISTRATIVE IMPROVEMENTS

SEC. 417. (a) Section 428(b) (1) (H) of the Act is amended to read as follows:

"(H) does not provide for collection of an insurance premium in excess of 1 per centum per year on the unpaid principal amount of the loan (excluding interest added to principal), payable in advance, which may be used by the insurer to insure loans and to cover administrative, operating and overhead costs of the insurer;".

(b) (1) Section 428(c) (6) (A) (ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma; and

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students". (2) Section 428(c) (6) (B) is amended—

(A) by striking out "and" at the end of clause (i) and inserting in lieu thereof a comma;

(B) By inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f) (1) (A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4) Section 428(f) (1) (B) of the Act is amended by striking out "clause (iv)" and inserting in lieu thereof "clauses (iv) and (v)".

(5) Section 428(f) (2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(6) Section 428(f) (3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(c) Section 428(f) (3) (A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation,".

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i) (1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOANS TO PARENTS

SEC. 418. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms 'student' and 'student borrower' used in this part shall include a parent borrower under this section.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request.

Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 14 per centum per year on the unpaid principal balance of the loan except that, if provided in the note or other written agreement, any interest payable by the borrower may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 9 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 419. Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A)(i) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 5.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(ii) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans which were made or insured prior to October 1, 1980, shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 3.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(B) The quarterly rate of the special allowance for the holders of parental loans authorized under section 428B under this Act which are paid under section 428B(c)(3) shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

"(ii) The rate set under division (i) shall not be less than one-half of 1 per centum.

"(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Secretary.

"(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 9 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428 (b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

"(d) There is established a Committee on Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'committee'). The committee shall be composed of—

"(1) the Secretary of Education;

"(2) the Secretary of the Treasury;

"(3) the Secretary of Health and Human Services;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

"(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2)); and

"(6) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E).

"(e) The Secretary shall appoint the members of the committee described in paragraphs (4), (5), and (6) of subsection (d) of this section, after consultation, in the case of those members appointed under each such paragraph, with nationally recognized organizations of such persons or agencies.

"(f)(1) The committee shall prepare and submit to the Congress a report not later than one year of the date of enactment of the Education Amendments of 1980, of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowances paid under this Act which the committee determines will carry out the objectives set forth in subsection (a) of this section.

"(2) The quarterly rate of the special allowances provided for in paragraph (2) of subsection (b) shall remain in effect until the Congress by joint resolution approves of the method, in whole or in part, proposed by the committee in the report submitted under paragraph (1) of this subsection.

"(3) The committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowances established under this section.

"(4) In developing the method for the determination of the quarterly rate of the special allowances under this section, the committee shall consider—

"(A) the experiences of students and eligible lenders under the method in operation during the period of the study,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital.

"(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(E) such other factors as the committee considers necessary to carry out the purposes of this section.

"(5) In carrying out its responsibilities under this section, the committee shall be given the full cooperation and assistance of the official in the Department of Education directly responsible for the administration of part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Department of Education as the committee deems appropriate.

"(6) In order to assist the committee in carrying out its functions under this section, the Secretary is authorized to hire consultants, and to enter into contracts, and to pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

"(7) The Secretary shall convene the first session of the committee as soon as possible after the date of enactment of the Education Amendments of 1980. The chairman of the committee shall be elected by its members.

"(8) The committee shall cease to exist ten days after the approval of the joint resolution required by paragraph (2) of this subsection.

"(g) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.".

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 420. (a)(1) Section 439(a)(1) of the Act is amended by striking out "Government-sponsored".

(2) Section 439(f) of the Act is amended to read as follows:

"(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) other than an institution outside of the United States.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(3) The first sentence of section 439(g)(1) of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds from any such advance secured by collateral shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(l) of the Act is amended by inserting "including those made under subsection (d)(4)" after "All obligations issued by the Association".

(c)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to those obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.".

(2) Section 439(h)(2) of the Act is amended—

(A) by striking out "July 1, 1982" and inserting in lieu thereof "July 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part.".

(d)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) The Association shall make payments in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) having an application submitted to the Association which sets forth that payments are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title.

"(2) No payment may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D) are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

"(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) futher reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F), and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association;

"(H) for purposes of making loans under section 428(j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).".

LOAN CONSOLIDATION BY STATE AGENCIES

SEC. 421. (a) Section 428 of the Act (as amended by section 417) is amended by adding at the end thereof the following new subsection:

"(j)(1) Each State agency and nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), and each eligible lender in such State described in section 435(g)(1)(D), or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal balance and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, except that such State agency or nonprofit private institution or organization shall provide the eligible lender with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the eligible lender and meet the requirements of sections 427, 428(b) and 428A, except that (A) the ten-year maximum period referred to in sections 427(a)(2)(B) and 428(b)(1)(E) may be extended to no more than twenty years, and (B) clause (ii) of sections 427(a)(2)(B) and 428(b)(1)(D) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the eligible lender, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.".

(b)(1) Section 425(a)(2) of the Act is amended by striking out "The" and by inserting in lieu thereof "Except in the case of loans made under section 428(j) or section 439(o), the".

(2) Section 428(b)(1)(B) of the Act is amended by striking out "provides" and by inserting in lieu thereof "except in the case of loans made under section 428(j) or section 439(o), provides".

(3) Section 428A(a)(2)(A) of the Act is amended by inserting after "in excess of such annual limit; and" the following: "except in the case of loans made under section 438(j) or section 439(o),".

PROMPT DUE DILIGENCE DETERMINATIONS

SEC. 422. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.".

MISCELLANEOUS AMENDMENTS

SEC. 423. (a) (1) Section 427(a) (1) of the Act it amended to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a) (2) (B) (i) of the Act is amended to read as follows:

(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);".

(b) The first sentence of section 428(c) (1) (A) of the Act is amended by striking out everything after "of any insured loan" and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485, and then for the purpose of offsetting the costs to the institution for the program under this part.".

PART C—WORK-STUDY PROGRAMS

EXTENSION OF PROGRAM

SEC. 431. Section 441(b) of the Act is amended by inserting before the period a comma and the following: "and for each of the succeeding fiscal years ending prior to October 1, 1985".

LESS THAN HALF-TIME STUDENTS

SEC. 432. Section 444(a) (3) (C) of the Act is amended by inserting before the semicolon a comma and the following: "except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for students enrolled in less than a half-time basis".

REINFORCEMENT OF THE EDUCATIONAL PROGRAM OF WORK-STUDY PARTICIPANTS

SEC. 433. Section 444(a) of the Act is amended—

(1) by striking out "and" at the end of clause (7),

(2) by redesignating clause (8) as clause (9), and

(3) by inserting after clause (7) the following new clause:

"(8) provide assurances that employment made available from funds available under this part will complement and reinforce the educational program of not less than 10 per centum of the students receiving assistance under this part in fiscal year 1981, not less than 15 per centum of the students receiving assistance under this part in fiscal year 1982, not less than 20 per centum of the students receiving assistance under this part in fiscal year 1983, not less than 25 per centum of the students receiving assistance under this part in fiscal year 1984, and not less than 30 per centum of the students receiving assistance under this part in fiscal year 1985, and that compliance with this clause will be carried out in cooperation with the academic advisor of the student; and".

MINIMUM WAGE PROVISION

SEC. 434. Section 444(a) (1) of the Act is amended by striking out "and" at the end of subclause (B), by inserting "and" after subclause (C), and by adding at the end thereof the following new subclause:

"(D) will not pay any wage to students employed under this subpart which is less than the Federal minimum wage as required by section 6(a) of the Fair Labor Standards Act of 1938;".

USE OF CERTAIN UNUSED COLLEGE WORK-STUDY PROGRAM FUNDS FOR THE SUPPORT OF COOPERATIVE EDUCATION PROGRAMS

SEC. 435. (a) The first sentence of section 442(d) of the Act is amended by inserting before the period a comma and the following: "except that the Secretary shall give preference for the first 75 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act".

(b) Section 442(d) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The requirement for preference under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.".

DISTRIBUTION OF ASSISTANCE

SEC. 436. (a) Section 446(a) of the Act is amended by inserting at the end thereof the following new sentence: "The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979 unless there is a substantial decline in the student enrollment of the institution.".

(b) Section 446 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 7.5 per centum shall remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated. Grants made under this subsection shall be made in accordance with section 442(d).

"(c) Not to exceed 7.5 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

CONFORMING AMENDMENTS

SEC. 437. (a) Section 443(b) of the Act is amended by striking out "section 491(b)" and inserting in lieu thereof "section 481 (b)".

(b) Section 444(a) (2) of such Act is amended by striking out "section 493" and inserting in lieu thereof "section 489" and by striking out "section 496" and inserting in lieu thereof "section 488".

(c) Section 444(a) (4) of such Act is amended by striking out "additional employment together with such work-study income" and inserting in lieu thereof "employment (including work-study or non-work-study, or both).".

JOB LOCATION AND DEVELOPMENT

SEC. 438. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING

SEC. 439. Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

"SEC. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

"(b) For the purpose of this section—

"(1) 'community service-learning' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

"(2) 'community services' means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

"(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.".

PART D—NATIONAL DIRECT STUDENT LOAN ASSOCIATION

ASSOCIATION ESTABLISHED

SEC. 441. (a) The Act is amended by inserting after part C the following new part:

PART D—NATIONAL DIRECT STUDENT LOAN ASSOCIATION

"STATEMENT OF PURPOSE

"SEC. 451. It is the purpose of this part to establish a Government corporation which will administer the student loan program authorized by part E of this title.

"ESTABLISHMENT

"SEC. 452. (a) There is established in the executive branch of the Federal Government a body corporate without capital stock to be known as the National Direct Student Loan Association. The Association shall have succession until dissolved.

"(b) The principal office of the Association shall be located in the District of Columbia. The Association shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen of the District of Columbia. Offices, agencies, and branches may be established by the Association in such other places as the Association deems necessary or appropriate for the conduct of its business.

"BOARD OF DIRECTORS

"SEC. 453. (a) The Association shall have a Board of Directors which shall consist of the Secretary of Education and eight other members, one of whom shall be designated Chairman by the President.

"(b) The President shall appoint, by and with the advice and consent of the Senate, the members of the Board other than the Secretary of Education who shall serve ex officio. Four of the members shall be representatives of educational institutions. Four of the members shall be representative of the general public. One of the members appointed from the general public shall be a student.

"(c) (1) The term of office of each member of the Board, other than the Secretary, shall be four years; except that (A) the members first taking office shall serve as designated by the President, two for terms of two years, three for terms of three years, and three for terms of four years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(2) The Directors appointed by the President shall serve until their successors have been appointed and have qualified.

"(d) (1) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association.

"(2) The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified individuals to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such individuals shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(e) Members of the Board of the Association who are not regular full time employees of the United States shall, while serving on the business of the Association, be entitled to receive compensation at rates fixed by the President, but not in exceeding the rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes and regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"GENERAL POWERS

"SEC. 454. In carrying out the provisions of part E of this title and this part, the Association is authorized—

"(1) to adopt, alter, and vote a corporate seal, which shall be judicially noticed;

"(2) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(3) to sue and be sued, complain and defend, in its corporate name, and through its own counsel;

"(4) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(5) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(6) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made by it under part E of this part;

"(7) to enforce, pay, compromise, waive, or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

"(8) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for it to carry out its responsibilities under this title;

"(9) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(10) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their compensation, and to require bonds for them and fix the penalty thereof;

"(11) to make provision for and designate such committees, and the functions thereof, as the Board of Directors deems necessary or desirable;

"(12) to determine and prescribe the manner in which obligations of the Association shall be incurred and its expenses allowed and paid;

"(13) to use funds received by the Association, notwithstanding any other provision of law, to carry out the provisions of part E;

"(14) to use the services and facilities of any agency of the Federal Government and of any other public or nonprofit private entity in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon; and

"(15) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, functions, and authorized activities.

"FUNCTIONS OF THE ASSOCIATION

"SEC. 455. (a) The Association shall carry out the provisions of part E of this title.

"(b) (1) The Association shall provide, either directly or by way of contract or other arrangement with State guaranty agencies and other appropriate agencies, organizations and institutions, for—

"(A) the collection of principal and interest of student loans made under part E;

"(B) programs of preclaims assistance for default prevention; and

"(C) such other programs as the Board of Directors deems necessary to assure the success of the student loan program authorized by part E.

"(2) In carrying out the functions set forth in paragraph (1), the Association shall first offer the State guaranty agency the right to carry out such functions.

"(c) The Association is authorized to—

"(1) enter into contracts with student borrowers for the prepayment of loans made under part E prior to the effective date of the Education Amendments of 1980 and under title II of the National Defense Education Act of 1958; and

"(2) (A) obtain information with respect to the names and addresses of borrowers and other relevant information which is available to the Secretary, from whatever source such information may be derived, and (B) whenever, pursuant to an agreement entered into between the Association and an institution of higher education under which the institution acts as a collection agent, make the information obtained under this clause available to such institution, notwithstanding any other provision of law.

"OBLIGATIONS OF THE ASSOCIATION

"SEC. 456. (a) The Association is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out its functions under part E of this title and this part, subject to such annual limitations as may be provided in an appropriation Act, except that the Association shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Association be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

"(b) (1) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Association held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchase, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"(2) For the purpose of the Federal Financing Bank Act, the Association shall be deemed to be an agency of the Federal Government.

"(c) All obligations of the Association issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(d) Obligations of the Association issued pursuant to this part shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b) (2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(e) In order that the Association may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this part, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(f) All moneys of the Association not otherwise employed may be—

"(1) deposited with the Treasury of the United States subject to withdrawal by the Association, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(2) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(3) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Association, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Association.

"MANAGEMENT; AUDITS; REPORTS

"SEC. 457. (a) The provisions of chapter 11 of title 18, United States Code, shall apply to the directors and all officers and employees of the Association, and the Board of Directors is authorized to promulgate regulations consistent with the provisions of that chapter.

"(b) The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers, and duties assigned to the Board under this part as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time directors, officers, or employees of the Association as the Chairman deems appropriate.

"(c) The Association shall—

"(1) prepare annually and submit a budget program as provided by wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to loans made under this part an integral set of accounts, which the General Accounting Office shall audit annually in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Association are final and conclusive upon all accounting and other officers of the Government.

"(d) The Association shall submit to the Congress and the President an annual report containing a general description of the operations of the Association during the year and a specific description of the progress on collection of loans made under part E of this title and all other loans for which the Association is responsible.

"AUTHORIZATION OF APPROPRIATION

"SEC. 458. There are authorized to be appropriated in each fiscal year to the Association—

"(1) for administrative costs of carrying out part E of this title and this part;

"(2) to pay the differential between the rate of return on obligations of the Association made under section 456 and the interest rates collected under part E of this title, and under this part; and

"(3) for the cost of repayment of student loans in the event of a default, death, or disability,

such sums as may be necessary.".

(b) Section 1201 of such Act is amended by adding at the end thereof the following:

"(n) The term 'Association' (except when used in section 439) means the National Direct Student Loan Association established under part D of title IV of this Act.".

(c) The right to alter, amend, or repeal this Act and part D of the Higher Education Act of 1965 is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Association under any power conferred by this Act or any amendment made by this Act.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

DIRECT LOAN PROGRAM REESTABLISHED

SEC. 451. Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"PROGRAM AUTHORIZED

"SEC. 461. The Association shall carry out a program of establishing and maintaining funds at institutions of higher education for making low-interest loans to students who demonstrate financial need to pursue their courses of study in such institutions.

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 462. (a) The Association shall make payments under this part for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

"(1) the cost of attendance at that institution,

"(2) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

"(3) the financial assistance received by students at that institution under parts A and C of this title (other than part B), or any other provision of Federal law, and other scholarship, grant and loan assistance received by students,

subject to the limitations specified in section 464(a)(2).

"(b)(1) The Association shall make payments required by subsection (a) of this section in such installments as the Association determines—

"(A) will not result in unnecessary accumulations of capital in the student loan fund of the institution of higher education concerned,

"(B) reflect accurately the disbursement of funds for student loans by the institution of higher education concerned, and

"(C) will best carry out the objectives of this part.

"(2) The first initial payment under this part shall be made as soon after October 1, 1980 as possible, and subsequent initial payments for any academic year required by subsection (a) shall be made not later than March 1 for the academic year following the year for which the payment is made. Subsequent installment payments in each such academic year shall be made promptly.

"(c) Any institution of higher education desiring to receive payments from the Association under this part shall enter into an agreement under section 463 and shall submit an application for such payments to the Association in accordance with the provisions of this part. The Association shall set dates before which such institutions must file applications under this section. Each such application shall contain such information as is necessary to assure the validity of estimated need for loan funds.

"(d) The approval of the Association of the application under this section with an institution of higher education having an agreement under section 463 shall be deemed a contractual obligation of the United States for making the payments specified in that application.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of advances under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) payments made under this part, and

"(B) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) distribution, if any, and

"(D) costs of litigation, and other collection costs, if any, required by the Association in connection with the collection of a loan from the fund;

"(4) provide that upon the beginning of the repayment period the note or evidence of obligation shall be assigned to the Association for collection, unless the Association finds that (A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and (B) that institution has a good collection record, in which case the Association and the institution may agree that the institution act as collection agent for loans made under this part;

"(5) provide that not to exceed 10 per centum of the funds available to the institution in any fiscal year may be used for loans to less than half-time students who are determined by the institution to be in need of loans under this part; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Association and the institution.

"(b) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Each such payment shall be made in accordance with section 489. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485 of this Act and then for the purpose of offsetting the costs to the institution for the program under this part.

"TERMS OF LOANS

"SEC. 464. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Association shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans to an individual for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $12,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $6,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $3,000 in the case of any other student.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

"(c) (1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending at a date not more than ten years and nine months after such date pursuant to regulations of the Association, except (i) that such period may begin earlier than nine months after such date upon the request of the borrower and (ii) as provided in paragraphs (3) and (4) of this subsection;

"(B) shall, at the option of the borrower, include provision for a graduated repayment schedule with larger payments due later in the repayment period and provision for acceleration of repayment of the whole, or any part, of such loan;

"(C) may provide, in accordance with regulations of the Association, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the borrower from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except (i) that the Association may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, and (ii) as provided in paragraph (4);

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 7 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Association; and

"(G) may, pursuant to regulations of the Association, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part.

"(2) (A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

"(ii) is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) is in service as a volunteer under the Peace Corps Act;

"(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

"(v) is in service, comparable to the service referred to in clauses (ii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professonal practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year nine-month maximum period provided for in clause (A) of paragraph (1).

"(3) The Association is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year nine-month maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(4) Pursuant to uniform criteria established by the Association, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

"(d) An agreement to make payments under this part shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"(e) In determining, for purposes of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 465. (a) After September 30, 1980, and not later than March 31, 1981, there shall be a capital distribution of the balance of the student loan fund established under this part prior to the effective date of the Education Amendments of 1980 by each institution of higher education as follows:

"(1) The Association established under part D shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund by the Commissioner of Education under this part in effect prior to the date of enactment of the Education Amendments of 1980 bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) Each institution with an agreement with the Commissioner of Education made under this part prior to the effective date of the Education Amendments of 1980 shall—

"(1) in the case of an institution not having an agreement under section 463 of this part, enter into an agreement with the Association containing provisions, or

"(2) in the case of any institution having an agreement with the Association under section 463, add provisions to the agreement,

designed to assure that the note or evidence of the obligation of such loans will be assigned to the Association for collection, unless the Association finds that—

"(A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and

"(B) that the institution has a good collection record, in which case the Association and institution may agree that the institution act as collection agent for such loans.

The preceding sentence shall not apply with respect to any loans assigned prior to the date of enactment of the Education Amendments of 1980.".

PART F—GENERAL PROVISIONS

STUDENT ASSISTANCE GENERAL PROVISIONS

SEC. 461. Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

"SEC. 481. (a) (1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing;

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree; and

"(E) an institution of higher education which meets the requirements of section 1201 (a), other than the provisions of subclauses (A) and (B) of clause (5), but fails to meet such requirements because the institution is not located in a State.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

"(d) For the purposes of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"NEED ANALYSIS

"SEC. 482. (a) (1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than April 1 of each calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually. The first such schedule shall be presented to the Congress on April 1, 1981.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of July next following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b) (1) For the purposes of this section, the term 'family contribution' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(A) The amount of the effective income of the student or the effective family income of the student's parents.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and the assets of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any expenses to a handicapped student including special services, transportation, equipment, and supplies needed by the student.

"(G) Any educational expenses of other dependent children in the family.

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents (or the adoptive parents) of the students minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term 'effective family income' includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

"(4) In determining the expected family contribution under this section for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income for families with adjusted gross family income which does not exceed $25,000 for each such year. The Secretary may set an assessment rate or a series of assessment rates to be applied to parental discretionary income for families with adjusted gross incomes which exceed $25,000 for each such year for income in excess of $25,000.

"(c) (1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b).

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents (or the adoptive parents) of the student.

"(d) For the purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

"(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

"(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training; and

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study.

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if such adjustment is documented.

"FORMS AND REGULATIONS

"SEC. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into contracts with not less than three States, institutions of higher education, and private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting, appending to, or incorporating into the form data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

"(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

"(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form, "(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

"STUDENT ELIGIBILITY

"SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

"(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution, except that no student who previously received assistance under this title and who failed to complete successfully at least three-quarters of the workload undertaken during the academic period for which the assistance was received may be deemed to be maintaining satisfactory progress for the purposes of this paragraph until the student has successfully completed the courses of study or an equivalent number of courses, unless the institution determines, in accordance with regulations of the Secretary, that exceptional circumstances exist and failure to waive the requirement of this clause would result in undue hardship to the student;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a) (1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that insitution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

"SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

"(b) Financial assistance under this subsection may be used for—

"(1) development of materials and inservice training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.

"INSTITUTIONAL ELIGIBILITY AGREEMENTS

"SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

'(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(6) The institution will comply with the requirements of section 485.

"(b) (1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;

"(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a) (2) (A) (i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to reenroll; and

"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2) (B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2) (A) Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1) (D) of this subsection, until the Secretary finds that such practices have been corrected.

"(B) (i) Upon determination that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(c) For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

"SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448) of this title or with the Association under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary, or the Association, as the case may be, and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E. The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"POSTSECONDARY EDUCATION ACCESS AND CHOICE STUDY

"SEC. 491. (a) The Secretary is authorized to conduct in conjunction with the longitudinal studies of high school students implemented by the National Center of Educational Statistics a comprehensive study of the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

"(b) The study required by this section shall be conducted only after a plan is promulgated by the Secretary and reported to the Committee on Labor and Human Resources of the United States Senate and the Committee on Education and Labor of the House of Representatives for a period not to exceed sixty days. Such plan shall specify the questions to be answered by the study and the methods and samples to be utilized by the study.

"(c) The Secretary is authorized for the purposes of this section to reserve in fiscal years 1981, 1982, 1983, 1984, and 1985 not more than $15,000,000 from collections returned from formerly defaulted loans returned into repayment status under part B of this title.".

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

EXTENSION OF PROGRAM

SEC. 501. (a) Section 511(b) is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $43,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $57,000,000 for the fiscal year 1983, $66,000,000 for the fiscal year 1984, and $76,000,000 for the fiscal year 1985.".

(b) The first sentence of section 531 is amended to read as follows: "There are authorized to be appropriated $16,500,000 for the fiscal year 1981, $19,000,000 for the fiscal year 1982, $22,000,000 for the fiscal year 1983, $25,000,000 for the fiscal year 1984, and $28,000,000 for the fiscal year 1985 to carry out the provisions of this part.".

REMOVAL OF LIMITATION

SEC. 502. Section 531 of the Act is amended by striking out "In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each" and inserting in lieu thereof "Each".

TRAINING FOR TEACHERS OF HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

SEC. 503. (a) Title V of the Act is amended by adding after part B the following new part:

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"GRANTS AUTHORIZED

"SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and institution of higher education allowances for teachers to be trained to provide special education for handicapped children.

"(b) The Secretary shall establish criteria for—

"(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

"(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

"(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

"(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

"APPLICATION

"SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe a fellowship program under which the State will make stipends to recipients and make institution of higher education allowances, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

"(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

"(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children, and

"(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

"(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

"(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

"(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

"(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

"SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

"(b) Each State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study, such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory proficiency and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

"(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"DEFINITION

"SEC. 545. As used in this part 'special education' has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act.

"APPROPRIATIONS AUTHORIZED

"SEC. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,00 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.".

(b) The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) of this section not later than 30 days after the date of enactment of the Education Amendments of 1980.

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 601. (a) Title VI of the Higher Education Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

"GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

"SEC. 602. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.

"(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training, improvement, and travel of the staff for the purpose of carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"INTERNATIONAL STUDIES CENTERS

"SEC. 603. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

"(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

"UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(6) programs designed to integrate undergratuate education with terminal Master's Degree programs having an international emphasis; and

"(7) the development of an international dimension in teacher training.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"RESEARCH; STUDIES; ANNUAL REPORT

"SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) research on more effective methods of providing instruction and evaluating competency in such foreign language and other fields; and

"(3) the development of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

"(b) The Secretary shall prepare and publish an annual report which shall include an index and analysis of the books and research materials produced with assistance under this title.

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 607. There are authorized to be appropriated $34,500,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, $46,000,000 for fiscal year 1983, $53,000,000 for fiscal year 1984, and $61,000,000 for fiscal year 1985, to carry out the provisions of this part.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"FINDINGS AND PURPOSES

"SEC. 611. (a) The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"EDUCATION AND TRAINING PROGRAMS

"SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

"(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

"(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities, eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of part B of this title.

"PART C—GENERAL PROVISIONS

"SEC. 621. (a) Not less than than three times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of—

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of Defense;

"(3) one member selected by the Secretary of the Treasury;

"(4) one member selected by the Secretary of Commerce;

"(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

"(6) one member selected by the Chairman of the National Endowment for the Humanities;

"(7) one member selected by the Director of the International Development Cooperation Agency;

"(8) one member selected by the Director of the International Communication Agency;

"(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

"(10) one member selected by the Administrator, Small Business Administration;

"(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

"(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

"(13) three members selected by the Secretary from among members of the public; and

"(14) three members selected by the Secretary from among representatives of the business community.

"(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

"(2) The advisory board established under subsection (a) shall consider the grants made, or contracts entered into, under this part and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (1) any geographic areas of special need or concern to the United States, (2) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (3) innovative approaches which may help to fulfill the purposes of this title, (4) activities which are duplicative of programs operated under other provisions of Federal law, (5) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (6) the administrative and staffing requirements of international education programs in the Department.

"(3) The advisory board established under subsection (a) shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (1) changes which should be made to advance the purposes of this part and to assure the success of the programs authorized by this part, (2) special needs of such programs, and (3) any program elements which are duplicative of programs operated under other provisions of Federal law.

"DEFINITIONS

"SEC. 622. (a) As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

"(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.".

(b) Title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART N—INTERNATIONAL UNDERSTANDING

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 393. (a) This part may be cited as the 'International Understanding Act'.

"(b) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

"(c) It is the purpose of this part to support educational programs which will increase the availability of such information to students in the United States.

"PROGRAM AUTHORIZED

"SEC. 394. (a)(1) The Secretary is authorized, by grant or contract, to stimulate educational programs to increase the understanding of students and the public in the United States about the cultures, actions and interconnections of nations and peoples in order better to evaluate the international and domestic impact of major national policies.

"(2) Grants or contracts under this section may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers.

"(b)(1) Financial assistance under this part may be used for assistance for inservice training of teachers and other education personnel, the development of materials to link language learning to international studies, the compilations of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but such assistance may not be used for the acquisition of equipment or remodeling of facilities.

"(2) Financial assistance under this part may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.

"(3) Financial assistance under this part may be used by local educational agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance for the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 395. There are authorized to be appropriated $5,250,000 for fiscal year 1981, $6,750,000 for fiscal year 1982, $8,250,000 for fiscal year 1983, and $9,000,000 each for fiscal years 1984 and 1985 to carry out the provisions of this part.".

(c)(1) Title VI of the National Defense Education Act of 1958 is repealed.

(2) Title I of the International Education Act of 1966 is repealed.

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"GENERAL PURPOSES

"SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

"(B) section 504 of the Rehabilitation Act of 1973, or

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

"(3) to enable such institutions to construct, reconstruct, or renovate their research facilities, including libraries, and to acquire special research equipment;

"(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

"APPROPRIATIONS AUTHORIZED

"SEC. 702. There are authorized to be appropriated $30,000,000 for the fiscal year 1981, $35,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $55,000,000 for the fiscal year 1985 for part A. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $10,000,000 for the fiscal year 1982, $15,000,000 for the fiscal year 1983, $20,000,000 for the fiscal year 1984, and $25,000,000 for the fiscal year 1985 for part D. There is authorized to be appropriated $50,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each such fiscal year for section 734.

"PART A—STATE GRANT PROGRAM FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"STATE PLAN

"SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State entity having such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) determining the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State entity regarding the priority assigned to such project, or any other decision by the State entity adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State entity reasonable notice and opportunity for a hearing.

"(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

"SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 per centum of the costs of a project.

"(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

"SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

"(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam),

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years.

"(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) the Secretary shall allot to each State an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) Any portion of a State's allotment under either subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State entity prior to January 1 of such fiscal year may, upon request, be transferred to and made available for payment of the Federal share of approved projects, if any, under the other subsection.

"(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(g) Funds available under this part may be used for reconstruction or renovation of combined graduate and undergraduate facilities.

"PART B—INSTITUTIONAL GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

"SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

"(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

"(c) The amount of the grant shall not exceed 75 per centum of the cost of the project.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

"(1) not less than 20 per centum of the cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

"(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 7 per centum per annum, whichever is less.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by the Secretary to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which the Secretary is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation.

"(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National

Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part, less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

"ANNUAL INTEREST GRANTS

"Sec. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

"(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"Sec. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

"(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

"(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

"(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

"PART D—GENERAL

"RECOVERY OF PAYMENTS

"Sec. 741. (a) The Congress declares that, if a facility constructed, renovated or reconstructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, renovation or reconstruction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction, renovation or reconstruction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction, renovation or reconstruction of an academic facility which has been constructed, renovated, or reconstructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public on nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation.

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"Sec. 742. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used primarily by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(5) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(6) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(7) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

TITLE VIII—COOPERATIVE EDUCATION

REVISION OF PROGRAM

SEC. 801. Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 801 (a) There are authorized to be appropriated—

"(1) for the fiscal year 1981, $27,000,000;

"(2) for the fiscal year 1982, $31,000,000;

"(3) for the fiscal year 1983, $36,000,000;

"(4) for the fiscal year 1984, $41,000,000; and

"(5) for the fiscal year 1985, $47,000,000,

to enable the Secretary to make grants and enter into contracts pursuant to sections 802 and 803.

"(b) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangement pursuant to this part.

"GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

"SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, the Secretary is authorized to make grants to institutions of higher education, or to combinations of such institutions, that have applied therefore in accordance with subsection (b) of this section, in amounts not to exceed $400,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $300,000 times the number of institutions participating in such combinations, for any fiscal year for the purpose of planning, establishing, expanding, or carrying out by such institutions, or combination of such institutions, programs of cooperative education. Such programs shall provide alternating or parallel periods of academic study and public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, work experience related to their academic or occupational objectives.

"(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Secretary at such time or times as he may prescribe and shall—

"(1) set forth programs or activities for which a grant is authorized under this section;

"(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

"(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

"(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

"(6) include such other information as is essential to carry out the provisions of this part.

"(c) No individual unit of any institution of higher education may receive, individually or as a participant in a combination of such units, grants under this section for more than five fiscal years. No such unit or combination thereof may receive—

"(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

"(2) a grant in excess of 90 per centum of such cost for the second of such years;

"(3) a grant in excess of 80 per centum of such cost for the third of such years;

"(4) a grant in excess of 60 per centum of such cost for the fourth of such years; and

"(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

"(2) the commitment of the institution of higher education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

"(3) such other factors as are consistent with the purposes of this section.

"GRANTS AND CONTRACTS FOR TRAINING, RESEARCH, AND DEMONSTRATION

"SEC. 803. From the sums appropriated pursuant to subsection (a) of section 801, the Secretary is authorized to—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of the section,

for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education; for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, including but not limited to the conversion of existing institutions of higher education to comprehensive cooperative education programs, and the expansion of existing cooperative education programs in institutions of higher education to comprehensive cooperative education programs; for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education.".

TITLE IX—GRADUATE PROGRAMS

EXTENSION OF PROGRAM

SEC. 901. Section 901(c) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

GRADUATE FELLOWSHIPS

SEC. 902. (a) Part B of title IX of such Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"APPROPRIATIONS AUTHORIZED

"SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"NUMBER OF FELLOWSHIPS

"SEC. 922. (a) During the fiscal year 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not to exceed ten thousand fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Secretary may determine, but not in excess of thirty-six months, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the thirty-six month period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Secretary is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Secretary may determine.

"(c) The Secretary may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the academic program of the fellowship recipient, except that the Secretary shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances, for dependents or payments to institutions pursuant to the fellowship award of that recipient.

"AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) (1) Subject to the provisions of subsection (c), the total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Secretary on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Secretary and (A) who are pursuing a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree, or (B) who, in the case of fellowships described in clause (1) of subsection (c), are engaged in graduate or professional study, or (C) who, in the case of fellowships described in clauses (2), (3), and (4) of subsection (c) are engaged in graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. The Secretary shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (A) for academic careers at some level of education beyond the high school, or (B) for other than academic careers in professional career fields of importance to the national interest, as determined by the Secretary.

"(2) For the purpose of this part, a fellowship may be awarded for graduate study and research at any institution of higher education or other research center approved by the Secretary.

"(b) In determining priorities and procedures for the award of fellowships under this section the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school,

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally under-represented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

"(4) assure that consideration in awarding fellowships under this part is given (A) except fellowships described in subsection (c) (1), to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings, and

"(5) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) The Secretary shall assure that, in awarding fellowships under this part, fellowships are awarded for—

"(1) individuals who plan to pursue a career in public service;

"(2) graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium;

"(3) individuals of ability from disadvantaged backgrounds, as determined by the Secretary, undertaking graduate or professional study; and

"(4) individuals who plan to pursue a career in energy conservation or development.

The Secretary shall assure that the amount expended for categories of fellowships described in clauses (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each such category in fiscal year 1979.

"(d) No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP STIPENDS

"SEC. 924. (a) The Secretary shall pay to individuals awarded fellowship under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such individual is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) The Secretary is authorized to require reports containing such information, in such form, and to file at such times, as he determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.".

(b) Parts C, D, E, and F of such title IX are repealed.

NEW PROGRAM AUTHORIZED

SEC. 903. Title IX of the Act is amended by inserting after part B the following new part (as amended by this Act):

"PART C—NATIONAL GRADUATE FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

"SEC. 931. (a) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not more than four hundred fifty fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

"(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"ALLOCATION OF FELLOWSHIPS

"SEC. 932. (a) (1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) select each year the fields in which fellowships under this part are to be awarded;

"(C) determine the number of fellowships each year to be awarded under this part in each designated field;

"(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

"(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) (A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least four times a year.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS–18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

"SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

NATIONAL TALENT GRANT PROGRAM AUTHORIZED

SEC. 904. Title IX of the Act is amended by adding after part C (as added by section 903 of this Act) the following new part:

"PART D—NATIONAL TALENT GRANTS FOR FIRST YEAR GRADUATE AND PROFESSIONAL STUDY

"STATEMENT OF PURPOSE

"SEC. 941. It is the purpose of this part to provide, through institutions of higher education, a program of national talent grants to assist in making available the benefits of post-baccalaureate education to exceptionally qualified first year graduate and professional students who demonstrate financial need, in accordance with criteria established by the Secretary.

"PROGRAM AUTHORIZED

"SEC. 942. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make talent grants in accordance with the provisions of this part.

"(b) (1) In making such grants the Secretary shall, to the maximum extent feasible, insure equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) The Secretary shall not make a grant to a single institution of higher education in excess of three-quarters of 1 per centum of the sums appropriated under this part for any fiscal year.

"(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix reallot such amounts not needed to institutions who can use the grants authorized by this part.

"(c) (1) Any institution of higher education offering a program of post-baccalaureate study leading to a graduate degree, and approved by the Secretary may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) (A) The Secretary shall approve an application of an institution of higher education to make national talent grant awards under this part only upon a finding that the application contains assurances that the institution will provide programs of graduate study which will prepare the recipients of such a grant (A) for academic careers beyond the secondary education level, or (B) for other than academic careers in fields of importance to the national interest, as determined by the Secretary.

"(B) In making the determinations under subparagraph (A) of this paragraph the Secretary shall take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school and the need for such individuals in nonacademic career fields of high national priority.

"AWARD OF NATIONAL TALENT GRANTS

"SEC. 943. (a) An institution of higher education receiving funds under this part shall make available to exceptionally and financially needy first year graduate students an award determined by that institution of higher education in accordance with the criteria developed by the Secretary, except that no award under this part may exceed $2,000.

"(b) An institution of higher education may not make a national talent grant award unless—

"(1) such student has been accepted for enrollment as a full-time graduate student at that institution; and

"(2) such student demonstrates evidence of academic or creative promise in the capacity for excellence and post-baccalaureate study.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 944. There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for the fiscal years 1981 and 1982 and such sums for the fiscal year 1983 and each of the succeeding fiscal years ending prior to October 1, 1985.".

TRAINING AND LEGAL ASSISTANCE PROFESSION PROGRAM AUTHORIZED

SEC. 905. Title IX of the Act is amended by adding after part D (as added by section 904 of this Act) the following new part:

"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

"SEC. 951. (a) The Secretary is authorized prior to October 1, 1985, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"FELLOWSHIP CONDITIONS

"SEC. 952. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Secretary finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation.

"(b) The Secretary is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

"(c) No fellowship shall be awarded under this title for study at a school or department of divinity.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 953. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.".

LAW SCHOOL PROGRAMS INCLUDED IN TITLE IX

SEC. 906. Title IX of the Act is amended by adding at the end thereof the following new part:

"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 961. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) No law school may receive more than $125,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose and including any combination, consortium, organization, or association of such schools.

"APPLICATIONS

"SEC. 962. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as he may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 963. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $6,000,000 for the fiscal year 1982, $7,000,000 for the fiscal year 1983, $8,000,000 for the fiscal year 1984, and $9,000,000 for the fiscal year 1985, to carry out the purposes of this part.".

TITLE X—ESTABLISHMENT OF A NEW TITLE X OF THE HIGHER EDUCATION ACT OF 1965

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. (a) Title X of the Act is amended by striking out everything preceding part C and inserting in lieu thereof the following:

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"PART A—ESTABLISHMENT AND OPERATION OF FUND

"AUTHORIZATION OF PROGRAM

"SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"CONSULTATION

"SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

"NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POST SECONDARY EDUCATION

"SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

"(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(c) The Board shall—

"(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

"(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

"(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"ADMINISTRATIVE PROVISIONS

"SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $23,000,000 for fiscal year 1982, $27,000,000 for fiscal year 1983, $31,000,000 for fiscal year 1984, and $36,000,000 for fiscal year 1985.".

(b) (1) Part C of title X of the Act is redesignated as Part B, and sections 1071 and 1072 thereof are redesignated as sections 1021 and 1022, respectively.

(2) Section 1021(a) of the Act (as so redesignated) is amended by striking out "this title,".

(c) Section 404 of the General Education Provisions Act is repealed.

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAM AUTHORIZED

SEC. 1101. Title XI of the Act is amended to read as follows:

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

"(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

"(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

"(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $11,250,000 for fiscal year 1981, $18,750,000 for fiscal year 1982, $26,250,000 for fiscal year 1983, $33,750,000 for fiscal year 1984, and $41,250,000 for fiscal year 1985.

"(b) In the event of a mutliple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"PROJECT ASSISTANCE

"SEC. 1103. (a) (1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

"(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

"(b) An application submitted under this section shall contain provisions designed to show that the chief executive of each local agency of general government within the urban area and contiguous areas within which the urban university is located has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of each such local agency of general government in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section.

"(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

"(d) No grant under this section shall exceed 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"SEC. 1105. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

"(4) 'resources' are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

TITLE XII—GENERAL PROVISIONS

DEFINITION

SEC. 1201. Section 1201(b) of the Act is amended by inserting after "the Virgin Islands" a comma and the following: "the Northern Mariana Islands".

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

SEC. 1202. Section 1203 of the Act is amended to read as follows:

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

"SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

"(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

"(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

"(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

"(4) the State has a comprehensive planning or policy formulation process which—

"(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

"(B) encourages State policies designed to consider effects of declining enrollments of all sectors of postsecondary education in the State;

"(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education in the State (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public.

Participation under subclause (E) shall, unless prohibited by State law, be assured by including at least a representative of each category of representatives specified in subclause (E) as members of the State entity established pursuant to this section.

"(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

"(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

"(e) For the purpose of this section, the selection of the State entity authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(f) For the purposes of this section an 'applicable program' is a program under—

"(1) title I; and

"(2) part A of title VII,

of this Act.".

REPEALER

SEC. 1203. Sections 1205 and 1208 of the Act are repealed.

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

EXTENSION OF AUTHORITY

SEC. 1301. Section 405(j) of the General Education Provisions Act is amended to read as follows:

"(j)(1) There are authorized to be appropriated to carry out the provisions of this section, an amount equal to three-fourths of 1 per centum of the sums appropriated or available to the Department of Education for fiscal year 1981, three-fourths of 1 per centum of such sums for fiscal year 1982, 1 per centum of such sums for fiscal year 1983, 1½ per centum of such sums for fiscal year 1984, and 1½ per centum of such sums for fiscal year 1985.

"(2) Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection unless expended.".

REPEALER

SEC. 1302. (a) Section 405(f)(3) of the General Education Provisions Act is repealed.

(b) Paragraph (4) of section 405(f) of such Act is redesignated as paragraph (3).

TITLE XIV—ROBERT A. TAFT INSTITUTE

SHORT TITLE

SEC. 1401. This title may be cited as the "Robert A. Taft Institute of Government Trust Fund Act".

DEFINITIONS

SEC. 1402. For purposes of this title, the term—

(1) "Fund" means the Robert A. Taft Institute Trust Fund established in section 1404; and

(2) "Institute" means the Robert A. Taft Institute of Government located in New York, New York.

GRANTS FOR DEVELOPMENT

SEC. 1403. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants from the Fund established in section 1404 to assist in the development of the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the lesser of (1) the total amount of private contributions received by the Institute in the fiscal year prior to the fiscal year in which the grants are made, or (2) the income of the Fund generated in the fiscal year prior to the fiscal year in which the grants are made.

(c) No payment may be made under this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

ESTABLISHMENT OF FUNDS

SEC. 1404. (a) There is established in the Treasury of the United States a trust fund to be known as the Robert A. Taft Institute Trust Fund. The Fund shall consist of amounts appropriated pursuant to subsection (f).

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(c) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(d) Except as provided in subsection (e), the interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to form a part of the Fund.

(e) Within thirty days after the end of each fiscal year, the Secretary of the Treasury shall determine the total amount of private contributions received by the Robert A. Taft Institute during such fiscal year and the total amount of income generated by the Fund in such fiscal year. If the Secretary determines that the total amount of income generated by the Fund in any fiscal year exceeded the total amount of private contributions received by the Institute in such fiscal year, the Secretary shall transfer from the Fund to the general fund of the Treasury an amount equal to the difference between the income generated in such fiscal year and the amount of private contributions received in such fiscal year.

(f) There are authorized to be appropriated to the Fund $11,250,000.

TITLE XV—GENERAL EDUCATION PROVISIONS

CONTINGENT EXTENSION

SEC. 1501. (a) The first sentence of section 414 of the General Education Provisions Act is amended by striking out "for one additional fiscal year" and inserting in lieu thereof the following: "for—

"(i) two additional fiscal years for any applicable program authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation, or

"(ii) one additional fiscal year for any other applicable program.".

(b) The second sentence of such section is amended by striking out "for such additional year" and inserting in lieu thereof "for each additional fiscal year".

ENFORCEMENT OF THE RULES

SEC. 1502. The first sentence of section 431(d)(1) of the Act is amended by inserting before the period a comma and the following: "in whole or in part".

SCIENCE EDUCATION PROGRAMS

SEC. 1503. The General Education Provisions Act is amended by inserting after section 406 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE EDUCATION PROGRAMS

"SEC. 406A. There is authorized to be appropriated to the Secretary of Education for fiscal year 1981—

"(1) $2,500,000 for the purpose of carrying out the Pre-College Science Teacher Training program, and

"(2) $5,000,000 for the purpose of carrying out the Minority Institutions Science program transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act.".

TITLE XVI — ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

COMPOSITION OF BOARD AND TRANSMISSION OF REPORT

SEC. 1601. (a)(1) Section 502(a)(1)(B)(i) of the Rehabilitation Act of 1973 is amended to read as follows:

"(i) Department of Health and Human Services.".

(2) Section 502(a) of such Act is amended by adding the following clause immediately after clause (x):

"(xi) Department of Education.".

(b) Section 502(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Board shall, at the same time that the Board transmits the report under section 7(b) of the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designated and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968) transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.".

TITLE XVII—TAX STATUS

TAX STATUS OF THE NATIONAL PERIODICAL SYSTEM CORPORATION

SEC. 1701. (a) The National Periodical System Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory possession thereof, or by any State, county, municipality, or local taxing authority.

(b) For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation under title II of the Higher Education Act of 1965 shall be a gift, bequest, or devised to the United States.

NATIONAL DIRECT STUDENT LOAN ASSOCIATION

SEC. 1702. The National Direct Student Loan Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STAFFORD. Is the Senator from Vermont correct in assuming that there is no time agreement with respect to this legislation?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STAFFORD. The Senator thanks the Chair.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island (Mr. Pell).

Mr. PELL. Mr. President, today the Senate considers S. 1839, the Education Amendments of 1980. This bill extends all of the programs contained in the Higher Education Act for 5 years, through fiscal year 1985. The Committee on Labor and Human Resources has worked on this legislation for nearly a year, attempting to balance the diverse interests in higher education, while always remaining aware of our current budget restraints. I believe that the committee has reported a bill which merits the full support of the Senate.

For the benefit of my colleagues, I will provide a brief summary of the provisions of this lengthy and complicated legislation.

TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

This title is the handiwork of Senators Williams and Javits. It focuses on higher education planning, both at the State and national levels, and how this planning process relates to the changing needs of higher education and our society. It also provides assistance to institutions that are adapting to these changes, and at the same time establishes a woman's worksite development demonstration program and a postsecondary education and youth unemployment transition demonstration program. In order to review the effectiveness of Federal policies in the area of higher education, this title establishes a Commission on National Development in Postsecondary Education.

TITLE II—COLLEGE LIBRARY ASSISTANCE IN LIBRARY TRAINING AND RESEARCH

This title extends, for 5 years, existing law relating to college libraries. The only change in title II is a new part D, National Periodical System. This was one of the most controversial issues considered by the committee. S. 1839 creates a Corporation to study the feasibility and advisability of such a system, to report to the Congress no later than December 31, 1981. Any design for such a system may not be implemented until approved by the Congress, in whole or in part. Proponents and opponents of the system would have substantial roles in the deliberations of the Corporation.

TITLE III—INSTITUTIONAL AID

This title represents a rewriting and retargeting of what has been called, in the past, the Developing Institutions title. The administration of this title has been the subject of intense press scrutiny and a number of congressional hearings, including two by the Subcommittee on Education, Arts, and Humanities. The committee bill seeks to respond to the criticisms made by the General Accounting Office by tightening program criteria and clarifying eligibility of institutions for assistance.

Part A of this title—Aid to Institutions with Special Needs—provides short-term Federal assistance to institutions which need assistance in improving their fiscal and management operations, their academic quality, their long-range planning capabilities, and, in general, their overall development capacity. Grants would be limited to 5 years, with institutional matching required after the second year, in an effort to "graduate" institutions from this program.

Part B—Assistance to Institutions Enrolling Substantial Percentages of Disadvantaged Students—recognizes that institutions which enroll a large number of students from low-income families face a special burden. They cannot raise their tuition levels to keep pace with inflation. Yet they provide a special service to the Nation, for they open the doors of higher education to the poor. This part would provide to those institutions general operating assistance, not project grants, in recognition of their role in fulfilling a national goal of access to postsecondary education.

TITLE IV—STUDENT ASSISTANCE

This title sets a prudent Federal student assistance policy that is cognizant of the economic burdens facing this country. The student aid proposals contained in this title cost $20.8 billion less, over a 5-year period, than H.R. 5192, the House-passed bill, and $4 billion less, over that same 5 years, than continuing present law unchanged. At the same time, this package expands these programs in vitally needed ways, so that they keep pace with the cruel effects of inflation.

BASIC GRANTS

Over the next 5 years, the maximum basic grant is raised from $1,800 to $2,600, while at the same time, the minimum appropriations for supplemental grants is raised from $370 million to $480 million. As these two elements increase, the "half-cost" limitation on basic grants is increased to 60 percent of cost.

SUPPLEMENTAL GRANTS

The maximum supplemental grant is increased from $1,500 to $2,000 per year, and the college financial aid administrator is given the discretion to use up to 10 percent of the school's allocation for grants to less-than-half-time students.

STATE STUDENT INCENTIVE GRANTS

States are given the authority to increase the maximum grants to $2,000, and to allow institutions to use up to 10 percent of the funds for grants to less-than-half-time students.

TRIO PROGRAMS

These programs—talent search, upward bound, special services to disadvantaged students, and educational opportunity centers—are programs which provide services to students from disadvantaged backgrounds. The Committee bill reflects the consensus of directors of existing TRIO programs.

SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

This brings within the Higher Education Act the already-existing high school equivalency program and college assistance migrant program projects which are now administered by the Labor Department, but which are to be transferred to the new Department of Education.

VETERANS' COST OF INSTRUCTION PAYMENTS

The committee bill reduces the maximum instiutional award from $135,000 to $75,000, in order to equalize payments among the more than 1,000 institutions which currently participate in the program. In addition, it provides for a special incentive payment to the institution on behalf of a service-connected disabled veteran student.

GUARANTEED STUDENT LOANS

The committee bill continues the present structure of the guaranteed student loan program, but makes several changes designed to curb the high cost to the Federal Government of this program.

First, the interest rate to students is raised from 7 to 9 percent, reducing the special allowance which the Federal Government pays to lenders once the student enters the repayment period. A student is required to begin repayment of his loan 4 months after he leaves school, reducing by 5 to 8 months the time the Federal Government subsidizes his interest payments.

The bill proposes a reduced special allowance to cover the administrative costs associated with funds raised through State revenue bond issues. Under present law, the Federal Government pays a special allowance based on commercial costs of money, although most bond issues are able to raise capital at significantly lower than commercial rates. The committee bill would provide an equivalent rate of return to bond agencies, based on their costs.

The bill establishes a new parental loan program which would not be subsidized by the Federal Government. If a parent elects to begin repayment within 60 days of taking out the loan, the interest rate is 9 percent. If he delays repayment until his son or daughter graduates, the loan bears a rate of 14 percent. This program is significantly cheaper to the Federal Government than the student loan program, since interest is not subsidized. For this reason, the committee decided not to increase the loan limits for dependent students, so that parents would be encouraged to borrow under the less expensive program.

State guarantee agencies can serve as lenders of last resort for students who are unable to borrow money from banks. They may also make loans to less-than-half-time students.

Collection practices are significantly strengthened in the committee bill. State agencies are authorized to act as escrow agents for student loans, and to make periodic payments of the principal to the student as he progresses through schools. In addition, information concerning student defaults is authorized to be made available to credit bureaus, so that future creditors can be made aware of the student's failure to repay his obligation to the Federal Government.

STUDENT LOAN MARKETING ASSOCIATION

The Student Loan Marketing Association is given the authority to become a private corporation by 1984, and is also given new authority to act as lender of last resort in areas where guaranteed loans are not available. In addition, the Association is authorized to consolidate guaranteed and campus-based loans into a single repayment obligation, so that a student does not have to make separate payments on a number of loans of differing terms and conditions.

COLLEGE WORK-STUDY

This program is changed to provide a more direct link between a student's academic studies and his job. Up to 10 percent of work-study funds may, at the discretion of the financial aid administrator, be used to provide jobs for less-than-half-time students.

NATIONAL DIRECT STUDENT LOANS

The bill creates the National Direct Student Loan Association, a nonprofit Federal agency which raises capital by borrowing from the Federal Financing Bank, in order to make loan funds available to campuses for needy students. Interest costs on the sums borrowed by the Association would be subject to annual appropriations acts. The bill also raises the interest rate charged to students from 3 to 7 percent, to bring the rate into line with current costs of money.

GENERAL PROVISIONS RELATED TO STUDENT ASSISTANCE PROGRAMS

The committee bill substantially reduces paperwork involved in student aid by providing for a single needs analysis for Federal programs, except for guaranteed loans, and by requiring a single form for collection of information for Federal student assistance programs.

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

The committee bill extends the Teacher Corps and Teacher Center programs, and authorizes a new program of training of teachers of handicapped children.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

This title brings within the ambit of the Higher Education Act programs that formerly were authorized under title VI of the National Defense Education Act. It rewrites and reforms existing Federal international education programs, in accordance with the report of the President's Commission on Foreign Language and International Studies. It also adds a new part for business and international education.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

This title focuses Federal assistance on energy conservation, meeting Federal requirements relating to the handicapped and to health and safety legislation, development of research and library facilities, asbestos detection and removal, and on institutions experiencing unusual increases in enrollment.

TITLE VIII—COOPERATIVE EDUCATION

The committee bill retargets and extends Federal cooperative education programs for 5 years.

TITLE IX—GRADUATE PROGRAMS

This title consolidates several existing authorities providing graduate fellowships assistance while creating a new national graduate fellows program and a new national talent grant program for first-year graduate and professional students.

TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

This title moves the fund into the Higher Education Act and gives the Board statutory authority.

TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

The committee bill authorizes a new program of grants to urban universities to enable those institutions to assist urban areas in solving the problems that confront them.

TITLE XII—GENERAL PROVISIONS

This title extends several existing sections of the Higher Education Act, while at the same time refocusing the Federal requirement on the planning process itself, rather than on the planning structure.

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

This title extends the authorization of NIE for 5 years and recasts its authorization as a percentage of overall appropriations for education.

TITLE XIV—ROBERT A. TAFT INSTITUTE

This title creates a memorial to the late Senator Taft and establishes a trust fund to be known as the Robert A. Taft Institute Trust Fund.

TITLE XV—GENERAL EDUCATION PROVISIONS

Title XV authorizes several changes in the General Education Provisions Act, while extending the authorization of two science education programs, formerly under the jurisdiction of the National Science Foundation, for 1 year.

TITLE XVI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

This title makes several changes in existing laws pertaining to the Architectural and Transportation Barriers Compliance Board.

TITLE XVII—TAX STATUS

The final title of the bill concerns the tax status of the National Periodical System Corporation and the National Direct Student Loan Association authorized by the bill.

In light of today's severe Federal budget constraints, the committee adopted an amendment which seeks to set more realistic authorization ceilings than those in present law. For all programs under the act, except those authorizing student assistance programs, the committee used as a base from which to compute new authorizations the highest of either the fiscal year 1979 appropriation, the fiscal year 1980 appropriation, or the January budget request for fiscal year 1981. It then increased the authorization by 15 percent above that base amount for each program in each of the 5 years authorized by the bill.

It is the committee's view that adoption of this formula for establishing authorizations will provide ample room for growth in program funds, consistent with available resources, while not holding out false promises attendant with inflated authorizing levels.

Mr. President, I ask unanimous consent that a table showing the committee's authorization levels in S. 1839, compared with those currently authorized and those contained in the House-passed bill, H.R. 5192, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1981 AUTHORIZATIONS

[In millions]

	S. 1839	Existing law	Difference	H.R. 5192	Difference
Title I	$58.25	$80	−$21.75	$100	−$41.75
Title II	23.75	140	−116.25	155	−131.25
Title III	161.0	120	+41.0	140	+21.0
Title IV	[1] 3,613.0	[1] 5,820	−2,207.0	[1] 7,553	−3,940.0
Title V	61.5	200	−138.5	200	−138.5
Title VI	47.75	70	−22.25	100	−52.25
Title VII	85	580	−495.0	622	−537.0
Title VIII	27	28	−1.0	32	−5.0
Title IX	$28	$50	−$22.0	$142	−114.0
Title X	20	75	−55.0	75	−55.0
Title XI	11.25		+11.25	60	−48.75
Title XIII	110	200	−90.0		
Title XIV	11.25		+11.25		+11.5
Title XV	8	8	0		+8.0
Total	4,265.75	7,371	−3,105.25	9,179	−5,023.25

[1] Plus such sums.

Mr. PELL. Mr. President, this concludes my opening statement.

Mr. STAFFORD. Mr. President, let me at the outset of what will be a brief statement, say that it has been a real pleasure to serve with the distinguished Senator from Rhode Island (Mr. PELL) on the Subcommittee on Education of the Committee on Labor and Human Resources in the preparation of the legislation now before the Senate, S. 1839.

Senator PELL has described the bill that we are offering to the Senate in detail, so the Senator from Vermont will not attempt to repeat the description of the many titles in this bill.

The Senator from Vermont will simply say that this bill received a long and careful scrutiny in the Subcommittee on Education, including 9 days of hearings in October and November of last year.

The bill is the product of those hearings.

Mr. President, for Senator SCHWEIKER and myself, we make the following brief opening statement:

We support S. 1839 in its entirety, the education amendments of 1980.

This legislation extends for 5 years our higher education programs, but most importantly, our student financial aid programs. We believe the Senate Labor and Human Resources Committee can be proud of its efforts in S. 1839 to hold down the costs of higher education programs, while at the same time providing students with a number of different financial aid programs responsive to their needs.

S. 1839 has an authorization level for fiscal year 1981 which is over $3 billion less than current law and $5 billion less than the House-passed bill, H.R. 5192. Additionally, our title IV, the student aid programs, cost $20.8 billion less over a 5-year period than those proposals contained in H.R. 5192, and $4 billion less over a 5-year period than present law.

At the same time the committee has drastically cut authorization levels to be realistic, in the opinion of the Senator from Vermont. Students who need financial aid will be able to receive it. Under S. 1839, most of these students come from low- and middle-income families who are hard hit by the rapidly increasing costs of a college education. For many parents, the cost of sending their children to college is an unmanageable burden in light of the other inflationary pressures they face.

The average cost at a 4-year public university is now $3,900. The average cost of a 4-year private university is $6,600. Without student financial aid in the form of grants and loans, most students simply would not be able to attend college today.

In addition to our student financial aid programs, the committee has rewritten and extended a number of other higher education programs which Senator Pell has already described in his opening remarks, including bringing title VI of the National Defense Education Act into the Higher Education Act, a matter of particular interest to the Senator from Vermont and to the distinguished senior Senator from New York (Mr. Javits). One program we would like to comment on is our new fellowship support for graduate students contained in title IX. This title targets new areas of need such as the field of energy development, while keeping intact our existing programs like the mining fellowship program. Graduate programs are vitally important if students of high caliber from low- and middle-income families are to pursue graduate degrees.

Mr. President, S. 1839 is a bill drafted with students and their parents in mind. We have attempted to provide adequate student financial aid while at the same time significantly holding down the overall costs of the legislation for the American taxpayer.

We urge our colleagues to join us in prompt passage of S. 1839.

Mr. President, I have been particularly happy to join in this statement with Senator Schweiker, who is the ranking minority member of the full Committee on Labor and Human Resources, a member of the Subcommittee on Education, and an expert in this field.

Mr. STAFFORD. Mr. President, I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TITLE III

Mr. BAUCUS. Mr. President, last fall, I directed the staff of my Judiciary Subcommittee to undertake an investigation of the strengthening developing institutions program, funded under title III of the Higher Education Act of 1965 we are reauthorizing today.

The results of that investigation and subsequent hearings were outlined in some detail in my statement of February 27, 1980.

As my colleagues will recall, the subcommittee's investigation uncovered widespread problems in the title III program. From beginning to end, we found many instances where discretionary authority given to certain Office of Education officials was abused in an arbitrary and capricious manner. As a result, many unjustified and discriminatory decisions were made, oftentimes involving large sums of money and unfairly penalizing many title III institutions.

Among the concerns I outlined at that time was the fact that eligibility criteria for title III funds were inadequate. There seemed to be no clear definition of a developing institution and no clear way to measure such an institution's progress.

I was concerned that the types of activities ultimately funded with title III money were not always in the best interest of institution and the taxpayers. Allowable activities under title III were not clearly defined by the legislation.

This lack of specificity resulted in considerable confusion among Office of Education personnel as to which activities were allowable and which were not.

In addition, too few audits and site reviews were conducted by HEW, making it all the more difficult to determine whether or not the legislative intent of the title III program was being carried out by the institutions receiving title III money.

In short, the subcommittee determined that the legislative intent of Congress was, in many cases, frustrated and misinterpreted. The original authorizing legislation for the title III program provided no clear definition of the purpose of the program.

As a result, the direction of the program was left to the interpretation of various Office of Education officials and that interpretation proved to be inconsistent, discriminatory, and resulted in questionable use of public funds.

Despite the widespread abuses and shortcomings uncovered by the subcommittee, I have continued to emphasize my belief that the title III program should not be terminated. Several Montana schools—in fact schools and students throughout the country—have benefited substantially from the title III program in the past.

The task before us, and before the newly created Department of Education, therefore, is to address the problems of the title III program with specific constructive solutions.

I am pleased to say that the Senate Education Subcommittee, under the very able leadership of the distinguished Senator from Rhode Island, Senator Pell, has devoted a good deal of time and effort to this essential task, and as a result, many of the changes accomplished in the legislation before us today take a significant step in the direction of positive, much needed reform of the title III program.

In particular, I am pleased with the new eligibility criteria that have been set forth in the new authorizing language. By expanding the original eligibility criteria to include such factors as student/faculty ratios, library resources, and the salaries paid to the developing institution's faculty, the eligibility criteria for the title III program have been substantially clarified.

The quantitative factors proposed in the new legislation tighten up the eligibility criteria for title III funding by outlining clearly some of the major institutional characteristics that may be used in defining a title III institution. As a result, less is left to guesswork, or to the discretion of Department of Education officials.

I am also pleased that the activities and purposes for which title III funds may be used are set forth in this legislation. During the subcommittee's hearings last fall, I stressed repeatedly that there seemed to be considerable confusion as to just exactly what constituted allowable activities to be funded with title III money.

This legislation helps to address that concern. The activities set forth in this legislation also help to provide some much needed direction for title III institutions as they decide how to best use their title III moneys for their stated purpose of helping institutions to become "viable, thriving institutions of higher education."

Another issue positively addressed in this new legislation is the role of assisting agencies and consortia. As I stressed during the subcommittee's hearing, many schools have benefited a great deal from services of assisting agencies, and in fact, institutions should be encouraged to seek outside help whenever it will in fact benefit the institution and the students it is serving.

At the same time, institutions should not be required to use assisting agencies.

I am also pleased with language in this legislation which specifically states any cooperative arrangement entered into by title III institutions be geographically and economically sound. This will help to address the concern raised during my subcommittee's hearings that large amounts of title III moneys were being used for travel that was unnecessarily expensive and ill advised.

Another important step taken in defining and directing the title III program is the legislation's clear call for each title III institution to set forth long-range plans to insure that the goals of title III institutions can be furthered through the use of title III funds.

Of particular importance are the legislation's requirements that institutions set forth policies and procedures to insure that the projects they engage in using title III funds will be effective and that the school will in fact become less dependent on the Federal Government as it becomes steadily more self-reliant and moves toward its goals.

Also important is the legislation's requirement that the institution develop adequate fiscal control and accounting procedures.

Such qualities are essential if an institution is ever to become self-sufficient.

The provisions I have just outlined are positive, significant steps toward better defining the intent of the title III legislation.

They insure that the intent of Congress is in fact carried out by the Department of Education and the title III institutions themselves.

Again, I commend Senator PELL and the Senate Education Subcommittee for the many constructive changes set forth in this new authorizing legislation.

There are some lingering concerns that I have however, which I would like to bring to the attention of my colleagues.

In fact, even if this new legislation were perfect in every respect, I would stress quite strongly that careful, ongoing oversight must continue with respect to the title III program, as with all programs which utilize Federal funds.

Mr. CRANSTON. Mr. President, as a member of the Senate Committee on Labor and Human Resources, I am pleased to be associated with our reported bill, S. 1839, the Education Amendments of 1980, now under consideration by the Senate. It is a sound bill, a forward-looking bill, and I believe it is an important reaffirmation of the Federal role in postsecondary education and the vitality of our higher education system in the life of the Nation.

The Senator from Rhode Island (Mr. PELL) has once again guided our committee toward the reporting of a landmark piece of education legislation. His efforts have been tireless, dedicated, and fair, in keeping with his acknowledged role as "Mr. Education" of the U.S. Senate. It is not flattery that brings the renaming of the basic opportunity grants program of student assistance as "Pell Grants." It is a simple acknowledgment of Senator PELL's founding and stewardship of this important program. It provides a way for the Congress to pay respect to Senator PELL's historic role in education legislation.

The ranking minority member of the Labor and Human Resources Committee (Mr. JAVITS) has once again given unselfishly of his wisdom and skill in constructing the kind of education legislation our country needs. My admiration of Senator JAVITS has been magnified as I watched his compassionate work on the Education Amendments of 1980 now before the full Senate.

Mr. President, this is a large and complex bill, designed to guide the Federal role in higher education through fiscal year 1985. It makes important changes in the structure and finance of existing programs, such as title IV student assistance; and it adds significant new programs, such as title VI international education and title XI, in acquiring a new program of grants to urban universities to enable those institutions to assist urban areas in solving the problems that confront them.

The major provisions of this bill are of enormous importance to all who pursue a postsecondary education in America and those that guide them in our institutions of higher education. I wish to comment briefly on just a few of S. 1839's significant contributions.

STUDENT ASSISTANCE PROGRAMS

At the heart of student assistance programs authorized by the bill is the basic educational opportunity grant. The committee has renamed the basic grant program the Pell grant program, with a maximum award of $1,900 in academic year 1981–82, $2,000 in academic year 1982–83, $2,200 in academic year 1983–84, $2,400 in academic year 1984–85, and $2,600 in academic year 1985–86. These increases will help keep pace with the cost of pursuing a postsecondary education and will maintain assistance to students who become eligible for this program for the first time through the Middle Income Student Assistance Act.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

For supplemental educational opportunity grants (SEOG's), the maximum yearly award is increased from $1,500 to $2,000, and the $4,000 cumulative maximum in current law is repealed. Through these amendments the committee addresses the "fair share" regulatory scheme of the Department of Education. The committee finds the formula to be inequitable, resulting in many institutions being penalized, and so S. 1839 establishes a legislative definition of institutional need for SEOG funds, and provides that no institution shall receive allocations under the SEOG program which are less than the amount which it received during fical year 1979 and under the college work study program less than it utilized during fiscal year 1979.

TRIO PROGRAMS

Counseling and academic services provided by the TRIO programs are a unique and important service to the disadvantaged student. S. 1839 clarifies the population eligible for TRIO services and increases the allocation from $200 to $400 million. I am pleased to be associated with these important changes in talent search, Upward Bound, and special services, especially as they affect training opportunities for TRIO staff and personnel.

GUARANTEED AND INSURED STUDENT LOANS

Since 1965 the guaranteed student loan program has provided private capital in the form of loans to students. While the student is in school, the Federal Government subsidizes the interest charged to him, and the student begins repayment of the loan 9 to 12 months after the student drops below halftime enrollment. The committee bill extends the GSI program for 5 years and establishes a loan limitation of $3,000 per year for independent students, establishes an aggregate maximum of $15,000 in loans for independent students who have not completed their undergraduate study, and increases from $15,000 to $25,000 the aggregate maximum for graduate and professional study.

The maximum annual loan limits and aggregate limits for dependent undergraduate students are not changed, as the committee wishes to discourage students from taking out large amounts of heavily subsidized guaranteed loans for undergraduate loans. The interest rate for GSL-program loans are increased from 7 to 9 percent, in recognition of a need to be more in line with current commercial loan interest rates which range up to 18 or 20 percent. The committee bill also reduces the grace period before a student is required to pay his loan, from 9 to 12 months to 4, in order to reduce the long-term costs to the Federal Government by approximately $115 million and in order to aid in reduction of default rates by immediately locating the student following departure from school.

Work study programs are extended, and up to 10 percent of an institution's work-study allocation can be used to serve the less than half-time student. Colleges and universities are encouraged to establish community service learning programs in which students are provided service-oriented community jobs relating to their academic or vocation goals.

NATIONAL DIRECT STUDENT LOAN ASSOCIATION

The committee bill establishes a new non-profit agency in the executive branch of the Federal Government called the National Direct Student Loan Association, to be responsible for administration of an expanded program of need-based loans available to students on campus through their institution's financial aid office. The association is authorized to issue notes, debentures, bonds, or other obligations necessary to make loan capital available to institutions for their needy students. The association will administer the NDSL program and will enter into agreements with students for repayment of NDSL loans.

TEACHER CORPS AND TEACHER TRAINING PROGRAMS

S. 1839 extends the Teacher Corps, the teacher centers, and training for higher education personnel programs, unchanged, except that each State must now receive a grant to allow the establishment of at least one teacher center in each State. My personal interest in the teacher corps program enables me to support the extension of this effort with enthusiasm.

The teacher centers program, extended by the committee bill, was authored by me in the Education Amendments of 1976.

I believe in this program as an inservice training vehicle for teachers, responsive to their own needs and patterns for meeting those needs, and I'm delighted to see the Committee shares my enthusiasm for this important effort.

ARCHITECTURAL AND TRANSPORTATION BARRIERS

Mr. President, I would also like to address myself briefly to the provisions in title XV which I authored in the reported bill. The purposes of title XV are very straightforward and relate to the Architectural and Transportation Barriers Compliance Board.

The authorizing legislation for the Architectural and Transportation Compliance Board is section 502 of the Rehabilitation Act of 1973, as amended. Section 502 provides that the Board is to be composed of 11 public members and the heads of 10 Federal agencies—including the Department of Health, Education, and Welfare. Section 1501(a) would update section 502 by redesignating the Secretary of HEW as the Secretary of Health and Human Services, and by adding the Secretary of Education to the Board. The amendment would make the membership of the Board equally balanced between public and governmental members—thus fulfilling a commitment I, along with Senators RANDOLPH, WILLIAMS, JAVITS, and STAFFORD, made to the President in November of 1978 in connection with the enactment of the Rehabilitation Amendments of 1978.

The title also corrects an oversight. The Architectural Barriers Act of 1968 was amended in 1976 to add section 7 requiring the Barriers Board to submit an annual report on its architectural barriers activities to the public works committees in the House and the Senate. Section 502(h) of the Rehabilitation Act requires only a one-time report, now complete, regarding the amounts of funds which were necessary to provide full access for all handicapped individuals to all federally assisted programs and activities. This amendment would add to section 502(h) a requirement that the Board submit its annual barriers activities report to the Labor and Human Resources Committee in the Senate and the Education and Labor Committee in the House when its submits that report to the Public Works Committees as required by the Architectural Barriers Act.

Mr. President, section 503 of title V of the reported bill contains certain provisions which address a very real problem.

In 1975, with the enactment of Public Law 94–142, Congress announced a national commitment to secure for all handicapped children their right to a free and appropriate public education. The full commitment embodied in Public Law 94–142 has not yet been accomplished, and its full implementation will require continued commitment and arduous efforts.

One problem has been that there is a shortage of teachers in this country for special children. In fact, many States have specific geographic areas characterized by severe and chronic shortages. Section 503 is designed to assist States in reducing teacher shortages by providing an incentive to students to enter this field. The provisions would authorize the Secretary to make grants to States for the purpose of making fellowship and stipend awards to persons training to teach special children.

I must point out that section 503 is not designed as a giveaway. In order to qualify for a fellowship under this program, a teacher must serve the country by agreeing to teach handicapped children in an identified shortage area for at least 2 years. There are very strict and specific payback-on-default provisions written into this section. What is more, there are careful safeguards built into the program to avoid the possibilities of windfalls to any student or teacher.

I supported this provision in committee because I believe it offers hope of a remedy for a very difficult problem. I congratulate the Senator from West Virginia (Mr. RANDOLPH) for his efforts in develop this provision.

VETERANS' COST-OF-INSTRUCTION PROVISIONS

Mr. President, section 408 of S. 1839 as reported contains provisions I authored relating to the veterans' cost-of-instruction (VCI) program. The proposed amendments to section 420 of the Higher Education Act would extend the authority for the VCI program through fiscal year 1985 and make a number of technical and clarifying amendments as well as a number of substantive ones.

The VCI program was established by the Education Act Amendments of 1972 (Public Law 92–318) by a provision I authored. It was designed to provide incentives and supporting funds for colleges and universities to recruit Vietnam-era veterans and to establish special programs and services necessary to assist veterans—especially educationally disadvantaged veterans—in readjusting to an academic setting.

Since the inception of the VCI program, over $146 million has been appropriated for and awarded under the program. Almost 7,790 awards (including repeat awards) to institutions of higher learning have been made. Currently, there are 1,070 institutions participating in the program and $19 million was made available for awards during the academic year 1979–80. For the upcoming academic year, $14.38 million will be available as a result of fiscal year 1980 forward funding.

Mr. President, I would like to describe briefly the substantive provisions of the amendment.

CHANGE IN MAXIMUM AWARD

The provisions of the amendment adopted by the committee and incorporated into section 408 of the bill would reduce the maximum VCI award from $135,000 to $75,000. This would have the effect of equalizing payments among the more than 1,000 institutions currently participating in the program, particularly those 416 institutions now receiving VCI awards of less than $9,000. Currently, only 22 institutions receive awards in excess of $75,000.

The provision for a maximum payment was added to the VCI authority in 1974 by Public Law 93–380 as a means of equalizing payments between participating institutions and assuring that smaller institutions receive sufficient funds to carry out effective programs. This reduction in the maximum award is intended to assure further that such institutions receive awards that will permit their continued, effective participation in the program.

SPECIAL INCENTIVE AWARDS FOR EFFORTS TO ASSIST SERVICE-CONNECTED DISABLED VETERAN-STUDENTS

Mr. President, the committee bill provisions would provide for the payment of a special incentive award to participating institutions on behalf of service-connected disabled veteran-students. Under present law, an institution receives an additional amount equal to one-half of the base award per veteran-student for each educationally disadvantaged veteran-student enrolled at the institution. The purpose of expanding this special incentive award to include service-connected disabled veterans is to place an increased emphasis on the needs of such veterans, especially those who are or who have completed training under the VA's vocational rehabilitation program authorized by chapter 31 of title 38, United States Code.

RELIEF FOR PREVIOUSLY ELIGIBLE INSTITUTIONS

The committee bill also contains provisions, which were worked out with the cooperation of the distinguished Senator from Pennsylvania (Mr. SCHWEICKER), that would provide relief to certain schools that had previously participated in the VCI program and became ineligible for awards prior to the enactment of a hold-harmless provision in 1978. That hold-harmless provision provides that an institution may remain eligible for a VCI award if its veteran-student enrollment declines proportionately by no more than the decline in veteran-student enrollment nationally or if the Secretary determines that the institution is making a reasonable effort to continue to recruit and serve veteran-students.

Mr. President, the provisions of the committee bill would allow the Secretary to waive initial eligibility criteria—generally, a showing of a 10-percent increase in the number of veteran-students over a prior year—for previously eligible institutions. The Secretary could resume VCI awards for such institutions if the institution has maintained services to veterans, but only if funds in excess of those requested in the President's budget—$12 million in fiscal year 1981, for example—are appropriated in an amount sufficient to make such required, resumed awards.

REMOVAL OF REQUIREMENT FOR THREE PAYMENTS

Mr. President, under current law, VCI awards are required to be made at least three times a year based on three separate counts of numbers of eligible veteran-students enrolled at an institution. This provision was initially enacted to assure that schools maintain their VCI efforts throughout the year.

Section 408 of the committee bill would have the effect of removing the three-payment requirement which I believe is no longer needed for that purpose and which may be resulting in excessive paperwork and interfering with effective program planning by institutions for the academic year.

EXPANDED OUTREACH REQUIREMENT

Mr. President, the committee bill provisions would require that an institution in receipt of a VCI award carry out an active outreach program targeted not only on educationally disadvantaged veterans, as required by present law, but also on service-connected disabled veterans and incarcerated veterans. Many of these veterans are still experiencing severe difficulties in making transitions from their military service and have very special needs for assistance. Thus, VCI institutions would be required to make special efforts to reach out to these veterans and assist them.

Mr. President, I urge my colleagues to support the provisions of section 408 of the committee bill.

NATIONAL INSTITUTE OF EDUCATION

Mr. President, I am especially pleased that the committee bill extends for 5 years the authority of the National Institute of Education. Created under the Education Amendments of 1972, NIE is the major Federal agency concerned with research, development, and dissemination in the area of education. The agency's work is of great variety and carries out its many important tasks with increasing competence.

I am keenly interested in the work of the labs and centers relative to educational research and development, and I am encouraged by NIE's decision to establish long term contractural agreements with these institutions.

The labs and centers have proved to be perceptive, creative, and greatly helpful in our national effort to improve education at all levels and I am most complementary of their work.

COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

Mr. President, S. 1839 reduces the authorization levels for library programs but does not change existing law in other respects. The programs are working, and while revisions might be necessary in the future, there was a lack of agreement within the library community as to the need for present changes.

The committee bill does, however, establish a National Periodical Systems Corporation to assist in the increasingly expensive matter of periodicals acquisition. The committee recognizes the need to expand and speed the access to periodical literature, and through the Corporation "intends to synthesize and analyze the information gathered in various studies and surveys, determine the feasibility and advisability of an alternative system for improving the access to periodical literature, and if determined feasible and advisable, design an effective system and put it into place." I support the committee's design and intent.

Mr. President, I support S. 1839 in the interest of all facets of American higher education. This is a good bill, and its many and varied provisions will help us move more rapidly toward bringing equal educational opportunity to all Americans, young and old.

Mr. PELL. Mr. President, I wish to emphasize one point on this bill. This is a truly nonpartisan bill. In our committee and in our subcommittee, partisan flavor was completely lacking. Some of the differences of view we had were philosophical differences that cut across party lines.

I particularly express my gratitude to the comanager of the bill, the Senator from Vermont (Mr. STAFFORD), and also to the other members of the minority party who worked with us, particularly Senators JAVITS and SCHWEIKER. We all worked, as one, on this bill.

Mr. President, I yield the floor to Senator BAUCUS.

Mr. BAUCUS. Mr. President, I particularly thank the chairman of the committee, the Senator from Rhode Island (Mr. PELL).

I have just a few questions for the Senator from Rhode Island that I would like him to respond to for me and for the record.

The "findings and purpose" for title III not only recognize the changing environment in which our Nation's institutions of higher education must operate, they also reflect the lessons we have learned after spending close to a billion title III dollars. I strongly endorse the concept of funding specific programs for specific time periods.

Is it the intent of this legislation that the institutions specifically indicate in their funding proposals which of their programs are in need of a "shot in the arm" and how they intend to continue these programs after Federal funding ceases?

Mr. PELL. First, Mr. President, let me say that the hearings the Senator had added a great deal to the knowledge that our subcommittee had concerning this legislation. We are very grateful to him for the hearings he had and the knowledge he accumulated.

The Senator's assumptions are absolutely correct. In part A of this legislation, each institution will have to point out specifically which short-term problems they are trying to solve with Federal assistance. We have provided an increasing institutional match as a way of seeing not only that institutions are committed and involved, but as a way of seeing also how each institution plans to carry on once the Federal funds have dried up. As for part B, it is certainly the intent of the committee that each institution very clearly specify how they plan to use Federal funds.

Mr. BAUCUS. I would appreciate it if the Senator could elaborate on the types of programs that should be funded with title III, part A money. The legislation lists six areas: Faculty development; funds and administrative management; development and improvement of academic programs; acquisition of equipment for use in strengthening funds management and academic programs; joint use of facilities such as libraries and laboratories; and student services.

Which kinds of programs will be funded under each of those categories?

Mr. PELL. Mr. President, that is up to each institution to decide based on individual needs of each institution. However, I envision such programs as enhanced student assistance and counseling services; the development of competent management practices, hopefully in conjunction with specialists in these areas; programs to recruit and retain skilled faculty members; and cooperative arrangements with other institutions in the shared use of facilities, such as computers, and libraries, particularly since the costs of such equipment and facilities can be too expensive for one institution to bear by itself.

Mr. BAUCUS. While I support the idea of a specific time period for funding of programs, I am concerned that to date a few schools have "traditionally" received annually large amounts of money while other schools have received more modest sums. And now, with a 5-year funding limit, I suspect that every institution will request a much larger amount for more ambitious programs.

How do we assure that each institution's funding recommendations are dependent upon the strength of their proposals and not on "traditional" funding patterns?

Mr. PELL. The only way we can do this is to require that the Department of Education make the administration of this program its top priority. I agree with you that this program has been administered very poorly in the past. Part of the blame was with the Department. However, part of it had to do with unclear congressional directions. We have tried to clarify what the purpose of this program is. Now we have to closely oversee the administration of this program by the Department to see that that purpose is carried out.

Mr. BAUCUS. Another area of concern for me is the preference given to black institutions by Department of Education officials. As you may recall, during hearings held by my subcommittee, I discovered that the Assistant Secretary for Education had informed her program officials that no black institution was to receive less money in 1979 than it received in 1978, regardless of the merit of their proposal.

Is my understanding of this program correct when I consider it to be "color blind'"? Are institutions to be funded solely based on the merit of their proposals and not on the racial characteristics of their student population?

Mr. PELL. I do not think any institution should receive funds just because it has a certain racial characteristic. Proposals for funding should be reviewed solely on merit. However, I think we would be remiss if we overlooked the important and unique role traditional black colleges and universities play in our system of higher education. They fulfill a national mission. They educate young people who might not be educated if those schools were not in existence. Thus, although particular institutions should not be given preference in this program, I think the sector of traditional black colleges and universities should. But institutions within that sector would have to meet the specific criteria set out in this legislation.

I particularly appreciate the report language that refers to the committee's strong desire that the Secretary of the Department of Education assure that the institutions account for the funds they are given. I would appreciate it if the

Senator would elaborate on how he expects the Secretary to make sure title III funds are spent properly.

Mr. PELL. I would urge the Secretary to do annual audits of this program, to undertake regular site visits, and to perform program evaluations periodically. Also, as I pointed out earlier, the Secretary must recognize that this program is in trouble, and she should give it her immediate attention. It is probably her top administrative priority, and we in the Congress will be carefully following her actions in this area.

Mr. BAUCUS. Concerning part B, I wonder if the Senate might elaborate on how the Department of Education will determine the amount of money each eligible institution will receive?

Mr. PELL. I would think they would do it pretty much the way they rank proposals under the existing title III program. With the existing program, they rank all eligible institutions, and institutions are awarded funds based on the weight of their rankings. I would think the Department would continue this practice.

Mr. BAUCUS. I note that the legislation authorizes part B money to be used "solely to defray instructional expenses and academic related programs of the institution." Yet, I wonder how we will be able to prevent an institution from taking non-Federal money presently earmarked for "instructional expenses," replacing it with part B money and then using the non-Federal money for noninstructional expenses such as the football team? If that is allowed to happen, the quality of education remains static and Federal money is essentially used to improve football?

Mr. PELL. Under no circumstance does the committee intend that title III funds be used to improve an institution's football program. We do not intend that title III funds be used to supplant an institution's existing expenditures for its academic and instructional programs, and we urge the Secretary to develop review and audit procedures that will see that such supplanting does not occur.

Mr. BAUCUS. Another concern I have wilth part B is the double funding of institutions. As I understand the intent of the legislation, almost all institutions eligible for part B funds will probably also be eligible under part A funds.

But, not all institutions eligible under part A will be eligible under part B. Since the money has been divided equally between the two parts, part A institutions will be competing for a much smaller amount of funds.

I wonder if you might give me an idea of the types of "traditional" title III schools that will not be eligible under part B but will be eligible under part A?

Mr. PELL. It is very hard to say at this time. However, part B funds are intended for institutions that enroll a large number of disadvantaged students. That does not necessarily have to be the case for part A schools. I would think an example of a school eligible for part A but not part B funds might be a small rural college, maybe a liberal arts college, which does not enroll a large number of disadvantaged students but which is struggling, serves a population of students who might not be served without that school, and which, with some short-term Federal help, might be able to continue as a thriving institution.

Mr. BAUCUS. I am wondering how we will assure that title III money reaches the largest number of institutions and students if we allow an institution to receive two grants?

Mr. PELL. The purpose of title III is not to reach the largest number of institutions and students. The purpose is to reach those institutions that need help and which meet the criteria established in this legislation. If an institution meets both the part A and part B criteria, that is an institution that truly needs help, and this legislation should provide that assistance.

Mr. BAUCUS. I thank the Senator for his very conscientious, and effective work in this area. It is my sincere hope that our discussion and the chairs accomplished in this legislation, send a very clear signal to the Secretary of Education; that is, we will continue to monitor title III very closely to insure that the abuses we have uncovered, and discussed today, are not allowed to repeat themselves. I think the title III program is very worthwhile; I was very saddened and, frankly, even disgusted to find the amount of waste that I did in the program.

I hope today that the Department of Education gets the message that we are not going to let this kind of waste continue.

The Senator from Rhode Island is primarily responsible for tightening up the program and I thank the Senator for his very good efforts.

Mr. PELL. I thank the Senator from Montana for having brought to the public's attention and our attention the dire state in which this program was. Our subcommittee has derived a great deal of benefit from the excellent spadework and hard work that he and his subcommittee have done.

Mr. BAUCUS. I thank the Senator.

Mr. PELL. Mr. President, what is the will of the Senate?

AMENDMENT NO. 1887

(Purpose: To establish the William Levi Dawson Chair of Public Affairs at Fisk University)

Mr. SASSER. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER) proposes an amendment numbered 1887.

Mr. SASSER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

"TITLE XVIII—THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

"SHORT TITLE

"SEC. 1801. This title may be cited as the 'William Levi Dawson Chair of Public Affairs Act'.

"DEFINITION

"SEC. 1802. As used in this title, the term 'Secretary' means the Secretary of Education.

"ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

"SEC. 1803. (a) The Secretary is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

"(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1804. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1803 of this title.

"(b) Funds appropriated pursuant to this title shall remain available until expended.".

On page 11, in the table of contents, after item "Sec. 1702." insert the following:

"TITLE XVIII—THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

"Sec. 1801. Short title.
"Sec. 1802. Definition.
"Sec. 1803. Assistance for the establishment of the William Levi Dawson Chair of Public Affairs.
"Sec. 1804. Authorization of appropriations."

Mr. SASSER. Mr. President, I offer today an amendment to enhance the educational and employment opportunities for black youth in our Nation. It is similar to legislation I introduced earlier this year, S. 1707, which seeks to establish an Institute of Public Affairs. The amendment I now offer would authorize the expenditure of $750,000 for the establishment of a William Levi Dawson Chair of Public Affairs at Fisk University in Nashville, Tenn.

It is obvious, Mr. President, that higher education for black Americans has seriously lagged behind other postsecondary efforts.

The history of Federal assistance to higher education points to a commonsense attitude toward learning and training. Certainly it is commonsense to promote educational opportunities for segments of our population underserved by the existing system.

In 1788, Benjamin Rush, one of the Nation's early educators, wrote that:

> There is but one method of preventing crimes, and of rendering a Republican form of government durable, and that is, by disseminating the seeds of virtue and knowledge through every part of the State by means of proper places and modes of education, and this can be done by interference and aid of the legislature.

Currently, there is no facility in this country dedicated primarily to giving black people an opportunity to learn the rudiments and refinements of public administration. In increasing numbers, however, black citizens are being appointed to positions of responsibility and leadership in State, local, and National Government. In many instances they must cope with complex administrative problems without the benefit of either formal preparation or prior participation in government on a management level.

The establishment of a Chair of Public Affairs at a university such as Fisk would improve the educational offerings for black students contemplating the field of public affairs. It would better prepare those wishing to enter public service, and in turn improve the quality of their decisions. It would help break down existing prejudices by showing that they are capable and qualified for the positions they seek. And each would be secure in the knowledge that he or she would be justly rewarded for service to the public.

Lyndon Baines Johnson, in his first state of the Union message in 1964, pointed out that:

> Unfortunately many Americans live on the outskirts of hope—some because of their poverty, some because of their color, and all too many because of both. Our task is to help replace their despair with opportunity.

William Dawson once noted that:

> Participation in politics is the crowning glory of an American citizen and is the greatest weapon to gain and safeguard the rights of citizens.

True political participation calls for much more than appearances at the polls. Political participation involves leadership and service, and this can be best accomplished through proper education and training.

The William Levi Dawson Chair of Public Affairs will help Fisk University provide such training and education for black men and women. And by virtue of this training, it is hoped that many more blacks will begin to participate in the political process, as political leaders in their own right.

This body, Mr. President, has taken previous action to fund professorships. The clearest example is the Wayne Morse Chair of Law and Politics. Authorized in 1976, it received an appropriation of $500,000.

I am confident that the chair in Wayne Morse's name will always provide quality education in the rule of law, representative government and world peace—three of that distinguished Senator's main concerns.

Similarly, I am confident that the William Levi Dawson Chair of Public Affairs, dedicated to the most influential black politician of our time, will help to provide a new level of confidence in our Government and in our leaders.

The Wayne Morse Chair of Law and Politics got its start from a commitment made in the Senate Appropriations Committee. It is important to note, Mr. President, that at the time no budget request or House allowance for the Morse chair had been made.

I ask unanimous consent that the appropriate section of Senate Report 95-283, accompanying H.R. 7555, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

WAYNE MORSE CHAIR OF LAW AND POLITICS

This Committee cannot possibly pay adequate tribute to the magnificent achievements of the late Senator Wayne Morse. He served as chairman of the Subcommittee on Education from 1961 through 1968 and it was during those eight years that the foundation of our Federal education programs was laid firmly in place. The Higher Education Facilities Act of 1963, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the Vocational Education Act of 1963, the Education Professions Development Act of 1967, the Education of the Handicapped Act of 1966—all of these vital programs bear the imprint of one of America's greatest educators, Wayne Morse.

But Senator Morse was not limited in his interests and achievements to education alone. He was a fiercely independent individual who, as a careful student and teacher of the law, was one of America's great champions of civil liberties. He was a constant supporter of the American worker and always demonstrated his concern in the development of legislation to improve labor standards in the United States. And he always lent his considerable weight to the efforts of this Committee to improve health care, increase veterans benefits, and reduce poverty throughout the nation.

It is only fitting that a living memorial be established to honor the innumerable accomplishments of Wayne Morse. And it is most appropriate that the University of Oregon—where he spent 14 years as dean of its School of Law—is creating the Wayne Morse Chair of Law and Politics. This professorship will be awarded to a succession of public figures and scholars who have made contributions to the rule of law, representative government and world peace—three of Senator Morse's major concerns. And it will offer students the opportunity to examine classroom theory in light of the practical experiences of these visiting professors.

The sum needed to establish this chair will be in excess of $500,000 and it is the Committee's view that the Federal government should assist in providing funds for the establishment of the Wayne Morse Chair. The contributions of Senator Morse to the lives of millions of Americans deserve no less. Thus, the Committee has authorized the Commissioner to provide financial assistance to assist in the establishment of the Wayne Morse Chair of Law and Politics at the University of Oregon. The Federal share of this project shall not exceed two-thirds of its expected cost and the additional funds shall be matched by private contributions. A maximum of $500,000 of Federal funds is authorized for this purpose.

The Committee believes that the Wayne Morse Chair will serve to instill in others the beliefs of Senator Morse that it is the power of education which has served to strengthen American democracy and make it continue to respond to the challenges of the future.

Mr. SASSER. Mr. President, in the more than 100 years since its founding, Fisk University has achieved an international reputation as a liberal arts institution of high quality. It became the first traditionally black college to gain full accreditation by the Southern Association of Colleges and Schools. It was the first black school to be granted a charter for a Phi Beta Kappa Chapter, as well as the first black school to receive a chapter of the Mortar Board, a senior honorary society for women.

In addition, Fisk enjoys the recognition of other organizations whose sole purpose is to promote quality education—the Association of American Universities, the Council of Graduate Schools, the National and American Associations of Schools of Music.

Mr. President, Fisk's influence is so widespread, so great, that currently one out of every six of the Nation's black physicians, dentists, and lawyers are graduates of Fisk. Over 50 percent of recent graduates enroll in the Nation's finest graduate and professional schools.

Mr. President the story of William Levi Dawson constitutes in itself the most persuasive argument for establishment of a chair in his honor.

Bill Dawson came to Washington in 1942 as only the second black person since Reconstruction to be elected to the House of Representatives. In the ensuing 28 years, he went on to achieve a number of notable "firsts"—first black chairman of a committee (the powerful House Government Operations Committee) and the first black assistant chairman of the National Democratic Committee.

After graduating magna cum laude in 1909 from Fisk University, he went on to law school at Northwestern University in Chicago. Despite a successful law practice, Bill Dawson felt compelled to serve his country and enlisted in the U.S. Army during World War I. Wounded in the Argonne offensive, he was discharged with honors. He returned to Chicago and began his career in public service in 1935.

His years in Congress were marked by a concern for the needy, the underprivileged, and the deprived. But perhaps most important, he gave new hope for a Government that truly served the American public.

Shortly before his death, William Levi Dawson noted:

> It is unfortunate, but we (blacks) as a race have held a rather dim view of politics and politicians. We haven't encouraged our youngsters to make a career of politics, but have rather glossed over the profession in a sort of hit-or-miss attitude that makes politics as a career seem cheap, unattractive, and insecure. Even our schools have been reluctant to train or equip Negro youth for leadership.

And so, Mr. President, this son of Georgia, alumni of Fisk, able representative of the people of Chicago, and great American, William Levi Dawson, made a lasting contribution to future generations. As a living monument to him, the chair of public affairs will increase job opportunities for black men and women. It will prove an asset to the black community—and indeed for all Americans—in the years to come by developing strong political leadership.

At this point, Mr. President, I ask unanimous consent that a brief biography of William Levi Dawson be printed in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

WILLIAM LEVI DAWSON: U.S. CONGRESSMAN, 1942–70

William Levi Dawson arrived in Washington, D.C., in 1942 as only the second black person since Reconstruction to be elected to a seat in the United States House of Representatives. He went on to represent his Chicago, Illinois district during the tenures of six U.S. Presidents.

Dawson was the first black Congressman to head up a Congressional Committee—the powerful House Committee on Government Operations—and the first black person to serve as assistant Chairman of the National Democratic Committee.

Born of humble circumstances in Albany, Georgia, on April 26, 1886, Dawson went on to receive his education at Fisk University in Nashville, Tennessee, graduating magna cum laude in 1909. He received his law degree from the Kent Law School of Northwestern University and set up his law practice in Chicago following his graduation.

Dawson joined the U.S. Army and served with the U.S. Expeditionary Forces in World War I. His service with the famed 365th infantry took him to the Argonne offensive where he was wounded. He was discharged with honors at the conclusion of the war.

Living his own words—"There's but one formula for making a success out of politics. Hard work and plenty of it. Start in on the ground floor and go from there."—Dawson began his political career in the wards of Chicago. He campaigned for a seat in Congress as a Republican from Chicago in 1928 but was defeated. Switching party allegiances, he waged a successful campaign for city alderman as a Democrat in 1935 and was elected Democratic Party Committeeman for the 2nd ward in 1940. He held other important posts in city government and in the local Democratic Party before deciding to run for Congress at the age of 56.

Dawson believed that "participation in politics is the crowning glory of an American citizen and is the greatest weapon to gain and safeguard the rights of citizens." He spoke frequently about the need for young persons to become involved in political activities and especially encouraged young black men and women to pursue this career. He employed the political arena during the Civil Rights struggles of the 1960's to fight for the legislation and understanding that would gain the rights of citizenry for America's black community.

His years in Congress were marked by his concern for the underprivileged, the needy and the deprived. Despite his late entry into the House, Dawson brought the enthusiasm and energy of a younger man to his duties as a representative of the Chicagoans in his district and as a representative of black America.

Through his Committee chairmanship he effected numerous positive changes in the operation of the federal government and he became one of the most respected and influential Congressmen to serve in the House. His death on November 9, 1970 at the age of 84 brought to an end a 28 year tenure of public service to Chicago and the nation.

Mr. SASSER. Mr. President, the $750,000 appropriation that I propose would have a minimal budgetary impact. No subsequent authorization or appropriation will be required to continue the Dawson Chair, once the initial funding is approved. Total estimated outlays, therefore, would be equal to the fiscal year appropriation for the Chair.

In closing, I would like to take a moment to pay tribute to another great American, Dr. Walter Leonard, of Fisk University. His untiring efforts to improve the quality of education at Fisk, despite serious financial difficulties, are indeed admirable. His is truly one of the Nation's outstanding educators.

I urge the adoption of my amendment.

Mr. President, I express my appreciation at this time to the distinguished and able floor manager of the bill for his cooperation in allowing me to bring this amendment to the floor; also, for his splendid attitude and perception with regard to discerning that there is a need for a program to educate black Americans in the field of public affairs as they move more and more into that area of endeavor.

I also express my appreciation to the ranking minority member.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. SASSER. I yield.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Tennessee.

Mr. BAKER. Mr. President, I take this opportunity to commend my colleague from Tennessee for his initiative in offering this amendment to this bill.

It was my privilege to join him as a cosponsor of the original measure, S. 1707, to establish a William Levi Dawson Chair of Public Affairs at Fisk University. I continue to believe that this chair will be an important contribution to the objectives so ably described by the junior Senator from Tennessee in his remarks.

Fisk University is unique and special in many respects. One respect is its dedication to successful execution of educational initiatives.

This is a worthwhile and worthy objective which is being suggested for placement in an institution that has a track record of success in innovative educational projects. It is worth the effort and the expense that will be involved, and I urge adoption of the amendment.

Mr. MORGAN. Mr. President, will the Senator from Tennessee yield for a question or two?

Mr. SASSER. I will be delighted to yield.

First, I thank my distinguished colleague for his cosponsorship of this measure. He was the cosponsor of the original bill to establish the Dawson chair at Fisk University. His cooperation and efforts are appreciated and are crucial to seeing that this chair is finally in place at Fisk University. I thank him for his statement and for his splendid cooperation.

Mr. MORGAN. Mr. President, this strikes me as a unique idea, and I was acting as Presiding Officer when the junior Senator from Tennessee offered the amendment.

Is Fisk a private or a public unversity?

Mr. SASSER. I will familiarize the Senator from North Carolina, briefly, if I may, with Fisk University.

Fisk University is a black private university at Nashville, Tenn. It was founded right after the Civil War. It is probably most noted for the famed Fisk Jubilee Singers, who sang for Queen Victoria and traveled all through Europe and portions of this country, raising funds, with their beautiful voices, to endow Fisk University.

Currently, one of every six of the Nation's physicians, dentists, and lawyers is a graduate of Fisk University. More than 50 percent of recent graduates of Fisk University enroll in the Nation's finest graduate and professional schools.

It is, I say to the distinguished Senator from North Carolina, an institution with a distinguished past, a distinguished heritage. It has contributed enormously to the development of black professionals and to the black culture in this country.

Mr. MORGAN. I say to the Senator that it sounds like a very fine university.

At Raleigh, we have Shaw University, which is one of the oldest black universities in the country. Like Fisk, it also was founded after the Civil War. It had the first 4-year medical school in the country.

I wonder whether the chairman of the committee would have any objection if I added a similar amount for a chair at Shaw University, in Raleigh. It is a private university. It trains some of the outstanding black leaders in our country. In fact, as I mentioned, it had the first 4-year medical school in America.

I am being a little facetious; but are we not getting a little far afield when we set a precedent of using Federal funds to establish a chair at any university, let alone a private university? Are there any precedents for this?

Mr. PELL. My recollection is that we have established chairs before, and I am trying to dig into my recollection.

Mr. SASSER. If the distinguished Senator will yield to me, I say to the Senator from North Carolina that this body has funded professorships on previous occasions. Perhaps the clearest example is the Wayne Morse Chair of Law and Politics, which was authorized in 1976, and received an appropriation of $500,000 at that time.

The chair in Senator Morse's name was established to provide quality education in the rule of law, representative government, and world peace. Those were three of Senator Morse's main concerns.

What we are seeking to do here is to establish a chair in the field of public administration in honor of Mr. William Dawson, a Congressman from Chicago, who was the first black elected Representative to Congress since reconstruction days.

Congressman Dawson rose to the position of chairman of the powerful Government Operations Committee in the House of Representatives. His principal interest over the years was Government and public administration, and in many of his writings and statements in the Hall of the House of Representatives he indicated his keen interest in preparing other blacks for the field of public administration and preparing them in such a way that they could acquit themselves at the highest levels of Government with competence and also serve the American people in the way they have a right to be served.

Mr. MORGAN. Mr. Presdent, I say to the Senator and to the chairman again that I live in a little university town of Buies Creek, N.C., where Campbell University is located, one of the finest schools I know of established by old Dr. Campbell way back in the 1880's. We also have been establishing a chair there for Graham Barton, who was a very distinguished Congressman from North Carolina for many years and served as chairman of the House Education and Labor Committee for many years. In honor of Congressman Barton, who we think rendered outstanding service to the Nation, we have been raising $500,000. We have not quite raised it.

Would the chairman be willing to add $250,000 to this so we can finish out our chair down at Campbell University?

the Federal Register on May 2, 1980. Outlines of oral comments for the public hearing must be delivered or mailed by June 26, 1980. Written comments on the modifications set forth in this notice must be delivered or mailed by [60 days after publication of this notice in the Federal Register].

Address. Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-164-78), Washington, D.C. 20224.

For further information contact: Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

Supplementary information.

BACKGROUND

This document contains modifications to proposed regulations under section 411(d)(1) of the Internal Revenue Code of 1954. Section 411(d)(1) was added by section 1012 (a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 901). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

STATUTORY PROVISIONS

Section 401(a)(4) of the Code provides that a plan which discriminates in favor of employees who are officers, shareholders, or highly compensated (hereinafter referred to as "prohibited group") is not a qualified plan under section 401(a). Section 411(d)(1) provides that the vesting schedule of a plan which satisfies the requirements of section 411 shall be considered as satisfying any vesting requirements resulting from the application of section 401(a)(4) except in two situations. One situation, as set forth in section 411(d)(1)(A), is a pattern of abuse under the plan which tends to discriminate in favor of the prohibited group (pattern of abuse). The other situation, as detailed in section 411(d)(1)(B), is where there have been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of the prohibited group (hereinafter referred to as "discriminatory vesting").

PRIOR DETERMINATION LETTERS

Initial guidelines under section 411(d)(1) were set forth in Revenue Procedure 75-49, 1975-2 C.B. 584. That Procedure established several alternative tests, with respect to vesting, that a plan must satisfy to secure a favorable advance determination letter. If a plan failed to satisfy these tests, a favorable determination letter was not issued unless the plan adopted the accelerated vesting schedule set forth in the Procedure (so-called "4/40 vesting").

Revenue Procedure 76-11, 1976-1 C.B. 550, was issued pending reconsideration of Revenue Procedure 75-49. That Procedure adopted two new alternative means of satisfying the requirements of section 411(d)(1) in order to secure a favorable advance determination letter, in addition to the tests contained in Revenue Procedure 75-49.

One of the new alternatives contained in Revenue Procedure 76-11 is to establish that the plan had previously received a favorable advance determination letter which had not been revoked, and that the percentage of vesting of each participant under the plan as amended is not less (at every point) than that provided under the vesting schedule of the plan when it received the most recent favorable prior determination letter.

The other new alternative contained in Revenue Procedure 76-11 is a demonstration, on the basis of all of the facts and circumstances that there has not been, and that there is no reason to believe there will be, any discriminatory accruals.

Revenue Procedure 76-11 also provided that a plan could secure a favorable determination letter without regard to whether the vesting is nondiscriminatory.

However, the determination letters processed in this manner contained a caveat to the effect that such letter is not a determination as to whether the vesting provisions of the plan satisfy the nondiscrimination requirements of section 401 (a)(4).

The tests of Revenue Procedures 75-49 and 76-11 are applied only with respect to whether a plan could receive a favorable advance determination letter. The determination letter, by its terms, provided that the approval of the plan's qualified status by the Internal Revenue Service did not extend to the plan in operation. Therefore, separate tests for determining discrimination in vesting were necessary with respect to the issuance of a determination letter and with respect to testing the operation of the plan's vesting schedule.

Thus, an employer could receive a favorable advance determination letter, but would have no protection against a finding that the plan's vesting schedule was discriminatory in operation. The proposed rules remove this separate testing of form and operation, and provide that the test for discriminatory vesting shall be made, in both situations, on the basis of the facts and circumstances. Thus, if a plan has a favorable advance determination letter based on the facts and circumstances test of the proposed rules, this determination will protect the plan from a finding of discriminatory vesting in operation, provided the facts and circumstances have not materially changed since the determination letter was issued.

Additionally, plans which currently possess certain types of favorable determination letters will be treated as if their determination letter was processed under the facts and circumstances test contained in the proposed rules. The plans which will be given this treatment are those which received their favorable determination letter based on their satisfying one or more of the following tests:

1. the key employee and/or the turnover test of Revenue Procedure 75-49;
2. the prior letter test of Revenue Procedure 76-11; or
3. the facts and circumstances test of Revenue Procedure 76-11.

Thus, a plan described above would also be protected against a finding of discriminatory vesting in operation, based on its outstanding favorable determination letter, provided the facts and circumstances have not materially changed.

SAFE HARBORS

Paragraph (d) of proposed regulation § 1.411 (d)-1, as published in the Federal Register on April 9, 1980, set forth two safe harbors against a finding of discriminatory vesting. Both of the safe harbors required the adoption of a vesting schedule substantially more rapid than 4/40 vesting. Many of the commentators viewed this as an attempt to require that all plans adopt either one of these accelerated vesting schedules. Because that was not the intent of those proposed rules, the portion of the proposed regulation containing the safe harbors is withdrawn.

However, this deletion should not be interpreted as meaning that 4/40 vesting is a safe harbor. Comments are requested from the public as to the desirability of reinstating a safe harbor and, if so, on what basis.

TEST FOR DISCRIMINATORY VESTING

Paragraph (c) (2) of proposed regulation § 1.411 (d)-1, as published in the Federal Register on April 9, 1980, set forth certain factors to be considered in applying the facts and circumstances test for discriminatory vesting. These factors were included simply to reflect current Internal Revenue Service practice and to provide greater guidance to both employers and to Internal Revenue Service personnel. The factors were not intended to create new standards.

Nevertheless, many commentators interpreted the recital of specific factors as substantially increasing their burden of establishing that the plan's vesting schedule is nondiscriminatory. Accordingly, the list of specific factors is deleted in the reproposed test for discriminatory vesting.

The determination of whether the vesting schedule of a plan is discriminatory, under the reproposed rules, shall be made on the basis of the facts and circumstances of each case. The reproposed rules now specifically provide that a plan's vesting schedule is nondiscriminatory if the disparity between the vested benefits provided to the prohibited group and the vested benefits provided to all other employees is reasonable.

ADDITIONAL GUIDANCE

It is anticipated that additional guidance regarding the application of the facts and circumstances test for discriminatory vesting will be provided in revenue rulings and procedures issued at the time the regulations are published in final form. Accordingly, comments are requested as to whether the following examples are appropriate for this purpose:

Example 1: A plan has the "10 year cliff" vesting schedule described in section 411(a) (2)(A) for all employees. Employment turnover among members of the prohibited group is less than that for all other employees because the prohibited group tends to stay longer with the company. Nevertheless, the present value of the vested benefits for the officers and 5 percent shareholders (determined using the attribution rules of section 1563(e), without regard to section 1563(e)(2)(C)), is less than the present value of the vested benefits of all other employees. Because the vested benefits provided employees who are not officers or shareholders, the plan's vesting schedule is not considered to be discriminatory.

Example 2: The facts are the same as in Example 1, except that there has been no comparison of the present values of the vested benefits of each group of employees. However, it is clear that the class of employees who have vested benefits, considering those employees alone and not any nonvested employees, would satisfy the nondiscriminatory classification test of section 410(b)(1) (B) by covering a reasonable cross section. Because a reasonable cross section of all employees under the plan have vested benefits, the vesting schedule of the plan is not considered to be discriminatory. [When the example is published, specific facts along the lines of Revenue Ruling 70-200, 1970-1 C.B. 101, Revenue Ruling 74-255, 1974-1 C.B. 93, and Revenue Ruling 74-256, 1974-1 C.B. 94, will be included to illustrate the reasonable cross section test.]

Example 3: Company B has a plan that satisfies the minimum participation requirements of section 410. The plan provides for 4/40 vesting. In its six years of operation the plan has always covered five employees. Because of the high rate of employee turnover, the only employee, past or present, to earn a vested benefit under the plan is X. X is the sole shareholder of Company B. Absent a showing of other facts and circumstances, the vesting schedule of the plan is discriminatory.

COMMENTS AND PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of In-

Mr. HALPERIN. Our concern is with implementing the 40-year-old requirement which provides that tax-qualified retirement plans may not discriminate in favor of high-paid employees. However, we also recognize the need to balance the interests of employee protection with the cost of providing those protections.

Senator MATSUNAGA. Would you tell me what Treasury is doing in this area. I understand the Treasury's new revised proposal has been published this week. Would you describe the details of the proposal.

Mr. HALPERIN. The original proposal was published on April 9, 1980 and a 60-day written comment period was provided. On June 9, we filed modifications to the proposal with the Federal Register and the new provisions are to be published in the Register today.

A public hearing on the proposed regulations, as modified, is scheduled for July 10, and a 60-day period for written comments is also provided for the modifications. The public has until June 26 to request an opportunity to appear at the public hearing.

We hope this rapid response to public comments and the changes that have been made to the proposed regulations show our willingness to be flexible and reasonable in establishing guides in this area. It shows the administrative process works well. It should be allowed to continue.

The June 9 modifications respond to two general criticisms of the original proposal.

First, the "safe harbors" in the original were viewed as an attempt to force plans into faster vesting. This was not the intent, and these safe harbors have been withdrawn.

Second, the facts and circumstances test was not understood and many said it could not be applied. The modifications clarify that a reasonable disparity between the prohibited group and other employees is acceptable. The new proposal provides specific factual examples of how the test will be applied and what is a "reasonable" disparity.

Senator MATSUNAGA. Plan administrators must know in advance that a vesting schedule is sufficient to obtain a favorable determination letter and will more likely than not be approved in a future audit review.

Do the proposed regulations affect the ability of a plan using 4/40 or 10 percent vesting to receive a "favorable determination letter?"

Mr. HALPERIN. Since 1942, the Internal Revenue Code has said that a retirement plan is not entitled to favored tax treatment if it has the effect of providing "discriminatory" benefits for officers, shareholders and high-paid employees.

Even before ERISA, the issuance of a determination letter required an indication that, based on the plan's particular facts and circumstances, a plan's vesting schedule would not operate in a way that would lead to discrimination in operation. The proposed regulations are no more stringent than rules which have been in existence for nearly 40 years.

Since 1975, a plan seeking a determination letter could avoid this facts and circumstances test; it could adopt so called 4/40 vesting and automatically receive a determination letter. However, the determination letter by its terms did not apply to the effect of the plan in operation.

Thus, we have had three different standards—a 4/40 determination letter standard which did not apply in operation, a standard of facts and circumstances for vesting slower than 4/40, and a third, operational standard which had not been clearly defined. This created a serious problem of uneven enforcement.

The proposed regulations replace these three standards with one standard—the facts and circumstances test which has existed since 1942.

We have also—we hope—given substantial guidance as to how this test will be applied.

After the regulations become final, this single test will be applied for both determination letter and operational purposes, and we expect that a single, clear pattern will be provided for plans to satisfy the requirements for a determination letter.

Senator MATSUNAGA. As I stated earlier, taxpayers must be confident of obtaining a favorable determination. Except in cases of actual misuse, 4/40 vesting is adequate.

Let's examine this application issue for a moment—what will happen to a plan that has a determination letter when it comes into the IRS for review on another matter? Or will all plans have to come in again?

Mr. HALPERIN. We do not allow qualified plans to come back through the determination letter process. In fact, we indicated quite clearly that several categories of plans—generally, those that have already received a determination letter involving some kind of facts and circumstances judgment—will be treated as having a determination letter under the facts and circumstances test in the regulation. Clearly, such plans need not come in for review. And when they do come in for review because of a change to some other provision, we anticipated that a relatively simple procedure we anticipate that a relatively simple procedure will be developed for dealing with vesting.

As to plans with 4/40 vesting, we believe that many—perhaps *most*—of these plans will be found to operate in an acceptable manner under the examples in the proposed regulations.

We hope to receive additional input from the sponsors of these plans regarding the facts which should be addressed in the examples.

Senator MATSUNAGA. If a plan comes in for review and the IRS determines—based on your examples—that its vesting schedule is discriminatory, what will happen? Will the plan be retroactively disqualified?

Mr. HALPERIN. This is a matter we expect to be considered at the July 10 IRS hearing and we are open to suggestions here.

There are at least two conflicting interests we are trying to balance. On the one hand, many employers believe that a 4/40 determination letter was acceptable in all cases, and will argue that it should protect them in operation. On the other hand, the determination letter by its terms indicates that its favorable ruling does not apply to the effect of the plan in operation

However, we are sympathetic to the problems that many plans face and we want to be reasonable. Therefore, on balance, we are willing to adopt a rule which would say that a plan will not be retroactively disqualified unless the discrimination was egregious.

We think that an egregious case would include two situations. One would be where there was evidence that employees were fired to keep them from vesting. The other would involve, for example, a plan that has been in operation for 10 years and where there have been several participants at one time or another, but where only the sole shareholder has any vested interest. In other words, if no present or former employee has any vested interest in the plan except for the shareholder after 10 years of operation, we would find that the plan was egregiously discriminatory and should be retroactively disqualified.

Of course, more difficult cases would arise, and we are most interested in receiving comments and suggestions about where the line should be drawn for this purpose.

Senator MATSUNAGA. Of course, if a plan with 4/40 vesting fails to meet the facts and circumstances test because of discriminatory firing, the plan will be disqualified. It would seem that in such an egregious case as discriminatory firing of workers to prevent vesting of benefits, disqualification should be retroactive.

But generally 4/40 vesting is a fair balance between the desire to benefit workers and the cost imposed on employers. Employers furthermore need some degree of certainty that their plans will be approved. If in review, the plan is disqualified, it is my hope that disqualification will be prospective except in the egregious cases. I hope you will give careful thought to this concern.

Would you be willing to add additional examples to give guidance in applying the regulations?

Mr. HALPERIN. Yes, we are very interested in providing a wide range of specific examples so that a variety of plans will have guidance and certainty in applying the tests. We anticipate that the final examples will include more than one 4/40 plan, and one or more plans providing vesting at the rate of 10 percent per year of service, including at least one plan that begins such a schedule after a one-year delay.

However, we do need time to proceed in this. Our administrative process is not yet complete and we need to carefully consider comments and suggestions in order to provide clear, reasonable examples. We do want to be responsive to the needs of plan administrators, and we need their input to provide examples.

Senator MATSUNAGA. It is my intention that the small plan administrators and counsels at the IRS hearing will provide examples for the IRS to include in the new regulations. It is also my intention and understanding that the IRS will incorporate additional examples in the new regulations, thus offering specific guidance for small plans.

Moreover, it is my understanding that the Treasury and the IRS will issue final regulations on this matter only while the Congress is in session with adequate time for the Congress to respond. Is this correct?

Mr. HALPERIN. Yes.

Senator MATSUNAGA. I desire a fair accommodation to satisfy all concerns. The proposal should not impose unbearable cost to cause employers to drop pension plans or not to establish a pension plan for workers.

Would you give adequate time for the public and the tax writing committees to study and comment on the new proposal? You, of course, will give all due consideration to our comments and seek a fair accommodation.

Mr. HALPERIN. We will certainly try to adopt a procedure to get broad input so that we can determine if the examples and the regulations as a whole are responsive to your concerns.

COORDINATION OF VESTING AND DISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

NOTICE OF PROPOSED RULEMAKING

Agency. Internal Revenue Service, Treasury.

Action. Notice of proposed rulemaking.

Summary. This document contains modifications to proposed regulations, published in the Federal Register for April 9, 1980 (45 FR 24201), relating to coordination of vesting and discrimination requirements for qualified pension, etc. plans. These modifications to the proposed regulations have been prepared in response to the comments received on the proposed regulation. The test for determining the existence of discriminatory vesting is reproposed in modified form and the "safe harbors" against a finding of discriminatory vesting are withdrawn.

Dates. A public hearing on the notice of proposed rulemaking published April 9, 1980, has been scheduled for July 10, 1980. A notice of the public hearing was published in

(4) For research, development, testing, and evaluation, $30,000,000, to remain available until expended.

SEC. 2. For fiscal year 1981, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,600: *Provided*, That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

SEC. 3. For fiscal year 1981, average military training student loads for the Coast Guard are authorized as follows:

(1) Recruit and special training: 4,175 student-years;

(2) Flight training: 117 student-years;

(3) Professional training in military and civilian institutions: 595 student-years; and

(4) Officer acquisition: 925 student-years.

SEC. 4. Subsection 475(a) of title 14, United States Code, is amended so that the second sentence reads as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed 5 years, and, in accordance with local custom and practice, advance payment may be made for the lease.".

SEC. 5. Subsection 650(a) of title 14, United States Code, is amended so that the third sentence reads as follows: "In such regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts.".

SEC. 6. Subsection 214(d) of title 14, United States Code, is amended by amending the last sentence to read as follows: "A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.".

SEC. 7. (a) Chapter 13 of title 14, United States Code, is amended by adding a new section 512 as follows:

"§ 512. Monetary allowance for transportation of household effects

"The transportation and reimbursement authorized by subsection (b) of section 406 of title 37, United States Code, shall be available hereafter to pay a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the Government when the total cost of such movement is compared with the cost which otherwise would have been incurred under subsection (b) of section 406 of title 37, United States Code.".

(b) The analysis of chapter 13 of title 14, United States Code, is amended by adding the following item at the end thereof:

"512. Monetary allowance for transportation of household effects."

SEC. 8. Public Law 85–455 (72 Stat. 179) is amended by striking "week which includes July 4" and inserting in lieu thereof "seven-day period beginning June 1.".

SEC. 9. The Coast Guard shall submit to the Congress with its fiscal year 1982 budget request and each subsequent budget request the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan. Whenever the Coast Guard transmits one of these plans to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Coast Guard to submit any of these plans to any officer or agency of the United States for approval, comments, or review, prior to the submission of such plans to the Congress.

SEC. 10. Paragraph (1) of the first section of Public Law 96–23 (93 Stat. 68) is amended by striking "$1,058,357,000;" and substituting "$1,091,357,000;".

The title was amended so as to read:

A bill to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROPOSED TREASURY REGULATIONS UNDER SECTION 411(d) OF THE INTERNAL REVENUE CODE ALTERED AT REQUEST OF SENATOR MATSUNAGA

Mr. MATSUNAGA. Mr. President, Members of the Senate have been inundated with correspondence, phone calls, and personal expressions of concern over pension vesting regulations proposed by the Treasury Department. The proposal published on April 9, 1980, would have disqualified a large majority of existing pension plans and would have imposed considerable expense on employers to comply with the new vesting requirements.

We can all readily agree that competing factors must be balanced in this area of pension laws. The laws should not approve and grant tax benefits to a pension plan which substantially favors officers, shareholders, and the highly compensated and disregards rank-and-file workers. Congressional policy should favor the widest coverage of workers and fast vesting of pension benefits.

This policy must be tempered by the cost imposed on employers. The creation of a pension program is a voluntary action on the part of the employer. The employer in most cases spreads out vesting over a period of years as an incentive for the worker to remain in his employment. Full and immediate vesting would tend to remove that incentive to remain with the same employer; and the worker who wishes to cash out on his retirement benefits would quit a job to look for another.

The employer faces considerable expense in training a new worker and funding vested pension benefits. If the expenses exceed the return, the employer will terminate his current pension plan and not establish a new plan. Clearly these factors must be balanced to develop a viable pension policy.

The initial Treasury proposal greatly disturbed me and led me to undertake lengthy discussions with Treasury officials. The Treasury and Internal Revenue Service subsequently published a modified proposal on June 9, 1980, for public comment. The modification significantly scaled down the initial proposal. However, the modification was still unsatisfactory on several points.

I pursued this matter further until Deputy Assistant Secretary Daniel Halperin provided me written assurances on three points. Essentially the Treasury agreed:

First. It would finalize the regulation only while Congress is in session to afford the Congress adequate time to respond.

Second. Except in the most egregious cases where the plan is misused, any disqualification of a plan will be prospective and not retroactive.

Third. The final regulation will contain various examples safeguarding existing plans with 4/40 vesting or a 10 percent per year of service vesting after a 1-year delay.

These assurances were publicly expressed during the Senate Finance Commitee executive session on June 12, 1980.

The revised proposal published on June 9, 1980, for public comment, and the assurances given by Deputy Assistant Secretary Daniel I. Halperin, go a long way in answering my concerns. However, I will continue to follow closely Treasury actions in this matter.

Mr. President, in view of the intense nationwide interest in this matter, I ask unanimous consent that the colloquy between Deputy Assistant Secretary Halperin and myself mentioned earlier and the Treasury's modified proposal of June 9, 1980, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLOQUY BETWEEN SENATOR MATSUNAGA AND DANIEL I. HALPERIN, DEPUTY ASSISTANT SECRETARY FOR TAX POLICY REGARDING PROPOSED VESTING REGULATIONS UNDER SECTION 411(d) OF THE CODE

Senator MATSUNAGA. Mr. Chairman, I would like to pose several questions to Deputy Assistant Secretary Halperin on an issue of deep concern to me on many pension plan administrators and counsels.

Mr. Halperin, section 411(d)(1) of the Code has two focuses. It proscribes a pattern of abuse tending to discriminate in favor in officers, shareholders, or the highly compensated employees. It also proscribes actual or reasonably anticipated accrual of benefits or forfeitures tending to discriminate in favor of officers, shareholders or highly compensated employees. This provision implements the congressional policy against discriminatory pension plans. The laws should not approve and grant tax benefits to a pension plan which substantially favors officers, shareholders, and the highly compensated and disregards rank-and-file workers. On the other hand, the pension costs imposed on employers must be balanced. The employer's creation of a pension program for his workers is voluntary. If the expenses exceed the benefits, the employer will not establish a plan or will terminate his current plan.

Generally, vesting of benefits is spread over a period to encourage a worker to remain with the employer. If full and immediate vesting is required, the incentive to remain is lessened, and considerable expense is imposed on the employer who experiences rapid turnover among his workers.

Mr. Halperin, I have received numerous letters and personal expressions of concern about the proposed Treasury regulation under section 411(d) of the Code on non-discriminatory vesting. You have heard these concerns too. What is Treasury's concern in this area?

country, the lease may be made on a multiyear basis for a period not to exceed 5 years, and, in accordance with local custom and practice, advance payment may be made for the lease.".

Sec. 5. Subsection 650(a) of title 14, United States Code, is amended so that the third sentence reads as follows: "In such regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts.".

Sec. 6. Subsection 214(d) of title 14, United States Code, is amended by amending the last sentence to read as follows: "A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.".

Sec. 7. (a) Chapter 13 of title 14, United States Code, is amended by adding a new section 512 as follows:

"§ 512. Monetary allowance for transportation of household effects

"The transportation and reimbursement authorized by subsection (b) of section 406 of title 37, United States Code, shall be available hereafter to pay a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the Government when the total cost of such movement is compared with the cost which otherwise would have been incurred under subsection (b) of section 406 of title 37, United States Code.".

(b) The analysis of chapter 13 of title 14, United States Code, is amended by adding the following item at the end thereof:

"512. Monetary allowance for transportation of household effects.".

Sec. 8. Public Law 85–445 (72 Stat. 179) is amended by striking "week which includes July 4" and inserting in lieu thereof "seven-day period beginning June 1.".

Sec. 9. The Coast Guard shall submit to the Congress with its fiscal year 1982 budget request and each subsequent budget request the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan. Whenever the Coast Guard transmits one of these plans to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Coast Guard to submit any of these plans to any officer or agency of the United States for approval, comments, or review, prior to the submission of such plans to the Congress.

Sec. 10. Paragraph (1) of the first section of Public Law 96–23 (93 Stat. 68) is amended by striking "$1,058,357,000;" and substituting "$1,073,357,000;".

● Mr. CANNON. Mr. President, today the Senate is considering S. 2489, authorizing appropriations for the U.S. Coast Guard for fiscal year 1981. When the Committee on Commerce, Science, and Transportation considered the bill, it added a new section 10, authorizing an additional $15 million for operating expenses for fiscal year 1980. This amendment was necessitated by supplemental appropriations requests from the administration which exceeded the previously authorized level.

Since the committee acted on this bill, the Office of Management and Budget has approved another supplemental appropriations request for the Coast Guard totaling $18 million. This request reflects the increased demands on the Coast Guard's resources caused by the recent influx of Cuban refugees. The Coast Guard has been the agency primarily responsible for stopping the influx and for assuring the safety of the vessels and refugees that were permitted to enter the United States. By all accounts the Coast Guard has done a commendable job in these tasks. In order to allow the Coast Guard to continue its excellent work, this most recent supplemental appropriations request is essential.

In addition, at the time that the administration submitted its earlier supplemental requests, it was assumed that the Defense Fuel Supply Center, the Coast Guard's primary fuel supplier, would roll back a portion of its recent price increases. Since then, it has become clear that no such rollback will occur. Additional funds have therefore been requested to pay for these higher prices.

In order to allow for consideration of these supplemental appropriations requests, it is therefore again necessary to amend the Coast Guard's fiscal year 1980 authorization for operating expenses by adding $18 million. I submit a portion of the administration's request explaining the reasons for the request.

PURPOSE

Additional funds are required in FY 1980 for the Cuban refugee operation and for experienced and/or announced increase in the cost of fuel.

CHANGE IN OUTLAYS

This amendment will require additional outlays of $18,000,000.

REASON ADDITIONAL FUNDS ARE REQUIRED

1. Cuban Refugee Operations, $10,750,000.

The Cuban refugee operation, which began on April 26, 1980, has resulted in extraordinary operating and maintenance expenses. This operation has required deployment of additional vessels, aircraft, and boats to the Seventh District, together with extra personnel to operate, maintain, and support the deployed facilities. The supplemental funding requested includes the incremental funds required to operate and maintain those facilities at a level above the programmed level and to offset the additional travel and transportation costs for the extra personnel. The funding requested will sustain this operation at the current level of effort through July 15, 1980. Should the operation continue beyond this data or terminate earlier, an adjusted level of funding will be requested.

2. Reserve Augmentation, $250,000.

Coast Guard participation in the Cuban refugee operation has necessitated the augmentation of our regular forces by 300 Coast Guard Reservists. Our estimate is based on utilizing this number of reservists for each of three two week active duty periods. It is estimated that approximately one-third of these reservists will already have performed their annual training and, therefore, the additional active duty will have to be funded by the Operating Expenses Appropriation.

3. FY 1980 Fuel Price Increases, $7,000,000.

An FY 1980 supplemental request of $29.1 million to cover increased cost of fuel was previously submitted. This amount assumed a reduction in DFSC prices during FY 1980 of $7.3 million. DFSC does not now anticipate a price reduction. In view of this information, an additional $7.0 million is required to sustain programmed levels of operation during the remainder of FY 1980.●

UP AMENDMENT NO. 1289

(Purpose: To authorize supplemental appropriations for the Coast Guard for fiscal year 1980 to cover additional expenses incurred because of the sealift of Cuban refugees, and fuel price increases)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Senator Cannon and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) proposes an unprinted amendment numbered 1289 for Senator Cannon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 9, line 21, strike "$1,073,357,000;" and substitute "$1,091,357,000;".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1289) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for necessary expenses of the Coast Guard for the fiscal year 1981 as follows:

(1) For the operation and maintenance of the Coast Guard including expenses related to the Capehart housing debt reduction, $1,248,367,000 and such additional sums as may be necessary to meet unforeseen circumstances;

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $469,320,000, to remain available until expended;

(3) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $16,200,000, to remain available until expended;

(c) In preparing the report required by subsection (a), the Director shall use the report prepared by the Chairman of the Equal Employment Opportunity Commission pursuant to section 247 and may collect, compile, and analyze such other data and information as may be necessary.

Part E—General Provisions

COMMITTEE ON WOMEN IN SCIENCE

Sec. 251. (a) There is established within the Foundation a Committee on Women in Science, which shall be composed of 13 members. The Committee shall—

(1) provide advice to the Foundation concerning (A) the implementation of the provisions of this Act and (B) other policies and activities of the Foundation to encourage full participation of women in scientific, engineering, professional, and technical fields;

(2) establish goals for increasing the participation of women in science and technology;

(3) make reservations to the Foundation concerning the manner in which funds appropriated to carry out the provisions of this Act should be distributed among the programs and activities authorized by this Act, taking into consideration the activities conducted and supported by other public agencies and private entities;

(4) provide advice to the Foundation concerning mechanisms to encourage women scientists and engineers to fully participate in all the programs of the Foundation, particularly research programs;

(5) provide advice concerning the appropriate manner to increase the number of women principal investigators on research projects, the development of flexible research support programs, and the improvement of cooperation between business concerns, academic institutions and other appropriate entities to facilitate research opportunities;

(6) make recommendations for the modification of the policies and procedures of the Foundation relating to the appointment of advisory committees and the selection of peer review committees in order to further the purposes of this Act;

(7) make recommendations to the Director concerning the inclusion of data in the report required under section 248; and

(8) evaluate the effectiveness of activities undertaken and supported under this Act.

(b)(1) Each member of the Committee shall be appointed by the Director with the concurrence of the National Science Board. The membership of the Committee shall represent a cross-section of the physical, mathematical, life, behavioral, and social sciences. At least two members of the Committee shall be nonscientists. At least nine members of the Committee shall be women, of whom at least seven shall be scientists or engineers active in promoting increased participation of women in science. In appointing members to the Committee, the Director shall obtain recommendations from governmental and private organizations active in promoting equal opportunity for women in science.

(2) The Chairperson of the National Science Board Committee on Minorities and Women shall be an ex officio member of the Committee.

(c) Members of the Committee shall be appointed to serve for a three year term, except that the terms of office of members first appointed shall expire, as designated by the Director at the time of appointment, five at the end of one year, four at the end of two years, and four at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of such term. Members may be reappointed to serve one additional term of three years.

(d) Seven members of the Committee shall constitute a quorum, and any vacancy in the Committee shall not affect its power to function.

(e) Members of the Committee shall select a member to serve as Chairperson.

(f) Each member of the Committee who is not otherwise employed by the United States Government shall receive compensation, at a rate established by the Director which shall not exceed a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Committee. A member of the Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g)(1) The Director shall establish in the Foundation a Special Assistant for Women in Science who—

(A) shall be the principal adviser to the Director on matters relating to the advancement of women in science and technology;

(B) shall provide such support, staff, and assistance to the Committee as may be necessary to carry out its responsibilities under this Act; and

(C) shall facilitate the implementation of recommendations of the Committee.

(2) The Director shall provide the Special Assistant with such support, staff, and assistance as may be necessary to carry out the duties specified in this subsection.

(h) The Committee, with the approval of the Director, is authorized to establish such additional procedures and criteria as necessary to implement the provisions of this part.

(i) Each year the Committee shall prepare and transmit to the Congress a report concerning its activities during the previous year and its proposed activities for the next year.

AUTHORITY

Sec. 252. (a) Except as otherwise provided in this Act the Foundation shall, in carrying out its functions under this Act, have the same powers and authority the Foundation has under the National Science Foundation Act of 1950 to carry out its functions under that Act.

(b) Except as otherwise provided in this Act, the Director shall, in carrying out the functions of the Director under this Act, have the same powers and authority the Director has under the National Science Foundation Act of 1950 to carry out the functions of the Director under that Act.

APPLICATIONS REQUIRED

Sec. 253. No grant may be made nor any contract entered into under this Act unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director may require.

SEVERABILITY

Sec. 254. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

Sec. 255. (a) Of the sums appropriated for the National Science Foundation under section 101(a), not less than 2.1 per centum shall be available in fiscal years 1981 and 1982 for carrying out the provisions of this title.

(b) The funds made available under subsection (a) shall be expended as follows:

(1) one-third of such sums to be expended to carry out the provisions of parts B and C of title II;

(2) one-third of such sums to be expended to carry out the provisions of part D of title II; and

(3) one-third of such sums to be expended to carry out the provisions of title II at the direction of the Director.

(c) Funds appropriated to carry out programs and activities authorized by this Act are in addition to funds appropriated pursuant to any other provision of law for the purpose of increasing the participation of women in science and technology.

The title was amended so as to read:

A bill to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers and to authorize appropriations for activities for the National Science Foundation for fiscal years 1981 and 1982, and for other purposes.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATIONS

The Senate proceeded to consider the bill (S. 2489) to authorize appropriations for the Coast Guard for fiscal years 1981 and 1982, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That funds are hereby authorized to be appropriated for necessary expenses of the Coast Guard for the fiscal year 1981 as follows:

(1) For the operation and maintenance of the Coast Guard including expenses related to the Capehart housing debt reduction, $1,248,367,000 and such additional sums as may be necessary to meet unforeseen circumstances;

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $469,320,000, to remain available until expended;

(3) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $16,200,000, to remain available until expended;

(4) For research, development, testing, and evaluation, $30,000,000, to remain available until expended.

Sec. 2. For fiscal year 1981, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,600: *Provided*, That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

Sec. 3. For fiscal year 1981, average military training student loads for the Coast Guard are authorized as follows:

(1) Recruit and special training: 4,175 student-years;

(2) Flight training: 117 student-years;

(3) Professional training in military and civilian institutions: 595 student-years; and

(4) Officer acquisition: 925 student-years.

Sec. 4. Subsection 475(a) of title 14, United States Code, is amended so that the second sentence reads as follows: "When any such lease involves housing facilities in a foreign evance, and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of radio, television, journals, newspapers, magazines, and other media.

(b) Activities supported under subsection (a) may—

(1) demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields;

(2) stress the importance of equal opportunity for women in careers in science and technology;

(3) emphasize the importance of skills in mathematics and science for a wide range of activities and programs; or

(4) include new media or information techniques with the potential to further the purposes of this section.

MUSEUM PROGRAMS

SEC. 234. The Foundation is authorized to support, by way of grant or contract, activities of museums and science centers which demonstrate potential to interest and involve women. Activities supported under this section shall encourage the study and development of skills in mathematics and science, emphasize opportunities for careers in scientific and technical fields, and stress the importance of equal opportunity for women in science and technology.

PART D—OPPORTUNITY IMPROVEMENT AND REPORTING PROGRAMS

Subpart 1—Opportunity Programs

NATIONAL RESEARCH OPPORTUNITY GRANTS

SEC. 241. (a) Each year, the Director is authorized to make grants, to be known as the National Research Opportunity Grants, to women scientists who (1) have received their doctorate within five years prior to the date of the award or (2) have received their doctorate, have had their careers interrupted, and are re-entering the work force within five years after such interruption. Grants under this section shall be made on the basis of merit through an annual competition.

(b) Each grant made under this section shall be used by the recipient to conduct scientific research in a field chosen by the recipient. Grants made under this section may include funds for the acquisition or maintenance of equipment and the renovation of facilities for research purposes.

(c) Each grant made under this section shall be made for a period of three-years and may be renewed once for an additional three-year period.

(d) The minimum annual amount of any grant under this section shall be $10,000 and the maximum annual amount for any such grant shall be $75,000. In determining the amount of each grant, the Director shall consider the field in which the research is to be carried out pursuant to the grant and the costs of carrying out research in such field. A grant under this section shall be paid directly to the scientists conducting the research.

(e) The Director may provide not in excess of $5,000 per year to each academic institution, research center, or research organization in which research conducted pursuant to any grant made under this section is carried out. Such funds shall be used for the purposes of defraying the administrative costs of such institution, center, or organization related to such research.

(f) A recipient of any grant under this section may conduct research pursuant to the grant at any academic institution, research center, or research organization approved by the Director.

VISITING PROFESSORSHIPS FOR WOMEN IN SCIENCE

SEC. 242. (a) The Foundation is authorized to make grants to individuals or academic institutions for full-time or part-time visiting professorships for women in science. Such professorships may be held by individuals from the industrial, public, or academic sectors.

(b) A visiting professor shall serve at an institution which assures the Director that—

(1) the visiting professor will have appropriate research and teaching opportunities, as well as opportunities to serve as a source of advice and counsel for women considering careers in science and technology; and

(2) the institution will establish or expand activities to increase the participation and advancement of women scientists and engineers in the activities of the institution, including research and teaching activities.

(c)(1) Each visiting professor shall serve in an institution in which the establishment of a visiting professorship is expected to increase the participation and advancement of women scientists and engineers in its research and teaching activities.

(2) Each visiting professorship shall be for a period of at least one year and not more than two years.

DEMONSTRATION PROJECTS

SEC. 243. The Foundation is authorized, after consultation with appropriate public agencies and private entities, to support, by way of grant or contract, activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science, engineering, and technology through—

(1) the establishment and implementation of cooperative research and education arrangements among business concerns, academic institutions, and other appropriate entities;

(2) the development of work-study, preservice, or inservice programs leading to permanent employment or advancement;

(3) the development of programs to assist scientists and engineers to obtain new skills in order to change fields, advance, or otherwise adapt to changing needs in science and technology;

(4) the development of programs to permit scientists and engineers to exchange positions or rotate between positions within and among public agencies and private entities;

(5) the establishment of new research opportunities for students, scientists, and engineers;

(6) the improvement of employment policies and conditions; and

(7) other appropriate activities.

Subpart 2—Agency Responsibility

DEFINITIONS

SEC. 246. (a) For purposes of this part—

(1) the term "Federal financial assistance" means any grant, loan, or contract other than a contract of insurance or guaranty;

(2) the term "national laboratory" means any Government directed research and development laboratory, as well as any research and development laboratory funded at least in part by the Federal Government, except as provided in paragraph (3) of this subsection; and

(3) the term "federally funded research and development center" means any organization which performs research and development exclusively or substantially financed by the Federal Government and which is administered by an industrial firm, university, college, or other nonprofit institution.

(b) The Director of the Office of Science and Technology Policy, in consultation with the Director of the National Science Foundation, the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and appropriate public and private entities, shall establish the criteria for defining the term "scientific and technical positions" for the purposes of this part.

DATA COLLECTION

SEC. 247. (a) By September 30 of each year, the Chairman of the Equal Employment Opportunity Commission shall prepare and transmit to the Foundation a report concerning the employment status of women in scientific and technical fields. To the maximum extent possible, the Chairman shall collect such information through existing appropriate data collection mechanisms and reporting procedures.

(b) The report required by subsection (a) shall include but not be limited to—

(1) for all employers with fifteen or more employees who employ individuals from scientific and technical fields and for each Federal agency that conducts or supports research and development in science and technology, a compilation, comparison, and evaluation, by sex, race, ethnic group, and discipline, of—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions, by level or other similar category;

(B) the average salary of individuals employed in such scientific and technical positions, by level or other similar category;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving on each Federal peer review and advisory panel dealing with scientific research and development activities; and

(E) the number of individuals serving as principal investigators in Federal agency, national laboratory, or federally funded research and development center supported or conducted scientific research and development projects; and

(2) for each Federal agency, national laboratory, or federally funded research and development center, a description and evaluation of the activities of such agency, laboratory, or center to—

(A) prevent discrimination against women in science and technology;

(B) increase opportunities for the employment, training, and advancement of women in science;

(C) increase the participation of women scientists in federally funded research;

(D) encourage the participation of minority women in scientific and technical careers; and

(E) encourage the participation of handicapped women in scientific and technical careers.

BIENNIAL REPORT

SEC. 248. (a) By January 30, 1982 and biennially thereafter, the Director shall simultaneously transmit the report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services.

(b) The report required by subsection (a) shall contain—

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and technical positions, including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions by appropriate level or similar category;

(B) the average salary of individuals in an appropriate level or similar category;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and technical positions; and

(2) such other data as the Committee determines appropriate in accordance with section 251(a)(7).

science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills;

(2) the preeminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a multiplier effect on the gross national product;

(3) the full use of the scientific and technical human resources of the Nation is required to meet the demand for such resources over the long term;

(4) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

(5) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

(6) women have long been denied equal employment opportunities in scientific and technical fields; and

(7) although men and women have equal potential for excellence and advancement in scientific and technical fields—

(A) about 10 per centum of scientists and engineers engaged in research are women;

(B) the unemployment rates of women scientists are two to five times higher than such rates for men in every field of science;

(C) women scientists generally earn less than men in every field, at every degree level, at every level of experience and in every employment setting;

(D) minority women have yet to achieve measurable participation in science; and

(E) handicapped women have yet to achieve measurable participation in science.

STATEMENT OF POLICY

SEC. 212. The Congress declares it is the policy of the United States to encourage women to acquire skills in science and mathematics, to assure equal opportunity for women in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. Activities conducted to carry out the purposes and provisions of this Act shall—

(1) be carried out under the direction of the National Science Foundation;

(2) make maximum use of existing Federal programs, funding, and reporting procedures;

(3) provide for coordination between all Federal agencies involved in carrying out the provisions of this Act;

(4) use the expertise of women scientists and women involved in scientific activities;

(5) provide for the participation of professional associations and groups with expertise in the advancement of women, especially associations and groups involved in the advancement of women in scientific and technical fields;

(6) encourage the involvement in and contribution of resources for scientific activities by the private sector;

(7) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

(8) emphasize fields of scientific and technical study and employment in which the underrepresentation of women is most serious and in which employment opportunities are the greatest; and

(9) provide for and encourage cooperation among governmental, industrial, academic, and other types of employers in accomplishing the purposes of this Act.

DEFINITIONS

SEC. 213. For the purposes of this Act—

(1) the term "Federal agency" means an agency as defined in section 551(1) of title 5, United States Code;

(2) the term "State" means each of the several States and the District of Columbia;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "Director" means the Director of the Foundation;

(5) the term "Committee" means the Committee on Women in Science established under section 251; and

(6) the term "science" includes engineering.

PART B—EDUCATION

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 221. (a) The Foundation is authorized to support, by way of grant or contract, programs in science and mathematics in elementary and secondary schools.

(b) Programs supported under this section shall emphasize the acquisition of knowledge, skills, and information by female students, and may include—

(1) the training and retraining (including inservice training) of teachers, counselors, administrators, and other appropriate educational personnel to improve the quality and other appropriate educational personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the use of visiting women scientists and technicians, field trips, or other techniques to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

(3) student science training programs, research participation projects, and internships; or

(4) workshops for students and their parents and guardians to increase awareness and understanding of the importance of skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

(c) The Foundation shall coordinate activities to carry out this section with complementary activities of appropriate public agencies and private entities.

(d) Elementary and secondary school programs included under this section shall not be implemented by the Foundation or any of its grantees or contractors in any school system without the prior written consent of the local education agency as defined in Section 801(f) Public Law 89-10.

HIGHER EDUCATION PROGRAMS

SEC. 222. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to (1) increase the participation of women in courses of study at the undergraduate, graduate, and postgraduate leads to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology, (3) provide traineeship and fellowship opportunities for women in science and technology, or (4) provide continuing education and retraining opportunities in scientific and technical fields for women whose careers have been interrupted.

(b) Activities supported under this section may include—

(1) the awarding of graduate and postgraduate fellowships, and career development grants, directly to individuals and to institutions for award to individuals, without regard to when the individual received an undergraduate or graduate degree; or

(2) research participation, traineeships, and internship programs;

(c) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

(d) Industrial recipients of fellowships, grants, and traineeships under this section shall be paid such stipends as the Director may prescribe.

CONTINUING EDUCATION PROGRAM

SEC. 223. (a) The Foundation is authorized to support, by way of grant or contract, activities in continuing education in science and engineering which provide opportunities for women who (1) are in the work force or (2) who are not in the work force because their careers have been interrupted to acquire new knowledge, techniques, and skills in scientific and technical fields.

(b) Activities supported under this section may include—

(1) the award of full-time and part-time fellowships to enable individuals eligible under subsection (a) to pursue study and research, continuing education, and career development in scientific and technical fields, without regard to when the individual received a degree; or

(2) other activities, including pilot programs and regional efforts, to further the purposes of this section.

(c) Individual recipients of fellowships under this section shall be paid such stipends as the Director may prescribe.

(d) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

PART C—PUBLIC UNDERSTANDING

RESEARCH PROGRAM

SEC. 231. (a) The Director is authorized to undertake or support, by way of grant or contract, a comprehensive research program designed to increase understanding of (1) the potential contribution of women in science and technology and (2) the means to facilitate the participation and advancement of women in scientific and technical careers.

(b) The program shall include studies concerning the problems confronting girls and women in the study of science and mathematics, and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

VISITING WOMEN SCIENTISTS PROGRAM

SEC. 232. (a) The Director is authorized to establish a visiting women scientists program.

(b) Each year, the Director is authorized to name not fewer than thirty women to be visiting women scientists. Visiting women scientists named under this subsection shall visit secondary schools and institutions of higher education in all regions of the country in order to—

(1) encourage girls and women to acquire skills in mathematics and science;

(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers; and

(3) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

(c) Each visiting woman scientist who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, she is engaged in the actual performance of her duties under this section. A visiting woman scientist who is an officer or employee of the United States Government shall serve without additional compensation. Each visiting scientist shall be reimbursed for travel, subsistence, and other necessary expenses incurred by her in the performance of her duties.

MEDIA PROJECTS

SEC. 233. (a) The Foundation is authorized to support, by way of grant of contract, activities designed to improve the scope, rel-tained in Title II of S. 568 will enhance this nation's scientific and technical strength. It will contribute to the standard of excellence which has been the hallmark of our scientific and technical enterprise. And it will insure that all of our talented students and researchers are given a full opportunity to pursue careers which are among the most challenging and rewarding that our nation has to offer.

I add in closing that it has indeed been heartening that so many of my colleagues on the Committee on Labor and Human Resources, in a bipartisan effort, have joined with me in cosponsoring this legislation. I want to thank my friend and colleague, Senator Schweiker, the ranking minority member of the Committee, for his support and cosponsorship, as well as that of Senators Williams, Pell, Metzenbaum, Matsunaga, Inouye, and Javits.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization and Women in Science Act".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated to the National Science Foundation $1,074,000,000 for the fiscal year 1981 and $1,235,500,000 for the fiscal year 1982.

(b) Funds authorized for the fiscal year 1981 will be available for the following categories:

(1) Mathematical and Physical Sciences, $245,290,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $225,540,000.

(3) United States Antarctic Program, $58,000,000.

(4) Ocean Drilling Programs, $24,000,000.

(5) Biological, Behavioral, and Social Sciences, $173,540,000.

(6) Science Education Programs, $87,100,000.

(7) (A) Engineering, $58,540,000.

(B) Applied Sciences, $69,540,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $26,500,000.

(9) Cross-Directorate Programs, $32,750,000.

(10) Program Development and Management, $60,000,000.

(11) Funds to be expended at direction of the Director in accordance with section 255(b)(3), $7,700,000.

(c) Funds authorized for the fiscal year 1982 will be available for the following categories:

(1) Mathematical and Physical Sciences, $267,800,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $245,800,000.

(3) United States Antarctic Program, $64,000,000.

(4) Ocean Drilling Programs, $26,500,000.

(5) Biological, Behavioral, and Social Sciences, $189,800,000.

(6) Science Education Programs, $121,000,000.

(7) (A) Engineering, $67,800,000.

(B) Applied Sciences, $96,800,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $29,000,000.

(9) Cross-Directorate Programs, $52,000,000.

(10) Program Development and Management, $66,000,000.

(11) Funds to be expended at the direction of the Director in accordance with section 255(b)(3), $9,000,000.

(d) Of the total amount authorized under subsection (b)(9), not more than $1,000,000 is authorized for United States/Union Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States of America.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in sections 101 and 104 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SPECIAL EMPHASIS PROGRAMS

SEC. 103. (a) Of the total amount authorized under sections 101(b)(6) and 101(c)(6)—

(1) $1,000,000 is authorized for a program of education in appropriate technology;

(2) $2,250,000 is authorized for the program Ethics and Values in Science and Technology; and

(3) $5,000,000 is authorized for the program Minorities and the Handicapped in Science.

(b)(1) Of the total amount authorized under sections 101(b)(1), 101(b)(2), and 101(b)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

(2) Of the total amount authorized under sections 101(c)(1), 101(c)(2), and 101(c)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

OFFICIAL EXPENSES

SEC. 104. From appropriations made under this Act, not more than $5,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY

SEC. 105. Besides the sums authorized by section 101, not more than $5,500,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFER AUTHORITY

SEC. 106. (a) Funds may be transferred among the categories listed in section 101 (b) or 101(c), so long as the net funds transferred to or from any category do not exceed 10 per centum of the amounts authorized for that category in section 101.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 101. Such a proposal must be transmitted in writing to the Speaker of the House, the President of the Senate, and the Senate Committee on Labor and Human Resources and the House Authorization Committee on Science and Technology. The proposed transfer may be made only when—

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairmen of the House Committee on Science and Technology and the Senate Committee on Labor and Human Resources have both written the Director to the effect that the committees have no objection to the proposed transfer.

AMENDMENTS TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 107. (a)(1) Section 4(c) of the National Science Foundation Act of 1950 is amended by inserting after the first sentence the following new sentence: "In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women and who represent minority groups.".

(2) Section 4(j) of the Act is amended to read as follows:

"(j)(1) The Board shall prepare and submit a biennial report to the President, for submission to the Congress, on or before January 15th of every other year, commencing with 1982. Such policy report shall deal essentially, though not exclusively, with policy matters or issues which affect the Foundation or with which the Board in its official role as the policy-making body of the Foundation is concerned.

"(2) The Board shall prepare and submit biennial report to the President for submission to Congress, on or before January 15th of every other year commencing with 1982. Such report shall deal with indicators of the state of science in the United States. In addition, the Board shall prepare and submit to the President for submission to the Congress such other reports on policy matters related to science, engineering, and science education, as the Board, the President, or the Congress may determine necessary.".

(b)(1) Section 15(c) of the National Science Foundation Act of 1950 is repealed.

(2) Subsection (d) of section 15 of such Act is redesignated as subsection (c).

(c) Section 16 of the National Science Foundation Act of 1950 is amended to read as follows:

"APPROPRIATIONS

"SEC. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

AMENDMENTS TO AWARDS

SEC. 108. (a) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences" approved August 25, 1959 is amended by striking "or engineering" and inserting in lieu thereof "engineering, behavioral or social".

(b) Section 6(a) of the National Science Foundation Authorization Act, 1976 is amended by inserting after "engineering" a comma and the following: "behavioral".

TITLE II—WOMEN IN SCIENCE

SHORT TITLE

SEC. 201. This title may be cited as the "Women in Science and Technology Equal Opportunity Act".

PART A—STATEMENT OF FINDINGS, PURPOSE, AND POLICY

STATEMENT OF FINDINGS

SEC. 211. The Congress finds that—

(1) it is in the national interest to promote the full use of human resources in

was that the funding mechanism for Title II (Women in Science) provisions reduced the amount authorized for each of NSF's research directorates. Indicating that there is a shortage of tenure line career openings for prospective faculty as well as demand for increasingly complex research without commensurate support for either investigators or replacement of outmoded or deteriorating instruments and equipment, Dr. Reynolds implied that the prorated reduction in funding for the research directorates may prove counterproductive for women. The nature of the awards suggested by Dr. Reynolds are included in S. 568, as reported, and in my substitute. The difference in my substitute is simply that we have mandated the complete $23 million for FY '81 and $27 million for FY '82, respectively, to be expended out of the research directorates and not as a separate line item. One-third of the total Women in Science authorization for each year has been put back into the Science Education directorate for the activities authorized in Part B of Title II. One-third has been divided among five of the remaining research directorates. One-third has been designated as a "Title II Discretionary Research Fund" for the Director to expend on additional research opportunity grants falling within the purview of any research directorate as well as any other activity authorized in Title II. Hopefully, this formula will prevent unnecessary difficulty in NSF's resource planning as well as guarantee a significant expenditure for a worthwhile emphasis program.

It has also been erroneously stated that this bill with or without these amendments would limit funding for research proposals submitted by women to the $23 million and $27 million authorized by S. 568. This is not true. Title II is a program designed to encourage young women to go into the sciences and to provide some basic opportunities for new Ph. D.'s or women getting back into the work force after a break in their careers. Women who do not fall into the eligibility criteria established under this for Title II funds are still able and, indeed, encouraged to submit research proposals under the normal procedures. NSF is directed to give these submissions careful consideration and award grants to those which are meritorious as they would any other application for research.

Mr. President, I would like to add that either version of Title II will require the adequate oversight of the Committee and the top leadership of NSF. As I mentioned earlier, there has been some lack of sensitivity for the obstacles facing women in science. It will be incumbent on the administration of NSF to implement Title II fairly and efficiently, hopefully developing its own awareness of these particular difficulties. NSF's success in doing so will enable an eventual phase out of the emphasis program altogether.

To reiterate my remarks from the Committee's report, I feel strongly that *any* emphasis program, for women, minorities, or any group or class of people, should ideally serve as a springboard for sound competition with those not eligible for participation in a federally sponsored program. Currently, there is a need to provide greater opportunities for women in science. This need should be resolved in time. If NSF fails to carry out the intent of Congress upon passage of S. 568, then we will have created just another wasteful, bottomless pit for the taxpayers' money without any benefit to women, to science, or to our country.

It is envisioned that NSF will work directly with the organizations involved in education, science, and the status of women since these private sector organizations have already conducted considerable research and have important views on this issue. Though many of these groups have expressed their ideas during hearings held on the Women in Science proposal, their input on implementation may save NSF from re-inventing the wheel as well as help NSF gauge its progress toward meeting program goals.

Mr. President, I understand the distinguished Senator from Massachusetts is prepared to accept these amendments on behalf of the majority. I might point out for the record that these amendments represent a careful review of both Title I and Title II provisions in S. 568, as reported, and I want to express my appreciation to Mr. Robert Wenger and Mr. Robert Knouss of Senator Kennedy's Health Subcommittee staff for their kind cooperation and assistance. I think we have authorized funds and programs which will not only inspire some awareness within NSF of the problems women face in becoming scientists and engineers but also will provide more direct assistance to individuals who have great potential for helping to pull our nation out of an alarming science and technology decline.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have a statement by Mr. KENNEDY printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR KENNEDY

NATIONAL SCIENCE FOUNDATION AUTHORIZATION AND WOMEN IN SCIENCE ACT (S. 568)

I am pleased to have the opportunity today to support the favorable consideration of S. 568, "The National Science Foundation Authorization and Women in Science Act." This bill combines the authorizations for the National Science Foundation for fiscal years 1981 and 1982 with the substance of the "Women in Science and Technology Equal Opportunity Act." It represents the continued commitment of the Subcommittee on Health and Scientific Research, which I chair, to the support of our scientific enterprise. And it represents the culmination of three years of study by the Subcommittee on Health and Scientific Research about the problems confronted by women pursuing careers in science. Over that period, the Subcommittee has consulted with hundreds of organizations and individuals in an attempt to develop an effective program to assist in improving the status of women in science.

The National Science Foundation has made major contributions to the development and expansion of the United States technologic and scientific resources. The programs of this agency have supported countless scientists and accelerated their many discoveries regarding the basic nature of our planet and universe. During the time that I have served in the Senate, and as Chairman of the Subcommittee on Health and Scientific Research, it has been my pleasure to work closely with the leadership and staff of the National Science Foundation in considering the difficult and challenging questions of science policy.

I believe that the scientific knowledge of the United States is a precious national resource. We, as a nation, are recognized as a leader in almost every scientific discipline. No small credit for the development of these scientific resources must go to the programs and scientists supported by the public and administered by the National Science Foundation. The examples of the impact of the National Science Foundation's programs are witnessed almost daily. Scientific breakthroughs seem almost commonplace. But they have been possible, in large part, because we have invested wisely in basic and applied research. Now we must acknowledge that science is entering a critical era. We cannot afford to be lulled into complacency. Today's investments in the research resources of our country is both wise and prudent and will assure that our children and their children continue to receive the benefits of expanding knowledge of the world they will live in.

Over the years, the Subcommittee on Health and Scientific Resarch has expressed deep concern for the development of the human resources that are necessary to achieve our nation's advancement in the sciences. But today, we must admit to a significant failure. I agree with the National Science Foundation that "The underrepresentation of women in most aspects of the nation's science and technology enterprise, must be changed. It is not fair and it represents the loss of a significant national resource. With the increasing importance of science and technology in our society, we can no longer afford to bypass this important talent pool." The evidence is overwhelming that women, by acts of omission or commission, have not experienced equal opportunity in science and technology. While it is in the national interest to insure the full development and use of the talents of men and women with scientific and technical skills, half of the nation's population has been overlooked. It is a sad fact that only 3 percent of the nation's engineers, 4 percent of our physicists, and 11 percent of the nation's chemists are women. It is a sad fact that women seeking scientific and technical careers are experiencing unemployment rates two to five times higher than those of their male colleagues. It is a sad fact that those women who are employed in scientific and technological careers earn less than men in every field, at every degree level, at every level of experience, and in every employment setting. It is a sad fact that minority and handicapped women have yet to achieve any measurable participation in careers in science. All of us should ask ourselves how many breakthroughs in science have come from the 50 percent of the population which has been so arbitrarily discarded? How much more rapid might have been our advances in areas of national concern? How many Nobel Prizes might have been won? And how different might have been our present perceptions about the rule of women in science and engineering?

This situation is far too disturbing to be written off as the natural outcome of an educational and career ladder on which advancement is based solely on merit. We are so far from equal opportunities that even with a 10 percent improvement every year, it will be another 50 years before talented women have equal access to careers in engineering, physics, and chemistry.

In 1976, the Subcommittee on Health and Scientific Research provided for a special emphasis within the science education directorate on programs related to women in science. Now, after thoughtful and careful consideration, and after consultation with scientific leaders from around the country, the Subcommittee on Health and Scientific Research views current efforts as insufficient. To wait another 50 years to achieve equality at the current rate of progress is unconscionable. Therefore, the Committee has determined that a concerted effort must be made to expedite the process and can only be successful within the framework of a separate budget activity recommended by the Committee in Title II of S. 568.

I agree that federal legislation alone will not change patterns whose origins are as complex as those which characterize the present situation. Any federal effort will have to be accompanied by a new commitment on the part of the scientific community, educators, counselors, and administrators. It will require far greater involvement of parents in encouraging young women to persist in acquiring the basic skills which are the entrance requirements for an ever increasing number of professions. It is my conviction that the kind of comprehensive effort con-

Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, she is engaged in the actual performance of her duties under this section. A visiting woman scientist who is an officer or employee of the United States Government shall serve without additional compensation. Each visiting scientist shall be reimbursed for travel, subsistence, and other necessary expenses incurred by her in the performance of her duties.

"MEDIA PROJECTS

"SEC. 233. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to improve the scope, relevance, and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of radio, television, journals, newspapers, magazines, and other media.

"(b) Activities supported under subsection (a) may—

"(1) demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields;

"(2) stress the importance of equal opportunity for women in careers in science and technology;

"(3) emphasize the importance of skills in mathematics and science for a wide range of activities and programs; or

"(4) include new media or information techniques with the potential to further the purposes of this section.

"MUSEUM PROGRAMS

"SEC. 234. The Foundation is authorized to support, by way of grant or contract, activities of museums and science centers which demonstrate potential to interest and involve women. Activities supported under this section shall encourage the study and development of skills in mathematics and science, emphasize opportunities for careers in scientific and technical fields, and stress the importance of equal opportunity for women in science and technology.".

"SEC. 3. Section 244 and the heading thereto are striken in their entireties.

SEC. 4. Section 247(b) is amended by inserting ", but not limited to" after "include".

SEC. 5. The second sentence of section 248(a) is amended to read as follows:

"By January 30, 1982 and biennially thereafter, the Director shall simultaneously transmit the report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services.".

SEC. 6. Section 255 is amended to read as follows:

"(a) Of the sums appropriated for the National Science Foundation under section 101(a), not less than 2.1 per centum shall be available in fiscal years 1981 and 1982 for carrying out the provisions of this title.

"(b) The funds made available under subsection (a) shall be expended as follows:

"(1) one-third of such sums to be expended to carry out the provisions of parts B and C of title II;

"(2) one-third of such sums to be expended to carry out the provisions of part D of title II; and

"(3) one-third of such sums to be expended to carry out the provisions of title II at the direction of the Director.

"(c) Funds appropriated to carry out programs and activities authorized by this Act are in addition to funds appropriated pursuant to any other provision of law for the purpose of increasing the participation of women in science and technology.".

SEC. 7. On page 42, line 18, insert "(1)" after "(a)".

SEC. 8. On page 42, between lines 23 and 24, insert the following:

(2) Section 4 (j) of the Act is amended to read as follows:

"(j) (1) The Board shall prepare and submit a biennial report to the President, for submission to the Congress, on or before January 15 of every other year, commencing with 1982. Such policy report shall deal essentially, though not exclusively, with policy maters or issues which affect the Foundation or with which the Board in its official role as the policymaking body of the Foundation is concerned.

"(2) The Board shall prepare and submit a biennial report to the President for submission to Congress, on or before January 15 of every other year commencing with 1982. Such report shall deal with indicators of the state of science in the United States. In addition, the Board shall prepare and submit to the President for submission to the Congress such other reports on policy matters related to science, engineering, and science education, as the Board, the President, or the Congress may determine necessary.".

SEC. 9. On page 42, after line 25, insert the following:

(2) Subsection (d) of section 15 of such Act is redesignated as subsection (c).

(c) Section 16 of the National Science Foundation Act of 1950 is amended to read as follows:

"APPROPRIATIONS

"SEC. 16. To enable to Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

AMENDMENTS TO AWARDS

SEC. 108. On page 42 after line 25 insert the following: (a) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences" approved August 25, 1959 is amended by striking "or engineering" and inserting in lieu thereof "engineering, behavorial or social".

(b) Section 6(a) of the National Science Foundation Authorization Act, 1976 is amended by inserting after "engineering" a comma and the following: "behavioral".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 1288) was agreed to.

Mr. STAFFORD. Mr. President, I ask unanimous consent that a statement of Mr. HATCH be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HATCH

The research and development efforts of our country have been on the decline for several years. Our nation's lead in science and technology, relative to our foreign competitors in the market and our adversaries in the political and military arenas, is shrinking to a dangerous level. I think all of my colleagues in the Congress acknowledge that this is an issue for which we must find effective solutions. Presently, there are few, if any, real incentives for the long-run risk-taking required for meaningful research and development activity.

The lack of incentive is also evident in the human aspects of our scientific and technological problem. It has become clear that there are many barriers discouraging women from the pursuit of science and engineering careers. I agree with my distinguished colleague from Massachusetts, who took the initiative to propose legislation to help women overcome some of these barriers, that we cannot overlook the great potential of women to contribute significantly to the general base of knowledge in the sciences or to advances in state-of-the-art technologies.

However, Mr. President, I would like to see the maximum of funds authorized, and eventually appropriated, go directly to women. I have introduced an amendment, in the nature of a substitute, which I believe will disperse greater funds outside of Washington and impersonal establishments as well as ensure a fair and efficient administration of this new program.

I was not convinced that some of the authorized activities in Part C of S. 568, as reported, such as a special Center for Women in Science, the subsidized development of books and instructional materials, or an undefined community outreach would actually assist the girls and women in science. It seems to me that these types of activities only invest money in institutions. I think the aim of the Women in Science program ought to be to invest money in individuals. Their contributions in science and technology can mean a lot to our future.

A recent study by Dr. Betty M. Vetter, executive Director of the Scientific Manpower Commission, summarized by the author in the January 4 issue of Science Magazine, found that the number of women scientists and engineers is increasing. The number of women obtaining bachelors degrees has almost doubled and the number of doctorates has nearly tripled since 1960. This is encouraging and, with the boost the educational provisions this bill provides, there can be even greater progress.

Dr. Vetter's principal findings, however, were more disturbing. First, at every degree level, unemployment for women scientists has remained almost a full 3 percent above the unemployment rate for men for the six years. Second, in every field of science, at every level of experience, at every degree level, and for every type of employer, with the exception of baccalaurate graduates in engineering, salary levels for women are lower than for men in comparable categories. Dr. Vetter has even found that the differential has increased in some instances. Third, the study determined that the upward mobility for women is much slower than for men with the same academic credentials and experience.

This information should tell us that what is really needed are opportunities for women to perform meaningful research and establish their credentials as principal investigators. More often than not, women have been thrust into support positions for male scientists and, therefore, have not been able to build the reputation prerequisite for full-fledged membership in the scientific community.

This is a classic Catch-22 situation. Women need track records to be accepted as peers of male scientists in university or corporate settings. The opportunities to forge such records have been few and far between.

My substitute would seek to correct this by concentrating almost a full two-thirds of the entire $23 million for FY '81 and $27 million for FY '82 into a research opportunity program for women who have just learned their doctorates or who are re-entering the field after a break in their careers. In my estimation, Mr. President, this is the best way to assist promising women scientists and engineers.

during hearings on the Women in Science would incorporate the suggestions put forth during hearings on the Woman in Science proposal by Dr. Ann Reynolds, provost of Ohio State University, testifying on behalf of eight national organizations involved in higher education. Her principal concern

"(8) Scientific, Technological, and International Affairs, $29,000,000.

"(9) Cross-Directorate Programs, $52,000,000.

"(10) Program Development and Management, $66,000,000.

"(11) Funds to be expended at the direction of the Director in accordance with section 255(b)(3), $9,000,000.

SEC. 2. Parts A, B, and C of title II are amended to read as follows:

"PART A—STATEMENT OF FINDINGS, PURPOSE, AND POLICY

"STATEMENT OF FINDINGS

"SEC. 211. The Congress finds that—

"(1) it is in the national interest to promote the full use of human resources in science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills;

"(2) the preminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a multiplier effect on the gross national product;

"(3) the full use of the scientific and technical human resources of the Nation is required to meet the demand for such resources over the long term;

"(4) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

"(5) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

"(6) women have long been denied equal employment opportunities in scientific and technical fields; and

"(7) although men and women have equal potential for excellence and advancement in scientific and technical fields—

"(A) about 10 per centum of scientists and engineers engaged in research are women;

"(B) the unemployment rates of women scientists are two to five times higher than such rates for men in every field of science;

"(C) women scientists generally earn less than men in every field, at every degree level, at every level of experience and in every employment setting;

"(D) minority women have yet to achieve measurable participation in science; and

"(E) handicapped women have yet to achieve measurable participation in science.

"STATEMENT OF POLICY

"SEC. 212. The Congress declares it is the policy of the United States to encourage women to acquire skills in science and mathematics, to assure equal opportunity for women in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. Activities conducted to carry out the purposes and provisions of this Act shall—

"(1) be carried out under the direction of the National Science Foundation;

"(2) make maximum use of existing Federal programs, funding, and reporting procedures;

"(3) provide for coordination between all Federal agencies involved in carrying out the provisions of this Act;

"(4) use the expertise of women scientists and women involved in scientific activities;

"(5) provide for the participation of professional associations and groups with expertise in the advancement of women, especially associations and groups involved in the advancement of women in scientific and technical fields;

"(6) encourage the involvement in and contribution of resources for scientific activities by the private sector;

"(7) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

"(8) emphasize fields of scientific and technical study and employment in which the underrepresentation of women is most serious and in which employment opportunities are the greatest; and

"(9) provide for and encourage cooperation among governmental, industrial, academic, and other types of employers in accomplishing the purposes of this Act.

"DEFINITIONS

"SEC. 213. For the purposes of this Act—

"(1) the term 'Federal agency' means an agency as defined in section 551(1) of title 5, United States Code;

"(2) the term 'State' means each of the several States and the District of Columbia;

"(3) the term 'Foundation' means the National Science Foundation;

"(4) the term 'Director' means the Director of the Foundation;

"(5) the term 'Committee' means the Committee on Women in Science established under section 251; and

"(6) the term 'science' includes engineering.

"PART B—EDUCATION

"ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

"SEC. 221. (a) The Foundation is authorized to support, by way of grant or contract, programs in science and mathematics in elementary and secondary schools.

"(b) Programs supported under this section shall emphasize the acquisition of knowldege, skills, and information by female students, and may include—

"(1) the training and retraining (includcluding inservice training) of teachers, counselors, administrators and other appropriate educational personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

"(2) the use of visiting women scientists and technicians, field trips, or other techniques to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

"(3) student science training programs, research participation projects, and internships; or

"(4) workshops for students and their parents and guardians to increase awareness and understanding of the importance of skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

"(c) The Foundation shall coordinate activities to carry out this section with complementary activties of appropriate public agencies and private entities.

"(d) Elementary and secondary school programs included under this section shall not be implemented by the Foundation or any of its grantees or contractors in any school system without the prior written consent of the local education agency as defined in Section 801(f) Public Law 89–10.

"HIGHER EDUCATION PROGRAMS

"SEC. 222. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to (1) increase the participation of women in courses of study at the undergraduate, graduate, and post-graduate levels leading to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology, (3) provide traineeship and fellowship opportunities for women in science and technology, or (4) provide continuing education and retraining opportunities in scientific and technical fields for women whose careers have been interrupted.

"(b) Activities supported under this section may include—

"(1) the awarding of graduate and postgraduate fellowships, and career development grants, directly to individuals and to institutions for award to individuals, without regard to when the individual received an undergraduate or graduate degree; or

"(2) research participation, traineeships, and internship programs.

"(c) The Foundation shall coordinate activities under tthis section with complementary activities of appropriate public agencies and private entities.

"(d) Individual recipients of fellowships, grants, and traineeships under this section shall be paid such stipends as the Director may prescribe.

"CONTINUING EDUCATION PROGRAM

"SEC. 223. (a) The Foundation is authorized to support, by way of grant or contract, activities in continuing education in science and engineering which provide opportunities for women who (1) are in the work force or (2) who are not in the work force because their careers have been interrupted to acquire new knowledge, techniques, and skills in scientific and technical fields.

"(b) Activities supported under this section may include—

"(1) the award of full-time and part-time fellowships to enable individuals eligible under subsection (a) to pursue study and research, continuing education, and career development in scientific and technical fields, without regard to when the individual received a degree; or

"(2) other activities, including pilot programs and regional efforts, to further the purposes of this section.

"(c) Individual recipients of fellowships under this section shall be paid such stipends as the Director may prescribe.

"(d) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

"PART C—PUBLIC UNDERSTANDING

"RESEARCH PROGRAM

"SEC. 231. (a) The Director as authorized to undertake or support, by way of grant or contract, a comprehensive research program designed to increase understanding of (1) the potential contribution of women in science and technology and (2) the means to facilitate the participation and advancement of women in scientific and technical careers.

"(b) The program shall include studies concerning the problems confronting girls and women in the study of science and mathematics, and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

"VISITING WOMEN SCIENTISTS PROGRAM

"SEC. 232. (a) The Director is authorized to establish a visiting women scientists program.

"(b) Each year, the Director is authorized to name not fewer than thirty women to be visiting women scientists. Visiting women scientists named under this subsection shall visit secondary schools and institutions of higher education in all regions of the country in order to—

"(1) encourage girls and women to acquire skills in mathematics and science;

"(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers; and

"(3) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

"(c) Each visiting woman scientist who is not otherwise employed by the United States ized by this Act, taking into consideration the activities conducted and supported by other public agencies and private entities;

(4) provide advice to the Foundation concerning mechanisms to encourage women scientists and engineers to fully participate in all the programs of the Foundation, particularly research programs;

(5) provide advice concerning the appropriate manner to increase the number of women principal investigators on research projects, the development of flexible research support programs, and the improvement of cooperation between business concerns, academic institutions and other appropriate entities to facilitate research opportunities;

(6) make recommendations for the modication of the policies and procedures of the Foundation relating to the appointment of advisory committees and the selection of peer review committees in order to further the purposes of this Act;

(7) make recommendations to the Director concerning the inclusion of data in the report required under section 248; and

(8) evaluate the effectiveness of activities undertaken and supported under this Act.

(b)(1) Each member of the Committee shall be appointed by the Director with the concurrence of the National Science Board. The membership of the Committee shall represent a cross-section of the physical, mathematical, life, behavioral, and social sciences. At least two members of the Committee shall be nonscientists. At least nine members of the Committee shall be women, of whom at least seven shall be scientists or engineers active in promoting increased participation of women in science. In appointing members to the Commitee, the Director shall obtain recommendations from governmental and private organizations active in promoting equal opportunity for women in science.

(2) The Chairperson of the National Science Board Committee on Minorities and Women shall be an ex officio member of the Committee.

(c) Members of the Committee shall be appointed to serve for a three year term, except that the terms of office of members first appointed shall expire, as designated by the Director at the time of appointment, five at the end of one year, four at the end of two years, and four at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of such term. Members may be reappointed to serve one additional term of three years.

(d) Seven members of the Committee shall constitute a quorum, and any vacancy in the Committee shall not affect its power to function.

(e) Members of the Committee shall select a member to serve as Chairperson.

(f) Each member of the Committee who is not otherwise employed by the United States Government shall receive compensation, at a rate established by the Director which shall not exceed a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Committee. A member of the Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g)(1) The Director shall establish in the Foundation a Special Assistant for Women in Science who—

(A) shall be the principal adviser to the Director on matters relating to the advancement of women in science and technology;

(B) shall provide such support, staff, and assistance to the Committee as may be necessary to carry out its responsibilities under this Act; and

(C) shall facilitate the implementation of recommendations of the Committee.

(2) The Director shall provide the Special Assistant with such support, staff, and assistance as may be necessary to carry out the duties specified in this subsection.

(h) The Committee, with the approval of the Director, is authorized to establish such additional procedures and criteria as necessary to implement the provisions of this part.

(i) Each year the Committee shall prepare and transmit to the Congress a report concerning its activities during the previous year and its proposed activities for the next year.

AUTHORITY

SEC. 252. (a) Except as otherwise provided in this Act the Foundation shall, in carrying out its functions under this Act, have the same powers and authority the Foundation has under the National Science Foundation Act of 1950 to carry out its functions under that Act.

(b) Except as otherwise provided in this Act, the Director shall, in carrying out the functions of the Director under this Act, have the same powers and authority the Director has under the National Science Foundation Act of 1950 to carry out the functions of the Director under that Act.

APPLICATIONS REQUIRED

SEC. 253. No grant may be made nor any contract entered into under this Act unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director may require.

SEVERABILITY

SEC. 254. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the applicaton of the provisions to another person or circumstance shall not be affected.

AVAILABILITY OF APPROPRIATIONS

SEC. 255. (a) Of the sums authorized for the National Science Foundation under section 101(a), $23,000,000 in fiscal year 1981, and $27,000,000 in fiscal year 1982 shall be available for carrying out the provisions of this title.

(b) Of the sums available under subsection (a) of this section for each fiscal year—

(1) not less than 15 per centum of such sums for each such year shall be reserved for carrying out section 222(b)(3), section 222(b)(4), and section 222(d) (relating to higher education programs), and section 223(b)(2) and section 223(c) (relating to continuing education programs);

(2) not less than 15 per centum of such sums for each such year shall be reserved for section 241 (relating to national research opportunity grants); and

(3) not more than 5 per centum of such sums for each such year shall be available for section 242 (relating to visiting professorships).

(c) Funds appropriated to carry out programs and activities authorized by this Act are in addition to funds appropriated pursuant to any other provision of law for the purpose of increasing the participation of women in science and technology.

UP AMENDMENT NO. 1287

(Purpose: To insure the United States' interests in the National Science Foundation United States/U.S.S.R. cooperative research program are protected)

Mr. STAFFORD. Mr. President, on behalf of Senator McCLURE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for Mr. McCLURE, proposes an unprinted amendment numbered 1287:

On page 40, add the following at the end of Section 101:

(d) Of the total amount authorized under subsection (b)(9), not more than $1,000,000 is authorized for United States/Union Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States of America.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 1287) was agreed to.

UP AMENDMENT NO. 1288

(Purpose: To clarify and strengthen the purposes of the women in science program and to make technical amendments)

Mr. STAFFORD. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), on behalf of Senator HATCH, proposes an unprinted amendment numbered 1288:

Subsections (b) and (c) of section 101 are amended to read as follows:

"(b) funds authorized for the fiscal year 1981 will be available for the following categories:

"(1) Mathematical and Physical Sciences, $245,290,000.

"(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $225,540,000.

"(3) United States Antarctic Program, $58,000,000.

"(4) Ocean Drilling Programs, $24,000,000.

"(5) Biological, Behavioral, and Social Sciences, $173,540,000.

"(6) Science Education Programs, $87,100,000.

"(7)(A) Engineering, $58,540,000.

"(B) Applied Sciences, $69,540,000 of which not less that 12.5 per centum shall be expended to small business concerns.

"(8) Scientific, Technological, and International Affairs, $26,500,000.

"(9) Cross-Directorate Programs, $32,750,000.

"(10) Program Development and Management, $60,000,000.

"(11) Funds to be expended at the direction of the Director in accordance with section 255(b)(3), $7,700,000.

"(c) Funds authorized for the fiscal year 1982 will be available for the following categories:

"(1) Mathematical and Physical Sciences, $267 800,000.

"(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $245,800,000.

"(3) United States Antarctic Program, $64,000,000.

"(4) Ocean Drilling Programs, $26,500,000.

"(5) Biological Behavioral, and Social Sciences, $189,800,000.

"(6) Science Education Programs, $121,000,000.

"(7)(A) Engineering, $67,800,000.

"(B) Applied Sciences, $96,800,000 of which not less than 12.5 per centum shall be expended to small business concerns.

recipient. Grants made under this section may include funds for the acquisition or maintenance of equipment and the renovation of facilities for research purposes.

(c) Each grant made under this section shall be made for a period of three-years and may be renewed once for an additional three-year period.

(d) The minimum annual amount of any grant under this section shall be $10,000 and the maximum annual amount of any such grant shall be $75,000. In determining the amount of each grant, the Director shall consider the field in which the research is to be carried out pursuant to the grant and the costs of carrying out research in such field. A grant under this section shall be paid directly to the scientist conducting the research.

(e) The Director may provide not in excess of $5,000 per year to each academic institution, research center, or research organization in which research conducted pursuant to any grant made under this section is carried out. Such funds shall be used for the purposes of defraying the administrative costs of such institution, center, or organization related to such research.

(f) A recipient of any grant under this section may conduct research pursuant to the grant at any academic institution, research center, or research organization by the Director.

VISITING PROFESSORSHIP APPROVED FOR WOMEN IN SCIENCE

SEC. 242. (a) The Foundation is authorized to make grants to individuals or academic institutions for full-time or part-time visiting professorships for women in science. Such professorships may be held by individuals from the industrial, public, or academic sectors.

(b) A visiting professor shall serve at an institution which assures the Director that—

(1) the visiting professor will have appropriate research and teaching opportunities, as well as opportunities to serve as a source of advice and counsel for women considering careers in science and technology; and

(2) the institution will establish or expand activities to increase the participation and advancement of women scientists and engineers in the activities of the institution, including research and teaching activities.

(c)(1) Each visiting professor shall serve in an institution in which the establishment of a visiting professorship is expected to increase the participation and advancement of women scientists and engineers in its research and teaching activities.

(2) Each visiting professorship shall be for a period of at least one year and not more than two years.

DEMONSTRATION PROJECTS

SEC. 243. The Foundation is authorized, after consultation with appropriate public agencies and private entities, to support, by way of grant or contract, activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science, engineering, and technology through—

(1) the establishment and implementation of cooperative research and education arrangements among business concerns, academic institutions, and other appropriate entities;

(2) the development of work-study, preservice, or inservice programs leading to permanent employment or advancement;

(3) the development of programs to assist scientists and engineers to obtain new skills in order to change fields, advance, or otherwise adapt to changing needs in science and technology;

(4) the development of programs to permit scientists and engineers to exchange positions or rotate between positions within and among public agencies and private entities;

(5) the establishment of new research opportunities for students, scientists, and engineers;

(6) the improvement of employment policies and conditions; and

(7) other appropriate activities.

FEDERAL GOVERNMENT TRAINING FOR THE ENCOURAGEMENT OF WOMEN IN SCIENCE

SEC. 244. The Office of Personnel Management shall include in its training program for officials of appropriate Federal agencies, information and instructions relating to—

(1) the recruitment, retention, and promotion of qualified women scientists, engineers, and technicians;

(2) Federal laws and programs designed to assure equal opportunity for women in science and technology; and

(3) mechanisms to assure full participation of women in scientific and technical fields.

Subpart 2—Agency Responsibility

DEFINITIONS

SEC. 246. (a) For purposes of this part—

(1) the term "Federal financial assistance" means any grant, loan, or contract other than a contract of insurance or guaranty;

(2) the term "national laboratory" means any Government directed research and development laboratory, as well as any research and development laboratory funded at least in part by the Federal Government, except as provided in paragraph (3) of this subsection; and

(3) the term "federally funded research and development center" means any organization which performs research and development exclusively or substantially financed by the Federal Government and which is administered by an industrial firm, university, college, or other nonprofit institution.

(b) The Director of the Office of Science and Technology Policy, in consultation with the Director of the National Science Foundation, the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and appropriate public and private entities, shall establish the criteria for defining the term "scientific and technical positions" for the purposes of this part.

DATA COLLECTION

SEC. 247. (a) By September 30 of each year, the Chairman of the Equal Employment Opportunity Commission shall prepare and transmit to the Foundation a report concerning the employment status of women in scientific and technical fields. To the maximum extent possible, the Chairman shall collect such information through existing appropriate data collection mechanisms and reporting procedures.

(b) The report required by subsection (a) shall include—

(1) for all employers with fifteen or more employees who employ individuals from scientific and technical fields and for each Federal agency that conducts or supports research and development in science and technology, a compilation, comparison, and evaluation, by sex, race, ethnic group, and discipline, of—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions, by level or other similar category;

(B) the average salary of individuals employed in such scientific and technical positions, by level or other similar category;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving on each Federal peer review and advisory panel dealing with scientific research and development activities; and

(E) the number of individuals serving as principal investigators in Federal agency, national laboratory, or federally funded research and development center supported or conducted scientific research and development projects; and

(2) for each Federal agency, national laboratory, or federally funded research and development center, a description and evaluation of the activities of such agency, laboratory, or center to—

(A) prevent discrimination against women in science and technology;

(B) increase opportunities for the employment, training, and advancement of women in science;

(C) increase the participation of women scientists in federally funded research;

(D) encourage the participation of minority women in scientific and technical careers; and

(E) encourage the participation of handicapped women in scientific and technical careers.

BIENNIAL REPORT

SEC. 248. (a) The Director shall biennially prepare a report concerning the participation and status of women in science and technology in Federal, State, and local governments, the private sector, and academic institutions. By January 30, 1982 and biennially thereafter, the Director shall simultaneously transmit the report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office for Civil Rights of the Department of Health and Human Services, the Assistant Secretary for Civil Rights of the Department of Education, and the Director of the Office of Federal Contract Compliance Programs of the Department of Labor.

(b) The report required by subsection (a) shall contain—

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and technical positions, including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions by appropriate level or similar category;

(B) the average salary of individuals in such scientific and technical positions;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and technical positions; and

(2) such other data as the Committee determines appropriate in accordance with section 251(a)(7).

(c) In preparing the report required by subsection (a), the Director shall use the report prepared by the Chairman of the Equal Employment Opportunity Commission pursuant to section 247 and may collect, compile, and analyze such other data and information as may be necessary.

PART E—GENERAL PROVISIONS

COMMITTEE ON WOMEN IN SCIENCE

SEC. 251. (a) There is established within the Foundation a Committee on Women in Science, which shall be composed of 13 members. The Committee shall—

(1) provide advice to the Foundation concerning (A) the implementation of the provisions of this Act and (B) other policies and activities of the Foundation to encourage full participation of women in scientific, engineering, professional, and technical fields;

(2) establish goals for increasing the participation of women in science and technology;

(3) make recommendations to the Foundation concerning the manner in which funds appropriated to carry out the provisions of this Act should be distributed among the programs and activities author-

out regard to when the individual received an undergraduate or graduate degree;

(4) research participation, traineeships, and internship programs; or

(5) projects to encourage individuals interested in scientific and technical fields to continue in and complete courses of study leading to degrees in such fields.

(c) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

(d) Individual recipients of fellowships, grants, and traineeships under this section shall be paid such stipends as the Director may prescribe.

CONTINUING EDUCATION PROGRAM

SEC. 223. (a) The Foundation is authorized to support, by way of grant or contract, activities in continuing education in science and engineering which provide opportunities for women who (1) are in the work force or (2) who are not in the work force because their careers have been interrupted to acquire new knowledge, techniques, and skills in scientific and technical fields.

(b) Activities supported under this section shall include—

(1) the development of curricula, educational techniques, and recruitment activities in cooperation with industry, academic institutions and other appropriate entities for continuing education in scientific and technical fields;

(2) the award of full-time and part-time fellowships to enable individuals eligible under subsection (a) to pursue study and research, continuing education, and career development in scientific and technical fields, without regard to when the individual received a degree; and

(3) other activities, including pilot programs and regional efforts, to further the purposes of this section.

(c) Individual recipients of fellowships under this section shall be paid such stipends as the Director may prescribe.

(d) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

TECHNICAL ASSISTANCE

SEC. 224. In carrying out this title, the Foundation is authorized to make available necessary technical assistance.

PART C—PUBLIC UNDERSTANDING

CENTER FOR WOMEN IN SCIENCE

SEC. 231. (a) After consultation with groups active in the promotion of increased opportunities for women in science and other appropriate public agencies and private entities, the Foundation shall establish, directly or by contract, a Center for Women in Science.

(b) The Center, in cooperation with groups active in the promotion of increased opportunities for women in science and other appropriate public agencies and private entities, shall undertake any support activities designed to—

(1) educate and inform the public concerning the importance of the participation of women in science and technology;

(2) investigate the barriers to full participation of women in science and provide information to alleviate discrimination and bias against women in science and technology; and

(3) encourage the education, employment, and advancement of women in science and technology.

(c) The Center shall, directly or by way of grant or contract, collect, analyze, and disseminate to the public information concerning activities in the public and private sectors which encourage the full participation of women in science and technology. Such information shall include—

(1) activities to encourage the advancement of women;

(2) activities to assure equal opportunity for women;

(3) activities to improve science education and promote literacy in science and mathematics;

(4) opportunities for minority women in scientific and technical careers;

(5) opportunities for handicapped women in scientific and technical careers;

(6) data on the status and number of women in scientific and technical positions;

(7) research being conducted to increase the contribution of women in science and technology and to facilitate the participation and advancement of women in scientific and technical careers, and the results of such research; and

(8) activities to educate and inform the public concerning the importance of the participation of women in science and technology.

RESEARCH PROGRAM

SEC. 232. (a) The Director is authorized to undertake or support, by way of grant or contract, a comprehensive research program designed to increase understanding of (1) the potential contribution of women in science and technology and (2) the means to facilitate the participation and advancement of women in scientific and technical careers.

(b) The program shall include studies concerning the problems confronting girls and women in the study of science and mathematics, and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

VISITING WOMEN SCIENTISTS PROGRAM

SEC. 233. (a) The Director is authorized to establish a visiting women scientists program.

(b) Each year, the Director is authorized to name not fewer than thirty women to be visiting women scientists. Visiting women scientists named under this subsection shall visit secondary schools and institutions of higher education in all regions of the country in order to—

(1) encourage girls and women to acquire skills in mathematics and science;

(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers; and

(3) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

(c) Each visiting woman scientist who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, she is engaged in the actual performance of her duties under this section. A visiting woman scientist who is an officer or employee of the United States Government shall serve without additional compensation. Each visiting scientist shall be reimbursed for travel, subsistence, and other necessary expenses incurred by her in the performance of her duties.

MEDIA PROJECTS

SEC. 234. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to improve the scope, relevance, and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of radio, television, journals, newspapers, magazines, and other media.

(b) Activities supported under subsection (a) shall—

(1) demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields;

(2) stress the importance of equal opportunity for women in careers in science and technology;

(3) emphasize the importance of skills in mathematics and science for a wide range of activities and programs; or

(4) include new media or information techniques with the potential to further the purposes of this section.

BOOKS AND INSTRUCTIONAL MATERIALS

SEC. 235. The Foundation, after consultation with appropriate public agencies and private entities, is authorized, by way of grant or contract, to support the development of books and instructional materials and the identification of existing books and instructional materials which—

(1) portray women in scientific and technical careers;

(2) encourage girls and women to consider careers in science and technology;

(3) emphasize the need for mathematical and technical skills in a wide range of activities and professions;

(4) present scientific and technical material in a manner which is not biased on the basis of gender;

(5) emphasize the equal ability and status of men and women in science and technology; or

(6) stress the importance of equal opportunity for women in science and technology.

COMMUNITY OUTREACH

SEC. 236. The Foundation is authorized to support, by way of grant or contract, community outreach activities which have the potential to attract substantial numbers of girls and women and which are designed to—

(1) emphasize the importance of equal opportunity in scientific and technical fields;

(2) stimulate the interest of girls and women in science and mathematics; or

(3) encourage girls and women to continue in and complete courses of study in science and mathematics.

MUSEUM PROGRAMS

SEC. 237. The Foundation is authorized to support, by way of grant or contract, activities of museums and science centers which demonstrate potential to interest and involve women. Activities supported under this section shall encourage the study and development of skills in mathematics and science, emphasize opportunities for careers in scientific and technical fields, and stress the importance of equal opportunity for women in science and technology.

DISSEMINATION

SEC. 238. Data collected, information on books and materials developed and identified under section 234, and the results of research and demonstrations conducted under this Act shall be made available to the public through appropriate dissemination mechanisms, including the Center.

PART D—OPPORTUNITY IMPROVEMENT AND REPORTING PROGRAMS

Subpart 1—Opportunity Programs

NATIONAL RESEARCH OPPORTUNITY GRANTS

SEC. 241. (a) Each year, the Director is authorized to make grants, to be known as the National Research Opportunity Grants, to women scientists who (1) have received their doctorate within five years prior to the date of the award or (2) have received their doctorate, have had their careers interrupted, and are re-entering the work force within five years after such interruption. Grants under this section shall be made on the basis of merit through an annual competition.

(b) Each grant made under this section shall be used by the recipient to conduct scientific research in a field chosen by the writing to the Speaker of the House, the President of the Senate, and the Senate Committee on Labor and Human Resources and the House Authorization Committee on Science and Technology. The proposed transfer may be made only when—

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairmen of the House Committee on Science and Technology and the Senate Committee on Labor and Human Resources have both written the Director to the effect that the committees have no objection to the proposed transfer.

AMENDMENTS TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 107. (a) Section 4(c) of the National Science Foundation Act of 1950 is amended by inserting after the first sentence the following new sentence: "In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women and who represent minority groups.".

(b) (1) Section 15(c) of the National Science Foundation Act of 1950 is repealed.

TITLE II—WOMEN IN SCIENCE

SHORT TITLE

SEC. 201. This title may be cited as the "Women in Science and Technology Equal Opportunity Act".

PART A—STATEMENT OF FINDINGS, PURPOSE, AND POLICY

STATEMENT OF FINDINGS

SEC. 211. The Congress finds that—

(1) it is in the national interest to promote the full use of human resources in science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills;

(2) The preeminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a multiplier effect on the gross national product;

(3) the full use of the scientific and technical human resources of the Nation is required to meet the demand for such resources over the long term;

(4) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

(5) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

(6) women have long been denied equal educational and employment opportunities in scientific and technical fields; and

(7) although men and women have equal potential for excellence and advancement in scientific and technical fields—

(A) the proportion of women earning doctoral degrees in science in the decade of the 1970's is no greater than the proportion of women earning such degrees in the decade of the 1920's;

(B) less than 10 per centum of scientists and engineers engaged in research are women;

(C) the unemployment rates of women scientists are two to five times higher than such rates for men in every field of science;

(D) women scientists generally earn less than men in every field, at every degree level, at every level of experience and in every employment setting;

(E) minority women have yet to achieve measurable participation in science; and

(F) handicapped women have yet to achieve measurable participation in science.

DECLARATION OF PURPOSE

SEC. 212. It is the purpose of this Act to encourage the full participation of women in scientific, engineering, professional, and technical fields through programs and procedures which—

(1) prepare women for scientific, engineering, professional, and technical careers;

(2) increase opportunities for the employment and advancement of women in science and technology;

(3) improve the science education of women, with particular emphasis on mathematics education;

(4) promote the literacy of women in science and mathematics;

(5) encourage the participation of minority women in scientific and technical education and careers;

(6) encourage the participation of handicapped women in scientific and technical education and careers; and

(7) educate and inform the public concerning opportunities in science and technology and the importance of the participation of women.

STATEMENT OF POLICY

SEC. 213. The Congress declares it is the policy of the United States to encourage women to acquire skills in science and mathematics, to assure equal opportunity for women in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. Activities conducted to carry out the purposes and provisions of this Act shall—

(1) be carried out under the direction of the National Science Foundation;

(2) make maximum use of existing Federal programs, funding, and reporting procedures;

(3) provide for coordination between all Federal agencies involved in carrying out the provisions of this Act;

(4) use the expertise of women scientists and women involved in scientific activities;

(5) provide for the participation of professional associations and groups with expertise in the advancement of women, especially associations and groups involved in the advancement of women in scientific and technical fields;

(6) encourage the involvement in and contribution of resources for scientific activities by the private sector;

(7) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

(8) emphasize fields of scientific and technical study and employment in which the underrepresentation of women is most serious and in which employment opportunities are the greatest; and

(9) provide for and encourage cooperation among government, industrial, academic, and other types of employers in accomplishing the purposes of this Act.

DEFINITIONS

SEC. 214. For the purposes of this Act—

(1) the term "Federal agency" means an agency as defined in section 551(1) of title 5, United States Code;

(2) the term "State" means each of the several States and the District of Columbia;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "Director" means the Director of the Foundation;

(5) the term "Center" means the Center for Women in Science established under section 231;

(6) the term "Committee" means the Committee on Women in Science established under section 251; and

(7) the term "science" includes engineering.

PART B—EDUCATION

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 221. (a) The Foundation is authorized to support, by way of grant or contract, programs in science and mathematics in elementary and secondary schools.

(b) Programs supported under this section shall emphasize the acquisition of knowledge, skills, and information by female students, and shall include—

(1) the development of methods, instructional materials, and technologies to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the training and retraining (including in-service training) of teachers, counselors, administrators, and other appropriate educational personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(3) the use of innovative methods, systems, materials, visiting women scientists and technicians, or other arrangements to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

(4) student science training programs, research participation projects, and internships; or

(5) workshops for students and their parents and guardians to increase awareness and understanding of the importance of skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

(c) The Foundation shall coordinate activities to carry out this section with complementary activities of appropriate public agencies and private entities.

HIGHER EDUCATION PROGRAMS

SEC. 222. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to (1) increase the participation of women in courses of study leading to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology, (3) provide traineeship and fellowship opportunities for women in science and technology, or (4) provide continuing education and retraining opportunities in scientific and technical fields for women whose careers have been interrupted.

(b) Activities supported under this section shall include—

(1) the development of technologies, methods, and instructional materials at the undergraduate level to strengthen skills in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the training and retraining (including in-service training) of faculty, counselors, administrators, and other appropriate personnel at the undergraduate level to improve the ability of such personnel to (A) strengthen the skills in science and mathematics of students whose primary field of study is not scientific or technical, (B) increase student awareness of career opportunities for women in science, particularly in the fields in which women are most seriously underrepresented, and (C) increase student awareness of career opportunities for women requiring basic scientific and technical skills;

(3) the awarding of graduate and postgraduate fellowships, and career development grants, directly to individuals and to institutions for award to individuals, with-

Guard to partially offset the increased cost of fuel. Unless the supplementals are granted, the Coast Guard will be forced to curtail severely its activities during the fourth quarter of fiscal year 1980. Thus this waiver is necessary to allow consideration of the supplementals required to enable the Coast Guard to fulfill its many important responsibilities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 445) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2004, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2004. Such waiver is necessary because S. 2004, the Emergency Public Transportation Energy Conservation Act of 1980, provides an additional authorization of $450,000,000 for the discretionary capital grant program under the Urban Mass Transportation Act of 1964, as amended.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, since the need for additional authorizations for such program as part of the response to the energy crisis, did not come to the committee's attention until after such date, and since the administration's supplementary budget request for this program for fiscal year 1980 was not submitted until January 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 451) waiving section 402(a) of the Congressional Budget Act with respect to S. 1639, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1639. The bill, as reported, authorizes funds for fiscal year 1980 in excess of the budget authority provided by the Water and Power Appropriation Act for fiscal year 1980 for section 401(b) of the Water Resources Planning Act. The committee will offer an amendment when S. 1639 is considered by the Senate to reduce the authorization for this activity of the Water Resources Council to the level provided by the appropriation Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 452) waiving section 402(a) of the Congressional Budget Act with respect to S. 2724, was considered and agreed to, as follows:

S. Res. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2724. Such waiver is necessary to consider the bill which authorizes $6,000,000 for law enforcement contracts for fiscal years 1980, 1981, and 1982. The committee will offer, when this legislation is considered, a technical amendment to eliminate the authorization for fiscal year 1980 since it is now impossible to obtain funding for this program during such fiscal year.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION AND WOMEN IN SCIENCE ACT

The Senate proceeded to consider the bill (S. 568) to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers, which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Science Foundation Authorization and Women in Science Act".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. (a) There are authorized to be appropriated to the National Science Foundation $1,074,000,000 for the fiscal year 1981 and $1,235,500,000 for the fiscal year 1982.

(b) Funds authorized for the fiscal year 1981 will be available for the following categories:

(1) Mathematical and Physical Sciences, $243,750,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $224,000,000.

(3) United States Antarctic Program, $58,000,000.

(4) Ocean Drilling Programs, $24,000,000.

(5) Biological, Behavioral, and Social Sciences, $172,000,000.

(6) Science Education Programs, $79,500,000.

(7) (A) Engineering, $57,000,000.

(B) Applied Sciences, $68,000,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $26,500,000.

(9) Cross-Directorate Programs, $32,750,000.

(10) Program Development and Management, $60,000,000.

(c) Funds authorized for the fiscal year 1982 will be available for the following categories:

(1) Mathematical and Physical Sciences, $266,000,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $244,000,000.

(3) United States Antarctic Program, $64,000,000.

(4) Ocean Drilling Programs, $26,500,000.

(5) Biological Behavioral, and Social Sciences, $188,000,000.

(6) Science Education Programs, $112,000,000.

(7) (A) Engineering, $66,000,000.

(B) Applied Sciences, $95,000,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $29,000,000.

(9) Cross-Directorate Programs, $52,000,000.

(10) Program Development and Management, $66,000,000.

AVAILABILITY OF APPROPRIATIONS

Sec. 102. Appropriations made under authority provided in sections 101 and 104 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SPECIAL EMPHASIS PROGRAMS

Sec. 103. (a) Of the total amount authorized under sections 101(b)(6) and 101(c)(6)—

(1) $1,000,000 is authorized for a program of education in appropriate technology;

(2) $2,250,000 is authorized for the program Ethics and Values in Science and Technology; and

(3) $5,000,000 is authorized for the program Minorities and the Handicapped in Science.

(b)(1) Of the total amount authorized under sections 101(b)(1), 101(b)(2), and 101(b)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

(2) Of the total amount authorized under sections 101(c)(1), 101(c)(2), and 101(c)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

OFFICIAL EXPENSES

Sec. 104. From appropriations made under this Act, not more than $5,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY

Sec. 105. Besides the sums authorized by section 101, not more than $5,500,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFER AUTHORITY

Sec. 106. (a) Funds may be transferred among the categories listed in section 101(b) or 101(c), so long as the net funds transferred to or from any category does not exceed 10 per centum of the amounts authorized for that category in section 101.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 101. Such a proposal must be transmitted in give fair protection to their interests as well.

We have now been negotiating about a regime for seabed mining for more than 12 years. Such international negotiations cannot be an end in themselves. Whether in the United Nations setting, or in SALT negotiations, or in any other realm of foreign relations, negotiations cannot be judged apart from the interest of the countries engaged in them—no matter how eminent and admirable their participants or how long and hard they have labored. It may become necessary even before the conclusion of international negotiations to take actions protective of an important national interest, even though such actions might complicate the resolution of issues under negotiation.

This is a cost that must be weighed in deciding whether and how to proceed. Reasonable men and women may differ in their assessments—as indeed they did very strenuously during our consideration of the Fishery Conservation and Management Act of 1976. But the choice is one that we must make repeatedly in the conduct of our foreign relations. In my judgment, we should no longer delay the passage of this legislation.

However, one point should be clear as we proceed. The mining authorized by this bill is in conformity with generally recognized principles of international law. Deep seabed mining remains a freedom of the high seas, so long as it is conducted with reasonable regard for the interests of other countries. During the consideration of the General Assembly resolution in 1970 declaring certain general principles for the seabed negotiations, the United States made it clear that the notion of the "common heritage" did not preclude existing rights to mine the seabed. We opposed the so-called "Moratorium resolution" of 1969, along with 27 other countries and 28 who abstained, for this very reason. Contrary to the assertions of some representatives at the Conference, the concept of the seabed as "the common heritage of mankind" has always been a phrase in search of meaning, not a legal principle in search of enforcement.

We should not accept a definition of the common heritage which is incompatible with assured access to deep sea bed minerals under reasonable terms and conditions for private enterprise. We should be reasonable and fair in these negotiations, and I think we have been, but we cannot allow an international regime to be established which excludes realistic opportunities for the very enterprises which have developed the capabilities to mine in the first place. That was the basis on which the U.S. negotiators agreed to some of the concessions—on technology transfer and financing of the "Enterprise", for example—embodied in the draft text. If we are asked to accept these provisions we must have the other half of the bargain—assured access under reasonable terms and conditions—in return. The Senate would never accept a contrary result from the Law of the Sea Conference; they should not be asked to.

By the same token, we should not support efforts to declare other nonstate territories as the "common heritage"—such as the so-called "Moon Treaty" provides—while we still have serious doubts about the consequences of such a designation. That was the point of the letter which Senator CHURCH and I wrote to Secretary Vance on October 30 of this year. We are skeptical of an effort to declare something else the "common heritage of mankind" until we see what that is likely to mean for the deep seabed in the Law of the Sea context.

In the final analysis, the question is not whether one favors deep sea mining legislation or a Law of the Sea Treaty. The question is how the Congress should act to protect legitimate American interests at this time. In my view, those interests include the pursuit of a reasonable and comprehensive Law of the Sea agreement, but not to the indefinite exclusion of other actions. We should move ahead with this legislation.

Two final points about the legislation itself, as embodied in Senator MATSUNAGA's compromise. Title II of the bill contains the so-called "grandfather rights" language, which is in fact a declaration of congressional expectations about the deep seabed portions of any future Law of the Sea Treaty. The language of title II was added in our committee.

The basic standards suggested in section 201 relate to "assured and nondiscriminatory access, under reasonable terms and conditions" and to "security of tenure." The test as to whether they are met by any future treaty is to be applied by considering "the totality of the provisions of such agreement," not by any one consideration. Since these are very general standards, I would like to expand slightly on their implications.

Surely we must expect that any future Law of the Sea agreement will include new obligations for the United States and additional requirements for mining operations already underway at the time such an agreement comes into force. On such matters as financial obligations, the availability of technology to the International Enterprise, and the so-called "banking system" regarding prospective mine-sites, we can expect to see obligations for the industry that go beyond those in the present legislation. There will no doubt be other requirements as well.

The point of section 201 is not to rule out in advance any such provisions as part of a larger agreement. As the language of the bill says, we will have to consider such provisions in their totality and on their merits when the time comes. What we do say, however, as a declaration of present congressional intent, is that the totality of deep seabed mining provisions in a Law of the Sea Treaty should not impose such "significant new economic burdens" as to have "the effect of preventing the continuation of such operations on a viable economic basis." In other words, the industry must be able to adjust to the new treaty requirements and not be forced out of business.

That is the very purpose of this legislation—to insure that a viable mining industry can be developed. We cannot approve a treaty which has the effect of completely closing out private enterprise from the deep seabeds. But we are not saying that only the system created by this bill is acceptable in an international agreement. That is the point of foreseeing some additional adjustments in section 203.

My last point concerns the requirement in section 102(c)(3) on domestic processing. The bill as referred to our committee required that all land-based processing of minerals be carried on in the United States. The only exception to this rule was where such a requirement would undermine the economic viability of an operation. Members of the Foreign Relations Committee were concerned that such a requirement could cause the United States to be in violation of major international commitment. We therefore added the proviso that the President could suspend this requirement in the name of overriding national interests. I think such flexibility is warranted in this case.

I recommend that we pass this legislation and get on with this important new enterprise. At the same time, I hope that we can also look forward to an international solution to the regulation of this industry in a Law of the Sea Treaty.

I am deeply devoted to the attainment of an international seabed mining treaty, but this can only come about if it is fair to both sides and protects the national interest of the United States. In the meantime, this legislation fully accommodates the possibility of a treaty—indeed, will be supplanted by it in the main—at the same time that it puts some control over what could otherwise be an uncontrolled race for minerals on the seabed.

This is critically important to us and critically important to every developing nation in the world which may be unable to go out and do any mining and establish a claim itself. Hence, the legislation is very desirable. We so considered it in the Committee on Foreign Relations.

I express the indebtedness of the country, not only of ourselves, to Senator MATSUNAGA, who has brought this measure to the floor today. I hope it is passed by the Senate, and quickly approved in the House.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be offered, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2759), was read the third time, and passed.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 853, 863, 871, 872, 763, and 831.

The PRESIDING OFFICER. Without objection, it is ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 438) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2489, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2489. Such waiver is necessary to permit consideration of an additional fiscal year 1980 authorization of appropriations for the United States Coast Guard which was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974.

Specifically S. 2489 would increase the fiscal year 1980 authorization for the operating expenses of the Coast Guard by $15,000,000. This additional authorization is necessary to permit a fiscal year 1980 supplemental appropriation for the United States Coast Guard to cover the rapidly increasing costs of fuel which were not foreseen in preparing the Coast Guard's fiscal year 1980 budget. In November of 1979, the Coast Guard's principal supplier of fuel, the Defense Fuel Supply Center, raised fuel prices by 31 per centum. Then in February of 1980 the Defense Fuel Supply Center more than doubled its price for fuel. As a result the President has requested fiscal year 1980 supplemental appropriations totaling $29,100,000 for the Coast

I asked Ambassador Richardson whether we had an agreement. He responded in the affirmative. He would include the amendment as agreed, in his testimony of April 17 before the House Committee on Foreign Affairs, would urge immediate report and passage of the bill, and would seek clearance from O.M.B. that afternoon. He anticipated no objections. Knecht said that O.M.B. had been kept informed. Richardson asked if the agreed amendments were included in his statement, and Blumberg answered in the affirmative. Berlind asked Richardson whether it should be stated that, in the absence of agreement on the amendments, Richardson would have to oppose passage. Richardson said there was no need to mention any such negative idea, since we had an agreement. He said he thought the "memcon" of this meeting should be prepared, and we would have it in hand the following day, April 16. He proceeded to recapitulate the understanding, as outlined above, and said this would appear in the "memcon."

We told him we had no authority to commit any member of Congress, either in the House or Senate, but that we would make known to the leaders in both houses our agreement on this course of action.

Mr. MAGNUSON. Mr. President, I would also like to note the deletion of two of the three "balancing tests" that were in the House version of the bill. I believe this is sound. The tests as adopted by the House invited unnecessary litigation, would lead to confusion and vexation, and would be of no net benefit. It should be made clear, however, that the concerns of the industry regarding the cost effectiveness and economic consequences of environmental terms, conditions, and restrictions are certainly to be seriously taken into account by NOAA whenever it develops or modifies the operating requirements of a licensee or permittee.

Finally, Mr. President, I simply want to add the observation that our passage of this bill for the second time during this Congress demonstrates again to the Law of the Sea negotiators that the Senate of the United States will continue to encourage seabed mining and that if an acceptable treaty is not forthcoming, nothing will impede our pursuit to recover these resources in an intelligent, environmentally sound fashion. This legislation should also serve to remind that under the U.S. Constitution a treaty does not and cannot become effective as to the United States without the approval of this body, and I do not believe that this body would be of the mind to approve the present LOS text.

Mr. STAFFORD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator JAVITS.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JAVITS

I support the passage of deep seabed mining legislation at this time. It is in our national interest and in the interest of the rest of the world that the development of seabed mining capabilities go forward. Given the enormous investments and long leadtimes required, and given the potentially critical worldwide need for these minerals toward the end of the century, it is vital that we provide a clear mandate for the continuation of mining development. This was the attitude of the Committee on Foreign Relations of which I am the ranking minority member.

At the same time, I continue to support the efforts to negotiate a comprehensive Law of the Sea agreement protective of a wide range of U.S. interests, of which a regime for deep seabed mining would be one part. Those negotiations resume again at the end of July with certain deep seabed mining issues the principal issues remaining before the Conference. We must make every effort to see that this legislation is consistent with our general position in the Law of the Sea negotiations and make clear our preference for a widely-accepted international solution to the seabed mining problem.

By accepting the Administration's proposed amendments, which delay the permissible date for commercial recovery to 1988, I think we have once again made that preference clear.

The complex negotiations of the Third United Nations Conference on the Law of the Sea have been the subject of many misconceptions and false accusations. Suggestions that the United States is engaged in a sell-out of the riches of the oceans or that it has been imposed on by certain extremists in the developing world are not only misinformed and unfair, they obscure the critical interests which the United States has consistently sought to protect through these negotiations and the considerable success our representatives have thus far achieved on many difficult issues. All the attention given to the newly accessible mineral resources of the deep seabed has tended to obscure the vital and enduring interests of the United States which are also at stake in the Law of the Sea negotiations.

Above all, we must protect our critical interests in navigational freedom, the basis of the traditional "freedom of the seas" principle which has long governed ocean use. While any future Law of the Sea Treaty can be expected to establish so-called "economic zones" of coastal resource jurisdiction out to 209 miles from shore—similar to the 200-mile fisheries zone we established by legislation 2 years ago—such a treaty would also assure that the vital freedoms of navigation and over-flight are preserved in these economic zones beyond a 12-mile belt of territorial seas. Equally important, a treaty would protect such freedoms in the many important international straits which might otherwise be the subject of restrictive national claims.

Our interests in the freedom of navigation are both economic and military. The value of goods moving to and from the United States on ocean vessels is estimated to be well over $180 billion per year. Some $50 billion or more of that total is the foreign oil upon which we have unfortunately, but increasingly, become dependent. Restrictions on the free passage of such goods, either within 200 miles of shore or through international straits, could add enormous costs to our economy, and in some cases could result in harmful domestic delays and shortages. Most of the oil from the Persian Gulf, for example, passes through the Straits of Hormuz which border on Iran. This dependence on ocean transport for vital resources is even more critical for our major European and Asian allies. Therefore, we need the protection for transit through straits which a widely accepted treaty would afford.

Similarly, the military and security interests of the United States depend upon the mobility of our naval forces, both conventional and strategic, in the performance of a range of security functions. Such mobility depends upon the right of overflight for our aircraft, and of submerged transit for our submarines, as well as the unimpeded passage of our surface vessels, through major international straits and in all areas beyond the narrow territorial seas of coastal states. Again these are guarantees that we have insisted upon throughout the Law of the Sea negotiations and which have come to be accepted by virtually all participants in the Conference.

I will not seek here to discuss all the other U.S. interests at stake in the Law of the Sea Conference, except to note such important areas as fisheries, marine mammals, environmental protection, boundary delimitation, and dispute settlement. Most of these issues seem headed toward arrangements acceptable to the United States, to wit, we would be worse off without such agreements. Other problem areas, such as the severe restrictions being considered on marine scientific research within the economic zones, are more troubling; hopefully, these situations can be improved prior to final consideration of the treaty. But the point is that we have a wide range of interests—as does the rest of the world—caught up in the U.N. Law of the Sea negotiations other than those related to the mining of the deep seabed. The problem for the United States is how best to insure that all of these interests are protected and advanced.

On the one hand, certain observers of the Law of the Sea negotiations argue that the United States can protect its interests without a comprehensive Law of the Sea Treaty, or even that a treaty would add nothing that could not be achieved without one. I have no doubt that if the current negotiations fail to produce an agreement which the Senate can approve, the United States will have to act to safeguard its interests in other ways. We should never give the impression that we will accept any treaty, no matter what it contains.

Nor do I accept the suggestion that failure of the Law of the Sea Conference would lead necessarily and immediately to political chaos or to the outbreak of violent conflict around the world. Mankind has lived without a comprehensive Law of the Sea treaty for centuries, and we would no doubt find ways of muddling through in the absence of a formal agreement. Since we may have to do just that, we should not predict inevitable disaster if the LOS Conference does not succeed.

Rather, the real issue is whether our interests would still be best served by achieving a comprehensive agreement, rather than abandoning or destroying that effort at the present time. In my view, the advantages to the United States are far greater in continuing to pursue a widely accepted treaty. Those who argue that U.S. interests can better be protected on an ad hoc or bilateral basis—backed up wherever needed with naval force—are, in my opinion, out of touch with present economic and political realities in the world. They are also not the people who would have the responsibility for carrying out such a strategy. The Joint Chiefs of Staff, for example, are firmly behind the LOS treaty approach. The need to use force is precisely what we seek to avoid, not to encourage.

On the other hand there are those who suggest that because we have such strong interests in the successful conclusion of a Law of the Sea treaty, we should take no action which might adversely affect those negotiations in any way. Specifically, those opposing the passage of deep seabed mining legislation fear that our action would provoke even greater intransigence on the part of developing countries involved in the seabed negotiations, and might even result in a breakdown of the entire Conference.

In my view the Law of the Sea Conference is not likely to arrive at any agreement on the deep seabed issue that is acceptable to the United States and to other major industrialized countries—that is, the people with the capability to mine the seabed—unless it is clear to the developing world that, with all solicitude for their interests, if some of their demands remain unreasonable, we will have proceeded to mine during the next decade without an agreement, albeit trying to part to test the market, but also to generate cash to offset their expenses. Thus, while full-scale commercial operation would not commence until 1988, some very large mining operations of the prototype nature I have described are permitted meanwhile, and this is what is contemplated by the new definition of "commercial recovery."

The ocean mining industry has been able to accept the 1988 date for commercial operation, stipulated in the House bill, in lieu of the 1982 date which appears in the Senate bill, only because of the House change in definition of "commercial recovery."

This is made clear in two memorandums which summarize a conference April 15, 1980, in which Ambassador Richardson and representatives of the mining industry reached an agreement on dates and definitions, now reflected in the House bill. I ask to have the relevant portions of these inserted in the RECORD at this point. Ambassador Richardson had requested the change in the date for commencement of commercial recovery to 1988, for reasons connected with his negotiations in the Law of the Sea Conference, and industry was able to agree only on the understanding, in which Ambassador Richardson acquiesced, that large-scale operations—up to 40 or 50 percent of ultimate capacity—could proceed in the interim. The actual language of the amendment, I understand, was drafted by the administration.

MEMORANDUM OF CONFERENCE

Subject: Seabed Mining Legislation.

Date/place: April 15, 1980—Ambassador Richardson's Office.

Participants: Mr. Northcutt Ely, Mr. Marne Dubs, Ambassador Richardson, Ambassador Aldrich, Mr. Robert Knecht, Mr. Alan Berlind, Mr. Robert Blumberg, and Mr. Victor Comras.

Distribution: S/AR—3, Mr. Knecht; D/LOS—2, Mr. Ely, and Mr. Dubs.

Messrs. Ely and Dubs indicated that they had carefully reviewed the draft amendments proposed by Mr. Knecht (attached) and that they would support their inclusion in the legislation, including a change of the date for earliest commercial recovery to January 1, 1988, on the understanding that Ambassador Richardson would support immediate passage of the legislation as thus amended without further hearings. Mr. Ely added that industry's approval was conditioned on the inclusion of the proposed new definition of commercial recovery contained in the Knecht draft.

Mr. Dubs indicated that industry also hoped Ambassador Richardson would follow through subsequent to enactment of the legislation with a more adequate interim investment protection, including an appropriate form of risk insurance against arbitrary action by the Authority. This risk insurance point should not be pushed prior to the enactment of the legislation, he said, for fear that consideration of it would result in delaying the legislation.

Ambassador Richardson agreed that the risk insurance issue could be deferred. The timing for seeking such risk insurance was really of more importance to industry than to the delegation, and it was industry's "call." Ambassador Richardson said that he would be willing to raise it now or later. Some thought was still needed, he said, on a follow-on plan on how to approach this problem. Ambassador Richardson noted that all that he had done so far on this issue was to explain the need for preparatory investment protection in the treaty and correspondingly amended legislation to White House staff. He had explained that the scheme worked out did not address two identifiable risks which would require further consideration.

Ambassador Richardson inquired when these ideas for risk protection should be surfaced. Messrs. Blumberg and Knecht suggested that this issue might best be left until after a preparatory investment scheme had been worked out in Geneva. It could become part of the legislative proposal referred to in the proposed new section 203 of the act. Ambassador Aldrich suggested that it might be preferable to hold off until the treaty were signed so that the extent of the risk could be weighed in the light of a definitive text.

Mr. Dubs agreed with this assessment but suggested that the Leigh Ratiner study should be allowed to proceed as rapidly as possible.

Ambassador Richardson recapped his understanding of the agreement reached as follows:

1. Industry was prepared to accept the proposed amendments to the legislation including a change of the effective date for earliest commercial recovery to January 1, 1988. This acceptance was conditioned on the understanding that Ambassador Richardson would urge that the bill be reported out immediately without further hearings and that he would use his best efforts to obtain the bill's passage.

2. With regard to the date, industry was willing to support moving the date for earliest commercial recovery back to January 1, 1988 on the understanding that the definition of commercial recovery would be along the lines proposed in the Knecht draft (i.e., language that would exempt pilot projects that might produce revenue but the main purpose of which was equipment and process developmental testing.)

3. Industry would urge passage of the legislation with the amendments contained in the Knecht draft.

4. The US Delegation would continue to press for a preparatory investment protection scheme at the LOS conference and continue to work on how best to deal with the residual risk problems. This would include developing concrete proposals subsequent to the Geneva session. Presentation of such proposals might have to wait, however, until after an LOS treaty is signed.

5. In the meantime, work would go forward on the proposed Leigh Ratiner study regarding Government policy options to support US seabed mining activities.

Messrs Dubs and Ely stated their accord with the understanding outlined by Ambassador Richardson. They also indicated that they had reviewed these points with the industry as a whole, that the industry as a whole supported this understanding, and that industry would in a timely fashion convey its full support of the Administration amendment to interested Members of Congress including Congressman Murphy, Breaux and Santini and, in preparation for Senate/House conference, concerned Senators. Ambassador Richardson agreed to speak to Congressman Bingham to explain the need for swift action on the amended legislation.

AMENDMENTS TO H.R. 2759*

Section 4(1)(A): Any activity engaged in at sea to recover any hard mineral resources at a substantial rate with the primary objective of marketing or commercially using such resource so as to earn a net profit, whether or not such net profit is actually earned.

Section 102(c)(1)(D): In line 24 delete "July 1, 1982" and insert "January 1, 1988".

New Section 203: In order to contribute to the attainment of the objectives set out in Section 201, no later than one year following the date of enactment of this Act, the Secretary shall submit to the Congress a legislative proposal containing measures necessary for the United States to accommodate a system for the protection of interim investments adopted by an international agreement and resolutions ancillary thereto. In the event no such system has been adopted by an International Agreement one year following the date of enactment of this Act, the Secretary shall report to the Congress concerning the status of negotiations relating to the establishment of such a system.

MEMORANDUM OF CONFERENCE APRIL 15 IN AMBASSADOR'S OFFICE

Marne Dubs and I met with Ambassador Richardson at 2:30 p.m. April 15, in the Ambassador's office in the State Department. He was accompanied by Messrs. Aldrich, Berlind, Blumberg and Comras of his staff, and by Robert Knecht of the Department of Commerce.

We were handed proposed amendments to H.R. 2759, as reported by the Merchant Marine and Fisheries Committee (copy annexed, marked "2:30 p.m."). The language is substantially identical with that given me over the telephone that morning by Mr. Knecht.

We told Ambassador Richardson that this proposed language was acceptable, on the condition that he, on behalf of the Administration, would tell the House Foreign Affairs Committee, when he testifies April 17, that the Administration wishes this bill reported out promptly by that Committee, and that he, Richardson, will use his best efforts to obtain its speedy passage by the House.

We could accept a change of date from July 1, 1982, to January 1, 1988, only because of the change in the definition of commercial recovery. The new definition would make it possible for the mining companies to operate on a very substantial scale before January 1, 1988, for example, to produce 40 or 50 percent of their ultimate annual capacity. This is essential in order to run the material through modules of a processing plant, and test out the product in the market. We wanted the right to sell the metals, not merely to stockpile them, to offset the heavy costs of this interim operation.

We told him that ours would not be simply passive acceptance of his amendments, but that we expected a vigorous partnership, on both sides, to put the bill through to final enactment, containing these amendments.

We were not here to negotiate on other provisions of the bill, such as the problem of American flag documentation of vessels, or the requirement that any of them be constructed in the United States. This was a matter on which he was free to testify as he pleased, but we must recognize that the committees, and ultimately the Congress, would decide this.

We were not committing ourselves to acceptance of the legislation that the Secretary might recommend a year in the future.

The point was made that the definition of commercial operation in the treaty might be different from that now to be written into the statute. We said that that was the State Department's problem. For our part, we wanted no misunderstanding with the Group of 77; they could expect to see some very large operations at sea long before 1988, and did not want them to charge bad faith on the part of the United States.

We were asked whether we spoke for industry, or only for our two companies. We explained that we had had a meeting with Lockheed representatives that morning, had telecopied the Knecht amendments to Mr. Kaufman, representing Sedco, and that Dubs had talked with Kaufman and obtained his concurrence.

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*As reported by the Merchant Marine and Fisheries Committee.

Mr. President, I urge passage of H.R. 2759, as amended.

Mr. MAGNUSON. Mr. President, an issue which I would like to address in this legislation is the fact that the Senate is not insisting on its statutory requirement that the mining and processing vessels be built in the United States. However, I wish to stress that the acquiescence in the House version on this issue was conditioned on the U.S. companies involved providing firm commitments that they planned on building these vessels in our shipyards. The word of these companies provides us with a comparable result, and thus I will not object to not insisting on the Senate requirement. I submit the commitments from these companies for the RECORD at this point.

The material follows:

OCEAN MINERALS CO.,
Mountain View, Calif., June 12, 1980.

Hon. WARREN G. MAGNUSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: As you are aware both the Senate and the House have now passed bills to authorize the licensing and development of Deep Seabed Mining operations by U.S. citizens. The two bills (S. 493, H.R. 2759) are very similar in nearly every material respect. Resolution of the remaining differences, if any, and prompt final enactment of the legislation is critical to the continued existence of this important American industry.

One question which may be addressed in this connection is whether the Senate should insist on the S. 493 requirement that certain vessels be constructed in U.S. shipyards.

As we advised you when a similar issue arose during consideration of this legislation in the previous Congress, it is our view that the incentives of the Merchant Marine Act of 1936, make the construction requirement unnecessary.

We understand that Section 102(c)(4) of the House bill makes available for ocean mining, processing, and transport vessels the various incentives provided under the Merchant Marine Act of 1936, as amended, including construction differential subsidies and Title XI ship mortgage guarantees.

Under these circumstances we will construct our mining and processing vessels in the United States provided that:

1. The financial incentives referred to above are, in fact, made available for the subject vessels, and

2. We are able to obtain satisfactory assurance from a U.S. shipyard that it can and will construct the vessel in question in accordance with specifications and within a reasonable time frame, and the cost of the vessel is competitive.

In view of this commitment, the construction requirement in S. 493 appears unnecessary and we would urge you to accept the House treatment of this issue in order to facilitate prompt enactment. With resolution of this issue we would hope that the Senate would be able to accept the House Bill as passed and promptly send it to the President.

Sincerely,

CONRAD G. WELLING,
Senior Vice President.

KENNECOTT DEVELOPMENT CO.,
Lexington, Mass., June 13, 1980.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: S. 493, the "Deep Seabed Mineral Resources Act" was passed by the Senate on December 14, 1979. H.R. 2759, the House version of the same bill was passed on June 9, 1980.

We understand that a major difference between the bills is the provision on the use of ships in ocean mining.

S. 493 requires the mining ship to be constructed in and documented under the laws of the United States (Sec. 102(c)(2)). H.R. 2759 requires only that the mining ship be documented under the laws of the United States (Sec. 102(c)(4)).

S. 493 includes the mining ship under section 905(a) of the Merchant Marine Act, 1936. H.R. 2759 does the same, but in addition includes the mining vessel under section 1101(b) of the same act.

We fully understand and are in accord with the national objective of strengthening our Merchant Marine. However, we believe the U.S. construction requirement of S. 493 is unnecessary because the same effect is accomplished by the full incentives included under 905(a) and 1101(b) of the Merchant Marine Act of 1936 as provided in H.R. 2759.

We understand that Section 102(c)(4) of the House passed bill makes available for ocean mining, processing, and transport vessels the various incentives provided under the Merchant Marine Act of 1936, as amended, including construction differential subsidies and Title XI ship mortgage guarantees.

Under these circumstances, we will construct our mining and processing vessels in the United States provided that:

1. The financial incentives referred to above are in fact made available for the subject vessels and, taking into account these incentives, the overall cost would be competitive; and

2. We are able to obtain satisfactory assurance from a U.S. shipyard that it can and will construct the vessel in question in accordance with our specifications and within a reasonable time frame.

Accordingly, we believe the H.R. 2759 provision on ships would enhance the objectives for our Merchant Marine and at the same time help ensure the economic viability of ocean mining. Thus, we urge you to accept and pass the House bill H.R. 2759 and obviate the necessity of a Senate-House Conference.

Sincerely yours,

MARNE A. DUBS,
Director, Ocean Resources Department.

OCEAN MINING ASSOCIATES,
Pittsburgh, Pa., June 16, 1980.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

Re Deep Seabed Hard Mineral Resources Act, H.R. 2759, S. 493, 96th Cong.

DEAR SENATOR MAGNUSON: Ocean Mining Associates believes it is urgently necessary that the deep seabed mining bill (S. 493, H.R. 2759), which has passed both Houses, be enacted before the Senate recesses July 2. The differences between the two bills are so slight that we hope that the Senate will accept the House bill (which incorporates nearly all of the significant provisions of the Senate bill) without going to conference.

With regard to the situs of construction of vessels to be used in ocean mining under authority of U.S. permits, we reaffirm our telex to the American Mining Congress of 3 October 1978, as follows:

"Ocean Mining Associates confirms the testimony given on our behalf before the Senate Foreign Relations Committee to the effect that we intend to construct our mining vessel in the United States. (We do not plan to use a processing vessel.)

"This is on the understanding that:

"1. The Financial incentives of the Merchant Marine Act of 1936 as amended are available, and, taking into account these incentives, the overall cost would be competitive; and

"2. We are able to obtain satisfactory assurances from a U.S. shipyard that it can and will construct the vessel in accordance with our specifications and within a reasonable time.

"This commitment is given in view of the need for passage of this legislation in the present session of Congress and in recognition of the importance of the legislation to the future health of the domestic economy and the American steel industry. This industry, without the future products of ocean mining, soon will be faced with the bleak prospect of dependence upon diminishing supplies of metallurgical grade manganese from an ever-diminishing number of exporting countries."

Thank you for all your fine work. We will be deeply grateful if you can bring about enactment of the bill in the few days which now remain.

Respectfully,

PHILLIP HAWKINS,
President, Ocean Mining Associates.

Mr. MAGNUSON. Mr. President, the Senate will note that the House bill, H.R. 2759, provides in section 102(c)(1)(D) that the Administrator may not issue a permit which authorizes commercial recovery to commence before January 1, 1988, whereas the Senate bill, S. 493, specified a date of January 1, 1982. This change in dates must be read, however, in connection with a change in the definition of "commercial recovery," in section 4(1)(A). The Senate bill defined this term to mean:

> Any activity engaged in at sea to recover any hard mineral resources at a substantial rate, without regard to profit or loss, for the primary purpose of marketing or commercially using such resource, and, if such recovered resource will be processed, or the waste thereof disposed of, at sea, such processing and disposal.

The House bill substitutes a new definition of "commercial recovery," as follows (section 4(1)(A)):

> Commercial recovery means—
>
> (A) any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;
>
> (B) if such recovered hard mineral resource will be processed at sea, such processing; and
>
> (C) if the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal.

The change which the House made in the definition of commercial recovery has the effect of permitting any recovery operations and the sale of the metal product, so long as these operations are not for the primary purpose of earning a net profit. The mining consortia intend to put into operation, at various times between 1981 and 1988, recovery operations on a very large scale, but not at the full operating rates planned for ultimate production. These large interim operations will be for the purpose of testing full-size mining ships and related equipment, for periods of time which are less than full-time operation, and to test various components of the ore-handling, transportation, and refining stages, at various levels of operation, but for periods of time which are shorter than will be required ultimately. As the facilities and operations will be enormously expensive, it is essential that the companies have the ability to sell the recovered metals, in

Accordingly, we believe the H.R. 2759 provision on ships would enhance the objectives for our Merchant Marine and at the same time help ensure the economic viability of ocean mining. Thus, we urge you to accept and pass the House bill H.R. 2759 and obviate the necessity of a Senate-House Conference.

Sincerely yours,

MARNE A. DUBS,
Director, Ocean Resources Department.

OCEAN MINERALS COMPANY,
Mountain View, Calif., June 12, 1980.

Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware both the Senate and the House have now passed bills to authorize the licensing and development of Deep Seabed Mining operations by U.S. citizens. The two bills (S. 493, H.R. 2759) are very similar in nearly every material respect. Resolution of the remaining differences, if any, and prompt final enactment of the legislation is critical to the continued existence of this important American industry.

One question which may be addressed in this connection is whether the Senate should insist on the S. 493 requirement that certain vessels be constructed in U.S. shipyards.

As we advised you when a similar issue arose during consideration of the legislation in the previous Congress, it is our view that the incentives of the Merchant Marine Act of 1936, make the construction requirement unnecessary.

We understand that Section 102(c)(4) of the House bill makes available for ocean mining, processing and transport vessels the various incentives provided under the Merchant Marine Act of 1936, as amended, including construction differential subsidies and Title XI ship mortgage guarantees.

Under these circumstances we will construct our mining and processing vessels in the United States provided that:

1. The financial incentives referred to above are, in fact, made available for the subject vessels, and

2. We are able to obtain satisfactory assurance from a U.S. shipyard that it can and will construct the vessel in question in accordance with specifications and within a reasonable time frame, and the cost of the vessel is competitive.

In view of this commitment, the construction requirement in S. 493 appears unnecessary and we would urge you to accept the House treatment of this issue in order to facilitate prompt enactment. With resolution of this issue we would hope that the Senate would be able to accept the House Bill as passed and promptly send it to the President.

Sincerely,

CONRAD G. WELLING.
Senior Vice President.

OCEAN MINING ASSOCIATES,
Pittsburgh, Pa., June 16, 1980.

Re Deep Seabed Hard Mineral Resources Act, H.R. 2759, S. 493, 96th Cong.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Ocean Mining Associates believes it is urgently necessary that the deep seabed mining bill (S. 493, H.R. 2759), which has passed both Houses, be enacted before the Senate recesses July 2. The differences between the two bills are so slight that we hope that the Senate will accept the House bill (which incorporates nearly all of the significant provisions of the Senate bill) without going to conference.

With regard to the situs of construction of vessels to be used in ocean mining under authority of U.S. permits, we reaffirm our telex to the American Mining Congress of 3 October 1978, as follows:

"Ocean Mining Associates confirms the testimony given on our behalf before the Senate Foreign Relations Committee to the effect that we intend to construct our mining vessel in the United States. (We do not plan to use a processing vessel.)

"This is on the understanding that:

1. The Financial incentives of the Merchant Marine Act of 1936 as amended are available, and, taking into account these incentives, the overall cost would be competitive; and

2. We are able to obtain satisfactory assurances from a U.S. shipyard that it can and will construct the vessel in accordance with our specifications and within a reasonable time.

"This commitment is given in view of the need for passage of this legislation in the present session of Congress and in recognition of the importance of the legislation to the future health of the domestic economy and the American steel industry. This industry, without the future products of ocean mining, soon will be faced with the bleak prospect of dependence upon diminishing supplies of metallurgical grade manganese from an ever-diminishing number of exporting countries."

We thank you for the constructive work your committee has done.

Respectfully,

PHILLIPS HAWKINS,
President.

Mr. MATSUNAGA. Mr. President, this is a moment for which many have awaited for several years. It culminates almost 9 years of consideration in the Senate of domestic legislation to promote the mining of deep seabed mineral resources.

The importance of this issue was first brought to the attention of the Senate through the leadership of our departed colleague Senator Lee Metcalf. For years, Lee questioned and prodded U.S. negotiators who maintained that an opportunity for our mining companies to engage in recovery of deep seabed mineral resources would be afforded by the successful conclusion of a Law of the Sea Treaty. For years, he was assured that such a treaty was imminent. For years the Senate became increasingly restive as negotiations at the United Nations dragged on. Each Congress refined domestic legislation and in each Congress the bill proceeded a little further in the legislative process. That process is being completed in the Senate here today and I am saddened that Lee Metcalf is not here to take satisfaction in this fact and to bask in the praise which he so justly deserves for having the foresight to start us down this path.

Before he left us, Lee asked me to promise him that I would complete the task of enactment of this legislation. It gives me great personal pleasure today therefore, to know that this is about to happen.

The legislation before the Senate is the House-passed version of the Deep Seabed Mineral Resources Act. It is very similar to the Senate bill which I introduced and which the Senate passed on December 14 of last year. While I was hopeful that the House would pass and return my bill, I am happy to note that our colleagues in the House have also recognized the importance of this legislation.

Today, I will offer a series of 16 amendments en bloc to the text and title of the bill as passed by the House. These amendments represent the consensus of the five Senate committees which originally considered the Senate bill, S. 493. Several of the amendments are only technical in nature. It is my understanding that the bill, which these changes will be suported in the House, by the administration and also has the support of the ocean mining industry. We can, therefore, expect expeditious passage by the House next week and a Presidential signature shortly thereafter.

One of the amendments we are considering is a requirement that the Secretary of State shall negotiate with reciprocating States for the purpose of establishing stable reference zones on the seabed in which no mining will be allowed. The purpose of the zone is to provide a reference area for resource and environmental evaluation. This amendment was adopted by the Senate Energy Committee and approved by the full Senate. The House bill does not contain a similar provision.

This provision has been objected to by both the ocean mining and industry and the State Department. The industry views this provision as overboard with a potential for interference with selection and operation of mining sites. The State Department has expressed the view that the provision may be misinterpreted by other nations as an illegal claim of sovereignty of the seabed. However, I believe the revised version of this provision answers these objections.

Our intention in adopting this provision is that the administration interpret the provision narrowly; that reference zones not conflict with mine site selection and that the selection of reference zones be carried out cooperatively with other reciprocating nations.

Mr. President, we do not have time to repeat at any length the full debate that ensued on December 14 of last year when the Senate passed S. 493. The remarks made then by Members are equally applicable now. Our concerns about the intent of title II of this bill remain serious. We need a treaty which will respect the will of the Congress as expressed in title II.

Mr. President, I am particularly pleased to announce the firm support of this legislation by the Carter administration, and, more specifically, the support of our Ambassador to the Third United Nations Conference on the Law of the Sea, the Honorable Elliot Richardson.

While we all continue to support the administration's efforts to reach an acceptable agreement on the Law of the Sea, it is gratifying to note that it understands the importance of domestic legislation in enabling U.S. mining companies to proceed in the interim until this is accomplished. I hope our friends in the developing countries of the world understand that passage of domestic legislation is in the context of our support for the successful conclusion of the treaty. However, I hope they also understand that any such treaty will simply have to contain deep sea mining provisions which are acceptable to the United States.

version of this bill in December of last year. The proposed amendments are largely technical with the exception of three substantive issues: The requirement that land-based processing of hard minerals from the seabed be conducted in the United States, the elimination of the economic balancing provisions included in the House bill, and the addition of stable reference areas.

The other issue that was of concern to me was the elimination of a provision that mining and processing vessels be built in the United States. This had been a key provision in S. 493. Representatives of the mining industry have sent letters assuring that construction would be in the United States and that the provision was unnecessary. I accept those assurances.

Mr. President, I support the adoption of these amendments and urge my colleagues to move for prompt passage of this legislation.

Mr. WARNER. Mr. President, for over a decade I have been a strong supporter of the United States being in the forefront of the worldwide movement to make greater use of the mineral resources of the deep seabeds. In 1969, as part of my duties as Under Secretary of the Navy, I was designated by the Secretary of Defense as the Department of Defense delegate to the Law of the Sea Conferences. I continued in this special assignment throughout the over 5 years of my service in the Department of Defense as Under Secretary and later Secretary of the Navy, attending periodically conferences abroad and participating as a member of the Inter-Agency Task Force.

Therefore, I support S. 493, the Deep Seabed Mineral Resources Act, as it is designed to promote the conservation and orderly development of the mineral resources of the deep seabed through a system of licensing and regulation.

The United States has a critical need from both a strategic and economic standpoint for a secure, long-term supply of several metals found in seabed nodules. Principal ones are: Cobalt, copper, manganese, and nickel.

For example, in 1977 we imported 98 percent of requirements of manganese, 97 percent of our cobalt requirements, 70 percent of our nickel needs, and 17 percent of our copper requirements.

A Department of Defense study lists three minerals among the most susceptible to supply disruptions because of political instability in the exporting nations. Manganese ranks second, cobalt 11th, and nickel 15th.

The United States spent over $1.8 billion importing these minerals in 1977. Ocean mining could make the United States self-sufficient in copper, cobalt, manganese, and nickel by the year 2000, contributing positively to the U.S. balance of payments and strengthening our national security.

Nickel is vital to the iron and steel industry; it has played a key role in the development of the aerospace industry. Cobalt is also important to the aerospace industry and to the electrical industry. Manganese is an essential element in the steel industry. For every ton of steel produced, 13 to 20 pounds of manganese ore is consumed.

However, one omission from this bill concerns me greatly; namely, the House bill before us omits a provision on shipbuilding which I feel is vital to America's strategic interests. It was for this reason I placed a "hold" on this bill.

I am referring to the provision in the original Senate bill, section 102(c)(2), that any vessel used for the commercial recovery of hard mineral resources or for the processing of such resources at sea by U.S. citizens must be constructed in the United States.

This "build in America" provision is critical I believe to the continued viability of America's shipyards.

Currently the Nation's shipbuilding industry is undergoing trying times. Very few orders for new ships are being placed and thousands of highly skilled shipyard workers are as a result either out of work or are leaving the industry. The "build in America" provision would help to stimulate our shipyards and help to retain their highly skilled personnel.

The maintenance of a viable domestic shipbuilding industry is absolutely essential to our country's merchant marine as well as our Nation's national defense and naval shipbuilding capacity.

Thus I was very distressed that the House in H.R. 2759 deleted the "build in America" provision.

After I expressed my strong concern on the deletion of this provision I received copies of letters written by the three American mining concerns currently involved in deep seabed mining specifically addressing the "build in America" provision.

Each company has taken the position that they will construct their mining and processing vessels in the United States provided that:

First. The financial incentives referred to above are in fact made available for the subject vessels and, taking into account these incentives, the overall cost would be competitive; and

Second. We are able to obtain satisfactory assurance from a U.S. shipyard that it can and will construct the vessel in question in accordance with our specifcations and within a reasonable time frame.

Mr. President I am including these the letters from Kennecott Development Co., Ocean Minerals Co., and Ocean Mining Associates which address this subject as part of my statement.

Today I was contacted by Mr. Elliot Richardson, Ambassador-at-Large and the U.S. representative to the Law of the Sea Treaty, regarding my concern with the deleted provision. He assured me that these letters would give protection to the U.S. shipbuilding industry.

Subsequently, I received a letter from Mr. Edwin M. Hood, president of the Shipbuilders Council of America which states that though his organization would like the original "build in America" provision to be a part of the law, the assurances that he has received by the ocean mining consortiums that these "vessels will in point of fact be constructed in the United States" allows his organization to support the House version of the Deep Seabed Mineral Resources Act. I ask unanimous consent to have inserted into the Record a copy of Mr. Hood's letter of June 23.

Accordingly, based on these assurances I have received, I withdraw my "hold" on this bill and will vote in favor.

There being no objection, the material was ordered to be printed in the Record, as follows:

Shipbuilders Council of America,
Washington, D.C., June 23, 1980.

Hon. John W. Warner,
U.S. Senate,
Washington, D.C.

Dear Senator Warner: The opportunity to talk with you this morning in regard to the posture of the pending ocean mining legislation was very much appreciated.

Concerning ship construction, we obviously prefer the specific requirement in S-493 that certain vessels be built in U.S. shipyards, but on the unqualified assurances of those sponsoring an imminent ocean mining project that these vessels will in point of fact be constructed in the United States, are willing to go along with the provisions in HR-2759 which extend the provisions of the Merchant Marine Act of 1936 to such vessels.

Our primary purposes are to ensure opportunities for U.S. shipbuilders and to ensure that enactment of appropriate and effective ocean mining legislation promptly.

We remain grateful for your continuing interest in these same objectives.

Sincerely,

Edwin M. Hood, *President.*

Kennecott Development Co.,
Lexington, Mass., June 13, 1980.

Hon. Warren G. Magnuson,
U.S. Senate,
Washington, D.C.

Dear Senator Magnuson: S. 493, the "Deep Seabed Mineral Resources Act" was passed by the Senate on December 14, 1979. H.R. 2759, the House version of the same bill was passed on June 9, 1980.

We understand that a major difference between the bills is the provision on the use of ships in ocean mining.

S. 493 requires the mining ship to be constructed in and documented under the laws of the United States (Sec. 102(c)(2)). H.R. 2759 requires only that the mining ship be documented under the laws of the United States (Sec. 102(c)(4)).

S. 493 includes the mining ship under section 905(a) of the Merchant Marine Act, 1936. H.R. 2759 does the same, but in addition includes the mining vessel under section 11017(b) of the same act.

We fully understand and are in accord with the national objective of strengthening our Merchant Marine. However, we believe the U.S. construction requirement of S. 493 is unnecessary because the same effect is accomplished by the full incentives included under 905(a) and 1101(b) of the Merchant Marine Act of 1936 as provided in H.R. 2759.

We understand that Section 102(c)(4) of the House passed bill makes available for ocean mining, processing, and transport vessels the various incentives provided under the Merchant Marine Act of 1936, as amended, including construction differential subsidies and Title XI ship mortgage guarantees.

Under these circumstances, we will construct our mining and processing vessels in the United States provided that:

1. The financial incentives referred to above are in fact made available for the subject vessels and, taking into account these incentives, the overall cost would be competitive; and

2. We are able to obtain satisfactory assurance from a U.S. shipyard that it can and will construct the vessel in question in accordance with our specifications and within a reasonable time frame.

reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, lines 1 and 2, strike "eventually" and substitute "increasingly".

On page 5, line 22, strike "the entering into force" and substitute "the ratification by, and entering into force with respect to, the United States".

On page 12, line 7, strike, after the word "engage", "directly or indirectly".

On page 13, line 4, strike the period and insert ", or does not involve the recovery of any but incidental hard mineral resources,".

On page 16, line 24, insert "is ratified by and" immediately after "agreement".

On page 19, strike lines 6 through 18 and substitute the following:

"(5) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit shall be conducted within the United States: *Provided*, That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commercial recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resources, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.".

On page 24, line 10, strike "Secretary" and substitute "Administrator".

On page 31, strike lines 19 through 21 and "striction" on line 22 and substitute the following: "is inconsistent with this Act or the regulations promulgated thereunder.".

On page 31, line 24, strike "issue," and substitute "issue of fact".

On page 33, strike all of paragraph (4) beginning on line 23 and ending on page 34, line 10.

On page 34, line 11, strike "(5)" and substitute "(4)".

On page 46, strike lines 13 through 19 and substitute the following:

"(e) EFFECT ON OTHER LAW.—For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

"(f) STABLE REFERENCE AREAS.—

(1) Within one year after the enactment of this Act the Secretary of State shall, in cooperation with the Administrator and as part of the international consultations pursuant to subsection 118(f), negotiate with all nations that are identified in such subsection for the purpose of establishing international stable reference areas in which no mining shall take place; *Provided*, however, that this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(2) Nothing in this Act shall be construed as authorizing the United States to unilaterally establish such reference area or areas nor shall the United States recognize the unilateral claim to such reference area or areas by any state.

(3) Within four years after the enactment of this Act, the Secretary of State shall submit a report to Congress on the progress of establishing such stable reference areas, including the designation of appropriate zones to insure a representative and stable biota of the deep seabed.

(4) For purposes of this section "stable reference areas" shall mean an area or areas of the deep seabed to be used as a reference zone or zones for purposes of resource evaluation and environmental assessment of deep seabed mining in which no mining will occur.".

On page 50, line 4 after the word "information," add "knowingly and willingly".

On page 50, on lines 18 and 19 and on lines 21 and 22, strike "Secretary" and substitute "Administrator".

On page 52, line 4, insert "the proposed transferee is a United States citizen" immediately after "unless".

On page 84, line 20, insert "ratified by and" immediately after "is".

Mr. MATSUNAGA. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (UP No. 1286) was agreed to.

Mr. STEVENS. Mr. President, we have before us today the House-passed version of the Deep Seabed Mining bill to which we are affixing Senate amendments. I anticipate that the House of Representatives will accept the Senate amendments and send the legislation to the President for his signature.

Agreement on the legislation has been some 9 years in the offering. The Congress has always sought to develop Deep Seabed Mining legislation in a manner which has complemented rather than negated the progress of the Third United Nations Conference on the Law of the Seas.

The bill before us continues in that tradition and will assist Ambassador Richardson in that negotiation. Ambassador Richardson has skillfully negotiated a draft consensus agreement which I believe is 90 percent complete. With the help of Ambassador Richardson the Congress has structured the bill before us in such a manner as to provide the Ambassador with the needed leverage to complete negotiations on a comprehensive law of the sea treaty. Thus, this legislation represents the cooperative efforts of the Congress and Ambassador Richardson.

Mr. President, I would suggest that each of my colleagues here in the Senate endorse the legislation now before us. It is a necessary and critical element in the satisfactory conclusion of the Third United Nations Conference on the Law of the Seas.

Mr. CANNON. Mr. President, it is with pleasure that I rise to support these amendments to the Seabed Mining Act and urge prompt passage of the amended version. The bill and amendments before us represent the consensus of 9 years of congressional consideration and reflect the work of five Senate committees. The road to this point has been long and hard, full of stops and starts. The fact that five committees have reached consensus is impressive, considering the range of issues involved.

The bill before us now reflects the wisdom gained from the spring session of the United Nations Law of the Sea Conference, incorporating administration amendments offered in light of that session. Ambassador Elliott Richardson advises that this is a suitable time to enact a seabed mining law and that the new law will not unduly interfere with the prospects for an acceptable LOS treaty. The summer session of LOS will begin in Geneva at the end of July. Enactment now will avoid the disruption of negotiations that could result from final action later in the summer.

This legislation is the product of extensive compromise in both Houses of Congress. It seeks to encourage the law of the sea negotiations. But it also attempts to provide protection for the investments and operations of our mining companies. We cannot ask the mining companies to continue much longer their preparatory work for a marine mineral enterprise in the present uncertain investment climate.

The amendment package we propose is largely of a technical nature, but there are three amendments of a more substantive character. These substantive amendments are taken directly from S. 493 as it passed the Senate in December. In particular, I refer to the requirement that land based processing of hard minerals from the seabed be conducted in the United States, and refer to the elimination of the economic balancing provisions included in the House bill.

By requiring land based processing in the United States, we would reserve economic benefits for U.S. citizens from this new form of enteprise. American business will stand to make profits; American workers will have new job opportunities.

In omitting the economic balancing provisions from the sections dealing with permits and licenses, we would be asking no more from the seabed mining industry than we ask from other industries whose activities affect the environment. These provisions would encourage endless debate over the economic implications of environmental conditions to permits and licenses, with inevitable high administrative costs and potential harm to the environment.

Our amendment package does not include the requirement that mining and processing vessels be built in the United States, which was a key provision in S. 493. Representatives of the mining industry have sent letters assuring that construction of their vessels would be in the United States, and we accept those assurances.

Mr. President, with that I urge the adoption of these amendments and the prompt passage of this legislation.

Mr. HOLLINGS. Mr. President, once again the Senate has before it legislation concerning the mining of the deep seabed for manganese nodules. This issue has been before the Congress in one form or another for 9 years now and has been in and out of five different Senate committees. The administration is urging the passage of a bill before the next negotiating session for law of the sea in Geneva this summer.

The package of amendments before the Senate today is consistent with the positions taken in passing S. 493, the Senate has erupted into violence. Reports indicate that Vietnamese forces have crossed the border along a 12-mile stretch, and have engaged Thai forces with heavy casualties. They have also overrun encampments of Cambodian refugees, reportedly with numerous casualties there as well.

If any further evidence were needed of the hollowness of the Vietnamese "concern" for the Cambodian people, this attack surely provides it. The hundreds of thousands of Cambodians who have been forced to flee their homes in Cambodia because of violence, disease, starvation, and hatred of the Vietnamese invaders are now innocent pawns of the Vietnamese in their attempt to punish the Thais and the U.N. agencies for their supposed aid and comfort to the enemies of Vietnam. They have been caught in the crossfire of a conflict which is not of their own making, and in which they want no part.

And for the Thais, who have provided a sanctuary for those Cambodians who have been forced to flee Vietnamese-controlled Cambodia, the Vietnamese invasion poses a serious threat. The Thais have not sought a border confrontation, but it has now been thrust upon them, and her friends now have an obligation to insure that Thailand's humanitarian response to the refugee problem does not threaten to embroil her in a conflict which she has tried to avoid.

Mr. President, these events impose important obligations on the United States and the rest of the international community. Last January, after returning from a visit to the Thai-Cambodian border, I proposed that the Congress call upon the President to press the United Nations to establish an international presence in the refugee encampments along that border. Senator HAYAKAWA and I sponsored a resolution, which was approved by both Houses of Congress, urging that U.N. personnel be provided in order to promote security and stability in the refugee camps, and to make clear to all parties that U.N. assistance was being provided solely for humanitarian purposes. Regrettably, the U.N. has not seen fit to act on this proposal, which was first put forward by the Thais almost a year ago.

In light of the most recent developments, a stronger response is now necessary. I call upon the President and the Secretary of State to press the United Nations, in the strongest possible terms, to take immediate action to stabilize the Thai-Cambodian border region. I would urge the U.N. to establish a peace-keeping force—preferably U.N. troops but at a minimum international observers—to maintain order and to protect the lives of innocent and unarmed Cambodian refugees who for all practical purposes have become stateless persons, barred from their own country by an invading force. And I call upon the Russians, whose economic and military aid enables Vietnam to continue its occupation of Cambodia, to use whatever leverage they possess, to restrain the use of force by the Vietnamese, in the name of basic humanitarian decency.

Finally, I hope our Government will make clear its intention to provide assistance to Thailand in defending its territory. The increased level of foreign military sales credits which both the House and Senate have now endorsed is symbolic of our desire to provide needed support, and I hope the President will expedite delivery of military equipment and take any other steps which may prove necessary.

Mr. President, it is a sobering reality that the Cambodian tragedy of the last 10 years shows little sign of coming to an end. So long as the Cambodian people continue to suffer, we must be prepared to shoulder our share of the burden of helping to keep that once-great nation and its people alive.●

EXPORT TRADING COMPANIES

● Mr. DURKIN. Mr. President, I am pleased to join Senator STEVENSON and several other of my Senate colleagues in cosponsoring S. 2718, a bill to help expand export opportunities for our small- and medium-sized businesses by facilitating the formation and operation of export trading companies.

By encouraging the formation of export trading companies, this bill represents an important step in addressing our balance-of-trade problem, and it also represents a major stride toward rectifying the longstanding export disadvantages faced by our small- and medium-sized businesses. Of the 250,000 to 300,000 manufacturing firms in the United States, only 10 percent are involved in export activity. Moreover, less than 1 percent of all American manufacturing concerns account for about 85 percent of all U.S. exports. To my State of New Hampshire, as well as for every State in the Union, this amounts to an enormous untapped potential. Presently this potential is languishing beneath outdated regulations barring any cooperation between businesses and banks, an unfair tax system which discourages foreign trade, ambiguous antitrust provisions and standards, prohibitive economies of scale in entering foreign markets, and general lack of experience and expertise in dealing with international markets.

In the United States, only the largest firms have been able to overcome these obstacles, leaving most other businesses confined to the domestic market. In countries such as Germany and Japan, however, firms of all sizes are able to claim a full share of the international market, in large part, through government-supported export trading companies. Such companies provide the promotional activities, market research, statistical intelligence, operational expertise and trade financing that small- and medium-sized companies cannot manage alone.

The bill I am cosponsoring today would cut through layers of tax, regulatory, and structural disincentives to export activity in the United States. And it would provide American businesses with the same conditions and opportunities enjoyed by their counterparts in Japan, Germany, and many other countries.

Firm action is clearly overdue on the part of both the private sector and the Government to improve the export performance of American industry, small medium, and large. The United States has incurred a trade deficit in each year since 1975. Outrageous increases in the price of OPEC oil have been the major, but not sole, cause of the string of negative outcomes on our balance of trade tally sheet. However, Americans must also recognize that the growth rate of American exports has decreased markedly in recent years. Recordbreaking inflation, reductions in industrial and technological research and development, and lackluster and even negative productivity have all contributed to the gradual deterioration of our export performance, as well as our runaway inflation. Aggressive operations by foreign business concerns have also succeeded in discouraging competition from firms in the United States. The distressing result has been 5 successive years of deficits. Simply stated, that must end. The United States must immediately begin to explore every avenue to reverse this trend.

Mr. President, after 5 years of trade deficits, this legislation means an improved balance of trade. At a time of increasing competitive difficulties for our small- and medium-sized businesses, it means expanded markets. At a time of shrinking GNP, it means increased economic growth. At a time of burgeoning unemployment, it means the promise of jobs. The engine for this change is simply to free our own businesses to compete with foreign businesses on equal terms.

I strongly urge my colleagues in the Senate to support this bill.●

DEEP SEABED HARD MINERAL RESOURCES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 865.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2759) to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1286

(Purpose: To make certain technical and other amendments)

Mr. MATSUNAGA. Mr. President, I send a series of amendments to the desk and ask unanimous consent they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 1286.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further whole area of capital formation, [we have] a lot more in common than what is standing between us," he says.

For its part, labor agrees—in principle, at least—that the nation's manufacturing base must be rebuilt. At the suggestion of AFL–CIO President Lane Kirkland, the federation and the Carter Administration have formed a task force to discuss reindustrialization.

YEARS OF BELT TIGHTENING

In theory, the congressional hearing process should be the forum for consensus-making. In practice, however, congressional hearings are often unstructured, interrupted, and dominated by short-term thinking and political considerations. Moreover, because interest groups use them for special pleading, the hearings often become adversary.

But Congress welcomes those rare occasions when it is presented with an already achieved consensus. "If it were possible for business and labor and one or two other groups to join together [before going to Washington], it would have a much larger impact on political leaders," says Ruben F. Mettler, chairman of TRW Inc.

Still, an effective reindustrialization policy—even if based on a consensus—will stir controversy because:

It will require an emphasis on investment over consumption and on investment toward production of capital goods over quality-of-life improvements.

It will require a massive investment in human capital to shift people off welfare and into jobs.

It will require indicative planning involving government participation.

Amitai W. Etzioni, a former Columbia University sociologist and specialist in developmental economics who is serving as an adviser to President Carter, foresees "10 years of belt tightening" as a result of reindustrialization because "we have to rewire the country and reinvest heavily in all the elements that make up the capital infrastructure, including human capital."

As part of the new social contract, unions will come under pressure to limit wage gains in the first phase of reindustrialization. In return, both government and business will have to present convincing evidence that such a sacrifice will pay off in the long run by steering the economy toward high employment at decent wages. Government and business also must make sure that reindustrialization creates new jobs—particularly for blacks and other minorities—and that adequate provisions are included for helping workers in dying industries.

Since the $6.5 billion per year the government now spends on jobs training is often little more than income maintenance, reindustrialization should involve a major overhaul of this program to make it more productive. In addition, the Administration and Congress should unscramble the complexities they have written into the employment tax credit to encourage small business to make more use of it. Moreover, an effective industrial policy implies a plan and a process for determining which industries are to be encouraged and are not.

The idea of industrial planning under government auspices stirs legitimate concerns because of the danger that government, since it is sovereign, would in the end resort to coercion. Etzioni, for example, feels that reindustrialization should not involve "a high degree" of government planning. He thinks the government should essentially limit its role to providing long-term, investment-oriented tax and regulatory incentives and to funding a quasi-governmental agency that could make limited loan guarantees to sick industries until the investment climate improves.

PIECEMEAL APPROACH

A plan acceptable to all interest groups, however, would be far preferable to the current practice of having the government keep its hands off until it becomes necessary to rush in at the last moment with an ad hoc rescue program for a financially failing industry or major company. The Carter Administration is only haphazardly backing into an industrial policy. The Transportation Dept. is studying ways to bolster the auto industry, while the Commerce Dept. is setting up a task force to study the long-range problems of steel.

Aside from working cooperatively with business and labor in formulating reindustrialization goals, government must start removing—or easing—policy impediments of its own making. Reindustrializing clearly cannot succeed without farsighted tax, trade, and regulatory policies. Government must face up to the fact that the explosion of federal regulations placed on business to achieve social goals—a cleaner environment, equal employment, and a safer workplace, for example—has diverted vast amounts of capital from production and research and development.

Because regulatory goals are, in general, broadly accepted and beneficial to society at large—although the benefits often cannot be quantified—they are not likely to be abandoned or even rolled back significantly. But business rightly argues that regulatory programs should be managed more effectively and in a less adversary and litigious fashion.

A Strategy for Rebuilding the Economy

In this special issue, the editors of Business Week have documented the necessity of reindustrializing the U.S., and they have shown how it might be done. The first step is to recognize that the U.S. indeed faces a crisis and that there is no option available but to redo the manufacturing sector of the economy. To make this goal politically feasible, the strategy for achieving it must contain, at a minimum, five elements:

1. The leaders of the various economic and social groups that compose U.S. society should agree on a program for reindustrialization and present that program to Washington. Neither Congress nor the Administration is capable of providing the leadership necessary to form a national consensus. Business, labor, and academic leaders should establish a forum to hammer out a new social contract for the U.S. Special groups must recognize that their own unique goals cannot be satisfied if the U.S. cannot compete in world markets. The drawing of a social contract must take precedence over the aspirations of the poor, the minorities, and the environmentalists. Without such a consensus, all are doomed to lower levels of living, fewer rights, and increasingly dirty air and water.

2. The first stage of the reindustrialization program must be geared to helping the U.S. emerge from the current recession. Instead of the orgy of tax cuts and spending increases that has masqueraded as constructive policy in previous recessions, the U.S. needs measures that will strengthen the industrial base. Such a program would include substantial tax cuts for investments and subsidies or tax preferences for research and development spending.

3. The federal budget should be divided into two parts—a current accounts budget, which should show a substantial surplus, and a capital budget, designed to promote the reindustrialization of the U.S. economy. The reindustrialization budget probably would have to run a large deficit for some time. This section of the budget should not be distorted by efforts to create the illusion that income will match outgo immediately. As history demonstrates, recessions always generate big deficits. Congress and the Administration should face this prospect realistically and proceed with the tax reforms the country needs to help rebuild the eroded capital base.

The real budget issue in the next few years will be the purpose for which deficits are incurred. Running the printing presses to finance wasteful, short-term pump-priming will be inexcusable. Tax cuts and tax incentives that encourage productivity and serve the goal of reindustrialization will pay for themselves in the long run by broadening the tax base and raising levels of real income.

4. Federal credit programs should be ruthlessly restructured to strengthen industry and promote exports. In past recessions, the government has spooned credit and guarantees into the housing industry; economists think it generates large numbers of jobs, and politicians count on it for an equal number of votes. The result has been a combination of affluence for housing and squalor for other industries. This time, priorities must be changed. Loans and guarantees to promote investment, spending on research and development, and export activities must come ahead of housing loans. If necessary, an institution comparable to the Reconstruction Finance Corp. of the 1930s should be set up to channel credit into reindustrialization.

5. The U.S. at long last should make a determined, effective effort to promote exports. Regulatory laws, including the antitrust laws, should be changed if it can be shown that they interfere with the ability of U.S. companies to compete effectively with other countries—especially Germany and Japan—in world markets. At the same time, the U.S. should push an aggressive free trade policy to break down barriers. The other great trading nations should be told that the alternative to free access to their markets is a new industrial protectionism in the U.S. And U.S. negotiators should, for once, say this as though they believed it.

BROADENING THE BASE

The reindustrialization program must depend on consensus, not coercion. Policy must not be allowed to turn into a compulsory blueprint. The role of government must be confined to fostering an environment that encourages reindustrialization. It will be legitimate for government to work with the private sector in developing a road map for healthy industrial development, showing which industries should be encouraged to grow and which have only a limited future. It will not be legitimate for government to legislate a new industrial structure. Nor will it be legitimate for government to take over sick industries to preserve obsolete jobs. The object of reindustrialization must be to revitalize the U.S. economy, not to preserve a collection of costly antiques.

The reindustrialization plan must pay special attention to the needs of small enterprises and the part they can play in rebuilding the economy. In the past 15 years of economic turbulence ,small business has proved more flexible and adaptable than the giant corporations. Small companies have provided more new jobs and more new ideas over the years than big companies. Preserving and encouraging this dynamic sector of the economy should be part of the foundations of any reindustrialization program.

But perhaps most important of all, any program that the U.S. launches must raise the sights of corporate management and restore its shaken nerve. The managers of U.S. business have lived so long in an atmosphere of hostility and dispute about objectives that they are in danger of losing sight of what their role in the economy ought to be. The starting point for any program must be to help them look past the current quarter to the years ahead.●

THAI-CAMBODIAN BORDER VIOLENCE

● Mr. LEVIN. Mr. President, within the last 24 hours, the already-tense situation along the Thai-Cambodian border more capital in production, the U.S. is becoming more labor intensive in its production methods. Since 1976, the capital stock has increased at a 3 percent annual rate and hours worked by a larger 3.8 percent. The statistics for Germany and Japan are exactly the opposite. An increase in the labor intensity of output is not a sign of vigor but of decay.

In what may be an optimistic portent, the decline in the U.S. economy has advanced so far that the public as a whole has begun to sense a need for change. "The state of mind of the public is worried sick and in a panic," says Daniel Yankelovich, chairman of the public opinion polling firm of Yankelovich, Skelly & White Inc. "In that condition, people know there is something wrong. That pushes them into working out accommodations that make economic sense."

If Yankelovich is right, the question of whether the U.S. will reindustrialize depends on whether the business, bureaucratic, and political elites can get together to provide the leadership. An enormous amount has to be done, and the time to do it is running short. So much has to be done that it may not be possible to do it all. But the U.S. has to make a start. Certainly the jolt provided by the current recession has created an environment in which the public is ready to reindustrialize America.

CREATING A NEW SENSE OF TEAMWORK

The most urgent piece of business facing the nation is to reverse the economic and social attitudes that have generated its industrial decline. It is a task that must involve all elements of society: business, labor, government, minorities, and public-interest groups. It requires nothing less than a new social consensus, a remodeling of what the 18th century philosopher Jean Jacques Rousseau termed the "social contract" that brings individuals together to form a society. Each citizen, wrote Rousseau, contracts to bind himself under the "general will" for the common good. It is the nature of that general will that must be altered.

Stated plainly, all social groups in the United States today must come to understand that their common interest in returning the country to a path of strong economic growth overrides other conflicting interests. The adversary relationships of the past were tolerable because they centered mostly on how to distribute an expanding output of goods and services. Taking growth for granted is no longer possible.

If the country tries to pretend otherwise, further economic decline and social disruption are inevitable as various groups struggle for more and more of less and less. Continuing economic decline means that no group in society will achieve its aspirations.

To work, the new social consensus must include the following elements.

It must be based on clear recognition of the new world economic realities.

At the government level, it must include indicative rather than specific planning. What is required is an environment that encourages growth rather than a swarm of new laws that strait-jacket initiative.

It must include agreement among leadership groups, which, in return, must voice the concerns of their constituents.

Finally, it must be fair. The United States is being asked to consume less and invest more. This means sacrifice. But sacrifice must not be exacted from groups—the poor, for example—who are least able to bear it.

At the center of the new consensus must stand the recognition that each social group will be measured by how it contributes to economic revitalization. Each group's income must be related firmly to its economic achievement.

For management this means renewed emphasis on production and productivity, long-term goals, and risk-taking instead of short-term profits, financial juggling, and risk avoidance. In short, management must be judged by how well it manages growth.

For industrial relations this means that wage bargaining must truly reflect economic circumstances and that today's workers must be offered the new incentives needed to motivate them to higher levels of productivity.

For government this means that all policies must be scrutinized ruthlessly and changed where needed in ways that promote rather than impede economic growth.

BRINGING IN THE EXCLUDED

Finally, it means that business, labor, and government—the dominant leadership groups—must find ways to bring excluded groups into the system, especially alienated black and Hispanic youth. This does not mean reviving the storefront training programs of the past, aimed at nonexistent jobs. New thinking is needed, and some of it is already emerging. Robert L. Woodson, a former Urban League official who is now a resident fellow at the American Enterprise Institute for Public Policy Research, talks about using "transfer payments as a source of investment capital," and is studying ways of redirecting some of the "millions and millions of dollars" now spent on welfare programs into funds for creating new enterprises and jobs.

Such thinking suggests that, with will and imagination, forging the new consensus lies within our grasp. Many minority members want to substitute work for welfare dependency. Labor leaders and workers are finding ways to cooperate for greater productivity and job satisfaction. And signs suggest that the broader public not only would support a new industrial plan but also would welcome one that made sense, even with sacrifices, provided the sacrifices were seen as fair.

There are dangers. One is that businessmen, fully absorbed in the problems of the economy, will push social problems to the background. The recent riots and killings in Miami show forcefully that the racial powder keg can still ignite. Daniel Yankelovich, chairman of Yankelovich, Skelly & White Inc., feels that reaching out to minorities is the price that will have to be paid to achieve any new social consensus.

With that condition, Yankelovich, who regularly takes the public pulse, is optimistic about the chances for new agreements. He finds that anxiety over the economy and the country is moderating conflicts and making people more ready to compromise. "At the leadership level," Yankelovich concludes, "you have a climate that is increasingly propitious."

This extends to the broader public. While many people distrust business (they distrust government even more), principally on health and safety issues, "they are not especially punitive. And they rate business high on ability to get things done, whereas government is rated low there. What they really want is for business and government to get together and solve problems."

The Germans and the Japanese, points out Raymond A. Katzell, an expert on worker attitudes, stood amid the rubble of their cities and industrial plant and managed to build a new social consensus. The U.S. now must act with the same urgency.

GOVERNMENT'S ROLE IN THE CONSENSUS

Devising a successful government policy for reindustrializing the U.S. requires a markedly changed attitude in Washington both by elected representatives and the career bureaucrats who staff government agencies. To bring that about, the government first has to assign a high priority to the development and implementation of such a policy. In the U.S., during the past 20 years, policy has emphasized improving the quality of life, particularly attempts to redistribute income to low income groups and minorities and to create an egalitarian society. Now it is clear that the government cannot achieve such goals, no matter how admirable, without economic growth. And the U.S. cannot have economic growth in the future unless its industrial base is modernized.

To start the government process, however, a consensus has to exist among labor, management, and other major interest groups. The climate is right for a coalition approach. "If America is to be successful in meeting the challenges posed by our competitors in international and domestic markets, there is a great need to build a consensus on economic and trade policy," a seminar on government-business relationships concluded at a recent Harvard University conference on competitiveness. The chairman of that seminar, Representative Richard Bolling (D-Mo.), who is also chairman of the powerful House Rules Committee, believes that the great growth the U.S. enjoyed after World War II resulted from a national consensus that led to the Marshall Plan, the Full Employment Act of 1946, and civil rights laws in the mid-1960s.

The war in Vietnam ended that consensus, according to Bolling. The congressman now talks of putting together a new coalition that could pass a fundamental piece of legislation—analogous to the Full Employment Act—to encourage industrialization of the U.S. With this act as a centerpiece, additional legislation would be passed to achieve such a goal, regardless of who was President.

Representative Henry S. Reuss (D-Wis.), a member of the congressional Joint Economic Committee, proposes a slightly different approach. He suggests that government, business, and labor "adopt the cooperative approach that has been tried and proven by several of our major allies and rivals, notably Germany and Japan (page 138).

"Ideally," Reuss argues, "independent teams from government, business, and labor should be constituted to look into the problems of each of our major sectors. The teams' objective should be to devise sectoral policies and develop plans covering corporate restructuring, new investment and its location, remedial regulatory legislation, and public financial assistance where required."

TOO MANY INTEREST GROUPS?

In a similar vein, Lazard Freres & Co. partner Felix G. Rohatyn calls for the creation of a temporary national economic commission with representatives from government, business, labor, and academia. Among other things, the commission would recommend to the President and Congress "an industrial strategy which, coupled with tax policy, would have as its objective to reverse the decline of the manufacturing sector."

Arnold H. Packer, Assistant Labor Secretary for policy, evaluation, and research, sees the need for a continuing forum in which interest groups would examine industrial problems and make recommendations to the President and Congress.

Certainly there are doubters who question whether any type of social contract can work successfully in the context of the U.S. system, where labor and management seldom view each other as partners and battle for economic power while the government ostensibly acts only as a public interest referee. George C. Eads, a member of the President's Council of Economic Advisers, for example, feels there is probably too much pluralism in the U.S. system for a social contract to work well.

The challenge, of course, is to develop a consensus-forming framework under which government, business, labor, and other major interest groups—without compromising their spiritual roles—can agree on tradeoffs that would both strengthen the economy and, in the end, prove beneficial to all. John D. Ong, chairman of B. F. Goodrich Co., is optimistic that labor and management could find grounds for agreement. "If you look at taxation, foreign trade, and the vironmental program for the great lakes and the St. Lawrence Seaway, Fish and Wildlife Service at Ft. Snelling. Asked if he was concerned about his wife's safety or health while she was in Tailand, he said he was not worried in the slightest.

"I would have the same attitude if members of my family were held hostage. I would simply make the best of it," he said. "As far as her health, she left in good condition and came back 20 pounds lighter, looking great."

George said he was excited that Elaine had the opportunity to go overseas. Since he had lived in the Orient for 14 years when he was a boy and he and Elaine have two adopted oriental children, he felt there were good reasons for his wife to spend some time in that part of the world. Also, he thought that it was a good learning experience to see firsthand the socio-economic, cultural and health problems of the Far East.

"Elaine worked with other medical volunteers from every nationality," he said, "Filipinos, Dutch, German, Swiss—16 nationalities of people—together in the camp.

"She went over there with the attitude that she wasn't doing anything extraordinary. I was sure she'd get back safe and all of us would be better for the contributions that she made. Our family really appreciates her and the people of Southeast Asia all the more," Griebenow said.●

THE REINDUSTRIALIZATION OF AMERICA

● Mr. RIBICOFF. Mr. President, Business Week has just issued a special issue on "The Reindustrialization of America." In detail it investigates the causes of the decline of American competitiveness in our domestic as well as international markets. It examines the many policy options designed to stimulate productivity and therefore competitiveness through savings, investment, capital formation, industrial innovation and international trade.

These issues must be placed on the national political agenda. One section of this special issue is devoted to building "a new social contract" necessary for the restoration of American competitiveness. Mr. President, there is no more important issue than strengthening American competitiveness. The polls show that the American people understand the seriousness of the problem. Public discussion and debate on these economic issues will point the way to resolving our economic difficulties. I ask that the following sections and editorial be printed in the Record.

The material follows:

REVITALIZING THE U.S. ECONOMY

The U.S. economy must undergo a fundamental change if it is to retain a measure of economic viability let alone leadership in the remaining 20 years of this century. The goal must be nothing less than the reindustrialization of America. A conscious effort to rebuild America's productive capacity is the only real alternative to the precipitous loss of competitiveness of the last 15 years, of which this year's wave of plant closings across the continent is only the most vivid manifestation.

Reindustrialization will require sweeping changes in basic institutions, in the framework for economic policymaking, and in the way the major actors on the economic scene—business, labor, government, and minorities—think about what they put into the economy and what they get out of it. From these changes must come a new social contract between these groups, based on a specific recognition of what each must contribute to accelerating economic growth and what each can expect to receive.

BLUEPRINT FOR THE FUTURE

In this special issue, the editors of BUSINESS WEEK present a specific plan for reindustrialization. We document the extent of America's industrial decline and look into its causes. We suggest the outlines of a workable new social contract. We take an inventory of the strengths of the U.S. economy that form the possible basis for a reindustrialization drive, reaching conclusions about which industries can flourish and which must be allowed to vanish. We show how innovation, investment, and exports can be encouraged and how collective bargaining must be changed. We ask whether a reindustrialization plan can work, focusing on the lessons to be learned from other countries that are ahead of the U.S. in industrial policies geared to growth and international competition, particularly Germany and Japan.

We recognize that a reindustrialization plan must be carefully conceived because it can easily be botched so badly that it will accelerate the decline in the U.S. economy rather than arrest it. The great danger is that the U.S. political system will translate reindustrialization into some brand of "lemon socialism" whose main focus will be to save the lemons—obsolete jobs and companies that are going bankrupt because they are too inefficient to compete in world markets. That's what happened in Britain and Italy, although Britain is trying to change its ways. It is not what has happened in Germany and Japan, where the emphasis is on building the strength of companies that can compete effectively.

A reindustrialization plan is also dangerous because it requires an industrial policy that choses which industries, sectors, and product lines should be encouraged because they have a good chance in international competition and which should be abandoned as likely failures. The large number of Edsels that both economic forecasters and business planning departments have produced is a vivid demonstration of how easily the forecasts that must inevitably underlie industrial policy can go awry. But there seems no alternative to social agreement on those sectors of the economy that must be encouraged. Such an agreement plays a vital role in Germany, Japan, and France. "We must think about what our traditional economic sectors will look like a decade out and what the potential future sectors might be. If we simply watch while the rest of the world pursues active industrial policies, we will wind up making what Germany and Japan leave over," says Arnold H. Packer, Assistant Secretary of Labor for policy, evaluation, and research.

Even with the most effective strategy imaginable, reindustrialization will be a difficult goal to achieve. Although the economic policies of both Japan and Germany are far better geared to effective international competition than is U.S. policy, it is impossible to ascribe those countries' success to any specific policy or set of policies. The explanation is rather to be found in a difference in state of mind. The Germans and the Japanese come to economic decisions with a set of attitudes far more attuned to the realistic opportunities available in the world economy of the final quarter of the 20th century than do Americans.

Rebuilding U.S. industry will therefore require a total reprogramming of the way in which Americans think about their economy. U.S. economic growth in the century between the end of the Civil War in 1865 and the beginning of the Vietnam war in 1965 was the eighth wonder of the world. That growth occurred because basic U.S. institutions and attitudes were ideally suited to taking advantage of the growth opportunities available in that century. Those opportunities were presented by a great internal frontier crying to be exploited. Virtually every aspect of economic policy showed sheer genius in allowing the U.S. to grow rapidly—from Lincoln's Homestead Act of 1862, which ensured access to new land by the broad majority, to the Sherman Antitrust Act of 1890, which insured that small owners would not be totally gobbled up by the powerful. And in industry and finance, the U.S. invented a vehicle ideally suited to exploit the opportunities of a continental frontier, the widely owned and publicly traded giant corporation.

The rapid growth in productive capacity that developed from exploitation of that frontier also put a distinctive stamp on U.S. social policy and labor relations. The great traumas of America's golden century were its business slumps, and particularly the Depression of the 1930's. They occurred during a hundred-year period during which wholesale prices were essentially stable. These slumps, therefore, led most people to believe that the rapid growth of supply could be taken for granted, and that it was basically a deficiency of demand that could throttle the economic engine. This vision eventually led to government policies based on Keynesian economics. It also shaped the attitudes of U.S. labor. Our job, said the United Auto Workers' most vigorous president, Walter P. Reuther, "is to carve the fat" off the companies. And he wanted to give the "fat" to the workers to make sure they had enough income to buy the products that industry could produce. A competitive advantage in world markets was not the major issue. Reflecting the same attitudes, U.S. social policy focused on redistributing income rather than on training to increase productivity.

After World War II, the U.S. economic model was at first emulated by the world. The Treaty of Rome created a European common market in the image of the continental market in the U.S. The wealth created during the golden century allowed U.S. corporations to become the great multinationals that were the most dynamic force in the world economy.

Bred during a century of economic preeminence based on the exploitation of an internal frontier, American attitudes are not suited to a world economy that has become increasingly integrated (for the industrial countries, exports now amount to 13 percent of gross national product as compared to 7 percent in 1961), where much of U.S. technology has migrated abroad, and where energy independence is rapidly becoming a wistful memory. Smaller countries with a history of dependence on foreign trade now have an edge based on centuries of conditioning to the need to survive in a world market.

THE PRICE OF IRRESOLUTION

The effects of the obsolescence of economic psychology in the U.S. have been devastating. Overall economic growth slid to 2.9 percent per year in the 1970s from 4.1 percent in the 1960s and 3.9 percent in the 1950s. The U.S. standard of living now ranks only fifth in the world; it ranked the highest as recently as 1972. The U.S. inflation rate was higher than the average of all industrial countries in 1979 for the first time in history.

Nor do these macro statistics tell the whole story. At a deeper level, the U.S. economy is showing signs of the kind of fatigue that causes industrial powers such as 19th century Britain to go into an irreversible slide. Investment in the U.S. stands at some 10 percent of gross national product as compared with 15 percent in Germany and 20 percent in Japan. Lacking the stimulus of new capital plant, U.S. productivity growth had declined. Indeed, instead of using more and sician, have decided the child must have a tonsillectomy, we will have permitted the adversary process familiar to business disputes and differing views of public law to overwhelm an already fragile institution.

I certainly do not profess to be an expert on comparative legal systems, but I did think it would be worthwhile to examine in the light of my remarks today what those who are experts on legal systems of other countries have to say with respect to comparative litigiousness. For that purpose I have chosen Japan. I made that choice for two reasons: in a very short period of time, it has become a highly urbanized, manufacturing nation competing throughout the world in various sophisticated product lines. The same is true, of course, of other nations, including several in Western Europe. But because our own legal system, for which I seek a comparison, is rooted so strongly in the Anglo-Saxon system which the colonists brought with them from England, and because English law had more than a little of the European civil law in it as a result of the Norman conquest, I have sought a country whose legal institutions have sprung from as different sources as possible from those of our country.

Professors Walter F. Murphy and Joseph Tanenhaus in their treatise "Comparative Constitutional Law" make two pertinent observations about the Japanese legal system which seem to contrast quite sharply with our own:

". . . [T]he concept of a winner and a loser implied by a lawsuit runs against the grain of Confucianism. Patient negotiation yielding mutual agreement is the preferred way, as this typical clause in a Japanese contract indicates:

"If in the future a dispute arises between the parties with regard to the rights and duties stipulated by this contract the parties will settle [the dispute] harmoniously by consultation."

What would American lawyers or American judges make of a contract clause such as this?

The authors' treatment of Japanese law goes on to say:

"In contrast to all Western and even many Third World Nations, the ratio of lawyers to population in Japan is very low, about 1 to every 10,000 people as compared to about 1 for every 600 people in the United States. Again, cultural aversion to litigation allows the Japanese to function very well without a plethora of technical legal advice." [Murphy and Tanenhaus, page 41].

Contrast this with the apocryphal American client's proclamation "I'll take this case to the highest Court in the land!"

It is interesting to note that, in the 1942 edition of *Encyclopaedia Britannica* under the heading "Paranoia," there is a subclass described as "litigious paranoia." True to the erudition which is characteristic of the *Encyclopaedia Britannica*, there follows the Latin name—paranoia querulans. The description reads as follows:

"The clinical form of litigious paranoia presents uniform characteristic features which are recognized in every civilized community. It is important to observe that the rights such people lay claim to, or the wrongs they complain of, may not necessarily be imaginary. But, whether imaginary or real, the statement of their case is always made to rest upon some foundation of fact, and is, moreover, presented, if not with ability, at any rate with forensic skill and plausibility. As the litigants are persons of one idea, and only capable of seeing one side of the case—their own—and as they are actuated by convictions which preclude feelings of delicacy or diffidence, they ultimately succeed in obtaining a hearing in a court of law under circumstances which would have discouraged any normal individual. Neither the loss of the case nor the payment of heavy expenses has any effect in disheartening the litigant, who carries his suit from court to court until the methods of legal appeal are exhausted. After dissipating his means and, perhaps, those of his family, and finding himself unable to continue to litigate to the same advantage as formerly, delusions of persecution begin to establish themselves. He accuses the judges of corruption, the lawyers of being in the pay of his enemies, and imagines a conspiracy to prevent him from obtaining justice."

One must wonder whether this attitude on the part of a litigant can in today's society be described as a "disease," since it is so common a manifestation of one of the predominant attitudes of our society today, less than forty years after the description written in the 1943 edition of *Encyclopaedia Britannica*. But the fact that this attitude has become so prevalent that it may no longer warrant being called a disease bodies, in my opinion, not well but ill for institutions such as families, schools, clubs, labor unions, and all of the other infra-structures which nourish our society. We are indeed all subject to the law, and rightly so.

But those who will accept only the decision of a court of last resort as a sufficient denial of their claims for mistreatment or injustice at the hands of their families, their neighbors, their schools, and their clubs, are, unfortunately, rapidly leading us towards the type of society described in the report of the English Royal Commission: A society in which all human and social problems are regarded as apt for a legal remedy or susceptible to legal procedures. The phrase "equal justice under law" is a magnificent expression, and rightfully belongs on the front of the building housing our Supreme Court. But it trivializes that expression, indeed, it trivializes the law itself, to think that there must be an adversarial legal remedy available to any person who is displeased by the outcome of a particular dispute.

Not only is the law, for reasons that I have previously indicated, far less capable than other means of solving disputes which arise within the many non-governmental organizations of our society, as I have indicated, but the imposition of this task upon the presently existing legal system in this country would tax it virtually beyond the breaking point. After all, dispute resolution, whether by the adversarial process or by a process of conciliation or acceptance of the finality of a decision which has been rendered by a non-governmental institution, is not an abandonment of the rule of law or a government of law. It is but a recognition of the fact that the law, in many instances, simply does not speak to a particular issue and leaves standing the decision reached by one of these other processes. That is how we have long subsisted and prospered as a society, and I should regret to see us reverse this course.●

TRIBUTE TO ELAINE GRIEBENOW

● Mr. DURENBERGER. Mr. President, it is a great honor to pay tribute to a person who has demonstrated in a most spectacular way her unselfish commitment to making our world a better place for all persons.

Elaine Griebenow recognized a need and her ability to meet that need. She sacrificed Christmas with her family and loved ones to spend 3 months with an American Refugee Committee team serving Cambodian refugees.

For her dedicated service to mankind Elaine today is receiving the Distinguished Public Service Gold Medallion from the American Institute for Public Service.

She is the first Minnesotan to receive this honor. Elaine is a most deserving candidate. In fact, it is difficult to imagine a person who better meets the criterion of service to others for this honor.

Mr. President, I ask that an article from the Edina Sun, June 11, 1980, detailing Elaine's mission be printed in the RECORD.

The article follows:

ELAINE GRIEBENOW CONTINUES FAMILY TRADITION SERVING IN THE FAR EAST

(By Sallie Stephenson)

For her work in church and community service, Elaine Griebenow recently received the Jefferson Award. The bronze medal with the face of Jefferson on the front and an eagle on the reverse was awarded by the American Institute for Public Service in Washington, D.C. Mrs. Griebenow is one of the finalists for the National Award of a gold medal and $1,000.

She is a nurse at the University of Minnesota Hospital's Rehabilitation Center. She left the comforts of home and family during the Christmas holidays and her birthday and was gone for three months with an American Refugee Committee team attending Cambodian refugees in the camp of Khao-I-Dang near the Thai-Cambodia border and in Thai villages.

"Elaine survived the ordeal because of her farm background and the fact that she has traveled extensively," Elaine's husband George said of his wife's recent volunteer service. He said he felt people who are well-adjusted and active in community affairs here have naturally tended to do well over there.

The camp where Elaine worked houses about 130,000 Khmer (Cambodian) refugees. On an average day, she said, each volunteer treated 80–100 patients. Most of the admissions at the 100-bed hospital were for malaria, diarrhea or dehydration and malnutrition. Tuberculosis, pneumonia and severe anemia were also widespread conditions.

While Elaine was treating refugee cases and listening to their tragic stories of atrocities in Cambodia under the Khmer Rouge—a Communist group which took over the country in 1975—what was life like for George Griebenow back in Edina?

George said one night he tried for six hours without success to complete a telephone call to his wife in Thailand. The small town less than two miles from the Cambodian border where Elaine Griebenow stayed—Aranyaprathet—had only two telephone lines.

"The times I did succeed in getting through to Elaine," he said, "you could hear all kinds of conversations in the background going on in Khmer (the Cambodian language)."

Elaine said she got to Bangkok, which was a drive of about three or four hours, twice in the three months she was there. "The telephone lines were very good there," she added. She was able to direct-dial from Bangkok in just a few minutes.

However, the mail service was very slow. Elaine said it took two or three weeks for her to get the 300 letters and Christmas cards that George sent her from himself, their two daughters—Mei Ann and Susan—and all their friends. During the time Elaine was in Thailand, she sent more than 100 letters in return.

George said while his wife was gone the neighbors were simply terrific. "Christmas week I had five invitations," he said, "so I didn't lack for attention."

George is coordinator of a government en-side was simply to equalize the advantages, without counting the material and nonmaterial costs of the adversary system?

Since all of us who are here today are concerned with the interrelationship between law and the family, let me suggest to you that I do not have any magic solution to propose for what appears to be the drastic deterioration, if not disintegration, of much of the family tradition which once dominated at least the American cultural landscape. But I do want to express my view that the dominance in the administration of the various branches of our system of government by people trained in the law, and who have brought with them to their positions of power the sort of adversarial "mind set" or "tunnel vision" to which I have previously referred, has not retarded, but on the contrary has contributed substantially to this disintegration.

I start with the hypothesis that the family is an institution of extraordinary virtue—well worth preserving. While this hypothesis may have been unpopular with Plato, it has since received widespread acceptance and recognition. George Santayana, in his five volume work "The Life of Reason," described the family as "one of nature's masterpieces." The universal Declaration of Human Rights of the United Nations proclaims that the family is "the natural and fundamental unit of society." Yet we are all familiar with the fact that this "masterpiece" has been discolored by the unfavorable climate of the last two decades. Various pressures have been exerted on the family, some external, such as inflation and unemployment, but much of it internal, by the individual family members themselves. Increasingly, inspired by the legal profession, individuals have turned to the state and more generally to the courts to resolve what I can only describe as intrafamily disputes. Typical of the legal mindset I have depicted, the response of the courts has not generally been to bounce these individuals out of the courtroom and back into their living rooms, but to make our adversarial laws and processes available to these disgruntled family members.

The literature reveals that courts within the various jurisdictions of our country are accepting the litigants' invitations to intervene in family matters to a far greater degree than would have been conceivable a generation ago. Suits by children against their parents for "parental malpractice" have been entertained in the courts of Colorado (*Hansen* v. *Hansen*, 5 F.L.R. 2516). In another case from the State of Washington, although the parents were found to be "fit" in the way that term is used in most juvenile court statutes, a judge granted the request of a fifteen year old girl who had never had trouble with the law, but who was antagonistic toward her parents, to declare her "incorrigible" and place her in a foster home. Disputes between the girl and her parents—disputes not unknown to any parents who have raised children through the the teen-age stage—had developed over her dating, her friends, and her desire to smoke. In effect, the child was allowed to "divorce" her parents.

Another example of the displacement of parental decisionmaking for their minor children by the courts is exemplified in a Michigan case in which a sixteen year old high school student was allowed to maintain a lawsuit against his high school, even though his parents declined to act as his legal guardian in the suit because they disapproved of his position and his desire to litigate against the high school in court.

But one could skim off these rather novel cases, and still find a much deeper substratum of commitment to the adversary process which, in my view, cannot but endanger even further the vitality of the family as an institution in our society. I would like to use as "Exhibit A" in this substratum a case decided by the Supreme Court of Minnesota upon which I have publicly commented on an earlier occasion, but which so vividly illustrates the approach of many courts that I take the liberty of discussing it again.

I refer to *Sherlock* v. *Stillwater Clinic*, 260 N.W.2d 169 (1977), a case which obviously troubled all of the Justices of the Supreme Court of Minnesota who wrote opinions in conection with its decision. The case is, I think, a typical "wrongful birth" case, in which the plaintiffs, following the birth of their seventh child, discussed with a doctor in the delicately chosen words of the Supreme Court of Minnesota "the various medical alternatives available to them to ensure that their family would grow no larger." 260 N.W.2d at 171. The doctor recommended that the father have a vasectomy; the father, following that recommendation, had this operation performed by the defendant doctor who was a member of the defendant Stillwater Clinic. From the evidence adduced at the trial it was permissible for a jury to find that normal sexual intercourse would not result in the conception of any children after the operation. Notwithstanding the representation of the doctor, the mother did become pregnant and delivered a healthy baby boy a little more than a year after the operation. Following the occurrence, the parents sued the doctor and the clinic for negligence and sought to recover as an item of damages the cost of educating and raising the child until the age of majority.

The Supreme Court of Minnesota divided on the question. The majority held that if normal rules of damages were applied, damages such as this would be recoverable. The majority noted that prior to 1967 such "wrongful birth" actions had been looked upon with disfavor by the courts, but that in the ensuing decade the weight of authority had swung to the view that parents in a position such as this should be "allowed recovery for all damage proximately caused by the physician's negligence, including the cost of rearing the child during his minority."

The court went on to observe that "analytically, such an action is indistinguishable from an ordinary medical negligence action where a plaintiff alleges that a physician has breached a duty of care owed to him with resulting injurious consequences." While the majority stated that it was not persuaded that public policy considerations can properly be used to deny recovery to parents of an unplanned, healthy child, including the costs of raising the child, it was nonetheless deeply troubled by the question. It said:

"The result we reach today is at best a mortal attempt to do justice in an imperfect world. In this endeavor we are not unmindful of the deep and often times painful ethical problems that cases of this nature will continue to pose for both courts and litigants. It is therefore our hope that future parents and attorneys would give serious reflection to the silent interests of the child and, in particular, the parent-child relationships that must be sustained long after legal controversies have been laid to rest." 260 N.W. 2d at 176–77.

Two Justices of the Supreme Court of Minnesota dissented from the majority's view, and felt that a mere admonition to "go slow" in cases such as this was not enough. They said:

"Insofar as the majority decision permits parents to recover damages by proving their healthy child a net burden to them, it is contrary to public policy, in my judgment. We should not permit the courts to be used for this purpose. I would direct the trial court to enter judgment for the defendant." 260 N.W.2d at 177 (Sheran, C.J., dissenting).

I assume that none of us here today are Justices of the Supreme Court of Minnesota, and therefore and discussion of the question is in the realm of jurisprudence, rather than exposition of case law. But in this jurisprudential realm, I think I would have paused a little longer over the question of whether public policy might not militate against the maintenance of actions such as this, and would also have felt that a "wrongful birth" action such as the Supreme Court of Minnesota passed upon in this case is not quite the precise analogue of the traditional "wrongful death" action.

For there is a third party involved in the "wrongful birth" action—the unplanned, healthy child—who is not involved in the traditional "wrongful death" actions or other negligent actions where an innocent plaintiff suffers pecuniary damages as the result of the negligence of another. And while I am not in any way trained in psychology, it does not seem to me that such training is necessary to conclude that in many cases litigation of an action such as this is bound to have devastating psychological consequences to the unwanted child. I think that a recent decision of the Supreme Court of Oregon dealing with this general subject matter (*Burnette* v. *Wahl*, 588 P.2d 1105 (1978)) makes great sense when it says:

"There is a limitation to the extent to which use may be made of tort actions for the purpose of accomplishing social aims. If there is ever a field in which juries and general trial courts are ill equipped to do social engineering, it is in the realm of the emotional relationship between mother and child. It is best we leave such matters to other fields of endeavor. There are certain kinds of relationships which are not proper fodder for tort litigation, and we believe this to be one of them. There are probably as many children who have been damaged in some manner by their parents' falure to meet completely their physical, emotional and psychological needs as there are people."

I conclude with two final observations. The first is the observation of a recent royal commission in England which looked into the state of the legal professional in that country, and said in its concluding remarks:

"A society in which all human and social problems were regarded as apt for a legal remedy or susceptible to legal procedures would not be one in which we would find it agreeable to live."

It seems to me that this, with typical English understatement, is an admonition to the legal profession, not that England, the United States, or any other nation return to the law of the jungle, but that there are many valuable institutions in any society which, although ultimately subject to the rule of law, cannot be freely subjected to the adversary judicial process without significant damage to those institutions. Surely the family must be at the top of the list of these institutions or infra-structures and, so long as it is a going concern, must be treated very gingerly by the law, avoiding any intrusion into the traditional family decisionmaking process.

It is not a question of developing rules of law deferential to the family; it is the need to recognize that there should rarely be judicial intervention at all in families which are "going concerns." Damage results merely by allowing resort to the legal process, no matter what the outcome on the merits may be. The law would be well-advised to recognize the limits of its competence and decline to allow family members resort to the courts when they are dissatisfied with the decision of the family. If the day ever arrives when special counsel must be appointed for a six year old whose parents, following the advice of their phywhich provides for no intervention exception in extreme cases."

Mr. President, because of the important subjects discussed by Mr. Justice Rehnquist and the occasion for his remarks, I ask that they be printed in the Record.

The remarks follow:

The Edward Douglass White Lecture

I am privileged to give the Edward Douglass White lecture at this session of the American Family Institute. Part of that feeling of privilege stems from the fact that he was Chief Justice for eleven years of the Court upon which I now sit as Associate Justice. He was, moreover, the first Associate Justice to have been promoted from "within the ranks," so to speak, from Associate Justice to Chief Justice. President Grover Cleveland nominated him to be Associate Justice in 1894, and President William Howard Taft nominated him to be Chief Justice in 1910.

But another part of my feeling of honor, or perhaps more accurately, appropriateness, is because of the theme of my own remarks this nocn. This theme is that the increasing tendency of this country's courts to entertain intra-family disputes, with all of the attendant adversarial procedures which accompany a court proceeding in the Anglo-Saxon tradition, pose a substantial threat to the American family as an institution. Edward Douglass White was a Louisianian, and Louisiana is the only state in the Union to my knowledge that administers justice under what is called the civil law system followed in most Western European countries, rather than the common law system which the colonists brought with them to this country from England. As a historical figure, therefore, White is the living embodiment of the notion that there is more than one system of dispute resolution which has endured for centuries.

We pride ourselves as a nation which lives under a "government of laws and not of men"; or, to put it in the more erudite words of Bracton, an early English scholar, long inscribed over the entrance to Langdell Hall at Harvard Law School, "Non sub homine, sed sub Deo et sub lege." As a matter of historical fact, it seems doubtful that Bracton's Latin maxim was a very accurate description of the way the laws functioned even in the England of his day or even later. Lord Coke, Chief Justice of the King's bench in the early part of the seventeenth century, in the Case of Prohibitions ruled:

"The King in his own person cannot adjudge any case, either criminal or betwixt party and party . . . . The King may sit in the King's Bench, but the Court gives the judgment. No King after the conquest assumed to himself to give any judgment in any cause whatsoever which concerned the administration of justice, within the realm; but these causes were solely determined in the Courts of Justice." 12 Coke's Reports 65, 77 Eng. Rep. 1342.

It was not long after this decision that King James I removed the Lord Chief Justice from his high judicial position. In more recent times, the school of jurisprudence which styled itself as "legal realists" rather conclusively demonstrated that "principles of law" do not exist wholly independently of the will of man, and cannot be ascertained if only one were but sufficiently trained and educated in the subject. Perhaps this spawned the paraphrase of Bracton's quotation during the days when the federal courts seemed very much dominated by the business interests of the country that we had a "government of lawyers and not of men". There was probably more than a grain of truth to that statement then, and there may well be now.

Despite some historical deviations, however, I certainly do not hesitate to assert that the establishment of laws and legal institutions, including the judicial, legislative, and executive branches of our state and federal governments, has served this nation remarkably well as an alternative to government by autocrats or tyrants. As a society, however, we must be mindful that our "government of laws" was established to protect the populace from the tryranny of dictators and to provide orderly and peaceable resolution of disputes among strangers. As a society, we have no more wanted to permit a bully on the block to reign free in the neighborhoods than to permit a dictator to reign free at the head of government. But law has its limits. Oliver Goldsmith, an English poet, was certainly well aware of those limitations when he wrote:

"How small of all that human hearts endure that part which laws or kings can cause or cure."

Yet there has been a growing reliance on law as the miracle drug for societal problems—the remedy that cures all ills. While this condition has been manifested by the growing ranks of citizens-turned-litigants, I think some of the blame for what I perceive to be an unhealthy, indeed destructive dependence on the law must be shouldered by the legal profession.

Within the legal profession, those trained as lawyers, whether they engage in teaching law, judging cases, practicing law, or using their legal skills in other branches of government or the private sector, have developed a certain "mind set" or "tunnel vision". Lawyers come to think that the way their profession goes about solving problems is the only way problems can be properly solved.

One of the hallmarks of a lawyer's problem-solving technique is the adversarial relationship. For example, the very nature of the legal process and the court systems in this country led lawyers who studied about, practiced in, or taught about that system to think in terms of an adversary process, the ultimate goal of which was to ascertain historical facts that would determine the rights and duties of the parties to a lawsuit. Since the adversary system of judicial procedure under which the Anglo-Saxon tradition proceeds puts so high a premium on the ascertainment of truth or historical correctness as it rightly should in most cases, lawyers are trained with maxims such as that originated by Dean Wigmore in his classical treatise on Evidence in which he says:

"Cross-examination is the greatest engine ever invented by man for the discovery of the truth.".

The phrase illustrates the preeminence of the adversarial relationship in the legal trade. And yet, however well suited these maxims or principles may be to some legal problems, much of the legal profession has come to believe that the adversarial process is a superior process for the resolution of *all* disputes. The resulting influence on the content of the law, exerted by lawyers, judges, or teachers of this faith has been substantial. It is reflected in resort to adversarial laws and proceedings for an ever-increasing range of problems.

Lawyers tend to forget that there are perhaps in some situations higher societal goals than the correct ascertainment of historical facts, and better ways to accomplish a particular purpose than the traditional Anglo-Saxon adversary proceeding.

And everyone who has been on a witness stand knows that while cross-examination may be a splendid device for discovering the truth, it rates considerably lower as a means of winning friends and influencing people. But even when an area of law is charted for a non-adversarial course, lawyers somehow manage to steer it back on their own familiar track. For example, the origins of the juvenile court system in this country, back in the early part of this century, were intended to represent a departure from the adversary process, whereby judges more attuned to the particular problems of juveniles would attempt, not by way of punishment for a criminal act, but by way of supervision and monitoring, to bring juveniles who were delinquent back into the mainstream of society.

By reason of a peculiar interaction between the juvenile court systems in the various states and some of the constitutional decisions of the Supreme Court of the United States, this departure proved to be less of a departure than expected. While the original theory of the juvenile courts did not cast the state as an "adversary" against the child, as in a criminal proceeding against an adult, but rather as "parens patriae," pursuing the common good of all, it did not always work that way in fact. In *Kent* v. *United States*, a case decided by the Supreme Court in 1966, the Court said:

"There is much evidence that some juvenile courts . . . lack the personnel, facilities and techniques to perform adequately as representatives of the State in a parens patriae capacity, at least with respect to children charged with law violation. There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerate treatment postulated for children." *Kent* v. *United States*, 383 U.S. 541, 555–556.

The following year, in the *Gault* case, 387 U.S. 1, the Court held that the constitutionally required due process of law for juveniles included notice of charges against them, the right to be represented by counsel, the constitutional privilege against compulsory self-incrimination, the right to confront witnesses and cross-examine them. Though later decisions of our Court have indicated that not all constitutional guarantees available to an adult are imposed upon states for the benefit of juveniles, there is no doubt that the juvenile court system has become much more "adversary" in nature by reason of this interrreaction.

But in cases such as *Kent* and *Gault*, at least, it was the state as an outsider proceeding against a juvenile member of the family: here resort to the adversarial-legal process may be tolerable or even desirable. But the same cannot be said for the intra-familial dispute. Yet today it is not common to have claims asserted among family members in an adversary mold, and it is this development to which I propose to address myself this noon. For it is in the realm of intra-family relations that I believe a government of laws which purports to redress ordinary disputes within the family is wholly misplaced. Family integrity and autonomy, absent total family breakdowns, are best retained by a government which provides for no intervention except in extreme cases.

Obviously, as a sitting judge of a Court which may have to pass on some of these questions at some time, it would be quite inappropriate for me to express any opinion as to what the Constitution of the United States or present law require in this respect. But let us examine some of these questions in a jurisprudential or philosophical sense. Has the American legal profession, including its academic, judicial, and practicing branches, been guilty of what the French writer LeSage described as the "pride and conceit" which were the original sins of man? Has it thought that the remedy for laws which did not work was merely different kinds of laws? Has it thought that the remedy for an adversary system which gave too much advantage or authority to one them in touch with Norwood Ball, a native himself, who would know them and put them once again in touch with their friends and changes be explained to bring them up to date.

"The highlight of my service, of course would be the First Day Issue of the 3¢ Old Man of the Mountains postage stamp on June 23, 1953, an event which President Eisenhower attended at the site of the Profile in Franconia Notch State Park. Afterward he rode down Franconia's Main Street, waving to the people lining the way. We canceled nearly 350,000 Old Man stamps over a three-day period. Two special electrical canceiling machines and manpower to operate them were dispatched from the Dept. in Washington, D.C. and the Selecimen's Office was taken over for these machines during this period—the stamps sold in the postoffice wing and our own canceling machine going full out. Herbert Tulk, a local resident, in 1960 was to paint a mural for the new postoffice building incorporating the 3¢ Old Man Stamp First Day Issue into a scene depicting our first local postoffice, and stagecoach transportation alongwalk the Old Stone Smelter, Mt. Lafayette with the snow cross, our local sawmill and the Easton Valley in the background.

"We have provided postal service to many celebrities over the years—I recall the words of former Chief Justice Harlan Fiske Stone of Chesterfield, N.H., as he viewed our World War II Honor Roll and called me over to his side as I was collecting mail from the mail drop. 'What is the population of Francocnia?' he asked. I replied, 'About 600.' He said. 'This town should be very proud to have contributed so many citizens to our War effort—it makes me extremely proud to be an American just viewing it.'

"Several people on hearing of my retirement have asked me how I felt about it—happy, sad or glad? For me, it is an accomplishment goal I set for myself on becoming postmaster in 1953. I had tentatively set Apr. 1, 1978 as a retirement date. Being postmaster is a fulltime job, a job that is with you 24 hours a day, for even when your office is closed, the planning, the reports, the personnel, the full responsibility of the office and position is yours and yours alone.

"My wife, Elizabeth, has been very understanding of this. She has run the home and I the office. With two boys, David and Bradley, one graduating high school this year and the other next year, with college in mind, one does not fully retire with today's costs and inflation. However, it gives me some time to do a few things I've wanted to do at home, play a little golf and tennis, and set a few more goals for myself, before looking for a new job.

"Looking back on my service, I recall those persons I worked closely with to meet the deadlines, the mail closeouts, the budget cuts while increasing productivity. People I helped train, who on their own initiative and interest delved further into that phase of service until it became fully mastered. Clerks who had the dedication to the postal service and pride in their work, to see and do the work that had priority without having to be told—these are the kind of people I've had the pleasure to work with in my office.

"I recall the advent of the Highway Postoffice in the 1950's when a young postal executive made the initial run on the Concord-to-St. Johnsbury APO, stopping at postoffices along the route so people could see the interior of the vehicle, clerks sorting mail, and obtain a First Day postmark on a letter mailed or a souvenir on an empty envelope on this inaugural trip. This man now heads the U.S. Postal Service, the Honorable William F. Bolger.

"I also recall a Postal Service officer in the 1960's, James E. Howard, when our area was attached to the W. R. Jct. (VL) District—patiently fielding our questions at Postmaster Training Sessions at the Littleton and Berlin offices, indoctrinating us into various new programs and procedures about to be introduced by the post office Dept. and later dropping by each postoffice to see how things were going with us and give help where it was needed. These were the days when the U.S. Postal manual was our Bible—Mr. Howard knew this Bible and all its interpretations, and is now the district manager.

"With Postal reorganizations, nine-digit zip coding on line, computer printouts and telecommunications entering the field, new services will be forthcoming for the mail users and many new and interesting jobs available for postal personnel.

"For my part, I'm glad and proud to have been postmaster in a Second Class postoffice, where a knowledge of every facet of Postal Service was necessary to provide full service to the customer—as my colleagues would say, a front line postmaster, out there on the firing line."●

FUSCO'S CLOSES CHAPTER IN HISTORY OF WEST HARTFORD

● Mr. RIBICOFF. Mr. President, Fusco's, a shoe repair shop, is a community landmark in West Hartford, Conn. The Ribicoff family were always satisfied customers. The owners and employees always gave excellent, coureous, and quality service. Fusco's is closing after 58 years. Founded by John P. Fusco, the shop is located at 953 Farmington Avenue. Everyone in West Hartford knows where Fusco's is and will be sorry to see this well-known institution close its doors for the last time.

When John Fusco died 4 years ago, his widow Ethel kept the store going. Now she wishes to retire. The West Hartford News, in its June 12, 1980 issue, had an article about Mrs. Fusco and about the closing of the shoe repair shop.

Mr. President, I request that the article, written by Adele Angle, be printed in the RECORD.

The article follows:

FUSCO'S CLOSING

(By Adele Angle)

Fusco's is calling it quits.

The small shoe repair shop at 953 Farmington Ave. will close its doors for the last time June 28.

Its owner, Ethel E. Fusco of 50 Howland Rd., explains: "I'm just not getting any younger."

Since her husband John P. Fusco's death four years ago, she's run the shop herself. Standing all day long fixing other people's shoes is a tiring business. Even when you've been at it as long as she has.

"It wasn't an easy decision," she says, sitting in one of the wonderful oak seats her father-in-law Biagio Fusco, had made especially for the shop when it opened here in 1922.

"I thought about it and I thought about it, but I decided it was for the best," she says.

Anybody who has ever brought in an ailing pair of shoes to Fusco's knows what a magic place it is. There are no fancy hanging Swedish ivy plants in the windows, no stylish wicker furniture anywhere, no lime green pile carpets. No computer cash registers which hum instead of ring.

It's gotten a little dusty and a little dowdy over the years, but Fusco's has a charm which few newcomers to West Hartford center could easily emulate.

Walk in the shop and the good smell of leather and the clang of the finishing machine invite you to think of a yesterday long ago. A yesterday when a man could afford to spend 20 minutes sitting in Fusco's glorious pink marble shoe-shine stand, smoking a cigar while waiting for his shoes to be shined.

"That's been gone years now," she says. "It WAS beautiful, wasn't it? But as the years went by we just couldn't get anybody to shine shoes."

She started working alongside her husband shortly after her marriage to him in 1941. The young couple lived in an apartment just around the corner on South Main Street.

She remembers arising to the sound of the bugles waking up soldiers who were billeted near where the West Hartford Senior Center is now. There was no Gillman's then and Sam's Army and Navy store was then a Whalen Drugstore. Everybody took free parking for granted. There was a hitching post on North Main Street.

In the afternoons, she sometimes would go have a cup of tea at a gracious old house where CBT stands now.

"The town has grown," she says, quickly adding that she has no intentions at all of leaving it once she retired. "I love West Hartford. I was married here. My family was raised here."

She says she's considering taking the oak benches with the mirrors and lights with her when she goes. When brass became a rage a few years back, someone stole two of the chrome brass ash trays in the arm rests. So she took the others out for safekeeping.

"I'd like to put this in my dining room. That would be unusual, wouldn't it?" she asks.

Just then a customer who has heard the closing news comes in and Mrs. Fusco gets up to serve her.

She lists former Gov. and Mrs. Abraham Ribicoff as her customers. And former Gov. and Mrs. John Davis Lodge, who used to have all her shoes dyed for different occasions.

She treats all her customers with a certain gentle courtesy. Even when she has to tell them diplomatically that the winter boots they've brought her are just too tattered to repair.

She hesitates to estimate how many shoes have gone through Fusco's. "Oh, thousands," she says. "Wouldn't it be something if I knew that."

"Don't worry, I'll see you at the grocery store," she waves goodbye to her customer.

"West Hartford Center without Fusco's" the customer says to a friend beside her. "It won't be the same."

JUSTICE REHNQUIST DELIVERS EDWARD DOUGLASS WHITE LECTURE

● Mr. HELMS. Mr. President, on June 5, Justice William H. Rehnquist of the U.S. Supreme Court delivered the first Edward Douglass White lecture under the sponsorship of the American Family Institute. Mr. Justice Rehnquist addressed a sizable group of citizens who attended a luncheon in the Senate Caucus Room. A number of Members of Congress, including myself, attended.

In his remarks, Mr. Justice Rehnquist focused upon the increasing intrusion into family matters by Government and the legal system under the pretext of resolving ordinary family disputes. He observed that this steady imposition of adversarial laws and processes upon the family has contributed substantially to its disintegration. He concluded that the integrity and autonomy of the family "is best retained by a government ties, such as doctors, attorneys, or psychiatrists, from sweeping searches and seizures if these parties are not themselves suspected of the crime under investigation.

Most importantly, this bill statutorily recognizes that a free press under the first amendment may only be guaranteed as long as the Nation's newsrooms are insulated from governmental directives or intrusions, especially sweeping searches of newsroom facilities and files by law enforcement officials.

In the case of *Stanford Daily* v. *Zurcher*, 436 U.S. 537 (1978), the U.S. Supreme Court ruled that the Constitution did not prevent police officers from obtaining warrants and then making unannounced searches of newspaper offices for evidence—even though neither the newspaper nor its reporters were suspected of the particular crime being investigated.

The reaction that swept through the press after the decision was handed down was indeed profound. The Iowa Press Association has strongly endorsed proposals to reverse the decision. Tom Winshop, editor of the Boston Globe, has stated:

> I don't think anyone is hysterical to view it as a first step toward a police state.

James B. King, executive editor of the Seattle Times, exclaimed:

> At the risk of being accused of overreacting, I think the press should overreact.

The serious implications which can be drawn from the Stanford Daily decision were probably best characterized by William T. Small, then vice president of CBS:

> In light of the Stanford Daily decision, is there any doubt that sooner or later some government official, if he or his political friends suspect that they are being investigated by the press, will inevitably take advantage of the opportunity to rummage through a newsroom to see what can be found—including the identity of a whistle blower? And while we know that a large news organization with high priced lawyers will not be easily intimidated, what about the thousands of small local news outlets, often barely solvent; how can they be expected to resist officials intent on harassing and disrupting their news operation through the use of easily-obtained warrants?
>
> More importantly, what about their sources? What about those sources in state and federal government, including this Congress, who regularly provide information to the press on assurance of anonymity? I believe that the effect on potential sources is clearly one of the most devasting results of the Stanford Daily case. And the most frustrating aspect of the decision is that none of us will ever know or be able to measure the irreparable injury this decision will undoubtedly cause to our democracy. We will rarely learn about the potential source who might have revealed the next Watergate or a new cost-overrun, but who chooses not to because of the possibility of exposure.

Mr. President, the surprise "sweep and rummage" and search must be avoided. Some newspapers already have instituted policies where reporters are removing confidential notes and working papers from officers and under which editors are purposely being kept uninformed as to their location.

A much more useful approach for both newsrooms and law enforcement officials has been incorporated in S. 1790. Basically, searches and seizures of press notes, photographs, or other "work product" would be prohibited if the person possessing the material is not suspected of a crime. To avoid abuse of this protection, "work product" would not include contraband or the fruits or instrumentalities of the crime.

For those documents not considered press "work product," law enforcement officials would be required to obtain a more limited subpena which could be challenged before it is enforced. To protect the legitimate needs of law enforcement, the "subpena first" rule would not be required if expedited action is needed to prevent death or serious bodily injury to a human being, or to prevent the destruction, alteration or concealment of the material, or if the delay occasioned by review proceedings would threaten the interests of justice.

In addition, S. 1790 requires the Attorney General to issue guidelines for Federal law enforcement officials aimed at preventing searches and seizures of any "third parties" who may be in the possession of documents related to a crime but are not themselves suspects. This will hopefully serve as a statement of Federal policy to prevent dangerous unnecessary intrusions into the personal privacy of innocent persons made under the guise of a police investigation against some other individual.

Mr. President, the threat of governmental intrusion into the unique independence of the American press is not to be taken lightly. Unless Congress takes action, laws such as those which many States have designed to help journalists protect their confidential sources could be rendered meaningless in the face of surprise police searches. Unless Congress takes action, officials irritated over news coverage could use search warrants against the offending media. If Congress does not take action, the policy could come to view newsrooms as a routine source of information.

Mr. President, a free society cannot endure without a free press.

S. 1790 appears to be a workable, well-reasoned approach which recognizes the needs of law enforcement but strongly upholds the protections which the first amendment guarantees to assure that the press remains free.●

NORWOOD BALL

Mr. DURKIN. Mr. President, I would like to commend Norwood Ball, a man from my home State of New Hampshire, who has devoted the last 40 years of his life to serving people in his capacity as postal worker and Postmaster in Franconia, N.H.

Mr. Ball has been a devoted and highly competent employee of the Federal Government since April 1, 1940. For the last 17 years he served in the important role of Postmaster.

He has a host of fond memories to look back on in his years of service to northern New Hampshire. In 1955, for instance, President Eisenhower visited Franconia to commemorate the first day issue of the 3 cents Old Man of the Mountain postage stamp.

Norwood Ball was a valued worker in the U.S. Postal Service and will be surely missed by the people of Franconia, the State of New Hampshire, and the Federal Government.

I ask that the accompanying article from the Manchester Union Leader be printed in the Record.

The article follows:

Franconia Postmaster N. Ball Retires After 17 Years On Job

Franconia.—A well-known Franconia man, Norwood Ball, 60, retired last month after some 40 years in the employ of the Franconia Postoffice. For the past 17 years he served as postmaster.

Other than attending the graduation of his son David from Profile High School. Mr. Ball has no plans for the immediate future. Another son, Bradley, will be a senior at Profile next year.

Ball began his postal career working for former Postmaster Willis F. Herbert in the Summer of 1936–37 while attending Dow Academy. He graduated in the Class of 1938.

The postoffice at that time was located in the so-called Corsair Building where Kelley's Market is today. With the advent of a new Town Building in 1938, the postoffice was moved into a wing of the building opposite the Selectmen's Office, where it advanced from a third class to second class Office in 1948, and in the quarters it now occupies in 1960.

Employed by the late Roland Peabody as the First Aerial Tramway in North America began operation. Norwood worked with Richard Bowles at the Upper Station the Summers of 1938 and 1939 while attending the University of N.H., where he and Dow teammates Roger Peabody and "Bob" Clark were members of Ed Blood's varsity system. Ball was a former record holder on the famous Richard Taft Race Trail in its glory days of downhill racing.

On April 1, 1940, Norwood began his consecutive years of postal service with two years out for Service in the Army Air Corps. 1944–1946, World War II. Entering as a mail clerk specialist, Sgt. Ball became a command gunner on B–29's SAC and three months before discharge was put in charge of the student flyers mail section at Lowry Air Force Base in Denver, Colo.

"It was a busy place and along with the mailroom. I picked up at the Base Postoffice all registered mail for the base and delivered it to all the mailrooms at Lowry. I had a truck and a civilian driver assigned to me for this, as well as a loaded .45 for protection of this mail." Ball recalled this week.

Resuming postal duties in Franconia, Norwood became Civil Service secretary for the postoffice, conducting Civil Service tests to establish registers for future work at the local office and other duties the job entailed.

Upon the death of Postmaster Herbert in 1962. Ball was designated clerk-in-charge, and a year later on Oct 23, 1963 was appointed permanent postmaster, with the advice and consent of the United States Senate, his certificate as postmaster signed by then President John F. Kennedy.

"My 17 years as postmaster have been a very rewarding experience, not only in giving reliable, courteous service to the people of the community but acting as official greeter to the many people, leaving Franconia and Easton and returning after careers or living in various parts of the country or on vacation after years of being away." Ball commented, knowing that despite the many physical changes and turnover of local residents, a trip to the postoffice would put sacrifices are made which unduly impact the local communities which have acted under the presumption that Federal aid is forthcoming, and when the withdrawal of this assistance could easily lead to significant construction delays resulting in cost increases, then I feel it necessary to oppose these cuts.

I, therefore, urge my colleagues to support this necessary and equitable legislation.●

E. LEO KANTERES NAMED "REALTOR OF THE YEAR"

● Mr. DURKIN. Mr. President, high interest rates are dealing a severe blow to the real estate industry. Thus, I am extremely proud to note that a good friend of mine, E. Leo Kanteres, has weathered the storm and been named Greater Manchester, N.H. "Realtor of the Year."

The award not only honors Leo's keen business sense, but also his long-standing commitment to civic involvement. The realtor of the year prize exemplifies "contributions to the betterment of community life, and his conduct of business reflecting the Realtors Code of Ethics." Leo's positions in business and political service organizations amply qualify him for this award.

I salute Leo Kanteres and all New Hampshire realtors for their fortitude against economic instabilities and the substantial personal contributions they make to the State and its people. I ask that following article be inserted in the RECORD at this point.

The article follows:

KANTERES NAMED "REALTOR OF YEAR"

E. Leo Kanteres of Kanteres Real Estate of Manchester has been named Realtor of the Year by The Greater Manchester Board of Realtors. Board President Robert Schroeder announced.

Kanteres has been involved in business and civic affairs for many years in the Manchester area.

He is a past director of The New Hampshire Business Development Group, Vice President of the Hillsboro County Private Development Council, Director of the national advisory board of the Small Business Administration. Finance Chairman of the State Democratic Committee. Delegate to the Democratic National Convention. Director of Model Cities Program, Director of the 100 Club of New Hampshire. Past President of The Greater Manchester Board of Realtors. Past Director of The New Hampshire Board of Realtors. Past president of the New Hampshire Board of Realtors. Past Director of The National Association of Realtors.

He is a member of The Manchester Bank Advisory Committee, and a corporator of the New Hampshire Savings Bank.

"The real estate board judges make the selection of Realtor of the Year after considering the records of the various contenders for the honor. The basis of judgments is the contributions of a given realtor to the betterment of community life, and his conduct of business reflecting the Realtors Code of Ethics," Board President Bob Schroeder said.

The Realtor of the Year award is sponsored by The Greater Manchester Board of Realtors, and other boards in the state which are affiliated with the state and national association. "There is no national Realtor of the Year." Schroeder said, "but each local award winner is submitted in a state wide competition, and then each state is honored at an annual national convention."

Some 500 area real estate brokers are recognized members of The Greater Manchester Board of Realtors, they serve the cities and towns of Manchester, Auburn, Bedford, Candia, Chester, Berry, Goffstown, Hooksett, Litchfield, Londonderry and New Boston.

DEREGULATION OF THE TRUCKING INDUSTRY

● Mr. HAYAKAWA. Mr. President, I am pleased that the Congress has acted favorably on S. 2245, the Motor Carrier Act of 1980. This legislation to deregulate the trucking industry has been a long time in the making, and will provide the public with lower costs and a less monopolistic industry.

I submit for the RECORD an article from the Friday, June 20, Journal of Commerce.

I believe Professor Allen has summed up the benefits of trucking deregulation in a clear and concise manner. Although deregulation will present a change for the industry, it represents the beginning of an end to Federal protectionism. Instead of an industry which is regulated for the sole benefit of the industry itself, the public will be served by an industry which is forced to compete in the marketplace to provide its services. Trucking deregulation is, in this sense, a giant step forward toward a truly free market economy.

TRUCK DECONTROL SEEN OVERDUE: BIG SAVINGS FOR BUSINESS, PUBLIC CITED

PHILADELPHIA.—A Wharton School professor says deregulation of the trucking industry, which is bitterly opposed by the American Trucking Association and the Teamsters union, is long overdue.

In an article in "Perspective," the University of Pennsylvania's business school periodical, Prof. W. Bruce Allen said that in Australia, Britain, Sweden and Belgium and in a number of U.S. states, deregulation or reduced regulation of trucking has worked extremely well, producing great savings for business and the public.

He said, for example, that shippers in New Jersey were getting excellent service at rates 10 to 15 percent lower under non-regulated intrastate traffic than they had to pay on regulated interstate traffic. He said the Congressional Budget Office had calculated that nationally, trucking rates could fall by as much as 15 percent under deregulation.

MONOPOLISTIC CONDITIONS

Prof. Allen contended that regulation of the trucking industry, which began in 1935 and has been gradually expanded, has created monopolistic conditions.

Prof. Allen argued that this is proven by the fact that the American Trucking Association concedes that trucking companies value motor carrier operating rights at from 15 to 20 percent of the gross annual revenues of the firm. "These certificate values represent monopoly profit," he said.

The American Trucking Association and the Teamsters have based their opposition to deregulation, to a considerable degree, on the argument that regulation provides profit margins sufficient to enable carriers to maintain service to small towns, and that if the industry is deregulated, many small towns will lose their trucking services.

But Prof. Allen said the federal Department of Transportation had found that, even though their operating certificates mandate services to smaller communities, trucking companies do not generally maintain such services unless they are profitable. He said United Parcel Service was the only common carrier trucking company generally praised by small town shippers.

More and more, he said, small town shippers, along with much of the rest of the country's business, are turning to private carriers and away from the common carrier trucking lines because of their high costs. Prof. Allen claimed small towns likely will get more, not less, trucking under deregulation.

Prof. Allen charged that the ATA and the teamsters' opposition to deregulation is really based on fear of the unknown and an attitude of "Why change a good thing?"

"It is very desirable," he said, "to earn $25,000 a year as a driver or for a trucking company to earn a 20 percent a year return on equity. It certainly is not efficient or desirable for the government to sanction the monopolistic rate bureaus and the market impediments to competition in order to ensure such returns to labor and capital."●

TRIBUTE TO REPRESENTATIVE JAMES CLEVELAND

● Mr. DURKIN. Mr. President, the State of New Hampshire has a great historical tradition of outstanding service by public officials, dating back to the First Continental Congress and the birth of our Nation. This tradition has been admirably carried on by JAMES CLEVELAND, retiring this year as Congressman from the Granite State's Second Congressional District. For 12 years in the New Hampshire State Senate, and 18 years in the U.S. House of Representatives, JIM CLEVELAND has kept his hand on the pulse of New Hampshire and New England, balancing our regional needs with the interests of the Nation.

The second district encompasses nearly two-thirds of New Hampshire's land area, a broad expanse of cities, towns, and some of the most magnificent scenic areas anywhere in the country. As a result of his 30 years of public service, JIM CLEVELAND knows New Hampshire and its people as well as anyone, a familiarity which guided him steadily in his legislative duty.

I rise today to support an initiative dedicating the Federal Post Office and Courthouse Building in Concord, N.H., to Congressman CLEVELAND. There could be no more fitting tribute to the service JIM CLEVELAND has provided than to lend his name to a public building to be used by the people he has represented with such dedication and care. This monument will place JIM CLEVELAND's name alongside the scores of great men of New Hampshire who have served New Hampshire and the Nation—Governor Wentworth, Daniel Webster, Franklin Pierce—just to name a few. It is an honor he richly deserves.●

SUPPORT STANFORD DAILY LEGISLATION

● Mr. CULVER. Mr. President, the Judiciary Committee has sent to the floor S. 1790, a bill introduced by the distinguished Senator from Indiana (Mr. BAYH) aimed at providing strong protections for newsrooms against unannounced police searches.

In addition, S. 1790 takes important strides toward protecting all third par-officials on the status of base negotiations in Somalia and the situation in the Horn of Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary have permission to meet tomorrow, June 24, until 11:45 a.m. to consider nominations and pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEED FOR A REFUGEE POLICY

● Mr. PELL. Mr. President, last Friday the administration announced that it would soon be requesting legislation to grant permanent resident status to the 114,000 Cubans and 15,000 Haitians who have inundated Florida over the past few months. I am very concerned about this decision because it suggests that the United States does not intend to pursue serious efforts to resettle these illegal immigrants in other countries.

The approach that the administration has taken in this matter is only the latest reminder, if the American people need one, that a new refugee policy is badly needed—and soon. Central to such a new policy, in my view, will have to be a recognition that the refugee problem is a world problem and that the United States can no longer be expected to bear the lion's share of the burden of solving that problem. In this connection, the United States should insist that the United Nations High Commissioner for Refugees assume responsibility for resettling all of the world's refugees, including those from Cuba, on an equitable basis. Just as Thailand agreed to admit Cambodian refugees only on a temporary basis, so also should we make it clear that the Cubans and Haitians now in this country are here temporarily until the vast majority of them are resettled elsewhere.

In addition to the 129,000 Cuban and Haitians who have come to our country, over 230,000 other people will be admitted to our country in fiscal year 1980 under the already established refugee program. This is in addition to the 400,000 or so people who are admitted annually under the normal immigration procedures and the 3.5 to 4 million illegal aliens, mostly Mexicans, who have been in this country for some time.

President Carter has greeted the latest influx of Cubans with "open arms and an open heart." The United States is a Nation of immigrants, and many of our most productive immigrants and finest citizens were themselves once refugees. There is, however, a limit to our ability to admit and finance the resettlement of refugees. Our refugee and migration assistance program now costs over $500,000,000 a year and constitutes a full quarter of the State Department budget. Total costs borne by the Federal, State, and local governments for refugees—excluding the recent Cuban exodus—will run an estimated $1.7 billion in fiscal year 1980 and $2.112 billion in fiscal year 1981. The 114,000 Cubans will increase these costs significantly.

Mr. President, we must face several hard realities. The refugee crisis is worldwide and can only be resolved in a global context. The United States simply cannot and should not be expected to handle the crisis alone. While some other countries have contributed generously to the care and maintenance of refugees overseas, we have assumed a disproportionate share of permanent resettlements. For example, of the Indochinese refugees to be resettled in 1980, the United States is taking 168,000. The entire rest of the world will take considerably fewer. Although the current Cuban refugee crisis began with the influx of 10,000 people into the Peruvian Embassy in Havana, the United States has ended up with 97 percent of the recent Cuban refugee population. Our Western Hemisphere allies have taken a total of 2,300 or 2 percent. That is unacceptable.

The second reality we must face, Mr. President, is that the number of people who wish to come to the United States far exceeds the number of people we can accommodate. We cannot conceivably solve the problems of Indochina by accepting its 50 million Vietnamese, 3 million Laotians, or 4 million surviving Cambodians all of whom would undoubtedly find life in the United States more agreeable than in their own countries. By the same token, we cannot accept the entire population of Cuba or Haiti.

To date, the administration has coped with the world refugee crisis through a series of ad hoc or interim measures. The time has come to think more comprehensively about U.S. refugee policy. In so doing, we must distinguish between "political" refugees fleeing political, racial, or religious persecution at home and "economic" refugees who are simply seeking a more prosperous life in a new country. Not everyone leaving a repressive country is leaving because of repression.

While assuming responsibility for the maintenance, and resettlement of the genuine political refugee, the world community must also recognize an obligation to help improve conditions of life in the refugee's home country. It costs far more to resettle a refugee in the United States or Europe than to give him hope in his own country. Many refugees, in fact, have no desire to go any place but home. Afghans, Somalis, and Cambodians displaced by war, pestilence, and famine deserve our compassion and material support as they wait for peace and security at home.

The United States must make it clear to the rest of the world that the status quo cannot continue. It is unacceptable for the United States to carry so much of the resettlement burden. It is reprehensible that our immigration laws should be so flagrantly flouted and so ineffectual. It is intolerable that those who come to this country as refugees should abuse by any actions, but especially by violent action, the hospitality of the American people.

Since serving as vice president in charge of the International Rescue Committee's Hungarian program in 1956, I have been intimately concerned with the care and protection of refugees. From 24 years of experience, I have learned that the fate of a refugee depends directly on the generosity and goodwill of his hosts. No people have been as receptive and as generous to the homeless as our own people. The great tragedy of the administration's present policy—or lack of policy—is that it threatens to undermine that good will and generosity. The real victims will be the refugees themselves.

Now is the time to act.●

IN SUPPORT OF SENATE RESOLUTIONS 461 AND 462—SEWAGE TREATMENT

● Mr. DOLE. Mr. President, I am very pleased to join several of my distinguished colleagues in cosponsoring these resolutions which will partially correct a potentially costly oversight by the Carter administration. Hopefully, through passage of this legislation, we will inject much needed funds back into the sewage treatment program as soon as possible.

As most already know, last April the administration deferred any further expenditures by the States on their fiscal year 1980 sewer treatment construction grant allotments. In effect, this policy halted progress on construction grant programs across the Nation. My State of Kansas suffered a $1.2 million cutoff of these funds while this impact is relatively insignificant in comparison to the tens of millions withheld from various larger, more populous States. It is nevertheless an unnecessary negative impact on local communities. Forty-two Kansas communities were directly affected by the President's actions, and I can assure you that the concerns which have been expressed to me by my constituents are real and worthy of immediate consideration. Many of these communities have already obligated significant expenditures in the areas of preliminary planning and engineering design. It is certainly unfair and imprudent for the Federal Government to "pull the plug" on previously promised funds thus rendering any action at the local level essentially useless.

Mr. President, the net effect of these resolutions is to release the remaining funds—approximately $875 million—which have been obligated for fiscal year 1980. Should these resolutions be adopted by the Senate, the funds will be distributed to the States according to immediate need. Although this means that Kansas would be on the receiving end of a mere $800,000, I am convinced that this money is essential and that it would be wisely spent.

As most of my colleagues are aware, I have long been an advocate of a balanced budget and responsible Federal spending—long before such policies were considered popular by a majority of my colleagues. I fully realize the need to trim unnecessary fat from the budget, and I am willing to accept the fact that this means that we all have to bite the bullet at some point or another. However, when long before the enactment of Federal civil rights legislation, the college had a policy of nondiscrimination. The college also has a policy of refusing any direct Government funding.

Nonetheless, in 1977, HEW requested that the college execute certain forms and paperwork associated with assurance compliance with title IX regarding equal opportunity for women. Signing this form would have made Grove City College contractually subject to all HEW regulations implementing title IX. Grove City refused to sign the form because it never received any Federal aid. HEW then began enforcement proceedings to prevent Grove City's students from receiving either guaranteed student loans (GSL's) or BEOG's. An administrative law judge at HEW then determined that the college was not guilty of any discrimination. Nonetheless, he ordered termination of aid to Grove City's students because HEW's regulations interpreted direct aid to students as aid to the college.

In March of this year, a Federal district judge partially overturned the decision, declaring that the college did not have to sign the assurance form and agreed that the college did not discriminate. He further held that before any aid could be cut off, actual discrimination must be proved by HEW and that, therefore, each affected student was entitled to a due process notice and hearing.

Significantly, however, the court held that the BEOG program constituted aid to the institution, thereby giving HEW the jurisdiction over the college. (GSL's were exempted from title IX.)

My proposed amendment, Mr. President, will firmly declare the intent of Congress that direct aid to students cannot serve as a predicate for an assertion of administrative enforcement jurisdiction over private colleges which receive no other Federal aid. It will enable private colleges such as Grove City, to maintain their independence without unreasonable Federal intrusion in their day-to-day operations.

Passage of this amendment would help to deregulate the daily operations of small colleges which can least afford the disproportionately high cost of Federal regulations. It will also reaffirm the purpose behind the BEOG and GSL programs, granting students the maximum opportunity to attend the college of their choice.

Mr. President, if I believed this amendment would have a harmful effect on civil rights compliance, I would not propose it. As my own record will testify, I have been, and continue to be, a firm advocate for assuring civil rights protections under the law. This amendment will not insulate these institutions from the provisions of title VI, IX, or section 504 of the Rehabilitation Act, or the Age Discrimination Act. It would only preclude administrative recordkeeping, reporting and enforcement procedures. Individuals would retain their present capacity to sue directly those private colleges which practice unlawful discrimination.

Consequently, all the proposed amendment would do is to permit the relatively few colleges which choose not to accept Federal funds to operate without expensive and burdensome Federal requirements.●

AMENDMENT NO. 1913

(Ordered to be printed.)

Mr. MOYNIHAN (for himself, Mr. Ribicoff, Mr. Metzenbaum, Mr. Melcher, Mr. Bradley, and Mr. Jepsen) proposed an amendment to S. 1839, supra.

AMENDMENT NO. 1914

(Ordered to be printed.)

Mr. MOYNIHAN (for himself, Mr. Ribicoff, Mr. Metzenbaum, Mr. Melcher, Mr. Bradley, and Mr. Jepsen) proposed an amendment to amendment No. 1939 proposed to S. 1839, supra.

POWERPLANT FUELS CONSERVATION ACT OF 1980—S. 2470

AMENDMENT NO. 1915

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. Huddleston, and Mr. Randolph) submitted an amendment intended to be proposed by them, jointly, to S. 2470, a bill to reduce consumption of petroleum and natural gas by electric utilities, and for other purposes.

FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS OF 1980—S. 2765

AMENDMENT NO. 1916

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. STONE submitted an amendment intended to be proposed by him to S. 2765, a bill to amend the Fishery Conservation and Management Act of 1976, and for other purposes.

● Mr. STONE. Mr. President, today I am submitting an amendment to S. 2765, the Fishery Conservation and Management Act Amendments of 1980. My amendment is identical to S. 2853, my legislation to revitalize the fisheries loan fund established under the Fish and Wildlife Act of 1956. It is my hope that the Commerce Committee will include the revitalization of this fund when it considers S. 2765 or H.R. 7039, introduced in the House by Representative Breaux.

I ask unanimous consent that the text of a letter I sent to Senator Magnuson, author of S. 2765, asking him to include revitalization of the fisheries loan fund in his bill, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 3, 1980.

Hon. Warren Magnuson,
Russell Office Building,
Washington, D.C.

Dear Mr. Chairman: I am writing to co-sponsor your legislation, S. 2765, the Fishery Conservation and Management Act Amendments of 1980.

In recent weeks I have been hearing a great deal from Florida shrimpers about the serious problems they face. The combination of rapidly escalating fuel costs, high interest rates and unfair competition from subsidized foreign fishermen has pushed the shrimp industry in Florida, and the entire Gulf Coast, to the brink of bankruptcy.

Recognizing these problems, the Florida shrimpers are trying to adjust by refitting their boats for alternative types of fishing, but the high interest rates make loans for this purpose beyond their reach. In fact, many of them are on the verge of defaulting on their mortgages, let alone finding new sources of capital for refitting their boats.

In light of these serious problems of Gulf Coast shrimpers, I am inquiring as to the possibility of incorporating, within S. 2765, a revitalization of the fisheries loan fund established under the Fish and Wildlife Act of 1956, in order to provide low interest loans to fishermen and shrimpers during this transition period. This revitalization is included in HR 7039, introduced by Congressman Breaux of Louisiana.

Bearing in mind current budgetary constraints, I feel this revitalized fund should be financed through increased fees charged foreign vessels fishing within United States' waters. In addition, the limited revitalization of this fund should be accompanied by clear, unmistakable "sunset" language in order to be certain that it does not linger beyond its intended period of existence.

It is my sincere hope that you would consider the inclusion of this fund in your legislation, and I look forward to discussing this matter with you in the near future. At all events your measure, S. 2765, is surely worthwhile and I would be pleased to be a co-sponsor.

Warm personal regards.

Most cordially,

Richard (Dick) Stone.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hear ambassadorial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to continue marking up the hazardous waste bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 24, 1980, to consider the IAEA Treaty; to mark up S. 1916, OPIC/PRC legislation and H.R. 5580, NATO legislation; and to vote on various executive nominations and treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the African Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 24, 1980, beginning at 2 p.m. to hear administration

AMENDMENTS SUBMITTED FOR PRINTING

URBAN MASS TRANSPORTATION AUTHORIZATIONS—S. 2720

AMENDMENT NO. 1911

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him on S. 2720, a bill to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

● Mr. SCHWEIKER. Mr. President, today I submit an amendment to S. 2720, a bill to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

With exception of the effective date, this amendment is identical to S. 1269, a bill I introduced last year to allow elderly and handicapped persons to use their medicare cards as proof that they are entitled to reduced rates on mass transit vehicles during off-peak hours. My amendment has already been included, in similar form, as part of H.R. 6417, the House's version of mass transit authorizing legislation.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1911

At the end of the bill, add the following:

USE OF MEDICARE CARDS FOR REDUCED RATES

SEC. 12. (A) Section 5(m) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection and as a condition of assistance under this Act, any person who when boarding or paying mass transit fares, presents a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act shall receive the benefit of the rates established pursuant to this subsection for elderly or handicapped persons.".

(B) This section shall take effect 90 days after the date of enactment of this act.●

EDUCATION AMENDMENTS OF 1980—S. 1839

AMENDMENT NO. 1912

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to S. 1839, a bill to extend the Higher Education Act of 1965, and for other purposes.

● Mr. HATFIELD. Mr. President, this amendment addresses an important situation in a very timely manner. As we consider the reauthorization of higher education programs, including the range of Federal student financial assistance, we are once again reminded of the underlying purpose of any Federal role: namely, to enhance and provide educational opportunities. Realizing the limited resources available to many students, the Congress has provided various forms of higher education aid.

Some have been in the form of direct aid to institutions for construction, some for study and research, some for enhancement of libraries, and others to supplement a student's ability to afford to attend an institution of higher education at all. Within this context, some programs are campus based—that is, aid flows directly to the institution to be administered by officials of that school. The school, therefore, has the responsibility to assure that funds administered under these programs which are campus-based and therefore impact on the institution in a very direct way, are used in a manner which complies with Federal laws. In addition, all Federal compliance and reporting requirements are in order.

In addition, the Federal Government rightfully should expect that colleges and universities receiving these direct funds will comply fully with Federal law, including the requirements of assuring compliance with such regulations as directed by the Department of Education.

In keeping with the concern of Congress that all programs be administered with equity and that educational opportunities be made available to all, Federal departments and agencies use various levers to encourage compliance with Federal law. This includes the withholding of aid where cases of noncompliance are found. I believe this is appropriate and within the specific intent of the Congress.

However, the case has arisen where a school, in order to maintain its academic independence from the myriad of onerous Federal regulations and reporting requirements, chooses not to receive any campus-based assistance. The only form of aid with any Federal role at all, in this case, is the guaranteed student loan program and the basic educational opportunity grant. BEOG's can be received through the alternate disbursement plan—that is, it is directly awarded to students. By receiving no direct financial aid or campus-based funds, these schools are choosing to opt out of the Federal till. Many of these institutions are small, and struggling to make financial ends meet. They hope that by denying institutional aid from the Federal Government, they can maintain their independence and be free from the reems of onerous paperwork associated with such programs.

Under current interpretation of law, those schools wishing to maintain their independence are placed in the unfortunate position of having to refuse the acceptance of any student who is receiving any form of educational assistance, whether campus based or received in direct payment to the individual. Even a college with only one student recipient of the BEOG (Pell grant) by this alternate method, is still considered to receive Federal institutional support.

A similar example might be of the grocery store refusing food stamps because by doing so, the store would be placed under heavy Federal regulations. It is the individual who suffers—the very target of the needed aid. This is precisely in the position we are placing all schools when we lump every type of assistance in this category.

Such an interpretation indeed jeopardizes the student's ability to purchase the type of education he or she desires.

Mr. President, my amendment would correct this inconsistency in the law by clarifying the definition of programs of financial aid to institutions of higher education. Under my amendment, BEOG's and GSL's paid directly to students would not be considered assistance to the institution.

There are approximately some 800 church-related colleges and universities in the United States. A number of these choose not to receive direct Federal funding in order to keep their administrative costs down. One school in Pennsylvania, Grove City College, is challenging the Federal regulations, since it has chosen to receive no direct Federal aid. This college currently has an enrollment of 2,100 students and 16 administrative staff. It estimates that just to comply with Federal paperwork which is required of schools receiving direct Federal aid, they would have to hire two additional permanent staff.

It is no wonder that there is such dissatisfaction with the Congress and the Federal Establishment outside of Washington when those institutions honestly wishing to divest themselves of the bureaucratic stranglehold find not only that they are unable to, but that in order to truly be free of the Federal reins they must turn away students who are receiving even the most indirect form of Federal educational assistance.

Each of us can stand on our soap box and deplore Federal redtape. We go back to our States and insist that we are, individually, doing all we can to weed out unnecessary Federal intervention in our lives. Few of us can honestly point out how we are doing that, however. Here is one perfect opportunity to address this problem in a positive and constructive manner.

I would like to address the question of civil rights protections of those attending these institutions. It is vital to understand that my amendment would not free an institution from lawful compliance with those statutes guaranteeing protection under various civil rights laws. These statutes guarantee protection against discrimination on the basis of race, color, religion, sex, national origin, age, or handicap. Actions may be brought against an institution of higher education at any time and the school would be subject to the finding of the court and dealt with accordingly.

Under present rulings, a school is subject to Federal regulation solely because some of the students may receive Federal money, although the institution plays no affirmative role in the receipt of such funds.

Compliance with provisions relating to administration of these BEOG's and GSL's relate not only to these specific programs, but also to many other aspects of the college's operation.

I would like to cite an example of the Grove City College case, which relates the problem well: Grove City is an independent college founded in 1896, with its enrollment of 2,100 students divided equally between women and men. Since come tax credits and low interest rates, as called for by the Nelson-Durkin bill.

Today the housing and real estate industries in New Hampshire and all across the country are in a grave situation. Record high mortgage rates are forcing all but the well-to-do out of the housing market. As a result, the market itself is collapsing. The job toll in New Hampshire alone has been tremendous. In January of this year, 40 percent of the building industry was unemployed compared to the normal rate of 8 to 10 percent. It is projected that by the end of the year, 75 percent of the people in the industry will be unemployed. These alarming figures are not unique to New Hampshire. They represent a nationwide trend of plummeting housing starts and skyrocketing unemployment in the housing and related industries.

The building energy performance standards can only exacerbate these problems. The standards are neither cost effective nor workable. The standards are based on a complex computer model that cannot be used by most builders, building officials, or designers. The model is based on faulty interest rate assumptions, incomplete mortgage investment choices, and projections of energy savings based on typical building practices in 1976 which simply are not typical today.

Moreover, BEPS makes use of complex factors which could actually encourage the use of precious and costly oil and gas. In addition, the model is set up in such a way that for the smaller home, it will be more difficult and more expensive to meet the standards. This puts an undue burden on those who can least afford it especially lower income families or young couples seeking their first house.

Because of these problems with the standards, I have introduced legislation which will substantially revise the process for preparing, testing, approving, and implementing BEPS. First, my legislation will give DOE an additional year to draw up workable building energy performance standards. In recent hearings before the Senate Energy Committee, the Department of Energy stated that further work was needed on the standards. The additional time will allow up-to-date data to be used in developing standards.

Second, this legislation authorizes a voluntary 2-year pilot program to test the cost and feasibility of implementing the standards which will be revised over the next year. The pilot program will provide information on what resources States and local governments will need to implement BEPS and on the cost-effectiveness of the standards. It is inconceivable to me that Congress would even consider imposing standards that had never been tried on a pilot basis. In order to insure that States and localities are not burdened by the cost of administering a voluntary pilot program of the Federal standards, grants to defray administrative costs will be available.

Third, my proposal extends and strengthens Congress veto power over the standards and the sanctions to implement the standards. Under present law Congress only has veto power over the use of sanctions to enforce BEPS. I propose to extend congressional veto power to cover the standards themselves. This change is vitally necessary because the administration can allow the implementation of a set of poorly designed standards. Under my proposal both the standards and the sanctions would require positive Congressional approval before going into effect. This congressional review of the rewritten standards would occur after the 2-year voluntary pilot program has provided realistic information on the workability of the standards. It is vital that Congress not permit the Federal bureaucracy to impose a set of standards which are unworkable and burdensome to the housing industry and consumers.

Fourth, the legislation I am introducing would commission a study of alternative sanctions that could be used to enforce any standards. Under present law a failure to follow the standards would result in a cutoff of all Federal housing funds for a State. This penalty is too extreme and should be changed. On the basis of the study, Congress could—and I believe should—alter the sanctions. In any case no standards or sanctions will go into effect without explicit congressional approval.

Mr. President, I believe that energy conservation should be the cornerstone of this Nation's energy policy. But I do not believe that the federally mandated approach—like BEPS—which creates layers and layers of cumbersome and costly bureaucracies is the proper approach. Congress should instead legislate positive strategies to encourage energy conservation, such as those provided in my passive solar tax credit bill which passed the Senate or the so-called builders provision in the solar energy development bank legislation which will soon become law. By passing these two provisions, and by passing the legislation I am introducing today, Congress can improve the economic climate in the housing industry and encourage energy conservation.●

ADDITIONAL COSPONSORS

S. 2074

At the request of Mr. Levin, the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 2074, a bill to amend title 39 of the United States Code to provide for the postage-free mailing of absentee ballots and other materials pertaining to absentee ballots.

S. 2151

At the request of Mr. Percy, the Senator from Maine (Mr. Cohen), the Senator from Utah (Mr. Hatch), the Senator from North Carolina (Mr. Helms), the Senator from Wyoming (Mr. Simpson), and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 2151, a bill to amend the Congressional Budget Act of 1974 to establish procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs.

S. 2521

At the request of Mr. Dole, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2568

At the request of Mr. Helms, the Senator from Idaho (Mr. McClure), the Senator from Texas (Mr. Tower), and the Senator from Oklahoma (Mr. Bellmon) were added as cosponsors of S. 2568, a bill to provide for multiple-use management under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, of national forest lands not included in the National Wilderness Preservation System.

S. 2596

At the request of Mr. Armstrong, the Senator from Minnesota (Mr. Durenberger), the Senator from Minnesota (Mr. Boschwitz), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Utah (Mr. Hatch), the Senator from California (Mr. Hayakawa), and the Senator from Oklahoma (Mr. Bellmon) were added as cosponsors of S. 2596, a bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980, to provide for the cancellation of certain education loans in the case of individuals who perform service in the Selected Reserve of the Ready Reserve of an Armed Force, and for other purposes.

S. 2718

At the request of Mr. Stevenson, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2848

At the request of Mr. Dole, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 2848, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

SENATE JOINT RESOLUTION 158

At the request of Mr. Hayakawa, the Senator from Arizona (Mr. DeConcini), and the Senator from Kansas (Mr. Dole) were added as cosponsors of Senate Joint Resolution 158, a joint resolution designating the joint reunion of American and Japanese veterans on the island of Iwo Jima on June 11, 1980, as a national historic event.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. Leahy, the Senator from Arizona (Mr. DeConcini), the Senator from Massachusetts (Mr. Kennedy), the Senator from Colorado (Mr. Armstrong), the Senator from Utah (Mr. Hatch), and the Senator from Montana (Mr. Melcher) were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution to proclaim February as "National Snowmobiling Month."

sent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) The Congress finds that—

(1) certain areas of undeveloped public lands in North Carolina possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System in North Carolina have identified those areas which, on the basis of their landform ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in North Carolina have identified those areas which should be available for multiple uses other than wilderness; and

(4) review and evaluation of roadless and undeveloped lands in the National Forest System in North Carolina have also identified those areas which should be managed as wilderness until designated as such by Congress or returned to uses other than wilderness as provided by this Act.

(b) The purposes of this Act are to—

(1) designate certain other National Forest System lands in North Carolina for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources and to promote scientific research, primitive recreaton, solitude, physical and mental challenge, and inspiration for the benefit of all the American people; and

(2) insure that other National Forest System lands in North Carolina be promptly available for non-wilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, nonrenewable resource exploration and extraction, vegetative manipulation for watershed and wildlife habitat management purposes.

Sec. 2. In furtherance of the purpose of the Wilderness Act of 1964 and in accord with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the following lands in the State of North Carolina comprising approximately 16,759 acres and as generally depicted on maps appropriately referenced, dated January 1979, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Croatan National Forest, which comprise approximately eleven thousand acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area A8015, and shall be known as the Pocosin Wilderness.

(2) certain lands in the Uwharrie National Forest, which comprise approximately five thousand seven hundred and fifty-nine acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area O8203, and shall be known as the Birkhead Mountains Wilderness.

Sec. 3. (a) All lands within the National Forest System in North Carolina not designated for wilderness by this Act or not heretofore designated as wilderness, or designated for further Congressional consideration by this Act, shall—

(1) notwithstanding any other provision of law, not be studied nor considered by any agency for wilderness potential or recommendation as wilderness.

(2) be managed for uses other than wilderness in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended; *Provided, however,* That—

(A) any requirement of that Act inconsistent with subsection (1) above shall not apply; and

(B) an area may not be managed for the purpose of preserving any wilderness attributes; *Provided, however,* That the incidental preservation of any wilderness attributes pursuant to management for uses other than wilderness is not prohibited by this subparagraph; and

(C) pending final adoption of a plan developed under Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, for the National Forest of which the area is a part, the area shall be managed pursuant to any existing unit plan covering the area.

(b) The enactment of this legislation shall be conclusive as to the legal and factual sufficiency of the environmental impact statement prepared relative to the second Roadless Area Review and Evaluation with respect to National Forest System lands in the State of North Carolina and no court shall have jurisdiction to consider questions respecting the sufficiency of such statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–61).

Sec. 4. (a) In order that Congress might have a sufficient amount of time to consider the inclusion of certain lands in the Wilderness Preservation System, the following lands in the State of North Carolina comprising approximately 14,305 acres shall be managed in a manner not to preclude their eventual designation by Congress into the National Wilderness Preservation System until such time as these lands would be included in the National Wilderness Preservation System or designated to be managed for uses other than wilderness under Section 3(a).—

(1) certain lands in the Pisgah National Forest, which comprise approximately eight hundred and seventy-six acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area A8058, referenced Linville Gorge Extension.

(2) certain lands in the Pisgah National Forest, which comprise approximately two thousand nine hundred and twenty-five acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area L8058, referenced Linville Gorge Extension.

(3) certain lands in the Pisgah National Forest, which comprise approximately one thousand two hundred and eighty acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area O8056, referenced Craggy Mountain Extension.

(4) certain lands in the Pisgah National Forest, which comprise approximately one thousand one hundred acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area O8193, referenced Craggy Mountain WSA.

(5) certain lands in the Nantahala National Forest, which comprise approximately five thousand one hundred and twenty-four acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement, January 1979, as area A8057, referenced Shining Rock Extension.

(6) certain lands in the Nantahala National Forest, which comprise approximately three thousand acres, are generally designated by the Roadless Area Review and Evaluation II Final Environmental Statement as Area A8031, referenced Ellicott Rock Extension.

(b) Lands within the National Forest System in North Carolina which have been reserved for Congressional consideration, but which have not been included in the National Wilderness Preservation System prior to January 1, 1983, shall be managed beginning on such date in the same manner as prescribed for lands described in Section 3(a).

Sec. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act of 1964: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

Sec. 6. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area designated by this Act shall be filed with the Committee on Agriculture, Nutrition and Forestry and the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Agriculture and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in each such legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

By Mr. DURKIN:

S. 2862. A bill to amend the Energy Conservation and Production Act to provide for a realistic schedule for the promulgation and implementation of energy efficiency performance standards for new commercial and residential buildings, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. DURKIN. Mr. President, I am opposed to the Department of Energy's mandatory new building energy performance standards which are scheduled to become effective in the fall of 1981. I have introduced legislation to postpone for 3 years Congress decision on the implementation of these standards.

The presently proposed standards would adversely affect our already crippled housing and real estate industries. Administration of the standards could cost $100 million a year and may result in only minor energy savings.

While I strongly believe that improved energy productivity and efficiency must be one of the Nation's top priorities, I oppose this cumbersome Federal regulatory approach. The Department of Energy's own estimates predict that these standards will increase housing costs by $0.75 to $1 per square foot. When hidden costs such as professional design work and computer time are taken into account, the real cost increases could well be double this figure. The improved energy efficiency of a home will undoubtedly be outweighed by the significantly higher construction costs and will serve as a further deterrent to homebuilders and buyers alike. There is a much better way to encourage energy efficiency in housing than cumbersome direct Federal regulation—Federal in-ness Preservation System after South Carolina and Georgia have extended the area in their States. Designation of wilderness along the artificial boundaries of State lines would be adverse to established management practices of the Forest Service and would make the wilderness area in North Carolina more difficult to administer.

The remaining two areas reserved for congressional consideration are located in the Pisgah National Forest. The Craggy Mountain Wilderness Study Area, thus designated by Congress, is a potential candidate for wilderness designation, as well as the adjoining 1,100-acre tract known as Craggy Mountain Extension. These two tracts would combine to create the Craggy Mountain Wilderness Area. The outstanding feature of this land is the virgin stands of upland hardwoods and hemlock.

CITIZEN INPUT

This bill is the result of more than 3 years of work on my part and reflects input from virtually every group in North Carolina that has an interest in wilderness designations and in the management of our national forests.

Back in 1977, when the Forest Service was getting geared up to undertake their second study of the roadless areas in our national forests, I decided to find out for myself what people in North Carolina really thought about wilderness designations. I also wanted to become acquainted with the areas under review and have a solid factual base on which to make decisions on proposed wilderness designations. With this in mind, I wrote to all of the State agencies and other organizations in North Carolina that I thought would be interested in the issues and requested their recommendations on the areas being studied by the Forest Service for inclusion into the National Wilderness Preservation System.

While the agencies were formulating their positions, I began to collect and evaluate recommendations from many citizens of my State. Members of my staff visited some of the areas under study, attended hearings and meetings on RARE II in western North Carolina, and came away with a good feel for the issues involved in making wilderness decisions—and for the specific issues involved for each proposed wilderness area. During this time I also kept abreast of developments with the Forest Service both in North Carolina and across the Nation.

As the recommendations from various State agencies began to come in, these comments were assembled and I then formulated specific recommendations for each of the areas under study for wilderness designation. When the Forest Service made their final recommendations last year—there were no surprises—because of our involvement from the beginning. After considering the recommendations of all of the people who expressed opinions on the wilderness proposals, it is evident that there is little support for additional wilderness in North Carolina at this time, and certainly no need for additional wilderness. However, in all fairness, there seems to be almost no opposition to the inclusion of Pocosin and Birkhead Mountains into the National Wilderness Preservation System. There is also tremendous opposition in western North Carolina to additional wilderness—at any time.

STATE-BY-STATE APPROACH

One of the requirements in using a State-by-State approach to wilderness designations is the responsibility to work openly and fairly with other members of the delegation. I contacted members of the North Carolina congressional delegation who had wilderness proposed for their districts and asked them what they would like to see in a State bill. Congressman WALTER JONES asked that the Pocosin area be included in wilderness, Congressman IKE ANDREWS requested that Birkhead Mountains be designated as wilderness, and Congressman LAMAR GUDGER and Congressman JAMES BROYHILL wanted to reserve judgment on several areas located in the Pisgah and Nantahalla National Forests. As a result, I recommended the inclusion of the Pocosin and the Birkhead Mountains as wilderness—and that six areas in the western part of North Carolina be reserved for 2 more years for further consideration by Congress.

By reserving these six areas for further congressional consideration—we are not asking the Forest Service to study these areas any further—they would simply remain de facto wilderness until Congress has decided if they should become a part of the Wilderness Preservation System, or until 1983. This allows the Forest Service to get on with the business of managing our national forests as productive resources. It also gives Members of Congress more time to consider the President's wilderness recommendations and provides a certain timetable for the release of all lands not designated as wilderness.

The State-by-State approach to wilderness designations is the best method to bring the RARE II process to a timely conclusion. Passage of a State wilderness designation bill—such as I have introduced for North Carolina—will achieve the goal of returning our national forests to management for multiple-use. When wilderness designations are considered on a State basis, the bill is more likely to reflect the true wishes of the people in a State than would a nationwide bill. State-by-State wilderness bills bring consistency to wilderness designations by focusing the attention of Congress on each particular State, and on the wishes of the State congressional delegation. Each member then is faced with the question of how much wilderness is enough for his own State.

This designation for North Carolina is the fourth such State bill to be introduced in the Senate. This leaves 31 additional States that should make recommendations on wilderness before the target dates in the Foley-Helms Multiple-Use Planning Act. The State-by State approach is completely compatible with the timetable in the Foley-Helms bill and with the announced wishes of the administration to bring the RARE II process to a conclusion.

CRISIS IN FORESTRY MANAGEMENT

The bottom line of the entire wilderness designation process is the immediate crisis in the management of our national forests, and the need to return millions of acres to multiple-use management. Under RARE II, 62 million acres of our national forests have gone unmanaged for the past 3 years, and much of this land has been unmanaged since the early 1970's. Reducing the supplies of harvestable timber under RARE II has meant higher prices to consumers for paper products, furniture, and housing, not to mention costing thousands of jobs. Also, the resources—both in manpower and money—of the Forest Service have been siphoned off to complete the RARE II process. This has resulted in serious delays in their overall effort to complete planning requirements under the Resources Planning Act. This delay has caused the Forest Service to be even further restricted in their efforts to effectively manage our national forests.

Furthermore, the risk of delay in implementing this legislation and the Foley-Helms Multiple-Use Management Planning Act, is compounded by the strategy of the preservationists to keep millions of acres of national forests in de facto wilderness. This strategy has been implemented through the use of court suits and is calculated to cause delay upon delay for the return of national forests to multiple-use management.

In a recent Federal court decision in the case of California against Bergland, the court has issued a permanent injunction prohibiting the administration from proceeding with developmental activities in 47 areas within the State of California without a new environmental impact statement. These areas were already allocated to nonwilderness multiple-use status as a result of the RARE II environmental impact statement.

This decision has already jeopardized the entire RARE II process and could result in further delays in the return of nonwilderness lands to multiple-use management. Further court decisions of this kind can lead to delays in the planning process for our national forests and have severe impacts on the budget of the Forest Service in fiscal year 1981.

The bill I introduce today for North Carolina. is essential to the consideration of wilderness designations on a State-by-State basis, and to return millions of acres of national forest lands to effective and balanced management under multiple-use. We have an opportunity to designate the wilderness areas in North Carolina that are compatible with the wishes of our people and to affirm the concept of release as this body did when it passed the Oregon Wilderness Act (S. 2031) last year.

In my home State, we have asked our people: How much wilderness is enough? Their answer is embodied in the bill that I present today. It is now time for Congress to act and make the hard decisions necessary to the sound management of our national forests.

Mr. President, I ask unanimous con-of these people are "oldtimers" who know the wisdom of making wise and balanced use of our natural resources and who greatly respect the ideals of our professional foresters. In fact, many of these folks have been opposed to wilderness designations from the beginning.

In the early 1960's however, there was a growing sentiment among some groups that too much development was destroying the quality of the environment and that man would eventually be faced with concrete cities and pavement from coast to coast. Because there was a rush to preserve some of the lands that were untouched by commercial development, Congress passed laws that established a wilderness preservation system. Most of the land considered for inclusion into the wilderness system was in the western zone, with large acreages of relatively unspoiled and seemingly useless land. That was in 1964. As we moved through the 1960's and into the 1970's, we came face to face with the reality of higher resource prices resulting both from inflation and from the growing world demand for scarce resources. Communist aggression and political instability in many Third World nations resulted in many of our traditional sources of supply for raw materials being eliminated. Thus, our own timber and mineral resources have become more valuable—and their wise use more essential to the Nation's prosperity. As a result, there are some hard economic questions that we need to ask ourselves before we place any more land in wilderness.

The people of western North Carolina, most of whom have lived in the mountains all of their lives, have asked themselves these questions. Almost to the person they have opposed further wilderness designations in the Pisgah and Nantahala National Forests in our State. Our people have made it clear that our national forests are too valuable not to be properly managed. They do not want any more wilderness in western North Carolina. Unfortunately, a lack of managrement still continues in wilderness designated areas and in those areas which are being considered for wilderness designation by the Forest Service in their roadless area review and evaluation (RARE).

The RARE process was begun in the early 1970's as a nationwide attempt by the Forest Service to inventory roadless areas in the national forests that might qualify for wilderness designation. Although this initial study was conducted by professional foresters of the Forest Service—their recommendation of 12.3 million acres of additional wilderness immediately met with severe opposition from preservationist oriented groups who opposed the recommendations because they felt that this would not be enough new wilderness. The second study, RARE II, was administratively created to justify additional wilderness to meet the goals of preservationists.

Last year the President recommended to Congress that 15.4 million additional acres of national forest land be placed in wilderness. This is equal to an area the size of the state of West Virginia. Furthermore, the President also recommended that 10.6 million additional acres be considered for designation as wilderness, and that 36 million acres be released for multiple-use management as plans are developed for each tract.

Yet, once RARE II was initiated, more than 62 million acres, or about one-third of the total land area in our national forests, has been removed from management for multiple-use and treated as wilderness. Resources and manpower within the Forest Services have been diverted from their primary directive to manage the national forests for timber production, recreation, wildlife management, and watershed protection—to the study of potential wilderness areas. The time has now come to promptly make those wilderness designations that we are going to make, and to let the Forest Service get on with the job of managing our national forests—for the benefit of all Americans and future generations.

THE NORTH CAROLINA SOLUTION

This bill will add two areas in North Carolina to the National Wilderness Preservation System—while reserving six additional areas for further consideration by Congress. In addition, the remaining national forest lands in North Carolina are released to be managed for multiple-use purposes.

Although multiple-use management offers, in my opinion, a clear advantage over management for any single use, there are those in my State who favor more wilderness designations. As a result, there appears to be some support and little opposition for the designation of wilderness in the Croatan National Forest in eastern North Carolina and in the Uwaharrie National Forest in the central part of the State. However, there is a tremendous amount of opposition to the designation of more wilderness in western North Carolina. It has always been my policy to give greatest consideration to the wishes of local citizens in matters of land use, and this bill reflects these interests.

Regarding the specific provisions of this bill, I want to briefly describe each of the two areas proposed for designation as wilderness, and then discuss the six areas reserved for further consideration by Congress. In addition, I want to comment on the other provisions of the bill, and on my involvement in the consideration of recommendations from the many government agencies and citizens of my State who participated by providing valuable help and expertise. Finally, it is important to address the issue of wilderness as it affects other members of the North Carolina congressional delegation and the overall importance of this bill as it relates to the timely conclusion of the RARE process.

NORTH CAROLINA WILDERNESS DESIGNATIONS

"Pocosin" is derived from the Indian word for "swamp on a hill," and is highly descriptive of the proposed Pocosin Wilderness Area in the Croatan National Forest. Located near the Atlantic coast, the 11,000-acre tract contains an environment that is unique to our national forests. Among its unusual features are at least three types of plants which feed on insects—such as the famed Venus fly trap. The area is also home for many types of wildlife and being on the Atlantic flyway, it is especially attractive to migratory birds.

The proposed Birkhead Mountains Wilderness is located in the rolling hills of the Piedmont section of the State, about 40 miles south of Greensboro, a city of 161,000 people. This 5,790-acre tract is part of the Uwaharrie National Forest. The vegetation is primarily oak trees intersperced with stands of pine. Its proximity to major Piedmont cities makes it an attractive wilderness proposal in the minds of wilderness advocates.

The addition of these two areas to the National Wilderness Preservation System will bring the number of wilderness areas in North Carolina to six, and will round out wilderness designations by providing at least one area in each of the four national forests in North Carolina and one in each of the three distinct geographic regions of the State.

AREAS RESERVED FOR LATER CONGRESSIONAL CONSIDERATION

There are six additional tracts in western North Carolina that may be suitable for wilderness designation. Under the provision of this bill, these areas are reserved for further congressional consideration until January 1, 1983, for inclusion in the National Wilderness Preservation System. Areas not included by this date will be released for management for uses other than wilderness.

Two of the six areas reserved for congressional consideration at a later date are adjacent to the existing Linville Gorge Wilderness Area. The smaller tract of 876 acres borders to the north of the wilderness area and was recommended by the Forest Service to enhance the management of the existing wilderness. Also adjacent to Linville Gorge is an area of 2,925 acres which has been recommended by the President to become part of the existing Linville Gorge Wilderness Area. These two additions would increase the size of this heavily used wilderness area by 50 percent.

Also reserved for congressional consideration, are extensions to the Shining Rock Wilderness Area and to the Ellicot Rock Wilderness Area.

The Shining Rock Wilderness has been called the "premiere wilderness area in the Eastern United States." Comprising 5,124 acres, the Shining Rock extension would almost double the size of this wilderness area. This area is now a permanent habitat for the golden eagle. If the area is designated as wilderness, special provision should be made that would allow continued Wildlife management for this unique bird.

Ellicot Rock marks the spot where North Carolina, South Carolina, and Georgia meet—in the middle of the Chatooga River. The existing Ellicot Rock Wilderness Area is located mostly in South Carolina and Georgia with only 250 acres in North Carolina. Most of the proposed extension is also in our sister States, with about 3,000 acres in North Carolina. Ellicot Rock extension should only be included in the Wilder-

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 2861. A bill to designate certain National Forest System lands in the State of North Carolina for inclusion in the National Wilderness Preservation System, to release other national forest lands within the State of North Carolina from further consideration for wilderness designation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MULTIPLE-USE MANAGEMENT FOR NORTH CAROLINA'S NATIONAL FORESTS

Mr. HELMS. Mr. President, some weeks ago—on April 16 to be exact—I introduced legislation to affirm the roadless area review and evaluation (RARE) process so as to bring it to a timely conclusion. That legislation, designated S. 2568, is now known as the Foley-Helms Multiple-Use Management Planning Act. I emphasize that S. 2568 does not provide for the designation of any specific acreage—it simply establishes the timetable for congressional designation of certain national forest lands as wilderness and provides for the release of others for multiple-use management.

When I introduced S. 2568, I suggested that actual management determinations for specific parcels should be provided for in State-by-State bills rather than on a collective national basis. Only in that way can the people of each State have the maximum opportunity to provide input to the decisions of how the national forest lands in their State shall be managed.

In keeping with that arrangement, today I introduce legislation to provide for wilderness designation for certain national forest lands in North Carolina; to provide for the congressional consideration of other national forest lands in North Carolina for wilderness designation at a later date; and, to provide for the release of all other national forest lands in North Carolina for multiple-use management.

Mr. President, few of our citizens realize that the Federal Government owns more than one-third of the land in the United States and 7 percent of the land in my own State. There are more than 1.1 million acres in the national forests of North Carolina. The six most western counties of North Carolina have more than 42 percent of their land in Federal ownership.

MULTIPLE-USE MANAGEMENT

Although originally established as "forest reserves" for the assurance of a continuous supply of timber, as a result of multiple-use management, our national forests now provide many additional services and are a tremendous resource for the American people. Multiple-use management centers around the four most important forest resources: Timber, recreation, wildlife, and water. Many of our national forest lands also have rich mineral and energy deposits beneath the surface. As prices of raw materials increase and advances in technology continue, it is becoming necessary—where appropriate—to explore and develop the natural resources in our own country.

The national forests are especially important as a source of timber in North Carolina. The excellent variety of trees supply the housing, furniture, and paper needs of our people, with the national forests in North Carolina having the ability to contribute 362 million board feet of timber annually. Literally thousands of people earn their livelihood from our forests, as evidenced by the fact that forest products accounted for an estimated $3.4 billion in income for North Carolinians in 1979—higher than from any other single source. Truly all of the people of North Carolina—and particularly those in western North Carolina—have an important stake in assuring that the balanced management of these timber and wood products resources not be unnecessarily and thoughtlessly mismanaged.

Typical recreation activities in multiple-use areas include hiking, skiing, fishing, ginseng gathering, motorcycling, boating, horseback riding, off-road driving, and sightseeing. Last year, our National Forests in North Carolina provided 4,490,600 visitor-days of recreation to Americans from all walks of life. North Carolina's reputation as "the goodliest land" is greatly enhanced by the visitation opportunities afforded by its national forests. This helps make tourism one of the State's principal sources of income—underlining further the vital stake so many North Carolinians have in suitable and appropriate recreation management.

Water management has become an integral part of multiple-use management practices in our national forests. Watershed planning and the subsequent management of certain areas to protect the purity of water draining from these lands has helped to insure adequate supplies of clean water for our cities and towns. Forestry conservation practices have aided in the establishment of proper types of groundcover to prevent soil erosion and the sedimentation of our streams and rivers.

Our national forest lands are also managed for wildlife protection and provide the type of habitat for many animal species to survive and flourish. Along with protection, wildlife management provides an abundance of game for those who enjoy hunting. The streams in the mountains of North Carolina are among the finest in the Nation for trout fishing—primarily because of the management of these resources by the Forest Service.

As these examples illustrate, the tremendous success of multiple-use management can be summed up in one word—flexibility. Although land is a fixed resource, the potential uses of land can change with the passage of time. Multiple-use management provides the tools by which the best interests of all Americans are served. This is the mandate of the law which established the National Forest System. The flexibility of multiple-use management allows the Forest Service to practice modern methods of forestry—such as controlled burning and clear-cutting—making our National Forests more productive and enjoyable.

There is often a misunderstanding in the discussion of wilderness designations and multiple-use management. Many newspaper writers seem to believe that wilderness designations protect land from development. Our experience with wilderness in North Carolina indicates that the opposite is true. Instead of protecting forest areas, wilderness designations often destroy them.

Congress has directed in law that areas designated as wilderness are not to be managed—but shall be left to the course of nature. Unmanaged forests can become breeding grounds for insect infestations and tree diseases. Indeed, this is already a major problem in the forests of North Carolina. The Balsam Wooly Aphid, a microscopic insect, has destroyed most of the once spectacular stands of spruce-fir forests in the Great Smoky Mountains National Park, which is not multiple-use managed. The infestation is now threatening the Christmas tree industry in the Southeastern United States, upon which so many of our people depend upon for their livelihood. This is just one of the hundreds of insects and diseases which are likely to attack our forest lands. In wilderness areas, insect infestations and tree diseases are not treated—often threatening adjacent private lands.

But there is an even more dangerous problem. Because wilderness areas cannot be managed, necessary precautions cannot be taken for the prevention of forest fires. Underbrush and decaying leaves accumulate on the ground to provide fuel for wildfires. However, under multiple-use management, this could be removed by controlled burning every few years—thus reducing both the risk and potential seriousness of forest fires. In addition, because no vehicles are allowed in wilderness areas, and as a consequence no roads are permitted, it is virtually impossible to fight forest fires with any degree of success.

As a result of wilderness designations, we take the chance that an area will not remain the type of place anyone would enjoy visiting. After a number of years, the same areas can become festering sores in the middle of the national forests. Because the areas cannot be managed, they are doomed to become forests of old trees, heavy underbrush and decaying matter—ripe for destructive wildfires and insect infestations.

But the problem of wilderness designations goes even further. While these areas are decaying, their productive capacity is being lost. Trees mature—then die, being left to rot in the forest rather than being harvested. This is a tragic waste. It is completely irresponsible to throw away scarce resources by default when they can be managed in a balanced and enlightened way under multiple-use plans.

WILDERNESS

In fact, the best wilderness experiences in North Carolina are not found in designated wilderness areas, but in the multiple-use areas of our national forests. These lands have been enjoyed by generations of men and women who have come to love the outdoors and who take special pleasure in experiencing the rewards of more than a million acres of national forest lands in our State. Many sure and cholesterol levels as well as to maintain weight control.

If this journey or any subsequent one should take you to Chicago, Illinois, wherein is the District I represent, I would be more than pleased to hear from you.

I wish you Godspeed.

Sincerely,

BENNETT, M. STEWART,
Member of Congress.

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C., June 23, 1980.

DONALD C. ALMY,
c/o Senator SPARK M. MATSUNAGA,
Russell Building,
Washington, D.C.

DEAR MR. ALMY: BRAVO! Your most extraordinary journey has helped to prove that age is not a barrier to continued success.

It is important for people such as yourself to continually stress the need for our nation to recognize the talents and the potential contributions the elderly can provide. With the aid of proper nutrition and continued activity, our nation's senior citizens may continue to afford their much needed talents and experience to our country.

As Chairman of the Committee on Labor and Human Resources and former Chairman of the Special Committee on Aging, I welcome you to Washington, applaud your magnificent victory, and wish you continued success in your mission to educate the American people of the unnecessary social obstructions facing our nation's senior citizens.

With warm regards,

Sincerely,

HARRISON A. WILLIAMS, Jr.

U.S. SENATE,
Washington, D.C., June 18, 1980.

Hon. SPARK MATSUNAGA,
U.S. Senate,
Washington, D.C.

DEAR SPARK: Please convey my congratulations to Donald C. Almy as he finishes up his jogging trip from Los Angeles to Washington, D.C. It is a fine thing Mr. Almy is doing. He is demonstrating that vigorous exercise and a worthy cause are the best prescriptions for good health. His example should be evidence enough that fitness is a goal everyone should strive for. Give Mr. Almy my warmest regards and best wishes for continued success in this very valuable project.

Sincerely,

ABE RIBICOFF.

JUNE 20, 1980.

Hon. JACOB K. JAVITS,
c/o Senator MATSUNAGA,
U.S. Senate,
Washington, D.C.

Please convey my heartiest congratulations to Mr. Almy on his splendid cross country run to highlight physical fitness for the senior citizen. By this remarkable feat, he has demonstrated anew that age is best measured by the spirit, and laws or prejudices to the contrary do all a great injustice. My best to all gathered to honor this great man and my regrets that previous commitments prevent my joining you now.

Sincerely,

JACOB K. JAVITS,
U.S. Senator.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 19, 1980.

Hon. SPARK M. MATSUNAGA,
Russell Building,
Washington, D.C.

DEAR SPARKY: I received your letter with the statement of Donald C. Almy and indeed wish that I could join you on the Capitol steps to greet him at 11:00 a.m. on Monday, June 23rd. I certainly commend you for the interest you have taken in Mr. Almy's cross-country trip, and I read with interest all of the information that you sent me about this courageous man.

I am committed to a charity function on Monday out in Maryland but want you to know that I did appreciate your informing me of this very worthwhile event.

Kindest personal regards,

Sincerely,

JAMIE L. WHITTEN, M.C.

Mr. MOYNIHAN. Mr. President, we thank the Senator from Hawaii who has set an example for us just as his fellow Hawaiian has set an example for others.

I will say yet knowing the vigor and the search for new challenges that the Senator from Hawaii always presents to this body that I look forward to the day that he reproduces this most remarkable event first by swimming from Oahu to Catalina Island and then by jogging.

I cannot doubt he is capable. It is maybe he cannot find the time from the Senate.

DISPOSAL OF HAZARDOUS WASTES

Mr. BAKER. Mr. President, the dangers of hazardous wastes are of great importance nationally. Potentially dangerous waste sites have been discovered and partially investigated in Memphis, Tenn., and at Love Canal in Niagara Falls, N.Y.

The Senate Environment and Public Works Committee is presently considering legislation which would provide funds to evaluate hazardous wastes and compensate those affected by releases from those sites. But full Senate action on this legislation is not anticipated for some time, and the toxic waste sites that have been discovered demand immediate attention.

I was pleased to read this morning that the Environmental Protection Agency, which has conducted preliminary tests in both Memphis and at Love Canal, has requested additional funds to complete health surveys in these areas.

Last week, I wrote the Environmental Protection Agency and the Office of Management and Budget requesting additional funding for the survey in the greater Shelby County area in Tennessee. Several months ago, State and local officials, along with representatives of the EPA, began soil samplings and health tests of residents in the Frayser area of Memphis to determine, if any, the impact on local residents from toxic waste dumps in that area.

While the results have not been released, EPA has determined that additional tests need to be conducted in Shelby County and requested funding for the project in connection with the Love Canal study. Officials of the State of Tennessee, the city of Memphis and Shelby County have endorsed the EPA request.

I commend the Environmental Protection Agency for its prompt actions to date in the Memphis area. I am convinced with additional funds the Agency, in conjunction with other governmental representatives, can complete its job.

I hope the Office of Management and Budget will act quickly on this request so that any possible threat to the people from toxic waste dumps can be identified.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 7542. An act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes (Rept. No. 96–829).

By Mr. MAGNUSON, from the Committee on Appropriations, without amendment:

S. Res. 449. A resolution disapproving the deferral of certain budget authority relating to the Young Adult Conservation Corps.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 2861. A bill to designate certain National Forest System lands in the State of North Carolina for inclusion in the National Wilderness Preservation System, to release other national forest lands within the State of North Carolina from further consideration for wilderness designation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURKIN:

S. 2862. A bill to amend the Energy Conservation and Production Act to provide for a realistic schedule for the promulgation and implementation of energy efficiency performance standards for new commercial and residential buildings, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAVEL:

S. 2863. A bill for the relief of Kenan Demirci; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 2864. A bill for the relief of Mr. Adriano Boldini and Mrs. Adriana Messa Boldini; to the Committee on the Judiciary.

By Mr. PERCY:

S. 2865. A bill for the relief of Lemuel G. Villaneuva, M.D., and Corazon S. Villaneuva, husband and wife; to the Committee on the Judiciary.

ably in better health now than at any time in my life. Increased energy and enthusiasm and a forward-looking, happy outlook have provided me with a whole new life.

Among other things, I am over half way through the requirements for a masters degree in gerontology at the School of Public Health, University of Hawaii. I instruct physical fitness classes for older adults and participate in the activities of the Community Fitness Committee.

I believe that participation in physical fitness programs by older adults can lead to an improved quality of life for them. I further believe that this cross-country run can contribute to that goal by seeking to achieve the following objectives:

To create a more positive image of older adults in their own eyes and in those of the community.

To demonstrate by personal example that older persons can regain a high level of physical fitness and mental well-being through adequate physical exercise and good nutrition.

To show older persons that they can remain actively involved with life and especially that they can maintain mobility and independence.

To tell older adults about the physiological and emotional benefits participants derive from physical fitness programs, and that they can recover a substantial measure of diminished strength and vigor through regular exercise.

To stimulate older adults to join or to start a physical fitness program and to tell them how to go about it.

The plan is for me to run the entire distance from Los Angeles to Washington, D.C., 10 to 20 miles a day, six days a week, with a total elapsed time of ten to twelve months. I will stop at towns and cities near the route to give talks and interviews and to call on community leaders and gerontology centers to help get physical fitness programs started and the older persons interested. A combination public relations person/driver will accompany me. We shall travel in a recreational vehicle equipped for living, for physiological testing and for the preparation of publicity materials tailored to local conditions. There will be TV and radio interviews, as well as newspaper coverage.

It is unfortunate that public relations coverage for this tour will be somewhat limited, since it is now being financed solely by personal means. To improve this situation, I am looking for a few sponsors to help with expenses. I would be pleased to discuss such support with you. In addition, I hope to improve both appeal and PR coverage through suggestions from people like you. Your ideas and encouragement would be greatly appreciated.

Sincerely,

Donald C. Almy.

The White House,
Washington, D.C., June 19, 1980.

Dear Mr. Almy: Through the courtesy of Senator Spark Matsunaga, the President has learned that you have just completed your year-long run across America. He regrets that he is unable to greet you personally at the ceremony held on the east front of the Capitol in your honor, but as you may know, his attendance at the Venice Summit Conference precludes this possibility.

Like yourself, the President is a runner, though his running is limited to elections and distances considerably shorter than the one you have now finished. The persistence, dedication, and vigor which you have exhibited in your run across America will serve as an inspiration not only to older Americans, but to citizens of all ages.

Please accept the enclosed inscribed photograph, along with the President's congratulations and best wishes for happiness and healthiness in the years ahead.

Sincerely,

Frank Moore,
Assistant to the President for Congressional Liaison.

U.S. Senate,
June 20, 1980.

Mr. Donald C. Almy,
c/o Spark M. Matsunaga,
U.S. Senator,
Washington, D.C.

Dear Mr. Almy: Although I will be unable to join you on Monday, please accept my heartiest congratulations as you complete your jogging trip across the United States.

Your efforts in promoting physical fitness for older adults, as well as for all people, are greatly appreciated.

Best wishes.

Sincerely,

J. James Exon,
U.S. Senator.

U.S. Senate,
Washington, D.C., June 19, 1980.

Mr. Donald C. Almy,
c/o Hon. Spark M. Matsunaga,
U.S. Senate,
Washington, D.C.

Dear Mr. Almy: Let me congratulate you on your remarkable accomplishment.

Your efforts certainly serve as dramatic evidence of the unlimited physical potential of our senior citizens. I hope they also serve as a model for others.

Again, my congratulations and best wishes.

Sincerely,

Carl Levin.

U.S. Senate,
Washington, D.C., June 23, 1980.

Mr. Donald C. Almy,
Kailua, Hawaii.

Dear Mr. Almy: Congratulations on your successful transcontinental run. Your effort is a remarkable feat, not only in terms of the physical endurance necessary, but also because you have carried a message of physical fitness to thousands of older Americans.

I believe that your example will inspire many to emulate your program of fitness.

Once again, congratulations and welcome to Washington.

With best wishes, I am,

Sincerely,

William S. Cohen,
U.S. Senator.

U.S. Senate,
Washington, D.C., June 23, 1980.

Mr. Donald Almy,
Kailua, Hawaii.

Dear Mr. Almy: On behalf of Kansans young and old, I congratulate you upon the successful completion of your coast-to-coast run and welcome you to Washington, D.C.

The fact that you've achieved your goal surely will inspire and motivate others to keep fit and active long past retirement age. I've seen the rewards of keeping active and fit since my father, at age 93, still likes to ride his horse and exercise as much as possible. Your example shows it is a personal disservice to not remain active past retirement age.

I hope you will continue to publicize the rewards of a personalized physical fitness routine for older Americans. You have demonstrated the benefits as no one else ever has.

Good luck to you always.

Warmest regards,

Nancy Landon Kassebaum,
U.S. Senator.

U.S. Senate,
Washington, D.C., June 20, 1980.

Mr. Donald C. Almy,
Kailua, Hawaii.

Dear Mr. Almy: Congratulations on the completion of your cross-country jogging trip! I commend you on your unique accomplishment.

It is essential that we be reminded of the importance of keeping our bodies physically fit. It is especially important that the benefits of personal physical fitness and proper health habits be enjoyed by senior citizens.

I applaud your attempts to re-educate senior citizens on the benefits of a personal physical fitness routine. Your endeavors are an example to all Americans that self determination and hard work are the tools to a happy, healthy and productive life.

Again, congratulations; you are truly an inspiration.

With best wishes,

Sincerely,

Edward Zorinsky,
U.S. Senator.

U.S. Senate,
Washington, D.C., June 19, 1980.

Mr. Donald C. Almy,
c/o Hon. Spark M. Matsunaga,
U.S. Senate,
Washington, D.C.

Dear Mr. Almy: May I join my colleague, Senator Matsunaga, in welcoming you to Washington. Although I will be unable to attend the ceremony honoring you next Monday, I wanted to extend my personal congratulations as you complete your cross-country trip.

Your remarkable coast-to-coast jogging trip is a tremendous personal achievement. It is also a meaningful and dramatic way to demonstrate your commitment to physical fitness and health promotion.

You are an inspiration to the senior citizens of our nation, and to Americans of all ages.

With my admiration and best wishes,

Sincerely,

Edward M. Kennedy.

U.S. Senate,
Washington, D.C., June 18, 1980.

Mr. Donald C. Almy,
c/o Hon. Spark M. Matsunaga,
U.S. Senate.

Dear Mr. Almy: Warmest congratulations on the completion of your cross-country jogging trip this past year!

You are an inspiration to all of us, and I am sure that during your travels, you made an important contribution in encouraging good health, fitness and dietary habits. As chairman of the Senate Subcommittee on Nutrition, I especially am pleased to salute you.

With all good wishes, I am

Sincerely,

George McGovern.

House of Representatives,
Washington, D.C., June 20, 1980.

Col. Donald C. Almy (USAF, Ret.),
Kailua, Hawaii.

Dear Colonel Almy: I extend my sincere congratulations to you on the occasion of your arrival in Washington, D.C. after having nearly completed a year-long jogging trip across the United States. The example you set for our senior citizens and the emphasis you place on physical fitness for all citizens is highly commendable.

It is regrettable that a prior commitment in Chicago on June 23, 1980 precludes my being present to personally congratulate and welcome you. I would, otherwise, appreciate firsthand information on your incentive to overcome the problems of high blood pres-

A new public affairs manual;

An audit to build up the field apparatus;

The beefing up of work with state and local officials;

Greater relations with Capitol Hill press secretaries and administrative assistants;

The liaisoning with 'influentials' in business and labor groups;

Reaching out to experts in academia;

More radio and public service announcements;

That new and exciting publications be designed;

Increased status for the Secretary's speechwriter;

That additional speechwriting talent be hired in public affairs;

That the Department revise and computerize all distribution lists;

A regular monthly reporting system by all public information heads;

A new information center like EPA's;

More and better training for public affairs officers;

That the Department assemble a panel of "futurists" ". . . to perceive long range trends and possible discontinuities. . . ."

Greater use be made of public opinion polls;

Emphasizing plans to support its outreach program not only nationally but internationally;

That the Office of Public Affairs should be certain that it has warm personal contact with major representatives of the various media around the country. . . . It must also expand its efforts to work in close harmony with the more than 1,000 representatives of the foreign media in the United States; and

That new public affairs officers be appointed to support the ten regional Secretarial Representatives.

Mr. President, it may be too much to hope that in lieu of "the marketing of the Department", "distribution targets", "new bridges", and "media outreach", the Department of Commerce will emphasize its substantive programs instead of hiring an army of public relations flaks.

A CALL FOR IMMEDIATE ACTION

Mr. PROXMIRE. Mr. President, in July 1941, a Jewish youth in East Russia named Isaac Rudnicki disobeyed the German-imposed curfew. Risking his life for a moment's contact with the world outside his Jewish ghetto, he crept to the attic of a neighbor's house. There, in complete darkness, he waited for his turn to crawl under the three blankets that covered a forbidden radio in the center of the room.

The muffled words he struggled to hear changed his life. Citizens of occupied territories were being urged to fight and sabotage the Germans and their supporters. He heard the call to participate in partisan warfare—and responded. Isaac was burdened both by fear for his own life and guilt that his actions might endanger other Jews. But Isaac still found the strength to encourage other youths to form a guerrilla band to operate within enemy lines. Their painstaking efforts to steal and conceal weapons seemed reckless—and certainly hopeless—to the many Jews who accepted their own fate with resignation.

Isaac and the partisans operated from hideouts in the Lithuanian forests. They were successful in derailing 13 German supply trains and soon won renown for their courageous opposition to the Nazis. Later Isaac rose to become a brigadier general of the Israel Defense Forces. He traced his inspiration back to that summer evening of the war when he heard a distorted radio voice call for immediate action.

Mr. President, I urge the Senate to take immediate action on the Genocide Convention. The initiative a youthful victim could display in hiding in time of war, we can surely show in safety and time of peace. The example of the pride he maintained—even in danger—should create shame in us for our inaction. The source of his hope for success, against great odds, may seem hidden to us. The source of our hope for greater morality in the law should not be hidden.

The source of that hope is the Genocide Convention. With ratification of the Genocide Convention, we can hope that law and people may become more humane. With ratification of the Genocide Convention, we can begin to build a respect for human rights firmly into law.

Mr. President, I yield the floor.

DON ALMY, THE "HAPPY JOGGER FROM HAWAII" ARRIVES IN NATION'S CAPITAL

Mr. MATSUNAGA. Mr. President, I am pleased to announce that Don Almy, the "Happy Jogger from Hawaii" this morning safely arrived in Washington, D.C. following a 3,100-mile run across the country from Los Angeles. As promised more than 1 year ago, I greeted Mr. Almy at his "finish line" on the steps of the U.S. Capitol.

Mr. Almy, who is 68 years of age, carried an inspiring message to senior citizens throughout our country: "If you try as I have, you can be healthier in old age than at any time in your life."

In 1965, Almy, then an Air Force officer, had to retire on disability due to heart problems.

"I was placed on medication; I grew despondent and overweight; my blood pressure and cholesterol level shot up," he recalled this morning. "By age 62, I was a sick old man, dependent on four prescription drugs and steady doses of aspirin."

Now, only 6 years later, Almy's weight has dropped from 195 pounds to 145 pounds (on a 5-foot, 7-inch frame), his blood pressure and cholesterol are normal, his headaches are gone, he is off medication, and he never felt better physically or mentally.

He attributes this turnaround to his decision in 1974 to correct his diet and embark on a physical fitness program.

He has since developed his personal regimen into a course for senior citizens in Honolulu which focuses on walking, running, and exercises designed to keep every joint in the body moving and flexible. Mr. Almy's experience indicates that senior citizens who "stay active" are not only healthier, but also happier, for poor health leads to a reduction in social contacts and isolation. But good health even in advanced age leads to happiness. And, what is more important, inspiration to others.

Mr. Almy is in Washington, D.C. today. I cannot ask him to stand and take applause, but he is in the gallery and it will be against the rules to have him recognized. But I do so state, and I am happy and proud to be able to say that a resident of Hawaii made this great accomplishment.

"When older people see me and hear what I have done and am doing, they have something really tangible to go on—and that can make a difference," said Almy. During his cross-country trip, he addressed 113 senior citizens groups. He also entered 8 foot races in communities he was passing through, winning three trophies.

It is significant to note that the only delay encountered by Don Almy during his cross-country run was due to his motor home—driven by his wife, Camille. In El Paso, Tex., the motor home broke down and was laid up for 3 weeks.

During his historic jog to Washington, Don Almy received encouragement from a number of distinguished Americans, including the President of the United States, who presented him with a personally autographed photograph. With the thought that they will be of interest to my colleagues, I ask unanimous consent that samples of these messages be printed in the RECORD at this point, along with a copy of Don Almy's fact sheet about his trip to the Nation's Capital.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Early in 1979 I shall start a trip that hopefully will help improve the quality of life for older persons. The plan is for me to run, in my 68th year, coast to coast from the Ethel Percy Andrus Gerontology Center at the University of Southern California, Los Angeles, to the offices of the Administration on Aging, HEW, Washington, D.C.

In conjunction with the run, I plan talks and interviews with individuals and organizations concerned with the problems of aging. The intent is to demonstrate to older persons, their families, their communities and to the media that it is possible to regain vigor and to stay actively involved after age 65 and especially that it is possible to maintain a high level of health, mobility and independence.

The intent of this project is to stimulate interest in and to increase participation in, physical fitness programs for older persons. The benefits are already known to gerontologists, physicians, physiologists and physical educators. The word simply has not reached enough older people, their families and their communities.

My interest in the area of physical fitness for older adults developed as a result of going through a post-retirement physical deterioration that was reversed on September 10, 1974, the day I started a positive physical fitness program. I was obese, had high blood pressure, high blood cholesterol, had frequent episodes of uneven heart beat and was taking four prescribed medications plus aspirin for headaches. And, of course, I was depressed.

Three months of a corrected diet, daily calisthentics, swimming and jogging improved all symptoms. Now, four years later, my weight is down from 195 to 140. My blood pressure, cholesterol and heart rate are normal, and marathon racing has become a hobby. I have run eight marathons (26 miles, 385 yards) in the last three years. I am probmulgated under it have been running up costs and prices unnecessarily. It is essential that there be a thorough reform of outstanding laws and regulations, and more careful design in any future measures, so that basic national objectives may be achieved at minimum feasible cost. The reform should take full account of costs as well as benefits; it should seek the most efficient means of reaching agreed-upon goals; it should give careful attention to the pace at which changes in processes, practices, or products are mandated, and it should provide expeditious procedures that yield timely and definitive conclusions.

THE ENVIRONMENT FOR BUSINESS INVESTMENT

Inflationary pressures have been fostered in recent years by a flatteningout of the trend in the output of goods and services per manhour, and most recently by an absolute decline in productivity. Our country needs urgently to encourage productivity-enhancing capital investments and, more generally, a greater willingness by business firms to innovate and assume risks.

The Congress should promote these objectives by scheduling reductions in business taxes in each of the next five to seven years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation, supplemented in due course by reduction in the capital gains tax, would not run up the budget deficit in this critical year or next; it would thus scrupulously avoid fanning the fires of inflation. Its passage would, however, release powerful forces to expand capital investment, thereby improving the nation's productivity and exerting downward pressure on prices later on. Such tax legislation would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of other parts of our suggested program.

OTHER MEASURES TO INCREASE PRODUCTIVITY

We urge that other feasible means be adopted to increase the productivity of our economy. These should include larger private and public outlays for research and development; more carefully designed manpower training programs; productivity councils in individual plants, shops and offices in communities across the country, in which employees and employers can pool their ideas for improving the efficiency with which their tasks are discharged, and other means of encouraging cooperative efforts of labor and management in furthering their common interest in greater efficiency.

ENERGY

The problem of energy is intertwined with that of inflation. On the one hand, skyrocketing costs of imported oil have contributed to our domestic inflation; on the other hand, governmental actions to limit the rise in domestic prices of oil products have weakened incentives for conservation and for expansion of the domestic supply of oil and of alternative sources of energy. We believe that, despite the short-run effects on the price level, the rapid decontrol of oil prices—and perhaps the addition of consumption taxes—would serve the national interest by speeding the day when our nation regains substantial independence in the energy area. Only then will we be free of the threat to the stability of our price level—and to our national security—that is posed by present dependence on foreign energy supplies.

CONCLUDING COMMENTS

Our critical problem of inflation did not emerge suddenly. It has been gathering force for many years. Its roots lie deep in the political and philosophical attitudes that emerged from the Great Depression of the 1930's.

While our inflation is largely a consequence of government actions, those actions in turn reflect excessive public demands for the good things of life—rising living standards, better provisions for income security, more assistance to the disadvantaged among us, a cleaner environment, fuller protection of the public's health and safety, and special benefits for a growing number of interest groups. Each of these demands is thoroughly understandable. Together, however, they release persistent inflationary forces—first, by requiring of government greater outlays than tax revenues can finance, second, by demanding of the private economy greater output than its languishing productivity can support.

At best, the task of ending inflation will be difficult. But there is no hope of eventual success unless the American people come to understand the nature of the problem and are prepared to support the stern measures required to solve it. We see some signs that the needed understanding and support are growing. And we look forward to the time when our nation will again experience the economic progress that is possible in an environment of generally stable prices.

FLEECE OF THE MONTH—PUBLIC RELATIONS CONTRACT RECOMMENDS MORE PUBLIC RELATIONS FOR THE COMMERCE DEPARTMENT

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month award for June to the Department of Commerce for spending $9,800 to hire a private public relations firm to review and evaluate the Department's public relations efforts. What did the public relations firm recommend? Surprise. More public relations with a potential price tag of tens of millions of dollars.

If the recommendations are adopted we will see a burgeoning of public relations from the Department of Commerce which could rival the selling of the Pentagon and bring back the gray flannel suit.

The Fleece of the Month is given for the biggest, most ironic, or most ridiculous example of wasteful public spending for the period.

Unhappy with the state of their public relations, on April 7, 1980, the Associate Deputy Secretary of the Deparement of Commerce requested a purchase order for a review and evaluation of the Department's Office of Public Affairs from an outside, Washington-based public relations firm. The outside review was ordered even though the Department's roster includes 112 positions for public relations experts at a cost of $4.8 million. Twenty-one positions budgeted for $781,000 in fiscal year 1981 are located in the Office of the Secretary of Commerce itself.

According to the Department's memorandum requesting the review:

> The Secretary of Commerce has placed a high priority on immediate improvement of the Department's public relations efforts.

Attachment B of the memorandum, outlining the scope of the study, stated:

> We must demonstrate what is needed in Public Affairs to market, promote and certainly support the Department, beginning with Secretary Klutznick.
>
> What should result is a demonstration of both servicing and creative communications to support the marketing of the Department.

SOLE-SOURCE CONTRACT

The Department not only did not use any of its 112 specialists to review its public relations policies but let a sole-source contract to the outside firm. Although the names of more than 250 public relations counselors appear in the yellow pages of the Washington, D.C., phone book along with that of the firm selected, it was chosen without competitive bidding because it was "uniquely qualified." Among the reasons given for the firm being "clearly more desirable" than other firms in the same general field were that it "specialized in handling public relations and public policy issues for Government agencies and has previous working knowledge of the Department of Commerce and its public relations needs."

INCREASE THE BUDGET

And what, to the delight of the bureaucrats at Commerce, did their uniquely qualified, hand picked consultants recommend?

The Department of Commerce should "* * * take action to insure the designation of an Assistant Secretary of Public Affairs."

Why? The report states that:

> The public affairs program budgets of departments headed by assistant secretaries are generally more impressive as well as larger than those agencies headed by a director of public affairs. (p. 302.)

In its thoroughly detailed 324 page, 25 chapter report submitted May 21, 1980, the public relations counselors also note that the Commerce Department has "* * * the opportunity to create a fresh, dynamic image of itself."

While it neither gives detailed budget amounts nor costs out of its dozens of recommendations, the report looks with favor on the Office of Public Affairs at the Department of Agriculture and states that—

> It is the closest thing to a "model" Public Affairs structural concept for Commerce to be found in any federal agency.

The report notes that the USDA "* * * has a staff of nearly 1,200 information specialists around the country and has had a budget for them of more than $40 million * * *."

WHITE HOUSE IS THE PRIORITY AUDIENCE

And what policies should the Department of Commerce follow to create the dynamic new image of itself? How should it spend the many-fold increase in funds it would take to emulate the public relations program at the Department of Agriculture?

The report tells the Commerce Department clearly where its bread is buttered. The Office of Public Affairs should, it states, "* * * recognize the White House as a priority audience."

There are few limitations to the scope of the recommended public relations proposals "Public Affairs materials" it says, "are needed to support the new outreach program around the world."

WHERE TO SPEND MORE

Here are some of the other key proposals. It recommends:

> That budgeting and staffing plans need to be assessed and upgraded;
>
> A news service for both print and broadcast media;

last two months. The committee has not yet decided what to do next but Mr. Burns and other members mentioned ideas like including position statements in the mailings by banks, life insurance companies and the like that reach "tens of millions of people."

The idea for the committee effort began with Mr. Fowler, who was motivated by a speech by Mr. Burns to an International Monetary Fund meeting last fall in Belgrade, Yugoslavia, warning of the inflation problem.

"You have to raise the standard and hope people will repair to it," Mr. Fowler said.

The group may be expanded, although the original 13 members would probably remain as an "executive committee." Bringing in others, particularly business executives, could help generate financial support, Mr. Burns indicated.

[From the New York Times, June 22, 1980]

Members of Inflation Committee

Washington, June 21.—Following are the founding members of the Committee to Fight Inflation:

Arthur F. Burns, chairman, appointed chairman of the board of governors, Federal Reserve System by President Nixon; now senior fellow, American Enterprise Institute.

Henry H. Fowler, vice chairman, appointed Secretary of the Treasury by President Johnson; partner, Goldman, Sachs & Company.

W. Michael Blumenthal, appointed Secretary of the Treasury by President Carter; vice chairman of Burroughs Corporation.

John W. Byrnes, former ranking minority member, Ways and Means Committee, House of Representatives; counsel, Foley, Lardner, Hollabaugh.

Frederick L. Deming, appointed Under Secretary of the Treasury by President Johnson; president, National City Bancorporation.

C. Douglas Dillion, appointed Secretary of the Treasury by President Kennedy; managing director Dillion Read & Company.

Paul W. McCracken, appointed chairman of the Council of Economic Advisers by President Nixon; professor of economics, University of Michigan Graduate School of Business.

George H. Mahon, former chairman of the Appropriations Committee, House of Representatives.

William McC. Martin Jr., appointed chairman of the board of governors, Federal Reserve System by President Truman; consultant.

Wilbur D. Mills, former chairman of the Ways and Means Committee, House of Representatives; counsel, Shea & Gould.

George P. Shultz, appointed Secretary of the Treasury by President Nixon; vice chairman, the Bechtel Group.

William E. Simon, Secretary of the Treasury under Presidents Nixon and Ford; chairman, Crescent Diversified Ltd.

John J. Williams, former ranking minority member, Finance Committee, Senate.

Text of Policy Statement by Panel To Fight Inflation

Washington, June 21.—Following is the first policy statement issued by the Committee to Fight Inflation:

Chronic inflation at unprecedented levels is a serious threat to the stability of our system—economic, social and political. Since efforts to control inflationary pressures have not been successful, a serious crisis of confidence has developed. The growing public concern about the destructive effects of inflation has created an opportunity to marshal and maintain broad support for effective anti-inflation policies. A committee of private citizens with extensive experience in government has been formed to promote such policies.

A POLICY STATEMENT

The problem of inflation has reached crisis proportions in our country. From an annual average rate of rise in prices of 1.9 percent over the 11 years ending in 1967, inflation accelerated to a rate of 6.3 percent over the next 11 years, ending in 1978; and then to a rate of 13 percent in 1979 and to a still higher rate in early 1980.

The rapidity of price advances will abate during the recession that is now under way; indeed, the most recent price indexes suggest that such a process has already begun. We must be alert to the danger that this slowing will lead to complacency about inflation, and that the concurrent rise in unemployment will again elicit highly stimulative fiscal and monetary policies. In that event we can be certain that prices will be rising more rapidly at the start of the next economic recovery than in any preceding recovery, that inflation will have gained strong new momentum, and that the hope of ending it in the reckonable future will sharply diminish.

The urgency of dealing with the inflation problem can hardly be exaggerated. By causing economic imbalances, inflation has been the primary channel through which recession—and with it widespread unemployment—has come twice to our country since 1973. The signs of havoc brought on by inflation are all around us. Inflation has created large and wholly arbitrary redistributions of income and wealth. Inflation has eroded the real value of everyone's money income and monetary assets. For example, the real value of a 1967 dollar had declined to 41 cents by early 1980.

Inflation has thus been depriving people of effective means of planning for their future and of providing against the contingencies that arise in life. It has been destroying the self-respect of many of our citizens by forcing them onto the welfare rolls. It has damaged our nation by increasing anxiety, and by breeding discontent and social tension. It has reduced the efficiency of financial markets and of the workshops of our economy, and it has made our economy more vulnerable to recession. Ultimately, inflation threatens the survival of free competitive enterprise and of our democratic institutions.

Our rapid domestic inflation has already substantially reduced the value of the dollar abroad, and with it the power and prestige of the United States in the international arena. As inflation continues, it poses a continuing threat of flight from the dollar, and thus of further contraction of its value in foreign-exchange markets. Such a development would intensify domestic inflation by raising the costs of all imported goods, and it would further weaken our country's international prestige.

We cannot afford delay in taking the measures needed to restore general price stability in our country. If we are to rout inflationary psychology we must act with determination to see the matter through despite the short-run costs that will be incurred by some, perhaps many, of our citizens. Under present circumstances, we must forswear superficially attractive but ultimately counterproductive measures such as mandatory wage and price controls.

We urge the prompt adoption of a program dealing with the following areas:

FISCAL POLICY

During recent decades there have been sharply rising pressures on Congress to adopt new spending programs and to expand existing programs. Pressures for spending cuts or tax increases have been much weaker. The result has been a virtually unbroken string of budget deficits over the last 20 years. Moreover, these deficits have been generally increasing both in dollar amounts and—since the 1950's—as a percentage of the gross national product. This persistent pattern of deficit financing has contributed powerfully to the impetus of inflation and to the rapid spread of inflationary psychology.

In the Budget Act of 1974 Congress adopted new procedures designed to deal on a unified basis with separate revenue and expenditure decisions. While these procedures represent an important step forward, it is essential that the ability of Congress to resist pressures for deficit financing be considerably strengthened. We recommend a further revision of the budget process that would make it much more difficult to run deficits. Our proposal would require a balanced budget unless a deficit is authorized by something more than a simple majority—say, two-thirds—of each house of Congress. Such a measure would demonstrate to the public that the Congress is finally ready to take stern and responsible action to end the persistent budget deficits that have nourished our inflation.

Deficits can, of course, be eliminated either by raising taxes or by holding down expenditures. We believe that the national interest would now be best served by restraints on expenditures. We recognize that significant overall savings are becoming difficult to achieve partly because of the requirements of national defense but also because of rapid growth of social security, Federal pensions, and the other entitlement programs that are automatically linked to rising prices. We therefore urge the Congress to consider proposals to weaken the tie between the price indexes and outlays under the entitlement programs, insofar as that can be done without injuring those most in need. In addition to its beneficial effect on Federal spending, such a course would strengthen the constituency opposed to inflation, and it would also set a constructive example for the private economy.

MONETARY POLICY

The ability of the Federal Reserve System to combat inflation has in the past been limited by lack of understanding and support in the Congress. Although the system has at times stepped hard on the monetary brakes, its policies have at other times accommodated a good part of the inflationary pressures in the market place. At present, the general thrust of monetary policy is appropriately restrictive. The Federal Reserve has been and will remain the faithful agent of Congress; but if it is to continue to combat inflation forthrightly and with vigor, it must have the strong and steadfast support of Congress. We recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation.

GOVERNMENT PRICE-RAISING ACTIONS

Over the years, our Government has persistently acted to raise prices by measures that served to boost incomes and protect employment of particular groups at the expense of the public at large. These measures include tariffs, import quotas, marketing agreements and other restraints on international trade. They include farm price supports and acreage restrictions that raise the cost and reduce the supply of food. They include the minimum wage and Davis-Bacon legislation that tend to raise labor costs throughout the economy. They include also restrictions on competition in transportation and numerous other industries. In view of overwhelming evidence of the power of market competition to serve the public interest by holding down prices, it is vitally important that Congress, first, stop raising prices by enacting new restraints on trade; and second, that it proceed methodically to dismantle, or at least weaken, much of existing legislation that impedes the competitive process.

GOVERNMENT REGULATION

During the past decade Congress has poured out a flood of legislation in response to public concerns about degradation of the environment and hazards to the health and safety of both workers and consumers. Much of this legislation and the regulations pro-

Fifth, they recommend that we in the Congress schedule reductions in business taxes in each of the next 5 to 7 years and reduce the capital gains tax.

Sixth. They recommend a series of measures to increase productivity, including increased research and development, improved manpower training, productivity councils in individual plants.

Seventh. They recommend the rapid decontrol of oil prices and, perhaps, the addition of consumption taxes.

Mr. President, this statement of policy concluded with a wise and understanding description of why these measures will be hard for us to put into effect. And let us face it; these measures will be very hard for us as a Congress to adopt this year or next year and even more difficult for us to follow through in our support for years to come. Unless we understand why this is, it will be difficult for us to find the resolve to meet this challenge from these leaders.

As they tell us, our inflation is largely a consequence of Government actions. Those actions reflect excessive public demands for the good things of life. How true, Mr. President, how true. As Members of Congress, we want that better life for our constituents. If we did not, we would not be here and we should not be here. But what we have to realize is that there is no way we can deliver this better way of life without an inflation that can and will wreck our society.

How do these demands feed inflation? First, by requiring of Government greater outlays than tax revenues can finance; second, by demanding of the private economy greater output than its languishing productivity can deliver.

Mr. President, these 13 men have laid down a challenge to this Congress. It is a challenge from the ablest and wisest men who have served this Government of ours in the economic field over the past 30 years and are now outside of Government, in almost all cases permanently outside of Government. That permanence is important. These are men who have no ambition to run for office. They are bipartisan, both Republicans and Democrats. They thoroughly understand how this Government operates in the executive branch, in the Congress, and in the Federal Reserve.

In the year 2000, as our successors look back on this Congress and assess how well or how badly we in Congress have done in meeting the economic needs of this country, this challenge will be a major measure.

Mr. President, I ask unanimous consent that the text of the policy statement by the 13 members of the inflation committee be printed at this point in the RECORD and an article from the New York Times by Steven Rattner, reporting the formation of the group be printed also.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 22, 1980]

THIRTEEN FORMER U.S. ECONOMIC OFFICIALS JOIN TO COMBAT CHRONIC INFLATION

(By Steven Rattner)

WASHINGTON, June 21.—A bipartisan group of 13 former senior Government economic officials has been formed to urge strong and persistent action to control what they termed the nation's "chronic inflation."

The stern words used in the group's initial 10-page policy statement imply strong criticism of the handling of the economy both by President Carter's Administration and by previous Administrations.

The privately organized group, known as the Committee to Fight Inflation, plans an extensive effort, including political initiatives, to press the case for holding down Federal expenditures, cutting business taxes annually, and undertaking "a thorough reform of outstanding laws and regulations."

In addition, the committee's goals include obtaining Congressional backing for restrictive monetary policies, ending or weakening programs such as farm price supports and minimum wage requirements, and the rapid decontrol of oil prices.

The group said that a slowing of inflation "during the recession that is now under way" could lead to complacency about rising prices and raise the danger that "the concurrent rise in unemployment will again elicit highly stimulative fiscal and monetary policies."

The committee's chairman is Arthur F. Burns, chairman of the Federal Reserve Board under Presidents Nixon and Ford. The vice chairman is Henry H. Fowler, Secretary of the Treasury under President Johnson.

The positions of the group correspond most closely to conventional Republican positions, which could lead to the group's efforts having a political impact on the fall elections and beyond. Part of the committee's efforts will include seeking political endorsements for the program, particularly from Presidential candidates and in their platforms.

"We're going to try to mobilize and sustain public opinion," Mr. Fowler said. "We're trying to express the view that inflation is the No. 1 national problem."

The group's membership ranges across an ideological spectrum from W. Michael Blumenthal, President Carter's first Treasury Secretary, to William E. Simon, who served in the same post under President's Nixon and Ford.

But Mr. Burns, in an interview, acknowledged that even the Democratic members have not been known as economic liberals and said that the group did not strive for representation from all quarters.

"I'd rather come out with a strong policy statement which we think is right and let other groups come out with their own statements," he added. Administrative help is provided by the American Enterprise Institute, a conservative research center where Mr. Burns is currenty a senior fellow.

In many ways the new group mirrors a similar organization in the national security arena called the Committee on the Present Danger, which warns of what it asserts is the inadequacy of current American defenses.

POTENTIAL DIFFICULTY SUGGESTED

While members of the anti-inflation committee stressed their unanimous agreement on the policy statement, the underlying differences suggest potential difficulty in reaching similar unanimity on more specific recommendations.

Membership in the committee includes senior policy makers spanning the last six Presidents, under whom inflation accelerated to current high levels. The 13 are partly defensive about their part in the inflation, often arguing that they opposed the prevailing policies. But they are also contrite, acknowledging that they also missed the danger of inflation.

"We all agreed bipartisanly that we didn't conduct things perfectly," said George P. Shultz, Secretary of the Treasury under President Nixon. "There are plenty of mistakes around and we can learn from them."

Gathering the 13 prominent economic experts is likely to give the message added influence, but the position paper differs little from what the members have been saying individually. "There's nothing genuinely novel in any suggestion we've made," Mr. Shultz said.

The group expanded on its initial positions as follows:

Budget deficits should be fought by restraining Government spending. Automatic cost-of-living increases in Government programs should be weakened. Deficits would be further cut down by requiring approval of them by a larger majority—perhaps two-thirds—in the House of Representatives and the Senate.

While limits on the growth of the money supply are currently "appropriately restrictive," Congress should "adopt a concurrent resolution stressing the importance of restrictive monetary policies."

Laws such as those on farm prices supports and minimum wages should be dismantled or at least weakened by Congress. Congress should also "stop raising prices by enacting new restraints on trade," including tariffs and import quotas.

Congress should schedule "reductions in business taxes in each of the next five to seven years—the reduction to be quite small in the first two years but to become substantial in later years." The tax on capital gains should be cut "in due course." These tax cuts are intended to stimulate investment and, ultimately, productivity.

Oil prices should be decontrolled rapidly, perhaps with the addition of taxes on consumption.

Along with its warning against stimulative measures because of rising unemployment, the group recommended some policies, particularly on the budget and money supply, that would tend to result in higher joblessness.

"BUILT-IN STABILIZERS" CITED

"We have a strong unemployment insurance system which is supplemented by trade adjustment assistance," said Mr. Burns, speaking for himself. He also mentioned food stamps and other welfare programs. "Fundamentally, we ought to rely on these built-in stabilizers and not embark on any significant countercyclical measures."

Committee members reject the notion that the slowing of inflation now underway lessens the need for action. "People can't see beyond today," Mr. Simon said. "Inflation may be 7 or 8 percent in the trough of the recession but, when the economy begins to reaccelerate, we'll be stimulating inflation from a higher base rate."

The committee also disagreed on a number of issues, most prominently the appropriateness of incomes policies like the current voluntary wage-price guidelines. As a result, the policy statement avoids the issue, except for rejecting wage and price controls "under present circumstances."

Divisions on other issues are also evident. For example, Mr. Shultz stressed in an interview the importance of increased defense spending while Mr. Blumenthal felt otherwise. And Mr. Blumenthal said of the committee pronouncements on monetary policy, "Restrictive policies at all times don't make sense to me."

CONSISTENT WITH REAGAN VIEWS

Both Mr. Simon and Mr. Shultz said the position paper was consistent with the views of Ronald Reagan, whom they advise, even though it rejected by implication the big tax cuts for individuals supported by Mr. Reagan.

Similarly, Mr. Blumenthal maintained that the paper fitted a Democratic philosophy. "In the 1980's, to be a liberal, you have to deal with the problem of inflation," Mr. Blumenthal said. Attacking tax cuts for business, for example, "is a demogogic way of looking at the problem," he maintained.

The position paper was drawn up in two three-hour meetings in Washington over the

S. 1600. I am, needless to say, pleased with the similarities. There are differences, however, and I would like to take just a minute to discuss those.

Whereas S. 1600 would have cost less than current law, this bill as reported would have cost more. This bill saves money in fiscal year 1981, and therefore would meet the reconciliation instruction to the Labor and Human Resources Committee. But, in the long term, the bill as reported would actually cost 12 percent more than current law. This compares to the savings—about 15 percent below current law—that S. 1600 would have achieved.

I do not propose to offer S. 1600 as a substitute for the loan program in this bill. Our bill was considered by the committee in its hearings and, as I said earlier, the loan program in S. 1839 is clearly designed along the lines of the Kennedy-Bellmon bill. I shall, however, support an amendment to reduce the cost of these programs, and I would like to discuss that amendment briefly now.

S. 1839, as reported, includes a direct loan program designed for students who need to borrow. It also includes a guaranteed loan program and a parental loan program designed for students and parents respectively who do not meet the needs test for direct loans, but who wish to borrow to help meet their needs for additional capital while the student is in school.

The reported bill would have the Government pay (and the student never repay) all interest on all loans to students while the student is in school. I shall support an amendment to require non-needy students to repay the interest-cost of their loans. Under this amendment which will be offered by Senator METZENBAUM, the Government would still pay the interest while the student is in school, but after the student leaves school the interest would be added to the amount of principal owed and the Government would get its money back. This accrued interest would increase the average student's monthly payments only $8 but it would save the Government more than $600 million over the life of this legislation.

S. 1839 would have extended eligibility for student assistance programs to students enrolled less than half-time. Under existing law, students must be enrolled in at least one-half the full-time course requirements, as defined by the institution, to qualify for these programs. I am pleased that the managers have accepted my amendment to limit eligibility for guaranteed student loans to students enrolled at least half-time.

Extending Federal student assistance to people enrolled in only one or two courses could open these programs up to serious abuse. It could be very difficult in these cases to distinguish between income maintenance and student assistance. In the case of student loan programs, it would appear that the subsidized borrowing could go on indefinitely. We need to be concerned that some of these loans would never come into repayment. Also, no one has studied the potential impact of the expanded eligibility in the bill on program size and cost. In these times when there is a clear and compelling need for budgetary restraint, I am pleased the Senate has chosen the prudent course of continued limits on eligibility for the GSL program.

Mr. President, there is another aspect of this legislation which could have significantly effected the cost of higher education programs over the next 5 years. S. 1839 as reported included a number of appropriations-forcing provisions. Authorizing legislation which requires funding of relatively obscure, low-priority, or less popular programs before well-known, high-priority, or popular programs can be funded, clearly impinges on the jurisdiction of the Appropriations Committee and tends to undermine efforts to control Federal spending.

I am pleased that the committee accepted the amendment Senator HOLLINGS and I introduced to eliminate these appropriations forcing provisions. This amendment simply inserts in the bill laguange in the committee report to the effect that the priorities in the authorizing legislation—expressed as they are in terms of relative levels of funding for various programs—are advisory and subject to future appropriations action.

Mr. President, I would like to take this opportunity to congratulate Senators PELL and STAFFORD. This is a very complex piece of legislation. The Senate committee bill is vastly preferable to the bill passed by the House last fall—on both cost and policy grounds.

The loan provisions in title IV of the bill meet the reconciliation instructions in the first budget resolution we passed earlier this month. There are changes I shall try to persuade my colleagues to make in this bill—changes I hope will further improve it and reduce cost—but I do want to take this opportunity to congratulate the managers of the bill.

BIPARTISAN FIGHT FOR A NATIONAL ANTI-INFLATION POLICY

Mr. PROXMIRE. Mr. President, yesterday, the New York Times reported that 13 former top officials of the Federal Government have agreed on a strategy to fight inflation. Mr. President, this is the kind of initiative we have needed for a long time. I, for one, welcome this action with open arms. It is good news for several reasons:

First, this is a bipartisan group of wise and experienced men. Seven of the officials happen to be Democrats, six Republicans. All have won the respect and, in the case of most of them, the admiration of the Congress and the American people for their expert understanding of our economy and the potential and limits of governmental economic policy.

Consider, Mr. President, the 13 men who constitute this committee. Here they are:

Arthur F. Burns, chairman, appointed chairman of the board of governors, Federal Reserve System by President Nixon; now senior fellow, American Enterprise Institute.

Henry H. Fowler, vice chairman, appointed Secretary of the Treasury by President Johnson; partner, Goldman, Sachs & Company.

W. Michael Blumenthal, appointed Secretary of the Treasury by President Carter; vice chairman of Burroughs Corporation.

John W. Byrnes, former ranking minority member, Ways and Means Committee, House of Representatives; counsel, Foley, Lardner, Hollabaugh.

Frederick L. Deming, appointed Under Secretary of the Treasury by President Johnson; president, National City Bancorporation.

C. Douglas Dillon, appointed Secretary of the Treasury by President Kennedy; managing director Dillon Read & Company.

Paul W. McCracken, appointed chairman of the Council of Economic Advisers by President Nixon; professor of economics, University of Michigan Graduate School of Business.

George H. Mahon, former chairman of the Appropriations Committee, House of Representatives—of course, a Democrat.

William McC. Martin Jr., appointed chairman of the board of governors, Federal Reserve System by President Truman; consultant.

Wilbur D. Mills, former chairman of the Ways and Means Committee, House of Representatives; counsel, Shea & Gould.

George P. Shultz, appointed Secretary of the Treasury by President Nixon; vice chairman, the Bechtel Group.

William E. Simon, Secretary of the Treasury under Presidents Nixon and Ford; chairman, Crescent Diversified Ltd.

John J. Williams, former ranking minority member, Finance Committee, Senate.

Mr. President, if we should, for any reason, have a Supreme Court of Economics, I think these would be among the leading candidates in our Nation for it.

Not one of these men is a theoretical ideologue, off on some academic never-never kick. These are hardheaded, practical experts. They represent by all odds the best and most experienced of our economic leadership in this country during the past 30 years at the Federal Reserve, at the Treasury Department, at the Council of Economic Advisers, and in the Congress.

What kind of anti-inflationary program do these top, experienced experts recommend to us? I shall have printed a copy of their policy statement in the RECORD later. But to sum up: They recommend—

First, a balanced budget with a change in the law to require a balanced budget unless a deficit is authorized by a vote of two-thirds of each House of the Congress. And they recommend the budget be balanced not by increasing taxes but by reducing expenditures.

Second, they recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation. As chairman of the Senate Banking Committee, I intend to introduce and push hard for congressional adoption of just that kind of resolution just as soon as possible.

Third, they recommend that Congress first stop raising prices by enacting new restraints on trade; and, second, that we proceed methodically to dismantle, or at least weaken, much of the existing legislation that impedes the competitive process.

Fourth, they recommend reform of regulatory legislation so that basic national objectives may be achieved at minimum feasible cost.

expansion of lender participation in the program, to be approved by the Office of Education as valid administrative costs of promotion of commercial lender participation for the purpose of the administrative cost allowance payments under the 1976 amendments?

Mr. PELL. You are absolutely right. It has been my opinion for some time that States do the best job in administering the guaranteed student loan program and in making available the necessary funds for students to attend postsecondary educational institutions of their choice.

I commend those States for their innovative ideas and total support of the guaranteed student loan program. I understand that there have been recent OE rulings which make it necessary for us to include two specific expenditures as legitimate expenses under the administrative cost allowance, and the record should show that our intent when the 1976 amendments were adopted was, and still is, to encourage State rather than Federal administration of student loans with the encouragement of loans from the private sector as one of the primary roles of the State guarantee agencies.

PART B—TITLE 4

Mr. SCHWEIKER. Mr. President, I wish to ask the distinguished Senator from Rhode Island to clarify a point for me about the amendments to part B of title IV of the act. This part deals with Federal, State, and private programs of low-interest insured loans to students in institutions of higher education. Section 412(f) of S. 1839 would permit the Secretary to increase the loan limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive. The committee report cites medicine and other health professions programs as examples of exceptionally expensive programs.

Some of the programs authorized by the Public Health Service Act provide assistance to individuals enrolled in the health professions schools in order for them to complete their education while at the same time attract them into service in areas which are critically short of physicians and other health professionals. I am thinking particularly about the national health service corps scholarship program. The Committee on Labor and Human Resources, as you know, is considering new student assistance provisions which promise to attract health professionals where they are needed. Also the Department of Defense service-connected scholarship program is used as a recruitment mechanism to meet the military's need for health professionals, particularly physicians.

Now to my question. Is it the intent of the Committee on Labor and Human Resources that this discretionary waiver as applied to the aggregate borrowing limit be used by the Secretary only when other Federal scholarship and loan programs, such as the ones I have mentioned, are not available?

Mr. PELL. The distinguished Senator from Pennsylvania is correct, only in such instances.

Mr. SCHWEIKER. There is some concern over what the committee means with respect to the campus match provision in the supplemental educational opportunity grants program. Could you give us the committee's intention concerning this particular provision?

Mr. PELL. Certainly. We intended the campus match to remain exactly as it is in existing law. We did not want to change the campus match provision at all, but wanted to keep it as it is.

Mr. SCHWEIKER. Thank you.

TAFT TRUST FUND

Mr. BELLMON. Mr. President, title XIV of the bill before us establishes the Robert A. Taft Institute of Government Trust Fund. I would like to commend my colleagues who serve on the Labor and Human Resources Committee for their support for this trust fund as evidenced by its inclusion in the Higher Education Act. Originally introduced as S. 378, and cosponsored by more than 30 Members of this body, the Taft Institute of Government Trust Fund signifies the commitment of the Senate and ultimately the entire Congress to the continued emphasis on political science education. Additionally, Mr. President, the establishment of this trust fund recognizes the important and unique contribution the Taft Institute of Government has made over the last many years to political education throughout the country.

By directing its program to elementary and secondary schoolteachers, the Taft Institute has been enormously successful in providing these educators with a better understanding of the basic principles of the Constitution, of the function of political parties and of government and political processes in the United States. Moreso, these elementary and secondary educators who have participated in the Taft program are well suited to transmit this knowledge to our young people in this country so that they in turn have a clear understanding of the principles which guide our representative form of Government and the important role of the individual citizen in political decisionmaking.

Mr. President, for many years now, I have had the distinct pleasure to participate in the Taft Institute's seminar for teachers held each year in Oklahoma. Many other Members are active participants in their States. In addition to participating personally, I have had the opportunity to observe these seminars both in Oklahoma and here in Washington. From this experience Mr. President, I am convinced that no other organization in the country is doing more to promote and preserve the fundamental tenets of self-government which we in this Nation hold so dear. The establishment of this trust fund for the purpose of providing matching assistance to the Taft Institute will allow the Institute to expand its program beyond its present limits and encourage even greater participation in the Taft program. Mr. President, this is a wise investment and one which will benefit every citizen of this Nation.

Once again Mr. President, I want to commend Chairman PELL, Senator STAFFORD, the ranking member, and each member of the Labor and Human Resources Committee for their interest and support for including the Taft Trust Fund as a part of the Higher Education Act. This is a fitting tribute to the late Senator from Ohio, who was an ardent supporter of the two-party political system throughout his life. In view of the fact that there are over 90 House cosponsors for this legislation, I am hopeful my Senate colleagues will find the conference committee on this particular item most agreeable.

S. 1839—EDUCATION AMENDMENTS OF 1980

Mr. President, this bill (S. 1839) is one of the most important pieces of legislation we will consider this year. It authorizes a wide range of programs intended to enhance postsecondary and higher education opportunities and to assist students who want to take advantage of those opportunities.

I have taken a particular interest in higher education programs, especially in student assistance programs, and most particularly in student loan programs over the last 2 years. During the last Congress, the Senate passed both tuition tax credit legislation and the Middle-Income Student Assistance Act. I voted against both proposals then, and I remain convinced that they were not the best possible solutions to the needs of students seeking assistance to pursue postsecondary education opportunities.

Over the last 2 years, the cost of Federal student assistance programs has skyrocketed—increasing by 56 percent between fiscal year 1978–80, and by 32 percent from fiscal year 1979 to fiscal year 1980 alone. Most of these skyrocketing costs are attributable to the guaranteed student loan program in which the interest to banks (which are entitlements and, therefore, uncontrollable except through changes in authorizing legislation) have increased from $655 million in fiscal year 1978 to $1.5 billion in fiscal year 1980.

This dramatic increase in program costs has occurred during a period when enrollments are actually declining. Clearly, it is time to take a long hard look at these programs.

Two years ago I introduced S. 3403, the National Student Loan Bank Act. That same year Senators KENNEDY and DURKIN introduced legislation to create a "Tuition Advance Fund." There were significant differences between those two bills, but they both sought to reform and redirect student loan programs to better meet student needs.

Last year Senator KENNEDY and I (and 17 cosponsors) introduced S. 1600, the National Student Loan Reform Act. That bill would have reformed and redirected student loan programs, made more loans available to more students, insured that there would be capital available to students who wanted to borrow in all States, targeted Federal resources to students most in need, and cost less than existing programs.

The loan program in title IV of this bill is very like the one we proposed in years to plan for effective solutions to the challenges of declining enrollments, decreases in research activity, increases in costs, spiraling inflation and reductions in family discretionary income.

The Commission on National Development in Postsecondary Education establishes a capacity to analyze the trends and the options for Congress consideration of postsecondary education policies and programs.

Title I also provides assistance to institutions that are adapting to the changing needs of higher education and our society, and at the same time establishes a woman's worksite development demonstration program and a postsecondary education and youth unemployment transition demonstration program.

Title IV contains existing Federal student assistance programs. The foundation of these programs is the basic educational opportunity program. In recognition of this sponsorship and creation of this program the Committee and Labor and Human Resources renames the basic grant program the Pell grant program. Senator Claiborne Pell was the original sponsor and struggled to see the program adapted and made the success it now is.

Currently, the maximum award under this program is $1,800. S. 1839 increases this maximum award and modifies the limitation in current law that specifies that a student award may not exceed 50 percent of the cost of attendance. This provision has the deleterious effect of reducing the awards of the lowest income student attending the least expensive institutions.

S. 1839 in these and other elements represents a major improvement upon the Higher Education Act of 1965 responsive to the critical economic conditions of our times in a responsible cost effective manner.

Mr. President, I also commend the managers of this bill for their productive and statesmanlike leadership in reauthorizing this signal measure. Senator Pell, chairman of our Subcommittee on Education, deserves all our commendation. His work was made even more productive by the assistance of Senator Robert Stafford, ranking minority member of the subcommittee, and by Senators Javits and Schweiker, longtime supporters of Federal higher education ruling. All deserve the plaudits of the Senate for their invaluable contributions.

Mr. PELL. Mr. President, I thank my friend and colleague from New Jersey, the chairman of the full committee, who has helped us so much in moving this legislation along.

UP AMENDMENT NO. 1285

(Purpose: To provide a waiver for challenge grants under title III for institutions making a substantial contribution to medical educational opportunities for minorities in the economically disadvantaged)

Mr. PELL. Mr. President, in behalf of the senior Senator from Georgia (Mr. Talmadge), I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pell) on behalf of the Senator from Georgia (Mr. Talmadge) proposes an unprinted amendment numbered 1285.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95, between lines 4 and 5 insert the following:

"(b) The Secretary may waive the requirements set forth in subsection (a) (2) with respect to a postgraduate degree in the case of any institution with special needs that makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

On page 95, line 5, strike out "(b)" and insert in lieu thereof "(c)".

On page 95, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 96, line 3, strike out "(d)" and insert in lieu thereof "(e)".

Mr. PELL. Mr. President, what this amendment does is to provide a waiver for challenge grants under title III for institutions making a substantial contribution to medical opportunities for minorities and the economically disadvantaged. It seems to me to have merit and I would hope it would meet with the approval of our colleagues.

Mr. STAFFORD. Mr. President, for the minority, we have examined the amendment and we are prepared to accept it.

The PRESIDING OFFICER (Mr. Pryor). The question is on agreeing to the amendment.

The amendment (UP No. 1285) was agreed to.

Mr. PELL. Mr. President, in behalf of the Senator from Massachusetts, I ask that there be included in the Record a statement of the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Kennedy

As originally enacted 15 years ago, Title III of the Higher Education Act of 1965 was designed to strengthen the academic quality of developing institutions—those institutions with the "desire and potential to make a substantial contribution to the higher education resources of the Nation, but which are struggling for survival and isolated from the main currents of academic life." Thus, since its inception, Title III was designed to serve a special group of institutions. Title III grants have been the main source of federal institutional aid to predominantly black four-year colleges, and over the last several years, the program has expanded to include institutions serving the Hispanic community as well as junior and community colleges.

Problems of declining enrollments and scarce resources are confronting all institutions of higher education. But the impact of these problems falls very differently on traditionally Title III institutions, especially the historically black institutions.

Black institutions of higher education have special concerns and face special challenges. These colleges are a unique source of national leadership because of the important role they play in providing education for black students. Fifty percent of all baccalaureate degrees awarded black students are conferred by 90 black colleges.

It is clear, therefore, that our national policy should be to recognize the historical and continuing contributions of black colleges and institutions, to preserve their integrity and to strengthen those predominantly black institutions. Preserving the formula under which funds are distributed under Title III is a key element of that commitment.

Although the assistance to black institutions under the Title III program is significant for the 100 black institutions which participate in the program, the actual level of federal assistance to black institutions is only a small fraction of the government's total education budget.

Last year, $9 billion was appropriated for higher education. Of that amount, which includes student financial assistance and the Agriculture Department's Land Grant College program, between $300 and $400 million went to support black higher education. Title III assistance to black colleges and institutions accounted for $35 million, or approximately one third of 1 percent of the total federal higher education budget.

I would hope that during this period of fiscal restraint we would not put aside our commitment to ensure access to higher education to the black youth of our country nor deny traditional black institutions the financial assistance which is necessary for them to continue to provide that opportunity. I therefore support the amendment by the Senator from Alabama to maintain the 1979 funding level as a floor for title III support for traditionally black institutions.

ADMINISTRATIVE COST ALLOWANCE

Mr. SCHWEIKER. We seem to have a problem with the Office of Education's interpretation of the intent of Congress on the 1976 Amendments to the Higher Education Act. At that time, Congress provided for payment of an administrative cost allowance to State loan guarantee agencies for a number of purposes, one of which was to have these agencies induce, in every way possible, the expansion of private lender participation in the guaranteed student loan program.

Congress indicated some ways in which the States might spend funds to induce lender participation, but it did not place restrictions on the ways States might go about expanding their programs.

Senator Pell, my State and some other States have seen fit to appropriate State funds to pay fees to lenders to perhaps offset a part of their costs in interviewing students and handling loan paperwork and also to provide computer interest billing services on such loan accounts.

My State in particular has addressed the question at the level where the lender constructs its budget and has considered the high cost of acquisition of funds which a lender faces. Our participation incentive relates directly to the dollar value of funds our lenders dedicate to the program rather than to the cost of conducting the paperwork which might be associated with the individual student loans.

Is it not true that the amendments to section 428(f)(3)(A)(iv)(v) are intended to make it clear to the Office of Education that Congress intended for these and other such cost expenditures by States, which aim toward inducing the in hearings to studying the complex proposals for rapid deployment and defense.

But perhaps the most critical of all the questions that has come out of the debate about our Armed Forces is the personnel problem; how can we encourage more people to enlist and remain in the military? Our Armed Forces are faced with an inability to recruit enough qualified men and women to fill the ranks of the All-Volunteer Military Force. In 1979, for the first time since the draft ended, each branch of the military failed to make their recruiting goals for a full 12-month period. Entrance standards have been lowered for new recruits and expectations for future enlistments are not optimistic.

The problems complicating the recruiting picture are numerous and I believe that we should initiate steps now to determine the feasibility of long-term measures which would bolster the health of our Armed Forces.

In addition to the unfavorable comparisons between military and civilian salaries, the elimination of GI bill-type education benefits has exacerbated the enlistment and retention problems in the armed services. A recent GAO report by the Comptroller General on the "Navy's Pilot Shortage" released on February 15, 1980 cites benefit uncertainties and decreased chances for advanced education as significant career disincentives for officers who decided to leave the Navy. Both the Army and Marine Corps have reported similar problems due to the lack of educational benefit plans.

The existing veterans education assistance program is generally not feasible for married soldiers because it requires at least a 1-year commitment to the program of 11 percent of each monthly paycheck. If soldiers discontinue payments before their first year is out, they loose their entire contribution. If they discontinue payments after 1 year, they must wait until they leave the service before they may reclaim their contributions. Even then, their payments are returned without interest. To aggrevate the situation, funds received under the present VEAP program have not adequately kept pace with rising tuition costs. All in all, the VEAP program requires a considerable commitment from people who have already made a strong commitment to serving their country.

Complicating the recruitment shortfall even further is the fact that the available pool of 18-year-olds is shrinking. To maintain the All-Volunteer Force, the military must recruit an average of 1,300 volunteers daily. This year it will have 2.2 million 18-year-olds to choose from, with correspondingly lower numbers each year; by 1986, there will be fewer than 1.8 million. Competition will be toughest, of course, to recruit those with high school diplomas. Private industry will be certain to offer better wages, higher cost-of-living increases, and bigger and better personal benefits and comforts than the Armed Forces. Intense competition can be expected from colleges and vocational schools, too.

With incentives for enlisting declining almost as rapidly as the birth rate, the military is finding that fewer and fewer of those enlisting have completed high school. An increasing proportion of the high school graduates who are recruited come from the bottom half of their classes. Military manuals are being rewritten downward to the seventh and eighth grade reading level and still many soldiers have difficulty understanding the material. Because our military is increasingly technology-oriented, the gap between the machines and the manpower capabilities will only widen. As my colleague from Colorado testified recently, the corporal who commands a tank has control over a more complicated piece of machinery than the aircraft college graduates who piloted aircraft in World War II.

It is clear to me that the problems which I have just outlined cannot be ignored. Due to our current shortsighted policy, we may be losing valuable planning time needed to prepare for the steady decline in the number of youths eligible and willing to enlist and remain in the military.

Therefore, I am introducing an amendment to S. 1839, the Higher Education Act which will require the Commission on National Development in Postsecondary Education to examine the feasibility of using Federal student assistance programs to recruit and retain military personnel. Such a program would serve several social needs simultaneously. It would improve the quality of the personnel serving in the Armed Forces; it would increase the use of colleges and trade schools at a time when enrollment could otherwise be expected to decline due to demographic trends; and it would upgrade the educational level of our labor force at a time when our national productivity problems most require upgrading of skills.

Mr. President, I believe this approach has great promise for improving the quality of our Armed Forces, and it can also enhance the general level of our skilled and professional work forces.

I have discussed this amendment with the managers of the bill. It has been indicated to me by the Senator from Vermont that this, in his judgment, would dovetail with other discussions that have been held here on this bill and in connection with military personnel earlier today.

Mr. PELL. Mr. President, the Senator is absolutely correct. There was an earlier discussion of this in connection with the amendment offered by Senator STEVENS. There was an agreement made to have a hearing on this subject, on what could be done to add educational incentives to increase the spirit of volunteerism enlistment in our Armed Forces and retention of personnel in our Armed Forces. I think this is an excellent amendment. It does not provide for the creation of a new Commission but gives a further task to a committee already set up. I would recommend its approval on my side of the aisle.

Mr. STAFFORD. Mr. President, the Senator from New Jersey is quite correct, that his proposal would fit in quite nicely with the amendment that Senator PELL and I have discussed with hearings to be held before the Education Subcommittee. We are all concerned with improving the status in the Armed Forces and the educational opportunities which occur after service in the Armed Forces. With these matters in mind, I believe the minority will accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1284) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I want to express my appreciation for the consideration given to me at this time in connection with these amendments.

Mr. President, I am pleased to provide a statement supporting S. 1839, the Higher Education Amendments of 1980 and I urge my colleagues to give every favorable consideration to the earliest passage of this matter.

This measure is the mainstay of the Nation's system of postsecondary education. It is a vital link in the maintenance and quality of a diverse group on institutions which themselves are crucial to the Nation's economy and development. This measure is the principal means by which students are able to achieve access and choice in regard to all forms of higher education.

S. 1839 charts the course of the next 5 years and beyond in Federal higher education policy and program. It benefited from hearings at the subcommittee and the full committee level. It stands as an excellent contribution to the development of learning and knowledge and community service, the foundation of higher education's mission.

It has been crafted in an era of unprecedented budgetary constraint and its provisions reflects the Committee on Labor and Human Resources sensitivity to the austere fiscal environment of the Senate.

It is $14 billion less expensive than the House-passed higher education reauthorization bill, H.R. 5192.

S. 1839 establishes a new title I of the Higher Education Act, substantially revising and consolidating programs of continuing education, educational information, and postsecondary statewide planning under a single part of this title, and establishing a new Commission on National Development in Postsecondary Education and a new program of assistance to institutions of higher education to help them adapt to changing economic and demographic conditions.

These conditions and the devastating impact upon the Nation's system of postsecondary education were disclosed in 6 days of hearings and in reports prepared for the committee.

Title I responsibility responds to the crisis in higher education by mandating governments at all levels and of institutions as well the means by which vast resources of our system of postsecondary education can be utilized in the next few

Mr. WILLIAMS. Mr. President, the amendment merely permits State agencies, at their discretion and by their action, to use Federal funds for the State student incentive grant program under section 404 of the bill by offering grants to less than half-time students when such grants would aid the State and the colleges involved.

The bill currently reserves 10 per centum of such use, but consultation with all the requisite education authorities indicates that there is no reason that the Federal Government should mandate such a limitation when States are in the best position to decide how many nontraditional students they need to attract from year to year from disadvantaged and minority families. These nontraditional students—mostly adults and senior citizens—may be unable to attend college more than half-time and thus would otherwise be deprived of grant help.

This amendment removes an unnecessary regulatory burden from the States and permits the States, in consultation with its institutions of higher education, to set the proportion of traditional and less than half-time students who can benefit from the SSIG program.

Mr. PELL. Mr. President, I understand this amendment has been cleared with other Members of the Senate who are interested in this matter, such as the Senator from Oklahoma. I believe it has merit. I would recommend to my colleagues on this side of the aisle that it be approved.

Mr. STAFFORD. Mr. President, for the minority, I would recommend the adoption of the amendment to the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1282) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1283

(Purpose: To authorize assistance to local educational agencies impacted by refugee children)

Mr. WILLIAMS. Mr. President, I have another amendment which I send to the desk. I believe it has received agreement of both managers of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. SCHWEIKER, proposes an unprinted amendment numbered 1283.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE XVIII—REFUGEE CHILDREN IMPACT AID PROGRAM

PROGRAM AUTHORIZED

SEC. 1801. The Act of September 30, 1950 (Public Law 874, 81st Cong.), relating to impact aid, is amended by adding after section 4 the following new section:

"REFUGEE CHILDREN

"SEC. 4A. (a)(1) Any local education agency that experiences an enrollment increase in any school year of at least 20 students as the result of the entry into any school supported by such agency of refugee children, including those who have been paroled into the United States, who are applicants for asylum or who have been granted asylum, since November 1, 1979, shall be eligible to receive payment for such children enrolled in its schools.

"(2) Each such local education agency is authorized to receive for each fiscal year an amount equal to the product of terms contained in clauses (A) and (B) of section 4 (a) reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year. For the next fiscal year such agency is authorized to the product of the number of children in average daily attendance determined in clause (A) (plus any further increases of such children) and the amount determined in clause (B) for such fiscal year reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year.

"(b) There are authorized to be appropriated to carry out this subsection such sums as may be necessary, and any appropriations made under the terms of this subsection shall be separate and apart from other authorizations and appropriations made under the terms of this law. If, in any fiscal year, the appropriations are insufficient to fund this subsection, then the amount of any local education agency entitlement shall be reduced on a pro rata basis for such fiscal year.".

On page 16, after item "Sec. 1702.", insert the following:

TITLE XVIII—REFUGEE CHILDREN IMPACT AID PROGRAM

Sec. 1801. Program authorized.

Mr. WILLIAMS. Mr. President, 100,000 Cuban refugees have been brought to these shores by Federal policy in the span of several weeks. The popular press and governmental study missions alike conclude that the impact of this massive, rapid immigration will strain many communities to the breaking point. Especially at risk are the school budgets of those host communities in New Jersey and throughout the Nation whose tolerance for new populations, most not speaking English, is exceedingly low without the Federal assistance to alleviate the local impact caused by Federal policy.

In order to provide such help, I am introducing with Senator RICHARD SCHWEIKER, of Pennsylvania an amendment which would authorize funds to local communities receiving more than 20 Cuban refugees in a school year.

Payments would follow the already established formula of Public Law 81-274, the act authorizing payments for federally impacted areas by adding a new section 4.

The full budget and appropriation processes would apply to this authorization.

This amendment, Mr. President, merely restores the authority in legislation to respond to the Nation's policy of receiving new refugees.

I urge my colleagues to support this reasoned, modest, and essential measure.

Mr. PELL. Mr. President, I understand also that this would not dilute the funds that are already available in the already too limited impact aid, but this does provide for a separate authorization.

Mr. WILLIAMS. The Senator is correct.

Mr. PELL. Mr. President, I think the amendment has real merit and I am glad to recommend it to my colleagues on this side of the aisle for approval.

Mr. STAFFORD. Mr. President, I am prepared for the minority to accept the amendment on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1283) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1284

(Purpose: To require the Commission on National Development in Postsecondary Education to examine the feasibility of using Federal student assistance programs to benefit recruiting members for and retaining members in the armed forces)

Mr. WILLIAMS. Mr. President, I send my last amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1284.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 7, strike out "and".

On page 23, line 11, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 23, between lines 11 and 12, insert the following new paragraph:

"(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the armed forces and to retain members of the armed forces.

Mr. WILLIAMS. Mr. President, debates on the military and defense preparedness have occupied a great deal of our time here in the Senate lately. We have considered proposals which would increase defense spending, we have approved a draft registration program, we have decided serious matters of foreign aid, and we have devoted countless hours tion to distribution of educational funds based on fiscal capacity, tax effort, and educational need.

(1)(A) The Secretary shall develop, with direct and active consultation with The Intergovernmental Advisory Council on Education, a plan for carrying out the study authorized by the section. Such plan shall set forth—

(i) The subjects and activities to be included in the study;

(ii) The relationship of the study to other previous or current research or analysis, including the study of school finance authorized by section 1203 of the Education Amendments of 1978;

(iii) The plan for entering into agreements with states pursuant to subsection (c), including the criteria to be used for selecting participating states.

(B) The Secretary shall submit the plan required under this paragraph to the Congress, within sixty days after the enactment of this section. The Secretary shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Secretary shall modify the plan as necessary to reflect the comments and recommendations of the Congress.

(f)(2) The Secretary shall, with consultation with The Intergovernmental Advisory Council on Education, prepare and submit to the Congress, not later than January 1, 1983, final report on the study projects conducted pursuant to this section. Such report shall include recommendations made by the state, intermediate and local education agencies taking part in study projects and recommendations of the Secretary. The Secretary may prepare and submit to the Congress such interim reports as the Secretary deems advisable. The report required by this subsection shall contain such conclusions as the Secretary determines are supported by the study and demonstration projects and will carry out the purposes of this section.

(g) For the purposes of this section there is authorized to be appropriated $7 million for fiscal years 1981 and 1982 and $1 million for fiscal year 1983. The Secretary is also authorized to use funds from other available sources for the purposes of this Section.

(h) For the purposes of this Section the term—

(1) "local education agency" has the same meaning given that term by section 1001 (f) of the Elementary and Secondary Education Act of 1965; and

(2) "State education agency" has the same meaning given that term by section 1001 (k) of the Elementary and Secondary Education Act of 1965.

On page 15, in the Table of Contents, after item "Sec. 1503," insert the following new item:

"Sec. 1504. Simplification study and demonstration project authorized."

Mr. BELLMON. Mr. President, this amendment would authorize study projects—and I underline the word "study" for the attention of the floor managers of the bill—that are designed to determine how the delivery of educational services to our Nation's students might be simplified and streamlined. The amendment, which is the result of extensive negotiations with the Senate Subcommittee on Education, is a modified version of S. 2270, entitled "The Optional Education Consolidation and Demonstration Act," which Senator DOMENICI and I introduced on February 6, 1980.

Under our amendment, the Secretary of Education is directed to undertake a comprehensive study of the Elementary and Secondary Education Act of 1965, the Vocational Education Act of 1963, and the Education for all Handicapped Children Act for the purpose of analyzing the extent to which duplicative, conflicting, and unnecessary reporting requirements hamper the effective implementation of these programs.

In carrying out the study, the Secretary is authorized to enter into agreements with not less than 4 nor more than 10 States for the conduct of study projects involving simplification and improved coordination. These States, in turn, will enter into study project agreements in cooperation with local education agencies. The Secretary, in direct consultation with the Intergovernmental Advisory Council on Education, shall develop a plan for carrying out the study authorized by the amendment. A summary, synthesis, and analysis of the study authorized herein will be conducted by the National Institute of Education. A final report on the study and study projects shall be submitted to the Congress by the Secretary no later than January 1, 1983.

Representatives from numerous organizations, including the National Governors' Association, the National Conference of State Legislatures, the National Association of State Boards of Education, the National Association of Secondary School Principals, the National Association of Elementary School Principles, the Council of Chief State School Officers, the Education Commission of the States, and other groups have worked hard with us on this amendment. They share our enthusiasm for efforts to simplify and improve coordination in Federal education programs. They feel, as we do, that Federal overregulation and paperwork are major national issues that are threatening the vitality of Federal efforts to provide adequate educational opportunities to our Nation's students.

Only by substantially reducing the complexity of Federal programs can we begin to achieve regulatory simplification and paperwork elimination. The study projects authorized by this amendment will examine and test the efficacy and feasibility of reorganization and simplification of Federal programs. Senator DOMENICI and I have strongly believed for many years now that the shortcomings in Federal education policy are serious enough to warrant adoption of the proposed study project amendment by the Senate as promptly as possible. We are very pleased to learn that the Senate Subcommittee on Education has agreed to this amendment. We take this opportunity to thank the members of the committee and to express our appreciation to those who assisted us in the drafting of our amendment.

Mr. President, let me say, in the absence of Senator DOMENICI, that I would like to point out that the Senator from New Mexico has taken the lead in trying to develop ways of delivering support for education to the States.

Frankly, I am disappointed that this amendment, which provides for a study, is as far as we can go at this time. I hope it will lead to further developments along the route of S. 2270. I sincerely wish at this time that we could move more aggressively, but, recognizing the political realities of the situation, I am pleased, and I hope my understanding is correct, that the floor managers of the bill are going to accept this.

Mr. PELL. Mr. President, the Senator is correct. We have gone over this amendment and in a study form it is acceptable to us. We believe it has merit and I would recommend that we accept it.

Mr. BELLMON. I thank the Senator from Rhode Island.

Mr. STAFFORD. Mr. President, the Senator from Vermont, for the minority, has examined the amendment. The Senator from Vermont is well aware of the burden of paperwork that is onerous on educators and school officials throughout the country. We think this study would be highly beneficial and may point us in the way of eliminating much, or at least some, of the paperwork and regulation that does hamstring the educational system of America.

I am very pleased for the minority, to accept the amendment.

Mr. BELLMON. Mr. President, I thank my friend from Vermont. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BELLMON).

The amendment (UP No. 1281) was agreed to.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1282

(Purpose: To permit the State Student Incentive Grant Program to offer grants for less than half time students at the discretion of the States)

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) for himself and Mr. SCHWEIKER, proposes an unprinted amendment numbered 1282.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 113, lines 13 and 14, delete ", may use not more than 10 per centum of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(2);"

And insert in lieu thereof: "May use with the express approval of the State agency any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(2);"

considerable magnitude that we need, and will do it without cutting into the budgets of those who are hardest pressed.

Mr. PELL. Mr. President, will the Senator yield for a moment?

Mr. WILLIAMS. Yes.

Mr. PELL. I understand that very often we have views that are similar, and very rarely do we have views where we do not agree, I will say to the Senator from New Jersey. But in this case I would like to point out that the vote in committee was 9-to-2 against this amendment and, I think, showed considerable discussion within the committee and considerable understanding of it.

Mr. METZENBAUM. Mr. President, if the Senator from Rhode Island will yield just for a response on that——

Mr. PELL. Certainly.

Mr. METZENBAUM. I would like to point out that the amendment that was discussed and was before the committee at that time was not the same amendment.

Second, many of the members did not understand the amendment that was being discussed. There were a substantial number of absences, and subsequent to the meeting—as the Senator will remember, there were a number of proxies voted at that meeting—and subsequent to the meeting other members came to me and indicated their support.

As a matter of fact, Senator Armstrong, Senator Hatch, a number of other Members on the Democratic side, indicated support, so I do not believe anything should be read into the fact that there was a 9-to-2 vote on an amendment that had some of the same direction but not all of the same. There have been many modifications and, as a matter of fact, the chairman of the overall committee himself was one of those nine, and he is now a supporter of this amendment.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont will not take time tonight to debate the amendment offered by the Senator from Ohio (Mr. Metzenbaum), but I do not want the record to be left without an indication that the Senator from Vermont is opposed to the amendment and will plan to speak in that vein during the time available tomorrow.

Mr. METZENBAUM. Mr. President, the Senator from Ohio never likes to lose the support of his friend the Senator from Vermont (Mr. Stafford) or his friend the Senator from Rhode Island (Mr. Pell). I am very grateful for the support of my friend from Oklahoma (Mr. Bellmon) and the gracious remarks of the chairman of the committee. I guess, when all is said and done, the Senate will have to decide what their will is tomorrow.

UP AMENDMENT NO. 1281

(Purpose: To examine through study [and demonstration] projects methods designed to simplify program administration of certain education program at the State and local level while assuring that the delivery of educational services remains unimpaired)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment is on behalf of Senator Domenici, Senator Magnuson, Senator Chiles, Senator Thurmond, and myself.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon), for himself, Mr. Domenici, Mr. Magnuson, Mr. Chiles, and Mr. Thurmond, proposes an unprinted amendment numbered 1281.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 330, between lines 12 and 13, insert the following new section:

ADMINISTRATIVE SIMPLIFICATION STUDY AUTHORIZED

Sec. 1504. (a) It is the purpose of this section to examine, by way of study and agreements with selected states, if the administration of certain elementary and secondary education programs can be simplified at the State and local level while at the same time assuring that the delivery of educational services remains unimpaired.

(b) (1) The Secretary of Education is authorized and directed to make a comprehensive study, in accordance with the plan required pursuant to paragraph (1) of subsection (e), of the programs authorized by—

(A) the Elementary and Secondary Education Act of 1965,

(B) the Vocational Education Act of 1963, and

(C) the Education of the Handicapped Act in order to analyze—

(i) if there are duplications, conflicts and unnecessary reporting requirements contained in the laws authorizing such programs;

(ii) if there are duplications, conflicts and unnecessary reporting requirements contained in the regulations promulgated to carry out such programs;

(iii) the relationship between the Federal programs set forth in clauses (A), (B), and (C) and similar State programs; and

(iv) the feasibility of the use of a single comprehensive State plan for such programs, including, but not limited to State assurances regarding fund accounting and control, use of Federal funds, the relationship between Federal funds and State and local funds, and basic protections regarding the rights of individual children.

(2) The Secretary shall prepare and submit to the Congress a report of the study required by this subsection in accordance with the provisions of subsection (e) (2) of this section.

(c) In carrying out the study required under subsection (b), the Secretary is authorized to enter into agreements, in accordance with the provisions of this subsection, with not less than four nor more than ten States for the conduct of study projects involving such simplification.

(2) Each such agreement shall contain provisions designed to assure that—

(A) the State will enter into agreements with at least five local or intermediate educational agencies within the State in which the study projects subject to the agreement will be carried out based on criteria established by the Secretary including—

(i) geographic location within the State,

(ii) population, size, and composition, and

(iii) appropriate assurances that the local educational agency will carry out the study project subject to the agreement.

(B) the amount expended under the agreement for education of the disadvantaged and the handicapped under the programs authorized by clauses (A), (B), and (C) of paragraph (1) of this subsection in each local educational agency selected will not be less in any fiscal year subject to the agreement than the amount expended under such programs for the disadvantaged and the handicapped in that agency in the fiscal year 1980; and

(C) the State educational agency will provide the information necessary for analysis of the projects subject to the agreement as required by subsection (d).

(D) the State educational agency will undertake a program of study, in cooperation with selected local or intermediate educational agencies, designed to identify means for achieving increased simplification of and coordination among the programs authorized by paragraph (1) of this subsection. Such program of study shall include—

(i) identification of specific areas for simplification and improved coordination;

(ii) development of recommendations for possible changes in policies, procedures, regulations or statutes;

(iii) identification of specific actions which can be taken by state or local educational agencies to simplify or improve the coordination of programs without modifications of current federal statutes or regulations, and the development of models for implementation of such actions.

(E) The State educational agency shall prepare and submit to the Secretary, not later than September 1, 1982, a final report of the study activities undertaken pursuant to the agreement. Such report shall include—

(i) a summary of the study activities undertaken pursuant to the agreement;

(ii) recommendations, if any, for changes in federal policies, regulations or statutes to simplify or improve the coordination of the programs authorized by paragraph (1) of this subsection;

(iii) description of models, if any, for simplification or improved coordination of programs without modification of current statutes or regulations, for dissemination to other state and local educational agencies.

(iv) an analysis of the projected impact of the recommendations in division (ii) on—

(I) reduction of duplication of effort and unnecessary paperwork; and

(II) the capacity of local educational agencies to provide quality educational services to the target populations in accordance with the objectives of the programs authorized by paragraph (1) of subsection (b).

(d) The Secretary, through the National Institute of Education, shall summarize, synthesize and make an analysis of the State study projects authorized under subsection (c) of this section. The analysis shall include an analysis of the projected impact of state recommendations and proposals on—

(1) the administrative burden at the State and local levels, including an assessment of the extent to which the recomendations or proposals would reduce duplication of effort and unnecessary paperwork;

(2) the decisionmaking process for local program implementation, including the effect of the recommendations or proposals on the degree of coordination among Federal programs and state and local education services;

(3) the services provided to target populations, including the extent to which services shift among target populations whenever there are changes in the quantity and quality of services for particualr target populations.

(4) the composition of target populations;

(5) the ability to monitor and evaluate the effectiveness of programs for separate target populations; and

(6) State and local jurisdictions in rela-

Second, the amendment here shifts more of the costs of the program onto the students. Maybe that is what we intend, but it is not what I would like to see happen.

Under the existing law the student, if he borrowed the maximum amount of $7,500 for the guaranteed student loan, would pay $78 a month. Under the bill we are offering he would pay $95 a month. But under the amendment of the Senator from Ohio that student would pay $112 a month or approximately a 38-percent increase over existing law, and that would seem to me to be a bit too steep.

It also would save very little money in the early couple of years. Here I am thinking of the budget, but in that regard I think the savings that would appear would only really show themselves in tangible evidence 2, 3, 4 years down the road, but would not much affect this year.

There are many hidden costs in this amendment because for servicing this new payment provisions you would find a good deal of paperwork would be required. In fact, the Student Loan Marketing Association, Sally Mae, estimated that for every dollar saved by this amendment 66 cents or two-thirds would be spent for increased servicing costs.

The number of loans that are made would be reduced. The Congressional Budget Office estimates that the number of loans made would drop from 1,525,000 to 782,000. That is a drop by a half. If that is what our intention is, then it is an excellent amendment. But my view is we do not want to see these numbers of loans decreased. We want to see them increased. We want to see more young people taking advantage of these loans and going on to higher education. So I think it goes in just the reverse direction.

In addition to that, it has a hidden interest effect in other programs. For example, in the Peace Corps, Vista, and the military service the students get a deferment. But under this amendment they would not get a deferment.

Finally, I think this amendment is a giant step backward from the Middle Income Student Assistance Act because under that act, that was the one commitment or pledge we really made to middle-income America which carries the load. We thought we could give them a little bit of relief, and we did it in the Middle Income Assistance Act of about 2 or 3 years ago.

I think all of us, when we are home in our States, will agree that there are not many other actions the Congress has taken that have been as well received as that small measure of help to a very hard-pressed middle-income group.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, the Metzenbaum amendment seeks to correct a perceived problem with the guaranteed student loan program—the ability of all students regardless of their financial circumstances to borrow a fully subsidized loan for purposes of going to college.

In 1978, as part of the Middle Income Student Assistance Act (MISAA), we in the Congress took the initiative to expand the eligibility for guaranteed student loans by removing the previous cap on eligibility which was based on family income. Prior to MISAA, for students with family incomes below $25,000 the Federal Government paid the interest while the borrower remained in school, whereas borrowers with family income in excess of $25,000 were responsible for payment of interest while in school.

The 1978 change was enacted to address the problem faced by many middle-income families of not being able to keep up with the steadily rising costs of college. I believe that for many students and their families this change was a crucial element in allowing the student to attend the college of his or her choice. In some cases, removal of the income eligibility cap has been instrumental in providing sufficient funds to allow access to any form of postsecondary education.

But times change and now we find ourselves in 1980 in a time of increased awareness of the costs of Federal programs and the rising need to focus subsidies on those who most need assistance.

The Metzenbaum amendment seeks to accomplsh this targeting of subsidies by limiting the availability of the in-school interest subsidy to those borrowers wth demonstrated need. Educational institutions—not commercial lenders—would be responsibile for determining the need of a potential GSL borrower. With certain exceptions, borrowers who did not qualify on the basis of need would be obligated to repay the interest after entering the full-time work force.

Under the Metzenbaum amendment, certain borrowers would qualify for the in-school interest subsidy on criteria other than evidence of need. First, students with accumulated debt of more than $7,500 would not be obligated to repay the interest that otherwise would build up during the years of graduate study. In addition, deferral of interest would be limited to 3 years from the time of loan origination; the Federal Government would assume responsibility for interest payments after 3 years.

The deferral of interest provisions contained in the Metzenbaum amendment could be accomplished in several ways. First, financial arrangements could be made between lenders and the Federal Government to offset Federal payments to lenders on behalf of nonsubsidized borrowers. Such arrangements could include purchase of the borrower's interest obligations by lenders once the borrower finishes his or her educational program.

State guaranty agencies could assume increased responsibility for coordination of loan repayments including debt consolidation and the tracking of borrower obligations for the repayment of interest. Or the borrowers themselves might enter into separate repayment agreements with the lender and the Federal Government. The Metzenbaum amendment does not preclude any of these arrangements, or any other plan that would facilitate a reasonable repayment of a deferred interest obligation.

The cost savings implications of this amendment are substantial. CBO estimates the long-term cost savings of this proposal to exceed $600 million, approximately one-fifth of the current Federal cost exposure for student loans. In addition, this amendment, if adopted, would save about $100 million in the fiscal year 1981 over and above the substantial loan cost savings already included in S. 1839 as reported by our committee.

I would like to conclude by saying that I think the guaranteed student loan program is an absolutely essential component of the Federal student assistance effort. In the 15 years since its creation, many millions of students have benefited from the availability of these loans.

It is my personal belief that the vast majority of these borrowers were in genuine need of these funds and that relatively few of these student borrowers could have attended without such assistance.

I also strongly believe that active participation of private sector lenders in the provision of student loans is absolutely essential for the long-term viability of the student loan concept.

At the same time, I recognize the importance of insulating Federal programs from the potential of skyrocketing costs, and it is for this reason that I plan to support the Metzenbaum amendment, which provides for a necessary targeting of subsidies.

I rise to state my strong support for the Metzenbaum amendment and in appreciation of the approaches brought to us by this amendment which, I think, are necessary at this time.

Our Committee on Labor and Human Resources is greatly served by the Senator from Ohio. As a member of the committee, certainly the Nation has benefitted by his membership on our committee which covers so much of life in this country, in its educational, its social, and employment aspects of our legislative jurisdictional programs, and they all have the constructive mark of the Senator from Ohio on them.

He brings to us now something that is necessary, particularly necessary, in this period we are in. As a member of the Budget Committee he brings to us his wisdom in putting our authorization legislation into focus within the entire budget, the entire congressional budget, for the year.

As he has done in this situation with the guaranteed student loan program, it is less than what many of us started as feeling should be accomplished through the guaranteed student loan program. But with his persistence and his enlightening and persuasive discussions he has brought so many of our committee to his viewpoint that this is one area where we can find ways to show restraint, budgetary restraint, particularly for later years.

So I have joined, and have spent considerable time, with the Senator from Ohio to insure that this amendment, that changes the in-school interest handling over a term of payback on the loans, does not deeply and adversely affect those with the greatest need in this area. So I think the amendment shows restraint, will show out-year savings of

The fact is that there are other modifications to the amendment, all of which are more fully explained in a written memorandum that has been circularized which I ask unanimous consent to have printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

(1) What does the amendment do? Requires interest to be repaid.

Under the current guaranteed student loan program, loans are interest-free while a student remains in school due to a government subsidy. Our amendment would simply require a student to repay that interest subsidy once he/she is out of school and earning an income. This approach is fair to the student. Equally important, it is fair to the general taxpayer that subsidizes the loan program.

(2) How much money would this amendment save? $627 million on each year's loans.

According to CBO, this approach would save $627 million in long-term costs on loans issued each year. Since this is a five-year authorization bill, the amendment would save $3.1 billion.

(3) What impact would this have on the student? On the average loan it would cost student $7 more per month.

Again according to CBO, a student who borrows an average loan amount of $4,000 would pay $51 per month under the committee bill and only $58 per month under our amendment. If an undergraduate student borrows the maximum allowed of $7,500, the payback would be $95 per month under the committee bill and $112 per month under our amendment.

(4) Does the amendment apply to all students? No. Needy students are protected.

We have modified our original approach to protect students who are needy and to protect long-term graduate and professional students as well as those who enter VISTA or the military. No student would be required to repay the interest subsidy on more than the first $7,500 in loans borrowed. Interest to be repaid would accumulate no longer than three years.

(5) How is the cost savings achieved under our amendment?

According to CBO, the cost savings comes about for two reasons:

First, money would be returned to the Treasury due to student repayments.

Second, future loan volumes would be reduced by a full 25 percent, because the interest repayment plan insures money is only used for essential school purposes. In other words, it would eliminate much of the discretionary borrowing that has taken place in recent years because of the interest-free years of the loan. As CBO has stated:

"For students from higher-income families, who have no financial need, the opportunity to borrow at zero interest is an attractive one. The rapid increases in borrowing suggest that many middle and upper income students have taken advantage of it."

Our amendment would deter such "convenience" borrowing.

For further information contact Thom Hall of Senator METZENBAUM's staff at 4–8917.

Mr. METZENBAUM. Mr. President, I see other Members in the Chamber waiting an opportunity to be heard. I see my good friend from Colorado in the Chamber who is a cosponsor of this amendment, and I wonder if I might yield to him first. I ask Senator PELL if he will mind that.

Mr. PELL. No. Go ahead and then I shall respond.

Mr. METZENBAUM. Fine.

I yield to Mr. ARMSTRONG.

Mr. ARMSTRONG. Mr. President, I appreciate very much the Senator from Ohio yielding and the chairman's courtesy. I shall be quite brief.

I am very pleased to join in sponsoring this amendment, and I compliment my friend from Ohio for his leadership on this matter.

It is really a pleasure for me to be able to sponsor an amendment which is really all pluses because here is a chance to save over $3 billion of the taxpayers' money in the next 5 years without really taking anything from people who are needy, without seriously inconveniencing anyone, without unduly disadvantaging really any person but simply suggesting, as the Senator has correctly pointed out, that those who are benefitting from the program should pay a more substantial portion of the cost.

The background of this amendment is important to understand. The student loan program has exploded. In 1977 some $1.5 billion in loans were issued through the program. In 1980, just 3 years later, more than $5 billion in student loans will be issued. In fact, loan volume doubled in 1 year.

As far as I am concerned that is great. This is just about the best kind of an investment that we can make, an investment in the education and in the lives of these young people and to do so in this way as a loan where we are expressing our national belief in their capacity and in the enrichment of their lives, and they in return are saying, "We are going to pay back a part of that investment in our lives after we graduate." It seems to me to be entirely appropriate.

That brings into perspective clearly why this amendment is so well thought out and well conceived and why it is so desirable.

Under the present circumstances there is the potential for abuse where someone makes what the Senator from Ohio has characterized as a loan of convenience, where someone simply takes out the loan and invests the money in certificates of deposit or some other way puts the money to work, all clearly lawful, but an unintended loophole.

So the amendment simply says that we are going to ask that this interest be paid back. I think that is appropriate. I think it is proper. I trust this will not be a particularly controversial amendment, and I hope that Senators will support this and that it will be enacted as a portion of this bill.

Again my thanks to the Senator from Ohio for his leadership and for permitting me to join him in cosponsoring this amendment.

Mr. BELLMON. Mr. President, I join in support of the Metzenbaum amendment.

S. 1839 makes many desirable changes in the existing student loan programs. The loan programs included in title IV of this bill in many ways resemble the program Senator KENNEDY and I proposed (together with 17 other cosponsors) when we introduced S. 1600 last year. The bill we introduced, however, would have saved money as compared to current law. S. 1839 would cost about 12 percent more than current programs, over the life of this legislation.

This amendment offered by Senators METZENBAUM and his cosponsors would save over $600 million on loans originated in fiscal year 1981, and it would therefore reduce the cost of these programs below current law projections. As I said, I support this amendment partially for that reason.

The Metzenbaum amendment saves money by requiring most nonneedy students to repay the interest the Government pays for them while they are in school, but they only pay after they leave school. This is accomplished by adding the accrued interest to the principal—the accrued interest reverting to the Government as it is collected.

The Metzenbaum amendment would provide for the Government to pay interest (which would not be repaid) for students, after they leave school, for up to 3 years if they are volunteers in ACTION or in the Peace Corps, or if they are on active duty in the military.

The Metzenbaum amendment would also provide for the Government to pay interest (which would not be repaid) for students who borrow for more than 4 years of undergraduate study; and for students who borrow more than $7,500 and are in graduate school.

Mr. President, Senator HOLLINGS and I had expected to offer an amendment to delete the part of the Metzenbaum amendment which would make in-school interest subsidies available to students who borrow for more than 4 years and/or who borrow more than $7,500 and are in graduate school.

I am assured by the proponents of this amendment and by the managers of the bill, however, that they understand our concerns about the potential inequities which could result under this proposal.

I am further assured by the proponents of the amendment and the managers of the bill that the differences between the House and Senate on student loan programs are so great that they will require complex and extensive negotiations in conference. They have assured me that they will work to alleviate the equity concerns I still have about these provisions in conference.

Therefore, Mr. President, I will not offer an amendment and, as I say, I support the Metzenbaum amendment. With this amendment the bill will fully meet the requirement of reconciliation under the first budget resolution, and it will actually cost between 10 and 15 percent less than current law during the life of the authorization.

Mr. President, I congratulate Senator Metzenbaum and his cosponsors, and urge adoption of the Metzenbaum amendment.

Mr. PELL. Mr. President, responding to the various arguments that have been made I would say, first, one argument was that if money is borrowed and then used for a loan of convenience that is a lawful purpose but a wrong purpose. Actually under the law it is both a wrong purpose and an unlawful purpose. Anybody who does this is violating the law and subject to due penalty.

We should bear in mind when we hear of these loans of convenience being exercised that is, I believe, a criminal offense.

Second, no amendments will be in order tomorrow, except those by Mr. METZENBAUM and Mr. MOYNIHAN, and amendments thereto.

Provided, further, that Senators should state at this time if they have amendments, so that the managers will know whether or not there are amendments still around that they cannot accept.

Mr. PELL. In that regard, we want to change the number of the bill to the House number. I hope that will be included.

Mr. ROBERT C. BYRD. Yes, I include that.

Mr. WEICKER. Mr. President, reserving the right to object, I inquire as to when this procedure is going to start to roll, so far as time is concerned. In other words, roughly what time do we reach these various points for voting?

Mr. ROBERT C. BYRD. The time will start running at 9:30. The votes will begin to occur at 10:20.

Mr. BAKER. Mr. President, reserving the right to object, I have no further need for clarification, except this, and let me state the essence of the request—

Mr. ROBERT C. BYRD. Excuse me.

I say to Mr. WEICKER that the votes would start at 10:50.

Mr. BAKER. Mr. President, reserving the right to object, as I understand it, what we have done, in practical effect, is to provide that all amendments that are going to be offered must be offered and debated tonight and disposed of tonight, with the exception of the Moynihan amendment and the Metzenbaum amendment, which may be discussed and debated tonight but which will be concluded on tomorrow, with rollcall votes.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. And there are other limitations, as the majority leader has requested, in respect to amendments in the second degree, points of order, or appeals, and the usual form.

Mr. President, I believe that is the effective equivalent of third reading of the bill on this evening; and so far as we are concerned, that is the objective—that is, to see that all the amendments are disposed of tonight, with the exception of the two which have been identified.

I do not object to the request in the form the majority leader has submitted it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight.

PROPOSED AMENDMENT BY MR. METZENBAUM

Mr. METZENBAUM. Mr. President, I should like to discuss the amendment I intend to call up tomorrow, and I will call it up tomorrow. I explain to Senators that the reason for not calling it up this evening is that I want to be certain who all the sponsors are, prior to doing so.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will take their seats.

Mr. METZENBAUM. Mr. President, the amendment I expect to call up tomorrow, on behalf of myself and other Democratic Senators, has the support of the distinguished chairman of the committee and has the support of a number of Members on the minority side.

It might appropriately be described as being a matter of equity, a matter of fairness, to the blue-collar family and the general taxpayers. The essence of this amendment is very simple and elementary.

At the present time, student loans provide for a Government subsidy with respect to the interest, and this amendment would eliminate that subsidy of interest except in certain special instances, which I will discuss.

Frankly, I believe that we must find a way to cut back on the cost of the GSL program. Loan volumes have grown at an absolutely alarming rate. In 1977, $1.5 billion in loans were issued. By 1978, that figure had gone up to almost $2 billion. By 1979, the figure had gone up to almost $3 billion. By 1980, there will be more than $5.3 billion in loan volume, based on data in the first half.

As these numbers show, the volume has almost doubled in the past year alone, and Federal outlays have tripled in the past 3 years.

In 1978, the outlay was $546 million. In 1979, the outlay was $899 million. In 1980, $1.5 billion is estimated to be the total outlay.

Mr. President, I am not opposed to the GSL program. As a matter of fact, I think it is a great program and I do not want to have any negative impact upon that program. But I firmly believe that once students, male or female, graduate from college they have two obligations. One obligation is to repay the loan that the Government was good enough to have made available to them, and the second is to repay and see to it that the Government does not suffer any more than a modest amount of interest subsidy.

Even with our amendment it still will cost the Government a certain number of dollars as far as the interest subsidy is concerned, but it will cut down immeasurably because it will provide that the students will have the obligation to repay the loan plus interest at the rate of 9 percent.

We believe that any student who needs a loan should be eligible to receive one, and there is nothing in this amendment that would provide for a limitation with respect to family income, an issue that has been a matter of great dispute. That is not in this measure. Some have one view on that subject and some have the other. But this amendment does not address itself to that issue.

We are not cutting back on the MISAA program—the Middle Income Student Assistance Act of 1978—and I commend those who provided the leadership with respect to the enactment of that legislation.

We are not placing a cap on eligibility. But our amendment is more equitable to the taxpayer and would place a cap on unnecessary lending.

Let us talk about what the impact would be upon the student. No one wants to make the student who graduates have an impossible task. No one wants to place an unfair burden on that student. But no one wants to place an unfair burden on the blue collar worker who is paying those taxes either, and this amendment might have some impact upon the student and have some impact upon the amount that the student repays.

According to CBO the average borrower of $4,000 would pay $51 a month under the committee bill, $58 a month under our amendment, and $46 a month under current law. The very worst would be a total of $144 a year if there were a loan of $4,000.

If a student borrowed $7,500 maximum for undergraduate students, the schedule would be $95 a month payable under the committee bill, $112 a month payback under our amendment, and $87 a month payback under current law, a maximum of $25 changed from the current law or $300 a year.

To summarize, we believe—and I see in the Chamber three Members who I know will address themselves to this issue and who support it—the amendment will receive substantial cost savings to the GSL program without restricting loan eligibility. We believe this approach is fair to the student. Equally important, it is fair to that average Joe working in the shop who is bearing an unfair burden of taxation and wants to know why.

Any student who needs a loan should have access to one. But he or she should be willing to pay back the interest subsidy once he or she is out of school and earning a living.

Our amendment does not affect a minuscule amount of dollars. Our amendment will save $627 million in long-term savings for loans issued during each school year. Since this is a 5-year authorization bill, we would save an estimated $3.1 billion over the life of the loans authorized in this legislation.

The question might very well be asked how do we save so much money?

First, we would save because students would be paying back the interest subsidy to the Federal Government, but he or she would not pay it back until he or she is out of school.

Second, this amendment would eliminate the incentive to take out so-called "convenience" loans. The CBO estimates that our amendment would actually reduce future borrowing by as much as 25 percent. That is not because the students will not have the money available. The CBO has reported that such "convenience" borrowing has actually helped boost loan volumes issued in recent years.

According to the CBO:

> The subsidy may induce many students to borrow. For students from higher-income families, who have no financial need, the opportunity to borrow at zero interest is an attractive one. The rapid post-MISAA increases in borrowing suggest that many middle and upper income students have taken advantage of it.

Interest subsidy on more than the first $7,500 on borrowing is eliminated because we are concerned that a student can get himself or herself so much in debt that it would be over their head.

> All of us agree that for the most part the ideas behind the regulations are good and worthy; the difficulty is that when bureaucrats begin to write regulations, they become extremely complicated and, in many instances, difficult to administer as well as expensive in time and effort. They are becoming so numerous that they involve a genuine encroachment on the freedom of action of the private colleges.

This destructive governmental interference with academic freedom is not peculiar to universities located in Southern States. Bureaucratic regulatory overkill is nationwide. Derek Bok, president of Harvard University, asserted recently that 60,000 hours of faculty time at Harvard were spent complying with Federal regulations during 1975. Administrators at North Carolina State University estimate that, during the same year, their faculty and staff spent at least 61,000 hours in complying with Federal regulations.

Change magazine recently estimated that the cost to institutions of higher education of federally mandated programs reached $2 billion in 1976. This $2 billion figure is shocking in itself, but the real cost to colleges is revealed when it is remembered that the total amount of voluntary private contributions to institutions of higher education that year was approximately $2 billion. Change also estimates that for every new bureaucrat added to oversee university compliance another 150 university administrators must be hired to keep up with the increased workload.

Terry Sanford, president of Duke University, observes that:

> The avalanche of recent Government regulations threatens to dominate campus management. At the present rate, it is not difficult to imagine a day when facilities and administrators spend all their time filling out Government forms. It is just preposterous. The regulators must be regulated.

Over 25 years ago, President Eisenhower warned that—

> The prospect of domination of the Nation's scholars by Federal Government, project allocation, and the power of money is ever present, and is gravely to be regarded.

Today, American educators too often echo President Eisenhower's warning. Charles Saunders of the American Council on Education recently asked

> Is regulation strangulation? The question aptly conveys our uneasy awareness that Government legislation and court decisions are increasingly influencing the shape of higher education in America . . . In practice, Federal regulations too often impede and subvert the educational process by stifling diversity and imposing costly, burdensome, and unnecessary requirements.

During 1976, four private universities located in Washington, D.C.—American, Georgetown, Catholic, and George Washington—issued an unprecedented public declaration of independence from Federal control resolving to:

> Affirm our intention to maintain institutional independence from any external intervention which threatens the integrity of our institutions, including refusal of Federal funds which carry such threats.

Mr. President, I will summarize by saying that this is an impact statement amendment. Before any regulation affecting an institution of higher education becomes effective, the agency promulgating the regulation would be required by the amendment to:

> Determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States; and assess the cost and time involved in complying with such regulation by institutions of higher education which would be affected thereby.

Mr. President, I believe the manager of the bill is prepared to accept the amendment.

Mr. PELL. Mr. President, I have had the opportunity to discuss this amendment with the Senator from North Carolina. I believe it has merit. I recommend to my colleagues that we accept it and take it to conference.

Mr. STAFFORD. Mr. President, the Senator from Vermont has examined the amendment also, and while we have slight hesitation about impact statements here, as we know, some of my colleagues have had elsewhere, we are prepared to accept it on this side and recommend that our colleagues do the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (UP No. 1280) was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to see if there are any other amendments which will be called up, other than by Senator METZENBAUM, on which he will not agree to a vote tonight, I believe.

Mr. METZENBAUM. The Senator from West Virginia is correct. I am perfectly agreeable to having a vote on it tomorrow, immediately after the Moynihan amendment, 20 minutes of debate, 10 minutes to a side.

Mr. ROBERT C. BYRD. I understood the Senator to say 10 minutes, equally divided.

Mr. METZENBAUM. The Senator from West Virginia is correct.

I wish to point out, the Senator will be here, that Senator WILLIAMS may wish——

Mr. WILLIAMS. I have three. I do not believe there will be any controversy.

Mr. ROBERT C. BYRD. Senator BELLMON has an amendment on which there will not be a rollcall vote.

Mr. STAFFORD. I believe we will accept it.

Mr. ROBERT C. BYRD. Yes.

I wonder if we could get an agreement which would provide for the votes to be as follows, and I will make the request now. I have discussed this with the distinguished minority leader, with the distinguished manager of the bill, with the distinguished ranking manager, and I have discussed it with the Senators who are offering the amendments. I will state it.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that there be 20 minutes on the amendment by Mr. METZENBAUM to be equally divided, in accordance with the usual form.

Mr. METZENBAUM does not want a rollcall vote—will not allow a rollcall vote—on his amendment tonight.

There will be 20 minutes on the Metzenbaum amendment, which may be discussed in part tonight; but no time is to be taken out of the 20 minutes tonight, the 20 minutes to begin running tomorrow morning at 9:30.

That immediately upon the expiration of the time on the amendment by Mr. METZENBAUM, 1 hour begin running on the amendment by Mr. MOYNIHAN. It is the desire of Mr. HOLLINGS that the vote on that amendment go over until tomorrow. So that there will be 1 hour on the amendment by Mr. MOYNIHAN, the time to be equally divided and controlled in accordance with the usual form.

That upon the expiration of that hour, the vote then occur in relation to the amendment by Mr. MOYNIHAN; that upon the disposition of the amendment by Mr. MOYNIHAN, the vote then occur in relation to the amendment by Mr. METZENBAUM.

That upon the disposition of the amendment by Mr. METZENBAUM, without any further debate or amendment, motion, point of order, or appeal, the Senate proceed immediately to third reading; that without any further debate, motion, appeal, or point of order, the Senate immediately go to final passage; that upon the disposition of the bill, there be no time for debate on any motion to reconsider.

What about amendments to the amendments? Shall I make any provision for that?

Mr. BAKER. Ten minutes.

Mr. ROBERT C. BYRD. That any amendments to the amendment by Mr. METZENBAUM must be germane; that the time on any such amendments be limited to 30 minutes in the case of any amendment to the Moynihan amendment, and 10 minutes in the case of any amendment to the Metzenbaum amendment.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—there is only one part of the agreement that causes me pause, and that is the request, as I understood it, that no appeal would be in order.

I am perfectly willing to agree that no time for debate on an appeal, if an appeal is submitted to the Senate, shall be in order. But I do not wish to extinguish the right of a Senator to appeal from the ruling of the Chair. Would the majority leader consider that?

Mr. ROBERT C. BYRD. Yes. In that case, I think there should be 10 minutes, equally divided.

Mr. BAKER. I thank the Senator.

Is it the intention of the majority leader, then, to ask for third reading of the bill tonight or to provide in his request that no other amendments be in order—which would have the same effect as third reading—except for the amendments which have been adopted?

Mr. ROBERT C. BYRD. There are some amendments which will be accepted, I believe, by the managers.

It is my intention to state to the Senate that there will be no more rollcall votes tonight, if the agreement is entered, for one.

(C), such agreements shall provide for the disclosure by the Association to such organizations, with respect to any loan for which the Association is responsible, of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(B) Such agreements may also provide for the disclosure by such organizations to the Association, upon receipt from the Association of a notice under subparagraph (A) (ii) that such a loan is in default, or information concerning the borrower's location or other information which may assist the Association in proceeding to collection of the defaulted amount.

"(C) Agreements entered into purusant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Association unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Association has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Association with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Association (I) will not disclose any such information until the Association has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) will, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) (i) The Association shall, within one hundred eighty days after the effective date of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b) (3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Association to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

Mr. METZENBAUM. Mr. President, this amendment, it is my understanding, is also acceptable to the manager of the bill and the ranking minority member.

It really provides that the collection procedures with respect to the GSL part of the bill be added to the NDSL part of the bill.

It is my understanding there are no other changes contemplated in the amendment.

Mr. PELL. That is correct. The idea is good. We started it in the committee, the whole concept of turning over the names of the deadbeats to make them available to the credit bureau.

I think this enlarges the scope of what the committee has done. I recommend acceptance on this side of the aisle.

Mr. STAFFORD. For the minority, I agree with the statement just made by the majority manager (Mr. PELL). I recommend it be accepted on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 1279) was agreed to.

Mr. METZENBAUM. Mr. President, I have another amendment which I wish to discuss. But it is my understanding the Senator from North Carolina has an amendment and I yield the floor to him.

Mr. HELMS. I thank the Senator.

UP AMENDMENT NO. 1280

(Purpose: To require an education impact statement)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1280.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 330, between lines 12 and 13, insert the following:
>
> EDUCATION IMPACT STATEMENT
>
> SEC. 1504. Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:
>
> "EDUCATION IMPACT STATEMENT
>
> "SEC. 409. Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after the date of enactment of this Act, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall—
>
> "(1) determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States; and
>
> "(2) assess the cost and time involved in complying with such regulation by institutions of higher education which would be affected thereby.
>
> Notwithstanding the exception provided under section 553 (b) of title 5, United States Code, such statement shall be based upon the record established under the provisions of section 553 of title 5, United States Code, compiled during the rulemaking proceeding regarding such regulation.".
>
> In the table of contents on page 16, after item "Sec. 1503." insert the following new item:
>
> "Sec. 1504. Education Impact Statement.".

Mr. HELMS. Mr. President, the policy of Congress against Federal intervention in the American system of higher education is consistent and long standing. Congress has recognized on many occasions that the fundamental premise of academic freedom is academic autonomy. On numerous occasions Congress has enacted laws to guarantee the autonomy of higher education. Even when Congress substantially increased Federal financial assistance to education in legislation such as the Higher Education Act of 1965, it provided:

> Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, or over the selection of library resources by an educational institution.

Yet, in the face of this clear intent of Congress to prohibit Federal intervention in the operation of America's colleges and universities, Federal bureaucrats have entangled college administrators and professors in a web of Federal regulations, reports, and controls which have caused educators across the country to warn that the very existence of independent education in the United States is being threatened. These educators point with concern to the emergence in reality, if not yet in name, of a new and unauthorized National Ministry of Education. I believe, Mr. President, it is time for Congress to fulfill its responsibility and regulate the Federal regulators, before Federal regulation of colleges and universities becomes Federal strangulation.

PAPERWORK MEASURED BY THE POUND, NOT THE PAGE

America's colleges and universities are laboring under a staggering amount of federally required paperwork. Government demands upon collegiate institutions to gather, analyze, and transmit information in confusing and sometimes contradictory form is increasing each year. Federal bureaucrats are producing a constant flood of new and revised laws, regulations, and guidelines that often leave college administrators confused, frustrated, and exhausted. Today, Federal paperwork is measured by the pound, not the page. For example, one report from the University of North Carolina in Greensboro to the Office of Civil Rights weighed more than 12 pounds.

Recently, the Southern Association of Colleges and Schools studied the impact of Federal regulation on its member colleges. The report found that the cost of compliance with Federal regulations required some institutions to spend as much as 50 cents to administer every Federal dollar received. Others stated that they must spend more to comply with Federal regulations than they do to operate many academic departments. The response of one administrator was typical:

cerned about the impact the committee proposal would have on the many schools in North Carolina which serve economically disadvantaged students and have tended to benefit from title III.

For these reasons, I support the amendment of the Senator from Alabama, and commend him for offering it.

● Mr. GLENN. Mr. President, today I am pleased to join my colleague from Alabama, Senator STEWART, in cosponsoring the amendment he is offering to S. 1839, the Educational Amendments of 1980. Title III of the Higher Education Act provides support to those institutions which are facing financial difficulty and are outside the main currents of academic life. Many title III schools have small operating budgets and serve low-income students. The funds provided under this provision have permitted these struggling institutions to remain open and have greatly contributed to the higher education resources of the Nation.

This amendment will prevent the shifts in title III eligibility proposed by the Senate Labor and Human Resources Committee. It is my understanding that a substantial number of colleges now receiving assistance under title III will become ineligible under the committee bill. The majority of institutions affected would be the black colleges. I believe that this amendment assures that the colleges and universities which educate the most disadvantaged students in this country will receive Federal institutional support, and reassures our commitment to the effective operation of the historically black colleges in this country.●

Mr. STEWART. I will yield the floor at this point on the amendment.

Mr. PELL. Mr. President, I believe the amendment is an excellent one. We have discussed it privately. I would recommend to my colleagues on this side of the aisle that they accept it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, on behalf of Senator SCHWEIKER I can say that the amendment as now proposed by the distinguished sponsor is agreeable to him.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Oklahoma (Mr. EXON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIEGLE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), the Senator from New York (Mr. JAVITS), the Senator from New Mexico (Mr. SCHMITT), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—83

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Ford
Garn
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Baucus

NOT VOTING—16

Chiles
Church
Domenici
Eagleton
Exon
Goldwater
Hatch
Javits
Kennedy
Long
Nelson
Riegle
Schmitt
Talmadge
Tower
Wallop

So Mr. STEWART's amendment (UP No. 1277) was agreed to.

Mr. STEWART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEWART. Mr. President, I thank the Senator from Rhode Island and the Senator from Vermont, the managers of the bill, and the Senator from Pennsylvania (Mr. SCHWEIKER), for their cooperation in this work. I also thank my staff member for the fine job he has done on this amendment.

The PRESIDING OFFICER. The pending business before the Senate, automatically, after the vote, is the amendment of the Senator from New York (Mr. MOYNIHAN).

Mr. METZENBAUM. Mr. President, I ask unanimous consent to set that aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1278

(Purpose: To assure that arrangements with collection agencies by the National Direct Student Loan Association will be awarded on a competitive basis)

Mr. METZENBAUM. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1278:

On page 192, between lines 6 and 7, insert the following:

"(3) The Association may not enter into a contract or other arrangement with any collection agency pursuant to paragraph (1) of this subsection unless the contract or other arrangement is made on a competitive basis.

Mr. METZENBAUM. Mr. President, it is my understanding this amendment is acceptable to both the manager of the bill and the ranking minority member.

It merely provides that the competitive bids will be used in attempting to obtain a collection agency for these loans.

Mr. PELL. Mr. President, this amendment is one that we have discussed and which has merit.

I believe the competitive bidding will get a better contract, better collection agency performance. It is an excellent idea.

I recommend that we accept the amendment.

Mr. STAFFORD. For the minority, Mr. President. we are prepared to accept the amendment.

The PRESIDING OFFICER (Mr. BURDICK). The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 1278) was agreed to.

UP AMENDMENT NO. 1279

(Purpose: To strengthen collection practices under the National Direct Student Loan Program)

Mr. METZENBAUM. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows·

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1279.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 192, between lines 6 and 7, insert the following new paragraph:

"(3) (A) For the purpose of promoting responsible repayment of loans made under part E and for the collection of loans for which the Association is responsible, the Association is authorized to enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Association to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph

UP AMENDMENT NO. 1277

(Purpose: To provide a savings provision for institutions that traditionally serve substantial numbers of black students)

Mr. STEWART. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) on behalf of himself and other Senators, proposes as unprinted amendment numbered 1277.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 100, between lines 3 and 4, insert the following:

"(b) The Secretary shall assure that in each fiscal year the amount available for institutions with special needs and institutions enrolling substantial percentages of disadvantaged students that historically serve substantial number of black students will not be less than the amount received by such institutions for fiscal year 1979.

On page 100, line 4, strike out "(b) In" and insert in lieu thereof "(c) Subject to the provisions of subsection (b), in".

On page 100, line 8, strike out "(c)" and insert in lieu thereof "(d)".

On page 100, line 9, after "part (A)" insert the following: "remaining after complying with subsection (b) of this section".

On page 86, between lines 23 and 24 insert the following:

"(A) An enrollment which includes a substantial percentage of students from low-income families, and

On page 86, line 24, strike out "(A)" and insert in lieu thereof "(B)."

On page 86, line 25, strike ", and" and insert in lieu thereof a period.

On page 87, strike out lines 1 and 2.

Mr. STEWART. Mr. President, this amendment adds certain language to the aid program in title III as reported by the committee. It sets aside certain funds for those historically black institutions which have been receiving moneys under title III at not less than what they received in fiscal year 1979. I ask unanimous consent that Senators THURMOND, NUNN, BAYH, GLENN, LONG, STONE, HOLLINGS, COCHRAN, PELL, SCHWEIKER, and HEFLIN be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEWART. I am very concerned about the thrust of the committee bill's (S. 1839) revision of title III of the Higher Education Act of 1965. I am especially unclear about the funding impact of the committee bill on those traditionally black colleges and universities, which along with the junior and community colleges have been the primary beneficiaries of the title III program.

Since the committee bill appears to expand the postsecondary institution population eligible to participate in title III and it is unlikely that more funding will be available for part A and part B—given present budgetary restraints—how will the committee bill insure that the currently eligible participating institutions are not adversely affected?

Mr. PELL. I believe the amendment we have agreed to provides a hold harmless for the sector of traditional black colleges and universities that will assure these institutions at least the amount of funds they received in fiscal year 1979.

Mr. STEWART. My second question is, how does the committee report or other legislative history seek to define the phrase "substantial percentage of students from low-income families" in section 303(a)(2)(A) and the phrase "substantial percentages of students from low-income families" in section 321(a)(1).

Does substantial percentage mean 40 percent, 50 percent, or 60 percent? In my view, it should be at least 50 percent, but I cannot find any guidance in the legislative history on this critical point. I do not believe this question should be left to regulation writers without direction from the Congress.

Mr. PELL. The Senator is correct; the legislative history does not provide any direction on this key point. The committee does not wish to create problems in the new title III program it has carefully drafted after considerable deliberation. I would also agree with the Senator from Alabama that a substantially expanded pool of applicants for this program will make program administration and proproposal evaluation more difficult, however, this suggestion would help solve this problem.

I believe the Senator suggested that 50 percent of the student body be low income. Would the Senator agree that the figure be 40 percent and that we use as an index those students receiving need-based Federal student assistance like Pell grants, SEOG's, college work study, and national direct student loans?

Mr. STEWART. Let us make it 45 percent and index it by the Federal programs the Senator enumerated.

Mr. PELL. Agreed.

TITLE III IS A GOOD PROGRAM—IT SHOULD NOT BE CHANGED

Mr. MORGAN. Mr. President, I rise to support the amendment being offered by the Senator from Alabama to the pending measure.

Mr. President, the Senator from Alabama's amendment would, with one major exception, substitute the House version of the strengthening developing institutions program for the language approved by the Senate Human Resources Committee. The effect of this would be to keep this important program, commonly known as the title III program, substantially in its present form.

Mr. President, although the title III program has had a few problems, mainly with excessive and inappropriate use of consultants, it has provided invaluable assistance to needy colleges and universities throughout North Carolina. Schools receiving aid under this program are, for the most part, small and serve a large number of economically disadvantaged and minority students.

In North Carolina, these schools have done an excellent job. Not too long ago, I was pleasantly surprised to read that 25 percent of all postsecondary students in North Carolina were from minority groups although the State's population was only 22 percent minority. In my view, it is progress such as this that will do the most in the long run to bring about complete equality of rights and opportunity in this country.

Mr. President, it has always been my position that the burden of proof during legislative debates is on the side advocating changes. With all due respect to the Senator from Rhode Island, because I believe he has done a great job on this bill, I do not believe adequate proof has been supplied to justify the proposed, far-reaching changes in the strengthening developing institutions program.

The Human Resources Committee would, under this bill, break the existing title III program into two parts each with roughly half the authorization. One-half would be title III, as we now know it. The second half would be a new program to provide operating subsidies to colleges and universities that serve large numbers of low-income students.

My main problem with this concerns the wisdom of creating a program to provide an automatic subsidy of institutional operating costs. A program of this nature, no matter how small it starts out, has all earmarks of turning into a monster that Congress would have difficulty controlling. A couple of years down the road we will be dealing with constant requests from other financially troubled institutions, a category that includes most existing private colleges, to expand the eligibility criteria and increase the size of the operating subsidy.

Subsidizing operating costs would encourage institutional dependency, while the purpose of title III program is to develop institutions so they are capable of standing on their own two feet. In addition, some serious questions have been raised concerning the formula for distributing these funds, as it appears that colleges that raise their tuitions or do not actively seek other sources of support will get increased grants. Those are both trends Congress should be trying to discourage, not encourage.

I am also concerned that the changes proposed in the title III program would have the net effect of reducing the amount of money available to those schools that have traditionally benefited from the title III program. It is these schools which would, under the committee's proposal, be shifted off into the operating subsidy program which, as I said earlier, is only getting half the authorization. Such a change would be especially damaging to the historically black institutions and other schools serving large numbers of low-income students, both in North Carolina and throughout the country.

In conclusion, I believe the title III program has worked, and despite some problems, has worked well. The changes that have been proposed by the Human Resources Committee have not been adequately justified, and I question the wisdom of putting the Federal Government into the business of subsidizing the normal operating costs of colleges and universities. Finally, I am con-we can resolve. I would read to you one line from this letter, which was signed by some of the most distinguished men in America, persons who would certainly come under the heading of good men and women, which is the way I described my colleagues in the Senate:

> In addition, aid to non-public schools carries with it the danger that public funds will be used to support sectarian purposes or ideological viewpoints in violation of the Constitution and American principles.

So, Mr. President, I would conclude by observing that what I proposed in the letter which the Senator from South Carolina has placed in the Record was that there be dialog between those of us who see this as an issue of justice and those who do not. Whether one side will persuade the other in the end is entirely unknowable. But it seems to me that the level of understanding between the two groups at the time I wrote, which was about 2 years ago, was such as to call for such exchanges. Whether any has taken place or not, I am not in a position to say.

But it seems to me that it was an appropriate thing to call for—dialog—and it seems to me that the need for it then persists today. These matters have been with us for many generations and they will likely be with us for many generations more.

I simply offer the thought that good men and women, as I describe my colleagues—good men and women, as I describe my colleagues—are capable in the end of resolving them. That has been our faith in this Nation. It has not failed us yet.

ORDER OF PROCEDURE

Mr. RIBICOFF. Mr. President, will the distinguished Senator from New York yield for an inquiry?

Mr. MOYNIHAN. Yes.

Mr. RIBICOFF. Mr. President, I wonder if the majority leader could tell us whether or not there will be any rollcall votes tonight.

Mr. ROBERT C. BYRD. Yes; there definitely will be, if I have to move to table something to get it.

Mr. RIBICOFF. Because there are people waiting here out of courtesy and also listening to the distinguished leader trying to cooperate, because I know what he is trying to do to move the business of the Senate. There are those who respect the leader and respect the Senate and want to comply with legitimate requests. But we have been here all day long. I commend the managers of the bill in moving to accept the amendments, but if all the amendments are going to be accepted, those of us who stay here out of a sense of duty should be free to leave if there will be no rollcall votes tonight. We have been here all day from early morning.

Mr. PELL. Mr. President, I assure the Senator there are some amendments that will not be accepted. The question is whether they can be worked out to become acceptable. My view is there will be rollcall votes.

Mr. RIBICOFF. I am told the distinguished Senator from Ohio—if I may have the Senator's attention—was going to have an amendment on which there would be a rollcall vote. The distinguished Senator tells me that he did not intend to have a vote tonight. So there is a difference of opinion. We understand the Moynihan amendment will not be voted on tonight.

Mr. MOYNIHAN. That is my understanding.

Mr. RIBICOFF. And the Metzenbaum amendment would not be voted on tonight. If that is the case, then I think those of us remaining here should be told so we could make the decision of whether to stay or not.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have discussed both with Mr. Moynihan and Mr. Hollings the amendment by Mr. Moynihan. They are both agreeable to putting that amendment over until first thing tomorrow, have 1 hour on it, and then dispose of that amendment and go to final passage.

Mr. Stewart has an amendment. As soon as Mr. Moynihan finishes, we intend to set the Moynihan amendment aside, with the agreement of the Senator, to take up Mr. Stewart's amendment.

Mr. Bellmon has an amendment, I believe, to take up this evening. I would hope Mr. Metzenbaum would go with his amendment tonight so that we could dispose of all amendments, with the exception of the amendment by Mr. Moynihan.

Mr. METZENBAUM. Mr. President, it would be very agreeable with me, in fact, preferable, if I called up my amendment this evening, had such debate on it as the Senator from Rhode Island feels appropriate, as far as time is concerned—we do not need a lot of time, although I had earlier indicated an hour a side, but we could get by on less than that—if we then set it down for tomorrow, immediately after the Moynihan amendment, with an understanding of having 10 minutes, equally divided, for debate in the morning just before that rollcall vote. That would be entirely satisfactory if it were satisfactory with the leader.

Mr. ROBERT C. BYRD. Mr. President, it is satisfactory with me. But I have to think of the managers of the bill.

Mr. PELL. Mr. President, it is certainly all right from my viewpoint. I was hoping we could get an agreement on third reading tonight, with the exception of these two votes. And I understand by unanimous consent, where anything is possible, that we can do that.

I am not sure Senator Baker understands the additional vote, and that would have to be worked out with him.

Mr. BELLMON. Mr. President, I believe the managers of the bill will accept the Domenici amendment which I will offer in his behalf.

Mr. ROBERT C. BYRD. So, Mr. President, there would be one rollcall vote on the amendment by Mr. Stewart.

Does the Senator from North Carolina (Mr. Helms) have an amendment?

Mr. HELMS. I have two amendments. I think the managers will accept one of them, at least.

Mr. ROBERT C. BYRD. And the Senator will have one amendment, other than that?

Mr. HELMS. Yes.

Mr. ROBERT C. BYRD. On which he would anticipate a rollcall vote?

Mr. HELMS. Mr. President, I am perfectly willing to carry that over until tomorrow, if the distinguished majority leader would do that.

Mr. ROBERT C. BYRD. Mr. President, I hope, if it is in agreement with the distinguished Senator, that we could dispose of all votes on the amendments today, that the exception of the amendment by Mr. Moynihan and the amendment by Mr. Metzenbaum.

Mr. HELMS. Mr. President, whatever is the leader's pleasure.

Mr. METZENBAUM. Mr. President, I am advised that I also have——

Mr. MOYNIHAN. Mr. President, I believe I have the floor. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I did not mean to interrupt the Senator from New York, but I wanted to advise the leader that I failed to point out that I believe I have two other amendments that are noncontroversial and I believe will be accepted by the committee.

Mr. ROBERT C. BYRD. That could occur after the rollcall vote, so that Senators will not be kept around.

Mr. METZENBAUM. Fine.

Mr. ROBERT C. BYRD. I thank the Senators.

Mr. MOYNIHAN. Mr. President, if the Senator from South Carolina does not wish to continue further, or any other Senator, I am happy to propose that the matter be laid aside.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that unprinted amendment No. 1267 be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 hour remaining for debate on Mr. Moynihan's amendment, that the time not run tonight, and that the time on the amendment begins running tomorrow morning at 10 a.m., to be equally divided.

Mr. STAFFORD. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STAFFORD. Mr. President, it was the understanding of the Senator from Vermont that we might withhold on the unanimous-consent request until Senator Baker gets here.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. STEWART. Mr. President, I would like to withdraw the amendment that is presently pending in the second degree to the first amendment and then I would like to ask unanimous consent that the yeas and nays be vitiated on the first amendment that I offered at the time previously and ask that I be allowed to withdraw that amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment in the second degree.

Is there an objection to the unanimous-consent request? Without objection, it is so ordered.

to involve several of the priests, but I could give the encyclical number, but that's not needed now. We have all learned, we have all come a long way. They used to have, of course, the Latin scripture and proceedings within the Catholic ritual, and now they have gone to English, and in some I have seen they are more Baptist than Catholic as far as oldtimers like myself are concerned—getting that oldtime religion and playing on a guitar and getting with the program rather than the austere, very dignified costumes and Latin ritual.

One change has come to the schools—with respect to the admission of minorities. Years back they did not admit minorities, and I know that and I can give chapter, verse, and case. They now do. The inner-city schools in New York and South Carolina do admit minorities. Several of the priests apologized to me for the maligning and the inference that this was anti-Catholic, bigotry, or bias on my part.

The Senator says in his letter, and I have the greatest respect for him as an individual and particularly his intellect:

> The institutions associated with social progress in American culture at this time are overwhelmingly against us in this issue. As time passed in the recent debate, their opposition became ever more vigorous and even vindictive.

On the contrary, Mr. President, we go immediately back to a further observation by the distinguished Senator from New York, when he says:

> For these are good men and women. If they feel that an issue of justice is involved, nothing will hold them back.

That is what has taken place with respect to this particular Senator.

Most respectfully I could be totally in error. I can be totally wrong and other Senators vote their consciences, and I respect them for it. But if they want to know my reason and what I came strongly to believe the reason for this vote of Senators who oppose this particular procedure of now basic community grants or any kind of public assistance to private schools it is just that, that is an issue of justice.

What he is saying is:

> If you do not like, Senator, the public swimming pool we must give vent to the diversity and the plurality of the private swimming pool.

And so those with private pools who stimulate the athletes and could be responsible for Olympic athletes as far as I know—I just do not know about it—but I am confident that is how the rationale would go:

> Yes, you have the public pools but we have our private pools out here at the country club and it gives us diversity and it gives us pluralism and we should have some public aid for the private swimming pool or for the golf course.

We have a public golf course in my hometown, but there has got to be diversity and there should be a recognition of the contribution made by the private golf courses to the pluralism and the diversity of the game of golf and, therefore, we should all come here as consci- fore, we should all come here as conscientious Senators, not anti-Catholic or pro-Luthern or anti-Baptist or pro-Jewish or what have you with respect to the religion, but let us make grants to the private golf courses of America. That is the basic fundamental principle involved. That is the issue, as I see it. It is not a matter of community chest and get your fair share kind of thing.

I strongly resist this idea. I resist, and I resist very strongly, the inference made to my Catholic bishop friend and others who have read this correspondence and who hear this debate, that there is some kind of religious issue on the floor of the U.S. Senate.

Read the organizations, know of the support given by Catholics, outstanding Catholics, and all of those organizations.

In a minute I will yield here at the suggestion of the leadership of the bill and the leadership of the U.S. Senate.

The support for nonpublic education has been transmuted into resistance to civil rights. It is in support, if you please, Mr. Senator from New York, of civil rights for an education that we take this particular position. We are not in resistance to civil rights by not giving public moneys to private education. On the contrary, it is for the civil rights, and the only rights they have, and it has been proved that they are in the economic spectrum, the lowest end of it, and they do not have all of these moneys. So any time you refer to tuition tax credits, basic grants or voucher systems or anything else of that kind you are not talking about the group, the majority of that group and the entirety of that group because, for all intents and purposes, they are in the public school system.

We need one more thing, and that is financial support. Here instead of giving, as I alluded to a little while ago, the $128 per pupil assistance, we are going to come around not only to the $40—currently provided—with $750 added for a grand total of $790. The amount you will get from the U.S. Congress if you attend an academy, but if you go to Charleston High School you are going to get $128. Where is the justice in that?

I think it is just, as the Senator from New York has said, for these are good men and women, and if they feel that an issue of justice is involved nothing will hold them back. That does not state it any more eloquently than I can. I should say nothing can state it more eloquently than that statement of the Senator from New York.

So I hope that as we debate and move this along that we do not inject, which has not become involved, but it has been alluded to, and you get the writers and they put in a little squib, and then get 20 more editorials, and then the leadership of the magnificent church will come back again and say, "Well, now, really, in the national Congress if we can get rid of some of the Old South Senators, if we can get rid of religious bigots, if we can get rid of some of those who are against civil rights, then we can get this assistance."

The contrary is true. It is those interested in civil rights who are hopefully not being bigoted but, on the contrary, are trying to support the poor and needy and not involve the Government and church in the private schools, who are opposing this particular amendment.

Mr. President, I yield to the leadership, and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, let me speak briefly to the point the distinguished Senator from South Carolina has just made at some length, and, particularly, to the letter of mine which he has just read into the RECORD, as was his perfect right to do. It is not a private letter. It was sent to more than one person, certainly, and in that sense it is a published letter.

I certainly stand by what I said, and I appreciated the response early this afternoon of the Senator who also raised a question of whether there had been charges of any particular antireligious views, and I asked him if it was his judgment that I had made any such charge, and he said no, I had not, and indeed I had not.

I did say in my letter—and this is a subject about which I have been writing and, I would hope, studying for a quarter century as professor of government in various universities—that there was a background of religious fear and animosity as to this subject, and it is a very specific background, and it was in the latter part of the 19th century when the so-called Blaine amendments began to doctor State constitutions, and a parallel effort was made to amend the U.S. Constitution.

I think the Blaine amendment passed the one House or the other about 15 times. It never passed both Houses. But it, and the spirit that impelled it, have left a legacy which persists into our time. It is a legacy which you can see, perhaps, more clearly in the fact that this issue is not to be found in any other English-speaking democracy in the world. I said that it is not seen as an issue of justice at this point by good men and women who, if they saw it as an issue of justice, would respond, I thought. There have been other issues in our past that were not seen as issues of justice.

The Senator from South Carolina would acknowledge, I think, that there were good men and women in his State, as in mine, who a century ago did not see the issues of racial inequality as an issue of justice. The time came when they did. But I said that I thought that some of this persisted, and I referred, in particular, to a letter which was sent to all Senators in August 1978 by the National Coalition to Save Public Education and which was signed by pages of people.

I ask unanimous consent, Mr. President, to place an excerpt from that letter in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> In addition, aid to non-public schools carries with it the danger that public funds will be used to support sectarian purposes or ideological viewpoints in violation of the Constitution and American principles.

Mr. MOYNIHAN. I do this only to illustrate my meaning and not in any sense to describe any animus. I am trying, I was trying, to describe what I think is a legacy which, I would hope, slowly

> My point is that I have the greatest respect for you and the Catholic Church and I regret the difference between Senator Moynihan and myself on the point of it constituting a mortal sin for a Catholic child not to attend a Catholic school. The point was not necessary to the debate and as I stated certainly I am no authority on the Catholic religion. But I spoke accurately with respect to you.

That is referring to the bishop. Then I went on to state exactly why I was accurate:

> I am married to the former Rita Liddy of Charleston, whose grandfather Henry Molony was Chairman of the Building Committee for the Cathedral when your uncle William P. Russell was Bishop. My wife's mother is Mrs. Thomas J. Liddy of Charleston who grew up under Bishop William P. Russell and was his great admirer. It seems that the Liddy family had moved from the city to west of the Ashley and my wife Rita was in attendance at the public school across the river. As a young girl of 15 years of age, she was told by Father Croghan at Blessed Sacrament one day that it was a mortal sin for her and her sister not to attend the Catholic school. He warned that her parents if death should occur would go to hell. This shocked and frightened her so that she ran all the way from Blessed Sacrament to her home in the Crescent—quite a distance.

That is quite a distance—a mile and a half or 2 miles.

> After relating her experience to her parents, Mr. and Mrs. Liddy obtained an appointment with you at 114 Broad and you reaffirmed to the parents what my wife had been told. In fact, you told them they could not receive communion as a result and for over a year while they attended the church faithfully, they didn't receive communion. I must state here that I know of no more faithful Catholics than my wife and her mother. Her father died seven years ago. However, I spoke with Mrs. Liddy just a moment ago. She remembers you well and she remembers the truth of my statement.

Mr. President, the distinguished bishop replied and said:

> Since we must still remain friends I will not argue the point but only state that I have absolutely no recollection of ever having said that it was a mortal sin not to enroll children in a Catholic school.

The remainder of the letter is rather personal and very warm. I appreciate it and respect it, and I respect Bishop Russell. I also respect my mother-in-law and my memory, because this story had come out in the family, in the family discussions, long before Senator Hollings ever heard of tuition tax credits with respect to the Moynihan amendment or, now, basic opportunities grants, or, this time next year, a voucher plan—whatever the variety or style is.

It should be remembered that we did not refer lightly or casually to what we did in that particular debate. It did not emanate nor was it spawned nor did it come from any kind of Catholic feeling—bigotry, prejudice, or otherwise—because I reiterate: I went to church this Sunday, and if I had a choice, I would go right on over to Trinity—I have said that before—and hear Father Jim English.

Jim English's brother went up to New York. He worked on the OEO program, and he went up there with John Lindsay when he was mayor of the city of New York. He was a warm friend of mine and helped us when we first started the comprehensive health centers some years back.

The letter of the distinguished Senator from New York has been written about by Michael Novak, Norman Miller, and several editorialists.

So I now refer to the letter of the Senator from New York, subsequent to that debate, which is the reason why the reference was given, and an impression that I hope very dearly to correct on the floor of the U.S. Senate. This is dated August 24, 1978, and the Record will show that my distinguished colleague is now in the Chamber:

> Dear Bishop: As you will already have learned, we have now twice been defeated in the Senate on the issue of providing assistance of one kind or another to nonpublic schools and their students.
>
> On August 15, elementary and secondary tuition tax credits lost 40–57. (You may be interested to read the Senate floor debate on this subject, which was, to my knowledge, the first such in our history. I enclose herewith the relevant excerpts from the Congressional Record of August 11, 14 and 15. Last evening, a new Title XII to the Elementary and Secondary Education Act, "Nonpublic Educational Assistance," lost 30–60.
>
> These are decisive margins, and I would have to offer my judgment that the matter is behind us for this Congress and the next. We will have to return, as the schoolmen say, to basics.
>
> The basics are these. The institutions associated with social progress in American culture at this time are overwhelmingly against us in this issue. As time passed in the recent debate, their opposition became ever more vigorous and even vindictive.
>
> Foremost of these institutions, of course, was the Presidency. The administration was adamant and, on the edge vicious. (This in H.E.W., rather than the White House.) The great liberal unions, and churches, and political associations were equally opposed and equally energetic in their opposition. I enclose a letter from the National Coalition to Save Public Education, which suggests the range of these opponents. You will note the number of "civil rights" organizations involved. This marks a new development in the sad history of this issue. Support for nonpublic education has been transmuted into resistance to civil rights.
>
> My colleague Bob Packwood has ascribed the outcome to a familiar enough phenomenon: "religious bigotry." I would only wish this to be understood as a more complex interaction of ideology and interest than may have historically been the case. Our opposition, for example, was led by southern Senators and the better part of their rhetoric was, shall I say, familiar. But not the whole of it. As is not infrequently noted, a great change is coming over the Old South. But I dare to say that the nature of this change is not well understood as it affects an issue such as the one we raised. In brief (and, of course, in my opinion only) as regions formerly dominated by the politics of racial supremacy have become acculturated to northern liberalism, anti-Catholicism was the one antebellum trait, if you will, which they were permitted to retain. And why? Perhaps because as others, long before me, have observed, anti-Catholicism is one form of bigotry which liberalism curiously seems still to tolerate.
>
> This was painfully evident in my own party. The debate was not at all conducted on party lines. But as a Democrat I naturally looked to my own side of the aisle, not without some awareness that ours has been a party much identified over its long history with urban, Catholic communities. Moreover, although for some time now Democratic candidates and Democratic platforms have pledged to support tuition tax credits or some kindred form of aid. Democratic Senators voted against both measures by better than two to one margins. To do otherwise was to make it almost certain that one would be labeled anti-liberal, or worse. This was too great a risk.
>
> I offer as an example the charge that our schools—after the better part of two centuries educating the children of immigrant poor—were somehow depicted as segregated enclaves of the rich. A splendid editorial in the Washington Star, appearing just before the debate, stated: "Of all the attacks on the tuition tax credit proposal, the shabbiest is the insinuation that they are a sugar-coated scheme for promoting racial segregation in the schools." In the course of the debate, this charge became explicit. But not a single Democratic Senator, other than the sponsors, whose duty it was, rose to dispute the charge.
>
> This was not done out of hostility. To the contrary, I know the debate imposed anguished choices on dozens of Senators for whom I have the utmost respect. They voted as they felt the Constitution required. Even so, someone could have risen to say that while he was not going to vote for tuition tax credits, neither would he have our schools defamed. Perhaps they just don't feel an issue of justice is involved here. For, these are good men and women; if they feel that an issue of justice is involved, nothing will hold them back.
>
> What, as someone once said, is to be done?
>
> I offer a few thoughts. The first would be that the issue is probably closed for this Congress and the next. It is only in the context of a Presidential campaign and party platforms that the opposition we now face can reasonably be expected to change.
>
> Next I would suggest that I have been surprised to find that nonpublic educators seem to have such a weak relationship with public educators. Surely some dialogue is missing here. By many in the public sector the well-being of the two systems has come to be seen as a "zero sum game" in which the least assistance to the one is a great loss for the other, rather than as interdependent and mutually reinforcing elements of the national enterprise of education.
>
> But most importantly, I would suggest that a great mission of spiritual and intellectual persuasion will have to be mounted if the country is really going to change its mind about this issue. I suppose I have always felt this, as I tried to suggest in a commencement address at the College of Saint Rose last June. We do not know how to use the symbols of progress in American culture. Hence, by and large, they are denied to us, with the result that we continue to be seen in a profoundly important way as—alien.
>
> Nothing else, at least to my thinking, can explain the acceptance of the Supreme Court decisions in this area, which are an intellectual scandal. Nothing else can explain the ease with which contemporary legislators from the Deep South could so effortlessly brand neighborhood schools in the industrial North as having somehow become segregation academies.
>
> This is perhaps the last frontier of civil rights in this nation. We are the only English speaking nation in the world that still lives with this legacy of those far off Elizabethan tragedies. That we do is, not least, a scandal to christianity and surely worthy of our deep concern.
>
> Sincerely,
>
> Daniel Patrick Moynihan.

Of course, the bishop referred to this particular letter, and I have seen other bishops that refer to it. Incidentally, Mr. President, if I have to do it, I do not wish

The difficulty at that particular time was sustaining the hospital financially because those members of the faith were not coming into the maternity ward at that particular time on account of the edict of Health, Education, and Welfare, by the then Secretary, Mr. Celebrezze.

Some remember the distinguished mayor of Cleveland, now that the Senators want to come in on this particular subject. I was on his side. As a member of the Catholic hospital board, I debated this with him at that particular time and continued the funds.

I suggested and modified our practices within that hospital. I was there as a Protestant, holding it together when a lot of the board members were leaving.

I was supporting Mother Mary Charles. Heavens above, they think just because you come from the South you have not had any experience whatever.

In addition thereto, when I had been in office as Governor of the State of South Carolina only a month, the Bishop of South Carolina, John J. Hallinan, came to me and said:

> Governor, do you believe in burning out the nuns, the sisters? Do you think that is the thing to do?

I asked him what the case was and he described, in brief, whereby the sisters in Williamsburg County were going out and feeding the hungry poor. As a result of that activity, in the midday, they stopped and had lunch with a black family. Mind, now, this is back 20 years ago.

Having lunch with that black family brought the disapproval of the Klan. We had not cleaned up the Klan.

I am proud of the fact that they had probably around 15,000 to 18,000 members, give or take, in 1959 when I took office, and they had less than 150 when I left office.

On that particular day in 1959, members of the Klan had then followed the Catholic nuns to their home and then burnt a cross on the front lawn. The cross of flame had fallen on the porch and caught the home itself on fire. They escaped without injury, but it was a terrifying experience, obviously.

It took us some months. We found the particular culprits were constables to the magistrate down there. They were indicted and tried and found guilty.

So I had the occasion to have some experience, to make friends.

If the right reverend bishop were here, who later went on as the Bishop of Atlanta, and with the first ecumenical council he worked very closely drawing the paper in Rome at that particular time, he would be here testifying for me, I am confident.

But we had an exchange where Members of the U.S. Senate should forgive the personal reference.

I have had to make a judgment as to whether to leave it alone. We did it at the time because we did not want to refer to anything personally. But then it was challenged by a letter to me, and I answered that letter, and another letter was written to me by the bishop, with reference to the debate on tuition tax credits. Since, on balance, we want to make the record complete, I refer particularly to a letter dated September 13, 1978, from Bishop John J. Russell, the former Bishop of Charleston and Richmond. He said:

> DEAR SENATOR HOLLINGS: It has come to my attention that you made a statement in the Senate that I had declared "It is a *Mortal Sin* for Catholic parents not to send their children to a Catholic School."
>
> *I never made that statement.*

That was emphasized.

> Catholic parents have an obligation to see to the religious *instructions* of their children, but not necessarily in a Catholic School.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter and my answer and Bishop Russell's further answer to me.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

RICHMOND, VA.,
September 13, 1978.

Hon. ERNEST F. HOLLINGS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: It has come to my attention that you made a statement in the Senate that I had declared "It is a Mortal Sin for Catholic parents not to send their children to a Catholic School."

I never made that statement. Catholic parents have an obligation to see to the religious instructions of their children, but not necessarily in a Catholic School.

I feel that it is not just to deprive parents who send their children to a Catholic School of any financial assistance from the Government because:

(1) Our schools train future citizens.

(2) They observe State requirements regarding the number of pupils allowed in a class room, the qualifications for a principal and for a teacher.

(3) Parents must provide books, etc.

(4) Parents must provide transportation.

(5) Our schools are integrated.

Suppose there are two school children in a family—one attends public school and is conveyed by bus. The other must walk or parents provide transportation.

Please correct the assertion that I ever said that it is a Mortal Sin for parents not to send their children to a Catholic School because I never at any time made that statement.

Sincerely Yours,
Bishop JOHN J. RUSSELL,
Former Bishop of Charleston
and of Richmond.

SEPTEMBER 19, 1980.

The Most Reverend JOHN J. RUSSELL,
1503 Michael Road, Richmond, Va.

DEAR BISHOP RUSSELL: In acknowledging your letter of September 13, perhaps I should first identify myself as a Charleston friend who served at the end of your term as Bishop on the St. Francis Hospital Board under Bishops Rhea and Hallinan. Since the charge was made in the debate on tuition tax credits that the opposition came from religious bigotry, you should know that while not a member of your faith, none in religion have ever made a greater impression on me than Bishop Hallinan and Sister Anthony. I have written in my book about Bishop Hallinan and Sister Anthony and presently attend services with my wife at Trinity Catholic Church here in Washington under Father Jim English. My point is that I have the greatest respect for you and the Catholic Church and I regret the difference between Senator Moynihan and myself on the point of it constituting a mortal sin for a Catholic child not to attend a Catholic school. The point is not necessary to the debate and as I stated certainly I am no authority on the Catholic religion. But I spoke accurately with respect to you.

I am married to the former Rita Liddy of Charleston, whose grandfather Henry Molony was Chairman of the Building Committee for the Cathedral when your uncle William P. Russell was Bishop. My wife's mother is Mrs. Thomas J. Liddy of Charleston who grew up under Bishop William P. Russell and was his great admirer. It seems that the Liddy family had moved from the city to west of the Ashley and my wife Rita was in attendance at the public school across the river. As a young girl of 15 years of age, she was told by Father Croghan at Blessed Sacrament one day that it was a mortal sin for her and her sister not to attend the Catholic school. He warned that her parents if death should occur would go to hell. This shocked and frightened her so that she ran all the way from Blessed Sacrament to her home in the Crescent—quite a distance. After relating her experience to her parents, Mr. ànd Mrs. Liddy obtained an appointment with you at 114 Broad and you reaffirmed to the parents what my wife had been told. In fact, you told them they could not receive communion as a result and for over a year while they attended the church faithfully, they didn't receive communion. I must state here that I know of no more faithful Catholics than my wife and her mother. Her father died seven years ago. She remembers you well and she remembers the truth of my statement.

Respectfully,
ERNEST F. HOLLINGS.

RICHMOND, VA.,
September 25, 1978.

DEAR SENATOR HOLLINGS: Thank you for your letter of Sept. 19th. Since we must still remain friends I will not argue the point but only state that I have absolutely no recollection of ever having said that it was a mortal sin not to enroll children in a Catholic school.

I attended public school grades 1, 2 & 3 because there was no Catholic school near enough for a youngster—the grades 4–8 were in a school two miles from our home, & usually walked to & fro.

Please remember me to Mrs. Thomas Liddy and to your wife. I have very happy memories of the Molony's whom I visited in 1917–1918 very often.

Wishing for you and the whole dear family health, happiness and blessing, I am

Cordially yours in the Lord.
JOHN J. RUSSELL.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. RANDOLPH. Bishop Joseph H. Hodges is the bishop of all Catholics of the Diocese in West Virginia. The bishop is a welcome speaker on our campuses, at Davis and Elkins, at Salem, at Wesleyan and others. He is interested in Wheeling College, the Jesuit institution. But he is helpful in all the higher education institutions in West Virginia. He understands young people. He works with college students.

Mr. HOLLINGS. Mr. President, the distinguished Bishop John J. Russell, a friend of mine, asks:

> Please correct the assertion that I ever said that it is a Mortal Sin for parents not to send their children to a Catholic School because I never at any time made that statement.

I answered that letter on September 19, and it is now included in the RECORD. I pointed out, and this should be emphasized:

deal more needs to be done, particularly in the area of sustaining short-term gains. The administration's proposal for reauthorization of title I attempts to address the issue of long-term effectiveness in a number of ways.

Funds are targeted to the neediest districts to provide for summer school and later grade programs under the targeting provision.

Building on the evidence that individual parent involvement is important in the education of the child, the proposal would require the school district to consider ways of involving parents in home instruction of the child.

To focus attention on long-term and sustained effectiveness, the administration's proposal would require districts to conduct at least one 12-month evaluation during each 3-year period and to use the data from the evaluation in their consideration of changes in the programs. In the past, local districts were only asked to conduct school-year-long evaluations—consequently the school districts were not asked to consider more than short-term effectiveness. In addition, the administration's proposal would require school districts to consider in their applications ways of sustaining the effectiveness of the title I programs.

Finally, in title IV-C, for the first time the administration is asking for susbtantial dollars to explore effective ways of delivering title I services through demonstration programs at the local level. These demonstrations would explore effective strategies for delivering compensatory services in the summer, for working with parents, for services in junior and senior high school, for working with entire schools in settings where a large number of students are eligible for title I, and for other ways of providing programs that sustain title I gains.

Mr. HOLLINGS. Mr. President, I am hopeful that the Senator from New York will be coming along, because there are a couple of things I told him I would raise. I was looking for a letter that had been written to the bishops with respect to religious prejudice, with respect to the opposition of those who oppose the granting of funds, either by tuition tax credits or basic opportunity grants or vouchers, or any other financial scheme, that it did not constitute in any wise religious bigotry. But the issue has been raised and referred to a little earlier in the conversation. Now I have the record that I shall be glad to make pending the attendance of my colleague to the floor.

Mr. President, during the debate that we had with respect to this matter, the charge was made at that time by the Senator from Oregon (Mr. PACKWOOD) that the opposition to this movement of Senator MOYNIHAN'S—which is just that; it has been a movement over the years—is really a matter of religious prejudice in opposition and not opposition on the merits. I say categorically, with all the sincerity that I know, that I have worked on this particular measure for 2 to 3 years. I know the parties involved, I know the organizations involved. We listed them earlier—the National Coalition to Save Public Schools; I have listed the AFL-CIO, the League of Women Voters, the Congress of Jewish Women, and all the different organizations up and down the mainstream of American civil and political endeavor. At no time have I ever noted anybody saying, "Let us not give the aid because it would go to a Catholic institution."

We respect the church, we respect their institutions and admire their schools. The fact of the matter is, I have been characterized in news articles as having made a reference of what is said to be "intemperance" or "ignorance and insensitivity."

There was a news article that appeared in the Wall Street Journal in December of 1978, after that debate. It quite shocked me, because, yes, I am a Deep South, Old South Democratic Senator from South Carolina. The fact of the matter remains that while I was brought into the Lutheran Church—confirmed in that faith and have served on its executive council, I have served on the United Lutheran Church Board of Pensions, I say to the Senator from West Virginia; I have served on the executive council of the Lutheran Church of America and the board of adjudication for my church—I have also had the privilege of serving on various Catholic boards or entities.

When that writer, for example, was referring to me as an ignorant Deep South Senator, I could educate him, and I will, in this particular reference that I am going to make here, on the floor of the U.S. Senate, about the Catholic Church. I am not an authority on the Catholic Church, but I happen to know certain things.

Mr. RANDOLPH. Will my colleague yield?

Mr. HOLLINGS. Yes, I shall yield to the distinguished Senator from West Virginia.

I think this is very important to the Senate, to this body, that this particular issue be clarified, once and for all, relative to anti-Catholic bigotry, or feel, or prejudice, with relation to public moneys for church schools or private schools.

It does not exist in the Senate. It is a terrible mistake to allude to it. It has been not only alluded to, but editorialized and written about by Members of this particular body.

I now have that letter which I will refer to, but I am glad to yield to the Senator from West Virginia.

Mr. RANDOLPH. The college that is closest to my heart now and has been through the years is Salem College, at Salem, W. Va.

Members of a religious denomination brought that college into being. I hold membership in that denomination—The Seventh Day Baptist Church. There are approximately 55,000 members in the world, with about 5,500 members in the United States.

It does not matter whether it is a denomination of millions of members. It could be a denomination like the one I have referred to at Salem. It is not the size. It is the principle.

Mr. HOLLINGS. It is the principle.

Mr. RANDOLPH. The principle involved.

Mr. HOLLINGS. Right.

Mr. RANDOLPH. I have discussed this, with my good friend, Mr. HOLLINGS. It is important that we do not differentiate between a large university and a small college. It is the private, independent college and university to which the Senator from South Carolina addresses his remarks.

Mr. HOLLINGS. Right. I thank the distinguished Senator. That is quite true.

I think while the Senator from New York is on his way to the floor, and I intend to read his letter, I think I will complete the thought I had in mind with respect to affiliations and associations within the Catholic religion, that is why I can speak admiringly and lovingly, both.

I served with the predominantly Irish Catholic society, the Friendly Sons of St. Patrick, as their president, as a Protestant.

I do not believe I would ever have been chosen by the Catholics in my hometown, from the Protestant members of that society, as their president, if I had had anti-Catholic bigotry, as referred to in the article and other letters I received.

Mr. RANDOLPH. Will the Senator yield again?

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. There are perhaps 10 or 15 students of our faith now at Salem. The Catholic students are enrolled there by the hundreds.

Mr. HOLLINGS. Right.

Mr. RANDOLPH. And those of other denominations, Protestant in nature, are there and other students with no formal church relationship.

Mr. HOLLINGS. I appreciate the emphasis and the very cogent observation that the Senator from West Virginia makes.

We will reemphasize again and again, if we can, and we will, that there just is not that case of prejudice that is governing the votes on this particular measure. It is not in there.

I cannot say that in America that we do not have religious prejudice, or racial bigotry, or what have you. But, in the consideration and votes on this particular measure, I suppose I have been intimate in the handling of it, and listening to the sides of those who have spoken on the particular issue. The leadership of the church itself has said:

> Look, you have the right side of this issue, and the only reason you are denied public funds for your church schools is because of religious bigotry and prejudice within the United States Senate, and the Congress does a tremendous disservice to the facts at hand and to the Catholic Church itself.

They should understand otherwise. Again, I served at the request of the diocese in my own hometown for 7 years on the St. Francis Xavier infirmary, or hospital board. We had some very good dealings during those days. I had some connections at the time. We had integration.

These people talk like all these editorialist ought to go off to another school and let other people lead. They think no one has any wisdom, judgment, or experience whatsoever. But at that particular time, I was there. So, we get an intimate feel about these things, where they were integrating a hospital.

metropolitan districts in both the North and the South. A distinguishing characteristic of these classrooms was the stability of their title programs. Achievement in reading and mathematics was tested in the fall and spring for first and third graders—

> First graders made an average gain of 12 months in reading and 11 months in mathematics during the 7-month period between fall and spring testing and improved their percentile ranks in the two subjects by 12 and 10 points, respectively.
>
> Third graders gained 8 months in reading and 12 in mathematics. Their percentile gains in the two subjects were 7 and 15 points, respectively. (National Institute of Education, "The Effects of Services on Student Development," Sept. 30, 1977.)

A study sponsored by USOE and carried out by Educational Testing Service and the RMC Research Corp.—the "Study of Compensatory Reading Programs"—gathered data on the reading achievement of children in grades 2, 4, and 6 who were served by title I, another compensatory program, or by only the regular school program.

Six analytical techniques were employed. Five of them indicated that compensatory students tend to catch up with noncompensatory students between fall and spring. That is, compared with the test scores of students not given any special services, the compensatory students' reading scores rise over the course of the school year. The sixth analytic technique did not support the conclusion that compensatory students catch up with their peers, but this analysis did show that they gain in achievement to about the same extent as other students.

Stanford Research Institute recently collected and analyzed 283 State-level reports on title I produced during the years 1969–74. From pretest and posttest data over the school year, students' average monthly gains were calculated:

> The averages of the reported monthly gains are consistently near 1.1 month gain for each month in Title I. . . . In terms of the unofficial standard of success, which is a month's gain for a month in the program, Title I must be judged a significant success.

Third. Nature of children served: Findings on the achievement of title I participants must be interpreted in light of the achievement gains that would be expected for these children.

A study of title I participation conducted by Decima Research shows that—

> The group of students with the greatest proportion selected for Title I and other CE (compensatory education) is the economically and educationally disadvantaged. . . . The group with the next highest selection rates includes the educationally but not economically disadvantaged.

The ETS–RMC Study of Compensatory Reading Programs found:

> In schools that offer compensatory instruction in reading the most educationally needy students, as indexed by their depressed reading test scores, are the ones who receive compensatory assistance, with students in Title I supported projects being more needy than students in compensatory reading projects funded from other sources.

This information on participating students is important because students whose achievement is significantly below average would not ordinarily have the same rate of achievement growth as their peers.

Nationwide data in the Coleman report showed in 1966 that disadvantaged students fell increasingly farther behind their more advantaged peers in reading and mathematics.

A more recent study of the Elementary School Aid Act program indicated that children in minority isolated schools scored at decreasing percentile levels in reading in grades 3, 4, and 5.

As part of the SRI study of title I reading achievement the researchers calculated expected rates of growth for title I students. For each month of the school year, they concluded that title I students would be expected to gain less than 1 month in achievement—between 0.7 and 0.9 months.

Against this background, it is clear that results from title I programs are better than the gains that would be expected for participating children in the absence of such programs. If the children at least keep pace with their peers, in terms of percentiles, or make gains of more than 1 month for each month of the school year—and evidently they do—then title I is apparently having a beneficial effect during the school year.

Fourth. Long-term effects: While recent findings are encouraging, there is reason for concern about the long-term gains of children whom title I serves.

The ETS–RMC compensatory reading study found that compensatory students tend to rank at about the same percentile in the fall of grades 2, 4, and 6—that is, students selected for title I were apparently no closer in achievement to their peers as they reached later grades.

The meaning of this finding is somewhat equivocal because the study was cross-sectional, not longitudinal. Rather than following the same children over the years, it measured the achievement for each year's group of children. Thus the low achievement of sixth graders could indicate either that children whom title I serves do not make significant relative gains over the years, or that a new group of low-scoring children is selected for title I every 2 years—or both.

Considerable research indicates clearly, though, that low-achieving children tend to either drop or stay level in achievement during the summer, while higher achieving youngsters gain somewhat over the summer months. Therefore, even if a title I program results in fairly good gains during the school year, summer loss could leave the children at least as far behind as they were initially.

While cautioning that their analysis is somewhat speculative, SRI researchers present findings from statewide testing programs in California, Michigan, and New York—suggesting that title I gains are not sustained as students move through the grades.

Less clearly focused on title I, but relevant to consideration of the program's impact is the evidence from recent trends in nationwide test scores. Such broad-scale evidence has importance because title I is a national program, operating in 14,000 of the country's 16,000 school districts and now serving about 5 million children annually. Since the great majority of title I dollars is spent on grades 1 to 6, evidence from those grades is most relevant.

National assessment data on reading scores of 9-year-olds indicates that scores have gone up slightly in the past 5 years.

Metropolitan readiness test scores have risen for first graders, and the California Testing Bureau reports that national norming data show a rise in grades 2, 3, and 4.

Wiley, in a general survey of the "test score declines" presents other data indicating that scores in the early grades are up slightly over the past 10 years.

Test scores at higher grades, on the other hand, have been declining. These declines start at about the fifth grade and appear to increase through high school. The best known example of this phenomenon occurs in the case of the scholastic aptitude test—a decline in part explainable by changes in the college-going population, but probably at least partly due to changes in schools and society.

CONCLUSION

The evidence from title I may be summarized in the following way:

Title I serves low-scoring students in poverty areas—students who would not be expected to achieve at rates comparable to average students in middle-income areas.

Early short-term data indicated that title I was not effective in overcoming the decline in students' scores during the school year.

More recent data on the short-term effectiveness of title I indicate that during the school year title I students gain at a rate equivalent to the national average—1 month achievement growth per month in school.

Moreover, title I students in stable programs appear to gain at a substantially faster rate than the national average during the school year.

Data on longer term effectiveness, however, is less encouraging. Although the data are weak—mostly cross-sectional rather than longitudinal—they indicate that the title I students' gains during the school year are not sustained as the students progress to later grades. Part of this may be due to the summer dropoff in test scores found in a number of studies for title I students.

The data on national trends in test scores indicates that scores for children in the early grades have been improving over the last decade while scores in the later grades, from 5th through 12th, have been declining. Part of the reason for this difference in effects at different grades may be due to the fact that Head Start and title I have focused funds in the past and the present on preschool and primary school aged children. Though this would not account for the dropoff in the later grades it is possible that a uniform dropoff which included the early grades would have occurred in the absence of title I and Head Start.

Our general conclusion is that title I has improved in effectiveness but a great pected award. After aggregating the expected monthly awards for all students enrolled, the institution requests from ED an amount of cash sufficient to cover BEOG payments for that month. Then the school reecives a cash allotment from ED and disburses BEOG payments to the student.

The RDS permits the institution to receive BEOG allotments in advance of when the money will actually be used for the students' education. This gives the schools a guaranteed source of payments which can be credited to the students' accounts. Accepting the responsibility for BEOG's disbursal through the RDS system can facilitate the institution's packaging of various types of Federal, State, and institutional financial aid. Finally, because BEOG allocations are received in advance of when they actually are used for tuition payments, institutions have been able to earn interest on them.

For students enrolled in institutions which do not wish to act as BEOG disbursing agents, the alternative disbursing system (ADS) is available. Under this system, the student must fill out a second form—separate from the general BEOG application—and submit it to the institution for verification of citizenship, enrollment status, and so forth. The student then submits this application to the BEOG processor, after which payments are mailed directly to the student. The main advantage, to the institution, of using the ADS is that it is simpler and less expensive to administer. Currently only about 20,000 of 2.7 million BEOG recipients are processed through the ADS.

INSTITUTIONAL REQUIREMENTS UNDER EITHER SYSTEM

In order for its students to receive assistance through the basic grant program, an institution must sign an "Agreement Covering Institution Participation in Programs of Student Financial Assistance."

Under this agreement:

First. The institution agrees to comply with the provisions of the Higher Education Act relating to basic grants, including the "General Provisions" of HEA title IV, and with any regulations relating to these provisions any regulations implementing those provisions.

The "General Provisions" include requirements that participating institutions provide institutional and financial assistance information to prospective and enrolled students who request it, and that they adhere to reasonable standards of financial responsibility and institutional capability to administer the student aid programs.

Second. The institution agrees to comply with title VI of the Civil Rights Act of 1964, as amended; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975, and with the regulations implementing these laws.

Third. The institutions agrees to determine whether individual student applicants are eligible to receive BEOG's[*] and to have on file, for each BEOG recipient, an executed "Affidavit of Educational Purposes."

Requirements under the alternative disbursement system: Although the institution does not act as a disbursing agent under the ADS, it is responsible for certifying an applicant's eligibility for basic grants and for maintaining records as required by regulation. Under the ADS, the student, after completing a basic grant application and receiving an eligibility report, must fill out a second application—OE form 304—and submit it to his or her institution. The institution must then complete the application and return it to the student, who forwards it to the basic grants prime contractor.

The information which must be supplied by the institution includes:

The institution's academic calendar (semester, trimester, quarter, or clock-hour), with additional information required for clock-hour and term-based institutions;

If the student has transferred to that institution during the previous year, the date of transfer and the institution from which the transfer was made;

Termination date and hours completed if the student has terminated enrollment during the previous year; and

The tuition, fees, room and board cost incurred by the student. Finally the institution must certify that the student is eligible to receive a basic grant and that he or she is making satisfactory academic progress. Also under the ADS, the institution must keep records for each basic grant recipient's enrollment status and attendance costs. These records must be available for examination by ED and the GAO. In the past, the Department has run program reviews of ADS institutions to insure that eligibility requirements are being observed.

Requirements under the regular disbursement system: Institution participating in RDS face the same administrative requirements as those under the ADS. In addition, because they serve as direct recipients of Government funds, other protections are required.

The first requirement is that the institution must determine the student's eligibility to receive a BEOG. In addition to certifying compliance with the basic eligibility requirements (citizenship, enrollment in good standing, satisfactory progress, et cetera), the institution must calculate the student's expected award, based on his or her student eligibility report (SER), attendance status, and the cost of education at the school. The institution then requests from ED (using the monthly cash request form) an allotment of cash sufficient to cover BEOG payments for that month. From the allotment the institution distributes BEOG payments to the students (either by check or by credit to the student's account).

Each year the ED requires validation of selected data elements in a sample of SERs. The department may require the institution to verify certain data elements or to withhold payment of a BEOG until the SER has been validated.

In participating in the RDS, the institution must adhere to strict fiscal control and fund accounting procedures. Records must be maintained of the enrollment status of all recipients and of all payments made. In addition, two types of institutional reports to ED are required:

The progress report, submitted three times a year, assesses current expenditures in order to determine if the institution's authorization should be raised or lowered.

The student validation poster, an end-of-the-year report, reconciles fiscal accounts and gives a per student reporting of expenditures. Institutions in the RDS are subject to audit by ED and GAO. In addition, each such institution must submit an audit of its basic grants operation (completed in accordance with the HEW "Audit Guide") at least once every 2 years.

EFFECTIVENESS OF TITLE I

First. Past evaluations. Early evaluations of title I program effectiveness painted a discouraging picture. Although there was evidence that particular programs were effective for 1 year, it generally turned out that the same programs were less effective the next year. In addition, national surveys of title I suggested that title I programs, on the average, were no more or less effective than conventional classroom instruction.

The so-called TEMPO study, carried out by the TEMPO Division of General Electric in 1967, examined student achievement in 14 districts receiving title I funds. The study discovered no significant gains in student achievement as compared with the gains students made in the previous year (without title I). However, this study's methods were badly flawed, for instance in using classroom average achievement rather than focusing on the achievement of the children who actually participated in title I services.

In each of the next 2 years there was a survey of title I programs. While the data were too sketchy to permit good nationwide generalizations, the results were again discouraging. Title I participants started out the school year behind their peers in reading achievement, and they did not catch up during the year. The 1969 survey suggested, in fact, that participating students fell farther behind during the year: while their classmates gained an average of at least one grade equivalent, they gained less than one grade equivalent.

Second. Recent evaluations. More recent data indicate that children participating in title I programs make achievement gains during the school year, and that these gains are greater than would be expected for these children without title I programs.

In NIE's congressionally mandated study of title instruction, achievement-test results were gathered for a sample of 400 classrooms. While not a random sample, these classrooms included a range of income levels and ethnic composition; they were in urban, rural, and

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[*] In order to be eligible for a BEOG, a student must be a U.S. citizen (or a resident of the United States for other than temporary purposes, as evidence by an I-151 visa), must be enrolled at least half-time, must be making satisfactory progress in his or her course of study, and must demonstrate financial need by means of the BEOGs application.

Title VI of the Civil Rights Act of 1964 as amended, prohibiting discrimination on the basis of religion or national origin;

Title IX of the Education Amendments of 1972, prohibiting discrimination on the basis of sex;

Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination against the handicapped; and,

The Age Discrimination Act of 1975.

Presently these statutes are not being enforced with respect to private elementary and secondary schools.

CONSTITUTIONALITY

I will speak to this issue in more detail later in my remarks, but now, for the purpose of the governance issue and the relationship between the Federal Government and private elementary and secondary schools. Essentially this breaks down to two questions for us to consider: Will Federal involvement in private education under the BEOG's extension amendment proposed by Mr. MOYNIHAN be an "excessive entanglement of religion" that the courts would find unconstitutional? It is my strong conviction that the U.S. Supreme Court would so rule. However, in the alternative, even if the program is constitutional, would the institutional requirements under the BEOG's extension be so onerous and repugnant that, when measured against the amount of student assistance to be gained, institutions would not find it worthwhile to participate?

I view these four issues as the immediate governance issues that would arise should Senator MOYNIHAN's proposed extension of the BEOG's program to students attending private elementary and secondary schools be enacted. In addition there are long term governance issues that should be considered. I believe it is safe to say that there would be inexorable pressure for further regulatory measures. This prediction on my part is based on the recent history of education voucher plans and experience with other plans to maximize parental choice. Briefly, two lessons have been learned from these efforts. First, it is all too easy for such plans to perpetuate and exacerbate isolation for students by race or economic class. To avoid this result, specific measures are essential to insure that the disadvantaged have a meaningful choice. In addition, standards and other accountability measures are necessary to protect the public investment and guarantee at least minimum levels of quality in participating schools. The proposal developed by John Coons and Stephen Sugarman to introduce an education voucher system in California contains several such measures:

Students would be protected from discrimination on the basis of race, sex, or religion;

Schools could not discriminate unlawfully in hiring;

The legislature would be required to enact uniform standards of due process with respect to discipline and dismissal;

Schools would be subject to financial disclosures and disclosures relating to the qualifications of staff; and,

A system for providing information would be established, with schools subject to termination of certification if they do not cooperate or provide inadequate, misleading, or inaccurate information.

These measures could well lead to a fairly complicated relationship between the Government and private schools—a prospect which has led previous enthusiasts of such plans to reconsider their position.

TABLE 1.—CBO ESTIMATED FISCAL YEAR 1982 DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY GRADE LEVEL

	Total private enrollment (1978 CPS)	Baby BEOGS recipients	Average awards	Total awards
Elementary	3, 233, 000	224, 000	$274	$61m
High school	1, 244, 000	184, 000	477	88m
Total	4, 477, 000	408, 000	366	149m

TABLE 2.—DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY FAMILY INCOME, FISCAL YEAR 1982 (CBO PROJECTIONS)

Family income[1]	Number of recipients	Total awards
0 to $5,000	316, 000	$116. 3m
$5,000 to $15,000	53, 000	18. 7m
$15,000 to $30,000	35, 000	12. 7m
$30,000 and over	3, 000	1. 1m
Total	408, 000	148. 9m

[1] Family income is defined by CBO as adjusted gross income and does not include nontaxable transfer payments (e.g., welfare benefits). However, since such payments generally are included in family income tables published by the Census Bureau, data included here are not strictly comparable with published census tables.

TABLE 3.—DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY RACE, FISCAL YEAR 1980 (CBO PROJECTIONS)

Race	Number of recipients	Total
White	338, 000	$125m
Black	59, 000	20m
Other	10, 000	4m
Total	408, 000	149m

TABLE 4.—CBO PROJECTIONS OF COST AND NUMBER OF RECIPIENTS FOR CURRENT AND ALTERNATIVE PROPOSALS FOR GRANTS UNDER THE BEOG EXTENSION AMENDMENT IN FISCAL YEAR 1982

	Recipients (thousands)	Millions	Average award
Current Baby BEOG's Proposal			
Maximum BEOG = $1,900: Percentage of cost that can be covered by BEOG = 50 percent; Minimum Baby BEOG = $100	408	$149	$366
Option 1: Double Private School Tuition			
Indicates impact on Baby BEOGs program if private schools double tuition	823	449	639
Option 2: Delete "Cost-EFC" Constraint			
Same as current except that provision that a BEOG cannot exceed a student's cost of attendance minus expected family contribution is deleted	1, 047	371	354
Option 3: Add Living Cost for Private School Students			
"Cost of attendance" is amended to include $1,500 per student for living expenses. (Program still restricted to private school student)	1, 047	810	773
Option 4: Add Living Costs for Public School Students			
Same parameters as 3 except that public school students are made eligible for Baby BEOGs. (Cost estimates are for living costs of public school students only)	9, 246	5, 579	602

TABLE 5.—DISTRIBUTION OF DOLLARS BY INCOME CATEGORY FOR CURRENT AND ALTERNATIVE PROPOSALS FOR GRANTS UNDER THE BEOG EXTENSION AMENDMENT (CBO PROJECTIONS), FISCAL YEAR 1982

	Family income (percentage)			
	$0– $4, 999	$5, 000– $14, 999	$15, 000– $24, 999	$25, 000 +
Current Baby BEOG's proposal	78	13	6	3
Option 1: Double private school tuition	60	23	10	7
Option 2: Delete "cost-EFC" provision	39	33	17	11
Option 3: Add living costs for private school students	48	32	13	7
Option 4: Add living costs for public school students	62	31	6	1

GOVERNANCE ISSUES-RELATIONSHIP BETWEEN PRIVATE SCHOOLS AND THE FEDERAL GOVERNMENT

Mr. HOLLINGS. Extension of basic grants eligibility to students in private elementary and secondary schools would raise governance issues not relevant to alternative means of aiding private education. Under either of the two systems now used for disbursal of BEOG funds—the regular disbursement system and the alternative disbursement system—institutions must maintain administrative and recordkeeping systems acceptable to the Federal Government and they must abide by Federal civil rights and nondiscrimination requirements. Thus the following issues are raised:

Will Federal involvement in private education under baby BEOG's be an "excessive entanglement in religion," which would eventually be ruled unconstitutional in the courts?

Even if constitutional, would the institutional requirements be so onerous that, when measured against the amount of student assistance to be gained from baby BEOG's, it would not be worth it to the institutions to participate?

A discussion of the two disbursement systems follows.

DESCRIPTION OF RDS AND ADS

Under the regular disbursement systems (RDS) the institution acts as disbursing agent for the Government. In this role, the school's financial aid administrator calculates each student's ex-ness as this raid on the Treasury for the benefit of private elementary and secondary school students escalates.

For instance, a liberalization of the half-cost and maximum grant limitations could increase the cost of this grant program significantly. Presently the cost of BEOG's is constrained by the $1,800 maximum grant and by the provision that a BEOG cannot be for more than one-half the cost of attendance (with cost of attendance, in the case of the BEOG's extension amendment offered by Senator Moynihan, defined as tuition and required fees). Legislation presently pending would liberalize these limitations. Assuming that the provisions of the eventual higher education reauthorization bill will fall somewhere between the House and Senate versions, and assuming that money is appropriated to fund these liberalizations, there will be substantial growth in the cost of BEOG's, but the exact figure is impossible to predict at this time.

Another legislative initiative that might be forthcoming would be an effort to remove the "Cost of Attendance minus Expected Family Contribution" constrain. For instance, under the terms of the Higher Education Act, a student's BEOG cannot exceed the difference between the expected family contribution for that student and the cost of attendance at the institution where the studen is enrolled. While this provision has little effect on the operation of the program at the postsecondary level, in private elementary and secondary education—where tuition levels are low and living expenses would not be included in the cost of attendance—it would serve, at many schools, to eliminate all but the poorest students from eligibility. Deleting the provision would, perhaps, be philosophically difficult—it does not make much sense to have students receive grants which, when combined with their family contributions, are in excess of costs—but such an amendment might be irresistible if the intent is to aid moderate and lower middle income students at low-cost schools.

The impact of making this change would be to increase the number of recipients from 408,000 to 1.05 million and to raise the cost of the program from $149 to $371 million (see table 4, option 2). This provision would also triple the percent of dollars for students from families with incomes above $5,000—reducing the focus on the lowest incomes families (refer to table 5).

Another for instance, and predictable legislative initiative, would be to include living expenses in the "cost of attendance." In the existing basic grants program. the "cost of attendance" includes not only tuition and fees, but also charges for room and board, or expenses related to commuting, books, and other expenses. Under Senator Moynihan's proposed amendment, the cost of attendance would not include living expenses, and perhaps one reason for this is so that the issue of extending his amendment, if enacted, to cover students attending public schools would not be raised.

Living costs could be included by using the actual room and board charges for boarding schools and permitting students who live at home to count the BEOG's "commuter allowance"—now set at $1,500 for the post-secondary program—in figuring their cost of attendance. This would put the need calculations in Senator Moynihan's proposal on the same basis as those in the post-secondary program, and—assuming $1,500 living expenses per student—would cost an additional $661 million (table 4, option 3). This would also result in a much larger share of benefits being directed toward students from higher income families (table 5).

Another possibility for legislative consideration should this amendment be enacted is the possibility of making public school students eligible under this scheme. If living costs are included in the cost of attendance under Senator Moynihan's proposal it would necessarily lead to demands that public school students also be made eligible for assistance, since their living costs are as real as those of students in the private sector. The cost of bringing public school students into the program—assuming $1,500 per student for living expenses but no tuition or fees—would be about $5.6 billion in fiscal year 1981 (table 4, option 4). Pressure to include public schools as eligible institutions could arise even in the absence of provisions to cover living costs. For example, the extended BEOG's program could be used for special public school assessments, such as tuition paid to a school district where the student is enrolled but is not a resident. Moreover, making public schools eligible would create a powerful incentive for public school systems to charge tuition in order to capture additional Federal dollars.

Although such policies would face State constitutional barriers, any successful move to impose tuition in the public schools could drastically increase the cost of this program as proposed by Mr. Moynihan. Indeed, it is possible to envision schemes by which States could shift a major portion of education funding to the Federal Government. I have served as Governor of my State and I know first-hand the pressures to reach out for Federal dollars. If all it would take to obtain such funds would be an amendment to a State's constitution then believe you me that is not a long-shot possibility at all. Of course the cost of this change, should it take place, would be truly astronomical.

Another significant reason for opposing Senator Moynihan's BEOG's extension to students attending private elementary and secondary schools is the governance issue and the relationship between the Federal Government and private elementary and secondary schools. This BEOG amendment has been proposed as a simple means of providing need-based assistance to private school students with only minimal Federal intrusion into the affairs of private schools. On the face of it, the legislation might appear to accomplish this goal, because BEOG is a student (rather than institutional) assistance program, institutions would be exempt from Federal regulations and requirements. But such a conclusion would ignore the realities of the BEOG program as it is now set in law and regulation and the kinds of concerns that could lead to additional regulation of participating schools.

APPLICATION OF THE BEOG PROGRAM TO STUDENTS ATTENDING PRIVATE ELEMENTARY AND SECONDARY SCHOOLS: PROBLEMS OF GOVERNANCE OF THE PROGRAM BETWEEN THE FEDERAL GOVERNMENT AND THE PRIVATE SCHOOLS

Mr. President, I have asked the Department of Education to prepare a detailed explanation of the administration of BEOG's—including institutional requirements. I ask unanimous consent to have that information printed in the Record at this point. Briefly, to summarize, most institutions participating in BEOG's now use the regular disbursement system (RDS), under which they act as disbursing agents for the Government and must adhere to strict administrative controls. A small minority of institutions in the current program do not participate in the RDS. Their students must apply for basic grants through the alternative disbursement system (ADS). Though institutions in the ADS do not directly receive Federal funds, they must still agree to abide by Federal civil rights requirements, to maintain records of enrollment status and attendance costs for all BEOG recipients, and (like institutions in the RDS) to make these records available to Federal auditors. With this information in mind, existing requirements for institutional participation in the BEOG program (under either the ADS or RDS system) raise four problem areas with respect to the amendment now before us extending BEOG's to elementary and secondary school students attending private schools.

PAPERWORK AND OTHER ADMINISTRATIVE REQUIREMENTS

Because private elementary and secondary schools have little experience with student aid programs, they will not have in place the structure needed to administer BEOG's. Institutions in the program are required to complete or validate several forms: The Agreement Covering Institutional Participation in Programs of Student Financial Assistance, the Student Eligibility Report, the Affidavit of Educational Purpose, et cetera. Institutions in the RDS have several other reports to complete and requirements to meet. All institutions must observe administrative and recordkeeping requirements as set forth in regulations.

FEDERAL AUDITS AND PROGRAM REVIEWS

Institutions in the RDS must assist in Education Department (ED) validations of selected student eligibility reports and are subject to Federal audit of their fiscal control and fund accounting procedures. Schools in the ADS do not handle Federal funds, but they are still subject to ED review of their records on student enrollments, costs incurred, and program eligibility. The BEOG's extension would be the first program under which private elementary and secondary schools would be subject to Federal audits and reviews.

CIVIL RIGHTS

All institutions (whether RDS or ADS) must agree to comply with the following laws and their implementing regulations:

> Title I produced about 70 cents of additional spending for each dollar of grants to LEAs.

On another front, Federal civil rights policies, backed by program funds for the emergency school aid program, have had notable success in desegregating public schools, particularly in the South, where the largest number of black students attend schools:

> Between 1968 and 1976, the percentage of Southern black children enrolled in predominately minority schools (i.e., where black children comprised over 90 percent of enrollment) dropped from 70 percent to 23 percent.
>
> Equally important is the fact that during this same brief period the percentage of minority children attending schools where whites comprised more than half of the total enrollment rose from 21 percent to 44 percent.

Finally, evidence of improvement in the educational performance of black students from the National Assessment for Educational Progress includes the following facts of interest:

> Between 1971 and 1975, the average percentage of black 9 year olds answering reading items correctly increased 4.8 percentage points, while the average reading performance of white 9 year olds increased by 1.2 percentage points.
>
> In the Southeast, the gap between black and white 9 years olds' reading performance narrowed, with blacks gaining 7.7 percentage points from 1971 to 1975.

These statistics are not meant to say that the Federal programs are without problems, or that the need for them has diminished. Indeed, this is an especially inopportune time to embark on a course that could in any way jeopardize the ability of the Federal Government to reach and serve the Nation's neediest students.

COST: INITIAL IMPACT OF SENATOR MOYNIHAN'S AMENDMENT

As previously indicated, the Federal Government currently provides a significant amount of assistance to elementary and secondary school students, both public and private, on a need basis which targets dollars for specific purposes. What then would be the initial cost impact under this special grant for private elementary and secondary students?

The Congressional Budget Office estimates that in 1982, $149 million would be distributed under the proposed amendment to 408,000 private elementary and secondary students, at an average amount of $366 (table 1). Although the price tag on this proposal is considerably less than the nearly $1.8 billion CBO placed on the tuition tax credit proposal offered in 1978, it, nevertheless, at $149 million initially and I must emphasize initially, would be among the 10 largest Federal programs for elementary and secondary education.

For the record, and according to the model CBO put together to analyze this amendment, funds would be distributed among grade level, family income and race classifications in the following manner. Grade Level: Despite the fact that only about 28 percent of the Nation's private school children are in high school grades, such children would garner $87 million out of the total $149 million, or 59 percent of the total. Awards for high school students would average $477 compared with an average of $274 for elementary and secondary recipients. Family income: Because awards are based on a needs analysis that takes into account family income and assets, grants provided under this amendment would be heavily targeted on children from the lowest income families (table 2). About 77 percent of the total, 316,000 out of 408,000 recipients, would be from families with incomes below $5,000 and their awards would total over $116 million. Race: Black students would receive about $20 million, or 13 percent of the total grants available under the amendment. Given that black children represent only 6 percent of private school students, this figure may seem high. However, it simply reflects the racial composition of students from low income families, and blacks tend to be overrepresented in this category. By way of comparison, black students constitute 25 percent of the participants in title I, ESEA (grants for the disadvantaged).

Finally, the 408,000 or so students CBO estimates will participate if this amendment is enacted comprise under 1 percent of the total elementary and secondary school population in this country. For this 1 percent we are now prepared to earmark, at a minimum, $149 million.

And, let me point out, since this amendment does not carry a provision authorizing funding separate and apart from the authorization for postsecondary BEOG's, the cost would come at the direct expense of BEOG's funding for college and university students. In this year of particularly tight funding for all Federal programs, Mr. MOYNIHAN would have the Congress initiate a program of dubious merit and unquestionably unconstitutional that would take money directly from the postsecondary program most beneficial to needy students in pursuing their college education.

INCENTIVES FOR GROWTH IN THE COST OF SENATOR MOYNIHAN'S AMENDMENT

As this information begins to sink in my reason for emphasizing the "initial" cost impact becomes more obvious. This amendment is the classic, penultimate, quintessential, if you will, "foot-in-the-door" legislation. Although it would only offer limited assistance to a relatively small number of students, it would establish a precedent for comprehensive Federal assistance to private education. That is the goal here. And what is more it uses the poor as a shield to accomplish that goal. What unfortunate irony. The poor used to initiate a program that will ultimately doom them to reduced educational opportunities and rob them of the tools to build a place for themselves as the system of public education disintegrates.

Initially one of the first responses after the enactment of this amendment would be a change in private school tuition. Our experience with numerous Federal programs has shown one thing if it has shown anything, the availability of public funds can cause people and institutions to change their behavior. What we have here is massive behavioral modification at work and increased cost to the Federal Treasury is the predictable result.

Private schools would raise tuitions for several reasons, among these: To enable students to qualify for the grants (in schools where tuitions are less than $200, the half-cost rule would make it impossible to meet the minimum grant level); to capture additional revenues (without raising actual costs to families since rebates, scholarships, et cetera, would be contemplated); and, to shift the burden of subsidizing the education of low-income students to the Federal Government (that is, tuition breaks for poor students would be initiated in tandem with the grant program).

Private schools could raise tuition in several ways. For example, a school could increase tuition for all students and then use its increased grant revenue under this proposed amendment to refund tuition (or provide scholarships) to students not receiving grants. Alternatively a school could put into effect differential pricing policies under which only grant recipients would be hit by tuition increases. Such tuition increase schemes are literally only limited by the imagination of the principal of the private school.

As one example of what might happen under such a scenario, CBO simulated the effect on this new BEOG's program if private schools immediately doubled their tuitions. The results show that program costs would triple (from $149 million to $449 million), 415,000 more students would receive grants, and the average grant would rise from $366 to $639 (table 4, option 1). In addition, doubling tuition would have the effect of increasing the share of benefits going to students from families with incomes above $5,000 (table 5, option 1), from 23 to 40 percent.

Change in tuition is only the most predictable response to the passage of this amendment. With the precedent established it does not take too much imagination to visualize that pressure will begin to build immediately for legislative amendments that would bring students from moderate- middle-income families into the program.

They are left out almost entirely under the proposal by Mr. MOYNIHAN, but you can rest assured that the crowd that tried to pass off the budget busting tuition tax credit proposal on us a couple of years ago is not going to stand still with a program which would serve only 10 percent, or so at best, of the private elementary and secondary school students. It would be their natural inclination to then line up with a list of legislative changes designed to make their newly enacted elementary and secondary school grant program broader and more inclusive of private school students.

And, we must remember the BEOG's program has been developed and is tailored for college level students so this will in turn lead to an "arguable need" to amend the BEOG's program in order to make it more responsive to the new need it must begin to serve. Legislative changes will be the next order of busimust abide by congressional laws and court decisions which the private school can ignore.

The public school is bound by both law and conscience to reach out to every child as a matter of his or her birthright. That is what public education is all about. The record compiled by our public schools as they educate 90 percent of our youngsters, expand equal opportunity, and provide every American child the chance for a better future is very impressive. Public schools have led the way in making our Nation truly a land of opportunity, equal opportunity, for all.

There are several aspects of Senator Moynihan's proposal to extend BEOG's to students attending private elementary and secondary schools and its relationship to the concept of equal educational opportunity that I find troubling and which provide ample reason to reject this amendment. Consider the concept of access of private schools. The major goal of the Federal Government's very limited involvement in elementary and secondary education is to improve educational opportunities for low income, minority, and other disadvantaged students. Thus, it is important to ask, to what extent does Senator Moynihan's amendment promote this goal.

Available data, the 1978 October supplement to the current population survey—which are not strictly comparable with data mentioned previously in my remarks because the census definition of family income is different, but entirely useful for the comments that follow—on private school enrollments document the fact that low income and minority students—particularly blacks—currently are under-represented in private elementary and secondary education. Consider the data:

Only 4 percent of students from families with incomes below $7500 attend private schools, compared with a national attendance rate of 10.2 percent. In contrast, about 28 percent of students from families with incomes of $50,000 or more attend private schools.

As a result of low private school attendance rates on the part of low income students, such students account for only 3 percent of private school enrollments, even though they represent 8 percent of public school enrollments.

Minority students also are much less likely to attend private schools. The private attendance rate among black students was only 4 percent compared with 11 percent for white students.

Hence, black students represent about 6 percent of private enrollments, although they are 15 percent of public school enrollments.

Because the benefits of the BEOG's extension would be almost exclusively targeted on students from the poorest families, the BEOG's extension proposed by this amendment might, at first glance, seem to promise much in the way of improving educational opportunities for these students. Without doubt, the BEOG's extension would offer some relief to the families of low income students who presently attend private schools. However this is a hauntingly hollow truth. It is very unlikely that the BEOG's extension would do much to increase the availability of a private education for disadvantaged students.

First, because it would only cover one-half of tuition fees, families for who any costs represent a barrier would remain unable to take advantage of the extension. In addition, the poorest students would have a limited range of choice within the private education sector—namely they would be unable to afford higher cost private schools.

It is also doubtful that private schools could accommodate a large increase in the number of low-income students. For example, many private schools—especially elementary schools—are heavily subsidized from churches or other sources. Such schools would either have a limit expansion to a level that could be financed with the current mix of subsidy and tuition, or raise tuitions to cover a larger share of actual cost, thus limiting the ability of the BEOGs extension to make private schools more affordable.

Finally, there are other barriers than money which keep private attendance rates low among disadvantaged students—barriers that Senator Moynihan's BEOGs extension amendment would do little or nothing to surmount:

Selectivity: Private schools, unlike public schools, have wide latitude to be selective with respect to the students they admit and retain in ways which undoubtedly help explain the under representation in private schools of low income, minority, and other disadvantaged students. For example, most private schools are affiliated with a particular religious institution and either exclusively serve or give preference to the children of church members.

Selection on the basis of academic performance or taking into account disciplinary history can also limit the participation of disadvantaged students.

Finally, private schools are not likely to select students who need services other than the curriculum that is in place. Since few private schools offer much in the way of remedial education, special education for handicapped students, or vocational training, they are limited in the extent to which they can adequately serve special-need students. The public schools, as I pointed out earlier, are just the opposite. The doors of the public school are open wide so children with differing talents, abilities, dispositions, and so forth, may step forward, enter and claim their birthright of equal educational opportunity.

Information: Because they are not currently attending private schools, often are not members of a church which supports a school, and may not live near private schools, parents of disadvantaged students may not have access to information with which to evaluate the desirability of private schools for their children.

When considering the limitations of the BEOGs extension amendment to remove barriers to equal educational opportunity it is important to remember that experience has taught those concerned with educational opportunity for disadvantaged students to be wary of parent choice schemes. It is all too easy for such schemes to perpetuate and exacerbate the economic and racial isolation of students. Thus courts have repeatedly struck down so-called "freedom of choice" plans implemented in the South as public schools were being forced to desegerate.

Even those most in favor of reforms that would maximize parental choice recognize that a number of specific measures to reduce the above mentioned barriers are essential if such reforms are to provide meaningful opportunities for choice on the part of the disadvantaged. It is my considered opinion that no such measures have been included in the BEOGs extension amendment that Senator Moynihan has proposed.

Given the limited Federal role in assisting elementary and secondary school students it is important to investigate the impact the BEOGs extension amendment would have on current Federal programs to aid disadvantaged students. As I have previously mentioned, the BEOGs extension represents a dramatic departure from current Federal strategies to aid disadvantaged students in elementary and secondary schools. It is important to note again, that current Federal programs generally fund only the excess cost of providing special services to needy students regardless of whether they attend public or private schools. In contrast, however, the BEOG extension proposal would go into the general coffers of private schools only, perhaps easing the financial burdens of such schools, but buying very little, in my opinion, in the way of additional services for special need students.

We have discussed the great potential the BEOGs expansion proposal has for further expansion after enactment. This expansion could well be at the expense of the disadvantaged. If the type of coverage provided under the BEOGs extension proposal were to become available to middle income families, it is likely that they would provide a greater incentive for increases in private school enrollment, making it easier for private schools to be selective wth respect to their student body.

Thus, the students with the greatest problems would remain in the public system, which must serve all comers, perhaps more isolated than at present. Moreover, rising appropriations for the BEOGs extension proposal, should it be enacted, could well be at the expense of existing programs, on which the disadvantaged students in public schools would be forced to rely for aid.

Embarking on a course that could jeopardize the ability of current Federal programs to aid the disadvantaged seems particularly ill-advised in view of recent evidence that Federal programs are doing much to focus attention, services, and resources on the disadvantaged, and to affect student performance. In amplifying on this, for example, I would like to cite recent evaluations of title I, ESEA, the largest and oldest of Federal programs to aid the disadvantaged, which have yielded some encouraging findings:

Title I students are making far greater educational gains than could be expected without the program.

Based on research conducted by Martin Feldstein of Harvard, NIE estimates that bama may be further set aside in order for me to offer a brief amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

UP AMENDMENT NO. 1276

(Purpose: To provide a loan counseling program)

Mr. STAFFORD. Mr. President, I have an unprinted amendment which I send to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) for Mr. JAVITS, proposes an unprinted amendment numbered 1276.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, after line 21, insert the following new section:

LOAN COUNSELING PROGRAM AUTHORIZED

SEC. 417. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN COUNSELING BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan conseling on loans insured or guaranteed under this part to the student borrower. The loan counseling required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the date on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

Mr. STAFFORD. Mr. President, I am offering this amendment on behalf of the distinguished Senator from New York (Mr. JAVITS). The purpose of the amendment is, quite plainly and quite briefly, to require that each eligible lender under the student loan programs provide all of the necessary information to the borrower and make sure that the borrower is aware of the terms of his loan:

(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

(2) the date on which repayment will begin;

(3) the maximum number of years in which the loan must be repaid;

(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

(6) a definition of default and the consequences to the borrower if the borrower should default; and

(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.

The whole purpose of the amendment, Mr. President, obviously is to avoid the problem we now have of the serious incidence of defaulting on student loans, to make sure that each student borrower knows precisely what his obligations are as he receives a loan in the student programs.

Mr. President, I am advised that the majority manager of the bill is willing to accept this amendment. Assuming that to be true, the mover of the amendment moves for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1276) was agreed to.

Mr. STAFFORD. Mr. President, I shall withhold on a motion to reconsider until my partner in managing is here.

Mr. HOLLINGS. Mr. President, we have been momentarily withholding the vote on the amendment of the Senator from Alabama, is that correct, to see if we can get agreement?

The PRESIDING OFFICER. The Senator is correct.

STATEMENT OF SENATOR ERNEST F. HOLLINGS IN OPPOSITION TO THE BEOG'S EXTENSION AMENDMENT

Mr. HOLLINGS. Mr. President, with the introduction of this amendment, Mr. President, the U.S. Senate is once again confronted with the specter of debating a legislative initiative that, if enacted, would destroy the public school system in this country by permitting the resegregation of the public school. The able and imaginative junior Senator from New York is apparently tireless in his pursuit of a scheme that would have the Federal Government provide assistance to students attending private elementary and secondary schools. This latest effort proposes an extension of the basic education opportunity grant (BEOG) program to such students. He would coopt this collegiate program in order to initiate Federal Government financing of private schools.

I suppose Mr. MOYNIHAN is to be commended for his tenacity and single mindedness of purpose, but effort alone, especially effort directed toward such an unworthy and hollow goal, will not meet even the minimal standard of approval demanded by this body and this Nation for legislative enactments. Careful study proves that his amendment would turn our Nation's education policy on its head, ultimately benefit few at the expense of many, proliferate substandard segregation academies, add a sea of red ink to the Federal budget, violate the clear meaning of the first amendment to the Constitution, and destroy the diversity and genius of our system of public education.

Mr. MOYNIHAN's amendment must fall because it is based upon the faulty assumption that the Government has an equal duty to both public and private schools. Let us be clear at the outset that the duty is not equal. The Government's duty to the public is to provide public schools. The duty of the Government toward private schools is to leave them alone. This distinction is fundamental. It is the clearly accepted and long held Government policy regarding elementary and secondary schools.

My colleague from New York has another idea, however. Under his amendment the duty to leave the private schools alone is somehow inverted in his scheme of things to a duty to provide for them. I call upon my colleagues to join me in defeating this amendment that would so skew sound education policy.

Before we get too far afield here I think it is important to briefly review the limited Federal role in assisting elementary and secondary schools. Federal assistance consists primarily of special education programs for individual students—compensatory education help for the handicapped, the language-deficient, and the poor. This is targeted, special-purpose aid that goes to the needy in both the public and private schools. Insofar as there is a need to be met under the various programs students attending both public and private schools share equally in the Federal assistance.

Federal dollars go to students eligible for the targeted assistance regardless whether they are enrolled in public or private schools. So that this effort would not be frustrated. Congress enacted, as part of the Elementary and Secondary Education Act amendments in 1978, an improved "by-pass" mechanism in order to insure that qualified students attending private schools would share equally, as provided for by law, in the various Federal assistance programs. Further in the newly created Department of Education, Congress established an Office for Non-Public Education to oversee the Federal Government's effort in this area.

But, under his amendment, Mr. MOYNIHAN would cast out the carefully constructed and balanced Federal policy regarding elementary and secondary schools and have the Federal Government provide, for the first time, assistance to such schools. And, if the initiation of Federal assistance is not enough, he would limit such assistance only to students attending private schools.

FEDERAL ELEMENTARY AND SECONDARY EDUCATION POLICY: EQUAL EDUCATIONAL OPPORTUNITY

Public school assistance programs follow from the mandate of Congress for equal educational opportunity in the public schools. This is not required of the private schools. These latter are selective and generally choose the brightest, those without discipline problems or language problems, those from higher income brackets, and those fleeing from the intercity, integrated school. The public school, in contrast, must take all comers—regardless of background, regardless of special problems. Additionally, the public institution

44. United Negro College Fund.
45. Congressional Black Caucus.

Mr. STEWART. Mr. President, I yield the floor at this time. Mr. President, I do not want to lose our position with regard to this amendment. Could I inquire of the floor managers if they intend to take up another amendment at this time? I would inquire of the Chair what position this would put us in. I do not want to lose my position with regard to this amendment.

Mr. SCHWEIKER. If the Senator wants us to take up another matter, we are certainly agreeable to protecting his position on the floor.

Mr. STEWART. With the understanding that we can get back to this amendment, Mr. President, I will yield the floor.

Mr. SCHWEIKER. Absolutely.

The PRESIDING OFFICER. The Chair will notify the Senator from Alabama that his request would require unanimous consent to temporarily set his amendment aside.

Mr. STEWART. I would assume that would be done by the floor managers of the bill. I was just inquiring if, in fact, I would lose my position with regard to this particular amendment once we got back to it. I would again make that inquiry.

The PRESIDING OFFICER. The Chair is unable to answer the question on the amendment of the Senator from Alabama as long as somebody wishes to speak on it. The amendment is pending until no one wishes to speak further on it. If not, the Chair will put the question.

Mr. STEWART. Mr. President, I ask unanimous consent that at this time I be allowed to yield the floor and set this amendment temporarily aside to go to the amendment of the Senator from Arizona.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senator from Arizona is recognized.

UP AMENDMENT NO. 1275

(Purpose: To assist the Navajo Community College)

Mr. DECONCICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 1275.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE XVIII—THE NAVAJO COMMUNITY COLLEGE ASSISTANCE PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 1801. (a) Section 5(a)(1) of the Navajo Community College Act is amended by striking out "two" and inserting in lieu thereof "three".

(b) Section 5(b)(1) of such Act is amended by striking out "(determined in accordance with section 2 (7) of the Tribally Controlled Community College Assistance Act of 1978)" and inserting in lieu thereof "(determined by adding all the credit hours throughout the year which are taken by Indian students and dividing the sum by 15)".

EFFECT ON OTHER LAWS

SEC. 1802. Section 311(a) of the Tribally Controlled Community Colleges Assistance Act of 1978 is amended by inserting before the period a comma and the following: "except that section 108 shall apply to the Navajo Community College".

On page 16, in the table of contents, after item "Sec. 1702." insert the following:

TITLE XVIII—THE NAVAJO COMMUNITY COLLEGE ASSISTANCE PROGRAM

SEC. 1801. Authorization of Appropriations.
SEC. 1802. Effect on other laws.

Mr. DECONCINI. Mr. President, Senator DOMENICI and I are offering this amendment to S. 1839, the extension of the Higher Education Act, to help alleviate a desperate situation that was created as a result of the enactment of the Tribally Controlled Community College Assistance Act of 1978. Title II of that act provides funding for Navajo Community College.

Because of the Bureau of Indian Affairs interpretation of the funding formula Navajo Community College will experience a 61-percent reduction in its funding for fiscal year 1981—from $6.4 million in 1980 to $2.4 million in 1981. To further complicate matters a recent GAO report has indicated that the college is not eligible for other Federal funds that would normally be available for post-secondary institutions.

Because of this severe reduction in funding college officials are considering alternatives, none of which will further the educational progress of the college's students. All of the alternatives would reduce to a varying extent the school year for the students. To enable the college to continue operating in a normal manner our proposal makes the following modifications in title II of the Tribally Controlled Community College Assistance Act: First, extends the authorization of appropriations for construction for 1 year; and, second, changes the funding formula to require that credit hours for the fall, spring, and summer terms for Indian students be totaled and divided by 15.

The resulting figure would then be multiplied by $4,000, which is part of the present statutory formula, to obtain the amount of funds the college would receive. Also, our proposal would modify title I of the Tribally Controlled Community College Act to permit Navajo Community College to receive funds under the Higher Education Act and other applicable Federal programs.

If our proposed funding formula is adopted, the college would be eligible to receive aproximately $5.9 million rather than the $2.4 million for fiscal year 1981. Although funds received by the college under the proposed formula are less than the college received last year—$6.4 million—the reduction would not be as severe as the present funding formula mandates, thus allowing the school to continue its program without severe interruption.

The college has requested that the authorization for construction funds be extended through 1982 because the Bureau of Indian Affairs did not request funding for the first year of the authorization. Therefore, the amendment adds 1 year to the authorization of appropriations for construction of school facilities.

Due to a General Accounting Office opinion, the college is not eligible to receive funds from other federally authorized education programs. This amendment will modify the Tribally Controlled Community College Act so that the college may receive appropriate Federal funds.

Mr. President, in my judgment the adoption of this amendment is essential if the college is to fulfill its educational commitment to the Nation's Indian youth. I urge my colleagues to support this measure.

I thank the Senator from Alabama for setting aside his amendment temporarily. I thank the chairman of the committee and the ranking Republican member for their consideration of this matter at this time.

Mr. PELL. Mr. President, I have listened to the Senator from Arizona. I believe his amendment is well taken and justified. It should have gone through the Indian Affairs Committee but they did not report out any education bills. Basically, if they do not, it is really our responsibility and I believe we should accept it. I will recommend to my colleagues on this side of the aisle that we accept the amendment of the Senator from Arizona.

Mr. STAFFORD. Mr. President, we are happy to accept the amendment.

Mr. DECONCINI. Mr. President, I thank the distinguished Senator from Vermont for his consideration and for the consideration of the committee. I am happy that they have become involved in this area. We have reviewed it and we are very grateful for this action to assist the Navajo Community College. I am most appreciative of the chairman's indulgence in accepting this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 1275) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from Ala-range planning capabilities and their development capability. These grants would be 5 years in length, with an increasing institutional match required. The idea was to help institutions in a state of transition better manage their facilities and make the necessary decisions for the future. At Senator RANDOLPH's suggestion we included a new challenge grant program which would provide for a Federal match when institutions in the program raised private money to set up a more secure financial base for themselves.

Part B is an assistance program to institutions which enroll large numbers of low-income students. These institutions are particularly hard hit by inflation, because they have a very difficult time raising their tuitions. Their role in serving students who might not otherwise attend college is critically important in assuring access to higher education by poor students.

Senator STEWART's amendment takes us back to the old way of doing business in title III. This is the same approach which has been espoused by the administration which has used the title III program to reward their political friends and punish their political enemies. Most recently the administration has circulated to private educational organizations data on the version of title III contained in the Senate bill which was not available for the members of the Education Subcommittee who asked for the information 5 months ago. In an effort to clarify the intent of the Senate bill, Senator PELL and I have offered an amendment which continues the committee-passed version of title III and clarifies the committee's intent. I am sure the Senator from Alabama who is sponsoring this amendment would support our intent in principle. The amendment Senator PELL and I would offer continues the committee-passed version of title III and clarifies the committee's intent that the historically black colleges should continue their participation in the title III program at the same percentage level they participated in fiscal year 1979, or approximately 40 percent. It is not our intention to guarantee funding for any individual institutions—schools would still be required to meet the criteria for both parts A and B to receive funding. However, we do feel the black college sector, which plays such an important part in educating minority students, should be participating at the same level in the new title III program as they are today.

I urge my colleagues to consider the proposal we have before us in terms of the committee report. I am certainly willing to consider the concept of the amendment put forth by Senator STEWART in an effort to make sure that while changing the approach of the program and dividing it into two separate parts that the black college sector will not be asked to take reduced funding.

I think that this other proposal I mentioned now might be acceptable to the Senator who proposed the substitute amendment, and it might well solve Senator STEWART's problem. The amendment says:

> The Secretary shall assure that in each fiscal year the amount available for institutions with special needs and institutions enrolling substantial percentages of disadvantaged students that historically serve a substantial number of black students will not be less than the amount received by such institutions for fiscal year 1979.

This is our intent. This is what we wanted to do. Hopefully, this language might meet the objections of the Senators who are proposing the amendment, because I think they fear our intent somehow was otherwise. Perhaps we may work something out that will reform the old program which badly needs changes, according to two GAO reports and also a hearing by the Senate Judiciary Committee that showed abuse and mismanagement. At the same time, we want to make sure that in making this shift into two separate programs the black college sector will not be diminished in the amount of total support that they receive under the new approach.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. STEWART. Mr. President, I will respond to a couple of points that have been made.

Let me just first explain our position and the amendment that we are offering here today.

Actually, we are substituting, basically, what would be the House version of title III, which would prevent substantial shifts from taking place in title III eligibility which were brought about by the Senate committee's part A eligibility criteria and the present legislation on the floor.

It would restore eligibility for at least 114 institutions which actually received title III grants in 1979 and which would lose eligibility under the criteria in part A.

It would restore eligibility to the 61 out of 101 traditionally black institutions which would definitely lose eligibility under the present part A.

As I understand it, the floor managers of the bill are willing to work out some amendment on that particular portion.

It would end the substantial changes in title III eligibility in which at least 416 institutions, nearly one-half of those currently eligible, would lose their eligibility under part A and be replaced by other currently ineligible institutions.

That is basically what our amendment seeks to do.

In addition, it would not set up a permanent, automatic Federal subsidy to as many as 1,000 institutions, which, as I pointed out in my opening statement, are one-third of the total number of universities and colleges, precisely when we cannot do that with our budget restraints here in Washington and also when enrollments are beginning to decline in some of those institutions.

Mr. President, I ask unanimous consent to have printed in the RECORD with my remarks those organizations which are supporting our amendment. I would like to read some of the names into the RECORD at this time.

The National Urban Coalition, the National Association for the Advancement of Colored People, the National Urban League, the Southern Christian Leadership Conference, the National Alliance of Black School Educators, the Women's Equity Action League, the Coalition of Independent Colleges and University Students, the Links, Inc., Catholic Scholarships for Negroes, Inc., Association for the Study of Afro-American Life and History, the AFL-CIO, the United Auto Workers, the National Conference of Black Lawyers, the Council of National Alumnae Associations, the Americans for Democratic Action, the Congressional Black Caucus, the United Negro College Fund, the National Parent-Teachers Association, Washington Political Education Council, and a number of others that are here on this list which I have asked to be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING THE STEWART AMENDMENT

1. National Urban Coalition.
2. National Association for the Advancement of Colored People (NAACP).
3. National Urban League.
4. Southern Christian Leadership Conference (S.C.L.C.).
5. National Alliance of Black School Educators.
6. Womens' Equity Action League.
7. Coalition of Independent Colleges and University Students (C.O.P.U.S.).
8. National Association of Colored Womens' Clubs, Inc.
9. The Links, Inc.
10. Catholic Scholarships for Negroes, Inc.
11. Association for the Study of Afro-American Life and History.
12. National Association for Equal Opportunity in Higher Education.
13. United States Students Association (U.S.S.A.).
14. Delta Sigma Theta, Inc.
15. Southern Regional Council.
16. National Association of Black Psychologists.
17. Jack and Jill of America.
18. National Advisory Council on Extended and Continuing Education.
19. Black World Foundation.
20. Institute of the Black World.
21. National Student Educational Foundation (N.S.E.F.).
22. National Organization of Black University and College Students (N.O.B.U.C.S.).
23. Afro-American Cultural Foundation.
24. The Washington Political Education Council.
25. Alpha Kappa Alpha, Inc.
26. Omega Psi Phi, Inc.
27. Kappa Alpha Psi, Inc.
28. Alpha Phi Alpha, Inc.
29. Phi Beta Sigma, Inc.
30. Zeta Phi Beta, Inc.
31. National Parent Teachers' Association.
32. National Audio-Visual Association.
33. Joint Center For Political Studies.
34. Southern University Alumni Federation.
35. Washington Inter-Alumni Council.
36. National Alumni Council.
37. Council of National Alumni Associations.
38. National Conference of Black Lawyers.
39. United Auto Workers.
40. American Students Association.
41. Coalition of Black Trade Unionists.
42. AFL–CIO.
43. Americans for Democratic Action (ADA).

for a 1- to 3-year grant could reapply for title III funds. Schools applying for a 4- to 7-year grant could not reapply for title III moneys.

Institutions would be encouraged to apply for the longer term grants by giving them preference for the challenge grants authorized by my amendment and by making the 4- to 7-year grants larger. The purpose of this provision is to encourage schools that can move out of the category of developing institutions to graduate from the program. At the same time, it is recognized that there are institutions that because of their enrollment of low-income students and other institutional factors cannot reasonably be expected to graduate from the title III program.

The committee bill would create a new title IIIB that would authorize a new formula grant program for institutions that enroll low-income students. This new program would extend a permanent automatic subsidy to as many as 1,000 institutions—one-third of the total number of colleges and universities—precisely at a time when college enrollments are beginning a major decline. As most of us know, the road that we will be going down in adopting this new entitlement program is a one-way street. Once it is established there will inevitably be pressure to expand it to even more institutions. In these times when we are attempting to bring Federal program spending under control it is absolutely irresponsible to set up a brand new entitlement program.

The two major criticisms of the General Accounting Office report are addressed by my amendment. The committee fails to come to grips with these two criticisms. The problem of the failure of institutions to graduate from the program is not dealt with by the committee bill and under both title IIIA and IIIB an institution could be funded in perpetuity. The committee fails to address the central problem of the current law—that is the lack of clear criteria for determining who is eligible for assistance.

Title IIIA of the committee bill would set out two specific criteria. These two criteria are low educational and general expenditures per full-time equivalent student and low instructional cost per FTE. I should point out that low instructional costs are essentially low educational expenditures. It is my understanding that there is almost a one-to-one correlation between these two criteria.

But that is not my major problem with title IIIA of the committee bill. My concern is that in light of the allegations of abuse on the part of the administrators of the program, why did the committee give them nine other factors that, according to the language of the committee bill, "may be considered" in determining eligibility for assistance?

Questions such as when these factors are to be considered and to what extent they are to be considered will no doubt put us back here in the Chamber 5 years from now complaining about agency abuse of these discretionary factors. Either we are going to speak clearly to the agencies about what the Congress intends or we are not. This bill is one instance in which we fail to speak clearly to the issue of title III eligibility and we open the door to agency abuse. My amendment is clear in its import. It sets out the criteria for determining title III eligibility and does not permit wholesale discretionary abuse. My amendment is an opportunity for those of us in the Senate to state our intent clearly and without qualification or equivocation.

Mr. President, we have heard a lot from the distinguished floor manager of the bill and the Senator from Montana this morning about the way in which the title III program has been administered over the years. We have heard these kinds of criticisms in the context of other Federal programs. I believe that many of us in this body forget that our responsibilities with regard to these programs go beyond legislation. We have a responsibility here in the Congress to oversee the administration of these programs. That oversight responsibility is not to be taken lightly.

I am somewhat curious that in view of the ambiguous nature of the authorizing statute as well as the numerous criticisms of the program why the committee has not done more in the way of oversight on the title III program.

I commend both managers of the bill and the Senator from Montana for bringing these facts to light in the colloquy this morning.

I hope that by accepting this amendment the information that was brought out in the colloquy and also in some hearings held by the Senator from Montana on the GAO study will be met. It attempts to strike a careful balance between the need to curtail administrative abuses and to insure that those institutions that really need help can get it. In doing so it will contribute to the implementation of our explicit policy of encouraging equal opportunity in higher education.

Mr. President, that concludes my opening remarks.

I reserve the remainder of my time. I ask, Mr. President, at this time how much longer I have to comment on the amendment or is there a time limit?

The PRESIDING OFFICER. If the Senator will withhold, there is no time agreement, so the Senator is not limited in time.

Mr. STEWART. I will yield at this time to the Senator from Mississippi who has some comments.

Mr. COCHRAN. Mr. President, I thank the Senator from Alabama for yielding to me.

I regret I was not on the floor when he began his remarks. I have asked to be added, Mr. President, as a cosponsor to this amendment offered by the Senator from Alabama, and I am pleased to join him in urging the Senate to adopt this change in the committee bill.

The bill, as written, would drastically alter the assistance currently provided under title III. Title III funds are now focused on developing institutions of higher learning, but the bill would spread out title III funds to all institutions which enroll a certain number of low-income students. What this means, in effect, is that approximately 500 additional colleges and universities would become eligible for funding under the committee bill. While moneys available for assistance would be increased from $120 million to $161 million, there cannot help but be a significant diminution of support under title III for such institutions.

I am afraid title III would be spread so thin, Mr. President, as to be virtually meaningless and offer no real support to the struggling institutions, so I am supporting Senator STEWART's amendment.

Under the amendment, title III will continue its focus on small, struggling institutions which depend so heavily on these funds for their very survival. We are talking primarily about small, mostly rural institutions, many of which are in the South, many of which are predominantly black institutions, which serve a significant and special role in our Nation's educational system.

I do not think, Mr. President, that the Senate wants to tolerate such a real threat to the livelihood and vitality of such institutions. We are all familiar with the severe problems many of these colleges and universities have had over the years. If we dilute title III by adding all categories of institutions and colleges throughout the country, as is proposed by the committee, I am afraid many of these colleges and universities would cease to exist and many students would be deprived of educational opportunities which they now enjoy because of title III.

These institutions share the concerns which have been expressed by the Senator from Alabama (Mr. STEWART) and by this Senator about title III and the drastic changes which are proposed in the committee bill.

I hope the Senate will keep these concerns in mind when presented with the question on this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, the Members of the Senate Education Subcommittee reached consensus on the version of title III contained in S. 1839 after much deliberation on how to correct the past abuses which had been rampant in the title III program. Two GAO reports issued on title III contended that it was one of the most mismanaged programs in the Office of Education, with only limited, most times unmeasurable, benefits going to institutions with political connections in the White House. Horror stories concerning grants given to schools, only to be almost entirely passed on to consulting firms, were commonplace in the press at the time we held our hearings on title III.

In an effort to save the title, and provide real assistance for institutions which need it, we substantially rewrote the program. First, we separated it into two parts. Part A is a planning grant program which provides assistance on a short-term basis to institutions which need help in improving their fiscal and management operations, their long necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as a developing institution for the purposes of this title. Subject to the availability of appropriations under this title, the Secretary may approve an application under this subsection that meets the requirements of subsection (b) and shows that the applicant is a developing institution which is eligible, under section 303, to apply for a grant.

"(b) A developing institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title):

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 304(a), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available under this title to the applicant;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 306; and

"(7) include such other information as the Secretary may prescribe.

"CHALLENGE GRANTS

"SEC. 306. (a) From the sums appropriated therefor under section 302(b), the Secretary may award a challenge grant to a developing institution that—

"(1) is eligible for a grant under section 303; or

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a post-graduate degree rather than a bachelor's degree.

A challenge grant is a grant that is subject to all requirements of this title applicable to other grants made under this title, except that the application therefor complies with subsection (b) of this section.

"(b) A developing institution desiring a challenge grant shall apply under section 305, except that its application must—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant; and

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment.

"(c) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions shall receive such grant and shall notify the institution of the amount of the grant.

"(d) In the review of applications for grants under this section, preference shall be given to those institutions which are receiving, or have received, grants under section 304(b)(1)(B).

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 307. (a) Each institution which the Secretary determines meets the criteria set forth in section 303(a) shall be eligible for waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

"SEC. 308. (a) There is established an Advisory Council on Developing Institutions consisting of nine members appointed by the Secretary.

"(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act, and in particular it shall assist the Secretary—

"(1) in identifying developing institutions through which the purpose of this title may be achieved; and

"(2) in establishing criteria to be used in making grants under section 304.

"LIMITATIONS

"SEC. 309. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305.".

On page 10, in the Table of Contents, strike out the quoted items on title III and insert in lieu thereof the following:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"Sec. 301. Program authorization.
"Sec. 302. Appropriations authorized.
"Sec. 303. Eligibility for assistance.
"Sec. 304. Purpose and duration of grant.
"Sec. 305. Applications for assistance.
"Sec. 306. Challenge grants.
"Sec. 307. Assistance to developing institutions under other programs.
"Sec. 308. Advisory Council on developing institutions.
"Sec. 309. Limitations.

Mr. STEWART. Mr. President, before I proceed to explain the amendment I ask unanimous consent that Calvin Biggers, Richard Woods, and Colette Holt of my staff be accorded privileges of the floor throughout the debate and votes on S. 1839 which is the Higher Education Amendment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEWART. Mr. President, the amendment, the second one that I offered today, would replace the provisions of title III of the committee bill with the language of S. 2130, a bill I introduced last December.

My amendment would address many of the concerns that have been raised regarding the integrity of the title III program while preserving the program's limited purpose of aiding developing institutions. My amendment would also maintain the unity of the title III program rather than divide it as proposed by the committee.

My amendment largely embodies the approach to title III developed by the House Education and Labor Committee after many hours of hearings and consultation with members of the higher education community. The committee took particular cognizance of the recommendations of the General Accounting Office in the February 1979 report on the title III program. The major criticism raised by the report was the failure of the legislation to provide any clear rules for the identification of developing institutions. This has led to the exercise of almost unbridled discretion on the part of the Office of Education in making title III grants to institutions.

The criteria that my amendment uses will insure the continued eligibility of those institutions that bear the burden of educating our low income and minority students. This group includes many small junior colleges and isolated private 4-year institutions. Also among the institutions that have benefited from this program are 61 of the 101 historically black colleges. These institutions educate a disproportionate number of the Nation's black college students. The title III program has permitted these institutions to upgrade their programs of instruction and their administrative capabilities. Under title III of the committee bill most of these institutions would not be eligible for grants under title IIIA. The committee's title IIIA provides aid for institutions with so-called special needs. Under the criteria many institutions which enroll large numbers of low-income students would not be eligible for assistance. This makes many of the small rural public and private 2- and 4-year institutions ineligible for assistance under this program. At the same time the new eligibility criteria make an additional 500 institutions eligible for the program.

My amendment would address another problem raised by the February GAO report, that is the failure of institutions to graduate from the title III program or to attain developed status. Under my amendment, two types of grants would be available under title III. A school could apply for 1- to 3-year grants or 4- to 7-year grants. A school applying for its immediate consideration and ask unanimous consent that Senators Thurmond, Nunn, Bayh, Glenn, Long, Stone, Hollings, and Cochran be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. Stewart), for himself and Mr. Thurmond, Mr. Nunn, Mr. Bayh, Mr. Glenn, Mr. Long, Mr. Stone, Mr. Hollings, and Mr. Cochran, proposes an unprinted amendment numbered 1274 as a substitute to unprinted amendment numbered 1273.

Mr. STEWART. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"PROGRAM AUTHORIZATION

"Sec. 301. (a) The Secretary shall carry out a program, in accordance with this title, to improve the academic quality, institutional management, and fiscal stability of developing institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b)(1) For purposes of this title, the term 'developing institution' means an institution of higher education—

"(A) the enrollment of which includes a substantial percentage of students from low-income families, and

"(B) the average educational and general expenditures of which are low, per full-time equivalent student, in comparison with the average educational and general expenditures per full-time equivalent student of institutions that offer similar instruction.

Such term also includes an institution of higher education that does not meet the criterion contained in subparagraph (B) if the Secretary determined, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as a developing institution is otherwise consistent with the purposes of this title.

"(2) For the purposes of paragraph (1) of this subsection the term 'educational and general expenditures' means the total amount expended by an institution of higher education for undergraduate instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

"(3) Any entity which is a branch of an institution of higher education may be considered to be a developing institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(4) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in paragraph (1)(E), have been determined to be developing institutions under this subsection. Such report shall—

"(A) identify the factors referred to in the second sentence of paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with paragraph (1)(B); and

"(B) contain a list of each institution determined to be a developing institution, and include a statement of the reasons for each such determination.

"(c) For purposes of this title, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve), in such institution.

"APPROPRIATIONS AUTHORIZED

"Sec. 302. (a)(1) For the purpose of carrying out this title, other than section 306, there are authorized to be appropriated $140,000,000 for fiscal year 1981, $160,000,000 for fiscal year 1982, $180,000,000 for fiscal year 1983, and $200,000,000 for each of the fiscal years 1984 and 1985.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall make available to use for the purposes of this title—

"(A) not less than 30 per centum to developing institutions that are junior or community colleges, and

"(B) the remainder to developing institutions that plan to award a bachelor's degree during that year.

"(b) For the purpose of awarding challenge grants under section 306 there are authorized to be appropriated $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.

"(c) Of the sums appropriated under subsection (a) for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 304(b)(1)(B). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

"ELIGIBILITY FOR ASSISTANCE

"Sec. 303. (a)(1) A developing institution is eligible to apply for a grant from sums appropriated therefor under section 302(a)(1) if it—

"(A) is legally authorized to provide and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as provided in paragraph (2), has met the requirement of subparagraph (A) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Secretary may prescribe.

"(2) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of an institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income people, especially including those living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions; or

"(D) wherever located, if the Secretary determines that the institution is a historically black institution of higher education and enrolls substantial numbers of black students.

"(b) For the purposes of this title, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"PURPOSE AND DURATION OF GRANT

"Sec. 304. (a) From the sums appropriated under section 302(a)(1), the Secretary may award grants to any developing institution with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(b)(1) The Secretary may award a grant to a developing institution under this section for—

"(A) not to exceed three years, or

"(B) not less than four, nor more than seven years, subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of a developing institution for a grant under both subparagraphs (A) and (B) for a fiscal year.

"(2) The Secretary shall not award a grant under this title to a developing institution that has, for any prior fiscal year, received a grant under paragraph (1)(B).

"(3) In the event of a multiple-year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(4) Notwithstanding paragraph (1), the Secretary may award a grant to a developing institution under this section for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this title.

"APPLICATIONS FOR ASSISTANCE

"Sec. 305. (a) An institution desiring assistance under this title shall apply to the Secretary at such time, in such form, and shall provide such information, as may be term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"PURPOSE AND DURATION OF GRANT

"Sec. 304. (a) From the sums appropriated under section 302(a)(1), the Secretary may award grants to any developing institution with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(h)(1) The Secretary may award a grant to a developing institution under this section for—

"(A) not to exceed three years, or

"(B) not less than four nor more than seven years, subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of a developing institution for a grant under both subparagraphs (A) and (B) for a fiscal year.

"(2) The Secretary shall not award a grant under this title to a developing institution that has, for any prior fiscal year, received a grant under paragraph (1)(B).

"(3) In the event of a multiple-year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(4) Notwithstanding paragraph (1), the Secretary may award a grant to a developing institution under this section for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this title.

"APPLICATIONS FOR ASSISTANCE

"Sec. 305. (a) An institution desiring assistance under this title shall apply to the Secretary at such time, in such form, and shall provide such information, as may be necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as a developing institution for the purposes of this title. Subject to the availability of appropriations under this title, the Secretary may approve an application under this subsection that meets the requirements of subsection (b) and shows that the applicant is a developing institution which is eligible, under section 303, to apply for a grant.

"(b) A developing institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 304(2), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available under this title to the applicant;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and vertification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 306; and

"(7) include such other information as the Secretary may prescribe.

"CHALLENGE GRANTS

"Sec. 306. (a) From the sums appropriated therefor under section 302(b), the Secretary may award a challenge grant to a developing institution that—

"(1) is eligible for a grant under section 303; or

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a postgraduate degree rather than a bachelor's degree.

A challenge grant is a grant that is subject to all requirements of this title applicable to other grants made under this title, except that the application therefor complies with subsection (b) of this section.

"(b) A developing institution desiring a challenge grant shall apply under section 305, except that its application must—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant; and

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment.

"(c) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions shall receive such grant and shall notify the institution of the amount of the grant.

"(d) In the review of applications for grants under this section, preference shall be given to those institutions which are receiving, or have received, grants under section 304(b)(1)(B).

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"Sec. 307. (a) Each institution which the Secretary determines meets the criteria set forth in section 303(a) shall be eligible for waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

"Sec. 308. (a) There is established an Advisory Council on Developing Institutions consisting of nine members appointed by the Secretary.

"(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act, and in particular it shall assist the Secretary—

"(1) in identifying developing institutions through which the purpose of this title may be achieved; and

"(2) in establishing criteria to be used in making grants under section 304.

"LIMITATIONS

"Sec. 309. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305.".

On page 10, in the Table of Contents, strike out the quoted items on title III and insert in lieu thereof the following:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"Sec. 301. Program authorization.
"Sec. 302. Appropriations authorized.
"Sec. 303. Eligibility for assistance.
"Sec. 304. Purpose and duration of grant.
"Sec. 305. Applications for assistance.
"Sec. 306. Challenge grants.
"Sec. 307. Assistance to developing institutions under other programs.
"Sec. 308. Advisory Council on developing institutions.
"Sec. 309. Limitations.

Mr. STEWART. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second?

The yeas and nays were ordered.

UP AMENDMENT NO. 1274

Mr. STEWART. Mr. President, I send a second amendment to the desk and ask

Mr. President, most of us now agree that the existing student assistance programs are too costly. I think that one of our objectives in considering this legislation should be to bring those costs under control. In order to accomplish that objective—and still meet the needs of people whose primary pursuit is education, that is, who are students at least half-time—we must carefully allocate our scarce resources among competing needs. I simply do not feel that we can extend these programs to meet new, lower priority needs.

Mr. President, I urge adoption of the amendment.

Mr. PELL. Mr. President, am I correct in my understanding that what this amendment does is it knocks out from the viewpoint of the guaranteed student loan increased eligibility for the less than half-time students?

Mr. BELLMON. That is right.

Mr. PELL. I understand the amendment, and I understand that this acceptance of this amendment is acceptable to the Senator from New Jersey, our chairman, and for that reason we recommend on our side we accept this amendment.

Mr. BELLMON. I thank the floor manager and chairman.

Mr. STAFFORD. Mr. President, after examining the amendment and listening to the distinguished Senator from Oklahoma, for the minority we are prepared to accept the amendment as well.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, the amendment (UP No. 1272) is agreed to.

Mr. BELLMON. I thank my friend.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New York. The yeas and nays are ordered.

Mr. HOLLINGS. Mr. President, as you were. We are back on the amendment of the Senator from New York.

Has this amendment been voted upon?

Mr. PELL. Yes.

Mr. STAFFORD. The amendment was accepted.

Mr. HOLLINGS. I did not hear the Chair do it. He said the amendment of the Senator from New York. I was waiting to pass this amendment.

The PRESIDING OFFICER. Prior to that the Chair had noted without objection the amendment of the Senator from Oklahoma had been agreed to. The Chair did note we were back on the amendment of the Senator from New York, and if there were no further debate the yeas and nays had been ordered and we would have gone to a rollcall vote.

The Chair certainly recognizes the distinguished Senator from South Carolina.

Mr. HOLLINGS. Thank you, Mr. President.

Then I will yield the floor to the Senator from Alabama. He is prepared to present an amendment.

UP AMENDMENT NO. 1273

Mr. STEWART. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order, and the amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 1273.

Mr. STEWART. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, beginning with line 6, strike out through line 13 on page 100, and insert in lieu thereof the following:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"PROGRAM AUTHORIZATION

"SEC. 301. (a) The Secretary shall carry out a program, in accordance with this title, to improve the academic quality, institutional management, and fiscal stability of developing institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b)(1) For purposes of this title, the term 'developing institution' means an institution of higher education—

"(A) the enrollment of which includes a substantial percentage of students from low-income families, and

"(B) the average educational and general expenditures of which are low, per full-time equivalent student, in comparison with the average educational and general expenditures per full-time equivalent student of institutions that offer similar instruction.

Such term also includes an institution of higher education that does not meet the criterion contained in subparagraph (B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as a developing institution is otherwise consistent with the purposes of this title.

"(2) For the purposes of paragraph (1) of this subsection the term 'educational and general expenditures' means the total amount expended by an institution of higher education for undergraduate instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

"(3) Any entity which is a branch of an institution of higher education may be considered to be a developing institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(4) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in paragraph (1)(B), have been determined to be developing institutions under this subsection. Such report shall—

"(A) identify the factors referred to in the second sentence of paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with paragraph (1)(B); and

"(B) contain a list of each institution determined to be a developing institution, and include a statement of the reasons for each such determination.

"(c) For purposes of this title, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve), in such institution.

"APPROPRIATIONS AUTHORIZED

"SEC. 302. (a)(1) For the purpose of carrying out this title, other than section 306, there are authorized to be appropriated $140,000,000 for fiscal year 1981, $160,000,000 for fiscal year 1982, $180,000,000 for fiscal year 1983, and $200,000,000 for each of the fiscal years 1984 and 1985.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall make available to use for the purposes of this title—

"(A) not less than 29 per centum to developing institutions that are junior or community colleges, and

"(B) the remainder to developing institutions that plan to award a bachelor's degree during that year.

"(b) For the purpose of awarding challenge grants under section 306 there are authorized to be appropriated $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.

"(c) Of the sums appropriated under subsection (a) for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 304(b)(1)(B). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

"ELIGIBILITY FOR ASSISTANCE

"SEC. 303. (a)(1) A developing institution is eligible to apply for a grant from sums appropriated therefor under section 302 (a)(1) if it—

"(A) is legally authorized to provide and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as provided in paragraph (2), has met the requirement of subparagraph (A) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Secretary may prescribe.

"(2) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of an institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income people, especially including those living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions; or

"(D) wherever located, if the Secretary determines that the institution is a historically black institution of higher education and enrolls substantial numbers of black students.

"(b) For the purposes of this title, the companying this bill includes language to the effect that the committee intends the priorities represented by the funding triggers in the bill to be advisory to the Appropriations Committee. This amendment would insert the committee's own report language into the bill. This would make it clear that the triggers in the bill are advisory. There would be no ambiguity, as between what the report says, and the language which is now in the bill—which appears to direct the Appropriations Committee. We feel that this is imperative, to keep the record straight, and to clearly maintain the ability of the Appropriations Committee and the Senate to annually review competing priorities in the appropriations process.

The reported bill also includes a number of appropriations transfer requirements. These provisions would actually transfer appropriations provided for one purpose to another program and another purpose entirely.

Section 162(a) of the bill, for instance, requires the Secretary to reserve $22.5 million from sums appropriated to carry out the education portion of the youth employment initiative, which has been proposed by the President, but which has not yet even been enacted.

Mr. President, it has become increasingly clear to all Senators as we have struggled to get better control of Federal control of Federal spending that we must be able to review and reorder priorities from year to year. The appropriations process is the context in which that annual review takes place. We must not tie the hands of future Congresses, as they attempt to deal with changing times through this annual review—and it is to that end that we offer this amendment.

Mr. President, this amendment in no way alters any of the authorized levels of funding for any program in this bill. Neither would it deny funding for any of the activities to which the bill would now transfer funds appropriated for other purposes. It would, however, insure that the Appropriations Committee and the Senate would be free to adjust funding to meet changing needs in the future, and that funds would be spent for the purposes for which they were appropriated.

Mr. President, I urge the adoption of the amendment.

Mr. STAFFORD. Mr. President, while the majority manager is getting ready to make a statement, I should like to ask Senator Bellmon and Senator Hollings a question.

Mr. PELL. Mr. President, will the Senator yield?

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I wish to ask the distinguished Senator from Oklahoma (Mr. Bellmon) a question in connection with the committee language and the language of his amendment.

In the committee bill, the word "may" is used on about three different occasions, and the word is changed to "should" in the amendment offered by the Senator from South Carolina and the Senator from Oklahoma.

Having once been a lawyer, it appears to the Senator from Vermont that in neither case was mandatory language such as "shall" being used. I wonder whether the Senator shares that understanding with me.

Mr. BELLMON. That is my understanding.

Mr. STAFFORD. I thank the Senator very much.

Mr. PELL. Mr. President, we have considered this amendment and think it has merit. It carries out the intention of our legislation and of the report language and makes it a little more specific.

I recommend, on this side of the aisle, that we accept this amendment of Senator Hollings and Senator Bellmon.

Mr. STAFFORD. Mr. President, for the minority, after the colloquy with the Senator from Oklahoma, and after examining the amendment, I am prepared to recommend to the minority that we accept the amendment, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1271) was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New York, in the second degree.

UP AMENDMENT NO. 1272

Mr. BELLMON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon), for himself and Mr. Hollings, proposes an unprinted amendment numbered 1272:

On page 141, line 22, delete section 414 (B), including all through page 144, line 16.

Mr. BELLMON. Mr. President, the bill before us would extend eligibility for Federal student assistance programs to students enrolled in school for as few as one or two courses. Under current law, a student must be enrolled at least half-time, as defined by the institution the student is attending. This amendment would continue that requirement.

No one knows, Mr. President, what would be the effect on program participation and cost of extending eligibility for these programs to the vast numbers of people who take just one or two courses at a time. Indeed, since there are many people who make it a practice to take at least one course every semester—virtually all their lives—it is possible we could be expanding eligibility for these programs to a population that could become permanent recipients of these benefits. That was never the intent of Federal student assistance legislation.

Moreover, Mr. President, the line between student assistance and income maintenance becomes almost indistinguishable, when the recipients of student assistance are not really students. We have a whole array of Federal income maintenance programs for people who are needy; and those programs are structured to assist the needy to attend school, if such schooling could help them to become economically self-sufficient. Indeed, in programs such as CETA, the Federal Government will pay stipends to economically disadvantaged participants—in addition to paying the full cost of their training—in order to help them become economically self-sufficient.

For people whose primary occupation is not school, this kind of assistance, income maintenance programs, food stamps, et ceteria, are a far more reasonable approach to meeting their needs than trying to write them into Federal student assistance legislation.

Mr. President, I can understand how some could argue that we may meet some real needs, by including this new broader eligibility criteria in this legislation. I have some sympathy with the arguments put forth by the women's colleges, for instance, that this broader eligibility criteria would make it easier for women who have been out of the work force for some time to return to school, without committing themselves at first to a full-time course of study.

On the other hand, I must reiterate that no one has really studied the potential impact on these programs of this broader eligibility. I would remind my colleagues, when we expand eligibility for BEOG's and for guaranteed student loans in 1978, the cost of those programs skyrocketed. (In fiscal year 1978 the cost was $2.243 billion, in fiscal year 1979 the cost was $2.656 billion; this year the costs are estimated at $3.498 billion. That is an increase of 56 percent in 2 years. The cost of the loan programs has increased 134 percent over that same 2-year period.)

When we passed the 1978 amendments, we thought we knew the probable impact of the changes in eligibility enacted then. As a matter of fact the increased costs have been about double the costs projected at that time. We can not even make a reasonable guess as to the likely cost of the changes proposed by the committee. I submit that, in the times of necessary budgetary restraint, we simply cannot pass legislation which could significantly impact cost and program participation, without more information than we now have on these effects.

There is a provision in the House-passed bill, Mr. President, which the sponsors say will address the needs of less than half-time students; and that provision should not add to the cost of Federal student assistance programs. I would suggest, Mr. President, that the managers of the bill could either direct a study of the needs of less than half-time students—and the potential impact of our trying to meet those needs in student assistance legislation—or they could agree to the House provisions in conference, if indeed the House provision would meet those needs without additional cost.

UP AMENDMENT NO. 1271

(Purpose: To eliminate reservations not requiring direct appropriations and to assure spending relationships between BEOG's, SEOG's, work-study and direct loans do not constitute mandatory or backdoor funding)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1271.

The amendment is as follows:

On page 25, line 23, beginning with "From" strike out through line 2 on page 26 and insert in lieu thereof the following: "The are authorized to be appropriated $3,000,000 to carry out the provisions of this part".

On page 58, line 7, beginning with "(a)" strike out through line 25 and insert in lieu thereof the following: "For the purpose of making grants under this subpart, there are authorized to be appropriated $50,000,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1983.".

On page 72, line 5, beginning with "The" strike out through "to" on line 8 and insert in lieu thereof the following: "From an amount not to exceed 2 per centum of the funds appropriated pursuant to section 162, the Secretary shall, through the National Institute of Education.".

On page 107, line 18, strike out the end quote and the period the second time it appears.

On page 105, line 8, strike out "may" and insert in lieu thereof "should".

On page 105, line 22, strike out "may" and insert in lieu thereof "should".

On page 105, line 11, strike out "may" and insert in lieu thereof "should".

On page 107, line 1, strike out "may" and insert in lieu thereof "should".

On page 107, line 15, strike out "may" and insert in lieu thereof "should".

On page 107, line 18, strike out the end quotation marks and the period the second time it appears.

On page 107, between lines 18 and 19, insert the following new subparagraph:

"(F) The provisions of subparagraphs (A) through (E) of this paragraph shall not be construed as directing the Committees on Appropriations to make specific appropriations and amounts available under such paragraphs.".

Mr. HOLLINGS. Mr. President, while we coordinate this with the managers of the bill, S. 1839 requires that specified funding levels be provided for three higher education programs—the supplementary educational opportunity (SEOG) program, the college work study (CWS) program, and the national direct student loan (NDSL) program—before increases in funding can be provided for the basic educational opportunity grant program.

The Labor and Human Resources Committee, in its report on S. 1839, states, "The thresholds in the committee bill do not constitute mandatory or backdoor funding. They are simply designed to give guidance to the Appropriations Committee * * *." The Hollings-Bellmon language simply clarifies this intent in the bill.

This particular amendment by myself and the distinguished Senator from Oklahoma (Mr. BELLMON) provides that the appropriation forcing lanaguge be modified in the bill. We have the same intent as the distinguished Senator from Rhode Island, the manager of the bill, but these particular transfer sections must be modified to allow the Appropriations Committee to appropriate funds for each of these programs based on the consideration of their own merits.

There are three other places in the bill that need to be modified. The first revision, section 105, requires the Secretary to make $3 million of General Education Provisions Act funds available for the Commission on National Development in Postsecondary Education.

This, to my mind, Mr. President, is requiring our Appropriations Committee to fund programs when the bill says "it shall be made available," that is the same as "shall be appropriated."

That is an appropriation in an authorization act.

I am confident that the chairman and the distinguished subcommittee chairman of Labor and Human Resources did not intend that, and I wanted that clarified. That is one section of the bill that would be clarified so that the Appropriations Committee could then exercise its own discretion.

The other two sections in need of change are as follows:

Section 162(a) requires the Secretary to reserve $22.5 million from sums appropriated to carry out the education portion of the youth employment initiative proposed by the President but not yet enacted to carry out certain education demonstration projects.

Section 162(b) requires the Secretary of Labor to reserve and transfer to the Secretary of Education $20 million of CETA funds to carry out certain education programs.

Modifications are also needed in these sections.

I can best describe the problem which this amendment addressed by quoting from the Labor and Human Resources Committee's report on this bill:

Mandatory or "backdoor spending" authorities, which include contract authority, borrowing authority and legislative bills establishing payment levels or benefit formulas which constitute a binding obligation on the part of the government, are a substantial factor in Congress' inability to control spending. Yet, a new form of "backdoor" spending has evolved in recent years. Of the remaining 25 percent of the budget subject to the appropriations process, some of these funds are approved on what for all practical purposes is a pro forma basis because the authorizing legislation in effect required the appropriation. The Higher Education Act is a case in point.

The committee was clearly aware of—and concerned about—the problems that occur when authorizing committees tell the appropriating committees how to do their job. The inevitable result is that the discretion of Congress in setting funding levels for programs is limited.

And the job of controlling Federal spending—and balancing the budget—becomes even more difficult.

The committee went a long way in cleaning up some of these problem areas in the Higher Education Act. But it missed a few.

The purpose of this amendment is therefore to clean up the last few appropriations-enforcing measures in the bill.

I ask unanimous consent to have printed in the RECORD a factsheet describing the provisions affected by the amendment, and I urge Senators who seek to balance the Federal budget to join in supporting this amendment.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON THE HOLLINGS-BELLMON AMENDMENT TO S. 1839

1. Appropriations-forcing provisions:

S. 1839 requires that specified funding levels be provided for three higher education programs—the supplementary educational opportunity (SEOG) program, the college work study (CWS) program, and the national direct student loan (NDSL) program—before increases in funding can be provided for the basic educational opportunity grant ("Pell grant") program.

The Labor and Human Resources Committee, in its report on S. 1839, states, "The thresholds in the Committee bill do not constitute mandatory or backdoor funding. They are simply designed to give guidance to the Appropriations Committee . . ." The Hollings-Bellmon language simply clarifies this intent in the bill.

2. Appropriations transfer requirements:

The following provisions of the Higher Education Act, as amended by S. 1839, would transfer funds appropriated for FY 1981 through FY 1983 for certain programs to other programs:

Section 105 requires the Secretary to make $3 million of General Education Provisions Act funds available for the Commission on National Development in Postsecondary Education.

Section 162(a) requires the Secretary to reserve $22.5 million from sums appropriated to carry out the education portion of the youth employment initiative proposed by the President but not yet enacted to carry out certain education demonstration projects.

Section 162(b) requires the Secretary of Labor to reserve and transfer to the Secretary of Education $20 million of CETA funds to carry out certain education programs.

The Hollings-Bellmon amendment would modify these provisions to allow the Appropriations Committee to appropriate funds for each of these programs based on consideration of their merits.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the name of the Senator from Florida (Mr. CHILES) be added as a cosponsor of the amendment. Also, the Senator from Washington (Mr. MAGNUSON) and the Senator from North Dakota (Mr. YOUNG) support this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. BELLMON. Mr. President, S. 1839 includes a number of provisions designed to compel the Appropriations Committee, and indeed the Senate, to increase funding for a whole array of other programs—should we want to increase the maximum grant award for basic education opportunity grants (which are renamed "Pell grants," under this bill).

This kind of language is not new. Indeed, the language in the bill is vastly preferable to the language in existing law. As a matter of fact, the report actween sectarian and nonsectarian schools. The Court in *Nyquist* made clear that a law could offend the establishment clause even if aid to religion was not *the* primary effect but was only one of several consequences of that law. An additional New York State program considered by the Court in *Nyquist* provided "maintenance and repair grants" to nonpublic schools limiting those grants to 50% of the maintenance and repair costs of public schools. Even though it was clear that most of the funds would be used for nonsectarian purposes, the Court held the grants unconstitutional. The flaw in the program was that it provided no means of excluding State funds from having some substantial effect benefiting religion. 413 U.S. at 778-80. Possibly a clearer example may be found in the Federal higher education construction grants involved in *Tilton* v. *Richardson, supra*. In that case, even though it was clear that the constructed facilities would be used predominantly for secular purposes, the fact that those facilities could be used for sectarian purposes 20 years after their construction was enough to render that portion of the law unconstitutional in the unanimous view of the Court. Indeed, the Court struck that provision down on the ground that the 20 year limitation "will *in part* have the effect of advancing religion," 403 U.S. at 683 (emphasis added), not because that effect was predominant. No one could have claimed there that the law's central effects were secular. Only when the sectarian effects may be characterized fairly as merely "incidental" can a funding program which benefits religion be upheld.

[5] We note that the report of the Senate Finance Committee on the bill as amended separately discusses elementary and secondary school tuition credits and college tuition credits. S. Rep. No. 95–642, 95th Cong., 2d Sess. 2–3 (1978).

[6] Supporters of the bill who seek to distinguish *Nyquist* make one other generalized claim. The assertion is made that the Court's precedents in the establishment clause area of first amendment law have been so changeable and unpredictable that little significance may be attached to recent holdings. In our view that reading of the cases is unfair. Certainly, as the Court has freely acknowledged, the lines are not easy ones to draw. The Court has, however, developed—and adhered to—the three-part test outlined at length eight years ago in *Lemon* v. *Kurtzman, supra*. That test has commanded the votes of every Justice of the Court with the exception of Justices White and Rehnquist. More importantly though, we know of no reason to argue that *Nyquist* and *Sloan*, the precedents directly pertinent here, are of doubtful vitality.

[7] We believe, hcwever, that the Packwood-Moynihan tax credit would be constitutional with respect to college and university tuition. It appears that the benefits of a higher education tuition tax credit would flow to a broad class of individuals, and not, as with elementary and secondary school credits, primarily to individuals affiliated with sectarian institutions. As the Court noted in *Nyquist*, nothing in its decision compels the conclusion that a generally available form of education assistance, such as the "G.I. Bill" 38 U.S.C. § 1651, impermissibly advances religion. 413 U.S. at 783 n. 38. Our views on the constitutionality of the college tuition tax credit are buttressed by the Court's recent summary affirmance of a case involving an establishment clause challenge to a Tennessee program providing grants to students in public and private colleges. *Americans United for the Separation of Church and State* v. *Blanton*, —— U.S. ——, 98 S. Ct. 39 (1977), *aff'g* 433 F. Supp. 97 (M. D. Tenn. 1977). The District Court, relying in part on the *Nyquist* footnote mentioned above, concluded that the broad Tennessee college scholarship program, with its emphasis on the student rather than the institution, did not have the effect of favoring private or sectarian institutions over public institutions and therefore did not compromise establishment clause values. We believe that the same rationale is applicable to federal tax credits for college and university tuition.

[8] That program is set out at 20 U.S.C. § 107a (Supp. V 1975), *as amended by* 20 U.S.C.A. 1070a (Supp. 1977).

Mr. HOLLINGS. Mr. President, covering these particular points, I think that we should all understand that today, the average Federal subsidy to the individual public school child is approximately $128. Federal assistance consists primarily of special education programs for individual students—compensatory education help for the handicapped, the language-deficient, and the poor. This is targeted, special-purpose aid that goes to the needy in both the public and private schools. Insofar as there is a need to be met under the various programs students attending both public and private schools share equally in the Federal assistance. Federal dollars go to students eligible for the targeted assistance regardless whether they are enrolled in public or private schools.

What this amendment would do is, rather than bring the private school up to the public, take the $750 tuition amount, the half basis, adding $240, or give $79 to the private school child in contrast to the $128 received by the public school child.

But this particular BEOG program for private education translates, really, into general assistance, a windfall for an institution, rather than a helping hand for a deserving child.

FEDERAL ELEMENTARY AND SECONDARY EDUCATION POLICY: EQUAL EDUCATIONAL OPPORTUNITY

Public school assistance programs follow from the mandate of Congress for equal educational opportunity in the public schools. This is not required of the private schools. These latter are selective and generally choose the brightest, those without discipline problems or language problems, those from higher income brackets, and those fleeing from the inter-city, integrated school. The public school, in contrast, must take all comers—regardless of background, regardless of special problems. Additionally, the public institution must abide by congressional laws and court decisions which the private school can ignore.

Those who argue that public and private schools are directly competitive, that public performances can be directly compared, ignore the basic difference.

The public school is bound by both law and conscience to reach out to every child as a matter of his or her birthright. That is what public education is all about. The record compiled by our public schools as they educate 90 percent of our youngsters, expand equal opportunity, and provide every American child the chance for a better future is very impressive. Public schools have led the way in making our Nation truly a land of opportunity, equal opportunity, for all.

What is impressive is the record compared by our public schools as they educate 90 percent of our youngsters. They expand equal opportunity and they provide every American child with the chance for a better future. The public schools have really led the way.

In contrast, the many private schools have built for the specific purpose of closing the doors of economic and social opportunity.

Some people call them protest schools. I call them segregation academies. They dot the landscape in our own backyard, and their purpose is clear to everyone.

It is sad to report that the best estimate is that nearly one of every five private schools is a protest school in my backyard.

Now, the private school students that would receive the benefit of some 408,000 of the 42.6 million public schoolchildren, in contrast, in essence, what they are doing in less than, say, 1 percent of the schoolchildren, comprising all schoolchildren in the United States, as assisted by this particular program.

There is every incentive for private schools to raise tuition once this measure is implemented, and I cannot overemphasize that.

Parents and children of private schools will have expectations of this kind of basic opportunity grant, only to find themselves conduits between the Federal Treasury and the private school.

Commonsense tells us that the private schools will raise tuition to capture as much of this new money as they can and, of course, we would not blame them for trying.

But should we provide the opportunity for opening Treasury gates, no one should be surprised that further down the road politicians on the State level will discover an opportunity for some more Federal money, as I pointed out earlier.

Mr. President, I am trying to find a particular letter because of the reference. There was a letter by my distinguished friend, the Senator from New York, to the Catholic bishops. I wanted to have it printed in the RECORD. So before we make an agreement on time, I will get a copy.

I had that letter given me by one of the bishops who asked me to answer it. I have misplaced it, but I will have it momentarily.

I will agree to momentarily setting aside, or whatever the distinguished Senator wishes at this particular point.

Mr. MOYNIHAN. Mr. President, with the understanding that the Senator still has some matters he wants to have printed in the RECORD, and expecting that other Senators want to speak to this matter, I ask that the unprinted amendment numbered 1267, before us, be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

guished aid to college level institutions from aid to lower level schools, pointing out that religiously affiliated institutions at the college level are less often so "pervasively sectarian" as are schools educating younger-students and that older students are generally less impressionable. *See, e.g., Roemer* v. *Board of Public Works of Maryland,* 426 U.S. 736 (1976); *Hunt* v. *McNair,* 413 U.S. 734 (1973); *Committee for Public Education* v. *Nyquist,* 413 U.S. at 777 n. 32; *Tilton* v. *Richardson,* 403 U.S. 672, 685 (1971).

Once the focus is on elementary and secondary school tuition credits alone, it is evident that the effect on sectarian education is not merely incidental. Not only would the credits benefit institutions whose role is to emphasize religious training and beliefs, but they would also benefit sectarian schools in significantly larger numbers than nonsectarian schools. The high percentage of sectarian elementary and secondary schools in New York State—approximately 85 percent of all nonpublic schools—was one factor influencing the Court's decision in *Nyquist.*

Current statistics on nonpublic schools nationally show that nearly 17 percent of the nation's elementary and secondary schools are nonpublic. Of that percentage, 85 percent are religiously affiliated. U.S. Department of Health, Education and Welfare, National Center for Education Statistics, Nonpublic School Statistics, 1976–77. According to the most recent statistics available, 87.5 percent of nonpublic schools at the elementary level and 70.2 percent of nonpublic schools at the secondary level are sectarian.[3] U.S. Department of Health, Education and Welfare, National Center for Education Statistics, Statistics of nonpublic elementary and secondary schools, 1970–71. Although sectarian secondary schools do not dominate nonpublic education to the same extent as sectarian elementary schools, we believe that their numbers are sufficiently substantial that no meaningful distinction between credits for elementary and secondary schools could be drawn.

It might be argued that the availability of credits for public elementary and secondary school tuition under the provisions of the bill would significantly affect those statistics. The Court has repeatedly made the point, however, that the actual impact or "effect" of the program is the controlling determinant, not its theoretical or hypothetical consequences. The simple fact is that most public schools are supported by state funds, not tuition payments, and there is no evidence of which we are aware that the structure of state funding is likely to change radically as a result of this legislation. Thus, it appears that the tax credits here, like the tax reductions in *Nyquist,* have a primary effect of benefiting parents of children attending sectarian, nonpublic schools.[4]

The neutrality argument, as the most plausible basis for distinguishing the bill from the statute at issue in *Nyquist* and *Sloan,* deserves elaboration The argument rests primarily on language in Mr. Justice Powell's opinion for the Court in *Nyquist,* in which he distinguished *Walz* v. *Tax Commissioner,* 397 U.S. 664 (1970). In *Walz* the Court upheld the constitutionality of property tax exemptions for churches. The *Nyquist* Court distinguished the earlier case on several grounds, one of which was the broad based and neutral class of property exempted:

> The exemption challenged in *Walz* was not restricted to a class composed exclusively or even predominantly of religious institutions. Instead the exemption covered all property devoted to religious, educational, or charitable purposes. As the parties here must concede, tax reductions authorized by this law flow primarily to the parents of children attending sectarian, nonpublic schools. Without intimating whether this factor alone might have controlling significance in another context in some future case, it should be apparent that in terms of the potential divisiveness of any legislative measure the narrowness of the benefited class would be an important factor." 413 U.S. at 794.

At the end of the above discussion the Court added a footnote referring back to a similar point made earlier, which stated:

"[W]e need not decide whether the significantly religious character of the statute's beneficiaries might differentiate the present case from a case involving some form of public assistance (e.g., scholarships) made available generally without regard to the sectarian-nonsectarian or public-nonpublic nature of the institution benefited." 413 U.S. at 783 n. 38.

The contention might be made on the basis of those remarks that the present bill is valid, because it would benefit a large, diverse class and would not in its operation draw distinctions based upon the religious character of institutions. This argument may be maintained, however, only if no line is drawn between elementary and secondary school and higher education tuition credits. We think the bill cannot be viewed in this manner for several reasons. First, as we noted above, the Supreme Court has repeatedly-drawn a distinction between grants to sectarian colleges and universities and similar grants at the pre-college level. Second, the history of education in this country has evolved along lines distinguishing between universal free and mandatory public education at the elementary and secondary level and the more restrictive, nonmandatory, and rarely free educational offerings by the States at the higher education level. Because of these differences, the effect of the bill's tax credit provisions will be decidedly different for parents of public schoolchildren than for those whose offspring are enrolled in colleges and universities. Third, comments and testimony submitted on the bill leave little doubt that Congress has been made aware of the differences between tuition tax credits for the families of college students and credits for those families of elementary and secondary schoolchildren who desire a private school alternative.[5] *See, e.g.,* letter dated December 21, 1977 to Senators Packwood and Moynihan from Professor Freund of Harvard Law School.

Finally, we do not think that broadening the class of beneficiaries to mesh elementary and secondary students with college and university students obscures the fact that one of the "primary effects" of the bill is to aid sectarian education. The Court has stated clearly that to constitute a "primary effect" a law need not result exclusively or even predominantly in religious benefits. Rather, a primary effect can exist even where there are any number of other appropriate and praiseworthy consequences of the legislation. Given these considerations, we do not think it reasonable to contend that the provisions of the bill pertaining to tuition for elementary and secondary schools would survive on "neutrality" grounds.[6]

An alternative argument in support of the bill is that federal tax relief is fundamentally different from similar state measures. If the states promote the education of elementary and secondary schoolchildren through the provision of free public schools, the primary effect of any state tax relief for elementary and secondary school tuition is to assist the sectarian schools which make up the bulk of educational institutions charging tuition. It is argued that the federal government, on the other hand, does not provide elementary and secondary schooling, and can attempt effectively to promote the education of schoolchildren only through generally applicable tax relief measures. This argument ignores the focus of *Nyquist.* Although the purpose underlying a tax benefit plan may be both secular and laudable, the effect of the plan may be impermissibly to advance or inhibit religion. As we have said, it is our opinion that the effect upon nonpublic elementary and secondary schools of the Packwood-Moynihan tax credit would be constitutionally indistinguishable from the effect of the *Nyquist* tax reduction legislation.[7]

Our comments with respect to the proposed extension of the Basic Educational Opportunity Grant (BEOG) program[8] to include nonpublic elementary and secondary education follow the same vein. Under the present program grants are awarded to students enrolled at institutions of higher learning on the basis of need. The amount of the grant is determined by a number of factors including family size, income, and tuition costs. The proposed extension would make those grants available to pupils in nonpublic elementary and secondary schools as well. Both *Nyquist* and *Sloan* hold that tuition grants for nonpublic elementary and secondary education infringe upon the establishment clause guarantee if a primary effect of the grant or reimbursement plan is to aid sectarian schools. Given the predimonantly sectarian affiliation of nonpublic elementary and secondary schools nationally, any broadening of the BEOG program into elementary and secondary education would appear to have a primary effect nearly identical to the tuition reimbursement plans invalidated in *Nyquist* and *Sloan.*

Finally, we note that the problem of entanglement in the form of politically divisive activity described by the Court in *Nyquist* would exist under both tuition relief proposals. Insofar as the programs have a primary effect upon sectarian elementary and secondary schools controversy is predictable. As the Court stated:

"[We] know from long experience with both Federal and State Governments that aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own aggressive constituencies. . . . In this situation, where the underlying issue is the deeply emotional one of Church-State relationship, the potential for seriously divisive political consequences needs no elaboration." 413 U.S. at 797.

In conclusion, it is our opinion that both the proposed extension of the BEOG and the provisions of the Packwood-Moynihan Bill which would provide relief for tuition payments to nonpublic elementary and secondary schools are unconstitutional under the decisions of the Supreme Court in *Nyquist* and *Sloan.*

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] We understand that the bill as reported out of the Senate Finance Committee was amended in a number of ways but that the basic tax credit provisions remain unchanged.

[2] We understand that a severability clause was added to the bill as recently reported out of the Senate Committee.

[3] Statistics showing the breakdown of schools at the elementary and secondary school levels for the 1976–77 academic year have not yet been completed. Preliminary statistics on student enrollment during 1976–77 are available, however, which, although compiled using a somewhat different format than earlier statistics, suggest that the percentages of nonpublic schools have not changed radically over the last six years.

[4] It is important to avoid placing too great a reliance on the statistical breakdown be-

fact that the BEOG program is available to students in institutions of higher education does not make it a comprehensive and neutral scheme more similar to the property tax exemption for real property owned by religious organizations and used for religious purposes upheld in *Walz* v. *Tax Commission*, 397 U.S. 664 (1970).

This term the Supreme Court upheld a New York statute that directs the reimbursement of nonpublic schools for the costs incurred in administering state-mandated testing and certain other administrative activities. *Commission for Public Education and Religious Liberty* v. *Regan*, 48 U.S.L.W. 4168 (Feb. 20, 1980). The Court concluded that although sectarian schools receive this aid along with secular private schools, the statute does not have a primary effect that advances religion. The funds go to clearly identifiable secular services. The Court compared the testing program in *Regan* with that upheld in *Wolman* v. *Walter*, 433 U.S. 229, 240–41 (1977), and found that since the schools has no control over the content of the tests, they could not be used for religious educational purposes. The Court noted:

". . . If the grading procedures could be used to further the religious mission of the school, serious Establishment Clause problems would be posed under the Court's cases, for by furnishing the tests it might be concluded that the State was directly aiding religious education." 48 U.S.L.W. at 4171.

The administrative costs for which schools were reimbursed were also found to be separable and not related to the teaching function.

Regan does not purport to call into question the direct precedent in *Nyquist* and *Sloan* that tuition reimbursement programs are unconstitutional. Tuition finances all aspects of a nonpublic school's program, including the teaching and general religiout education function of sectarian schools. Reimbursement thus would have a primary effect of advancing the religious mission of the schools.[2] Tuition reimbursement cannot be equated with the clearly segregated secular activities upheld in *Regan*.[3]

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] 20 U.S.C. 1070a (1976), *as amended by* 20 U.S.C. 1070a (supp. II 1978).

[2] The Supreme Court has developed a presumption that aid to the teaching aspects of sectarian elementary and secondary schools has a primary effect of advancing the religious mission of the schools because their educational function is pervasively sectarian; *viz.*, there is no clearly segregated secular educational function. *See, e.g., Meek* v. *Pittenger*, 421 U.S. 349, 365–66 (1975); *Lemon* v. *Kurtzman*, 403 U.S. 602, 617–19 (1970). The Court has not applied a similar presumption to institutions of higher education, *see e.g., Tilton* v. *Richardson*, 403 U.S. 672 (1971), and therefore statutory schemes such as the BEOG program are defensible at the college and university level.

A three-judge district court has recently upheld a program of remedial and counseling services in the New York City sectarian elementary and secondary schools. *PEARL* v. *Harris*, No. 76–888, slip op. (S.D.N.Y. April 18, 1980). After taking extensive evidence on the operation of the fourteen-year program and the nature of the schools serviced, the court found that the New York City schools were not pervasively sectarian. *Id.*, at 32–35. The court then analyzed the regulations and history of the program and found that it did not have a primary effect of advancing the religious mission of the schools. We cannot predict, of course, whether the Supreme Court will adopt this approach. It cannot be applied to an analysis of S. 1101 on its face because there is no restriction in the bill that to be eligible students must attend schools that are not pervasively sectarian. Furthermore, the *PEARL* decision must be distinguished from analysis of the BEOG program because here we do not have a record of operation over many years to assure a court that "the result feared in other cases has not materialized." *Id.*, at 40. Most importantly, a decision on a discrete, carefully regulated public-school-within-a-sectarian-school Title I program does not have precedential value for a tuition reimbursement program that funds any aspect of the sectarian training. *PEARL* distinguished Title I from the statutes before the Court in *Nyquist* and *Sloan:*

"The program is therefore not comparable to a tuition reimbursement or tax break offered only to parents of private school students because it does not relieve the schools' financial burdens or supply funds free from use limitations and is not limited to a small class of beneficiaries." *Id.*, at 27.

[3] The Supreme Court has found it unnecessary to analyze the third prong of the Establishment Clause test—the potential for administrative entanglement—in a case where it held that a tuition reimbursement program has a primary effect of aiding religious elementary and secondary schools. *Committee for Public Education* v. *Nyquist*, 413 U.S. 756, 794 (1973).

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 17, 1978.
Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Health, Education and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: By letter dated February 8, 1978, you asked for my views on several questions which have arisen with respect to the constitutionality of legislation to provide tax credits to parents who pay tuition for their elementary and secondary schoolchildren. Shortly thereafter, Senator Eagleton asked for my views both on the constitutionality of legislation providing such credits and on a related question, the constitutionality of extending the Basic Educational Opportunity Grant Program to elementary and secondary schoolchildren.

I have asked for advice on these questions from the Office of Legal Counsel, and I am pleased to provide that Office's conclusions to you. I have also provided a copy of those conclusions to Senator Eagleton for his information.

I am in accord with the conclusions expressed by the Office of Legal Counsel. In light of existing Supreme Court precedents, it is my opinion that tax programs of the sort contemplated here would be held unconstitutional insofar as they would provide aid at the elementary and secondary school levels. However, I am of the opinion that similar aid at the college level would be constitutional.

Sincerely yours,
GRIFFIN B. BELL,
Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D.C., March 16, 1978.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re constitutionality of Packwood-Moynihan bill.

You have asked for our views concerning the constitutionality under the establishment clause of the first amendment of providing either tax credits or grants for tuition payments to nonpublic elementary and secondary schools. You referred to two specific proposals providing such grants or credits: S. 2142, the Packwood-Moynihan bill, which would give limited income tax relief in the form of a credit for tuition payments to nonpublic schools; and the extension of the Basic Educational Opportunity Grant program to include nonpublic elementary and secondary school education.

Under existing Supreme Court decisions both proposals would appear to violate the first amendment guarantee against establishment of religion. The controlling decisions on tuition grants and credits for nonpublic elementary and secondary education are *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and *Sloan* v. *Lemon*, 413 U.S. 825 (1973), a companion case.

In *Nyquist*, the Court invalidated a New York tuition reimbursement and tax relief plan. The plan provided limited tuition reimbursements to low income families with children attending nonpublic elementary and secondary schools. Families failing to qualify for tuition reimbursement were allowed tuition tax credits in varying amounts depending upon adjusted gross income. The Court found both facets of the program unconstitutional under the three-part establishment clause test enunciated in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1971):

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion. . . . ; finally, the statute must not foster 'an excessive entanglement with religion.'"

The Court acknowledged that the purposes of the State in enacting the measures—to preserve a healthy, safe educational environment for all schoolchildren, to promote pluralism and diversity in education, and to prevent further overburdening of the public school system—were secular and not inappropriate legislative considerations. It held, however, that the tuition grants and credits failed the second prong of the test because a primary effect of the plan was aid to religious education. The Court noted additionally that the plan created the prospect of politically divisive Church-State entanglement. Adoption of programs assisting sectarian education would generate ongoing controversy along religious lines over continuing or enlarging available relief.

In *Sloan*, the Court held that a Pennsylvania tuition reimbursement program was constitutionally indistinguishable from the New York program invalidated in *Nyquist*. Since the Pennsylvania program had the effect of advancing religion, it too infringed upon the establishment clause guarantee.

The Packwood-Moynihan bill provides an income tax credit for tuition payments to elementary and secondary schools as well as vocational schools, colleges, and universities.[1] The amount of the credit is 50% of tuition up to a total of $500 per student. If the credit to which the taxpayer is entitled exceeds his tax liability, the difference is refunded to him. It is our opinion that the tax relief provided in the bill for tuition payments to nonpublic elementary and secondary schools falls within the score of Nyquist.

Although we have considered carefully possible arguments distinguishing the Packwood-Moynihan tax credit from the New York tax relief program struck by the Supreme Court, we do not believe the differences are of constitutional dimension. It might be argued that the facially neutral, broad based tax relief provided in the bill prevents it from having a "primary effect" of advancing religion. According to that argument, aid accruing to nonpublic elementary and secondary schools would be only "incidental" to an otherwise neutral plan, and therefore would be constitutionally permissible under *Nyquist*. 413 U.S. at 771, 782 n. 38; *Walz* v. *Tax Commission*, 397 U.S. 664 (1970). A realistic appraisal of the tax credits proposal, however, indicates that it is not so neutral or broad based as it might first appear. In analyzing the effect of the tuition tax credit under the establishment clause, it is necessary to separate the elementary and secondary school and higher education components of the package.[2] Recent Supreme Court decisions have consistently distin-

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Footnotes at end of article.

Mr. MOYNIHAN. Of course.

Mr. STAFFORD. In the Senator's "Dear Colleague" letter of May 28, the Senator made the statement that "only tuition fees and required instructional materials with expenses eligible for assistance, the room, board, and commuting costs and the like, would be excluded."

Then the Senator from Vermont began examining the pending substitute amendment. So, my question revolves around the fact that the so-called Pell amendments or BEOG grants do not seem to be limited to those three items. I searched the Senator's amendment to see if it were more restrictive than BEOG grants and I was not able to find the language. I ask the Senator if he would assist me in that respect.

Mr. MOYNIHAN. Yes, I am happy to do that.

The unprinted amendment states that on page 219, between lines 12 and 13, it says the following:

> The purpose of basic grants made under subparagraph (b) of section 411(a)(1) the cost of attendance at an eligible educational institution means the tuition, required fees, and such other expenses determined by the Secretary to be necessary to fulfill the educational requirements at the eligible educational institution at which the student is in attendance.

That is meant to be exclusive to those purposes and not, in effect, to cover room and board.

Mr. STAFFORD. The page number the Senator cited—was that in the bill?

Mr. MOYNIHAN. That is in the addition to the bill that would be inserted by the amendment.

The Senator is correct, that the purpose of this amendment is for the moneys to be used exclusively for tuition, required fees and such other expenses determined by the Secretary to be necessary to fulfill the educational requirements.

Mr. STAFFORD. If I understand the Senator's amendment, it would make students in attendance at schools eligible under it in a position to have a program available to them for 12 years—all the way from first grade through 4 years of secondary education.

Mr. MOYNIHAN. Yes, but it would not affect their eligibility for Pell grants at the college level.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the complete letter from Henry P. Monaghan of the School of Law of Boston University, dated June 23, be printed in the RECORD at this point.

This being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOSTON UNIVERSITY SCHOOL OF LAW,
Boston, Mass., June 20, 1980.

Re: S. 1101.
Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: At your request, I have examined the content of S. 1101. In my opinion, legislation of this character would be plainly unconstitutional under the controlling decisions of the Supreme Court of the United States. In view of the elaborate opinion of the Attorney General on the matter and the shortness of time, I will simply state that S. 1101 is in flat conflict with the principles set forth in *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and *Sloan* v. *Lemon*, 413 U.S. 825 (1973). The authority of these cases was recently attested to by the Court's summary affirmance in *Byrne* v. *Public Funds for Public Schools*, 442 U.S. 907 (1979). Nothing in the Supreme Court's recent decision in *Commission for Public Education and Religious Liberty* v. *Regan*, 446 U.S. —— (1980), impairs the authority of the cases I have mentioned.

Sincerely,

HENRY P. MONAGHAN.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the letter from the Attorney General, the Honorable Benjamin R. Civiletti, to the Honorable Shirley R. Hufstedler, with the accompanying helpful opinion, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 30, 1980.

Hon. SHIRLEY M. HUFSTEDLER,
Secretary, Department of Education,
Washington, D.C.

MY DEAR MADAM SECRETARY: You have requested my opinion on the constitutionality of S. 1101, a bill to extend Basic Educational Opportunity Grants to students attending private elementary and secondary schools.

I concur in the conclusions of the Office of Legal Counsel, expressed in the attached memorandum, that the provisions of S. 1101 extending Basic Educational Opportunity Grants to students enrolled in sectarian elementary and secondary schools are unconstitutional. On March 17, 1978, Attorney General Bell expressed his opinion that extension of Basic Educational Opportunity Grants to the elementary and secondary school level would be unconstitutional. That opinion remains sound in view of subsequent Supreme Court decisions.

Sincerely,

BENJAMIN R. CIVILETTI,
Attorney General.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., May 29, 1980.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Constitutionality of S. 1101: A Bill to Extend Basic Educational Opportunity Grants to Students at Nonpublic Elementary and Secondary Schools.

In a letter of April 25, 1980, Shirley M. Hufstedler, Secretary of Education, requested your opinion on the constitutionality of S. 1101, a bill to extend Basic Educational Opportunity Grants (BEOG)[1], to students enrolled in private elementary and secondary schools. Attorney General Bell, in the attached letter of March 17, 1978 to Joseph A. Califano, Jr., then Secretary of Health, Education, and Welfare, concurred in the conclusions expressed in the attached March 16, 1978 opinion of this Office on a similar bill. Attorney General Bell concluded that such extension of these grants to students enrolled in nonpublic elementary and secondary schools would be unconstitutional. We have reconsidered our earlier views and believe that subsequent Supreme Court decisions confirm our conclusions. This memorandum supplements the views expressed in our March 16, 1978 opinion.

The BEOG program, as it now operates, provides grants to certain needy students enrolled in institutions of higher education. S. 1101 would make students enrolled in private elementary and secondary schools eligible for these grants.

In order for a statute to survive Establishment Clause scrutiny, it must have a secular legislative purpose, it must not have a primary effect that either advances or inhibits religion, and it must not foster an excessive entanglement with religion. *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1971).

This test has been repeated in every significant Supreme Court decision in this area during the last decade. There is no evidence in cases decided by the Supreme Court since our earlier memorandum that this three-part test has been altered in any significant way.

Applying that test to the BEOG bill now under consideration in the Senate, we remain of the view that while the program envisioned in that bill might be found to have a neutral, nonreligious purpose, it would be struck done, nonetheless, because it has a primary effect that advances the religious mission of sectarian elementary and secondary schools.

The program appears to be virtually indistinguishable from that considered by the Congress two years ago and is not constitutionally distinguishable from those tuition grant programs struck down in *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and a companion case, *Sloan* v. *Lemon*, 413 U.S. 825 (1973).

In *Nyquist*, the Court found that the New York program of tuition reimbursement to parents of children attending nonpublic elementary or secondary schools and a tax deduction provision had a primary effect of advancing religion. Likewise, a similar Pennsylvania tuition reimbursement program was invalidated in *Sloan*. The Court made clear in these cases that it would strike down unrestricted grants to sectarian elementary and secondary schools, even if given indirectly by payments to the parents rather than the schools, *see Sloan* v. *Lemon*, 413 U.S. at 832, because such funds could be used to promote the religious mission of the schools. The Court in *Nyquist* noted that whether the funds are provided as reimbursement for tuition paid in past years or as grants for the current year is of no constitutional significance. 413 U.S. at 786–87. Nor does it matter whether the payment is made to the students rather than to the parents because "the Court look[s] beyond the formal recipient of the aid" to its primary effect of supporting the sectarian schools. *See PEARL* v. *Harris*, No. 76–888, slip op. at 24 (S.D.N.Y. April 18, 1980), *citing Sloan* v. *Lemon*, 413 U.S. at 832.

Recent Supreme Court decisions do not question *Nyquist* and *Sloan*. Just last term, the Court summarily affirmed *Beggans* v. *Public Funds for Public Schools*, 47 U.S.L.W. 3775 (May 25, 1979). The Third Circuit in *Beggans* relied heavily on *Nyquist* to strike down a New Jersey program of tax exemptions for parents of children enrolled in nonpublic elementary and secondary schools. 590 F.2d 514 (3d Cir. 1979). The court found that:

> "Even if parents of dependents in nonpublic schools do have greater expenses than those supporting dependents in public schools, the State may not "equalize" the burden by granting a benefit only to taxpayers with dependents in private or parochial schools. *Nyquist* explicitly forecloses the argument that the State may deny an exemption to the parents of students in public schools but may grant an exemption to parents of students in nonpublic schools, on the supposition that this differing treatment may tend to equalize the two classes of parents in their educational expenditures.
>
> "Inasmuch as New Jersey's exemption denies to parents of public school students a benefit granted to parents of students in nonpublic schools, the exemption is not saved because a similar provision applies to parents of college and university students, including those in public institutions." *Id.*, at 519–20 (citations deleted).

Beggans noted that *Nyquist* held that the tax exemption and tuition reimbursement programs each independently violated the Constitution. *Id.*, at 520. As in the New Jersey program before the court in *Beggans*, the

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Footnotes at end of article.

the debate on tuition tax credits will recall that it is now the 105th anniversary of this issue being introduced into national politics, when President Grant addressed to the Army of the Tennessee in 1875. We have resolved some parts of it, but not others. I hope we can continue to debate it in a spirit of fellowship and understanding and tolerance.

I thank the Chair.

I believe the distinguished Senator from Oklahoma wishes to speak on this matter. If he does, I am happy to yield to him at this time.

(Mr. HART assumed the chair.)

Mr. BELLMON. I thank my colleague for yielding. I will be speaking on the opposite side from the Senator.

Mr. MOYNIHAN. That was my understanding. But I am still happy to yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I am opposed to the Moynihan amendment. Two years ago, I opposed Senator MOYNIHAN's proposal to provide tuition tax credits to parents of children enrolled in private schools. Also in 1978, I opposed the proposal to provide grant assistance for students attending private schools, which was before the Senate that year as a proposed title XII of the Elementary and Secondary Education Act.

In 1978 the Senate voted to reject both tuition tax credits for elementary and secondary education and grant assistance to students at the elementary and secondary level in private schools. I hope the Senate will reaffirm that position today when we vote on this amendment.

The administration opposes this amendment. Most civil rights groups oppose it. Public school teachers and administrators oppose it.

The arguments that can be made against this amendment are many. Let me mention some of the most compelling.

In this year of budgetary restraint, we must consider cost. The CBO estimates that the first-year cost of this amendment would be $160 million. There are many reasons costs could increase significantly in future years, if the amendment were adopted. There would be pressure to increase the size of grants. It is reasonable to assume private school enrollments would increase. It is also reasonable to assume that private schools would increase tuition. All of these developments would increase the cost of this amendment to the Treasury.

As a matter of fact, the last point I mentioned relating to cost is another good argument against this amendment, in and of itself. It is highly likely that a direct result of this amendment would be dramatic increases in private school tuition. These increases could more than off-set the amount of grant assistance the Federal Government would be providing under this amendment. There would be great pressure to increase the size of the grants, and, therefore, the cost of the program.

Mr. President, I have heard some of my colleagues decry the "sorry state" of public education. I do not agree that public schools are as bad off as they would have us believe. But even if our schools were in as bad shape as some have said here today they are, the remedy would be to improve our public schools—not to turn away and attempt to fund another education system alongside the public schools.

Competition is a fine thing, Mr. President, so long as there are two or more competitors involved. Going into competition with ourselves, however, does not make sense.

Mr. President, if we embark on a large new program of Federal assistance to private schools—particularly in this era of tight budgets and scarce resources—the inevitable result would be less funding available for public schools. Is this what the proponents of the amendment would propose? Do they really want to cut funding for public schools?

Mr. President, I would hope not, and I doubt that that is the case. But, as a matter of fact, if we provide money to support the Moynihan amendment, then we are simply going to have to take it away from our existing support for the public school system.

The proponents of the amendment tried to obviate the budget arguments against this proposal by making it effective first in fiscal year 1982. Putting off the starting date 1 year does not make a program less costly, Mr. President, it only puts off for a year the point at which we would have to begin to bear the added cost should we agree to this amendment.

Even putting aside the cost questions, there are serious questions that should be raised about this amendment.

Is it our purpose to aid religious schools? Distinguished legal scholars and recent court decisions clearly indicate that such aid is unconstitutional.

Mr. President, I have in my hand a letter to the Secretary of the Department of Education from Benjamin R. Civiletti, Attorney General. I would like to read only one sentence from the letter and allude to some of the citations. Mr. Civiletti says:

> I concur in the conclusions of the Office of Legal Counsel, expressed in the attached memorandum, that the provisions of S. 1101 extending basic educational opportunity grants to students enrolled in sectarian elementary and secondary schools are unconstitutional.

On page 2 of the memorandum to which Mr. Civiletti refers is a citation pointing out that the third circuit has struck down a New Jersey program of tax exemption for parents of children enrolled in nonpublic elementary and secondary schools. The court found that:

> Even if parents of dependents in nonpublic schools do have greater expenses than those supporting dependents in public schools, the State may not "equalize" the burden by granting a benefit only to taxpayers with dependents in private or parochial schools.

Then further down on page 3 of the memorandum you find this language:

> Inasmuch as New Jersey's exemption denies to parents of public school students a benefit granted to students in nonpublic schools, the exemption is not saved because a similar provision applies to parents of college and university students, including those in public institutions.

Also, on page 4 of the memo cited by Mr. Civiletti, we find this language:

> The Supreme Court has developed a presumption that aid to the teaching aspects of sectarian elementary and secondary schools has a primary effect of advancing the religious mission of the schools because their educational function is pervasively sectarian;

Mr. President, it is a lengthy memo. I shall not put the whole memo in the RECORD. If anyone is interested in reading it, I shall be glad to share it with him, but it seems to me to make absolutely sure that there is a serious constitutional question about the amendment of the Senator from New York.

Mr. President, surely, those who support this amendment do not wish to exacerbate the so-called white flight from integrated schools.

Public schools are integrated because the Federal law requires them to be integrated. Surely the Senate does not want to finance a program which could fund students fleeing from integrated schools.

Private schools are certainly a choice available to parents. I do not mean to impune the motives of parents who make that choice for their children, but parents who make that choice should understand that it is a choice—not a right. They should understand that the taxpayer already supports one school system open to all; and that to the extent that we have public resources available to finance elementary and secondary education, those resources should be devoted to improving our public schools.

Mr. President, I urge all my colleagues to oppose the Moynihan amendment. It is costly. It would inevitably become more costly. Most of us are already concerned that student assistance costs have gotten out of control in recent years; and we should be working to bring those costs under control—not adding to them.

Furthermore, Mr. President, the Moynihan amendment is bad public policy. It would get the government into a whole new kind of education financing—into education financing that is probably unconstitutional and which would undercut the resources available for public education. It would consume resources better devoted to improving public education, and it would not further any objective of Federal education policy espoused by any administration in recent years, Republican or Democratic.

Mr. President, I am willing to yield.

Mr. MOYNIHAN. Mr. President, it would do no good to speak further on this particular matter at this time. I ask unanimous consent that my unprinted amendment numbered 1267 be temporarily laid aside.

Mr. HOLLINGS. Mr. President, I think the distinguished Senator from Vermont had a comment and I have one or two.

Mr. MOYNIHAN. In that case, I am sorry, Mr. President. I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, if the distinguished Senator from New York, the sponsor of the amendment, would permit me, another question occurred to me and I should like to ask it of him.

tax credits are buttressed by the Court's recent summary affirmance of a case involving an established clause challenge to a Tennessee program providing grants to students in public and private colleges. *Americans Unit for the Separation of Church and State* v. *Blanton*, -------- U.S. -------- 98 S.Ct. 39 (1977), *aff'g* 433 F. Supp. 97 (M. D. Tenn 1977). The District Court, relying in part on the *Nyquist* footnote mentioned above, concluded that the broad Tennessee college scholarship program, with its emphasis on the student rather than the institution, did not have the effect of favoring private or sectarian institutions over public institutions and therefore did not compromise establishment clause values. We believe that the same rationale is applicable to federal tax credits for college and university tuition.

[8] That program is set out at 20 U.S.C. § 107a (Supp. V 1975), *as amended by* 20 U.S.C. 1070a (Supp. 1977).

THE SECRETARY OF EDUCATION,
Washington, D.C., April 28, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on S. 1101, a bill "to amend Subpart 1 of Part A of Title IV of the Higher Education Act of 1965 to provide Basic Educational Opportunity Grants (BEOGs) for elementary and secondary nonpublic school students, and for other purposes."

The bill would enlarge the Basic Educational Opportunity Grant Program to create an entitlement for students attending private elementary and secondary schools and area vocational schools. The BEOG program for these students would operate in the same manner as the current entitlement for postsecondary education students, except the maximum grant would be limited to one-half of tuition fees.

In summary, we oppose the bill for several reasons. First, the proposal is likely to greatly inflate future costs of BEOGs. Second, the addition of a large pool of eligible students could undermine support for postsecondary students. In addition, we are concerned that the proposal would have an adverse impact on public elementary and secondary schools. Finally, the bill raises serious constitutional questions.

While it is projected that under current circumstances this proposal would add about $160 million to the cost of BEOGs, future costs could rise much higher for a variety of reasons:

Pressure on Congress to increase the maximum grant or to relax the half-cost limitation (as is now proposed for the college program in both the House and Senate reauthorization bills);

Private school enrollment increases brought on by the availability of tuition aid;

Increases in private school tuition in response to BEOGs. Almost all private elementary and secondary schools charge tuitions under $3,600, thus, half of any increase up to that amount could be covered by the BEOG.

Considering the urgent need for exercising fiscal restraint at this time, the Administration cannot support legislation that would increase substantially the cost of the BEOGSs program.

Moreover, given current budget stringencies our first priority should be to preserve as much as possible support provided to the currently eligible student population.

If this bill were enacted, and the budget for the BEOGs program not increased, the result would be a serious diminution in support for the 2.6 million postsecondary students who now depend on BEOG assistance for their higher education.

We are also concerned that this proposal could have an adverse impact on the public school system. To the extent that they reduce the cost of attendance at private schools, BEOGs for elementary and secondary students could provide an incentive for students to leave the public schools, possibly eroding local support for public schools. We believe the approach to aiding private elementary and secondary students that is embodied in existing Federal education laws is sound. This Administration is committed to ensuring that private school students receive their rightful share of benefits from the Federal programs for which they are eligible. To this end, the President's legislative proposals for the 1978 reauthorization of the Elementary and Secondary Education Act—which were accepted and enacted by Congress—extended and strengthened provisions for equitable participation of private school students in Federal programs. In addition, the newly issued Education Division General Administration Regulations (EDGAR) contain strengthened and consistent requirements that will apply to all Federal education programs serving private school students, including requirements that services to private school students be comparable to those provided to public school students and that representatives of private school students be encouraged to participate in the design and implementation of Federal programs.

Finally, in a 1978 advisory opinion, the Justice Department concluded that extension of BEOGs to the elementary and secondary school levels would be held unconstitutional, since their primary effect would be to aid sectarian education. We have asked the Justice Department to assess the impact of subsequent case law on their earlier analysis and will inform you of their conclusions.

For the above reasons, we urge that S. 1101 not be favorably considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report, and that enactment of S. 1101 would not be in accord with the President's program.

Sincerely,

SHIRLEY M. HUFSTEDLER.

Mr. MOYNIHAN. Mr. President, I make the simple point that the views of the Attorney General are most relevant, but that they are not the views of the Supreme Court. They are not final with respect to any such issues.

We have an arrangement in our Constitution, more precisely, the arrangement has emerged by which the constitutionality of legislation is passed upon by the Court. It seems to me, if I can once again invoke Lincoln's doctrine in his debate with Douglas, that we in the Senate have not just the right but the responsibility to advance those positions which we think to be in accord with the Constitution. And I would add my own judgment that our obligation to the Court is not to agree with it, but to obey it and in that manner we are an equal branch of government and have our own responsibilities.

Finally, Mr. President, let me say, reference having been made to the debate in the previous Congress on the tuition tax credit legislation, that, in my judgment, the principal reason for the debate of the tuition tax credit legislation was the unrelenting opposition of the executive branch, especially the White House, the then Department of Health, Education, and Welfare, and the Department of Justice.

For my part, I felt that this opposition did not square well with commitments made in the Democratic platform in 1976, which have been referred to today, nor will President Carter's personal undertaking as expressed in his letter of October, 1976. But these are matters of judgment and of conscience, even, and in no way do I question the good faith of those who opposed us then as they oppose us now.

But I do note that our Democratic Platform Committee for 1980, of which I am a member, has tentatively agreed to restate, more or less word for word, the commitments of 1976 in this regard. This has been done with the full and willing cooperation of the administration's representatives at all the platform committee meetings.

I leave it to others to judge whether or not a pattern is beginning to appear of election year commitments, followed by subsequent avoidance. In any event, there is a discrepancy that needs to be explained, although perhaps it is inexplicable.

On the other hand, Mr. President, if we fail today in the face of the support now being expressed once again by the majority party as represented in this body, and which I think would be reiterated by the minority party as represented in this body, it seems to me that a lesson is to be derived which is unmistakable. The lesson is that such legislation cannot be enacted without the active support of the President and the executive branch.

If we lose today, we had as well accept that nothing can be done while the executive branch is adamantly opposed to doing anything.

It would be settled, I think, that the case for aid to nonpublic schools has not been successfully made in the principal governmental and nongovernmental institutions—the great foundations, the schools of education, the school boards and administrators' associations, the teachers groups, and so forth—where ideas on education are formed and where their advocacy originates. There will then be no choice but a long march through those institutions seeking to persuade others of the justice and desirability of our purpose. Whether this will succeed and how long it will take are not matters which I would even at this point attempt to estimate. I hope it will not be necessary, as I hope we may prevail. But I recognize the formidable nature of the institutional opposition to the purposes we undertake and will accept the outcome with good grace.

I hope that the debate as it continues can reflect the difficulties which this subject raises for us, which Justice White referred to in his decision in the Reagan case which I cited early on. I hope we do not let this be the occasion to divide us. I truly do ask that what further comments are made be made in the spirit which I feel.

I thank my colleagues for having attended with such care to what are complicated and at times tedious remarks, but they address subjects that have been with us for just about one century as an issue of public policy. Those who recall

Nyquist Court distinguished the earlier case on several grounds, one of which was the broad based and neutral class of property exempted:

> The exemption challenged in *Walz* was not restricted to a class composed exclusively or even predominantly of religious institutions. Instead the exemption covered all property devoted to religious, educational, or charitable purposes. As the parties here must concede, tax reductions authorized by this law flow primarily to the parents of children attending sectarian, nonpublic schools. Without intimating whether this factor alone might have controlling significance in another context in some future case, it should be apparent that in terms of the potential divisiveness of any legislative measure the narrowness of the benefited class would be an important factor.

413 U.S. at 794. At the end of the above discussion the court added a footnote referring back to a similar point made earlier, which stated:

> [W]e need not decide whether the significantly religious character of the statute's beneficiaries might differentiate the present case from a case involving some form of public assistance (e.g., scholarships) made available generally without regard to the sectarian-nonsectarian or public-nonpublic nature of the institution benefited.

413 U.S. at 783 n. 38.

The contention might be made on the basis of those remarks that the present bill is valid, because it would benefit a large, diverse class and would not in its operation draw distinctions based upon the religious character of institutions. This argument may be maintained, however, only if no line is drawn between elementary and secondary school and higher education tuition credits. We think the bill cannot be viewed in this manner for several reasons. First, as we noted above, the Supreme Court has repeatedly drawn a distinction between grants to sectarian colleges and universities and similar grants at the precollege level. Second, the history of education in this country has evolved along lines distinguishing between universal free and mandatory public education at the elementary and secondary level and the more restrictive, nonmandatory, and rarely free educational offerings by the States at the higher education level. Because of these differences, the effect of the bill's tax credit provisions will be decidedly different for parents of public school children than for those whose offspring are enrolled in colleges and universities. Third, comments and testimony submitted on the bill leave little doubt that Congress has been made aware of the differences between tuition tax credits for the families of college students and credits for those families of elementary and secondary school children who desire a private school alternative.[5] *See e.g.*, letter dated December 21, 1977 to Senators Packwood and Moynihan from Professor Freund of Harvard Law School.

Finally, we do not think that broadening the class of beneficiaries to mesh elementary and secondary students with college and university students obscures the fact that one of the "primary effects" of the bill is to aid sectarian education. The Court has stated clearly that to constitute a "primary effect" a law need not result exclusively or even predominantly in religious benefits. Rather, a primary effect can exist even where there are any number of other appropriate and praiseworthy consequences of the legislation. Given these considerations, we do not think it reasonable to contend that the provisions of the bill pertaining to tuition for elementary and secondary schools would survive on "neutrality" grounds.[6]

An alternative argument in support of the bill is that federal tax relief is fundamentally different from similar state measures. If the states promote the education of elementary and secondary schoolchildren through the provision of free public schools, the primary effect of any state tax relief for elementary and secondary school tuition is to assist the sectarian schools which make up the bulk of educational institutions charging tuition. It is argued that the federal government, on the other hand, does not provide elementary and secondary schooling, and can attempt effectively to promote the education of schoolchildren only through generally applicable tax relief measures. This argument ignores the focus of *Nyquist*. Although the purpose underlying a tax benefit plan may be both secular and laudable, the effect of the plan may be impermissibly to advance or inhibit religion. As we have said, it is our opinion that the effect upon nonpublic elementary and secondary schools of the Packwood-Moynihan tax credit would be constitutionally indistinguishable from the effect of the *Nyquist* tax reduction legislation.[7]

Our comments with respect to the proposed extension of the Basic Educational Opportunity Grant (BEOG) program[8] to include nonpublic elementary and secondary education follow the same vein. Under the present program grants are awarded to students enrolled at institutions of higher learning on the basis of need. The amount of the grant is determined by a number of factors including family size, income, and tuition costs. The proposed extension would make those grants available to pupils in nonpublic elementary and secondary schools as well. Both *Nyquist* and *Sloan* hold that tuition grants for nonpublic elementary and secondary education infringe upon the establishment clause guarantee if a primary effect of the grant or reimbursement plan is to aid sectarian schools. Given the predominantly sectarian affiliation of nonpublic elementary and secondary schools nationally, any broadening of the BEOG program into elementary and secondary education would appear to have a primary effect nearly identical to the tuition reimbursement plans invalidated in *Nyquist* and *Sloan*.

Finally, we note that the problem of entanglement in the form of politically divisive activity described by the Court in *Nyquist* would exist under both tuition relief proposals. Insofar as the programs have a primary effect upon sectarian elementary and secondary schools controversy is predictable. As the Court stated:

> [W]e know from long experience with both Federal and State Governments that aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own agressive constituencies. . . . In this situation, where the underlying issue is the deeply emotional one of Church-State relationship, the potential for seriously divisive political consequences needs no elaboration.

413 U.S. at 797.

In conclusion, it is our opinion that both the proposed extension of the BEOG and the provisions of the Packwood-Moynihan Bill which would provide relief for tuition payments to nonpublic elementary and secondary schools are unconstitutional under the decisions of the Supreme Court in *Nyquist* and *Sloan*.

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] We understand that the bill as reported out of the Senate Finance Committee was amended in a number of ways but that the basic tax credit provisions remain unchanged.

[2] We understand that a severability clause was added to the bill as recently reported out of the Senate Committee.

[3] Statistics showing the breakdown of schools at the elementary and secondary school levels for the 1976–77 academic year have not yet been completed. Preliminary statistics on student enrollment during 1976–77 are available, however, which, although compiled using a somewhat different format than earlier statistics, suggest that the percentages of nonpublic schools have not changed radically over the last six years.

[4] It is important to avoid placing too great a reliance on the statistical breakdown between sectarian and nonsectarian schools. The Court in *Nyquist* made clear that a law could offend the establishment clause even if aid to religion was not *the* primary effect but was only one of several consequences of that law. An additional New York State program considered by the Court in *Nyquist* provided "maintenance and repair grants" to nonpublic schools limiting those grants to 50% of the maintenance and repair costs of public schools. Even though it was clear that most of the funds would be used for nonsectarian purposes, the Court held the grants unconstitutional. The flaw in the program was that it provided no means of excluding State funds from having some substantial effect benefiting religion. 413 U.S. at 778–80. Possibly a clearer example may be found in the Federal higher education construction grants involved in *Tilton* v. *Richardson, supra*. In that case, even though it was clear that the constructed facilities would be used predominantly for secular purposes, the fact that those facilities could be used for sectarian purposes 20 years after their construction was enough to render the portion of the law unconstitutional in the unanimous view of the Court. Indeed, the Court struck that provision down on the ground that the 20 year limitation "will *in part* have the effect of advancing religion," 403 U.S. at 683 (emphasis added), not because that effect was predominant. No one would have claimed there that the law's central effects were seen. Only when the sectarian effects may be characterized fairly as merely "incidental" can a funding program which benefits religion be upheld.

[5] We note that the report of the Senate Finance Committee on the bill as amended separately discusses elementary and secondary school tuition credits and college tuition credits. S. Rep. No. 95–642, 95th Cong., 2d Sess. 2–3 (1978).

[6] Supporters of the bill who seek to distinguish *Nyquist* make one other generalized claim. The assertion is made that the Court's precedents in the establishment clause area of first amendment law have been so changeable and unpredictable that little significance may be attached to recent holdings. In our view that reading of the cases is unfair. Certainly, as the Court has freely acknowledged, the lines are not easy ones to draw. The Court has, however, developed—and adhered to—the three-part test outlined at length eight years ago in *Lemon* v. *Kurtzman, supra*. That test has commanded the votes of every Justice of the Court with the exception of Justices White and Rehnquist. More importantly though, we know of no reason to argue that *Nyquist* and *Sloan*, the precedents directly pertinent here, are of doubtful vitality.

[7] We believe, however, that the Packwood-Moynihan tax credit would be constitutional with respect to college and university tuition. It appears that the benefits of a higher education tuition tax credit would flow to a broad class of individuals, and not, as with elementary and secondary school credits, primarily to individuals affiliated with sectarian institutions. As the Court noted in *Nyquist*, nothing in its decision compels the conclusion that a general available form of education assistance, such as the G.I. Bill, 38 U.S.C. § 1651, impermissibly advances religion. 413 U.S. at 783 n. 38. Our views on the constitutionality of the college tuition

equated with the clearly segregated secular activities upheld in *Regan*.[3]

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 17, 1978.
Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Health, Education and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: By letter dated February 8, 1978, you asked for my views on several questions which have arisen with respect to the constitutionality of legislation to provide tax credits to parents who pay tuition for their elementary and secondary schoolchildren. Shortly thereafter, Senator Eagleton asked for my views both on the constitutionality of legislation providing such credits and on a related question, the constitutionality of extending the Basic Educational Opportunity Grant Program to elementary and secondary schoolchildren.

I have asked for advice on these questions from the Office of Legal Counsel, and I am pleased to provide that Office's conclusions to you. I have also provided a copy of those conclusions to Senator Eagleton for his information.

I am in accord with the conclusions expressed by the Office of Legal Counsel. In light of existing Supreme Court precedents, it is my opinion that tax programs of the sort contemplated here would be held unconstitutional insofar as they would provide aid at the elementary and secondary school levels. However, I am of the opinion that similar aid at the college level would be constitutional.

Sincerely yours,
GRIFFIN B. BELL, *Attorney General.*

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Constitutionality of Packwood-Moynihan Bill.

You have asked for our views concerning the constitutionality under the establishment clause of the first amendment of providing either tax credits or grants for tuition payments to nonpublic elementary and secondary schools. You referred to two specific proposals providing such grants or credits: S. 2142, the Packwood-Moynihan bill, which would give limited income tax relief in the form of a credit for tuition payments to nonpublic schools; and the extension of the Basic Educational Opportunity Grant program to include nonpublic elementary and secondary school education.

Under existing Supreme Court decisions both proposals would appear to violate the first amendment guarantee against establishment of religion. The controlling decisions on tuition grants and credits for nonpublic elementary and secondary education are *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and *Sloan* v. *Lemon*, 413 U.S. 825 (1973), a companion case.

In *Nyquist*, the Court invalidated a New York tuition reimbursement and tax relief plan. The plan provided limited tuition reimbursements to low income families with children attending nonpublic elementary and secondary schools. Families failing to qualify for tuition reimbursement were allowed tuition tax credits in varying amounts depending upon adjusted gross income. The Court found both facets of the program unconstitutional under the three-part establishment clause test enunciated in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1971):

> First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . ; finally, the statute must not foster "an excessive entanglement with religion."

The Court acknowledged that the purposes of the State in enacting the measures—to preserve a healthy, safe educational environment for all schoolchildren, to promote pluralism and diversity in education, and to prevent further overburdening of the public school system—were secular and not inappropriate legislative considerations. It held, however, that the tuition grants and credits failed the second prong of the test because a primary effect of the plan was aid to religious education. The Court noted additionally that the plan created the prospect of politically divisive Church-State entanglement. Adoption of programs assisting sectarian education would generate ongoing controversy along religious lines over continuing or enlarging available relief.

In *Sloan*, the Court held that a Pennsylvania tuition reimbursement program was constitutionally indistinguishable from the New York program invalidated in *Nyquist*. Since the Pennsylvania program had the effect of advancing religion, it too infringed upon the establishment clause guarantee.

The Packwood-Moynihan bill provides an income tax credit for tuition payments to elementary and secondary schools as well as vocational schools, colleges, and universities.[1] The amount of the credit is 50 percent of tuition up to a total of $500 per student. If the credit to which the taxpayer is entitled exceeds his tax liability, the difference is refunded to him. It is our opinion that the tax relief provided in the bill for tuition payments to nonpublic elementary and secondary schools falls within the scope of *Nyquist*.

Although we have considered carefully possible arguments distinguishing the Packwood-Moynihan tax credit from the New York tax relief program struck by the Supreme Court, we do not believe the differences are of constitutional dimension. It might be argued that the facially neutral, broad based tax relief provided in the bill prevents it from having a "primary effect" of advancing religion. According to that argument, aid accruing to nonpublic elementary and secondary schools would be only "incidental" to an otherwise neutral plan, and therefore would be constitutionally permissible under *Nyquist*. 413 U.S. at 771, 782 n. 38; *Walz* v. *Tax Commission*, 397 U.S. 664 (1970). A realistic appraisal of the tax credits proposal, however, indicates that it is not so neutral or broad based as it might first appear. In analyzing the effect of the tuition tax credit under the establishment clause, it is necessary to separate the elementary and secondary school and higher education components of the package.[2] Recent Supreme Court decisions have consistently distinguished aid to college level institutions from aid to lower level schools, pointing out that religiously affiliated institutions at the college level are less often so "pervasively sectarian" as are schools educating younger students and that older students are generally less impressionable. *See, e.g.*, *Roemer* v. *Board of Public Works of Maryland*, 426 U.S. 736 (1976); *Hunt* v. *McNair*, 413 U.S. 734 (1973); *Committee for Public Education* v. *Nyquist*, 413 U.S. at 777 n. 32; *Tilton* v. *Richardson*, 403 U.S. 672, 685 (1971).

Once the focus is on elementary and secondary school tuition credits alone, it is evident that the effect on sectarian education is not merely incidental. Not only would the credits benefit institutions whose role is to emphasize religious training and beliefs, but they would also benefit sectarian schools in significantly larger numbers than nonsectarian schools. The high percentage of sectarian elementary and secondary schools in New York State—approximately 85 percent of all nonpublic schools—was one factor influencing the Court's decision in *Nyquist*.

Current statistics on nonpublic schools nationally show that nearly 17 percent of the nation's elementary and secondary schools are nonpublic. Of that percentage, 85 percent are religious affiliated. U.S. Department of Health, Education and Welfare, National Center for Education Statistics, Nonpublic School Statistics, 1976–77. According to the most recent statistics available, 87.5 percent of nonpublic schools at the elementary level and 70.2 percent of nonpublic schools at the secondary level are sectarian.[3] U.S. Department of Health, Education and Welfare, National Center for Education Statistics, Statistics of nonpublic elementary and secondary schools, 1970–71. Although sectarian secondary schools do not dominate nonpublic education to the same extent as sectarian elementary schools, we believe that their numbers are sufficiently substantial that no meaningful distinction between credits for elementary and secondary schools could be drawn.

It might be argued that the availability of credits for public elementary and secondary school tuition under the provisions of the bill would significantly affect those statistics. The Court has repeatedly made the point, however, that the actual impact or "effect" of the program is the controlling determinant, not its theoretical or hypothetical consequences. The simple fact is that most public schools are supported by state funds, not tuition payments, and there is no evidence of which we are aware that the structure of state funding is likely to change radically as a result of this legislation. Thus, it appears that the tax credits here, like the tax reductions in *Nyquist*, have a primary effect of benefiting parents of children attending sectarian, nonpublic schools.[4]

The neutrality argument, as the most plausible basis for distinguishing the bill from the statute at issue in *Nyquist* and *Sloan*, deserves elaboration. The argument rests primarily on language in Mr. Justice Powell's opinion for the Court in *Nyquist*, in which he distinguished *Walz* v. *Tax Commissioner*, 397 U.S. 664 (1970). In *Walz* the Court upheld the constitutionality of property tax exemptions for churches. The

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the nature of the schools serviced, the court found that the New York City schools were not pervasively sectarian. *Id.*, at 32–35. The court then analyzed the regulations and history of the program and found that it did not have a primary effect of advancing the religious mission of the schools. We cannot predict, of course, whether the Supreme Court will adopt this approach. It cannot be applied to an analysis of S. 1101 on its face because there is no restriction in the bill that to be eligible students must attend schools that are not pervasively sectarian. Furthermore, the *PEARL* decision must be distinguished from analysis of the BEOG program because here we do not have a record of operation over many years to assure a court that "the result feared in other cases has not materialized." *Id.*, at 40. Most importantly, a decision on a discrete, carefully regulated public-school-within-a-sectarian-school Title I program does not have precedential value for a tuition reimbursement program that funds any aspect of the sectarian training. *PEARL* distinguished Title I from the statutes before the Court in *Nyquist* and *Sloan*:

> The program is therefore not comparable to a tuition reimbursement or tax break offered only to parents of private school students because it does not relieve the schools' financial burdens or supply funds free from use limitations and is not limited to a small class of beneficiaries.
>
> *Id.*, at 27.

[3] The Supreme Court has found it unnecessary to analyze the third prong of the Establishment Clause test—the potential for administrative entanglement—in a case where it held that a tuition reimbursement program has a primary effect of aiding religious elementary and secondary schools. *Committee for Public Education* v. *Nyquist*, 413 U.S. 756, 794 (1973).

the original intent of Congress in drafting the education act.

In floor debate leading to the disapproval, Rep. Carl D. Perkins, chairman of the House Committee on Education and Labor, cited, as a basis for the veto, Article I of the Constitution, which sets out the legislative powers of Congress.

Other members agreed with the Kentucky Democrat and emphasized their own concerns about the regulations.

Mr. MOYNIHAN. Accompanying this, Mr. President, I ask unanimous consent that a similar finding of the Attorney General, dated May 30, in a letter to Judge Hufstedler regarding the constitutionality of our present proposal, and a letter from the Secretary to the chairman of the Committee on Labor and Human Resources also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 30, 1980.

Hon. SHIRLEY M. HUFSTEDLER,
Secretary, Department of Education,
Washington, D.C.

MY DEAR MADAM SECRETARY: You have requested my opinion on the constitutionality of S. 1101, a bill to extend Basic Educational Opportunity Grants to students attending private elementary and secondary schools.

I concur in the conclusions of the Office of Legal Counsel, expressed in the attached memorandum, that the provisions of S. 1101 extending Basic Educational Opportunity Grants to students enrolled in sectarian elementary and secondary schools are unconstitutional. On March 17, 1978, Attorney General Bell expressed his opinion that extension of Basic Educational Opportunity Grants to the elementary and secondary school level would be unconstitutional. That opinion remains sound in view of subsequent Supreme Court decisions.

Sincerely,
BENJAMIN R. CIVILETTI,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 30, 1980.

Hon. SHIRLEY M. HUFSTEDLER,
Secretary, Department of Education,
Washington, D.C.

MY DEAR MADAM SECRETARY: If you approve, I should like to have published, in accordance with 28 U.S.C. 521, my opinion to you on the Constitutionality of S. 1101: A Bill to Extend Basic Educational Opportunity Grants to Students at Nonpublic Elementary and Secondary Schools.

Please let me know whether you have any objections to the publication.

Yours sincerely,
BENJAMIN R. CIVILETTI,
Attorney General.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re Constitutionality of S. 1101: A Bill to Extend Basic Educational Opportunity Grants to Students at Nonpublic Elementary and Secondary Schools.

In a letter of April 25, 1980, Shirley M. Hufstedler, Secretary of Education, requested your opinion on the constitutionality of S. 1101, a bill to extend Basic Educational Opportunity Grants (BEOG)[1] to students enrolled in private elementary and secondary schools. Attorney General Bell, in the attached letter of March 17, 1978 to Joseph A. Califano, Jr., then Secretary of Health, Education, and Welfare, concurred in the conclusions expressed in the attached March 16, 1978 opinion of this Office on a similar bill. Attorney General Bell concluded that such extension of these grants to students enrolled in nonpublic elementary and secondary schools would be unconstitutional. We have reconsidered our earlier views and believe that subsequent Supreme Court decisions confirm our conclusions. This memorandum supplements the views expressed in our March 16, 1978 opinion.

The BEOG program, as it now operates, provides grants to certain needy students enrolled in institutions of higher eduaction. S. 1101 would make students enrolled in private elementary and secondary schools eligible for these grants.

In order for a statute to survive Establishment Clause scrutiny, it must have a secular legislative purpose, it must not have a primary effect that either advances or inhibits religion, and it must not foster an excessive entanglement with religion. *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1917). This test has been repeated in every significant Supreme Court decision in this area during the last decade. There is no evidence in cases decided by the Supreme Court since our earlier memorandum that this three-part test has been altered in any significant way.

Applying that test to the BEOG bill now under consideration in the Senate, we remain of the view that while the program envisioned in that bill might be found to have a neutral, nonreligious purpose, it would be struck down, nonetheless, because it has a primary effect that advances the religious mission of sectarian elementary and secondary schools.

The program appears to be virtually indistinguishable from that considered by the Congress two years ago and is not constitutionally distinguishable from those tuition grant programs struck down in *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and a companion case, *Sloan* v. *Lemon*, 413 U.S. 825 (1973).

In *Nyquist*, the Court found that the New York program of tuition reimbursement to parents of children attending nonpublic elementary or secondary schools and a tax deduction provision had a primary effect of advancing religion. Likewise, a similar Pennsylvania tuition reimbursement program was invalidated in *Sloan*. The Court made clear in these cases that it would strike down unrestricted grants to sectarian elementary and secondary schools, even if given indirectly by payments to the parents rather than the schools, *see Sloan* v. *Lemon*, 413 U.S. at 832, because such funds could be used to promote the religious mission of the schools. The Court in *Nyquist* noted that whether the funds are provided as reimbursement for tuition paid in past years or as grants for the current year is of no constitutional significance. 413 U.S. at 786–87. Nor does it matter whether the payment is made to the student rather than to the parents because "the Court look[s] beyond the formal recipient of the aid" to its primary effect of supporting the sectarian schols. *See PEARL* v. *Harris*, No. 76–888, slip op. at 24 (S.D.N.Y. April 18, 1980), *citing Sloan* v. *Lemon*, 413 U.S. at 832.

Recent Supreme Court decisions do not question *Nyquist* and *Sloan*. Just last term, the Court summarily affirmed *Beggans* v. *Public Funds for Public Schools*, 47 U.S.L.W. 3775 (May 25, 1979). The Third Circuit in *Beggans* relied heavily on *Nyquist* to strike down a New Jersey program of tax exemptions for parents of children enrolled in nonpublic elementary and secondary schools. 590 F.2d 514 (3d Cir. 1979). The court found that:

> Even if parents of dependents in nonpublic schools do have greater expenses than those supporting dependents in public schools, the State may not "equalize" the burden by granting a benefit only to taxpayers with dependents in private or parochial schools. *Nyquist* explicitly forecloses the argument that the State may deny an exemption to the parents of students in public schools but may grant an exemption to parents of students in nonpublic schools, on the supposition that this differing treatment may tend to equalize the two classes of parents in their educational expenditures.
>
> Inasmuch as New Jersey's exemption denies to parents of public school students a benefit granted to parents of students in nonpublic schools, the exemption is not saved because a similar provision applies to parents of college and university students, including those in public institutions.

Id., at 519–20 (citations deleted). *Beggans* noted that *Nyquist* held that the tax exemption and tuition reimbursement programs each independently violated the Constitution. *Id.*, at 520. As in the New Jersey program before the court in *Beggans*, the fact that the BEOG program is available to students in institutions of higher education does not make it a comprehensive and neutral scheme more similar to the property tax exemption for real property owned by religious organizations and used for religious purposes upheld in *Walz* v. *Tax Commission*, 397 U.S. 664 (1970).

This term the Supreme Court upheld a New York statute that directs the reimbursement of nonpublic schools for the costs incurred in administering state-mandated testing and certain other administrative activities. *Commission for Public Education and Religious Liberty* v. *Regan*, 48 U.S.L.W. 4168 (Feb. 20, 1980). The Court concluded that although sectarian schools receive this aid along with secular private schools, the statute does not have a primary effect that advances religion. The funds go to clearly identifiable secular services. The Court compared the testing program in *Regan* with that upheld in *Wolman* v. *Walter*, 433 U.S. 229, 240–41 (1977), and found that since the school has no control over the content of the tests, they could not be used for religious educational purposes. The Court noted:

> ". . . if the grading procedures could be used to further the religious mission of the school, serious Establishment Clause problems would be posed under the Court's cases, for by furnishing the tests it might be concluded that the State was directly aiding religious education."

48 U.S.L.W. at 4171. The administrative costs for which schools were reimbursed were also found to be separable and not related to the teaching function.

Regan does not purport to call into question the direct precedent in *Nyquist* and *Sloan* that tuition reimbursement programs are unconstitutional. Tuition finances all aspects of a nonpublic school's program, including the teaching and general religious education function of sectarian schools. Reimbursement thus would have a primary effect of advancing the religious mission of the schools.[2] Tuition reimbursement cannot be

A three-judge district court has recently upheld a program of remedial and counseling services in the New York City sectarian elementary and secondary schools. *PEARL* v. *Harris*, No. 76–888, slip op. (S.D.N.Y. April 18, 1980). After taking extensive evidence on the operation of the fourteen-year program and consistent with the Act from which it derives its authority . . ." That section, on its face, purports to vest in the two Houses of Congress an extra-legislative power to perform the function reserved by the Constitution to the courts of determining whether a particular executive act is within the limits of authority established by an existing statute.[8] It is clear that the President constitutionally can be overruled in his interpretation of the law, by the courts and by the Congress. But the Congress can do so only by passing new legislation, and passing it over the President's veto if necessary. That is the constitutional system.

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[1] 20 U.S.C. 1070a(1976), as amended by 20 U.S.C. 1070a (Supp. II 1978).

[2] The Supreme Court has developed a presumption that aid to the teaching aspects of sectarian elementary and secondary schools has a primary effect of advancing the religious mission of the schools because their educational function is pervasively sectarian; *viz.*, there is no clearly segregated secular educational function. *See, e.g., Meek* v. *Pittenger*, 421 U.S. 349, 365–66 (1975); *Lemon* v. *Kurtzman*, 403 U.S. 602, 617–19 (1970). The Court has not applied a similar presumption to institutions of higher education, *see, e.g., Tilton* v. *Richardson*, 403 U.S. 672 (1971) and therefore statutory schemes such as the BEOG program are defensible at the college and university level.

Proponents of the legislative veto, however, argue that such devices actually fortify the separation of powers by providing Congress with a check on an agency's exercise of delegated power. No doubt congressional review provides a check on agency action, just as committee review or committee chairman review would provide a check. But such review involves the imposition on the Executive of a particular interpretation of the law—the interpretation of the Congress, or one House, or one committee, or one chairman—without the check of the legislative process which includes the President's veto. In that case Congress is either usurping the power of the President to execute the law, or of the courts to construe it; or Congress is legislating. If it is legislating, the Constitution is explicit that the President must have the opportunity to participate in that process by vetoing the legislation.

II

Because it is my opinion that § 1232(d) is unconstitutional, it is necessary for me to consider whether that provision is severable from the underlying grants of statutory authority upon which the regulations promulgated by you were based. Section 1232(d) was enacted in 1974. When the various authorities for the four regulations disapproved by Congress were enacted in the Education Amendments of 1978, Congress gave no indication that the substantive rulemaking powers delegated to you were to be extinguished if the legislative veto device in § 431 were to be found unconstitutional. Thus, I conclude that § 431 is severable from this basic grant of substantive power. *See, e.g., Champlin Refining Co.* v. *Corporation Commission of Oklahoma*, 286 U.S. 210, 234 (1932), quoted with approval in *Buckley* v. *Valeo*, *supra*, 424 U.S. at 108.

III

Within their respective spheres of action the three branches of Government can and do exercise judgment with respect to constitutional questions, and the Judicial Branch is ordinarily in a position to protect both the Government and the citizenry from unconstitutional action, legislative or executive; but only the Executive Branch can execute the statutes of the United States. For that reason alone, the Attorney General must scrutinize with caution any claim that he or any other executive officer may decline to defend or enforce a statute whose constitutionality is merely in doubt. Any claim by the Executive to a power of nullification, even a qualified power, can jeopardize the equilibrium established by our constitutional system.

At the same time, the Executive's duty faithfully to execute the law embraces a duty to enforce the fundamental law set forth in the Constitution as well as a duty to enforce the law founded in the Acts of Congress, and cases arise in which the duty to the one precludes the duty to the other. In rendering this opinion on the constitutionality of § 431, I have determined that the present case is such a case.

Section 431 intrudes upon the constitutional prerogatives of the Executive. To regard these concurrent resolutions as legally binding would impair the Executive's constitutional role and might well foreclose effective judicial challenge to their constitutionality.[9] More import, I believe that your recognition of these concurrent resolutions as legally binding would constitute an abdication of the responsibility of the Executive Branch, as an equal and coordinate branch of Government with the Legislative Branch, to preserve the integrity of its functions against constitutional encroachment. I, therefore, conclude that you are authorized to implement these regulations.

Sincerely,

BENJAMIN R. CIVILETTI,
Attorney General.

EDUCATION DEPARTMENT TO IGNORE CONGRESSIONAL VETOES OF ITS RULES

(By Anne C. Roark)

WASHINGTON.—The Department of Education has joined battle with Congress after deciding to ignore legislative vetoes of four sets of regulations governing some of its key programs.

Secretary of Education Shirley M. Hufstedler sent a memorandum to senior officials in her department instructing them to disregard Congressional vetoes of rules issued recently to implement arts and law-related programs and other federal education projects authorized by the Elementary-Secondary Education Act of 1978.

LAWSUITS EXPECTED

The decision to put the regulations into effect, based on an opinion by the Attorney General, was expected to set off a series of lawsuits against the department for failing to follow Congressional directives.

"Obviously we don't agree with the department," said Thomas Wolanin, counsel for the House of Representatives' Subcommittee on Postsecondary Education. "We'll join our colleagues in the Senate in doing whatever we can to oppose the decision."

Calling the Attorney General's opinion an "abomination," several elementary- and higher-education groups here said they would join Congress in pressing the courts to rule on the dispute.

"It is a sweeping interpretation that just doesn't make any sense," said Charles B. Saunders, Jr., vice-president for governmental relations at the American Council for Education. "If there are lawsuits, we will do whatever we have to, including filing amicus briefs on the side of Congress."

The National Education Association and the National Association of State Universities and Land-Grant Colleges also opposed the department's decision.

In telling her staff to ignore the legislative vetoes, Ms. Hufstedler acknowledged that the dispute might have to be settled by the courts. Nonetheless, she argued, her directive would not change the Department of Education's "working relationship" with Congress.

"We will still consider Congressional comments on proposed regulations with great care, and we will respond in detail to those comments. We will continue to send our regulations to Congress for its 45-day review, and we will stand ready to make changes in the rules even after publication when Congressional comment reveals a flaw in the final rules."

The decision to ignore the vetoes, Ms. Hufstedler said, was based on a formal opinion issued last month by Attorney General Benjamin R. Civiletti.

In a 13-page document, Mr. Civiletti spelled out his reasons for deciding that the legislative vetoes were unconstitutional.

The mechanism, he said, upsets the balance of power shared by the executive, legislative, and judicial branches of government.

By vetoing regulations, Congress is, in effect, exercising its legislative powers, while denying the President his own veto powers, Mr. Civiletti said.

The way for Congress to show displeasure with regulations, he said, is to amend or repeal laws—not to rewrite regulations, which is the responsibility of the executive branch, or to interpret laws, which is the responsibility of the judicial branch.

"I believe," Mr. Civiletti told Ms. Hufstedler, "that your recognition of these concurrent resolutions as legally binding would constitute an abdication of the responsibility of the executive branch."

INCREASING USE OF LEGISLATIVE VETO

Since 1932, Congress has been writing into its legislation the authority to disapprove rules written by the executive branch. In recent years, the use of the so-called legislative veto has proliferated, as lawmakers have grown increasingly impatient with government rule-making procedures.

When lawmakers vetoed the education regulations last month, they said they did because the rules had gone too far beyond day provides, in addition to Clause 2 of section 7 dealing with the passage of "bills," an entirely separate clause, Art. I, section 7, cl. 3, as follows:

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[8] The role of the Judiciary in requiring conformance by the two political branches to constitutional standards and in confining the Executive to execution of the law within the bounds established by statute is too familiar to require elaboration. It is therefore not surprising that the Supreme Court has consistently taken the position that "the views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one," thus denying any Congress any binding role in the interpretation of an earlier Congress' acts. *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 348–49 (1963), quoting *United States* v. *Price*, 361 U.S. 304, 313 (1960). The Court, in taking this position, has recognized both the political nature of the legislative process and differences between the functional competencies of the courts and Congress. See *United States* v. *United Mine Workers of America*, 330 U.S. 258, 282 (1947). I note that in these three cases in which the Court cautioned against permitting the views of a subsequent Congress to influence interpreting the intent of an earlier Congress in passing a particular statute, the Court was faced with situations in which the subsequent expression of Congress' view came in the context of the passage of legislation. Thus, in those cases, even any marginal relevance of the subsequent congressional expression would have been subject to the President's veto under Art. I, § 7.

[9] The history of so-called "legislative veto" devices, of which § 431 of the GEPA is one, illustrates the difficulty in achieveing judicial resolution of such an issue. Although Congress enacted the first such mechanism in 1932, only a few reported cases have potentially involved the constitutional question inherent in the legislative veto, and a court has reached the issue only once. In *Atkins* v. *United States*, 556 F. 2d 1028 (Ct. Cl. 1977), *cert. denied*, 434 U.S. 1009 (1978), the Court of Claims held, four-to-three, that the provision of the Federal Salary Act of 1967, 2 U.S.C. § 359(1) (B), which permits one House of Congress to disapprove the President's proposed pay schedule under the Act, is not unconstitutional and that the Senate's veto of a proposed judicial salary increase was therefore lawful. This Department, representing the United States, argued that the veto was unconstitutional, but that, because the veto authority was not severable from the remainder of the Salary Act, the plaintiffs had no right to additional pay. The latter view was sustained in *McCorkle* v. *United States*, 559 F.2d 1258 (4th Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978).

Other cases in which the validity of a legislative veto device has been argued include *Chadha* v. *Immigration and Naturalization Service*, No. 77–1702 (9th Cir., argued April 10, 1978); and *Clark* v. *Valeo*, 559 F.2d 642 (D.C. Cir. aff'd, 431 U.S. 950 (1977) (issue not ripe for determination).

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

I believe it is manifest, from the wording of Clause 3 and the history of its inclusion in the Constitution as a separate clause apart from the clause dealing with "bills," that its purpose is to protect against *all* congressional attempts to evade the President's veto power.[4] The function of the Congress in our constitutional system is to enact laws, and all final congressional action of public effect, whether or not it is formally referred to as a bill, resolution, order or vote, must follow the procedures prescribed in Art. I, section 7, including presentation to the President for his approval or veto.

B. THE SEPARATION OF POWERS

Executing the law

The principal of separation of powers underlying the structure of our constitutional form of government generally provides for the separation of powers among the Legislative, Executive, and Judicial Branches, and provides for "checks and balances" to maintain the integrity of each of the three branches' functions. Generally speaking, the separation of powers provides that each of the three branches must restrict itself to its allocated sphere of activity: legislating, executing the law, or interpreting the law with finality. This is not to say that every governmental function is inherently and of its very nature either legislative, executive, or judicial. Some activity might be peformed by any of the three branches—and in that situation it is up to Congress to allocate the responsibility. *See e.g., Wayman* v. *Southard,* 10 Wheat. 1, 42–43, 46 (1825) (Chief Justice Marshall). Once Congress, by passing a law, has performed that function of allocating responsibility, however, the separation of powers requires that Congress cannot control the discharge of those functions assigned to the Executive or the Judiciary, except through the plenary legislative process of amendment and repeal.

The underlying reason, well stated by James Madison, is that otherwise the concentration of executive and legislative power in the hands of one branch might "justly be pronounced the very definition of Tyranny." *The Federalist,* No. 47, at 324 (Cooke ed. 1961). The shifting of executive power to the Legislative Branch which would be occasioned by these legislative veto devices is, I believe, undeniable; the concentration of this blended power is precisely what the Framers feared and what they set about to prevent.

The Constitution's overall allocations of power may not be altered under the guise of an assertion by the Congress of its power to pass laws that are "necessary and proper for carrying into Execution. . . . Powers vested by [the] Constitution in the Government of the United States, or in any Department or Officer thereof," Art. I, § 8, cl. 18.[5] As the Supreme Court made clear in *Buckley* v. *Valeo,* 424 U.S. 1 (1976), the exercise of power by Congress pursuant to the Necessary and Proper Clause is limited both by other express provisions of the Constitution and by the principles of separation of powers.

In *Buckley,* it was argued that officers of the Congress could, under the Necessary and Proper Clause, appoint commissioners of the Federal Election Commission, notwithstanding the fact that Art. II, § 2, cl. 2 of the Constitution placed the appointment power in the President. With regard to the relationship between the exercise of power under the Necessary and Proper Clause and other provisions of the Constitution, the Court stated the rule as follows:

"Congress could not, merely because it concluded that such a measure was "necessary and proper" to the discharge of its substantive legislative authority, pass a bill of attainder or *ex post facto* law contrary to the prohibitions contained in section 9 of Art. I. No more may it vest in itself, or in its officers, the authority to appoint officers of the United States when the Appointments Clause by clear implication prohibits it from doing so."

424 U.S. at 135.

The Constitution establishes the President's veto power as clearly as it establishes the appointment power or prohibits bills of attainer and *ex post facto* laws. Under *Buckley,* the only reasonable implication of the Framers' inclusion of Art. I, § 7, cl. 3, in the Constitution is that the Necessary and Proper Clause is not a source of power for evasion of these specific limitations through the enactment of legislative veto devices. I would add that, in reaching its holding in *Buckley,* the Court considered and relied upon earlier cases that seem most relevant to the constitutionality of legislative veto devices. In quoting from *Myers* v. *United States,* 272 U.S. 52 (1926), the Court recognized the relationship between the grant of executive power to the President and the issue before it, 424 U.S. at 135–136.[6] I believe that *Buckley* and the cases relied on by the *Buckley* Court foreclose arguments that the Necessary and Proper Clause grants Congress the power to provide for legislative veto devices.

Because to characterize the power exercised by the two Houses under § 1232(d) as "legislation" would necessarily require Congress to respect the President's veto power by presenting its resolutions for his approval, it is necessary for proponents of such power to deny that the power is "legislation" in the constitutional sense. They argue instead that the device is a means for Congress to oversee the execution of the law by the Executive, in aid of its undoubted constitutional powers to pass legislation and appropriations. Such an argument, however, cannot withstand scrutiny. Without a legislative veto, the regulations of your Department, unless invalidated by a court, would have the force of law. In depriving them of that force, the necessary effect of a legislative veto is to block further execution of a statutory program until the Executive promulgates further regulations in compliance with the current views of a Congress that may well be different from the Congress that enacted the substantive law.[7] The difference between this kind of congressional "oversight" and the legitimate oversight powers of Congress in their effect on the constitutional allocation of powers could not be more profound. By its nature, for example, the exercise of a legislative veto would be beyond judicial review because the exercise of such powers could be held to no enforceable standards. In exercising its veto, I believe it clear that Congress is dictating its interpretation of the permissible bounds for execution of an existing law; a result that can be accomplished only by legislation.

The foregoing discussion demonstrates the flaw in the argument, occasionally made, that the doctrine of separation of powers protects the Executive Branch only in areas that are inherently executive, and that Congress may reserve to itself control over activities entrusted to the Executive which are not "truly" executive in nature. This reasoning overlooks the basic truth that there are few activities that are clearly executive, legislative, or judicial. The first two categories, in particular, overlap to an enormous extent. Much, if not indeed most, executive action can be the subject of legislative prescription. To contend, therefore, that Congress can control the Executive whenever the Executive is performing a function that Congress might have undertaken itself is to reduce the doctrine of separation of powers to a mere shadow.

The test is not whether an activity is inherently legislative or executive but whether the activity has been committed to the Executive by the Constitution and applicable statutes. In other words, the Constitution provides for a broad sweep of possible congressional action; but once a function has been delegated to the Executive Branch, it must be performed there, and cannot be subjected to continuing congressional control except through the constitutional process of enacting new legislation.

Interpreting the law

Section 1232(d) authorizes disapproval of a regulation by concurrent resolution if Congress "find[s] that the final regulation is in-the Attorney General transmitted to the Secretary of Education, Judge Hufstedler on June 5, 1980, in which the Attorney General responded to a request for his opinion regarding the constitutionality of section 431 of the General Education Provisions Act and concluded that:

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[4] The President was given his veto power, in part, in order that he might resist any encroachment on the integrity of the Executive Branch. *See The Federalist,* No. 48. His participation in the approval of legislation is also crucial because of his unique constitutional status as representative of all the people. As Chief Justice Taft stated in 1926:

"The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects, that the President elected by all the people is rather more representative of them all than the members of either body of the Legislature. . . ."

Myers v. *United States,* 272 U.S. 52, 123 (1926).

[5] It is fundamental to our concept of limited federal government that power exercised by the Legislative, Executive and Judicial Branches be traced to a provision of the Constitution or to a statute which is expressly or impliedly authorized by a provision of the Constitution. Thus, a source of authority for Congress to exercise power under legislative veto devices must be found in the Constitution in order for that authority to be recognized as legitimate. As we demonstrate below, the Necessary and Proper Clause does not grant such authority; nor does any other provision of the Constitution.

[6] The Court went on, in holding the appointment of Federal Election Commission members by officers of Congress to be unconstitutional, to quote the following language from its earlier decision in *Springer* v. *Philippine Islands,* 227 U.S. 189, 202 (1928):

"Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions. It is unnecessary to enlarge further upon the general subject, since it has so recently received the full consideration of this court. *Myers* v. *United States,* . . .

"Not having the power of appointment, unless expressly granted or incidental to its powers, the legislature cannot engraft executive duties upon a legislative office, since that would be to usurp the power of appointment by indirection, though the case might be different if the additional duties were devolved upon an appointee of the Executive."

[7] In such a situation, the Executive, as a practical matter, may be giving up a measure of authority granted by the statute being administered which the courts in an appropriate case would have found to have been delegated to the Executive, if Congress had not intervened. Such a diminution of authority must, in my view, be viewed analytically as a repeal of the substantive statute to that extent.

> I believe that section 431 is unconstitutional and that you are entitled to implement the regulations in question in spite of Congress' disapproval.

Well, this was met with, perhaps, predictable unhappiness among various Members of Congress and it was met with disagreement.

An article in the Chronicle of Higher Education noted that:

> The Department of Education has joined battle with Congress after deciding to ignore legislative vetoes of four sets of regulations governing some of its key programs.

It continues:

> The decision to put the regulations into effect, based on an opinion by the Attorney General, was expected to set off a series of lawsuits against the department for failing to follow Congressional directives.
>
> "Obviously we don't agree with the department," said Thomas Wolanin, counsel for the House of Representatives' Subcommittee on Postsecondary Education. "We'll join our colleagues in the Senate in doing whatever we can to oppose the decision."
>
> Calling the Attorney General's opinion an "abomination," several elementary- and higher-education groups here said they would join Congress in pressing the courts to rule on the dispute.
>
> "It is a sweeping interpretation that just doesn't make any sense," said Charles B. Saunders, Jr., vice-president for governmental relations at the American Council for Education. "If there are lawsuits, we will do whatever we have to, including filing *amicus* briefs on the side of Congress."
>
> The National Education Association and the National Association of State Universities and Land-Grant Colleges also opposed the department's decision.

Mr. President, I ask unanimous consent that the opinion of the Attorney General and the associated commentary in the Chronicle of Higher Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 5, 1980.

Hon. SHIRLEY M. HUFSTEDLER,
The Secretary,
Department of Education,
Washington, D.C.

MY DEAR MADAM SECRETARY: I am responding to your request for my opinion regarding the constitutionality of section 431 of the General Education Provisions Act (GEPA), 20 U.S.C. § 1232(d). That provision purports to authorize Congress, by concurrent resolutions that are not to be submitted to the President for his approval of veto, to disapprove final regulations promulgated by you for education programs administered by the Department of Education. Acting under this authority, Congress has recently disapproved regulations concerning four programs of your Department.[1] For reasons set forth below, I believe that § 431 is unconstitutional and that you are entitled to implement the regulations in question in spite of Congress' disapproval.

I

Under 20 U.S.C. § 1232(d), your Department is required, when it promulgates any final regulation for an "applicable program,"[2] to transmit that regulation to the Speaker of the House and to the President of the Senate. This section further provides:

"Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation."

In short, the two Houses of Congress can, without Presidential participation, prevent the Executive from executing substantive law previously enacted by the Congress with respect to education programs. Moreover, § 1232(d), on its face, purports to delegate to the two Houses of Congress the constitutional function historically reserved to the courts to ensure that the execution of the law by the Executive is consistent with the statutory bounds, established in the legislative process.

In designing a federal government of limited powers, the Framers of the Constitution were careful to assign the powers of government to three separate, but coordinate branches. They vested legislative power in the Congress, the power to execute the laws passed by the Congress in the Executive, and the power finally to say what the law is in the Judiciary. In ordering these relationships, the Framers were careful, in turn, to limit each branch in the exercise of its powers. The power of Congress to legislate was not left unrestrained, but was made subject to the President's veto. Neither was the President's power to execute the law left absolute, but Congress was empowered to constrain any executive action not committed by the Constitution exclusively to the Executive by passing legislation on that subject. Should such legislation be vetoed by the President, Congress could use its ultimate authority to override the President's veto. Both of the political branches were, in turn, to be checked by the courts' power to take jurisdiction to determine the existence of legislative authority for executive actions, and to review the acts of both Congress and the Executive for constitutionality. This, in simplest form, is our carefully balanced constitutional system.

The legislative veto mechanism in § 1232(d) upsets the careful balance devised by the Framers. Viewed as "legislative" acts, legislative vetoes authorize congressional action that has the effect of legislation, but deny to the President the opportunity to exercise his veto power under Art. I, § 7 of the Constitution. Viewed as interpretive or executive acts, legislative vetoes give Congress an extra-legislative role in administering substantive statutory programs that impinges on the President's constitutional duty under Art. II, § 3, of the Constitution faithfully to execute the laws. Viewed as acts of quasi-judicial interpretation of existing law, legislative vetoes arrogate to the Congress power reserved in our constitutional system for the non-political Judicial Branch. Thus, however they may be characterized, legislative vetoes are unconstitutional.

A. THE PRESENTATION CLAUSES

As illustrated by the four recent exercises of legislative veto power under §1232(d), legislative veto devices are functionally equivalent to legislation because they permit Congress, one of its Houses, or even, on occasion, one or two of its committees, to block the execution of the law by the Executive for any reason, or indeed, for no reason at all. Under §1232(d), the two Houses of Congress could, by passing successive concurrent resolutions, bring to a halt substantive programs, the authority for which was enacted by prior Congresses with the participation of the President. Such legislative veto devices cannot stand in the face of the language and history of the Presentation Clauses, Art. I, §7, cls. 2 and 3.

Clause 2 provides that every bill that passes the House and the Senate shall, before it becomes law, be presented to the President for his approval or disapproval.[3] If disapproved, a bill does not become law unless repassed by a two-thirds vote of each House.

At the Philadelphia Convention of 1787, the Framers considered and explicitly provided for the possibility that Congress, by passing "resolutions" rather than bills, might attempt to evade the requirement that proposed legislation be presented to the President. During the debate on Art. I, §7, James Madison observed:

> "If the negative of the President was confined to *bills;* it would be evaded by acts under the form and name of Resolutions, votes &c"—[and he] proposed that "or resolve"' should be added after *"bill"* . . ., with an exception as to votes of adjournment &c." 2 M. Farrand, *Records of the Federal Convention of 1787* 301 (rev. ed. 1937).

Madison's notes indicate that "after a short and rather confused conversation on this subject," his proposal was at first rejected. However, at the commencement of the following day's session, Mr. Randolph, "having thrown into a new form" Madison's proposal, renewed it. It passed by vote of 9–1. *Id.*, 301–35. Thus, the Constitution to-these loan programs to the end of any period of study, service, training, or unemployment due to disability, or combination of these.

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[1] H. Con. Res. 318, 96th Cong., 2d Sess. (1980), disapproves regulations issued under § 451 of the GEPA, 20 U.S.C. § 1234, pertaining to the operations of the Education Appeal Board. 45 Fed. Reg. 22634 (1980). H. Con. Res. 319, 96th Cong., 2d Sess. (1980), disapproves regulations issued under § 322 of the Elementary and Secondary Education Act of 1965 [ESEA], 20 U.S.C. § 2962, pertaining to arts education. 45 Fed. Reg. 22742 (1980). H. Con. Res. 332, 96th Cong., 2d Sess. (1980), disapproves regulations issued under §§ 346–48 of the ESEA, 20 U.S.C. §§ 3001–03, pertaining to law-related education. 45 Fed. Reg. 27880 (1980). S. Con. Res. 91, 96th Cong., 2d Sess. (1980), disapproves regulations issued under Title IV of the ESEA, 20 U.S.C. §§ 3081 *et seq.*, pertaining to grants to state and local education agencies for educational resources. 45 Fed. Reg. 23602 (1980). The statutory authority for issuance of these regulations was added to the GEPA or the ESEA by the Education Amendments of 1978, Pub. L. No. 95–561, 92 Stat. 2143.

[2] Under the GEPA, an "applicable program" is "any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation or authority pursuant to law." 20 U.S.C. § 1221(b) and (c)(1)(A). Two department regulations recently disapproved by Congress were promulgated originally by the Commissioner of Education, under the former Department of Health, Education, and Welfare. The Commissioner's functions, however, were transferred to you under the Department of Education Organization Act, § 301(a)(1), Pub. L. No. 96–88, 93 Stat. 677 (1979). All four programs involved are now administered under your authority.

[3] Clause 2 provides, in pertinent part:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law.

By this amendment, Mr. Chairman, I intend in no way to remove any responsibility for loan repayments by student borrowers. I do, however, believe that these technical changes will serve as an incentive to students to enter important and valuable volunteer or military service programs or professional internships without jeopardizing their grace-period privileges. In so doing, I also believe that we can better and more fairly insure that students have the means and flexibility to begin repayment on their educational loans. The end result can save valuable tax dollars invested in students.

I have discussed this amendment with the chairman of the committee and the ranking minority member of the committee, and I understand it is acceptable to both those Senators.

Mr. PELL. Mr. President, the Senator from Iowa is absolutely correct. We discussed the proposed amendment. I think it corrects an inequity, and we support it on this side of the aisle.

Mr. STAFFORD. Mr. President, the Senator from Vermont has examined the amendment in question for the minority and we think it is a meritorious amendment and I am prepared to recommend to the minority side that we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 1269) was agreed to.

Mr. CULVER. I move to reconsider the vote by which the amendment was agreed to, Mr. President.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that UP amendment No. 1267 be temporarily laid aside to permit consideration of an amendment to be offered by the distinguished manager of the bill, the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. TSONGAS). Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1270

(Purpose: To provide reasonable rules for doing business applied for certain revenue bond holders to be eligible for the special allowance)

Mr. PELL. Mr. President, on behalf of the Senator from Texas (Mr. BENTSEN) I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), on behalf of Mr. BENTSEN, proposes an unprinted amendment numbered 1270.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 158, line 4, insert "(a)" immediately after "Sec. 419.".

On page 160, between lines 19 and 20, insert the following:

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 419(b) of the Education Amendments of 1980.

On page 165, after line 25, insert the following:

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(C) of the Higher Education Act of 1965, the Authority shall submit to the Secretary, for the approval of the Secretary, a plan for doing business. Each such plan shall contain provisions designed to assure that—

(1) no eligible lender in the area served by the Authority will be excluded from participation in the program and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a rate less than nor more than one percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents or who attend an eligible institution within the area served by the Authority;

(5) the Authority has a plan under whch the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

Mr. PELL. This amendment would require State bond authorities which seek to receive special allowances for student loans made from tax-exempt funds to file a "plan of doing business" with the Secretary of Education. This plan would assure that such authorities deal evenhandedly with commercial lenders, and that no officers of the authority also receive compensation from another agency which collects loans.

It addresses the problem about which there has been some publicity of late showing some potential scandals or scandals which have arisen. I believe it is a good tightening up amendment and would urge its adoption.

Mr. STAFFORD. Mr. President, on behalf of the minority, having listened to the explanation and examined the amendment, we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (UP No. 1270) was agreed to.

UP AMENDMENT NO. 1267

Mr. MOYNIHAN. Mr. President, I would like to conclude now, if I may, the thoughts that I would present at this point in the debate on the amendment before us.

First, I am concerned about the spirit in which this subject is addressed, and I would hope to clear up what may be, and I am sure is, a misapprehension as to the import of the timing of our consideration of the amendment.

It has been suggested that this has been done on a Monday when all the Senators are gone. As the Senate will know, the essentials of the amendment I am offering today were submitted by me as a bill, S. 1101 on May 9, 1979, more than a year ago, so the matter certainly has been before the body and in the public domain and I ask our distinguished manager of the bill if he would not confirm that it was requested that I come to the floor and introduce the amendment at this time; that this was not my request.

Mr. PELL. The Senator is absolutely correct. He was requested to call it up at this time.

Mr. MOYNIHAN. I thank my friend for that clarification.

Second, I would like to suggest that, contrary to what would be a perfectly legitimate judgment, I do not feel that it is inappropriate that such a measure as this should be part of the higher education bill.

The teachers corps and the teacher training programs for elementary and secondary school teachers are part of this legislation, as is the National Institute of Education, which is primarily concerned with elementary and secondary schools. This is an omnibus education act and the extension of a major postsecondary program to elementary and secondary school students is, to me, not inappropriate, although I recognize that others might have different views.

On the question of pluralism as a value in our society, generally, and in our educational system, there can be many views on that and many interpretations of the term. I cannot but observe that our distinguished President is presiding in the Senate under a suitably Roman arch on which is inscribed that most distinctive American phrase "E pluribus unum"—"out of many, one." An idea that has been with us from the first days of the Republic.

Lastly, in this regard, I would like to speak to the question of the matter of whether a new authorization is provided by this legislation. A new authorization is provided, of course, amending section 411 of the act, directing that the President, in his budget transmission "shall set forth separately requests for new budget authority for, and estimates of outlays for" the subsections that this amendment would treat.

On the question of the authority of the Attorney General's rulings and the degree of deference which we should show them, I take the liberty, Mr. President, of calling attention to a ruling of tional moneys are there they will be taken away from those college grants. It just takes so much of that amount and allocates it over, in my view as I am arguing, unconstitutionally and unwisely to the elementary and secondary school student.

Mr. RANDOLPH. I shall later in the day and presumably into tomorrow check these matters out very carefully.

Mr. HOLLINGS. I appreciate it.

Mr. RANDOLPH. I am helped always by the presentation of the Senator from South Carolina as very frankly I am helped by the arguments often of the able Senator from New York. But I have an understanding of these matters, having been in the educational field as a teacher, as an instructor, as a trustee, as a dean. Since 1958, I have served as ranking majority member of the Senate Subcommittee on Education. I am intensely interested in doing that which has within it equality but certainly not a change in the Constitution on matters of this kind, and I have attempted today earlier, as I have said, to speak to the matter of the private colleges and universities. So I shall be helped by reading, even though I did not have the opportunity of hearing all that the Senator said. In a sense I think he said it two or three times because I found him pressing down his point here that he is making today.

I thank him very much.

Mr. HOLLINGS. I thank the distinguish Senator from West Virginia.

What is so frustrating is, yes, the private schools have problems, the public schools have problems. They emanate from the so-called diversity and transitional nature of our society. I will not say the breakdown of the family, but the lessening of influence, and the various other things found at the conferences. And here when we need help, if help there be needed in public education, let us assume we need it both in private and in public, then we would think perhaps we would first start as public officials and start helping the public schools out.

But what we do is give them a devasting, very damaging, blow, because of the AFL–CIO and all the other organizations interested in this thing. It is that undermining of public education, and all the other bodies, the League of Women Voters and what have you, have been working in this field, and they know it is not a matter of greed and selfishness, but they know if everybody can go to their own little entity and their own little private church school and have the taxpayers support them, then that is going to erode all support we are trying to build up a need for, as the Time magazine article states, the trustees, the parents, who are trying to do this all over this particular country, to back public education.

Mr. RANDOLPH. Mr. President, will my colleague yield again?

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. I want to refer to the report upon the pending legislation, and go to page 91 of the Senate Report 96–733 which was filed in connection with S. 1839.

What the Senator is discussing here is the motion made by the able Senator from Ohio (Mr. METZENBAUM) who is a member of our Committee on Labor and Human Resources. He offered the amendment to make basic grants available to elementary and secondary school students. Mr. PELL, Mr. METZENBAUM, Mr. SCHWEIKER, Mr. HATCH, and Mr. HUMPHREY voted for the motion, Mr. KENNEDY, Mr. CRANSTON, Mr. RIEGLE, Mr. JAVITS, Mr. STAFFORD, Mr. WILLIAMS, and Mr. RANDOLPH voted against it.

Mr. HOLLINGS. Bless you, Senator, you are way ahead of me. Just stand fast. You are way ahead of me.

Mr. RANDOLPH. I just wanted to get back and say are we now in the posture of a reintroduction of the so-called motion made by Senator METZENBAUM which was defeated in our committee, and which I opposed. I will vote against this amendment again today.

Mr. HOLLINGS. Exactly. It was modulated downward somewhat so that instead of where they had $3,600 tuition, 50 percent, $1,800, which was the cutoff, now they have it down to $1,500, where $750 is the cutoff, and rather than costing $143 million it would only cost $120 million.

But, yes, the answer is fundamentally then the same as in that particular motion by the Senator from Ohio.

Mr. RANDOLPH. I thank my colleague.

Mr. HOLLINGS. I thank the distinguished Senator.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my unprinted amendment No. 1267 be temporarily laid aside in order to allow for the consideration of the amendment of the Senator from Iowa.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1269

(Purpose: To assure equal treatment for the grace period for payment of loans after certain deferrals under the guaranteed and direct loan programs)

Mr. CULVER. Mr. President, I have an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 1269.

Mr. CULVER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 178, between lines 14 and 15, insert the following new section:

DEFERRAL OF PRINCIPAL DURING CERTAIN PERIODS OF STUDY, SERVICE, AND UNEMPLOYMENT

SEC. 423. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "and any such period" and inserting in lieu thereof "that any such period", and

(2) by inserting before the comma at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

(b) Section 428(b)(1)(M) is amended by inserting before the semicolon at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

On page 178, line 16, strike out "Sec. 423." and insert in lieu thereof "Sec. 424.".

On page 206, line 16, strike "No" and insert in lieu of thereof "Except as provided in subparagraph (C), no".

On page 208, between lines 4 and 5, insert the following:

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until nine months after the completion of such period of study, service, disability, or combination thereof.

On page 11, in the Table of Contents, redesignate item "Sec. 423." as "Sec. 424." and insert after item "Sec. 422." the following new item:

"Sec. 423. Deferral of principal during certain periods of study, service, and unemployment."

Mr. CULVER. I wish to express my heartfelt appreciation to the distinguished Senator from New York for his generous and typical courtesy that he has now extended to me.

Mr. President, I propose an amendment to the Higher Education Act which is designed to correct inequities in the repayment provisions of the national direct student loan (NDSL) and guaranteed student loan (GSL) programs. These inequities lie in the grace-period privileges afforded students entering graduate study and those given to individuals entering the military or volunteer service programs.

Under the bill outlined by the Senate Committee on Labor and Human Resources, student borrowers under the GSL and NDSL programs are allowed 4- and 9-month grace periods respectively from the time they cease to be at least half-time students before they must begin repayment of their educational loans. This period permits students a reasonable timeframe to obtain employment and the means to begin repayment. Individuals who decide to pursue graduate study—provided they are enrolled half-time—can postpone their grace period privileges until they are no longer students.

However, those students who choose to serve in the military, Peace Corps, Public Health Service Corps, VISTA, professional internships, or as full-time volunteers for nonprofit organizations, or who become temporarily disabled upon leaving school do not have that same postponement privilege. While their payments are deferred, their grace periods are ticking away during these times of service, training, or disability. Upon leaving these service commitments, they do not have the same time period to find employment and the means to repay their loans that we allot to their counterparts who enter graduate school.

My amendment to the Higher Education Act would simply move the onset of the grace period for repayment under the Secretary of Education, former Judge Shirley Hufstedler, rendered her decision against it. She reaffirmed the decision of the Attorney General of the United States. I would think that the Attorney General of the United States, Ben Civiletti, President Carter's Attorney General, would be interested in minorities.

Whatever we may say, the majority of the minorities support President Carter. Nobody has solid support across the line in this particular day and age, but the minorities in my State know whereof they speak and wherefore they vote and where they come from. Here is the legal decision.

Or, you can take the eminent authorities from the eastern law schools, in New England, Boston University.

Henry P. Monaghan, of the School of Law, reviewed this particular bill in specifics, and he said:

> In my opinion, legislation of this character would be plainly unconstitutional under the controlling decision of the Supreme Court of the United States.

They say, "Well, we don't know. The court has not had a chance to rule on this."

They have ruled on tuition tax credits, on vouchers, on books, on buses, on cars, on testing—everything they possibly could rule on. Professor Monaghan states the case that is dead on the head. It has not changed at all.

The Senator now says that if this amendment is adopted, he will show "meticulous respect." Why not "meticulous respect" for the decisions right now, under the present law?

Mr. President, the first responsibility of Congress to the public is to provide public schools. The first responsibility of Congress to private schools is to leave them alone. That is a cardinal principle.

We are not talking against private schools. We are not talking for private schools. What we are talking about is our responsibility to the public schools, and to leave those private schools alone.

Let us not put the foot in the door here at this particular point, all about what we pledge to under the Democratic platform to bring about these things. Here is how it is worded as presented by the Senator from New York.

At the Democratic Party platform this last week, the distinguished Senator said:

> Although the first responsibility of Government in the field of education is to the public schools, we also recognize the distinctive role of non-Governmental schools in securing the values of pluralism and diversity—

I know Senators have to think that over—

> and pledge ourselves to vouchsafe their integrity and their distinctiveness.

I will read the next sentence, but think of that a minute. Do Senators really think that the Senate should vouchsafe or protect and preserve the integrity and the distinctiveness of the Catholic school in Charleston, S.C.? Do they think I have really anything to do with that up here?

I think that the bishop of Charleston, the bishop of South Carolina would be the first to admonish me "Senator, we are good friends. Keep your nose out of my school. We are glad for you to attend. We are glad for your children to attend and minorities to attend, and minorities do attend, and those other things."

I am not talking about their sincerity, but I do not doubt their sincerity on this particular point. They do not agree with that statement.

I will read the next statement:

> In order that families that believe their children's educational needs will best be met in nondiscriminatory, nongovernmental schools will have the fullest opportunity to exercise that choice, we pledge ourselves to provide adequate and appropriate Federal financial assistance to individual students and families.

Mr. RANDOLPH. Mr. President, is that at the college or university level or at the high school level?

Mr. HOLLINGS. No; both. I think the Senator will speak for himself. I know this is intended here under the elementary and secondary education. It reads forward and goes into higher education. This alludes right here to elementary and secondary.

If I get the Senator's attention I can answer that question. I will be glad to answer that question of the distinguished Senator. The answer is that, of course, we have set aside at the college level, as not affecting religion, not involving itself and not having a secular intent or purpose with tuition tax credits there, with the GI bill, with the other particular provisions; in other words, the test under the establishment clause is, one, does it have a secular legislative purpose, two, its principle or primary effect neither advances nor inhibits religion; three, it does not foster an excessive governmental entanglement with religion.

They give that three-way test. If it does any of those things then it is out.

And they found like the GI bill and higher education tuition tax credits do not do those things. They go to the individual and the individual can take his GI bill and go to that particular private college, but when it comes down to elementary and secondary they have ruled that that does involve because that is the general educational system. It is the amount, the degree, the maturity, the involvement of whether or not it is excessive.

We find here that this particular amendment as a substitute of Senator MOYNIHAN's affects less than 1 percent of the elementary and secondary schoolchildren in this country, less than 1 percent, and the minority is 0.8 percent of the minority students attending schools in this country.

So what it is is a very small insidious, I characterize it, attempt, fraudulent attempt, if you please, because it talks of helping needy, helping poor, helping minority and helping public schools, but not a dime going to the public schools, and under that auspices and under that argument and under that persuasion they come and say: "Just give us a little bit of money. It is Monday afternoon. We can vote early. I am ready to vote anytime you are, and we can go forward with that."

I think we would be setting the worse precedent in the world. They have found that in the college education students are mature at the college level and at the younger level of elementary and secondary schools another distinction is made by the courts in their decision. The decision made is that they are at an impressionable age.

I think, Mr. President, that I could perhaps help myself pick up a vote or two if I yield the floor and talk individually to the distinguished Senator from West Virginia and I shall come back.

Mr. RANDOLPH. Just a moment.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. I wish to further inquire, but not to labor the point.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. As I understand it, and I have been listening in the cloakroom as much as I could before coming to the floor, the Senator is against basic grants for elementary and secondary schools.

Mr. HOLLINGS. That is right.

Mr. RANDOLPH. I just wish to make sure that that is the position and I understand it is.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. Basic grants are at the present time made to private colleges and universities.

Mr. HOLLINGS. That is right.

Mr. RANDOLPH. That is correct also.

Mr. HOLLINGS. And they have been found constitutional.

Mr. RANDOLPH. The Senator does not question that?

Mr. HOLLINGS. No, I do not question that. In fact I have been a cosponsor of that. Senator RIBICOFF and I were in 1967.

Mr. RANDOLPH. That is correct.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. I remember.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. And I have spoken here earlier today and I am sure that what I said perhaps might be read later about the plight, frankly, of our independent, our private colleges in the country.

Mr. HOLLINGS. It will be, I am sure.

Mr. RANDOLPH. And I pointed out the tremendous contributions that they make to the higher educational system of the country.

Mr. HOLLINGS. There is no question about that.

Mr. RANDOLPH. As I understand it, the amendment offered by our able colleague from New York (Mr. MOYNIHAN) seeks to take this from the category of the private colleges and universities and bring the eligibility into the elementary and secondary schools——

Mr. HOLLINGS. Exactly.

Mr. RANDOLPH (continuing). That are public in nature. Is that correct?

Mr. HOLLINGS. No; private in nature.

Mr. RANDOLPH. Private in nature.

Mr. HOLLINGS. And predominantly church, over 90 percent.

Mr. RANDOLPH. So what is now given to private colleges and universities would become an eligibility for private and church-related elementary and secondary schools.

Mr. HOLLINGS. And since no addi-

I can say that. I think I get the idea, I am not sure. But I better read that one again because if I served on that platform committee and we got our distinguished Governor, Dick Riley, there and he went to the public schools, too, and then got out of Furman University, and Furman is a highly academically rated institution, I do not know if he would understand this one. I quote:

> Although the first responsibility of government in the field of education is to the public schools—

I am quoting from the Senator from New York's statement to the platform committee, the Democratic Party platform hearing:

> Although the first responsibility of government in the field of education is to the public schools, we also recognize the distinctive role of nongovernmental schools in securing the values of pluralism and diversity and pledge ourselves to vouchsafe their integrity and their distinctiveness.

Let us read another sentence:

> In order that families that believe their children's educational needs will best be met by nondiscriminatory, nongovernmental schools, will have the fullest opportunity to exercise that choice, we pledge ourselves to provide adequate and appropriate Federal financial assistance to individual students and families.

The whole issue is turned around, now. We have here a family bill. We have here a nongovernmental bill. Everybody is against the government, and against discrimination. That is what I thought public schools were charged to be under the law and the Civil Rights Act, and do not affect the church schools.

But 93 percent of the private elementary and secondary schools in America are church schools. That 93 percent that are discriminatory by their own title—and that is their privilege—we defend to the nth degree. They have their church and their religion and they should not have Senators meddling in it, but here we go.

Nondiscriminatory has become discriminatory, and discriminatory has become nondiscriminatory, all for vouchsafing the integrity and distinctiveness of the value of pluralism and diversity.

I can say here and now, the Senator from New York knows what he is talking about. He will say that we have a platform in the Democratic plank to aid private education. He calls it a credit, or an article of faith—an article of faith in the Democratic ranks over the many, many years.

I hope the National Education Association and their particular delegates to the Democratic Convention will open their eyes and get hold of this one.

They might need some private attorneys from some of the private institutions up East to describe this to them and tell them what it means.

But we had that. That is the old wag about the poor black, South Carolinean presenting himself to vote. They gave him a Chinese newspaper. That is when they used to have literacy tests.

They presented the poor fellow with a Chinese newspaper and said, "Now, read that."

He looked at it and sort of grinned. They said, "Do you know what that says?"

He said, "Uh-huh. No poor black is going to vote in South Carolina today." He said, "That's what it means."

I can tell you what this means. No public school is going to get a red cent under the Moynihan amendment, and the public schools will be ruined, because we will have set a precedent, for the first time in the history of Congress. I do not argue so much the constitutionality, because it is patently unconstitutional. But to want to finance private schools and desire to do it in a public body is incomprehensible to me.

Where are we in this land? They talk about balanced budgets. They talk about responsibilities. They talk about cutting redtape and where we stand in Washington. The church bodies do not want this. They have come out in opposition to this, because they do not want to file all the reports. If the reports are burdensome, if the discrimination is burdensome to them, these schools can decide to operate without Federal funds and without Federal strings. But if it is burdensome to the public schools, it is our duty to unburden it.

I discussed this issue with the former Secretary of Health, Education, and Welfare. Federal paperwork was costing Richland County school districts $75,000 a year just to prepare the forms. It was costing the Charleston school districts $70,000 a year to prepare and send back the forms. I inquire whether we could get one simple form. They were spending hundreds of man-hours on meaningless paperwork.

If we in Congress are responsible for this, it is understandable why the public schools go down in quality—and in responsiveness—and in discipline. It is our duty to come to the aid of the public schools.

But before we ruin the public schools—if someone wants to characterize it that way—let us come together, as a team and as a body and as public officials, to correct it. Let us not curse it and provide for it competition, and say, "You who do not like public schools, we are going to pay your way to go where you want, and in that church school you can learn any kind of religious you want to," if we allow this to happen these schools will discriminate and keep out the discipline problems and keep out the educational problems, and all the things they have the privilege to do. But do not ask us, the taxpayers of America, to foot that bill.

The court has had an opportunity to rule. They have ruled as recently as February of this year, and they continue to rule—Republican justices, Democratic justices, conservative justices, liberal justices. All say that you cannot be involved and should not be involved—which is my point—in private education. That, by its nature, is what it says. It is private. The public officials should not be running around here saying, "I am representing public education by providing through my tax dollars for the church school or private school."

Ninety-three percent of these elementary and secondary schools are church schools.

As I have said time and again, I have children who have attended both private schools and public schools. I know a little of what it was in my State. I have a daughter who attended Woodrow Wilson High School, in the District of Columbia, which is a public high school.

I know this is the most devastating thing we have confronting us, one of our great responsibilities. If you are President of the United States, you would go to the White House and go to work immediately on the problem of public education in this country. I am the first to acknowledge that a lot of work needs to be done.

We have to get the public back into the schools. We have to get the outstanding trustees. We have to keep the superintendents we have, to get back to the basics. We are into a competitive state now.

Time magazine for the past week had an article about Soviet Russia. We are not competing in science and mathematics and the languages and otherwise in public school with the schools of Communist Russia, and that disturbs me. I want to help, and I want to do something about it.

We are limited. We are trying our best to hold the line on new programs this year. We have been cutting the State revenue sharing, Saturday mail delivery, benefits to veterans. We have gone down the list and cut $20 billion from current policy.

We are now down in the Appropriations Committee room, trying to cut back a billion dollars in this budget between June 23 and September 30. Senators are working sincerely and diligently on it. But as we are trying to hold down the size of government, what are they doing upstairs? They are on a so-called little, innocent thing, that we are all for public schools, and it will not cost much, and it is going to help the needy. That is sham. That is a dirty trick, to say that this is for the needy and this is for the poor and this is for the minorities.

Talk about minorities, they have put me in office. I was just renominated. I had the majority and I had the minority.

I will never forget the time I came to the U.S. Senate. I came here with the distinguished former Senator from Massachusetts, Ed Brooke. At that time, I said: "Senator, you're the black Senator elected by the white vote. I'm the white Senator elected by the black vote." We became very good friends.

I am proud of my white vote and my black vote and my knowledge and experience and empathy for the minority.

Do not come here now, under this kind of gimmick—and it has been gimmicked downward in every kind of which way, put on a higher education bill, on a Monday afternoon, when all Senators are gone—and say, "We are going to save money and help the needy and help minorities."

Then, one Senator had the audacity to say that it would help the public education system and this in spite not a red cent going to it. If anyone can get that logic, I will be glad to yield at this particular point.

I have some other material, and I have the legal authorities. It is significant that issue of extending his amendment, if enacted, to cover students attending public schools, would not be raised.

Living costs, perhaps that is one of the rationales used in the debate we heard before, that, after all, there are no living costs for those going to the public schools. Living costs could be included by using the actual room and board charges for boarding schools and permitting students to live at home to continue the BEOG commuter allowance, to characterize it as such, now set at $1,500 for the post-secondary program, in figuring their cost of attendance.

This would put the need calculations in Senator MOYNIHAN's proposal on the same basis as those in the post-secondary program, and (assuming $1,500 living expenses per student) would cost an additional $661 million (table 4, option 3). This would also result in a much larger share of benefits being directed toward students from higher income families (table 5).

Another possibility for legislative consideration should this amendment be enacted is the possibility of making public school students eligible under this scheme.

Do we not know there in the public schools, and we have an article in Time magazine just 2 weeks ago, if one is a trustee, trying his level best to raise the quality of education to get additional financial assistance from anywhere and everywhere he could find it, whether it is Washington, or property taxes, revenue sharing, or part of these grants, or anything else, they use the scratching, picking, and grabbing to get their hands onto any kind of assistance.

Now the lawyer comes to the meeting and says to the trustees, "Gentlemen, all you have to do is change this around, not charge tuition, working out that law, but I will be glad to have the State Constitution amended in the next session. The Governor is looking for money. The legislators will support it. What we want to do is go ahead and charge tuition so that then we can get that money from Washington."

The cost of bringing public school students into the program, assume $1,500 per student for living expenses, but no tuition, or fees, it would be $5.6 billion in fiscal year 1982.

I have a table here that I will include now at this point in the RECORD to show that.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—CBO ESTIMATED FISCAL YEAR 1982 DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY GRADE LEVEL

	Total private enrollment (1978 CPS)	Baby BEOGS recipients	Average awards	Total awards
Elementary	3, 233, 000	224, 000	$274	$61m
High school	1, 244, 000	184, 000	477	88m
Total	4, 477, 000	408, 000	366	149m

TABLE 2.—DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY FAMILY INCOME, FISCAL YEAR 1982 (CBO PROJECTIONS)

Family income [1]	Number of recipients	Total awards
0 to $5,000	316, 000	$116.3m
$5,000 to $15,000	53, 000	18.7m
$15,000 to $30,000	35, 000	12.7m
$30,000 and over	3, 000	1. 1m
Total	408, 000	148. 9m

[1] Family income is defined by CBO as adjusted gross income and does not include nontaxable transfer payments (e.g., welfare benefits). However, since such payments generally are included in family income tables published by the Census Bureau, data included here are not strictly comparable with published census tables.

TABLE 3.—DISTRIBUTION OF GRANTS UNDER THE BEOG EXTENSION AMENDMENT BY RACE, FISCAL YEAR 1982 (CBO PROJECTIONS)

Race	Number of recipients	Total
White	338, 000	$125m
Black	59, 000	20m
Other	10, 000	4m
Total	408, 000	$149m

TABLE 4.—CBO PROJECTIONS OF COST AND NUMBER OF RECIPIENTS FOR CURRENT AND ALTERNATIVE PROPOSALS FOR GRANTS UNDER THE BEOG EXTENSION AMENDMENT IN FISCAL YEAR 1982

	Recipients (thousands)	Millions	Average award
Current Baby BEOG's Proposal			
Maximum BEOG=$1,900; percentage of cost that can be covered by BEOG=50 percent; minimum Baby BEOG=$100	408	$149	$366
Option 1: Double Private School Tuition			
Indicates impact on Baby BEOG's program if private schools double tuition	823	449	639
Option 2: Delete "Cost-EFC" Constraint			
Same as current except that provision that a BEOG cannot exceed a student's cost of attendance minus expected family contribution is deleted	1, 047	371	354
Option 3: Add Living Costs for Private School Students			
"Cost of Attendance" is amended to include $1,500 per student for living expenses. (Program still restricted to private school students.)	1, 047	810	773
Option 4: Add Living Costs for Public School Students			
Same parameters as 3, except that public school students are made eligible for Baby BEOG's. (Cost estimates are for living costs of public school students only)	9, 246	5, 579	602

TABLE 5.—DISTRIBUTION OF DOLLARS BY INCOME CATEGORY FOR CURRENT AND ALTERNATIVE PROPOSALS FOR GRANTS UNDER THE BEOG EXTENSION AMENDMENT (CBO PROJECTIONS), FISCAL YEAR 1982

	Family income (percentages)			
	$0–$4, 999	$5, 000–$14, 999	$15, 000–$24, 999	$25, 000 plus
Current baby BEOG's proposal	78	13	6	3
Option 1: Double private school tuition	60	23	10	7
Option 2: Delete "Cost-EFC" provision	39	33	17	11
Option 3: Add living costs for private school students	48	32	13	7
Option 4: Add living costs for public school students	62	31	6	1

Mr. HOLLINGS. The pressure, I have explained, to include public schools as eligible institutions, can arise even in the absence of a provision to cover living costs. For example, the extended BEOG's program could be used for special public school assessments, such as tuition paid a school district where a student is enrolled, but is not a resident. Moreover, making public schools eligible, would create a powerful incentive for public school systems to charge tuition in order to capture these additional Federal dollars.

It is, indeed, possible, Mr. President, to envision schemes by which States could shift a major portion of educational funding to the Federal Government.

We know, having worked in the field at the State level, and then in charge of public school boards at the local level and at the State level, that this foot in the door, Monday afternoon, June 23, 1980, can really bust the budget wide open.

We just do not have anybody here in the Chamber listening. It is Monday. Our colleagues from the West who are traveling back in on planes have not arrived here yet, no one is here, so we will have to talk a bit longer this afternoon, and tomorrow, so they will hear about the cost of this particular program.

It is only represented in a little substitute amendment. Well, we will show respect, manifest, meticulous respect for the Supreme Court now, we will have meticulous respect for the Supreme Court decision, and that we only have a little $100 million program for the poor, the needy, the minority, and, if you please, they say for public schools, going on to private schools, and not one red cent under the Moynihan amendment will get into the public schools.

If this amendment is enacted for private students then I will offer a similar one for public students. I can say that here and now, we will offer that amendment to make sure the public school students get their financial assistance for diversity and pluralism, whatever that may be—diversity and pluralism.

Well, we have heard that at the Democratic platform, I think I have a copy of that statement here, Mr. President, it is a very interesting presentation, that the Senator from New York has presented an education plank.

The distinguished Senator said:

> Although the first responsibility of government in the field of education is to the public schools, we also recognize the distinctive role of nongovernmental schools in securing the values of pluralism and diversity and pledge ourselves to vouchsafe their integrity and distinctiveness.

I am just a graduate of public schools,

the tools to build a place for themselves as the system of public education disintegrates.

Initially, one of the first responses after the enactment of this amendment would be a change in private school tuition.

So we would immediately have that tuition raised and immediately, we would lose further poor and disadvantaged. Our experience with numerous Federal programs has shown one thing if it has shown anything, the availability of public funds can cause people and institutions to change their behavior. What we have here is massive behavioral modification at work and increased cost to the Federal Treasury is the predictable result.

Private schools would raise tuitions for several reasons, among these: To enable students to qualify for the grants (in schools where tuitions are less than $200, the half-cost rule would make it impossible to meet the minimum grant level); to capture additional revenues (without raising actual costs to families since rebates, scholarships, et cetera, would be contemplated); and, to shift the burden of subsidizing the education of low-income students to the Federal Government (that is, tuition breaks for poor students would be initiated in tandem with the grant program).

Private schools could raise tuition in several ways. For example, a school could increase tuition for all students and then use its increased grant revenue under this proposed amendment to refund tuition (or provide scholarships) to students not receiving grants. Alternatively, a school could put into effect differential pricing policies under which only grant recipients would be hit by tuition increases. Such tuition increase schemes are literally only limited by the imagination of the principal of the private school.

As one example of what might happen under such a scenario, CBO simulated the effect on this new BEOG's program if private schools immediately doubled their tuitions. The results show that program costs would triple, from $149 to $449 million; 415,000 more students would receive grants, and the average grant would rise from $366 to $639 (table 4, option 1).

We have worked out a table and we shall adjust the table in accordance with the adjusted amendment.

In addition, doubling tuition would have the effect of increasing the share of benefits going to students from families with incomes above $5,000 (table 5, option 1), from 23 to 40 percent.

Change in tuition is only the most predictable response to the passage of this amendment.

With the precedent established, it does not take too much imagination, Mr. President, to visualize that pressure will begin to build immediately for legislative amendments that will bring students from moderate- and middle-income families into the program. They are left out almost entirely by the proposal of the Senator from New York. But you can rest assured that the crowd that tried to pass off the budget-busting private tuition tax credit proposal—that is one we had argument on 2 years ago—that group is not going to stand still with a program that only serves 10 percent or so at best, of the private elementary and secondary school students.

They are the ones who will pay the taxes. They are the ones who will have the legislative argument to the effect that, "Look, now that we are paying the bill, we have been paying it, why should we pay it to two different institutions? Let us pay it not only to support the public schools, but get a writeoff for the private schools."

It would be their natural inclination to then line up with a list of legislative changes designed to make their newly enacted elementary and secondary school grant program broader and more inclusive of private school students. And, we must remember the BEOG's program has been developed and is tailored for college level students so this will, in turn, lead to an "arguable need" to amend the BEOG's program in order to make it more responsive to the new need it must began to serve. Legislative changes will be the next order of business as this raid on the treasury for the benefit of private elementary and secondary school students escalates.

In other words, if we have *x* million dollars in the BEOG program—I should say billion. It is going up to over $2 billion in this next year's budget. That is one of the troubles, and we shall have that out later on, perhaps this week or next week. We have a GI bill, Mr. President, without the GI. That is what we have. We shall pay everybody's tuition to go to college under the basic opportunity grant, but we are not getting the GI.

So, now, if we have over $2 billion, they need a billion dollars out of that. They will say, "Well, we have to have a billion dollars more." Therein, Mr. President, is the budget-busting nature of it if we try to extend this in a fair fashion to any and everybody, as it is indicated the authors would like to do, looking at what they proposed 2 years ago and looking at what they propose today.

For instance, a liberalization of the half-cost and maximum grant limitations could increase the cost of this grant program significantly. Presently the cost of BEOG's is constrained by the $1,800 maximum grant and by the provision that a BEOG cannot be for more than one-half the cost of attendance, with cost of attendance, in the case of the BEOG's extension amendment offered by Senator MOYNIHAN, defined as tuition and required fees.

I can hear those arguments, politicians on the floor of the Senate saying, "What good is half an education? What good is half a haircut? The fellow either has the money or he does not have it. If you give him half, he cannot go to school from 8 in the morning until 10:30 and then leave for the rest of the day; or he cannot come on Monday, Tuesday, and Wednesday and leave out Thursday and Friday. So if we are going to give him half, let us give him all."

And we shall all persuade each other how reasonable we have become, how wise and forthright we are in addressing this problem, how much we stand for public education. And billions upon billions will go down the drain with that enlightened approach.

Legislation presently pending would liberalize these limitations. They have them in right now. Assuming that the provisions of the eventual higher education reauthorization bill will fall somewhere between the House and Senate versions, and assuming that money is appropriated to fund these liberalizations, there will be substantial growth in the cost of BEOG, but the exact figure is impossible to predict at this time. Suffice it to say, however, it will be significant.

Another legislative initiative that might be forthcoming would be an effort to remove the "cost of attendance minus expected family contribution" constraint. For instance, under the terms of the Higher Education Act, a student's BEOG cannot exceed the difference between the expected family contribution for that student and the cost of attendance at the institution where the student is enrolled. While this provision has little effect on the operation of the program at the postsecondary level, in private elementary and secondary education—where tuition levels are low and living expenses would not be included in the cost of attendance—it would serve, at many schools, to eliminate all but the poorest students from eligibility. Deleting the provision would, perhaps, be philosophically difficult—it does not make much sense to have students receive grants which, when combined with their family contributions, are in excess of costs—but such an amendment might be irresistible if the intent is to aid moderate and lower middle-income students at low-cost schools. The impact of making this change would be to increase the number of recipients from 408,000 to 1.05 million and to raise the cost of the program from $149 million to $371 million (see table 4, option 2). This provision would also triple the percent of dollars for students from families with incomes above $5,000—reducing the focus on the lowest income families (refer to table 5).

Mr. President, let us take another for instance, another predictable legislative initiative. That would be to include living expenses in the cost of attendance. Now we are really seeing the mind of a legislator work. How we praise each other for such enlightenment. Here we have him attending, here we have the tuition. But that is only tuition and fees. The poor little student that we are thinking of here, the poorer—of course, we left this cost out, because we are going to help the poor. But the poor student does not have any room, does not have any board, does not have any expenses for commuting, does not have any expenses for books. How could that Congress, several years back, just come in with a half-baked idea of this kind? If we are really going to help the poor, would be the argument, let us get the expenses in there—the room, the board, the commuting, the books, and all down the line.

Under Senator MOYNIHAN's proposed amendment, the cost of attendance would not include living expenses. Perhaps the reason for that is that the

Schools? The National Coalition to Save Public Schools is the American Association of Colleges for Teacher Education, the American Association of School Administrators, the American Civil Liberties Union, the American Theatrical Union, the American Federation of Teachers, the Americans United for Separation of Church and State, the Baptist Joint Committee on Public Affairs, the Council of Chief State School Officers, the Council for Educational Development and Research, the League of Women Voters of the United States, the Mexican-American Legal Defense and Educational Fund. Do you not think the Mexican-American Legal Defense and Educational Fund know about the needy in America and the immigrants that have been so much in the news as of late?

The National Association of Elementary School Principals, the National Association of State Boards of Education, the National Committee for Citizens in Education, the National Council on Jewish Women.

We heard about the Hebrew schools a little while ago in a reference by the Senator from Ohio.

The National Education Association, the National Urban League, the National School Board Association, Public Education and Religious Liberty, the U.S. Student Association.

And then I have a long list that we are going to add to that later on in this particular debate.

I think those organizations would know something about the needy and education in America.

Do not come now saying it is sort of like a Community Chest thing, that we have done so much for public schools that now it is time to do a little for the private schools.

The responsibility of the Government to its citizenry is for public education. The responsibility of the Government to private schools is to leave them alone. That is the responsibility.

It is not to support them, not to detract from them, not to add to them, not to affect them in any way, but to stay uninvolved, to leave them alone. That is the greatest cry in election year 1980.

"If the Government would only leave my business alone. If the Government would only leave my church alone. If the Government would only leave my family alone." And right on down the line. "Leave my automobile alone." And anything else they can think of. The weather? "If the Government can only leave the weather alone."

Everybody is trying to keep the Government out of it. Here we come with a bill, really an amendment, the elementary and secondary amendment to higher education. Only through a straining ruling by the Parliamentarian can it be allowed to stay on this bill. Anyone can look at the title and know you are dealing with higher education. But we strain and sneak it on and then we vote it down.

I forget the name of the committee. Is it Education and Human Rights now? Or is it the Labor and Human Resources? It is Labor and Human Resources. Well, it is a moving target.

I know we do not have any members from our section of the Nation. The distinguished Senator from New York is always talking on a sectional basis about the Northeast Coalition and the Snow Belt.

We made a careful study of that particular committee. I thought I had finally found one from our part of the country in the Senator from West Virginia, Senator JENNINGS RANDOLPH. But he said:

> I do not classify myself in that particular regard.

Really, with all of these white flight schools, segregated academies, and so on, ask those Senators where we have the need, where we have the lower per capita income, where we have the minority, if you want to talk about percentage, and we are proud of them. We are working hard now. We have those schools integrated now, and we have the public teachers associations integrated. We now have them elected to public office, to offices in these civic organizations. Everyone is moving forward together. Just as we begin to move forward together as a united people they want to tackle us from behind on the basis that they are going to help us.

Finally, the Senator from Ohio says if you do not have this particular amendment you will have a negative impact on public schools.

I listened as carefully as I could to find the logic of that particular argument. I never heard such a thing. One asked the other:

> Does the distinguished Senator believe in the public schools? I believe in the public schools.
>
> If I believed this would hurt them, I would not stand for this amendment.

What kind of act is that? Everyone knows differently. That is outrageous nonsense.

We are having a difficult time in public education. I can tell you here and now, Mr. President, that this defames the public schools. What did the Senator from Ohio say happens? "The costs of the Catholic schools have gone up 50 percent and they have driven the students out of the private schools into the public schools."

That tells you what he thinks about public education. That is what he thinks about public education. I will use his own words.

What happens when things go bad and they cannot finance that private, selective, undiversified, segregated, tutorial, private, religious entity? Well, they have to go into the public schools. That is exactly what he thinks of the public schools.

"Oh, I believe in them," he states, but his words belie his true feelings.

Well, Mr. President, we have to remember the foot-in-the-door approach which is being used. I could see at the very outset here this $100 million. It started off at $14 million but it is down now since it has been amended by way of a substitute so as to bring it down to $750. Let us say if it was $1 million or $1 you would have to oppose this for exactly what it is. That is to destroy public education, to discriminate against minorities and the disadvantaged, and to totally abandon the needy in America.

Fortunately, Labor and Human Resources found it destructive of public education and they rejected this amendment. This amendment was rejected by that distinguished committee.

Let us see about it. The 408,000 students that the CBO estimates will participate in this amendment if enacted comprise under 1 percent of the total 42.6 million elementary and secondary school students of the country. The amendment does not carry a separate authorization. The cost would come at the direct expense of the BEOG's funding program.

Incidentally, to get it by the budget—I am glad they did that because I would not want to be using my position, let us, say, as chairman of the Budget Committee to call this a budget buster; I call it a budget buster as a Senator from South Carolina—what they did to get around that particular provision was to authorize more money and have it take effect—when? In 1982. So they lower the amount, they jimmy around the year, they wiggle around in any kind of description you can think of to get their foot in the door and say they will give "meticulous respect" to the Court and its decision if they can only get this passed.

Let us see the foot in the door part of this legislation. It would only offer limited assistance to a relatively small number of students. It would establish a precedent for comprehensive Federal assistance to private education. That is the goal here.

Much more, it uses the poor as a shield to accomplish that goal, a very unfortunate irony. The poor are used to initiate a program that will ultimately doom them to reduced educational opportunities and rob them of the tools to build a place for themselves as the system of public education disintegrates. Initially, one of the first changes after the enactment of this amendment would be a change in private school tuition. That is what would happen. You would get it in and they would immediately take the money—we have watched it, we have talked to the educators and those in private schools—and immediately they say they are underfunded, as the distinguished Senator from Ohio described the schools in his State. Immediately, they would have to increase their tuition because now they have Federal money to pay for it.

INCENTIVES FOR GROWTH IN THE COST OF SENATOR MOYNIHAN'S AMENDMENT

As this information begins to sink in my reason for emphasizing the "initial" cost impact becomes more obvious. This amendment is the classic, penultimate, quintessential, if you will, "foot-in-the-door" legislation. Although it would only offer limited assistance to a relatively small number of students, it would establish a precedent for comprehensive Federal assistance to private education. That is the goal here. And, what is more, it uses the poor as a shield to accomplish that goal. What unfortunate irony. The poor used to initiate a program that will ultimately doom them to reduced educational opportunities and rob them of ent who retires. You get the leading civic citizens that 10 and 20 years ago wanted to serve on the public school boards saying, "I quit. I cannot do it."

So, yes, according to Time magazine—and, heavens, do not use that—the Senator from Iowa, when he said that Time magazine said that we had to do something about the teacher who cannot teach, that is why the teacher cannot teach. We have not been supporting public education. Public education deserves and needs and should have more support. We have to get the public back into the schools.

The teachers are having a tough enough time keeping order in class, doing the parents' task, and everything else like that. But over in the private schools, they either do or out they go. Selectivity rules. Is that not nice? Is that not grand?

But where does that end up? Where does that leave those for whom we plea, the needy, the minorities, the disadvantaged in public education?

They said that we were antidiversity. Then they said that we were antihistory; that we just did not understand; that the public school really came with the first church, and it certainly was at the beginning. We did not have the public. We did not have the Constitution. We did not have the Congress. The original schools in America were church schools, and continue to be church schools, and bless them. I respect them. I have served on a church school. The Senator mentioned a Lutheran church, the Senator from Ohio. I served 7 years on a Lutheran college board and I collected money.

Incidentally, I received some from Governor Rockefeller. Nelson said that you did not want to mention that while he was living. The Rockefeller family had all kinds of requests for assistance to all the different schools, and what have you. But we became good, close friends. I am sure that the record will show the contribution that he made to my church college at my request.

So I solicited for the church colleges in America and what have you and I respect them and I respect the private schools. I respect the church school elementary and secondary schools.

But the truth of the matter is the history will show from the Northwest Ordinance of 1787, instrumental in developing the Northwest territories, that they divided land into a block 6 miles square, with 36 blocks and in the middle, block 16 was reserved, if you please, for public schools. That was a novel idea but a clear recognition of the Nation's growing support for education, and Government support for education.

The State of Hawaii had to make a pledge before they came into the Union, and the State of Alaska had to make a pledge before they came into the Union, that they had a provision in their Constitutions for free public education. That is what Congress mandated. It has been a policy to support public education.

I know about the church schools, but the policy has been clear there. And that has been the greatness of our society and the diversity, as Horace Mann said, of those coming from 87 different ethnic groups and 37 different religions into a melting pot, as quoted by Justice Douglas, into one language, coming from all walks of life into one sort of economic body within that public classroom.

We do not see that today. We hear a lot about the bilingual education. We are beginning to go for nothing but diversity and forgetting the roots and the greatness and the things that made for this greatness in this land of ours.

But they come and say that we were antihistory, that we were antidiversity, and even went so far as to say that we were anti-Catholic.

Well, let us move from that particular point, because my bishop, fortunately, supported me on that. The Bishop of South Carolina is also the Bishop of Charleston, whom I know intimately and we will bring him up to attest to that at any time, because he knows me intimately on that particular score. So we will not have to put up with that.

But what do they come up with? They come with an entirely new school now, a foot in the door, and say, "We want to help the needy."

Now, that is exactly the crowd that is going to suffer.

Mr. MOYNIHAN. Will the Senator yield?

Mr. HOLLINGS. No, I am going to complete my thinking here and go right on down the list.

Mr. MOYNIHAN. Will the Senator be kind enough to yield on a personal matter? It would be so helpful to clear this up. I just want to ask the Senator a question.

Mr. HOLLINGS. I yield to the Senator from New York.

Mr. MOYNIHAN. When the Senator said there were those of us who suggested that the opponents of that legislation—and he was of course referring to tax credits—were antihistory and so forth, he then went on to suggest that it was said that they, the opponents, were anti-Catholic. I hope the Senator did not suggest that I said, or implied anything of the sort.

Mr. HOLLINGS. I remember that debate, Mr. President, and the letter went out from the bishops and the allegations, the entire letter. We will get that letter, if we want to talk about that particular point. Because they met and wondered what kind of ogre and creature this was from South Carolina. Perhaps that was not the intent, obviously, of the Senator from New York, and I accept it as such. But I had to withstand that particular charge. We will have the bishop's letter that went around and the various articles that evolved as a result of that debate and during that debate.

Of course, we remember well, we can refer back to the particular record, the charge made on the floor of that particular nature.

Mr. MOYNIHAN. The Senator was certainly not associating me with that charge.

Mr. HOLLINGS. No, I am not associating the Senator with that at this time. That is why I am glad to say that I found that out with this particular debate that we have moved on.

But what has amazed this Senator from South Carolina is that we are trying to sell this foot in the door. And, as I said advisedly and more suspectfully, it's fraud, because it is a fraud upon public education in this country. It is a fraud upon the needy, and the needy know it. It is a fraud upon the disadvantaged, and the disadvantaged know it.

Would you not think, when they talk about those who have endorsed it, the Montessori schools and the others, and I repeat, would you not think, Mr. President, that the AFL–CIO would know about the needy? The AFL–CIO strongly opposes the proposed Moynihan amendment because it undermines public education. That is what Ray Denison says in his letter of June 23, 1980, and I submit it here for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 23, 1980.

DEAR SENATOR: The AFL–CIO strongly supports S. 1839, the Education Amendments of 1980, as reported by the Committee on Labor and Human Resources. This bill is of vital interest to union members and their families who count on federal assistance as an essential part of their access to higher education. S. 1839 makes several changes in existing law we particularly support. First, it allows a greater percentage of the costs of a college education to be covered by a Basic Education Opportunity Grant (BEOG) by eventually raising the so-called "half cost limitation" to 60 percent.

The bill also raises the maximum grant amount to adjust for inflation. In addition, the Committee bill provides access to all the campus-based student aid programs for part-time students. This is an important provision for workers who frequently go to school on a part-time basis.

The AFL–CIO strongly opposes the proposed Moynihan amendment to extend the BEOG program to elementary and secondary schools. We believe that this amendment which was rejected in Committee is seriously flawed and will ultimately reduce the funds available for higher education as well as undermining public education. In addition, to establish an aid program of this type on the elementary and secondary level is a first step toward radically altering our system of educational financing. We urge you to reject this amendment if it is offered.

S. 1839 is an important bill for all Americans and especially those of low and middle income and represents an increase in educational opportunities for working families all over the country.

The AFL–CIO supports the Stewart amendment, which generally would incorporate the provisions of Title III of the bill as reported by the House Committee. We believe this amendment would best insure that developing institutions most in need of funds will continue to receive them.

The AFL–CIO urges its swift passage.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

We have the complete letter and copies of it available.

Would you not think that the National Coalition to Save Public Schools would know about the needy? Well, then, who is the National Coalition to Save Public comments not as he did not have any idea what they would be, nor did I have any doubt about his particular presentation because we had a rather strenuous debate on this fundamental subject some 2 years ago.

When the distinguished Senator from New York, having done his homework, had offered a majority of the U.S. Senate as cosponsors and coauthors of a particular bill for tuition tax credits. And it took about 3 days of this body's time for us to debate and really attain the attention of our fellow Senators so that they could understand the serious nature of the proposal, the unconstitutionality and the poor wisdom, if you will of this particular initiative, very devastating to the public schools, very devastating to the system under which we live, where we have freedom of religion and we do not want to inject the Government into it. After 3 days of debate we were able to take that majority and turn it around to our advantage and we prevailed.

Now the distinguished Senator has come around another end with the same intent, a little different scheme, very appropriately on a Monday when we are not in town here, and there are not too many to pay attention, and not so many important voices to be heard, like the Senator from New York, his colleague, Senator JAVITS, who wants to very definitely be heard on this particular measure. It could be that we might have to arrange a voting time tomorrow when he can return because I do not believe he will return until late this evening, and he will want to be heard and participate in this vote, and I say that advisedly because we have all wanted to be heard on this.

But now it comes, rather than as a tuition tax credit it comes, as what you might call a baby BEOG, basic opportunity grant, not for higher education, not for higher education as has been found constitutional, and even with the GI bill, not that the court has not had opportunity—the court continually has opportunity to rule, ruling as recently as February of this year in the Regan case, reestablishing, if you please, the fundamental test of whether or not the legislation has a secular legislative purpose, whether or not its principal or primary effect neither advances nor inhibits religion, and whether or not it does not foster an excessive Government entanglement with religion.

Of course, in the Regan case, the testing service required by the State of New York of the private schools of New York necessarily the court found that did not have any other than a secular purpose. It did not involve religion. It was being done and the costs could be offset without an excessive entanglement by the Government in a religious endeavor.

On the contrary, reiterated in that decision and the other decisions down the line, we have authorities galore from the Attorney General, that we will get into as the debate develops, from Secretary Hufstedler, who used to serve on the U.S. Circuit Court, from the various institutions of learning, and I might cite—and this is not MOYNIHAN, this is Monaghan, this is Prof. Henry M. Monaghan, from Boston University, who says:

> I have examined the contents of S. 1101. In my opinion, legislation of this character would be plainly unconstitutional under the controlling decisions of the Supreme Court of the United States. In view of the elaborate opinion of the Attorney General on the matter in the shortness of time—

He alludes to the Attorney General's opinion.

> I will simply state that S. 1101 is in flat conflict with the principles set forth in *Committee for Public Education* vs. *Nyquist*, 1973, and *Sloan* vs. *Lemon*, also in 1973. The authority of these cases was recently attested to by the court's summary affirmance in *Byrne* vs. *The Public Schools* in 1979.
>
> Nothing in the Supreme Court's recent decision in *Commission For Public Education And Religious Liberty* vs. *Regan*, 1980, February of this year, impairs the authority of the cases I have mentioned.

We are going to take the time and go down the litany of the very devious restarting of this general assistance scheme, and the very innocent plea, "We will give" to quote the distinguished Senator, "meticulous respect for the decision."

I wonder what other decision he would ever give meticulous respect for on this particular point? It is in total disrespect of all the Court decisions throughout the year. Every scholar, legal scholar, at Harvard, Yale, Boston, or any of the other law schools, comes right down flat on this particular score, and yet this amendment's proponents come here again with a new variety and a new flavor. It is almost like Baskin-Robbins ice cream. They will give you a new flavor every week, and they will modify it. The last time they modified the tuition tax credit scheme from $500 to $250. This time they started off with a $3,600 tuition, would save 50 percent of that, $1,800.

Now, in the most recent "how reasonable we are" amendment in the nature of a substitute, just for the little poor people, we are going to get that down to $750 tuition.

If they know the hungry poor that I know, and they know the disadvantaged, they know that they are in the public schools and are not paying any $750 at any of the private schools. Do not give me these false percentages that there might be in Ohio. This only affects 1 percent of all the school population, and when it comes to the minority .8 percent, if we are going to deal in percentages, I think that is what gets one's dander up, Mr. President, and the strong feelings that come out on top of the table, when they come in and try to sell this on the basis of helping the needy, when they come in and try to help sell it on the basis of helping minorities, when they come in on the basis of trying to help, if you please, public schools, public education, that defies all human reason, logic, and fair play and common sense. It is fraud. I tried to think of a word that would more nearly describe fraud. We had in Gantt against Coca-Cola Co. case in law school that the premise must be false, that it must be intended to be false, that it must be false in the end instance, it must be relied upon, and after having been relied upon, it must give material damage, and the damage should have been the proximate cause of its falsity. The matter before us fits every one of those tenets in the basic law of fraud.

They came last time, it was all diversity. You remember it was, those who opposed it were against diversity in education. They tried to sell that idea. They had sold it to those 51 cosponsors until many cosponsors realized that they had been done in. They realized that the true diversity in education in America is in the public school system. Therein is the burden, therein is the nondiscrimination. I cannot tell and would not tell, the Congress should not tell, a church school whom to admit or what to teach or how to teach it. We can certainly tell public schools they should be nondiscriminatory, and when we say nondiscriminatory we think of the several classifications that never find their way into the private school system. It is selectivity if you will.

I am thinking not only of white flight to the segregated academies—and they tell me this does not affect them. I know them, they were invented in my back yard. They exist there today. Do not tell a man who served 30 years in public service at every level, particularly in public schools, that this does not affect the public school system of his State and assist and aid and abet segregated white flight academies. We know differently. Do not tell us it does not affect the modular or median or mediocre students who, incidentally, are the ones making a living—I do not say that disparagingly.

I found out my A students, for example, in law school are still looking around trying to find a case to make a living.

But these particular schools, these private schools, that we are dealing with, you have to make the top grades to get into them. There is no chance there, then, for the minority and the disadvantaged and a child from the broken family, and otherwise. Oh, they get a few sprinkling in the Catholic schools. I know about that. They have some of that in my back yard. We can give you the facts and figures there. I am talking generally speaking. They know whereof I speak.

And then there is another discrimination, and that is in the discipline problem. We have come along in Congress and in the courts and we have said that the discipline problem has to have his day in court.

Heaven knows, the distinguished Senator from New York, the author of this bill, has been a champion of civil rights. And it is the civil rights organizations that come in and say to the principals and top boards of trustees of the public schools of America: "You can't cane that boy. You can't expel that boy. You can't handle that discipline problem. You've got to get him a lawyer and try the case," and all this other folderol. And the next thing you know you cannot get the principal to stay in the school. You get the superintend-

and Religious Liberty, et al. against Regan, which was handed down only this year, and which upheld a New York State program of direct reimbursement to private schools for the costs associated with complying with various State mandates:

> (E) stablishment Clause cases are not easy; they stir deep feelings; and we are divided among ourselves, perhaps reflecting the different views on this subject of the people of this country. What is certain is that our decisions have tended to avoid categorical imperatives and absolutist approaches at either end of the range of possible outcomes.

I repeat what Justice White said. He said of the Court,

> We are divided among ourselves, perhaps reflecting the different views on this subject of the people of this country.

That is a wise and accurate statement.

So not only is it impossible to predict the Court's decision; it is unnecessary.

The proposed amendment should be evaluated on the basis of desirable public policy. Is it or is it not desirable for the Federal Government to aid needy students attending nongovernment schools? If the answer is yes—as the sponsors of this amendment believe it should be—the Federal judiciary will have the opportunity and the obligation to rule on the constitutional questions. It will do so, and we will obey the ruling. But it would be a mistake to allow the unresolved constitutional questions to block full consideration of the public policy questions addressed by the proposal.

It seems to this Senator that the issue of public policy has been too long avoided by interposing the issue of constitutionality. Had we done that, we never would have had the array of programs we have in higher education. We might not even have "Pell grants," which to my knowledge have never been challenged, because they are so obviously appropriate.

It is for us to discuss public policy and, as Abraham Lincoln said, to do what we think to be constitutional; and it is for the Supreme Court to decide. We look forward to its decision. We will pay it meticulous respect and deference. Why should we not follow the example of Abraham Lincoln and legislate as we think best, and let the Court, in the end, adjudicate?

Finally, the amendment contains a "separability" clause to insure that any constitutional uncertainty surrounding the elementary and secondary provisions will have no effect on the program of benefits to college students.

I wish to be clear, Mr. President—candor requires it, although I hope that by now it is not a matter of which there is much doubt—about my own view, which is that the Supreme Court of the United States has misinterpreted the meaning of the "separation clause" of the first amendment, particularly in the area of education.

The first amendment was adopted, in my view—I believe the history of this is now overwhelmingly clear—for the simple purpose of forbidding the Federal Government to create an established church, at a time when—by one count, seven; by another count, nine—a majority of the States of the Union had established churches of different denominations. The one thing the members of this fragile Union did not want the court to become involved in was the establishing of a church, and so they said that should not be allowed to happen. At that time, the only schools in existence were parochial schools. There were none of what are known today as public schools.

The day after the first amendment was adopted, this body, in the most reverential tones, asked George Washington, the President, to declare a day of thanksgiving, in terms that declared our dependence upon the Almighty in such explicitness and at such length that I think even the most denominational of us would be given pause today.

To try to read into the judgment and the enactment of 18th century Americans the views of 20th century Americans in these matters seems to me to be mistaken historically and wrong juridically.

The issue is one of public policy, in my view, although obviously the constitutional question, once decided by the court, will be in that respect resolved.

I do not believe there is a distinction of constitutional significance between Federal aid to sectarian colleges and their students, which the Supreme Court has approved, and aid to students who attend sectarian schools at the elementary and secondary level.

May I ask this body for a moment to consider whether the Constitution distinguishes between a 17-year-old high school senior and an 18-year-old college freshman? Should they not both obtain Pell grants if they are needed for their education? Can you find the distinction in the Constitution? No, you cannot. Should there be a distinction in public policy? Perhaps a person can make a distinction and say, "I think this is a good idea, and that is not." But to insist that the first amendment guides the choice is to avoid the real choice which is the choice of what is good public policy and what is not, and that is what we do here in this body.

I do not assert the Supreme Court will necessarily agree with me or that it will sanction the provisions of this amendment. It may. I hope it will, and I think it should. But it may not. And we, of course, will respectfully comply with its decision, whatever it is.

It is not unreasonable, Mr. President, in my view, and it is certainly not unprecedented, for Congress to disagree with previous Supreme Court decisions.

From time to time, Congress actually passes legislation that has the effect of overturning or vitiating a Supreme Court decision.

The continuing efforts are alive and vigorous in this Chamber in this body at this session. The continuing effort to remove the question of prayer in the public schools from the jurisdiction of the Federal judiciary is an example of such legislation.

I have voted against such a measure. It is my judgment that we should in no way deny the Supreme Court the right to make these judgments in the end, and when the Supreme Court makes these judgments, we will respectfully comply. To try to take away such a matter from the jurisdiction of the Court strikes me as unwise, although there are Members who think otherwise and I respect their judgment.

All we ask this body to do today is to make a judgment of public policy and let the Court decide.

In no way do we associate ourselves with the effort to reverse any decisions or remove any jurisdiction from the area of the Court.

To conclude, because I know my colleague from South Carolina wishes to speak, I simply say once again that our amendment does not seek to overturn a decision of the Supreme Court. It seeks only to obtain a decision by the Supreme Court as to the constitutionality of a program that the Court has never previously ruled upon.

Mr. STAFFORD. Mr. President, if the Senator will yield for a couple of questions, I have been following along the lucid debate presentation of the distinguished Senator from New York. But I am having some difficulty and probably it is my own fault, frankly, in understanding exactly where and what the formula is for making distribution under the Senator's substitute amendment and how much money is involved if we add onto the so-called Pell grants what we are beginning to think of as the "Pellette" grants under the Senator's amendment.

Mr. MOYNIHAN. I can give my distinguished friend from Vermont only an approximate answer. By reducing the total educational cost allowable for family per child to $1,500, we reduced the maximum 1982 costs from $149 million downward. It would have to be an estimate. The $149 million estimate is based upon the judgment of the CBO that the same proportion of low-income families eligible would participate as at the college level, and does not reflect the $1,500 limit we have imposed.

If I were to give the Senator an estimate, a semi-educated guess, I would say we are committing ourselves to a maximum of about $120 million here, but that sum is altogether subject to the appropriations process and if the appropriation for any given year is less, the ceiling available for income goes down accordingly such that the amount of money matches the eligible participants.

Mr. STAFFORD. I thank the Senator very much.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I see the Senator from South Carolina has risen. I know that I await his observations on this matter, as do my colleagues, and I am happy to yield the floor to him if he so wishes, and I believe he does.

Mr. HOLLINGS. Do I get recognized, Mr. President?

The PRESIDING OFFICER. The Senator from South Carolina (Mr. HOLLINGS) is recognized.

Mr. HOLLINGS. I thank the distinguished Presiding Officer and my distinguished colleague from New York.

Mr. President, necessarily, the Senator from New York was awaiting my sponsorship of this amendment does not in any way indicate any weakening in my strong support for our public school system, which serves the majority of our Nation's students. If it were otherwise, I would not support this. I have consistently supported Federal aid to strengthen public schools and I will continue to do so. But I see no contradiction between supporting public education while at the same time preserving for all Americans the educational choice that has been central to our American system.

Some may argue that this proposal is unconstitutional. I do not believe it is.

But I have always maintained that the determination as to whether a proposition that is in question is or is not constitutional is a question for the courts, and that we who are Members of Congress have a right, when there is an obvious unconstitutional proposal brought before us, to vote in the negative.

Mr. MOYNIHAN. Will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. MOYNIHAN. Does the Senator recall that in the Lincoln-Douglas debate, this question was raised with respect to the Dred Scott decision? Lincoln was asked, the Supreme Court having ruled on the matter, would he, therefore, decide in no way to introduce legislation contrary to the Supreme Court ruling. He said that a Supreme Court ruling is not a "Thus saith the Lord" and that if he were a Senator he would stand up and say what he thought was constitutional and fight for it regardless, and in the end accept the Supreme Court decision, but not what the Supreme Court's possible decision imposed upon this body.

Mr. METZENBAUM. I could not agree more with the distinguished Senator from New York.

I practiced law for all of my years in the private world. I feel that, as a lawyer, a lawyer has the right to argue constitutionality, unconstitutionality.

I feel that as a U.S. Senator we have a right, and if something is patently unconstitutional, then I would say a Member of Congress need have reservations. But in this instance, it is not patently unconstitutional. In fact, it is very arguably constitutional.

That being the case, I say to my fellow Members of the Senate that if they want to vote against this proposal, so be it. I respect them for their vote. But do not vote against it because somebody says it may be unconstitutional. That we do not know.

There are probably as many good constitutional lawyers that will say it is constitutional as there are those who might claim it is unconstitutional.

As a matter of fact, we routinely extend these same benefits to students attending church-affiliated institutions on the college level. And if aid to college students is good public policy, and I believe it is, then it follows that principle of pluralism and free choice should also extend to elementary and secondary education.

Finally, Mr. President, I want the record to show that our amendment is in no way intended to assist the so-called segregation academies or other private schools that pratcice discrimination on the basis of race, color, or national origin. The language of the amendment makes such schools and the schools themselves explicity ineligible for assistance.

Mr. President, I believe that this amendment is a constructive and creative response to a very serious public policy problem. I urge its adoption.

Mr. President, I commend the Senator from New York for his leadership in this effort. I consider it a privilege to join him in this undertaking.

Mr. MOYNIHAN. No, sir. No, sir.

Mr. President, it is I who feels the honor to have my friend from Ohio, who has brought his enormous powers of analysis and legal experience to illuminate so many areas of public policy in this body, now join in this area. It is an event which I consider of the greatest good fortune for us. It is an omen.

But I ask the Senator this question, if he would answer me, does the Senator agree that the first responsibility of the U.S. Congress is to public education?

Mr. METZENBAUM. I could not agree more strongly. Absolutely.

Mr. MOYNIHAN. And that as a body we have persistently given priority to public education. It is the first legislation we have dealt with, and it is 15 years since the time the Elementary-Secondary Education Act was passed.

Mr. METZENBAUM. I totally agree. I will add one additional comment.

I believe that if we do not do something in the nature of that which the Senator from New York and I are proposing today, if we do not, it could have a very serious, negative impact upon the public school system.

Some would argue, how could the Senator explain that when we are trying to help the private school system? But I have long felt that if, on a particular day, for example, all of the parochial schools in the Cleveland community were to close on that day and say, "We no longer have the funds to keep open," the impact upon the public school system would be so draconian, so drastic, that it would, in effect, close down the public school system.

I think there is a sense of responsibility that must be brought to this subject. I feel this is not a total solution, but it is an indication of our concern.

I think, therefore, and hope, that the Senate will see fit to adopt it.

Mr. MOYNIHAN. I thank the Senator very much. He knows that there are a dozen cities across this Nation of which his observation could be made—that were the private schools, nongovernmental neighborhood schools, to be closed, the result in budgetary terms would be catastrophic.

I see that the Senator from South Carolina is on his feet. I wonder if he will let me finish a few remarks with respect to constitutionality, which I know concerns him, and then I look forward to hearing his views, which will at least be presented seriatim, as he must get off to the Appropriations Committee.

Mr. President, in the discourse I have engaged in so far, I have addressed three areas of concern which, it seems to me, the Members of this body have about the pending measure. The final one, to which the Senator from Ohio spoke so well, is the question. Is this amendment constitutional?

It should be assumed that if this amendment becomes law, the Supreme Court of the United States will be asked eventually to rule on its constitutionality, particularly with respect to the "establishment of religion" clause. This has been the normal experience of our educational enactments since 1947, when the Supreme Court first ruled in this area.

There are more than three dozen Supreme Court rulings in this area already. They make an increasingly complex and perhaps even unpredictable body of law, but not a year passes when we do not hear of one or two cases heard and passed on.

I should like Members to note in particular a detail easily overlooked in a situation of this kind: Our amendment facilitates such a review by the expedited review provision in the amendment itself. Any challenge to this amendment is to be heard immediately by the court of appeals, and thereafter the matter would go directly to the Supreme Court. We are trying to be very open in this, as we tried to be in the tuition tax credit debate, to say that we want the Supreme Court to rule before any large number of recipients is benefiting from the program. I believe we have been as open and direct about that as we could be.

It should be noted that direct and indirect aid to church-related colleges and universities and their students has been upheld by the Supreme Court. The Court has not yet ruled on any Federal program of financial assistance to students attending nongovernmental elementary and secondary schools. But I note that at last two such programs exist.

Under the GI bill, you can go to high school, any high school you wish, and people do that all the time. Many of them attend nonpublic schools at the secondary level. Also, under the social security system, students are able to finish their elementary and secondary school educations in whatever schools they choose. That program is very much in place.

The Court has not yet ruled on any such program. But I say that the GI bill and the social security students benefit program routinely give direct cash assistance to such students, and programs such as the school lunch program give indirect assistance.

It would be unrealistic and unnecessary to attempt to predict the Court's decision. As Chief Justice Burger wrote in his opinion for the Court in Tilton against Richardson, the decision upholding participation of church-related colleges in the Higher Education Facilities Act of 1963:

> Candor compels the acknowledgement that we can only dimly perceive the boundaries of permissible Government activity in this sensitive area of constitutional adjudication.

And as Mr. Justice White wrote in the more recent opinion of the Court in this area, Committee for Public Education ernment, all of which takes away from teacher time in the classroom and teacher homework outside the class.

There used to be a time when families could rely on sending their children to the school of their choice nearest to their home. Today, with concerns over desegregation and equal educational opportunity for racially disadvantaged students many families, black and white, are leaving the public school systems in order to regain control of their children's education.

Mr. President, I could go on, but I believe that I have made my point. Families who have traditionally sent their children to public schools across America are unhappy, frustrated, and generally dissatisfied with public education. They need an alternative, they need a choice. The extension of the BEOG program to needy elementary and secondary school students provides eligible families with that choice.

Public institutions, teachers and administrators, political leaders, and all Americans should take note that the further deterioration of public education cannot persist. The country cannot afford to have future generations of Americans who are educationally deficient as a result of an inadequate education system.

Mr. President, as I noted earlier in my remarks, this amendment is not designed or intended to deprive institutions of higher learning, such as colleges and universities whether public or private, from effectively participating in the BEOG program.

Second, I want the record to be clear and concise, that the junior Senator from Iowa is committed and will remain committed to the integrity and preservation of public education in America, especially at the primary and secondary levels.

I am deeply concerned and equally conscious of the controversy centering on public support to private education. More succinctly, the issue of church and state. I recognize this, and I agree with those who have strong but sincere reservations about the Government's role in assisting private education.

Mr. President, Members of the Senate, I ask you, what is the Government's business in this issue? What is the responsibility and duty which we who are gathered here must attend to?

I believe the Government's business and our responsibility as elected officers to insure educational opportunity to all does not stop at the front door of a school, merely because it is a private institution. This has not been the Government's practice in the past.

No one here today has argued against the principle that the integrity and preservation of public schools in America must be maintained. On the contrary, the support for public education in this body is as strong and steadfast as ever.

Mr. President, there is no attempt by the proponents of this amendment to undermine public education. The issue as I understand it is one between priority and preference.

The public, elected officials, and even leaders of private education in America have long understood and accepted the fact that the Nation's preference in educating its children and population has always been through the public school system.

On the other hand, educational opportunity has always been this Nation's priority. As a matter of priority, educational opportunity to all should take precedence over educational preference. The extension of the BEOG to needy elementary and secondary school children is being offered not as a substitute to public education, not as an attempt to undermine public education, but rather as a recognition that as a matter of priority, needy-disadvantaged and low-income students need to have an alternative in pursuing educational opportunities.

Mr. President, the availability of educational opportunity is the real issue here, not the problem of church and state. Equal access to education should take precedence as a matter of priority in those areas where public education is not fulfilling its primary obligation, to educate, and should not lose its importance to the preference of public education unnecessarily.

That is why I support this amendment by my distinguished colleague from New York and urge by colleagues to do likewise.

I yield back to my distinguished colleague.

Mr. MOYNIHAN. Mr. President, I thank my friend, the distinguished Senator from Iowa, for his very helpful remarks. I think they are shared by many Members of this body.

I see that the Senator from Ohio is present, Mr. President. As cosponsor, I hope that he will speak on this matter and I cannot help but think he will do that.

Mr. METZENBAUM. Mr. President, I thank the distinguished Senator from New York and I do, indeed, wish to address myself to the subject.

Mr. President, I want to begin by expressing my admiration for the stubborn and effective fight that the Senator from New York has waged since his election to this body to focus the Senate's attention on the urgent need to assist the Nation's hard-pressed private elementary and secondary schools. As a matter of fact, I offered a similar draft of this amendment during committee markup of the Higher Education Act and I am pleased today to join Senator MOYNIHAN and others in bringing it to the floor.

In committee, and now here, on the Senate floor, this amendment has enjoyed the support of the Council for American Private Education, which represents the American Lutheran Church, the American Montessori Society, the Association of Evangelical Lutheran Churches, the Association of U.S. Christian Schools International, the Friends' Council on Education, the Lutheran Church—Missouri Synod, the National Association of Episcopal Schools, the National Association of Independent Schools, the National Association of Private Schools for Exceptional Children, the National Catholic Educational Association, the National Society for Hebrew Day Schools, the Seventh-Day Adventist Board of Education, K–12, the Solomon Schechter Day School Association, U.S. Catholic Conference, and the Agudath Israel of America.

This impressive list of endorsements is one more demonstration that the distinctive fact about an American educational system is and has been the remarkable diversity in educational experience available to our people.

The Senate has time and again recognized the value of that diversity at the level of higher education by enacting programs like the Pell grants to provide to students from low- and middle-income families a semblance of the choice in college and university education that is routinely available to the more affluent.

I believe that the time has now come to extend that choice to needy parents and students at the elementary and secondary levels.

In recent years, rising operating costs in the Nation's private schools have sharply driven up tuitions—in my own State of Ohio, for example, Catholic elementary and secondary school tuitions have risen by 15 percent in each of the last 3 years. One obvious result of those rising costs is to drive students from middle and lower income families out of the private sector and to discourage others from entering.

That is a very serious problem—because the fact is that the private schools provide vital educational services for the poor and for the Nation's minority groups.

In New York City, for example, fully 50 percent of the students enrolled in the Hebrew day schools come from low-income families. Many of them are the children of Soviet Jewish refugees.

In California, over 41 percent of the students enrolled in Catholic schools are minority group members. For the California public schools, that figure is just over 36 percent.

Nationally, fully 40 percent of all private school students are enrolled in center city schools.

This amendment would not in any way subsidize wealthy families or exclusive private schools. Rather, the benefits it provides will go to the students, the families and the schools that are most in need.

Ninety-five percent of the benefits under this program would go to children from families with incomes under $15,000 per year.

No individual grant will exceed $750—enough to assist substantially with most private schools, but far from enough to make a dent in the expenses of attending the elite, prep school type of institution.

This amendment will do one vital thing—and that is it would extend to middle and lower income families the option of sending their children to the schools of their choice.

Mr. President, this is a new area for me to be involved in. This is the first instance in which I have moved in this direction.

I want to say at this point that my

authorized limits. Included in the former category in the present fiscal year are such programs as lifelong learning, the construction and renovation of academic facilities, community college expansion, environmental education, health education, population education. Included in the latter category are community service, continuing education, public service fellowships, the teacher corps, and much the largest, compensatory education services and assistance with the cost of educating handicapped children.

I mention these, and they are but a few of the examples that might be given, not because I favor the denial of full funding to worthwhile education programs, for I do not, but only to illustrate a general characteristic of the congressional authorization process in the field of education.

Authority is provided to conduct a very wide range of activities, but decisions as to which will actually be funded and at what levels are left to the appropriation processes which are necessarily constrained by overall budgetary limits. There is no prospect that this arrangement will change, and it should not.

Hence, we would offer the judgment that it would be unreasonable to think that acceptance of our amendment would take funds away from any other educational program. All it would do is to enlarge the range of education-related activities that Congress believes to be desirable and which, under the inspired and dedicated leadership of the senior Senator from Rhode Island, has transformed opportunities for higher education in this Nation. If there have been three great enactments in the field of education, they are the Morrill Act of 1865, which established the national land grant college system; the GI bill, which many Members of this body, myself inluded, benefited from during the years in which our eligibility continued; and, finally, came the enactment in 1972 of Pell grants and the availability of higher education to students across the Nation whose families otherwise simply could not afford it. And not a few students, but more than half the American population became eligible, thanks to the Senator from Rhode Island.

This is an opportunity to extend the same principle of equal opportunity to the elementary school children of low-income families who attend schools which are not public and which require nonpublic funds in the main to support them. This would be a small addition to the budget of those families to aid in the education of their children.

I see the Senator from Rhode Island has risen.

Mr. PELL. I thank the Senator from New York for saying such nice things about me. I thank him.

Mr. MOYNIHAN. The Senator thanks me. There are about 20 million families in America who could very well thank the Senator. I hope they do. I think they do. Not for nothing is this program known as the Pell grant program. It is going to be with us for a very long time. It is going to be with us through the rest of this century and the century beyond. If the Morrill Act in 1865 established institutions that have endured and prospered to this day because the provision was clear and the provision was sound, that has again been the case with what the Senator has done.

As an educator, I cannot tell the Senator how much I feel this country is in his debt. The country knows it. That is why the Senator will be a Member of this body as long as he is willing to serve, and may that be a very long time indeed.

Finally, Mr. President, let me turn to what is the last of the concerns, which I know are the honest and wholly appropriate concerns of a number of persons in this body and elsewhere, which is this: Is the amendment we now propose constitutional? Does it violate respects of the first amendment?

I see my friend from Iowa is on the floor. May I say to him that the remainder of my remarks are brief, but I should be happy to be interrupted at this point if he wishes to speak. As a cosponsor of the amendment he has equal rights. Would he wish to speak now or does he wish to speak later?

Mr. JEPSEN. I would like to speak at this time, if my colleague will yield.

Mr. MOYNIHAN. I am happy to yield to my friend from Iowa.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

Mr. JEPSEN. Mr. President, I rise today in support of the amendment offered by my distinguished colleague from New York (Mr. MOYNIHAN). Senator MOYNIHAN has taken the initiative to address the financial needs of private and secondary elementary school children by extending to them eligibility to the basic education opportunity grants. The pursuit of educational opportunity in America, regardless of whether it is through public efforts or private initiatives, is a fundamental guarantee which public officials, private persons, and the public generally ought to be concerned about.

Accessibility is today and always has been a key word when discussing education. The extension of the BEOG to needy elementary private and secondary school students is a fair and equally beneficial course of action which will assist in expanding and responding to the educational needs of all socioeconomic groups within our society.

The Senator from New York has been careful and diligent in the preparation of his amendment. The amendment seeks to allow needy families the opportunity to take advantage of the educational opportunities which nonpublic educational institutions offer.

This amendment is not designed to take BEOG funds away from institutions of higher learning, such as colleges and universities. I do not believe that it is in the best interest of postsecondary education to create an atmosphere of competition between private elementary and secondary schools and postsecondary institutions.

Mr. President, with that understanding, I support this amendment and I urge my colleagues to support this new extension of the BEOG program.

Mr. President, it gives me no great pleasure to speak with such fluency about the problems that, unfortunately, we seem to be having throughout the country in our institutions of public education. Much to the dismay of everyone concerned about the quality of education in America, public education at the primary and secondary level has been the victim of deterioration to the extent that they are failing to educate. What is equally alarming is that, according to the June 16 issue of Time magazine entitled "Help, Teacher Can't Teach," parents know their kids are getting a bad education but many of them can see no alternative.

Furthermore, according to Richard H. Hersh, associate dean for teacher education at the University of Oregon "we've been rearranging deck chairs on the *Titanic*," when it comes to discussions on educational reform.

There once was a time, Mr. President, when children could pray in schools. Most parents had no objections to this, but today it is a violation of the law if a school initiates prayer, even on a voluntary basis.

Mr. President, today students in public schools can identify drug pushers and contact them easier and more readily than the police or the school authorities. This is a sad indictment on some of our public schools, but unfortunately, it is painfully true.

Mr. President, there used to be a time when teachers were respected and could concentrate on their chosen profession of teaching, but today teachers are attacked, raped, mugged, ridiculed, and harassed, not on the streets of America, but right in their own classrooms and schools. We are living in a time when we have to search students for weapons before they enter school.

The goal of pursuing a career as a teacher used to be an endeavor that nearly every student gave some serious consideration. Today, however, many teachers are suffering from what is called "teacher burnout," something akin to "battle fatigue," in the classroom.

There used to be a time when teachers and school administrators were concerned about teaching, but today they are concerned about increases in social security and minimum wages as well as other issues that center on labor concerns rather than educational concerns.

Furthermore, the national union for teachers, the NEA, and the Department of Education—encourage teachers across America to spend more time out of school picketing and protesting than they do in educating our children.

In fairness to teachers, Mr. President, society has placed a tremendous burden on them. Teachers and schools are being asked to do what people ask God to do. For example society expects teachers and schools to compensate in the classroom for prejudice, economic inequality, and parental indifference. We expect teachers and schools to cope with students who have tremendous problems, such as severe handicaps, mental distress, child abuse, and family-parental neglect.

Furthermore, consider the paperwork that teachers must do in order to comply with the multitude of Federal regulations and guidelines by the Federal Gov-

and insert immediately after "Sec. 402" the following:

"Sec. 403. Basic educational opportunity grants for elementary and secondary school students.".

Mr. MOYNIHAN. Mr. President, the purpose of this substitute amendment is to limit the eligible educational expenses that would be eligible for Pell grants to $1,500 which is a lower level than the eligibility limit that is established for postsecondary education, as indeed I think it reasonably can be argued it ought to be, and that being the case I have offered this amendment in the nature of a substitute.

Now, Mr. President, it will be recalled that I was anticipating, at least trying to anticipate, some of the arguments that would be presented in opposition to our amendment or which would be honestly raised by persons wishing to know more about the issue.

A second concern that I know many share, and certainly I am among the first to do so, is the question of whether this program will assist students who attend schools that discriminate on racial or other grounds. The answer is a flat no. This program is designed only for students who attend schools that are in full compliance with the legislation of the United States in all matters of civil rights, in matters of equal treatment of the handicapped, in matters of equal accessibility and opportunity. The schools would have to be in complete conformity with all such laws and regulations. Not a single difference would exist between the responsibility of educational institutions that have students attending them and receiving Pell grants under this amendment and the responsibilities that now obtain with respect to institutions whose students receive Pell grants at the college level.

They are exactly the same rules.

Mr. President, I observe there is better attendance in the Chamber at this moment. I ask for the yeas and nays on the substitute amendment I have submitted and that it be considered en bloc.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I repeat that the amendment cannot—repeat, cannot—assist such students; that is to say, students attending schools that discriminate on racial or other grounds, unless both the Department of Education and the Department of Treasury fail to carry out their compliance and enforcement procedures. That would obtain today with respect to the whole of this program, to which our amendment represents a significant, but, in institutional numbers, small addition.

For a student—and now I refer to an elementary-secondary school student—to be eligible to receive a Pell grant—there is a suggestion that they should be known as "Pellettes," and I see that the chairman is, as usual, gracious and resigned to such references—the school that he or she attends must satisfy three criteria:

First, that school must comply with all applicable laws of the State in which it is located. Typically, in the first instance, these are laws that require an adequate level of educational provision and safety and other such matters.

Second, it must be a nonprofit institution that is exempted from Federal taxation under the provisions of section 501 (c)3 of the Internal Revenue Code. And, as this body well knows, in order to obtain and then to retain such exemption, these schools must demonstrate to the satisfaction of the Internal Revenue Service that it does not discriminate on any of the grounds which the civil rights laws of the United States forbid.

Third, it must comply will all the civil rights laws, Executive orders, and regulations that pertain to colleges whose students receive Pell grants.

This last requirement, as interpreted by the Department of Justice and the Department of Education and by the courts in which it has been tested, includes full compliance with the Civil Rights Act of 1964, with section 504 of the Rehabilitation Act of 1973, and with title IX of the Education Amendments of 1972. In short, students whose schools discriminate on grounds of race, sex, ethnicity, or other proscribed categories or criteria may not receive basic grants under this amendment any more than they can under the existing program.

It may well be that because of these requirements some schools will want no part of the program. That is their prerogative, for participation is optional on the part of schools and students alike. But neither can participate unless the school complies fully with applicable State and Federal laws in the civil rights area, as well as other areas, and it is the responsibility of the executive branch to see that these stringent conditions are fully met.

Now, Mr. President, a third area of concern which I know to be very wide in this body and which I would like to say in advance seems to me a wholly legitimate one and almost the first question to be asked about any program, is: Will this program compete with other Federal education programs for scarce resources?

Well, the first and obvious answer is, yes, it will. There is a sense in which any additional program is competitive, does compete. But there is also an issue of keeping the question of cost in perspective. There will be no cost at all prior to fiscal year 1982, as that is when the elementary and secondary provision would take effect. In that year, in the best estimate of the Congressional Budget Office, the maximum cost of the amendment would be less than $149 million for the year. This would compare to the $2.9 billion cost of the present program in 1982, as forecast by the CBO. In other words, the cost of this extension of the program, of "Pellettes" as the Committee on Labor and Human Resources refers to the proposal, would be less than 5 percent of the cost of the college level program I repeat: it would be less than 5 percent.

Furthermore, there is good reason to expect the cost to be lower still, as the CBO estimate assumes that elementary and secondary schools and students will participate in the program at the same rate as colleges and college students.

I suggest that that is improbable, particularly in the early years of the program as, indeed, the history of the basic grants program demonstrates.

There is a more general point to be made, however, which is that authorization of basic grants for needy elementary and secondary school students is simply that: An authorization. If it is not followed by an appropriation, it has no cost whatsoever.

I distinguish this from tuition tax credits, which were an entitlement and, once enacted, would have automatically administered and funded themselves.

This is not so in the case of the modest amendment that we have proposed. If the Appropriations Committee does not fully fund the authorized grants, provision is made in the Higher Education Act for grant reductions that concentrate whatever resources are available on the neediest students.

I repeat: This is not an entitlement program and its costs are entirely controllable through the budget and appropriations process.

It should be borne in mind that the bill we seek to amend authorizes a number of new programs, including graduate fellowships, urban university grants, several sizable demonstrations, a commission and a study.

Title I has the women's worksite development demonstration program. It has a postsecondary education and youth employment transition program. It has a commission on national development and postsecondary education. It has, I am sorry to say, a much too modest program of college library assistance and library training research. It also has, of course, the teacher corps and a teacher training program that in this case provides training for elementary and secondary school teachers of the handicapped, a very important program.

Title IX provides a national graduate fellows program and a national talent grant program.

Then we find a major new idea, which I congratulate the chairman so much on, the urban grant university program.

Finally, there is a new title, title XIV, with funds being provided to the Robert A. Taft Institute, a measure which I know this body is going to support with the fullest approbation.

I simply make the point that we have a program modest in cost and fully controllable through the budget and appropriations process.

The bill we seek to amend itself authorizes, as I say, a number of new programs, and there is nothing out of order in the one we are proposing. There is a competition for funds within the overall education budget. That is normal. I would argue that it is a healthy competition.

It should be further borne in mind that, much to my own regret, there are already a great many educational program authorizations on the books, as it were, for which no funds are budgeted or appropriated and many more for which appropriations are far smaller than the form and the support and development of foreign language and area studies are but a few of the more prominent and more important examples.

We repeat with enthusiasm and approval the opening statement of the education plank in the 1976 platform: "The goal of our education policy is to provide our citizens with the knowledge and skills they need to live successfully." The federal government has a solemn responsibility to do all within its power to see that goal achieved. It has no more important responsibility.

Mr. MOYNIHAN. I do thank the Chair for his courtesy in this matter.

I do not say to the Members of this honorable body that all of these proposals have been accepted by the Platform Committee. That would be unusual. Nor do I anticipate that the final agreement of our committee would meet my own sense of what should be our long-term goal, but I hope our concern for public education as the first concern that obligates a public person in these matters should be a matter of record now and ought not to be questioned. I believe that 15 years of involvement, and some success, surely entitle persons to a presumption of good faith and even to a certain attention to what one hopes to be reasoned and documented arguments.

UP AMENDMENT NO. 1268

(Subsequently numbered 1914)

(Purpose: To provide basic educational opportunity grants for elementary and secondary school students)

Mr. President, I would now like to send to the desk an unprinted amendment in the nature of a substitute for the pending amendment, which I ask to be reported. It is cosponsored by Senators RIBICOFF, METZENBAUM, MELCHER, BRADLEY, and JEPSEN.

The PRESIDING OFFICER (Mr. BOREN). The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1268 in the nature of a substitute for unprinted amendment numbered 1267.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

On page 107, between lines 18 and 19, insert the following new section:

BASIC EDUCATIONAL OPPORTUNITY GRANTS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

SEC. 403. (a) (1) Section 411(a) (1) of the Act (as amended by section 402 of this Act) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D) and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary shall, during the period beginning October 1, 1981, and ending September 30, 1985, pay to each eligible student (defined in accordance with section 482) who is enrolled in an eligible educational institution for each academic year during which that student is in attendance at that institution, a basic grant in the amount for which that student is eligible as determined pursuant to paragraph (2).".

(2) Section 411(a) (1) (D) of the Act (as amended by section 422 and paragraph (1) of this Act) is amended by inserting after "basic grant" the following: "under subparagraph (A) of this paragraph".

(b) The second sentence of section 411(a) (2) (F) (iii) of the Act is amended—

(1) by inserting after "higher education" the following: "or the eligible educational institution"; and

(2) by inserting before "postsecondary" the following "elementary and secondary or".

(c) Section 411(a) (2) (B) (iii) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this division in the case of basic grants made under subparagraph (B) of paragraph (1) of this subsection but no grant may be made under that subparagraph if the amount of that grant for any academic year is less than $100.".

(d) (1) Section 411(a) (3) of the Act (as redesignated and amended by section 402 (d) (2) of this Act) is amended by inserting after "basic grants" the following: "under subparagraph (A) of subsection (a) (1)".

(2) Section 411(a) (3) of the Act (as redesignated and amended by section 402(d) (2) of this Act) is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following:

"(B) The period during which a student may receive basic grants under subparagraph (B) of subsection (a) (1) shall be the period required for the completion of the elementary and secondary education course of study being pursued by that student at the eligible educational institution at which the student is in attendance, except that such period may not exceed twelve academic years.".

(e) Section 411 of the Act is amended by adding at the end thereof the following new subsections:

"(f) The Budget transmitted by the President to the Congress for each fiscal year after September 30, 1981 under section 201 of the Budget and Accounting Act, 1921, shall set forth separately requests for new budget authority for, and estimates of outlays for, subsection (a) (1) (B), relating to basic educational opportunity grants for elementary and secondary school students.

"(g) For the purpose of this subpart—

"(1) the term 'eligible educational institution' means—

"(A) an elementary school; or

"(B) a secondary school;

which does not discriminate on the basis of race, color or national origin;

"(2) the term 'elementary school' means any elementary school as defined in subsection (c) of section 1001 of the Elementary and Secondary Education Act of 1965, which is privately owned, but only if such school—

"(A) is operated in accordance with applicable State law; and

"(B) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954;

"(3) the term 'secondary school' means any secondary school as defined in subsection (h) of section 1001 of the Elementary and Secondary Education Act of 1965, which is privately operated but only if such school—

"(A) is operated in accordance with applicable State law; and

"(B) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954.".

(f) (1) In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 411(a) (1) (B) of the Higher Education Act of 1965 (relating to basic grants for elementary and secondary school students) or any other provision of such Act relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g) The amendments made by this section shall take effect with respect to students enrolled in eligible educational institutions on or after October 1, 1981. The Secretary shall, as soon as possible, revise the family contribution schedule for title IV of the Higher Education Act of 1965 for the academic year 1981–1982 to reflect the amendments made by this section.

(h) If the provisions of any part of the amendments made by this section or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

On page 107, line 20, strike out "Sec. 403." and insert in lieu thereof "Sec. 404.".

On page 111, line 20, strike out "Sec. 404." and insert in lieu thereof "Sec. 405.".

On page 113, line 19, strike out "Sec. 405." and insert in lieu thereof "Sec. 406.".

On page 124, line 13, strike out "Sec. 406." and insert in lieu thereof "Sec. 407.".

On page 126, line 2, strike out "Sec. 407." and insert in lieu thereof "Sec. 408.".

On page 126, line 4, strike out "Sec. 408." and insert in lieu thereof "Sec. 409.".

On page 215, line 17, insert "elementary and secondary education or" before "postsecondary".

On page 216, lines 7 and 8, insert "elementary, secondary, and" before "postsecondary".

On page 216, lines 9 and 18, insert "elementary, secondary, and" before "postsecondary".

On page 218, line 3, strike out "For" and insert in lieu thereof the following: "Except as provided in the last sentence of this subsection, for".

On page 218, line 6, insert "of higher education" after "institution".

On page 218, line 19, insert "of higher education" after "institution".

On page 218, line 23, insert "of higher education" after "institution".

On page 219, between lines 12 and 13, insert the following: "For the purpose of basic grants made under subparagraph (B) of section 411(a) (1) the cost of attendance at an eligible educational institution means the tuition, required fees, and such other expenses determined by the Secretary to be necessary to fulfill the educational requirements at the eligible educational institution at which the student is in attendance, except that the cost of attendance shall not exceed $1,500 in any school year.".

On page 221, line 21, insert after "title" the following: "(other than a basic educational opportunity grant under section 411(a) (1) (B))".

On page 223, line 19, insert after "title" the following: "(other than a basic educational opportunity grant under section 411(a) (1) (B))".

On pages 10 and 11, in the table of contents, redesignate items "Sec. 403." through "Sec. 408." as "Sec. 404." through "Sec. 409."

one-quarter of the regular operating costs of the public schools as well.

Mr. President, at this point I ask unanimous consent that my proposed education plank be printed in the Record.

There being no objection, the proposed platform plank was ordered to be printed in the Record, as follows:

PROPOSED PLATFORM PLANK ON EDUCATION

The first responsibility of government in the field of education is to assure the financial viability and educational vitality of the public schools.

The federal share of elementary and secondary education costs has hovered around 8 percent since the mid-1960's, despite soaring costs and the diminishing capacity of state and local governments to meet them. The time is at hand for the Democratic Party to pledge itself to increase federal support for the regular operating costs of public primary and secondary schools on an ambitious but orderly schedule until it reaches 25 percent of regular costs by the end of the decade. Only by committing ourselves firmly and irrevocably to a specific target and a precise timetable for attaining it can we reliably safeguard public education from periodic temptations to support other activities—or hold down government spending—at its expense.

It is now a decade and a half since the passage—by a Democratic Congress at the behest of a Democratic administration—of the landmark Elementary and Secondary Education Act of 1965. At the time, there were sound and compelling reasons to undergird all federal aid to education with specific categorical purposes. The specific purposes remain compelling and the specific programs addressed to them must be maintained. But there is no need any longer to resist the fundamental idea of general support by the national government for the routine activities of the public schools. Indeed, such support is the surest way to strengthen the ability of state and local governments to foster quality and equality in their schools, without the ever-more-complex federal controls associated with the further proliferation of categorical federal programs.

The national interest in the quality and effectiveness of public education also manifests itself in a number of specific objectives that remain the proper concern of the federal government and the proper basis for specialized support programs. Foremost among these is the provision of equal educational opportunity to every girl and boy in the United States: through the strengthening and full-funding of Title I of the Elementary and Secondary Education Act, including its important new concentration program; through the provision to all who seek it of day care and early childhood education via the Headstart program and other means; through the vigorous elimination of all vestiges and legacies of racial segregation in the public schools, whatever its sources or causes ; through support for state efforts to eliminate egregious disparities in financial support for public schools, and through new efforts to eliminate such disparities between and among states; and through redoubled efforts to bring full educational opportunity to children with special needs.

In addition to assuming responsibility for a quarter of the ordinary operating costs of public schools, the federal government must take responsibility for the full cost of complying with federal education mandates. If real—and long-overdue—progress is to be made in such vital areas as education of children with special needs, high-quality compensatory education for the disadvantaged, and appropriate bilingual instruction for children whose first language is not English, the federal government must match its intentions with resources and must hold state and local education agencies harmless from additional costs resulting from federal requirements.

These two fundamental resource commitments—to meet the full cost of federal mandates, and to supply one-quarter of regular operating costs as well—provide the context within which specific programs and policies for public education will be developed and carried out. The establishment last year of the new Department of Education means that—for the first time—there is now a focal point within the federal government for education policy and a means of ensuring that these commitments can be faithfully met.

The Democratic Party acknowledges with respect and gratitude the centrality of teachers in the education of children and pledges itself to ensure teachers their rightful role in shaping and implementing the policies and programs of the federal government. It further pledges itself to support teachers in their efforts to obtain the recognition, remuneration, opportunities for advancement, and working conditions appropriate to their honorable and indispensable profession, and to secure the full rights due them as public employees in such areas as collective bargaining.

The federal government has a special responsibility to ensure that educationally and economically disadvantaged children and adults, members of minority groups, and residents of rural and urban areas, have full access to high quality public education and that they be assisted to make the fullest use of such education. Accordingly, we pledge ourselves to enact the youth education and training initiative proposed by President Carter; to develop new means of ensuring that education in the basic skills becomes a reality for every American; and to provide additional assistance in meeting the needs of schools and schoolchildren in our older cities.

Because educational techniques can be no more effective that the research base on which they rest, we renew the Democratic Party's commitment to the activities of the National Institute of Education and other sources by which additional knowledge about the educational process can be obtained. Recognizing that significant progress in research often takes many years, the N.I.E. must be sheltered from pressures to address momentary problems and concerns, and be assisted to devote itself to fundamental research questions.

Although the first responsibility of government in the field of education is to the public schools, we also recognize the distinctive role of nongovernmental schools in securing the values of pluralism and diversity, and pledge ourselves to vouchsafe their integrity and their distinctiveness. In order that families that believe their children's educational needs will best be met in nondiscriminatory, nongovernmental schools will have the fullest opportunity to exercise that choice, we pledge ourselves to provide adequate and appropriate federal financial assistance to individual students and families.

Acknowledging the complexity of recent Supreme Court decisions in this area, and the impossibility of determining which forms of assistance will be held to be constitutional other than by asking the courts to rule on them, the proper task of the executive and legislative branches of the federal government is to devise policies and programs that fulfill this commitment and then to seek their prompt review by the judicial branch. In keeping with the commitment that the Democratic Party made in its 1964 platform, prior to passage of the Elementary and Secondary Education Act, we also pledge ourselves to renewed efforts to ensure that all students, wherever enrolled, benefit fully from existing and new federal education programs.

In higher education, the federal government has two overriding responsibilities. The first and larger of these is to assure every American with the desire and the ability to partake of college-level education the opportunity to obtain such an education at the institution of his or her choice. Student financial aid assumes many forms, including grants, subsidized and guaranteed loans, and work-study jobs. So diverse are the offerings of post-secondary education in the United States, and so varied are the needs and desires of individual students, that federal assistance arrangements must necessarily be somewhat complex. Particularly with the costs of college education rising rapidly, and with the number of persons in the traditional college-age population beginning to decline sharply, the federal government must redouble its efforts to ensure full access and a full range of institutional choices to every prospective student. We reaffirm the principles of the Higher Education Act of 1965 and the Middle Income Student Assistance Act of 1978 and pledge ourselves to fully-fund the Basic Educational Opportunity Grants program, the campus-based student aid programs, and the Guaranteed Student Loan program, so that needed assistance is provided to all students who cannot otherwise afford to attend the colleges and universities of their choice. These central programs must be converted into bona fide entitlements, so that their essential benefits are not vulnerable to recurring budgetary pressures.

The second fundamental responsibility of the federal government in higher education is to foster the production of knowledge in research universities by supporting the work of qualified scholars and by maintaining the infrastructure in research enterprise.

This includes appropriate support to libraries, assistance in meeting the costs of necessary laboratory equipment, and support for the training of future scholars through needed assistance to graduate education. In addition, the federal government must acknowledge its obligation to meet the full costs associated with specific research projects and other activities undertaken by universities on its behalf.

Because non-government support is also vital to the well-being and the independence of colleges and universities, we will take all necessary steps to encourage private giving by individuals, foundations, corporations and others, including such tax incentives as the maintenance of the charitable deduction and its extension to taxpayers who do not otherwise itemize their deductions.

We recognize the principle of academic freedom and pledge ourselves to see that it is embodied in the actions and policies of government, primarily—and most appropriately—by ensuring that the government refrains from actions and policies that might jeopardize it. The central functions of the university—those of teaching, learning and research—are easily damaged by unwitting regulation and intrusion.

At the same time, the federal government has a solemn obligation to ensure that such important national goals as equal opportunity and such important procedures for achieving them as affirmative action are embodied in whatever form of assistance it provides to colleges and universities, and we renew our commitment to see that this is done.

Over the years, a number of other activities and objectives in postsecondary education have been advanced and enhanced with federal assistance, and these should be maintained: aid to the nation's irreplacable network of traditionally black colleges, encouragement of institutional innovation and re-

I wish to emphasize in this presentation the word "needy." The Pell grants are made available to needy students, although last year, as a result of the tuition tax credit debate, a very large amount of money was found by the administration that enabled them to raise the level of family income at which Pell grants remain available to approximately $35,000. We have no such intention in this measure. As I shall describe, the grants are confined to persons of much lower income levels. But one of the most frequently voiced objections to tuition tax credits was that they would aid persons who could afford to pay private school tuitions without assistance.

There is no possible way in which such a charge, if that is the term, could be made with respect to the present proposal. There is no way in which the present proposal could be so described.

A student is not eligible for a Pell grant if his or her parents are able to pay the cost of college attendance without assistance.

There is a carefully worked out formula embodied in the Higher Education Act of 1965, as amended most recently by the Middle-Income Student Assistance Act of 1978, that determines eligibility for assistance and the amount of any such assistance according to the family's income, the actual cost of attendance at a particular college and such other variables as a family size and the number of children a family may have in college at that given moment.

Exactly the same procedure would pertain to elementary and secondary school students, except that eligible costs of attendance could not exceed $1,500 and the maximum grants could not exceed $750. Families whose expected contribution is $1,500 or more would not receive anything.

This corresponds to a gross family income of about $20,000 which, save in extraordinary circumstances, will be the effective cutoff point for eligibility for Pell grants at the elementary and secondary level.

I shall repeat that so there be no mistake: The $20,000 gross family income, which is roughly equivalent to the median family income, is the maximum for which these grants would be available.

Nearly all of the benefits from this provision would go to students and families with incomes below $15,000, which means that nearly all the beneficiaries would be found among the 1,188,000 students, among whom are 234,000 black or Hispanic students, who attend nongovernmental schools whose parents earn less than this amount.

I repeat that the benefits of our proposal would be concentrated among these 1.2 million students, a heavy proportion of whom are minority students now in such schools.

It is not easy to pay the costs of nongovernment education even in relatively low tuition parochial schools. And I wish to be clear that "parochial schools" is not a denominational term; it refers to neighborhood schools, as against schools to which persons are drawn from a much wider geographical area. It is not easy when families have incomes under $15,000, and the extraordinary thing continues to be that so many poor families are so strongly motivated to seek the best and most appropriate education for their children that they make the sacrifice.

The purpose of our amendment is quite simply to ease this burden on low-income families. Although means-tested programs such as the basic educational opportunity grants are not uncomplicated in their operation, Members of the Senate may recall that in the debate 2 years ago we displayed with some dismay the application forms for existing programs. They are very considerable and the opportunities for mistakes are considerable as well.

Even so, the general framework of the elementary and secondary provision will be familiar to those who understand how the college level program works. We are not bringing a new conception to American government or to American families. Millions on millions have managed to puzzle out and benefit from this grant program. It is among the most successful innovations of the 1970's and it is now simply being extended to the secondary and elementary levels of education.

Here is how it works: The family's expected contribution is subtracted from $1,800 and the difference represents the size of the student grant subject to three limitations:

The grant cannot exceed half the cost of attendance, which under this provision cannot exceed $1,500. When the grant is added to the family contribution, the sum cannot exceed the actual cost of attendance, which again is limited to $1,500, and it cannot be less than $100, which is to say that if the grant yielded by the formula would be less than $100, no grant would be made.

This last is a simple rule of administrative prudence that corresponds to the $200 limit in the BEOG's program as it now exists.

I should like now to anticipate a number of questions that will be raised by this matter.

But first, I ask unanimous consent that the pending amendment be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Now to the portions of the debate that will ensue, considering which I anticipate a number of questions that have been asked about our amendment and about the intentions of its sponsors. First, what will be effect of this amendment on the public schools?

The effect, I submit, will be negligible. The number of students who would be aided by this provision is equal to approximately 1 percent, I repeat, 1 percent, of the number of students presently enrolled in the public schools.

Only low-income students are aided, and none is aided with more than half the cost of his or her tuition expenses. This means that even a low-income family must still muster at least the other half out of its limited private resources, and the families with higher incomes will get no assistance at all.

It is unreasonable, or so I would argue, to suppose that this very limited program affecting only a small number of low-income families will induce any perceptible number of parents to shift their children from public to nonpublic schools. I do not believe that the persons who have asserted the opposite truly believe it to be the case.

I do not in any way suggest that there is any misrepresentation of views here, but rather a confusion of views in which concerns that arise in one area are transferred in debate and in analysis to another.

I offer the thought that the assertion that may be made that depicts our amendment as somehow hostile to public education, and in that way casting doubt on the motivation of the sponsors is, in fact, a form of avoidance, something not unusual in public matters, of a much more important and fundamental question, which is whether low-income families should be helped to exercise the same kinds of educational choices that are readily available to middle income families and well-to-do families.

We have an issue of equality here and, curiously, it seems to me there are those who are avoiding it.

I wish to deal directly then with the question of motives on the part of the sponsors, for the sponsors of the amendment, without exception, Mr. President, are long-time, steadfast, and unrelenting supporters of public education and of public aid to public schools.

In 1964 I helped to negotiate the compromises that made possible the passage of the Elementary and Secondary Education Act of 1965, the landmark legislation in this field. I was then a member of the subcabinet of President Johnson's administration and count that one of the most important experiences I have known in Government.

I helped design the college work-study program as a member of the task force that drew up the Economic Opportunity Act of 1964 the same year.

In 1970, it fell to me to draft the Presidential message to Congress that proposed the National Institute of Education, which is being reauthorized by this legislation before us today.

I opened the testimony before the House of Representatives Committee on Education that considered the bill that, in turn, established the NIE.

In 1970 it fell to me again to draft the Presidential message to Congress that proposed the program we are now talking about, the basic education opportunity grants, or Pell grants, the self-same program we are proposing to amend today.

I have, since coming to the Senate, voted for every single bill to come to the Senate that proposed to aid public education, whether an authorization or an appropriation. Only last week, I proposed to the Drafting Subcommittee of the Democratic Platform Committee, of which I am a member, an education plank that pledged the Federal Government to assume the full costs of compliance by the public schools with all Federal mandates and requirements and to move over the next decade to assume

The amendment is as follows:

On page 107, between lines 18 and 19, insert the following new section:

BASIC EDUCATIONAL OPPORTUNITY GRANTS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

SEC. 403. (a) (1) Section 411(a) (1) of the Act (as amended by section 402 of this Act) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D) and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary shall, during the period beginning October 1, 1981, and ending September 30, 1985, pay to each eligible student (defined in accordance with section 482) who is enrolled in an eligible educational institution for each academic year during which that student is in attendance at that institution a basic grant in the amount for which that student is eligible as determined pursuant to paragraph (2).".

(2) Section 411(a) (1) (D) of the Act (as amended by section 402 and paragraph (1) of this Act) is amended by inserting after "basic grant" the following: "under subparagraph (A) of this paragraph".

(b) The second sentence of section 411(a) (2) (B) (iii) of the Act is amended—

(1) by inserting after "higher education" the following: "or the eligible educational institution"; and

(2) by inserting before "postsecondary" the following: "elementary and secondary or".

(c) Section 411(a) (2) (B) (iii) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this division in the case of basic grants made under subparagraph (B) of paragraph (1) of this subsection but no grant may be made under that subparagraph if the amount of that grant for any academic year is less than $100.".

(d) (1) Section 411(a) (3) of the Act (as redesignated and amended by section 402 (d) (2) of this Act) is amended by inserting after "basic grants" the following: "under subparagraph (A) of subsection (a) (1)".

(2) Section 411(a) (3) of the Act (as redesignated and amended by section 402(a) (2) of this Act) is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following:

"(B) The period during which a student may receive basic grants under subparagraph (B) of subsection (a) (1) shall be the period required for the completion of the elementary and secondary education course of study being pursued by that student at the eligible educational institution at which the student is in attendance, except that such period may not exceed twelve academic years.".

(e) Section 411 of the Act is amended by adding the end thereof the following new subsections:

"(f) The Budget transmitted by the President to the Congress for each fiscal year after September 30, 1981 under section 201 of the Budget and Accounting Act, 1921, shall set forth separately requests for new budget authority for, and estimates of outlays for, subsection (a) (1) (B), relating to basic educational opportunity grants for elementary and secondary school students.

"(g) For the purpose of this subpart—

"(1) the term 'eligible educational institution' means—

"(A) an elementary school; or

"(B) a secondary school;

which does not discriminate on the basis of race, color or national origin;

"(2) the term 'elementary school' means any elementary school as defined in subsection (c) of section 1001 of the Elementary and Secondary Education Act of 1965, which is privately owned, but only if such school—

"(A) is operated in accordance with applicable State law; and

"(B) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954;

"(3) the term 'secondary school' means any secondary school as defined in subsection (h) of section 1001 of the Elementary and Secondary Education Act of 1965, which is privately operated but only if such school—

"(A) is operated in accordance with applicable State law; and

"(B) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c) (3) of the Internal Revenue Code of 1954.".

(f) (1) In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 411(a) (1) (B) of the Higher Education Act of 1965 (relating to basic grants for elementary and secondary school students) or any other provision of such Act relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provisions of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g) The amendments made by this section shall take effect with respect to students enrolled in eligible educational institutions on or after October 1, 1981. The Secretary shall, as soon as possible, revise the family contribution schedule for title IV of the Higher Education Act of 1965 for the academic year 1981–1982 to reflect the amendments made by this section.

(h) if the provisions of any part of the amendments made by this section or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

On page 107, line 20, strike out "Sec. 403." and insert in lieu thereof "Sec. 404.".

On page 111, line 20, strike out "Sec. 404." and insert in lieu thereof "Sec. 405.".

On page 113, line 19, strike out "Sec. 405." and insert in lieu thereof "Sec. 406.".

On page 124, line 13, strike out "Sec. 406." and insert in lieu thereof "Sec. 407.".

On page 126, line 2, strike out "Sec. 407." and insert in lieu thereof "Sec. 408.".

On page 126, line 4, strike out "Sec. 408." and insert in lieu thereof "Sec. 409.".

On page 215, line 17, insert "elementary and secondary education or" before "postsecondary".

On page 216, lines 7 and 8, insert "elementary, secondary, and" before "postsecondary".

On page 216, lines 9 and 10, insert "elementary, secondary, and" before "postsecondary".

On page 218, line 3, strike out "For" and insert in lieu thereof the following: "Except as provided in the last sentence of this subsection, for".

On page 218, line 6, insert "of higher education" after "institution".

On page 218, line 19, insert "of higher education" after "institution".

On page 218, line 23, insert "of higher education" after "institution".

On page 219, between lines 12 and 13, insert the following: "For the purpose of basic grants made under subparagraph (B) of section 411(a) (1) the cost of attendance at an eligible educational institution means the tuition, required fees, and such other expenses determined by the Secretary to be necessary to fulfill the educational requirements at the eligible educational institution at which the student is in attendance."

On page 221, line 21, insert after "title" the following: "(other than a basic educational opportunity grant under section 411 (a) (1) (B))".

On page 223, line 19, insert after "title" the following: "(other than a basic educational opportunity grant under section 411 (a) (1) (B))".

On pages 10 and 11, in the table of contents, redesignate items "Sec. 403." through "Sec. 408." as "Sec. 404." through "Sec. 409." and insert immediately after "Sec. 402." the following:

"Sec. 403. Basic educational opportunity grants for elementary and secondary school students.".

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, it is now 2 years since the full Senate considered the question of Federal aid to students attending nongovernmental schools at the elementary and secondary levels. Today, we resume that discussion. But I wish to be clear and precise at the outset that the proposal we are considering today is markedly different from the tuition tax credit bill that absorbed us in the summer of 1978.

I still believe that tuition tax credits are desirable and justified as a comprehensive means of fostering educational choice for all students and families that wish to exercise such choice.

And I note in passing that at this very moment the Democratic Party platform committee, of which I have the honor to be a member, is considering a draft platform which repeats, in essence, the commitment made by the party in 1976 when it, in turn, repeated earlier commitments and, if I may quote, "renewed its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of pupils in nonsegregated schools in order to insure parental freedom in choosing the best education for their children."

But we are not here today to debate tuition tax credits. The amendment that my colleagues and I have offered to the Higher Education Act would simply extend an existing Federal program, known as the Pell grants program after the distinguished chairman of the subcommittee. The basic educational opportunity grants, or Pell grants as they are known, are, as I say, given only to needy students; now they are available at colleges and universities. An amendment would extend them to the elementary and secondary level.

I have the honor to be supported in this matter by my cosponsors, Senator Ribicoff, Senator Metzenbaum, Senator Melcher, Senator Bradley, and from across the aisle, our friend from Iowa, Senator Jepsen.

12th Fighter Bomber Squadron in the Phillipines and flew more than 100 combat missions in Korea. General James through hard work and dedication rose rapidly within the ranks of the Air Force. His skills as a combat pilot brought him numerous decorations and medals. In 1966 Chappie James was assigned to the Southeast Asian theater and flew almost 80 combat missions. On one of those missions he led a group that destroyed seven Mig 21's, the highest total of any single engagement in the Indochinese war.

In 1975 Chappie James became the first black to attain the rank of four star General in the U.S. Air Force. In that rank he served as the head of the North American Air Defense Command. During his tenure at NORAD General James was one of the most capable and respected men in our armed services. General James often said it was a privilege to serve his country well. It was a privilege that he took full advantage of and inspired many young men throughout this great country to serve our Nation.

General James retired from active duty in February 1978 and shortly thereafter he passed away. I can think of no better tribute to this great American than the establishment of the Regional Center for Preventive Health Education at Tuskegee Institute as a lasting memorial. General James was a 1942 graduate of Tuskegee Institute and spent most of his life working to develop the facilities at that institution. In fact in the final months of his life General James served as the chairman of Tuskegee's centennial fund-raising drive. He took on that job with the same enthusiasm and drive that had been his trademark in the Air Force. If General James could be here today I believe that he would be pleased with this gesture.

I know that Chappie was a practical man. I do not think he would have wanted a monument or a statue erected in his honor. He would have wanted his name memorialized in service and in life. The Gen. Daniel Chappie James Memorial Regional Center for Preventive Health Education will usher in a new era in health care. It will spread the gospel of preventive health care. Taking advantage of the tremendous academic and human resources in the area the center will develop and implement new approaches to health maintenance and illness prevention.

Tuskegee Institute is located in the part of Alabama known as the black belt. The residents of this area suffer from any number of major and minor health problems. Many of them are poor and lack the wherewithal to continue to receive health care as usual. The Chappie James Center for Preventive Health Education will perform outreach activities to educate these people in the science of health promotion and disease prevention. In the process the center will save millions in health care cost and no doubt save lives. The center will supplant ongoing activities already underway at Tuskegee to provide the full range of health care services to the people in our region.

I am hopeful that the Senate will adopt this amendment today because I believe that it will be a message to those men and women who serve in our armed services and are called upon to make the ultimate sacrifice. That message is that as a nation we are grateful for their dedication. Chappie James served this country at a time when he could not ride in the front of the buses in some parts of our country. Yet that did not stifle his dedication nor his patriotism. Today let us honor that dedication and patriotism by adopting this worthy amendment.

Mr. HEFLIN. I thank my colleagues for their comments. I understand their reservation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1265) was agreed to.

UP AMENDMENT NO. 1266

(Purpose: To make certain technical corrections)

Mr. PELL. Mr. President, I send technical amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pell) proposes technical amendments as unprinted amendment numbered 1266.

Mr. PELL. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 17, strike out "$30,000,000" and insert in lieu thereof "$22,500,000".

On page 83, line 20, strike out "1980, 1981," and insert in lieu thereof "1981".

On page 103, line 24, beginning with "as", strike out through "subpart," on line 1, page 104.

On page 104, line 2, after "entitlement" insert the following: "as calculated prior to the cost of attendance limitation provided in section 411(a)(2)(B)(i) under this subpart,".

On page 107, between lines 18 and 19, insert the following new subsection:

(h) Section 411(d)(1) of the Act is amended by striking out "section 493A" and inserting in lieu thereof "section 435".

On page 113, line 16, strike out "484(2)" and insert in lieu thereof "484(a)(2)".

On page 120, line 11, strike out "tutorials" and insert in lieu thereof "tutorial services".

On page 129, lines 11 and 12, strike out "connection" and insert in lieu thereof "connected".

On page 144, line 6, strike out "and (I)" and insert in lieu thereof "(I) and (J)".

On page 160, line 19, insert "per year" before the period.

On page 171, line 25, after "lenders" insert a comma and the following: "or has received any other federally insured or guaranteed student load,".

On page 172, line 4, after "make" insert a comma and the following: "notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower,".

On page 179, between lines 18 and 19, insert the following new subsection:

(d) Section 439A of the Act is repealed.

On page 197, line 3, strike out "annually" and insert in lieu thereof "every three years".

On page 207, line 7, insert "Service" after "Volunteer".

On page 227, line 5, strike out "subsection" and insert in lieu thereof "section".

On page 235, line 18, strike out "of Educational" and insert in lieu thereof "for Education".

On page 262, line 22, strike out "part D" and insert in lieu thereof "part B".

On page 264 between lines 4 and 5, insert the following:

"(b) If, in any fiscal year, a State does not wish to enter into an agreement pursuant to section 1203, such State may submit annually to the Secretary, through its designated entity for facilities planning, a State plan which meets the requirements of clauses (2), (3), and (4) of subsection (a).

On page 264, line 5, strike out "(b)" and insert in lieu thereof "(c)".

On page 264, line 8, strike out "(c)" and insert in lieu thereof "(d)".

On page 319, lines 9 and 10, insert after "government" the following: "and of the community".

Mr. PELL. These amendments are technical in nature, Mr. President, and I move their acceptance. They have been cleared on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1266) was agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1267

(Subsequently numbered 1913)

(Purpose: To provide basic educational opportunity grants for elementary and secondary school students)

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. Moynihan), on behalf of himself, Mr. Ribicoff, Mr. Metzenbaum, Mr. Melcher, Mr. Bradley, and Mr. Jepsen, proposes an unprinted amendment numbered 1267.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

two programs, it is my conclusion that the defense of the country must come first.

I think those people in the educational community who are resisting tying the BEOG program together with the volunteer enlistment concept ought to take heed, because when we see the Senate Armed Services Committee recommending a reduction in the Standing Army of 25,000 people when we have already reduced 600,000 in the last 6 years, it certainly ought to send a message to everyone that we have reached the point where we must chart our course to restore the volunteer enlistment program.

Impetus for that must come not only from those of us who are interested in defense matters, but it also must come from those who are interested in continuing the assistance which is vital to the survival of the educational institutions of higher learning in this country.

I am certain that the managers of the bill on both sides of the aisle are familiar with that. It has been mentioned that our universities now could not survive without BEOG. Our defense forces cannot survive without an incentive to these young people to enter the armed services. These two programs must join together soon. That is my message.

I hope that the Senators will hold a hearing. I think it may be too early to go to a hearing in July because of the hearings which are scheduled by the Senator from Colorado on his proposal. But the Senate as a whole ought to insist that the volunteer armed service concept and BEOG be joined together to provide incentives first to those young people who are willing to join our armed services and be prepared to defend our country.

I hope that the net result of the deliberations that will come, and I hope they will be in this Congress, will be such that we will take that course.

I do thank my colleagues for the commitment to a hearing sometime in the future. I am pleased to have that, and I am pleased to have their concern for these matters that I have spoken about.

Mr. President, following the completion of the remarks of the Senator from Rhode Island and the Senator from Vermont, I will withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PELL. I thank the Senator from Alaska very much. I must say, I look forward to a hearing on this subject as it is one which is very close to my heart.

Mr. STAFFORD. As do I, Mr. President, both in our own subcommittee and in the Committee on Veterans' Affairs.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 1265

(Purpose: To authorize the Secretary of Education to make a grant to establish the General Daniel James Memorial Health Education Center at Tuskegee Institute, Alabama)

Mr. HEFLIN. Mr. President, I rise to offer for Senator Stewart and myself an amendment to S. 1839, legislation to reauthorize the Higher Education Act of 1965.

Our amendment will authorize funds for the construction of an educational facility at Tuskegee Institute in Alabama as a permanent tribute to the late Gen. Daniel "Chappie" James, Jr.

Needless to say, the concepts embodied in the establishment of this center are nonconventional in the health field. The center will represent the first such effort not only in the South, but perhaps also in the country. It will usher in the new direction that health care must take in the remaining years of this century. It will emphasize the preventive health education and effective health maintenance. The program components will be designed to instruct, communicate, develop, convey and practice total health. The facility will also serve as the repository for General James' memorabilia.

This is a pioneering effort honoring a man who was a great American patriot. The late General James fought in military conflicts as a member of the U.S. Air Force in the Pacific in World War II, in Korea, and in Vietnam, and received numerous military decorations for his distinguished leadership and valor in combat.

He rose from service as a pilot, was appointed commander in chief of the North American Air Defense Command, and became the first black person to hold the rank of four-star general in the Armed Forces of the United States.

Tuskegee Institute in Alabama established the first airplane pilot training program for black trainees, and provided the late General James with the education and the aviation training that encouraged him to pursue and enabled him to achieve an outstanding career of service and dedication to his fellowmen and to his country.

Mr. President, I hope that the Congress of the United States will see fit to honor this great American—Gen. Daniel "Chappie" James.

Senators Goldwater, Glenn, Tower, Heinz, Chiles, DeConcini, Riegle, Dole, and Lugar are cosponsors of the bill that was introduced in this regard.

Mr. President, I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. Heflin) for himself and Mr. Stewart, proposes an unprinted amendment numbered 1265.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE XVIII—GENERAL DANIEL JAMES MEMORIAL HEALTH EDUCATION CENTER

FINANCIAL ASSISTANCE AUTHORIZED

Sec. 1801. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

AUTHORIZATION OF APPROPRIATIONS

Sec. 1802. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.".

On page 16, in the table of contents, after item "Sec. 1702." insert the following:

"TITLE XVIII—GENERAL DANIEL JAMES MEMORIAL HEALTH EDUCATION CENTER

"Sec. 1801. Financial assistance authorized.
"Sec. 1802. Authorization of appropriations.".

Mr. PELL. Mr. President, I have studied this amendment and understand the reason why it is being offered. I am not enthusiastic about the idea of an amendment being offered honoring a particular individual and using Federal funds for it. It would be a temptation to others in the 50 States who want to do the same. But in view of the conversations that the Senator from Alabama has had with us and his staff with our staff, and in view of the overall merit and objective, I am inclined to recommend to my colleagues that we support this amendment.

Mr. STAFFORD. Mr. President, my feelings are much the same as those of Senator Pell, the majority manager of this bill. With some reluctance I am prepared to accept the amendment.

My reluctance is that we do not wish to begin to establish precedents for proposals of this kind. In this case, I am prepared to accept it.

I remember Gen. Daniel James very well. I recall particularly one time when he had made a commitment to come to my State to make a speech. Though, as things developed, it became very inconvenient for him to do so, he kept his commitment to come to Vermont even though he followed that by having to fly all night to get to an official duty in California the next day. He was, I think, that kind of a man.

I am pleased for him individually to recommend to the minority that we also accept the amendment.

Mr. STEWART. Mr. President, I join Senator Heflin in offering an amendment to establish the Gen. Daniel "Chappie" James Memorial Center for Preventive Health Education at Tuskegee Institute. Gen. Daniel "Chappie" James was truly one of the great American patriots of this century. He served his country honorably for nearly three decades. General James was an example of the dedication and commitment that has permitted the flame of freedom to burn ever brighter over the 200-odd years of our great Republic. As a flight instructor Chappie James trained the first black fighter group in World War II. He went on to serve with the less than $50 million. That is what has happened to our volunteer program.

The volunteer program has been undermined by our generosity to the young people of this country, generosity certainly that I have supported. I do support the concept of basic opportunity grants, and have since the beginning, but I never realized at the time the destruction of the all-volunteer concept would occur.

I urge the managers of the bill to think about this. It is something that I have raised, unfortunately, at the last minute for them, and maybe they would be willing to take the concept to conference and see what might be worked out.

But if this continues, Mr. President, if we go from, as I mentioned, the concept of $2.1 billion over 4 years to $2.27 billion in 1 year alone on BEOG, there is absolutely no incentive financially that we could offer a young person to enlist in the military. There is more money available for going to school than enlistees get paid. Think of that. It is time now that we arranged our priorities because I think the defense of this country ought to be first, and I think the basic opportunity grant concept ought to be tied to the volunteer concept so that those people who step up and say, "I either have or will commit to the Government that I will serve," should get the basic opportunity grants first and the balance left in the fund ought to go to those who are unwilling to meet the needs of the country.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I think my colleagues know that the Senator from Vermont has long been an ardent supporter of the concept of a Volunteer Army. One of the basic tenets of that concept, when we wrote a book with four other Members of Congress on the subject of a Volunteer Army, was that the young man or woman going into our Armed Forces should not have to make any financial sacrifices in the process of doing so, but should be paid comparably with private industry as to his or her responsibility in the Armed Forces. So that, to a considerable degree, I am in sympathy with what my distinguished friend from Alaska, Senator STEVENS, the assistant minority leader, has been staying here.

As I understood what he has said, he does not propose in any way to eliminate BEOG grants which, as he knows, currently involve some 2 million students in this country, many of whom are poor and could not go to college without the basic educational opportunity grant program. And there are some 3,000 institutions of post-secondary education today which would be seriously in jeopardy if anything seriously menaced the basic educational opportunity grants.

Having said that, and appreciating that we need to have an educational program for veterans of armed services who do want to go to college, we need to have a program which will make it desirable in their eyes for them to go on to college and get a college education, I then have to say that what the distinguished Senator from Alaska has proposed here is a concept which has never been the subject of hearings, to my knowledge, in the Education Subcommittee of the Committee on Labor and Human Resources. It very well could be the subject of hearings in either the far or near term future.

The Armed Services Committee, according to my information—which I hope is authentic—is considering hearings on this very matter, or something very similar to it in that committee. I can say that in the Veterans' Affairs Committee, which is a committee on which the Senator from Vermont serves, legislation very similar to the amendment proposed by the Senator from Alaska has been sent to that committee sponsored by Senator ARMSTRONG of Colorado. It fact, the Senator from Vermont has been asked to be a cosponsor of that legislation and is currently considering the matter.

So it would appear to the Senator from Vermont, in view of the fact that this is a new concept to us that has not been the subject of hearings in the Subcommittee on Education—it is a new concept which would substantially reduce the finite numbers of dollars available for the BEOG program if it went into effect today; that is, the numbers of dollars available for those who were not coming out of military service—that it would be desirable—and the Senator from Vermont would be willing to hold hearings in our committee in concert with those of other committees or individually without regard to what the other two committees may do—to examine further this legislation which might well be desirable, might very well get the support of the Senator from Vermont in the Education Subcommittee and in the Veterans' Affairs Committee.

With that, I would urge my distinguished colleague from Alaska—if my senior colleague on the subcommittee, the manager of the bill for the majority agrees—to consider withdrawing the amendment today and taking from us, as managers of the bill, our assurance that we are willing to have hearings on this matter as early as July, after the July recess, if the Senator from Alaska so wishes to do so.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, everything the Senator from Vermont has said is, I think, very accurate and right on target. I find myself in agreement with him.

There are a couple of points here that I would like to add. First, in connection with one question that was raised, the eligibility of the children of the refugees coming in for basic educational opportunity grants, my understanding is that those grants can only be given to American citizens. So, until they acquire citizenship, they would not be eligible.

I have a similar agreement with the Senator from Alaska in his view about the low educational average of youg people going into our services now. I differ from some of my colleagues in connection with the Volunteer Army. I prefer to characterize it more as a mercenary army. I think, basically, the voluntarism side of it is all too small and the incentive is all too often because the alternative is a massive unemployment that faces so many of our young people, particularly black young people.

I am very interested, as well, in the whole idea of national service. We had hearings and we have already passed in the Senate a bill that creates a commission to call for a national service that would draw not only military service but general community service for both young men and young women.

The problem is that 4 million young people reach the age of 18 each year and the question is to find enough slots for them. Obviously, the money that they would receive would have to be far less than the military service gets now. It would probably be more like an allowance. But national service is a long ways off.

In view of the fact that the concept the Senator from Alaska is advancing is almost the very same concept which is being considered in other committees, I would hope, too, that he might consider withdrawing this amendment. I would be glad to cooperate in having hearings in July, if it proved possible. I believe that the amendment as presently drafted could be harmful, because we simply do not know—I say "could be harmful" advisedly—because I do not know the arithmetic of it, how many people would be eligible in the military, and how much that would reduce the pool of capital for the other recipients of the basic grants.

I would prefer the approach of having a learning incentive in the service, an educational incentive of maybe one-half year of college for every year in the service or a year of college for every year in the service, maybe not related to specific dollars, but related to the college of choice that the youngster gets into.

I believe this approach is one I have great difficulty with and I would join in the request of the Senator from Vermont.

Mr. STEVENS. Mr. President, I say to my two good friends that I had another version of this amendment when I originally intended to offer them and seek a vote. That amendment is the basic concept that I have been working on for some time. It goes back, really, to 1972 when I suggested that there ought not to be any Federal financial assistance available for education except as a reward for Government service. At that time, we were thinking not only of the military, but also of VISTA, of the Peace Corps, and of the various programs for apprenticeships in our Federal Government.

I decided not to offer that at this time because of the program that is being reviewed by the Senator from Colorado. He is pursuing a similar concept. But I did offer this amendment to send a message. Having been one who has never voted against BEOG, who has served on both the Defense Appropriations Committee and the HEW Appropriations Committee, I see us now on a collision course between these two programs. If the Senator from Alaska has to make a choice between the

the Armed Forces as recruitment incentives.

Take, for instance, the post-Vietnam era educational assistance program. It is for those who have entered the service after December 31, 1976. They are eligible to receive additional or educational assistance under a contributory plan.

I hope the managers of this bill will take this into account. Unlike BEOG those who actually volunteered under the volunteer service concept, must contribute to their plan. The veteran participating in the program contributes from his or her pay between $50 and $75 per month. After separation from the military the Veterans' Administration will match $2 for every $1 when the veteran enrolls in a school of his choice or her choice. If the veteran chooses not to go to school, the money is returned that he or she contributed under the plan. The goal of the veterans' educational assistance program is laudable, but it just is not working.

How many enlistees today can put away $50 to $75 each month for a future educational benefit when many are living on food stamps now. We have all heard the horrors of the number of military people who must use food stamps to survive.

Keep this in mind. The Veterans' Administration announced that they have earmarked $34 million as opposed to $2.275 billion for BEOG. The Veterans' Administration has earmarked $34 million for VA education payments and even those are not being claimed.

In fact, only 208,000 of a total 1,633,803 enlistees for 3 years from 1977 through 1979 have even contributed to the plan. Of those 208,000, only 800 veterans are receiving assistance under the plan.

When the potential enlistee compares the veterans' education and assistance program with the benefits he is able to get under BEOG, the BEOG program is the most attractive. One does not have to contribute to it while he is in the service. He does not even have to serve in the service to be eligible.

Who is going to opt to enlist in order to get the veterans' educational assistance program if BEOG is there free increasing constantly every year, almost doubling every year in terms of the amount of money we are willing to give away with no commitment by the recipients to support the system at all?

Mr. President, this situation has had a disastrous effect on the All-Volunteer Force, and I speak with some knowledge on this because I served on the HEW subcommittee at the time we initiated BEOG, the time we thought BEOG would be of assistance and the time we thought the volunteer program would work.

At that time, as I said, the BEOG programs were much less and there was an advantage to going into the service, saving one's money and having an unlimited amount of one's money being matched under the veterans' post-Vietnam era program.

In the early 1960's our active duty strength was 2.6 million. Today it is down to 2 million. Since the end of the draft the Armed Forces have been hard pressed to recruit 350,000 to 400,000 enlistees each year.

What is worse, the quality of the recruits of the Armed Forces has been getting worse and it is accompanied by high desertion rates and high dropout rates following enlistment.

One in three service members failed to complete his enlistment, and desertion rates are double that of pre-Vietnam levels.

The educational level of male enlistees, particularly in the Army, has dropped significantly. In 1979 41.4 percent of those enlisted in the Army did not have even a high school diploma. This compares with 20 percent of the 18- to 19-year-old males in the general population and 28.7 percent of the draftees, and 39.9 percent of the enlistees in 1964. Imagine that. Almost half of those people who enlisted in the Army did not even have a high school diploma.

There is even a sharper decline in Army entrants with some college background. In 1964 17.2 percent of the draftees and 13.9 percent of the enlistees had some college. Currently the All-Volunteer Army has only 4 percent with any higher education credits—not graduation, but credits.

I am convinced we could turn these depressing statistics around by giving the enlistee a better inducement to join the armed services. The amendment I have at the desk would leave the present BEOG program intact, but give a greater reward from the total money that is available for BEOG to those who agree to serve in the armed services after September 30 of this year.

The longer one agrees to serve the more educational costs would be paid by the Government. For instance, if a student agreed to serve 2 years, either before or after his schooling, then 75 percent of the educational costs would be covered, with a maximum of $3,750 a year. If he served 4 years, 100-percent to a maximum of $5,000 a year would be covered for each year he is in school.

Under this bill, the maximum amount that he receives under BEOG would be $1,900.

I think we need to provide incentives for our young people to enter the military. We also need to recruit a higher caliber of enlistees in our armed services. We are now getting away from the concept of future conventional wars. We are talking about nuclear wars. We are talking about nuclear preparedness, high-technology preparedness, and yet the enlistee, the draftee, is one whose educational level is constantly declining. Why? Because BEOG is there. BEOG is presently, $2.75 billion of free money with no commitment at all by the recipient to Government service.

I think everyone here must know that the Armed Services Committee now has recommended cutting our standing Army by 25,000 people. You know why? They want to try to find some incentive for the moneys that would have been paid to those currently on duty, some incentive to enlistment. I know of no greater incentive to enlistment than to have some kind of peacetime GI bill that is effective. The BEOG program is there. It would be effective. Just tell the people who enlist or commit to enlist that they will receive additional moneys from BEOG for their commitment to be involved in the armed services, and automatically we would increase the quality of the enlistees, and we would have the incentive. It would be a disincentive for those who do not want to serve because my amendment would not increase the amount of BEOG for those who do not wish to participate voluntarily in the armed services.

Mr. President, we are in the situation now where many of our present enlistees cannot even read the instruction manuals to handle the very high technological weapons of war they are entrusted with. They cannot even comprehend the simplest oral instruction, and I do not think it is going to get better until we offer better incentives to recruit and retain a better quality enlistee.

I know this amendment is not the answer to all the problems we have got in the all-volunteer armed services concept, but I think it would be a start in demonstrating to the young people of this country that we are willing to make a commitment to them if they make a commitment to our volunteer concept of armed services first. At least it would correct some of the many inequities between the student aid program and the post-Vietnam era educational assistance program.

Again let me go back to that because I am not sure many Members of the Senate realize the present dilemma. A veteran participating in that program contributes $50 to $75—a military person $50 to $75 from military pay, and after separation the Veterans' Administration matches $2 for every $1 that is in that fund when the veteran enrolls in a school of the veteran's choice.

There is no compulsion to go to school, but in order to increase it, make it $2 instead of $1 that is there to go to school, the veteran must make that decision. But for an enlistee today, who makes $448 a month, the decision to put away $50 a month is a massive decision to make. Almost 10 percent of the money they receive would have to go into the fund for them to be able to receive $1 of assistance from the post-Vietnam era education assistance program, and that is why the program is just not being used.

On the other hand, for a BEOG program all a student has to do is to be eligible to apply. I do not even know now, and certainly intend to find out when it gets to the Appropriations Committee, what we do about children of these new refugees. Are they going to be eligible for BEOG? What are we going to do about the tremendous increase in people who are coming into California and the Southwest from Mexico? Are they going to be eligible for this BEOG when veterans must contribute from their meager pay in order to be eligible for a veteran's assistance program?

Now, Mr. President, last year HEW, as I say, gave out $1.56 billion. This year the Veterans' Administration earmarks or retirees who are least likely to have access to normal sources of educational information;

"(2) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(d) In fulfilling the requirements of this section, the Secretary shall coordinate the study with the activities of the Commission on National Development in Postsecondary Education (authorized by part A of this title), the research and demonstration priorities of the National Institute of Education, and with such other studies on student financial assistance as are authorized by this Act.".

(b) Subpart 5 of part A of title IV of the Act, is repealed.

On page 39, line 11, strike out "Sec. 118." and insert in lieu thereof "Sec. 119.".

On page 40, line 13, strike out "Sec. 119." and insert in lieu thereof "Sec. 120.".

On page 8, in the table of contents, redesignate items "Sec. 118." and "Sec. 119." as items "Sec. 119." and "Sec. 120.", and insert after item "Sec. 117." the following new item:

"Sec. 118. Study of adult postsecondary education.".

Mr. CHILES. I yield.

Mr. PELL. Mr. President, in this connection would there be any reason why the study should not be undertaken by the Commission on National Development in Postsecondary Education rather than mandating one more report and study?

My own view, and I know the Senator has been very active in the paperwork Commission, is that very often we in Congress mandate studies and mandate reports and in the end none of us read them and very few people read them.

But at least, if we are going to do them, let us not mandate them in law but let them be part of the responsibility of the Commission. If that were done, I am wondering if that would be agreeable to the Senator from Florida.

Mr. CHILES. The Commission as it is presently drafted would not have anything to do with nontraditional students or older students as we have set forth in the amendment.

In the conference, if that could be changed, then I would have no objection to the study being done that way, and I think maybe the amendment can be coordinated with what the Senator set up for the Commission in the conference.

But the only thing I wish to do is I want the Commission to be the area of dealing with these particular students.

Mr. PELL. Mr. President, I guess I have a reluctance here to see more reports and studies being done because I know we get in our subcommittee two piles of reports each year up to where my hand is, and I know in all honesty we have not read them and even my staff cannot read them.

Mr. CHILES. I understand that.

Mr. PELL. I am always a little concerned when I see a request made for one more report and I wonder who will read it. Who does the Senator think will read this one?

Mr. CHILES. I am going to read it.

Mr. PELL. Really?

Mr. CHILES. Yes.

Mr. PELL. I congratulate the Senator very much. He will be unique among us.

Mr. CHILES. It may be unique, but I assure the Senator that I will be reading this study.

Mr. PELL. In that case, speaking for the majority side, I am glad to accept the amendments en bloc with the understanding that in conference it may not prevail at all. If we do prevail we will move the report around to be done by the Commission rather than mandate it into law.

Mr. CHILES. If the Senator sees fit to do that I hope he will broaden a little bit the authority of the Commission so that they would be in this area and be able to look at nontraditional students and in aging questions because right now they are not set up for that purpose.

Mr. PELL. Good, and be sure to remind us as we go into the conference in this regard.

Mr. STAFFORD. Mr. President, on behalf of the minority and similarly to the majority manager of the bill we are prepared to accept the amendment.

Mr. CHILES. Mr. President, I thank the chairman and ranking minority member for that.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment (UP No. 1263) was agreed to.

UP AMENDMENT NO. 1264

(Purpose: To increase the amount of basic educational opportunity grants to 75 percent of the cost of attendance for an individual who has completed two years of military service or $3,750 and 100 percent of such costs for an individual who has completed four years of such service or $5,000, whichever is less)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1264.

The amendment is as follows:

On page 107, between lines 18 and 19, insert the following new section:

MILITARY SERVICE AND BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 403. (a)(1) Section 411(a)(1) of the Act (as amended by section 402(a) of this Act) is amended by inserting before the period the following: "and paragraph (4)".

(2) Section 411(a)(2)(A)(i) of the Act (as amended by section 402(b) of this Act) is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (4), the".

(3) Section 411(a)(2)(B)(i) of the Act (as amended by section 402(c) of this Act) is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (4), the".

(b) Section 411(a) of the Act (as amended by section 402(d) of this Act) is amended by adding at the end thereof the following new paragraph:

"(4)(A) For any student who has served at least two years but less than four years on active duty as a member of the armed forces after September 30, 1980 the amount of the basic grant to which a student is entitled under this part shall be 75 per centum of the cost of attendance at the institution at which the student is in attendance for that year, or $3,750, whichever is less.

"(B) For any student who has served at least four years on active duty as a member of the armed forces after September 30, 1980 the amount of the basic grant to which a student is entitled under this part shall be 100 per centum of the cost of attendance at the institution at which the student is in attendance for that year, or $5,000, whichever is less.

"(C) For the purpose of this paragraph an individual qualifies only if the individual was discharged or released under conditions other than dishonorable from the last period of active duty prior to the determination, as determined by the Secretary of the military department concerned.".

On page 137, line 20, strike out "Sec. 403." and insert in lieu thereof "Sec. 404.".

On page 111, line 20, strike out "Sec. 404." and insert in lieu thereof "Sec. 405.".

On page 113, line 19, strike out "Sec. 405." and insert in lieu thereof "Sec. 406.".

On page 124, line 13, strike out "Sec. 406." and insert in lieu thereof "Sec. 407.".

On page 126, line 2, strike out "Sec. 407." and insert in lieu thereof "Sec. 408.".

On page 126, line 4, strike out "Sec. 408." and insert in lieu thereof "Sec. 409.".

On pages 10 and 11, in the Table of Contents, redesignate items "Sec. 403." through "Sec. 408." as "Sec. 404." through "Sec. 409." and insert immediately after "Sec. 402." the following:

"Sec. 403. Military service and basic educational opportunity grants.".

Mr. STEVENS. Mr. President, I know this is a different subject, and I apologize to the managers of the bill for not having had sufficient time to discuss it in full with them.

I am offering this amendment because I am disturbed about the lack of volunteers in our armed services. I am worried that if the present trend continues in our manpower shortfalls our volunteer forces will be inadequate to meet our defense needs. Incentives need to be provided to help recruit qualified enlistees.

Currently, the basic opportunity grant program needs new focus. Recipients of this student aid program should serve their country in an important and honorable way in exchange of our country's generosity to them. If we could do this we will have helped the armed services recruit and retain enlistees as well as curtail the runaway growth of the BEOG program.

Let me illustrate my point by using some statistics:

From the school years 1973 to 1977, 4 years, HEW awarded 3.9 million grants totaling $2.9 billion under the BEOG program. Last year alone HEW awarded grants to 1,893,000 individuals costing the Government $1.560 billion, almost half as much in 1 year as we spent in the 4 previous years. In 1980, the funds allocated to the BEOG program will amount to $2.27 billion.

Aside from the enormous cost of the BEOG program, I have been apprehensive that through the continued expansion of this program Congress is providing a disincentive to those we wish to have join the Armed Forces. The present student aid programs undermine the student aid programs being offered by

The $18 million figure in the Senate version is more on the mark. The $100 million authorized by the House is much too great. We need a defined and appropriate Federal role in encouraging continuing education opportunities for the elderly and other underserved groups. But our policy in adult education cannot follow the route of Federal elementary and secondary programs of entitlements and formula grants, costing hundreds of millions of dollars.

I do have a couple of concerns about the Senate title I package which I would like to raise at this point.

The first area of concern to me is the provision in title I, part B which allows support of day care services and training for day care personnel and paraprofessionals. The lack of adequate day care is certainly a barrier to women with children who wish to further their education. I do not believe, however, that it is within the scope of the continuing education section to actually provide the social services to remove educational barriers. The whole idea of coordinating this section with title XX of the Social Security Act, the Older Americans Act, and other Federal education and social service programs is to allow the States and the grantees to use appropriate mechanisms in existing law to remove such barriers.

I know, for instance, that transportation represents a serious obstacle to many older persons who would like to participate in education. Yet I do not propose that we expand the provisions of title I to allow part B funds to be used for this purpose. I would hope, instead, that the States and grantees would coordinate title XX and other resources in such a way as to use alternative sources to remove transportation barriers where they exist, leaving part B funds for planning and development of education programs and information outreach. I believe the issue of day care for children could be handled in the same way.

The second concern I have is with the several provisions of part C of title I. Certainly, higher education institutions are facing a challenging and financially troubling decade ahead as enrollments of traditional college-age students decline. And I certainly approve of the effort, in part A of title I, to study the ability of postsecondary educational institutions to meet this and other, future challenges. But should we not wait for the findings of such a study before embarking on yet another new program? Moreover, the imperatives of current budget considerations point to targeting Federal education dollars to special needs students, which provides the States and institutions incentives to adapt, rather than embracing direct aid to institutions.

I have no problem with the desire to help those populations targeted by the women's worksite demonstrations or the youth employment programs. The question I have with these new programs is the mechanism for addressing the very real issues which lie behind them. Part B includes women as a target population, and postsecondary institutions have an important contribution to make in alleviating the problems facing women who want to, or need to, reenter the workforce. We are already considering a youth initiative, which I wholeheartedly support, and within that context there is certainly a role for institutions to play.

However, title I of the Higher Education Act—a title which has been refined and focused on promoting educational access to the range of underserved adults—should not be carved up into a number of different programs for specific groups. That approach puts the competition for funds, again, at the Federal level, rather than letting States and a variety of public and private institutions determine which of the national priority groups are most in need at the State and local level. From an appropriations perspective, the set-asides from other Federal programs, such as CETA and the youth initiative, to fund the youth unemployment activities under part C will be difficult, if not impossible, to monitor in terms of overall program objectives. The Appropriations Committees would have their hands tied in determining how basic allocations for education and training would best be spent to achieve overall missions.

I do not feel these concerns outweigh the positive focus, and the excellent work of the Labor and Human Resources Committee, in the part B provisions for State planning and continuing education. What I hope is that consideration will be given to how these issues relate to the overall policies we are pursuing in programing for nontraditional students.

UP AMENDMENT NO. 1263

(Purpose: To broaden the policy statement with respect to the National Institute of Education to include age)

Mr. CHILES. Mr. President, I at this time will submit the amendments and could either ask for their consideration en bloc or individually, however the ranking member and the chairman will desire.

Mr. PELL. Mr. President, are these amendments being considered en bloc or are we having four separate amendments?

Mr. CHILES. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes unprinted amendment numbered 1263 en bloc.

The amendment is as follows:

On page 326, between lines 12 and 13, insert the following new section:

DECLARATION OF POLICY

SEC. 1302. The first sentence of section 405(a)(1) of the General Education Provisions Act is amended by inserting after "sex" a comma and the word "age".

On page 326, line 14, strike out "Sec. 1302." and insert in lieu thereof "Sec. 1303.".

On page 15, in the table of contents after item "Sec. 1301." insert the following new item:

Sec. 1302. Declaration of policy.

On page 16, in the table of contents, redesignate item "Sec. 1302." as item "Sec. 1303.".

On page 326, between lines 12 and 13, insert the following new section:

RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 1302. Section 405(b)(2) of the General Education Provisions Act is amended by—

(1) striking out "and" at the end of clause (D);

(2) by redesignating clause "(E)" as clause "(F)"; and

(3) by adding after clause "(D)" the following new clause:

"(E) special problems of the nontraditional student, including the older student (with special consideration for students over age 45) and the parttime student, and the institution which the student attends;".

On page 326, line 14, strike out "Sec. 1302." and insert in lieu thereof "Sec. 1303.".

On page 15, in the table of contents, insert after item "SEC. 1301." the following new item:

Sec. 1302. Research and development priorities.

On page 16, in the table of contents, redesignate item "Sec. 1302." as item "Sec. 1303.".

On page 330, between lines 12 and 13, insert the following new section:

EVALUATION REPORTS

SEC. 1504. Section 417 (a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period a comma and the following: "including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries".

On page 16, in the table of contents, insert after item "Sec. 1503." the following new item:

Sec. 1504. Evaluation reports.

On page 39, between lines 9 and 10, insert the following new section:

"STUDY OF ADULT POSTSECONDARY EDUCATION

"SEC. 110. (a) In order to support the activities authorized by this title, the Secretary shall conduct a study of the remaining barriers to adult postsecondary education which shall analyze the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of this study, the term 'adult postsecondary student' means individuals twenty-two years of age or older.

"(b) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Secretary shall, at a minimum—

"(1) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(2) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

"(3) evaluate the extent to which the inavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

"(4) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 65 and older.

"(c) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Secretary shall, at a minimum—

"(1) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers felt in the growth of nontraditional, or adult students as participants in postsecondary education.

In addition to these factors, we are also seeing a dramatic shift in demography. The "baby boom" generation is reaching adulthood, and America's adult population is "graying." Today, every ninth American—that is 11 percent of the population—is over 65. By the end of the first half of the 21st century, one in every four or five Americans will be over 65, and the percentage of 22- to 64-year-old workers to support the elderly will have declined.

The Labor and Human Resources Committee has explored the impact these demographic trends will have on our educational system and postsecondary institutions. This is certainly a subject that needs more study, both from the standpoint of the capacity of educational institutions, the States, and private industry and organizations to meet the educational needs of adult students, as well as research on exactly what these educational needs are. But we also need some preparation for today's adult and older student, particularly those who have faced barriers in seeking an adequate education.

As a member, and now chairman, of the Special Committee on Aging, I have supported the lifelong learning program since its inception. However, there have been some problems with the original program, which S. 1839 attempts to address in its State planning and continuing education part. There has traditionally been little focus to title I. Some of the federally-supported projects have been excellent and in tune with national priorities. Others have been efforts which could be handled through State or other Federal programs. Likewise, funded projects have not consistently been targeted to special needs groups and underserved populations. Therefore, securing funding for those worthwhile projects has been difficult, and appropriations for title I have been declining.

I wholeheartedly support the new provisions for State planning and continuing education and would like to mention some of the strengths of the new title I, part B:

Funds are targeted to underserved adults, such as the elderly, the disadvantaged, women reentering the workforce, the handicapped, et cetera, and are focused on eliminating barriers to participation in education by these groups.

The States are given incentives and responsibilities for planning and coordinating educational programs for underserved adults. The provisions allow greater flexibility on the part of the States to assess the needs of their adult population and to see these needs are met.

Part B provisions also recognize that the Federal Government alone cannot provide the education programs necessary to reach the diverse and vast population of underserved adults. The provisions wisely rely on State planning and coordination of continuing education projects to attract the resources and expertise of postsecondary institutions, business and industry, labor organizations, and other public and private agencies—including area agencies on aging—into a comprehensive network of adult education programs.

By combining the authorizations for continuing education and related activities—such as educational information centers and postsecondary education commissions—into one, the new part replaces three separate appropriations with one, allowing States to balance needs assessment, planning, and information services within an integrated system.

The new part also reduces paperwork and redtape for the States by replacing several separate requirements for annual plans with a single report on how each State's planning process is related to the activities funded under part B and the needs of underserved adults.

In our efforts to revitalize the continuing education program of the Higher Education Act, we should keep in mind that it is one of a number of Federal education programs which can benefit adults and the elderly. Title I of both the Senate and House bills require that the continuing education provisions be coordinated, at the State level, with funds and activities of related programs, such as the Older Americans Act, title XX of the Social Security Act, the Vocational Education Act, CETA, et cetera. I have noticed all laws these days contain requirements for coordination among programs, but many times it just does not happen, and we end up with waste, duplication, or a certain target population simply falling through the cracks and not being served. I believe the purpose of having State planning go hand in hand with continuing education is to avoid this situation. I trust what we will see with the new title I is States' stepping back, taking an overall look at where their resources are going and how they are fitting together with adult education needs, and developing a workable continuing education system.

This type of coordination is not something that should just be done at the State level, but within the Federal Government as well. I have been trying to accomplish it through mission budgeting and OMB oversight of paperwork and regulatory reform. In the case of education programs for older Americans, the new program for continuing education and outreach will be administered primarily by the Office of Postsecondary Education. But the elderly can also benefit from programs administered by the Office of Vocational and Adult Education, the community schools program of the Office of Elementary and Secondary Education, the Fund for Improvement of Postsecondary Education, as well as programs offering educational and training opportunities of other Federal agencies including the Departments of Labor, Agriculture, and Health and Human Services. I believe the only way we can maximize the potential for the elderly to benefit from these programs, and minimize wasted resources and duplication, is to appoint a policy level individual in the Department of Education to be directly responsible to the Secretary and to coordinate education programs for older Americans. Accordingly, I have asked the Secretary of Education to make such an appointment and to assign that individual responsibility for participation by the elderly in education programs administered by the Department and other Federal agencies. Again, I believe the obligation to streamline and interface programs effectively and use limited resources wisely is both a State and Federal responsibility, and I look favorably upon the provisions of title I which address this need.

I have four amendments to the 1980 education amendments which will complement the State planning and continuing education provisions in terms of education for adults, particularly older Americans, as nontraditional students.

Two of my amendments are companion measures to those offered by Representative STACK in the House of Representatives to the NIE reauthorization. One adds age to the statement of purpose of the National Institute of Education, broadening the concept of equal educational opportunity to encompass older Americans. The second establishes, as one of the research and demonstration efforts of the NIE, the study of special problems facing the nontraditional student, including older and part-time students, in pursuing educational opportunities.

My third amendment is identical to one introduced by Representative SIMON in the House to the Higher Education Act reauthorization. It requires the annual evaluation reports of the Department of Education to tabulate data on the effectiveness of programs by age, when such data is available.

Finally, the fourth amendment is similar to one offered by Representative BIAGGI authorizing the Secretary of Education to study the remaining barriers to adult postsecondary education faced by nontraditional students. The language I am offering also contains a special provision for analyzing the needs of older adults and their participation in educational programs. I would like to make clear that since there is the creation of a commission to study national postsecondary education institutions in the Senate version and a study of student financial aid in the House bill, my amendment is in no way intended to create a duplicative study. Neither of the other studies, as currently drafted, are focused on the needs of the underserved adult student. If the three can be combined in some rational way, so that each of the purposes are served without duplication and overlap, I am all for it. Of the three, I simply feel the needs and barriers faced by the nontraditional student are significant enough to merit inclusion in both the House and Senate bills.

I thank the Labor and Human Resources Committee for their willingness to accept my amendments. The committee deserves praise for their attentiveness to the needs of older persons, as well as for their effort to ultimately emerge from conference with realistic authorization levels for title I, part B. I hope that a reasonable authorization level for State planning and continuing education will be reached in conference negotiations.

that it is impossible to determine with precision such matters as how much property tax revenue would have been generated and how many pupils there would have been.

The Commission has chosen to settle for data that is less than ideal rather than discard the entire study. In the case approach, the staff of the Commission has been asking local planners and land-use experts to make their best possible projections of how the site would have been used, taking into account the topography of the site itself, the development of the region, and local needs in making their projections.

For the aggregate study, it would be assumed that the site would have developed in a way consistent with the development of the rest of the county. Using county data on land use, those county-wide patterns can be extrapolated to the site itself.

Even though data such as population, employment, and income are compiled at the county rather than the school district level, reasonably good estimates can be obtained. By relying on adaptive techniques, it has been found that data gaps can be circumvented, arriving at meaningful approximations.

The Commission staff has made two sets of estimates of the time required to complete the economic impact study: one for the completion of the study of military impacted districts, the other if the study were expanded to include all impacted districts. The basis for the projection of the time required for each case study is based on experience in working through the computation, analysis, and writing of two case studies. Time projections for the aggregate study are based on telephone conversations with technical personnel at the Department of Education and at the five Federal agencies from which the Commission staff is seeking data.

The time necessary to complete the study of military impacted districts will be 36 weeks, or almost 26 weeks more than remains. If the study were to be extended to all types of impacted districts, the study would require 77 weeks in all, or about 67 more than is now available. This assumes that the Commission should study six districts impacted by non-military activities, including those adjacent to non-military Federal lands and those serving children residing on Indian lands, children residing in low-rent public housing, undocumented aliens, and refugee children.

The time remaining in which to conduct the study extends from about June 1 to September 1. Since the middle of February, the two analysts associated with the study have made seven site visits to districts heavily impacted by military bases. The gathering and analysis of data associated with these visits have taken up the bulk of their time. They have also been involved in formulating the framework of the two studies and reporting to the Commission and to Congress about the study. Preliminary analysis of two districts has been completed.

All work for the final Commission report under existing law should be completed by early September in order to meet the deadline for the final draft to be completed.

The time required to complete the study far exceeds the time that remains. Experience from analyzing data for two case studies has shown that a joint staff effort will enable a case study to be completed in about 4.5 weeks. The visit itself takes a small portion of that period; the bulk is needed for the laborious, painstaking computations necessary to capture with the most precision possible the impact of the facility on the district. Another week is required to analyze and write up these results, and a final week is needed to type and edit the seemingly endless series of numbers and computations. With five case studies remaining, and two partially completed, about 24 weeks would be required to complete the case study approach of military impacted districts. The study of all impacted districts would require an additional half week per case study for the site visits that have already been completed.

Preparation for the aggregate, computer-based study has already begun. All the education-related data has been gathered, organized, and keypunched into the Department of Education computers. This includes data on such items as property tax revenues, education costs, and number of pupils for 1500 school districts. This data will enable the computation of the costs imposed by the Federal facility.

In order to determine adequately the benefits of the facility, the Commission needs data from five Federal agencies outside the Department of Education, including the General Services Administration, Department of Defense, Bureau of Economic Analysis at the Department of Commerce, the Census Bureau, and the Internal Revenue Service. Only these agencies can provide such data as incomes of federally-connected employees, number of civilian employees, and consumption patterns necessary to compute the positive effect on district revenues of Federal facilities.

Obtaining and applying data from these five agencies will be a time-consuming task requiring, in sum, up to one month. The initial problem is simply gaining access which, agencies told the Commission staff, should take about one week. The major problem then becomes adapting and transferring data from one agency's computer to that of the Department of Education. This requires a detailed examination of the data available and how it matches requirements.

Unless the Federal agency has the same identification code as the Department of Education, the desired data is to be adapted to fit the Education Department code. The agencies contacted do not have the same identification code.

Once the transfer has occurred and the Education Department computer has generated results, the 200 districts are to be analyzed. The Commission will be looking for relationships between key characteristics associated with bases and the net burden imposed by the facility. It will try to determine their magnitude and the significance of relationships between the net Federal burden and variables such as number of "A" and "B" pupils, base location, the number and type of base employees, and on-base sales. This will require that the 200 districts be grouped according to these characteristics, and that regressions be run to determine the relationship between the different variables and Federal impact.

Finally, during the course of the Commission's hearings, many witnesses raised questions about, and offered evidence on, types of Federal activities and policies not heretofore considered for compensation under the Impact Aid Program. Among these were the costs of complying with Federal laws and regulations and the costs of providing educational services for refugee children and the children of undocumented aliens. The Commission had not adequately prepared for the study of these questions but has determined that they are so substantial that recommendations on them are merited. At this time, were the Commission to expend the resources necessary to do these questions justice, the central part of the study of the Impact Aid Program would suffer.

For the above stated reasons, the Commission finds that reports supplemental to its Final Report should be prepared and submitted and recommends that the following legislative proposal be enacted to authorize such reports.

Mr. PELL. Mr. President, the Senator from California and I have discussed this amendment. It seems to be a good amendment, and I recommend, on this side, that the amendment be accepted.

Mr. STAFFORD. Mr. President, this goes into a matter which is outside the scope of the Higher Education Act of 1980, which is now before the Senate.

The Senator from Vermont does not wish to see it as a precedent for considering extraneous matters, even though we understand that no rule of germaneness applies. Aside from a reservation that it is outside the scope of the pending measure, the Senator from Vermont is prepared to accept the amendment for the minority.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I thank both Senators.

I note that some community colleges will be affected by the nature of this amendment.

EDUCATION FOR OLDER ADULTS: THE NEW TITLE I

Mr. CHILES. Mr. President, I commend the Labor and Human Resources Committee, the Subcommittee on Education, Arts and Humanities, and particularly my colleagues Senators WILLIAMS, JAVITS, and PELL for their leadership in including the House-passed provisions for Education Outreach in the State Planning and Continuing Education part of title I of S. 1839, the Education Amendments of 1980.

The potential benefits of the revised "lifelong learning" provisions for older Americans are great. A coalition of groups—representing not only the elderly, but also other adults currently underserved by education programs, business, labor, the States, and postsecondary education institutions—has done a fine job in designing a continuing education component of the Higher Education Act which is workable. The cooperative spirit of this coalition has been crucial in helping Congressman BILL RATCHFORD, the House Education and Labor Committee, and now the Senate in ironing out some of the problems and inadequacies of the existing program.

Call it lifelong learning, education outreach, continuing education, whatever you wish—it is the concept that is important. Our country has undergone vast economic, technological, and social changes since World War II. The days when an individual can "prepare for life" and a single career with 12 or 16 years of schooling are over. I understand today's high school graduates will have to retrain for new careers three to five times during their working years. Young and middle-aged adults are having to change their career plans midstream. Women and older persons are having to enter, reenter, or remain in the workforce due to changes in the economic and family structure. These trends are already being

The amendment is as follows:

On page 330, between lines 12 and 13, insert the following:

"COMMISSION ON THE REVIEW OF THE FEDERAL IMPACT AID PROGRAM

"SEC. 1504. (a) The Commission on the Review of the Federal Impact Aid Program, established under section 1015 of the Education Amendments of 1978 shall be continued for the purpose of enabling such commission to prepare and submit to the President and the Congress not more than three reports supplemental to its final report required under the provisions of such section 1015. The first of such reports shall be submitted no later than July 1, 1981; and the last thereof shall be submitted no later than 180 days after the submission of the first thereof. Such supplemental reports shall include such information and recommendations as such Commission determines to be appropriate and shall at least include reports on studies of—

"(1) the economic benefits and burdens on local educational agencies resulting from activities taking place on Federal property;

(2) the operation of the programs authorized by Public Law 874, Eighty-first Congress, with respect to children residing on Indian lands;

(3) the relationship between such programs and State programs of payments to local educational agencies, including equalization plans;

(4) payments to such agencies for the education of children residing in low-rent public housing; and

(5) the costs to such agencies of complying with Federal laws and regulations and of serving children who are in attendance at their schools by reason of Federal policies.

"(b) All funds designated, allocated, or otherwise available (or to be available) to the Commission for its operating expenses shall, notwithstanding any other provision of law, be made available to such Commission, and remain available to such Commission for such purpose until expended, without regard to fiscal year limitations. In addition, with respect to the fiscal year ending September 30, 1981, the Secretary of Education shall, notwithstanding any such provision of law, make available to such Commission, from any funds appropriated to the Department of Education, such funds as may be necessary to enable the Commission to maintain its level of operations, except that the total amount so available for any month shall not exceed 110 per centum of the average monthly amount available for expenditure by the Commission during the fiscal year ending September 30, 1980.

"(c) in exercising its authority to appoint and compensate necessary staff under part D of the General Education Provisions Act, such Commission shall have such authority without regard for the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, regarding the classification of positions and the qualification of persons to fill such positions. Upon the expiration of the Commission all persons employed by the Commission for a period in excess of one year shall be considered as having held permanent positions in the Government service for the period of their employment by the Commission.

"(d) The terms of office of the members of such Commission shall be coterminus with the duration of the Commission and the number of such members shall be equal to the number who are in office at any time, except that such number shall not exceed the number specified in such section 1015. A quorum of the Commission shall be equal to a majority of the members of the Commission who have qualified.

"(e) This section shall be effective upon the submission to the Congress of a Special Report of such Commission requesting the authority provided in this section.

On page 16, in the table of contents, after item "Sec. 1503." insert the following new item:

"Sec. 1504. Commission on the Review of the Federal Impact Aid Program.".

Mr. CRANSTON. Mr. President, the Commission on the Review of the Federal Impact Aid Program, established under section 1015 of the Education Amendments of 1978 (Public Law 95–561), recently submitted an interim report regarding the continuation of and funding for the impact aid program authorized by Public Law 874, 81st Congress. Many Members of the Congress, myself included, have found the report to be of great value in our continuing assessment of the impact aid program, and I believe the Commission is to be commended for its timely and perceptive effort.

The Commission, however, will consider making a special report to the President and to the Congress based upon its very thorough economic impact model. Because the economic impact review is at the very heart of the Commission's work, I am submitting an amendment to the pending bill that would extend the life of the Commission in order to provide not more than three reports supplemental to its final report.

My amendment has been discussed with the majority and minority floor managers of the bill and I believe it is acceptable to them.

Mr. President, I ask unanimous consent that an explanation of my amendment, provided at my request by the Commission, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

IMPACT AID COMMISSION SPECIAL REPORT

On April 29, 1980, this Commission submitted an Interim Report, adopted on April 22, 1980, which was followed by Supplemental Documentation on May 6, 1980. The Interim Report, together with its Supplemental Documentation, was submitted as the result of congressional requests regarding the continuation of, and funding for, the Impact Aid program, which is authorized by Public Law 874, Eighty-first Congress.

Chapter II of the Supplemental Documentation reported on the uniqueness of having an education program evaluated by a multi-member, presidentially appointed Commission, a staff of Government employees and using regular procurement and contracting procedures. That Chapter also contained information regarding some of the difficulties which naturally arise when those procedures are not adapted to meet the needs of a time-limited study, having a very narrow and definite purpose.

The inability to adopt procurement, personnel, and contracting procedures to meet the needs of this Commission has caused sufficient delay in the conduct of three very important areas of study respecting the Impact Aid Program:

"(1) the special provisions of Public Law 874, Eighty-first Congress relating to the education of children residing on Indian lands; (2) the relationship between payments under that program and programs of State aid for public education; and (3) those provisions of that law which provide for payments to local educational agencies with respect to children who live in low-rent public housing."

Each of these areas is complex and needed the expertise of highly qualified persons to study them. It had been the intention of the Commission, under its Plan of Study, adopted December 14, 1979, that each of these studies either be the subject of a special contract or be dealt with by experts capable of handling the complex issues inherent in them.

Each of these studies was delayed several months because contracting them was almost impossible (normally the contract approval process takes about six months) or because normal rules would not permit compensation at rates sufficient to employ the persons qualified to do the work.

The Commission has studied these areas and expects that it will be able to report on them; however, the quality of the study has not been equal to that to which other areas of the program have been subjected or to that which the Commission expects of itself. In the time remaining it is unlikely that the complexities of these issues can be dealt with in the manner consistent with the standards set by the Commission regarding the quality and depth of the study.

In addition, the Commission has been conducting an in-depth study of the economic effect of Federal activities on the fiscal ability of local educational agencies to operate their schools. In order to conduct this study the Commission is using an economic impact study to measure the fiscal impact of Federal facilities on school districts. The goal of the study is to determine whether a Federal presence in a community confers a burden or a benefit on the finances of a school district. This study represents the first comprehensive attempt to evaluate whether districts receiving Impact Aid receive a net economic benefit or burden from the presence of the Federal Government in their community.

Two complementary studies are being conducted. The focus of both has been on school districts with military bases. The first uses a case-study approach to examine, as intensively as possible, seven districts heavily impacted by military installations. It requires site visits to gather information from district, city, and county officials and to obtain the most precise, site-specific data available.

The second study covers a more extensive sample of several hundred districts. It relies on more general and accessible data compiled in or transferred to the Department of Education computer to gain an overview of the impact of Federal activities. Results from the two studies should capture, as deeply and as broadly as possible, the economic impact of Federal facilities on school district finances.

This is the first study of its kind ever attempted. The Battelle Institute report on Impact Aid to the Office of Education and to Congress in 1969 determined that such a study would be "impossible" because of data limitations, citing two problems in particular: the speculative nature of trying to determine how the site would have been used if the Federal facility were not there and the limited availability of school district data.

The National Planning Association proposal to the Office of Education in 1975 recommended that a study be undertaken, but suggested that calculations be done for communities, not school districts. The Commission has determined that an economic impact study is essential to a review of the Federal Impact Aid Program.

The study should evaluate school districts if it is to reach results with policy application. The Commission has analyzed the limitations of such a study and considers it has formulated a workable approach, even though it is prepared to admit article by Nancy Kluver. She is a freelance writer.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Northwest Orient Airlines, June issue]

COLLEGES: REPOSITIONING FOR THE EIGHTIES

Time was when private college admissions staffs had the delectable task of picking and choosing which of the brightest and best entered their hallowed halls. But almost as radically as they were a decade ago, the times, for private institutions of higher learning, they are a-changin.'

By 1984 the number of 18-year-olds in this country will have dropped by 15 percent from what it is now. Combine that rather ominous statistic with rising inflation, loss of VA benefits and second thoughts by the public in general about the economic return on a college education, and you have what appears to be a crisis situation for America's private colleges.

But while national analysts are predicting that at least 13 percent of the country's private academic institutions will not survive this decade, some of these institutions' leaders believe quite the opposite. With some fine minds at their disposal and a conviction about the value of what they are offering, these colleges—colleges like Boston University—are cautiously optimistic about the next decade.

The sprawling urban campus of Boston University, like many of the nation's older universities, has an air of permanence surrounding it. No matter what its recent turmoils over the embattled presidency of John Silber, Boston University has a large survival edge over smaller colleges, according to Tony Pallett, executive director of admissions and financial assistance.

"Institutions that have already established their reputations," says Pallett, "will not have as much of a problem as smaller schools." At Boston University, undergraduate enrollment is stable, SAT scores for entering students have risen and annual giving has increased.

But that's not to say BU is immune to the decade's new demands. Within its undergraduate schools, enrollment has shifted from traditional humanities to business or management schools, reflecting students' increasing clamor for greater career orientation. And recognizing the national demographic trend with regard to 18-year-olds, Boston has found it advantageous to expand its recruiting area, attempting to pull in students from outside the Northeast corridor.

If institutions the size of Boston University adjust relatively easily to shifting demands, smaller schools are much more vulnerable to change. Some small private institutions find themselves unprepared for the coming troubled years. Others, however, have put forth a heartening amount of thought toward solving their new problems and have arrived at some innovative solutions.

Carleton College, located amidst the rolling farmlands of southeastern Minnesota, is impressive in its farsightedness. Since 1973, Dan Sullivan, associate professor of sociology and dean of academic development and planning, has been studying Carleton's admissions process with an eye toward marketing "the least-expensive, highly selective college in the country."

And marketing is the key. Formerly a tool used only by business, colleges are quickly realizing its value. As part of the marketing process, it's essential, according to Sullivan, for colleges to understand how they are perceived, what they have to offer, what the demand is, and who the competition is; in short, to understand how the system works. Nearly all, if not all, of the schools such as Carleton that are using this approach have had to develop marketing talent from within their own ranks instead of hiring expensive outside consultants. In the process, they have received an education in marketing principles.

Carleton, says Sullivian, had two survival options. It could diversify or it could specialize. The problems with diversification were twofold. A college is hard-pressed to diversify unless it is located in an urban area, where, for instance, it would pull in adult part-time students or establish exchange programs with large companies. Diversifying also means the college's original areas of expertise suffer, says Sullivan.

Carleton opted to specialize. In addition to maintaining its rigorous academic standards, specialization for Carleton included expanding its library, seeking out the best faculty, trying to pay them well, raising money for endowed chairs and working diligently to keep financial aid opportunities open.

Reliance on traditional strengths is also the tactic adopted by Luther College, an American Lutheran Church (ALC) affiliate of roughly 2,000 students. The Lutheran population of the Upper Midwest and the largely Scandinavian community of Decorah, Iowa, have nurtured Luther for many years, and the college wisely emphasizes its Lutheran heritage.

Financial assistance from the ALC this year amounted to $205,000. But area Lutheran churches are also vital recruiting stations, and anticipating smaller applicant pools, Luther recently appointed an associate director of church relations to foster its relationship with the church.

Luther's most important emphasis, according to both Dave Snow, admissions director, and Frank Barth, vice-president of financial affairs, centers on the qualities that have been the mainstay of private colleges for generations—academic excellence and the individual attention given to students. These qualities are still strong drawing cards.

Religious affiliation is also a major selling point for Seattle University, a Jesuit institution of just over 4,000 students located in the heart of Seattle, Washington. But its urban locale also affords it a field for innovation.

In 1975, Seattle University annexed Matteo Ricci College, formerly Seattle Preparatory High School, and established an accelerated academic program that enables an entering high school freshman to earn a degree in six years.

Seattle U has also begun recruiting adult part-time students in the Seattle area, a move that has increased enrollment and raised the mean student age to 31. A good relationship with Seattle's Boeing Corporation has resulted in many of that company's employees swelling the part-time pool of students.

Innovative measures, of course, are crucial to any good marketing scheme, and Michael Fox, Seattle U's director of admissions, reiterates the value of marketing in academia. Colleges can legitimately sell themselves, in Fox's opinion, on the basis of the essential services they've always provided—developing in students a basic understanding of the humanities and of the development of Western culture, and teaching students to write, think and articulate.

But however fundamental these needs will always be, problems in meeting them loom large. According to Fox, colleges are competing for the least accessible family dollar, and parents, as well as students, know a college education no longer guarantees a good job.

Unpredictable compensations, the phenomena that Dan Sullivan refers to as historical accidents, are also apparent, however. Carleton, for example, has had a run of good presidents and Seattle University is located in an area that at present is booming economically.

So the situation facing America's private colleges seesaws, with the majority of them looking toward a difficult decade. By its end, some private schools will be gone. But the best of them, meeting traditional needs and offering new services, will survive.

Mr. RANDOLPH. Mr. President, the article is entitled "Colleges: Repositioning for the Eighties," and it states:

> Faced with the prospect of fewer students and rising costs, private colleges are taking a lesson from their own business schools.
>
> They've enrolled in Marketing 101 and are learning to sell themselves.

That is the theme I stress. We must accentuate the positive and we must eliminate the negative with respect to the value of these colleges to the higher education system in America. The article refers to Carleton College, located in the farmlands of southeastern Minnesota, as impressive in its farsightedness. So writes Nancy. At Salem we are looking ahead; we face a challenge.

On these independent college campuses, the students, the faculty members, and the trustees, are increasingly positive rather than negative. Our commitment is real to keep these colleges in a constructive posture in the mainstream of our educational program.

My words are not spoken as deprecating the public-supported colleges and universities. The article, I believe, will be informative and helpful reading for Members of the U.S. Senate.

I read the last paragraph of the article:

> So the situation facing America's private colleges seesaws, with the majority of them looking toward a difficult decade. By its end, some private schools will be gone. But the best of them, meeting traditional needs and offering new services, will survive.

That has been the thrust of what I have said here; we are not closing our doors. We are a vital part of an educational system, even though as trustees and graduates of these institutions we are asking here and there—and it seems everywhere—for financial aid for our private colleges.

Whatever we do here on this higher education bill, let us act with realism as we understand the values and the hopes of independent colleges and universities of America.

UP AMENDMENT NO. 1262

(Purpose: To extend the life of the Commission on Impact Aid for the purpose of special reports)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1262.

Mr. CRANSTON. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

"(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

"(c) The Committee shall, with respect to all matters pertaining to institutional program eligibility—

"(1) advise the Secretary with regard to his responsibility for the recognition and designation of recognized accrediting agencies and associations;

"(2) advise the Secretary with regard to the development of criteria and procedures for recognition and designation of recognized accrediting agencies and associations;

"(3) advise the Secretary with regard to the formulation of policy relating to institutional or program eligibility;

"(4) advise the Secretary with regard to his responsibility to designate State agencies as reliable authorities on the quality and probity of public postsecondary vocational education or training and of nurse education and training in their respective States;

"(5) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

"(6) review existing legislation affecting the Secretary's responsibility with regard to accreditation and institutional or program eligibility and suggest appropriate revisions, if any;

"(7) review, and advise the Secretary with regard to developments in the accreditation process in all levels of education;

"(8) advise the Secretary with regard to his responsibilities in relation to the award of degree-granting status to Federal agencies and institutions; and

"(9) carry out such other advisory functions relating to accreditation and institutional or program eligibility as may be assigned by the Secretary.

"(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

"(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1985.".

On page 15, in the table of contents, after item "Sec. 1203." add the following new item:

"Sec. 1204. National Advisory Committee reestablished.".

Mr. PELL. Mr. President, this amendment restores a situation which was valid in the past and which, through mischance, has caused a vacuum.

The National Advisory Committee advises the Department on its institutional accreditation procedures.

Currently the Department has not decided what it wants to do in this area. It recommended to our committee that State licensing procedures replace accreditation. We did not accept that recommendation.

In assuming that its recommendation would be accepted, the Department has allowed this Advisory Committee to expire.

This amendment reauthorizes the Advisory Committee, and continues the provision of institutional advise to the Department in its accreditation decisions.

It is an amendment that is necessary simply because a vacuum was created, and this is one of the few advisory committees where they performed a function that was really needed.

I recommend that my colleagues accept this amendment.

Mr. STAFFORD. Mr. President, on behalf of the minority, we have examined the amendment with the manager (Mr. PELL), and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1261) was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

INDEPENDENT COLLEGES ARE IMPORTANT

Mr. RANDOLPH. Mr. President, the independent colleges, the private institutions of higher learning, throughout the United States are facing very critical times. Universities and colleges, publicly supported, are in the category of those with a much lesser financial strain. I stress that the independent colleges are in very crucial periods of their history.

At Davis and Elkins College in my hometown, we are celebrating our 75th anniversary as an institution. The college carries the name of two former U.S. Senators, Henry Gassaway Davis and Stephen Benton Elkins.

It was said of Senator Davis that "he worked as if he were to live forever; he lived as if he were to die tomorrow."

I mention that reference to his life to indicate that as one of the founders of the college to say we must have a commitment to work for the well-being of independent higher education.

The institutions, 10 in number, in West Virginia, are the University of Charleston, Salem, Davis and Elkins, Alderson-Broaddus, Bethany, West Virginia Wesleyan, Ohio Valley, Beckley, Wheeling, and the Appalachian Bible Institute. Our two State universities, West Virginia at Morgantown, and Marshall at Huntington, are located in the northern part and the southern part of our State. Their larger student bodies run into the thousands and thousands.

I am thinking now of the importance of higher education through our independent college system, the college of a thousand students.

In Salem College, we have pratically no church constituency, as does Davis and Elkins College with the large Presbyterian population, or Alderson-Broaddus College with a very substantial group of Baptists, or West Virginia Wesleyan with a congregation of very considerable size, who are members of the Methodist faith.

Salem was founded by a group of 13 gentlemen who formed themselves into the corporation which brought the college into being.

My grandfather was one of the founders and the first chairman of the college board. My father was the first graduate to receive the bachelor of arts degree. I was graduated in 1924 and served for 50 years on the board of trustees, as had my father. Now, one of our two sons is a trustee.

It is not history and heritage that can keep a college alive these days, no matter how many families there were who felt the importance of bringing into being a college in the State of West Virginia of this type where we could aid young men and women who did not have the financing needed to attend the larger universities, at the time when our college was founded, located in the East.

Salem has been a developing college, an innovative college. The arts degree, the science degree, yes. But were pioneers in many programs. We teach aircraft mechanics, an important subject in America that is on wings, as well as wheels. We also teach the piloting of aircraft.

We are the only college in the United States of America or the world with a master's degree in equestrian science education. We have horse stalls in a wooded part of our beautiful valley of learning. We have our covered riding arena. We have stalls for horses.

I have seen a young woman from New England driving into Salem in her car, pulling behind her car her horse in a trailer. She is coming to college with her horse. She is interested in equestrian studies. But she becomes interested in other subject matter, and becomes a graduate of our institution.

We had approximately 135 young women, more young women than young men, who were in this course during the recent college year.

I have taken time to speak of the West Virginia college situation because what we experience in West Virginia is being experienced in the private or independent colleges in higher education throughout the United States.

Every State has its complement of higher education institutions, independent, church-related, that are not publicly supported from within the State, as the large number of such colleges and universities in Florida, where thousands and thousands of students are enrolled. I have been on some of those campuses, I observe to my able colleague (Mr. CHILES) who is at his desk. It is a nationwide problem, but I have identified it with the State of West Virginia.

Mr. President, I ask unanimous consent to have printed in the RECORD an this around we have to prepare personnel as well as goods for exporting. We need people who are educated broadly for international business, people who not only understand such business operations but preferably also speak the language and understand the people of other countries. We need these people and their potential for initiative in far more firms in this country.

As our world has changed, we need to adapt faster. It is now in the national interest to assign some urgency to this aspect of Federal support for higher education.

Mr. STAFFORD. The Senator from New York is the initiator of part B. It stems from his long experience with both international economics and education. It has been a pleasure to work with him in developing part B.

It surely would have been fruitful to have had part B years ago. I am concerned that we now get off to a good start.

We want to encourage higher education institutions and the corporate community to cooperate in preparing people who will think about exporting as naturally as they now think about the familiar domestic market, people who will have both broad understanding and specialized knowledge.

We lag behind other countries in preparing such people, yet our economy is becoming increasingly international. We need to do better as a country, and we need the help of the business schools and others to move us in a more competitive direction.

Mr. JAVITS. Yes. The central point is that we need international backgrounds to do American business, and we have not gotten accustomed to that idea as rapidly as we should have. Most Americans doing international business work in the United States. We do not want to arouse expectations that people who have been through these programs will necessarily live abroad. Education for international business does not mean simply the preparation for an overseas assignment.

What it does involve, in my mind, is basic understanding of international economics, international finance, international marketing, and export administration. I have in mind such earthy subject matter as trade balances, export trends, currency basket pricing, Eurodollars, interest rate protection through the Eximbank, bills of lading, contracts, ocean freight, the organization of trade abroad, and working relationships with labor in other countries.

But additionally we envision, and we want to encourage, preparing American men and women for business who understand the cultures and politics of other countries and their languages.

Title VI, which authorizes area study and foreign language programs, is a magnificent vehicle for bringing these elements together in creative and constructive ways.

Mr. STAFFORD. We want to support export-related education on its own merits, but it would be ideal to bring about the blending you have mentioned. I would like, for example, to see some mixed curriculums involving the cooperation of schools of business and schools of international affairs.

The Advisory Board will help promote integration across these various fields and I think we should make it clear that appointment to the Board is intended to be more than honorific. The Department of Education does not have experience with international business education or matching grant programs involving the corporate sector. The business sector appointees should have the substantive background necessary to help assure that this program is successfully launched and monitored in terms of fulfilling objectives. This will require commitment of time and effort. Membership on this Board should be seen as an opportunity for constructive national service by knowledgeable people.

Mr. JAVITS. I agree entirely. Persons representing the business community on the Board should understand the workings of international business and what is relevant for success in this field. They should have a broad view of national and business needs and educational purposes.

UP AMENDMENT NO. 1260

(Purpose: To authorize teacher centers to provide training to familiarize teachers with developments in testing)

Mr. STAFFORD. Mr. President, on behalf of Senator Javits I now send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Stafford) on behalf of Mr. Javits proposes an unprinted amendment numbered 1260:

On page 237, after line 7, insert the following:

Sec. 503. Section 532(a)(2) of the Act is amended by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

Mr. STAFFORD. Mr. President, this amendment, which I introduced for Senator Javits as an amendment to S. 1839, the Education Amendments of 1980, is to authorize teacher centers to provide training to familiarize teachers with developments in testing as well as in curriculum development and educational research.

The fact that an increasing number of States—37 at last count—require minimum competency testing makes this amendment desirable. Coupled with this are other ongoing State and local assessment programs which indicate that testing continues to be a vital part of education.

The NAACP Report on Minority Testing (May, 1976) points out that:

> It cannot be overemphasized that the qualifications of the examiner or test user are equal to, if not more important than, the tests which are used, since even the best instruments in the hands of unqualified users can lead to disastrous results.

This amendment helps meet the need enunciated in the NAACP report.

This amendment involves no additional cost. It is similar to section 503 (b)(4) of H.R. 5192, the House-passed higher education bill.

Mr. President, I believe that my colleague, the majority manager of the bill, may be willing to accept this amendment.

Mr. PELL. Mr. President, I believe this amendment is a very good one indeed and I believe we should accept it.

Mr. STAFFORD. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 1260) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1261

(Purpose: To reestablish the National Advisory Committee on Accreditation and Institutional Eligibility)

Mr. PELL. Mr. President, I send to the desk, in behalf of Senator McGovern, an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pell), in behalf of Senator from South Dakota (Mr. McGovern), proposes an unprinted amendment numbered 1261.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 325, between lines 20 and 21, insert the following:

NATIONAL ADVISORY COMMITTEE REESTABLISHED

Sec. 1204. Title XII of the Act is amended by inserting at the end thereof the following new section:

"NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

"Sec. 1208. (a) There is established in the Office of Education a National Advisory Committee on Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable of education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

"(b) The term of office of each member of the Committee shall be three years, except that—

Manu's Island as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

On page 11, in the Table of Contents, after item "Sec. 1702." insert the following:

"TITLE XVIII—NEW LAND GRANT COLLEGES

"Sec. 1801. American Samoa and Micronesia land grant colleges.".

Mr. INOUYE. Mr. President, today, I ask my colleagues' most serious consideration of an amendment to the Higher Education Act of 1965. This legislation as reported from the Labor and Human Resources Committee, Subcommittee on Education, inadvertently forgot to provide the Community College of American Samoa and the Community College of Micronesia an opportunity to participate in certain land grant college education programs, which are presently provided for the colleges of Guam and the Virgin Islands. My amendment seeks to include the Community College of American Samoa and the Community College of Micronesia under the provisions of title V of the Education Amendments Act of 1972. This proposed measure will give these schools land grant status and provide for financial assistance as well as enabling them to offer programs in certain specific fields.

Guam and the Virgin Islands were incorporated into the Higher Education Act in 1972 under provisions of title V of the Education Amendments Act. Under these provisions the schools of higher education in Guam and the Virgin Islands became eligible for land grants from the Federal Government. Land grant status provides the school with use of Federal property but, in the case of Guam and the Virgin Islands, a cash endowment of $3,000,000 has been granted in lieu of land. The amendment I am offering would make the Community College of American Samoa and the Community College of Micronesia eligible for this cash endowment under the same conditions that apply to Guam and the Virgin Islands.

Land grant status would also extend programs in cooperative extension services and agricultural experimentation. These programs are available at those schools that receive land grants from the Federal Government. The land grant status gives these schools immediate eligibility for the benefits received from the Bankhead-Jones Act. Applying specifically to land grant schools, the Bankhead-Jones Act allots moneys for teaching. The funds go to the State and the State decides the teaching areas funds should be channeled to. The benefits of this act would greatly enhance the higher education programs of both the Community College of American Samoa and the Community College of Micronesia.

The part of this amendment pertaining to the Community College of American Samoa has already been included in H.R. 5192. I have been requested by Congressman BURTON and Governor Peter Coleman of American Samoa to include it in the Senate bill. I was also advised by the Micronesian liaison office that these benefits have not been extended to the Community College of Micronesia. In the spirit of fairness, I want to include the Community College of Micronesia in this amendment. Having included Guam and the Virgin Islands in the Education Amendments Act of 1972, I foresee no problems with extending these privileges to American Samoa and Micronesia. This proposed measure will give added dimensions to some of the most critical needs in improving Micronesia's and Samoa's education system, and this is certainly a tribute to our country's commitment to provide needed assistance to promote the education needs of the people of these Pacific Islands. I strongly urge the Senate's adoption of this amendment.

I have discussed this matter with the managers of the bill and I have been led to believe they are willing to take this to conference.

Mr. PELL. That is correct.

I do not believe it was inadvertently dropped in committee because it was not focused on or raised in committee. But now that it has been raised, at least speaking for the majority side, I agree with the Senator on it, and look forward to taking it to conference.

Mr. INOUYE. I thank the Senator.

Mr. STAFFORD. Mr. President, for the minority we are prepared to accept this amendment also.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (UP No. 1258) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1259

(Purpose: To assure the establishment of an information clearinghouse under the Rehabilitation Act of 1973)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an unprinted amendment numbered 1259.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 330, strike out lines 13 and 14, and insert in lieu thereof the following:

TITLE XVI—AMENDMENTS TO THE REHABILITATION ACT OF 1973

On page 330, strike out line 15 and insert in lieu thereof the following: "composition of the Architectural and Transportation Barriers Compliance Board and transmission of report".

On page 331, between lines 9 and 10 insert the following new section:

INFORMATION CLEARINGHOUSE FOR HANDICAPPED INDIVIDUALS

SEC. 1602. (a) The first sentence of section 15(a) of the Rehabilitation Act of 1973 is amended by striking out "may" and inserting in ileu thereof "shall".

(b) Section 15(c) of such Act is amended by striking out "Any" and inserting in lieu thereof "The".

On page 16, in the table of contents, strike out the matter relating to title XVI and insert in lieu thereof the following:

TITLE XVI—AMENDMENTS TO THE REHABILITATION ACT OF 1973

Sec. 1601. Composition of the Architectural and Transportation Barriers Compliance Board and transmission of report.
Sec. 1602. Information clearinghouse for handicapped individuals

Mr. BOSCHWITZ. Mr. President, this amendment is cosponsored by myself, Mr. RANDOLPH, and Mr. DOLE. It is an amendment that we have discussed with both the majority and minority managers of this legislation, and I believe they will accept it. It is a technical change having to do with the handicapped, and it is my understanding it will be accepted.

Mr. PELL. Mr. President, am I correct in saying that this will not involve the expenditure of any added funds?

Mr. BOSCHWITZ. That is correct. It will not involve the expenditure of additional funds that have not already been appropriated.

Mr. PELL. I thank the Senator and I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, might I ask the distinguished author of the amendment, I believe Senator RANDOLPH, the chairman of the Handicapped Subcommittee of the Committee on Labor and Human Resources, is agreeable to its adoption?

Mr. BOSCHWITZ. Oh, yes. Mr. RANDOLPH is a cosponsor of the amendment, together with Senator DOLE.

Mr. STAFFORD. In that case, since the Senator from Vermont is the ranking minority member of the Handicapped Subcommittee with Senator RANDOLPH, I would be glad to accept this amendment on behalf of the minority.

Mr. PELL. On behalf of the majority I feel the same way and I would recommend that we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1259) was agreed to.

Mr. BOSCHWITZ. I ask, Mr. President, to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PART B OF TITLE VI

Mr. JAVITS. Senator STAFFORD and I would like to discuss, in brief colloquy, the vision we had in mind in developing part B of title VI. This is the small but catalytic dollar-for-dollar matching grant program to encourage the preparation of American men and women to seek opportunities and careers in export-related activity.

The national need for such people is great. We have been running trade deficits of $30 billion per year, a development which has various consequences for this country, all unfortunate. To turn values vis-a-vis the complexities and demands of the modern world.

It is clear, however, that traditional modes of preparing an individual to become a contributing adult member of society have not proved relevant to Hawaiia's Native children.

I firmly believe that education is the key to survival and success in today's competitive world. Well constructed, responsibly implemented programs focusing on the special learning needs of Hawaiians can have an enormous impact on present and future generations of Hawaiians. The amendment now before the Senate provides for the development of such programs and their demonstration in the schools. It further provides for special training for teachers and other professionals serving Native Hawaiian students as well as for higher education fellowships and programs for Hawaiian adults seeking to increase their knowledge, skill and training.

I firmly believe that these provisions contain the potential for producing lasting solutions to many of the difficulties now encountered by our Native Hawaiian citizens.

The U.S. Congress has exercised its right to legislate on behalf of Native Hawaiians, like other native Americans, on other occasions, most notably in certain native American provisions of the Community Services Act of 1974 and in the Comprehensive Employment and Training Act. I hope that the U.S. Senate will once again recognize the Federal responsibility to this segment of our citizenry and the urgent need of Native Hawaiians for assistance by adopting my amendment.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by my colleague from Hawaii, Senator INOUYE.

As a cosponsor of S. 916, the Native Hawaiian Education Act, I share the concern expressed by the senior Senator from Hawaii.

Native Hawaiians have a lot in common with other native Americans. There are, of course, some striking differences between Hawaiians, American Indians, and Alaskan Natives. For example, the Hawaiian people do not enjoy the special rights and privileges granted to certain Indian tribes by the U.S. Government. They have never lived on a reservation, as many Indians have. No special recognition was granted to them when Hawaii became a State in 1959. On the contrary, the Federal Government's attitude toward the Native Hawaiian has been one of neglect.

Like the Indian people, Native Hawaiians were profoundly affected by the arrival in this country of the Western European. When the Hawaiian Islands were unified into one kingdom by King Kamehameha I in 1795, the population stood at approximately 300,000. History tells us that the early Hawaiian was a vigorous, hard-working, productive and family-oriented person. His place in the social structure was well defined by tradition and custom, and his relationships with his family and neighbors were based on cooperation.

With the coming of the Western Europeans, the situation changed rapidly. Not only did they bring a variety of new diseases which decimated the Hawaiian population, they brought the concepts of free enterprise, competition, and private ownership, all of which were alien to the Hawaiian culture. By the middle of the 19th Century, the Hawaiian had seen his ancestral lands pass from his hands into the hands of the newcomers. In 1893, his own Government and the lands of the crown were also taken from him. The government of Queen Liliuokalani was overthrown by a small band of non-Hawaiians assisted by the American Minister to Hawaii and a detachment of Marines from the U.S.S. *Boston*, which was paying a visit to the islands. The failure of the U.S. Government to restore the monarchy, or at least to compensate the Hawaiians for their losses, still stands as a blot on the pages of American history.

Later, when the Republic of Hawaii was annexed to the United States, our Government again failed to correct the injustice. There followed a long period of neglect during which Native Hawaiians sank into a state of bitterness, frustration, and depression from which they are just beginning to emerge. World War II and statehood accelerated the pace of change in Hawaii, but still no recognition was given to the legitimate grievances of the Native Hawaiian. He has, in this century, virtually lost his cultural identity.

In 1975, Alu Like, the first Native Hawaiian organization funded under the Native Americans Programs Act of 1974, conducted a "needs assessment survey" in the Native Hawaiian community. It was the first such survey of its kind ever conducted in Hawaii and members of this body may be interested to know that Alu Like found that the Native Hawaiian population is increasing and that it is overwhelmingly youthful. An estimated 50 percent of the approximately 150,000 Native Hawaiians are aged 25 years or younger, and one-third of the children enrolled in Hawaii's schools are of Native Hawaiian ancestry. An alarming drop-out rate was revealed by the Alu Like survey. A large majority of the Native Hawaiians surveyed by Alu Like named education of their children as their No. 1 priority. Almost unanimously, they said that they wanted their children to finish high school. Approximately three-fourths said they wanted their children to acquire some higher education. They expressed in articulate and sometimes militant terms, a deep frustration with an educational system which ignores their history and cultural values and leaves their young people unprepared to earn a living.

Senator INOUYE and I strongly believe that our bill will help remedy this situation. Hearings on the bill have been held in Hawaii and here in Washington, D.C. It has received the approval of the Senate twice. I urge a favorable vote on our bill today so as to enable the House to act on it prior to the end of the 96th Congress.

Mr. INOUYE. Mr. President, I have discussed this matter with the managers of this measure and with the staff, and I have been assured that this measure will be accepted and taken into conference.

Mr. PELL. Mr. President, as the Senator knows, it passed the Senate once, was stalled in the House of Representatives, and while not directly related to this bill, it is a good amendment and one that I recommend to my colleagues that we accept.

Mr. STAFFORD. Mr. President, for the minority we agree with the majority manager and we are prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1258

(Purpose: To provide land grant college assistance for American Samoa and Micronesia)

Mr. INOUYE. Mr. President, I call up my second amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 1258.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE XVIII—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 1801. (a) Section 506 of the Education Amendments of 1972 is amended—

(1) by inserting ", the Community College of American Samoa, the Community College of Micronesia," immediately after "The College of the Virgin Islands" in subsection (a);

(2) by striking out "Virgin Islands and Guam" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, American Samoa, and Micronesia"; and

(3) by striking out "Guam." in such subsection and inserting in lieu thereof "Guam and an equal amount to American Samoa.".

(b) Section 5 of the Act of August 30, 1890 (7 U.S.C. 327), commonly referred to as the Second Morrill Act, is amended by inserting ", American Samoa, and Micronesia," immediately after "the Virgin Islands".

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the tent of the problems of illiteracy and lack Hawaiians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of educational programs which may offer opportunities to Native Hawaiian adults.

"(b) The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Native Hawaiian organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Native Hawaiian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought; and

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(d) For the purpose of making grants and contracts under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year 1982, and $2,000,000 for each of the two succeeding fiscal years.".

ADMINISTRATION

SEC. 1809. Section 441 of the Indian Education Act is amended by redesignating subsection (b) of such section, and all references thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Office for Elementary and Secondary Education of the Department of Education shall have further responsibility for administering the provisions of title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), section 813 of title VIII of the Elementary and Secondary Education Act of 1965, and section 315 of title III of the Adult Education Act.".

ADVISORY COUNCIL ON NATIVE HAWAIIAN EDUCATION

SEC. 1810. (a) There is hereby established the Advisory Council on Native Hawaiian Education (referred to in this title as the Council), which shall consist of seven members who are Native Hawaiians appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Native Hawaiian organizations.

(b) The Council shall—

(1) advise the Secretary of Education with respect to the administration (including the development of regulations, administrative practices, and policies) of any program in which Native Hawaiian children or adults participate from which they can benefit, including title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 1007, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 1007 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 316A of the Adult Education Act, as added by this Act, and make recommendations to the Secretary regarding their approval;

(3) evaluate programs and projects carried out under any program of the Department of Health and Human Services in which Native Hawaiian children or adults can participate or from which they can benefit and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Native Hawaiian organizations to assist them in improving the education of Native Hawaiian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under section 403(b) of the Act of September 20, 1950 (Public Law 874, Eighty-first Congress); and

(6) submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Native Hawaiian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) With respect to functions of the Council stated in clauses (2), (3), and (4) of subsection (b), the Council is authorized to contract to the extent provided in appropriation Acts with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(c) of the General Education Provision Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the Council to carry out its functions under this section.

DEFINITIONS

SEC. 1811. For the purposes of this title—

(1) the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778;

(2) the term "Native Hawaiian organization" includes Native Hawaiian nonprofit institutions and agencies as well as Native Hawaiian community organizations; and

(3) the term "parent" includes a legal guardian or other person standing in loco parentis.

SAVINGS PROVISION

SEC. 1812. Nothing in this title shall be construed as modifying or otherwise affecting, directly or indirectly, any provision of the Hawaiian Homes Commission Act, 1920.

On page 11, in the Table of Contents, after item "Sec. 1702." insert the following:

TITLE XVIII—NATIVE HAWAIIAN EDUCATION

Sec. 1801. Short title.
Sec. 1802. Congressional findings.
Sec. 1803. Declaration of policy.
Sec. 1804. Revisions of impacted areas program as it relates to Native Hawaiian children.
Sec. 1805. Special programs and projects to improve educational opportunities for Native Hawaiian children under the Elementary and Secondary Education Act of 1965.
Sec. 1806. Special education training programs for teachers of Native Hawaiian children.
Sec. 1807. Fellowships for Native Hawaiian students.
Sec. 1808. Special programs relating to adult education for Native Hawaiians.
Sec. 1809. Administration.
Sec. 1810. Advisory Council on Native Hawaiian Education.
Sec. 1811. Definitions.
Sec. 1812. Savings provision.

Mr. INOUYE. Mr. President, this morning I ask my colleagues' most serious consideration of an amendment to the Higher Education Act of 1980. If accepted, this amendment will provide vitally needed special education services and programs designed to meet the culturally and academically unique educational needs of native Hawaiian children, youths, and adults. Initially introduced as the Native Hawaiian Education Act, this measure has been unanimously accepted by the full Senate on two occasions—once during the final days of the 95th Congress and more recently on November 7 of last year.

Unfortunately, because of a pressing legislative schedule and what appears to be a lack of interest in the special problems of the native Hawaiians, the House of Representatives has been unwilling to give this bill the serious consideration it deserves.

The history of the Hawaiian people is one of unjust abrogation of Hawaiian national sovereignty, the progressive dispossession of Hawaiians from their lands, a dramatic reduction of their numbers through disease, and a progressive dilution of their culture. The effects of these events continue to be felt today.

Currently native Hawaiians comprise approximately 18 percent of Hawaii's State population yet they are on the wrong end of almost every socioeconomic indicator. Hawaiians and part-Hawaiians have the highest incidence of poverty and the highest unemployment rate of any ethnic group in my State. Their education and training level is among the lowest. Their effective participation in the system is sadly very low.

Of the approximately 150,000 native Hawaiians resident in Hawaii, almost half are 20 years of age or younger. When compared to their local peers, native Hawaiian students demonstrate severely high dropout rates as well as high rates of suspension, expulsion, court referrals, absenteeism, and truancy.

Those who do stay in school perform far below State and national academic achievement norms. Only 6 percent of the University of Hawaii's student body is of Hawaiian descent. Moreover, Hawaiians are more often incarcerated in State and Federal correctional facilities than other ethnic groups and demonstrate the highest or next to highest incidence of chronic health conditions among racial or ethnic groups in my State.

Though the reasons for their problems may be speculative, it seems apparent that past deprivations have produced an extremely negative self-image among native Hawaiians as well as an inability to reconcile their native cultures and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Native Hawaiian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Native Hawaiian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Native Hawaiian children.

"(b) The Secretary is authorized to make grants to State and local educational agencies, local universities, and Native Hawaiian organizations to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Native Hawaiian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Native Hawaiian children;

"(4) innovative initiatives utilizing the nursing assessment process of clinical nurse specialists and their related training programs, designed to further the child's interest in learning by building upon the relationship between the child and other significant individuals in the child's life; and

"(5) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Secretary is also authorized to make grants to State and local educational agencies and to Native Hawaiian institutions and community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Native Hawaiian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) early childhood education programs, remedial and compensatory instruction, school health, physical education, psychological, nursing, and other services designed to assist and encourage Native Hawaiian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, text books, and other printed, published, or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped and gifted and talented Native Hawaiian children;

"(F) early childhood programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Native Hawaiian children.

"(d) The Secretary is also authorized to make grants to institutions of higher education and to State and local educational agencies in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Native Hawaiian children as teachers, teachers aides, counselors, nurses, social workers, and ancilliary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Native Hawaiian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Secretary is also authorized to make grants to and contract with, public agencies, and institutions and Native Hawaiian organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Native Hawaiian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Secretary shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $10,000,000 for the fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years.".

SPECIAL EDUCATION TRAINING PROGRAMS FOR TEACHERS OF NATIVE HAWAIIAN CHILDREN

SEC. 1806. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, and Native Hawaiian organizations, for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Native Hawaiian children and to provide inservice training for persons teaching in such programs. In carrying out his responsibilities under this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education and Native Hawaiian organizations, for cost of education allowances.

(b) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends, to and allowances for, dependents of persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

FELLOWSHIPS FOR NATIVE HAWAIIAN STUDENTS

SEC. 1807. (a) During the fiscal year 1981, and each of the three succeeding fiscal years, the Secretary is authorized to award not to exceed one hundred fellowships to be used for study in undergraduate, graduate, and professional programs at institutions of higher education. Such fellowships shall be awarded to Native Hawaiian students in order to enable them to pursue a course of study of not more than four academic years leading toward a professional or graduate degree in medicine, law, education, psychology, nursing, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Secretary is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Secretary may determine.

(b) The Secretary shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Secretary shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to cover the cost of education for the holder of such a fellowship.

(d) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR NATIVE HAWAIIANS

SEC. 1808. The Adult Education Act is amended by inserting after section 316 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT NATIVE HAWAIIANS

"SEC. 316A. (a) The Secretary shall carry out a program of making grants to State and local educational agencies, local universities, and to Native Hawaiian institutions and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Native Hawaiians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Native Hawaiians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Native Hawaiian adults and (B) the provision of opportunities to all Native Hawaiian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency of high school completion among Native goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the ex-the Elementary and Secondary Education Act of 1965, with priority being given to the development and establishment of early childhood services and programs. The amount appropriated under this subsection shall be in addition to such amounts authorized to be appropriated under subsection 1013(g) of title VIII of the Elementary and Secondary Education Act of 1965.

"(c) In addition to the sums appropriated for grants to local educational agencies under this title, there is authorized to be appropriated for any fiscal year an amount not to exceed 10 per centum of the amount appropriated for payments computed under subsection (b) for that fiscal year. From the amount appropriated for the purpose of this section, the Secretary is authorized to provide financial assistance to schools which are not local educational agencies or have not been local educational agencies for more than three years.

"USES OF FEDERAL FUNDS

"SEC. 404. (a) Grants under this title may be used, in accordance with applications approved under section 405, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs including minor remodeling of classrooms or other space used for the programs and acquisitions of necessary equipment, specially designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children.

"(b) A program or project assisted under this part may include participation of non-Native Hawaiian children where that participation does not frustrate or inhibit the achievement of the purpose of the program as set out in subsection (a).

"(c) Any local educational agency receiving a grant under this title is authorized to enter into a contract or other agreement with a qualified Native Hawaiian organization for the purpose of enabling such organization to administer such grant for the purposes set forth in subsection (a) of this section.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 405. (a) A grant under this title, except as provided in section 403(c), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 404, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Native Hawaiian students;

"(5) set forth policies and procedures which will ensure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds from local, State, and other Federal sources that would, in the absence of Federal funds under this title, be made available by the applicant for the education of Native Hawaiian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Native Hawaiian students in the area served, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) Will utilize the best available talents and resources (including persons from the Hawaiian Native community) and will substantially increase the educational opportunities of Native Hawaiian children in the area to be served by the applicant;

"(B) has been developed—

"(i) in open consultation with parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students with such parents constituting a majority of the committee. In the State of Hawaii there shall be seven such committees created in accordance with the boundaries of existing school board districts as set out in title 18, section 296-7 of Hawaii Revised Statutes (1968) except that no committee shall be created to serve any at-large district. The participation and approval of each such committee representing an area to be served by the applicant shall be required; and

"(C) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the Native Hawaiian children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 406. (a) The Secretary shall, subject to the provisions of section 407, from time to time pay to each local educational agency which has had an application approved under section 405, an amount equal to the amount expended by such agency in carrying out activities under its application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of that local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Secretary) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 407. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for that fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Secretary may allot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local educational agency in excess of the amount to which it is entitled under section 403 and subsection (a) of this section, or any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1805. (a) Title X of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN

"SEC. 1007. (a) The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Native Hawaiian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Native Hawaiian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Native Hawaiian children in sufficient quantity or quality, and

Mr. PELL. That is a very valid question that the Senator from North Carolina raises. I agree with him, that we are getting into a difficult question of precedent here, and I would not want to be in the position of picking and choosing.

I hope that the Senator will not press that amendment at this time.

I am not sure how this amendment is going to survive in any case. The House of Representatives may have strong views to the contrary.

But I imagine I would find, having indicated a willingness to reluctantly accept this amendment, that it would be difficult not to do the same in the Senator's case.

The only result of that would be if we have more of these the House of Representatives would lower the guillotine even more emphatically on them, and maybe my sense of comity in accepting this was a little too generous.

Mr. MORGAN. I think I can ease my chairman's burdens a little by saying my university is a Southern Baptist university and we would not take Federal money to begin with, so I was being a little bit facetious.

Mr. PELL. I am very relieved.

Mr. MORGAN. I am really not opposing this amendment. I understand what the distinguished Senators from Tennessee are doing, and I do know of Fisk University. But it really is a very serious question as to where are we going to establish chairs. We do have a number of distinguished black institutions in North Carolina that I wish to assist, and in all fairness I must say that the chairman, or manager of this bill, and the Department of Health, Education, and Welfare have assisted Shaw University very ably and helped us survive some crises.

I will not say any more about this, and I am not going to ask for a rollcall vote, but perhaps when we established the chair for Senator Morse at a private institution or even at a public institution, we established a precedent, and I just raise that question here.

Mr. SASSER. Mr. President, I say to the Senator from North Carolina that I very much appreciate his understanding of this particular problem and I also very much appreciate and wish to commend him for his vigilant supervision of an expenditure of taxpayers' dollars.

I might say a word with regard to Fisk University. There are many worthy institutions all across this country, many worthy private institutions of higher learning which are having difficulty surviving financially in these days of decreasing college enrollment as the baby boom is now behind us and also in terms of competing against State universities which are supported primarily by the taxpayers' dollars. But this particular small private university which has been known to be a distinguished seat of learning for black scholars now for over a century is embarking on a period and has embarked on a period of very bleak financial prospects. It appears that the only way in the short term and perhaps in the long term that this institution is going to be able to maintain and upgrade its quality education for black intelligentsia in this country is through some temporary aid perhaps along this line.

I say to the Senator from North Carolina, and I trust that our distinguished chairman will be persuasive as he always is when he goes to conference, because we are certainly counting on him as we have in the past, that, whether this amendment survives the conference committee or not, a journey of 1,000 miles starts with a first step, and we hope we have taken a first step here.

Mr. PELL. I thank the Senator from Tennessee for his statement.

It is with considerable reluctance because of the precedent-making nature of this amendment that I do accept it; but I do accept it, and we will bring it to conference on our side, and I understand the very good purpose of the Senator from Tennessee.

So, from the viewpoint of the majority side, we are agreeable to accept it.

Mr. STAFFORD. Mr. President, for the minority we also are prepared to accept this amendment, but I think we should caution our colleagues that we hope there will not be too many amendments of this type coming in front of us in the Senate today.

The recollection of the Senator from Vermont in considering this type amendment is that the committee felt there had to be a public interest across the Nation in this sort of matter and that there should be matching funds from private sources also in connection with this type of proposal to the higher education bill.

I mention that in the event our colleagues are considering further amendments of this type beyond those of which we are presently aware.

Having said that, Mr. President, for the minority we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 1887) was agreed to.

UP AMENDMENT NO. 1257

(Purpose: To amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for native Hawaiians)

Mr. INOUYE. Mr. President, I call up my first amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposed an unprinted amendment numbered 1257.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE XVIII—NATIVE HAWAIIAN EDUCATION

SHORT TITLE

SEC. 1801. This title may be cited as the "Native Hawaiian Education Act".

CONGRESSIONAL FINDINGS

SEC. 1802. The Congress finds that—

(1) striking similarities exist between Native Hawaiians and other Native American peoples with regard to their historic and political relationship with the United States and their present day circumstances;

(2) like other Native Americans, Native Hawaiians rank among the lowest in level of education attainment and per capita income; and

(3) existing Federal assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

DECLARATION OF POLICY

SEC. 1803. (a) The Congress hereby recognizes the need to develop a uniform Federal policy with respect to the eligibility of Native Hawaiians for special Federal assistance commensurate with their status as Native Americans.

(b) The Congress declares its commitment to providing the quantity and quality of educational services and opportunities which Native Hawaiians need and desire.

REVISIONS OF IMPACTED AREAS PROGRAM AS IT RELATES TO NATIVE HAWAIIAN CHILDREN

SEC. 1804. The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating title IV as title V, by redesignating sections 401 through 403 and references thereto as sections 501 through 503, respectively, and by adding after title III the following new title:

"TITLE IV—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF NATIVE HAWAIIAN CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Native Hawaiian Elementary and Secondary School Assistance Act'.

"PROGRAM AUTHORIZED

"SEC. 402. The Secretary shall carry out a program of making grants to local educational agencies in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 403. (a) (1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year during the period beginning October 1, 1981, and ending September 30, 1983, the Secretary shall determine the sum of (A) the number of Native Hawaiian children who were enrolled in the schools of a local educational agency, and for whom that agency provided free public education, during that fiscal year, and (B) the number of Native Hawaiian children (other than children enrolled in private schools) who were eligible for enrollment in the schools of that local educational agency for that fiscal year but who did not enroll. The sum of the numbers of children so determined shall be multiplied by the average per pupil expenditure for that agency (as determined under subparagraph (2)).

"(2) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all the local educational agencies in the State in which that agency is located, plus any direct current expenditures by that State for the operation of those agencies (without regard to the sources of funds from which either of these expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom those agencies provided free public education during that preceding fiscal year.

"(b) (1) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to 75 per centum of the amount computed for that agency for that fiscal year under subsection (a).

"(2) Twenty-five per centum of the amount computed under subsection (a) for all local educational agencies for any fiscal year shall be available during that fiscal year for the purposes of subsection 813 (c) of title VIII of ternal Revenue. All comments will be available for public inspection and copying. As indicated above, a public hearing has already been scheduled on the proposed regulations published April 9, 1980. Anyone wishing to comment on these modifications may do so at that hearing.

DRAFTING INFORMATION

The principal author of this regulation is Kirk F. Maldonado of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

Accordingly, the notice of proposed rulemaking published in the Federal Register for April 9, 1980 (45 FR 24201) is modified as follows:

1. Paragraph (d) of § 1.411 (d)-1, as set forth in the notice of proposed rulemaking published in the Federal Register for April 9, 1980 (45 FR 24201) is withdrawn.

2. Paragraph (c) (2) of § 1.411 (d)-1, as set forth in the notice of proposed rulemaking published in the Federal Register for April 9, 1980 (45 FR 24201) is modified to read as follows:

§ 1.411 (d)-1 Coordination of vesting and discrimination requirements.

(c) Discriminatory vesting. * * *

(2) Test for discriminatory vesting. The determination of whether there is, or there is reason to believe there will be, discriminatory vesting shall be made on the basis of the facts and circumstances of each case. A reasonable disparity between the vested benefits paid to or accrued by the prohibited group and the vested benefits paid to or accrued by other employees will not result in a finding that there is discriminatory vesting.

PROPOSED VESTING REGULATIONS AS PUBLISHED APRIL 9, 1980 AND AS MODIFIED JUNE 9, 1980

§ 1.411 (d)-1 Coordination of vesting and discrimination requirements.

(a) *General rule.* A plan which satisfies the requirements of section 411(a)(2) shall be treated as satisfying any vesting schedule requirements resulting from the application of section 401(a)(4) unless the plan is discriminatory within the meaning of section 411 (d)(1) and this section. A plan is discriminatory if there is a pattern of abuse or there is discriminatory vesting as determined under paragraphs (b) and (c) of this section, respectively. Under section 401(a)(4), a plan which discriminates in favor of employees who are officers, shareholders, or highly compensated [hereinafter referred to as "prohibited group"], is not a qualified plan under section 401(a).

(b) *Pattern of abuse*—(1) *Definition.* A plan is discriminatory under section 411(d)(1)(A) and shall not be considered to satisfy the requirements of section 401(a)(4) if there has been a pattern of abuse under the plan tending to discriminate in favor of the prohibited group [hereinafter referred to as "pattern of abuse"].

(2) *Test for pattern of abuse.* The determination of whether there has been a pattern of abuse shall be made on the basis of the facts and circumstances of each case. An example of a pattern of abuse is the systematic dismissal of employees before their accrued benefits vest.

(c) *Discriminatory vesting.*—(1) *Definition.* A plan is discriminatory under section 411(d)(1)(B) and shall not be considered to satisfy the requirements of section 401(a)(4) if there have been, or there is reason to believe there will be, an accrual of benefits or forfeitures tending to discriminate in favor of the prohibited group by operation of the vesting schedule [hereinafter referred to as "discriminatory vesting"].

(2) Test for discriminatory vesting. The determination of whether there is, or there is reason to believe there will be, discriminatory vesting shall be made on the basis of the facts and circumstances of each case. A reasonable disparity between the vested benefits paid to or accrued by the prohibited group and the vested benefits paid to or accrued by other employees will not result in a finding that there is discriminatory vesting.

(d)—deleted.

(e) *Defined benefit plans.* A defined benefit plan which satisfies the benefit accrual requirements of section 411(b) shall still be subject to the nondiscrimination requirements of section 401(a)(4) with regard to its benefit accrual rates. Thus, even though a plan satisfies the section 411(b) requirements, the plan may still be discriminatory under section 401(a)(4) with respect to its benefit accruals.

(f) *Effective date.* This section shall apply to plan years beginning 30 days after the publication of this section in the Federal Register as a Treasury decision.

EXTENSION OF SEQUENTIAL REFERRAL OF INTELLIGENCE BILL, S. 2597

Mr. ROBERT C. BYRD. Mr. President, I make the following statement on behalf of Mr. NUNN:

The Armed Services Committee requested and received sequential referral. under S. Res. 400. of the fiscal year 1981 intelligence authorization bill on March 21, for a period of 30 session days. The time was later extended by 10 days. Unfortunately, because of our markup of the defense authorization bill, the committee has not yet been able to complete its work on the intelligence bill, though we expect to do so very shortly.

I ask unanimous consent, on behalf of Mr. NUNN, that the Armed Services Committee be granted an extension of 10 session days on its sequential referral of S. 2597.

This request has been discussed with the chairman of the Select Committee on Intelligence, and Mr. NUNN has been authorized to say that the Senator from Indiana (Mr. BAYH) does not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BRADLEY AND TSONGAS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. BRADLEY and Mr. TSONGAS each be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2470. POWERPLANT FUELS CONSERVATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I say to Mr. STAFFORD that under the order previously entered, the coal conversion bill is ordered to be taken up immediately after the recognition of the two leaders tomorrow. However, in view of the layover of the amendment by Mr. MOYNIHAN to the higher education bill and the amendment by Mr. METZENBAUM to the higher education bill, and the ordering of votes thereto following the expiration of the time allotted on the amendments, I ask unanimous consent that upon the disposition of the higher education bill tomorrow, the Senate then proceed to the consideration of the coal conversion bill, Calendar No. 873, S. 2470.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 1839, EDUCATION AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that just prior to the taking up of the coal conversion bill tomorrow and immediately after the third reading of S. 1839, the Senate proceed, without further debate, motion, point of order—and if an appeal is taken, that there be no time on such appeal beyond 10 minutes, to be equally divided in accordance with the usual form—that the Senate proceed immediately to the discharge from the Committee on Labor and Human Resources of H.R. 5192; that the Senate, without further amendment, motion, point of order, debate, or appeal—and if such appeal should occur, that there be no time thereon beyond 10 minutes, equally divided in accordance with the usual form—proceed to the consideration of H.R. 5192; that all after the enacting clause be stricken and that inserted in lieu thereof be the language of S. 1839, as amended; and that the Senate, without further debate, amendment, motion, or appeal, and again with the same time limit on such appeal if such is taken, proceed to third reading of S. 1839, without further debate, point of order, motion, or appeal, again with the same limitation on any appeal that might be taken, proceed to passage of H.R. 5129, as amended, and there be no time on any motion to reconsider final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have made provision for time for debate on any appeal in conformity with the request made by the distinguished minority leader earlier.

ORDER WAIVING STANDING ORDER FOR RECOGNITION OF LEADERSHIP TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing order for the recognition of the two leaders or their designees be waived for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow morning.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. **ROBERT C. BYRD**. Mr. President, I move that the Senate stand in recess until 9 a.m. tomorrow morning.

The motion was agreed to; and at 8:28 p.m., the Senate recessed until tomorrow, Tuesday, June 24, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 23, 1980:

DEPARTMENT OF STATE

Walter C. Carrington, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

LEGAL SERVICES CORPORATION

The following-named persons to be Members of the Board of Directors of the Legal Services Corporation for terms expiring July 13, 1983:

Steven L. Engelberg, of Maryland (reappointment).

Cecilia Denogean Esquer, of Arizona (reappointment).

Hillary Diane Rodham, of Arkansas (reappointment).

Richard Allan Trudell, of California (reappointment).

Josephine Marie Worthy, of Massachusetts (reappointment).

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Members of the National Science Board, National Science Foundation, for terms expiring May 10, 1986:

Mary Lowe Good, of Louisiana, vice L. Donald Shields, term expired.

Peter T. Flawn, of Texas, vice Grover E. Murray, term expired.

Peter David Lax, of New York, vice Saunders Mac Lane, term expired.

Homer A. Neal, of Indiana, vice Norman Hackerman, term expired.

Mary Jane Osborn, of Connecticut, vice William Neill Hubbard, Jr., term expired.

Donald B. Rice, of California (reappointment).

Stuart A. Rice, of Illinois, vice James H. Zumberge, term expired.

EXTENSIONS OF REMARKS

GEORGE GILDER ON THE ZERO-SUM SOCIETY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. KEMP. Mr. Speaker, if anything separates those leaders who offer Americans hope for the future, and those who offer despair, it is their feeling about whether our society is or should be a zero-sum game—a game in which one player can advance only at the expense of someone else.

I believe that the zero-sum mentality which has afflicted the leadership of our country for almost 20 years is responsible for much of our Nation's economic and spiritual stagnation, and many unnecessary miseries.

With policies for growth—the growth of individual human potential—everybody wins. We all move ahead, but we leave no one behind. This is the essence of the economic philosophy which is being advanced within the Republican Party this year.

George Gilder is a writer who has dealt with this basic political and economic issue, perhaps better than anyone. Last Thursday, he reviewed a book by Prof. Lester Thurow, "The Zero-Sum Society," in which Thurow asserts that American society has become and will remain zero-sum in nature. Therefore, he believes, all major problems have become redistributional in nature. Gilder probes this assertion and deftly explodes its fallacies. I commend this excellent article to my colleagues.

The article follows:

MUST ONE MAN'S GAIN BE ANOTHER'S LOSS?

(By George Gilder)

In the first chapter of "The Zero-Sum Society" (Basic Books. 230 pages. $12.95), Lester Thurow describes a debating triumph at a reunion of Harvard alumni. He told his affluent audience that though they were all in favor of increasing investment, "The heart of the problem was deciding whose income should fall to make room for more investment." He asked for volunteers. But the only answer he got from the crowd was to eliminate welfare payments.

Mr. Thurow's point, and the theme of this valiant effort to redeem the economics of the left, is that higher productivity, like most other American goals, can only be achieved by reducing the incomes of some significant minority of citizens—and that everyone will fight to make sure that whoever pays, it is someone else.

Mr. Thurow established his reputation as an activist economist while at MIT, and recently spent six months on the editorial board of The New York Times. "The Zero-Sum Society" was the book most frequently recommended for summer reading by The New York Times Book Review's panel of experts, and John Kenneth Galbraith and Robert Heilbroner have embraced it like a new masterwork of Keynes.

RESULT IS PARALYSIS

The U.S. economy, Mr. Thurow maintains, has become, to a crucial degree, a zero-sum game, meaning that every gain for one group must mean a loss for another. If we are to have more investment, or exports, or energy, or sounder money, or a cleaner environment, or faster growth or any other public benefit, we will have to have less consumption. Moreover, the losses will often be concentrated on one group, while the gains may be diffused across the entire population. The result, according to Mr. Thurow, is paralysis: The special interests will always prevail over the public interest.

Mr. Thurow's point is superficially plausible. As Milton Friedman might put it, there is no such thing as a free lunch. Mr. Thurow's conclusion, however, is that the unwillingness of the special interests to give up current benefits—whether the famous three martinis or school-lunch subsidies in wealthy suburbs—creates a need for a more powerful government to assert the public interest, while Mr. Friedman would regard government itself as the largest and most obstructive interest group. Although Mr. Thurow devotes much of his book to these matters, he fails to come to terms with—or even to acknowledge—the Friedman argument, or the extensive literature on the special interests of government that is being developed by the conservatives of the "public choice" school of political economy. It is difficult to see how big government can break the impasse if big government is the impasse, if the special interests prevail chiefly because they gain political support.

Mr. Thurow's main argument on this point is a repeated citation of the Japanese experience. But his treatment of Japan reflects the book's chief technical vulnerability: its extraordinarily tendentious use of foreign references. Japan's government, together with its major conglomerate corporations, in the combination popularly called Japan Inc., has played an important, though often overestimated role in managing and financing Japanese economic progress.

But Japan is forced to compete in world markets to a much greater degree than the U.S., where attempts to insulate threatened industries are more feasible. A U.S. effort to emulate Japan Inc., would be more likely to degenerate into a come-and-get-it fund to "reindustrialize" failing corporations than to fulfill Mr. Thurow's goal of rechanneling capital from fading "sunset" companies into "sunrise" industries of growth. Japan's most dynamic firms, moreover, like Honda and Hitachi, received little government aid and in fact had to fight government resistance in launching their innovations. In any case, if Mr. Thurow was going to discuss Japan's phenomenal economic performance, he should not have ignored its extraordinarily low level of government spending (about half the U.S. share per capita), its low, marginal tax rates (a top bite on income—75%—that applies only to earnings over $396,924), and its persistent policy of tax cutting (Japan has enacted a tax cut in 18 of the last 20 years).

A deeper problem of the Thurow argument is manifested in his meeting with the Harvard alumni. Savings and investment become a zero-sum game only when they are mobilized, as Mr. Thurow recommends, by taxation. In a free economy, however, people can save and invest of their own free will and these voluntary transactions benefit both themselves and the economy. Those hungover Harvard reunion men should have replied to Mr. Thurow that they themselves would gladly give up current consumption to finance new capital spending if the government was willing to reduce its marginal tax rates on income from savings and investment.

At the time Mr. Thurow spoke, the average tax rate on real capital gains was close to 100% (most of the taxable "gains" becoming losses after inflation) and the tax rate on real interest income from savings was well over 100%. Moreover, the marginal taxes on income were steadily rising as a result of inflationary bracket creep. Many in his audience were being pressed by these levies into making purchases of unremunerative precious metals, baubles and art, unproductive tax shelters, legal advice, and other indulgences that enriched neither themselves nor the U.S. economy.

Mr. Thurow's other prime foreign exhibit is West Germany, which he claims has a higher burden of government taxing, spending and regulation than the U.S. But like Japan, Germany has no capital gains levies and applies its highest income tax rates only to incomes more than twice as large as the top American brackets. Although Germany's government spending is nominally much higher than American spending, the difference is chiefly attributable to nationalized medicine and transfer payments; without them, Germany has less government spending than the U.S.

Mr. Thurow's most serious error, which he shares with many important economists who will soon have to join him in a feast of supply-side crow, is to deride the Laffer Curve (which shows that reduced tax rates can increase government revenue). To answer the claim that U.S. taxes have already risen beyond the point of diminishing returns—that the U.S. tax system now deters productive and taxable effort—Mr. Thurow offers just two sentences of assertion and one frail reference. "All our empirical studies," he writes, "show that our current taxes are far below the levels that create disincentives to work . . . . Income effects (the need to work more to regain one's living standards) dominate substitution effects (the desire for more leisure because of lower take-home wage rates) . . . ."

In the first place, a recent empirical study made at MIT, his former employer, contradicts this assertion for high income workers. Other empirical studies indicate that when marginal tax rates rise, women tend to enter the workforce in low productivity jobs, but men in high productivity work substantially diminish their effort, and there is a widespread shift from taxable to untaxable activity throughout the economy. A recent study by Edgar Browning and William Johnson of the American Enterprise Institute, moreover, indicates that contrary to Mr. Thurow's assertion that the highest marginal rate on earned income is 50%, the *average* marginal rate is nearly that high when the combined impact of all taxes and transfers is included. If liberal economists wish to make sense on these issues, they should stop relying on studies that fail to measure accurately the effects of inflation on taxes and stop assuming that the comparative impact of taxes can be reliably gauged by the revenue they raise rather than by the economic activity that they distort, choke off or drive underground.

Nonetheless, Mr. Thurow is far too shrewd and interesting an economist to write a routine leftist tract. His book is full of provocative observations, and he ends by presenting a program that superficially resembles nothing so much as the agenda with which John Connally wowed business leaders, though not the nation, early in his presidential campaign. Mr. Thurow wants to deregulate energy prices, to establish an America Inc. resembling Japan Inc., and to promote the formation of conglomerates. He urges the abolition of the corporate income tax, thus ending the double taxation of dividends. He advocates indexation of capital gains and income taxes to the rate of inflation, thus removing the chief source of a rising real tax bite. To pay for these surprising proposals, he thinks he would have to increase income tax rates. Actually, he could probably lower them, if it were not for his astonishingly simple-minded and trendy egalitarianism. Citing all the usual distorted data on Black and female earnings, he postures righteously and demands a "fundamental restructuring of the economy" through vast government job programs, which he himself does not take seriously enough to present with any intelligent care.

Mr. Thurow's redistributionism represents his deep bow to the left. Perhaps more interesting is the book's reception on the right. It is suggestive of Mr. Thurow's complexity—and a curious sign of a new convergence between certain liberal and conservative economists—that William Wolman, deputy editor at Business Week, also acclaimed "The Zero-Sum Society."

Nonetheless, Mr. Thurow's no-free-lunch economics and his corporate tax cut ideas should not be allowed to obscure a mentality basically hostile to free enterprise. Mr. Thurow's tax reductions are nearly all for institutions rather than for individuals, for physical plant rather than for workers and entrepreneurs. His vision is of an antiseptic capitalism without capitalists, a system with government experts and economists performing the role of creative investment ordinarily enacted by businessmen seeking the high returns of risky enterprise. The best argument against giving such an assignment to the state comes in the early chapters of "The Zero-Sum Society" itself, where Mr. Thurow details the effectiveness of political interest groups in halting change and progress.

SOURCE OF WEALTH

Contrary to Mr. Thurow's belief, it is neither bountiful natural resources nor the accumulation of capital nor the guidance of government that account for the success of capitalist countries in overcoming the zero-sum equilibrium of poverty and privation. The key source of wealth in all successful centers of growth from Hong Kong to "Silicon Valley," California, is the ingenuity of free individuals. They turn barren islands into thriving zones of commerce and enrichment through the gains of trade, and they transform the substance of beach sand into a precious resource of mind through the miracle of semiconductor electronics.

The desire of idealistic leftists to replace this unique force for progress with groups of government committees, presumably dominated by Marx-minded econometricians, seems on the surface incomprehensible except as part of a drive for power by the new class of American intellectuals. One would think, though, that a brilliant individual like Lester Thurow would do better under capitalism. Perhaps he has been demoralized by excessive taxation.●

CONTROLLING THE INFLATION CONTROLLERS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, from 1967 to 1978, the Consumer Price Index doubled. In 1979, the index rose by 14 percent—a pace that would double the CPI again in only 5 years. Yet the first months of 1980 have shown the CPI increasing at an annual rate around 20 percent. These facts need little explanation. Inflation is out of control. This is particularly distressing when we remember that when President Ford left office the inflation rate was 4.8 percent and falling. Now the same people who have sent the inflation rate from 4.8 percent to 20 percent want to control it.

Alongside these inflation statistics, consider these Federal spending facts: Federal spending first exceeded $100 billion in 1962. The $200 billion level was exceeded in 1971, the $300 billion level in 1975, the $400 billion level in 1977, the $500 billion level in 1979, and the $600 billion level will fall to President Carter's 1981 budget. We note a remarkable correlation between the growth of Federal spending and inflation. In the last 3 years, Federal spending has grown by more than $200 billion while inflation went through the roof.

Mr. Anthony Harrigan, president of the U.S. Industrial Council, perceives correctly that the only real way to control inflation is to control Federal spending. I commend his comments to all of my colleagues as we enter the months when we will appropriate Federal money and make the decisions which will fundamentally affect inflation:

AN ECONOMIC FREEZE

(By Anthony Harrigan)

As inflation worsens, there are increasing demands for wage and price controls. If Congress yields to these demands, we will move rapidly toward a government-dominated economy and lose fundamental freedoms in the process.

To begin with, controls aren't effective. As U.S. Rep. Philip M. Crane has said, controls hit at symptoms, not root causes.

Orson H. Hart, former chief economist of the New York Life Insurance Co., in a statement published in the New York Times, recently traced the failure of controls during and after World War II. He noted that they obstructed the distribution of a wide range of goods and services. He also pointed out that "price controls soon have to be supplemented with rationing if the ceilings are not to drive goods from the marketplace." The American people certainly have no faith in rationing and no desire to see it implemented. Moreover, rationing of gasoline alone most probably would cost $2 billion a year.

A world of price controls and rationing will be an unhappy one for everyone but the bureaucrats. As Mr. Hart said:

"Not many of us will like the kind of world we then will have. The virtual impossibility of fashioning regulatory rules with the efficiency of the marketplace leads me to doubt that either wage or price controls will stabilize the economy, and to fear that they will prolong the present, very dangerous economic situation."

The root cause of the severe inflation we are experiencing is the unconscionably high cost of government. Billions of dollars are being spent for government services that add nothing to the nation's wealth. The food stamp program is expected to cost $10 billion by 1981, with almost 21 million recipients. The bureaucrats want to make a huge expansion in Environmental Protection Agency activities with respect to the chemical industry. These and scores of other federal programs and activities produce a colossal bill for non-productive activities. Non-productivity means deficits and inflation.

The only way to reduce inflation is to cut back on the federal programs and activities that produce multi-billion dollar deficits. We need tax reductions that will enable companies to invest in new machinery so that they will be able to compete with the foreign companies that have invaded the U.S. market. We can't enjoy wealth in the future if our industries are frozen into a condition of industrial inferiority.

Ironically, the proponents of controls on prices, wages, dividends, rents, etc. don't call for a freeze on federal spending. They are all for new government expenditures for "social services."

The price control concept implies a static economy, not one of growth. It is a concept of economic regimentation, which is alien to American traditions. It means denial of economic freedom. In a society committed to freedom there's no sound argument for handcuffing the economy with controls.●

A TRIBUTE TO HERMAN J. OBERMAYER

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. HARRIS. Mr. Speaker, for 416 consecutive Fridays, northern Virginia has had the privilege of having Mr. Herman J. Obermayer as editor and publisher of the Northern Virginia Sun. His wit, wisdom and keen insight into the major issues of the day have been a source of inspiration and education to us all.

Just recently, the Sun issued a volume of 52 editorials written by Mr. Obermayer over the last year. I am inserting in the RECORD today two of those editorials that I found particularly important and relevant. They are indicative of "Obe's" great concern and dedication to our democratic institutions and to peace throughout the world. I am privileged to share his thoughts with my colleagues:

Closed Courtrooms Threaten American System of Justice

Most Americans admire our system of justice. The judiciary is the branch of government about which we are least cynical.

Courtrooms are open. Anybody can see what goes on.

The judiciary has been subject to public scrutiny since the beginning of the Republic. Openness and public trust are intertwined and closely related.

But the open courtroom tradition was put in jeopardy earlier this month. The Supreme Court indicated the public's right to observe trials could be limited.

A majority of the justices believe the sole concern of the Sixth Amendment ("the accused shall enjoy the right to a speedy and public trial") is the accused. When a defendant's wishes conflict with the public interest the defendant prevails.

The Supreme Court ruled on the appeal of a reporter who was barred from a pre-trial hearing after an accused murderer requested exclusion of press and public on grounds that media publicity would jeopardize his chances of receiving a fair trial.

CLOSED TRIALS DANGEROUS

The justices concluded it was proper to exclude press and public from pre-trial hearings when defendant, prosecutor and judge all agreed to the action. Pre-trial hearings are unique informal proceedings.

Typically they are used to decide what part of a prosecutor's case is admissible as trial evidence. Evidence secured by illegal wire taps, or other unlawful police activities, is not admissible.

If the prosecution's case is weak, it may be necessary to strike a plea bargain with the defense. Deals which have little, or nothing, to do with justice are made at pre-trial hearings.

Since a defendant usually speaks through counsel, the rights of the accused may be bargained away at clubby bench-bar conferences. In a surfeit of zeal the justices have compromised, rather than enhanced, the accused's rights.

Although the Supreme Court dealt only with pre-trial hearings, the justices recognized their decision's far-reaching implications.

Justice Rehnquist explained: "It necessarily follows that, if the parties agree on a closed proceeding, the trial court is not required by the Sixth Amendment to advance any reason whatsoever for declining to open a pre-trial hearing or trial to the public."

The fact that a Supreme Court justice sees secret trials as consistent with the Constitution's intent is terrifying. To most Americans "secret justice" is a contradiction of terms.

Closed trials were part of the scene in Hitler's Germany and Stalin's Russia. But no free nation tolerates them. Even Iran's Revolutionary Tribunals claim to operate in full public view.

SECRECY UNDERMINES FAITH

The Supreme court did not deal specifically with press attendance at trials. A distinction was made between "public" and "press."

But it is a narrow distinction; so narrow it is almost meaningless. The press reports on trials only to inform the public.

When a person charged with a crime agrees to exclude the public from a judicial proceeding, it does not necessarily mean that the accused's rights have been properly protected. This is particularly true, if the defendant is poorly educated or of humble circumstances.

Allowing judicial proceedings to be closed without demonstrated reasons must inevitably lead to miscarriages of justice. The potential now exists where a white judge, a prosecutor and defense attorney could close the pre-trial hearing of an illiterate black man accused of raping a white woman in the rural South. That is not in the accused's interest.

Justice administered behind closed doors mocks America's oldest and most honored traditions and assumptions. Acceptance of the rule of law is an act of faith. Courtroom secrecy undermines faith.

Passover's Meaning Endures; We Could All Be Slaves Again

The longest continuously celebrated holiday in history was observed this week. Passover, a religious rite commemorating the Israelites flight from Egyptian slavery, was consecrated in Jewish homes.

This ancient Jewish festival is a cross between Independence Day and Thanksgiving. The Fourth of July commemorates the beginning of the American Revolution. Thanksgiving acknowledges the role of the divine in the Pilgrims' survival at Plymouth.

Less than a month has passed since those historic enemies, Israel and Egypt, signed a peace treaty on the White House lawn. That event gives this year's Passover special significance.

The Begin-Sadat accord was not negotiated between victor and vanquished, or rebelling colonials and decadent masters. Equals found common ground by different routes.

This unique religious holiday, which has survived longer than the Pyramids, has three interwoven themes, all of which should have meaning for readers of a general circulation newspaper. They are:

Revolutionary ideals are brought to reality only by people who have the strength and the will to fight for them.

Regardless of the success individuals or nations may achieve, they should never forget their humble origins.

In all worldly success there is a divine element.

CAPACITY TO FIGHT

Anwar Sadat has explained that he became reconciled to the idea of peace with his neighbor, "because of Israel's strength, not because of its, or our, righteousness." He made this statement to an Israeli Foreign Minister.

The Israelis and the Egyptians both understand that sovereign nations rarely make concessions to other nations because of fairness, justice or nobility. All depends on the capacity to fight.

Regardless of the merits of an oppressed minority's aspirations, incumbent authority rarely abdicates its power. In Biblical times, as today, liberty was won, not granted.

After four wars the Israelis and Egyptians realized neither was going to militarily defeat the other easily. Peace was negotiated on the basis of mutual respect for the other's strength.

Passover celebrates a successful, violent revolution. Freedom for an enslaved minority was the revolt's objective.

FALSE SENSE OF SECURITY

A group of Jewish philanthropists went to see Mahatma Gandhi in the 1930's to discuss their co-religionists' plight under Hitler. They described the haven they hoped to establish in Palestine.

"Are you strong enough?" asked Gandhi.

The great moralist's question shocked them. They expected to be interrogated about rectitude, not strength.

Passover's second theme, "Remember our father's were bondsmen to the Pharaoh in Egypt," is equally important. An affluent, self-satisfied society must be reminded of its slave antecedents. For nations and individuals alike, success and dominance are fleeting. But they are also deceptive.

They create a false sense of security and permanence. Reminders of their transitory nature are humbling.

Although we live in a land of freedom and opportunity, minorities in other lands suffer under oppressor's yokes. Tyrants anywhere threaten here.

Passover is a religious holiday for Jews. They have a unique connection with its history. But its message is for all people.

Lasting achievement depends on keeping humility and strength in balance. We could all be slaves once again—just like our forefathers.●

FIRST ANNUAL PENNSYLVANIA CAKE DECORATING SHOW

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

Mr. MURTHA. Mr. Speaker, unknown to many Pennsylvania citizens, a group of Commonwealth residents takes special pride in what many consider to be an emerging art form—cake decorating.

This weekend, June 28-29, Pennsylvanians interested in this talent will be gathering at the Franklin County Area Vo-Tech School for the First Annual Pennsylvania Cake Decorating Show.

Cakes will be decorated depicting scenes from Pennsylvania's history such as William Penn's founding of the Commonwealth, and many elaborate displays of cake decorating will deal with Pennsylvania's past, present, and future.

I am particularly pleased to note this event because it develops largely from the work of citizens in my area. Ms. Jayne Watyka of Johnstown is founder and director of the Pennsylvania State Cake Decorating Show, and Ms. Carol Wells of Reynoldsville is cofounder and chairman. These individuals deserve great credit for their dedication and hard work in developing this show, and it is something I am sure many Pennsylvanians will enjoy and become more familiar with over the years. I certainly wish all those joining at the show best wishes.

GROUP IN POLISH ESTABLISHMENT INSISTS ALL IS NOT WELL

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Ms. HOLTZMAN. Mr. Speaker, I wish to bring to my colleagues' attention an article by John Darnton in the New York Times of June 13.

Entitled "Group in Polish Establishment Insists All Is Not Well," the article describes a report, compiled by more than 100 prominent Polish citizens, that proves that the spirit of liberty is alive in Poland.

Outspokenly criticizing a broad range of Polish Government policies, the report calls for such political and social reforms as the end of arbitrary censorship, the end of special privileges for the party elite, and better management of the Polish economy.

The authors of that report deserve our admiration for their courage. Many of them are members of the Communist Party. They have much to lose, but they are nevertheless willing to take enormous risks in the hope of gaining greater freedom and improved economic conditions for their fellow Poles.

The text of the article follows:

GROUP IN POLISH ESTABLISHMENT INSISTS ALL IS NOT WELL

WARSAW, June 12.—A secret report prepared by more than a hundred journalists, scholars and intellectuals, many of them from the governing Communist establishment, portrays a deep crisis in Polish national life.

Unless the Government acts dramatically to reverse the situation, the report says, "the negative changes will progessively grow and may reach the avalanche stage, which would threaten open social conflict."

The 75-page report, a searing document, expresses dissatisfaction with many aspects of life, ranging from the "unequal" relationship with the Soviet Union to economic mismanagement, rigid censorship, a press that no one believes and special privileges for the elite.

"We need complete truth," it says.

The report also seems to say that Communist dreams have not been fully realized and that a majority of the people feel overwhelmed by problems and are sinking into distrust, frustration and apathy.

FREE DISCUSSION OF VITAL MATTERS

The report, entitled "How to Get Out of It," was compiled by a loosely organized nonpolitical group calling itself Experience and the Future that was organized in November 1978 to engage in "free discussion of the most vital matters of our nation and state." It originally included close advisers to Edward Gierek, the Communist leader, among them Meiczyslaw Rakowski, a member of the party Central Committee and editor of Polityka, a widely respected party weekly, and Antoni Rajkiewicz, a leading economic adviser.

The group held only one meeting, which attracted over 100 participants; further sessions were forbidden. Some of the luminaries from the establishment such as Mr. Rakowski dropped out. In May 1979 the organizers sent questionaires to the members and, on the basis of the replies, put together an earlier document entitled "Report on the State of the Republic and Ways Leading to Its Reform." The same method was used for the current report, which, it was said, will be submitted to Mr. Gierek, Prime Minister Edward Babiuch and Stefan Cardinal Wyszynski, Roman Catholic Primate of Poland.

The findings could prove an embarassment to Mr. Gierek, whose Government is contending with severe economic problems that led last February to a top-level shakeup in which Mr. Babiuch replaced Piotr Jaroszewicz.

The group, which includes a number of Catholic activists and independent-minded journalists but no dissidents, could best be described as a liberal wing of the establishment. That it is strongly rooted in the governing structure was indicated by the fact that of the 141 authors, 51 are members of the Communist Party.

A TURN TOWARD DEMOCRACY

Though Poland's structure as a Communist state is not questioned, a basic theme of the report is that it should move from an authoritarian system toward a more liberal and democratic one, with the Government moving to make equality more a reality.

The authors "accept the fact that in the foreseeable future Poland will remain in the existing political, economic and military systems, in the current state of alliances in the Warsaw pact and in Comecon," the last being the Soviet-dominated economic grouping of Communist countries.

The report contends that the economic crisis, severe as it may be—Poland owes $18.5 billion to the West and last year registered a negative growth rate, minus 2 percent, for the first time since World War II—is not the sole root of the "deepening apathy and dissatisfaction of the society." "The crisis which we have in our country is, in the first place, of social and political character," it comments.

Among the causes cited are a feeling that "the system" is incompetent, out of control and layered with bureaucracy; a total lack of belief in the Government and the news media; suspicions toward the Soviet Union exacerbated by "servile, insulting" propaganda; a scarcity of meat and "inequality" in various aspects of social life, including career advancement, legal protection and the award of such perquisites as villas and limousines to high party officials.

Speaking of the Government, the report says that "the loss of credibility is more dangerous than the lack of popularity." Distrust of the press is described as "bordering on the neurotic," so that "even the bad news is not believed."

THREE OPTIONS FOR THE GOVERNMENT

The Government seems to have three options, the report says: It can continue the status quo, it can tackle the economic problems in the hope that it can somehow improve the situation or it can impose "a strong hand" to eradicate criticism. Any one of the three, the report adds, would be likely to lead to "open social conflict." Such a conflict might not necessarily take the form of worker riots, as in 1956, 1970 and 1976, but could appear in "new and unprecedented conditions," such as waves of panic, a breakdown of the economy, a lessening of production and general unrest.

The report outlines general goals and specific suggestions "to regain the trust of society and release its creative instincts," which, the authors make clear, the Government is unlikely to adopt. They include an acknowledgment that the country is in dire straits, open discussion of problems, the end of arbitrary censorship, a more equal relationship with the Soviet Union, concessions to the church, agrarian reform, a strengthened Parliament, honest elections and the elimination of privileges.

Terming the crisis "unique in the history of postwar Poland," the report calls on the people to demand the rights contained in the Constitution and to put constant pressure on the authorities "to undertake the necessary reforms."

"The society itself must counteract the progressive stagnation and feeling of helplessness," it says. "Civic courage is necessary, along with the capacity for self-denial and the knowledge that one does not act in isolation. A nation lasts only as long as the members of the nation keep the feeling of responsibility alive, as long as they are not just a collection of subjects but a society joined by a commonwealth of goals, consisting of citizens conscious of their rights and duties."●

SOVIET JEWS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. MAVROULES. Mr. Speaker, I have always fought to insure equality and freedom amongst all people. There are those less fortunate than ourselves in the Soviet Union who are treated as if they have no claim to any human rights whatsoever. I am referring specifically to the handling of Soviet Jews who seek to emigrate to Israel by the authorities in the U.S.S.R.—Larissa Zolotarevskaja and her husband Lev Faiman, Alexander Gagkayev and his family, and Gregory and Nataly Rozenstein are all victims of ongoing Soviet mistreatment. Since applying for and being denied visas, they have been removed from their jobs and homes and separated from their close friends and relatives. The outlook for their future is bleak indeed unless we, as Members of the House of Representatives, come to their aid. I urge my colleagues to join me once again in beseeching President Leonid Brezhnev to grant these people exit visas so that they will be able to live normal, happy, and productive lives in the country of their choosing.●

STATEMENT OF JIM JONES TO THE PLATFORM COMMITTEE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. JACOBS. Mr. Speaker, our thoughtful colleague, JIM JONES of Oklahoma, has presented the following statement to the Platform Committee of the Democratic National Convention. It deserves the serious consideration of all Americans.

STATEMENT OF CONGRESSMAN JAMES R. JONES OF OKLAHOMA BEFORE THE 1980 PLATFORM COMMITTEE OF THE DEMOCRATIC NATIONAL COMMITTEE MEETING, JUNE 12, 1980

In 1980, Democrats will face many of the same challenges that confronted the Party in 1968.

As in 1968, we are involved in a potentially divisive and explosive internal struggle while the opposition party is uniting behind one candidate. Once again, the opposition intends to achieve victory by attacking Democratic policies without necessarily offering workable solutions of their own. Moreover, ignored in the shuffle of events is the fact that many of our current problems stem from decisions made at the beginning of the 1970s; a time when Republican policy dominated the White House.

Despite these similarities, there are real differences between 1968 and 1980, and they spell both new challenges and better opportunities for the Democratic Party in the future. In 1968, the major issues were ones of foreign policy, morality, and international relations. Many in the Party held sincere views as to the past actions of Democratic Administrations, and those views and emotions made it extremely difficult to put together the type of coalition needed to win in 1968.

In 1980, however, the argument need not be retrospective in nature. The problems we face today are in part our own doing, in part the failings of the minority party while it controlled the White House, and in part due to circumstances beyond our control. The challenge in 1980, then, is to look ahead, not behind, and to develop policies that will mean prosperity and freedom for all our people.

In this election year, the Democratic Party has a unique opportunity to fashion a new covenant with the American people based on hard work, compassion, and economic expansion for the future. If there is one lesson we must learn from the decade of the 1960s, it is that we cannot sustain a "guns and butter" economy based on stagnant or declining economic conditions.

In 1968, we had the benefit of a decade of steady growth in gross national product. The lowest rate of growth, as measured in 1972 dollars, was 2.3 percent in 1960. In both 1965 and 1966, the GNP grew at 5.9 percent each year. Despite this sustained growth in GNP, our efforts to finance both massive social programs and a war in Southeast Asia caused inflation to soar from 1.0 percent in 1961 to 5.4 percent in 1969, with large lumps coinciding with our military build-up.

Contrasting 1980 with 1968, the challenge we face is even more stark. In the 1970s, we recorded three years with negative growth in GNP. More important, inflation, as measured by the CPI, has run over 5 percent in all but two years of the decade, and in 1980, first quarter inflation topped 14 percent. If "guns and butter" could not be sustained in the relatively good years of the 1960s, and if indeed our policies during those years added to the inflation and stagnation of the 1970s, then clearly this is not a road that we can afford to travel again in the 1980s.

Put simply, not only do we have inflation, which is based on too many dollars chasing too few goods, but we also are suffering from a reduction in growth in gross national product and productivity. Those facts lead to two choices currently confronting our Party and our Nation: Do we continue to try to slice the pie thinner and thinner to accommodate more and more people clamoring for their deserved piece, or do we pursue policies designed to enlarge the pie, thus providing more opportunities and freedom for all?

Former Congresswoman Barbara Jordan recently discussed this issue with Ben Wattenberg, and she said that what is needed for our Nation is a new form of liberalism which is reoriented to recognize realism. I agree with her view that we must recognize that we cannot achieve the ultimate goal of a perfect society because such a goal is simply not feasible. I do believe, however, that we must strive to create a free society founded on strong economic bedrock. That entails enlarging the pie, and rejecting the sorts of policies which lead to stagnation or no growth.

It is not enough, however, to simply advocate less government and more free enterprise as a concept. Specific policies must be pursued to get us from point "a" to point "b" in a humane manner. In that light, I would urge the Platform Committee to consider and adopt the following policy goals:

1. Endorse tax policy changes which will channel capital and investment toward increasing productivity, thus creating new jobs and easing inflationary pressures. Specifically, the Democratic Party should take the lead in pushing policies such as the 10-5-3 accelerated depreciation legislation which would aid America to "re-industrialize" our productive capacity, and would create over 1.2 million new jobs, according to estimates, within the next five years. Almost 150 House Democrats are cosponsoring this needed tax legislation.

Such tax changes will send a clear signal to private enterprise that they must share the burden of improving the quality of life in our country. More importantly, modern plants mean more jobs, safer jobs, and increased ability to remain competitive in the world markets.

2. A statutory federal spending limitation should be put in place to operate in conjunction with the Congressional Budget Process. Such spending limit need not stop government from helping the poor, the sick, and the aged. It will halt the squandering of our public resources on programs of dubious necessity. Any such limit need not be rigid; some sort of reasonable escape clause should be included to insure that during serious economic or military crisis, the federal government is free to take necessary action.

Such a spending limit would serve to focus attention on the basic decision confronting our country: How much can and should the government do to help its citizens? In my view, the Democratic Party, if it intends to survive as the voice of freedom and greater participation for all people in the political process, must keep its attention focused on the working persons, the small business person, and those on fixed incomes. It must stop listening to the bureaucracies that have been raised up by both Democratic and Republican Administrations. Those entities too often speak as if they were the public interest, as if their programs or policies had the imprimatur of the public. In fact, anyone who has traveled the land and actually spoken to people realizes that foremost on everyone's mind is not public service jobs, criminal justice funding, or mass transit spending. Rather, the people are concerned about the state of our economy, the state of our defenses, paying their bills in the face of rising taxes, and inflation. In 1981, the federal government is projected to tax away almost 22 percent or our total gross national product—an historic high, and one that explains in part the frustration one encounters talking to the average American. This trend simply must be reversed, and the only way it can be done is by closing the door on unlimited federal spending. This will send a signal to the American public that the federal government is willing to play by the same rules that they must play by in planning their own budgets.

If we do not take action to cap federal spending, I fear that those less well motivated will seize the opportunity to change the organic law of our Nation—our Constitution—to require a strait-jacket balanced budget. I do not fear that such an amendment would in fact lock us into detrimental policies—on the contrary, I am sure that resourceful people from all political persuasions would quickly find a method to circumvent the Constitutional prohibition. I am worried that such chicanery will undermine the respect for our Constitution, and start us down the road toward other, even less well-thought-out, changes.

3. As much as I fear wholesale changes in the Constitution, I do think that the Democratic Party should take the lead in extending democracy a further step by adopting as its goal the passage of a National Initiative Petition process. Senator James Abourezk and I originally introduced this legislation in the 95th Congress, and I think it will go a long way toward stemming the efforts of various groups to amend the Constitution along narrow grounds. The Initiative Petition process has been used successfully in over 30 states, and provides a responsible forum for involving citizens in the decision-making process of their government. The particular proposal I am sponsoring has built-in safeguards to assure that only truly national issues will be considered on the ballot. It also contains safeguards that would prevent such a process from becoming disorderly, or allowing the majority to run roughshod over the minority. This bill is the essence of populism as practiced and preached by the Democratic Party.

Democrats have consistently shown confidence in the people's intelligence, and a National Initiative Petition process should be in our Party's future.

The challenge to the Democratic Party in 1980 provides us with a unique opportunity to mold the Party to the needs of the next decade. If we remain stagnant in the face of that challenge, if we allow ourselves to take comfort in the familiar slogans and tired rhetoric of the past, then we shall slip from the stage of public service, perhaps not quickly, but certainly as surely as the Whigs, Know-nothings, and others that have become dusty passages in history. The Party I have known and loved for forty-one years need not suffer such a fate, and will not if we heed the call to action.●

TRUTH IN TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. GOODLING. Mr. Speaker, I would like to share with my colleagues a well-reasoned editorial which appeared in the Washington Post on Saturday, June 21, 1980. It makes the point that this is not the time to involve the Federal Government in the regulation of standardized admissions tests.

The article follows:

TRUTH IN TESTING

It has been about a year since all the fuss erupted over standardized testing for college and graduate school entrance exams. There was the much ballyhooed report from Ralph Nader's group on the alleged perfidies of the Educational Testing Service, which, unfortunately, lent further momentum to so-called "truth-in-testing" bills that were under consideration in many state legislatures. New York state passed such a law, but is still the only state to have done so. The law's key provision requires the disclosure of tests and answers, which, in turn, means that test givers must design and calibrate many more versions of each test. Other variations on such legislation now being considered include provisions that would prohibit the use of standardized tests by public institutions or that would suggest the criteria by which college admissions decisions were to be made.

"Truth in testing" is a misnomer, meant to promote the yet unproven theory that there is dishonesty in testing and that such laws would correct it. Nevertheless standardized testing is such a pervasive part of modern education that efforts to improve it merit serious attention. The New York law, which has now been in effect for about half a year, offers the opportunity to draw some preliminary impressions of its possible benefits.

Since the law passed, 20 of the 26 testing programs that had been given in New York have been withdrawn. Students wishing to take these tests must now travel to a neighboring state. The Association of American Medical Colleges has sued to enjoin the law and has been granted an injunction. The suit is now pending in federal court. All of the testing programs that are in compliance with the law are giving tests less often and charging more for them. Of the students who took the SAT test in March, only 6 percent have so far paid the extra fee to obtain a copy of the test and answers.

Meanwhile, the College Board, which sponsors the SAT tests, has taken some steps of its own. Believing that if there is any real benefit to be gained from studying the tests, it comes before a test is taken, not after, as the New York law requires. The College Board has adopted new procedures to enable high school students to practice or take the SAT three times—twice in the preliminary PSAT format—and receive the test, the given answers and the correct answers once, all before taking the real test. No extra fee is charged. If there are real benefits to be gained from this extra preparation, they should become evident in the next few years.

There are, then, at least three good reasons to defer indefinitely further consideration of proposed "truth-in-testing" laws in Congress and the other state legislatures. The law's constitutionality is under serious challenge. So far, its effects on New York state's students have been mostly negative—fewer tests available, on fewer dates and at increased cost. Finally, the College Board, which administers the largest and most important of all these tests, has taken steps that meet whatever serious concerns have been raised.●

AMERICA'S DEFENSE NEEDS FOR THE EIGHTIES

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. BEREUTER. Mr. Speaker, one of the most important issues to face Congress during the remaining weeks of this session will be the future of the U.S. Armed Forces. The international stature of this country and, in particular, its military strength, has been a subject of growing national concern and controversy. Both our friends and our foes have begun to question our resolve and our commitment to protecting our own and our allies' interests. More importantly, our friends and our foes are beginning to doubt whether we have the capacity to act—thoughtfully first, and then boldly and decisively—to protect these interests. Steps must be taken immediately—not next month or next year—to alter this perception.

The 1980's could well be a decade of international turmoil and instability. As the developments of Afghanistan illustrate, the Soviet Union will not hesitate to exercise its growing military might. In fact, it appears that the Soviets are more intent than ever in exercising that might to achieve imperialistic conquest and international domination. The United States and her allies must be prepared to halt these advances and to make clear that we are willing to defend, and are capable of defending, our national interests.

Our Nation stands in grave danger today because we may have lost the edge in our ability to respond swiftly and effectively to any challenge by a foreign aggressor. For too long, many of our defense programs have been either delayed or underfunded. The call to increase our national defense spending can no longer be disregarded as merely the well-worn demand of the prodefense establishment; increased national defense spending is now a national priority that cannot be ignored.

In my opinion, our military problems are threefold. They involve three equally important elements of military preparedness:

First, the number and quality of our weapon systems;

Second, the cooperation of our allies in building and manning the defense systems necessary to protect our mutual interests throughout the world; and

Third, the size and quality of our Armed Forces.

Since the Soviet invasion of Afghanistan, the President and certain Members of Congress seem to have awakened from their past indifference or lethargy regarding the need for military preparedness. Finally, they seem to have begun to respond positively to the problems of our armed services. Recent overwhelming approval of a $53 billion Department of Defense authorization bill for 1981 reflects the depth of congressional concern for the quality and quantity of our military hardware.

At the same time that we vote to increase the number and quality of our weapon systems, I must caution my colleagues not to ignore the need to finance adequately the maintenance of this expensive equipment. Each day, new horror stories emerge which describe the dangerous neglect we show for our weaponry. An inoperative, broken aircraft—hanger queen—is about as useful as no plane at all in an era when the ability to make an immediate, full scale response makes the difference between victory and defeat.

The second element in our response to the Soviet challenge relates to the role our allies must play in protecting their own, as well as our mutual interests. Although the United States spends about 5.2 percent of its gross national product for defense-related needs, Japan spends only about 1.1 percent of its GNP for similar items.

In the future, the burdens, as well as the benefits, of a strong allied defense capability must be equally shared among its beneficiaries. The United States alone cannot carry the banner for the free world. We must be equal partners in the defense of the basic freedoms and lifestyle we have come to enjoy.

The third and final element essential to our response capabilities is the proficiency of our military personnel.

Since the adoption of the voluntary army concept in the midseventies, the quality of our military personnel has been frequently questioned. In recent months, doubts about the quality of our personnel as well as concern about the declining number of volunteers has been a consistent topic of public debate.

Frequently cited statistics are alarming. Last year alone, the four services fell 7 percent short in their recruiting targets. This is coupled with the growing concern about the capabilities of some of our new recruits. For example, the number of high school graduates enlisting in the armed services has declined significantly in recent years.

Equally serious problems have also been uncovered with our ability to retain experienced military personnel. Since 1975, reenlistment rates for service personnel with 5 to 10 years experience have declined 15 to 20 percent. The retention of these trained, experienced individuals is imperative, given the complicated nature of our weaponry. Moreover, our tax dollars are unnecessarily wasted if we allow individuals upon whom we have invested millions of dollars in training to leave the services so quickly.

It seems to me that one of the major reasons for the decline in enlistments and the erosion in the reenlistment rate is poor pay and benefits for our enlisted personnel. Military pay increases have fallen 11 percent behind those for industrial workers during the 1977-80 period. During this time of rampant inflation, such an erosion of compensation undoubtedly is part of the reason for the exodus of personnel to higher paying civilian jobs. Congress frugal attitude toward military pay raises is the epitome of being penny-wise and pound-foolish.

Congress recently has made some efforts to reverse these trends. More effort is needed. The educational benefits program added to the Defense Department's authorization bill should help reverse the error Congress made in 1976 when it abolished the GI bill for post-Vietnam-era veterans. Improvement in certain special benefits such as housing allowances and reenlistment bonuses would also help stem the outward flow of experienced personnel.

At this point, however, Congress has yet to take meaningful steps to improve the basic pay levels, particularly for enlisted personnel. The President's recommended 7.4-percent pay increase is simply not enough for enlisted personnel. We know that current compensation levels for these individuals are woefully inadequate. It is time to compensate these individuals fairly. No longer should married personnel be forced to rely on food stamps or income from a second job to supplement a meager military salary.

Increased compensation levels and improved benefits, however, will not be the sole answer to our manpower recruitment and retention problems. These actions will be insufficient because they ignore another important factor which prompts the declining reenlistment rate. I refer to my concern and conviction that individuals are leaving the Armed Forces because of the decline in the respect for, and the appreciation of, our Nation's military personnel. Once commonly regarded pridefully by the people of the Nation, they have been scorned and ill-treated by too many Americans since the Vietnam war.

Some military personnel therefore decide that service in the Armed Forces is no longer a noble profession. Without the intrinsic rewards and the emotional satisfaction of being appreciated for their sacrifices and service, these dedicated individuals are, understandably, no longer willing to endure the hardships of military service. No wonder they are leaving the Armed Forces for other, more financially rewarding, careers.

Only when this Nation rediscovers the value of the sacrifices made by its military personnel and when it then accords them the respect and support which they deserve, can we begin to solve the manpower problems facing this country.

If the Congress dedicates itself to addressing these three critical issues, our Nation need never fear the possibility of inferior defenses and vulnerability. American commitment, productivity, technology, initiative, and skills have made this country the free world's leader. We must not allow ourselves to fall from this position of honor.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 24, 1980, may be found in the Daily Digest of today's Record.

Meetings Scheduled

JUNE 25

9:30 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on financially distressed hospitals.

4232 Dirksen Building

Select on Small Business

To continue hearings on small businesses and their contributions to economic growth.

424 Russell Building

*Select Committee on Small Business

To hold hearings on the impact of nontariff barriers on American small businesses' ability to export to Japan.

1114 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of S. 1480, to provide for the safe and adequate treatment of hazardous substances released into the environment, and a proposed oil backout amendment to S. 2470, authorizing funds for fiscal years 1980 through 1982 to provide for the conversion of coal use by electric utilities (pending on Senate calendar).

4200 Dirksen Building

Finance

Business meeting, to resume consideration of proposed legislation to meet reconciliation expenditures as imposed by H. Con. Res. 307, revising the Congressional Budget for the Federal Government for fiscal year 1981, 1982, and 1983, and revising the Second Concurrent Resolution on the Congressional Budget for the Federal Government for fiscal year 1980.

2221 Dirksen Building

Governmental Affairs

Business meeting, to resume consideration of S. 2160, to require public disclosure of certain lobbying activities to influence issues before the Congress.

3302 Dirksen Building

Judiciary

Criminal Justice Subcommittee

To hold oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.

457 Russell Building

Rules and Administration

Business meeting, to consider S. Res. 448, to establish the Select Committee on Indian Affairs as a permanent Senate committee, and other legislative and administrative business.

301 Russell Building

Joint Economic

Energy Subcommittee

To hold hearings on the need to establish an alcohol fuels policy.

6226 Dirksen Building

10:30 a.m.

Veterans' Affairs

Business meeting, to consider proposed legislation to meet reconciliation expenditures as imposed by H. Con. Res. 307, revising the Congressional Budget for the Federal Government for fiscal years 1981, 1982, and 1983, and revising the Second Concurrent Resolution on the Congressional Budget for the Federal Government for fiscal year 1980.

412 Russell Building

2:00 p.m.

Environment and Public Works

To hold hearings on Federal building prospectus.

4200 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To hold an open and closed business meeting, to consider criminal contempt or civil enforcement proceedings against a witness.

3302 Dirksen Building

Select on Intelligence

To continue hearings on section 4, to provide for the protection of identities of certain U.S. undercover intelligence officers of S. 2216, proposed Intelligence Reform Act.

1202 Dirksen Building

JUNE 26

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To resume hearings on the recent decline that occurred in silver prices, and the possible need for additional regulatory controls on the silver market.

324 Russell Building

Banking, Housing, and Urban Affairs

To hold oversight hearings to review financial institutions system of credit to American farmers.

5302 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the administration's transition plans for developing an operational land remote sensing satelite system.

235 Russell Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To resume hearings on the aspects of cancer insurance, including its economic value, sales and marketing practices, the operation of competition, and State regulation.

318 Russell Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To resume oversight hearings on the implementation of the Department of Energy's Building Energy Performance Standards (BEPS), providing for energy efficiency standards for new building construction.

3110 Dirksen Building

Finance

Business meeting, to consider pending health insurance proposals.

2221 Dirksen Building

Judiciary

*Criminal Justice Subcommittee

To continue oversight hearings to examine the law enforcement procedures by the Federal Government against persons involved in illegal drug activities.

2228 Dirksen Building

2:00 p.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 2283, 2418 and 2321, bills to increase the earned income exclusion for U.S. citizens working abroad who are bona fide residents of a foreign country.

2221 Dirksen Building

JUNE 27

9:30 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings to review the progress and assessment report of the Resources Planning Act (Public Law 93-378), to provide for the orderly development of the renewable resources of forest, range, and associated lands.

324 Russell Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of sections 404 and 301(h) of the Clean Water Act.

4200 Dirksen Building

Finance

Business meeting, to continue consideration of pending health insurance proposals.

2221 Dirksen Building

JUNE 30

10:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

To hold oversight hearings to examine overall efforts by the Federal Government and certain medical services to reduce infant mortality and birth defects.

4232 Dirksen Building

JULY 1

9:00 a.m.

Budget

To resume hearings on Federal credit activities, focusing on Congressional control mechanisms.

357 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.

5110 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.

235 Russell Building

Select on Small Business

To resume hearings on small businesses and their contributions to economic growth.

424 Russell Building

*Select on Indian Affairs

To hold hearings on S. 2829, authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.

1202 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on certain activities of the Department of Housing and Urban Development relating to the relocation of persons from areas of a concentrated low-income level.

3302 Dirksen Building

JULY 2

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.

235 Russell Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.

4232 Dirksen Building

10:00 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings on certain activities of the Department of Housing and Urban Development relating to the relocation of persons from areas of a concentrated low-income level.

3302 Dirksen Building

*Select on Indian Affairs

To continue hearings on S. 2829, authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.

318 Russell Building

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To hold hearing on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

JULY 15

10:00 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold joint hearings with the Labor and Human Services' Subcommittee on Aging on the impact of senile dementia on older Americans.

4232 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the Appropriations' Subcommittee on Labor, Health and Human Services, and Education on the impact of senile dementia on older Americans.

4232 Dirksen Building

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings on the implementation of the Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

JULY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

JULY 30

9:30 a.m.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

SENATE—*Tuesday, June 24, 1980*

(Legislative day of Thursday, June 12, 1980)

• The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God show us each day how better to be "one nation under God, indivisible." Make us to know we are one and indivisible under Thy creation, under Thy providence, and under Thy judgment. In the contentions of our times, while espousing different programs and holding varied party allegiances, may we never be separated from one another in heart and soul. Help us to contend and not be contentious, to differ and not be difficult. Prepare us for every emergency and surprise. Keep us together in the quest for "one nation under God, indivisible, with liberty and justice for all."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 24, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute, and that the minority leader may proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRESS AND THE SAUDI F-15'S

Mr. ROBERT C. BYRD. Mr. President, the administration has under consideration the possible sale of advanced supplemental equipment for the F-15 aircraft to Saudi Arabia.

I am urging the administration not to pursue this proposal at this time.

I strongly supported the decision in 1978 to sell the F-15 jets to Saudi Arabia and actively opposed a resolution of disapproval of that sale in the Senate. I continue to be firmly committed to assisting and cooperating with Saudi Arabia to assure security in a vital and unstable region. I believe such a relationship is clearly in the interest of both nations.

However, I am opposed to the sale of the supplemental equipment, which would include multiple bomb racks, refueling capability, and missiles. I seriously question the advisability or necessity of the sale of this supplemental equipment for the F-15's. Such a sale would contravene the assurances given to me and others in Congress only 2 years ago that the plane would not be equipped with supplemental "offensive" features.

At the time of Senate consideration of this matter in 1978, I cited these assurances in urging Senate support for the sale of the planes. These understandings were explicit and were crucial to the Senate's decision to approve the sale.

We value our relationship with Saudi Arabia and want to maintain that relationship. It is a relationship that should not rise or fall over a matter such as this proposal for the supplemental aircraft equipment.

I can see no rationale that would now justify providing this kind of offensive capability for the F-15's.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized for 1 minute.

Mr. BAKER. Mr. President, I thank the Chair. I thank the majority leader for making provision for the minute this morning, but I have no need for it and I yield it back.

RECOGNITION OF SENATOR BRADLEY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized for not to exceed 15 minutes. The Senator from New Jersey.

THE SOVIET INVASION OF AFGHANISTAN AND U.S. ACTIONS IN RELATION THERETO

Mr. BRADLEY. Mr. President, when the Soviet Union invaded the independent nation of Afghanistan last December it precipitated a discussion about how to achieve the proper balance of deterrence and stability in our relationship with the Soviet Union. This is an important debate and should continue in a rational and foresighted fashion, taking into consideration the responsibilities of the present generation to those which follow, and recognizing clearly threats as opposed to actions that do not directly threaten our national interests. Because of the perpetual risk of nuclear holocaust, the United States-Soviet relationship necessarily is complex. It does not properly lend itself to facile analysis, or easy conclusions. Accordingly, the restructuring of a sound stable relationship with the Soviet Union in the wake of past American disappointments will be a long and difficult process.

However, in the meanwhile, the Soviet crime against the Afghani people continues. Mr. President, the Soviets have had ambitions to control the small Afghan country for many years. But the possibility of success increased for the Soviets after Nur Mohammed Taraki overthrew Prince Mohammed Daoud and established a Marxistic ruling regime.

I ask unanimous consent to have printed in the RECORD a short political background of the Soviet invasion of last December.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLITICAL BACKGROUND TO THE SOVIET INVASION OF AND COUP IN AFGHANISTAN

After centuries of foreign invasions and rule Ahman Shah Durrani consolidated the Kingdom of Afghanistan in 1747. His Durrani tribe ruled until it was overthrown in 1973 by Prince Mohammad Daoud, a member of the ruling class. Daoud established Afghanistan as a Republic.

Daoud had served the last monarch, King Zahir Shah (Zakir ruled from 1933–1973) as Prime Minister from 1963–1977 and was the King's cousin and brother-in-law. After 1963, a rift deepened between the cousins. Daoud used the opportunity of failing support for the monarch to establish a republic with himself as President. Support for King Zahir had eroded, at least in part because of growing demands for participation and reform by the middle class, intelligensia and student populations to which Zahir's meager experiment in constitutional monarchy had given rise. However, the monarchy was also weakened by provincial, conservative, and Islamic opposition to the centralizing and pro-Western tendencies of Zahir's rule.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

This was most evident in his foreign policy. Daoud abandoned his early support for Pushtoon and Baluchi separatists in Pakistan in order to strengthen relations with the regimes in Pakistan and Iran.[1] Instead he began to look to the Shah for economic support, at least partly in order to reduce Afghanistan's dependence on Soviet trade and transport outlets, a dependence that had increased substantially since the end of World War II. One theory has it that the Shah linked economic support to Daoud's cessation of support for the separatists and to a cleansing of Communist influence from his regime.

In March of 1978, Daoud concluded a peace agreement with Pakistan and pledged to expel Baluchi and Pushtoon guerrillas using Afghan territory. In return, Pakistan agreed to train Afghan army officers, a function previously performed primarily by the Soviet Union.

Daoud also undertook to weed pro-Soviet leftists from his government. Primarily, this meant weeding the most pro-Soviet faction of the leftist People's Democratic Party of Afghanistan (PDPA), otherwise known as the "Parcham" faction (meaning "the Banner" or "the Flag"). Parcham had lent Daoud support in his coup against King Zahir. It was formed in 1967 as an offshoot of the larger PDPA, otherwise known as "Khalq" (meaning "the Masses"). Khalq was founded in 1965. The 1967 break reflected primarily personality and policy clashes between Nur Mohammad Taraki (head of Khalq) and Babrak Karmal (head of Parcham). Khalq under Taraki maintained its distance from Daoud, but Parcham under Karmal followed Moscow's lead and threw its support to the Daoud Republic. Indeed Daoud sent about 160 young Parchamites to the provinces to spread the message of the new Republic.

But Parcham failed to entrench its influence in the provinces. By 1975 its political power had greatly diminished and its members become disillusioned with Daoud. The Daoud-Karmal alliance dissolved and Parchamites left or were forced out of the government.

In the meanwhile, Faraki's Khalq faction had been recruiting cadres and gaining strength among Afghan military officers. Since military officers tended to be nationalistic, they preferred the Khalq faction of the PDPA because of Parcham's image as Soviet-dominated. Khalq also drew more of its strength from rural areas, especially among the Pushtoans, while Parcham drew most of its support from university students and the Tajik tribe in northeast Afghanistan. Recognizing growing Khalq power, and alienated from Daoud, Karmal negotiated a reunion between Parcham and Khalq in July of 1977. A united front of PDPA opposition to Daoud was formed.

Most accounts agree that the April 1978 coup against Daoud was not premeditated and probably not Soviet instigated. No doubt the PDPA had long term plans, but its hand was forced by April's events. Massive anti-U.S. demonstrations at the burial rites for a well-known Parchamite thinker prompted Daoud to seek the arrest of leftist leadership and purge remaining leftist elements in his government.

This precipitated a counter-strike. Hafizullah Amin, who was in charge of recruiting cadres for Khalq from the Afghan military, contacted certain military factions and a make-shift coup plan was designed. Within 24 hours Daoud was ousted and Takari installed. Daoud and some 30 members of his family were killed, and about a thousand people died in the fighting.

From the start Taraki's regime met strong resistance from rural Moslem tribesmen. His regime rested on a narrow base (an estimated 5,000 Khalq party members in a population of some 15 million) and its members were drawn from a thin stratum of urban intellectuals, teachers, students, etc. It alienated the conservative tribesmen,[2] because it quickly moved to make land and legal reforms with little sensitivity to traditional Islamic values, because it was identified as the client of an alien and atheistic Communist power, the Soviet Union, and because it sought to further a centralizing process resisted by tribesmen with local loyalties and a penchant for local control.

In response, Islamic mullahs and peers (spiritual leaders) declared a holy war against the Kabul regime. Revolts, largely uncoordinated, spread to all of Afghanistan's 29 provinces.

To add to Kabul's problems, soon the fission between Taraki and Karmel re-surfaced. Taraki moved to reduce Parchamite influence. In the fall of 1978, he relieved Babrak of his position as Deputy Prime Minister and shipped him off to Czechoslovakia as Ambassador. Fellow prominent Parchamites were sent off as Ambassadors to other countries. However, Parcham's Soviet sponsors stayed mute, with Moscow preferring pragmatic support for Taraki. Nevertheless, Babrak remained in "storage" in Prague for potential Soviet later use, especially after Taraki relieved him of his Ambassadorship and his place on the Revolutionary Council and ordered him and other Parchamite Ambassadors home to face purge trials. Possibly he and his Parchamite followers harbor some resentment of Soviet opportunism, but they have not let it interfere with their ambitions.

Taraki's major problem was not Parachamites, but the unrelenting insurgent tribesmen. The Ayatollah's success in toppling the "infidel" Shah in Iran inflamed their resistance to the Communist version of atheistic modernism in their own capital. (Noteably), however, 90 percent of Afghans are Sunnis who do not vest political authority in religious leaders as do the Shiites.) The insurgent tribesmen gained control of much of the countryside, while Taraki's armed forces held the major cities.

It is estimated that Soviet advisors grew from 1200 when Taraki gained power to at least 4500 by August of 1979. Soviet supplied helicopters were said to be piloted by Soviet officers and 1500 of the "advisors" were said to be assigned to the Afghan army. The Soviets also supplied a massive arms build-up. Gradually their role shifted from supplier and advisor to direct guidance and involvement.

As Taraki's government became more repressive, Hafizullah Amin gained more control within it. It is believed that he bore responsibility for the rising level of brutality and commitment to repression rather than efforts at reconciliation. It is also thought that for this reason the Soviets became displeased with him and gave the nod to an attempt to eliminate him. This backfired, according to Amin's later revelations, when Amin learned of the plot and retaliated by replacing and, it is now agreed, eliminating Taraki instead. Amin took control in September of 1979.

Indications are that although the Soviets continued and increased their involvement, they were displeased by Amin's ascendance. Clearly, Karmal was being kept in Prague as a last resort. The Soviets became increasingly discontent about Amin as insurgent fighting continued, violence escalated and Kabul could not bring about an end to the chaos in the countryside. Matters became embarrassing.

One report is that last December the Soviets lured Amin to a "secure" royal palace outside Kabul on the pretense of concern for his safety. Soon after, the Soviets landed troops and tanks on the pretense of bolstering Amin's forces against the rebels. On December 27, the Soviets engineered the pro-Karmal coup, possibly including the murder of Amin.

This launched a massive Soviet occupation of its small southern neighbor, an occupation which has turned into a campaign of brutal, escalating repression against Afghanis who seek to free their country from Soviet captivity. The story of the courageous Afghani fight for independence continues each day.

Mr. BRADLEY. Mr. President, while the Afghani people have bristled under increasing Soviet encroachment there is a difference between political domination at arm's length through a submissive regime and brutal repression by a foreign military force. It is every bit, or more, the crime against free people that it was when it was first committed last December.

The Soviets are continuing their brash violation of a sovereign people's rights. Mr. President, if anyone felt that the Soviet tactics of manipulating media in this country and propaganda were subtle and posed a real threat to the stability of our country, one only had to look at the television set last night to see the "pull out" of Soviet troops from Afghanistan to recognize that it was a crude propaganda ploy that will not dupe the American people.

Mr. President, the interest of all nations that value their independence lies in active opposition to the Soviet occupation. American interests, particularly because they arise from geopolitical as well as human rights considerations, require continuing reassessment of the means by which to restore Afghanistan to the hands of its own people.

Nevertheless, for reasons that have not been made abundantly clear to the American people, the United States has refrained from providing weapons of resistance to the Afghani freedom fighters. Yet there are ample arguments for responding purely and simply to Soviet aggression with defensive arms.

This is a response that is limited, yet in kind.

It is the most effective action the United States could take to reverse Soviet gains in Afghanistan short of direct American participation in a counterassault.

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[1] Afghanistan has claims on most of Pakistan's Northwest Frontier Provinces deriving from Britain's imposition of the 1893 Durand Line to establish the frontier between British India and Afghanistan. Afghan central governments have encouraged Pakistan's Pushtoon separatists in this quest for a "Greater Pushtunistan," though acceptance of participation by Afghan Pushtoons in such a new state has never been made clear. Pushtoons comprise some 55% of Afghanistan's population and dominate it politically.

[2] Afghans proudly remind Westerners that the tribesmen twice resisted British efforts to extend imperial control in the 19th century.

Because it is most directly and logically related to the Soviet aggression, it would send the clearest message about American interests and intentions. It does not run the risk of being misinterpreted as a new wave of belligerence toward the Soviets. Instead cause—that is, Soviet invasion—would be demonstrably related to effect—that is, the provision of arms for Afghan freedom fighters.

There are striking geopolitical considerations that weigh in favor of U.S. assistance to a movement that is widely recognized as one for national liberation from Soviet domination.

First, it is clearly in the interest of the United States that Afghanistan be freed of its occupation by an expansionary foreign power and restored to the governance of the Afghani people. The United States always has championed the sovereignty and independence of all nations, particularly the freedom of small nations from forcible domination by larger ones. In sum, the principles of American society and foreign policy require strong support for Afghani independence.

Second, it is in our concrete national interest, more narrowly defined, that all nations, but particularly the nations of the Third World, have visible demonstration of our support for the cause of national liberation. The situation in Afghanistan is a critical opportunity for the United States to back with action its words championing the rights of nations to self-determination.

Third, as has been said time and again, the United States has a vital strategic interest in deterring Soviet encroachment into the Persian Gulf and into the territories of independent nations generally. The Soviets will never know that the United States means business unless we are willing to make some material demonstration.

Finally, there is a fourth U.S. interest served by assistance to Afghan rebels which is especially important at this time. It is our interest in defining common ground in the security concerns of the United States and our friends in the Persian Gulf—most notably Saudi Arabia.

It has been a fundamental precept of American policy toward Saudi Arabia that we are alined in a common interest of securing the stability of the Persian Gulf region and resisting Soviet external and internal pressures on the independent countries of that region. Surely, there are other important interests we share with the Saudis, such as maintaining the stability of the free world economy and ending conflict between Israel and Arab peoples. But with no other common objective is the specific compatibility of United States and Saudi approaches as clearly defined as in Afghanistan. Creating stability in the region is the pivot of the United States-Saudi relationship.

It is my distinct impression, that the Saudis perceive Soviet success in capturing the small country of Afghanistan as a grave threat to the region. They also perceive a vital region stake in the security of Pakistan from Soviet pressures. They are keenly aware of the importance of demonstrating that the nations of the area are not helpless against the superior Soviet military might. For them, it is not simply, or most importantly, a threat to the global balance of power. For them it is a matter of regional group effectiveness against the intervention of a domineering external power.

Soviet aggression in Afghanistan, and pressures on Pakistan present a challenge to the capacity of the region's powers to defend themselves.

If they cannot respond effectively, it will weaken their ability to be recognized as a distinct and independent voice in the international community.

It seems apparent that the United States should act in concert with the Saudis where there is such a clear compatibility of interest.

Tangible assistance to Afghani rebels, through Pakistan, and credible security support to Pakistan itself, present little of the sort of complication that, for example, providing the Saudis with F–15 equipment does. As long as the Saudis remain outside the Camp David framework there is the risk that this equipment could be used to support military actions against Israel. In contrast, concerning aid to Afghani rebels and the Pakistan nation, we can, in clear advancement of our own strategic interest, say "Yes" to the Saudis.

We must remember that the Saudis are maintaining their oil production at a relatively high level in an effort to restore OPEC price unity and limit the damage of out-of-control energy prices of the world economy. Last Monday the Congress agreed to require the President to build a strategic petroleum reserve at the rate of 100,000 barrels a day starting October 1. Clearly our efforts to build a 500,000 a day strategic petroleum reserve will be facilitated if the Saudis maintain their current production levels. It will be facilitated as the Saudis perceive our respective national interest as compatible on many levels.

To stiffen the Saudis' ability and willingness to play this important role in keeping the free world strong, the United States must visibly demonstrate that we also are willing to do our part in preserving the security of the Saudis' regional home.

We need the Saudis to stand with the United States in the defense of the economic security of the free world. By providing aid to Afghani freedom fighters, we have the chance to show them that we will stand with them, and all friendly nations, in the defense of the political security of the free world.

For all these reasons, I think the President should review the case for providing defensive support to the Afghani liberation movement. He may find there are strong, persuasive counter arguments. However, if he does I believe the circumstances warrant a more thorough explanation of why it better serves American interests to abstain from assisting people who fight to free themselves from the Soviet tyranny.

RECOGNITION OF SENATOR TSONGAS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. TSONGAS) is recognized for not to exceed 15 minutes.

THE WAR IN AFGHANISTAN

Mr. TSONGAS. Mr. President, let me begin by commending the Senator from New Jersey (Mr. BRADLEY) on his statement. I am pleased to join with him this morning in this joint effort to raise the issue of Afghanistan.

Mr. President, as I speak today, a forgotten war rages far away. It is not a war against hidden terrorists. It is not a war against a guerrilla movement. It is not a war pitting brother against brother.

It is a war, Mr. President, of classical dimensions—invasion, conquest, and occupation. It is the Soviet war against Afghanistan.

This war being waged in the mountain recesses of a landlocked nation matches an awesome superpower against the peasant fighters of a near feudal society. Snipers face regiments and divisions. Rifles face tanks and helicopter gunships.

The kill ratio, they say, is six Afghans for every Soviet soldier. The civilians are not being counted.

It is a brutal war and a lethal war. It is also far removed. After the first flush of outrage, Americans are letting Afghanistan fade from view. With memories of our own quagmire in Vietnam, Americans are content to let the Soviets wallow in theirs.

That troubles me; it troubles me deeply. I fear that the Afghans are modern day victims of an old philosophical debate. We are all familiar with the classical textbook debate on existence, "Does a tree in a forest make a sound when it falls if there is no one around to hear it?"

Is there a war in Afghanistan? Does anyone hear it, feel it? Can a war be a real war, if Walter Cronkite does not bring the blood and fury to the evening news?

As the war heats up in Afghanistan, our attention fades, our consciousness dims. The war recedes from view.

This is unfortunate. The war in Afghanistan is much more than a case of aggression and resistance. The war epitomizes the Soviet dilemma in the Third World, and sets out a new wealth of opportunities for America. I, for one, plan to help keep this war in plain view.

First, however, let me make one point clear. I do not view the Afghan war as a confirmation of old cold war ideas. Some do. Some of my colleagues, profess great compassion for the "freedom fighter" in Afghanistan, but at the same time thwart the freedom fighters of South Africa, Zimbabwe, and Nicaragua.

Under these rules, if a group fights against the Soviets, they are freedom fighters. If they fight against our "friends"—no matter how corrupt, vental or brutal—they are Marxists, or terrorists, or worse. That mindset expresses a traditional cold war approach. It is not my approach, and I venture to say, it is completely out of step with the reasons why these struggles are launched.

I believe we should look at the Afghan war in broad terms. It is part of a larger human drama. People of color in South Africa share the aspirations of the Afghan freedom fighter in the struggle against racial domination. The people of the Western Sahara, there territory occupied by Morocco, have fought the Moroccan Army to a standstill. During World War II, occupied France spawned a heroic underground resistance against Fascist Germany. During the 1950's and 1960's, European colonies all over Africa and Asia rose up in defiance of colonialism and imperialism. So, too, have the brave rebels in Czechoslovakia and Hungary fought for their liberty against Soviet tanks. And now, the war in Afghanistan.

Different times, different locales, different players. But the same strivings. Liberty and self-determination are not ideological concepts. In the Third World, indeed in the world over, the call of freedom and anti-imperialism can reach all men and women.

Now those ideas are lodged firmly in Afghanistan where an imperial power has occupied a small country and found more trouble than it bargained for.

The war America is apparently prone to forget has cost the Soviets over 5,000 casualties. Some 85,000 Soviet troops occupy the country. Arrayed against them are practically every one of the 17 million inhabitants of Afghanistan.

The puppet regime of Babrak Karmal has utterly failed to win any popular support. Army units defect regularly to the rebels. There is almost no one left to run the government but Soviet officials and technicians.

The Red Army is assuming more responsibility for the war as the Afghan army shrinks in size. In desperation, the Soviets are reported to be using nerve gas, napalm, and biological weapons. Often they hit civilian targets as a retaliatory tactic. The Afghan resistance is equipped only with the most rudimentary firearms to do battle with Soviet power.

Yet the war góes on. Driven by their Islamic hatred for atheistic communism and infuriated by foreign domination, the Afghan resistance has sustained its resolve. Early predictions of a quick Soviet victory have proven false. Some say the Soviets will be bogged down in Afghanistan for years.

The Soviets have bitten off more than they can chew in Afghanistan. If they leave, the Babrak Government will fall almost instantly. If they stay, they risk military embarrassment and a protracted war. If they augment their troop strength, they will suffer more criticism from the Third World and tacitly admit that they are losing the war. While it is true that the Soviets stand to gain from their first real combat experience since World War II, the experience may well come at a terrible price. The alleged Soviet "pullout" of yesterday is a rather unsophisticated ham handed public relations stunt that fooled no one. It only serves to make future troop increase all the more glaring and hypocritical.

It is easy to gloat over this Soviet debacle in Afghanistan. We could easily write this off as a "one for us" episode in the Soviet-American rivalry. That would be a mistake. The invasion of Afghanistan is much more than that. It is a dramatic symbol of Soviet frustration and failure in the Third World. Afghanistan is the visible symptom of a profound shift in Soviet fortunes.

To many Americans, this assertion must come as a shock. We almost expect American reverses in Africa, Asia, and Latin America. But, our competitor is in deep trouble for the first time.

Let me attempt to put this into a historical context. After World War II, the colonial empires of Europe were rocked by independence movements and liberation struggles. One after another, the Third World nations were born in a crucible of anticolonialism and nationalism.

During those years of struggle, the Soviets provided the liberators with weaponry and ideology, while the United States was either passive or openly alined with the colonial and dictatorial powers. The record of American blunders is there for all to see, paving the way for effortless Soviet successes. We supported the Salazar dictatorship in Portugal against the liberation struggles in Angola, Mozambique, and Guinea-Bissau, and delivered the future rulers of those countries to the Soviets. We supported Batista, of course, and propelled Castro into Soviet hands. Dziem in South Vietnam, Samoza in Nicaragua, the Shah in Iran, and Haile Selassie in Ethiopia were all friends whose manner of governance insured their demise, our disgrace, and Soviet success.

Under such circumstances, the Soviets were logically perceived as the champions of self-determination while the United States was perceived as the defender of imperialism. And, sad to say, there were cases where that perception was accurate. South Africa threatens to be the next example of this dynamic.

This historical record, in essence, has given the Soviets an enormous momentum of good will and credibility in the Third World. This baffles us. "Are we not the international good guys" as one Senator implored during the Senate hearings on Vietnam?

The answer is clear enough. If you were the leader of a struggle for independence, would you not favor those who helped you; and would you not be inclined to disfavor those who opposed you? Would you be concerned that your enemies seemed to be a more democratic, open society, while your friend, the Soviet Union, was authoritarian and repressive? In the heat of battle, those distinctions count for little; a friend's failings are easily excused.

The Soviets who had nothing to lose in this period and everything to gain, played their hand very well indeed. This winning hand has several remaining opportunities for future success—the Palestinian issue, apartheid in South Africa and an occasional U.S.-supported despot here and there.

Beyond those few remaining opportunities, the outlook for the Soviets is grim. The era of liberation is coming to an end. When the Soviets invaded Afghanistan, they in effect, told the world that the honeymoon with the developing world was over.

When the United Nations voted 104 to 18 to condemn the invasion of Afghanistan, the Soviets lost their impeccable revolutionary credentials. It became clear that the Soviets were not above invading a Third World nation despite all their liberationist rhetoric. In their brutal act of aggression, the Soviets lost their innocence.

This loss of revolutionary innocence is but one side of the Soviet failure in Afghanistan. More fundamentally, the invasion is a stark symbol of waning Soviet influence and control over the socialist states of the Third world.

The Soviet decision to invade Afghanistan was a last ditch, desperate measure. As the client Amin regime steadily lost ground last year to a blend of national, religious, tribal, and individual forces, the Soviets concluded quite simply that they were losing in Afghanistan. In the marketplace of ideas, Soviet client stateism was not selling in Southern Asia.

Ideological appeals did not work. Socialist solidarity did not work. Anti-American, anticapitalist slogans did not work. The people of Afghanistan were unmoved. So, the Soviets invaded Afghanistan to force a client state into line.

This profound failure of Soviet foreign policy is not unique. It has been repeated in less dramatic and more subtle terms all over the globe. Afghanistan brings to life and light the new Soviet dilemma in the Third World.

I believe that the bloom is off the rose of Soviet-style socialism in the developing world. Country after country is turning instead to a mixed economy, one more centrally planned than our own, but integrating the advantages of free enterprise incentives.

I have spoken previously on the Senate floor as to the successes of such African countries as Nigeria, the Ivory Coast, and Kenya, all of which have mixed economies. Malaysia and Singapore are examples from Asia. I have also spoken of the conference held 10 days ago in Boston where the titans of American capitalism met and negotiated with representatives of "Marxist" Angola and Mozambique, as well as Guinea-Bissau, Cape Verde, Principe, and Sao Tomé. In time, I predict that even President Julius Nyerere, of Tanzania, a distinguished African statesman and a committed socialist, will move in the same direction.

Why is this happening?

It is happening because these leaders have realized that pure socialism is not the best road to development. And make no mistake about it, the priority need of the Third World is development. In the past, there was no shortage of Third World leaders who were content to spend their days steeped in ideology and reminiscing about the wave of liberation. But, today's leaders are different. They are less ideological and more pragmatic. The guerrilla chieftain has become an administrator. His priorities are economic, not military. His needs coincide with American, not Soviet, capabilities.

America's opportunity is contained in this Soviet eclipse. All over the Third World, subtle shifts in development strategies are reducing the Soviet role and opening the door to American and Western participation.

Our foreign policy has not yet grasped the full implications of this shift. Part of the problem is our preoccupation with Soviet military expansion. A forest of Soviet missiles and ships disguises the trees of ideological impotence in the Third World. As we rush to arm ourselves to confront a perceived military threat we barely notice this new vulnerability in the Soviet position.

Afghanistan tells us in harsh and strident terms that the Soviet star is falling. What was once a subtle trend, is now plainly exposed, for all to see. The passing of liberationist needs and the coming of development priorities has changed the political landscape of the Third World. The new pragmatism relates to the mind. Afghanistan relates to the heart.

Will we exploit this situation? Given our shoot-ourselves-in-the-foot proclivities, that is an open question. One point needs saying, however: If we retreat into a cold war mentality, we will not only miss a ripe opportunity, we will find ourselves more isolated than ever before.

So Afghanistan becomes an historical pivot. For the Soviets, it is a disastrous misfortune. For the United States, it is an unprecedented opportunity. For the Third World, it is a lesson in the virtues of nonalinement.

Most Third World countries need no lessons to understand nonalinement. But for those still in a thrall to a Soviet or even an American patron, the lessons of history are clear. Fealty to a superpower contains the seeds of self-destruction. It contradicts basic nationalist aspirations and warps national objectives. Such loyalties cannot be sustained because, eventually, all nations want to be themselves and not someone's surrogate.

The war in Afghanistan shall not be forgotten; not now; and not in the future. So much import in one small little war. So much significance for America, for the Soviets, and for the Third World.

We will remember Afghanistan, and for the right reasons. All those who cherish freedom, self-determination, and national development will join us.

Mr. President, I ask unanimous consent to have several articles relating to the war in Afghanistan printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1980]

KREMLIN PULLOUT CLAIMS—NEW TROOPS, UNREST OBSERVED IN KABUL

(By William Branigin)

The Soviet Union's announcement that it is withdrawing some military units from Afghanistan comes amid reports of a buildup of Soviet troops there in the past three weeks, an opposition strike and bloody feuding within the ruling party.

Most reports from the Afghan capital of Kabul are sketchy, and many cannot be independently confirmed. But, from the points they have in common, it appears that the Soviet occupation forces are increasingly hard pressed to control the insurgency by Afghan Moslems and to hold together the rival factions of their ally, the ruling People's Democratic Party.

Despite the Soviet announcement on the eve of the Venice summit of Western leaders, the reports suggest that Moscow is in no position or mood to withdraw significant numbers of Soviet troops from Afghanistan.

According to a Western diplomat from Kabul who briefed reporters in New Delhi Friday, the Soviets may have been augmenting their forces in Afghanistan shortly before the withdrawal announcement.

He said the number of Soviet AN12 and AN22 transport planes landing at Kabul airport—usually four to five a night—has tripled or quadrupled in the past three weeks, Washington Post special correspondent Carol Honsa reported from New Delhi.

This appeared to raise the possibility that the forces the Soviets say they are withdrawing actually are being replaced as part of a rotation of troops.

The diplomat in New Delhi said that "a lot of [the Soviet aircraft] are carrying troops in," but that he did not know whether they were replacements or additional arrivals.

"I have a hunch that the Soviets are beefing up their forces there," the diplomat said. He said that to win a military victory, the Soviets "are going to have to change their tactics, and that will take them a lot more people."

Asked about the prospects of a political settlement, a regional specialist in New Delhi said. "Obviously there can't be any move toward a political settlement unless the Soviets choose to negotiate or move in that direction. So far, there have been no indications that they're after anything other than a military solution."

The diplomats said they believed that the Soviets now have considerably more troops in Afghanistan than the latest Western estimates of 80,000 to 100,000. The alleged buildup followed reports of increased rebel activity around Kabul.

Complicating the Soviets' efforts to crush resistance to Marxist rule in Afghanistan, which borders some of Moscow's own Moslem republics, has been fierce feuding within Afghan government ranks.

There are unconfirmed reports that key officials were either killed or wounded in shootout in Kabul last week.

A usually reliable Afghan source in New Delhi told Honsa that rivalry between the Khalq (Masses) and Parcham (Banner) wings of the ruling party exploded in a gunfight early last week and that First Deputy Prime Minister Assadullah Sarwari and a former defense minister, Maj. Gen. Abdul Qader, were badly wounded.

Radio Afghanistan reported Wednesday that Qader had flown to the Soviet Union for medical treatment. The radio reported yesterday that Sarwari also had left by air for medical treatment in the Soviet Union. No other details were disclosed in either case.

In addition there have been rumors that President Babrak Karmal and Defense Minister Mohammed Rafi may have been involved in the shootout, but diplomatic sources said there were no indications that Babrak was harmed.

Babrak, the leader of the Parcham wing, was installed in a Soviet coup Dec. 27 in which his predecessor, Hafibullah Amin, the chief of the Khalq faction, was killed. At the same time, Soviet forces poured across the northern border to help fight the anticommunist Afghan rebels and stabilize the new government.

"From all we know, the Soviets are trying desperately to keep the lid on this intraparty fighting," a Western diplomat in New Delhi said. He said his embassy is hearing reports of eight to 10 assassinations a night in the feud between the Parcham and Khalq factions. But he said he had no evidence that the Soviets are grooming replacements for Babrak or other Afghan leaders.

Adding to the Kabul government's problems were a strike by merchants in the capital and renewed anti-Soviet student demonstrations, according to reports from Kabul.

These protests coincide with unconfirmed reports of an increase in isolated assassinations of Soviet soldiers in the capital, abductions of young Afghans at night by Army press gangs, shooting incidents at military installations and a rash of unexplained poisonings of school children.

The result has been a rise in tension in Kabul and more open opposition to the government.

Los Angeles Times correspondent Tyler Marshall reported yesterday from the Afghan capital that the almost total general strike entered its second day without any decisive government action to end it.

Diplomatic sources in Kabul said the strike, which began Saturday, was organized by a mixture of Moslem religious leaders and dissidents, Marshall reported.

It was the second general strike in the capital since the Soviet invasion. But the Soviets this time appeared to be taking a much softer line than they did in February, when the first strike triggered an uprising in Kabul that was violently suppressed.

[From the New York Times, June 22, 1980]

AFGHANS IN FLIGHT

(By Mehr Kamal)

Bands of refugees, 90 percent of them women and children, are fleeing the fighting in Afghanistan to a marginal life in crowded camps and an uncertain future.

The two Pakistani provinces where they arrive, Baluchistan and the North West

Frontier, are among Pakistan's most beautiful but least developed. The North West Frontier Province, where 80 percent of the refugees live, is inhabited by one of the world's most martial peoples. For centuries established governments have left alone gun-slinging Pathan tribesmen who live along the Afghanistan-Pakistan border. This independence has cost the tribesmen dearly; Schools, hospitals, roads are almost nonexistent.

In tribal territory such as this, 20 miles from the Khyber Pass, the Kachigarhi camp, with more than 700 residents, is situated. The central issue that this camp and others pose is the possible germination of one of the world's most intractable refugee situations. All the brave, rash words heard in the camps about arms and fighting tend to obscure the likelihood that the more than 850,000 refugees who have entered Pakistan may be there to stay permanently. The Government has set up an administrative structure to care for the refugees but all it has been able to provide is some food and mostly inadequate shelter. Health services and education are the next priorities. No one seems to have given serious thought to helping these people, mostly farmers, adapt to their circumstances by teaching them other income-earning skills. Fewer than 10 percent of the camps' occupants are men, all of who are over 40 years old.

A typical inhabitatnt of Kachigarhi is 10-year-old Shah Zarina, who arrived seven months ago with her mother, grandmother and four younger brothers and sisters. Her older brother returned to Afghanistan to fight. They had left their ancestral village after their father, who was fighting the new Government, was killed. The family, once fairly well off, brought gold ornaments, a couple of wristwatches, a few goats. Through the winter they huddled under two blankets issued by the authorities in a tent shared with three other families. They received around 40 cents per person per day to buy essential food. Now all of the possessions are gone—sold to buy food, clothing, other necessities. A younger child died a few months ago; the other three are constantly ill with bronchitis, malaria, dysentery and dehydration.

An aide of the Office of the United Nations High Commissioner for Refugees, which is helping Pakistan care for the refugees, points out that Shah Zarina's family is lucky. They have a tent for protection from the merciless sun, and the children do not suffer from severe malnutrition. The children of more recent arrivals show greater signs of malnutrition, and their families come with almost no personal belongings.

Karen Bagger, the aide, who is based in Islamabad says the organization is worried about a possible outbreak of communicable disease in the camps. Immunization is alien to the refugees, and unsanitary situations, a lack of safe water, and crowded conditions combine to pose a health hazard. The men and boys have some access to health facilities but most women would rather die than let themselves be examined by male doctors. An effort is being made to arrange some schooling for the boys, but mothers will not allow daughters to learn and many cite education as one of the "terrible" things the new Afghan regime tried to foist on them.

The refugee situation has put an enormous financial and administrative burden on Pakistan, one of the world's poorest countries, with an annual per capita gross national product of $180. In January, the High Commissioner appealed for $55 million to meet relief needs; so far only $44.8 million has been pledged, $18.8 million of it by the European Economic Community. With the increased numbers of refugees, the amount budgeted by the Commissioner for the entire year for those refugees may be spent by August. Other United Nations agencies, among them the United Nations Children's Fund, are also helping by providing tents, blankets, and drug and diet-supplement kits for mothers and children.

As the number of refugees approaches the one million predicted by Pakistan, there is a growing sense of isolation and despair among them and among Pakistani officials, who feel that in a world with so many pressing refugee problems theirs may be forgotten.

[From the New York Times, June 23, 1980]

IN THE AFGHAN TUNNEL

(By Anthony Lewis)

Americans who remember the official optimism of Vietnam—the light at the end of the tunnel—may take a certain bitter satisfaction at Soviets claims of success in the pacification of Afghanistan. The Tass report that some army units are being withdrawn because they are "not necessary" has a familiar ring.

The available evidence indicates that the Russians are sinking into a military and political quagmire in Afghanistan. The occupying forces, around 100,000 men, have not been able to suppress the guerrillas in the countryside. The rebels control substantial areas, and roads are unsafe everywhere.

Kabul itself has become a dangerous problem for the occupiers. A convincingly detailed report from Afghanistan in The Economist of London recently said that thousands of guerrillas had infiltrated the area around the capital, and that the Soviets were bringing massive reinforcements in by airlift. Soviet attack planes have made heavy strikes near Kabul.

Politically, too, life is getting more complicated for the Russians. Babrak Karmal, the President they installed, has lost whatever indigenous support he had. The local Communist party is divided into factions. The Afghan Army has been sapped by desertions. Students and the middle class in Kabul have joined in strikes and protests that go on despite mass arrests and the disappearance of political suspects.

The Soviets, The Economist concluded, face a choice between two unattractive policies. One is to go all-out for a military solution, building their occupying force up to perhaps 500,000 men—a figure with echoes of Vietnam. The other is to negotiate for a political settlement that would give them enough of a fig leaf to withdraw their troops.

The first of those alternatives would be a drain on Soviet resources, the second a major political setback. The object of Western policy, The Economist said, should be "to influence Soviet cost-accounting in favor of the second option."

When Tass suddenly carries a cryptic item about troop withdrawals from Afghanistan, Western leaders are right to be skeptical. It costs Moscow nothing to put out a bulletin on its news agency, and the timing of this one suggests that it was designed to impress the Western summit meeting in Venice. The hope presumably is that the United States and its allies will let the economic measures taken against the Soviet Union over Afghanistan slide.

But if Western skepticism is appropriate, it does not follow that there should be no response to Soviet talk of withdrawal. The right tactics are to go on with the measures of economic and diplomatic pressure, such as the Olympic boycott and trade sanctions—trying to make them more effective—and at the same time to welcome any opening for a negotiated political settlement, however slim it looks.

That was the course followed by President Kennedy in the Cuban missile crisis of 1963. Nikita Khrushchev sent one message that seemed to offer a formula for withdrawal of the Soviet missiles, followed by a second that truculently challenged the American position. Kennedy chose to ignore the second message and answer the first. It led toward a diplomatic solution of the crisis.

"The Trollope ploy" is what some called Kennedy's tactic: a stratagem of the kind described by the novelist of Victorian politics and society. But of course Kennedy did not use it in isolation. While he took up Khrushchev's ambiguous diplomacy, he went ahead with plans for a naval blockade of Cuba and for convincing expressions of American unwillingness to let those missiles remain.

It is in that spirit that the West can respond to talk of Soviet withdrawals from Afghanistan. The purpose should be to help provide the fig leaf needed for a political settlement if in fact there are those inside the Soviet leadership who are ready to consider settling on such terms.

What would the fig leaf be? The details could emerge only with real evidence of troop withdrawals and real negotiation. But the essential end product would evidently be an agreement that Afghanistan, after the end of the occupation, would be a neutralist country, not serving as a base for "anti-Soviet activity."

The West has not had significant influence in Afghanistan, so it should find such a solution acceptable in principle. Lord Carrington, the British Foreign Secretary, has already made a proposal of that kind. But finding an Afghan negotiating partner will not be easy. The rebel factions have little political common ground except their dislike of the Russians.

No one should expect the Soviet leadership to move with any speed toward genuine withdrawal and negotiation. After all, an American as smart as Henry Kissinger insisted that the Vietnam war had to go on for years after he knew it could not be won, for the sake of American "credibility." But the West must at the same time keep pushing the Soviets and looking for a chance to negotiate on Afghanistan.

[From the Economist, June 14, 1980]

STUCK IN AFGHANISTAN

The Russians are in widening and deepening trouble in Afghanistan. Widening, as the rebels take their hit-and-run war against the invaders from the Iranian border to the Pakistani one, and into the capital, Kabul. Deepening, as the resistance is joined by schoolgirls, shopkeepers and estranged members of Mr. Babrak Karmal's communist government. Five months' bitter experience in Afghanistan should have forced two conclusions on rational Russian minds: first, that a clear military victory over the insurgents will be impossible with the present level of Soviet forces in Afghanistan; second, that the Russians can no longer hope to establish a pro-Soviet Afghan government and army capable of surviving the departure of Soviet troops.

This week's airlift of an estimated 10,000 Soviet soldiers to reinforce the cordon around Kabul does not prove that the Russians have conceded the first point; they have been shuttling troops in and out of Afghanistan throughout the past five months. But it does confirm that the Soviet force is increasingly overstretched. And while accounts of the fighting are more confused and conflicting than ever, with reports from the rebel refuge of Pakistan sounding strangely soberer than those from Delhi (see page 43), what is indisputable is that the 100,000-strong Soviet army is further today from imposing a Pax Sovietica on Afghanistan than it was at the turn of the year.

The Russians' political failure is just as blatant. This too was underlined this week with news of a new round of executions, of street battles between rival factions of the communist party, and of a split between President Babrak Karmal and his number two. Should-be defenders of the government in the Afghan army were said to be defecting to the guerrillas around Kabul, while military recruiting teams put out house-to-house dragnets to fill the depleted ranks of the Afghan forces, now reckoned to be down to a third of their old strength.

Even if enough able-bodied Afghans are eventually drafted to reconstitute an 80,000-man Afghan army, the job of turning a reluctant rabble into an adequately trained and officered force might take years. Even then, there is every reason to doubt that it could ever be developed into a politically reliable instrument that would fight against fellow-Afghans rather than turn against the Russians and their local stooges. And without an army to prop him up, a Babrak Karmal or successor Soviet client would not last a day.

So the Russians are left with two choices. One is to continue reinforcing their troops in Afghanistan until they can crush the insurgency—which may be feasible, but could take half a million men—and then settle down to a permanent occupation. The other is to negotiate a political settlement that would allow them to withdraw. Both will involve heavy sacrifices: the first, of men and resources; the second, of political aspirations. What the seven leaders of the non-communist world should be talking about in Venice a week hence is how to influence Soviet cost-accounting in favour of the second option.

STICK, CARROT

This means raising the costs to the Russians of pursuing their Afghan adventure and at the same time defining the terms and opening the channels for negotiations. The military costs for Russia can be affected from outside only by stepping up arms supplies to the rebels. Weapons are undoubtedly getting through to them now, probably through at least two of the three uncloseable borders—with Iran, with Pakistan and, maybe, the barely passable one with China—and probably from several foreign sources. But for all their disinformation about a foreign-sponsored counter-revolution, the Russians must be well aware that external aid has so far played only a marginal role in the Afghan resistance; the challenge is so durable precisely because it is spontaneous and indigenous.

There are dangers in increasing arms aid to the rebels much beyond the present, admirable, bounds of discretion. It could turn Afghanistan into what has already, inaccurately, been described as a proxy war between the superpowers, and thus diminish support for an anti-Soviet stand among non-aligned and Moslem countries. It could commit the arms suppliers over-closely to an Islamic fundamentalist movement that may yet turn out to be as inimical to western interests as Ayatollah Khomeini's in Iran. Furthermore, no amount of weapons would necessarily be enough to prevent the Russians from crushing the insurgents if they decide to push for victory at all costs. The aid pipeline should be open wide enough to enable the Afghans to convince the Russians that they cannot win without such an open-ended commitment, and perhaps not even then; and it should still be done quietly.

The other way of raising the cost to Russia of another cold winter in Afghanistan is by squeezing the food and technology transfers on which the Soviet economy has come to depend. Like the Olympic boycott, President Carter's trade sanctions have not been very effective so far and American exporters have borne by far the largest share of the burden. The Russians seem to have made up most of their lost American grain from other sources; and the loss of long-term industrial projects will take time to hit. This is why a partial trade embargo will persuade the Russians to change their strategy in Afghanistan only if they first become convinced that a quick win is impossible, and that sanctions will be as prolonged as their own occupation—any may spread as time goes on.

The costs of remaining in Afghanistan, as the Russians calculate them today, are unlikely to look intolerable. But it is important that they should be able to read the other side of the ledger. The west, in cooperation with Afghanistan's neighbors, should reaffirm its readiness to provide a face-saver in the form of some version of the Carrington neutrality plan, enshrined if necessary in a formal Austrian-type treaty. But if this plan is to be fitted in with recent Soviet-Afghan proposals, the Russians will have to accept (a) that nobody can deliver an end to the insurgency, which will come about only as the result of a political settlement; and (b) that Soviet troop withdrawals will have to accompany, not follow, any action to stop arms aid or restrict guerrilla sanctuaries.

The Russians and their clients are not the only parties to the Afghan dispute unready for serious negotiations. At the end of last month the umpteenth quest for unity by rebel leaders in Peshawar came to nothing. The rebels too need reminding that, unless they can provide a political alternative, they will lose the war.

[From the Washington Star, June 14, 1980]

Getting Away With Murder

(By Cord Meyer)

The Soviets are getting away with murder in Afghanistan by excluding American TV cameras. Except for the brief foray of CBS' Dan Rather across the Pakistan border, the national insurrection of the Afghan people might as well be taking place on the dark side of the moon as far as American viewers are concerned.

With the notable exception of a few intrepid journalists, the American press has not done much better than the TV networks in covering the extraordinary story of how 85,000 Soviet troops have completely failed to suppress the Afghan resistance.

Initially resigned to the successful installation of a Soviet puppet government as in Hungary and Czechoslovakia, Carter administration officials have been compelled by mounting evidence to conclude that the Russians have bitten off more than they can chew.

Although the Soviets have largely succeeded in imposing a zone of silence by banning Western media, intelligence reports, communication intercepts and defector debriefings leaking through this iron curtain have convinced State Department officers that 95 per cent of the Afghan population is now in seething revolt. But when official press briefings are held to convey this information to the American public, the news media, lacking independent confirmation and naturally suspicious of government handouts, tend to downplay the story.

After a thorough review of the available evidence, this reporter is convinced that the Soviets are in even deeper trouble in Afghanistan than the cautious State Department assessments suggest. Although a new influx of Soviet troops is expected after the indecent Olympic ceremonies in Moscow, there is now a very real question whether additional forces can control a religiously-motivated rebellion that extends throughout the length and breadth of the country.

The Afghan army that once numbered 100,000 has been so decimated by defection to the rebel side of individual soldiers and entire units that only 16,000 remain effective and even these are unreliable. As a result, when Russian armored columns and helicopter gunships have laid waste a rebel area, the Afghan troops left behind to hold the region either defect or are driven out.

Of the major cities, only Kabul remains firmly under Russian control, and martial law has just been declared in Herat and Kandahar where Soviet troops make sporadic forays from isolated garrisons. After the killing of protesting Afghan high school girls by Russian gunfire in the streets of Kabul, the situation in the capital itself is described as explosive, with insurgent forces massing in the surrounding mountains.

As if to disprove the Soviet allegations that the insurgency is the work of American and Chinese "imperialists" infiltrating from Pakistan, two of the northern provinces on the Russian border are almost entirely in rebel hands. The governor of Qonduz province was heard last week desperately calling for Russian help to save his last beleaguered garrison.

If the military situation is worse for the Russians than when they launched their invasion, political developments have been even more disastrous for their cause. In trying to impose their rule on 17 million Afghans, the Soviets have had to rely on no more than 10,000 Afghan communists, but this minuscule minority is itself bitterly divided into two murderous factions.

Ministers from the Khalqist and Parchamist wings of the party in the Russian-imposed cabinet have to be prevented by Soviet guards from assassinating each other. Last week a Russian officer was killed in the cross fire as he tried to settle an internecine quarrel.

In fact, the Afghan government has ceased to exist as a functioning entity, and Soviet officials are now overtly running all ministries except for foreign affairs where a thin layer of Afghans are propped up in office. As a State Department expert remarked, "The Soviets no longer have even a fig leaf to hide behind."

The Carter administration must hear part of the blame for the slowness of opinion both here and abroad to grasp the meaning of the Afghan revolt. Although it paid off in the early primaries, the president's Rose Garden strategy diverted attention from Afghanistan without helping the hostages. Only when a press story noted that VOA was broadcasting in little-understood Persian to Afghanistan did the Carter administration authorize broadcasts in the widley-spoken Dari language, and it will be three months before intelligible broadcasts are on the air.

Contrary to Soviet accusations, the Carter administration has also been terribly slow in responding to urgent requests of the Afghan guerrillas for arms capable of coping with the Russian tanks and helicopters. There are rumors that shoulder-fired missiles may be on the way but so far the guerrillas seem to be relying mainly on old-fashioned British rifles and captured Russian arms.

As the struggle to succeed Brezhnev looms in Moscow the Soviet will be more reluctant than ever to admit the magnitude of their miscalculation in Afghanistan. If they think they can control the news they will be tempted to apply the genocidal strategy of a Stalin rather than accept the replacement of their communist regime by a neutral government.

The Afghan fighters have offered the Western world and the Islamic nations the great gift of their courage in standing up to the Red Army. The least we can give them in return is the means to defend themselves, food for their refugee families and perhaps most important of all the spotlight of focused world opinion to prevent their secret destruction behind a wall of pervasive censorship.

[From the Washington Post, June 15, 1980]

Why Is Ivan in Afghanistan? To Halt a Marxist Revolution

(By Jonathan Kwitny)

The Soviets, both in their Afghan encampments and back home in the Kremlin, were surprised by the bitterness they provoked when they marched into Afghanistan last December—at least as surprised as Jimmy Carter says he was when they did so. Why are the Soviets in Afghanistan?

From all available evidence, the Soviets came to Afghanistan not to conduct a Marxist revolution but to stop one—or, more precisely, to postpone it for a number of years. The real Marxist zealots came to power in Kabul in April 1978. The Soviets helped them do it because the opportunity was there and because it is more desirable to have puppets on a nation's border than truly neutral countries. At the time, Afghan Communists represented 1 or 2 percent of Afghanistan's population.

A strong argument certainly exists for radical change in Afghanistan. The per capita gross national product is about $150 a year. To say simply that this figure places Afghanistan among the poorest countries in the world is misleading. In most of the other $150-a-year economies the weather is warm and one can live comfortably on relatively little. Last year, the purchase of a $55 million DC10 tripled the country's usual trade with the United States. Normally, the bulk of the $20 million worth of American imports consists of used clothing, which one sees piled high in the bazaars. The Salvation Army is the Brooks Brothers of Afghanistan.

Health conditions are appalling. In the countryside, almost anywhere you look, you are likely to see people squatting and spreading their robes. Excrement may make good fertilizer, but it also gets into the drinking water. Everywhere, people of all ages are wheezing and coughing up phlegm. Noses drip. Much of the year it is too cold to bathe regularly, and few people do. Half the children of Afghanistan die before they reach the age of 5.

"I know a family and they had 11 kids and they all died," a Western-educated doctor told me. "They died of respiratory and gastrointestinal infections, all of which could have been cured or prevented. You need a dependable clean water supply that the people will use and rely on. Seal the wells with concrete so the manure doesn't fall into them," the doctor suggested. The country hasn't a single sanitary sewerage disposal system, one United Nations official says. In Kabul and other cities, open sewers follow the sidewalks.

Incredibly little has been accomplished in Afghanistan, even though for 30 years the world's two greatest powers supposedly tried to outdo each other in impressing the country with their aid capabilities. The most visible results are roads and airports (some American, some Soviet), which have recently been used for the Russian invasion and conquest.

The literacy rate is estimated at 10 percent, perhaps the world's lowest and that means the ability to read a simple signboard, not the works of Kierkegaard. At a conservative minimum, 80 percent of the people live off the food they grow and the animals they raise.

Poverty and ill health are at the roots of the upheaval that has been going on in the country for the past two years. Yet the Communists don't seem to have addressed these problems directly. I asked Shanawaz Shanwany, the governor of Kandahar province, one of the largest in the country, what he thought his government's number one problem was. "No problems," he replied. "We are all happy." Then he reconsidered, and acknowledged that he does have a problem—resisting the imperialists who occasionally cross the border from Pakistan (Shanawaz, 38, a former army officer and party stalwart, had just become governor of his third province in the past year. He confessed to me that he had no idea of its population, its principal exports, or how many of its people were affected by the country's tumultuous land reform program last year. His appointment, like all important decisions in the country, came from the party's revolutionary committee in Kabul, a tightly knit, little-known group.)

Rather than attack poverty, ill-health and illiteracy head-on, the original Marxist zealots spent their 20 months in power trying to restructure the country's social system quickly and radically. This was done through a series of decrees, three of which were very important. Decree No. 6 freed all farmers from mortgages and other debts to private landowners. Decree No. 7 declared equal rights for women; the most talked about practical aspect of this was abolition of the bride price, by which fathers "sold" their daughters to husbands-to-be, usually for 80,000 to 100,000 afghanis (about $2,000 to $2,500).

Decree No. 8 was the land reform program. Land holdings were limited to approximately 30 to 60 acres, depending on the kind of land; for choice orchard land, the limit was 5 acres. (The measure of land in Afghanistan is the jereeb, either a little more or a little less than half an acre, depending on whom you ask.) The confiscated land was to be distributed to tenant farmers in lots of approximately 5 acres (less for good land). Ironically, in light of decree No. 7, decree No. 8 parceled out these lots mostly to males over 18, the rare exception being female heads of households. If all this weren't controversial enough, many households were ordered to move to land hundreds of miles away from where their families had lived for generations, to regions of the country dominated by other tribes that spoke other dialects. Much of this relocation was apparently politically inspired, aimed at breaking up groups of potential dissidents.

The decrees didn't attempt to change national policies, since Afghanistan had no national policies on basic matters. Afghanistan isn't even a nation—a fact that the Kremlin may be counting on. The country has long been inhabited by many tribes that jealously guard their independence. It contains, among other groups, approximately half of two major tribal nations, the Pashtuns (sometimes called Pathans) and the Baluchs. The remaining Pashtun and Baluch lands are in Pakistan, having been conquered by 19th century British armies which then attempted to complete the conquest of Baluchistan and Pashtunistan by marching to Kabul, but were twice routed.

What now passes for an Afghan nation was largely the creation of one chieftain, Abdur Rahman Khan. Before his death in 1901, Abdur Rahman managed to defeat many of his rival chiefs in battle and to persuade Russia on one frontier and Britain on the other to recognize his territory as a loosely defined buffer zone between their own expanding empires. Abdur Rahman's eldest son peacefully succeeded him as head of state in 1901, the last time such a thing has happened in Afghanistan. The son, Habibullah, was eventually shot to death, as have been five of his successors. (The other four have fled.)

The Communists, with their social reform decrees, have received the same reception other emissaries to Kabul have received: obstinance and violence. The bride price is still accepted practice; the bride's father normally holds the money as a kind of prepaid alimony with which to care for his daughter if the husband runs off. Women are being given equal rights only very slowly. A few women will venture out in public, and some even doff the traditional chador, a head-to-toe veil with a gauze screen over the eyes so the wearer can see where she's going. Young teenagers as well as older women wear this attire. I have chatted with the young in their homes, where they were wearing ordinary clothing, yet I would not have dared approach them on the street when they were in chadors.

The attempted land reform, however, brought doom to the Marxists. The government says that from 250,000 to 300,000 families received land, though probably far fewer actually experienced a change, and that not one farmer ever thought to sell his inefficient 5-acre plot, for which he often could not get seed or fertilizer. Thus, the government says, no need exists for a law governing whether the grants can be sold.

I never stumbled on a village in Afghanistan where land reform had been carried out. In Pakistan I did encounter Afghan landlords and villagers who had crossed the mountains as refugees because Migs and helicopter gunships had attacked their villages after land reform was resisted.

Many Afghans do indeed farm as tenants paying landlords a third to half of what they grow, depending on the crop. But this certainly isn't a country of large South American-style plantations run by an ostentatiously wealthy upper class. Many landlords hold recognized places in the tribal or religious structure. Tenant farmers do need a way to secure their own land, but landlords have never been the object of anything like the hatred now extended to the land reformers.

Typical was my visit to a village about 10 miles from Herat. To get there, I, with two villagers who worked in the city and an outsider who came along to help interpret, had to hopscotch puddles down a muddy path and climb over mud walls. In the village, a couple of dozen farmers and some donkeys crowded around us. None of the farmers owned his own land; they said they worked for landlords who lived in town (the largest of whom owned about 50 acres). They were plainly a downtrodden group, yet they angrily shouted that they would kill anyone from the government who attempted to enforce the decrees. They produced their mullah. Black-bearded, his turban slightly cleaner than the others', he obviously spoke for the masses when he announced in a strident voice, "I want to tell to the Russian people, they don't come to my country. If the Russian people don't come here, I have no business with them. If they do, I fight them to the last drop of blood."

What changed after the Russian invasion last December was that no one came to such villages. Contrary to expectations, the aerial bombardments that had chased hundreds of thousands of rebellious Afghans from their homes didn't intensify; they stopped. The Soviets dug into huge encampments near important airfields and seldom left; for a while they ventured into the bazaars, but after many were jumped and murdered by angry Afghan civilians, they stayed away. Only in Kabul did Russians patrol city streets, and there only at night, during civilian curfew. Afghan government officials stuck to the cities and main roads. Officially, the bride price remained illegal, but no one was around to enforce it. The land reform program, which caused government to get involved actively in daily life, was effectively called off. (Officially, "Phase 1" had been declared successfully completed, and "Phase 2" wasn't ready to be announced; when, or if, it was, it apparently would be limited to the distribution of seed and fertilizer.)

One result of the land reform disaster has been a big shortfall of wheat. The main staple of most Afghan diets is a delicious thin brown wheat bread called nan, baked in the shape of a snowshoe. United Nations and various diplomatic sources say that 1979 wheat production in Afghanistan was down by some 600,000 tons from the 1978 production of 3.2 million tons.

Officially, the government dealt with the shortfall by denying that it happened. As a practical matter, the government imported wheat from the Soviet Union, which the Soviets in turn had imported from the United States. For a while last year the price soared, causing real hardship, but it was brought back to normal, apparently by big Soviet subsidies.

This year the Soviet-picked government still showed no sign of recognizing or dealing with health and sanitation problems. In the wake of the land reform debacle, Fateh Muhammad Tarin, the deputy minister of planning, said that Afghanistan's economic priority was industrialization; the country has extremely little industry now. Plans were being made for plants to make fertilizer and silos, and to process cottonseed oil.

Tarin also talked of building an oil refinery. Afghanistan has enough oil and gas to make most authorities think it could be self-sufficient in energy, though it now produces only 10 percent of its oil needs. Natural gas is the country's chief export (fruit and nuts are second); most of the gas goes to the Soviet Union, in return for heavily subsidized gasoline, which sells on the street in Kabul for about 76 cents a gallon equivalent, one of the lowest prices in the world.

Few Afghans have cars. The fuel most depend on for heating and cooking is wood, and the price of wood about doubled during 1979, largely because of rebel activity in the wood-harvesting areas. For all retailers of products whose purchase can be postponed, such as pots and pans, business is merely bad; for those in the tourist industry, such as hotel and restaurant operators, business is practically nonexistent.

So is banking, despite government protestations to the contrary. One young party member I met, who had just been thrown into management of the main bank in Jalalabad (a large provincial capital near Kabul), insisted that $100,000 equivalent loans were no problem for him. Business was booming. "How much do you want?" he said. The interest was only 12 percent. In two hours there, though, I failed to see a single customer except for currency exchange.

A Western diplomat economist said the ratio of bank accounts to cash in Afghanistan has fallen to 1.06 to 1, meaning the economy is practically 100 percent cash. Shopkeepers were complaining that not even cash was around. "When the new regime came, it dried up," said one in Kandahar. "Some people buy gold." Yet the same shopkeeper and many others I talked to were sending hundreds of dollars each—all they could scrape together every few months—to help support the guerrillas in the hills and in Pakistan and Iran. Each town bazaar had a well-organized system for collecting and smuggling out the contributions, sometimes by arranging trade credits in business done with cooperative Pakistani and Iranian merchants.

So the Soviets went into Afghanistan to try to make it a more peaceful place by stopping the revolution that touched off the rebellion. The one revolutionary reform they left intact is the teaching of Marxism-Leninism rather than Islam in the schools, and even there I was told of at least one instance where a radical teacher was replaced with a more moderate one after parents began boycotting the school.

Obviously the Soviets intended to give a longer leash to the incorrigible older generation, expecting them to quiet down and die off, while hoping that today's tots, 30 years or so from now, might be more amenable to becoming the Afghan Soviet Socialist Republic. This is similar to what was done in the Uzbek SSR, the Tadzhik SSR and other lands of Central Asia that border Afghanistan and were once very much like it. Had the Soviets not come down, the whole movement toward Afghan communism might have been destroyed.

In the first months after the invasion, however, things were not working out as planned. The opposition clearly was not just a bunch of grizzled old tribesmen; it was practically everybody in Afghanistan. And although Pakistan was too intimidated and Iran too distracted to supply any appreciable aid, and no one else was in a position to do so, the rebels kept fighting. They had no weapons capable of resisting the Soviets' tanks, armored personnel carriers, airplanes and helicopters, but an unescorted carload of Soviet or Afghan government officials still couldn't travel 50 miles on any road in the country and count on arriving safely.

If the Afghan rebels can obtain arms with the help of the countries directly affected and threatened by the Soviet action, the USSR could be in trouble. It could be thrown on the defensive over issues such as Baluchistan, and might ultimately even retreat from Afghanistan. For several decades the Soviets have sought to befriend the Third World; now, in one sweep, they have lost a lot of that friendship. The Kremlin can doubtless take Afghanistan and even Baluchistan with tanks, but its sights are set on preeminence in other regions, too, and, like any war machine, the Soviets' will appear weaker the farther it gets from its own borders.

ROUTINE MORNING BUSINESS

(The following occurred during the address by Mr. Tsongas:)

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. TSONGAS. I ask unanimous consent to proceed for 30 seconds.

Mr. ROBERT C. BYRD. Mr. President, I have, for 13 years now, objected to that kind of request.

Mr. President, if the Senator will withhold for a moment, I shall help him. I ask unanimous consent that there now be a brief period for the transaction of routine morning business not to extend beyond 3 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the Senator may proceed and his statement not be interrupted in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TSONGAS. I appreciate the majority leader's concern and his parliamentary skill.

(The conclusion of Mr. Tsongas' remarks is printed above.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? There being no further morning business, morning business is closed.

EDUCATION AMENDMENTS OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1839, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1839) to extend the Higher Education Act of 1965 and for other purposes.

The Senate resumed consideration of the bill.

Mr. HATFIELD. Mr. President, will the majority manager yield a few minutes on the bill?

Mr. PELL. Mr. President, I ask unanimous consent to yield 1 minute of time in opposition to the Metzenbaum amendment to the Senator from Oregon.

The ACTING PRESIDENT pro tempore. If the Senator will withhold, under the previous order, the hour of 9:30 having passed, the Senator from Ohio (Mr. Metzenbaum) is recognized to call up an amendment on which there shall be 20 minutes debate, to be equally divided and controlled.

UP AMENDMENT NO. 1290

(Purpose: To recapture the interest subsidy paid on behalf of students)

Mr. METZENBAUM. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. Metzenbaum) for himself, Mr. Armstrong, Mr. Dole, and Mr. Bellmon, proposes an unprinted amendment numbered 1290.

Mr. METZENBAUM. I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 144, line 6, strike out "and (I)" and insert in lieu thereof "(I), (J) and (K)".

On page 178, between lines 14 and 15, insert the following new section:

RECAPTURE OF CERTAIN INTEREST SUBSIDIES

Sec. 423. (a) Section 427(a)(2) of the Act (as amended by section 416(a)(2) of this Act) is amended by striking out "and" at the end of clause (I), by redesignating clause (J) as clause (K), and by inserting after clause (I) the following new clause:

"(J) provides (subject to section 432(e)(1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student,".

(b) Section 428(b)(1) of the Act is amended by striking out "and" at the end of clause (O), by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon and the word "and" and by adding at the end thereof the following new clause:

"(Q) provides (subject to section 432(e)(1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e)(1) No repayment of interest paid under section 428(a) on behalf of any student shall be required under sections 427(a)(2)(J) and 428(b)(1)(Q) if—

"(A) the borrower has exhausted the ability to obtain loans under part E or this title and is required by reason of need to obtain a loan under this part for undergraduate study, or

"(B) the borrower borrows more than $7,500.

"(C) the borrower borrows under section 414 of this title."

"(2)(A) No repayment shall be required under sections 427(a)(2)(J) and 428(b)(1)(Q) for the interest paid under section 428(a) for more than three years.

"(3) No interest shall accrue on the repayments required under sections 427(a)(2)(J) and 428(b)(1)(Q).

"(3) The Secretary shall prescribe procedures to carry out the provisions of sections 427(a)(2)(J) and 428(b)(1)(Q) as soon as possible after the date of enactment of the Education Amendments of 1980.".

On page 178, line 16, strike out "Sec. 423." and insert in lieu thereof "Sec. 424.".

On page 11, in the Table of Contents, redesignate item "Sec. 423." as "Sec. 424." and insert after item "Sec. 422." the following new item:

"Sec. 423. Recapture of certain interest subsidies.".

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I had a question yesterday on this point. I discussed this matter with the majority manager and the manager for the minority. That has to do with a definition of what is direct student assistance and what is institutional and campus-based assistance. It was understood by the managers of the bill and myself, in conferring, that by not raising this amendment at this time, which is highly controversial—there have been no hearings on it—the managers of the bill indicated that there would be a willingness to schedule a hearing on this issue, on a subject that will be introduced. I merely want to make record this morning on that matter and get affirmation of that understanding from the majority managers and the minority managers. Is that correct?

Mr. PELL. Mr. President, the Senator is correct. We have agreed to hold that hearing.

Mr. STAFFORD. The Senator from Vermont agrees, also.

Mr. HATFIELD. I thank the Senator from Rhode Island and the Senator from Vermont for this opportunity to make this record.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PELL. Mr. President, I should like to yield 5 minutes to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I thank the distinguished manager of the bill.

Mr. President, I oppose the Metzenbaum amendment. It is in the national interest to encourage people to go on to college and complete their studies. The country needs educated people. We favor equal opportunity in access to education. College graduates pay far more in taxes than nongraduates, so we are talking here about a national investment that pays dividends to the Treasury.

I am concerned that the expectation of excessive debt will have the effect of turning students away from pursuing higher education. CBO estimates that borrowing in the GSL program would decline by approximately 50 percent.

Our bill already raises the interest to 9 percent. Presumably, 9 percent is quite a burden on young people, especially as sums accumulate. Some go on to graduate schools, some aspire to be of service in fields that do not pay well, and some marry people who have accumulated parallel debts. The financially weakest would be hardest hit. So it seems to me likely that the amendment would have the effect of constraining career choices and might result in a higher default rate.

Additionally, I am concerned that this amendment would create administrative problems, including substantial administrative costs. Borrowers would repay the in-school interest subsidy separately each month to the Federal Government, while the rest of their loans would be repaid to some 40,000 private banks and State lending agencies. So an expansion of Federal bureaucracy would result from this amendment. The American Council on Education estimates that the Government would spend perhaps 66 cents for each dollar of the interest subsidy collected, due to the difficulties of keeping track of several million borrowers over periods of up to 20 years.

Mr. President, being a little parochial, the president of the largest bank in Vermont has written me that he believes that elimination of the interest subsidy would put postsecondary education out of the reach of a number of people in my State. The president of that bank is also the chairman of the board of one postsecondary institute and the member of the board of trustees of another. Thus, in the opinion of the Senator from Vermont, the amendment creates disincentives for the students and enormous administrative costs for the Nation. I urge that the amendment be rejected.

Mr. President, I yield back my time.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is trying to protect the position of the Senator from Missouri (Mr. EAGLETON), who is a supporter of the amendment, and I am awaiting his arrival to the floor. I do not want to use up his time.

Mr. PELL. Mr. President, I think there are several reasons why this amendment should be opposed. First, let us look at exactly what the arithmetic of it is. If a student borrows the present maximum guaranteed student loan of $7,500, he has a monthly payment, each month, to pay back of $87 under existing law. Under the bill that came out of our committee, it goes up to $95 a month.

But under this amendment, it would go up to $112 per month, or approximately a 30-percent jump from what it is today.

I think that is too harsh a change on the students.

I think it also does not take into account other changes in S. 1839 where we have increased the cost already to the students. We have increased the cost of the national direct student loan program by 20 percent by increasing the interest rate in that program from 3 percent to 7 percent.

Furthermore, there are many hidden costs in this amendment, which do not become readily apparent. I know the Student Loan Marketing Association, Sally Mae, estimates for every dollar saved by the amendment, 66 cents, or two-thirds, would have to be paid for servicing costs.

What it does do is reduce the number of loans made. There is no question about that. The CBO estimates the total number of loans would drop from 1,523,000 to 782,000, or to about half.

If our objective is to reduce the number of loans and the number of students in college, it is an excellent amendment. But in the view of the committee, it has always been that the social purpose of the Nation is better served by going in the opposite direction and increasing the number of young people benefiting from secondary education.

There are hidden effects in this amendment, too, because as of now we have some services, specifically the military service, the Peace Corps and VISTA, which have deferments for their programs. But under this amendment, they would lose the benefit of this deferment, hence, it would be a push or nudge in the opposite direction from what we want, a nudge to prevent, or urge, youngsters not to go into the military or public service.

This amendment would require a great deal more paperwork. Everybody would have to go through a needs test to determine what portion of the loan is need based.

As of now, under the Middle Income Student Assistance Act, we removed all that. We would have to put it back in. For a need-based loan, there would be an interest subsidy. There would be no subsidy for non-need loans. Any borrowing above $7,500 would have the interest subsidy. Actually, we would be encouraging students to overborrow.

All told, there would be an immense amount of new paperwork. I believe the benefits acquired from this amendment, which might be a certain reduction in expenditure, are more than offset by the disadvantages that accrue from it.

I urge the amendment be defeated.

Mr. METZENBAUM. Mr. President, I yield myself 1 minute.

Mr. President, I will repeat to the Senate some facts I brought to its attention last evening.

I understand it may cost the student, after he or she has graduated from college, some additional dollars, but not that much. We are probably talking of something between, maybe, as much as $100 to $300 a year in additional interest, additional cost which actually, as a matter of fact, the student, the graduate at that time, would be in a productive area and all that would be deductible as an interest factor.

But I think we have to concern ourselves about what the costs are to the rest of the people of this country who are being called upon to subsidize those graduates.

Is there any logical reason why a student who has been able to go through college, graduate from college, go out and become a productive earner in the workplace, why that student should be subsidized by all of the rest of the people of this country, whether they are farmers, whether they are workers in factories, or whether they are just members of the general public? There is none.

This program loan volume started off, or was at a figure of $1.5 billion in 1977. Three years later, the loan volume was $5.3 billion based on data in the first half, or three times that amount.

The Federal outlays have tripled in the past 3 years: In 1979, $546 million; in 1980, an estimated $1½ billion.

This Congress has concerned itself about balancing the budget. I and others have said, "Do not take it out of social needs and human needs because the people of this country cannot tolerate that." Others have said, "Do not take it out of the Military Establishment, we need the money for its purposes."

But the fact is that in this instance this is an opportunity for us to be fair, to be equitable, to say to the young man or woman, "We will help you get through school, provide a subsidy for you, provide a loan for you, and, once you have graduated, we are asking you to do something that you ought to want to do, repay the loan and repay the interest, as well."

I honestly believe the average college graduates would be so grateful, would be so grateful that he or she were able to graduate from college, that they would have no true objection to this amendment were it to be brought to them for their consideration.

I believe this amendment is fair. I believe this amendment is necessary if we are to try to keep our budget in balance. I think there is no reason under the Sun to oppose it.

I do not accept as logical the argument that the banks might have some complications. They do not have any complications in adding 14 cents on a bill, billing you, whether it is American Express, Visa, or whatever the case may be. That is certainly true of the one additional item for the repayment of interest.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STAFFORD. Will the Senator from Rhode Island yield me 1 minute?

Mr. PELL. Absolutely.

Mr. STAFFORD. Mr. President, I will state some additional reasons for opposing the Metzenbaum amendment.

Under the amendment the student is actually encouraged to enter into greater indebtedness, as the in-school interest payment does not take effect until the student has taken out a substantial amount of loan. The loan only then becomes cheaper for the student, and thus encouarges further borrowing and indebtedness, in the opinion of the Senator from Vermont.

The effect of Metzenbaum will be to reinstitute a means test for the whole GSL program, as the subsidized GSL will be available to make up remaining need for the student. It is conceivable that a student could have part of his GSL subsidized, and the other part nonsubsidized. The administrative complications for the lenders and the Government under this could be astronomical.

For these additional reasons, the Senator form Vermont joins the Senator from Rhode Island in opposing the Metzenbaum amendment.

I reserve the remainder of our time to the Senator from Rhode Island.

Mr. PELL. Mr. President, the RECORD should show the principle behind this amendment was defeated in the full committee by a vote of 9 to 2.

Mr. President, I yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. Six minutes remain to the Senator.

Mr. METZENBAUM. I yield myself 2 minutes.

The question of what happened in the committee is no longer relevant, as I see it, because the amendment that was before the committee had facts definitely different from those of the amendment proposed here today.

As a matter of fact, the overall chairman of the committee, Senator WILLIAMS, was one of the nine who voted with the Senator from Rhode Island and the Senator from Vermont. But the overall chairman of the committee, Senator WILLIAMS, supports this amendment and indicated on the floor of the Senate last evening his support for the amendment and has indicated its need and advisibility.

Senator EAGLETON, also a member of the committee, who was one of the two, is a supporter of the amendment; and I am particularly pleased to say that Senator ARMSTRONG, a member of the committee, who was not present when the vote was taken, is a cosponsor of this amendment.

Senator DOLE and Senator BELLMON also are cosponsors of this amendment. They have addressed themselves to issues such as balancing the budget and attempting to effectuate a fair program for all. Senator BELLMON addressed himself to this matter on the floor last evening.

This amendment does have broad-based support. None of us is opposed to the guaranteed student loan program, but I believe that by adopting this amendment, we will strengthen it, not weaken it. We will make it a program that is fair not only to the sons and daughters of the blue-collar workers who will be using the program but also fair to those who have to repay the interest and the others of those who will be called upon to subsidize the amendment.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Three minutes and forty-five seconds.

Who yields time?

Mr. RANDOLPH. Mr. President, I am opposed to the amendment offered by the able Senator from Ohio (Mr. METZENBAUM) to require students to repay their inschool interest subsidy upon graduation, under the guaranteed student loan program (GSL).

In the reported bill, the committee has already shifted much of the GSL burden from the Government to the student by raising the interest rate from 7 to 9 percent and by reducing the grace period from 9 to 12 months, down to 4 months.

This amendment will be a serious departure from the Middle-Income Student Assistance Act of 1978 (MISSA).

Two years ago, MISSA was enacted to bring more middle-income families into the guaranteed loan program. Enactment of MISSA was a major policy decision by the Congress to assure middle-income Americans would have access to student loans.

It was also an act which stopped certain enactment of tuition tax credit legislation. MISSA of 1978 had overwhelming support of the administration.

Now, I understand, the Metzenbaum proposal has the overwhelming support of the administration.

We are being asked to tell middle America: "You have had equal access to assistance for your children's education for 2 years. We are now prepared to withdraw equal access from the working poor."

The New York Guaranteed Loan Agency recently documented the fact that in 1977–78, more students from families with incomes of $15,000 or less received guaranteed loans than students from high-income families.

S. 1839 as reported has already scaled down the GSL loan volume potential for the next 5 years. It appears that the Metzenbaum amendment would reduce GSL loan volume potential by a further 25 percent.

Most States—all but four—have established State student guaranteed loan agencies. I do not know what my colleagues have heard from their State agencies, but West Virginia's, which was just created 30 days ago, has advised they will be severely impacted by reduced loan volumes proposed in this amendment.

Recently, in the budget rescission process, basic, or "Pell grants," for the 1980–81 school year, were withdrawn, or rescinded in the amount of $140 million. This loss of grant aid will send more students to lenders of guaranteed loans in order to come up with all their tuition needs.

Especially hard hit are students in the private, independent college sector, where tuitions are higher. If we remove a student's choice of institution—between private and public—and force them to attend State-supported colleges because total tuition is less—then the private independent schools will bear the brunt of already declining enrollments—and many will barely survive, and many may not survive at all.

There are other reasons to oppose this amendment: Administrative burdens are massive; assumptions used to project savings under the amendment are questionable with regard to the actual cost effectiveness of reduced borrowing.

I am very much afraid that the full impact of this amendment is unknown.

I shall vote against it.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have time.

The ACTING PRESIDENT pro tempore. Under the precedents of the Senate, the Senator has insufficient time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator's time be saved; that the Senate proceed to the hour on the Moynihan amendment; and that just prior to the vote on the Metzenbaum amendment, he then be able to utilize that time.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Under the previous order, there will now be 1 hour of debate on amendments proposed by the Senator from New York (Mr. MOYNIHAN), the time to be equally divided and controlled.

Who yields time? If neither side yields time, the time runs equally.

Mr. ROBERT C. BYRD. Mr. President, in addition to the time for Mr. METZENBAUM, it would be only fair that the managers of the bill have 2 minutes at that time, and I ask unanimous consent for that purpose.

Mr. METZENBAUM. I certainly agree.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New York.

Mr. STAFFORD. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MOYNIHAN. I yield.

Mr. STAFFORD. The Senator from Vermont understands that there is 1 hour on the Moynihan amendment. Is the Senator recognized?

The ACTING PRESIDENT pro tempore. The Senator from Vermont is correct.

Mr. STAFFORD. Further, the Senator understands that since Senator PELL is probably going to support the amendment, the time in opposition to it would go to the Senator from Vermont. Is that correct?

The ACTING PRESIDENT pro tempore. As the designee of the minority leader. The Senator is correct.

Mr. STAFFORD. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

AMENDMENT NO. 1914

Mr. MOYNIHAN. Mr. President, we now approach the conclusion of our debate on the proposal that I submitted a year ago as a separate bill and that is now before us as an amendment to the higher education bill.

My concluding remarks will be brief, as I had an ample opportunity to speak yesterday.

First, I wish to acknowledge with gratitude and appreciation the support for this measure which has just been stated by the distinguished manager of the bill, the senior Senator from Rhode Island, who is held in such high regard in this Chamber in a wide range of things but, in my personal view, none more deserving than his support for higher education and his advocacy of the grant program that is now to be named for him. To find him now willing to see that principle extended to elementary and secondary school students as well is very heartening to me.

The debate yesterday on this amendment was long, spirited, and informative. I, for one, sought to maintain a level of disinterestedness and objectivity in a context of strongly held and differing views. Several points bear attention, however, as we near the conclusion of this debate and, indeed, of debate on the entire bill.

I was struck yesterday by the number of references to tuition tax credits and to our extended consideration of that proposal some 2 years ago. There was, perhaps, a tendency to see this as a repeat of those earlier arguments.

I should like to offer a contrary view and to urge upon my colleagues in the Senate the thought that what we have before us is not a tuition tax credit proposal. It is an entirely different and a far smaller proposal. It is merely an extension of an existing Federal grant-in-aid program from one category of persons who already receive it, college students, to an additional category of persons who presently do not, which is to say students enrolled in schools that require tuition at the secondary and elementary levels.

(Mr. METZENBAUM assumed the chair.)

Mr. MOYNIHAN. Mr. President, this is a need based program. Its cost, if fully funded, would be less than $120 million a year.

It is not an entitlement, however, which means that its cost is fully controllable through the budget and appropriations process.

It would give no aid to persons who do not need it, and its definition of "need" is actually somewhat more stringent, as a result of the $1,500 limit we have put on eligible expenses, than the one the Senate agreed to in 1978 for college students.

With respect to the appropriateness of the measure on this legislation, I have already referred to the support for it by the distinguished manager of the bill and I call attention, as I did yesterday, to the fact that this bill aids many aspects of elementary and secondary education. Only last evening, a new title 18 was added to the basic legislation authorizing a refugee children impact aid program. Although this bill does not consist primarily of measures that deal with elementary and secondary schools, neither are they absent and there is nothing out of the ordinary in our proposal with respect to its subject matter.

Our proposal carries with it the full range of Federal civil rights protections, assurances, and procedures that we are accustomed to at the college level. Not a single student attending a discriminatory school could or would be aided.

The proposal does resemble tuition tax credits in two ways, which surely should be acknowledged. First, of course, the aid would go to students attending nongovernmental schools. Second, of course, it is uncertain, indeed it is unknowable, what the Supreme Court would hold when it is asked to test this program against its interpretation of the separation clause of the first amendment. But those are the only two similarities, and that is why I believe it is unnecessary to discuss this proposal as if it were the one we discussed 2 years ago.

Much of yesterday's discussion, at least the discussion offered by those opposed to the pending amendment, was based on what I think might fairly be termed the foot-in-the-door argument, an argument which does acknowledge the modesty in fiscal terms of the actual proposal. As I see my friend from South Carolina in the Chamber, let me just cite his view on the matter because it was stated most clearly by him.

He said:

> Let us say if it was $1 million or $1 you would have to oppose this for exactly what it is, that is destroy public education, discriminate against the minorities and the disadvantaged and to totally abandon the needy in America.

That certainly is a firm view and a clearly stated one.

I do not share it. That is known by this body.

And I would hope that the outcome will be different from that which the adversaries of the position are seeking.

I wish, because it seems to me so important to larger concerns in this Chamber, to deal one last time with the question of constitutionality and to make clear to this Chamber as much as words can do that we do not seek to overturn an opinion of the Supreme Court or to remove any jurisdiction from the Court. All we seek is a decision by the Supreme Court about something it has not previously considered, which is to say direct Federal aid to students attending nongovernmental schools.

With respect to previous decisions by the Court in this general area, decisions I hope it will reverse, I would simply reiterate Abraham Lincoln's observation in Springfield, Ill., 10 weeks after the Supreme Court handed down the Dred Scott decision.

He said:

> We believe as much as Judge Douglas (perhaps more) in obedience to, and respect for, the judicial department of government. We think its decisions on constitutional questions, when fully settled, should control not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions, and we shall do what we can to have it overrule this. We offer no resistance to it.

In conclusion, let me repeat a point I made yesterday with such force as I could command.

Just last evening the Platform Committee of the Democratic Party, of which I have the honor to be a member, adopted a plank identical to that of 1976 and thereby related to that of earlier platforms which called for constitutionally acceptable modes of aid to nongovernmental schools. We, of course, present this as such a proposal, testable and determinable in that respect by the courts.

On the other hand, I acknowledge full well, as I did in yesterday's debate and in proof of which I submitted the appropriate documents, that the executive branch is firmly opposed to this matter. It does not have the support of the President. It has the opposition of the President. It has the very firm opposition of the Secretary of Education, and that opposition is buttressed by a memorandum from the Attorney General which holds that the matter is unconstitutional.

My view that the issue of public policy should be decided in order that the issue of constitutionality can be reached has not been persuasive in the executive branch. I have spent 3 years trying to put this matter. No, Mr. President, I have spent the better part of 20 years trying to put this matter, having commenced it in 1961.

So while I hope that we will be successful today, I shall offer some concluding thoughts in the event that we are not.

These are not different from those with which I concluded my remarks yesterday, which is to say that if we do not succeed, it will have become unmistakably clear to my mind, an area where few things are unmistakable, that this effort cannot prevail without the support of the executive branch.

In a matter in which the mind of the Senate, and the minds of Senators individually, are frequently divided, because there are forcefully advocated positions on both sides, the impact of the Presidency, with its apparatus of law and administrative competence, asserting that the matter is unconstitutional is too great to overcome by the mere contrary assertion of a single Senator or a single band of Senators. It would seem to me that in the end, as in so much of our Government, initiative rests with the Executive, and however much things may have been different in the 19th century, major legislative initiatives cannot survive sustained Presidential opposition when that opposition goes to issues as fundamental as constitutionality.

If that is the case, then it seems to me there are obvious implications for the future which will soon emerge.

Finally, Mr. President, may I end my comments with a personal remark. For 3 years now, since coming to this Chamber, I have been advocating legislation along these lines. Few of my colleagues can have escaped the impression that it is a personal matter with me, but it is, as I had occasion to observe yesterday, the fact that for a quarter century I have been studying the subject and writing about it, and I have a clear sense that there is an issue of justice here. It is one in which I may be wrong, and it is certainly one which is not widely perceived as such an issue. It is not unusual in the history of such matters for good and honest and open people not to see in one way what in time they may come to see differently, and again I repeat that it is altogether possible that I am simply wrong. History will take care of that, also.

For myself I would like to conclude the debate simply by asking the forgiveness of anyone I may have offended in the course of it, either by what I have said or what I have not said, even to the degree to which I may have raised anxieties by raising a subject which is a sensitive one. I know it is a sensitive one, and I would hope not to have made it more difficult for the Senate in this respect than it has been.

I can assure my colleagues that this was never my purpose, and to the degree that it has been the result of my actions in bringing forth these measures, obviously this is a concluding episode of one kind or another.

I thank the Chair, and I would personally like to express once again my appreciation for the great gallantry and sustaining support of Senator PELL, and for the unfailing courtesy of his comanager of the legislation, my friend Senator STAFFORD from Vermont, who never fails to raise the standards of any room he enters.

Mr. President, I reserve the remainder of my time.

Mr. STAFFORD. Mr. President, I would say to the distinguished Senator from New York that he has most clearly and intelligently argued his cause. He is extremely articulate, and I only regret that on this issue, unlike some last week, we happen to be on opposite sides.

The Senator from Vermont does feel it is necessary to oppose Senator MOYNIHAN's amendment. The legislation which we brought from committee to the floor of the Senate has to do with higher education, the Higher Education Act of 1980. Here we are debating an amendment which would inject elementary-secondary education, a wholly separate field, into the Higher Education Act of 1980.

Specifically, Senator MOYNIHAN's amendment would establish what some have called baby BEOG's. Others have referred to it, since it has become known as the Pell amendment, as the "Pellette" amendment. But in any event, the basic education opportunity grants are allocated on the order of something like $2.5 billion in the next year, which is scarcely adequate to fund the program, in the opinion of the Senator from Vermont. Yet my friend, the distinguished Senator from New York, asks us to add onto the BEOG program and divert some of the funds intended for it to this baby BEOG program which would affect the elementary-secondary school children and add 12 years of eligibility for baby BEOG's to those in private elementary-secondary schools.

It is true that there has been a vote on the matter in committee. The recollection of the Senator from Vermont is that the vote was against the proposal 7 to 5. It is equally true that there were no hearings on this very important matter in the committee beyond a presentation supporting the amendment, by the Senator from New York (Mr. MOYNIHAN) himself.

In such an important matter, diluting the money for the basic educational opportunity grant program, I suggest more and more in the future that there ought to be, there must be, hearings to determine the future projections of numbers of eligible young people and the costs that are associated with such eligibility.

I know in the Senate, in the House, in many legislative bodies the issue of constitutionality is sometimes raised simply as a means of opposing an amendment. But in this case the question of constitutionality has to be raised, in the opinion of the Senator from Vermont, because this amendment does propose an unconstitutional change in the laws affecting education in this country, and it has been pointed out that the Attorney General of the United States finds the proposal to be unconstitutional.

My distinguished friend, the Senator from South Carolina, Senator HOLLINGS, in his speech yesterday listed all or many of the organizations, nationwide organizations, that oppose Senator MOYNIHAN's amendment.

Among them, I have letters from two organizations, one from the Americans United For Separation Of Church And State, which opposes the amendment, and the other from the National Education Association, with 1.8 million members who vigorously object to the proposal.

Having said that, the Senator from Vermont will conclude his brief remarks by saying that he does oppose the amendment and that in opposing it he believes his position is consistent with one which he took in opposition to the tuition tax credits on an earlier occasion.

Mr. President, how much time remains for the Senator from Vermont?

The PRESIDING OFFICER. The sum of 21 minutes and 45 seconds.

Mr. STAFFORD. Mr. President, the Senator from Vermont yields so much of that time as he may desire to the Senator from South Carolina, Mr. HOLLINGS.

Mr. HOLLINGS. I thank the distinguished Senator from Vermont.

Mr. President, in the debate relative to the Moynihan amendment, so often we pass over the outstanding features of the public school system. This institution is the backbone of our democratic form of government. Necessarily, there are many other institutions in America, with this information explosion, with the inflation that we have, and with all the other difficulties that are facing severe challenges. The finest of our industries—the American automobile industry—is having difficulties, and the finest of our institutions the public school system is having difficulties. But that is not to say that either is not the finest of our institutions. They have performed well over the years and are symbols of America's greatness. I am confident that each will meet the challenges and continue to serve our Nation.

In talking about the Northwest ordinance of 1787, Horace Mann, the educator, once said that this law laid the foundation of the present system of free schools. I quote from his observations:

> The idea of an educational system that was at once both universal, free and available to all the people, rich and poor alike,

> was revolutionary. This is the great thing about America. No other nation ever had such an institution. Three centuries later, it is a stranger to the bulk of the people of the world. The free public school system which Puritans conceived has been in large measure the secret of America's success. In these classrooms, children of all races, nationalities and tongues learned a common language and became imbued with one central idea, the American conception that all men are created equal, that opportunities are open to all, that every minority, whether respected or despised, has the same guaranteed rights as the majority. Parents who landed here often brought with them the antagonisms, the rivalries, the suspicions of other continents, but their children became one and united in pursuit of a democratic ideal.

President Lyndon Johnson stated:

> At the desk where I sit I have learned one great truth. The answer for our national problems, the answer for all the problems of the world comes to a single word . . . that word is education. There is no substitute for education unless it is the American public school system. The American people amongst their notable contributions to the arts and crafts of civilization have insisted that education not be the prize possession of the few.

Along this line, Mr. President, I ask unanimous consent that an article appearing in the New Yorker magazine by Lindsy Van Gelder and Peter Freiberg, entitled "Twelve Public Schools That Really Work," outlining these public schools in New York City and how well they are working, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWELVE PUBLIC SCHOOLS THAT REALLY WORK

(By Lindsy Van Gelder and Peter Freiberg)

The economics of it do not require a knowledge of the new math. A single child will cost you $3,000 a year for private school (more if you're holding out for Dalton). For two children, that adds up to at least $42,000 just to get them from kindergarten through the sixth grade, enough for a down payment on a brownstone or co-op where the kids could finally have their own rooms.

Alternatively, it is still possible to get an excellent education in the New York City public school system. No fewer than five of the ten national winners of the prestigious Westinghouse science competition last year were from New York high schools. But the word isn't exactly out. "We give a tour to parents of prospective pupils," William Casey, principal of Brooklyn's P.S. 321, says ruefully, "and more often than not, they're delightfully surprised that there aren't kids running through the halls with knives."

We set out recently to find twelve neighborhood schools that, if not necessarily of private-school caliber, were academically respectable, caring, and safe. We limited ourselves to elementary schools (since older pupils frequently can commute outside their home districts) and in general to schools outside the city's best-known, high-rent residential areas. (This meant eliminating several good schools, such as P.S. 6, on East 81st Street; P.S. 41, in the Village; P.S. 9, on West 84th Street; P.S. 24, in Riverdale; and P.S. 8, in Brooklyn Heights, among others.) Ideally, we were looking for schools in neighborhoods to which one wouldn't mind relocating. In some cases, we were drawn to a particular neighborhood by the reputation of a school; in others, we focused on choosing one good school within a neighborhood whose housing, parks, shops, and other resources seemed especially viable for families.

A word of caution: Virtually every principal, teacher, parent, and community activist we spoke to was concerned about budget cuts. Schools were often able to maintain high program standards only because of parent and community support. Voluntary financial donations from parents were common, as were intricate musical-chair arrangements whereby parents and senior citizens donated their time as librarians, tutors, coaches, club advisers, clerical aides, door guards, and lunchroom monitors, freeing teachers to teach. Next year, the crunch will be worse.

That's the bad news. The good news is that middle-class diversity is alive and well and living in New York.

P.S. 3 ANNEX—MANHATTAN: TRIBECA

Address: 334 Greenwich Street.

Grades: kindergarten–5.

School population: 130 pupils (75 percent white, 25 percent black, Hispanic, and Oriental).

Reading scores: unavailable (averaged in with P.S. 3).

TriBeCa (real estatese for the "Triangle Below Canal Street") is for people who don't mind doing their laundry in the Village and their grocery shopping in New Jersey when the trade-off is having Windows on the World as a neighborhood pub.

The rental and co-op lofts here are still cheaper than those in SoHo, although probably not for long. Another option is the 39-story, middle-income Independence Plaza North project, where the P.S. 3 Annex is located.

According to director Blossom Gelernter, the school's philosophy is "individualized, personalized, humanistic attention." For starters, that means mixed-age classes. "Instead of thinking of children en masse as six-year-olds or first-graders, we look at a child who happens to be six years old—who may know everything about bolts and batteries but has a lot of trouble holding pencil. We focus on the strengths a child has and build on them instead of focusing on the child fitting into some kind of norm."

Special programs include beginning and advanced ballet (given by a teacher on her own time), movement, and photography, plus an informal, parent-operated foreign-language center teaching French, Spanish, Italian, and Hebrew.

Accessible by all major subway lines plus the PATH system, TriBeCa is fast becoming a mini-mecca for New Wavers, underground gourmets, and other tourists who like its schizoid disco-to-discount-store ambience.

P.S. 75—MANHATTAN: UPPER WEST SIDE

Address: 735 West End Avenue.

Grades: kindergarten–6.

School population: 850 pupils (42 percent white, 34 percent Hispanic, 22 percent black, 2 percent Oriental).

Reading scores: unavailable (District 3 administered tests in April, but the scores are not yet available).

Parents have a choice of traditional, bilingual, and open-classroom approaches (the school was a pioneer in the last two programs), with a heavy emphasis on the arts in all three. According to principle Luis Mercado, the school hopes eventually to have a day-care center on the premises.

"There's been some pressure for classes for the intellectually gifted," said Mercado, "but it would wreck our school. We think we've been able to meet the needs for intellectually gifted kids within the heterogeneous classes." Special programs have included all-day kindergarten with reading and math, one-to-one tutoring for children with learning problems, and an African museum.

Rentals, co-ops and brownstones are all available, usually at slightly lower rates than those of their equivalents below the 96th Street DMZ. The neighborhood also has a couple of real finds: the half-timbered gables of the Munchkinesque Pomander Walk, tucked off 95th Street between Broadway and West End Avenue, and, up a bit, the Paris-like limestone Beaux-Arts landmark block on 105th Street between West End Avenue and Riverside Drive.

P.S. 217—MANHATTAN: ROOSEVELT ISLAND

Address: 585 Main Street.

Grades: kindergarten–9.

School population: 750 pupils (70 percent white, 10–12 percent black, 18–20 percent others).

Reading scores: see box, page 26.

With limited traffic, private security guards, and plenty of lots and playgrounds, Roosevelt Island is a nice place to be a kid. "They can go anywhere safely, which gives them more autonomy than a lot of city kids. It's liberating for parents, too," said Laurie Guilfoyle, executive editor of The Island View, the community newspaper, and mother of third-grade, first-grade, and nursery-school girls.

The five-year-old community in the middle of the East River consists of over 2,000 middle- and upper-middle-income rental apartments and co-ops. Shopping is available on the island, although lots of residents head across the bridge to Long Island City, and, of course, Bloomingdale's is at the end of the tram ride.

P.S. 217 is really a cluster of wall-less mini-schools located in five buildings: one for kindergarten and first grade, one for second and third, one for fourth and fifth, one for sixth to ninth, and an industrial-arts building.

Despite the space-age architecture, P.S. 217 is fairly traditional, offering what principal Solomon Zeichner described as "a very solid academic program." All pupils in the sixth grade and up must take at least one period a day in math, science, English, social studies, and foreign languages.

CENTRAL PARK EAST—MANHATTAN: EAST HARLEM/MT. SINAI

Address: 19 East 103rd Street.

Grades: kindergarten–6.

School population: 203 pupils (50 percent black, 30 percent Hispanic, 20 percent white).

Reading scores: unavailable (averaged in with P.S. 171).

The peeling paint and the graffiti in the courtyard make you wonder if you've blundered into an episode of Welcome Back, Kotter. But turn left, walk down the hall, and slip into the room where the fifth- and sixth-graders are showing the animated cartoons they made for art class.

Then head for the cafeteria, where another group of kids is planning future menus with the school nutritionist and quietly setting the table for everyone's lunch. Or eavesdrop on the school psychologist (the only full-time one in the system) and the pottery teacher, who are making plans to get together over the weekend and compare thoughts on why the kids seem so happy when they're working with clay.

This is Central Park East, a unique "alternative" school founded six years ago by principal Deborah Meier as part of P.S. 171.

Nearly a third of CPE's students come from outside East Harlem, although admission isn't automatic; you have to apply. Special programs include movement, carpentry, music, and an overall heavy emphasis on art—because, according to Meier, "the way children learn about the world is to recreate it." Last year, two graduates went on to Dalton with full scholarships.

Some of East Harlem's best housing is in the area near the school, particularly on upper Fifth Avenue, with its mix of well-kept older buildings and newer complexes like Schomburg Plaza and Lakeview Apartments Tenant renovation and some brownstoning have taken place on the side streets.

The neighborhood is also a cultural center, with the Museum of the City of New York, El Museo del Barrio, the Taller Boricua Workshop for community artists and the Teatro 4 Theater troupe all in the vicinity of Fifth Avenue and 104th Street.

P.S. 187—MANHATTAN: WASHINGTON HEIGHTS/ INWOOD

Address: 187th Street and Cabrini Boulevard.

Grades: kindergarten–8.

School population: 1,053 pupils (61 percent Hispanic, 26 percent white, 10 percent black, 3 percent Oriental).

Reading scores: 199th in the city, 49.3 percent.

On paper, at least, upper Manhattan has everything a neighborhood could desire: 6,000 acres of parkland, nine museums, two leading universities (Yeshiva and the College of Physicians and Surgeons), good transportation, and reasonably priced apartments in well-constructed buildings.

Despite population shifts (Jewish and Irish to Hispanic and Greek) and a decline in its commercial areas, especially along 181st Street, the neighborhood has started bouncing back.

P.S. 187 is an independent-minded school that went to court in 1972 to win the right to go through the eighth grade, instead of the sixth. "It was a real victory," according to principal Richard Darwick. "Problem kids at the junior high school level are readily identifiable because they grew up with us, and we're a much smaller unit than a junior high school would be." As a result, he said, P.S. 187 has no significant drug problems.

Special programs include a ham-radio project and an extensive science curriculum. (District 6 has an ongoing relationship with NASA, and several astronauts recently brought moon rocks to a local junior high school.) Students are classified according to reading ability beginning in the fourth grade.

P.S. 175—THE BRONX: CITY ISLAND

Address: 200 City Island Avenue.

Grades: kindergarten–8.

School population: 210 pupils (99 percent white).

Reading scores: 107th in the city, 61.9 percent.

As a New York neighborhood, City Island has its drawbacks, chief among them the fact that it's a royal pain to get to without a car (No. 6 train to Pelham Bay Park, then Bx12 bus). Turnover is infrequent, and there aren't many bargains, with inland cottages going for at least $55,000 and waterfront houses for $150,000.

Despite perennial off-island attempts to develop the place into a sort of East Coast Marina del Rey, it has stubbornly remained an un-chic, New Englandy shipbuilding village (population 4,500).

One of the few modern buildings on the island is P.S. 175, praised by the American Institute of Architects Guide to New York City as "one of the best in the borough." The school has reading and math instruction for kindergartners and an experimental program, administered with the College of New Rochelle, to teach reading through the medium of art.

"It's a child-oriented school," according to principal Lucrezia Fusco. "We know them individually when they come in as little ones, and we try to structure the programs to meet their needs. We're still operating on the make-'em-happy philosophy."

Shopping on the island is minimal, although Co-op City is just across the bay, and a couple of blocks of galleries and antiques shops have recently sprung up on City Island Avenue. The area's seafood restaurants are justly famous.

P.S. 321—BROOKLYN: PARK SLOPE

Adress: 180 Seventh Avenue.

Grades: kindergarten–5.

School population: 1,000 pupils (39.7 percent Hispanic, 35.6 percent white and Oriental, 24.7 percent black).

Reading scores: 208th in the city, 47.5 percent.

If any neighborhood captures the spirit of born-again Brooklyn, it's Park Slope. To put it in Manhattan-eye-view terms, it combines the vitality and population mix of the West Side with the charm of the Village.

Lying due west of Prospect Park and served by all major subway lines, "The Slope" consists largely of block after block of lovingly restored, high-stooped turn-of-the-century brownstones, including one-family homes, rentals, and co-ops. Much of the neighborhood is an official landmarks district, and its old mansions drip with turrets, arches, gables, and bay windows.

Shopping is excellent, particularly along Seventh Avenue between 3rd Street and Berkeley Place, where you can buy all of life's essentials and a staggering array of delicious frivolities as well. A lot of the merchants are young and local.

Park Slope has good schools. (P.S. 39, at 417 Sixth Avenue, increased the number of pupils reading at or above grade level by 19.6 percent last year—the most dramatic improvement in the whole school system.)

P.S. 321 offers a Teachers and Writers Collaborative project, which regularly brings poets, novelists, and artists into the classroom, and which has been responsible for the publication of a book of student writing, Growing Up in Park Slope. A mini-school within the school offers special classes for children with emotional difficulties. The school receives Title I anti-poverty funds, which pay for a learning-disabilities specialist and other extra staff, and it was recently granted seed money from the state to develop a program in environmental education for gifted children.

"We've seen an increase in the number of kids who come to us from private nursery school," said principal William Casey. "The range that we have here academically is incredible." An intellectually gifted fourth-grader might spend three out of seven periods in gifted classes, but not more. P.S. 321 also had an all-day kindergarten for the first time this year. It also had orchestral- and choral-music programs.

P.S. 127—BROOKLYN: BAY RIDGE

Address: 7805 Seventh Avenue.

Grades: kindergarten–6.

School population: 560 pupils (all white except for 48 children bused in from other areas).

Reading scores: 44th in the city, 71.4 percent.

If they ever decide to remake Saturday Night Fever, they'll have to use some other part of town as a metaphor for lean-and-hungry working-class angst. The 2001 Odyssey disco is still here (at Eighth Avenue and 64th Street), spewing fog at the Travolta-clone tourists. But Bay Ridge has arrived. You've only to stroll down Third Avenue and check out the East Sidney singles bars and the trendly purveyors of stained glass, health food, handmade dolls, leather, antiques, and gourmet cookware.

Bounded roughly by 59th Street to the north, Fort Hamilton Parkway to the east, and the park-lined curve of the Narrows, Bay Ridge is a clean, bustling community of side-street limestone row houses, three- and four-story dark-brick apartment buildings, and the occasional bay-view mansion. Transportation is excellent, with most of the neighborhood within easy walking distance of the last five stops on the RR line.

Bay Ridge has the second-largest Greek population in the city, after Astoria, and a big sprinkling of Italian, Lebanese, Syrian, Jewish, Irish, and Yugoslav residents, but it's traditionally a Scandinavian neighborhood. King Olav of Norway stopped here on his U.S. visit five years ago. There's also an annual Norwegian parade on May 17, a Norwegian-language weekly, and a bakery on what seems to be every block.

At nearby PS 127, the emphasis is on science. Last year, students in all grades learned about aerodynamics by making kites and holding a "fly-off." Children dissect frogs, hatch eggs in an incubator, and—most remarkably—run their own weather station. Using equipment on the school roof (with dials inside the classroom), students predict the weather every day and broadcast their report on the Board of Education's WNYE. "The kinds have been surprisingly accurate," according to principal Stanley Junemann. "They've beaten the Weather Bureau a few times."

Junemann, a graduate of the SUNY Maritime College at Fort Schuyler with a special interest in navigation, has also stressed geography and math in his six years at the school. "We've always had a good reading score, and I felt we should vary the diet a little," he said.

P.S. 217—BROOKLYN: FLATBUSH

Address: Newkirk and Coney Island avenues.

Grades: pre-kindergarten–6.

School population: 875 pupils (50 percent white, 27 percent Hispanic, 12 percent black, 11 percent Oriental).

Reading scores: 206th in the city, 48 percent.

There's something distinctly Kansas-in-August about Flatbush. Deputy Director Michael C. Smith, who moved from Greenwich Village to a rambling old house with a rose garden last summer, remembers feeling surprised and flattered when he and his wife were soon afterward invited to a block-sponsored covered-dish supper. "The odd thing was that people kept checking to make sure we were coming. When we got there and saw the cake with the 'Welcome Smiths' inscription on it, we realized why."

Stretching south from Prospect Park to the Long Island Rail Road tracks (the six D, M, and QB subway stops from Parkside Avenue to Avenue H run through the heart of it), Flatbush is further subdivided by its residents into nearly a dozen mini-neighborhoods with names like Beverley Square West, Albemarle-Kenmore, and Ditmas Park. It's still possible to buy a four-bedroom home for well under $80,000 often with oak paneling, stainedglass windows, and wraparound porches. Large rental apartments are available too, especially on Ocean Avenue.

Flatbush is the sort of neighborhood where the corner dry cleaner might call you at home to remind you he's closing early today and didn't you need your gray suit tonight? But there's also Macy's on Flatbush Avenue, the burgeoning antiques district along Coney Island Avenue, and the refurbished shopping mall atop the Newkirk Plaza subway station.

The Flatbush Development Corporation, a nonprofit agency responsible for much of the community's revitalization, convinced the city last year to designate the section a Neighborhood Strategy Area—which means that still more commercial upgrading is in the works.

P.S. 217, one of a number of good schools in Flatbush, has a state-funded, half-day, experimental pre-kindergarten program teaching reading readiness. Spots are awarded by lottery, since demand exceeds the twenty morning and twenty afternoon place available. The idea, according to new principal Joan M. Snow, who lives in the neighborhood, "was to get middle-class people into the public schools. Once they see what's going on, they'll keep the kids here."

The school also has special classes for the intellectually gifted, a working printing shop, music and singing instruction, and classes in English as a second language for the many Hispanic, Chinese, and Soviet Jewish immigrant children in attendance.

P.S. 24—QUEENS: FLUSHING

Address: 141-11 Holly Avenue.

Grades: kindergarten-6.

School population: 750 pupils (30 percent black, 25 percent oriental, 25 percent white, 20 percent Hispanic).

Reading scores: 143rd in the city, 57.3 percent.

Snooty types are put off by its name, which is really an Anglicization of "Vlessingen," the Dutch city where the Quakers found refuge before sailing to New York.

Bounded by 25th Avenue and Willets Point Boulevard to the north, Francis Lewis Boulevard and Utopia Parkway to the east, Jewel Avenue to the south, and the Whitestone and Van Wyck expressways to the west, Flushing is served by both the Long Island Rail Road and the No. 7 train (Main Street stop).

Shopping is excellent, and extremely cosmopolitan. On Saturday afternoons especially, Main Street has a bustling, funky, carnival atmosphere. Flushing has the largest Indian population in the country, plus a Korean settlement, and it's not uncommon to see quadrilingual signs in the store windows. The Queens Botanical Garden is nearby, which is why lots of the streets are named after flowers.

Shea Stadium, of course, is also nearby. Housing covers all bases: private homes (often of clapboard), two-family houses, high rises, co-ops, and smaller apartment buildings.

P.S. 24 offers classes for the intellectually gifted, high-intensity reading classes, and departmentalized classes for sixth-graders. "We're also affiliated with the Metropolitan Opera Guild," said principal Joseph Katz, "and several times a year, children go to see dress-rehearsal performances."

P.S. 98—QUEENS: DOUGLASTON

Address: 40-20 235th Street.

Grades: kindergarten-6.

School population: 245 pupils (85 percent white, 15 percent minority-group children from other communities).

Reading scores: see accompanying box.

If you've been musing about moving to Westport, you might consider Douglaston instead.

Only 25 minutes from Penn Station, just this side of the Nassau line from Great Neck, it's been described as "Beverly Hills without the palm trees"—although it does have plenty of oaks, elms, maples, beeches, and sycamores along its winding suburban lanes. Other niceties include swimming, golf, tennis, and private security and sanitation forces. Ethnically, Douglaston was historically Irish (Alençon-curtain variety, obviously).

School District 26—which also embraces Little Neck, Bayside, Bellerose, and Jamaica Estates—is commonly regarded as the best in the city. (It is also exceedingly controversial, notably for choosing to forfeit a possible $500,000 in federal funds two years ago rather than submit ethnic data about its teachers.) All but one of the district's 22 elementary schools scored above the national average in reading last year, and 8 of them were among the 25 highest-ranking schools in the city.

"I think we focus on reading, if not on the reading scores per se," said principal Carol Roche of P.S. 98. "All the teachers should feel they're reading teachers."

P.S. 16—STATEN ISLAND: NORTH SHORE

Address: 80 Monroe Avenue, Tompkinsville.

Grades: kindergarten-5.

School population: 760 pupils (40 percent white, 30 percent black, 25 percent Hispanic, 5 percent Oriental).

Reading scores: 182nd in the city, 52.8 percent.

To your basic jaded Manhattanite, it's been the poor-relation borough: the place where the ferry goes, all ticky-tacky houses and tank farms. To your basic suburban-striving Staten Islander, the North Shore was downtown, the ghetto. This helps explain why, until fairly recently, you could buy a Victorian mansion for $40,000.

Prices have gone up a bit, but the neighborhoods of the North Shore are still a comparative bargain.

Shopping is only so-so, although the Edward Hopperscuzzy Stapleton commercial area is slated for revitalization by the city. Several historic sites—notably the Snug Harbor Cultural Center and the home of feminist photographer Alice Austen—have been preserved.

"We have a good rapport with the local museums," said Stanley Kantor, principal at P.S. 16. "A lot of our kids are involved in special programs at the Staten Island Museum of Arts and Sciences, the Children's Museum, and Snug Harbor. There's a lot of tripping: classes going to the Brooklyn Academy of Music for enrichment classes, or to special programs at High Rock Park Conservation Center." Other special programs include Title I remedial math and reading, math enrichment, twice-a-week laboratory science, and "the beginnings of a computer-education center."

(Mr. BOREN assumed the chair.)

Mr. HOLLINGS. My point, Mr. President is not one of apology for this system but, rather, one of a position of pride and appreciation which is taken by all of us in the public school system.

It is an American heritage, instituted in the beginning days by Congress and supported through the years by Congress. So, when we go to the arguments of constitutionality versus unconstitutionality, I think the issue is very clear.

As related by the distinguished Senator from New York—and he reads decisions of the last century that somehow the Court had not gotten to it in this century. They got to it this year with the Regau opinion, they got to it last year, they got to it the year before and in the past 20 years have reiterated time and again, with every scheme devised, that it was flatly unconstitutional to give general aid to the private schools.

But, again, Mr. President, my emphasis is that it is undesirable, undesirable from the church standpoint—well, certainly it is—our church friends, our private school operators know that. And I refer always—not always, but generally—to the private schools as church schools, in that 93 percent of the private schools are church-related schools, affiliated as such.

But they do not want to start filling out the forms, making the reports, and doing all the other things that have become a burden on the public schools, which should be corrected by Congress. They do not want Congress to set down the various guidelines. They want to be left alone to pursue the unique role they seek and which was cause for their creation.

Then we are back to the fundamentals, the "Establishment Clause" against religion in the first amendment of our Constitution. This is what really nonplusses the Senator from South Carolina, because I consider myself—and I say this very genuinely to my colleague from New York—a student, he is a professor and I am the student. And I continue to learn, and I learn many things.

But the nonplussed part of this particular dialog that we are engaged in every year, or every other year as the case has been, amazes me from the standpoint of history. I am confident that my friend from New York would agree that the great difficulties that we have in the world today are spawned from trying to intersperse religion with government, whether it be in Iran, with the so-called religious government in control there now, whether it be in the Middle East between the Arabs and the Israelis, or whether it be in Ireland today between the Catholics and Protestants, the most vicious, the most violent of differences historically have come from that kind of involvement. The great wisdom with which was guarded against by our forefathers is the separation of church and state. This is the one great outstanding wisdom that has evidenced itself and has been upheld over the many years and needs no amendment—but the Senator from New York knows how to put in a constitutional amendment that will change, undermine if you will, the first amendment. He just does not like the Court decisions, but he does not want to amend that Constitution and put it to the people of this land.

He brings his effort in in a very circuitous fashion; 2 years ago on the finance bill, very few hearings; this year, without any hearings on the higher education bill. When it costs so much, he did that on the tuition tax credit bill 2 years ago. This year he takes that course once again. Cut the cost, pare it down. Make it palatable. The effort is to get the foot in the door. But the desire on his part for the involvement of the Government in the private schools of this country is what I cannot understand.

We are confronted with hard decisions. And it is a hard decision with respect to the integration of public schools. It is a hard decision with the support for the public schools, the parents having become turned off, the children unruly, the discipline problems, the forms to fill out, the civil rights and due process of the individual students involved, the principal unable to control, the trustees disrespected in the community and, in despair, they are quitting. The challenge is great and the opportunity even greater. We must meet it head on and succeed.

We have had hard problems in education with this fundamental American institution, the public school system. But it has been the challenge of the Democratic Party—where my friend constantly brings forth about his platform planning in this year's Democratic Party is an embarrassment to me as a Democrat. Democrats have taken on hard problems and are proud of the fact that we have stood for equal rights, for equal opportunities, for the disadvantaged and for the poor and the needy.

And to come in, if you please, and say this is for the needy and the poor and the disadvantaged and is going to help them, when less than 1 percent of all of the students of America are involved, and less than 0.8 percent of the minority students, of the 7.2 million minority students in America, less than 1 percent of the minority students. And he is going to help them. There is no other word—pure sham, that is what it is. I spelled out the problems in yesterday's debate. This amendment by the Senator from New York is a haunting, hollow promise to the disadvantaged, needy, and minorities of our Nation.

But to come on that basis and say, prayerfully, "The party has taken this particular stand" is the antithesis of the Statue of Liberty. Instead of saying, "Give me your tired, your poor, your huddled masses," it is saying, "Take away from me the poor, the minorities, and the disadvantaged and put them in the public schools. I want money for the private schools. Do it my way."

I just cannot understand the sense of history, the lack of pride, the failure of appreciation of the great American institution, the American public school system. In this body we have treated it far too casually. Thank goodness the President of the United States and this administration have given it prime attention. President Carter did have that plank in his platform for the Department of Education. This Congress did follow through that leadership and institute the Department of Education. Now we are beginning to give leadership to that institution, the American public schools system. Just at the time we are about to assume it, giving, if you please as we do, to private and public alike, equal portions: Title I for the disadvantaged, aid for the bilingual, aid for the handicapped. Let me emphasize the private and public schools share alike under law in those particular programs, but we are only able under the budget to afford a limited amount, approximately $130 per pupil—we have not been able to increase it—now comes the Senator from New York rejecting the public schools system, talking about pluralism, diversity and democratic platforms that are most misleading and, in turn, saying, "Rather than your tired and your poor, give me 790 bucks for my private schools that can do as they wish and do not have to open their doors to all the children of this land."

Mr. President, therein to me is the remarkable thing.

I listened early this morning to the television and they had some wild character on the morning news about the fortune fighters or soldiers of fortune. I began to think of the analogy. Here we are saying the public schools are not quite up to snuff in doing the job, and therefore, what we should do is give mammoth aid to the private schools on the basis of pluralism and diversity.

The volunteer Army in a parallel way is not quite up to snuff. It is not doing the job. Should we give the soldiers of fortune, the private Army, private aid, or that Nazi crowd up in Cicero, Ill., or in Greensboro, N.C., the private armies that we see springing up on the very logic of the amendment of the Senator from New York?

Of course not. It is unheard of. It is ridiculous.

That is just exactly the context in which this amendment should be looked upon. It is not a Democratic principle or article of faith. On the contrary, the public schools system has been the article of faith of the Democratic Party and the Republican Party. We do not talk in partisan fashion, but we have strong support. We have particularly been given outstanding leadership by the Republican Senator from Vermont, the leader on this particular bill who opposes this amendment, who has been so generous and considerate of me in relinquishing time so that I could express these views.

Mr. President, right to the point of the budget itself. This is $120 million at the minimum, the Senator from New York says. We know that is just for tuition. If it is just tuition, poor and needy students cannot afford transportation, or room and board. The logical extensions of this program are easy enough to foresee. So the amendment will come along and that $120 million initial cost, and let me point out "initial," will go up to around $780 million easily the next year. If that succeeds, then necessarily in our struggle, many of us for the public school system will see that is a good way—that they got through a tuition grant or baby BEOG grant, however they want to characterize it, for private schools so how about general aid for public schools. I would have to change a little law in my State so we could charge tuition for public schools. I am confident we could. Then we have a $5 to $10 billion bill giving the public school systems the same kind of aid. The Federal Government would pay for it all under that idea. Just the logical extension of the amendment now before us.

So as we talk about budgets and how they get totally out of control and where the inflation is coming from, why we have the high unemployment, the beginning of high unemployment is this kind of legislation, this kind of an amendment. There was no hearing. The committee is opposed to it. It is a little thing on the side. It steams up people. Special interests come in and lobby Senators. It does not cost much. You know how it has been an "article of faith" or something in somebody's platform, so let us all all go forward together and pass this thing.

Then in 3 to 4 years it has grown into a multibillion dollar budget buster. Then everyone wants to control the cost monster we have unleashed and the cry goes up, "how did we get in this mess"—and then we remember this innocent little amendment before us now.

So, Mr. President, one more little word and I will reserve the remainder of my time. This is the exact antithesis of helping the needy and the poor which is what was said yesterday by the distinguished Senator from Ohio. He said if we do not pass this amendment, it will have a negative impact on the public schools. In other words, we were supposed to assist the public schools with this amendment. Not one red cent goes for public schools, it all goes for private schools. Where's the help in that?

There are only a few minutes remaining at this particular point, Mr. President. I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Idaho to speak in support of this measure. I wish to state how happy I am that he has been able to return under very difficult circumstances, but he did want to be here for this purpose.

Mr. CHURCH. I thank the Senator for yielding.

Mr. President, I want the distinguished Senator from South Carolina to know that, through the years, many of my opponents have campaigned against me on the slogan, "Let's separate church and state."

Nevertheless, I want to assure him that I strongly believe in the principle that religious institutions and the State should be separated.

If I found, in the approach now being taken by the Senator from New York, any violation of that principle, I would oppose his amendment. But, despite the eloquence and fervor of the argument made by the distinguished Senator from South Carolina, it remains a fact that we do extend loans and grants to students attending universities which are run by religious institutions, as well as private universities which are not connected to the State or any public school system.

The laws by which these grants and loans covering tuition are extended to students attending private and religious schools of higher learning have not been found in violation of the first amendment of the Constitution, nor have they been deemed a violation of the principle that church and state should remain separated in this country.

It seems to me that the distinguished Senator from New York is merely attempting to apply the same program to private and religious schools at the secondary and elementary level.

If it can be done at the higher level of education, then why can it not be done at the elementary and secondary levels of education?

Mr. President, I have already believed in diversity at every level in our educational system. A mixture of public, private, and parochial grade schools and high schools has been good for our country. In Idaho, although there are relatively few parochial schools, those that do exist are of fine quality. I, myself, entered the first grade at St. Joseph's School in Boise where I received my first three grades of instruction.

Years later, the Bishop Kelly High School was built in Boise, and I have enjoyed a cordial relationship with the faculty and student body there. The academic standards and the high order of discipline at Bishop Kelly High School have attracted many students from Protestant, as well as Catholic, homes.

My sentiment, therefore, has been to support measures to help strengthen the parochial schools, but I have not wanted to do so at the expense of the public schools.

For this reason, I opposed tuition tax credits, because I feared they might weaken our public school system by encouraging the growth of private academies, at the elementary and secondary levels, based on racial discrimination.

I explained that position at the time I voted against a previous Moynihan proposal.

However, the pending amendment, in my view, addresses the reservations I had in the previous case.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CHURCH. May I have 1 more minute?

Mr. MOYNIHAN. Yes; Mr. President, I will yield 1 minute.

Mr. CHURCH. I thank the Senator.

Mr. President, the Moynihan amendment pending before the Senate today addresses my earlier reservations. First, it is limited to the neediest of children. Its cost is, therefore, limited.

In addition, Federal law and court decisions require that any school in which a student receives Federal student aid must comply with the Federal civil rights law. This factor will prevent resegregation by way of so-called private academies, limited by race.

I am pleased, therefore, to support the Moynihan amendment. The Senator from New York is to be complimented for his unstinting efforts on this matter, and I shall vote for his amendment.

Mr. MOYNIHAN. I thank the Senator for his careful and extraordinarily helpful remarks.

The Senator from Connecticut, the distinguished chairman of the committee that produced the Department of Education, one of the most revered Members in this Chamber, wishes to speak on this matter.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from New York for his deep concern with the whole field of education—all education. I do not think there is a single one of us who has had the direct involvement in the field of education at every level that the Senator from New York has.

I have followed this debate with great interest and again we talk about the necessity of education. We all recognize the decline and deterioration of education in this Nation. Johnny cannot read. Johnny cannot write. Johnny cannot add.

Sad as it may seen it seems that the private education field generally does a better job. Diversity is important, but it is also important to act as a goad to the public education system to insist that they keep up to the standards of private education.

There are many people, especially in the ghettoes of our Nation, whose parents are deeply concerned at the disadvantage to the future of their children in the lack of a quality education and they want to send their children to private or church schools.

It may be of interest that in the creation of the Department of Education, we now have an Assistant Secretary for Nonpublic Education in place. The purpose of that is to insure that the interests of private education are taken into account, to assure the continuity of diversity in American education. That is as American as apple pie. I do not think we have at all the problem of the separation of church and state.

In following this debate, questions were raised and answers given by the distinguished author of this bill, and I do not believe sufficient attention has been paid to these questions and answers. I wonder if I may repeat them to the distinguished Senator from New York.

First, what will be the effect of this amendment on the public schools?

Mr. MOYNIHAN. It will have no perceptible effect of any kind. It simply allows disadvantaged students who now have no opportunity to attend private schools to do so.

Mr. RIBICOFF. Second, will it assist students who attend schools that discriminate on racial or other grounds?

Mr. MOYNIHAN. That will be absolutely forbidden. Attendance by a single pupil receiving these grants at a school makes that school subject to every civil rights act and regulation of the Federal Government regarding education.

Mr. RIBICOFF. The next question: Will this program compete with other Federal education programs for scarce resources?

Mr. MOYNIHAN. To a degree, any program does. But a program of $120 million in the context of a Federal budget of $613 billion is scarcely a major diversion. What it helps to make possible is the continued existence of an efficient system of education. As the Senator from Ohio said yesterday, were that system to close, a major city such as Cleveland would find itself with an extraordinarily heavy new fiscal burden. Moreover, all decisions as to the actual allocation of funds as between this and other programs would be the responsibility of the Appropriations Committee

Mr. RIBICOFF. I thank the distinguished Senator.

Mr. President, I hope that this body will approve the Moynihan amendment. It becomes absolutely essential for quality education to have competing educational systems. I think there is a burden upon school administrators and school boards all over the country to give the vast number of students who attend our elementary and our secondary schools the best possible education, and they are not getting it. There is not a person in this body who does not realize that we are not getting it, even though we have poured billions into education on a Federal, State, and local level.

I do believe that parents should have a right to choose whatever education they believe will best educate their child. If they believe it can be done in a private or church school, they should be allowed to do so. To the extent that the child does go to such a school, the amount of money saved for public education is astronomical, because the $750 maximum that will be provided is not even half of what the education costs are in the public schools of this country.

I commend the distinguished Senator from New York.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. MOYNIHAN. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished friend from Connecticut.

The Department of Education, Assistant Secretary for Nonpublic Education that the distinguished Senator mentioned restricts activity to the limited purposes of the private school students receiving benefits under title I, bilingual, handicapped and other targeted, specific, needs based programs. We should not be misled. Disadvantaged students in both public and private share equally in Federal assistance under the law.

The Department of Education, through its distinguished Secretary, Shirley M. Hufstedler, stated in a letter—and I ask unanimous consent that the letter in its entirety be printed in the RECORD at this point—that this amendment of the Senator from New York, will have an adverse impact on public elementary and secondary schools. That is the statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SEÇRETARY OF EDUCATION,
Washington, D.C., April 28, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on S. 1101, a bill "to amend Subpart 1 of Part A of Title IV of the Higher Education Act of 1965 to provide Basic Educational Opportunity Grants (BEOGs) for elementary and secondary nonpublic school students, and for other purposes."

The bill would enlarge the Basic Educational Opportunity Grant Program to create an entitlement for students attending private elementary and secondary schools and area vocational schools. The BEOG program for these students would operate in the same manner as the current entitlement for postsecondary education students, except the maximum grant would be limited to one-half of tuition fees.

In summary, we oppose the bill for several reasons. First, the proposal is likely to greatly inflate future costs of BEOGs. Second, the addition of a large pool of eligible students could undermine support for postsecondary students. In addition, we are concerned that the proposal would have an adverse impact on public elementary and secondary schools. Finally, the bill raises serious constitutional questions.

While it is projected that under current circumstances this proposal would add about $160 million to the cost of BEOGs, future costs could rise much higher for a variety of reasons:

Pressure on Congress to increase the maximum grant or to relax the half-cost limitation (as is now proposed for the college program in both the House and Senate reauthorization bills);

Private school enrollment increases brought on by the availability of tuition aid;

Increases in private school tuition in response to BEOGs. Almost all private elementary and secondary schools charge tuitions under $3,600, thus, half of any increase up to that amount could be covered by the BEOG.

Considering the urgent need for exercising fiscal restraint at this time, the Administration cannot support legislation that would increase substantially the cost of the BEOGs program.

Moreover, given current budget stringencies, our first priority should be to preserve as much as possible support provided to the currently eligible student population.

If this bill were enacted, and the budget for the BEOGs program not increased, the result would be a serious diminution in support for the 2.6 million postsecondary students who now depend on BEOG assistance for their higher education.

We are also concerned that this proposal could have an adverse impact on the public school system. To the extent that they reduce the cost of attendance at private schools, BEOGs for elementary and secondary students could provide an incentive for students to leave the public schools, possibly eroding local support for public schools. We believe the approach to adding private elementary and secondary students that is embodied in existing Federal education laws is sound.

This Administration is committed to ensuring that private school students receive their rightful share of benefits from the Federal programs for which they are eligible. To this end, the President's legislative proposals for the 1978 reauthorization of the Elementary and Secondary Education Act—which were accepted and enacted by Congress—extended and strengthened provisions for equitable participation of private school students in Federal programs.

In addition, the newly issued Education Division General Administration Regulations (EDGAR) contain strengthened and consistent requirements that will apply to all Federal education programs serving private school students, including requirements that services to private school students be comparable to those provided to public school students and that representatives of private school students be encouraged to participate in the design and implementation of Federal programs.

Finally, in a 1978 advisory opinion, the Justice Department concluded that extension of BEOGs to the elementary and secondary school levels would be held unconstitutional, since their primary effect would be to aid sectarian education. We have asked the Justice Department to assess the impact of subsequent case law on their earlier analysis and will inform you of their conclusions.

For the above reason we urge that S. 1101 not be favorably considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report, and that enactment of S. 1101 would not be in accord with the President's program.

Sincerely,

SHIRLEY M. HUFSTEDLER.

Mr. HOLLINGS. Mr. President, after witnessing that exchange I suppose I can say we are going to finally have a hearing on the issue of general assistance to private elementary and secondary schools. Now, in the last 5 minutes of debate on this amendment. You could not get a hearing, you could not get the Secretary of Education up to testify, nobody could be heard. Along comes the "Secretary from Connecticut" and he asks a question and the "Secretary from New York" politely answers it, and they have had their little hearing. That is not good enough for this body, Mr. President.

I asked the public school people in the National Education Association. I ask unanimous consent that that letter and the one from the National PTA, the National Coalition to Save Public Education, the American Federation of Teachers, the AFL–CIO, the National School Boards Association, and others, be printed in the RECORD, Mr. President, at this point. And, Mr. President, let me request that the entire list of member organizations in the National Coalition to Save Public Education be printed in the RECORD. This is the group that is meeting the challenge and seeking answers to the tough problems we have outlined in our debate. They deserve our profound support.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., June 3, 1980.

Hon. ERNEST F. HOLLINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: On behalf of the 1.8 million members of the National Education Association, I must record a vigorous objection to Senator Moynihan's proposed incorporation of S. 1101, a bill extending the Basic Educational Opportunity Grant program ("BEOG") to elementary and secondary students, into S. 1839, the Higher Education reauthorization legislation.

NEA continues to adamantly oppose aid for nonpublic school students in any form. We oppose any attempt to circumvent the law and deplete what little resources remain for public education. Under current fiscal restraints coupled with the urgent Congressional cry for a balanced budget, the monies allocated to BEOGs should be utilized to preserve—not cripple—the present program and its needy collegiate population.

The proposal has received only a cursory discussion. The issue was presented one day during Subcommittee hearings. However, this very drastic alteration of current law has not received the benefit of extensive and thoughtful hearings. Further, an opportunity was not presented for rebuttal and for discussion by interested and affected groups.

Moreover, Senator Moynihan's proposal raises serious constitutional problems. The extension of BEOGs to the elementary and secondary school levels would, in effect, aid sectarian education and thereby violate the constitutional mandate of separation of church and state. Adoption of the proposal would create an odious situation for Congress and initiate a needless confrontation with the judiciary.

Needless to say, NEA is above all deeply concerned with the effect this move would have on the public school system. The Secretary of Education recently addressed the problems of this potentially intractable proposal in a letter to Chairman Williams. She strongly objected to the Moynihan bill and the concept embodied in it. Secretary Hufstedler states, "To the extent that they reduce the cost of attendance at private schools, BEOGs for elementary and secondary students could provide an incentive for students to leave the public schools, possibly eroding local support for public schools." Nonpublic school aid of this nature would leave public schools destitute and the concept of equality in education abandoned.

I am hopeful that you will agree with me and the majority of the education community on this critical and crucial issue. NEA urges your rejection of the Moynihan amendment to S. 1839 during full Senate consideration.

Sincerely,

STANLEY J. MCFARLAND,
Director of Government Relations.

THE NATIONAL PTA,
Washington, D.C., June 12, 1980.

DEAR SENATOR: The National PTA, with a membership of over six million individuals, is deeply concerned over the possibility that Senator Moynihan may introduce an amendment to the Higher Education Reauthorization. Mr. Moynihan's amendment S. 1101 would extend the Basic Educational Opportunity Grant Program to elementary and secondary school.

The PTA opposes this amendment for the following reasons:

The grant could only be applied towards tuition, and since public schools do not charge tuition, all of the money would go to private and parochial schools.

Since this amendment has not separate authorization, funds would come out of the Higher Education Budget, which has already been cut substantially;

There have been no hearings on this amendment. The sponsor was given the opportunity to testify on behalf of the amendment, but members of the public and representatives of organizations were not given the chance to comment.

The amendment failed in committee, and was not considered by the subcommittee.

The amendment raises serious constitutional questions. Since it is estimated that 90% of the funds would go to religious or sectarian schools.

In a time when the Congress is trying to balance the budget, it seems unreasonable that money be spent on a program of this nature. Estimates on the cost of the program range from $160 million to $500 million.

The Congress authorized a study of school finance, and the study is currently underway. It seems like a waste of taxpayers money to establish a new program like this, while a study of school finance has not yet been completed.

The effect of this amendment on the public schools is unknown. In a recent letter to the chairman of the Senate Labor and Human Resources Committee, the Secretary of Education points out "BEOG's for elementary and secondary students could provide an incentive for students to leave the public schools, possibly eroding local support for public schools."

Passage of this amendment increases the level of "involvement" of the federal government in the affairs of a local school district.

When S–1839—The Higher Education Reauthorization comes to the floor of the Senate, we urge you to support your public schools and vote against the Moynihan amendment.

Thank you.

Sincerely,

DR. JOSEPH SCHERER,
Director, Governmental Relations.

NATIONAL COALITION TO
SAVE PUBLIC EDUCATION,
Washington, D.C., June 13, 1980.

DEAR SENATOR: The National Coalition to Save Public Education, a group composed of numerous oragnizations representing the education, religious, and civil rights communities, must record a vigorous objection to Senator Moynihan's amendment of S. 1839, the Higher Education Act reauthorization bill. The Moynihan proposal, originally S. 1101, attempts to extend the Basic Educational Opportunity Grant Program ("BEOG") to the elementary and secondary level. In other words, he proposes financial aid for nonpublic elementary and secondary students.

Specifically the Coalition opposes the Moynihan amendment for several reasons.

(1) The Senate Subcommittee on Education, Arts, and Humanities afforded the sponsor the opportunity to testify on behalf of his amendment; however, no hearings were held to permit comment from the public or representatives of the education community.

(2) The Subcommittee completed markup of S. 1839 without considering the amendment.

(3) A motion to adopt the amendment was defeated by the Senate Committee on Labor and Human Resources.

(4) The BEOG program has been designed and intended for postsecondary education. Without separate authorization, the funding of this proposal could diminish postsecondary education monies. Considering the current budget restraints, it would be inappropriate and inequitable to deplete funding to needy postsecondary BEOG students.

(5) The Moynihan proposal raises serious constitutional problems. The extension of BEOGs to elementary and secondary schools would, in effect, aid sectarian education and thereby violate the constitutional mandate of separation of church and state.

(6) There are studies underway to examine the issues related to the financing of public and private education K–12. Adoption of the amendment would result in a substantial change in public policy regarding elementary and secondary schools without the benefit of information from the mandated studies.

(7) The position of Assistant Secretary for Nonpublic Education within the Department of Education was created to provide technical assistance and monitoring without the government serving as an advocate for private education. The Moynihan amendment suggests the contrary—that the federal government endorse, advocate, and, further, aid private education.

(8) The Congressional Budget Office in October 1979 estimated that the extension of BEOGs to the elementary and secondary level would cost $160.1 million. That is an extremely conservative estimate. Further, it did not consider that once the program is enacted, the likely results will be an inflation in tuition costs and changes in the minimum award level.

(9) The effect on the public school system could be devastating. The Secretary of Education stated in a recent letter to the Chairman of Labor and Human Resources Committee that "BEOG's for elementary and secondary students could provide an incentive for students to leave the public schools, possibly eroding local support for public schools."

It is anticipated that the Moynihan amendment will be introduced on the Senate floor when reauthorization of the Higher Education Act (S. 1839) is considered. We urge you to oppose the Moynihan amendment (S. 1101).

Enclosure:

1. American Association Colleges for Teachers Education.
2. American Association of School Administrators.
3. American Civil Liberties Union.
4. American Ethical Union.
5. American Federation of Teachers.
6. Americans United for the Separation of Church and State.
7. Baptist Joint Committee on Public Affairs.
8. Council of Chief State School Officers.
9. Council for Educational Development and Research.
10. League of Women Voters of the United States.
11. Mexican American Legal Defense and Educational Fund.
12. National Association of Elementary School Principals.
13. National Association of State Boards of Education.
14. National Committee for Citizens in Education.
15. National Council on Jewish Women.
16. National Education Association.
17. National Parents and Teachers Association.
18. National School Board Association.
19. National Urban League.
20. Public Education and Religious Liberty.
21. U.S. Student Association.

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 23, 1980.

DEAR SENATOR: The AFL–CIO strongly supports S. 1839, the Education Amendments of 1980, as reported by the Committee on Labor and Human Resources. This bill is of vital interest to union members and their families who count on federal assistance as an essential part of their access to higher education. S. 1839 makes several changes in existing law we particularly support. First, it allows a greater percentage of the costs of a college education to be covered by a Basic Education Opportunity Grant (BEOG) by eventually raising the so-called "half cost limitation" to 60 percent.

The bill also raises the maximum grant amount to adjust for inflation. In addition, the Committee bill provides access to all the campus-based student aid programs for part-time students. This is an important provision for workers who frequently go to school on a part-time basis.

The AFL–CIO strongly opposes the proposed Moynihan amendment to extend the BEOG program to elementary and secondary schools. We believe that this amendment which was rejected in Committee is seriously flawed and will ultimately reduce the funds available for higher education as well as undermining public education. In addition, to establish an aid program of this type on the elementary and secondary level is a first step toward radically altering our system of educational financing. We urge you to reject this amendment if it is offered.

S. 1839 is an important bill for all Americans and especially those of low and middle income and represents an increase in educational opportunities for working families all over the country.

The AFL–CIO supports the Stewart amendment, which generally would incorporate the provisions of Title III of the bill as reported by the House Committee. We believe this amendment would best insure that developing institutions most in need of funds will continue to receive them.

The AFL–CIO urges its swift passage.

Sincerely,

RAY DENISON,
Director.

MEMBERSHIP, NATIONAL COALITION TO SAVE PUBLIC EDUCATION

American Assoc. of Colleges for Teacher Education.

American Association of School Administrators.

American Federation of State, County and Municipal Employees, AFL–CIO.

American Alliance of Health, Physical Education and Recreation.

American Civil Liberties Union.

American Federation of Teachers. AFL–CIO.

American Humanist Association.

Americans United for Separation of Church and State.

Coalition of Labor Union Women.

Council for Exceptional Children.

Council of Great City Schools.

League of Women Voters of the United States.

National Association of Elementary School Principals.

National Association of State Boards of Education.

Americans for Democratic Action.

A. Philip Randolph Institute.

Council for Educational Development and Research.

Council of Chief State School Officers.

Horace Mann League.

NAACP.

National Association of Secondary School Principals.

National Coalition for Public Education and Religious Liberty.

National Congress of Parents and Teachers.

National Council of Jewish Women.

National School Boards Association.

National Student Lobby.

National Urban League.

United Auto Workers.

National Council of Churches.

National Education Association.

National Student Association.

National Urban Coalition.

Unitarian Universalist Association.

Board of Church and Society, United Methodist Church.

NATIONAL SCHOOL
BOARDS ASSOCIATION,
Washington, D.C., June 20, 1980.

DEAR SENATOR HOLLINGS: It is my understanding that Senator Moynihan intends to introduce an amendment to the Higher Education Act of 1980 which would extend the college Basic Educational Opportunities Grants to children in elementary and secondary private schools.

The National School Boards Association, which represents locally elected school boards nationwide, strongly opposes this amendment.

There are strong constitutional arguments against the amendment. Extending BEOGs to parochial schools would clearly violate the constitutional provision for the separation of church and state.

Adding a large group of recipients to the BEOG program will increase enormously the cost of the program. The Congressional Budget Office estimates the cost of extension of this program to be $160 million in the first year. Since the grants are tied to payments toward tuition costs, there is an incentive for private schools to raise tuition, thereby increasing the cost of the grants in subsequent years.

More importantly, NSBA believes that this proposal would have a devastating effect on public education. It would encourage the further movement of children from public to private schools, creating a wider disparity of economics and social class than is already present in the schools.

Very truly yours,

THOMAS A. SHANNON,
Executive Director.

Mr. HOLLINGS. We know about the public schools. The AFL-CIO knows about schools. The AFL-CIO says Mr. MOYNIHAN'S amendment "undermines public education." We know exactly what will occur. "It is just a little innocent thing." Think about what the Senator from Connecticut is saying, how much money is saved. Look at how much money is saved by those going to the private schools. If you look at it that way, how much money is saved by those swimming in the private swimming pools of America, instead of the public ones.

We have public swimming pools on Lee Street in Charleston. But think how much money is saved by those with private pools, so let us all send them a little money because they are saving us money by keeping swimmers out of the public swimming pools.

We have a municipal golf course in Charleston. Think how much money we save because of those golfers who do not go to the municipal course but instead go to the country clubs, and how much the country clubs of America are saving the taxpayers. So let us all start sending money to the country clubs of America. Imagine paying people not to use a public service. Where is the logic in that? If that be the case some will say, Why have the public service? That is the rationale of the Senator from Connecticut. This has gotten to the ridiculous stage.

Parents should have a right to choose private schools or public schools. They absolutely should have a right to choose. I have had that right and I have chosen both. Many other Senators have chosen both.

I happen to be a product of the public school system in this country. I think the responsibility and the duty of the public, or the Government, is to provide public education. The responsibility and the duty of the Government to private schools is to leave them alone, and that is fundamental.

Do not come around here, calling this American as apple pie. Nothing in the Lord's world could be further from the truth. Court opinions have come down and this scheme is totally unconstitutional. American as apple pie. The right to choose. The freedom of choice.

That sounds like the Southern lawyers in the segregation cases we came up with, running to Washington before the Supreme Court on the freedom of choice, the freedom to choose. We know how much freedom there is in that choice. None.

We know the issue here. It is a tough problem, maintaining a public education. But they are doing an outstanding job.

The teachers of this country are doing an outstanding job under the most adverse conditions.

Now, we want to heap on them in the last few minutes here, in a small, so-called, innocent amendment that is in truth a budget buster, something that is about as un-American as it possibly could be, namely, to take all the money and allocate it over to private education because it is just to give a parent the right to choose.

That is not the issue here. The issue here is the fundamental involvement, financially, constitutionally, and politically.

I speak just politically at this particular point. We have covered the others. That is, we should not desire by any manner or means to get involved in private or church education. On the contrary, we should not take public moneys, constrained at this particular point because we are cutting back on revenue sharing—much of it going to the public schools of America—and at the last minute we find millions, going to billions, and transmit that over to private education. Private education with its selectivity but without the Government forms, without the Government controls, without the civil rights requirements.

They give us what the law is, but we know what occurs. We do not have enough enforcement officials to go and investigate. And do not want to be going around investigating the private and church schools of this country. We should not be involved. That is my point. Such involvement is undesirable philosophically, constitutionally and politically.

It is a bad amendment. It is against education, and I respectfully ask my colleagues join me in opposing it.

Mr. CHAFEE. Mr. President, the public schools of this Nation are in great trouble. These schools constitute the backbone of education on the elementary and secondary levels. That is where the greatest number of young Americans are now and will be educated in the future.

This Congress and its predecessors have repeatedly imposed new mandates upon public schools—mainstreaming the handicapped, bilingual education, racial and social equality. All these requirements, while reflecting admirable goals, have placed tremendous demands on the public school system. Our public schools are facing severe difficulties in meeting these challenges.

It seems to me, Mr. President, that our primary obligation always should be to help our public schools meet the challenges of serving the many diverse needs of all children and giving those schools the support they need to meet these enormous responsibilities. I do not think we can divert our resources into other channels.

Therefore, Mr. President, because I feel this deep obligation for the support of our public schools, particularly in view of the difficulties they are facing, I am opposed to the amendment offered by the Senator from New York.

● Mr. TOWER. Mr. President, those of us who have long advocated, and repeatedly voted for, tuition tax relief have every reason to be disappointed by this amendment, to oppose it, and to state unequivocally why it is without merit.

We are asked to approve a new Federal program of grants to low-income families for their children's tuition in elementary and secondary schools. The arguments used to justify this proposal sound like those which I myself have advanced on behalf of tuition tax credits. But there the similarities stop.

The beauty of tuition tax credits, as a means of asserting parental rights in education and assisting families to provide for the education of their youngsters, is that they do not entail additional Federal spending. They would not expand the Federal bureaucracy. They would not burden schools with paperwork. They would not constitute another flagrant income transfer, but would accrue to parents as a matter of fairness, no matter what their incomes. Most important—and I cannot stress this enough—a properly designed system of tuition tax credits would not open the door to Federal regulatory control of private schools.

On every one of those points, the amendment's proposed extension of basic educational opportunity grants to elementary and secondary schools is fatally flawed.

The amendment is another spending proposal, with the potential for being a fiscal time bomb. Unlike tuition tax credits, which leave money in the pockets of the taxpayers, the amendment would have the Federal Government print and distribute more and more inflated dollars, with a hefty percentage of them going to the bureaucrats who would administer the program.

The amendment is a paper shuffler's dream. The current program of college basic educational opportunity grants is a model of bureaucratic intrusion, form filling, and obfuscation. Its flaws must not be extended to independent elementary and secondary schools, which—thanks to the policies of the Carter administration—have enough problems already.

This amendment pretends to be tuition relief. It is actually an income transfer. We can be proud of our generous assistance to the poor. But every middle-income family in the country should resent the audacity of this amendment, which would reserve education aid for the same category of people who receive favored status in more income-transfer programs than we have time to list here today.

What is so wrong, we might ask, with providing across-the-board tuition tax relief? Why this penchant for limiting programs to those who pay the least taxes? Why, in short, does this amendment disguise another welfare scheme in the garb of educational assistance?

That is a serious flaw in the amendment, but a far more dangerous one is its potential for a Federal takeover of private institutions through bureaucratic regulation. We have already seen how the totalitarian mentality within the old HEW and the new Department of Education has bizarrely claimed that, when so much as a single student at a college receives a basic educational opportunity grant, that college must be considered a federally funded institution for all regulatory purposes. In other words, its independence from Government is extinguished. It becomes a creature of the State.

Fortunately, some schools—but pitifully few of them—have told Federal placeholders to keep their meddling hands off. So the Carter administration has dragged the colleges into court, insisting that, though these institutions refuse all Federal money, they must behave as if they were servile grantees of the Department of Education.

That servility is what this amendment offers to independent and church-related elementary and secondary schools. That servility, in exchange for another bankrupt income transfer program. I am reminded of Esau, who traded his heritage for a mess of pottage.

Let me remind those with short memories that the Senate has had opportunities to consider a truly meaningful system of education aid for all Americans who support private schools. In the 94th and 95th Congresses, the Senate rejected tuition tax credits for elementary and secondary pupils. In fact, the last time around, those of us who strongly advocated tuition tax relief faced the prospect of a Presidential veto, bluntly threatened by Mr. Carter despite his campaign promises of 1976.

This being an even-numbered year, some of my colleagues who happened to have voted against tuition tax credits in 1976 and 1978 might welcome the opportunity to go on record in support of some apparent substitute—a substitute that is income related.

But there is no acceptable substitute, least of all the ill-conceived Federal program advanced by this amendment. Enactment of elementary and secondary basic educational opportunity grants would give opponents of tuition tax credits an easy reason to continue in their opposition, claiming that the need has already been met by their new Federal program. That is why this amendment is a threat to parental rights and educational freedom, for it would derail the momentum behind tuition tax relief.●

The PRESIDING OFFICER. All time has expired.

Mr. HOLLINGS. I thank the distinguished Senator.

The PRESIDING OFFICER. All time having expired, under the previous order, there will now be a vote on the substitute Moynihan amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. LONG) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent because of illness.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. SCHMITT) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 24, nays 71, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—24

Biden
Bradley
Church
Culver
Dole
Durenberger
Durkin
Heinz
Humphrey
Jepsen
Lugar
Mathias
Melcher
Metzenbaum
Moynihan
Packwood
Pell
Ribicoff
Roth
Sarbanes
Schweiker
Stone
Williams
Zorinsky

NAYS—71

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Domenici
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Magnuson
McClure
McGovern
Mitchell
Morgan
Nelson
Nunn
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Sasser
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young

NOT VOTING—5

Goldwater
Huddleston
Long
Matsunaga
Schmitt

So the amendment (No. 1914) was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New York (Mr. MOYNIHAN) be agreeable to vitiating the yeas and nays on the amendment in the first degree?

Mr. MOYNIHAN. Mr. President, I say to the majority leader the Senator from New York told him he would and I do.

Mr. ROBERT C. BYRD. Mr. President, will the Senator make the request?

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the yeas and nays on the pending amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1913

The question is on agreeing to the amendment of the Senator from New York.

(Putting the question.)

The amendment (No. 1913) was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, could we agree on 10-minute rollcall votes? There are two back-to-back votes.

Mr. President, I ask unanimous consent that there be 10 minutes on each of the two back-to-back rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1290

The question now recurs on the amendment of the Senator from Ohio. There remains 3 minutes and 45 seconds to the Senator from Ohio and 2 minutes to the Senator from Rhode Island.

Who yields time?

Mr. BELLMON. Mr. President, will the Senator from Ohio yield to me 1 minute?

Mr. METZENBAUM. Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, could we have order in the Senate?

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. Let there be order in the Senate.

Mr. BELLMON. Mr. President, I call the attention of the Senate to the budget implications of the Metzenbaum amendment.

I hope Members will pay attention.

This amendment will save $600 million on loans made in fiscal year 1981 alone, and it will save a total of $3 billion on loans made over the next 5 years.

Mr. President, I want briefly to address myself to two points:

First. The guaranteed student loan program is an entitlement program, the cost of which has increased 134 percent in 2 years. This increase is eating into funds which would otherwise be available for other student assistance programs.

Second. On our side of the aisle 21 Members opposed the budget resolution this year—most of them because they considered the spending under the resolution too high.

If we cannot make reasonable cuts, such as the one proposed by the Metzenbaum amendment, then I am sincerely concerned that we may never really be able to control the growth of Federal spending as we should.

Mr. President, here is a case where the Senate can save a substantial amount of money without working a hardship on anyone.

The Senator from Ohio can explain his own amendment. But this is one amendment that has a very serious budget impact.

I wish to call attention of the Members to that.

The cost of the program has increased by 134 percent——

Mr. NELSON. Mr. President, may we have order? We cannot hear the Senator.

The PRESIDING OFFICER. The Senator is correct. The Senator should be heard.

The Senator will suspend until the Senate is in order.

The Senator may continue.

Mr. BELLMON. Mr. President, the cost of the program has increased 134 percent during the last 2 years. It is cutting into funds available for other student assistance programs, and I strongly urge the support of the Metzenbaum amendment.

Mr. METZENBAUM. Mr. President, I yield a half a minute to the Senator from Kansas.

Mr. DOLE. Mr. President, I underscore what the distinguished Senator from Oklahoma has said, and as a cosponsor of the amendment, it certainly makes a lot of sense to this Senator. I find myself not often in agreement with the distinguished Senator from Ohio, but this is a reasonable amendment. This is not going to damage or do any violence to anyone. It certainly will put focus on a problem we have in the budget problem.

Mr. President, I am pleased to support the amendment of the distinguished Senator from Ohio, as a proposal of merit. It is attractive for a number of reasons. First in a time of fiscal restraint when balancing the Federal budget is a movement that has generated bipartisan support, we have an opportunity to vote in favor of a proposal that would save $627 million in long-term costs on loans issued each year. Over the 5-year authorization period, the amendment would save $3.1 billion in long-term costs.

It seems reasonable that, since a student receives support that enables him or her to attend an institution of postsecondary education, the Government should not subsidize the interest payments beyond the period that the student is pursuing higher education studies. It is only fair for a student to pay back the entire loan, including the interest subsidy. After all, without Government assistance, the opportunity to attend a college or university would not have existed at all.

Another attractive feature of this amendment is that it would discourage the "convenience" borrowing that enables non-low-income families who take out low-cost loans for their children's education to invest their available capital in higher dividend savings bonds or other more profitable investments. For a long time this loophole has existed under current law, and it is about time that such borrowing was deterred.

I am satisfied that the interests of low-income students are protected under the modifications of Senator METZENBAUM'S amendment. No student would be required to repay the interest subsidy in question on more than the first $7,500 in loans borrowed; and, further, this interest would accumulate for no more than a 3-year period. In addition, the long-term graduate and professional student, as well as those who enter military service, the Peace Corps or VISTA, do not have to pay back their loans and interest subsidy immediately after they leave school. These added protections are necessary, and alleviate my previous concerns.

By supporting this amendment, we are not discouraging students from pursuing higher education studies—we are merely enforcing a sense of responsibility in students who have been given an educational opportunity otherwise not possible without Government assistance.

Mr. METZENBAUM. Mr. President, I yield a half minute to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I wish to add my support to the pending amendment to replace the existing across-the-board in-school subsidy of interest payments on guaranteed student loans with an in-school interest deferral provision for those students who do not have demonstrable financial need. This modification to the committee bill is estimated to save $627 million over the life of the bill.

As many of my colleagues pointed out last evening, the committee bill creates a vastly expanded need-based loan program under a National Direct Student Loan Association. Under this approach, the campus-based loan program will target more directly on those students with demonstrable financial need. As larger numbers of needy students are able to avail themselves of NDSL loans, fewer needy students will be forced into the higher cost GSL program.

When S. 1839 was considered by the Labor and Human Resources Committee, I offered an amendment which would have retained the in-school interest subsidy for those students from families with adjusted gross incomes of less than $25,000, and required repayment of the interest subsidy after graduation for students from families with incomes above that amount.

I believe that the pending amendment substantially meets my original purpose of continuing the in-school interest subsidy for needy students, but requiring repayment upon graduation for those with no demonstrated need.

I emphasize, Mr. President, that this amendment in no way restricts access to a federally guaranteed loan. I would not support any such effort to deny to any income category of students the availability of loan assistance. However, I do believe, particularly in light of our present fiscal constraints, that we must take responsible steps to arrest the ballooning costs of the GSL program.

This amendment, with its special exemptions for students whose need is not met through the other financial aid programs and those who because of continuing their education at the graduate level would be saddled with an inordinate debt burden, is, in my view, just such a responsible step. I urge its adoption.

Mr. METZENBAUM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 35 seconds remaining.

Mr. METZENBAUM. Mr. President, I yield 15 seconds to the Senator from Texas.

Mr. BENTSEN. Mr. President, I ask to be a cosponsor of the amendment.

We already have the 9-percent rate. This is an additional interest subsidy that is not being charged.

Mr. METZENBAUM. Mr. President, I am delighted to have the Senator from Texas as a cosponsor and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am also pleased in joining as a cosponsor of the amendment.

The amendment will save us $5 billion over the next several years and do so without taking anything away from a deserving needy person.

I think this is an awfully good amendment and I hope the Senate will adopt it.

Mr. METZENBAUM. I wish to correct the Senator. It will save $600 million per year or $3 billion for 5 years.

Mr. ARMSTRONG. I meant to say $3 billion over the next 5 years. I apologize.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I wish to be added as a cosponsor of this amendment and so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, does the Senator from Ohio have any time remaining?

The PRESIDING OFFICER. The Senator from Ohio has 40 seconds remaining.

Mr. METZENBAUM. How many?

The PRESIDING OFFICER. Forty seconds.

Mr. METZENBAUM. Mr. President, I rise to indicate that this amendment is very simple. All it really provides is that the student who has graduated should repay to the Government not only the loan but the amount of the interest as well. As the Senator from Texas pointed out, there still will be an interest subsidy.

It means $3 billion as far as the program over a 5-year period. There is not any reason why students who graduate are not willing to share their part of the burden, and there is not any reason for the blue-collar workers of America to be subsidizing the college graduates.

The PRESIDING OFFICER (Mr. EXON). The Senator from Rhode Island has 2 minutes.

Mr. PELL. How much time?

The PRESIDING OFFICER. Two minutes.

Mr. PELL. Mr. President, I shall take 40 seconds for myself and yield 40 seconds to the Senator from Vermont and another 40 seconds to the Senator from Pennsylvania.

With regard to these figures, there is some argument about them. The Congressional Budget Office says the total savings would be $100 million this year and $630 million over 5 years. However, in return for that savings a great deal of damage is going to be done.

We are going to find that the number of loans is going to be reduced by half.

To date our national policy has been to increase the number of young people in college, not to reduce them.

We find the Student Loan Marketing Association says that for every dollar saved by this amendment, two-thirds or 66 cents would have to be expended for servicing costs.

This amendment was pretty well considered in its broad outlines in the committee and was defeated 9 to 2. It has an adverse effect on people going into the Army, the Peace Corps, and VISTA, because it makes it financially undesirable for students to pursue these national service options.

It means more paperwork and it means that a means test is once again being inserted into our loan program.

I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, in addition to the other reasons for opposing the amendment, which we have debated earlier, let the Senator from Vermont point out to our colleagues—could we have order, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Chair has just counted 12 different conversations going on on the floor. It is very difficult to conduct business. We must ask those carrying on conversations to retire from the floor so that we can proceed in orderly fashion in carrying out the business of the Senate.

I apologize to the Senator from Vermont. I ask once again for order. I recognize the Senator from Vermont again.

Mr. STAFFORD. Mr. President, I was saying in addition to the reasons for opposing this amendment which we debated earlier, there is an additional reason. It comes from the National Association of Student Financial Aid Administrators who have to administer this program.

They say this amendment will, in effect, create an administrative nightmare for them, and quoting from their letter, they tell us:

> Here lenders are faced with notes, some of which are subsidized, others of which are not. A given student may have shown needs for 1 year and no need the next. Therefore, in essence, the lender is forced to service the student's loan as if it were two separate accounts. This is not only confusing, but

greatly adds to the costs of servicing the loan during repayment.

Finally, they say:

> If the purpose of the amendment is to save money, then the sponsors may be successful, however not because of realistic cost savings, but because lenders will withdraw from the program, or turn away many students who have need, but which fail to show it on OE's needs test.

I oppose the amendment.

Mr. President, I ask unanimous consent that a letter from the National Association of Student Financial Aid Administrators may appear in the RECORD as a part of and appended to the remarks I made just prior to the vote on the Metzenbaum amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF STUDENT
FINANCIAL AID ADMINISTRATORS,
Washington, D.C.

MEMO

To Senator Pell, Senator Randolph, Senator Stafford.
From Dallas Martin, Executive Director.
Date June 24, 1980.

Per your request, we have examined the language which is contained in the GSL amendment which was introduced by Senator Metzenbaum.

At first glance the amendment seems to be fairly simple and straightforward, however, upon further analysis one quickly begins to realize that such an inclusion would make the GSL program an administrative nightmare, filled with additional paperwork and a set of complicated repayment provisions.

First of all, every student who wishes to apply for a GSL would be required to answer a series of questions to determine his or her dependency status. (Note: That would add six questions to the current application.)

Next, the student and/or family, depending upon the student's status, would have to complete a financial needs test in order to determine whether or not there is financial need. (While this not only adds additional paperwork and for those families who currently do not complete such an application, it should also be remembered that S. 1839 and HR 5192 both establish a single need analysis system for which parents and students are not charged processing fees. Therefore, the mandatory requirement of going through such a needs test with the Metzenbaum amendment would add additional costs to the government for performing such processing.

Next, the determination of whether or not the student has need is then calculated by the aid administrator at the institution, who in turn must take into account all other aid sources which the student is receiving, and then certify to the lender as to whether the student has need for the loan.

Experience has shown that this simple coordination is difficult to achieve due to the unusual circumstances of individual students, financial changes in midyear, unanticipated delays in funding of other state and federal programs and numerous other problems.

However, assuming that all of this coordination is achieved, the real problem lies in the repayment stage of the program.

Here lenders are faced with notes, some of which are subsidized, others of which are not. A given student may have shown need for one year and no-need the next. Therefore, in essence, the lender is forced to service this student's loan as if it were two separate accounts. This is not only confusing, but greatly adds to the costs of servicing the loan during repayment.

In addition, this amendment will add to the school and lenders expenses, knowing full well that the Department of Education will establish many new regulations just to insure that all parties have complied with the amendment.

If the purpose of the amendment is to save money, then the sponsors may be successful, however not because of realistic cost savings, but because lenders will withdraw from the program, or turn away many students who have need, but which fail to show it on OE's needs test.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. The time has expired, and the yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I have been yielded 40 seconds, and it was up to the Chair to advise the speaker that his time was up before my 40 seconds were up.

The PRESIDING OFFICER. Does the Senator from Pennsylvania wish to request unanimous consent? We have not ordered the vote, and the Chair will certainly entertain such request.

Mr. SCHWEIKER. I ask unanimous consent to speak for 40 seconds.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCHWEIKER. Mr. President, I hope we know what we are doing here. The bill we brought out from this committee saves $20 billion over the House bill. We are responsible. We were fiscally conservative and we kept the guaranteed loan program so we could have a program to help middle America. Now we are going to wipe a good portion of that program out. The bill is $20 billion cheaper than the House bill, so this thing of saving $600 million or $1 billion does not consider the fact that we saved $20 billion over the House bill, and this $1 billion helps students from middle-income families to go to college.

Second, we learned from experience the last time we had a means test that the banks ducked it and they walked away from the GSL program, and we had no program. We are going right back and making the same mistake again. As soon as they have a means test they lose money and they will not loan students money.

Mr. METZENBAUM. Mr. President, will the Senator yield? There is no means test in this amendment.

Mr. SCHWEIKER. There has to be a means test because of the fact that some people will get the subsidy and some will not.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will interrupt the call of the roll. The Senate will please be in order. This is a 10-minute rollcall vote. The Senate is not in order and the rollcall will not continue until the Senate is in order. I ask Senators to please take their seats and clear the well.

The rollcall vote will not continue until the Senate is in order so that we can hear the votes cast by the Members of the Senate. Please be in order.

The clerk will continue the call of the roll.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. LONG) is necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. SCHMITT) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—56

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Garn
Glenn
Hart
Heflin
Helms
Hollings
Humphrey
Jackson
Johnston
Kassebaum
Magnuson
Matsunaga
McClure
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Percy
Proxmire
Ribicoff
Roth
Sasser
Simpson
Stennis
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Williams
Zorinsky

NAYS—41

Biden
Bradley
Burdick
Cranston
Culver
Danforth
Durenberger
Ford
Gravel
Hatch
Hatfield
Hayakawa
Heinz
Huddleston
Inouye
Javits
Jepsen
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
McGovern
Melcher
Moynihan
Nelson
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Schweiker
Stafford
Stevens
Stevenson
Stewart
Tsongas
Weicker
Young

NOT VOTING—3

Goldwater
Long
Schmitt

So Mr. METZENBAUM's amendment (UP No. 1290) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. EAGLETON. Mr. President, while I support the major provisions of S. 1839, and commend the distinguished subcommittee chairman and floor manager, Senator PELL, for his valiant efforts in reducing overall costs of the programs authorized under this bill, I do have reservations about the nine new authorities in the committee bill. At a time when

Congress has pledged to balance the budget, and in fulfilling that pledge is in the process of making major reductions in on-going programs, I believe it unwise to embark on new program authority.

I come to this conclusion reluctantly, Mr. President. Indeed, one of the new program authorities, the urban grant university program, is a concept I first introduced in the Senate almost 3 years ago. I remain convinced that there is a legitimate need for expanded Federal leadership to enable urban colleges and universities to work with their communities to resolve problems of common interest. However, I question whether we can or should attempt to provide this expanded leadership at the present time.

When the Committee on Labor and Human Resources considered this bill, I offered an amendment to defer the effective dates for all the new program authorities until fiscal year 1983. A substitute amendment reducing the level of authorization of the nine new programs by 25 percent was adopted by the committee, and those reductions are contained in the bill now before the Senate. But even at the reduced level, this bill authorizes $220 million for new programs in fiscal years 1981 and 1982.

I know that our committee does not intentionally seek to be duplicitous, but I find it incongruous that we are sending out signals to the higher education community that Congress is authorizing new programs on the one hand, while taking away $140 million in student assistance awards on the other.●

● Mr. KENNEDY. Mr. President, throughout the 17 years that I have been in the Senate, I have felt that educational opportunity is essential, not only to the young people of this country, but to the country itself. It has been my pleasure to have been a member of the Subcommittee on Education during this period, and to have worked together with the chairman, Senator PELL, to insure that the promise of educational opportunity becomes a reality for all.

Thus, I am extremely pleased that the Senate has adopted as part of its reauthorization of the Higher Education Act, the structure for a campus-based assured student loan program which I and Senator BELLMON first proposed in S. 1600. I commend Chairman PELL for his efforts in marshaling this important loan reform through the congressional process as part of title IV of the higher education reauthorization.

Unlike the current loan program, the Kennedy-Bellmon proposal which the Senate adopted today, guarantees a loan to every student who needs one, and this commitment to our Nation's future can be made without paying the exorbitant fees we now do. Our reform structure cuts out unnecessary bank subsidies and puts the collection program back on track.

Under the current bank-based program, students go to a bank and request a loan. The bank may at its discretion loan any person any amount up to $2.500. The Government guarantees all these loans, pays the interest for the student while the student is in school, and provides a subsidy to the bank while the student repays the loan.

Aside from its high costs, this program has been faulted because many students who may not have had a previous relationship with the lending institution, or who may have been determined to be "less credit worthy" have had trouble getting loans.

Essentially, the Kennedy-Bellmon reform structure adopted in title IV seeks to eliminate the problem of loan access by shifting from a bank-based program to a campus-based program. Each student in need of a loan could go to his or her financial aid office on campus and be assured of a loan. That loan would equal the cost of school minus scholarship aid and a reasonable parental contribution. The funds necessary for such need-based loans will be raised through the Federal Financing Bank, at a much smaller cost to the Government than it now takes to induce private banks to make student loans. Consequently, according to CBO estimates, the Senate-approved version of title IV will save about $6 billion in costs to the Government over the next 5 years while making about the same number of loan dollars available each year to a slightly larger number of students.

The Senate bill also establishes a new parental loan program. This program, originally introduced in S. 1600, is designed to ease the financial burden many families face because of the rapidly increasing cost of college. This program will allow parents to borrow an amount up to the expected parental contribution. While these loans will be guaranteed, they are unsubsidized, thereby reducing the cost to the Government.

And finally, one of the main criticisms of the current student loan program has been directed to the repayment program and its alarming default rate. The Kennedy-Bellmon loan reform proposal incorporated into title IV, centralizes the collection of campus-based loans in an independent banking agency, where campus-based loans are now collected by the colleges. Defaults on campus-based loans should thus decrease.

Mr. President, we have made great strides in the areas of improving scholarship grants and improving institutional aid, and the student loan reform adopted by the Senate today is an important supplement to that effort.●

● Mr. MOYNIHAN. Mr. President, it is with satisfaction and enthusiasm that I will vote for passage of S. 1839, the Education Amendments of 1980. This is landmark legislation for American higher education and the students enrolled in our public and private colleges and universities. It contains a number of highly desirable new programs, and an even larger number of constructive modifications in existing programs. I am particularly pleased by the careful and precise balancing of multiple Federal interests and objectives in the area of undergraduate student aid, and by the sensitivity that the Committee on Labor and Human Resources has shown toward the differing needs of public and private institutions and their students.

I am delighted to see that the National Institute of Education is being reauthorized for 5 years. I had rather a lot to do with the creation of the NIE in 1972 and continue to take a keen interest in its progress.

I am also pleased to see that the status of the fund for the improvement of postsecondary education has been regularized within the Higher Education Act. This, too, is a program—more properly an agency—that I was associated with establishing. It derived from the proposal for a National Foundation for Higher Education that was contained in the 1970 Presidential message to Congress on higher education, a message that I drafted.

I am delighted that the Robert A. Taft Institute and its trust fund are included in this omnibus education, and that the very important programs of assistance to international education and foreign language and area studies are reformed and reauthorized as well.

Title XI contains a new urban grant university program of particular significance to a highly urbanized State such as New York, and to many of the institutions in it, and I thank the committee for recognizing the merits of this undertaking.

There are other programs and provisions, too numerous to mention, in S. 1839 that have my unqualified support. I should like to take special note of the boundless energies, deep concern for education, and sophisticated understanding of a complex array of important programs that have been displayed throughout this arduous process by members of the Committee on Labor and Human Resources and its Subcommittee on Education, Arts and Humanities, and to pay particular tribute to the work of the distinguished chairman of the subcommittee, the senior Senator from Rhode Island, and to Senators WILLIAMS, JAVITS, SCHWEIKER, and STAFFORD.

They have done us all proud, and have made a major contribution to the future wellbeing of American higher education and of millions of students.●

Mr. BAKER. Mr. President, I wish to commend the Senator from New Jersey (Mr. WILLIAMS), chairman of the Labor and Human Resources Committee, the Senator from Pennsylvania (Mr. SCHWEIKER), ranking member of the committee, the Senator from Rhode Island (Mr. PELL), and the Senator from Vermont (Mr. STAFFORD) for the expeditious and thoughtful manner with which they have brought the higher education amendments legislation to the floor today.

The Senate has acted in the best interests of thousands of Americans by approving this legislation.

Education is a fundamental birthright of every American, Mr. President. As we all know, the spiraling costs of higher education are depriving thousands upon thousands of our citizens of that right.

At all times, and particularly now, in this time of acute economic distress, it is essential that the Federal Government assist in providing the opportunity to study, beyond the secondary level, to each and every American who so desires.

Thus, I am most pleased to see that more than 90 percent of the $5.62 billion of the money we will spend on this program next year will be utilized for student assistance.

Furthermore, I am delighted to note that the legislation has incorporated many of the provisions of the National Student Loan Reform Act, sponsored by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Oklahoma (Mr. BELLMON), of which I was a cosponsor. While we have a duty to provide financial assistance to qualified, needy students, we also have an obligation to the American taxpayer to recover loans and hold down costs. Only in this fashion can we guarantee a fiscally responsible program and the continuation of such loans.

Finally, Mr. President, I applaud the establishment of a trust fund for the Robert A. Taft Institute of Government, a most worthy project which bears the name of one of this body's most distinguished Members, and I commend my colleague from Tennessee (Mr. SASSER) for his amendment to establish a William Levi Dawson Chair of Public Affairs at Fisk University in Nashville. As a cosponsor of the original legislation in both these instances, I am most appreciative of the efforts made in their behalf.

● Mr. MAGNUSON. Mr. President, the Education Amendments of 1980 is legislation to reauthorize the important higher education programs, including student grants and loans. I am pleased to support this legislation.

Senator PELL and the Education Subcommittee have done an excellent job of drafting this bill. They had to walk a legislative tightrope to come up with a bill that is equitable for private and public colleges and universities and for the students that attend these schools. This certainly has not been an easy task, especially in the area of student assistance. The provisions of S. 1839 try to maintain and improve the balance that will enable students to have the freedom to attend the college or university of their choice, whether it is private or public.

This legislation reflects the effects of the Congress to achieve a balanced budget. The authorizations in this bill are several billion dollars below the current law and the House-passed bill. The committee achieved these savings without cutting or damaging high priority provisions of existing programs. Many of the authorizations were reduced to make them more compatible with current appropriations. I am pleased to see the committee take this action. It will make the authorizations for many of these education programs an actual target or calling. The authorizations contained in S. 1839 will assist the Appropriations Committee in establishing funding levels for many important higher education programs.

The bill also strengthens and improves other education programs, such as teacher centers, international education, and cooperative education. Teacher centers have become a most effective way for teachers to improve upon their classroom performance. Giving teachers the opportunity to develop and administer training programs suited to their own high priority needs is proving to be a valuable asset for teachers, students, and schools. This is the first time that international education has been included as a regular part of a comprehensive higher education bill. The improvements, many of which come from the report of the President's Commission on Foreign Language and International Studies, will serve to help us meet some very critical needs in the international arena.

Also included in S. 1839 is a reauthorization of library programs. Libraries are a key component of a good educational system. The changes proposed for these programs will help us to maintain and strengthen college and university libraries. With the rapid increase in the number of magazines and other periodicals being printed, the committee bill recommends the establishment of a National Periodical Service Corporation. This Corporation would establish a system for comprehensive collection and sharing of periodical publications. With increasing percentages of library budgets going to the purchase of periodicals, this provision is timely.

It appears that the committee is prepared to accept an amendment which would include the provisions of the so-called Domenici-Bellmon education consolidation bill, S. 2270. This amendment would allow selected States and school districts within those States to consolidate the administration and operation of federally supported education programs. This would be done on a trial basis to see how such a consolidation works. The purposes of the proposal would be to cut down on paperwork—which we all know has become excessive—improve administration of these programs, and, most important of all, provide improved education for elementary and secondary education school students. As a cosponsor of this legislation, I encourage the committee to agree with the amendment.

As I said earlier, this is a high priority piece of legislation. It contains freedom of access and choice for our college and university students. I encourage you to join me in supporting S. 1839.●

THE IMPORTANCE OF TEACHERS' CENTERS IN IMPROVING THE QUALITY OF EDUCATION

● Mr. CHAFEE. Mr. President, there persists a growing belief in our Nation that our schools are in trouble. In recent years, many elected officials, educators, and millions of parents have come to the conclusion that the American education system is not working as well as it once did.

In spite of increased spending, the perception on the part of the public is that the quality of education has declined as steadily as the costs have increased. For example, in 1968, the total cost for all public education at all levels nationwide was $43.5 billion. By 1977, this figure rose to $107.6 billion, and today it is approaching a much higher amount.

During this same 12-year period, however, experts confirm that students received at least 25 percent more A's and B's than they did in 1968, but know less, and test scores show that the achievement level of U.S. 17-year-olds has dropped regularly. Basic skills competencies continue to decline, and debate continues over whether or not one-fifth adult Americans are functionally illiterate.

It has become convenient for us to place blame for this apparent learning crisis on a variety of villains. But increasingly, as the cover story in Time magazine of June 16, 1980, points out, more attention has been directed toward the "lone and very visible figure at the front of the classroom"—the teacher.

The Time article states:

> One reason for this is that it is easier for society to find someone to blame than to hold up a mirror and see that U.S. culture itself is largely responsible.

We as a people like our good and evil to be clear. We wish to be innocent in an uncomplicated way.

New concerns about teachers' abilities have led some school systems to become defensive, and have caused 12 State legislatures to adopt mandatory competency tests for teachers.

Regardless of whether or not one believes that some teachers are partially responsible for declining test scores, two facts are clear:

First, commonsense, personal experience, and educational research studies all tell us that teachers are the single most important factor that can improve the quality of education. More than equipment, more than massive sums of money, or educational theory, teachers as individuals have done more to improve the abilities and skills of our children than any other part of the education equation.

Second, teachers, facing a broad range of educational, as well as social problems in today's classrooms, need our support and assistance.

It is for these reasons that the teachers' center program under title V, "Teacher Corps and Teacher Training Programs," of the Higher Education Act, is an especially important component in improving our education system.

Teachers' centers have their roots in Great Britain, roots that reach back to the Nuffield math project and to the inception of open education. Teachers realized a need to share and exchange ideas and discuss problems relevant to their situations. As a result, teacher centers were born. American educators were quick to recognize the possibilities of such an idea working here and soon teachers' centers were a reality in the United States. In 1978, Federal moneys were made available for the first time for teachers' center implementation and today there are centers for 44 States and territories. As a result of the Higher Education Act Amendments of 1980, soon there will be at least one teachers' center in every State in the Nation.

A teachers' center is as unique as the population that it serves. Centers feature a varied program and are often changing their offerings as the needs of students and teachers change. Most centers offer formal and informal course-work, either through a university or a State department. Workshops, demonstrations, curriculum development, collections of teacher resources, libraries of professional materials, recycle areas, and production space are frequent components of a teachers' center. In fact some centers are strictly outreach, moving into classrooms in an advisory capacity.

The most unique feature about teachers' centers is that they are governed by teachers. In most centers, there is a policy or advisory board comprised of teachers from schools being served, as well as administrators and representatives from higher education. Policies are made by this board. Day-to-day running of the center is done by a director or coordinator. Staffing varies in each center, dependent upon the budget and specific needs identified.

Teachers' centers respond to teacher's own definitions of their continuing learning needs by offering assistance and instruction that help teachers enrich and activate the learning experience of the children in their classrooms. Teachers' centers encourage teachers to take more, not less, responsibility for curricular and instructional decisions in the school and the classroom; they encourage teachers to participate in the design of professional development programs.

Under the provisions of the Higher Education Act, teachers' centers may:

First, develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

Second, provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

These broad goals have allowed teachers to determine their own needs, and the needs of their students, and to conduct important programs, especially in the area of basic skills competencies. It is my hope that programs such as these which address serious problems will be expanded in many more communities.

In addition, teachers' centers have important potential to provide training and counseling to help teachers improve their ability to deal with the unique social problems in the classroom, which mirror broader trends in society.

Included in this description would be such problems as professional strain or "teacher burnout," and school discipline.

Some teachers' centers have begun work in similar areas. It is my hope that the committee will emphasize that in addition to first, developing curricula to meet the needs of students, and second, improving teaching skills, helping teachers cope with other types of classroom problems is another important potential goal and valid use of the centers.

During the Senate's consideration of the Higher Education Act Amendments of 1980, I had hoped to propose an amendment which would have increased the authorization level of the teachers' center program.

Because of the committee's efforts to limit spending evenly across all programs within the Higher Education Act, I will support the committee bill authorization levels through 1985, and urge my colleagues to support full funding of this program. The cost of the teachers' center program is extremely small, especially when one considers the importance of these centers. It is this program, which helps teachers to become better teachers in order to meet the needs of their students, that holds some of the greatest promise for improving the quality of American education.

Mr. President, I ask that an article from Time magazine, June 16, 1980, and an article from Instructor on teachers' centers be printed in the Record.

The article follows:

[From Time, June 16, 1980]

HELP! TEACHER CAN'T TEACH!

(On Free to Choose, his popular public television series, Economist Milton Friedman stands before Boston's Hyde Park High School as uniformed guards search entering students for weapons. In a voice-over Friedman says: "Parents know their kids are getting a bad education but . . . many of them can see no alternative."

(Speaking of educational reform, Richard H. Hersh, associate dean for teacher education at the University of Oregon, tells a meeting: "We've been rearranging deck chairs on the Titanic."

(Says Professor J. Myron Atkin, dean of Stanford University's School of Education: "For the first time, it is conceivable to envision the dismantling of universal, public, compulsory education as it has been pioneered in America.")

Like some vast jury gradually and reluctantly arriving at a verdict, politicians, educators and especially millions of parents have come to believe that the U.S. public schools are in parlous trouble. Violence keeps making headlines. Test scores keep dropping. Debate rages over whether or not one-fifth or more adult Americans are functionally illiterate. High school graduates go so far as to sue their school systems because they got respectable grades and a diploma but cannot fill in job application forms correctly. Experts confirm that students today get at least 25% more As and Bs than they did 15 years ago., but know less. A Government-funded nationwide survey group, the National Assessment of Educational Progress, reports that in science, writing, social studies and mathematics the achievement of U.S. 17-year-olds has dropped regularly over the past decade.

Rounding up the usual suspects in the learning crisis is easy enough. The decline of the family that once instilled respect for authority and learning. The influence of television on student attention span. The disruption of schools created by busing, and the national policy of keeping more students in school longer, regardless of attitude or aptitude. The conflicting demands upon the public school system, which is now expected not only to teach but to make up for past and present racial and economic injustice.

But increasingly too, parents have begun to blame the shortcomings of the schools on the lone and very visible figure at the front of the classroom. Teachers for decades have been admired for selfless devotion. More recently, as things went wrong, they were pitied as overworked martyrs to an overburdened school system. Now bewildered and beleaguered, teachers are being blamed—rightly or wrongly—for much of the trouble in the classroom.

One reason is simply that it is easier for society to find someone to blame than to hold up a mirror and see that U.S. culture itself is largely responsible. But the new complaints about teachering also arise from a dismaying discovery: quite a few teachers (estimates range up to 20%) simply have not mastered the basic skills in reading, writing and arithmetic that they are supposed to teach.

Of course, among the 2.2 million teachers in the nation's public schools are hundreds of thousands of skilled and dedicated people who, despite immense problems, manage to produce the miraculous blend of care and discipline, energy, learning and imagination that good teaching requires. Many newcomers to the field are still attracted by the dream of helping children rather than for reasons of security or salary. The estimated average salary of elementary school teachers is $15,661, and of high school teachers $16,387, for nine months' work. The average yearly pay of a plumber is about $19,700; for a government clerk it's approximately $15,500. The best-educated and most selfless teachers are highly critical and deeply concerned about the decline in teaching standards and educational procedures. Their frustration is perhaps the strongest warning signal of all.

Horror stories about teaching abound. In Oregon a kindergarten teacher who had been given As and Bs at Portland State University was recently found to be functionally illiterate. How could this be? Says Acting Dean of the School of Education Harold Jorgensen: "It was a whole series of people not looking closely, at her."

In Chicago a third-grade teacher wrote on the blackboard: "Put the following words in alfabetical order." During the weeklong teacher strike last winter, many Chicago parents were appalled by what they saw on television news of schools and teachers. Recalls one mother: "I froze when I heard a teacher tell a TV reporter, 'I teaches English.'"

In the Milwaukee suburb of Wales, Wis., school board members were outraged when teachers sent them written curriculum proposals riddled with bad grammar and spelling. Teachers had written dabate for debate, documant for document. Would was woud, and separate was seperate. Angry parents waved samples of their children's work that contained uncorrected whoppers, marked with such teacher comments as "outstanding" and "excellent."

A Gallup poll has found that teacher laziness and lack of interest are the most frequent accusations of half the nation's parents, who complain that students get "less schoolwork" now than 20 years ago. Whether the parent perceptions are fair or not, there is no doubt that circumstances have certainly changed some teacher attitudes. At a Miami senior high school this spring, one social studies teacher asked his pupils whether their homework was completed. Half the students said no. The teacher recorded their answers in his gradebook but never bothered to collect the papers. Says the teacher, who has been in the profession for 15 years and has now become dispirited: "I'm not willing any more to take home 150 notebooks and grade them. I work from 7:30 a.m. to 2 p.m., and that's what I get paid for." A longtime teacher in a large suburban school outside Boston told Time it is common knowledge that some of her colleagues, anxious to preserve their jobs as enrollments dwindle, fail children simply to ensure hefty class size the next year.

The new doubts that teachers have led to a state-by-state demand from legislators and citizen groups that teachers take special examinations to prove they are competent, much like the student competency exams that have become a requirement in 38 states. Asks Indiana State Senator Joan Gubbins: "Shouldn't we first see if the teachers are competent before we expect the kids to be competent?"

SOME BURNT-OUT CASES . . .

"Judy," 40 says: "What got to me was that I found I was not getting results." A Bryn Mawr graduate who always wanted to be a teacher in a big city, she successfully taught English for eleven years in a Manhattan high school. Her enthusiasm began to falter three years ago when each of her five high school classes crept above the union maximum of 34 students. Says she: "No English teacher should have five classes. If you're trying to teach kids how to read and write, you simply can't do it—that's 200 students a day." In effect, Judy gave up teaching because she wanted to teach. Says she: "Many of my colleagues were not making an effort. The administration failed to recognize mediocrity, and failed to recognize negligence—except if you punched your timecard a few minutes late."

"Diana," 38, has taught high school history for ten years in a mostly black Washington, D.C., school. Says she: "I'm not really burned out, but there are a lot of problems and not much hope."

Homework? "Mostly there's no homework because they can't read. Ten years ago it was different. But these kids today are the product of the time when people thought forcing blacks to learn English was unfair. Just let them speak black English and 'kinda let them do their thing' was the way it went. So they can't read. Parents are awfully upset. But when I call them to suggest they enroll their kids in remedial work, a lot of them are not interested. They just don't want to face the problem."

"Tracking," the grouping of students by ability, is no longer possible because it is discriminatory. "Too many whites are always in the upper track," Diana explains. But she finds that even in a virtually all-black school, just maintaining order among the nonlearners keeps her from working with the 5% of the class, again mostly black, who can read well and want to learn: "They just sit around and die of boredom while I try to keep the other kids from fighting."

"Harold," 50, is the son of a South Carolina millworker. With a M.A. in literature from Duke University, he headed north and took a job as a bank teller while working toward his New York teaching certificate. In 1963 he became an English teacher in a big New York City high school. Six years later, seeking a change, he spent a year at a suburban school, but was bored. "That's when I learned how much I identified with the deprived kids in Manhattan." Back in the city, Harold helped launch a special reading program. "We were all weary of failure in trying to teach academic subjects to high school kids who read on a fifth-grade level," he says. "We saw reading as the key by which these kids could gain success." For six years, Harold's group faced constant opposition from the school's principal, who was embarrassed at all the attention to a remedial program for tenth-graders supposed to be taking high school courses. In 1974, during the city's big economic crisis, the program's teachers were let go or transferred.

"My plan now is to take early retirement in 1982 after completing 20 years in the classroom," says Harold. "I don't think many people believe any more in the validity of a democratic public education. That is, one where kids from various groups rub elbows and actually learn from each other. The question then is, what do we really want in education?" Harold still is an excellent teacher, and he likes the spirit of the children in his school. But, he says, "when I look out at a class of 35 sophomores and I know that the reading levels in it are everywhere from fourth to tenth grade, I know that society has presented me with an impossible teaching assignment."

"Dorothy," 36, a Chicago elementary school teacher, told school officials she had the flu for five days last month. In fact, she spent the time hiding at home reading *The Tale of Genji*, an 11th century Japanese novel of love and manners. Says she: "Some days I can't bear to go to school. My legs won't take me to the classroom." After 13 years of teaching, Dorothy is a classic case of teacher burnout, and she hopes to find a job in public relations. But she remembers proud moments from years ago: her rousing student production of *Tom Sawyer*, the months she worked with a nine-year-old Hispanic student until he finally learned long division. These days, though, she lets her student teacher run the class: "I told him I don't care what he does with the kids just as long as he returns them to me quiet."

Why has she given up? Paperwork, the yanking of her favorite subjects (science and geography) from the curriculum, she answers. But as she talks, what emerges is a general hopelessness and resentment of a faceless bureaucratic system. On pressure to bring up test scores, for example, she says: "It doesn't matter that the kid is a Pakistani, and his home life is bad and he can't read English." Feeling she can neither help her students nor please the administration depresses her and makes her defensive and cynical—about the school and herself. Says she: "The good teachers have all quit to save their sanity. I hate to tell people I'm a teacher."

. . . AND SOME WHO CARRY ON

Helen Lambert Scott is a legend at Detroit's inner city Angell Elementary School. "It is quite evident which children come up from Mrs. Scott's third grade," says Angell Fourth Grade Teacher Dorothy Lindsey. "They are well behaved. They jump right in and attack their work. They listen. They participate."

Scott's classroom may be decorated with pictures of spaceships, but she is an old-fashioned, demanding teacher. Her classroom method is a blend of love, dignity, discipline and self-confidence rooted in unshakable dedication to children. Says she: "I don't care what a child looks like, or what he smells like. He has a personal worth that God gave him, and that should be counted."

Scott has been teaching for 40 years, and much of the current talk about teacher burnout irritates her. She knows firsthand all the problems and questions that beset teachers. "There's a breakdown in family life. Everyone does his own thing," she admits. "The number of children actually doing the work and keeping up are in the minority." Excessive paperwork? "The only way I deal with it is to try to do it," she says, though she now often has to grade papers during lunch hour as well as at home. Kids who won't do homework? "I assign work to the child with a note of finality, and I keep after him until he realizes that I will pester until the work is done. He might as well do it in the first place." Demands that take teachers' time from teaching? "Sometimes you have to fight to teach the basic skills, but I'm going to have reading every day with every child so I know what he knows." Scott is in favor of teacher competency exams.

These days Scott's most rewarding moments occur "when children come back after high school and tell me, " 'You were hard on us, but I found out what you were teaching was for our own good.' " One such is Linda Harris, now a high school teacher in Georgia, who was one of Scott's students in 1958: "She had a great deal to do with my wanting to become a teacher. She really wanted the kids to make something of themselves." Concedes Scott: "It's a labor of love to keep going. With that love, there's a mixture of frustration and agony." But, she adds, "there are minds to be trained. You must press forward."

Lillian Becker wanted to teach so much that she went back to college for her degree at age 42 and graduated from the City College of New York as a Phi Beta Kappa. Today, at Intermediate School 70 in Manhattan's Chelsea district, Becker scrubs the desks in her classroom herself and sweeps the floor three times each day. Says she: "Kids sense the order, and they like it. They behave differently in a clean classroom."

She has other practical suggestions. "You have to keep calling parents. You have to keep trying to get homework done." She also believes in sentence diagraming and drill. "They can disregard it later on, but it only becomes part of you later on if you drill 'now.' " To discourage predictable students alibis like "I forgot my book" or "I lost my pencil," Becker spends her own money to keep an extra supply of paper and pencils on hand. She always has extra textbooks on her desk.

Recently she asked the class to draw such simple symbols as a flag or a dove of peace. Soon the lesson had blossomed into a study of the parts of speech. "I also had them drawing pictures of figures of speech, like 'you drive me up the wall.' They loved it. After that they seemed ready for similes and metaphors." Becker grades themes and tests at home at least three days each week, two to five hours at a stint.

She earns about $18,000 a year, but the payoff, of course, is that she knows her teaching works. Says she: "Most teachers don't teach for money. They teach for that recognition they see and feel when a student learns something. I think most teachers do a terrific job."

Carolyn Kelly, 33, whispers to a visitor: "I love this." Kelly has just led a spirited senior class debate on the best interpretation of H. G. Wells' *The Man Who Could Work Miracles*. "I feel rejuvenated when a kid expresses something in a manner that for him is totally new, totally his own."

The seniors are Kelly's star pupils. She also teaches a basic English class and acts as coordinator of teacher advisers at the Rindge and Latin School in Cambridge, Mass. If need be she can reason with students from slum backgrounds in their own street-wise slang, and she spends a good deal of time trying to make students understand that public school is still a gateway to opportunity. Says she: "My goal is not just academic; it's teaching kids what it is to be a human being."

Like most teachers she decries the loss of public support for the profession. "It is vital that we all understand how things have changed: the role of the teacher, the school, the church, the family. It does no good to isolate schools as the culprit when there are social changes that affect other institutions as well. Until we all realize that education is a reciprocal thing, we won't have understood much at all."

With 41 million pupils, public school education is one of the nation's largest single government activities. Current expenditures (federal, state and local) run to $95 billion. So vast and costly an educational system does not cheerfully react to criticism or adapt to change.

The push toward testing teacher competency, however, depends less on Washington than on state and local governments. One of the most instructive battles fought over the issue occurred in Mobile, Ala., and was led by conservative attorney Dan Alexander, president of the board of education. In 1978, after the board required competency testing of Mobile high school seniors, Alexander was besieged by angry parents, at least partly because 53% of the students who took the city's first competency exam flunked it. Recalls Alexander: "Parents came out of the woodwork saying, 'If you're going to crack down on my child, let me tell you about some of my children's teachers.'" One parent brought him a note sent home by a fifth-grade teacher with a master's degree, which read in part: "Scott is dropping in his studies he acts as it he don't Care. Scott want pass in his assignment at all, he had a poem to learn and he fell to do it." Says Alexander: "I was shocked. I could not believe we had teachers who could not write a grammatically correct sentence. I took the complaints down to the superintendent, and what shocked me worse was that he wasn't shocked."

Alexander made the note public as the kickoff of a campaign for teacher testing. Says he: "Competency testing is probably a misnomer. You cannot test a teacher on whether he's competent, but you certainly can prove he's incompetent." The proposed exams for veteran teachers were blocked by Alexander's colleagues on the board. But they agreed that all new teachers should score at least 500 on the Educational Testing Service's 1¼-hr. National Teacher Examination (N.T.E.) which measures general knowledge, reading, writing and arithmetic. Only about half of the Mobile job applicants who took the N.T.E. in 1979 passed.

The American Federation of Teachers, which has 550,000 members, is opposed to testing experienced teachers, though it approves competency exams for new candidates. The much larger National Education Association is against any kind of competency testing for teachers, claiming teacher competency cannot be measured by written tests. Even so, some form of teacher testing has been approved in twelve states.* Proposals for teacher testing have been introduced in Colorado, Illinois, Iowa, Kansas, Missouri, New York, Vermont and Wisconsin, and a bill in Oklahoma is scheduled to be signed into law this week. Polls say the teacher-testing movement is supported by 85% of U.S. adults.

Thus far actual test scores of teacher applicants seem depressing. In Louisiana for instance, only 53% passed in 1978, 63% last year. What about the ones who fail? Says Louisiana Certification Director Jaqueline Lewis: "Obviously they're moving out of state to teach in states where the tests are not required." The results of basic achievement tests taken by job applicants at Florida's Pinellas County school board (St. Petersburg, Clearwater) are not encouraging. Since 1976, the board has required teacher candidates to read at an advanced tenth-grade level and solve math problems at an eighth-grade level. Though all had their B.A. in hand, about one-third of the applicants (25% of the whites, 79% of the blacks) flunked Pinellas' test the first time they took it in 1979.

In 1900, when only 6 percent of U.S. children graduated from high school, secondary school teachers were looked up to as scholars of considerable learning. Public school teachers were essential to what was regarded as the proud advance of U.S. education. By 1930, 30 percent of American 17-year-olds were graduating from high school, and by the mid-1960s, graduates totaled 70 percent. The American public school was hailed for teaching citizenship and common sense to rich and poor, immigrant and native-born children, and for giving them a common democratic experience. "The public school was the true melting pot," William O. Douglas once wrote, "and the public school teacher was the leading architect of the new America that was being fashioned."

The academic effectiveness of the system was challenged in 1957, when the Soviet Union launched its Sputnik satellite. Almost overnight, it was perceived that American training was not competitive with that of the U.S.S.R. Public criticism and government funds began to converge on U.S. schools, By 1964, achievement scores in math and reading had risen to an alltime high. But in the '60s the number of students (and teachers too) was expanding tremendously as a result of the maturing crop of post-World War II babies. In the decade before 1969, the number of high school teachers almost doubled, from 575,000 to nearly 1 million. Writes Reading Expert Paul Copperman in *The Literacy Hoax:* "The stage was set for an academic tragedy of historic proportions as the Nation's high school faculty, about half of whom were young and immature, prepared to meet the largest generation of high school students in American history." To compound the problem, many teachers had been radicalized by the 1960s. They suspected that competition was immoral, grades undemocratic, and promotion based on merit and measurable accomplishment a likely way to discriminate against minorities and the poor. Ever since the mid-1960s, the average achievement of high school graduates has gone steadily downhill.

Ironically, the slide occurred at a time when teachers were getting far more training than ever before. In the early 1900s, few elementary school teachers went to college; most were trained at two year normal schools. Now a bachelor's degree from college is a general requirement for teaching. Today's teaching incompetence reflects the lax standards in many of the education programs at the 1,150 colleges around the country that train teachers. It also reflects on colleges generally, since teachers take more than half their courses in traditional departments like English, history and mathematics.

Research by W. Timothy Weaver, an associate professor of education at Boston University, seems to confirm a long-standing charge that one of the easiest U.S. college majors is education. Weaver found the high school seniors who planned to major in education well below the average for all college-bound seniors—34 points below average in verbal scores on the 1976 Scholastic Aptitude Test, 43 points below average in math. Teaching majors score lower in English than majors in almost every other field.

Evidence that many graduates of teacher-training programs cannot read, write or do sums adequately has led educators like Robert L. Egbert, president of the American Association of Colleges for Teacher Education, to urge higher standards on his colleagues. The National Council for Accreditation of Teacher Education has become warier about issuing its seal of approval, which is largely honorific, since state boards of education issue their own, often easygoing approval for teacher-training programs. Nevertheless, with an awakened interest in "consumer protection" for parents and pupils, the council denied accreditation to teacher-training programs at 31 percent of colleges reviewed in 1979, compared with 10 percent in 1973. Says Salem, Ore., School Superintendent William Kendrick: "For too long, we've believed that if you hold a teaching certificates you can do the job."

Many teachers favor rigorous teaching standards, including the use of compulsory maximum-competency tests—at least for candidates starting out in their careers. They are dismayed by the public's disapproval. Says Linda Kovaric, 32, a teacher at Olympic Continuation High School in Santa Monica, Calif.: "The administration tells you you're doing a crummy job, parents tell you you're doing a crummy job, kids even tell you you're doing a crummy job. A lot of teachers these days feel and look like soldiers who returned from Viet Nam. You see the same glazed look in their eyes.

Many teachers have come to see themselves as casualties in a losing battle for learning and order in an indulgent age. Society does not support them, though it expects them to compensate in the classroom for racial prejudice, economic inequality and parental indifference. Says *American School Board Journal* Managing Editor Jerome Cramer: "Schools are now asked to do what people used to ask God to do." The steady increase in the number of working mothers (35 percent work full time now) has sharply reduced family supervision of children and thrown many personal problems into the teacher's lap, while weakening support for the teacher's efforts. Says Thomas Anderson, 31, who plans to quit this month after teaching social studies for seven years in Clearwater, Fla.: "I know more about some of my kids than their mothers or fathers do."

A teacher's view, in short, of why teachers cannot teach is that teachers are not allowed to teach. "The teacher today is expected to be mother, father, priest or rabbi, peacekeeper, police officer, playground monitor and lunchroom patrol" says David Imig, executive director of the American Association of Colleges for Teacher Education. "Over and above that, he's supposed to teach Johnny and Mary how to read." Adds Edith Shain, a veteran kindergarten teacher at the Hancock Park School in Los Angeles: "The teacher doesn't know who she has to please. She's not as autonomous as she once was."

In the past 15 years the number of teachers with 20 years or more experience has dropped by nearly half. Four out of ten claim they plan to quit before retirement. In 1965 more than half of America's teachers told polltakers they were happy in their work. Now barely a third say they would become teachers if they had to make the choice again.

For many teachers, whether to leave their profession is not seen as a question of choice, or economics, but as a matter of emotional necessity. The latest pedagogic phenomenon is something called "teacher burnout." It is a psychological condition produced by stress, that can result in anything from acute loss of will to suicidal tendencies, ulcers, migraine, colitis, dizziness, even the inability to throw off chronic and perhaps psychosomatic colds.

This spring the first national conference on teacher burnout was held in New York City. Surprisingly, the syndrome seems nearly as common in small towns and well-off suburbs as in big cities. The National Education Association has already held more than 100 local workshops round the country to help teachers cope with the problem, which University of California Social Psychologist Ayala Pines defines as "physical, emotional and attitudinal exhaustion." Last March, Stress Consultant Marian Leibowitz held a burnout seminar in Edwardsville, Ill. (pop. 11,982). It drew a paying audience of 250 to a hall big enough for only 100.

According to Dr. Herbert Pardes, director of the National Institute of Mental Health, what emerges from the familiar litany of teacher complaints is that administrative headaches and even physical assaults on teachers can be psychologically less wounding than the frustrating fact that teachers feel unable to do enough that is constructive and rewarding in their classrooms. Whether it is blackboard jungle, red-tape jumble, a place of learning or a collective holding pen for the hapless young, the modern classroom, teachers claim, is out of teachers' control. Some reasons:

DISCIPLINE AND VIOLENCE

Last year 110,000 teachers, 5 percent of the U.S. total, reported they were attacked by students, an increase of 57 percent over 1977–78. Teachers believe administrators tend to duck the subject of violence in the schools to avoid adverse publicity. More than half the teachers assaulted feel that afterward authorities did not take adequate action. Today one in eight high school teachers says he "hesitates to confront students out of fear." One in every four reports that he has had personal property stolen at school.

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*Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virignia, West Virginia.

Since the *Wood* vs. *Strickland* Supreme Court decision of 1975, which upheld the right to due process of students accused of troublemaking, the number of students expelled from school has dropped by about 30 percent. As always in a democracy, the problem of expulsion turns in part on the question of concern for the rights of the disruptive individual vs. the rights of classmates and of society. School officials argue that it is wiser and more humane to keep a violent or disruptive student in school than to turn him loose on the streets. But, says John Kotsakis of the Chicago Teachers Union, "schools are now being asked to be more tolerant of disruptive or criminal behavior than society." In a Washington, D.C., high school, a jealous boy tried to shoot his girlfriend in class. The boy was briefly suspended from school. No other action was taken. Says a teacher from that school: "These days if you order a student to the principal's offive, he won't go. Hall monitors have to be called to drag him away."

STUDENT ATTITUDES TOWARD LEARNING

In a current hit song called *Another Brick in the Wall*, the rock group Pink Floyd brays: "We dont need no education." There is near unanimity among teachers that many students are defiantly uninterested in schoolwork. Says one West Coast teacher: "Tell me kids haven't changed since we were in high school, and I'll tell you you're living in a fantasy world." A New York panel investigated declining test scores and found that homework assignments had been cut nearly in half during the years from 1968 to 1977. Why? Often simply because students refuse to do them. Blame for the shift in student attitude has been assigned to such things as Watergate, the Viet Nam War, the Me culture. Also to television, which reduces attention span. Now there are 76 million TV homes in the U.S., *vs* only 10 million in 1950. By age 18, the average American has spent an estimated 15,000 hours in front of the set, far more time than in school. Whatever the figures, teachers agree, television is a hard act to follow.

SHIFTING TIDES OF THEORY

Because it is American, American education dreams of panaceas—universal modern cures for the ancient pain of learning, easy ways to raise test scores and at the same time prepare the "whole child" for his role in society. Education has become a tormented field where armies of theorists clash, frequently using language that is unintelligible to the layman. Faddish theories sweep through the profession, changing standards, techniques, procedures. Often these changes dislocate students and teachers to little purpose. The New Math is an instructive example. Introduced in the early '60s without adequate tryout, and poorly understood by teachers and parents, the New Math eventually was used in more than half the nation's schools. The result: lowered basic skills and test scores in elementary math. Exotic features, like binary arithmetic, have since been dropped. Another trend is the "open classroom," with its many competing "learning centers," which can turn a class into a bullpen of babble. There was the look-say approach to reading (learning to read by recognizing a whole word), which for years displaced the more effective "phonics" (learning to read by sounding out syllables).

Pedagogues seeking a "science of education" are sometimes mere comic pinpricks in a teacher's side. For example, Ph.D. theses have been written on such topics as *Service in the High School Cafeteria*, *Student Posture* and *Public School Plumbing*. But many studies are hard on teacher morale. Sociologist James S. Coleman's celebrated 1966 survey of pupil achievement seemed glum news for teachers. That study argued that family background made almost all the difference, and that qualities of schools and teachers, good and bad, accounted "for only a small fraction of differences in pupil achievement." Later researchers, examining Coleman's work, found that pupils do seem to learn more when they receive more hours of instruction.

The sensible thing for any effective teacher would be to fend off such theories as best he can and go on teaching. As teachers are fond of saying, "Teaching occurs behind closed doors." But theory, some of it foolish and damaging, inexorably seeps under the doors and into the classrooms. For example, the sound idea that teachers should concentrate on whetting the interests of students and stirring creativity has been unsoundly used as an excuse to duck detailed schoolwork. Says Columbia's Teachers College Professor Diane Ravitch: "It is really putting things backward to say that if children feel good about themselves, then they will achieve. Instead, if children are learning and achieving, then they feel good about themselves." Ravitch believes U.S. education has suffered much from such pedagogic theories, and especially from the notion, which emerged from the social climate of the 1960s, that the pursuit of competency is "elitist and undemocratic."

TEXTBOOKS AND PAPERWORK

Teachers are consulted about textbooks but rarely decide what books are finally bought. The textbook business is a $1.3 billion a year industry. Books are ordered by editorial committees and updated at the pleasure of the publisher to sell in as many school systems as possible. Since the late 1960s, according to Reading Expert Copperman, publishers have found that if a textbook is to sell really well, it must be written at a level "two years below the grade for which it is intended."

Paperwork done by teachers and administrators for district, state and national agencies proliferates geometrically. Though it all may be necessary to some distant bureaucrat—a most unlikely circumstance—when teachers comply they tend to feel like spindling, folding and mutilating all the forms. Paperwork wastes an enormous amount of teaching time. In Atlanta, for example, fourth- and fifth-grade teachers must evaluate their students on 60 separate skills. The children must be rated on everything from whether they can express "written ideas clearly" to whether they can apply "scarcity, opportunity cost and resource allocation to local, national and global situations."

ADMINISTRATIVE HASSLES

School procedures, the size and quality of classes, the textbooks and time allotted to study are all affected by government demands, including desegregation of classes, integration of faculty, even federal food programs. One way or another, teachers are bureaucratically hammered at by public health officials (about vaccinations, ringworm, cavities, malnutrition), by social workers and insurance companies (about driver education and broken windows), by juvenile police, civil liberties lawyers, Justice Department lawyers, even divorce lawyers (about child custody).

MAINSTREAMING AS NIGHTMARE

Since the passage of Public Law 94–142 in 1975, it has been federal policy that all handicapped children, insofar as possible, be "mainstreamed," i.e., educated in the same class with everyone else. The law is theoretically useful and just, as a means of avoiding unwarranted discrimination. But in practice it often puts an overwhelming strain on the teacher. "Mainstreaming is ludicrous," says Detroit Counselor Jeanne Latcham. "We have children whose needs are complicated: a child in the third grade who has arleady been in 16 schools, children who need love and attention and disrupt the classroom to get it. Ten percent of the students in Detroit's classrooms can't conform and can't learn. These children need a disproportionate amount of the teacher's time. It's a teacher's nightmare—she can't help them, but she never forgets them."

The tangle of teaching troubles is too complex to be easily unraveled. But one problem whose solution seems fairly straightforward is the matter of illiterate an uninformed teachers. Competency tests can—and should—be administered to screen out teachers, old as well as novice, who lack basic skills. Such screening would benefit pupils, but it would also put pressure on marginal colleges to flunk substandard students bound for a career in teaching. Indiana University Education Professor David Clark asks rhetorically: "Is it more important to make it easy for kids to reach professional level, or to have good teachers?" Pressure is also needed to ensure adequate funding for teacher training. As a typical example, at the University of Alabama last year total instructional cost for a student in a teachered program was $648, in contrast to $2,304 for an engineering student.

In a classic 1960s study titled *The Miseducation of American Teachers*, James D. Koerner, now program officer at the Alfred P. Sloan Foundation, called for the opening of new paths to careers in teaching. At present a state certificate is required for public school teachers, who earn it by completing practice teaching and specialized education courses (such as philosophy of education and educational psychology). According to Koerner there is little evidence that this program of study improves teacher performance. Koerner calls for more intellectually demanding but more flexible requirements to make the field more attractive to talented people who lack specialized teaching credentials. A small step in this direction is a three-year-old pilot program run by the school board in Hanover, N.H. There, college graduates who want to teach are carefully screened for such qualities as imagination and love of children, as well as academic competency. After a year of probationary teaching, chosen candidates become certified teachers.

It has been argued that teaching needs to be more professional. But in some ways it is too professional now—too encrusted with useless requirements and too tangled in its own obscure professional jargon. The impenetrable language of educators has evolved into what Koerner calls "an artificial drive to create a profession." But it is more damaging to the country than the jargon of law, say, or even government, because it sabotages the use of clear writing and clear thinking by tens of thousands of teachers, and through them, hundreds of thousands of students.

Violence in schools has got to be dealt with effectively. A muscular and unprecedented step in the right direction may have just been taken in California. Over a six-year period, Los Angeles County schools lost an estimated $100 million as a result of school muggings, lawsuits, theft and vandalism while city and school officials ineffectually wrung their hands over jurisdictional problems. Last month the attorney general for the state of California sued, among others, the mayor of Los Angeles, the entire city council, the chief of police and the board of trustees of the Los Angeles Unified School District, demanding that authorities put together some coordinated program to punish the criminals and cut down on violence and theft.

A promising proposal was made by legislators in Pennsylvania last year. They introduced bills requiring that schools report all attacks on teachers to state authorities and that criminal penalties be stiffened for school offenses. Under one of the measures, carrying a gun or knife in school would be treated as a serious crime, and a student who assaulted a teacher would face up to seven years in jail.

Principals need to be more willing to manage their schools. When necessary, the resignation of bad teachers must be sought, even though union grievance procedures can be costly and time consuming. "Too many principals are afraid of grievances," says William Grimshaw, professor of political science at the Illinois Institute of Technology. More important, it should be easier to reward good teachers—if only with public recognition, which is rare at present. As Sylvia Schneirov, a third-grade teacher in Chicago, puts it: "The only praise you get is if your class is quiet and if your bulletin boards are ready when the superintendent comes—you better not have snowflakes on the board when you should have flowers."

Public praise for a job well done matters a great deal. Last year Raj Chopra, the Indian-born superintendent of schools in Council Bluffs, Iowa, raised Council Bluffs' S.A.T. scores, which had slumped below national norms, by starting a systematic campaign to encourage "positive thinking" by—and about—Council Bluffs teachers. Says he: "We make them feel proud of their profession by emphasizing that what they do will have an impact on the country for years to come." On May 6, the city celebrated Teachers Day. Retailers, who had earlier been visited by a "teacher recognition task force," gave discounts to teachers that day.

Teaching children to read and write and do sums correctly is not so complicated a business as it is often made to seem. As Koerner puts it: "Almost any school can significantly improve its performance by the simple act of deciding to do so." Indeed, much of the trouble boils down to a failure of will, of old-fashioned teacherly "gumption" in the schools and outside them. As Marcia Fensin, a former teacher and mother of two daughters enrolled in Chicago's Joyce Kilmer Elementary School, says: "The teachers just don't care. They give busy work straight from the textbooks, and meanwhile our kids are not being motivated."

Ironically though, lack of care about education is also a favorite complaint of educators today. Echoing the view of many in the schools, President Lawrence Cremin of Columbia's Teachers College observes: "By and large, society gets what it deserves out of its school system. It gets what it expects. If you don't value things, you don't get them."

The evidence suggests that something so simple as caring can improve the schools. One of James Coleman's undisputed findings: all other things being equal, students achieve better in schools that have active Parent-Teacher Associations. PTAs can provide pressure to improve a teaching staff or school programs and facilities. More important, a widely supported PTA is the tangible sign of parental responsibility for education. Caring shows in other ways as well. Observes Cremin: "A number of studies indicate that certain kinds of schools are unusually effective. Whether the students are rich kids, poor kids, blacks, Hispanics or whites, these schools look very much alike on some criteria. The principal leads his teachers. The teachers become committed to teaching the basic skills. Expectations become high. Time is spent on classroom tasks, and a happy order pervades the school. Rules are widely known and quickly enforced. Parents are brought into the act and are supportive. In such schools, black kids learn, white kids learn, green kids learn."

Yet such is the dilemma of education today that even so clear-cut a matter as agreeing to establish very low minimum competency tests for teachers becomes a hot political issue, arousing fear that the tests will only serve as racial discrimination. Significantly, one of the most eloquent advocates of tough standards, and the man who speaks most probingly and practically about American education, its problems and possible salvation, is not an educator but a black leader, the Rev. Jesse Jackson. "Nobody can save us for us but us" is a Jackson slogan. He insists that parents sign a contract stating that they will get personally involved with school and require their children to do two hours of work a night, without benefit of television. "Many of us allow our children to eat junk," Jackson accuses, "watch junk, listen to junk, talk junk, play with junk, and then we're surprised when they come out to be social junkies." And again, "Tears will get you sympathy, but sweat will get you change." Ostensibly, he is exhorting black ghetto kids and their parents. But he could just as well be setting up a program for everyone, blacks and whites, middle-class parents and burnt-out teachers.

The salvation of the public schools lies, most of all, in just such individual dedication to learning, spread societywide. The schools are simply too big, too close to families and neighborhoods, and too diverse for the improvement of teaching to be ordered by a legislature, Governor, university or school superintendent. They do not need a social program as complex as, say, the Apollo space program, as the continued existence of good public schools throughout the nation shows. They need agreement by the many groups that shape them—parents, teachers, taxpayers, government—that teaching and good teachers are in trouble and need society's support. As to the historic issue, Thomas Jefferson put it well: "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

[From the Instructor, November 1978]

TEACHER CENTERS: THEY'RE TAKING ROOT ALL ACROSS THE COUNTRY AND ARE BEARING SOME VALUABLE FRUIT

Teacher centers are blooming across the country! In the four years since Instructor reported a ground swell in the teacher center movement (Instructor, February 1975), a growth in the number and diversity of centers has been startling. And three recent developments are bringing forth even greater center activity.

First, a definition. Although they come in an endless variety of shapes and sizes, teacher centers have a group of characteristics in common. Most have a physical headquarters, sometimes a whole school, sometimes just an office. Most also are based on the idea that teachers themselves should have a major say in how they are run. They emphasize in-service, although some cooperate with schools of education to provide resources for preservice teachers. Most have a varied program, often involving courses, workshops, speakers, and free and inexpensive materials.

What are the three events stimulating teacher center growth? First is the federal government appropriation last summer of $8.25 million to create or support teacher centers during the 1978 fiscal year. Fifty-five local school districts and five universities were awarded grants. To qualify for funds, a center must agree to be governed by a board composed of a majority of classroom teachers, give attention to development of curriculum, and develop instructional strategies appropriate to teaching.

That this support has stimulated interest in the profession is reflected in the second event—the establishment by NEA and AFT of programs to develop and supply teacher centers started by members of their organizations. Both have received National Institute of Education grants to assist members with teacher center projects. Yet their approaches have been different. NEA's director of the teacher center project, Roy Edelfelt, describes its procedure: "NEA began its teacher center project in 1977, in 52 sites in 25 states. Our aim is to develop centers which are neutral places where teachers can get help with their own problems; where advisors help develop new strategies; where teachers can learn from each other amid new ideas and resources."

In contrast, AFT did not select sites and help develop programs, but instead put out feelers to its local affiliates indicating help was available and responded to the resulting requests for assistance, according to AFT Teacher Center Resource Exchange director Pat Weller.

The third development was the establishment in 1975 of a national clearinghouse, the Teachers' Centers Exchange. Funded by NIE and housed in the Far West Laboratory for Educational Research and Development in San Francisco, it is in contact with more than 300 teacher centers nationwide. Any existing center, any group interested in starting one, or any teacher interested in information on teacher centers can get help from this clearinghouse.

Most teacher centers can be placed into one of five categories: independent, school district, consortium, legislative, and union. Even though any single center may have elements of more than one of these categories, the divisions are helpful to point up some basic differences in emphasis from one center to another. Examples of each type of center follow.

Independent: Four years ago, nearly 50 percent of all teacher centers were independent, having no affiliation with school districts, government agencies, or schools of higher education. Today that has dwindled to less than 10 percent.

One of the 50 largest centers in the country, The Learning Exchange, 2720 Walnut, Kansas City, Missouri, was an early independent that has retained its nonaffiliation. Funding comes from contributions from local businesses, grants from area foundations, and earned income, including profits from workshops, sale of teaching materials, and membership dues. Located in a spacious warehouse donated by Hallmark Cards, it has a 19-member board of directors who are business and community leaders responsible for fund raising and who share in policy decisions. Learning Exchange coordinator Ron Gager believes a teacher center which is free of any encumbering educational affiliations is better able to achieve its goals.

Walking into the Learning Exchange is like entering a Willy Wonka factory for teachers. Every square inch is crammed full: recycled materials; giant posters; hands-on learning center displays where you can learn to weave or bind a book; a curriculum design lab where you can laminate a game, copy a poem, or print up a student-made book on the offset press. A teacher who feels "burned out" sits on a couch talking to another teacher—part of the center's informal peer counseling function. A college credit course on gifted children has just ended and participants stream from the classroom. These are only a few of the 1,000 people who pass through the center's doors each month.

SCHOOL DISTRICT

The Teachers' Center, 301 W. Amador Avenue, Los Cruces, New Mexico. started two years ago, has avoided affiliating with, or accepting funds from. any sources outside the district. In fact, when the district's staff was polled recently it voted overwhelmingly not to apply for federal funds. The center is governed by a policy board containing a teacher from each of the 24 schools, within the parameters of the school board policy. Located in the cafeteria of an unused school, it is close to the teachers it serves. Director Sharon Meyer summarizes the center's program. "Teachers let us know what they need. For example, because New Mexico requires teachers to take certain courses in reading, we offer them for graduate credit. We conduct workshops, also for credit, and supply scads of teaching materials. We also do personal tutoring."

CONSORTIUM

Teaching Learning Center and Community Exchange, Minot State College, North Dakota, is a consortium based on cooperation among various groups in and out of education. The theory is that, since a teacher's development involves pre-service, in-service, and community involvement, all those elements should be incorporated into a teacher center. Director Dorothy Finkin describes the center: "In 1975, as a second-grade teacher, I approached Vito Perrone at the University of North Dakota with a proposal for a teacher center to be sponsored cooperatively by the university, school district, and community. Together, we sought and got community support. We now have a statewide network of five centers, with six more in the works. Each of these centers is locally controlled, but there is a statewide advisory board. Our center serves pre-service teachers at Minot State College, in-service teachers in Minot and in 50 small nearby districts, and the entire noneducational community."

The services offered are impressive. There is a study group on parliamentary procedure which the community wanted; a bookmobile offers story hours for youngsters while parents learn skills to deal with preschoolers; a special education task force helps classroom teachers mainstream. Parents and teachers of learning disabled children have created a workshop to coordinate their efforts.

"The most important service we provide," explains Ms. Finkin, "is to get people together in a reflective atmosphere to view the things they're doing, then either confirm or change them. That's an essential step beyond the make-and-take function of teacher centers."

LEGISLATIVE

Florida is unique in that it earmarks state funds for teacher centers. The Florida Teacher Center Act of 1973 mandates that by July, 1979, each of Florida's 67 districts will help sponsor a teacher center. The state legislature has set aside $5 per student to be spent on professional staff development. Approximately three of those dollars go directly to the 27 state supported teacher centers.

The Southwest Florida Teacher Education Center, Lee County Public Schools, Fort Myers, began in 1974 as one of the 10 original legislative centers in the state. It serves about 2,500 teachers in five school districts and is governed by a council made up of a majority of teachers. Unlike most other centers, it has no central location. Office space is located in the administrative headquarters of one of the school districts served, and all workshops, courses, and other programs are conducted in schools or on-site locations.

Needs assessment is a basic part of the center's operation and is one of it strongest suits. Initially, a computerized study was conducted to determine clients' needs and priorities. Programs then emerged from that study. A similar assessment is now conducted each year by personal contact with each school staff served by the center.

Workshops and courses form the core of the program. Director Sharon Miller cites an example, "In Florida, teachers must renew their certification periodically. They can do this either through college courses or in-service courses. We maintain records, offer in-service, and certify to the state the recertification points each teacher has earned. We also act as a personal and professional clearinghouse, in that we put people with problems together with those who have solutions. We even offer a series of seminars for bus drivers in defensive driving, passenger safety, and the handling of on-bus discipline.

UNION

A union teacher center is one set up, supported, and controlled by an organization representing teachers in collective bargaining. In New York City, 95 percent of the teachers belong to the United Federation of Teachers (UFT), a local affiliate of the American Federation of Teachers (AFT), which represents the teachers in contract negotiations. The UFT has operated a teacher center, *The David M. Wittes Educational Lounge*, since 1974. The center serves approximately 10,000 UFT members each year. Funding comes from union dues, and policy is set by the union. According to director Myrna Cooper, the center offers "instructional resources, personal assistance, workshops and courses, special programs for paraprofessionals and parents, and one of the largest teacher stores in the country. The union sees staff development as a primary part of its mission. We are enhanced when our members do well."

What will the new interest in teacher centers bring? Will centers take hold and become a common part of the American educational scene? One thing is certain—the growth of centers offers classroom teachers a chance to take an active role in the decisions which affect their everyday activities.

IN SUPPORT OF THE NEW TITLE VI—INTERNATIONAL EDUCATION PROGRAMS ACT

Mr. CHAFEE. Mr. President, I wish to make particular mention of the International Education Programs Act, offered today as a new title VI of S. 1939, the Higher Education Act Amendments of 1980.

Government sponsored international education did not begin in the United States until passage of the Fulbright Act on August 1, 1946. Yet, international education in the United States is as old as the American Republic and, in the history of education, dates back to ancient and biblical times.

In the 1930's, American educators, such as Horace Mann and Henry Barnard, both leaders in the movement for the common public school system, had been to Europe to study its educational systems. From these studies and earlier influences developed our kindergarten and graduate school while the liberal arts college came from English traditions.

Many of the annual reports of the U.S. Commissioner of Education since the time of Mann and Barnard, have included analyses and comparative studies of foreign education. Even before World War I, but more especially after it, programs of international exchange of teachers, scholars, and students were developed. These programs, however, were sponsored primarily by philanthropic foundations, such as the Rockefeller and Ford Foundations, the Carnegie Endowment for International Peace, the Guggenheim Foundation, and learned and professional groups.

Today, we are passing in the Senate, what may be the most significant international education legislation since Senator Fulbright's bill.

Soaring spaceships of the early 1960's led to a greater emphasis on science and technology in American schools. Now, soaring inflation, trade deficits, and fluctuating world political conditions that face us in the early 1980's are spurring a greater emphasis on teaching international and economic education.

At present, however, national curricula in all parts of the world still remain relatively provincial. Many societies from Sparta to the Soviet Union have thought it dangerous to study ideas and customs of other lands, fearing that patriotism would be diluted through exposure to ways of life and systems of values not ones own.

Today, in the spirit of our predecessors in education and in Congress, we are stating the importance of international education—that it is a mission of education to help each of us to see foreigners not as abstractions but as human beings, with their own reasons, sufferings and joys, and to discern a common humanity among the various nations.

Provincialism results in ignorance of people and events that are foreign to our shores. The dangers to America of provincialism has been vividly demonstrated by our unwillingness to compete for international business in the world arena, by our difficulties in understanding the history and beliefs of the Moslim world, and, perhaps even by our prolonged involvement in the complicated affairs of Southeast Asia. It is, I believe, significant that a survey of American specialized knowledge of other parts of the world, made in the mid 1960's showed that two areas of which we were most ignorant were Vietnam, and the Persian Gulf.

As we look for an education about the world outside our borders that would be most appropriate for the rising generations of Americans, efforts must be made to convey a sense of common humanity. One way to achieve this is to stress the problems which face, not individual nations, but all mankind. Nuclear armaments, over-population, energy and food shortages, environmental pollution—these are problems that present challenges of a complexity in scale never before faced.

In addition, the world has become increasingly interdependent since World War II, as illustrated by the political allegiances of developing Third World nations, the growing multinational companies and consortiums, and the interdependency of monetary and trade systems.

This prospect of a rapidly changing, dangerous and yet, in many ways, exhilerating future, led members of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Commission to identify as a universal requirement for education everywhere "the preparation of every citizen of every society to keep learning throughout life, to live with ambiguity and complexity and to see one's own salvation as not separate from that of people's and nation's once well beyond the concern or awareness of one's parents."

Today, with the inclusion of the International Education Programs Act into the Higher Education Act Amendments, Congress is taking a major step toward this universal requirement. This legislation will serve our national security, diplomacy, and business relations by enchancing our linguistic and analytic capabilities for international affairs. It will serve the needs of our economy by stimulating the acquisition of knowledge and skills needed for improved export performance. And it will contribute to our citizens' understanding in and relationships with other countries.

The introduction of this legislation could not have come at a more important time.

First, it comes just as we are establishing a new Cabinet-level Department of Education and it sends a clear signal that the international dimension of both the Department and American education needs attention in keeping with the growing importance of the rest of the world for all Americans.

Second, it comes at a time when we have just concluded our 49th consecutive month of trade deficits. For far too long, U.S. businesses have ignored the markets beyond our own borders and simply been content to rely on domestic sales. Only now, with increased competition and a weakened dollar are we beginning to understand the importance of exports and the benefits of increased trade. For years there have been tens of thousands of Japanese businessmen in New York City alone, fluent in English, knowledgeable of American needs and demands, working vigorously to sell their country's products; yet, in Tokyo, there are barely more than a handful of American businessmen who speak limited Japanese, attempting to compete on an international scale in the same manner they compete in the United States.

Third, this legislation comes as we are struggling to understand the conflicts, religious beliefs, and needs of the Moslim world and Middle East nations. Knowledge and understanding are imperative if we are to exert a stabilizing influence on areas of the world with volatile problems.

And finally, this bill comes at a time when the United States and the People's Republic of China are forging new bonds of friendship in such fields as education, business, and technology.

This is good legislation in terms of cost. With increased pressure on the Federal Government to cut spending, this bill will achieve much of its purpose by reorganizing existing law, and by reauthorizing current appropriations provided under the National Defense Education Act.

The bill will revitalize the old NDEA provisions by incorporating many of the ideas of the recent report of the President's Commission on Foreign Language and International Studies.

It also has the advantage of ending the competition between higher education and the elementary and secondary levels caused by the old funding trigger provision. It does this by moving the latter elements to the Elementary and Secondary Education Act. Yet, the bill recognizes the need for integration of the international dimension across all educational levels by providing for single advisory board oversight.

By moving NDEA's title VI to the Higher Education Act title VI, the act has the effect of giving the international dimension of higher education legislation a more prominent place. This will benefit the teaching, research, and contract functions of our colleges and universities. It will also help to change the way the Higher Education Act is perceived as a whole. It has the potential of leading to the review of the relationship of title VI to other Higher Education Act titles in much the same way university administrators must develop links between their institution's resources.

Similarly, the addition of part B, dealing with export education, will have predictable positive effects beyond its purpose of helping the country to cope with its pressing need to export. By being combined with the old NDEA, it will invite new creativity, expand the constituency of Americans learning about the rest of the world, and will bring to international education the dynamism of the American business community. This could be an enormous positive development—for education and for the economy.

Finally, it is my hope that in addition to more international education, this legislation will promote more internationalism in education. By this I mean that education in any one country stands to gain through an exchange of ideas and experiences in other countries. This legislation lays the groundwork for such shared knowledge. We know that our system bears the mark of importation. Certainly Horace Mann and others made their own adaptations to European models, but at least it was not necessary to invent them for a second time. Likewise, our contribution here today in the area of international education deserves careful study by other nations as well.

As a member of the International Trade Subcommittee and of the Intelligence Committee, I am pleased to have been an original cosponsor of this new title VI section, when it was introduced by Senators STAFFORD and JAVITS. It is a most important addition to the Higher Education Act.●

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate bill will be considered as having been read a third time, the Committee on Labor and Human Resources discharged from further consideration of H.R. 5192, the language of S. 1839, as amended, inserted in lieu of the text of the House bill, and the House bill is considered to have been read a third time.

The question is, Shall the bill pass? No debate, amendment, point of order, or motion is in order at this time.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, the Senate is not in order, despite the comments of the Chair.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will please be in order.

The Senate will not proceed until it is in order.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I understand that we are now considering H.R. 5192, a new number with the Senate bill on it, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PELL. Mr. President, I move the adoption of H.R. 5192, as amended by the Senate, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I ask for 30 seconds.

Mr. President, I support the measure——

The PRESIDING OFFICER. The Chair must advise the Senator from New York that under the previous order debate is not in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as a member of the Education, Arts and Humanities Subcommittee, which initiated this legislation last autumn, and as an author of the original Higher Education Act of 1965 and each of its subsequent reauthorizations, I support S. 1839, the Education Amendments of 1980.

This bill is the product of substantial deliberation by both the Education Subcommittee and the full Committee on Labor and Human Resources, and is based upon testimony heard during 9 days of hearings conducted by the subcommittee last fall, and upon informal discussion among members of the subcommittee, the higher education community, and the administration.

Mr. President, this legislation will set the tone for the Federal role in higher education as we enter the 1980's—a period of considerable uncertainty for both students and institutions. It responds to the need to continue the principal Federal responsibility with respect to higher education—to provide all students who wish to participate an equal opportunity, through the means of the basic educational opportunity grant, to do so and, through the instrumentality of the campus-based programs and the guaranteed student loan, to afford students some choice in the selection of an institution at which to matriculate.

S. 1839 retains and enhances the promise of the 1978 Middle Income Student Assistance Act, which the Senate adopted by a vote of 68 to 28 and which provided opportunities for thousands more students to reap the benefits of higher education by expanding eligibility for the BEOG and removing many of the administrative barriers which restricted the availability of student loan capital.

Simultaneously, the committee has been extremely circumspect in keeping the cost of the student aid, institutional assistance, and other programs in this reauthorization within reasonable, and achievable, limits. Over the 5-year period of this reauthorization, the maximum BEOG—the principal mechanism of Federal student assistance—would be increased by an average of approximately 7.5 percent per year, this at a time when the annual rate of inflation at institutions of higher education, in part passed on to the students in the form of tuition increases, well exceeds 10 percent.

Increases in the campus-based programs, particularly the supplemental educational opportunity grant (SEOG), are commensurate with and linked to the increase in the BEOG entitlement.

Costs in the student loan programs have also been reduced, by raising interest rates to the student in the NDSL program from 3 to 7 percent and in the GSL program from 7 to 9 percent, to reflect more clearly the cost of money at current and projected rates of inflation. Finally, authorization increases for the nonstudent aid programs—direct aid to institutions, State program and planning assistance, direct categorical assistance to other entities—have been kept at responsible levels which take into account current appropriations for these programs and realistically reachable levels of funding over the next 5 years.

In this regard, the few programs which we have newly authorized in S. 1839—and foremost among those are title VI–B, international business and education, and title XI, urban universities—are efforts to commence now, with modest amounts of Federal "seed money," to build programs to meet the critical needs of our Nation. Thus, ours is a bill which represents a responsible Federal approach in responding to the needs of students and institutions over the next 5 years.

Mr. President, I would like to address certain crucial elements of this legislation, particularly in respect of the title IV student assistance programs, as I am concerned that the Senate may, in its zeal to make further program reductions, lose sight of the historical purposes for which these programs were established and which still hold today.

Title IV, the student aid title, is the crux of this bill, and is based upon two fundamental principles which have characterized the Federal role and responsibility in higher education during the last decade: First, that any student wishing to attend an institution of higher education have the opportunity to do so, regardless of his or her financial means; and second, that a student wishing to attend college should be afforded the opportunity to choose, through a combination of parental contribution, Federal, State, and institutional assistance, which institution to attend.

The Education Amendments of 1972 established, through Senator Pell's exemplary leadership in sponsoring the BEOG program, the first principle, that of equal opportunity for participation in higher education, as a matter of entitlement. That principle was reaffirmed and extended in the 1976 reauthorization, and in the 1978 Middle Income Student Assistance Act, which expanded eligibility for the BEOG to respond to the needs of middle income students, pressed by rising rates of education and inflation—eroded incomes, for this basic assistance. This reauthorization, which continues the promise of the 1972, 1976, and 1978 acts, includes the renaming of the BEOG as the "Pell grant," in recognition of Senator Pell's leadership and tenacity in achieving and sustaining the BEOG as a fundamental element of Federal policy.

So, too, did the Middle Income Student Assistance Act reaffirm the principle of student choice of institution by removing an anomaly of the guaranteed student loan program which prevented students with family incomes above $25,000 from receiving GSL's. The Congress made, in MISAA, a conscious policy choice to afford all students who wish to take GSL's to help pay for the cost of education a payment of interest while they are attending school. The matter of the cost of the GSL program and, in particular, the inschool interest payment was strongly debated during the course of the committee's deliberations on S. 1839. The committee worked diligently to report out a judicious, workable, and cost-effective student loan program. It raised interest to the student on the campus-based national direct student loan (NDSL) from the current 3 to 7 percent, and raised interest rates on the GSL from 7 to 9 percent. In order further to limit default rates, the newly established National Direct Student Loan Association is to collect repayment of the campus-based loans, rather than the institutions themselves, which is presently the predominant case.

Similarly, the current 9- to 12-month "grace period" during which a student may forego immediate repayment of his or her guaranteed student loan, and during which the interest payment on the loan continues to be made by the Federal Government, is reduced by S. 1839 to 4 months, in order to commence early collections. In reducing the total cost burden to the Federal Government of these programs, however, the committee determined that the principle of the inschool interest payment for any student choosing to take out a guaranteed student loan should be retained.

Mr. President, the loan provisions of S. 1839 are the product of a careful and deliberate compromise. I and other members of the committee have certain reservations as to the financing of the new program of direct student loans and, more particularly, as to the wisdom of establishing a new Federal entity to administer this program. Thus, I am content with our determination to keep reasonable limits on the new NDSL, in order to more fully assess the benefits of replacing the directly appropriated campus-based loan program. By keeping this new NDSL program limited, by keeping current limits on annual and aggregate amounts which may be borrowed under the GSL program, and by establishing a program of higher interest loans, similar to the GSL, to parents of college-going students, the committee has acted judiciously to help students and parents meet the cost of education without unduly adding to the Federal burden.

I would like to highlight briefly at this time, Mr. President, certain other important elements of the bill. First, title I of the bill includes a new part, which I proposed, to establish a Commission on National Development in Postsecondary Education, to review the range of Federal policies toward students, States, and institutions with respect to higher education, as we enter a period of declining enrollments of traditional age students.

Second, the bill provides for a study of the feasibility and advisability of establishing a National Periodical system as a means of promoting access to increasingly costly periodical literature.

Third, the bill, in title IV, strikes a critical balance between the public and private sectors of higher education and among the various student aid programs by gradually increasing the percentage of cost of education which may be covered by the BEOG from 50 to 60 percent and tying the changes in the "half-cost" provision of BEOG to proportionate increases in the SEOG floor funding level. The bill includes my amendment, adopted in committee, to remove the administratively imposed penalties in SEOG awards to institutions, by disallowing currently deducted State and institutional assistance to students from the institutional allocation formula. Thus, States and institutions which have been in the forefront of providing aid to students will no longer be penalized in the Federal allotment formula for SEOG.

Fourth, the bill provides for three new critically needed programs—first, in title II, to promote, through programs of language and other international training, our export and international economic performance; second, to provide, in title IX, through a modest program of grants to exceptional graduate students in the humanities and social sciences, a critical mass of qualified representatives in these fields; and third, in title XI, program of aid to urban universities, to tap their unique capacity to promote solutions to urban needs, as did the land grant colleges for agriculture in the last century.

Mr. President, this bill is a balanced proposal which will resut in effective programs for students and the institutions which serve them. I commend the work of the chairman of the subcommittee, Senator Pell, the ranking member Senator Stafford, the chairman of the full committee, Senator Williams, and the ranking member, Senator Schweiker, in painstakingly developing this legislation, and I urge its passage.

THE MOYNIHAN AMENDMENT

Senator Moynihan has proposed an amendment which would extend the benefits of the BEOG program to elementary and secondary school students. You have opposed this in the form of tuition tax credits, and in the form of the Metzenbaum amendment in full committee. Below is a list of further arguments against the Moynihan proposal:

First. The amendment would add $150 million in outlays in the first year of authorization—fiscal year 1982—and thus could produce substantial if fully appropriated, support for postsecondary BEOG.

Second. The proposal could have a serious effect of undermining and abandoning public elementary and secondary education by increasing private school erollment due to the provision of direct financial aid to private school students.

Third. Constitutionality: It is the position of the Attorney General that the proposal does not meet the primary secular effect test set forth in Lemon against Kurtzman (1971) and upheld with respect to tuition grants to nonpublic school students in the Nyquist case (1973) and in Sloan against Lemon (1973). In the two 1973 cases, the Court made clear that it would strike down unrestricted grants to sectarian elementary and secondary schools, even if given indirectly to parents, because such funds could be used to promote the schools' religious mission.

The Court also recently affirmed the holding of the third circuit in striking down tax exemptions for parents of nonpublic school students (Beggans against Public Funds for Public Schools—1979).

The principal reason for these cases—Lemon against Kurtzman, Nyquist, Sloan and Wolman against Walters—is that the Court found that over 90 percent of the benefits would accrue to students attending sectarian schools and that it would not be certain that such benefits would be used for nonsectarian purposes.

Mr. President, I support the measure and will vote for it. I thank the majority leader.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have the aisles cleared? Staff people have no business in the well. I hope the Chair will have the well cleared in short order.

The PRESIDING OFFICER. The clerk will continue the call of the roll.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. LONG), is necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 92, nays 4, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—92

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—4

Byrd, Harry F., Jr.
Helms
Laxalt
Proxmire

NOT VOTING—4

Goldwater
Long
Mathias
Schmitt

So the bill (H.R. 5192), as amended, was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1980".

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ADMINISTRATIVE AMENDMENT

SEC. 2. (a)(1) The Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by striking out "Commissioner" wherever it appears (except in section 1201(f) and inserting in lieu thereof "Secretary".

(2) The Act is further amended by striking out "Commissioner's" wherever it appears and inserting in lieu thereof "Secretary's".

(3) The Act is further amended by striking out "Secretary of Health, Education, and Welfare" wherever it appears (except in section 1201(e)) and inserting in lieu thereof "Secretary".

(b)(1) Section 1201(e) of the Act is amended to read as follows:

"(e) The term 'Secretary' means the Secretary of Education.".

(2) Section 1201(f) of the Act is repealed.

(3) Section 1201 of the Act is amended by adding at the end thereof the following:

"(m) The term 'Department' means the Department of Education.".

CONTRACT AUTHORITY

SEC. 3. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATE

SEC. 4. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 404(c)(2) of this Act to section 415C(b)(4) of the Act shall be effective on October 1, 1979.

(2) The amendments made by part B of title IV of this Act shall apply to loans made on or after October 1, 1980.

(3) The provisions of part E in effect prior to October 1, 1980, shall apply to loans made from funds appropriated prior to September 30, 1980.

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

NEW PROGRAMS ESTABLISHED

SEC. 101. Title I of the Act is amended to read as follows:

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"PART A—COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"FINDINGS

"SEC. 101. The Congress finds—

"(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

"(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

"(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicaps, national origin, geographic location, or economic status;

"(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

"(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

"(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

"(E) the efficient use of resources in postsecondary education, and the optional allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

"(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

"ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"SEC. 102. (a) There is established a Commission to be known as the Commission on National Development in Postsecondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

"(b) The Commission shall be composed of twenty-five members as follows:

"(1) Nine members shall be appointed by the President of the United States.

"(2) Eight of the members shall be appointed by the President pro tempore of the Senate.

"(3) Eight members shall be appointed by the Speaker of the House of Representatives.

"(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

"(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

"(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

"(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

"(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"DUTIES OF THE COMMISSION

"Sec. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of—

"(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

"(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner;

"(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

"(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces;

"(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs; and

"(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the Armed Forces and to retain members of the Armed Forces.

"(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than January 1, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

"(c) The Commission shall cease to exist 60 days after the submission of its final report.

"POWERS AND ADMINISTRATIVE PROVISIONS

"Sec. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 101 through 104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this section.

"(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(c) The Commission is authorized to—

"(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

"(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

"(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

"(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

"AUTHORIZATION

"Sec. 105. There are authorized to be appropriated $3,000,000 to carry out the provisions of this part for the period beginning October 1, 1981 through March 1, 1983.

"Part B—State Planning and Continuing Education

"FINDINGS

"Sec. 111. The Congress finds that—

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults;

"(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services about the availability of postsecondary educational opportunities;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

"(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATE ALLOTMENTS

"Sec. 112. (a)(1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall allot to each State with an agreement pursuant to section 1203 of this Act an amount equal to the amount available to the State in fiscal year 1979 for carrying out the provisions of title I, section 418A, and section 1203 of this Act for that year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the amount specified in the previous sentence, the amount of each State's allotment shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year exceed the amount specified in the first sentence for all States, the Secretary shall allot to each State an amount which bears the same ratio to each excess as the adult population of the State bears to the adult population of all States.

"(2) 10 per centum of the funds appropriated for this part shall be available for carrying out section 116.

"(b) If, in any fiscal year, a State does not wish to enter into an agreement pursuant to section 1203 and does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

"COMPREHENSIVE STATEWIDE PLANNING

"Sec. 113. (a)(1) Each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to post-secondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between activities assisted under this part and any other comprehensive statewide planning for postsecondary education.

"(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

"(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of this section.

"INFORMATION SERVICES

"SEC. 114. (a) Each State shall use not less than $50,000, nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"CONTINUING EDUCATION

"SEC. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this title.

"(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for—

"(1) the establishment or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and insitutions and agencies which provide opportunities for continuing education;

"(2) the removal of barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

"(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas;

"(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school; and

"(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education or the labor force.

"(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that—

"(1) the State will provide as part of the State plan made pursuant to section 113 assurances that the State has established a cooperative agreement between the State agency implementing the plan under section 113 and the agency responsible for coordinating child care services within the State; and

"(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

"(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section for the administration and operation of programs described in subsection (b) of this section.

"DISCRETIONARY GRANTS

"SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which—

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

"(3) promote the development of interstate educational delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

"(6) support demonstration child care projects designed to promote participation by parents in postsecondary education; and

"(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203 an opportunity to comment on the relationship of the proposed grant to such planning.

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to title.

"STUDY OF ADULT POSTSECONDARY EDUCATION

"Sec. 118. (a) In order to support the activities authorized by this title, the Secretary shall conduct a study of the remaining barriers to adult postsecondary education which shall analyze the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of this study, the term 'adult postsecondary student' means individuals twenty-two years of age or older.

"(b) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Secretary shall, at a minimum—

"(1) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(2) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

"(3) evaluate the extent to which the inavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

"(4) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 65 and older.

"(c) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Secretary shall, at a minimum—

"(1) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information;

"(2) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(d) In fulfilling the requirements of this section, the Secretary shall coordinate the study with the activities of the Commission on National Development in Postsecondary Education (authorized by part A of this title), the research and demonstration priorities of the National Institute of Education, and with such other studies on student financial assistance as are authorized by this Act.".

(b) Subpart 5 of part A of title IV of the Act is repealed.

"DEFINITIONS

"Sec. 119. For the purposes of this subpart—

"(1) the term 'Commission' means the Commission on National Development in Postsecondary Education established under section 102;

"(2) the term 'Advisory Council' means the National Advisory Council on Continuing Education established under section 117;

"(3) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(4) the term 'continuing education' means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

"(5) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED AND PAYMENTS

"Sec. 120. (a) There is authorized to be appropriated $18,500,000 for fiscal year 1981; $21,500,000 for fiscal year 1982; $24,000,000 for fiscal year 1983; $27,500,000 for fiscal year 1984; and $32,000,000 for fiscal year 1985 to carry out the provisions of this part.

"(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this subpart. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"PART C—INSTITUTIONAL ADAPTATION AND INNOVATION

"STATEMENT OF FINDINGS AND POLICY

"Sec. 121. The Congress finds that—

"(1) rapid shifts in the population of the United States have resulted in great pressures upon professional schools and disciplines in institutions of higher education, particularly among schools of education, and have complicated their role in preparing the Nation's college-educated individuals for work;

"(2) economic conditions pose severe financial risks for such institutions of higher education in the pursuit of their educational missions and require accommodation to changing circumstances which pose dangers to the quality of educational efforts; and

"(3) it is in the national interest to establish a program under which States and educational institutions may—

"(A) undertake programs of a time-limited nature which can be evaluated and which can provide information and experience valuable to the Commission on National Development in Postsecondary Education and to the State entity having an agreement under section 1203;

"(B) implement and evaluate on a pilot basis programs within and among institutions of higher education leading to cost-effective methods of high quality educational efforts adaptive to the pressures of demographic and economic change; and

"(C) implement and evaluate on a pilot basis programs holding promise for assisting institutions of higher education to deliver cost-effective, high quality educational services to heretofore unserved or underserved populations when such programs show potential to provide guidance with respect to changing demographic and economic patterns.

"DEFINITIONS

"Sec. 122. As used in this part, the term 'community college' means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

"(1) is legally authorized within such State to provide a program of education beyond secondary education;

"(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

"(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;

"(4) is a public or other nonprofit institution;

"(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

"(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

"(B) is an institution whose credits are acceptable on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

"Subpart 1—Institutional Planning and Adaptation Pilot Programs

"GRANTS AND CONTRACTS AUTHORIZED

"Sec. 131. The Secretary shall make grants to and enter into contracts with States and educational institutions to support demonstration projects under which such States and institutions will—

"(1) develop associations and consortia among institutions of higher education, particularly among schools of education, to plan with respect to—

"(A) sharing of faculty and other instructional personnel in such ways as to improve quality of education and to lower cost;

"(B) sharing of laboratory and other instructional equipment and resources in such ways as to improve quality and to lower cost;

"(C) collaboration in the design and conduct of research so as to promote knowledge development and dissemination; and

"(D) design and implementation of programs and projects of community service and technical assistance designed to promote community and citizen utilization of expertise available from various disciplines and professions;

"(2) design, implement and evaluate model projects which will—

"(A) provide in-service training and retraining of faculty so as to diversify and lead to cost-effective, high quality instruction;

"(B) create multidisciplinary and interdisciplinary programs of instruction, research and technical assistance leading to cost-effective, high quality programs of instruction;

"(C) diversify the curricula and educational offerings provided to individuals preparing for teaching careers so as to enable them to provide professional services in a variety of business, industrial and private school settings, including but not limited to settings which emphasize services to handicapped persons;

"(D) diversify the curricula and educational offerings provided to individuals who plan to work in settings assisted pursuant to the Comprehensive Employment and

Training Act, including but not limited to individuals preparing for careers as professional educators;

"(E) utilize ways to lower costs and improve the quality of educational services through educational technology, including but not limited to telecommunications technology; and

"(F) prepare individuals to engage in work to implement and improve the urban policy of the United States.

"USES OF FUNDS

"SEC. 132. (a) Financial assistance under this subpart may be used for assistance to States and to educational institutions (including community colleges) in carrying out the policy set forth in section 121, or to assist subject disciplines and professions including, but not limited to, schools of education, liberal arts and the humanities, the social sciences, library and information sciences, social work, and other schools and areas of study experiencing difficulties and economic change which adversely affect the quality of the delivery of educational services.

"(b) Financial assistance under this subpart may be used to pay the reasonable costs of—

"(1) personnel employed for the coordination of the project carried out under this subpart generally, and

"(2) necessary travel, supplies and overhead.

"(c) Assistance under this subpart may not be used to pay costs not associated with conduct of activities authorized under this subpart.

"APPLICATIONS

"SEC. 133. Applications for grants and contracts under this subpart shall be submitted in such form, at such time, and in such manner as the Secretary may prescribe.

"PLANNING AND TECHNICAL ASSISTANCE FUNCTIONS

"SEC. 134. In order to contribute to carrying out the policy of section 121 with respect to particularly impacted schools of education the Secretary shall—

"(1) develop, in cooperation with the Fund for the Improvement of Postsecondary Education, a plan for the diversification and redirection of courses of study for elementary and secondary schoolteachers especially designed to use the skills of such teachers to to provide educational services in areas of shortage and in alternative settings;

"(2) provide for technical assistance designed to encourage magnet schools of education; and

"(3) conduct a thorough study of the financing of teacher preparation with special consideration of the future needs of schools of education and the resources available to train elementary and secondary schoolteachers.

The Secretary shall prepare and submit a report, not later than July 31, 1982, on the study conducted under clause (3) of the previous sentence, together with recommendations for additional legislation, to the Commission on National Development in Postsecondary Education established under part A of this Act, to the State planning entities having an agreement under section 1203 and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"REPORTS AND EVALUATION

"SEC. 135. (a) Each State and educational institution receiving assistance under this subpart shall file with the Secretary and with the Commission on National Development in Postsecondary Education such reports of interim progress and final achievements as the Secretary may prescribe. Each final achievement report shall present, and support with ample documentation, an evaluation of the success and effectiveness of each project assisted under this subpart and shall meet the specifications set forth in subsection (c) of this section.

"(b) Each recipient of assistance under this subpart subject to jurisdiction of a State shall furnish to the appropriate State entity having an agreement pursuant to section 1203 of this Act a final achievement report in accordance with subsections (a) and (c) of this section.

"(c) The Secretary shall prescribe evaluation requirements and uniform report categories and requirements with respect to the reports required by this section. Such categories and requirements shall be prescribed following the receipt by the Secretary of the advice and recommendations of the Commission on National Development in Postsecondary Education.

"DEFINITION

"SEC. 136. (a) As used in this subpart the term 'school of education' means any school, department, college, program, or other identifiable unit specializing in the education of elementary and secondary schoolteachers, which is a part of an institution of higher education, or which is an institution of higher education.

"(b) For the purpose of this subpart, an 'educational institution' means—

"(1) any institution of higher education, including any community college;

"(2) any entity having an agreement pursuant to section 1203 of this Act;

"(3) any recognized statewide or nationwide association representing the subject discipline or profession and qualified as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue Code of 1954; and

"(4) any accrediting agency or association recognized by the Secretary as establishing eligibility of member institutions of higher education, including community colleges.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 137. There are authorized to be appropriated $9,500,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this subpart.

"Subpart 2—Women's Worksite Development Demonstration Program

"PROGRAM AUTHORIZED

"SEC. 141. (a) The Secretary shall make grants to and enter into contracts with eligible recipients to promote, plan, implement, and evaluate the delivery of postsecondary education to women at the place of their employment or in conjunction with their employment. In making grants and entering into contracts under this subpart, the Secretary shall assure that the program under this subpart will—

"(1) identify the most effective means to inform women at the place of their employment and through the aegis of their employment of the availability and relevance of postsecondary education;

"(2) test the most effective means for creating collaborative agreements among institutions of higher education, including community colleges, employers and labor organizations to deliver educational services;

"(3) develop formats for adapting educational content to career ladder progressions;

"(4) implement a program of postsecondary educational courses at or in conjunction with places of employment to promote occupational development; and

"(5) evaluate the effectiveness of the program in both its substantive and procedural aspects.

"(b) For the purpose of this subpart, an eligible recipient is—

"(1) any institution of higher education, including any community college;

"(2) any community-based organization which is organized as a nonprofit or not-for-profit organization and is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954, if such community-based organization has entered into a contract with an institution of higher education or a community college for the purpose of this subpart;

"(3) any employer, if the employer has entered into a contract with an institution of higher education, including a community college for the purpose of this part; and

"(4) any labor organization, if such organization has entered into a contract with an institution of higher education, including a community college, for the purpose of this part.

"APPLICATIONS

"SEC. 142. (a) Applications for grants or contracts under this subpart shall be submitted in such form, at such time, and in such manner as the Secretary may prescribe. Any application by a community-based organization, an employer, or labor organization shall be accompanied by the contract required by section 141(b) (2), (3), or (4), as the case may be.

"(b) Each such application shall contain provisions designed to assure that the eligible recipient will maintain efforts undertaken by the recipient prior to the financial assistance made available under the provisions of this subpart during the period during which such financial assistance is made available under this subpart.

"USES OF FUNDS

"SEC. 143. (a) Financial assistance under this subpart shall be used for—

"(1) the establishment and operation of a panel composed of not less than twenty-one individuals representing employers, labor organizations, postsecondary education, secondary and vocational education, and public organizations concerned with employment, and organizations concerned with women's occupational and educational progress to undertake activities including but not limited to—

"(A) conducting not less than one community dialog annually at which information will be shared widely so as to apprise women of the educational, occupational and employment opportunities in the communities with respect to which the eligible recipient conducts its activities; and

"(B) assessing annually women's work-related development needs, opportunities and resources in the community with respect to which the eligible recipient conducts its activities and report thereon to the Secretary, the Commission on National Development in Postsecondary Education established under part A, and each respective State entity having an agreement under section 1203;

"(2) the designation of not less than one worksite employing significant numbers or proportions of women as an educational development worksite and, in collaboration with the management and labor unions of that worksite the design, implementation and evaluation of comprehensive postsecondary education delivery programs; and

"(3) reporting the evaluation of the activities conducted pursuant to paragraph (2) of this subsection to the Secretary, the national organizations having a contract under section 144 of this subpart, the Commission on National Development in Postsecondary Education and each appropriate State entity having an agreement pursuant to section 1203.

"(b) Financial assistance under this subpart may be used to pay the reasonable costs of personnel, travel, supplies, and overhead generally. Financial assistance under this subpart may not be used to substitute personnel or activities previously supported by the eligible recipient.

"GRANTS FOR NATIONAL ORGANIZATIONS

"SEC. 144. (a) The Secretary shall enter into contracts with national organizations having expertise in the development, management, and evaluation of working women's educational and occupational development programs for the purpose of coordinating, evaluating, and providing technical assistance to, the demonstration projects assisted under this subpart.

"(b) Any contract entered into under the provisions of this section shall be let on a competitive basis in accordance with the provisions of this section.

"(c) In entering into any contract under the provisions of this section, the Secretary shall give priority to—

"(1) the extent and quality of experience of the national organization is promoting, implementing, and evaluating community development activities for women's educational and occupational development programs;

"(2) the extent and quality of experience of the national organization in promoting, implementing, and evaluating demonstration projects of a nature similar to projects assisted under this subpart; and

"(3) the capability of the national organization to commit the activities of employers, labor organizations, educational agencies, and associations of postsecondary education and institutions of higher education and community colleges in the work of the national organization.

"(d) The Secretary shall—

"(1) provide for periodic interchange of information and personnel among organizations having contracts with the Secretary under this subpart;

"(2) provide technical assistance to any organization awarded a contract under this subpart;

"(3) assess annually the progress of the organization entering into a contract under this subpart; and

"(4) submit to the Commission on National Development in Postsecondary Education established under part A of this title a report setting forth an evaluation of the achievement of the objects of this subpart not later than July 1, 1982.

"LIMITATIONS ON FINANCIAL ASSISTANCE UNDER THIS SUBPART

"SEC. 145. (a) No financial assistance may be made under this part to an eligible recipient, except a national organization, which exceeds $75,000 in any fiscal year.

"(b)(1) Each grant agreement or contract entered into under the provisions of this subpart may contain provisions to assure that financial assistance will be available for more than one fiscal year.

"(2) Funds appropriated under this subpart shall be available until expended.

"(c) No grant may be made to any community-based organization, employer or labor organization if the contract required by section 141(b) (2), (3), or (4), as the case may be, contains provisions which are in conflict with any collective bargaining agreement which is applicable to the project for which assistance is sought under this subpart.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 146. (a) There are authorized to be appropriated $7,500,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, for the purpose of carrying out this subpart.

"(b) Of the sums appropriated under subsection (a) of this section, the Secretary shall set aside not less than 10 percent of such sums for financial assistance under contracts for national coordination and evaluation entered into under section 144.

"Subpart 3—Postsecondary Education and Youth Unemployment Transition Demonstration Program

"PROGRAM ESTABLISHED

"SEC. 161. (a) The Secretary shall make grants, in accordance with the provisions of this subpart, to educational institutions for projects to demonstrate the most feasible and effective means for such institutions to apply their instructional, research, and community service resources to promotion of the work preparation and the employment of unemployed or chronically underemployed youth in communities in which or with respect to which such eligible institutions customarily provide services.

"(b) For the purpose of this subpart—

"(1) 'community' means the geographic area served by a prime sponsor, other than a State, designated by the Secretary of Labor under section 101(c) of the Comprehensive Employment and Training Act, or served by the Secretary under section 102 of that Act; and

"(2) 'educational institution' means an institution of higher education, including a community college as defined in section 122.

"(c) The Secretary shall make at least 50 grants during fiscal year 1981 to eligible institutions to initiate and to carry out for a period of three years demonstration projects under this subpart. No grant may be made under this subpart unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) In making grants under this subpart, the Secretary shall give special consideration to educational institutions that primarily serve communities experiencing high youth unemployment and low per capita income. Insofar as practicable, the Secretary shall assure that funds are distributed under this subpart based upon the relative population of the several States.

"(e) Grants made under this subpart shall remain available for three years without regard to fiscal year limitation.

"RESERVATION OF FUNDS

"SEC. 162. For the purpose of making grants under this subpart, there are authorized to be appropriated $50,000,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1983.

"ACTIVITIES REQUIRED OF EDUCATIONAL INSTITUTIONS

"SEC. 163. (a) Each educational institution receiving a grant under this subpart shall provide assurances that the institution will—

"(1) demonstrate methods and techniques for promoting collaboration among agencies, institutions, and organizations in assisting youth to prepare for and obtain employment in occupations that have significant potential for career growth and advancement;

"(2) organize and establish in the community for which a project is assisted under this subpart a not-for-profit organization meeting the requirement of section 164 of this subpart, to be known as a community education work foundation;

"(3) develop, in consultation with such community education work foundation, the prime sponsor, and the State employment security agency, local labor market data capable of identifying needs and opportunities for skilled workers in the local economy and of forecasting occupational skill resources and needs for a 10-year period;

"(4) provide such assistance to the local prime sponsor, its grantees and subcontractors, and to the State employment security agency office serving the community, as the prime sponsor or the State employment security agency deems appropriate for the development of management information systems and techniques for assessing the needs of youth for education, training, and employment-related services and monitoring the success of such youth in benefiting from such services;

"(5) conduct in consultation with such community education work foundation, studies and investigations leading to the establishment of standard benchmarks of individual progress of youth toward obtaining the basic, occupational, and workplace skills leading to career opportunities, including but not limited to—

"(A) basic skills in reading, writing, mathematics, and science;

"(B) preemployment skills indicating a basic awareness of workplace requirements, occupational options and opportunities, and methods of job search; and

"(C) work maturity as indicated by performance in a job;

"(6) conduct, in consultation with such community education work foundation, studies and investigations leading to the establishment of procedures for measuring the effectiveness of programs to prepare youth for employment and to assist their transition from work preparation to employment, including procedures for assessing such employment experience for a reasonable period of time;

"(7) formulate and recommend to the community education work foundation established for the purpose of this subpart, in such reports as may be necessary, a program for—

"(A) recording the individual progress of participating youth toward meeting the standard benchmarks described in subsection (a) (5) of this section;

"(B) administering a comprehensive assessment of the extent to which participating individual youth residing in the community have met such benchmarks of progress through previous education, training and experience;

"(C) tracking and recording the subsequent progress of each participating youth; and

"(D) protecting the privacy of persons for whom information is to be recorded, assuring that personal information with regard to any such person shall be available only to such person;

"(8) formulate and implement, in consultation with such community education work foundation, a plan for activities to be conducted by the eligible educational institution, in collaboration with other such institutions, secondary education agencies, public and proprietary vocational education agencies, the prime sponsor under the Comprehensive Employment and Training Act, labor organizations, and employers, to provide services to educate, train, and otherwise assist the employability development and occupational transitions of individuals of all ages who are most at risk of unemployment during current or projected periods of high unemployment in the community;

"(9) prepare, in consultation with the appropriate State Occupational Information Coordinating Committee and other developers and users of occupational information, a plan for a program of local comprehensive occupational information and a plan for educational brokering services to assist youth in work preparation and work transition, and report such plans to the community education work foundation;

"(10) provide to the community education work foundation such managerial, staff, advisory, and technical assistance as may be necessary to initiate and operationally maintain such community education work foundation for a period of at least two years following the date of incorporation of each such foundation, and include provisions designed to assure that—

"(A) such assistance may be extended for more than two years if (1) agreed to by the foundation and the educational institution and (ii) funds are available to support such agreement from sources other than this subpart; and

"(B) in the event that the educational institution and the foundation agree, with the approval of the Secretary, to terminate the assistance during such two-year period, the remainder of unused funds granted under this subpart for support of such assistance shall be returned to the United States; and

"(11) provide within two years following incorporation of the foundation a plan for sources of funds for the continued operation of the foundation and report such plan to the foundation.

"(b) In carrying out the studies and investigations specified in paragraph (6) of subsection (a), each institution receiving a grant under this subpart shall insure that standard benchmarks of individual achievement, developed for submission to its community education work foundation, conform to the requirements of the laws of the State in which the community is located.

"COMPOSITION AND FUNCTIONS OF COMMUNITY EDUCATION WORK FOUNDATIONS

"SEC. 164. (a) In order to comply with the provisions of section 163(a)(2) each educational institution desiring a grant under this subpart shall establish a community education work foundation that meets the requirements of this section.

"(b) Each community education work foundation established under this subpart shall be incorporated under the applicable law of the State in which the foundation is established as a not-for-profit organization and shall qualify as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1954.

"(c) Each such foundation shall be governed by a Board of Directors of not less than twenty-one nor more than twenty-seven individuals who, collectively, are broadly representative of educational institutions and agencies, employment and training agencies and organizations, labor organizations and other employee organizations, employers, parents, and other members of the general public in the community. The membership of the Board shall reflect significant segments of the population of the community (including minorities, women, and youth) and shall include, but not limited to—

"(1) one or more representatives of local educational agencies receiving funds under title I of the Elementary and Secondary Education Act of 1965;

"(2) one or more representatives of the prime sponsor in whose area the foundation is established;

"(3) one or more representatives of education agencies, other than a local educational agency, receiving funds under the Vocational Education Act of 1963;

"(4) representatives of employee organizations conducting and implementing collective bargaining agreements under the National Labor Relations Act;

"(5) employers, including large business and industrial employers, small businesses, not-for-profit organizations, and public agencies;

"(6) representatives of community-based organizations, as defined in section 3(4) of the Comprehensive Employment and Training Act; and

"(7) representatives of the general public in the community.

"(d)(1) Each such foundation shall include in the articles governing its activities provisions assuring, to the extent foreseeable, eligibility for Federal, State, and local grants and contracts for which the foundation may be eligible.

"(2) Each such foundation shall assure participation in its activities by members of the community it serves, including youth aged fourteen to twenty-one, inclusive, and the parents of such youth.

"(e) Each such foundation shall—

"(1) assess the extent and effectiveness of current and recent youth work preparation and youth employment activities in the community;

"(2) consider and adopt, in consultation with the educational institution receiving a grant under this subpart, procedures for—

"(A) assessing local detailed labor market analyses and occupational forecasts developed pursuant to section 163(a)(3) of this subpart;

"(B) evaluating studies and investigations conducted pursuant to section 163(a)(5) and (6) of this subpart;

"(C) implementing recommendations of the Board of Directors for administering a comprehensive assessment of youth skills and recording individual progress toward full development of such skills; and

"(D) conducting the comprehensive education, training, and work preparation information and brokering services described in section 163(a)(9) of this subpart;

"(3) prepare, in collaboration with local educational agencies, vocational education agencies, the local prime sponsor, labor organizations, and employers, plans and procedures (A) for identifying youths who leave, or who are expected to leave, elementary or secondary school prior to receipt of a diploma or its equivalent and (B) for providing such individuals alternative methods of work preparation and school-to-work transition;

"(4) design, administer, and evaluate, in cooperation with the appropriate educational institution, feasible, cost-efficient, and paperwork-efficient individualized employability development plans for use by local education agencies and the constituent schools of such agencies, vocational education agencies, and the constituent schools of such agencies, and employment and training agencies in determining the needs of and appropriate services for individual youth;

"(5) adopt and publish a system of standard criteria for measuring the individual progress of participating youth toward obtaining the basic, occupational, and workplace skills leading to career opportunities;

"(6) establish a program for maintaining a record of the progress of participating youth toward meeting the standard criteria, with strict provisions for assuring the privacy of individuals with respect to whom information is recorded, including provisions for assuring that personal information with regard to any such individual is made available only to such individual;

"(7) publish an annual report as to the status of coordination and collaboration among Federal, State, and local agencies and institutions offering services to assist youth in developing their basic occupational workplace skills; and

"(8) conduct such other studies and investigations as may be appropriate for carrying out the provisions of this subpart.

"(f) Plans and procedures required under clause (3) of subsection (e) shall include, but not be limited to—

"(1) cooperative agreements among education, training, and employment agencies to serve such youth comprehensively;

"(2) long-range, community-wide procedures for continuous followup and occupational improvement services to such youth;

"(3) education and training services for upgrading performance of employed youth;

"(4) secondary school cooperative education programs designed to retain youth in secondary school;

"(5) intensive counseling and career guidance services, including procedures for insuring that such services meets standards of high quality;

"(6) utilizing advanced educational technology to provide educational services designed to assist youth in achieving a high school diploma and in preparing themselves for continuing education; and

"(7) application and evaluation of individualized employability development plans, under clause (4) of subsection (e).

"(g) In carrying out its activities under clauses (4), (5), and (6) of subsection (e), each foundation shall consult fully with each agency of the State having responsibility for educational activities subject to the project in which the community is located in order to insure that the procedures for assessing the competence of youth, the standard criteria for measuring individual progress, and the design of employability development plans for identifying the needs of individual youth for services conform to the requirements of State law.

"LIMITATIONS

"SEC. 165. (a) No grant may be made under this subpart for a demonstration project unless the project can be completed within a three-year period. The Secretary shall notify each grant applicant that additional funds for fiscal years other than the initial year will be contingent upon annual appropriations.

"(b)(1) The Secretary may establish review panels to review applications from an educational institution under this subpart. Insofar as practicable, the Secretary shall assure that each panel reviewing project applications prior to the making of a grant includes expert opinion and advice that is representative of all parties to the proposed project.

"(2) The Intergovernmental Advisory Council on Education shall periodically review the manner in which the Secretary is carrying out the provisions of this subpart.

"USES OF FUNDS

"SEC. 166. (a) Whenever the Secretary determines that it is necessary, funds made available pursuant to a grant under this subpart may be used for—

"(1) compensation, travel and related expenses for personnel of educational institutions, when necessarily employed as staff members for any project for which assistance is sought;

"(2) compensation for undergraduate students necessarily employed to carry out the project for which assistance is sought, subject to the provisions of subsection (c) of this section; and

"(3) the rental of space and the provision of necessary office supplies.

"(b)(1) No funds may be used to support directly or indirectly courses of instruction unrelated to the project for which assistance is sought.

"(2) No funds may be used to support directly or indirectly employment of any personnel or students for any period in excess of the period approved in the application for assistance under this subpart.

"(c) No funds may be used for the compensation of undergraduate students unless the application for assistance contains provisions designed to assure that procedures used under the project for which assistance is sought and the evaluation of the work performed by such students is conducted in a manner consistent with the provisions of title VIII of this Act.

"REGULATIONS

"SEC. 167. (a) Within 180 days after the enactment of the Education Amendments of 1980, the Secretary shall issue regulations for carrying out the provisions of this subpart.

"(b)(1) The regulations carrying out sections 163 and 164 of this subpart shall be developed in consultation with the Secretary of Labor.

"(2) No funds shall be transferred to the Secretary under section 162(b) of this subpart unless the Secretary of Labor concurs in such regulations.

"EVALUATION

"SEC. 168. (a) From an amount not to exceed 2 per centum of the funds appropriated pursuant to section 162, the Secretary shall, through the National Institute of Education, carry out a comprehensive program of evaluation of the impact and effectiveness of activities undertaken and projects conducted under this subpart.

"(b) Not later than 180 days following the enactment of the Education Amendments of 1980, the National Institute of Education shall submit to the Committee on Labor and Human Resources of the United States Senate and the Committee on Education and Labor of the House of Representatives a plan for the evaluation of activities undertaken under this subpart. Such plan shall not be implemented by the National Institute of Education for a period of 60 days after its submission, during which time consultation on such plan shall be undertaken with each respective committee.

"(c) In formulating and implementing the plan for revaluation, the National Institute of Education shall develop an evaluation procedure which conforms to the specifications set forth by the General Accounting Office and the Congressional Research Service. The National Institute of Education shall consult with the General Accounting Office and the Congressional Research Service from time to time in the conduct and report of the evaluation required under this section.

"(d) The National Institute of Education shall issue not later than September 30, 1982, to the Commission on National Development in Postsecondary Education and to the Congress a report which shall include findings and conclusions including, but not limited to—

"(1) an assessment of the successes and failures in achieving coordination and interorganizational collaboration by community education work fundations receiving funds under this subpart;

"(2) an assessment of the achievements and predicted achievements of community education work foundations receiving funds under this subpart with respect to reducing or remediating youth unempoyment;

"(3) an assessment of the impact of projects funded under this subpart upon the educational institutions receiving such funds;

"(4) an assessment of the extent to which projects funded under this subpart successfully reach objectives through the implementation of programs prescribed for the recipient educational institutions and each respective community education work foundation;

"(5) an assessment of the efforts funded under this subpart to apply individualized standard benchmarks of progress of youth toward obtaining basic, occupational and workplace skills; and

"(6) an assessment of the relationship of costs to benefits of outcomes achieved by projects funded under this subpart and a comparative analysis of such cost-benefit studies to youth work preparation and youth employment efforts not using community education work foundations or similar organizational forms.".

TITLE II—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

EXTENSION OF PROGRAM

SEC. 201. (a) The first sentence of section 201(b) of the Act is amended to read as follows: "For the purpose of making grants under parts A and B, there are authorized to be appropriated $15,000,000 for the fiscal year 1981, $17,000,000 for the fiscal year 1982, $19.500,000 for the fiscal year 1983, $22,000,000 for the fiscal year 1984, and $25,000,000 for the fiscal year 1985.".

(b) Section 232 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 232. There are authorized to be appropriated $8,000,000 for the fiscal year 1981, $9,000,000 for the fiscal year 1982, $10,500,000 for the fiscal year 1983, $12,000,000 for the fiscal year 1984, and $14,000,000 for the fiscal year 1985.".

NEW PROGRAM ESTABLISHED

SEC. 202. Title II of the Act is amended by adding at the end thereof the following:

"PART D—NATIONAL PERIODICAL SYSTEM

"PURPOSE

"SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248.

"(b) And design for a national periodical system shall include provisions for such system to—

"(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

"(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

"(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

"(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

"(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

"(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation: and

"(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

"(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

"(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

"(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

"(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

"SEC. 245 (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manage the operations tf the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

"SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

"AUTHORITY OF CORPORATION

"SEC. 247. (a) The Corporation is authorized to—

"(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) lease, purchase, or otherwise acquire, own, hold, inmprove, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243.

"(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

"IMPLEMENTING THE DESIGN

"SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design.

"COPYRIGHT ACT

"SEC. 249. Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights.

"DEFINITIONS

"SEC. 250. As used in this part—

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'Board' means the Board of Directors of the National Periodical Systems Corporation;

"(3) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

"(4) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright;

"(5) the term 'Corporation' means the National Periodical System Corporation established under this part;

"(6) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(7) the term 'document' means any portion or the entire issue of a periodical;

"(8) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(9) the term 'private sector' means nongovernmental, nonprofit, and for-profit organizations.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years 1981 and 1982.

"(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 301. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"PART A—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"FINDINGS AND PURPOSES

"SEC. 301. (a) The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the solution of the problems of institutions with special needs would enable such institutions to become viable, thriving institutions of higher education; and

"(4) institutions with special needs play an important role in the American system of higher education, and there is a strong national interest in assisting such institutions in solving their problems and in stabilizing their management and fiscal operations.

"(b) It is the purpose of this part to assist institutions with special needs through a program of short-term Federal assistance.

"PROGRAM AUTHORIZED

"SEC. 302. (a) The Secretary shall carry out a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs.

"(b) Of the sums appropriated pursuant to section 331 and available for this part for each fiscal year, not less than 30 per centum shall be available only for institutions with special needs that are junior or community colleges. The remainder of the funds so appropriated shall be available to institutions with special needs that plan to award a bachelor's degree during that year.

"ELIGIBILITY FOR SPECIAL ASSISTANCE

"SEC. 303. (a) (1) For the purposes of this part, the term 'institution with special needs' means an institution of higher education in any State, and each branch of such institution which is located in a community different from that in which its parent institution is located, which—

"(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as is provided in paragraph (4), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this part;

"(D) meets the requirements of paragraph (2), with respect to special needs; and

"(E) meets such other requirements as the Secretary may prescribe.

"(2) Each such institution or branch shall be an institution or branch which enrolls not less than one hundred full-time equivalent students in the academic year for which the determination is made. In determining institutional eligibility under this part the Secretary must determine that each such institution or branch shall, for such academic year, have—

"(A) an enrollment which includes a substantial percentage of students from low-income families, and

"(B) low general and educational expenditures per full-time equivalent undergraduate student.

"(3) In determining the eligibility of any institution for participation in this part, the Secretary may also consider the following factors:

"(A) extreme financial limitations requiring low faculty salaries, low percentage costs of instruction for students, and low library expenditures;

"(B) a little or no endowment, whether or not unrestricted;

"(C) a high student to faculty ratio;

"(D) a substantial percentage of students receiving need-based Federal student assistance;

"(E) limited library resources;

"(F) a low percentage of faculty with doctorate degrees;

"(G) poor physical facilities and limited resources to maintain physical facilities;

"(H) little or no support from foundations, alumni, or corporations;

"(I) limited or no sponsored research or faculty publications;

"(J) inadequate development offices and a limited capacity for long-range planning; and

"(K) poor or inadequate fiscal management and accounting procedures.

"(4) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of an institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(D) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(E) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"(b) For the purposes of this part, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

"(c) For the purpose of this part, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full time equivalent of the number of students enrolled part time in such institution.

"PURPOSE AND DURATION OF GRANT; COOPERATIVE ARRANGEMENTS

"SEC. 304. (a) From the sums appropriated under section 302(b), the Secretary may make grants to any institution with special needs with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(b)(1) The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year.

"(2) In the event of a multiple-year grant to any institution with special needs under this part, the Secretary shall make funds available for such grant from funds appropriated for this part for the fiscal year in which such funds are to be used by the recipient.

"(3)(A) The Secretary may also make grants to encourage cooperative arrangements between institutions with special needs eligible for assistance under this part for the activities described in subsection (a), so that the resources of the cooperating institutions with special needs might be combined and shared to achieve the purposes of this part and to avoid costly duplicative efforts.

"(B) The Secretary shall give priority to grants made under this paragraph whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

"(C) Grants may be made to institutions having a cooperative arrangement under this paragraph for not more than five years.

"APPLICATIONS FOR ASSISTANCE

"SEC. 305. (a) An institution with special needs desiring assistance under this part shall apply to the Secretary at such time, in such form, and containing or accompanied by such information, as may be necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as an institution with special needs.

"(b) Each application for assistance under this part shall be approved only if it—

"(1) sets forth a program for carrying out one or more of the activities described in section 304, and sets forth such policies and procedures for the administration of the program and the accomplishment of the purposes of this part;

"(2) sets forth such policies and procedures as will insure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in section 304, and in no case supplant such funds;

"(3) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of, and accounting for, funds made available under this part to the applicant; and

"(5) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this part, and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

In carrying out clause (3) and clause (5) of this subsection, the Secretary shall, to the extent practicable, after considering the burden of numerous reporting requirements on institutions with special needs and the interests of the United States, permit multiyear evaluations and reporting.

"(c) Subject to the availability of appropriations under this part, the Secretary may approve an application that meets the requirements of subsection (b) and shows that the applicant is an institution with special needs under section 303.

"FEDERAL SHARE

"SEC. 306. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant.

"LIMITATIONS

"SEC. 307. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305.

"CHALLENGE GRANTS FOR INSTITUTIONS WITH SPECIAL NEEDS

"SEC. 308. (a) From the sums available under section 331(c) for each fiscal year, the Secretary may award a challenge grant to each institution with special needs that—

"(1) is eligible for a grant under section 303;

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a postgraduate degree rather than a bachelor's degree.

A challenge grant under this section that is subject to all requirements of this part applicable to other grants made under this part, except that the application therefor complies with subsection (b) of this section.

"(b) The Secretary may waive the requirements set forth in subsection (a)(2) with respect to a postgraduate degree in the case of any institution with special needs that makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

"(c) An institution with special needs desiring a challenge grant may apply under section 305, except that the application for the purpose of this subsection shall—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 303(a)(3) (A) through (J), and lead to greater financial independence.

"(d) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive grants under this section and notify the institutions of the amount of the grant.

"(e) In approving applications for grants under this section, preference shall be given to institutions which are receiving, or have received, grants under part A of this title.

"PART B—ASSISTANCE TO INSTITUTIONS ENROLLING SUBSTANTIAL PERCENTAGES OF DISADVANTAGED STUDENTS

"STATEMENT OF POLICY

"SEC. 321. (a) The Congress finds that—

"(1) institutions of higher education with substantial percentages of students from low income families are contributing to carrying out the Federal policy of providing educational opportunities for all students who are qualified; and

"(2) institutions of higher education enrolling substantial percentages of students from low income families face unique burdens which prevent raising necessary financial resources to meet the ever increasing cost of educating such students.

"(b) It is therefore the purpose of this part to provide continuing Federal financial assistance to permit institutions of higher education described in subsection (a) of this section to survive.

"PROGRAM AUTHORIZED

"SEC. 322. (a)(1) The Secretary shall carry out a program in accordance with this part to provide grants to institutions of higher education with substantial percentages of students from low income families.

"(2) Of the sums appropriated pursuant to section 331 and available for this part for each fiscal year, not less than 30 per centum shall be available only for eligible institutions that are junior or community colleges. The remainder of the funds appropriated shall be available to eligible institutions that plan to award a bachelor's degree during that year.

"(b)(1) For the purpose of this part—

"(A) the term 'eligible institution' means an institution of higher education—

"(i) the enrollment of which includes a substantial percentage of students from low income families; and

"(ii) the average expenditures of which are low per full-time equivalent student, in comparison with the average expenditures of institutions that offer similar instruction; and

"(B) the term 'junior or community college' has the same meaning given the term in section 303(b).

"(2) Any entity which is a branch of an institution of higher education may be considered to be an eligible institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(3) For the purpose of this part, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time in such institution.

"AMOUNT OF THE GRANT

"SEC. 323. (a) Each eligible institution shall receive an amount in each fiscal year that bears the same ratio to the amount appropriated to carry out this part for that year as the eligibility factor of that institution, as determined in accordance with subsection (b) of this section, bears to the sum of such factors.

"(b) The Secretary shall establish an eligibility factor for each eligible institution based upon—

"(1) the percentage of students from low income families enrolled at the eligible institution;

"(2) the average expenditures per full-time equivalent student at that institution;

"(3) the amount of funds, from public and private sources, available to the institution; and

"(4) the institution's relative effort in providing student financial assistance from institutional sources.

"USE OF FUNDS; APPLICATION

"SEC. 324. An eligible institution may receive a grant under this part only upon application submitted at such time, in such manner and containing such information as the Secretary may reasonably require. Such application shall—

"(1) set forth such policies, assurances, and procedures as are designed and will ensure that—

"(A) the funds received by the institution under this section shall be used solely to defray instructional expenses and academic related programs of the institution;

"(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(C) the institution will submit to the Secretary such reports as the Secretary may by necessity require; and

"(2) contain such other assurances as the Secretary may require to protect the financial interests of the United States.

"PART C—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

"SEC. 331. (a) For the purpose of carrying out this title, there is authorized to be appropriated $161,000,000 for the fiscal year 1981, $185,000,000 for the fiscal year 1982, $213,000,000 for the fiscal year 1983, $245,000,000 for the fiscal year 1984, and $285,000,000 for the fiscal year 1985.

"(b) The Secretary shall assure that in each fiscal year the amount available for institutions with special needs and institutions enrolling substantial percentages of disadvantaged students that historically serve substantial numbers of black students will not be less than the amount received by such institutions for fiscal year 1979.

"(c) Subject to the provisions of subsection (b), in each fiscal year 50 per centum of the sums appropriated shall be available to carry out part A of this title, and 50 per centum shall be available to carry out part B of this title.

"(d) The Secretary shall reserve not to exceed 10 per centum of the funds appropriated and available for part A remaining after complying with subsection (b) of this section for challenge grants under section 308. Any funds reserved under this subsection and not obligated for the purposes of carrying out the provisions of section 308 shall be used to make grants under section 303.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE

SEC. 401. Section 401(a) of the Act is amended—

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (defined in accordance with section 484)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need".

PELL GRANTS

SEC. 402. (a) Section 411(a)(1) of the Act is amended—

(1) by striking out "1980" and inserting in lieu thereof "1985";

(2) by striking out "student" the first time it appears and inserting in lieu thereof "eligible student (defined in accordance with section 484)"; and

(3) by inserting "(A)" after the paragraph designation "(1)" and by adding at the end thereof the following:

"(B) The purpose of this subpart is to provide a basic grant that, in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of the cost of attendance of a student, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(C) Basic grants made under this subpart shall be known as 'Pell Grants'.".

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended to read as follows:

"(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $1,900 for academic year 1981–1982,

"(II) $2,000 for academic year 1982–1983,

"(III) $2,200 for academic year 1983–1984,

"(IV) $2,400 for academic year 1984–1985, and

"(V) $2,600 for academic year 1985–1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.".

(2) Section 411(a)(2)(A)(ii) of this Act is amended by striking out "February 1" and inserting in lieu thereof "October 1".

(c)(1) Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart shall not exceed—

"(I) 50 per centum for academic years in which the maximum basic grant is less than $2,000;

"(II) 55 per centum for academic years in which the maximum basic grant is at least $2,000 but is less than $2,400; and

"(III) 60 per centum for academic years in which the maximum basic grant is at least $2,400,

of the cost of attendance at the institution at which the student is in attendance for that year.".

(2) Section 411(a)(2)(B)(ii) of the Act is amended by striking out "actual" each time it appears.

(3) Section 411(a)(2)(B)(iv) of the Act is repealed.

(d)(1) Section 411(a)(3) of the Act is repealed.

(2) Paragraph (4) of section 411(a) of the Act is redesignated as paragraph (3).

(e) Section 411(a)(3) of the Act (as redesignated (d)(2)) is amended to read as follows:

"(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.".

(f) Section 411(b)(1)(B)(i) of the Act is amended to read as follows:

"(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements as calculated prior to the cost of attendance limitation provided in section 411(a)(2)(B)(i) under this subpart, the amount paid with respect to each such entitlement shall be—

"(I) the full amount in the case of any student's eligibility index which is less than 601;

"(II) 90 per centum of the amount when the student's eligibility index is 601 but less than 801;

"(III) 80 per centum of the amount when the student's eligibility index is 801 but less than 1001;

"(IV) 70 per centum when the student's eligibility index is 1001 but less than 1201;

"(V) 60 per centum when the student's eligibility index is 1201 but less than 1601; and

"(VI) 50 per centum when the student's eligibility index is 1601 or greater.

For the purpose of this division, a 'student's eligibility index' is the index of need of a student established by the Secretary in carrying out section 482, relating to the family contribution schedule.".

(g) Section 411(b)(5) of the Act is amended to read as follows:

"(5)(A) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $370,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment should be made on the basis of entitlements established under this subpart in excess of $1,900.

"(B) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $400,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment should be made on the basis of entitlements established under this subpart in excess of $2,000.

"(C) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $420,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment should be made on the basis of entitlements established under this subpart in excess of $2,200.

"(D) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $440,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not at least equal $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each such fiscal year under part E of this title does not at least equal $286,000,000;

no payment should be made on the basis of entitlements established under this subpart in excess of $2,400.

"(E) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for each fiscal year does not at least equal $480,000,000;

"(ii) the appropriation for work-study payments under section 441 of this title for each fiscal year does not equal at least $500,000,000; and

"(iii) the amount available to the National Direct Student Loan Association for student loan funds for each fiscal year under part E of this title does not at least equal $286,000,000;

no payment should be made on the basis of entitlements established under this subpart which are equal to or in excess of $2,400, in the fiscal year succeeding the fiscal year specified in subparagraph (D) or in any succeeding fiscal year.

"(F) The provisions of subparagraphs (A) through (E) of this paragraph shall not be construed as directing the Committees on Appropriations to make specific appropriations and amounts available under such paragraphs."

(h) Section 411(d)(1) of the Act is amended by striking out "section 493A" and inserting in lieu thereof "section 485.".

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 403. (a) Section 413A(a) of the Act is amended by striking out "who, for lack of financial means, would be unable to obtain such benefits without such a grant" and inserting in lieu thereof "who demonstrate financial need in accordance with the provisions of section 482".

(b)(1) Section 413(b)(1) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(2) Section 413A(b)(3) of the Act is amended by inserting "second" before "fiscal year" the second time it appears in such section.

(c)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows:

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable the student to pursue a course of study at the institution, except that such amount shall not exceed—

"(i) $2,000, or

"(ii) one-half the sum of the total amount of student financial aid provided to such student by such institution,

whichever is the lesser.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled in less than a full academic year, the minimum payment shall be reduced proportionately.".

(3) Section 413B(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413B(b)(1) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.".

(5) Section 413B(b)(2) of the Act is amended to read as follows:

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484.".

(d) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484.

"(b) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484 other than the requirement of clause (2) of section 484(a).".

(e)(1) Section 413D(a)(2) is amended by striking out "section 431A(b)(2)" and inserting in lieu thereof "section 413A(b)(2)".

(2) Section 413D(b)(1)(B)(ii) of the Act is amended to read as follows:

"(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under subpart 2 by subtracting from 75 per centum of total student expenses the sum of expected parental or independent student contributions and awards made under subparts 1 and 3 of this part. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than it received under this section for fiscal year 1979.".

(f) Section 413D(b) of the Act is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Each institution receiving allocations under this subsection from apportionments made to the State under subsection (a)(1) and under subsection (a)(2) may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A(b)(1) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

(b)(1) Section 415B(a)(1)(A) of the Act is amended to read as follows:

"(A) No State shall be allotted an amount under this subpart for any fiscal year less than the State received for fiscal year 1979. From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year in excess of the amount appropriated for fiscal year 1979, the Secretary shall allot to each State—

"(i) an amount which bears the same ratio to 90 per centum of such excess as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all States, and

"(ii) an amount which bears the same ratio to 10 per centum of such excess as the need-based student aid for students in attendance at institutions of higher education in such State bears to the total need-based student aid for all such students in such attendance in all States.".

(2) Section 415E of the Act is repealed.

(c)(1) Section 415C(b)(2) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(2) Section 415C(b)(4) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978".

(d) Section 415C(b) of the Act is amended by striking out "and" at the end of clause (5), by redesignating clause (6) as clause (7), and by inserting after clause (5) the following new clause:

"(6) provides that (A) an institution of higher education, with the approval of the State agency, may use its payments for initial grants and for continuing grants under this subpart in such manner as the institution determines will best achieve the purposes of this subpart; and (B) institutions of higher education, with the approval of the State agency, may use with the express approval of the State agency any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(a)(2); and".

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and in exceptional circumstances secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1981 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of Census.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this part by reason of such individual's age.

"TALENT SEARCH

"SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or post-secondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) oncampus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

"SEC. 417D. (a) The Secretary shall carry out a program to be known as special services for disadvantaged students (hereinafter referred to as 'special services') which shall be designed to provide supportive services to persons participating in the projects.

"(b) A special services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

"(c) In approving applications for special services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for special services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

SPECIAL PROGRAM FOR MIGRANT AND SEASONAL FARMWORK STUDENTS

SEC. 406. Subpart 5 of part A of title IV of the Act is amended to read as follows:

"Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

"SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include—

"(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success beyond high school, and in preparation for the GED examination;

"(2) personal and academic counseling;

"(3) outreach and recruitment, special admissions, and financial assistance;

"(4) tutorial services;

"(5) career-oriented work study;

"(6) housing support and on-campus residential programs;

"(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

"(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmworker students at the secondary and postsecondary levels.

"(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.".

REPEALER

SEC. 407. Section 419 of the Act is repealed.

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 408. Section 420 of the Act is amended to read as follows:

"SEC. 420. (a) (1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least 25.

"(2) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such academic year, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(3) For any fiscal year beginning after September 30, 1980, the Secretary may waive the provisions of paragraph (1) of this subsection for any institution of higher education which has qualified for payment under this section for any preceding fiscal year but subsequently became ineligible, if—

"(A) the institution would have been eligible had section 420(a)(2) been in effect when such institution became ineligible,

"(B) the institution has had a full-time office of veterans' affairs since that institution was so eligible, and

"(C) the appropriations made available in any such fiscal year for this section are in excess of (i) $14,380,000, or (ii) the amount requested for carrying out this section in the budget of the President submitted under section 201 of the Budget and Accounting Act, 1921, whichever is greater, by an amount sufficient to make payments to all institutions meeting the requirements of clauses (A) and (B) of this subparagraph.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vacational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education under subchapter V of chapter 34 of title 38, United States Code,

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities and make maximum use for this purpose of benefits available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this clause with the readjustment counseling program carried out under section 612A of such title 38 and with veterans employment and training activities carried out under chapters 41 and 42 of such title 38 and under the Comprehensive Employment and Training Act,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C) may carry out such program or programs through a consortim agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(d) (1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, which ever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (C) (i) of paragraph (1) of subsection (c), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 per centum requirement shall be used for implementing the requirements of subclauses (ii) through (v) of clause (C) of such paragraph (1), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.".

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

Sec. 411. (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a) (5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

Sec. 412. (a) Section 425(a) (1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 482h(c) (2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a) (2) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) The matter preceding division (i) of section 428(b) (1) (A) of the Act is amended—

(1) by inserting after "student" the following: "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (as defined in section 482(c) (2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b) (1) (B) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a) (1) (A) and in subsection (a) (2) (A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c) (2)) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$15,000 in the case of any graduate or professional student" in subsection (a) (1) (A) and in subsection (a) (2) (A) and inserting in lieu thereof in each such place the following: "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a) (2) and immediately before the semicolon at the end of sections 428(b) (1) (B), 428A (a) (1) (A), and 428A(a) (2) (A) the following: ", except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

Sec. 413. (a) Section 427(a) (2) (C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1954, (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b) (1) (M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period requires continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

Sec. 414. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h) (1) From sums paid by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in such State described in section 435(g) (1) (D) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g) (1) (D) and which has an application approved under section 439(p) (2) may receive payments under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.".

INTEREST RATE AND PAYMENT

SEC. 415. (a) Section 427(b) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and by inserting in lieu thereof "four months".

(2)(A) Section 428(b)(1)(E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 428(b)(1)(E) is further amended by striking out "nine months nor later than one year" in both places that it appears and by inserting in lieu thereof "four months".

(c) Section 428(a)(3)(B) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(d) Section 428(b)(1)(F) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(e) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

COLLECTION PRACTICES

SEC. 416. (a)(1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been versified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a)(2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.".

ADMINISTRATIVE IMPROVEMENTS

SEC. 417. (a) Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) does not provide for collection of an insurance premium in excess of 1 per centum per year on the unpaid principal amount of the loan (excluding interest added to principal), payable in advance, which may be used by the insurer to insure loans and to cover administrative, operating and overhead costs of the insurer;".

(b)(1) Section 428(c)(6)(A)(ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma; and

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students".

(2) Section 428(c)(6)(B) is amended—

(A) by striking out "and" at the end of clause (i) and inserting in lieu thereof a comma;

(B) by inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f)(1)(A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4) Section 428(f)(1)(B) of the Act is amended by striking out "clause (iv)" and inserting in lieu thereof "clauses (iv) and (v)".

(5) Section 428(f)(2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

. (C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(6) Section 428(f)(3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent wtih the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(c) Section 428(f)(3)(A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation,".

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOANS TO PARENTS

SEC. 419. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

LOAN COUNSELING PROGRAM AUTHORIZED

SEC. 418. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN COUNSELING BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan counseling on loans insured or guaranteed under this part to the student borrower. The loan counseling required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the date on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms 'student' and 'student borrower' used in this part shall include a parent borrower under this section.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request. Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 14 per centum per year on the unpaid principal balance of the loan except that, if provided in the note or other written agreement, any interest payable by the borrower may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 9 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 420. (a) Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of ever year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A)(i) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 5.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(ii) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans which were made or insured prior to October 1, 1980, shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 3.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(B) The quarterly rate of the special allowance for the holders of parental loans authorized under section 428B under this Act which are paid under section 428B(c)(3) shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C) (1) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

"(ii) The rate set under division (i) shall not be less than one-half of 1 per centum per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 420(b) of the Education Amendments of 1980.

"(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Secretary.

"(4) (A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 9 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428 (b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

"(d) There is established a Committee on Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'committee'). The committee shall be composed of—

"(1) the Secretary of Education;

"(2) the Secretary of the Treasury;

"(3) the Secretary of Health and Human Services;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

"(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2)); and

"(6) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E).

"(e) The Secretary shall appoint the members of the committee described in paragraphs (4), (5), and (6) of subsection (d) of this section, after consultation, in the case of those members appointed under each such paragraph, with nationally recognized organizations of such persons or agencies.

"(f) (1) The committee shall prepare and submit to the Congress a report not later than one year of the date of enactment of the Education Amendments of 1980, of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowances paid under this Act which the committee determines will carry out the objectives set forth in subsection (a) of this section.

"(2) The quarterly rate of the special allowances provided for in paragraph (2) of subsection (b) shall remain in effect until the Congress by joint resolution approves of the method, in whole or in part, proposed by the committee in the report submitted under paragraph (1) of this subsection.

"(3) The committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowances established under this section.

"(4) In developing the method for the determination of the quarterly rate of the special allowances under this section, the committee shall consider—

"(A) the experience of students and eligible lenders under the method in operation during the period of the study,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

"(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(E) such other factors as the committee considers necessary to carry out the purposes of this section.

"(5) In carrying out its responsibilities under this section, the committee shall be given the full cooperation and assistance of the official in the Department of Education directly responsible for the administration of part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Department of Education as the committee deems appropriate.

"(6) In order to assist the committee in carrying out its functions under this section, the Secretary is authorized to hire consultants, and to enter into contracts, and to pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

"(7) The Secretary shall convene the first session of the committee as soon as possible after the date of enactment of the Education Amendments of 1980. The chairman of the committee shall be elected by its members.

"(8) The committee shall cease to exist ten days after the approval of the joint resolution required by paragraph (2) of this subsection.

"(g) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.".

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(C) of the Higher Education Act of 1965, the Authority shall submit to the Secretary, for the approval of the Secretary, a plan for doing business. Each such plan shall contain provisions designed to assure that—

(1) no eligible lender in the area served by the authority will be excluded from participation in the program and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a rate less than nor more than one percent of the unpaid principal amount borrowed plans accrued interest to the date of acquisition;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents or who attend an eligible institution within the area served by the Authority;

(5) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 421. (a) (1) Section 439(a)(1) of the Act is amended by striking out "Government-sponsored".

(2) Section 439(f) of the Act is amended to read as follows:

"(f) (1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) other than an institution outside of the United States.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(3) The first sentence of section 439(g)(j) of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds from any such advance secured by collateral shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(l) of the Act is amended by inserting "including those made under subsection (d)(4)" after "All obligations issued by the Association".

(c)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to those obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.".

(2) Section 439(h)(2) of the Act is amended—

(A) by striking out "July 1, 1982" and inserting in lieu thereof "July 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part.".

(d)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429 (b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) The Association shall make payments in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) having an application submitted to the Association which sets forth that payments are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title.

"(2) No payment may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D) are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

"(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(2) Section 435(g) (1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F), and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association;

"(H) for purposes of making loans under section 428(j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).".

LOAN CONSOLIDATION BY STATE AGENCIES

Sec. 422. (a) Section 428 of the Act (as amended by section 417) is amended by adding at the end thereof the following new subsection:

"(j) (1) Each State agency and nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), and each eligible lender in such State described in section 435(g) (1) (D), or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal balance and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b) (1) or by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, except that such State agency or nonprofit private institution or organization shall provide the eligible lender with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the eligible lender and meet the requirements of sections 427, 428(b) and 428A, except that (A) the ten-year maximum period referred to in sections 427(a) (2) (B) and 428(b) (1) (E) may be extended to no more than twenty years, and (B) clause (ii) of sections 427(a) (2) (B) and 428(b) (1) (D) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the eligible lender, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.".

(b) (1) Section 425(a) (2) of the Act is amended by striking out "The" and by inserting in lieu thereof "Except in the case of loans made under section 428(j) or section 439(o), the".

(2) Section 428(b) (1) (B) of the Act is amended by striking out "provides" and by inserting in lieu thereof "except in the case of loans made under section 428(j) or section 439(o), provides".

(3) Section 428A(a) (2) (A) of the Act is amended by inserting after "in excess of such annual limit; and" the following: "except in the case of loans made under section 438 (j) or section 439(o),".

PROMPT DUE DILIGENCE DETERMINATIONS

Sec. 423. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.".

DEFERRAL OF PRINCIPAL DURING CERTAIN PERIODS OF STUDY, SERVICE, AND UNEMPLOYMENT

Sec. 424. (a) Section 427(a) (2) (C) of the Act is amended—

(1) by striking out "and any such period" and inserting in lieu thereof "that any such period", and

(2) by inserting before the comma at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

(b) Section 428(b) (1) (M) is amended by inserting before the semicolon at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

RECAPTURE OF CERTAIN INTEREST SUBSIDIES

Sec. 425. (a) Section 427(a) (2) of the Act (as amended by section 416(a) (2) of this Act) is amended by striking out "and" at the end of clause (I), by redesignating clause (J) as clause (K), and by inserting after clause (I) the following new clause:

"(J) provides (subject to section 432(e) (1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student,".

(b) Section 428(b) (1) of the Act is amended by striking out "and" at the end of clause (O), by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon and the word "and" and by adding at the end thereof the following new clause:

"(Q) provides (subject to section 432(e) (1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) (1) No repayment of interest paid under section 428(a) on behalf of any student shall be required under sections 427(a) (2) (J) and 428(b) (1) (Q) if—

"(A) the borrower has exhausted the ability to obtain loans under part E or this title and is required by reason of need to obtain a loan under this part for undergraduate study,

"(B) the borrower borrows more than $7,500, or

"(C) the borrower borrows under section 428(h) of this title."

"(2) (A) No repayment shall be required under sections 427(a) (2) (J) and 428(b) (1) (Q) for the interest paid under section 428 (a) for more than three years.

"(B) No interest shall accrue on the repayments required under sections 427(a) (2) (J) and 428(b) (1) (Q).

"(3) The Secretary shall prescribe procedures to carry out the provisions of sections 427(a) (2) (J) and 428(b) (1) (Q) as soon as possible after the date of enactment of the Education Amendments of 1980.".

MISCELLANEOUS AMENDMENTS

Sec. 426. (a) (1) Section 427(a) (1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a) (2) (B) (i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);".

(b) The first sentence of section 428(c) (1) (A) of the Act is amended by striking out everything after "of any insured loan" and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485, and then for the purpose of offsetting the costs to the institution for the program under this part.".

(d) Section 439A of the Act is repealed.

PART C—WORK-STUDY PROGRAMS

EXTENSION OF PROGRAM

Sec. 431. Section 441(b) of the Act is amended by inserting before the period a comma and the following: "and for each of the succeeding fiscal years ending prior to October 1, 1985".

LESS THAN HALF-TIME STUDENTS

Sec. 432. Section 444(a) (3) (C) of the Act is amended by inserting before the semicolon a comma and the following: "except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for students enrolled in less than a half-time basis".

REINFORCEMENT OF THE EDUCATIONAL PROGRAM OF WORK-STUDY PARTICIPANTS

Sec. 433. Section 444(a) of the Act is amended—

(1) by striking out "and" at the end of clause (7),

(2) by redesignating clause (8) as clause (9), and

(3) by inserting after clause (7) the following new clause:

"(8) provide assurances that employment made available from funds available under this part will complement and reinforce the educational program of not less than 10 per centum of the students receiving assistance under this part in fiscal year 1981, not less than 15 per centum of the students receiving assistance under this part in fiscal year 1982, not less than 20 per centum of the students receiving assistance under this part in fiscal year 1983, not less than 25 per centum of the students receiving assistance under this part in fiscal year 1984, and not less than 30 per centum of the students receiving assistance under this part in fiscal year 1985, and that compliance with this clause will be carried out in cooperation with the academic advisor of the student; and".

MINIMUM WAGE PROVISION

Sec. 434. Section 444(a)(1) of the Act is amended by striking out "and" at the end of subclause (B), by inserting "and" after subclause (C), and by adding at the end thereof the following new subclause:

"(D) will not pay any wage to students employed under this subpart which is less than the Federal minimum wage as required by section 6(a) of the Fair Labor Standards Act of 1938;".

USE OF CERTAIN UNUSED COLLEGE WORK-STUDY PROGRAM FUNDS FOR THE SUPPORT OF COOPERATIVE EDUCATION PROGRAMS

Sec. 435. (a) The first sentence of section 442(d) of the Act is amended by inserting before the period a comma and the following: "except that the Secretary shall give preference for the first 75 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act".

(b) Section 442(d) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The requirement for preference under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.".

DISTRIBUTION OF ASSISTANCE

Sec. 436. (a) Section 446(a) of the Act is amended by inserting at the end thereof the following new sentence: "The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979 unless there is a substantial decline in the student enrollment of the institution.".

(b) Section 446 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 7.5 per centum shall remain available for expenditure during the succeeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated. Grants made under this subsection shall be made in accordance with section 442(d).

"(c) Not to exceed 7.5 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

CONFORMING AMENDMENTS

Sec. 437. (a) Section 443(b) of the Act is amended by striking out "section 491(b)" and inserting in lieu thereof "section 481(b)".

(b) Section 444(a)(2) of such Act is amended by striking out "section 493" and inserting in lieu thereof "section 489" and by striking out "section 496" and inserting in lieu thereof "section 488".

(c) Section 444(a)(4) of such Act is amended by striking out "additional employment together with such workstudy income" and inserting in lieu thereof "employment (including work-study or non-work-study, or both).".

JOB LOCATION AND DEVELOPMENT

Sec. 438. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING

Sec. 439. Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

"Sec. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

"(b) For the purpose of this section—

"(1) 'community service-learning' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

"(2) 'community services' means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

"(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.".

Part D—National Direct Student Loan Association

ASSOCIATION ESTABLISHED

Sec. 441. (a) The Act is amended by inserting after part C the following new part:

"Part D—National Direct Student Loan Association

"STATEMENT OF PURPOSE

"Sec. 451. It is the purpose of this part to establish a Government corporation which will administer the student loan program authorized by part E of this title.

"ESTABLISHMENT

"Sec. 452. (a) There is established in the executive branch of the Federal Government a body corporate without capital stock to be known as the National Direct Student Loan Association. The Association shall have succession until dissolved.

"(b) The principal office of the Association shall be located in the District of Columbia. The Association shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen of the District of Columbia. Offices, agencies, and branches may be established by the Association in such other places as the Association deems necessary or appropriate for the conduct of its business.

"BOARD OF DIRECTORS

"Sec. 453. (a) The Association shall have a Board of Directors which shall consist of the Secretary of Education and eight other members, one of whom shall be designated Chairman by the President.

"(b) The President shall appoint, by and with the advice and consent of the Senate, the members of the Board other than the Secretary of Education who shall serve ex officio. Four of the members shall be representative of educational institutions. Four of the members shall be representative of the general public. One of the members appointed from the general public shall be a student.

"(c)(1) The term of office of each member of the Board, other than the Secretary, shall be four years; except that (A) the members first taking office shall serve as designated by the President, two for terms of two years, three for terms of three years, and three for terms of four years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(2) The Directors appointed by the President shall serve until their successors have been appointed and have qualified.

"(d)(1) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association.

"(2) The Chairman of the Board shall, with the approval of the Board, select appoint, and compensate qualified individuals to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such individuals shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(e) Members of the Board of the Association who are not regular full time employees of the United States shall, while serving on the business of the Association, be entitled to receive compensation at rates fixed by the President, but not in exceeding the rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while serving away from their homes and regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"GENERAL POWERS

"Sec. 454. In carrying out the provisions of part E of this title and this part, the Association is authorized—

"(1) to adopt, alter, and vote a corporate seal, which shall be judicially noticed;

"(2) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(3) to sue and be sued, complain and defend, in its corporate name, and through its own counsel;

"(4) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(5) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(6) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made by it under part E of this part;

"(7) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(8) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for it to carry out its responsibilities under this title;

"(9) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(10) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their compensation, and to require bonds for them and fix the penalty thereof;

"(11) to make provision for and designate such committees, and the functions thereof, as the Board of Directors deems necessary or desirable;

"(12) to determine and prescribe the manner in which obligations of the Association shall be incurred and its expenses allowed and paid;

"(13) to use funds received by the Association, notwithstanding any other provision of law, to carry out the provisions of Part E.

"(14) to use the services and facilities of any agency of the Federal Government and of any other public or nonprofit private entity in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon; and

"(15) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, functions, and authorized activities.

"FUNCTIONS OF THE ASSOCIATION

"SEC. 455. (a) The Association shall carry out the provisions of part E of this title.

"(b)(1) The Association shall provide, either directly or by way of contract or other arrangement with State guaranty agencies and for other appropriate agencies, organizations and institutions, for—

"(A) the collection of principal and interest of student loans made under part E;

"(B) programs of preclaims assistance for default prevention; and

"(C) such other programs as the Board of Directors deems necessary to assure the success of the student loan program authorized by part E.

"(2) In carrying out the functions set forth in paragraph (1), the Association shall first offer the State guaranty agency the right to carry out such functions.

"(3) The Association may not enter into a contract or other arrangement with any collection agency pursuant to paragraph (1) of this subsection unless the contract or other arrangement is made on a competitive basis.

"(4)(A) For the purpose of promoting responsible repayment of loans made under part E and for the collection of loans for which the Association is responsible, the Association is authorized to enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Association to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Association to such organizations, with respect to any loan for which the Association is responsible, of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(B) Such agreements may also provide for the disclosure by such organizations to the Association, upon receipt from the Association of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Association in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Association unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Association has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Association with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Association (I) will not disclose any such information until the Association has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) will, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) (i) The Association shall, within one hundred eighty days after the effective date of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Association to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

"(c) The Association is authorized to—

"(1) enter into contracts with student borrowers for the prepayment of loans made under part E prior to the effective date of the Education Amendments of 1980 and under title II of the National Defense Education Act of 1958; and

"(2)(A) obtain information with respect to the names and addresses of borrowers and other relevant information which is available to the Secretary, from whatever source such information may be derived, and (B) whenever, pursuant to an agreement entered into between the Association and an institution of higher education under which the institution acts as a collection agent, make the information obtained under this clause available to such institution, notwithstanding any other provision of law.

"OBLIGATIONS OF THE ASSOCIATION

"SEC. 456. (a) The Association is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out its functions under part E of this title and this part, subject to such annual limitations as may be provided in an appropriation Act, except that the Association shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Association be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

"(b)(1) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Association held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"(2) For the purpose of the Federal Financing Bank Act, the Association shall be deemed to be an agency of the Federal Government.

"(c) All obligations of the Association issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(d) Obligations of the Association issued pursuant to this part shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(e) In order that the Association may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this part, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(f) All moneys of the Association not otherwise employed may be—

"(1) deposited with the Treasury of the United States subject to withdrawal by the Association, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(2) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(3) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Association, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Association.

"MANAGEMENT; AUDITS; REPORTS

"SEC. 457. (a) The provisions of chapter 11 of title 18, United States Code, shall apply to the directors and all officers and employees of the Association, and the Board of Directors is authorized to promulgate regulations consistent with the provisions of that chapter.

"(b) The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers, and duties assigned to the Board under this part as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time directors, officers, or employees of the Association as the Chairman deems appropriate.

"(c) The Association shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to loans made under this part an integral set of accounts, which the General Accounting Office shall audit every three years in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Association are final and conclusive upon all accounting and other officers of the Government.

"(d) The Association shall submit to the Congress and the President an annual report containing a general description of the operations of the Association during the year, and a specific description of the progress on collection of loans made under part E of this title and all other loans for which the Association is responsible.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 458. There are authorized to be appropriated in each fiscal year to the Association—

"(1) for administrative costs of carrying out part E of this title and this part;

"(2) to pay the differential between the rate of return on obligations of the Association made under section 456 and the interest rates collected under part E of this title, and under this part; and

"(3) for the cost of repayment of student loans in the event of a default, death, or disability,

such sums as may be necessary.".

(b) Section 1201 of such Act is amended by adding at the end thereof the following:

"(n) The term 'Association' (except when used in section 439) means the National Direct Student Loan Association established under part D of title IV of this Act.".

(c) The right to alter, amend, or repeal this Act and part D of the Higher Education Act of 1965 is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Association under any power conferred by this Act or any amendment made by this Act.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

DIRECT LOAN PROGRAM REESTABLISHED

SEC. 451. Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"PROGRAM AUTHORIZED

"SEC. 461. The Association shall carry out a program of establishing and maintaining funds at institutions of higher education for making low-interest loans to students who demonstrate financial need to pursue their course of study in such institutions.

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 462. (a) The Association shall make payments under this part for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

"(1) the cost of attendance at that institution,

"(2) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

"(3) the financial assistance received by students at that institution under parts A and C of this title (other than part B), or any other provision of Federal law, and other scholarship, grant and loan assistance received by students,

subject to the limitations specified in section 464(a)(2).

"(b)(1) The Association shall make payments required by subsection (a) of this section in such installments as the Association determines—

"(A) will not result in unnecessary accumulations of capital in the student loan fund of the institution of higher education concerned,

"(B) reflect accurately the disbursement of funds for student loans by the institution of higher education concerned, and

"(C) will best carry out the objectives of this part.

"(2) The first initial payment under this part shall be made as soon after October 1, 1980 as possible, and subsequent initial payments for any academic year required by subsection (a) shall be made not later than March 1 for the academic year following the year for which the payment is made. Subsequent installment payments in each such academic year shall be made promptly.

"(c) Any institution of higher education desiring to receive payments from the Association under this part shall enter into an agreement under section 463 and shall submit an application for such payments to the Association in accordance with the provisions of this part. The Association shall set dates before which such institutions must file applications under this section. Each such application shall contain such information as is necessary to assure the validity of estimated need for loan funds.

"(d) The approval of the Association of the application under this section with an institution of higher education having an agreement under section 463 shall be deemed a contractual obligation of the United States for making the payments specified in that application.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of advances under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) payments made under this part, and

"(B) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) distributions, if any, and

"(D) costs of litigation, and other collection costs, if any, required by the Association in connection with the collection of a loan from the fund;

"(4) provide that upon the beginning of the repayment period the note or evidence of obligation shall be assigned to the Association for collection, unless the Association finds that (A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and (B) that institution has a good collection record, in which case the Association and the institution may agree that the institution act as collection agent for loans made under this part;

"(5) provide that not to exceed 10 per centum of the funds available to the institution in any fiscal year may be used for loans to less than half-time students who are determined by the institution to be in need of loans under this part; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Association and the institution.

"(b) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Each such payment shall be made in accordance with section 489. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485 of this Act and then for the purpose of offsetting the costs to the institution for the program under this part.

"TERMS OF LOANS

"SEC. 464. (a) (1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Association shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans to an individual for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $12,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $6,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $3,000 in the case of any other student.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

"(c) (1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending at a date not more than ten years and nine months after such date pursuant to regulations of the Association, except (i) that such period may begin earlier than nine months after such date upon the request of the borrower and (ii) as provided in paragraphs (3) and (4) of this subsection;

"(B) shall, at the option of the borrower, include provision for a graduated repayment schedule with larger payments due later in the repayment period and provision for acceleration of repayment of the whole, or any part, of such loan;

"(C) may provide, in accordance with regulations of the Association, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the borrower from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except (i) that the Association may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, and (ii) as provided in paragraph (4);

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 7 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Association; and

"(G) may, pursuant to regulations of the Association, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part.

"(2) (A) Except as provided in subparagraph (C), no repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal fulltime academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

"(ii) is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) is in service as a volunteer under the Peace Corps Act;

"(iv) is in service as a volunteer under the Domestic Volunteer Service Act of 1973;

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year nine-month maximum period provided for in clause (A) of paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until nine months after the completion of such period of study, service, disability, or combination thereof.

"(3) The Association is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year nine-month maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(4) Pursuant to uniform criteria established by the Association, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

"(d) An agreement to make payments under this part shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"(e) In determining, for purposes of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 465. (a) After September 30, 1980, and not later than March 31, 1981, there shall be a capital distribution of the balance of the student loan fund established under this part prior to the effective date of the Education Amendments of 1980 by each institution of higher education as follows:

"(1) The Association established under part D shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund by the Commissioner of Education under this part in effect prior to the date of enactment of the Education Amendments of 1980 bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) Each institution with an agreement with the Commissioner of Education made under this part prior to the effective date of the Education Amendments of 1980 shall—

"(1) in the case of an institution not having an agreement under section 463 of this part, enter into an agreement with the Association containing provisions, or

"(2) in the case of any institution having an agreement with the Association under section 463, add provisions to the agreement,

designed to assure that the note or evidence of the obligation of such loans will be assigned to the Association for collection, unless the Association finds that—

"(A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and

"(B) that the institution has a good collection record, in which case the Association and institution may agree that the institution act as collection agent for such loans.

The preceding sentence shall not apply with respect to any loans assigned prior to the date of enactment of the Education Amendments of 1980.".

PART F—GENERAL PROVISIONS

STUDENT ASSISTANCE GENERAL PROVISIONS

SEC. 461. Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

"SEC. 481. (a) (1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing;

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree; and

"(E) an institution of higher education which meets the requirements of section 1201(a), other than the provisions of subclauses (A) and (B) of clause (5), but fails to meet such requirements because the institution is not located in a State.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

"(d) For the purposes of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"NEED ANALYSIS

"Sec. 482. (a) (1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than April 1 of each calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually. The first such schedule shall be presented to the Congress on April 1, 1981.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of July next following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b) (1) For the purposes of this section, the term 'family contribution' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(A) The amount of the effective income of the student or the effective family income of the student's parents.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and the assets of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any expense to a handicapped student including special services, transportation, equipment, and supplies needed by the student.

"(G) Any educational expenses of other dependent children in the family.

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents (or the adoptive parents) of the student minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term 'effective family income' includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

"(4) In determining the expected family contribution under this section for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income for families with adjusted gross family income which does not exceed $25,000 for each such year. The Secretary may set an assessment rate or a series of assessment rates to be applied to parental discretionary income for families with adjusted gross incomes which exceed $25,000 for each such year for income in excess of $25,000.

"(c) (1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b).

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents (or the adoptive parents) of the student.

"(d) For the purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

"(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

"(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training; and

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study.

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if such adjustment is documented.

"FORMS AND REGULATIONS

"Sec. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into contracts with not less than three States, institutions of higher education, and private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting, appending to, or incorporating into the form data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

"(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

"(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

"STUDENT ELIGIBILITY

"SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

"(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution, except that no student who previously received assistance under this title and who failed to complete successfully at least three-quarters of the workload undertaken during the academic period for which the assistance was received may be deemed to be maintaining satisfactory progress for the purposes of this paragraph until the student has successfully completed the courses of study or an equivalent number of courses, unless the institution determines, in accordance with regulations of the Secretary, that exceptional circumstances exist and failure to waive the requirement of this clause would result in undue hardship to the student;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan gaurantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a) (1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publication and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the mthods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible instiution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

"SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

"(b) Financial assistance under this section may be used for—

"(1) development of materials and in-service training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.

"INSTITUTIONAL ELIGIBILITY AGREEMENTS

"SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(6) The institution will comply with the requirements of section 485.

"(b)(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;

"(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to reenroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to reenroll; and

"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2)(A) Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secertary finds that such practices have been corrected.

"(B)(i) Upon determination that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates.

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(c) For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

"SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or with the Association under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary, or the Association, as the case may be, and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E. The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"POSTSECONDARY EDUCATION ACCESS AND CHOICE STUDY

"SEC. 491. (a) The Secretary is authorized to conduct in conjunction with the longitudinal studies of high school students implemented by the National Center for Education Statistics a comprehensive study of the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

"(b) The study required by this section shall be conducted only after a plan is promulgated by the Secretary and reported to the Committee on Labor and Human Resources of the United States Senate and the Committee on Education and Labor of the House of Representatives for a period not to exceed sixty days. Such plan shall specify the questions to be answered by the study and the methods and samples to be utilized by the study.

"(c) The Secretary is authorized for the purposes of this section to reserve in fiscal years 1981, 1982, 1983, 1984, and 1985 not more than $15,000,000 from collections returned from formerly defaulted loans returned into repayment status under part B of this title.".

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

EXTENSION OF PROGRAM

SEC. 501. (a) Section 511(b) is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $43,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $57,500,00 for the fiscal year 1983, $66,000,000 for the fiscal year 1984, and $76,000,000 for the fiscal year 1985.".

(b) The first sentence of section 531 is amended to read as follows: "There are authorized to be appropriated $16,500,000 for the fiscal year 1981, $19,000,000 for the fiscal year 1982, $22,000,000 for the fiscal year 1983, $25,000,000 for the fiscal year 1984, and

$28,000,000 for the fiscal year 1985 to carry out the provisions of this part.".

REMOVAL OF LIMITATION

SEC. 502. Section 531 of the Act is amended by striking out "In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each" and inserting in lieu thereof "Each".

AUTHORIZE TEACHER CENTERS

SEC. 503. Section 532(a)(2) of the Act is amended by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

TRAINING FOR TEACHERS OF HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

SEC. 504. (a) Title V of the Act is amended by adding after part B the following new part:

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"GRANTS AUTHORIZED

"SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and institution of higher education allowances for teachers to be trained to provide special education for handicapped children.

"(b) The Secretary shall establish criteria for—

"(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

"(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

"(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

"(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

"APPLICATION

"SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe a fellowship program under which the State will make stipends to recipients and make institution of higher education allowances, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

"(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

"(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children, and

"(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

"(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

"(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

"(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

"(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

"SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

"(b) East State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study, such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory proficiency and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

"(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"DEFINITION

"SEC. 545. As used in this part 'special education' has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act.

"APPROPRIATIONS AUTHORIZED

"SEC. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.".

(b) The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) of this section not later than 30 days after the date of enactment of the Education Amendments of 1980.

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 601. (a) Title VI of the Higher Education Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

"GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

"SEC. 602. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.

"(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training, improvement, and travel of the staff for the purpose of carrying out the objectives of this section.

"(3) The Secretary may make grants to

centers described in paragraph (1) having important library collections for the maintenance of such collections.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"INTERNATIONAL STUDIES CENTERS

"SEC. 603. (a) (1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

"(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

"UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(6) programs designed to integrate undergraduate education with terminal masters degree programs having an international emphasis; and

"(7) the development of an international dimension in teacher training.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"RESEARCH; STUDIES; ANNUAL REPORT

"SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields; and

"(3) the development of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

"(b) The Secretary shall prepare and publish an annual report which shall include an index and analysis of the books and research materials produced with assistance under this title.

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 607. There are authorized to be appropriated $34,500,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, $46,000,000 for fiscal year 1983, $53,000,000 for fiscal year 1984, and $61,000,000 for fiscal year 1985, to carry out the provisions of this part.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"FINDINGS AND PURPOSES

"SEC. 611. (a) The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"EDUCATION AND TRAINING PROGRAMS

"SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad

"(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

"(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of part B of this title.

"PART C—GENERAL PROVISIONS

"ADVISORY BOARD

"SEC. 621. (a) Not less than three times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of—

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of Defense;

"(3) one member selected by the Secretary of the Treasury;

"(4) one member selected by the Secretary of Commerce;

"(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

"(6) one member selected by the Chairman of the National Endowment for the Humanities;

"(7) one member selected by the Director of the International Development Cooperation Agency;

"(8) one member selected by the Director of the International Communication Agency;

"(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

"(10) one member selected by the Administrator, Small Business Administration;

"(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

"(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

"(13) three members selected by the Secretary from among members of the public; and

"(14) three members selected by the Secretary from among representatives of the business community.

"(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

"(2) The advisory board established under subsection (a) shall consider the grants made, or contracts entered into, under this part and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (1) any geographic areas of special need or concern to the United States, (2) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (3) innovative approaches which may help to fulfill the purposes of this title, (4) activities which are duplicative of programs operated under other provisions of Federal law, (5) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (6) the administrative and staffing requirements of international education programs in the Department.

"(3) The advisory board established under subsection (a) shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (1) changes which should be made to advance the purposes of this part and to assure the success of the programs authorized by this part, (2) special needs of such programs, and (3) any program elements which are duplicative of programs operated under other provisions of Federal law.

"DEFINITIONS

"SEC. 622. (a) As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

"(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.".

(b) Title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART N—INTERNATIONAL UNDERSTANDING

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 393. (a) This part may be cited as the 'International Understanding Act'.

"(b) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

"(c) It is the purpose of this part to support educational programs which will increase the availability of such information to students in the United States.

"PROGRAM AUTHORIZED

"SEC. 394. (a)(1) The Secretary is authorized, by grant or contract, to stimulate educational program to increase the understanding of students and the public in the United States about the cultures, actions and interconnections of nations and people in order better to evaluate the international and domestic impact of major national policies.

"(2) Grants or contracts under this section may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers.

"(b)(1) Financial assistance under this part may be used for assistance for inservice training of teachers and other education personnel, the development of materials to link language learning to international studies, the compilations of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but such assistance may not be used for the acquisition of equipment or remodeling of facilities.

"(2) Financial assistance under this part may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.

"(3) Financial assistance under this part may be used by local educational agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance for the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 395. There are authorized to be appropriated $5,250,000 for fiscal year 1981, $6,750,000 for fiscal year 1982, $8,250,000 for fiscal year 1983, and $9,000,000 each for fiscal years 1984 and 1985 to carry out the provisions of this part.".

(c)(1) Title VI of the National Defense Education Act of 1958 is repealed.

(2) Title I of the International Education Act of 1966 is repealed.

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"GENERAL PURPOSES

"SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

"(B) section 504 of the Rehabilitation Act of 1973, or

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

"(3) to enable such institutions to construct, reconstruct, or renovate their research facilities, including libraries, and to acquire special research equipment;

"(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

"APPROPRIATIONS AUTHORIZED

"SEC. 702. There are authorized to be appropriated $30,000,000 for the fiscal year 1981, $35,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $55,000,000 for the fiscal year 1985 for part A. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $10,000,000 for the fiscal year 1982, $15,000,000 for the fiscal year 1983, $20,000,000 for the fiscal year 1984, and $25,000,000 for the fiscal year 1985 for part B. There is authorized to be appropriated $50,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each fiscal year for section 734.

"PART A—STATE GRANT PROGRAM FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"STATE PLAN

"SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State entity having such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established uder section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) determining the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State entity regarding the priority assigned to such project, or any other decision by the State entity adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) If, in any fiscal year, a State does not wish to enter into an agreement pursuant to section 1203, such State may submit annually to the Secretary, through its designated entity for facilities planning, a State plan which meets the requirements of clauses (2), (3), and (4) of subsection (a).

"(c) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State entity reasonable notice and opportunity for a hearing.

"(d) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

"SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 per centum of the costs of a project.

"(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

"SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

"(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam),

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years.

"(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) the Secretary shall allot to each State an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) Any portion of a State's allotment under either subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State entity prior to January 1 of such fiscal year may, upon request, be transferred to and made available for payment of the Federal share of approved projects, if any, under the other subsection.

"(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(g) Funds available under this part may be used for reconstruction or renovation of combined graduate and undergraduate facilities.

"PART B—INSTITUTIONAL GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

"SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

"(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

"(c) The amount of the grant shall not exceed 75 per centum of the cost of the project.

"PART C—LOANS FOR CONSTRUCTION, RECONSIRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

"(1) not less than 20 per centum of the cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

"(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 7 per centum per annum, whichever is less.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has made a loan pursuant to this part; in the event of such acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by the Secretary to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which the Secretary is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation.

"(b) (1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part, less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

"ANNUAL INTEREST GRANTS

"SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

"(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 735. (a) (1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

"(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

"(b) (1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

"(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

"PART D—GENERAL

"RECOVERY OF PAYMENTS

"SEC. 741. (a) The Congress declares that, if a facility constructed, renovated or reconstructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, renovation or reconstruction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction, renovation or reconstruction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) If, within twenty years after completion of construction, renovation or reconstruction of an academic facility which has been constructed, renovated or reconstructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsection (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

"SEC. 742. The following definitions apply to terms used in this title:

"(1) (A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used primarily by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

"(2) (A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquistion of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2) (A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3) (A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(5) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(6) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(7) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

TITLE VIII—COOPERATIVE EDUCATION

REVISION OF PROGRAM

SEC. 801. Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED

"SEC. 801. (a) There are authorized to be appropriated—

"(1) for the fiscal year 1981, $27,000,000;

"(2) for the fiscal year 1982, $31,000,000;

"(3) for the fiscal year 1983, $36,000,000;

"(4) for the fiscal year 1984, $41,000,000; and

"(5) for the fiscal year 1985, $47,000,000.

to enable the Secretary to make grants and enter into contracts pursuant to sections 802 and 803.

"(b) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangement pursuant to this part.

"GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

"SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, the Secretary is authorized to make grants to institutions of higher education, or to combinations of such institutions, that have applied therefore in accordance with subsection (b) of this section, in amounts not to exceed $400,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $300,000 times the number of institutions participating in such combinations, for any fiscal year for the purpose of planning, establishing, expanding, or carrying out by such institutions, or combinations of such institutions, programs of cooperative education. Such programs shall provide alternating or parallel periods of academic study and public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, work experience related to their academic or occupational objectives.

"(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Secretary at such time or times as he may prescribe and shall—

"(1) set forth programs or activities for which a grant is authorized under this section;

"(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

"(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

"(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

"(6) include such other information as is essential to carry out the provisions of this part.

"(c) No individual unit of any institution of higher education may receive, individually or as a participant in a combination of such units, grants under this section for more than five fiscal years. No such unit or combination thereof may receive—

"(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

"(2) a grant in excess of 90 per centum of such cost for the second of such years;

"(3) a grant in excess of 80 per centum of such cost for the third of such years;

"(4) a grant in excess of 60 per centum of such cost for the fourth of such years; and

"(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

"(2) the commitment of the institution of higher education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

"(3) such other factors as are consistent with the purposes of this section.

"GRANTS AND CONTRACTS FOR TRAINING, RESEARCH, AND DEMONSTRATION

"SEC. 803. From the sums appropriated pursuant to subsection (a) of section 801, the Secretary is authorized to—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of the section,

for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education; for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, including but not limited to the conversion of existing institutions of higher education to comprehensive cooperative education programs, and the expansion of existing cooperative education programs in institutions of higher education to comprehensive cooperative education programs; for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education.".

TITLE IX—GRADUATE PROGRAMS

EXTENSION OF PROGRAM

SEC. 901. Section 901(c) of the Act is amended by striking out "1980" and inserting in lieu thereof "1985".

GRADUATE FELLOWSHIPS

SEC. 902. (a) Part B of title IX of such Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"APPROPRIATIONS AUTHORIZED

"SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"NUMBER OF FELLOWSHIPS

"SEC. 922. (a) During the fiscal year 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not to exceed ten thousand fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Secretary may determine, but not in excess of thirty-six months, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the thirty-six month period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Secretary is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Secretary may determine.

"(c) The Secretary may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the academic program of the fellowship recipient, except that the Secretary shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances, for dependents or payments to institutions pursuant to the fellowship award of that recipient.

"AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) (1) Subject to the provision of subsection (c), the total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Secretary on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Secretary and (A) who are pursuing a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree, or (B) who, in the case of fellowships decribed in clause (1) of subsection (c), are engaged in graduate or professional study, or (C) who, in the case of fellowships described in clause (1) of subsection (c), are engaged in graduate or professional study, or (C) who, in the case of fellowships described in clauses (2), (3), and (4) of subsection (c) are engaged in graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. The Secretary shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (A) for academic careers at some level of education beyond the high school, or (B) for other than academic careers in professional career fields of importance to the national interests, as determined by the Secretary.

"(2) for the purpose of this part, a fellowship may be awarded for graduate study and research at any institution of higher education or other research center approved by the Secretary.

"(b) In determining priorities and procedures for the award of fellowships under this section the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school,

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

"(4) assure that consideration in awarding fellowships under this part is given (A) except fellowships described in subsection (c)(1), to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings, and

"(5) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) The Secretary shall assure that, in awarding fellowships under this part, fellowships are awarded for—

"(1) individuals who plan to pursue a career in public service;

"(2) graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral fuel conservation including oil, gas, coal, oil shale, and uranium;

"(3) individuals of ability from disadvantaged backgrounds, as determined by the Secretary, undertaking graduate or professional study; and

"(4) individuals who plan to pursue a career in energy conservation or development.

The Secretary shall assure that the amount expended for categories of fellowships described in clauses (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each such category in fiscal year 1979.

"(d) No fellowship shall be awarded under this part for study at a school or department of divinity.

"FELLOWSHIP STIPENDS

"SEC. 924. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such individual is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) The Secretary is authorized to require reports containing such information, in such form, and to file at such times, as he determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.".

(b) Parts C, D, E, and F of such title IX are repealed.

NEW PROGRAM AUTHORIZED

SEC. 903. Title IX of the Act is amended by inserting after part B the following new part (as amended by this Act):

"PART C—NATIONAL GRADUATE FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

"SEC. 931. (a) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not more than four hundred fifty fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

"(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"ALLOCATIONS OF FELLOWSHIPS

"SEC. 932. (a) (1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) select each year the fields in which fellowships under this part are to be awarded;

"(C) determine the number of fellowships each year to be awarded under this part in each designated field;

"(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

"(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) (A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least four times a year.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS–18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

"SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

NATIONAL TALENT GRANT PROGRAM AUTHORIZED

SEC. 904. Title IX of the Act is amended by adding after part C (as added by section 903 of this Act) the following new part:

"PART D—NATIONAL TALENT GRANTS FOR FIRST YEAR GRADUATE AND PROFESSIONAL STUDY

"STATEMENT OF PURPOSE

"SEC. 941. It is the purpose of this part to provide, through institutions of higher education, a program of national talent grants to assist in making available the benefits of post-baccalaureate education to exceptionally qualified first year graduate and professional students who demonstrate financial need, in accordance with criteria established by the Secretary.

"PROGRAM AUTHORIZED

"SEC. 942. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make talent grants in accordance with the provisions of this part.

"(b) (1) In making such grants the Secretary shall, to the maximum extent feasible, insure equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) The Secretary shall not make a grant to a single institution of higher education in excess of three-quarters of 1 per centum of the sums appropriated under this part for any fiscal year.

"(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix reallot such amounts not needed to institutions who can use the grants authorized by this part.

"(c) (1) Any institution of higher education offering a program of post-baccalaureate study leading to a graduate degree, and approved by the Secretary may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) (A) The Secretary shall approve an application of an institution of higher education to make national talent grant awards under this part only upon a finding that the application contains assurances that the institution will provide programs of graduate study which will prepare the recipients of such a grant (A) for academic careers beyond the secondary education level, or (B) for other than academic careers in fields of importance to the national interest, as determined by the Secretary.

"(B) In making the determinations under subparagraph (A) of this paragraph the Secretary shall take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school and the need for such individuals in nonacademic career fields of high national priority.

"AWARD OF NATIONAL TALENT GRANTS

"SEC. 943. (a) An institution of higher education receiving funds under this part shall make available to exceptionally and financially needy first year graduate students an award determined by that institution of higher education in accordance with the criteria developed by the Secretary, except that no award under this part may exceed $2,000.

"(b) An institution of higher education may not make a national talent grant award unless—

"(1) such student has been accepted for enrollment as a full-time graduate student at that institution; and

"(2) such student demonstrates evidence of academic or creative promise in the capacity for excellence and post-baccalaureate study.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 944. There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for the fiscal year 1981 and 1982 and such sums for the fiscal year 1983 and each of the succeeding fiscal years ending prior to October 1, 1985.".

TRAINING AND LEGAL ASSISTANCE PROFESSION PROGRAM AUTHORIZED

SEC. 905. Title IX of the Act is amended by adding after part D (as added by section 904 of this Act) the following new part:

"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

"SEC. 951. (a) The Secretary is authorized prior to October 1, 1985, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purposes of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training.

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"FELLOWSHIP CONDITIONS

"SEC. 952. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Secreary finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation.

"(b) The Secretary is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in. and is devoting essentially full time to, the program for which the fellowship was awarded.

"(c) No fellowship shall be awarded under this title for study at a school or department of divinity.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 953. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for the fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.".

LAW SCHOOL PROGRAMS INCLUDED IN TITLE IX

SEC. 906. Title IX of the Act is amended by adding at the end thereof the following new part:

"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 961. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) No law school may receive more than $125,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose and including any combination, consortium, organization, or association of such schools.

"APPLICATIONS

"SEC. 962. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as he may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 963. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $6,000,000 for the fiscal year 1982, $7,000,000 for the fiscal year 1983, $8,000,000 for the fiscal year 1984, and $9,000,000 for the fiscal year 1985, to carry out the purposes of this part.".

TITLE X—ESTABLISHMENT OF A NEW TITLE X OF THE HIGHER EDUCATION ACT OF 1965

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. (a) Title X of the Act is amended by striking out everything preceding part C and inserting in lieu thereof the following:

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"PART A—ESTABLISHMENT AND OPERATION OF FUND

"AUTHORIZATION OF PROGRAM

"SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"CONSULTATION

"SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

"NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

"(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(c) The Board shall—

"(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

"(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

"(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"ADMINISTRATIVE PROVISIONS

"SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $23,000,000 for fiscal year 1982, $27,000,000 for fiscal year 1983, $31,000,000 for fiscal year 1984, and $36,000,000 for fiscal year 1985.".

(b)(1) Part C of title X of the Act is redesignated as part B, and sections 1071 and 1072 thereof are redesignated as sections 1021 and 1022, respectively.

(2) Section 1021(a) of the Act (as so redesignated) is amended by striking out "this title,".

(c) Section 404 of the General Education Provisions Act is repealed.

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAM AUTHORIZED

SEC. 1101. Title XI of the Act is amended to read as follows:

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

"(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

"(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

"(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purposes of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $11,250,000 for fiscal year 1981, $18,750,000 for fiscal year 1982, $26,250,000 for fiscal year 1983, $33,750,000 for fiscal year 1984, and $41,250,000 for fiscal year 1985.

"(b) In the event of a multiple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"PROJECT ASSISTANCE

"SEC. 1103. (a)(1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

"(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

"(b) An application submitted under this section shall contain provisions designed to show that the chief executive of each local agency of general government within the urban area and contiguous areas within which the urban university is located has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of each such local agency of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section.

"(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

"(d) No grant under this section shall exceed 90 per centum of the cost of the project for which assistance is granted.

"(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

"SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

"SEC. 1105. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

"(4) 'resources' are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

TITLE XII—GENERAL PROVISIONS

DEFINITION

SEC. 1201. Section 1201(b) of the Act is amended by inserting after "the Virgin Islands" a comma and the following: "the Northern Mariana Islands".

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

SEC. 1202. Section 1203 of the Act is amended to read as follows:

"FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

"SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

"(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable program described in subsection (f);

"(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

"(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

"(4) the State has a comprehensive planning or policy formulation process which—

"(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

"(B) encourages State policies designed to consider effects of declining enrollments of all sectors of postsecondary education in the State;

"(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education in the State (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public.

Participation under subclause (E) shall, unless prohibited by State law, be assured by including at least a representative of each category of representatives specified in subclause (E) as members of the State entity established pursuant to this section.

"(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

"(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

"(e) For the purpose of this section, the selection of the State entity authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(f) For the purposes of this section an 'applicable program' is a program under—

"(1) title I; and

"(2) part A of title VII,

of this Act.".

REPEALER

SEC. 1203. Sections 1205 and 1208 of the Act are repealed.

NATIONAL ADVISORY COMMITTEE REESTABLISHED

SEC. 1204. Title XII of the Act is amended by inserting at the end thereof the following new section:

"NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

"SEC. 1208. (a) There is established in the Office of Education a National Advisory Committee on Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable of education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

"(b) The term of office of each member of the Committee shall be three years, except that—

"(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

"(c) The Committee shall, with respect to all matters pertaining to institutional program eligibility—

"(1) advise the Secretary with regard to his responsibility for the recognition and designation of recognized accrediting agencies and associations;

"(2) advise the Secretary with regard to the development of criteria and procedures for recognition and designation of recognized accrediting agencies and associations;

"(3) advise the Secretary with regard to the formulation of policy relating to institutional or program eligibility;

"(4) advise the Secretary with regard to his responsibility to designate State agencies as reliable authorities on the quality and probity of public postsecondary vocational education or training and of nurse education and training in their respective States;

"(5) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

"(6) review existing legislation affecting the Secretary's responsibility with regard to accreditation and institutional or program eligibility and suggest appropriate revisions, if any;

"(7) review, and advise the Secretary with regard to developments in the accreditation process in all levels of education;

"(8) advise the Secretary with regard to his responsibilities in relation to the award of degree-granting status to Federal agencies and institutions; and

"(9) carry out such other advisory functions relating to accreditation and institutional or program eligibility as may be assigned by the Secretary.

"(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

"(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1985.".

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

EXTENSION OF AUTHORITY

SEC. 1301. Section 405(j) of the General Education Provisions Act is amended to read as follows:

"(j)(1) There are authorized to be appropriated to carry out the provisions of this section, an amount equal to three-fourths of 1 per centum of the sums appropriated or available to the Department of Education for fiscal year 1981, three-fourths of 1 per centum of such sums for fiscal year 1982, 1 per centum of such sums for fiscal year 1983, 1½ per centum of such sums for fiscal year 1984, and 1½ per centum of such sums for fiscal year 1985.

"(2) Sums so appropriated shall, notwithstanding any other provisions of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection unless expended.".

DECLARATION OF POLICY

SEC. 1302. The first sentence of section 405(a)(1) of the General Education Provisions Act is amended by inserting after "sex" a comma and the word "age".

RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 1303. Section 405(b)(2) of the General Education Provisions Act is amended by—

(1) striking out "and" at the end of clause (D);

(2) by redesignating clause "(E)" as clause "(F)"; and

(3) by adding after clause "(D)" the following new clause:

"(E) special problems of the nontraditional student, including the older student (with special consideration for students over age 45) and the part-time student, and the institution which the student attends;".

REPEALER

SEC. 1304. (a) Section 405(f)(3) of the General Education Provisions Act is repealed.

(b) Paragraph (4) of section 405(f) of such Act is redesignated as paragraph (3).

TITLE XIV—ROBERT A. TAFT INSTITUTE

SHORT TITLE

SEC. 1401. This title may be cited as the "Robert A. Taft Institute of Government Trust Fund Act".

DEFINITIONS

SEC. 1402. For purposes of this title, the term—

(1) "Fund" means the Robert A. Taft Institute Trust Fund established in section 1404; and

(2) "Institute" means the Robert A. Taft Institute of Government located in New York, New York.

GRANTS FOR DEVELOPMENT

SEC. 1403. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants from the Fund established in section 1404 to assist in the development of the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the lesser of (1) the total amount of private contributions received by the Institute in the fiscal year prior to the fiscal year in which the grants are made, or (2) the income of the Fund generated in the fiscal year prior to the fiscal year in which the grants are made.

(c) No payment may be made under this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

ESTABLISHMENT OF FUND

SEC. 1404. (a) There is established in the Treasury of the United States a trust fund to be known as the Robert A. Taft Institute Trust Fund. The Fund shall consist of amounts appropriated pursuant to subsection (f).

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(c) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(d) Except as provided in subsection (e), the interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to form a part of the Fund.

(e) Within thirty days after the end of each fiscal year, the Secretary of the Treasury shall determine the total amount of private contributions received by the Robert A. Taft Institute during such fiscal year and the total amount of income generated by the Fund in such fiscal year. If the Secretary determines that the total amount of income generated by the Fund in any fiscal year exceeded the total amount of private contributions received by the Institute in such fiscal year, the Secretary shall transfer from the Fund to the general fund of the Treasury an amount equal to the difference between the income generated in such fiscal year and the amount of private contributions received in such fiscal year.

(f) There are authorized to be appropriated to the Fund $11,250,000.

TITLE XV—GENERAL EDUCATION PROVISIONS

CONTINGENT EXTENSION

SEC. 1501. (a) The first sentence of section 414 of the General Education Provisions Act is amended by striking out "for one additional fiscal year" and inserting in lieu thereof the following: "for—

"(i) two additional fiscal years for any applicable program authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation, or

"(ii) one additional fiscal year for any other applicable program.".

(b) The second sentence of such section is amended by striking out "for such additional year" and inserting in lieu thereof "for each additional fiscal year".

ENFORCEMENT OF THE RULES

SEC. 1502. The first sentence of section 431 (d)(1) of the Act is amended by inserting before the period a comma and the following: "in whole or in part".

SCIENCE EDUCATION PROGRAMS

SEC. 1503. The General Education Provisions Act is amended by inserting after section 406 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE EDUCATION PROGRAMS

"SEC. 406A. There is authorized to be appropriated to the Secretary of Education for fiscal year 1981—

"(1) $2,500,000 for the purpose of carrying out the Pre-College Science Teacher Training program, and

"(2) $5,000,000 for the purpose of carrying out the Minority Institutions Science program

transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act.".

COMMISSION ON THE REVIEW OF THE FEDERAL IMPACT AID PROGRAM

SEC. 1504. (a) The Commission on the Review of the Federal Impact Aid Program, established under section 1015 of the Education Amendments of 1978 shall be continued for the purpose of enabling such Commission to prepare and submit to the President and the Congress not more than three reports supplemental to its final report required under the provisions of such section 1015. The first of such reports shall be submitted no later than July 1, 1981; and the last thereof shall be submitted no later than 180 days after the submission of the first thereof. Such supplemental reports shall include such information and recommendations as such Commission determines to be appropriate and shall at least include reports on studies of—

(1) the economic benefits and burdens on local educational agencies resulting from activities taking place on Federal property;

(2) the operation of the programs authorized by Public Law 874, Eighty-first Congress, with respect to children residing on Indian lands;

(3) the relationship between such programs and State programs of payments to local educational agencies, including equalization plans;

(4) payments to such agencies for the education of children residing in low-rent public housing; and

(5) the costs to such agencies of complying with Federal laws and regulations and of serving children who are in attendance at their schools by reason of Federal policies.

(b) All funds designated, allocated, or otherwise available (or to be available) to the Commission for its operating expenses shall, notwithstanding any other provision of law, be made available to such Commission, and remain available to such Commission for such purpose until expended, without regard to fiscal year limitations. In addition, with respect to the fiscal year ending September 30, 1981, the Secretary of Education shall, notwithstanding any such provision of law, make available to such Commission, from any funds appropriated to the Department of Education, such funds as may be necessary to enable the Commission to maintain its level of operations, except that the total amount so available for any month shall not exceed 110 per centum of the average monthly amount available for expenditure by the Commission during the fiscal year ending September 30, 1980.

(c) In exercising its authority to appoint and compensate necessary staff under part D of the General Education Provisions Act, such Commission shall have such authority without regard for the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, regarding the classification of positions and the qualification of persons to fill such positions. Upon the expiration of the Commission all persons employed by the Commission for a period in excess of one year shall be considered as having held permanent positions in the Government service for the period of their employment by the Commission.

(d) The terms of office of the members of such Commission shall be coterminus with the duration of the Commission and the number of such members shall be equal to the number who are in office at any time, except that such number shall not exceed the number specified in such section 1015. A quorum of the Commission shall be equal to a majority of the members of the Commission who have qualified.

(e) This section shall be effective upon the submission to the Congress of a Special Report of such Commission requesting the authority provided in this section.

EVALUATION REPORTS

SEC. 1505. Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period a comma and the following: "including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries".

EDUCATION IMPACT STATEMENT

SEC. 1506. Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"EDUCATION IMPACT STATEMENT

"SEC. 409. Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after the date of enactment of this Act, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall—

"(1) determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States; and

"(2) assess the cost and time involved in complying with such regulation by institutions of higher education which would be affected thereby.

Notwithstanding the exception provided under section 553(b) of title 5, United States Code, such statement shall be based upon the record established under the provisions of section 553 of title 5, United States Code, compiled during the rulemaking proceeding regarding such regulation.".

ADMINISTRATIVE SIMPLIFICATION STUDY AUTHORIZED

SEC. 1507. (a) It is the purpose of this section to examine, by way of study and agreements with selected States, if the administration of certain elementary and secondary education programs can be simplified at the State and local level while at the same time assuring that the delivery of educational services remains unimpaired.

(b)(1) The Secretary of Education is authorized and directed to make a comprehensive study, in accordance with the plan required pursuant to paragraph (1) of subsection (e), of the programs authorized by—

(A) the Elementary and Secondary Education Act of 1965,

(B) the Vocational Education Act of 1963 and

(C) the Education of the Handicapped Act in order to analyze—

(i) if there are duplications, conflicts and unnecessary reporting requirements contained in the laws authorizing such programs;

(ii) if there are duplications, conflicts and unnecessary reporting requirements contained in the regulations promulgated to carry out such programs;

(iii) the relationship between the Federal programs set forth in clauses (A), (B), and (C) and similar State programs; and

(iv) the feasibility of the use of a single comprehensive State plan for such programs, including, but not limited to State assurances regarding fund accounting and control, use of Federal funds, the relationship between Federal funds and State and local funds, and basic protections regarding the rights of individual children.

(2) The Secretary shall prepare and submit to the Congress a report of the study required by this subsection in accordance with the provisions of subsection (e)(2) of this section.

(c)(1) In carrying out the study required under subsection (b), the Secretary is authorized to enter into agreements, in accordance with the provisions of this subsection, with not less than four nor more than ten States for the conduct of study projects involving such simplification.

(2) Each such agreement shall contain provisions designed to assure that—

(A) the State will enter into agreements with at least five local or intermediate educational agencies within the State in which the study projects subject to the agreement will be carried out based on criteria established by the Secretary including—

(i) geographic location within the State,

(ii) population, size, and composition, and

(iii) appropriate assurances that the local educational agency will carry out the study project subject to the agreement;

(B) the amount expended under the agreement for education of the disadvantaged and the handicapped under the programs authorized by clauses (A), (B), and (C) of paragraph (1) of subsection (b) in each local educational agency selected will not be less in any fiscal year subject to the agreement than the amount expended under such programs for the disadvantaged and the handicapped in that agency in the fiscal year 1980; and

(C) the State educational agency will provide the information necessary for analysis of the projects subject to the agreement as required by subsection (d);

(D) the State educational agency will undertake a program of study, in cooperation with selected local or intermediate educational agencies, designed to identify means for achieving increased simplification of and coordination among the programs authorized by paragraph (1) of this subsection; and such program of study shall include—

(i) identification of specific areas for simplification and improved coordination,

(ii) development of recommendations for possible changes in policies, procedures, regulations or statutes,

(iii) identification of specific actions which can be taken by State or local educational agencies to simplify or improve the coordination of programs without modifications of current Federal statutes or regulations, and the development of models for implementation of such actions, and

(E) the State educational agency shall prepare and submit to the Secretary, not later than September 1, 1982, a final report of the study activities undertaken pursuant to the agreement, and such report shall include—

(i) a summary of the study activities undertaken pursuant to the agreement;

(ii) recommendations, if any, for changes in Federal policies, regulations or statutes to simplify or improve the coordination of the programs authorized by paragraph (1) of this subsection ;

(iii) description of models, if any, for simplification or improved coordination of programs without modification of current statutes or regulations, for dissemination to other State and local educational agencies;

(iv) an analysis of the projected impact of the recommendations in division (ii) on—

(I) reduction of duplication of effort and unnecessary paperwork; and

(II) the capacity of local educational agencies to provide quality educational services to the target populations in accordance with the objectives of the programs authorized by paragraph (1) of subsection (b).

(d) The Secretary, through the National Institute of Education, shall summarize, synthesize, and make an analysis of the State study projects authorized under subsection (c) of this section. The analysis shall include an analysis of the projected impact of State recommendations and proposals on—

(1) the administrative burden at the State and local levels, including an assessment of the extent to which the recommendations or proposals would reduce duplication of effort and unnecessary paperwork;

(2) the decisionmaking process for local program implementation, including the effect of the recommendations or proposals on the degree of coordination among Federal programs and State and local education services;

(3) the services provided to target populations, including the extent to which services shift among target populations whenever there are changes in the quantity and quality of services for particular target populations;

(4) the composition of target populations;

(5) the ability to monitor and evaluate the effectiveness of programs for separate target populations; and

(6) State and local jurisdictions in relation to distribution of educational funds based on fiscal capacity, tax effort, and educational need.

(e)(1)(A) The Secretary shall develop, with direct and active consultation with The Intergovernmental Advisory Council on Education, a plan for carrying out the study authorized by the section. Such plan shall set forth—

(i) The subjects and activities to be included in the study.

(ii) The relationship of the study to other previous or current research or analysis, including the study of school finance authorized by section 1203 of the Education Amendments of 1978.

(iii) The plan for entering into agreements with States pursuant to subsection (c), including the criteria to be used for selecting participating States.

(B) The Secretary shall submit the plan required under this paragraph to the Congress, within sixty days after the enactment of this section. The Secretary shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Secretary shall modify the plan as necessary to reflect the comments and recommendations of the Congress.

(2) The Secretary shall, with consultation with The Intergovernmental Advisory Council on Education, prepare and submit to the Congress, not later than January 1, 1983, a final report on the study projects conducted pursuant to this section. Such report shall include recommendations made by the State, intermediate and local education agencies taking part in study projects and recommendations of the Secretary. The Secretary may prepare and submit to the Congress such interim reports as the Secretary deems advisable. The report required by this subsection shall contain such conclusions as the Secretary determines are supported by the study and demonstration projects and will carry out the purposes of this section.

(f) For the purposes of this section there is authorized to be appropriated $7,000,000 for fiscal years 1981 and 1982 and $1,000,000 for fiscal year 1983. The Secretary is also authorized to use funds from other available sources for the purposes of this section.

(g) For the purpose of this section the term—

(1) "local education agency" has the same meaning given that term by section 1001(f) of the Elementary and Secondary Education Act of 1965; and

(2) "State education agency" has the same meaning given that term by section 1001(k) of the Elementary and Secondary Education Act of 1965.

TITLE XVI—AMENDMENTS TO THE REHABILITATION ACT OF 1973

COMPOSITION OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD AND TRANSMISSION OF REPORT

SEC. 1601. (a)(1) Section 502(a)(1)(B)(i) of the Rehabilitation Act of 1973 is amended to read as follows:

"(i) Department of Health and Human Services.".

(2) Section 502(a) of such Act is amended by adding the following clause immediately after clause (x):

"(xi) Department of Education.".

(b) Section 502(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Board shall, at the same time that the Board transmits the report required under section 7(b) of the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designated and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968) transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.".

INFORMATION CLEARINGHOUSE FOR HANDICAPPED INDIVIDUALS

SEC. 1602. (a) The first sentence of section 15(a) of the Rehabilitation Act of 1973 is amended by striking out "may" and inserting in lieu thereof "shall".

(b) Section 15(c) of such Act is amended by striking out "Any" and inserting in lieu thereof "The".

TITLE XVII—TAX STATUS

TAX STATUS OF THE NATIONAL PERIODICAL SYSTEM CORPORATION

SEC. 1701. (a) The National Periodical System Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory possession thereof, or by any State, county, municipality, or local taxing authority.

(b) For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation under title II of the Higher Education Act of 1965 shall be a gift, bequest, or devised to the United States.

NATIONAL DIRECT STUDENT LOAN ASSOCIATION

SEC. 1702. The National Direct Student Loan Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

TITLE XVIII—THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SHORT TITLE

SEC. 1801. This title may be cited as the "William Levi Dawson Chair of Public Affairs Act."

DEFINITION

SEC. 1802. As used in this title, the term "Secretary" means the Secretary of Education.

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1803. (a) The Secretary is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1804. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1803 of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

TITLE XIX—NATIVE HAWAIIAN EDUCATION

SHORT TITLE

SEC. 1901. This title may be cited as the "Native Hawaiian Education Act".

CONGRESSIONAL FINDINGS

SEC. 1902. The Congress finds that—

(1) striking similarities exist between Native Hawaiians and other Native American peoples with regard to their historic and political relationship with the United States and their present day circumstances;

(2) like other Native Americans, Native Hawaiians rank among the lowest in level of education attainment and per capita income; and

(3) existing Federal assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

DECLARATION OF POLICY

SEC. 1903. (a) The Congress hereby recognizes the need to develop a uniform Federal policy with respect to the eligibility of Native Hawaiians for special Federal assistance commensurate with their status as Native Americans.

(b) The Congress declares its commitment to providing the quantity and quality of educational services and opportunities which Native Hawaiians need and desire.

REVISIONS OF IMPACTED AREAS PROGRAM AS IT RELATES TO NATIVE HAWAIIAN CHILDREN

SEC. 1904. The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating title IV as title V, by redesignating sections 401 through 403 and references thereto as sections 501 through 503, respectively, and by adding after title III the following new title:

"TITLE IV—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF NATIVE HAWAIIAN CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Native Hawaiian Elementary and Secondary School Assistance Act'.

"PROGRAM AUTHORIZED

"SEC. 402. The Secretary shall carry out a program of making grants to local educational agencies in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 403. (a) (1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year during the period beginning October 1, 1981, and ending September 30, 1983, the Secretary shall determine the sum of (A) the number of Native Hawaiian children who were enrolled in the schools of a local educational agency, and for whom that agency provided free public education, during that fiscal year, and (B) the number of Native Hawaiian children (other than children enrolled in private schools) who were eligible for enrollment in the schools of that local educational agency for that fiscal year but who did not enroll. The sum of the number of children so determined shall be multiplied by the average per pupil expenditure for that agency (as determined under subparagraph (2)).

"(2) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all the local educational agencies in the State in which that agency is located, plus any direct current expenditures by that State for the operation of those agencies (without regard to the sources of funds from which either of those expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom those agencies provided free public education during that preceding fiscal year.

"(b) (1) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to 75 per centum of the amount computed for that agency for that fiscal year under subsection (a).

"(2) Twenty-five per centum of the amount computed under subsection (a) for all local educational agencies for any fiscal year shall be available during that fiscal year for the purposes of subsection 813(c) of title VIII of the Elementary and Secondary Education Act of 1965, with priority being given to the development and establishing of early childhood services and programs. The amount appropriated under this subsection shall be in addition to such amounts authorized to be appropriated under subsection 1013(c) of title VIII of the Elementary and Secondary Education Act of 1965.

"(c) In addition to the sums appropriated for grants to local educational agencies under this title, there is authorized to be appropriated for any fiscal year an amount not to exceed 10 per centum of the amount appropriated for payments computed under subsection (b) for that fiscal year. From the amount appropriated for the purpose of this section, the Secretary is authorized to provide financial assistance to schools which are not local educational agencies or have not been local educational agencies for more than three years.

"USES OF FEDERAL FUNDS

"SEC. 404. (a) Grants under this title may be used, in accordance with applications approved under section 405, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs including minor remodeling of classrooms or other space used for the programs and acquisitions of necessary equipment, specially designed to meet the special educational and culturally related academic needs, or both, of Native Hawaiian children.

"(b) A program or project assisted under this part may include the participation of non-Native Hawaiian children where that participation does not frustrate or inhibit the achievement of the purpose of the program as set out in subsection (a).

"(c) Any local educational agency receiving a grant under this title is authorized to enter into a contract or other agreement with a qualified Native Hawaiian organization for the purpose of enabling such organization to administer such grant for the purposes set forth in subsection (a) of this section.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 405. (a) A grant under this title, except as provided in section 403(c), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 404, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Native Hawaiian students;

"(5) set forth policies and procedures which will ensure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds from local, State, and other Federal sources that would, in the absence of Federal funds under this title, be made available by the applicant for the education of Native Hawaiian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Native Hawaiian students in the area served, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Hawaiian Native community) and will substantially increase the educational opportunities of Native Hawaiian children in the area to be served by the applicant;

"(B) has been developed—

"(i) in open consultation with parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of Native Hawaiian children enrolled in the applicant's schools, teachers of those children, and, where applicable, Native Hawaiian secondary school students with such parents constituting a majority of the committee. In the State of Hawaii there shall be seven such committees created in accordance with the boundaries of existing school board districts as set out in title 18, section 296-7 of Hawaii Revised Statutes (1968) except that no committee shall be created to serve any at-large district. The participation and approval of each such committee representing an area to be served by the applicant shall be required; and

"(C) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the Native Hawaiian children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 406. (a) The Secretary shall, subject to the provisions of section 407, from time to time pay to each local educational agency which has had an application approved under section 405, an amount equal to the amount expended by such agency in carrying out activities under its application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of that local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Secretary) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 407. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for that fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Secretary may allot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local educational agency in excess of the amount to which it is entitled under section 403 and subsection (a) of this section, or any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1905. (a) Title X of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR NATIVE HAWAIIAN CHILDREN

"SEC. 1007. (a) The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Native Hawaiian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Native Hawaiian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Native Hawaiian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Native Hawaiian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Native Hawaiian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Native Hawaiian children.

"(b) The Secretary is authorized to make grants to State and local educational agencies, local universities, and Native Hawaiian organizations to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Native Hawaiian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Native Hawaiian children;

"(4) innovative initiatives utilizing the nursing assessment process of clinical nurse specialists and their related training programs, designed to further the child's interest in learning by building upon the relationship between the child and other significant individuals in the child's life; and

"(5) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Secretary is also authorized to make grants to State and local educational agencies and to Native Hawaiian institutions and community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Native Hawaiian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) early childhood education programs, remedial and compensatory instruction, school health, physical education, psychological, nursing, and other services designed to assist and encourage Native Hawaiian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, text books, and other printed, published, or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped and gifted and talented Native Hawaiian children;

"(F) early childhood programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Native Hawaiian children.

"(d) The Secretary is also authorized to make grants to institutions of higher education and to State and local educational agencies in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Native Hawaiian children as teachers, teachers aides, counselors, nurses, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Native Hawaiian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Secretary is also authorized to make grants to and contract with, public agencies, and institutions and Native Hawaiian organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Native Hawaiian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Secretary shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $10,000,000 for the fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years.".

SPECIAL EDUCATION TRAINING PROGRAMS FOR TEACHERS OF NATIVE HAWAIIAN CHILDREN

SEC. 1906. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, and Native Hawaiian organizations, for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Native Hawaiian children and to provide inservice training for persons teaching in such programs. In carrying out his responsibilities under this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education and Native Hawaiian organizations, for cost of education allowances.

(b) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for, dependents of persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

FELLOWSHIPS FOR NATIVE HAWAIIAN STUDENTS

SEC. 1907. (a) During the fiscal year 1981, and each of the three succeeding fiscal years, the Secretary is authorized to award not to exceed one hundred fellowships to be used for study in undergraduate, graduate, and professional programs at institutions of higher education. Such fellowships shall be awarded to Native Hawaiian students in order to enable them to pursue a course of study of not more than four academic years leading toward a professional or graduate degree in medicine, law, education, psychology, nursing, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Secretary is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the followship it replaces was awarded, as the Secretary may determine.

(b) The Secretary shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Secretary shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to cover the cost of education for the holder of such a fellowship.

(d) There is authorized to be appropriated $500,000 for the fiscal year 1981, and for each of the three succeeding fiscal years to carry out the provisions of this section.

SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR NATIVE HAWAIIANS

SEC. 1908. The Adult Education Act is amended by inserting after section 316 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT NATIVE HAWAIIANS

"SEC. 316A. (a) The Secretary shall carry out a program of making grants to State and local educational agencies, local universities, and to Native Hawaiian institutions and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Native Hawaiians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Native Hawaiians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Native Hawaiian adults and (B) the provision of opportunities to all Native Hawaiian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Native Hawaiians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of educational programs which may offer opportunities to Native Hawaiian adults.

"(b) The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Native Hawaiian organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Native Hawaiian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Native Hawaiian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought; and

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project.

"(d) For the purpose of making grants and contracts under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year 1982, and $2,000,000 for each of the two succeeding fiscal years.".

ADMINISTRATION

SEC. 1909. Section 441 of the Indian Education Act is amended by redesignating subsection (b) of such section, and all references thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Office for Elementary and Secondary Education of the Department of Education shall have further responsibility for administering the provisions of title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), section 813 of title VIII of the Elementary and Secondary Education Act of 1965, and section 315 of title III of the Adult Education Act.".

ADVISORY COUNCIL ON NATIVE HAWAIIAN EDUCATION

SEC. 1910. (a) There is hereby established the Advisory Council on Native Hawaiian Education (referred to in this title as the Council), which shall consist of seven members who are Native Hawaiians appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Native Hawaiian organizations.

(b) The Council shall—

(1) advise the Secretary of Education with respect to the administration (including the development of regulations, administrative practices, and policies) of any program in which Native Hawaiian children or adults participate from which they can benefit, including title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 1007, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title IV of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 1007 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 316A of the Adult Education Act, as added by this Act, and make recommendations to the Secretary regarding their approval;

(3) evaluate programs and projects carried out under any program of the Department of Health and Human Services in which Native Hawaiian children or adults can participate or from which they can benefit and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Native Hawaiian organizations to assist them in improving the education of Native Hawaiian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under section 403(b) of the Act of September 20, 1950 (Public Law 874, Eighty-first Congress); and

(6) submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Native Hawaiian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) With respect to functions of the Council stated in clauses (2), (3), and (4) of subsection (b), the Council is authorized to contract to the extent provided in appropriation Acts with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(c) of the General Education Provision Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the Council to carry out its functions under this section.

DEFINITIONS

SEC. 1911. For the purposes of this title—

(1) the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778;

(2) the term "Native Hawaiian organization" includes Native Hawaiian nonprofit institutions and agencies as well as Native Hawaiian community organizations; and

(3) the term "parent" includes a legal guardian or other person standing in loco parentis.

SAVINGS PROVISION

SEC. 1912. Nothing in this title shall be construed as modifying or otherwise affecting, directly or indirectly, any provision of the Hawaiian Homes Commission Act, 1920.

TITLE XX—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 2001. (a) Section 506 of the Education Amendments of 1972 is amended—

(1) by inserting ", the Community College of American Samoa, the Community College of Micronesia," immediately after "The College of the Virgin Islands" in subsection (a);

(2) by striking out "Virgin Islands and Guam" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, American Samoa, and Micronesia"; and

(3) by striking out "Guam." in such subsection and inserting in lieu thereof "Guam and an equal amount to American Samoa.".

(b) Section 5 of the Act of August 30, 1890 (7 U.S.C. 327), commonly referred to as the Second Morrill Act, is amended by inserting ", American Samoa, and Micronesia," immediately after "the Virgin Islands".

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the Manua Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

TITLE XXI—GENERAL DANIEL JAMES MEMORIAL HEALTH EDUCATION CENTER

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 2101. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2102. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

TITLE XXII—THE NAVAJO COMMUNITY COLLEGE ASSISTANCE PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 2201. (a) Section 5(a)(1) of the Navajo Community College Act is amended by striking out "two" and inserting in lieu thereof "three".

(b) Section 5(b)(1) of such Act is amended by striking out "(determined in accordance with section 2(7) of the Tribally Controlled Community College Assistance Act of 1978)" and inserting in lieu thereof "(determined by adding all the credit hours throughout the year which are taken by Indian students and dividing the sum by 15)".

EFFECT ON OTHER LAWS

SEC. 2202. Section 113(a) of the Tribally Controlled Community Colleges Assistance Act of 1978 is amended by inserting before the period a comma and the following: "except that section 108 shall apply to the Navajo Community College".

TITLE XXIII—REFUGEE CHILDREN IMPACT AID PROGRAM

PROGRAM AUTHORIZED

SEC. 2301. The Act of September 30, 1950 (Public Law 874, 81st Cong.), relating to impact aid, is amended by adding after section 4 the following new section:

"REFUGEE CHILDREN

"SEC. 4A. (a)(1) Any local education agency that experiences an enrollment increase in any school year of at least 20 students as the result of the entry into any school supported by such agency of refugee children, including those who have been paroled into the United States, who are applicants for asylum or who have been granted asylum, since November 1, 1979, shall be eligible to receive payment for such children enrolled in its schools.

"(2) Each such local education agency is authorized to receive for each fiscal year an amount equal to the product of terms contained in clauses (A) and (B) of section 4(a) reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any any payment under section 3 for such fiscal year. For the next fiscal year such agency is authorized to the product of the number of children in average daily attendance determined in clause (A) (plus any further increases of such children) and the amount determined in clause (B) for such fiscal year reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year.

"(b) There are authorized to be appropriated to carry out this subsection such sums as may be necessary, and any appropriations made under the terms of this subsection shall be separate and apart from other authorizations and appropriations made under the terms of this law. If, in any fiscal year, the appropriations are insufficient to fund this subsection, then the amount of any local education agency entitlement shall be reduced on a pro rata basis for such fiscal year.".

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that H.R. 5192, as passed by the Senate, be printed expeditiously.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that consideration of S. 1839 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that the Senate insist upon its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. PELL, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. STAFFORD, Mr. JAVITS, and Mr. SCHWEIKER conferees on the part of the Senate.

Mr. PELL. Mr. President, to prepare such a bill as this takes an incredible amount of detailed work, cooperation, and many, many hours. In this regard, many staff people have worked long and hard and they have worked together to develop what I consider to be an excellent bill. I should like particularly to thank my own staff members, Jean Frohlicher and Richard Jerue.

In addition, I thank Polly Gault of Senator SCHWEIKER's staff, David Morse of Senator JAVITS' staff, Sven Groennings of Senator STAFFORD's staff, Franklin Zweig of Senator WILLIAMS' staff, Marcia McCord of Senator EAGLETON's staff, Birdie Kyle of Senator RANDOLPH's staff, and Jay Urwitz and Irene Emsellem of Senator KENNEDY's staff. I also want to express my appreciation to Blair Crownover of the Office of Legislative Counsel for his work on this bill.

I thank them for the many hours of meetings on the staff level which they have held in order to try to get rid of some of the underbrush. They have spent many hours on it and are to be congratulated.

I should like to express my appreciation, too, to David Longanecker, Deborah Kalcevic, and Cynthia Gensheimer of the Congressional Budget Office, and Bill Sanda and Jim Steadman of the Congressional Research Service of the Library of Congress. These two offices performed the high quality work that we have come to expect of them once again.

A great deal of the credit for the passage of this bill is due to the staff. I want to pay that credit to them.

Mr. STAFFORD. Mr. President, I should like the record to show that I join most heartily in the statement the majority manager (Mr. PELL) has made about the assistance we have had from staff on both sides of the aisle.

I have considered it a real pleasure to work with the distinguished Senator from Rhode Island, Mr. President. His leadership has been outstanding and it has been very stimulating to work with him on the management of this bill.

Mr. PELL. Mr. President, I thank my colleague from Vermont very much indeed. It has been a pleasure and, indeed, a delight, to work with him on this bill. I think we got it through expeditiously, in great part thanks to his work.

I yield at this point to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, H.R. 5192, which amends and extends for 5 years the Higher Education Act of 1965, is a complex and major piece of legislation, encompassing a wide range of programs in higher education. It is the result of many days of hearings and extensive work by the members of the Labor and Human Resources Committee and its Subcommittee on Education, Arts, and the Humanities. The chairman of the subcommittee (Mr. Pell) and the other members of the subcommittee, including Senators Stafford, Schweiker, and Javits, are to be commended for the diligence and thoroughness with which they undertook the important responsibility of crafting these amendments. I thank Senator Williams, chairman of the full committee, for his contribution to this important measure. The bill accurately reflects the close scrutiny which each member of the committee gave to the numerous education programs covered in this bill.

While it has been the traditional prerogative of the States to establish and administer their own education programs, and State and local governments finance the greater portion of education costs, continually rising expenses have necessitated a search for additional funding from other contributors. A major contributor has been the Federal Government.

The Federal Government has been a participant in education for almost 200 years. Since 1785, it has provided financial assistance to students who would otherwise not have been able to attend school. As our educational system has grown, the Federal Government has recognized the need to assist educational institutions in keeping up with the increasing costs of maintaining operational and educational activities.

Adequate financing is a prerequisite for quality education. This bill authorizes funding levels which realistically reflect today's severe Federal budget constraints, but which will provide room for growth in program funds, consistent with available resources.

The Higher Education Act of 1965 has been amended a number of times since its enactment. Each time, Congress has sought to update provisions in the legislation, making them more responsive to the changing needs and interests of recipients of aid and more reflective of changes in the education system itself.

The committee's recommendations reflect its continued concern with inflation and the rising costs of education and their impact on lower and middle income families. The changes proposed in the various student financial assistance programs will help to ease this financial burden.

Student assistance constitutes over 90 percent of Federal aid for higher education. It is under this program that thousands of students at colleges and universities across the country acquire loans, subsidized and guaranteed by the Federal Government, to finance their education.

The need for Federal student assistance programs is obvious. Without student aid, many of our young people would be denied the opportunity to pursue studies that can benefit them—and society—throughout their lifetimes.

But student loan programs must not be viewed as free money reservoirs. When a student accepts a loan, that student also accepts the responsibility to repay it under the agreed-upon terms.

Unfortunately, many of our student assistance programs have had high default rates, leaving the Federal Government with the responsibility to pay more than $2 billion in defaulted loans over the past 15 years.

Under pressure from Congress, the Office of Student Financial Assistance was established in 1977 to strengthen collection efforts. Significant progress has been made. Last fall, regular payments were being received on 106,000 loans, compared to only 24,000 accounts 2 years earlier.

The bill before us today contains additional incentives for a student to repay his debt. It shortens the length of time after a student graduates before he must begin repaying the loan. The committee believes that this stipulation will reduce the loan default rate because lenders should not have as much difficulty keeping track of the student's residence in the shortened grace period.

The bill also authorizes the use of credit bureau organizations in the exchange of information concerning the past performance of student borrowers. If the student is aware that his failure to repay his debt to the Federal Government will become part of his credit record, he is more likely to make timely payments on his loan.

Federal assistance in the form of grants is also authorized in this bill. The basic educational opportunity grant (BEOG) program is the centerpiece of the Federal Government's educational grants program. The BEOG program has been renamed the Pell grant program. Senator Pell was the original sponsor of the basic educational opportunity grant program. For years he has worked to make available Federal financial assistance in the form of grants to students who otherwise might have had no hope of attending a college or university. He has worked to make it an equitable program, to insure that it addresses the financial requirements of the most needy students. It is appropriate that the BEOG program be renamed the Pell grant program, in recognition of his significant and sustained contributions.

The bill addresses the financial needs of struggling colleges and universities by providing assistance for important institutional activities. For example, the committee extends such programs as college library assistance and library training and research. It provides assistance for construction, reconstruction, and renovation of academic facilities. It authorizes Teacher Corps and teacher training programs.

Three themes are consistent in this bill. They are simplification, clarification, and consolidation.

Title I, Continuing Postsecondary Education Program and Planning, revises and consolidates programs of continuing education, education information, and postsecondary statewide planning.

Title III, renamed "Institutional Aid," seeks to clarify more specifically what types of institutions are eligible for aid under this title and for what purposes the aid is to be used. The committee's proposal reflects its recognition that different institutions have different problems, and Federal aid must be more clearly targeted in order to meet these different problems.

Title IX, Graduate Programs, consolidates several existing authorities providing graduate fellowship assistance.

The task of amending the Higher Education Act of 1965 to accurately reflect the educational needs of the student of the 1980's was not an easy one. Again, I commend the members of the Committee on Labor and Human Resources, its chairman, Mr. Williams, and it's ranking minority member, Mr. Schweiker, for the considerable time and effort they gave to crafting a bill which seeks to meet these needs.

Mr. President, I want to call attention to the Pell grant program.

Mr. President, I want to thank Senator Pell, Senator Javits, Senator Stafford, the ranking member of the subcommittee, and the other members of the Subcommittee on Education, Arts and the Humanities for their attention to and thorough review of every detail of every higher education program. It has certainly made it easier for those of us who do not have the pleasure of serving on the Labor and Human Resources Committee to understand what is a very extensive, complex piece of legislation, legislation which addresses one of this Nation's most important priorities, higher education.

Mr. PELL. Mr. President, I still have the floor, I believe.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the distinguished majority leader very much for his words and I only hope I deserve them.

Mr. RANDOLPH. Mr. President, the difficult and yet productive efforts of the chairman of our Subcommittee on Education, the Humanities, and Arts, the Senator from Rhode Island (Mr. Pell), is especially appreciated by those of us who serve with him on the subcommittee. What I say about Senator Pell I can say equally about Senator Stafford, who has joined, as the ranking Republican member, in the handling of this legislation, which, in a sense, is a benchmark, a crossroads, a watershed in bringing a better understanding to a programing and a training effort, fueled with Federal dollars, but with, at the local levels, the responsibility of our people to be a part of the educational process, especially in connection with higher education.

WHY I VOTED AGAINST THE HIGHER EDUCATION REAUTHORIZATION ACT

Mr. PROXMIRE. Mr. President, while I firmly believe that education is the best investment an individual or a nation can make in itself, and that the Senate Labor and Human Resources Committee worked hard to pare down the giant, bloated House bill, I determined that I had to vote against the Higher Education Reauthorization Act. Here's why.

First of all, the Congressional Budget Office estimated that the level of outlays for higher education programs would increase from $4.5 billion in fiscal year 1982 to $8.4 billion in fiscal year 1985. This estimate excludes the more than $3 billion per year additional costs of the new greatly expanded national direct student loan program which the committee places in a new, offbudget bureaucracy, the National Direct Student Loan Association.

I share the administration's concern with both the tremendous growth planned in the direct student loan program, and in the removal of this program from the budget. I most strongly object to still another program being removed from the review and control of the congressional Appropriations Committees.

The present national direct student loan program received an appropriation of $328 million this past year. The Office of Management and Budget estimates that the overall cost of this single program under the Senate committee bill will increase tenfold next year, and will result in over $20 billion in new principal and interest costs over the next 5 years.

Second, the Senate Labor and Human Resources Committee made extremely costly changes in the "needs" tests. This liberalization in the family contribution schedule will have the effect of greatly increasing the number of students eligible for BEOG's, direct student loans, and other student aid programs. In addition, the new liberalized contribution schedule will mean an increase in the amount of aid going to any individual student.

Third, on top of the liberalized needs test the BEOG program is expanded by both increasing the maximum grant award from the present $1,800 per year to $2,600 per year in fiscal year 1985, and increasing from 50 to 60 percent the proportion of educational costs which can be covered by the grant.

Mr. President, while the committee has initiated a number of reforms in several programs, it is obvious to me that this bill will not help us restrain future growth in Federal spending, and, I therefore, felt compelled to vote against it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

WITHDRAWAL OF SOVIET TROOPS FROM AFGHANISTAN

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution for myself and Mr. BAKER. It has several cosponsors. I ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 472

Whereas, the rights of nations such as sovereignty, self-determination, and non-alignment, as well as individual human rights such as life, personal freedom, freedom of religious worship, and the right to own property are recognized in international law and in the United Nations Charter, as well as in the practice of the civilized nations of the world,

Whereas, the Soviet invasion of Afghanistan is a gross violation of Afghanistan's national sovereignty, and a threat to other nations in the region,

Whereas, the installation of a puppet regime by the Soviet Union contravenes the right of the people of Afghanistan to self-determination,

Whereas, the Soviet military presence and the installation of a Soviet-backed regime destroy the non-aligned status of Afghanistan,

Whereas, the Soviet troops are responsible for the deaths of thousands of resistance fighters in Afghanistan,

Whereas, thousands of other people in Afghanistan have been deprived of their personal freedom, have been arrested and imprisoned by the Soviet forces and the Soviet-backed regime,

Whereas, the suppression of Islam by the Soviet troops and the Soviet-backed regime denies the freedom of worship of the people of Afghanistan,

Whereas, nearly one million people in Afghanistan have been driven from their homes to seek refuge in neighboring countries, with a consequent loss of personal property and severe personal deprivation; therefore be it

Resolved, that the Senate deplores the Soviet violations of national sovereignty, self-determination, nonalignment, life, freedom of worship, and property with respect to Afghanistan;

That the Senate urges world opinion to join in condemning the Soviet actions in Afghanistan;

That the Senate joins with the United Nations General Assembly, the Islamic Conference, the European Community, the Venice Summit, and individual nations in calling for the withdrawal of all Soviet military forces from Afghanistan;

That the Senate supports the imposition of penalties on the Soviet Union for its aggression, especially the boycott of the Moscow Olympic Games, restrictions on trade in high technology, and limits on other commercial relations with the Soviet Union;

That the Senate urges the Administration to continue to bring to the attention of the United Nations the Soviet violations of basic norms of international conduct and basic rights of individuals.

That the Senate urges the Administration to continue to work with our European and Asian allies and with other nations in the region to prevent further Soviet incursions.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors:

Mr. Baker, Mr. Baucus, Mr. Bayh, Mr. Bentsen, Mr. Biden, Mr. Boren, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chiles, Mr. Cochran, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Domenici, Mr. Durkin, Mr. Durenberger, Mr. Eagleton, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Hart, Mr. Hayakawa, Mr. Huddleston, Mr. Humphrey, Mr. Jackson, Mr. Jepsen, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Magnuson, Mr. McGovern, Mr. Metzenbaum, Mr. Mitchell, Mr. Morgan, Mr. Nelson, Mr. Nunn, Mr. Packwood, Mr. Percy, Mr. Proxmire, Mr. Pryor, Mr. Randolph, Mr. Ribicoff, Mr. Riegle, Mr. Sarbanes, Mr. Sasser, Mr. Stevens, Mr. Stewart, Mr. Stone, Mr. Tower, Mr. Tsongas, Mr. Weicker, Mr. Williams, and Mr. Young.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that other Senators who wish to cosponsor the resolution may do so by adding their names at the desk during the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I had indicated to Mr. BAKER that a voice vote would be sufficient on the resolution, but I wish to talk with him further during the day about a rollcall vote.

I, therefore, ask unanimous consent that the Senate proceed to the immediate consideration, but that final passage of the resolution occur at some point later today after I have consulted with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes for debate on the resolution at some point later today, the time to be equally divided between the majority and minority leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

POWERPLANT FUELS CONSERVATION ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2470, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2470) to reduce consumption of petroleum and natural gas by electric utilities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Powerplant Fuels Conservation Act of 1980".

SEC. 2. Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305 is amended by inserting new subsection (d), to take effect upon date of enactment of this Act, as follows:

"(d) PROHIBITION APPLICABLE TO LISTED POWERPLANTS.—(1) Except to such extent as exemptions under subtitle B may be granted, petroleum or natural gas shall not be used as a primary energy source in any of the electric powerplants identified on the following list:

LIST FOR GENERAL PROHIBITION

Company	Facility	Boiler unit	State
Atlantic City Electric Co.	Deepwater	7, 8, 9	New Jersey.
Baltimore Gas & Electric Co.	Brandon Shores	1, 2	Maryland.
	C. P. Crane	1, 2	Do.
	H. A. Wagner	1, 2	Do.
Boston Edison Co.	Mystic	4, 5, 6	Massachusetts.
Central Hudson Gas & Electric Corp.	Danskammer	3, 4	New York.
Central Maine Power Co.	Mason	3, 4, 5	Maine.
Commonwealth Edison Co.	Collins	4, 5	Illinois.
Consolidated Edison Co. of New York, Inc.	Arthur Kill	2, 3	New York.
	Ravenswood	3	Do.
Delmarva Power & Light Co.	Edge Moor	1, 2, 3, 4	Delaware.
Detroit Edison Co.	River Rouge	1	Michigan.
	St. Clair	5	Do.
General Public Utilities Service Corp.: Jersey Central Power & Light Co.	Sayreville	4, 5	New Jersey.
Long Island Lighting Co.	E. F. Barrett	1, 2	New York.
	Port Jefferson	3, 4	Do.
New England Electric System: New England Power Co.	Brayton Point	1, 2, 3	Massachusetts.
	Salem Harbor	1, 2, 3	Do.
New England Gas & Electric Association: Canal Electric Co.	Canal	1	Do.
New England Gas & Electric Association: Narragansett Electric Co.	South Street	12	Rhode Island.
Niagara Mohawk Power Corp.	Albany	1, 2, 3, 4	New York.
Northeast Utilities: Connecticut Light & Power Co.	Devon	7, 8	Connecticut.
	Norwalk Harbor	1, 2	Do.
Northeast Utilities: Holyoke Water Power Co.	Mount Tom	1	Massachusetts.
Northeast Utilities: Western Massachusetts Electric Co.	West Springfield	1, 2, 3	Do.
Orange & Rockland Utilities, Inc.	Lovett	4, 5	New York.
Philadelphia Electric Co.	Cromby	2	Pennsylvania.
Public Service Co. of New Hampshire	Schiller	4, 5, 6	New Hampshire.
Public Service Electric & Gas Co.	Bergen	1, 2	New Jersey.
	Burlington	7	Do.
	Hudson	1	Do.
Savannah Electric & Power Co.	Effingham Station	1	Georgia.
Tampa Electric Co.	F. J. Gannon	1, 2, 3, 4	Florida.
United Illuminating Co.	Bridgeport Harbor	3	Connecticut.
Virginia Electric & Power Co.	Chesterfield	3, 4, 5, 6	Virginia.
	Portsmouth	3, 4	Do.
	Possum Point	3, 4	Do.
	Yorktown	1, 2	Do.

"(2)(A) The prohibition for each such powerplant shall be subject to a temporary stay until—

"(i) the Secretary awards financial assistance to the affected eligible utility for the purpose of assisting such utility in meeting the qualifying capital costs of converting the specified powerplant and the utility has implemented an approved conversion plan; or

"(ii) until a final order has been issued granting the affected petitioner's petition for an exemption.

"(B) In cases where the petition for an exemption is denied, the temporary stay shall continue in effect until the unsuccessful petitioner has implemented an approved conversion plan for converting the specified powerplant.

"(3) The Secretary shall notify the affected utility of the existence and effect of this prohibition for each such powerplant within 30 days of the date of enactment of this subsection. Such notification shall be made pursuant to subsection 701(b).

"(A) Within 90 days of receipt of such notice, each affected utility shall notify the Secretary whether it is in compliance with such notice and whether it intends—

"(i) to submit a financial assistance application and proposed conversion plan pursuant to section 603; or

"(ii) to submit a petition for an exemption pursuant to subtitle B.

"(B) If a utility fails to comply with the notification requirements pursuant to subparagraph (A) above for any powerplant—

"(i) such utility shall not be eligible to receive financial assistance, and

"(ii) the temporary stay provided by paragraph 301(d)(2) shall be terminated,

unless the Secretary determines there is good cause for such failure to notify.".

SPECIAL EXEMPTIONS FROM SECTION 301(d) PROHIBITIONS

SEC. 3. Title III, Subtitle B, of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting a new section 315 as follows:

"SEC. 315. SPECIAL EXEMPTIONS FROM SECTION 301(d) PROHIBITIONS

"(a) PERMANENT EXEMPTION FOR LACK OF FINANCIAL FEASIBILITY.—

"(1) After consideration of a petition (and comments thereon) for an exemption for one or more powerplants from the prohibition contained in subsection 301(d) of this Act, the Secretary shall, by order, grant a permanent exemption for one or more powerplants under this subsection if he finds that the petitioner has demonstrated that despite diligent good faith efforts to secure conversion financing and taking into account any financial assistance which may be available under section 603 of this Act, it is not feasible for the petitioner to finance the conversion.

"(2) In making his determination the Secretary shall take into account—

"(A) the capital and operating costs of the conversion;

"(B) whether the cost of the conversion will have an adverse effect upon the petitioner's ability to secure financing for other current or planned construction or conversion projects, especially if such projects shall result in a reduction in oil use;

"(C) the rate treatment requested by the petitioner from the appropriate regulatory body, and the rate treatment granted;

"(D) other pertinent factors used in financial and investment analyses affecting the utility's present and projected financial situation including but not limited to—

"(i) the rates charged by the electric utility relative to rates charged by other electric utilities;

"(ii) its debt/equity ratio;

"(iii) the market to book ratio of its stock;

"(iv) its bond rating;

"(v) its interest coverage ratio;

"(vi) its permitted and existing dividend policies; and

"(vii) its rate of return on investment; and

"(E) if available, the views of the petitioner's Federal and State regulatory authorities whether the petition should be granted or denied.

"(3) The requirements of section 313 shall not apply to petitions for an exemption pursuant to this subsection.

"(b) PERMANENT EXEMPTION FOR LACK OF TECHNICAL CAPABILITY.—After consideration of a petition (and comments thereon) for an exemption for a powerplant from the prohibition contained in subsection 301(d) of this Act, the Secretary shall, by order, grant a permanent exemption under this subsection if he finds that the petitioner has demonstrated that—

"(1) such powerplant does not have, or has not previously had, the technical capability to use coal or another alternate fuel as a primary energy source; or

"(2) such powerplant does not have the technical capability to use coal or another alternate fuel as a primary energy source, or it could not have such capability without—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant.".

FINANCIAL ASSISTANCE

SEC. 4. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by adding new section 603 thereto, as follows:

"SEC. 603. FINANCIAL ASSISTANCE TO ASSIST CERTAIN POWERPLANTS IN ACHIEVING COMPLIANCE.

"(a) FINANCIAL ASSISTANCE AUTHORITY.—The Secretary shall, in accordance with the provisions of this section and to the extent provided in appropriation Acts, make grants, and may make additional grants and loans, or combinations thereof, which shall not be considered as income for purposes of Federal income taxes, to any eligible utility under this section, based on an approved financial assistance application and proposed conversion plan, for the purpose of assisting such utility in meeting qualifying capital costs of converting existing electric powerplants subject to the prohibitions of section 301(d) to the use of coal or another alternate fuel as a primary energy source.

"(b) ELIGIBILITY.—Only utilities that own or operate electric powerplants subject to the prohibitions of section 301(d) of this Act, and which have—

"(1) notified the Secretary of their compliance or their intent pursuant to section 301(d)(3) to achieve compliance with such prohibitions by converting such powerplants to the use of coal or another alternate fuel as a primary energy source; or

"(2) in those instances where the petitioner has been granted an exemption pursuant to subsection 311 (a) or (g), or 312 (a), (b), or (e), or 315

shall be eligible to apply for funding under this section.

"(c) QUALIFYING CAPITAL COSTS.—For purposes of this section, the term—

"(1) 'qualifying capital costs' means capital costs incurred by an eligible utility after November 9, 1978, or, for purposes of subsection (g) of this section, after the date of enactment of this section, in converting any electric powerplant subject to the prohibitions of section 301(d) of this Act to the use of coal or another alternate fuel, including modifications to the powerplant, onsite fuel transportation facilities, onsite fuel storage, and onsite fuel handling equipment, and onsite capital costs required to comply with air pollution control and other applicable environmental requirements directly related to the conversion. 'Qualifying capital costs' shall not include operating, maintenance, and fuel costs.

"(2) 'onsite' means on the existing site of the powerplant or on any new property in the immediate vicinity which must be added to such site to accommodate the conversion.

"(d) Financial Assistance Application.—

"(1) Submission and content.—No later than 360 days after enactment of this Act, any eligible utility seeking financial assistance shall submit to the Secretary, and shall transmit to the Governor of the State in which the affected powerplant is located, a financial assistance application and proposed conversion plan or an alternative oil reduction strategy, which shall include—

"(A) engineering design and capital cost estimates to accomplish facility conversion to the use of coal or another alternate fuel;

"(B) an evaluation of environmental impacts resulting from conversion and operation of the subject powerplant using coal or another alternate fuel, including—

"(i) options available to the applicant utility for minimizing any such impacts; and

"(ii) actions which will be taken by the applicant utility to minimize any such impacts;

"(C) a demonstration that the proposed conversion plan constitutes a prudent and cost-effective means to achieve conversion of the powerplant to the use of coal or another alternate fuel;

"(D) sources of and transportation plans for coal or other alternate fuel used or to be used in the converting facility; and

"(E) a schedule indicating how and when compliance with the applicable prohibition will occur.

"(2) Supplemental assistance information.—If an eligible utility seeks supplemental funding assistance based upon financial need pursuant to subsection (g) of this section, its application, in addition to the material set forth above, shall contain a showing of financial need which shall include—

"(A) an analysis of the financial circumstances of the utility adequate to demonstrate that, taking into account all other financial burdens upon the utility, the reasonable expectations for financing of the conversion, and the financial assistance otherwise available under the provisions of this Act, unless supplemental funding assistance is provided, the conversion cannot be expected to be accomplished without imposing unreasonable and uneconomic burdens upon the ratepayers of the utility, endangering the financial integrity of the utility, or substantially inhibiting its ability to raise capital to finance such conversion and other planned construction and maintenance projects, particularly other planned oil reduction measures, or unreasonably distorting the schedule or effectiveness of other current or planned capital investments necessary to the utility's accomplishment of its utility responsibilities;

"(B) a statement of the supplement funding in the form of loans and grants pursuant to this Act which the utility believes to be necessary for its accomplishment of the conversion; and

"(C) such supporting documents as the utility believes necessary to confirm the analysis set forth in the application.

"(3) Extension of time.—The Secretary may extend the deadlines for submission of a financial assistance application and proposed conversion plan or alternative oil reduction strategy, set forth in paragraph (1) of this section.

"(4) Verification.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates and other information submitted in financial assistance applications under this section. In consideration of an application for supplemental funding pursuant to paragraph (2) of this subsection, the Secretary may request such supporting information as may be required to verify the showing but only to the extent that the information requested could otherwise be available to him under provisions of law existing upon the date of enactment of this section.

"(5) Comment.—The Secretary shall provide an opportunity for comment by the Governor and the State regulatory authority of the State in which the subject facility is located, on any financial assistance application and proposed conversion plan or alternative oil reduction strategy submitted under this section.

"(6) Consultation with other agencies.—A copy of any financial assistance application and proposed conversion plan or alternative oil reduction strategy submitted to the Secretary under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, the Secretary of the Department of Labor, and to such other interested Federal agencies as he may deem appropriate, and the Secretary shall, to the maximum extent practicable, consult with such agencies in approving or disapproving such applications. In considering an application for supplemental funding pursuant to paragraph (2) of this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

"(7) Approval.—Within 180 days of their submission in accordance with the requirements of this section, the Secretary shall—

"(A) approve any financial assistance application and proposed conversion plan or alternative oil reduction strategy; or

"(B) shall state the reasons for his failure to approve such application and plan or strategy.

"(e) Terms and Conditions.—The Secretary, in approving any financial assistance application and proposed conversion plan or alternative oil reduction strategy under this section, may impose such terms and conditions as he determines appropriate to implement the conversion plan or reduction strategy.

"(f) Funding.—In making grants pursuant to this section, except as provided in subsection (g), the Secretary shall provide funds to any eligible utility in an amount equal to 25 percent of such utility's qualifying capital costs, as defined in subsection (c) of this section.

"(g) Supplemental Funding Assistance.—In addition to any funding which is provided pursuant to the authority of subsection 603(f), the Secretary, upon a showing of financial need pursuant to subsection 603 (d) (2), is authorized to provide supplemental financial assistance to any eligible utility in additional amounts which may include—

"(1) loans in any amount not to exceed 50 percent of such utility's qualifying capital costs;

"(2) grants in an amount not to exceed 25 percent of such utility's qualifiying capital costs; or

"(3) a combination of loans and grants of which the grant portion shall not exceed 25 percent and the total of loans and grants shall not exceed 50 percent of such utility's qualifying capital costs.

"(h) Payment.—The Secretary shall not make payment of any loan or grant amount to any utility until such utility certifies that it has incurred a qualifying capital cost. At no time will the sum of payments to the utility exceed a proportion of the qualifying capital costs incurred which is equal to the proportion of the total loans and grants awarded to the total qualifying costs.

"(i) Terms and Conditions of Loans.—Loans made pursuant to this section shall—

"(1) be repayable in equal annual amounts over a period of 10 years after the date such loan is made or the remaining useful life of the electric powerplant for which the loan is made, whichever is less;

"(2) bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yield of outstanding Treasury obligations of comparable maturity;

"(3) be made on the condition of payment to the Secretary of a loan fee of an amount necessary to defray administrative costs to the Secretary; and

"(4) be conditioned upon approval by the appropriate ratemaking authority of a repayment schedule or tariff, which shall provide the source of funds for the repayment of the loan from savings to consumers of electricity achieved by the conversion of such powerplant from the use of petroleum as a primary energy source to coal or another alternate fuel.

"(j) The methods for computing such savings shall be prescribed by the Secretary by rule and shall provide, at a minimum, for taking into account regional differences in the delivered cost of fuel to the powerplant, the incremental operation and maintenance costs of the powerplant after conversion, and the effect on costs of the relevant powerplant dispatching system, as well as other economic factors affecting the projected savings in costs from using such fuels.

"(k) Such rule shall also provide that in the event that the projected or actual fuel cost savings for any calendar year are less than the annual cash payments for that year the Secretary shall reduce or eliminate future annual cash payments to the extent necessary to assure that the total cash payments do not exceed total fuel cost savings after conversion over the useful life of the powerplant or 10 years, whichever is less.

"(l) The Secretary shall by rule prescribe the methods by which such adjustments in annual cash payment requirements will be made.

"(m) Deposit of Receipts.—Amounts received by the Secretary as principal, interest, or fee payments or proceeds from security acquired following default of loans under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

"(n) Authorization of Appropriations.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $3,600,000,000, which appropriation may be made available until expended.".

Sec. 5. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 604 thereto, as follows:

"Sec. 604. Grants for Design and Installation of Advanced Sulfur Removal Systems for Existing Powerplants.

"(a) Grant Authority.—The Secretary may, in accordance with the provisions of this section, and to the extent provided in appropriation Acts, make grants, which shall not be considered as income for purposes of Federal income taxes, to any eligible utility under this section, based on an approved grant application, for the purpose of paying all or a portion of the capital costs of the design and installation of advanced sulfur removal systems for existing electric powerplants. For purposes of this section, 'advanced sulfur removal systems' include systems for wet and dry scrubbing of flue gases, chemical cleaning of coal, and advanced combustion techniques designed to reduce emissions.

"(b) Eligibility.—Eligibility to apply for any grant award under this section shall be limited to any electric utility seeking a grant to design and install an advanced sulfur removal system on an existing electric powerplant which is in compliance with all applicable air quality standards and requirements as of the date of enactment of this section, or was not in violation of any applicable air quality standards and requirements on January 1, 1980, as determined by the Administrator of the Environmental Protection Agency. Any utility receiving assistance under section 603 of this Act with respect to an electric powerplant, shall not be eligible for assistance under this section with respect to such powerplant.

"(c) Grant Application.—

"(1) Submission and content.—The Secretary shall competitively solicit grant applications, in such form and at such time as the Secretary provides, from any eligible utility seeking a grant under this section. Any such grant application shall include engineering and capital cost estimates for design and installation of the proposed sulfur removal system.

"(2) Verification.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates submitted in grant applications under this section.

"(3) Environmental protection agency recommendation and certification.—A copy of any grant application submitted under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, and the Secretary shall, to the maximum extent practicable, consult with that agency in approving or disapproving any such application. Within 120 days of receipt of an application from the Secretary, the Administrator of the Environmental Protection Agency shall (A) certify to the Secretary whether or not the powerplant covered by the application is in compliance, or was not out of compliance, with applicable air quality standards and requirements as required by subsection (b) of this section; and (B) provide the Secretary with a recommendation concerning approval of the application based on an evaluation of the criteria set forth in subsection (4) of this section.

(4) Criteria for approval.—The Secretary shall approve or disapprove grant applications pursuant to this section based upon his consideration of the recommendation of the Administrator of the Environmental Protection Agency, provided under paragraph (3), and his evaluation of—

"(A) the significance of the reductions in sulfur emissions which would be achieved by December 31, 1985, by implementation of the proposed system relative to the costs of the system;

"(B) the extent to which implementation of the proposed system will offset any sulfur emissions resulting from powerplants coverting to coal or another alternate fuel to comply with the prohibitions of section 301(d) of this Act in any area likely to be impacted by such conversions;

"(C) the contributions of the proposed system to the advancement of technology for the reduction of sulfur emissions from electric powerplants;

"(D) the extent to which installation of the proposed system will result in the increased use of local and regional coal resources; and

"(E) the percentage of the total capital costs proposed to be covered by grant funds under this section.

"(d) Terms and Conditions.—The Secretary in approving any grant application under this section may impose such terms and conditions as he determines appropriate to effectuate the purposes of this section. The Secretary shall provide as a condition to the award of any grant under this section that such grant shall be accounted for by the recipient utility as a reduction to the utility's ratebase associated with capital costs related to the design and installation of any advanced sulfur removal system for which the grant is approved.

"(e) Testing and Evaluation Programs.—The Secretary shall establish appropriate testing and evaluation programs to monitor the effectiveness of systems funded under this section in achieving emission reduction and the practicability of such systems for commercial applications.

"(f) Authorization of Appropriations.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $450,000,000 which appropriation may remain available until expended.".

Sec. 6. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 605 thereto, as follows:

"Sec. 605. Grants to Accelerate Construction of Coal Preparation Facilities Capable of Reducing the Sulfur Content of Coal.

"(a) Grant Authority.—The Secretary shall, in accordance with the provisions of this section, make grants to any eligible person under this section, based on an approved grant application, for the purpose of paying a portion of the qualifying capital costs of the construction of coal preparation facilities, which will reduce the sulfur content of coal.

"(b) Eligibility.—Eligibility to apply for grant awards under this section shall be limited to persons that propose to construct coal preparation facilities which will reduce the sulfur content of coal.

"(c) Qualifying Capital Costs.—For purposes of this section 'qualifying capital costs' means capital costs associated with the construction of a coal preparation facility, including land; necessary water rights; onsite coal storage, handling and cleaning equipment; and coal loading and onsite transportation facilities. 'Qualifying capital costs' do not include operating or maintenance costs; coal storage and handling facilities associated with normal operation of a mine; costs associated with coal mining or offsite coal transportation facilities or equipment; or costs of any mineral rights.

"(d) Grant Application.—

"(1) Submission and content.—The Secretary shall competitively solicit grant applications, in such form and at such time as he shall provide, from any eligible person seeking a grant under this section. Any such grant application shall include engineering design and capital cost estimates for construction of the proposed coal preparation facility.

"(2) Verification.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates submitted in grant applications under this section.

"(3) Environmental protection agency evaluation.—A copy of any grant application submitted under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, for his evaluation of the significance of any change in emissions which would result from combustion of coal prepared by any facility for which a grant is sought under this section. The Administrator shall transmit to the Secretary, within 120 days of his receipt of any such grant application, his evaluation of the significance of any such emission impacts.

"(4) Priority and criteria for approval.—

"(A) The Secretary shall give priority in approving grant applications to those applications which the Administrator of the Environmental Protection Agency determines are likely to result in a significant reduction in emissions from coal combustion.

"(B) The Secretary shall, based on the availability of appropriations, approve or disapprove grant applications pursuant to this section based upon his evaluation of the economic viability of the proposed facilities and his evaluation of:

"(i) the extent to which such facilities would contribute to a reduction in emissions from coal combustion, as determined by the Administrator of the Environmental Protection Agency under this section; and

"(ii) the extent to which such facilities would result in increased use of local and regional coal resources while also contributing to a reduction in emissions.

"(C) In awarding grants pursuant to this section, the Secretary shall not—

"(i) allocate to a person more than 20 percent of its qualifying capital costs under this section; and

"(ii) allocate within a single state more than 25 percent of appropriated funds.

"(e) Terms and Conditions.—The Secretary in approving any grant application under this section may impose such terms and conditions as he determines appropriate to effectuate the purposes of this Act.

"(f) Authorization of Appropriations.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but, not to exceed $150,000,000 which appropriation may remain available until expended.".

Sec. 7. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 606 thereto, as follows:

"Sec. 606. Labor Standards.

"(a) Prevailing Wage Requirement.—All laborers and mechanics employed to perform construction, repair, or alteration funds, in part, by financial assistance provided pursuant to sections 603, 605, or 606 of this Act, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Brown Act (40 U.S.C. 276).

"(b) Certification Prior to Financial Assistance Award.—No grant or loan shall be made for construction, repair, or alteration under this Act unless a certification is provided to the Secretary at the time of filing a grant application that these labor standards have been maintained.

"(c) Authority of Secretary of Labor.—With respect to the labor standards required by this section, the Secretary of Labor shall have the authority and functions provided pursuant to Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.".

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 8. (a) Administrative Procedures.—Subsection (c) of section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by—

(1) inserting a new phrase at the end of the first sentence in paragraph (1), as follows: "shall by rule prescribe; except that any petition for an exemption from the prohibitions of section 301(d) of this Act must be filed with the Secretary no later than 60 days after providing notice pursuant to section 301(d)(3)(A)."; and

(2) inserting a new phrase in the first sentence of paragraph (3), as follows: "The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption or permit, except as provided in paragraph (5), shall issue a final order granting or denying the petition for such exemption or permit, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension;"; and

(3) adding a new paragraph (5) thereto, as follows:

"(5) In the case of any petition for an exemption from the prohibitions of section

301(d) of this Act, the Secretary within a period of 180 days after such filing, shall issue a final order granting or denying the petition for exemption, except that the Secretary may extend such period to a specified date if he published notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.".

(b) Coordination of Financial Assistance and Exemptions.—Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by inserting new subsections as follow:

"(i) Effect of Seeking Certain Exemptions.—(1) Any eligible utility filing a petition for an exemption, except a petition for a special exemption pursuant to section 315, is prohibited from later applying for financial assistance pursuant to section 603.

"(2) (A) The prohibition continued in this subsection shall not apply if a permanent exemption has been granted pursuant to section 312 or 315 and if the utility has agreed to proceed with an alternative oil reduction strategy.

"(B) An eligible utility agreeing to proceed with an alternative oil reduction strategy may seek financial assistance by filing a financial assistance application and a proposed compliance plan within 180 days of the issuance of a final order granting the utility petitioners' petition for an exemption.

"(j) Involuntary Bar Precluding Conversion.—Notwithstanding the provision of paragraph 701(c) (1), any eligible utility filing an application for financial assistance and a proposed conversion plan may later seek an exemption pursuant to subsection 311 (a), or (g), or 312 (a), (b), or (e), or 315.".

(c) Coordination With Other Provisions of Law.—

(1) Section 501 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by deleting the first sentence of subsection (a), and substituting the following therefor:

"(a) General Rule.—Existing electric powerplants owned or operated by an electric utility shall be considered in compliance with any prohibition under title III, except for prohibitions under section 301(d) of that title, if there is in effect a plan of system compliance for such utility approved by the Secretary under subsection (b).".

(2) Section 762 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by adding the following phrase at the beginning of the first sentence of subsection (b): "With the exception of powerplants subject to the prohibitions of section 301(d),".

(3) Section 762 of the Powerplant and Industrial Fuel Use Act (92 Stat. 3305) is amended by adding a new subsection (e) thereto, as follows:

"(e) Facilities Subject to Section 301(d) Prohibitions.—The authority of the Secretary to make effective—

"(A) any prohibition order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, which is pending on the effective date of this subsection, or

"(B) any proposed prohibition order under section 301(b) of this Act, which is pending on the effective date of this subsection,

issued to any facility that is subject to the prohibitions of section 301(d) of this Act, shall terminate on the effective date of this section.".

(4) Section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting the following new sections in the appropriate place in the table of contents:

"Sec. 315. Special exemptions from section 301(d) prohibitions.

"Sec. 603. Financial assistance to assist certain powerplants in achieving compliance.

"Sec. 604. Grants for design and installation of advanced sulfur removal systems for existing powerplants.

"Sec. 605. Grants to accelerate construction of coal preparation facilities capable of reducing the sulfur content of coal.

"Sec. 606. Labor standards.".

AMENDMENT TO "OFF GAS" PROHIBITION

Sec. 9. Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by striking existing subsection (a) and inserting in lieu thereof the following:

"(a) General Prohibitions.—(1) Except to such extent as may be authorized under subtitle B—

"(A) natural gas shall not be used as a primary energy source in an existing electric powerplant beyond January 1, 1990 or the end of its book service life, whichever is later.

"(i) The book service life of an existing electric powerplant subject to the prohibition contained in this section shall be determined by the Secretary, in consultation with the Federal Energy Regulatory Commission or the appropriate State regulatory authority.

"(ii) To the maximum extent practicable, the book service life shall be that life utilized in calculating the most recent electric powerplant depreciation and amortization schedule used prior to November 9, 1978.

"(iii) The Secretary may determine what constitutes an appropriate book service life if none is available from schedules filed prior to November 9, 1978.

"(B) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year prior to the effective date of the prohibition in paragraph (1), unless—

"(i) such powerplant used, or was equipped to use, natural gas as a primary energy source at any time during calendar year 1977; or

"(ii) such powerplant did not use natural gas as a primary energy source at any time during calendar year 1977 because such powerplant was under construction.

"(C) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year prior to the effective date of the prohibition in paragraph 301(a) (1) in any proportion greater than the greatest of the average yearly proportion of natural gas which—

"(i) such powerplant used as a primary energy source in calendar years 1974 through 1976;

"(ii) if such powerplant began operations on or after January 1, 1974, such powerplant used or could have used as a primary energy source during the first two calendar years of its operations operating at its planned plant factor; or

"(iii) if such powerplant was subject to curtailment or otherwise out of service, the Secretary shall allow natural gas to be used in an amount equivalent to the proportion such powerplant would have used if it had not been curtailed or otherwise out of service and had therefore been operating at its planned plant factor.

"(2) The prohibition of paragraph (1) shall be stayed with respect to any existing powerplant pending a resolution (including judicial review) of any petition for any exemption from such prohibition which is filed for such powerplant at any time after the effective date of this Act, but at least one year before the date such prohibition first takes place.

"(3) In electric powerplants subject to the prohibition in subsection 301(d), the Secretary shall allow the use of natural gas in conjunction with coal in such quantities as may be necessary to assist in meeting applicable environmental requirements.".

COGENERATION AMENDMENTS

Sec. 10. The Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended as follows:

(a) Section 103(a) (7) (B) (ii) (relating to the definition of electric generating unit) is amended by striking out "; less than half of the annual electric power generation of which is sold or exchanged for resale, as determined by the Secretary".

(b) Section 103(a) (10) (B) (relating to the definition of major fuel burning installation) is amended:

(1) by striking out "or" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and

(3) by inserting at the end thereof the following:

"(iii) any cogeneration facility which is a qualifying cogeneration facility as defined in section 3(18) (B) of the Federal Power Act.".

(c) Section 312(c) (relating to the permanent exemption for cogeneration in existing facilities) is amended by striking out "may" and inserting in lieu thereof "shall".

Mr. JACKSON. Mr. President, I rise today for the purpose of congratulating those whose perseverence has resulted in the Senate being able to consider the bill before us today.

As all of my colleagues know, the task of guiding a major energy bill through the Senate is a treacherous one. Energy legislation is, by its very nature, contentious business. Major energy legislation, such as the pending bill, requires countless hours of just plain hard work in addition to leadership skills.

When President Carter announced last July that he intended to submit legislation to require utilities to reduce their oil use by 50 percent, I had my doubts whether we would be able to find sufficient support for yet another utility/coal conversion bill.

Unfortunately, the President's program was not forthcoming immediately. In an effort to encourage the administration to send up the promised legislation, our colleague from Kentucky (Mr. Ford) introduced an amendment to S. 1308, my omnibus energy bill.

Senator Ford's original idea—that of listing powerplants which would be required to convert to coal—is largely embodied in the bill before us today. He correctly observed that the Department of Energy's regulatory program was bogged down in its own paperwork and needed a major new impetus to get it going.

The able majority leader of the Senate (Mr. Robert C. Byrd) quietly prodded the administration to send its promised program to the Congress. He was aided in his efforts by the members of the Senate Coal Caucus, chaired by the junior Senator from Kentucky (Mr. Ford), and the Senate members of the President's Coal Commission, including the Senator from West Virginia (Mr. Randolph), the Senator from Kentucky (Mr. Huddleston), and the Senator from Illinois (Mr. Percy).

The President sent a message to Congress on March 6 of this year which included proposed "specifications" for a coal conversion bill. That bill was drafted by the Department of Energy and was introduced on March 24 by the Senator from Kentucky (Mr. FORD) and others.

Hearings were held a month later in the Subcommittee on Energy Regulation, chaired by our distinguished manager of the bill, the Senator from Louisiana (Mr. JOHNSTON).

Markup began shortly after the hearings were concluded. The bill was modified to make it more workable and reported to the Senate floor last Monday.

All in all, after a slow start, the legislation has moved remarkably smoothly. And I hope it will continue to do so and will result in a bill being signed before Congress goes home for the elections.

The legislation represents a major commitment of the Nation's resources, in the form of grants and loans to converting utilities, in order to insure successful implementation of a coal conversion program. Previous efforts to encourage coal conversion have not been particularly successful because they have depended upon cumbersome regulatory programs.

In my mind, the investment is a sound one. As a nation we simply can no longer afford to be dependent upon foreign sources of energy to fuel our powerplants. We must strive to move toward use of our most abundant domestic fuel—coal.

I do not intend to go on at great length about the merits of the bill. Others have already made the case for the legislation. I am an original cosponsor of the bill and a strong supporter of it. I believe it merits the support of the entire Senate and I commend those whose efforts have brought the legislation before us today.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the legislation now before the Senate has a number of benefits which are so clear as to be beyond argument.

First, this bill will save between 250,000 and 300,000 barrels of oil a day, the amount of oil necessary to fire over 16,000 megawatts of electricity.

Second, this bill will result in lower fuel costs. Residual fuel oil, which is going to fuel the powerplants, most of which are involved there, costs $18 a barrel, on the average. Coal, 1.5 percent sulfur, costs $13 a barrel. The savings is about $5 per barrel on a fuel equivalent basis.

This bill will mean, for example, that with the New England Electric Co.—and these figures come from Mr. Guy Nichols—of their 7 units under this bill, some 16 million barrels of oil a day will be saved, at a saving of $96 million, which, for 1 million customers in Massachusetts, Rhode Island, and New Hampshire, is a saving of $100 per customer per year. The same kind of saving can be projected throughout the region where the 80 powerplants required to convert by the the bill are located.

This bill will put to work some 12,000 coal miners who are now unemployed, now on welfare, on food stamps, who are a drain on society, and will put them back as productive, taxpaying members of our society.

The support for this bill is overwhelming. The Committee on Energy and Natural Resources, whence the bill came, voted for it by a margin of 17 to 1. It is supported by the entire coal industry—the United Mine Workers, the National Coal Association, the Mining and Reclamation Council of America, the American Mining Congress, the American Gas Association, the Edison Electric Institute, as well as people in between, ordinary Americans who know that we are dependent on OPEC oil and that we must get off that dependence if this country is going to determine its own fate, its own future.

Mr. President, all this is being done within the law, within the present, very tight restrictions of the Clean Air Act. We have heard a great deal of debate on the Senate floor about whether the Clean Air Act is too strict, about whether it is strangling this country in its use of energy. The conversions required by this bill will take place strictly within the limits of the Clean Air Act and within the limits of all State implementation plans and some county implementation plans, some of which are more stringent than the requirements of Federal law.

In fact, the amount of pollution produced by this bill not only is within the limits of present law, but also, if we total up all the pollution produced by this bill, it is less than the amount of pollution produced by more than 30 individual powerplants in the Midwest.

Let me repeat that: There are 30 individual powerplants in the Midwest which produce more than 200,000 tons of SO_2 per year, which is more than all of the conversions required will produce in total.

This bill represents a new sophistication, a new realization on the part of the Senate of how to get from here to there in terms of getting off oil and getting onto coal. We have a pretty sorry record to date in terms of success in accomplishing that. We started off with great dreams when we talked about Project Independence, in 1973, shortly after the oil embargo, when President Nixon announced that we were not going to be importing a single barrel of oil by the year 1980.

Of course, we went from 6 million barrels a day of imports in 1973, at the time of the embargo, to a point where we have surpassed 8 million barrels a day. We are now slightly below that, but we are importing more than we did in 1973.

Then we thought we were getting a little more sophistication in 1974, when we passed the Energy Supply and Environment Coordination Act, designed, among other things, to get plants off oil. But as we began to see that act in operation, we found that it did not work, among other reasons because the burden of proof was on the Department of Energy—then the FEA—which could not, on a plant-by-plant basis, make the requisite findings and proof against the individual powerplants.

Consequently, its success ratio in getting plants converted to coal was almost zero.

Then we came along with National Energy Plan 1 in 1977. I say "we came along"—the President came along with the plan. The President said that we were going to increase the use of coal from 685 million tons in that year, 1977, to 1.2 billion tons, which was double, by 1985.

One of the centerpieces of that plan was the so-called Fuel Use Act, which was passed as part of the National Energy Act in 1978.

This act promised, by the way it was phrased and by the concepts in it, to get the job done, because it contained a prohibition, first of all, against burning natural gas in powerplants. For existing powerplants, it required that by 1990 they be switched from gas, the idea being that they would switch to coal. It made a basic change in that it required the burden of proof to be borne by the powerplants, as opposed to the Department of Energy. It required that any new powerplants be nonoil and nongas fired, the idea being that new powerplants should be limited to coal and nuclear.

However, the basic problem was—and it has become clear—that no money was provided for the conversions. You cannot get blood from a turnip, and you cannot make a powerplant spend a billion dollars to convert a plant to coal if they do not have and cannot get the money. We found that a whole range of reasons prevented these powerplants from getting the money.

First of all, we found that with respect to those plants which are listed in this bill, the percent of book value at which their stock was selling was 64 percent. We found that their interest coverage ratios were 2 percent, and below that in some cases, when a 2.5-percent interest coverage ratio is absolutely minimal to going into the bond market.

So it is no wonder that virtually all these plants which were forced into conversions were able to obtain exemptions on a number of different grounds: on either a financial ground, that they could not get the capital, or environmental grounds, or physical grounds, or legal grounds—that is, the site limitations of the particular site would not be big enough for coal. A whole range of exemptions prevented conversions from taking place.

All this bill does is to provide the means by which the conversions can be made.

I will explain briefly what we have done in the bill.

First, this bill is a rifle shot to 80 powerplants which are capable of burning coal, for which the burning of coal is a practical alternative.

The President's list of 107 powerplant conversion candidates was submitted to us in the committee. We went over that list very carefully, and we found that, for various reasons, different plants were not good candidates for conversion. Some were too small. With others, the economic cost simply would not justify the conversion. With others, such as the plants on Long Island, environmental reasons as well as transportation of coal reasons would prevent them from being proper candidates.

So what we did was to scrub the list of 107 plants down to 80, each of which, we felt, could be converted to coal.

We provide that each of these 80 plants is entitled to a grant to pay 25 percent of the capital cost of switching to coal. That 25 percent is theirs, whether or not they have already made the conversion. There are some 5 plants on this list which have already made the conversion which will be entitled to the 25-percent grant along with all of the other 75 plants which have not yet converted or a total of 80 plants. Each will be entitled to a grant of 25 percent.

Then with respect to those plants which have not converted which will have future costs of conversion, they will be entitled to an additional grant of up to 25 percent of their cost of conversion based upon a formula of need. That formula of financial need is based upon all of those financial factors which are applicable to plants going to the money markets. Those factors which are listed in the bill are to some extent discretionary, judgmental should we say, but nevertheless offer a reasonable guide to the Department of Energy in calculating their entitlement.

Mr. President, in addition to the two 25-percent grants there is provision that loans may be made to cover up to 50 percent of the cost of the conversion Those loans are to be paid back from savings in oil, savings in fuel, so that if a loan were made for, say, a total of 50 percent there would be provision that it would not have to be paid back during that period of time when the cost of coal was not competitive with the cost of oil. But it would have to be paid back out of the savings in fuel from later on.

And the final overall provision is that the combination of grants and loans cannot exceed 75 percent of the cost of conversion, so that under the best of circumstances a company would be able to get a combination of grants of up to 50 percent, with a possibility of an additional 25-percent loan for a total of 75 percent, or another combination whereby they would get the first 25-percent grant with a 50-percent loan, again not to exceed 75 percent.

Mr. President, additionally, there are grants provided for for advanced sulfur removal for existing powerplants of $450 million. There is $150 million for grants to assist in building coal preparation facilities, basically coal washing or preparation of the coal prior to combustion so as to lower its sulfur emissions.

Finally, Mr. President, there is a so-called off-gas provision which amends section 301 of the existing Fuel Use Act, which will provide that powerplants subject to that section may continue to burn gas during the book service life of their existence, book service life being defined as the life used in applications before ratemaking bodies prior to, I believe the date is 1978, for the purpose of ratemaking. The book service life will be determined by the Department of Energy in consultation with the Federal Energy Regulatory Commission. There is also language which provides that, where that book service life is not available, the Department of Energy may use its discretion in determining a different book service life. Book service life differs from useful life in that the latter is considerably longer, probably on the average of 10 years longer because it is possible to keep these gas-fired powerplants in operation for a long time.

Mr. President, the off-gas provision is an important one in this bill. It is a recognition of reality in that the section 301 prohibitions would not have resulted in the burning of coal but rather would have resulted in the burning of oil because there is no prohibition in the Fuel Use Act of switching from gas to oil. The only prohibition is using gas after 1990, and, in some respects, using it before 1990. But the prohibition is in the use of gas and not in the use of oil.

So all of these plants would have switched to oil, some 400,000 to 500,000 barrels per day, and the very purpose of saving imported energy would have been frustrated.

The so-called off-gas amendments represent a compromise. On the one hand, some of the utilities wanted to repeal those prohibitions of section 301 together, and I can tell Senators that the votes were probably there in the committee to do so. On the other hand, another group of utilities wanted to amend section 301 so as to permit the use of gas throughout the useful life of these utilities, which as I say, would have extended that for another 10 years.

In lieu of that, Mr. President, we came up with this amendment which represents frankly a compromise between the gas people and the utilities, on the one hand, and the coal people, on the other hand. I think we have hit a very sensible solution, which is to allow the burning of the gas during the book service life.

This provision is terribly important in many parts of the country, including my own, Mr. President, because these gas-fired utilities were built at a cost of about $100 per kilowatt-hour. New coal-fired facilities at today's costs would cost something like $1,700 per kilowatt-hour or something on the order of 17 times as much.

If we were going to try to mandate that by law, in the first place it could not be done. "I can call spirits from the vasty deep." But will they come? And in this case the answer is no. We could not get it done. It just would not happen. So consequently we have an amendment here which hits a happy compromise.

Mr. President, I am frankly proud of the work that our committee did on this bill, with excellent staff work, because we have a mechanism that will work. Utilities are not trying to get off of this list, because it is a real advantage to utilities to be on the list. They are able to share in the $3.6 billion.

Mr. President, this is a bill that is good for all parts of the country. It is good for New England especially because there are savings. I have a wire here from Northeast Utilities, saying that they will save $100 million for their Connecticut electric consumers.

I had a conversation with Guy Nichols this morning who says it will save his consumers of New England Electric in New Hampshire, Massachusetts, and Rhode Island, up to $100 a piece or about $96 million.

It will help those regions of the country as I say that burn gas.

It helps the coal mining regions of this country with some 12,000 coal miners being provided employment by this bill.

But, most of all, Mr. President, it represents finally a workable formula to put these powerplants back on coal. We have got several hundred years' worth of coal, Mr. President, and we have got to get it online. We have got to begin to use that coal.

Instead of having our coal drop off in consumption, as it has been since national energy plan I was announced, we have got to begin to use that coal, and use it clean.

This bill represents a practical, clean, appropriate solution to the problem of weaning ourselves from OPEC oil, using our domestic resources, and yet doing so in a balanced way considering the environment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in support of this bill. I would point out that this piece of legislation has been extraordinarily difficult to bring to the floor today. I think that the form it is in is the result of a great deal of hard work by people who have decided to work together to achieve two important national goals, namely, to move this country back to coal and to reduce the amount of oil used to generate electricity.

At times it has not been clear that these two goals could be achieved simultaneously. But in this bill we have come about as close as we are ever going to get. Because the policy that is being achieved in this bill is sensible for this Nation and because the bill has been changed significantly with bipartisan work in the committee, I am going to vote for this bill here today and I encourage my colleagues to do so as well.

Let me take a few minutes to discuss some of the critical features of this bill as compared to the legislative specifications sent up here by the President in March. These changes were worked out in a bipartisan manner in committee and reflect what is considered to be a responsible and effective means to attempt conversion of the plants subject to the provisions of this bill.

First of all, let me discuss the list of plants that have been specifically named in the bill as prime conversions candidates. I would recall some history at this point to provide some enlightenment to my colleagues as to the complicated process of producing this list.

The electric utility industry, the coal industry, and the Federal Government have all known for a number of years that coal was at one time used in many electric utility boilers, but those same boilers have since converted to oil for economic, technical, and environmental reasons. Just how many were capable of returning to burning coal was not known until recently.

The President's Commission on Coal early this year identified 341 existing oil or gas fired powerplants which had the capability to convert to coal. This list was part of their final report to the President.

It was not reasonable, however, to expect that all units on that list could or would convert back to coal. Many of the plants, for instance, were very small—less than 50 MWe—and old. Conversion of these units to coal would not be economic. In some cases, the only reason they were still operating was because oil was technically much easier to burn than coal. Since the coal handling and preparation equipment was well past its useful life, the useful economic life of the plant was extended significantly without major capital improvement expenditures simply by adding the relatively low cost oil burning equipment.

There were also a number of larger units that were older or were incapable of converting back to coal because property which had previously been used for coal handling had been sold, rail spurs had been ripped up, or the boiler itself had been completely reworked to use oil and no longer was capable of burning coal.

And finally, there were units that had converted to oil to meet new requirements under the Clean Air Act. Technically and/or economically, it was not possible and/or feasible to burn coal and meet these new standards.

Therefore the list needed to be pared down to one which was believable in terms of realistic conversions. This was done by the Department of Energy. The intent was to pull together a list of legitimate conversion candidates, put them in a bill which ordered their conversion and then work out a financial assistance package to make it economically more feasible for the utility to make the conversion. Needless to say this cut is the most difficult of all. Producing a final list has required the close work of a number of different groups.

The list we have in this bill today represents a list that the electric utility industry, the coal industry and the environmental community, in addition to the DOE and this committee, have reviewed in detail. While differences between individual groups still exist, there is no consensus that units on the list should be removed. For this reason, the committee considers this list to be a reliable and realistic list of plants that have the capability to convert and should therefore be helped in making that conversion through the financial assistance provided in this bill. If it later becomes clear that a particular unit cannot convert, then under the bill they are still eligible for an exemption from the prohibition or they are eligible to pursue an alternative strategy to reduce their use of oil.

The second major change I would like to discuss is the regulatory procedure in this bill as compared to the regulatory program in the specifications the President sent up here. Once again, this procedure was worked out in a bipartisan manner and is a major improvement in the bill.

Under the President's approach, the utility was faced with a prohibition against the use of oil starting 90 days after enactment. In order to get some time to pursue the financial assistance route, the only way the prohibition could be stayed was for the utility to apply for all exemptions it felt it might be qualified for and hope that it got one of them. Otherwise, it would have to shut the unit down until it had converted to coal, further increasing the cost of the conversion to the ratepayers.

The committee felt that this procedure needed to be changed for two reasons. First of all it did not make sense to force a utility into the costly and frustrating process of obtaining exemptions when what we really wanted them to be doing was spending all of their time and money putting together a plan for converting the unit.

And second, we felt that forcing the utility to seek exemptions from the prohibition would confuse any ratemaking procedure pending before the appropriate ratemaking body. They had the responsibility for approving a rate sufficient to support under the President's plan, the 50 percent of the conversion costs that was not paid for by the Federal Government. Since this 50 percent would raise rates in the short run, it would be difficult for the ratepayers to argue in favor of conversion. Furthermore, their contention would be supported by the fact that the utility was putting a lot of material on the record down at DOE as to why the conversion should not take place.

So we rewrote the procedure to make several important changes. We first of all stay the prohibition for any unit until the Secretary has awarded financial assistance or until a final order has been issued granting an exemption. In this way, there is no confusion and the utility can put 100-percent effort into the application for financial assistance.

The committee has, however, added another option to the utility, providing it with the right to seek certain exemptions at any time after filing an application for financial assistance.

And finally, if a utility seeks certain exemptions, it can negotiate an alternative oil reduction strategy as part of being granted such an exemption and it can then seek financial assistance to achieve that strategy.

The third major change in the bill is the financial assistance package. The President recommended that financial assistance be provided through grants for up to 50 percent of the conversion costs. The committee amended this to make 25 percent available as an unconditional grant and then provided the Secretary with the authority to negotiate additional assistance in the form of grants and loans, up to 75 percent maximum, on an adequate showing of financial need by the utility. Under this supplemental assistance package, the Secretary can award up to an additional 25 percent in the form of a grant; up to 50 percent in the form of a loan but in no event can the combination exceed 75 percent of the conversion costs.

In this connection, I might indicate that the distinguished Senator from Louisiana had earlier mentioned a communication from utilities outlining some of the savings to their ratepayers that would attend the passage of this bill and conversion of their units under it.

I will pursue this further with the Senator from Louisiana a little later, but I would assume that those savings are the result of the 25-percent grant, because it is expected that if they have the financial capacity and, indeed, if the conversion is more economical, the additional financial assistance will be by way of loans and not by way of additional grants.

So if there are savings to the consumer, it must be either in the form of the original 25-percent grant or because the financial assistance package will be financially more favorable even though it is repayable as a loan rather than an additional grant.

I say that because it has been my concern throughout all of this, because if, indeed, the utility can finance it and it is economical for them to finance it, the taxpayers genuinely should not be required to bear that burden. And I assume what I have said is the background of the communications which the Senator from Louisiana has received to which he made reference earlier.

The loan package is a very carefully developed package since many of the utilities on the list have indenture restrictions or poor market to book values on their stock that in combination make it very difficult if not impossible to take on any additional debt. The loan contemplated in this bill is to be repaid through fuel savings that the consumer actually would see. And, in order to avoid any suggestion that the Federal Government is crossing the fine line into utility ratemaking, the PUC in each case must approve the tariff or other repayment schedule.

While some of us argued in committee that all financial assistance should be based on a showing of financial need, the committee-reported bill is substantially superior to the introduced bill. The loan program will make the financial assistance part of this bill much more acceptable to the Nation as a whole, without penalizing the ratepayers within the utility service area of the particular utility whose plant is being forced to convert under this legislation.

This legislation also updates Federal policy on gas use for electric generation, in light of increased availability of gas in the Southeast and the tremendous financial burden conversion to coal will have on ratepayers in that area and in view of the burden that such conversions will place on financial markets that are already hard pressed to come up with the money for other critical national energy construction activities.

I think it is worth noting that we have made a temporary suspension of the mandate to convert away from gas in order to allow them to use the low-cost gas which now is more abundant than it was at the point when we talked about mandatory conversions away from gas, but that is not unlimited in volume nor is it unlimited in time. Certainly the next decade is the time of the greatest difficulty for this Nation in meeting its energy needs.

In conclusion, Mr. President, these three major changes to the bill are constructive and, in my opinion, a great improvement. I urge support by the Senate.

Mr. President, I yield the floor.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Lynn Wanlund of my staff be accorded the privilege of the floor during consideration and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the following staff members of the Committee on Commerce, Science, and Transportation be permitted privileges of the floor during the consideration of S. 2470, the Powerplant and Industrial Fuel Act: Edwin K. Hall, Janice M. Rosenak, Candy F. Vernetti, and William H. Johnson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I yield the floor to the distinguished Senator from West Virginia (Mr. Randolph).

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, at the very outset, I wish to express my genuine appreciation to all the members, both Democrat and Republican, on the Energy and Natural Resources Committee for the painstaking and constructive efforts that they have given to the consideration of this very important legislation.

Our able leader (Robert C. Byrd), the chairman of the Energy and Natural Resources (Henry M. Jackson), and the energetic floor manager of this bill (J. Bennett Johnston) have spent many months with the chairman of the Senate coal caucus (Wendell H. Ford) and other interested Senators in seeing that a well-developed proposal for reducing ore imports was put in front of the Energy Committee membership for action.

Once committee consideration began Senators Church, Bumpers, Durkin, Metzenbaum, Matsunaga, Melcher, Tsongas, Bradley, Hatfield, McClure, Weicker, Domenici, Stevens, Bellmon, and Wallop all joined in a cooperative spirit to assure this essential piece of coal conversion legislation was reported, on an expedited basis, to the floor.

I come quickly now to the thrust of my remarks, which is that this year the United States will pay more than $95 billion for imported oil. By comparison, in 1970, the price we paid for 1 year's worth of foreign oil was $3 billion a year—$95 billion now, $3 billion a mere 10 years ago.

We now face virtual economic warfare with many oil-producing countries, which has, in turn, caused an unprecedented domestic inflationary spiral.

I do not wish to speak ill of someone or some country. I remember that I had a very dear friend who once said, "If you would think evil of a person, never speak it, write it on the sands near the water's edge."

I try in my service here in the Senate to be very careful about speaking from the standpoint of addressing a personality. Rather, I try to address my comments to the issue any one of my colleagues might be discussing.

But, I do want the record to indicate the fact that petroleum coming into the United States of America, as the able Senator from Kentucky (Mr. Ford) well knows, is coming from unstable, and mostly unfriendly countries. A further fact is that we not only pay what these countries demand, but we receive our oil in the amounts they desire to give us.

Although new recovery techniques may extend domestic oil and gas reserve estimates a little more into the future, no knowledgeable person will deny that exhaustion of liquid fossil fuels is certain at current rates of consumption. It was stated in hearings before our committee last month that in the downstate region of New York State, 90 percent of the electricity generated by utilities was oil-fired with nearly all of that oil being imported. Further, much of the entire Northeast is in the same situation—thus highlighting the vulnerability of our Eastern seaboard to potential oil supply interruptions. Intensifying the problem are the real concerns about the storage of radioactive waste, and the safety of nuclear reactors.

I say very strongly and earnestly because it needs to be said over and over again, accordingly coal is a resource whose use must be expanded. The United States has at least 30 percent of the coal supply of the world. Last year our coal production was over 700 million tons. At that rate, America's reserves, economically and technically, of recoverable coal would last us for 250 years.

I have talked many times with the able Presiding Officer, the Senator from Nebraska. He well understands that although we are intensely interested in Appalachia, in the coal producing States of that region, there is a vast region in the West where coal is being produced.

Even if consumption rates would triple because of a soon-to-be synthetic fuels industry based on coal, the supply would last nearly 100 years.

Is coal available? Coal is widely available and the technology for coal production, pollution control, transport direct use, and conversion into synthetics. It is well known that constant improvements are being made.

Now the question comes to me, "Why does further growth in a promising resource for the future seem to be stalled?"

I am not saying it is stalled here today as we move toward passage of this bill. I am only saying that month after month, year after year, the importance of what I am talking about, the use of coal, has, in a sense, been stalled.

Why are some Members, I hear it from time to time in the hearings, in the Congress labeling this $4.2 billion oil backout legislation an unwarranted subsidy? It is difficult for me to understand how a Member of this body, and I have heard it spoken within this body, could make the statement. An unwarranted subsidy to the utility industry—a domestic industry—when we will spend $95 billion importing foreign oil this year? Why is there a 20-percent overcapacity in the United States today resulting in 20,000 unemployed miners? These are tough questions. To answer them one must inspect each part of the coal system. I have, and the potential is there.

We have, I emphasize, created and enacted coal conversion legislation before, as Senator Wendell Ford and other Members present in the Chamber know. That action was in 1974 and in 1978. Unfortunately, these statutes placed upon the books have been largely ineffective. Three administrations have been very proficient in rhetoric to boost coal use. But for all the apparent affirmative words and activities, few conversions have actually taken place. Yet the legislation, in which I participated in drafting and passing, has been upon the books.

We continue to ask even today the same question we have been asking since Congress enacted the Energy Supply and Environmental Coordination Act in June of 1974. To date, 12 power stations have converted. Final orders for conversion will increase coal consumption by only 2 to 5 million tons per year. The Powerplant and Industrial Use Act of 1978 superseded the coal conversion part of ESECA. The Fuel Use Act rules for existing facilities became effective on August 20, 1979.

The Department of Energy expects the Fuel Use Act coal conversion program eventually to save 200,000 to 250,000 barrels of oil by powerplants having an aggregate capacity of approximately 10,000 megawatts.

Mr. President, these projected results should perhaps make us feel good. They are disappointing to me. I believe, however, with this bill we are hopefully on the threshold of shifting back to coal as our major source of energy. It is nothing new for me to say it. I have spoken it hundreds of times in public and in many articles and in a number of consultations with people interested in this area of our Nation's activities.

Not shifting back will cause continued escalation of America's dependence on foreign oil. What has happened? It has driven up the cost of energy. It has caused havoc with our economy.

To give emphasis to the seriousness of this situation, I and five of my Senate colleagues sent the following letter on June 19 to members of the Senate Coal Caucus. That letter read:

> Dear Coal Caucus Colleague: S. 2470, the Powerplant Fuels Conservation Act, is scheduled for floor action on Tuesday, June 24. This legislation represents a major step toward lessening our dependence on imported oil, a dependence that costs our people $90 billion a year, a dependence that threatens our economic system and our security.
>
> The bill mandates conversion of 80 oil burning units to coal and provides financial assistance of $3.6 billion for these conversions. S. 2470 will increase coal demand by 25–30 million tons a year by 1985; much of this demand will begin within one-two years of enactment. Among all the various initiatives for increasing domestic coal demand, this bill is the only measure that will have a near-term effect.

All of the units on the list for conversion are there because the utility and state government want to convert and will convert with the financial assistance provided. All of the reluctant conversion candidates have been dropped from the list. What is left is a hard core of serious conversion candidates who want to burn coal at their powerplants.

The utility companies affected require financial assistance to carry out the national policy of coal conversion. This is evidenced by the fact that thirteen of the companies have interest coverage ratios at or below 2.0, seven have coverage ratios between 2.0–2.5. All the companies are selling stock below book value.

S. 2470 recognizes the constraints on the direct use of coal and addresses these constraints. A substantial portion of the $3.6 billion will be expended on environmental equipment. In addition, the bill has $450 million to clean up emissions from existing coal burning utility plants. The bill provides $150 million for coal cleaning and preparation. The bill will also allow a utility that converts from oil to coal to burn gas selectively, in conjunction with coal, to offset increases in emissions from direct coal combustion that would violate applicable environmental standards.

The legislation addresses plant-site constraints by an "alternative fuels strategy" permitting the use of coal-oil mixtures.

We feel that this is a priority bill, a necessary bill. We will support it vigorously on the floor and we ask your support in this effort.

Sincerely,

Robert C. Byrd.
Walter D. Huddleston.
John Heinz.
Jennings Randolph.
Charles H. Percy.
Wendell H. Ford.

I have also worked for the past year and a half as a member of the President's Coal Commission to help fashion the oil backout legislation endorsed by President Carter. The Commission, of course, was chaired by Gov. Jay Rockefeller of West Virginia.

I am glad to have had the privilege of serving on that Commission along with Senators Huddleston and Percy. We can all be gratified of the constructive work of that Commission in carefully considering the role coal can play in reducing oil dependence in America.

In addition to Governor Rockefeller, voting members of the Commission were Jesse Core, adjunct professor of mining and engineering, Pennsylvania State University; Marvin Friedman, vice president, Ruttenberg, Friedman, Kilgallon, Gutchess & Associates, Inc., Washington, D.C.; W. Dewey Presley, director and chairman of the executive committee, First International Bancshares, Inc., Dallas; and Willard Wirtz of Wirtz & Gentry, Washington, D.C.

Former Secretary of Energy James Schlesinger; Secretary of Labor Ray Marshall; and U.S. Representatives John Buchanan, Austin Murphy, and Carl Perkins were the other nonvoting members of the Commission.

Together, we found 117 coal-capable utility boilers that could displace 724,000 barrels per day. These findings were used as the base case for the bill we discuss today.

Governor Rockefeller as our chairman understood the coal industry, of those who earn their living mining coal, and of those whose lives are tied to the industry. He understands America's need to increase its reliance on coal must not and need not involve a retreat on the Nation's commitment to the environment.

The Rockefeller Commission has done its homework well. The American people will benefit from its documented call for the creation of a coal based synthetic fuels industry and for the use of American coal to generate electricity.

We in the Senate are also working together. Last week the Senate approved the synthetic fuels legislation. The House should soon act. Today we are considering legislation to burn more coal in our electric utilities. At the urging of Senator Huddleston and myself, the President has ordered Federal installations to submit plans on how they can join this effort to replace oil with coal and other alternative fuels. The Senate, in further encouragement, has sought to give the thrust of this executive order the force of law.

At the Venice Summit, concluded yesterday, the member countries pledged their support to breaking the link between oil and economic growth and called for a doubling of coal production in the decade ahead. The effort of the Coal Commission came at a critical time. Its recommendations provide the basis for the acceptable expansion of coal production called for by the Venice Communique on Energy.

The findings of the Coal Commission however, have been refined. The legislation, approved by the Energy and Natural Resources Committee by a 17 to 1 vote, would mandate that 80 boilers at 38 generating stations convert from oil and natural gas to coal. This measure, known formally as the Powerplant Fuels Conversion Act of 1980, would provide $4.2 billion for conversions, air pollution control demonstration projects, and coal washing facilities.

Generally, this is a significant step toward greater coal usage and reduced use of costly petroleum, petroleum coming, as I have indicated and documented, from abroad.

I have had some reservations—it is natural that we do not have complete agreement always—about the "off gas" provision which would permit the continuing use of natural gas as the fuel for the service life of a utility for 30 years in some cases. In sections 311 and 312 of the Powerplant and Fuel Use Act of 1978, utilities can continue to burn natural gas by seeking a number of exemptions which would be in force for 5 to 10 years after the 1990 gas prohibition requirement contained in that legislation. In other cases an existing gas utility could continue to burn gas permanently.

I believe, also, that to assure passage of this very important piece of legislation and because of the concerns of a number of my colleagues, who feel that we need to address possible environmental problems we might increase funding to provide more financial assistance if a utility chooses to reduce emissions below what is currently required.

We must accelerate our effort to meet the challenges, I repeat—I have said it often—of an energy crisis which is growing, not diminishing in its impact on the American people, on our industrial strength, and on American life as a whole.

The price we must pay for imported oil has increased 1,600 percent over the past 10 years. Balance-of-trade deficits, a weakened international dollar, and inflation, Mr. President, can, in considerable part, in substantial part, in great part, be alleviated with the expanded, realistic, intelligent use of coal.

(Mr. TSONGAS assumed the chair.)

Mr. FORD. Mr. President, I thank the chairman of my committee, the Energy and Natural Resources Committee, for his kind remarks earlier today. I should like to compliment the Senator from Louisiana and his Republican colleagues for the manner in which they have labored to bring this bill to the Senate floor, and Senator Randolph, whose eloquence is always of importance as it relates to the history and the immediate problems that are faced relating to energy in this country.

Mr. President, the bill that we are discussing now, S. 2470, the Powerplant Fuels Conservation Act of 1980, represents a major step toward lessening our dependence on imported oil, a dependence that costs our people $90 billion a year, a dependence that threatens our economic system.

It is more than a coincidence that, this very week, the leaders of the industrialized democracies are meeting in Venice to address the same dependence and security issue. In the field of energy, the leaders are concentrating on the need to substitute coal for oil, a need that has been highlighted in the recent World Coal Study.

They are concentrating on the increased use of U.S. coal in Western Europe, Japan and the developing nations. They are concentrating on the requirement for our country to improve its coal transportation system, its seaport facilities, its ability to ship coal.

It would be an ironic failure in leadership and self-interest if the United States did not take firm steps to substitute domestic coal for foreign oil. This legislation presents an opportunity, a great opportunity, to avoid failure, an opportunity that we must utilize to our maximum advantage.

The most compelling reason behind the need for this country to make a transition from oil to a more diversified energy economy is the fact that, over the short-term, we face the very real possibility of supply disruption and continued rising oil prices from those nations which are our major suppliers.

Mr. President, the current dependence on the Persian Gulf is an accurate reflection of what we will continue to see in the short term. There are currently about 545 billion barrels of recoverable oil reserves in the free world, of which 370 billion barrels, or more than two-thirds, are located in the Persian Gulf area. The Persian Gulf countries now produce 62 percent of all oil in world trade and 40 percent of total free world oil output.

Based upon oil market projections, and taking into account other political and economic factors, the Department of Energy has estimated that 1985 OPEC oil production could range from a low of 29.1 to a high of 36.2 million barrels per day. During the same period, U.S. oil production is projected to decline, and, at best, the decline will be moderate. Current projections for U.S. oil production in 1985 range between 9.1 and 10.3 million barrels per day.

Canadian production is expected to remain stable if tar sands production is added to conventional production. North Sea production could increase up to a level of 4 million barrels a day in 1985, but, for various reasons, output is expected to remain far below that level.

So what do these projects tell us, or what should they tell us?

They tell us that, in the years ahead, rising oil demand will continue to increase market pressure and result in rising real prices.

They tell us that, despite efforts to increase domestic oil production, this country will still remain heavily dependent on other nations for the greater portion of the oil we consume.

Most of all, Mr. President, these projections tell us that until and unless this country begins to diversify its energy economy, with a greater use of those resources with which our Nation has been blessed, we will never regain the ability to control our own destiny.

The Congress has addressed this problem in the past with something less than complete success. Energy policy and implementation do seem to be falling in place. Americans are beginning to conserve energy. The 95th Congress has enacted the National Energy Act and the Outer Continental Shelf Amendments. This Congress is in the process of enacting—in S. 932—the Energy Security Act and comprehensive programs for synthetic fuels, biomass fuels, alcohol fuels, solar and increased energy conservation.

Some of our programs, some of the major programs, are long term and will not show positive results until the late 1980's and beyond. Utilities have entered into a major program for new coal-fired powerplants, but a new powerplant takes from 6 to 8 years to complete.

Mr. President, I submit that this Nation does not have until 1990 to get its house in order. Our crucial period will be between now and 1985. Our near-term initiatives must be conservation, domestic oil and gas production and coal.

Among all the various Congressional initiatives for increasing domestic coal demand, this bill is the only measure that will have a near-term effect. All of us were pleased by last week's Presidential Executive order that took the first steps toward substituting coal for oil and gas in Federal facilities. Mr. President, I feel that my senior colleague, Senator HUDDLESTON, is due the credit for this Executive order. I am particularly proud of that.

Mr. President, we have no energy supply shortage in coal. We have a demand shortage. Some 20,000 miners are unemployed and over 100 million tons a year of production capacity is not being utilized.

S. 2470 will increase coal demand by 25 to 30 million tons a year by 1985; much of this demand will begin within 1 to 2 years of enactment. S. 2470 will decrease our dependence on oil imports an estimated 250,000 to 300,000 barrels of oil per day by 1985.

The bill mandates the conversion of 80 units at 38 powerplants owned by 26 utilities. The powerplants are located in 15 States. This approach would speed up the conversions by providing financial assistance and by imposing statutory deadlines for implementing the new legislation. The legislation itself would be the order to convert, retaining necessary statutory exemption.

All of the units on the list are there because the utility wants to convert and the respective State governments want it to convert.

Mr. President, in later remarks, I will touch on specifics of S. 2470: for now, I reserve the balance of my time.

I am sure we will have debate on various areas of what this bill will and will not do.

Mr. President, I hope my colleagues will join with the committee as it was voted out, 17 to 1, as I recall, almost a unanimous decision, to send this piece of legislation to the floor.

I believe it is a document worthy of the support of my colleagues.

Mr. President, I yield the floor.

● Mr. GLENN. Mr. President, as one of the cosponsors of S. 2470, I want to commend the distinguished managers of the bill and members of the Energy Committee for their able and timely handling of this important proposal.

This bill mandates the conversion of 80 oil-burning units to coal and provides financial assistance for these conversions, and will result in an increased coal demand of 25 to 30 million tons by the year 1985.

At the same time, and just as important, this bill also directs action on the constraints that apply to direct use of coal by providing assistance to utilities to clean up emissions. Substantial sums are made available for grant assistance for the design and installation of advanced sulfur removal systems and for coal-washing facilities capable of reducing the sulfur content of coal before it is burned.

Today, the electric utility industry consumes about 3 millions barrels or equivalent of oil and natural gas and this consumption rate could easily increase in the absence of a well-designed program combining energy conservation efforts with accelerated conversion of existing oil and gas-fired powerplants. This oil backout bill, then, constitutes an important element in our overall strategy to lessen this country's dependence on foreign petroleum.

Mr. President, I want to call attention to one provision of the bill which I believe bears watching to insure that it does not prove counterproductive. I refer to the provision in section 6 of the bill that limits allocations to any one State from the $150 million targeted for grants to assist in construction of coal preparation facilities to 25 percent of the total. Since only a handful of States is directly affected, I believe the Department of Energy should monitor this program carefully to make sure that the limitation built into the bill does not result in authorized funds being unused while worthwhile applications elsewhere are stalled by the limitation. Coal washing is becoming an important part of the overall effort in Ohio to achieve greater use of the State's sulfurous coal in ways consistent with the need for environmental integrity.

Mr. President, this bill could not come to the Senate in more timely fashion. It comes on a day when the headlines report the agreement of President Carter and the leaders of six other major industrial nations to seek to develop energy sources sufficient to replace 15 to 20 million barrels of oil a day by 1990.

The clearly available alternative, readily available in the United States, is coal. S. 2470, then, is an important first step toward achieving our goal. It is a signal to our allies that we are serious. It is a vital step in the interest of our own economy, burdened now by more than $90 billion in charges for imported oil.●

UP AMENDMENT NO. 1291

(Purpose: To require utilities benefitted by the "off gas" amendment to report their plans for construction of new coal-fired electric generating capacity to the Secretary of Energy in order to guard against slippage in such construction plans)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) on behalf of himself and Mr. FORD proposes an unprinted amendment numbered 1291.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 74, line 11, strike "." and insert in lieu thereof: "; and

"(4) It is the intent of Congress that, notwithstanding the provisions of this section, utilities presently using natural gas contintue, to the extent feasible, with plans for the construction of new coal-fired electric generating capacity without deferral of current schedule completion date. To facilitate this intent—

"(A) Within 180 days after enactment of this section, the Secretary shall require each utility planning to continue use of natural gas as a primary energy source in an existing powerplant beyond January 1, 1990, to report its plans, as of January 1, 1980, for construction of new coal-fired electric generating capacity, including—

"(i) the planned capacity and location of each new coal-fired electric powerplant; and

"(ii) the scheduled completion date of each new coal-fired electric powerplant.

"(B) The Secretary shall, to the extent practicable, verify the information submitted pursuant to the requirements of this section by utilizing available information and by consulting with the appropriate Federal and State regulatory authorities.

"(C) The Secretary shall require each utility reporting plans for construction of new coal-fired electric generating capacity to report progress on each of the plants identified in the initial report every two years thereafter.

"(D) On January 15, 1985 and January 15, 1990, the Secretary shall submit a report to Congress summarizing progress on construction of such new coal-fired electric powerplants based on the information required to be reported to him by this section and shall include an evaluation of—

"(i) whether the plans for construction are proceeding on schedule or;

"(ii) in cases where the plans are not proceeding on schedule, the reason for schedule changes.".

Mr. JOHNSTON. Mr. President, the amendment I am introducing will require utilities who are benefited by the "off gas" provisions in section 9 of S. 2470 to report their plans for construction of new coal-fired electric generating capacity to the Secretary of Energy. The Secretary is, in turn, required to report to Congress on those plans.

The committee heard testimony that virtually all of the utilities benefited by an extension of the existing deadline to be "off gas" by 1990 would switch their gas-burning powerplants to oil. In fact, most gas-burning powerplants are already equipped with the capacity to burn oil instead of gas.

Many of the utilities who have gas-burning powerplants already have plans to build new coal-burning generating capacity. Some fear that by allowing an extension of the off-gas requirement, these utilities will cancel or defer those plans. The amendment requires utilities to submit their plans so that the Secretary can alert the Congress if those plans begin to slip.

It is my intent that the plans to be reported shall include coal-fired generating capacity which the utility presently intends to build. I do not intend that they be required to report every coal-fired plant that has been identified in long-range plans or to involve plans which may be formulated in future years. Rather, they would be required to report plants which are identified by formal notices, applications or other documents especially those submitted to appropriate regulatory authorities. These documents would include a general description of the type and capacity of the powerplant to be built, a specific proposed site, a proposed date for the commencement of construction, and a projected date for the completion of the construction.

I hope the amendment will be acceptable to all who are concerned with the potential impact of the off-gas provisions on coal-fired powerplant construction plans.

Mr. President, subsection (4) of this amendment states:

(4) It is the intent of Congress that, notwithstanding the provisions of this section, utilities presently using natural gas continue, to the extent feasible, with plans for the construction of new coal-fired electric generating capacity without deferral of current scheduled completion date.

Mr. President, what this amendment does is to provide, therefore, the mechanism for carrying out that intent, a reporting mechanism that will inform the Department of Energy and Congress of plans with respect to this building of coal-fired plants.

This amendment, Mr. President, has been worked out with all parties concerned, with the people in the coal industry, who are aware of and approve of this amendment.

The distinguished Senator from Illinois is also very much interested in this and wants to have a colloquy on it.

I believe it is acceptable, Mr. President.

I yield to my distinguished colleague from New Mexico.

Mr. DOMENICI. Mr. President, I yield to Senator STAFFORD for a unanimous-consent request.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the following staff members be granted privileges of the floor during the consideration of S. 2470 and any votes thereon: Curtis Moore, Karl Braithwaite, Vic Maerki, Charlene Sturbitts.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. What is the time situation on this amendment?

The PRESIDING OFFICER. There is no controlled time on the amendment.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF SOVIET TROOPS FROM AFGHANISTAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the Afghanistan resolution occur at 2 p.m. today, this afternoon, and it has been cleared with the minority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COAL NOW

Mr. ROBERT C. BYRD. Mr. President, this day has been a long time coming. Despite its much-touted abundance, coal's potential remains untapped. Although the substitution of coal for oil and natural gas would seem to be an obvious solution to the Nation's energy problems, the promise has not been realized.

The legislation before us today is a giant step in the right direction. The events of the past year—the doubling of world oil prices, the turmoil in Iran, the Soviet invasion of Afghanistan—have all served to underscore the need to gain control over our energy future. We must move away from our overdependence on foreign oil. The mandatory conversion of coal-capable powerplants is one area where important and immediate oil savings can be achieved. The removal of regulatory and financial impediments which have constrained utilities from voluntarily converting to coal is a necessary action if oil consumption in the utility sector is to be significantly reduced.

The importance of this legislation in achieving energy self-sufficiency cannot be overemphasized. The mandatory conversion of 80 boiler units at 38 powerplants will result in oil savings of more than 300,000 barrels per day. At current prices, this represents a reduction of $3.5 billion per year in our foreign oil bill. Americans will spend approximately $94 billion this year for imported oil—up 50 percent from last year and more than 1,000 percent since 1973. This is a figure which exceeds the net combined income of all the Fortune 500 companies. It is more than the assets of General Motors, Ford, IBM, and General Electric. It is 2½ times the money we are spending in 1980 to equip the Army, the Navy, the Air Force, and the Marine Corps. This $94 billion oil bill has more to do with our inflation rate, the value of the dollar and our balance of payments than any other economic factor.

Coal must play a far greater role than it has to date in meeting our energy needs. The United States is the Persian Gulf of coal. According to estimates, this Nation possesses about 27 percent of the Earth's coal reserves. Only the Soviet Union and the People's Republic of China can approach American coal capability. But coal only supplies about 18 percent of the Nation's total energy. The greatest use for coal is in the utility sector, where approximately 44 percent of the Nation's electricity is produced from coal. The simple arithmetic of availability, however, does not tell the whole story. Coal use is not limited by reserves but, rather, by the extraordinary industrial and regulatory difficulties of burning it in an environmentally acceptable and economically competitive manner. It is these constraints which are addressed by this legislation.

In part, the reluctance of utilities to convert to coal stems from the poor financial circumstances of the utility industry itself. Although coal is a far more economical fuel than expensive imported oil, the capital costs of conversion have recently become too high for most utilities to undertake. Prior to 1973, the utility industry enjoyed a stable and prosperous growth, based on increased demand for electricity to power a burgeoning economy. After the Arab oil embargo, the industry's growth rate plummeted and the unpredictability of energy demand forced many utilities to postpone expansion. Government air pollution regulations, complex and time-consuming licensing procedures, and massive escalation in the costs of new plants created major problems for utilities.

The reluctance of regulatory agencies to allow needed rate increases through which utilities could raise necessary capital for new plants also added to the reluctance of utilities to switch to coal.

As a result, the use of coal has not significantly increased, despite excess production capacity in the coal industry and obvious cost advantages to the consumer.

Twice in recent years, the Congress has enacted legislation to promote the direct use of coal by electrical utilities. First, the Energy Supply and Environmental Coordination Act of 1974 sought to prohibit powerplants and other major fuel burning installations from burning oil or natural gas as a primary energy source. However, few conversions resulted from a bill which left the burden of proof on the Federal Government to demonstrate that a particular utility should burn coal.

The Powerplant and Industrial Fuel Use Act was a second legislative attempt to reduce petroleum imports through the conversion of electrical generating plants to coal, but the scheme of exemptions and exceptions contained in that bill has prevented the rapid conversion of eligible facilities. These regulatory programs have never addressed the institutional and financial impediments to utility coal conversion. Given the urgent need to reduce foreign oil imports, the conversion of coal-capable generating plants must be mandated and appropriate financial incentives provided to make this initiative feasible.

Early this year, the President proposed a program to reduce the use of oil and gas by utilities; it was workable and likely to achieve immediate results. As originally outlined, oil consumption was to be reduced by 1 million barrels per day by 1990 through a two-phased program. Extensive testimony was received by the Senate Energy Committee and it was determined that some alterations in the initial program were necessary. The bill before us evolved as a committee substitute for the original bill. It provides for a program of mandatory conversion of 80 powerplants identified in a statutory list. The bill provides direct grants and loans to assist utilities in converting to coal, as well as grants for the installation of advanced sulfur removal systems and coal preparation facilities.

As reported by the committee, S. 2470 does not include phase II of the administration's original plan. There is no question that a voluntary program to achieve additional oil savings through energy conservation or coal conversion is a vital and necessary component of this overall plan. However, time constraints demanded that consideration of phase II be postponed in order to move this mandatory conversion program through committee to the Senate floor. If time at all permits, phase II will be considered by the Energy Committee this year and reported as separate legislation. This commitment by the leadership of the Energy Committee assures full and fair consideration of a critical aspect of this coal conversion program.

This bill provides $3.6 billion in financial assistance to converting utilities. For many in the utility industry, the support of government and has been troublesome. The industry's endorsement of this legislation crossed a philosophical watershed involving the relationship between utilities and the Government. This bill will overcome the financial impediment to conversion and will ultimately improve the balance sheet of eligible utilities as well as the pocketbooks of affected consumers. This is legislation in the national interest, because reduction in our use of imported oil benefits everyone.

Utility coal conversion can be accomplished in a manner which is environmentally sound and consistent with current air quality standards. The greatest portion of the funds awarded will be used for the installation of scrubbers and other pollution control equipment.

The phenomenon of acid rain is not well understood, even by highly specialized scientists who have been investigating the problem for years. The absence of solid scientific knowledge has only led to conjecture. But there can be no conjecture about the threat which our continued dependence on foreign oil offers to our economic health and national security. We cannot afford to sacrifice energy self-sufficiency for speculative environmental benefits. We must hold fast to our national commitment to reduce oil imports and utilize abundant American resources whenever possible. This can be accomplished in compliance with existing environmental standards, which are designed to fully protect the health and welfare of the public.

This bill also includes an extension of the prohibition on the use of natural gas by utilities as contained in the Powerplant and Industrial Fuel Use Act. The measure allows utilities to burn natural gas until the end of the powerplants' effective book service life, thus permitting some utilities to continue gas use for 10 years or more beyond the statutory 1990 deadline. As a coal State Senator, I am concerned that this provision may constrain coal use by utilities in the Southwest. However, current natural gas supplies, economic considerations, and the availability of adequate coal supplies to that region could mean that coal use might not increase as much as once anticipated. The provisions of this bill, together with an amendment which will be offered to prevent delays in construction of new coal-burning powerplants, are fair and realistic.

The distinguished Senator from Louisiana (Mr. JOHNSTON) and the distinguished Senator from Kentucky (Mr. FORD) are to be congratulated for their leadership and hard work on this legislation. Senator FORD has been an able and courageous voice for coal. He and Senator JOHNSTON have won the endorsement of the coal industry and the utility industry for this bill. The cooperation of these groups must be commended, and has greatly contributed to the support this legislation enjoys. The solidarity of the Senate Coal Caucus has been an important influence on the outcome of legislation; and the bipartisan support of its members, most particularly the distinguished Senator from Pennsylvania (Mr. HEINZ), is to be commended.

Also, I congratulate the members of the President's Coal Commission—Mr. RANDOLPH, Mr. HUDDLESTON, and Mr. PERCY—on the excellent support they have given and the fine work they have done.

Coal conversion offers one of the most direct, near-term and cost-effective opportunities for reducing U.S. reliance on foreign oil. With the rapid rise in oil prices, coal conversion represents a tremendous potential savings in fuel costs. There is an urgent national interest in reducing foreign oil imports. Delay can only result in further deterioration of our economic and strategic posture. We must have "Coal Now"—for the future of America depends on it.

This is a signal to our allies and to OPEC alike that this Nation intends to meet its commitment to conserve energy. It is an invitation to the industrialized world to join in this endeavor through the increased use of coal. Coal is abundant, available, and it can be burned cleanly. Coal will provide one of the key answers in our search for energy security.

Mr. HUDDLESTON. Mr. President, I also rise in support of the pending legislation and express my appreciation to my distinguished colleague from Kentucky, Senator FORD, and Senator JOHNSTON from Louisiana and others who have worked so diligently and so effectively in getting the legislation to the floor.

I rise in strong support of the bill offered by my colleague from Kentucky, Senator FORD, and which I am pleased to cosponsor along with Senators BYRD, RANDOLPH, PERCY, HEINZ, and others.

This bill is the result of months of hard work by the administration and Congress to develop a mechanism to accomplish a goal to which we have been dedicated for a long time—the conversion of coal capable utilities off of oil and gas back to coal.

It is a simple, straightforward bill. It mandates the immediate conversion of a select list of coal capable utilities; provides financial assistance to help meet the up-front capital costs; and, minimizes the opportunities for exemption from conversion orders.

It is the kind of simple, straightforward bill we have to have now, this year, if we have any hopes of breaking the OPEC stranglehold in the near term.

There is no energy shortage in this country. There is a liquid fuels shortage, but no energy shortage. We have enough energy, in the form of coal, to last for generations.

Unfortunately, all that coal does not do us any good unmined or lying on the ground, and that is exactly where too much of it is today. It does not do us any good if we cannot burn it here because of economic and environmental restrictions, or ship it to the expanding markets abroad because of inadequate transportation and port facilities.

Just last week, we passed an omnibus synthetic fuels bill which will help us realize coal's enormous potential in the mid to late 1980's. I strongly support that bill. My State of Kentucky is in the forefront of synthetic fuels development, and I predict that it will not be too long before Kentucky is supplying a good percentage of this country's energy needs.

But, the coal is here now and we should be using it now. Conversion to the direct use of coal is one of the few short-term options we have. For $4 billion, this bill will save us over 300,000 barrels of oil per day within the next 3 or 4 years. I cannot think of any other energy bill that we have considered or passed that offers that kind of savings, that quickly, at such a relatively low price.

We have to stop risking our economy and our national security on this treacherous game of Arab roulette. We will send over $90 billion to OPEC this year to pay our oil bill. With our economy in the shape it is now, we cannot afford $90 billion. We cannot afford what it is doing to our inflation rate, our unemployment rate, our balance of payments.

But, we are paying for that oil with something far more precious than money. We are paying for it with our independence and with our integrity as the most powerful and prosperous nation on Earth.

The price of oil dependence is far, too high. The ironic thing is, we do not have to pay it. We could use coal.

And, what happens when the oil is shut off? It has happened before, and in all likelihood it will happen again to one degree or another.

No foreign country, no sheik can shut off our coal. No one can blackmail us with it. The coal is ours. When we depend on coal, we depend on an American resource, mined by American workers.

If we cannot take this modest step; if we cannot commit to using our coal instead of somebody else's oil, then we should stop kidding ourselves that we are serious about solving our energy problems.

We have an opportunity with this bill to save over 300,000 barrels of oil per day. I strongly urge my colleagues to seize on that opportunity, get this bill over to the House of Representatives and through conference before the end of this session. It would be a serious mistake and a very costly mistake to let this bill get bogged down with issues which could be addressed more appropriately in another context.

The distinguished majority leader has said many times that energy bills are the hardest bills to pass. Too many times we have proven him right. I do not think he would mind if this time we proved him wrong.

This bill is a significant step forward if it can be achieved, and I am confident that it can by action of this body and by the House of Representatives and the signature of the President.

Mr. PERCY. Mr. President, it is my intention to call up an amendment, but I prefer to have Senator Johnston in the Chamber at the time.

I yield to my distinguished colleague.

Mr. FORD. Mr. President, the Senator from Louisiana will be back to the Chamber shortly. His amendment is now the pending legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, it is my understanding that there is no objection now on the other side of the aisle to the pending amendment.

Therefore, I yield back my time and whatever is necessary in order for the question to be placed in the Chamber.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (UP No. 1291) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, regarding the amendment that the Senator proposed in behalf of himself and Senator Ford with reference to slippage, I would like to ask the Senator this question: In view of this amendment as relates to reports on construction schedules for coal-fired powerplants, I am concerned about how that provision might be interpreted by utilities sometime in the future, and I would like to ask the distinguished floor manager whether the mention of only coal-fired powerplants in the reporting requirement is intended to mean that it is preferable to slip the schedule of a nuclear powerplant rather than a coal-fired plant.

Mr. JOHNSTON. Mr. President, the amendment does not mean to have any such implication. The reason for the amendment is the concern particularly of those from coal-producing States that the oil-gas amendment would be used as a means of slipping the schedule of coal plants.

The reason for putting in the reporting requirements and the colloquy is really to reassure those from those coal-producing States that that is not the intent, the purpose, nor, in my judgment, would it be the result.

The same thing can equally be said for nuclear plants. It is the purpose of this bill not to encourage the use of gas but rather to back out oil in the maximum quantity, and that backout would occur either through coal plants or through any other alternative sources whether it be nuclear or geothermal or hydroelectric or other sources.

So the answer to my friend is there is no intent at all to slip nuclear plants because of this bill nor is there an intent to slip hydroelectric or geothermal. That is very clear from the action of the committee, and I think from the wording of the bill. But I would like to emphasize and make that particularly clear here on the floor.

WITHDRAWAL OF SOVIET TROOPS FROM AFGHANISTAN

Under the previous order, there will now be 10 minutes of debate on Senate Resolution 472 calling for the withdrawal of Soviet troops from Afghanistan, to be followed by a vote at 2 o'clock.

The Senate continued with the consideration of Senate Resolution 472.

AFGHANISTAN RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, 6 months ago, the Soviet Union began its military intervention in Afghanistan. This brutal action has inflicted great suffering on the people of Afghanistan and has poisoned the relations between the Soviet Union and non-Communist nations.

There is a danger that the Soviet actions in Afganistan will recede in the public's consciousness. References to events in Afghanistan in the press are becoming less frequent and matter-of-fact in tone. Because the Soviets keep the world press out of Afghanistan, they are able to control the news to some extent: Thus, the recent, vague Soviet proposal to withdraw some troops from Afghanistan made headlines while the outrages perpetrated every day by Soviet troops in Afghanistan are often hidden from the world.

We must not let this happen. We owe it to the brave people of Afghanistan to continue to focus attention on what the Soviet Union is doing.

The resolution we are offering will put the Senate on record as deploring the Soviet violations of national rights and individual freedoms in Afghanistan. The resolution urges world opinion to join in condemning the Soviet actions. The resolution puts the Senate on record in support of the withdrawal of all Soviet military forces from Afghanistan, and supports the imposition of penalties on the Soviet Union for its actions. The resolution calls on the administration to continue to bring the Afghanistan intervention to the attention of the United Nations, and urges the administration to work with other nations to prevent further incursions in the region.

SOVIET INTERVENTION AND OCCUPATION

On December 24, 1979, Soviet military forces began to enter Afghanistan in large numbers. By mid-January, there were about 85,000 Soviet troops in Afghanistan. The world was stunned by the Soviet action. There were preliminary signs of a Soviet build-up, but the actual intervention still came as a shock: This was the first direct Soviet military intervention in a country outside the Warsaw Pact since the end of World War II; it was the first Soviet military intervention since Czechoslovakia in 1968; and it was the first large scale engagement of Soviet troops since the 1969 fighting with Chinese forces along the Ussuri River.

The Soviets moved quickly to try to impose their control. President Hafizullah Amin, a protege the Soviets came to regard as unreliable, was captured and executed on December 27, along with members of his family and entourage. In his place, the Soviets have installed Babrak Karmal, flown in from exile in Eastern Europe. He governs the country in name only: Soviet "advisors" have supplanted Afghans as the real authorities.

The Soviets have continued to pour military equipment and arms into the country. Helicopter gunships spew napalm on lightly armed Afghan resistance fighters, and there are unconfirmed reports of the use of lethal gas. The Soviet troops and the troops of the Karmal government have inflicted heavy casualties on the Afghan resistance fighters. But the Soviets have been forced to assume more and more of the fighting: The Babrak Karmal regime has continued to lose legitimacy in the eyes of the Afghans, and the army has been demoralized. Massive desertions from the Afghan army are reported.

The Soviets and the puppet regime of Babrak Karmal barely control the towns and major highways. Even in the towns, they are constantly faced with guerrilla attacks and public demonstrations. The Soviets and the Karmal regime have only minimal control over the countryside.

Resistance has increased, and the Soviets have begun to prepare for a long fight, building more substantial military facilities to replace temporary ones. Any illusions the Soviets might have had about a short and quick intervention have been shattered. For the Soviet Union, Afghanistan has all the makings of a quagmire.

In the last few days, the Soviets have announced they might withdraw some military units from Afghanistan. As suggested in the communique issue at the Venice Summit on June 22, to be useful the Soviet withdrawal will have to be permanent and continue until the complete withdrawal of the Soviet troops. A token withdrawal will rightly be seen as a propaganda ploy, perhaps designed to make Moscow Olympics more politically palatable.

SOVIET GOALS

Afghanistan has long played the role of a buffer between Russia and the Indian subcontinent. Its geopolitical importance in the 19th century was a major overland trade route. Today its geopolitical importance is due to the fact that it stands between the Soviet Union and the Persian Gulf. Control over Afghanistan would enhance the Soviets' ability to menace oil-rich Iran and to exert pressure on Pakistan.

Throughout the post World War II period, Afghanistan has sought to maintain a nonalined status consistent with its role as a buffer state. As a small, less developed country bordered by a superpower, Afghanistan prudently sought to maintain good relations with the Soviet Union. The overthrow of the monarchy in 1973 led to the creation of the Afghan Republic under President Daoud. Since that time, successive Afghan governments—the Taraki regime which came to power in 1978, and the Amin regime that came to power in 1979, and now the Karmal regime—have grown increasingly dependent on the Soviet Union for arms, economic aid, and diplomatic support.

In December 1978 the Taraki government signed a 20-year treaty of friendship and cooperation with the Soviet Union. In Afghanistan today we see what the Soviets mean by friendship and cooperation.

The Soviets apparently felt compelled to intervene directly in Afghanistan because they could no longer rely on the government in Kabul to retain control. The leftist policies of successive Afghan regimes have deeply offended Afghanistan's devoutly Moslem population. The government's growing dependence on the Soviet Union alienated the proud and independent Afghans. Armed resistance to the government in Kabul grew. Sporadic revolts occurred in all of the nation's 29 provinces in 1979. The government in Kabul was losing its control over the countryside. The Soviet Union apparently intervened militarily to protect its considerable investment in the Kabul government.

The rise of Islamic fundamentalism is a challenge not only to the Marxist regime in Kabul but to the Soviet Union itself. In Soviet Central Asia there are more than 50 million Moslems. The Soviets probably saw events in Afghanistan as threatening to spread religious freedom to the Soviet Union's Moslems, and they acted to prevent that just as they intervened in Czechoslovakia in 1968 to stop the spread of political freedom throughout the Soviet bloc. The Soviet intervention in Afghanistan is, in part, a sign of weakness: The Kremlin feels that basic freedoms threaten the stability of the Soviet state.

AFGHAN RESISTANCE

The people of Afghanistan are mostly mountain people. They are proud, independent, and suspicious of outsiders. The people of Afghanistan are also divided into different ethnic communities and tribal groups. These characteristics help to explain why the Afghan resistance to the Soviets has been so fierce. These characteristics also explain why a single, unified anti-Soviet and anti-Karmal movement has been slow to emerge.

Almost all Afghans are Moslem. and about 80 percent belong to the Sunni Muslim sect, not the Shiite sect that predominates in neighboring Iran. At least 10 major resistance groups have emerged in the fight against Soviet occupation. What unites these groups is their common religious faith. The Islamic Conference expelled the Babrak Kahmal government. The Islamic Conference has urged the several resistance groups to form a broad-based alliance to fight the Soviets and the Karmal regime more effectively. Even divided, the resistance fighters have managed to inflict heavy casualties on the Soviets and on the troops of the Afghan Army.

In the towns, there have been large demonstrations against the Soviet occupation and the Karmal government. In April and May 1980, high school and college students in Kabul held a series of anti-Soviet and anti-regime rallies. These demonstrations were savagely repressed, with about 60 young people killed and over 1,000 arrested. Devout Afghans were shocked that a number of those killed by the Soviets and the Karmal government were girls.

A second round of protests in Kabul occurred in late May. These demonstrations were led by grammar school children, some as young as 8 years old. As many as 50 children were killed in these demonstrations, and hundreds were arrested. It is an outrage that Soviet troops and soldiers of the Karmal regime should be shooting children.

The intense fighting in the countryside has driven more than 750,000 Afghans to seek refuge in neighboring Pakistan. Thousands more have fled to Iran. These people have been forced to give up their homes and property in order to survive. The deprivation and suffering of the refugees is enormous.

The outrages committed against protestors, the casualties inflicted on resistance fighters, and the deprivation suffered by the refugees have not broken the spirit of the people of Afghanistan; indeed, there are signs that their will to resist has been strengthened. It is a lesson to the rest of the world that members of Afghanistan's national soccer and basketball teams have defected rather than compete in the Moscow Olympics on behalf of the puppet government in Kabul.

SOVIET-AMERICAN RELATIONS

For the long term, the United States and our allies must make it clear to the Soviet Union that their resort to direct military intervention will be costly in terms of their relations with the United States. The Soviets are paying some of these costs today: The boycott of the Moscow Olympic games, endorsed by the Senate January 29, 1980, by a vote of 88 to 4, is being supported by over 50 nations, including the major non-Communist competitors—the United States, West Germany, and Japan. Limits on trade in high technology and other commercial restrictions have been imposed, and these too have a direct impact on the Soviets.

Proposals for the restoration of Afghanistan's neutrality have been advanced by several nations. Any serious proposal should be considered, but the aim must be to restore self-determination to the people of Afghanistan: As long as Soviet military forces occupy Afghanistan, there can be no self-determination.

The United States should support efforts that will lead to the restoration of Afghanistan's nonaligned status. The Soviets can be expected to resist U.S.-sponsored proposals of this sensitive question. The best prospect for negotiations is through initiatives on the part of Third World Nations. We should encourage these initiatives.

In the decade to come, the Soviet Union and the United States will continue to have a special responsibility for avoiding major conflicts. And these two nations must continue to seek mutually advantageous agreements on matters of common interest. But the Soviets should know in advance our willingness to cooperate in some areas in no way diminishes our willingness to oppose Soviet actions in other areas.

America's opposition to the Soviet intervention in Afghanistan is consistent with both our long-term and short-term policy goals. That is why it is important for the Senate to go on record as deploring the Soviet intervention, and in favor of continuing to bring this action to the world's attention.

Mr. President, I understand that there is a request for a rollcall vote.

Mr. BAKER. Mr. President, I am pleased to join today with the distinguished majority leader in sponsoring this resolution. It is entirely appropriate that we keep before the American public and world opinion the fact of Soviet aggression against a sovereign and independent member of the community of nations.

Mr. President, we still do not know the true significance or meaning of the Soviet invasion of Afghanistan. We do not really know for example whether the invasion of Afghanistan was a long considered and carefully calculated step in some master, Russian plan of imperialistic design. That, certainly, is possible. More likely, it may simply be another example of Soviet ability and willingness to exploit every opportunity—the theory that they will try every door on the assumption that some will be unlocked. It may be, as some have said, a purely defensive measure. We simply do not know.

What we do know, Mr. President, is that a Soviet leadership, which we have described variously as aging, cautious and conservative, was able and willing to take decisive and brutal action against an independent nation. It was an act of pure aggression, an act they have pursued with brutal vengeance, and we ignore their willingness to undertake it at our peril.

Mr. President, the invasion of Afghanistan is a problem and indeed a serious one. It is appropriate that we focus on it because a brave and spirited people, virtually unarmed and with virtually no help, are waging a fierce resistance to Soviet domination. They are suffering and dying in untold numbers because they refuse to submit, and we should not forget them. But we should also remember that Afghanistan is not an isolated incident.

Prior to Afghanistan, we have for a number of years watched passively the persistent expansion of the reach and scope of Russian power—from the Sea of Japan to the Caribbean. They have fostered and exploited regional instability and they have proved masterful in their use of client states and proxy forces. From Angola, Liberia, Ethiopia, South Yemen and now to Afghanistan the Soviets have pre-positioned armies, massive amounts of equipment, and totally subservient client regimes. They are literally inches away from the lifeline of the Western World and only recently, only because of Afghanistan, have we responded. Afghanistan is a tragic event but we have more to worry about than just Afghanistan and we have come only belatedly to that realization.

So while we condemn the invasion of Afghanistan, while we oppose the suppression of a proud people, it is against the entire pattern of activity, the entire panoply of Soviet actions that we must respond. The Kremlin must be convinced, Mr. President, that the United States and its allies will protect our interests. They must know that we will maintain our presence in the Indian Ocean, make the necessary adjustments to force levels and defense expenditures, and that we will act firmly and consistently against the expansion of Soviet power.

They must know that we are in this for the long haul. Above, all Mr. President, the Russians must be convinced that they will not be permitted to interrupt the flow of oil from the Persian Gulf. If this resolution offers nothing else but an opportunity to contribute to that process of persuasion, then it will have well served its purpose.

Mr. McCLURE. Mr. President, will one of the leaders yield 30 seconds to the Senator from Idaho while they are conversing?

Mr. BAKER. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I strongly support this resolution. I want to call attention, however, to one dilemma that some of us face. There is a provision in here with respect to the restriction of commercial relations with the Soviet Union. There are a number of us who are very extremely upset at the action of the administration in now permitting international trading companies to deal with the Soviet Union in wheat, so long as it is wheat not grown by American farmers.

There are a number of us who join in cosponsoring the resolution asking that so long as that is the case that we are not going to attempt to embargo wheat, just U.S. wheat, we will not embargo high technology, just U.S. wheat, that a number of us will urge the lifting of the embargo on U.S. wheat so that the burden is not disproportionately carried by U.S. farmers.

With that exception and with that understanding, I strongly support the condemnation of Soviet aggression that is stated in this resolution.

I thank the Senator for yielding.

AFGHANISTAN AND THE VENICE SUMMIT

Mr. CHURCH. Mr. President, on December 27, 1979, the Soviet Union invaded Afghanistan. As Senate Resolution 472 states, that invasion was a gross violation of Afghanistan's national sovereignty and a threat to other nations in the region. Since the invasion, thousands of Afghan freedom fighters have died, thousands more have been arrested and imprisoned, and nearly 1 million people in Afghanistan have been driven from their homes to seek refuge in neighboring countries. This international outrage must cease.

Over the weekend, and prior to the beginning of the Venice Summit, the Soviet Union announced that "Some army units whose stay in Afghanistan is not necessary at present, are being withdrawn these days to the territory of the U.S.S.R. on agreement with the Afghan Government." What the Soviet Union did not announce was a timetable for a complete withdrawal from Afghanistan or a guarantee that the units being withdrawn would not be replaced with fresh troops. Thus, the Soviet statement must be regarded with great caution. Whether this is the beginning of a resolution of the Afghan crisis or a tactical move by the Soviets to undercut opposition to its involvement in Afghanistan remains to be seen. The evidence, however, seems to indicate that the Soviet Army is planning for a long stay in Afghanistan. For example:

Recently, the tour of duty for Soviet troops in Afghanistan has been set at 2 years. Dependents of Soviet military personnel are being brought into the country. Permanent quarters for Soviet officers and troops are under construction at major Soviet bases.

Soviet engineers have apparently resurrected the long-dormant plan to build a railroad from the Soviet border to the Kabul area.

The Soviets are building two permanent bridges across the Amu Darya River separating Afghanistan from the Soviet Union.

Key Afghan airfields are being upgraded, fuel reserves are being increased at Soviet bases, and permanent communications facilities are being constructed.

These activities do not suggest the beginning of a Soviet withdrawal from Afghanistan. In light of this, I was pleased to see that the Allied leaders, meeting in Venice, issued a joint communique which stated that, in order to make a useful contribution to the solution of the Afghan crisis, the recent announcement by the Soviet Union, if confirmed, "will have to be permanent and continue until the complete withdrawal of the Soviet troops."

In September 1979—2 months prior to the Soviet invasion—I warned the Soviet Union against military intervention in Afghanistan. I stated that, given events at the time, the Soviet Union might be tempted to embark on a dangerous escalation of its military involvement in that country. I warned that if the Soviet leadership succumbed to the creeping military logic that just a little more involvement would defeat the insurgents, they would risk becoming bogged down in a Soviet Vietnam that would cost them dearly in blood, money, and international prestige. That forecast has now turned into a reality.

Since the Soviet invasion of Afghanistan, I have continuously called for the Soviets to withdraw. I thus endorse and will support Senate Resolution 472. This resolution will make it perfectly clear to the Soviet Union that the U.S. Senate deplores its actions in Afghanistan and will not rest until the Soviet presence has been removed.

Mr. President, I ask unanimous consent that the statement of the allied leaders on Afghanistan be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 23, 1980]

TEXTS OF STATEMENTS ON AFGHANISTAN AND HOSTAGES

AFGHANISTAN

In seeking here in Venice to define a global economic strategy and to show our united determination to make it a reality, we are consciously accepting the responsibility that falls to the three great industrialized areas of the world—North America, Western Europe and Japan—to help create the conditions for harmonious and sustained economic growth. But we cannot do this alone: others too have a part to play.

However, present circumstances oblige us to emphasize that our efforts will only bear fruit if we can at the same time preserve a world in which the rule of law is universally obeyed, national independence is respected and world peace is kept. We call on all countries to join us in working for such a world and we welcome the readiness of nonaligned countries and regional groups to accept the responsibilities which this involves.

We therefore reaffirm hereby that the Soviet military occupation of Afghanistan is unacceptable now and that we are determined not to accept it in the future. It is incompatible with the will of the Afghan people for national independence, as demonstrated by their courageous resistance, and with the security of the states of the region. It is also incompatible with the principles of the United Nations Charter and with efforts to maintain genuine détente. It undermines the very foundations of peace, both in the region and in the world at large.

VIEWS OF WORLD COMMUNITY

We fully endorse in this respect the views already expressed by the overwhelming majority of the international community, as set out by the United Nations General Assembly in Resolution No. ES–6/2 of 14th January, 1980, and by the Islamic Conference at both its recent sessions.

Afghanistan should be enabled to regain the sovereignty, territorial integrity, political independence and nonalined character it once enjoyed. We therefore call for the complete withdrawal of Soviet troops and for the Afghan people to be left free again to determine their own future.

We have taken note of today's announcement of the withdrawal of some Soviet troops from Afghanistan. In order to make a useful contribution to the solution of the Afghan crisis, this withdrawal, if confirmed, will have to be permanent and continue until the complete withdrawal of the Soviet troops. Only thus will it be possible to re-establish a situation compatible with peace and the rule of law and thereby with the interests of all nations.

We are resolved to do everything in our power to achieve this object with this objective. We are also ready to support any initiative to this end, such as that of the Islamic Conference. And we shall support every effort designed to contribute to the political independence and to the security of the states of the region.

Those governments represented at this meeting which have taken a position against attendance at the Olympic Games vigorously reaffirm their positions.

TAKING OF HOSTAGES

Gravely concerned by recent incidents of terrorism involving the taking of hostages and attacks on diplomatic and consular premises and personnel, the heads of state and government reaffirm their determination to deter and combat such acts. They note the completion of work on the International Convention Against the Taking of Hostages and call on all states to consider becoming parties to it as well as to the Convention on the Prevention and Punishment of Crimes Against International Protected Persons of 1973.

The heads of state and government vigorously condemn the taking of hostages and the seizure of diplomatic and consular premises and personnel in contravention of the basic norms of international law and practice. The heads of state and government consider necessary that all governments should adopt policies which will contribute to the attainment of this goal and to take appropriate measures to deny terrorists any benefits from such criminal acts. They also resolve to provide to one another's diplomatic and consular missions support and assistance in situations involving the seizure of diplomatic and consular establishments or personnel.

The heads of state and government recall that every state has the duty under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts, and deplore in the strongest terms any breach of this duty.

Mr. GLENN. Mr. President, I applaud the distinguished majority and minority leaders for the initiative they have taken in presenting this resolution to the Senate today to remind all Americans, and indeed the world, of the Soviet Union's 6-month-old invasion of Afghanistan. There is indeed a danger, as Senator Byrd has pointed out, that time will have the effect of making the Russian rape of Afghanistan recede in public consciousness.

Mr. President, I believe the case for this resolution was well stated by the leaders in their recent letter.

I ask unanimous consent that portions of the "Dear Colleague" letter which they sent around, which I thought were particularly appropriate, be printed in the Record just ahead of the vote taken on the Afghanistan resolution.

There being no objection, the material was ordered to be printed in the Record, as follows:

Dear Colleague: It is six months since the Soviet Union began its massive military intervention in Afghanistan. But there is a danger that the Soviet rape of Afghanistan will recede in public consciousness, here and abroad. Already, the references to events in Afghanistan in the press are becoming less frequent in number and more matter-of-fact in tone.

There are signs that the Soviets are preparing for a long-term military presence, with the construction of substantial military facilities. Babrak Karmal's puppet regime, installed by the Soviets, is a government in name only. Soviet "advisors" are the real authority throughout Afghanistan.

Although faced with overwhelming military power, the people of Afghanistan have lost none of their will to resist. Indeed, in recent weeks popular opposition to the Soviets has increased. In the towns, anti-Soviet and anti-government demonstrations have involved thousands of people, including elementary school children. Much of the countryside is under the control of the resistance fighters. The fighting has been intense, and casualties high on both sides. Savage acts of repression against demonstrators by the Soviets and the casualties inflicted on the resistance fighters appear to have increased the indignation and fighting spirit of the people of Afghanistan. But the violence has driven as many as 1,000,000 people from their homes to refuge in Pakistan and Iran.

In short, a major conflict is raging in Afghanistan. The human suffering inflicted by the Soviets on the people of Afghanistan—the dead, the wounded, the jailed, the displaced—is enormous.

The U.S. government has taken a number of steps in response to the Soviet intervention in Afghanistan, including the boycott of the Moscow Olympic Games and the imposition of economic and trade restrictions on the Soviet Union. On January 29, 1980, by a vote of 88–4, the Senate approved H. Con. Res. 249 supporting the boycott of the Olympic Games.

We believe that we should not allow the violence perpetrated by the Soviet Union to fade from our memories. We should put on record our opposition to what the Soviets have done and continue to do in Afghanistan. and We should urge the U.S. government to continue to keep the plight of the heroic people of Afghanistan before the world community. These are the purposes served by this resolution.

CONDEMNING THE RUSSIAN INVASION—WITHOUT A GRAIN EMBARGO

● Mr. DOLE. Mr. President, the Senator from Kansas rises to speak in favor of the resolution deploring the Soviet invasion of Afghanistan. This resolution comes at a timely moment, for the Soviet Union launched just yesterday the first salvo of its pre-Olympics peace offensive. After a buildup over a period of several weeks, when Soviet transport aircraft were arriving at three and four times the previous rate and apparently, a large number of new troops and equipment shipped into Kabul, the Russians withdrew a token force from their occupying army in Afghanistan.

If the Russians hoped to fool anyone with this propaganda play, they have been disappointed. The seven leading Western powers, meeting at the Economic Summit in Vienna, jointly condemned the Afghanistan invasion yesterday, calling for total withdrawal of Soviet forces. This resolution, unanimously supported in the Senate, does the same. Only when the Soviet Union realizes that Western unity will not be shattered in its complete condemnation of this invasion, only when the Russians realize they have lost far more credit in the Third World than they have gained in the mountains above the Khyber Pass, will they be inclined to cut their losses and initiate serious negotiations.

EMBARGOS NEED UNITY TO WORK

The key to a strong Western response has always been a solidified unity in that response. Embargos, such as the one imposed last January by President Carter, can almost never work—let alone accomplish their purpose—without a close agreement and strong enforcement by all our allies. The administration did not get that kind of cooperation from the many countries who joined us in condemning the invasion.

Before the embargo was actually imposed, while it was only rumored, I said in Des Moines that the embargo of grain sales to the Soviet Union would be an ineffective tool for the United States in dealing with Russian foreign policy and would be a disastrous move for American farmers.

I said that the farmers of America should not have to pay the total price for the lack of leadership and 3 years of drifting foreign policy which was the result of a lack of cohesiveness and credibility of the Carter foreign policy.

I also said farmers will do their part in times of national emergency and that this was not the time to penalize farmers because the Rusisans do not take President Carter seriously.

After the embargo was imposed on the evening of January 4, I issued a statement from Des Moines, Iowa, saying the embargo of grain sales to the Soviet Union will hurt the United States more than it will hurt the Soviet Union. Since then events have proved the Senator from Kansas correct.

American farmers suffered financially as grain prices and production dropped, the U.S. balance of payments suffered, and the value of the dollar declined. Meanwhile the Soviet Union replaced much of the grain from other countries, most of them our allies.

I said at the time, the embargo was one of the worst economic decisions in the history of our country. I thought then, and still do, that the decision was irresponsible.

On Saturday, January 5, I said the fact of the matter is that President Carter took a poke at the Soviet Union and knocked out the American farmer. I called upon the President then, and I still do, to rescind this ill-advised action. Last Friday the Senator from Kansas introduced a bill, S. 2855, to rescind the agricultural commodity export embargo to the U.S.S.R., which was cosponsored by the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Minnesota (Mr. BOSCHWITZ), the Senators from South Dakota (Mr. MCGOVERN and Mr. PRESSLER), the Senators from Nebraska (Mr. ZORINSKY and Mr. EXON), the Senators from North Dakota (Mr. YOUNG and Mr. BURDICK), the Senator from Iowa (Mr. JEPSEN), the Senators from Missouri (Mr. DANFORTH and Mr. EAGLETON), the Senator from Oklahoma (Mr. BELLMON), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. WALLOP), the Senators from Montana (Mr. BAUCUS and Mr. MELCHER), and the Senator from Texas (Mr. TOWER).

EMBARGO A FLOP

When the Senator from Kansas and others criticized the embargo last January as ineffective, unfair, and more damaging to the United States than to the Soviet Union, we were criticized as unpatriotic. I and many others believe now that we were right. Many experts agree the U.S. sanctions against Russia have been a flop. They are not working except to the detriment of the American farmer. The punishment that President Carter sought has been further diluted by the noncooperation of America's allies.

EMBARGO FALLING APART

The embargo action is falling apart. There are too many holes in the system. Many believe the embargo is now very counterproductive. We have put our farmers and exporters in a strait jacket, while all the others run around free to sell.

I do not believe we should let the damage from this action get worse. The time to end the embargo is now. It should be recognized for the failure it has been.

U.S.S.R. REACTION

Since the embargo, to meet feed and food needs, the U.S.S.R. has: First, drawn on its own reserve stocks. Second, succeeded in buying grain and meat on the world markets, often at premium prices. Purchases of grain were shifted from the United States to Argentina, Canada, West Europe, neighbors in East Europe, and even China. As a result, international grain prices rose, as the U.S. price declined. The USDA's April 1980 report shows that there would be about 7 million fewer tons of grain available to the U.S.S.R.—only 3 percent less than Russia had the year before—than there would have been in the absence of the suspension. There are some reports which state that they have found all the grain they want.

In addition, the Russians are buying soybean meal in Europe from U.S. produced soybeans.

Third, reduced exports to satellites, which in turn purchased grain from the United States.

Fourth, adjusted livestock feeding.

U.S. IMPLICATIONS

The implications of all this are severe for the United States:

First, the U.S. farmer, the soybean worker at the processing plant. The U.S. transportation industry, and the U.S. economy have been dealt a severe economic blow. The recession has been steepened, and the balance of payments worsened.

Second, American grain exporters have been forced to try to find new markets and have been denied access to the world's largest, most important grain importer.

Third, the U.S. taxpayer has had to absorb a greater financial burden totaling around $3 billion.

Fourth, the Russians got most of the grain they needed this year, and no doubt will make sure in the future that they will never again rely on the United States as a dependable supplier. There are reports the Soviets may not buy the 8 MMT we have offered them under the fifth year of the grain agreements.

Fifth, various governments around the world will question our ability to honor our commitments, and this will increase their determination to be more self-sufficent in food.

Sixth, other countries will expand production and find a ready market. This will have long-run effects to reduce U.S. markets.

Seventh, USDA estimates that the net farm income was down by 37 percent in the second quarter of 1980, compared to the same quarter in 1979. Grain prices have been lowered. There is now support for higher grain support prices and acreage controls.

For 1980 it is probable that net farm income will be down about 30 percent or more. Prices of corn, wheat, and soybeans are down sharply below the levels they would have attained in the absence of the embargo.

FUTURE U.S. POLICY

As this universally supported resolution demonstrates, in conjunction with the ringing and unified denunciation at the Vienna Economic Summit, there remains widespread support for comprehensive action against Moscow. But to be effective, it must be unified. This resolution supports the imposition of penalties on the Soviet Union for its unwarranted aggression, including the Olympic boycott, restrictions on trade in high technology, and limits on other commercial relations. These penalties, to be effective, must be in a form we can control. High technology sales, where there are few suppliers, may be effective retaliation. But, a grain embargo could never punish the Soviet economy as much as it does ours, especially when other grain suppliers around the world were eager to make up the shortfall.

In the final analysis a firm and cohesive foreign policy, led with strength and determination, and backed up by a strong defense establishment, is the only thing that will limit and inhibit Soviet imperialism. Symbolism through boycotts at the Olympics, and rhetoric matched with resolve—not, as in this case, by administration pleas to cut the inadequate defense budget still further—have their place in international diplomacy. Taken alone, and without the support of our allies, empty rhetoric will do nothing, and ill-conceived embargos will only backfire upon us.●

● Mr. PELL. Mr. President, I support the resolution on Afghanistan that has been proposed bv the distinguished majority and minority leaders. As honorary cochairman of the Afghanistan Relief Committee, a private organization raising funds for Afghan refugees in other countries, I believe this resolution would help to continue to focus public attention on the Soviet invasion of Afghanistan and the plight of the Afghan refugees.

The final "whereas" clause of this resolution correctly points out that nearly 1 million Afghans have been driven from their homes to seek refuge in other countries.

I believe that this statement, which stresses the human as against the strategic consequences of the Soviet invasion, should be complemented by a statement in the "resolved" portion of the resolution supporting the President's action on June 19 in proclaiming the week of July 21–27 as "Afghanistan Relief Week." That is the opening week of the Moscow Olympics; so the selection of that week to highlight the plight of the Afghan refugees is most appropriate.

The President's proclamation had its origin in a letter that I, Senator JAVITS, Senator PERCY, Senator EXON, Congressman WOLFF, and Congresswoman FENWICK sent to the President on May 14 urging him to set aside Julv 21–27 as Afghanistan Relief Week. That letter was followed up bv the introduction of identical concurrent resolutions in the Senate and House calling for such a proclamation.

Those resolutions are now moot in light of the President's action, but I believe it is important that both the President's proclamation and its origin in the Congress be acknowledged in what we do here today.●

Mr. ROBERT C. BYRD. Mr. President, there are some Senators, I understand, who are supposed to be at the White

House and some have already gone. I am willing to act by voice vote at this time, if Senators are willing. I ask unanimous consent that the vote now occur.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, will the leader repeat the unanimous-consent request?

Mr. ROBERT C. BYRD. That we vote now and just have a voice vote.

Mr. McCLURE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho reserves the right to object.

Mr. McCLURE. Mr. President, it is not my intention to be discourteous to those who may temporarily be absent from the Chamber for whatever reason. But the record vote was asked for and I think there is value in having the Senate on record by name, by number, in opposition to what the Soviet Union has done. I would, therefore, object to the vacation of the rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, the yeas and nays were not ordered.

Mr. McCLURE. Excuse me. I misunderstood.

Mr. ROBERT C. BYRD. I had indicated there probably would be a rollcall vote. But now, with the knowledge that some Senators may be away, I suggest we proceed by voice vote.

Mr. BAKER. Mr. President, I think the Senator from Idaho had the same information I had. Both of us were attending the Republican Policy Committee meeting and were given the information that the rollcall vote on this resolution would occur at 2 o'clock. I suppose neither of us knew at that time that a rollcall had not been ordered.

As far as I am concerned, if there are absentees and if the Senator from Idaho wants a rollcall, we could postpone the rollcall to a later time to conclude the consideration of the matter.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennesee has the floor.

Mr. PERCY. Will the Senator yield?

Mr. BAKER. I yield.

Mr. PERCY. Mr. President, I suggest, on a matter of this importance, that a rollcall vote at some convenient time would be highly desirable.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time remains out of the 10 minutes?

The PRESIDING OFFICER. Forty-three seconds.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will withdraw his request and let the Senate vote.

Mr. BAKER. Mr. President, I think the Senator's request was that he might continue the colloquy after the vote.

Mr. ROBERT C. BYRD. Yes; without the record showing an interruption.

The PRESIDING OFFICER. Is there an objection to the request? Without objection, it is so ordered.

Mr. PERCY. Mr. President, I think the Senator from Idaho has raised a very good point. I am strongly supportive and a cosponsor of this amendment. But there was tremendous confusion in central Illinois all this weekend about what the administration was really up to. The farmers were very disturbed that they had been asked to give up their market and yet the multinational grain corporations could go in and use their influence and power and buy foreign grain and ship it to the Soviet Union.

I think that is a mixed signal and I was disturbed by it.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the question is on agreeing to the resolution. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. SCHMITT) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any other Senators in the Chamber who wish to vote who have not done so?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—96

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry, F. Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—4

Goldwater
Kennedy
Morgan
Schmitt

So the resolution (S. Res. 472) was agreed to.

ORDER FOR SENATE TO CONVENE AT 9 A.M. ON WEDNESDAY, THURSDAY, FRIDAY, AND SATURDAY OF THIS WEEK AND MONDAY OF NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today and Wednesday, Thursday, Friday, and Saturday, it stand in recess respectively until the hour of 9 a.m. on Wednesday, Thursday, Friday, Saturday, and Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

POWERPLANT FUELS CONSERVATION ACT OF 1980

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2470) to reduce consumption of petroleum and natural gas by electric utilities, and for other purposes.

The Senate continued with consideration of the bill.

AMENDMENT NO. 1915

Mr. PERCY. Mr. President, I call up my amendment No. 1915 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself, Mr. HUDDLESTON, and Mr. RANDOLPH, proposes an amendment numbered 1915.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, after line 6, add the following section:

"VOLUNTARY FUELS DISPLACEMENT PROGRAM

"SEC. 11. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by inserting the following new section.

"'SEC. 607. FINANCIAL ASSISTANCE TO ACHIEVE ADDITIONAL REDUCTION OF UTILITY USE OF PETROLEUM AND NATURAL GAS.

"'(a) AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—The Secretary may in accordance with the provisions of this section and such rules and regulations as the Secretary may prescribe, provide financial assistance to any qualifying electric utility to achieve reductions in the use of petroleum and natural gas as the primary energy source in electric powerplants.

"'(b) PROCEDURES AND REQUIREMENTS FOR SUBMISSION OF FUEL DISPLACEMENT PLANS.—

"'(1) DETERMINATION OF BASE PERIOD USAGE.—

"'(A) Within 180 days after enactment of this section, any electric utility that intends to seek financial assistance under this section shall petition the Secretary for a determination with respect to the utility's base period usage of petroleum and natural gas.

"'(B) As soon as practicable after a petition is filed pursuant to subparagraph (A) of this subsection, the Secretary shall publish in the Federal Register an interim determination of base period usage. Such publication shall be accompanied by a statement of the basis and reasons for such proposed determination. A minimum of 30 days following such publication shall be provided for an opportunity to provide written comment prior to issuing a final determination.

"'(C) As soon as practicable after consideration of all appropriate data, information and written comment, the Secretary shall issue a final determination with respect to the utility's base period usage of petroleum and natural gas. Such final determination shall be made solely to provide the financial assistance authorized under this section.

"'(2) Fuel displacement plans.—Each utility that seeks financial assistance under this section shall prepare and submit a fuel displacement plan in accordance with the requirements of this subsection and any rules prescribed hereunder. Each fuel displacement shall contain a petroleum and natural gas fuel displacement target established on an annual basis by the utility that is below its base period usage, as determined by the Secretary in accordance with subparagraph (1) of this subsection, and that the utility commits itself to achieve by the end of the calendar year 1990 and maintain thereafter. The plan shall include—

"'(A) an identification of all powerplants owned or operated by the utility, and the type and quantity of fuel currently used by each powerplant;

"'(B) a 15-year forecast of demand for electricity on the utility system which includes (i) estimates of anticipated energy savings through energy conservation programs, and (ii) identification of the principal economic, demographic, and technological assumptions upon which the forecast was made;

"'(C) a 15-year forecast of anticipated modifications to the utility system that will be made to meet the 1990 fuel displacement target established by the utility, including—

"'(i) fuel use by major fuel type for each generating unit in the system; and

"'(ii) planned capital investments and related financial measures which will assure a safe and reliable power supply consistent with applicable environmental requirements;

"'(D) a 15-year financial plan that contains a description of the financial measures proposed to secure the investments identified in subparagraph (C) of this subsection;

"'(E) a commitment to achieve and to maintain the utility's 1990 petroleum and natural gas fuel displacement target;

"'(F) a compliance schedule that provides a reasonable means for evaluating annual progress toward achievement of the 1990 petroleum and natural gas fuel displacement target;

"'(G) an assessment of the financial feasibility, environmental impacts, and cost-effectiveness of reasonable alternatives to the use of petroleum and natural gas, including renewable energy resources and energy conservation programs;

"'(H) a demonstration that the selected alternative is the most cost-effective means to displace petroleum and natural gas, or if a less cost-effective alternative was selected, a statement describing the reasons for such selection;

"'(I) identification and schedule of actions by all agencies of Federal, State, or local government needed to implement the fuel displacement plan;

"'(3) Joint fuel displacement plans.—Two or more electric utilities or an electric utility and any nonutility supplier of electricity, including cogenerators, may submit a joint fuel displacement plan and the Secretary may approve a joint plan if the Secretary finds that the plan meets the requirements for a fuel displacement plan and is otherwise in accordance with any rules that the Secretary may establish.

"'(c) Review and Approval of Fuel Displacement Plans.—

"'(1) Any electric utility that seeks financial assistance under this section shall submit a fuel displacement plan simultaneously to the Secretary and to the Governor of the State in which the utility is located within one year after the Secretary issues a final determination with respect to the utility's base period usage under subparagraph (b)(1)(C) of this section. No fuel displacement plan submitted by an electric utility shall be approved by the Secretary unless, within one year of submission of the plan to the Governor—

"'(i) The Governor has requested and considered the views of each State and local agency responsible for taking any action necessary to implement the fuel displacement plan;

"'(ii) The Governor has determined that the plan:

"'(I) Includes all the elements identified in subparagraph (b)(1) of this section;

"'(II) Is likely to result in the utility meeting and maintaining the 1990 petroleum and natural gas fuel displacement target established in the plan; and

"'(III) Constitutes a cost-effective and practicable approach to meeting the 1990 petroleum and natural gas fuel displacement target established in the plan; and, if the utility did not choose the most cost-effective fuel displacement alternative, that the alternative chosen is based on valid considerations;

"'(iii) The plan has been approved by any State agencies designated by the Governor to review and approve the plan;

"'(iv) An opportunity for a public hearing on the merits of the plan has been provided by at least one State agency in accordance with the requirements of this section;

"'(v) The Governor has received and considered a determination regarding the financial feasibility of the proposed fuel displacement plan by the State agency which has ratemaking authority with respect to the sale of electric energy by the utility submitting the plan in accordance with subparagraph (4) of this paragraph.

"'(3) Any decision by the Governor to approve a proposed fuel displacement plan submitted by an electric utility shall be based upon consideration of the public hearing record, as well as any other relevant data information, and shall include a detailed written statement of the reasons for such decision. This statement shall be transmitted to the Secretary, together with the entire hearing record and any other data and information upon which approval is based.

"'(4) With respect to each State regulated electric utility that submits a fuel displacement plan, each State agency with ratemaking authority with respect to the sale of electric energy by that utility shall make a written determination as to the financial feasibility of each plan. In making such a determination, the State regulatory authority shall at a minimum consider—

"'(A) the adequacy of the utility's cash earnings over the duration of the fuel displacement plan to allow timely issuance of new debt needed to finance the investments contemplated in the plan. Adequacy of cash earnings shall be addressed relative to indenture requirements for interest coverage and any other factors deemed appropriate by the regulatory authority; and

"'(B) the need, if any, for regulatory or legislative action to insure the adequacy of the utility's cash earnings as determined under subparagraph (A) of this paragraph including adoption of—

"'(i) accelerated depreciation of oil and gas-fired generating facilities that cannot be converted economically to use alternate fuels;

"'(ii) construction work in progress (CWIP) in the utility's rate base; and

"'(iii) any other measures that may provide the utility cash earnings needed to achieve the fuel displacement targets set forth in the plan; and

"'(C) the cost and benefits to current and future ratepayers of this program.

"'(5) The Secretary may provide funds appropriated for carrying out this section to any electric utility which has submitted to the Secretary a fuel displacement plan for final approval within 32 months after enactment of this section, if the Secretary determines that the plan—

"'(A) is prepared and submitted in accordance with this section and applicable rules;

"'(B) has been reviewed and approved in accordance with paragraphs (1) through (4) of this subsection; and

"'(C) is likely upon implementation to achieve the fuel displacement target establishment in the plan.

Any approval of a fuel displacement plan by the Secretary shall be on such terms and conditions as the Secretary deems appropriate for successful implementation of the plan.

"'(d) Determination of the Need for Power.—Only to the extent necessary to satisfy the requirements of subsection (b), inclusion of all or part of a new facility in a fuel displacement plan that is approved by the Secretary for displacing petroleum and natural gas use by an electric utility shall satisfy any requirement for a determination of need for power otherwise required for the purposes of any State or local law.

"'(e) Eligibility.—

"'(1) As soon as practicable after the Secretary issues a final determination with respect to each participating electric utility's base period usage of petroleum and natural gas pursuant to subsection (b) of this section, the Secretary shall establish eligibility for initial grants. The amount of funds for which each utility is eligible shall be based upon the percentage of each electric utility's base period usage of petroleum and natural gas as compared to base period usage by all utilities as determined by the Secretary, discounted for any estimated fuel displacement that shall be achieved under section 301(d) of the Act.

"'(2) Financial assistance authorized under this section shall be awarded in a manner commensurate with each eligible electric utility's percentage share of a total 1990 petroleum and natural gas fuel displacement target of 600,000 barrels per day, and shall not exceed $10,000 per barrel per day of fuel displacement.

"'(3) Any funds provided for in this section that are not awarded under paragraph (2) of this subsection to an electric utility, and any funds appropriated under section 603 of the Act that have not been awarded in accordance with subsection (h) of such section, shall be distributed up to $10,000 per barrel per day of fuel displacement, according to the amount, if any, by which an eligible utility's planned displacement exceeds its percentage share of total displacement as determined by the Secretary.

"'(4) Subject to the availability of appropriations, grants under this section shall be provided in five equal annual installments subsequent to the approval of the fuel displacement.

"'(f) Administrative Provisions; Refund for Failure To Achieve Displacement Target.—

"'(1) In the event the Secretary determines that an electric utility has failed to achieve or maintain the 1990 petroleum and natural gas fuel displacement target established in its fuel displacement plan, the Secretary may require the utility to refund to the United States Treasury all or part of the Federal financial assistance received under this section, including interest as determined by the Secretary in consultation with the Secretary of the Treasury. The Secretary shall afford reasonable notice and opportunity for comment by the utility prior to making any such determination. Any refund directed by the Secretary shall be made by the utility within 180 days after receipt of written notification of the Secretary's determination.

"'(2) Any funds provided under this section shall be accounted for by the recipient utility as reductions to the utility's rate base associated with capital costs required to achieve the utility's fuel displacement target, except in those cases where the funds are used by a third party cogenerator, or other third party.

"'(3) Funds made available to electric utilities under this section shall not be considered as income for the purposes of Federal income taxes.

"'(g) ANNUAL REPORTS TO THE SECRETARY.—

"'(1) Any electric utility receiving assistance under this section shall upon each anniversary of approval of the fuel displacement plan report to the Secretary on the utility's progress toward achieving the fuel displacement target established in the plan. Annual reports shall include a description of any changes in the underlying assumptions and forecasts upon which the plan submitted under this section was based and any necessary modifications to the plan made in response to such changes. Annual reports shall not be required after the utility has achieved its 1990 fuel displacement target.

"'(2) The Secretary may, after affording reasonable notice and opportunity to comment to the utility, suspend payment of funds in whole or in part to any utility that is failing to make satisfactory progress toward achievement of the fuel displacement target. The Secretary shall resume payments under this section upon a satisfactory demonstration that the utility's fuel displacement target will be achieved in a timely manner.

"'(h) GRANTS FOR OFFICES OF CONSUMER SERVICES.—

"'(1) The Secretary may provide $10,000,000 of funds provided for under this section for the operation of offices of consumer services or for the establishment and operation of such offices to assist consumers in their presentations before State agencies in matters directly related to the development and review of fuel displacement plans filed pursuant to this section. Assistance provided under this subsection shall be provided only to an agency of State government designated by the Governor to represent consumer interests, which is operated independently of the utility regulatory commission and which is empowered to—

"'(A) make general factual assessments of the impact of proposed utility expenditures, rate structures, tariff provisions, and other proposed regulatory actions upon all affected consumers;

"'(B) assist consumers in the presentation of their views before utility regulatory commissions or other designated State agencies; and

"'(C) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers.

"'(2) Grants provided under paragraph (1) of this subsection shall be made only to agencies of State government which furnish such assurances as the Secretary may require that funds made available under this subsection will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

"'(i) REPORT TO CONGRESS.—The Secretary shall annually report to Congress with respect to progress toward reducing consumption of petroleum and natural gas by electric utilities and shall include such recommendations regarding any further action that the Secretary determines to be needed.

"'(j) AUTHORIZATION OF APPROPRIATIONS.—

"'(1) There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $6,000,000,000 which appropriation may remain available until expended.

"'(2) Of the amount appropriated, the Secretary may reserve a sum of not to exceed $40,000,000 of the grant moneys authorized in this subsection for distribution by the Secretary to agencies of State government designated by the Governor with responsibility for review and approval of fuel displacement plans, and a sum of $10,000,000 of the grant moneys authorized in this subsection for distribution by the Secretary, for the establishment and/or operation of State offices of consumer services, as provided in this section.

"'(k) DEFINITIONS.—As used in this section—

"'(1) The term "base period usage" means the annual average use of petroleum and natural gas equivalent by an electric utility during the calendar years 1974 through 1978 for steam based and nonsteam based power generation, as determined by the Secretary, including adjustments for any powerplant that came into service after January 1, 1974, for which construction or acquisition began before November 9, 1978.

"'(2) The term "electric utility" and "utility" means any person that produces and sells electric power in the United States.

"'(3) The term "energy conservation program" means any program which will:

"'(A) reduce overall demand for electricity; or

"'(B) shift demand for electricity in a manner that contributes to more efficient production of electricity, including reduced use of petroleum and natural gas.

"'(4) The term "facility" means any equipment used for the purpose of generating, transmitting, or storing electricity.

"'(5) The term "public hearing" means in the case of a State agency approving or disapproving a fuel displacement plan under this section, a proceeding that, at a minimum—

"'(A) provides public notice of the proposed State action on a plan;

"'(B) is open to the public;

"'(C) includes reasonable notice to participants;

"'(D) provides for availability to public inspection of proposed State action on a plan, including reasonable access to information used to develop and support the plan;

"'(E) provides an opportunity for participants to present written questions and statements and oral statements concerning a plan; and

"'(F) provides for the preparation of a verbatim transcript.

"'(6) The term "State regulated electric utility" means any electric utility for which a State agency has ratemaking authority with respect to the sale of electric energy.'".

On page 71, between lines 12 and 13, add the following:

"Sec. 607. Financial assistance to achieve additional reduction of utility use of petroleum and natural gas.".

Mr. PERCY. Mr. President, I call this amendment up on behalf of Senator HUDDLESTON, Senator RANDOLPH, and myself.

Mr. President, I ask unanimous consent that Senator BIRCH BAYH of Indiana be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, as a member of the Coal Caucus and as an original cosponsor of this legislation, I feel compelled to point out what I consider to be one of the major failings of the bill we are considering today. The Powerplant Fuels Conservation Act of 1980 is a strong bill, a careful bill, one which I urge all of my colleagues to support, as I do.

But as we take it up today, we can all clearly see how much this bill will do in its present form, but also how much more it might have done, had one important title of the original legislation been preserved through final markup in the Energy Committee.

It is no secret that I am disappointed by the Energy Committee's decision to take title III—the phase 2 voluntary oil displacement program—out of S. 2470. In a Dear Colleague letter sent to each Senator 2 weeks ago, I explained the crucial role phase 2 had to play in fulfilling a national off-oil campaign for utilities. In that letter, I urged the Senate to express its strong desire to the Energy Committee to preserve phase 2 in S. 2470.

Mr. President, I ask unanimous consent that on completion of the colloquy the full content of my letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the Energy Committee made a decision, however, that to assure the passage into law this session of some oil back-out program for utilities, it was necessary to delete phase 2 and focus attention only on a program of financial aid to a limited number of mandatory coal conversions. Thus, the Senate is presented with a greatly scaled down version of S. 2470, costing only $4.2 billion as opposed to the original $10 billion, but saving only 400,000 barrels of oil daily by 1990 instead of 1 million.

The Energy Committee is to be applauded for its hard work and success in improving the essence of phase 1. Starting from a massive list of several hundred coal-capable oil burning facilities prepared last year for the President's Coal Commission, on which I served, the Energy Committee has offered us a refined list of 80 best candidates for mandatory conversion. While the Fuel Use Act continues to allow the Secretary of Energy to order coal conversion for other plants, these 80 units in 15 States, owned by 26 utility companies, represent the most sensible conversions, the most immediate conversions, the most convertable conversions in the Nation. In the carefully created legislation we are considering today, we are agreeing to help these prime conversion candidates expedite their efforts to get off of oil, and begin using coal in the very near future.

As Deputy DOE Secretary John Sawhill pointed out in his testimony on S. 2470, on April 23, 1980, before the Committee on Energy and Natural Resources, such a responsible Federal aid program is an essential first step for many of our Nation's utilities that now operate at crucially low-interest coverage ratios. These companies face tremendous difficulties in receiving higher rate bases from State public service commissions, or incurring the additional debt required to generate capital for fuel conversion programs.

Mr. President, I ask unanimous consent that Secretary Sawhill's illuminating testimony before the Energy Regulation Subcommittee on S. 2470 be printed in the RECORD in full following this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PERCY. Mr. President, Secretary Sawhill's testimony points out so clearly, however, that it is not only coal-capable utility facilities which have a real need for financial assistance if they are going to do their part in the national goal of getting off of foreign oil. Non-coal-capable units often need help as well, to make the switch off oil they want to make. As the Secretary stated in his testimony:

> We are increasingly concerned that the same financial problems which restrict utility efforts at coal conversion will also restrict utility efforts to expand their efforts in the areas of customer conservation programs and renewable energy resources.

For hundreds of utilities around the country, phase 2 represented a most important opportunity to begin the important switch off oil and natural gas. The amendment I offer today would simply replace phase 2 into S. 2470, so that nonmandated utilities can receive Federal assistance for self-initiated oil displacement efforts.

American utilities are now using over 600 million barrels of oil each year, at a cost in the tens of billions of dollars. Out of a total of 153,000 megawatts of either oil or gas capacity used in 1979, phase 1 will convert approximately 16,000 megawatts. This means that we will be left with 137,000 megawatts that will continue to be generated through oil and natural gas, partly because of the financial inability of many utilities to consider alternatives.

Mr. President, what does it really mean for the Senate to pass this oil backout legislation without a phase 2? It means, for one, that we are consenting to pay only a selected group of utilities east of the Mississippi River to convert their oil burning plants to coal. Not a single plant west of the Mississippi River is on the list of mandatory conversions in phase 1. It is therefore a regional bill we are considering today, not a truly national bill.

It means, too, that unemployed high-sulfur coal miners throughout the country may have a longer wait before legislation is enacted that will really help them get back to work in large numbers, by expediting the replacement of non-coal-capable boilers, most of them gas fired, and existing in the Central Southwest and California, with new coal-fired ones. The establishment of new source performance standards for utilities, as mandated under the Clean Air Act, requires that the best available control technology for pollution be employed on all new coal-fired utility plants, regardless of coal sulfur content. The NSPS means a brighter future for the high-sulfur coal regions of this country, because their product is inexpensive and abundant.

The NSPS also means a cleaner environment for all of us, however, and this is truly one of the most significant features that phase 2 added to the bill. The new Federal emission limits of 1.2 pounds SO_2 per million Btu's are far stricter than what is required by most State laws for existing oil-fired powerplants within their borders. The addition of new coal-fired powerplants will mean a cleaner, not a dirtier environment for a large part of the Nation.

Mr. President, thousands of unemployed miners, and a nation that is concerned with burning an abundant domestic fuel source, and burning it cleanly, should not have to wait years and years for new generating facilities to be built, especially when a limited financial incentive might have prodded many utilities to speed their schedules and get off of gas or oil and onto coal now.

Excluding phase 2 means also that voluntary oil displacement ventures that might have led to major new conservation and solar programs by utilities can not expect Federal assistance at this time, either. While coal does loom as one of our most important and abundant alternatives to oil and gas use by utilities, the potential for developing other fuel resources is also so great and promising—but it is barely considered in the legislation now before us.

From a standpoint of equity, Mr. President, phase 2 deserves to be in S. 2470—equity to utility plants in the West, to utility companies interested in voluntarily initiating oil displacement programs using other low-cost alternatives to oil and gas besides coal, and equity to coal-capable units that for whatever reason, were excluded from the list of mandatory conversions in phase 1. While the Senate cannot fail to take this opportunity to pass phase 1 and get coal-capable units onto coal now, we must realize that there are many, many other utilities that may desire, and that may deserve, a financial aid package to get off of oil. Because of the clear imperative we have in reserving scarce fuels like oil and gas for use in sectors other than utilities, where coal cannot be easily burned, it is in the national interest that we consider these requests by other utilities very, very seriously.

The Senate should also be mindful of the fact that, by omitting phase 2 from this act, we are making an essential national goal of 2 million barrels of imported oil displaced by 1990 that much harder to achieve. That goal was articulated by the President's Coal Commission as the most important energy objective to which we must strive in this decade. Getting utilities to reduce their oil and gas use by 60 percent in the next 10 years was highlighted by the Commission as one of the key means of reaching this target. Mr. President, the simple truth is that without phase 2, we are making our job much more difficult: Most of the oil and natural gas now used by utilities is likely to stay in utilities over the next 10 years, without some form of financial inducement. Congress will have to do more—much more—if the Commission's goal is to be realized.

Mr. President, I know of no better usage—with the exception of direct conservation development—for our billions of dollars in proceeds from the windfall profit tax to be used, than to be recycled back into the energy field, to the biggest users of energy in this country, the utilities. So many will voluntarily convert to coal if they have the financial incentive to so do. This is a cost-effective investment that can be and should be made by the utilities of this country, to make us less dependent on the highly vulnerable supplies of imported oil, coming in essentially from the Persian Gulf.

If we have not gotten the message that we must move dramatically, and move now, to lessen our dependence on imported petroleum, then we have been terribly and tragically derelict in our duty and we are undercutting the future security of the United States of America.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 5, 1980.

DEAR COLLEAGUE: I am concerned by recent reports that the Energy and Natural Resources Committee is contemplating removal of Title III from S. 2470, the "Powerplant Fuels Conservation Act of 1980." As a strong supporter of this legislation, I want to share my belief that we must preserve Title III which offers incentives for the voluntary reduction of natural gas use by utilities.

Title III of S. 2470 is directed toward reducing oil and gas use in addition to that saved by the mandatory conversion required under the first phase, Title II, of the bill. It provides financial incentives to utilities that can prove a need for help in achieving voluntary reduction of oil and gas consumption. A variety of alternatives, such as the use of coal, renewable energy resources, nuclear power, and energy conservation programs, would be eligible under Title III. It would seriously weaken this bill, in my opinion, to delete this title which sets an ambitious displacement target equivalent to 600,000 barrels/day by 1990.

Title III is important, too, if we are to pass legislation taking a national and not just a regional approach to utility oil back-out. The mandatory conversion program in Title II is directed largely toward selected utilities in the eastern half of the country, many of whom are now readying to burn coal from our Appalachian states. Without Title III, there will be no similar incentive program for the many utilities elsewhere in the country that are not mandated to switch off oil, but that would be eager to do so with proper federal support. Title III of S. 2470 does not give money to utilities without proof of need. Instead, it provides grants based on a utility's ability to develop and meet its own oil and gas displacement program. To the extent that coal is used as an economic substitute for these scarce fuels, Title III offers the added potential to re-employ hundreds of willing and capable miners in the depressed, high-sulfur coal areas of Appalachia and the Midwest.

Omitting Title III will be especially crippling to our national energy program, I feel, if efforts succeed to repeal the Powerplant and Industrial Fuel Use Act's prohibition against natural gas use by utilities after 1990. I share the belief of many of my colleagues that banning gas use after this date may place severe and undue burdens on some utilities. Extending the prohibition deadline may be in their interest, and the interests of the nation. At the same time, however, there is no denying that this modification of existing law will mean greater natural gas use by utilities, and thus reduce the gas available for industries and homes. Because of the relative difficulties which many homes and industries have in converting to coal, it is imperative that we keep utility gas use to a practical minimum. We cannot abate our national efforts to free up our natural gas supply from utilities as quickly as possible, for use in less flexible sectors.

Clearly, any necessary modification of the PIFUA gas limitations must be offset with a strong Title III incentive program, including a wide range of oil and gas use reduction options.

I intend to notify our colleagues on the Energy and Natural Resources Committee of my concerns in this matter. I hope you will join me in so doing. Should you or your staff have any questions on this issue, feel free to call Josh Levin (4–1555) of my staff.

Sincerely,

CHARLES H. PERCY.

EXHIBIT 2

TESTIMONY OF JOHN C. SAWHILL, DEPUTY SECRETARY, U.S. DEPARTMENT OF ENERGY, BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON ENERGY REGULATION ON S. 2470, POWERPLANT FUEL CONSERVATION ACT OF 1980

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity of appearing before you today to present our views on S. 2470, the "Powerplant Fuels Conservation Act of 1980." This proposal has been introduced in response to legislative specifications submitted to the Congress by the President on March 6, 1980, and outlines a program for utility oil and gas displacement designed to save 1 million barrels per day by 1980.

I am pleased to be here today to testify in support of this legislative proposal which closely parallels the President's legislative specifications. A legislative proposal developed in response to the President's specifications has also been introduced in the House as H.R. 6930.

BACKGROUND

On July 15, 1979, the President outlined a comprehensive legislative program designed to reduce U.S. dependence on imported oil by 4.5 million barrels per day in 1990. The Congress has recently completed action on one major element of that program—the Windfall Profit Tax—and is moving forward toward final action on other key elements of that program—the Energy Mobilization Board (EMB), Energy Security Corporation (ESC), and solar and conservation incentives.

Another important element of the comprehensive energy package outlined by the President last summer is a two-phase program designed to reduce the use of oil and gas in the electric utility sector by 1 million barrels per day in 1990. The enactment of this program will help assure that we meet the President's objective of achieving the significant reductions in oil imports which are so critical to our national security and economic well being.

The electric utility industry currently consumes approximately 3 million barrels per day (equivalent) of petroleum products and natural gas—about evenly split between oil and gas. Growing delays and deferrals in the completion of new coal and nuclear powerplants, as the result of reduced demand and other factors, could easily result in a net increase in utility oil and gas consumption by 1990 even though few new oil- or gas-fired powerplants will be built.

In the absence of new baseload capacity, which relies on coal, nuclear hydro or renewable energy sources, even modest increases in electricity demand are likely to be met through greater reliance on existing oil- and gas-fired powerplants. Thus, without a carefully designed program which links aggressive energy conservation efforts with accelerated conversion or replacement of existing oil- and gas-fired powerplants, utility consumption of scarce fuels is likely to increase over the next decade.

Beginning in 1974, the Congress has recognized the significant benefits which can be achieved through conversion of existing oil- and gas-fired powerplants to coal or alternate fuels where feasible. The Energy Supply and Environmental Coordination Act (ESECA), and the Powerplant and Industrial Fuel Act (FUA) were both designed to encourage utilities to reduce oil and gas consumption through conversion or replacement of existing powerplants.

The results achieved thus far have been disappointing. Utility oil and gas use has not been significantly reduced and only a small percentage of the oil- and gas-fired generating capacity which is considered to be coal-capable has actually been converted to coal or alternate fuels.

The slow pace of actual conversion efforts is especially ironic in view of the increasing economic attractiveness of shifting from oil and gas to alternate fuels. The escalating price of oil and natural gas has made a substantial portion of existing oil- and gas-fired electric generating capacity economically obsolete.

Conversion or replacement of existing plants becomes economic when the fuel costs alone of operating an existing oil- or gas-fired powerplant exceed the combined fuel costs and capital charges of a conversion or construction of a new plant. With the rapid escalation in oil and gas prices (in comparison to coal prices) the tremendous savings in fuel costs are sufficient to offset the capital costs of conversion or replacement—frequently in a very short time frame.

BARRIERS TO UTILITY OIL AND GAS DISPLACEMENT

In view of increasingly attractive economics and growing Federal regulatory pressure to convert, why then have so few powerplants actually been converted to coal or other alternate fuels? The answer to this question is closely linked to the poor financial situation of the Nation's electric utility industry and especially those utilities with a heavy oil dependence. A further complicating factor is the lengthy regulatory process associated with conversion from oil and gas to coal.

Based on an assessment of the generally accepted measures of financial viability, most of the electric utilities with opportunities for converting oil-fired generating units to coal simply lack the financial capability to raise the additional capital needed to finance conversions. Most are already having a difficult time financing the new capacity needed to meet even today's lower growth rates.

Based on current and projected cash earnings, these companies are constrained—and, in some cases, legally precluded by interest coverage provisions of bond indentures—from obtaining additional debt to finance conversions no matter how economically attractive the conversion investment may be. For example, 13 of the 32 companies with plants covered by Phase I of the program already have interest coverage ratios at or below 2.0, which is a level below which they are generally precluded from issuing new debt. The capital requirements associated with conversion to coal or an alternate fuel could depress coverage ratios such that other Phase I utilities would face similar constraints on the issuance of new debt. Seven other companies on the Phase I list have interest coverage ratios between 2.0–2.5, thus putting them at the margin for purposes of financing conversion by raising additional debt capital. Conventional types of loans or loan guarantees would be considered as a form of debt and could not be effectively used by most utilities based on these same interest coverage restrictions.

Utilities are similarly discouraged from marketing new equity issues at a time when the existing stock of virtually all major investor-owned companies are selling below book value. The current ratio of market value to book value of utilities with plants covered by Phase I is 64 percent. This compares to an average of 71 percent for the 100 largest electric utility companies. Such low market prices on equity are a major disincentive to issue new common equity to fund conversion programs.

Confronted by poor cash earnings, the tightest capital markets and highest interest rates in recent history and the depressed market value of existing equity issues, most utilities will do all within their power to minimize their exposure to new capital requirements. Indeed, the growing interest by some utilities in promoting less-capital-intensive conservation and cogeneration options reflects, in part, a judgment that investment in new generating capacity is highly "unprofitable" when the cost of raising new capital substantially exceeds authorized rates of return. I should note that we are increasingly concerned that the same financial problems which restrict utility efforts at coal conversion will also restrict utility efforts to expand their efforts in the areas of customer conservation programs and renewable energy resources.

In such a financial environment, investments such as coal conversion which are not viewed as essential to "keep the lights on" are assigned a low priority by utility management and regulatory commissions struggling to meet projected growth in demand for electricity while minimizing near-term rate increases. Most are unwilling to incur the financial risk and consumer resistance associated with any increase in already high electricity rates to finance coal conversion. The situation is analogous to the financially "strapped" homeowner who is unable to finance the high, front end cost of insulating his home even when the near-term payback derived from fuel cost savings are demonstrated.

The bias against capital investments in conversions or replacement of existing oil and gas units fostered by financial considerations is reinforced by the operation of automatic fuel adjustment clauses which allow quick recovery of fuel costs compared with the delayed recovery of capital charges through regular rate proceedings. These clauses, which are operative in most jurisdictions, have been used to obtain quick recovery of escalating fuel costs not subject to control by utility management. Nevertheless, unless carefully designed and monitored, they can provide a disincentive against undertaking cost-effective capital investment which would otherwise be in the interest of utility consumers.

Another disincentive to accelerated oil and gas replacement is provided by standard regulatory accounting practices in most jurisdictions in which a new investment—which may reduce electricity prices over the long run—has the effect of increasing rates to consumers in the near term. This "rate bubble" effect is a major disincentive to ratepayer financing of capital investments which are not needed to meet load growth.

As long as these barriers exist, oil and gas consumption will not be substantially reduced and could actually increase in the near future as delays in completing new coal and nuclear powerplants and in implementing conservation programs result in increasing reliance on existing oil- and gas-fired powerplants. Unless aggressive actions are taken to convert or displace existing oil and gas capacity, utility consumers will be subjected to unparalleled escalation in electricity rates and the Nation will incur even greater threats to our national security and economic well being as a result of growing dependence on imported oil.

THE EXISTING PROGRAM

The current fuels conversion program which the Department of Energy is implementing pursuant to existing law does not address the basic institutional and financial impediments outlined above. Rather, it is a regulatory program which itself is subject to considerable delay in arriving at any final decision in a particular case. Indeed, the existing program contemplates that many utilities can avoid conversion (i.e., obtain an exemption from a prohibition order) by invoking those same barriers that the proposed legislation is designed to address through financial assistance and an expedited administrative process.

PROPOSED OIL AND GAS DISPLACEMENT PROGRAM

A program for the economic displacement of 1 million barrels per day of oil and gas in the electric utility sector was outlined by the President in legislative specifications submitted to the Congress on March 6, 1980, and is reflected in the provisions of S. 2470.

Phase I of this program would prohibit oil and gas burning at 107 named powerplants—designed on the basis of their size, remaining useful life and feasibility of converting to coal or alternate fuels. Federal grants would be provided to utilities for as much as the lesser of 50 percent of the eligible capital costs associated with conversion or $4.00 per discounted barrel displaced. A total of $3.6 billion in grants would be available to assist utilities in converting designated facilities covered under Phase I of the program.

Federal grants would mitigate the financial constraints outlined earlier by reducing the utility's need to raise new capital through conventional debt and equity financing. Consumers would benefit both through the effect of the grant in reducing the size of the "rate bubble" associated with financing conversion costs as well as the significant fuel cost savings which would accrue following conversion. In virtually all jurisdictions, the fuel cost savings which result from conversion are flowed through directly to consumers. The utility does not profit from these savings.

Most importantly, conversion of the 107 units designated on this list could save as much as 400,000 barrels of oil per day by 1985. This level of oil savings is considerably greater and is achieved as much as 5 years sooner—than the savings which might result under existing law.

All powerplants converting under Phase I would be required to meet all applicable environmental standards as well as any new standards which might be enacted to deal with environmental problems not covered under existing law. This is consistent with the President's commitment not to relax environmental protection standards in meeting our national energy goals. Indeed, the availability of grant funds under Phase I reinforces this commitment by reducing the likelihood of a utility successfully arguing that economic considerations justify a relaxation in emission limitations where States have authority to increase allowable emissions under existing law.

Utilities with powerplants listed under Phase I would still be eligible to file for any of the exemptions provided under FUA (e.g., cost-effectiveness, site limitations, and environmental constraints). The availability of grant funds should significantly reduce the likelihood of utilities seeking and obtaining exemptions. In addition, statutory prohibitions against oil and gas use at designated plants combined with strict time limits on the exemption product will expedite decisionmaking on conversions. This process will also provide greater predictability while still assuring adequate opportunity for reviewing the feasibility of conversion.

Phase I of the program would dedicate $400 million to reduce increases in sulfur dioxide (SO_2) emissions resulting from conversions. SO_2 emissions contribute to the acid-rain phenomena which is receiving increasing attention as an important environmental issue. Under this program, $300 million will be available to assist utilities in financing the installation of advanced SO_2 removal systems such as scrubbers and chemical coal cleaning at existing powerplants. This will reduce emissions from these facilities (in areas impacted by emissions from converting plants where feasible) as well as advance SO_2 removal technology and increased markets for regional coal. An additional $100 million will be used to assist coal producers in financing new coal-cleaning plants to reduce the sulfur content of raw coal destined for use in areas which are major sources of SO_2 emissions. Up to 20 percent of the qualifying capital costs of a coal preparation plant would be eligible for funding. Awards under both of these programs would be made on a competitive basis.

Phase II is a voluntary program whereby grant assistance will be provided to utilities to assist them in reducing their reliance on oil and gas. Phase II is designed to achieve at least 600,000 barrels per day in oil and gas savings by 1990.

Under Phase II, a utility seeking grant support would be required to examine the financial feasibility, cost-effectiveness and environmental impacts of all reasonable opportunities displacing oil and gas on a system-wide basis. This would include conservation and peakload management programs, cogeneration, renewable energy resource systems, more efficient utilization of existing powerplants, and synthetic fuels as well as the conventional option of constructing or accelerating new powerplants.

Grants would be awarded on the basis of state-approved fuel displacement plans which demonstrated that the utility had selected a cost-effective approach for reducing system-wide oil and gas consumption below a baseline level defined as average annual use over the 1974–78 time frame. Grants would be awarded using a barrel-per-day displacement formula measured relative to the baseline period and would not be directly linked to the funding of specific projects or a percentage of total costs of the plan.

Each utility would initially be eligible to apply for a share of the $6 billion grant program in direct proportion to the percentage of oil and gas used by that system relative to total oil and gas consumption by all utiliites (discounted for savings achieved under Phase I). In order to receive an award, however, the utility would be required to prepare a fuel displacement plan which would be subject to review and approval by state authorities. State approval would be based on assessment of the likelihood of meeting the displacement target as well as the practicability, cost-effectiveness, financial feasibility and environmental impacts of the plan.

$40 million would be provided to State agencies to assist in their review of these plans. An additional $10 million would be provided to state consumer offices to assure effective consumer participation in the review process and public hearings associated with plan approval.

CONCLUSION

I appreciate the opportunity of appearing before you today and presenting the Administration's views in support of S. 2470. We believe that early enactment of this legislation is vital to achieving a near-term reduction in oil imports and thus is of the greatest importance to our national security and economic well being. I would be pleased to respond to any questions at this time.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. PERCY. I would be happy to yield.

Mr. HEINZ. Mr. President, I thank my colleague for yielding for a few questions.

I share his concern that deleting phase II of the bill is not in the best interest of the Nation. I believe that natural gas is a priority fuel that must be conserved for priority uses, specifically residential heating and cooking applications. Recently it has been suggested by some that the severe shortages of natural gas that were experienced during the winters of 1976 and 1977 will not be repeated and that natural gas is now in surplus supply. I believe that this is not an accurate assessment of the situation and, therefore, am concerned that we are failing to act now to get powerplants off natural gas and onto coal.

In fact, in response to questions raised by the Senate Energy Committee Federal Energy Regulatory Commission Chairman Curtis stated that:

> Supplies of gas available to interstate customers increased nearly six percent in 1979 over 1978 levels . . . I believe that many of those in favor of relaxing natural gas use restrictions at electric powerplants appear to be basing their position on the demonstrated improvement in interstate deliverability. My own view is that while the improvement is real, more basic supply indicators suggest that the improvement may be only transitory. It is important to realize that while interstate volumes increased . . . production was virtually the same in 1979 as in 1978.

In conclusion, Chairman Curtis stated:

> The vagaries of oil and gas markets draw attention to *short-term* (emphasis added) issues that can, but should not, divert our commitment to coal . . . The conclusion that I draw from the data presented above is that they do not yet constitute a sufficient basis for reversing past policies.

Clearly, deleting phase II is a dangerous departure from a national commitment to coal.

I would like to ask a few questions concerning, if I may, the essence of phase II. I would like to ask, if I may, would the Senator agree that although different from phase I, phase II is equally important? I think it would be most helpful if you would indicate what you feel are the most important elements that set phase II apart from phase I.

Mr. PERCY. There are three principal differences:

First, this program is voluntary. Mandatory orders are not involved so there is no need for the elaborate exemption process that characterizes phase I, as it has the Energy Supply and Environmental Coordination Act and Fuel Use Act conversion programs.

Phase II is aimed at the much larger number of existing powerplants that cannot be converted directly to coal, and are therefore not subject to phase I.

The utility can choose any means, not just conversion to coal, to reduce oil and natural gas use, although coal will undoubtedly be a principal beneficiary of phase II, particularly in the heavily gas-dependent regions of the Central and Southwest.

Mr. HEINZ. Mr. President, if the Senator will yield further, I understand that phase II in the bill we originally introduced included $6 billion in assistance to utilities. Would the Senator agree that these funds are necessary to expedite the conversion from natural gas to coal?

Mr. PERCY. Yes, they are. But the pace is slow and the financial and institutional problems are such that the direction of movement seems at times still to be in doubt.

But whatever the pace at which electric utilties move on their own to reduce oil and natural gas use, there are two circumstances which warrant a program of accelerated displacement as in phase II:

The imperative for national security reasons to reduce our imports of petroleum as rapidly as possible, and

The institutional problems utilities face in raising the capital required to reduce oil and natural gas use.

As I have indicated, after conservation, helping these utilities is the best possible use for moneys from our windfall profit tax.

Mr. HEINZ. I thank my colleague from Illinois for yielding for the purpose of several further questions.

Mr. President, I ask the Senator from Illinois if he would not agree that we should be concerned about reducing natural gas use as well as oil use?

Mr. PERCY. Mr. President, as a representative of a large industrial State, I can assure my distinguished colleague that there is a strong demand for secure supplies of natural gas to displace oil used under existing industrial boilers.

I am hopeful that our domestic supplies of natural gas will be more abundant than they have been over the past decade. There are grounds for hope, but the present evidence is far from conclusive that the fundamental outlook has changed. For instance, new reserve additions are still not replacing the amount of gas we use every year. Until the long-term outlook has changed, it seems desirable to me to continue the policy established in the National Energy Act of reducing the use of natural gas in electric utility boilers to insure its availability to higher priority industrial, petrochemical, and agricultural uses where there are no practical alternatives to natural gas, or the alternative is oil.

In this regard, I am concerned about the change made during the markup of this bill to the off-gas provisions of the Fuel Use Act, in that it may suggest that the circumstances which warranted the existing provisions have changed, and that the need to replace existing gas-fired powerplants is less than it appeared 2 years ago. Since the basic circumstancs have not changed, as indicated by the letter from Chairman Curtis of FERC to Senator JACKSON on this subject, it is particularly important that the Congress make clear its intent that powerplants now under construction and planned to reduce natural gas use as quickly as possible not be delayed. Phase II would provide the signal, the incentive and the financial assistance to move in this direction and to displace oil use in the industrial sector.

Mr. HEINZ. Mr. President, if the Senator will yield further, I ask him how he would characterize the regional impact of phase II. Would the Senator agree that phase II would benefit many areas of the United States?

Mr. PERCY. Those regions which are most dependent on imported oil or natural gas for electric generation would stand to benefit. These areas of the country are the central Southwest area, California, Florida and the Northeast and mid-Atlantic areas. The extent to which they benefit would depend upon the response of the respective utilities and public service commissions to phase II. It remains true that other regions of the country, which are not dependent on oil or natural gas for utility generation, benefit indirectly from the reduction in the national requirement for imported oil.

Mr. HEINZ. Mr. President, I ask my good friend from Illinois one further question.

How would the Senator describe the environmental effects associated with phase II; would it not, indeed, if phase II were implemented, lead to environmental improvements?

Mr. PERCY. I am very pleased the Senator from Pennsylvania so ably has brought up this point. As a member of the Coal Commission, chaired by West Virginia Gov. Jay Rockefeller, and comprised of other distinguished officials like Willard Wirtz, I was one who kept the Senator from Pennsylvania continually updated on the progress of that Commission's work. He knows that we always gave a fundamental priority to environmental matters, even as our overriding concern was achieving the President's goal of doubling coal production.

We took into account the fact that environment was extremely important.

And, Mr. President, let me note briefly how much more clear it is becoming that the work of the Coal Commission has had a deep and profound effect on national and worldwide coal policy. The latest indication is yesterday's statement by President Carter and other world leaders in Venice, calling for ever-increasing worldwide coal consumption as a key means of reducing our demand for oil. I believe it can be stated with considerable authority that passage of this pending legislation, adoption of phase II, and in general the dramatic increase in attention given to coal production and consumption around the world, can be attributed to the pioneering and creative work of Governor Rockefeller as Chairman of the President's Commission on Coal.

Phase II will have absolutely no adverse environmental effect, and it could be expected to reduce emissions in general.

Conservation measures, of course, will reduce emissions.

New powerplants must comply with new source performance standards which are in most cases far more strict than what is required of existing oil-fired powerplants and industrial facilities where the gas displaced from the utility boiler reduces industrial use of oil. I believe the Environmental Protection Agency has asserted many times that new coal-fired powerplants are cleaner than old oil-fired facilities.

I think it is extremely important that we recognize that fact. I repeat, new coal-fired powerplants are actually cleaner than old oil-fired facilities, according to EPA.

Mr. HEINZ. I think the Senator makes a point everyone of our colleagues should be aware of, because most people simply do not realize what the facts are.

Most people would think that because coal is black it is, therefore, when burned, dirty, and this is not at all the case.

Most people think when oil is fired it is quite clean and nothing much goes up the stack, but, indeed, that is not so.

So when the Senator correctly, in my judgment, says that the EPA has stated that new coal-fired powerplants create less environmental problems, less emissions, less pollution, than existing oil-fired powerplants, he makes a powerful statement that every Member in this body should be well aware of.

I appreciate his knowledge on the subject. As a member of the Coal Commission, he has, with great effectiveness, represented the U.S. Senate. He has done not only his State and the Senate, but our Nation, proud by his service thereon.

I have one last inquiry I would like to make of my good friend from Illinois.

Some concern has been raised that phase II would lead to much experimentation with electricity rate structures as a condition for financial assistance.

Would the Senator from Illinois not agree that these concerns are, in all probability, largely overstated?

Mr. PERCY. Mr. President, that is probably an exaggerated fear.

The basic proposition in phase II is clear—Federal assistance for accelerated reductions in oil and gas use as proposed by the utility. Some conservation measures, such as time of day pricing and load management, involve restructuring of rates and an expenditure of capital for the monitoring equipment, which would justify some financial assistance. The principal point is, however, that the utility initiates the proposal. If there is a concern about additional terms and conditions that might be imposed, then I would be amenable to language to prevent this form of overregulation.

Mr. HEINZ. I thank the Senator from Illinois for his encyclopedic understanding and his equally impressive knowledge of the issue of coal, in particular, the question involving phase II which I, like the Senator from Illinois, feel we must have action on just as quickly as possible.

As the Senator from Illinois knows, I have joined with him in expressing my deep concern that the committee saw fit not to include phase II in this legislation at this time. Although the door is open, as the Senator and I have been told, to the inclusion of phase II in the conference report if the House acts accordingly and does include phase II in their bill. Barring that, I understand that the Energy Committee will very readily take up in more detail the question of phase II so that it would not go unstudied and unacted upon this year.

In conclusion, I think the Senator from Illinois has provided a very great service to the Senate in raising this question.

I commend him for his considerable work and effort.

I would like to add, Mr. President, that I have particularly appreciated the service of the Senator from Illinois, not just as our delegate to the Coal Commission, but also as a very active member of the Senate Coal Caucus in which Senator BYRD, Senator FORD, and I, together with the Senator from Illinois, have been deeply involved these many months.

I commend the Senator from Illinois on his amendment, and I ask that he add my name as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I thank my distinguished colleague for his very generous and gracious comments.

I believe that favorable action by the Senate on this bill, and on phase II, would be very positive testimony to our work as members of the Coal Caucus, just as we have been working with great energy to find answers for the steel industry as members of the Steel Caucus. I thank the distinguished Senator from Pennsylvania for the leadership he has provided in organizing the Steel Caucus, and in addressing ourselves to the problems of that great basic industry in America.

Mr. President, I have not offered my amendment today to challenge the legislative wisdom shown by the Energy Committee several weeks ago, when it deleted phase II from the bill. Rather, I have offered it in the hope of reminding the committee and the full Senate today of just how important a role phase II can play in our oil back-out plans. It offers an assistance program that helps the whole Nation, and it is my hope that every Senator will commit themselves to achieve its passage into law this session.

I want to applaud the efforts of my good friend and colleague, the Senator from Louisiana, who as chairman of the Energy Regulation Subcommittee shepherded this legislation and molded phase I into a form that is highly worthy of Senate support. Senator JOHNSTON made it very clear during his committee's markup of S. 2470 that he believed in phase II, that he wanted phase II to be enacted as soon as possible, and that he would work diligently to have phase II considered thoroughly by the Energy Committee with all due haste.

I realize as clearly as everyone that the current language in phase II is subject to improvement, that more time may be needed to develop an optimum formula for phase II assistance. If the Senator from Louisiana will allow me, I should like to ask him for the record to clarify his rationale for omitting phase II from S. 2470, and to explain the future he sees for future Senate action on phase II.

Mr. JOHNSTON. Mr. President, the Senator from Illinois has stated correctly my attitude and that of the Senate Committee on Energy and Natural Resources toward phase II.

I wish to make it explicitly clear that I, as chairman of the subcommittee and as floor manager of the bill—and I believe the overwhelming majority of the Senate Committee on Energy and Natural Resources—am in support of phase II.

Our reason for not putting it in this bill is precisely as described by the Senator from Illinois—that is, it is a question of time and complication. Had we tried to resolve all the questions involved in phase II, the chances are that we would not have been able to bring this bill up in time for passage, without getting caught in the legislative logjam.

Some of the questions involved are these: Should assistance go to all utilities, or should it go only to those that are in need? Should projects already under way or in the planning stage quality for assistance? Should projects already receiving Federal, State, or local financing assistance qualify? Should projects already receiving a Federal, State, or local tax break qualify? Should a nuclear plant qualify? Should projects receiving State financial assistance through CWLP or AFUDC qualify? What should be the amount of aid to each project? Should it be grants or loans; and if so, what should the formula be for determining the amount of those grants or loans?

These are questions not in opposition at all to phase II but simply mechanisms that must be worked out, thought through fully, and hearings held in order to make a determination on this.

With respect to the Senator's question about how soon and by what priority we will deal with this question, I can tell the Senator that we will give it the highest priority in the Committee on Energy and Natural Resources. I hope we can find the time to begin those hearings and those markups this year. It may be entirely possible to do so.

Of course, if the House were able to come up with a satisfactory resolution of these questions, which I think is unlikely—but if they could—we would look sympathetically in the conference committee on trying to resolve phase I and phase II in this one bill.

I wish to emphasize that chances are against that, simply because of the volume and the depth of the questions involved. These questions, as I say, are not questions that are at all in opposition to phase II but simply are matters that take care of thought and reflection.

After all, in the administration bill, we would be spending some $6 billion on phase II. We want to insure that we spend that $6 billion—or whatever figure is arrived at finally—so as to get the maximum bang for the buck in terms of backing out oil and getting coal on line, or other alternative forces on line. We want to insure that we spend that money so as to get the cleanest environment possible, consistent with the maximum oil backout. In short, Mr. President, we want to insure that we can have confidence that we have made the right decisions when we spend $6 billion, which I think would be a cheap price to achieve the long step toward backing out oil and getting off the dependence on Middle Eastern sources.

In short, Mr. President, the Senator from Illinois has correctly stated our commitment to a high priority of the committee to phase II in this bill; and we will work with him and with others in this Chamber to insure its early approval.

Mr. PERCY. I thank my distinguished colleague.

Because there seems to be a somewhat better chance that the House of Representatives will take up phase 2, resolve its problems, incorporate it in their bill, will the Senator from Louisiana, with his working relationship with the House so well known, encourage the House to accept phase 2, to make it a part of their bill? And afterwards, would the Senator be prepared to look favorably upon such a measure and work out a phase 2 in conference that is acceptable to both the House and the Senate?

Mr. JOHNSTON. If the House can put together a phase 2 which is acceptable, obviously, we will accept it, because we are very much in favor of the concept of phase 2.

As I stated, realistically speaking, I do not believe that all the questions can be worked out within the timeframe. I hope they can. I certainly will encourage the House to try, because I believe that any work devoted to phase 2 is going to shorten the time between now and the time it is finally approved.

In effect, what I am saying is that I do not want to be bound, as the acting chairman—and I certainly do not bind the committee—to accept whatever product on phase 2 they come up with, because we may well feel that there are better ways to do it, given a little more time.

However, I cannot emphasize too strongly our commitment to phase 2. The question of dropping phase 2 was only one of time, given the lateness of this session, the lateness of time that the bill was introduced.

I believe the Senator knows how much priority effort we gave to this bill in the Energy Committee. It is a great tribute to the committee and to the staff to be able to work out such a workable mechanism on phase 1.

We will give that same kind of preferred treatment to phase 2 at the very earliest opportunity.

Mr. PERCY. The Senator from Illinois certainly agrees with the strategy that it is better, if you cannot have a whole loaf, to have half a loaf. In this case we may have something less than half a loaf. Yet we still all share the same desirable goal.

If it cannot be incorporated in the present bill by the House and accepted in conference, would the distinguished Senator use his influence to do everything he can, working with staff, other colleagues, and the full committee including Chairman JACKSON, to see whether or not it is possible to report out a separate bill still this year, so that we do not have to wait until the next session of Congress. To wait, of course, would mean the use of hundreds of thousands of additional barrels of imported oil. Can phase 2 be given a very, very high priority?

Is it at all possible to think in terms of a separate bill this year, if it cannot be incorporated in this present legislation?

Mr. JOHNSTON. The answer, Mr. President, is decidedly "yes."

Mr. PERCY. I thank my distinguished colleague.

Mr. JOHNSTON. I thank the distinguished Senator from Illinois.

Several Senators addressed the Chair.

Mr. FORD. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Louisiana (Mr. JOHNSTON) as it related to the colloquy with the Senator from Illinois. I will do what I can as a member of that committee to see that phase 2 is expedited and, hopefully, we can have a clean bill on the floor of the Senate for consideration this year, and do those things that are necessary to continue the effort that is now being made, and seem to be falling into place, to have a full, comprehensive national strategy as it relates to energy, and one of the important triggers there is this ability on this legislation to back off from the use of foreign crude.

Mr. PERCY. Mr. President, with the firm support phase 2 has from Senator FORD, and with the assurances the Senator from Illinois has just received from Senator JOHNSTON, I withdraw my amendment.

Several Senators addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from New Mexico.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. Yes.

Mr. PERCY. I ask unanimous consent that Senator HEINZ be added as a cosponsor to the amendment just withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1292

(Purpose: To establish certain conditions regarding loans and grants)

Mr. TSONGAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) for himself and Mr. BRADLEY, proposes an unprinted amendment numbered 1292.

The amendment is as follows:

On page 49, line 15, insert "and environmental" after "capital".

On page 51, insert the following between lines 2 and 3:

"(d) Qualifying Environmental Costs.—For purposes of this section, the term 'qualifying environmental costs' means costs incurred by a utility in carrying out the emissions reduction commitment required by subsection (f). In cases where offsets are used to meet the requirements of subsection (f) the Secretary shall provide financial assistance in the form of a one-time payment equal to the present value of the cost of the offset."

On page 51, line 3, strike out "(d)" and substitute "(e)."

On page 55, line 11, strike out "(e)" and substitute "(f)(1)".

On page 55, insert the following between lines 16 and 17:

"(2)(A) No loan or grant under this section may be awarded until the applicant demonstrates to the Secretary and to the Administrator of the Environmental Protection Agency binding commitments to—

"(i) reduce the emissions of sulfur oxides within the same State or air quality control region (as defined under 42 U.S.C. 7407) sufficient to offset any increase in SO_x emissions above that allowable when burning oil on June 24, 1980, that would otherwise be associated with a conversion of the powerplant that is the subject of a grant or loan application; and

"(ii) install and operate best practicable control technology (low NO_x burners) where technically feasible, for the control of the emissions of nitrogen oxides, as determined by the Secretary and Administrator of the Environmental Protection Agency.

"(B) The Secretary and the Administrator of the Environmental Protection Agency shall waive the requirements of clause (A)(1) of this paragraph if the applicant demonstrates that adoption of the measures needed to achieve such reductions are not technically or economically feasible. No such waiver may affect any obligation under or arising from the Clean Air Act. Concurrrent with granting such waiver, the Secretary and the Administrator of the Environmental Protection Agency shall require, as a condition for granting any financial assistance under this section, binding commitments by the applicant to achieve the degree of emission reduction achievable through the application of best practicable control technology, as determined by the Secretary and the Administrator of the Environmental Protection Agency, taking into consideration the cost, technological feasibility and remaining useful life of the converting plant. Best practical control technologies may include the use of low sulfur coal, coal washing, scrubbers or any other emissions control strategy. The Secretary and the Administrator of the Environmental Protection Agency shall make the determination of best practicable technology within 90 days of granting the waiver.

"(C) The Secretary and the Administrator of the Environmental Protection Agency may provide for delayed compliance with the requirements in clause (A)(i) of this paragraph."

On page 55, line 17, strike "(f)" and substitute "(g)".

On page 55, line 22, strike "(g)" and substitute "(h)".

On page 56, line 11, strike "(h)" and substitute "(i)".

On page 56, line 18, strike "(i)" and substitute "(j)".

On page 57, line 13, strike "(j)" and substitute "(k)".

On page 57, line 21, strike "(k)" and substitute "(l)".

On page 58, line 4, strike "(l)" and substitute "(m)".

On page 58, line 7, strike "(m)" and substitute "(n)".

On page 58, line 12, strike "(n)" and substitute "(o)".

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. Yes.

Mr. JOHNSTON. I wonder if it might be possible to get a time agreement on the amendment?

Mr. TSONGAS. Quite possible.

Mr. JOHNSTON. What would the Senator suggest?

Mr. TSONGAS. Let me inquire of the Senator from Vermont as to what his requirements may be.

Mr. STAFFORD. The Senator from Vermont should think a time agreement on the Senator's amendment and the amendment to his amendment, if we had 40 minutes on my amendment, and then whatever time the Senator wishes for his.

Mr. JOHNSTON. If the Senator from Vermont would like 40 minutes equally divided——

Mr. STAFFORD. Yes.

Mr. JOHNSTON. And the Senator from Massachusetts would like——

Mr. TSONGAS. If I could have an hour I would yield part of that to Senator——

Mr. JOHNSTON. One hour equally divided.

Mr. TSONGAS. One hour for this side of the argument. It may not all be used, but I would like 1 hour. I do not intend to use the entire hour, but I would like to have it here if other Members wish to speak on it.

Mr. JOHNSTON. Well, Mr. President, I ask my colleagues whether a unanimous-consent frame along these lines might be suitable: That on the amendment in the first degree offered by the Senator from Massachusetts there be a time limit of 2 hours equally divided between the Senator from Massachusetts and the floor manager of the bill; that there be a 40-minute time limitation to be equally divided on the amendment in the second degree when, as, and if offered by the Senator from Vermont (Mr. STAFFORD) to be equally divided between himself and the floor manager of the bill.

The distinguished majority leader can clean up that request.

Mr. STAFFORD. That will be agreeable, Mr. President, to the Senator from Vermont.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, if the Senator will yield.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am advised that the distinguished Senator from New York, Mr. JAVITS, has an amendment on which he might like to put in and discuss for a short while and then I believe he has to catch a plane. If that is so, I wonder if we might temporarily lay aside the Tsongas amendment.

Mr. TSONGAS. Mr. President, as long as there is an understanding that when the Javits matter is resolved we will go back and I will have the floor at that point.

Mr. JOHNSTON. Mr. President, I ask

unanimous consent that we temporarily lay aside the Tsongas amendment in order to take up an amendment to be introduced by the Senator from New York, Mr. Javits; at the completion of which, the Senator from Massachusetts, Mr. Tsongas, be recognized and that his amendment then be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 1293

(Purpose: To require specified "major interstate offset candidates" to install pollution control equipment as necessary in order to reduce emissions by 70%; and to provide grant assistance for such equipment. The amendment is a substitute for section five in the bill as reported)

Mr. JAVITS. Mr. President, I send an amendment to the desk on behalf of myself and Senator Moynihan and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself and Mr. Moynihan, proposes unprinted amendment numbered 1293.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the text be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 58, line 24, strike all through page 62, line 24, and insert the following:

"(a) Applicability.—The Secretary shall, by rule or order, require each major interstate offset candidate to design, submit a plan for approval, and install such pollution control equipment as may be necessary to result in a major emission reduction in accordance with the requirements of this section.

"(b) Definitions.—For purposes of this section, the term—

"(1) 'major interstate offset candidate' shall include the following electric powerplants:

Facility and Units and Company;
"(A) Cumberland (TN), TVA.
"(B) Gavin (OH), Ohio Elec.
"(C) Baldwin (IL), Ill. Power.
"(D) Monroe (MI), Detroit Ed.
"(E) Labadie (MO), Union Elec.
"(F) Conesvile (OH), Columbus & So. Ohio Elec.
"(G) Bowen (GA), Georgia Power.
"(H) Harrison (WVA), Monongahela.
"(I) Powerton (IL), Comm. Ed.
"(J) New Madrid (MO), Assoc. Elec. Comp.

"(2) 'major emission reduction' shall mean a net decrease in emissions of sulfur compounds, measured according to standards to be established by the Administrator of the Environmental Protection Agency, to a level—

"(A) seventy percent or greater less than the average level of emissions in 1979 for a powerplant which was in compliance with all applicable air quality standards and requirements as of June 24, 1980, or

"(B) seventy percent or greater less than the average level of emissions in the past twelve months for a powerplant which was not in compliance with all applicable air quality standards and requirements as of June 24, 1980;

"(3) 'pollution control equipment' means an advanced sulfur removal system, including systems for wet and dry scrubbing of flue gases, chemical cleaning of coal, and advanced combustion techniques designed to reduce emissions.

"(4) 'qualifying capital costs' means capital costs incurred by a major interstate offset candidate after the date of enactment, and the acquisition of and installing any pollution control equipment pursuant to an approved plan to comply with the requirements of this section and may include, at the discretion of the Secretary, costs incurred in the preparation of a plan for approval necessary to meet the major emission reduction requirement of this section.

"(c) Financial Assistance Application.—

"(1) Submission and content.—No later than 360 days after enactment of this Act, each major interstate offset candidate seeking financial assistance shall submit to the Secretary, and shall transmit to the Governor of the State in which the affected powerplant is located, a financial assistance application and proposed major emission reduction plan which shall include—

"(A) engineering design and capital cost estimates to accomplish required emission reductions;

"(B) an evaluation of environmental impacts resulting from emission reduction and operation of the subject powerplant including—

"(i) options available to the applicant utility for minimizing any such impacts; and

"(ii) actions which will be taken by the applicant utility to minimize any such impacts;

"(C) a demonstration that the proposed major emission reduction plan constitutes a prudent and cost-effective means to achieve conversion of the powerplant to the use of coal or another alternate fuel;

"(D) a schedule indicating how and when compliance with the major emission reduction requirement will occur.

"(2) Extension of time.—The Secretary may extend the deadlines for submission of a stet assistance application and proposed major emission reduction plan set forth in paragraph (1) of this section.

"(3) Verification.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates and other information submitted in financial assistance applications under this section. In consideration of an application for supplemental funding pursuant to paragraph (2) of this subsection, the Secretary may request such supporting information as may be required to verify the showing but only to the extent that the information requested could otherwise be available to him under provisions of law existing upon the date of enactment of this section.

"(4) Comment.—The Secretary shall provide an opportunity for comment by the Governor and the State regulatory authority of the State in which the subject facility is located, on any financial assistance application and proposed major emission reduction plan submitted under this section.

"(5) Consultation with other agencies.—A copy of any financial assistance application and proposed major emission reduction plan submitted to the Secretary under this secretary under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, the Secretary of the Department of Labor, and to such other interested Federal agencies, as the Secretary may deem appropriate, and the Secretary shall, to the maximum extent practicable, consult with such agencies in approving or disapproving such applications.

"(A) Eligibility to apply for any grant award under this section shall be limited to any Major Interstate Offset Candidate seeking a grant to design and install an advanced sulfur removal system on an existing electric powerplant which is in compliance with all applicable air quality standards and requirements as of the date of enactment of this section, or was not in violation of any applicable air quality standards and requirements on January 1, 1980, as determined by the Administrator of the Environmental Protection Agency.

"(B) Award of grants under this section shall be limited to powerplants in compliance with all applicable air quality standards on the date of the award.

"(C) Any utility receiving assistance under section 603 of this Act with respect to an electric powerplant, shall not be eligible for assistance under this section with respect to such powerplant.

"(d) Terms and Conditions.—The Secretary, in approving any financial assistance application and proposed major emission reduction plan under this section, may impose such terms and conditions as he determines appropriate to implement the plan.

"(e) Funding.—In making grants pursuant to this section, the Secretary shall provide funds to any eligible utility in an amount equal to 100 percent of such utility's qualifying capital costs.

"(f) Payment.—The Secretary shall not make payment of any loan or grant amount to any utility until such utility certifies that it has incurred a qualifying capital cost. At no time will the sum of payments to the utility exceed a proportion of the qualifying capital costs incurred which is equal to the proportion of the total loans and grants awarded to the total qualifying costs.

"(g) Criteria for Approval.—The Secretary in consultation with the Administrator shall approve plans which meet the emission reduction goals in a cost-effective manner. In approving plans, the Secretary shall give priority to:

"(1) emission reduction plans which offer the largest reductions in interstate emissions based on the quantity of annual emission of the utility and the proposed reductions.

"(2) the extent to which implementation of the proposed system will offset any sulfur emissions resulting from powerplants converting to coal or another alternate fuel to comply with the prohibitions of section 301 (d) of the Act in any area likely to be impacted by such conversions;

"(3) the contributions of the proposed system to the advancement of technology for the reduction of sulfur emissions from electric powerplants;

"(4) the extent to which installation of the proposed system will result in the increased use of local and regional coal resources.

"(5) Reduced emission option.—The Secretary, in consultation with the Administrator may approve a financial assistance application and require implementation of a proposed emission reduction plan that will result in a net decrease in emissions of sulfur compounds to a level greater than required by subsection (a), if he, in consultation with the Administrator of the Environmental Protection Agency, finds that the major interstate Offset Candidate has demonstrated that any or all of the following considerations make that seventy percent level infeasible or significantly cost ineffective:

"(A) age of powerplant;

"(B) site limitation;

"(C) waste disposal factors; or

"(D) significant disruptive effect on coal markets.

"(h) Disapproval in the Event a Grant Submission Does Not Meet the Criteria for Approval.—In cases in which the Administrator determines that a proposed emission reduction plan does not result in the required emission reduction, the Administrator shall notify the utility of disapproval of the plan and the reasons therefor and shall require the utility to resubmit a new plan.

"(i) TESTING AND EVALUATION PROGRAMS.—The Secretary shall establish appropriate testing and evaluation programs to monitor the effectiveness of systems funded under this section in achieving emission reductions and the practicability of such systems for commercial applications.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $450,000,000 which appropriation may remain available until expended."

Mr. JAVITS. Mr. President, this amendment is a substitute for section 5 of the bill. The amendment establishes a mandatory program under which utilities not on the list for conversion may apply for grants to pay all or part of the cost of scrubbers, coal washing, or other emissions reduction technology. The amendment establishes this mandatory scrubber installation program for utility coal burning units which make a significant contribution to interstate sulfur pollution.

The units on the list in the amendment—and the amendment has a specific list—are required to submit plans for installation of scrubbers or other sulfur reduction technology to the Secretary of Energy. Each plant must achieve a 70-percent reduction in sulfur emission unless it demonstrates that such a target is simply not feasible for fiscal or economic reasons. The list consists of 10 plants identified as having the largest volume of sulfur emission and which are 15 years of age or less. They are designated "major interstate offset candidates." Upon approval of a plan by the Secretary, the utility is given the cost of the capital equipment and the cost of installation of the sulfur reduction program which it is then required to install.

If the utility files a plan not approved by the Secretary, the Secretary must explain the reasons for disapproval and require that a new plan be submitted.

In selecting plans for funding, the Secretary shall give priority to plants which offer the greatest potential for cost-effective investment in interstate sulfur emission reduction. If no funds are authorized for funding utilities planned, the utility has no obligation to take such a plan. And then there are very serious penalties for noncompliance in the event that there is money and a plan is submitted and that plan is approved.

Mr. President, what we are trying to accomplish in this matter is the following: It is to deal with major polluters who are affecting our area of the United States. The reason is that we are being polluted from the areas to the west of us. The airflow is taking their pollution and adding it to ours. The result is the strange anomaly that, whereas individual plants may not be polluters within the terms of the Clean Air Act, the region is a polluted region. Therefore, a penalty is applied to us which others do not bear.

So, in order to deal with this problem, because many of the utilities shrug their shoulders and say, "Why should we get bollixed up with all of these complicated programs to reduce our emissions? It is just a lot more work and a lot more maintenance." What we have undertaken to do by this amendment is to say, if the money is available, "We will make you do it, because it is in the highest public interest that it should be done."

Mr. President, as a practical matter, it is a big bite to swallow on this bill, which Senators JOHNSTON and DOMENICI are managing. We did our utmost to try to work it out with the Department of Energy and with the principals involved, but we have been unsuccessful. But, Mr. President, this matter is not going to go away.

After this bill is passed and becomes law, or some bill like it—and I do favor the bill's substitution of coal for oil which is in the highest interest of the United States, after this bill is passed, in whatever form it may be, we in the East are still going to have to live with this problem, a problem not of our making, and yet obviously not of our curing alone either. We will be coming back to accomplish some result to resolve these problems which face us and, I might say, face other States located as we are, including perhaps, and that Senator BRADLEY who is presiding will know better than I, his own State, the State of New Jersey.

So we felt we should raise the issue and submit it for the thoughtful consideration of the Senate, the country, and the committee, and give notice that this is a continuing effort on our part on which we have to get a result. If we do not get it on this bill, we will get it on another bill. We are serving notice that we cannot accept a continuation of these intolerable conditions.

Mr. HEINZ. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. HEINZ. First, I will ask the Senator if I may be a cosponsor.

Mr. JAVITS. Certainly.

Mr. HEINZ. Second, I commend both Senators for presenting this amendment. It is a very illustrative amendment. I am struck by the fact that as you look down the list of the major interstate offset candidates, you will find that any one of the candidates, of which 10 are listed on the face of the amendment, right now adds nearly as much, and in some cases more, SO_2, sulfur dioxide, to the air as all 50 powerplants which were to be converted, not under the committee bill, but in the original bill which was introduced.

According to EPA, the net change in the amount of sulfur dioxide that would be put into the air as a result of the enactment of this legislation as originally introduced is 285,000 tons in a year. I do not wish to belittle putting any more sulfur dioxide into the air, but the dirtiest plant on the Senator's list puts 312,000 tons of SO_2 into the air in a year and the cleanest one puts 197,000 tons of SO_2 into the air. Obviously, achieving a reduction of 70 percent, were that to be feasible in every case, would offset five times over the relatively modest amount of additional SO_2 or NO_x that conversion as proposed in the legislation before us would cause.

I think the Senator has brought forward a very important issue which should be raised at this time. I thank both Senators from New York for having brought this issue to us in this form at this time.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator HEINZ may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, an important thing has happened in the United States. That is that New York, a rich State, the source of banking, finance, communication, of everything good, have now been almost nibbled to death. We have a higher rate of unemployment than most other States. We do much worse because of all the formulas that have been geared against us and have been for years in Federal aid. We have the greatest city in the country, a really national city, flirting with bankruptcy year after year and living on a powder keg because of the infrastructure which is so obsolescent.

What is happening is very harmful to us economically and serves to keep us more economically depressed. When we supported the South and the Southwest and enabled them to come abreast economically of the rest of the country with their natural assets, we helped generously. We would like to begin to see some of that thoughtfulness coming back to us. That is, again, a critical underlying fact. My colleague Senator MOYNIHAN, has made a wonderful contribution in pointing out the disadvantage we have in terms of what we give the Federal Government, being such a great source of revenue, and what it give us. All of these things point up the equity of that for which we will be contending for, even though we may not be able to do it today.

I yield to Senator MOYNIHAN.

Mr. MOYNIHAN. Mr. President, I thank my dear colleague for what he has just said. I rise to affirm it with just possibly a few further details.

Let me first say what Senator JAVITS has said before and what I think Senator HEINZ would say and what Senator BRADLEY would say. This legislation before us is in the most legitimate sense of the term legislation which has both a national purpose and a regional purpose. The national purpose is to increase the use of coal and correspondingly decrease that of oil, and the regional purpose is clearly to provide increased production of the coal-producing regions.

The Senators from New York have absolutely supported it on both grounds. New York State will account for 23 percent of the increased consumption of coal. We have gone to the Energy Committee and said we accept it and encourage it, that the Nation needs it, and we are for it.

Then when we do come back and gently suggest, however, that our agreeing to this ought not impose upon us a penalty or our regional economic growth, we are told, "Next year." No one says, "Coal next year." They say, "Coal this year. New York, New Jersey, Pennsylvania next year," as if there was something extraordinary about our suggesting that our concerns might be considered simultaneously with those of others, especially as we are the ones who are offering our cities, our industry, for this conversion purpose.

Never for a moment have we suggested we did not want this conversion. We encouraged it. We said, "Give it to us."

But we are also living under the mandates of this Federal Government that strictly limit the air quality of our State, and that air quality is already at its maximum absorption of pollutants, which are not our pollutants.

Ninety-two percent of the sulfates in the New Jersey-New York region originate outside our region.

Here in this legislation is a provision that will allow for the use of $650 million for sulfur removal techniques by plants in the Middle West. As the distinguished Senator from Pennsylvania has pointed out, the highest of these has 312,000 tons a year coming out of it, in the Cumberland. The least has 197,000.

If you were only to apply scrubbing facilities to one of these, it would take out 70 percent of 140,000 tons which would be more than the entire contribution from the proposed conversions.

But we are told, "Next year, from some nonexistent funds on some nonexistent bill, we can look after the East." Well, Mr. President, there is a national interest in this legislation and we are going to support it regardless. But if our concerns are always next year, when does next year arrive?

We did not come here with a record of opposition; we came here with a record of support. We come here as the region most prepared to absorb this, with communities least prepared to think it is a good idea. But it is a good idea because the Nation needs this transformation. Our President is in the Adriatic just this very moment, talking about it, and has committed himself to it.

Mr. President, I am happy to see the distinguished senior Senator from West Virginia come on the floor, because he knows how strongly we have supported him in his concern for coal. But, my goodness, Mr. President, it was surprising to see with what a measure of abruptness we were told, "Oh, no, next year, we shall look after the burden we are imposing. This year, we look after ourselves."

And though "ourselves" includes the Nation and we are for this legislation, how long, oh Lord, must this pattern go on? How long, oh Lord, must we be the ones who must be expected to think of the national interest and when we try to associate our own interests as being part of the Nation, are told, "Next year"?

It surprised me, it disappointed me. Nonetheless, we are Americans before we are anything else and we are for this legislation. Particularly, it would be a happy circumstance, it seems to me, if the Senate were able to adopt it before the President's visit in Europe is over, and the communique from the Venice summit was published only this morning in the paper.

But next year has to come sometime, and if it does not, you will look to the people who are standing here in this Chamber supporting the national interest and they are not going to be here any more. And a very different breed can appear and be very much less cooperative. That would be a loss to us all.

Mr. President, I hope that will be acknowledged in the responses of the sponsors of the legislation. I hope that they will be specific about what they intend next year, and when next year comes, if that fabled next year ever does come, I hope that we shall hear that we shall have their support, because we shall need it. And by my judgment, and I think that of my senior colleague and Senator Heinz and others, we shall have deserved it. I thank the Chair.

Mr. JOHNSTON. Mr. President, the Javits-Moynihan amendment, together with the Tsongas amendment, together with the Stafford amendment to be introduced, poses some very serious and some very deep questions which this country and the Senate will have to resolve. Those questions are basically two in number.

The first question is: Should the United States, through its taxing policies, spend money to cleanup existing powerplants? That is a very difficult question, Mr. President, for at least two reasons. The first reason is that it is hard to determine how equitably to spend the money. For example, in the State of New York, there is a State implementation plan calling for a sulfur dioxide—SO_2—limitation of 0.3 pounds per hundred million Btu's, a very stringent, a very strict standard. In effect, the people of New York, through their rate base, are paying to keep their air very clean in New York, through that very strict standard.

On the other hand, if we go to Ohio, they have a standard of 9.6 pounds per million Btu's or, in other words, a 30 times dirtier standard in the State of Ohio for SO_2. If we go to neighboring Massachusetts, they have 4 pounds per million Btu's.

So the first question is, if we are going to spend Federal money to cleanup existing powerplants, how equitably do we tax the people of New York to cleanup the problem in Massachusetts when Massachusetts could have, by invoking its own State implementation plan, taken care of the problem by its own rate base, as the State of New York does?

There is, unquestionably, a national interest in cleaning up the air and avoiding the effects of acid rain. Indeed, many of these problems are interstate in nature. That pollution which takes place downwind from New York, even so far away as the Tennessee Valley, will deposit acid rain, we think, in New York.

Nevertheless, Mr. President, the problem of how we deal with the equitable expenditure of the tax dollar is a difficult one, which Congress, at some time, must resolve and which, I submit, we cannot do here on the floor of the Senate without hearings. That is the spirit of the "next year" that we talk about.

The second problem, Mr. President, is this inevitable tradeoff between clean air on the one hand and getting off of foreign oil on the other hand. We have a limited number of dollars. We have come to realize that, in this calendar year 1980, as never before. The dollars will not stretch around to do everything we would like to do.

The dollars did not stretch the other day to take care of middle-income subsidized housing and the Senate voted it down. The dollars did not stretch yesterday to take care of a baby BEOG's program for aid to primary and secondary school students. I think that amendment was defeated largely because of dollars. The dollars did not stretch yesterday in the Appropriations Committee to take care of the State share of revenue sharing.

The question is: How far do those dollars stretch as between converting plants on the one hand to get off oil, back off oil, as opposed to cleaning up existing plants on the other? A difficult question. I suspect that we are going to come down on the side of spending Federal dollars to clean up. But where that cutting edge will come, where the division point will be, is a very difficult and very weighty question, with implications not only for the environment of this Nation, but for its national security.

Once those questions are resolved, Mr. President, we then come to another set of questions which are equally difficult. That is that if we assume that we are going to spend Federal dollars to clean up existing powerplants, the question is, Where should we spend that money—in what section of the country, what kinds of plants?

I submit, Mr. President, that the answer to that question in the context of the Tsongas amendment or the Stafford amendment is very clear.

We should send those dollars where they will get the maximum clean up, because there is, again, and I will emphasize over and over again today, a limited number of Federal dollars.

The Javits-Moynihan amendment, Mr. President, in my view, is going in the right direction. It is a great improvement over the Tsongas and Stafford amendment because it takes those plants in the country which are the biggest polluters, where there is the largest opportunity for payoff in terms of cleanup for dollars spent, and it addresses itself to those plants.

It is a much better approach, Mr. President. Frankly, if we had resolved the first two questions, that is, what we spend Federal dollars for, how many Federal dollars for clean up. I would be inclined to accept this amendment right here on the floor save for one overriding question, and that is that it has not had hearings and it has not been subjected to that detailed scrutiny that the expenditure of dollars of this magnitude would demand.

But when I say next year, Mr. President, we do not regard that in the sense of manana, in the sense that this is a program, or a question, or a set of questions, that can be swept under the rug indefinitely and not dealt with.

Those questions must be dealt with,

with the highest priority in this Nation, the very highest priority, because it strikes at the very heart of environmental questions, those acid rain questions, that are on the minds of Americans across this land.

It also strikes at an even more basic problem. That is, how do we convert our existing plants from foreign oil to coal? We must deal with it and deal with it expeditiously.

Mr. President, as I say, the approach of the Javits-Moynihan amendment is an excellent one. I will give a couple of figures that illustrate so well why that is true.

We have from the Department of Energy an indication, or a projection, of the total amount of pollution SO_2 that this entire bill entails.

The entire amount of pollution from this bill, according to the Department of Energy, is 111,000 tons per year.

If we just look at a few examples of existing powerplants already in operation in this country, Mr. President, we will find that some of those powerplants, individually, have much more pollution than this entire bill does.

The Cumberland, Tenn., TVA, 2,600-megawatt plant, has 312,000 tons of SO_2 per year, which is three times the amount of total pollution from this bill.

Gavin, Ohio, 2,600 megawatts, 293.000 tons of SO_2 per year; Baldwin, Ill., 268,000; Monroe, Minn., 268,000; Labadie, Mo., 256,000; Conesville, Ohio, 236,000; Bowen, Ga., 208,000; Harrison, W. Va., 201,000; Powerton, Ill., 200,000; New Madrid, Mo., 197,000.

Indeed, Mr. President, there are at least 30 existing plants in this country which individually produced more SO_2 per year than this entire bill, with all of its 80 conversions.

If that is so, Mr. President, it is indelibly clear that we should not spend these dollars cleaning up these plants where we have an opportunity for a quick payoff, but, rather, we ought to address our dollars to those plants where there is the opportunity for big payoff.

Mr. MOYNIHAN. If the Senator will yield for a question, is it not our proposal that we use the dollars, $450 million, that are in this bill; is that not our proposal?

Mr. JOHNSTON. Will the Senator repeat the question?

Mr. MOYNIHAN. There is money in this bill for this purpose, and that is what we would hope would be used.

Mr. JOHNSTON. There is $450 million in this bill. That is correct.

Indeed, there is another $100 million precombustion cleanup. But the $450 million is for voluntary conversion, and the Senator's program is a mandatory conversion.

Mr. MOYNIHAN. Yes. But we are not adding money. We are directing money.

Mr. JOHNSTON. That is correct.

Frankly, the $450 million is a modest program to begin this process. If we want to call it a tradeoff, it is a modest tradeoff to begin the program.

But it is a totally different approach than coming in with the kind of megabucks that are needed in order to make the transition.

I will mention three factors, Mr. President, that ought to be considered when we begin to spend dollars for cleanups.

We ought to spend those limited dollars where they would do the most good, where three considerations are important.

First of all, the age of the plant. These plants in this Phase I have a useful life of something on the order of 15 to 20 years. We ought to spend the dollars, as far as possible, on plants that have a maximum useful life, those new plants that will have longer to last, so the dollars will stretch over a longer period of time.

Second, we ought to spend the dollars at the locations that will do the most good in terms of acid rain and other pollutants, not on the east coast where much of the pollution goes out to sea and acid rain occurs over the North Atlantic somewhere. But, rather, spend that money where there are downwind States that might receive the acid rain.

Third, Mr. President, there is an economy of size with respect to cleanup.

Larger plants can get a bigger payoff per dollar spent in the cleanup of these plants.

The average size of the plants in phase I of this bill is about 500 megawatts. The average size of the 30 Midwestern plants that are the largest plants, from the examples I just read, are over 200,000 tons per year of SO_2. Those are the places we ought to be spending the money.

In short, Mr. President, I congratulate the distinguished delegation from New York for going in the right direction on this amendment. I can assure both Senators that from my standpoint, and I think from the standpoint of our committee, we will, to the extent we are involved in this clean air consideration, give it the highest priority next year.

Mr. DOMENICI. Will the Senator yield 5 minutes to the Senator from New Mexico?

Mr. JOHNSTON. I will certainly yield the floor, Mr. President.

Mr. JAVITS. If the Senator will yield momentarily to me, I will just say that we appreciate that. But I think the point just made, which I made, and Senator MOYNIHAN made a minute ago, is that the major decisions have already been taken with passage of this bill.

The fact is that $450 million is available. The fact is that this is U.S. money, and that it is offered, and that, therefore, we must expect it will be used because the committee has decided to recommend to the Senate that $450 million be authorized.

The point we have made, and I hope the Senator feels we are on the right track, how do we get it used well?

In other words, how do we lead the horse to water and get him to drink?

The Senator told us how we lead him to water in this matter, but we know that these utilities are not going to begin this cleanups unless they have to. We are trying to make them have to.

We hope very much that when the committee does act, as the manager has indicated that it will, that we will deal with finalized rather than threshold questions.

In other words, that the main point now is, do we have the right way, or is there a better way? The burden of proof is on those who would show us that there is a better one.

I believe that if we can accomplish that, then, notwithstanding the fact that we stand aside now, we will have made real progress for our region.

Mr. HEINZ. Mr. President, will the Senator from Louisiana yield 1 or 2 minutes for a discussion?

Mr. JOHNSTON. We are not under a time limitation, but I yield for a question.

Mr. HEINZ. I thank the Senator.

Senator JAVITS has set forth the principal case for his amendment. He has stated that the money is in the bill; that it is to be spent for exactly the same purposes as the Javits-Moynihan amendment—that is, up to 100 percent of capital costs. The real issue is whether we are going to require performance for the expenditure of public money, performance with respect to level of emissions, which is stated quite adequately and clearly and, from my point of view, more effectively and better than in section 5 of the committee bill.

Second, the committee bill talks in terms of 1985 for voluntary conversions. The Javits-Moynihan amendment talks in terms of 360 days for plants to really get down to brass tacks.

I know that the Senator from Louisiana is a very effective guardian of the public purse. He is a very good watchdog over public money. Therefore, I hope he does see the very real benefits to be obtained by specifying what it is we expect for $450 million of the public's money.

Mr. JOHNSTON. Mr. President, we certainly do feel that it will be necessary to state rather specifically what we expect.

If there is a weakness in the section of this bill involving the $450 million, it is this: We cannot insure that that money will be spent, because it is a voluntary program, and we do not know if we are going to get the cooperation of the State public utilities commissions in paying part of the bill.

So I think we will have to come back next year and perhaps even reallocate the same $450 million to make it a mandatory program, to make a requirement, in effect, that the States come up with their share; because, in my view at least, at this point, I would not say that the Federal Government should pay the entire cost.

If we are talking about Ohio with 9.6 pounds per hundred million Btu compared with New York at .3, why should we pay 100 percent of Ohio's cleanup, when New York, through its rate base, voluntarily has done so much better?

These are very weighty questions that need to be resolved, but eventually they will have to be resolved through some kind of mandatory mechanism; and to the extent that we do not provide 100 percent of the conversion money, the States will have to be required to come up with at least their part through some kind of mandatory program. Indeed, as the distinguished Senator from Pennsylvania points out, we need to set a standard for what we expect and create a mechanism to insure that we get there.

Mr. HEINZ. I thank the Senator.

I will take 30 seconds to point out that when the Senator asks the question as to why the taxpayers' money should be used to clean up the emissions of powerplants in Ohio or Indiana or Illinois—by the way, none of them on this list happens to be in Pennsylvania, so I can approach it with some objectivity, I believe—the fact is that the 9.6 pounds of sulfur per million Btu's is set by EPA, a national agency, which for some reason has decided to go with 9.6.

Region 3 is the region we are talking about. It is not a State region. It is not a local government region. The Federal Government has approved this 9.6 pounds of SO_2 per million Btu's limit.

So at least this Senator's answer to the question of the Senator from Louisiana is that it is a national responsibility, because it is a problem created by the Nation and EPA in region 3, whether we like it or not, whether we agree or not with what EPA has done. That is this Senator's response to what the Senator asks.

I appreciate the Senator giving me the time.

Mr. JOHNSTON. This is a somewhat ancillary point, but I am advised that it is a State implementation plan in Ohio that sets the 9.6.

I am not suggesting that that is too high or that New York is correct. I have not formed a definitive judgment at this point on what the correct standard is. All I am saying is that Congress needs to deal with that and create some kind of quota between differing standards that now are set by different States; and if we want to create a new standard and a new requirement of cleanup, we should decide for the equitable distribution of those funds.

Mr. McCLURE and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I say to my friend from Pennsylvania that I sat here in the halls of Congress when the Clean Air Act was enacted. The Congress of the United States was acting on behalf of all the people of the country, but the Federal Government per se did not impose anything on anybody.

The elected representatives of the people of the several States voted for that program. You voted for that program. You voted for that program. You voted for that program. So it is not something that EPA, just out of the blue, dreamed up and imposed upon the sovereign people of Pennsylvania or the sovereign people of New York.

Mr. DOMENICI. So did the Senator from Idaho.

Mr. McCLURE. Yes, I voted for that. The Senator from New Mexico is correct—I voted for that.

We did not create the dirty air in New York. I did not create the dirty air in Pennsylvania. The Senator from New Mexico did not create the dirty air in Long Island. The people in Long Island did it, and they get some of the benefits of that dirty air, too.

I do not believe it is necessary for us to say now that the dirty, old Federal Government somehow has imposed a standard.

That was a joint action by the representatives of all the people, because the people in each of the several States wanted to cleanup the pollution in each of their several States.

Mr. HEINZ. The Senator is correct. I supported the Clean Air Act, and I am glad to hear that the Senator from Idaho supported it. It is, of course, a construction of Congress.

However, not to put too fine a point on it, there is a provision that was written originally, I believe, in 1975 or 1976, which did not get into the 1976 amendments when they petered out in the closing moments of 1976. This provision did get into the 1977 amendments. I speak of the authority for EPA to be concerned with and do something about the problems of one State's export of pollution to other States.

As the good Lord happened to have arranged it, He put an enormous amount of coal along the Ohio Valley. He also arranged the prevailing winds to blow from the west to the east and from the southwest to the northeast, toward central Pennsylvania, toward New York City, toward Vermont, toward New Hampshire, and He arranged for a lot of people to locate there.

The result is exactly what the Senator knows to be the case—some very large powerplants that export a great deal of energy all over the place, and they are very dirty.

The Senator from New Mexico is entirely correct, as is the Senator from Louisiana, that EPA has delegated—as we have required them to do—to the States a responsibility for coming up with a State implementation plan. There is a great deal of variability in those State implementation plans.

However, the fact is that, as of today, we have no adequate national policy for dealing with the invasion of one State's air envelop by the pollution from another State. EPA is ducking that issue. Hence, the problem comes back to this body.

In effect, what Senator JAVITS and Senator MOYNIHAN are doing through their amendment is to raise that issue, which is a national problem, I submit, because the provision of law that is supposed to protect one State against an untoward amount of pollution from another State is not being used by EPA.

Hence, region 3, which sits at the borderline between Ohio and Pennsylvania, will allow 9.6 pounds of sulfur per million Btu's. A few miles just inside the Pennsylvania border, we are subject to 1.2 pounds of sulfur per million Btu's at an existing, not a new, powerplant. That is quite a difference.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. McCLURE. Mr. President, it is not my intention to prolong this discussion, and I think we are getting a little far afield from the legislation before us today. We can redebate the Clean Air Act all day today. The only reason I took the floor was to point to a little caution respecting the fact of whether or not the cleanup of the dirty areas of the country is a national obligation to finance or a national concern to see that it is done. It may be well that the people who create the dirt ought to clean up their own dirt.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. McCLURE. Mr. President, I yield the floor.

Mr. MOYNIHAN. I wonder if the Senator from New Mexico would yield for a very brief observation?

Mr. BRADLEY. Mr. President, parliamentary inquiry. Will the Senator yield? Is there a time limit on this amendment?

The PRESIDING OFFICER. There is no time agreement.

Mr. MOYNIHAN. I would, if I could, say to the Senator from Idaho that the people of Long Island, when it is said that they should clean up their own dirty air, not in defense of the people of Long Island but merely to describe it, let me say that that is not so. It is more likely to be created in Toronto or the Tennessee Valley, and that is not a virtue of the people of Long Island. It has to do with airstreams, and what we are dealing with here in this matter I would like to say particularly to the Senators from Idaho and New Mexico, who are especially sensitive to this question, is that we are dealing with the equivalent in the air of riparian rights, the long and legitimate question of downstream flows, which we have lived with for a long time as a people. We are going to have to learn to analogize that.

Mr. DOMENICI. Ours are valuable, however. Our downstream rights are valuable, but yours are not.

Mr. MOYNIHAN. There it is, and it always turns out to be against us these days. But our day will come. Somebody will learn to use that SO_2, and maybe they can make gold out of it. [Laughter.]

Mr. DOMENICI. Let me say to the Senator, his day came in this bill, and that is why I ask what he is worrying about?

The Senate committee made up of people from all over this country voted 17 to 1 to give your State $1 billion out of the $4 billion that is in the bill, and if we would not have taken out a couple of plants there would have been another couple of billion just to New York to convert away from oil to use coal.

Mr. MOYNIHAN. One-quarter of the coal, and we are for that.

Mr. DOMENICI. So when you talk about when is your day going to come, I am suggesting to you that Senators from all over this country, many of them from the West, about whom you are always worried on the public domain, and when are you going to get your share, they gave you and you got your share in this bill.

Let me just make two other points: It

is absolutely ridiculous for us here on the floor to try to allocate $450 million to clean up Ohio. We do not know enough about why Ohio has such dirty stacks. We would have to have some hearings to make clear that it is not their own fault. You know there is a bit of history that Ohio has yet to comply with the Clean Air Act of the United States, the only State in the Union. They do not even have a State implementation plan which has been approved. We cannot come down here and say, "Clean them up. Here is a $450 million gift, because New York is getting some of this pollution." We have to take that in due course.

Third, Senator, what else did we give you in recent times? This committee took your amendment on acid rain, $46 million, to start a study, and 10 years your amendment said should be involved in that study. We not only took it up quickly, but we put it into the Synthetic Fuels Act. The House did not have any such language. We said it is needed for our country, so we are on our way to doing the very things you have been asking that we do, and I truly believe that this specific use of $450 million to take one part of the stream that is moving acid rain and direct Congress to clean them up in one State is just not the way to do it. We have to have national hearings on that. Nobody is ducking the issue.

Some Senators said we were ducking the issue. There is no issue to be ducked. It is not in the Clean Air Act. We did not take up acid rain and the interstate mobility of particulates which turned out to be acid rain. Do not worry, if it were in there, we would duck it because it is tough to handle. So we will handle it in due course.

The amendment has a great concept, but it just should not be on this bill. It should be handled in a different way, and the provisions in this bill for using the $450 million in a voluntary manner to clean up existing powerplants is a much better way. I hope we will not have to vote on this, but I commend the Senator for his idea and his notion, and I think the debate has been excellent.

Several Senators addressed the Chair.

Mr. HEINZ. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. I understand the Senator from New York would like to have several minutes.

Mr. MOYNIHAN. If the Senator from Kentucky wishes to talk to this point, perhaps he can do it now.

Mr. FORD. I can talk to it.

Mr. TSONGAS. Mr. President, will the Senator yield? If I could just be given some time in which I could anticipate taking up my amendment, say, 5 or 10 minutes, it would save me some inconvenience.

Mr. HEINZ. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. HEINZ. Will the Senator give me 30 seconds?

Mr. FORD. I yield 30 seconds to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator for yielding.

I just want to state for the record, because one of our colleagues said there is nothing in the Clean Air Act that has to do with interstate pollution abatement, as I understand it, section 123 of the Clean Air Act amendments, which were written in 1977, in fact does have such a section, section 123 "Interstate Pollution Abatement" which I certainly will not take the time to read into the RECORD. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that the text of section 123 be printed in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

INTERSTATE POLLUTION ABATEMENT

SEC. 123. Part A of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"INTERSTATE POLLUTION ABATEMENT

"SEC. 126. (a) Each applicable implementation plan shall—

"(1) require each major proposed new (or modified) source—

"(A) subject to part C, relating to significant deterioration of air quality, or

"(B) which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification),

to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after the date of enactment of the Clean Air Act Amendments of 1977.

"(b) Any State or political subdivision may petition the Administrator for a finding that any major source emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(E)(i). Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition.

"(c) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State—

"(1) for any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of the prohibition of section 110(a)(2)(E)(i), or

"(2) for any major existing source to operate more than three months after such finding has been made with respect to it.

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 110(a)(2)(E)(i) as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 113(d) after the expiration of such period during which the administrator has permitted continuous operation.".

Mr. FORD. Mr. President, just 1 minute is all I need to sum up what the Senator from New York is trying to do with what I hear is a good idea, that they have raised a good issue. But I point out to my colleagues that the committee pointed the issue out in the language of this legislation. They raised that issue and said that something must be addressed, and we said $450 million. And now, that is a modest beginning.

I say to my colleague from New York that one example of why this amendment should not be considered at this time, and a very valid reason why this particular subject should be before the committees—I imagine more than one—as it relates to hearings is because I have seen at least three copies of an amendment that has been changed and has been changed and has been changed. So I think even though it is a good idea, that it is a good issue, that the point raised by the Senator from Louisiana is absolutely correct. We should have hearings, we should address this issue and, in fact, if we accepted the Senator's amendment, I doubt seriously, under the proposal, we could take care of one utility. So it is much greater than the problem addressed in this bill.

I go to the point that there will be the Clean Air Act next year, there will be moneys, and we will be getting into other things.

So I applaud the Senators from New York for their industry. I think they have created a discussion which indicates that it is necessary for a better hearing and a better idea to come.

I yield the floor.

Mr. MOYNIHAN. Mr. President, let me then briefly conclude by thanking the Senator from Louisiana and the Senator from New Mexico and now the Senator from Kentucky for their remarks.

I offered my analogy of the problem of riparian rights in a wholly serious way. This is a matter which has been with our race for many thousands of years, and we have developed laws about it and understandings. We are going to have to now do this about the movement by air of substances. I thank the Senator from New Mexico for referring to the Acid Precipitation Act which was included in the synthetic fuels bill just passed, and which I had introduced.

I would remind him that it was in the amount of $50 million, not $46 million. But there is a problem which truly needs study and will get it under these arrangements.

I have heard very carefully and our indefatigable secretaries and clerks have recorded the undertakings that next year will be 1981, not the year after, whichever year it happens to be.

In that spirit, wishing we could have done otherwise, we acknowledge a central fact which is that the Department of Energy has withdrawn its initial indication that it would support this measure. The Senator from Kentucky wonders why there have been so many changes. It is because DOE fussed and fussed, and then withdrew, which is a matter that has been done. Under the circumstances, not wishing to see the agreement of the sponsors of this legislation lost in taking up the matter in the next session of Congress, and in a spirit of accommodation and comity, and recognizing the crying merit of this for national legislation, on behalf of myself and Senator JAVITS I withdraw the amendment.

Mr. DOMENICI. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. DOMENICI. I just wanted to correct the record. The bill the Senator introduced on the acid rain study was $15 million, but in the conference report, it is $53 million; $45 million, $5 million, and $3 million in another section. This is the report and that is the authorization level.

Mr. MOYNIHAN. Mr. President, the Senator has cheered up the Senator from New York. There are scientists in the Nation over who are this very moment in the Senator's debt and I would like to acknowledge it.

I do request the amendment be withdrawn.

The PRESIDING OFFICER. The amendment (UP No. 1293) is withdrawn.

UP AMENDMENT NO. 1292

The question now recurs on the amendment of the Senator from Massachusetts (Mr. TSONGAS), unprinted amendment No. 1292.

Mr. TSONGAS. Mr. President, assuming we are still on the oil backout bill, which I assume is still the case, I would now call up my amendment, which I do not believe has been read by the clerk.

The PRESIDING OFFICER. The amendment is pending.

Mr. TSONGAS. Mr. President, if I may, I think it would be perhaps easier—could I have the attention of the floor managers, Mr. President?

The PRESIDING OFFICER. The Senator will please suspend until the Senate is in order.

The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I think it may be easier to resolve these issues in some coherent fashion if I now yield to the Senator from Vermont (Mr. STAFFORD), who could introduce his amendment and then resolve that and then I will make a case for the underlying amendment.

I yield to the Senator from Vermont.

UP AMENDMENT NO. 1294

Mr. STAFFORD. Mr. President, I call up an unprinted amendment I have at the desk for myself, Mr. MITCHELL, Mr. NELSON, and Mr. LEAHY. It is an amendment to the amendment of the Senator from Massachusetts, Senator TSONGAS. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment. The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD), for himself, Mr. MITCHELL, Mr. NELSON, and Mr. LEAHY proposes an unprinted amendment numbered 1294 to Mr. TSONGAS' unprinted amendment numbered 1292.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike the language beginning with the word "that" and ending on line 11 with the word "application", and insert in lieu thereof the following: "those actual levels attributable to such facilities prior to converting to coal use;"

On page 3, after line 8, insert the following:

"(d) In any case where the best practicable emission limitation of this section is met through a technological system of continuous emission reduction, the Secretary shall make grants under section 603 in an amount equal to 75 percent of the utility's qualifying capital costs, as defined in subsection (c) of such section."

Mr. STAFFORD. Mr. President, this amendment to the Tsongas amendment, in brief, does two things: first, in the first paragraph of the amendment, it requires that emissions of sulfur dioxide, a source of acid rain, as we have been discussing this afternoon, be held from any plans concerned in the committee bill to their previous levels; that there be no increases in such levels.

Second, because of the additional cost involved, which is estimated by the Library of Congress to run from a low of $670 million, to a high of $2.36 billion, it provides that there be increased Federal grants above those in the committee bill to 75 percent of the entire cost of the conversion where scrubbers are installed in the stacks.

So much for the brief description of a very brief amendment.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. STAFFORD. Yes.

Mr. FORD. Does the Senator have the balance on the amount of increase in dollars?

Mr. STAFFORD. It is not in the amendment. I will say to my friend from Kentucky. The figures I used were those estimated for us by the Library of Congress.

Mr. FORD. The Senator is not adding additional funds to the $3.6 billion.

Mr. STAFFORD. No.

Mr. FORD. The Senator wants it to come out of the funds in the bill?

Mr. STAFFORD. We would expect additional funds might have to be made available as an authorization if this is adopted.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. FORD. The problem I have here is that the Senator is going to have to increase the authorization.

Mr. STAFFORD. If the Senator will let me finish my statement, I would be glad to try to answer his question.

Mr. FORD. Mr. President, I will get back to the Senator.

Mr. STAFFORD. Mr. President, I, frankly, wish I were not standing here in the Senate today in the position that I am in.

In the last several months, I have been in this position too often and I begin to find the situation increasingly bitter. I am saddened that it appears to be the view of the Senate these days to exploit energy resources without regard to other considerations, whether they are economic or environmental. The view seems to be that the rights or interests of a minority must always be sacrificed on the altar of energy. It seems to make no difference whether those rights are legitimate or not. It seems to make no difference whether the concerns are real or not. All that seems to matter is that the God of Energy prevails over all other rights and interests.

We are today considering a bill that will convert electric utility plants—most of them in the Northeast, although I have noted some as far south as Georgia—to the use of coal as their fuel, rather than oil.

Now, I heartily support, Mr. President, the concept of converting to coal. I think that is a major step in the right direction. The conversions will lessen our dependence on foreign oil and increase our reliance on domestic coal. Those are both sound objectives, both for the economy and the national security, as our dependence on overseas foreign oil is lessened. As my good friend, the chairman of the Committee on Environment and Public Works and the senior Senator from West Virginia said only yesterday, he is for me and I am for him and we are both for coal and for the environment.

That is true. I am for coal. But I am also for my State, its economy and its environment, which is my problem with this bill.

We have before us a bill that would convert about 80 oil-fired powerplants to coal. This bill does not merely order these plants to convert, but pays them to do so. The money to pay for these conversions will be transferred from the pockets of the Federal taxpayers directly to electric utilities.

There are some who argue that the Federal Government ought not be subsidizing the conversions of these plants from oil to coal. Frankly, I am inclined to agree with this argument. Every economist with whom we have spoken has assured us that these plants could convert to coal, add even stringent environmental control devices, and still reduce electricity rates to their customers.

But that argument is now moot. The political realities are that these plants are going to convert and the Federal Government is going to pay for those conversions if the Senate bill before us today is enacted. The question now before the Senate is whether we will pay to do the conversions properly. And that is the thesis of the Senator from Vermont.

The bill potentially affects two aspects of life in the States impacted by it: First, it will affect the environments; and second, it will affect the economies. These are inextricably intertwined problems.

As these plants go on line with coal, the pollution levels in the affected States will increase. We cannot be sure exactly how much the increase will be because that information has been closely guarded by the administration. But we do know that before he was apparently muzzled by the White House, EPA Administrator Douglas Costle estimated the acid rain increases in New England would be as much as 16 percent. There will certainly be comparable increases in other pollutants.

Clean air is more than a desirable esthetic. It is a resource. Industries buy and sell it, just as they buy and sell clean water, crude oil, virgin ores and other commodities. When some of that clean air is consumed, it is no longer available to other industries in a State or region.

The air in most of these affected States is cleaner than in many parts of the country. I cannot speak for the Carolinas or the Middle Atlantic, but New England air is cleaner because we paid for it. We—our governments, our businesses, and our citizens—laid cash on the barrel head and bought ourselves basins of clean air. We installed pollution control devices. We regulated the growth of our industries. We restrained the greedy impulses of some groups. We paid for our clean air with hard cash and hard work.

The Federal Government under this bill takes that clean air away from us. The Federal Government has no more right to that clean air than it does to the money in your pocket. But worse, when the Federal Government under this bill takes that increment of clean air, it eliminates the room for new industrial growth which our region has preserved.

The Federal Government is, in effect, saying to us that we cannot have new paper mills or new tanneries or new anything else. We can have—and all we have under the pending bill—are powerplants that burn coal and put more dirt into the air.

There is a difference between what the Federal Government has the power to do and what it has the right to do. I know that the distinguished manager and the other supporters of the bill may prevail today. But every Member of the U.S. Senate who votes against my amendment had better be prepared to stand on this floor and defend his State someday. Today, it is the forests of Vermont or the clear air of Maine, but tomorrow the battlefield can just as easily be the Pacific Northwest or the vast Middle West.

Right now, in more than 100 different offices around the Senate, speakers are carrying my words. The persons on whose desks the speakers sit are probably ignoring what I say, even though this is an issue of vital importance, not just to my State, but to theirs as well.

Are the staffs of the Senators from Alaska, California, Oregon and Washington listening?

Are the staffs of the Senators from the energy-rich West, where water is a more precious resource than gold itself, listening?

Are the staffs of the Senators from Mississippi or Louisiana or Alabama or the other Deep South States listening? Their interests are at stake here too.

I hope the Senators of New England are listening, because it is our States that lie on the altar of energy today.

But do the Senators of the Middle Atlantic or the South Atlantic or the great farmbelts of the Midwest understand?

We are not talking about sacrificing only New England, we are talking about the precedent of sacrificing any State or any region to the God of Energy.

Any reasonable person would conclude that circumstances must demand such an extraordinary precedent. You would think that minimizing pollution from these facilities is impossible or next to it; or that the costs are astronomical. That was what I thought initially, but I was wrong.

Pollution from the plants can be held at present levels and it can be held there inexpensively.

Is 20 years worth of clean air worth the price of one and one-half aircraft carriers?

Is saving room for industrial growth worth 2 years of the budget for Congress?

Apparently the supporters of this bill think not. And I suppose that is easy enough for them to say, because they have no stake in my part of the country.

The cost of keeping our clean air in the bank is small. Emissions could be held virtually constant, at a relatively small cost. The Library of Congress has stated that my amendment would add as little as $670 million to this bill or as much as $2.36 billion.

Is that too high a price to pay for a decade or even two or three decades of clean air in New England?

The supporters of this bill have said that my State is still protected by the Clean Air Act. But in fact, these plants are exempt from many key features of the Clean Air Act.

NEW SOURCE PERFORMANCE STANDARDS

The supporters of this bill have said that imposing environmental controls would delay the conversions. But in fact, these conversions could be achieved quickly, even if sophisticated pollution control equipment were required.

The supporters of this bill have said that imposing environmental safeguards would drive up electricity rates. But in fact the most expensive equipment could be installed and rates could still go down, not up, due to high cost of oil.

If the Senate can sacrifice the economy or the environment of New England, the same can happen in other parts of the country as well.

The great rivers of the Pacific Northwest can be slowed by hydropower to silent pools with dead fisheries.

The great and fertile plains of the Midwest and the Dakotas can be exhausted for alcohol.

The air and water of the Old West can be poisoned by a policy that turns those States into the boiler rooms of America.

The historic beauty of the Atlantic States and their rugged fishermen and farmers can be sacrificed for the sake of offshore oil.

The lakes of the upper Midwest can be killed by acid rain.

The Deep South can find its energy prices driven skyward and forest yields cut because of the insatiable energy demand of other regions.

Are these unrealistic possibilities?

I, for one, cannot believe they are unreal after examining this bill. It expresses a willingness as I perceive it to sacrifice the environment and the economy of New England even when that is unnecessary.

But more important than the cost is the precedent. We have clean air in New England because we have paid for it. We have striven for years to produce an environment which is cleaner than many areas and has room for economic growth. We have worked and sacrificed because those things are important to us.

When the Members of the Senate come to the floor later to vote on my amendment, they are not voting for the forests and streams of New England. They are voting for or against the special character of their own States. It is merely a coincidence that on this particular day the interests of New England are at stake.

Tomorrow or the next day or the year after, the interests may be yours. If the Congress can take the room for economic growth in New England or mortgage the quality of life in Vermont, it can do the same for other States and areas.

Mr. President, it seems to the Senator from Vermont that my colleagues have a clear choice. If they want to keep the air as clean as it is now in this country, they will vote for the Stafford amendment. If they are willing to let it become somewhat dirtier than it is now, they can vote for the Tsongas amendment. If they are willing to take the risk that the air will become a great deal dirtier than it is now, they can vote against both Stafford and Tsongas amendments and for the committee amendments.

Mr. President, I yield to the distinguished Senator from Maine.

Mr. MITCHELL. Mr. President, I rise to express my support for the Stafford amendment, of which I am a cosponsor. I believe this amendment is essential to the ultimate success of the coal conversion program. It will minimize the severe environmental impacts that will otherwise occur in Maine and all of the other States in the Northeast.

As we all know, most of the 80 powerplants to be converted under the pending legislation are in the Northeast, including three units located in Maine.

The environmental impacts of this coal conversion program are staggering. They are apparent to anyone who looks at the facts.

Yet from the day this legislation was proposed, throughout the legislative process thus far, no meaningful environmental safeguards have been included as a condition of the $3.6 billion of Federal grants and loans that will finance these conversions.

Let me identify some of the specific environmental impacts, as estimated by the Environmental Protection Agency:

An increase of 285,000 tons of sulfur oxides annually;

An increase of 155,000 tons of nitrogen oxides annually;

A 15-percent increase in sulfur emissions and a 31-percent increase in nitrogen oxide emissions from utilities in New England;

An increase of 16-percent in acid deposition in Maine and other New England States.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. MITCHELL. Yes.

Mr. JOHNSTON. Is it correct that those estimates by the Environmental Protection Agency first of all assume that all 107 plants proposed in the original proposition were included even though now that is down to 80? That is the first question.

The second question is: Is it not a fact that they assumed a 100-percent filling of the SIP's with respect to each of these plants when, in fact, the actual plan would call for something less than 80 percent?

Mr. MITCHELL. My understanding is that the answer to the first question is that it is not based upon an assumption of 107 plants but on 80 plants.

On the second one, it is based on a worst case analysis which is, of course, permitted under the existing legislation.

The reason for the increase in nitrogen oxide emissions is that there are negligible oxide emissions from oil-burning facilities, but coal produces large quantities of the substance. Nitrogen oxides from existing coal-burning utilities are largely uncontrolled; this is the reason that the coal conversion legislation will result in such large increases.

The acid rain increases are particularly disturbing. This phenomenon results from the transport of pollutants through the atmosphere by prevailing winds. During this transport the pollutants are transformed into acid compounds that are eventually deposited on land and water as acid precipitation. Maine and all the rest of New England are already receiving acid rain from pollution generated far from our borders.

Scientists believe that acid rain may cause a sharp decline and possible extinction of fish populations in streams and lakes. The acidity may also damage soil, resulting in reduced crop and forest yields.

Other effects attributed to acid rain are:

An eightfold increase in the acidity of Maine lakes in the past 40 years;

The probability that dozens, perhaps hundreds of Maine lakes will not be capable of supporting fish life in a few years; and

The loss of fish already in 90 percent of the Alpine lakes in the Adirondack Mountains.

This legislation forces the Northeast to pay the environmental price of reducing the Nation's dependence on oil. That is unacceptable and it is unnecessary, Mr. President.

I believe that converting these 80 facilities is in the national interest and I support it. It would reduce dependence of this country and my State on foreign oil. However, without the amendment proposed by Senator STAFFORD, myself and others this goal will be frustrated, not advanced.

If communities are presented with the fact that their air and water resources will be deteriorated beyond repair by a proposed coal conversion in their area, they will justifiably oppose it.

State and community leaders will also oppose coal conversions without meaningful pollution controls because the increased emissions of sulfur and nitrogen oxides may freeze out new industrial growth in the affected Northeast regions.

The tragedy of this legislation is that we can convert to coal cleanly. This amendment would accomplish this in the following ways:

Converting powerplants would have to hold their sulfur emissions to the levels currently being emitted;

These powerplants would also have to minimize emissions of nitrogen oxides, which would otherwise be completely uncontrolled;

These pollution reductions would be accomplished through the application of the "best practicable emission limitation," to be determined by the Environmental Protection Agency on a plant-by-plant basis;

If the plant chooses to meet its emission limit by installing pollution control equipment, Federal grants would pay for 75 percent of the total conversion costs, instead of the 25 percent in grants available in any other case;

Where the installation of pollution control technology is chosen, the powerplant would be eligible for a waiver of its emission for the time necessary to install the equipment.

This amendment insures maximum flexibility in the determination of the way in which each plant reduces its emissions. The emission control level at each plant would be based on factors specific to that plant, such as age, site limitations, availability of low-sulfur coal in the region, cost of compliance, and emission levels achievable at that plant.

The best practicable emission limit could be installation of scrubber technology, use of low-sulfur coal, preparation of the coal before it is burned, or more stringent control of other facilities in the area to offset the additional pollution from a coal conversion.

This proposal in essence, requires the converting utilities to maintain an environmental status quo in return for a Federal investment in their capital costs of conversion.

It will be said that we cannot afford the additional cost of this amendment. I say that we cannot afford a coal conversion program without the environmental safeguards this amendment would provide.

The powerplants that convert to coal as a result of the pending bill will operate for the next 10, 20, or even 30 years. The decision made on this amendment will determine whether or not the Northeast is forced to have its environment involuntarily degraded for that period of time in the name of energy expediency.

Our clean air, our lakes, our fish and wildlife, our forests, our soil, are among our most valuable assets. They represent a way of life that we in New England have successfully protected thus far. I urge mv colleagues to respect the importanace of these resources not only to the people of the Northeast, but also to the country as a whole, by adopting the Stafford amendment.

(Mr. LEAHY assumed the chair.)

Mr. MITCHELL. Mr. President, let me give a more detailed explanation of this amendment.

The objectives of Senator STAFFORD's amendment are first, to hold the sulfur oxide emissions from converting powerplants to the levels they are existing today, and second, to minimize nitrogen oxide emissions from the converting plants.

There are negligible nitrogen oxide emissions from oil-burning facilities, but coal produces large quantities of the substance. Nitrogen oxides from existing coal-burning utilities are largely uncontrolled; this is the reason that the coal conversion legislation will result in such large increases. Available retrofit technology is not capable of holding NO_x emissions to existing levels, which would be close to zero emissions. The amendment therefore, will only minimize NO_x emissions. There will still be an increase of about 20 percent in NO_x levels annually, compared to a 40-percent increase without the Stafford amendment.

BEST PRACTICABLE EMISSION LIMIT

The mechanism by which the amendment will accomplish its purpose is the requirement that each plant comoly with a "best practicable emission limit," to be determined by the Environmental Protection Agency for each individual powerplant.

This approach was chosen to provide flexibility in the method by which each plant will meet its cleanup requirement.

Each individual requirement will be based on such factors as the amount of cleanup that can be achieved at a given plant, the age of the facility, site limitations on the installation of control equipment, and the cost of compliance. In short, the emission limit will reflect what is practicable or feasible at that plant.

The powerplant may choose how to meet its given emission limit. It might choose to buy low-sulfur coal to avoid installing control equipment; it could elect to clean up dirty coal before burning it, through "coal-washing" which takes out some of the sulfur; it could elect to install controls on the stacks of the plant—scrubbers—that "scrub" the sulfur out of the emissions before they are released from the stack.

Another control alternative is to leave the converting facility's emissions only partially controlled, and get the rest of the required cleanup from other facilities in the area. This concept, called "offset," permits an industrial source to "offset" the pollution it will add to an area with further cleanup of another source in the vicinity, so that there is no net emissions increase.

SULFUR CONTROL TECHNOLOGY

For many years, the efficacy and dependability of scrubber technology has been hotly debated by the electric utilities and the EPA. It is now fact that the technology is available and does work.

As of December, 1979, 65 scrubbers were in operation in this country, and another 42 are under construction.

There is no question but that scrubbers raise the capital costs of conversion as well as operation and maintenance costs for the utility. The advantage of installing a scrubber is that the utility need not depend on sometimes uncertain and always expensive sources of low sulfur coal; it can use plentiful dirty coal available at much lower prices. This is the advantage of control technology from an environmental point of view as well: the method of control is not thwarted by factors beyond the utility's control, such as a miner's strike at a low sulfur mine.

INCENTIVE FOR SCRUBBERS

The Stafford amendment encourages the installation of scrubbers as the method of compliance with "best practicable emission limit" by raising the Federal grant from 25 percent to 75 percent of total conversion costs if the utility chooses to comply with a scrubber.

NITROGEN OXIDE CONTROL METHOD

Nitrogen oxide emissions from existing powerplants can be controlled by modification of the combustion process.

The "best practicable emission limit" would most likely be "low NO_x burners", because this is the only feasible nitrogen retrofit technology available at a reasonable cost.

The converting plants will have to install new burners in most cases anyway, so the Stafford amendment would result in the installation of the cleaner burner.

EPA estimates the total cost of a best practicable emission limit requirement for nitrogen oxides to be about $25 million.

COSTS OF THE AMENDMENT

It is difficult to estimate the total cost of the additional requirements in the amendment for two reasons. First, the amendment gives utilities the flexibility to choose how they will comply and it is obviously not possible to predict their choices. Second, there is disagreement about the costs of each control method among the utilities, the Department of Energy and the Environmental Protection Agency.

The Congressional Research Service estimated the cost of this amendment to be between $670 million and $2.4 billion. The low represents no scrubbers chosen; the high represents a choice of scrubbers everywhere, with each plant receiving a 75 percent Federal payment of conversion costs.

There will be opposition to raising the $3.6 billion cost of the coal conversion legislation at all. However, the Federal Government is requiring these conversions; the decisionmaking processes of States and localities are being significantly preempted. One of the prices that will be paid by States and localities is environmental degradation, without the Stafford amendment. It seems reasonable to also provide Federal funds to minimize the amount of degradation from this mandatory program.

Failure to control the increased emissions from the proposed coal conversion program has significant ramifications. Many of the converting facilities are old, and are close to the end of their useful lives. Without this Federal coal conversion subsidy, many of the facilities would be replaced with new plants subject to more stringent new source performance standards. Now, however, the old plants will continue to operate and to be substantial polluters in an area for 10, 20, or even 30 years.

Beyond the actual environmental effects of these increased levels of sulfur- and nitrogen oxides, the additional pollution will consume the air resources available for economic growth in the Northeast.

CONTRADICTORY ESTIMATES OF EFFECTS OF COAL CONVERSIONS

The Department of Energy and EPA disagree about the emissions increases from the coal conversion legislation. This results in differences with respect to estimates of increases in acid rain in the Northeast also.

The differing emissions estimates are due to different assumptions used by each Agency in its calculations.

DOE estimated an increase of 128,000 tons of sulfur annually from the Administration proposal while EPA estimated an increase of 330,000 tons of sulfur annually from the administration bill.

DOE and EPA agreed on the arithmetic but disagreed on the appropriate figures to compare when predicting the sulfur increase.

EPA compared the current actual emissions from plants with the maximum allowable emissions permitted under each State implementation plan after conversion to coal.

DOE compared current actual emissions of these plants with 80 percent of maximum allowable emissions under State plans after conversion to coal. DOE then reduced this quantity by one-third, based upon EPA's statement that roughly two-thirds of the emissions are likely to fall over land, and one-third over sea. DOE used 80 percent of allowable emissions in order to reflect a "safety factor" in utility attempts to comply with an emissions limit.

EPA's numbers reflect a worst case analysis, as well as its anticipation that present State Implementation Plan requirements may be relaxed further for many of the converting plants.

EPA believes that DOE's additional adjustment for the proportion of emissions that goes "out to sea" is not appropriate. Since the same proportion of today's actual emissions goes "out to sea", the relationship of today's actual emissions to the potential increases under the bill would not change, whether or not the 'out to sea" fraction is discounted. The percentage increase in regional emissions is more relevant to acid rain concerns than the absolute magnitude of the increase.

Mr. JOHNSTON. Mr. President, I announce to my colleagues that it is my intention, after the expiration of a reasonable time for debate on these two matters, which are very closely related, to move to lay the Tsongas amendment on the table. I, therefore, invite any of our colleagues who would like to be heard on the amendment to come and speak as expeditiously as possible.

(Mr. MITCHELL assumed the chair.)

Mr. JOHNSTON. Mr. President, I shall be brief. These are two what we call in the trade "killer" amendments. They are killer amendments because the bill still cannot stand this kind of expenditure and still be a workable bill.

Mr. President, what we are trying to achieve, or what we should be trying to achieve when we spend dollars for cleanup, is to get the most cleanup for the fewest dollars and to do so in the most equitable, the most efficient way. Neither one of the pending amendments, which are first cousins to one another, accomplishes that, Mr. President.

According to the Department of Energy, the total SO_2 produced in all 80 powerplants here is 111,000 tons per year. Mr. President, I have previously identified over 30 individual powerplants in this country, most of which are in the Midwest—some in Tennessee and Missouri—which are downwind from the State of Maine and other Northeastern States, which, individually, produce more than 200,000 tons in some cases—which is double the total amount in this bill—300,000 tons per year in other cases. Mr. President, if my colleagues would think for a minute about the implications of those figures—let me repeat them, because they bear repeating. There are over 30 powerplants in this country, each of which, individually, produces two and three times the total amount of SO_2 that this bill produces. Individually, Mr. President.

So what we have here is an amendment in the case of the Stafford amendment which DOE says would virtually double the cost of this bill—more than double the cost—and in some cases, produce absolutely no results.

Mr. President, let me repeat what the three criteria ought to be when we spend money to clean up existing plants. Those are, first, the age of the plant. Why should we be spending Federal dollars on plants which have a usable life of 15 to 20 years, which is the average life of the plants under phase 1 here?

In 15 to 20 years we are going to spend another $2 billion to $3 billion to clean them up, and they wear out at the end of 15 to 20 years.

If we had unlimited dollars in this country, if we could spend $100 billion, or whatever the figure is, on cleaning up existing plants around the country, fine. Let us clean them all up. Do not give any attention to where they are or how many years they have left.

Mr. President, we do not have unlimited dollars. So let us not put those dollars on plants which have a useful life of 15 to 20 years, but on the plants that have a useful life of 30 to 40 years, because there are some of these Big Berthas that have 2 to 3 million tons per year SO_2 plants, that do have a useful life of 30 to 40 years.

The second criteria, Mr. President, for expenditure of dollars is location of the plant.

If we are going to pick and choose between plants, clean up one and not the other, and that is what we are doing.

these amendments say to clean up only these converting plants, and these amendments do not deal at all with other plants in other sections of the country, so pick and choose, then it is very clear, Mr. President, we ought to choose those plants downwind of something, not get a plant on the Atlantic Ocean where the pollution will go out to sea and the acid rain will fall somewhere in a snowstorm in the North Atlantic.

Put it in Tennessee, which is downwind, I guess, of New York; or put it in Ohio, which I believe would be downwind of Maine; or spend it somewhere to do the most good.

This bill picks plants predominantly in the Northeast where one-third to one-half of the SO_2 will go out in the Atlantic Ocean.

The third criteria, Mr. President, is size. Do not spend money on plants that are economically inefficient by scale.

There is an economy of scale in these plants, Mr. President. The average size of these plants is less than 500 megawatts. The average size of some of these 30 Big Berthas exceeds 1,000 megawatts.

The opportunity, the payoff, for pollution control per dollar spent is much better in these Big Bertha plants because there is a curve, an economics of size.

Mr. President, the Tsongas amendment is a curious one. It engrafts upon present law certain cleanup requirements which vary from State to State. It results in some very ridiculous results.

For example, Mr. President, in the State of Massachusetts, the State implementation plan for oil and coal is identical. That is not true in some States. In some States, the State implementation plan, called SIP, is different for oil and coal. It is higher for coal than oil.

In Massachusetts, it happens to be the same, and in Massachusetts it happens to be rather high, 2.42 pounds per million Btu's of SO_2.

The total amount of SO_2 produced in Massachusetts would be 165,000 tons a year, or approximately one-third of the total emissions from all 80 units. Yet, Mr. President, under the Tsongas amendment, there would be no additional requirement. In other words, under the Tsongas amendment, we could pass it and it would affect their plans not at all.

Compare that to other States which are affected by this phase 1 where the SIP is much lower, it would cost in some cases $2 billion to $3 billion if we had to go to best available technology in order to require a scrubber for some of these plants.

In other words, Mr. President, what the Tsongas amendment does, and let us be frank, we are really talking about the Tsongas amendment. I think in all good humor and in all deference to my revered friend from Vermont (Mr. STAFFORD), I think his amendment is really a stalking horse which is so bad that it attempts to make the Tsongas amendment look better.

So, we are really talking about the Tsongas amendment.

Bad as it is, Mr. President, it does not make the Tsongas amendment look much better, because the Tsongas amendment takes that crazy quilt of present State implementation plans that vary from State to State, that even vary within States, with a different State implementation plan for coal and oil, and it requires greater expenditure in some States, less in others, none in others, a wasteful expenditure of money.

Mr. President, if we adopt the Tsongas amendment, frankly, I do not think this bill can survive, because the cost of complying with the Tsongas amendment would be so extreme and the expenditure of dollars so inefficient that I think we would have to say, "Let us go back to the drawing boards and try to come up with something that is equitable, that is a proper expenditure of Federal dollars."

Two additional points, Mr. President. This legislation complies with each and every requirement of existing law. Each one of us in this Senate has heard howls and cries from industry across this country which say that the Clean Air Act is absolutely strangling the use of coal, preventing us from being able to use coal.

I do not adopt that argument, except simply to note it.

The point is that this bill complies with each and every requirement of existing law.

According to the Department of Energy, this bill adds 0.3 of 1 percent to the SO_2 emissions in this country, 111,000 tons per year, 0.3 of 1 percent.

Mr. President, if we adopt the Tsongas amendment and put millions of dollars, billions of dollars in additional expense, in order to focus in on that 0.3 of 1 percent, some of which will be cleaned up in some States, some of which will be cleaned up in other States, because of the way their SIP works, and most of which, or at least a large portion of which, will breeze out over the Atlantic, we have done a very ludicrous thing, indeed, on the floor of the Senate.

I hope the Senate will not vote in any environmental way. Frankly, Mr. President, a strong environmentalist would vote against the Tsongas amendment because he would realize that our resources are limited. We cannot clean up every powerplant in this country. We simply cannot do it. There are not enough dollars to do that.

If that is true, which is inarguable, then it is equally true the Tsongas amendment puts those dollars in the wrong amount and in the wrong places.

Let us come back next year, Mr. President, find out how much we can afford, put those dollars where they will cleanup in the best way, and also decide what the problems of the States are, of each individual State, with respect to cleanup, decide whether or not Ohio at over 9.6 pounds per million Btu should get the same amount of money as New York at 0.3 pounds per million Btu's.

Weighty consideration, which must be addressed, Mr. President.

For the time being, the Tsongas amendment is clearly wrong.

I ask the Senator from Massachusetts, and he has not been heard yet on this amendment, whether it is not correct that the emission limit, the State implementation plan in Massachusetts is 2.42 pounds per million Btu of SO_2 that the oil and coal SIP is identical in Massachusetts, and that, therefore, this bill would require no action at all within the State of Massachusetts under the Tsongas amendment.

Am I correct in that?

Mr. TSONGAS. The Senator is correct. It is also correct that of the 80 plants under the committee's bill, 68 would not be affected.

Mr. President, I ask unanimous consent that the names of the Senator from Vermont (Mr. STAFFORD) and the Senator from Maine (Mr. MITCHELL) be added as cosponsors of the original amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I should like to engage the chairman in a parliamentary discussion.

Is it the intention of the Senator from Louisiana to file a motion to table?

Mr. JOHNSTON. Mr. President, I say to the Senator from Massachusetts that I will move to table the Tsongas amendment. I hope to do so at an early hour, but at a time when everybody has spoken a reasonable amount of time.

Mr. TSONGAS. I say to the Senator that I am in favor of an early hour.

A parliamentary inquiry, Mr. President. A motion to table would take with it, I assume, the Stafford amendment as well. Is that correct?

The PRESIDING OFFICER. If the motion to table is directed at the Tsongas amendment, the Stafford amendment will follow.

Mr. TSONGAS. But as to the merits that would be gotten to by the motion to table, in essence, my amendment would be sought to be tabled, but an ancilliary effect of that would be that the Stafford amendment also would go down. Is that correct?

The PRESIDING OFFICER. The Chair cannot interpret the effect of the motion to table.

Mr. TSONGAS. If the RECORD will show that the Senator from Massachusetts believes that the parliamentary situation is as he stated it, let me go on from there.

Mr. President, a number of issues have to be addressed. First of all, this is an important bill. There are very serious national security implications as to our dependence on imported crude. No one understands that, I hope, any better than I, and I commend the Senator from Louisiana and the Senator from New Mexico on bringing this bill before Congress. I believe the bill has to be passed, and that national security dimension should be recognized.

In addition to what this bill does for national security, it does a great deal vis-a-vis the utilities of the affected States. Many utilities are in very dire financial straits, and this bill would significantly reduce the burden on the ratepayer.

In effect, what is happening is that we have decided that there is a national security implication and that in order to fulfill that national interest, there is going to be a corresponding commitment by the taxpayer in that direction, in that the price should not fall solely on the customers of the utilities.

The question I raise—in addition to those two very valid considerations that I believe provide the rationale for the bill, and appropriately so—is whether we in Congress are going to take into account that there are other values that should be addressed; and, to put it quite simply, is it too much to ask that this bill not make the environment any worse than it is?

There has been discussion as to the acid rain issue, and we finally have an administration that recognizes that there is an issue; and there has been discussion as to the Javits-Moynihan proposal, which we will get into next year. I simply indicate to my colleagues that we got into it this year; that there have been hearings; and that although not many people went to them, those hearings did take place.

Let me try to indicate what the acid rain problem is about. Acid rain, by definition, is a rather simple issue to understand.

The acidity of precipitation is measured on the lower range of the so-called pH scale of 0 to 14, as we all learned in chemistry class, where pure water has a pH of 7.0. Because normal rainfall has a pH of 5.6, rainfall with a pH level below 5.6 is known as "acid rain." The lower the number, the more acid the substance. Each number on the scale signifies a ten-fold difference from any neighboring number.

In the Eastern United States, the average pH of rainfall is now between 4 and 4.5, an increase of about 50 times in the last 25 years. Some rainfall has been reported at pH levels as low as 3.0, almost equivalent to the acidity of lemon juice or vinegar.

I do not know how anyone else feels about lemon juice rain, but I, for one, would rather stay indoors.

Acid rain not only appears to be spreading in severity, but also in aerial extent. In 1955–56, the area where rainfall was recorded to be below a 4.6 pH level was located in parts of Ohio, Pennsylvania, West Virginia, New York, and New England—precisely where sulfur dioxide emissions were highest. By 1975–76, the area with an average pH below 4.6 had extended as far west as the Mississippi River and as far south as Florida.

So, although the Stafford is geared to New England, the underlying Tsongas amendment affects a much larger area.

That is acid rain. What is the impact?

Acid precipitation can cause a number of serious environmental problems, notably sterility of lakes and fisheries, damage to crops and forests, decreased soil fertility, corrosion of manmade materials and structures, and visibility reduction, as well as adverse effects on human health. This environmental damage can, in turn, be translated into billions of dollars in economic loss.

I hope that at this point in our history, we understand the link between the environment and economic damage.

Over 100 lakes in the Adirondacks and eastern Canada have already become devoid of fish life. Lakes in the Adirondacks have become 100 times more acidic, from an average pH of 6.8 in the 1930's to about 4.8 in 1975.

So talk to the people in that part of the country about the economic effects of that kind of situation.

Because of certain geologic conditions, water bodies in those areas lack in the natural neutralizing minerals, like limestone, which would preserve the acid balance needed by the fish to survive and reproduce. In addition, increased acidity mobilizes certain metals such as aluminum, mercury, cadmium, and lead into the water, which metals are normally locked into minerals in the soil and the sediments at the lake bottom. Any sudden elevated concentration of these metals can be extremely toxic to fish. The consequent complications vis-a-vis the human consumption of that fish go without saying.

Acid rain threatens to reduce agricultural crop yields because it can cause nutrients to leach from soils, result in direct damage to leaves and increase plant susceptibility to infection from bacteria and fungal pathogens. Some laboratory experiments have shown increased growth of tomatoes and strawberries under artificial "acid rain" conditions, but it has been questioned whether adding sulfur and nitrogen in this way is the best way for plants to obtain nutrients. That kind of effect, obviously, should be of some concern to those who come from agricultural States.

Finally, on the issue of acid rain, I refer to the effects of human health.

Inhalation of acid mist may result in lung problems. Acidity in water can increase the uptake of mercury and other toxic heavy metals by aquatic organisms, including fish, which pollution can "bioaccumulate," or increase in concentration as it moves up the food chain to human consumption. Acid rain can also accelerate the bioaccumulation of toxic metals from the soil, to grain and other agricultural crops, and to cattle. Drinking water supplies are also threatened by the leaching of toxic metals either from the watershed or from pipes that corrode from contact with the acidic water.

I also refer at this point to hearings that I understand the Senator from New Hampshire held recently as to the effect of acid rain in his part of the country.

What does the amendment do? The amendment is quite simple. What it says is as follows:

> No loan or grant under this section may be awarded until the applicant demonstrates to the Secretary and to the Administrator of the Environmental Protection Agency binding commitments to—
>
> First, reduce the emission of sulphur oxides within the State or air quality control region (as defined under 42 U.S.C. 7407) sufficient to offset any increase in emissions above that allowable when burning oil on June 24, 1980.

Put another way, in essence, if a conversion takes place, emissions are allowed up to the so-called allowable limit. Anything beyond that would have to be offset by some process, whether that process is technical or whether it involves other processes.

Second, as to the nitrogen oxide problem, there must be a commitment to install on the conversion equipment and operate the best practical control technology where technically feasible so that the sulfur oxide and the nitrogen oxide problems are taken care of.

The argument has been made that this is not practical. The amendment reads on:

> The Secretary and the Administrator of EPA shall waive the requirements of paragraph (1) if the applicant demonstrates that it is either technically or economically infeasible to pursue the provisions of section (1).

So what we have put in here, and it is quite controversial, in effect, is an economically feasible waiver or a technically feasible waiver. We are trying to deal here with the real world.

If such a waiver is obtained, the condition for that waiver is that the applicant would commit himself to a degree of emission reduction achievable through the best practical control technology, that technology to be determined by the Secretary and the Administrator of EPA, taking into consideration, again trying to introduce the issue of practicality, the cost, the technological feasibility in the remaining useful life of the converting plant.

Now, what do we mean by best practical control technologies? We are not talking about scrubbers, although that may in fact be the case. We are talking about processes such as the use of low-sulfur coal, coal washing, scrubbers, and other emission control strategies.

In addition to that, the amendment allows for a delayed compliance, which was not in the original bill.

This amendment was introduced in the Energy Committee. It was defeated by a vote of 9 to 7. That amendment was different from what is now being introduced, in three factors: First, the amendment on the floor contains the delay provisions which were not in the committee amendment.

Second, the economic feasibility waiver has been written into the amendment.

Third, the NO_x requirements refer to low NO_x burners which, hopefully, clarifies the issue as to what kind of technology we are referring to on the NO_x emission control.

There are 80 plants affected by the bill before the Senate. Sixty-eight of those plants are not affected by this amendment and they are in States where currently, as indeed in Massachusetts, coal and oil emission standards are the same. That leaves 12 plants where this is going to have an impact.

Let me address the issue of cost. The Edison Electric Institute, which is hardly the Sierra Club or Jane Fonda, estimates costs as follows, and this is for the 80 plants: Conversion of the 80 plants at coal emission levels is estimated at $3.4 billion. Assuming 75 percent, which is 25 to 50 in some ratio, that comes out to $2.5 million. That assumes the loans would be forfeited at some point or would not be paid back.

Oil level, which assumes the maximum

use of technology, the costs would be $5.2 billion, and multiplying that by the 75 percent it comes down to $3.9 billion.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. Yes, I yield.

Mr. JOHNSTON. The Senator has a waiver provision in his bill. If a waiver is granted because you cannot meet the best control technology, and so forth, then is the applicant exempted from the order to convert in the bill or must he go ahead and convert?

Mr. TSONGAS. He must go ahead and convert.

Mr. JOHNSTON. Then the standards available or applicable to him would be the same standards as in the bill?

Mr. TSONGAS. It would be the same standards contained further on where there are conditions for commitments to using the best control technology.

Mr. JOHNSTON. I thank the Senator.

Mr. TSONGAS. If the offsets referred to are used by the utilities, the cost in that case of the entire bill, with the Tsongas amendment, would be $4.4 billion which, multiplied by 75 percent comes out to $3.3 billion, which, as everyone knows, is less than the $3.6 billion in the bill for conversion.

There are basically five arguments to which I will briefly refer, in summing up why the amendment makes sense:

First. The environmental issue obviously, that has been addressed rather well by the Senator from Vermont, and I will not pursue it beyond that.

Second. The economic issue. Senators should understand that to the extent conversion takes place and emissions are increased in the atmosphere and States begin to approach the nonattainment level that, in effect, means that those States could not introduce new industry into those States. So, in effect, if you convert to coal without something like this to control those emissions you are, in effect, precluding future introduction of industry into that State. From a purely economic perspective it seems to me Senators should be eager to have something like this introduced.

The third reason is simply political. If anybody thinks that this country, especially the States referred to, is going to undertake a massive conversion to coal with the problem of the greenhouse effect, the problems of acid rain, the problems of precipitates, et cetera, without an enormous political problem, they do not understand what is going to be happening out there.

I suggest that my amendment makes the issue a lot more palatable to those interest groups and, by definition, could make conversion much easier.

The fourth point is simply that under my amendment, interestingly enough, the 68 powerplants not included are given the capacity for offsets.

Under the bill as written now these plants have to undertake the conversion process. But where I come in is where they can achieve the same emission standards with an offsetting process that, in essence, would be cheaper for the utilities, and this offsets versus technology is something that has not been referred to earlier.

The final point I would like to make refers to acid rain. We are told, "Well, we know we are losing a lot of lakes, and so forth and so on, and we will wait until next year to deal with the acid rain issue."

I would say the Senator from New Mexico raised the issue at the acid rain hearings when he said, "If we raise the emissions allowable under this bill and then come back next year to reduce them, we are simply duplicating the process. To the extent that you raise the amount of the sulphates in the atmosphere it means next year when we deal with the acid rain issue it is going to be much more expensive."

So we are sort of going up the hill and then next year we come back and come right back down at a much more severe cost. If we are going to deal with the issue next year, we ought to deal with it this year and at least not make it any more difficult next year. I hope that that argument would be sustained.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, did the chairman of the committee wish to make a statement or have the floor? I would be pleased to yield briefly for a question.

Mr. JOHNSTON. Mr. President, I was simply going to inquire how many more of my colleagues want to be heard, because I am getting ready to make, I hope a successful motion to table.

Mr. BRADLEY. Mr. President, I think that might be a little precipitous.

Mr. JOHNSTON. Mr. President, I certainly do not want to cut off my friend from New Jersey who I know wants to speak in favor of the motion to table.

(Mr. McGOVERN assumed the chair.)

Mr. BRADLEY. There are surprises in the Senate, Mr. President.

I rise in support of the Tsongas amendment.

Mr. President, yesterday, at the Venice summit, the President committed the United States to be doubling the use of coal by 1990. At the same time, he asserted unequivocally that the United States would meet this commitment without relaxing our environmental standards.

The bill before us now can provide an opportunity for the Nation to demonstrate that we can achieve both of these goals.

Mr. JOHNSTON. Will the Senator yield?

Mr. BRADLEY. I would like to make my statement and then respond to any comment after I have completed my statement.

The bill before us indeed can allow us to realize both of these goals, that is, to encourage utilization of our abundant coal resources in an environmentally sound manner.

However, as the bill is currently drafted, that does not happen. It will substantially and unnecessarily contribute to aggravating the acid rain problem in those areas of the country where it is already a significant environmental hazard. Unless S. 2470 is modified along the lines of the Tsongas amendment, of which I am a cosponsor, it could allow an increase of as much as 400,000 to 600,000 tons a year of sulfur and nitrogen oxides.

This, in turn, will result in a 15-percent increase in acid rain in the Northeast where the rainfall is already 40 to 50 percent more acidic than normal.

While displacing imported oil with coal is a major goal of U.S. energy policy, it will only serve our long-term national interest if it is done in an environmentally sound manner.

Moreover, when the Federal Government undertakes to promote and subsidize coal conversion, it incurs an obligation not to jeopardize hard-won environmental victories that have meant so much for the quality of life, particularly in the heavy industrialized densely populated States such as my home State of New Jersey, where the environmental standards is three-tenths of a pound of sulfur per million Btu.

Furthermore, it makes no economic sense to artificially reduce or otherwise conceal the full cost associated with any one strategy of achieving energy independence, whether it involves coal, nuclear, or any other alternative to imported oil.

Deterioration in air quality and damage to the environment are real, long-term costs that must be internalized if we are to make and form economic and social choices which are imperative to our energy security.

The amendment Senator TSONGAS and I are offering today will not impede coal conversion, but it will go a long way to insuring that S. 2470 is implemented in an environmentally acceptable manner. With respect to the sulfur oxide emissions, the amendment requires converting plants to meet current allowable limits, either by installing best practical technology or by offsets from other plants.

With respect to nitrogen oxide emissions, the amendment requires converting utilities to install best practicable control technology, in other words, a low nitrogen oxide burner. Facilities that are physically unable to install a low nitrogen oxide burner would be exempted from this requirement.

Mr. President, the amendment also contains two other measures that will facilitate coal conversion. First, it permits delayed compliance so that grants and loans can be made available prior to final installation of the pollution control equipment to permit conversion to proceed immediately.

Second, it permits the Secretary of Energy and the Administrator of the Environmental Protection Agency to waive compliance with current sulfur oxide emissions where it would be either technically or economically infeasible, and to substitute a best practicable technology standard.

In other words, this says we want to have coal conversion but we want to maintain clean air as well. We will insist that utilities that convert, clean up their act unless it is technically or economically infeasible, and then a waiver can be granted.

Mr. President, I would expect that

the chairman and ranking minority member will speak against this amendment as they did earlier when the Senators from New York offered a much smaller, less comprehensive amendment, dealing with a few powerplants in the Ohio River Valley. The question was raised in that part of the debate, Mr. President, about equity. I think equity is an important consideration in many issues, and this is certainly one of them. But is there equity in the prevailing winds? No, there is not, Mr. President. Is there equity where coal and oil is found in the ground of this country? No, there is not, Mr. President.

So the question why when we subsidize the Northeast must we have a changing standard of air quality is precisely because the subsidy is going to the Northeast and that the clean air of the Northeast is being polluted in part by the prevailing winds from other regions of the country.

Mr. President, not only is this amendment more flexible than a constant emissions approach, which was proposed and defeated in the committee, but it is also substantially less costly.

Based on data from the Edison Electrical Institute, the incremental cost of complying with current SIP's for the 12 plants out of 80 that will be affected by this amendment is as little as a half billion dollars, $500 million.

My colleagues this morning, and many mornings, have repeatedly stressed the threat to our energy and national security associated with our continued dependence on insecure, expensive imported oil. I fully agree with their assessment of these dangers. And it is precisely because our dependence is so costly in both political and economic terms that we can afford and should pay the true price which reducing that dependence entails.

Our oil import bill is currently running about $90 billion a year. According to its proponents, S. 2470 will save the United States about $3.5 billion annually. The economic cost of importing oil and the economic savings of reducing imports are both sufficiently large to justify the small additional cost associated with this amendment.

Finally, Mr. President, if we establish at the outset that we are genuinely committed to an environmentally sound coal conversion, we will have a much better chance of avoiding the delays and uncertainties that have hobbled oil backout programs and coal conversion programs in the past.

Mr. President, it is for all of these reasons that I support and cosponsor the Tsongas amendment, and that I urge the Senate to give it the fullest consideration and a positive vote.

There are much greater stakes here than simply a rush to be able to demonstrate that we have passed legislation that will backout imported oil, regardless of whether that oil is really residual oil from Venezuela or residual oil from other secure sources. It is the long term that must be the ultimate judge of this policy.

I am sure, as the Senator from Louisiana said to the Senators from New York when they pleaded for some money to take care of the power plants in the Ohio Valley that are polluting the Northeastern corridors, "Next year. Next year we will look at that."

Well, Mr. President, the irony was not lost on me that that plea was made to the two Senators from New York because the most frequent place that we have heard that plea in the past was coming from the Borough of Brooklyn. I would hope that this borough would not wait until next year but address this critical problem today and pass the Tsongas-Bradley amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. I think the Senator from Kentucky has been waiting for recognition for a long time. I recognize him first.

Mr. FORD. Mr. President, if the floor manager wishes to speak, I shall yield to him.

Mr. JOHNSTON. No, Mr. President, I can wait.

Mr. FORD. Mr. President, I rise in opposition to the Tsongas and Stafford amendments. From listening to the debates of those favorable to these two amendments, one would have thought that no consideration was given in the committee as the bill relates to the Clean Air Act, that it was developed in a void with regard to the Clean Air Act. But, Mr. President, S. 2470 does not increase nor diminish existing standards of the Clean Air Act. I think that is a statement that cannot be refuted. Converting plants must meet these standards. The Clean Air Act itself is due for examination and reauthorization in the next Congress. The Energy and Natural Resources Committee feels that the authorization act, not the bill we have before us, is the proper forum for changes in clean air standards.

S. 2470 does recognize the constraints on the direct use of coal and addresses these constraints. A substantial portion of the $3.6 billion in grants and loans will be expended on environmental equipment. In addition, under present law, special tax advantages for pollution control facilities are available that will not be available for the nonpollution capital requirements.

The committee recognizes that it is more costly to retrofit scrubbers on an existing plant than to build one on a new plant. Very recent EPA estimates place these costs at $103/Kw and $88/Kw, respectively.

EPA written testimony states that the agency is focusing on control of emissions of existing facilities, such as coal-fired plants in the industrial Midwest, which until the late 1990's will account for the bulk of SO_2 and NO_x emissions.

S. 2470 also focuses on this. The bill provides $450 million in grants to clean up emissions from existing coal-fired plants. In addition, the bill provides $150 million for coal cleaning and preparation.

The bill will also allow a utility that converts from oil to coal to burn gas selectively, in conjunction with coal, to offset increases in emissions from direct coal combustion that would violate applicable environmental standards. We made provisions.

From the beginning, nothing in the oil backout proposal permitted an electric generating unit to violate any State implementation plan in effect to protect air quality. These measures can be relied on to reduce air pollution from coal conversion as much as feasible.

Requiring constant emissions at every oil unit that converts to coal goes far beyond the requirements of State implementation plans and is unnecessary when other measures in the oil backout bill are considered. We have to consider the total package. Grants for pollution control at existing units, grants for new technology, and the select use of gas in converted coal generating units will actually reduce emissions in many cases.

Mr. President, in conclusion, I wish to say a few words about acid precipitation. That seems to be the underlying theme of these two amendments. The Council on Environmental Quality, in its 1979 annual report, concluded:

> Insufficient knowledge exists about the explicit causes and total effects of acid rain, a fact that has hampered development of sound control and mitigation procedures.

EPA has testified, and we hear EPA used, or any other agency of the Federal Government used whenever it fits the case.

EPA has testified that from 3 to 5 years of research would be needed before it can judge if acid rain is serious enough to require new air quality regulation. I have the testimony and I shall be glad to show it to Senators.

We need to take a most serious look at acid rain. The Congress has recognized this by mandating a $50 million study, which the Senator from New Mexico mentioned a few moments ago, in S. 932, now awaiting final action in the House of Representatives, already passed here. The President has recognized the need by instituting a comprehensive interagency program to determine the seriousness of the problem. The Department of the Interior has a program. The Department of Agriculture has a program. Pretty soon everybody is going to have a program and we shall get back to the committee that developed the horse and it will look like a camel.

S. 2470 has a program in its protection of present air quality standards. That is the point that ought to be made here.

Mr. President, I hope that, as we travel this path to give this country energy independence, we shall not allow ourselves to be diverted and not take into consideration those items that are in the legislation that address the problem. I hope that when the distinguished Senator from Louisiana makes his motion to table the Tsongas amendment, it will be successful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I shall take just a very few short minutes.

First of all, people concerned about the quality of the air and water of this country have been falling on increasingly difficult times. The Business Roundtable issued a report not long ago that the annual cost of regulation is about $100 billion, including about $70 billion to protect the environment. That is a large amount of money, but I do not believe it is prohibitive. The truth is that if it had not been for the enactment of the Environmental Policy Act, the water and the air would be much dirtier than it is. Air and water in this country are now cleaner and purer than they were 10 years ago, and they are infinitely cleaner and purer than they would have been if we had done nothing.

The pollution of water and the pollution of air is a very insidious thing. It happens without our really knowing it. If you do not think we have made giant strides in this country, take a plane to Mexico City and smell that air when you get off the plane. Go to any of the capitals of eastern Europe—Warsaw, Bucharest, Belgrade—and the first thing you realize is how fortunate we are that we have environmental constraints in this country to try to protect the air and water for our children and grandchildren.

I have said a thousand times that 20 years from now we may have a much more difficult time finding potable drinking water than we will a barrel of oil.

Senator TSONGAS and I held hearings on acid rain. We heard the testimony of the finest atmospheric experts in the United States. Without exception, they told us of the damaging effects of acid rain. Without exception, they told us that the sulfur dioxide from coal and oil was taking a terrible toll on the soil and the air and the water of this country.

I will not repeat all those stories about the lakes in the Adirondacks. We all know that over 100 of those lakes will not sustain marine life.

What we do here is not very exciting. We will not get very many networks to cover the problems of acid rain because the effects of both acid rain and sulfur dioxide will not be fully felt for another 20 years, and we only react by crisis here.

The real tragedy, however, is that what we are doing now may very well be irreversible. Unhappily, we will not know what we have done for 20 or 30 years, particularly in the field of nitrous oxides and carbon dioxide.

We hear stories about the melting of the glaciers caused by carbon dioxides, it lets the heat of the sun in, but does not let it back out, so the climate will change with unknown results.

We will not know for 20 or 30 years what we are doing now, and then it will be too late.

The Tsongas amendment ought to please everybody. It not only will limit the amount of sulfur dioxide emissions, but it will also allow for economic growth.

If the bill is passed in its present form, there will be no room between the emissions permitted under the bill and the air quality standards. Under the Tsongas amendment, we will have some leeway between emissions thus permitted and the air quality standards, so that other plants can be built and the economy can grow.

Without that amendment, we will restrict economic growth in those areas where plants will be converted.

The Tsongas amendment is not going to eliminate all sulfur dioxide and it will not eliminate the acid rain, but it will significantly reduce it.

Mr. President, Chief Seattle put together some words about 125 years ago, and they are about as well written as anything I ever read. He was a great man, a great thinker.

The legend has it that Franklin Pierce said, "We want to buy your lands."

Chief Seattle responded, and I recommend that response to everybody. Among other things he said were:

> The air is precious to the red man, for all things share the same breath—the beast, the tree, the man, they all share the same breath. The white man does not seem to notice the air he breathes. Like a man dying for many days, he is numb to the stench. But if we sell you our land, you must remember that the air is precious to us, that the air shares its spirit with all the life it supports. The wind that gave our grandfather his first breath also receives his last sigh. And the wind must also give our children the spirit of life. And if we sell you our land, you must keep it apart and sacred, as a place where even the white man can go to taste the wind that, is sweetened by the meadow's flowers.
>
> Whatever befalls the earth befalls the sons of the earth. Man did not weave the web of life, he is merely a strand in it. Whatever he does to the web, he does to himself.

My daughter graduated from high school the other night and my son gave her a poster, which was framed. It is one of the pictures of the Earth taken by the astronauts, a beautiful picture, and underneath it reads, "Love your mother."

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 10 minutes.

Mr. President, I worked very hard on this bill along with a number of Senators, including many from the minority side. The vote when it was reported out was 17 to 1 in favor of this bill.

I wrote some additional views that stated my concern about the failure of this bill to address the issue of whether or not, while we as a nation are in the process of spending $4 billion to convert powerplants that use crude oil, whether or not, while we as a nation are in the process there be some additional requirement for clean air, over and above that found in the Clean Air Act.

So I do not have an easy answer. I have reviewed Senator STAFFORD's amendment and I generally agree with the floor manager with reference to it.

It would totally defeat the purpose of this bill, it would take so long to get through EPA, and when we read it in its real implication, it is mandating scrubbers, for the most part, for old plants.

I am convinced that it is not the way to go and that that kind of requirement would be calculated to kill the purpose of this bill, which is to move rapidly, to assist about 80 plants in this country with grants and conditional loans so they can convert.

So to that extent, I agree with my good friend from Louisiana.

But now, when it comes to the Tsongas amendment, I would be quick to admit that it probably has some technical flaws and probably, if it passes and winds its way through the House, we will be able to do better.

But, basically, it seems to me that, first, the $450 million found in section 5 should probably be removed from section 5 and put into title I.

I am not going to muddy up the waters, but it seems to me, since this amendment is going to ratchet down, and I think in a rather reasonable way, the plants that we are converting, then we ought to take the $450 million, we are going outside of areas, and put that into this pot to do the cleanup.

Second, when the U.S. Congress passed the Clean Air Act, it clearly said that any new coal-burning powerplants built in this country would meet new source performance standards.

Let me say in general language that that means they will be cleaned up to an absolute maximum. That was for new plants.

The only reason we are here with these converted plants, not subject to the new source performance standards, is that we were in the middle of the energy crisis and it was thought that if we mandated an old plant to convert, that it would be somewhat unfair to require that that plant, which was not new, meet new source performance standards. So, we made an exception.

The exception was that if they were mandated by law to convert, they were governored by the State implementation plan, not by new source performance standards.

I submit that herein is the problem, nowhere in the history of that exception, and that exception is going to be now used by these 80 plants, nowhere in the history of that law was it contemplated that the taxpayers were going to come along and expedite this mandate. The bare mandate created the exception.

But we are coming along now, in our national interest, and saying that we are picking 80 plants and we are going to put up to 75 percent of the money that is needed to convert, 25 percent in grants—and under some circumstances, that could be 50 percent in additional loans—and we are going to push this conversion rapidly.

It is my strong feeling that had we had this situation before us when we were creating the exception in the Clean Air Act, we probably would not have exempted converting plants that the Government was going to pay for under a legal mandate. I truly believe we would have said, "Since you are pushing so many so quickly with Government money, you should not be exempt totally from the standards required of new plants."

The States of New York and New Jersey, which are going to receive significant assistance here,. already have, in addition to the problem spoken of, an acid rain to some extent that seems to this Senator, for this particular issue, to be somewhat of a red herring. I do not support racheting down, because I do not think the racheting down is going to have much effect on acid rain.

Basically, what is going to happen to these States is this: Under the bill, the utility company can go into the State and modify the State implementation plan to permit a maximum amount of pollution from this coal conversion, all within the Clean Air Act—maximum, right up to the limit.

What those States are going to see happen if that occurs is that the entire ambient pollution availability is going to be eaten up, and there will be no room for growth. I do not believe we should do that. I believe that we should take advantage of this opportunity not to do what Senator STAFFORD wanted, which basically would make it so difficult, so expensive, and so cumbersome that we would not get this conversion bill.

I believe that the idea in the amendment offered by Senator TSONGAS is a good one. It says, basically, take the oil allowable, not the one being used—sometimes they are cleaner than the allowable—but take the allowable oil under the State implementation plan and make that your limit. But clearly it says that if you cannot clean that up by offsets and it is noneconomic and technically not feasible, then you go and work out an agreement on a plant-by-plant basis for what is the best practical technology. You do it with the Secretary of Energy and EPA, and they have 90 days to make their decision and give you what is best practically.

This Senator's understanding of it is, No. 1, that there is no mandate that you use scrubbers. To the contrary, it almost prescribes a modus operandi, which means you do not use scrubbers, but you will come in significantly cleaner than the present Clean Air Act and a coal implementation plan.

You get a waiver if you cannot do this economically and if it is not feasible. Then you are governed, if I understand the amendment, by the Clean Air Act, in terms of the primary health standards.

So it seems to me that this is a good middle-of-the-road approach. It is not perfect for every one of the utilities. They may have some difficulty with the trade-offs. Certainly, they could not put scrubbers on.

With respect to the cost of about $600 million, as I indicated, if we move that $450 million out of title 5 and put it in here, we would net out at the same level the bill originally contemplated, and I believe we would have provided some racheting down, some room for growth, while we take a good look at just how much effect it is having by the Federal Government putting $4 billion into pushing rapidly with mandated conversions that might otherwise have taken a long, long time. I think this is a prudent thing to do.

As I said earlier, I am not sure that the amendment does not need some additional work. I have worked on three or four aspects of it and tried to present some in committee, and it is very difficult to do this. However, I believe that the thesis of this bill, which I have outlined as I understand it, is a good one. Oil allowable is the top. Waivers if you cannot do it economically. Enter into an agreement that is pushed through with a very short time fuse, and you can use all the other means of cleanup, and not be forced to scrubbers.

So I hope the Senate will understand that the taxpayers have a genuine interest in this bill—$4 billion worth.

Under most situations, the utility companies are going to come up with 25 percent, at least at the offset, in grants and loans, with the remainder coming from the taxpayers. I believe we can afford to take a chance on the side of a little cleaner air, so long as we keep within the spirit of the bill.

I believe we can afford to take a chance on the side of a little cleaner air, so long as we keep within the spirit of the bill. If I thought this amendment was going to cause long delays, if I thought it was going to cause extraordinary costs, if I thought it was going to push technology to the limit, with new scrubbers being required and the outer limits of technology, I would not be for it; because I do not believe you should do that in plants that have 15, 20, 25, or 30 years of life left in them. You should do that only for the new ones that will be built in this country.

So I am not going to vote to table, but neither am I for the Stafford amendment, which would come first if the motion to table fails.

I truly believe that we should send this conversion bill, an excellent bill, to the House, with an indication by the Senate that under this kind of mandatory conversion, with this many occurring all at once, we should put a condition on this conversion of the type found in this amendment.

I yield the floor.

A REALISTIC COAL CONVERSION STRATEGY

Mr. ROBERT C. BYRD. Mr. President, one of the chief features of S. 2470, as reported by the Energy and Natural Resources Committee, is that it mandates utility coal conversions in compliance with the provisions of the Clean Air Act.

Under the coal conversion programs enacted by the Congress in 1974 and 1978, conversions from oil to coal could occur under special conditions which would be far more harmful to the environment than would occur under S. 2470. This bill is an improvement from an environmental point of view, as the provisions of the Clean Air Act, the Solid Waste Disposal Act, and all other environmental laws will govern these conversions.

The amendment of the distinguished Senator from Massachusetts (Mr. TSONGAS) would go beyond current air quality standards, and change the effect of the Clean Air Act. The programs created by that act are up for reauthorization in 1981. That is the proper time to consider amendments to the Clean Air Act, not in connection with this very important coal conversion bill.

The emissions which could result from the conversions mandated by this bill would add less than one-half of 1 percent to the sulfur content of the air in the United States. An attempt to eliminate totally an increase of that magnitude at a cost of several billion dollars is not a sound approach to coal conversion.

We lack a firm scientific basis on which to judge the effects of converting the powerplants listed in S. 2470. There is disagreement as to the amount of emissions which would result from this bill. Assessments of the effects of these emissions vary widely. But one aspect of the problem which has led us to large-scale coal conversion is indisputable: we must reduce our dependence on foreign oil, and substitute our own abundant resources. That shift must occur before the lifeline of oil tankers which supply nearly half of our oil is cut. Conversions which are delayed, as could happen under the Tsongas amendment, may come too late to prevent an economic catastrophe triggered by a stoppage of oil.

I recognize that it is necessary to obtain the solid scientific evidence needed to deal with increased emissions. The Environmental Protection Agency is currently involved in a major series of studies designed to increase our knowledge of acid rain. The synthetic fuels bill, which will be enacted shortly, provides for extensive research into the question of acid precipitation. It is appropriate that these inquiries be allowed to produce results before we take any action which will reduce the effectiveness of the coal conversion program.

I oppose the amendment and I hope my colleagues will vote to table the amendment.

Mr. HEINZ. Mr. President, will the Senator postpone making his motion to table?

Mr. JOHNSTON. Mr. President, we have been going through this drill now for about 4 or 5 hours, but certainly I will withhold.

Mr. HEINZ. I will be extremely brief.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I want to associate myself with the comments of our majority leader, Senator ROBERT C. BYRD of West Virginia. I think it is just worth reemphasizing the following: First, if this bill is passed as the committee has reported it, which I support, every single conversion in the bill will be subject to existing law. There are no exemptions from the Clean Air Act; there are no exemptions from existing law. This bill is totally consistent with all existing environmental laws.

Second, there has been some debate over exactly what effect the Tsongas amendment would have on actual implementation of the legislation. Senator TSONGAS himself stated here on the floor that 68 of the 80 powerplants involved would, in his judgment, not be affected. Well, the point to me is not whether it is 68 or 79, whether it is 70 or 80 that would be affected. The point is that even if there are none affected, there will be a lot of arguments. There will be more paperwork, there will be additional delays.

Even the sponsor of the amendment, the Senator from Massachusetts (Mr. TSONGAS), admits there are very few, by his own count, that would be affected by his amendment.

It seems to me, not withstanding any philosophical questions that one might have, that whatever the benefits of the

Tsongas amendment may be, they are simply minimal and not justified. If there are relevant issues that the Senator from Massachusetts has uncovered here, there will be, as has been stated, an opportunity to address them fully when we next take up the Clean Air Act.

So, Mr. President, I want to support the committee. I want to support the Senator from Louisiana, who has done such a fine job managing the bill.

I appreciate, in particular, I might say to my good friend from Louisiana, his yielding me this additional time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Maine (Mr. COHEN) for 1 minute without losing my right to the floor, and thereafter to the distinguished Senator from New Hampshire without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Maine is recognized for 1 minute.

Mr. COHEN. Mr. President, I take this opportunity to rise and express my support for the amendment offered by the Senator from Vermont, and also that offered by the Senator from Massachusetts.

Conversion from oil to coal does not mean we are going to be converting to a philosophy of unclean or dirtier air, and we will not be retreating from our commitment to have clean air.

So I want to commend the Senator from Vermont and also the Senator from Massachusetts and again express my support for their amendments. I ask unanimous consent that my name be added as a cosponsor of the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senator from Louisiana.

As a cosponsor of the Stafford amendment I ask unanimous consent to insert in the RECORD some of the testimony from the acid rain hearing that was conducted in New Hampshire by myself last Saturday. Unfortunately, New Hampshire is probably more adversely impacted by acid rain than any other State in the Northeast, and it is a serious and growing problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. ROBERT S. PIERCE

Mr. Chairman: I am Dr. Robert S. Pierce, Research Project Leader at the Forest Service's Forestry Sciences Laboratory of Durham, New Hampshire.

I am in charge of the forest watershed management research program in New England. Many of our past and present studies have been concentrated at the Hubbard Brook Experimental Forest located near West Thornton in Central N.H. This 7600 acre Federal Government facility, a part of the White Mountain National Forest, was established in 1955 for forest environment research purposes. In 1963 we initiated cooperative studies with Dartmouth College and later with Yale and Cornell Universities. Since then a broad range of organizations have participated in cooperative research at Hubbard Brook. Such as schools, colleges, universities, Federal and State Government agencies, industrial business, private conservation organizations and concerned individuals. About 100 persons with a wide spectrum of disciplines have participated in the research at Hubbard Brook.

Through these cooperative efforts more than 450 publications on many topics have resulted from this research; all, however ultimately aimed at better understanding the atmosphere-soil-geology-vegetation-fauna-and-stream water relationships and processes of forest ecosystems. This information is urgently needed to make wise land use decisions that will affect present and future generations.

One of the major thrusts of the research of the Hubbard Brook ecosystem studies concerns the inflow, outflow, and accumulations of energy, water, and nutrients in northern hardwood forests. These studies, however, are not restricted to Hubbard Brook but have extended to all New England states.

As a part of the nutrient budget information gathered at Hubbard Brook, the chemistry of nutrients entering the forest system has been closely monitored since 1964. The pH (acidity) of rain and snow has been measured continuously—for the longest unbroken record in the United States!

It was through this record and the changes that occurred over time that our colleague and principal cooperator, Dr. Gene Likens of Cornell University, first called attention to the potential "acid rain" problem in the United States.

In 1975 the First International Symposium on Acid Precipitation and the Forest Ecosystem was held in Columbus, Ohio. From an outgrowth of that symposium and the work conducted at Hubbard Brook and elsewhere, a network of precipitation monitoring stations have been established throughout the U.S. This network called the National Atmospheric Deposition Program, NADP, is sponsored by State Agriculutral Experiment Stations and several other agencies including the Forest Service Department of Agriculture, the U.S. Geological Survey, Department of Interior, the U.S. Environmental Protection agency, the Department of Energy, the National Atmospheric and Oceanic Administration, and others. The objectives of the NADP are:

1. Determine spatial and temporal trends in the deposition of beneficial and injurious substances into ecosystems in various regions of the United States and

2. To organize and coordinate research on the effects of atmospheric deposition on the productivity of agricultural crops, forests, rangelands, wetlands and surface waters.

Hubbard Brook is one of the sites in this network of about 50 stations established thus far in the U.S. Hubbard Brook is the only site in New Hampshire and is one of only 3 presently operational in New England. The other two are in Maine.

A brief description of some of the present acid precipitation studies underway at Hubbard Brook and elsewhere in New England and New York by our Forest Service scientists and cooperators are as follows:

1. Monitoring long term trends of precipitation chemistry: We have found that long term trends are essential to detect the behavior and composition of atmospheric fallout. Yearly or short term trends can give totally wrong impressions. All materials entering the watershed as dry and wet fallout are collected and analyzed.

2. Stream chemistry and biology: Background information is being gathered on the chemistry and biology of streams in forest ecosystem to appraise the impacts of human manipulation (logging-harvesting etc.) on stream behavior so that comparisons can be made on water influenced by acid precipitation.

3. Heavy metal deposition, accumulation, and release: Heavy metals deposited on forest ecosystems tends to accumulate in organic and mineral layers in the forest floor. Knowledge of the release or mobility of these heavy metals with increasing acid precipitation and their impact on growth of forest organisms (trees and lesser vegetation and fauna) is important because of possible heavy metal toxicity and inhibition to normal growth.

4. Influence of high acidity (low pH) on stream chemistry and organisms: Streams are being studied to appraise the impact of artificially lowered pH (greater acidity) on the concentration of stream water ions (cations, anions, heavy metals, pH, H+, conductivity) and all organisms (animals and plants) that are part of the food chains.

5. Intensive studies of a forest-lake interaction: Studies in Mirror Lake adjacent to Hubbard Brook are being conducted on all aspects of the ecosystem—lake chemistry, organisms, geology, hydrology, precipitation, meteorology, lake sediments, and historical perspectives. The attempt is to categorize as nearly as possible all aspects that could be affected by acid precipitation over long periods.

6. Storm tracking: These studies are attempts to determine the sources of acid precipitation over the Northeastern United States; and, delineate the areas of greatest deposition.

The acid precipitation phenomenon in the Northeastern United States appears to be growing—spatially and with intensity. The impact of acid precipitation on forest ecosystems presently is unclear. However, knowledge of biological organisms, and forest ecosystems strongly suggests that persistent acid precipitation could over long term periods present consequences to the forest environment. As a soil scientist and forest ecologist I feel that it is prudent that we carefully examine the impacts of acid precipitation on forest ecosystems even though they may appear to be very subtle impacts. Minute effects that accumulate and go unnoticed over one or more human generations may have drastic, deleterious consequences to our natural forest communities in the future.

I would commend to your attention a statement prepared by Dr. Ellis Cowling, Associate Dean for Research and Professor of Plant Pathology and Forest Resources at North Carolina State University, Raleigh, N.C. who appeared before a similar hearing by the National Commission on Air Quality, Washington, D.C. October 5, 1979.

Dr. Cowling's statement and remarks outline much of what we presently know of the impacts of acid precipitation on Forest Ecosystems.

Thank you for the opportunity to describe our research at Hubbard Brook. I would be pleased to answer any questions you may have.

STATEMENT BEFORE THE SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Chairman: My name is Dennis R. Lunderville, Director of the New Hampshire Air Resources Agency. I welcome this opportunity to present comments concerning acid precipitation before this subcommittee.

I am speaking not only in behalf of the Agency and Commission, but also as a representative of the Governor's appointed State Acid Rain Coordinating Committee, chaired by J. Willcox Brown.

The problem of acid rain is becoming more definable each day. Public awareness and concerns are readily identifiable. The solution to this problem, however, will only result from aggressive efforts and sacrifices.

The efforts of the State of New Hampshire, by itself, will not eliminate or prevent acid rain deposition. We recognize this. However, we fully recognize that a consistent regional and/or national effort could ultimately reduce the total burdens to the atmosphere.

We encourage this approach. It was New Hampshire's proposal on acid rain which evolved into a resolution adopted by NESCAUM (Northeast States for Coordinated Air Use Management). It was this proposal which served as a basis for the State proposal, "A National Policy on Acid Deposition and Regional Consistency" presented April 9, 1980 in Springfield, Virginia. New Hampshire further supports the STAPPA (State and Territorial Air Pollution Program Administrators) resolution on acid rain.

We encourage Congress to amend the Clean Air Act to require emission limitations (national emission standards) on existing sources, even if retrofitting is required. We encourage increased coal washing.

Most significantly, we urge national consistency among EPA regions.

I would like, Mr. Chairman, to introduce Mr. Thomas Noel of my staff and Mr. Ronald Towne of the Water Supply and Pollution Control Commission to further discuss this real concern.

Thank you.

EFFECTS AND CAUSES OF ACID RAIN IN THE NORTHEAST, AND RECOMMENDED ACTION

PH SCALE

Because the average person on the street has a rather sketchy concept of what is meant by pH, perhaps this brief explanation will help to bring it into clearer focus.

A pH of seven implies a neutral solution. Values less than seven are increasingly more acid. Those extending up toward the theoretical end point of fourteen are increasingly more alkaline. The scale is logarithmic, so that to progress from one point to another in either direction is a ten-fold change. A solution of pH five, is ten times more acid than a solution of pH six. A solution of pH four, is a hundred times more acid than a solution of ph six; and so it goes in either direction. Here in New Hampshire, we have recorded rain with a pH value of less than four. Sulfuric acid (5%) is of pH less than one, lemon juice is about pH two, orange juice is about pH four, milk is at pH six. Distilled water is neutral (at pH seven), sea water has a pH of approximately eight, milk of magnesia is at pH ten, and lime is at about pH thirteen.

EFFECTS ON RAIN

The rain that fell upon the Indians was in the pH range of 5.6 to 6.0. It was not at the neutral point of 7.0, because there is a certain amount of carbon dioxide (CO_2) in the atmosphere. This combines with the water vapor present to form a mild carbonic acid.

Here in New Hampshire, precipitation has been monitored since 1972, during which time the median pH has been 4.3, with the lowest being 3.2. We fear for our high altitude lakes and ponds, where the soil is thin and the hydraulic retention time is long. We know the alkalinity of New Hampshire's lakes and ponds is being reduced, and the ability of the water to neutralize the input of acids declines steadily.

This current spring, we have recorded the following results from rainstorms:

Date:	*pH*
21 Mar. 1980	3.8
2 Apr. 1980	3.2
4	3.5
4	3.8
9	3.7
10 Apr. 1980	3.9
15	3.7
15	3.5
29	3.5
29	4.4
13 May 1980	4.3
2 Jun. 1980	4.8
3	4.6

EFFECTS ON LAKES AND PONDS

Ponds with low alkalinity, such as occur in New England, are particularly vulnerable to inputs of acid that comes down as part of the precipitation. Our ponds in New Hampshire have an alkalinity range from about two to twelve parts, as calcium carbonate, in a million parts of water. In those places of the world having limestone bedrock, ponds will have alkalinities exceeding 200 parts per million. The acidification of lakes and ponds proceeds much more rapidly where the buffering capacity is low.

Acidification of surface waters by acidic precipitation is a three-phase process. First, a decrease in alkalinity occurs, but the pH remains above 6.0 and bicarbonate buffering is maintained. The second stage is characterized by a loss of bicarbonate buffering, and severe fluctuations in pH occur. Reproductive inhibition and episodic fish kills may initiate the failure of recruitment, and the eventual extinction of fish populations may begin at this stage. The third, and final stage is characterized by chronically depressed pH and an increase in concentrations of toxic metals. Fish have usually disappeared from waters when this stage of acidification is reached.

We, in New Hampshire, are fortunate in having a data base from over forty years ago, with which we can compare today's conditions. In some cases, it can be documented that the pH has decreased greater than two units; which means two orders of magnitude, as we are dealing with a logarithmic scale. Two orders of magnitude means 100 times more acidic than was the case in the late 1930's.

As examples of the increase in acidity and the commensurate reduction in alkalinity, we have made these comparisons:

	Original data		Recent data		Change		
Pond	pH	Alkalinity	pH	Alkalinity	pH	Alkalinity	Span (years)
Captain Pond	5.8	9.0	4.5	7.5	−1.3	−1.5	38
Crystal Lake	6.8	8.0	5.0	3.4	−1.1	−4.6	41
Long Pond	5.9	5.0	4.9	2.0	−1.0	−3.0	40
Potanipo Pond	6.2	22.0	5.5	4.0	−.7	−18.0	42
Sip Pond	6.0	5.0	4.9	.5	−1.1	−4.5	29
Stinson Lake	6.8	3.5	5.5	1.6	−1.3	−1.9	41

These are but a few from hundreds, but all show essentially the same changes.

During the Fish and Game Department's stocking of remote ponds this current spring, surface pH readings were recorded. Here are a few results, and comparisons with previous determinations made during the 1930's, 1940's and 1950's:

Pond	pH from old records	Current pH	Change
Halfmile	7.4	4.8	−2.6
Cole	6.8	4.5	−2.3
Solitude	5.8	4.2	−1.6
Guinea	6.2	4.5	−1.7
Fourmile	6.2	4.3	−1.9
Bryant	6.2	4.8	−1.4

At a pH of about 5.5 troubles become manifest with the eggs and rising fry. When the pH becomes depressed to about 5.0, there is little or no attempt at reproduction; and below that there is doubt that even adult fishes will survive. Investigations indicate that there is interference with the calcium balance of the fishes exposed.

The solubility of metals is pH dependent. At pH's above 5.0, aluminum will remain in the soil. Below that, it begins to go into solution and travel with the solvent until it comes to rest in the lakes and ponds which represent the sump of the drainage basin. All that occurs upslope will eventually be felt in the lake. At low pH's, metals, in general, have a higher toxicity. In an acid situation, aluminum becomes toxic to fishes at concentrations of less than one part in a million.

To add lime or limestone to already affected lakes will avail us little.

ON THE SOIL

When the pH of the soil is reduced below 5.0, hydrogen ions begin to slip through the soil and acidify lower soil horizons and pass into the runoff water. New Hampshire soils range in pH from 4.5 to about 5.5. Leaching of calcium, sooner or later, results in an acidification; particularly in New Hampshire, where the buffering capacity of the soil is minimal. Leaching of aluminum is highly significant, where organic aluminum is the dominant form and not toxic; but, free aluminum is toxic.

Silent and invisible, the effects of acid precipitation are cumulative and perhaps irreversible. Soils derived from crystalline rocks such as granites and quartzes are poorest in carbonates, and have the least capacity for buffering. New England is particularly vulnerable.

ON THE PLANT COVER

The component of the acid rain that is generally considered as being the most damaging to foliar surfaces, is the free hydrogen ion (H+). Acid precipitation in any form: rain, dew, fog, mist or snow, will leach chemical elements from plant surfaces. As the acidity increases, so does the leaching of many substances essential to the well-being of the plants exposed. Mosses and lichens are particularly sensitive to changes in the chemistry of precipitation, because many of their nutrient requirements are obtained directly through precipitation.

Scientists in southern Sweden report that they have noticed a decrease in tree growth in recent years, and attribute this to an increase in the acidity of precipitation. Because of other influencing factors such as drought, snow cover, forest practices, and the like; and because with trees the time frame is a hundred years or more, the response of the forest ecosystem to inputs of acids can be determined only over a long period of time.

However, here in New Hampshire, where much of the economy involves timber and its ancillary businesses, potential damage to the growth of forest trees is of considerable moment.

ON MATERIALS

Much concern has been expressed over the deteriorative effects of acidic precipitation on materials and cultural artifacts. High acidity promotes corrosion, because the hydrogen ions function as a sink for the electrons liberated during the corrosion process. Atmospheric sulfur compounds cause blistering, scaling and loss of surface cohesion by reacting with the carbonates in limestone, calcareous sandstones and mortar. Many of the Old World's monuments of antiquity have suffered irreparable damage from the effects of the changing chemical climate.

ON HUMAN HEALTH

An awareness of the health effects of air pollution has been manifest for decades. The realtionship of adverse health effects and sulfur oxide/particulate pollution have been well established. Sulfur oxides, from the combustion of fossil fuels, can be oxidized to sulfuric acid, sulfates, sulfur trioxide, sulfites and bisulfites. The average residence time of sulfates in the atmosphere is several days: about the amount of time it takes weather fronts to move from the Ohio River Valley to New Hampshire. As much as 80 percent of the sulfates are small enough to be inhaled into the alveoli of the lungs. The smaller particulates are known to travel into the lungs where the destruction of these tiny air sacs and the loss of the normal elasticity of lungs cause the syndrome know as emphysema. Sulfur dioxide, in combination with particulate matter, is very harmful to health. The combination of these two pollutants causes more damage to the lungs than the damage caused by each of the pollutants added together.

There is no standard for sulfates at this time; and, because sulfates remain in the air for days, and travel hundreds of miles, each community or state must not think only of their own protection. Regional, even international planning and cooperation is a necessity for the protection of the health of all.

ON VISIBILITY AND CLIMATE

Haze particles are the most conspicuous trace constituents of the atmosphere. These are generally water droplets, with whatever they may contain, dust, salt and other particulates. Particles scatter light and obscure distant objects. Particles also effect the properties of the atmosphere. Water vapor condenses on nuclei. Therefore addition of such condensation nuclei affects cloudiness; which, in turn, affects insolation. This is inadvertent weather modification, and results in changed precipitation quality, increased haze and probably thunderstorms.

The best visibility is about 70 miles. Most of the country, east of the Mississippi, has a median visibility of less than 15 miles. Within the East, the lowest visibilities occur along the heavily-industrialized Ohio River Valley.

The attenuation of light in polluted air is generally dominated by particles which scatter the light. Almost all of this particle scattering is due to the fine particules. Sulfate and associated actions account for 40 to 60 percent of the fine particle burden. The impact of sulfates in reducing visibility within the air is no longer a matter of dispute.

The incorporation of particles into rain and fog droplets can change the quality of precipitation by changing its chemical composition. The most important impact on precipitation quality is probably that of acidic precipitation.

CAUSES OF PROBLEM

Although the acid rain problem in the Northeast manifests itself as damage to lakes, streams, and probably plant life, it begins as an air pollution problem and will only be solved as such. Studies indicate most of the problem results from the long range transport by the prevailing winds of air pollutants from fuel burning from the highly industrialized and urbanized areas in the Midwest. The studies show further that although the pollutants as emitted are not acidic, they are converted during their long trip to the Northeast. The evidence for this case is strong. Even 25 years ago, the maximum rain acidity in the United States was in the Northeast. During the intervening years the industry in the Midwest has grown rapidly and the size and number of coal-burning power plants needed to support it and the growing urban population increased dramatically. Also during this period the number of automobiles grew at record pace. And the acidity of rain, lakes and ponds in the Northeast increased rapidly during this same period as the data presented earlier has demonstrated. In addition, a recent preliminary air quality study indicates, for example, that about 65% of the acid in the rain falling on New Hampshire comes from seven states to our west with the maximum contribution from Ohio and the most distant state being Illinois.

TALL STACKS AND EMISSION STANDARDS

To make matters worse for the Northeast, most of the big power plants were built with tall stacks to prevent pollution of the immediate areas around them. They did the intended job but unwittingly created a new problem. By releasing the pollution higher it is transported much farther by the prevailing winds. This in turn provides more time for it to be converted to acids. In 1955 only two stacks in the United States were higher than about 600 feet—by 1975 at least 15 stacks taller than about 1000 feet had been built in the world. During that 20 year period, the average height of stacks built for new power plants was about 500 feet—many of those higher than the average were built in the Midwest including several in the 1000 foot range. With tall stacks and lenient state emission standards these plants have been able to burn cheap but dirty coal without violating air quality standards in the immediate vicinity. The emission standards for the plants built prior to 1971 vary from state-to-state but most are much less stringent than the national standards which apply to plants built since then.

The Federal Clean Air Act does not currently require national emission standards for the plants built prior to 1971. Current emission standards for existing power plants in the Midwest states of Illinois, Indiana, Ohio and Kentucky are 50 to 100 percent less stringent than those in the three Northern New England states. And Northern New England standards are 100 percent or more less stringent than those in Southern New England.

UNANSWERED QUESTIONS AND NEEDED RESEARCH

We are aware of the complexity of the problem and that there are some unanswered questions. Automobiles and other industry as well as power plants are implicated although it must be noted that automobile pollutants are already being reduced by the Federal new car emissions and gas mileage programs. Pollutants emitted in the Northeast itself contribute to some extent to the problem. More research into the sources and formation of acid rain and particles and their effects on soils and plant life is needed and so we strongly support proposed efforts in the legislation being sponsored by Senator Durkin. And we realize that more coal must be burned in order to reduce reliance on high-priced and uncertain OPEC oil. However, we feel the present evidence of the causes and effects of acid rain is strong enough to justify beginning to do something about it. Even beginning now, the experts tell us that it will take many years for the damaged lakes and ponds to recover.

RECOMMENDED ACTION

We strongly recommend the adoption of national emission standards for existing power plants. As we understand it this will first require action by Congress to provide EPA the authority to do so. These standards will be less stringent than the national new plant standards but at minimum should be set to provide equity and consistency between the Northeast and the Midwest. Such standards will be costly to the Midwest power plants. At the least they will have to obtain cleaner coal costing more and many plants may have to install scrubbers which are costly to purchase and to operate. However, environmental damage from acid rain in the Northeast may well in the long run translate into just as many dollars lost as cheap, dirty coal in the Midwest means dollars saved.

These costs will understandably result in political opposition to these new standards from the Midwest states. In order to make them more palatable, we suggest that Congress consider providing direct grants to utilities to help finance the necessary emission reduction or, alternatively, Congress could consider legislation that would require state public utility commissions to give adequate consideration to the financial needs of utilities to pay for their emission reduction programs.

TESTS SHOW ACID LEVELS IN STATE LAKES AND PONDS ARE INCREASING

CONCORD.—Tests have shown a "frightening" increase in the acid level of many New Hampshire lakes and ponds, according to Ronald Towne of the N.H. Water Supply and Pollution Control Commission.

When N.H. Fish and Game Department officials stocked remote ponds and lakes with trout earlier this year, Towne asked them to check water acidity at the same time. The stocking work was done by helicopter, and conservation officers used a probe to test the water's acid level while they hovered over it.

Forty-nine lakes and ponds were checked, from Concord to Pittsburg, the state's northernmost community. Every test showed acidity had increased since the last time the waters were sampled.

Charles Theits, chief of inland and marine fisheries for the Fish and Game Department, said he wants more testing before he'll feel comfortable with the results, but it's clear that water acidity is increasing.

Acid levels are measured on the pH scale. A rating of seven is a neutral solution; numbers above seven indicate an alkaline solution, and numbers below seven indicate an acid solution, with the strength of the acidity increasing as the numbers get smaller. The pH scale is logarithmic; so, for example, a pH reading of 4.2 is 10 times as acidic as a reading of 5.2.

According to Theits, readings taken this spring showed acid levels that ranged from 6.5 down to 4.2.

Several of New Hampshire's high altitude lakes have already been declared "dead" by fishing experts because the water can no longer support fish life. The problem has been caused by acid rain that falls on New Hampshire, after winds carry sulfur-rich soot from midwestern industrial plants eastward. The sulfates mix with moisture, and the result is deadly: rainfall that contains sulfuric acid, and falling across New York state and New England.

That rain does not contain just traces of acid.

The state water commission has began testing every rainfall, and results for April were all in the 3.2 to 3.7 range. Orange juice has a pH of about 1.5. During May and June, rain has tested 4.0 to 4.8.

Many people see acid rain as the major environmental problem of the 1980s, and Towne doesn't disagree. He says acid rain will kill many New Hampshire lakes if it continues, and could cause serious problems for the state's forests, too.

Back in 1937–1938, New Hampshire's state biologist, Earl Hoover, checked pH balances during an inventory of the state's water bodies. Those test results give New Hampshire officials a benchmark for studying the acid rain problem.

When Hoover visited Lake Solitude on Mount Sunapee in 1938, the water's pH was 5.8. The latest reading shows the pH level at 4.2, which means the acidity today is more than 10 times as great as it was when Hoover studied the lake.

Towne says pH levels at other lakes have increased more than 100 times since Hoover's work.

Acid rain causes several serious problems for lakes, and ponds, Towne said. The increased acidity first kills fish eggs and immature fish, making it impossible for fish to reproduce. It also dissolves metals, releasing deadly poisons into the water and killing adult fish.

The state water commission is updating its inventory of state water bodies, and the results will give Towne new data on acid rain.

Mr. JOHNSTON. Mr. President, I have referred to this amendment as a killer amendment. I believe it to be a killer amendment for a number of reasons: One of the principal reasons, which I have not heretofore discussed, I would like very briefly to discuss, and that is the fact that it does not fit into the bill and it renders null really the whole mechanism of this bill.

Under the bill, Mr. President, all of these 80 plants are under an order expressed in the bill to quit using oil and to convert to coal. That order is suspended during the period of time that they follow one of two alternative courses, during the time they either apply for an exemption or the time they put in their grant application. That order is suspended during that period of time. But the order becomes applicable immediately upon getting the loan or upon getting the exemption.

Now, the reason this does not fit, Mr. President, is it prevents a loan from being made during the time that the applicant is required to make certain demonstrations. Either the applicant is required, the burden being on the applicant, that is, the powerplant, to demonstrate that it can comply with the so-called oil SIP or alternatively he must make showings, demonstrations and commitments that he can comply with the best practical technology.

So, in effect, what you have, Mr. President, is an order which is suspended during the period of time that the loan is applied for, but that period of time is totally within the control of the applicant, so that you have, in effect, an indefinite suspension of the order to convert. It renders null and void this whole mechanism.

Even for those that were anxious to try to comply, Mr. President, it sets no standards. It has such words as "economically feasible" with no definition of "economic feasibility." Does that mean it can be done within the total 75-percent grant? Does it mean it can be done only within the total resources of the utility? We do not know that and, undoubtedly, the litigation that would ensue from this would put this many, many years down the road.

In closing, Mr. President, I want to hammer home one point that bears repeating over and over again. These 80 identified plants required to convert under this legislation must all do so under the terms of the present Clean Air Act. Each and every jot, tittle, period, and comma of the present Clean Air Act must be complied with for these 80 plants to convert, and these are the best 80 candidates in the country.

If we cannot convert these plants with $3.6 billion, Mr. President, we had better quit in our desire to get off of foreign oil because there are no easier candidates in the country.

This is not a conflict between clean air and dirty air. It is basically a question of can we convert 80 plants consistent with the present Clean Air Act. If we have some money left over, if we have additional resources, then let us apply them to some of those plants that are the best candidates.

Mr. President, I move to table the Tsongas amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TSONGAS. Mr. President, the motion to table, in essence, would table the Tsongas amendment, with the cosponsorship of the Senator from Vermont, the Senator from New Jersey, and others. It would not table the Tsongas amendment as amended by the amendment of the Senator from Vermont because that has not been addressed yet; is that correct?

The PRESIDING OFFICER. The motion to table is addressed to the underlying amendment in the first degree offered by the Senator from Massachusetts.

Mr. TSONGAS. I thank the Chair.

The PRESIDING OFFICER. If agreed to, it would take with it the pending perfecting amendment offered by the Senator from Vermont.

The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. If not tabled, the pending issue at that point would be the amendment offered by the Senator from Vermont?

The PRESIDING OFFICER. The Senator is correct.

The question is on the motion to table the amendment of the Senator from Massachusetts (Mr. TSONGAS).

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. STEWART). Is there any other Senator in the Chamber who has not voted and who desires to do so?

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—63

Armstrong
Bellmon
Bentsen
Boren
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cranston
Danforth
DeConcini
Dole
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hatch
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Nunn
Packwood
Pryor
Randolph
Roth
Sasser
Schweiker
Simpson
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Williams
Young
Zorinsky

NAYS—31

Baker
Baucus
Biden
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Culver
Domenici
Durenberger
Durkin
Hart
Hatfield
Hayakawa
Leahy
Levin
Melcher
Mitchell
Nelson
Pell
Percy
Proxmire
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas
Wallop
Weicker

NOT VOTING—6

Bayh
Goldwater
Javits
Kennedy
Pressler
Schmitt

So the motion to table Mr. TSONGAS' amendment (UP No. 1292) was agreed to.

The PRESIDING OFFICER. The amendment in the second degree falls.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I wish to inquire as to how many floor amendments there are.

Mr. HELMS, Mr. CRANSTON?

Mr. CRANSTON. I do not require a rollcall.

Mr. HELMS. I shall require a rollcall.

Mr. ROBERT C. BYRD. Senator BELLMON, requiring a rollcall.

Mr. WARNER. I have one on which I would like a rollcall.

Mr. ROBERT C. BYRD. It looks as though we may have——

Mr. HEINZ. I have one.

Mr. ROBERT C. BYRD. Does the Senator want a rollcall on his?

Mr. HEINZ. No.

Mr. ROBERT C. BYRD. It looks like we have three Senators yet requiring rollcalls on their amendments, and there will be a rollcall on passage. This will give Senators an idea.

UP AMENDMENT NO. 1295

(Purpose: To extend the exceptions to the definition of natural gas)

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1295.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 74, insert the following between lines 14 and 15:

(a) Section 103(a)(3)(B) (relating to the definition of natural gas) is amended by—

(1) striking "or" after clause (iii);

(2) striking the period at the end of clause (iv) and substituting "; or"; and

(3) adding at the end thereof the following:

"(v) synthetic gas, derived from tar sands, residuum, or heavy oil with a weighted average gravity of 16 degrees API or less corrected to 60 degrees Fahrenheit.".

Mr. CRANSTON. Mr. President, this amendment would exempt synthetic gas derived from heavy oils at 16 degrees API or less, tar sands or residuum from the restrictions imposed on the use of natural gas by the FUA.

Clean burning synthetic gas can now be produced from heavy gravity crude and high sulfur "resid"—a very heavy byproduct of refining facilities. Application of this technology to tar sands will substantially increase the use of this potential energy source. The synthetic gas produced has about the same energy content, or Btu value, as natural gas. The technology can produce both synthetic gas and light liquid petroleum fuels like gasoline, and producers can be expected to meet market demands by varying the combination of fuels produced as the market shifts.

In California, the nonavailability of coal and Federal and State air quality standards prevent any substantial burning of coal and also restrict the burning of heavy and high sulfur domestic oils. About 180,000 barrels per day of residual fuel is currently exported from southern California harbors as ship bunker fuel—at a price well below the oil's potential value, wasting this resource as a source of energy. California, in turn, imports 40,000 barrels per day of low sulfur oil. My amendment will help California reduce its use of imported low-sulfur oil, replacing some of it with domestically produced, clean burning synthetic gas, while continuing to meet the standards of the Fuel Use Act with respect to natural gas.

The replacement of 40,000 barrels per day of oil with synthetic gas would substantially reduce NO_x and sulfur emissions—major factors in the problem of acid rain.

Mr. President, my amendment will assist in our national effort to reduce oil imports. It will expand the energy alternatives available to a region of the country where coal is difficult to obtain and its use restricted by air pollution problems.

Residuum is a byproduct of the production of California's heavy crude reserves. It has a limited, highly seasonal market. When the storage capacity of resid is exceeded, refineries stop refining heavy oil, stop purchasing heavy oil, and production gluts and ultimately stops, until the oversupply of resid is corrected. My amendment would enable year-around production of domestic heavy crude to occur by providing a new, clean, energy-efficient use for resid.

California has over 50 percent of the Nation's heavy oil reserves and vast deposits of tar sands, Mr. President. My amendment would remove a restriction to the use of synthetic gas from very heavy petroleum products and encourage the production of gas and liquid fuels from our domestic fossil resources. I urge its adoption.

Mr. JOHNSTON. Mr. President, I ask the Senator, does he still have the last three lines stating "residuum, or heavy oil with a weighted average gravity of 16 degrees API corrected to 60 degrees Fahrenheit?"

Mr. CRANSTON. I have those in the amendment as offered, but if they are objectionable, I think there is a way to work it out.

Mr. JOHNSTON. Mr. President, we can accept the amendment provided those last three lines are excised from the amendment. What the amendment would do with resid and heavy oil is permit the building of new baseload powerplants fueled with resid or heavy oil. While there may be somewhat of a surfeit of supply of that at the present time, we intend to address, either later this year or probably next year, a refinery bill, containing a mechanism which would require or give incentives for domestic refiners to build the necessary cracking plants, reformers, and so forth, which would give them the capacity to refine resid into gasoline, to refine heavy oil into gasoline. When that time comes, we would certainly not want new baseload powerplants to be built using resid or heavy oil. The time, therefore, to address this question would be in the context of that refinery bill.

To the extent that we feel it is possible or feasible to allow the fueling of baseload powerplants with resid or heavy oil, we can perhaps do so next year in the context of the total supply of resid and heavy oil. At this point, however, Mr. President, if the author of the amendment would be willing to put a period after "tar sands," and strike the rest, the committee, speaking for the majority, would be happy to accept the amendment.

Mr. McCLURE. Mr. President, I should like to express this much concern about the amendment, and I do not disagree with what the Senator from Louisiana has said. We decided some time ago that natural gas or pipeline quality gases have particular utility as preferred fuel to retail end-use consumers, the household heating oil market, primarily. We are moving away from that slightly in this legislation. because we do have a temporary increase in supply of natural gas.

That is time constrained. and the conversion of some of these heavy oils to pipeline quality gases might be so attractive in terms of end use to the retail consumer, in the home heating market to back out high price Canadian gas, as a matter of fact, that we would want to preserve the opportunity to say that that gas, like natural gas, is not burned under utility boilers.

But with the suggestion that has been made by the Senator from Louisiana, I am prepared to accept, on behalf of the minority, the amendment.

But I say to the Senator from California that the fundamental question of the assignment of priority of use to pipeline quality gases still remains whether it be a synthetic plant or a natural gas.

Mr. CRANSTON. I thank both the Senators very much.

We are talking about synthetic gas, not natural gas.

Mr. President, clearly, the production of synthetic gas from tar sands is somewhat distinguishable from the use of heavy oil or resid to produce "syngas," in that tar sands are not now in commercial production in the United States, whereas both heavy oil and resid have some current market even though there are problems associated with both.

I have long supported efforts which the Senator from Louisiana's refinery legislation is designed to deal with, to encourage and permit the economic expansion of refinery capacity in the west coast's PAD V refineries, to increase the potential use of heavy oil which is present in such abundance in California, and to permit the rerefining of resid—which, although it is in great demand as heating oil in the East, often has no market at all during certain parts of the year in the West—or is essentially wasted as bunker fuel.

As the Senator knows there are problems of sulfur content as well as heavy gravity with many California crudes.

I am concerned about depriving refineries of a market for resid—from the sale of which they will get the capital for retrofitting their refineries.

And I am concerned about restricting the ability of utilities to burn clean, synthetic gas derived exclusively from domestic oil, when burning of coal is not a viable alternative in California.

Existing law provides a cumbersome, untested bureaucratic procedure under which a utility can get permission to burn syngas. My amendment would eliminate the need to resort to this procedure.

However, with the assurance of the distinguished Senator from Louisiana, with the concurrence of the Senator from Idaho, that:

First, my amendment insofar as it relates to syngas from tar sands will be accepted;

Second, that the Department of Energy will be encouraged to be reasonable, prompt, and supportive in response to requests to burn synthetic gas from heavy oil or residue; and

Third, that the problems addressed by my amendment affecting residue and heavy oil will be fully and sympathetically addressed in the Senator's refinery legislation, I am willing to agree to a modification of my amendment such as the Senator from Louisiana suggested.

That is the Senator's understanding, is it not?

Mr. JOHNSTON. The Senator is correct.

UP AMENDMENT NO. 1295, AS MODIFIED

Mr. CRANSTON. Mr. President, therefore, with gratitude to both Senators, I modify my amendment and send a modified version that does exactly what the Senator from Louisiana suggested should be done to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 74, insert the following between lines 14 and 15:

(a) Section 103(a)(3)(B) (relating to the definition of natural gas) is amended by—

(1) striking "or" after clause (iii);

(2) striking the period at the end of clause (iv) and substituting "; or"; and

(3) adding at the end thereof the following:

"(v) synthetic gas, derived from tar sands."

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1295), as modified.

The amendment (UP No. 1295), as modified, was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I defer to the Senator from Oklahoma. He has been waiting longer than I have.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend from North Carolina. I did not expect this courtesy, but I appreciate it.

UP AMENDMENT NO. 1296

(Purpose: To amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a ten-hour day in the case of a four-day workweek)

Mr. BELLMON. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1296.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new sections:

Section 1(c) of the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35) is amended by inserting before the colon a comma and the following: "or, in the case of a four-day workweek, in excess of ten hours in any one day or in excess of forty hours in any one week".

SEC. Section 102(a) of the Contract Work Hours Standards Act (40 U.S.C. 328) is amended by adding at the end thereof the following new sentence; "In the case of a four-day workweek, the increased rate of pay provided by the preceding sentence shall apply only to hours worked in excess of ten hours in any calendar day, or in excess of forty hours in the workweek, as the case may be."

SEC. The amendments made by Sec. and Sec. of this Act shall not affect collective bargaining agreements in effect on the date of enactment of this Act.

Mr. BELLMON. Mr. President, very simply, this is an amendment which would allow the use of the 4-day workweek for contractors working on Government contracts.

Mr. President, I am offering an amendment to the Powerplant Fuels Conservation Act of 1980, S. 2470. This amendment is a modification of a bill introduced twice before, first in 1977, most recently as S. 2577 on April 17, 1980. This amendment will allow employers under Government contracts to institute a 4-day, 10-hour, workweek, if such an arrangement is suitable for their particular situation. Present legislation, because it mandates the payment of overtime after 8 hours in 1 day for Government contractors, rules out this option as a practical matter. This bill would require the payment of overtime after 10 hours in each day and, of course, after 40 hours in 1 week, already allowed under Fair Labor Standard Act.

The purpose of this amendment is to make the same conditions available to Government contractors.

There are several implications of this amendment, Mr. President, and I would like to discuss them at this time.

First, this bill does not mandate any change in work schedules at all, if the status quo is preferable to employers and workers. It does allow the option, where such a change is advantageous. Federal law for all employment situations, other than Government contracts, is governed by the Fair Labor Standard Act, which simply requires time and one-half after 40 hours in each week. The 4-day workweek under the FLSA is, therefore, easily arranged in appropriate work situations when employers and workers desire it. This flexibility does not presently exist for Government contractors because the laws regulating them—the Walsh-Healey Act and the Contract Work Hours Standards Act require the payment of overtime after 8 hours in each day. A 4-day, 10-hour, workweek under these laws would require the payment of 8 hours at overtime rates for all employees.

Second, this country's continuing energy problem could be alleviated by some degree should more firms choose to move to a 4-day workweek and thereby save energy.

A 4-day workweek would mean workers would have to commute only 4 days rather than 5 days each week.

With heating and cooling requirements for buildings geared to 4 instead of 5 days, considerable savings could be realized. One 1975 study released by the National Center for Energy Management and Power at the University of Pennsylvania in Philadelphia analyzed the impact of the 4-day, 40-hour workweek in three sectors—drugs, metal containers, and paints and allied products—believed to be quite adaptable to such work scheduling. This analysis indicates that significant energy savings can be gained by instituting a 4-day week in selected sectors where continuous processing and heavy capital investments do not make it uneconomic. The authors of this 1975 report state that—

> Utilities could save about $57 million per year in fuel costs from only the three sectors shown, or the equivalent of about 6.4 million barrels of No. 6 oil per year. Total energy savings in utility fuel, space conditioning, lighting, and gasoline sum up to over $136 million per year at the national level. This is the equivalent of 13 million barrels of oil per year, or about 50,000 barrels per work day just from these three sectors. Costs of energy have risen sharply since 1975 so that savings are even more impressive currently.

As has been said, employees working under a 4-day workweek would save one round trip commute per week, and thereby reduce consumption of fuel for that purpose.

Mr. President, I want to point out that my amendment applies only to Government contractors. The basic Fair Labor Standards Act, which requires overtime at time-and-a-half after 40 hours in a week, would remain unchanged. This amendment simply makes this provision apply to Government contractors.

In attempting to achieve energy independence we need to make it possible to put in place those conservation measures which make sense. This amendment is a noncoercive way of opening the door to a 4-day work week for those employers and employees who find it desirable with a considerable energy benefit to the country. It makes sense to modify these Government contracts laws and I urge the Senate to adopt this amendment.

Mr. JOHNSTON. Mr. President, obviously, this amendment is nongermane. It is the kind of heavyweight that could get this bill in deep trouble when we get to conference.

I hope the Senator will not ask for a vote. Now that we have had a good energetic discussion, does the Senator think me might find a better vehicle than this high priority oil backout bill?

Mr. BELLMON. There is no real germaneness on this bill, Mr. President.

Mr. JOHNSTON. I think it will be tabled, anyway.

Mr. BELLMON. Let us try it.

Mr. JOHNSTON. All right.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JOHNSTON. Mr. President, I withdraw my request.

Mr. BELLMON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Oklahoma.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there

any other Senators in the Chamber who wish to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—58

Baucus
Bentsen
Biden
Boren
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Gravel
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevens
Stevenson
Stone
Talmadge
Tsongas
Weicker
Williams

NAYS—36

Armstrong
Baker
Bellmon
Boschwitz
Bumpers
Byrd,
Harry, F., Jr.
Chafee
Cochran
Cohen
Domenici
Durenberger
Garn
Glenn
Hart
Hatch
Hatfield
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
McClure
Melcher
Nunn
Roth
Simpson
Stafford
Stewart
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—6

Bayh
Goldwater
Javits
Kennedy
Pressler
Schmitt

So the motion to table Mr. Bellmon's amendment (UP No. 1296) was agreed to.

Mr. HELMS and Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I shall send an unprinted amendment to the desk and ask that it be stated.

Mr. McCLURE. Mr. President, I wonder if the Senator from North Carolina will withhold his amendment just a moment as I have an amendment that is agreed upon.

Mr. HELMS. Certainly.

Mr. McCLURE. I thank the Senator for his courtesy.

UP AMENDMENT NO. 1297

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an unprinted amendment numbered 1297.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 71, line 12, subsection 8(c) is amended by inserting a new paragraph (5), as follows—

"(5) Section 806 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting '(a)' before 'The Secretary' and by inserting at the end of the section,

"(b) The Secretary shall require any electric utility, which is granted a permanent exemption pursuant to Title II or Title III of this Act or otherwise allowed to use petroleum or natural gas a primary energy source in any electric powerplant, to report biannually beginning on January 1, 1980 its plans for construction of new electric generating capacity, including (i) the planned capacity and location of each new electric powerplant and (ii) the scheduled completion date of each such powerplant. The Secretary shall, to the extent practicable, verify the biannual reports submitted by such electric utilities. The Secretary shall include such biannual reports and any information on the verification of the reports in the annual report required by subsection (a) for that year."

Mr. McCLURE. Mr. President, this is an amendment suggested by the Senator from New Mexico (Mr. Domenici) with respect to the slippage schedule on plants to include a comprehensive report by the Secretary when that slippage schedule is reported to Congress.

It has been discussed on both sides of the aisle and so far as I know it is acceptable to both sides of the aisle.

Mr. JOHNSTON. Mr. President, this subject matter has been discussed not only privately but in the Record here, and it simply provides for a study and report, and we support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1297) was agreed to.

Mr. McCLURE. I thank the Senator from North Carolina.

Mr. HELMS. The Senator is quite welcome.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1298

(Purpose: To strike out provisions establishing labor standards)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes unprinted amendment numbered 1298.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on line 18, page 66, strike out through line 14, page 67.

On page 67, line 16, strike "Sec. 8." and substitute "Sec. 7.".

On page 71, line 14, strike "Sec. 9." and substitute "Sec. 8.".

On page 74, line 13, strike out "Sec. 10." and substitute 'Sec. 9.".

Mr. HELMS. Mr. President, section 7 of this bill makes the Davis-Bacon Act applicable to projects funded with financial assistance provided by the act. This amendment would simply delete this provision, section 7.

Mr. President, the Davis-Bacon Act has been around for a long time, since the 1930's. In fact, the Davis-Bacon Act was enacted in response to what some saw as a legitimate need. But times change, Mr. President, and I for one no longer believe that the Davis-Bacon Act serves any useful purpose. In fact, the effects of the Davis-Bacon Act are now detrimental. It should be eliminated wherever and whenever possible. The Davis-Bacon Act should be stricken from the legislation now before the Senate.

The utility industry of this Nation has been severely impacted by inflation. The cost of construction has skyrocketed. It is simply imperative that we eliminate all unnecessary governmental laws and regulations which reduce productivity, increase costs, and add to inflation, because it is the consumer who is paying the bill for all of that.

It has been shown time and time again that the Davis-Bacon Act substantially increases the cost of federally financed construction. The issue has been debated so many times here on the Senate floor, and Senators have heard all of the arguments, that I shall not attempt to repeat them now. But if the Senate is serious about reducing costs, particularly energy costs, if the Senate is seriously interested in reducing inflation and helping the taxpayers and the consumers, it should vote on this amendment to delete section 7 of the bill.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. JOHNSTON. Mr. President, the committee bill does not stretch the Davis-Bacon legislation beyond its usual and, most would agree, proper ambit, but rather it is applied in the same consistent way in this bill as it is in other Federal legislation.

This body is familiar with the Davis-Bacon Act, the so-called prevailing wage law. It simply provides that workers on federally financed projects will receive the prevailing wage in the area where the project is being built—hardly a new concept, and hardly one that does violence to our basic ideas of what is fair and what is not fair.

In any event, Mr. President, if the Davis-Bacon bill is to be repealed or to be changed, let it be done in the authorizing committee where they can change it across the board. Do not make it inapplicable to this one activity of the Federal Government where it is applicable elsewhere.

The committee considered this, debated it, and adopted it overwhelmingly in committee and, therefore, Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, before the Senator moves——

Mr. JOHNSTON. I will withhold.

Mr. ROBERT C. BYRD. Mr. President, I am reluctant to speak against the amendment, but it would kill the bill. I know the Senator does not want to kill the bill. This coal conversion bill is a major step in our effort to deal with the energy problem, and this amendment will kill the bill.

So I hope—and I say that with all due respect to my friend from North Carolina—the Senators will vote to table.

Mr. HELMS. Mr. President, will the Senator yield before he makes the motion to table?

Mr. JOHNSTON. Yes, I will withhold.

Mr. HELMS. I will ask only one question: Do the labor unions have all this power in this country to kill this bill? I yield the floor.

Mr. JOHNSTON. The answer is, "No." The Senate and the House do have the power to kill this bill.

Mr. President, we want to keep this bill lean and clean so that we can pass it in 1980.

So, therefore, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER) and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any Senators not yet recorded wishing now to vote?

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—65

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevens
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—27

Armstrong
Baker
Bellmon
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Dole
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Roth
Simpson
Stevenson
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—8

Bayh
Goldwater
Hatfield
Javits
Kennedy
Pressler
Schmitt
Stennis

So the motion to table Mr. HELMS' amendment (UP No. 1298) was agreed to.

UP AMENDMENT NO. 1299

(Purpose: Technical amendment)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1299.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, strike "New England Gas and Electric Association" the second time it appears and insert "New England Electric System".

Mr. JOHNSTON. Mr. President, this is a technical amendment changing the name of the plan.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1299) was agreed to.

UP AMENDMENT NO. 1300

(Purpose: To exempt coal tar from the coverage of the Powerplant and Industrial Fuel Use Act of 1978)

Mr. JOHNSTON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. RANDOLPH, proposes an unprinted amendment numbered 1300.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, line 16, insert the following new subsections (a) and redesignate existing subsections (a), (b) and (c) as subsections (b), (c) and (d) respectfully:

"(a) Section 103(a)(5) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting at the end thereof the following: Provided, That the Secretary may exclude from the term 'coal' and 'alternative fuels' coal tar where he determines, by rule, that coal tar is of significant commercial value as other than a fuel".

Mr. JOHNSTON. Mr. President, this amendment is on behalf of Mr. RANDOLPH, and myself, and it simply provides the Secretary authority to exclude from the terms "coal" and "alternate fuels" coal tar where the Secretary determines by rule that coal tar is of significant commerical value as other than fuel. It is permissive with the Secretary, and we believe this claim to authority is proper.

Mr. RANDOLPH. Mr. President, major energy initatives are being considered during the 96th Congress. Little attention, however, has been given to the oversight of regulations being written to carry out the provisions of the National Energy Act of 1978. This lack of congressional input has resulted in some regulations that inadvertently do not express our intent.

One problem called to my attention is whether or not the Powerplant and Industrial Fuel Use Act was intended to encourage the burning of coal tar, the principal feedstock of the coal tar processing industry, as a boiler fuel by steel companies which produce it. In enacting the Fuel Use Act, Congress did not intend to encourage the burning of coal tar. The Senate version of the act excluded from the definition of "coal or other fuel" those coal derivatives, such as coal tar, which are produced for a primary purpose other than fuel. In conference with the House the Senate agreed to a simpler, less confusing definition of coal to mean anthracite and bituminous coal, lignite and any fuel derivative. By this simplification there is no intent to encourage the burning of coal tar as a fuel by either the House or Senate participants.

Yet, Mr. President because of the Economic Regulatory Administration's interpretation that coal tar is a fuel derivative of coal, steel companies will include this product in their fuels decision report and explain why coal tar cannot be burned to replace oil and gas. Unless the tar proves extremely difficult to burn in a boiler, the steel company would probably elect to burn it and avoid the preparation of time-consuming reports and/or negotiations with the Department of Energy.

If the steel company notifies its tar buyer of its decision to burn tar in its new boilers, there is very little that the tar buyer can do which might prompt the steel company to change its mind. Tar is usually bought and sold on arrangements ranging from 1 to 5 years. The tar buyer usually pays the steel company a price which is slightly above the value of the tar as a fuel.

If regulations specifying the content of a fuels decision report are not drafted carefully, they could threaten to reduce or eliminate the flow of this feedstock material to companies which rely on the purchase of coal tar from the steel industry and in turn process it into a wide variety of products of much higher value than boiler fuel. These products include pitches of various consistencies, creosote, and chemical oils which are further refined into industrial chemicals.

I have written to the Department of Energy requesting that this situation be corrected administratively. I believe this amendment will give the Department the legislative direction needed to resolve this issue.

Mr. McCLURE. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1300) was agreed to.

Mr. HEINZ. Mr. President, the Senate is today considering what I believe to be the most important energy legislation to come before Congress in the past decade. The Powerplant Fuels Conservation Act, S. 2470, which mandates the conversion of 80 oil-burning units to coal, will enable domestic utilities to utilize more domestic coal and reduce oil consumption by 400,000 barrels of oil per day during the next 5 years.

The United States, with over one-third of the world's coal reserves under its soil, is the virtual OPEC of coal. Nonetheless, coal currently supplies only 18 percent of our total energy needs. It is imperative that we use more coal in meeting our domestic energy needs, and do so now. Coal conversion has the potential to do more to increase coal consumption and reduce oil consumption in the short-term than any other energy option available to us.

Mr. President, if we fail to enact legislation to enable us to take advantage of our most abundant fossil energy resource, coal, by converting oil and natural gas burning powerplants to coal, we may as well forget about all the other energy legislation which we have approved, because we will not have the time we need to implement those policies. Coal conversion is the only way the United States can insure its survival in the short term.

Mr. President, not only will coal conversion significantly reduce our dangerous dependence on imported oil, but it will also help consumers in the fight against inflation. Conversion to coal, though it may be costly initially, will bring about dramatic savings in electric utility bills to consumers throughout the United States. Because of the difference in cost between coal and oil, consumers could realize as much as a one-third saving in utility bills as a result of the conversion to coal mandated by S. 2470.

Moreover, converting the 80 units included in the mandatory list in the bill will increase the demand for domestic coal by 25 to 30 million tons a year by 1985. Most of the increase in demand will occur during the first 2 years after the conversions are ordered. This means that many unemployed coal miners—Americans, not Arabs—will once again have jobs. In Pennsylvania it is estimated that 1 out of every 10 miners employed in 1978 is now unemployed. This is a pattern which unfortunately is repeated throughout the Nation's coal fields. Over 20,000 miners are unemployed, more than 100 million tons of production capability is idle. At a time when we annually send $90 billion—$360 this year from every man, woman and child in the United States—to foreign nations that do not share our interests, it is folly to ignore the vast energy potential of our domestic coal reserves.

Mr. President, the Powerplant Fuels Conservation Act is the key to unlocking the potential of coal. It provides financially distressed utilities the assistance necessary to undertake coal conversion projects. In testimony before the Senate Energy Committee, Deputy Secretary of Energy John Sawhill stated that a responsible Federal aid program is an essential first step in our efforts to achieve utility coal conversion. Secretary Sawhill testified that 13 of the 26 utilities which own the plants on the mandatory list have interest coverage ratios below 2.0 and 7 have coverage ratios between 2.0 and 2.5. All of the companies are selling stock at a price below book value.

The Powerplant Fuels Conservation Act recognizes the financial constraints on these utilities and provides the means for clearing such hurdles. The bill provides $3.6 billion in grant and loan assistance to utilities with units on the mandatory list. All companies ordered to convert are eligible for a grant of up to 25 percent of the cost of the conversion. In addition, those which can demonstrate greater financial need are able to apply for additional assistance in loan or grant form.

The bill also addresses the troublesome question of the impact of burning more coal on the Nation's air quality. Much of the $3.6 billion will be used to cover the cost of environmental control equipment at converting units. In addition, a total of $600 million is authorized to be spent for reducing emissions from existing coal-fired powerplants and for building new coal cleaning facilities. Both of these efforts will help reduce the emissions of sulfur dioxide and NO_x from facilities which are currently burning coal, thereby offsetting entirely any increase in emissions as a result of converting from oil to coal. In no case does this bill permit any powerplant to violate existing air quality laws. We have the ability to burn coal cleanly and under this act we will.

Mr. President, while I believe that this bill marks a significant step forward in attaining our national goal of using more coal, I am concerned that two amendments added in the Senate Energy Committee dilute the impact of the bill. Specifically, I am referring to the provision which modifies the prohibition on the burning of natural gas at electric utilities to allow continued consumption of natural gas after January 1, 1990, the date established in the Powerplant and Industrial Fuels Use Act of 1978 for getting utilities totally off natural gas. In conjunction with this amendment, the Energy Committee eliminated the second phase of the conversion program proposed earlier this year.

Mr. President, I realize that natural gas supplies are more plentiful in the interstate market today than they were 2 years ago. However, I am not convinced that this is the result of an overall increase in domestic gas supplies. In fact, natural gas production in 1979 was virtually the same as in 1978. Moreover, total proved gas reserves declined during 1979 from 200.3 trillion cubic feet to 194.9 trillion cubic feet. In response to an inquiry from the Energy Committee FERC Chairman Charles Curtis stated "on the basis of current data, it is the unavoidable conclusion that conventional gas supplies will not be adequate to meet all the sectors of current natural gas demand."

Mr. President, removing the prohibition on burning natural gas in electric utility powerplants prevents us from making the most efficient use of a valuable, versatile, but scarce fuel, natural gas. I am disapponted that we are backing away from a policy commitment made just 2 years ago. A policy commitment which the Chairman of the Federal Energy Regulatory Commission and I believe is still warranted by current conditions. It is my hope that this provision will be given most careful consideration during debate on the bill.

Mr. President, I recognize that the off-gas provision would impose a significant burden on several States which presently rely heavily on natural gas to meet the electric utility needs. However, as introduced, S. 2470 addressed this problem in a creative manner. Utilities not included in the list of mandatory conversion could apply to the Federal Government for financial assistance to help them raise the front-end capital necessary to accelerate the replacement of existing natural gas-fired powerplants. This assistance could have been used for a variety of measures which would have led to the replacement of natural gas.

However, it would have clearly had a positive impact on demand for coal. I share the concern of my colleague from Illinois Senator PERCY that deleting phase II of the program leaves us with a bill that fails to do all that is reasonable to encourage conversion from natural gas and oil to other fuels such as coal. We must look toward the future and in doing so realize that current additions to reserves will not be sufficient to meet future demand for natural gas. Coal provides a realistic alternative to natural gas which we must prepare to utilize now.

Mr. President, while I have reservations about the off-gas amendment and the deletion of phase II of the original bill, I believe that the Powerplant Fuels Conservation Act is an important step toward increasing coal consumption. However, there are other areas that affect our Nation's coal industry that are not addressed by this legislation. Among the other subjects which we must be mindful of when considering the ability of the Nation's coal industry to meet our energy needs are: Over-regulation by Federal agencies, such as the Office of Surface Mining, inadequate maintenance of our transportation system, and development of export markets for U.S. coal.

Mr. President, early last year the Senate overwhelmingly approved S. 1403, an amendment to the Surface Mining Control and Reclamation Act of 1977. This bill clarifies the intent of Congress with regard to the implementation of the Surface Mining Act by the Office of Surface Mining. This bill has since been stalled in the House of Representatives. Review of the OSM implementation of the Surface Mining Act by the courts has led to the revision of certain regulations promulgated by OSM, however, I believe that it is important that the House of Representatives consider S. 1403 and pass it to insure that we do not hamstring our coal producers with unnecessary regulation.

We must also develop a comprehensive plan for improving our Nation's transportation systems. In Pennsylvania alone, a survey has concluded that more than $3 billion are needed to bring the existing coal haul system up to acceptable operating standards. I am working with the State, the coal producers and Conrail to see that improvements are made in the Port of Philadelphia at the Greenwich Pier. This pier is crucial to the steady flow of coal from Pennsylvania and other Appalachian States to the New England area and overseas. In addition, I am working with the Corps of Engineers to insure that the locks and dams which control the flow of traffic on our inland waterways are modernized to enable coal to move from the Appalachian States to those States which do not have their own coal reserves. If we fail to consider the means of getting our coal to market, and ignore the needs of our transportation system, we will not be able to take full advantage of the vast energy potential of our coal reserves.

Mr. President, when compared to other energy legislation, such as the synthetic fuels bill which we passed last week, the Powerplant Fuels Conservation Act is modest legislation. It authorizes $4.2 billion to achieve a reduction in oil consumption of 400,000 barrels per day in 5 years. The synfuels bill authorizes $88 billion to produce 1 million barrels of oil by 1990.

Mr. President, between now and 1985—during the next 5 years—the Powerplant Fuels Conservation Act will achieve more for America, more for consumers, more for energy security than any other single thing we can do. I urge my colleagues to fully support this critical piece of legislation.

Mr. President, I understand that the Department of Energy and the Department of Transporation are currently preparing a comprehensive study of the Nation's energy transportation systems. I understand that this report should be available sometime in October.

This study is crucial to our efforts to increase the production of domestic coal. I have stated my belief that the Powerplant Fuels Conservation Act offers the only short-term means of reducing our consumption of imported oil.

However, of domestic coal producers are not able to move their valuable coal to the areas of the country that need it so desperately, ordering these conversions will not reduce our dependence on imported energy and put Americans back to work. Rather, foreign suppliers—and I am aware, as are some of my colleagues, that foreign coal producers are currently talking to potential coal consumers in this country about future needs—foreign suppliers will provide the coal America needs.

The stagnation in the growth in coal consumption which is the result of our embracing oil, has been accompanied by a decline in conditions throughout our Nation's coal hauling system. Just the other day, it was estimated that we are 10 years behind in the maintenance of our Nation's rail system. I know that our port facilities and the system of locks and dams which link the coal-producing fields and the major consuming areas along the country's inland waterways are in need of upgrading now if we are to smoothly transport more domestic coal to market.

Mr. President, Pennsylvania has done a preliminary survey of its transportation needs in light of expanding coal markets in New England and overseas. This survey reveals that over 830 miles of railroad must be rehabilitated, 2,500 miles of coal-haul roads must be improved, 700 bridges upgraded, 17 locks and dams repaired, and three ports modernized if Pennsylvania coal is going to be moved to market efficiently. The estimated total cost of these improvements exceeds $3 billion.

Mr. President, Pennsylvania's situation is an example of the type and extent of deterioration that has occurred in our transportation system. We must have an accurate assessment of the needs of the entire system and take action to improve the system immediately, if we are to fully realize the energy potential of our Nation's coal resources.

May I ask my colleague from Louisiana a few questions concerning this study?

Is it your understanding that the national energy transportation study being prepared by the Department of Energy in conjunction with the Department of Transportation will assess fully the condition of our Nation's roads, railroads, waterways, and ports and the need for improvements and maintenance of our energy transportation system?

Mr. JOHNSTON. Yes. That is my understanding.

Mr. HEINZ. Is it the Senator's understanding that this study will be completed early this fall; in time for Congress to consider legislation which will authorize necessary improvements in the Nations energy transportation system. so that domestic coal producers are able to move their coal to markets both here and abroad?

Mr. JOHNSTON. Yes. The Senator is correct.

Mr. HEINZ. I thank my colleague for clarifying the status of this extremely important study.

Mr. BUMPERS. Mr. President, 7 years after the Arab oil embargo of 1973, the Nation continues to be dependent on imported crude oil for its energy needs. Our Nation's huge coal reserves offer a partial solution to our continued dependence on foreign crude oil. Since 1973, Congress has enacted two major coal conversion acts to encourage the use of domestic coal and has recently passed legislation to encourage the development of synthetic fuels, a significant portion of which will be developed from coal. Yet, not only have we failed to move rapidly from an oil- and gas-based economy to a diversified energy-based economy, our coal imports have actually increased 300 percent since 1975.

This central consideration was not lost on the authors of the world coal study, however. A major conclusion they reached after 18 months of study was that America's coal transport capacity must be more than simply strengthened or augmented. In fact, a major investment in coal slurry pipelines, and expanded rail, barge and port facilities will be needed to insure that the entire system works and remains competitive for domestic and export customers alike.

Because rail rates for coal hauling have risen sharply over the past few years, some users have found it economically attractive to import coal for their needs. While amounts involved are not great, the trend is alarmingly upwards. Last year we imported coal from such widely varying sources as Australia, Canada, Poland and the Republic of South Africa. In the past decade, coal imports were delivered to such geographically diverse States as Florida, Louisiana, Michigan, Minnesota, Wisconsin, Texas, North Dakota, Washington, and Alabama. So the problem is certainly not localized. It is indeed a paradox that coal imports are increasing for a nation which has the second largest amount of coal reserves in the world.

In addition to holding the potential for making increased imports more attractive, present railroad coal transportation rates could destroy the economic incentive for accelerated coal conversion of many electric utilities presently utilizing gas or oil as their principal fuel supply. The now-celebrated case of the city of San Antonio provides a stark example.

In May 1973 San Antonio's municipally-owned utility made the decision to build two coal-fired generating plants, based in part on a coal rate quotation of $7.90 per ton from the Power River Basin in San Antonio. The rate is now almost $20 per ton. In the past 3 years alone, the rate has increased nearly 86 percent. Indeed, coal-hauling rates have escalated so dramatically in the Southern and Southwest portions of the country that a congressional coalition has announced plans to place a "coal cap" or captive shipper amendment on rail deregulation legislation pending in the House. This must be done, they contend, to protect consumers from constantly increasing electric bills due to rail rates.

which represent a direct and uncontrollable cost to utilities.

Coal pipelines, virtually inflation proof, can also help hold down the cost of coal-generated electricity by providing a large measure of free-market rate discipline. However, they cannot be constructed at present because the Nation's railroads argue that an alternative coal transportation system that could handle a portion of America's incremental coal growth should not be permitted to develop.

America has one coal pipeline operating now—carrying 4.8 million tons annually of slurried coal (finely ground coal mixed with water) 273 miles from the Black Mesa Mine in northeast Arizona to the Mojave Generating Plant in southern Nevada, at a cost of less than 1.5 cents per ton/mile. This is substantially less than it would cost to ship the coal by rail and the railroads are well aware of that fact—since one of them built the pipeline. It was constructed because it was more efficient and economical than building and operating a rail line.

At present, plans have been announced for eight more coal pipelines. They would serve electric utilities in high-energy consuming areas in Arkansas, Florida, Georgia, Louisiana, Nevada, Oregon, Texas, and Virginia—many of which are now dependent on imported oil—and make coal from inland mines available for export from Atlantic, gulf, and Pacific coast ports. One project would feed slurried coal to a synthetic gas plant in the Pacific Northwest, an area dependent on increasingly expensive imported Canadian natural gas.

A coal slurry pipeline from Wyoming to Arkansas would save electric consumers in Arkansas about $75 million a year by 1985. Coal usage by Arkansas utilities is expected to increase from 3.75 million tons this year to about 10.75 million tons in 1985, and it is estimated that coal will be about $7 a ton cheaper to ship by slurry pipeline than by railroad in 5 years.

On May 6, Senators JACKSON, JOHNSTON, and I introduced S. 2665, the National Coal Production, Distribution and Utilization Act of 1980, the purpose of which is to enhance the Nation's coal production, distribution, and utilization by assuring the early development of an adequate national coal distribution system. Such a system must include railroads, barges, and coal pipelines.

S. 2665 would authorize the Secretary of the Interior to issue a certificate affirming that the construction of a proposed coal pipeline is in the national interest. Any person obtaining such a certificate would then be authorized to acquire a right-of-way from any person engaged in the business of distributing coal by exercise of the right of eminent domain.

The committee has considered similar legislation for the last 7 years. In 1974, the Senate passed similar legislation, but the bill was not considered by the House of Representatives. In 1978, the committee held 3 days of hearing on bills introduced by Senators JOHNSTON, BARTLETT, BELLMON, and BUMPERS. No further action was taken after the bill was defeated in the House. In the 96th Congress, the bill has been favorably reported by the House Interior Committee and the House Committee on Public Works.

Some 3 days of hearings have been held by the Senate Energy Committee on this legislation (S. 2665) since May 6. At the first day of hearings, the Carter administration gave its full support to the national development of coal slurry pipelines.

In testimony before the committee, Secretary John Sawhill of the Department of Energy testified:

> We recognize that coal slurry pipelines have been resisted beacuse of fears that they would reduce coal shipments and profits for railroads and require the exportation of water from arid regions of the west, which would restrict agricultural and urban development and cause potential environmental problems. DOE is deeply concerned with the financial health of the Nation's railroads. We support rail tariffs that adequately compensate the carrier and insure continued financial stability.
>
> However, the future demand for coal in areas currently being served by railroads is expected to be sufficiently large to require additional coal distribution capacity. Coal slurry is an efficient way of providing some of this additional capacity. Also, in light of expected deregulation of the railroad industry, coal slurry pipelines would tend to keep rail rates at a more competitive level. By fostering competition, coal slurry pipelines would keep delivered coal prices down and make coal more competitive with alternate fuels. Finally, DOE does not believe that coal traffic should be the sole source of revenue growth for the railroads.

Because coal pipelines can offer competition to the monopolistic position of the railroads with respect to coal hauling, there has to be a net economic benefit. A recent study (December 1979) done for the Department of Energy by ICF, Inc., offers a number of conclusions with respect to coal slurry pipelines. The main conclusion of the paper is that the greatest savings from coal slurry pipelines may be the indirect savings resulting from increased competition instead of the direct savings stemming from any particular route. To the extent that the threat of slurry pipeline competition acts to keep rail rates low, then savings can result even if the coal is hauled by rail. Other conclusions of the analysis are:

Slurry pipelines are economic over some, not all routes.

While slurry pipelines may appear to have a cost advantage over some routes, insufficient volume demand could negate or postpone the viability of the pipeline.

Slurry pipelines are forecast to transport between 5 and 9 percent of the total coal transported in 1990, ranging from about 70 to 126 million tons of coal.

Nonslurry modes of transport, particularly railroads, will continue to grow regardless of slurry pipelines. Net national savings tend to exist with a network of slurry pipelines, but this is not always true.

The conclusion of the ICF study concerning the likely amounts coal pipelines would carry reinforces the contention that slurry lines will carry far less than half of the predicted increases in coal production, thus hardly being a threat large enough to put whole railroad lines out of business.

More importantly, the study predicted that the operation of 11 coal slurry pipelines could save utilities and other coal customers billions of dollars annually. The study's basic conclusion was that the savings, in the form of reductions in transportation costs and other expenses, would emerge from competition between slurry lines and railroads. Even under the most modest scenario, coal customers would save between $100 million and $1.1 billion in 1995. The scenario which yielded the largest savings showed cost reductions of up to $5.2 billion.

In February of this year, the President's Commission on Coal, chaired by West Virginia Gov. John D. Rockefeller IV, said in its final report that there were at least three major advantages to the use of slurry pipelines:

> That underground routes do not disrupt communities;
>
> That although pipeline construction requires a large capital investment, operating costs—which are subject to the whims of inflation—are low; and
>
> On a cost-per-ton basis, slurry pipelines are highly competitive with railroads.

Finally, Mr. Ulf Lantzke, Executive Director of the International Energy Agency in Paris, writing in the winter 1978–80 issue of Foreign Affairs magazine on "expanding world use of coal," cites a study which measures the effort needed to reach U.S. coal use goals by the year 2000. They include:

> A 13-fold increase in Western coal production;
>
> A doubling of Eastern underground mining;
>
> A combination of nine new slurry pipelines and expanded rail facilities involving 1,400 new coal unit trains and 3,200 new conventional trains;
>
> A sum of 500 new coal barges and 9,400 new coal trucks; and
>
> A major expansion in port facilities to handle large coal-carrying ships.

Mr. President, I intended to offer an amendment similar to S. 2665 to this coal conversion legislation, but I withheld the amendment to allow time for the Senate Energy Committee to consider S. 2665 in markup. The committee has concluded hearings on this legislation and the bill will be marked up by the committee soon.

The coal slurry legislation will be brought before the Senate on another date during this session.

● Mr. BAYH. Mr. President, during my service in the Senate I have been a strong advocate of developing our huge domestic coal reserves, including those in my home State of Indiana. Coal, alcohol—or gasohol—and conservation are America's chief allies in the battle to free our energy future from continued disastrous and intolerable dependence on foreign petroleum. Balancing the goals of increased use of coal, environmental quality and public health is an extremely difficult task, but one which must be undertaken so that this Nation can progress to a state of energy independence.

Mr. President, today we consider S. 2470, the Powerplant Fuels Conservation

Act of 1980. This legislation is a key building block in forging an effective energy policy for our Nation, the bedrock of which must be to reduce our dependence on foreign oil. It strikes that difficult balance between increased utilization of our enormous coal reserves and adequate public health protection. For too long we have talked of America's need to free our energy future from dependence on imported petroleum and the exploitive pricing practices of the OPEC nations. Now is the time to act. We must go beyond our past efforts, such as the 1978 Powerplant and Industrial Fuel Use Act, and set a firm and attainable course of replacing imported oil with our domestic coal supplies.

The fact is we do not have an energy shortage, Mr. President. We have a liquid energy shortage. We have close to 400 or more years worth of coal. The opportunity to displace 500,000 barrels of oil per day by 1985, cannot and must not be foregone. The electric utility industry is the sector of the economy which can make the greatest near-term savings of oil by converting existing facilities off oil, which is scarce and expensive, on to coal.

In my own State of Indiana we rely on coal for 98 percent of our electric generation and we know what an important resource coal is. Until coal-capable utilities, which lack our experience with the fuel, are prohibited by statute from continued use of oil, and provided economic incentives to convert, America's expectations of a shift to domestic fuels will remain unfulfilled. The progress to date in our national program to shift the demand from scarce, costly and imported petroleum to plentiful coal has been thwarted by regulatory and financial impediments which must be removed. We must act forcefully to accelerate the greater use of coal and alternative fuels.

Consumers will benefit from the enactment of this legislation due to reduced fuel costs after conversion. Thousands of unemployed coal miners will benefit as the demand for coal rises and we begin to use our excess capacity for coal production. The Nation will benefit as the stranglehold of the major, integrated oil companies and the OPEC nations on our foreign policy, economy and energy future is loosened.

National security and economic problems directly traceable to our dependence on oil must be dealt with by decisive action to prohibit the future use of foreign oil by electric utilities. As the President's Commission on Coal reported on March 3, 1980:

> The Nation has coal in abundance beneath its soil, and it has an industry in place and the resource of people needed and ready to mine that coal. . . . This coal can be burned in compliance with the Clean Air Act at less cost than imported oil.

Coal is not a panacea to our national energy problem, but coal can and must make a significant contribution toward our objective of reducing our dependence on imported oil. Coal can provide near-term as well as long-term gains in reducing our energy dependence. Our failure to seize this opportunity would undoubtedly result in an even greater dependence on foreign oil as our needs for electricity grow.

This bill provides a one-phase program mandating the conversion of 80 named powerplants considered to be "coal-capable" from oil to coal. To help the utilities pay the capital costs of making the switch, the bill authorizes $3.6 billion in grants and loans and another $600 million to control increased air pollution. This is a modification of the original version of this legislation which I cosponsored.

Mr. President, I note that the Senate Energy Committee deleted phase 2 of the original bill, a $6 billion program of grants to fund conservation plans, load management and other measures to make additional savings in the use of oil by electric utilities, because of the financial constraints of the times and so that the proposal could undergo further study. Mr. President, if we are to make significant gains for the utilization of high sulfur Midwestern coal a program like phase 2 of S. 2470 in an absolute necessity. This would provide financial assistance for retrofitting utilities not currently coal capable, but able to be modified to switch off and to coal. This is a pressing national priority. I urge the Senate Energy Committee to move on this portion of the legislation as well.

Mr. President, I believe that the committee should have followed the suggestion of our able colleague from Kentucky, Senator HUDDLESTON, and inserted a requirement that those facilities receiving assistance under this legislation be required to burn American coal and use American equipment in the conversion of facilities. Such a requirement would assure us that utilities receiving Federal help would not displace domestic coal supplies with imports from Poland or South Africa and would aid our domestic equipment suppliers at a time when we are suffering serious economic dislocation. Such a provision would not be contrary to the international obligations the United States has undertaken with adherence to the International Governmental Procurement Code because the Department of Energy is specifically excluded from that agreement.

Mr. President, I want to compliment several of my Coal Caucus colleagues for their persistent efforts to get a coal conversion program underway. Senators BYRD, RANDOLPH, HUDDLESTON, FORD, and PERCY have made significant contributions to the Nation by their steady determination to develop an effective coal-conversion proposal. It has been an honor to be associated with them in these efforts. I urge the Senate to adopt S. 2470.●

COAL-OIL MIXTURES

Mr. METZENBAUM. I would like clarification regarding the meaning of "alternative oil reduction strategy" which appears on page 55 and page 69 of this bill. It is my understanding that coal-oil mixtures are intended to be included within the meaning of "alternative oil reduction strategy" and as such, a plan to convert a utility from oil to a coal-oil mixture could qualify an eligible utility for financial assistance pursuant to section 603.

Mr. JOHNSTON. The Senator is correct in his understanding of the meaning of alternative oil reduction strategy. It is intended to encompass a variety of alternatives which most certainly includes coal-oil mixtures.

THE COAL SLURRY ISSUE

● Mr. McGOVERN. Mr. President, during today's consideration of the Powerplant Fuels Conservation Act, an amendment providing for coal slurry pipeline development was supposed to be offered. Its sponsors decided against bringing it to the floor.

However, coal slurry legislation is still pending in the Senate Energy Committee and may be reported shortly. Because of the serious problems associated with coal slurry development, I ask that the text of my remarks on the proposed amendment be printed in the RECORD.

The remarks follow:

STATEMENT OF SENATOR McGOVERN

I must oppose Senator Bumpers' amendment granting the power of eminent domain for coal slurry pipeline development.

I am sure that many of my colleagues and I share the Senator from Arkansas' concern about the need to dramatically increase our nation's utilization of coal. The purpose of the Powerplant Fuels Conservation Act that we are considering today is a positive step toward converting our utilities away from expensive and scarce oil and gas to burn domestic coal reserves. I applaud the Senator's objectives—however, I am firmly convinced that they cannot be achieved through the proposed amendment.

Over the past eight years Congress has considered the issue of coal slurry pipelines and eminent domain on a number of occasions. Each time, serious questions have been raised regarding the impact of coal slurry lines on both eastern and western water resources, the anti-trust implications of coal slurry development, the economic feasibility of line construction, environmental hazards, as well as the impact of slurry pipelines on the rail industry. None of these questions have been adequately resolved.

Senate consideration of coal slurry legislation at this time is no exception. In addition to lengthy hearings recently conducted by the Senate Energy Committee, the Senate Commerce Committee has requested and received sequential review of the bill, and has scheduled hearings in the near future. It is my understanding that the Senate Judiciary Committee is also examining the proposed legislation with regard to possible anti-trust problems.

Given the concern of these Committees and the fact that the bill has not been marked up by the Senate Energy Committee, I firmly believe that full Senate consideration of the amendment is inappropriate at this time.

In addition to the issue of pending Committee action on coal slurry legislation, it is critical to note that the water consumptive nature of coal slurry pipelines presents tremendous problems for those states whose water will be consumed to transport the coal. For many of us, particularly in the West, water is the essential ingredient for any kind of economic development and growth.

A thirty-eight inch coal slurry pipeline can transport twenty-five million tons of coal a year, but it may also require twenty-five million tons of water to do the job. The majority of coal slurry pipelines that have been proposed to date would slurry scarce western water resources to the southeastern United States. Eastern slurry lines would utilize water from the Ohio River where existing water flows are already a subject of concern.

The issue of water use in slurry pipelines has been further complicated by national energy policy strategies favoring the development of synthetic fuel facilities, which are also water consumptive. Although several recent studies have indicated that sufficient water may be available for any one of these technologies, no one has adequately addressed the issue of how to resolve competing water needs among these various energy technologies and existing domestic and agricultural uses.

In point of fact, Department of Energy Assistant Secretary Ruth Clusen recently testified before a hearing I chaired that, "It is premature to predict the availability of groundwater supplies for energy development."

During House consideration of coal slurry legislation, considerable effort has been given to protect states against undue drawdowns of their water resources for slurry pipeline use. The House Public Works Committee recently adopted an amendment to their slurry legislation requiring that each state with a legal interest in the water to be used issue their written consent before a construction permit may be issued.

However, such protective provisions may prove futile based on existing case law and the Commerce clause of the Constitution. Many of my collegaues and I believe that once the power of Federal eminent domain is given to facilitate the building of slurry pipeline, that states will have lost the effective control over the allocation of their water.

Prior decisions have made it amply clear that the provisions which recognize state water law can be easily ignored by the courts. In *First Iowa Hydroelectric Cooperative* v. *Federal Power Commission* and again in *State of Arizona* v. *State of California* the Supreme Court affirmed the provisions of Federal law granting water rights superseded the conflicting requirements of state law. The Court so held despite clear statutory language which would have required the Federal government to comply with applicable state law.

Given these problematic legal precedents, it has been impossible to devise language to adequately protect state water rights.

Yet the potential water impact for many states, particularly in the West is well known. Independent studies by hydrologists have confirmed that the amount of water drawn from certain aquifers will adversely affect water supplies in adjacent states. Serious and unanswered questions have been raised regarding the ability of these aquifers to replenish themselves.

This is the centerpiece of the coal slurry issue as it affects my State of South Dakota and neighboring States which depend on the Madison aquifier for domestic and agricultural water supplies. The proposed ESTI coal slurry line which would transport coal from Gillette, Wyoming to Arkansas, would consume nearly 30 million tons of water annually from the Madison formation. If South Dakota cannot protect its water resources and the drawdown permanently affects the water levels, scores of communities and hundreds of farms will be devastated.

I am deeply concerned that once the power of Federal eminent domain is given to facilitate the building of slurry pipelines, that states will have lost effective control over the allocation of their water.

In reviewing the history of our nation, and the history of the western United States in particular, the most bitter fights have been and will continue to be over water and who is going to control it. Many of our states are already deeply involved in serious controversies regarding both surface and underground water resources. It is my fervent belief that those individual states—and not the Secretary of Interior or the Supreme Court—should decide the water use and control issue.

I would like to take this opportunity to point out that no one has yet documented the need for coal slurry pipelines. Some proponents argue that it is impossible for railroads and barges to physically handle the demand for coal.

If that is the case then how do they account for the fact that N&W Railroad has just announced layoffs in excess of 1,000 employees because coal demand has become soft? The Burlington Northern Railroad, a major coal hauling carrier, has also laid off employees because of soft coal demand—and in fact has locomotive power laying idle.

The railroads have made tremendous investments in their physical plant to accommodate the projected demand for coal. That demand has never materialized. In fact the Department of Energy has just released new projections for coal development over the next decade which represents a 42 per cent decline over projections issued a year ago.

Consequently, the railroads today are prepared to haul millions of tons of coal that has never materialized. It is my sincere hope that the Powerplant Fuels Conservation Act will remedy this dilemma by providing a market for coal.

As Senator Ford, the sponsor of this bill, said during Senate Energy Committee hearings on coal slurry:

"Is there a real need for pipelines? All coal can be shipped by train or water or a combination of modes. Our problem is not getting coal to market, our problem is getting a market for our coal."

The sponsors of this amendment have often stated their belief that the introduction of coal slurry lines will benefit utility customers through lower electricity rates.

There is little documentation available however, to support claims that coal slurry will ultimately be cheaper than coal transported by rail.

Because slurry pipelines of the lengths presently proposed represent an unproven technology, there exists little basis for the development of accurate cost estimates. It is my understanding that most of the slurry lines that have been proposed to date would be constructed using take or pay contracts, meaning that the utility and ultimately the customers served by the pipeline would be responsible for all costs incurred whether or not the line was constructed in a timely fashion or was able to deliver all of the coal required.

Proponents of slurry pipelines have argued that take or pay contracts are widely used in the oil and gas industry to finance oil and gas pipelines. We must be mindful, however, that oil and gas pipeline branching is a proven technology which appears to have only occasional breakdowns (witness the recent pipeline break and resulting pollution in Virginia)—as opposed to slurry lines which would transport solids suspended in liquids. This technology is unproven and costly at best.

Of even greater concern is the fact that the utility customer would ultimately pay for any of the cost overruns or delays during contruction or delivery. Unlike the railroads whose rates are set by the Interstate Commerce Commission and state public service commissions, price contracts established between slurry pipelines and utilities would not be subject to regulation by state public service commissions.

Therefore, the charges of economic feasibility as well as the consumer benefits of coal slurry often made by pipeline proponents seem largely based on wishful thinking.

I share the sponsors' concerns that our nation's electric consumers must have adequate protection against excessive coal rates. Railroad coal rates to my way of thinking, should be examined on a case by case basis by the Interstate Commerce Commission. In point of fact, the ICC is presently taking a hard look at a number of coal rates, and have found several—especially those charged by the Burlington Northern—to be excessive. The Commission has since ordered rollbacks on a number of these rates. The Commission's use of its persent authority has been very effective in assuring that rates do not become excessive while allowing the railroads to cover their costs associated with the coal movement.

In order to assure continued protection of captive coal shippers, the Cannon-Long Compromise contained in the Railroad Policy Act of 1980 establishes a presumptive rate cap to protect against excessive rates in the event that rail deregulation is adopted by the Congress.

I urge my colleagues to vote against this amendment.

When a similar slurry pipeline amendment was considered in the Senate several weeks ago, its sponsors argued that the development of slurry pipelines is critical to assuring adequate competition for the transportation of coal, and that such competition would result in reduced coal transportation rates.

I am deeply concerned about the allegations that the rail industry as a whole earns sufficient profit from coal rates, that significant reductions in the rate as a result of slurry lines, will not harm the industry's marginal financial health.

As we all know, the Milwaukee Railroad, a coal hauling carrier is presently in bankruptcy proceedings. Its first plan of bankruptcy reorganization has been rejected by the Interstate Commerce Commission and there is little assurance that any revised plan will meet with speedy approval by the Commission or bankruptcy court.

The Milwaukee transcontinental mainline, from Minneapolis to the West Coast has provided essential service to both agricultural and coal shippers. In the Pacific Northwest it is the only competitor to the Burlington Northern Railroad, while in my state of South Dakota it provides our only mainline rail service. The line segment between Montana and Minneapolis is particularly important because the Milwaukee hauls coal to the Big Stone Power Plant which serves over 200,000 customers across a multi-state region.

During scores of Interstate Commerce Commission, bankruptcy court, and Congressional hearings on the Milwaukee's decline, bankruptcy and reorganization substantial evidence has been presented indicating that the Milwaukee's decline resulted, in part, from a "price to die" philosophy. The railroad would offer extremely low rates in order to attract additional traffic, hoping that they would attain a sufficient traffic volume to compensate for the rate.

Because many of the rates they offered were substantially below the cost of the movement, maintenance of the physical plant was deferred and capital improvements were delayed, thus heavily contributing to their eventual bankruptcy.

This was particularly true for coal rates quoted to the Big Stone Power Plant on the Milwaukee mainline in 1974. Today, these rates have only been slightly increased to $3.20 per net ton for a comparatively short haul. Analyses conducted by the Milwaukee bankruptcy trustee and the Federal Railroad Administration show that the rate is completely inadequate to cover not only the cost of the movement, but normalized maintenance and equipment improvements as well. At this time, more than 70 miles of this segment is under 10 miles per hour slow orders, resulting in inefficient coal movements and frequent derailments.

Although some railroads may be charging rates which are substantially higher than those received by the Milwaukee, I believe it is important to acknowledge that (1) not all coal rates are "excessive" (2) coal hauling costs vary for each railroad and (3) most importantly, any effort to introduce slurry pipelines as a means of reducing rail coal rates may well cause other carriers to experience a financial situation not unlike that of the Milwaukee.●

● Mr. LEVIN. Mr. President, I would like to address briefly one possible side-effect of this legislation which is of particular concern to Midwestern States. That is the deleterious impact it may have on the independent fuel oil marketing structure in our region of the country.

This bill is evidence of our commitment to reduce oil consumption in all sectors of the economy, and of all petroleum products. In the process, however, we may affect more or less dramatically consumption of different petroleum products, creating hardships in certain sectors of the economy.

The Midwest fuel oil market is already facing difficulties due to depressed demand for residual fuel oil. Refiners in the Midwest have by and large reduced their residual fuel production to the lowest possible levels, and are still unable to move the product. Because the costs of transporting residual fuel oil are prohibitive, it must be absorbed within the region in which it is produced, but the market in the Midwest cannot absorb what is currently being produced.

As this bill takes effect, utilities will gradually convert from oil to coal, and the demand for residual fuel oil will diminish further. This is an inevitable and desirable result of our efforts to reduce petroleum consumption. However, given the current depressed state of the fuel oil market, it could threaten the existence of an independent marketing structure, and could pose serious financial problems for refiners in the Midwest who are unable to move the residual oil they are producing.

The fuel oil marketing network has provided a cushion for industries who primarily rely on natural gas, during periods of supply disruption and curtailment. While gas supplies are more plentiful today than they were several years ago, it is still important that fuel oil marketers provide a safeguard against the economic harm which would ensue if natural gas supplies do run short in the future.

Independent marketers are prepared for a gradual phase-down in demand for their product as this bill and other oil conversion programs take effect. If, however, we want to maintain an independent marketing network, then we must continue to monitor fuel oil supply and demand patterns on a regional basis, and adapt our policies to respond to them. I would urge the Department of Energy to give careful attention to this problem, and will take whatever steps are necessary to protect the independent fuel oil marketing structure, so that it can continue to play its historic role of providing a secure, reliable industry energy supply.

Mr. JOHNSTON. Mr. President, I agree with the Senator from Michigan that a real problem is going to exist in the fuel oil marketing structure and that the Department of Energy should pay careful attention to it. I have already corresponded with the Secretary on this subject. We will have to address the problem next year when we consider refinery policy legislation. I share the Senator's concerns and look forward to working with him on the issue.●

COAL SLURRY: FRAUGHT WITH UNCERTAINTIES

● Mr. BAUCUS. Mr. President, I would like to share with my colleagues some comments I have on coal slurry legislation.

The coal slurry legislation currently pending in the Senate is fraught with uncertainties.

Proponents of Federal powers to assist slurries contend that coal slurry lines are more economical than railroads. Yet, their contention remains just that—a contention. The proponents have not provided any concrete evidence to support their claims of economic efficiency. Indeed, the one reputable study conducted to date—that of the Office of Technology Assessment issued in 1978—suggest the contrary. The OTA report concludes that comparable rail operations use 35 percent less energy than coal pipelines, that the costs of transporting coal by rail and pipeline are nearly equal only when conditions extremely favorable to pipelines—such as operation at full capacity, large tonnages, and very long distances—are assumed.

The legal effects of granting eminent domain to coal slurry interests are equally unknown. Eminent domain legislation could irrevocably alter the balance of Federal and State authority over water resources. To divert water for slurry pipelines now would severely limit the options for future uses of water. Unless the intent of this legislation is to alter Federal and State authority over water, unless the intent is to indirectly establish a legal claim on water by coal slurry pipelines, we should exercise great care before enacting this amendment. Until then, developers of coal slurry pipelines should look to the States for eminent domain authority.

Water is a key issue and its availability a major unknown. In the arid States of the West, water is more precious than gold. The economic foundation of the West—its agricultural and timber industries, its natural resources and recreation areas—depends upon a stable and reliable supply of water. And, as we in the West know all too well, that water supply is not always stable or reliable.

If we know anything about coal slurry pipelines, however, we know that they are a water-intensive means of transporting coal. Coal slurry pipelines require millions of tons of water to transport millions of tons of coal—one ton of water for every ton of coal according to the OTA study.

What we do not know are the secondary and cumulative impacts on water availability of slurry pipelines. The use of surface water and the disruption of underground aquifers may have detrimental impacts far beyond the geographic area affected by the pipeline. Today, this surface and subsurface water fulfills only the basic water requirements—and often these basic needs are ravaged by drought—of thousands of communities and farmers throughout the country. To impose coal slurry pipelines upon the fragile environment of the West could inadvertently make parts of the West an uninhabitable desert—devoid of the water necessary to sustain people, agriculture, and energy development.

There are many other unknowns as well. There are social implications, employment implications, and serious environmental impacts centering around this amendment.

The uncertainties that surround slurry pipelines demand that we withhold the granting of Federal eminent domain power. We ought to and must keep our options open. The decisions that are made should not be the sort that if they are made today would irrevocably commit our resources to one use or another. To pass this amendment would be to limit our choices severely—we will have handicapped ourselves without having thoroughly addressed the vast unknowns that charecterize this legislation.●

Mr. METZENBAUM. Mr. President, I rise to congratulate Senators BYRD, JOHNSTON, FORD, and other Coal Caucus members for their efforts that have resulted in the passage of this bill.

I am proud to have cosponsored this bill and to have been so closely involved in its passage. As my colleagues know, I have consistently supported efforts to utilize coal. I strongly supported the coal conversion efforts contained in the national energy plan of 1977 and have prodded the administration time and again to make coal conversion a reality.

My original concern with this legislation was that, although it helped coal, it did not address itself to the particular circumstances in my State.

I am pleased that in the Energy Committee I was able to add an additional $200 million which will help to make Ohio coal more marketable by enabling more plants to scrub and wash coal.

S. 2470 represents a significant step forward toward the goal of using our abundant coal resources to reduce our dependence on foreign oil and, in the process, sending back to their jobs the 20,000 coal miners currently out of work. These men and women are no less a resource than the coal they mine. Under the present circumstances they are a wasted resource. So, I offer my congratulations on behalf of our miners, many of whom are Ohioans.

It is my hope that this step is one of many in a process that will see a healthy coal industry in this country, one that is making the contribution to our energy needs that it is eager to make.

CRITERIA FOR OBTAINING SUPPLEMENTAL FINANCIAL ASSISTANCE

Mr. MOYNIHAN. I rise to clarify a matter concerning the showing of financial need a utility must make to obtain supplemental funding assistance for conversion to coal. (§ 603(g), p. 55 at lines 22ff). In particular, I am concerned that the rates charged by a utility be a factor in determining supplemental financing assistance.

As I understand the committee's proposal to obtain supplemental funding, a utility must show that—

> The conversion cannot be expected to be accomplished without imposing unreasonable and uneconomic burdens upon the ratepayers of the utility, (endanger) the financial integrity of the utility, or substantially (inhibit) its ability to raise capital, to finance such conversion and other planned construction and maintenance projects, particularly other planned oil reduction measures, or unreasonably (distort) the schedule or effectiveness of other current or planned capital investments necessary to the utility's accomplishment of its utility responsibilities.

Am I correct in assuming that the committee intends that the Secretary in making his assessment of need will consider among other factors the rates charged by the electric utility relative to rates charged by other electric utilities, assessing a greater need for assistance for aid where the ratepayers are already bearing the burden of high rates? And am I correct that the Secretary will also assess the utility's debt-equity ratio, its market to book ratio, its bond ratings, its interest coverage ratio, its dividend policy and its rate of return on investment?

I am very concerned about assuring adequate financial assistance to those utilities whose customers must bear the burden of high rates because of the high cost of imported oil which their utilities must burn and the nature of their companies' service territories. The true beneficiaries of this legislation are not the utilities or their stockholders, but the ratepayers. It would be unfair to deny these ratepayers with high rates assistance because their utilities might have some otherwise greater financial capability while assisting those other ratepayers who pay lower rates to utilities whose need for financial assistance is in part a result of such lower rates.

Mr. McCLURE. Yes. It is the intention of the committee that the Secretary would consider a utility's rates in relation to other utilities' rates in determining the need for supplemental financial aid.

PROVISIONS FOR REPAYABLE LOANS

Mr. MOYNIHAN. I would like to ask for clarification concerning section 603 (g) and 603(i), which provides loans to utilities to assist in financing conversion. I have been told that the Energy Committee heard testimony indicating that, because of the distressed financial conditions of many phase I companies, conventional loans would be of little assistance in helping to finance conversions. This problem arises in large part because of the bond indenture restrictions and capitalization requirements which govern utility financing. The effect of these restrictions in many cases is to prevent the utility from incurring any additional debt.

Under sections 603(g) and 603(i) of the bill a portion of the financing made available to assist in the conversions is to be in the form of repayable loans. I wholeheartedly endorse a requirement for repayment of a portion of the funds advanced by DOE, in those instances in which conversion results in a reduction in costs. In addition, I assume that to the extent that utilities seek repayable loans in lieu of the supplemental grants provided for in section 603(g), the Secretary will apply a somewhat relaxed test of need since the Government ultimately will be repaid for the amounts it advances.

My question, however, is whether the repayable loans provided for under section 603 in fact will achieve their objective, in view of the financial limitations I have just mentioned.

Mr. McCLURE. In adopting section 603, the members of the committee recognized that conventional loans were unlikely to be of much assistance in helping to finance needed conversions. Our intention, therefore, was to provide a form of financial assistance which would overcome the limitations of conventional debt, even though the Federal Government ultimately would be repaid for the amounts it loaned to the utilities. To accomplish this objective, we have included a provision in the bill reported out of committee under which the exclusive source of funds for repaying the loan will be the special surcharge provided for under paragraph 603(i) (4). Under this provision, the utility's obligation with respect to the loan will be limited to collecting the amount of the surcharge and transmitting it to the Secretary. As long as the utility fulfills this obligation, there will be no further liability on the part of the utility with respect to the loan.

The committee has discussed this arrangement with several individuals who are knowledgeable concerning the special problems of utilities' financing. Based upon these conversations, it is our understanding that if the loans are structured in this manner, they will not be subject to the limitations of ordinary debt. The committee also expects that, in implementing the provisions of this section, the Secretary will make every effort to structure the loan in a manner which will maximize its usefulness in helping to finance conversions under phase I.

Mr. DURENBERGER. Mr. President, I rise today to argue against final passage of S. 2470, the Powerplant Fuels Conservation Act of 1980, in the form drafted by the committee.

Although I am concerned about the economic and financial implications of the coal conversion section of this bill, I am even more concerned about the "off-gas" provisions which would roll back current law designed to preserve this precious resource.

As to the coal conversion portions of the measure, I believe that a more careful consideration of the actual financial condition of the utilities might have produced a bill to encourage conversions at less cost to the Federal Government. Both EPA and DOE have offered testimony before committees of the Congress indicating that coal conversion is in the long run, and even today, cheaper than continued oil burning to generate electricity.

Although coal conversion is cheaper, the utilities currently burning oil have a hard time seeing that economic advantage for a variety of reasons that are primarily institutional. The utilities are allowed to pass the high cost of oil through to their consumers through automatic fuel adjustment clauses, but the costs of conversions—capital costs—could only be recovered through formal rate proceedings, the outcome of which is uncertain. Furthermore, the utilities have difficulty raising capital in today's market due to coverage problems on long-term debt and poor market-to-book ratios for stockholder equity.

S. 2470 seeks to solve these institutional problems by paying for a large part of the conversions with Federal funds. This no doubt will be a successful strategy to achieve an important goal—and, Mr. President, I do believe that ending the age when we burn oil to produce electricity is a most important goal. I simply think we could have accomplished the same end at a lesser cost by designing legislation that addressed the specific institutional problems, rather than provide a blanket of Federal funds to solve the problem.

But I would not vote against this legislation, if this were my only concern. It is time to take the steps necessary to end our dependence on foreign oil and this proposal is certainly more cost effective than other proposals—like President Carter's oil import fee—to achieve that important purpose.

The concern that causes me to oppose this legislation is the "off gas" provision which would extend the period of time that some utilities could burn gas to generate electricity.

In 1979, we used 1.55 million barrels of oil to generate electricity. Forty-four percent of that oil was imported. But 1.55 million barrels were only 8.4 percent of our total oil supply. We use nearly 18 percent of our natural gas to generate electricity. Although our oil is imported, our supply of natural gas is every bit as valuable and precious as a fuel resource. Congress recognized natural gas as a premium fuel in 1978, in the Powerplant and Industrial Fuel Use Act. This legislation sought to preserve our dwindling gas supply for high priority uses by prohibiting its use for electricity generation after 1990.

Since passage of the Fuel Use Act and the Natural Gas Policy Act, the availability has increased. In fact, we have used natural gas over the past year to meet some of the problems created by the oil shortage. But this is not a permanent condition. Chairman Curtis of the Federal Energy Regulatory Commission recognized the temporary character of the "gas bubble" in a letter which was included in the committee report accompanying this bill. Mr. Curtis said:

> My own view is that while the improvement is real, more basic supply indicators suggest that improvement may be only transitory . . . vagaries of oil and gas markets draw attention to short-term issues that can, but should not, divert our commitment to coal.

Senator Johnston has recognized that the amendment to the "off gas" provision of the FUA may discourage rapid coal conversion. In fact, he has proposed a floor amendment to this bill which would require reports to track the impact of the bill on rapid coal conversion of natural gas-fired powerplants. I do not want to read reports informing the Congress that this measure is preventing conservation of natural gas. I want to know that natural gas will not be used for electricity production after 1990, and thus, I am compelled to oppose this legislation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, a third reading.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BAKER. Mr. President, I suggest the absence of a quoroum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question recurs on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and was read the third time.

Mr. JOHNSTON. Mr. President, we have made some very good speeches from the time we started to consider this bill. I am sure all Senators heard them on the squawk boxes, so I will not repeat them. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy) and the Senator from Indiana (Mr. Bayh) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from South Dakota (Mr. Pressler), and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any Senators not yet recorded wishing now to vote?

The result was announced—yeas 86, nays 7, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—86

Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—7

Armstrong
Durenberger
Helms
Humphrey
Mitchell
Proxmire
Stafford

NOT VOTING—7

Bayh
Goldwater
Hatfield
Javits
Kennedy
Pressler
Schmitt

So the bill (S. 2470), as amended, was passed, as follows:

S. 2470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Powerplant Fuels Conservation Act of 1980".

Sec. 2. Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting new subsection (d), to take effect upon date of enactment of this Act, as follows:

"(d) Prohibition Applicable to Listed Powerplants.—(1) Except to such extent as exemptions under subtitle B may be granted, petroleum or natural gas shall not be used as a primary energy source in any of the electric powerplants identified on the following list:

LIST FOR GENERAL PROHIBITION

Company	Facility	Boiler unit	State
Atlantic City Electric Co	Deepwater	7, 8, 9	New Jersey.
Baltimore Gas & Electric Co	Brandon Shores	1, 2	Maryland.
	C. P. Crane	1, 2	Do.
	H. A. Wagner	1, 2	Do.
Boston Edison Co	Mystic	4, 5, 6	Massachusetts.
Central Hudson Gas & Electric Corp	Danskammer	3, 4	New York.
Central Maine Power Co	Mason	3, 4, 5	Maine.
Commonwealth Edison Co	Collins	4, 5	Illinois.
Consolidated Edison Co. of New York, Inc	Arthur Kill	2, 3	New York.
	Ravenswood	3	Do.
Delmarva Power & Light Co	Edge Moor	1, 2, 3, 4	Delaware.
Detroit Edison Co	River Rouge	1	Michigan.
	St. Clair	5	Do.
General Public Utilities Service Corp.: Jersey Central Power & Light Co.	Sayreville	4, 5	New Jersey.
Long Island Lighting Co	E. F. Barrett	1, 2	New York.
	Port Jefferson	3, 4	Do.
New England Electric System: New England Power Co.	Brayton Point	1, 2, 3	Massachusetts.
	Salem Harbor	1, 2, 3	Do.
New England Gas & Electric Association: Canal Electric Co.	Canal	1	Do.
New England Gas & Electric Association: Narragansett Electric Co.	South Street	12	Rhode Island.
Niagara Mohawk Power Corp	Albany	1, 2, 3, 4	New York.
Northeast Utilities: Connecticut Light & Power Co.	Devon	7, 8	Connecticut.
	Norwalk Harbor	1, 2	Do.
Northeast Utilities: Holyoke Water Power Co.	Mount Tom	1	Massachusetts.
Northeast Utilities: Western Massachusetts Electric Co.	West Springfield	1, 2, 3	Do.
Orange & Rockland Utilities, Inc	Lovett	4, 5	New York.
Philadelphia Electric Co	Cromby	2	Pennsylvania.
Public Service Co. of New Hampshire	Schiller	4, 5, 6	New Hampshire.
Public Service Electric & Gas Co	Bergen	1, 2	New Jersey.
	Burlington	7	Do.
	Hudson	1	Do.
Savannah Electric & Power Co	Effingham Station	1	Georgia.
Tampa Electric Co	F. J. Gannon	1, 2, 3, 4	Florida.
United Illuminating Co	Bridgeport Harbor	3	Connecticut.
Virginia Electric & Power Co	Chesterfield	3, 4, 5, 6	Virginia.
	Portsmouth	3, 4	Do.
	Possum Point	3, 4	Do.
	Yorktown	1, 2	Do.

"(2)(A) The prohibition for each such powerplant shall be subject to a temporary stay until—

"(i) the Secretary awards financial assistance to the affected eligible utility for the purpose of assisting such utility in meeting the qualifying capital costs of converting the specified powerplant and the utility has implemented an approved conversion plan; or

"(ii) until a final order has been issued granting the affected petitioner's petition for an exemption.

"(B) In cases where the petition for an exemption is denied, the temporary stay shall continue in effect until the unsuccessful petitioner has implemented an approved conversion plan for converting the specified powerplant.

"(3) The Secretary shall notify the affected utility of the existence and effect of this prohibition for each such powerplant within 30 days of the date of enactment of this subsection. Such notification shall be made pursuant to subsection 701(b).

"(A) Within 90 days of receipt of such notice, each affected utility shall notify the Secretary whether it is in compliance with such notice and whether it intends—

"(i) to submit a financial assistance application and proposed conversion plan pursuant to section 603; or

"(ii) to submit a petition for an exemption pursuant to subtitle B.

"(B) If a utility fails to comply with the notification requirements pursuant to subparagraph (A) above for any powerplant—

"(i) such utility shall not be eligible to receive financial assistance, and

"(ii) the temporary stay provided by paragraph 301(d)(2) shall be terminated,

unless the Secretary determines there is good cause for such failure to notify.".

SPECIAL EXEMPTIONS FROM SECTION 301(d) PROHIBITIONS

SEC. 3. Title III, Subtitle B, of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting a new section 315 as follows:

"SEC. 315. SPECIAL EXEMPTIONS FROM SECTION 301(d) PROHIBITIONS.

"(a) PERMANENT EXEMPTION FOR LACK OF FINANCIAL FEASIBILITY.—

"(1) After consideration of a petition (and comments thereon) for an exemption for one or more powerplants from the prohibition contained in subsection 301(d) of this Act, the Secretary shall, by order, grant a permanent exemption for one or more powerplants under this subsection if he finds that the petitioner has demonstrated that despite diligent good faith efforts to secure conversion financing and taking into account any financial assistance which may be available under section 603 of this Act, it is not feasible for the petitioner to finance the conversion.

"(2) In making his determination the Secretary shall take into account—

"(A) the capital and operating costs of the conversion;

"(B) whether the cost of the conversion will have an adverse effect upon the petitioner's ability to secure financing for other current or planned construction or conversion projects, especially if such projects shall result in a reduction in oil use;

"(C) the rate treatment requested by the petitioner from the appropriate regulatory body, and the rate treatment granted;

"(D) other pertinent factors used in financial and investment analyses affecting the utility's present and projected financial situation including but not limited to—

"(i) the rates charged by the electric utility relative to rates charged by other electric utilities;

"(ii) its debt/equity ratio;

"(iii) the market to book ratio of its stock;

"(iv) its bond rating;

"(v) its interest coverage ratio;

"(vi) its permitted and existing dividend policies; and

"(vii) its rate of return on investment; and

"(E) if available, the views of the petitioner's Federal and State regulatory authorities whether the petition should be granted or denied.

"(3) The requirements of section 313 shall not apply to petitions for an exemption pursuant to this subsection.

"(b) PERMANENT EXEMPTION FOR LACK OF TECHNICAL CAPABILITY.—After consideration of a petition (and comments thereon) for an exemption for a powerplant from the prohibition contained in subsection 301(d) of this Act, the Secretary shall, by order, grant a permanent exemption under this subsection if he finds that the petitioner has demonstrated that—

"(1) such powerplant does not have, or has not previously had, the technical capability to use coal or another alternate fuel as a primary energy source; or

"(2) such powerplant does not have the technical capability to use coal or another alternate fuel as a primary energy source, or it could not have such capability without—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant.".

FINANCIAL ASSISTANCE

SEC. 4. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by adding new section 603 thereto, as follows:

"SEC. 603. FINANCIAL ASSISTANCE TO ASSIST CERTAIN POWERPLANTS IN ACHIEVING COMPLIANCE.

"(a) FINANCIAL ASSISTANCE AUTHORITY.—The Secretary shall, in accordance with the provisions of this section and to the extent provided in appropriation Acts, make grants, and may make additional grants and loans, or combinations thereof, which shall not be considered as income for purposes of Federal income taxes, to any eligible utility under this section, based on an approved financial assistance application and proposed conversion plan, for the purpose of assisting such utility in meeting qualifying capital costs of converting existing electric powerplants subject to the prohibitions of section 301(d) to the use of coal or another alternate fuel as a primary energy source.

"(b) ELIGIBILITY.—Only utilities that own or operate electric powerplants subject to the prohibitions of section 301(d) of this Act, and which have—

"(1) notified the Secretary of their compliance or their intent pursuant to section 301(d)(3) to achieve compliance with such prohibitions by converting such powerplants to the use of coal or another alternate fuel as a primary energy source; or

"(2) in those instances where the petitioner has been granted an exemption pursuant to subsection 311 (a) or (g), or 312 (a), (b), or (e), or 315

shall be eligible to apply for funding under this section.

"(c) QUALIFYING CAPITAL COSTS.—For purposes of this section, the term—

"(1) 'qualifying capital costs' means capital costs incurred by an eligible utility after November 9, 1978, or, for purposes of subsection (g) of this section, after the date of enactment of this section, in converting any electric powerplant subject to the prohibitions of section 301(d) of this Act to the use of coal or another alternate fuel, including modifications to the powerplant, onsite fuel transportation facilities, onsite fuel storage, and onsite fuel handling equipment, and onsite capital costs required to comply with air pollution control and other applicable environmental requirements directly related to the conversion. 'Qualifying capital costs' shall not include operating, maintenance, and fuel costs.

"(2) 'onsite' means on the existing site of the powerplant or on any new property in the immediate vicinity which must be added to such site to accommodate the conversion.

"(d) FINANCIAL ASSISTANCE APPLICATION.—

"(1) SUBMISSION AND CONTENT.—No later than 360 days after enactment of this Act, any eligible utility seeking financial assistance shall submit to the Secretary, and shall transmit to the Governor of the State in which the affected powerplant is located, a financial assistance application and proposed conversion plan or an alternative oil reduction strategy, which shall include—

"(A) engineering design and capital cost estimates to accomplish facility conversion to the use of coal or another alternate fuel;

"(B) an evaluation of environmental impacts resulting from conversion and operation of the subject powerplant using coal or another alternate fuel, including—

"(i) options available to the applicant utility for minimizing any such impacts; and

"(ii) actions which will be taken by the applicant utility to minimize any such impacts;

"(C) a demonstration that the proposed conversion plan constitutes a prudent and cost-effective means to achieve conversion of the powerplant to the use of coal or another alternate fuel;

"(D) sources of and transportation plans for coal or other alternate fuel used or to be used in the converting facility; and

"(E) a schedule indicating how and when compliance with the applicable prohibition will occur.

"(2) SUPPLEMENTAL ASSISTANCE INFORMATION.—If an eligible utility seeks supplemental funding assistance based upon financial need pursuant to subsection (g) of this section, its application, in addition to the material set forth above, shall contain a showing of financial need which shall include—

"(A) an analysis of the financial circumstances of the utility adequate to demonstrate that, taking into account all other financial burdens upon the utility, the reasonable expectations for financing of the conversion, and the financial assistance otherwise available under the provisions of this Act, unless supplemental funding assistance is provided, the conversion cannot be expected to be accomplished without imposing unreasonable and uneconomic burdens upon the ratepayers of the utility, endangering the financial integrity of the utility, or substantially inhibiting its ability to raise capital to finance such conversions and other planned construction and maintenance projects, particularly other planned oil reduction measures, or unreasonably distorting the schedule or effectiveness of other current or planned capital investments necessary to the utility's accomplishment of its utility responsibilities;

"(B) a statement of the supplemental funding in the form of loans and grants pursuant to this Act which the utility believes to be necessary for its accomplishment of the conversion; and

"(C) such supporting documents as the utility believes necessary to confirm the analysis set forth in the application.

"(3) EXTENSION OF TIME.—The Secretary may extend the deadlines for submission of a financial assistance application and proposed conversion plan or alternative oil reduction strategy, set forth in paragraph (1) of this section.

"(4) VERIFICATION.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates and other information submitted in financial assistance applications under this section. In consideration of an application for supplemental funding pursuant to paragraph (2) of this subsection, the Secretary may request such supporting information as may be required to verify the showing but only to the extent that the information requested could otherwise be available to him under provisions of law existing upon the date of enactment of this section.

"(5) COMMENT.—The Secretary shall provide an opportunity for comment by the Governor and the State regulatory authority of the State in which the subject facility is located, on any financial assistance application and proposed conversion plan or alternative oil reduction strategy submitted under this section.

"(6) CONSULTATION WITH OTHER AGENCIES.—A copy of any financial assistance application and proposed conversion plan or alternative oil reduction strategy submitted to the Secretary under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, the Secretary of the Department of Labor, and to such other interested Federal agencies as he may deem appropriate, and the Secretary shall, to the maximum extent practicable, consult with such agencies in approving or disapproving such applications. In considering an application for supplemental funding pursuant to paragraph (2) of this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

"(7) APPROVAL.—Within 180 days of their submission in accordance with the requirements of this section, the Secretary shall—

"(A) approve any financial assistance application and proposed conversion plan or alternative oil reduction strategy; or

"(B) shall state the reasons for his failure to approve such application and plan or strategy.

"(e) TERMS AND CONDITIONS.—The Secretary, in approving any financial assistance application and proposed conversion plan or alternative oil reduction strategy under this section, may impose such terms and conditions as he determines appropriate to implement the conversion plan or reduction strategy.

"(f) FUNDING.—In making grants pursuant to this section, except as provided in subsection (g), the Secretary shall provide funds to any eligible utility in an amount equal to 25 percent of such utility's qualifying capital costs, as defined in subsection (c) of this section.

"(g) SUPPLEMENTAL FUNDING ASSISTANCE.—In addition to any funding which is provided pursuant to the authority of subsection 603 (f), the Secretary, upon a showing of financial need pursuant to subsection 603(d)(2), is authorized to provide supplemental financial assistance to any eligible utility in additional amounts which may include—

"(1) loans in any amount not to exceed 50 percent of such utility's qualifying capital costs;

"(2) grants in an amount not to exceed 25 percent of such utility's qualifying capital costs; or

"(3) a combination of loans and grants of which the grant portion shall not exceed 25 percent and the total of loans and grants shall not exceed 50 percent of such utility's qualifying capital costs.

"(h) PAYMENT.—The Secretary shall not make payment of any loan or grant amount to any utility until such utility certifies that it has incurred a qualifying capital cost. At no time will the sum of payments to the utility exceed a proportion of the qualifying capital costs incurred which is equal to the proportion of the total loans and grants awarded to the total qualifying costs.

"(i) TERMS AND CONDITIONS OF LOANS.—Loans made pursuant to this section shall—

"(1) be repayable in equal annual amounts over a period of 10 years after the date such loan is made or the remaining useful life of the electric powerplant for which the loan is made, whichever is less;

"(2) bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yield of outstanding Treasury obligations of comparable maturity;

"(3) be made on the condition of payment to the Secretary of a loan fee of an amount necessary to defray administrative costs to the Secretary; and

"(4) be conditioned upon approval by the appropriate ratemaking authority of a repayment schedule or tariff, which shall provide the source of funds for the repayment of the loan from savings to consumers of electricity achieved by the conversion of such powerplant from the use of petroleum as a primary energy source to coal or another alternate fuel.

"(j) The methods for computing such savings shall be prescribed by the Secretary by rule and shall provide, at a minimum, for taking into account regional differences in the delivered cost of fuel to the powerplant, the incremental operation and maintenance costs of the powerplant after conversion, and the effect on costs of the relevant powerplant dispatching system, as well as other economic factors affecting the projected savings in costs from using such fuels.

"(k) Such rule shall also provide that in the event that the projected or actual fuel cost savings for any calendar year are less than the annual cash payments for that year the Secretary shall reduce or eliminate future annual cash payments to the extent necessary to assure that the total cash payments do not exceed total fuel savings after conversion over the useful life of the powerplant or 10 years, whichever is less.

"(l) The Secretary shall by rule prescribe the methods by which such adjustments in annual cash payment requirements will be made.

"(m) DEPOSIT OF RECEIPTS.—Amounts received by the Secretary as principal, interest, or fee payments or proceeds from security acquired following default of loans under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

"(n) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $3,600,000,000, which appropriation may be made available until expended.".

SEC. 5 Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 604 thereto, as follows:

"SEC. 604. GRANTS FOR DESIGN AND INSTALLATION OF ADVANCED SULFUR REMOVAL SYSTEMS FOR EXISTING POWERPLANTS.

"(a) GRANT AUTHORITY.—The Secretary may, in accordance with the provisions of this section, and to the extent provided in appropriation Acts, make grants, which shall not be considered as income for purposes of Federal income taxes, to any eligible utility under this section, based on an approved grant application, for the purpose of paying all or a portion of the capital costs of the design and installation of advanced sulfur removal systems for existing electric powerplants. For purposes of this section, 'advanced sulfur removal systems' include systems for wet and dry scrubbing of flue gases, chemical cleaning of coal, and advanced combustion techniques designed to reduce emissions.

"(b) ELIGIBILITY.—Eligibility to apply for any grant award under this section shall be limited to any electric utility seeking a grant to design and install an advanced sulfur removal system on an existing electric powerplant which is in compliance with all applicable air quality standards and requirements as of the date of enactment of this section, or was not in violation of any applicable air quality standards and requirements on January 1, 1980, as determined by the Administrator of the Environmental Protection Agency. Any utility receiving assistance under section 603 of this Act with respect to an electric powerplant, shall not be eligible for assistance under this section with respect to such powerplant.

"(c) GRANT APPLICATION.—

"(1) SUBMISSION AND CONTENT.—The Secretary shall competitively solicit grant applications, in such form and at such time as the Secretary provides, from any eligible utility seeking a grant under this section. Any such grant application shall include engineering and capital cost estimates for design and installation of the proposed sulfur removal system.

"(2) VERIFICATION.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates submitted in grant applications under this section.

"(3) ENVIRONMENTAL PROTECTION AGENCY RECOMMENDATION AND CERTIFICATION.—A copy of any grant application submitted under this section shall be transmitted by the Secretary to the Administrator of the Environmental Portection Agency, and the Secretary shall, to the maximum extent practicable, consult with that agency in approving or disapproving any such application. Within 120 days of receipt of an application from the Secretary, the Administrator of the Environmental Protection Agency shall (A) certify to the Secretary whether or not the powerplant covered by the application is in compliance, or was not out of compliance, with applicable air quality standards and requirements as required by subsection (b) of this section; and (B) provide the Secretary with a recommendation concerning approval of the application based on an evaluation of the criteria set forth in subsection (4) of this section.

(4) CRITERIA FOR APPROVAL.—The Secretary shall approve or disapprove grant applications pursuant to this section based upon his consideration of the recommendation of the administrator of the Environmental Protection Agency, provided under paragraph (3), and his evaluation of—

"(A) the significance of the reductions in sulfur emissions which would be achieved by December 31, 1985, by implementation of the proposed system relative to the costs of the system;

"(B) the extent to which implementation of the proposed system will offset any sulfur emissions resulting from powerplants converting to coal or another alternate fuel to comply with the prohibitions of section 301 (d) of this Act in any area likely to be impacted by such conversions;

"(C) the contributions of the proposed system to the advancement of technology for the reduction of sulfur emissions from electric powerplants;

"(D) the extent to which installation of the proposed system will result in the increased use of local and regional coal resources; and

"(E) the percentage of the total capital costs proposed to be covered by grant funds under this section.

"(d) TERMS AND CONDITIONS.—The Secretary in approving any grant application under this section may impose such terms and conditions as he determines appropriate to effectuate the purposes of this section. The Secretary shall provide as a condition to the award of any grant under this section that such grant shall be accounted for by the recipient utility as a reduction to the utility's ratebase associated with capital costs related to the design and installation of any advanced sulfur removal system for which the grant is approved.

"(e) TESTING. AND EVALUATION PROGRAMS.—The Secretary shall establish appropriate testing and evaluation programs to monitor the effectiveness of systems funded under this section in achieving emission reductions and the practicability of such systems for commercial applications.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but not to exceed $450,000,000 which appropriation may remain available until expended.".

SEC. 6. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 605 thereto, as follows:

"SEC. 605. GRANTS TO ACCELERATE CONSTRUCTION OF COAL PREPARATION FACILITIES CAPABLE OF REDUCING THE SULFUR CONTENT OF COAL.

"(a) GRANT AUTHORITY.—The Secretary shall, in accordance with the provisions of this section, make grants to any eligible person under this section, based on an approved grant application, for the purpose of paying a portion of the qualifying capital costs of the construction of coal preparation facilities, which will reduce the sulfur content of coal.

"(b) ELIGIBILITY.—Eligibility to apply for grant awards under this section shall be limited to persons that propose to construct coal preparation facilities which will reduce the sulfur content of coal.

"(c) QUALIFYING CAPITAL COSTS.—For purposes of this section 'qualifying capital costs' means capital costs associated with the construction of a coal preparation facility, including land; necessary water rights; onsite coal storage, handling and cleaning equipment; and coal loading and onsite transportation facilities. 'Qualifying capital costs' do not include operating or maintenance costs; coal storage and handling facilities associated with normal operation of a mine; costs associated with coal mining or offsite coal transportation facilities or equipment; or costs of any mineral rights.

"(d) Grant Application.—

"(1) Submission and content.—The Secretary shall competitively solicit grant applications, in such form and at such time as he shall provide, from any eligible person seeking a grant under this section. Any such grant application shall include engineering design and capital cost estimates for construction of the proposed coal preparation facility.

"(2) Verification.—The Secretary shall evaluate and, to the fullest extent practicable, verify cost estimates submitted in grant applications under this section.

"(3) Environmental protection agency evaluation.—A copy of any grant application submitted under this section shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency, for his evaluation of the significance of any change in emissions which would result from combustion of coal prepared by any facility for which a grant is sought under this section. The Administrator shall transmit to the Secretary, within 120 days of his receipt of any such grant application, his evaluation of the significance of any such emission impacts.

(4) Priority and criteria for approval.—

"(A) The Secretary shall give priority in approving grant applications to those applications which the Administrator of the Environmental Protection Agency determines are likely to result in a significant reduction in emissions from coal combustion.

"(B) The Secretary shall, based on the availability of appropriations, approve or disapprove grant applications pursuant to this section based upon his evaluation of the economic viability of the proposed facilities and his evaluation of:

"(i) the extent to which such facilities would contribute to a reduction in emissions from coal combustion, as determined by the Administrator of the Environmental Protection Agency under this section; and

"(ii) the extent to which such facilities would result in increased use of local and regional coal resources while also contributing to a reduction in emissions.

"(C) In awarding grants pursuant to this section, the Secretary shall not—

"(i) allocate to a person more than 20 percent of its qualifying capital costs under this section; and

"(ii) allocate within a single state more than 25 percent of appropriated funds.

"(e) Terms and Conditions.—The Secretary in approving any grant application under this section may impose such terms and conditions as he determines appropriate to effectuate the purposes of this Act.

"(f) Authorization of Appropriations.—There are hereby authorized to be appropriated in fiscal year 1982 to the Secretary such sums as may be necessary to carry out the purposes of this section, including administration, but, not to exceed $150.000 which appropriation may remain available until expended.".

Sec. 7. Title VI of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by adding new section 606 thereto, as follows:

"Sec. 606. Labor Standards.

"(a) Prevailing Wage Requirement.—All laborers and mechanics employed to perform construction, repair, or alteration funds, in part, by financial assistance provided pursuant to sections 603, 605, or 606 of this Act, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276).

"(b) Certification Prior to Financial Assistance Award.—No grant or loan shall be made for construction, repair, or alteration under this Act unless a certification is provided to the Secretary at the time of filing a grant application that these labor standards have been maintained.

"(c) Authority of Secretary of Labor.—With respect to the labor standards required by this section, the Secretary of Labor shall have the authority and functions provided pursuant to Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.".

TECHNICAL AND CONFORMING AMENDMENTS

(a) Exclusion From Terms.—Section 103 (a)(5) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting at the end thereof the following": *Provided*, That, the Secretary may exclude from the terms 'coal' and 'alternative fuels' coal tar where he determines, by rule, that coal tar is of significant commercial value as other than a fuel.".

(b) Administration Procedures.—Subsection (c) of section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by—

(1) inserting a new phrase at the end of the first sentence in paragraph (1), as follows: "shall by rule prescribe; except that any petition for an exemption from the prohibitions of section 301(d) of this Act must be filed with the Secretary no later than 60 days after providing notice pursuant to section 301(d)(3)(A)."; and

(2) inserting a new phrase in the first sentence of paragraph (3), as follows: "The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption or permit, except as provided in paragraph (5), shall issue a final order granting or denying the petition for such exemption or permit, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension;"; and

(3) adding a new paragraph (5) thereto, as follows:

"(5) In the case of any petition for an exemption from the prohibitions of section 301(d) of this Act, the Secretary within a period of 180 days after such filing, shall issue a final order granting or denying the petition for exemption, except that the Secretary may extend such period to a specified date if he published notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.".

(c) Coordination of Financial Assistance and Exemptions.—Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by inserting new subsections as follows:

"(i) Effect of Seeking Certain Exemptions.—

"(1) Any eligible utility filing a petition for an exemption, except a petition for a special exemption pursuant to section 315, is prohibited from later applying for financial assistance pursuant to section 603.

"(2)(A) The prohibition continued in this subsection shall not apply if a permanent exemption has been granted pursuant to section 312 or 315 and if the utility has agreed to proceed with an alternative oil reduction strategy.

"(B) An eligible utility agreeing to proceed with an alternative oil reduction strategy may seek financial assistance by filing a financial assistance application and a proposed compliance plan within 180 days of the issuance of a final order granting the utility petitioners' petition for an exemption.

"(j) Involuntary Bar Precluding Conversion.—Notwithstanding the provision of paragraph 701(c)(1), any eligible utility filing an application for financial assistance and a proposed conversion plan may later seek an exemption pursuant to subsection 311 (a), or (g), or 312 (a), (b), or (e) or 315.".

(d) Coordination With Other Provisions of Law.—

(1) Section 501 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by deleting the first sentence of subsection (a), and substituting the following therefor:

"(a) General Rule.—Existing electric powerplants owned or operated by an electric utility shall be considered in compliance with any prohibition under title III, except for prohibitions under section 301(d) of that title, if there is in effect a plan of system compliance for such utility approved by the Secretary under subsection (b).".

(2) Section 762 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by adding the following phrase at the beginning of the first sentence of subsection (b): "With the exception of powerplants subject to the prohibitions of section 301(d),".

(3) Section 762 of the Powerplant and Industrial Fuel Use Act (92 Stat. 3305) is amended by adding a new subsection (e) thereto, as follows:

"(e) Facilities Subject to Section 301 (d) Prohibitions.—The authority of the Secretary to make effective—

"(A) any prohibition order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, which is pending on the effective date of this subsection, or

"(B) any proposed prohibition order under section 301(b) of this Act, which is pending on the effective date of this subsection,

issued to any facility that is subject to the prohibitions of section 301(d) of this Act, shall terminate on the effective date of this section.".

(4) Section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting the following new sections in the appropriate place in the table of contents:

"Sec. 315. Special exemptions from section 301(d) prohibitions.
"Sec. 603. Financial assistance to assist certain powerplants in achieving compliance.
"Sec. 604. Grants for design and installation of advanced sulfur removal systems for existing powerplants.
"Sec. 605. Grants to accelerate construction of coal preparation facilities capable of reducing the sulfur content of coal.
"Sec. 606. Labor standards.".

(5) Section 806 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended by inserting "(a)" before "The Secretary" and by inserting at the end of the section:

"(b) The Secretary shall require any electric utility, which is granted a permanent exemption pursuant to title II or title III of this Act or otherwise allowed to use petroleum or natural gas as a primary energy source in any electric powerplant, to report biannually beginning on January 1, 1981 its plans for construction of new electric generating capacity, including (i) the planned capacity and location of each new electric powerplant and (ii) the scheduled completion date of each such powerplant. The Secretary shall, to the extent practicable, verify the biannual reports submitted by such electric utilities. The Secretary shall include such biannual reports and any information no the verification of the reports in the annual report required by subsection (a) for that year.".

AMENDMENT TO "OFF GAS" PROHIBITION

SEC. 9. Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is further amended by striking existing subsection (a) and inserting in lieu thereof the following:

"(a) GENERAL PROHIBITIONS.—(1) Except to such extent as may be authorized under subtitle B—

"(A) natural gas shall not be used as a primary energy source in an existing electric powerplant beyond January 1, 1990 or the end of its book service life, whichever is later.

"(i) The book service life of an existing electric powerplant subject to the prohibition contained in this section shall be determined by the Secretary, in consultation with the Federal Energy Regulatory Commission or the appropriate State regulatory authority.

"(ii) To the maximum extent practicable, the book service life shall be that life utilitized in calculating the most recent electric powerplant depreciation and amortization schedule used prior to November 9, 1978.

"(iii) The Secretary may determine what constitutes an appropriate book service life if none is available from schedules filed prior to November 9, 1978.

"(B) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year prior to the effective date of the prohibition in paragraph (1), unless—

"(i) such powerplant used, or was equipped to use, natural gas as a primary energy source at any time during calendar year 1977; or

"(ii) such powerplant did not use natural gas as a primary energy source at any time during calendar year 1977 because such powerplant was under construction.

"(C) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year prior to the effective date of the prohibition in paragraph 301(a)(1) in any proportion greater than the greatest of the average yearly proportion of natural gas which—

"(i) such powerplant used as a primary energy source in calendar years 1974 through 1976;

"(ii) if such powerplant began operations on or after January 1, 1974, such powerplant used or could have used as a primary energy source during the first two calendar years of its operations operating at its planned plant factor; or

"(iii) if such powerplant was subject to curtailment or otherwise out of service, the Secretary shall allow natural gas to be used in an amount equivalent to the proportion such powerplant would have used if it had not been curtailed or otherwise out of service and had therefore been operating at its planned plant factor.

"(2) The prohibition of paragraph (1) shall be stayed with respect to any existing powerplant pending a resolution (including judicial review) of any petition for any exemption from such prohibition which is filed for such powerplant at any time after the effective date of this Act, but at least one year before the date of such prohibition first take place.

"(3) In electric powerplants subject to the prohibition in subsection 301(d), the Secretary shall allow the use of natural gas in conjunction with coal in such quantities as may be necessary to assist in meeting applicable environmental requirements.

"(4) It is the intent of Congress that, notwithstanding the provisions of this section, utilities presently using natural gas continue, to the extent feasible, with plans for the construction of new coal-fired electric generating capacity without deferral of current scheduled completion date. To facilitate this intent—

"(A) Within 180 days after enactment of this section, the Secretary shall require each utility planning to continue use of natural gas as a primary energy source in an existing powerplant beyond January 1, 1990, to report its plans, as of January 1, 1980, for construction of new coal-fired electric generating capacity, including—

"(i) the planned capacity and location of each new coal-fired electric powerplant; and

"(ii) the scheduled completion date of each new coal-fired electric powerplant.

"(B) The Secretary shall, to the extent practicable, verify the information submitted pursuant to the requirements of this section by utilizing available information and by consulting with the appropriate Federal and State regulatory authorities.

"(C) The Secretary shall require each utility reporting plans for construction of new coal-fired electric generating capacity to report progress on each of the plants identified in the initial report every two years thereafter.

"(D) On January 15, 1985 and January 15, 1990, the Secretary shall submit a report to Congress summarizing progress on construction of such new coal-fired electric powerplants based on the information required to be reported to him by this section and shall include an evaluation of—

"(i) whether the plans for construction are proceeding on schedule or;

"(ii) in cases where the plans are not proceeding on schedule, the reason for schedule changes.".

COGENERATION AMENDMENTS

SEC. 10. The Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3305) is amended as follows:

(a) Section 103(a)(3)(B) (relating to the definition of natural gas) is amended by—

(1) striking "or" after clause (iii);

(2) striking the period at the end of clause (iv) and substituting ": or"; and

(3) adding at the end thereof the following:

"(v) synthetic gas, derived from tar sands."

(b) Section 103(a)(7)(B)(ii) (relating to the definition of electric generating unit) is amended by striking out "; less than half of the annual electric power generation of which is sold or exchanged for resale, as determined by the Secretary".

(c) Section 103(a)(10)(B) (relating to the definition of major fuel burning installation) is amended:

(1) by striking out "or" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or "; and

(3) by inserting at the end thereof the following:

"(iii) any cogeneration facility which is a qualifying cogeneration facility as defined in section 3(18)(B) of the Federal Power Act.".

(d) Section 312(c) (relating to the permanent exemption for cogeneration in existing facilities) is amended by striking out "may" and inserting in lieu thereof "shall".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the oil backout bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FORD. Mr. President, several years ago when I was a mere newcomer to this body, I joined with my good friend from Wisconsin, Senator PROXMIRE, to try to stop what we regarded as a costly and unnecessary use of taxpayer dollars for construction of the Uniformed Services University of the Health Sciences.

Even though we had the backing of a General Accounting Office study that showed training doctors at this school would cost five times as much as giving the individuals full scholarships to civilian medical schools, we were soundly defeated in our efforts.

The school has now graduated its first class of 28 graduates, which will increase the military doctor ranks by one-quarter of 1 percent.

This historic event was recorded for posterity in an article by Tim Wheeler in the Richmond, Va., Times-Dispatch, who points out that this particular ceremony might have represented the most expensive education in the world.

Moreover the article also notes that the military medical shortage that was predicted at the time we tried to eliminate funding for this facility was probably more of an illusion than a reality, in the long run. Both HEW and DOD predict that there will not only not be a shortage of physicians, there will be an excess. Moreover, the military doctor gap will be closed not by USUHS alumni, but rather by the scholarship program. Even when the school graduates 175 doctors per class, they will contribute only a little more than 1 percent to the total number of physicians in this Nation.

Nevertheless, the Federal Government now has its own military medical school and, while it may never attain the stature of a Johns Hopkins or a Harvard, it certainly will rank at the head of any list in terms of cost of training per graduate.

Lest there be any mistake, I have never questioned the need for sufficient manpower levels of military physicians. This is a vital need and one that should be of foremost concern. At the same time, however, there is no question in my mind that there are less expensive, equally effective means of meeting that goal, and I think that time has already proven that point.

While it is too late to turn back the clock on the Uniformed Services University of the Health Sciences, I do think that we should take note of this particular facility because it is one example of a situation where a little foresight in the beginning might have saved the Government from a costly mistake that taxpayers will be paying for many years to come.

Mr. President, I ask unanimous consent that Mr. Wheeler's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS U.S. MEDICAL SCHOOL WORLD'S COSTLIEST?

(By Tim Wheeler)

WASHINGTON.—Twenty-eight men and women marched into the brick courtyard of a plush $80 million medical school in Washington suburb Saturday to receive their diplomas as physicians. It may have been the most expensive medical education in the world.

Everything, from their degrees to the modern, three-building complex where they earned them, was paid for with tax dollars—even the jogging and exercise course that winds through the school's wooded campus.

Tucked away in a corner of the sprawling grounds of the Bethesda Naval Medical Center is a federally owned and operated medical school to train doctors for the Army, Navy, Air Force and Public Health Service.

The Uniformed Services University of the Health Sciences, born of years of bitter debate in Congress, produced its first crop of graduates Saturday.

Four years ago, when the school was only about a third built and the charter class—then 32 students—had just been enrolled, the General Accounting Office warned that the government would spend five times as much—$150,000 more per student—to produce doctor's from its own school as it would to give the same students full scholarships to any of the more than 100 civilian medical schools around the country.

Since then, all medical school costs nationwide have soared even higher. The military medical school, for its part, has asked Congress to increase its annual operating budget by $6.6 million, to $33.3 million for next year.

The school has survived and grown, despite the GAO study and two others equally critical of its cost, and despite an attempt three years ago by the Carter administration to abolish it.

Now, the school's vanquished critics in Congress have moved on to other battles, and its detractors in the Pentagon have been supplanted by enthusiastic supporters.

"It's there, it'll stay," summed up William Hogan, a staff lawyer for the House Armed Services Committee, where the school was born.

The campaign to get the military its West Point for doctors began in 1947 but did not pay off in Congress until 1972. Then, largely as a tribute to the crusade of the late Rep. F. Edward Hebert, the crusty Louisiana Democrat who had recently been ousted as overlord of the Armed Services panel, Congress agreed to spend up to $102 million to develop the school.

"There is a critical shortage of physicians in the United States today," the Senate Armed Services Committee said in 1972 in supporting the school's creation.

"This shortage is an indisputable fact . . . ," the report went on. "The problem is further compounded by the fact that there is only one opening for every two qualified applicants to medical school."

At the time, Pentagon planners said they needed an annual output of 4,500 to 5,000 physicians to ensure adequate medical services for the military.

About 85 percent of all male doctors less than 35 then served in the military or held officers' commissions in the reserves, thanks to the doctor draft. But without the draft, the Pentagon predicted it would have a serious shortage of doctors.

At congressional hearings, though, some doctors questioned the need for the school.

"It is by no means clear to me that the physician manpower crisis discussed in the committee report is as dire as it has been made to appear," said Dr. Richard Feinbloom of Harvard University Medical School.

Other witnesses urged Congress to focus on providing medical students scholarships that would obligate them to military service once they finished their training.

The legislation setting up the medical school also authorized the Defense Department to pay for up to 5,000 such scholarships at a time, but Senate opponents of the school succeeded only in delaying the construction a year while the secretary of defense studied such a plan's feasibility.

"Every study that was done by an outside organization . . . said it was more cost-effective to increase the scholarship program," said an aide to Sen. William Proxmire, D-Wis., one of the school's leading critics in the chamber. Proxmire and Sen. Wendell Ford, D-Ky., vainly tried to block construction funds for the school in 1976 and again in 1977, when Congress overrode the Carter administration's attempt to kill it.

At one point in the sometimes emotional debate, Proxmire's aide recalled, one of the school's defenders warned darkly of young GI's "coming home in pine boxes" because there would not be enough doctors around to treat them on the battlefields. With Vietnam still fresh in mind, the rhetoric proved effective.

Pentagon spokesmen now say the school is badly needed to create a cadre of doctors who will make the military their career and provide a leadership nucleus for military medical services. "Military medicine" requires special training that cannot be adequately provided at civilian schools, they say.

The medical school represents a long-term answer to the military's doctor gap, a spokesman says, while the scholarship program is a short-term response.

"It's the difference between building an ark and building an umbrella factory," says Gerda Priehn-Crawford. The Uniformed Services University "is not just a medical school with people wearing uniforms."

The school's officials also contend that its costs and the scholarship program's costs are really about equal, since they expect three-fourths of medical school graduates to stay in the service for 20 years or more, while they say only about 2 percent of the scholarship doctors will stay a full 20 years.

The GAO report even granting what it said were the school's unsubstantiated projections of the doctor retention rates, still predicted that the total costs of getting military physicians from the medical school would be about 25 percent more than the scholarship program.

But the military doctor gap, like the civilian physician shortage described 10 years ago, may be turning out to be more illusory than real. A recent report by the then-Department of Health, Education and Welfare noted that there actually may be a glut of physicians nationwide by 1990. According to one source, Pentagon planners privately predict there won't be a military doctor shortage in a few years, either.

The gap will be closed almost entirely by the scholarship program, not the medical school.

The 28 Uniformed Service University graduates will swell the military's doctor ranks of 11,251 by only about a quarter of 1 percent. Even when the school's current enrollment of 329 has swelled to the point that each class has 175 graduates, they will account for only a little more than 1 percent of the doctor ranks.

The Pentagon has a doctor gap now, according to Col. John Harris in the office of the assistant defense secretary for health, because the military in peacetime needs more than 14,000. Congress, however, has only seen fit to provide funds for about 11,500.

But Congress is in the process, Harris said, of providing more funds so the Defense Department can hire about as many physicians as it thinks it will need by 1984. And with a variety of educational programs and pay incentives provided recently, the Pentagon hopes to lose fewer doctors to the more lucrative civilian life.

"The scholarship program we expect to be our major source of physicians," Harris said, though he said the medical school will contribute in the same way that West Point provides leaders for the Army.

Most of the critics, like Dr. Feinbloom, now say that since the money has been spent, they hope the Pentagon makes effective use of the $26 million a year to run it.

Mr. PROXMIRE. Will the Senator yield?

Mr. FORD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Kentucky, who led the fight against this wasteful investment.

As the Senator from Kentucky pointed out, it has cost a whale of a lot. We have the evidence now in full before us. It is clear we made a serious financial mistake.

Again, I commend the Senator from Kentucky for leading a fight we should have won.

Mr. FORD. I thank the Senator for his kind remarks.

Mr. President, I go back to the time when he helped me when I was trying to do what I though was right. Time has, apparently, proven we were both right.

I thank him for his leadership at that time.

Mr. President, I yield the floor.

GEOTHERMAL STEAM ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 751.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1388) to establish a forgiveable loan program for geothermal reservoir confirmation, to amend existing geothermal leasing and permitting laws, and for other purposes.

The PRESIDING OFFICER. The Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Geothermal Steam Act Amendment of 1980."

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds and declares that—

(1) the United States continues to be increasingly dependent on imported oil;

(2) the degree of this dependence has reached a critical level in terms of the economic strength and national security of the United States;

(3) geothermal energy, which is a significant energy resource in the United States, heretofore has not been developed at needed rates;

(4) the development of geothermal en-

ergy in the United States has been impeded by certain provisions of the Geothermal Steam Act of 1970 and by the slow pace of exploration and development by lessees on existing leases;

(5) the United States must act with determination and mobilize for development of geothermal resources now to obtain the maximum possible energy supply contribution, consistent with other national goals and law; and

(6) lessees of publicly owned geothermal resources must be encouraged and required to develop these resources expeditiously in the public interest.

(b) It is the purpose of this Act to—

(1) effect a major overhaul of Federal geothermal leasing procedures to support a significant acceleration in the development of geothermal resources on Federal lands;

(2) modify the Geothermal Steam Act of 1970 to facilitate and require accelerated exploration and development of geothermal resource leaseholds;

(3) assure competition in the geothermal industry; and

(4) protect nationally significant thermal features in national parks and monuments.

SEC. 102. As used in this title, "Act" means the Geothermal Steam Act of 1970 (Public Law 91-581).

SEC. 103. Subsection 2(c) of the Act is amended by deleting therefrom the words "steam and associated geothermal", and adding thereto after the word "brines" in the first instance in which it appears, the phrase "geopressured water, magma, and hot rock formations".

SEC. 104. Subsection 2(d) of the Act is amended by deleting therefrom the word "steam" in both instances in which it appears, and substituting therefor the word "resources" in each instance.

SEC. 105. (a) Section 2 of the Act, is amended by deleting subsection (e) and inserting the following:

"(e) 'known geothermal resources area' means an area designated by the Secretary as known geothermal resources area prior to October 1, 1979, under this Act, or an area for which there is substantial physical evidence including but not limited to the geology of or a discovery on such lands, which would, in the opinion of the Secretary, engender a belief in persons who are experienced in the subject matter that the prospects for extraction of geothermal resources for the primary purpose of generating electricity in commercial quantities warrant substantial expenditures for that purpose, or an area for which competitive interest has been demonstrated in accordance with regulations issued by the Secretary of Energy: *Provided*, That such competitive interest shall have been demonstrated, in accordance with such regulations, within thirty days after the filing of a lease application for such lands, and any such demonstration of competitive interest after such thirty-day period shall not constitute a basis for designation as a known geothermal resources area.

"Any known geothermal resources area which receives no bids when offered for sale shall be declassified and leased to the first noncompetitive applicant: *Provided*, That the Secretary's authority to reclassify such lands as known geothermal resources areas at a later date on the basis of new information shall not be affected.".

(b) Section 2 of the Act is amended by adding a new subsection (f) to read as follows:

"(f) 'conditioned leases' include, but are not limited to—

"(i) 'limited surface use leases' meaning leases that limit surface activities to those which do not involve significant surface disturbance, but may involve casual uses and the conduct of exploratory operations approved by the United States Geological Survey with the concurrence of the responsible surface management agency in question (provided that such exploratory operations may not include deep test drilling to actually penetrate and test for the existence of the geothermal resource), except that exploration, testing, and development activities may be conducted from off the lease where such operations are approved under appropriate operating plans; and

"(ii) 'conditioned development leases' meaning leases providing that no development activities may be conducted until a subsequent environmental review of the impacts of such development has been conducted and a development plan approved, and providing that a sufficient number of successful deep exploratory wells to establish the resource extent and characteristics may be drilled and tested prior to proposing development drilling and removal of the condition precluding development. Activities under a conditioned development lease may include drilling of small-diameter, deep testholes, completion of up to three full-size prototype test wells and operation of small well-head generating units for up to one hundred and eighty days for testing purposes. No right of development or compensable interest shall vest in the holder of a conditioned development lease prior to the completion of an environmental review of development impacts to the satisfaction of the Secretary: *Provided*, That if the Secretary determines to issue a full development lease, it shall be first offered to the holder of the conditioned lease.".

SEC. 106. Section 3 of the Act is amended by deleting therefrom the words "steam and associated geothermal", by deleting the words "and (3)," and by adding in their place the following: "(3) in any lands withdrawn or acquired in aid of the functions of any department or agency of the Federal Government, including the Department of Defense, and (4)".

SEC. 107. (a) Section 4 of the Act is amended by deleting the first two sentences thereof and replacing them with the following: "Lands subject to leasing under this Act shall be leased or offered for lease in the manner described in this section.

"(a) If the Secretary determines that lands within a known geothermal resources area are to be leased, the Secretary shall seek to offer them for lease to the highest qualified bidder by competitive sale within eighteen months after nomination in writing from any qualified bidder. No person may submit in any calendar year such nominations for lands exceeding fifty-one thousand two hundred acres in any State: Provided, That the Secretary may permit a person to nominate more than fifty-one thousand two hundred acres in a given year if he determines, based on ecological, technical or geologic evidence, that this is justified. The Secretary shall attempt to offer 10 per centum of all lands offered for sale in any year on a basis other than cash bonus bidding, employing those bidding systems set forth in section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1335).

"(b)(1) Any qualified person may apply for a lease on lands not within a known geothermal resources area. If the Secretary determines that the lands are to be leased, the Secretary shall seek to offer them for lease to the applicant within eighteen months of initial application except as provided below.

"(2) The applicant may request a lease providing for full exploration and development rights or a conditioned lease including a limited surface use or conditioned development lease. If an applicant requests a conditioned lease, the Secretary shall only consider, in satisfaction of any applicable requirements of the National Environmental Policy Act, if any, the environmental impacts resulting from activities authorized by such a lease. If the applicant requests a lease with full exploration and development rights the Secretary shall consider such requests pursuant to the requirements of the National Environmental Policy Act.

"(3) If a lessee with a conditioned development lease requests that activities permitted under a conditiond lease be expanded to include full exploration and development rights, the Secretary shall consider such requests pursuant to the requirements of the National Environmental Policy Act. The lessee must prepare an approvable detailed plan of development and utilization, in accordance with requirements for such plan specified by the Secretary. The Secretary shall review and consider such plan pursuant to the requirements of the National Environmental Policy Act and any other requirements of this Act. The lessee may conduct further operations of a developmental nature and subsequent utilization only upon issuance of a full development lease and approval of the detailed plan, or amended plan.

"(4) Upon the voluntary election of the applicant, he may be offered a conditioned lease as an alternative to a decision not to lease. However, the Secretary may deny issuance of either a conditioned or a full development lease. A statement of the reasons for any such proposed limitation, or a statement of the reasons for any decision not to lease shall be made public within eighteen months of nomination or application in the event the requested or nominated tract is not offered. If the applicant requests a conditioned lease, the Secretary shall seek to offer the lease within two hundred and forty days after a complete application is made.

"(5) The Secretary shall provide for expedited processing of lease applications for which the applicant provides significant evidence of readiness to commence exploration or development operations.

"(c) Subsections (a) and (b) of this section shall take effect with respect to all applications filed with the Secretary on or after the date of the enactment of the Geothermal Steam Act Amendments of 1980. In the case of applications for geothermal leases for lands which were not or are not designated by the Secretary as known geothermal resources areas within eighteen months after the application, the original first qualified applicant shall be entitled to a lease on a noncompetitive basis if a lease is issued, regardless of any subsequent known geothermal resources area designation. The provisions of this subsection are not to be interpreted as permitting lease cancellation on the basis of subsequent known geothermal resources area designation. If an applicant conducts exploration activities which result in geothermal resource discoveries sufficient to require known geothermal resources area designation also covering lands for which his lease application was made prior to such discoveries, he shall be entitled to the lease on a noncompetitive basis of lands covered by any application in the known geothermal resources area, if a lease is issued, regardless of such discovery or an expression of competitive interest made after the discovery.

"(d) Notwithstanding the first sentence of section 4(a), any qualified person first making application for a geothermal lease of lands under this Act (which are not designated by the Secretary as known geothermal reosurces areas on the date of such application, but which are so designated within eighteen months after the date of such application) shall be entitled to a noncompetitive lease of such lands, if a lease is issued, under this subsection at a rate determined on the basis of competitive bidding. No person otherwise entitled to a lease of such lands under such competitive bidding (hereinafter in this section referred to as the competitive bidding applicant) shall be entitled to a lease covering such lands if the noncompetitive applicant referred to in this subsection agrees to enter into a lease of such lands within such reasonable period following the competitive bidding as the Secretary deems appropriate and at a rate which is equal on a per acre basis, to the rate at which such lands would have been leased to the competitive bidding applicant.

"(e) In the case of applications for geothermal leases under this Act of any lands which were not designated by the Secretary as a known geothermal resources area before the date of enactment of this section, if such applications were filed with the Secretary before such date of enactment but were not approved or rejected by the Secretary before such date, the qualified person first making application for such a lease shall be entitled to a lease of such lands, if a lease is so issued, without competitive bidding notwithstanding the first sentence of section 4(a) unless such lands are so designated within eighteen months after the date of enactment of this Act. If such lands are so designated within such eighteen-month period, such applicant shall be entitled to a noncompetitive lease of such lands under this subsection at a rate determined on the basis of competitive bidding. No competitive bidding applicant shall be entitled to a lease covering such lands if the noncompetitive applicant referred to in this subsection agrees to enter into a lease of such lands within such reasonable period following the competitive bidding as the Secretary deems appropriate and at a rate which is proportionate, on a per acre basis, to the rate at which such lands would have been leased to the competitive bidding applicant.

"(f) The Secretary may allow exploration and testing activities permitted under a conditioned lease on lands subject to wilderness study under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and on lands within the National Forest System which have been identified in Executive Communication Numbered 1504, Ninety-sixth Congress for further planning. Such exploration and testing activities shall be deemed not to impair the suitability of the lands involved for inclusion in the National Wilderness Preservation System. The Secretary shall include in the lease stipulations to assure that exploration and testing activities do not permanently impair the wilderness values of the lands subject to such activities.

"(g) (1) The Secretary shall to the maximum extent practicable, develop within one year after enactment of this section uniform national, State, and regional standards and criteria to employ in deciding whether to approve or deny permits for exploration and testing of geothermal resources under this Act. Such standards shall be incorporated in and coordinated with land use management plans.

"(2) To the maximum extent possible, any requirements of section 102(2)(C) of the National Environmental Policy Act applicable to any such exploration and testing activities shall be deemed to be satisfied by any action by the Secretary pursuant to such section 102(2)(C) during the establishment of the procedures required by this subsection and application of these standards and criteria to such exploration and testing activities on a case-by-case basis"."

Sec. 108. Subsection 5(d) of the Act is amended by deleting therefrom the words "steam and byproduct" and substituting therefor the word "resources".

Sec. 109. Subsection 6(a) of the Act is amended by deleting therefrom the words "steam is" in both instances and by substituting therefor in both instances "resources are".

Sec. 110. Subsection 6(b) of the Act is amended by deleting therefrom the words "steam is" and substituting therefor the words "geothermal resources are".

Sec. 111. Subsection 6(c) of the Act is amended by deleting the words "steam is" in both instances in which they appear, substituting therefor the words "resources are" in the first instance, and substituting therefor the words "geothermal resources are" in the second instance.

Sec. 112. Subsection 6(d) of the Act is amended by adding, after the words "delivery to or utilization by" the following: ", or in the case of utilization facilities to be owned by the lessee, proof of commitment to construct".

Sec. 113. Subsections 6(d) and 6(e) of the Act are amended by deleting the word "steam" wherever it appears and substituting the word "resources" in each instance.

Sec. 114. Section 6(f) of the Act is amended by deleting therefrom the words "steam and associated geothermal".

Sec. 115. (a) Section 7 of the Act is amended by striking out "twenty thousand four hundred and eighty" and inserting in lieu thereof "fifty-one thousand two hundred".

(b) Section 7 of the Act is further amended by striking out the second paragraph and by adding in lieu thereof the following: "Any lease which contains a well shown to be capable of being commercially productive as determined by the United States Geological Survey shall be exempted from the acreage limitation contained in the preceding sentence."

Sec. 116. Section 8 of the Act is amended by deleting therefrom the words "steam is" in both instances in which they appear, and substituting therefor the words "resources are" in both instances; and by deleting the word "ten" in both instances in which it appears and inserting in lieu thereof the word "twenty" in both instances.

Sec. 117. Section 9 of the Act is amended by deleting therefrom the world "steam" and substituting therefor the word "resources".

Sec. 118. (a) Section 15(b) of the Act is amended by adding at the end thereof the following: "Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of Defense may be issued only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purpose for which they were withdrawn or acquired. The Secretary shall consult with the head of any other Federal agency or department for whose purposes lands have been withdrawn or acquired to determine appropriate terms or conditions prior to issuing leases for such lands.".

(b) Section 15 of the Act is amended by adding new subsections (d) and (e) as follows:

"(d) The head of the Federal agency or department which administers land leased or subject to leasing shall, in making decisions affecting the purchase, exchange, leasing, protection, and use of said or adjacent lands, take account of their potential for geothermal resources development.

"(e) The Secretary and the Secretary of Defense, and any other appropriate official designated by the Secretary are directed to complete a comprehensive review of geothermal leasing procedures for withdrawn and acquired lands and to submit a report to the appropriate committees of Congress, within six months after enactment of the Geothermal Steam Act Amendments of 1980.".

Sec. 119. Section 19 of the Act is amended by deleting therefrom the world "steam" and substituting therefor the word "resources".

Sec. 120. Section 23 of the Act is amended by deleting the words "steam and associated geothermal" in both instances in which they appear, and by adding after subsection 23(b) the following paragraphs:

"(c) Notwithstanding any other provision of this Act, the Secretary is authorized, and directed, pursuant to such regulations as he shall promulgate, to grant at no cost a permit for use of a geothermal resource to the surface owner or occupant of lands subject to this Act, if the use of the geothermal resource is direct by such person in a residence, farm, or small business property, does not involve any generation of electricity, does not involve sale of the resource in commerce, does not involve commercial development of the resource, and involves only relatively small quantities of such resource. The use of the geothermal resource pursuant to such a permit shall not be inconsistent with any lease issued pursuant to this Act prior to the grant of the permit. Any lease issued subsequent to the grant of such permit shall, to the maximum extent practicable, not be inconsistent with such permit. The granting of a permit pursuant to this section shall not be subject to the requirements of section 102(2)(c) of the National Environmental Policy Act.

"(d) The head of each agency may develop for the use or benefit of his respective agency any geothermal energy resource within lands under his jurisdiction: *Provided*, That the head of such agency shall determine in writing, after consultation with the Department of the Interior and the Department of Energy and after opportunity for public comment (after publication in the Federal Register and a newspaper of general publication in the vicinity), that such utilization is in the public interest, and will not deter commercial development (except commercial development solely or primarily based on the sale of the geothermal resource to such agency) which might otherwise be conducted for such resource if it were offered for lease under this Act. Such Federal agency shall be authorized to sell or transfer at a reasonable rate incidental quantities of the geothermal resource to the surrounding community. If no further development by commercial interests occurs after a reasonable period of time, such Federal agency may sell or transfer at reasonable rates to the surrounding community such quantities of the geothermal resource as may be available from the production and are in excess of the requirements of the agency.".

Sec. 121. Section 24 is amended by designating the present provisions as subsection (a) redesignating (a), (b), (c), (d), (e), (f), (h), and (i), as (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), and (ix), and by adding the following:

"(b) The Secretary shall seek to make a decision on any permit to conduct drilling of exploratory or development wells, or a complete application to remove or reduce a limited surface-use limitation within one hundred and fifty days after the filing of such application. The Secretary shall seek to make a decision on a complete application to conduct development activities or a complete application to remove a conditioned development limitation within nine months of application. The Secretary may for good cause extend the period for a decision on any permit or application for an additional period determined to be reasonable in specific cases, not to exceed ninety days.

In the event of any such extension—

(i) the payment of rental shall be suspended for the period of the extension; and

(ii) the running time of the lease shall be suspended for the nine months or one hundred fifty days, as the case may be, plus the period of the extension. Such suspensions shall not include any delay resulting from a failure on the part of the applicant to satisfy the requirements of an application.

"(c) A lease application shall be reviewed and an initial report prepared within sixty days of filing, indicating the results of the initial review, what disposition is proposed, and the projected time to complete action on the application.

"(d) A permit application, pursuant to a lease, shall be reviewed and an initial report prepared within sixty days of filing, indicating the results of the initial review, what disposition is proposed, and the projected time to complete action on the application.

"(e) The Secretary shall establish requirements for diligent operations which shall require that a plan of operations for exploration shall be filed within three years of the issuance of a lease, or in the case of a limited surface-use lease, within three years after removal of the limited surface-use limitation. The diligence requirements shall also provide that drilling shall commence no later than two years after approval of such plan or two years after a drilling permit has been approved, whichever is later. The Secretary may provide for the aggregation of diligence requirements on lease tracts within a geothermal prospect. The Secretary may remove a limited surface use limitation for the purpose of initiating diligence requirements. The running time of the diligence requirements established in this subsection shall be suspended for periods of unreasonable delay caused by a lessee's inability to obtain State or Federal permits (with the exception of permits issued by the Department of the Interior) through no fault of his own.".

Sec. 122. Sections 25, 26, and 27 of the Act are amended by deleting therefrom the words "steam and associated geothermal" in each instance in which they appear.

Sec. 123. Section 5. (a) of the Act is amended by—

(i) adding after the words "per centum" the first time they appear the following: "(or, in the case of nonelectric uses, 5 per centum)".

and by

(ii) adding at the end thereof the following: "The Secretary may defer royalty payments for nonelectric geothermal developments when it is deemed to be in the public interest, for municipal, cooperative, or other political subdivision lessees where legal limitations on front-end financing otherwise would prohibit or significantly deter development.".

Sec. 124. Section 15 of the Act is amended by adding a new subsection (f) to read as follows:

"(f) (1) With respect to lands within national parks or monuments, the Secretary shall identify within one hundred and eighty days after enactment of the Geothermal Steam Act Amendments of 1980, and publish in the Federal Register, a list of nationally significant thermal features located on such lands, and shall periodically update such list to include newly emergent or newly discovered nationally significant thermal features, thermal features which gain national significance through changes in patterns of their use or of their perceived scientific importance, and nationally significant thermal features of new national parks or monuments. The Secretary's determination shall be by formal rulemaking with a complete description of such feature and a full justification for its designations. The Secretary shall submit his determinations to the Congress. A determination shall not become effective if, pursuant to the procedures set forth in section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421), either House of Congress passes a resolution stating in substance that such House does not favor such determination. The Secretary will in such publication describe geographic zones outside the boundaries of national parks and monuments where development of geothermal resources may affect nationally significant thermal features, based on review of presently available data or reasonable inferences therefrom, and may, from time to time, amend the boundaries of such zones in conformity to newly available data. Any designation pursuant to this section may be reviewed, modified and revoked upon the determination that new information or circumstances support such action. For the purpose of this subsection, the term "nationally significant thermal feature" means a natural surface manifestation of geothermal activity or a complex of such manifestations, which is a feature the park unit involved was intended in its establishment to protect, or which has since been recognized as a park resource of national significance.

"(2) The Secretary may issue geothermal leases on Federal lands within geographic zones described pursuant to paragraph (1) only upon review of the best geological, hydrological, and other relevant evidence reasonably obtainable and only upon his determination that exploration activities pursuant to a geothermal lease on such Federal lands will not have a foreseeably significant adverse effect on nationally significant geothermal features. The Secretary may further impose conditions and stipulations in such leases necessary to limit activities to those which will not so affect nationally significant thermal features. Any lease in effect within the geographic zone established pursuant to a designation of a nationally significant thermal feature pursuant to (1) above as of the date of the determination by the Secretary of such designation shall be exempt from the application of this subsection.

"(3) Subject to valid existing loans, grants, and licenses, a department or agency of the United States shall not grant or issue a loan grant, or license required for the exploration or development of geothermal resources within the geographic zones identified, or on non-Federal lands within national park or monument boundaries, unless the department or agency, following consultation with the Secretary of the Interior, determines, in accordance with the standards, provisions, limitations, and authorities applied above to geothermal leases on Federal lands, that activities so assisted would not have a foreseeably significant adverse effect on nationally significant thermal features.

"(4) Prior to the issuance of any geothermal leases in a zone defined in this subsection adjacent to Yellowstone National Park, Mount Rainier National Park or Lassen Volcanic National Park, the Secretary of the Interior shall determine that (1) a valuable geothermal resource exists and (2) development of the potential geothermal resource will not adversely affect the unique thermal features of these parks.".

Sec. 125. The Act is further amended by addition of new section 28, as follows:

"Sec. 28. The Secretary of Agriculture, and the Secretary of the Interior, in consultation with the Secretary of Energy, shall, immediately upon the enactment of the Geothermal Steam Act Amendments of 1980, seek to develop cooperative agreements with the Governor of each State, in which are located lands subject to this Act, and appropriate agencies and political subdivisions thereof, for voluntary cooperation. to the maximum extent possible, between all such State agencies and political subdivisions and each Federal agency with responsibility for geothermal leasing and operations pursuant to this Act. Such cooperation should include, but not be limited to, coordination of requirements for and preparation of any required environmental analyses or impact statements, coordination of related decisions on State and local permits and approvals with Federal lease and operations approvals and permits, and coordination of related decisions on Federal, State, and local land use planning. The Secretaries of the Interior and Agriculture shall also attempt to obtain State and local government agreements, on a voluntary basis, to coordinate adoption of a procedure similar to that contained in section 107 for State and local approvals associated with a Federal lease and operations under section 107. The Secretaries shall submit a report to Congress six months after the enactment of the Geothermal Steam Act Amendments of 1980 and annually thereafter, on the status of such agreements with each such State, and the effectiveness of such agreements. The report also shall contain any recommendations for further action to obtain the necessary coordination and cooperation between State agencies, local governments, and Federal agencies to ensure the timely completion of all geothermal leasing and operating requirements.".

Sec. 126. The Act is further amended by addition of new section 29, as follows:

"Sec. 29. The Secretary shall immediately implement the following new leasing and operating procedures, which shall be effective upon enactment of the Geothermal Steam Act Amendments of 1980.

"(a) Lease application information shall indicate clearly and concisely all requirements for information and action by the applicant necessary for timely processing of the application, the responsible officials with their respective responsibilities and contact information, the specific steps in the process, the time frames for such steps, and any options or appeals available to the applicant, among any other relevant information. To the maximum extent feasible, all requirements for information and action by the applicant, such as the geothermal resources exploration bond form and such bonding, shall be uniform among the several departments.

"(b) Any lease application or permit application already filed and pending on the date of enactment of the Geothermal Steam Act Amendments of 1980 shall be subject to the time frames established in this Act, as if the filing date of such applications occurred on the date of enactment of the Geothermal Steam Act Amendments of 1980: *Provided, however*, That this subsection shall not be used to delay any earlier processing of such applications, and all such pending applications shall receive the highest priority in the implementation of this section.

"(c) The Secretary shall, in the preparation of any environmental assessment or envionmental impact statement required by the National Environmental Policy Act for any action under this Act, to the maximum extent feasible, utilize any relevant information contained in an applicable and available land management plan developed pursuant to the Federal Land Policy and Management Act or in an applicable and available Forest Management Plan pursuant to the National Forest Management Act. This subsection shall not be construed as a requirement to delay any environmental assessment, or consideration of such an assessment, otherwise complete in the opinion of the Secretary, to include or consider additional information contained in any such land management plan or such forest management plan, or under development of such a plan.".

Sec. 127. The Secretary, in consultation with the Secretaries of Agriculture and Energy shall conduct a thorough review of all procedures, regulations, and rules and shall report within nine months of the enactment of the Geothermal Steam Act Amendments of 1980, on the implementation of the recommendations of the Interagency Geothermal Coordinating Council Streamlining Task Force and the provisions of the Geothermal Steam Act Amendments of 1980. This report shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

SEC. 128. Section 4 of the Act is amended by inserting the following before the word "Notwithstanding":

"(h) A reasonable number of leasing tracts, not to exceed 10 per centum of the acreage leased in any year, shall be offered on the basis of a specific application for such tract in accordance with this section to public bodies, including rural electric cooperatives, or nonprofit corporations controlled by and predominantly made up of any such entities: *Provided*, That the geothermal resource so offered for lease shall be predominantly for use by such entity or entities in implementing a definite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). In carrying out the provisions of this subsection, the Secretary shall not consider expressions of interest by public bodies in lands after (i) in the case of lands not within a known geothermal resources area, the thirty-day filing period for a tract has expired and there is a valid pending noncompetitive lease application, or (ii) in the case of lands within a known geothermal resources area, thirty days prior to the offering of a tract for lease."

SEC. 129. The Act is amended by inserting after section 10 the following new section:

"SEC. 10A. (a) Notwithstanding any provision of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the Secretary, immediately upon the enactment of the Geothermal Resources Act Amendments of 1980, shall promulgate regulations that will ensure prompt reoffering of all relinquished, abandoned, and expired geothermal leaseholds.

"(b) Upon a determination by the Secretary that a geothermal leasehold or any part thereof is abandoned, relinquished, or expired, such lands as are described in the lease, or the part thereof subject to such a determination, shall become lands subject to geothermal leasing as described in section 4.

"(c) The provisions of this section are in addition to and not in lieu of the provisions of sections 10 and 24.".

SEC. 130. The Secretary shall prescribe such rules and regulations, or amendments to existing rules and regulations, as may be necessary to reflect the amendments made by the Geothermal Steam Act Amendments of 1980 within one hundred and eighty days after the date of enactment of the Geothermal Steam Act Amendments of 1980.

SEC. 131. Section 18 of the Act is amended by adding at the end thereof the following: "Once a lease enters a unit, the diligence requirements of this Act for that lease shall be satisfied by compliance with diligence requirements on any lease within the unit as long as the lease remains within the unit. This does not affect the Secretary's authority to require compliance with an approved exploration or development plan for a unit.".

SEC. 132. The Act is further amended by addition of a new section 30 to read as follows:

"SEC. 30. (a) There is hereby established, upon enactment of the Geothermal Steam Act Amendments of 1980, the Interagency Geothermal Leasing Committee, hereinafter referred to as the 'Committee'. The Committee shall be chaired by an Assistant Secretary of the Interior and shall include an Assistant Secretary of Energy, an Assistant Secretary of Agriculture, representatives of the Bureau of Land Management, the Geological Survey, the Forest Service, the Fish and Wildlife Service, the Park Service, and the Department of Defense, and representatives of any other department or agency which the Secretary of the Interior, from time to time, may designate.

"(b) It shall be the function of the Committee to review not less than quarterly the activities of the several departments and agencies pursuant to this Act, as amended by the Geothermal Steam Act Amendments of 1980, and to recommend such action as may be necessary to ensure the full implementation of this Act, as amended.

"(c) The Committee shall make a report to the Secretaries of Agriculture, Energy, and Interior and the appropriate committees of Congress within nine months after enactment of the Geothermal Steam Act Amendments of 1980, and semiannually thereafter, on the status of the leasing activities under this Act, as amended. Such reports shall include the specific status of all lands, and all applications for leases of such lands subject to this Act, as amended.

"(d) Pursuant to the authorities of this section, the Committee shall annually commission, and review the results of a report by, a leasing streamlining task force, consisting of both headquarters and field personnel of agencies with leasing authorities under this Act.

"(e) The Committee shall report to the Interagency Geothermal Coordinating Council established pursuant to Public Law 93–410, as amended, and shall be responsive to any request from the Council for information analysis, and recommendations in the area of geothermal leasing.

"(f) The Committee shall make specific recommendations to each of the respective Secretaries and to the Office of Management and Budget, as part of the annual process for preparation of the next fiscal year budget and at such time to be consistent with the respective departmental schedules for such preparation, on the number of personnel necessary in headquarters and field assignments, and such other resources as may be required, to carry out the provisions of this Act in a timely and effective manner. Such recommendations shall be forwarded to the appropriate committees of the Congress, including the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, as part of each fiscal year budget submission for each such department or agency.

"(g) The Committee established pursuant to the provisions of this section shall terminate three years from the date of enactment of the Geothermal Steam Act Amendments of 1980.".

Mr. CHURCH. Mr. President, I ask unanimous censent that the Senator from Hawaii (Mr. MATSUNAGA) be added as a cosponsor to S. 1388.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the Geothermal Steam Act Amendments Act of 1980 is a major revision of the Geothermal Steam Act of 1970. That act established a leasing system which made Federal lands available for geothermal development. Little was known about the nature and extent of our geothermal resources in 1970 and the technology for its development was just on the horizon.

Since that time, the Department of the Interior has established a geothermal leasing program and issued over 1,200 leases. However, with the exception of the geyser and a single greenhouse in New Mexico, there is no commercial development of geothermal resources on Federal lands.

Mr. President, a variety of causes for this state of affairs have been identified by Government review groups, State governments, and industry. The Geothermal Steam Act Amendments Act of 1980 is principally directed at removing impediments to development and is intended to result in widespread commercial activity on Federal lands in the near future.

The barriers to geothermal development have included: First, lack of technology; second, more attractive alternative investment opportunities; third, certain provisions of the Geothermal Steam Act of 1970; and fourth, certain Government permit procedures.

Congress has addressed the development of technology and the economic attractiveness of geothermal development in other legislation. The Geothermal Steam Act amendments give additional financial incentives for development, and revise leasing and permit procedures to encourage industry to invest in this promising resource.

With passage of this last piece of the puzzle, the major impediments to geothermal resource development are removed. It is my belief and expectation that industry will respond rapidly to these new incentives. S. 1388 contains diligence provisions which are included in the belief that, with technical, financial, and leasing features in place, industry can be expected to move to rapidly develop leases obtained from the Federal Government. This balance of access to federally owned resources, with assurance that they will not be held for speculative purposes, is consistent with the basic principles of the Mineral Leasing Act of 1920 and with public mineral law generally.

S. 1388 assures that nationally significant thermal features in national parks and monuments be protected from significant adverse effect. A final purpose of the act is to promote competition in the emerging geothermal industry.

I urge my colleagues to support this legislation so that the full geothermal contribution to our energy supply can be realized and our dependence on imported oil reduced accordingly.

Mr. McCLURE. Mr. President, I am extremely pleased today to rise in support of S. 1388, the "Geothermal Steam Act Amendments of 1980." This bill is the culmination of over a year of sustained effort to pass comprehensive geothermal energy legislation, which began on June 3, 1979, by introduction of S. 1330, the Omnibus Geothermal Energy Development Act of 1979. This bill before the Senate today, with the amendments which will be offered later by myself and Senator CHURCH, conforms closely to title II of S. 1330 as it was introduced a year ago. I also am proud to note that the other titles of S. 1330 have largely been incorporated in title VI of the Energy Security Act conference report, S. 932, passed by the Senate last Thursday, and in the Priority Energy Project Act conference report, S. 1308, which will be considered by the House and Senate later this week.

Mr. President, this bill will accelerate significantly the development of geothermal energy in the United States. Geothermal energy has been a stepchild of the Federal energy program over the past 5 years, despite the strong support for geothermal coming from myself and other Members of Congress, the many States with geothermal energy, and industrial and utility corporations interested in its development.

Geothermal has not developed in accord with its vast potential in many areas of the Nation for several reasons. Many of the most valuable geothermal resources occur on Federal lands and to date have been subject to a highly restrictive Federal leasing law which virtually has choked off development. The undemonstrated technology and unproven economics of some geothermal applications has served as a disincentive in a capital intensive resource, and existing Federal programs have not moved aggressively to support State, local, and industry development of the resource in the face of such disincentives. Finally, a series of institutional and regulatory barriers have existed in the geothermal area and served to further discourage development.

Mr. President, when one considers the vast potential of this geothermal resource, particularly in some of the Western States, where projections of geothermal potential approach as much as 50 percent of needs in the next 20 years, it is appalling that this Nation has not mobilized for development of the resource. The administration's own Interagency Geothermal Coordinating Committee has projected potential growth in the year 2000 as high as 40,000 megawatts electric capacity and combined contributions of over 10 quads/year of supply from other geothermal applications, and perhaps as much as 15 quads. That growth would equate to the equivalent of well over 5 million barrels per year in imported oil not needed in the United States. And, the committee has reported that actual activity in the field, where not stymied by Federal leasing policy, regulation, and business-as-usual incentive programs, is extremely encouraging.

When I refer to geothermal development stymied by Federal programs, I mean literally just that. Only 400,000 acres of the 3 million acres of federally designated prime geothermal lands have been leased, and only 2 million of the 55 million good lands have been leased. Only 18 percent of lease applications have been processed, with average of nearly 2 years for those leases. Many lease applications have been pending for 5 years. There are great variances in the leasing system going from State to State in a given leasing agency and among the leasing agencies overall.

In light of the Nation's desperate need for domestic resources, these facts are mind-boggling. We must act now to make available these critical resources for domestic development in place of imported oil. The President in the April 1977 National Energy Plan made the commitment that:

> The departments of Interior and Agriculture will streamline leasings and environmental review procedures to remove unnecessary barriers to the development of geothermal resources.

We are still waiting, over 3 years later, for action by the administration to act decisively. A geothermal streamlining task force made up of headquarters and field personnel from leasing agencies reported in January 1979, with a series of over 19 specific recommendations for action to streamline geothermal leasing, but we are still awaiting administration action on them. The institutional paralysis which has gripped this administration since January 1977 now is threatening to cut off the life blood of this Nation's economic and national security, its domestic energy resources.

This bill will act now to effect a major overhaul of all Federal leasing of geothermal resources. All of the recommendations of the streamlining task force and a host more developed in the Advisory Committee on Geothermal Energy and by our staff are incorporated in the bill as congressional mandates. The Federal Government will lease with certainty geothermal resources in a timely and predictable way. Within a period of approximately six months the overhaul will be complete as a matter of law and with exceedingly strong imperatives placed on the agencies. This bill would once again free our domestic energy resources from the captive state in which they have been held for the past 10 years.

S. 1388 addresses the critical issues associated with the Federal geothermal leasing program under the Geothermal Steam Act of 1970. The bill, with the McClure-Church amendments to be proposed later, amends the Steam Act to remove a series of long standing impediments to private geothermal development on Federal lands. The amended bill will remove the much criticized "competitive interest" test from the definition of a known geothermal resources area (KGRA), thus making the KGRA designation solely a function of substantial physical evidence and applying it only to geothermal resources with electric production potential. Consequently, competitive bidding will be limited to electric production resources for which there is definite and susbtantial physical evidence. The result of these changes will be a significant reduction in the amount of Federal lands and geothermal resources committed to KGRA status and unnecessarily made subject to competitive bidding. Also, the bill would establish a new requirement for noncompetitive leasing in the event a KGRA competitive bidding procedure does not result in a sale. This requirement should quickly free up lands now locked up by the KGRA designation, and ensure quick availability of new KGRA lands in the future.

The bill also makes a series of changes to the Steam act to allow accelerated development of Federal geothermal resources by large and small developers. The current acreage limitation of 20,480 acres in any State is increased to 51,200 acres, and commercially producing leases are exempted.

An optional conditional leasing mechanism is established to allow for phased environmental reviews and leasing. A new procedure for uniform standards and criteria on a regional basis for specified standard activities, that would be used to satisfy NEPA requirements, is established within 1 year. Special leasing and royalty procedures are established for nonelectric geothermal applications and for certain development by municipalities and other public bodies. Lease duration is extended from 10 years to 20 years to be more consistent with other development considerations, such as financing and amortization of capital investments. Geothermal development by Federal agencies and on withdrawn and acquired lands is clarified to insure a more proper balancing of the various Federal interests and policies associated with such development. Diligence requirements are modified for approved units to address more realistically geothermal development and production in units. No cost surface occupancy permits are authorized for direct applications meeting specified criteria. Statutory deadlines for applications for Federal geothermal bases and permits are established and enforced by the bill. Associated procedures for such applications and the monitoring of their processing by departmental officials also is required by the bill.

Most of these provisions were contained in title II of S. 1330, as introduced last year. A large number of the provisions also were included in the recommendations of the administration's geothermal leasing streamlining task force. Many of the provisions also are included in H.R. 6080, the House-passed companion legislation. The bill, with the McClure-Church amendments, constitutes a major improvement in the Nation's Federal geothermal leasing program, which is an integral part of the national geothermal program. Consequently, Mr. President, I strongly urge the Senate to pass the amended bill and move these needed geothermal leasing reforms closer to enactment.

(Mr. PROXMIRE assumed the chair.)

Mr. MATSUNAGA. Mr. President, I rise to speak in support of S. 1388, the Geothermal Steam Act Amendments of 1980, of which I am a cosponsor.

My dear friend and distinguished colleague from Idaho, Senator CHURCH, must be highly commended for shepherding this bill through the Energy and Natural Resources Committee. Here, today, he has very ably argued for, and explained the benefits of, this bill. I would like to associate myself with the arguments made by the Senator from Idaho, and point out the strategic importance of the pending legislation to my home State of Hawaii.

Two major national parks in Hawaii, the Hawaii Volcanoes National Park and the Haleakala National Park, adjoin areas with considerable geothermal energy potential. According to experts, the nature of the underground geothermal reservoir systems at both sites, coupled with a total absence of surface manifestation at Haleakala and only minimal and sporadic surface activity in the Hawaii volcanoes region, is such that geothermal development on State and private lands in the proximity of these national parks should be a permissible activity. Specifically, I submit for the RECORD, a letter from Ira Hutchison of the National Park Service addressed to Senator DALE BUMPERS, dated March 14, 1980, which in part states that:

> There is very little likelihood that thermal features at the surface within the (Hawaii Volcanoes National) Park would be affected by the Development of facilities outside the park.

Mr. President, I ask unanimous consent to have the letter printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Mr. President, by interpretation, this statement of the National Park Service would mean that geothermal development would be an allowed activity outside the Hawaii Volcanoes National Park, even though it is on the list of national parks with known surface thermal features. The Haleakala National Park is not on the list, so there is absolutely no doubt that geothermal development activity outside the park would be permissible.

Mr. President, I ask unanimous consent that the previously mentioned letter and list of national parks be included in the Record.

Mr. President, title VI of S. 932, the Energy Security Act, provided for loan guarantees, Public Utility Regulatory Policies Act qualification and a study for reservoir insurance. S. 1388 ideally complements the geothermal energy title of S. 932 which was passed by the Senate last week.

Mr. President, I wish to join Senator Church, the primary sponsor of S. 1388 in urging my colleagues to support passage of this most important piece of legislation. By so doing, we would be encouraging the development of yet another indigenous energy alternative to oil and enable our Nation sooner to attain energy self-sufficiency.

Exhibit 1

U.S. Department of
the Interior,
National Park Service,
Washington, D.C., March 14, 1980.

Hon. Dale Bumpers,
Chairman, Subcommittee on Parks, Recreation, and Renewable Resources, Committee on Energy and Natural Resources, Washington, D.C.

Dear Senator Bumpers: This is in response to your letter of February 21, concerning section 16 of H.R. 6080, as passed by the House of Representatives, which amends the Geothermal Steam Act of 1970.

The Administration is formulating its position on section 16, and that position will be forwarded to the Committee in the near future.

Enclosed is a list of National Park System areas having thermal features within them which you requested.

Hawaii Volcanoes National Park in Hawaii deserves special mention since it was established with specific reference to its volcanic features. While there are no public lands available for Federal leasing, any provisions applicable to Federal assistance in geothermal resource development would apply to thermal features in this park. Geological data indicate that the magma body which gives rise to thermal features within this park is very large and close to the surface. Since the source of the volcanic features in the park is very close to the surface, there is very little likelihood that thermal features at the surface within the park would be affected by the development of facilities outside the park. However, we would expect to work closely with any other Federal agency which proposed to assist in geothermal development adjacent to this park in order to assure that no adverse effect on park resources would occur.

There are three units of the National Park System in the conterminous United States where some conflicts with potential geothermal resource development outside the parks can reasonably be expected. These are: Mount Rainier National Park, Washington; Lassen Volcanic National Park, California; and Yellowstone National Park, Wyoming, Montana, and Idaho.

We hope the foregoing information will be helpful to your Committee. The Office of Management and Budget has advised that there is no objection to the submission of this letter.

Sincerely yours,

W. J. Hutchinson,
Acting Director.

National Park System Areas With Known Surface Thermal Features

Areas near geothermal resources of potential significance:

1. Mount Rainier National Park, Washington.
2. Lassen Volcanic National Park, California.
3. Yellowstone National Park, Wyoming, Montana, and Idaho.

Bering Land Bridge National Monument (hot springs, recent (±1000) lava fields maars (lakes in exploded volcanoes).

Gates of the Arctic National Monument (hot springs, heat emitting granitic intrusions).

Yukon-Charley National Monument (hot springs).

Katmai National Monument (active volcanoes, steam vents, hot springs).

Aniakchak National Monument (hot springs, steam vents, intermittently active cinder cones 1931 last).

Wrangell-St. Elias National Monument (hot springs, active volcano with steam vents).

Glacier Bay National Monument (hot spring).

Denali National Monument (hot springs).

Mount McKinley National Park (gas emissions along Denali fault).

Lake Clark National Monument (active volcanoes, steam vents).

ARKANSAS

Hot Springs National Park (hot springs).

CALIFORNIA

Sequoia National Park (hot springs).

HAWAII

Hawaii Volcanoes National Park (active volcanoes).

NEVADA

Lake Mead National Recreation Area (hot springs).

WASHINGTON

Olympic National Park (hot springs).

WYOMING

Grand Teton National Park (hot springs).

John D. Rockefeller, Jr. Memorial Parkway (hot springs).

Mr. CHURCH. I thank the Senator for his generous remarks with reference to me.

(Mr. MATSUNAGA assumed the chair.)

Mr. CHURCH. Mr. President, I ask unanimous consent that the committee amendment be agreed to and as agreed to considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1301

Mr. CHURCH. Mr. President, I have at the desk certain unprinted amendments to the committee amendment in the nature of a substitute, and I ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. Church) proposes an unprinted amendment numbered 1301 en bloc.

Mr. CHURCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 15, insert the following:

Strike the comma and insert in lieu thereof a period.

Strike "or" and all that follows through line 24.

On page 41, line 10, insert the following:

After the period, insert "The Consideration by a department or agency of the United States of an application for any loan, grant or license subject to the provisions of this paragraph shall include, at the request of the applicant, an informal hearing pursuant to 5 U.S.C. 553 for the purpose of presenting testimony on the requirements of this paragraph. Such an informal hearing may be consolidated with any other similar proceeding conducted by such Department or agency for that application.

On page 28, line 19, insert the following:

Strike subsections 107(d) and (e).

On page 37, line 19, insert the following:

Strike "two years" and substitute "29 months" and strike, on line 20, "or two years after a drilling permit has been approved, whichever is later".

On page 38, line 3, insert the following:

Strike "(with the exception of permits issued by the Department of the Interior)".

On page 41, after line 17, insert the following new paragraph:

"(5) The provisions of this subsection shall not apply in the State of Alaska."

Mr. CHURCH. Mr. President, these are amendments to the committee substitute which modify this legislation in order to answer the concerns expressed by some of our colleagues.

This bill is vital to the development of geothermal energy and must be passed this year. The House has already acted with its version, and the Senate must act also.

Leasing procedures and laws must be reformed if geothermal exploration and development is to go forward, and it must be done now to be of any effect. I am afraid that, if we were to wait until next year, we may be required to start the whole congressional process all over again. Many companies and investors are ready and waiting for us to act; if we do not, they will take their funds elsewhere.

It was therefore imperative that we reach a compromise among those concerned Senators who had expressed an interest in this legislation. With this compromise we should be able to pass this bill through the Senate with great speed; I know of no other objections raised by any of my colleagues.

I believe that the amendments now at the desk, which are to be considered en bloc, do respond to the questions which were raised and that the members of the committee are now well satisfied with the bill, once these amendments are adopted.

Mr. McCLURE. Mr. President, I join the Senator from Idaho in sponsoring these amendments and affirm that they have the support of the members of the committee.

I know of no objection to any of the

amendments on this side of the aisle, and I urge their adoption.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

The title was amended so as to read:

A bill to amend the existing geothermal leasing and permitting laws, and for other purposes.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I thank the Chair and my colleague, and I thank the majority leader for making it possible for us to move the bill with such dispatch.

Mr. ROBERT C. BYRD. Mr. President, the Senator is very welcome and very kind.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFORTUNATE PRECEDENTS SET BY THE CHRYSLER LOAN GUARANTEES

Mr. PROXMIRE. Mr. President, today marks the approval of the first installment of $500 million in Federal loan guarantees to the Chrysler Corp. Thus the threat of an imminent Chrysler bankruptcy will be averted, although the ultimate outcome remains in doubt.

This is said to be the most complex financial transaction ever carried out between the U.S. Government and a private company. It has consumed many hours of work by high-ranking Government officials and their staffs, by Members of Congress, by Chrysler employees, and by legions of high-paid bankers, lawyers, accountants, investment bankers, and lobbyists.

I wish I could conclude that this talent, effort and money had been put to good use. Instead, I fear there have been some unfortunate precedents set here, and some unpleasant lessons learned, that are likely to haunt us in future years when the narrow concerns about Chrysler have been resolved one way or the other.

First, we have now set the precedent of providing a $1.5 billion Federal loan guarantee to rescue a single failing company, one which is not even a defense contractor. The "bailout" is justified simply on the grounds of size—that Chrysler is too big to be allowed to fail, that the potential costs are too high. This overlooks, of course, the very real potential costs of a Chrysler bailout. What we are doing here is rewarding bad management, ignoring the decisions of the marketplace, and distorting the forces of competition. And the cost to our economy of perpetuating Chrysler and the future Chryslers that are bound to come is likely to be high. It will be felt in terms of lost efficiency, higher market prices, and lessened competition.

Second, we have another disturbing precedent set with the Chrysler bailout, one which did not arise previously with Lockheed or with New York City.

That is the failure to require strict compliance with the provisions of the act as written and passed by Congress. The Chrysler financial plan approved by the Loan Guarantee Board falls short of the requirements of the law in a number of respects. It contains no new loans, no fulfillment of prior credit commitments, no new equity, dubious valuation of assets, and a number of questionable items and assumptions.

At an oversight hearing held by the Committee on Banking, Housing, and Urban Affairs, Board representatives defended their decision on the grounds that: First, it was the best deal they could cut; second, there is sufficient collateral to back up the guaranteed loans; and third, Chrysler needs the money quickly. While reasons of expediency have their appeal in the short run, they set a disturbing precedent for the long run. The implication is that any failing company that can throw together a deal and put up some collateral should be entitled to get a loan guarantee from the Federal Government, regardless of any broader concerns and regardless of the guidelines laid down by the Congress.

Mr. President, a third point I want to make is that we have been witnessing the unseemly spectacle of the Federal Government actively involved in arm-twisting and brokering a financing deal for a private company. There are reports of the Secretary of the Treasury—who is in charge of one of the major bank regulatory agencies—telephoning small town bankers and prodding them to make loans to Chrysler that the bankers judge to be too risky. And we see the pressure from Government officials and from Chrysler augmented by threats of economic reprisals and even physical abuse from other parties. I am not surprised that the banks all came around in the end and signed on, but I am most disturbed at this use of the full weight of Government authority to achieve essentially private financial gains.

Mr. President, I have a fourth and final point to make, and that involves the possible international repercussions of the Chrysler deal and the way in which it was put together, because of the imposition on foreign banks and the feeling on the part of many foreign banks that the American banks did not, as is usually done with a difficulty of a domestic corporation, our move in and assume the kind of burden that the foreign banks were asked to assume. From all reports, the U.S. banks have not covered themselves with glory on this deal, nor won themselves many friends.

They fought hard to push a major part of the burden of financial burden of the Chrysler rescue onto the foreign banks invloved in lending to Chrysler, mainly European and Japanese banks. In the process, they overturned a number of legal agreements and other understandings by the foreign banks, including the basic tradition that the home country banks bear the major responsibility for shoring up a failing corporation. And while the U.S. banks were largely successful in their efforts, the ill feelings created by the Chrysler deal are not likely to be quickly dissipated, and the repercussions could be significant. Foreign banks may be more reluctant to lend to U.S. firms in future, and U.S. banks may be pulled more deeply into rescues of foreign companies.

Mr. President, the Chrysler loan guarantees are now a fait accompli. Indeed, they were virtually a fait accompli from the start, given the strong political pressures in back of them. What I am saying here, as I have said in the past, is that the administration and the Congress and the other parties invloved have been very short-sighted—indeed tunnel-visioned—in the handling of the Chrvsler situation. We will have to face the longer-term consequences in the years to come, and they may range farther than most people have anticipated.

THE HEROIC STORY OF MALA ZIMETBAUM

● Mr. PROXMIRE. Mr. President, 36 years ago today, a young Jewish girl planned and executed a daring escape from Auschwitz. Mala Zimetbaum wanted to alert the world to the horrors of the concentration camps.

With the outbreak of the war, the Germans occupied Belgium and staged roundups to catch Jews. Mala and thousands of others were herded into cattle transport cars and sent to Auschwitz. Upon arrival, the men and women were separated. The old, the weak, and the women with children were marched to the gas chambers. The remainder were processed and sent to work with shaven heads and tattooed arms. The transports arrived day and night. Thick black smoke poured from the chimneys of the nonstop crematoriums.

Mala had been selected to be a prisoner-functionary and interpreter. She used her job to comfort the spiritually broken and console the women who had lost their children and husbands. With access to areas outside the women's quarters, she risked her life to carry messages to separated families. In the assignment of work details, gave the weak the lightest type of work. Mala saved the lives of hundreds of women who were sick by urging them to recover quickly. She knew the weak soon meet their deaths in the crematoriums.

The time came when Mala could no longer endure the screams of prisoners and the stench of the burning bodies. She had to tell the world of the annihilation of her people. She escaped with another person who disguised himself as an SS officer. They slowly walked past an electrified wire fence and past the watchtowers manned by SS with machineguns. They knew the road ahead would be difficult. They also knew they must arouse the attention of the world. Mala's knowledge of the German language increased her chances of a successful escape.

Two weeks later, rumors spread throughout the camp that Mala had been captured at the Czechosolvak border. The rumors were true. The Gestapo escorted her to the dreaded "Block Eleven." Hundreds before her had been tortured to death in this cell block during interrogations. But Mala remained silent. She refused to disclose the identity of those who aided in her escape. One month later, Mala Zimetbaum walked proudly to her death. On the way to the crematorium, Mala looked up to see tears in the eyes of the women taking her away. Even then she consoled them. "Courage, do not cry," she pleaded, "the day of reckoning is near."

Mr. President, Mala Zimetbaum became an inspiration to thousands of women prisoners in Auschwitz—a symbol of hope and human solidarity. Mala also became an inspiration to women of the world. She had the courage to resist.

Mr. President, the day of reckoning is also here for us. We must act now to ratify the Genocide Convention.

THE FLIP-FLOP BOGEY

Mr. McGOVERN. Mr. President, in recent years, I, and doubtless many of my colleagues, have experienced what, for lack of a better phrase, I refer to as "the flip-flop bogey." This is a phenomenon which holds any politician up for public ridicule if he appears to modify his position on a public issue especially in an election year. For example, Gov. George Romney, in seeking the Republican Presidential nomination in 1968 declared, after a second visit to Vietnam, that he had been "brainwashed" during an earlier visit into believing that our policy was sound in Vietnam. He went on to explain that further inquiry had made him question the wisdom of our involvement. For this candid statement of his changed perception, he was widely ridiculed by the press and by his political opponents. This always seemed an unfair reaction to me. Indeed, my personal reaction was one of increased admiration for Governor Romney's candor and his intelligence. To this day, on the other hand, I marvel at the number of high Government officials who remained brainwashed on Vietnam despite repeated visits to that scene of an American tragedy.

Apparently, it is perceived by some to be a greater act of statesmanship to be firmly and consistently wrong than ever to admit error.

Again during the 1972 Presidential campaign, I was widely ridiculed in the press for first declaring that I was "a thousand percent" behind my Vice Presidential choice and then deciding a week later in the light of further evidence that I must ask him to withdraw. It has always seemed to me that both conclusions were logical in view of the evidence available to me at the time the conclusions were enunciated. Would I have been any more of a statesman to have stubbornly remained with a position I no longer believed to be in the national interest?

Abraham Lincoln once said about slavery as an aspirant for public office:

> If I ever get a chance to hit this evil, I will hit it and hit it hard.

But as President of the United States, Lincoln said:

> If I could save the Union without freeing any slave, I would do it; if I could save it by freeing all the slaves, I would do it; and if I could do it by freeing some and leaving others alone, I would also do that.

Is this a "flip-flop" that diminishes Lincoln to a spineless creature unworthy of his high place in American history?

In my current campaign for reelection to the Senate, I have been accused of flip-flopping on the B–1 bomber and my opponent, Congressman ABDNOR, has been accused of flip-flopping on the MX missile. I would suggest that in these instances my opponent and I have each kept our public positions on sounder ground than if we had refused to change as conditions change.

I opposed the original B–1 bomber design and I still do. If that plane had been built as proposed, it would now be largely obsolete and an enormous amount of money would have been wasted. I remain convinced that the President's decision to select the air-launched cruise missile over the B–1 bomber was correct because the B–1 would have been unable to penetrate Soviet air defenses into the next century as its proponents had claimed. It would not be cost-effective to spend so much money for so little penetration capability. The cruise missile is a more cost-effective penetrator.

It is, therefore, inaccurate and misleading for anyone to suggest that I have done a turn-about on the B–1 bomber.

I might just say parenthetically, Mr. President, that this was done in a headline this morning. The story was fine. It was the headline on it that troubles me.

In recent months, I have become more concerned about the condition of the current fleet of B–52's. The present fleet of B–52's has been getting older and less reliable and new designs and missions have been proposed for the B–1.

A B–52 pilot at Ellsworth Air Force Base recently wrote to me:

> I just had another memorable flight with no radar and a shaky heading system Friday. The tanker never took off; the lead bomber lost two hydraulic systems and left for Ellsworth early. I had to be led home because I was too broken to get back by myself. (That was after I ground-aborted my first airplane of the day by emergency shutdown of two engines for a massive fuel leak on number seven during engine start.) Please, build me a new airplane!

Thus, it seemed to me perfectly logical to suggest, after a recent tour of the Strategic Air Command base at Rapid City, S. Dak., that the time has come for us to begin plans for a follow-on bomber to replace the B–52 by the 1990's. I also suggested that for the 1980's we might consider supplementing the aging B–52's with a modified B–1 stand-off bomber capable of launching cruise missiles or we might stretch out the existing FB–111 as a penetrating bomber for the 1980's. I am inclined to support the FB–111 option. In either case, I have always thought that at some point—probably by the 1990's—we will need to replace the B–52 with a new follow-on system based on new technology and a new mission.

I suggest, Mr. President, every statement I have ever made in opposition to the B–1 has carried with it the statement that some day we would have to move to a follow-on bomber system of some kind.

Mr. President, I ask unanimous consent that the articles, editorials, and other materials related to this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 1980]

IN TURNABOUT, MCGOVERN NOW BACKS BOMBER

(By George C. Wilson)

Sen. George McGovern (D.-S.D.), in a turnabout that dramatizes the pro-defense tide threatening to pull him and other liberals out of office this year, has come out for building the B1 or a bomber like it.

It was McGovern, as senator and 1972 Democratic presidential candidate, who filled the political sky with flak and tried to shoot down the B1.

But today finds McGovern trying to climb aboard some kind of new bomber in hopes of escaping some of the political exploding all around him in South Dakota as he seeks reelection this November.

This is a sample of the rhetoric being shot at McGovern: "If you and I care about our nation's security," states a letter from a retired Army general being circulated in South Dakota by the National Conservative Political Action Committee, "we must work together to defeat George McGovern this November." His votes against the B1 are among the reasons cited.

McGovern is being challenged by James Abdnor, a Republican congressman. McGovern tried to dramatize his commitment to national defense by recently visiting Ellsworth Air Force Base in his home state and issuing this statement:

"We have now reached the point where we will have to begin production plans for the B1 or some similar bomber."

He elaborates on this new position in a newsletter that will go to South Dakotans next week. His reasoning appears under the heading, "The Strategic Bomber—A Key Weapon in America's Defense Arsenal."

The senator writes that the bomber leg of the strategic nuclear triad of bombers, missiles and submarines, "must be improved" because B52 bombers are wearing out and the new MX land missile "is an unnecessary waste of taxpayers' funds" because it does not solve the vulnerability problem at a reasonable cost.

"I remain convinced." says McGovern in

his news letter, that President Carter was right to cancel the B1 bomber in 1977 and build the cruise missile instead. Improved Soviet defenses, McGovern says, "will make the B1 obsolete by the end of the 1980s."

Even so, McGovern states he could support what House members call "the son of B1," a plane that would carry cruise missiles on the old B1 airframe but have a stiff wing rather than one that swings back and forth as originally planned. This B1 derivative is called the Strategic Weapons Launcher, nicknamed SWL or Swill.

The House voted money to build the Swill in the fiscal 1981 procurement bill still awaiting action by the Senate.

Besides supporting son of B1, McGovern states in his newsletter that he would support a stretched version of another controversial airplane, the F111. One Air Force idea is to elongate the F111 to give it strategic range and install B1 engines in this interim bomber.

After telling constituents that he could vote for either son of B1 or son of F111, McGovern writes: "I prefer the FB111 bomber option over the B1/SWL option."

The Senate Armed Services Committee, in its version of the Pentagon procurement bill to be voted later this week, authorizes $91 million to start working on a strategic bomber version of the F111.

But now that a new bomber is picking up support from such outspoken critics as McGovern, Carter and top Pentagon civilians do not want either the modified B1 as a cruise missile carrier or the stretched F111 as an interim manned bomber. They argue that Soviet defenses make both those bombers a waste of money.

Even some Air Force bomber enthusiasts fear building either a modified B1 or F111 will endanger their plans for the plane they really want. On the drawing board is a high-flying bomber that would go slow but fly so high and carry such effective electronic spoofing equipment that enemy radars could not detect it.

The Strategic Bomber—A Key Weapon In America's Defense Arsenal

As one of the few combat bomber pilots in Congress, I always take special pride in visiting Ellsworth Air Force Base, near Rapid City, because I know from my personal exprience how hard these pilots train and what risks they take to serve their country.

My recent visit to Ellsworth gave me the opportunity to talk with the base commander, his pilots and mechanics. We discussed the B–52, the B–1, the MX, the FB–111 and the whole range of military issues facing the country. When I left Ellsworth, I issued the following statement: "I think the decision to keep the B–52 in operation throughout the 1980's was sound. But we have now reached the point where we will have to begin production plans for the B–1 or some similar bomber."

I would like to explain my views in more detail.

The bomber leg of the strategic nuclear "triad" must be improved for two primary reasons. First, the B–52 workhorse will be wearing out in this decade. Second, the MX missile is an unnecessary waste of taxpayer funds, because it fails to resolve definitively the land-based missile vulnerability problem in a cost-effective manner. With land-based missiles more vulnerable, at least in a theoretical sense, the sea-based missiles and the bomber elements of our force must take up the slack.

The real issue becomes: what is the best way to go to improve the bomber forces?

As I review this issue, I remain convinced that the President's 1977 decision to select the Cruise Missile over the B–1 bomber was correct because the B–1 could not adequately penetrate Soviet air defenses through the next century. The development of a Soviet look-down, shoot-down capability will make the B–1 obsolete by the end of the 1980's. This remains true as we look to the future. As General Ellis, Commander in Chief of the Strategic Air Command, recently stated:

". . . opting for the B–1 at this time could preclude procuring a more advanced aircraft available by 1990. What makes that a legitimate concern is that B–1 technology is representative of the late 1960s, or maybe 1970, and that aircraft could become obsolete in the nineties as a strategic penetrator."

Before evaluating alternatives to the B–1, let me add a word about the President's decision to cancel the B–1. Many people believe it was an example of American "unilateral disarmament." But there was no arms control or disarmament policy involved at all. The only criterion was military effectiveness. The Cruise Missile is a more effective penetrator of Soviet air defenses than the B–1. Soviet air defenses will be practically useless against the Cruise Missile. With the Cruise Missile, we will be better able to stay ahead in the technological race between offense and defense.

While I agree with General Ellis that the old B–1 is not a realistic future alternative, we should continue advanced research and development to determine if an effective penetrating bomber for the 1990's is feasible.

But looking to the bomber of the future, whether strategic penetrator or Cruise Missile launcher, is not a substitute for short-term solutions. There are two main short-term alternatives.

The first is to use the basic B–1 frame and engines as a Strategic Weapons Launcher (SWL or "Swill") rather than as a manned penetrating bomber. It should be noted that the proposal for this new plane incorporates many changes which the critics of the old B–1 pointed out in the debate. The new plane, for example, has fixed wings instead of swing wings, its engines are more fuel-efficient and its payload is greater.

A fleet of 100 fixed-wing B–1s to launch Cruise Missiles could be procured for $12.6 billion and be ready for initial operation by 1986.

Procurement funds for the B–1 Strategic Weapons Launcher have been added to the military budget by the House of Representatives. If it comes to a vote on the Senate floor, I could support this alternative because it preserves the long-term emphasis on the Cruise Missile as the basic element in the air-breathing leg of the nuclear triad.

But there is a second alternative which was described for me at Ellsworth and which I have studied since returning to Washington. This is the proposal of General Ellis of SAC to "stretch" the FB–111 bomber by adding B–1 engines and B–1 avionics to turn the FB–111 into a strategic-range penetrating bomber until 1990. A fleet of 155 "stretched" FB–111B and C models would achieve an equal capability to 100 B–1s but could be ready by 1983, or 2 and ½ years before the Strategic Weapons Launcher, and at less than one-half of the cost—$5.5 billion for the FB–111 instead of $12.5 billion for the B–1/SWL.

In addition, the FB–111 could perform night/all weather tactical missions as well as the strategic mission. The FB–111 can operate from shorter and thinner airstrips than either the B–1 or the B–1/SWL. By 1990, the modified FB–111s could be shifted to full-time tactical missions.

On the basis of General Ellis' testimony in Congress and the statements made to me last weekend at Ellsworth, I am convinced that FB–111B and C models could give us more capability, sooner and at substantially lower cost, than any other alternative.

The FB–111 alternative is also fully compatible with the SALT II ceilings as a non-MIRV strategic nuclear delivery vehicle.

The difference between the old B–1 and the "stretched" FB–111 is that although both are manned penetrating bombers, the FB–111 is intended as a penetrator only through 1990 when either a follow-on penetrating bomber or an advanced cruise missile will be available. The old B–1, however, was intended as the bomber until the next century—a role it could not perform at acceptable cost. By providing near-term real capability, the FB–111 gives us time to examine new bomber proposals, alternatives to MX and an advanced Cruise Missile.

The Senate Armed Services Committee is still marking-up the military procurement bill. I would support the FB–111 concept if it comes to the Senate floor. I prefer the FB–111 bomber option over the B–1/SWL option.

Regardless of the new alternative selected, the B–52 should be modernized as the Cruise Missile Carrier for the immediate future. The Administration has planned over $400 million for B–52 modifications for the 1979–82 period which should be supported.

A follow-on Cruise Missile Carrier Aircraft (CMCA) to replace the B–52 in the future will also be needed. Although studies are still being done, the preliminary research suggests that a hardened, medium widebody commercial transport, such as the L–1011, is the best candidate considering such factors as ability to carry enlarged cruise missiles, acceleration, dispersability, nominal unit cost and cost risk.

In summary, I propose a stratgeic bomber program based on the following elements. First, a new strategic bomber for the next decade, either the FB–111B/C which I prefer or the B–1/SWL. Second, continued research for new strategic bomber concepts for the 1990's. Third, continued modernization of the B–52 to extend its useful life. Fourth, testing of advanced Cruise Missile Carrier Aircraft. Fifth, continued refinement of the Air-Launched Cruise Missile as the primary penetrator of Soviet air defenses.

This program is sufficient to meet our strategic bomber defense needs at an acceptable cost. It is based largely on the recommendations of the Commander of the Strategic Air Command. It is compatible with SALT. And it is entirely consistent with the positions I have advocated in the past in Congress.

Memorial Day Address

We South Dakotans now take for granted that we have in our state the largest and most important base in the Strategic Air Command.

In addition to 30 B–52 bombers and their supporting tankers, we have 165 of the latest land based intercontinental nuclear missiles.

If South Dakota were to secede from the Union, and become an independent nation we would become the 3rd ranking nuclear power in the world—second only to the United States and the Soviet Union.

Each one of our bombers at Rapid City and each one of our missiles has infinitely greater destructive capacity than the A-Bomb which we used to incinerate Hiroshima 35 years ago.

Great power of this kind requires great restraint, caution and wisdom on the part of our military and civilian leaders.

But the need for such power in readiness to deter potential aggressors against us also requires that we keep our forces and our manpower up to combat readiness levels.

We need to pay our military pilots, mechanics, engineers, and technicians salaries that can enable them to reject the civilian industry offers that now drain off some of our best trained men.

We need to keep our National Guard and our Army Reserves up to full strength and in combat readiness. At Ellsworth Base, we need to repair the crumbling taxi-ways, replace the aging service trucks and other obsolete vehicles; we must insulate and modernize energy wasteful maintenance shops and hangars. We must replace the badly deteriorated World War II housing at the Rapid City base.

And we must keep under constant review the various options to upgrade and modernize our bomber and tanker fleet.

Every American Air Crew is entitled to fly the safest, most effective aircraft we can devise.

It should concern every American that nearly half (47 percent) of our front line F-14 "Tom Cat" Navy fighters are grounded—waiting for repairs or for mechanics. We should be concerned about the maintenance and reliability of other aircraft, ships and tanks.

It should concern every American that of the 14 aircraft used in the recent Iranian rescue failure, five of the 14 became inoperational without ever encountering enemy action. Three of the eight helocopters malfunctioned and would not fly. A fourth collided on the ground with a C-130 transport destroying both aircraft and their crews.

We cannot risk that kind of equipment failure at our South Dakota strategic air base at Rapid City.

Our first order of business is to upgrade the taxi-ways, the housing, the vehicles, and to properly compensate the personnel at Ellsworth and other American defense bases. Holding on to our best personnel and upgrading maintenance and facilities is more urgent and important than fancy new weapons. Yet, we need to look also at the possible need for new and more dependable weapons.

When I made these observations after a recent visit to Ellsworth Base, my political enemies were quick to say this represented a change of position on my part.

It represented nothing of the kind. I have always been for a strong national defense.

I have always voted for better pay scales and adequate maintenance support for our military personnel.

I have always opposed bringing new weapons into being when we could get useful additional performance out of weapons already in our arsenal.

It was a sound decision in the 1970's to defer building the B-1 bomber when with proper upgrading the existing B-52 can be operated effectively until 1990. But as I observed recently in remarks to bomber pilots and base commanders at Rapid City, we are now entering the 1980's when we will have to choose some kind of system to replace the B-52 by the end of this decade. This is no "flip-flop" as my political critics charge; it is consistent with my longtime view that we should not build costly new weapons systems until we are sure of their necessity and what kind of mission they should be designed for. We still have some hard questions to answer before we decide what kind of bomber or cruise missile launcher we should build to either replace or supplement the B-52 bomber.

One possibility is to improve the FB-111 bomber as a penetrating bomber to be used until 1990.

Another possibility is to use a modified version of the B-1 bomber to launch the Cruise Missile from outside the target area.

Still another possibility is to upgrade the B-52 for use as a Cruise Missile launcher until 1990.

But we need to begin planning now for some kind of bomber with a criuse missile launch capability that is better than any of the above alternatives for the 1990's and beyond.

McGovern Should Follow B-1 Words With Action

The strategic weapons advantage the United States has maintained over the Soviet Union is fast disappearing.

The Russians have conducted a systematic and effective program to overcome the edge this country had and which was a factor in maintaining peace between the U.S. and U.S.S.R. for 35 years.

In order, the Soviets developed an intercontinental ballistic missile force, a fleet of ballistic missile-carrying submarines, the supersonic Backfire bomber and independently targeted multiple warheads for missiles.

As a result of the Soviet buildup, by the end of the 1970s the only significant advantage the U.S. held was in the number of nuclear warheads. Now it appears even that edge soon may be lost.

A recent CIA report estimates that by 1985, Russia may be capable of launching as many as 16,500 nuclear warheads. American strategic missile and bomber forces, including those with air-launched cruise missiles, will have about 10,000 warheads.

A question this country must address is how to blunt the Soviet advantage.

The MX missile is one possibility. It's future, however, is clouded by the debate over how it should be deployed. It's also possible that the proliferation of Soviet warheads might neutralize the MX.

Another option, less controversial and which could be ready sooner, is the B-1 bomber—a tested and proven strategic weapons system.

A manned penetrator such as the B-1 has an advantage over other weapons systems. Because it can be launched and held in the air awaiting a decision to attack, it provides time to determine what the enemy is doing and time to deliberate as difficult a decision as anyone may ever be called upon to make.

Missiles, on the other hand, require immediate decisions. They're launched or they're not. Once launched, they can't be recalled.

The need for flexibility, the fact manned bombers can fulfill a role in conventional warfare as B52s did in Vietnam and the need to counter the Soviet strategic buildup are strong arguments for building a new manned penetrator. The B-1 is such a weapon and it's just waiting to be built.

Like most everyone else, we were surprised at Sen. George McGovern's switch in attitude toward the B-1. He can prove it isn't just campaign talk by following up with action where it will do some good.

McGovern Clarifies Position on Bomber

(By Senator George McGovern)

Readers of the Rapid City Journal who may be interested in issues affecting our national defense and specifically Ellsworth Air Force Base may be justifiably confused by recent reports of my positions on the B-1 bomber. Whether this confusion is my fault, or the newspaper's or both, or neither, is unimportant. What is important to me is that I be understood and that I not be unfairly accused of a "flip-flop." So let me state my positon as clearly as I can.

Recently, I visited Ellsworth Air Force Base and conferred with the senior officers, the bomber crews and some of the maintenance personnel. It was clear to me, and I so stated to the press, that the most urgent needs of the base are improved taxiways, properly insulated and improved hangars and workshops, new maintenance vehicles, and new housing. I also said that as one who believed the B-52 could serve our bombing needs until 1990, I had no regrets about opposing a go-ahead on the controversial B-1 bomber in the 1960's and the 1970's. But, I added, the B-52 can't last forever and I recognize that we must now begin making plans to replace the B-52 either with the B-1 bomber or some other follow-on bomber. I carefully avoided a specific commitment to the B-1 for the simple reason that the Air Force may eventually decide that there is an even better replacement for the B-52.

Some high Air Force officials believe that the B-1 design and mission proposed in the 1960's is now obsolete and that it would be better to proceed with a new design and a new mission.

General Richard Ellis, commander of the Strategic Air Command, has recommended that a modified FB-111 could be used in the 1980's along with upgraded B-52's but that we will need an entirely new bomber by 1990. I am now inclined to this same view.

I continue to believe that the MX missile is a waste of money that could better be spent on upgrading our bomber fleet, improving the pay scales of our trained military technicians, strengthening our maintenance effort, and bringing the National Guard and Army Reserves up to full strength.

As a World War II bomber pilot, I have been especially devoted to the Air Force for 37 years. I want the Air Force and all our services to be well paid, well equipped, and maintained in a state of readiness. But I will continue to oppose what I believe to be ill-conceived, wasteful schemes such as the ABM and the MX.

THE DEATH OF PAUL HALL

Mr. STEVENS. Mr. President, it is with deep regret that we note the passing of Paul Hall, president of the Seafarers International Union of North America for nearly a quarter of a century. Mr. Hall has been one of the driving forces in the development of the U.S. maritime policy and leaves behind him a legacy to be carried on by his 80,000-member union.

Mr. Hall has had a long and distinguished career of public service. He has served as Presidential-appointee to committees or commissions under four Presidents—Johnson, Ford, Nixon, and Carter. During his distinguished career in the American labor movement, he rose to the position of senior vice president of the AFL-CIO.

Mr. Hall has received numerous awards for his work both in and outside of the American labor movement. In 1973, he received the labor rights award from the Jewish Labor Committee. In 1968, he received an award from the State of West Virginia for his help in providing jobs for disadvantaged Appalachian youth. In 1962, his work in the urban areas of this country was noted when he received the Civic Center of New York humanitarian award for his work in rehabilitating youth offenders.

The list of Paul Hall's awards and achievements are seemingly endless. Perhaps, his impact on the maritime community is best felt through the graduates of the Harry Lundeberg School of Seamanship in Piney Point, Md., which was established by Mr. Hall. The school's graduates presently sail on more than 200 American-flag deep sea ships worldwide and nearly 500 tugs and towboats throughout the United States.

This country has, indeed, lost not only a great driving force in the maritime community but also a man of enormous civil achievement.

Paul Hall is survived by his wife, Rose; son, Max; daughter, Margo; and brothers, Peter and Robert.

CUBAN REFUGEES

Mr. THURMOND. Mr. President, recently WSPA-TV of Greenville-Spartanburg, S.C., broadcast an editorial concerning the current Cuban refugee situation.

The editorial pointed out the need for regulated immigration laws to serve as guidelines for the influx of immigrants.

Mr. President, in order that I may share this fine editorial with my colleagues, I ask unanimous consent that it appear in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CUBAN REFUGEES

A recent editorial in The New York Times points out an alarming aspect of the current Cuban refugee problem.

With this influx of immigrants, Spanish speaking peoples shortly will become this nation's largest minority. This group is already demanding the right to educate its children in Spanish, a policy the Carter administration has so far been inclined to support. While this may appear desirable from the immigrants' point of view, in the past refugees who have succeeded in this country were ones who were assimilated into the nation's culture. Nor should the United States ignore the problems other nations are having with outspoken, unassimilated minorities, for example Kurds in Iran and Iraq, Basques in Spain and Palestinians in Israel.

Thousands of Latin Americans would pay any price to come to this country. But can the United States afford to swing wide its door and let them in? There are now more illegal aliens in the United States than unemployed American citizens. As the shadow of recession lengthens, can this nation shelter more and more of the world's dispossessed while its own citizens are without jobs?

WSPA thinks not. The heart of the current problem is that this wave of immigration is unregulated by a consistent policy legislated by Congress and carried out by the President. As the Times points out, past immigration "was brought in under the law." These laws were not always fair or wise, but they still served as guidelines. No such guidelines are effectively operating today. And as the present situation may soon reveal, we may be creating a new nightmare, not only for the refugees but for ourselves.

SUCCESS OF THE ROTC PROGRAMS OF THE ARMED FORCES

Mr. THURMOND. Mr. President, 10 years ago last month, during the Vietnam era, I stood here to express my abhorrence at the anti-ROTC demonstrations in our country. There were those who burned down our ROTC buildings. The Reserve Officer Training Corps (ROTC) program was at an all-time low and the antimilitary sentiment was widespread in our country.

Today, I am pleased to report that the ROTC programs in our Armed Forces are again reaching the dynamic stage. Interest and participation in the ROTC programs today are growing faster than the military departments can provide this excellent training. The ROTC programs at colleges and universities supply the bulk of the officers for the Army, Navy, Air Force, and Marine Corps. The Army ROTC program commissions approximately 70 percent of all new lieutenants entering the total Army force each year.

Our ROTC programs provide our young people some of our Nation's finest training, leadership and educational programs. Young men and women of all races, creeds and national origins who are citizens are selected on their own merits for rewarding careers as officers in our Armed Forces. The program develops informed leaders with a strong sense of self-reliance, dedication, patriotism and the responsibilities of a leadership role in our national security program.

Mr. President, our Senate Armed Services Committee recently recommended approval of an additional 5,500 ROTC scholarships for the Army, which have already been passed by the House. In addition, other restrictions are recommended for removal to help meet the requirements and the growing interest in the ROTC programs. The additional scholarships will help the Army meet a shortage of 4,000 junior officers in the Army Reserve and the Army National Guard.

Mr. President, the Air Force recently removed 12 ROTC units at colleges and universities across the Nation from a probationary status and restored them to good standing. The probationary period was a result of low interest and marginal participation. A surge of interest in the program brought these units and others in the Army and Navy back to a productive standing. I am pleased to note an encouraging surge of patriotism among the college youth of the Nation, especially in the Southeast.

Mr. President, I am also proud to report that the Air Force ROTC unit at Baptist College, Charleston, S.C., was one of the units recently restored to good standing. The Baptist College unit reached an all-time low in participation a few years ago. It was on the verge of disestablishment.

Now, Baptist College is the No. 1 ROTC unit within the Air Force in the Nation in recruiting. It has met its goal by 240 percent. Based upon projected enrollments, the two small colleges in Charleston, S.C., Baptist College and the Citadel, will graduate more ROTC Air Force officers in 1982, than any other city in the country.

Under Major General Easson, Air Force ROTC has not only met its goals for new cadets to be commissioned as Air Force officers in 1982, but it has exceeded its expectations by almost 20 percent. The Southeast area, commanded by Col. Melvin Smith, has by far the largest number of Air Force cadets. The historic city of Charleston, the scene of the first shot fired in the Civil War and the home of distinguished American patriots since the birth of our Nation, now leads the Nation in Air Force ROTC recruiting.

Mr. President, I wish to take this opportunity to commend the fine leaders of the Baptist College, my good friend, Dr. John Hamrick, the president of the college and "Man of the South for 1980," and Lt. Col. James T. Thomes, the commander of the unit and professor of aerospace studies. They have achieved amazing success in bringing the ROTC unit from an all-time low to the top Air Force recruiting unit in the country. Lieutenant Colonel Thomes is a graduate of the Naval Academy. He is a combat fighter pilot and an inspirational Air Force leader. He is assisted by Capt. Mark Springer, an outstanding young Air Force officer who spent his youth as a page in these very halls.

Baptist College is a small college which has a 2-year Air Force ROTC program. Several years ago, a bare probationary minimum of about 17 juniors were enrolled in ROTC at Baptist College. In the 1979–80 program, there were 70 juniors and 32 seniors which reflect the great success achieved by Dr. Hamrick and his associates.

Mr. President, the Citadel, a renowned military college, which is also located in Charleston, is well-known throughout our Nation. It has Army, Navy, Marine Corps and Air Force ROTC programs with a total enrollment of about 1,800 cadets last year. The Citadel also has the second largest enrollment of any Air Force ROTC detachment in the Nation with almost 700 cadets.

Vice Adm. James B. Stockdale, USN (retired), who was appointed as the President of the Citadel last fall, is continuing to provide the able leadership and educational motivation of his eminent predecessors of the last 137 years. The Citadel's staff and faculty are one of the finest professional groups in education and military science ever assembled at a military institution.

Mr. President, the interest and participation in the Army and Navy ROTC programs have also increased tremendously over the past few years. Brig. Gen. (P) D. W. French, who heads the Army ROTC program at the headquarters, training and doctrine command, Fort Monroe, Va. has done an outstanding job. General French and his associates are to be commended for helping to revitalize this important Army program.

Mr. President, in the past several years, Army ROTC has bounced back on the college campus. Current enrollment, which is over 63,000, is double what it was in 1973. To increase ROTC officer production to over 10,000 a year by 1986, the Army is supporting initiatives including expansion of the ROTC scholarship program.

The measure recently approved by our Armed Services Committee will provide additional ROTC scholarships that can be used to attract outstanding students to both active and reserve duty. The current scholarships may be used for active duty only. The Army ROTC program provides leadership training in 279 of the Nation's colleges and universities, of which 43 are located in the Southeast, including others, such as Clemson University, Furman University, Presbyterian College, South Carolina State, and Wofford College, all in South Carolina.

Mr. President, I am proud to report that the University of South Carolina (USC) will soon add an Army ROTC unit to the Navy and Air Force programs at the university. It will be fully operational in the 1981–82 term. The six colleges and universities in the great State of South Carolina, not including USC, have Army ROTC units with 2,462 cadets participating in the program.

Mr. President, an increase in interest and participation in the Navy and Marine Corps NROTC programs have also grown beyond expectations the last few years. Rear Adm. K. L. Shugart, Jr., deputy chief of naval education and training, Pensacola, Fla., and his associates are to be commended for their tremendous success in improving the Navy and Marine Corps ROTC programs. For instance, the following highlights the interest and participation in the NROTC programs:

Scholarship application up approximately 100 percent over 1979;

Scholarship acceptance rate up approximately 12 percent over 1979;

More than 80 percent of scholarship selectees express intention to major in science or engineering;

NROTC regular accessions to Navy nuclear power training were greater than any previous year; up approximately 40 percent over 1979;

Numerous initiatives were enacted to enhance scholarship opportunities for minorities; and the

Two-year program participation is projected to be up approximately 50 percent over 1979.

Mr. President, I am confident that this tremendous surge of interest in all the ROTC programs reflects a significant new era of patriotism, dedication, and respect for our military, which reached an all-time low in the Vietnam era. This trend is most encouraging and reassuring, and I salute our Nation's young men and women who want to serve our country in uniform.

MESSAGE FROM THE HOUSE

At 4:58 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 598. An act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; and

S. 2460. An act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, with an amendment; that the House insists upon its amendment to the amendment of the Senate to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Fuqua, Mr. Ottinger, Mr. Blanchard, Mr. Glickman, Mr. Gore, Mr. Wydler, Mr. Fish, and Mr. Winn were appointed as managers of the conference on the part of the House.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 101. Concurrent resolution to promote the competitiveness of United States industry in the world automobile and truck markets.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation; and

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 2245. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes; and

S. 2698. An act to provide authorizations for the Small Business Administration, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Magnuson).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 6242. An act to establish a Towing Safety Advisory Committee in the Department of Transportation; to the Committee on Commerce, Science, and Transportation.

H.R. 6671. An act to unify the rules for preventing collisions on the inland waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 1980, he had presented to the President of the United States the following enrolled bills:

S. 2245. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes; and

S. 2698. An act to provide authorizations for the Small Business Administration, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4080. A communication from the Assistant Secretary of the Navy (Manpower, Reserve Affairs & Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the guard services function at the Naval Fuel Depot, Jacksonville, Florida, and a decision has been made that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC-4081. A communication from the Assistant Secretary for International Organization Affairs, Department of State, transmitting, pursuant to law, a March 1980 report issued by the United Nations Joint Inspection Unit; to the Committee on Foreign Relations.

EC-4082. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, project performance audit reports prepared by the Asian Development Bank; to the Committee on Foreign Relations.

EC-4083. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status, Progress, and Problems in Federal Agency Accounting During Fiscal 1979," June 20, 1980; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. Kennedy), from the Committee on the Judiciary, without amendment:

S. 1192. A bill for the relief of Howard B. Schmutz (Rept. No. 96-830).

By Mr. ROBERT C. BYRD (for Mr. Kennedy), from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 115 Joint resolution designating July 1980 as "National Porcelain Art Month."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Francis Leon Jung, of Virginia, to be a Member of the Foreign Claims Settlement Commission.

Mary Frances Berry, of Colorado, to be a Member of the Commission on Civil Rights.

Jill S. Ruckelshaus, of Washington, to be a Member of the Commission on Civil Rights.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Judith Nelsen Keep, of California, to be U.S. District Judge for the Southern District of California.

Marilyn Hall Patel, of California, to be U.S. District Judge for the Northern District of California.

Thelton Eugene Henderson, of California, to be U.S. District Judge for the Northern District of California.

A. Wallace Tashima, of California, to be U.S. District Judge for the Central District of California.

Carmen Consuelo Cerezo, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

U. W. Clemon, of Alabama, to be U.S. District Judge for the Northern District of Alabama.

Earl H. Carroll, of Arizona, to be U.S. District Judge for the District of Arizona.

Alfred C. Marquez, of Arizona, to be U.S. District Judge for the District of Arizona.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner.

Joan F. Tobin, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

COAST GUARD

Mr. CANNON. Mr. President, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the Record on June 13, 1980, at the end of the Senate proceedings.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

The following-named persons to be members of the Board of Directors of the National Institute of Building Sciences for the terms indicated:

For terms expiring September 7, 1980:

Rudolph William Bramberg, Jr., of Florida, vice Robert F. Schmitt, term expired.

S. Eugene Ruff, of North Carolina, vice Charles H. Pilard, term expired.

For terms expiring September 7, 1981:

Joseph T. Power, of Virginia (new position).

William F. Floyd III, of Georgia (reappointment).

Warner Howe, of Tennessee (reappointment).

Charlene F. Sizemore, of West Virginia (reappointment).

Jeremiah Thomas Walsh, of New York (reappointment).

For a term expiring September 7, 1982:

Blanca G. Cedeño, of New York (reappointment).

For terms expiring September 7, 1983:

Rudolph William Bramberg, Jr., of Florida (reappointment).

S. Eugene Ruff, of North Carolina (reappointment).

(The above nominations from the Committee on Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ORDER FOR SEQUENTIAL REFERRAL—S. 2665 AND H.R. 2743

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2665, the National Coal Production, Distribution and Utilization Act, which is currently pending before the Committee on Energy and Natural Resources, if and when reported, be sequentially referred to the Committee on Commerce, Science, and Transportation, and that H.R. 2743, the Materials Policy, Research and Development Act of 1979, which is currently pending before the Committee on Commerce, Science and Technology, if and when reported, be sequentially referred to the Committee on Energy and Natural Resources.

In both cases the sequential referral would be for a period of not more than 30 calendar days and the bills returned to the calendar if they have not been reported at the end of that period. If the 30 days expire during a nonlegislative period, each committee would have 5 calendar days after the end of such period to report the bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—SENATE REPORT 96-800

Mr. DOMENICI. Mr. President, I ask unanimous consent that a star print of report 96-800 be prepared which includes language inadvertently omitted from the report text submitted for printing on June 10.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHURCH:

S. 2866. A bill to promote the orderly conduct of international relations, to provide assistance to foreign missions and international organizations in the United States, to provide reciprocity, and for other purposes; to the Committee on Foreign Relations.

By Mr. EXON:

S. 2867. A bill for the relief of Taishine Wang, doctor of medicine; to the Committee on the Judiciary.

S. 2868. A bill for the relief of Joseph Eddy Nicolas, doctor of medicine; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2869. A bill to provide a vocational education alcohol fuels program; to the Committee on Labor and Human Resources.

By Mr. JACKSON (by request):

S. 2870. A bill to amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. Hayakawa):

S. 2871. A bill to provide for the conveyance of certain lands in Mammoth Lakes, California, to the Mammoth Unified School District, Mono County, and Mono County Water District; to the Commission on Energy and National Resources.

By Mr. CHAFEE (for himself and Mr. Pell):

S. 2872. A bill to amend the Federal Water Pollution Control Act to provide for reimbursement of state expenditures under the construction grant program; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 2866. A bill to promote the orderly conduct of international relations, to provide assistance to foreign missions and international organizations in the United States, to provide reciprocity, and for other purposes; to the Committee on Foreign Relations.

DIPLOMATIC RECIPROCITY ACT

• Mr. CHURCH. Mr. President, the Diplomatic Reciprocity Act is designed to provide the means to remedy a serious and growing imbalance between the treatment accorded in many countries to official missions of the United States abroad, and that made available to foreign government missions in the United States. At present the Department of State lacks authority compared to that enjoyed by many other governments to enforce reciprocity in an appropriate manner.

In an increasing number of countries, for example, the United States is denied suitable locations for our missions or long-term rights to property or facilities, often resulting in diminished security, excessive or discriminatory costs, or inadequate facilities which significantly reduce the effectiveness of our missions. For example:

In the Soviet Union and East European countries, the USG is barred from purchasing office and residential properties and is required to obtain all facilities through government controlled sources. In many cases these are either inadequate, excessively costly, or both, or denied arbitrarily. However, in the United States, these governments are allowed to purchase both types of property in Washington, D.C. All own either office or residential space.

Venezuela will not allow the Department to purchase staff housing units in the capital city, which imposes difficulties on the functioning of the mission, but the Venezuelans are purchasing housing in the Greater Washington metropolitan area for official purposes.

Kuwait, Bahrain, and the United Arab Emirates will not allow the United States to purchase badly needed staff housing sites which would allow residential construction and elimination of exhorbitant short-term lease charges. Yet these same governments own residential units in our capital area. For example, in Doha, Qatar it costs the U.S. Government $33,000 per year to lease living quarters for a single secretary.

In Indonesia, the Government has determined that the U.S. Government may no longer own more than 20 properties and is now in the process of converting these to long-term leaseholds. The new groundrents will be considerable. Indonesia is free to buy, lease, and sell in the United States.

In Algeria, a prior expropriation of U.S. property remains unresolved. Our present facilities are very inadequate and our efforts to secure long-term office and residential properties have met with negative results.

Our Embassies in the Soviet Union, East European and other countries with State directed economies are required to deal through service organizations within the Ministries of Foreign Affairs for practically all administrative support and services, this is housing, maintenance, utilities, employees, tickets for cultural and athletic performances, travel, et cetera. These organizations often impose a substantial surcharge for often unnecessary or unwanted "services." The total cost to the U.S. Government and its employees amounts to hundreds of thousands of dollars annually.

For example, the Soviets charge diplomatic personnel but not tourists a "fee" (equal to one night's lodging) for holding a hotel reservation. Thus, a traveler is required to pay for one extra day of lodging regardless of the amount of time the room was occupied.

In many areas of the world, both the U.S. Government and its employees encounter serious inequities regarding the import or export of privately owned vehicles and other personal effects. Employees of these governments' foreign missions in the United States do not face these same restrictions; problems exist, for example, in Mexico, Venezuela, Singapore, Guatemala, and at many Embassies in the Near East.

At the same time, missions of those same countries are allowed in the United States to acquire property and goods freely or obtain benefits or public services, often without limitation. The U.S. Government and its personnel are often confronted by serious inequities concerning the payment of taxes on goods and services obtained in the host country. For example, in Chile and Malta the Embassy is not exempt from the payment of a gasoline tax of 48 cents and 25 cents per gallon, respectively. In Yugoslavia the Embassy is required to pay a 27.5-percent tax on heating oil.

A number of countries also require a transaction tax on certain construction materials. An example is Portugal where the imposition of this tax may greatly increase the cost of the new Embassy being constructed in Lisbon. In New Delhi, all Embassy administrative and support staff and specialized staff such as Library of Congress personnel do not receive duty-free import privileges and are not exempt from customs inspection and imposition of certain taxes, despite their performance of official functions for the United States.

In most cases, the Department lacks authority to impose similar restrictions or conditions on other countries in the United States. Instead it can only take far more extreme action such as barring the country concerned from using property it may acquire or declaring some persons persona non grata. These remedies are not suitable for such situations and are therefore rarely used.

This bill would remedy this situation by providing the Secretary with additional authority and means to enforce reciprocity in a manner appropriate to the issue at hand—to "make the punishment fit the crime."

The bill accomplishes this by authorizing the Secretary to provide or assist in the provision of services or benefits to a foreign mission and its personnel including: the acquisition of property by purchase or lease; construction; public agency services such as customs and utilities; supplies; travel, maintenance and protective services at the request of a foreign mission or if directed by the Secretary on the basis of reciprocity.

This bill would also resolve, as a necessary part of any reciprocity legislation, the question of the Federal interest in—and jurisdiction over—the location of foreign missions in the capital city. Actions by city authorities over the last several years which have made the location of facilities for foreign governments excessively difficult, have caused increasing concern to the State Department and other Federal agencies involved in the Congress, and finally led to the adoption in December 1979 of a concurrent House and Senate resolution of disapproval of action by the District of Columbia regarding chanceries in the Capital.

This bill would place authority to determine locations of foreign missions in the National Capital Planning Commission, which already has authority by statute to plan for the location of foreign government chanceries; it will provide a one Commission public hearing process; and will insure that the Federal interest will be reflected in the decisional process. (It should be noted that both the mayor and the city council have representatives on the Commission, as do the House and Senate District Committees; the Federal agencies have three representatives, and the remaining members are public members.)

The bill provides for the establishment of a Government Corporation to assist in the implementation of the act. The Corporation would be self-financing.

The Department of State would continue to perform its normal functions with respect to the interests of foreign governments in the United States. The proposed Corporation would, under the direction of the Secretary of State, perform support functions which are not generally performed by an agency of Government and for which the Department would not appropriately be staffed.

The establishment of such a Government Corporation, fully under the control of the Secretary of State, builds on the successful experience of other countries. It permits the flexibility essential to the changing requirements of reciprocitv. Hopefully passage of this legislation will result in improved reciprocitv and fewer unreasonable restraints on Government missions.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill and section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Diplomatic Reciprocity Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that activities undertaken on behalf of foreign governments and international organizations in the United States, including the scope of such missions and the location of their facilities, is a matter within the Federal jurisdiction.

(b) The Congress declares that it is the policy of the United States to facilitate the conduct of official missions of foreign governments and international organizations to the United States, and to provide benefits, privileges, and immunities within the United States.

(c) The Congress declares it to be the policy of the United States to take into account the benefits, privileges and immunities conferred upon or made available to the United States abroad, in determining the appropriate assistance to be conferred upon or made available to such official missions in the United States, to the extent practicable within the limitations of applicable State and Federal laws.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Corporation" means the Diplomatic Services Corporation;

(2) the term "foreign mission" includes—

(A) a mission which performs, on behalf of a foreign government, any of the functions described in Article 3 of the Vienna Convention on Diplomatic Relations, done on April 18, 1961,

(B) an instrumentality which performs, on behalf of a territory outside the United States, any of the functions referred to in clause (A) and which has been granted privileges and immunities under the laws of the United States, and

(C) any international organization which is engaged in activities within the United States and which has been granted privileges and immunities under the laws of the United States;

(3) the term "member of a foreign mission" includes a head of the foreign mission and a member of the diplomatic staff, of the administrative and technical staff, and of the service staff of a foreign mission, as determined by the Secretary;

(4) the term "Secretary" means the Secretary of State; and

(5) the term "sending State" means the foreign government or territory, if any, represented by a foreign mission.

ESTABLISHMENT OF THE CORPORATION

SEC. 4. (a) There is established in the executive branch of the Federal Government a body corporate without capital stock to be known as the "Diplomatic Services Corporation" (hereafter in this Act referred to as the "Corporation"), which shall be under the policy guidance of the Secretary of State.

(b) (1) The Corporation shall have a Board of Directors (hereafter in this Act referred to as the "Board") consisting of three directors, one of whom shall be designated by the Secretary as Chairman.

(2) The Secretary shall appoint the directors from among American citizens distinguished in the field of foreign policy.

(3) Each director may serve for a term of three years. The Secretary may appoint a director to fill a vacancy occurring before the expiration of a term, in which case the director so appointed shall serve the remainder of such term. Any director whose term has expired may serve until his successor has been appointed. Directors serve at the pleasure of the Secretary.

(4) The Board shall meet at the call of the Chairman, but at least semiannually. A majority of the directors shall constitute a quorum.

(5) Directors who are not regular full-time employees of the United States, while actually engaged in the business of the Corporation, including traveltime, shall be compensated at a rate equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of

title 5, United States Code, for persons in the Government service employed intermittently.

FUNCTIONS OF THE CORPORATION

SEC. 5. (A) The functions of the Corporation shall be—

(1) to assist the Department of State and other departments and agencies of the United States, as the Secretary may direct, in determining what privileges and immunities members of a foreign mission are entitled to by law, practice, or by treaty or other international agreement;

(2) subject to the approval of the Secretary, to assist in the provision to a foreign mission of services or benefits necessary for the conduct of its official activities, including assistance—

(A) the acquisition by purchase, lease, or otherwise of buildings and grounds;

(B) the acquisition of services from public agencies, including customs, importation, and utilities services;

(C) the acquisition of supplies and maintenance services and the employment of staff personnel on a temporary or regular basis;

(D) the provision of transportation and travel services;

(E) the provision of protective services; and

(F) the provision of any other services described in regulations prescribed by the Secretary; and

(3) to provide, under such terms and conditions as the Corporation deems necessary, to a foreign mission any service or benefit of the type described in paragraph (2).

(b) Each foreign mission or member of a foreign mission, before obtaining a benefit or service of the type described in subsection (a)(2), shall apply to the Corporation for a certification of compliance with this Act or shall apply to the Corporation to obtain such benefit or service directly from the Corporation, as the case may be, if the Secretary determines, and notifies the head of the respective foreign mission of his determination, that such application is necessary on the basis of reciprocity or otherwise—

(1) to protect the interests of the United States;

(2) to adjust for costs and procedures for the obtaining by the United States of services and benefits abroad;

(3) to facilitate proper relations between the United States and a foreign government; or

(4) to assist in resolving a dispute between a citizen or permanent resident of the United States and a foreign mission.

(c) Before issuing a certification under subsection (b), the Corporation is authorized to require a foreign mission to pay a surcharge to the Corporation or meet other terms and conditions in connection with—

(1) the execution of any contract or agreement providing services or benefits of the type described in subsection (a)(2) or the acceptance or retention of any such services or benefits arising out of such contract or agreement; and

(2) the application or acceptance of any service or benefit provided by Federal, State, or local government.

(d) Upon the request of any department or agency of the United States, of any of its States, or political subdivisions thereof, or of any business or individual that proposes to enter into a contract or other transaction with a foreign mission, the Corporation shall determine and certify to such department, agency, business, or individual whether a foreign mission is in compliance with the provisions of this Act.

(e)(1) It shall be unlawful for any person, other than an officer, employee, or other agent of the Corporation, subject to the jurisdiction of the United States to enter into a contract with a foreign mission or any member of a foreign mission if—

(A) such contract involves the provision of a benefit or service of the type described in subsection (a), and

(B) the Secretary has made a determination under subsection (b),

unless the foreign mission or member of the foreign mission, as the case may be, has obtained a certification of compliance with this Act.

(2) Whoever willfully violates this subsection shall be punished by a fine which is the product obtained by multiplying   and the dollar amount of the contract, or $, whichever is less, or imprisoned not more than 6 months, or both.

GENERAL POWERS OF THE CORPORATION

SEC. 6. In carrying out the provisions of this Act, the corporation is authorized—

(1) to adopt, alter, and vote a corporate seal, which shall be judicially noticed;

(2) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(3) to sue and be sued, complain and defend, in its corporate name, and through its own counsel;

(4) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(5) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Corporation;

(6) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(7) enter into and perform contracts and other agreements as may be necessary for the conduct of its business;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, and to fix their compensation, without regard to civil service laws, foreign service laws, or classification laws; and

(9) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, functions, and authorized activities.

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE CORPORATION

SEC. 7. (a) Any agency of the United States Government is authorized to sell, loan, or lease property including interests therein, to, and to perform administrative and technical support functions and services for the operations of, the Corporation upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Any agency of the United States Government is authorized to acquire and accept services from the Corporation upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Corporation may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies.

MISCELLANEOUS PROVISIONS

SEC. 8. (a)(1) The head of any federal agency may assign an officer or employee of that agency to duty with the Corporation, subject to approval by and under terms and conditions to be prescribed by the Board of Directors.

(2) An officer or employee assigned under this section shall be deemed to be on detail to a regular work assignment of the agency from which assigned.

(3) Assignments under this subsection may be on a reimbursable basis. Any such reimbursements shall be credited to and used by the appropriations made available for the salaries and expenses of officers and employees.

(b) The net proceeds of the Corporation in excess of estimated annual requirements shall be transferred to the Department of State and shall be deemed to be proceeds under section 9(b) of the Foreign Service Buildings Act of 1926.

(c) Assets of the Corporation wheresoever situated, if used by or held for the use of a foreign mission, shall not be subject to attachment, execution, injunction or similar process whether intermediate or final.

(d) The provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.), the Federal Tort Claims Act (60 Stat. 842), and the Tucker (Federal claims) Act (24 Stat. 505) shall apply to the Corporation, its officers, and employees.

(e) No act or omission of a sending State in compliance with the provisions of this Act may be construed as an implied waiver of immunity under the Foreign Sovereign Immunities Act of 1976.

REPORTING REQUIREMENT

SEC. 9. The Board of Directors of the Corporation shall prepare and transmit semiannually to the Secretary and to the Congress a report on the activities of the Corporation since transmittal of the preceding report, together with any recomendations the Board may make.

TAX EXEMPT STATUS OF THE CORPORATION

SEC. 10. (a) The Corporation, its property, and its income are exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue Code of 1954, the Corporation shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

HOLDING OR ACQUISITION OF REAL PROPERTY IN THE UNITED STATES

SEC. 11. (a) Not later than 30 days after the date of enactment of this Act, the head of each foreign mission shall prepare and transmit to the Secretary a report which sets forth a detailed description of any real property in which such foreign mission holds any right, title, or interest in, or makes any beneficial use of, including the extent of such right, title, or interest, or beneficial use, the location of any such property, the use, if any, made by such foreign mission of such property, and, upon request of the Secretary, any terms and conditions affecting the use by such foreign mission of such property.

(b)(1) Not less than 60 days before a foreign mission proposes to acquire, by purchase, lease, or otherwise, any right, title, or interest in, or beneficial use of, any real property in the United States, the head of such foreign mission shall prepare and transmit to the Secretary a report which sets forth a detailed description of the real property, the interest therein, or the use thereof proposed to be acquired by such foreign mission. No such acquisition shall be made if the Secretary, within such 60-day period, transmits to the head of the respective foreign mission a written statement expressing his disapproval of such acquisition, except that such disapproval may be limited to such terms and conditions as the Secretary may set forth in such statement.

(2) Upon the request of a head of a foreign mission, the Secretary may reduce the period described in paragraph (1) during which the Secretary may disapprove a proposed acquisition by a foreign mission under paragraph (1).

(c) If the Secretary determines, and certifies such determination to the head of a foreign mission, that the United States is denied any right, title, or interest in, or beneficial use of, any real property in the respective sending state, which is comparable to any right, title, or interest in, or beneficial use of, any real property which is held by such sending State, through its foreign mission, in the United States, then, not later than 60 days after the transmittal of such certification, such sending State shall sell such right, title, or interest, or beneficial use, to the extent denied the United States, unless such sending State accords the United States a comparable right, title, or interest in, or beneficial use of, real property in such sending State, as determined by the Secretary and certified to the head of the foreign mission. If the sending State does not comply with the provisions of the preceding sentence, the Corporation is authorized to acquire such right, title, interest, or beneficial use by condemnation.

LOCATION OF FOREIGN MISSIONS

SEC. 12. (a) No right, title, or interest in any real property may be acquired or used by a foreign mission except in accordance with this Act. This Act preempts any law, rule, regulation, or ordinance of the District of Columbia or of any State or political subdivision thereof to the extent that such law, rule, regulation, or ordinance confers or denies rights of benefits on any foreign mission or part of a foreign mission.

(b) Section 16 of the Act entitled "An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938 (52 Stat. 802), is amended—

(1) by striking out "Sec. 16. The" and inserting in lieu thereof "Sec. 16. (a) Notwithstanding any other provision of law, the";

(2) by inserting "or to offices or buildings of foreign missions" after "shall not apply to Federal public buildings";

(3) by inserting "and of offices and buildings of foreign missions" after "size of federal public buildings"; and

(4) by adding at the end thereof the following: "As used in this section the phrase 'foreign missions' shall have the same meaning as provided in section 3 of the Diplomatic Reciprocity Act.".

(c) Section 16(a) of such Act, as amended by subsection (b), is further amended by adding at the end thereof the following:

"(b)(1) Any final determination required pursuant to subsection (a) involving the right of location or use of an office or building of a foreign mission, or the preliminary approval of site plans, shall be made not later than eight months from the date of transmittal of a report required by section 11(b) of the Diplomatic Reciprocity Act, in consultation with the Government of the District of Columbia and the Architect of the Capital.

"(2) A recommendation by the Secretary of State as to the Federal interest in any proceeding or determination pursuant to this section shall be given substantial weight.".

SEVERABILITY

SEC. 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 14. This Act shall take effect 30 days after the date of its enactment.

DIPLOMATIC RECIPROCITY ACT: SECTION-BY-SECTION ANALYSIS

Section 1. Short form title.

Section 2. Section (a) contains a declaration of federal jurisdiction in a matter impacting United States interests both here and abroad, and clearly within the foreign affairs powers of the constitution. In addition to setting forth a basis for the provisions of the Act, the declaration will provide notice for state and municipal authorities, and for persons, businesses or organizations affected.

Subsection (b) restates the general policy of the United States.

Subsection (c) is a basic statement of reciprocity. The statute allows necessary flexibility, in that in addition to reciprocity, the Secretary of State may need to consider bilateral issues, as well as limitations which may exist on the granting of reciprocity by virtue of federal law not preempted by this Act.

Section 3. This section contains definitions; terms such as "Diplomatic" and "Foreign Mission" are broadly defined for convenience in this Act.

Section 4. This section establishes a corporation subject to the Government Corporations Act of 1945 (see section (8) with respect to corporate administration).

Section 5. This section defines the functions and responsibilities of the Diplomatic Services Corporation.

The Corporation would act at the request of the Secretary of State to provide services or assistance to foreign governments who request it, or to foreign governments required by the Secretary to obtain services from the Corporation, to the extent determined necessary by the Secretary to obtain reciprocity in connection with actions taken by such governments abroad or to otherwise project the interests of the United States.

In some countries, for example, our Embassy may be required to obtain its local national staff, and public services such as utilities, through host government controlled sources, which may be provided at arbitrary and unreasonable rates, or withdrawn at will. In the absence of a negotiated solution, the Corporation could be authorized to supply such services under comparable terms.

Similarly, in areas where the United States is limited to obtaining buildings and grounds for short term periods, or is subject to unreasonable increases in lease costs or other changes, or is arbitarily denied necessary facilities, the Corporation could be requested to impose surcharges on the Sending State or take other action designed to rectify the situation, unless offsetting benefits were made available to the United States.

The Corporation would also be authorized to assist Foreign Missions, primarily the small staffed countries, in the process of obtaining facilities or benefits sought by such countries, and to provide protective and other services at the request of federal agencies as provided in section (7).

The Corporation could, finally, be used to assist private parties in the U.S. to seek solutions to disputes they may have with foreign government missions here. The Corporation could not assure satisfaction, but would be in a position to assist dispute resolution through this process.

This subsection provides notice to third parties of the possible invalidity or impairment of contract provisions entered into in violation of the Act. It also provides a statutory penalty for violation of this Act.

Section 6. Sets forth the General Powers of a Public Corporation.

Section 7. Allows Federal Agencies to accept and furnish services to the Corporation.

Section 8. This section provides for direct detail of U.S. government employees to the Corporation.

Subsection (b). The Corporation as one of its objectives will attempt to satisfy operational costs from nonappropriated fund sources by FY 1982. Surplus funds, if any, would be transferred to the Foreign Service Building Fund to reduce appropriated fund outlays under that program. (Under present law, nonappropriated funds obtained by the Department abroad, such as from sales of buildings and grounds, remain available to reduce overseas appropriated fund expenditures under the Department's foreign buildings programs). The application of nonappropriated funds as here provided is also consistent with current budgetary restraints.

Subsection (d) applies the Government Corporation Control Act to the functions and accountability of this Corporation.

Subsection (e) assures that privileges and immunities otherwise available to Foreign Missions are not repealed by this Act. The final sentence avoids a waiver of immunity by implication, in a manner consistent with the Foreign Sovereign Immunities Act of 1976 (Public Law 94–583, October 21, 1976).

Section 9. Requires a semiannual report to be filed by the Corporation to the Secretary of State and to the Congress.

Section 10. Provides for tax exempt status of the Corporation which is normally granted to Government Corporations, and which is consistent with the public purpose herein. The section also provides tax deductible status for donations and gifts to the Corporation.

Section 11.

NOTE: Foreign Missions and their personnel are admitted into the United States subject to approval by the federal government, and may under applicable international agreements be required at any time to depart the United States, with or without a statement of cause. A foreign Mission may neither legally compel the federal government for a right to enter or to conduct activities within the country, nor restrain a request that such Mission depart the country. The activities of Foreign Missions are clearly within the federal jurisdiction and a proper subject for federal legislation or regulation. The privileges of entry into, or authority to conduct activities in the United States, which clearly may be prohibited, may thus constitutionally be conditioned upon divestiture or other remedies provided in this Act, within the foreign relations powers of the United States.

Subsections (a) and (b) provide for advance notice by Foreign Missions of proposed actions (such as property acquisition) covered by this section, and for a process of disapproval by the Secretary of State where necessary to effect the purposes of the Act.

Subsection (c) limits the right of Foreign Missions to acquire real property or other facilities after the date of the Act on the basis of comparability of rights or benefits made available to the United States in the territory of the Sending State.

This subsection provides enforcement authority in cases where other measures are not adequate. In some cases, the Sending State may have already acquired satisfactory long-term property rights in Washington, New York, or elsewhere, while continuing to deny adequate facilities to the United States. While divestiture may not be enforceable in some cases, due to sovereign immunity or other legal considerations, it is anticipated that the ability to initiate such action or the right to preclude the use of property, or to condition its use, may lead to a negotiated settlement involving United States interests.

Section 12. This section would resolve the question of jurisdiction over the location of Foreign Missions in the United States Capital, ensure that the federal interest is reasonably weighed in the decisional process, and provide for a more expeditious procedure.

It is particularly important that issues relating to the location of Foreign Missions in the capital be now resolved, in view of the continuing adverse impact on the federal interest both here and abroad resulting from prior actions by the District of Columbia. It should be recalled that the Congress passed in December 1979 Concurrent Resolutions of disapproval of actions taken by the District which were unnecessarily restrictive regarding chancery locations. A resolution of this issue is necessary to ensure proper functioning of the federal interest in the capital region.

This Bill would place the authority to determine the location of Foreign Missions in the capital in the National Capital Planning Commission (NCPC), which already has statutory authority to plan for such locations.

The existing process, involving final determinations by local bodies whose criteria do not take into account that decisions on foreign missions affect United States interests here as well as abroad, has failed to satisfy the obligations of the capital district of the United States to provide suitable locations for Foreign Missions, within the context of increasingly important security requirements. The city interests are, on the other hand, fully represented on the National Capital Planning Commission, though representatives of the Mayor and the City Council. The House and Senate District Committees are also represented on the Commission, as are three federal agencies. It is felt that this Commission is more appropriately constituted to assure that federal as well as local interests will be weighed, while providing full protection to public concerns though the NCPC hearing process.

The remaining provisions of subsection (c) provide for the federal interest to be weighed appropriately in the location of foreign government facilities, and ensure an expeditious procedure.

Section 13. This section provides a standard severability clause.

Section 14. The thirty day period is provided in order to permit establishment of the Corporation and to provide notice to Foreign Missions and third parties.●

By Mr. PRESSLER:

S. 2869. A bill to provide a vocational education alcohol fuels program; to the Committee on Labor and Human Resources.

VOCATIONAL EDUCATION ALCOHOL FUELS PROGRAM ACT

● Mr. PRESSLER. Mr. President, I am today introducing the Vocational Education Alcohol Fuels Program Act. This legislation seeks to provide the training mechanism for increased production of alcohol fuels.

Since coming to Congress in 1975, I have urged the use of alcohol fuels as an alternative to gasoline. On several occasions, I have demonstrated the use of a small alcohol still. In doing so, I had hoped to publicize the fact that the technology which can produce such alcohol fuels for mass consumption does exist. The public acceptance and use of gasohol is now rapidly growing. The understanding and training for production, however, is inadequate.

Vocational education could provide the mechanism to experiment and develop this new source of energy and train young people to work with the technology. I have long advocated vocational education as industrial intelligence which prepares individuals to become an active force in our labor markets. The fledging alcohol fuels industry is a perfect example of an activity in which voc-ed could tailor educational and training programs to the manpower needs of our society.

The bill which I am introducing would amend the Vocational Education Act of 1963 to allow local education agencies to receive assistance for training in the various techniques of alcohol fuel manufacturing and marketing. It would provide a modest authorization of $2 million for fiscal year 1981, $4 million for fiscal year 1982, and $8 million for fiscal year 1983. This represents only a small amount of the $1 billion currently authorized for total vocational education programs.

Vocational education programs in our high schools and secondary institutions are training students as well as providing economic stimulation for the community. The availability of voc-ed is an incentive for businesses to locate or expand. Through agriculture, business, health, consumer homemaking, trade and industrial programs, jobs are being preserved within the community and thus a stable economy develops. In my home State of South Dakota, vocational instruction has proven to be highly successful in meeting our State's employment trends. South Dakota is placing 98 percent of its voc-ed graduates within the State.

Mr. President, there is no better place to initiate new jobs and attempt to achieve energy independence than our vocational education system. And energy efficiency can be realized through fuel alcohol production. Working in cooperation with existing voc-ed agricultural programs, students could work with everything from the preparation of the vegetation to the operation of stills and marketing of alcohol fuels.

New alcohol plants, developed with energy savings in mind, are being designed constantly. This additional exposure and experimentation with alcohol fuels within the successful vocational education structure can only prove to encourage the production and use of gasohol. We must start preparing our youth for emerging careers in the energy field. The legislation which I am introducing today is a beginning in reaching that goal.●

By Mr. JACKSON (by request):

S. 2870. A bill to amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2766; 43 U.S.C. 1701, 1737) is amended by adding at the end thereof the following new subsection:

"(d) (1) The Secretary may accept, without regard to the provisions of Title 5, United States Code, the services of individuals without compensation as volunteers for the purpose of aiding in or facilitating the work conducted by the Secretary through the Bureau of Land Management. However, the Secretary shall not permit the utilization of volunteers to displace any employees; or in firefighting or law enforcement work; or in the policy making processes of the Department of the Interior or the Bureau of Land Management.

(2) The Secretary may provide for incidental expenses in the utilization of volunteers pursuant to this Act, including transportation, uniforms, lodging, and subsistence of such volunteers.

(3) A volunteer shall not be deemed an employee of the United States for any purpose other than—

(i) for the purposes of chapter 171 of Title 28 of the U.S. Code, relating to tort claims; and

(ii) for the purposes of chapter 81 of Title 5 of the U.S. Code, relating to compensation for work injuries."

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., June 11, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a proposed bill "To amend the Federal Land Policy and Management Act of 1976, as amended, to authorize the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management and for other purposes."

We recommend that the proposal be referred to the appropriate committee and that it be enacted.

Since 1969, Congress has authorized the Secretary of the Interior to accept volunteer services in aid of the work of two agencies in the Department. In the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g–j) Congress authorized volunteer services for the National Park Service. This program has been very successful. Similar authority was recently granted to the U.S. Fish and Wildlife Service, in the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3110). In addition, Congress authorized volunteer services for the U.S. Forest Service, in the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a–d). Similar authority would greatly facilitate the work of the Bureau of Land Management.

The enclosed draft bill would give the Secretary the authority to accept volunteer services in aid of the work of the Bureau of Land Management. Under the provisions of the draft bill, volunteers would not be considered as Federal employees, except for purposes of the Federal Tort Claims Act and statutes pertaining to compensation for injuries.

Volunteer work is a traditional and basic value of American life. Voluntary service is associated with citizenship, and it has contributed much toward the improvement of conditions of the Nation's cities, neighborhoods, parks and recreation areas. Volunteers representing all segments of our population are today working in the fields of health, education, welfare, cultural affairs and community activities. We believe that this traditional drive is particularly strong in the fields of endeavor in which the Bureau of Land Management is engaged, to manage and conserve the country's public lands and their natural resources and to develop those resources in an environmentally acceptable manner for the benefit of the public.

The volunteer programs of this Department's National Park Service and the Forest Service of the Department of Agriculture have returned substantial benefits by providing extensive visitor services, enhancement of natural resources on Federal lands, interpretive and educational programs, and public participation in developing those programs. The new volunteer program of the Fish and Wildlife Service is expected to return similar benefits.

The Bureau of Land Management with its responsibility for almost 60 percent of all federally owned lands, could benefit from long and short term volunteer programs designed at the State and District level to meet immediate land and resource management needs.

The Bureau has an almost unlimited amount of conservation and resource work available, including trail and fence construction, brush control, range seeding, historic site interpretation, orientation and interpretive programs, campground maintenance, tree planting and timber marking, water quality testing and a vast variety of other projects and tasks in which the Bureau is involved.

Volunteer programs can aid and supplement Bureau personnel engaged in various conservation activities. The tremendous amount of conservation work available on public lands assures that using volunteers would not result in loss of employment for regular civil service employees. Further, volunteer programs developed in conjunction with normal temporary summer employees would greatly increase the conservation work accomplished during the summer months, but would not supplant summer or temporary jobs.

Additionally, we stress that volunteer projects would be carefully structured so they would not include any policy-related activities or hazardous duties such as fire-fighting or law enforcement.

Expenses under the program of utilizing volunteers would be relatively minor in relation to the value of their contributions of time, interest and energy and their accomplishment.

While section 307 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701, 1737), (and before enactment of FLPMA, the Public Land Administration Act, now repealed) provides for acceptance by the Secretary of contributions of services, more comprehensive authority is needed to guide a strong volunteer program. The proposed bill amending section 307 of FLPMA would provide the Secretary with this comprehensive authority.

In view of the total demands on the Bureau, and the tremendous amount of work projects available and necessary on the public lands, in all resource areas, we strongly recommend enactment at the earliest possible date of the enclosed proposal for a Bureau of Land Management program patterned after similar volunteer programs for the National Park Service, the Fish and Wildlife Service, and the Forest Service.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this proposal to the Congress.

Sincerely,

GUY R. MARTIN,
Assistant Secretary. ●

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S. 2871. A bill to provide for the conveyance of certain lands in Mammoth Lakes, Calif., to the Mammoth Unified School District, Mono County, and Mono County Water District; to the Committee on Energy and Natural Resources.

● Mr. CRANSTON. Mr. President, on behalf of Senator HAYAKAWA and myself I introduce for appropriate reference a bill to convey certain lands in Mammoth Lakes, Calif., to the Mammoth Unified School District, Mono County, and the Mono County Water District for public use. This bill is identical to H.R. 7514 introduced in the House by Congressman NORM SHUMWAY who represents the affected area.

Mr. President, this bill would provide for the sale of about 185 acres of Federal lands—U.S. Forest Service lands—to local government entities in Mono County at public use value. The public use value would be determined by the Secretary of Agriculture.

Mammoth Lakes, Calif., is an unincorporated area in Mono County and is completely surrounded by the Inyo National Forest. Very little undeveloped private land still exists in the community and what there is, is in great demand for ski lodges and condominiums.

The existing high school for Mammoth Lakes is located on national forest land. As land values at Mammoth Lakes have increased in recent years, so has the rent charged by the Forest Service for use of the high school site. The Mammoth Unified School District would like to acquire the high school site at public use value rather than continue to be faced with escalating rental fees.

For some time, the Mammoth Unified School District also has been interested in relocating its elementary school to a site owned by the Forest Service. The existing elementary school is situated near the local airport and adversely impacted by aircraft noise. The need to relocate the elementary school has intensified in recent weeks because the building was damaged by last month's earthquakes at Mammoth Lakes. The California State Allocation Board has just approved the delivery of 14 relocatable classrooms for Mammoth Lakes. Although no final decision has been made to abandon the existing elementary school site for geological reasons, the board's action makes it clear that the present school building is unusable. The Mammoth Unified School District would like to purchase another parcel of national forest land to build a new elementary school.

There are two other local government entities—Mono County and the Mono County Water District—which have indicated a desire to buy national forest land for public purposes.

The bill I am introducing today would make about 185 acres of forest land available for all the projected public needs in Mammoth Lakes. Nearly half of the land involved already is being used by the local agencies, and none of it, I understand, is needed by the Forest Service.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture shall convey to the Mammoth Unified School District, upon its payment to the Secretary of Agriculture of a price to be fixed by the Secretary of Agriculture after taking into consideration the purpose for which the lands are to be used, the following lands in the County of Mono, State of California:

(1) Approximately 20.7 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the south ½ of the south ½ of the northwest ¼ of the northwest ¼ of the southeast ¼ of section 35, and the southwest ¼ of the northwest ¼ of the southeast ¼ of section 35, and the west ½ of the southeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the west ½ of the east ½ of the southeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the southwest ¼ of the southeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the south ½ of the southwest ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, excepting therefrom those portions lying westerly of the easterly right-of-way of Sierra Park Road.

(2) Approximately 20.3 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the south ½ of the southeast ¼ of the northeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the east ½ of the southeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the south ½ of the south ½ of the south ½ of the north ½ of the northwest ¼ of the northeast ¼ of the southeast ¼ of section 35, and the south ½ of the northwest ¼ of the northeast ¼ of the southeast ¼ of section 35, and the east ½ of the east ½ of the the southeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the southwest ¼ of the northeast ¼ of the southeast ¼ of section 35.

(3) Approximately 43.7 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the east ½ of the northeast ¼ of the southeast ¼ of section 35, and the north ½ of the northwest ¼ of the northwest ¼ of the southwest ¼ of section 36, and the southwest ¼ of the northwest ¼ of the northwest ¼ of the southwest ¼ of section 36, and the west ½ of the southeast ¼ of the northwest ¼ of the northwest ¼ of the southwest ¼ of section 36, and the southwest ¼ of the northwest ¼ of the southwest ¼ of section 36, and the west ½ of the southeast ¼ of the northwest ¼ of the southwest ¼ of section 36.

(b) The Secretary of Agriculture shall convey to Mono County, upon its payment to the Secretary of Agriculture a price to be fixed by the Secretary of Agriculture after taking into consideration of the purpose for which the lands are to be used, the following lands in the County of Mono, State of the County of Mono, State of California:

(1) Approximately 3 acres, located in township 3 south, range 27 east, Mount Diablo

Meridian, the southwest ¼ of the southeast ¼ of the southeast ¼ of the southwest ¼ of section 2, and the east ½ of the southeast ¼ of the southwest ¼ of the southeast ¼ of the southwest ¼ of section 2, excepting therefrom those portions lying within the right-of-way of Forest Trail and Minaret Road.

(2) Approximately 35 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the southwest ¼ of the southeast ¼ of section 34, excepting therefrom those portions lying within the right-of-way of Meridian Boulevard and Minaret Road.

(3) Approximately 1 acre, located in township 3 south, range 27 east, Mount Diablo Meridian, the south ½ of the southwest ¼ of the southwest ¼ of the northeast ¼ of the northwest ¼ of section 35, and the north ½ of the northeast ¼ of the northwest ¼ of the northwest ¼ of the southeast ¼ of the northwest ¼ of section 35, excepting therefrom those portions lying southerly of the northerly right-of-way line of State Route 203 and those portions lying westerly of the easterly right-of-way line of Forest Trail.

(4) Approximately 7.1 acres, located in township 4 south, range 27 east, Mount Diablo Meridian, the north ½ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the northwest ¼ of the southwest ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the west ½ of the southwest ¼ of the southwest ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the north ½ of the northeast ¼ of the southwest ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the north ½ of the south ½ of the northeast ¼ of the southwest ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the north ½ of the north ½ of the southeast ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, and the north ½ of the south ½ of the northwest ¼ of the southeast ¼ of the northwest ¼ of the northeast ¼ of the northwest ¼ of section 2, excepting therefrom those portions lying easterly of the westerly right-of-way line of Old Mammoth Road.

(5) Approximately 10.3 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the northwest ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of the section 35, and the north ½ of the southwest ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the north ½ of the northeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the southwest ¼ of the northeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the north ½ of the southeast ¼ of the northeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the northwest ¼ of the southeast ¼ of the northeast ¼ of the northwest ¼ of the southeast ¼ of section 35, and the north ½ of the north ½ of the northwest ¼ of the northeast ¼ of the southeast ¼ of section 35, and the north ½ of the south ½ of the north ½ of the northwest ¼ of the northeast ¼ of the southeast ¼ of section 35.

(6) Approximately 12.5 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the south ½ of the southeast ¼ of the southeast ¼ of the northwest ¼ of the southwest ¼ of section 36, and the south ½ of the southwest ¼ of the southwest ¼ of the northeast ¼ of the southwest ¼ of section 36, and the southwest ¼ of the southeast ¼ of the southwest ¼ of the northeast ¼ of the southwest ¼ of section 36, and the northeast ¼ of the northeast ¼ of the southwest ¼ of the southwest ¼ of section 36, and the northwest ¼ of the northwest ¼ of the southeast ¼ of the southwest ¼ of section 36, and the west ½ of the east ½ of the northwest ¼ of the southeast ¼ of the southwest ¼ of section 36, and the east ½ of the southwest ¼ of the northwest ¼ of the southeast ¼ of the southwest ¼ of section 36, and the east ½ of the west ½ of the southwest ¼ of the northwest ¼ of the southeast ¼ of the southwest ¼ of section 36.

(c) The Secretary of Agriculture shall convey to Mono County Water District, upon its payment to the Secretary of Agriculture of a price to be fixed by the Secretary of Agriculture after taking into consideration the purpose for which the lands are to be used, the following lands in the County of Mono, State of California:

Approximately 31.2 acres, located in township 3 south, range 27 east, Mount Diablo Meridian, the southeast ¼ of the northeast ¼ of the northwest ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the south ½ of the northwest ¼ of the northeast ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the south ½ of the northwest ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the southwest ¼ of the northeast ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the east ½ of the southwest ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the northwest ¼ of the southeast ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the southwest ¼ of the northeast ¼ of the southeast ¼ of the southwest ¼ of the northwest ¼ of the southeast ¼ of section 36, and the south ½ of the southeast ¼ of the southwest ¼ of the northwest ¼ of the southeast 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By Mr. CHAFEE (for himself and Mr. PELL):

S. 2872. A bill to amend the Federal Water Pollution Control Act to provide for reimbursement of State expenditures under the construction grant program; to the Committee on Environment and Public Works.

● Mr. CHAFEE. Mr. President, today I am introducing legislation, and my colleague, Mr. PELL, is joining me, that would amend the Clean Water Act to give State and local governments an opportunity to be reimbursed by the Federal Government when they use their own financial resources to construct wastewater treatment facilities.

When Congress passed the Clean Water Act in 1972, we took a major step forward in the effort to restore the integrity of our Nation's waterways. Interim goals were established to make our waters "fishable and swimmable" by 1983 and to eliminate the discharge of pollutants by 1985. To achieve these goals, the construction grant program was substantially revised and expanded. Since 1972, over $30 billion in Federal grants have been provided to municipalities to build publicly owned treatment works so they can meet Federal water quality standards and goals. However, much more needs to be done.

As a member of the Environment and Public Works Committee which oversees this law, I can say parts of the program work well. Other parts, particularly the construction grants program, have progressed too slowly. This is particularly true in the case of States that are able to build their treatment facilities faster than Federal funds become available for construction. Part of this problem has been exacerbated by the Carter administration's decision to defer funding of projects through the rest of this year.

In my own State of Rhode Island we are facing a near crisis. The city of Providence's treatment plant, which dates back to 1913, was last refurbished in 1956. Although the State and city governments have made great progress in upgrading this facility they have been unable to complete construction on a secondary treatment process and sewer overflow system because of the enormous costs involved.

The result has been near disaster for our State's greatest natural resource, Narragansett Bay. The bay, which provides our citizens with priceless commercial and recreational opportunities, has become so polluted from wastewater and run-off that parts of it have been closed to fishing and swimming for most of the year.

If this deplorable situation is to be remedied, Rhode Island and the city of Providence are going to need more flexible Federal assistance than the current program now provides. I might add that Providence's situation is not unique. Many older medium and large cities are having difficulty in upgrading their wastewater treatment facilities because of the great costs involved.

Late last year, Senator Pell and I moved to help these cities by introducing legislation that would give top priority to secondary treatment and would make a commitment to combined sewer overflow in the construction grant allotment formula.

Today, we are introducing legislation which will encourage State and local govermnents to move ahead with their projects despite a lack of available Federal funds. Under our bill, if a State or local government has used up most of its Federal construction dollars for the year but wants to continue constructing a project with its own funds, it can ask the Federal Government for a reimbursement of those funds as appropriations become available in future years.

This will encourage many jurisdictions to go ahead with their projects because they would have the opportunity to recoup part of their expenditure. This legislation would not only speed the construction of facilities and thereby bring us closer to our goal of fishable and swimmable waters. It would save taxpayer dollars by avoiding construction price increases in future years.

Mr. President, I know one of our most important priorities is to keep Federal spending at a minimum so we can halt the reckless pace of inflation. I would like to point out that this bill would not increase the cost of the construction grants program. It would merely allow State and local governments who want to move ahead on their projects, with their own funds, to seek reimbursement from the Federal Government. This reimbursement could not exceed the level of appropriations allocated for these projects nor the individual State's allotment in future years. Time is running out. We must act now to build these facilities and protect our irreplaceable water resources from the ravages of pollution.●

ADDITIONAL COSPONSORS

S. 1388

At the request of Mr. Church, the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of S. 1388, a bill to establish a forgivable loan program for Geothermal Reservoir Confirmation, to amend existing Geothermal Leasing and Permitting Laws, and for other purposes.

S. 1465

At the request of Mr. Talmadge, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

S. 2521

At the request of Mr. Dole, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2619

At the request of Mr. Levin, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2619, a bill to provide for the termination of the Interim Convention on the Conservation of North Pacific Fur Seals of February 9, 1957, to prohibit the taking of seals in the Pribilof Islands, and for other purposes.

S. 2655

At the request of Mr. McClure, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2655, a bill to approve dimethyl sulfoxide for the treatment of acute brain and spinal cord injuries.

S. 2656

At the request of Mr. McClure, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2656, a bill to approve dimethyl sulfoxide for the treatment of scleroderma.

S. 2657

At the request of Mr. McClure, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2657, a bill to approve dimethyl sulfoxide for the relief of inflammation from arthritis, bursitis, rheumatism, and other disorders of the musculoskeletal system.

S. 2775

At the request of Mr. Bentsen, the Senator from Delaware (Mr. Roth) was added as a cosponsor of S. 2775, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of retirement and similar plans maintained for nonresident aliens.

S. 2848

At the request of Mr. Dole, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 2848, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2855

At the request of Mr. Dole, the Senator from Texas (Mr. Tower), the Senator from Missouri (Mr. Eagleton), the Senator from Montana (Mr. Melcher), the Senator from North Dakota (Mr. Burdick), the Senator from Montana, (Mr. Baucus), the Senator from Mississippi (Mr. Cochran), the Senator from Oklahoma (Mr. Boren), and the Senator from Missouri (Mr. Danforth) were added as cosponsors of S. 2855, a bill to rescind the agricultural commodity export embargo to the Union of Soviet Socialist Republics.

AMENDMENT NO. 1915

At the request of Mr. Percy, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of amendment No. 1915 proposed to S. 2570, a bill to reduce consumption of petroleum and natural gas by electric utilities and for other purposes.

SENATE RESOLUTION 473—SUBMISSION OF A RESOLUTION RELATING TO THE UNITED NATIONS MID-DECADE CONFERENCE FOR WOMEN

Mr. JAVITS (for himself, Mr. Stone, Mr. Sarbanes, Mr. Hayakawa, Mr. Moynihan, Mr. Bayh, Mr. Durenberger, Mr. Heinz, Mr. Levin, Mr. Riegle, Mr. Boschwitz, Mr. Dole, Mr. Cranston, Mr. Pell, and Mr. Bradley) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 473

Whereas a UN-Mid-Decade Conference for Women has been scheduled for July 14–30, 1980, in Copenhagen to review and evaluate "the progress made and obstacles encountered in attaining the objectives of the United Nations Decade for Women"; and

Whereas a separate item was included in the agenda of that Conference on "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" despite US opposition and despite the existence of the more general item of "Women as Refugees" on the agenda; and

Whereas a document drafted by the Arab states and the PLO and adopted as official documentation for the Conference, "The Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied

Territories", presents a biased account of the conditions of Palestinian women by arguing that the Arab-Israeli conflict is responsible for the problems faced by Palestinian women; and

Whereas the addition of this document and separate agenda item in the proceedings of the Mid-Decade Conference is an obvious attempt to inject a highly politicized discussion into an apolitical meeting; and

Whereas the spectre of an irrelevant, politically-motivated debate threatens to detract from the positive results that may emerge in achieving the objectives of the Decade: Now, therefore, be it

Resolved that it is the sense of the Senate that

(1) the inclusion of a separate agenda item on Palestinian women and the acceptance of a 66-page document relating to that item present an unfortunate intrusion of political issues into a conference devoted directly to questions of health, education and employment for women throughout the world and as such is deplored by the Senate; and

(2) the U.S. delegation to the Conference should be instructed to oppose any resolutions or amendments introduced at the Copenhagen Conference on issues which do not relate directly to the goals of the Conference, such as the separate issue of Palestinian women, and should actively work with other delegations to ensure that they voice similar opposition.

SENATE RESOLUTION 474—SUBMISSION OF A RESOLUTION RELATING TO PUBLIC ACCESS TO SENATE RECORDS

Mr. ROBERT C. BYRD submitted the following resolution which was referred to the Committee on Rules and Administration:

S. RES. 474

Whereas under rule XXX of the Standing Rules of the Senate and section 2114 of title 44, United States Code, the Secretary of the Senate is responsible for transferring, at the close of each Congress, all noncurrent records of the Senate and Senate committees to the General Services Administration for preservation;

Whereas such rule and section provide that such records are subject to the orders of the Senate; and

Whereas orderly and timely public access to the Senate's records at the National Archives will greatly contribute to greater public knowledge of and interest in the Senate of the United States: Now, therefore, be it

Resolved, That any records of the Senate or any committee of the Senate which are transferred to the General Services Administration under rule XXX of the Standing Rules of the Senate and section 2114 of title 44, United States Code, and which have been made public prior to their transfer may be made available for public use.

SEC. 2. (a) Subject to such rules or regulations as the Secretary of the Senate may prescribe, any other records of the Senate or any committee of the Senate which are so transferred may be made available for public use—

(1) in the case of investigative files relating to individuals and containing personal data, personnel records, and records of executive nominations, when such files and records have been in existence for 50 years; and

(2) in the case of all other such records, when such records have been in existence for 20 years.

(b) Notwithstanding the provisions of subsection (a), any committee of the Senate may, by action of the full committee, prescribe a different time when any of its records may be made available for public use, under specific conditions to be fixed by such committee, by giving notice thereof to the Secretary of the Senate and the Administrator of General Services.

SEC. 3. (a) This resolution shall not be construed to authorize the public disclosure of any record so transferred if such disclosure is prohibited by law or Executive Order of the President.

(b) Notwithstanding the provisions of section 2, the Secretary of the Senate may prohibit or restrict the public disclosure of any record so transferred, other than any record of a Senate committee, if he determines that public disclosure of such record would not be in the public interest and so notifies the Administrator of General Services.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the Administrator of General Services.

Mr. ROBERT C. BYRD. Mr. President, the resolution which I am today submitting would provide for systematic public access to nonsensitive Senate records in the custody of the National Archives and Records Service. At present, the Senate is the only body in the National Government without a general access policy for its noncurrent records. In 1977, the National Study Commission on the Records and Documents of Federal Officials, in its report to Congress, recommended that—

> Unpublished records of Congress deposited at the National Archives should be made available (to the public) immediately, except for those (sensitive) materials that (would) fall under the exemptions included in the Freedom of Information and Privacy Acts.

The Commission noted that the records of Congress are an invaluable source of information about the legislative process.

> Yet the rules governing access are so varied and inconsistent that the records themselves to go unused.

The Commission concluded that uniform standards for orderly disposition and access within a reasonable period of time would greatly contribute to greater public knowledge and interest in the legislative branch of the Government.

The purpose of this resolution is to adopt the recommendations of the Study Commission insofar as they pertain to the Senate and to express the sense of the Senate that its noncurrent records, under proper safeguards, should be systematically available for public use. Specifically, this resolution will clarify the Secretary of the Senate's responsibility, under the provisions of rule XI, for providing access to the records of the Senate and its committees at the National Archives.

Over the years Senate committees have made individual arrangements with the National Archives governing access. Some committees open all records at the time they transfer them. Others set a specific time period of from 10 to 20 years. Still others require researchers to petition them on a case-by-case basis, regardless of the records' age. In the past, many committees have gone out of existence without making specific provision for access to their records. This great variety of regulations has created considerable confusion and has often resulted in access to similar but separate bodies of records being granted in some cases and denied in others.

The Senate has been sending its noncurrent records to the National Archives for more than four decades. In 1936 an archival appraiser examined the collection of Senate records that has accumulated since the First Congress and concluded that "from the standpoint of historical as well as intrinsic interest, this is perhaps the most valuable collection of records in the entire United States Government." During the 1970's, staff of the National Archives reportedly spent an average of 2,200 hours per year responding to mail, telephone, and in-person requests for information believed to be contained in the more than 25,000 cubic feet of Senate records.

This resolution would result in the opening of all routine Senate records at the National Archives 20 years from the date of their creation. Sensitive records, such as investigative files relating to individuals and containing personal data, personnel records, and records of executive nominations would be opened within 50 years of their creation. All records would be subject to the National Archives routine screening procedures. The resolution would do nothing to interfere with Senate committees' control of their own records. They may extend or shorten the access period and the Secretary of the Senate would provide them the opportunity to review their existing policy at the beginning of each Congress.

As the Senate's bicentennial approaches it is important for scholars and the general public to have equitable and full access to documentary sources of this body's past. The resolution I offer today will go a long way toward removing unwarranted restrictions while continuing to protect the national security and personal privacy information contained therein.

SENATE RESOLUTION 475—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD (for himself and Mr. STEVENS) submitted the following resolution which was referred to the Committee on Rules and Administration:

S. RES. 475

Resolved, That Rule XVIII of the Standing Rules of the Senate is amended—

(1) by inserting after "QUESTION" in the caption a semicolon and the following: "GERMANENESS";

(2) by inserting "1." before "If"; and

(3) by adding at the end thereof the following new paragraph:

"2. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, to be equally divided and controlled by the Majority Leader and the Minority Leader, or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the Presiding Officer's decision or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting."

AMENDMENTS SUBMITTED FOR PRINTING

CLEAN WATER ACT AUTHORIZATIONS—S. 2725

AMENDMENT NO. 1917

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to S. 2725, a bill to extend certain authorizations in the Clean Water Act, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1980—H.R. 7542

AMENDMENT NO. 1918

(Ordered to be printed and to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to H.R. 7542, an act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

APPOINTMENT OF THE ARCHITECT OF THE CAPITOL—S. 2760

AMENDMENT NO. 1919

(Ordered to be printed and to lie on the table.)

Mr. BAKER submitted an amendment intended to be proposed by him to S. 2760, a bill to provide that the Architect of the Capitol shall be appointed by the President, by and with the advice and consent of the Senate.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce, for the information of the Senate and the public, the scheduling of a public hearing and open business meeting before the Select Committee on Indian Affairs.

An open business meeting is scheduled for June 30, 1980, beginning at 11 a.m., in room 5110 of the Dirksen Senate Office Building. The following are to be considered for markup: S. 2126, a bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation; and S. 2767, a bill to provide that per capita payments to Indians may be made by tribal governments, and for other purposes.

A hearing is scheduled for July 1, 1980, beginning at 1:30 p.m., in room 6226 of the Dirksen Senate Office Building to consider the nomination of Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior.

For further information regarding the business meeting, you may wish to contact Max Richtman of the committee staff on 224–2251. Those wishing to testify or who wish to submit a written statement on the nomination hearing for the record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. PELL. Mr. President, I ask unanimous consent that the Nuclear Regulation Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on nuclear waste legislation.

The PRESIDING OFFICER. Without rejection, it is so ordered.

PERMANENT INVESTIGATIONS SUBCOMMITTEE

Mr. PELL. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1980, beginning at 2 p.m. to consider status reports on six investigations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DAVIS-BACON ACT

○ Mr. TOWER. Mr. President, despite the concern about recession in our economy today, it seems clear that the problem of inflation is as yet unresolved. We are now dealing with the core rate of inflation which is made worse by inflexibilities and inappropriate regulation.

An important element of the inflexibilities is the Davis-Bacon Act which artificially increases the cost of many Federal Government contracts. These bloated costs raise the levels of governmental spending and worsen the deficit. Clearly the overall effect is inflationary.

Mr. Lindley H. Clark, Jr., writing in the June 24, 1980, Wall Street Journal addresses this issue. The article should be required reading for anyone desiring to reduce the underlying rate of inflation in our economy.

I ask to have the article printed in the RECORD.

The article follows:

INCOMES POLICY

"Incomes policy," Gottfried Haberler once wrote, "means different things to different people." Prof. Haberler, long at Harvard and now at the American Enterprise Institute, has his own incomes policy. He calls it Incomes policy: Wages and prices seem to be price controls and other such notions.

What worries Prof. Haberler is exactly what worries anyone who devises a pet income policy: Wages and prices seem to be flexible mainly in one direction—upward.

When government lets some of the air out of an inflated economy, as it is now trying to do, businessmen and workers are slow to adjust to a new environment. Businessmen can't reduce labor costs by reducing salaries so they do it by laying off workers. Many prices similarly resist reduction.

What to do? Well, Prof. Haberler proposes a direct attack on the rigidities that make it hard for the economy to adjust to a less inflated way of life. Everyone knows the rigidities exist. Prof. Haberler listed a few: Restrictions on imports, monopolistic business practices, monopolistic labor union power, government regulation of business, minimum wage laws. All of them have staunch defenders.

Prof. Haberler wants to make the economy more competitive. As nice as that may sound, the difficulties are obvious. The late Arthur Okun, who also ached for a more flexible economy, so despaired of making changes that he called merely for a moratorium on new price and wage-raising measures.

Here and there, however, a few gains have been made. The airlines, which once fixed their prices under government sponsorship, have been deregulated, and Congress is at least making motions toward doing the same thing in trucking. Over the past two decades world trade has become freer, although there has been some backsliding and some threats of more—as in the United Auto Workers call for curbs on imports of Japanese cars.

Prof. Haberler is a realist, under no illusions as to the ease with which changes can be made. But he argues that the longer we put off change the worse our situation becomes.

Some of the rigidities are so indefensible that they are hard to believe. By coincidence the American Enterprise Institute has just published a small book about one of them, the Davis-Bacon Act. "The Economics of the Davis-Bacon Act, An Analysis of Prevailing Wage Laws" was written by John P. Gould of the University of Chicago's Graduate School of Business and George Bittlingmayer, a University of Chicago graduate student.

Davis-Bacon is a sort of Depression hangover. It was passed in the early 1930s, when government officials had the misguided notion that the way to everlasting prosperity was to keep wages and prices from falling. Later the National Industrial Recovery Act was to authorize price-fixing. Such efforts, of course, contributed to increased unemployment and decreased sales.

The Davis-Bacon Act compelled contractors performing construction work for the federal government to pay prevailing wages and fringe benefits in the communities where the work was performed. The Labor Department determines what the "prevailing" wages and benefits are, and in practice this has come to mean union wage and benefits, even if there is no union in the community.

The sweep of Davis-Bacon has grown as the years have passed. Since 1931 many other laws have been passed (the authors list no less than 77) requiring Davis-Bacon determinations on projects that merely are assisted by the federal government, projects on which the government isn't even a party to the contract.

The most obvious result of this is an inflation of government construction costs. Precise figures are hard to come by, but Mr. Gould and Mr. Bittlingmayer estimate the added costs may run as high as $1 billion a year.

Other effects also are important. High prevailing wage determinations discourage nonunion construction firms from bidding on government-financed projects. This means that union contractors face less competition, and the bargaining power of unions is enhanced.

To the extent that nonunion contractors are excluded from government-aided projects, job opportunities for younger workers, blacks and other minorities are reduced. Several studies have shown that such workers find jobs much more easily with the nonunion firms.

Davis-Bacon may even increase frictional unemployment among union construction workers. The existence of the high Davis-Bacon rates may persuade some workers to wait until jobs at those rates open up.

It should be emphasized that there is no dark plot afoot at the Labor Department. Government-assisted construction projects run to some $40 billion a year, involving many thousands of wage determinations. The department never has had the funds to do the job properly, and studies by the General Accounting Office suggest the job actually may be impossible.

In the real world in which the department must work, it's obvious that union wage data is more easily obtained than nonunion wage data; the unions, in fact, probably run a data-delivery service. There has been an understandable tendency to simplify the determinations by avoiding computations for specific projects and relying on area standards.

It's obvious that the unions find Davis-Bacon valuable. At one point in the early 1970s Richard Nixon suspended the act to blackjack the unions into participating in a voluntary wage hold-down system.

It's also obvious that eliminating the act would be a step toward implementing Prof. Haberler's Incomes Plan II. There are a lot of steps to take, but we can take them only one at a time.●

PROPOSED ARMS SALES TO SAUDI ARABIA

● Mr. NELSON. Mr. President, recent reports bring the disturbing news that the administration is considering a request by Saudi Arabia to sell it extra U.S. military equipment which would enhance the offensive capability of the 60 F-15 fighters we agreed to sell the Saudis in 1978.

In May, 1978, the Congress voted to approve the F-15 sale to Saudi Arabia as part of the controversial Middle East arms sales package, which also included planes for Israel and Egypt. In my view, the Saudi component of the package was ill-advised, and I voted no. The F-15 is considered the most advanced air superiority fighter in the world. The sale to Saudi Arabia will disturb the military balance in the Middle East at a time when the Saudis could meet their legitimate defense needs with a less-advanced plane.

Perhaps the key element in winning congressional approval for this sale was the administration's solemn and explicit assurance that the Saudis would use the F-15's for defensive purposes only and that the United States would refuse to equip the Saudi planes with enhanced offensive gear. As Secretary of Defense Brown put it, in a May 9, 1978, letter to the Senate Foreign Relations Committee:

> Saudi Arabia has not requested nor do we intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the F-15.

Now the administration indicates it is considering selling the Saudis the very same equipment it promised the Congress it would withhold in 1978. These items reportedly include advanced air-to-air missiles, external fuel tanks, and multiple bomb-ejection racks. They would pose a significant threat to the security of Israel in two ways. First, the extra fuel tanks would increase the two-way range of the F-15's from 450 to 1,000 miles. Given Saudi Arabia's proximity to Israel, this is a seriously destabilizing prospect. From Saudi Arabia's Tabuk air base, which can right now support F-15 operations, it is only 250 miles to Jerusalem, 150 miles to Eilat and 280 miles to Tel Aviv. Second, the missiles and bomb racks would substantially increase the F-15's firepower.

Administration officials reportedly have said that increased turbulence in the Persian Gulf and in Southwest Asia compels the President to rethink his promise to the Congress. Beyond this vague reference to Afghanistan and Iran, however, no one has clearly explained how expanding the offensive firepower of the Saudi F-15's will enhance stability in this troubled region.

I urge the President to reject the Saudi request. The sale of this equipment would violate the President's explicit pledge to the Congress to sell the Saudis planes equipped for defensive purposes only.●

WHY I DECIDED TO BECOME A REPUBLICAN

● Mr. HUMPHREY. Mr. President, on today's editorial page of the Wall Street Journal there appears an article by Mr. Michael J. Horowitz, entitled "Why I Decided To Become a Republican."

I especially enjoyed Mr. Horowitz' relating of his metamorphosis from liberal Democrat to Republican, because I myself experienced such a gradual conversion. I, too, once was a liberal Democrat.

Like Mr. Horowitz I eventually came to realize that the creation of a powerful, intrusive central government leads to the loss of human dignity and freedom and the destruction of a flourishing economy, even when the creation of such a government is done in the name of compassion, justice, equity, safety, security, and all manner of lofty intentions.

The road to hell, Mr. President, is not the only road paved with good intentions. So is the road to socialism, national decline, and ultimately enslavement. And that is the road down which well-intended liberal Democrats have been leading us.

Who can blame Mr. Horowitz for his conversion to Republicanism? He is obviously a compassionate man. He wants to see Americans accorded all possible dignity. He wants them to remain free and he wants them to enjoy a prosperous economy. And he realizes that the liberal Democrat policies of recent decades work against these things rather than for them.

Mr. Horowitz, like me, comes to the Republican Party from a working class background. Neither he nor I have ever been members of a country club. I believe millions of Americans who are Democrats will be joining with Mr. Horowitz and me to elect Ronald Reagan as our next President. I believe millions of Democrats will convert to Republicanism over the next 4 years in order to work to free our society and economy from the shackles forged by Democrat policies of the past.

Welcome to the party of the workingman, Mr. Horowitz.

Mr. President, I ask that Mr. Horowitz's article be printed in the RECORD.

The article follows:

WHY I DECIDED TO BECOME A REPUBLICAN

(By Michael J. Horowitz)

I am Jewish, was student body president at City College of New York, taught civil rights law in Mississippi during the Sixties, still grieve at the killing of former Congressman Al Lowenstein, the remarkable friend who most taught me to care about the political process. The best man at my wedding was a Democratic Congressman with a 100 percent rating. In terms of my experience and personal style I qualify, if not as an intellectual, then at least as a certified camp follower. I was formatively influenced by a trade-unionist, immigrant grandfather who regularly admonished me to see America as the blessed land. A lifetime of taking many "good" sides of public matters has qualified me, in my universe of friends, as nonracist, caring, etc., in my politics.

Or at least did. For a period now going on four years, I have also been a Republican.

Along with many traditional Democrats, I have long been disaffected with the "revisionists," "new liberals" and "public interest" ideologues who have long dominated the national Democratic Party. My disagreements extend across the board to issues of national security, economic/regulatory policy, and to such "social" issues as crime and quotas.

In retrospect, I believe that two emotional, quasi-religious considerations long kept me a Democrat.

First was the link between identity and party choice. In a rootless age, no aspect of one's identity is easily tampered with. Leaving the Democratic Party was, at least before the deed was done, a felt act of disloyalty to a family whose place in the American mainstream very much came from what FDR had done and meant.

Next were issues and differences of style. Wrong, desperately wrong, as are the mainstream Democrats who have captured the Carter administration and dominate the Congress, they are often my friends and more often share my tastes. Republicans seem to reflect a more formal life-style and a preference for the country club rather than the coffeehouse. In the "us" and "them" world of politics, personal relationships often transcend "rational" considerations, and it is no easier to risk losing friends than roots.

The process of open separation from the Democratic Party began in the early '70s, when the civil rights agenda first moved to such issues as quotas, transfer payment programs, welfare dependencies and so on. Then came Vietnam and the issue of whether our involvement was imperialistic and genocidal, as many friends thought it to be.

Most crucial was my return to the heady midst of John Lindsay's New York City. At first, my disquiet at the madness I saw—all in the name of liberal politics and helping the poor—remained muted. I had few ways of reacting except to think that advancing age had robbed me of my idealism.

My "choice" was to join the bandwagon or to be against blacks and the poor—even though I knew that the programs mounted on their ostensible behalf were inefficient, corrupting, often downright corrupt. The specter of declining idealism hurt badly and I tried hard to keep my "good guy" credentials—except that I just did not want George McGovern to be President and could not ignore the debasement of middle class and private sector values and institutions which then proceeded so merrily apace.

The bankruptcy of New York City was galvanic, for I then saw that my politics were not merely practical—I had always known that. Far more important, and liberating, was the discovery that my reservations had always been at least as moral as my friends' cheerleading. The city's decline into economic beggary was, whatever the slogans which accompanied that decline, hardly a moral fact—least of all for the city's poor.

Registration as a Republican came directly from my growing respect for Gerald Ford. Most people I knew patronized him, thought him "dumb," thought he didn't "lead," i.e., generate enough new programs. (This was particularly the case with friends who had equal contempt for Jimmy Carter but confidently awaited places in his administration.) I found myself really wanting Gerald Ford to win, particularly during the waning days of the campaign when he became comfortable with his conservative instincts, which he finally did not temporize out of any felt need to be "nice."

I registered as a Republican on election day when, in the face of my sense that Jimmy Carter was out of his league and was saddled with a staff substantially recruited from the McGovern campaign. I found myself speculating about fighting from within a Democratic Party with which I was fundamentally at odds. I checked the Republican line on the registration form I had left blank for months, went to the post-box, and took the irrevocable step of coming out of the closet.

For months after doing so, I hardly felt Jewish. I was also darned near to being the only Republican I knew. Yet, I have found the step taken to be singularly liberating and—here the term is for me precisely accurate—radical. It is both radical and honorable to be an up-front adversary of the "public interest" ideologies, the social welfare and regulatory bureaucracies and the myriad of caucuses which shape the Democratic Party, and equally exciting to articulate the moral dimensions of a militarily credible and economically productive America.

I am not now nor have I ever been a member of a country club. I shall enthusiastically work for Ronald Reagan's election and look forward to an active political life as a committed Republican. Over time, and in the coming election, I expect the company of many like-minded waverers.●

IS A MILITARY BASE IN SOMALIA WISE FOR THE UNITED STATES?

● Mr. McGOVERN. Mr. President, today as chairman of the Subcommittee on Africa of the Committee on Foreign Relations, I presided over an executive session of the committee on the issue of a proposed U.S. military base agreement with Somalia. In connection with this issue, I submit for the RECORD a perceptive article by Mr. Cord Meyer, which is published in the Washington Star of June 21, 1980.

The article follows:

OSTRICHES IN THE PENTAGON

In its eagerness to gain access to the Russian-built air and naval facilities at Berbera on the Somali coast, the administration is walking into a trap. But new evidence of Somali intentions may have arrived just in time to persuade President Carter to step back before the jaws of the trap close.

The disagreement on whether to offer Somalia major military assistance in return for base facilities has split the administration down the middle. The division is not the usual one between hawks and doves but is more like "a dispute between owls and ostriches," as Rep. Stephen Solarz, D–N.Y., describes it.

The ostriches in the administration are in a majority in the Pentagon and in a minority on the National Security Council staff. They bury their heads in the sand and refuse to concede that Somali President Siad Barre has radically increased the risks of the Berbera base deal by his recent commitment of some 15,000 Somali regular troops to the fighting inside Ethiopia for control of the Ogaden Desert.

Whatever the historical merits of the Somali claim, the fact is that the Ogaden is internationally recognized as part of Ethiopia, and the one thing the member nations of the Organization of African Unity agree on is the inviolability of the borders inherited from the colonial era. By again infiltrating his army into the Ogaden and covertly supporting the Western Somalia Liberation Front, Siad Barre is clearly guilty of attacking across an established border.

The advocates of the Berbera deal within the administration argue that American military assistance to Somalia can be separated from Siad Barre's irredentist ambitions by laying down strict conditions: By making the assistance contingent upon a Somali promise not to use American weaponry in the Ogaden and by supplying only "defensive" armament, these advocates claim that the U.S. can avoid entanglement in a mounting Somali-Ethiopian war, while gaining access to a strategic base.

However, on the basis of Siad Barre's past track record, those who know him best doubt that he can be held to such a promise, and the distinction between offensive and defensive armament is elusive. Land mines which are part of the proposed arms package are defensive when used to protect the approaches to Berbera but become offensive when deployed to blow up railroad and truck convoys inside Ethiopia.

Pentagon enthusiasts for this deal become evasive when questioned as to what the U.S. reaction would be if the Ethiopians retaliated with a Soviet-supplied air and ground attack on Berbera, which is located only 150 miles from the Ethiopian border. With 300,000 men, the Ethiopian army vastly outnumbers the Somalis and the American-trained Ethiopian pilots have recently been supplied with MiG–23s and Russian attack helicopters.

The risk of confrontation is real but there appears to be no coherent plan for defending the base. Since Pentagon officials deny any intention to reinforce the Somali garrison at Berbera with American combat troops, they would have to rely on outnumbered Somali forces, supported by U.S. carrier planes. If Colonel Mengistu, the Ethiopian strongman, counterattacks, as he has threatened to do, a humiliating American withdrawal seems unavoidable short of resort to more general war.

In the shadow of these real possibilities the owls in the administration who are in a majority at the State Department and in the National Security Council staff are arguing against any deal with Siad Barre, unless he completely withdraws his forces from the Ogaden.

These critics do not dispute the strategic value of Berbera but claim that it is not worth the risk of U.S. involvement on the side of the aggressor in a regional war that the Somalis seem bound to lose. Both in the U.N. and in Africa, the U.S. would be largely isolated and the Soviets could be counted on to press their propaganda advantage to divert attention from Afghanistan.

These wiser heads maintain that the recent successful U.S. negotiation of access to less vulnerable base facilities in Oman and Kenya combined with existing bases in Diego Garcia and Egypt provide a sufficient base structure in the area. Exorbitant Somali demands have also given Carter a face-saving exit. The Somalis are asking for $200 million in military assistance in contrast to the administration's initial offer of $40 million.

In their efforts to find an acceptable compromise, Carter officials are discovering that owls and ostriches do not mate. Secretary of State Edmund Muskie will in the end have to come down on one side or the other, and his recommendation will weigh heavily with Carter. Since Congress has the right to disapprove military aid programs of this size, Muskie would have to consult his former Senate colleagues and he will find some surprising reactions.

For example, Sen. Henry Jackson, as an influential supporter of a firm defense posture, originally favored the Berbera base deal. But, on the basis of conclusive evidence that the Somalis are increasing their involvement in the Ogaden fighting, he now has deep reservations.

The closer the scrutiny that is given to this proposed quick-fix solution to our strategic dilemmas in the Middle East, the better the chance that owls will prevail over ostriches.●

THE "NOT-SO-FAIR HOUSING ACT"

● Mr. HATCH. Mr. President, despite their self-description as "the Fair Housing Acts," the controversy over S. 506 and H.R. 5200 has little to do with fair housing. It has a great deal, however, to do with government power, specifically Federal Government power. In an effort to expand the enforcement authority of HUD with respect to the Open Housing Act of 1968, this measure would invest in a single Federal agency the power to investigate allegations of discrimination, the power to initiate actions against alleged violators, the authority to prosecute such actions, and the authority—through HUD administrative law judges—to decide such actions. HUD is authorized to mete out fines of up to $10,000, and such other relief "as may be appropriate." There would be no right to a jury trial.

I would like to insert into the RECORD at this point a copy of a recent column by James J. Kilpatrick on this subject, as well as a brief summary of the concerns that some have about this legislation.

The material follows:

HOW GOLIATH GROWS

(By James J. Kilpatrick)

Twelve years ago, in the legislative convulsions that followed the slaying of Martin

Luther King, Congress adopted what was euphemistically known as the "Fair" Housing Act. The act never was fair. Now the House of Representatives has voted to make it even less fair.

The 1968 housing act went beyond the earlier Civil Rights Act of 1964. The earlier act had dealt chiefly with minority rights of access to public institutions and to places of public accommodation. By contrast, the 1968 law went directly to the sale and lease of wholly private property, and it turned old rules of property transfer on their heads.

In some situations, the law worked acceptably: Homes in new suburban subdivisions became equally available to prospective buyers of every race and religion. In other situations, the law served to make racial tensions worse: Old neighborhoods discovered the professional blockbuster and the malcontent, and property owners who were compelled to sell against their will discovered new meanings in the word "discrimination."

In the liberal view, the 1968 law never went far enough. A person with real or imagined grievances had to go into a U.S. District Court and bring a civil suit if efforts at conciliation failed. This burden was thought to be intolerable. Thus a move developed to put broad enforcement powers in the hands of the secretary of Housing and Urban Development. Last week that movement came to fruition

Under a bill approved by the House, an aggrieved person has only to file a complaint with HUD, within one year of the alleged discriminatory act, in order to set in motion the whole might, power and majesty of the federal government in his behalf.

The complaint may be transferred to a state agency, but only if the secretary finds that the state agency's past performance, "if any," is acceptable. After token efforts at conciliation, the complaint goes to an administrative law judge. There HUD's battery of lawyers will prosecute the charge.

The administrative law judge under the House bill, would have authority to impose "civil penalties" on the property owner of up to $10,000. Under certain circumstances, additional penalties of up to $1,000 a day may be imposed. An appeal may be taken to a U.S. District Court, where a *"de novo* determination" will be made of the "adequacy" of the record developed by the administrative law judge. A "*de novo* determination," it should be explained, is not a *"de novo* trial." One difference is that a *"de novo* determination" carries no right to a Seventh Amendment jury.

This is sock-it-to-'em law, in which property owners, for all practical purposes, are regarded as guilty of discrimination until proven innocent. If the zealots of HUD pursue the harassing tactics made famous by the zealots of the Equal Employment Opportunity Commission—and there is no reason to believe otherwise—we may expect a series of proceedings just short of extortion. Property owners will be given a fair choice: Capitulate to HUD's proposals in "conciliation," or face months of expensive litigation.

The bill that emerged from the House is better in some respects than the bill approved by the House committee. Originally it was proposed to make the administrative law judges outright employees of HUD, appointed by the secretary, with all their biases intact. This arrogant proposition was more than the House would swallow.

An amendment by Oklahoma's Michael L. Synar puts the administrative law judges under the Department of Justice instead. James Sensenbrenner of Wisconsin and Harold L. Volkmer of Missouri tried valiantly to give jurisdiction to federal magistrates and judges: they lost, 205–204.

Maybe the House bill, if the Senate concurs, will provide an effective mechanism for minority persons who truly have been victims of discrimination. I am uncertain. But of this there can be no doubt: To secure whatever rights may be involved in an average of 115 cases a week—only 115 a week in the entire nation—enormous new powers would be vested in a federal bureaucracy. This is how Goliath grows, one bulging muscle at a time.

FAIR HOUSING ACT

The Fair Housing Act is designed to expand the enforcement authority of HUD with respect to the 1968 Open Housing Act. It has been described by President Carter as "the most important civil rights legislation of the past decade." The House version of this bill (H.R. 5200) has been placed directly on the Senate calendar despite the fact that the Senate Judiciary Committee has been considering its own version of this measure (S.506).

The act fails to accord due process to individuals alleged to be in violation of the act—The Fair Housing Act would invest in a single agency, HUD, the authority to investigate allegations of housing discrimination, authority to initiate administrative actions against alleged violators, authority to prosecute such actions, and the authority (through HUD administrative law judges) to decide such actions. HUD is authorized to mete out fines of up to $10,000 and such other relief "as may be appropriate". There is no right to a jury trial.

The act would involve HUD more deeply in matters of local zoning and land-use authority—HUD and the Justice Department have initiated an increasing number of suits around the country against communities adopting zoning and land-use policies disapproved by these agencies. Despite no evidence of an intent to discriminate against protected minorities by these communities, suits have been brought because of minimum lot size requirements, restrictions upon multi-family unit dwellings, restrictions upon group homes in residential neighborhoods, etc. One community was sued because it refused to participate in a Federal grant program that would have required the construction of large numbers of low income housing units.

The act would allow Federal employees to "entrap" landlords and homeowners by posing as prospective renters and purchasers—Teams of Federal employees would be authorized by HUD and the Justice Department to seek to induce violations of the Act by posing as prospective renters and purchasers. Such "testing" could occur whether or not actual allegations of unlawful conduct had been made against landlords or homeowners.

The act would transfer substantial amounts of State authority over insurance matters to the Federal Government—The Act would overturn longstanding national policy by transferring effective jurisdiction over the regulation of property insurance activities from the 50 States to HUD. Virtually all States have adopted their own anti-discrimination laws with respect to property insurance transactions.

The act would undermine the 1st amendment rights and professional responsibilities of the appraising profession—HUD has recently been engaged, under the Open Housing Act, in promulgating rules and regulations with respect to what property appraisers may and may not say and consider in establishing the "fair market value" of residences. They may not, for example, describe a neighborhood as having a church or synagogue because of the "implications" of this description for the character of the neighborhood. HUD would contribute toward purely artificial market values by doing this.

The act would significantly limit traditional landlord rights in maintaining his or her own property—in extending coverage to handicapped persons, the act would require landlords to allow certain modifications in their units to accommodate such individuals. Under many circumstances, there would be no obligation upon the tenant to restore such property to its original condition upon the expiration of the lease. HUD regulations would define the scope of this authority, as well as the definition of "handicapped" person (the Act covers mental as well as physical impairments).●

THE FRAUD HOTLINE

● Mr. SASSER. Mr. President, I wish to take this opportunity to report to my colleagues on the progress of the fraud hotline established January 1979.

My colleagues will recall that this hotline was established at my request, and with the strong support of the former ranking member of our Legislative Appropriations Subcommittee, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER).

The hotline was installed at the General Accounting Office with the cooperation of Comptroller General Elmer Staats.

I first made the suggestion for the hotline at a December 4, 1978, hearing which we conducted on fraud in Government.

The hotline allows any concerned citizen with knowledge of fraud and abuse—in any Federal program—to report that knowledge to a General Accounting Office Special Task Force for the Prevention of Fraud. The anonymity of any caller will be respected—the name of the caller need not be given to the task force. In 67 percent of the cases, the caller has chosen to remain anonymous.

Mr. President, I ask unanimous consent that the fraud hotline number be printed in the RECORD.

There being no objection, the number was ordered to be printed in the RECORD, as follows:

FRAUD HOTLINE

The national toll free fraud hotline is 800–424–5454. In the Washington, D.C., metropolitan area the number is 633–6987.

Mr. SASSER. Mr. President, I ask unanimous consent that a description of the GAO fraud hotline procedures be printed in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

GAO TASK FORCE HOTLINE PROCEDURES

Each caller on the GAO "Fraud Hotline" is interviewed following the general format of a data collection form, with a separate control number assigned to each call. This will be used to track those allegations which appear substantive through later verification of facts and investigation if warranted. The type of information GAO is attempting to record is:

Federal agency or source of Federal funds, material involved in the allegation.

Specific locations where the action is alleged to be taking place.

Recurring or one time?

Length of time activity has been going on.

Extent of activity (some idea of number of people involved).

Estimate of dollar value involved.

The GAO Task Force will provide an initial screening of the calls to eliminate those which are obviously non-substantive. Those which appear to be substantive but relate to program effectiveness and efficiency rather than fraud will be referred to the operating divisions of GAO for consideration in their audit work. Those which appear to be allegations of fraud will be coordinated with the appropriate agency Inspector General for investigation. In the event the agency Inspector General is unable to respond in a timely manner because of manpower limitations or priority of on-going work, GAO will perform a verification of facts relative to the allegation utilizing regional offices. This data will be evaluated by GAO and a decision made relative to referral to the Department of Justice for possible prosecution.

FIRST 17 MONTHS OF PROGRESS

Mr. SASSER. Mr. President, during the first 17 months of operation—the period of January 18 through June 15, 1980—over 8,500 allegations had been written up by GAO task force personnel.

The task force is now in the process of classifying the 8,515 allegations—as to materiality, agency, and program involved, and geographic location.

Computer analysis of the first 8,515 allegations is complete. The followup on these hotline leads has begun. Additional calls are being received daily, and will be handled by the same process.

MIX OF CALLS

Of the 8,515 allegations reviewed so far, 4,903 or 58 percent appear to have sufficient substance to merit further consideration for audit or investigation. The other 42 percent relate to non-Federal activities or lack sufficient factual information to justify further consideration for audit or investigation at this time.

The 4,903 allegations that merit further consideration for audit or investigation have been received from 50 States, the District of Columbia, and overseas locations.

Mr. President, I ask unanimous consent that a State-by-State listing of the locations of these 4,903 hotline allegations be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

Location of reported activity

Washington, D.C	342
Alabama	81
Alaska	23
Arizona	44
Arkansas	57
California	565
Colorado	90
Connecticut	35
Delaware	10
Florida	206
Georgia	190
Hawaii	9
Idaho	22
Illinois	101
Indiana	56
Iowa	30
Kansas	43
Kentucky	91
Louisiana	71
Maine	17
Maryland	141
Massachusetts	71
Michigan	178
Minnesota	29
Mississippi	55
Missouri	144
Montana	28
Nebraska	20
Nevada	16
New Hampshire	17
New Jersey	95
New Mexico	34
New York	252
North Carolina	84
North Dakota	19
Ohio	213
Oklahoma	67
Oregon	37
Pennsylvania	211
Rhode Island	14
South Carolina	27
South Dakota	23
Tennessee	191
Texas	268
Utah	24
Vermont	3
Virginia	249
Washington	141
West Virginia	48
Wisconsin	40
Wyoming	3
Overseas	30
Missing State Codes	48

AFFECTED FEDERAL AGENCIES

Mr. SASSER. Mr. President, the 4,903 hotline allegations that have been selected for further consideration for audit or investigation affect virtually every major department or agency in the Federal Government. We have compiled a list of the affected Federal agencies. I ask unanimous consent that an agency-by-agency listing of the affected Federal agencies be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

List of affected Federal agencies

Department of Agriculture	204
Department of Commerce	58
Department of Defense (other than Air Force, Army, Navy)	124
Department of the Air Force	159
Department of the Army	259
Department of the Navy	260
Department of Energy	58
Department of Health, and Human Services (formerly HEW) (other than SSA, OE)	379
Social Security Administration (Welfare SSI)	695
Office of Education	57
Department of Housing and Urban Development	339
Department of the Interior	142
Department of Justice	123
Department of Labor	381
Department of State	10
Department of Transportation	119
Department of the Treasury (other than IRS)	53
Internal Revenue Service	537
Community Services Administration	50
Environmental Protection Agency	70
General Services Administration	171
National Aeronautics and Space Administration	23
Small Business Administration	45
Tennessee Valley Authority	25
United States Postal Service	149
Veterans Administration	219
All other	194

TYPES OF ALLEGATIONS RECEIVED

Mr. SASSER. Of the 4,903 allegations selected for further consideration, about 28 percent are instances of apparent mismanagement. Generally, these allegations will be dealt with through the audit process rather than the investigative process.

In contrast, the remaining 72 percent—3,550 allegations—appear to be instances of intentional wrongdoing or fraud.

Mr. President, I ask unanimous consent that a table and a short narrative categorizing the 3,550 allegations of intentional wrongdoing be printed in the RECORD.

There being no objection, the table and narrative were ordered to be printed in the RECORD, as follows:

	No. of Allegations	Percent of total
Participant category:		
1. Federal employees only	1,006	28.3
2. Federal employees in conjunction with others	260	7.3
3. Federal contractors or grantee organizations	763	21.5
4. Corporate recipients of Federal financial assistance	14	.4
5. Individual recipients of Federal financial assistance	890	25.1
6. Other individuals or corporate entities	617	17.4
Total	3,550	100.0

The "Federal employees only" category included 133 allegations of theft, 144 allegations of private use of government property, 303 reports of employee working hour abuses, 235 reports of improper financial transactions, and 188 reports of other improper activities.

The "Federal employee in conjunction with others" included 151 allegations of a bribe or kickback having been paid, 7 allegations or extortion and 102 miscellaneous other allegations.

The "Federal contractor/grantee" category included 374 allegations of improper expenditure of Government grant funds, 75 allegations of contract nonperformance, 69 reports of the theft of Government funds or property and 245 other allegations of various natures.

The category "Corporate recipients of Federal financial assistance" involved 14 instances of improper receipt of subsidy funds.

The "Individual recipients of Government financial assistance" included 269 allegations of welfare cheating, 165 of cheating on social security benefit eligibility, 199 of collecting inappropriate disability benefits, 62 of cheating on veterans benefits, 54 instances of food stamp cheating, 44 of medicare/medicaid cheating and 97 miscellaneous allegations.

The sixth and final category, "Other individuals or corporate entities" included 474 allegations of personal and corporate income tax cheating and 143 other allegations of improper activity.

WIDESPREAD REPORTS OF WRONGDOING

Mr. SASSER. Mr. President the instances of alleged intentional wrongdoing is widespread throughout the Federal Government. Intentional wrongdoing has been reported involving the funds of every one of the 13 Cabinet departments of the Federal Government. These cases involve activity in all 50 States and the District of Columbia.

REFERRAL OF CASES TO AGENCY INSPECTORS GENERAL

Mr. President, we are now getting close to the bottom line. I hope my colleagues will be encouraged to hear that the General Accounting Office has already referred 4,679 of these cases to agency Inspectors General or directly to the Justice Department for their action.

What this means is that there are 4,679 cases of intentional wrongdoing now in the hands of Inspectors General—cases that probably would never have been investigated had it not been for the establishment of the fraud hotline in January 1979.

LIST OF REFERRALS

I ask unanimous consent that an agency-by-agency list of the 4,679 cases that have been referred to agency Inspectors General or their equivalents be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD as follows:

Department or agency and cases referred	
Health, Education, and Welfare	1,123
Labor	419
Housing, Urban Development	332
Defense	662
IRS	515
Veterans Administration	215
General Services Administration	184
Agriculture	221
Post Office	110
Interior	130
Environmental Protection Agency	71
Transportation	116
Energy	49
Commerce	53
Justice	127
Treasury	78
Small Business Administration	46
NASA	21
Law Enforcement Assistance Administration	20
GAO	34
Community Services Administration	56
Tennessee Valley Authority	22
Other	75
Total referrals	4, 679

HOTLINE CASE EXAMPLES

Mr. SASSER. Mr. President, I wish to call to the attention of my colleagues nine hotline case examples. These examples show that the efforts of the Fraud Task Force are beginning to bear fruit in terms of restoring integrity to the operations of Government.

FALSIFICATION OF TIMECARDS

As a result of a call to the hotline, and investigation by the agency involved, administrative action was taken for falsification of timecards.

THEFT OF MATERIAL

The caller alleged theft of material from a Government warehouse by maintenance employees. The allegation was substantiated and administrative action taken.

AFDC AND FOOD STAMPS

The caller alleged that an individual receiving aid to families with dependent children (AFDC) and food stamps was working and receiving alimony. A large bank account was also alleged. Investigation determined the individual had received $3,181 in overpayments and the case is awaiting prosecution.

INELIGIBLE PARTICIPANTS

A complaint alleged that a State agency receiving Federal funds for training was allowing ineligible participants. This allegation was basically substantiated and the Federal agency is currently questioning over $138,000 of the cost incurred.

LONG LUNCHES

An allegation was received that a supervisor at a Federal agency was allowing his employees to take long lunches and not charging leave. The complaint was resolved through the resignation and reassignment of the personnel involved.

NONWORK BY A FEDERAL EMPLOYEE

An allegation was received concerning nonwork by a Federal employee during duty hours. This employees submitted his resignation.

CONTRACT COMPLAINT

A complaint alleged a contract was awarded for street, sidewalk, and gutter repair, but that a poor job was done. As a result of this complaint, the contractor agreed to correct the defects; that is, repaving streets, et cetera, at no cost to the Government.

FALSE CLAIMS

The caller, who is a resident in a section 8 housing development, claims his landlord is trying to assess damage charges improperly to tenants. Caller believes HUD will pay these charges but should not. The caller's allegation was substantiated and action is being taken to preclude the landlord from future participation in the program.

OVERBILLING AND CONTRACT NONPERFORMANCE

A hotline allegation of significant overbilling and contract nonperformance for maintenance services in the Defense Department, has been verified at the site in question and may be taking place nationwide.

CONCLUSION

Mr. President, the examples I have cited are but a few of the many hotline calls that have been followed up so far. Many more are being investigated and some cases have already been referred to the Justice Department for possible prosecution.

Mr. President, I join with the distinguished and able chairman of the Senate Committee on Appropriations (Mr. MAGNUSON) and ranking minority member, our distinguished friend (Mr. YOUNG) in urging the various agency Inspectors General to actively follow these cases to their conclusion.

The Comptroller General, Mr. Elmer Staats, the head of the Fraud Task Force, George Egan, and the staff of the hotline unit under Bob Meyer are to be commended for their very fine efforts to reinstill a sense of integrity in Federal Government operations.●

A LETTER FROM A YOUNG MAN

● Mr. MORGAN. Mr. President, a bill to require that young men register for possible military service should a national emergency arise has passed both Houses of Congress and become law.

Let me emphasize that it does not call for resumption of the military draft, but merely requires that young men who are 19 and 20 years old go to their nearest post office and leave their name and address. This would give us a list of those who would be called first in a national crisis and would save valuable time in calling up the necessary forces we would need.

When World War II started after Pearl Harbor was attacked, it took us 6 months to get an Army, Navy, and Air Force together. We may not have that much time in a similar situation in the future.

Those who opposed the registration bill in the Congress predicted that it would divide the Nation and that there would be protests from large numbers of young people who would object to registering their names with their Government. And while there may be objections from some who will be required to register, I do not believe that they will be a cause for national concern.

I am optimistic enough to believe that the young men of America love this country enough to defend it, just as their father did in the 1940's.

Recently I came across a letter to the Raleigh News and Observer which was written by a young man in North Carolina when there was an argument in Congress over the military draft right after the war in Europe and Japan.

The writer was a student in the law school in Chapel Hill at the time he wrote the letter in response to another letter the paper had published in which the writer objected to the draft because he said that—

> A year of military training is just like taking a year out of a boy's life.

Here is what the student's letter said in reply:

> I had three and a half years taken out of my life, if one wants to put it that way, but I prefer to believe that with that three and one-half years of my life I bought just one small "hunk" of the finest place on earth on which to live.
>
> Those years weren't taken away from me nor taken out of my life. Those years afforded me the opportunity of comparing our way of life with that of other countries, and out of this experience I have seen that what we have here in America is worth more than one, three, five or even ten years of anybody's life.
>
> I happened to be one of the few million young men who volunteered their services immediately after Pearl Harbor and were sent overseas with just enough training with which to get by. Every phase of my training was cut in half, and when I went overseas my outfit was tagged "Blitz Group"—not because of our potential striking power, but because we had been "blitzed" through training and at that very moment the Eighth Air Force in England was in need of replacements.
>
> How I have wished that I and my crew could have had more training, particularly in gunnery. But there wasn't time. The emergency was upon us. Now, at 27, I have returned to school. Could not a boy of 19 or 20 do likewise after only one year of training?
>
> The sooner everyone starts thinking in terms of America as a unit, and for what it stands, instead of the selfish individual, the better off we will be as Americans.

The author of that letter finished law school and became one of North Carolina's outstanding lawyers. His name was N. L. Britt and he lived and worked at his profession until his death in 1972. Two of his brothers are judges—one on the North Carolina Supreme Court and another on the Federal bench.

Our young people of today, I believe, are just as loyal, just as patriotic as were the men who answered the call to defeat a menace to freedom and world peace nearly 40 years ago.

And should we need their services, I know that they will respond and defend America, because it is their country that will need them.

I read a comment by an Englishman the other day. He said that we in America take the freedom and the liberty we enjoy for granted, and do not regard it as the national treasure it really is.

That may be so, but if that freedom and that liberty are threatened, I know that there will be no lack of Americans ready and willing to defend them.

I repeat that the registration bill, which I avidly supported, does not call for a military draft and I would not favor a draft at present.

But somebody is going to have to defend this country if we are attacked or threatened and I feel that the letter written by the student after World War II states the case for protecting our freedom extremely well.●

CLIFFORD EVANS RECEIVES PRESTIGIOUS AWARD

● Mr. **HAYAKAWA**. Mr. President, Clifford Evans, Washington Bureau chief for RKO General Broadcasting, was recently the recipient of a very prestigious award. Cliff represents KRTH radio and KHJ radio and television stations in the Los Angeles area. On behalf of my constituents who are served by these stations, I would like to commend Clifford Evans for being the first broadcast journalist to receive a journalism award from the White House Correspondents Association. Cliff was presented with the Barnet Nover Award for "excellence in broadcast journalism" at the recent annual White House Correspondents dinner. He was selected to receive the award for his March 12 reports from Jerusalem on positive changes in the stalled Middle East peace talks. I am encouraged to know that my constituents in the Los Angeles area, as well as other listeners and viewers around the Nation, have and will have the benefit of Cliff Evans' fine reporting. It is with great pleasure that I congratulate him for bringing this honor to broadcast journalism.●

ARMENIAN GENOCIDE

● Mr. **PELL**. Mr. President, I would like to take this opportunity to note that this year marks the 65th anniversary of an event which with its horror and cruelty initiated the catastrophic 20th century aberration of mass murder: the Armenian Genocide of 1915. This human disaster, which took place in Turkish Armenia early in the First World War, was a well-organized government effort in which over 1½ million Armenians, 81 percent of the total population, was exterminated for no other reason than that their national heritage was considered alien by the Turkish leadership.

The Armenians, a gentle, highly cultured people lived alongside the Turks before World War I, demanding only the tolerance and freedom that were their due. In response, their Turkish rulers launched a coordinated drive to round up and eliminate every Armenian man, woman, and child; a venture which, as in the later Nazi slaughter of the European Jews, diverted war resources in a show of the perverse priorities of the governments involved.

While the Armenians' murders lacked the sophisticated equipment which Hitler had at his disposal, they were no less thorough with the more primitive weapons of bullets, bayonets, starvation, and exposure. And the inhumanity exhibited in both cases was horrifying.

Mr. President, I am proud to have served as a member of the President's Commission on the Holocaust and to be a member of its successor body, the U.S. Holocaust Memorial Council, I would like to point out that the work in these organizations has not been narrowly confined to the case of Hitler's outrages against the Jews. Rather, we have intended that our attempts to keep alive the memory of all peoples who died just for being what they were would help to prevent any future abandonment of moral principles.

It was a refusal by the world community to do something, or even care about, the welfare of the Armenians in 1915 that cleared the way for Hitler's "final solution" a generation later. Secure in the knowledge that civilization had turned its back once before, he proceeded to repeat, on a larger scale, the same display of evil to which the Armenians fell victim.

If we are truly concerned about eliminating the evil of genocide from the heart of mankind; if justice and compassion are values which we sincerely cherish; if the death of 1½ million Armenians is to be more than a tragic footnote to our times; then we must not forget the brutal assault on human dignity which was the Armenian Genocide.●

POSTPONING THE MADRID CONFERENCE

● Mr. **DOLE**. Mr. President, the Commission on Security and Cooperation in Europe—the "Helsinki Commission"—is scheduled to hold its next followup meeting in November 1980 in Madrid. As my colleagues on the Commission are aware, I have grave doubts as to whether this meeting should take place as scheduled.

While the CSCE followup mechanism was never intended to be dependent on détente, the invasion of Afghanistan reveals a new willingness on the part of the Soviet Union to risk global stability for an expansion of power. This calculated projection of force calls into question the premise of our foreign policy and the direction of our relations and approach in dealing with the Soviet Union.

Further, the reports that the Soviet Union produced biological weapons—leading to an anthrax outbreak in Sverdovsk last year—and uses nerve gas in Afghanistan, leads me to question the sincerity of the Soviets to live up to any treaty and their willingness to allow any policing of their violations.

I commend to my colleagues the very thoughtful editorial from this morning's Wall Street Journal on this issue. It outlines the dismal realities of the Soviet nonobservance of the provisions of the Helsinki accord and makes a strong case for boycotting the Madrid conference.

I ask that the Wall Street Journal editorial be printed in the Record.

The editorial follows:

Looking Ahead to Madrid

The Soviet announcement of a pullout of some troops from Afghanistan obviously was a token effort aimed at weakening Western solidarity at the Venice summit. It did not, however, prevent the Western nations from issuing a joint communique to "do everything in our power" to bring about a full withdrawal.

If that promise is sincere, it is not too early to begin considering one lever against the Soviets that has so far remained untouched, a boycott of the November meeting in Madrid of the Conference on Security and Cooperation in Europe.

Indeed, some highly placed Americans and Europeans have been wondering why a Madrid boycott was not one of the earliest of the Western counter-measures. Since the CSCE's famous Helsinki Accord was signed in 1975 by 35 NATO, Warsaw Pact and nonaligned states, its yields to the West have been dubious at best. The Soviet Union, which had pressed for years for the conference, got the main thing it wanted, Western acceptance of its hegemony over Eastern Europe. The West got some assurances from the Russians that they had no aggressive intent and that they would pay more heed to human rights within the Soviet bloc.

In the ensuing five years, the Soviets have vastly expanded their military machine—tanks, troops and tactical aircraft—and pointed more theater nuclear weapons toward Western Europe. They have jailed Soviet citizens attempting to monitor the government's compliance with the human rights accords. They have banished a prominent critic of their police state policies, Nobel laureate Andrei Sakharov, to Gorky. And, of course, they have marched into Afghanistan. The brazen Soviet invasion gives cause to wonder if the Russians really meant it when they signed agreements guaranteeing the "inviolability" of European borders.

In the light of all this, why did the U.S. not refuse, after the Afghanistan invasion, to conduct another "spirit of Helsinki" charade in Madrid this fall? Or, failing that, why didn't it forthrightly say that it will go to Madrid but mainly for the purpose of calling the Soviets to account for their present interpretations of the Helsinki spirit?

One clue to this resounding quietude from Washington may well be found in the attitudes of those people in and out of government who think that discussions of brute force and state thuggery should be conducted in the quiet tones of an afternoon tea party in Georgetown. In the current issue of Foreign Policy magazine, for example, Albert W. Sherer Jr., who headed the U.S. CSCE negotiating team in preparation for the last gathering in 1977 in Belgrade, recites the "mistakes" of Belgrade. These, we learn, consisted of making too much of human rights and thereby annoying the Russians. We should take a "more reserved and quiet approach" at Madrid, it is argued.

It is hard to imagine how the substance of U.S. policy, aside from the tone, could have been more accommodating to the Russians over the last decade. Even getting the human rights considerations into the Helsinki accord was mainly the work of Europeans, not the U.S. To the extent that the U.S. has applied pressure to the Soviets, which would mainly be represented by Senator Jackson's demands for Jewish emigration, it has been outside the Helsinki context.

The fact that the Soviets would be willing to sign an agreement exposing their gross human rights abuses to greater international scrutiny gives some clue to how badly they wanted the Helsinki accord. There can be little doubt that it was seen from Moscow as the cornerstone of a long-range strategy to persuade Western Europe that its security is dependent on Soviet forbearance, not on the ability of the United States to shield it from the Soviet threat.

West Germany has gained a closer working relationship with East Germany during detente, enough so to revive hopes once more of eventual reunification, or at least enough of a modus vivendi to soften some of the crueler aspects of partition. But in so doing, it has become hostage. The Soviet Union, having bestowed this favor, is fully capable of taking it away. German Chancellor Schmidt may find the Russians reminding him of this possibility when he visits Moscow next Monday.

President Carter took a laudably tough line toward the Soviets in Venice and succeeded in getting that line conveyed by a joint statement. But it was noticeably short on specifics and the President's unwillingness to back a strong U.S. defense spending program will contribute further to doubts about his resolve. The Soviets already had succeeded in impressing the Poles, Czechs and Hungarians with such doubts and would like them to spread to Western Europe.

It is getting a bit late to counter that effort, but one way would be a specific declaration about the Madrid meeting that would make it clear it is not our style to be "reserved and quiet" in the face of aggression and abuses of human dignity.●

THE ENERGY SECURITY ACT

● Mr. HUDDLESTON. Mr. President, I am gratified to have been a part of the congressional approval of the Energy Security Act. I am proud to have played a role with other Members of the Congress in moving America toward energy independence. I am particularly proud that we were able to enact a program to stimulate the production of fuel grade alcohol for mixture into gasohol. This is an enormously popular concept, not only with the farmers of my State of Kentucky, but farmers across the Nation. These farmers quite correctly perceive that the production of alcohol from renewable resources grown on the farm offers great promise, not only in moving our country toward energy independence, but also in helping farmers achieve a fair price for their products.

Currently agriculture is in a sad state of affairs. The economic malaise that affects agriculture is not confined to animal agriculture; it is not confined to the grain producers. It is general throughout the agricultural economy. Indeed, the effect of low farm prices is being felt not only by farmers but by manufacturers and distributors of farm equipment and supplies.

While the passage of title II, the gasohol title of S. 932, will not in itself provide immediate relief for the sad economic plight of America's farmers, it does signal that we in Washington are taking positive steps to alleviate the situation.

Moreover, I believe that a rapid and forceful implementation of the gasohol provisions of S. 932, as well as the other authorities that the Federal Government now has to encourage alcohol production, could do a great deal in the short run to stimulate improved economic conditions in rural America.

While many of us put our shoulders to the wheel in trying to secure the enactment of meaningful legislation to promote fuel alcohol production, I think that special recognition should go to one Member of the Senate, the chairman of the Committee on Agriculture, Nutrition and Forestry. I think Senator TALMADGE's leadership role is particularly unique in that he introduced, with the cosponsorship of myself and other members of the Senate Agriculture Committee, S. 1775, the Agriculture, Forestry, and Rural Energy Act of 1979, even before the verdict of the Ethics Committee was in. Under his leadership this legislation was approved by the full Agriculture Committee with great speed and was unanimously adopted by the full Senate last November as title II of S. 932. It is this legislation, in a reduced form, that was approved by the Congress as title II of the conference report of S. 932, the Energy Security Act.

I was pleased to have been a cosponsor and a strong supporter of the gasohol provisions of S. 932, and I am proud of the way that my friend, the senior Senator from Georgia, exercised strong leadership at a time of great personal stress for himself. I am glad that he did not allow the problems that he then faced to deter him from his leadership responsibilities, both for the Senate Agriculture Committee and for the people of his State of Georgia.●

TWENTY SENATORS SUPPORT RESCINDING THE GRAIN EMBARGO

● Mr. DOLE. Mr. President, last Friday I introduced legislation, S. 2855, to rescind the agricultural commodity export embargo to the Soviet Union.

At that time I was pleased to have been joined by Senators KASSEBAUM, BOSCHWITZ, MCGOVERN, ZORINSKY, PRESSLER, BELLMON, YOUNG, JEPSEN, WALLOP, MCCLURE, and EXON in sponsoring this legislation.

Today I am pleased to add the names of Senators DANFORTH, TOWER, EAGLETON, MELCHER, BURDICK, BAUCUS, COCHRAN, and BOREN to the growing list of Senators who are extremely concerned about the grain embargo disaster and its effect upon the American farmer and the American economy. Twenty Senators now support this legislation.

I ask that their names be added to S. 2855. I also have had communications from the Kansas Farm Bureau, from the National Women involved in Farm Economics (WIFE), and from the American Agriculture Movement indicating their support for this bill.

Mr. President, it is becoming obvious that the Carter administration's embargo follies get worse with every new decision reaching a state where American farmers are wondering when these actions will end.

I said on January 7, I believed the offer by the Carter administration to buy the grain contracts of the embargoed grain was the beginning of the "embargo follies."

We now find the Carter administration saying they want to hurt the Russians with the embargo action. And, then we find them taking actions that weaken the embargo. Actually, the only people hurt are the American farmers.

WEAKENED THREE WAYS

The Carter administration weakened the embargo by, first, allowing the American grain exporters to buy foreign grain and sell it to the Russians, second, not getting firm agreements from other exporters not to sell to the Russians, and by third, allowing Russia to buy 8 million metric tons of grain under the fifth year of the U.S.S.R.-United States grain agreement starting October 1, 1980.

This is all utter nonsense and sheer folly. When you look at all of the actions by the Carter administration as a whole, they just do not make sense.

Leading grain experts tell me this is the most disorganized involvement ever recorded by the Government in the grain business. The involvement has cost us billions of dollars, cost us grain markets, set the United States back 10 years in grain market development, and damaged U.S. integrity in the international grain trade. After doing all this, the Carter administration then has taken actions to help the embargo self-destruct.

I do not believe Russia should be allowed to invade countries without action by the United States. I just believe embargoing grain was an inappropriate action and one that certainly has proved to be ineffective. It has cost the Russians little and has cost the American farmer, consumer, businessman, and taxpayer much.●

DEATH OF DR. BARNABY C. KEENEY

● Mr. PELL. Mr. President, it is with the deepest regret and sadness that I note the death of Dr. Barnaby C. Keeney whose distinguished career as a scholar and educator included the 12th presidency of Brown University and the first chairmanship of the National Endowment for the Humanities. I always admired him and found his wit, wisdom, and originality an inspiration.

Dr. Keeney joined the faculty at Brown University in 1946 as an assistant professor in medieval history. He moved on to become dean of the graduate school and dean of the college before assuming the presidency of the university in 1955. During his 11-year tenure as president, Brown experienced its greatest growth and became one of the most prestigious and academically superior American universities.

I would add that his thinking and leadership played a huge role in the development and creation of the National Endowments and so it was particularly appropriate that President Johnson appointed him on his retirement from Brown in 1966 to become the first chairman of the National Endowment for the Humanities. This fledgling agency which was concerned with areas previously unknown in Government was happily guided with a firm and knowing hand. It was due to Dr. Keeney's broad experience in higher education and deep personal commitment to the humanities that the Endowment had such an auspicious beginning.

I fondly recall Dr. Keeney's insightful definition of just what the humanities are:

> If you do it, it's an art. If you study or learn or examine it, it's a humanity.

We all mourn the loss of this remarkable humanist and very good friend, and I extend to Mrs. Keeney, their children and grandchildren my heartfelt sympathy.

I ask that articles on Dr. Keeney's life from the Providence (R.I.) Journal, the Washington Post, and the New York Times be printed in the RECORD.

The articles follow:

[From the Providence (R.I.) Journal, June 19, 1980]

BARNABY C. KEENEY DIES AT 65; LED BROWN INTO ITS GOLDEN AGE

Dr. Barnaby Conrad Keeney, 65, a tough-minded and witty scholar who became the 12th president of Brown University and the first chairman of the National Endowment for the Humanities, died yesterday afternoon at Rhode Island Hospital after an illness.

During Dr. Keeney's 11-year tenure as head of Brown, the Ivy League Institution experienced its greatest growth and moved to the forefront of American universities.

Dr. Keeney was noted for both his wit and his wisdom. When Phi Beta Kappa, the national academic honor society, gave him its first award for distinguished service to the humanities, it cited him for having "the breadth of understanding that characterizes the true humanist" and an "earthy common sense and unerring capacity to get to the issue and close with it."

He left Brown in 1966 and was chosen by President Lyndon B. Johnson to head the National Endowment for the Humanities. Dr. Keeney subsequently was fired by President Nixon but remained in the spotlight both nationally and locally, even after retiring in 1976 to his Grange Avenue home in Little Compton, where he lived with his wife, the former Mary E. Critchfield.

In October, 1973, *New Times* magazine wrote that in 1962 the Central Intelligence Agency secretly appointed Dr. Keeney chairman of the "Human Ecology Fund," one of many dummy corporations in Project MK-ULTRA that over two decades secretly channeled "millions of dollars into mind control research, including LSD testing on human subjects."

Dr. Keeney acknowledged his connection with the CIA but refused to characterize the nature of the work he did for the agency.

"I suppose nowadays it is improper to attempt to serve your country. . ." Dr. Keeney said when the report surfaced. "But then I felt I was doing what I should. I am a citizen of this country. I felt I should do whatever I was asked."

CIA Director Stanfield Turner said later that a review of several thousand internal documents, "showed no indication that MK-ULTRA-related research was ever conducted either at Brown or by any individual affiliated with the university."

In March, 1979, it was disclosed that the FBI mounted a behind-the-scenes campaign to discredit Dr. Keeney in 1955 after he publicly described FBI Director J. Edgar Hoover as anti-intellectual. Details of the incident were discovered among FBI records that the agency released to the university and the American Civil Liberties Union under the Freedom of Information Act.

An FBI campaign to pressure Brown officials into repudiating Dr. Keeney's statement that Hoover had a "vicious attitude toward intellectuals" had little apparent effect and Keeney was named president of Brown later that year.

Much of Brown's financial growth came during his tenure. The Ford Foundation made two grants totaling $12.5 million on the condition that the university raise twice that on its own for general development and improvement, and Dr. Keeney also obtained millions of dollars in other grants.

Dr. Keeney was considered an outstanding scholar, educator, administrator and fund raiser. He was the author of treatises on academic subjects and was widely sought as a speaker on campuses and elsewhere.

In 1971, when Vice President Spiro Agnew was disparaging "effete intellectual snobs," Dr. Keeney happily declared: "I'm an arrogant, effete Eastern intellectual—and a Wasp to boot. I'm also a snob. I think it's a fine thing."

Dr. Keeney, who held honorary degrees from more than a dozen colleges and universities, was selected in August, 1955, to succeed Henry M. Wriston as president of Brown. Dr. Keeney had been a professor of medieval history, dean of the graduate school and dean of the college.

Universities can best preserve freedom of speech and opinion "by turning out people who know what they're talking about and can express themselves clearly," the new president said.

He rarely delegated power permanently but said he operated by consensus, not by giving orders.

While he felt that students should have the same rights of free speech and assembly as other citizens, he would brook no interference by them in the operation of the university.

Barnaby Keeney was born in Halfway, Ore., on Oct. 17, 1914, a son of Robert Mayro and Maud Barnaby (Conrad) Keeney. His father was an engineer in metallurgy whose work took him and his family to various parts of the country.

After attending grammar school in several communities, young Barnaby became an Eagle Scout and captain of the track and cross-country teams at Hartford Public High School. He was state champion in the quarter-mile. During his years at Brown he was a faithful fan at Brown football games.

He graduated as top man in his class at the University of North Carolina in 1936 and was a member of Phi Beta Kappa.

He received a master's degree from Harvard in 1937 and a Ph. D. from that university in 1939.

He enlisted in the Army during World War II and eventually became an officer in charge of an interrogation team. He was in the Battles of Ardennes and Rhineland and was awarded the Bronze Star, the Silver Star and the Purple Heart. He was discharged as a captain. While in the Army, Dr. Keeney was awarded a John Simon Guggenheim Post Service Fellowship for further study in history.

In 1946 he was appointed to the Brown faculty as an assistant professor of medieval history. He concentrated on the history of Europe in the Middle Ages and on the constitutional history of England in that period.

In 1949 he became dean of the graduate school at the age of 34, one of the youngest graduate deans in the country. He obtained several grants for the graduate school and also received a grant from the Carnegie Corporation to study graduate education throughout the United States and to visit about 20 universities.

He was made a full professor in 1951 and took a leave of absence in June of that year to help the CIA develop a program for recruits.

He returned the next year and became acting dean of the college, as well as dean of the graduate school in 1953 he became full-time dean.

Shortly after his appointment, at 40, as president, he declared that the "only reason to go to college is to learn to think and to learn something to think about."

In 1956 he announced the launching of an eight-year drive to raise $30 million to bolster the university-endowment fund and to provide money for pressing building needs, the largest undertaking in the university's history.

In 1964 Brown raised the goal of its bicentennial development campaign from $30 million to $46.9 million and disclosed major construction plans.

Dr. Keeney announced his resignation at a hastily called meeting in 1965 but agreed to stay through the next academic year. He said a university president tends to lose his effectiveness after a time and then tends to become complacent.

After he was dismissed from the Humanities Endowment leadership by President Nixon. Dr. Keeney became chief executive officer of the Consortium of Universities of Washington, D.C., a group of five major universities in the nation's capital. He remained in that post for less than a year and in June, 1971, he became the first president of the Claremont Graduate School in Claremont, Calif.

In 1976 he stepped down as a president of Claremont and retired to Little Compton to indulge his enthusiasms of fishing, hunting and gardening.

Besides his wife he leaves a son, Thomas Keeney of Washington, D.C.: two daughters, Mrs. Barbara A. Clark of Santa Cruz, Calif., and Elizabeth Keeney, at home, and three grandchildren.

Funeral arrangements are incomplete.

[From the Washington Post, June 20, 1980]

BARNABY C. KEENEY DIES, EX-COLLEGE PRESIDENT

Barnaby C. Keeney, 65, a renaissance scholar and former college president who served as the first chairman of the National Endowment for the Humanities, died Wednesday at Rhode Island Hospital in Providence, R.I., after a stroke. He lived in Little Compton, R.I.

Dr. Keeney was president of Brown University from 1955 to 1966, when he was chosen by President Lyndon B. Johnson to head the newly-established National Endowment for the Humanities.

He had headed the study group that first suggested a National Foundation for the Humanities, of which the National Endowment is a part. Under his leadership, which ended when he resigned in 1970, the Humanities Endowment created an upsurge in support for the arts in America with federal grants generating three times as much as private financing.

After leaving government service, Dr. Keeney served for a short time as chief executive officer of a consortium of five major Washington universities.

From 1971 to 1976, when he retired, he was president of the Claremont, Calif., Graduate School.

Dr. Keeney was born in Halfway, Ore. He graduated from the University of North Carolina and earned a master's degree and a doctorate in history from Harvard University.

He was an Army intelligence officer in Europe during World War II. He was awarded the Silver Star, Bronze Star and Purple Heart medals.

Dr. Keeney was a member of Phi Beta Kappa, which gave him its first award for distinguished service to the humanities. He held several honorary degrees and was a Fellow of the American Academy of Arts and Sciences.

Survivors include his wife of 38 years, the former Mary E. Critchfield of Little Compton; a son, Thomas, of Washington; two daughters, Barbara A. Clark of Santa Cruz, Calif., and Elizabeth, of Little Compton, and three grandchildren.

[From the New York Times, June 20, 1980]

BARNABY C. KEENEY IS DEAD AT 65; EX-BROWN UNIVERSITY PRESIDENT

(By Joan Cook)

Dr. Barnaby C. Keeney, the 12th president of Brown University and the first chairman of the National Endowment and Council on the Humanities, died of a stroke Wednesday at Rhode Island Hospital in Providence. He was 65 years old.

As president of Brown from 1955 to 1966, Dr. Keeney was the architect of the university's greatest period of educational and physical growth. During his tenure Brown's operating budget more than tripled, its endowment doubled and 11 major building projects that cost a total of $22 million were completed.

"Brown University owes an incalculable debt of gratitude to Barnaby Keeney," Howard R. Swearer, the current president of the university, said yesterday. "During his 20 years here, he left his imprint on every aspect of university life."

Dr. Keeney, a blunt, outspoken scholar who specialized in medieval history, had little patience with intellectual pomposity and rhetoric. "I never hurt anyone's feelings on purpose," he once said drily, "unless of course, I'm trying to."

FINDING "THE BEST PEOPLE"

Dr. Keeney was concerned about students and what happened to them after their graduation. "At college age, you can tell who is best at taking tests and going to school," he said, "but you can't tell who the best people are. That worries the hell out of me."

He was born in Halfway, Ore., on Oct. 17, 1914, and received a bachelor of arts degree at the University of North Carolina in 1936. He earned his master's at Harvard University in 1937 and his doctorate at Harvard in 1939.

Dr. Keeney became a history instructor at Harvard after completing graduate work. In 1942 he joined the Army and served in Europe as an infantry captain. He was awarded the Silver Star, the Bronze Star and the Purple Heart.

He went to Brown as an assistant professor of history in 1946, became a professor in 1951 and rose rapidly through the university's administrative hierarchy.

When he left Brown in 1966, Dr. Keeney was chosen by President Johnson to head the National Endowment and Council on the Humanities, an organization designed to attract some of the attention and funds then lavished on the sciences.

THE PLEASURE IN GIVING

"It's easy to raise money if you have a good case," he said in an interview shortly after taking over the endowment post. "One of the nice things about it is the pleasure you give people."

Dismissed by President Nixon in 1970, Dr. Keeney served for a year as chief executive officer of the Washington Consortium of Graduate Schools. He then became president of the Claremont Graduate School in Claremont, Calif., a post he held until his retirement in 1976.

In 1978 the now defunct New Times magazine published an article contending that the Central Intelligence Agency had secretly appointed Dr. Keeney as chairman of the "Human Ecology Fund," which the article described as one of many dummy corporations that channeled "millions of dollars into mind control research, including LSD testing on human subjects."

Dr. Keeney conceded that he had worked for the C.I.A., but refused to disclose the nature of the work.

"DOING WHAT I SHOULD"

"I suppose it is improper to attempt to serve your country," Dr. Keeney said, "but I felt I was doing what I should. I am a citizen of this country. I felt I should do whatever I was asked."

Adm. Stansfield Turner, Director of Central Intelligence, said later that there was no indication that Dr. Keeney or anyone else at Brown was involved with the ecology fund.

Dr. Keeney, who lived in Little Compton, R.I., is survived by his wife, the former Mary Elizabeth Critchfield; a son, Thomas Keeney of Washington; two daughters, Barbara Clark of Santa Cruz, Calif., and Elizabeth Barnaby Keeney, a student at the University of Wisconsin, and three grandchildren.

A memoral service will be held at noon Monday at the Central Congregational Church, 296 Angell Street, Providence.●

SMALL RECLAMATION PROJECTS AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 496.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 496) entitled "An Act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

Section 1. Section 101(b)(2) is amended, by inserting "(A)" after (2), by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B) The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided,* That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses: *Provided further,* That prior to delivering power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

"(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

Sec. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

Sec. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

"(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided,* That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands now irrigated with non-Federal water supplies: *Provided,* That no contract shall be executed to deliver irrigation water to lands not irrigated on January 1, 1978: *Provided further,* That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

Sec. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

"Sec. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

Sec. 5. Section 108 of the Act is changed to section 109 and effective October 1, 1979, is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: *Provided, however,* That no more than five percent of the amount authorized to be appropriated is used for these purposes."

Sec. 6. A new section 110 shall be added to the Act, as follows:

"Sec. 110. Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate Acts, in order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however*, That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

"(b) All costs authorized by this section are nonreimbursable.".

SEC. 7. A new section 111 shall be added to the Act, as follows:

"SEC. 111. As used in this title:

"(a) Navajo Generating Station means—

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

Amend the title so as to read: "An Act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I made the request, I acted, at the request of Mr. JACKSON. I ask unanimous consent that a statement by Mr. JACKSON on the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. JACKSON. Mr. President, S. 496 is a bill to increase the appropriation ceiling for title I of the Colorado River Basin Salinity Control Act of 1974, and the appropriations authorization for the Small Reclamation Projects Act of 1956, and for other purposes. It passed the Senate on June 4, 1979, and the House on February 7, 1980, with an amendment.

Mr. President, the House has amended S. 496 in the following respects:

First. The Senate bill would authorize the Secretary of the Interior to obtain from the Secretary of Energy certain electric power and energy from the Navajo Generating Station at Page, Ariz., to meet the power and energy requirements of the desalting plant and protective pumping well field authorized by title I of the 1974 act. The House amendment authorizes the Secretary of the Interior to use Navajo Generating Station power for those purposes without recourse to the Secretary of Energy. Also, unlike the Senate bill, the House amendment provides that prior to the delivery of power from the Navajo Generating Station, under the bill the Secretary must complete an analysis of alternative sources of power supply including the possibility of developing an agreement with the Republic of Mexico under which a power supply for title I facilities might be obtained by contract with Mexico.

Second. The Senate bill authorizes the Secretary of the Interior to purchase such supplemental power and energy as may be required for the desalting plant and protective well field. Under the House amendment, such purchases would be authorized to the extent and in such amounts as are provided in advance in appropriation acts.

Third. Operation of the Federal protective pumping well field constructed pursuant to title I of the 1974 act will lower the groundwater level of certain privately developed irrigation lands adjacent to the Federal well field. The Senate bill authorizes the Secretary of the Interior to supply replacement irrigation water for such lands pursuant to contract, and provides that such action shall not make the acreage limitation and related provisions of the reclamation law applicable to such privately developed lands. Effective October 1, 1979, the House amendment authorizes such replacement water contracts to the extent and in such amounts as are provided in advance in appropriation acts. The House amendment also restricts the exemption from the reclamation law to privately developed lands now irrigated with non-Federal water supplies, and prohibits the execution of any contract to deliver irrigation water to lands not irrigated on January 1, 1978.

Fourth. The Senate bill authorizes appropriations of $333,382,000 for the construction of the works and accomplishment of the purposes authorized in title I, as amended, which amount would be subject to construction cost indexing under existing law. The House amendment authorizes a fixed amount of $356,400,000 for title I without cost indexing. In addition, unlike the Senate bill, the House amendment directs the Secretary of the Interior to evaluate improvements in desalinization technologies and to implement improved designs into the desalting plant operations when evaluation indicates cost savings will result. Under the House amendment up to 5 percent of the amount authorized to be appropriated may be used for this purpose.

Fifth. The Senate bill authorizes the Secretary of the Interior to take a variety of actions to mitigate the loss of fish and wildlife habitat associated with measures taken under title I. Effective October 1, 1979, the House amendment limits the exercise of such authorities to the extent and amounts provided in advance in appropriation acts.

Sixth. The Senate bill amended the Small Reclamation Projects Act of 1956 (70 stat. 1044) so as to increase the appropriations authorization thereunder from $400 to $600 million. The House amendment deletes this provision. However, the same $200 million, increase in the Small Reclamation Projects Act authorization was passed by the House on February 7, 1980, as part of a separate bill, H.R. 3275, which also amends the Small Reclamation Projects Act to exempt from repayment the portion of interest on project loans attributable to furnishing benefits to a facility operated by an agency of the United States.●

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON I move that the Senate concur in the amendments of the House with further amendments.

The amendments are as follows:

Strike out all after the enacting clause, and insert: That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after (2), by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B)" The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: Provided, That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses: *Provided further*, That prior to obtaining power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

"(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

SEC. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

SEC. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

"(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said-well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided*, That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands. *Provided* *further*, That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

Sec. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

"Sec. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

Sec. 5. Section 108 of the Act is changed to section 109 and effective October 1, 1979, is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on January, 1979, prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: Provided, however, That no more than five percent of the amount authorized to be appropriated is used for these purposes."

Sec. 6. A new section 110 shall be added to the Act, as follows:

"Sec. 110. Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate Acts, in order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, meaintain, and make replacements of facilities: Provided, however, That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

"(b) All costs authorized by this section are nonreimbursable.".

Sec. 7. A new section 111 shall be added to the Act, as follows:

"Sec. 111. As used in this title:

"(a) Navajo Generating Station means—

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

Sec. 8. The Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, is further amended as follows:

(a) Effective October 1, 1980, section 10, as amended, is further amended by deleting "$400,000,000" and inserting in lieu thereof the amount of $600,000,000".

(b) Subsection (c) of section 5, as amended, is further amended by adding the following: "Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;"

Amend the title so as to read:

"An Act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Project Act of 1956 (70 Stat. 1044), and for other purposes"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. Jackson on the amendments be inserted in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. JACKSON. Mr. President, this amendment to the House amendment to S. 496 would modify the House amendment as follows:

First. It amends section 3 to make it clear that all of the acreage in the Hillander "C" Irrigation District—a small privately-developed district adjacent to the Federal well field constructed under title I—will be eligible to receive replacement irrigation water under the authority provided by section 3. The amendment conforms the section more closely to the Senate provision.

Second. It amends section 5 so as to restore the construction cost indexing authority contained in the Senate-passed bill.

Third. It restores the Senate-passed amendment of section 10, the Small Reclamation Projects Act of 1956, increasing the appropriations authorization thereunder from $400 million to $600 million.

In addition, this amendment includes an amendment to subsection (c) of section 5 of the Small Reclamation Projects Act approved by the House as part of H.R. 3275. The amendment exempts from interest charges the portion of project loans attributable to furnishing benefits to facilities operated by agencies of the United States.

The overall effect of the present amendment is to accept a number of the changes the House has proposed to S. 496 and, at the same time, to restore a number of Senate-passed provisions.

If acceptable to the House, this amendment would conclude our action on this legislation.

I urge that my motion be agreed to.●

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER FOR THE SENATE TO CONVENE AT 9 A.M. ON TUESDAY, JULY 1, AND AT 9 A.M. ON WEDNESDAY, JULY 2, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday of next week and Tuesday of next week it stand in recess until the hour of 9 a.m. on Tuesday and 9 a.m. on Wednesday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope it will be possible to vitiate the order that has just been entered.

ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF S. 2720 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders, or their designees, have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 787, S. 2720, a bill to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the purpose of the reservation is to advise the majority leader that we have worked for some time now to try to clear this calendar item and indeed it has been cleared so I shall not object to the majority leader's request.

I might say, however, that there are a number of notations on our calendar of amendments, and I expect that there may be six or eight amendments offered in the course of consideration of that bill from this side.

But we have no objection to making it the pending business after the standing orders and special orders are disposed of on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. I realize he has been able to clear this matter on his side after some considerable effort on his part, and I personally appreciate his being able to do so.

Mr. BAKER. Mr. President, I appreciate the majority leader's consideration in the matter of scheduling during this week and the time preceding the recess which, I expect, has been difficult for both of us. But so far it has worked very well.

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, and prior to taking up the bill S. 2720, Calendar Order No. 787, Mr. Stennis be recognized for not to exceed 15 minutes, Mr.

EXON be recognized for not to exceed 15 minutes, and Mr. NUNN be recognized for not to exceed 15 minutes, not necessarily in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:15 tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the convening in the morning be changed to 8:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and at 8:07 p.m., the Senate recessed until Wednesday, June 25, 1980, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 24, 1980*

The House met at 12 o'clock noon.

The Reverend Wayne M. Fowler, Oakland United Methodist Church, Marion, Ohio, offered the following prayer:

Almighty God our Father, grateful for past mercies, we ask for mercy again.

Often we grope in the darkness of self, and only Your illumination can give mankind the peace that passes understanding.

We are cognizant that there are no easy answers to this world's complex problems. Lacking wisdom, we ask for that wisdom which You promised You would never deny us.

You taught us that all authority and power are given by your will. We pray for our Government, and all governments, remembering You are just as well as merciful.

Forgive us, O God, our wrongs. Heal our troubled consciences. Bridge the breaches in our relationships. Give us Your spirit of love for all.

May the living spirit of Your Son Jesus, the spirit of everlasting truth, live in us all, always. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2759. An act to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 988. An act entitled the "Health Sciences Promotion Act of 1980";

S. 2080. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes; and

S. 2377. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1981, and for other purposes.

REV. WAYNE M. FOWLER

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, it is a great pleasure to welcome, as our guest chaplain today, the Reverend Wayne M. Fowler, pastor of the Oakland United Methodist Church of Marion, Ohio. I thank him for his inspirational opening prayer.

Reverend Fowler was raised in Columbus, Ohio. He earned his bachelor of arts degree at Otterbein College in Westerville, near Columbus, and graduated with a master of divinity degree from Trinity Lutheran Seminary in Columbus.

The Reverend Fowler has devoted much of his professional life to the education and counseling of the residents of Ohio of all ages. He was an instructor in psychology at Shawnee State Community College in Portsmouth and also taught at Hocking Technical College in Nelsonville, Ohio. He previously offered private counseling and was the director of social services at several hospitals in Ohio.

Reverend Fowler has served as the pastor of Oakland United Methodist Church since last November, when he came to Marion from Lancaster. In the short time he has held this post, he has endeared himself to the members of his congregation and gained the respect and admiration of the Marion community.

The Seventh Ohio Congressional District is indeed fortunate to have Reverend Fowler as a vigorous, active member of the Marion community.

I am honored to welcome Reverend Fowler, his wife, Gwen, and his son, Michael, today to the House of Representatives.

ENERGY PLANK TRAGEDY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PRICE. Mr. Speaker, the adoption of an energy plank opposing nuclear power by the Democrats is so unfortunate that it is tragic. Such a path clearly ignores the serious energy dilemma we face and rejects one of the only two practical solutions we have to save us.

Every knowledgeable and responsible person involved in the energy field has agreed that coal and nuclear are the only available basic energy sources we can put to use without delay. This same conclusion has been reached by the leading industrial nations of the world. The announcement by the seven-country economic summit nations which concluded its meeting in Europe yesterday reiterates this conclusion. The comprehensive study completed a couple of months ago by the National Academy of Science properly identifies nuclear fission as closer to a renewable source than a nonrenewable source. It is incomprehensible that the facts concerning our energy dilemma and its solution were so ignored by the platform drafters. This platform plank cannot be sustained since such a policy will have tragic consequences to the welfare and national security of our Nation.●

OUR DECLINING ECONOMY

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, according to a preliminary estimate by the Commerce Department, our gross national product plunged at an annual rate of 8.3 percent in the second quarter of 1980. This decline represents the second largest drop in GNP—presumably the best measure of the Nation's economy—since the devastating Depression of the 1930's.

The vacillating economic policies of the Carter administration have taken our Nation on a rollercoaster ride—straight down. The administration's band-aid approach to economic difficulties has led not only to a steady decline in our Nation's economy, as indicated in this alarming deficit, but has resulted in a severe crisis of confidence on behalf of the American public.

Trust in our once stable economy has been replaced by skepticism, mistrust, and a total lack of confidence in the Carter administration's misguided economic policies.

Should the administration continue to provoke such financial mishaps, the economic devastation of the thirties may be far surpassed in the eighties.

ANOTHER TALE OF TWO HEADLINES

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the front page of today's Washington Post contained two interesting headlines. The first stated:

Summit Moves To Cut Reliance on Oil.

The other said:

Democrats Adopt Plank Opposing Nuclear Power.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

That is right, President Carter approved of the summit meeting's finding that called for "increasing use of nuclear power." But his party platform adopted an antinuclear power plank.

Add to this the President's decision to send nuclear fuel to India—clearly contrary to a recent Nuclear Regulatory Commission ruling, and we are back again in the never-never land of Carter policymaking.

Is there anyone who can tell us where the Democratic Party stands on the issue of nuclear power? Is the President out of step with his party? Has his party been taken over by antinuclear extremists? Did the President accept the summit's views on nuclear power but not really believe them?

Who knows? The Democratic Party's policy on nuclear power is like a television soap opera: More complicated than real life, filled with unanswerable questions, populated by characters with strange motives and, in the final analysis, never quite believable.

☐ 1210

ELECTIONS IN JAMAICA

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, very disturbing information has come to my attention relating to Jamaica, and I feel obligated to bring it to the House for its consideration.

As my colleagues know, Jamaica is scheduled to conduct elections in September. Current polls indicate that the present Prime Minister, Michael Manley, a pro-Cuban sympathizer, may well lose that election.

In recent weeks, however, Cuban civilians have been observed in Jamaica measuring roadbeds to determine which are suitable for carrying heavy equipment. I can only surmise the real purpose of these Cubans. But to me it indicates a real possibility that Mr. Manley may well be readying Jamaica in case he must ask for military help from his friend, Fidel Castro.

Jamaica is a key to the whole Caribbean region. It is critical to our own national security that free and fair elections be held in September.

The Jamaicans must be free to vote, to express their will without fear. This cannot happen if there are Cuban troops stationed there and we as a nation could not tolerate such action. Therefore, I call on the Carter administration to immediately tell Cuba and any other power to keep their hands off Jamaica.

AWARD TO CLIFFORD EVANS FOR BROADCAST JOURNALISM

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, in the world of broadcasting journalism there are perhaps only a handful of professionals who have, over the years, attained the high level of achievement and recognition that Clifford Evans, chief of the RKO broadcasting bureau in Washington, has managed to do.

Most recently, Clifford Evans was presented the award for "Excellence in Broadcast Journalism," by the White House Correspondents Association.

This was the first time in 65 years that such an award to a broadcast journalist was presented. This award, given to him on May 3 at the association's annual dinner, was for Evans' broadcasts from the Middle East last year. While the general reports from both print and broadcast sources were saying that President Carter's attempt to achieve a peace agreement with Egypt's President Sadat and Israel's President Begin had "failed," Evans' news reports announced that Carter would achieve an agreement. His early breaking of positive changes in the stalled Middle East peace talks was confirmed 36 hours later.

I have known Clifford Evans for quite a number of years and it is a pleasure to bring to the attention of my colleagues "one of America's most honored newsmen." Among the many journalism awards he has won in his career are the United Nations Award for best coverage of the U.N., the Newspaper Guild Award for Journalism, the Lasker Award, the Variety Newspaper Award for Responsibility to the Community, and the Billboard Award.

The extra dimension and the special energy which Clifford Evans has put into his work as a journalist is certainly worthy of the widespread recognition he has received, and for both professionals and students of journalism, he is a model example.

TRIBUTE TO PAUL HALL—A GREAT AMERICAN

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I wish to note with extreme regret and deepest sympathy for his family, the passing of one of America's truly great leaders, Paul Hall, president of the Seafarers International Union of North America.

I have known Paul Hall for many years and have been the grateful recipient of his personal support and the support of his organization.

In his nearly four decades as a labor leader, he has been one of the most articulate, forceful, and effective spokesmen for the working people of this Nation. His contributions to our society, and in particular to the society of the maritime industry, are important, progressive accomplishments which I predict will stand the test of time.

As an active member of the Merchant Marine Committee, I understand the importance of having Paul Hall on your side.

His help and support in passing the Merchant Marine Act of 1970 was indispensable. Without him, I do not think it an overstatement to say, there would have been no Merchant Marine Act.

I truly feel that Paul Hall deserves the thanks and recognition of Congress and the nation for his contributions to the betterment of our way of life.

And for his unsurpassed achievement in giving the U.S. maritime industry a present and a future, I would like to offer a title for Paul Hall fitting his accomplishments. With great pride for a true friend, I suggest the simple phrase "Father of the Modern American Merchant Marine."

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I would like to associate myself with the remarks of the gentleman and express my sympathy to the family of Paul Hall and to the members of the Seafarers International Union.

● Mr. DINGELL. Mr. Speaker, a good friend of the Seafarers and a dominant force in America's maritime labor movement for four decades, Mr. Paul Hall, passed away Sunday afternoon, June 22, at Columbia Presbyterian Hospital.

Mr. Hall was president of the Seafarers for nearly a quarter of a century. He joined the union as a charter member in 1938, in 1944 he was elected the New York port agent of SIU's Atlantic and gulf district, and was elected the chief executive officer of SIU's Atlantic and gulf district in 1947.

Mr. Hall was also a senior vice president of the AFL–CIO and, since 1957, president of its 8-million-member Maritime Trades Department. MTD grew from a small struggling organization to the largest and most active and politically influential department of the AFL–CIO.

For his contributions to the maritime labor movement and for his decision toward the advancement of the disadvantaged youth of this Nation, Mr. Hall has received numerous awards.

Mr. Hall's proudest achievement, however, was the establishment of the Harry Lundberg School of Seamanship in Piney Point, Md., in 1967 for the training of young people for careers in the merchant marine. Graduates of this school can be found aboard more than 200 American-flag deep sea ships and 500 tug and tow boats throughout the United States.

We will remember Mr. Hall's achievements, his friendship, and his devotion to the labor movement.●

● Mr. MURPHY of New York. Mr. Speaker, the death of Paul Hall, one of America's most exceptional and distinguished public figures, removes from the scene one the American labor movement's finest statesmen. I numbered him among my closest friends, and I am therefore doubly saddended by his passing.

Paul exemplified the best in public-spirited, highly motivated, and patriotic service to his brother seafarers, the maritime industry, and his country. He was a giant of a man whose remarkable successes in life never altered his modest, self-effacing way.

Paul Hall was a tireless proponent of an improved merchant marine and an aggressive advocate for improved working conditions for American seamen. No stranger to the legislative process, he always insisted upon taking the high road in developing laws to enhance the standing of the seagoing work force.

Paul Hall was a gentleman of great distinction, high accomplishment, and vast wisdom. His loss, while severe, is made easier by the realization that he leaves behind one of America's finest labor unions, the Seafarers International, under strong new leadership, fashioned in his image.

☐ 1240

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the late Paul Hall, president of the Seafarers International Union of North America.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from New York?

There was no objection.

YOU CANNOT TELL A BOOK BY ITS COVER

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, today in the House of Representatives we are scheduled to consider the energy and water appropriations bill for fiscal year 1981. Included within the bill is the funding for one of our biggest bureaucratic boondoggles, the Department of Energy. Therefore, it seems appropriate to cite just one of the examples of incompetence and waste that are so characteristic of this inefficient agency.

The Department of Energy recently destroyed 8 million copies of a gasoline mileage guide because they were bound in the wrong covers. A waste of 300,000 of the taxpayer's dollars. To correct the mistake, DOE spent another $200,000 to print new red and white covers to differentiate from the original, incorrect green and white ones. Adding the final plot twist to this saga of incompetence, when the "corrected" versions of the guide came out, they were in the original green and white—thoroughly confusing automobile dealers who were told to expect red and white covers.

The moral of the story goes—you just cannot tell a book by its cover. Especially when it is authored by the Department of Energy.

PROMOTING COMPETITIVENESS OF U.S. INDUSTRY IN WORLD AUTOMOBILE AND TRUCK MARKETS

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 101) to promote the competitiveness of U.S. industry in the world automobile and truck markets, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Indiana?

Mr. VANDER JAGT. Mr. Speaker, reserving the right to object, and I certainly shall not object, I would like to commend the gentleman from Indiana, the distinguished majority whip, for his leadership and assistance in bringing this important resolution to the floor for action today.

We are in a recession. Nowhere is that recession more acutely felt than in the automobile industry. In my State of Michigan, unemployment is 14.4 percent. That is the highest since World War II. This resolution focuses attention on the problem, and commits this Government to doing what is necessary to revitalize an industry that is essential for a healthy America.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, the resolution under consideration, Senate Concurrent Resolution 101, is the companion to House Concurrent Resolution 366 which I introduced last Thursday on behalf of myself and my distinguished colleagues, the majority leader, Mr. Wright, of Texas; the minority leader, Mr. Rhodes, of Arizona, the chairman of the Subcommittee on Energy and power, Mr. Dingell, of Michigan; the minority whip, Mr. Michel, of Illinois; and the chairman of the National Republican Congressional Committee, Mr. Vander Jagt, of Michigan.

Mr. Speaker, Senate Concurrent Resolution 101 is a concurrent resolution calling for a comprehensive national strategy to restore the strength of the American automotive industry, to reemploy its workers and to regain world technological superiority and leadership in the production of cars and trucks.

For almost three-quarters of a century our country's economic and industrial strength has been tied to the health and prosperity of the American automotive industry. The industry has been and remains the cornerstone of this Nation's economy. It is responsible for 1 out of every 12 manufacturing jobs in this country.

The automotive industry consumes 65 percent of all rubber, 30 percent of all zinc, 24 percent of the steel, 17 percent of the aluminum, and 13 percent of the copper sold in this country. In 1978 Americans spent $91 billion—almost 5 percent of the gross national product—on automobiles and auto parts and accessories.

Yet, as we all know, this industry is in serious trouble.

Sales and production have reached their lowest point in almost 20 years. Domestic sales are expected to total only 6 million units in 1980, the lowest level since the 5.6 million cars sold in 1961. Sales plunged more than 20 percent in early June to the lowest level for that period since 1960.

As of June 1, some 500,000 American automotive industry workers were unemployed.

And the ripple effect of the auto industry's plight is wide and far reaching. There are an additional 500,000 workers in auto-related industries who are presently out of work. At least 850 of the country's 23,000 auto dealers have gone bankrupt since January 1979.

The New York Times reported Sunday that many of the more than 50,000 businessmen who supply parts to the automobile industry face a similar fate in the near future if the present situation is not reversed.

The Japanese, whose cars already take 23 percent of our domestic market, are expanding their capacity in order to be able to supply 50 percent of the vital domestic small car market. This possibility threatens us with a continually rising trade deficit, beyond the $9 billion auto trade deficit we already have with that country. Unless the Japanese decrease their exports or lower their taxes on American-manufactured autos, this trade deficit could do permanent damage to our industrial infrastructure.

Mr. Speaker, we face a serious challenge, but the plight of the automobile industry need not continue unabated. Its problems are essentially short term in nature.

The industry is in the midst of an $80 billion retooling effort which, by 1983, will enable it to provide the technologically advanced, fuel efficient cars which Americans and car buyers around the world want. But we must take steps to assure the industry's efforts will succeed.

To this end the resolution before us establishes guidelines to assist the policy review which administration officials are now conducting at the direction of the President.

Those guidelines call first for an effort to substantially reduce the present high level of unemployment in automobile and auto-related industries.

Second, the resolution urges that national fiscal, import and regulatory policies be adjusted to assure that the industry has the financial strength to complete the modernization program underway.

Third, the resolution calls for a national commitment to achieve and maintain technological superiority and assure our competitive position in both United States and world auto markets.

Mr. Speaker, passage of this resolution will send a powerful message to the administration as it works to develop a national automotive policy and will demonstrate our willingness to work closely with industry, labor and the administration toward enactment of a comprehensive policy.

It would also send an unmistakable message to Japanese auto and truck producers.

Finally, adoption of this resolution would let the thousands upon thousands of American workers who have been laid off, as well as those who fear a similar fate, know that we in Congress will not allow a great industry to decline.

Mr. Speaker, passage of this resolution in resounding fashion will make it clear to the administration that both Houses of Congress expect to be presented with a positive, comprehensive program addressing the needs of the automobile industry and its workers.

For what all of us want, Mr. Speaker, is to get the assembly lines running again, put American autoworkers back on the job and set a clear course to make the American automobile industry No. 1 in the world.

Mr. Speaker, at this point I would like to include in the RECORD the names of those who are sponsors of House Concurrent Resolution 366.

SPONSORS OF HOUSE CONCURRENT RESOLUTION 366

Mr. Wright of Texas.
Mr. Rhodes of Arizona.
Mr. Dingell of Michigan.
Mr. Michel of Illinois.
Mr. Vander Jagt of Michigan.
Mr. Perkins of Kentucky.
Mr. Traxler of Michigan.
Mr. Regula of Ohio.
Mr. Jacobs of Indiana.
Mr. Rodino of New Jersey.
Mr. Minish of New Jersey.
Mr. Rahall of West Virginia.
Mr. Butler of Virginia.
Mr. Mottl of Ohio.
Mr. Musto of Pennsylvania.
Mr. Annunzio of Illinois.
Mr. Hanley of New York.
Mr. Aspin of Wisconsin.
Ms. Chisholm of New York.
Mr. Roe of New Jersey.
Mr. Kildee of Michigan.
Mr. Pat Williams of Montana.
Mr. Nowak of New York.
Mr. Blanchard of Michigan.
Mr. Ashley of Ohio.
Mr. Porter of Illinois.
Mr. Seiberling of Ohio.
Mr. Lloyd of California.
Mr. Maguire of New Jersey.
Mr. Wolpe of Michigan.
Mr. Conyers of Michigan.
Mr. O'Brien of Illinois.
Mr. Sharp of Indiana.
Mr. Nedzi of Michigan.
Mr. Bevill of Alabama.
Mr. Tauzin of Louisiana.
Mr. Hughes of New Jersey.
Mr. Horton of New York.
Mr. Shelby of Alabama.
Mr. Madigan of Illinois.
Mr. Derwinski of Illinois.
Mr. Hillis of Indiana.
Mr. Mathis of Georgia.
Mr. Murphy of Illinois.
Mr. Dickinson of Alabama.
Mr. Benjamin of Indiana.
Mr. Bonior of Michigan.
Mr. Young of Florida.
Mr. Solomon of New York.
Mr. Stangeland of Minnesota.
Mr. Russo of Illinois.
Mrs. Mikulski of Maryland.
Mr. Vento of Minnesota.
Mr. Guyer of Ohio.
Mr. Ertel of Pennsylvania.
Mr. Hawkins of California.
Mr. Pease of Ohio.
Mr. Bolling of Missouri.
Mr. Brodhead of Michigan.
Mr. William Ford of Michigan.
Mr. Hamilton of Indiana.
Mr. Albosta of Michigan.
Mr. de la Garza of Texas.
Mr. Devine of Ohio.
Mr. Whitehurst of Virginia.
Mr. Hollenbeck of New Jersey.
Mr. Broomfield of Michigan.
Mr. Ratchford of Connecticut.

● Mr. TRAXLER. Mr. Speaker, I rise in support of this resolution. I only fear that it may be too little and too late.

In the past few days, we have received reports that the administration—or at least some people within the administration—has finally come to see that Japanese car imports pose a grave threat to our national security and a grave threat to our economic security.

Last night's "NBC Nightly News" reported that Secretary of Transportation Neil Goldschmidt has recommended to the White House that immediate and tough action be taken to reverse the invasion of cars from Japan.

According to the news report, Secretary Goldschmidt has told the President that the administration must either seek voluntary restraint from the Japanese or impose import quotas to stem the tide of Japanese automotive market penetration. If we do not, the report indicates, our domestic industry may not survive.

I applaud Secretary Goldschmidt. He is absolutely correct. A strong manufacturing base is critical to our national security. A strong automotive industry—one that currently accounts for 1 out of 12 direct manufacturing jobs in the United States—is vital to our national economic strength and well-being.

The cost of unemployment in our domestic industry is staggering in both economic and human terms. The workers in my district do not want to receive unemployment benefits, trade assistance, and food stamps—they want to work.

The NBC report indicated that Neil Goldschmidt's recommendations have gone to the President—and they can be implemented without legislation. I urge the President to do so.

But, we should not assume that DOT speaks for the White House, or that the message has entirely sunk in. According to today's Washington Post, President Carter is reported to have been told by the Japanese in Venice that "reports of larger Japanese auto capacity were not correct." The Japanese told the President that "there was no plan to boost Japanese car sales to the United States." However, the Japanese Ministers of Finance and International Trade "promised to check into the matter and give the White House a report later on."

We could wait a long time for that report. If the President accepted those statements, and believed them, then it is clear that Secretary Goldschmidt's message has not yet penetrated the White House.

Let us look at the facts: Last month with overtime, Japanese auto production exceeded 1 million units—an annual rate of 12 million units a year. They have become the biggest manufacturers of cars in the world. We are now in second place.

Earlier this year, in testimony before the Ways and Means Subcommittee on Trade I said that I believed the Japanese began—in 1977—a 5-year 50-percent expansion of their automotive manufacturing capacity. In 1977, they produced about 8 million cars. Their goal, I stated, was 12 million by 1982. Well, they are already there.

Right now, they are accomplishing this production rate using overtime. However, there is ample evidence that they are expanding their base capacity to make this production rate permanent. They have to—the Japanese need to export to pay for their imported oil.

This expansion is not aimed at the Japanese domestic market. They can sell about 5 to 6 million cars there a year and that is all. The increase is all aimed at exports—and over half of the exports come to the United States.

A million cars represents 10 to 12 percent of the American car market. The Japanese now have captured about 22 percent of our market and could reach 30 to 40 percent within a year. And that is their goal.

The important point is that they have been building up their capacity to sustain this high level. They do not see American manufacturers recapturing their share. They intend for the market penetration to be permanent. Anyone who knows anything about consumers' habits know that once a buyer has become accustomed to a product, and likes it, he tends to stay there.

If we do not negotiate voluntary restraint on the part of the Japanese, or impose tough quotas of our own, we will be giving away a major share of our domestic auto industry—permanently. The economic shocks of such action—or inaction—will be felt for decades.

Mr. Speaker, this is a reasonable, and relatively mild, resolution. It passed the Senate 90 to 4. It will serve as a message to the Japanese that the U.S. Congress means business. It will underscore Neil Goldschmidt's recommendations to President Carter. Hopefully, it will help the administration to choose the correct course when it announces its "automotive initiatives" in the next few weeks. The resolution deserves the support of every Member concerned with economic security—and the national security—of our Nation.●

● Mr. BROOMFIELD. Mr. Speaker, I fully support the adoption of Senate Concurrent Resolution 101 to promote the international competitiveness of the U.S. auto and truck industry. Following the action of the Senate, Mr. GUYER, Mr. LATTA, and myself, on June 19, introduced an identical resolution with the intent of facilitating House consideration.

As the resolution clearly states:

> The American automobile and truck industry is a strategic national industry that is essential to the economic stability and national security of the United States.

When considering the extensive impact of the auto and truck industry on the jobs it creates, on the business it generates, on the direct and indirect revenues it pays to every level of government, and on the strategic need to provide for our own mobility, the truth of that statement becomes very clear.

However, this essential industry is in deep trouble.

The various forces of an increasingly aggressive effort by foreign auto manufacturers to take over larger shares of the domestic market, the need for our own automakers to undergo costly retooling to meet a sudden shift in consumer demand, inequitable trade policies that all but give an "open door" to importers while having our auto producers confront a veritable stone wall when trying to enter foreign markets, often excessive and conflicting Federal regulations, and the administration-inspired recession, have all come together to wreak havoc on the auto industry.

This resolution would establish the policy framework to help restore the auto industry to its former vitality. It calls upon the Government to design its economic, fiscal, regulatory, and trade policies to produce a climate in which domestic auto and truck manufacturers will be able to safely pass through this difficult period of transition as rapidly and as efficiently as possible.

Mr. Speaker, adoption of this resolution would also clearly signal the Japanese auto and truck producers of the serious concern of the Congress and the American people over the economic impact caused by that nation's extensive penetration of our domestic market. They must understand that good trade relations between our two countries is fundamental to our long standing partnership.

Mr. Speaker, as one who represents a district in Michigan that is severely hurt by the depressed state of our auto industry and because of the fundamental importance of the auto industry to this Nation's economic and strategic interests, I urge adoption of this important resolution.●

Mr. VANDER JAGT. Mr. Speaker, I withdraw my reservation of objection, and urge passage of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 101

Whereas, the American automobile and truck industry produces one million seven hundred and fifty thousand jobs, or one out of every twelve manufacturing jobs in the United States and also supports thousands of jobs in other key industries such as steel, rubber, glass, plastics, aluminum, copper, malleable iron, textiles and electronics; and

Whereas, the American automobile and truck industry is a major customer for fifty thousand small and medium size businesses located in every State, and a healthy and strong domestic automobile industry is necessary to the livelihood of twenty-seven thousand domestic auto dealers; and

Whereas, the domestic automobile manufacturers have undertaken an all-out effort to retool facilities for the production of small, fuel efficient autos and trucks in response to the sudden and unprecedented shift in consumer demand that occurred in 1979; and

Whereas, in the spirit of free trade, the United States has provided an open door to automobile and truck imports regardless of domestic content while most other countries including Japan have virtually closed their auto markets to United States produced vehicles through local content requirements, tariffs, or elaborate and indirect taxes; and

Whereas, Japanese automobile manufacturers, confronted with slack Japanese demand and tight import restrictions in other countries, have increased overtime and added auto production capacity in Japan in a massive effort to expand auto exports to the United States, raising their market share from 12 per centum in 1978 to over 21 per centum in the first quarter of 1980 with an eventual market target of 30 per centum or greater; and

Whereas, the United States incurred an auto trade deficit with Japan of more than $9,000,000,000 in 1979 with estimates that the deficit will exceed $10,000,000,000 in auto and truck trade in 1980, thereby worsening inflation in the United States; and

Whereas, the massive unemployment resulting from the decline in United States auto production has imposed major costs on Federal, State, and local governments across the country in the form of trade adjustment assistance, unemployment benefits, social services, and large losses in tax revenues; and

Whereas, the present economic difficulty in the American automobile and truck industry results from more than a downturn in the business cycle, is not self-correcting and threatens to inflict lasting structural deterioration and dislocation on the industrial base of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is a goal of the United States to achieve technological superiority in the world automobile and truck industry; and

(2) the American automobile and truck industry is a strategic national industry that is essential to the economic stability and national security of the United States; and

(3) economic, fiscal, and import policies should be designed to create adequate capital and to produce a climate for the American automobile and truck industry to achieve a rapid conversion of plant capacity to the production of increasingly safe, high quality, fuel efficient automobiles and trucks; and, in addition, the Administration and the Congress should review regulatory and import policies to assess their possible effect on the efforts of United States industry to retool for lighter, fuel efficient cars; and

(4) it is in the national interest of the United States to reduce substantially the high level of unemployment in the automobile, truck, and related industries; and the Congress therefore calls on the Administration, foreign governments, foreign and domestic manufacturers and affected labor unions to take immediate steps to alleviate short-range unemployment in the United States and to encourage these basic industries to build United States employment for the future; and

(5) during this period of transition for the United States auto industry, reasonable restraint should be exercised by all affected parties with respect to prices and wages so as not to place an undue burden on American consumers.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 359]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corman
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hilils
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kcstmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McClcskey
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
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Williams, Mont.
Williams, Ohio
Wilson, Bob
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☐ 1230

The SPEAKER pro tempore (Mr. Murtha). On this rollcall 367 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

SOFT DRINK INTERBRAND COMPETITION ACT

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3567) to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws, as amended.

The Clerk read as follows:

H.R. 3567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

Sec. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided*, That such product is in substantial and effective competition with other products of the same general class in the relevant market or markets.

Sec. 3. Nothing in this Act shall be construed to legalize the enforcement of provisions described in section 2 of this Act in trademark licensing contracts or agreements described in that section by means of price fixing agreements, horizontal restraints of trade, or group boycotts, if such agreements, restraints, or boycotts would otherwise be unlawful.

Sec. 4. In the case of any proceeding instituted by the United States described in subsection (i) of section 5 of the Clayton Act (relating to suspension of the statute of limitations on the institution of proceedings by the United States) (15 U.S.C. 16(i)) which is pending on the date of the enactment of this Act, that subsection shall not apply with respect to any right of action referred to in that subsection based in whole or in part on any matter complained of in that proceeding consisting of the existence or enforcement of any provision described in section 2 of this Act in any trademark licensing contract or agreement described in that section.

Sec. 5. As used in this Act, the term "antitrust law" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

Mr. EDWARDS of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from Illinois (Mr. McClory) opposed to the bill?

Mr. McCLORY. Mr. Speaker, I am not opposed to it in its present form.

The SPEAKER pro tempore. Is the gentleman from California (Mr. Edwards) opposed to the bill?

Mr. EDWARDS of California. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Seiberling) will be recognized for 20 minutes, and the gentleman from California (Mr. Edwards) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. Rodino), the distinguished chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I rise to clarify my position with respect to H.R. 3567, the Soft Drink Interbrand Competition Act.

The soft drink industry has been seeking special antitrust legislation from the Congress since 1967, when a Supreme Court decision cast serious doubt on the industry's system of exclusive territorial franchises.

Doubts concerning the propriety of the exclusive territories were heightened when the Federal Trade Commission instituted its proceeding against the large syrup companies in 1971. That proceeding resulted in an adverse ruling for the bottlers, and now is awaiting a decision in a review proceeding in the U.S. Court of Appeals for the District of Columbia.

After almost a decade of litigation, conditions of lingering uncertainty in the industry have resulted in hardships to many small bottlers. It is very difficult for businessmen to make important investment decisions under such circumstances. This legislation is directed to these small bottlers.

I have had grave doubts about the wisdom of this bill. The special treatment accorded a single industry sets a bad precedent for other industries who continually urge the Congress to carve out antitrust exemptions for their own area of operations.

That precedent is all the more disturbing because the soft drink industry has not waited for the completion of administrative and judicial review processes prescribed by statute. This suggests that any litigant dissatisfied with the interim result in a judicial or administrative proceeding may at any time circumvent the orderly judicial review process by running to the Congress.

Finally, my concern with this legislation is rooted in my own firm conviction that our competitive system is the best possible insurance for the American public that it is obtaining value for its dollar. Although the precise monetary impact is difficult to measure, deviations from competition inevitably result in higher costs to American consumers. This concern was borne out by statements offered to the Subcommittee on Monopolies and Commercial Law by Mr. Alfred Kahn, the President's adviser on inflation.

Had H.R. 3567 passed through the Judiciary Committee unamended, I would be voting against it today. Because the committee was able to adopt a substitute amendment, I believe we have gone a long way toward correcting the concerns I have mentioned.

The committee has produced an amended bill that does not grant antitrust immunity to the soft drink industry. Instead, it provides a restatement of existing antitrust law applicable to exclusive territorial franchises, as set forth in the Supreme Court's 1977 GTE Sylvania decision. That decision, and this legislation, insure that the rule of reason will apply to territorial restrictions imposed by a syrup manufacturer on his bottling franchises.

Under the rule of reason analysis, a court must determine whether unreasonable restraints of trade have been imposed in violation of the Sherman Antitrust Act. That rule of reason analysis, which is preserved in this bill, requires assessment of the competitive impact of restraints on interbrand competition. At the same time, the rule of reason requires examination of the overall competitive picture to insure that competition is substantial and effective in all respects.

The committee amendment insures that this competition will be assessed within the traditional antitrust framework of relevant geographic and product markets. The amendment also insures that practices that are considered per se violations of the antitrust laws will not be authorized under the guise of enforcing territorial restrictions that are lawful.

A colloquy during the committee markup of this bill made clear the committee's intent that the bill in no way authorizes anticompetitive pricing of soft drinks by any member of the industry. To the contrary, it is the committee's intent that the rule of reason be applied fully and fairly to authorize exclusive territories only when they operate consistently with the competitive principles of our antitrust laws.

Mr. Speaker, I am pleased that the committee has been able to report what I believe to be a much improved bill. I will vote for that bill today.

Mr. SEIBERLING. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the Committee on the Judiciary urges adoption of H.R. 3567 as amended. This legislation is intended to provide a clarification of the antitrust laws applicable to the soft drink industry. During the last decade, the industry has been operating in conditions of uncertainty as the result of still pending litigation brought by the Federal Trade Commission.

With the committee's amendment in the nature of a substitute, I believe that this bill will provide relief for the soft drink industry while at the same time preserving the full and beneficial effects of our Nation's antitrust laws.

The industry proponents of this legislation have indicated from the outset their belief that the Federal Trade Commission failed to properly apply the rule of reason test in the Commission's 1978 decision. The industry believes that had the rule of reason been properly applied, their system of exclusive territories would have been found consistent with the antitrust laws.

The amendment adopted by the committee insures that this legislation does not create exemptions from the antitrust laws, but merely codifies or restates the rule of reason test as it would apply to the soft drink industry. Thus, the committee has added the words "in the relevant market or markets" to the proviso at the end of section 2. This addition insures that the courts will be applying traditional antitrust law concepts in defining the scope of the geographic and product markets.

The court can then proceed to consider whether competition is substantial and effective. While the Sylvania decision indicates that interbrand competition is the "primary concern" of the antitrust laws, the courts should weigh all relevant factors in determining whether the competition is effective.

The committee's amendment adds a new section 3 to the bill. This section makes certain that per se violations of the antitrust laws are not authorized under guise of enforcement of otherwise lawful territorial restrictions.

The committee's amendment also alters significantly language that would have created a permanent barrier to private enforcement suits under section 4 of the Clayton Act. With the amendment, the industry is still provided with protection against potential long term damage liability that otherwise might arise out of the FTC proceeding, which has been pending since 1971.

Mr. Speaker, the version of H.R. 3567 before the House this afternoon is that reported out by the full committee, with one additional amendment. In the rush to file the committee report last Friday, the words "and licensee" were inadvertently included in language contained in the proviso to section 2. Similarly, the words "with other products of the same general class" were inadvertently omitted from that proviso. These changes were not intended by the committee. Indeed, the committee's report, together with the supplemental and dissenting views, assumed that the bill was reported in exactly the form in which we will be voting on it this afternoon. The corrections are in the bill before the House and merely rectify the clerical oversight reflected in the Union Calendar bill and the report.

With this corrective amendment, the bill is ready for passage. I intend to vote for the amended bill because I believe it will achieve the objectives of the industry without creating an exemption from our antitrust laws.

□ 1250

Mr. EDWARDS of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, there are a number of good reasons why this bill should be defeated.

First, the suspension calendar should not be used for very controversial legislation, and this bill removes an entire industry from antitrust coverage.

Second, in the past few years Congress has encouraged the strengthening of the enforcement of antitrust law, not the weakening. As the Consumers Union has pointed out, competition is the tonic that keeps the economy healthy.

Third, the FTC decision has been appealed to the District of Columbia Circuit Court of Appeals. The decision can be expected within a few months. It is not proper for Congress to interrupt a pending judicial review by preempting it with a new law. This is a bad precedent and will encourage legislative relief whenever a litigant is dissatisfied with an interim judicial decision. The FTC order has been stayed pending the appeal in court. Why not await the decision?

Fourth, a law like this could start a flood of demands for equal treatment by other industries. Why not give the same franchise monopoly to the auto industry, the bicycle industry, grocers, furniture manufacturers?

Fifth, this bill benefits primarily big business. In 1950, there were more than 6,000 bottling plants. By 1960, there were less than 4,600. Presently the number barely exceeds 2,000. Under the territorial franchising system protected by this bill the soft drink industry is increasingly big business. The primary beneficiaries are giants like Pepsi and Coca-Cola. Other bottlers insulated from competition by this bill include Liggett & Myers, General Tire & Rubber Co., ITT, Norton Simon, Inc., Beatrice Foods, and 20th Century Fox. These conglomerates can hardly be described as "mom and pop" establishments.

Sixth, the argument that the bill will save the returnable bottles does not stand up. As Congressman Les AuCoin of Oregon pointed out in his testimony, under the present exclusive franchise system protected by this bill, the situation is getting worse. Throwaways now are 62 percent of the soft drink market. Returnables at 38 percent of the market, are down from 44 percent just 4 years ago. In 1966, returnables were 80 percent of the market and in 1958, 98 percent. So how can this bill, which does not mention returnables, help this discouraging trend?

Seventh, lastly, Mr. Speaker, there were communications and testimony from other businesses that the bill will do harm to consumers. Operators of soft drink vending machines in Florida and Ohio complain that they save money by centralized buying, outlawed by this bill. What is a vending machine operator to do if he has machines in service stations on a highway that goes through several exclusive territories, each protected bottler charging a different price?

Seven years ago the FTC estimated that the exclusive territory system in the soft drink industry cost the consumer a quarter billion dollars per year. Can you imagine, with inflation, how much it is costing today?

For this and the other reasons I have outlined I suggest a "no" vote.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Ohio, of course.

Mr. SEIBERLING. Well, Mr. Speaker, the gentleman and I are so accustomed to being on the same side of practically every issue, that it is a little unusual to be on the other side.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. Edwards) has expired.

Mr. EDWARDS of California. Mr. Speaker, I yield myself 1 additional minute.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield further, let me simply say this. Unless the committee had made the amendments it did on this bill, I would be opposing it as the gentleman has; but it is my personal feeling, as a person who has some familiarity with the antitrust laws, that this bill is about as close as you can get to the decision of the Supreme Court in the Sylvania case in legislative form. For that reason, I am supporting the bill, instead of opposing it.

Mr. EDWARDS of California. Mr. Speaker, I appreciate that. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Lederer).

Mr. LEDERER. Mr. Speaker, I rise in support of this legislation. H.R. 3567 is a bill that will prohibit the Federal Trade Commission from eliminating territorial rights from soft drink distributors.

The FTC claims that their ruling is necessary because the soft drink industry is not competitive. However, at the present time, there are 2,150 independently owned bottling operations in the United States. Even with our current runaway inflation, cola prices are virtually the same as they were in 1939.

In 1939, all cola brands, on the average, cost seventy-seven one-hundredths (0.77) of 1 cent per ounce; today, the average cost is just seventy-nine one-hundredths (0.79) of 1 cent per ounce. Obviously, these relatively low prices exemplify the competitiveness of this market.

If the FTC decision is allowed to stand, many small, independent distributors will be eliminated. This will occur primarily because of interbrand competition. Large volume operations, especially the national company-owned bottlers, will have a great advantage over the smaller, independent bottlers of the same brand. This advantage will eventually drive the small independent bottlers out of business. As a result, the national soft drink brands will be sold only by a few large independent distributors and the company-owned distributors. The bottom line is that the number of distributors will be decreased significantly.

In addition, many small local bottlers, who sell their own brands and not the national brands, will be harmed if H.R. 3567 is not approved. Many of these bottlers exist because they undersell the national brands. I think it is safe to predict that if H.R. 3567 is not passed, then national brand prices will initially be lowered. This will happen because the large volume bottlers will be squeezing the smaller bottlers of the same brand out of business. These lower prices of the national brands will also hurt the local bottlers and their independent brands of soft drinks. They will be forced to close down their operations.

However, these low prices of the national brands will not last. Once these large bottlers secure their hold on the market, prices will again rise. Without any competition, they will be free to operate as they choose.

I submit that this will only harm the consumer. H.R. 3567 will protect consumers. If this legislation is not approved, then prices will only increase in the long term. Once the large distributors control the market, prices will only rise. Consumers will have less choices in the soda market.

I urge my colleagues to support H.R. 3567. The soft drink industry has functioned competitively under territorial agreements for over 75 years. Prices have remained relatively stable and the consumers have had a wide variety of soft drinks from which to choose. Letting the FTC ruling stand will only create another centralized American industry with few brands and higher prices.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. HALL).

Mr. HALL of Texas. Mr. Speaker, as a primary proponent of the Soft Drink Interbrand Competition Act, I rise to support the bill reported by the Judiciary Committee. H.R. 3567 has been desperately needed to remedy the abundant confusion caused by the FTC's holdings in the Coca-Cola and Pepsi-Cola cases. The basic purpose of the bill is to specify the legal standard under which bottler territories are to be tested. The bill states a very simple, but very effective, standard: if substantial and effective interbrand competition exists, that settles the matter and the territories are legal. In the absence of substantial and effective competition, normal antitrust standards apply.

H.R. 3567 states this new standard to extricate the soft drink cases from the pitfalls into which the FTC analysis has led them. The FTC's preoccupation with intrabrand competition has always been ill-advised. Of course, exclusive territories confine bottlers to their designated territories. But the whole point is that granting territories brings the bottlers' competitive efforts to a focus, gives each bottler responsibility for a specific territory, and rewards the bottler for work well done. The critical question is: How competitive is the marketplace? H.R. 3567 says that, if there is substantial and effective interbrand competition, the territories are lawful.

Several changes were made in the bill as reported in order to clarify possible ambiguities. As introduced, section 2 of the bill referred to competition "with other products of the same general class." Because it was not entirely clear that competition between the trademarked soft drink product sold by the bottler and other products had to take place in the territory being challenged, we added the words "In the relevant market or markets" to insure that the inquiry as to competition will relate to the geographic market being examined. This additional language, however, is not intended in any way to limit the scope of the language of section 2 of the bill as introduced.

Turning to the new section 3 of the bill, added during committee consideration, I want to point out that this section responds to concerns about the use of specific practices to enforce bottler territories. The practices enumerated in section 3 have long been recognized to be per se illegal. The inclusion of section 3 is intended solely to clarify the point that H.R. 3567 is not intended to authorize the use of these practices as enforcement techniques. Section 3 was carefully drafted to accomplish that purpose without undercutting the objectives of the bill.

Thus, section 3 is not to be construed in any way to vitiate the trust of section 2. Section 2 contemplates not only the existence but also the enforcement of bottler territories.

Likewise, H.R. 3567 contemplates that franchise companies may become aware of territorial violations as a result of complaints from one or more bottlers and that franchise companies may choose to enforce their territorial provisions. Such activity would not fall within the specific practices enumerated in section 3, and would clearly constitute legitimate enforcement within the contemplation of section 2.

In short, section 3 will not require courts to regard communications and complaints among franchise companies and bottlers regarding territorial violations as horizontal conspiracies.

H.R. 3567 represents sound legislation consistent with antitrust principles. It will remedy a manifest injustice and put to rest the many years of uncertainty which the soft drink industry has faced as the result of the FTC proceedings. I urge my colleagues to vote in favor of the bill as reported by the Judiciary Committee.

I would like to take this opportunity to thank the chairman of the Judiciary Committee as well as other members for their support and cooperation in bringing this bill to the floor.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 3567, The Soft Drink Interbrand Competition Act.

This needed legislation is in direct response to a 1978 Federal Trade Commission decision holding the system of exclusive territories for soft drink bottlers to be illegal under the antitrust laws, so far as they pertain to returnable containers. This decision failed to take into account the very nature of the soft drink industry and was incorrect as a matter of law.

The soft drink industry is composed of literally thousands of small companies and plants, which serve local communities. Typically less than 50 employees per plant are involved. For these small plants to survive it is necessary that this legislation be adopted. The small plant operator has been running his business in a state of uncertainty ever since the FTC complaint was filed in 1971. They will continue to do so until the appellate courts decide the validity of the FTC decision. Awaiting this decision is inappropriate because additional litigation is highly probable and further delay will cause many small bottlers to close their business. The issue must be settled once and for all.

The small bottler must have the protection of exclusive franchises on returnable containers in order to preserve his "stock"—that is the returnable container. Testimony indicates that a returnable can be used 20 to 25 times before it needs to be replaced. Without assurance of the return of his stock, replacement costs will force many bottlers out of business and end up raising the cost to the consumer.

Mr. Speaker, this is urgently needed legislation and I urge its adoption.

□ 1300

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman.

Mr. BROYHILL. Mr. Speaker, I rise in strong support of H.R. 3567, the Soft Drink Interbrand Competition Act, which clarifies that certain territorial provisions of licenses to manufacture, distribute and sell trademarked soft drink products are lawful under the antitrust statutes.

It has been apparent for some time that there is a need for the Congress to address this issue. Despite the fact that the territorial franchise system for trademarked soft drinks has been utilized for three-quarters of a century, in mid-1971 the Federal Trade Commission charged that seven soft drink syrup manufacturers were illegally issuing licenses which restricted bottlers to sales in a specific area. An administrative law judge held in October 1975 that the exclusive territorial arrangements do not constitute an illegal restraint on competition in violation of section 5 of the Federal Trade Commission Act. That decision was overturned by the Commission in 1978.

Largely as a response to the FTC action, I joined with a number of my colleagues in sponsoring legislation to clarify that these exclusive territorial arrangements are not illegal. In fact, in the 94th Congress, the Interstate and Foreign Commerce Committee reported a territorial franchise bill, H.R. 6684. Unfortunately, that bill died at the end of the Congress.

Today we have an opportunity to rectify that situation. The Judiciary Committee has reported the bill, and a version of the bill has passed the Senate. All that remains is for the House to give its final stamp of approval.

I believe that enactment of this legislation is necessary to protect the smaller bottlers, who often do not have the geographical and financial advantages enjoyed by the larger bottlers. I urge my colleagues to support H.R. 3567 so that it can move forward without further delay.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), a member of the Judiciary Committee.

Mr. CONYERS. Mr. Speaker, first of all I want to begin by commending my colleagues on the Judiciary Committee, the gentleman from California (Mr. EDWARDS) for having the courage to bring this debate to the floor. It almost did not even get here.

Therefore, I will ask every Member to kindly, before he casts his ballot, read the dissenting views on page 14 of the committee report to that he will have satisfied himself or herself that a vote against this incredible maneuver is one that is well founded and follows the excellent reasoning already set forward by the gentleman from California.

Mention has been made that the defects in this bill have been cured in the Judiciary Committee. That is not true. As it was reported in the media, it moved through the full committee with a few changes, so minor that the bottlers and their friends only smiled.

The bill is special interest legislation, pure and simple, and in its worst form. The soft drink bottling industry is not an infant or struggling industry. Large multiplant bottlers, many owned by conglomerates, dominate the industry. Small bottlers, rather than being protected, are being consumed. While there were 6,000 bottlers in 1950, there are less than 2,000 today. Coca-Cola owns franchises which sell 15 percent of Coca-Cola's national sales, and the figure for Pepsi-Cola owned franchises is 20 percent.

The obvious special interest favoritism and the concomitant costs to the consumer are not the only harms of H.R. 3567. This bill will disrupt the orderly judicial review process created by the Congress for agency decisions. The ABA Antitrust Section recently passed a resolution which urged Congress not to reverse Federal Trade Commission decisions until administrative and judicial review are complete. If we pass this legislation, we are inviting countless other litigants before our agencies and courts to run to the Congress each time they are dissatisfied with an interim result of litigation.

The industry alleges this legislation is absolutely necessary to save the small "mom and pop" bottlers from being wiped out. Yet the FTC found that some small bottlers were among the most efficient in the industry—it is the present system of artificial restraints that prevents such bottlers from growing to their competitive limits.

The Federal Trade Commission's decision, should it be upheld in the court of appeals, will result in substantial cost savings for American consumers. H.R. 3567, even in its amended form, could well threaten those gains. If the industry succeeds in overturning the Commission holding, the winner will be the soft drink industry, and particularly the large multiplant firms that dominate that industry. The American public will be the loser.

So we are confronted here with creating a major exception to antitrust laws at precisely the time that the Department of Justice is trying to move in a more important way on antitrust provisions.

My colleagues, I urge you to reconsider this incredible move that has trapped the Judiciary Committee and is one of the few times that we have had a discharge petition operating.

There are several significant organizations and individuals that oppose this legislation. Opposed to the legislation are the National Association of Attorneys General, the Department of Justice, the Federal Trade Commission, the Consumers Union, the American Bar Association, the Consumers Federation of America, independent marketing specialists, a number of law professors and antitrust experts, customers of the soft drink bottlers, and even a business-oriented publication which has editorialized against the bill.

I urge my colleagues to carefully read the dissenting views and then cast their ballots in light of their judgment and belief that we are seriously encroaching upon antitrust laws.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I want to speak today in opposition to this bill, not as a lawyer, but as somebody who has stood in this well often to oppose special interest legislation.

We are here today legislating on a bill that will help a $13 billion industry. As the Washington Post wrote last week, after the congressional favors that we have passed out to the banks and the automobile companies, the morticians, the oil companies, this "root beer express" is going to slosh through Congress to the detriment of the consumers, to the detriment of the small retailer, to the detriment of small business, and only to the benefit of the major conglomerates in the food processing industry in this country.

This industry, which has mounted a lobbying effort to humiliate Members of the Congress, uncorked the 36-ounce family-sized lobbying efforts to intimidate, to remind Members of campaign contributions to come, of redistricting to come in the States, and with thinly veiled criticism and suggested threats to move this bill. It has moved on, over the objections of some of the most responsible legislators in the antitrust field.

It has been said that this will do nothing but aid conglomerates to continue to dominate a market which is an ideal market for small entrants. The bottling business is a low entry level business. It is one in which competition can thrive. It is one in which family businesses could grow if they were not precluded from buying the syrup which is protected by heavy, broad, national advertising campaigns.

It would make some sense if the proponents of this bill could come to my colleagues and show them one bottling company of a major soft drink franchise in this country that is losing money, but they cannot. They are so intensely profitable that the competition to buy them out and add them to the conglomerates is keeping the Wall Street business brokers jumping.

I urge my colleagues to think about the consumer. For those of my colleagues who talk about free enterprise, my colleagues on the other side of the aisle who talk about free enterprise and talk about stifling government regulation, let us see some free enterprise, and let us see some people have the right to fail, as well as some small entrants getting in and having the right to profit in this business.

I urge a "no" vote on this bill.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman.

Mr. PICKLE. I appreciate the gentleman yielding. I rise in strong support of this bill.

Ten years ago, when I was on the Committee on Interstate and Foreign Commerce I sponsored a bill similar to this bill. For years we have been trying to get relief for the little bottler. Now is our time and chance to help the 2,000 small bottlers in the United States. It is a proconsumer bill and ought to be passed. This is not a bill for the big bottler. If the little bottler is not given some protection he will be out of business in a few years.

This bill does not give the small bottler a monopoly at all. It just keeps him in business. Otherwise, the big national bottlers will take over. It is imperative that we suspend the rules and pass this bill.

I compliment Mr. HALL for his superb work on this measure.

Mr. SEIBERLING. Mr. Speaker, I yield 9 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding, and I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 3567. The purpose of this legislation is to codify the rule of reason standard as promulgated by the Supreme Court in the GTE-Sylvania case and require its application to the longstanding exclusive territorial arrangements of the soft drink industry. The rule of reason is a flexible judicial rule for evaluating whether certain contracts are procompetitive or anticompetitive. Under this standard the Court takes into account all relevant factors. Thus intraband restraints may be permitted where, in the circumstances particular to the case, there are advantages of interbrand competition which outweigh the disadvantages of the intrabrand restraints.

However, some have recently argued that the lack of intrabrand competition is not a factor for the courts to consider under this bill. This argument misstates the rule of reason and betrays the legislative history of this legislation. Intrabrand competition is clearly a factor; that is why the bill requires "substantial and effective" interbrand competition—a higher than normal competition—to offset the restraints on intrabrand competition.

As a matter of logic, it cannot be both ways. You cannot on the one hand say that the bill embraces the rule of reason which requires that all pros and cons be weighed and on the other hand declare that only some factors, undoubtedly those considered favorable, be considered. This bill has been before us for a year and has been analyzed and debated at length. We know what it does. Last minute attempts to transform this codification of the rule of reason into anything else are not persuasive.

Mr. Speaker, it is well known that the committee was nearly discharged from consideration of this legislation. While I encouraged and exhorted prompt action on this legislation for months, once I received that assurance I counseled against the discharge of the committee because I believed that there were technical problems with this legislation which committee deliberations might remedy.

I believe events proved me right. We have saved this body some embarrassment. We have made sure that we are not confusing the antitrust laws that will be written in the future. We have corrected a provision that denied victims of antitrust wrongs their traditional right to recover. We have made clear that the untested and general language of the bill does not contain hidden authorizations for conduct such as price fixing and the like. And we have altered the proviso considerably so that the Court must now assess whether the advantages of a truly competitive market are available to those who do business with soft drink licensees. We did this by requiring that the Court look at all the "relevant markets" to determine if the interbrand competition is so substantial and effective as to outweigh the impact on competition of intrabrand restraints.

"Relevant markets" is a term in antitrust law referring to both geographic markets and to product markets. Under the geographic market test, the Court could take into account the lack of interbrand competition resulting from intrabrand restraints, such as that the Coke bottler in area A cannot compete with the Pepsi bottler in area B. Under the product market test, the Court could focus on those particular products that consumers would be likely to consider as alternatives. This was made clear in committee debate on the substitute when the gentleman from Texas (Mr. HALL) assured the gentleman from Kentucky (Mr. MAZZOLI) that the "relevant market" language satisfied the latter's concern that colas should be held to compete with colas, noncolas with noncolas, and fruit drinks with fruit drinks. And the Court has made this clear as well. In short, the relevant markets include relevant submarkets.

I make these points to indicate that under the reported bill the Court's analysis is not to be mechanical and automatic. The proviso is not rhetoric wrapped around an exemption. The results may vary from case to case depending on the state of competition shown to exist in each case.

The rule of reason is aptly named. It will enable the Court to give the American people the benefits of competition while holding them harmless from whatever abuses of intrabrand restraints may occur. There is nothing unreasonable about the rule of reason. Consequently, I urge the adoption of the amended bill.

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Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding.

Mr. Speaker, the response to the Soft Drink Interbrand Competition Act has been overwhelming. As one of the 319 Members who have cosponsored H.R. 3567, I rise to express my strong support for its prompt passage.

This legislation is vital to thousands of small soft drink bottlers throughout the country. We have been trying to help these small businessmen for years, as far back as 1971. Hundreds of businesses, many of them family-owned, are being crippled by almost 8 years of uncertainty. This bill will prompt interbrand competition while protecting the small bottler, who is the cornerstone of the industry.

I originally sponsored the Soft Drink Interbrand Competition Act to preserve an industry whose very existence is threatened by shortsighted actions on the part of the Federal Trade Commission. Its purpose is to codify the rule of reason standard enunciated by the Supreme Court in the GTE-Sylvania case for the soft drink industry. It provides that licensing agreements between syrup manufacturers and soft drink bottlers shall not be held unlawful under the antitrust laws, provided that the challenged product is in "substantial and effective competition with other products of the same general class in the relevant market or markets."

The legislation was made necessary by a decision of the Federal Trade Commission holding such contracts to be unlawful under the antitrust laws with respect to nonrefillable containers. The legislation rectifies a misapplication of the rule of reason standard by the FTC, but does not create an exemption from the antitrust laws.

In 1971, the FTC brought a series of cases challenging the territorial provisions contained in bottlers' trademark licenses as unfair methods of competition in violation of section 5 of the Federal Trade Commission Act. The Commission conducted a lengthy hearing regarding the Coca-Cola franchise system apparently to satisfy widespread congressional concern that the soft drink industry should be permitted to present its case in a comprehensive set of hearings. At the end of the hearing, the administrative law judge who heard the testimony ruled not only that Coca-Cola's franchise system is lawful, but also that it positively fosters competition. The judge made extensive findings to the effect that there is intense interbrand competition in this industry in terms of price, product innovation, and marketing techniques.

However, with only token references to the evidentiary record, the FTC overruled the administrative law judge and held that the Coca-Cola and Pepsi territorial provisions violated the Federal Trade Commission Act. In doing so, the FTC substantially ignored the massive record of evidence of intense competition within the industry. For example, the FTC never tried to rebut the extensive evidence of intense price competition in the sale of soft drinks; it simply held that without territorial restraints there would be more competitors and, therefore, more competition. No attention was paid to the evidence that territories stimulate local bottlers' competitive efforts. In the same vein, the FTC minimized the abundant evidence of technological and product innovation in the soft drink industry and assumed that without territories there would be even more innovation. Paradoxically, the FTC found that bottler territories were impermissible in the distribution of soft drinks in nonreturnable containers, but were permissible in connection with returnable bottles.

In summary, the FTC decision is not supported by the evidentiary record, and the hearing provided by the FTC seems to have played little part in the Commission's determination to condemn the territorial arrangements.

While the FTC Coca-Cola decision pays token attention to the Supreme Court's recent decision in Continental T.V., Inc. against GTE Sylvania, Inc., the FTC actually ignored the Court's holding that vertical nonprice restrictions are to be tested under the rule of reason. The history of the FTC proceeding demonstrates the inadequacy of a simple rule of reason bill and the need for clarification of the standard to be applied.

Seven years have passed since the soft drink cases were brought by the FTC; the end of these cases is not in sight. Indeed, the FTC's mutilation of the rule of reason in the Coca-Cola case may increase the length of the litigation. Meanwhile, the industry is plunged into uncertainty and turmoil. Many bottlers are torn by the conflicting pressures of their contract obligations, on the one hand, and threats by major chainstore customers, on the other hand. It is uncertain that these problems can be resolved in the courts of appeals or the Supreme Court.

The bottlers need the help of Congress, but more importantly, the consumer needs assistance. The Federal Trade Commission decision that eliminates territorial restrictions of independent franchised soft drink bottlers has made these bottlers an endangered species. In my judgment, these bottlers have shown conclusively that the elimination of the highly competitive independent, franchised soft drink bottler system will have a disastrous effect on the American consumer. This is the same consumer the FTC intends to protect.

I ask my colleagues to lend their support to the local franchised soft drink bottlers in their districts, who in fact belong to one of the most highly competitive systems in the world.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding. I would like to thank the gentleman from Illinois for the great help that he gave to us on this bill.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Speaker, whatever happened to the free enterprise system? Whatever happened to the concept of competition?

Mr. Speaker, I rise in opposition to the misnamed Soft Drink Interbrand Competition Act. I believe that this legislation could well set us on a course of special interest legislation from which there would be no return.

This bill is neither "procompetition nor proconsumer legislation" as its proponents would suggest, but rather an attempt to exempt an entire industry from the antitrust standards enacted by this Congress many years ago. Nor will the bill aid its pretended beneficiaries—small bottlers. This legislation will not result in any reduction in the already inflated cost of soft drinks to the consumer. This is inflationary, special interest legislation which is unwarranted and directly contrary to the public good.

Antitrust laws are premised upon the belief that true competition should be fostered in all industries, unless there can be a very strong showing that the overriding public interest is served by the granting of limited exceptions. As a matter of economic principle I believe that unregulated exceptions to the antitrust laws, in the form of monopolies or oligopolies, such as are in evidence in this industry, preclude real price and service competition, insuring artificially high profits and prices. Luckily, the Congress has been extremely reluctant to grant individual exceptions to the antitrust laws, and I believe that the soft drink industry has fallen far short of proving the need for any deviance from this policy.

What is at issue is the antitrust standard which will be used to determine the legality of exclusive territorial franchises which predominate this industry. There has been substantial litigation in this field, the most recent being the Supreme Court decision in the *Continental T.V.* v. *GTE Sylvania*, 433 U.S. 35 (1977). In that case, the Court adopted what is known as a "rule of reason" test, overturning a previous standard of "per se" illegality, a test which requires a balancing of all competitive factors in the determination of antitrust exemptions.

It is indeed interesting to note that it is this very "rule of reason" test which was sought by the industry in legislation introduced in the 92d (S. 3133), 93d (S. 978) and 94th (S. 3421, H.R. 6684) Congresses, but which has now been abandoned by the industry after its adoption by the Supreme Court and its use in the FTC decision in this very case.

Now the industry comes to the Congress seeking exemption from the "rule of reason" standard and its replacement of an undefined standard of "substantial and effective competition with other products of the same general class." This standard is a significant reduction in the antitrust tests which would, I believe, have the effect of totally exempting this industry from Federal antitrust statutes. As the Department of Justice has already stated before this subcommittee, "these standards would unfairly deny the consuming public the protection of the antitrust laws" in order to protect business interests. This is clearly not the intention of the framers of the Federal antitrust legislation.

But what business interests is it that are being protected? Is it the small "mom and pop" local bottler as is claimed by the bill's proponents, or is it the large concentrated corporation which already controls through direct ownership and the "piggyback" system, a major portion of the industry sales?

It is well known that the soft drink industry becomes increasingly more concentrated with each passing day—even under the present territorial franchise system. From a high of somewhere around 7,000 production sites in the 1950's, the industry shrank to an estimated 2,096 plants in 1978, a trend which even the industry states is irreversible. Already the 21 largest Coke, 10 largest Pepsi, and 10 largest 7-Up bottlers serve respectively 58, 45, and 37 percent of the U.S. population. In large metropolitan areas a very small number of bottlers control the distribution system through the sale of not only their own brands, but additionally by the piggybacking of other brands.

It simply cannot be said with any validity that passage of this bill will guarantee survival of the small bottler. All economic data and the history of the industry point to the continuing decrease in the numbers of bottlers, regardless of the system of distribution. Clearly, the "mom and pop" bottler has little long-range future whether or not this bill is passed.

In the FTC's determination of this case much of the discussion was focused upon the degree of interbrand competition, and compared with the clear lack of intrabrand competition in the industry. But competition among brands is almost meaningless unless those brands are produced by different companies. In the soft drink industry, this is not the case. Quite the contrary, it is more likely that one syrup manufacturer will have a number of different brands, and that a dozen or two dozen soft drink brands might well be distributed at the local level by only a few bottling companies. Competition of this type is more corporate imagination than market reality.

The FTC did not disturb the exclusive territorial relationships with regard to returnable bottles. This conclusion is supported by additional market facts not present in the nonreturnable situation—primarily the concepts of bottle trippage—which is the average number of reuses of bottles—and recapture. These factors, which clearly and directly affect the investment costs to the bottler, would be extremely difficult to control without the territorial system.

The absence of that system for returnables in turn would directly raise the soft drink's cost to consumers.

It is only in this last situation, then, where elimination of the exclusive franchise arrangement would result in increased consumer prices that business protection offered by H.R. 3567 should be tolerated.

In conclusion, I submit that the soft drink industry has not met that burden of justification for this special interest legislation. It is contrary to a free competitive economy—and sets a dangerous precedent for other industries, with sufficient lobbying organization, who will doubtless follow this lead should the Congress adopt these proposals. I fervently urge the House to reject H.R. 3567 as presently drafted.

Mr. McCLORY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Speaker, for 9 long years the FTC in its litigation has cast a very long shadow over the soft drink industry. What about the small businessman or woman who may have invested anywhere from $100,000 to $½ million to $1 million in capital investment in a small bottling company and then being the beneficiary of a franchise agreement legally and validly and voluntarily entered into, then only to have the Federal Trade Commission come along and in a misapplication of the law—and that is what it was—a misapplication of the Sylvania decision, literally cause disruption and uncertainty in the entire industry? I do not like granting exemptions under the antitrust laws, but where it is essential, as it is in this case, believe me, we are going to help small business by taking the action we are today. I strongly recommend support of this legislation.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Ohio.

Mr. LUKEN. I thank the gentleman for yielding.

I would like to support the gentleman in his statement. The special interests here, the so-called special interests, are the independent bottlers who are protected by this franchise agreement in perpetuity, which makes them independent, and that is what is particular about this industry.

I rise in strong support of the bill, and congratulate the gentleman from Texas (Mr. HALL).

Mr. Speaker, I rise in support of H.R. 3567, the Soft Drink Interbrand Competition Act. As 1 of over 300 House cosponsors I believe that the time has come for the House to follow the lead of the Senate and overwhelming vote to overturn a 1978 Federal Trade Commission decision prohibiting the awarding of territorial franchises.

Just as the Congress correctly voted to bring the FTC back under congressional control this year, so we should take this step to reverse an incorrect decision by this interventionist agency. The FTC is the Federal agency charged with insuring that competition exists within our economic system. It was on the basis of competition that the FTC ruled that there may not be exclusive territorial franchises for interbrand distribution. The reality of the FTC's decision was to invite concentration of the bottling industry among a few bottling giants.

The ultimate effect of the FTC decision would have been a loss of competition. Thousands of small businessmen would have been forced out of business. The evidence is already growing that these small businessmen are in danger. Over the years, PepsiCo., Inc., manufacturers of Pepsi sirup has reacquired franchises covering 25 percent of the Nation and Coke about 14 percent. Passage of this bill will go to great lengths to reverse this trend.

This loss of interbrand competition is not just the arguments raised by the soft drink industry. The administrative law judge (ALJ) that first heard the case at the FTC ruled that the effect on the restraint on interbrand competition is outweighed by its effect on competition in the marketplace as a whole—interbrand competition—and that on balance the challenged territorial franchises promote competition. The Commissioners overturned the ruling of its own ALJ on this case, by a 2-to-1 vote. This action was taken despite 195 detailed findings of fact, in a 91-page initial decision.

Because of the FTC's final decision, the issue is now before the U.S. Court of Appeals for the District of Columbia. Quite obviously, this is an issue that should never have come before the Congress if the FTC had stopped meddling in an industry that is working fine.

As we all know, the ultimate beneficiary of competition in the marketplace is the consumer. Competition is the best method of insuring that the consumer can buy goods at the lowest possible price. The current method of interbrand competition more than adequately meets the consumers needs. Consider that from 1939 to 1977 the price per ounce of Coke in the 16-ounce returnable bottle has increased in price only 3 percent while the increase in the Consumer Price Index has been 344 percent.

The Congress is fully justified in overturning this FTC decision. We must realize that the FTC or any other Federal agency is not infallible. It will make mistakes and misunderstand congressional intent. The FTC is an agency that has meddled in the workings of our economy, often without any real justification. This case of interbrand competition is another instance where the Congress should send a clear message to the Commission.

This was a misguided action by the Federal Trade Commission. An affirmative vote by the Congress, large enough to preclude a Presidential veto, will maintain competition in a competitive field. Will continue to provide low prices to consumers and will reassert congressiional control over a wayward Federal agency.

Mr. RAILSBACK. I would only add one further thing, before these agreements can be legitimatized or validated, there has to be evidence of substantial interbrand competition. We have set standards, and this is good legislation.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding. I would like to make one comment with reference to what the gentleman just said. The administrative law judge who tried the case in a very exhaustive opinion filed findings of fact and conclusions of law and specifically stated that under the present manner in which these territories are set, there is interbrand competition. I might say further, as the gentleman alluded to, for over 80 years since the beginning of this type of a structure, every court that has ever decided this at the top level has held that these territorial restrictions are valid.

Mr. RAILSBACK. That is right, where there is interbrand competition.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to the present situation in the sense of suspending the rules. I think that this is a bill that ought to have a chance to be floor debated. Amendments should be allowed on the House floor. I will oppose the bill for that particular reason. Even though I am a cosponsor of the bill, I do think it can be improved.

This situation came up because the FTC ruled that the franchising arrangements were unlawful unless they were utilized for the purpose of providing returnable containers. The primary reason for that exclusion was the fact that the industry itself has been coming to Congress each year and testifying that they needed the franchising arrangements in order to have returnable bottles and returnable containers. I will quote for you from the president of Coca-Cola:

> Exclusive territorial arrangements for all types of containers are essential to preserving bottler interest in using refillable containers.

A number of us—and there was considerable evidence given to the subcommittee—asked to have an amendment attached which would not take the extreme position of the FTC but a more moderate position. Our amendment would say, All right, if you are going to get a franchising agreement, then you should increase your use of refillables at least on an increasing basis to the national average—nothing very dramatic. Such an approach would provide the bottler himself with more profits, cheaper beverages to the consumer, save energy, save resources, reduce litter, and move us away from our throwaway society. These are the advantages of refillables. The problem is that the chainstores in many cases are discouraging the franchised people from selling returnables because they do not want to handle them. The only way we can help the bottler out by making sure these refillables are available is to insist that it is part of the franchising arrangement.

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding. The gentleman stated that there was evidence that the chainstores would not allow returnables. I read very closely the order of the administrative law judge, and I found no evidence at all where any chainstore ever refused to allow returnable bottles in an exchange or purchase. I wish to point that out for the gentleman's benefit.

Mr. JEFFORDS. The information I have from bottlers leads me to a different conclusion. Let me continue.

Mr. Speaker, I supported this legislation originally because I felt it would help to protect the refundable container in the marketplace. Today, however, I am convinced that the bill, as presently written, does not assist as it could, in insuring that the returnable container increases in use. Unfortunately, the consumers and the general public are going to get the short end of the deal in this special antitrust exemption being granted to the soft drink industry. Had this bill not been scheduled on the Suspension Calendar. I would be offering an amendment with my colleague from Oregon (Mr. AUCOIN) to address this weakness in the legislation. Unfortunately, on suspension, Members will not be able to consider our amendment which would have insured the option for consumers to purchase their beverages in returnable containers.

The legislative history of H.R. 3567 clearly demonstrates that the preservation of the returnable container has been an ongoing concern of the soft drink industry, well-known proponents of the legislation. As strong supporters of national deposit legislation, Mr. AuCoin and I were eager and willing to work with them to insure that this objective was indeed met. Our amendment was simple and reasonable, requiring that a minimal percentage of each franchise's sales be made available in returnable form if the exclusive territorial rights were to be granted. By 1981, we were requiring 10 percent—a figure which all of the regions in the country are presently meeting—20 percent by 1982, and 35 percent by 1983. This latter figure of 35 percent is even below the national average, which the National Soft Drink Association's latest printed report states to be 37.8 percent.

Given these figures, we remain convinced that our proposal was quite conservative and deserved consideration by the full House. We were not being too demanding by asking for a 100-percent returnable system, though we may have wanted to. Nor were we as severe as the FTC's ruling which, as you know, stated that exclusive territorial rights could only be retained for the sale of returnable containers. Our proposal was simply a reasonable attempt to move all franchises toward the national average for returnable containers. I might add, though, that in view of the cost-saving arguments put forth by the industry in support of the returnable system, the FTC ruling was not without merit.

Because of this cost-saving factor, Mr. AuCoin and I contend that the industry would have been persuaded to meets its "refundable" requirement through the use of the less expensive refillable system. Consumers would thus have been guaranteed the option of purchasing their beverages in this less-expensive container, and competition between the local and name-brand soft drinks would have been enhanced as the price differential between the two would have been reduced.

The Subcommittee on Monopolies and Commercial Law heard from numerous witnesses in the soft drink industry. In addition to arguing that the legislation was necessary to protect the small businessmen, they also contended that it was necessary to protect the refundable container, and thus promote consumer choice. As just one example, Mr. J. Lucian Smith, a past president of Coca-Cola and a present member of the board of directors and consultant to the company, made this point when he stated:

> Exclusive territorial arrangements for all types of containers are essential to preserving bottler interest in using refillable containers.

I could cite testimony from several other witnesses which stress this same point.

Unfortunately, Mr. Speaker, when you consider the following figures, the option of purchasing soft drinks in returnable containers is rapidly disappearing. Back in 1947, 100 percent of the soft drinks manufactured were sold in returnable bottles. Using the National Soft Drink Association's latest printed figures, refundables nationwide comprised only 37.8 percent of the industry's market in 1976 as compared to 44 percent in 1976. Within the northeastern region, which includes my home State of Vermont as well as New York, Delaware, Pennsylvania, the District of Columbia, Maryland, and the other New England States, returnable containers comprised only 10.2 percent of the market in 1978. In 1976, this same percentage for the northeastern region was 23 percent. Thus, in just 2 years, there was a reduction by more than 50 percent. In fact, in some areas, returnables already compromise less than 1 percent of the market.

Yet where returnables are available, there is widespread consumer acceptance and support for the refundable container. Six States now have a 100-percent returnable system in effect—Vermont, Oregon, Maine, Michigan, Iowa, and Connecticut. Public opinion polls in Vermont and Oregon—the two States with the longest experience with deposit legislation, show support by more than 90 percent of the public. In 1979, an effort to repeal the Maine law was rejected by 84 percent of the voters, despite its narrow passage in 1976 with only 58 percent of the vote. Clearly, where consumers have had a chance to experience the law, they have liked it, and support for the measure has grown.

Mr. Speaker, the consumer will be the primary loser as a result of the dwindling availability of the returnable container. Savings of up to 30 percent can be realized through the returnable system. This fact was also acknowledged by Mr. Smith in testimony before the House. He stated:

> Coca-Cola sold in food stores in nonreturnable packages is priced, on the average, 33 percent higher than in returnable bottles. The difference lies essentially in the different costs of packaging; the cost of returnables is spread over many uses; the cost of nonreturnables is absorbed in one use.

Several Vermont distributors have been quite frank in discussing the economics of refillables with me. One distributor says his gross profit with refillables is now 53 percent, compared to a historic gross profit of about 18 percent with nonreturnable bottles and cans before the deposit law went into effect. Vermont consumers who use returnable containers also realize a significant savings, approximately $80 annually per family, as a direct result of our deposit law. This is possible because beverages purchased in refillable containers cost 10 to 30 percent less. Further marketing of the nonreturnable container, however, will cost the consumer.

Below I have listed some of the other costs to be incurred should the returnable container disappear from the marketplace. The figures are taken from a study done on the implications of H.R. 3567 by Franklin Associates, submitted to the Subcommittee on Monopolies and Commercial Law. The study projected that by 1982, the returnable bottle will have disappeared from the marketplace unless the industry is permitted to retain its exclusive territorial rights. Our amendment would have added language to H.R. 3567 to further promote this objective.

According to this study, some of the adverse effects this disappearance of the returnable bottle will have on energy and the environment are as follows. Energy consumption can be expected to increase by the equivalent of—

First, electricity for a city of 100,000 people for 69 years;

Second, gas to heat 100,000 midwestern homes for 4.9 years;

Third, 129 million gallons of gasoline; and

Fourth, a coal train 686 miles long.

By the same token, consider the following environmental consequences should the returnable disappear:

First, air pollution will have increased by 37.6 percent;

Second, water pollution will have increased by 28.7 percent; and

Third, solid waste will have increased by 34.8 percent.

Mr. Speaker, I have listed numerous costs to be incurred should the returnable system disappear from the marketplace. And likewise, I have listed the sound public support for a returnable system. In this day of skyrocketing energy prices and dwindling supplies of natural resources, the savings afforded through a refundable system should be maximized to the greatest extent possible. Congress cannot responsibly grant the soft drink industry an antitrust exemption without a purpose. The benefits that would have been gained by requiring a certain percentage of beverages to be sold in returnable containers would have provided such a purpose. Consumers would have been guaranteed the freedom to choose which kind of beverage container they desired, and Americans as a whole would have been afforded a cleaner, more environmentally sound country in which to live.

I deeply regret that the full House was not given the chance to debate our amendment which was such a modest proposal.

Mr. McCLORY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. Butler).

Mr. BUTLER. Mr. Speaker, I rise in support of H.R. 3567. While I am one of the many cosponsors of this legislation, it is my amendment in the nature of a substitute which you have the privilege of voting on today. In my opinion, my amendment in the nature of a substitute works four improvements into the bill.

When the Antitrust Subcommittee met on this legislation, several amendments were offered which were narrowly defeated—some by only 1 or 2 votes on the 12-man subcommittee. Thus while the bill was ultimately approved by the subcommittee, it was clear that there was appreciable dissatisfaction. Thereafter, for full committee consideration, I drafted a substitute incorporating what I considered the most desirable amendments discussed in subcommittee. The draft enjoyed broad support in the committee. It has satisfied many of the dissatisfied. And it caused a sufficient shift in the vote—no minor matter—that allows the bill to be brought up under suspension of the rules rather than the process of requesting a rule and waiting to squeeze into our very busy floor schedule.

The first change made by the substitute eliminates some Latin language—in pari materia—that might have had the effect of removing the soft drink industry from the purview of antitrust laws not yet written as well as from other laws not even dealing with antitrust. This result was something no one wanted; consequently, this change was readily accepted.

The second change made by the substitute was necessitated by adverse commentary the bill received during the subcommittee's hearings. It was suggested that the breadth of the bill's language would promote not only exclusive territories but also certain per se offenses as well. My substitute as originally drafted would have made clear that no per se offenses were authorized. But some supporters feared that some courts might follow the arguments of antitrust activists that exclusive territorial arrangements in the soft drink industry should themselves be held to be per se violations in spite of GTE-Sylvania. Thus lest the bill become circular by taking away in one section what it gave in another, we sought, during negotiations in full committee, to list the per se offenses we did not intend to authorize. And so it came to pass that the bill now expressly states that it does not authorize price fixing, horizontal restraints of trade, or group boycotts.

The third change made by the substitute eliminated a rather egregious mistake made in drafting the legislation. Since under current law the pendency of a government case like that of the FTC, which was filed in 1971, suspends the running of the 4-year statute of limitations, the industry was fearful that a private party might bring a lawsuit seeking damages from 1967 to the present, that is from a date 4 years before the FTC complaint was filed. The bill originally resolved this problem by providing that damages could not begin to run prior to the date the court had determined that there was a violation. Not only did this limit liability to a 4-year period in the circumstances of the FTC case, it precluded any victim from recovery unless he was the second victim. Since no victim would ever want to be first in line, the chances for recovery by a second victim would have been slight.

The effect of the original language thus was to hobble private antitrust actions permanently. I think it might have been a little embarrassing for the committee to have supported such a provision. My amendment spares such embarrassment by addressing the industry's proper concern—and no more. Private actions are salvaged and the industry's present potential 13-year liability is reduced to four in the event a successful case is brought against it.

The fourth change was likewise an improvement that produced a broad consensus in favor of the legislation. Of the four changes, this alone affects the proviso. Now the proviso is substantially the most important part of the bill because it establishes what a court must find to offset the absence of intrabrand competition in the licensing contracts. The bill says, in effect, that the absence of intrabrand competition is OK if there is substantial and effective interbrand competition presumably, as witnesses have suggested, as a result of such licensing contracts.

One must be careful in discussing the balancing test implied by this legislation because it is the heart and soul of this controversy. There is consequently all sorts of tugging and hauling from various quarters. At one extreme, there are those who would focus on the restraint of intrabrand competition. That is close to the FTC's thinking. At the other, there are those who would focus on the strength of interbrand competition. But that approach brings us very close to an exemption.

So while some might want to focus on the bad and call these territorial restraints per se antitrust violations and while others might want to focus only on the good and thus provide an exemption from the antitrust laws for the soft drink industry, the truth lies somewhere in between.

This bill establishes the rule of reason as the standards for judging competition in this industry. Therefore, this bill disdains both the per se approach and the exemption approach. A court must look at all the circumstances, both the good and the bad, in making its determination. It would have been downright silly to say that the courts cannot look at the bad while we turned cartwheels in committee to make sure that victims could sue for treble damages and recover.

I can understand why people at both extremes would like to turn things their way as we move expeditiously to close this chapter. But that must not overcome a solid year of legislative history to the effect that the rule of reason—which requires a court to weigh the good against the bad—is what this bill codifies.

Now the problem with the proviso as originally drafted is that it provided an unfocused picture of the requisite interbrand competition needed to offset the intrabrand restraints. What concerned many of us was the suggestion that if a consumer could find 20 different nonalcoholic drinks, including bottled water, in the exclusive territory of his residence, the test was satisfied. My substitute provides the necessary focus. The interbrand competition that must exist to satisfy the test must be both in the relevant geographic market which may or may not be congruous with the exclusive territory as well as in the relevant product market which is a more limited market than the soft drink market generally. If a lawsuit involves Pepsi, then competition with colas would seem relevant. If it involves Sprite, then lemon-lime drinks would seem relevant. And so on.

By bringing the fuzzy proviso into sharper focus, the substitute makes clear that the proviso is a true requirement and not a fiction that the courts are intended to ignore as was the case with the proviso of the now repealed fair trade laws. The changes make clear that it is the rule of reason standard that is to govern and not only half of it.

Time and again during our hearings I and others asked witnesses on behalf of this legislation what was unreasonable about the rule of reason. Invariably they replied that nothing was unreasonable but that the FTC misapplied the law. I agree wholeheartedly on both counts.

The language before you today contains the four significant improvements I have outlined. These changes perfect and refine the purpose of this legislation. While we in subcommittee by no means sat as a court of law sifting through the evidence of the FTC case, it is my view that licensing agreements in the soft drink industry do, on balance, promote competition. For over 9 years the industry has sought no more than a fair chance to make their case under the rule of reason standard. The industry will now have that protection.

I urge an "aye" vote on the motion to suspend the rules.

☐ 1320

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Speaker, I congratulate the gentleman from Virginia (Mr. BUTLER) and the gentleman from Texas (Mr. HALL). I rise in strong support of this bill. It is important; and it is necessary to help maintain order in an existing, practical system for soft drink distribution. I hope that the Members will support the bill.

Mr. McCLORY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, after nearly 9 years of uncertainty hovering over the conduct of business by the Nation's soft drink industry, we have today an opportunity to approve legislation, H.R. 3567 which will clarify the application of the antitrust laws to the soft drink industry, protecting both small businesses and the consumer.

We are asked what has happened to free enterprise? For the past 75 years, the soft drink industry has been operating under a system of exclusive territorial rights for bottlers of the same soft drink. The Supreme Court recently decided that exclusive territorial arrangements were not per se violations of the antitrust laws, but should be judged on the basis of the rule of reason. H.R. 3567 makes it clear that this is the standard under which courts should determine the legality of the territorial arrangements of the soft drink industry. The FTC was wrong.

A few weeks ago, the Senate passed S. 598 by a vote of 89 to 3. This bill was identical to H.R. 3567, but the House Judiciary Committee decided that several improvements were necessary. One change insures that the Government will prosecute any per se violations of the antitrust laws by the soft drink bottlers. Another change reinstates the 4-year antitrust statute of limitations for cases brought against bottlers.

I believe these improvements make H.R. 3567 an excellent product of the legislative system which will both strengthen the soft drink industry and benefit the consumer.

I urge strong support of H.R. 3567.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD. Basically, Mr. Speaker, the problem we are facing here is, we are going to vote on something that we have not had a chance to debate. That is the objection I have in this whole thing. I do not care where you come from. I know this bill as it stands is probably, in all fairness, a better bill than the one that was originally asked for in the discharged petition.

Mr. Speaker, the fact remains we do not have a chance to debate it. There is talk about what the bill would really do. It would provide an exemption for the soft drink bottlers to the antitrust law. I am not really sure we should not talk about that. It would establish only a single entry industry exemption for an unregulated industry and I am sure we ought to talk about that because we are setting a precedent. Why not other industries asking for the same precedent? Should they not also be exempted?

Mr. Speaker, the antitrust laws could then become a maze of special exemptions.

Mr. Speaker, there is currently a case pending on this in the U.S. Court of Appeals for the District of Columbia. What is wrong with allowing the courts to go ahead and take a look at it? No one will be hurt by that.

Furthermore, Mr. Speaker, the bill does nothing to combat the rapid demise of small bottlers. I think they also should have a voice in this. The only real price competition intrabrand between bottlers would not be allowed under this bill. I would like to see a little competition out there. For those of us who stand for free enterprise, there is nothing wrong with allowing the marketplace to work its will. There is nothing going to destroy our system of government if we do that.

Mr. Speaker, consumers stand to gain when there is real competition in the marketplace. That is what this is all about. Let us go ahead and have a chat about this right here on this floor. Let us find out what we are really talking about, rather than rushing pell-mell into something we know nothing about. I think it is time for us to look at this. This is supposed to be a deliberative body. Let us exercise such deliberation and vote against this bill.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, there are a number of substantive reasons why the bill before us should not pass. It is not a good bill legislatively. Mr. Speaker, I would like to object to the bill not on substantive grounds but on procedural grounds. The point has been made that the bill is up under suspension today. It is a highly controversial bill which ought to be subject to amendment and should not be under suspension. It would not be up under suspension today had there not been a discharge petition which discharged the committee of the original bill. I think that is even more objectionable and is a thing which we in the House need to worry about not only for this bill, but for future bills. If a special interest piece of legislation like this can get enough signatures to be discharged from the committee which has the responsibility for looking at it, then that to me is a dangerous, dangerous precedent.

Mr. Speaker, I ask you· because of the procedure if nothing else, to vote against the bill. If one is inclined to vote against the bill and one fears the defeat of this bill means the original bill could still come up under the discharge procedure, that is not correct. If this bill goes down, that is it. The original bill would not be subject to being brought up under the original discharge procedure. Again, on procedural grounds, I ask that the bill be defeated.

Therefore, Mr. Speaker, I do rise in strong opposition to H.R. 3567. I would like to counter some of the claims put forth in favor of this bill·

Proponents of the bill argue that the territorial restrictions are necessary in order to stimulate capital investment by bottlers, to promote delivery to low-volume customers, to encourage bottlers to engage in local advertising, and to insure quality control. With regard to such contentions, the FTC ruled that either the restrictions would not have produced such benefits, that there were less restrictive alternatives for achieving the benefits, or that the benefits were inconsistent with the history and purpose of the Federal Trade Commission Act as well as the policies of competition and efficiency.

Another claim of supporters of this legislation is that the exclusive territorial practice is necessary to the survival of the returnable bottle, which costs at least a third less per ounce than the nonreturnable. This is probably true. However, the territorial system alone is not enough to guarantee the survival of the returnable bottle. This is evident from the fact that under this territorial system returnables dropped from 98 percent of the market in 1958 to 38 percent today.

A leading argument advanced in favor of H.R. 3567 is that this bill will protect small bottlers. There are three responses to this argument.

First, small bottlers are already protected by the Sherman and Robinson-Patman Acts from being driven out of business by unfair practices of larger bottlers, such as predatory pricing.

Second, it is difficult to imagine how the preservation of exclusive territorial franchises will benefit small bottlers since the trend under this arrangement has only been toward greater economic concentration. The number of bottlers in the soft drink industry has declined from over 6,000 in 1950 to 2,042 today, as small businesses have given way to very large bottling interests. Furthermore, although most of the bottlers are separate business entities from the syrup manufacturers, the parent companies are buying out the best and biggest markets. The parent companies are not concerned with the interests of the small bottlers.

Third, it should be pointed out that the protection of small business as such is neither the goal of antitrust laws nor wise economic policy. Protecting the competitive process and insuring maximum consumer welfare by promoting efficiency are the goals of the antitrust laws. Small business is protected to the extent that it can survive in a competitive marketplace, but not at the expense of efficiency.

Finally, advocates of this bill contend foremost that vertical territorial restrictions promote interbrand competition and the resulting benefit outweighs the harm done to intraband competition. On the contrary, the vertical territorial restrictions have contributed to reducing competition at the interbrand level in the soft drink industry. Coca-Cola and Pepsi alone now control 59.6 percent of the national market and the four largest syrup manufacturers hold 73.1 percent of the market. This is a tight oligopoly by most standards of industry analysis.

The primary effect of exclusive territory agreements is to protect the largest soft drink manufacturers from competition at the bottling level of production. It consequently encourages inefficiency. Due to the lack of competition among distributors, producers can charge higher prices, and in the end, consumers pay more. The monopoly overcharge attributed to the effects of the exclusive territory system in the soft drink industry was estimated by the FTC to be approximately one-quarter billion dollars annually. It is clear that H.R. 3567 is anticonsumer legislation designed to maintain the inflated pricing structure in the soft drink industry for the benefit of a few large corporations.

In addition Mr. Speaker, I would like to impress upon my colleagues what a serious mistake it is for the House to consider this controversial special interest legislation under such a hasty procedure and at this particular time. Recognition must also be given to the dangerous precedents that this bill would establish.

This bill would start a flood of demands for equal treatment from industries which have lost cases related to similar marketing arrangements, including the automobile, bicycle, mattress, and independent grocers industries. Enactment of this legislation at this time would interfere with the established process of judicial review of agency decisions before that process is completed. This would signal that every FTC antitrust action not to the liking of the industry involved is fair game for political reversal. To give such a signal would threaten FTC enforcement of the antitrust laws and their restraining effect on inflation.

I urge a "no" vote.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I will be happy to yield to the gentleman from Ohio.

Mr. SEIBERLING. I assume, however, the gentleman would not feel this procedure was as unpleasant to him as the discharge petition which is the alternative which would have faced the House had we not brought this bill to the floor.

Mr. PEASE. The gentleman is exactly right. I commend the committee for bringing the bill to the floor to avoid the discharge procedure. I wish it had been brought up under other than the suspension.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I do yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I should point out that the Committee on the Judiciary did present a number of amendments which are in the bill, coming before us in the form the bill does now so that we have overcome those objections that there were at the time the discharge petition was filed.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Speaker, this is certainly an enormously complex issue which has been discussed for many years. There is dispute about whether small bottlers would be helped under the bill, or more helped without the bill, but the fact of the matter is that those who have studied this in great detail—the Department of Justice, the FTC, Alfred Kahn, the President's inflation fighter—have come out with a decision that this is not a helpful bill. Furthermore, the matter is in the courts. Why can we not allow the courts to make a decision without interfering with the judicial process?

Mr. Speaker, there is a question about this body itself. Does this body finally represent whatever powerful special interest group comes in and asks for special treatment? The gentleman from New York (Mr. Weiss) asked what happened to free enterprise? That is a good question. I would like to pose a second question: What happened to representing the people? Do we do that in any more than a technical sense, here, any more? Surely this bill because of its complexity and the very fundamental issues involved deserves debate by this House. We cannot get it in 20 minutes on each side of the issue. Let us vote "no" so that we can thoroughly discuss this bill.

Mr. McCLORY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. Sawyer).

Mr. SAWYER. Mr. Speaker, I rise in support of this legislation and particularly to compliment the gentleman from Texas (Mr. Hall) who worked long and hard in the process of pursuing discharge to get this bill to the floor.

Mr. Speaker, I may say there is talk about violating the antitrust laws and I feel that to be a little out in left field. Coca-Cola has a nationwide monopoly to sell Coca-Cola. No one else can move under that brand name and it is not logical to say Coca-Cola does not have a right to subdivide their right, which is all we refer to. We are not talking about the right to market a cola or a particular kind of soft drink, but Coca-Cola. There is no other company in the country that can do that. Given the right to do that, why is there anything obnoxious about their subdividing territorially, that right to exercise their overall right.

Mr. Speaker, I yield back the balance of my time.

□1330

The SPEAKER pro tempore (Mr. Russo). The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, the gentleman from Michigan is right. Coca-Cola could legally have decided to distribute all of its product by itself, and there would therefore have been no intrabrand competition. They have chosen instead to franchise it out to various small businesses in many places, and the same is true of a number of other syrup manufacturers.

No one has more of a record of supporting the antitrust laws here than I do, and I would not support this legislation if I felt it was an exemption from the antitrust laws. It is not an exemption. It does not grant antitrust immunity. It will apply only in situations where there is substantial and effective competition among soft drink suppliers and bottlers in the relevant product and geographic markets.

Therefore, I strongly urge that it be supported by the House, because it is far preferable to the bill the committee originally took up.

I want to commend the gentleman from Texas (Mr. Hall) for having worked out this compromise, which avoids an exemption from the antitrust laws.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, we are both pretty tough in supporting the antitrust laws, and I want to join the gentleman in his statement and commend him for his leadership on this legislation. Likewise, I would like to commend the gentleman from Texas (Mr. Hall) and the gentleman from Virginia (Mr. Butler), whose amendment in the nature of a substitute has produced such overwhelming support for this legislation.

● Mr. DASCHLE. Mr. Speaker, I am pleased that I have been able to support and now vote in favor of passage of H.R. 3567, the Soft Drink Interbrand Competition Act.

As my colleagues are well aware, this bill will clarify the circumstances under which exclusive territorial licenses would be allowed for the soft drink industry. Presently, the soft drink industry has functioned well under territorial agreements for the past 75 years. These agreements have guaranteed the survival and continuation of the small, independent soft drink bottler in an increasingly competitive industry.

Recently, however, the FTC has ruled that these territorial provisions constitute unfair methods of competition and has pressed to have such agreements banned under antitrust laws. Along with over 300 of my colleagues, however, I disagree with this assertion. This is why this legislation is necessary to protect the 2,150 independently owned soft drink bottlers across the country.

I would like to point out that 70 percent of the independently owned bottlers have less than 50 employees. Thus, they are potentially very vulnerable in an increasingly competitive industry.

In conclusion, I feel that this bill provides adequate safeguards to protect these people's livelihoods, yet does not pose an infringement of our antitrust laws nor hinder free market competition. For these reasons I support this legislation and thank Mr. Hall for his efforts on behalf of the soft drink bottlers around the country.●

● Mr. OTTINGER. Mr. Speaker, I rise in support of H.R. 3567, the Soft Drink Interbrand Competition Act.

It has been years since the Federal Government initiated action challenging the territorial provisions contained in bottlers' trademark licenses. As a result the industry is plagued by uncertainty. Many bottlers are torn between conflicting contractual obligations and threats by major chain store customers. Problems facing the soft drink industry, therefore, must be addressed immediately by congressional action. Countless bottlers are being driven out of business as the judicial process is exhausted. Indeed, failure to act on this legislation could jeopardize an industry which in New York State alone employs over 6,000 people and generates over $1.2 billion in annual sales.

Standards under which the bottlers operate must be clarified. Previous rulings fail to fairly assess the unique characteristics of the soft drink industry. The proposed bill would take into account all aspects of competition applicable to the industry and thereby accomplish antitrust objectives.

H.R. 3567 establishes a standard whereby soft drink products shall not be held in violation of antitrust law if the soft drink products subject to such an arrangement are in "substantial and effective competition" with rival products. The words "substantial and effective" allow for flexibility as well as establish a standard by which the competitiveness of the industry can be judged. Factors to be taken into consideration include evidence of the intensity of price competition; responsiveness of output levels to consumer demand; and the quantity and quality of bottlers' competing products. Under such a criterion the industry will be tested and it will be expected to live up to competitive standards.

Evidence indicates that there is competition amongst bottlers and the arrangements used by the industry promote such competition. I believe this measure is an effective way to enhance that competition and insure the future viability of the countless small businesses involved in the industry. I urge my colleagues to join me in supporting this legislation.●

● Mr. WEAVER. Mr. Speaker, I rise in strong support of H.R. 3567, the Soft Drink Interbrand Competition Act of 1980. This much needed legislation will clarify and protect the legal status of over 2,150 independently owned bottlers which bottle soft drinks under trademark licensing agreements with national franchise companies such as Coca-Cola. There are over 30 of these bottlers in my State of Oregon, and many of them have written to me in support of the bill.

The antitrust complaint lodged against these companies by the FTC over 9 years ago was directed at the territorial provisions of trademark licensing. While this point may be pertinent in reference to other industries, it just does not address the reality of the soft drink marketing system, as the FTC's own administrative law judge found in his original decision. He said that the provisions for exclusive territory among bottlers actually increased interbrand competition in the industry, and helped insure the survival of small independent bottlers which serve both large and minor accounts in their communities. Without exclusive territorial rights, these small bottlers could be forced out of business by the largest bottlers in each region.

However, the FTC Commissioners overturned the original decision, thus making this clarifying legislation necessary. If the FTC ruling is allowed to stand, the soft drink industry will be disrupted, and the interests of consumers and thousands of small businessmen and their employees will be irretrievably damaged. There is no intent here to open a loophole in antitrust law. Antitrust statutes are designed to foster competition, not to subvert it. And it is clear that these territorial agreements protect the small bottler by guaranteeing the right to manufacture, distribute, and sell soft drinks within a service area. By protecting these small businessmen, the agreements also protect small retailers, who could not expect to get the same efficient, "store-door" service from larger corporate bottlers.

Mr. Speaker, this is a classic example of an all-too-common situation where hard-working small businessmen and women find their economic security threatened by reckless, bureaucratic actions that display little sensitivity or concern for the impact their regulatory zeal may have. It is a situation worsened by the efforts of those who oppose the interests of the small bottlers, who wish to dominate the markets themselves.

Mr. Speaker, it is the obligation of every Member of this House to work to protect small business in our society. We see too much control of business and industry by a small number of ever-expanding corporate giants. For the health of our economy we must promote small business' ability to compete effectively with the giants.

There is no question of the need for this legislation, Mr. Speaker, and I urge the House to pass it expeditiously.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 3567. I am a cosponsor of the bill and one of 218 Members who signed the discharge petition which aided greatly in the expeditious consideration which this legislation is receiving from the House.

H.R. 3567 simply proposes to prevent the decimation of a bona fide industry from the effects of an ill-advised ruling by the Federal Trade Commissioners. The Commissioners in 1978 ruled that the territorial arrangements used by the soft drink industry for the past 75 years constituted unreasonable restraints of trade. This ruling was preceded by 7 long years of court battles and the final action taken by the Commissioners overruled the decisions of every lower court which had reviewed the arrangements.

In my home State of New York, the soft drink industry is responsible for the employment of some 5,800 workers in a total of 116 plants. It is a major industry in a State which needs strong industry for its economic well-being. The present territorial arrangements practiced by the soft drink industry work to the advantage of the small businessman and also the consumer. Indications I have received from industry representatives show that if the FTC ruling were to stand the smaller bottler would be forced out of business or would be forced to become distribution arms for large bottlers. This would result in greater concentration and less competition in the industry and this could lead to both higher prices and in some areas reduced supplies.

Using the present territorial arrangements, the overwhelming majority of soft drink bottlers are independently owned and 70 percent employ fewer than 50 people. From the consumer end, the price of cola in 1939 was 0.77 cents of 1 cent per ounce, today it costs 0.79 cents of 1 cent per ounce. Further variety of soft drink products is quite extensive with new products entering the market on a regular basis.

When there is nothing wrong with a system why feel compelled to fix it. That is the question we must ask ourselves today. This Congress has gone on record on several occasions this year against arbitrary actions taken by the FTC under the guise of consumer protection. Their assault on the soft drink industry is wrong and this legislation must be passed before any further harm is done.●

● Mr. MURPHY of Pennsylvania. Mr. Speaker, I would like to speak in support of H.R. 3657, the Soft Drink Interbrand Competition Act which, more importantly, is in support of independent small business. The passage of this act will clarify the standards by which the necessary licensing procedure can be properly judged in an effort to provide protection for the thousands of independent bottlers in the country. Without the protection of territorial licenses these independent businesses could well become swallowed up by huge corporate interests. The loss would have ramifications far beyond the bottling business alone.

If only large regional bottling plants under the control of a handful of big corporate interests were to provide soft drinks to retailers, we would soon find that the small grocery stores, especially the traditional mom and pop stores in so many of our small towns and rural areas, would find supplies sporadic and limited. The big corporate bottlers would find it more profitable to service only the massive grocery chains in our heavily populated areas at the expense of the rest of us.

In an era when we see the steady deterioration of small independent businesses under pressure from high volume, heavy cash flow corporations and a time when the small corner groceries are closing day by day under pressure from giant chains, we must preserve and protect those independent businesses that remain as an integral part of our American character.

Critics of this bill claim that its passage will stifle competition and that the consumer needs more choice in the product. The truth is just the opposite. The facts easily dispute such weak argument. You only have to visit any grocery store to see the rainbow variety of soft drinks on display in every city, town, and crossroads in the country. As for competition, the overwhelming majority of the 2,150 bottlers in this country are independently owned businesses operated by the men and women who are residents of the communities that they serve. In the interest of independent business that is the backbone of our free enterprise system, we have the obligation to provide adequate protection for their licensing rights against the encroachments of big impersonal corporate interests.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3567, as amended.

The question was taken.

Mr. EDWARDS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7018) to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, as amended.

The Clerk read as follows:

H.R. 7018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SCIENTIFIC ADVISORY PANEL

SECTION 1. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is amended by—

(1) inserting in subsection (d) immediately after the fifth sentence the following new sentence: "The subpanels may be composed of scientists other than members of the Scientific Advisory Panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the Scientific Advisory Panel."; and

(2) adding at the end thereof the following sentence: "Whenever the Administrator has exercised his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly submit to the Scientific Advisory Panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide."

PEER REVIEW

SEC. 2. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new subsection (e):

"(e) PEER REVIEW.—The Administrator shall promulgate written procedures providing for peer review with respect to the design, protocols and conduct of major scientific studies to be conducted pursuant to this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual pursuant to grant, contract, or cooperative agreement from or with the Environmental Protection Agency. Such written procedures shall also provide for peer review, utilizing the Scientific Advisory Panel or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies conducted as noted above and relied upon by the Administrator with respect to actions he may take relating to the change in classification, suspension or cancellation of a pesticide: *Provided*, That whenever the Administrator determines that he cannot await the conduct of the peer review of the results of any such scientific study and he exercises his authority under section 6(c) of this Act to immediately suspend the registration of any pesticide because of an imminent hazard, he shall promptly thereafter employ the peer review procedures as provided in this sentence. The evaluations and relevant documentation constituting the peer review which relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term "peer review" shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.".

(b) The provisions of this section shall be effective upon publication of final written procedures in the Federal Register, but in no event shall such provisions become effective later than one year after the date of enactment of this provison.

SEC. 3. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by adding at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary, but not in excess of $72,160,000, and for the period beginning October 1, 1980, and ending September 30, 1981, such sums as may be necessary, but not in excess of $77,500,000.".

CONGRESSIONAL REVIEW

SEC. 4. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or regulation was transmitted to Congress on ', the blank spaces therein being appropriately filled.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 60 and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HOPKINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. HOPKINS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 7018, as amended. This is the same bill that was brought up in the House last week, on June 17, under suspension of the rules with one exception—an important exception. It includes provisions which authorize congressional review and the right to veto regulations issued by the Environmental Protection Agency under FIFRA. Last week the Members of the House voted in a loud and convincing manner their concern regarding the omission of the legislative veto provision from the bill.

In an effort to meet the concerns of some Members of the House, I have included in the bill an amendment that authorizes a two-House congressional veto of regulations under FIFRA during a 90-day period after their promulgation. Last year the authorization for appropriations that passed the House contained provision for a one-House veto. In the conference on the bill the Senate refused to agree to that provision and the matter remains in conference. It should be easier to reach agreement with the Senate on the provision for the two-House veto particularly since a similar provision has been accepted by the Senate and enacted into law in the authorization bill for the Federal Trade Commission.

As was stated last week, FIFRA is a unique act in the many opportunities it provides for congressional oversight. To begin with H.R. 7018 provides an extension of the funding authorization for only 1 year—through September 30, 1981. Next year Congress again will have the opportunity to review in detail administration of the act and the need for any amendments. Second, any regulations before issuance must be forwarded for review to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the Secretary of Agriculture, and a scientific advisory panel. In the case of proposed regulations this must be done at least 60 days prior to publication in the Federal Register for public comment and in the case of final regulations, this is required at least 30 days prior to publication. During this period an opportunity is afforded for any inputs that may wish to be registered by the congressional committees and others.

Now there will be added a provision authorizing a congressional veto of regulations within a 90-day period after the regulations have been promulgated.

I hope that with this amendment H.R. 7018 will have the support of my colleagues in the House.

I would like to summarize briefly the other provisions of H.R. 7018, as amended.

H.R. 7018, as amended, extends the authorization for appropriations for administration of FIFRA—the Federal Insecticide, Fungicide, and Rodenticide Act—1 year until September 30, 1981, and sets a ceiling of $77,500,000 for this purpose.

In addition, H.R. 7018 effectively "catches up" with the appropriation act by providing an authorization of $72,160,000 for the current fiscal year. An earlier bill (S. 717), which included an authorization for appropriations for the current fiscal year, in addition to a number of other provisions, remains in conference because of the inability of the conferees to resolve the issue relating to a one-House congressional veto. The level authorized in H.R. 7018 represents the amount appropriated by Congress for the current fiscal year in Public Law 96–103.

The bill as reported contains amendments offered by the distinguished ranking minority member, Mr. WAMPLER, and by Mr. FITHIAN, of Indiana, which strengthen the procedures relating to scientific studies performed by EPA to improve the scientific inputs in EPA's decisionmaking process under the act.

FIFRA currently provides for a scientific advisory panel to advise the agency on decisions relating to the cancellation of the registration of a pesticide or a change in its classification and on proposed and final forms of regulations which EPA intends to issue. The bill as reported contains language offered by Mr. FITHIAN clarifying the authority of the Scientific Advisory Panel with respect to the creation of temporary subpanels on specific projects. The amendment reaffirms that these subpanels may include scientists other than appointed members of the Scientific Advisory Panel itself.

Additional amendments were adopted on motion of Mr. WAMPLER. One would require the Administrator to submit for review by the Scientific Advisory Panel data relied upon by the agency in an emergency suspension action. However, the amendment does not limit the Administrator's authority under the act to take action under emergency suspension provisions whenever he deems it necessary to protect human health and safety.

The bill also directs the Administrator to promulgate written procedures providing for peer review of the design, protocols and conduct of major scientific studies conducted pursuant to the FIFRA. Finally, the Agency is directed to utilize the Scientific Advisory Panel or appropriate experts selected by the Administrator from a list nominated by the Scientific Advisory Panel in conducting peer review of the results of any major scientific studies relied upon in taking action to change the classification of, suspend, or cancel the use or uses of a pesticide.

There is a proviso in this section which allows the Administrator to proceed with an emergency suspension action without completion of this peer review; however, the amendment specifically requires that this peer review be initiated promptly after such an order is issued.

Agency decisions are generally subjected to some form of peer review. The committee is convinced, however, that it is vitally important for these procedures to be clearly defined in writing so that the Agency will, in fact, proceed only on the basis of validated scientific information.

These amendments do much to strengthen the scientific procedures under the act and provide added public confidence in the soundness of scientific decisions reached by the Agency.

Mr. Speaker, I urge the Members to join me in support of this measure.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of this legislation. As I stated last week, I think this is a good piece of legislation, and the subcommittee and the full Commitee on Agriculture have done an outstanding job in putting together a reasonable approach to the entire subject matter. I think it should set the standard for other committees which deal with this type of regulatory problem, and I think that the entire membership of this House owes a great vote of thanks to the committee and to the gentleman from Texas, in particular, for his work in this area.

I do believe that the addition of the congressional veto provision will give the committee and the House the last necessary tool it needs to properly oversee this program. I think that where we are talking about regulations which have the force and effect of law, in the last analysis it is the elected Congress and not the unelected bureaucrats who should be making these decisions.

This bill, this legislation, as amended, now provides for that, and I commend it to my colleagues in the House.

Mr. HOPKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7018. As Members will recall, last week on Tuesday, June 17, 1980, an attempt was made to suspend the rules and pass this legislation. This attempt was defeated on a rollcall vote of 199 to 215 because of the opposition expressed primarily by our colleague Congressman LEVITAS. His opposition stemmed primarily because of the lack of the opportunity for Congress to review and, if necessary, veto regulation issued by the Environmental Protection Agency under FIFRA. Such an amendment had been included in last year's legislation, H.R. 3546, which is still in conference. This type of amendment is one of the issues that the conferees have not been able to reach agreement on in that legislation.

Today, another attempt is being made to suspend the rules and pass this legislation. Vice Chairman DE LA GARZA is to be commended for his inclusion of an amendment providing for a two-House veto of pesticide regulations issued by EPA pursuant to FIFRA. Last week, I stated that I supported the concept of the one-House veto and I certainly want to indicate to my colleagues that I support the two-House veto and want to see this legislation move along through the legislative process. FIFRA is important to our farmers and with the appropriation bills now being considered, it is necessary that we get this authorizing legislation approved and signed into law at the earliest opportunity. I urge adoption of this legislation.

While I support the two-House veto provision contained in the DE LA GARZA substitute, I do not want my concurrence construed as an endorsement of the particular language as the best proposal for handling the legislative veto issue. However, it is acceptable and is certainly a step in the right direction.

I will conclude by saying that the Wampler amendment in this bill, addressing the issue of "peer review" is in my opinion one of the most important provisions we could add at this time to the Federal Insecticide, Fungicide, and Rodenticide Act. I commend my colleague for authoring such a provision.

Mr. LEVITAS. Mr. Speaker, will my colleague yield?

Mr. HOPKINS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank my colleague for yielding. I would just like to underscore two points that the gentleman made, because I think they are very important.

The appropriations bills are moving through at this time. FIFRA has not had an authorization now, I believe, for 2 fiscal years, which means that while there has been no authorization the Appropriations Committee has continued to fund the program. That creates a serious problem because it does not permit the legislative committees and the Congress as a whole to put supervisory jurisdiction in the charter under which this program should operate into place. So, therefore, I would hope that this legislation is speedily passed by both Houses and signed into law so that there can be authorization and so that the program will be administered by the Environmental Protection Agency under the directions of a congressional mandate; not according to the way they want to administer the program. I know that many people share my concern that in the absence of an authorization this year, there would be an effort made to oppose the funding in this program.

□ 1340

Consequently, I think it is very important that we move forward.

Mr. Speaker, the final point I would like to make, again to agree with my colleague, is this: That while I support this legislation and the two House congressional veto provision which it contains, I do not want that to be understood in any way as diminishing the efforts which I and many other Members will make to establish other forms of congressional veto in other pieces of legislation where another form of veto would be more appropriate, necessary, and more effective.

Mr. Speaker, I thank the gentleman for yielding.

Mr. HOPKINS. Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. LEVITAS), for his observation and his clarification of this issue.

Mr. Speaker, at this time I yield 5 minutes to the distinguished ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 7018, as amended by the committee and as further amended by the amendment of the gentleman from Texas, the vice chairman of our committee, Mr. DE LA GARZA.

Having previously discussed the merits of the bill when it was considered on Tuesday, June 17, I shall confine my remarks today to the vice chairman's floor amendment. This amendment provides for a two-House veto of pesticide regulations issued by the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, rather than the one-House veto that was sent to conference in the first session of this Congress.

And which, by the way, still languishes there because the other body refused to go along with that measure.

As my colleagues will recall, the previous action the House took in the first session of this Congress with respect to the legislative veto provided:

> That a rule or regulation promulgated by the Administrator shall be transmitted to the House and Senate and . . . shall not become effective if within 90 calendar days of continuous session both Houses of Congress adopt a concurrent resolution disapproving the rule or regulation or within 60 calendar days of continuous session one House adopts and transmits to the other House such a concurrent resolution and such resolution is not disapproved by the other House within 30 calendar days of continuous session following its adoption and transmittal.

It is my understanding that our colleague Mr. LEVITAS, of Georgia, in opposing the passage of the bill last Tuesday, June 17, wanted the bill amended to encompass language similar to the so-called one-House veto, explained previously. I also understand that after considering the safeguards for prior consultation with the committees of the Congress required in the statutes of EPA, prior to the promulgation of rules and regulations pertaining to FIFRA, Mr. Levitas has modified his stance and will support the bill under suspension as amended by Mr. de la Garza.

I share Mr. Levitas' concern for the need for legislative restraint over EPA's actions. I think, however, the de la Garza amendment in this bill will address his concern. I also trust this modification will also be more acceptable to the other body.

I urge adoption of the vice chairman's substitute.

Mr. HOPKINS. Mr. Speaker, I thank the gentleman from Virginia (Mr. Wampler) for his contribution, and I yield 3 minutes to the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this bill.

Naturally, as is the case with the gentleman from Georgia (Mr. Levitas), I am not fully satisfied with the veto provisions of the bill, but I, too, realize that a sense of compromise is important to get a bill like this passed. And it is necessary that we pass a bill reauthorizing this program for fiscal year 1981.

In the process of considering the compromise on this bill, I would think, with all the debate that we have had in this House on the subject of the congressional veto, it would soon impact upon Members of this House that eventually the congressional veto is going to be as much a part of the public lawmaking process and the public policymaking process of the Federal Government as it is with most State governments. We have been slow in arriving at the determination that in fact this Congress, being the lawmaking body that it is, is going to have to have some restrictions and some check upon that broad authority that we often, perhaps too often, delegate to the administrative branch of Government.

Just commonsense dictates that if we in fact are going to delegate, as we have for the last 30 or 40 years, a great deal of authority for writing in the details of public policy to the administrative branch of Government, being the elected representatives of the people, we are going to be called upon periodically to exercise some review and in certain instances some check upon that delegation. The one-House veto, in my opinion, is the best solution to that, and the two-House veto made a part of this bill is a less preferred solution to that problem. The legislative veto, I believe, is necessary to keep check upon the executive branch of Government. We need to get in the minds of the Members of both bodies of this Congress the fact that we need the adoption of the legislative veto as a congressional policy of oversight of the executive branch.

Mr. Speaker, the sooner we in the Congress adopt the legislative veto as part of our oversight responsibility the sooner the issue will be brought to the courts for final solution of constitutional issues and we get on with the business of legislation as our founding fathers contemplated.

Mr. Speaker, I also wish to commend the ranking member, Mr. Wampler, for adding a peer review of major studies conducted by EPA. It requires peer review of the design and protocols established for such studies as well as the results of such studies. The idea here, as I understand it, is to insure that when EPA takes action such as the suspension of a registered pesticide that farmers and producers can be assured that the action is being taken on a valid scientific basis.

Mr. Speaker, based on the foregoing, I urge support for this measure.

Mr. HOPKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I think that the gentleman from Virginia (Mr. Wampler) and the committee have done a good job, along with the gentleman from Texas (Mr. de la Garza), with the amendments that are in the bill for the legislative veto and the peer review. I do support those concepts.

My question with FIFRA in general, one that is of grave concern to me, is that there seems to be constant delay, delay, and more delay, in getting the modern agricultural technology that we need. I am disappointed that they have been so slow in allowing the modern chemicals that we need to become registered and put on the market.

Otherwise, Mr. Speaker, I think the committee has done a good job with the bill. However, I think we are witnessing a classic example of an extended bureaucracy, and that we could do better by just having the Department of Agriculture do this the way they used to do it prior to the passage of FIFRA. I would still prefer to see us go back to that method.

Mr. HOPKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. de la GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Russo). The question is on the motion offered by the gentleman from Texas (Mr. de la Garza) that the House suspend the rules and pass the bill, H.R. 7018, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7018, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 3567, by the yeas and nays; and H.R. 7018, by the yeas and nays.

SOFT DRINK INTERBRAND COMPETITION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3567, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Seiberling) that the House suspend the rules and pass the bill, H.R. 3567, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 34, not voting 22, as follows:

[Roll No. 360]

YEAS—377

Adbnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio

Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—34

Beilenson
Bingham
Burton, Phillip
Cavanaugh
Conyers
Dellums
Derwinski
Drinan
Early
Eckhardt
Edwards, Calif.
Green
Jeffords
Lloyd
Maguire
Markey
Mitchell, Md.
Moffett
Mottl
Oakar
Pease
Ratchford
Reuss
Richmond
Rosenthal
Roybal
Scheuer
Shannon
Solarz
Stark
Weiss
Wolpe
Wydler
Yates

NOT VOTING—22

Anderson, Ill.
Archer
Brown, Ohio
Collins, Ill.
Corcoran
Derrick
Dodd
Downey
Erlenborn
Ertel
Fascell
Ford, Tenn.
Jenrette
Madigan
Murphy, N.Y.
Pepper
Rahall
Runnels
Tauzin
Udall
Wilson, C. H.
Wolff

☐ 1400

The Clerk announced the following pairs:

Mr. Fascell with Mr. Erlenborn.

Mr. Jenrette with Mr. Runnels.

Mr. Murphy of New York with Mr. Tauzin.

Mr. Pepper with Mr. Ertel.

Mr. Charles H. Wilson of California with Mr. Madigan.

Mr. Wolff with Mr. Anderson of Illinois.

Mrs. Collins of Illinois with Mr. Archer.

Mr. Derrick with Mr. Brown of Ohio.

Mr. Dodd with Mr. Corcoran.

Mr. Downey with Mr. Ford of Tennessee.

Mr. Udall with Mr. Rahall.

Mr. MINISH changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 598) to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

SEC. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided*, That such product is in substantial and effective competition with other products of the same general class.

SEC. 3. The existence or enforcement of territorial provisions in a trademark licensing agreement for the manufacture, distribution, and sale of a trademarked soft drink product prior to any final determination that such provisions are unlawful shall not be the basis for recovery under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914.

SEC. 4. As used in this Act, the term "antitrust law" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (the Sherman Act), approved July 2, 1890, the Federal Trade Commission Act, approved September 26, 1914, and the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), approved October 15, 1914, and all amendments to such Acts and any other Acts in pari materia.

MOTION OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SEIBERLING moves to strike out all after the enacting clause of the Senate bill (S. 598) and insert in lieu thereof the provisions of H.R. 3567, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 3567, was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) (3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7018, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 7018, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 22, not voting 19, as follows:

[Roll No. 361]

YEAS—392

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill

Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowksi
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—22

Ashbrook
Bauman
Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Devine
Goldwater
Goodling
Hansen
Holt
Holtzman
McDonald
Marlenee
Paul
Porter
Rousselot
Symms
Taylor
Walker
Weiss
Yates

NOT VOTING—19

Anderson, Ill.
Archer
Brown, Ohio
Corcoran
Derrick
Dodd
Downey
Erlenborn
Ertel
Findley
Flippo
Ford, Tenn.
Jenrette
Madigan
Pepper
Rahall
Runnels
Tauzin
Wilson, C. H.

☐ 1410

The Clerk announced the following pairs:

Mr. Flippo with Mr. Archer.

Mr. Jenrette with Mr. Brown of Ohio.

Mr. Dodd with Mr. Erlenborn.

Mr. Downey with Mr. Findley.

Mr. Pepper with Mr. Rahall.

Mr. Charles H. Wilson of California with Mr. Tauzin.

Mr. Ertel with Mr. Madigan.

Mr. Runnels with Mr. Corcoran.

Mr. Derrick with Mr. Ford of Tennessee.

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title was amended so as to read: "A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.".

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7631, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION, 1981

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1124) on the resolution (H. Res. 727) waiving certain points of order against the bill (H.R. 7631) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING ADDITIONAL DEBATE TIME AND WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 932, ENERGY SECURITY ACT

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1125) on the resolution (H. Res. 7278) providing additional debate time and waiving certain points of order against the conference report on the bill (S. 932) to extend the Defense Production Act of 1950, as amended, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7244, INCREASING U.S. QUOTA IN INTERNATIONAL MONETARY FUND

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1123) on the resolution (H. Res. 726) providing for the consideration of the bill (H.R. 7244) to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7051, AUTHORIZING APPROPRIATIONS FOR TREASURY DEPARTMENT INTERNATIONAL AFFAIRS FUNCTIONS, 1981-82

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1122) on the resolution (H. Res. 725) providing for the consideration of the bill (H.R. 7051) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1981 and 1982, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6811, INCREASED U.S. PARTICIPATION IN INTERNATIONAL DEVELOPMENT ASSOCIATION AND AFRICAN DEVELOPMENT BANK

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1121) on the resolution (H. Res. 724) providing for consideration of the bill (H.R. 6811) to provide for increased U.S. participation in the International Development Association, to provide for U.S. participation in the African Development Bank, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1420

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 719 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 719

Resolved, That during the consideration of the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, line 3 through page 13, line 4; beginning on page 18, line 16 through page 20, line 5; beginning on page 26, lines 5 through 22; and beginning on page 27, line 22 through page 29, line 2; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 10, line 17 through page 11, line 15.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. Long) for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the customary 30 minutes for the minority to the gentleman from Mississippi (Mr. Lott) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 719 is a rule to facilitate consideration of H.R. 7590, making appropriations for energy and water development for the fiscal year ending September 30, 1981. This appropriations bill provides funds for the Department of Energy, in the amount of $6.8 billion; funds for Army Corps of Engineers civilian projects in the amount of $3.1 billion; funds for the Water and Power Resources Service of the Department of Interior in the amount of $800 million; and funds for seven independent agencies in the total amount of $1.1 billion.

The total new budget authority provided by this legislation is $11.8 billion.

The rule waives points of order against certain provisions of the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations, and legislation in appropriation bills. Such a waiver is necessary because authorizing legislation for several programs included in H.R. 7590 has not yet been enacted into law. I would submit for the Record a copy of the letters from the chairman of the Committee on Appropriations outlining the need for this waiver, as follows:

Committee on Appropriations,
Washington, D.C., June 16, 1980.
Hon. Richard Bolling,
Chairman, Committee on Rules, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The Committee on Appropriations has favorably reported the Energy and Water Development Appropriation Bill for fiscal year 1981. The Bill includes appropriations for several programs for which authorizing legislation has not been enacted into law.

The annual authorization contemplated by section 660 of Public Law 95–91 for the programs of the Department of Energy is provided for in H.R. 7265 (National Security and Military Applications) which was reported from the Armed Services Committee on May 13 and H.R. 6627 (civilian programs) which was divided by title and has been reported from the Science and Technology Committee on May 16 and the Commerce and Interior Committees on May 15. Authorization for the Colorado River Basin Salinity Control Projects is contained in H.R. 2609 which passed the House on February 7, 1980. Authorization for the Appalachian Regional Development program, S. 914, is in conference. Annual authorization for the Nuclear Regulatory Commission is provided for in H.R. 6628 which was reported by the Interior Committee on May 15 and has been ordered reported by the Commerce Committee. It is unlikely that these authorization bills will be enacted prior to House consideration of the appropriation bill.

Accordingly, in the interest of orderly legislative procedure, we respectfully request a hearing before your Committee to seek a rule waiving all points of order under clause 2 of Rule XXI for the following:

Title I—Department of Energy;

Title III—Department of the Interior, the paragraph entitled "Colorado River Basin Salinity Control Projects"; and

Title IV—Independent Agencies, the paragraphs entitled "Appalachian Regional Commission, Salaries and Expenses", "Funds Appropriated to the President, Appalachian Regional Development Programs", and "Nuclear Regulatory Commission, Salaries and Expenses".

Additionally, Title I of the Bill includes a provision to extend the availability of previously enacted appropriations for the Geothermal Loan Guarantee and Interest Assistance program under the Geothermal Resources Development Fund. This provision is consistent with the Administration's request and the authorization for the Fund provided in P.L. 93–410, and is necessary to enable payment of valid claims after expiration of the period for new commitments under the program. Since this provision may technically constitute a reappropriation, we would request that the rule also waive points of order under clause 6 of Rule XXI for Title I—Department of Energy.

The Committee greatly appreciates your continued cooperation.

Best regards,
Sincerely,
Jamie Whitten,
Chairman.

Committee on Appropriations,
Washington, D.C., June 18, 1980.
Hon. Richard Bolling,
Chairman, Committee on Rules,
House of Representatives,
Washington, D.C.

Dear Mr. Chairman: My letter of June 16, 1980, requesting certain waivers of points of order for the Energy and Water Development Appropriation Bill for fiscal year 1981 contained an incorrect citation.

On page 2 of that letter under Title III—Department of the Interior, the paragraph entitled "Colorado River Basin Salinity Control Projects" should read "Construction Program".

Best regards,
Sincerely,
Jamie Whitten,
Chairman.

Chairman Whitten's letters also describe the need for a waiver of points of order against the geothermal loan guarantee and interest assistance program for possible violation of clause 6 of rule XXI, which prohibits reappropriation of unexpended balances of appropriations. The rule includes a waiver of points of order against this program under clause 6.

Mr. Speaker, I urge the adoption of House Resolution 719 so that we may proceed to the consideration of this important appropriations bill.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 719 is the rule making in order consideration of the Energy and Water Development Appropriation Act. The rule waives clause 2 of rule 21 against specified provisions of the bill since it includes appropriations for several programs for which authorizing legislation has not yet been enacted into law. Accordingly, the rule before us waives all points of order under clause 2 of rule 21 for portions of titles I, III, and IV.

In addition, title I of the bill includes a provision to extend the availability of previously enacted appropriations of geothermal loan guarantee and interest assistance program under the Geothermal Resources Development Fund. Since this provision may technically constitute a reappropriation, the rule waives points of order under clause 6 of rule 21.

Mr. Speaker, the Energy and Water Development Appropriations Act contains new budget authority for various energy supply and research programs, as well as for planning, construction and maintenance of water resource development projects. The bill contains no new water project construction starts for the Corps of Engineers or the Water and Power Resources Service. However, it recommends funds for these agencies to continue the ongoing studies, planning, construction, operation, and maintenance.

I would like to point out the total cost of the bill—$11.8 billion. It is disturbing to note that of this total amount, almost $7 billion is recommended for the Department of Energy. Although few would question the goal of energy self-sufficiency toward which we aspire, I cannot help but feel great concern over such a tremendous sum for one agency. I only hope that we can initiate closer oversight with regard to DOE and be assured that our dollars are being spent wisely and carefully.

Mr. Speaker, I have no further requests for time.

Mr. LONG of Louisiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Edgar).

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding. I wonder if the author of this rule might answer just a couple of questions. The gentleman indicated in reading the provisions of the rule that points of order had been waived against certain titles of the bill. The gentleman had indicated that it was necessary to waive points of order against certain titles and sections in this bill because certain authorizing legislation had not been passed. Could the gentleman indicate which particular provisions of this legislation would be new authorizing provisions?

Mr. LONG of Louisiana. If the gentleman will yield, the authorization, for example, for the Appalachian regional development programs, S. 914, is presently in conference. The annual authorization for the Nuclear Regulatory Commission is provided in H.R. 6628 which has been reported by the Committee on Interior and Insular Affairs on May 15 and has been ordered reported by the Committee on Interstate and Foreign Commerce. There are a number of other authorizations that are in different stages of the legislative process with respect to which the Committee on Rules waived points of order, in answer to the question of the gentleman from Pennsylvania.

Mr. EDGAR. Could the gentleman indicate whether or not any of the projects that are appropriated for in title II under the Department of Defense, Civil, Department of the Army, are in fact projects that have not yet received authorization?

Mr. LONG of Louisiana. There are no waivers requested with respect to title II, the Department of Defense appropriations process.

Mr. EDGAR. So it is the gentleman's understanding that there are no projects that are in the omnibus water bill, the authorizing legislation, that are being funded under this particular appropriation at this time?

Mr. LONG of Louisiana. That is correct.

Mr. EDGAR. I thank the gentleman for his answer.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 7590, and that the gentlewoman from Nebraska, Mrs. SMITH, and I be permitted to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Indiana (Mr. MYERS) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Reserving the right to object, will the gentleman restate his unanimous-consent request?

Mr. BEVILL. If the gentleman will yield, does the gentleman wish the entire request?

Mr. ROUSSELOT. No; just the unanimous-consent request.

Mr. BEVILL. I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Indiana (Mr. MYERS) and myself.

Mr. ROUSSELOT. The gentleman is not asking for unanimous consent to limit the time on amendments?

Mr. BEVILL. No.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. BEVILL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7590, with Mr. SHARP in the chair.

□ 1430

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Alabama (Mr. BEVILL) will be recognized for 1 hour, and the gentleman from Indiana (Mr. MYERS) will be recognized for 1 hour.

The Chair recognizes the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, we bring to you today for your favorable consideration the energy and water development appropriation bill for 1981. I am joined in this effort by my colleagues on the Energy and Water Development Subcommittee who have worked long and hard to bring this legislation to the floor, including the gentleman from Massachusetts (Mr. BOLAND), the gentlelady from Louisiana (Mrs. BOGGS), the gentleman from Florida (Mr. CHAPPELL), the gentleman from South Carolina (Mr. JENRETTE), the gentleman from California (Mr. BURGENER), and the gentlelady from Nebraska (Mrs. SMITH). Let me also make special mention of our newest subcommittee member, the gentleman from California (Mr. FAZIO), who joined us after our colleague from California (Mr. DIXON) assumed the chairmanship of the District of Columbia Subcommittee. Our subcommittee has greatly benefited from Mr. FAZIO's enthusiasm and interest in all aspects of this bill. Let me also express my sincere appreciation to our ranking minority member, the gentleman from Indiana (Mr. MYERS). As in years passed, he and I and the entire subcommittee have worked together without any trace of partisanship to fashion a bill that meets the present and future needs of our entire country.

Our subcommittee was deeply saddened by the sudden and tragic loss of our longtime friend and colleague, the gentleman from West Virginia (Mr. Slack). He became a member of the Public Works Subcommittee in 1971. His many years of service and wise counsel were a source of strength to me and the other Members and we will miss him.

Mr. Chairman, the bill before the committee today would provide $11,847,713,000 in new budget authority to the Department of Energy, the Army Corps of Engineers, the Water and Power Resources Service, and six independent agencies and commissions. This is $910,932,000 more than was provided in last year's appropriation legislation but it is $4,146,000 less than the amounts requested in the President's revised 1981 budget.

BALANCED BUDGET

Mr. Chairman, this is a Presidential election year. As has been true throughout the history of our great country, the Nation's attention becomes focused on the issues of the times. One such issue is the balanced budget. A majority of this House, myself included, voted for a balanced Federal budget in fiscal year 1981 just a few days ago. There is already considerable speculation that the budget will be considerably out of balance because of the recent deterioration in national economic conditions.

For my part, I want my colleagues to know that the bill presently before the committee has been developed under the philosophy of restraint. The bill is below the President's revised budget and it is consistent with the first concurrent resolution on the 1981 budget.

WATER RESOURCE DEVELOPMENT

But Mr. Chairman, next year and in the years ahead, when the partisan political rhetoric has subsided, our Nation will be facing an issue that has been with the American Republic since it was founded over 200 years ago. Indeed, it is an issue that every civilization has had to deal with all throughout recorded history—the wise and prudent development of our natural resources.

Let me quote the words of a famous American politician. The subject is "internal improvements" and the controversy associated with the local benefits that occur from such improvements:

> That the burdens of improvements would be general, while their benefits would be local and partial, involving an obnoxious inequality. That there is some degree of truth in this position I shall not deny. No commerical object of Government patronage can be so exclusively general, as not to be of some peculiar local advantage; but, on the other hand, nothing is so local as not to be of some general advantage. The navy, as I understand it, was established, and is maintained, at a great annual expense, partly to be ready for war, when war shall come, but partly also, and perhaps chiefly, for the protection of our commerce on the high seas.

> This latter object is, for all I can see, in principle, the same as internal improvements. The driving a pirate from the track of commerce on the broad ocean, and the removing a snag from its more narrow path in the Mississippi river, cannot, I think, be distinguished in principle. Each is done to save life and property, and for nothing else. The navy, then, is the most general in its benefits of all this class of objects; and yet even the navy is of some peculiar advantage to Charleston, Baltimore, Philadelphia, New York, and Boston, beyond what it is to the interior towns of Illinois.
>
> The next most general object I can think of, would be improvements on the Mississippi river and its tributaries. They touch thirteen of our States—Pennsylvania, Virginia, Kentucky, Tennessee, Mississippi, Louisiana, Arkansas, Missouri, Illinois, Indiana, Ohio, Wisconsin, and Iowa. Now, I suppose it will not be denied, that these thirteen States are a little more interested in improvement on that great river than are the remaining seventeen. These instances of the navy, and the Mississippi river, show clearly that there is something of local advantage in the most general objects. But the converse is also true. Nothing is so local as not to be of some general benefit.
>
> Take, for instance, the Illinois and Michigan canal. Considered apart from its effects, it is perfectly local. Every inch of it is within the State of Illinois. That canal was first opened for business last April. In a very few days we were all gratified to learn, among other things, that sugar had been carried from New Orleans, through the canal, to Buffalo, in New York. This sugar took this route, doubtless, because it was cheaper than the old route. Supposing the benefit in the reduction of the cost of carriage to be shared between seller and buyer, the result is, that the New Orleans merchant sold his sugar a little dearer, and the people of Buffalo sweetened their coffee a little cheaper than before; a benefit resulting from the canal, not to Illinois where the canal is, but to Louisiana and New York, where it is not. In other transactions Illinois will, of course, have her share, and perhaps the larger share too, in the benefits of the canal; but the instance of the sugar clearly shows, that the benefits of an improvement are by no means confined to the particular locality of the improvement itself.

Mr. Chairman, this excerpt is taken from a June 20, 1848, speech delivered on the floor of the House by a young Congressman from Illinois, Abraham Lincoln. Congressman Lincoln, a member of the Whig Party, was answering what he called the internal improvements veto message which had been issued by the Democratic Convention of 1848 and the Democratic President, James K. Polk. In answering the various criticisms of river and harbor improvements, while conceding that some of the benefits of such projects were local, Lincoln emphasized that there were considerable national benefits to be realized. He cited the Illinois and Michigan Canal as an excellent example of how a project located entirely in Illinois could and would benefit producers in Louisiana and consumers in New York. The continuing truth of Congressman Lincoln's statement has been proven over and over again during the past 132 years. Yet, just as in Lincoln's time, people who are already enjoying the benefits of internal improvements are sometimes critical of new improvements to be made in other sections of the Nation. Let our friends be reminded of the lessons of history and the enduring words of our Nation's 16th President. In fact, modern conditions have only strengthened the case for the projects contained in this bill.

The Nation's finances were strained in 1848 and Congressman Lincoln did not propose that all internal improvements be undertaken but rather that the amount to be so apportioned be limited to the most important projects. He proposed that certain "statistical information" be developed and used to guide the allocation of funds. Mr. Lincoln's reasoning has stood the test of time:

> Such products of the country as are to be consumed where they are produced, need no roads and rivers, no means of transportation, and have no very proper connection with this subject. The surplus, that which is produced in one place to be consumed in another; the capacity of each locality for producing a greater surplus; the natural means of transportation, and their susceptibility of improvement; the hinderances, delays, and losses of life and property during transportation, and the causes of each, would be among the most valuable statistics in this connection. From these it would readily appear where a good given amount of expenditure would do the most good. These statistics might be equally accessible, as they would be equally useful, to both the nation and the States. In this way, and by these means, let the nation take hold of the larger works, and the States the smaller ones; and thus, working in a meeting direction, discreetly, but steadily and firmly, what is made unequal in one place may be equalized in another, extravagance avoided, and the whole country put on that career of prosperity, which shall correspond with its extent of territory, its natural resources, and the intelligence and enterprise of its people.

The "statistical information" that Congressman Lincoln called for is, of course, the basic foundation of the benefit-cost analysis that is applied to every water resource development project. Even today, in 1980, it is the only part of the Federal budget that has been tested and justified on "a stern, unbending basis of facts—a basis in nowise subject to whim, caprice, or local interest."

NO NEW CONSTRUCTION STARTS

Mr. Chairman, we are recommending a total of $3,923,361,000 for the two principal water resources development agencies in the bill—Corps of Engineers and Water and Power Resources Service. While this amount is $243,695,000 more than the President's budget, the Committee has recommended no new construction starts for fiscal year 1981. Rather, the recommendation will provide the funding necessary so that only the ongoing construction, operation, maintenance, and preservation activities can proceed and be carried out in an orderly and efficient manner. Your committee believes this recommendation is prudent and is absolutely necessary at this time.

ENERGY

Mr. Chairman, as is the case with water resource development, the wise and prudent development and conservation of our energy resources has been and continues to represent a challenge to our Nation and the Congress. The bill before you contains funds for programs, projects and activities that will affect our energy resources next year and through the decade of the 1980's. Funds are also recommended for those energy programs that will serve the vital interests of our grandchildren and great-grandchildren, well into the 21st century. It is this latter point that I want to emphasize. Oftentimes, we in this House and in the Government as a whole are accused of being shortsighted.

It has been said that we cannot see beyond the next election. I have been reminded recently about just such an action. It occurred in 1953 during the 83d Congress. The Eisenhower administration had proposed a severe cutback of the synthetic fuels program in the Bureau of Mines. The administration proposed and the Republican-controlled Congress approved a proposal to end further work at the coal-to-oil plant at Louisiana, Mo. Our beloved colleagues, the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Illinois (Mr. PRICE), were very much opposed to this action. During the debate on the Interior Department appropriation bill for fiscal year 1954, it was revealed that the Louisiana, Mo., plant had achieved the production of oil from coal so that the cost to produce commercial gasoline was within 2 cents of the then current cost of gasoline, 30 cents a gallon in Washington. Our late colleague, the gentleman from Missouri (Mr. Cannon), who subsequently became chairman of the Appropriations Subcommittee that I now have the honor to head and a man strongly committed to frugality and economy in Government, made a strong plea for the continuation of the work:

> National defense is inseparably associated with oil. Oil is the lifeblood of war. Oil for trucks and supply trains, oil for motorized artillery and tanks, oil to provide for ships, submarines, and airplanes. The greatest army that could be mobilized would be paralyzed, immobile, helpless, without oil. Eminent military authorities have expressed the opinion that lack of oil alone has prevented Russia from striking. It is obvious that in defense of our shores against foreign invaders the first essential is oil.
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> * * * * *
>
> We must depend then on home supplies and although they are still extensive, many oil fields have already been pumped dry and for some time we have been importing large quantities of foreign oil. Here in this process of extracting oil from low-grade coal, which is being worked out at the Louisiana plant, is the answer to the problem. There are vast quantities of subcommercial grades of coal all over the country. Something like two-thirds of the States of the Union can supply this coal in practically unlimited quantities. In most of these States coal miners are idle for want of markets. The perfection of the process being worked out at Louisiana will not only provide oil and gasoline for both peace and war but it will bring prosperity to men and mines throughout the country and at the same time supply every consumer of gasoline with ample fuel at as low a price, if not lower, than the price charged today. Exhaustion

> of the oil wells will cease to be a cause of apprehension, and the likelihood of increased prices as the underground reservoirs dwindle will no longer concern the owner of the tractor on the farm or the factory in the city.
>
> With so much at stake, why discontinue the work at Louisiana just as it is nearing completion? Already they have produced oil in sufficient quantities and at a cost low enough to bring the total cost within 2 cents of the current price of gasoline. If permitted to continue, there is every prospect that it can be produced cheaper, and, when it is, ample oil for defense and home use is assured. Why stop just when we are nearing the goal?

Mr. Chairman, the Louisiana, Mo., plant was closed in the 1950's. The Government also terminated its work on an oil-shale demonstration in Rifle, Colo., and an underground coal gasification plant in my own State near Gorgas, Ala. We cannot afford to lose any more opportunities. We must do everything we can to avoid a repeat of past mistakes.

The bill contains a total of $5,143,391,000 for energy programs for fiscal year 1981. This is nearly $100 million more than the amounts currently available. During my discussion of the various aspects of the bill, I will explain the various energy and energy-related recommendations. But I want my colleagues to know that the subcommittee has recommended sufficient funds to continue research on every energy technology that has reasonable promise for the future.

TITLE I—DEPARTMENT OF ENERGY

The bill contains $6,836,325,000 in new budget authority for the Department of Energy. This is $175,051,000 more than the amounts appropriated to date for fiscal year 1980 but it is $378,729,000 less than the President's revised budget request.

Mr. Chairman, the bill before you breaks all records with regard to funding for solar energy research and development. In fiscal year 1974, the Federal Government spent $15,000,000 on solar energy research. In 1977, it was $294,000,000. For fiscal year 1981, we are recommending $656,000,000. In addition, it is important to note the substantial amount of solar energy grants now available in other programs and agencies as well as the tax incentives available to the private sector that directly aid the solar energy industry. It is conservatively estimated that a total of $1.7 billion will be available from Federal programs to support and enhance the introduction and use of solar energy in its various applications.

The committee is recommending a total of $759,955,000 for fission energy research and development. While this amount is $57,940,000 more than the budget request, it is nearly $251,559,000 below the current year level. The administration's proposed reductions in this area were too drastic for the committee to accept. No funds are recommended for the continuation or termination of the Clinch River breeder reactor project. It has been over 3 years since the administration first proposed the cancellation of this project. The Congress has not accepted this proposal and as recently as last July, the House of Representatives defeated an amendment to deauthorize the project. Our subcommittee continues to support this important project, however, we have deferred consideration of future funding with the hope that the current impass can be overcome during congressional consideration of the Department of Energy authorization bill for 1981.

The bill also contains $378,317,000 for fusion energy research and development. Fusion energy is recognized to be one of the most significant potential sources of energy for the future. The bill includes $30 million for continuing construction of the Tokamak fusion test reactor at Princeton, N.J.

Mr. Chairman, the bill also contains $132,400,000 for geothermal energy research and development, $245,385,000 for basic energy research, $238,794,000 for energy-related environmental research and analysis, and $214,254,000 for various other energy supply research activities.

The bill would make available $1,417,800,000 for uranium supply and enrichment activities, including $79,244,000 for advanced isotope separation technology. This program is financed from the revenues received from uranium enrichment services together with a new appropriation of $28,755,000. Under the committee's recommendation, a total of $284,215,000 will be available for continued construction of the uranium enrichment-gas centrifuge plant at Portsmouth, Ohio.

Under general science and research, the bill contains $468,115,000. This is a reduction of $46,780,000 from the President's revised budget. The bill contains $41 million for the intersecting storage accelerator (Isabelle) located at Brookhaven National Laboratory, N.Y.

Mr. Chairman, the President has committed the United States to achieving a significant real growth in defense during the coming years. This bill contains $3,289,228,000 for the defense activities of the Department of Energy. These activities account for approximately 27 percent of the Department of Energy's current budget. The recommended program for fiscal year 1981 is over 12 percent greater than the estimated 1980 atomic energy defense program. The 1981 program includes $25 million for the high energy Laser facility (NOVA) at the Lawrence Livermore Laboratory in California.

For the five regional power marketing administrations, the bill contains $175,079,000. The receipts from these activities are deposited directly into the Treasury and are expected to total over $324,000,000 during fiscal year 1981. The bill also contains an appropriation of $72,949,000 for the Federal Energy Regulatory Commission.

The bill contains $247,242,000 for the central administration activities of the Department. This amount is $105,351,000 less than the budget request.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

Title II of the bill would provide $3,108,671,000 in new budget authority for the civil works program of the Army Corps of Engineers. This is $312,745,000 more than the current level and $235,757,000 more than the budget request. The recommended appropriation will finance 236 studies, 60 planning, and 229 construction projects and operation and maintenance activities on 664 completed projects.

TITLE III—DEPARTMENT OF THE INTERIOR

A total of $814,690,000 is recommended for the Water and Power Resources Service in the Department of the Interior. This is $207,349,000 more than the current level and $7,938,000 more than the budget request. These funds will finance 56 studies, 3 planning, and 79 construction projects, 13 loans and operation and maintenance on 30 large, integrated construction projects that have been partially or fully completed.

TITLE IV—INDEPENDENT AGENCIES

Title IV of the bill contains $1,088,027,000 for six independent agencies and commissions, including $342,492,000 for the Appalachian regional development program, $385,000 for the Delaware River Basin Commission, $55,000 for the Interstate Commission on the Potomac River Basin, $437,220,000 for the Nuclear Regulatory Commission, $312,000 for the Susquehanna River Basin Commission and $307,563,000 for the Tennessee Valley Authority. I want to highlight our recommendations in connection with three agencies under our jurisdiction.

For the Nuclear Regulatory Commission, we are recommending a reduction of $29,015,000 below the budget. However, for the Commission's Office of Regulation, we have recommended an increase of $8,000,000 over the budget to assure that the work associated with the lessons learned from Three Mile Island are incorporated into the Commission's operating plan. This increase is also necessary to insure that the Commission resumes the orderly and systematic consideration of nuclear powerplant licenses. In this connection, I would call your attention to the language in the bill beginning on page 27 that reaffirms the congressionally established policy on nuclear energy control and regulation in the Atomic Energy Act.

On page 149 of the committee report, you will see our recommendation of $290,563,000 for the Tennessee Valley Authority, which includes $175,000,000 for TVA's coal gasification demonstration project. This project was initiated in the 1980 Appropriations Act. The committee is very impressed with TVA plans for this plant. It can be an important step toward lessening our country's dependence on uncertain, costly supplies of foreign oil. During his testimony this year, the Secretary of Energy expressed his support for this important project.

On pages 29 and 30 of the bill, we are recommending a separate appropriation for the Columbia Dam and Reservoir. The appropriation for $17,000,000 would really not provide new funding because existing appropriations are currently being deferred. The importance of this recommendation is the language in the bill requiring that construction on this project, which was halted in 1978, resume and be carried out in an orderly and efficient manner through completion which is scheduled for August of 1985.

On the Water Resources Council, the committee was presented with a difficult problem. There are several differences of opinion between our congressional authorizing committees and the administration about new as well as continuing activities of the Council. We are proposing to defer action on the budget request, pending the enactment of an authorizing bill. The Council does not have authorizing legislation for the current year and is not authorized for 1981.

Mr. Chairman, during the development of this bill, approximately 2,000 people appeared before the subcommittee. We received testimony or statements from 113 of our colleagues, the Governors of 4 States, public witnesses, and witnesses from the various departments and agencies. The hearings are contained in 12 published volumes totaling 11,452 pages.

The recommendations before you have the unanimous support of the Energy and Water Development Subcommittee. The bill was reported from the Appropriations Committee on June 16 without a dissenting vote.

To summarize again, the bill contains $11,847,713,000 which is $910,932,000 more than the 1980 appropriations and $14,146,000 less than the President's budget.

Mr. Chairman, I would like to call the Members' attention to several printing errors in the committee report (H. Rept. 96–1093):

On page 28 in the table summarizing uranium enrichment revenues applied, the figures in the change column opposite the entries for "reclassification to miscellaneous revenues" and "total" should read +$53,000,000 and +$18,000,000, respectively.

On page 81 in the summary table for energy supply, research and development, the figures in the column entitled "committee bill" opposite the entries for "solar technology" and "unobligated balances/fiscal year 1980 deferrals" should read $423,800,000 and −$10,500,000, respectively.

On page 111, under "Mount Baldy, Indiana Dunes National Lakeshore, Ind.," the word "present" in the second paragraph should be "prevent".

Mr. Chairman, I urge the passage of the bill.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I do yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I deeply appreciate the gentleman from Alabama yielding.

I have a question for clarification.

The general operation and maintenance section of title II of the energy and water development appropriation bill for 1981 contains a $33-million reserve allowance for expenses necessary for the maintenance, operation, and care of existing river, harbor, and flood control projects. It is my understanding that these funds have been set aside specifically to continue ongoing projects such as the cleanup of the North Branch of the Chicago River which has been in progress for a number of years in my own 11th Congressional District of Illinois.

Is it the committee's intention, Mr. Chairman, that any necessary follow-on work on this project in fiscal year 1981 would be funded within the amount provided for O. & M. in the bill?

Mr. BEVILL. Mr. Chairman, I am familiar with the gentleman's project. It is a very good project. The gentleman is correct in his statement.

Mr. ANNUNZIO. Mr. Chairman, I thank the subcommittee chairman for his clarification.

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Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, what portion of that, or is there any of it earmarked for photovoltaic research? It seems to be the most promising field, and I would be interested in what approach the committee has taken on that.

Mr. BEVILL. There are funds for photovoltaic research. I do not have the exact figures now, but I can give them to the gentleman.

Mr. REGULA. But there is a recognition of this?

Mr. BEVILL. Oh, yes, we support photovoltaic research. It is a very fine program. We support it. The committee has $134 million in the bill for photovoltaics.

Mr. REGULA. I thank the gentleman.

Mr. BEVILL. Let me point out some of the problems we have with solar energy. It is limited. I am not talking about the limited supply of sun; I am talking about the limited ability to use it. While we support it, I would like to point out that the GAO has made four reports on solar energy work that is being done by the Department of Energy. They are backed up by two reports by the DOE's Inspector General. We really have not gotten our house in order on solar energy work in the Department of Energy, which you and I hope they will do. We want to support solar energy. But, I want to point out that there is just so much money that can be wisely spent in the solar energy area.

Let us talk just a little bit about nuclear power. We have 40 nuclear powerplants under construction which are or will be seeking licenses within the next 3 years. We have 68 nuclear plants in the country that are now generating electricity. We will have, by the year 2000, 200 nuclear plants, assuming that all these plants are built and there are not any more cancellations. We are seeing cancellations because of the cost and delays in getting licenses. We are having problems there, but, assuming everything goes forward, according to the testimony of the Department, we will have in this country 200 nuclear powerplants by the year 2000.

But, do the Members know what we are going to need by the year 2000? We are going to need 400 nuclear powerplants. I am just telling the Members like it is. We have got to have more nuclear power, and we do not have any choice.

So we have our work cut out for us. The subcommittee has been very concerned about the funding for the Nuclear Regulatory Commission. The Nuclear Regulatory Commission has about five different operating departments. The five commissioners are each operating independently, unfortunately. The President has sent up recommendations which I hope will improve this situation because each day a nuclear powerplant sits out here idle, it costs $500,000 a day, which ultimately must be paid by the consumers.

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The consumers are financing that $500,000. That is what the poor people, everyone in those areas, are confronted with.

We have about several plants right now completed with no licenses. We have $1 billion invested in each plant. The users of the electricity eventually must pay the bills for a nuclear plant that is sitting idle, to the tune of $500,000 per day per unit.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, it is precisely that reasoning that causes me to ask the gentleman why we have cut back the high energy physics research with the major research laboratories, including the Stanford Accelerator Center, which can only be operating essentially at about a third of their capacity with the cutback in funds.

I would have thought at a time when energy research is so crucial, the last thing we would have cut back is the high energy research that has been referred to in this report. The committee states we have cut back some marginal facilities, but essentially these cutbacks are going to reduce the number of scientists engaged in the United States rather substantially unless those funds are restored.

Congress recently funded a new PEP ring facility at Stanford at a cost of $78 million. The operations at that facility will have to be cut back substantially, with the cuts here.

Is the gentleman's reasoning about those unused nuclear plants consistent with these unused plants for which the Government has furnished the capital?

Mr. BEVILL. Mr. Chairman, I yield to my colleague, the gentleman from Indiana (Mr. MYERS). I know that he wants to speak on that subject.

I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Chairman, in the high energy physics field we have increased the funding from $317 million this year to $326,745,000. So we did increase the high energy physics field.

I think the gentleman from California understands that we are trying to balance the budget, and that means that all of us have to tighten our belts. The committee was not completely satisfied with the response from the people who have the responsibility of developing the high energy physics field. We have had a response from these operations, and we have many requests to the committee for these operations, but we just have not had the performance and we do not have the extra funding.

Mr. McCLOSKEY. Mr. Chairman, I understand that, but the high energy physics technology, trying to penetrate the makeup of the atom, is not something that we are going to get in 3 years, in 5 years, or even in 10 years. It is like the energy fusion program. I think the committee has recommended additional funds for that; I hope it has, because this represents what we hope to get in 30 years. It is the long-range development of these experiments, rather than the short-range development, even in a year of fiscal restraint that are important to the Nation's energy security. We have the short-range problem of balancing the budget in the 1 year, but we also have the long-range problem of an overall high energy physics research effort which is steadily sloping downward. If there is a pause in the program we lose substantial numbers of the scientists engaged. We do not have the scientists, and we cannot develop this field in 1 year or even in the next 5 years. We have here a program that may provide our energy solutions 30 years from now, and that may be our major responsibility as a Congress, the long-range solutions rather than the short-range reactions.

Mr. MYERS of Indiana. Mr. Chairman, we have not cut the budget. Maybe it has not been increased as much as the gentleman from California (Mr. MCCLOSKEY) would like. If we had unlimited amounts of money, we probably would have increased it, too, but, as the gentleman well knows, the responsibility of this committee is recognizing that it has priorities. We have done what we think is best in meeting the needs of today and looking to the future. I do not believe that anyone can say because we have not increased this as much as they would like, that there is not going to be a long-range benefit in the field of high energy physics.

Mr. McCLOSKEY. Mr. Chairman, I understand what the gentleman is saying. All of us respect what the committee has tried to do, and we respect the budget-balancing process. I believe we passed the windfall profit tax in order to raise additional money for energy research. We felt we must concentrate in the one area of energy research. Granted that expenditures have increased slightly, costs have increased so much by inflation that substantial cuts are being borne in this particular field.

It is not because I come from Stanford that I make this argument. It seems to me that energy research is a national problem. Brookhaven and Felmi and Stanford are three of what used to be eight laboratories that we gave funds to in 1968, when our energy problems were not so dangerous.

Mr. Chairman, no part of this is meant to be a criticism of the committee; it is simply to express the view that some priority should be afforded to the field of high energy physics research.

Mr. BEVILL. Mr. Chairman, obviously the committee agrees that this is a very important program. It is one of the few programs that got increased this year.

Our subcommittee, of course, has been very keenly interested in the Three Mile Island incident. We have followed it closely. We have taken a real interest in insuring the safety of nuclear power. We have been very, very generous when it comes to money for safety of nuclear power. We have funded the complete examination of what happened at Three Mile Island. We funded the development of improvements in reactor systems, we funded nuclear safety in general, and we funded the handling, storage and disposal of nuclear waste.

This committee has taken the initiative to place Federal inspectors at every nuclear powerplant in operation in this country.

So we do not want anyone to feel that we are underestimating the importance of the safety in the use of nuclear power.

Speaking of the Nuclear Regulatory Commission, we did put several hundred million dollars in there; we increased the personnel to 3,268. We increased funds for the licensing division. We are hoping now that the Nuclear Regulatory Commission will be able to go ahead and, of course, following all the stringencies of safety that we are all concerned about, license these plants. We hope they will be able to make the necessary licensing decisions so that these plants can start producing electricity and utilize the tremendous investment that we have in these plants.

Mr. Chairman, there is just one more thing I want to mention, and that is the Tennessee Valley Authority. TVA has an excellent record in research and development. It is doing research on advanced ways of using coal, and it has been very successful. It has been the most outstanding institution in the country, I would say, on energy research and on developing fertilizers that are now used throughout the entire world. The TVA has done a tremendous job in all these areas. They are in the process of building a coal gasification plant that will be a demonstration plant. Actually it is not going to cost the taxpayers any money because the TVA is required to repay the Treasury with interest. So this is going to be and will be the first commercial coal gasification plant in the country. It will use 20,000 tons of high sulphur coal a day. It is to be built on land previously purchased as a nuclear site. It is very near the Tennessee River. They already own the property.

Congress has already appropriated funds for the plant. Work is already underway, it is ready to move forward. The funds are in here now to move on with that coal gasification plant.

The synthetic fuel legislation will be implemented with all the rules and regulations. We will have a demonstration plant in operation. The plant will produce a gas that can be used to produce electricity in fuel cells and will be used for that purpose within the seven-State TVA system. It can be used as an industrial fuel or as a feedstock.

Again I hope that the Members will support the subcommittee. We have worked hard on this legislation. Frankly, this bill has been the most difficult bill, the most difficult appropriation bill, that we have ever put together. We have had to weigh the pros and cons on each item, and we hope the Members will support the committee on this because everyone has his own ideas on what ought to be done and how much ought to be done on this project or that project or on this type of energy or that type of energy.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman yield?

Mr. BEVILL. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I commend the Committee on Appropriations and its Subcommittee on Energy and Water Development for bringing to the floor of this House a bill which is a model of budgetary restraint and an ordering of national priorities.

The orderly development of our water resources is vital to the well-being of the country.

The projects to be undertaken as a result of this legislation are not outlays for themselves alone. They are outlays to preserve and increase the wealth of America.

This is especially apparent in the measure's approach to flood control. The projects funded in H.R. 7590 are specifically aimed at avoiding costly and wasteful flood damages to the homes and farms and commercial properties of Americans, and at preserving the enormous investment in public facilities.

It is estimated that in calendar year 1979 alone, the Federal water resource development programs carried out by the agencies funded in this bill prevented more than $96 billion in flood damages.

Huge though it is, that figure does not include the enormous benefits of energy production, transportation, water supply for municipal and industrial use and irrigation, and of other program purposes.

Representing an area of the United States that is particularly subject to floods because of the steep mountains and narrow, winding valleys, I know first hand the benefits that flood control projects can bring.

Existing flood control facilities in my eastern Kentucky district have prevented hundreds of millions of dollars worth of damages over the years.

Indeed, they and they alone have made possible the continued human habitation in areas that are rich and productive in energy resources during these critical energy-short years. The homes of thousands of my people would literally have been washed away and communities permanently destroyed but for the preventive benefits of reservoirs and flood walls in certain localities.

While I am grateful for all that has been accomplished up to now—there is still a long way to go to provide thousands of eastern Kentuckians with the kind of protection they must have to be secure in their homes and farms and mines, and places of business. There is still much work to be done to prevent the kind of flooding that ravaged the Tug and Levisa Forks of the Big Sandy River so severely 3 years ago this past spring.

But flooding in the Big Sandy Valley is no new thing. The Corps of Engineers has conducted surveys on the main stem and its tributaries for at least a half century.

A particularly bad flood occurred in 1957, and that spurred local and State action, and the Corps of Engineers and the Congress agreed that something had to be done.

First, we built Dewey Lake on Johns Creek, a tributary of the Levisa Fork. It was followed by the John W. Flannagan Lake and North Fork of the Pound Lake, both in Virgina, and both tributaries of the Levisa Fork. Then came Fishtrap Lake in Pike County, Ky., and also on the Levisa. Presently the Paintsville Lake is under construction. None of these has attacked the severe flooding on the Tug Fork which forms the boundary between my State and West Virginia, and whose residents were hit by the savage flood of April 1977.

I asked the Corps of Engineers District Engineer in Huntington, W. Va., to give me a figure on the total damages that have resulted from floods in the Big Sandy basin since 1957. The answer I got was this, $340,000,000.

Of this, some $220 million damages occurred on the Tug Fork, and approximately $120 million on the Levisa Fork.

Mr. Chairman, for the portion of that 43-year period in which flood control reservoirs have been in place, damages prevented to date have amounted to $333,381,000.

If those reservoirs had not been in place, the damages would have amounted to $673 million. And that is a tremendous loss for so concentrated an area.

I ask that the entire text of a letter from the Corps of Engineers detailing these losses and loss preventions be included at this point in my remarks in the RECORD.

DEPARTMENT OF THE ARMY,
Huntington, W. Va.

Hon. CARL D. PERKINS,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. PERKINS: I refer to the 20 June 1980 request for Big Sandy Basin flood damage data made by Mr. Ben Reeves of your staff.

Based upon estimates of damages along the main stems of the Tug and Levisa Forks only for the period 1957 to date, total flood damages amounted to nearly $340 million. Tug Fork experienced approximately $220 million of the total damages with the remainder of approximately $120 million occurring along Levisa Fork. Estimates of damage along tributary streams are not available at this time.

Direct non-reimbursable "costs to government" due to flooding during this period amounted to about $40 million. This estimate was developed for all flood events during the period by using the results of a detailed study of disaster recovery and relief efforts during and following the April 1977 Tug Fork flood. Total government expenditures were much greater because of the use of the Federally sponsored low-interest loan programs available to areas declared eligible for disaster relief.

A total of about $333 million in flood damages has been prevented by the major flood control projects in the Big Sandy Basin; namely, Dewey, Fishtrap, and Paintsville Lakes in Kentucky and John W. Flannagan and North Fork of Pound Lakes in Virginia.

Project:	*Damages prevented to date*
Dewey Lake	$40,531,000
Fishtrap Lake	179,148,000
Paintsville Lake (not completed—involuntary storage)	3,872,000
John W. Flannagan Lake	108,240,000
North Fork of Pound Lake	1,600,000
Total	333,391,000

The Virginia projects contribute significantly to flood damage prevention along the entire Levisa Fork reach in Kentucky.

If we can be of any further assistance at this time, please advise.

Sincerely,

JAMES H. HIGMAN,
Colonel, Corps of Engineers.

Yatesville Lake on Big Blaine Creek in Lawrence County, Ky., was another link in the system of flood control recommended by the corps, and it was authorized by the Congress 15 years ago this fall.

But something happened along the way to construction of Yatesville. First the Vietnam war emergency delayed its initiation. Then it fell between the cracks of tight budgets during the Nixon administration, although construction actually got underway in 1973. By June 30, 1975, Congress had appropriated $3,816,000 on the project.

Land acquisition continued, and contracts were let for the principal dam structure.

By the time appropriated funds ran out at the end of fiscal year 1978, the United States had acquired 13,096 acres of farms and woodlands in the reservoir area. A roadway had been built to the dam site; and, in all, nearly $12 million (about 20 percent of the total cost of the project) had been expended.

Perhaps more than 200 families had been uprooted from homes and farms that their ancestors had occupied as long as 175 years.

This is the unfortunate truth about that 1977 halt in work on Yatesville: Nothing had changed in the interval between the initiation of construction and that date to make the project one whit less necessary or desirable.

There was no lessening of the threat or the danger. The Big Sandy and its upstream forks were as treacherous and as menacing as ever.

The people in the Big Sandy Valley were in as much danger in 1977 as they had been 20 years earlier, in the big flood of 1957; and in fact it was in the spring of 1977 that the most disastrous flood in memory occurred in that stream's valleys. The total cost of that disaster is still being reckoned up, but already the Federal Government has had to lay out more than $100 million in rehabilitation and other costs.

Congress authorized Yatesville Lake in 1965, acting on the recommendation of the Secretary of the Army, who submitted a report saying that with water quality included as a project purpose the benefit-to-cost ratio was 1.9 to 1.

Now, we all know that the Committee on Public Works considers 1.1 to 1 an entirely justifiable ratio to move ahead on a project's construction.

Now, there may be some who say that economic conditions have changed since then, and that the escalating cost of construction has altered the ratio downward.

But, Mr. Chairman, the ex post facto rule does not apply to Corps of Engineers flood control projects. The only benefit to cost ratio that applies to any project is the one that is established at the time a project is authorized. And as far as I and this House is concerned, the benefit to cost ratio for Yatesville Lake is—and out to be—1.9 to 1.

The Committee on Appropriations has very properly pointed out in its report accompanying this bill that historically, the actual benefits have in many cases substantially exceeded the estimates of benefits used to compute the ratio. These computations are conservative in virtually all cases. And I predict that this will be borne out in the case of Yatesville Lake. I urge the adoption of H.R. 7590, Energy and Water Development Appropriations for fiscal year 1981.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILLE), as he usually does, has done his excellent job in presenting this bill.

This bill could be renamed, I feel, the energy and water development investment bill of 1981, because every dollar put in this bill returns to the taxpayers of the Nation a return on that taxpayer investment, unlike some other appropriation bills that are not required to show a benefit. This bill, not only in the water projects but in energy, will return in the future manyfold the investment that the taxpayer makes today.

The bill carefully balances short-term investment, yielding modest returns, with the longer-term commitments, yielding a greater potential at the lowest reasonable risk. Neither the energy resource needs of our country nor the water resource needs of our country are favored at the expense of the other.

Sometimes we are inclined to play one against the other. This bill very carefully balances the requirements and needs between the two.

While many of our colleagues have noticed the bottom line for the bill is within the President's recommendation, the specific allocations in this bill are quite different than what the President has proposed.

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There are several reasons for this. First, Mr. Chairman, the President and his advisers have not shown the knowledge nor the will needed to identify the energy and water needs that will be facing this country, much less decide upon the best option, the best way to solve these needs.

One of the many examples of this is the New Melones Dam in California, where over $340 million has already been invested to complete this hydroelectric facility. It was completed a little over a year ago. But it is not being used to its full capacity, only about one-third of it, because the Secretary of the Interior, Mr. Andrus, still has to approve its filling, and he has not done so. While we are not using the facilities that the taxpayers have already paid for, ready to use, we are losing the 780,000 barrels of imported oil per year that this dam would save. We keep on burning this amount of oil.

It is a decision which could easily be made any day and we we would start getting the full benefits of this project.

The President's solutions and recommendations this year often do not look beyond November 1980. I think we all realize why this is true, but it is tragic, I think, for our country not to concern ourselves about the leadtime and longtime returns of some of these projects, The President would like more money in areas that are popular this year.

The committee did not really go along with this idea. Where we recommended some higher funding levels than the President, it is generally for one of the following reasons: The President's proposed budget cuts ongoing construction projects and some of the research and development projects and would certainly have caused serious lags in completion time, resulting in great, cost overruns and delayed benefits. In effect, the President would raid future budgets to meet this year's 11th hour promise to balance the budget.

The committee rejected this inflationary short-sighted approach and has made some changes.

In other cases, the President's budget simply deferred crucial decisions on some very important projects until after the November 18, 1980 elections. For example, the President requested funds neither to continue nor to terminate the controversial Clinch River reactor. The President gave similar treatment to the problems of storing spent nuclear fuel. We have had considerable discussion about how we are going to dispose of the spent fuel rods and to provide security and to recover the energy potential in this.

Mr. Chairman, if the President and the committee had shared the same goals, the bill might be somewhat different; but I really doubt it very much, because in too many cases we did not seem to get the cooperation from the Department of Energy that we really needed. They were reluctant to respond to requests. Often the language given to us was difficult to follow. It seems to me that it is a difficult situation our country is in. We need to have a spirit of cooperation better than we have had this year. In many cases, DOD failed to adequately justify its own requests, and when the chairman and some of us asked questions and tried to communicate with the Secretary, usually we ran into a blank wall. The result was not an attempt by this subcommittee to try to embarrass anyone but to meet the needs of the country. It is a difficult decision without the benefit of certain administration input. We had to make some decisions, and we made those decisions.

There is going to be, probably, some requests today to increase the funding along certain lines and I realize—and we have discussed this previously here in the debate—that there are going to be certain areas that many Members are going to feel strongly should be increased.

And again, if the committee were not operating on an austere budget this year, if the Congress was not concerning itself with balancing the budget, there are many projects that could be appropriated more money and probably get a fair return on that investment. But the committee had to decide some priorities, and we have made those decisions.

One of the areas that has totally escaped the President and a few others is our resource development and our water resource development are completely integral. The President somehow tried to separate them. The water is bad and energy could be good. But this is more than a philosophy or point of view. It is a fact that we cannot have one without the other. They are very closely related.

Where can we turn in the future for adequate electric power? I think we all concede that by the year 2000 we are going to need several quads more of electric capacity than we have today. Where is it going to come from? Coal? Coal is one of the sources of energy that is the most often recommended, but if we go to coal to produce electricity by the year 2000, it has to be moved somehow from the coal mines to the generating stations. How is it going to be moved? Well, some of the ways which have been discussed is by slurry. If we do move it by pipeline slurry, it is going to take huge amounts of water. If we decide to move it by barge, we are going to have to have navigation on the streams to get the coal from the mine to the place of its ultimate use, the generating station.

After it gets there, how are we going to operate these generating stations which need large amounts of water for cooling? If we decided to go fusion, it is still going to take lots of water for cooling. Nuclear fission is going to take lots of water for cooling. So any direction we go, we are going to be needing large amounts of water.

So it appears to me that you cannot really separate water projects and energy projects, and the Congress wisely put both of these responsibilities in the subcommittee. I think Congress is to be congratulated for that.

One other exciting energy source, sometime in the future, is shale oil. Again, if we look at shale oil as a solution as an alternate source of energy for the future, it is going to take large amounts of water to satisfy the environmental problems with developing shale oil. We just do not have the water in the areas where the shale is today. So we are going to have to develop water resources.

If we go the other route, for gasohol or synthetic fuel for our farm vehicles, for our tractors, for our trucks, for the automobiles, for the homes of the country, how are we going to get this alcohol developed? Again, it takes large amounts of water. We were told in the committee that to process 65,000 bushels of corn per day, which would be the size of a distillery to produce this alcohol for gasohol, it would take as much as 4½ million gallons of water, almost an unbelievable amount of water.

That does not consider irrigating lands that we will probably have to irrigate to produce all of the grain or the starch material to produce this alcohol for the future needs for synthetic fuel. So water is a very integral part of our energy needs for the future.

Mr. Chairman, I want to close in commending the chairman, the gentleman from Alabama (Mr. BEVILL), the other members of the committee, as well as the staff, for their fairness. Chairman BEVILL has always been very fair with every member of the subcommittee. He is most patient with the witnesses and, as he has told the Members, we have had a great many witnesses over several months and 12 volumes of reports that we have. I thank the chairman and the staff members for their hard work in presenting this bill.

Again, I realize that there are going to be some amendments offered to increase it, but please, I advise the Members that if we want to get a bill this year, we better not increase this bill. We feel we have a sound bill, one that is dependable, and any increase is going to go over the budget. If you are budget conscious, and I think every Member of this Congress is, we just simply have to live within this means. I think it is a sound bill and a bill that we are certainly proud to bring to the floor.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I have a question on the subject of photovoltaics. I note in the committee report, that Dr. Stelzen estimated that by 1990 the cost of electricity could be as little as $1.20 per watt, at least as a goal.

As a member of the committee, does the gentleman feel that there is progress being made in developing this technology?

Mr. MYERS of Indiana. The gentleman will note, if he will read on page 15 of our report, we provide for photovoltaic development of $127 million. And then for capital investment, we provided $7 million. So that is $134 million for photovoltaics. This is probably not as much as some might like, but it is moving as fast as I think we can move in photovoltaics.

The problem on photovoltaics, of course, is the conversion. It takes very large panels to convert from electricity directly without the use of some type of conversion to convert the Sun rays directly to electricity. It takes large panels. They are working on a smaller panel, and this is what this money is for. We are trying to develop smaller panels. There are a number of different schemes being used today, trying to increase the efficiency of the photovoltaic system.

As the committee found, of the sources of fuel available for future electric production, outside of hydroelectric, the cheapest will probably not be solar. It is about the highest per kilowatt hour. The cheapest is going to be from nuclear, closely followed by coal.

□ 1510

Today's projections are that nuclear is a more realistic economic producer of energy than any other source; nuclear and coal look the best for the future. But that does not mean the committee is not concerning itself with photovoltaics, even though some advise us that it is not going to be a large source of conversion in the future.

Mr. REGULA. Mr. Chairman, I would like to get the gentleman's comments on the Portsmouth project. Earlier today the gentleman from Ohio (Mr. BROWN) had a colloquy with the chairman of the committee concerning this project. I would like to expand on that.

As I understand it, the committee testimony indicated that the centrifuge project for enriching uranium is a very cost-effective program. Would the gentleman agree with that?

Mr. MYERS of Indiana. There is no question from the testimony that the committee has received, that the centrifuge is the most efficient. As far as electricity consumed in production of nuclear fuel, however, at Portsmouth and also at Tennessee, we have upgrading and improvement.

Now, according to the Department of Energy, we are going to produce from that improvement an upgrading, both at Portsmouth and down in Tennessee, enough uranium for the next several years; in fact, they say we have about a 3-year supply of uranium fuel right now, with the projection of reactors; but that does not mean we are going to be able to meet the needs by 1990 or the year 2000.

So we are continuing the construction of the centrifuge plant at Portsmouth. Now, that will come on line with this 1 year slippage we are talking about by the year 1983; but with the 3-year production we already have on board on inventory, with the upgrading and improvement of the gaseous diffusion, which in another year will be completed, we are going to have the capacity we need; so by the year 1983 to 1985 when this does come on line for the centrifuge, it will be in time.

Now, as the gentleman will concede, we have agreed that we will go back and take another look at it. This is the information we have today, but we are going to go back and review to make sure that the information is correct. If it is not correct, we will try to make some changes in the future.

I know the concern the gentleman from Ohio has expressed on this plant. The committee is well aware of it. We have agreed we will go back and review and possibly go out to the site and make sure that the committee is correct on this.

Mr. REGULA. It is my understanding that this slippage of a year may result in a $200 million cost, because of not spending $138 million this year. Is that reasonably accurate?

Mr. MYERS of Indiana. There is going to be some slippage and there is going to be some additional cost. I cannot relate exactly how much it is. It is close to that figure, according to projections.

But again, if we went ahead and completed it now and borrowed the money, we would have a slippage there also. We would have a tremendous cost. So it is a trade-off that we are going to take another look at. I cannot verify the figures at this point. These are figures that have been entertained and have been accepted and have been heard by the committee; but in order to make sure we are correct, we have agreed we will go back and review it and we will work with the gentleman from Ohio in reviewing these figures and see if we are correct in this.

Mr. REGULA. It seems that the centrifuge enrichment process is an extremely cost-effective process in that it uses apparently about 5 percent of the electricity to produce enriched uranium, as opposed to gaseous; is that the evidence we have?

Mr. MYERS of Indiana. It is a very efficient thing, the most efficient. If we were starting today and did not have the capacity that we have today, of course, we would go centrifuge. The rest of the world on new plants is going centrifuge. I am sure every new plant in the near future until they develop a newer process will use the centrifuge process. There is no question about that. The plant at Portsmouth is going to continue to modernize with the additional centrifuge plant; but we already have that capacity with the gaseous diffusion. We have a huge investment there; so we are going to continue the upgrading and improvement of that in the meantime.

If we scrap it all today, I am not sure I could agree with the gentleman; but at least we are going to go back and review and see if the trade-offs we are making are wise.

Mr. REGULA. It is my understanding the United States puts nonproliferation conditions on any of the purchasers of the enriched uranium. Probably we are the only nation that does make that kind of a condition. Was that indicated by the testimony in front of the committee?

Mr. MYERS of Indiana. Well, of course, we are attempting right now to reach agreements with all the countries to sign the treaty and make agreements like that. The issue with India is over the issue about what they will do with the spent fuel rods. Will they return them for reprocessing? Will we control the proliferation of plutonium or the danger in the spent fuel rods?

At this point, it is up in the air; but I think we will have to, and I think the United States should be producing, enriching the fuel here, so we will control the source, because if we do not, the other countries are in the process now of being in the market. They are going to be selling it and maybe they will not have the same controls we would require; so it is to our best interest of peace in the world to control the manufacture for the upgrading, for the production of nuclear fuel. We should move on with it.

I hope some day we can produce all the nuclear fuel in this country and control it that way.

Mr. REGULA. One last question. As I understand the gentleman's comments, the evidence is persuasive that the centrifuge process is extremely cost effective and that the only limitation on the amount put in the bill was budget considerations; is that correct?

Mr. MYERS of Indiana. Well, that is not entirely so, because as I said, we are told we have almost a 3-year supply today in inventory of processed fuel already enriched, ready to go; so as new plants come on and, as the chairman said, we have about 40 under construction now of nuclear reactors, some of which would be licensed, hopefully, in the next year, there will be use of part of that; but the department feels that with this 1-year slippage that we have provided in the Portsmouth plant, by the time it comes on board, we will have enough available fuel capacity without needing it any sooner than about 1983 to 1985.

Mr. REGULA. Well, I thank the gentleman. I particularly appreciate the gentleman's comments that we are going to take another look at this in terms of its priority in relation to other projects.

Mr. MYERS of Indiana. Well, I can appreciate the gentleman's concern; not only is it a regional concern of his, but also to the country, because as we have shown here, I think it is in our interest in this country to produce the enriched uranium in this country, so that we do control it and after the spent fuel is used, wherever it is, whether in this country or at a reactor site, something should be done, a decision should be made about the reprocessing of spent fuel rods.

The danger of the spent fuel rods out at the reactor site is greater than it needs to be. The exposure is greater.

In this committee we are urging the President to make a decision. We made an agreement in Congress that we would have away from the reactor fuel storage, a permanent site, by 1983.

With the progress being made now by the Department of Energy and this administration, they will not have it by 1985; so there should be a decision made. We should be moving in that direction. It all goes together, I think.

I congratulate the gentleman for his concern. The gentleman has talked to every member of this committee. He has appeared before the subcommittee. He has a deep interest and we will work with the gentleman and we appreciate his contributions.

Mr. REGULA. Mr. Chairman, I thank the gentleman.

Mr. MYERS of Indiana. Mr. Chairman, I reserve the balance of my time.

Mr. BEVILL. Mr. Chairman, I yield 7 minutes to my colleague, the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I believe Chairman BEVILL and ranking member MYERS have done an excellent job in outlining the general provisions of the bill. I shall not repeat that, except to say that as a member of the subcommittee, I support the bill enthusiastically. While I wish it contained more money in certain areas for things many of us would like to do, things which will be debated here in the next few hours, I think on balance it is a very good bill.

Now, this committee for years was known as the Public Works Subcommittee. Indeed, the emphasis in those days was on public works; the Corps of Engineers, the old Bureau of Reclamation, now called the Power and Water Agency, and that is where the emphasis was; but now in this bill, the total of which is $11.8 billion, the majority of it, or $6.8 billion is for the Department of Energy.

So I think the renaming of the subcommittee was quite appropriate. It is now known as the Subcommittee on Energy and Water Development; and appropriately so, since the Corps of Engineers' portion is $3.1 billion, as opposed to the Department of Energy's $6.8 billion.

The principal point I would like to leave with my colleagues today has to do with the rather sensitive subject matter of so-called pork barrel, which I respectfully submit is in the eye of the beholder.

I am just going to use one case as an example, a case in the district I am privileged to represent, because this particular project, this study and this investigation, was cited in a recent editorial some weeks ago in the Washington Post. I suppose it was editorialized as a horrible example of the so-called "pork barrel."

□ 1520

Unfortunately, the Post did not do its homework. It did not know anything about the project, as the editorial indicated.

Let me just tell my colleagues about it so they will perhaps get in perspective this Member's view of what someone else likes to call "pork barrel."

The editorial referred to the expenditure of $60,000 for the city of Lake Elsinore, Calif., in Riverside County, in southern California, and it implied that, because I was a member of the subcommittee, ipso facto there must be something peculiar about this project, that somehow it was a little goodie that got inserted into the bill. I assume that is why they put it in. They did not say.

Let me tell my colleagues about the city of Lake Elsinore, Calif., very briefly. It is a small community surrounding a lake called Lake Elsinore. Many years ago this lake was dry, but it has had water in it for the past 10 to 15 years. We have now had 3 very rainy years in a row in California. In most regards this is, indeed, a blessing, even though it does bring some damage with it. But these 3 wet years of more than average rainfall followed years of drought, very serious drought where people could not even water their lawns or wash their cars. In particular, this lake's normal depth was 20 feet, but in January and February of this year it doubled, it rose to be 40 feet deep in a matter of days and serious flooding occurred. It inundated and drowned out, so to speak, some 700 families. They are still dispossessed of their homes because there is no outlet to this lake and the waters have not yet receded.

Let me tell my colleagues what kind of people were dispossessed. They are near the poverty level, senior citizens who lived in very small trailers, not mobile homes, trailers. The reason they lived in them was because that is all the rent they could afford, the very modest rent for the land that was at the edge of this lake.

So they have been dispossessed, they have no place to go, and still do not have satisfactory permanent arrangements. So we thought it just might be in the public interest to spend $60,000 in fiscal 1980 and $175,000, which is in this bill before us, for fiscal 1981, to study this problem, to see if there is a solution and to see what the options are, including doing nothing, or having remedial work done through the Corps of Engineers. If there is a remedy to be found, who shall pay for it? Shall it be the local citizens, shall it be the State of California, shall it be the Federal Government, or shall it be a combination of all of those? What can a small city do that has a very limited tax base? What is the sensible thing to do since this is part of a much larger Federal project known as the Santa Ana River Basin.

That is what this particular pork barrel is all about. I resent the name. I resent the inference. I assume that pork barrel means a waste of public moneys which, of course, is not defensible.

But in this case, and in any like it, I would fully defend in any one of the 435 districts in this great country of ours a determination where people are flooded out of their homes as to what the best solution to that problem might be.

So I use that as one example of what some would call pork barrel. I would call it meeting a very serious public need. I thank the gentleman for yielding.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I am pleased to yield to the gentleman.

Mr. MYERS of Indiana. The term "pork barrel" at one time probably had relevance. Today I think it is used too often by those who do not know, as a cute catch-all, particularly by the media. I have observed that one person's pork barrel is not always the same for everyone. We can build a tunnel underneath New York City carrying the aqueduct for their water which serves just a few people and spend millions of dollars and it does not get called a pork barrel. But if we can save a whole community out in California or the Midwest, and California appreciates it, and the Midwest appreciates the savings from the floods, but in the New York papers they call it pork barrel because it does not serve their needs. So I think it is a term that they try to be cute with, and it is not really a word that I can find appropriate for the investment in our countrys' needs for the future.

Mr. BURGENER. I thank the gentleman for his contribution. Every single project must be evaluated on its own merits.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman.

Mr. McCORMACK. I commend the gentleman for his remarks. Coming from the West, as he and I do, we share a concern for many reclamation projects.

In the Columbia River system we have a number of existing dams to which we are adding second power houses. One of those projects, the second powerhouse at McMary Dam, was authorized this year in the public works authorization bill. It was, along with the project to which the gentleman referred, called a pork barrel project. Yet it will produce almost an additional 1,000 megawatts of hydroelectric power in an existing dam. There is no doubt at all that this is the largest block of cheap power that could be built anywhere in the United States today.

It is important that we remember that this rhetoric about "pork barrel projects" is nothing but that: rhetoric. When the projects are authorized they are frequently found to be extraordinarily valuable.

The big advantage in attacking these projects is frequently they are too far away for the general public to understand. Grand Coulee Dam, when it was commissioned, was referred to as a pork barrel project. Let us remember this.

Mr. BURGENER. I thank the gentleman for his contribution.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from the great State of Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I would like to commend the Energy and Water Development Subcommittee for its numerous positive initiatives related to important energy programs. Your strong support for nuclear energy programs should reap many benefits for the Nation in the years ahead. In particular, I was pleased to see the level of support for the advanced enrichment technologies with the possibility of early involvement of an industrial program.

Mr. Chairman, is it the subcommittee's intent that DOE provide sufficient support for the industrial project in fiscal year 1981 so that it can compete on an equal footing with the three Government-funded programs?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I am pleased to yield to my chairman.

Mr. BEVILL. Yes, the gentleman is correct. The subcommittee has indicated that it expects DOE to choose two processes to continue for demonstration in fiscal year 1981 and beyond. We expect that this choice will be made among the four technologies available, which includes the industrial proposal pending before DOE. Funding is provided to assure that all projects are advanced until the selection is made.

Mr. DICKS. Is it the subcommittee's intent that sufficient design work be initiated on a possible Richland, Wash., laser enrichment demonstration plant to support development programs within the scope of the fiscal year 1981 appropriations?

Mr. BEVILL. The gentleman is correct. The subcommittee expects that up to $1,000,000 will be made available to permit sufficient design work so that transition to construction of a demonstration plant would be cost-effective and timely should this project eventually be selected. We expect the Department to provide sufficient funding for the industrial program to permit a fair competition of the competing projects.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I want to take this time to thank my distinguished friend from Alabama (Mr. BEVILL) for yielding me this time; and the distinguished gentleman from Indiana (Mr. MYERS), the ranking minority member on the subcommittee.

The Committee on Science and Technology, which I am privileged to chair, works very closely with this committee in many of the interrelations we have for energy projects and energy research and trying to find the methods to make this Nation energy self-sufficient. It is not something where my colleagues see me standing in the well of the House asking for more money to be added to an appropriation bill. As a matter of fact, I do not think in the 18 years that I have served in this body that I have ever come to this well and asked to add money to an appropriation bill. It has usually been the other way around.

□ 1530

But I think in this case that the subcommittee in its diligence in trying to find a balance between the priorities that they had within the total bill has overlooked some very significant points as they relate to energy research and development. In the area of magnetic fusion energy, basic energy sciences, high energy, and nuclear physics, solar technology and solar applications, the subcommittee has reduced that area by $223 million below the administration's revised budget request in March. What I propose to do in my amendment is not put it back, not put all of it back, not even half of it back, but to put $107.4 million back into these various categories.

Mr. Chairman, I know that the subcommittee is diligent, as all of us are, in trying to meet the responsibilities that they have, but I think that in this case their priorities have been somewhat misguided. How are we ever going to solve our energy problems if we really do not go back to the basics, what the basic research is that is carried on throughout this country in our national energy labs, in our universities, in our industrial labs, and all the others that are conducting work in energy research and development.

I have a letter that I have received today from the Association of American Universities signed by Thomas A. Bartlett, the president. He states, and I quote:

> If the proposed cuts stand, major research laboratories will be shut down for several months out of the year, long-deferred maintenance will again be sacrificed, and new facilities essential to our ability to remain scientifically competitive will be delayed. And this is contrary to the long-term needs of the nation, and these funds should be restored.

So, Mr. Chairman, I urge my colleagues to join with me in supporting this amendment when it is offered at the proper time.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am very happy to yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. I thank our distinguished chairman for yielding. I would like to associate myself with his remarks, most particularly with regard to fusion and to solar energy and high nuclear physics. If we do not move and move now, we will not prepare for the 1990's, and we will not have the independence we must have if this country is to get itself free. I congratulate the chairman on his proposal.

Mr. FUQUA. I appreciate the comments of the gentlewoman, and I certainly appreciate her joining in supporting this and in recognizing the importance of this to solve our energy needs.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I would be happy to yield to my friend, the gentleman from New York, and also a distinguished member of the Committee on Science and Technology, who chairs a very important subcommittee relating to many of the items that will be included in this amendment.

Mr. OTTINGER. I would just like to congratulate my chairman for his excellent presentation and to say that with respect to solar energy, the figures that were proposed by the President in his revised budget make a mockery of the President's announced goal of reaching 20-percent solar by the year 2000. Indeed, the Department's own internal presentation from the Assistant Secretary for Solar Energy and Conservation so indicates to the Secretary; so that the cuts that are made by the Appropriation Committee even below that level would just make it completely impossible for us to make the progress that is necessary to meet the President's goal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BEVILL. Mr. Chairman, I yield 1 additional minute to the gentleman from Florida (Mr. FUQUA).

Mr. OTTINGER. If the gentleman will continue to yield, I am very pleased with the amendment that my chairman is offering, and I hope the whole House will support him overwhelmingly.

Mr. FUQUA. I thank the gentleman. I want to again point out it is below the President's revised request; it is below the funds in the House budget resolution; and it is below, less than half of what the President requested in his revised budget request in March of this past year.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I will be happy to yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. I want to congratulate him for his presentation and say that I will support his amendment. I shall also speak on the fact that the magnetic fusion program is seriously underfunded, even with the amendment, and I shall address that separately.

Mr. FUQUA. The gentleman is absolutely correct.

Mr. McCORMACK. I do want to say that I very much appreciate the gentleman's amendment, especially with respect to high-energy physics and nuclear physics and basic energy sciences. These are most important programs, and must be funded at higher levels than provided by this appropriations bill.

Mr. MYERS of Indiana. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I would address these questions to the chairman of the subcommittee, but first it is necessary to make a general statement so that my questions can be understood. When we were arguing over the budget here recently, there was some discussion about the fact that in addition to trying to put some limits on taxing and spending, we were trying to put some limits on lending as well. There was a discussion throughout that anguishing process in the spring of trying to limit Federal credit assistance programs, and that largely came about as a result of the interest that we had in the Chrysler bailout last fall. So during the course of the budget process, the House did pass as a part of the fiscal year 1981 budget proposal a sense-of-the-Congress resolution which provided, among other things, that it is the sense of the Congress that the President and the Congress through the appropriations process should limit in fiscal year 1981 the off-budget lending authority and then set aggregate ceilings for the amount of Federal credit assistance. The aggregate ceilings were calculated by reference to recommendations that the President of the United States had made in the budget proposal. We began talking about all of this because Federal credit assistance programs are really out of control. We do not know the nature or extent of them. All we know is that they are approaching some $500 billion. Most of it, of course, is off the budget. What we are doing, of course, in that process is backdoor spending because we are subsidizing certain activities with no systematic way to fairly allocate the subsidies to particular projects. Furthermore, the economic impact of credit is not well defined. We really do not know what it does to our economy. That was the rationale that underlay the budget proposal and that section of the proposal which said that through the appropriations process we should begin to bring order to all of our credit programs.

I have been watching for the appropriations bills to come to the floor because I am eager to see whether or not we here in the Congress are going to carry out that very important resolution that we just agreed to about 10 days ago. The bill before us has a number of credit assistance programs in it. One that I am particularly interested in is the geothermal resources development fund. I notice that the gentleman's committee set a loan guarantee limit for now and through September 2, 1984, of some $500 million. It is delightful to me to see that the committee is beginning to act in this area. But what troubles me is how the committee arrived at this particular number. In looking at the record, I notice that just last year there was some $350 million authorized for guarantees of this nature. However, only $43,400,000 in such guarantees had actually been made. So the affected agency actually right now, if you do not do anything, has plenty of authority left. In fact, they can go all the way from $43 million up to $350 million.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 additional minutes to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman. Yes, in spite of the fact that they do have apparently a reservoir of credit authority, the committee has seen fit to go ahead and boost that authority up to $500 million. That seems to me to contravene the intent of our resolution here. Furthermore, it seems to go against the President's recommendation that for fiscal year 1981 credit assistance activities in this category be limited to $206 million.

So, Mr. Chairman, I apologize for the fact that I have not come to you with these numbers before now but I am only a freshman here and I do not have much staff. I have dug these numbers out on my own here today, just learning recently that the bill would be coming up so soon.

□ 1540

Mr. BEVILL. I think the gentleman's point is commendable. To answer the question, these loans must be approved by banks, with the Government guarantee limited to 75 percent. I might add there has been no default on any of these loans. The record is perfect. This money is for the reserve.

Mr. BETHUNE. Mr. Chairman, I thank the subcommittee chairman for his explanation but it does not quite satisfy me. It appears to me that we really have not limited the agency and what it can do in this particular year with respect to loan guarantees. As a matter of fact, we have actually increased what they can do with respect to loan guarantees.

Mr. BEVILL. As the gentleman points out, there is a $500-million limit spelled out in the bill. The loans must be in accordance with the basic legislation. That is the limit we have.

Mr. BETHUNE. Then it is increased this year from $350 million to $500 million?

Mr. BEVILL. The gentleman is correct.

Mr. BETHUNE. Would the subcommittee chairman acknowledge that presently they have only used some $43 million of the authority?

Mr. BEVILL. That is the reserve. These loans have been approved by the banks. We have a perfect record, but that money is for a reserve to back up any loans which may default. We have had none in defaut, I am happy to say.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MYERS of Indiana. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. BETHUNE. Mr. Chairman, I want to make one additional point. I think we must come to grips with the business of controlling this runaway Federal credit assistance. That was our intention in the fiscal year 1981 first budget resolution.

Mr. Chairman, with all due respect, the motion that it does not cost anything to make a loan guarantee just because the loan is repaid is fallacious because, as a matter of fact, we are redirecting credit and in many instances we are directing credit to a nonproductive sector of the economy as opposed to a productive sector and, of course, that is inflationary.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I do yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I commend the gentleman for his watchdoging efforts. They are commendable and the gentleman should keep it up. However, I would hope in this particular case we would be able to guarantee more loans, not less. Each one should be very carefully scrutinized. I think this is an excellent use of the Federal credit but Federal credit cannot be unlimited, the gentleman is quite right in that. The fact the gentleman brings to our attention will make us look at it very carefully every year. I think it is a very positive thing, and the committee is not at odds with what the gentleman is trying to do.

Mr. MYERS of Indiana. Will the gentleman yield?

Mr. BETHUNE. I do yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Perhaps this is not the place to control the amount of contingent liability of the U.S. Government. Perhaps the Committee on Appropriations should not have that responsibility but at least we are assuming that responsibility at this point in the appropriation bill as the only vehicle to use. Perhaps it is not as low as needed but it is a way of achieving this investment more cheaply than having the taxpayer actually put out the money.

Mr. BEVILL. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I rise today to talk during general debate on this bill because I, like the previous speaker, am very confused about what I read in the bill and in the report. I note on page 95 of the report that under "construction, general," we plan to spend $1,657 million in a category of general construction on some 289 projects. There will be 60 planning projects and 229 construction projects.

Mr. Chairman, when one does his homework and goes a little more deeply into the subject, the thing that confuses me is that of the 289 projects, 8 of the projects are getting special treatment.

Let me share the facts with the House:

Eight projects being funded in this bill out of the 289 projects, exceed $30 million in funding. One of the eight projects is funded at $225 million itself.

Let me describe these eight projects:

First, the Tennessee-Tombigbee Waterway jumps out at you at a total annual cost for 1981 of $225 million.

There is a project for $32.9 million for Dry Creek, Calif.; $60.3 million for the Russell Dam in Georgia; $43 million for the lock and dam No. 26 in Illinois;

$31 million for Taylorsville Lake in Kentucky; $99 million for the Red River in Louisiana; $73.9 million for the Bonneville Plant in Oregon; $50 million for the Cooper River in South Carolina.

Mr. Chairman, the total for the eight projects comes to $625.1 million. That means that on 281 projects we are spending $1 billion 31.5 million. That means one-third of the construction money in this bill is for only eight projects while two-thirds of the money in this project are for 281 projects.

Mr. Chairman, I would like to read an editorial which appeared in today's New York Times which is entitled, "River of No Financial Return." I remind my colleagues as I read this, we already spent in 1980 $246 million on the Tennessee-Tombigbee Waterway.

The New York Times reports today:

> Anyone credulous enough to believe that Congress seriously wants to hold down expenditures had better take a close look at the $3 billion Tennessee-Tombigbee Waterway. The estimated cost of this pork barrel rises higher every year while its alleged benefits fade. Yet Congress keeps appropriating more funds to push the Waterway onto depressed areas of Mississippi and Alabama. It is a triumph of political muscle over common sense.
>
> The Waterway has been a boondoggle from the start. It would create a barge route from the Tennessee River to the Gulf of Mexico, paralleling another perfectly usable route known as the Mississippi River. Calculations of benefits and costs have repeatedly been jiggered to justify the construction, while unfavorable audits have been suppressed. The only encouraging news is that this Federal benefit is becoming so embarrassingly expensive that other Members of Congress are having second thoughts.
>
> The Waterway's northern section, the only part so far authorized, would cost almost $2 billion. The southern section which would be needed to complete the route would cost at least $1 billion more. Mississippi and Alabama have shown little enthusiasm for putting up their own money as required by law for related costs. As a matter of fact they have contrived to get some other Federal funds for bridge construction counted as their contribution.

Mr. Chairman, there was some discussion earlier about pork barrel and I think there are many worthy, worthy projects within this legislation but I think the word pork barrel should only be used on those projects specifically placed in legislation for the reelection of particular Members of Congress.

Mr. Chairman, I would not call the Tennessee-Tombigbee Waterway a pork barrel project. I would call it a pork canyon. It is a canyon that we are filling up with Federal dollars, at taxpayer's expense, at the very time many of the members of this committee are calling for restraint in the budget.

Mr. Chairman, I ask my colleagues to support the Pritchard amendment and save $200 million on this project.

Mr. MYERS of Indiana. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise for a couple of reasons. First, to express my appreciation to the members of this subcommittee for the very, very difficult job they have before them. I would like to thank the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL) for his kind cooperation in a specific project that very much involves my own district. I would like to express my appreciation to the ranking member, the gentleman from Indiana (Mr. MYERS) for his cooperation as well.

Beyond that, I want to comment just briefly upon the remarks of the gentleman from California (Mr. BURGENER) in which the gentleman referred to the fact that some would have us legislate in this country, solve public problems in this country by responding to the editorial pages of the Washington Post or the New York Times. I frankly have had for the first time an opportunity to view this committee doing a very difficult job of screening appropriations, trying to cooperate where they can while at the same time using a very, very well-sharpened scalpel to make sure they apply the public taxpayers' dollars to the best possible uses and needs in this country.

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Further, I rise to enter into a brief colloquy with the chairman, if I might, the gentleman from Alabama (Mr. BEVILL).

Mr. Chairman, I refer to page 47 in the report of the committee. Specifically, I am referring to a solar energy project that is scheduled and in the process of being built in my district in California. That project, as the gentleman knows, is the cornerstone of our national commitment to go in the direction of development of solar energy; in this case specifically, to develop commercial application of solar energy. Within the language of the bill, it provides on page 47 $8 million from the fiscal year 1980 deferral.

Specifically to outline, it is my understanding that originally there was in the 1980 supplemental $36.5 million for that project, which would take it most of the way to completion. The following year, we were going to have in the appropriations bill the balance of $10 million that would be necessary to complete the project.

When some questions were raised within the committee regarding the project, very appropriately there was a review made, and a compromise was developed to redirect the project. As I understand it, there is $8 million in 1981, which is designed in part to help encourage that redirection, which hopefully will maximize the potential commercial use of this project. Is that correct?

Mr. BEVILL. The gentleman's understanding is correct. The compromise is to rescope the project, redirect it, and make it a test facility. That is correct.

Mr. LEWIS. It is also my understanding that in the last sentence it says:

> The committee will consider remaining funding requirements in future appropriations actions.

That line, as I understand it, is designed to make sure that following a report from DOE that will be reviewed by the appropriate committees, at that point in time either the remaining $10 million will be placed in that appropriation bill which most closely follows that report, or it may indeed be expanded further if the need indicates that.

Mr. BEVILL. The gentleman is correct. Certainly, the subcommittee supports this project.

Mr. LEWIS. Mr. Chairman, I want the gentleman to know that I very much appreciate the colloquy, and also the gentleman's cooperation throughout this very difficult process.

Mr. BEVILL. Mr. Chairman, I yield such time as he may desire to the distinguished chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, we have a big country with many resources. One of our biggest is the Mississippi River system which drains 40 percent of our Nation and serves the people from New Orleans to upper Minnesota, where it begins. The same is true for all of our water resources throughout the country. Bonneville Power is an important resource in the Northwest area.

Years ago, when we spent money developing our power resources, nobody could see where we would ever need it, but now, we wish we had some more. Where would we be today if we did not have the St. Lawrence Seaway in the Northeast, or where would we be if we had not spent the money on developing the Great Lakes area?

Do the Members realize that every time they pave a street in Pittsburgh, Pa., or in Lincoln, Nebr., they feel the water runoff in New Orleans? I want to tell the Members that the Tennessee-Tombigbee in the Southeast is just what Bonneville Power is to the Northwest and irrigation is to the West and Southwest.

May I say, Mr. Chairman, we have a rich country, rich in real resources and real wealth, because the Congress 28 times has overridden executive administrations who wanted to hold back and cut out and cut down. I think we should realize that the only thing that makes us a rich nation today is because the people's branch has seen to it that we put back in the land a fair share of what came out.

I met today with a group of very interesting people, and I had a chance to discuss the points that I am talking about here. The GNP, most folks think of as the gross national product, but it also includes national Federal spending. So, I say to the Members that the bill we have before us, where we appropriate a very small part of the Federal budget, which some of my colleagues call "pork barrel" looking after that on which all of us depend, and we need to have a perspective about it. What about foreign aid?

We had better stop, look, and listen. It would be easy for me to make a speech about Pennsylvania, where my good friend lives. Some time ago I spoke at Lincoln, Nebr., with my good friend, Ben Jensen. Bless Ben, he got up and he bragged all over the place about me and said all in the world he had against me was the TVA, and everybody laughed.

I in turn got up and said what a great fellow Ben Jensen was, and I mean it. I said, "He is one of the smartest politicians I ever saw. He lives in Iowa and runs against the TVA a thousand miles away. He does not have to answer for what he does in his own area."

But, I do hope that I am national in my viewpoint. I do hope that I realize the value we place on an irrigation project in California, or the dams we built throughout the country to provide power. I am proud to have supported the Bonneville Power development and I am glad to have supported the St. Lawrence Seaway.

I say to my friends, when 40 percent of the rainfall of the United States drains down the Mississippi, we should give more attention to flood control. We should also remember Dulles Airport. Can you remember what a white elephant they said it was? Look at it now. We are already beginning to move or trying to move flights out of National Airport to Dulles.

We have a great country. A 10-percent increase in population did not mean much when we had 50 million people, but we have 220 million people, and a 10-percent increase is a lot of people. I say, do not be shortsighted, because we have developed those other areas or where we do not have the problem. Let us not quit developing our country.

I am an American. Let us all be Americans and look after the whole country.

Mr. MYERS of Indiana. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding. The fact that we are casually yielding time back and forth across the aisle speaks as much as anything to the fact that we all recognize that solving our energy problems is not a partisan problem. Solutions that make good sense should be supported by all, without partisanship. It is a great pleasure to work with the chairman (Mr. BEVILL) and the ranking minority member (Mr. MYERS), and I congratulate them for the tremendous job they have done.

However, Mr. Chairman, I address my remarks now to our magnetic fusion program. I have a serious complaint to make with the level recommended for appropriation for this program in this bill. In preparing our authorization in the Subcommittee on Energy Research and Production for fiscal year 1980, the subcommittee started changing the direction of our magnetic fusion program, so that instead of being a broad spectrum of miscellaneous research projects, it was to become goal-oriented; and that goal was to have competitive commercial electric power from magnetic fusion on the line as soon as possible.

In preparation for the fiscal year 1981 authorization, we assembled what we now know as the Fusion Advisory Panel, which serves the subcommittee and the full committee and the Congress. It is headed by Dr. Robert Hirsch, former head of the fusion program under the Energy Research and Development Administration, and about a dozen outstanding fusion scientists and engineers in the entire world.

After a series of meetings during the last 12 months, this Fusion Advisory Panel made formal recommendations to the committee which have been relayed to the Congress. The conclusion is that this Nation should commit itself now to magnetic fusion as a mainline energy source, one of the three permanent mainline energy sources for our Nation—magnetic fusion, the fission breeder, and solar energy.

The second recommendation was that we commit ourselves now to having an engineering test facility on the line by 1987; to actually operate a fusion engineering facility, where significant fusion reactions actually take place, producing hundreds of megawatts of power. This facility will be a major step beyond the existing fusion research machines, which burn trace amounts of fusion fuel.

The third goal is that by the year 2000 we have a magnetic fusion demonstration electric generation plant on line. In response to the action by your committee's Fusion Advisory Panel, and its recommendations, the administration assembled its own blue ribbon advisory panel headed by Dr. Solomon Buchsbaum of the Bell Telephone Laboratories.

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The members of that "blue ribbon" panel include Dr. Robert Conn of UCLA, J. C. Fletcher of Burroughs Corp. (formerly Director of NASA), Dr. John S. Foster, Jr., of TRW, E. G. Fubini of E. G. Fubini Consultants, Ltd., Dr. M. L. Goldberger, president of the California Institute of Technology, Dr. R. W. Gould, also of Cal Tech, Dr. W. Panofsky, director of the Stanford Linea, Accelerator Center, and Dr. M. N. Rosenbluth, formerly at the Institute for Advanced Studies, and now director of the Institute for Fusion Studies at the University of Texas, along with several others (Dr. L. Roddis, Mr. T. B. Cochran).

This committee published its report yesterday. I hold in my hand a draft of the Buchsbaum report, and I would like to read several statements from it. First it says that the fusion study conducted by the administration 2 years ago is, in effect, out of date.

It says: "Rapid scientific progress since the writing of the Foster report has made the present review desirable." It says that "the taxpayers are receiving their moneys' worth," that "recent progress is impressive," and that in magnetic fusion the "United States has become the unquestioned leader."

Then it says: "As a result of this progress, the U.S. is now ready to embark on the next step toward the goal of achieving economic fusion power: Exploration of the engineering feasibility of fusion."

Mr. Chairman, I want to make it clear. This report published yesterday will turn out to be the administration's formal declaration that it now agrees with the committee position: that we must move forward now with engineering and technology research in magnetic fusion energy.

"The engineering program," the report says, "should augment the continuing basic work in fusion research * * *." It says further that the engineering program is a "long and difficult one, and that it will require expenditures of significant additional funds." It says that a doubling in the size of the present program, in constant dollars—which is approximately $400 million this year—should be expected in 5 to 7 years.

The report says, "This next step * * * is both sound and timely," and that the United States should determine as soon as programmatically feasible whether or not fusion is a viable option. Then the report says, "Such knowledge would have a profound influence on U.S. energy policy."

In its executive summary, the committee says:

> Recent progress in plasma confinement justifies confidence that demonstration of the scientific feasibility of magnetic fusion, that is, energy breakeven, is near.

The summary says, by 1983.

Its major recommendation is this:

> The magnetic fusion program can, and should, embark on the next logical phase toward its goal of achieving economic feasibility of magnetic fusion. To this end a broad program of engineering experimentation and analysis should be undertaken * * *.

Mr. Chairman, I emphasize that this report was released yesterday. Now, the history of the budget does not coincide with these recommendations. One cannot completely fault the Appropriations Committee because the report was not available when the committee did its work. Further than that, we are attempting to balance the budget, and we have limited funds.

However, a review of the figures involved gives reason for concern. We are spending $353 million this year (fiscal year 1980), and the recommendation of the Appropriations Committee is to increase this level by only about 7 percent this year, with no consideration for inflation. Set against this $373 million, the Fusion Advisory Panel recommended $500 million, the Energy Research and Production Subcommittee cut that to $450 million, the full Science and Technology Committee cut that to $435 million, the administration recommended $396 million, and the Committee on Appropriations cut that to $373 million.

The Fuqua amendment would add only $21 million, increasing the level to $394 million. Even with the Fuqua amendment, we will still be at least $50 million below the minimal level necessary to carry out the commitments that are now being recommended, not only by the Science and Technology Committee, but also by the administration.

Mr. Chairman, the question is: When are we going to respond to this critical need? Next year? When are we going to be responsive to the fact that we must commit ourselves now to fusion, and that we must, if we are going to have a demonstration plant by the year 2000, start now funding an engineering test facility? Those are the questions I must ask at this time.

I do not expect to fund this program completely now, but I would like to ask the subcommittee chairman one question, if I may.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCormack) has expired.

Mr. MYERS of Indiana. Mr. Chairman, I yield 1 additional minute to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, if I may, I would like to ask you this: Recognizing that the chairman of the Committee on Science and Technology will propose an amendment which is designed to not exceed the administration's request, and that the administration's request is clearly far less than what the real program needs are, does the gentleman think it is possible that, if there is supplemental appropriation legislation for fiscal year 1981, and assuming that the administration is willing to support higher levels of funding for magnetic fusion, would the committee support additional supplemental funding for the magnetic fusion energy program?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the chairman of the subcommittee.

Mr. BEVILL. Mr. Chairman, of course, as the gentleman knows, this question is very hypothetical. We are assuming there is going to be a supplemental, and we are making several assumptions.

But I might say that certainly this subcommittee supports the gentleman's views in the funding of these projects. We wish that we had an additional $1 billion to take care of all the good projects that were requested from the committee, and that we could fund them all, as I stated on the floor a moment ago. It has been a frustrating experience for this subcommittee to have to cut so many of these projects.

So, Mr. Chairman, we do hope that the project, the one the gentleman is advocating here, will be completely funded as the gentleman desires.

Mr. McCORMACK. I thank the chairman, and I look forward to working with him on this important matter.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, I rise to express my personal appreciation to the gentlemen and the gentlewomen who serve on this committee.

It has become fashionable in recent years, to use a phrase of a former President of the United States, to "kick" this committee, and we always have the members of this committee around, unlike that hapless gentleman who said that we would not have him "around to kick any more."

This committee seems to be the object of "kicks" each year in an age when the media finds it expedient to reduce even the most extended and complex issues into a 1-inch column headline. This committee has been repeatedly dubbed the "pork barrel committee," and I think that is an unfair observation. Anyone who reads section 8, article I, of the Constitution realizes that there is a very serious constitutional responsibility placed upon the members of this committee and on all of us in the House to deal with the problems of public works and, in more recent years, energy—and this bill does that to a great degree.

I express my personal appreciation to this committee, because although I many times have made suggestions about what the people of the First District of Maryland may have wanted from the committee and have not always received a total response, as I might have liked, they have always tried. That is about all one can ask of any committee of the Congress of the United States.

There are some funds in this bill that are very beneficial to the 600,000 constituents who send me to the Congress of the United States, and undoubtedly there are other funds that are controversial. That is what we have the amendment process for, to make changes.

But I do think it is highly unfair for those Members who regularly use this committee as the butt of their attacks to gain themselves all sorts of publicity in the press. They fail to look behind the larger role this committee plays in building up the resources and the power of these United States.

I do not say that simply because I happen to have benefited or because the people of my district will benefit from this particular legislation. I happen to be the ninth best Member in this Congress, according to the National Taxpayers Union, in voting against spending money. That means there are 426 other Members who vote for more spending than I do, based on their actual voting record.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. Bauman) has expired.

Mr. MYERS of Indiana. Mr. Chairman, I yield 2 additional minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Indiana (Mr. Myers) for yielding me these 2 additional minutes. I do not think they will cost that much more.

Mr. Chairman, I only want to say that we ought to approach all of this committee's legislation in a serious vein, with a minimum of the kind of smoke screen that attends political efforts. This particular legislation has grown in importance as the energy problems and other problems that face this Nation have also grown.

To the gentleman from Alabama (Mr. Bevill), the chairman of the subcommittee, and to the ranking minority member and all the Members, I say that I think we owe them a special debt of thanks, not because we agree or disagree with them, but because they must sit through and sift through, for many tedious hours, the thousands and thousands of words and pages of testimony needed to justify the projects contained within the pages of this very voluminous bill.

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You can see from the many volumes of hearings that we have before us, the extent of the work that they have done, perhaps more than most subcommittees.

I for one want to express my appreciation and also comment on this growing tendency to kick a committee that deserves, I think, perhaps a kind word now and then. I hope it has warmed your hearts that at least one Member of the House is not totally opposed to what you are doing.

Mr. Chairman, there are several Maryland projects which have been funded in this bill for the Corps of Engineers and one of the most important of these is the continuing Chesapeake Bay study which began in 1976. This study has as its goal the protection, enhancement, and preservation of the Chesapeake Bay. The Bay is involved with, or affected by more than 8 million people who live and work nearby and enjoy the pleasures that this region brings to its residents and visitors. The inclusion of $2,497,000 to complete the Chesapeake Bay model portion of this study at Matepeake is a decision which, I feel, is definitely in the best interest of the Bay's future. I believe future studies will be necessary at the Bay model but that commitment must be made in future years.

The bill also contains $23,000 to conduct a comprehensive study to determine if a second bridge is needed over the C. & D. Canal at Chesapeake City, in Cecil County, Md. The bill also appropriates $50,000 to study the feasibility of deepening the Crisfield Harbor, in Somerset County on the lower Eastern Shore. This is one stage of a local and State effort to determine the possibility of constructing a deepwater port and industrial park in the area. The bill also includes $45,000 to finish studying the effects of erosion and related problems on Smith Island in the Chesapeake Bay. The study will allow the corps to decide upon the proper method for controlling the erosion problem that threatens the very existence of Smith Island and centuries old lifestyle of its hearty residents.

In the area of construction funds allocated by the committee to the Corps of Engineers, I would like to express my gratitude to my colleague, the distinguished gentlemen from Indiana (Mr. Myers), who is the ranking minority member of the Energy and Water Development Subcommittee and my distinguished colleague from Alabama (Mr. Bevill), the chairman of that subcommittee for their help in achieving approval of $700,000 needed to begin construction of the Rock Hall Harbor modification project, in Kent County, on Maryland's Eastern Shore. I have been closely involved with this project since I began my first term in the House of Representatives. The added safety to this harbor which will be afforded by construction of this project will greatly enhance the lives of the local residents, the area watermen, and all who use its facilities. This is one of only four such additional projects in the United States included in the bill.

Finally, the corps has allocated funds by the committee to provide for the operation and maintenance of several significant and extremely important projects which affect Maryland. These include $868,000 for dredging Ocean City Harbor and Sinepuxent Bay. These improvements should help stop the harbor's shoaling problem, and aid the area's commercial fishing and seafood industry, as well as bolster the tourist trade which is the region's mainstay. A total of $543,000 has been approved to dredge the Wicomico River on the lower shore. The dredging is imperative, since boats carrying fuel oil and other commodities to Salisbury must travel with partial loads because of the river's condition. This expenditure constitutes the last part of a multiyear project which I obtained and it has significant benefit to the people of the entire Delmarva Peninsula.

Other maintenance activities costing $702,000 have been included for Knapps Narrows and Tilghman Island Harbor, both in Talbot County. When completed, these activities will benefit the commercial seafood and fishing industry which is the economic backbone of Tilghman Island and surrounding communities; $386,000 has also been included for maintenance operations on the Chester River between Queen Annes and Kent Counties on the upper Eastern Shore.

Additionally, this bill includes a $200,000 amount for the Susquehanna River Basin Commission, a group charged with the management of the Susquehanna River which is the major source of fresh water for the Chesapeake Bay.

I give my full support to the projects I have mentioned and urge my colleagues to approve the energy and water development bill of 1981.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I am particularly pleased that the gentleman from Maryland (Mr. BAUMAN), who is recognized as truly the watchdog of the Treasury, so far as the House is concerned——

Mr. BAUMAN. The gentleman is certainly correct.

Mr. CLAUSEN (continuing). Has taken the time to give recognition and a measure of credit where credit is due.

There are all sorts of recommendations made in the form of amendments which may or may not be offered today, which quite frankly ought to be addressed, if they want to go through the process, to the authorizing committees.

We have ongoing authorized projects that are in the process of being funded now. And to turn our backs on the project sponsors who have justified their requests over the years is certainly not the procedure to follow.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

Mr. MYERS of Indiana. Mr. Chairman, these Members are doing a good job. I think they deserve 1 more minute. I yield 1 additional minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. The gentleman from California is doing a good job.

Mr. CLAUSEN. If the gentleman will yield further, there are a number of project sponsors throughout the country who have gone forward with their project in anticipation of the funding commitment, once they have met the criteria, and there has been a tendency to want to change water policy and the rules of the game in the middle of the game. It is to that end that I believe all of us need to take into account what the gentleman from Maryland has said. If we are going to change water policy, let us do it with the authorizations that are ahead of us, prospectively, not retroactively.

Mr. BAUMAN. I thank the gentleman for his comments, and I yield back the balance of my time.

Mr. MYERS of Indiana. Mr. Chairman, I yield myself such times as I may consume.

Mr. Chairman, I rise to thank our colleague, the gentleman from Maryland (Mr. BAUMAN), and our colleague, the gentleman from California (Mr. CLAUSEN), for their kind remarks. The remarks made this afternoon earlier have not always been that kind. I particularly want to cite one that was made, in trying to define by a previous speaker, what a pork barrel project was. It was defined as something that was placed in the bill because of political motives.

I have served on this committee for 8 years. The chairman and I both, I think, went on the committee about the same time. There have been other members who have served a little longer. But in the years that I have been on the committee I have not seen a project placed in the bill because of any political motivation. They have been very carefully scrutinized, evaluated not only by the authorization committee on which the gentleman from California (Mr. CLAUSEN) serves, but the full committee on the authorization, they are reviewed in a number of agencies, if they are water projects—I think this is the reference that the gentleman from Pennsylvania was making earlier—they are very closely examined and evaluated by the Corps of Engineers, by the Office of Management and Budget, recommended usually through the Executive who recommends these projects, and then we on the Appropriations Committee again make a most cursory examination of the value, of the cost, of the trade-offs on these projects.

And to suggest that this committee funds projects because we want to favor or curry the favor of a particular Member, I personally resent very much, and strongly object. I would like the gentleman to show us just what he means by a political favor or placed in the bill because of political motives, because this is not the case. And every one of these projects has to meet a very, very strict benefit-cost ratio.

There are very few appropriation bills that come before this body that meet these kind of criteria. We on the committee are very proud of the projects we placed in this. We realize we are unable to place all the money that every Member of this body would like to place, particularly in the field of energy. As we have been hearing, we are going to see now shortly some amendments offered.

Again, if we just had a hand in the Treasury and did not have to be responsible back to the taxpayers, we could place a lot more money in some of these projects, hoping we would get a return for it. But this committee has to decide priorities. I think we can defend and will defend the money we put in each one of these programs. Again, I hope that every Member of this body will stay with the committee and resist these amendments which will be most costly if adopted.

Mr. BEVILL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, too, appreciate those kind remarks by the distinguished gentleman from Maryland, because, as he says, we are usually the target of criticism. We hear so much about this so-called pork barrel; but what the gentleman from Maryland said was so in keeping with what Congressman Abe Lincoln said 132 years ago on the floor of the House. President Polk had opposed a public works appropriation bill, and Mr. Lincoln was pointing out the importance of these projects, that we must develop our country.

As a matter of fact, he specifically pointed out the Illinois & Michigan Canal. All of those points he said then certainly are just as true today, they have been proven over and over again. We cannot sit back and not develop our country. We must develop our country. We must make our country independent and we must develop our water resources.

I am going to take a moment here to answer three allegations that have been made regarding the Tennessee Tombigbee. We have been over this before. We went over this last week. I am sure it is going to be somewhat repetitious, but I just want to provide the answers to those questions, and maybe they will not come up again.

There is an allegation that the Tennessee Tombigbee Waterway, a functional project, is going to cost over $1 billion on the lower portion of the project, and that the upper portion is going to cost $2 billion. The corps has pointed out again as they have done many times that the benefit-cost ratio on this project is $2.50-to-$1 on the balance of the project. Eighty percent of the funds will be committed by the end of this year.

There is no authorization and there are no plans at this point to do any work south of Demopolis. There is no authorization, Congress would have to authorize it.

Another allegation is that the corps did not have the authority to build this project 300-feet wide, when actually the Secretary of the Army exercised his discretionary authority back in 1967, and increased the width from 170 feet to 300 feet.

When the L. & N. Railroad came into court to try to block it and try to kill the project, the U.S. district court ruled that the Secretary of the Army had the authority to change the width to 300-feet wide, and that there is no additional authorization necessary north of Demopolis. Not only did the district court make that decision, but the U.S. Circuit Court of Appeals affirmed the decision. So that has been resolved. So I do not think we have to talk about that one anymore.

The next allegation—and I think this clears them up, as far as I know—is that the river between Demopolis and Mobile is narrow and incapable of handling six barges. There are six barges going down this river from Demopolis right now. Every day they are going down there. There is no question about the river being navigable at that point. So we are not even talking about that. We are talking about north of Demopolis, not south of Demopolis; we are not talking about spending another billion dollars south of Demopolis. Actually, the waterway is over 300 feet wide in most areas south of Demopolis already.

I just hope that the Members will support this subcommittee on this waterway. As I say, it has been a very difficult bill to put together. I feel as though it is a good bill and reasonableness has been applied in our recommendations.

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Mr. SEIBERLING. Mr. Chairman, would the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. First, I wish to commend the gentleman for his handling of this bill. Second, I wonder if the gentleman could yield me 30 seconds so I could make a comment on a project of particular concern in my own area.

Mr. BEVILL. Yes; I will do that.

Mr. SEIBERLING. Mr. Chairman, I commend the subcommittee and the full committee for restoring $18 million that was originally suggested to be cut from the gas centrifuge program at the Portsmouth, Ohio, atomic plant. Restoration of that was the absolute minimum needed to keep this project afloat from the standpoint of the companies making the gas centrifuges. In my opinion, the $170 million cut which the administration originally requested and which the committee has made is the absolute irreducible minimum, and even that is going to end up, as the gentleman knows, costing the taxpayers more than that money because of the delay; but any further cut, resulting in further delay, would be really a disaster.

As it is, the 1 year "slippage" which purports to save $171 million in the fiscal year 1981 budget will actually cost the Government $200 million in the completion of this program. That $200-million figure is in 1981 dollars, and does not reflect the total cost; additional power costs, necessary for the current diffusion facilities because of project delay, are not added in.

The gas centrifuge technology which is being developed at Portsmouth is highly energy efficient, using only 4 or 5 percent of the energy required by the gaseous diffusion enrichment process. To take advantage of that technology, we must fund this program at a rate which keeps production progress moving ahead. In the absence of such a financial commitment, we not only lose the investment we have already made, and add unnecessary costs to the program, but we risk the possibility that Goodyear Aerospace Corp., and other centrifuge manufacturers, because of delays in the program, will feel unable to go ahead with the second phase of the project.

In effect, by seeking these "savings" we are jeopardizing the success and viability of the U.S. uranium enrichment program itself. The United States must be seen as a reliable future source of uranium to our foreign customers if they are to continue to look to us as a supplier. Otherwise, the nonproliferation objectives, which are the fundamental rationale for international sale of enriched uranium by the United States, will be seriously jeopardized.

● Mrs. HECKLER. Mr. Chairman, H.R. 7589, the energy and water appropriations bill of fiscal year 1981 contains $300,000 to determine a suitable disposal site for dredged material from the Fall River Harbor project in Massachusetts. These funds will be instrumental in encouraging further industrial development in a city which is now on the threshold of an economic renaissance.

In 1968 this project was authorized as a result of my efforts. Since then, construction has been held in abeyance. A series of delays prompted by environmental questions and a lack of cooperation between the Governors of Massachusetts and Rhode Island resulted in no movement—the project was stagnant.

Now, a fresh spirit of cooperation exists between the current Governors. This, coupled with renewed interest in locating a dredge disposal site which will address environmental concerns without jeopardizing the entire project, has reactivated the project.

These funds are the first phase of the rest of the project. All interests now view its future with hope and promise. Lines of communication are open.

Mr. Chairman, this project is designed to dredge 7.4 miles of the main channel and 3.2 miles of the Tiverton Channel to a level of 40 feet from the current 35-foot level. The U.S. Army Corps of Engineers has approved the capability request for the project from the New England Division. The impact of this project on Fall River's economic revitalization cannot be measured in dollars and cents. But the opening of the channel and harbor to larger ships and barges will expand the harbor's accessibility and with that the industries able to utilize the harbor facilities. I am delighted at the inclusion of this funding in H.R. 7589 and want to thank my colleague from Massachusetts, the distinguished ranking member of the Subcommittee on Energy and Water Development, Mr. BOLAND, and my friend the chairman of that subcommittee, Mr. BEVILL. Their help was critical to getting this project on line and on the road to completion.●

● Mr. DRINAN. Mr. Chairman, I rise in support of the amendment offered by my colleague from Florida (Mr. FUQUA).

This joint effort would restore to the Department of Energy budget for fiscal year 1981 $107 million: $58 million for fusion and other advanced technologies and $49 million for solar applications and solar technology.

I would especially like to express my strong support for this latter provision. Today there remain few who would question the vital role that solar energy must play in our national effort to reduce consumption of increasingly expensive and environmentally dangerous fossil fuels. The litany of support for solar energy is well-known, but bears repeating at this time: it is clean, it is inexhaustible, it is inexpensive over the long-term, it can reduce our balance of payments deficit, it can create a wide new range of jobs in an expanding industry.

But it still needs adequate direct Federal support in the next fiscal year in order to realize its potential. In the legislation before us today, the Appropriations Committee has reduced Federal funding for research and commercialization of solar energy from $560 million in expected outlays during the fiscal year 1980 to a $553.1 million funding ceiling in fiscal year 1981. An annual inflation rate of over 15 percent transforms this cut in current-dollar funding into a major erosion of the solar budget in real terms.

In restoring funds requested by the Department of Energy to fulfill its obligation to promote the development of solar energy, we will not be throwing our taxpayers' money into the wind. The Department has estimated that for every dollar we save in the next fiscal year by slashing funding for solar commercialization, we will spend an extra $30 in 1985 to pay for the imported oil which otherwise would have been saved.

The committee's recommendation of $553 million for solar applications and solar technology is not an insubstantial amount. But even more substantial are the difficulties we now face in attempting to meet our stated goal of 20 percent of our total energy supply from solar sources by the year 2000.

Solar energy as well as fusion and other advanced alternative technologies are vital to our energy future. I urge the support of my colleagues for this most important amendment.●

● Mr. BROWN of Ohio. Mr. Chairman, I understand that this bill, H.R. 7590, contains appropriations for the Department of Energy for fiscal year 1981, including $149 million in new appropriations for the Portsmouth gas centrifuge enrichment plan.

As I am sure I do not have to tell the gentleman from Alabama, the appropriation of only $149 million for this project in fiscal year 1981 will cause the completion of the Portsmouth project to be delayed a year. Let me outline briefly why the Portsmouth project is necessary and should not be delayed.

As you know, the gas centrifuge project being developed at Portsmouth is highly energy efficient. It uses only 4 or 5 percent of the energy required by the outdated gaseous diffusion process now being used to enrich uranium. It is cost effective.

The enrichment program is a money maker. For fiscal year 1980, the original estimate of revenues which will be generated was $1.3 billion. This is a full-cost recovery program. In fact, revenues more than offset the costs. With the Portsmouth centrifuge process, these revenues will be even greater because the energy costs to run the process will be less.

We sell enriched uranium abroad. We will not keep our foreign customers if they perceive that we cannot meet their needs. Loss of these customers would mean the loss of a significant contribution to our balance of payments. Yet we have been reducing our production of enriched uranium and drawing down our reserves in reaction to a perceived reduction in near term demand. This is shortsighted and may become a self-fulfilling prophecy for the long term despite utility and DOE projections of increasing demand for enriched uranium and for the speedy completion of the Portsmouth project.

A more ominous note is being sounded by the manufacturers of the centrifuge. The industry must have incentives to develop a new, viable manufacturing program for centrifuge equipment. Delaying Portsmouth has sent a signal to these manufacturers of uncertainty regarding the project. One has already announced a slowdown in its commitments to the project while it tries to read the intent of Congress. It is that intent which I hope to have the gentleman from Alabama make clear. Is it true that you strongly favor the completion of the Portsmouth project?

Mr. BEVILL. Yes, that is correct. I believe that the gas centrifuge project at Portsmouth is extremely important and must be completed.

Mr. BROWN of Ohio. My staff and I have had several meetings with the DOE and with the builders of the Portsmouth plant. The result of one of those meetings was a letter to you from the three authorizing committees—Interior, Science and Technology, and Commerce—indicating that $269 mllion in fiscal year 1981 was the amount needed to keep Portsmouth on schedule.

It is my understanding that the committee was not opposed to the increased funding level and believed the project to be in need of such a level to prevent a schedule delay but that it felt constrained by the budgetary ceiling. Would the gentleman agree that all efforts must be made to prevent further slippage in this program?

Mr. BEVILL. Yes. I remain supportive of the completion of the Portsmouth project, and I believe that we should not allow further schedule delays.

Mr. BROWN of Ohio. Would the gentleman also agree that if the budgetary process should allow for it, there may even be a possibility of finding additional money for fiscal year 1981 for Portsmouth?

Mr. BEVILL. Although I cannot discount that possibility, it would be difficult now to see where additional money might come from. But the committee strongly favors the Portsmouth project and would like it to be completed as soon as possible.●

Mr. BEVILL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time having expired, the Clerk will read.

The Clerk read as follows:

Operating Expenses

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For operating expenses of the Department of Energy necessary for energy supply, research and development activities and other activities in carrying out the purpoess of the Department of Energy Organization Act (Public Law 95–91), $2,183,654,000, to remain available until expended: *Provided*, That during fiscal year 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans for the Hydropower Feasibility Studies Loan Program shall not exceed $10,000,000.

AMENDMENTS OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer amendments, and I ask unanimous consent, since the amendments are at several different parts of the bill, that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. FUQUA: On page 2, line 11 strike "$2,183,654,000" and insert in lieu thereof "$2,268,754,000".

On page 3, line 8 strike "$348,015,000" and insert in lieu thereof "$367,515,000".

On page 5, line 2 strike "$328,037,000" and insert in lieu thereof "$330,837,000".

Mr. FUQUA. Mr. Chairman, as I mentioned before during the general debate on this bill, I express my appreciation and gratitude to the gentleman from Alabama, the chairman of the subcommittee, for his always kind and gracious consideration of the Members when they come before his committee. The gentleman from Indiana, likewise, has always been most gracious, kind and courteous, when Members have gone before him and the members of the subcommittee.

As I pointed out, our Committee on Science and Technology and this subcommittee have worked very closely over the years on many projects. This happens to be a difference of opinion or maybe a difference of priority in how we can best solve our energy problems.

Mr. Chairman, the amendments that I have offered restore some $107.4 million to the bill. I might point out that it is $115.9 million below the President's revised budget request in March of this year.

Now, the argument will be made, well, this blows the budget totally out of the water. Well, it does not do that. There are other items in this bill to which maybe more appropriately the question should be asked whether or not it exceeds the President's budget request on whether it exceeds the request or the budget levels that were put on by the House budget resolution that was finally agreed to by both the House and the Senate. What we are trying to do is in the basic areas such as magnetic fusion that we can restore some of those funds, that we can continue the great work that is going on in fusion.

There was a commission report that was reported on the front page of the Washington Post today explaining that fusion energy offers one of the greatest potentials of any source we have. Along with the progress that is made in this basic research—that this can be the salvation of our energy problems and help break our dependence on foreign oil.

In high energy physics, we are trying to restore a modest amount in that figure. That has been cut way below, way below the President's budget request of March.

In nuclear physics, the basic programs of physics of atoms and how they act, a modest increase of some $3 million in this program.

In basic energy sciences, that goes to the real heart of the entire energy problem, we are trying to add some $18.1 million for this program.

We are adding money in two areas in solar technology and solar applications that have a tremendous potential.

There is tremendous potential in our oceans, we have already passed an ocean thermal bill in the House. It has once passed the Senate. We have in our oceans some of the largest solar collectors anywhere in the world sitting there waiting to be tapped.

We have wind energy. We have biomass. We have many other forms of energy that comes under the classification of solar energy.

As I pointed out in a letter that I received from the Association of American Universities, stating that this position, this amendment, is also being supported by the American Council on Education, the National Association of State Universities and Land-Grant Colleges, and the rest of the academic science community, "enthusiastically support your initiative," speaking of this amendment.

Mr. Chairman, these are some of the real areas that if we do not restore some of these funds, many of the labs that we have invested tax money from your district and my district will not be able to operate all the time. They will have to be closed down.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 5 additional minutes.)

Mr. FUQUA. Many of our Federal labs, such as Brookhaven, Fermi, Oak Ridge and many of the others that have much needed maintenance that will have to be deferred, and I am not speaking of maintenance as it relates to leaky roofs or leaky faucets, but maintenance on equipment that they have that they have utilized in carrying out this basic research.

Now, Mr. Chairman, our Committee on Science and Technology in our authorization bill have recommended funds higher, even much higher than the President recommended, because we felt very strongly that these were very,

very vital programs if we are going to get at the real problem of trying to solve our energy problems; but this does not restore that much money. This does not even halfway do it, less than half a loaf of restoring back the funds that the President requested and it is within the budget resolution that this House adopted and the other body adopted and that we are trying to arrive by at this time.

So it is not these items that are budget busters. There may be others in here. There may be other projects that have not been requested, and I am not pointing fingers. I do not know; but it is not these items, because these are below even the President's revised request that came up in March.

I have been authorized to say that the administration does support this amendment. They want these funds restored.

I have also been led to believe that there would not be a threat of a veto of this bill if this amendment is adopted, because there are some items that the administration very much wants and recognizes that are in keeping with their initial recommendations to the Congress.

So I plead with my colleagues, I am not one that stands in this well and offers spending amendments. As I pointed out earlier, if my memory does not fail me, this is the first time in 18 years that I have been in this body that I have ever offered an amendment to increase funding in an appropriation bill. I hope it is the last time, because usually I am voting for the other types of amendments.

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But I plead with my colleagues today to join with us. There are many that are cosponsors: the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Washington (Mr. MCCORMACK), the gentleman from New York (Mr. OTTINGER), and many others who are very much interested in these programs and realize the benefits and the potential they have for helping us solve our energy problems.

So, Mr. Chairman, I urge and plead with my colleagues to support this amendment so that we can restore some of these funds, a modest amount, a half a loaf back to this bill in very much needed areas.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment just offered by my chairman, the gentleman from Florida (Mr. FUQUA). I would also like to acknowledge the fine work on the solar aspects of this amendment done by the gentleman from Massachusetts (Mr. MARKEY) who I am sure will speak on this amendment shortly.

I spend most of my time in working on energy problems and I am just greatly, greatly distressed that energy programs on both the supply and demand side have been totally inadequate in order to be able to get us off the path of increasing energy dependence that this year is going to cost us $90 billion in payments that we have to make to the OPEC nations for imported oil.

The funds which are being restored by my chairman, the gentleman from Florida (Mr. FUQUA) do not even restore the bare bones of what we feel is necessary or, indeed, what the Department feels is necessary. We have been cut through the bone and into the marrow and into the heart of the programs that are ongoing and that are considered by the Department and considered by the industries that participate in them as having real promise for making important progress in solving our energy difficulties.

I think there is nothing more important from the point of view of inflation, from a point of view of national security, from a point of view of the future productivity of this country, than to get on with solving these energy problems. Just over a year ago, with respect to the solar programs, President Carter announced a challenge to the American people and the Federal Government to achieve 20 percent of our energy from renewable resources by the year 2000. He characterized the Federal role in meeting this goal:

> This strong federal commitment to solar energy will be sustained year after year after year after year. It will not be a temporary program.

That was President Carter on June 20, 1979.

Many of us in the Congress have been highly critical of the President and the Department of Energy for not providing the funds that were then promised and of the budget he sent up, his original budget in January, which was inadequate to meet these goals. His revised budget in March cut back very substantially on those figures, and now the Appropriations Committee is even cutting substantially below that.

Within DOE itself, as we revealed at recent hearings of my Subcommittee on Energy Development and Application, at which Secretary Duncan testified, the degree of effort represented by programs sent to Congress for approval, even if fully funded, would be solely deficient to move us the necessary distance toward the President's 20-percent goal.

Let me quote from a document prepared by the Assistant Secretary for Conservation and Solar Energy:

> The President has set a national goal of meeting 20 percent of the total energy consumption in the year 2000 with solar energy resources. This is considered an ambitious target but one which is fittingly so in view of the estimated potential of known technologies and of the economic, political, health, and environmental problems associated with continued heavy reliance on conventional fuels. This goal is not likely to be met with the level of resource commitment presently made by DOE to solar programs.

This is the Assistant Secretary in charge of these programs. He goes on to say:

> By setting the 20 percent goal, the President indicated that the country needs to make renewable resources an important source of energy by the end of this century. However, the FY 80 budget did not rise above a business-as-usual level in response to that new commitment. Again, a year later, the FY 81 budget shows no marked increases.

In fact, it was a decrease when we take into account inflation. This document spoke to the 5-year funding projections that were being developed from the Secretary's consideration. However, the impact of what it says is pertinent to today's deliberations.

Speaking of the effect on the solar goals of funding at the level of the President's budget projected over 5 years, the document states:

> The 1982 budget should show a sizable increment to solar funding over the previous budget or at least include analysis that demonstrates that continued low level of funding is consistent with the 20 percent goal. Existing analysis does not indicate the latter; rather, it shows that for each technology the basic level of the PPBS (funding document) is far below that level of funding that could realistically lead to attainment of the 20 percent goal.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Then it goes down technology by technology. It shows that:

> In the Solar Buildings Application Subprogram the basic level funding would result in major delays in research, products, and market development. For example, the Photovoltaics Program Element would slip 1 to 1.5 years behind the schedule.
>
> In the case of the Passive and Hybrid Solar Energy Systems Program Element, the basic level of funding will result in less than half the passive solar units needed by 1985 to achieve the national goals of 1 Quad of displacement by 2000. The recent defeat of the passive solar tax credit in Congress makes it all the more important that support be provided through DOE programs to encourage passive solar building and retrofits.

I just do not think we can afford to cut down below the President's revised budget levels. The gentleman from Florida's proposal does, however, go even below those levels. It would take $65 million additional in the solar area to restore the President's revised budget. All that is being proposed by the gentleman from Florida in the solar area is $49 million. I think these funds are really essential if we are going to keep these programs going. If the President's budget request is, by his own Department of Energy's expert analysis, inadequate, then the solar funding in the appropriation bill before the House would represent a betrayal by Congress of the leadership role we have achieved through congressional initiative in almost a decade of aggressive solar legislation.

We can be justifiably proud of our accomplishments in Congress in leading the administration into making a strong commitment for solar energy. Now we are at a point of simply having to put our money where our mouth is. I do hope the committee and the House, when we go back into the House, will support the amendment by the gentleman from Florida (Mr. FUQUA) as the minimum necessary in the solar area, as well as in the nuclear fusion area and the basic sciences in order to provide what we need to become energy independent.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Florida's (Mr. FUQUA) amendment to the energy and water development appropriations bill for fiscal year 1981. I would like to commend him for this amendment and for providing the foresight that is needed to get our solar programs on the right track.

The danger of our country caused by our massive dependence on foreign oil cannot be overemphasized. This dependence goes far beyond the questions of economics; it strikes at the very heart of our national security. We have heard over and over again about the urgency of achieving energy independence and what must be done to meet it.

Against this background, it is imperative for us to push forward now with an aggressive solar energy program. Solar energy offers us a virtually inexhaustible energy supply that is secure against oil import disruptions or slowdowns in the use of nuclear energy or coal. Solar systems can also be used in a wide variety of applications, whether in small scale decentralized applications suitable for residential, commercial, or industrial use or even as part of a large centralized energy system.

I was heartened when the President established a national goal of deriving 20 percent of our Nation's energy needs from the Sun by the year 2000. The Subcommittee on Energy Development and Applications, on which I am the ranking minority member, has held hundreds of hours of hearings during the 96th Congress on our solar programs, and have heard much about the great promise of tapping our solar resources. On numerous occasions we heard about the benefits of a well-balanced solar program that can help us replace our use of oil in residential, commercial and utility applications. Just recently, we heard from the Secretary of Energy that the 20 percent goal could in fact be met if we do make a firm commitment to achieve it. I enthusiastically support this goal, and believe that the people of our country expect us to make this commitment.

Unfortunately, I am afraid that the recommended solar budget level for fiscal year 1981 is not adequate to meet the task ahead. Based on the many hours of testimony which our subcommittee has received, it is clear that additional funding is now necessary to meet the 20-percent solar goal. There is no longer any time left for a business-as-usual approach to making solar a reality.

Based on information available to the Energy Development Subcommittee, it is clear that the recommended budget level would result in many major delays in our solar research, development and demonstration activities. In market development and training, the Department of Energy will certainly not be able to provide the public information and training that is needed to help people become aware of the benefits of solar systems if funding for this program is not restored. This is extremely unfortunate as information dissemination is one of the major problems plaguing the development of our solar resources.

In market test and applications, we must provide the necessary funding to permit the acquisition of a sufficient number of photovoltaic systems for Federal facilities. This activity is consistent with the requirements of the solar photovoltaic energy legislation which was enacted into law in the last Congress.

In wind energy, the House has already given overwhelming approval to the Wind Energy Systems Research, Development, and Demonstration Act of 1979, which authorized $100 million for wind energy activities for fiscal year 1981. The Science Committee has heard much about the wide range of wind applications for residential, industrial, and agricultural use, and for central power generation. Additional funding is necessary to help provide a well-balanced small, intermediate, and large scale wind program that can help us develop high quality, economically competitive wind machines.

These programs, and several others, would suffer serious delays if we do not adopt the gentleman's amendment. It is incumbent upon us in Congress to move now ahead on solar, and provide for an effective solar program. Too much time has already slipped away. Our Nation cannot afford any more delays.

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Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which is now pending, one which has been worked out between the fusion and solar energy supporters of the country. I particularly support the $49 million which will be restored which has been cut from the President's revised fiscal year 1981 solar budget request. It is composed of amounts for several programs: Solar applications, $27 million; solar thermal power, $3 million; photovoltaic, $6 million; wind, $10 million; ocean systems, $3 million. I am submitting for the record a detailed breakdown and explanation of the amendment, Mr. Chairman.

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT—OPERATING EXPENSES

[In thousands of dollars]

	Fiscal year 1980 estimate[1]	Fiscal year 1981 budget request	H.R. 7590	Markey amendment
Solar applications:				
Systems development	52,000	49,500	47,000	+2,500
Restore funding for dissemination of design, performance, and experience data for active solar components and systems.				
Continue efforts to improve the reliability and cost-effectiveness of active systems, and demonstrate them in low-cost housing.				
Continue the development of the Rankine solar cooling system, one of the most promising cooling techniques.				
Market test and applications	55,590	58,000	46,000	+12,000
Restore $1,200,000 to refurbish active solar demonstration projects.				
Restore $2,800,000 for 2 key cost-shared industrial process heat projects—a food processing plant in Santa Isabel, P.R. and a textile plant in Santa Cruz, Calif.				
Restore $3,000,000 for wood combustion demonstration projects.				
Restore $5,000,000 for the Federal photovoltaic utilization program that was authorized by the Science and Technology Committee.				
Although we are $15,000,000 higher than the March request for FPUP—we are at the same total for photovoltaic commercialization ($20,200,000).				
Market development and training	24,300	39,500	27,000	+12,500
Restore $4,000,000 for training programs to ensure that solar installers are well-qualified and to enhance consumer acceptance.				
Restore $3,700,000 for information programs for the financial community, the National Solar Heating and Cooling Information Center, and the regional solar centers.				
Restore $400,000 for solar-related codes which will help states and localities to implement uniform building code requirements.				
Restore $1,900,000 for the development of performance standards to aid the solar industry's growth and protect consumers.				
Restore $2,500,000 for new legislated programs under the Fuel Use Act, Public Utility Regulatory Policy Act, Residential Conservation Service. Energy Tax Act, Windfall Profits Tax Act, SBA energy loan program, Federal energy management program, schools and hospitals program, consumer assurance program, and EPA air quality offset program.				

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT—OPERATING EXPENSES—Continued

[In thousands of dollars]

	Fiscal year 1980 estimate[1]	Fiscal year 1981 budget request	H.R. 7590	Markey amendment
Solar technology:				
Solar thermal power	72,905	92,550	80,100	+3,000
Provide further technology support for the advancement of components and subsystems for repowering of industrial boilers and existing utility oil and gas fired plants.				
Photovoltaics	139,700	133,000	127,000	+6,000
Restore funding for the low-cost silicon array project and balance-of-systems R. & D. that was authorized by the Science and Technology Committee.				
Wind energy	45,260	77,900	67,900	+10,000
Restore funding for the development of advanced large wind machines, Mod-5, which are the last megawatt machines that DOE expects to develop and is aimed at commercial production.				
Restore funding for commercialization programs, especially for small machines, that will assure reliability, maintainability, environmental acceptability, and user confidence.				
Ocean systems	28,600	38,300	35,300	+3,000
Restore funds to enable the conceptual design of a 40 MW OTEC pilot plant to proceed.				

[1] Does not include supplemental appropriations and rescissions now being considered.

These funds should be considered a direct investment in America's future. Solar power is one way in which we may reduce our dangerous dependence on OPEC oil. I need not repeat the long and discouraging litany of America's energy problems. We in this Chamber are all aware of the pressures and frustrations which diminishing energy supplies and rising energy costs have placed upon our own constituents. The problems of the rich and the poor, the old and the young, the educated and the uneducated, have been compounded by the Nation's inability to find new energy sources. Our national security is threatened by our addiction to OPEC oil. Our inability, moreover, is compounded by our narrow vision. Energy is, in fact, all around us in all forms of sunlight.

Last year, the President announced a goal of obtaining 20 percent of our energy from solar, the equivalent of 9 million barrels per day by the year 2000. I am cognizant of the seriousness of inflation and the consequent need to restrain national spending; I also understand that our economic problems are in large part caused by rising energy prices. Thus, I cannot comprehend how in our fever to balance budgets we continue to overlook opportunities to stabilize the cost of energy through the rapid development of renewable energy sources. There is every reason to believe that solar and renewable technologies can substantially open new energy vistas, not only for America's citizens but, for America's industries. There is no reason to continue the either/or debate which consistently implies that if one supports coal or nuclear, then he or she cannot also support an expanded solar program.

When the 1981 solar budget was first reduced, representatives of the new solar industry indicated their great distress. I was surprised and pleased to learn that the solar industry includes major telecommunications industries, utility, petroleum, and manufacturing representatives, as well as thousands of small entrepreneurs, and that all were willing to speak with one voice. The message was clear: Solar energy not only provides heat and electricity but, jobs and investment opportunities as well.

Before offering this amendment, I contacted the Department of Energy. Dr. Tom Stelson, Assistant Secretary for Conservation and Solar Energy, speaking for Secretary Duncan, wrote back:

> I find it imperative to support the President's Fiscal Year 1981 budget request. I am concerned that the recent House Appropriations Committee action on that request would adversely affect the solar program. We have made a slow start towards the achieveable national solar goal of 20 percent. We must provide the funding sources necessary to stimulate the solar market.

The $49 million that I offer today as part of this compromise package is insufficient. It is, however, necessary if progress toward an energy-independent America is to be maintained. The amendment will restore funding for solar programs with near-term payoffs. The bill as reported by the Committee on Appropriations would, for example: cut training programs in half; cut the photovoltaic applications programs; and, thereby, make it impossible to reach the goals of the photovoltaic Research, Development, and Demonstration Act of 1978; cut the wood combustion demonstration in half; seriously limit the technical data for active systems; and, drastically reduce the development of near-term wind machines.

During most of the century solar energy seemed to interest only dreamers and tinkerers but, because of the oil embargo, the Sun has become a serious energy alternative source for this country. The issue has now become not how much solar energy but, what kind and when. These are fair questions which my amendment will help to answer and which, when answered, will help to reestablish America's energy independence.

Mr. Chairman, I hope that this can be looked at as a constructive and as a progressive attempt not at unbalancing the budget, rather at beginning to correct this country's energy future.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. This amendment represents only one-half of 1 percent of just this particular section of the budget bill. We are not talking about a budget-buster; we are talking about a real and solid attempt to fine tune a measure which was carefully considered by the gentlemen who serve on the Appropriations Subcommittee, and who I think with all good intentions were trying to put together an appropriate package. We are discussing something which occurred in this country over the last couple of years and which was never anticipated. We have telescoped energy increases over 30 years from $6 to $13 to $30 a barrel for imported oil over a period of time which most economists estimated was going to occur over a 30-year period of time. We have gone from a point where we thought we had a long period of transition in which there alternative energy technologies could be commercialized. Our need for domestic energy has escalated and, so must our response. This Appropriations Subcommittee bill does not reflect that reality. We are trying to have a response which is not a wildly promiscuous use of Federal moneys but something finely tuned to deal with the needs of solar energy.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I compliment my colleague on his comments. I have been a supporter of the idea of having the Federal Government involved in an expansion of the use of solar energy, and many times in the past I have supported the amendments to increase the funding in this area because, especially in the Sun Belt States, it is a type of energy of which I am sure we can make better use. I am somewhat disturbed, and maybe my colleague can help me, by a report issued by the General Accounting Office April 15, 1980. Let me just quote briefly from that report.

☐ 1650

> This report discusses the Department of Energy's solar demonstrations on commercial buildings program and focuses on the following questions:
>
> Are the solar heating and cooling projects on commercial buildings demonstrating practicality?

How successful has data dissemination been?

Has the solar demonstration program aided in developing a viable solar industry?

In general, GAO found that many of the projects are not operating properly and most are not cost effective. Data collection has been relatively slow, and it is doubtful that much of the information collected is reaching the target audience. Also, the Department of Energy does not know what impact its program is having in fostering development of the solar industry.

Now, how do we answer that, those of us who have been trying to support this effort?

Mr. MARKEY. I think, as the gentleman knows, I am no more in love with the Department of Energy than is the gentleman. We could make just about the same complaint about their operations in nuclear, coal, gas, or oil. There could be a uniform application of the comments and the criticisms which were leveled at this particular program. The question is whether we scuttle the whole solar effort because there has been demonstrable evidence of incompetence within DOE over the past years. I say we cannot do that.

Mr. ROUSSELOT. Does this bill scuttle it?

Mr. MARKEY. It severely restricts its growth. It basically puts it in a holding pattern, not moving it forward nor backward.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. Mr. Chairman, I am not here to be a defender of the Department of Energy.

Mr. ROUSSELOT. I do not think either of us would want to do that.

Mr. MARKEY. I think it is incumbent upon us, whether we support fusion, whether we support solar, whether we support any of these new energy sources which are as yet in their incipient stages, to assure that the agency to whom we delegate this responsibility does indeed carry it out. Solar energy is a relatively new technology. The Department of Energy is a relatively new agency. I think that in the next few years if we pay attention to it, if the Energy and Water Development Appropriations Subcommittee, the Commerce Committee, the Committee on Science and Technology, and the Interior Committee overseeing some of these projects, then we have a very good chance of seeing much more of our hopes come to fruition. I cannot assure you of that, but I think the arguments that are made by the gentleman in some way reinforce my arguments. We have GAO reports that keep a keen eye upon these programs. As we increase the appropriation measures, we will enhance the oversight responsibility for all of us.

The question here is not whether or not solar energy is going to become a howling success, because eventually it will be. The question is how quickly that is going to occur. By limiting the amount of funding right now, we leave it to market forces to occur in an evolutionary process. We are going to take on some of the projects that we think are in a postion to give us the most opportunity, giving us some early return on our investment and try to force some Federal money into them where the private sector does not have sufficient resources and has not been able to take risks.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. OTTINGER. I would like to speak to the question presented by my friend, the gentleman from California (Mr. ROUSSELOT). We are talking about programs that are ongoing in cooperation with industry where specific technologies are being developed both in the area under my supervision in the Subcommittee on Energy, Development and Applications with respect to solar and the subcommittee of the gentleman from Washington (Mr. MCCORMACK) dealing with fusion and basic sciences.

Mr. Chairman, what the gentleman is talking about is stopping in midstream; for instance, with respect to ocean thermal energy gradients, the OTEC program. The industry says if we do not make the commitment to continue with this at this time, the industry people are going to have to drop out because of our flip-flopping and waivering. They do not know what are the signals from the Government. This technology has great promise to supply electricity in the future. I do not think we should cut back to the point in an ongoing program where we actually jeopardize ongoing industry effort to which the Federal Government is participating to make it possible. That is what we are talking about in these programs. There are no new starts represented here.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BEVILL and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. BEVILL. Will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, the distinguished gentleman from California (Mr. ROUSSELOT) mentioned the GAO reports and that they point out that the Department of Energy has not been able to get their solar energy house in order, that there is a lot of waste in the Department. I did want to point out to the gentleman from California, it is not one GAO report.

Mr. ROUSSELOT. Mr. Chairman, I quoted from the April 15, 1980, report. Is there another report?

Mr. BEVILL. Here is April 15, 1979. No. 2, October 9, 1979. Another GAO report, July 20, 1979. Another one, this one is dated February 28, 1980. Four GAO reports and they all say the same thing.

Mr. ROUSSELOT. What do they say?

Mr. BEVILL. They say there is waste and that the house is not in order, that they are wasting money in carrying out the solar energy programs. We are all for solar energy, but we must have good programs in place to carry them out.

Mr. ROUSSELOT. They come right out and say they are wasting money?

Mr. BEVILL. They say they are wasting the money.

Here is another report. Inspector General, U.S. Department of Energy, April 2, 1980. It says the same thing.

Mr. ROUSSELOT. What was that report?

Mr. BEVILL. This is the Inspector General report dated April 2, 1980.

Then there is the Inspector General report dated, May 12, 1980. All six reports say the same thing.

Mr. Chairman, I would call the gentleman's attention to this. We are breaking all records in solar energy funding. We are not waivering in support for solar energy.

Mr. ROUSSELOT. Mr. Chairman, is there much money in this bill for solar energy?

Mr. BEVILL. We are breaking the record, $656,000,000.

Mr. ROUSSELOT. You are breaking the record?

Mr. BEVILL. There never in history has been as much money put into our appropriations bill for solar energy as this year.

Mr. ROUSSELOT. Then why do we indeed need more?

Mr. BEVILL. That is what puzzles me. We have added $50 million for solar. We added $30 million for magnetic fusion. We added $12 million for high energy physics.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. Mr. Chairman, I would like to read some other figures if I may. This is a relatively new technology. It is one that has been funded by the Congress really only in the last 5 years or so.

Mr. ROUSSELOT. As the gentleman knows I have always supported these amendments but I am disturbed by this report. It is very earth-shattering.

Mr. MARKEY. I think we have to understand that this is a technology which is new, it is a department which is new, it is an experience that we are going through for the first time. I think if we treat solar with some of the tolerance we did the nuclear industry in its infancy, and we still continue today, perhaps we would see a little more progress.

But I have other figures to give a little contrast to the figures the chairman of the subcommittee was stating.

The President's Domestic Policy Review which included every agency of the Federal Government concluded last year that by the year 2000, 20 percent of all energy in America could come from solar.

The Harvard Business School Energy Future Report says solar can provide far more than 20 percent by the year 2000.

The Office of Technology Assessment has said 20 percent is a very reasonable figure by the year 2000.

The Council on Environmental Quality expects solar to provide 25 percent by the year 2000.

Mr. Chairman, it is very difficult to see that kind of progress when in the fiscal year 1980, on this floor, we designated a figure of $577 million and this year we come back in 1981 with a figure of $553 million. Mr. Chairman, I think it is very important for us to understand that this is not progress, this is retreat, it is a cutback and it is a retreat from the commitment which we had made to solar energy and I think this is the kind of commonsense approach which we need to fund all energy resources.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I think this is an important point. I think it is also important to note what this country has spent to develop other energy resources. I do not know whether any of these figures were reviewed earlier, but it is instructive to look at the report which the Battelle Institute did for the Department of Energy earlier this year. It indicates that this country has spent $253 billion in energy incentives since 1918 most of which has gone to fossil fuels. Since 1975, we have spent about $2 billion on solar energy, or about 0.9 percent of the total.

□ 1700

If we look at it from the perspective of what we have spent in various energy fields, the solar budget is miniscule compared to others. Certainly our past record does not reflect a serious commitment to solar energy. This bill would not correct the imbalance, and I do not think we are even taking into consideration with the committee's proposed funding level impact of inflation.

Mr. MARKEY. On that point, the Appropriations Committee recommended a cut of 4 percent from the fiscal year 1980 level. When we take into account an inflation rate of 13 percent, it means an absolute cut of 15 percent of available funding for solar energy as opposed to last year. I just cannot understand how we could make that kind of dramatic cutback in such a potentially fertile area as energy resources.

Mr. JEFFORDS. On these questions, I would also like to refer Members to a report issued by GAO a few years back. If we take the faith of the President, the policy review recommendations and the commitments of the new Secretary, there is going to be new emphasis on solar. While I know that there was waste in the past because the Secretaries and the people involved did not really care about solar and did not know what was going on in the agency, that situation supposedly has changed. It is self-defeating to say that, based upon past experience, we should not commit more funds in commercialization and other areas where it is extremely necessary to develop the necessary industrial capacity.

By almost any informed analysis, solar energy must play a vital role in America's energy future if we are to ever approach the goal of energy independence.

There are differences of opinion as to what the optimum energy mix should be, and as to the pace by which solar and other renewable resources can be developed on a large scale. But the necessity of moving forward in this area as rapidly as feasible is now almost universally accepted.

To his credit, President Carter has played an important role in raising the consciousness of Americans about solar energy. He has, at least in his rhetoric, made it clear that he understands solar energy is not just an exotic toy or science fiction. In fact, just a year ago the President established a national goal to provide 20 percent of America's total energy supply from solar and other renewable resources by the year 2000.

That goal is realistic and attainable. And at a time when our dependence on foreign oil damages and jeopardizes both our economy and our national security, progress toward that goal must be among our highest national priorities. But setting the goal does not mean that it will be reached; in fact, if we are to have 20 percent of our energy produced by solar and other renewable resources by the turn of the century, a maximum effort will be required.

Sadly, the administration's commitment to the goal which it so wisely established lacks depth. As in so many other areas, the President has given us strong words but little action.

In the year that has passed since the President's solar message, his Department of Energy has not even attempted to outline a plan for meeting the 20-percent goal.

Meanwhile, other administration actions indicate a rapid retreat on the solar issue.

For example, President Carter's original budget proposal for fiscal 1981 called for $450 million in solar and conservation bank funding. But his revised budget reduces that total to only $47.5 million—a little over a tenth of the original request. With a stroke of the pen, with little apparent thought and no public explanation, a meaningful energy program was turned into a token one.

Perhaps even more alarming, Energy Secretary Duncan in recent days has tentatively submitted a 5-year plan for his Department for fiscal 1982 through 1986: A budget which actually reduces the share of the energy budget for solar energy and conservation. It should be noted that the Government's expenditures on solar energy have never even approached 20 percent of the total energy budget. If we continue to reduce the already low priority given to this energy source which is still in its infant stage, we cannot possibly expect it to grow to maturity.

While the President's record on solar programs is disappointing, the Appropriations Committee's actions give cause for even deeper concern. The committee's recommended funding level would further reduce the possibility that we will meet the 20-percent goal by the year 2000. Furthermore, the committee's work runs contrary to the actions this Congress has taken in the last 5 years.

The inadequacy of the Federal commitment to solar initiatives was addressed by the House 4 years ago when I worked along with other Members to increase funding for the solar programs which had been neglected. Over the past 4 years, Congress has consistently appropriated more than the administration has requested for solar energy. In 1980, the administration requested $546 million and Congress appropriated $638 million. In 1979, the request was $378 million and the appropriation was $502 million; in 1978 the figures were $305 million and $368 million; in 1977 they were $162 million and $290 million.

Unlike other years, the committee's proposed funding level has seriously reduced a request which in itself will not move us close enough to the goals that have been established.

Another example of how H.R. 7590 contradicts the record of the House applies to the wind energy area. One of the most important near-term solar power sources, wind energy, will be significantly delayed if the House fails to adopt this amendment. Even though the committee praised wind energy by stating, "Of all the solar technologies, wind energy shows the most promise of providing an early, economical renewable resource," the appropriations bill cut the administration's $32 million request by about one-third to $22 million. This amendment would restore funds for wind power demonstrations as well as funding for commercialization programs to insure the reliability of wind systems. Passage of this amendment will help insure the timely implementation of the mandate to proceed with wind energy development contained in H.R. 5892. The House passed this bill, the Wind Energy Research and Development Act, by a vote of 382 to 23 and it recently cleared the Senate. According to the Department, the committee's funding level would force up to a year's delay in implementing this mandate.

Mr. Chairman, I strongly urge adoption of the amendment.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, I have one concluding statement. That would be to say that the solar lobby, those people who are interested in the program on this issue, we are dealing with the fiscal realities as well. We have cut back from $65 million to $49 million, that additional money which the President in his revised request made to the Appropriations Committee. So, we are trying to deal as realistically as we can with the fiscal restraints.

We understand that we had to prune; we understand that we had to fine tune; we understand we had to look at the programs that would be most productive in research and marketing to add to the progress that solar has made. So, we are not in here asking for a full list. We are asking as much as anyone else is, for some understanding, but not to deal with the programs across the board consistently, to say what areas of the Government have to cut back. We are in this mess because of an energy crisis. If we have any opportunity to get out of the problems we are in in this country economically, it is through the development of alternative energy sources.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding. I take this time to read into the RECORD what actually has been done. I do not know where this $50 million addition may be to fiscal year 1980, but fiscal year 1981 requests have been decreased across the board.

For the solar applications category, the 1981 request was $49,500,000; this bill provides $47 million. For market testing and applications, the 1981 request is $58 million; this bill provides $46 million. For solar technology, solar thermal, the revised request of the Department of Energy for fiscal year 1981 was $92,550,000; the bill provides $80,100,000. For photovoltaics, the comparisons are $133 million versus $127 million in this bill. For wind energy, the request is for $77.9 million; the bill provides $67.9 million. For ocean thermal, the request is $38,300,000; the bill provides $35 million.

The same is true with respect to magnetic fusion. The figures we have here are:

Magnetic fusion fiscal year 1981 request was $396.1 million; the bill provides $373.3 million. High-energy physics, the 1981 request was $354.8 million; the bill provides $326.7 million. In nuclear physics, the request was $111.5 million; the bill provides $103 million.

In basic energy sciences, the request was $251.8 million; the bill provides $213.2 million. In other Office of Energy research, the request was $29 million; the bill provides $17.1 million. In solar energy, the request was $613.2 million; the bill provides $545.1 million.

So, we may be providing a slight amount over the fiscal year 1980 appropriations, but we are certainly going seriously under the 1981 requests which are cut down from the administration's original request, and what they felt was absolutely barebones needed to push these programs ahead.

Mr. MARKEY. I think that the only thing we are really requested to do by the people of this country is to be consistent. That does not mean we should cut all programs equally. I think that means being consistent in trying to do the right thing in public policy. Here, we are scapegoating an area of economy which has the greatest potential for getting us out of the very serious energy dilemma which we are in right now.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is difficult to oppose the Appropriations Committee, or to ask for revisions in the excellent work that they did. I listened with care to the chairman's overview of this bill, and at one point the chairman said that if we had funded oil shale at an earlier point in history we would have been immeasurably better off with respect to the development of that technology. The previous speaker emphasized solar and fusion.

There is another ingredient in this amendment which I think has to be elevated. That has to do with the high-energy physics, basic research area. We on the Science Committee very often look at things in, I would say, as much detail as does the Appropriations Subcommittee and Committee. For example, when we look at a project such as an intersecting accelerator, which we call "Isabelle," it was provided with $280 million as an overall target, but was provided with early on $5 and then $10 million area requires larger increases during certain stages of construction.

Then, by virtue of the differences in funding levels over the years, one cannot say that an ongoing, stable commitment to the funding for a program like that is sufficient to meet its target in the overall. So that, larger infusions of money are needed in advanced stages of construction than are needed in the early stages.

Projects such as Isabelle, it was agreed, will restore our hegemony in the world of basic energy and high energy physics and research. Certainly, we have fallen behind the Japanese and the West Germans. That project is essential in this area to provide us with an understanding of the inner secrets of matter, the proton.

It seems to me that to interdict the construction process first with a deferral and then with a cutback is something that we cannot abide, either in terms of our international situation or in terms of our national energy situation. So, this amendment attempts, by virtue of a very careful review of this subject, to restore some of the money that was removed from these kinds of projects. That is required to assure that the project is effectively completed in a timely fashion.

The gentleman from California (Mr. McCLOSKEY) earlier mentioned some of the important programs in the high energy physics area, and while without question fusion and solar are programs which must be developed to their fullest within the context of whatever fiscal restraint we can develop, the high energy physics basic energy area is something that must be addressed.

□ 1710

Mr. Chairman, I am not going to read the correspondence that I received from officials at the Brookhaven National Laboratory, for example, who suggest these cuts will do severe damage to a range of programs which are vital to the interests of this Nation, because I do not think they have had time to really investigate the impacts. I do believe, however, that what was done here in terms of appropriations has considerable deleterious or adverse impacts on those programs. But I would not stand here and tell the Members precisely what they are. I can only suggest that in this area, where the Committee on the Budget and the administration both set limits which were not violated by the targets set up in the Committee on Science and Technology but were reduced by this appropriations measure, it would serve this Nation and its energy efforts well if we supported this amendment and did the kinds of things that I think are essential for the well-being of the Nation.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in favor of the Fuqua amendment, not out of disrespect for the result that this subcommittee has reached but to try to put the subcommittee's work in context with the overall matter of the U.S. security and national defense.

We have a defense budget for fiscal year 1981 of $153 billion. I suspect that most of us, in analyzing how we are going to vote on that defense budget, put the national security absolutely first, and if we are going to make errors, we will make them on the side of generosity for the national security.

I would like to urge that in this subcommittee's consideration of cutting back research in basic energy we make a grievous error if we do not also make our mistakes on the side of generosity.

It is, after all, I think, an accepted truth today that the greatest danger of war is our dependence on oil from the Persian Gulf and the Middle East. The President has said that we are willing to go to war, if necessary, to protect our interests in the gulf region. To cut back, as the subcommittee has, $178 million from long-range energy research to cover our hoped-for solutions over the next 30 years, it seems to me, is being penny wise and pound foolish, granted that with this $178 million of cutbacks we are not going to see the benefits of it for perhaps 10 to 20 to 30 years.

The Fuqua amendment would restore only two-thirds of that cut of $178 million, but let me recount to the committee what the Fuqua amendment would restore. The subcommittee cut from the President's amended budget request $22.8 million for magnetic fusion; the Fuqua amendment would restore $20.8 million of that $22.8 million cut.

In high energy physics, the committee cut $28.1 million from a total budget of $326 million; the Fuqua amendment would restore $16 million of that $28 million cut from the President's request.

In nuclear physics, the committee cut $8.5 million; the Fuqua amendment would restore $3 million. In basic energy sciences, the committee cut $38.6 million; the Fuqua amendment would restore $18 million. In solar research, the committee cut $68 million; the Fuqua amendment restores $49 million.

Now, that restoration of essentially two-thirds of what the committee cut can be compared to our defense budget of $153 billion this year. That long-range energy research, if it gives us one energy answer 10 or 20 years down the line, may be more valuable than an equivalent $1 billion or $10 billion in this year's defense budget.

I would urge the committee that while these cuts may be small, they go to the very heart of programs of the U.S. Government which seek to keep us equal with our foreign competitors. In the high energy physics program, for example, which the committee has cut almost 10 percent, we find that in Western Europe the high energy physics program is going ahead at almost twice the level of ours. The Soviets have a strong program, and the Chinese have recently gone into high energy physics.

This is an indication that other countries, looking to a world of dwindling energy assets, conceive high energy physics as well worthy of increased effort.

Can the United States, having built up since 1968 a stable of scientists operating in laboratories like Fermi and Brookhaven and at Stanford Linear Accelerator Center, afford to cut 10 percent in a year from a program of this kind? That is a fairly minuscule cut from the overall budget for the national security but is a major cut from the energy research budget, depriving this Nation of a substantial number of scientists who will have to go into other fields and give up high energy research.

It seems to me that in the overall picture, whatever may be the circumstances of the desire of this committee to share in reaching a fiscal budget, when we look at the comparison of energy research and the overall national need, to restore two-thirds of what the committee has cut and go back $107 million toward the President's original request is not an unwise decision. I say that with the same kind of respect that our colleague, the gentleman from Maryland (Mr. BAUMAN), expressed for this subcommittee.

Mr. Chairman, I hope that the Fuqua amendment can be adopted.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by Chairman DON FUQUA. Solar and fusion energy are perhaps our best hope for the long-term solving of our energy problems. This amendment would restore funding for basic research at universities around the country.

Basic research is critical if we are to succeed at making the discoveries needed to advance solar and fusion knowledge.

For instance, at the University of Texas at Austin, the committee's cut in basic research would severely cripple our fusion program. The Texas program for fiscal year 1981 is slated to receive some $4 million in Federal funding. Without this amendment, the amount could be cut in half—or even more. The University of Texas at Austin is now the Nation's leading university for basic fusion research, along with Princeton University. With brand new programs coming on line, a severe cutback in this crucial funding would throw a wrench into the progress we, and all universities, have made and will continue to make.

Let me make this additional point. Basic research is interrelated to other programs. A major cut in basic university research would soon affect applied research in the national fusion labs. You need the knowledge and the personnel trained in basic research programs to maintain the applied research.

Restoring this cut in funding is essential to meet our goals in basic and applied research for fusion and solar energy—our brightest hopes for meeting future energy needs.

This fall, two new national research centers will open at United Technologies.

First. New tokamak, called TEXT. This is a national basic experimental fusion research facility. Congress authorized the project in fiscal year 1977. Total construction cost was $10 million. It was built by United Technologies and Westinghouse. It is slated for dedication in July. This new tokamak will begin operating this fall.

The significant thing about the tokamak is that it is a national user facility. Scientists from around the world will have access to run their experiments on the machine. Another unique characteristic is that the tokamak is designed to allow maximum diagnostic access so an observer can know what is going on inside the plasma. The machine is not designed to achieve scientific feasibility, but it is excellent for testing.

This machine will have 42 diagnostic ports to monitor what is inside—most tokamaks have just three or four. This way, the very minute processes—good and bad—going on when the machine is being fired will be exposed. This way, scientists will have fewer guesses and more facts about what is occurring.

This new tokamak also represents a more clear role for university research in fusion. Four years ago, there were no university programs. Most work in tokamaks was concentrated at the five national laboratories. The university projects are designed to:

Supplement and complement work at national laboratories;

Be available for experimentation; and

Provide hands-on training for fusion physicists.

Second. The Institute for Fusion Studies is scheduled to open this fall. Announced by DOE some 3 months ago, this institute is jointly funded by UT and DOE (some $5 million apiece). UT beat several schools, including UCLA, MIT, Maryland, et cetera to get this center.

The center will collect 35 to 40 of the best theoreticians in the Western World. It will be headed by Dr. Marshall Rosen-Bluth, who will move to Austin within the month. He has been at the institute for advanced studies at MIT. Ten senior people have been recruited for first year operations.

Also a program that has pushed UT ahead in fusion research is TAREF: The Texas Atomic Energy Research Foundation. It is a consortium of 10 private electrical utilities in Texas and since 1957, it has supported fusion research. TAREF was the first private source of funds for fusion, and it has spent $17 million in this area. Since 1965, all its money has gone to UT at around $400,000 a year. This funding has enabled UT to take the lead in this field.

□ 1720

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I want to talk about an area of the amendment that has not been spoken to in all of this debate.

We have heard about solar energy, the fusion program and high energy physics. There is another part of this amendment that is extremely important. It may not be as sexy, perhaps, as solar energy or fusion but equally as important, and that has to do with basic energy sciences. This amendment seeks to restore $18.1 million to that field.

I would like to just take a moment to talk about two areas of basic energy sciences that will have a great impact on the future of this country. One area that I have been involved in on the Committee on Science and Technology for about 6 years now has to do with materials research, materials reliability.

The recent fatal crash of a DC-10 commercial aircraft, although highly publicized, is but one of many catastrophic failures that have occurred as a result of undetected flaws in materials of construction. The list is long and includes bridges, pipelines, pressure containment vessels and large ships. Increased emphasis on manufacture liability and downtime due to unexpected failures of key components in process plants have greatly increased the economic burden of the consumer. For example, the cost of unexpected downtime of a hydrocracker in petroleum refining is placed at more than one-half million dollars per day.

Now, recent developments in electronic instrumentation and mathematical theory make a fundamental attack on the most basic issues in materials reliability. This is a substantial component of the fundamental research in the basic energy sciences. This research will provide the basic science for technically sound criteria not only for accepting or rejecting new components, but also for retiring existing equipment. Sound procedures and utilizing materials in aircraft, in pipelines, in cracking plants and all of the things that we are going to need in the future, cannot be developed without the basic research now in progress.

One other area deals with coal conversion and combustion.

A key objective in our national energy policy is the conversion of coal to clean gaseous and liquid fuels and to chemical feed stocks. The proposed synthetic fuel program is illustrative.

Existing technologies depend on burning, gasification, and direct liquefaction; all of these are technically crude and use nonselective high temperature reactions to destroy the coal structure. It has been told to me by scientists that this is the chemical equivalent of pruning a rose bush with a machete. The energy efficiency of these procedures is from 30 to 65 percent. The capital costs per unit of output are very high, and the cost of fuel produced is correspondingly high. The basic chemistry on which these procedures depend is at least 50 years old.

Very recently, however, new techniques and knowledge have made possible much more penetrating investigations about the chemical structure of coal, and these in turn are stimulating research into reactions which may selectively break down the structure of coal. Such reactions would provide the scientific basis for less expensive and more energy-efficient conversion of coal to liquid fuels. Basic research in these areas is in the chemical sciences area of the basic energy sciences, of which this amendment speaks, $18 million to restore there. Scientific gains in this one area can have a major impact on our ability to use large amounts of coal cheaply and without polluting our atmosphere. This area, also, of basic energy sciences is developing a major basic research effort in the chemistry of combustion, which in the future will provide scientific bases for more efficient combustion, including more efficient internal combustion engines and better control of combustion effluents.

For the reasons that have been spoken to by my colleagues, and also for the very important reason of supporting the basic energy sciences and in materials research, I urge adoption of this amendment.

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to congratulate the chairman of the Committee on Science and Technology for offering this amendment. It is probably one of the places where I can understand the request of the Appropriations Committee to save some money to balance the budget. We are all for that. But in this particular case I think this is one of the areas in which we should be very careful, because in the long run it will be a plus when we develop these alternative energy sources.

I was going to offer an amendment, because there is an oversight and a cut that was too deep that was made by the Appropriations Committee, and I take this time to point it out because, while I do not want to interfere with the chairman's amendment, I will make an effort that, perhaps, by the time it comes back over here we might try to put a little more money into it. As a matter of fact, the figure ought to be somewhere about $1 million or $2 million for one particular project; that is the Valles Caldera in New Mexico. It is a geothermal project. This is the first commercialization, commercial scale plant to generate electricity using underground reservoirs.

The request from the administration—and that was the lower request—was $10,911,000. The Appropriations Committee cut it to $6,911,000. That was a $4 million cut. The cut was a little too much. We could probably live with a cut of maybe $2 million, perhaps even a $3 million cut, but a $4 million cut is going to delay the project quite a little bit. We had hoped that by the spring of 1982 this particular project would be generating electricity.

So let me just tell the Members who will be on the conference committee to look kindly upon this addition of $1 million or perhaps $2 million. We will try to keep it down to $1 million if we feel we can still continue the project and bring it online by 1982.

So while I will not offer the amendment now, I did want to bring it to the attention of the Appropriations Committee because the cut was substantial and one that will do harm to the project.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. YOUNG of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. Mr. Chairman, two of the energy sources supported by this amendment, solar and fusion, offer our best hopes for unlimited supplies in the future. From the Sun and from seawater, we can derive energy which cannot be controlled by cartels which threaten our national security.

It is always tempting to trade long-term investments for short-term measures that show immediate results. I hope that the experiences of the 1970's have taught us that to pursue such a policy in energy development is not only unwise, but dangerous. We must have immediate measures to reduce our dependence on foreign oil, but the long-term investments in energy security are equally vital. The additional funding represented by this amendment is a very small fraction of the $90 billion which we will pay for foreign oil this year. We all favor reducing Federal spending, but not at the cost of our energy independence. I urge my colleagues to support this amendment.

Mr. HEFTEL. Mr. Chairman, if there were a time for priorities, it is now. And the first priority would be energy.

We still have 53 hostages that I hope are not forgotten. But they are really part of the energy crunch. So I hope in 10 or 20 years we do not find we have over 200 million hostages because of what we failed to do at this time.

It is not easy to find myself in disagreement with our esteemed chairman, but I think I must in this instance.

Mr. MARKEY and Mr. FUQUA have devised a very farsighted and necessary vision of energy in America. I am sure that if we were to settle on the priorities for energy, we would find the places, the ways and the means to restore these funds.

So I hope we will support these two amendments.

Mr. McCORMACK. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1740

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXVIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I understand there are two or three other Members, including the chairman of the subcommittee and the ranking minority member who have yet to speak. I asked for this quorum call so that those who have not been present may hear a few comments on this amendment so they will know what they are voting on, and would not automatically vote against the amendment because they are told as they walk in the door that "the committee vote is 'no.'"

While the Subcommittee on Appropriations has made these severe cuts in our energy programs, the Committee on Science and Technology has authorized funding levels far in excess of the amendment before us. This amendment is urging the Members to restore part of specific programs that have been cut.

The amendment provides a partial restoration of urgently needed funding for solar energy, fusion energy, and basic energy research. This is the Fuqua amendment which is before us. It is supported by most of the members of the Science and Technology Committee, and many other Members of the House who are interested in attempting to solve our energy programs.

These programs have been cut by the Appropriations Committee by a total of $223 million below the administration's amended budget request. I will say that again so everyone will understand what we are talking about. The appropriation bill before us proposes to cut $223 million below the administration's amended budget request for solar and fusion research development and demonstration, and for basic sciences.

Of this $223 million cut, the Fuqua amendment would restore less than half; $107 million. This restoration is essential to maintain projects, facilities, staff, and program momentum. It is a bare-bones level of funding that we are requesting.

The Committee on Science and Technology, which authorized these programs at a substantially higher level than we are asking, is requesting this lower level in a spirit of reasonableness. The Association of American Universities supports the amendment, as does the Solar Lobby, and a broad coalition of universities and research laboratories.

Finally, the administration has indicated firm support for higher numbers than we are requesting in this amendment. Your support is vital.

I want to point out to my colleagues that if this amendment is not adopted, we will have a 6-month to 1-year delay in operation of the Tokamak fusion test facility at Princeton. We will have delays in the large coil project at Oak Ridge. Fusion programs in 13 of the country's colleges and universities will be stretched out or canceled. Critical work at MIT and Princeton will be suspended or stretched out or cut back. Industrial participation in superconducting wire manufacturing development will be delayed or lost. The fusion technology program at MIT and the fusion plasma research center at the University of Texas will be underfunded.

In basic energy sciences, the program that supports our present and future energy supply and conservation technologies in every single State, termination of 500 scientific and other employees would follow if the appropriations level requested by the committee were accepted.

The amendment would still only restore half, but it would prevent chaos. The impact would fall at Brookhaven in New York, Argonne in Illinois, Berkeley, Calif., and Oak Ridge, Tenn. There would be 80 university faculty and 120 postdoctoral and graduate students lost.

Initiation of research utilizing two new and unique facilities would be deferred: The combustion research facility in California, and the national synchrotron light source in New York. These would be partially funded by this amendment, but not restored to authorized levels.

Research reactors for health research at Brookhaven, N.Y., and Oak Ridge, Tenn., would be forced to shut down without this amendment, and they would be only partially restored with the amendment.

In high-energy physics, about 650 scientists, engineers, graduate students, and technicians in New York, California, and Illinois would be lost without the Fuqua amendment.

The operation of three major high-energy physics accelerators would be reduced 30 to 35 percent. These are projects we have spent billions of dollars to develop and build. They are standing there. These are the facilities where our research is carried out to earn our Nobel Prizes, to move forward in the foremost frontiers of science. These are the projects that will be cut back by 30 to 35 percent by the appropriations bill as it is written and before us, unless we amend it.

Even if we adopt this amendment, we will still fund these critical programs only partially.

The CHAIRMAN. The time of the gentleman from Washington has expired.

☐ 1750

(At the request of Mr. Patten, and by unanimous consent, Mr. McCormack was allowed to proceed for 5 additional minutes.)

Mr. McCORMACK. I will not take the entire time; I will finish quickly.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I thank the gentleman for yielding. I just want to congratulate the gentleman in the well, the subcommittee chairman, and strongly rise in support of the amendment, knowing firsthand the kind of work that our subcommittee chairman and others have done with the problem of energy. I also support the Fuqua-Markey amendment.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from New Jersey.

Mr. PATTEN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida. I am delighted that the House has an opportunity to increase the energy research budget in this bill. I am particularly delighted that my colleague, Mr. Fuqua, is attempting to increase the fusion energy research item. I believe that fusion energy is the long-term answer to our energy dependence problem. The end result will be a safe and abundant source of energy and experts in the field have projected that within 30 years after the commercialization of fusion energy most of our electric energy in the United States will be provided by fusion plants.

Mr. McCORMACK. Mr. Chairman, when I am finished speaking, the members of the Appropriations Subcommittee, the gentlemen whom I admire, respect, work with, and enjoy, will stand here and say that we cannot accept this amendment without "busting the budget." They are all going to say that these are all nice ideas, but, unfortunately, we cannot afford them. We must restrain ourselves they will tell us; otherwise we will not have a balanced budget.

Mr. Chairman, the question of the actual balancing of a $600 billion budget is yet to be resolved, and this $100 million amendment, one six-thousandths of the entire budget, is to be resolved in September, and not today. That is the time when we must work out the final details on balancing the budget. We cannot do that today. We cannot accept such an argument, having hobbled our energy programs as dramatically as the present committee position would hobble them.

I remind the Members that we are working in three specific areas. The first is nuclear magnetic fusion. Earlier I pointed out that even if our amendment is adopted, our fusion program will still be $75 million below where it should be today. The second is solar energy. Even with this amendment funding will be below our projected levels for solar energy. The third is basic sciences. Even with this amendment this vital area of research will be funded far below the levels it should be. These are the facts we must remember. I hope no one will walk in the door and say, "The committee vote is no"; I will vote "no." This matter is too important to consider in such a manner.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I appreciate the gentleman's support of this amendment, and I think it is an excellent solution for us to be able to vote both for solar and fusion nuclear energy this afternoon.

Mr. Chairman, on several occasions we have affirmed our commitment to reduce our dependence on fossil fuels by developing alternative energy sources and technologies. In order to break the grip that the OPEC nations have on our energy supplies and our economy, and assure the American public of adequate energy supplies at reasonable prices, we must aggressively pursue the development, demonstration, and diffusion of solar and solar-related technologies.

It has been estimated by the Department of Energy (DOE) that the U.S. energy consumption rate will hover around 95 quads (95×10^{15} Btu) by the year 2000. If we maintain an aggressive solar posture, solar technologies can produce 20 percent of all estimated energy to be consumed in that year—quite a substantial amount.

The bill before us raises serious questions concerning whether our commitment to solar energy is sufficient to meet the goals that we have established. In real dollar terms, the fiscal year 1981 appropriation for DOE solar programs is slightly lower now than that for fiscal year 1980, and represents a step back from our solar energy goals. It is very possible that, for lack of adequate funding, the goal of 1 quad of energy displaced by photovoltaic cells will not be met by the year 2000. Although expensive, long-term research and development programs such as photovoltaics cannot be expected to provide the immediate benefits of solar heating technologies, their eventual contribution could be much greater. The Office of Technology Assessment (OTA) in their publication "Conservation and Solar Energy Programs of the Department of Energy: A Critique," repeatedly criticizes lack of support received by the DOE in its efforts to achieve our Nation's solar energy goals.

We must recognize the importance of a sustained effort to achieve our solar goals. That effort must proceed on several fronts: Formative and summative program evaluations and constant evaluation of goals and procedures must be established and vigorously monitored. Special emphasis must be placed on the commercialization of solar technologies so that these workable technologies are introduced into the marketplace as soon as possible. Commercialization of appropriate solar technologies is an urgent matter. To commercialize we must assess various facets of solar energy such as private sector development in program development, infrastructure or societal barriers to commercial applications and plans for overcoming such barriers; alternative program approaches and identification of resources required for achieving levels of contributions for each technology path, and environmental and socioeconomic impact assessments of the use of solar energy.

These procedures require a greater commitment of Federal dollars and manpower to efficiently assess and plot the course of solar power in this country, it is an investment that promises the return of cheap, abundant energy; energy that is beyond the control of unfriendly nations and profit-seeking oil companies. Energy that will assure all Americans adaquate supplies at reduced costs. A vote for the amendment offered by my colleague from Massachusetts will reaffirm the Congress commitment to our solar energy future, our goals of energy independence, reduced reliance on nonrenewable fossil fuels, and a clean environment require that we proceed full speed ahead with a workable program of solar development that holds the promise of clean, nonpolluting energy to heat our homes and provide a decentralized source of residential and commercial electricity, that all people can afford.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Jersey.

Mr. PATTEN. I thank the gentleman for yielding. I thought the gentleman commented on the article that Thomas O'Toole had in this morning's Post. What prestige is attached to that report?

Mr. McCORMACK. I thank the gentleman from New Jersey. The Buchsbaum report on magnetic fusion was released yesterday and reported in the press today. It clearly calls for this Nation to move forward now with magnetic fusion. This Congress must make up its mind whether or not it is now going to move forward with the engineering phase of magnetic fusion. We can stay at these present low levels of undirected research and drift into the 21st century, or we can move forward aggressively now with this energy source, and show the world that we are serious about solving our long-range energy problems. There is no question that magnetic fusion is by far the most important energy technology that this Nation has available to it for the 21st century. I hope no one will not accept the argument that we would like to have these funding levels, but that we must instead balance the budget. It is important that we move forward now with fusion, and accept this amendment.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, for those of us who have been around for a few years, how many times have we heard this argument, Oh, I am for a balanced budget; however, do not do it here. The priority is too high, too great. The risk is too great to worry about budget restrains and things like that.

The impression that is left this afternoon is that our committee has cut spending on these very critical areas, and I think the record needs to be set straight that that impression is wrong. In solar, as an example, we have increased tremendously in recent years. Back in 1974 this committee, this Congress, was appropriating just $15 million for solar. For all the solar research and all the solar development back then, it was $15 million. This year in this bill there is $657 million. Add to that all the other programs and the other appropriations bills. Add in the tax credits, add in the inducements that are in the other programs, and we find over $1.5 billion this year being spent for solar research. So it is not really fair to say that this committee has cut back. We have increased from last year the amount of money for solar.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I have only 5 minutes. I am sorry. The gentleman had his opportunity. I regret that I have not had.

The President has proposed a 20-percent solar program to produce 20 percent of our energy needs by the year 2000. But closely look at and examine and listen to the expert witnesses. We find that just half of that is to come from solar. The other half is to come from wind, from biomass, from wood burning, from OTEC, from other sources. Even the most encouraged tell us that 10 percent of our energy needs will come from solar in the year 2000. So, yes, we have increased solar, and I think it would be unfair to say we have not.

The question is not fusion or no fusion. This committee supports fusion research. We have for many years. We have accepted tremendous cost overruns on the fusion projects, particularly with Tokamak at Princeton. So the question is not fusion or no fusion. The committee this year has increased fusion research by 11 percent. You can hardly call that a reduction in expenditures.

The Buchsbaum report has been mentioned here a number of times, and the Washington Post attempted to cover what was in it. I will relate to you some facts they have not told you which are in the Buchsbaum report. I quote from that report:

> Rather, the program we advocate should center around a more modest, Tokamak-based fusion engineering device.

I repeat, a more modest one. Then they go on to say:

> There remain many design options for a reactor. Excessive haste toward commercialization may lead to a demonstration of a less-than-adequate fusion reactor, delaying rather than accelerating commercial acceptability.

This is what our committee saw coming. We want to slow down just a little bit. It is not that we are turning our backs on fusion; of course not. We are going forward, but more dollars in this instance does not necessarily mean a better program. I go on from this same Buchsbaum report that I read, but which was distorted in this morning's Post:

> The Department of Energy should be highly discriminating in advancing existing alternate concepts much beyond their present scopes.

They suggest we should go on and examine other areas.

I quote again from this report, this time on the Elmo Bumpy Torus:

> Construction should wait for additional confirming results of work in progress and proposed herein, especially an exploration of the possibilities of more modest experiments.

Again, not full steam ahead but back off a little bit and let us examine closely what we are doing.

Again, in the wisdom of your committee, this is what we have done in this instance.

It was mentioned here earlier only once that the President would accept this amendment. That may well be true, but no one has responded that the President would sign this bill if it is $100 million over his proposed budget. He may accept this amendment, but it does not say he will accept the dollars.

Just 2 weeks ago, if you will remember, this Chamber passed, after refusing to accept the first concurrent budget resolution——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 1 additional minute.)

Mr. MYERS of Indiana. Now today we are being asked, oh, just this one time let us go a hundred-some-million dollars over the budget. By a vote today for this program, we probably could get some increased exploration and some increased research. We might even get a little extra energy. No one can say with certainty that these extra dollars will do that. But what is it going to do to our economy?

Several people have mentioned this appropriation has not increased as much as inflation. That is very true, but what will an unbalanced budget do with an inflation rate that is defeating the very things we are trying to do here?

Mr. Chairman, this afternoon at this committee meeting, if you are interested in really balancing the budget then believe what your committee has brought to you, that we do have a sound program of research and development of energy alternatives for the future. But, most importantly, vote also not to bust this budget because a vote for this amendment, as appealing as it might be, will bust our budget. And then what is next?

□ 1800

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have heard all these very dedicated gentleman speaking about the proposed amendment to add $107 million to the bill. That is what we are talking about. We are talking about adding $107 million. If you vote for this amendment, you are voting to be beyond the budget by $103 million—$103 million. I agree that it would be nice to have it, and I think that some good might come out of the programs involved. I do not argue with anything these gentlemen have said. However, the facts are, this Congress has committed itself to stay within the budget and this subcommittee has followed that directive from you and has stayed within the President's budget. We feel that we are within the intent of the budget resolution this Congress passed.

Let me address myself to one or two things that were accidentally misstated. They say "let's restore this" and "let's restore that." We are not being asked to restore anything. We are being asked to add $107 million to the increases over the current year that this subcommittee has already provided. We added $50 million for solar energy operating expenses over 1980. Let me just say something about solar energy.

In 1974 we put $15 million in solar energy; 1975, $43 million; 1976, $115 million; 1977, $294 million; 1978, $389 million; 1979, $515 million; 1980, $643 million and 1981, $656 million and we are not even counting solar loans, the Department of Defense solar program, and other programs sponsored by Federal programs which total $1.7 billion. Everybody is funding solar energy.

Mr. Chairman, let me again say this subcommittee supports solar energy. We have put so much money in this bill for solar energy that we are a little embarrased about it if you want to know the truth.

Now listen to this: In 1981, we are going to have $1.7 billion allocated to solar energy programs.

We can just spend so much on a program. We have referred to these GAO reports. GAO has made these four reports. I will not go into detail again, but they say the solar energy program is not in order, that there is a lot of waste, there is too much money being put into it. Everybody loves the idea of solar energy, including us, so everybody votes for it.

However, the fact remains that there are four GAO reports saying money is wasted in the solar energy program, that they need to get their house in order. Here are two Inspector General reports which say the same thing. That makes six reports, none of them older than 1979.

What are they talking about when they talk about waste? Look here: This catalog that I hold is nothing but a little list of some projects that we have in the Department of Energy. Now, look at this binding. Sears, Roebuck cannot afford to do this. It costs $70 to print this thing. They could have mailed the thing for 45 cents. But not the Department of Energy. Look here, they sent it first class at a cost of $3.45. They printed it in April. They did not mail it until 3 months later. I do not know why they had to go first class.

Mr. Chairman, do not vote for a pig in a poke here. You are throwing money away. You are throwing your taxpayers' money away. The taxpayers are tired of it. Every poll tells you they want this budget balanced. Now, do not sit up here and say, "Oh, I am for solar energy. Vote for it." The bill increases $50 million for solar energy. They want to add $50 million more in this amendment. Now, how far do we want to go? Do we want to bust the budget? Do we want to balance the budget or were we just joking about it? I think this is what the people will want to know.

Mr. Chairman, I urge the Members to vote to support this subcommittee.

Vote "no" on this amendment. All the money needed is in the bill. We do not need to bust the budget $103 million.

Mr. Chairman, I yield back the balance of my time.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment. There is another study which I think is an important one which should be considered here, a study by the Congress own Office of Technology Assessment, a study called "Conservation and Solar Energy Programs of the Department of Energy, a Critique."

Mr. Chairman, this report repeatedly criticizes the lack of support received by DOE in its efforts to achieve the solar energy goals which we have set for this Nation.

Mr. Chairman, we are not going to sustain the goals unless we have a sustained effort, we are not going to achieve them unless we are prepared to provide the necessary funds to achieve them.

Mr. Chairman, I would remind the members of the committee that we have a goal of one quad of energy displaced by photovoltaic cells by the year 2000. We cannot get there with rhetoric, we can only get there if we are prepared to expend the money that is required.

Mr. Chairman, we are going to have other opportunities to cut money from this bill but when we have a crisis of the dimensions that we have in energy, it seems to me of paramount importance that we join together to support the necessary research and commercialization effort for solar energy and for fusion energy.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I will be happy to yield to the gentleman from Massachusetts for his concluding comments.

Mr. MARKEY. I thank the gentleman from New Jersey for yielding.

Mr. Chairman, I again would like to correct a misstatement. There is a decline in absolute numbers in the amount of money which is appropriated this year over last year in solar. When you add in the inflation factor, it actually means a 15-percent decline in the amount of funds which will be available for solar energy this year over last year. The committee has been good in the past. They have contributed substantially to the growth of solar energy as a viable technology in this country, but the past is just a memory and the future is a hard reality. It needs the continued interest and support of this committee. If we see the kind of retrenchment that we are contemplating right now, America will forgo the leadership role it must assume in the world in making solar energy the alternative energy source of the future. We have an opportunity here today to recapture some of that lost momentum to put this back in, not in exorbitant amounts, $49 million well targeted toward programs in research and marketing which could mean the difference 10 or 12 years down the line in displacing billions of dollars worth of unwanted imported oil which could bankrupt this country before we ever come to the point where we have established energy independence in this country.

I thank the gentleman from New Jersey for yielding.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for his leadership on this issue.

I yield back the balance of my time.

● Mr. WYDLER. Mr. Chairman, these basic programs and magnetic fusion have been gutted by a total of $110 million in deep cuts taking them down to a level well below the President's amended budget request. This leaves general science and research in the Department of Energy up only 3.3 percent from fiscal year 1980 appropriations levels. Basic energy research is actually down from the fiscal year 1980 appropriations level and has been cut an astounding 16 percent from the President's request by the Appropriations Committee. With an inflation rate of nearly 15 percent, this means a significant cut in the level of scientific effort across these programs.

As our colleagues on the Appropriations Committee are well aware, research is an enterprise that cannot simply be turned on and off if we are to keep the United States competitive with other nations. The per capita funding of this basic activity in Western Europe is twice that of the United States and the Soviet effort is very strong across the board in this area.

I have had some concerns about the accomplishment for the dollars and management of solar programs, but I cannot feel comfortable with a 10-percent reduction from the fiscal year 1981 amended request. I have had my staff do a careful analysis and their resulting recommendations came in very close to the levels that these programs would be restored to by this amendment.

This is a responsible amendment which actually restores overall less than 60 percent of the cuts that have been made below the amended budget request. This indeed represents "survival levels" for key activities in these general science, research, fusion, and solar programs. I hope that my colleagues will give strong support to this carefully tailored amendment which is vital to energy research.●

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida (Mr. FUQUA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 254, noes 151, not voting 28, as follows:

[Roll No. 362]

AYES—254

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Anthony
Archer
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Bingham
Blanchard
Bolling
Boner

Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Courter
D'Amours
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derwinski
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley

Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Howard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y
Murphy, Pa.
Musto
Myers, Pa.
Neal
Nedzi

Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Rangel
Ratchford
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Roth
Royer
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Studds
Swift
Synar
Tauke
Thompson
Traxler
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Williams, Mont.
Williams, Ohio
Winn
Wolff
Wolpe
Wydler
Yates
Yatron
Young, Mo.
Zablocki

NOES—151

Akaka
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashbrook
Ashley
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Boggs
Boland
Bowen
Breaux
Brooks

Broyhill
Burgener
Burlison
Butler
Chappell
Cheney
Collins, Tex.
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
de la Garza
Devine
Dickinson
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Fary
Fountain
Frenzel

Frost
Gephardt
Ginn
Gramm
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Ichord
Jacobs
Jeffries

Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kindness
Latta
Leath, Tex.
Livingston
Loeffler
Long, La.
Lott
Lungren
McDade
McDonald
McEwen
McKay
Marriott
Mattox
Miller, Ohio
Mollohan
Montgomery
Moore
Murphy, Ill.
Murtha

Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Preyer
Regula
Rhodes
Roberts
Robinson
Rostenkowski
Rousselot
Roybal
Rudd
Russo
Santini
Satterfield
Sebelius
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa

Smith, Nebr.
Snyder
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Stump
Symms
Taylor
Thomas
Trible
Van Deerlin
Walker
Wampler
Whitehurst
Whitley
Whitten
Wilson, Bob
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—28

Anderson, Ill.
Atkinson
Brown, Ohio
Coelho
Corcoran
Derrick
Dingell
Dodd
Drinan
Erdahl

Erlenborn
Ertel
Ferraro
Giaimo
Hawkins
Jenrette
Mathis
Michel
Pepper
Rahall

Reuss
Runnels
Tauzin
Udall
Ullman
Wilson, C. H.
Wilson, Tex.
Wirth

☐ 1820

The Clerk announced the following pairs:

On this vote:

Ms. Ferraro for, with Mr. Rahall against.

Messrs. LOEFFLER, STOKES, BIAGGI, and ASHLEY changed their votes from "aye" to "no."

Mr. WILLIAMS of Ohio, Mrs. COLLINS of Illinois, Mr. CAMPBELL, and Mr. SPENCE changed their votes from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For operating expenses of the Department of Energy necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $1,007,040,000, to remain available until expended, of which $979,585,000 shall be derived from revenues received from the enrichment of uranium as authorized by section 111(h) of Public Law 93-438, as amended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided*, That within the limits of this appropriation, obligations may be incurred in advance of uranium enrichment revenue collections and shall be liquidated from such collections.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to comment on interim storage of spent nuclear fuel, a matter addressed on page 23 of the committee report. On that page, the committee directs the Department of Energy to begin a process of site selection for a Federal away-from-reactor nuclear waste storage facility—what has come to be known as an AFR. Regarding guidelines and criteria in this search, the report says only, and I quote:

> The Committee expressed no preference with respect to the method of acquiring or providing an AFR capability except that it be done expeditiously and economically.

I believe that there are other criteria which must be considered besides speed and economy: safety; the role that interim storage will play in a long-range strategy of disposal; and the fair distribution of the nuclear burden.

First, Mr. Chairman, I would like to call attention to continuing uncertainties which linger over the AFR question for both the short term and the long term. Estimates vary widely about immediate AFR needs and about the wisdom of AFR compared to expanding onsite storage. In this context, it is interesting to note that the TVA recently decided against an AFR strategy after an exhaustive investigation and decided instead to expand its on-site capacity.

The question of when permanent storage can replace this proposed "interim" storage is still more uncertain. Scientists from the U.S. Geological Survey have testified before the Interior Appropriations Subcommittee, which I chair, that it will be the 1990's, at the very least, before permanent disposal technology is in hand, and prehaps much longer. Reprocessing is held out as an option, but reprocessing increases proliferation risks, as the President stated in his decision to halt reprocessing. Interim storage is conceded to be a stopgap measure. If there is a likelihood that the "interim" storage will, in fact, prove long term, all proposals should be considered in that context.

It is my understanding that the bill which is currently being considered by the Interior Committee admirably addresses both the short-term and long-term uncertainties by requiring a utility to prove its AFR needs and by setting a cutoff date for "interim" storage. I trust that, reports to the contrary notwithstanding, the Department of Energy clearly understands that it has no mandate to proceed with the actual operation or acquisition of an AFR until authorizing legislation has been approved and signed into law.

Second, I would like to bring up an issue which is not addressed in the proposed authorizing legislation: the location of an AFR in a major urban area. Morris, Ill. is one of the most likely sites for an AFR. More than 6 million people live within 50 miles of Morris. One of the chief risks of an AFR is the transportation of highly radioactive spent fuel, and it would seem that this risk increases in direct proportion to the population of the area through which the cargo must travel. The issue of an AFR's proximity to a major population center, however, has been treated cursorily when it has been examined at all. For this reason, I have asked GAO to report on the advisability of the Morris site, paying special attention to the problem of locating an AFR in a major urban area. I would urge both the Department and the various committees with responsibility for this program to keep this consideration in mind as the review of various AFR sites proceeds.

Third, I wish to emphasize the importance of a fair distribution of the nuclear burden. If we must have AFR's, we should have 4 of 5 regional AFR's. We should not turn one or two States into national nuclear waste dumps. A policy of regional AFR's has not only the logic of fairness, but the logic of safety as well, for it reduces the amount of nuclear waste in transit, a danger to which I have already referred. In addition, a principle of reciprocity should be established so that if one State "hosts" an AFR and its high-level spent fuel, another will "host" low-level waste. Again, the burden should be fairly distributed.

Finally, I call attention to the questions which nuclear waste raise about the very enterprise of nuclear power. It has been said that nuclear power is a "Faustian bargain." Nowhere is this more evident than in nuclear waste. I am very disturbed by the continuing inability to provide satisfactory answers to the troubling question of nuclear waste disposal; this inability gives one serious pause about the wisdom of expanding or even continuing the generation of such waste.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,657,095,000 to remain available until expended: *Provided*, That to the extent funds are available in the Inland Waterways Trust Fund, $30,000,000 may be transferred to this appropriation and utilized for construction and rehabilitation expenditures as authorized by section 204 of Public Law 95-502: *Provided further*, That notwithstanding the provisions of Public Law 89-72 of the Federal Water Project Recreation Act of 1965 (79 Stat. 213, July 9, 1965), section 2A2, which limits the costs to be allocated to recreation or to fish and wildlife enhancement, the Corps of Engineers is directed to proceed with construction of site 20 of the Papio Creek Basin Nebraska plan of flood control improvements authorized by Public Law 94-83, the Flood Control Act of 1968: *Provided further*, That within available funds, $1,500,000 shall be for emergency beach nourishment at Mt. Baldy at the Indiana Dunes National Lakeshore and shall remain available until expended.

□ 1830

AMENDMENT OFFERED BY MR. PRITCHARD

Mr. PRITCHARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRITCHARD: Page 14, line 4, strike out "$1,657,095,000" and insert in lieu thereof "$1,457,095,000".

Page 14, line 21, insert ": *Provided further*, That none of the funds appropriated by this paragraph may be used for the construction of the section of the Tennessee-Tombigbee Waterway Project located north of river mile 369 of the Tombigbee River" after "expended"."

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GLICKMAN) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 2009, CENTRAL IDAHO WILDERNESS ACT OF 1980

Mr. SEIBERLING submitted the following conference report and statement on the Senate bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-1126)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from the disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Central Idaho Wilderness Act of 1980".

SEC. 2. (a) The Congress finds that—

(1) certain wildlands in central Idaho lying within the watershed of the Salmon River—the famous "River of No Return"—constitute the largest block of primitive and undeveloped land in the conterminous United States and are of immense national significance;

(2) these wildlands and a segment of the Salmon River should be incorporated within the National Wilderness Preservation System and the National Wild and Scenic Rivers System in order to provide statutory protection for the lands and waters and the wilderness-dependent wildlife and the resident and anadromous fish which thrive within this undisturbed ecosystem; and

(3) such protection can be provided without conflicting with established uses.

(b) The purposes of this Act are to—

(1) provide a comprehensive, statutory framework for the protection, administration, and management of the wildlands of the central Idaho region and a portion of the Salmon River through—

(A) the designation of the River of No Return Wilderness;

(B) the addition of certain lands in the "Magruder Corridor" to the existing Selway-Bitterroot Wilderness; and

(C) the incorporation of one hundred and twenty-five miles of the Salmon River as a component of the National Wild and Scenic Rivers System;

(2) end the controversy over which lands within the central Idaho region will be designated wilderness—thereby assuring that certain adjacent lands better suited for multiple uses other than wilderness will be managed by the Forest Service under existing laws and applicable land management plans; and

(3) make a comprehensive land allocation decision for the national forest roadless areas of the central Idaho region.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), certain lands in the Boise, Challis, Payette, Salmon, Bitterroot, and Nezperce National Forests, Idaho, situated north and south of the Salmon River which comprise approximately two million two-hundred and thirty-nine thousand acres, as generally depicted on a map entitled "River of No Return Wilderness, Proposed", dated June 1980, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, and shall be known as the River of No Return Wilderness. The previous classifications of the Idaho and Salmon River Breaks Primitive Areas are hereby abolished.

SEC. 4. In furtherance of the purposes of the Wilderness Act, certain lands in the Bitterroot National Forest, Idaho, which comprise approximately one hundred and five thousand six hundred acres as generally depicted on a map entitled "Magruder Corridor Proposed Additions, Selway-Bitterroot Wilderness", dated November 1979, are hereby incorporated in, and shall be deemed to be a part of, the Selway-Bitterroot Wilderness as designated by Public Law 88-577, and, therefore a component of the National Wilderness Preservation System.

SEC. 5(a)(1) Within three years of the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as "the Secretary") shall develop and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives a comprehensive wilderness management plan (hereinafter referred to as "the management plan") for the River of No Return Wilderness which shall consider a broad range of land uses and recreation opportunities.

(2) The management plan shall be prepared in coordination with the relevant national forest plans required by sections 6 of the National Forest Management Act of 1976 (Public Law 94-588).

(3) The management plan shall include the cultural resources management plan required by section 8(a)(3) of this Act.

(4) In preparing the management plan, the Secretary shall provide for full public participation as required under section 6 of the National Forest Management Act.

(5) The management plan shall, among other things, address the need for, and alternative means of, access to the wilderness.

(b) In administering the River of No Return Wilderness, the Secretary shall, to the maximum extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails within or adjacent to the wilderness on at least an annual basis.

(c) Subject to valid existing rights, the River of No Return Wilderness designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(d)(1) Notwithstanding the provisions of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), including section 4(d)(3), closing wilderness areas after December 31, 1983, to the United States mining laws, and the designation of the River of No Return Wilderness by this Act, within that portion of the wilderness depicted on a map entitled "Special Mining Management Zone—Clear Creek" (hereinafter referred to in this section as the "Special Management Zone"), dated June 1980, all prospecting and exploration for, and development or mining of cobalt and associated minerals shall be considered a dominant use of such land and shall be subject to such laws and regulations as are generally applicable to National Forest System lands not designated as wilderness or other special management areas, including such laws and regulations which relate to the right of access of valid mining claims and private property: *Provided*, That:

(A) all mining locations and associated access roads shall be held and used solely for mining or mineral processing operations and uses reasonably incident thereto, except that the Secretary may permit such access roads to be utilized by the State of Idaho to facilitate the management of the bighorn sheep in the Special Management Zone:

(B) after the date of enactment of this Act subject to valid existing rights, all patents issued under the mining laws of the United States for claims within the Special Management Zone shall convey title to the mineral deposits within such claims, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed: *Provided*, That the patentee shall have the right to cut and use as much of the mature timber therefrom as may be needed in the extraction, removal and beneficiation of the mineral deposits, if such needed timber is not otherwise reasonably available, and if such timber is cut under sound principles of forest management as defined by National Forest System rules and regulations: *Provided further*, That the patentee shall have the right to use as much of the surface as reasonably necessary for the mining, removal, extraction, or beneficiation of the mineral deposits located therein; and

(C) consistent with the other provisions of this subsection the Secretary may take all reasonable measures to see that the mining or processing of cobalt and associated minerals within the Special Management Zone does not significantly impair the overall habitat of the bighorn sheep located within, or adjacent to, such Zone.

(2) Within three years from the date of enactment of this Act, the Secretary of Defense, after consultation with the Secretaries of the Interior, Agriculture, Commerce, Transportation, and State and the Federal Emergency Management Agency, shall report to Congress on the strategic significance of the materials and minerals found in the Special Management Zone.

Sec. 6. As soon as practicable after enactment of this Act, a map and legal description of the River of No Return Wilderness and a map and legal description of the Selway-Bitterroot Wilderness additions shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Sec. 7. (a) Within the River of No Return Wilderness and the Selway-Bitterroot Wilderness additions designated by this Act—

(1) the landing of aircraft, where this use has become established prior to the date of enactment of this Act shall be permitted to continue subject to such restrictions as the Secretary deems desirable: *Provided*, That the Secretary shall not permanently close or render unserviceable any aircraft landing strip in regular use on national forest lands on the date of enactment of this Act for reasons other than extreme danger to aircraft, and in any case not without the express written concurrence of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips;

(2) the grazing of livestock where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as the Secretary deems necessary, as provided in paragraph 4(d)(4) of the Wilderness Act;

(3) commercial services may be performed to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas as provided in paragraph 4(d)(6) of the Wilderness Act; and

(4) the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities shall be permitted in the Threemile and Jersey Creek drainages along the Salmon River upstream from Mackay Bar.

(b) As provided in paragraph 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) As provided in paragraph 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Idaho with respect to wildlife and fish in the national forests in Idaho.

Sec. 8. (a)(1) In furtherance of the purposes of the Wilderness Act, the Wild and Scenic Rivers Act, section 6 of the National Forest Management Act, the Archaeological Resources Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho, in conducting a cultural resource management program within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System as designated in section 9 of this Act.

(2) Such program shall have as its purposes the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge insofar as these activities are compatible with the preservation of the values for which the wilderness and wild and scenic river were designated to protect.

(3) To carry out the cultural resource management program required by paragraph (1) of this section, the Secretary shall, as part of the comprehensive management plan required under subsection 5(a) of this Act, develop a cultural resources management plan for the wilderness and the river. Such plan shall—

(A) encourage scientific research into man's past use of the River of No Return Wilderness and the Salmon River corridor;

(B) provide an outline for the protection of significant cultural resources, including protection from vandalism and looting as well as destruction from natural deterioration;

(C) be based on adequate inventory data, supplemented by test excavation data where appropriate;

(D) include a public interpretation program; and

(E) comply with all Federal and State historic and cultural preservation statutes, regulations, guidelines, and standards.

(b)(1) Within two years from the date of enactment of this Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho in conducting an inventory of the ranch, homestead, trapper and other cabins, and structures within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System designated by section 9 of this Act and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a report on—

(A) the location of these structures;

(B) their historic significance, if any;

(C) their present condition;

(D) recommendations as to which of these structures should be:

(i) stabilized;

(ii) restored;

(iii) maintained; or

(iv) removed;

(E) the estimated cost of such stabilization, restoration, maintenance, or removal; and

(F) the suitability of any of these structures for inclusion in the National Register of Historic Places.

(2) Until such time as the study under this subsection is completed and the required report submitted to the Committees, the Secretary shall not knowingly permit the destruction or significant alteration of any historic cabin or other structure on national forest land within the River of No Return Wilderness or the Salmon River component of the National Wild and Scenic Rivers System designated in section 9 of this Act.

Sec. 9. (a) The Wild and Scenic Rivers Act (82 Stat. 906, as amended; 16 U.S.C. 1271 et seq.), is further amended as follows: In section 3(a) after paragraph (23) insert the following new paragraph;

"(24) (A) Salmon, Idaho.—The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes:

"(i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and

"(ii) the seventy-nine-mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled "Salmon River" dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

"(B) This segment shall be administered by the Secretary of Agriculture: *Provided*, That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from the date of enactment of this paragraph.

"(C) The use of motorboats (including motorized jetboats) which this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978.

"(D) Subject to existing rights of the State of Idaho including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River and its tributary streams in their entirety; *Provided*, That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes of construction or maintenance of public roads: *Provided further*, that this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

"(E) The provisions of section 7(a) of this Act with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

"(F) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic River System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than $6,200,000 for the acquisition of lands and interests in lands.".

(b) That segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System by this Act, which lies within the River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95-237, shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended, and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act or any provisions of the Wilderness Act to the contrary.

SEC. 10. (a) Notwithstanding any other provision of law, the Secretary shall render, within 30 days from the date of enactment of this Act, a final administrative decision on any and all administrative appeals pending before him or any other official of the Department of Agriculture on the date of enactment of this Act with regard to the following land management plans and corresponding environmental statements (hereinafter referred to in this section as "the plans and environmental statements"):

(1) The Warren Planning Unit Land Management Plan and Final Environmental Statement, Payette National Forest, Idaho, dated May 9, 1979; and

(2) The Landmark Planning Unit Land Management Plan and Final Environmental Statement, Boise National Forest, Idaho, dated May 17, 1979.

(b)(1) Any petition for review of the decision of the Secretary with regard to any of the plans and environmental statements referenced in this section, shall be filed in the United States District Court for the District of Idaho (hereinafter referred to as "the court") within thirty days after the final administrative decision of the Secretary required by this section, or the petition shall be barred. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

(3) Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge within one hundred and eighty days from the date such challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States and shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every possible way.

And the House agree to the same.

MORRIS K. UDALL,
PHILLIP BURTON,
JOHN F. SEIBERLING,
JIM SANTINI,
JAMES WEAVER,
PETER H. KOSTMAYER,
BRUCE F. VENTO,
Managers on the Part of the House.
HENRY M. JACKSON,
FRANK CHURCH,
DALE BUMPERS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. TITLE

The Act will be cited as "The Central Idaho Wilderness Act of 1980".

2. FINDINGS AND PURPOSES

The Senate bill contains a section setting out Congressional findings concerning the national significance of the Salmon River watershed and its wilderness environment, the importance of protecting these resources as components of the National Wild and Scenic Rivers and the National Wilderness Preservation Systems, and the compatibility of such statutory protection with existing uses of the area. The House amendment contains no such findings. With one minor change, the conferees agreed to adopt the Senate language.

The Senate version also includes a section outlining the purposes of the Central Idaho Wilderness Act. These purposes are based on the findings described above. Again, the House amendment contains no such provisions. The conferees agreed upon a slightly modified version of the Senate language. Thus, the primary purposes of the bill are: (1) to provide a cohesive framework for the management of the wilderness resources of central Idaho by designating a 2.239 million acre River of No Return Wilderness in the Salmon River watershed, designating 125 miles of the Salmon River as a component of the Wild and Scenic Rivers System, and adding 105,600 acres in the so-called "Magruder Corridor" to the existing Selway-Bitterroot Wilderness; (2) to end the "wilderness vs. multiple-use" controversy in central Idaho by making final decisions on the precise location of the wilderness boundary lines, thereby permitting multiple uses other than wilderness on certain adjacent national forest lands which are currently administered as *de facto* wilderness pending approval of this legislation; and (3) to make a comprehensive land allocation decision for the entire central Idaho region.

The conferees agreed to adopt the Senate provisions enumerating the purposes of the legislation in order to make the significance of the Congressional decisions embodied in S. 2009 clear to the public officials who will administer both the wilderness lands of the region and the adjacent non-wilderness multiple-use lands. Under the terms of the so-called "*Parker* decision" (*Parker* v. *United States*, 309 F. Supp, 593 (D. Colo. 1970), *aff'd* 448 F.2d 793 (10th Cir. 1971), *cert. denied*, 405 U.S. 989 (1972), until such time as Congress takes final action on reclassifying the Idaho and Salmon River Breaks Primitive Areas as wilderness, the contiguous roadless lands are not available for any activities which would alter their "wilderness potential." The *Parker* decision means that until legislation such as this is approved, all of the undeveloped land contiguous to these primitive areas will remain unavailable for timber harvesting and other forms of commodity development. Although there has never been a specific determination as to exactly how far the *Parker* decision restrictions may apply in the central Idaho region, it appears that these constraints apply to areas which, in the view of both houses of Congress, are better suited for multiple-uses other than wilderness.

In this regard, the conferees note that when Congress designates a wilderness area, it establishes a precise boundary line. Lands within the boundary are to be managed under the provisions of the Wilderness Act, while lands outside that boundary line remain subject to planning and management in accordance with the statutes and regulations applicable to all nonwilderness lands within the National Forest System.[1] This is an important point. Well over three million acres of roadless land in central Idaho (and 232,900 acres in Western Montana) were examined in the context of this legislation. Fully half of that total acreage (in Idaho) is made up of the existing primitive areas which have been managed as wilderness since the 1930's. Almost another million acres are steep, rugged, alpine lands which are logically incorporated within the new River of No Return Wilderness or the exiting Selway-Bitterroot Wilderness. However, it should be noted that the comprehensive decision made in this legislation insures the nonwilderness status of approximately 1.15 million acres of roadless land lying outside the new wilderness.[2] In general, these lands are more productive for other resource uses and more accessible than those being designated as wilderness. By virtue of this legislation, the land pattern in the large central core of Idaho is stabilized and settled.

The Senate Energy and Natural Resources Committee heard extensive testimony at its hearings in Salmon, Boise, Lewiston (Idaho) and Washington, D.C., about the necessity to "set the final boundary lines" and "free-up" other surrounding lands for commodity development. Similarly, the House Interior and Insular Affairs Committee heard these same concerns expressed by many witnesses at their December 1979 hearings held in Washington, D.C. This legislation is a direct response to the pleas of the citizens of Salmon, Riggins, Elk City, Grangeville and the other small Idaho and western Montana towns which depend upon the surrounding national forests as a source of raw materials for their sawmills. The land allocation questions for most of central Idaho will be settled when this legislation is approved. Thus, the operators of the mills in those towns—and the townspeople as well—will know what the timber base will be in the future and can make their long-term economic plans accordingly.

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[1] In the past, the Forest Service has often established "buffer strips" on non-wilderness multiple-use lands adjacent to a designated wilderness. These buffer strips, all of different sizes and dimensions are supposed to be deterrents to developments which might alter the quality of the adjacent wilderness. For example, the Forest Service has precluded all road building and timber harvesting within a quarter mile of some wilderness boundary lines, arguing that such roads or logging activities would "degrade" the quality of the wilderness. The Conferees have drawn the boundary line of the new wilderness and the Selway-Bitterroot Wilderness additions carefully and expect that such buffer strips will not be necessary.

[2] Of this total, 961,670 acres are in Central Idaho and 232,900 acres in Western Montana.

The scope of this decision

The central Idaho region covered by this decision encompasses all of those roadless and undeveloped areas within the State of Idaho which are immediately contiguous to the existing Idaho and Salmon River Breaks Primitive Areas. In addition, this decision covers land allocations northward in the so-called "Magruder Corridor" area on the Bitterroot National Forest. The decision also extends to other non-contiguous roadless areas on the main body of the Nezperce National Forest east of the Salmon River,[3] on the Salmon and Challis National Forests east and south of the proposed River of No Return Wilderness, and on nearby lands on the Bitterroot National Forest in Montana. The Montana lands are included because of their importance in assuring a continued supply of timber from National Forest lands serving the Darby, Montana mill. Thus, this decision confirms the non-wilderness multiple-use status of the following areas or portions of areas which are not being designated as wilderness by this Act:

Area name	Rare II area No.	Estimated acreage
Gospel-Hump (Jersey Jack)	01921	55,400
Mallard	01847	26,400
Meadow Creek West	C1845	95,380
Meadow Creek East[1]	D1845	97,700
Rackcliff Gedney	01841	53,000
Middle Fork Face	01842	11,200
Clear Creek	01844	26,700
Kelly Mountain	01857	800
Silver Creek-Pilot Knob	01849	36,100
North Fork State Creek	01850	14,700
Little State Creek	01851	9,200
John Day	01852	10,000
East Panther Creek	F4505	30,469
Do	S4504	14,001
Jureano	04506	31,470
Haystack Mountain	04507	12,300
Phelan	04508	14,035
Deek Creek	04509	28,170
Jeese Creek	04510	19,740
Perreau Creek	D4511	9,160
Taylor Mountain	04502	48,105
Camas Creek	F4202	78,000
Sulphur Creek (M)	X4066	61,320
Spring Basin	04219	5,400
Squaw Creek	04217	106,852
Greylock	04218	11,870
Napolean Ridge	04501	7,710
Allen Mountain	04946	46,670
Allan Mountain	L1YAG	111,300
Stony Mountain	L1BAD	50,400
North Big Hole	A1001	3,800
Selway Bitterroot	A1BAA	68,400

[1] This decision directs the administration and the Forest Service to reverse their Apr. 16, 1979, recommendation that a portion of the Meadow Creek drainage and the Upper Running Creek and Upper Bargamin Creek drainages should be widerness. Both the House and the Senate have carefully examined the administration's recommendation that the Meadow Creek East unit (D1845) be designated as wilderness and have determined that this area should not be designated wilderness but should be managed for uses other than wilderness. For a detailed discussion of this area see S. Rept. 96 414. p. 10.

The roadless areas listed above have been thoroughly examined by the Congress. They are not being designated wilderness by this legislation and will remain subject to sustained-yield, multiple-use management under the statutes and regulations generally applicable to all non-wilderness National Forest System lands. The timber resources on these unclassified lands shall be included, as appropriate, in the normal timber management planning process, in the calculation of the potential yield (allowable sale quantity) and allowable timber harvest levels for the appropriate national forests.

Of course, the non-wilderness multiple-use status of these lands resulting from this decision does not imply that they are to receive any less careful management in the future. The National Forest Management Act of 1976 (NFMA) was designed to assure careful and judicious planning for all national forests. The regulations which were promulgated by the Secretary of Agriculture pursuant to Section 6 of that Act (36 CFR 219: see Federal Register Vol. 44. No. 181, pages 53983–53999) will help make certain that these lands are properly managed under principles of wise forest stewardship. It should be noted that the roadless lands covered by this decision may, as provided by Section 6(c) of the NFMA and its implementing regulations (§ 219.16), be managed under existing land management plans until such time as the forest-wide plans are completed.

The Section 6 regulations also provide that "Lands reviewed for wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture (RARE II) but not designated as wilderness or designated for further planning * * * will be managed for uses other than wilderness * * *" The conferees agree with this approach and feel there is no need for further wilderness study of the roadless areas listed above when the forestwide land management plans are prepared in the next few years.

There is an important point which the conferees would like to emphasize. The decision whether or not to designate any given tract of land as a component of the National Wilderness Preservation System is solely a Congressional prerogative. Thus, it follows that once Congress has examined an area and decided that it should not become wilderness, then the relevant land management agency should interpret such a decision as a definitive statement of Congressional intent; a final decision. Of course, under the first amendment to the U.S. Constitution, all citizens remain free to petition the government for "a redress of grievances"; people can seek to have a "negative" wilderness decision reconsidered in the future. Moreover, nothing in this legislation can prevent future Congresses from altering congressional decisions made in 1980. Future Congresses will be free to take lands out of a wilderness classification, add areas to the National Wilderness System, or to require the Forest Service to conduct formal wilderness studies. All of these options remain open.

The conferees also agreed to incorporate (by reference) within this Statement of Managers the area of specific concerns found on pages 9–11 of Sen. Rpt. 96–414.[4]

The California v. Bergland decision

On January 8, 1980, the Federal District Court for the Eastern District of California issued its decision in the case of California v. Bergland, Civil No. S–79–523 (D. Cal. filed Jan. 8, 1980). In this litigation the State of California questioned whether the Forest Service's final environmental impact statement (EIS) for the RARE II roadless area study was adequate to meet the procedural requirements of the National Environmental Policy Act of 1969 (U.S.C. 4331 et seq.) The District Court agreed with the State, finding that the final EIS was not legally sufficient to justify the non-wilderness allocations for 47 specific roadless tracts within the national forests in California.

Since the court's decision was rendered in the California lawsuit, some individuals in Idaho have argued that all of the RARE II nonwilderness decisions for the central Idaho region are now in "jeopardy". To allay the fears of those who feel the California decision might block implementation of the non-wilderness, multiple-use designations which are an integral part of the comprehensive land allocation decision embodied in this legislation the conferees make these observations:

1. Since the recommendations from the RARE II review were finalized by President Carter on April 16, 1979, there have been only two legal challenges to these recommendation.[5] West of the 100th meridian, where conflicts between various forest users have historically been most intense, no other legal actions (outside of California) have been filed.

2. More specifically, the non-wilderness status of almost all of the 961,670 acres of roadless lands in central Idaho, which has been confirmed by Congress through this legislative decisions, is not being challenged by any organized group, and such a challenge is not anticipated.

During the RARE II study, a number of groups and organizations in Idaho developed their own state-wide alternatives to the recommendations proposed by the Forest Service. Among the four most prominent "state-wide" plans were those developed by Idaho's Governor John Evans, a coalition of Idaho environmental groups (the "Alternative W" plan), the Idaho Forest Industry Council, and the Western Environmental Trade Association (the "WETA" plan). Basically, each of these four plans consisted of a list of the RARE II areas that the particular group in question thought ought to be designated by Congress as components of the National Wilderness System. (Some of the plans also contained specific "non-wilderness" or "further planning" recommendations for other RARE II areas in Idaho.) A side-by-side comparison of the wilderness designations contained in each of the four plans and the "non-wilderness" multiple-use designations covered under this report, reveals only minor conflicts. Furthermore, it appears that many of these conflicts have been successfully resolved by this legislation. Therefore, it is unlikely that the "nonwilderness" allocations of this region-wide decision will be contested by Idaho-based groups or national organizations.

3. In the opinion of the court in the *California* v. *Bergland* lawsuit, Judge Lawrence Karlton noted that the RARE II study was designed primarily to provide recommendations to Congress as to which of the remaining roadless areas should be designated as wilderness. He stated that the study was aimed in part at protecting Congressional prerogatives for the designation of any of the roadless areas as wilderness and providing the Legislative Branch with sufficient information and alternatives to make well-reasoned wilderness decisions. Karlton's decision states in part:

"* * * the RARE II program contemplated two distinct actions: legislative proposals for additions to the wilderness system, and administrative actions opening areas to development. * * *

"Moreover, the fact that specific legislative proposals were contemplated also suggests a broader than normal range of alternatives must be addressed. First, since Congress reserved to itself the power to add areas to the Wilderness System, and all RARE II areas meet the minimal criteria for such inclusion, it is especially important that Congress have before it a full range of possibilities, with an in-depth discussion of the consequences of each alternative. Second, since Congress, unlike an administrative agency, is not bound by existing law or regulation, reasonable alternatives that contemplate changes in regulation or law must be disclosed in it."[6]

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[3] The roadless areas west of the Salmon River on the Nezperce National Forest bear no intrinsic relationship to the area covered by the conferee's deliberations on this bill. In particular, those within and adjacent to the Hells Canyon National Recreation Area are more appropriately addressed in relation to the planning for that area mandated by Public Law 94–199.

[4] These concerns relate to the Jersey Jack, Big Mallard, Meadow Creek East, Meadow Creek West, and Silver Creek-Pilot Knob areas.

[5] The only other case now pending is Southern Appalachian Multiple Use Club, et al. v. Bergland, (U.S. District Ct., W. Dist., N.C.)

The information from the RARE II study and the data collected by the Forest Service in the studies of the Idaho and Salmon River Breaks Primitive Areas pursuant to the provisions of the 1964 Wilderness Act is truly voluminous. This material has been made available to the Congressional committees and members most interested in the future status of the central Idaho region, and has been generally adequate to assist Congress in its deliberations over which lands within the region should be designated as wilderness.

Admittedly, the RARE II data and the associated assessment of public opinion did not cover every point on which the Congress desired information. That is why the Forest Service studies were augmented by lengthy committee hearings and detailed reviews. Thus, further study to gather information on the wilderness values of the "non-wilderness" lands covered by this report is neither necessary nor desirable. Litigation aimed at forcing such studies would, in the view of the conferees, be inappropriate, because Congress has already made a final decision about the future status of these "non-wilderness" lands.

4. Similarly, through numerous public hearings, field inspection trips, fact-finding missions, and informal discussion sessions. Congressional decision-makers have carefully and exhaustively examined the wilderness qualities of the lands designated as wilderness by this Act and the wilderness attributes of the lands which have had their "non-wilderness", multiple-use status affirmed by this legislative decision. Therefore, any allegations that the RARE II final EIS does not fulfill the requirement that the Forest Service closely examine the wilderness attributes of the roadless areas in central Idaho before they are opened for development, are moot. That close examination has been accomplished by the Congress, acting upon the recommendations and information supplied by the Administration, as supplemented by the data and testimony gathered by congressional investigations. Allegations of inadequate wilderness review should not be valid reasons for overturning the forest-wide land management plans to be prepared for the central Idaho forests during the next few years, or subsequent Forest Service decisions to proceed with development activities in the "non-wilderness" lands listed in this Statement of Managers. In summary, the conferees feel that sufficient information has been reviewed during the legislative process to satisfy the needs of Congress: the public has been actively and extensively involved in the development of this legislative product: and a final decision for central Idaho has been reached.

3. RIVER OF NO RETURN WILDERNESS

The boundary of the proposed River of No Return Wilderness was essentially the same in both versions. The Senate bill would designate a wilderness totalling approximately 2,200,000 acres while the House amendment proposed a wilderness totalling approximately 2,234,000 acres. The conferees agreed to designate approximately 2,239,000 acres as wilderness. The boundary agreed upon is identical to that which passed the Senate with the following additions or deletions:

a. Pioneer Creek

The conferees agreed to adopt the House boundary in this area deleting approximately 1,000 acres from the proposed wilderness because of the existence of several mining claims.

b. Cabin Creek

The conferees agreed to adopt the deletion proposed in the House amendment of some 300 acres in the headwaters of Cabin Creek to leave open the option of alternative access to a potentially significant block of mining claims in the event that access along Cabin Creek should not prove feasible for environmental or other reasons.

c. Feltham Creek Point

The conferees did not agree to the House position closing the primitive road linking Feltham Creek Point and the Pinyon Peak lookout, but agreed to adopt the Senate boundary which separates the Loon Creek portion of the wilderness from the main body. The conferees agreed that they did not have adequate information to make a final determination on whether or not this jeep road should be open or closed. The conferees agreed to keep the road open temporarily and to direct the Forest Service to promptly assess this matter to determine whether the costs associated with road maintenance and upgrading (including the cost in adverse impacts on surrounding wilderness values) are justified by present or foreseeable administrative or public benefits. The Secretary should include his recommendation concerning the future status of this low-standard road within management plan for the River of No Return Wilderness.

d. Marsh Creek

The conferees adopted the House deletion of 50 acres from the wilderness to permit possible expansion of trailhead facilities (if necessary) and to provide for a more identifiable wilderness boundary at Smith Creek.

e. Elk Creek

The conferees adopted the House boundary which includes this 33,000 acre addition to the wilderness to protect critical chinook salmon spawning areas, big game habitat, and to provide diversity to the wilderness proposal. According to the Idaho Department of Fish and Game, the slow, meandering Elk Creek "has an estimated 41,000 square yards of spawning gravel, capable of accommodating 2,560 female salmon. Total redd counts (salmon nests) in the past twenty years have ranged as high as 654." In addition, the Department points out that the extensive meadow complex found in the area contrasts with the rugged terrain of much of the rest of the proposed wilderness, and is "particularly important as summer range for elk cow-calf groups that are part of the upper Middle Fork of the Salmon elk herd."

Commercial timber (less than 1 million board feet of annual potential yield) is present in the Elk Creek drainage, but all except for a very small portion is likely to be economically and environmentally unsuitable for harvest. However, these timber stands of mostly low value lodgepole pine do "provide excellent sanctuary for elk during the hunting season" (information from Idaho Department of Fish and Game). In recognition of the area's fragile nature, it has been closed to motor vehicle use by the Forest Service for the past four years. Given these facts, the Conferees believe Elk Creek is an especially important addition to the wilderness.

f. Monumental Creek

The conferees agreed to the House deletion of some 500 acres in the vicinity of Lightning Peak and Cornish Creek. This removes the patented Bullion and Hawkeye claims from the wilderness and provides an approximate one quarter mile buffer between the wilderness and the patented lands.

g. Roosevelt Lake (Monumental Creek)

The conferees agreed to the House's boundary adjustments which adds 400 acres to the Senate's wilderness boundary in and around Roosevelt Lake and the Fall Creek drainage and slightly reduces the Senate wilderness proposal directly west of Fall Creek. In modifying these boundaries, the line was carefully drawn so as not to preclude the possible construction of a small private airstrip outside the wilderness on and adjacent to private lands north of Roosevelt Lake known as tract M.S. 43495. (NOTE: Due to a typographical error, this tract was incorrectly identified as M.S. 43945 in House Report 96–838, Part 1). Future air access to this private tract may be necessary as the landowners concerned, in recognition of the area's fragile environment, have requested that the wilderness boundary be drawn to prohibit any future construction of a road to the M.S. 43495 property. As such, it is also the conferees intention that any timber harvesting on adjacent National Forest lands which may be necessary to assure a safe approach and adequate access to any future landing strip be permitted by the Forest Service.

h. Monumental Creek Corridor

The conferees adopted the proposed addition of 5,000 acres included in the House amendment. This addition comprises the drainage of Threemile, Century and Annie Creeks. These lands are within the existing Idaho Primitive Area and posses outstanding wilderness values. Unlike the lands immediate to the north (in the Coon Creek, Divide Creek and Mule Creek drainages) they do not appear to have significant mineral values.

i. Rainbow Peak

This rugged and spectacular addition of approximately 3,000 acres was included in the House amendment and was adopted by the conferees. Addition of the area to wilderness will provide protection for the balance of the so-called "Pinnacles" area, which contains prime mountain goat habitat and several unusual plant species.

j. Lick Creek

The conferees agreed to the House's deletion of approximately 500 acres from the Senate wilderness boundary in order to exclude several existing small hydroelectric dams and primitive access routes from the wilderness. Due to a mapping error, these lands were inadvertently included in the wilderness as passed by the Senate.

k. Mackay Creek

The conferees agreed to adopt the House proposed deletion of approximately 50 acres in the lower reaches of Mackay Creek to exclude a small hydroelectric generator and access route from the wilderness. As discussed below under "Administrative Provisions" the conferees also agreed to specifically authorize the future construction of similar small facilities in the lower reaches of Threemile and Jersey Creeks along the main Salmon River.

In sum, the conferees agreed to a net addition of approximately 39,000 acres to the Senate version for a River of No Return Wilderness totalling 2,239,000. The conferees note that the boundary for the River of No Return Wilderness is depicted on a set of topographic maps, copies of which have been made available to the Forest Service as well as retained by the respective Committees.

4. SELWAY-BITTERROOT WILDERNESS ADDITIONS

Both bills are identical with regard to the designation of a 105,600 acre addition to the existing Selway-Bitterroot Wilderness. The boundary of the proposed addition and road corridors are described in detail on pages 13 and 14 of Senate Report 96–414.

5. WILDERNESS MANAGEMENT PLAN ADMINISTRATION

Both bills contain essentially identical provisions pertaining to the development and submission of a management plan for the River of No Return Wilderness. The conferees agreed to clarify the provision relating to the strategic minerals study and to adopt the Senate language with regard to the scope of the study.

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[6] *California* v. *Bergland*, Civil No. S. 79 523, (D. Cal. filed Jan. 8, 1980, pg. 46).

6. CLEAR CREEK UNDERGROUND MINING AREA

Section 5(d) of the Senate bill designates an area of approximately 39,000 acres as the "Underground Mining Area—Clear Creek." This tract is located entirely within the northeastern corner of the proposed wilderness, embracing primarily the Clear Creek and Garden Creek drainages. The House version excludes this area and an additional 24,380 contiguous acres from the wilderness.

Both the Senate designation of the "Underground Mining Area" and the House deletion of the larger roadless tract were made in recognition of the possibility that the 39,000 acre Clear Creek area may contain deposits of cobalt, a mineral which is of considerable strategic significance to the United States.

Cobalt is a mineral for which the United States is at least 90 percent dependent at present upon foreign sources of supply. Because cobalt superalloys offer high strength, corrosion resistance, high thermal conductivity, and stable magnetic properties, the metal has important industrial, manufacturing, and military applications.

Perhaps most importantly, cobalt is an indispensable basic material in America's increasingly sophisticated national defense systems and the industrial base upon which they depend. It is vital as an engine component for high speed, high performance aircraft, where each F-100 engine in the F-15 and F-16 fighter planes contains some 900 pounds of cobalt. In addition, it is essential for missile controls, tank precision rollers, armor piercing shells, and tool steels and high speed bits and cutters. The importance of cobalt to our national defense is best seen in the dramatic increase in demand that has taken place during periods of defense mobilization: demand for the metal doubled during World War II, it doubled again during the Korean War, and increased by some 39 percent during the years when the Vietnam conflict was escalating.

Often overshadowed by its defense applications is the integral role of cobalt in the production of steel. Cobalt is used in the production of a number of specialty steels from the superalloys to a wide variety of alloys, such as high speed tool steels, abrasion resistant plate, and tool and die steels. In summary, cobalt is vital to the American steel industry for nonmilitary as well as military purposes.

Since, as mentioned earlier, the United States now imports over 90 percent of its cobalt requirements, much of which comes from politically unsettled regions, there is little assurance that a reliable or steady source of supply of cobalt will be available in the future. Compounding the critical nature of this supply picture is the fact that the U.S. Strategic and Critical Materials Stockpile goal for cobalt is only 48 percent complete. Furthermore, there are no known, readily available substitutes for cobalt in essential components of the country's present and projected weapons systems. Thus, it is important that the U.S. move to develop any domestic reserves of this metal that may be discovered.

The Clear Creek area, which contains the same "Idaho Cobalt Trend"[7] which exists at the Blackbird cobalt mine (which is slated to resume production by mid-1982), was originally included within the wilderness proposed in the Senate bill because of its high wilderness and wildlife values. The lower elevations facing into Panther Creek and the main Salmon River provide winter range for many big game species, including deer, elk, mountain goat, and bighorn sheep. The higher elevation portion of the area is a scenic, glaciated cirque and lake basin, with generally sparce alpine vegetation. The area contains 13 mountain lakes and insulates the complex of mountain lakes on the Middle Fork side of the Bighorn Crags. This adjacent lake system is the most popular for recreation in the entire Idaho Primitive Area. Lower Clear Creek is winter range for a bighorn sheep population of some 400 animals, which is the most productive herd in the State of Idaho. The Idaho Department of Fish and Game currently live traps large numbers of animals each year for transplant throughout Idaho and even into eastern Oregon.

The conferees agreed to adopt the Senate boundary, which includes the entire 63,398-acre roadless area within the wilderness. However, for the 39,000 acre Clear Creek area, the conferees agreed to several changes:

"(1) The 'Underground Mining Area' designation in the Senate bill is deleted and the area redesignated as the 'Special Mining Management Zone—Clear Creek' (the Management Zone or the Zone). This change was made to eliminate all presumption that the future mining of cobalt and associated minerals within the Zone *must* be conducted using only underground mining methods. As cobalt is most often mined in association with other minerals, most notably copper and nickel, the language regulating cobalt exploration and mining activities within the Zone refers to cobalt and 'associated minerals.' The conferees note that the mining of associated minerals within the zone can only occur in conjunction with the mining and processing of cobalt.

"(2) Language is added to insure that within the Management Zone, the prospecting and exploration for, and the development or mining of cobalt and associated minerals is to be considered a dominant use of the Zone. This provision is intended to assure continued access to the area and to secure the right of individuals and companies to actively explore for cobalt and to mine and process the metal.

"(3) With certain exceptions (as enumerated in 4, 5, and 6 below), these exploration and mining activities for cobalt and associated minerals are to be subject only to such laws and regulations as are generally applicable to National Forest System lands *not* designated as wilderness or included within other special management areas (which are managed under special management prescriptions). The language adopted by the conferees carries with it *no authority* which would allow the Forest Service to restrict, under any provision of the Wilderness Act of 1964, the manner in which access to the area and prospecting and exploration for and the development and mining of cobalt and associated minerals is to be carried out. It fact, these activities are specifically exempted from the rules and regulations promulgated by the Secretary of Agriculture pursuant to the Wilderness Act. This means that, among other things, the provisions of section 4(d)(3) of that Act, closing wilderness areas to the general mining laws at the end of 1983, do not apply to cobalt (and associated mineral)-related activities within the Zone. There should be no doubt that the intent of the conferees in adopting this language was to remove any restriction based on the Wilderness Act on the mining of cobalt and associated minerals within the Zone, notwithstanding the fact that the Zone is within the exterior boundary of the wilderness. The conferees adopted these provisions because of the 16 year history of restrictions on mining within the National Wilderness System and the unique circumstances surrounding the mineral cobalt.

"(4) Within the Management Zone, all mining locations and access roads are to be used for mining and mineral processing only, except that personnel of the Idaho Fish and Game Department may use these same access roads to continue their bighorn sheep trapping and management efforts within the area.

"(5) Subject to valid existing rights, all patents issued under the mining laws of the U.S. for claims within the Management Zone are to convey title only to the mineral deposit, reserving to the United States all title in or to the surface or the surface resources. The patentee does, however, have the right to cut and use as much mature timber from the claim as may be necessary for mining operations if the timber is not otherwise available and is cut under sound timber harvesting techniques. In addition, the patentee has the right to use as much of the surface as is reasonably necessary for the mining, removal, extraction, or beneficiation of the mineral deposit. The conferees note that these provisions apply to *all* mining claims, both patented and unpatented.

"(6) In view of the fact that the lands within the Management Zone comprise critical habitat for significant numbers of bighorn sheep, language is added providing that consistent with the foregoing provisions, the Secretary of Agriculture may take all reasonable measures to insure that cobalt (and associated minerals) mining and processing activities within the Management Zone do not significantly impair the overall habitat of the bighorn sheep within or adjacent to the Zone. It is the intent of the conferees that such measures shall not prevent the recovery of cobalt and associated minerals."

7. MAPS AND LEGAL DESCRIPTIONS

Both versions contained identical sections common to most winderness bills pertaining to the filing of maps and legal descriptions.

8. ADMINISTRATIVE PROVISIONS

Both the Senate bill and the House amendment contain identical provisions regarding aircraft landing strips, commercial services, wildlife and fish jurisdiction, and the impact of the wilderness designation on state water laws. In addition, the conferees adopted a provision of the House amendment which authorizes the possible future construction of small hydroelectric and domestic water supply facilities in th lower reaches of Threemile and Jersey Creeks along the main Salmon River.

The two bills also had somewhat different provisions pertaining to livestock grazing within the wilderness. The conferees agreed to adopt the Senate language which reiterates the provisions of the Wilderness Act but to supplement that statutory provision with the following discussion.

Grazing in National Forest Wilderness Areas

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture."

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas established in the Wilderness Act of 1964, Congress has designated some 188 areas, covering lands administered by the Forest Service, Fish and Wildlife Service, National Park Service and Bureau of Land Management as components of the National Wilderness Preservation System. A number of these areas contain active grazing programs, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress, based on solid evidence developed by testimony at public hearings, that the practical language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies, not just the Forest Service. In fact, special language appears in all wilderness legislation, the intent of which is to assure that the applicable provisions of the Wilderness Act, including Section 4(d)(4)(2), will apply to all wilderness areas, regardless of agency jurisdiction.

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[7] This is a unique geologic strata which contains greater than normal cobalt mineralization.

Further, during the 95th Congress, Congressional committees became increasingly disturbed that, despite the language of section 4(d)(4)(2) of the Wilderness Act and despite a history of nearly 15 years in addressing and providing guidance to the wilderness management agencies for development of wilderness management policies, National Forest administrative regulations and policies were acting to discourage grazing in wilderness, or unduly restricting on-the-ground activities necessary for proper grazing management. To address this problem, two House Committee on Interior and Insular Affairs Reports (95–620 and 95–1321) specifically provided guidance as to how section 4(d)(4)(2) of the Wilderness Act should be interpreted. This guidance appeared in these reports as follows:

"Section 4(d)(4)(2) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled under the general regulations governing grazing of livestock on National Forests * * *. This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements, nor the construction and maintenance of new fences or improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range."

Despite the language of these two reports, RARE II hearings and field inspection trips in the 96th Congress have revealed that National Forest administrative policies on grazing in wilderness are subject to varying interpretations in the field, and are fraught with pronouncements that simply are not in accordance with section 4(d)(4)(2) of the Wilderness Act. This had led to demands on the part of grazing permittees that section 4(d)(4)(2) of the Wilderness Act be amended to clarify the intentions of Congress. However, because of the great diversity of conditions under which grazing uses (including different classes of livestock) are managed on the public lands, the Conferees feel that the original broad language of the Wilderness Act is best left unchanged. Any attempts to draft specific statutory language covering grazing in the entire wilderness system (presently administered by four separate agencies in two different Departments) might prove to be unduly rigid in a specific area, and deprive the land management agencies of flexible opportunities to manage grazing in a creative and realistic site specific fashion.

Therefore, the conferees declined to amend section 4(d)(4)(2) of the Wilderness Act, agreeing instead to reaffirm the existing language and to include the following nationwide guidelines and specific statements of legislative policy. It is the intention of the conferees that the guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this Act, and that they be promptly, fully, and diligently implemented and made available to Forest Service personnel at all levels and to all holders of permits for grazing in National Forest Wilderness areas:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used as an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the numbers of livestock permitted to graze in wilderness would remain at the approximate levels existing at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted to those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction of new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with those guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined above, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to re-establish uses where such uses have been discontinued.

The conferees note that the Department of Agriculture has carefully reviewed the above guidelines and has indicated it will apply the guidelines as described in the following letter:

"DEPARTMENT OF AGRICULTURE,
"OFFICE OF THE SECRETARY,
"*Washington, D.C., May 12, 1980.*

"Hon. JOHN F. SEIBERLING,
"*Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

"DEAR MR. CHAIRMAN: In the meeting on November 1, 1979, concerning the proposed committee guidelines for grazing in wilderness, we indicated the need to evaluate the guidelines for consistency with the specific statutory language and legislative history of the Wilderness Act of 1964 (Public Law 88–577).

"We have examined the proposed grazing guidelines and policies contained in Committee Report No. 96–617 to determine if authority exists under the Wilderness Act to enable the Forest Service to implement those guidelines and policies. As part of our review, we made a comprehensive search of the Act's legislative history. The Department's Office of the General Counsel has assisted us in this effort.

"We have had discussions with you and others on the legal aspects of the proposed guidelines. As a result of these discussions and our review, the following information is provided you.

"The concerns with the grazing guidelines contained in the House Report on H.R. 5487 have stemmed from the relationship of section 4(d)(4)(2) and section 4(c) of the Wilderness Act of 1964. Section 4(d)(4)(2) clearly provides that livestock grazing operations established prior to the date of the act shall be permitted to continue, but this provision must be read in conjunction with the prohibitions in section 4(c).

"In the administration of the Wilderness Act, the responsibility of the administering agency is to carry out the direction of both sections. We believe the guidelines are consistent with these provisions. We will apply them so as to permit activities and facilities identified in the guidelines to the extent they are necessary for the continuation of livestock grazing operations.

"We note that a number of areas proposed for wilderness in Colorado and other States contain existing activities and facilities that are incompatible with the wilderness environment. However, sections 4(d)(4)(2) and 4(c) provide for the continuation of livestock grazing operations under certain conditions. Therefore, it will remain our policy, and we believe this policy is within the intent of the proposed guidelines, to phase out such activities and facilities that are incompatible with wilderness where they are not necessary to the continuation of livestock grazing operations.

"The determination of what is necessary will be considered on a case by case basis. The House Committee Report provides guidance and interpretation to help assure that our wilderness management is consistent with congressional intent. Our field staff will be informed appropriately to assure consistent implementation of the policy.

"We believe it is unnecessary to repeat policy direction in each wilderness bill and report that comes before the Congress.

"Because Mr. Johnson and Mr. Kogovsek participated in the meeting of last November 1, we have also provided them the results of our evaluation in similar letters.

"Sincerely,

"M. RUPERT CUTLER,
"Assistant Secretary for Natural Resources and Environment."

It is also the understanding of the conferees that the authorizing Committees intend to closely monitor the implementation of the guidelines through subsequent oversight hearings to insure that the spirit, as well as the letter, of the guidelines are adhered to by the Forest Service. Of course, the inclusion of these guidelines in this Joint Statement of Managers does not preclude the Congress from dealing with the issue of grazing in wilderness areas statutorily in the future.

9. CULTURAL AND HISTORICAL RESOURCES

The Senate bill and the House amendment contain essentially identical provisions regarding the protection of cultural resources in the area and the preparation of a cultural resources management plan. The conferees adopted the House version because it clarifies the intent of the Senate bill that the archeological and historical inventory, the cultural resources management plan, and the cabin and historic structure interim protection provisions apply to the Salmon River corridor from the confluence of the North Fork of the Salmon to Long Tom Bar as well as to the River of No Return Wilderness.

10. PROTECTION OF THE SALMON RIVER

As passed by the Senate, S. 2009 designates 125 miles of the Salmon River as a component of the National Wild and Scenic Rivers System. The 46-mile portion of the river from the confluence of the North Fork of the Salmon downstream to Corn Creek would be managed as a "recreational" river and the 79-mile segment from Corn Creek to Long Tom Bar as a "wild" river. Both segments would be administered in accordance with the provisions of the Wild and Scenic Rivers Act even though portions of both stretches run through the new River of No Return Wilderness and the Gospel-Hump Wilderness. The Senate bill also insures that existing jetboat use of these segments would be permitted to continue at not less than the level of use which occurred during calendar year 1978. The House amendment to S. 2009 contains identical provisions, but adds the 53-mile segment of the river from Hammer Creek to the confluence of the Snake River as a component of the system. The House amendment also bans dredge and placer mining in the wild and scenic stretches of the Salmon River and on the Middle Fork of the Salmon and its tributaries in their entirety.

Although the study conducted by the Forest Service pursuant to the 1968 Wild and Scenic Rivers Act led to a Presidential recommendation that the 237 miles of the Salmon River from North Fork downstream to the confluence of the Snake River be added to the Wild and Scenic Rivers System, the conferees adopted the river designations of the Senate bill, which total 125 miles. The conferees believe that the President's additional recommendations for the 53 mile Hammer Creek-Snake River segment contained in the House amendment and the 59 mile Long Tom Bar-Hammer Creek segment, which is not addressed in either bill, have considerable merit. However, it was deemed desirable to defer action on adding these two segments to the system until further public hearings can be held. The conferees did agree to apply the provisions of the Wild and Scenic Rivers Act which precludes impoundments on the Hammer Creek-Snake River segment. The members of the conference also agreed to adopt the dredge mining ban contained in the House amendment, thus prohibiting dredge mining within the three segments of the main Salmon River and within the Middle Fork and its tributaries.

The conferees believe the reasons for these prohibitions are most compelling. Maintenance of the free-flowing nature of the Salmon River and the preservation of its pure waters are two of the primary purposes for the enactment of this legislation. Fisheries experts from throughout the Pacific Northwest have emphatically stated that the construction of even one dam on this river would effectively nullify the massive federal-state commitment to the restoration of the Columbia River salmon and steelhead-trout populations to their historic levels. Since the Salmon River drainage is by far the most important single portion of the Columbia River Basin for the production of salmon and steelhead, one dam on this river could lead to the extinction of several species of anadromous fish. That would indeed be a national tragedy.

Based on recently available evidence, the conferees are also convinced that dredge and placer mining in the Salmon River drainage is incompatible with the preservation of the anadromous fish runs. For the fish, there is no "safe" time of year for dredging. In the spawning season the fish are weary and easily diverted by human activities in the middle of their migratory streams. After the eggs are laid, they are especially susceptible to the silting and streambed disturbance that occurs when dredging takes place. The newly-hatched fry which hold in the headwaters for a time can be killed outright by silt or exposed to predators by instream turbulence. In short, dredge mining can have a severe and irreparable effect on fish spawning, hatching and survival.

Some knowledgeable fisheries experts believe that every salmon and steelhead now running within the Columbia River Basin is a member of either a threatened or endangered species. The 1979 runs of spring and summer chinook salmon were the lowest on record. Combined with the disturbance of the runs caused by the recent eruption of Mt. St. Helens in western Washington State, dredge mining could definitely threaten the survival of one or more species.

Records of dredge mining in some parts of Idaho indicate that it can take many years for streams to recover from dredge mining activities, if they recover at all. For example, experience in the 1950's with Bear Valley Creek (which together with Marsh Creek forms the headwaters of the Middle Fork of the Salmon River) indicates that dredging results in dramatic increases in sedimentation, which disrupts the spawning beds. Even though it has been more than 20 years since the last dredge mining took place in Bear Valley Creek, the stream is still contributing more than twice its normal silt load to the Middle Fork. Applications to resume commercial dredging are pending on Bear Valley Creek at present. The dramatic increase in world gold prices in the past months has led to a wave of permit applications—both commercial and "recreational" applications—for other portions of the Salmon River drainage.

In the opinion of many, the recreational dredge miners pose the greatest single threat to the water quality of this basin. If allowed to continue, these operations will destroy the gravel beds that are the spawning areas of the steelhead and salmon. That cannot be allowed to happen.

In summary, the conferees believe that the permanent dredge and placer mining ban is justified in order to protect the enormous public investment in the perpetuation and enhancement of the anadromous fish runs of the Columbia River system. However, this mining ban is drafted so as to permit the removal of sand and gravel above the high water mark of the Salmon River and its various tributaries and forks (except, of course, for those portions of the river lying within the River of No Return or Gospel-Hump Wilderness areas) by public bodies for the purpose of construction or maintenance of public roads. If such removal occurs, the conferees expect it to be done in a manner which will not impair the fisheries or watershed values of the river basin. The conferees also included language in the conference report making it clear that nothing in the dredge mining ban should be construed as affecting any rights the State of Idaho may have relative to the beds of navigable streams, tributaries, or rivers.

11. EXPEDITED REVIEW OF LAND MANAGEMENT PLANS

As passed the Senate, S. 2009 includes a section regarding the expedited review of two National Forest Land Management Plans in Idaho. The House amendment did not include these provisions. With two modifications, the conferees agreed to adopt the Senate provision.

The conferees made a change in the date by which the Secretary must render his final decision on all administrative appeals regarding these plans. Such a decision is to be rendered no later than 30 days from the date of enactment of the Act. The Senate version included a date certain which has already passed.

The conferees also agreed to modify the Senate language to include expedited review procedures for any appeal to the U.S. Court of Appeals for the Ninth Circuit as well as the U.S. District Court and to limit any Federal Circuit Court review to the Ninth Circuit. Specific language in the Senate bill regarding exclusive review by the Supreme Court was deleted by the conferees.

MORRIS K. UDALL,
PHILLIP BURTON,
JOHN F. SEIBERLING,
JIM SANTINI,
JAMES WEAVER,
PETER H. KOSTMAYER,
BRUCE F. VENTO,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
DALE BUMPERS,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. LEACH of Louisiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentlewoman from Illinois (Mrs. COLLINS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana.

There was no objection.

NEW REPORTS FROM LATIN AMERICA CONCERNING NICARAGUA SANDINISTA REGIME

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, almost every day, new reports come from Latin America concerning the Nicaragua Sandinista regime and terrorism in other countries in the hemisphere.

The latest comes from the leftist April 19 movement in Colombia, which is maintaining contacts with the Sandinista National Liberation Front. An M–19 spokesman is quoted as saying:

> The secret talks are advancing well and . . . They seek to achieve unity of action among the guerrilla movements in Latin America.

The M–19 is the same group that held an American Ambassador hostage for 61 days, along with other diplomats, in Bogota, Colombia, this spring. They are reportedly returning to Colombia to carry out new terrorist attacks.

My question now is simply: Why do those in this Congress supporting the Sandinista regime ignore clear examples of Sandinista subversive activity?

Mr. Speaker, I include the following excerpt on the M–19 which should be of interest to all Members:

Talks With Nicaragua's FSLN

Cali, Colombia, June 18.—The leftist 19 April Movement admitted here today that it is carrying out contacts with the Sandinist National Liberation Front which overthrew dictator Anastasio Somoza last year. An M–19 spokesman said that the secret talks are advancing well and that they seek to achieve unity of action among the guerrilla movements in Latin America.

The M–19, which occupied the Dominican Embassy in Bogota for 61 days during which it held several diplomats hostage, announced that it is preparing a summit of Colombian guerrillas. The summit would be attended by leaders of the communist Revolutionary Armed Forces of Colombia (FARC), the M–19, the Maoist Popular Liberation Army (EPL), the Trotskiyite Workers Self-Defense Movement (MAO) and the Castroite National Liberation Army (ELN).

According to the M–19 spokesman who spoke with a newsman of the CARACOL radio network here, the M–19 will analyze a government proposal to grant amnesty to guerrillas who lay down their weapons. The M–19 recently offered to become legal and to accept the government's proposal if the government undertakes a social and economic policy in favor of the poor. The FARC has rejected the proposal and announced it will continue its struggle. The M–19 said that the amnesty proposal must be analyzed with a cool head and must include clear and precise conditions such as the lifting of the state of siege which has been in effect since July 1976.

Military on Alert

The military intelligence command and other state security organs have been alerted to new threats by alleged members of the underground M–19. Military spokesmen told this station today that the possible return to the country of members of the M–19 commando unit which attacked the Dominican Republic Embassy in Bogota is being investigated.

Press reports say Commander Uno, Rosemberg Pabon, is back in Colombia. The national Defense Ministry has reported that the military intelligence service has been alerted to suppress any activities by the armed insurgents. It was also reported that security and control measures at strategic areas in the major cities such as embassies, public offices, airport and sea terminals have been reinforced to prevent any possible activities by the [word indistinct].

OUR OWN ENERGY ENEMY

(Mr. FORSYTHE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FORSYTHE. Mr. Speaker, on Friday, June 20, 1980, an article in the Washington Post written by William Raspberry entitled "Our Own Energy Enemy," detailed what is perhaps the greatest problem we face in combating our energy crisis—policies and procedures of the executive branch.

I commend Mr. Raspberry for his efforts to make the public aware of this situation, and insert his article in the Record.

On Monday, June 16, 1980, House Joint Resolution 573 was introduced which directly deals with the problems outlined in Mr. Raspberry's column.

I feel that it is vitally important that the American people have the opportunity to be aware of this problem since it is most likely the worst peacetime problem this Nation has faced.

I would also suggest that for additional details, my colleagues look on page 14984 of the June 17, 1980, Congressional Record.

The article referred to is as follows:

Our Own Energy Enemy

(By William Raspberry)

America's agonizing over how to break the OPEC stranglehold on our oil supplies focuses on the wrong villain, one energy expert contends. If we are strangling, says Milton Copulos, it's because we've got our hands locked firmly around our own throats.

According to Copulos, an energy policy analyst of the Heritage Foundation, we've got all the oil we need right here in America. The problem is that state and federal policy keeps us from getting at it.

His reference is not only to the 27.8 billion barrels of *proven* U.S. reserves—enough in itself to put us ahead of such oil-rich nations as Libya, Venezuela and Nigeria, which is our second biggest source of imported oil behind Saudi Arabia. His own studies indicate *potential* U.S. reserves of between 276 billion and 444 billion barrels—"enough to support current levels of consumption for the next 46 to 74 years without importing a single drop."

Then why all the talk about an energy crisis? Why did President Carter try to add a gasoline pump surcharge? Why did House-Senate conferees this week order Carter to go forward with building a 750-million-barrel strategic petroleum reserve? Why can't we simply tap our own vast supplies and say to hell with OPEC?

"Put simply," says Copulos, "policies at the state and federal levels have effectively hamstrung attempts to develop domestic reserves, and in doing so have helped tighten the OPEC noose around our necks."

He is ready with impressive examples:

A half-billion barrels of oil lie in Santa Ynez off the coast of California. But while we could be getting 80,000 barrels a day from that source (discovered fully a dozen years ago), we have yet to pump a single drop. The reason? "Inability to obtain the necessary permits from the state and federal governments."

There are an estimated 76 billion barrels of recoverable oil in Alaska—perhaps as much as 113 billion. Alaskan production today is only about 1.6 million barrels a day, about 13 percent of total U.S. production.

In all of Alaska—with potential reserves greater than the proven reserves of Venezuela, Abu Dhabi, Mexico and the Soviet Union—only seven oil rigs are presently operating, compared with 366 in Louisiana and 807 in Texas. "Why? Lack of access. More than 120 million acres of the state, including many of the areas that hold the greatest promise for the discovery of oil and gas, have been foreclosed to exploration by Carter administration executive fiat."

The Georges Bank and Baltimore Canyon offshore fields—each of which is estimated to be the equal of the North Sea discovery—are being held up by court challenges and the restrictive leasing policies of the Department of the Interior.

Occidental Petroleum, which could be producing an additional 231 barrels a day in California, has been unable to obtain the required permission from the state.

"In a sort of perverse application of 'Murphy's Law,'" Copulos charges, "anything the government can do to prevent the development of domestic energy, it does."

Nor is it only on U.S. production that government policy has its strangling effect, says Copulos, who will shortly be releasing his calculations in a Heritage Foundation study:

"Negotiations with Mexico, which possesses 40 billion barrels of proved reserves and enough potential reserves to make it a rival of Saudi Arabia, have been stymied by the intransigence of U.S. officials.

"The proposed Northern Tier Pipeline to transport natural gas from Alberta, Canada, is threatened by the unwillingness of U.S. officials to provide the necessary guarantees. At every turn, our officials seem determined to throw roadblocks in the way of reducing our dependence on Arab imports."

Obviously many of the policies Copulos decries are designed to protect the American environment. But if Copulos is anywhere close to accurate—the Department of Energy has no reliable figures of its own—America is coming awfully close to being its own energy enemy.

For even assuming we will one day run out of oil, domestic supplies of upward of 46 years would give us the time to develop alternatives to fossil fuels.

ABORTION: A CASE OF CHILD ABUSE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, child abuse has reached epidemic proportions. It is estimated that in the United States there will be 1.5 million children battered by their parents in the next 10 years, resulting in 50,000 deaths and 300,000 permanent injuries. These are frightening statistics, and even the most callous among us must cry out at this holocaust of the innocent.

For years some have argued that aborting the unwanted unborn would asure that each child allowed the prerogative of being born would be wanted and loved, and this would reduce or eliminate the battered child syndrome. Frankly, I was alwavs baffled how a careless disregard for the sacredness of life under one condition would enhance the regard for life under another condition.

Logic has always told me that if a healthy, unwanted, not-yet-born life could be arbitrarily destroyed out of mere personal preference, then less than perfect life, of no seeming "social value," could not be safeguarded by arguing only that it deserves our protection because it passed through that fleeting moment in human development called birth.

The fear that many of us have for the introduction and promotion of infanticide and euthanasia as a consequence of our callous attitude toward the unborn, is well founded—philosophically, morally, and historically.

A large amount of evidence in the medical literature now verifies that the attitude toward abortion has contributed significantly to the rapid rise in child abuse.

I would like to call the following article from a medical colleague in Vancouver, British Columbia, to the House attention. Dr. Philip Ney explains this from a psychiatric point of view. This essay is so important for everyone to study, since many who champion the abortion ethic express moral indignation, and rightly so, at seeing a defenseless child beaten unconscious by its parents.

Can we survive as a human race if we are so careless with the value and the dignity of life? I say we cannot. Tragically, world events today support my position. This subject deserves a moment of your thoughts.

The article is as follows:

IS ELECTIVE ABORTION A CAUSE OF CHILD ABUSE?

(By Philip G. Ney, M.D.)

A presumably plausible argument in favor of elective abortion is that it would make each child really wanted. What could be better, it is often argued, than preventing the birth of unwanted children who will be neglected and battered? Unfortunately for this seemingly cogent claim, there is now reason to believe that elective abortion has the reverse effect.

Child neglect, abuse and murder is increasing. Having to treat so many battered children, I began to worry that using abortion to make every child a wanted child might be backfiring. When I examined the evidence, I became convinced that most of the abused children resulted from wanted pregnancies and that elective abortion is an important cause of child abuse.

Early elective abortion became available in Canada in 1969. From then on there has appeared to be an increase in deaths of Canadian children from social causes. The provinces with the highest rates of abortion—British Columbia and Ontario—also have the highest rates of child abuse. Newfoundland, Prince Edward Island and New Brunswick have low abortion rates. They also have low rates of child abuse.

DISQUIETING FIGURES

The figures on this relationship in the United States are equally disquieting. Since elective abortion became available in 1972, there has been a continuing increase in child battering as indicated by a report of 22,683 battered New York children in 1974, and 26,536 in 1975. V. J. Fontana and D. J. Bersharov, in their book, *The Maltreated Child*, estimated that there will be 1.5 million battered children in the United States during the next ten years, resulting in 50,000 deaths and 300,000 permanent injuries.

The following mechanisms might help explain how abortions can lead to child abuse:

Having an abortion can interfere with a mother's ability to restrain her anger toward those depending on her care. Abortion might also weaken a social taboo against harming those who are defenseless. With wholesale abortions discarding nondefective unborn children, the value of children might diminish, resulting in less care and protection.

Higher mammals respond with parental care to signals of distress from their young. An aborting person, having already repressed her instinctive caring for her unborn young, might be less inhibited in giving vent to her rage at a whimpering child.

Having repressed that taboo, those people are more likely to be passive and indifferent to the distress of a battered child and more reluctant to intervene. What a contrast with the past when people did not stop to think about defending a child, even at the sacrifice of their lives!

The decline in the value of children (and I am not discussing attempts to limit population growth) has had some significant side effects. Only two decades ago parents were willing to suffer major deprivation to have and raise children. It seemed like a sacred obligation or a great privilege. Nowadays, people balance having children, with wanting a country house, another car, better vacations and early retirement.

This might be observed by children in such families. As a result they might feel less confidence in their parents' true concern for their welfare. They might then become so importunate in their demands for care and attention that their parents feel threatened. Not infrequently, the parental response to those attention-demanding children will be physical violence. What might cause children to question whether or not they were really wanted is that their mother had one or more abortions.

Society is beginning to believe that a child has no right to exist and is therefore valued only when it is wanted. If it is permissible to kill an unwanted, unborn child, then one can defend killing children already born when they are no longer considered to be valuable. Judging from the lenient attitude toward those who maim or kill children today, children nowadays probably have a legal value similar to their value during the Middle Ages—which was not very much.

Recent evidence indicates many women harbor strong guilt feelings long after their abortions. Guilt is one important cause of child battering and infanticide. Abortion also lowers women's self-esteem and there are studies reporting a major loss of self-esteem in battering parents.

Children who are aware of an abortion in the family might bring on themselves parental violence. As abortion survivors they experience a combination of guilt and anger. These feelings could lead to behavior that appears disrespectful or aggressive to parents—behavior that might trigger parental rage. Such guilty and angry children might turn on their siblings. The ensuing fighting might provoke parental battering. When these children mature, their unresolved guilt could lead to battering their own children.

Marital stress plays a strong role not only in the "battered-wife" syndrome, but also in the "battered-child" syndrome. Some women resent their male partners impregnating them and then coercing them to have an abortion. Fathers, on the other hand, might feel hostility toward women because they have no rights in decisions about which infant gets aborted and when. The "battle of the sexes" aggravated by elective abortion, can all too easily be turned violently against children.

There is increasing evidence that previously aborted women become depressed during a subsequent pregnancy. Depression interferes with a mother's early bonding with her infant, and children who are not bonded to their mothers are at a higher risk of being battered.

If these hypotheses are valid, then as abortion rates increase, child battering rates will increase proportionately. In separate studies, Schoenfeld and Barker have reported that women who have abused their children had higher rates of abortion. Preliminary results of our own study show a greater frequency of child abuse by women whose first pregnancy either miscarried or was aborted.

AN EVER-EXPANDING CYCLE

The argument that unwanted children will be abused, and should therefore be aborted, has been heard in varied guises throughout history. It has been a stock justification for doing away with those undesirable and those unwanted because they hampered the privileges and wants of those in power. But if the mechanisms here described are accurate, not only will abortion on request increase child battering, but the "abort and batter" syndrome will increase in an ever-expanding cycle in future generations.

I wonder why, when we are so interested in preserving nature's delicate balance, we do not have a similar concern for the long-reaching implications of elective abortion on the human species. What war, pestilence and famine could not do to us, medicine, in the name of humanism and emancipation might yet achieve. By helping to disrupt a major species-preserving mechanism—the mother-infant bond—medicine not only threatens the welfare and safety of large numbers of children, it might also be endangering the future of humankind.

SURPLUS SCHOOL CONVERSION ACT OF 1980

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GARCIA. Mr. Speaker, today I am introducing a bill that addresses the ever-growing problem of what to do with the abandoned schools across the country. Surveys from educational research centers have shown that this phenomenon is not only present in large urban areas but also has taken place in rural regions. I feel that my bill will make use of these abandoned institutions in a manner which is beneficial to all communities.

The bill establishes a program under which the Secretary of Housing and Urban Development would provide funds to local educational agencies (LEA's) for the renovation of underutilized school buildings. It also includes the amending of the Energy Policy and Conservation Act to provide that school facilities under the jurisdiction of local educational agencies which have experienced declining student enrollments shall be given priority for the receipt of grants under this act. Additionally, the bill provides funds to provide technical assistance for planning the best use of the surplus school buildings.

Declining enrollments and population migration have caused many school closings across the country. The school buildings which have closed or which are not fully utilized represent valuable resources which could be operated for other productive uses. Since the local educational agencies lack the funds necessary to adequately operate such underutilized school buildings, the Federal Government should provide funds to convert such buildings to other useful purposes in development of a national effort to preserve valuable resources.

The bill states that an underutilized school building is any building or structure under the jurisdiction of a local educational agency which has been used to house facilities operated in connection with an elementary or secondary school, but which as of the date of the submission of an application, is either closed or if still in use for educational purposes, partially vacant or otherwise not fully utilized.

There is no reason why these abandoned schools should be neglected when they can be put to a useful purpose. In determining whether to approve an application submitted under this bill, the Secretary will give priority to applications requesting funds to renovate buildings for the following purposes: community centers, senior citizen centers, day care centers, preschools, community colleges, vocational schools, medical facilities, recreational centers, or other educational or social service purposes. The bill also takes into consideration applications made by private enterprises. For all of these potential solutions to the problem there are scores of abandoned school buildings serving no useful purpose.

□ 1220

SMALL BUSINESS DIRECT EXPENSING ACT

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, today I rise to join with my colleague in the Senate, the Honorable JIM SASSER, in introducing legislation to deal with the capital formation problems of small business. The need for this legislation has been established by an overwhelming body of evidence. The volatile economy we now face exacerbates the already distressing trends which make it difficult for businesses, especially small businesses, to raise much needed equity capital.

I concur with the Senator's comments on the floor of the Senate, May 12, 1980, appearing on page 10887 of the CONGRESSIONAL RECORD. The idea for this legislation came at the urging of both the Board of Governors of the Nashville Area Chamber of Commerce—their small business committee—representing over 4,000 members, and the Tennessee delegates to the White House Conference on Small Business, who met with me earlier this year in Washington.

These delegates felt strongly about this proposed bill because they know better than anyone what the problems and the needs of small business are. I understand when the delegates assembled on the last day of the Conference to select as top priorities 15 of the 60 recommendations they would make to the Congress and the President, the direct expensing concept received the second highest number of votes on this priority list. In addition, I have sought guidance from a group in Washington known as the American Council for Capital Formation, and the Small Business Administration.

Mr. Speaker, our bill seeks to allow the small entrepreneur to deduct, or "direct expense," up to $10,000 in depreciable assets in 1 year. Existing law requires that this deduction be spread over a period of several years.

This 1-year feature gives the small entrepreneur the chance to recover $10,000 in capital expenses very quickly. He or she is then able to purchase new or replacement equipment earlier than would otherwise be possible. This allows more flexibility for small businesses to modernize and make their operations more efficient.

The second important aspect of the bill is the simplification it brings to this very complicated area of the tax law. Depreciation is responsible for a tremendous number of errors on tax returns every year. These errors are often made by taxpayers who have great need of the tax benefit provided by depreciation but who cannot afford to retain an accountant to maintain accurate depreciation records. A tax advantage does little good if it is so complicated that the taxpayer to whom its benefits are directed is unable to comply with its terms. Some facts which have come to light reflect on the need for this legislation. Milton Steward, Chief Counsel of the Small Business Administration, said a small firm may pay up to 30 percent of its gross income in taxes, while a larger company may pay 20 percent and the largest firms may pay only 11½ percent.

Economist William C. Dunkelberg reports that the National Federation of Independent Business' latest survey in January, showed a net decrease in small business employment, for the first time in 3 years. Moreover, it recorded the worst inflation showing since the survey was established in 1973. "Some 60 percent of the 2,500 companies surveyed raised their prices in the last quarter." What is more, 47 percent already plan to do so in this quarter, and 37 percent have not made up their minds. This is an indication that they are desperately trying to pass on their rising costs. Therefore, our bill could help them alleviate some of their rising costs.

I understand small businesses pay nearly 50 percent of their taxable income to the Government. A Merrill-Lynch study found that one of every five large companies had an effective tax rate of less than 43 percent.

The importance of small business to our Nation's economy can be seen by its generating 43 percent of the Nation's GNP, employs 56 percent of the private nonfarm work force, and is responsible for well over half of the recent major technological innovations. Small business community accounts for 97 percent of all U.S. enterprises, 55 percent of all private employment, 48 percent of the business output, and 43 percent of the GNP.

The Federal tax system, since World War II, has seriously discriminated against small and medium-size businesses. For a quarter of a century—1950–75—smaller corporations were escalated into the top corporate tax rate of 49 percent at the level of $25,000 in taxable income. It is unfair for a local small business to pay taxes at twice the rate, or even at the same rate, as a multibillion dollar, multinational giant.

In conclusion, small businesses cannot afford to employ accountants and tax consultants like a larger company can. Therefore, they cannot take advantage of all the exemptions entitled to them. For example, 63 percent of the firms with $1 billion or more in assets utilized ADR—asset depreciation range—in contrast to 2 percent of those with assets between $500,000 and $1 million. Because the rules are so complex the average small business resorts to straight line depreciation. Most small firms are labor rather capital intensive. Small firms do not have the relative investment in plant and equipment, which means they cannot make extensive use of recovery provisions in the code.

Finally, I commend this piece of legislation to my colleagues in both Houses and urge its passage in the Congress.

U.S. FOREIGN POLICY IN THE CARIBBEAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 60 minutes.

● Mrs. COLLINS of Illinois. Mr. Speaker, for some time now, the Congress, as well as the general public, have been extremely concerned about U.S. foreign policy. Our foreign policy is at its highest peak since the end of the Vietnam war. As we reflect the fall of the Shah of Iran, the hostage situation in Iran today, the Soviet occupation of Afghanistan, the negotiations for peace in the Middle East, uprisings, unrest, and revolution in Central America, serious threats to the oil supplies of the Persian Gulf, the tensions and turmoil of many African nations and in recent months a series of events in the Caribbean have served to strengthen fear of potentially explosive situations so near U.S. shores.

It is my concern with U.S. foreign policy toward the Caribbean that I would like to address today. Coupled with the recent publicity impetus provided by the exodus from Cuba and Haiti, many administration officials and Members of Congress are convinced that the time is ripe for a serious reevaluation and reexamination of U.S. policies and actions in the Caribbean.

At this point, I would, for a moment, like to share my views on foreign policy.

Foreign policy should be based on principle, it should prize democracy and freedom above all. It should avoid the expedient and shun the convenient. It should support friends who share ideas. It should promote the use of democratic institutions. Above all it should be concerned not only with our parochial economic interests, but with our spiritual interests.

Foreign policy is not a relationship of convenience. It is a fulfillment of ideas. It is friendship between governments and governments, between people and people. It is based on shared interests and shared beliefs. It is cooperative and nonexploitative. It is based on mutual respect and mutual accommodation.

American foreign policy must separate the real from the ideal. The necessary from the frivolous.

Today, we now have an opportunity to address concern with U.S. policy in the Caribbean and the many events and incidents that have caused us to consider ways to counter threats to U.S. economic and security interests. We now are seeking ways to strengthen our position in the eyes of the world.

Foreign aid is the best tool for addressing our concerns. It is my contention that helping countries by providing economic and developmental assistance and humanitarian assistance to enhance peace and political stability in the Caribbean is fundamental and contributes to our never-ending search for world peace.

In a recent article in the Washington Post, the Caribbean was once more targeted an area of indeed sensitivity in regard to U.S. policy toward the region. As stated in the article, the continuous attention drawn to the area was not sparked by the influx of Cuban refugees. It started over a year ago, before Iran and Afghanistan were a "front page" item.

In the President's April 1980 statement on current policy in the Caribbean/Central America, he stated:

> We're interested in dignity, development, and democracy.
>
> Dignity, to be derived in the hearts and minds of hundreds of thousands of our neighbors who know for a fact, because we are sincere, that we value them that we want them to have a better life, that we want them to trust us with good reason, not because we have any selfish intent to exploit them as a customer or even as a political ally, but because we know for certain that they and we share common opportunity and common purposes.
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> Development, not in the form of huge projects perhaps, but community-type interrelationship that can be derived only with a clear understanding of their opportunities and their needs—here again, there is no way to separate the mutuality of benefit to be derived.
>
> And democracy, not trying to foist on others an exact replica of our own government, but to demonstrate by how we act and what we do that our way of life, based on freedom, based on the value of the individual, is worthy of free adoption by others through their own exercise of their own judgment.

These statements, although a valiant attempt to convince the world of well-meaning intentions, toward the Caribbean, were in short, just a brief statement looking for back pats and overjoyed responses. In that same statement, the President spoke further about democracy as a vital force in the Caribbean and how many people were turning to the democratic approach to peaceful change using examples of the 1978 elections in the Dominican Republic, the recent elections in St. Vincent and St. Kitts the Nevis.

However, he referred to the changes and revolution in Suriname and Grenada as temporary setbacks—Setbacks to what? Democracy? To call ridding countries of unjust and inhumane dictatorships "setbacks" is, in my opinion a joke. Now, more than ever, it is quite apparent that this, the decade of the 1980's will no longer be the decade of dictators or of repressive governments or throngs of oppression. Liberation is on the move throughout the world and we must face the simple facts that it is happening right now, as we sit here today.

The major concern of many people including the people of the Caribbean, is a final "farewell" to oppression. Given the present atmosphere and state of the world situation, people are no longer willing to tolerate oppression and are seeking justice and equality in this world society. More importantly, those who are doing the oppressing and exploiting are being made to realize this fact. In this light as we reassess our values, principles and priorities, we find that there will be no more Shahs of Iran, no more Somozas of Nicaragua, no more Amins of Uganda, no more Rhodesias, no more DINA assassins or Pinochets of Chile, no more Mongoose Gang or Gairys of Grenada, if we are to see an end to worldwide oppression during this decade.

As the President stated in April:

> This is a time when people who suffer under dictatorships of the left and right want a free voice to express their displeasure and their urging for change and we are concerned when they're deprived of a right to speak or to act in their own best interest.

The questions then arise, who is left and who is right? Who is right, who is wrong? To me it does not matter as long as the best interest of the people is served and that the general consensus is the will of the people. The United States does not have the right to dictate, under any circumstances, how any country should or should not respond to its own needs.

Many people have asked me how my interest in Africa, as a member of the House Foreign Affairs Committee, affect the lives of my constituents in the Seventh Congressional District. While the answer to this question may be obvious to people with a personal interest in Africa, but not everyone is aware of just how important America's relations with Africa have become. So, it is with the Caribbean, a predominantly black region.

Referring back to the President's April policy statement, he stated:

> The United States is one of a large number of nations and people who are washed by the waters of the Caribbean. We are a Caribbean nation just as surely as we are an Atlantic nation or a Pacific nation. The cultures of our regions enrich one another—language, shared music, a common interest in sports, a common historical background, a common realization of the opportunities for the future. The ties of blood kinship are very strong, and this can be a basis on which we predicate future progress. Members of the same immediate family share citizenship and residence here in our country and citizenship and residence in every other one of the nations in the Caribbean region. We recognize the extreme strategic importance of the region. This is not of importance only to the United States, but every one of the nations in whom we are interested also must share that common strategic interest and importance. Or security is related to another.

I concur and as a black Member of Congress, I feel that every effort should be made to see that black Americans as well as all Americans are aware that there is a definite interrelation between events and actions in the international arena and what happens here at home to our legislative process and economic survival.

I concur with this statement by the President that the two regions of the United States and Caribbean do share cultures and common interests. In this context I would speak of the important role of blacks participating in foreign policymaking decisions. Our involvement in foreign policy issues has repeatedly been questioned and as expected we deplore the arrogance implicit in this attitude. Given the history of racial discrimination in this American society, it should hardly be surprising that any forthright conduct and candor of black Americans would cause consternation in this Nation. The historical contributions of blacks in advancing U.S. foreign policy in areas of the world has been crucial to this country's interests.

I strongly resent having the rights of black Americans and their involvement in the development conduct of U.S. foreign policy questioned. Had it not been for blacks and their concerns for world progress today there would be no African policy worthy of mention. Blacks also helped to pave the way for progressive peace talks in the Middle East. Neither Irish, French, German, Jewish, Chinese, English, Dutch, or other ethnically or nationally identifiable group has more right to be involved in foreign policy decisionmaking than do blacks. Our history, if nothing else, sets the precedent. If there is any single area where the melting pot concept applies, it is with foreign affairs. We, as blacks, are a foreign affair. Either all Americans pursue the common interest of their Nation together, as one, or we will each separately help to sink it.

Blacks can take the role of responsible leadership not only as well as they have done in the past regarding Africa, but as addressing the important role of foreign policy in the Caribbean. We intend to have a constructive voice in whatever solutions emerge from whatever "new studies" of policies are made toward this area in helping develop new initiatives and solutions to best meet the interest of both regions. It should be apparent to this Chamber and to the leadership that doors that have been previously closed to the United States by many Third World nations can be opened with direct input from black America. This is not just a matter of civil rights; it is a matter of human rights; something we all believe in. The moral aspects of gross violation of human and political rights in the Caribbean constitute a direct affront to black Americans. It is imperative that we be even more involved in developing U.S. policy around the world but especially in the predominantly black Caribbean.

Now is the time for us, not only the black Members of Congress but for all Members of Congress to look ahead in pursuit of formulating new initiatives for the Caribbean. The social and economic stability of these areas is of the utmost importance and concern and the United States must positively assist in developing those nonmilitary projects that the President outlined in his April policy statement.

The United States in its increased militarism role, has failed to address the human needs and concerns of those small island nations in the process of building and rebuilding their economic stabilities. Rather than trying to build increased police forces in the area to ward off threats of communism, the United States can learn from the examples of the Cuban assistance offered to those in need in the Caribbean; medical, technical, material, developmental and other nonmilitary assistance. Given the fact that the Cuban economy is suffering much more than the U.S. economy, it amazes me that in the wake of common need Cuba responds but the United States literally turns its back on our sister nations and neighbors. We of the United States have the tendency to react rather than take initiatives and when we do take initiatives, our refusal to follow through with concrete support measures is apparent. We need only compare the levels of commitment to peace in the Middle East and the level of commitment to the Caribbean.

Although the President stated that during his tenure there has been more than double the amount of aid to the Caribbean, he has failed to let the world know what kind of aid has been doubled. The Caribbean is in economic turmoil as is the United States, and the fragile economies of these nations are on the brink of disaster, especially that of Jamaica. It receives relatively little help from the outside world but the sense of of commitment and dedication to the struggle so strong among the Caribbean nations themselves, that they each willingly sacrifice to help a brother in need because we would not offer concrete support other than military assistance. Weapons of war do not feed, house and clothe people or give them jobs.

Although our efforts to bring peace to this economically troubled region depend ultimately on their cooperation, we seem unwilling to commit the resources necessary to relieve some of their suffering. We must back our commitments with concrete acts and we have a chance to do that now.

A stable society in the Caribbean which can effectively accommodate all of us, can also provide an important role model to other developing nations around the world. There are pitfalls, to be sure but there are likewise great opportunities from which we can all gain. Our adversaries will seek to promote division and turmoil and to exploit any opening we offer them. We must deny them such opportunities. Instead, we must lay aside our own past differences over our policy toward the Caribbean and join in recognizing that there is now an entirely new situation to be dealt with and to delay could be highly detrimental to our interests.

By the administration's own admission and definition in terms of the Caribbean, we must recognize its potential within its own context. Any misconception will prove disastrous for our social, economic, and security interests, as well as for the Caribbean, should we allow ourselves to turn our backs on our sisters, brothers and neighbors.

Caribbean countries have gained their freedom as is also reflected in our American history and are now free to deal with whomever they choose. Social, economic and historic as well as political realities have brought America and the Caribbean even closer together and today we have an opportunity to knot the ties in fraternal brotherhood to best serve the interests of us all.●

● Mr. STOKES. Mr. Speaker, first of all, I would like to take this opportunity to thank the gentlewoman from Illinois (Mrs. COLLINS) for taking this special order so that various Members of Congress can start some meaningful dialog on U.S. foreign policy as it pertains to the Caribbean. I am sure that many of my colleagues will agree that an overhaul of the current foreign policy toward the Caribbean is long overdue.

I think that this is a particularly timely topic. We literally have been bombarded with headlines about the Caribbean region since the influx of the Cuban refugees last month. I know that all of us have received different reactions on this from our constituents. What I have heard most from the black community during the peak of the refugee situation was about the unequal treatment by the United States of the Haitians especially in light of the cadre of services provided to the Cuban refugees.

My distinguished colleague from New York (Mrs. CHISHOLM) has been the conscience of this body on this issue for some time now. She pointed out from the beginning, and I concur, that the unequal treatment of the Haitian refugees by the Immigration Service and the State Department was largely due to the color of the Haitians as opposed to any alleged economic versus political asylum designations. The administration indicated only this week its plans to alter this policy.

But it seems that, since our attention has been focused on the Caribbean, we now need to revamp our entire philosophy and foreign policy objectives as they pertain to the Caribbean. The headline of a Washington Post article sums up the critical need for this—"U.S. Studies New Policies in Caribbean—Possible Expansion of Military Aid in Area Is Considered." This is exemplary of our reactionary and overbearing philosophy toward the Caribbean. This, Mr. Speaker, is no basis for sound foreign policy.

Mr. Speaker, it seems as if the United States is fearful of the impact Cuba has or will exert on the smaller nations in the Caribbean. Further, it seems that we feel that with military aid we can "buy them off" and sway their political ideologies. I would hope, Mr. Speaker, that we would shift away from this cavalier approach to dealing with the Caribbean and recognize the rights and potential benefits between the United States and the Caribbean region with a sound and equitable foreign policy. But this will encompass several steps and a reevaluation of our prejudices toward the Caribbean countries.

First of all, we must dismiss the premise that the Caribbean region is nothing but a cluster of haven like islands. The Caribbean is full of nonalined and potentially powerful nations especially in light of the natural resources of some of the countries. These nations will prove in the future, just as we have seen with the African countries, to wheel a respectable amount of influence around the world.

Second, I think that unlike the press would have us to believe, the countries, especially Jamaica which is often referenced in this context, are not necessarily embracing communism. Rather, the nations are instituting forms of government which are best suited to their deep-seated development needs. What we need to focus on is the development process and cease the preoccupation with the political process. Just like we would resent any country imposing its political persuasions on us, we must refrain from telling the Caribbean countries what is best for them politically.

Third, the Caribbean nations welcome our trade and our assistance, but not at the expense of selling themselves to the United States. Similarly, just because of the friendly relationship between Cuba, other perceived anti-U.S. countries, we cannot assume any coercion is going on. Rather, the Caribbean nations realize that they, including Cuba, have to coexist and the potential of peaceful even amicable coexistence. If we had realized this sooner, perhaps our position with Cuba might have been different.

Fourth, we must do all that we can to help the development process with the Caribbean countries if we are serious about having good relations. This does not mean military maneuvers in the Caribbean or forced military assistance. Rather, it would mean facilitating economic policies which would benefit the countries even to the point of using our influence with the International Monetary Fund to cease its interference in the operation of the various governments.

Mr. Speaker, once we realize our perceptions of the Caribbean and realize that there is no one "point man" on this issue but a group approach, then and only then can we formulate a sound foreign policy in the Caribbean. I and my colleagues in the Congressional Black Caucus intend to work diligently to make sure that such a foreign policy is developed.●

● Mr. LELAND. Mr. Speaker, I would like to thank the gentlewoman from Illinois for providing us with this opportunity to address U.S. policies in the Caribbean. The Caribbean has always been important to the United States, but I am convinced that for the remainder of this decade and the next it will be an extraordinarily important region as its residents strive to achieve the economic development and independence that has been denied them throughout their history.

Caribbean history and its relationship to the developed world is best encapsulated by a quote from James Joyce:

> History is a nightmare from which I am trying to awake.

The history of the Caribbean is one of exploitation and plunder by outsiders. Columbus discovered the Caribbean Islands and called them America. Close on the heels of Columbus followed the Spanish conquistadores who, in the name of God, the King and greed, stole all the region's precious metals and enslaved all the natives they could capture. After exhausting the indigenous supplies of these, they imported tropical plantation crops and African slaves to tend them.

After the Spaniard's power waned, England came to dominate the Caribbean, but it brought little change in the Caribbean's role in the world economy. The colonial powers in the region expressly forbid the capitalist development that was transforming Europe and North America. Rather than promoting manufacturing and development, the colonial overlords maintained the Caribbean as a supplier of agricultural foodstuffs and raw materials. The profits thus derived were reinvested not in the Caribbean but back in the home country. While Europe and North America were dynamically transforming themselves through the industrial revolution, the Caribbean stagnated because the colonial powers wanted it that way.

In the 20th century, the United States established an expanding presence in the region, yet the economic structure remained the same. While U.S. firms gained control of the production of agricultural foodstuffs and raw materials, industrialization was still not pushed. The French aphorism was never more apt: The more it changes the more it remains the same.

Control of the Caribbean economy by U.S. interests is staggering. For example, nearly one-fourth of all U.S. foreign investment is in the Caribbean. From the U.S. perspective it is not without good reason, that U.S. firms have such a strong presence. Profits in the Caribbean are higher than average and the amount of profit reinvested back in the region is lower than average. In our not too distant past, we did not hesitate to use military force to protect these U.S. business interests. Trujillo, the despised dictator of the Dominican Republic, and Batista, Castro's predecessor, were both trained by the United States and installed with assistance from the U.S. Marines.

Both of these men have passed from the scene, but their memories and associations linger. It was no more than 15 years ago that the U.S. Marines invaded the Dominican Republic to keep a duly elected government, that we perceived as a threat to U.S. business interests, from assuming office.

Our perception that Castro is a dangerous enemy has probably done more to harm long-term U.S. interest in the Caribbean than if we had openly and expansively supported him. Our relationship to other Communist countries from China to Yugoslavia convinces me that a less antagonistic approach to Castro would have left both of us and the Cubans better off. Instead, we are Castro's whipping boy in international forums and his dumping ground for people he does not want. If we were to act more in a spirit of cooperation, rather than conflict, relationships would undoubtedly be better for all concerned.

The Carter administration has tried to reverse our historical legacy. It has espoused a human rights emphasis and a sympathetic understanding for the legitimate desires in the Caribbean basin for autonomous development. This policy has not been without its rewards. Nicaragua is perhaps the most outstanding example. After our half century of support for the Somoza dictatorship, whose principle raison d'etre was to enrich itself at the expense of the vast majority of the people, it is no wonder that many in Nicaragua express strong anti-American sentiments. On the other hand, it is a colossal accomplishment that the Nicaraguan Government has not rejected all ties with the United States. I compliment the Carter administration and the Congress for this belated, but significant change in U.S. policy.

In spite of this great accomplishment, we have not completely erased our nightmarish history. Our response to the Grenadian revolution was, at best, disappointing. An island of 106,000 whose economy rests on nutmeg production and tourism can hardly ever be a source for international or even regional revolution. Yet, the response of many in our country was one of fear and even condemnation.

There are numerous other examples including Haiti, Jamaica, and our recent relationship with Cuba. But other Members have addressed those particular concerns. I would like to address the general problems of development the Caribbean faces and our difficulties in understanding those problems.

Those Caribbean nations possessing popular government have two quite separate goals in their strategies for economic development. First, is the goal with which we are most familiar, overall, aggregate growth of the economy. But the second goal is one to which we generally attribute a lower importance—equity. We tend to assume that equity will naturally follow economic growth through a trickling down of benefits and income.

Unfortunately, the reality of trickledown is far less consoling than the myth. The Latin American countries with the greatest growth—Mexico and Brazil—are two of the most unequal and have become even more unequal as economic growth has proceeded. As their average income has risen, the gap between the rich and the poor has actually increased.

Why is this? The most common explanation lies in the form of development imported from the developed world. Highly mechanized technology puts people out of work. Expensive technology costs more than it produces putting the nations into hock with multinational banks. When development is controlled by the multinational corporations, the profits are repatriated to the western stockholders and not reinvested locally—just as was the case under colonialism. All of this means that there is little left to trickle down to the masses, but there is increased income for the elite that cooperates with the foreigners.

The people of the United States are not, in some sense, to blame for this state of affairs. We are no more to blame than the Spanish conquistadores, the English merchants and plantationholders. But many of us have played a role and we must come to understand and appreciate how that role is perceived by the people of the Caribbean.

We should not be surprised that the Caribbean nations want foreign aid and development on their own terms. We must come to realize the legitimate desires of the Caribbean people for what they are: A reaction to past abuses of the Caribbean by foreigners; a reaction against corruption to which the United States has been a party, albeit at times for most of us an unwitting party.

The Caribbean's desires for equity are not a reaction of envy just because we are rich and powerful. Rather, they rightly believe, that some of the wealth and power the developed world possesses is based on having paid low prices through the centuries for their bauxite, nickel, sugar, et cetera.

Their reactions are not simplistic mimicking of jingoistic phrases that brand us as scapegoats and promise etherial panaceas. Although there is undoubtedly some of that, just as there is in this country, the principal thrust is a legitimate desire for a new world order in which developing countries such as those of the Caribbean receive fair prices for their products and equal access to foreign technology, capital, and markets.

Our reaction to these desires should be a sympathetic attempt to proceed with mutual development. It is in both our long-term interests that the Caribbean develop smoothly and equitably.

Above all, our reaction should not be increased military aid. Such efforts will only stir up trouble. The stirring up of conflict is a Luciferian quality in the true sense of the word. Conflict creates the fire of affects and emotions and like every fire it has two aspects: that of burning and that of giving light. To the Caribbeans an increased U.S. military presence will burn further in their hearts and give light to the perception that the United States simply wants to enforce the unequal status quo and has no sensitivity to the Caribbean's desires for development. This barbarous philosophy of military might against island mininations is the offspring of cold hearts and muddy understanding.

If we attempt to stifle the Caribbean's desires for independent paths to development, we will only postpone a much larger, more momentous conflict. Our history as black people in the United States demonstrates that oppressed people cannot remain oppressed forever. The yearning for equality manifests itself eventually. It is better to cooperate and respect the Caribbean's rights to economic self-determination now, than to wait for their achieving that goal through a bitter struggle. We must learn to incorporate into our foreign policy a concern for equity, a concern that is explicit and central. The Caribbean has been treated inferior ever since Columbus discovered it. It no longer wants to be treated that way nor should we persist in attempting to maintain that status quo.●

● Mrs. CHISHOLM. Mr. Speaker, I thank my distinguished colleague from Illinois for her foresight in sponsoring this special order on the Caribbean.

Like many of my colleagues, I was pleased to see that the administration is considering bilateral assistance programs to nations in the Caribbean. Indeed, the ministates of the Caribbean face enormous economic problems with limited resources. Our primary aid distributions have been through the Caribbean group for cooperation in economic development on a regional basis. The uniqueness of Caribbean countries would perhaps be better served by direct assistance for specific development programs of mutual interest to the United States and the recipient countries. I know that our inability to offer direct assistance to countries in the eastern Caribbean has been of particular concern to many State Department officials. I would welcome administrative initiatives in this area: I believe that our national interest are best served by providing developmental assistance which will address the basic human needs of the poor while strengthening indigenous networks and institutions to continue these services when AID support ends. I would be happy to work with the administration in the development of this kind of program for the Caribbean.

However, I believe that this view of "cooperative development" is completely antithetical to any notion of expanding our military assistance to give direct support to the local security forces of a country. On Sunday, June 15, 1980, the Washington Post ran an article entitled, "U.S. Studies New Policies in Caribbean" its subtitle was "Possible Expansion of Military Aid in Area Is Considered." This "expansion" would actually require a change in our present law which prohibits military assistance for local police or security fores. The rationale for this prohibition is an important policy judgment. While we may have an interest in assisting countries in defending themselves against outside aggression in the name of global peace, I can not imagine any legitimate basis for assisting local police especially when we claim to practice nonintervention in our relationships with other countries.

Local populations could only view such assistance as another U.S. attempt to maintain the power and control of certain governments regardless of those governments' commitment and interest in helping their own countrymen in a fashion which recognizes the value of human rights. The administration's proposal to change the law to allow military assistance to increase local police units can only be seen as a return to our worst days of regional denomination.

Further, a policy to enhance police control seems to be a direct contravention of the cornerstone or our foreign policy, human rights. U.S. support of local security forces, in some cases, would most certainly result in increased repression and violations of human rights. The focus on internal security assistance will most certainly indicate to the people of the Caribbean that we are most interested in domination than cooperation and hegemony rather than pluralism. I, as a Member of this body, will resist any atempt to remove the present restrictions on military assistance to local police units and urge my colleagues to do likewise.●

● Mr. CONYERS. Mr. Speaker, the United States now is at a crossroads in its policies toward the nations of the Caribbean. Numerous reports from the State Department and Pentagon indicate that there are widely differing interpretations regarding economic and political development in these nations and two major policy proposals in contention, one emphasizing continued economic and technical support, the other calling for stepped up military assistance and a stronger U.S. military presence in the region.

The Caribbean, unfortunately, has become the latest arena of cold war rivalry. Certain of the Caribbean nations have Socialist or Marxist regimes. Others are experiencing acute political tensions and instability. All of the nations are beset by serious economic and fiscal problems; chief among them are widespread unemployment, lack of investment capital to develop their economies, massive debts to private and international lending institutions that arise principally from the high cost of energy, and the inability to meet their development goals.

Concern with superpower rivalry has tragically overshadowed the grim realities of hunger, poverty, and retarded social and economic development.

Not very long ago, the Willy Brandt Commission on North-South Relations issued a report warning that a most critical question affecting the world community is to find the means to avert global disruption resulting from the enormous disparities in income, wealth, and development dividing the industrialized and nonindustrialized nations of the world. This warning assumes particular significance with respect to the Caribbean region. We in Congress will have to address these grim realities some day. Third World nations will pursue their development one way or another. The real question becomes, How quickly, peacefully, and effectively will they be able to make the transition to a higher level of economic development?

A confidential report prepared by former Under Secretary of State Philip C. Habib, which was reported by the Washington Post on June 15, calls for increased U.S. economic aid and political cooperation to help the nations of the Caribbean overcome their critical problems. This approach, however, is being resisted by hardliners who have always preferred military solutions to social and economic problems, despite the evidence of failure of such an approach in the past.

The United States still has an opportunity to work with the nations of the Caribbean, improve the assistance programs, and create more effective mechanisms for organizing and delivering the resources for development that these nations require.

History should have taught us by now that the military approach is useless when it is up against the overwhelming facts of nation-building, social change, and developmental crisis.

I urge my colleagues to consider these questions carefully, and to support expanded programs of economic and technical assistance to the Caribbean.●

● Mr. DELLUMS. Mr. Speaker, The U.S. policy toward the Caribbean is at a critical turning point. In response to the "threat" of Soviet troops in Cuba in October 1979, President Carter established a Caribbean Task Force at Key West, Fla., to employ designated forces for action if required. A Washington Post article dated June 15, 1980 stated that the Carter administration is considering the expansion of "U.S. military assistance activities to include training and equipment for the police forces of the Caribbean Island Republics."

We are all interested in insuring our national security, but our actions may be against our own best interests. We must ask whether specific actions will be in total opposition to meeting the objectives of insuring national sovereignty and developing cooperative relationships in the Third World.

The Third World, including the Caribbean, is increasingly demanding egalitarian relationships with the major powers. No longer will it accept the United States as policeman of the world nor will it tolerate interference by outside forces. The Caribbean no longer accepts itself as being the "backyard of the United States." Rather, it sees itself as an equal partner seeking mutual cooperation in search of solutions to the problems of the world.

Ambassador Philip C. Habib stated, in his keynote address to the Miami Conference on the Caribbean, that our policy is based on five principles.

They are: First, significant support for economic development, second, firm commitment to democratic practices and human rights, third, clear acceptance of ideological pluralism, fourth, unequivocal respect for National sovereignty, and fifth, strong encouragement of regional cooperation and of an active Caribbean role in world affairs.

He further states:

> We have made clear that we value our relationships in the Caribbean . . . and that we understand, respect and support the efforts of its countries and their leaders to build modern and equitable societies capable of fulfilling the basic needs and aspirations of their peoples.

The contradiction between these stated principles on the one hand, and stepped up American Caribbean military presence on the other is startling. Pursuit of economic and political cooperation based on mutual respect does not begin by sending military aid to assist police forces. It does not begin by increasing military maneuvers and escalating our intelligence capabilities in the region. It certainly does not begin by intimidating the people of the Caribbean. It does begin by recognizing the right of all people to self-determination and by opening channels of communication for economic, cultural, technical, and social exchanges.

If a country chooses capitalism as its economic system, so be it. That is their right. If a country chooses socialism as its economic system, our stated principles of a clear acceptance of ideological pluralism would dictate respect for that choice. If a country chooses communism, that is their choice and should not dictate overt or covert interference based on America's desires for that country.

Economic and social instability in the Caribbean are reflections of the critical social and human needs of the region. Just as we are seeking to eliminate problems of unemployment, disease, inadequate housing, and hunger in the United States in our own way, the Caribbean nations are seeking to alleviate these same miserable conditions for their respective people in their own ways.

Third World people in the United States, especially black and Hispanic people, have historical bonds with the people of the Caribbean and Latin America, and therefore have a right to expect a U.S. policy that is free of racism, free of exploitation, and free of imperialistic practices toward the people of the Caribbean.

An increase in U.S. military presence would only achieve negative consequences. Thus, the best role for the United States is to use economic aid and political cooperation to help the countries of the area overcome the socioeconomic and political problems with which they are confronted.

A world where all people coexist peacefully with respect and dignity for each other is the unfulfilled dream of Dr. Martin Luther King which we shall continue to pursue. I ask my colleagues in the House of Representatives to help this dream become a reality.●

● Mrs. COLLINS of Illinois. Mr. Speaker, with reference to my previous remarks concerning U.S. foreign policy in the Caribbean, I would like to include for the RECORD remarks by my distinguished colleague, the Honorable WALTER E. FAUNTROY which were submitted to the Haiti Observateur: "The United States Impact on Haiti and the Haitian Refugees." His statement of facts justifies reevaluation of the U.S. policy to Haiti and in my opinion, warrants proper reassessment of U.S. priorities in the Caribbean relative to economic development and military assistance. The article is as follows:

THE UNITED STATES IMPACT ON HAITI AND THE HAITIAN REFUGEES

(By Hon. WALTER E. FAUNTROY)

The recent wedding of President-for-life Jean Claude Duvalier of Haiti, which has been estimated to have cost from $3,000,000–$7,000,000, took place at the same time that the United States House of Representatives was considering H.R. 6942, the International Security and Development Act, commonly known as the foreign aid bill. This consideration also comes at a time when the plight of the Haitian refugees in our nation is receiving increasing attention, highlighting the unequal and inhumane treatment inflicted upon them here.

Unfortunately, the government of the United States of America continues to hold to its unsupportable thesis that the Haitians are merely "economic refugees," as if one could neatly isolate the economic variable from the political anywhere but especially in Haiti. Such illiteracy in social science analysis, and dishonesty must be challenged frontally—particularly when it has such results as starvation for the Haitian refugees here, and imprisonment, torture, and death for those returned. Anyone having any doubts as to the general human rights situation in Haiti, should study the report of April 17, 1980, on *Human Rights in Haiti*, published by the Organization of American States.

Others more concerned more narrowly with the fate of Haitian refugees returned to Haiti, should carefully study the transcripts of the trial in the case of the Haitian Refugee Center vs. Civiletti before the Federal District Court in Miami. The transcripts are replete with specific testimony as to the imprisonment and abuse suffered by refugees returned to Haiti.

The wedding of President-for-life Duvalier and the expenditure accompanying it, are properly a concern of the whole Haitian people who produce the wealth of Haiti.

The provision of United States economic and military assistance is, however, quite properly—but not exclusively—a proper concern of my constituency and of mine. It is also, I know, a justified and strong concern of the Haitian community here in the United States of America and indeed of all peoples of conscience.

It is with this in mind that I would give you my thoughts on United States assistance to Haiti, which is shared by a number of my colleagues in the U. S. House of Representatives.

While I am concerned about economic development in Haiti, I am particularly anxious that our economic development assistance help the least of these—the poor—and *not* merely support the lifestyle of the rich.

Given the scarce resources we ourselves have for the poor here in the United States of America, it is our responsibility to be sure that the governments to which we provide assistance have a demonstrated commitment to enhancing the quality of life for the poor. One test of commitment is the willingness of the rich in Haiti to generate internal savings by cutting back their consumption to be used in programs to break the cycle of poverty, oppression and despair.

This commitment has clearly not been demonstrated by the government of Haiti. Instead, the government of Haiti appears to be continuing its policy of doing for the rich and neglecting its poor. Fully two-thirds of the development budget of Haiti is funded by foreign financial sources.

According to the World Bank, the gap between the rural areas where the majority of the poor live and the capital of Port au Prince is increasing. Per capita consumption in Port au Prince in 1970 was twice that of the rural areas. Today, it is more than three to one and increasing. Approximately 7,000 families in Haiti have average annual incomes above $50,000. Of this wealthy group about 3,000 families live in the Port au Prince area and have an average income estimated at almost $100,000.

Against this background, it is striking to note that 83% of Haiti's fiscal expenditures are in Port au Prince, which has only 20% of Haiti's population.

In Haiti, the concentration of wealth is astounding. Roughly 5% of Haiti's population accumulates more than 50% of the national income, and the average per capita income of the highest bracket is 184 times that of the lowest bracket. Even more striking is that in Haiti 0.8% of the population takes 44.8% of the national income.

While 80% of the population lives in rural areas and depends upon agriculture for survival, government expenditures for agriculture are no higher than 7–10% of the national budget. There exists in Haiti a classic center/periphery system where the center's governmental elite in Port au Prince extracts from the productive periphery in order to develop the center.

Rich Haitians connected to the governmental apparatus continue to place their capital earnings abroad. The tax structure is extremely regressive, taxing the basics produced and consumed by the poor, while leaving all but untouched imported and nonessential luxury goods. Resources that flow in from foreign donors are just about matched by the outflow for these luxury goods and investments abroad.

The Government of Haiti has been termed a kleptocracy by one well informed student of the economy—Matt Lundahl—the author of the recently published work, *Peasants and Poverty: A Study of Haiti*, published in 1979.

His contention is supported by the World Bank, which has stated that at least one-third of total public expenditures continues to be made outside the system subject to official recording and accounting.

A report on the status of human rights in Haiti, issued by the Organization of American States on April 17, 1980, has this to say:

"The degree to which the economic fortunes of the Haitian people are shared by *contemporary political reality* is reflected by the World Bank's analysis of governmental budgetary expenditures. . . . 30% of all expenditures and 35% of total revenues were channeled through special checking accounts held at the National Bank that made it virtually impossible to determine their sources or essential disposition."

The Organization of American States Report goes on to say that, "Under these conditions, it is questionable whether badly needed foreign assistance programs effectively reach their targets."

It is noteworthy in this regard to examine the operation of the infamous Regie Due Tabac, a vast personal monopoly of the ruling Duvalier family. This monopoly has exclusive control over the distribution of necessities such as fish, cotton, all types of milk and milk products, wine, champagne, whisky, rum, perfumes, dental products, soap, bandages, air conditioning, automobiles, airplanes, and most electrical appliances. In 1977, the Duvalier monopoly collected almost one million dollars but made only $580,000 available to the public treasury for general budgetary expenditures.

This mismanagement and corruption has again recently been highlighted by the millions of dollars spent on the wedding of President-for-life Jean Claude Duvalier.

This expenditure of money is in stark contrast to the conditions of the Haitian people. The December 1978 World Bank report estimates that almost 90% of the people of Haiti have per capita incomes lower than the amount needed for a minimum necessary consumer expenditure and that almost 95% of the rural population lives in this state of deprivation.

Now, if the efforts of our agency for international development had miraculously penetrated the existing social structure and had been able to really help the poor, I would not be increasingly skeptical concerning the provision of United States assistance to Haiti. But A.I.D.'s "top down" approach simply cannot work in a society as rigid and corrupt as Haiti. For A.I.D. to work, there has to be political development and a genuine commitment by the government of Haiti to its poor.

Mr. Robert Maguire of the Inter-American Foundation has written convincingly on the difficulties of the A.I.D. program in Haiti and I now submit his discussion of the A.I.D. program taken from his important work *Bottom Up Development in Haiti.* (Inter-American Foundation Paper No. 1 of October 1979, pages 23–27).

"USAID:

"The Agency for International Development has been active in Haiti since 1970, when the U.S. resumed development efforts after a ten-year absence. Currently, AID finances diverse projects and its impact in Haiti is significant. Its 1978 budget there was just under $16 million. In 1975, when its budget was considerably smaller, it represented seven percent of the Government of Haiti's total expenditures (USAID: 1977).

"The Agency's objectives in Haiti are: "to help rural inhabitants achieve a better life by developing local institutions which participate in programs to increase production and income in rural Haiti, and create a framework for government programs to provide essential services in rural Haiti; to strengthen government and private institutions—particularly those involved in rural development and in providing health and family planning services—which in turn will help to create local institutions able to provide essential services and to introduce new ideas to the people of rural Haiti" (Zuvekas: 1978a; 322).

"As its basic development strategy, AID follows essentially a top-down approach. Projects and activities are identified, planned, and administered by AID officials and contractors and the Haitian government. The assumption is that the benefits will fall upon those for whom the projects are enacted, that is the rural poor. With this approach, the beneficiary of the development intervention plays a passive role. The thrust comes from outside. The process is supported by high capital expenditures often related to some kind of physical change such as the construction of a road or buildings.

"Agency activities in Haiti are grouped under five major headings—food and nutrition, population planning, health, education and human resource development, and selected development activities. Most activity is in the food and nutrition area where AID has programs in rural community development, agricultural development, road maintenance, small farmer development, agricultural feeder roads, nutrition improvement, integrated agricultural development, and small farmer marketing.

"A look at one example, the Small Farmer Development project, provides useful insights into how AID works. That project seeks to raise the production and incomes of small coffee farmers. Coffee has been the base of Haitian exports for over 150 years. Small farmers are the primary producers. An elaborate system based on speculators and urban-based *negociants* has evolved to control marketing and export.

"In 1974, AID signed a $6 million agreement with the Government of Haiti for a five-year program to improve coffee production. The program was to modernize the coffee production sector by setting up six centers which would demonstrate modern methods, by building and improving some 38 miles of feeder roads into coffee zones, and by financing the purchase of some 14,000 tons of coffee fertilizer from U.S. sources to be sold to farmers cultivating roughly 13 acres of coffee or less.

"When planning the coffee project, U.S. and Haitian officials decided that the modernization of the coffee sector would be best done through a program heavily focused on fertilizer use (Girault: 1977). Of the $6 million budgeted, $5 million was earmarked for buying fertilizer. To enable small farmers to buy fertilizers, credit societies (SAC) composed of small groups of peasant coffee producers were to be formed. For the first few years of the program, the fertilizer would be sold at prices below the market value to encourage farmers to take up its use. Progressively, prices would rise to market levels.

"The thrust of the project and the way it evolved demonstrate how AID development strategy works:

"Needs were identified by various experts, and the project was planned at the top. Participation by coffee farmers in planning and management was minimal. Project actions appeared from the outside—for example, a cadre of technicians moved into selected areas to promote them. To participate in the credit program, a small farmer had to join a group overseen by a Haitian government agency. Government experts directed the project at all levels of management and decision-making.

"The first steps were the construction of roads and coffee centers—physical changes on the landscape—with simultaneous efforts to get the peasant beneficiaries to understand the significance of the project so they would then participate. Introduction of technology, i.e., the use of fertilizer, was the keystone of the whole project.

"While the project is not yet completed, and a final verdict is therefore impossible, several weaknesses are apparent. One of the coffee centers was located in Thiotte, an important coffee area, but one without many penetration roads and with extremely mountainous terrain, making participation by small coffee farmers in the surrounding area unlikely. In addition, the karst (limestone) topography means there is often a serious lack of surface water at Thiotte, making it impractical to install a coffee bean depulping and washing operations, both critical to the center's activities.

"In spite of these constraints, the center was located in Thiotte, and a good part of the loan for fertilizer went to that zone. Thiotte is the home of the man who was the Minister of Agriculture at the time the decisions on locating the centers were made. He is also a large scale coffee producer, as are many of his neighbors. American assistance funds destined for the small coffee planters of Haiti were concentrated in the only region of the country where one finds a relatively homogenous group of large planters (Girault: 1977: 18, 21).

"Another coffee center was placed in 'marginal territory from the point of view of the ecology of coffee, because it is at an altitude too low: 250 meters (roughly 810 feet). But it has been chosen because one finds there a demonstration farm of the Department of Agriculture, although it is in ruins after the passage of a hurricane during the 1960s . . .' (Girault: 1977: 18).

"From these examples, it is clear that such projects are subject to political pressures which may skew them away from the overall goals, particularly the goal of benefitting small farmers.

"There are additional problems. The fertilizer program is behind schedule for two reasons—the slow and rigid procedures for disbursing credit, and the farmers' hesitancy about adopting the use of fertilizer. The loan program is complex and tangled in the red tape of the issuing agency (the Bureau of Agricultural Credit). During the first several years of the program, farmers have been slow in demanding fertilizer, a common phenomenon given peasant farmers' low-risk agricultural strategies. There have also been some bad experiences with fertilizer-burned trees where fertilizer was applied too intensively, sometimes by agronomists and agricultural agents at the coffee center. Peasants however are not automatically against innovation. Field surveys in northern Haiti have shown peasants to be generally amenable to taking small risks, providing they understand the possibilities for gain and have decided themselves to take the risk (Maguire: 1978a).

"Another drawback to planning from the top is the frequent misunderstanding of peasant reality. In this case, for example, defining a small coffee farmer as one with up to 13 acres in production ignores the realities of Haitian land distribution. Farmers with more than 10 acres of coffee are most likely members of the local elite.

"But perhaps the most basic problem with the project is the overall rationale. Girault argues that the attempt to modernize an agricultural sector through massive capital inputs is unlikely to promote meaningful development for small farmers. The fundamental causes of their underdevelopment—the inequities of the social relationships that dominate both the marketing system and the land tenure arrangements, and that keep peasants dependent—are not addressed by the project's activities. Until they are, those on top will benefit from development, while those on the bottom gain little or nothing."

Additionally, I have a concern with the lack of benefits accruing to the Haitian people from United States manufacturing firms operating in Haiti.

It might appear to be good news that between 1971 and 1977, some 20,000 jobs were created in the manufacturing center—primarily in labor intensive assembling enterprises concentrated in the Port au Prince area. However, this influx of United States firms was conditioned by low wage rates, tax holidays and other variables such as closeness to the United States market and preferential treatment by United States Customs.

The apparent good news for the poor who need employment in Haiti turns out not to be good news at all. The monies paid to these 20,000 workers in most instances is below the rate of inflation and is below the level needed to support a decent standard of living for the worker and the family of the worker. Within Haiti, then, are no such things as fair labor practices, no possibility of free trade unions, and no enforcement of minimum wage and safety regulations. Additionally, and most importantly, there are no laws or understandings for structuring business relationships so that benefits will accrue to the Haitian economy and people over a period of time. There are no arrangements for the transfer of technology and administratively capable Haitian personnel. This does not mean that mutually beneficial business relationships can ever be negotiated but such negotiations require a committed, democratically strong and competent government to balance and leverage the corporations involved. This is not the case in Haiti.

Relationships, which bluntly put, are based on gross exploitation are not in the interests of the people of the United States of America. It is not in our national interest for our government to be on the side of 7,000 families and a few special interests in the United States at the expense of the 5,000,000 people of Haiti. More directly, many of the jobs which are now available in Haiti and other countries with regressive labor practices, might otherwise have been available to the poor here in the United States of America. It is the structure of exploitation existing in Haiti which has caused us to lose jobs here in the United States and is making Haiti a cheap labor export platform that benefits not the American people or the Haitian people but only a few Haitians and a few Americans.

The protection of the United States' national interest in the Caribbean and particularly with regard to Haiti requires relationships based upon mutual respect and cooperation between the people of Haiti and the people of the United States of America. If our government is intelligent, it will change its course and place itself on the side of the poor and the oppressed of Haiti. One necessary step to demonstrate such a change in policy is to recognize the reality of Haiti by legislatively granting political refugee status to the Haitians who have fled gross patterns and practices of human rights abuses. Also required would be the allocation of sufficient numbers for future political refugees from Haiti under the Refugee Act of 1980. It is deplorable that of some 230,500 refugee numbers available this year, none are allocated to Haitian refugees.

Two things are clear, the existing pattern of power in Haiti causes refugees to flee to the United States, and we, in the United States, have a responsibility to make sure that our government is not an accomplice to oppression in Haiti. Given the present human rights situation in Haiti, we are justified in withdrawing at this time all forms of military assistance to that government.

It is for these reasons that I and some of my colleagues will be carefully monitoring the impact of United States' involvement in Haiti.

Thank you and be assured of my commitment to working for relations of mutual respect and cooperation between the people of the United States of America and the Haitian people.

Mr. Speaker, with respect to my earlier remarks regarding black America's involvement in foreign affairs, I would like to submit for the RECORD the text of an address by my distinguished colleague, the Honorable WILLIAM H. GRAY III who spoke to the State Department as a part of the observance of Black History Month. The address follows:

BLACK PEOPLE . . . ARE BECOMING INTERESTED IN FOREIGN AFFAIRS

(Remarks by Congressman WILLIAM H. GRAY)

Thank you very, very much, Doug, for that introduction and to Ben Read, John Burroughs and to Pauline Johnson. It's an extreme pleasure for me to be here. There is only one problem. It is a problem that you have created. Doug told you that I am a Baptist minister and I continue to be senior preaching minister of the Bright Hope Baptist Church in Philadelphia, a church with a membership of about 3,000 members. I was told by my staff that I was to come and give a very erudite presentation for about 10 minutes of foreign policy and foreign affairs in the State Department, and then I walked into this hall and I heard that singing.

Now, all of you are in trouble because I think I may have dropped my congressional hat when I walked in the door and heard the beautiful songs that were coming forth, many of them rich with the heritage of black America and often sung in the black church. I started to think about preaching, particularly since last Sunday was the 70th anniversary of the Bright Hope Church. On those occasions we usually invite another minister to preach to provide some cross-fertilization. So I am a preacher who was deprived of the opportunity to preach on Sunday, and then I walk in here and hear all of this good spiritual music—the first thing I want to do is preach. But I promise not to do that.

Black History Month is a time when blacks and other Americans stop to pause and reflect upon the contributions of a group of people—a group of people who are unique in America. Unique not only in terms of their history but unique in terms of their experience in America, for they did not come as immigrants. They did not come voluntarily, but they came as slaves on the middle passage. They did not come with visions of starting a bright new life in a new world, running away from the poverty of Europe or the class system, but they came in chains. And thus their future in America was quite different from any other group that came to these shores.

It started out in slavery. A slavery that gripped this country for two centuries, and then finally we had a civil war. A war which was to abolish that institution. We found that after that war, we went back to a form of slavery, that form being economic and political and known as segregation. But yet people of good will, black and white, continued to struggle against segregation and discrimination until in the mid '50s people began to march, people began to openly challenge the system, and finally in the mid '60s the whole citadel of segregation came tumbling down. It came tumbling down with the passage of the Voting Rights Bill of 1965 and also the Public Accommodations Bill of 1964. It came tumbling down to a great extent because many Americans recognized that it was morally corrupt to segregate in our society. We failed to live up to the high ideals of our Declaration and our Bill of Rights, and also it came tumbling down because we began to feel the pressures from other countries around us. We began to seriously question what our commitment was in terms of their future and in terms of their interest because many of them were of the same color as black Americans.

But something happened in the late '60s and the early '70s. Although there were gains made, we saw a rash of blacks moving into areas they had never moved into before. Neighborhoods, titles, vice president of this, and moving up in the federal bureaucracy. We began to see them on television doing strange things, i.e., advertising soap suds, running through airports on their way to get a Hertz car. We started to see $6 million men dunking basketballs from Philadelphia, like Dr. J., and suddenly we felt that we were in the promised land, that things were all right, things were going to move on to ultimate equality. But we have seen over the last decade of the '70s that this is not the case. It is not true.

At the same time, we have been hit with two other realities which we have not had any control over, and which seriously affect the quest for equal opportunity. One of those is the fact that we are entering an era of dwindling resources; an era of limitation when we no longer have the ability as a nation and as a people to do everything we want to do. John Kennedy said "let's put somebody on the moon" and sure enough we did. We no longer have the resources to be able to make those kinds of decisions and marshal all of those forces and do it. And that's staggering for the American psyche. Remembering that we were a city set upon a hill, remembering our destiny to move all the way across this continent, remembering our destiny of the 20th century to be the fortress of democracy, the light of the free world. And suddenly in the mid-1970s when someone tightened up the little valve and the oil stopped coming and suddenly we got cold and we recognized our vulnerability.

At the same time that we came face to face with that reality, our economic limitations and our dwindling resources, we also faced another one, and that is the increasing economic and political interdependence of the world and nations of the world. We suddenly found ourselves at the mercy of nations that we never paid any attention to, and it just so happens that most of those nations were nations of color, and we didn't know how to deal with them. And so we ended up making one mistake after another. This is the reality that we face in the 1980s as we celebrate Black History Month.

It is (1) an era characterized by limitations; (2) a new world situation where we are confronted with the emerging aspirations of primarily Third World nations who now because of the extreme economic and political interdependence of the communities of the world have profound effects upon our policy and upon our domestic life. We look upon policy, and we cannot say that blacks have played a major role in American foreign policy, because of slavery, because of discrimination and segregation. Blacks were left out of the entire society. Then blacks began to infiltrate the institutions of American society. Yes, as we look back at foreign policy we see a few mountain peaks. We see a Ralph Bunche; we see an Andrew Young; we see a host of other black ambassadors. Beverly Carter out of Philadelphia, if you don't mind me getting in a commercial.

But on the whole, blacks have not been a major part of this country's foreign policy. In fact, as we look even at blacks in the Foreign Service, there are 4.7%; and when we look at Foreign Service officers, it's 3.1%. That is part of the legacy of segregation and discrimination, and I suppose one of the things that is shaking up many in America, particularly those who are in the majority community who historically have had the role of setting foreign policy, is the fact that black people are becoming students of foreign affairs. They are becoming interested in foreign affairs.

It goes back, I suppose, to a man named Martin Luther King Jr., who stood up in a church in upstate New York and made a speech not about civil rights, not about the problems of blacks domestically, for he had been fighting that battle. But he made a speech that shook up everyone in this country. It was a speech about foreign policy. Many of us remember it. It was about Viet-Nam, and he talked about that war and our policy toward that region and the immorality of that war and suddenly the voices came from the editorial pages of the New York Times as well as the Washington Post and many other papers. "Boy, why don't you stick to domestic issues like unemployment, like housing."

But Martin Luther King understood the profound relationship of all peoples one to another, and that my future is somehow intertwined with your future, and that just as blacks and whites in America live in the same boat, if that boat goes down we all drown. In a real way Americans are in the boat of the world, living with many other nations with conflicting point of views. If we don't recognize our basic interrelatedness and try to deal with the establishment of lines of communications and policy that will keep that boat from sinking, then the whole world will drown.

I need not talk about the recent developments in 1979 and the renewed interest of the black community in foreign policy, which I think is basically good. In fact, it has been needed for a long, long time, because blacks have a role not only in American society domestically but also in its foreign policy, as we look at the problems we face across the world. We have a need for increased sensitivity so that we will be able to deal with Third World Nations. It is clear from the contributions that Andrew Young made, particularly in our African policy, that there is something unique about the black American experience that can provide a profound bridge to those who are struggling to find their destiny in a world from Africa and on to Asia.

What I am simply saying to you is that on the one hand we have come a long way, but on the other hand barriers still exist, and as a member of the U.S. Congress and the Foreign Affairs Committee I will be proposing three amendments to the Foreign Service reform bill to ensure stronger safeguards and clear direction in the area of equal opportunity, with requirements for the Department to report to Congress so that we can move even further forward on the question of minorities participating in foreign policy at the highest possible levels. Not only minorities, but the same can be said of women that they too have not had a leadership role. But when we look to the future of black America and also the world, one of the things that distresses me is that in spite of the progress we have made, we still are not sensitized to certain kinds of issues, and maybe that's why my good friend and idol, Muhammad Ali, is having such a difficult time over in Africa. We send an athlete, a fighter, to do diplomatic work. He generates a lot of publicity and concern; but it is not surprising then that high government officials will not meet with him.

We need to send our best diplomats as well as Muhammad Ali, so that we can support the President's policy with regard to the Olympic boycott, for it is insulting for us to send only a well-known athlete when we could also send on that same trip our very best diplomats. That kind of sensitivity must be developed. It must be developed because of the profound implications that it has for us here at home. We talk about Nigeria being the second largest supplier of imported oil. When we look at Algeria, when we look at Libya, when we look at all of the resources and minerals that are there in the continent that we need so desperately to keep the lights on here in the State Department, to keep it cool in the summer, and warm in the winter, we have to be more sensitive. I think one of the ways that we can do that is beginning to thrust very strongly in the '80s to make sure that those figures that I gave you, 4.7 percent and 3.1 percent, are changed very drastically. When we do that we will not only be serving minorities and women, black people, but we will be serving America, because we will be providing a resource to help us shape our foreign policy.

I believe that we can have optimism here because we know that there are people here who are concerned about those issues. It will happen only if we will remember the words of a black leader who said over 100 years ago on the eve of the watershed of American history, the Civil War, when he spoke to an abolitionist group in upstate New York. He said: "If there is no struggle, there is no progress. Those who profess the favor of freedom, but yet deprecate agitation, are like those who want crops without plowing the ground, want rain without thunder and lightning."

Those words were spoken by Frederick Douglass, and those must be the words that become ours as we face the decade of the '80s. We must struggle. We must struggle to husband our resources to provide the best possible life for all Americans. We must struggle to improve our relations with those nations that are emerging and who are saying that they want to have a word on the stage of world history. We must struggle to increase minority representation in these hallowed halls, representation that is sensitive to the needs not only of Europe, but of Africa, Asia and South America. When we do that, we will be able to lift our voices with new meaning and sing—sing a song full of the faith that the dark past has taught us. We will be able to sing a song full of the hope that the present has brought us, and facing the rising sun of our new day begun, we will be able to march on until victory is won.●

PRESIDENT SHOULD NOT ACCEPT ITC RECOMMENDATION WITH REGARD TO JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 5 minutes.

● Mr. McDADE. Mr. Speaker, I read with great interest remarks made recently at the National Press Club by Allen W. Dawson, executive vice president of Corning Glass Works. His remarks followed a recommendation to the President by the U.S. International Trade Commission (ITC) that current color TV import restraints be continued for Taiwan and Korea but removed for Japan.

He remarked:

> How the ITC could have arrived at this recommendation is beyond my comprehension, since it is well known that Japan has five times the color TV production capacity of Taiwan and Korea combined. Japan can turn out at least 10 million sets in a year as against 1.2 million for Taiwan and about the same number for Korea.

Mr. Dawson also stressed that the ITC had already concurred that termination of import restraints on color television receivers would have "an adverse economic effect" on the American color TV industry. But the Commission then proceeded to make a recommendation that would not only foster an adverse economic effect, but perhaps the "ultimate demise of the domestic color TV industry."

I am as perplexed as Mr. Dawson is about this situation. If the President accepts the ITC recommendation to omit Japan from the Orderly Marketing Agreement, we will have even greater unemployment in the color TV industry.

In 1972, direct employment in the industry was nearly 42,000. By 1977, the number of jobs had dropped by 30 percent to 29,000. It is now down to 26,000. If we include the support industries, we find that 60,000 jobs have already been lost in television manufacturing. There are now 65,000 jobs (both direct and support) dependent on the domestic color TV industry.

I strongly urge the President not to accept the ITC recommendation with respect to Japan, if he truly wishes to preserve American jobs and a vital American industry.●

SERBIAN-AMERICANS COMMEMORATE THE BATTLE OF KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, June 28 is the day Americans of Serbian descent and Serbs all over the world commemorate the heroism of their countrymen who sacrificed their lives at the Battle of Kosovo in 1389, in defense of their freedom, their religion, and their national existence. Commemorated on June 28 under the Gregorian calendar, the Battle of Kosovo resulted in the subjugation of Serbia by Moslem Turkey.

The Serbian Movement For Democracy has written President Carter a letter on the eve of his visit to Yugoslavia, and the board of directors of this Chicago organization include Branislav M. Stanisic, secretary, and also the dedicated editor of the "Serbian Aurora," the fine independent Serbian newspaper published in the 11th District I am honored to represent; R. Stevlic, deputy secretary; and M. B. Zaric, financial secretary.

Members of the executive board are Aleksa B. Grkovic, Zivota Ivkovic, Dobrosav Krstic, Zivan Markovic, and Dr. M. Zikic.

Excerpts from the letter to President Carter follow:

JUNE 10, 1980.

Mr. JIMMY CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Serbian Movement for Democracy, the organization of the Serbian political emigration, has learned that you will make an official visit to the Communist regime of Yugoslavia, June 24 and 25 of this year. The Communist regime, as you know, was enthroned as a result of the Teheran Conference in 1943, without the consent of the people and, in fact, against their will. This regime has been recognized and supported politically, diplomatically, and economically by each American administration since then, without reserve or conditions. When you arrive in Belgrade, you shall not have the opportunity to see and speak with the real democratic representatives of the people, but, not surprisingly, you will be saluted by large numbers of the communist party and its beneficiaries, the same people who only a few weeks ago wept on orders at the death of dictator Broz. If you did have an opportunity to speak with the people, you would be deeply surprised to see how far Tito's regime is from true democracy and you would witness the tragedy of our Serbian people, and others as well. About all this, we have sent many letters, memorandums, and petitions to each American president, seeking help for our people. All this was in vain.

The moment when all democratic people in Yugoslavia and abroad expected the government of the free world to support the people, and not one small group, was when Tito finally passed away. Instead, they found that all the statements issuing from the free world began to celebrate Tito as a great statesman, rather than the criminal dictator he was. All of this cannot be changed by Tito's successors and so we fear that your visit will be of no help to the peoples of Yugoslavia, but can only help the communist regime to the detriment of the people's rights.

Mr. President, today, with Tito gone, there is a golden opportunity to help the people achieve their rights and democracy. But the West is going in the opposite direction. Absolutely ignoring the capacity of our people to govern themselves, and under free elections to make a choice for democracy, the West thinks only about how they can find and help a new Tito continue his tyranny. This is a big injustice to our people which they cannot forget.

When you arrive in Belgrade, once the most beautiful city in Europe, you will see a city that is dirty and disorderly. You will meet the new "leaders" of Yugoslavia, who are mere rubber stamps from Tito. You will not have a chance to see and speak with opposition leaders, unless you insist on visiting them in prison, a thing you cannot expect to do. These new "leaders" no more represent the people than did Tito. Today, millions of our people direct their eyes to the United States, and to you as its President. They await your words and help. They are sure that the only representative democracy government in Yugoslavia can find the solution to their domestic situation and fill their international obligations in an honest and dignified manner.

All the threats and nervousness concerning Yugoslavia can be ended if the domestic problems there can be solved. This will involve no danger to the west from the Soviet Union and the Warsaw Pact members, but only if you decisively help. The first step must be to create in Yugoslavia a two-party system as fundamental to further development of a full parliamentary and democratic system.

In spite of the American government's previous posture in regard to the people of Yugoslavia, we believe, Mr. President, that this is the moment in history when you can save this country from destruction, from civil war, and all the inevitable consequences that will follow if you do not adopt an attitude only to the people's interest. But first is freedom. We do not ask that you go to war for the sake of Yugoslavia, but we appeal to you, Mr. President, to speak out and tell the truth about the communist regime in Yugoslavia.

The United States helped her former enemies Germany and Italy to stand on democratic feet. Can we hope that you will no longer forget our Serbian people and Yugoslavia, who were such dedicated allies to America and the West in both World Wars, at a cost of more than a million victims for freedom?

In the name of the Serbian Movement for Democracy, we beg you, Mr. President, to accept our very high esteem and we remain,

Very truly yours,

BRANISLAV M. STANISIC,
Secretary.

Mr. Speaker, I am honored to join Serbian-Americans in Chicago and all over this country as they commemorate the Battle of Kosovo, and I salute them as they continue to inspire the world with the grand and noble ideals of the spirit of Kosovo.●

WAYLAND ACADEMY, BEAVER DAM, WIS., 125 YEARS OF ACHIEVEMENT AND EXCELLENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, today, I have the pleasure of introducing a resolution to congratulate Wayland Academy of Beaver Dam, Wis., on 125 years of achievement and overall excellence in the field of education.

The determination of this school to survive, through vicissitudes that would deter or destroy a lesser will, has been the hallmark of this remarkable institution.

Just 7 years after Wisconsin became a State, Wayland opened its doors to its first class. That year, 20 students enrolled. The following year, there were 50, "of all ages, experiences, and previous conditions of ignorance." Several of these were students over 30 years of age, and one was over 40. Today, Wayland accommodates 327 young people, 228 boarding students and 99 day students, whose ages run from 8 to 12.

The history of this school includes a time as a university, several years as a junior college, and two separate collaborations with the University of Chicago. It includes, as well, unfortunate closings in less-than-fortunate monetary crises. But it has always reclaimed its position as a fine educational institution.

On this occasion, I want to congratulate the academy's present faculty and student body; through them I pay tribute to the Wisconsin pioneers who believed in an idea, and gave Wayland Academy its breath of life.

H. RES. —

Resolution to congratulate Wayland Academy of Beaver Dam, Wisconsin, on 125 years of achievement and overall excellence in the field of education

Whereas Wayland University, now Wayland Academy, was founded in Beaver Dam, Wisconsin, on January 31, 1855, by Francis Wayland upon the principle that ". . . moral and mental training must go together in order for any culture to stand the tests of actual life";

Whereas, the Academy has exemplified such principle in a most admirable manner throughout the past 125 years; and

Whereas, the Academy and its leaders and faculty have pursued excellence in all their endeavors: Now, therefore, be it

Resolved, That the House of Representatives congratulates the trustees, alumni, faculty, and students of Wayland Academy of Beaver Dam, Wisconsin, on 125 years of achievement in the field of education and in the development of young people, and expresses the hope that Wayland Academy will continue to spread its cultural influence and to maintain its commitment to excellence.●

ITALIAN-AMERICAN DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSSO) is recognized for 5 minutes.

● Mr. RUSSO. Mr. Speaker, as a cosponsor of House Joint Resolution 564—proclaiming June 22, 1980, as National Italian-American Day in honor of the Order of the Sons of Italy in America—I would like to make a few remarks about this fine organization, celebrating the 75th anniversary of its founding.

Our country's rich ethnic heritage is preserved and enhanced by the Order of the Sons of Italy in America. From the first 34 Italians in 1820 to the 5 million Italian immigrants whose descendants now number over 20 million citizens, the blend of the Old World and the New is represented. No matter how far we travel in time, we do not and should not outgrow the roots that give us our stability in our growth. This is true of any ethnic heritage, but I think—perhaps with some bias—that Italians especially have every right to be proud of what they have meant for this great country.

The Order of the Sons of Italy in America has over 300,000 active and social members throughout the United States and Canada. Their work today, as their work 75 years ago, is as a service organization that reaches far beyond the Italians to the community at large and the country.

In the beginning, they worked with the new immigrants to help them understand the rights, accept the responsibilities and to perform the duties of citizenship. They met immigrants at Ellis Island, they ran orphanages, established health, disability and death benefit insurance programs and supported and helped organize the original American Federation of Labor. They also organized and operated banks, savings and loans associations, and newspapers for the Italian-American community.

The group's motto is: "Liberty-Equality-Fraternity" and it is an appropriate one. They were one of the first fraternal organizations in the country to accord women equal status, equal voice, equal vote, and equal right to hold office.

Today the Order of the Sons of Italy, the oldest and largest Italian-American charitable, cultural, social, and philanthropic organization in America, raises approximately $3 million every 2 years. In 1978–79 they raised $2 million for the National March of Dimes through sponsorship of walk-a-thons and fundraisers, and they are one of the principal sponsors of Cooley's Anemia Research work. In the field of education they support and fund hundreds of scholarships and university programs in language, social science, and general research. In the cultural area they establish and run Ethnic Affairs Days in many cities as well as cultural programs. They maintain the Garibaldi-Meucci Museum in New York.

And internationally they have raised hundreds of thousands of dollars for the recovery from the ravages of the floods in Florence and the earthquakes in Sicily and Friuli, Italy. It is reminiscent of the efforts of the group back in post-war Italy to aid in recovery, or organizing the "Letters to Italy" campaign in 1947 to help defeat the Italian-Communist Party in Italy's first post-war election.

The Order's Diamond Jubilee is an occasion deserving of tribute and recognition from the Nation for the contributions of the Italian people and of this organization's work. It is with pride and pleasure that I commend the Order of the Sons of Italy and celebrate National Italian-American Day.●

FINANCIAL INSTITUTIONS SUBCOMMITTEE TO HOLD OVERSIGHT HEARINGS ON ORGANIZATION AND ACTIONS OF THE DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. St Germain) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance will open oversight hearings on July 2 on the organization and actions of the newly created Depository Institutions Deregulation Committee.

The committee, authorized under Public Law 96–221, passed by the Congress in March of this year, is charged with the responsibility of setting interest rate ceilings during a 6-year phaseout of regulation Q.

Mr. Speaker, there have been a number of complaints, ranging from procedural to substantive policy issues, during the early phases of the committee's work and it is essential that the Congress be fully informed on these questions. The Deregulation Committee will be facing critical decisions for financial institutions and consumers over the next 6 years and it is of utmost importance that its structure and policy approaches be rational and in keeping with congressional intent.

The subcommittee will explore questions surrounding the adoption of regulations placing greater restrictions on premiums offered savers as well as a myriad of issues involved in the adoption of new interest rate ceilings and rate differentials involving money market certificates.

The Deregulation Committee is required to take into consideration the impact of any of its actions on housing production and we want to go into this question in great detail during the hearings. Housing production fell to 920,000 units in May—a dangerously low level—and it is a responsibility of the Congress to make certain that actions of the Deregulation Committee do not add to the woes of American families seeking decent shelter.

Mr. Speaker, we plan to have witnesses from financial trade associations on opening day. Other witnesses will be scheduled later.●

STATEMENT OF THE HONORABLE JOHN M. MURPHY, A SPECIAL ORDER ON THE ABSCAM CHARGES AND HIS APPEARANCE BEFORE THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Murphy) is recognized for 30 minutes.

● Mr. MURPHY of New York. Mr. Speaker, I have requested this special order to comment on the main charges involved in yesterday's arraignment and then comment on my request to the court to grant my constitutional right to a speedy trial.

The first major charge is that I allegdly accepted a portion of a $50,000 bribe for providing a phony Arab sheik with immigration help. The allegation is supposedly supported by the video tape taken of myself, Mr. Criden an FBI undercover agent and an informer working for the FBI, in a Kennedy Airport Motel room on October 20, 1979.

The truth of the matter is I never promised to help in such immigration matters nor did I introduce and get passed any such legislation—contrary to the Government leaks to that effect to the National Broadcasting Co. By this point in time most responsible reporters have determined this to be a fact.

The video tape of the Kennedy Airport meeting was reviewed by my lawyer Michael Tigar and myself on two occasions and it shows the following:

At no time was the prospect of legislation even discussed by me. The agent and the informer asked for some assistance in getting someone into the country and I told them to get a lawyer, that all they had to do was file the proper immigration forms if they had a problem.

I, in fact, advised against an attempt to get the phony sheik into the United States in view of this administration's treatment of high ranking foreign leaders who sought sanctuary here.

Howard Criden carried a briefcase out of that meeting. I was never shown or told the contents of the briefcase and I subsequently did not receive any portion of whatever was supposed to be in that briefcase. There was no explanation at all of the contents of the briefcase.

When these tapes are made public it will be seen and it will be made very clear that the references from the time that briefcase appeared until all of the parties who were talking go off camera, that the briefcase only had to do with Mr. Criden and nothing to do with Murphy.

There was no discussion in that meeting of any money being in the briefcase. The discussion about it was simply that it was a briefcase that Mr. Criden was to take with him.

That was not a discussion in which I had any role. Howard Criden took it downstairs, got in a separate automobile and left. That has been my public position and that is what the tapes will reveal. I have so testified under oath and will do so again when this matter goes to trial.

The second major charge in the indictment is that Congressman Thompson and I both conspired to have the sheik invest large amounts of money in business deals that would "inure directly and indirectly" to our benefit.

Specifically I was supposed to somehow be financially involved with Mr. Lawrence Buser, the former president of American Export Lines who discussed with the bogus Arab representatives the possible purchase of a Puerto Rican shipping line.

The truth of the matter is contained in the video tape recorded meeting on the 10th of January, 1980 at the "W" Street townhouse at which I was present and Mr. Criden, Mr. Buser, Mr. Weinberg, and Agent Amoroso or Levito as he called himself, were present.

At that meeting the tapes show that I stated in no uncertain terms in response to leading, suggestive questions by Agent Amoroso that not only would I not participate in any business deal of the kind that was being discussed and that I would not accept any favors or consideration of any kind in return for any official action on my part but that I, in no uncertain terms, said it was wrong for the suggestion even to be made.

The tapes further show the FBI agents repeatedly attempted to get me to say that I would be involved in a shipping enterprise. I once said unequivocally "I am not in this" and when Mr. Weinberg persistently tried to enveigle my name into the conversation Mr. Buser said on several occasion "He is not involved in this." Seeing they had thus failed to involve me, Agent Amoroso asked me into the library to try to get me to say something that would be incriminating. I was annoyed at what—I now find—was a pathetic display of amateur seduction and I actually lectured Amoroso on the ethics of what it means to hold and responsibly discharge a public trust.

As to the second part of my statement today concerning my request to the court for a speedy trial, we asked that the trial begin on the 30th of June—7 days from now—in this courthouse. We further asked that any pretrial motions remaining to be disposed of on that day be disposed of and that the jury selection simply trail the conclusion of the motions.

I believe that this speedy trial, which we formally demanded, is the only way to protect my constitutional rights and the constitutional rights of my constituents. Having these charges finally resolved in a court of law prior to the September primary, in which I am now a candidate and will remain a candidate, is the only way in which justice will be done.

The outer limits of a constitutional right to a speedy trial has been set at 70 days from the public disclosure of the charges under the Speedy Trial Act. Ordinarily the public disclosure of the charges is the issuing of an indictment. In my case, however, by action of the Government itself, it has been 142 days that this cloud of suspicion has hung over me. Further, since an indictment has been returned despite our efforts, I am looking forward to the opportunity for total and complete vindication in this U.S. district court.●

SAFE USE OF COAL AS AN INTERIM STEP TO SOLAR ENERGY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, for more than 6 years now the Congress and the country have been in the grips of an energy crisis. For some years after the 1973 oil embargo laid the basis for OPEC's stunning increase in the price of oil, many Americans still refused to believe there was a real crisis. Now, however, there are few who do not believe it.

In these half dozen years, the Congress has enacted a host of laws dealing with energy, including the creation of the Department of Energy, and has poured hundreds of millions of dollars into research and development in new and more efficient methods of increasing the Nation's energy production, as well as encouraging energy conservation. Much has been accomplished. But compared to the gravity of the crisis and the effort needed to overcome it, the effort has just barely begun.

One of the important initiatives is the administration's proposal for a vast increase in the consumption of coal for generation of electricity. Another important initiative originated in Congress with the Energy Security Act of 1980 (S. 932), the conference report on which is scheduled for consideration by the House this week. While the conference report differs substantially from the bill that originated in the House, it incorporates the basic concept of the House bill, to encourage the production of synthetic fuel. The conference report adds several important features dealing with incentives for the production of alcohol from biomass and the creation of a solar energy and conservation bank.

An editorial in the Akron Beacon Journal of Sunday, June 22, contains an outstanding summary of both the importance of and the limitations on the expansion of coal as an energy source. The editorial points out that one of the essential conditions of expanded use of coal is that the air pollution standards must not be so relaxed as to increase our already serious air pollution problems. The editorial also recognizes that even our huge coal supplies are not inexhaustible and that we should use the time we buy with coal to get to something more durable, first by much greater energy conservation and ultimately by better use of energy from the Sun, which entails virtually no environmental problems.

Two days earlier, on June 20, the Washington Post carried an article about a report released by the West German electronic equipment manufacturer AEG Telefunken proposing a $50 trillion program to turn the world's oil-coal fueled economy to one powered by thousands of solar energy "plantations" by the middle of the 21st century. The plan would create vast banks of silicon cells located in tropical or subtropical regions, such as our Southwestern States, converting sunlight to electricity, which could either be transported as such or used to generate hydrogen gas from sea water. The hydrogen, transported by tanker or pipeline, would power automobiles and factories worldwide and eventually be comparable to the present cost of gas.

The U.S. Government has set a goal of cutting the cost of silicon cells from the present $30 a watt to 70 cents a watt by 1986, and Telefunken is attempting to devise ways of producing them for less than 30 cents a watt.

Mr. Speaker, I suggest that the time is at hand not only for a massive national effort to develop such a low-cost solar energy system but that an international effort should be undertaken in order to avoid duplication and enable maximum concentration of the technological resources of the industrial nations.

Copies of the Akron Beacon Journal editorial and the Washington Post article follow these remarks:

[From the Akron Beacon Journal, June 22, 1980]

Coal Can Blaze Our Way Out of Energy Jungle

In the last 30 years the use of coal to generate electricity in this country has increased more than fivefold—from about 100 million tons a year in 1949 and 1950 to about 525 million tons last year.

Construction of about 270 additional large coal-fired power plants is expected to almost double such coal use in the United States before the end of this decade.

Meanwhile, the Carter administration has been urging even greater acceleration in coal use as a way to lessen dependence on imported oil—though coal industry people complain that administration policies have served more as a brake than an accelerator on coal production and use.

And a recent 16-nation report by the World Coal Study—"WOCOL"—urged a tripling of world coal use by the end of the century. The economic reasons are clear, WOCOL's project director said last week: Even when environmental safeguards are factored in, the cost of coal per unit of energy is well under half that of oil at current prices.

According to Encyclopaedia Britannica figures on estimated world reserves, Americans are sitting on more than two-thirds of the usable coal in the world outside of the Soviet Union and China. That's enough to meet U.S. coal needs at the 1979 rate of use for more than 1,100 years—enough even with greatly increased use to last a very long time.

This puts the United States, say WOCOL people, in position to become the "Saudi Arabia of coal" in the next few decades.

All this should contain considerably more cheer than most that we have been hearing through recent years from the grim energy front. It should be especially heart-warming to states like Ohio that have large deposits of coal—and large numbers of coal miners out of work.

But there is a darker side. Much must be done before we can step into the sunlight and plenty of the Golden Age of Coal, and it is not certain that all the problems can be fully solved.

Some of the problems stem from the extraction of coal from the earth.

Even with modern machinery and safeguards, underground coal mining remains a high-risk enterprise; mining deaths continue to be dismayingly frequent, and rates of injury and lung damage continue high. And strip mining, especially on the scale necessary to allow massive increases in coal output, gouges and scars the earth in ways that cannot always be overcome by restoration efforts.

Transporting coal from the point of extraction to the point of use by means currently in use is expensive and not very energy-effective.

Cheaper and more efficient delivery systems have been proposed—notably the idea of pipelining a mixture of ground coal and water. But little material progress has been made in this direction.

Then combustion itself spawns environmental problems that are already troublesome and that with greatly increased coal use could become awesome. The three most obvious, in order of increasing difficulty, are these.

The ashes.

At best they are less than choice human company. They now present a major disposal problem; it could become mountainous with great increases in coal burning.

It is possible, however, that this could be solved or at least greatly eased by development of technologies for converting most of the ash into marketable building materials.

The sulfur.

All coal contains some of it. Some—like Ohio's—contains a lot.

Some can be removed before combustion, by washing or more sophisticated techniques not now in common use. But some inevitably gets into the firepots of boilers, where heat forces it into marriage with oxygen to form oxides that mix with the moisture in air to form corrosive acids.

In even moderate concentration, these acids can directly threaten human health. They are now also being fingered as causing "acid rain," the effects of which have not yet been well documented but may include soil and forest damage and fish-killing acidification of lakes.

Most of this can be stopped, but so far it isn't being done very well.

By a technique of burning coal mixed with limestone, almost all the sulfur can be made to combine with the limestone instead of going up the stack. The result is gypsum, perhaps recyclable as a building material.

But this "fluidized bed combustion" technique is now only in the pilot plant stage. And limited experience with it, plus the fact that improved techniques in its application are under development, have delayed any industrial parade to its use.

"Scrubbers" in boiler stacks can remove most of the sulfur gases. But they are costly, use a troublesome fraction of the energy produced by the boiler and yield a wet sulfur slurry that is a disposal problem.

From many sources, including Ohio's government, have come charges that federal sulfur emission standards are stricter than necessary, imposing on industry needless costs that slow development and become costly to the public.

The question is difficult. Needless rigor is obviously foolish. But it is also obvious that standards must not be so relaxed that a coal-fired energy spree ends with the partygoers choking on air they can't breathe.

But if the WOCOL and EPA people are even approximately right, this is a problem that can be very largely overcome without unbearable costs.

Carbon dioxide.

The burnable part of all "fossil fuels" is carbon, so all generate carbon dioxide when they burn, as we do when we breathe. But coal generates far more than oil or gas.

And if we perhaps triple man's burning of coal, some in science warn that we may be courting catastrophe.

Carbon dioxide in the air, they say, has a "greenhouse" effect trapping solar heat at the earth's surface and in the lower air.

Addition of even a tiny percentage to the trace of carbon dioxide nature puts into the air, they say, could cause warming of the earth by a few degrees. This in turn could cause melting of polar ice, raising the level of the oceans enough to engulf many coastal cities.

Scientists are not unanimous in this concern. Some even say the effect might be the opposite: a new glacial age as higher temperatures and moisture cause the icecaps to grow through increased snowfall.

Nobody so far has offered a way to prevent increased carbon dioxide emissions with increased burning of coal. But maybe somebody will before we either drown or freeze.

For the immediate future, common sense requires that the United States do all it can to overcome these problems and stimulate much greater coal use. Down this path, for a time, can lie better days of energy prosperity rooted in plentiful coal, and substantial economic benefits.

But this can be no more than an interim. Up the line, somewhere, we will run out of even now-plentiful coal; perhaps long before that we will be stymied by side problems that result from burning too much of it.

We should use the interim to get to something more durable: initially, by gross reduction of the waste entailed in ways we now use energy—eventually, to get off exhaustible energy resources altogether by better use of direct energy from the sun, the use of which, within reason, entails virtually no environmental problems.

[From the Washington Post, June 20, 1980]

Solar Revolution Plan Proposed

(By William Glasgall)

New York, June 19.—A major West German electronic-equipment manufacturer yesterday proposed a $50 trillion program to turn the world's oil- and coal-fueled economy to one powered by thousands of solar energy "plantations" by the middle of the 21st Century.

AEG Telefunken, a Berlin-based company with annual sales of $10 billion, said vast banks of silicon cells could generate electricity which then would be conducted through tanks of sea water to create hydrogen gas.

The hydrogen, transported by tanker or pipeline in the same manner as natural gas, would power autos and factories worldwide and eventually could be "comparable to the present cost of gasoline," Telefunken said.

The solar plantations, located in tropical or subtropical regions, also would contain plants manufacturing equipment for new plantations, thus reproducing themselves, Telefunken said.

By the year 2040, 10 solar "families," each containing 100,000 identical plantations, could be producing "enough hydrogen to replace 15 billion tons (or 100 billion 42-gallon barrels) of oil," Telefunken said.

The world produced about 24 billion barrels of oil last year.

The plantations would cover a total of 750,000 square miles, an area nearly as big as oil-rich Saudi Arabia. "The total investment costs (would) amount to $50 trillion," the company said.

Silicon cells, made by Telefunken and several other companies, already generate electricity for space satellites and long have been used in other small-scale applications, including photographic light meters. A major bar to their use in large power plants has been high manufacturing costs.

The U.S. government has set a goal of cutting the silicon cells' manufacturing cost to 70 cents a watt in 1986 from as much as $30 today, and Telefunken is attempting to devise by 1985 ways of mass-producing the cells for less than 30 cents a watt. The basic ingredient of silicon is sand.

"The probability of making those goals is subject to much debate. There's a lot of technology under study," said James B. Ayers, a solar-energy specialist at the Los Angeles-based management and engineering consultant Theodore Barry & Associates.

But "it has to be realized that in the last 10 years the semiconductor industry has reduced the manufacturing costs of silicon integrated circuits (whose content is similar to solar cells) by about a factor of 1,000," said Reinhard Dahlberg, general manager of Telefunken's semiconductor division.

"Cheap oil will only last until the year 2030 at today's production rates, and much more expensive oil from tar sand and oil shale will only last until 2075," said Dahlberg.

"Coal reserves of the world could be used at the latest only up to the year 2060 if the coal also has to be used as a substitute for . . . oil and natural gas," he said.

Thus "I cannot see any alternative" to the use of hydrogen, either generated by nuclear plants or solar power, as the world's major power source in the 21st Century, Dahlberg said in an interview.

In his study, "The Replacement of Fossil Fuels by Hydrogen," released today, Dahlberg concedes making the gas in nuclear fission or fusion plants "would by no means be easier or less expensive" than production in solar cell banks.

But fission plants rely on exhaustible reserves of radioactive minerals, while "fusion energy has not yet been technologically mastered," Dahlberg said.

He estimated research efforts aimed at creating the solar-plantation program would cost $12 billion through 1990. Expenditures on the program—partially financed by exports of energy from pilot plants—would amount to $205 billion by the year 2000 and $2.8 trillion by 2020, he said.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Weiss (at the request of Mr. Wright), for June 19 and 20, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dannemeyer) to revise and extend their remarks and include extraneous material:)

Mr. Dougherty, for 15 minutes, today.
Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Mr. Leach of Louisiana) to revise and extend their remarks and include extraneous material:)

Mr. Ford of Michigan, for 5 minutes, today.
Mr. Cavanaugh, for 10 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Kastenmeier, for 5 minutes, today.
Mr. Russo, for 5 minutes, today.
Mr. St Germain, for 5 minutes, today.
Mr. Murphy of New York, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bevill and Mr. Brown of Ohio, just prior to the 5-minute rule.

Mr. Perkins, immediately following the remarks of Mr. Bevill on H.R. 7590 in the Committee of the Whole today.

Mr. Wydler, immediately preceding vote on Fuqua amendment to H.R. 7590 in the Committee of the Whole today.

Mr. Hyde, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $1,179.

(The following Members (at the request of Mr. Dannemeyer) and to include extraneous matter:)

Mr. Goldwater.
Mr. Broomfield.
Mr. Daniel B. Crane.
Mr. Hyde.
Mr. Lent.
Mr. Bob Wilson in two instances.
Mr. Wampler.
Mr. Derwinski in three instances.
Mr. Kemp.
Mr. Findley.
Mr. Ashbrook in two instances.
Mr. McClory.
Mr. Dornan.
Mr. Leach of Iowa.
Mr. Rhodes.

(The following Members (at the request of Mr. Leach of Louisiana) and to include extraneous matter:)

Mr. Patterson.
Mr. Murphy of New York.
Mr. Ford of Michigan.
Mr. Mazzoli.
Mr. Mavroules.
Mr. Pepper.
Mr. McCormack.
Mr. Gephardt.
Mr. Clay.
Mr. Gray.
Mr. Charles H. Wilson of California.
Mr. Fisher.
Mr. Solarz in two instances.
Mr. Ottinger.
Mr. Skelton in two instances.
Mr. Vento.
Ms. Ferraro.
Mr. Rangel.
Mr. Boland.
Mr. Lehman.
Mr. Markey.
Mr. Hubbard.
Mr. McDonald in three instances.
Mr. Simon.
Mr. Maguire.
Mr. Zeferetti.
Mr. Bevill.
Mr. Anderson of California.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 988. An act entitled the "Health Sciences Promotion Act of 1980"; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2245. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes; and

S. 2698. An act to provide authorizations for the Small Business Administration, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that

that committee did on June 23, 1980, present to the President, for his approval, bills of the House of the following title:

H.R. 5259. An act to name a certain Federal building in Santa Fe, N. Mex., the "Joseph M. Montoya Federal Building and U.S. Courthouse";

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes; and

H.R. 6614. An act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

ADJOURNMENT

Mr. LEACH of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 24, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4681. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission, but for which Congress failed to pass a rescission bill; to the Committee on Appropriations.

4682. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Jordan (Transmittal No. 80-70), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4683. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting a report on the role of multilateral development banks in increasing food production and improving nutrition in developing countries, pursuant to section 901(b) of Public Law 95-118; to the Committee on Banking, Finance and Urban Affairs.

4684. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment sold commercially to Saudi Arabia (Transmittal No. MC-24-80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4685. A letter from the Assistant Secretary of Treasury for Legislative Affairs, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development, and project performance audit or project completion report prepared by the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4686. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Thailand (Transmittal No. 80-66), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4687. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Jordan (Transmittal No. 80-70), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4688. A letter from the Comptroller General of the United States, transmitting a report to improve Federal records management practices, (LCD-80-68 June 23, 1980); to the Committee on Government Operations.

4689. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress, including the Copyright Office, for fiscal year 1979, together with the annual report of the Library of Congress Trust Fund Board, pursuant to section 1 of the act of February 19, 1897, and section 7 of the act of March 3, 1925; to the Committee on House Administration.

4690. A letter from the Assistant Director, Division of Market Regulation, Securities and Exchange Commission, transmitting the ninth annual report of the Securities Investor Protection Corporation, pursuant to section 7(c) of Public Law 91-598; to the Committee on Interstate and Foreign Commerce.

4691. A letter from the Acting Commissioner, Immigration and Naturalization Service, Justice Department, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6628. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; with amendment (Rept. No. 96-990, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 5208. A bill to amend the Act of December 20, 1944, as amended; with amendment (Rept. No. 96-1120). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 724. Resolution providing for the consideration of H.R. 6811. A bill to provide for increased U.S. participation in the International Development Association, to provide for U.S. participation in the African Development Bank, and for other purposes (Rept. No. 96-1121). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 725. Resolution providing for the consideration of H.R. 7051. A bill to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1981 and 1982, and for other purposes (Rept. No. 96-1122). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 726. Resolution providing for the consideration of H.R. 7244. A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes (Rept. No. 96-1123). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 727. Resolution waiving certain points of order against H.R. 7631. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporation, and offices for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-1124). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 728. Resolution providing additional debate time and waiving certain points of order against the conference report on S. 932, to extend the defense production act of 1950 as amended (Rept. 96-1125). Referred to the House Calendar.

Mr. UDALL: Committee of Conference. Conference report on S. 2009 (Rept. No. 96-1126). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 7641. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of acupuncturists' services; to the Committee on Interstate and Foreign Commerce.

H.R. 7642. A bill to provide benefits under part B of the medicare program with respect to acupuncture treatment in States which license or certify individuals who furnish such treatment; to the Committee on Ways and Means and Interstate and Foreign Commerce.

By Mr. BONER of Tennessee:

H.R. 7643. A bill to amend the Internal Revenue Code of 1954 to allow a deduction as an expense for certain amounts of depreciable business assets; to the Committee on Ways and Means.

By Mr. CLAY (for himself, Mr. GRAY, Mrs. COLLINS of Illinois, Mr. GUARINI, Mr. STARK, Mr. LEDERER, Mr. MITCHELL of Maryland, Mr. PORTER, Mr. EVANS of the Virgin Islands, Mr. RODINO, Mr. CONYERS, Mrs. CHISHOLM, Ms. MIKULSKI, Mr. STOKES, Mr. RANGEL, Mr. OTTINGER, Mr. MINETA, Mr. DELLUMS, Mr. HAWKINS, Mr. LELAND, Mr. FAUNTROY, Mr. PEPPER, Mr. FORD of Tennessee, and Mr. DIXON):

H.R. 7644. A bill to establish a municipal arts program for the purpose of insuring the availability of artistic and cultural opportunities in the Nation's cities; to the Committee on Education and Labor.

By Mr. EDWARDS of Alabama:

H.R. 7645. A bill to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the Fifth Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, La., to be known as the fifth circuit, and the other to be composed of the States of Alabama, Florida, and Georgia with headquarters in Atlanta, Ga., to be known as the 11th circuit, and for other purposes; to the Committee on the Judiciary.

By Mr. GARCIA (for himself and Mr. GONZALEZ):

H.R. 7646. A bill to establish a program under which the Secretary of Housing and Urban Development may provide funds to local educational agencies for the renovation of underutilized school buildings, and to amend section 392(b) of the Energy Policy and Conservation Act to provide that school facilities under the jurisdiction of local educational agencies which have experienced declining student enrollments shall be given priority for the receipt of grants under part G of title V of such act; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and Interstate and Foreign Commerce.

By Mr. HOWARD:

H.R. 7647. A bill to amend the Internal Revenue Code of 1954 to allow a refundable tax credit for amounts paid for increases in electricity under automatic fuel adjustment clauses as a result of the shutdown of the nuclear power generating facilities; to the Committee on Ways and Means.

By Mr. JONES of North Carolina:

H.R. 7648. A bill relating to access through the Back Bay National Wildlife Range; to the Committee on Merchant Marine and Fisheries.

By Mr. PASHAYAN (for himself, Mr. Benjamin, Mr. Coelho, Mr. Danielson, Mr. Johnson of California, and Mr. Moorhead of California):

H.R. 7649. A bill to designate the outpatient clinic of the Veterans' Administration Medical Center in Fresno, Calif., as the "Victor Maghakian Clinic"; to the Committee on Veterans' Affairs.

By Mr. COELHO:

H. Con. Res. 373. Concurrent resolution to express the sense of the Congress that the United States not admit more than 650,000 immigrants in fiscal year 1980; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H. Con. Res. 374. Concurrent resolution expressing the sense of Congress regarding the semiannual cost-of-living adjustments for civil service and military retirees; jointly, to the Committees on Armed Services and Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

497. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to military pay; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McKAY:

H.R. 7650. A bill for the relief of Kenneth N. McCormack; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 7651. A bill for the relief of Phyllis A. Steiner; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. Bailey and Mr. Sharp.

H.R. 1297: Mr. Corman.

H.R. 1918: Mr. Evans of Indiana, Mr. Harkin, Mr. Hollenbeck, and Mr. McDade.

H.R. 2400: Mr. Vento.

H.R. 4511: Mr. Porter.

H.R. 5022: Mr. Solarz.

H.R. 5062: Mr. Edgar and Mr. Kostmayer.

H.R. 5099: Mr. Fascell.

H.R. 5610: Mr. Conte, Mr. Kemp, and Mr. Ottinger.

H.R. 6093: Mr. Hopkins.

H.R. 6171: Mr. Fithian, Mr. Jenrette, and Mr. LaFalce.

H.R. 6228: Mr. Gore.

H.R. 6617: Mr. Marks.

H.R. 6763: Mr. Philip M. Crane.

H.R. 6917: Mr. Won Pat, Mr. Charles Wilson of Texas, Mr. Derwinski, Mr. Forsythe, Mr. D'Amours, Mr. Oberstar, Mr. Murphy of Pennsylvania, Mr. Kostmayer, Mr. Edgar, and Mr. Roe.

H.R. 7049: Mr. Leach of Louisiana, Mr. Seiberling, Mr. Wolpe, Mr. Gray, Mr. Yatron, Mr. Vento, Mr. Miller of California, Mr. Pepper, and Mr. Conyers.

H.R. 7287: Mr. Mavroules.

H.R. 7300: Mr. Roberts, Mr. Hightower, Mr. Long of Louisiana, and Mr. Philip M. Crane.

H.R. 7342: Mr. Campbell, Mr. Clinger, Mr. Conable, Mr. Robert W. Daniel, Jr., Mr. Derwinski, Mr. Devine, Mr. Erdahl, Mr. Forsythe, Mr. Hinson, Mr. Kramer, Mr. Porter, Mrs. Snowe, Mr. Solomon, Mr. Stanton, Mr. Stockman, Mr. Tauke, and Mr. Whitehurst.

H.R. 7391: Mr. Gray, Mr. Green, and Mr. Waxman.

H.R. 7415: Mr. Moakley, Mr. Stark, Mr. Clay, Mr. Addabbo, Mr. Markey, Mr. Musto, Mr. Mitchell of Maryland, Mr. Fauntroy, Mr. Wolfe, Mr. Drinan, Mr. Studds, Mr. Gray, Mr. Bonior of Michigan, Mr. Vento, Mr. Stokes, and Mr. Dougherty.

H.R. 7418: Mr. McClory.

H.R. 7481: Mr. Rudd.

H.R. 7482: Mr. Abdnor, Mr. Alexander, Mr. Anderson of Illinois, Mr. Atkinson, Mr. Bereuter, Mr. Biaggi, Mr. Bingham, Mrs. Boggs, Mrs. Bouquard, Mr. Bowen, Mr. Brademas, Mr. Breaux, Mr. Brooks, Mr. Broomfield, Mr. Brown of Ohio, Mr. Brown of California, Mr. Buchanan, Mr. Burgener, Mr. John L. Burton, Mr. Phillip Burton, Mrs. Byron, Mr. Cavanaugh, Mr. Chappell, Mrs. Chisholm, Mr. Clausen, Mr. Coleman, Mr. Corcoran, Mr. Philip M. Crane, Mr. Daschle, Mr. Derrick, Mr. Dixon, Mr. Duncan of Oregon, Mr. Ertel, Mr. Evans of Indiana, Mr. Evans of Delaware, Mr. Fazio, Mr. Fithian, Mr. Forsythe, Mr. Fuqua, Mr. Gilman, Mr. Goodling, Mr. Green, Mr. Hightower, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Johnson of California, Mr. Jones of North Carolina, Mr. Kemp, Mr. Kogovsek, Mr. Kramer, Mr. Lee, Mr. Leland, Mr. Loeffler, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. Lowry, Mr. Luken, Mr. Lundine, Mr. Madigan, Mr. Markey, Mr. Marks, Mr. Marriott, Mr. Mathis, Mr. Matsui, Mr. Mavroules, Mr. McEwen, Mr. McHugh, Mr. McKinney, Mrs. Mikulski, Mr. Miller of California, Mr. Minish, Mr. Moakley, Mr. Montgomery, Mr. Mottl, Mr. Murphy of New York, Mr. Myers of Indiana, Mr. Myers of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. O'Brien, Ms. Oakar, Mr. Ottinger, Mr. Patten, Mr. Pepper, Mr. Perkins, Mr. Preyer, Mr. Pursell, Mr. Reuss, Mr. Roe, Mr. Rose, Mr. Rousselot, Mr. Russo, Mr. Sawyer, Mr. Sebelius, Mr. Solarz, Mrs. Spellman, Mr. Stangeland, Mr. Stewart, Mr. Roberts, Mr. Stratton, Mr. Synar, Mr. Tauke, Mr. Thompson, Mr. Traxler, Mr. Van Deerlin, Mr. Weiss, Mr. White, Mr. Whittaker, Mr. Whitten, Mr. Williams of Montana, Mr. Bob Wilson, Mr. Wolff, Mr. Won Pat, Mr. Wyatt, Mr. Zablocki, Mr. Carr, and Mr. Kindness.

H.R. 7536: Mr. McDonald.

H.J. Res. 389: Mr. Dan Daniel, Mr. Edwards of Oklahoma, Mr. Harkin, and Mr. Beard of Tennessee.

H.J. Res. 551: Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Alexander, Mr. Ambro, Mr. Anderson of California, Mr. Andrews of North Dakota, Mr. Annunzio, Mr. Archer, Mr. Bafalis, Mr. Bailey, Mr. Beard of Rhode Island, Mr. Biaggi, Mrs. Boggs, Mr. Boland, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Bonker, Mr. Breaux, Mr. Brooks, Mr. Burgener, Mr. Campbell, Mr. Chappell, Mr. Clay, Mr. Coelho, Mr. Corman, Mr. Corrada, Mr. Cotter, Mr. Coughlin, Mr. D'Amours, Mr. Robert W. Daniel, Jr., Mr. Davis of Michigan, Mr. de la Garza, Mr. Dicks, Mr. Dodd, Mr. Donnelly, Mr. Dougherty, Mr. Downey, Mr. Duncan of Oregon, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of Alabama, Mr. Emery, Mr. Evans of Delaware, Mr. Evans of the Virgin Islands, Mr. Fary, Mr. Fascell, Mr. Fazio, Ms. Ferraro, Mr. Fish, Mr. Fithian, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Fuqua, Mr. Giaimo, Mr. Gibbons, Mr. Gilman, Mr. Ginn, Mr. Gonzalez, Mr. Gramm, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Hanley, Mr. Harris, Mr. Hawkins, Mr. Heftel, Mr. Hollenbeck, Mrs. Holt, Mr. Hubbard, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Kazen, Mr. Kemp, Mr. Kostmayer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lederer, Mr. Levitas, Mr. Livingston, Mr. Lloyd, Mr. Lott, Mr. Lowry, Mr. Lungren, Mr. McDonald, Mr. Markey, Mr. Marks, Mr. Mathis, Mr. Matsui, Ms. Mikulski, Mr. Miller of California, Mr. Minish, Mr. Moakley, Mr. Montgomery, Mr. Moore, Mr. Moorhead of Pennsylvania, Mr. Mottl, Mr. Murphy of Illinois, Mr. Murphy of Pennsylvania, Mr. Musto, Mr. Myers of Pennsylvania, Mr. Nolan, Mr. Nowak, Ms. Oakar, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patten, Mr. Pepper, Mr. Price, Mr. Pritchard, Mr. Preyer, Mr. Pursell, Mr. Rahall, Mr. Rangel, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Royer, Mr. St Germain, Mr. Scheuer, Mr. Shumway, Mr. Solomon, Mr. Stack, Mr. Stanton, Mr. Stewart, Mr. Stokes, Mr. Stratton, Mr. Synar, Mr. Tauzin, Mr. Traxler, Mr. Trible, Mr. Van Deerlin, Mr. Vander Jagt, Mr. Walgren, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Won Pat, Mr. Wyatt, Mr. Yatron, Mr. Young of Alaska, Mr. Young of Florida, Mr. Young of Missouri, and Mr. Zeferetti.

H. Con. Res. 57: Mr. Robert W. Daniel, Jr.

H. Con. Res. 364: Mr. Blanchard.

H. Con. Res. 366: Mr. Perkins, Mr. Traxler, Mr. Regula, Mr. Jacobs, Mr. Rodino, Mr. Minish, Mr. Rahall, Mr. Butler, Mr. Mottl, Mr. Musto, Mr. Annunzio, Mr. Hanley, Mr. Aspin, Mrs. Chisholm, Mr. Roe, Mr. Kildee, Mr. Williams of Montana, Mr. Nowak, Mr. Blanchard, Mr. Ashley, Mr. Porter, Mr. Seiberling, Mr. Lloyd, Mr. Maguire, Mr. Wolpe, Mr. Conyers, Mr. O'Brien, Mr. Sharp, Mr. Nedzi, Mr. Bevill, Mr. Tauzin, Mr. Hughes, Mr. Horton, Mr. Shelby, Mr. Madigan, Mr. Derwinski, Mr. Hillis, Mr. Mathis, Mr. Murphy of Illinois, Mr. Dickinson, Mr. Benjamin, Mr. Bonior of Michigan, Mr. Young of Florida, Mr. Solomon, Mr. Stangeland, Mr. Russo, Ms. Mikulski, Mr. Vento, Mr. Guyer, Mr. Ertel, Mr. Hawkins, Mr. Pease, Mr. Bolling, Mr. Brodhead, Mr. Ford of Michigan, Mr. Hamilton, Mr. Albosta, Mr. de la Garza, Mr. Devine, Mr. Whitehurst, Mr. Hollenbeck, Mr. Ratchford, and Mr. Broomfield.

H. Res. 525: Mr. Edgar, Mr. Johnson of California, Mr. Latta, Mr. Leach of Louisiana, Mr. Lee, Mr. Luken, Mr. Mathis, Mr. Miller of California, Mr. Myers of Indiana, Mr. Pickle, and Mr. Young of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7235

By Mr. GLICKMAN:

—On page 123, line 23, strike the word, "may", and insert in lieu thereof "shall".

On page 124, line 11, strike the word, "may", and insert in lieu thereof "shall".

On page 124, line 19, strike the word, "may", and insert in lieu thereof "shall".

—On page 124, line 4, after the comma insert the following: "conducted in the case of track no less often than once each year,".

—On page 103, line 14, strike "subsection (b)" and insert in lieu thereof "subsections (b) and (c)"; and on page 104, after line 20, insert the following new subsection:

"(c) If the Commission determines that the rail carrier has excessively deferred its maintenance without good cause, the rates established by such carrier must be approved by the Commission."

H.R. 7265

By Mr. LUNDINE:

—On page 3 delete lines 16 through 19 and insert the following in lieu thereof:

(5) For the Defense nuclear materials production and nuclear waste management program, $640,055,000, to be allocated as follows:

On page 4 strike the word "byproducts" from lines 20 and 21 and insert in its place the words "nuclear waste".

H.R. 7583

By Mr. GEPHARDT:

—On page 6, line 8, delete "$853,000,000" and insert "$898,000,000" in lieu thereof.

On page 6, line 18, delete "$536,500,000" and insert "$541,500,000" in lieu thereof.

H.R. 7584

By Mr. McCLORY:

—On page 17, add the following after line 8:

"SEC. 203. Notwithstanding any provision of this title to the contrary, no less than $100,000,000 from the $2,230,768,000 appropriated to the Department of Justice under this title shall be available for those grants authorized by parts D, E, and F of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

H.R. 7590

By Mr. CAVANAUGH:

—Page 18, line 21, strike out "$596,216,000" and insert in lieu thereof "$594,116,000".

Page 20, line 5, insert ": *Provided further*, That no funds appropriated by this paragraph may be used for the construction of, rehabilitation of, or other related activities associated with the O'Neill Unit of the Pick-Sloan Missouri Basin Project" after "dam safety".

By Mr. KOSTMAYER:

—Page 28, line 16, strike out "$437,220,000" and insert in lieu thereof "$446,900,000".

By Mr. LEVITAS:

—Page 30, after line 12, insert the following:

SEC. 503. No part of any appropriation contained in this Act may be used to implement, administer, or enforce any rule, regulation, order, or other action which has been the subject of a resolution of disapproval duly adopted by a committee or committees of the Congress, one House of the Congress, or both Houses of the Congress, as the case may be, pursuant to the applicable law of the United States.

H.R. 7593

By Mr. KOSTMAYER:

—Page 33, after line 13, add the following:

"SEC. 307. No part of the funds appropriated by this Act shall be used for the printing or purchase of either House wall calendars or U.S. Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

EXTENSIONS OF REMARKS

HANDGUNS KILL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. SOLARZ. Mr. Speaker, handguns kill. An American is shot to death by a handgun every 60 minutes. According to the Justice Department, one-half of all murders involve the use of handguns. Clearly, there is an urgent need for legislation to reduce the number of illegal handguns on the streets and to remove them from the hands of criminals.

The bills introduced by Judiciary Committee Chairmen Senator EDWARD KENNEDY and Representative PETER RODINO, JR., S. 1936 and H.R. 5823, capably fill this need. It is imperative that this legislation, which provides for a comprehensive attack on handgun crime, but does not interfere with a citizen's legitimate right to own a handgun, is passed as soon as possible.

On Friday, June 13, Handgun Control, Inc., urged the Democratic Platform Committee to adopt a plank calling for the prompt passage of the Kennedy-Rodino handgun crime control bill.

Mr. Speaker, I would like to submit two statements which were made in support of this plank. The first is by John Hechinger, a Carter delegate and a Democratic committeeman. The second is a moving and firsthand experience statement by Lois Hess, a victim of handgun violence whose son was killed with a handgun.

We must protect the rights of all Americans to live in a safe country. These two testimonies demonstrate the impending need for handgun control legislation. I urge my colleagues to put aside political considerations and immediately enact meaningful gun control legislation.

The statements follow:

TESTIMONY OF HON. JOHN HECHINGER

Mr. Chairman, during the peak years of the Vietnam War more than 40,000 American soldiers were killed in action. Believing that bloodshed to be for no good purpose, our nation was moved to end our involvement in Vietnam. But few realize that during those very same years, over 50,000 American civilians were murdered here at home with handguns. While the Vietnam War is over, the American Handgun War rages on.

And this handgun war is escalating. In 1979 alone more than 10,000 of our fellow Americans were murdered with handguns. Another quarter of a million Americans were wounded, threatened or robbed with handguns. It's as if a city the size of Sacramento, California was held up at gunpoint.

Our nation's streets have become battlefields where everyone is a potential handgun victim: rich or poor, black or white; young or old. In fact there is already a one in five chance that you or someone you love will be victimized in a handgun attack.

My personal involvement in the campaign for stronger handgun control goes back many years. Immediately after the tragic assassinations of Dr. Martin Luther King, Jr. and Senator Robert F. Kennedy, I introduced gun control legislation in the City Council of Washington. It was promptly passed. In the same year the Congress passed a new national law actively supported by then President Lyndon Johnson.

But since 1968 we have painfully learned how inadequate our present national law really is. In this current Congress, Senator Edward Kennedy and Congressman Peter Rodino have introduced comprehensive handgun crime control legislation (S. 1936 and HR 5823). The legislation marks the first time that the chairman of the Senate and House Judiciary Committee have cosponsored such legislation. Already one-sixth of the Democrats in the Congress have joined the bill as cosponsors.

The legislation is carefully drafted to provide for a comprehensive attack on handgun crime while protecting and strengthening the rights of law-abiding citizens. The Kennedy-Rodino bill would:

Stop the manufacture, sale, and transfer of "Saturday Night Specials," the favorite weapon of the criminal.

Screen-out illegal purchasers. Anyone who wants to buy a handgun must either have a valid state "license to purchase" or would have to undergo a police check of his eligibility to purchase—from a dealer or private citizen.

Require product accountability. To make the tracing of misused handguns more efficient, and to curtail illicit handgun trafficking, manufacturers would be responsible for keeping track of all handgun transactions throughout their channels of distribution, including by whom and to whom they are finally sold.

Require handgun manufacturers, dealers and owners to report thefts and losses.

Enforce the law: Right now the Federal law on handguns must be enforced by the Department of Treasury, whose basic function is to collect taxes. The legislation transfers the responsibility of enforcing the law to the Department of Justice where it belongs.

Urge states to pass "license to carry" laws. Persons carrying handguns outside their home or place of business should have a license to do so. Carrying a handgun without a license should be punished by a mandatory jail sentence.

Require swift and sure punishment for those who misuse handguns. The criminal who uses a handgun in the commission of a Federal crime would receive a mandatory jail sentence.

Aid victims of handgun crime: Those who suffer from handgun crime would be financially helped in paying hospital costs.

In 1976 the Democratic Platform endorsed stronger handgun controls. In recent months President Carter has reaffirmed his support for such common-sense controls and willingness to work with the Congress on this critical issue.

As a Democratic Committeeman and member of the Board of Handgun Control, Inc. I strongly urge the Democratic Platform Committee to adopt the following plank which reaffirms the 1976 plank and specifically calls for prompt passage of the Kennedy-Rodino bill. As a Carter delegate I know this plank will receive the President's full support.

PROPOSAL TO THE 1980 DEMOCRATIC PLATFORM COMMITTEE

The Democratic Party reaffirms its 1976 commitment to strengthen the present inadequate controls over the manufacture, distribution, and possession of handguns and to ban Saturday Night Specials. We also support mandatory sentencing for individuals convicted of committing a felony with a gun. Toward this end, we specifically call upon the President and the Congress to provide leadership toward enactment of the Kennedy-Rodino Handgun Crime Control Bill, which is the fulfillment of the 1976 Democratic Party Platform commitment.

Mr. Chairman, I hope that the members of the Platform Committee will carefully consider our suggested language and approve it. Too many Americans have already suffered the scourge of handgun violence. I beg the Platform Committee to adopt this plank, so we can stop this nation's handgun madness.

TESTIMONY OF LOIS HESS

Ladies and Gentlemen: my name is Lois Hess. I live in Baltimore County, Maryland and have been a life-long Democrat. I am an officer and director of Handgun Control, Inc. which is based here in Washington.

But I am here today as a victim—a victim of handgun violence.

A little more than five years ago, my 24-year-old-son, my only son, Stuart was murdered—shot in the head by a handgun while working on his father's construction job. Stuart had just received his Master of Science degree in Real Estate and Urban Development Planning from American University.

We watched Stuart grow both bodily and mentally with beautiful hopes. For Stuart and his father a partnership was to be the fulfillment of a long-awaited dream. Their dream was shattered with one gunshot.

Ever since I heard my husband Dick's voice, "It's Stuart, he's dead." My life has taken on a new meaning. Being a handgun victim has become my life-style. I grieve each day for my son. I grieve each day knowing other sons and daughters are being killed—needlessly by handguns. I am not alone.

Handgun violence stalks each and every one of us: even politicians are not immune from handgun attack, Robert F. Kennedy killed with a Saturday Night Special; Governor George Wallace paralyzed by a handgun; Senator John Stennis severely wounded with a handgun; Mayor George Moscone killed by a handgun; Allard Lowenstein, former Congressman murdered with a handgun. And every hour of the day another American joins the list of handgun dead.

Here in my hands are the names of some of those Americans killed in 1979 alone. If I

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

unrolled this list, it would stretch the length of this room. Behind each name there is a story of handgun violence like my own. Behind each name there is a family who has also suffered the grief caused by handgun violence.

Something must be done about the uncontrolled proliferation of handguns in America. And I am talking about handguns—not rifles and shotguns which are hunting weapons. The handgun because of its concealability is the favorite weapon of the criminal.

In poll after poll over the last 50 years the American people including the majority of gun-owners, have stated that they want better controls over handguns. As handgun violence escalates the feelings of the American people will turn to anger at the ballot box. Anger directed at those legislators who fail to stem this killing and maiming.

In fact a recent ABC News-Louis Harris Survey indicates that there are already far more people in this country who would vote *against* a candidate who opposes handgun control than there are those who would vote against a candidate who favors such control.

But the Democratic Party—the people's party—is already leading the way to solving this serious problem.

Democratic leaders in the Congress are seeking legislative action to provide for adequate controls over the manufacture and sale of these deadly weapons. Senator Edward Kennedy, a handgun victim, and Congressman Peter Rodino have joined forces behind a comprehensive yet equitable handgun crime control bill. The Kennedy-Rodino bill marks the first time that the Chairmen of the Senate and House Judiciary Committees have cosponsored handgun control legislation. The Kennedy-Rodino bill has already won unprecedented support in the Congress. One-sixth of the Democratic members of Congress are already behind it. President Carter has also stated his willingness to work with the Congress on this vital national issue.

I have come here today telling my handgun story after five years of tears. My life continues, the worst thoughts knowing handgun violence continues to shatter other lives.

I am not asking for your sympathy but for your action. The Democratic Party has a long tradition of actively working to better our society. A common sense handgun control law will safeguard American lives. I urge the members of the Platform Committee to adopt the plank just read by John Hechinger. Passage of the Kennedy-Rodino bill will not bring my son Stuart back to me. But it will stop other families from burying their sons and daughters because of a handgun's fatal wound.●

ARMY DAY TO BE CELEBRATED IN QUEENS COUNTY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Ms. FERRARO. Mr. Speaker, it is a pleasure to have the opportunity to share with my colleagues the highlights of an exciting event which is taking place in my district on Sunday, June 29. The 77th U.S. Army Reserve Command and the 361st Public Affairs Detachment, in cooperation with the Seuffert Band, are sponsoring "A Salute to America" to commemorate Army Day in New York City.

Our Armed Forces and Reserve units have a long history of dedicated service to the Nation. That service is one which allows us both a ready defense and a calmer mind through the knowledge of that readiness. But, it also includes peacetime service to the Nation in a manner which extends far beyond military preparedness. The 77th Army Reserve Command and the 361st Public Affairs Detachment have, for example, responded to medical emergencies, helped to build recreation areas, become involved in projects to clean up local rivers, and have devoted countless hours working with the youth of our city.

On Sunday, thousands of New Yorkers will join in celebrating Army Day. Mayor Ed Koch and Borough President Donald Manes will be on hand to present Army Day proclamations in recognition of the contributions of and services rendered by the Reserve components and their sponsorship of this important festival in Queens.

The festivities will include a presentation of the colors, drill and firing exhibitions, a hospital and ambulance display, and a special exhibit by the Combat Support Company of the 1st Battalion, 71st Infantry, New York Army National Guard.

It will be a special pleasure for all of us to listen to the Seuffert Band, as the Army Day festivities will include a concert by this talented group as part of its continuing series of summer concerts in New York. Under the competent direction of Dr. George Seuffert, the musical consultant to the mayor of New York, and a constituent of mine, this band has contributed culturally to the lives of thousands of New Yorkers. Their performance of American musical selections as well as those by world famous composers will be a special treat and a highlight of the day.

Mr. Speaker, I would like to take this time to express my appreciation to Maj. Gen. Frederick J. Scheer, Commander, and Brig. Gen. William F. Ward, Deputy Commander, 77th U.S. Army Reserve Command, Maj. Eugene V. Lombardo, Commander, 361st Public Affairs Detachment, and Capt. Cal G. Oltrogge, Community Relations Officer and coordinator of this project. Through their efforts, and those of George Seuffert June 29 will be a very special day in Queens.●

SID YUDAIN AND ROLL CALL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. RHODES. Mr. Speaker, last Thursday evening a significant event occurred in Washington. The truth about Roll Call and its editor and publisher Sid Yudain came out. As the newspaper of Capitol Hill observes 25 years of reporting on the Capitol community, due recognition to the perseverance and talent of Mr. Yudain has been taken. Those who have known him longest, and best, gathered to assure that history will record the actualities of Roll Call and the exploits of its creator. I was pleased to serve as cochairman of this bipartisan occasion, which brought luminaries from politics, the media, and entertainment together with a common purpose—to set the record straight on Sid Yudain.

In the Friday Washington Post, Jacqueline Trescott helped clarify the course of Roll Call's quarter century of chronicling happenings on the Hill. It is a most interesting account, replete with anecdotes and the chronology of this unique newspaper. I invite my colleagues to read it. The text of the Post article is as follows:

[From the Washington Post, June 20, 1980]

SID YUDAIN'S 25 YEARS AS CHRONICLER OF CONGRESS

(By Jacqueline Trescott)

One Wednesday night when Roll Call, the compact and spirited newspaper of Capitol Hill, had sealed its last item in lead, its editor got a call from the White House. The secretary of then-vice president Richard Nixon was on the phone. Nixon had a story, an obituary in fact. Sid Yudain, the indomitable editor, said it would have to wait until the next week. Nixon got on the phone and, Yudain recalls, said, "'It's my longtime doorkeeper, we are having these services, we've got to let the people know.' And I gave in."

For the last 25 years, Yudain has been an accommodator, adviser, matchmaker, chronicler, discoverer (of comedian Mark Russell and secretary Elizabeth Ray, who made her first photo appearance in Roll Call), impresario and chider, to the names of Capitol Hill. Through his weekly newspaper, which covers the filibusters as well as the funerals, he has become an entrenched institution. When his silver anniversary was celebrated last night, the keynote lineup included Robert Byrd, Howard Baker, Tip O'Neill and John Rhodes, with entertainment by Sam Hayakawa, Mo Udall, Bob Michel and Silvio Conte, as well as some other Washington wits.

He sees his fiefdom as a village with a constantly unfolding drama, and his role as the raconteur on the village green. But mostly he admits he's a fan. "I've never used the power of the paper for me. I am one of the greatest fans Congress has ever had. Like when I was a movie writer, I loved the movies. If I criticized, I criticized to improve them. I criticize Congress when it needs to be improved," says Yudain, a tall, gangly man, whose dapper air reflects his allegiance to the more formal days of Congress and journalism.

However, he is more homespun than stiff, a confirmed bachelor until eight years ago, and his grand statements were oiled by a lunch with author Larry King. Intertwined in the temporary bluster is a deeply felt pride in his enterprise's survival. "It started from nothing. It's probably the greatest institution of its kind in the world. Here I came from Connecticut, a first-generation American, never went to college, just had a good idea," says Yudain, 49. "Newspapers are notorious for not being able to last. In

155 years there has never been a newspaper here that lasted more than three or four months."

Stories about Yudain abound with the same formula of lightheartedness and fairness that he uses in Roll Call. He once had a suit of armor in front of a fireplace in his apartment, and the high point of every party was to wait until a congressman starting talking to it. "When I first met him he had a bachelor's apartment, and he loved to cook soups but he never bothered to refrigerate them. One of his sauerkraut soups fermented and exploded. I wouldn't tell you how long it stayed on his ceiling," says Jack Anderson, a staff assistant to Rep. John Rhodes (R-Ariz.) "And he had an old Plymouth convertible whose roof always leaked. Eventually he had a garden growing in the back seat because he never cleaned the car."

Longevity—the intimate brand that comes with reporting the events and bending elbows at the old Carroll Arms Hotel—brings tales, some fresh, some the glue of the Capitol Hill legends, some sad. Sam Rayburn, the powerful and cantankerous speaker of the House, was initially against Yudain's project. "He thought a paper that would be successful would be too powerful in the hands of a person not elected to anything," recalls Yudain, who was introduced to Congress through a job as a Hill press secretary. "As the years went by he became a fan, or at least accustomed to it. In 1961 or somewhere, he was trying to get the East Front of the Capitol extended. He had a terrible fight, the press was against him, he asked if I would run a story." Vindication? No, says Yudain—just a good village story.

Over the years, bylines in the Roll Call have included Hubert Humphrey, Jack Kennedy and Lyndon Johnson. This outlet did not stop any of them from chewing him out.

His worst time came with dour Speaker Carl Albert. For an anniversary issue, the Roll Call photographer had dressed up a pretty woman on Albert's staff in a skimpy costume made of copies of the Roll Call. "Well, that night Carl went over to the Congressional Hotel, and his colleagues were kidding him about it. They ordinarily do that, but I guess he had a few extra drinks. He got on the phone and started screaming at me. We got the photographer on a conference call and the next thing they were crying. Albert threatened to fire the photographer, who worked for the Democratic National Committee. I kept saying, 'Carl, they were all kidding you.' He went on and on. I finally said, 'You can't talk to me this way, I am the editor of the paper, knock it off. I just wanted to shock him." By Yudain's account. Albert calmed down and the photographer's job was saved.

Sometimes the threats have been real. One of the first reporters Yudain hired enjoyed the juice somewhat and wrote a story about Rep. Philip Landrum (D-Ga.) as a supporter of the civil rights bills. "Well, he called me and threatened everything. Finally I had to write a letter 'clearing his reputation' so to speak, and volunteered to come down to any forum in Georgia and vouch for him," recalls Yudain. The campaigning never materialized.

Newspapering has been second nature to Yudain. The youngest of eight children of Russian immigrants, he grew up in Connecticut. One of his older brothers was an associate of Haywood Hale Broun, another the editor of the Greenwich Time. Yudain started a neighborhood news sheet in Bridgeport, a paper in elementary school, continued the paper his brother started in high school and started a paper in the Army when he was working for a radio station. "When I was hospitalized for a broken nose, I started a paper for the cancer patients. I stayed an extra two months, in my pajamas, I enjoyed it so much," says Yudain.

His introduction to Hollywood feature writing came while he was assigned to guard a munitions dump in Los Angeles. Actor Cameron Mitchell, a friend, saw that he met the right people, but getting into the business in the heyday of Louella Parsons and Hedda Hopper was no cinch. The editor at Modern Screen told him he had to get a scoop. Yudain went back to Connecticut, found out Olivia de Havilland was performing nearby and requested an interview. "I knew my editor wanted to know about her romances. So I went over, I was drinking Scotch, a real callow youth, I kept ordering Scotch from this guy hovering over us. She was drinking Coke, she didn't have to impress me. I stumbled through the question about the romance. I looked over my notes and decided she had only given me the bio information," recalls Yudain. "Then I got a telegram to her wedding to [novelist] Marcus Goodrich. I called my editor, and he said go. When I got there she introduced me to Goodrich, who was the guy I had been ordering the Scotch from. I was embarrassed, but I got the exclusive and the job."

For nearly five years, he pursued the stars' stories, testing wits with Yvonne DeCarlo, Montgomery Clift, Lana Turner, Ava Gardner and Lizabeth Scott before coming to Washington with a Connecticut congressman in 1951. Bemoaning the absence of a community newspaper with gossip and human-interest stories (people still talk about the press release he once sent out about a dead parakeet in his boss' office), he launched his effort with a $90 investment, no business experience and one editor, publisher, reporter, political commentator and delivery boy—himself. Even now the paper has only two full-time reporters and four summer interns, and the business aspects of the Hill's only weekly have not changed; Roll Call doesn't have an advertising department. Its 7,000 subscribers (down from a top of 10,000) include Capitol Hill, White House, and other government employes and interested adjuncts, such as lobbyists who dish out a quarter. "Most of the time you could call us a profit-making venture," laughs Yudain.

The political interviews have been a breeze, says Yudain. "The movie things are sort of contrived; you had to think up angles. You had to dig for something. With a political personality, you know what you want, you know the person. You know almost exactly what they are going to say," he says. And when you spend 25 years doing the same thing every day, you sound proprietary. "We don't do that many interviews anymore. There aren't that many interesting people anymore," he says.

He has a lament for the good old days, particularly because the village has grown from the 7,000 population of the 1950s into a bustling city of 24,000. "The Congress started to change in the late 1960s when they started enlarging the staffs, when the turnover in Congress became greater, when the regard for senior congressmen seemed to be decreasing . . . The people 20 years ago had backgrounds, a wealth of experiences. You could sit down with Brooke Hays and they could tell you stories about politics, the political events," he says. "I see signs that the Congress is becoming more as we envisioned it when we started. The House used to be looser, the Senate was very stiff and staid, and the opposite has happened. People are not afraid to give a party anymore. You can tell when you talk to people they are not as guarded, they are not worried someone is going to pick it up, that Common Cause will be after them. Now you see more general relaxation. You can talk to people when you walk into their offices again."

But 25 years doesn't mean Yudain is giving up. This celebration is a simple milestone. He will continue his Sunday soup suppers, complete with Yudain on saxophone and singing such ditties as "Tie Me to Your Apron Strings," and guests like Irving Wallace, Sergio Franchi and Amanda Blake, and his two youngsters, 5 and 4.

"My basic work hasn't changed, the basic philosophy of Roll Call hasn't changed," he says. "The Congress has changed. We are trying to keep up with the changes."●

CIVIL DEFENSE RADIO EDITORIALS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. SKELTON. Mr. Speaker, the following two editorials were recently aired on KCMO radio in Kansas City, Mo. More and more, our need for an improved civil defense for our Nation is becoming understood across the country. Steve Shannon of KCMO, of Kansas City, states the case for civil defense quite well.

The editorials follow:

THE CIVIL DEFENSE SECRET

This is Steve Shannon, Station Manager of KCMO Radio, with an editorial viewpoint.

KCMO Radio says Civil Defense and its status are closely held secrets in this country. It's not intentional. No one is suppressing the news of Civil Defense . . . but by the same token no one is really promoting it either except for one member of congress, Ike Skelton . . . and he's such a proponent of our nation being Civil Defense ready, he's received a national award for his efforts.

KCMO Radio in the past five years has yet to be contacted or visited or even written to asking for on air support of Civil Defense. The March of Dimes, the Cancer Society, and the United Way, among others, all have higher profiles than anything seen thus far for Civil Defense. Civil Defense here and elsewhere in this country has simply fallen right out of bed.

Right now the defense of this nation is based on a nuclear arsenal, sophisticated weaponry and military manpower. KCMO Radio believes this is only half of what will be needed to not only survive, but to win. KCMO asks, what happens after a nuclear exchange? The military hardware cannot help our nation recover. It is designed to destroy a potential enemy and not to preserve our lives and industry. Yes, the other half is survivability or the ability to recoup.

KCMO Radio says recovery can only happen if its population and its industries are protected. Civil Defense must be dragged out of the closet and into the mainstream of America's preparedness.

This is KCMO Radio's editorial viewpoint. What's your opinion?

TIME FOR CIVIL DEFENSE

This is Steve Shannon, Station Manager of KCMO Radio, with an editorial viewpoint.

Right now the Soviet Union has a strong civil defense program. The United States does not. Russian workers—students—the public have a plan and they know what they should do in case of a nuclear attack. We do not.

Under these conditions, it is easy to imagine the U.S.S.R. threatening our population if we don't surrender. We will be unable to give a similar threat because they are better able to protect a much larger portion of the Russian people and most of their government leaders. Again, they have civil defense and we don't. The significance of this is that any American President faced with the choice of losing millions of people because there is no civil defense program or surrendering, will choose to surrender. So you can see why it is necessary to strengthen civil defense. It improves and increases the number of strategic options available to our President during a nuclear confrontation. Civil defense works! Many major studies show we can protect people . . . but we have to begin the work now! Why is KCMO Radio concerned about civil defense? Well, Kansas City is one of the key enemy targets in the United States. We're high on the Soviet hit list! Therefore KCMO Radio says without civil defense America is making itself needlessly vulnerable. Without civil defense America is at a military strategic disadvantage. We aren't even trying.

That's KCMO Radio's editorial viewpoint. What's your opinion?●

THE DRUG LAG PROBLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. RANGEL. Mr. Speaker, our distinguished colleague, JIM SCHEUER, who represents the 11th District in New York, has been an articulate and effective spokesman against unnecessary delays in making available new drug therapies to the general public. I know firsthand JIM's deep concern and compassion for those who are ill and suffering, and his commitment to easing this problem.

Responding to an op-ed article, written by JIM for the New York Times, May 22, 1980, the eminent Dr. Kurt Isselbacher, professor of medicine at Harvard Medical School and chief of the Gastrointestinal Unit of Massachusetts General Hospital, wrote a letter to JIM expressing the frustration of many medical practitioners at the drug lag problem, and commending him for his efforts. I want to share both the article and Dr. Isselbacher's letter with my fellow colleagues:

The letter and article follow:

Congressman JAMES H. SCHEUER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SCHEUER: I wish to commend you for your superb Op-Ed article which appeared in the New York Times of Thursday, May 22, 1980.

You have cogently made many of the points that need to be expressed and articulated in order to allow the U.S. to retain its position of being a leader and innovator in the treatment and prevention of disease. As you have stated, the FDA simply tries to play it safe largely to avoid criticism from all sides. Usually the decision is to delay definitive action and to ask for more data thereby frustrating both the medical community and the pharmaceutical industry.

As you are well aware, most new drugs have come from research innovations by U.S. drug companies. However, as you are also aware, the cost for bringing a new drug to the market is extremely great; as a result many potentially beneficial drugs fall by the wayside because of the extremely high cost of bringing them through the various regulatory processes. This cost involves the factor of delay and request for additional study and as you know there are all too many instances where the FDA simply acts as a deterrent and as a filter so fine that hardly anything gets passed.

You have also echoed one of my constant themes—namely, there is always a cost-benefit or cost-risk assessment associated with any drug or treatment. There is nothing we do and no medication that we take that will not at some time in some patient result in adverse affects. There is no utopia as far as drug prescription and administration is concerned. There will always be minor as well as major side effects.

In fact, it was this cost-benefit concern that made me appear before your Committee several years ago in the case of saccharin. Some of your colleagues on the Committee at the time, wondered whether perhaps I was beholden to a drug company or other manufacturers for making statements supporting the continued availability of saccharin. In fact, I presented my views only as a concerned physician. However, this brings up another issue—namely, we have reached the point where anyone who speaks in support of a drug is considered suspect and to be somehow connected with the drug company that has developed the drug. This concept results in advisory committees being formed where the scientific members are screened so carefully (to avoid having a potential conflict of interest) that the scientists serving on the committees are often not of the highest caliber. In my opinion, this is also one of the reasons that the FDA often does not get the very best scientific advice. It is almost reminiscent of the McCarthy era, with concerns and queries whether "you are now or ever have been" connected with a specific or related pharmaceutical firm in some manner at some time in the past.

Let me conclude by indicating that the purpose in writing this letter is to applaud your excellent article. It is timely, important, and right on the mark. Many of us who feel frustrated in not being able to obtain drugs for the treatment of our patients are indebted to you for your efforts to change the slow and tortuous regulatory process of the FDA.

Respectfully Yours,

KURT J. ISSELBACHER, M.D.

THE F.D.A.: TOO SLOW

(By James H. Scheuer)

WASHINGTON.—The long delay in making promising new drug therapies available to the public is a serious problem in this country.

The Food and Drug Administration is contributing to needless suffering and death for thousands because it is denying them life-saving and life-enhancing drugs that are available abroad far sooner than they are here. These drugs are involved in important new therapies that have been approved as safe and effective by regulatory agencies of developed countries where they are in use. Frequently, it is years, not months, that elapse between the time a new drug is introduced abroad and the time it is finally approved for use in the United States by the F.D.A.

Here are some examples: Propranolol, which provided a significant advance in treating hypertension when it was introduced in the United Kingdom in 1969, was not approved here until seven years later. Adriamysin, the second most widely prescribed cancer-therapy drug in the world, was approved in the United Kingdom in 1971; the F.D.A. sanctioned its use here in 1974.

When I was in Belgrade in April as part of a delegation from the House of Representatives, I discovered that Moxalactum, an antibiotic developed by a United States pharmaceutical firm for the treatment of pneumonia, was being used to help prolong the life of President Tito. Although this new experimental drug has not yet been approved by any government, clinical trials are under way in the United States and Europe. It will be interesting to see if this obviously useful drug is ultimately approved first overseas.

The substantial, typical delay (7 to 10 years) and the exorbitant cost (up to $50 million) in getting a new drug approved in this country have not given the American consumer safer or more-effective drugs. On the contrary, many medical patients have paid a high price in terms of needless suffering or premature death because of the unavailability of the most modern advances in drug therapy.

Some patients must actually go abroad—to England, West Germany, Switzerland—to obtain drugs that are denied to them in the United States. For example: There is Alprenolol, a cardiovascular drug widely used abroad to prevent death after heart attacks; Chenodeoxycholic Acid, a gastro-intestinal drug that can dissolve gallstones, thus obviating the need for surgery (I have been told that by the time this drug gets F.D.A. approval it will already be superceded abroad by a newer, safer and more-effective one); Verapamil and Nifedipine, both cardiovascular drugs that are useful in the type of heart attacks caused by coronary spasms.

It takes substantially longer to get a new drug approved in America because of F.D.A. administrative inefficiencies and regulatory excesses. The F.D.A., for example, put an application for approval of Cimetidine, a drug used for ulcer therapy, on its fast track for approval in July 1976, the same time that British approval was asked. The British granted approval in two months the F.D.A. in 13 months.

Many of the guidelines and regulations issued by the F.D.A. are arbitrary, redundant and subject to frequent change or varied interpretation. The F.D.A.'s refusal to accept first-rate research of some of the finest medical institutions abroad—in England, West Germany, Scandinavia and Japan—unless that research is needlessly duplicated by studies in America, wastes tens of millions of dollars and many precious years before a new drug can be marketed. F.D.A. reviewers tend to "play it safe," compounding the problem. One staffer was quoted in the book "Pills, Profits and Politics," by Dr. Milton Silverman and Dr. Philip Lee—Dr. Lee was Deputy Assistant Secretary for Health and Scientific Affairs of the Department of Health, Education and Welfare from 1965 to 1969—as having said: "Any time you approve a new drug, you're wide open for attack. If the drug turns out to be less effective than the original data showed, they can nail you for selling out to a drug company. If it turns out to be less safe than anyone expected, some congressman or a newspaper writer will get you. So, there's only one way to play it safe—turn down the application. Or at least stall for time and demand more research."

The desire to make a riskless decision is not unique to the F.D.A., but it must be recognized that medicine is a constant balance of risks and benefits. It is time for the scientific, medical and academic communities to band together and help the Congress, the F.D.A. and the pharmaceutical industry to develop new approaches to drug regulation that maintain appropriate standards of safety and effectiveness—yet speed, rather than retard, the introduction of new drug therapies, and nurture, rather than deter, therapeutic-drug innovation in the United States.●

HOME-BASED FOOD PRODUCTION AND SENSIBLE PREPARATION

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. LONG of Maryland. Mr. Speaker, I rise to share with you and my distinguished colleagues an idea passed along to me by a constituent, Mrs. Gertrude Seward Mayer of Baltimore.

Mrs. Mayer, a home economist and nutritionist, is concerned over the way our food is produced, distributed, and prepared. My constituent points out that many commercially available foods have little nutritional value and are very expensive. She notes that Americans could eat and live better, saving money in the bargain, if we could grow and prepare ourselves more of the foods we eat.

Mr. Speaker, the victory gardens of World War II were tools in achieving Allied victory. Mrs. Mayer's vision, which I believe has great merit, is that more home-based food production, and more sensible preparation, could be important tools in the present war against inflation.●

THE RECORD ON STUDENT LOAN DEFAULTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. FORD of Michigan. Mr. Speaker, during the debate on H.R. 4155, the gentleman from Illinois, Mr. MICHEL, presented some misleading and erroneous statistics on the progress of this administration in curbing student loan defaults.

As chairman of the Subcommittee on Postsecondary Education, I supported H.R. 4155, which will authorize the Secretary of the Treasury to disclose to the Secretary of Education the mailing addresses of student loan defaulters. However, I want my colleagues to know that the situation is not nearly as bleak as described by the distinguished minority whip.

For the RECORD, the following progress should be noted:

As of September 30, 1979, there were 106,000 accounts in repayment as compared with 24,000 accounts in repayment as of October 1, 1977.

From October 1977 through September 1979—2 years—OE collected $58 million, which is almost double the amount the Office of Education (OE) collected in the history of the Federal insured loan program up through September 1977. During the first 6 months of fiscal year 1980, an additional $21.7 million has been collected for a total of $80 million collected since September 1977. Prior to that time only $33 million had been collected.

As of March 30, 1980, in addition to the accounts in repayment, 359,000 accounts have been worked. Included in this figure are accounts that are paid in full, written off (including death, disability, and bankruptcy), assigned to the collection agency contractors, referred to the U.S. attorney's office, and accounts for which the schools involved are undergoing investigation.

From January 1977, the backlog of unresolved defaulted accounts grew from over 300,000 to slightly more than 400,000 by March 1978. As of March 30, 1980, 451,000 accounts—in repayment and other accounts converted—have been worked leaving a backlog of 122,000 unresolved accounts in the regional offices.

The OE collection effort had a dramatic impact on the default rate. Without this effort the default rate would have been nearly 14 percent. As of September 30, 1979, the net default rate, which takes into account the results of the collection efforts, is 8 percent.

Vigorous actions began in January 1977 to stem and combat the default problem. Following is a list of several of these efforts:

Operation Cross Check enabled the Federal Government to clean up its own house by matching government payrolls against the FISL default file.

Phase I matched FISL default file with HEW payroll in October 1977. All the 317 HEW employees identified have repaid or are making payments.

In February 1978, Phase II matched the FISL default file with all Federal civilian employees (excluding HEW). As of June 1979, of the 6,600 individuals identified, 4,709 have either paid in full, begun repayment, or had debts written off (i.e., amounts less than $25; death, disability, or bankruptcy).

Finally, in April 1979, Phase III matched the FISL default file with all Federal military personnel. Of the 9,930 military employees identified as defaulters, 3,298 accounts have not been resolved as of February 24, 1980.

By May 1978, a computerized billing and recordkeeping system was installed in all 10 regions.

OE stepped up referrals of uncollectable defaulted accounts to U.S. Attorneys. From October 1977 thru September 1979 (2 years), over 22,000 uncollectable defaulted accounts have been referred, compared to a total of about 500 over the previous 5 years.

In July 1978, Congress approved HEW's request to reprogram funds to hire over 1,000 term employees to combat the default problem.

Award of contracts in January, 1979, to two private collection agencies for San Francisco and Atlanta regions to support OE collection activities on a pilot basis.

Implementation of close-out computer procedures for paid in full, compromise, write-off, and referrals for litigation.

Competitive spirit among the regional offices via the "Regional Olympics".

Implementation of a performance measurement system which established accountability standards for Regional Administrators.

Mr. Speaker, I would also like to express my hope that, when H.R. 4155 becomes law, it be administered to preclude the use of the addresses of defaulters for any purpose other than the collection of student loans. In particular, I would expect that the Secretary of Education would administer the provisions of this law to insure that only bona fide holders of defaulted student loans receive the addresses of loan defaulters and to insure that only those employees of the holders of the loans who are directly involved in the collection of student loans have access to these addresses.●

SENIOR EXECUTIVE SERVICE COMPENSATION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. FISHER. Mr. Speaker, last week during its consideration of the fiscal year 1980 supplemental appropriations bill, the House agreed to an amendment to limit pay and bonuses for members of the Senior Executive Service (SES) in the Federal Government to $52,660 rather than $60,660, as the Appropriations Committee had originally proposed. I think this action was a mistake.

The high-level civil service employees who joined the SES gave up some of the security and guarantees of the civil service in exchange for the prospect of greater career challenges and rewards for excellence. For the executives willing to take risks, leadership and creativity was supposed to lead to improved compensation through bonus payments. With the approval of the supplemental appropriations bill, the House has placed a ceiling on executive compensation which will keep it below the level it otherwise would reach. In addition, salaries are capped at a level below comparable salaries in the private sector.

This is a serious blow to executive morale and a reversal of one of the main features of the Civil Service Reform Act of 1978. It could be viewed as a signal that Congress does not support the SES concept. The SES was to be the centerpiece of the effort to reform the civil service, the spark that would enliven and give added vitality to the bureaucracy. I think that eliminating the performance awards will be very damaging to this effort.

The Washington Post had an interesting editorial on this subject on Friday, June 20. I bring the views in the editorial to the attention of my colleagues.

The editorial follows:

DOING WRONG BY CIVIL SERVANTS

After years of general hand-wringing about the civil service system, some fairly major reforms were enacted in 1978. For top-level federal managers, the new Senior Executive Service offered the chance of large pay bonuses in return for outstanding effort and an increased risk of penalties for inadequate work. The new rules for these 7,000 or so senior career officials have been getting arranged for nearly two years now, and the first decisions on who deserves a bonus are just being made. Enter the House of Representatives, which threatens to undo the whole system by eliminating almost all of the bonus money.

This is a truly stupid thing to do. Senior career executives are working right now for considerably less money than their colleagues in the private sector, and one purpose of the bonus provision was to provide the genuinely exceptional among them a reason to stick with the government. For years, federal salaries have been artificially restrained by a congressionally imposed ceiling, which now stands at $50,112. Eighty-six percent of the senior executives are at that ceiling. Some 80 percent would, if paid at the level their jobs draw in private industry, earn more than the $52,750 the House has set as its limit on the combination of pay and bonus.

This issue is an easy prey for demagogues, because not many people in the country make $50,000. But it should be remembered that the size of some of these jobs is staggering. We are talking about some of the most responsible executives in the country.

In addition to keeping some of the best people from leaving, the penalty-and-reward structure of the reform was also intended to encourage those who had not been working very hard or very effectively to get with it. Actions like those of the House committee are likely to incline them, instead, only to dig in their heels.

There is, inevitably, a tension in government between the political people—legislative and executive—and the career civil servants. Success in running the government requires taking positive advantage of that tension, with career staff providing the analytic work, the institutional background and continuing management capacity, and the political officials providing the judgment of how to get things done and which things to try to do. The senior career executives are the bridge between the political staff and the vast operational apparatus. They have seen administrations come and go, and are like the legendary British Civil Servants who, it is said, serve all political masters with equal loyalty and disdain. It makes no sense to tip the balance further toward disdain and cynicism by reneging on an agreed-upon change in the terms of employment after they have given up their security and before they have had a chance to reap any benefit. The funds should be restored.●

CARTER DOCTRINE IS FLOUTED BY SOVIETS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BOB WILSON. Mr. Speaker, Ed Lifmann recently wrote an article accenting the weakness in President Carter's foreign policy. The article follows:

HOSTAGE RESCUE TRY IS PROOF—CARTER DOCTRINE IS FLOUTED BY SOVIETS

(By Ed Lifmann)

The question as to whether the Carter Doctrine, as it emerged after Afghanistan, would be able to counter the Russian geopolitical advances in the Persian Gulf or elsewhere was answered quickly.

The disastrous rescue attempt has already provided an answer as to our capabilities and in many ways has proven the point that the Carter Doctrine is very hollow indeed.

One must bear in mind that the operation failed without any hostile action by any other party. Therefore, the question comes to mind, "What would our armed forces reasonably be expected to carry out in case of serious and possibly sophisticated confrontation?"

In talking to military people, it becomes very clear that we not only have a manpower problem but we have a very serious equipment and even spare parts problem. The helicopters used in the rescue attempt were Vietnam vintage and so is much of our other equipment.

The very quality of our volunteer Army is deplorable and our National Guard units are well below full strength.

The factual circumstances that have allowed the Russians to gain military superiority over countries that are much richer and more populous than theirs are not dictating to the Western world what our future world will look like.

The expansion period for the Soviets is now, since strategically we will get stronger in the late '80s.

As long as no U.S. ground forces are deployed in the Persian Gulf region, we will have to face the growing possibility that this region will be lost, directly or indirectly, within the very near future.

The Soviet Union has for some time embarked on a massive program for control of the world's minerals, of which oil is just one.

The creation of internal Iranian turmoil by the well-organized, Russian-trained Marxists, a spectacle that can be viewed on our morning television shows, could also be a means to an end.

Europe and Japan are 100 percent dependent on oil from the Persian Gulf region, which has to move through the Strait of Hormuz to reach those markets.

We predict Russian control of the Strait of Hormuz in the near future. This action would make both Europe and Japan dependent on Russia, therefore leading to a breakup of the Atlantic Alliance, as well as the "Finlandization" of Western Europe and Japan—perhaps even occupation by Russian forces in some of these areas.

It is very possible that the Russians can achieve these goals without firing a shot and without ever engaging any of our forces anywhere in the world.

Although the fate of the hostages is of great concern to every American, it cannot be the thrust of our foreign policy if we claim to be a great nation.

If we would have denied the Russians a foothold in Cuba and denied the Communist takeover in Angola, Cambodia, Ethiopia, and Yemen there would have been no Afghanistan. However, now there will be more geo-political advances by the Soviet Union to our detriment.

If there were no Russians, there would be no hostages either. The students at the U.S. Embassy are in part Russian-armed and trained Palestinians—not Iranians. The problem is in Moscow, not in Tehran.

Our disastrous foreign policy has been unable to effectively deal with the priorities as they affect our country as a whole.

Our weakness, confusion, and lack of resolve have baffled our European allies so that they are not now seeking accommodations with the Russians in order to protect themselves for possible future events.

Only fully integrated ground forces of some strength can save us from events which could totally isolate this country and end the American way of life forever.●

TRIBUTE TO TRANSIT POLICE OFFICER JOSEPH KEEGAN FROM NEW YORK CITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BIAGGI. Mr. Speaker, yesterday, I attended the funeral of Joseph Keegan, a New York City Transit Police officer killed in the line of duty on June 19. Officer Keegan was the third transit police officer and sixth police officer to be killed in the line of duty this year.

Officer Keegan was killed by his own gun which was taken from him by a loiterer he sought to remove from a subway station in Manhattan. Officer Keegan was only several weeks away from retirement and marriage.

I came to Congress after a 23-year career as a New York City Police officer. During that career I was wounded more than 10 times in the line of duty. Yet, the incidences of police officers being murdered and maimed in this country today is shockingly increasing and must be stopped.

I feel at the very least the following must be enacted if we are to truly commit ourselves to protecting police officers.

First, the death penalty should be restored for those persons responsible for killing a law enforcement officer in the line of duty.

Second, those persons responsible for the commission of any crime using a gun should be subjected to mandatory prison sentences.

Third, the Department of the Treasury should immediately conduct a study to identify those bullets capable of penetrating existing bulletproof vests such as the one worn by Officer Keegan. This particular proposal I am giving serious consideration to offering as an amendment to the upcoming

Treasury/Postal Service appropriations legislation.

Instead of people in public life attending police funerals and shedding crocodile tears, we should commit ourselves to do all in our power to see to it that they can perform their essential duties without fear of murder.●

THE BUCHSBAUM REPORT

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. McCORMACK. Mr. Speaker, for months now, the scientific community and, particularly, researchers in nuclear fusion have anxiously been awaiting the outcome of a study being performed by the Energy Research Advisory Board—ERAB—an independent panel of consultants to the Department of Energy. The ERAB subgroup preparing this study was chaired by Dr. Solomon Buchsbaum of Bell Telephone Laboratories.

The Buchsbaum report was released yesterday, Monday, June 23, 1980, and an excellent synopsis appeared in today's issue of the Washington Post. The report makes it completely clear that all technological signals are "go" on fusion, and that the program is ready for major expansion and acceleration.

This is the message that I have been trying to communicate for some months now to the administration, and I must say I am quite pleased with the panel's findings.

The Buchsbaum report also supports the efforts of the Committee on Science and Technology in adding to the fusion budget, even in this year of severe budgetary restraint. I commend to my colleagues the Post's summary of this report. A copy of the Post article appears below:

[From the Washington Post, June 24, 1980]

PANEL URGES UNITED STATES TO SPEND BILLIONS ON FUSION POWER

(By Thomas O'Toole)

The United States is making such progress in harnessing the power of the hydrogen bomb that it should build a $1 billion test facility in the next 10 years to lay the foundation for commercial fusion power plants.

At the same time, the United States should double spending on fusion research to $1 billion a year in the next five years so the pace of development can be matched with the engineering test facility to have the first commercial fusion plant operating by the turn of the century.

These were the two major recommendations to the Department of Energy by the Energy Research Advisory Board's Fusion Review Panel, which gave fusion power its heartiest nongovernment endorsement.

"This next step in the fusion program is sound and timely," the panel said in a report that took almost six months to prepare and was released yesterday. "The U.S. should determine as soon as is feasible whether fusion reactors can compete with alternate energy sources from economic, environmental and safety standpoints."

Fusion power involves the combining of light gases in such a way that they release temperatures that match the heat of the sun. The commercial development of fusion, sought for the last 30 years, would bring a swift end to at least that part of the energy crisis that involves burning oil, coal or uranium to generate electricity.

The main fuels for fusion would be deuterium and tritium, isotopes of hydrogen that can be extracted in abundance from seawater.

The review panel said it expects the feasibility of fusion to be demonstrated in 1983 by the Tokomak fusion test reactor being built at Princeton University for $284 million.

Demonstrating fusion means creating a temperature inside the fusion test reactor of 100 million degrees and sustaining it for at least one second. A device known as the Princeton Large Torus has reached temperatures of 60 million to 80 million degrees for one-twentieth of a second.

"The last five years have been marked by notable achievements, making the U.S. the unquestioned leader in fusion research," the report said. "There is a momentum in the program which should continue until the mid-1980s."

The review panel's recommendations are likely to have a deep impact on the White House, the Department of Energy and the Congress, in part because the panel consists of some of the nation's most renowned scientists.

The 10-member panel includes Marvin Goldberger, president of the California Institute of Technology; Wolfgang Panofsky, director of the Stanford Linear Accelerator Center, and John S. Foster Jr., former head of research for the Pentagon and now vice president for science for TRW Inc. The panel is chaired by Sol Buchsbaum, executive vice president of Bell Laboratories.

Once scientists demonstrate that fusion is possible, they must move to the next step—demonstrating that it can produce usable energy. That involves creating temperatures of 100 million degrees and sustaining them for days and even weeks.

This would be done by the $1 billion Fusion Engineering Device recommended by the panel, which said it is feasible to produce a burning plasma that would sustain a 100-million-degree temperature virtually indefinitely.

The major obstacles to this are finding wall materials that can withstand the terrific heat created if any of the burning plasma leaks from its confinement. In a fusion device, the 100-million-degree gas is contained by an enormous magnetic field that keeps the hot gas from contact with walls of the device.

The magnetic field would have to be generated by so strong a fusion engineering device that it would be too much for conventional copper coiled magnets.

The magnetic field would have to be generated by a network of superconducting magnets whose size and expense would be enormous.

Finally, a fusion engineering device would be a test of whether constant neutron bombardment would contaminate the walls of a reactor to where the reactor might have to be shut down and the walls dismantled every few years.

"This facility would demonstrate whether a fusion reactor could answer questions of public safety," Dr. Edward A. Frieman, director of energy research for the Energy Department, said. "It would tell us how a plant operator would deal with a fusion device when the time comes for fusion to go commercial."●

DENISE COPLEY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. MAVROULES. Mr. Speaker, it is a rare moment when an ordinary citizen, motivated by inner courage and strength, takes the initiative to rise to a stressful occasion, thereby making these qualities manifest. Today, I would like to relate to you the case of one such individual in my constituency.

Denise Copley, a resident of Lynn, Mass., was in her apartment when she was called to assist in the care of a 3-year-old boy who had suffered convulsions due to a virus. Shortly after Ms. Copley entered the apartment, the victim stopped breathing. After determining that the boy's airway was not obstructed, Ms. Copley began mouth-to-mouth resuscitation. She continued for approximately 5 minutes until the victim resumed breathing on his own. The young boy was then taken to the hospital. Without doubt, the use of first aid by Ms. Copley saved the victim's life.

For her courageous, selfless accomplishment, my distinguished constituent received something that cannot be described in terms of reward or commendation—for what greater reward is there than the saving of a human life. I am extremely proud and honored to represent Denise Copley, and would like to take this opportunity to praise the Red Cross and other emergency training organizations that have properly equipped our now unveiled heroine.●

GREECE—AN ESSENTIAL COMPONENT OF THE NATO ALLIANCE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BROOMFIELD. Mr. Speaker, recent world events have clearly indicated the need to strengthen NATO. In particular, Moscow's invasion of Afghanistan has harshly realerted the world to the omnipresent Soviet threat. A cohesive NATO alliance is needed to adequately address this threat. Most notably, the presently weak southeastern flank undermines the ability of NATO to defend Europe from a Soviet attack. The necessity of a strong southeastern flank in NATO is reinforced by the increased Soviet military presence in the Mediterranean. In particular, there has been considerable Soviet naval activity in the region. Included in the Soviet arsenal for the Mediterranean are the

Backfire bomber, the SS-20 mobile missile and, according to various reports, perhaps even chemical warfare agents.

While the recent, highly distressing events alluded to above constitute serious threats to peace, they also create an international environment conducive to substantial improvements within the NATO alliance, in the form of an increased solidarity among the member nations and a considerable strengthening of NATO's southeastern flank.

I need not stress to my colleagues in the House the crucial strategic significance of Greece and Turkey to the interests of the United States and the NATO alliance as a whole. However, it is my frustrated belief that the Carter administration continues to underestimate the strategic importance of Greece.

Greece's position in the eastern half of the Mediterranean Sea makes it a vital component of NATO's southeastern flank. If the U.S. Rapid Deployment Force had to intervene in the eastern Mediterranean, Greece is situated to provide essential sealane security. Greece's location can also serve to inhibit Soviet adventurism in the Mediterranean. Furthermore, the death of Marshall Tito and the resulting potential for instability in Yugoslavia increase the strategic significance of Greece because of its proximity to the Balkans.

Greece provides NATO with critical warning and communcation facilities in addition to airbases and naval ports. One of those ports is Souda Bay, which is capable of accommodating the entire U.S. 6th Fleet. Besides serving as a supply center, the Souda Bay complex provides an excellent airfield, which is used for staging military reconnaissance operations by U.S. forces. Iraklion Air Station, located on the north-central coast of Crete, also supports air reconnaissance flights in addition to U.S. military air tanker refueling operations and an electronic surveillance station manned by the U.S. Air Force Security Service—a component of the National Security Agency. This sophisticated listening post monitors Soviet military activities in the eastern Mediterranean and other activities of interest to U.S. military planners.

The present disarray of NATO's southeastern flank is highly dangerous. This is almost entirely due to the enmity which exists between Greece and Turkey. Greece withdrew from the military structure of the alliance after the second Turkish invasion of Cyprus in July of 1974. In nearly 6 years, there has been no progress toward a resolution of the tragic situation in Cyprus.

A slight improvement in Greek-Turkish relations occurred recently when Turkey unilaterally rescinded the 1974 closure of adjacent Aegian Sea airspace in February and Greece responded by reciprocating the rescindment. Serious impediments to further improvement in the relations between the two countries remain, however, the most notable, of course, being the conflict over Cyprus.

I have been greatly encouraged by recent developments concerning Greece's involvement in NATO. Mr. Rallis, the new Greek Prime Minister, has cited among his major goals the reintegration of Greece into the military wing of NATO. There is a strong indication, however, that Greece's reintegration into NATO will be vetoed by Turkey, unless there is an expansion of Turkish operational responsibilities in the Aegian Sea. Greece, on the other hand, has made clear that these terms for Greek reintegration into NATO are unacceptable to them. Furthermore, Mr. Rallis has stated that it is the responsibility of the United States and the NATO nations to overcome Turkey's objections to the reintegration of Greece.

Any efforts by the United States and other member nations of the Alliance to effect a considerable strengthening of NATO's southeastern flank would seem to require as first steps in the process the advancement of an acceptable resolution to the Cyprus conflict and the reintegration of Greece's Armed Forces into the NATO military command structure.

NATO relations with the eastern Mediterranean countries have been exacerbated by the unevenhanded policy of the United States toward Greece and Turkey. This administration, for example, has continued to program more grant military assistance and foreign military sales credits at conditional terms for Turkey but not for Greece. Moreover, the United States has recently signed a defense cooperation agreement with Turkey while it has yet to conclude one with Greece. Recently, Mr. Rallis indicated that the signing the Greek-United States agreement for the continued operation by the United States of military facilities in Greece "would be examined in light of the recently signed United States-Turkish defense agreement, taking into consideration the need to maintain the existing balance of power between Greece and Turkey."

I would not only strongly urge this administration to reach an accommodation with the Greek Government in regard to base rights, but also would encourage our European allies to help in providing assistance to the deteriorating southern flank. The U.S. encouragement of West Germany to help bear the Turkish burden is a positive step toward this end.

I have been very critical of the unevenhanded policy of the United States toward Greece and Turkey. In an effort to achieve a more equitable policy, I recently offered an amendment to the International Security and Development Cooperation Act of 1980 which specified that Greece have the same repayment terms on foreign military sales financing as the bill already authorized to Turkey. A balanced U.S. approach to the eastern Mediterranean is an essential prerequisite to a considerable strengthening of NATO's southeastern flank. An evenhanded U.S. policy indicates to Greece that the United States considers the security of the Greek people to be of equal importance to that of Turkey, and that the strategic importance of Greece to the NATO framework is well appreciated by the United States. Moreover, an evenhanded policy will assuage the fears of Greece and Cyprus that the United States is tilting more toward Turkey.

However, while an evenhanded U.S. policy toward Greece and Turkey is a necessary condition for the achievement of progress in NATO's southeastern flank, it is clearly in no way a sufficient condition for progress. The achievement of progress requires a strong, consistent, and unrelenting effort by the United States, spearheaded by forceful leadership from our President to insure the commitment of all NATO members to common objectives.

The performance of the Carter administration toward achieving increased solidarity among NATO members and a strengthening of NATO's southeastern flank has been wholly inadequate. The United States has done precious little to promote a settlement of the Cyprus conflict and continues to tolerate a situation in which U.S. credibility with the Cypriot refugees increasingly decreases as a result of the Cypriot Government's perception that U.S. policy favors Turkey.

President Carter's standing among his fellow NATO country leaders precludes his providing the strong leadership necessary for resolving the outstanding problems in the eastern Mediterranean, let alone the recent economic, military and arms control problems confronting the alliance. He is criticized by the leaders of Western Europe for being inconsistent and for lacking clear leadership. They perceive his decisions to be largely politically motivated and question his capability of establishing long-term foreign policy. So deep are their misgivings about our President that the leaders of Western Europe have essentially written Jimmy Carter off until after the upcoming election.

At this time, opportunity to increase solidarity among the member nations of NATO and considerably strengthen NATO's southeastern flank has yet to be taken to good advantage. I therefore most strongly urge the Carter administration and my colleagues in the Congress to pursue all possible channels toward these ends. The United States and all other NATO members cannot afford to allow this opportunity to pass unheeded.●

STATUE OF LIBERTY INSULTED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. GUARINI. Mr. Speaker, as you know I represent the 14th Congressional District in Hudson County. I am proud that this area is known as the Statue of Liberty District because our first lady of all times stands majestically but 200 yards from the Jersey City shore.

There have been several events of late which have attempted to besmirch our symbol of freedom. There have been bombings, takeovers by Iranian students, the climbing by protesters, who actually have damaged the exterior of our statue with nails. Many in my area, and throughout the Nation, are appalled at this turn of events. Many have contacted my office with expressions of indignation.

Last week a veteran newsman, Jack Hasbrouck, penned a poem, which he said was the first he ever attempted, and he has done so due to world conditions and because of his feelings developed as a reporter for several daily newspapers in the Jersey City area over the last 25 years. He is now the editor of several weekly papers, including the Jersey City News, Bayonne Facts, the Hoboken Pictorial, Bergen Free Press, and the Jersey Pictorial, which are published and circulated in the shadow of our lovely lady. His poem is as follows:

EVEN A QUEEN CAN CRY!

Enlightening the world for nine decades and more,
"Huddled masses yearning to breath free" sought refuge on her rocky island shore.
But now they come—a foreign few—with powder and protest and hatred to spew,
Behind her back—like thieves in the night—they come to terrorize, destroy and fright.
Her honor shamed, a degrading banner draped from her head.
"The Shah must be tried and punished"—so seven Iranian protestors in November said.
They scarred her queenly copper mantle and tarnished her inner pride,
Those radicals in May, who scaled her weather-beaten side.
A protest to injustice to the world they cried.
And then in June, with a shattering boom, they tried to blow her from her very site.
But when the smoke had cleared, the nation cheered. She was there to greet the dawn's early light.
With all the slings and arrows that she has had to bear—all these senseless things,
She'll stand forever, a beacon to liberty, as long as freedom rings.
Still with all of her courage of a queen at her best.
She's a lady first who has taken the world to her breast.
To watch her children go astray is enough to make her weep.
Like mothers world over, she keeps her sufferings-deep.
And so it was the other day as I passed her by,
There she stood majestically, her torch against the sky.
The mist hung heavy and the tide's spray high.
Yet, I could have sworn—there was a tear in the lady's eye.

Mr. Speaker, I am asking that these remarks be placed in the CONGRESSIONAL RECORD in order that our countrymen can sense the feeling of not only my constituents, but Americans all who hold the Statue of Liberty with such reverence.●

TRADE ADJUSTMENT ASSISTANCE IS ESSENTIAL

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. GRAY. Mr. Speaker, as we debate the proposal to weaken the trade adjustment assistance program, I urge my colleagues to recognize that this program is an essential part of U.S. trade policy.

This program provides financial and technical aid to American workers adversely affected by competition from imports. Trade Adjustment Assistance (TAA) started in 1962 as part of the Kennedy round of tariff and quota reductions, and was modified by the Trade Act of 1974.

TAA recognizes that a trade expansion policy, although aimed at benefiting the Nation as a whole, may cause particular worker groups to be disadvantaged. Thus, TAA is a key element in American free trade policy. It compensates those who are forced to bear the burden of increased foreign competition. It is an alternative to protectionism.

TAA is a pact that we made with American workers when we opened our doors to foreign imports. Now that the impact of free trade is being felt nationwide, we must not turn our backs on this commitment and deny workers this help.

The amendment by Mr. MICHEL would reduce the benefit level under TAA and would postpone eligibility for assistance until after a person's unemployment compensation benefits have been exhausted. This is a major, substantive rewrite of the TAA program and should not take place in an appropriations bill. The Michel amendment changes the nature of the program.

Mr. Speaker, the amendment by Mr. MICHEL offers hardship to workers and only illusory savings. If the TAA benefit level is limited to the regular State unemployment compensation levels and provided only after unemployment benefits have been exhausted, the whole nature of this program is changed. The program would be converted to an extended unemployment compensation program and the special compensatory feature of helping workers adversely affected by our import policies would be almost entirely eliminated.

By relegating import-affected workers to a benefit level equal to unemployment compensation, the Michel amendment would be imposing substantial economic hardship on these people we promised to help. The average unemployed auto worker in Michigan, with two dependents, receives $119 a week; in New York, $125 a week—and these are States that pay relatively high unemployment benefits. In Missouri the compensation level would be only $85 a week, and in other States it would be even less. At that income level, workers would barely be able to sustain their families in food and shelter—and in many cases they would be forced to draw upon other forms of public assistance such as food stamps. Any cost savings to the Federal Government is highly questionable; the human impact, however, is very real.

Mr. Speaker, we knew the risks when we opened our doors to foreign competition, and we made a commitment to help those workers and communities that might be adversely affected by our trade policies. We must now meet the commitment.●

ADMINISTRATION, IN A POLICY CHANGE, IS DISCUSSING CUT IN TAXES FOR 1981

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. GEPHARDT. Mr. Speaker, the severe and pervasive drop in economic activity, accompanied by soaring rates of unemployment, has posed serious dilemmas for policymakers both in Congress and the administration. The 25-percent rise in unemployment for the last 2 months, an unprecedented rate, combined with the disastrous decrease in the industrial production index and other economic statistics, indicate that some form of tax cut is dearly needed.

H.R. 7046, the Social Security Payroll Tax Credit Act of 1980, in my opinion, is one form of a tax cut that should be considered. It will provide a credit against income taxes equal to 10 percent of social security taxes incurred in 1980 and 1981. The credit will help employers, employees, and self-employed persons alike without jeopardizing the viability of the social security trust fund.

Apparently, the administration agrees in principle, as the article by Edward Cowan in the New York Times indicates, as follows:

ADMINISTRATION, IN POLICY CHANGE, IS DISCUSSING CUT IN TAXES FOR 1981

WASHINGTON, June 17.—Senior Administration officials have begun to discuss the size, shape and timing of a 1981 tax cut that President Carter could propose this year, perhaps as part of the midyear budget review in July.

Several Administration officials, confirming that the long-awaited tax cut discussion has begun, acknowledged that the Administration was moving away from the President's public stance of refusing to talk about tax cuts until the budget is balanced to fight inflation.

"The Administration is considering a fiscal policy change, a tax cut," one Administration planner said.

ECONOMIC AIDES BACK REDUCTION

All of the President's senior economic officers favor a tax reduction next year, for individuals and for business. Virtually all of them expect a statement by Mr. Carter during his campaign for re-election.

Publicly, Mr. Carter has refused to talk about tax cuts this year, insisting that fighting inflation comes first. Privately, officials have acknowledged that the President is coming under increasing economic and political pressure to favor tax cuts.

They have cited three forces: the economy is in a seemingly steep recession, price inflation slowed in April and May, and both Ronald Reagan and Representative John B. Anderson, the Republican and independent Presidential challengers, favor tax relief.

In a report that gave another major indication of the severity of the recession, the Commerce Department said today that builders began new homes last month at an annual rate of 920,000 units, the lowest level in five years.

The figures on housing starts were released against a background of plunging output in such other key economic sectors as autos and steel, and economists now expect overall production of goods and services, the gross national product, to experience one of the biggest declines in postwar history in this year's second quarter.

The big uncertainty is whether the President will ask Congress to pass legislation to cut taxes before adjourning this autumn or as the first order of business in 1981.

PASSAGE WOULD AID DEMOCRATS

White House officials agree with members of Congress that passage by October would help Mr. Carter and his fellow Democrats at the polls. What troubles a number of officials is whether, in the few weeks between the Democratic National Convention in mid-August and the planned October adjournment, Congress would be able to write a bill to the President's liking.

Mr. Carter's position has been that balancing the budget to combat inflation was the top economic priority. He told the nation in a speech on March 14 that he would not consider a tax reduction until the budget for the 1981 fiscal year, which starts Oct. 1, was balanced. Later, Treasury Secretary G. William Miller and others switched the emphasis from a balanced budget, which now seems extremely doubtful, to bringing the growth of Federal spending under control.

Several Cabinet-rank and lesser officials interviewed in the last two days stressed that any Carter proposal for a tax cut would be presented not as a hasty, pump-priming, antirecession action but as an element in a long-term strategy to revitalize the American economy and stimulate investment. In that way, White House officials hope to mute any charges that the President has changed his policy.

The internal Administration discussions of the timing, size and composition of a tax package have been restricted to senior officials of the Treasury, the Office of Management and Budget, the Council of Economic Advisers and the White House domestic policy staff. Officials said that a decision on whether to make tax proposals with the midyear budget would have to come by late next week.

One senior economic official, asked if the midyear budget review might include a statement on a tax cut, replied that "a lot of people think that is an appropriate time." The review is due out July 14 or 15 and is expected to project a 1981 budget deficit of $12 billion to $20 billion, according to informed officials.

A senior political adviser to Mr. Carter said he expected the President to outline a tax program "before the summer is out."

There was some speculation that the President might outline his tax program—possibly a multiyear program—in a major economic policy statement in which he would also announce in general terms a commitment to a concept of "industrial policy" to promote industrial development. Such a speech could come at the Democratic convention in New York in August, officials said, when the President expects to be renominated.

On political and economic grounds, officials said, a statement by Mr. Carter in favor of tax reduction would entail some risks. Politically, the danger is that he would be accused of changing course again, an accusation that goes back to his 1977 reversals on tax rebates. He had first proposed a $50 tax rebate and then had withdrawn the proposal.

The President's political advisers hope to head off such criticism by portraying his tax proposals as long-run reforms to combat inflation, encourage investment and bolster productivity. Some officials have suggested that Mr. Carter hold out the prospect of a series of tax cuts, to be legislated one at a time, depending on the economy and the budget. They would portray that as a responsible alternative to the Republican Congressional proposal for three consecutive annual cuts to be authorized in a single bill.

The economic risk, according to one official, is that "a turnaround on taxes could conceivably awaken the hysteria about inflation we had in the first three months of the year." Therefore, he said, the Administration should consider combining with tax proposals a tightening up of the guidelines for voluntary pay and price restraint.

There is a considerable consensus within the executive branch and between the Administration and Congressional tax writers that business tax relief should take the form of faster depreciation write-offs for equipment and possibly for buildings to encourage investment. Exactly how to do that is a technical issue that could be divisive, one that worries Administration officials.

There is little sentiment for a general reduction in corporate tax rates for 1981, although that could come later.

As for individuals, there is widespread interest in avoiding or offsetting the increase in Social Security payroll taxes that is scheduled to take effect next Jan. 1 for employees and employers. The payroll tax is scheduled to rise to 6.65 percent from 6.13 percent now and the taxable wage base will climb to $29,700 next year from $25,900 now.

However, neither Congress nor the White House wants to open the complex, politically explosive question of Social Security financing and benefits. So the policy planners lean toward a bill that would give employees and employers income tax credits equal to 10 percent of next year's Social Security Taxes.●

WHITE HOUSE CORRESPONDENTS ASSOCIATION GIVES EXCELLENCE IN BROADCAST JOURNALISM AWARD TO CLIFFORD EVANS OF RKO GENERAL BROADCASTING

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. LENT. Mr. Speaker, it is my pleasant duty to inform my colleagues of an impressive and significant award which has been won by Clifford Evans, vice president of RKO General Broadcasting. The White House Correspondents Association has honored Mr. Evans with the Barnet Nover Award for Excellence in Broadcast Journalism. The award was made to Mr. Evans for his March 12 reports from Jerusalem on the Middle East peace talks.

Of course, it is always an exceptional honor when a journalist is recognized by his fellow correspondents for outstanding achievements in his profession. But the honor accorded to Mr. Evans is even more significant, since it is the first time a broadcast journalist has been so recognized by the prestigious White House Correspondents Association.

Mr. Speaker, this recognition of Clifford Evans' superlative journalistic talent comes as no surprise to anyone who knows this fine reporter. I have come under the reportorial scrutiny of Clifford Evans many times, and am well acquainted with his outstanding abilities as a broadcast newsman. His work with the Washington Bureau of RKO General Broadcasting in reporting and interpreting the complexities of our Federal Government and its foreign and domestic policies and programs has made, and continues to make, a valuable contribution to a better understanding of our Government for the fortunate audiences living in areas served by the RKO General stations. I congratulate the management of RKO General upon its good judgment in keeping Clifford Evans on the job in Washington, and wish Mr. Evans many more successful years in his chosen profession.●

FREE TRADE FOR AUTOMOBILES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. GOLDWATER. Mr. Speaker, Congress is currently considering several proposed solutions to the United States-Japanese automobile trade deficit problem. In 1979, the United States had a trade deficit of approximately $10 billion with Japan on motor vehicles and related products. Foreign auto imports are responsible for nearly 30 percent of nationwide automobile sales. In California alone, nearly one in two automobiles sold is foreign made, and there appears to be no decrease in consumer demand for Honda, Datsun, and Toyota models. The reason for this impressive surge in foreign car import and demand is quite simple: Foreign automobile manufacturers had the foresight to give the American consumer what he wanted—a fuel-efficient automobile. Now the "big three" complain that they are the victims of ceaseless Japanese auto production, when in reality they are experiencing near-record losses because of their failure to realize that America's love affair with large, fuel-inefficient cars is over. Some otherwise perceptive lawmakers favor proposals which would require Japanese automobile companies to build their manufacturing plants in the United States. Others have insisted upon erecting major trade barriers in order to impede the importation of foreign automobiles.

Mr. Speaker, my colleagues know that I have long defended the free enterprise system and have opposed any bureaucratic regulations, congressional proposals, or administrative rules that weaken America's sound marketplace. Let us not punish those who compete fairly; who, through that competition, force their competitors to produce a better product.

Mr. Speaker, I urge my colleagues to remember that it is the consumer who we would deprive in this instance. With his purchasing power, the American consumer has told us loud and clear his preference. Let us listen to him for once.

I recently read an article in the Los Angeles Times by Mr. Joseph Coberly entitled "A Dealer in American Cars Welcomes Free Trade." I insert the article in the RECORD following my remarks. I believe my colleagues would do well to read this thoughtful and provocative viewpoint before they make their decision on this matter:

A DEALER IN AMERICAN CARS WELCOMES FREE TRADE

(By Joseph E. Coberly, Jr.)

We are witnessing a new twist in imperialism. In olden times, a powerful nation would move in on a weaker one, set up local enterprises to extract raw materials with cheap labor, and sell finished goods to the indigenous population.

Nowadays the powerful nation, upset with the volume of imported goods, forces the weaker exporting nation to build enterprises in the powerful one, hire expensive local labor and use locally produced parts. The purpose of the newfangled imperialism is the same as the old one: to benefit certain privileged interests. The victims are also the same: everyone else.

This is what the automobile industry is calling for today. Certain industry executives, notably at Ford and Chrysler, and certain congressmen, such as Rep. Charles A. Vanik (D-Ohio), want to require Japanese auto firms to build plants in the United States if the firms won't do so voluntarily. Some even want Japanese auto exports cut to 1977 levels.

What is the Japanese firms' heinous crime? Giving American consumers what they want. Presumably, if the firms thought that building plants here would further that end, they'd need no prodding. So the move can only be described as a conspiracy by the American auto companies, the United Auto Workers and the U.S. government to thwart the American consumer, who gave the Japanese more than 20 percent of the car trade in January.

I write all this knowing full well that my own Ford dealership in downtown Los Angeles is surrounded by foreign-car dealers. One of the nation's largest Datsun dealerships is within several blocks of my business. Mercedes and Audi dealers are also nearby.

But the fact that I sell domestic cars, as did my father, doesn't blind me to the truth that protectionism harms everyone. The harm to consumers is obvious. They *want* those foreign cars. And restrictions would deny them their right to buy them.

Restrictions would also hurt the 4,500 imported-auto dealers and their 140,000 employees. By what standard should they be sacrificed to the 150,000 UAW members now on indefinite layoff?

Less obvious, but no less real, is the harm that would be done to the domestic industry and its workers if imports were to be somehow restricted. Any shelter from the competitive forces of the market would tend to make our manufacturers soft.

American auto consumers vote with their dollars. When they decided that they wanted small, fuel-efficient autos, they turned to the firms that offered them. This, in turn, induced those who were selling the wrong kind of cars to change their ways.

Today, consumers are demanding efficiency that exceeds even the government's standards. And the auto makers are scrambling to serve them. Competition has forced them to make a better product. It is not in the long-term interest of the auto companies to be protected from consumer demand.

It is even less in the interest of their workers. Without restrictions, competition would induce auto companies to invest capital that would make their workers more productive. This, of course, would raise wages as workers became more valuable to their employers. Any protectionist scheme that retards this process denies workers chances for improvement.

In addition, the market always hold untold and unforeseen opportunities for workers, entrepreneurs and consumers. Protectionism lessens the pressure to search for them, and it denies to everyone more lucrative alternatives.

Having leaders of American auto firms and the president of a major union whining and begging with the Japanese and the U.S. government has been a sorry spectacle. Take note, however, that the supplicants aren't demanding that their Japanese *affiliates* be burdened with requirements and restrictions, just their *competition*. Instead of resolving to compete, they ask for special favors. Apparently these business people have yet to learn that a government empowered to grant special privileges is a government that can also act against them.

The auto companies are suffering because they made bad decisions—produced too many big cars for too long—and because government regulations, the government-caused energy crisis and inflation have taken the starch out of American business. None of this, however, justifies any sort of controls on imports.

The fear of imports is unfounded. Imports benefit the American people. Exports are what pay for them.

The Japanese sell to us only so that they can buy from us. They would hardly take paper dollars if they couldn't trade them for goods.

A final thought: Major wars have tended to be preceded by accelerating economic warfare—measures such as those being threatened today. As a Ford dealer I welcome free trade because I know that I'll have a better product to sell as a result. But as a citizen of the world I welcome it because I know that what is at stake is nothing less than liberty, prosperity and peace.●

RETIRING TEACHERS OF GARDEN GROVE HONORED

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. PATTERSON. Mr. Speaker, each summer as the school year has closed, we are reminded of the important role our educational system plays in the development of the young men and women who will be the core of our society tomorrow. In addition to our parents, the primary responsibility for providing learning experiences, instilling the basic values of our society and, most importantly, generating enthusiasm about life and living lies with our schools. The most critical element in making all of this happen is the faculty, that dedicated core of men and women who work daily toward the achievement of these goals.

On Friday, May 30, the Garden Grove Education Association met to give tribute to the retiring teachers, men and women who dedicated their life to working with our young people. It gives me great pleasure to join with the California Teachers Association, the National Education Association, and the Garden Grove Education Association in honoring:

Elizabeth Blake, Anthony Elementary School; William Cox, Bolsa Grande High School; Mildred Hartzell, Garden Grove Unified School District; Phil Rampey, Post Elementary School; Eleanor Randol, La Quinta High School; Charles Reynolds, Bolsa Grande High School; and Robert Ross, La Quinta High School.

From kindergarten through senior year, these teachers have directed and contributed to the development of our children. They have earned our gratitude and our heartiest thanks. I ask my colleagues to join with me in paying tribute to these fine individuals and to wish them fulfillment as they reflect on their teaching careers.●

OBJECTIONS TO SAUDI ARMS SALE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. OTTINGER. Mr. Speaker, I am greatly alarmed that the Saudi Arabian Government has demanded we supply it with equipment which would increase the offensive capability of its American-built F-15's. I urge the Carter administration to reject out of hand this outrageous request which stands in direct violation of the agreement under which the planes were purchased.

In May 1978, in obtaining congressional approval for the sale, the administration promised not to provide the Saudis with any equipment which would increase the range or enhance the ground attack capabilities of the F-15's. The Saudis agreed to this condition. Now, a mere 2 years later, the United States apparently is considering providing exactly such equipment. This would constitute a clear breach of trust between the administration and the Congress.

The sale would also serve as another example of the inconsistency which has recently plagued U.S. foreign policy. The United States cannot abandon its agreements and, at the same time, expect to maintain world stature and respect or have other countries follow its lead. The President must stand firm in denying any Saudi requests which would breach the 1978 agreement.

Furthermore, the proposed sale would give the Saudis the capability to attack any target within Israel. It would therefore seriously threaten Israel.

Proponents of the sale argue that increasing Saudi military capabilities will lend stability to the region. If that be the case, then let Saudi Arabia demonstrate its stabilizing influence. Let it provide evidence that it is using its wealth to support Egypt's courageous agreement with Israel and to encourage other peace efforts.

That the administration feels compelled to permit Saudi Arabia to default on its commitment to us when it purchased the planes—and itself defaults on its commitment to Congress, to the country, and to the world—is a tragic error. The real lesson here is that as long as we are dependent on imported oil for our energy needs, we cannot act independently of our suppliers. Nevertheless, through a combination of conservation and increased commitment to alternative sources, we can increase our independence and strengthen our foreign policy.

I strongly urge the President to deny the Saudi request and reaffirm our support for Israel.●

BROAD SUPPORT FOR 10-PERCENT INCREASE FOR SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. PEPPER. Mr. Speaker, as chairman of the House Committee on Aging, I strongly believe that our Nation must remove employment barriers for older Americans.

The Congress took an important step in implementing that goal when it approved the 1978 Age Discrimination in Employment Act Amendments which raised, in effect, the mandatory retirement age to 70 for millions of workers in the private sector and State and local governments and abolished mandatory retirement completely for most Federal employees.

Our Nation must also promote employment and training opportunities for older persons, such as the senior community service employment program. The track record of that program provides clear and convincing evidence that there are many low-income persons 55 or older who are ready, willing, and able to work in their communities if given the opportunity.

In fact, numerous projects throughout the country have several applicants for each position available.

I am concerned, however, that the Federal Government may simply freeze the number of jobs under title V at the present level of 52,250. Unemployment has increased substantially since the beginning of 1970, and it is expected to rise sharply in the months ahead. Older workers have already been victimized by our present recession. Persons 55 or older frequently discover that they are among the first to be fired, but the last to be hired.

Title V is also a cost-effective program for our Nation, the elderly participants, and the communities served. One recent study for the National Retired Teachers Association and American Association of Retired Persons revealed that funding for the SCSEP can produce a gain in output exceeding five times the investment over a 58-month period.

In my home community of Miami, 175 SCSE participants provide a wide range of valuable services. NRTA-AARP have 104 project sites in 33 States, the District of Columbia, and Puerto Rico.

Nearly 8,000 older Americans in NRTA-AARP-sponsored programs help themselves while helping others in their localities by working as teacher aides, maintenance workers, security guards, environmental workers, hospital aides, day care workers, telephone operators, and employment counselors.

NRTA-AARP projects have placed almost 50 percent of their older workers in unsubsidized jobs on an annualized basis. This is truly an extraordinary achievement, and permits more older Americans to participate in the program.

Moreover, the program has been able to respond promptly and effectively in disaster areas. NRTA-AARP, for instance, expanded programs in Miami because of the recent civil disturbance and in the State of Washington because of the eruption of Mount St. Helens.

Mr. Speaker, I support President Carter in his objective to produce a balanced budget. Congress must exercise great restraint in acting on the fiscal year 1981 budget. Funding for many programs must simply be held in check or even reduced. However, some clearly deserve to be expanded, especially high-priority programs with effective cost-benefit ratios. The SCSEP, I strongly believe, meets both of these tests.

For these reasons, I have urged the House Labor-HEW Appropriations Subcommittee to consider a 10-percent increase in funding for title V. This would help to provide an additional 5,225 jobs for older workers—from 52,250 to 57,475.

Several leading national organizations representing older Americans, I am pleased to say, are rallying behind this proposal.

NRTA-AARP, for example, recently urged the House Labor-HEW Appropriations Subcommittee to adopt the proposal.

The associations' statement provides further compelling reasons to approve a 10-percent funding increase for title V.

Mr. Speaker, I commend this statement to my colleagues and insert it in the RECORD for them to read:

NRTA-AARP SUPPORT THE PEPPER AMENDMENT TO INCREASE FUNDING BY 10-PERCENT FOR THE SCSEP

The National Retired Teachers Association and the American Association of Retired Persons support Congressman Pepper's suggestion that the Congress consider a 10-percent funding increase for the Title V Senior Community Service Employment Program, from $267.1 million to $293.9 million. This proposal would permit 57,475 low-income unemployed persons 55 or older to work in a wide range of useful and fulfilling jobs, compared with 52,250 under the Administration's budget request.

The Associations recognize that the Congress and the Administration are firmly committed to balancing the budget. We fully support this objective because we believe that inflation is the elderly's number one enemy. At the same time, though, we believe that Congress must consider carefully the merits of each program. Funding cutbacks are clearly justified for lower priority programs or those which have outlived their usefulness. In a limited number of cases, programs should be expanded, especially those with a high cost-benefit ratio. this is particularly true for the Senior Community Service Employment Program (SCSEP).

A recent study for the Associations pointed out, for example, that funding for the SCSEP can produce a gain in output exceeding five times the investment over a 58-month period. The study concluded: "Given a $2,500 'investment' in the S.C.S.E.P. enrollee, society is returned approximately $15,350 in economic production—a gain in output of $12,850 per enrollee placed in a permanent job."

The Title V program has amply demonstrated that older Americans would prefer to help themselves while helping others in their communities, rather than accepting public assistance. The SCSEP provides a dignified way for these individuals to become productive citizens.

In addition, Title V can provide an effective and prompt means to assist economically depressed regions or economic disaster areas. The Associations, for instance, launched a program in Johnstown, Pennsylvania to assist flood victims within three days after that disaster occurred.

Our nation is now in a recession. Last month's sharp jump in unemployment provides a grim reminder of this economic fact of life. Older workers have already felt the harsh impact of the recession. During the past month, unemployment jumped by almost 23 percent for Americans 55 or older. More than .5 million are already unemployed, and this number is likely to rise precipitously in the months ahead. Title V can provide an effective and dignified means to reduce unemployment among older Americans by converting tax users into taxpayers.

Over the years, it has been a well-administered program. It has not been tainted by fraud and abuse. Our Associations believe that increasing funding for Title V programs provides a balanced approach to combat unemployment among older Americans at a time of fiscal austerity in government. for these reasons, we reaffirm our support for Congressional action to increase the number of jobs available under the SCSEP by 10 percent.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Thursday, June 19, 1980, and Friday, June 20, 1980.

Had I been present, I would have voted: "Aye" on Roll No. 346, on the conference report on S. 2698, to provide authorizations for the Small Business Administration; "Aye" on Roll No. 351, approving the Journal of Thursday, June 19; "Aye" on Roll No. 352, the rule providing for the consideration of H.R. 6711, to extend the authorization of youth training and employment programs; "Aye" on Roll No. 353, a rule providing for the consideration of the State-Justice appropriations for fiscal year 1981; "Aye" on Roll No. 354, agreeing to resolve the House into the committee of the whole; "No" on Roll No. 356, an amendment to move the American Embassy in Israel to Jerusalem; "No" on Roll No. 358, an amendment to reduce funds appropriated for the use of the State Department.●

REGULATORY ZEAL

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, one of the legislative priorities in the Congress should be the establishment of congressional control over the regulatory process.

It is well-known that many agencies have gone far beyond their intended authority and issued regulations having the force of law but drafted and approved by bureaucrats who are not held accountable to the American people.

On June 13 of this year, the Danville, Ill., Commercial-News, my hometown paper, editorialized on some of the abuses of regulatory power that have taken place. I would like to share this incisive editorial with my colleagues at this time:

THERE'S A BETTER WAY TO REGULATE

Most of the federal government's regulatory procedures have been developed out of a sincere desire to serve the American public. And there is no question that we need protection from the many ills that would beset us without the effort represented by the regulatory process.

But it is an accepted fact that in many ways government regulations have become like the medical cure that is worse than the disease.

And in spite of the promises of President Carter and the administrations preceding him, the strangling of business by government regulation is getting worse instead of better.

For example, the Center for the Study of American Business recently listed 57 major federal regulatory agencies, 21 of which were established in the last 10 years—more than twice as many as in any previous 10-year period. Those 57 agencies are budgeted to spend $7 billion in Fiscal Year 1982—an increase of 15 percent.

Further, there were 27,661 employed by regulatory agencies 10 years ago but this has more than tripled to 90,825 for next year's budget. The Food Safety and Quality Service of the Department of Agriculture alone will have 11,789 workers and the Environmental Protection Agency includes 11,226. The Equal Employment Opportunity Commission has expanded from 780 employees and a budget of $12 million to 3,981 workers and a budget of $135 million.

Certainly, we want the protection that comes from the Food Safety and Quality Service but can't help wondering how much duplication of its duties exists in the Food and Consumer Services branch of the same department and the Food and Drug Administration in the Department of Health and Human Services (formerly Health, Education & Welfare).

By the same token, is there duplication between the Equal Employment Opportunity Commission and the Manpower Training Act programs administered by the Health and Human Services Department?

Such questions were raised by Du Pont Co. Chairman Irving S. Shapiro in a speech at Columbia University on government regulation of U.S. economic activities. He stressed the need for closer coordination of regulatory processes.

Shapiro proposes giving the president general authority over the regulatory process with discretionary power to mediate conflicting goals and eliminate duplication. The rationale for independence of regulatory agencies was to keep them from being manipulated by the executive branch of the government and used as political clubs.

This is still a desirable pursuit which must not be abandoned but surely the attention of the media and data reporting systems make oversight possible without such expensive duplication. There would still be ample opportunity for review by congressional committees if manipulation were suspected.

As it stands, too many agencies pursue single goals that conflict with the objectives of others in inter-related areas. Too many were created to serve special interests without effort to coordinate with existing activities.

If they were supervised more directly by the executive department, they could be made to meet the same basic tests that the fundamentals of good management involve outside of government. Each regulatory process could be reviewed in light of the problem it is designed to solve and whether there is another way to achieve the same goal.

Particularly, such tests need to be applied to any proposal for new regulatory activities. That would at least stop the growth of government that is most noticeable in regulatory agencies.●

LEUZINGER HIGH SCHOOL OLYMPIAN BASEBALL TEAM

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. CHARLES H. WILSON of California. Mr. Speaker, I am proud to bring to the attention of my fellow colleagues the achievements of the Leuzinger High School baseball team. This team had an overall record of 18 and 3 for the season. As a matter of fact, they won the Pioneer League championship and went on to participate in the CIF 2A southern section finals in Anaheim, Calif.

This outstanding team of topnotch athletes deserves recognition for their accomplishments. Congratulations are also in order for their coach, Dennis Bowman, and the proud parents who have contributed so much to the winning spirit of the team.

Tonight, members of the Leuzinger High School Olympian baseball team will be honored at a banquet. Parents, students, teachers, and community members will be gathering to pay tribute to the months of hard work and personal sacrifice that has resulted in the winning team. There is no doubt that without such hard work and sacrifice, the team could not have been forged.

For the RECORD, I would like to read the names of each of the team members. They are Dave Fowler, Jose Laboy, Dan Flores, Alex Valle, Ron

Burgess, Orlando Salazar, Tony Amato, Mario Flores, Oscar Salazar, Steve Lopez, Troy Owen, Rolando Sarria, Rich Schwieger, Kevin Maxey, Bob Lower, Jim McGovern, John Martinez, Mike Baldus, and Henry Castellanos. In addition, the following people were instrumental in pulling together the team and keeping it going: Dennis Bowman, coach; Al Brandenburn, assistant coach; William Davidson, team manager; Collen Fastow, scorekeeper; Cindy Bledsoe, scorekeeper; and Nancy Mego, statistics.●

SCHOOL VIOLENCE SUBJECT OF TAX COURT RULING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BIAGGI. Mr. Speaker, in the June 11, 1980, edition of Education Daily, an article appears which is of special interest to me. It discusses a case in Dayton, Ohio, involving two public high school teachers who were seeking a tax deduction for work performed at home. What makes this case so novel is the fact that these teachers were forced to work at home because school violence made it impossible for them to remain in the building to prepare their lectures and conduct related classroom business. The Internal Revenue Service had rejected the teacher's claim for a deduction, but their determination was overruled by U.S. Tax Court Judge Howard Dawson.

I mention this case to my colleagues because in 1978, I was the author of the amendment to the 1978 education amendments which created the safe schools program which provided $15 million for school violence prevention programs in our Nation's elementary and secondary schools. Unfortunately, no funds have been appropriated for this program, despite the ongoing and ever-increasing nature of school violence.

I urge my colleagues on the House Appropriations Committee to give serious consideration to provide a modest funding level for the safe schools program. If the ruling of Judge Dawson stands, it could establish a precedent which could cost this Nation far more than the sums I proposed for this program. I insert the aforementioned article for the benefit of my colleagues:

TEACHERS CAN CLAIM HOME OFFICE DEDUCTION, TAX JUDGE RULES

Teachers who could not prepare lessons at school due to violence were entitled to a home office tax deduction, according to a tax court opinion.

The case involved the joint tax return of Benjamin and Sondra Kirby, high school teachers in the Dayton, Ohio, public school system in 1975. They were taken to court by the Internal Revenue Service, which claimed their work at home was a matter of "professional judgment" not necessary for their teaching duties.

"The [teachers'] use of their home office was necessitated by their inability to remain in their classrooms after normal class hours because of frequent and continuing assaults on the teachers," according to U.S. Tax Court Judge Howard Dawson.

"We find incredulous [IRS'] contention that the 55-minute period provided the petitioners during the school day for classroom preparation and other administrative responsibilities was adequate time for them to prepare," the opinion said.

HOME WORK NECESSARY

Dawson found the Kirbys' work at home "was clearly necessary to the effectiveness of their teaching."

Law regarding home office exemptions has become much stricter since 1975 as a result of the Tax Reform Act of 1976, according to an IRS spokesman. The current law allows home office expenses for employees only when such work is a condition of employment, according to the spokesman.

The Kirbys "were directed by the superintendent and principal to leave the schools at the conclusion of their classroom duties because of continuing assaults on the teaching staff," according to the opinion. They "spent approximately 20 hours a week in the [home] office preparing lesson plans, grading papers and performing related academic duties. The office was used for no other purpose."

The Kirbys deducted utilities, fire insurance, wiring, paneling and depreciation costs on their basement office, which occupied approximately one-sixth of the floor space of their home, according to the opinion.

The judge rejected the IRS claim that the teachers had enough time to prepare for classes during the school day, they were not required to maintain a home office by their employer, and their use of a home office was simply a matter of personal convenience.—DBS●

LOUIS A. MAUTINO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. SKELTON. Mr. Speaker, it is an honor to recognize a lifelong friend today, Louis A. Mautino, for his leadership and insight while serving as the State deputy for the Knights of Columbus for the State of Missouri.

On July 1, 1978, Louis was chosen State deputy, the highest executive office for the organization. The Knights of Columbus, under Mautino's leadership, established a series of progressive accomplishments which included exceeding 27,000 statewide members for the first time, establishing 17 new local councils, installing 3,000 new members, raising $169,000 for the Religious Information Bureau, and building a strong system of information distribution.

Perhaps Louis' greatest role, and a special one, was his work toward research and developmental studies concerning the mentally retarded. While deputy, the organization instituted the Knights of Columbus Center for Behavorial and Developmental Pediatrics, Cardinal Glennon Memorial Hospital for Children in St. Louis, Mo. In the 2 years he served as the leading executive officer, the Knights of Columbus raised $516,000 for the mentally retarded. His work for the mentally retarded, while deputy, represents years of hard work that Louis has done since joining the organization.

Louis grew up in Lexington, Mo., and also served 3 years in the Navy, where he picked up the necessary skills to serve as a air traffic controller for the Federal Aviation Administration. I think it is a wonderful event when someone can put in so much time and energy for social causes and still establish an impressive record of 24 years of service to the FAA.

On July 12, the Knights of Columbus will honor Louis A. Mautino for his 2 years of outstanding leadership while deputy, at a testimonial dinner in his honor, to be held in Kansas City, Mo.

The ability to lead a group toward a common goal and succeed, is something that is worth taking a moment to praise. In the case of Louis A. Mautino, I am more than happy to present his story to the House and ask you to join me, in honoring the hard working leader of the Knights of Columbus in Missouri.

Louis A. Mautino resides with his wife Marilyn and their three children in Lexington, Mo.●

IRAQ AND INTERNATIONAL TERRORISM LEGISLATION

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mrs. FENWICK. Mr. Speaker, one of the issues to be resolved in the conference on H.R. 6942, the foreign assistance authorization bill for fiscal year 1981, is a Senate amendment to revoke the export license for U.S. gas turbine engines to power four new Iraqi missile frigates. The amendment was passed Tuesday.

I wish to commend the other body for its action. Having been involved in the issue from the outset, I thought it might be useful to place into the public record some of the pertinent material on the issue, including the letter in which 72 Members of the House urged President Carter to revoke the license.

The incident dates back to last January, when it was learned that the Commerce Department issued the license without notifying Congress—or even consulting the State Department. The action was taken despite section 6(i), which I proposed, to the Export Administration Act of 1979. That section requires that the Secretary of State and Secretary of Commerce shall notify Congress before export licenses are issued for militarily significant goods valued at more than $7 million to countries which the Secretary of State has determined have supported acts of international terrorism. Iraq, along with Syria, South Yemen, and Libya were on the list sent to Congress by the President on December 29 and placed in the CONGRESSIONAL RECORD by the gentleman from New York, Mr. BINGHAM, chairman of the House Foreign Affairs Subcommittee on International Economic Policy and Trade and the floor manager for the Export Administration Act. (CONGRESSIONAL RECORD of Jan. 29, 1980, page H380.)

On February 1, 1980, after looking into the engine licenses, Mr. BINGHAM and I wrote President Carter. We expressed our deep concern about the way the license was issued in an apparent violation of the Export Administration Act. We also urged that it be revoked because of Iraq's support for international terrorism and the dangers in having a hand in building up Iraq's navy at a time we were trying to reassure Saudi Arabia and other nations in the region of our support for their security.

No substantive reply was received for a long time, until May 14, an hour before a joint hearing on the issue by the House Foreign Affairs Committee on International Economic Policy and the Foreign Affairs Subcommittee on Europe and the Middle East. During the hearing, a State Department official acknowledged that a mistake may have been made in the way the license was handled.

The administration's position appeared to be: First, an acknowledgement that the matter could have been handled better; second, a proposal to institute new procedures which basically would do what the executive branch should have done in the first place; but third, a refusal to rectify the mistake. In effect, officials appeared to be saying that they were caught in a mistake, they will try to do better the next time, but sorry, we're going to stand by the bad decision.

On May 21, a letter initiated by Mr. BINGHAM, Mr. FASCELL, Mr. BUCHANAN, and myself, and signed by a total of 72 Members, was sent to the President urging him to revoke the license. No reply had been received at that time, which it was hoped, meant that the administration might be giving the matter a thorough review, leading to a revocation of the license. Because of this, and in deference to the chairman of the Foreign Affairs Committee's desire that committee members help keep to a minimum the number of floor amendments to the foreign aid bill, we did not offer an amendment on the engine issue when the legislation was before the House early this month.

With still no favorable response received by the time the Senate took up the bill this week, two amendments relating to the issue were offered by Senator STONE and passed by the Senate (CONGRESSIONAL RECORD, June 17, pages 15035-15039.)

It is my hope and expectation that because the administration has not acted in the proper manner on this issue and, as we suggested, reaffirmed the U.S. opposition to international terrorism, the conference should and will sustain the Senate's position.

Mr. Speaker, I insert the exchange of correspondence I mentioned into the RECORD, along with an editorial and news article relating to the issue.

SECTION 6(i) OF EXPORT ADMINISTRATION ACT OF 1979

(i) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

(j) CRIME CONTROL INSTRUMENTS.—(1) Crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961.

* * * * *

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 1, 1980.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: We are writing to express our deep concern about the Commerce Department's approval of an export license for gas turbine engines for four Iraqi Navy frigates. The license, valued at $11.2 million, was granted on January 23rd, the day of your State of the Union Address which underscored the U.S. interest in the Persian Gulf region.

The license was approved without prior notification to Congress, an apparent violation of the Export Administration Act of 1979, which requires such notification when equipment of military significance is to be sold to a country which supports international terrorism. Iraq, along with Syria, Libya and South Yemen, was on the list of such countries which accompanied your December 29, 1979 letter to Congress on export controls.

The Export Administration Act, Section 6(i), requires the Secretary of State and the Secretary of Commerce to notify Congress before any license is approved "for the export of goods or technology valued at more than $7 million to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant military contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism."

The eight G.E. engines for the four Iraqi Lupo class frigates clearly fall under the scope of the amendment. The engines are valued at well over $7 million dollars. The four frigates they power would significantly enhance the military capability of the Iraqi Navy which now consists primarily of small mission and patrol boats. Furthermore, your administration has made the formal determination that Iraq has repeatedly provided support for acts of international terrorism. The frigates would give the Iraqi Navy the ability to project a relatively powerful naval presence in the Persian Gulf and Strait of Hormuz, areas where Saudi Arabia, Oman and Kuwait are seeking U.S. arms to counter perceived threats from radical elements.

As the members of the House Foreign Affairs Committee most closely involved in the sponsorship of Section 6(i), we attempted to be sympathetic to the concern of the Executive Branch that it not be put in a straight jacket regarding sales of all items to countries which support terrorism. At the same time, we made it clear that international terrorism is such an abhorrent practice that particular care is required in scrutinizing proposed exports to regimes which encourage it.

Despite the clear record of Congressional and Executive Branch concern about international terrorism, we understand that the Commerce Department approved the Iraqi license without referring it to the proper policy-level State Department officials who normally would be consulted.

It appears to us that the Commerce Department's narrow interpretation of its obligations not only violates the Fenwick antiterrorism amendment, but also violates the spirit of trust needed to deal with these difficult issues.

It is contrary to common sense, also, for Commerce Department officials quickly to approve a license of military importance to a country which supports terrorism at the very time you and your high level foreign policy officials have been trying to reassure neighboring countries of our support for their future stability and security.

Therefore, Mr. President, we strongly urge you to:

(a) Suspend or revoke the license for the Iraqi Navy engines, and

(b) Order a review of the procedure used by the Executive Branch to consult and scrutinize applications for licenses to countries which provide support for international terrorism, as outlined under Section 6(i) of the Export Administration Act. It should be possible to make sure that licenses for the sale of any potentially sensitive or controversial equipment intended for such a country will be properly considered by policy makers in the State Department, as well as by the Congress.

With all good wishes,

Yours sincerely,

JONATHAN B. BINGHAM,
Chairman House Foreign Affairs Subcommittee on International Economic Policy and Trade.

MILLICENT FENWICK,
Member House Foreign Affairs Subcommittee on Europe and the Middle East.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 21, 1980.
The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are strongly opposed to the Administration's reported decision to proceed with the sale of eight gas turbine engines to power four modern missile carrying frigates being built in Italy for Iraq—a country which repeatedly has supported international terrorism. We call upon you to block this sale permanently.

As a matter of general policy, we believe the United States should prohibit the sale of equipment or services specifically intended for military end-use to countries which have been identified as repeated supporters of international terrorism. In individual instances, overriding American interests might suggest specific exceptions to this posture, but such a case has not been made with regard to this $11.2 million frigate engine sale, and we doubt that it can be made.

The Secretary of State, in December, pursuant to the requirements of Section 6(i) of the Export Administration Act formally listed Iraq with Syria, Libya and South Yemen, as countries which repeatedly have provided support for acts of international terrorism. Since that time, as you are aware, an Iraqi-backed faction of the PLO attacked the children's nursery at the Misgav Am kibbutz on April 7. Nine hours later a two year old child was among the three innocent civilians killed and four more children, aged one to three, were among the sixteen wounded.

With American diplomats currently being held hostage by terrorists in Iran and, until recently, in Bogota, this is the time to underscore U.S. opposition to international terrorism—not to take a step which would be construed as acquiescing in it.

Additionally, we believe such a sale is extremely unwise in terms of the volatile power politics of the Persian Gulf. We question the development of even an indirect military supply relationship with the radical regime in Baghdad which, along with the Soviet-backed PRDY, is regularly cited by the Administration as a potential de-stabilizer in the Persian Gulf necessitating large arms sales to Saudi Arabia. Iraq now only has small missile and patrol boats, but these frigates will greatly enhance the ability of Iraq to project its naval power down the Gulf to include the Strait Of Hormuz, through which passes 70% of the world's oil. Admittedly, alternative suppliers could step forward to provide engines so that our blocking the sale may not prevent Iraq from getting the frigates ultimately. Nevertheless, it would be incongruous for the United States to be required to support the further military buildup of the moderate states in the Gulf in order to counteract the potential threat posed to the world's oil lifeline by Iraqi frigates powered by U.S. engines.

We are aware of the belief in some quarters of the Administration that Iraq may be receptive to developing closer relationships to the West, thereby attenuating its overwhelming dependence on the Soviet Union. This would clearly be in our interest and it should be encouraged. But in view of the availability of alternate Western suppliers for the engines, there must be better ways to send an American "signal" rather than direct involvement in contributing to the construction of the frigates making Iraq's the strongest local Navy on the Persian Gulf. We suggest that civilian commodities rather than military-related items could be a much more appropriate way to indicate a desire to improve relations.

We also suggest the review process for cases such as this one should be tightened to close the loop-hole that allowed the Commerce Department to approve the engine license on January 23 without the prior notification to Congress contemplated in Section 6(i) of the Export Administration Act. This type of slip-up should be prevented in the future by administratively revising the control list to specify that the sale of all military end-use equipment and services to countries which are identified supporters of international terrorism would automatically be reviewed by the Secretary of State and reported, as necessary, under Section 6(i). Tightening the procedures after the fact is necessary in our view, but not in itself sufficient. The frigate engine sale must also be reversed.

In conclusion, Mr. President, we urge you to revoke the license for the Iraqi frigate engines and revise the control list for review of future sales in order to maintain your Administration's consistent opposition to international terrorism.

Sincerely,

Millicent Fenwick, John Buchanan, Jonathan Bingham, Dante B. Fascell, Robert J. Lagomarsino, Robert Garcia, Michael D. Barnes, Stephen J. Solarz, Charles F. Dougherty, William S. Green, William M. Brodhead, Bob Livingston, John F. Seiberling, Eugene V. Atkinson, Tony P. Hall, Patricia Schroeder, Howard Wolpe, Vic Fazio, Dan Glickman, Edward J. Stack, John J. Cavanaugh, David E. Bonior, Mike Synar, Dale E. Kildee, William S. Broomfield, Sidney R. Yates, Joe Wyatt, Jr., Norman F. Lent, John J. Rhodes, John E. Porter, Harold C. Hollenbeck, Donald J. Albosta, Herbert E. Harris II, Fortney H. (Pete) Stark, Larry Winn, Jr., Philip M. Crane, Andrew Maguire, Matthew F. McHugh, William Hill Boner, Barry M. Goldwater, Jr., Richard L. Ottinger, Elizabeth Holtzman, Hamilton Fish, Jr., William Clay, Paul Findley, Phillip Burton, Benjamin S. Rosenthal, Trent Lott, Edward R. Madigan, Benjamin A. Gilman, James H. Scheuer, William Lehman, Lester L. Wolff, Joseph P. Addabbo, Berkley Bedell, Robert W. Edgar, Parren J. Mitchell, Mickey Edwards, William H. Gray, III, Stanley N. Lundine, William J. Hughes, Robert T. Matsui, Edwin B. Forsythe, Timothy E. Wirth, James L. Oberstar, James A. Courter, Bruce F. Vento, Austin J. Murphy, Don Bailey, Ted Weiss, Don Bonker, David F. Emery.

[From the Courier-News, May 30, 1980]

TERRORISM

Seventy-two congressmen, including Reps. James A. Courter, R-Dist. 13, N.J., and Millicent Fenwick, R-Dist. 5, N.J., deserve congratulations for their efforts to halt the shipment of American engines to Iraq.

At first glance, it does not sound like much—the United States would ship eight gas turbine engines to Iraq to power four Italian-built frigates.

But, as the congressmen point out in a letter to President Carter, "With Americans currently being held hostage in Iran and, until recently, in Bogota, this is the time to underscore U.S. opposition to international terrorism—not to take a step which would be construed as acquiescing to it."

They are correct. The United States should not give even a hint of supporting or acquiescing to countries that include terrorism as an instrument of foreign policy. Iraq, along with Syria, Libya and South Yemen have been listed by the State Department as countries that support terrorism.

Yet the Commerce Department issued the export license for the $11.2 million transaction in January without notification to Congress or consultation with the State Department, although that procedure is required by Fenwick's amendment to the 1979 Export Administration Act. The administration counters that the sale is in the national interest.

We disagree. The sale is not in our national interest. In addition to the implications of American support of international terrorism, the congressmen note that "such a sale is extremely unwise in terms of the volatile power politics of the Persian Gulf."

The transaction should be canceled.●

OPTIONS IN AFGHANISTAN

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BOB WILSON. Mr. Speaker, a recent article in the Economist makes some enlightening points regarding the options available to not only the Soviet Union, but the West.

The article follows:

STUCK IN AFGHANISTAN

The Russians are in widening and deepening trouble in Afghanistan. Widening, as the rebels take their hit-and-run war against the invaders from the Iranian border to the Pakistani one, and into the capital, Kabul. Deepening, as the resistance is joined by schoolgirls, shopkeepers and estranged members of Mr. Babrak Karmal's communist government. Five months' bitter experience in Afghanistan should have forced two conclusions on rational Russian minds: first, that a clear military victory over the insurgents will be impossible with the present level of Soviet forces in Afghanistan; second, that the Russians can no longer hope to establish a pro-Soviet Afghan government and army capable of surviving the departure of Soviet troops.

This week's airlift of an estimated 10,000 Soviet soldiers to reinforce the cordon around Kabul does not prove that the Russians have conceded the first point; they have been shuttling troops in and out of Afghanistan throughout the past five months. But it does confirm that the Soviet force is increasingly overstretched. And while accounts of the fighting are more confused and conflicting than ever, with reports from the rebel refuge of Pakistan sounding strangely soberer than those from Delhi, what is indisputable is that the 100,000-strong Soviet army is further today from imposing a Pax Sovietica on Afghanistan than it was at the turn of the year.

The Russians' political failure is just as blatant. This too was underlined this week with news of a new round of executions, of street battles between rival factions of the communist party, and of a split between President Babrak Karmal and his number two. Should-be defenders of the government in the Afghan army were said to be defecting to the guerrillas around Kabul, while military recruiting teams put out house-to-house dragnets to fill the depleted ranks of the Afghan forces, now reckoned to be down to a third of their old strength.

Even if enough able-bodied Afghans are eventually drafted to reconstitute an 80,000-man Afghan army, the job of turning a reluctant rabble into a adequately trained and officered force might take years. Even then, there is every reason to doubt that it could ever be developed into a politically reliable instrument that would fight against fellow-Afghans rather than turn against the Russians and their local stooges. And without an army to prop him up, a Babrak Karmal or successor Soviet client would not last a day.

So the Russians are left with two choices. One is to continue reinforcing their troops in Afghanistan until they can crush the insurgency—which may be feasible, but could take half a million men—and then settle down to a permanent occupation. The other is to negotiate a political settlement that would allow them to withdraw. Both will involve heavy sacrifices: the first, of men and resources; the second, of political aspirations. What the seven leaders of the non-communist world should be talking about in Venice a week hence is how to influence Soviet cost-accounting in favour of the second option.

STICK, CARROT

This means raising the costs of the Russians of pursuing their Afghan adventure and at the same time defining the terms and opening the channels for negotiations. The military costs for Russia can be affected from outside only by stepping up arms supplies to the rebels. Weapons are undoubtedly getting through to them now, probably through at least two of the three unclose-able borders—with Iran, with Pakistan and, maybe, the barely passable one with China—and probably from several foreign sources. But for all their disinformation about a foreign-sponsored counter-revolution, the Russians must be well aware that external aid has so far played only a marginal role in the Afghan resistance; the challenge is so durable precisely because it is spontaneous and indigenous.

There are dangers in increasing arms aid to the rebels much beyond the present, admirable, bounds of discretion. It could turn Afghanistan into what has already, inaccurately, been described as a proxy war between the superpowers, and thus diminish support for an anti-Soviet stand among non-aligned and Moslem countries. It could commit the arms suppliers over-closely to an Islamic fundamentalist movement that may yet turn out to be as inimical to western interests as Ayatollah Khomeini's in Iran. Furthermore, no amount of weapons would necessarily be enough to prevent the Russians from crushing the insurgents if they decide to push for victory at all costs. The aid pipeline should be open wide enough to enable the Afghans to convince the Russians that they cannot win without such an open-ended commitment, and perhaps not even then; and it should still be done quietly.

The other way of raising the cost to Russia of another cold winter in Afghanistan is by squeezing the food and technology transfers on which the Soviet economy has come to depend. Like the Olympic boycott, President Carter's trade sanctions have not been very effective so far (see page 72) and American exporters have borne by far the largest share of the burden. The Russians seem to have made up most of their lost American grain from other sources; and the loss of long-term industrial projects will take time to hit. This is why a partial trade embargo will persuade the Russians to change their strategy in Afghanistan only if they first become convinced that a quick win is impossible, and that sanctions will be as prolonged as their own occupation—and may spread as time goes on.

The costs of remaining in Afghanistan, as the Russians calculate them today, are unlikely to look intolerable. But it is important that they should be able to read the other side of the ledger. The west, in cooperation with Afghanistan's neighbours, should reaffirm its readiness to provide a face-saver in the form of some version of the Carrington neutrality plan, enshrined if necessary in a formal Austrian-type treaty. But if this plan is to be fitted in with recent Soviet-Afghan proposals, the Russians will have to accept (a) that nobody can deliver an end to the insurgency, which will come about only as the result of a political settlement; and (b) that Soviet troop withdrawals will have to accompany, not follow, any action to stop arms aid or restrict guerrilla sanctuaries.

The Russians and their clients are not the only parties to the Afghan dispute unready for serious negotiations. At the end of last month the umpteenth quest for unity by rebel leaders in Peshawar came to nothing. The rebels too need reminding that, unless they can provide a political alternative, they will lose the war.●

BOB ELSON NAMED TO BASEBALL HALL OF FAME

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. HYDE. Mr. Speaker, on August 6, 1979, a living legend to all Chicagoans, and we suburbanites as well, was inducted into the Baseball Hall of Fame at Cooperstown, N.Y.—Bob Elson, the voice of Chicago baseball.

Bob Elson started broadcasting baseball in 1930 and his voice is better known to baseball fans in the Midwest than anyone else who ever sat before a microphone and painted word pictures of the heroics going on at Wrigley Field or Comiskey Park.

The Chicago Tribune, Chicago Sun-Times, and Chicago Magazine have told Bob's story well, and I am honored to share them with my colleagues today:

The three articles follows:

[From the Chicago Tribune, Feb. 15, 1979]

ELSON NAMED TO BASEBALL HALL OF FAME

(By Richard Dozer)

Bob Elson, whose play-by-play broadcasts of major league baseball spanned five decades and whose dugout interviews were the first of a kind, Thursday was named to baseball's Hall of Fame

"The Commander," as friends know him, was besieged with calls of congratulations from all parts of the nation—from colleagues, from proteges of his trade, and from those whose games he described.

On Aug. 6, Elson will be enshrined in the Hall of Fame in Cooperstown, N.Y., along with Willie Mays. Elson, eloquent but never verbose, precise in his diction and never at a loss for words, found only the simplest terms to express his election.

"This is the greatest thing that could happen to me," he said.

He was a unanimous choice of the committee that met Tuesday in New York, according to Blake Cullen, National League publicity director and spokesman of the selection group.

A veterans' committee has yet to pick another Hall of Fame player from among those who have been out of the game for more than 20 years, and Elson says he hopes they choose Hack Wilson, whose games he aired in his early days of doing both Sox and Cubs' home games as far back as 1930.

Those were the days Al Lopez remembered him first. "I was with the Brooklyn club, and I can still remember Elson and those other young fellows doing the games," Lopez said Thursday from his home in Tampa.

The other "young" fellows were Hal Totten, Pat Flanagan, Jimmy Dudley and Johnny O'Hara, Elson said: "The stations had to pay the Sox $10,000 a season for broadcasting rights. But old man Wrigley [William Jr.] let us do the Cub games for nothing."

Lopez, enshrined in Cooperstown himself three years ago, was to cement a long friendship with Elson after that.

It reached its zenith during the nine years Lopez managed the White Sox from 1957 to 1965, with Chicago winning a pennant in 1959.

Elson had gained reknown as a gin rummy expert, but Lopez, a decent card player, too, had shown no desire to play Bob until three rookie reporters coaxed him to do it during a train ride on the New Haven Railroad from New York to Boston in 1958.

"I told Bob I'd only play for an hour," Lopez recalled. "Then I wanted to eat dinner. But I got a pretty good run of cards and beat him two quick games. He didn't want anybody to see him paying me off, so he slipped me the money later in the diner. Maybe one of you boys remember how much it was. I don't." [It was $37].

Elson had one major broadcasting disappointment when sponsor politics denied him the 1959 White Sox-Dodger World Series. In that same series, a Sox pitcher was equally disappointed at not being selected by Lopez to start any of the six games that swept the Dodgers to the title.

He was Billy Pierce, the southpaw star who won 186 games in 12 seasons for the Sox—Elson broadcasting every one. None stands out more than Pierce's brush with the record books in June of 1958 when the Senator's Ed Fitzgerald, a light-hitting catcher, blooped a two-out single to ruin Billy's no-hit bid in the ninth inning.

Pierce, who is in sales and promotion with Continental Envelope in Chicago, shouted "wonderful" into the phone when he learned of Elson's honor, then called to add his congratulations to those of Lopez and others, including Jack Brickhouse, a long-time Chicago colleague.

Said Pierce: "I can't think of a nicer thing."

Regarding their parallel disappointments in the '59 Series, Pierce insisted, "I felt worse for Bob than I did for myself."

Elson had done a dozen World Series before being denied the one he most deserved. Kenesaw Mountain Landis appointed him repeatedly regardless of the competing teams. Among them were the '38 Series in which Bob described Babe Ruth's legendary called shot on his home run off the Cubs' Charlie Root, and the '43 classic when the Gillette company coaxed the Navy into giving him a leave to carry the games around the world.

Elson, who rose to the rank of commander, thus became the first serviceman to broadcast a World Series in uniform. After the war, Bob did Sox games only.

Don Wells and Milo Hamiton, two of his many associates during the '50s and '60s, expressed great happiness at Elson's election to the Hall.

"When I first heard him on the air, I was a kid in Pontiac, Ill, throwing a rubber ball against a corn crib," recalled Wells, now a sportscaster at KFWB-radio in Los Angeles.

"I've never known a man with such energy. I feel privileged to have been part of the fraternity. He was a tutor, and a good one.

"In my first year with him, 1953, I just sat in silence. He wasn't used to having a sidekick then, although he'd had some giants of the industry as World Series color men—Fulton Lewis Jr., H. V. Kaltenborn, Gabriel Heater, Boake Carter."

Wells told of Elson's great concentration and of the time when fellow employes set Elson up during a studio sportscast. The idea was to get Elson to break up. They engaged a stripper to stand before him and shed her clothes during his program.

"I think he grabbed at her a couple times, but he never broke. He finished the broadcast without a fluff."

Wells was Elson's teammate until 1960 when Bill Veeck brought in Ralph Kiner. From Chicago, Wells went to California and teamed with Buddy Blattner for 12 years doing Angels' games. But his friendship with Elson has endured.

"I just love him, that's all," said Don.

Hamilton, who served with Elson from 1961 to 1965, feels much the same way. Milo has the ability to mimic Elson almost perfectly, and he said from Pittsburgh Thursday, "When people tell me I sound like him, they couldn't give me a greater compliment."

Milo, now the Pirates' broadcaster, spent several years doing the Atlanta Braves after leaving Chicago. Once he had Elson as guest announcer for an Old-Timers' game.

"We'd done this with others, but we were swamped with letters and calls after the Commander's appearance—and so was he," Milo said. "One letter containd a copy of his signed fan club picture from back in 1932. A lot of our listeners were in Florida. They were retired Chicagoans who remembered him in his days with the Cubs and Sox.

"I remember hearing him first as a little kid in Iowa. It was a dream come true when I had a chance to work with him. Anyone who'd been around him in this business is bound to have some 'Elsonisms' in his repertoire.

"His election is deserved. But I thought he should have gone in last year."

The two who preceded Elson as charter broadcasters in the Hall were Red Barber and Mel Allen, both enshrined last August.

Elson's broadcasting career goes on. As an interviewer, many say there is and was none finer. Bob still chats with sports celebrities in a program taped for Sunday mornings in the lobby of Northwest Federal Savings.

From 1938 to 1943 he interviewed celebrities in a nightly program carried throughout the country from the 20th Century Limited railroad train. For 15 years after World War II, while he also broadcast Sox games, he brought great names into the living room on his popular Pump Room show. There he had on such figures as Dr. Charles Mayo, Loretta Young, Orson Welles, Jack and Robert Kennedy, Charlie Chaplin, and scores more.

"The only man who ever turned me down was architect Frank Lloyd Wright," Elson said. "I saw him at the train station and told him how much I admired his work—particularly a home on a hill I'd seen in Phoenix. I asked him if he'd go on the show.

"He turned to me and said, 'Young man, I've done enough for you already.' With that he boarded the train. End of interview."

[From the Sun-Times, Feb. 16, 1979]

Elson Named to Hall of Fame

(By Eddie Gold)

All those old Cubs and White Sox players in the baseball Hall of Fame soon will have their own broadcaster moving in with them.

Bob Elson, the voice of Chicago baseball, was notified Thursday of his election to the Hall. Elson will be inducted Aug. 6 at the shrine in Cooperstown, N.Y.

"I'm higher than a kite," said Elson, still active in sportscasting at 74. "I got the news on Valentine's Day." What a Valentine's present.

"Baseball is my life," added Elson. "It's a great honor. What a way for me to end my career. And it's best to get it when I'm still alive."

He is the first Chicago sportscaster to be named to the special wing of the Hall dedicated to greats of sports writing and broadcasting. He joins Edgar Munzel, former Sun-Times baseball writer; John P. Carmichael, former columnist for The Daily News, and the late Warren Brown, first sports editor of the Chicago Sun.

A veterans' committee has yet to pick another Hall of Fame player from among those who have been out of the game for more than 20 years, and Elson says he hopes they select Hack Wilson, the Cubs' slugger who holds the National League record of 56 homers and the major league record of 190 runs-batted-in.

"It would be terrific if we made it together," said Elson. "If I had a vote, Wilson would have been in a long time ago. He really deserves it. Players like Kiner, Mays and Aaron made an onslaught on his records and they failed."

Elson, a native Chicagoan, planned on becoming a doctor until he won a radio announcing contest in St. Louis. "I was at the Chase Hotel visiting billiard star Willie Hoppe," recalled Elson. "I didn't know what it was all about. I then received a call from station WGN and started broadcasting baseball in 1930. Connie Mack was my first interview.

"At that time, five stations were broadcasting the Cubs and Sox games. There were no soap operas—nothing but baseball every summer afternoon. The toughest part was doing the doubleheaders in the days when we used to 'recreate' out of town ball games from the ticker tapes," Elson said.

"There I'd be surrounded by four blank walls . . . the 'crowd noise' record blaring away in the background . . . reading the bare details over the Western Union operator's shoulder as they came in . . . changing that 'OUT CF' notation into a 'great running one-handed catch back by the flagpole in deep center.' "

"After seven hours of that, everything was a blur."

Elson did the Cubs and Sox broadcasts until he entered the Navy where he rose to the rank of commander. Following the war he traveled exclusively with the White Sox.

Elson, who estimates he broadcasted more than 5,000 baseball games for stations WGN, WJJD, WCFL and WMAQ (plus a one-year stint with Charlie Finley's Oakland A's), then recalled some of his broadcasting thrills.

"Babe Ruth calling his shot against the Cubs in the 1932 World Series. Yes, he pointed his bat toward the Wrigley Field bleachers and hit it in almost the precise spot.

"Then there was Gabby Hartnett's 'homer in the gloamin' in 1938. The Cubs and Pittsburgh were tied 5-5 in the last of the ninth and Mace Brown was pitching for the Pirates. It was getting dark and the umpires were going to call the game . . . until Hartnett homered into the left-field bleachers and the Cubs went on to win the pennant.

"I've broadcast 12 World Series and six All-Star Games," added Elson. "The top thriller was Ted Williams' game-winning homer with two out and two strikes off Claude Passeau in the 1941 All-Star game. Williams told me later his mother did a backward somersault when she heard me describe the homer."

[From the Chicago Magazine, August 1979]

Bob Elson, Dean of the Ball Park

(By John R. Powers)

John R. Powers, author of the play "Do Black Patent Leather Shoes Really Reflect Up?", spends many summer evenings at Comiskey Park and, unlike most of the players, has never been thrown out.

It was like expecting a concert and getting an explosion.

Early this season. A Boston friend of mine and I are at Comiskey Park waiting to see the White Sox play. It is a cold night. We are sitting a few rows below the broadcasters' booth. My friend hasn't been to Chicago in over ten years, so when he turns on his transistor radio he expects to hear Bob Elson, dean of the nation's sports broadcasters. Instead, he hears Harry Caray.

Bob Elson, who has lived here all his life, is a dignified broadcaster with a voice like a violin. Harry is anything but dignified and sounds like a trombone with a heavy cold. Even though it is Harry who is now broadcasting the White Sox, this is going to be Elson's greatest year yet.

This month, Bob Elson will achieve what millions of young, and not so young, American boys have dreamed of. And unlike most of those who finally make it, this man will be alive, very much so, when he does. On August fifth, Bob Elson will enter baseball's Hall of Fame. He will become only the third broadcaster to be so honored, the other two being Mel Allen and Red Barber.

Elson retired from broadcasting Chicago White Sox games in 1970, thus ending a play-by-play career that spanned four decades and nearly 7,500 games—more years and games than any other broadcaster in the history of baseball. (He missed about one game every ten years and then only because of illness.) Some of baseball's immortal moments happened in those thousands of games. For instance, Elson was at the microphone for the 1932 World Series when Babe Ruth pointed to the center-field bleachers just before he hit a home run to that exact spot. Elson also broadcast the first All-Star game.

Today, at 75, he remains active by broadcasting a half-hour weekly interview show at WAIT Radio.

Top of the third inning and the fans around us are yelling in unison up at the booth, "Hey, Harry!" He recognizes their cheers with a wave of his hand, My Boston friend sneers, "They would never yell at Bob Elson that way. And if they did, it would be, 'Hey, Mr. Elson.' "

Bob Elson got into broadcasting quite by accident. As a young man, visiting a friend in St. Louis, he went to station KWK for a tour and ended up entering a broadcasting contest. He won and the incident received a lot of attention in Chicago. Shortly thereafter, Elson was hired as a sports announcer by WGN.

Although he broadcast both the Cubs and White Sox games from 1930 to 1945 (with two years off for military service) and the White Sox games from 1945 to 1970, Elson was much more than a local sportscaster. In his career, he announced 12 World Series and nine All-Star games. He readily admits that his friendship with the baseball commissioner Judge Kenesaw Landis contributed to his national success.

"Judge Landis," says Elson, "ran the game with an iron hand. He ran baseball broadcasters with two iron hands. We couldn't mention any celebrities who might be in the stands. The judge would say, 'This is baseball's show, not Hollywood's.' "

How times have changed. Now the entire game has gone Hollywood.

Bottom of the fifth inning and the temperature has dropped to near freezing. My Boston friend and I sit huddled in our coats. If either of us had matches, we'd set fire to the other guy just to keep warm. The Sox are losing by a ton of runs. A Sox player hits a bloop single and the fans, easily the most arrogant on earth, start chanting their national anthem of antagonism at the opposing team: "Na na na na, na na na na, hey, hey, hey, goooodbye."

Bill Veeck has three announcers who handle the play-by-play on both radio and television: Lorn Brown, who is almost sane; Jimmy Piersall, who once wasn't; and the main announcer, Harry Caray, who never will be.

Harry is leaning out of the booth and is waving a huge fishing net. "You know," says Harry over the air, "I haven't caught a foul ball in a long time. I'm due, I tell ya, I'm due." Piersall replies, "You know, Harry, I've got the papers to prove I'm well."

Bob Elson's broadcasting career went well beyond the realm of baseball. He broadcast the National Hockey League's Chicago Black Hawks games for 20 years and also covered the National Football League's Chicago Cardinals games before they relocated to St. Louis.

Elson has always been known as a superb interviewer. In 1930, he conducted baseball's first on-the-field interview, his guest being Connie Mack. Elson had a general interview show on the famed Twentieth Century Limited, which ran between New York and Chicago. But his interviewing abilities peaked during the 1950s in his broadcasts from the Ambassador East's Pump Room. No VIP's visit to Chicago was considered complete unless it included an Elson interview at The Pump Room. The show was so popular that, when it was on, drivers would avoid going on Lower Wacker Drive because they would lose the reception.

Elson possessed a number of manenuvers that made for an excellent interview. If a guest gave too short an answer, for example, Elson's distance from the microphone and his demeanor would indicate to the interviewee that more was expected. Elson would therefore often get comments that surprised even the person who said them.

The style of Bob Elson was low on feeling but high on enunciation. Though his words carried vocal inflections, they were always within a polite range. Both his words, and the long pauses between them, were crisply created. Elson was never one of those rambling radio voices.

Seventh inning and Harry is leading the crowd in singing "Take Me Out to the Ball Game." My friend looks around at the nearly filled park and shakes his head in disbelief. He mumbles, "So many people out here on a night like this. Unbelievable!" He doesn't bother to turn around and look up at the singing Harry. Instead, he just jerks his thumb up in Harry's direction and says, "The White Sox's most valuable player."

Unlike Harry Caray, who is literally a part of the event, Bob Elson kept a distance between himself and the game. He reported it more than announced it. You sometimes got the feeling that Elson did not really need the game in front of him to do the broadcast. In fact, in his early days, Elson actually recreated out-of-town ball games from the ticker tapes, changing an "OUT CF" into "A great running one-handed catch back by the flagpole in deep center."

Bob Elson was never really very emotional. Most baseball broadcasters like to enhance a home run by announcing it in their own style. When a Chicago Cub slams one over the wall in Wrigley Field, Jack Brickhouse yells out his traditional "Hey, hey!" while his radio counterpart, Lou Boudreau, rings a bell. At Comiskey Park when one's heading for the seats in the outfield, Harry Caray chants, "It could be, it might be, it is, out of here. Holy cow!" Bob Elson would say, "It's a home run."

Elson's national prominence began to fade after World War Two, for many reasons: the introduction of television, which brought a lot of competition from younger sports broadcasters; the death of Judge Landis; the mediocre record of the White Sox; and, most important, a gradual liberalization of broadcasting styles, which certainly ran contrary to Elson's literate one.

The last Sox batter of the night strikes out to end the game. My friend from Boston and I discover, as do most of the other fans, that we are nearly frozen to our seats. A television camera, its red cue light off, points at Harry Caray. He stands up in the open broadcasting booth to give the final statistics of the game. A taped commercial is put on the air. Knowing that there are only a few seconds before he will be on camera, Harry moves fast. He whips off his overcoat, sport coat and sweater vest, rolls up his sleeves, unbuttons the top button of his shirt and loosens his tie. As the red cue light on the camera lights up, Harry manages to stop shivering long enough to wipe his brow as he shouts, "What a perfect night this was for a ball game."●

SES BONUS PROGRAM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. DERWINSKI. Mr. Speaker, the highly respected Wall Street Journal editorialized in its June 20 edition on the wisdom of continuing the bonus system for outstanding performances under the Senior Executive Service program. It aptly comments that "killing the plan would pretty surely do more to hurt the cause of Government efficiency than to help it." I agree.

Mr. Speaker, the SES program is not the place for false economies. This is one program which needs to be properly funded if we are to hope for increased productivity and accountability in Government.

I commend this excellent editorial to the attention of the Members:

PETTY CASH

This spring it's been heartwarming to watch the Congress experience its tiny twinges of fear and guilt about the bloated condition of the federal establishment it's created. But as the appropriations process grinds on, it looks like the legislators have forgotten just what the goal of all this budget vigilance is really supposed to be. Congress appears to be on its way to destroying the just-born bonus system for senior government managers, even though killing the plan would pretty surely do more to hurt the cause of government efficiency than to help it.

The Senior Executive Service program was set up as part of the 1978 Civil Service Reform Act. It aimed to place high-level civil servants in a personnel system somewhat more like that of private industry. On the one hand, the new rules made it a bit easier to get rid of non-performers; on the other, they established a bonus system for outstanding performance. Agency heads, on the recommendation of peer review boards, could give out bonuses up to 20 percent of a manager's base salary; in any one year, no more than half the top managers would be eligible for some level of bonus.

Office of Personnel Management analysts estimate that under the bonus program the agencies would probably end up dispensing 15 or 20 million dollars a year. This estimate is consistent with the behavior of the two agencies, the Small Business Administration and NASA, that have already begun handing out the money. The OPM people argue that it's worth it; this kind of expenditure to establish an effective incentive system pays for itself, just as it does in private industry. Certainly the one vaguely comparable program we've had for federal employes, the Federal Incentive Awards Program, has returned far more than it cost.

But what's coming up for a final vote in Congress now is a move to cut the size of the bonus a manager can get. Some 90 percent of the managers in the bonus program are making $50,000 a year; Congress is about to say that they can't get any more than $2,750 as their bonus. This is not peanuts, but neither is it the kind of maximum that you hold out when you really want to stimulate hope and vigor in the managerial breast. Moreover, our lawmakers are not saving any money with this little slash. They have not taken any budget money away from the agencies affected by their move; all they've done is to deny agency heads the discretion to use enough of it to run a bonus program effectively.

It is fun to disturb the comfort of federal bureaucrats. We are rather fond of the practice ourselves. and they do tend to deserve it most of the time. But the point is to try and lift some of that bureaucratic torpor, not to nail the corners down. The bonus system doesn't deserve this kind of strangulation at birth.●

A TRIBUTE TO PAUL HALL, OUTSTANDING AMERICAN MARITIME LEADER

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. ZEFERETTI. Mr. Speaker, it is with deep sadness and regret that I pay tribute to the memory of the late Paul Hall, president of the Seafarers International Union of North America (SIU), who died June 22 at the age of 65. As a close personal friend of Paul, I can attest to his unique leadership qualities as well as his warmth as a human being.

Paul Hall represented the epitome of the American work ethic, having begun his career in the 1930's as a fireman sailing out of his home port of Mobile, Ala. He joined the SIU as a charter member in 1938 and worked his way up through the ranks to become president of the union in 1957, where he worked tirelessly in shaping the organization into a thriving and vibrant union with a membership of more than 80,000. In addition to his role in the SIU, Mr. Hall served as president of the AFL-CIO Maritime Trades Department, which he built into the largest department within the AFL-CIO, comprising 43 national and international unions with 8 million American workers.

During his brilliant career, Paul served as an adviser to Presidents since the days of Harry Truman, and he was a central figure in the passage of the Merchant Marine Act of 1970, perhaps the most important piece of maritime legislation ever enacted by Congress. The act enabled a faltering American merchant marine fleet to rebuild and become more competitive with foreign shipping fleets.

As a result of Brooklyn's proximity to the sea and the many docks and shipping piers within my congressional district, Paul and I earned a mutual admiration and respect, both on a personal and a professional level. We worked together on a number of projects designed to revitalize the New York City Harbor, and the increasing volume of maritime trade and commerce passing through the city's harbors stands as a testament to Paul's leadership within the industry.

Above and beyond his professional achievements, Paul Hall never lost the warmth and charm that made him so popular with his many friends and acquaintances. We became fast and lasting friends, and I will sorely miss his expertise and advice in the years ahead, a time so crucial to our merchant marine fleet.

Mr. Speaker, I want to express my deepest sympathies to Paul's wife, Rose, and to his family. I also want to assure Frank Drozak, acting president of the union, of my ongoing support in attaining the goals for which my good friend, Paul Hall, worked so long to achieve. He has certainly left us with a good foundation upon which to build.●

WATER PROJECTS HAVE MANY BENEFITS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. HUBBARD. Mr. Speaker, I think it is especially important, at this time of budget cutbacks and concerns about wasteful spending, that we keep a good perspective and remember those Federal projects which demonstrate a solid investment in this country's future. We must always be on the watch for wasteful projects and pork barrels, but let us also remember the benefits that we have received from many projects.

The benefits to the public received as a result of the Federal Government's water development projects were recently spotlighted in an editorial which appeared in the Paducah Sun, in Paducah, Ky. This editorial adds a much-needed perspective to the debate surrounding Federal expenditures for water projects, and I reprint it here for the benefit of my colleagues.

The editorial follows:

"PORK BARREL" SNEER IS OFTEN MISPLACED

In researching last week's editorial on the Gallipolis locks and dam, we came across some statistics showing what the river and river development have meant to people of the region.

Maybe some readers, intimidated by hearing water projects of the federal government glibly condemned as "pork barrel" legislation, would be encouraged to note these facts.

The Ohio Valley Improvement Association looks at the industrial expansion in the Ohio Valley every two years. It's been doing that since 1950.

From that year through 1978, it figures, industrial expansion on the Ohio River and its tributaries has amounted to *$63.6 billion.*

This is a conservative figure. It covers only reported projects and expansions of $1 million investment or more. It covers the counties bordering on the Ohio and its tributaries, a total of 2,336 connecting navigable waterways.

The survey, then, gives only a partial picture of the economic impact of the development of water resources. It covers only industrial facilities—generally manufacturing and power generation facilities.

It does not include retail establishments, hotels, amusement enterprises, hospitals, schools, locks and dams, highways and bridges or other facilities that don't directly produce things physically.

These are investments in our area that bring jobs, money and people. A major factor in the location of the facilities has been the low-cost power, low-cost transportation and abundant water supply made possible by the intelligent development of the river system.

Next time you hear someone condemn "pork barrel" legislation, think of that.

Here's another easily remembered fact. One part of water programs so lightly condemned by the opponents is flood control.

Over the life of existing flood control works, according to the OVIA, they have prevented property damage amounting to $5.2 billion.

The projects that have brought about this saving have cost about $2.7 billion.

Again, it's well to remember that this figure doesn't even attempt to measure the value of lives saved and disease prevented by these projects. Such values, as the OVIA notes, are "beyond monetary calculation."

Nor does it attempt to measure the extent to which water development projects pay for themselves in revenues generated by all this development that flow back into the government treasuries.

Of course there's such a thing as pork barrel legislation. No sensible person would undertake to defend every single dam and water project.

But the evidence is plain that this form of public expenditure brings about enormous public benefit. It's irresponsible to lump the whole program under the pejorative "pork barrel" label.●

FARM PARITY RATIO AT 48-YEAR LOW

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. FINDLEY. Mr. Speaker, if the Carter administration and the Congress need any more evidence that the folks who produce our food are in deep financial trouble, they have only to look at the farm parity ratio figures.

The farm parity ratio for May 1980 stood at 60 percent, the lowest it has been since the Great Depression when in June of 1932 the parity ratio stood at its historic low of 53 percent.

The parity ratio is the ratio of the index of prices received by farmers to the index of prices farmers pay—interest, taxes, wage rates, and so forth. The parity ratio does not measure the farmer's income, total purchasing power, or welfare, but it does measure price relationships and hence is regarded as a significant measuring stick. The parity ratio indicates the per unit purchasing power of farm commodities generally in terms of the goods and services currently bought by farmers in relation to purchasing power of farm products in the 1910-14 base period.

From data supplied by the Congressional Research Service, here is a list of the lowest farm parity ratios for each year since the Great Depression year of 1932 when the all-time low of 53 percent was recorded.

LIST OF THE LOWEST FARM PARITY RATIOS SINCE THE GREAT DEPRESSION

[In percent]

	Parity ratio
Year:	
1932	53
1933	55
1934	71
1935	85
1936	88
1937	84
1938	77
1939	75
1940	77
1941	85
1942	101
1943	112
1944	105
1945	106
1946	109
1947	111
1948	110
1949	95
1950	95
1951	103
1952	95
1953	90
1954	85
1955	80
1956	81
1957	80
1958	83
1959	77
1960	78
1961	78

LIST OF THE LOWEST FARM PARITY RATIOS SINCE THE GREAT DEPRESSION—Continued

[In percent]

	Parity ratio
Year:	
1962	78
1963	76
1964	74
1965	74
1966	76
1967	72
1968	73
1969	72
1970	67
1971	68
1972	71
1973	80
1974	74
1975	69
1976	66
1977	63
1978	66
1979	67
1980 [1]	60

[1] For May.

Two recent reports underline the distressing farm income picture this year.

Farm income for 1980 is estimated by Chase Econometrics to be the lowest in real terms since 1934. In an April 1980 report, the organization reported:

> Realized net farm income (before inventory adjustment) is forecast to fall to $22-24 billion, compared to $29.6 billion last year and $26.8 billion in 1978. This figure would be the lowest nominal income since $18.7 billion in 1977, and the lowest in real terms since 1934.

The U.S. Agriculture Department has announced that net farm income in the second quarter plunged 40 percent, to an annual rate of $20.2 billion from the year earlier, $34.1 billion. In its quarterly report on the farm economy, USDA said farm income continued to get squeezed between low crop and livestock prices and high-production costs. For the year, USDA expects income of $21 billion to $26 billion, down from $33.3 billion in 1979.

Farmers this year have been beleaguered by embargo-depressed commodity prices, exorbitant credit at planting time, and inflation-escalated costs. If it is true that a depression is usually farm led and farm fed, then this Nation should pay closer attention to the warning signals that are out there on the farms of America.●

WILLIAM S. McNAMEE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special recognition to Mr. William S. McNamee, president of Farm Press Publications, for his recent receipt of the 1980 Missouri Medal for Distinguished Service in Journalism. Among the publications of Farm Press Publications is the Delta Farm Press, a weekly paper that provides the best in news coverage of agriculture-related developments.

Mr. McNamee and his intense interest in agriculture is the reason for that excellent coverage. He joins only 354 recipients of this prestigious journalism award in 50 years and joins company with other giants of the journalism field such as Walter Cronkite, David Brinkley, and other such outstanding journalists who may be better known nationally but who are no more dedicated to providing good news coverage than Mr. McNamee.

I want to express my congratulations to Mr. McNamee for this outstanding honor. I further insert in the RECORD this article from the Delta Farm Press on the occasion of Mr. McNamee's receipt of the award.

The article follows:

McNAMEE WINS NATIONAL AWARD IN JOURNALISM

COLUMBIA, MO.—William S. McNamee, president of Farm Press Publications, Inc., was one of eight persons or institutions that were presented with a 1980 Missouri Medal for Distinguished Service in Journalism during the recent Journalism Week at the University of Missouri, according to Dean Roy M. Fisher.

The award is one of the oldest and most prestigious in American journalism, having been presented to only 324 individuals or organizations in 50 years. Among the better known recipients of this national and international award, which is never presented in absentia, have been Walter Cronkite, David Brinkley, John Chancellor, David Lawrence, Harry Reasoner, Fairfax Cone, Howard K. Smith, James Reston and Oveta Culp Hobby.

AWARD CITATION

McNamee was cited for, "his development of the Farm Press Publications into one of the strongest voices speaking to farmers throughout 20 Sunbelt states; his willingness to take and hold editorial stands on principle, in the face of economic resistance; and, his demonstration that integrity of editorial content provides the fundamental basis of publishing success."

Other 1980 medalists were: Allen H. Neuharth, chairman and president of Gannett Co., Inc., and chairman of the American Newspaper Publishers Association; Katherine Fanning, publisher of The Anchorage (Alaska) Daily News; Robert W. Greene, Newsday assistant managing editor and holder of two Pulitzer prizes for investigative reporting; Merrill Panitt, editorial director of Triangle Publications and TV Guide editor; The MacNeil-Lehrer Report, a Public Broadcasting System daily news program; Sam A. Burk, founder of a midwestern radio network and Henry J. Waters, III, editor and publisher of the Columbia, Mo. Daily Tribune.

HISTORIC AWARD

Dean Fisher stated that, "The University of Missouri School of Journalism has awarded its Journalism Honor Medal for distinguished service in journalism continuously since 1930."

"The awards are presented each year during the School's annual Journalism Week. Medalists, who are always invited to address the alumni, faculty, and students of the School, receive their awards from the president of the University at the annual awards banquet. The medalists' photographs are then hung in the Neff Auditorium Hall of Honor, alongside those of previous winners," according to Dean Fisher.

HIGHEST HONOR

Distinguished newsmen and newswomen, editors, broadcasters, advertising persons, or institutions from all over the world have been recognized with this highest honor from the world's oldest school of journalism. Among foreign institutions honored with Missouri Medals have been: La Prensa, Buenos Aires, Argentina; Le Monde, Paris; London Times, London; Neue Zuercher Zeitung, Zurich, Switzerland; and El Mercurio, Santiago, Chile.

McNamees's address to the School was on "Shared Monopolies and Price Fixing," which he considers to be an important underlying cause of the nation's and the world's rampant inflation.

PRICE MANIPULATION

"Not only are basic national and international industries 'getting together' behind the scenes to develop agreements to manipulate supply and forego price competition, but many local businesses, too, where feasible, are also getting together to fix prices," he said.

"This is the antithesis of the American free enterprise ideal. The media is not informing the American people adequately about this situation because the media itself has become so concentrated as to be able to manipulate the news and would not like to bring more stringent antitrust enforcement down upon itself," McNamee said.

WORDS TO STUDENTS

With the School's new emphasis on investigative reporting he urged students going out into the world of journalism, and those already involved, to attempt to return the nation's media to its historic role of encouraging and promoting free and open sales and price competition.

McNamee's publishing company is part of a highly competitive field of U.S. farm magazines. His publications are Delta Farm Press, Southeast Farm Press, Southwest Farm Press and California-Arizona Farm Press. The firm has offices in Clarksdale, Miss., Memphis, Tenn., Dallas, Texas, Lubbock, Texas, Fresno, Calif., Atlanta, Ga., Raleigh, N.C., Columbia, S.C. and Chicago, Ill. Circulation now exceeds 230,000 to farmers and agribusiness each week. He also owns Delta Mailing Service, Inc., in Memphis and Delta Properties, Inc.

McNamee is a graduate of the University of Missouri School of Journalism.●

THE DEPARTMENT OF EDUCATION'S CHALLENGE TO CONGRESSIONAL AUTHORITY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. ASHBROOK. Mr. Speaker, as Members of Congress, we have differing obligations to our constituents, to our geographical areas, to our parties, and to our governmental philosophies. But one obligation which does not divide us, and which we owe to the Constitution, is that of defending the role of Congress under the doctrine of the separation of powers. As ranking Republican on the Education and Labor Committee, I am in full agreement with Chairman PERKINS' objections to the recent opinion by Attorney General Civiletti, on the authority of which the Department of Education has chosen to ignore the congressional veto of four of its regulations.

I am pleased to add that almost every member of the House Committee on Education and Labor, of both parties, signed a letter which was sent to Secretary of Education Hufstedler protesting this usurpation of congressional authority.

In the June 19 Washington Post, Arthur S. Miller, professor emeritus of constitutional law at George Washington University, describes this action of the Department of Education as "the most open attack in recent memory on the authority of Congress." It is the clear obligation of Members to present a united and determined front to this action.

As Professor Miller points out, "every executive branch agency, including the Departments of Justice and Education, are creations of Congress." It is the job of the Executive "to take care that the laws are faithfully executed." Says Professor Miller, "this does not give the President any leeway—he cannot pick and choose among the laws." He warns that: "If President Carter gets away with this, it will mean an exponential jump in actual power in the Executive over Congress." Needless to say, this expansion of Executive power would not be limited to the term of the Carter administration.

If there is one thing that all of us, Republicans, Democrats, liberals, and conservatives, have had more than enough of, it is the expansion of Executive power at the expense of congressional authority. Too often, we have been prevented by party or ideology or simply by lack of time from taking a united stand against these incursions. This is all the more reason for us to take action in this case. Let us make it clear that the time of the imperial Presidency is past.

The complete text of the letter by Prof. Arthur S. Miller in the June 19, 1980, Washington Post, follows below.

AN ATTACK ON CONGRESSIONAL AUTHORITY

Attorney General Benjamin Civiletti's opinion that a congressional veto of four Department of Education regulations could be ignored is the most open attack in recent memory on the authority of Congress.

The law on the question, simply because there is no definitive judicial decision, is unclear at worst. But some matters should be kept in mind. First, every executive-branch agency, including the departments of Justice and Education, are creations of Congress, second, Congress can condition its grants of power unless there is a specific constitutional clause violated (none is present here); third, the president, and through him all members of the executive department, have a constitutional obligation "to take care that the laws are faithfully executed"; fourth, this does not give the president any leeway (he cannot pick and choose among the laws); fifth, the attorney general's statutory duty is to represent the United States. As such, he should not be a mere legal apparatchik.

Homer Cummings, a predecessor to Mr. Civiletti, knew this. He said in 1937, when refusing a request from the president for an opinion on the constitutionality of Federal Home Loan Banks, that the president had 10 days to question the validity of a measure passed by Congress; once that time passed, that interest of the president terminated; and finally, Cummings said that he could not set himself up as "judge of the Acts of the Congress and of the President."

Mr. Civiletti should read what Cummings had to say, and also what Judge Edward Tamm had to say when Ramsey Clark challenged a congressional veto and the Department of Justice refused to defend the statute.

Mr. Civiletti's legal opinion should be read for what it is. It is not an objective rendering of the law, it is a political document, designed to serve political purposes. It is the work of apparatchiks—they who can take orders and prod subordinates. If President Carter gets away with this, it will mean an exponential jump in actual power in the executive over Congress.●

TO COMMEMORATE THE LENINGRAD TRIALS

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. ADDABBO. Mr. Speaker, in light of recent events in the world involving Soviet aggression which has prompted, again, world protest, it is most ironic that this week should mark the 10th anniversary of the Leningrad trials. Having obtained the support of the Western nations in protesting the Afghanistan invasions, we are brought back to earlier counts of persecution which have yet to be rectified.

This week marks the anniversary of one of many examples of Soviet persecution. As repeatedly as they occur they must be protested and followed. The United States, in spite of criticism on the part of many, has attempted to maintain a policy of checking violations of human rights. Our special order being held here today exemplifies our persistence in not only protesting initially but also in following the actions of the violators.

Only 3 of the 20 persons originally apprehended by Soviet officials in connection with the attempted hijacking which precipitated the Leningrad trials remain imprisoned. In what gives the appearance of being a final defiance of world protest, the Soviet Union retains Yuri Federov, Aleksei Murzhenko, and Iosif Mendelevich in prison. The three suffer from ailments bound to take their lives in the conditions in which they are kept, yet they remain imprisoned—perhaps as disciplinary examples.

I cannot emphasize enough the importance of seeing to it that this continued violation of human rights does not go unprotested in spite of the time element which might cause some to forget that these men exist.

Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko are long overdue in obtaining their freedom. There is not a doubt in the world mind that the Soviet Union must move to end the persecution of such persons. The oppressive nature of this continued practice defeats the purpose of all attempts at achieving any degree of accord between the Soviet Union and the democratic nations of the world. That goal has been tried to the extreme in light of recent events in Afghanistan which have underscored the friction between the United States and the Soviet Union.

I have expressed to General-Secretary Leonid Brezhnev in a letter written in the last week, my firm belief that it would be in the best interest of the entire world community for the Soviet Union to reconsider the continued suppression of these men and extend, in the spirit of détente, a conciliatory hand through the release of the three.

The joint effort of the Western community has resulted in a major setback for the Soviet Union in the Middle East. It is high time that the leadership of the U.S.S.R. heed the call of the U.S. Congress, among the other organizations which have expressed their concern and disapproval of the intolerable imprisonment of Federov, Murzhenko, and Mendelevich, to release them once and for all.●

NUCLEAR BOMBS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. MARKEY. Mr. Speaker, I would like to submit to the RECORD the following editorials from the New York Times and the Washington Post that were printed last Sunday, June 22, 1980. Both editorials strongly argue that the United States should not ship uranium fuel to India until India agrees to full-scope safeguards on all its nuclear facilities. Both editorials urged the Congress to override the President's recent decision to approve export of nuclear fuel to India.

Mr. Speaker, as you are aware, I have submitted a resolution of disapproval that will override the President and halt the shipment of fuel to India until they agree to safeguards and disavow their nuclear explosion program. My resolution currently has 40 cosponsors.

Mr. Speaker, I was alarmed to read in the June 21, 1980, Washington Star that Prime Minister Gandhi of India continues to assert her country's right to nuclear explosions. I believe more strongly than ever that we need to control the awesome technology of nuclear power and nuclear weapons by drawing the line with India and refusing shipment of uranium fuel.

The articles follow:

[From the Washington Post, June 22, 1980]

How Many Indian Bombs?

President Carter's decision to send nuclear fuel to India is running into solid—and justified—opposition on Capitol Hill. India's adamant refusal to accept any international safeguards and inspection of its nuclear facilities, and Prime Minister Gandhi's frequent reassertions of India's right to explode another nuclear bomb if it wishes to, make this export case the ultimate test of the seriousness of U.S. non-proliferation policy.

The central provision of this policy is a requirement of the 1978 law that a country accept full safeguards on its nuclear facilities to be eligible to receive U.S. nuclear exports. With India primarily in mind, the legislators provided a two-year grace period for current customers who did not meet this requirement to give them time to get right with it. Before the grace period expired last March, U.S. negotiators came up with a steady stream of proposals for a mutually face-saving agreement. India rejected them all.

The administration is now using four arguments to support its case. The first is that this proposed export actually does fall within the two-year grace period because India expected the shipments to be made before the deadline expired. This is legalistic gibberish that makes a mockery of the law's clear intent.

The administration also argues that "non-proliferation would be set back by withholding these exports" because they "will help us to maintain a dialogue with India in which we try to narrow our differences." This was the rationale for the several exports that were made during the now-ended negotiations, when there was still some hope—albeit slight—that agreement could be reached. It is indisputable that the effects of these exports on non-proliferation everywhere but India will be devastating. All hope of stopping Pakistan's nuclear weapons program and of bringing others such as South Africa and Argentina under the international inspection system is likely to disappear.

A potentially more serious administration argument is that new geopolitical considerations must take precedence over those of non-proliferation. However, despite numerous opportunities to do so, administration spokesmen have been unable to develop this justification beyond the most vague of references to the invasion of Afghanistan. A more specific connection between these two events—one that also accounts for the recently announced $1.7-billion arms deal between Russia and India—needs to be drawn before this can begin to be considered a compelling case.

State Department lawyers have also been busy developing arguments in support of India's contention that if the United States fails to approve these exports it will have broken the agreement between the two countries, leaving India legally free to seize and reprocess used U.S. fuel already in that country. In fact, a stronger legal case can be made that India is in violation of the agreement and the fuel contract, which state that India shall "comply with all applicable laws . . . of the United States." Moreover, the agreement between the two nations merely obligates the United States to provide the fuel necessary to keep India's Tarapur reactor "operating continuously." By India's own estimate, U.S.-supplied fuel sufficient to operate the reactor through 1982 is already stockpiled in India.

It is hardly surprising then that Congress appears likely to override the president's decision. The legislators, at least, seem determined to correct the mistake made in 1974 when the United States failed to make any protest to India's first nuclear explosion—which relied on illegal use of U.S.-supplied heavy water. The administration seems willing to turn the other cheek. If India explodes a second nuclear weapon, Deputy Secretary of State Christopher told the Senate the other day, why then the United States would certainly stop all nuclear shipments. Sure it would.

[From the New York Times, June 22, 1980]

Proliferation End Game

The cause of preventing the spread of nuclear weapons will almost certainly suffer no matter how India and the United States finally resolve their almost irreconcilable dispute over further American fuel shipments. The question now is how bad the damage will be, and which country will be blamed.

The immediate issue is whether the United States should send India an additional 38 tons of enriched uranium to fuel two American-built reactors at Tarapur. United States has been supplying their fuel since 1963 under a 30-year agreement that subjects the fuel and plants to strict audits and inspections. But after India exploded a "peaceful" nuclear device in 1974—using Canadian and American materials from another reactor—the United States increased its effort to bring all civilian nuclear activities everywhere under strict safeguards.

The wholly admirable American purpose is to prevent diversion of civilian materials to nuclear weapons production. But the policy has met stiff resistance in many nations, and in India most of all. The Indians refuse to renegotiate the Tarapur agreement or to renounce further "peaceful" explosions that might use non-American nuclear material.

Legally, the Indians have a strong case. They have lived up to the terms of the Tarapur agreement and contend that the United States cannot unilaterally amend it. Their argument for equity is also strong. By what right, they ask, does the United States, with its vast and growing arsenal of nuclear weapons, presume to dictate to other countries that all civilian reactors must be inspected? They see it as a case of the nations possessing nuclear weapons living by one set of rules while subjecting the have-nots to another.

For the United States, however, this is less a matter of legality or equity than one of sanity. The world has managed to live in uneasy stability with a limited number of nuclear-armed countries. Their number may multiply rapidly if other nations break the psychological barrier. Congress in 1968 required a halt in all fuel shipments to states that refuse to subject their nuclear power programs to international safeguards, unless the President sees an overriding, extenuating security reason. The Indians insist they have no intention of building bombs. But the duplicity surrounding their 1974 "peaceful" explosion, and the potential for a nuclear arms race with Pakistan, make these assurances less than binding or satisfactory. Inspection of all Indian reactors would lend force to the promise.

The Nuclear Regulatory Commission has followed the law and voted to cut off the shipments to India. The Carter Administration wants to continue the shipments, seeing them as less dangerous than the alternative. Cutting off the fuel, it fears, will only drive the Indians closer to the Soviet Union and undermine Western interests in the area. The danger may be overstated. The Indians already rely heavily on Soviet weapons and should themselves be wary of dependence.

But the Administration also believes that a rupture with India over Tarapur would weaken the cause of nonproliferation. If the Tarapur agreement is broken, India has said, it would feel free to extract plutonium from the American fuel already received. That danger, too, is probably overstated. India already possesses some plutonium not subject to safeguards. And the same diversion problem would arise once the Tarapur accord expires in 1993, and with much larger quantities of fuel if the shipments continue.

The greatest danger seems to lie in continuing the shipments. If the United States yields on safeguards to the only nation known to have carried out an explosion with civilian nuclear materials, it can hardly expect other suppliers and receivers of fuel to give the protective stipulations a high priority. Congress should block the shipments to India until it agrees to full-scope safeguards. If the Indians retaliate by using the spent American fuel for reprocessing, let them take responsibility for destroying the containment effort. If that effort is still to succeed, the line has to be held. If it is doomed to fail, let the world know why.●

CAMBODIAN STARVATION CONTINUES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. MAGUIRE. Mr. Speaker, the House did itself proud during consideration of the supplemental appropriations bill by passing the Fithian, Maguire, Conte, Derwinski, et al. amendment which both eliminated costly GSA furniture purchasing authority and increased Public Law 480 assistance. The 346-to-47 vote demonstrated an important commitment to Government efficiency and humanitarian aid. Even the taxpayers benefited by a $58 million reduction in spending.

In the event there is any question in any Member's mind about the importance of this assistance, I would recommend that he read the following account by William Shawcross of the continuing pattern of starvation in Cambodia. Among several disturbing facts which this noted commentator on Southeast Asia reports, is the testimony of Oxfam America doctor, Nick Maurice. According to Dr. Maurice, 26 percent of the children his organization has examined are suffering from malnutrition and 34 percent were borderline cases. With 60 percent of Cambodia's children facing starvation, there can be no doubt that the aid we have is critically needed.

In Somalia, where 25 percent of the world's refugees are located—more than a million—and in Pakistan where Afghan refugees have fled the Soviet subjugation of their country—and in East Africa where drought now threat-

ens millions more, this additional money is desperately needed.

The article follows:

The Return of the Khmer Rouge

(By William Shawcross)

The pain of Cambodia is an intense as ever. Food sent from foreign countries to the authorities in Phnom Penh has not been reaching hungry Cambodians. They are threatened by another famine this summer. Food sent across the border from Thailand has been reaching Cambodians. But it has also been reaching the Khmer Rouge, who are stronger than at any time since the Vietnamese invaded to crush them eighteen months ago. A political solution to the country's plight seems more distant than ever.

The Cambodian relief operation is already one of the most expensive in history. By the end of this year the international organizations alone will have spent around $500 million over fifteen months, or $100 a head for the estimated five million Cambodians who have so far survived the last ten years.

On May 26 fifty-nine Western and Asian countries held a humanitarian conference in Geneva on Cambodia; they pledged more money (not enough) to the relief effort. This commitment was made in a mood of anger and frustration with the Vietnamese and their government in Phnom Penh. The two governments had refused to attend the conference, although they will be the largest beneficiaries of the new aid pledged. There was, they said, nothing to dicuss, and they denounced the meeting as an imperialist plot. Cambodia was represented at this "humanitarian" conference by the Khmer Rouge ("The Government of Democratic Kampuchea"), who still hold the country's seat at the United Nations.

Most of the delegates made stirring speeches in defense of the Cambodian people and in criticism of Vietnam. At the back of the hall the Khmer Rouge delegation smiled and clapped effusively. It cannot be said that other delegates clustered around them; for the most part the Khmer Rouge representatives wandered around alone soliciting handshakes and smiling ingratiatingly. They invited me back to their mission. Their ambassador at large, Thioun Moeum, a highly intelligent graduate of the Ecole Polytechnique in Paris, spent almost three hours assuring me that although certain "errors" have been committed in the past, their rule would be much more restrained in the future. He was as bland as he was clever.

When I reminded him that to many people the regime he represented was on a par with Hitler's, he merely smiled, shrugged, and promised that they now took account of Western concerns. Talking with him I found exhausting and very depressing. After I left he flew to Bangkok. From there Thai authorities took him to the Cambodian border and he returned to the jungle, to rejoin Pol Pot, Ieng Sary, and the thirty to forty thousand guerrillas they now have fighting the Vietnamese.

The relief operation has been underway since last fall. UNICEF and the International Red Cross (ICRC) have shipped food and other supplies to Phnom Penh and to Cambodia's main seaport, Kompong Som. So have Oxfam and other groups. UNICEF and ICRC, together with voluntary agencies like CARE and World Relief, have also been pushing supplies across the Thai border.

It has, however, been impossible to monitor the distribution of supplies. At the Thai border large quantities of supplies have been stolen by corrupt officials and traders. More have been "diverted" to the Khmer Rouge. In Phnom Penh a disproportionate amount of the aid has been used to feed government workers, and far too little has been reaching ordinary peasants. As well as being one of the most expensive relief efforts, this is also one of the least well observed and audited.

The problem of food turns on numbers. At the beginning of 1980 the joint UNICEF-ICRC mission in Phnom Penh reckoned that, in order to provide a minimal ration of 400 grams a day, the West needed to send about 200,000 tons of food in 1980 to supplement the supplies available internally and those provided by the USSR and Vietnam.

This was too low an estimate. Last year's harvest was poor, and 250,000 tons are needed. So far this year deliveries have fallen far short of the target. Now 35,000 tons must be delivered and distributed every month. This does not seem possible, and the result is that thousands will starve.

It is not just food that is required. In recent weeks, there has also been a desperate need for rice seed. The agencies have been engaged in a hectic, often incompetent, and very costly race against the seasons to try to get seed into the country in time for the annual planting. Cambodia's main rice crop is planted each year in May and June as the monsoon floods the land. Before the war began in 1970 Cambodia's seven million people planted about three million acres and produced enough rice for export. By the end of the war the agricultural system had been destroyed and the country was almost totally dependent upon US imports. The rice yields during the years of rule by the Khmer Rouge between 1975 and 1979 remain unknown. Although some effort was made to rebuild agriculture (often in grandiose, ineffective ways) little food was given to the people. Last year, in the confusion and fighting following the Vietnamese invasion, almost no planting was done. The yield was only about 10 percent of normal and it has now all been consumed.

The relief program launched last October was planned for only six months, and therefore inadequate attention was given to procuring seed for the 1980 season. Then the UN Food and Agriculture Organization decided to ship some 30,000 tons of seed into Cambodia by the end of April. This would have planted about a million acres and yielded about 200,000 tons of rice. At the same time the Vietnamese and Russians said they each would ship about 10,000 tons of seed.

Some Vietnamese seed has been arriving, although no one knows how much. But the FAO program ran into extraordinary delays, many of them because of gross mismanagement. By mid-March FAO had bought only 3,000 tons of seed. Along with Oxfam, it was negotiating for more in Thailand. But by then only about eight weeks remained for 30,000 tons to be found, bought, shipped, unloaded, and distributed to farmers.

It was clear that the ports of Kompong Som and Phnom Penh were too blocked up and inefficiently run to accommodate all of the seed finally ready for shipment. Under pressure from the US Embassy FAO bought seed that was intended to be carried across the Thai border into Cambodia along the unofficial land routes that the Vietnamese have tolerated since last autumn. At the same time an airlift from Bangkok to Phnom Penh was organized by the International Red Cross.

About 15,000 tons of seed have now been transported over the border by oxcart, bicycle, and foot; 5,000 more have been flown in. More could have come by air, but the Vietnamese refused to allow planes to fly direct from Bangkok. They had to circle out over the South China Sea and then back up the Mekong River, thus doubling the flight time. The cost of the airlift is staggering—about $600 per ton, as opposed to $400 per ton for seed shipped and $200 for seed pushed across the border. At the same time about 5,000 tons are thought by now to have reached Cambodia by sea. What is not clear, however, is how much of this seed has been distributed through the countryside and, just as important, how much food has been distributed along with the seed. Seed distributed to hungry peasants will be eaten not planted.

How much food has been arriving in Cambodia and what is happening to it? The airport in Phnom Penh can handle only 7,000 tons a month. Phnom Penh harbor used to handle 20,000 tons a month, but this has been cut back by the collapse of one of the wharves in March. The only encouraging development has been the arrival of a large and expert team of Russian stevedores at the seaport of Kompong Som. This should raise the unloading capacity of the port above the low tonnage of 22,000 tons a month estimated by a World Food Program survey last April.

More difficult to solve is distribution from the ports into the countryside. This is done almost entirely by rail and road, when it is done at all. The train from Kompong Som to Phnom Penh, according to a detailed UNICEF report of May 1, carries only about 6,000 tons a month. UNICEF also says that "significant" amounts are taken by train from Phnom Penh to Battambang. But "the railway is hampered by a lack of locomotive and rolling stock in good repair as well as of operating experience."

There are, according to UNICEF, about 1,500 trucks in Cambodia at the moment (500 from ICRC-UNICEF, 90 from Oxfam, 670 from various countries including those in the Warsaw Pact, and 230 old trucks patched together). Their total load capacity is about 9,000 tons, but more important is what UNICEF calls their "movement capacity"—whether they are being properly used or not. They are not.

UNICEF is being diplomatic when it reports that the "use of the trucks is not efficient." In fact, one senior UNICEF official told me that the trucks are carrying only about 15,000 tons of food a month.

This is a terrifying figure. It means that each truck is making an average of about one and a half journeys a month. The rest of the time trucks are standing idle, awaiting repair, stalled by broken bridges and along smashed roads (almost no attempt has been made to repair the road network). Others are being used by corrupt local officials for trade in black market goods from Thailand, or by truck drivers themselves for carrying paying passengers rather than relief supplies. The aid agencies in Phnom Penh have even heard stories that some trucks in some provinces have actually been sold to black marketeers.

Together, then, trucks and trains appear to have been carrying little more than 20,000 tons of supplies a month out of the ports and into the country in recent weeks. Yet UNICEF reckons that 35,000 tons of food alone are needed.

Considerable amounts of food are now being distributed to government workers. Currency was reintroduced in April, and they are now allowed to buy 20 kilos of food each a month. there are thought to be at least 250,000 government employees; this means that at least 5,000 tons of food are being reserved for them every month—a large proportion of all the food available for distribution.

Random checks in the countryside suggest that in many places villagers are receiving as little as two kilos a month. UNICEF's report acknowledges that "the bulk of the relief food available" has been distributed in Phnom Penh and to government officials. "It appears little so far has been distributed to the ordinary consumer, especially in rural areas where stocks might have been presumed to be available."

The physical effects of such inequitable distribution are predictable. An Oxfam doctor, Nick Maurice, made a survey of children in five provinces at the beginning of May. The results, he reported, were "extremely alarming": 26 percent of the children examined were suffering from malnutrition and 34 percent were borderline cases. He expected these figures to become worse as food distribution became even more difficult during the monsoon.

This situation must be treated with great seriousness and the utmost urgency. It is well known that chronic malnutrition in children leads to disease, stunting of growth and intellectual impairment. . . . During the examination of children, parents were asked whether they had been receiving food aid. There is a lot of evidence that people in rural areas are not receiving adequate amounts of food aid. Amounts received ranged from nil to 5 kg/month and often the quality of food received makes it almost indigestible, eg maize which requires more than an hour of cooking. [Emphasis in original.]

This report alarmed Oxfam officials in Phnom Penh and also in Oxford itself. It came at a time when all relief officials in Phnom Penh were increasingly frustrated by the conditions imposed upon them by the Heng Samrin government. When the relief effort began in October Oxfam and some of the other agencies were reluctant to criticize the new regime, hoping that its young, inexperienced officials would become more willing to cooperate with Western relief agencies. That has not happened.

On the contrary, relief officials are now being given permission to leave Phnom Penh much more rarely than before. The reports of food distribution that the government originally promised both Oxfam and ICRC-UNICEF have often not been produced at all and have sometimes been useless. By the middle of April World Food Program officials had been told about the distribution of only about 40,000 of the 70,000 odd tons landed since October. They had been able to check even less.

Meanwhile ideological controls have tightened in Phnom Penh. This has coincided with the eclipse of the regime's nominal leader, Heng Samrin, and the emergence of the communist party secretary, Penn Sovann, as the dominant figure. Penn Sovann is thought to be a more doctrinaire bureaucrat than the ineffectual Heng Samrin. Interpreters with whom aid officials had become friendly have been removed. (Oxfam's favorite interpreter was packed off to the embassy in East Berlin.) New interpreters are much less helpful; they have been ordered not to "fraternize." Accusations of "fraternization" have been reported and discussed right up to the ministerial level. Recently a complaint was made to a minister that an Oxfam driver had driven team members around Phnom Penh to "flirt" with girls.

Restrictions on the size of the teams of relief workers sent to Phnom Penh have not been lifted—the ICRC-UNICEF team has about twenty-seven people; in Bangladesh ICRC had 140 with 300 local employees—and visas in and out of the country have become more difficult to obtain. UNICEF officials in Phnom Penh have even been warned that perhaps only Soviet and East European citizens will be allowed to work for UNICEF in Cambodia in the future.

At the same time Cambodian officials are having to spend more time on political education. The director of Medical and Child Health was recently required to spend seven weeks on a goodwill mission to East Berlin, Moscow, and Hanoi. The entire staff of the Ministry of Health was sent to Laos for a two-week solidarity meeting. In fact the Ministry of Health is one of the weakest organizations in the country, and outside Phnom Penh medical care is almost nonexistent.

The government has made much of its claim that the Khmer Rouge killed all but fifty of the country's doctors, but until recently it refused to allow in foreign medical teams. Only in February was the International Red Cross able to bring in about thirty Soviet and East European medics. Some Cuban and Vietnamese medical people have arrived and recently a Swedish team was given permission. But the number of medical workers is still only around 200—hardly adequate for a population of five million who have suffered ten years of terrible deprivation. Even doctors from Eastern Europe say privately they are deeply depressed by the restrictions that have been imposed.

On Monday, May 19, a group of relief teams in Phnom Penh sent a strong letter of protest to the government in Phnom Penh. The Red Cross and UNICEF followed this on May 23 with an appeal to both Western governments and the Vietnamese and Phnom Penh authorities. It asked the Western nations for more money, especially to improve the transport system. And it asked Phnom Penh for an assurance that relief be "equitably distributed among the whole civilian population in need." The statement concluded with what seemed like an ultimatum:

Without such an assurance it cannot be expected that sufficient resources will be entrusted to the responsible organizations. Nor in the prevailing circumstances should the organizations themselves be expected to continue their humanitarian work.

This was the situation in which the meeting in Geneva took place. The impetus for it came from the ASEAN countries, particularly Thailand, pushed by the United States. Kurt Waldheim agreed reluctantly only after an ASEAN resolution calling for a meeting was passed by the Economic and Social Council of the UN at the beginning of May. Waldheim was reluctant partly because of his feeling, shared by Donald McHenry, the US Ambassador to the UN, that Indochina has been getting disproportionate attention relative to other disasters such as the refugee crisis in Somalia, where hundreds of thousands of people are in danger of starvation. (An Oxfam doctor who visited Cambodia last fall and Somali refugee camps in April reports that conditions in Somalia are worse than in Cambodia.)

ASEAN asked the French and then the British foreign minister to act as chairman of the conference. They refused; so did all other members of the European Community. American officials claimed privately that the Europeans were frightened of offending the Russians. In the end, Andrew Peacock, foreign minister of Australia, was chosen as chairman.

The Vietnamese and Heng Samrin governments acknowledged the conference only by sending delegates from their Red Cross organizations to Geneva, though not to the meeting itself. The Russians sent observers who entered by a side door and sat in the public gallery. The American delegation, led by Warren Christopher, was remarkable for including Frances Fitzgerald, author of *Fire in the Lake*. Times have indeed changed for such an influential critic of US policy in Vietnam to represent the US at a conference much concerned with the behavior of the Vietnamese.

Christopher promised $29 million in addition to the $85 million the US has already given or pledged. He made a hard-line anti-Soviet speech into which he dragged Russian policy in Cuba, Afghanistan, and the Horn of Africa, in case anyone needed reminding of the international political considerations which haunt any discussion of Cambodia. (He also seized a pause in his own press conference as an excuse to walk out rather than face what he apparently thought would be hostile questions about the US relationship with the Khmer Rouge.)

Most speakers formally praised the international aid organizations. In the corridors comment was less kind. No one had a good word to say for the Food and Agriculture Organization, whose incompetence seems to have cost the relief effort millions of scarce dollars. Not only did its tardiness make necessary an airlift of seed, but it has been paying $100 a ton more than the voluntary agencies for rice seed on the Bangkok market. At the same time there is now almost open warfare between American government officials and James Grant, the Director General of UNICEF. Mr. Grant was a senior AID official in Vietnam during the Sixties. At that time he was optimistic about the government in Saigon; recently he has tended to be optimistic about the one in Hanoi. He was anxious to cut down the Thai border operations, as the Phnom Penh regime wants, and he spoke about the "seed saturation" of Cambodia. This was a notion which the American and other delegations firmly and convincingly dismissed. Border seed distribution will continue.

Altogether the conference produced pledges of $116 million toward the $180 million that is needed for the rest of 1980. It urged the Phnom Penh authorities to allow more aid workers and more doctors into Cambodia, to permit the use of provincial airports, and to open direct supply routes from Vietnam and Thailand.[1] At the end a UNICEF spokesman said that the Phnom Penh authorities had agreed to allow direct flights from Bangkok and had asked the USSR to stage internal flights to provincial airports. He promised that more trucks were coming from UNICEF, Oxfam, Japan, and East Germany. He announced that the Swedish medical team had been given permission to go to Phnom Penh, that Vietnam had agreed to the use of the port of Vung Tau to receive aid. All in all, UNICEF seemed optimistic.

The president of the International Red Cross was much less sanguine: the failures of the Cambodian authorities to allow effective distribution have been too many and too discouraging. And so far UNICEF's optimism has not been justified. On May 29 the government in Phnom Penh issued a statement denouncing the Geneva conference as "a gross interference in the internal affairs of Kampuchea. Any resolution or motion concerning Kampuchea will be considered null and void."

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[1] By consistently refusing to allow a direct land route to be opened up from Thailand into Cambodia, the Vietnamese have—ironically—done much to help the Khmer Rouge to rebuild their forces. The Khmer Rouge have easily captured supplies from the hundreds of thousands of peasants who have traveled to and from the Thai border over the unofficial routes. A carefully controlled supply system along road and rail would have made it much more difficult for them to take supplies from the peasants. Prince Norodom Sihanouk, now in North Korea, believes that the Vietnamese want the Khmer Rouge to survive—because their presence, more than anything else, can justify continued Vietnamese occupation.

And so the wretchedness continues. The Vietnamese have recently repeated their claim that the situation in Cambodia is "irreversible." The Chinese still insist they will support the Khmer Rouge and other resistance to Vietnam indefinitely. There is some sign that the Thais are now less inclined to allow Peking to continue to arm the Khmer Rouge through Thailand. But soon the Khmer Rouge may well be self-supporting within Cambodia. The policy of the Western nations remains one of approving or tolerating—although tacitly—the activities of the Khmer Rouge against the Cambodian regime, and seeing that they retain Cambodia's seat at the United Nations when this issue is decided at the annual credentials committee in September. American officials acknowledge that this presents a "public relations problem" and profess "distaste" for the vote they cast last September to seat the Khmer Rouge. Mr. Thioun Moeum, the Khmer Rouge ambassador, expressed his gratitude to me for the recognition the West is giving his organization.

Cambodia is a political disaster. A solution in the form of compromise could be continued by politicians. It is not happening. The Vietnamese appear both indifferent to the crisis over aid and immovable; Western governments say they are opposed to the mass murderers of the previous regime but help to underwrite their war. Of the ghastly failures that have taken place, not least has been the failure of political imagination.●

REDONDO BEACH BREAKWATER REPAIR AND MARINA DEL REY'S FUTURE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. DORNAN. Mr. Speaker, I would like to take a brief moment to publicly thank my good colleague, the distinguished chairman of the Subcommittee on Energy and Water Development. Having testified before his subcommittee, I know the tremendous workload he and his staff face. Still, through the many weeks of intensive labor involved in putting the energy and water appropriations bill together, he always had time to discuss the critical repairs for storm-ravaged King Harbor in Redondo Beach, Calif., and the needs of the Marina del Rey Harbor in Los Angeles County. The necessary funds provided in this important legislation will help Redondo Beach survive another possible winter of crashing waves and assist Los Angeles County in investigating the possibility of expanding the Marina Harbor.

I thank the chairman for his consideration of my testimony on behalf of these projects included in today's legislation.●

WE NEED A NEW RECONSTRUCTION FINANCE CORPORATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. SEIBERLING. Mr. Speaker, on June 20, the Washington Post contained an article by the distinguished economist and investment banker, Felix Rohatyn, making the case for a new version of the Reconstruction Finance Corporation (RFC) of the 1930's. Mr. Rohatyn points out that: "The problem of massive business and municipal collapse is a national responsibility; neither private lenders nor States are able to cope with needs of this magnitude." He notes that the New York City and Chrysler Corp. financial crises, in which Congress authorized loan guarantees, are examples of similar crises that can be expected in the near future and that a specific institution with carefully defined powers and professional administration is far preferable than ad hoc legislation on a crisis-by-crisis basis.

To those who may feel that this would be a radical step, it should suffice to point out that the original RFC was created under the administration of Herbert Hoover, and was used by successive Democratic administrations. However, on the basis of experience in the late 1940's and 1950's, when the RFC became a source of abuse once the economic situation for which it was created had ended, it would probably be desirable that we provide a new RFC with a definite "sunset" provision in its enabling act. Ten years would seem to be a reasonable limit after which it could no longer authorize new loan guarantees and commitments without new legislation.

The full text of the Rohatyn article follows these remarks:

RECONSTRUCTING THE RFC

(By Felix Rohatyn)

Recent economic developments suggest the need for a new version of the Reconstruction Finance Corporation of the 1930s. In the private sector, there now exists the prospect of major business failures. We need only examine the present conditions in the auto, airline and steel industries to foresee the possibility of future petitions, similar to Chrysler's, for federal assistance to avert massive bankruptcy. Certain of our large financial institutions are also considerably more fragile than they seem.

A comparable condition besets major American cities. New York City is unlikely to regain full access to public markets by the end of fiscal 1982, as anticipated when Congress authorized loan guarantees in 1978. The combination of economic decline and reduction in anticipated federal aid has caused repeated modification in the city's financial plan, showing potentially large budget gaps for 1982.

With some variation, the same picture may be drawn for Cleveland, Chicago, Philadelphia, Newark and other cities. Local action to raise revenues or cut expenses beyond a reasonable point only deepens the economic crisis.

Both of these national problems—large business failures and major municipal difficulties—require national initiatives. Over the long term, fiscal and monetary policy, formula revisions, federal aid and other changes in the fiscal relationships among levels of government will no doubt be debated. These are surely needed. But in the present circumstances, some action is needed now to provide a safety net for both businesses and municipalities in crisis.

A new Reconstruction Finance Corporation could supply the capital assistance and serve as the catalyst needed to avert even larger problems. The RFC would be created by the federal government and authorized to assist businesses and municipal governments whose failure would have a material impact on the country or a significant region. This assistance would take the form of loans or, in the case of businesses, loans as well as equity investments.

There are several reasons that support the creation, through federal legislation, of a new RFC:

First, the threshold determination of whether the public interest supports federal intervention has essentially been made. In the cases of Lockheed, Chrysler and New York City, Congress did commit large sums to take the company or city out of bankruptcy. The philosophical line has been crossed with the argument that the social consequences of both business and municipal failures, of the scope indicated, are vast, and largely uncharted.

Second, applying the appropriate remedy requires a professional nonpolitical approach as well as a broader set of options. Providing guaranteed loans at high interest rates to a failing company, overburdened with debt and with inadequate permanent capital, may buy time but will clearly not cure. The ability to make equity investments, as part of an overall, multilateral rescue package, can come only from an RFC.

Third, it should be evident that the legislature is a poor forum to determine specific cases. Under the pressures of the emergency, delicate negotiations with unions, banks, stockholders and suppliers are impossible. Congress is besieged with simple but urgent demands for action. Negotiations would benefit from the insulation provided by setting up a professional mechanism that could make the decision to commit or not to commit aid using the leverage that often does not exist in the legislative process.

Fourth, the problem of massive business and municipal collapse is a national responsibility simply because neither private lenders nor states are able to cope with needs of this magnitude. Each of the participating interests must play a part in any rescue plan, but it requires a coordinating agency with sufficient authority and capacity to bring about a solution.

Fifth, the RFC would have the advantage of providing continuity as well as professionalism in the design of a fiscal strategy for each particular case. The RFC should be managed by paid professionals with its own board of directors, the majority of whom would be private citizens and would include the secretary of the Treasury, the chairman of the Federal Reserve, the chairman of the Securities and Exchange Commission and the chairman of the Council of Economic Advisers.

Finally, the RFC should only be a temporary investor. It should remain an investor only until it can divest itself of its commitments through the marketplace and should never provide more than 50 percent of the capital required by any type of rescue. It should be a revolving fund—profitable, one hopes—stepping in where no alternatives are available and stepping out when the public interest has been served and market forces operate.

Certain risks and objections to the RFC have to be acknowledged: the risks to federalism and to private entrepreneurial decisions; the contention that it might reduce incentives for efficiency and for good management; that it amounts to discrimination against small companies and cities that may not be eligible for aid; that its intervention in credit allocation will politicize competitive markets; that the government will be left in a conflict of roles, as lender-investor and as regulator.

Each of these objections and others should be explored in detail. Some may be mitigated by the procedures for accountability and the standards for intervention that are built into the RFC legislation. Others are more fundamental and require a basic judgment about the need for some institutions and a comparative analysis of the alternatives. Since part of the RFC's activities would be for the benefit of private business, part of the capital should come from the business sector. The management, as in the original RFC, should be professional and non-political.

On balance, I believe that the RFC is needed and is preferred to the kind of *ad hoc* legislative response that has characterized the Lockheed, Chrysler and New York City petitions. This does not lead to state capitalism. If Chrysler ultimately fails, it will not prove that government should not have tried the cure; it will prove that the wrong medicine was applied too late. The right medicine should be available in the future. It will quite probably be needed.●

TAX EQUITY FOR THE EIGHTIES

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. VENTO. Mr. Speaker, the depth of the economic slide which we are currently experiencing justifies some economic stimulus. While the general economy has been showing some positive signs with reduced oil imports, reduced interest rates, and increased savings, we are also seeing the emergence of a serious unemployment problem.

I firmly believe we must keep our commitments to the countercyclical and other Federal programs specifically designed to provide additional assistance during times of great economic stress. But we must also at the same time begin to initiate some tax reductions and reforms which will insure the economic health of business, industry, and the average worker.

I have written President Carter indicating my strong support and recommendation for immediate action to ease the burden of individual and payroll taxes. I also recommended immediate action to provide incentives and tax relief for business and industry.

It is time that we begin to use taxes as a tool to fight inflation. We can reward, we can encourage, we can target, we can cut. It is our responsibility to provide tax equity for the eighties.

SOCIAL SECURITY TAXES

Individuals currently pay income tax on their social security payroll taxes, a highly unfair form of double taxation. Social security taxes amount to paying a tax on top of a tax. While our ultimate goal is to eliminate this inequity, a substantial tax credit for social security taxes would help ease the burden and equalize the tax reduction for all workers.

INCOME TAXES

Federal income tax reforms should be initiated as incentives to fight inflation and as a reward to restrain prices and wage increases. Individuals who accept wages within the guidelines of a national anti-inflation program should be rewarded by favorable tax laws. Businesses which accept reduced profits within the guidelines should also receive tax relief.

SMALL BUSINESS TAXES

The White House Conference on Small Business listed as the first priority a progressive corporate tax structure. The effort initiated in Public Law 95-600 should be continued and expanded. There should be no tax increase for any business, but truly small businesses should pay lower taxes based on total earnings. A progressive tax under which businesses pay according to earnings would recognize the needs of small business and serve as an important stimulus.

CAPITAL FORMATION AND INVESTMENT

Unfortunately, many current tax policies encourage the dislocation of industries, jobs, and communities. Our priority should be to help use existing resources in metropolitan settings where all of the public and private investment already exists but is underutilized. We should examine current investments through modifications of capital investment taxes. We need an accelerated depreciation schedule for equipment and machinery in specifically targeted geographical areas.

I am now drafting legislation which will incorporate these points into a single tax-cut bill. I hope that when this legislation is introduced, prompt hearings will be held and my colleagues will support my proposals.●

SURVIVAL SUMMER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. McDONALD. Mr. Speaker, on August 4, 1977, I drew the attention of my colleagues to the formation of an organization that would combine disarmament and antinuclear power issues, the mobilization for survival (MFS); this was reported in the CONGRESSIONAL RECORD on the day following, headed, "Mobilization for Survival: Co-Optation of the Anti-Nuclear Movement."

At that time I noted that the concept for MFS had been initiated by two veteran Communist organizers who, over the years have worked closely with the international Soviet front, the World Peace Council. Now, 3 years later, MFS continues to function, and is again promoting a series of activities that parallel the propaganda line of the Soviet Union under the false, and classical ploy of a grassroots project.

The current charade of the MFS is known as Survival Summer, and it is headquartered with MFS at 3601 Locust Walk, Philadelphia, Pa. 19104, 215-386-4875. Survival Summer is being promoted as the first nationwide grassroots project on issues of urgent concern to the country in more than a decade, and is being consciously modeled in the tradition of Vietnam Summer of 1967 and the civil rights Freedom Summer of 1964.

MFS disarmament activists are not publicizing the fact that Vietnam Summer was organized by the Communist-dominated National Mobilization Committee which, like its successors, New Mobe and the People's Coalition for Peace and Justice (PCPJ) operated in open cooperation with the Soviet-controlled World Peace Council (WPC), North Vietnam, and the Vietcong; or that Freedom Summer was initiated by the leaders of the Communist Party, U.S.A. (CPUSA) front groups in the civil rights movement.

However, it is noted that the MFS has utilized two veteran anti-Vietnam organizers for Survival Summer. These are Rev. Richard "Dick" Fernandez, active with Clergy and Laity Concerned (CALC), and the assorted Spring, National and New Mobilization Committees and People's Coalition for Peace and Justice (PCPJ) incarnations of the anti-Vietnam lobby; and Judy Clavir Albert, who is also known as Judy Gumbo, a veteran of the Weather Underground Organization (WUO) and self-announced suspect in the 1971 bombing of the U.S. Capitol.

Fernandez is based in Philadelphia—215—382-7920—with Jerilyn Bowen at the MFS national office; Clavir and Susan Mesner organize from the MFS San Francisco office at 944 Market Street, Room 808, San Francisco, Calif. 94102, 415-982-3884.

Survival Summer's roots in the old disarmament lobby alined to view the United States as the No. 1 threat to world peace, but to avoid mention of the Soviet Union in that connection is indicated in a press release distributed in May 1980, which says Survival Summer's educational effort will focus on the new United States first strike nuclear policy and the escalating dangers of war.

Subsidiary issues to be linked in the MFS argument range from environmental endangerment, peaceful nuclear technology, and energy resources to a militaristic foreign policy, the arms race, and military spending to inflation, unemployment, and human services cutbacks.

MFS has stated that Survival Summer volunteer workers will try to redefine the obsolete concept of national security that is leading us to disaster on every hand. In this, and in MFS propaganda, the influence of the antinational security propaganda produced by Marcus Raskin and Richard Barnet of the Institute for Policy Studies (IPS) is very obvious.

MFS freely admits that the purpose of Survival Summer is to insure disarmament and antinuclear issues are part of the public debate during the election period. While I welcome debate, and an increased awareness of the voters on the issues of defense and nuclear power, I believe that the best interests of America would be served if MFS ceased using its false flag and admitted its connections with the Soviet-controlled World Peace Council (WPC), and its many and close ties with Marxist organizations operating in this country, including those dominated by the Moscow-controlled Communist Party, U.S.A. (CPUSA).

In its official publication, Survival Summer News, May 1980, which contains an "Organizer's Guide," MFS states that there are 25 national groups participating in Survival Summer, but with unusual reticence only lists 22 of these groups.

The published list is as follows:

Agape Foundation, 944 Market Street, Rm. 510, San Francisco, CA 94102.

American Friends Service Committee (AFSC), 1501 Cherry Street, Philadelphia, PA 19102.

Black Hills Alliance, Box 2508, Rapid City, SD 57701.

Campaign for Economic Democracy (CED), 304 S. Broadway, Rm. 224, Los Angeles, CA 90013.

Central Committee for Conscientious Objectors (CCCO), 2208 South Street, Philadelphia, PA 19146.

Christian Association, Univ. of Pennsylvania, 3601 Locust Walk, Philadelphia, PA 19104.

Clergy and Laity Concerned (CALC), 198 Broadway, New York, NY 10038.

National Assembly of Women Religious, 1307 S. Wabash, Chicago, IL 60605.

National Women's Health Network, 2025 I Street, Rm. 105, Washington, DC 20006.

Coalition for a New Foreign and Military Policy (CNFMP), 120 Maryland Ave., NE, Washington, DC 20002.

Fellowship of Reconciliation (FOR), Box 271, Nyack, NY 10960.

Gray Panthers, 3635 Chestnut Street, Philadelphia, PA 19104.

Nuclear Information and Resources Service (NIRS), 1536 16th Street, NW, Washington, DC 20036.

Physicians for Social Responsibility, Box 144, Watertown, MA 02171.

People's Alliance, 7 E. 15th Street, New York, NY 10003.

SANE, 318 Massachusetts Ave., NE, Washington, DC 20002.

U.S. Student Association (USSA), 1220 G Street, SE, Washington, DC 20003.

War Resisters League (WRL), 339 Lafayette Street, New York, NY 10012.

Women Strike for Peace (WSP), 145 S. 13th Street, Philadelphia, PA 19107.

Women's International League for Peace and Freedom (WILPF), 1213 Race Street, Philadelphia, PA 19107.

World Citizens Assembly, Box 2063, San Francisco, CA 94126.

Young Women's Christian Association (YWCA), 600 Lexington Ave., New York, NY 10022.

The reluctance of MFS to name other of the official sponsors of Survival Summer is perhaps understandable when it is realized that documentation is available showing that three national groups omitted from the organizers guide have all been identified as front groups of the Communist Party, U.S.A. (CPUSA). They are, the U.S. Peace Council (USPC), Women for Racial and Economic Equality (WREE), and the recently defunct National Center to Slash Military Spending (NCSMS). The patent dishonesty of MFS in this matter is, in no way mitigated by their unwitting admission previously noted, that Survival Summer is, "in the tradition of Vietnam Summer of 1967 and the civil rights Freedom Summer of 1964." Both operations permeated from top to bottom with Communist cadre, and both serving as vehicles for Soviet propaganda.

During the first 2 weeks of May, Survival Summer organizers traveled to 50 cities to help initiate local projects. During the early part of this month, 3-day training sessions for volunteers were scheduled for: Boston, Philadelphia, Atlanta, Cleveland, Minneapolis, Denver, San Francisco, and Los Angeles.

In Washington, D.C., the Survival Summer teach-ins started on Tuesday, June 17, at the Friends Meeting House, 2121 Florida Avenue with a presentation by Steve Daggett of the Institute for Policy Studies (IPS) on the Soviet threat. Later teach-ins will feature Betty Bono, CNFMP; Mike Mauby, SANE; Dennis McDowell, Survival Summer project; Jane Midgley, Washington Peace Center; Rev. Richard McSorely, Peace Studies Center, Georgetown University; Dr. Mary Coleman, Physicians for Social Responsibility, and a presentation by the Nuclear Information and Research Service (NIRS).

Among the national events scheduled for Survival Summer, are the customary August 6-9 period of demonstrations marking the anniversaries of the atomic bombings of Hiroshima and Nagasaki. This activity will be used as building actions for the People's Convention to be held in New York, August 11-14, just prior to the Democratic Party National Convention.

This so-called People's Convention is being organized by the Coalition for a People's Alternative, a group brought together at a conference convened by the MFS and the People's Alliance, held in Youngstown, Ohio, at the offices of USWA Local 1462, March 15-16, 1980. And it must be noted that the People's Alliance includes among its organizational membership many of the most alienated and violence-prone groups in the political spectrum. The conference was attended by 100 organizers from 60 groups representing the peace, labor, black, Puerto Rican, Native American, tenants, environmental, farm labor, women's, lesbian/gay, international solidarity, rural, civil liberties, and left movements.

The featured event of the People's Convention will be a mass march and rally at Madison Square Garden, the site of the Democratic National Convention, which will be multinational, multiracial, and multi-issue and therefore hoping to attract the largest possible number of participants.

The Survival Summer project will end on election day in November. For the period of the project, MFS has suspended publication of its newsletter, the Mobilizer, and replaced it with Survival Summer News. Guest contributors to the first issue include Barbara Armentrout, Richard Barnett (sic), Jerry Coffin, Vint Deming, Randall Forsberg, Meg Gage, Ted Glick, David Gold, Gerry Henry, Donna Hermans, Randy Kelver, Joy Krementz, Judy Lamirand, Juli Loesch, Shana Margolin, Rick Posmantur, Colleen Ragan, Brewster Rhoads, and Carol Jensen.

In addition to the two national resource centers in San Francisco and Philadelphia, Survival Summer lists more than 30 local and regional contacts, generally local offices of the AFSC, CALC, MFS, or WRL. The Los Angeles affiliate is the Alliance for Survival, headed by Irving Sarnoff, a former official of the southern California branch of the Communist Party, U.S.A (CPUSA), 712 S. Grandview Street, Los Angeles, Calif 90057, 213-738-1041.

Mr. Speaker, the activities of Communist cadre working in the Freedom Summer of 1964 was thoroughly documented by the investigative committees of the Senate; the activities of Communist cadre working in the Vietnam Summer of 1967, and their disruptions of the Democratic Party Convention in Chicago the next year, were diligently exposed by investigators and witnesses before the House Committee on Un-American Activities. This year, on the admission of its organizers, Survival Summer follows in the same tradition, but now we lack the needed investigative capacity of either a House Committee on Internal Security, or a Senate Subcommittee on Internal Security to advise the Congress of the full extent of the Communist control and foreign influences exercised over the Mobilization for Survival and its Survival Summer project to influence the 1980 electoral campaigns.●

HON. JAMIE WHITTEN'S REMARKS AT NATIONAL HERB GARDEN DEDICATION

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BEVILL. Mr. Speaker, on June 12, 1980, the United States National Arboretum dedicated the National Herb Garden. This beautiful garden is the result of cooperation among the Federal Government, the National Herb Society, and private citizens.

At the dedication ceremonies, our distinguished colleague, the Honorable JAMIE WHITTEN, addressed a gathering that included Mrs. Mondale, Secretary of Agriculture Bob Bergland, and many other distinguished guests. Mr. WHITTEN's efforts on behalf of the Arboretum have in a great way helped make it one of the most beautiful sites in the entire Nation.

Therefore, I am pleased to insert into the RECORD the remarks which Mr. WHITTEN made at the dedication. I hope you will join with me in honoring our colleague for his contributions to this very beneficial project.

TEACHING BY DISCOVERY

Mrs. Mondale, Mr. Secretary, Dr. Creech, Mrs. Burrage, Mrs. Gambee, Mrs. Rae, Ladies and Gentlemen, it is a great privilege to be with you this evening—quite naturally, my thoughts turn to earlier years when the late Clarence Cannon, Chairman of the Appropriations Committee, and I, as chairman of the subcommittee, handled funds for the National Arboretum, which of course, includes the National Herb Garden.

As I have frequently said, if our subcommittee would provide a little extra, unasked for money for the Arboretum, I believe Mr. Cannon would let us have the Capitol.

It still seems odd for me to now hold the position Mr. Cannon held—and I, too, have helped by getting the Congress to provide funds to match the funds Betty Rae and her associates had raised to make the present Herb Garden what it is—but I want you to know that like Mr. Cannon I, too, am proud to have had a part in making this addition to a national attraction.

On April 27, 1964, when the Administration Building of the National Arboretum was dedicated, Mr. Cannon was present. That was just 15 days before his death.

On the occasion of that dedication, with the splashes of color from the azaleas providing the backdrop, as only he could do, he quoted that lilting poem by Alfred Noyes:

"Come down to Kew in Lilac time
In Lilac time, in Lilac time.
Come down to Kew in Lilac time
It's very near to London.

"And we shall wander hand in hand
With love in nature's wonderland.
Come down to Kew in Lilac time,
It's very near to London."

And then he paraphrased it to say to all Americans:

"Come down to see Azalea time
Azalea time, Azalea time.
Come down to see Azalea time
It's a part of Washington.
And you shall wander hand in hand
With love in nature's wonderland.
Come down to see Azalea time
It's very dear to Washington!"

Chairman Cannon, according to my information, had made but one trip to London. He spent a great part of his time there in the Kew Gardens of London. It was a place he enjoyed and it inspired him upon his return to work for the establishment of the Arboretum. It was his pride and joy—one of his favorite haunts. He loved the sprawling acres on the outskirts of Washington.

He loved the classics. He loved to write. He loved to work. He loved his family and his fellow man. He loved nature and nature's God. Born of a Missouri farm, he had a deep appreciation for the need for people to develop an understanding of plants as a part of man's history, life and environment. He was once a teacher of history and always a teacher of much else throughout his years.

Thus, he had a special appreciation for the purpose of this Arboretum: to teach through discovery about plants; to stimulate interest and convey knowledge of their qualities, uses, and cultivation.

This Herb Garden will not only benefit a broad range of students seeking horticultural careers, but also the lay students—the members of the public who will learn through discovery about how herbs are grown and can be used in gardens and commerce. Chairman Cannon has been variously described as autocratic, crusty, stubborn, shrewd, dictatorial, and even cantankerous. A newspaper in his State once referred to his "astringent face." He often looked angry when he was not. But he was much gentler than many people knew.

Clarence Cannon was a teacher of history before coming to Congress. In his more than 50 years in Washington, with more than 40 years as a Member of Congress and more than 20 years as Chairman of the Appropriations Committee, he made more history than he ever taught.

Clarence Cannon was a man of imminent accomplishments. He was one of the great parliamentarians of all time, a distinguished author and scholar, and probably the best read man in Congress. Even in impromptu speech, his rhetoric and grammar were as flawless as his style was unique. He contributed much to the Nation, but I am sure he would have rated the National Arboretum as one of his greatest contributions.

So would I like to be remembered as having helped Betty Rae to enlarge the National Herb Garden, along with promoting the restoration of Pennsylvania Avenue from the White House to the Capitol, reminders that we appreciate the past while we provide for the future.

Clarence Cannon would have loved this Herb Garden, and would have wished—as I do—that this Herb Garden and the entire Arboretum continue to flourish and to teach.●

USDA: NO FRIEND OF FARMERS

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. LEACH of Iowa. Mr. Speaker, it was quietly leaked late last week that the USDA has officially authorized the big grain companies to sell grain from other countries to the Soviet Union.

This remarkable reversal of policy marks another crack in the dubiously conceived and dubiously executed embargo. It underlines the futility of embargoes in general and mischievously takes the big grain companies off an embarrassing legal hook.

After all, in the wake of President Carter's decision to embargo grain sales, the big grain companies were promised that the Federal Government would make up to them the multi-million-dollar losses they suffered due to the plummet in grain prices. The companies, however, had to sign contracts stipulating they would abide by the terms of the embargo. Now the USDA is saying, in effect, that the Federal Government will treat international grain companies one way and American farmers another.

It would appear that grain companies have good friends at the USDA. It is a tragedy the American farmer does not.

It was also announced this weekend that because of the embargo U.S. export sales to Russia fell 31 percent in the first 4 months of the year. If political manipulation of markets had not occurred, U.S. sales would almost certainly have been up significantly from 1979.

Oddly, the administration seems to believe that a decline in our exports is a reflection of a successful foreign policy initiative. But for President Carter to consider the embargo a success is as reasonable as a farmer selling his last cow to buy a milking machine. The layoffs at John Deere and International Harvester, at Massey Ferguson and White are directly traceable to the embargo. So is the enormous new grain overhang which will serve for years as a depressant to farm prices.

Clearly the embargo should be lifted. Its impact has effectively been undercut by foreign sales and its long-term ramifications become graver the longer it is held in place.

Immediately, after President Carter's precipitous announcement I introduced a concurrent House-Senate resolution disapproving the administration's action. Under provision of statute the embargo could have been terminated if Congress had acted within 30 days. Unfortunately little support for such action existed last January. Now it will take extraordinary veto procedures for Congress to reverse the administration's demagogic decision.

I intend to support all reasonable efforts to reverse the status quo, but am sadly skeptical of successful action during this Congress. Instead of acting promptly under procedures provided in statute we are resigned to wait either for a change in administration or frank admission of error by the President. I suspect the former is more likely.●

PAST EFFORTS REGRETTABLE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. McDONALD. Mr. Speaker, I recently had the pleasure of meeting Mr. William J. Murray, a son of Madalyn Murray O'Hair. He has seen the light and now greatly regrets the part he played in furthering his mother's efforts to erase God in this country. In this connection, he recently wrote a letter to the Austin American Statesman, which appeared on May 10, 1980, apologizing for his past actions. When people repent their wrongdoing, I feel it should be given wider dissemination. So, at this point I place the letter-to-the-editor in the Record:

PAST EFFORTS REGRETTABLE

I would like to apologize to the people of Austin for the part I played in the building of the personal empire of Madalyn O'Hair. My efforts to that end were an affront to the people of Austin, the people of this nation and to God.

My crime was two-fold in that I was aware of the wrong of my actions at the time and continued them for the purpose of my financial profit. I was continuing to practice the hateful and anti-moral way of life I had learned from birth in an atheist home.

I deeply regret streamlining Madalyn O'Hair's society and moving it from a falling-down three-room house to a modern staffed office complex. I loathe the idea that I lowered myself to editing her anti-God magazine.

Looking back on the 33 years of life I wasted without faith and without God I pray that I may be able to correct just some of the wrong I have created. The part I played as a teen-ager in removing prayer from public schools was criminal. I removed from our future generations that short time each day which should rightly be reserved for God. In as much as the suit to destroy the tradition of prayer in school was brought in my name, I feel gravely responsible for the resulting destruction of the moral fiber of our youth that it has caused.●

SOVIET ATROCITIES AND AFGHAN RELIEF

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. DERWINSKI. Mr. Speaker, one of the things that has bothered me for some time is the policy of the administration in criticizing the human rights record of our friends and allies, such as Argentina, South Korea, and Indonesia, while devoting much less attention to the really monumental transgressions of our Communist adversaries, Vietnam, Cuba, and the Soviet Union, for example.

I recently received a letter from the Afghanistan Relief Committee, formed by private persons to provide humanitarian aid to the refugees from Afghanistan. Accompanying the letter was an article by Reed Irvine entitled, "Press Downplays Soviet Afghan Atrocities." The article, which appeared in Washington Weekly of May 6, 1980, makes the point that the horrors the Soviets are perpetrating in Afghanistan have not been given the attention they deserve in the American media. Perhaps the Afghanistan Relief Committee will help rectify that shortcoming.

Among the honorary cochairmen of the committee are Senators of both parties and two of our distinguished colleagues in the House, Mrs. Fenwick and Mr. Wolff. Governor Thompson, in my own State, has proclaimed the week of July 21–27, 1980, as Afghanistan Relief Week in Illinois. The Afghanistan Relief Committee deserves the support of us all.

For the benefit of the Members, I am reprinting the text of Reed Irvine's article:

PRESS DOWNPLAYS SOVIET AFGHAN ATROCITIES

Washington.—At this moment one of the most important human rights stories of the century is unfolding in Afghanistan. It is a story, however, that is not making the front pages of our major newspapers. Like the news that filtered out of Cambodia after the communist takeover, the shocking news out of Afghanistan is being met with apparent skepticism and indifference. Top officials of the U.S. Government, with access to the best intelligence data on what is happening in that country, are unable to get the story out to the American people.

On March 28 Deputy Secretary of State Warren Christopher gave what was billed as the first on-the-record assessment of what is happening in Afghanistan. Speaking to the Overseas Writers Club, he painted a picture of unspeakable horror. He said the Soviet occupation forces are currently holding about 15,000 political prisoners and are executing 50 of them each night. Afghan villages are being destroyed by Soviet napalm and high explosives, he said, and "I expect these atrocities to increase." He said there was "mounting evidence" that the Soviets were using a deadly poison gas, as well as an incapacitating gas. "This is the brutal life and death reality of what is taking place in Afghanistan," he said. "We and others who share a commitment to freedom have to face up to this reality and register our abhorrence of it." More than 500,000 Afghans have already fled their homeland, he added.

If evidence surfaced that American troops were perpetrating such atrocities in a foreign land, you can bet that the news would be the lead item on all the evening news shows. But Soviet atrocities are a different story. NBC and CBS each gave about 20 seconds to Deputy Secretary Christopher's remarks, putting them after stories like the eruption of Mount St. Helen's volcano in Washington. ABC gave Mr. Christopher 24 seconds, which is less than what they gave a protest by Maine potato farmers. It wasn't a big story for our major newspapers either. The Washington Post carried an article on page 6, the Washington Star ran a story on page 12, and the New York Times carried a small story on the bottom of page 10 of its city edition. That story was dropped from the late city edition.

Apparently concerned that the Afghanistan story was not getting the attention that it deserved, Secretary of Defense Harold Brown and Deputy Secretary W. Graham Claytor gave speeches on April 7 where they once again laid out the facts of life about Afghanistan, citing the figures on political prisoners, refugees, and the reports of poison gas. Mr. Claytor noted that, "The reality of Afghanistan, I believe, has gradually slipped from public attention. And I, for one, think this is an unfortunate development." He said the fate of the hostages in Iran is properly on the minds of all Americans but ". . . we must also keep our attention on Afghanistan. The more one knows about what is going on in Afghanistan and the more one thinks about its implications, the more the need for a concerted response becomes clear and urgent."

Mr. Claytor is right. The horrors that the Soviets are perpetrating in Afghanistan have not been given the attention they deserve in the American media. Recently Cliff Kincaid, assistant editor of Accuracy in Media, asked a student audience at Rutgers University how many had heard of My Lai. About 80 percent raised their hands, even though My Lai occurred 12 years ago in Vietnam and involved the deaths of only about 100 Vietnamese civilians at the hands of American combat troops. Kincaid then asked how many had heard of Kerala, the village in Afghanistan where, according to refugee reports, more than a thousand Afghan villagers were slaughtered last year on orders of a Soviet officer. Not a single hand was raised.

The Christian Science Monitor put the gruesome story of the Kerala massacre on page one of its February 4 issue. They told of a Soviet officer saying, "You can be sure that next year's potato crop will be a good one," as he watched the bodies being buried in a field by a bulldozer. It was a dramatic, moving story, but it has been buried or ignored by Big Media. For some reason they have little interest in massacres perpetrated by communists.●

THE SOLUTION TO THE ENERGY CRISIS—IN OUR OWN BACKYARD

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. KEMP. Mr. Speaker, as I have long maintained, our energy crisis is not caused by any shortage of energy here or elsewhere, but by a surplus of Government controls and taxes which prevent development of our own energy resources. A case in point is Government policy toward the energy resources locked up on Federal lands. The Federal Government has become a virtual energy monopolist, controlling over 85 percent of our remaining oil resources, 40 percent of our remaining natural gas, and 83 percent of our remaining shale oil. The Government has, in effect, put these resources beyond the reach of the American people.

The time for revision of our energy leasing policy is long overdue. A modest increase in the acreage open for development could more than double U.S. energy production in the next 4 to 8 years. A more liberal leasing policy would raise substantial Federal revenues as well, and would mean more jobs and energy independence for the American people.

William Raspberry, the respected Washington columnist, drew attention to this important issue in last Friday's Washington Post. I commend his timely analysis to the attention of my colleagues in both the House and the Senate.

The article follows:

OUR OWN ENERGY ENEMY

America's agonizing over how to break the OPEC stranglehold on our oil supplies focuses on the wrong villain, one energy expert contends. If we are strangling, says Milton Copulos, it's because we've got our hands locked firmly around our own throats.

According to Copulos, an energy policy analyst of the Heritage Foundation, we've got all the oil we need right here in America. The problem is that state and federal policy keeps us from getting at it.

His reference is not only to the 27.8 billion barrels of *proven* U.S. reserves—enough in itself to put us ahead of such oil-rich nations as Libya, Venezuela and Nigeria, which is our second biggest source of imported oil behind Saudi Arabia. His own studies indicate *potential* U.S. reserves of between 276 billion and 444 billion barrels—"enough to support current levels of consumption for the next 46 to 74 years without importing a single drop."

Then why all the talk about an energy crisis? Why did President Carter try to add a gasoline pump surcharge? Why did House-Senate conferees this week order Carter to go forward with building a 750-million-barrel strategic petroleum reserve? Why can't we simply tap our own vast supplies and say to hell with OPEC?

"Put simply," says Copulos, "policies at the state and federal levels have effectively hamstrung attempts to develop domestic reserves, and in doing so have helped tighten the OPEC noose around our necks."

He is ready with impressive examples:

A half-billion barrels of oil lie in Santa Ynez off the coast of California. But while we could be getting 80,000 barrels a day from that source (discovered fully a dozen years ago), we have yet to pump a single drop. The reason? "Inability to obtain the necessary permits from the state and federal governments."

There are an estimated 76 billion barrels of recoverable oil in Alaska—perhaps as much as 113 billion. Alaskan production today is only about 1.6 million barrels a day, about 13 percent of total U.S. production.

In all of Alaska—with potential reserves greater than the proven reserves of Venezuela, Abu Dhabi, Mexico and the Soviet Union—only seven oil rigs are presently operating, compared with 366 in Louisiana and 807 in Texas. "Why? Lack, of access. More than 120 million acres of the state, including many of the areas that hold the greatest promise for the discovery of oil and gas, have been foreclosed to exploration by Carter administration executive fiat."

The Georges Bank and Baltimore Canyon offshore fields—each of which is estimated to be the equal of the North Sea discovery—are being held up by court challenges and the restrictive leasing policies of the Department of the Interior.

Occidental Petroleum, which could be producing an additional 231 barrels a day in California, has been unable to obtain the required permission from the state.

"In a sort of perverse application of 'Murphy's Law'," Copulos charges, "anything the government can do to prevent the development of domestic energy, it does."

Nor is it only on U.S. production that government policy has its strangling effect, says Copulos, who will shortly be releasing his calculations in a Heritage Foundation study:

"Negotiations with Mexico, which possesses 40 billion barrels of proved reserves and enough potential reserves to make it a rival of Saudi Arabia, have been stymied by the intransigence of U.S. officials. "The proposed Northern Tier Pipeline to transport natural gas from Alberta, Canada, is threatened by the unwillingness of U.S. officials to provide the necessary guarantees. At every turn, our officials seem determined to throw roadblocks in the way of reducing our dependence on Arab imports."

Obviously many of the policies Copulos decries are designed to protect the American environment. But if Copulos is anywhere close to accurate—the Department of Energy has no reliable figures of its own—America is coming awfully close to being its own energy enemy.

For even assuming we will one day run out of oil, domestic supplies of upward of 46 years would give us the time to develop alternatives to fossil fuels.●

SPRINGFIELD, MASS.—A CITY ON THE MOVE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BOLAND. Mr. Speaker, Springfield, Mass., is a city on the move. The private sector has collaborated with the Federal and municipal governments in a successful urban revitalization effort. At the forefront of this effort is Springfield Central, Inc., a private, nonprofit, economic development organization.

Springfield Central, Inc. has studied various urban designs, helped prepare a master plan for the revitalization of downtown, led a strong publicity effort to emphasize the importance of a healthy downtown, and just recently assumed the role of developer in turning rundown commercial and industrial buildings, within the business district into market-rate housing. Since it became active in the redevelopment of downtown Springfield in 1976, over 70 businesses and organizations in the city have contributed to Springfield Central, Inc.

Yesterday three leaders of Springfield Central, Inc., former Springfield Mayor Charles Ryan, president of Bay Bank Valley Trust Co., Gordon Oakes, Jr., and publisher of Springfield's three newspapers, David Starr, gave a presentation on Springfield's revitalization efforts to a conference on investing in America. The presentation was part of a panel discussion on the consortium of banks as a vehicle for urban economic development. The presentation focused on an informal loan pool established by Springfield's 11 banks and 2 locally based insurance companies. These 13 companies have pledged $16 million to the revitalization effort. Some of this money has been committed to such projects as the Market Place development, the Poli-Kennedy housing project, a new headquarters for the local public television station, and the Stockbridge Court residential project.

A recent report, prepared by the Council for Northeast Economic Action under a grant from the U.S. Department of Housing and Urban Development, also focuses on Springfield's successful loan program. The report, titled "Local Economic Development: Public Leveraging of Private Capital" cites Springfield as a model for other communities to follow in their revitalization efforts. Two of the companies in the consortium, Massachusetts Mutual Life Insurance Co. and Springfield Institution for Savings, are praised by the report for their commitment to the Springfield revitalization efforts. The other companies in the consortium are the Community Savings Bank, Freedom Federal Savings and Loan Association, Hampden Savings Bank, Old Colony Bank of Hampden County, N.A., Security National Bank, Shawmut First Bank and Trust Co., Third National Bank of Hampden County, Union Federal Savings, United Cooperative Bank, Bay Bank Valley Trust Co., and the Monarch Life Insurance Co.

Mr. Speaker, I call to the attention of my colleagues an article from the Boston Globe of June 17, 1980 which underscores Springfield's success story:

SPRINGFIELD BECOMING A MODEL OF REVITALIZATION

(By James E. Roper)

WASHINGTON.—A pool of private capital offering cut-rate loans in Springfield is being cited in Washington as an ideal way of revitalizing decayed central cities.

The comptroller of the currency, John G. Helmann, has invited 200 bankers, government officials and others to a conference here June 22-24 to examine imaginative methods of rebuilding downtown areas. The Springfield story will be a center of discussion.

Organizers of the conference say Springfield, a city of 170,000, might become a model for some other cities to follow.

All 13 of Springfield's financial institutions—insurance companies, banks, and savings and loan associations—made $32 million available for cut-rate loans to developers who would rehabilitate the downtown area according to a new master plan.

The federal government chipped in some seed money, the city offered tax breaks, and the public provided political support to make the program go. The result, city planners say, is $100 million worth of projects for a 2000 foot stretch of Main street in downtown Springfield, a city that started as a trading post in 1636, blossomed into a thriving manufacturing center and then collapsed after World War II.

By 1977 Main street had crumbled into a barren strip of deteriorating buildings, some of them abandoned. The city's biggest department store closed. Loft buildings stood vacant. Many people were afraid to live in the area or even visit it at night.

Real estate developers looked at Main street and walked away. They could not figure out how they could buy a building, rehabilitate it and rent it out at a profit. Taxes and other costs were too high and the potential rent in such a neighborhood was too low.

A handful of civic leaders formed a group called Springfield Central to plan the city's salvation. Charles Ryan, a lawyer and former mayor, is credited with coming up with the idea of forming a mortgage pool that could make loans to developers at below-market rates. In effect, the lending institutions would subsidize the revival of downtown Springfield, but could benefit in the long run from the additional prosperity that this could bring to all the city.

At first, the lenders were skeptical because Springfield would require a mortgage pool larger and more complex than any such arrangement that had been tried previously.

Months passed and not much happened, recalls Gordon Oakes, Jr., president of the BayBank Valley Trust Co.

"Then Dave Starr convinced Jim Martin to commit money and his personal attention to the program," says Oakes.

Starr had just arrived in Springfield as the publisher of the city's newspapers, the Daily News, the Union and the Sunday Republican. Martin is chairman of the Massachusetts Mutual Life Insurance Co., which established its headquarters on Springfield's Main street in 1851 and, with 2700 employers, is now the second largest employer in the city. (Toy manufacturer Milton Bradley Co. is the city's largest.)

Martin pledged $5 million of Mass. Mutual's money to the pool and later added another $5 million. After the first commitment, all other local financial institutions started contributing lesser sums in relation to their assets.

Other pieces fell into place. Mayor Theodore E. Dimauro, elected on a platform of revitalizing the city, had the municipal government draw up a sparkling new master plan for downtown. He got certain areas designated as historic sites so developers could get breaks on their federal income taxes.

Starr, elected president and chief executive officer of Springfield Central, influenced the selection of a downtown site for a federal office building and helped get a total of $12.7 million in Urban Development Action Grants from the US Dept. of Housing and Urban Development.

Typically, a developer who wanted to undertake a rehabilitation project but couldn't figure out how to make a profit would place the problem before the mortgage lenders. If a cut rate on mortgage interest would make the project economically feasible then the pool would offer the loans at, say, 7 percent, or whatever it took to make the deal, and the borrower didn't have to pay back any of the principal for perhaps three years. When the project starts giving the borrower an 8.5 percent return on his investment, he is pledged to start paying higher interest.

"Because of rates and terms," says Martin, "we are getting downtown rehabilitation that otherwise would not occur.

"Of course, it's not all philanthropic on our part. We can't afford to see Springfield dry up and die, because we get our employees from the city."

The commercial banks and S & L's figure to benefit from the quickened business pace. The outlook is bright enough so that a Boston bank is looking for a downtown site in Springfield to open an affiliated bank in competition with the local firms.

"That smarts a little," chuckles Carlo Marchetti, executive director of Springfield Center. But he is proud of the projects that are bringing so much change to the historic city.

In 1776, George Washington selected a Springfield site for an arsenal that grew into an armory that manufactured muskets for the fledgling Continental Army. Springfield rifles for doughboys of World War I, and M-1 rifles for the GIs of World War II. The city's manufacturers made the first "safety" bicycles with wheels of equal size, and from that turned to the manufacture of the first American automobile, the Duryea in 1893, and the first gasoline-powered motorcycle in 1902. By 1900, Springfield had 500 manufacturing plants of all kinds.

Some of these in the downtown area are being replaced in the present cleanup, with some old loft buildings turned into apartments, some turned into office complexes and some floors converted to retail shops. Cleared areas are being turned into malls or parking facilities.

Philip Comeau, as senior development director for the Urban Development Action Grants, watches closely as Springfield's rehabilitation program unfolds.

"The economic development group and the insurance companies and banks are doing an excellent job and have the complete support of the mayor and the business community," says Comeau. "They have demonstrated to us that they can perform that once they get the ball they can run with it.

"I feel very encouraged about the future of Springfield."●

A TRIBUTE TO NEWSPAPERMAN MAX CHAMBERS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. BAUMAN. Mr. Speaker, it is with admiration and gratitude that I report to the House of Representatives the retirement of one of Maryland's Eastern Shore newspaper traditions, the venerable Max Chambers of the Caroline County Preston News & Farmer. After nearly a half century of service to the residents of Caroline County, Mr. Chambers has sold his newspaper for a much-deserved rest from the fourth estate.

Mr. Chambers always discharged his responsibility to that fourth estate with small-town charm and large-paper savvy. His homespun aphorisms mixed on the pages of the News & Farmer with crop reports and political assessments. The News & Farmer was and still is a most unique newspaper, and Mr. Chambers' supervision insured its special nature.

For his unstinting service to the residents of Caroline County and Maryland, Max Chambers is to be remembered and honored. I join with many of my constituents in wishing him as fruitful and enjoyable a retirement as his 44 years at the News & Farmer were for his readers.

At this printing, I include a letter published in the June 12, 1980, issue of the Preston News & Farmer:

[From the Preston News & Farmer, June 12, 1980]

LETTER FROM MAX CHAMBERS

The change of the season has brought a complete change here too in our business.

I've relinquished my reins of the ownership and editorship of the News & Farmer to a fine young gentleman, Mr. Scott Warehime.

Yes, it is with mixed emotions that I write this. But the time has come for a change. I have been publishing the News & Farmer for 44 years . . . good years. Thanks to you fine folks.

I will continue to be active in our community and with the many fine organizations that I have come to know over the years. Words cannot express to you my many thanks and appreciation to each and every one for your cooperation and kindness. Being the wonderful folks you are, I'm sure you'll continue to share these same feelings and gestures with our new owner, Mr. Scott Warehime.

My hope of continued success to him, The News & Farmer, and you for many years in the future.●

AN ALTERNATIVE TO NATIONAL HEALTH INSURANCE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. HYDE. Mr. Speaker, one of my valued constituents is Cook County Commissioner Joseph A. Tecson of Riverside, Ill.

Mr. Tecson is an attorney and chairman of the Planning Committee of MacNeal Memorial Hospital in Berwyn, Ill.

On October 27, 1979, Mr. Tecson delivered a most important address to the American College of Physicians Conference on Health Policy that I found most valuable, and so I commend it to my colleagues:

Since, I imagine, everyone drove here, I'd like to begin by mentioning Arabs—but the ones before we had OPEC. What they exported back then was not oil but stories and parables, and I have one that I feel will serve as a preface to our meeting today.

There once, long ago, was a Shiek who determined to become wise, so he summoned all his counselors together and said "I wish to know everything about the nature of man, wherever he lives on Earth, and I will give half my wealth to find it out."

The counselors set out to fulfill his request, and dispatched caravans to the known corners of the world. Every year for seven years the camels came back laden with writings from the most renowned and wisest authors. At the end of the seventh year, the books were assembled and this filled an enormous tower. Shown this, the Shiek was impressed but not pleased. "If I lived three life-times," he said, "I could never read half of this. I will give the remaining half of my wealth to have all this learning distilled so that a man can understand it."

And for seven more years the scholars and wise men labored to reduce all the works to one statement. And at the end of the seventh year the chief scholar came before the Shiek and said "We have finished. All that is known about man's nature can be put thus: "Man lives but a short time and is unhappy. And as long as he holds the Earth he forever wants more than he can have."

I don't know whether that will make you pass a gas station in a better frame of mind, but I hope it will sort of colorfully establish one of the themes that I want to develop in speaking of local government and health care as in the Shiek's quest, I think we can distill the "crisis in health care" we hear so much about to one formulation. "There is an unlimited demand for services—but only limited resources to supply them." This predicament is what brings us here together today, because our professions—as physicians and as public officials—deal with the two ends of health care, with providing services themselves and with providing—or allocating—the human, physical, and financial resources for them.

I don't think I have to defend, especially to you physicians, the unlimited demand for health care. The environment, the way we live our lives, and the flaws of human nature itself continually subject us to disease; and when we become ill, we will seek the best help possible to make us well.

But the concept of limited resources needs, I think, some expansion because it's one which, particularly in the United States, we are not used to, and it's not even one that's readily apparent. There's certainly no shortage of doctors—in fact, some specialties, seem over-supplied, and each year far more young men and women apply to medical school than can possibly be admitted. We possess the most sophisticated technology in the world, and there are few locations in the country that cannot benefit from it. And, during the past fifteen years, through Federal and local programs, we have made enormous strides in providing medical care to all segments of society, to the aged and the poor and those otherwise left out of the system.

How can we talk of limits and lack of resources? If we had no other business but to provide health care to everyone who sought it, and could devote all our resources to this, we wouldn't now face a crisis. But, privately and publicly, we have other needs and wants, and only so much can go to answer all of them.

It was only eighty some years ago that a U.S. Geographic Survey reported that the frontier was closed and that the physical limits of our country had been reached. From most reports we have today, it seems that the new frontier is closed, and we have reached our economic limits, especially in the field of health care.

Until just recently, this wasn't the case. In 1960, we spent 27 billion for health, about 5 percent of our gross national product. Last year, health expenditures had reached the staggering sum of 192 billion, almost 10 percent of our economy. No nation on earth spends more, or spends a higher percentage of its gross national product than we do for health.

Our bill for health works out to $800 a year for every man, woman and child in the U.S. The costs are spread out so that they influence almost every sector of our economy. General Motors, for example, spends more for the health insurance of its workers than it does for the steel in its automobiles.

The impact has become great enough to effect our whole framework of life. The enormous increase in government spending means higher taxes for individuals and businesses. Increases in insurance rates, which follow costs in health care, result in either lower wages for a company's workers, or higher prices for the company's goods and services. All of this means less for the other areas of our lives. And so, when we look at the coming era of reduced expectations, of fewer private homes, smaller savings, and so forth, we have to judge medical costs as part, at least, of our problem.

Because the tremendous increases in cost occur nationwide, and because everyone—from the farmer in Nebraska to the resident of mid-town Manhattan—feels the burden—the delivery of health care is being seen as a national problem—and one which demands solution by the Federal Government. And so on one side, we hear the need for a universal, mandatory national health system: and just as loudly from another direction we hear that we must impose stringent regulations on hospital costs, laboratory charges, and fees for physicians services—but in either or both cases it would be the Federal Government that would be paying the piper and calling the tunes.

I'm convinced further dependence on the Federal Government is the wrong direction, and one of the points I want to stress this morning is that the local scene—the State, the county, and the city—is the only proper place for dealing with the problems within our health system. I think we can find several reasons for this:

First, there isn't such a thing as a national crisis in health care—there are only local problems going on throughout the country. The gasoline shortage and the debate over nuclear and alternative energy sources—these are national problems. They cross local boundaries and are effected by a literally world-wide network of needs, demands, negotiations and agreements. Our State can do precious little about the shortage of natural gas, and even a mighty city like Chicago is virtually powerless to influence the cost or ease the allocation of motor fuel. Only an entity as encompassing as our Federal Government can and should make the major policy decisions regarding these issues.

But health care is nothing like this: Our physical surroundings and our local economy give us an environment that can either contribute to our health or help foster disease. When people become ill, they go, on the main, to physicians in their own neighborhoods and hospitals close to their own homes.

It's primarily the local governmental structure—not the Federal—that monitors the kinds of care they receive. State departments register and license physicians and certify hospitals. Local building and fire safety codes apply to various facilities, and reflect local needs and conditions.

And while local government affects those who provide medical care, it also influences those who receive it. The State determines who is eligible to receive public assistance, and pays—together with matching Federal funds—for the care they have received. And other units of local government—counties, townships, and municipalities—extend care to more of the poor through programs aiding the medically indigent.

Virtually every aspect of health and health care is local in nature, and it appeals to reason that whatever problems arise in a health care system can be identified and treated best from the local level.

The second reason I'm convinced that nationalizing medical care—or allowing more Federal intervention in the existing system—would be wrong is based on the experience of Washington's involvment over the past 15 years. As physicians, you're familiar with the concept of hiatrogenic illness—complications that arise from the course of treatment itself. Joan Beck, a columnist for the Tribune, has suggested the useful term "cratogenic"—or complications that arise from government intervention. What's caused our crisis? If health care suffers from anything today, it suffers from cratogenic problems. Most economists agree that the sky-rocketing costs in the health care field are attributable to the two Federal programs begun in the late '60's—medicare and medicaid. The regulations spawned by these—and other Federal programs carry their own costs. A study by the New York State Hospital Association revealed that the effort to comply with regulations cost the State's hospitals $4 billion annually. More Federal initiatives can only result in greater costs and more and more regulations, written by more and more bureaucrats whose salaries we must also pay.

We cannot, of course, turn the clock back and I don't think anyone could rationally suggest abolishing those programs which have, despite their glaring flaws, extended care to many individuals who previously could not obtain it.

But should we give Washington and its bureaucracy more authority over the delivery of health care? What should we expect from a Government that has given us anti-inflation programs that produced a 13% rate of inflation: A war on energy shortages that produces gasoline lines: An educational program that insists on moving 140,000 school children from their neighborhoods to somewhere else, and that runs the Post Office.

Yet the drift is plainly toward Washington. The 1980 Presidential campaign will crystalize the issue of National Health Care, and writers who take up the subject tell us that the question is not whether we shall have universal coverage, but only when this shall be done. The current watchwords in health are cost-containment, continuity, and quality of care for all citizens. If these cannot be supplied locally, through the initiatives of local government and the private sector—if there is a vacuum in activity and leadership—then the Federal Government will step in, as far as it can go. If this happens, we should all be the losers. The initial costs of any national program would be enormous and, judging from the experience not only of our own medicare and medicaid systems but that of Britain's Health Service—the subsequent cost would grow astronomically. But worse, we would inevitably lose large measures of independence—as patients or as physicians—and this would detract from both the quality of medical care and the quality of our lives.

It is, therefore, imperative that the best possible use be made of our local resources, and I don't think we're doing this now. We have all the pieces—a myriad of State agencies and departments, separate units of local government charged with planning and delivering health care, revenues raised from a variety of general taxes and the property tax, and one of the most extensive networks of private hospitals and public health centers in the world. Its size is truly amazing. Chicago and its suburbs contain more than a hundred private hospitals—six renowned medical schools, over a dozen public clinics funded by the county or the city—and several thousand physicians engaged in private or group practice or in a number of rapidly growing health maintenance organizations.

When I mentioned, a moment ago, that we weren't making the best possible use of our resources, I meant exactly that, and I by no means want to be included in the small but vocal groups of critics who maintain that our system is a failure. Clearly, it's not. It's working, and working extremely well. Yet we see on the news, and read in the paper almost daily of the crisis at County Hospital. We hear that the poor are not being served anywhere else, and that millions of dollars will be needed to keep their one hope of medical care open.

I'd like to focus on the problems at County now because I think it can serve as a graphic example of the local health care system—both public and private—it can illustrate what its deficiencies are, and indicate, too, directions that we can take to make the best use of our resources.

First, we should make some important clarifications. County Hospital is not the only place the poor go for treatment. In Chicago, 85 percent of the money that the State's Department of Public Aid spends for hospital care goes to private hospitals. Looking at this figure from a different perspective, fifteen years ago, County Hospital ranked as the largest general hospital in the world, treating 3,000 people daily. Today, its average in-patient load varies between 700 to 800; and the rate of decline continues steadily. Many of its patients are choosing to go to private hospitals.

County Hospital hasn't been victimized by restraints in spending, either. Expenditures at the hospital total almost $200 million—county real estate taxpayers make up about $60 million of that amount, or a $12.00 assessment for every man, woman and child living in Chicago and its suburbs. We have reached the legal limit on property taxes for the hospital—the Governor, the legislature and the president of the county board have become actively involved in the search for new sources of money—and we're still faced with the popular perception that we're not doing enough. Well, how much money would be enough? How many new hospitals should we build, or clinics could we open to provide a level of care that everyone might consider adequate?

The answer is we need nothing more. No new beds—no massive additional public expenditures. The only thing that we need do is utilize what we have now, organize all the separate maldistributed pieces together into a truly functioning health system. So let's look at our present situation, and see what can be done to make it work effectively.

I think the mere existence of a "poor persons' hospital"—county hospital—is demeaning—a relic from the age of Charles Dickens and the work house. (In fact—up until the end of the 1950's, the director of the hospital was known as "the warden"). Yet it exists because some of the residents of Chicago don't have ready access to private hospitals. There are two major reasons for this: and eliminating both would do much to develop a meaningful health system.

The first reason is that many of County's patients have no means to pay for treatment in the private sector. Most public aid patients, as I said, choose to go to private hospitals. Their green cards are their insurance, and the hospital accepting them is guaranteed payment. Many who come to County earn more than the eligibility limits for medicaid, yet do not carry private insurance, and haven't the resources to foot the whole hospital bill themselves.

Cook County pays for the cost of their care. Cook County also pays the whole cost of the building that houses them, and buys the equipment that aids in their treatment.

This seems to me to be duplicative and wasteful. If guaranteed payment is one of the problems that prevents access to the system, the solution is apparent. Cook County can make contractual agreements with hospitals located in the neighborhoods that produce the bulk of these patients. A fixed amount could be negotiated, standards of treatment determined, and incentives built in to encourage cost-effectiveness. Patients would be given free choice, and the county's taxpayers would be saved the substantial costs of constant repairs to a 70 year old building: or the enormous costs of constructing a brand new one.

The city of Philadelphia developed such a system over 2 years ago. The city negotiated contracts with 12 private hospitals throughout the city, encompassing both out patient care and inpatient treatment. To control costs, it established maximum payments for any hospital within a given year. With this system in place, Philadelphia closed its general hospital—the equivalent of our County. To this date there is no record of any person being denied treatment at one of the participating hospitals. I see no reason the Philadelphia plan couldn't work here.

The second major reason patients come to County is that they lack the means of referral to private hospitals. It's not that they don't have doctors. The poorer sections of our city have been plagued by "medicaid mills," assembly-line centers for primary care where physicians process incredibly large numbers of patients and bill the State for their services. Many of these doctors have no affiliations with private hospitals. Consequently, when one of their patients develops a condition needing hospitalization, they dump him or her on County. When the patient is released, he returns to the original doctor.

The deficiencies in this practice are obvious—the patient loses continuity of care; the taxpayer is assessed twice for service that should have been rendered once.

To correct this, the Department of Public Aid could develop regulations requiring affiliation with a hospital as a condition for reimbursement through medicaid. This would have a variety of benefits. Most importantly, it would improve the quality of care by ensuring and monitoring the capability of the physician. It would ensure continuity of care for the patient, making his journey through diagnosis to treatment to discharge a steady and smooth process. And, it would be a vastly more economical and efficient use of our resources.

County hospital, the point of our discussion, reflects the problems affecting the delivery of care in a large metropolitan area. We've seen how local initiatives—actions by the county, the city, or the State can have an impact on County and on the other city hospitals—the most visible and most costly component of the health care delivery system. But the hospital system—for all its importance—is only one side of the coin. The other side is primary care—and for a large urban area this holds special problems.

By far, the largest problem is supply. Older urban areas suffer a severe shortage of doctors. As a neighborhood deteriorates, older physicians move away, retire, or die—young doctors set up their practices in more amenable neighborhoods: and the residents, consequently, are hard pressed to find the most basic and elementary forms of care and treatment.

There's not an easy solution for this. Doctors are scarce in some areas for the same reason that architects, symphony conductors, or major league ball players are. Simply, they don't want to live or work there.

Practical reasons weigh as heavily as preference. For the individual doctor in the inner-city, security is an enormous concern. Twenty years ago, his black bag might have offered him protection and respect: today, it's an invitation to a mugging. Insurance—for his office, his car, or his practice is exorbitantly expensive or impossible to obtain. Skilled staff—from nurses to receptionists—are equally hard to come by.

Given this—how can the primary care needs of the people be met? Large publicly funded clinics seem the best approach, and there are already a substantial number in operation. The city of Chicago operates seven while Cook County, through the Health and Hospital Governing Commission, has an equal number.

But again, we need more co-ordinated effort. The governing commission clinics act as conduits for County Hospital—the city's clinics have affiliations with private hospitals. Moreover, certain neighborhoods lie in the service areas of both organizations, while other areas are underserved.

If we look to the long-term future and recognize that we have to develop a comprehensive and rational system, we can see the need for centralizing control of our public clinics. The Philadelphia experience can serve as a useful guide in this.

We must also innovate and expand. Prevention and health maintenance can eliminate or postpone the need for other vastly more expensive kinds of treatment: and this is especially true with children. Yet we have large numbers of school children who lack access to regular physicians, but whose health needs are great. One suburban municipality has tried to fill this lack by hiring a doctor—full time—for its school. He has a converted school room as his office, and, with their parents consent, sees the children on a regular basis. A program like this certainly answers the criteria of cost, continuity, and quality of care and it's one which could easily be expanded and adopted to meet the needs of a large urban area.

If we can extend primary care through new uses of our existing and familiar resources, we can also extend it by greater use of untapped resources. At the primary level, a great many encounters are absolutely routine—Johnny needs a check-up, Billy a vaccination, Mrs. Smith has the flu and Ed Jones has to have the stitches removed from his cut.

For the past decade or so, a new kind of medical worker, the para-professional, has been receiving training to deal with situations like these. Under the supervision of a physician, such personnel can do much to make the doctor far more effective, by freeing him to deal with more complex cases.

The other and obvious advantage of para-professionals is economical. They work for salaries much lower than physicians and consequently can restrain costs while actually extending the amount of care provided.

My own field of law has started to take advantage of the services of para-legals, whose training qualifies them to handle much of the routine work that comes through a law office. Over-all, I think they can be an enormous help; and as practices—whether medical or legal—become more complex and demanding, trained helpers are going to become more and more necessary to deal with the routine chores that can exhaust so much time and energy.

Because para-professionals are so new, their status under laws and regulations isn't clearly defined. During the coming years if they are to assume a meaningful role in the delivery of health care, we will have to determine standards for education and licensure, rules of practice to state what acts para-professionals may or may not perform, and so forth. And the rules that are set up will be a major factor in determining the future of health care and medical practice.

I've spoken thus far about health care at the local level, about some flaws I perceive and some solutions I think might help. Everything I've talked about necessitates action by some level of government. Some solutions could be generated by an executive order—from the Governor, the president of the county board, or the mayor. Others might require legislative action, and that would come from the general assembly, the county's board of commissioners, the city council, or the board of trustees of a village. Other activity could only come about through regulations written by a certain department of State, county, or city government.

I think you can see the difficulty. Local government is complex and fragmented. If you've ever tried to solve a relatively simple personal problem—like obtaining a record or correcting a mistake on your property taxes—you know how frustrating and exhausting the government process can be. How then, if we want, can we make changes in a whole system or, from the other side, how can we stop changes that we don't want from happening?

Any kind of political action involves three steps. First, the individual or the group has to define a position stating what's to be done. That might sound overly simple and obvious, but far too many people—singly or as organizations—expect good laws to be enacted and bad laws repealed as a matter of course. No special providence tells those who make our laws what should be done. They have to have some suggestions, an agenda to follow.

Secondly, you must get support for the position—from your own organization and other interested parties, from the general public, and from law makers. This is an educational role, teaching and persuading as many as possible that what you're suggesting will make a positive improvement in things.

Finally, you have to get your program before the person or the governmental body that can act effectively on it. This means knowing what branch of government or what agency has the ability to act on the proposal, and knowing also which person in that branch has the authority to do something.

This takes a concerted effort and a considerable amount of expertise. Many groups, be they labor unions, trade associations, taxpayers organizations or what have you, present issues they feel to be important through their own political action committees, PAC's. Establishing a PAC requires going out and hiring a qualified staff to research and develop issues, to review legislation of interest to your group, and to represent you before lawmakers. PAC's serve as middlemen between any organization and the governmental process, and they can be one of the most effective tools for dealing with local issues at a State, county, or city level.

A PAC is just as valuable, just as necessary for protecting your private interests as physicians. Several years ago the Illinois Legislature passed a law requiring doctors to upgrade their professional skills through continuing medical education. Keeping current with what other physicians are doing is vital, of course, to your career's development. Can I suggest, though, that keeping current with what the legislature might be doing to the profession is just as vital. For example, this past Wednesday the courts permitted physicians to advertise—under certain guidelines. Where are those guidelines going to come from except some legislative body or agency? And how can you influence how those guidelines are written and how they will effect medical practice and ethics? A PAC is the answer.

To sum things up, I've tried to develop two principle themes this morning. First, spending levels for health care have reached such proportions that we cannot, in justice to ourselves and everyone else, allow them to continue unchecked. Our problems, we've learned over the last decade and more, won't vanish when we throw money at them. If they can be dealt with at all, they have to be faced with the resources we have on hand now.

Second, I've tried to emphasize that the local level is the appropriate sector for action in health care. Lack of access, obsolete methods of funding, shortage of goods and service don't come to us across State lines. They're home grown problems and require home remedies.

I've taken the liberty of suggesting some actions that might be taken in addressing local conditions. But whatever the merits of these proposals, if you're concerned about the direction that health care and health care legislation is taking, if you believe that some changes for the better can be made in the existing system, and if you're convinced that a serious investment of time, energy, money, and talent could bear greater rewards through a higher quality of care for all, then I think you should organize to promote the necessary changes in health care at the local level.

I want to commend your organization, and particularly its leadership for initiating this program and I wish you the best of luck, and the best of results in your very worthy endeavors.●

PRESIDENT CARTER CONTINUES AD HOC POLICY ON CUBANS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. McCLORY. Mr. Speaker, I can appreciate the dilemma of the Carter administration and the Coordinator for Refugee Affairs in trying to deal with the problem of Cuban and Haitian nationals who have entered this country in the last 8 weeks.

I can only observe, however, that the dilemma is of the President's own creation and evidences a disregard of the Refugee and Immigration Act of 1980. I note in the statement issued by the President's Coordinator for Refugee Affairs that the Cuban nationals who have arrived on our shores in recent weeks are described as Cuban "entrants." This, of course, is a new description not found in the existing law and is, in effect, in response to my earlier charges that these Cuban nationals do not fit any existing category of immigrant or refugee.

Mr. Speaker, what seems unbelievable in the statement is the claim that:

> Throughout this emergency, our objectives have been to uphold our international obligation and protect the integrity of our immigration and refugee laws.

In almost the next breath, the hope is expressed that:

> Our enforcement measures will discourage others from undertaking the long and dangerous journey by boat in violation of our laws.

This, it seems to me, is an acknowledgement that the boat flotilla has indeed been in violation of our laws, and it has been retarded by the recent enforcement measures which have been taken.

The earlier outcry against treating the Haitian arrivals differently from those persons arriving illegally from Cuba appears now to have resulted in a desire to join Cuban and Haitian entrants as a part of the same special category. It is possible that sympathy for the Haitian entrants may have induced the administration to include them as a means for gaining public support for the resettlement programs developed for accommodating the massive inflow of Cubans, almost all of whom were selected by Castro for entry into our country and not by the Immigration and Naturalization Service, as required by our laws.

The demand that the Congress should enact legislation to make legal that which the administration has done without legal authority is some kind of commentary on the mismanagement of this whole confused and outrageously expensive affair.

Mr. Speaker, it appears from the administration's proposal that Cuban and Haitian entrants may qualify for substantial Federal benefits beyond those which many U.S. citizens and lawful entrants into our country could receive. It is encouraging, however, to note that "criminals" will be subject to detention and exclusion or deportation from the United States.

Finally, notwithstanding the failure to enforce the law up to and including June 19, the administration asserts that "enforcement will be maintained to prevent future illegal arrivals * * *." This is a clear acknowledgement that the arrivals prior to June 19, were illegal. Still, the administration appears anxious to keep virtually all who arrived illegally prior to June 19, and that only those who arrived after June 19 "will not be eligible for the program and will be subject to exclusion or deportation in accordance with U.S. immigration laws."

Mr. Speaker, in my view, that is not enough. If future illegal entrants can be excluded or deported, why could not others who arrived prior to the cutoff date of June 19, be excluded or deported? How about having those who do not qualify as refugees or immigrants repatriated? Repatriation is a valid and important element of all immigration and refugee policy—not mentioned in any of the administration's recent statements about Cuban and Haitian "entrants".●

YOUTH'S INTERPRETATION OF MEMORIAL DAY SIGNIFICANCE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. MICA. Mr. Speaker, last Memorial Day, I had an opportunity to hear young people speak about the impact and significance of the veterans' sacrifices for our great Nation.

At this time, I wish to share with my colleagues some of these remarks, which I found to be very gratifying to hear from our future leaders.

How My Life Is Today as a Result of Veterans' Sacrifices in the Past

(By Miss Leslie Smith, of Delray Beach, Fla.)

When all the planning for this ceremony first began, we discussed which topic I would speak on. One of them was "How My Life Would be Different Today Without The Sacrifices of Veterans In the Past."

As I pondered that topic, I realized that I could hardly imagine how my life would be now, if sacrifices hadn't been made. The few thoughts I did have weren't very pleasant ones. You see, if Americans hadn't defended our country in the years past, I don't think my life would be half as valuable as it is now. But all of this is just supposed; I really can't say for sure how my life would have been under those circumstances. However, there is one thing I do know, and that is "How My Life is Today as a Result of Veteran's Sacrifices in the Past"; how my life is in relation to the privileges I enjoy, the tangible material things I possess, and the values I hold.

First, take for instance, the privileges I enjoy. Right now I'm a college student in the process of studying for the career of my choice (not guaranteed to succeed, but guaranteed the right to try). I am an athlete who competes by choice, when and where I choose.

All this sounds very commonplace to most of us, but in come countries your talents would be decided for you at a very young age; and they may even do you the favor of picking your career, whether you like it or not. Athletes and people of the arts are often exploited for the sake of the country only.

Another privilege I hold dear is that of being able to practice my Christian faith freely. From that experience I've learned that true freedom lies within a person, but how much more lovely it is when the most important things in your life don't have to be hidden because of the fear of persecution. I don't know what I would do if I were in a country where the authorities said "You can't worship your God, and you can't have your Bible, without the risk of losing your life"—I am afraid I would not live long.

One other privilege I was not able to experience until this past year was that of voting. I suppose for many it's just a regular duty, unfortunately for others, voting is not even worth their time. For me it is a special feeling knowing that I have a part in the decisions of my country—a feeling of self worth. There are many people who never experience that feeling, because they know their opinions do not matter to the leaders of their country. I'm grateful that mine does. The choices I have in relation to my career, athletic competition, Christian faith, and voting are truly important privileges to me.

Thomas Jefferson was so right when he wrote, "My God! how little do my countrymen know what precious blessings they are in possession of, and which no other people on earth enjoy."

Secondly, I am thankful for the material things I'm able to enjoy and possess—this country's beautiful landscape, my home and so many others. We have so many luxuries and they are so common to us that we often mistake them for necessities. We really don't realize how rich we are until we've been elsewhere. "I can see our country becoming richer and more powerful. But to make her prosperity more than superficial, her moral and intellectual development must keep pace with her material wealth."

The third area of how my life is today is in relation to the values I hold. The first of those values is an appreciation for my country, which was developed over a period of years. My parents (who were members of the V.F.W.) taught me to love my country by their own example. I was taught the Pledge of Allegiance before I even knew what the words meant. At the age of five, I was already standing in front of post offices and grocery stores with a money can in one hand and a bundle of Buddy Poppies in the other. I collected donations as I explained to people that the flowers were made by sick veterans in the hospital and asked them to donate to help these men.

I was proud of my country, but I don't suppose it was until I was in high school that I gained a greater appreciation for her. For me it took living in South America for a summer and seeing communism slowly taking grasp of a country, before I could realize just how good I have it here in the United States.

Another important idea that I value very much, is how I use my freedom. The problem with many of us is that we've forgotten or never learned the true meaning of FREEDOM. We think freedom means we can do whatever we want with no strings attached. "Our present and future danger may lie in our failure to recognize that if we were to achieve freedom from responsibility, all our freedoms would be lost. All the freedom mankind has achieved to date has been achieved only because individuals accepted responsibility." (Authur H. Motley)

Yes, those veterans have a lot to do with the way my life is today, such as the privileges I have. They have a lot to do with the tangible-material things we now enjoy as a nation. And they have a lot to do with the values I've developed for my country.

Thomas Paine once wrote, "These are times that try men's souls. The summer soldier and the sunshine patriot will, in the crises, shrink from the service of their country, but he that stands it now, deserves the love and thanks of man and woman." These veterans whom we honor today deserve our love and thanks. From them we must learn to sacrifice, whether it be giving up some of our pleasures in order to conserve our country's natural resources, or whether it be giving up our lives in order to preserve freedom for those who follow us.

I would like to close by taking the liberty to paraphrase a few words once spoken by Abraham Lincoln:

"We have met on a great battlefield of war. We have come to dedicate a portion of that field as a final resting place for those who gave their lives that the nation might live. It is altogether fitting and proper that we should do this. But in a larger sense, we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did."●

C. MARVIN BREWER HONORED

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. ANDERSON of California. Mr. Speaker, on June 27, 1980, the members and friends of the Torrance Chamber of Commerce will gather to install the organization's newly elected officers and to pay tribute to the retiring leadership. I take this moment to join in the spirit of this occasion by saluting outgoing President C. Marvin Brewer, an individual who has contributed greatly toward making this past year an especially successful one for the Torrance Chamber of Commerce. I now wish to share with my colleagues some of Marve's achievements in civic affairs and in his own professional career.

With Marvin Brewer as president, the chamber of commerce has compiled an impressive list of new initiatives during the past year. His last report to the chamber's membership listed the following three significant projects started during his year-long term: establishing the Private Industry Council, a group of local businessmen and community leaders to supervise private sector employee training under the Federal CETA program; creating a commuter bus pooling plan by the Traffic and Transportation Committee which calls for institution of a private sector commuter bus system that would be shared by South Bay industries; and forming the Paul Revere Committee, a grassroots political awareness effort which encourages members to write letters to legislators on crucial business issues. In addition, he also reported progress on creating a Small Business Council which offers improved and expanded services to small business members of the chamber, plus the formulation of a plan by the Future Quarters Committee to expand office space.

This man has demonstrated a genuine devotion to the welfare of the Torrance community by his work with the chamber. But in addition, he has also demonstrated individual talents by the success of his personal career in financial and administrative management. His promotion to chairman of the board of the Long Beach based Dominguez Water Corp., last year indicates his company's recognition of his ample talents.

Mr. Speaker, in private and public endeavors, this man has proven his capabilities and illustrated a selfless generosity that has won him wide respect. My wife, Lee, joins me as we proudly congratulate him on his most recent success, the completion of his impressive term as chamber of commerce president. We now also offer to Marvin Brewer; his wife, Stella; and their two sons, Kirk and Craig, our best wishes for many more years of good fortune, continued success, and happiness in the future.●

UNITED STATES MUST PREVENT ATTACK ON ISRAEL'S EXISTENCE AT U.N. MID-DECADE CONFERENCE ON WOMEN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. LEHMAN. Mr. Speaker, as plans unfold for the United Nations World Conference in Copenhagen this July to mark the fifth year of the U.N. Decade for Women, I have become increasingly disturbed that the Conference is turning into another vehicle for political abuse against Israel.

The agenda item entitled "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" is slated for discussion in two separate committees during three separate sessions of the Conference. Since this agenda item overlaps the session on women as refugees, domination of the Conference by this topic is virtually assured. Any discussion of Palestinian women should be properly placed within the session on women and refugees.

Five years ago, in Mexico City, a similar subversion of an international conference on women took place. The adoption of a resolution equating Zionism with racism and condemning Israel by the U.N. Conference on the International Women's Year caused divisiveness which robbed attention from the pressing needs and problems of women around the world. A repeat performance at the July 1980 Mid-Decade Conference in Copenhagen would again steal attention from the important problems of women.

The agenda item on Palestinian women will focus on a report prepared by the U.N. Economic Commission for Western Asia, a group which includes in its membership Arab States and the Palestine Liberation Organization. Its exclusion of Israel, a member state of the U.N. and geographically part of the region, is in violation of the U.N. Charter principle of universality and sovereign equality of members. The document, drafted by this fanatically anti-Israel coalition, is another distorted account of the history of the Arab-Israeli conflict. Israel is referred to as "1948 occupied Palestine." The report is the first official document accepted by a United Nations international forum which argues against the legitimacy of the Israeli State. The report does not address the needs of Palestinian women which are unique to women in Arab culture nor does it analyze in any credible way the socioeconomic conditions of Palestinian women. Indeed, the 1979 State Department Report on Human Rights Practices, based on an impartial study, comments on the position of Palestinian women in the occupied territories:

> The status of women in the occupied territories reflects traditional Palestinian values and practices. Laws governing marriage, family, and personal status discriminate against women. Changes are taking place, however. Since 1967, the proportion of women in school has steadily increased so that now they comprise roughly half the school population. Exposure to education, and to a basically egalitarian attitude towards women by Israelis, is changing the traditional status of women. Traditionally unenfranchised, women are permitted to vote in municipal elections. The younger generation of women is growing up with different expectations about its status * * *. Women who work in Israel proper or for Israeli firms receive the benefits of Israeli labor laws and practices.

I have voiced my concern to the U.N. Decade for Women office at the Department of State and was informed that the Conference will only become a problem if Israel decides to respond. Disregarding this as a serious reply, I sought clarification during House Appropriation Foreign Operation Subcommittee hearings on what the U.S. role would be on this issue. I learned that while the United States opposed singling out Palestinian women for special consideration at the Copenhagen Conference discussion in the U.N. General Assembly last year, and voted with Israel against including the item on the agenda, its inclusion was supported by 118 other U.N. member nations.

Last week, Assistant Secretary for International Organizational Affairs Richard McCall, at the most recent preparatory meeting on the Conference, objected strongly to using a document which challenges the legitimacy of a member state of the United Nations. The open attack on the sovereignty of a member nation is a perversion of the concept of such an international conference whose purpose is to improve the status and opportunities for women worldwide and to achieve greater participation by women in the processes of economic and social development. Mr. McCall assured me that the United States will fight any kind of resolution that would be anti-Israel in any way.

Promoting the views of the Palestine Liberation Organization at American taxpayers's expense violates congressional prohibition of U.N. programs which seek to further the interests of the PLO. It is my hope and expectation that the United States will do all it can to contain the debate within the scope of the Conference and to actively work with other delegations in defeating any anti-Israel resolutions.●

IN TRIBUTE TO MRS. P. C. ROBINSON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. CLAY. Mr. Speaker, I would like to take this opportunity to share a beautiful poem with my colleagues in the U.S. House of Representatives. This poem was written by one of the St. Louis community's outstanding citizens, Ms. Elaine Moore. Ms. Moore is not only a talented writer, but a highly respected real estate entrepreneur who has my highest regard, as she has consistently demonstrated a sincere and unselfish commitment to improving the quality of life in our city.

Elaine's poem was written to honor Mr. and Mrs. P. C. Robinson, and presented on the occasion of a tribute given by the National Association of Real Estate Brokers in honor of her husband, P. C. Robinson. I have known and admired P. C. Robinson for many years, and I have the highest respect for his special blend of ability and dedication. Mr. and Mrs. P. C. Robinson make an outstanding combination, and I am proud to boast of their fine contributions to our community. It is indeed my pleasure to share Elaine Moore's beautiful and inspiring poem:

> To walk the road is one thing.
> To have paved it is another.
> As new travelers on your road, we ask but two things of you, now.
> Share with us your wisdom, that we may pave the road yet another mile and lend us your strength that we not falter in our task.
> We at Elaine Moore Real Estate, humbly offer you, P. C. and Mrs. Robinson, the highest awards in our company.
> P. C. this butterfly—emerging from the cocoon—symbolizes our struggle for freedom: spreading its wings—it has achieved its freedom, to display its uniqueness to the world: which validates, that as God has purpose in the short life of a butterfly, then certainly there is purpose in our lives.
> You P. C. have more than exemplified this to be factual.
> And to you Mrs. Robinson this single rose delicate and beautiful—yet strong. A masterpiece in itself: symbolizing the concern and support you have given the man and the cause.
> For the butterfly cannot survive without the nectar of the rose.●

SENATE—*Wednesday, June 25, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our Father, help us to live through this day worthy of the vocation to which we have been called. May we so live that we may bring help to others, credit to ourselves, honor to the name we bear, and joy to those who love us. Keep us cheerful when things go wrong, persevering when things are difficult, serene when things are irritating. May the tedious tasks and the long hours be less wearisome in the knowledge that every talent we possess is placed on the altar of public service and that the Nation is well served. Gather us close to Thee and to one another as we work to set forward Thy kingdom on Earth.

In the Redeemer's name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 25, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve my time for the moment.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader.

THE ALASKA LANDS BILL

Mr. STEVENS. Mr. President, the Senate will soon consider the energy and natural resources bill, the Alaska lands bill. This lands controversy is an extraordinarily complicated issue, and I know that it is difficult for the Members of this body to explore in depth the concerns of every group involved. For this reason, I would like to draw special attention to the remarks that Jay Hammond, Governor of Alaska, delivered before the National Press Club yesterday in Washington.

Governor Hammond's speech was dedicated to clearing up some of the misconceptions regarding the State of Alaska's oil revenues and the position that Alaskans have adopted on development of Alaska's natural resources. As he eloquently points out, the people of Alaska have been confronted with the extremes of total exploitation and total preservation for some time and have decided to follow a middle path. We Alaskans look to the principles of conservation for guidance in managing our State's resources. The emphasis is on wise, limited development which protects Alaska's beautiful natural environment and renewable resources and also provides for the efficient use of Alaska's nonrenewable resources.

As the Governor also notes, Alaska's environmental track record can be matched against any other State's record. Alaskans want to protect the land we love and have been doing so for many years. The State of Alaska moved to repurchase oil leases in Kachemak Bay in southcentral Alaska when it was determined that oil drilling would pose a serious threat to the bay habitat. The State has put more State lands into parks and critical habitat areas than any other State. It has made every effort to develop Alaska's resources in a sound, environmentally sensitive manner.

Mr. President, the people of Alaska have demonstrated our deep respect for the land and our commitment to the protection of that land. We are asking the Senate to pass a balanced Alaska lands bill that will not destroy our way of life and cripple Alaska's social and economic development. I hope that every Senator will take the time to investigate the issues involved in this Alaska lands bill and discover how false the stereotypes surrounding the lands issue are. I cannot think of a better way to start than by reading the statement that Governor Hammond made before the Press Club yesterday. Governor Hammond is a man who has worked as a wildlife biologist and a master guide in Alaska. He is a man who has made his commitment to the State's long-term environmental, social, and economic welfare so absolutely clear once again.

Mr. President, I ask unanimous consent that the statement which was made by our Governor, Gov. Jay Hammond, before the National Press Club yesterday be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ALASKA—WHO'S PROTECTING WHOM FROM WHAT?

It is not without some small apprehension that I submit myself to what must be considered the Grand Prix of press conferences. On all too frequent occasions, my comments to the press have caused me trouble. Some press people have the annoying habit of quoting me accurately.

Regardless of such apprehensions, it's always more pleasant to address persons who have no recourse to backhanding one at the ballot box. Not that the long arm of the National Press Club can't reach up to Alaska; rather simply because I am limping my way through my last two years as a lame duck governor and am not only constrained by law, but by common sense, from running again. Meanwhile, however, there are some momentous issues confronting the State of Alaska which directly impinge upon the state of our nation.

These have become increasingly evident to persons from elsewhere. Unfortunately, however, attending increased awareness has been an increase in public confusion, both without and within Alaska. Today, I hope to cast a little more light on those Alaskan issues which are most dimly lit.

Two years ago, President Carter summoned all governors to Washington to discuss energy matters. While here, I was privileged to dine at his table. The President, who'd been reading a book about Alaska, said to Governor Bill Milliken of Michigan, "You know, Bill, Jay seems to have more problems in Alaska than any of you other governors." Bill replied: "I think you're right. He not only has the problems of most other states, but some unique to Alaska." Then we talked about the Native Claims Settlement Act, the trans-Alaska pipeline, the divisive capital move issue, the highest unemployment rate in the nation, the mere eighteen miles separating Alaska from the Soviet Union, and, of course, the controversial Alaska lands issue.

This discussion prompted the President to comment: "You know, I'm not sure but that you haven't got more problems than all of us." In dismay, I told him that whenever the burdens of office seemed most oppressive, I drew some small solace from my belief that there was at least one back—his—which had more burdens on it than my own. I begged him not to kick that small crutch out from under me. Well, that was early in the President's term. I am sure he'd now be quick to acknowledge the burdens he bears vastly outweigh even Alaska's. Certainly, problems confronting Alaska are both monumental and cruelly divisive. For any elected

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

official to suffer them and survive requires both a thick hide and fast feet.

The fact that I, in two gubernatorial elections, managed to win both the primary and general elections by both the smallest and largest margins of votes in the State's history suggests the depth of the confusion and controversy, to say nothing of the nimbleness of my footwork. Of course, I'd prefer you think it was my adroit leadership and administrative talents which got me elected. The truth is, however, neither are exceptional.

You may wonder how a candidate can acknowledge something less than omniscience and yet be elected. One time when all of us primary gubernatorial candidates appeared together, a reporter asked each of us that question: "Why do you think you're most qualified to be governor?" I replied that not for a moment did I believe that I was most qualified. I said I was certain there were many Alaskans more qualified than I to be governor. Wasn't it a shame none of them were running? Such comments, of course, did little to endear me to my competition.

The issues with which we wrestle each day are highly inflammatory. For a politician to posture himself too closely to one extreme group or another is to invite involuntary self immolation. Heat from these issues radiates far beyond our State's borders, and has ignited the national spotlight. For example, many elsewhere think Alaska is now wallowing in wealth. I can understand that. By geographic accident, Alaska has much of the nation's known oil and gas reserves. Some say our coal could fuel the nation for 2,000 years. Strategic minerals are found in abundance, as is timber and agricultural land. The world's most lucrative salmon, bottom and shell fisheries are found off Alaska's 64,000 miles of coastline.

Also, the Alaskan landscape is adorned with clusters of this nation's environmental crown jewels. These areas of breathtaking beauty belong not just to Alaskans but to all Americans. We're proud of these treasures and the fact that we were guarding them long before most other Americans knew they existed.

We also feel privileged to provide 1.6 million barrels of oil per day to our fellow Americans, 13 percent of the nation's entire production.

Certainly, Alaska reaps benefits from our share of this oil wealth. There has been much publicity regarding the fact that we're returning some of that money, which belongs to all Alaskans, directly to them through tax relief and dividends. Some from other states express resentful envy. This, on the surface, is understandable.

However, scratch that surface and some sobering facts emerge. Consider, for example, Alaska has perennially the highest unemployment rate in the nation, the highest federal income tax burden per capita, the nation's highest cost of living, and a poverty level in many villages which points out by contrast the affluence of Appalachia. To those believing Alaskans now wade in wealth which should be shared with the rest of the nation, let me point out that we are in fact sharing it increasingly. For example, because of tax relief and dividends, almost one hundred million more Alaskan dollars will flow into the federal treasury this year alone. Moreover, since our tax relief extends to anyone doing business in Alaska, not only Alaskans benefit.

To those who would demand that even more of Alaska's newfound wealth be skimmed off and shared with other states, let me say that we'd be pleased to share more of it just as soon as we can share other states' far lower cost of living, their far lower rates of unemployment, and their comparative good fortune which has provided them with the fundamentals of modern living which they take for granted, but which are almost totally absent from scores of Alaskan villages. For example, what community in your state does not have at least a basic sewer and water system? Or a road connection to the rest of the state? Or medical facilities? Yet many Alaskan villages, some with thousands of people, have no such services whatsoever. At least let Alaska fill some basic service vacuums which have long since been filled in your states before you conclude that we're awash in excess wealth. Before you try to dock us in presumption that we're about to goldplate the plumbing, at least permit us first to replace the outhouse.

Alaska's permanent fund dividend program was designed to offset the probability that unless we put some of Alaska's ephemeral oil wealth into a savings account from which each citizen receives some discernible benefit, all of it will go into more government. To create citizen demand to instead put more money into the permanent fund, we will dispense one half the earnings of the fund investments in dividends to all Alaskans. Dividend value will rise or fall dependent upon the prudence with which we invest. Such a system permits us now to tell citizens to select and pay for, from this dividend, some services they desire, rather than expect government to do everything for everybody. The alternative is runaway, malignant, government growth, until the money is exhausted.

Some mistakenly fear the dividend program is socialistic. It is precisely the opposite. It acknowledges that some of Alaska's oil wealth belongs to the people and not just to us politicians. Therefore, it should be the people's privilege to determine at least how some of it is spent. Why should Big Brother make all of those decisions for them? Anti-socialist conservative Milton Friedman is a prime advocate of this approach. Milton, however, would disperse the basic wealth itself. Being more conservative, I instead would place that wealth into the permanent fund investment account and distribute but one half its earnings.

This might be termed the ultimate in grass seed—rather than grass root—revenue sharing. By contrast, the alternative, traditional, approach of presuming to benefit the public through more government programs is akin to attempting to feed the sparrows by first feeding the horses. Something gets lost in translation, and too often bureaucracy bloats while the citizens' individual needs go unmet, needs which they can best determine for themselves.

To moderate the boom and bust cycles that have historically plagued us, Alaska must develop a diversified economy not solely dependent on oil. Only such an economy can enable us to contribute meaningfully to the nation's long term well-being. However, most Alaskans insist that while so doing we retain the environmental qualities which attracted most of us to, and keep us in, Alaska. Such can be achieved only if rational, environmentally-sensitive development is accommodated.

Alaskans give more than lip service to rational development and adequate environmental protection. I'll match our environmental track record with any state. To my knowledge, for example, we're the only state ever to repurchase oil leases, believing that their development posed too much threat to a marine habitat. Moreover, we have, I believe put more acreage in state parks and critical habitat areas to protect the environment than has any other state. Even before receiving two thirds of our lands from the federal government, with our pipeline experience, we're proving it possible to have environmentally responsible development without sacrificing renewable resources and desecrating values which we treasure. We ardently desire proper balance between environment and economic development, yet achieving that balance is never easy. Too often we must try to steady a wildly fluctuating balance beam which first tilts dangerously one way and then the other as either developmental or environmental extremists shift the political ballast of the moment in an effort to outweigh and overwhelm their equally extremist opposition.

All too often in the process reason is abandoned because reason wins few political points for its advocates. It is far too easy and politically expedient to pander to one extreme position or another in recognition of the fact that the middle ground of reason is seldom occupied by passionate believers who rise in militant support. Conversely, of course, such support is easily achieved if one is willing to engage in demagoguery which appeases at least one extreme or another.

As a candidate, I was supported by environmentalists. Naturally, my developmental extremist opposition, seeking some advantage from the backlash which that charge can invoke, labeled me an environmentalist. It was a charge to which I certainly pled guilty. Of course, I am concerned with the environment. Are there today Neanderthals in public office who will confess that they are not? However, my concerns are for environs social, spiritual and economic, as well as physical. Unless all are given adequate consideration, the primacy of any one alone will not long endure.

It is these concerns and how they are applied to Alaska lands legislation which brings me here today.

Unfortunately, rhetoric surrounding the Alaska lands issue has created the presumption that it is a simplistic issue of environment versus development. Oil versus caribou.

Some extremists would have you believe the only question is whether we lock it all up or louse it all up. Such could not be further from the truth, though certainly there are extreme elements in Alaska, just as elsewhere, who would do one or the other.

Small wonder then that the lands issue has divided Alaskans. So polarized have people become that there are those who believe anything short of demanding secession from the Union is unacceptable capitulation to an oppressive federal government, while others charge that anything less than instant wilderness for Anchorage is excessive environmental degradation.

Most Alaskans, of course, stand between these two extremes. While some favor the Udall-Anderson bill which passed the House last year, most prefer the Senate Energy Committee bill now in contention. Many prefer no bill at all. They would bet upon the future. Yet such wagers seem a reverse English form of Russian roulette wherein all chambers save one are full, rather than vice versa. Secretary Andrus' past abuse of the Antiquities Act in dealing with Alaska's lands indicates that he's prepared to slip in that final cartridge should Congress fail to act this year. Accordingly, I believe it's in the State's and nation's interest to seek legislative resolution of this issue now. The Senate Energy bill best accommodates rational resource development in concert with sound environmental protection. The Committee bill, like its alternatives, is a strong environmental measure. Each bill, for example, would more than double certain federal conservation systems; designate several parks and wildlife refuges larger than many states; and protect important scenic and wildlife resources throughout Alaska. Moreover, all pending bills exceed greatly the 80 million acre ceiling which the 91st Congress authorized Interior to study for permanent conservation designation.

At the same time, the Energy Committee bill addresses other important federal and State concerns. It far better facilitates environmentally sensitive assessment of Alaska's oil and gas and other resource potential than does the Udall or Tsongas bill.

In view of recent events in Iran and elsewhere, the Committee bill's environmentally-sensitive assessment of Alaska's resources seems merely prudent. Carefully conceived exploration now can avoid panicky, unplanned efforts later as energy resources dwindle.

In addition, the Committee bill, unlike other pending measures, satisfies Alaska's land entitlement under the Statehood Act, which promised 20 years ago that Alaska would receive 104 million federal acres. To date, that promise remains unfulfilled.

As I indicated earlier, extremists have clouded the Alaska lands issue. Some extremist developers used to call us "posey-sniffing environmentalists" while environmental extremists are depicting us as "rape, ruin and run" developers, gunning our bulldozers, ready to devastate the land. The fact is that most Alaskans have a passionate reverence for their land, probably exceeded in no other state. Alaska does not so much have to be protected from Alaskans as it must be protected from the inconsistent policies of the federal government.

Take, for example, the extreme concern exhibited by Congress and the Administration relative to the proposal in the Committee bill to study the possibility of exploring for oil and gas in the Arctic Wildlife Range, an area of the highest potential in the United States.

If such exploration would decimate the caribou, I would be the first to fight it. After all, I came to Alaska more because of caribou than because of oil, and I stay in Alaska for that same symbolic consideration. Yet, as a fish and wildlife biologist who some thirty years ago made caribou surveys on what is now the Arctic Range, I must admit that under the constraints proposed in the Energy Committee bill, there would be little hazard to the caribou. I draw that conclusion also from experience as a biologist, guide and bush pilot who has lived for over thirty years on the Alaska Peninsula where I was first sent to monitor the resident caribou herd. During that time, far less sensitive oil exploration was conducted on prime caribou habitat. Yet rather than a decline in the herd, there was an almost ten-fold increase. Hence, pardon me if I have little patience with persons, hard pressed to state with assurance which end of the caribou wears the antlers, rejecting those conclusions and asserting that not even the most environmentally sensitive assessment should be conducted.

Yet the same national Administration which views any incursion there as an environmental disaster sanctions offshore oil explorations in the far more environmentally-sensitive waters of Kodiak and Bristol Bay. Those waters harbor the world's largest red salmon run, entire populations of certain water fowl, multitudes of sea mammals, and have certain tidal peculiarities which make them especially vulnerable.

Is it any wonder that we in Alaska have difficulty understanding why this Administration cites "environmental sensitivity" as reason for constraining onshore oil exploration in Alaska? Onshore technology is far more advanced and safe than offshore. Why don't we first do that which we know best to do? If instead we pander to political pressures, or deal with symbolism rather than substance, I fear that the words of a bit of rude verse I wrote some years ago may yet come to pass. That rhyme was entitled "Alaska—1984?" and with your indulgence went in part like this:

Remember how lousy things used to be?
Before we had oil, fish cluttered the sea
And Alaskan waters were coffee hued
Instead of the shimmering sheen of crude.

But it didn't take long to cover the mud
For it's a mighty short step from crude to crud.

Yes, that black gold sure outglitters the old silver horde
Since we reconstituted the Fish and Game Board
With oil stockholders who seldom think petty,
After all, for a commissioner, we got J. Paul Getty.

And remember all of those stupid dumb clucks
Who complained we might lose a few million ducks?
A duck, you'll recall, had webbed feet and a bill—
The last one expired the year of the spill.

How lonely t'was then to roam about, man,
Clear out of sight of a friendly beer can.
Now, you can climb the remotest outcroppings
And find you're picking your way through people droppings.

The water drunk then was new and untried.
It's a wonder that somehow so few people died.
True, now that we've grown so much more chummy
Our water does tend to be a bit gummy.
But you know doggone well when you slake your thirst
That the guy survived who drank it first.

Back in those days we had garbage dumps
Where refuse was piled in unsightly humps.
We've leveled these out now and you can discern
Nice level garbage wherever you turn.

Rather than close on that facetious note and leave myself open for all sorts of dangerous verbatim quotes, let me conclude with a reflection which may convey to you my feelings for the land in which I've been privileged to live for most my life. Long ago, while guiding for another outfitter, I had thrust upon me a client whom I will charitably refer to as a "suffering sightseer." He complained about everything under the sun—and increased his complaining when the sun didn't shine—which happened to be most of the time. He complained of the weather, the lack of booze, the abundance of bugs, the cost of the hunt, the food and the state of his gastrointestinal tract. After having hauled him to a mountain top where he'd emptied his rifle at a fine ram (which mercifully escaped unscathed, much to my secret satisfaction), he demonstrated once more how often the hunted outnobles the hunter by launching into a profane description of all things Alaskan and asserting that Alaska was the last place on earth where he'd ever live. I reflected on that for a moment and said, "You know, I agree, Alaska's the last place on earth in which I too would ever live, and with any luck at all, and the good Lord willing, it certainly will be."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve my time until the end of the special orders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I make the same request on behalf of the minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR STENNIS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Mississippi (Mr. Stennis), the chairman of the Armed Services Committee, is recognized for not to exceed 15 minutes.

THE DEFENSE AUTHORIZATION BILL

Mr. STENNIS. Mr. President, I appreciate the chance to take some time this morning regarding the defense authorization bill. So far as I know, we will not be able to get to it today, so far as it being the matter up for consideration. But we have special circumstances concerning that bill and I wanted to take advantage of the chance to refer to it in, more or less, a special way even before it comes up for debate.

I do think, Mr. President—in fact, I know—that each of our floor leaders want to get this bill up and get it disposed of before we go into what we call the July recess. And that is for good cause. It is a tremendous bill by its very nature. Under the law it has to be passed before we can really consider appropriations to carry it out.

To go over the entire matter, we must yet have the debate here on the floor. It must pass the Senate. Then it has to go to a tremendously important conference with the House of Representatives, where we beat out on the anvil there of the experience, reweigh the testimony with different emphasis on it, and try to come up with a balanced bill representing, to a large part, the findings and decisions of the two Houses. That is a very difficult matter.

There is just not a more comprehensive bill before the Congress each year. It pertains to the four services. It pertains to the manpower in those four services. It pertains to the weaponry from top to bottom in the four services, as well as a great number of policy questions, some of which are new and some of which are policy decisions that are having to change.

In the course of things in international affairs, that bill necessarily gets into segments of foreign policy. And those decisions are far-reaching. I emphasize that now to call attention to the Members who are primarily charged with the responsibility in our foreign policy questions.

I want to assure the membership, too, that this bill does not represent the work of two or three people, nor just a half-dozen. Of the 17 members of our committee, every one of them actively—actively—participated in the deliberations, the hearings, the consultations, and all the major parts of the bill. We now fully use the subcommittee system that makes it possible to go into these matters in depth. We have a very fine professional staff, people who are selected for their particular fields of expertise in weaponry and other questions that arise. They are a staff of maturity and experience. We just do not have the so-called political appointees there, but capable people with in-depth emphasis on what they know and what they can do and what they can get into and report back to us.

I am not claiming they are better than any other group. They are not. But it is a matter of self-defense, if nothing more, to have people to advise us who know what they are doing and can help us move things along.

This is a little unusual, but to illustrate the participation and attention given this markup, we had 23 rollcall votes in our committee, and I suppose two or three times that many by a show of hands. That was through an effort to get participation. A good number of those rollcall votes were unanimous or almost unanimous. They relate to the importance of the vote. We wanted to show that participation and get the real judgment of a great number of the Members.

I want to refer particularly to the manpower portion of the bill.

After I came to the Senate, I happened to be on the Appropriations Committee and the Armed Services Committee. The Armed Services Committee did not make any attempt whatsoever to set the manpower levels. There was no expressed authorization of the manpower levels, no guidance for the Congress passed on by our committee. The Appropriations Committee set the amounts thereby of money setting the number by what they appropriated or recommended. That determined the number of men in each service.

Well, that served its purpose in those days, but it reached the point where there was a need for more guidance and more participation by the membership in the Armed Services Committee, which passed on the weaponry and everything that went with it. Anyway, we started the practice first and then it was made into law that we would set the manpower levels. That was accepted and became the law. I appointed a Subcommittee on Manpower whose chairman now is Senator NUNN, of Georgia, with other members of equal ability, studiousness, seriousness, and fine work. They do an enormous job of going indepth into the reasoning and the need for the numerical strength of the various services.

After the war in Vietnam had ended, there was no planning. There was no size of any of the services which were planned out and made known to us in the Congress. We were not in on that planning in any way. We had no concept or knowledge whatsoever on the size of the services, which illustrates how we were being left out.

Well, that has all been changed now with the change in the law and we now have a very efficient, proficient, and diligent group of knowledgeable Senators who go into these matters in depth. It is a year-round study. They have an unusually capable staff member in charge of the staff work. They know what the issues are. Senator NUNN and the other members of the committee have established a very fine reputation for their in-depth search for the facts. They dig in and they have the facts and figures to back them up in the steps they take.

I am not here to praise anyone, but some of the finest services are rendered in the course of each year by the subcommittees.

To get this matter before the membership a little better, there is a strong argument now about the size of the services, particularly this year, in that an apparent slight reduction is being recommended by the full committee. That is the Army. There is an unusual interest in the situation.

These Senators have reserved time this morning to make a preliminary statement to bring the facts to the attention of the Members. It will be in the RECORD, and the press will also have the benefit of what they will say.

I want to say that I am wholeheartedly and strongly in favor of their recommendation with reference to the manpower levels, particularly the Army, which really has the hardest job, the biggest assignment, the most difficult matter of getting the necessary quality manpower.

I know this recommendation has been prepared by Members of this body who are certainly not adverse to the Army. In fact, I lean to the Army if I lean anywhere. Of course, I do try to be impartial, but my feeling and my inclination is to lean with the Army. I know, though, that something more has to be done with reference to getting the right quality of manpower.

We have tried bonuses and we have increased bonuses as inducements for reenlisting. We have a very generous scale of these special allowances.

We have already presented a bill which passed this body, and I am certain it will become law, the so-called Nunn-Warner Act, which the House has not yet passed upon but they have largely accepted it.

There are meaningful references in our bill this year with reference to salary increases, also.

But that is not enough. Other Senators will explain their recommendation this morning. I say it can be summed up as numbers against quality. In other words, we have to move more in the direction of quality recruitment. It is a law of necessity. The hand is on us. It was on the Marine Corps and they came through and stuck to quality. They have survived and their numbers are satisfactory now.

As I say, the Army, with their special burden, just has a tough time making their so-called quotas. This bill does not propose to decrease the quotas for the Army, not at all. It takes the present law and leaves that as the maximum number, but it does say that the Army, in crawling back to that high number, will have to meet a quality specification with reference to high school diplomas held by the recruits, or by a certain percentage of the recruits.

A high school diploma is not an absolute test, of course, but it is one of the guides, one of the tests, which has been found reliable to a degree. The subcommittee has picked that as a guide to go by. There is a small difference between the amount which is now fully written into the law and the proposed change. That number can gradually be overcome by the Army in increasing, in bettering, the quality of their recruits, to give them an additional motive, an additional guideline to go by. It is a requirement that is thought to be absolutely essential and the money will follow right along with that improvement. As the scoring quality goes up, and I believe that they can improve it some, so will the end-strength for Army personnel go up.

The Committee on Appropriations always, as far as I know—with no exception in modern times—allows any service the full amount of money per capita for these who are authorized. Whether that strength is attained or not is a different matter. They get paid off, so to speak.

Mr. President, I want to make three additional main points relating to the Armed Services Committee recommendation to improve the quality of the Army by requiring increases in Army personnel strength to be accompanied by increases in the quality and capacity of the personnel being recruited. This is a highly important issue and goes to the heart of the question as to whether we will have a well disciplined capable Army which is representative of the people of this country or whether the unskilled, and undisciplined will continue to represent an increasing proportion of an unrepresentative Army.

First, a massive lobbying campaign has been undertaken. There are many false facts. There is much misinformation, but the lobbying campaign has power and organization that reaches to the local and State level and has made its weight felt.

Second, the claim has been made that the committee recommendation is "unmanageable." This is based largely on an erroneous assumption that the Appropriations Committee will not fund the additional strength that is authorized in the bill if the proportion of high school graduates can be raised. This is just fiction. The Appropriations Committee has not even met to decide how to handle this matter, but it is clear the Appropriations Committee could, if it chose to, follow the same pattern proposed in the authorization bill.

Finally, much misinformation has been portrayed as resulting from the committee recommendation. The first fiction is that this is a large cut in actual military strength. This is false. The Army requested strength of 775,000 is 25,000 more than the actual strength the Army had in several months of the previous year. What we are talking about here is an increase requested in Army strength and the committee saying that this increase must be followed by an increase in the quality of the personnel recruited. All of the terrible effects that are attributed to what is termed a committee cut should have taken place last year when the Army strength was equal to the strength proposed by the committee this year. The results that are being attributed to the committee action by the lobbyists are false.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The time of the Senator from Mississippi has expired. The Chair will say, in his capacity as the Senator from Nebraska, that he has 15 minutes and will yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Chair. I say that because there is a precedent there.

I yield the floor, Mr. President.

RECOGNITION OF SENATOR EXON

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Nebraska (Mr. EXON) is recognized for not to exceed 15 minutes.

Mr. EXON. I thank the Chair.

Mr. President, I associate myself with the excellent remarks that have just been made by my chairman of the Committee on Armed Services. He summed it up very well. Following my remarks, the Senate will be hearing from Senator NUNN of Georgia, the chairman of the Manpower Subcommittee. Members of the Armed Services Committee are taking the floor this morning in an attempt to explain the reasons behind the supposedly recommended cut in the Army by the Manpower Subcommittee and, the full Armed Services Committee.

Mr. President, I believe it is imperative that the Members of the Senate and the American people understand the reasons why the Armed Services Committee took the action it did with respect to the fiscal year 1981 active duty end strength of the Army, an action which was not taken lightly. When I first came to the Senate 18 months ago, the Department of Defense had just issued a report entitled "America's Volunteers," which, basically, stated that the All-Volunteer Force was working well and that the prospects, for the future looked equally bright. The testimony we have received on this subject from the majority of the officials responsible for military personnel management has followed this same theme—same song, second verse.

Only recently has this testimony become more realistic; unfortunately, that realism still does not permeate most of what we continue to hear from the Defense Department.

I highly recommend for the reading of all Senators the Armed Services Committee report on this year's Defense authorization bill—specifically pages 113 through 116. It outlines, in factual form, the recruiting problems we have been and are currently experiencing. I shall not go down the entire list but the highlights include inflated recruiting test scores, an unacceptably low percentage of high school graduates, horrendously low aptitude test scores for those who are already in the Army and are operating highly complicated and dangerous equipment—the list goes on and on. In short, Mr. President, as one Senator who came here 18 months ago feeling fairly good about our Army and certainly open-minded toward our military manpower policies, I have been shocked.

Some say that the end strength of the Army should not be reduced because that would be the wrong signal to send to the Soviets in the post-Afghanistan environment. I submit that the Soviets are smarter than that. They read the newspapers and have excellent intelligence and probably know the manpower difficulties we are having far better than does the average member of the American public. I believe that the committee's proposal would send them a different signal—a signal which says that we mean business about correcting our shortcomings. I must emphasize that if the Army meets its goal of acquiring 72 percent of its 1981 recruits with high school diplomas, they will have their full requested end strength, and there will be no cut.

All we are making them do is live up to their goal. If they cannot, then I am willing to sacrifice a little quantity for more much-needed quality.

Another part of the equation is retention. Later this week, when the Senate considers this bill, we will be discussing the major steps we are proposing to enhance retention—increased pay, benefits, and other measures designed to boost the quality of military life for those already serving and those who will be entering the service. Increased retention should drive down recruiting pressures as well. So the committee is giving the Army the tools it needs to help itself.

It is time to show that we in Congress are serious. Symbolism will no longer suffice. It is time for substantive action.

(Mr. STENNIS assumed the chair.)

Mr. EXON. We believe, Mr. President, that the recommendations that have been made by our committee will do just that.

I am sure, Mr. President, that in a very few moments, we shall be hearing from Senator NUNN and one of the matters that I believe he will be citing as a record of the past performance in this area is the fact that a similar tack was taken not very many years ago with the U.S. Marines. During that time, the Manpower Subcommittee of the Armed Services Committee and the Armed Services Committee itself decided that we should reduce the strength of the Marines unless they could live up to their goals of getting a certain number, percentage, of enlisted who at least had high school diplomas. It was hotly argued at that time, Mr. President, that we were wrecking the Marine Corps, that we were driving down the strength of the Marines at a time when that strength should be increased. I say, Mr. President, that the Marine Corps itself and the Defense Department took a leading role at that time in protesting what they termed the terrible thing that the Committee on Armed Services was recommending.

Since that time, the Marine Corps has publicly stated that they are glad that the Committee on Armed Services slapped their wrists on that occasion, primarily as a result of that action, only saying to the Marine Corps then as we are saying to the Army now, "Meet your quota and you will not have any cut in manpower."

The other side of that, Mr. President, would be simply saying, "Your quotas mean nothing and we, in the U.S. Senate, are going to stand idly by and, in some cases, in ignorance and allow you to spend money to recruit the quality of volunteers that you, yourself, have conceded that you are concerned about."

In closing, Mr. President, I suspect that the debate will be waged once again in the U.S. Senate on this matter and I suspect that before the week is out, we shall be hearing Senators standing on the floor of the U.S. Senate and saying it is terribly wrong for us to be sending a signal to the Soviet Union at this time that we are reducing our Army strength. I happen to have heard that there is already active and very intense lobbying going on, once again, by the Department of Defense and once again by many of the top officers of the Army, quivering in their boots that we are about ready to say to them, "Put up or shut up" on the quality of the men that we think is necessary to run our Armed Forces.

In that regard, Mr. President, I will harken back for just a moment to the great debate that was waged on the floor a little over a week ago with regard to draft registration. There were some very strong and legitimately held views on both sides of that issue.

As I have said from this desk on several occasions in the past, this Senator from Nebraska never claims to have all the answers to all the problems. Once in a while, Mr. President, I feel that maybe I was mistaken on an issue.

I go into this issue in this debate convinced, Mr. President, that I am right.

Those who were on the other side of the draft registration issue, and legitimately so, stood on the floor of the Senate and said time and time again that the all-volunteer service is working, and it will work if we will just not bother and interrupt that all-volunteer structure by even a tiny first step toward draft registration, which legitimately could be considered a possible first step, if necessary at a later time, to return to the draft.

I remind the Senate, of course, that the draft could never go back into effect unless it was approved by the Congress.

The point is that all during that debate, Mr. President, the people who said we should not even have draft registration pointed out that it would likely interfere with the ongoing high quality of the enlistees we are receiving now. I think the facts do not support that argument.

By carrying that argument one step further, Mr. President, for anyone who is sincerely concerned about giving the all-volunteer service the additional chance it needs. I support giving them that chance, because, as the Presiding Officer now, the chairman of the Armed Services Committee, knows all too well, during the markup of the military bills we will be debating later on this week, we gave great emphasis to improving the lot of pay and benefits to the people now in the armed services and those that will be coming in in the next few months.

Nevertheless, I say, Mr. President, for anyone who is sincerely concerned—sincerely concerned, Mr. President—about putting the Army's feet to the fire, making sure that the volunteer service at least has a chance to work, I think they would have to agree with us on the action we have taken here, which simply says to the Army, "We are not going to cut your strength unless you continue to take in the quality of people in the Army that you, yourself, have set by our own goal."

Therefore, Mr. President, I am hopeful that if the matter of reduction of the Army, designed strictly to improve its quality, comes to a debate on the floor of the U.S. Senate, I am hopeful our colleagues will give weight and consideration to the study, to the research, and to the facts that the Armed Services Committee, through its Manpower Subcommittee, has developed in this area, and recognize that we are doing nothing here other than to say to the Army, "Improve your quality to your standards, then go ahead with the full manpower you have requested."

If not—if not—the manpower requirements are going to be reduced somewhat.

Also, Mr. President, I emphasize once again that those still thoroughly convinced the all-volunteer service will work could do nothing better than to step in now and say, "United States Army, prove up yourself on recruitment."

Mr. President, I yield the floor.

Mr. HEFLIN assumed the chair.

Mr. STENNIS. Will the Senator yield me 30 seconds?

Mr. EXON. I am happy to yield to the Senator.

Mr. STENNIS. Mr. President, I commend the Senator, as well as thank him, for his very fine services on this subcommittee. In fact, I know of no one who has gotten into things more than he has in a short time. He is of very high quality.

He hit the nail on the head, Mr. President, when he said, talking about a message to the Soviets, that the real message to the Soviets is in this recommendation of this subcommittee, and that is that we are going for the quality, we are going for the quality rather than the numbers.

I commend the Senator highly and I thank the Senator.

Mr. EXON. I thank my friend from Mississippi.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I have listened with a great deal of interest to my distinguished colleague from Nebraska speak on this issue of the numbers in the U.S. Army.

Mr. President, I have come to know my distinguished colleague from Nebraska on the Armed Services Committee and I know there is not a Member of the U.S. Senate that stands four square stronger on defense issues than does the Senator from Nebraska.

I think this Senate and the American people ought to listen when a man who believes so strongly in the national defense, and who is so committed to a strong national defense, raises such serious issues and questions.

I join with him. I take second place to no one in the Senate for being for a strong defense. I think the RECORD will show I have voted for most all issues on national defense that I have considered responsible.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. The time that was allotted to the Senator from Nebraska has expired.

Under the previous order, the Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I yield such time as the Senator from North Caroline may desire.

Mr. MORGAN. Mr. President, I will take about 5 minutes because I want to join with the distinguished Senator from Nebraska, with my colleague from Georgia, and with the Armed Services Committee that voted almost unanimously, as I recall, for this reduction in the size of the Army, not because we want to see the strength of the Army cut, but because we have realized the importance of improving the quality of the U.S. Army.

Almost every year I have been in the Senate, the Army has failed to meet its quotas. I do not have the exact figures available, but I know my colleague does.

It seems to me absurd to continue to set quotas far over and beyond reasonable expectations.

The sad part about it is that the Army seems to be intent on taking anything that breathes or walks into the U.S. Army in order to meet its quotas and it is not willing to face up to the fact that there are problems.

In August 1978, I received a call from a recruiting sergeant in Wilmington, N.C. He complained to me that as a recruiting sergeant he was being required to tutor prospective enlistees before giving them the test, that they had been instructed to do whatever was necessary to get them in.

I always listen to those complaints with a little bit of hesitation because I know sometimes we have sour grapes in the Army. So I did not say a word to the press. I did not say a word to anyone. But I came back to my office and asked Mr. Stirk, a retired Air Force, JAG officer, one of the finest, to fly down and see what the situation was.

Lo and behold, he came back with copies of the tests this young sergeant had given.

I did not have any press conference. I did not want news coverage. I was trying to promote the best interests of the Army.

What happened? I turned it over to the Army. One year later, they came back with a report to me indicating that there was no substance to the complaint, and they had refused to let this sergeant reenlist in the Army, notwithstanding the fact that his commanding officer at the Sunny Point Ammunition Depot, where he had been transferred, gave him the highest recommendation.

In addition, they promoted the lieutenant colonel in the recruiting office in Raleigh who had copies of the test but refused to tell the investigator where he got them. He said it was privileged. What kind of privilege was that?

When we had a hearing—the Senator from Georgia let me sit in—the recruiting commander appeared. He said that the fact that the young sergeant came to me was not the reason why he was not allowed to reenlist; that he had had a fight with a sergeant in Wilmington on a previous occasion and that he had some relations with a young lady who was seeking to enlist in the Army.

The general did not know I had the records before me. I looked at the records, with him sitting there, and it was true that the sergeant had been involved in a fight in Wilmington about 18 months before; that the Army had investigated it and had transferred the other sergeant as being the one at fault, and left him there on his post.

They also investigated the alleged allegation with regard to the young lady, found the allegation without merit, and left him on his post; and 6 months later, they gave him an award for outstanding service as a recruiting officer.

Yet, when he came to me and I went to the Army about it, very quietly, they kicked him out of the Army and they refused to admit that there were any problems.

We continue to get complaints and problems, and everyone knows the story.

All across North Carolina and all across the country, approximately 300 recruiting sergeants have been relieved of duty for improper action. All the time, the blame seems to be on these bright young men. Most of them have spent 10 or 12 years in the Army and had to have a clean record in order to be selected for recruiting sergeant, or they never would have been selected.

You cannot convince me that 300 young sergeants all across this country suddenly became dishonest and corrupt, if someone was not winking at it. I think it is still going on.

Senator Nunn and I conducted a hearing on some of these recruiting irregularities, and the Secretary of the Army held a press conference and said that those who were concerned about recruiting irregularities were racist.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MORGAN. I ask for 2 additional minutes.

The PRESIDING OFFICER. Does the Senator from Georgia yield?

Mr. NUNN. I yield, Mr. President.

Mr. MORGAN. The trouble is that if anybody criticizes the quality of the Army now, it is said that they have an ulterior motive. If you want to know about the quality of the Army, all you have to do is get away from Washington and talk to the three-star generals and those on down, and you will find out. You will find out that it is not necessarily the pay that is bothering the people.

Time and time again, I have talked to sergeants who had retired, and they never mentioned pay. What they talk about is the lack of discipline and the quality of people they had to work with.

So it is time that we face up to the fact that the All-Volunteer Army is not working and that we are bringing people into the service who cannot meet the grade.

In addition, under the present law, if they serve 6 months, they are entitled to all veterans' benefits for the rest of their lives. I hope we change that in this bill, and we have offered an amendment to do that. The recruiting officers are telling them, "If you come in and keep your nose clean for 6 months, you're entitled to all the veterans' benefits."

Those are some of the problems we are confronted with, and the Army is not willing to face those facts.

Under this bill and this proposal, if they can meet the quality of the standards they say they need, there will be no cut in the Army. Their quotas will be allowed.

Mr. President, I support the Armed Services Committee. I will have more to say about this during the debate on the bill.

Mr. NUNN. I thank the Senator from North Carolina.

Mr. President, I believe the junior Senator from Virginia wishes to be recognized, and I am glad to yield such time as he needs.

How much time do we have remaining under the order?

The PRESIDING OFFICER. Seven and a half minutes.

Mr. NUNN. What was the total amount of time?

The PRESIDING OFFICER. Fifteen minutes to the Senator from Georgia.

Mr. NUNN. And the Senator from Nebraska already has consumed his 15 minutes?

The PRESIDING OFFICER. That is correct.

Mr. NUNN. I yield to the Senator from Virginia.

Mr. WARNER. I thank the Senator from Georgia.

Mr. President, the matter of the declining quality of our Armed Forces is a serious one and I am pleased that it is receiving the attention of the Senate.

The Armed Services Committee and its Manpower and Personnel Subcommittee have been concerned over the trend of declining quality in our Armed Forces personnel for some years now and the committee has now taken a strong measure to reverse this decline.

I want to make it clear that there are thousands and thousands of dedicated, highly motivated people in our Armed Forces.

They are the backbone of our Armed Forces and we want to keep them.

However, a higher and higher percentage of recruits in our Armed Forces—and most notably a higher percentage of recruits in the Army—are non-high-school graduate, lower mental category individuals and their presence in larger numbers is harming our military readiness and is wasting millions and millions of much needed defense funds.

One of the most serious problems resulting from the declining quality in the Army is attrition—that is, the failure of individuals once enlisted to complete their first term of service.

Another way of describing attrition is the dropout rate.

According to the most recent official Army figures available, the Army is losing 37 out of every 100 soldiers who enlist before their first term is completed. The vast number of these attritions are due to a failure to meet minimum performance or behavior standards. Only about 25 percent are due to medical reasons or hardship or death.

This attrition is costly, disruptive and it hurts military morale.

With regards to cost, it is estimated that over $1 billion of taxpayer's funds are wasted each year because of attrition in the military services.

It costs money to recruit, to transport, to train and to maintain these individuals and when large numbers leave the Army before their enlistment is up that money is lost. It has purchased no defense capability.

A normal attrition of 15 to 20 percent can be expected and this was the case during the draft era.

I support the action of the Senate Armed Services Committee to force the U.S. Army to concentrate on quality rather than quantity.

It does no good to recruit into the Army additional numbers of lower quality individuals when very substantial numbers of them will fail to complete their enlistment and leave the Army for failure to meet minimum behavior or performance standards.

We are deceiving ourselves and we are wasting taxpayer's funds if we do not recognize this quality problem and respond.

If we encourage the Army, through the measure suggested by the Senator from Georgia (Mr. Nunn) to begin to try to get higher quality, we will cut out a substantial percentage of this waste.

The senior Senator from Virginia (Mr. Harry F. Byrd, Jr.) is in the Chamber. I know that he has made a study of this issue and has received two studies on this subject from the General Accounting Office—the chief investigating arm of the Congress. I yield the floor to my colleague.

Mr. HARRY F. BYRD, JR. I thank my colleague from Virginia.

Mr. President, I believe that our country faces a very serious problem in regard to the recruiting of personnel for the armed services.

The purpose of the proposal offered to the Senate by the Armed Services Committee is to help the Army. By no stretch of the imagination does the Armed Services Committee want to hurt the Army. We are trying to help the Army. The Army needs help.

The attrition rate, as my colleague from Virginia just pointed out, is very high. Some 30 percent to 40 percent of those who enter the Army do not finish their first enlistment. Of every 100 persons who are recruited into the armed services, only 15 or 16 reenlist. The reenlistment rate is very low, and the attrition rate is very high.

The quality of personnel is not what it should be. The proposal offered the Senate by the Armed Services Committee is one which the committee and the Subcommittee on Manpower and Personnel, chaired by the Senator from Georgia, believe will help the Army in its recruiting process. That is the purpose of it—to help the Army.

It is very important, as the Senator from North Carolina pointed out a few moments ago, that the Senate address this question of the Army recruiting procedures, of the quality of personnel who are being inducted into the Army, and the very high attrition rates and the very low reenlistment rates.

Mr. NUNN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Three minutes and nineteen seconds.

Mr. NUNN. Mr. President, what is the next order of business following this order?

The PRESIDING OFFICER. The next order of business is S. 2720, after the leader's time is used or yielded back.

Mr. NUNN. Mr. President, I thank my colleagues on the Armed Services Committee for being here this morning and for discussing this very important issue.

The significant shortfalls in the total number of Active and Reserve personnel needed to sustain the All-Volunteer Force has been widely publicized in recent months, both in terms of recruiting and retention. However, there is potentially a much more explosive problem simmering underneath which is the alarming deterioration in the quality of new personnel entering the services, especially the U.S. Army.

Senator Byrd from Virginia, Senator Warner from Virginia, Senator Exon from Nebraska, and Senator Morgan from North Carolina, as well as other members of the Subcommittee on Manpower, including Senator Jepsen, the ranking minority member, Senator Culver, and others, have looked into this problem in great depth.

I also express my appreciation to Senator Stennis for his firm backing of the subcommittee and for his indepth understanding of this very significant and increasing problem.

In this area that is so important, a campaign of deception has been launched by the top leaders in the Department of Army, and I ask the question this morning, have these leaders forgotten why we maintain our Armed Forces? The leaders in the Army today, and I certainly use that term in a general sense—it is not all-inclusive; there are exceptions—but the leadership of the Army has chosen to keep these facts about the serious deterioration of quality cloaked as far as possible from public scrutiny and they also have waged a very, very vigorous campaign to avoid any congressional actions that would insist that quality be maintained in the Army.

Mr. President, I think it is important for the message to go out in this body and in the country that our military is not intended to be an armed WPA and we must not permit the U.S. Army to become a job corps equipped with tanks and nuclear missiles, and yet that is the path we are steadily moving toward.

IMPACT OF QUALITY DETERIORATION

The quality deterioration that is taking place in the U.S. Army now is impacting on the readiness of our Armed Forces and the critical ability of our combat units to perform their wartime missions. Three years ago, then Assistant Secretary of the Army for manpower, Paul Phillips, summarized this important relationship by testifying:

> The impetus and commitment to achieve a quality Army must be continued. Our key concern is that the impact on combat readiness varies in direct proportion to quality content (for example, losses from non-high school graduates run 2.8 times more than those for high school diploma graduates).

Mr. President, quality deterioration is a problem the sergeants and junior officers have been consistently complaining about, while the top officials in the Army and the Defense Department have just as consistently maintained that quality is no problem and, although, the Defense Department itself has changed that view somewhat in recent months, the Department of Army has not.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. NUNN. Mr. President, I have a message from Senator Byrd, and pursuant to his request I ask unanimous consent that the majority leader's remaining time be transferred to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I have several letters that I will insert into the Record that I think are very important from certain military personnel themselves out in the field that are experiencing these day-to-day problems. I think all of the Members of the Senate and all of the Members of Congress should begin to pay close attention to their own mail in this respect because I am sure they are receiving some of the same kind of letters.

I wish to cite some of the evidence I have been receiving from the field—from those who are either part of or observe the Army on a day-to-day basis: One is a noncommissioned officer, one a mid-level captain, and one a retired sergeant.

One letter in April 1980, was from a female noncommissioned officer who was just leaving the Army:

> I would like to discuss a matter that disturbs me greatly. . . . During my three years on active duty, I notice a severe decline of the quality of the soldiers that were being recruited into our military forces. When speaking of a decline in quality, I speak of intelligence, attitude, and personal hygiene. Basic training is suppose to discipline and smooth out the rough edges but in some individuals this is impossible.
>
> The government is putting the defense of our country in jeopardy and is wasting money by keeping these persons in the armed forces. . . . (A) strict recruiting policy should begin immediately to ensure that future soldiers are capable in every way to defend our country.

Another letter was from an Army captain. It was almost four pages typewritten and some of the highlights follow:

> I feel that you should hear part of the story from a 10-year middle-manager, someone at the grass roots level who will tell it like it is and won't let bias into the picture.
>
> My contemporaries are exiting the military at an increasing and alarming rate. Many officers separating are not doing so because of lucrative outside opportunities. A major factor in separation is low morale experiences by these individuals because of the quality and inefficiency of our soldiers and our system. . . .
>
> Soldier quality has diminished markedly; I have witnessed this . . . Some recruits cannot comprehend how to operate present inventory equipment. Not only have we lowered induction standards, we have lowered school graduation standards at the Intelligence School so that more recruits can graduate school specialty training. When soldiers arrive in an active army unit, many still are not trained. . . .
>
> Professionals find it difficult to work with a large number of untrainable inductees. I personally attest that it is very very frustrating. One high official has pointed the finger at military supervisors and unit leaders to place blame for inefficiency. I have to return to a plea for common sense; is it the fault of the leaders and trainers when the material with which they are working is partially or totally untrainable? If the American people are not alerted to all the conditions which presently exist, this may end up becoming one of the biggest cons described in history books of the future, should a powerful adversary ever test the might and professionalism of our ground forces.
>
> Many of us are aware of the problems, statistics validate them. Officers at the troop level know of and try to expose problems, yet the cover-up continues, everyone works for someone else and doesn't want to make waves. Complacency is a monster that may devour us.

This letter was from a dedicated Army professional who has decided to leave the institution he loves in an effort to "show the massive coverup which exists."

Just the other day I received a seven-page handwritten letter from a retired Army sergeant (E–7) who lives near a major Army base and currently has a son serving in the Army. His comments included the following:

> I believe that you are beginning to get on the right track with your investigation for the first time (focusing on quality) but are only scratching the surface.

I am receiving letters similar to these at an increasing rate, as I am sure many other Senators are.

When the sergeants and junior officers in the field first started complaining, the Army answered that the quality had never been better and the percent of high school graduates and the mental category scores were cited as evidence.

For example, according to former Army Deputy Chief of Staff for Personnel, Gen. DeWitt Smith:

> When you look at Category IV, the lowest acceptable mental category, they comprise 25 percent of new male recruits in Fiscal Year 1971 and now that figure is down to 10 percent. This is a turn in a better direction. . . . The trend in current high school diploma graduate continues upward. The proportion of them is very important to the whole force in terms of its ability to perform, train, behave, and stay with the Army at least for the first reenlistment and thus is important in terms of cost effectiveness.

Mr. President, as I have said we have been hearing from the sergeants and from the young officers who command the troops for some time.

NEW EVIDENCE CONFIRMS QUALITY DETERIORATION

There is now substantial statistical evidence and public testimony to reconcile the differences that we have heard about from the sergeants and in the testimony of the Department of the Army and the Department of Defense.

I have to say, very frankly, that we now have the evidence to resolve those differences, but very clearly in favor of what we have been hearing about from the sergeants and the young officers who command the troops.

Assistant Secretary of Defense for Manpower, Robert Pirie, testified before the Senate Armed Services Manpower Subcommittee this year the mental test scores of many new recruits are much worse than previously reported. Many military recruits labeled as Mental Category Group III should have been labeled as Mental Category Group IV, indicating that compared to the draft of the early 1960's, many more recruits from the lower end of the scale are entering the service.

Mental Category Group IV corresponds to a mental ability between the lowest 10th and 30th percentile of the relevant population.

For fiscal year 1979, the committee had been informed that 10 percent of Army recruits fell into this category. This indicator has been consistently cited by the Army as proof that the Volunteer Force is of higher quality than the draft era Army.

Revised estimates supplied by Secretary Pirie now indicate that up to 45 percent of Army recruits are in this low mental group. That means the proportion from the lowest mental group is 4½ times what had previously been estimated. The cause of this unacceptable situation is apparently the failure to properly score the aptitude tests that were introduced in 1976. This is a most serious revelation and one that took real courage by Secretary Pirie to admit. Yet, the Department of Army continues to issue press releases with numbers on mental ability which are clearly erroneous according to Department of Defense's own testimony.

In addition, this revelation comes accompanied by the fact that there are many fewer higher mental group personnel, 34 percent of Army accessions in 1964, before Vietnam, were in Mental Group I and II which correspond to the top 35 percent of the relevant population. By 1979, category I and II personnel had dropped to 16 percent of the Army. The many cases of recruiting irregularities, some of which have been alluded to this morning by the Senator from North Carolina (Mr. MORGAN), that have included cheating on the entrance tests may mean that quality is even worse than we now fear.

In addition, we know that we face a declining number in the number of 18-year-olds in the population for at least the next 10 years, so the problems we are describing here, unless they are turned around, are likely to get worse not better.

INCREASING NUMBERS OF PERSONNEL WHO ARE NOT HIGH SCHOOL GRADUATES

As if the deterioration in mental ability is not disturbing enough, so far this fiscal year—October 1979-March 1980—only 38 percent of Army male recruits are high school graduates, compared to 55 percent during this time frame a year ago. Fully 25 percent of the Army's non-high-school graduates read at a sixth-grade level or below.

These statistics on mental categories and high school diplomas have in the past been cited by the military as an important indicator in whether or not a recruit was trainable by the military or could adapt to modern weapons and requirements. The Army testified that it "* * * desires the highest High School Diploma Graduate and mental group level achievable." And that is a direct quote.

ARMY RESPONSE TO MENTAL CATEGORY LEVELS

What has been the Army's response to the mental category levels that we have cited?

What has been the response of those civilians in key leadership positions in the Army to this evidence that the quality measures are pointing toward disaster? When the information came out about the inflation in the mental category scores, the response from the Secretary of the Army was to deny these results as "just talk among testers." Army Manpower Assistant Secretary Peacock tried to recall a joint statement by Assistant Secretary of Defense Pirie and an Army General outlining the possible range of "test inflation" as an inaccurate portrayal of the Army position. As I have previously mentioned, Assistant Secretary of Defense Pirie testified that category IV personnel in the Army were 45 percent in 1979.

Shortly thereafter, Army General Price testified before the Appropriations Committee that 10 percent of Army accessions were mental category IV. At Senator STENNIS' request, Assistant Secretary Pirie and General Price provided a joint statement which only conceded that category IV personnel might be as high as Assistant Secretary of Defense Pirie testified to.

The next day, Army Assistant Secretary Peacock phoned the committee staff and then wrote to Senator STENNIS asking that the statement be returned and stating "the Army will not take any position." By this time, the Army had gotten to the point of trying to prevent policy statements by an Assistant Secretary of Defense from release.

This is not surprising since the official Army position, as always, is that there are no quality problems.

I think this statement shows very clearly that the Army is so concerned about not letting these facts get out for public dissemination that they have got to the point they are trying to prevent policy statements from coming out from the Assistant Secretary of Defense for Manpower himself.

ACTUAL JOB PERFORMANCE CONFIRMS QUALITY PROBLEM

Having now disavowed high school diploma and the mental category scores as valid indices of quality, the Army now says we must look to the field for the real test of capability.

Unfortunately, there is strong evidence that the mental category and high school diploma criteria are not just theoretical goals or arcane disputes among testing agencies. The fact that there is an increasingly large number of individuals with lower mental abilities who cannot perform their missions is supported by results and testimony from the field.

The Army Training Study conducted by the Army to review training programs and their relationship to combat effectiveness tested the performance in combat units. This study found that 25 percent of the tank gunners did not know where to aim the battlesight when engaging a target. In testing automotive mechanics at graduation on the six tasks which had been taught to them, the average completion ability was only two tasks. This study also confirmed the extra time and large extra costs involved in training category IV personnel. What was the Army's leadership response to this study by its own generals? The Army decided to label the study "for official use only" to prevent its public release.

Again we are told, that is only training. What counts is actual job performance. Another indication of the deteriorating quality is indeed the result of tests given to personnel in the field on how well they can do the jobs they would have to do in a combat situation. These are called skill qualification tests. They measure how well individuals perform the jobs they are assigned to do and the general results here are devastating in terms of what they portend for the Army's ability to fight.

The Army's basic "report card" of combat skils in 1977 and 1978 showed these results—and I hope the Members of the Senate, if they do not listen to anything else while we debate this manpower issue, will listen to this, because I think it tells us something which, if we do not pay heed to it, we will regret very deeply in the years to come. These are the Army's test results:

Of 1,574 artillery crewmen tested, 86 percent failed.

Of 1,095 Hawk missile crews tested, 82 percent failed.

Of 371 tank turret and artillery repairmen, 98 percent failed.

Of 385 nuclear weapons maintenance specialists, 90 percent failed.

Of 2,794 cannon fire direction specialists, 81 percent failed.

Of 3,022 track vehicle mechanics, 89 percent failed.

The Army says of these first tests there was something wrong with them, they do not quite understand what was wrong with them, they do not know, but they cannot believe it, so they say, "We really do not believe the tests are valid." So they come back in 1979 and make some more tests, and I believe they will agree today that these are valid, and I will cite the 1979 results. What follows are unreleased results of the skilled qualification tests on large military specialties in 1979:

Ninety-one percent of the aviation maintenance personnel failed.

Seventy-five percent of the food service personnel failed.

Forty-six percent of the signal personnel failed.

Forty-three percent of the field artillery personnel failed.

Forty-nine percent of the combat engineers failed.

Thirty-nine percent of the missile maintenance personnel failed.

Eighty-three percent of the transportation personnel failed.

Fifty-one percent of the military intelligence personnel failed.

Sixty-nine percent of the communications operations personnel failed.

Seventy-four percent of the administration personnel failed.

I believe these statistics must be sobering even to the top leadership of the Army.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 5 minutes of the minority leader's time—I have been authorized to make that request—may be transferred to the control of Mr. NUNN, and I hope that will be sufficient.

Mr. NUNN. I hope so.

Mr. ROBERT C. BYRD. I hope it will be sufficient so that the Senate can go on with the business which is scheduled.

While I have the floor I also hope the distinguished Senator will have this statement reprinted or get it around to other Senators somehow, and possibly it would be useful beyond just the Members of the Senate.

I am very impressed, struck, and shocked by the figures and some of the statements which have been made. So I hope the Senators who are engaged in this colloquy will take action to disseminate this material at least to the other Members of this body and to the Members of the other body.

So I make that request that the remaining time of the minority leader be transferred to Mr. NUNN.

Mr. NUNN. I thank the majority leader. I assure him we will get information disseminated as widely as possible.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the problems and concerns that these statistics suggest have been supported in public testimony by both our NATO commander, General Rogers, and our Korean commander, General Wickham. Both have testified about training difficulties many soldiers have in remembering what they are supposed to do. That the sergeants have been correct is an understatement.

ARMY LEADERSHIP CONTINUES TO IGNORE PROBLEM

However, in light of all these statistics, the top Army civilian leadership continues to merrily whistle in the dark while the death knell of a combat-ready Army is sounding all around them.

The Secretary of Defense leaves these questions of quality versus quantity to the Army itself. The Joint Chiefs do not involve themselves in the Army's decisions. In a very few years if the Army continues down its current path it will be lost as an effective fighting force. I have no doubt that the vast majority of the members of the Army are fully prepared to sacrifice their lives to save this country in wartime. The essential question now is how many top ranking officials in the Army are willing to risk their careers to save the Army in peacetime. Courage is not measured on the battlefield alone. The time has come for candor. If the Army leaders cannot face the facts in peacetime, can they lead their troops successfully in battle? Who will save the Army? That is the essential question today.

A basic institution of our country is floundering. Professional soldiers are leaving by the thousands because of the poor quality and discipline in the ranks. They recognize that these problems will take years to correct and see no hope while the top leadership continues to ignore the problem and allows the ranks to be filled with unqualified personnel. These same blinders are worn by the Secretary of Defense and the Chairman of the Joint Chiefs who are providing no direction or guidance to the Army in this respect—and I emphasize in this respect. I am not saying that in the broad sense, but I am saying it in this respect. They are abdicating their responsibility.

The purpose of the military is to fight successfully in time of war and to be prepared to fight successfully in time of peace. That is the sole reason for being and should be the sole standard governing decisions regarding its recruitment, organization and equipment.

Deliberately lowering the quality standards as the Army has done, ignoring the alarming information about the mental categories, being unwilling to pursue its own goals for high school graduates, invalidating skill qualification tests with poor results, and overlooking the testimony of major combat commanders is applying these standards in reverse.

While the Army has always been an avenue of social mobility, these are not its primary purposes. Our military is neither an armed WPA nor an extension of the Job Corps.

Because of these adverse trends in the Army and the unwillingness of the Army leadership to even acknowledge them, much less take corrective steps, the Senate Armed Services Committee recommended several actions.

The committee recommendation is an attempt to force the Army to focus on quality instead of adhering blindly to the self-destructive "quantity at any cost" recruiting philosophy of today. Such a focus will pay real dividends to the Army and the Nation's security. The Marine Corps had a similar flirtation with emphasizing quantity rather than quality. The results adversely affected the combat effectiveness of the Marine Corps. General McLennan reflecting on that experience has testified:

> The record shows that in recent years the Corps has met its accession goals both in terms of quantity and quality. The Commandant was very explicit in his direction and if it came down to a choice, quantity was to be sacrificed for quality.
>
> Our commitment to manpower quality must be maintained to ensure ready, effective forces. This commitment to quality is measured by the increased accession of high school graduates including GED from 59.1 percent in Fiscal Year 1975 to . . . 76.8 percent" in 1978. ". . . we are proud of the improvement indicated in the following statistics which compare Fiscal Year 1975 and Fiscal Year 1978 experience. The unauthorized absence rate has been dramatically reduced, the desertion rate is down 60 percent and the average confined population is 54 percent lower. Major Command Special Courts Martial" case loads have experienced a 60 percent decease. Losses prior to the expiration of enlistment are down 23 percent. Additionally, this quality improvement has had a positive affect on our retention rate, which has increased four percentage points.
>
> The highest priority the USMC has is to maintain the quality level of the input of individuals—both officers and enlisted—to the Corps. We have not and will not back away from that particular priority.

The committee is recommending that the Army reach its own stated quality goals, and if they do, the authorized end strength would be at the requested level, but the committee has done more.

The committee also provided $1.6 billion in new educational assistance benefits and other compensation increases that can be used to attract and retain high quality personnel. We are giving the Army new tools to attract quality personnel while demanding that the civilian leadership of our military forces recognize the seriousness of current quality problems.

The Constitution requires that the Congress raise and maintain armies for the purpose of defending this Nation's freedoms. I do not believe the Congress can shirk its responsibility to the American people even if the Army leadership persists in shirking theirs.

I will not sit quietly by while these attempts at deception destroy the U.S. Army. I urge my colleagues to support the positive recommendations by the Armed Services Committee.

The vast majority of men and women in today's Army are dedicated, competent, and performing a great service to their Nation. They deserve to serve in a well-trained force of quality. This will no longer be possible if the present trends continue.

I would like to go into more detail at a later point, but I would like very much to give the Senator from Iowa such time as remains, as the ranking minority member and a very valuable member of our subcommittee.

Mr. JEPSEN. I would like to register my concern about what I perceive to be some disturbing personnel trends in the Army and to reflect on a proposal recently forwarded to the Senate by the Armed Services Committee.

The controversial proposal that the Army's end strength be reduced by 25,000 was born out of months, perhaps years, of frustration in dealing with complex personnel issues and based on an underlying belief that the Department of Defense—and more specifically the Department of the Army—has not taken seriously the concerns shared by the majority of the subcommittee regarding current trends in the quality and composition of the Army.

We are certainly aware that the Army is, for the most part, meeting its non-prior service recruiting objectives. In fact, the Army believes that it will achieve, or will come close to achieving, its requested fiscal year 1980 end strength of approximately 774,000.

Nevertheless, the committee is also aware that this end strength is being met only because the Army has been willing to accept greater numbers of non-high-school graduates and greater numbers of women.

The quality of the force is perceived to be deteriorating as recruiters continue to be pressed for pure numbers. Yet, as the Army takes in fewer high school graduates, the recruiting problem may only get worse. This is because non-high-school graduates are generally more difficult to train and have less sustainability in the Army. These individuals will fail to complete their first term of service at a rate twice that for high school graduates; thus the demands on the recruiters are again increased.

The Army is also using greater numbers of women to meet its recruiting objectives. While I believe that women play an important role in the Army, we must also recognize that Army policy prohibits the use of women in combat. Thus, the use of women to make up for broader recruiting shortfalls should be considered inconsistent with efforts to fill pressing shortages in the combat arms. By 1981, 1 out of 10 Army soldiers will be female. The fact is, we are moving—as a matter of policy—toward a greater proportion of women in the Armed Forces than any other country in the world. I believe we ought to think this through more carefully.

Our concerns about these trends are supplanted by evidence that test scores used to measure mental categories of new recruits are not as valid as once believed. More than being angered by this turn of events, I am bewildered as to why the Department of Defense has no method by which the quality of new accessions can be accurately and uniformly assessed.

In tying the end strength of the Army to some measure of quality, the committee is making an important statement as to our determination to improve—as a matter of national policy—the quality and composition of the Army.

At the same time, however, the committee has a special obligation to maintain an Army of sufficient size to implement our defense and foreign policy obligations. The effect of this legislation on our allies, and on the broader strategic equation, cannot be taken lightly. It is important that the committee not leave the Senate, or the American people, with the impression that we acted from the assumption that the Army is too large. In short, the committee's desire to tie end strength to quality is a legitimate effort to force improvements in quality but must be balanced against international requirements.

While there is no doubt that the committee's action is well intentioned, and probably necessary, I think we should recognize that dramatic moves of this sort cannot take the place of a sustained effort to build and manage the Army in ways that will reflect the committee's concerns over quality and composition. I believe that the committee—indeed the Congress—should continue to work toward initiatives and proposals which would provide for greater stability in manpower planning, and would utilize methods or procedures for measuring and regulating quality that are manageable for both the Congress and the Department of Defense and will reflect the views of our committee in the long run.

The Armed Services Committee has, I believe, done more than any other committee in the Senate to help build a consensus in the Senate for the need to simply pay more attention to defense. One of the most dramatic impacts of our committee has been made in the area of manpower. There is now a greater appreciation for the complexity of manpower issues, and a greater concern for the personnel in our Armed Forces, than ever before in the Senate.

The committee, and particularly the manpower subcommittee, has the responsibility and the reputation of being "out front" on these issues. And to this we owe a great deal of debt to the committee chairman, Senator Nunn, and the Armed Services Committee Chairman, Senator Stennis, for their leadership. I know the chairman and the subcommittee chairman will use this debate to bring the facts before the Senate and help forge the consensus to make further progress in the future.

Mr. NUNN. Mr. President, I thank the Senator from Iowa. I want to particularly commend him for his excellent work on our subcommittee on this and many other issues. I thank him for his kind remarks and his leadership.

I thank the majority leader and minority leader for yielding me their time.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2720, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2720) to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for transaction of routine morning business, that Senators may speak therein and the period not last beyond 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPEARANCE OF LEGAL COUNSEL AS AMICUS CURIAE IN COMMON CAUSE AGAINST BOLGER

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution on behalf of myself and Mr. Baker. I ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 476) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in Common Cause versus Bolger.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with and that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 476

Whereas, the complaint in *Common Cause v. Bolger*, C.A. No. 1887–73 (D.D.C.), places in issue the powers and responsibilities of the Congress under the Constitution by challenging the constitutionality of Public Law 93–191, enacted December 18, 1973 (39 U.S.C. § 3210), which regulates the use of the frank by Members of Congress to communicate with constituents and other persons to assist and expedite the conduct of the official business, activities, and duties of the Congress;

Whereas, the use of the frank dates back to the American Revolution and was authorized in 1775 by the Continental Congress;

Whereas, the use of the frank was authorized in 1789 by the First Congress established under the Constitution continuing the authority granted by the Continental Congress;

Whereas, in 1797, Jefferson, joined by Madison, defended the Congress's use of the frank in a Petition to the Virginia House of Delegates, pointing to the frank's place in English common law and the reason for its adoption in the United States:

"[T]hat in order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was a part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive; and that their communications with their constituents should of right, as of duty also, be free, full, and unawed by any: that so necessary has this intercourse been deemed in the country from which they derive principally their descent and laws, that the correspondence between the representative and constituent is privileged there to pass free of expense through the channel of the public post . . ." 8 Works of Thomas Jefferson 322 (Ford ed. 1904)

Whereas, this right of the people to receive reports from their representatives in Congress at government expense has been provided in law from the First Congress in 1789 to the present day, except for the period 1873–75;

Whereas, it is the opinion of the Senate that citizens cannot oversee and hold accountable their representatives in Congress unless they are informed of the actions and positions of their representatives, and that Senators have a duty to communicate with their constituents to this end, and that the frank is an important and necessary means for such communication;

Whereas, by Public Law 93–191, enacted on December 18, 1973, Congress adopted major changes in the frank to regulate its use and to strike an appropriate balance between the right of citizens to receive information from their representatives and the interests of candidates and their supporters;

Whereas, the Senate, pursuant to its rulemaking power under Article I, Section 5 of the Constitution, has, subsequent to the enactment of Public Law 93–191, adopted Rule XL further regulating the use of the frank;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978 (2 U.S.C. §§ 288b(c), 288e(a), and 288l(a) (Supp. II 1978)), the Senate may direct its Counsel to appear as *amicus curiae* in the name of the Senate;

Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as *amicus curiae* in the name of the Senate in *Common Cause* v. *Bolger*, in defense of Public Law 93–191 and of Senate Rule XL.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, for once I have the pleasure of moving to table a motion by Mr. Baker.

Mr. BAKER. Mr. President, that is 3 for Byrd and 9,666 for me.

The PRESIDING OFFICER. On this historical occasion, hearing no objection, the motion to table is agreed to.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. If there be no further morning business, it is terminated.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1980

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2720.

The Senate resumed consideration of the bill.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of S. 2720: David Yudin, Howard Menell, Frank Shafroth, Jan Zarro, Steve Rohde, Gary Aldrich, Bill Mattea, Bob Malakoff, Steve Harris, Marilyn Prasinos, Cliff Rechtschaffen, Danny Wall, Tommy Brooks, John Daniels, Dave Gogol, B. N. Goehring, Jack Wymer, George Griffin, Shelly Turcotte, Michael McCurry, Amy Dunbar, and Brian McCoughlin.

They are from the Committee on Banking, Housing, and Urban Affairs. I do not believe anyone will be left in the office after that.

Also, Mr. President, for my distinguished colleague from West Virginia (Mr. RANDOLPH), the chairman of the Committee on Environment and Public Works, I ask unanimous consent that the following staff members have the privilege of the floor during debate and votes on S. 2720: Richard M. Harris, John Yago, Bailey Guard, Lee Fuller, Jean Schrag, Hal Brayman, and Larry Roth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, today the Senate takes up S. 2720, the Federal Public Transportation Act of 1980. This legislation reauthorizes our basic public transportation assistance program through fiscal year 1985, and makes several important structural changes to the program, including a new distribution formula that will help assure that Federal transit funds will be used most efficiently.

We take up this legislation at a crucial moment in the history of the Federal public transportation program. Since the early 1960's we have seen this program grow from a modest attempt to prevent the total collapse of mass transit in this country to an ambitious and successful effort which has been a major catalyst in the renaissance of public transportation in the United States. The ability of our transit systems to survive the difficult, automobile-oriented years of the 1960's and early 1970's has left us with a valuable basic infrastructure to build on in order to meet the energy challenges of the eighties.

During this decade, the United States will have to adjust to the realities of an energy-scarce future. In this kind of environment, we must be able to depend more heavily on public transportation.

We should also be aware of the increasingly significant role that public transportation is already playing in the changing American lifestyle. In 1979, the American consumer turned to public transportation in every community for an increased portion of travel needs. Transit ridership has increased annually since 1972. In the last 30 straight months, ridership increased over the same month in the previous year. The 1979 increase was at an annual rate of almost 7 percent. Over 500 million new transit trips were taken in 1979. We weathered an energy supply crisis which triggered ridership surges in some communities of 40 and 50 percent. This trend toward increased ridership did not cease with the end of last year's gas lines. In January 1980, more than 35 million more transit trips were taken than in January 1979, an increase of 6.3 percent.

Mr. President, to build on the progress we have made already and to prepare for this decade of energy and budget restraint, the existing UMTA program must be altered in several ways. Two decades ago, the original predicate for the program was the prevention of further decline and collapse in most large transit systems in the country. But today we face the new challenge of creating a national network of transit systems that can play a key role in meeting the mobility needs of a population that must become less dependent on the unlimited use of the automobile. Therefore, we need to set a national goal of increased capacity and utilization of our transit systems.

Last fall, as the country started to recover from the shock of new gasoline shortages, President Carter established the cornerstone of a new Federal policy to create the necessary capacity on our transit systems. The President called public transportation "one of the keys to the future of the United States," and outlined his vision for a new era of public transportation. He said:

> Our goal is to add 15 million passengers per day to the buses, the streetcars, and the trolleys and subways of our cities and communities. We will double the production of buses, the only form of mass transit in 97 percent of America's cities. We will step up the modernization and the refurbishment of existing rail transit systems.
>
> We'll build subways and elevated trains, trolleys, people movers, commuter trains.
>
> We'll repair track beds, modernize stations, improve signaling and control stations, replace aging railcars, expand the size of fleets, extend lines into new areas and encourage new technologies. In short, we will reclaim and will revitalize America's transit systems.

The President's policy is an ambitious but necessary statement of the proper goals and direction for the Federal public transportation program in the 1980's, carrying out these goals will help us preserve our urban centers, end our undue dependence on foreign energy sources; protect our environment; and fight inflation by reducing our national bill for imported and increasingly expensive oil.

Mr. President, S. 2720, the bill we consider today, would set a proper course for the UMTA program to start carrying out these goals. In structuring this legislation, however, the Banking Committee faced the difficult task of reconciling two seemingly contradictory purposes: The first was the necessary expansion of the transit program so that the President's important new policy could begin to be carried out. Although it was the long gas lines of 1979 that directly caused the formulation of this new policy, we have subsequently seen the loss of Iranian oil, and rounds of OPEC price increases, all of which have grimly underscored the need for increased capacity in our public transportation systems.

The second goal, of course, is the control of the Federal budget. This year's complex and controversial budget process has forced the Congress to look long and hard at the costs of every Federal program. The transit program, in particular, was the subject of extensive review and discussion in the budget process.

Mr. President, I am confident that S. 2720 effectively reconciles these goals. In response to the nationwide recognition of the importance of transit, it provides an expansion of the existing program. But as a result of budgeting pressures, the administration and the committee have agreed that we can accomplish only a relatively modest increase in the size of the program when compared with the new goals which have been established: A 50-percent increase in ridership; doubling the production of buses; and stepping up the modernization of rail systems. All of these steps are vital elements of our energy conservation program, and the committee's bill is an important start in that direction. The necessity of this expansion has been recognized at all major steps in the legislative and budget processes: The administration's proposal for an increase in transit funding survived virtually intact in the revised budget; the Banking Committee, in this legislation, has adopted the President's proposed spending levels; and both the first budget resolution and pending appropriations bills provide for a substantial increase in the transit program.

Under this legislation, most of the funding increases would be focused on the section 3 discretionary capital program. Over the 5-year life of this bill, the section 3 program would be authorized at a total of $13.9 billion. This represents an increase of approximately one billion per year over current levels of spending for capital projects.

Adoption of these funding levels for section 3 would allow us to quicken our efforts to get new buses out on the street, to modernize our rail systems to make them more reliable and safer, and to pursue construction of new rail systems where they will make a major contribution to solving energy, environmental, and urban problems.

I cannot stress strongly enough that the ability of transit to play a key role in reducing our energy demand depends in great part on our ability to move quickly to have equipment and facilities available for people to use. If we ask people to use transit instead of the automobile and we cannot deliver on a promise of reliable and efficient service, we will not succeed in attracting people out of their automobiles. So we must start quickly to improve our service capability. That is why we need to expand the size of our capital program immediately. If we fail to move now—for increased capital programs in both fiscal 1980 and beyond—we may well have, both literally and figuratively, missed the bus.

The committee bill would also reauthorize the section 5 formula grant program, which provides funds primarily for operating assistance and routine bus purchases. The total funding level for the

5-year section 5 program is $9.5 billion. In response to the legitimate concerns the Senate has about the costs of Federal programs, the growth of the section 5 program has been limited to a modest annual increment in the program, averaging about 6.5 percent per year.

In part because of the pressures caused by the limited availability of funds, and in part because of continuing inequities in the distribution of funds, the bill reported by the Banking Committee adopts a new section 5 distribution formula, highly targeted to those communities which are actually providing transit service. The purpose of this new formula is to assure that available funds are sent where they are most needed and will be most effectively used. This new formula would be effective in 1982.

Under the new formula, section 5 funds will be made available to a community in an amount which is based solely on the level of transit service provided. The factors used will be bus and rail revenue vehicle miles, which are accurate and verifiable measures of actual transit service. It is important to note that, for the formula to work properly, the Department will have to take special steps to insure that communities are reporting completely accurate and independently verifiable data.

For the first time since the creation of the section 5 program, we will be moving in a direction of assisting a community for the service it actually provides. This was the original concept we had in mind when the program was developed in 1974. Unfortunately, as a compromise to get the program enacted, Congress adopted population and related factors which were unrelated to the service actually provided. Since then, each time we have considered transit legislation in this body, we have attempted to work our way back to the original concept of a service-based formula.

The new proposed formula has been criticized as a program just for the big cities. To the contrary, this is a program for those cities, both large and small, which have decided to emphasize and commit themselves to public transportation by providing increased service. This is a formula that maximizes the efficient use of Federal dollars by targeting the money where it is most needed.

However, in order to minimize some of the dislocations that could occur as a result of the new service-based formula, I understand an amendment will be offered to allow continued use of the population-based distribution formula for smaller cities.

I plan to support this amendment because it provides increased flexibility in the program by providing discretion to the Governors to put the funds where they are most needed, and because this proposal would help encourage the development of new transit services in many smaller communities which do not provide transit service.

The committee bill would also make a change in the existing formula for fiscal year 1981. The bill would retain the current four-tiered formula, although in lieu of the existing separate authorization for each tier, the bill would substitute a single authorization of $1.665 billion for the entire section 5 program in 1981. This figure represents the sum of each separate tier's authorization for 1981. Out of this single authorization, a specific percentage of the total would be distributed through each tier. While each tier would be allocated about the same amount of funds now authorized, the proportion of funds going through each tier would be fixed. This would prevent the selective underfunding of some parts of the program that has characterized the transit appropriations process in the last couple of years.

The committee bill contains several other important revisions to the UMTA program which should be highlighted:

First. Section 3 is amended to create an allocation of funds for rail modernization activities. This program responds to the need for Congress to exercise proper control over the broad discretion inherent in the section 3 program, as well as the need to assure adequate funding for important and routine rail modernization projects. The Secretary would study the rail modernization needs of each city and create an allocation plan, subject to review by the authorizing committees of Congress, which would govern the distribution of 75 percent of the funds appropriated each year for rail modernization projects.

Second. Another amendment to section 3 would authorize the Secretary to directly purchase transit vehicles with related equipment, and then transfer the vehicles to local operators. This provision would help avoid the peaks and valleys common to the transit procurement process, would help lower costs through increased standardization, and would provide a standby resource for buses to help cope with energy emergencies that cause short-term surges in ridership.

Third. Incentive grants would be permitted under the section 5 program, based on improved productivity. Under this proposal, transit systems which substantially increase ridership or succeed in developing and maintaining stable sources of non-Federal funds would be rewarded with an increase of up to 10 percent in their section 5 apportionment.

Fourth. The bill revises the definition of "fixed guideway" to assure that trolley rail systems which operate on city streets in mixed traffic are eligible for inclusion in the tier III "fixed guideway" apportionment.

Fifth. The Secretary's authority to investigate safety conditions on mass transit systems is clarified and strengthened.

Sixth. A planning process for small urban and rural areas is established to govern the distribution of section 18 formula funds for nonurbanized areas, as well as the use of section 3 capital funds in these areas.

Mr. President, this legislation is of vital importance to this Nation's efforts to control its use of energy and to improve its urban environment. It is an opportunity for Congress to reaffirm the national commitment to improved public transportation, to put more buses and better rail systems into service, and to assure that operating assistance is used in the most efficient manner possible.

Mr. President, this legislation has been given a lot of study. We have received from so many of our colleagues information on specific ways that they feel our legislation can be improved in meeting its objectives, its goals, and be made more efficient and fairer. So many of these amendments that I have reviewed, I have concluded will make this an even better response to our transportation needs. I am looking forward eagerly and with interest for our Members to come forward with these amendments. I know that this legislation, which has always had a lot of member interest, this year, has been given particular interest by Members. I feel that we can move with expedition to a conclusion. I know that that will be the objective, too, of my dear friend and comanager of the bill, the Senator from Utah.

(Mr. RIEGLE assumed the chair.)

Mr. GARN. Mr. President, I do not intend to make an extensive opening statement on the bill before us, S. 2720, the Federal Public Transportation Act of 1980. My views on the bill are still subject to change and may be influenced by the actions taken on amendments, which may or may not be adopted, to the bill.

I do, however, want to compliment the majority manager of the bill, (Mr. WILLIAMS), on the efforts made in the legislation to revise the Urban Mass Transportation Act of 1964. While we disagree on certain aspects of the Federal public transportation program—most notably, the appropriate size of the Federal fiscal commitment which should be made to this program in view of other national priorities—the bill before the Senate does reflect several positive changes in the way the program is administered.

I support the concept of Federal assistance to the public transportation systems around the country, and I take pride in the fact that Utah has a public transportation system which is efficient, well-managed, and service-oriented. The Utah Transit Authority, which serves Salt Lake, Davis, and Weber Counties, has been one of the fastest growing transit systems in the country in recent years, and its expansion has no doubt been aided by the existence of a Federal program of assistance.

The bill presently before the Senate would authorize expenditures for fiscal years 1981 through 1985 for the continuation and expansion of the Urban Mass Transportation Act of 1964, as amended. Since its enactment in 1964, the UMTA Act has been a steadily growing program, and S. 2720 would dramatically increase its rate of growth over the next 5 years.

As this program continues to grow, particularly at a time when all Federal spending programs should be undergoing increased budgetary scrutiny, it is important that its objectives be understood and brought up to date. Historically, the Federal mass transit program has been viewed primarily as one which benefits a relatively small number of highly populated urbanized areas capable of supporting extensive, heavy rail-dominated transit systems. If the program is to continue to grow, however, I believe that it must unequivocally become a national program, capable of contributing to transit growth in large and small cities, eastern and western cities, and, to a greater degree than is now the case, for rural and small urban areas as well.

The most enthusiastic proponents of Federal mass transit assistance believe that the 1980's provide the greatest opportunity for improvement and expansion of transit resources in our times, and I should like to agree with that assessment. Certainly, the current energy problems which we face can be diminished to some degree by a vigorous public transportation effort, in combination with many other steps. However, if the Federal role in transit is to be a lasting one, it must be, as I have said, a national program.

This means that the program must be responsive to the needs of areas which have not historically emphasized transit; to areas which, because of future growth, have the greatest opportunity to create and expand transit services and thus to attract new ridership; to areas which evidence a resolve at the local level to support mass transit, to encourage efficiency, and to maximize the return on Federal dollars invested.

That is the test which, in my view, must be applied to the Federal public transportation program in the years ahead. I am confident that there will be, in the 1980's, growing demands that Federal expenditures in the aggregate be brought under control, so it is a test which the UMTA program must satisfy if it is to continue to grow. It is a test which the Congress should evaluate carefully as it considers this and subsequent bills to reauthorize the Federal public transportation program.

One of the most important provisions of the bill would amend the section 5 formula under which funds are allocated to urbanized areas, changing from a formula based on population factors to a new formula based on "vehicle revenue miles." The basis for this change is to recognize in the distribution formula the level of service provided by different transit systems, rather than to look only to population and population density, which have no direct bearing on the mass transit conditions in particular local areas. While I understand that an amendment is likely to be offered to mitigate the effects of the provision on smaller areas, I am prepared to support the basic formula change in the bill. While I doubt seriously that there is any way to devise a "perfect" formula which universally measures the appropriate degree of Federal assistance for operating expenses and routine bus purchases, the new formula, if adopted, would be a more accurate barometer of this need.

UP AMENDMENT NO. 1303

(Purpose: To modify the provisions relating to Congressional review of allocation plans)

Mr. GARN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1303.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 10, strike out all through the period on line 12 and insert in lieu thereof the following: "when the Congress agrees to a concurrent resolution stating in substance that the Congress favors the allocation plan.".

On page 3, line 4, after the period, insert double quotation marks.

On page 3, strike out lines 5 through 12.

Mr. GARN. Mr. President, the amendment which I am offering would amend section 2 of the bill, which establishes an allocation plan procedure to govern the distribution of funds to be used for rail modernization purposes.

Under the bill, the Secretary of Transportation is required to undertake an evaluation of the needs for rail modernization in the Nation's transit systems and devise a formula based on the plan to govern the distribution of funds appropriated for purposes of rail modernization. The purpose of this provision, as I understand it, is to establish a documented rationale for the distribution of such funds, and to provide rail transit systems with more certainty about the relative priority of and the future Federal funding of rail modernization projects, subject to future decisions about the level of appropriations for this purpose.

As the bill now stands, the Secretary's allocation plan would become final if it is not disapproved by the authorizing committees of both Houses of Congress within 30 days after submission. Once it has become final, the allocation plan would control the disposition of 75 percent of the funds appropriated for rail modernization. The Secretary would further be required to update annually the survey of rail modernization needs upon which the allocation plan is to be based.

My amendment would not change the basic scheme of this provision, but would provide that the allocation plan would only become "final" when approved by both Houses of Congress by concurrent resolution. Because the allocation plan, if approved, would create in effect, a formula which would have a substantial impact on the distribution of funds to competing projects, it is my view that, at a minimum, Congress should pass judgment on the merits of the plan before its implementation.

In discussing section 2 of the bill, I should also emphasize that the adoption of the allocation plan concept for rail modernization does not in any way affect the overall purpose or scope of section 3 of the Urban Mass Transportation Act. In that regard, the report of the Banking Committee accompanying S. 2720 notes that "it is not the committee's intention to take any position on whether such projects (rail modernization) should be accorded priority over other capital expenditures."

Mr. President, I believe that my amendment would provide a more orderly and appropriate method for review of and final action on any rail modernization allocation plan that is now provided for in the bill. I urge my colleagues to support the amendment.

Mr. President, I understand that this amendment is acceptable to the majority manager of the bill.

Mr. WILLIAMS. Mr. President, I am sure that I shall recommend acceptance by the majority side on this amendment. I do want to clarify one thing.

This approach of congressional review is not new in transportation. Am I right or wrong on that? Does not the Interstate Highway System have this approach?

Mr. GARN. That is correct. That issue has come up many times before us in this form.

Mr. WILLIAMS. Yes.

I think we can see that from experience this has been a very effective approach because, certainly, the Interstate Highway System is one of the most remarkable transportation systems ever created.

This approach will be used in the rail modernization if the amendment is accepted.

I recommend that this be approved, and, for the majority, we do approve it.

Mr. GARN. Mr. President, again, simply, on matters of such importance as these formulas, it is not prejudging any of them. It is simply saying, when the study comes back and recommendations are made, that Congress have the opportunity to review it and agree or disagree.

I think it is important that we maintain that type of control.

I appreciate the fact that the Senator will accept the amendment.

Mr. WILLIAMS. Another point I would like to make: We do in the committee bill require review by the authorizing committees. I believe this program has that degree of importance, much as the highway program, that it should have all Members' interest, concern, and review.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1303) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1911

(Purpose: To amend the Urban Mass Transportation Assistance Act of 1964 with respect to reduced fare ridership for elderly or handicapped persons, by allowing the use of medicare cards as proof of eligibility)

Mr. SCHWEIKER. Mr. President, I call up printed amendment No. 1911 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes amendment numbered 1911.

Mr. SCHWEIKER. Mr. President, I ask

unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

USE OF MEDICARE CARDS FOR REDUCED FARES

SEC. 12. (a) Section 5(m) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection and as a condition of assistance under this Act, any person who, when boarding or paying mass transit fares, presents a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act shall receive the benefit of the rates established pursuant to this subsection for elderly or handicapped persons.".

(b) This section shall take effect ninety days after the date of enactment of this Act.

Mr. SCHWEIKER. Mr. President, my amendment is quite simple, yet quite helpful to millions of elderly and handicapped persons throughout the country. It simply allows elderly and handicapped persons to use their medicare cards as proof that they are entitled to reduced rates on mass transit vehicles during off-peak hours. With the exception of the effective date, my amendment is identical to S. 1269, a bill I introduced last year. It has already been included in similar form as part of H.R. 6417, the House's version of mass transit authorizing legislation. It is my hope that my amendment is acceptable to the committee.

As the law now stands, local transit authorities that receive Urban Mass Transportation Administration (UMTA) grants must offer reduced rates during off-peak hours to senior citizens and handicapped persons. However, most cities throughout the country require presentation of a special, locally obtained identification card to ride for reduced rates.

Many senior citizens and handicapped persons find it difficult to go to mass transit authority offices to apply for a special transportation identification card. They already possess identification—a medicare card—which reliably proves their age or handicap. In addition, qualified individuals who travel or have relatives and friends in other cities find that these cities each require different reduced rate identification cards based on senior citizen/handicap eligibility. For example, a senior citizen who has a Washington, D.C., identification card cannot use that card to receive reduced rates in Baltimore. He or she must go to the Baltimore Transit Authority office to obtain a Baltimore card. This is an unnecessary burden.

My bill would simply require local transit authorities across the country to honor the medicare card as valid proof of eligibility for whatever reduced rate programs exist in the area.

Presently, local transit authorities have discretion, within Federal guidelines, to establish their own eligibility requirements and rate structures for their reduced rate programs. Programs differ throughout the country—which is the major reason separate identification cards are required. But to qualify for a UMTA Federal grant, the program must offer reduced rates at least to those 65 and over and to "handicapped" persons. Likewise, to receive a medicare card, one must be 65 or over or have some handicap or disabling disease—so those who legitimately hold medicare cards are automatically eligible for every reduced rate program which receives a UMTA grant. Almost 24 million senior citizens and 2.7 million handicapped persons have medicare cards.

Many cities throughout the country—such as Philadelphia, Pittsburgh, Los Angeles, Miami, Atlanta, and Milwaukee—already accept medicare cards as proof of eligibility for reduced fares on mass transit vehicles. Senior citizens may now travel in any of these cities for the reduced rates that apply simply by presenting a medicare card upon boarding public transportation. My bill would require that the many other cities which do not currently accept medicare cards—such as Chicago, Washington, D.C., Baltimore, Houston, Detroit, and St. Louis—must adopt this policy. They would not be required to change their local reduced fare programs, and could continue to honor local identification cards, but they would have to honor a medicare card as well.

My bill will cost almost nothing. No new identification cards need to be printed, and no changes in reduced rate eligibility requirements or local mass transit fare structures are intended. However, by making mass transit travel more convenient for over 26 million citizens across the country, my bill will encourage mass transit use and thereby encourage energy conservation.

I urge my colleagues to accept this simple yet helpful amendment.

Mr. President, I hope the committee can see fit to support my amendment.

Mr. WILLIAMS. Mr. President, for the majority, I am pleased to accept the amendment offered by my colleague Senator SCHWEIKER. I know that he has worked on this legislation for over a year and that its enactment will insure equitable treatment in transit service for elderly and handicapped persons across the country. It will mean that an elderly person visiting another city will not be required to obtain a special pass to be eligible for off-peak half-fares, and it will insure that there is one uniform standard.

This is a fine contribution, and I commend Senator SCHWEIKER for his efforts.

Mr. GARN. Mr. President, this is an excellent amendment. On behalf of the minority I am willing to accept it.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to include Senator RANDOLPH as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 1911) was agreed to.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1304

Mr. WILLIAMS. Mr. President, I have an amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1304.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, between line 16 and 17, insert the following:

(4) in paragraph (4)(A) strike the second sentence and insert in lieu thereof the following sentence: "In fiscal year 1981, such sums shall be made available for expenditure in urbanized areas of over 200,000 population on the basis of a formula under which urbanized areas will be entitled to receive an amount equal to the amount so apportioned multiplied by the ratio which the number of bus revenue vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of bus revenue vehicle miles directly serving all urbanized areas; for urbanized areas under 200,000 in population the apportionments shall be made in accordance with the formula set out in subsection (a)(1)(A) of this section.".

Renumber succeeding paragraphs accordingly.

Mr. WILLIAMS. Mr. President, this is a conforming amendment to establish a formula for bus capital funds under section 5 for fiscal 1981.

Current law has a formula only through 1980.

This formula, to be consistent with the formula program starting in 1982, would use: bus vehicle miles as the basis for distribution of funds to urbanized areas over 200,000; and population and population density for urbanized areas between 50,000 and 200,000.

If this formula is accepted, it will be applicable to 1981.

Mr. GARN. Mr. President, I am willing to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1304) was agreed to.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1305

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1305.

The amendment is as follows:

On page 14, after line 6, add the following title:

SEC. . Section 4(c)(3)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "$1,410,000,000 for the year ending September 30, 1980" and inserting in lieu thereof "$1,860,000,000 for the fiscal year ending September 30, 1980".

Mr. WILLIAMS. Mr. President, the amendment would add the provisions of S. 2004, which would amend section 3 of the Urban Mass Transportation Act to raise by $450 million the authorization ceiling in present law. This change is necessary to accommodate the fiscal year 1980 supplemental appropriations for transit which is currently moving through both Houses of the Congress.

There are strong and compelling reasons behind the supplemental appropriation which this amendment will facilitate. The President and the Congress now recognize like never before that the Nation's mass transportation systems will be a centerpiece in our battle to conserve scarce energy without sacrificing the mobility of our population. Transportation in all forms uses 52 percent of the total petroleum used in the United States each day, with the largest share—80 percent—being consumed by highway vehicles. Private automobiles alone account for more than one-third of our total consumption. Too often Americans resort to the convenience of private automobiles for the most routine purposes and too frequently they are traveling alone.

To make a significant dent in unnecessary private automobile use, we must encourage increased use of energy-efficient public transportation. Public transportation ridership has increased steadily over the past decade, demonstrating the success of past Federal, State, and local efforts to increase the role of public transportation in the daily routine of our population and in our national energy conservation programs.

Mr. President, the amendment is necessary for several reasons. Our Nation is well behind schedule in modernizing and expanding our bus fleet. Communities around the country need and have planned major bus improvements consisting of the purchase of buses and the necessary support equipment as well as the construction, replacement, and rehabilitation of facilities necessary for efficient bus management programs. With the additional funds available in the current fiscal year, the Congress can deliver a positive message to the bus manufacturing industry, immediately stimulate bus production, provide jobs, and prepare for any possible mobility crisis that could result from an interruption in oil supplies.

The supplemental authorizations included in this amendment will also demonstrate strong Federal support for the revitalization of rapid rail, light rail, and commuter rail transit systems in the urban areas of the Nation whose rail transit systems predated the availability of UMTA funding. Many of these older and heavily used systems have been in a state of steady decline in the recent past because of the large level of funding which would be necessary to correct the situation brought on by many years of insufficient funding and inattention. With the increased funding envisioned by the UMTA program, the Congress can provide the incentive for local areas to implement projects which will make their systems more attractive, reliable, convenient, and safer for the transit patron. This is especially important, because of the essential role rail transit systems are expected to play in an energy constrained society.

Mr. President, the amount involved in this amendment is $450 million. The committee voted to reduce by $700 million the amount in the original bill in view of the limited outlays which could be made this late in the fiscal year and because the President's original budget request was reduced in the revised budget. Also, we are now aware that the whole House has approved a $400 million supplemental for transit and the Senate Appropriations Committee has recommended a $300 million transit supplemental.

It is important to note that the Budget Committee has favorably reported a resolution requesting a waiver of the Budget Act for S. 2004, which would be applicable to this measure as part of the bill we are considering now, in other words, if it is added as an amendment.

Mr. President, I urge the approval of this amendment.

UP AMENDMENT NO. 1306

(Purpose: To reduce the supplemental 1980 authorization)

Mr. GARN. Mr. President, I send to the desk an amendment to the amendment by Mr. WILLIAMS, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1306 to unprinted amendment numbered 1305.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 4, strike out "$1,860,000,000" and insert in lieu thereof "$1,810,000,000".

Mr. GARN. Mr. President, the amendment offered by Senator WILLIAMS would provide a supplemental authorization for the UMTA program in the amount of $450 million. Under the last concurrent budget resolution for fiscal year 1980, an additional $400 million has been agreed to, and there is no indication that any more than that will be appropriated. Under these circumstances, it is inappropriate to authorize the full $450 million, since it would only create unused budget authority which might be used in future years. In view of the substantial increases in the section 3 and 5 programs included within S. 2720, there is absolutely no reason to adopt the $450 million figure.

Very simply, my amendment would reduce the figure to a $400 million supplemental authorization, which would conform with the budget resolution and the amount expected to be appropriated by the Appropriations Committee.

Mr. WILLIAMS. Mr. President, I feel that it is wise and practical to accept this amendment. I believe it will fit the pattern that is evolving in this bill. For the majority, I accept the amendment offered by the able Senator from Utah.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The second-degree amendment was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from New Jersey, as amended.

The amendment, as amended, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Nebraska.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair would advise the Senator that the Chair has recognized the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I yield to the Senator from Alaska for the purpose of allowing him to present an amendment and then to recapture the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska? The Chair hears none, and it is so ordered. The Senator from Alaska is recognized.

UP AMENDMENT NO. 1307

(Purpose: To establish a minimum funding level for each State, and to limit administrative expenses for each State)

Mr. STEVENS. Mr. President, I am indebted to my friend and the Senator from West Virginia. I do have a broadcast downtown in just a matter of minutes.

I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself, Mr. LEAHY, Mr. STAFFORD, and Mr. GARN, proposes an unprinted amendment numbered 1307.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

MINIMUM FUNDING LEVEL

SEC. 12. Section 18(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act—

"(1) the aggregate amount of grants for each State under this section during each fiscal year beginning on or after October 1, 1980, shall be first allocated among the States, with the exceptions of the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, so that each State will be allocated at least 1 per centum of the amount appropriated.".

LIMITATION ON STATE ADMINISTRATIVE EXPENSES

SEC. 13. The first sentence of section 18 (d) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "The Secretary may permit a part of the amount apportioned to each State to be used for administering this section and for providing technical assistance to recipients of funds under this section. Such part may not exceed 10 per centum of the amount allocated to each State under this section."

Mr. STEVENS. Mr. President, I have discussed this amendment with the managers of the bill, Senator WILLIAMS and Senator GARN and it is my understanding that the committee will accept the amendment.

This amendment, which I offer on behalf of Senator LEAHY and myself, will insure that more than 35 percent of the States currently receiving less than 1 percent of the section 18 funds have at least enough funds to begin one new system annually, or to provide enough assistance to existing systems to meet ridership increases. The amendment will also limit administrative expenses under section 18 to 10 percent of the funds provided for each State.

Section 18 of the Urban Mass Transportation Act of 1964 as amended provides capital and operating assistance to public transit providers in nonurbanized areas. Under the current allocation formula, section 18 funds are allocated to States for a subsequent passthrough to local recipients by means of a formula in which the percentage of total nonurbanized population within a State is given as a percentage of the total nonurbanized population for the country.

The program is specifically designed to assist with the mobility requirements of rural Americans. However, under the current allocation formula, the larger, most sparsely populated States receive almost minuscule amounts of available funds. Since large areas and small populations require higher than average operating costs, regardless of efficiency measures, it is natural that large, rural States would find most transit systems expensive. It is not clear however, why these larger and more sparsely populated States should be, in effect, penalized for historic land use patterns over which they had little control. In the past, those States which are most able to utilize these moneys have only been receiving fractions of 1 percent of the moneys available. My amendment is designed to correct that inequity and to assist in the cause of nonurbanized public transit at a very small cost. In fact, it entails a shift in total section 18 funds, which is a very small percentage of all UMTA funds, of less than 9 percent.

In addition, to assure that Federal funds made available are used to directly aid nonurbanized transit, my amendment would limit administrative expenses under section 18 to 10 percent of the funds provided for each State. In the past 2 years, only one State has used more than 8.8 percent of their funds for administrative expenses.

It is an amendment that provides equity in the distribution of the section 18 funds in the pending bill and sets a limit on the percentage of those funds which may be used for administrative purposes.

If there is any time consideration, I yield back the remainder of my time.

Mr. WILLIAMS. I am pleased to accept the Senator's amendment. I understand that there is no objection from the minority and that the Department also has no objection to the amendment.

This amendment would clear up several small but important problems with the section 18 rural and small urban public transportation program.

This program, which we created in 1978, has been underway for 3 years now. It is a program that has suffered from limited funding—$85 million in 1980—and slow implementation. In fiscal year 1979, only 11 percent of the program's funds for that year were obligated. Through the first 7 months of fiscal year 1980, only about 16 percent of available funds had been obligated.

This amendment will address some of the problems raised by this situation.

Some small States, anxious as they are to start operating rural transportation services, receive such small allocations that they simply cannot mount an effective program. A minimum 1 percent apportionment would assure that no State would receive an apportionment too small to be useful.

A second part of the amendment would reduce the maximum share of a State's annual apportionment which could be used for administrative expenses from 15 percent down to 10 percent, effective in fiscal year 1982. I share my colleague's view that after an initial start-up period, there is no need to continue allowing such a high level of program funds to be retained by the States for administrative costs. I believe that 10 percent is certainly a sufficient amount of Federal funds to set aside to cover the State's costs for planning and implementing these programs.

The third part of the amendment simply allows interest payments on loans to purchase transportation equipment to be an eligible cost item in the section 18 program. This will be a particular help to small programs whose annual grants are too low to allow purchase of major items in any one year. It will enable those programs to start providing service at an earlier time by seeking bank loans to purchase equipment, to be paid back out of annual grants.

I believe that these proposals will help strengthen the small urban and rural program, and I commend my colleague from Vermont for his efforts in helping to provide public transportation service in these areas.

For the majority I am very, very pleased to indicate our acceptance of the amendment.

Mr. GARN. Mr. President, I support the amendment of the Senator from Alaska to require that, under the section 18 small urban and rural program, each State be entitled to at least 1 percent of the funds apportioned.

I spoke earlier about the need for Federal mass transit assistance to be a national program, and this amendment is a step in that direction. Under current law, the formula apportionments to several States are so low that they cannot support any real transit effort in rural or small urban areas, in large measure because of the rapid escalation in the costs of buses. If there is to be a meaningful share of the transit budget for small urban and rural areas, then the 1 percent minimum called for in Senator STEVENS' amendment is badly needed.

I am prepared to accept the amendment on behalf of the minority.

● Mr. LEAHY. Mr. President, the intent of this amendment is to improve the section 18 program for Federal assistance to public transportation in nonurbanized areas. Vermont was the first State to obligate its full section 18 apportionment, and I believe that our experiences with this program will be beneficial to other States. Also, the Rural Development Subcommittee which I chair has held oversight hearings on this important rural transportation program. We have collected reams of testimony which bear out the need for the amendment that is being offered by Senator STEVENS and myself.

The first part of this amendment is absolutely critical if this nonmetropolitan transportation program is to work in our most rural States. This proposal would provide each State with a minimum 1 percent of the section 18 funding apportionment.

As now written, the current statutory apportionment formula is based solely on relative nonurbanized population. Under this procedure, States with low nonurbanized populations receive a wholly inadequate level of funding. For example, in fiscal year 1979, Alaska received a total of $175,000, Nevada received $134,000, and Vermont received $395,000. Our amendment would provide a minimum base of available funds that would be adequate to support a meaningful State program of rural public transportation assistance.

Assuming level appropriations for the program of $85 million in fiscal year 1981, this amendment would provide that no State receive less than $850,000 for the fiscal year. Such an appropriations level is necessary to establish a critical mass of Federal funds for the operation of a nonurbanized transportation program.

In my own State, current funding apportionment under the program is inadequate. One of Vermont's rural bus lines has already been forced to close down due to insufficient Federal funds, and three others have been driven to the brink of financial collapse several times over the past 2 years for the same reason.

While the provision of a 1 percent funding minimum will decrease the apportionment of funds to most States, in no instance will it hamper the development of a nonurbanized transportation system in any State. Virtually every State still retains most of its fiscal year 1979 funds received under the section 18 program. These funds have been carried over into fiscal year 1980. Moreover, State projections show that even with the most vigorous implementation of the section 18 program all States will spend only $103.9 million of the $160 million appropriated to the section 18 program over fiscal years 1979 and 1980. This leaves the States with $54 million in section 18 funds for use in fiscal year 1981. These carried over funds, plus appropriations for fiscal year 1981, guarantee more than sufficient funding for the operation of a nonurbanized transportation program in every State.

What our amendment establishes is sufficient funding for the less populated, rural States.

Mr. President, the second provision of the amendment offered by myself and the Senator from Alaska will reduce administrative costs under the section 18 program. Current law provides that States may keep up to 15 percent of their section 18 funds for administrative expenses and technical assistance. However, only one State has used over 10 percent of its section 18 funds for these purposes. Most States have used about 7 percent of their section 18 funds for administration and technical assistance.

Our amendment simply lowers the administrative costs cap to 10 percent of a State's total apportionment. This is a more realistic and fiscally responsible cap. Also, it provides flexibiilty for unexpected administrative costs that the States may face in the future and allows adequate funds to meet the new nonurbanized planning requirement contained in S. 2720.

Mr. President, this is a good, fiscally responsible amendment. It will help bring public transportation to the nonmetropolitan areas in every State. As importantly, it will insure that the funds provided for nonmetropolitan transportation go for their intended purpose and are not wasted on unproductive and unnecessary administrative costs.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1307) was agreed to.

Mr. STEVENS. Mr. President, I move to consider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank all concerned, and I thank the Chair.

UP AMENDMENT NO. 1308

(Purpose: To authorize urban mass transportation for the handicapped)

Mr. ZORINSKY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an unprinted amendment numbered 1308.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of in the bill, add the following new section:

MASS TRANSPORTATION TO MEET SPECIAL NEEDS OF HANDICAPPED PERSONS

SEC. 12. Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) (1) Any State, any recipient of financial assistance under section 3, or any recipient designated to receive or dispense funds under section 5 of this Act may submit for approval by the Secretary a program, which has been approved by the metropolitan planning organization after considering and soliciting the views of the community of handicapped persons for whom such transportation shall be provided. The Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, may approve any program (including a program providing transportation of handicapped persons through facilities other than facilities used by the State or recipient to provide transportation to the general public) submitted under this subsection which the Secretary determines meets the requirements of this subsection and other applicable law.

"(2) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection which—

"(A) provides that at least 5 per centum of all Federal funds apportioned under sections 3, 5, and 18 of this Act to the State or made available for expenditure by the recipient under section 3 or 5 of this Act for any fiscal year will be expended for the specific purpose of providing transportation for handicapped persons, except that the Secretary may reduce the percentage of such Federal funds below 5 per centum or waive such requirement if the Secretary determines that the program with such reduction or waiver will still comply with subparagraphs (B) and (C) of this paragraph;

"(B) provides that the State or recipient will provide transportation to handicapped persons in a manner which (i) will provide service no less beneficial for handicapped persons than that which would be required if such application had not been made, and (ii) will—

"(I) provide transportation services thoughout the recipient's normal service area;

"(II) provide there will be no waiting lists for handicapped persons desiring to use the system;

"(III) provide for no prior registration or approval of handicapped persons who wish to utilize the service;

"(IV) provide for fare rates which are comparable to those of the transit system serving the general public;

"(V) provide for reasonable minimum waiting periods; and

"(VI) provide that there will be no restrictions as to the purpose of the trip as desired by the handicapped person; and

"(C) (i) provides, in the case of an urbanized area with a population of 50,000 to 750,000, that at least 50 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons; or

"(ii) provides, in the case of an urbanized area with a population in excess of 750,000, that 100 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons.

"(3) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection only after soliciting and considering the views of handicapped persons for whom such transportation will be provided.

"(4) A State or recipient may amend a program approved under this section if (A) the Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, determines that the program, as amended, complies with this subsection, and (B) such amendment was approved by the metropolitan planning organization after soliciting and considering the views of the community of handicapped persons for whom the transportation is being provided.

"(5) Notwithstanding any other provision of law or any regulation, if a State or recipient has a program approved by the Secretary under this subsection, such State or recipient shall be deemed to satisfy the requirements of this section and any other provision of Federal law relating to discrimination against handicapped persons to the extent that such provision of law relates to transportation of handicapped persons, except that nothing in this paragraph shall allow discrimination in use of facilities or equipment by handicapped persons able to use such facilities or equipment.

"(6) Each State and recipient for which a program respecting transportation of handicapped persons is approved under this subsection shall annually certify to the Secretory that such State or recipient is complying with such program.

"(7) (A) If the Secretary determines, after notice and an opportunity for a hearing, that a State or recipient with an approved program respecting transportation of handicapped persons is not providing such transportation in accordance with its program, the Secretary shall issue an order requiring such State or recipient to comply with its program.

"(B) If, after the 90th day following the date of issuance of an order under subparagraph (A) of this paragraph, the Secretary determines, after notice and an opportunity for an agency hearing on the record, that the State or recipient is not providing transportation to handicapped persons in accordance with its approved program, the Secretary may withhold a portion not to exceed 25 per centum of Federal funds available to the State or to the recipient under section 3, 5, or 18 of this Act. If the Secretary later determines that the State or recipient is providing transportation to to handicapped persons in accordance with such program, the Secretary may resume making available such Federal funds to the State or designated area.

"(8) This subsection does not apply to any new fixed rail system for the mass transportation of the general public which is constructed after January 1, 1970, nor to the major rehabilitation or extension of any fixed rail system in existence on December 31, 1969.

"(9) Assistance under this Act used to provide transportation for handicapped persons shall not be used in substitution for other Federal funds used to provide transportation for handicapped persons.".

Mr. ZORINSKY. The intent of my amendment is quite simple. It would place the decisionmaking in the hands of the local authorities. There is no intent to diminish in any way whatsoever the goals of section 504 of the Rehabilitation Act; service must be provided for the handicapped. I just want to allow this service to be provided by the local community as it sees best, based on local conditions, needs, priorities, and local input from the people affected.

I am very familiar with the difficulty in providing service to the handicapped; I was the mayor of Omaha when we started the van service there, called MOBY. We did this based upon the information and help of the handicapped citizens of Omaha.

As a matter of fact, during my term in office as mayor of Omaha I initiated a mayor's commission on the handicapped with which I consulted in not only establishing the MOBY system of vans in a portal-to-portal pickup and delivery service, but we also initiated an architecturally established uniform replacement for every corner in the city of Omaha at the time it receives replacement in that the handicapped would be able to negotiate the corners of our community in a better and able fashion.

Nobody in Washington told us what needed to be done or how or when or how much must be spent or where. We did it on the local level of government without the expertise and the knowledge of the self-proclaimed geniuses of Washington, D.C.

The problem I find with the current rules of the Department of Transportation is that they are so inflexible. Does anyone think that every city in this country, no matter what it's size, has the same situation and conditions to contend with in dealing with the handicapped? All I want to do is allow those most directly involved to be responsible for the input and decisionmaking.

Besides the outpouring of support for my amendment by the people of Omaha, who are so familiar with the efforts there, I have received expressions of support from the American Association of Retired Persons, the National Association of Counties, and many State and local governments.

The amendment I am offering today is a result of extensive discussions with many representatives of the handicapped, and members of the committee. I hope nobody thinks that this amendment relieves anyone of the intent and goals of section 504, because that is not the case. We should remain committed to meeting the responsibility of bringing the handicapped into the mainstream of society. I cannot overstate my determination to see the accomplishment of this goal.

Mr. President, this is a modified amendment and places a basic requirement that a minimum of 50 percent of buses be required to adhere to the Department of Transportation rules unless the local level of government can show that the services and needs are adequately performed to such an extent that they can accomplish the goal and purposes of the act by having the replacements or like services offered.

I yield the floor.

Mr. EXON. Mr. President, I believe the next matter to take up in the Chamber with regard to this bill is the handicapped busing situation that Senator ZORINSKY, myself, and others have been working on with the committee for some time, and we appreciate very much the cooperation by the distinguished Senator from New Jersey in this regard.

Mr. President, I rise briefly to speak in behalf of establishing a "local option exemption" to section 504 of the 1973 Rehabilitation Act.

Let me say at the outset, however, that I fully support the intent of section 504, which provides handicapped persons accessibility to facilities and services wherever Federal dollars are involved.

The adoption by the Congress of a local option exemption to section 504 would remedy what I consider the very unfortunate rules and regulations of the Department of Transportation regarding the issue of so-called accessible buses versus special transportation services for the handicapped. If I understand the purpose of section 504 correctly, it is to provide transportation for handicapped persons to enable them to get to work, and to do all the other things for which public transportation services are used by the public.

However, by putting all the section 504 eggs in the accessible bus basket, the Department of Transportation is limiting in many cities the potential for handicapped persons to use public transit. In cities such as Omaha, Nebr., where it is very difficult for handicapped persons to go from their home to a bus stop because of inclement weather, hills, and other reasons, it is just not practical to claim that handicapped persons will have the opportunity to use public transit without some sort of special services, such as mobile vans.

Omaha is not the only city that has this problem. The Congressional Budget Office has looked at this issue on a nationwide basis, and found that special services such as vans can move far more handicapped people to their destinations than can accessible buses, and can do so at a per trip cost of approximately one-fifth the cost of accessible buses.

Mr. President, I ask unanimous consent to have printed in the RECORD the summary report of the Congressional Budget Office study.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

URBAN TRANSPORTATION FOR HANDICAPPED PERSONS: ALTERNATIVE FEDERAL APPROACHES

SUMMARY

In implementing Section 504 of the Rehabilitation Act of 1973, the Department of Transportation (DOT) recently issued rules specifying how urban public transportation facilities should be adapted to serve handicapped persons. The rules are based upon an interpretation of Section 504 that was developed by the Department of Health, Education and Welfare (HEW). They require transit systems to equip buses with lifts for wheelchairs, to install elevators in many underground and aboveground rail stations, and to modify rail cars to accommodate wheelchairs. While the program would be very expensive—$6.8 billion over the next 30 years—relatively few handicapped persons would benefit from it. The Congress is currently considering whether to fund these changes through reductions in other transit programs or through new appropriations—or whether to enact new legislation requiring DOT or HEW to modify their rules.

THE PROBLEM

More than 1 million physically disabled, blind, or deaf persons who live within a short walk of transit service cannot physically use it. Those who suffer the most severe problems are the 409,000 wheelchair users whose handicap poses exceptional problems for bus and subway operators attempting to serve them. Some wheelchair users who lack access to cars or are too poor to pay high taxi or ambulance fares find very few opportunities to visit friends, to shop, or to go to a doctor. An additional 4 million handicapped persons live near transit but find it difficult to use. The remainder of the approximately 30 million handicapped persons in the United States are physically able to use public transportation without pain or special difficulty.

THE ALTERNATIVES

Section 504 prohibits excluding handicapped persons from any federally financed program solely because of their handicaps. The language of this section, however, is brief and vague, and opinions differ as to its meaning when applied to transportation programs. Some representatives of handicapped persons argue that their civil rights require that bus and rail systems available to the general public should be equipped with elevators and lifts to enable persons in wheelchairs to use them. Only in this way can handicapped persons feel themselves part of normal everyday life. Others, however, hold that special door-to-door transportation would provide less costly and more convenient services for a larger number of disabled persons. They also argue that, by serving more persons, separate door-to-door transportation would be more effective in assimilating handicapped persons into everyday activities such as school, where their interaction with the general public is on a higher level than in buses and trains.

This paper evaluates three alternative options for providing transportation services to handicapped persons living in urban areas. The first option—the Transit Plan—presents one possible outcome of the rules issued by DOT under Section 504. The second alternative—the Taxi Plan—calls for a number of small modifications on existing systems, and door-to-door public transportation for severely disabled persons. The third option—the Auto Plan—offers financial aid to severely disabled persons for the purchase of specially adapted automobiles, as well as door-to-door public transportation for those unable to drive cars. The three options are compared on the basis of costs and the number of persons who could be expected to benefit from the services. The modification to transportation vehicles and the services required under the three options are outlined in Summary Table 1, and the corresponding costs and patronage are presented in Summary Table 2. The decision by the Congress will most likely be based on these factors as well as on the issues of civil rights and social integration of handicapped persons.

THE TRANSIT PLAN

Over the next 30 years an estimated $6.8 billion would be needed to implement the DOT rules. This is equivalent to two and a half years of current federal expenditures for transit programs. Of the $6.8 billion, $2.2 billion would be for rail system modifications, the corresponding operating and maintenance costs, and door-to-door services in lieu of modifying stations and railcars. The remaining $4.6 billion would be spent on adaptations to transit buses and corresponding maintenance costs. A major portion of the latter amount would be needed to expand the current bus fleet. A larger bus fleet would be necessary for three reasons: buses equipped with lifts have fewer seats; they are out of service more often for maintenance; and new routes would have to be added connecting unmodified subway stations.

SUMMARY TABLE 1.—ALTERNATIVE OPTIONS FOR SERVING THE TRANSPORTATION NEEDS OF HANDICAPPED PERSONS

Option	Public transportation adaptations	Door-to-door services
Transit plan (DOT regulations).	Wheelchair lifts and special suspension that lowers the front steps on all new buses.	Dial-a-ride vans for wheelchair users, and taxi subsidies for other handicapped persons, in half the cities with rail systems.
	Bus routes extended to cover unmodified subway stations. Elevators in key stations in half the cities with rail systems. At least 1 car per train on subways and commuter rail systems and half the fleet of street cars adapted for wheelchairs.	
Taxi plan	Special suspension that lowers the front steps on all new buses.	Dial-a-ride vans for wheelchair users.
	Bus routes extended to cover all subway stations. More handholds, priority seating, and seat-before-accelerate rule.	
Auto plan	Special suspension that lowers the front steps on all new buses.	Dial-a-ride vans for wheelchair users.
	Bus routes extended to cover all subway stations.	Low-fare taxi service for severely disabled persons unable to use transit.
	More handholds, priority seating, and seat-before-accelerate rule.	Capital assistance to permanently wheelchair-bound paraplegic and quadriplegic persons for purchase of specially adapted automobiles (with no personal income conditions).

Enactment of the DOT regulations would, however, serve no more than 7 percent of all severely disabled persons. When the cost of implementing the DOT regulations is spread over this limited number of wheelchair users and other severely disabled passengers, the plan costs approximately $38 per trip. In contrast, transit trips by the general public cost, on the average, about $0.85.

THE TAXI PLAN

It is estimated that the Taxi Plan, which would emphasize door-to-door services, would serve 26 percent of all severely disabled persons as compared to 7 percent served by the Transit Plan. Its potential users would be all those who have difficulty in walking to transit stops, waiting in bad weather, balancing on moving buses, and moving through crowds.

The option would cost $4.4 billion, 35 percent less than the Transit Plan. While the costs of transit adaptations are fixed and remain the same whether or not handicapped persons make use of the adapted services, the cost of door-to-door services varies with the number of persons who decide to use them. Plans built around specialized door-to-door public transportation cost about $7.62 per trip and serve those unable to use mass transit facilities, at one-fifth of the cost per trip associated with the Transit Plan. The Taxi Plan would also serve three and one-half times as many severely disabled people as the DOT plan.

Some have argued that transit adaptations are cheaper in the long run, since driver and vehicle costs for door-to-door service continue as long as service is offered, while station elevators, once installed, operate at little cost. But this ignores the annual costs of purchasing and maintaining buses with lifts, and of operating buses to connect unadapted subway stations. Taking these costs into account, the Transit Plan costs $7.38 per trip, even after all of the initial capital outlays are finished. This is still 87 percent higher than the recurring cost of the plans emphasizing door-to-door public transportation, as shown in the last column of Summary Table 2.

THE AUTO PLAN

By helping severely disabled persons to purchase and specially equip their own cars, the Auto Plan would offer exceptionally high quality transportation service to handicapped persons. Together with dial-a-ride service for severely disabled persons unable to take advantage of the specially equipped cars, it would serve about 316,000 more handicapped persons than the Transit Plan, but would cost approximately $477 million less.

CONCLUSION

The rules issued by DOT in implementing Section 504 of the Rehabilitation Act of 1973 would prove extremely costly and would benefit a relatively small number of handicapped persons. DOT has argued that legal restrictions, primarily Section 504 guidelines issued to all federal agencies by HEW, require that existing public transportation systems be made accessible. Court decisions based on Section 504, including a recent Supreme Court decision, give no definitive guidance on this question.

SUMMARY TABLE 2.—PROJECTED PATRONAGE AND COSTS OF ALTERNATIVE OPTIONS FOR SERVING THE TRANSPORTATION NEEDS OF HANDICAPPED PERSONS, 1980–2010

Option	Number of wheelchair users and other severely disabled persons able to travel more	Percent of all severely disabled persons served	Total net public cost (millions of 1979 dollars)	Total net public cost per additional trip made by wheelchair users and other severely disabled persons (1979 dollars)	Annual net public cost per additional trip made by moderately handicapped and severely disabled persons after 1-time capital expenses are paid (1979 dollars)
Transit plan (DOT regulations).	103,585	7	6,841	38.08	7.38
Taxi plan	363,044	26	4,447	7.62	3.94
Auto plan	419,544	30	6,364	7.33	4.48

The second and third options outlined above compare favorably with the Transit Plans in terms of costs and patronage. The Taxi Plan would cost approximately $4.4 billion over the next 30 years as opposed to $6.8 billion for the Transit Plan; it would serve 26 percent as opposed to 7 percent of severely disabled individuals. Similarly, the Auto Plan compares quite favorably to the DOT plan in terms of patronage and costs. In the long term, however, once all initial capital outlays are finished, the Auto Plan would involve more budgetary outlays than either the Transit or Taxi Plans.

The estimates of total cost and cost per trip for the three options depend on the use that is expected to be made of the services. The projections given here for the Transit Plan are lower than those suggested by a DOT survey. The CBO projections take account of the lower patronage observed for existing transit services that have been adapted for handicapped persons, and also of the tendency of survey respondents to overstate the number of additional trips they would make if such services were provided.

The Taxi and Auto Plans would serve more handicapped people at lower cost than would the Transit Plan. This conclusion holds for a wide range of patronage projections; even if patronage were twice that assumed here, plans emphasizing door-to-door service and adapted autos would have a substantially lower cost per trip than the Transit Plan. At such high levels of partonage, however, the alternative plans would draw more heavily on public funds than the Transit Plan—that is, their total costs would be higher. This risk, however, appears small relative to the risk inherent in the Transit Plan; under that plan, if patronage were to fall below the projected level, the cost per trip of serving handicapped passengers who do not use transit at present would average $75 or more.

If the Congress wishes to offer handicapped persons transportation services that they can and will use, door-to-door services and specially equipped automobiles appear most promising. On the other hand, if the Congress views this as a civil rights issue and decides that all persons must be furnished equal access to existing public transportation services, the Transit Plan goes further than the two in ensuring such equality.

Mr. EXON. Mr. President, I ask that the Senate take this opportunity to recognize the important role special services such as vans can play in meeting the requirements of section 504.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, this is one of the areas of urban transportation that creates, I know, great concern. I am sure there is a consensus and everyone agrees that our objective is to be able to reach those who live with a handicap with our Federal programs of transportation that we promote through this legislation.

We also know, of course, that the Department of Transportation's regulations create certain requirements which limit the flexibility of communities to meet the objectives of this regulation but in manner distinct from the inflexible demands of the regulation.

I have felt that as we are developing this program, we should make the strongest demands for accessibility. But because so many communities have found difficulty in meeting the absolute demands of regulation, we have been in some turmoil here in Congress as to how to handle this.

For myself, personally, I was willing to stay with the regulation. I know there are those who would sweep the regulations away. Because of inflexible criteria, some communities felt that they could achieve the objectives another way.

Previous Congresses have struggled to balance the many difficult policy and economic questions surrounding the provision of public transportation for our elderly and handicapped population. In the past there has been litigation. In the past there has been everything but positive and demonstrable progress to solve these difficult issues.

This amendment should help us to bring an end to the controversy and launch a new era of effective public transportation for our transportation disadvantaged.

Therefore, I have to commend those who offer this for their vital interests, their vital concern, their commitment to the objectives, their sensitive approach here in what amounts to a compromise between the rigidity of the existing regulation and a greater opportunity at the local level to find ways to reach the same objectives.

This amendment is an attempt to meet the concerns many of my distinguished colleagues who believe the mandate of full accessibility for handicapped persons by mass transit facilities is not always applicable to all areas of the United States. The amendment, as offered, is an attempt to allow local communities with the assistance of the Metropolitan Planning Organization and local handicapped communities to in fact decide what type of mix both accessible public transportation and or specialized transportation services would be appropriate for that community.

I want to reiterate, in spite of our acceptance of this compromise, my commitment that all major systems, educational, transportation, housing, and so forth, would be made accessible for all handicapped persons so that they may be included in the mainstream of society. The compromise language offered is only an attempt to place some flexiblity within the current statute and ultimately, the regulations with regard to accessible transportation facilities.

Essentially, the amendment would allow localities under 50,000 to present a plan for the Secretary's approval which demonstrates that comparable special transportation services are provided for handicapped persons. For cities from 50,000 to 750,000 at least 50 percent of new buses purchased must be fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the areas respecting transportation of handicapped persons. In cases where the population is in excess of 750,000, 100 percent of the buses purchased must be fully accessible unless the Secretary determines that a different percentage is appropriate.

It is hoped this compromise will help to address the many concerns raised by Members of the Senate.

Mr. GARN. Mr. President, I would have preferred the original Zorinsky amendment. However, I am willing to accept the compromise amendment that has been offered.

I ask unanimous consent that a letter I have received be included in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Work Activity Center
for Handicapped Adults,
Salt Lake City, Utah, May 16, 1980.

U.S. Senator Jake Garn,
Washington, D.C.

Dear Senator: I am writing in regards to a piece of legislation which I believe is very misleading in Section 504 of the Rehabilitation Act of 1973.

As Director of the Work Activity Center with 80 handicapped students I feel that the wheelchair lift buses would be of little value in meeting the needs of these severely handicapped clients. This type of transportation appears to be primarily designed for the less severely handicapped and those who are physically able to take themselves to and from bus stops. It is my feeling that this type of handicapped person represents only a small minority of the severely handicapped population.

Implementing Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112 as amended by P.L. 95-602) and requiring fifty (50) percent of all peak hour, fixed route, public transit buses be wheelchair lift equipped. In my opinion this program accessibility requirement reflects the undue influence of handicapped organizations throughout the United States.

They represent such a small minority of handicapped people that I feel that this is not a sound recommendation. It is my feeling that the 504 regulation should be made more flexible, allowing the development of dial a ride type transit systems as an alternative to equipping all transit buses with lifts. The dial a ride para transit system meets the needs of a far greater group by coming to the home of the handicapped to pick them up.

I therefore recommend that the 504 regulations be made more flexible. I feel that this should at least be an alternative to equipping all transit buses with lifts, we hope that the senate can act expediently to make this change.

The Work Activity Center has already spent a great deal of time and effort in developing a para transit system. We are convinced that this best meets the special transportation needs of the severely handicapped and elderly, and should remain in place permanently with adequate funding from local state and federal sources.

Sincerely,

Ruth H. Dahlquist,
Director.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, on behalf of the minority, I am willing to accept this amendment. There was a little procedural error. I did so a few moments ago and then we discovered that it had not been formally offered. So, once again, I am willing to accept the amendment on behalf of the minority.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Senator Exon and Senator Dole be original cosponsors. Does the Senator from Idaho wish to be an original cosponsor?

Mr. McCLURE. Yes, I do.

Mr. ZORINSKY. And the Senator from Idaho, Senator McClure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. McCLURE. Mr. President, as an original cosponsor of this legislation, I approve of the compromise that is being struck here in the amendment that has been sent to the desk.

But I do want to ask one question, so that we have legislative history that will deal with the waiver provisions. It is my understanding that, under this, if there are alternative services available to the handicapped, the city can apply for the waiver of 50 percent buy requirement and the Secretary shall, if he finds that alternative is available, grant a reduction in the 50-percent level requirement on the bus system.

The mandate is on the Secretary, but he still must make a finding. I am sure that that finding and his decision are subject to the ordinary administrative appeals procedures. Is that the understanding of the Senator from Nebraska?

Mr. ZORINSKY. That is correct. That is my understanding.

Mr. McCLURE. I wonder if the floor managers of the bill could respond to that question, as well.

Mr. WILLIAMS. Mr. President, I am certain that with the situation in this determination there would be the usual administrative procedural appeals, yes.

Mr. GARN. Mr. President, on behalf of the minority, that is my understanding of this compromise provision.

Mr. McCLURE. I thank the sponsors of the amendment and the floor managers of the bill. I think that is important for us. I am pleased with the answer that has been given.

I think the compromise is a reasonable one. I want to underscore that, in some ways, this is a better answer for the handicapped than is the requirement that the buses be so equipped.

I received a letter from the mayor of Boise City, Idaho, dated April 15, 1980, in which Mayor Eardley makes the point that the bus routes are oftentimes several blocks away from the residence of the handicapped person and even if the buses are so equipped the handicapped persons must still get from their residence to the bus stop. A suitably equipped system that has van service for the handicapped with the wheelchair lift on that van, they provide door-to-door service, can go directly to the handicapped person's home to pick them up.

Therefore, there is an element of increased availability and greater accessibility than there is if the buses themselves are required and the only available transportation system in the regular bus system.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Mayor Eardley, dated April 15, and an editorial published in the Idaho Statesman, dated May 5, on that same subject.

There being no objection, the material was ordered to be printed in the Record, as follows:

Office of the Mayor,
Boise City, Idaho, April 15, 1980.

Hon. James A. McClure,
Senator of Idaho,
Washington, D.C.

Dear Senator McClure: We are writing this to call your attention to what we believe is a fertile field for the saving of substantial amounts of Federal and local funds, and specifically to seek your support for an action which will be of great benefit to the City of Boise.

Briefly, the situation is this. In order to continue to qualify for Federal support of municipal mass transit systems (80% grants for capital purposes and 50% for operating subsidies), such systems must be made fully accessible for transportation-handicapped riders by 1987. Under Department of Transportation Section 504 Regulations, this means that at least 50% of the bus fleet in a system like Boise's must have wheelchair lifts installed by that date, and all acquisitions of new buses must be so equipped.

Provision of a wheelchair lift adds $10,000 to the cost of a new bus. Of even greater concern is the fact that the lifts have proven to be serious and costly maintenance headaches, subject to frequent breakdowns, and in each such case the bus must be taken out of service until the lift is repaired. The City of Milwaukee, which has a climate not unlike that of Boise, has been using lift-equipped buses for about a year, and reports that the annual added cost per bus to maintain the lifts amounts to $1,500, and an average of 40 of their 100 lift equipped buses are out of service at any given time because of lift problems.

Use of the lift-equipped buses by wheelchair-bound people has been minimal, averaging less than one one-way trip each day for the entire 100 bus fleet since the service was started in April 1979. Furthermore, delays incident to boarding and unboarding wheelchair-bound people upset bus schedules, and would require more equipment to serve established routes if there was any substantial use of the system. Similar unsatisfactory results are reported by other cities, but the DOT persists in enforcing its regulations.

These are costly penalties, but they might be justified if the needs of transportation-handicapped people were fully served, and if there were no better alternatives, but neither of these circumstances prevail.

While Boise bus routes fall within three blocks or so of most residents, the average transportation-handicapped person, particularly one using a wheelchair, finds it difficult if not impossible to navigate from home to bus stop, either because of lack of sidewalks, high curbs, or snow and cold in the winter. The same impediments apply but to a lesser extent in the downtown area when disembarking. So accessibility is provided at great cost, but not true mobility.

The alternative is door-to-door service by small vans equipped with wheelchair lifts. These vehicles, of which the Boise bus system now has six in service (in addition to a number of others operated by various social service agencies), respond to trip requests of transportation-handicapped people either on a scheduled or emergency basis. The needs of the handicapped are much better served, operating and maintenance costs are far less, bus schedules are not jeopardized, and the results are far superior in every respect. The attached "Guest Opinion" by a paraplegic in the March 1st Idaho Statesman states the case very succinctly.

The American Public Transit Association (APTA) is in full concurrence with the views expressed above, so much so in fact that APTA filed suit in the Federal District Court in Washington, D.C. seeking a permanent injunction against issuance of the DOT Section 504 regulations. Boise was the first city to join APTA in the suit, followed by eleven other cities. Unfortunately, while the court considered that the proposed regulations went beyond the intent of the law, it nevertheless found that issuance of the regulations was within DOT's authority. Additional information on the suit and the issues involved is available at APTA's Washington, D.C. office.

Boise is in the process of purchasing ten new buses, which in the absence of a waiver of DOT regulations must be lift-equipped. We have applied for a waiver, but so far this has not been granted, and the deadline by which time bus manufacture will start and the issue must be settled is June 1, 1980.

So our immediate request to you is that you use your good offices with the DOT to encourage the granting of a waiver on the provision of wheelchair lifts on the ten buses now on order for Boise. Beyond that, we suggest that a thorough investigation of the Section 504 regulations would expose their inordinate costs, their unsatisfactory service to transportation-handicapped riders, and their failure to consider the benefits of the alternative of demand-responsive door-to-door service.

We are sending letters identical to this to Senator Church and Representative Symms.

Sincerely,

DICK EARDLEY, *Mayor*.

THE BUS-LIFT FIASCO

A U.S. Department of Transportation regulation requiring public transit buses purchased with federal funds to be equipped with wheelchair lifts is impractical and ought to be rewritten or repealed.

The regulation, known as the Section 504 Accessibility Rule, requires that half the buses operated by public transit systems be equipped with the special lifts by 1982. Thirty-one of 37 buses Boise Urban Stages is planning to buy would have to be equipped with hydraulic lifts for wheelchair-bound riders.

But the lifts, which cost about $11,000, don't enable handicapped people to ride the bus. Harold Black, president of the Idaho Association of Physically Handicapped Adults, has noted that the absence of curbs and gutters along most bus routes makes it difficult for wheelchair-bound persons to get on and off a bus lift. The lifts, he said, are a waste of money.

C. T. "Corky" Carico Jr., a former Payette County commissioner and a quadriplegic, wrote in a guest opinion on this page March 1 that the lifts wouldn't do much good because it was almost impossible for wheelchair users to make it to the bus stop.

In San Diego, five buses were retrofitted with lifts at a cost of $100,000, but after 11 months the percentage of ridership by wheelchair users was computed at .000023 percent and the cost of each trip by a wheelchair user was calculated to be $615, Carico said.

There might be some justification for the regulation if there were no other means of public transportation for wheelchair users. But BUS operates six special vans for elderly and handicapped persons, two of which are equipped with wheelchair lifts. These vans provide door-to-door service on a day's notice.

There is very little chance the Department of Transportation will approve BUS's application for an exemption from the regulation. The reason is, predictably, yet another department regulation. It specifies that exemptions from regulations may be granted only on the basis of "unique" circumstances that weren't taken into consideration when the regulation was promulgated. A department lawyer said that neither Boise's weather extremes, cited in the BUS application for an exemption, nor the existence of the special van service would qualify as a "unique" circumstance.

It appears that Regulation 504 is wanted by no one and disliked by many.

Congress ought to examine the possibility of rewriting the regulation or repealing it entirely. A move in that direction is contemplated by Sen. James McClure, R-Idaho. The ranking minority member of the Transportation Subcommittee of the Senate Appropriations Committee, McClure is scheduled to chair hearings today and Wednesday on the Department of Transportation appropriation for next year. An aide to the senator said McClure was considering an attempt to amend the department's appropriation so that no money could be spent on enforcing Section 504. That would buy time for a year, until the regulation itself can be dealt with.

Mr. McCLURE. Mr. President, I ask unanimous consent that a letter from C. T. "Corky" Carico, Jr., a quadriplegic and former Payette County commissioner, Idaho, a member of the Governor's Committee for the Handicapped, the Idaho Association of Physically Handicapped Adults and Paralyzed Veterans of America be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WHEELCHAIR LIFTS ON BUSES CALLED WASTE OF MONEY

(By C. T. "Corky" Carico, Jr.)

Installing wheelchair lifts on buses is the craziest idea to come out of Washington, D.C., yet. It won't increase the mobility of the handicapped one bit, but it might wipe out mass transit for everyone. An extreme statement? I don't think so.

I don't doubt the sincerity of the coalition that pushed this legislation through Congress. But I believe they were more interested in civil rights than in promoting mobility for the handicapped.

Some members of the coalition have been quoted as asking, "Why should the disabled have to use something apart?" They were referring to van services that some cities have for handicapped riders.

My answer is: "Why not?" People in wheelchairs, like me, are different. We have special problems requiring special solutions. These solutions should not include lifts on transit vehicles. A regular city bus is not suitable for the vast majority of wheelchair users, no matter how accessible it may be.

The reason is obvious: Most of us cannot get to the bus stop. Our physical limitations, plus the natural and man-made barriers that exist between our homes and the bus stop, make it all but impossible for us to get there. Even a gentle slope on a paved street, if we had a curb cut to get to the street, would be enough to stop most wheelchair users from ever getting to the bus stop.

The idea of a "Transbus," a bus with a floor that can be lowered to within 18 inches of the ground, is silly. Quite aside from the enormous cost, the Transbus simply wouldn't do the job. A ramp would have to be extended for the wheelchair user. As most wheelchair users know, a ramp should not be steeper than 12 to 1. That means for every inch of height you have 12 inches of length. A ramp should be a minimum of 36 inches wide. A Transbus would have to have a ramp 18 inches long and 3 feet wide. This is ridiculous. But the Department of Transportation doesn't seem to realize it, so they're going ahead with the Transbus, neglecting the cost or whether it is practical. It isn't.

Some cities have experimented with accessible vehicles, and the results have been disastrous. San Diego retrofitted five regular buses with wheelchair lifts. They used the buses on two routes they thought would serve the most wheelchair users. It cost them at least $100,000 to install the lifts and keep them in working order. After 11 months of more or less continuous service (the lifts broke down a lot) they had registered a grand total of 162 wheelchair trips on both routes. This isn't much when you consider that during the same period they carried over 7 million passengers on the same routes. This figures out that the wheelchair users were about 0.000023 percent of the total ridership. And it cost San Diego over $615 for each trip taken by a wheelchair user.

St. Louis bought 157 lift-equipped buses. The lifts alone cost $904,000, and the maintenance of them from August 1977 through July 1978 cost $157,100. Apparently the lifts weren't very reliable. About 62 percent of them, and thus the buses they were attached to, were inoperable at any given time. But St. Louis kept trying and by August 1978, they had logged 958 trips by wheelchair users, or about four a day. This wasn't very good, but when they checked with their drivers they found that the situation was even worse than believed. All of those 958 trips were made by four people, who were apparently the only wheelchair users who could make it to the bus stops along 22 routes served by lift-equipped buses. The cost per trip? Nine hundred and forty-three dollars.

In Washington, D.C., the Metrorail subway system was sued so that it would be accessible to wheelchair users. The result was a tremendous cost overrun. Just how much no one really knows, but one transit expert has calculated that the 12 wheelchair trips taken each day cost $2,000 each.

Unfortunately, the Department of Transportation is ignoring these facts. It is going ahead with 504 regulations as originally proposed. The catastrophe is not limited to Washington, D.C., St. Louis or San Diego. Mass transit systems throughout the country are going to be affected. The estimated cost of making mass transit "accessible" to wheelchair users is $8 billion. To my knowledge Congress has not made funds available, and I doubt that it will. That much money won't be easy to come by in this day of tax reform, especially when it would benefit so few and antagonize so many.

People generally are sympathetic toward the handicapped. But if transit systems are slowed to load a few wheelchairs, or are destroyed entirely, that sympathy will be turned to anger. That we don't need. Support for good legislation would be lost. It's a shame that all the work that went into passing this law hadn't been done in behalf of establishing a more practical and economical means of transporting the handicapped such as the Dial-A-Ride system currently operating in Boise and other cities.

The YMCA in Spokane operates one of the most successful of such systems. Twenty-four vans equipped with lifts, air-conditioners and two-way radios operate 12 hours a day on weekdays and eight hours a day on weekends. During 1978 more than 131,000 trips for the elderly and disabled were logged, including 12,000 trips by wheelchair users. The cost per trip was about $2.50.

Such systems work so well that I can't imagine why any disabled person would fight for wheelchair lifts on buses.

(C. T. "Corky" Carico Jr., a quadriplegic, is a former Payette County commissioner, a member of the Governor's Committee for the Handicapped, the Idaho Association of Physically Handicapped Adults and Paralyzed Veterans of America.)

Mr. CRANSTON. Mr. President, I am very pleased that the Senate is about to agree upon consensus language respecting transportation for disabled individuals which carefully treats the concerns of transit providers and cities without sacrificing the civil rights of persons with physical disabilities. I am most strongly opposed to the local option amendment which Senators ZORINSKY and EXON originally planned to offer. Had it been adopted, it would have affected, detrimentally, thousands of handicapped and elderly persons' access to the world in which they live.

The amendment was not a new one. In 1978 it was raised in the Banking Committee and was soundly defeated. The arguments that prevailed in 1978 are as valid today as they were then, in fact, we now have the wisdom of hindsight to strengthen those arguments. We cannot ignore the fact that disabled individuals are engaged in a civil rights struggle in our country. Long-neglected handicapped individuals are seeking, with good reason, their full and equal share of the rights to which all are entitled in our land.

The issue of accessibility to public transit must be viewed as an issue of civil and human rights. I believe that any proposal to either refuse accessibility to, or dilute the rights of certain individuals to fair use of, public transportation must be seen as a proposal which has as its foundation the proposition that all men and women in this country—all taxpayers in this country—are not entitled to equal protection of the laws. Proponents of this local option-type language argue that "local option" without section 504 regulation interference would allow communities more latitude in planning transit services to meet the particular needs of their communities and, ultimately, provide better services for disabled persons. But we have seen systems that relied on "local option" and they simply do not work. Rather "local option" has resulted in a variety of systems which range from no service at all to discriminatory service that provides a level of service which is far inferior to that available to the general public.

Before January 1978, when HEW finally published guidelines for the issuance of regulations by all other Federal departments, local transit operators were bound only to meet the specifications set forth in DOT planning requirements in order to receive Federal funding. The planning requirements set forth three examples of acceptable projects, one of which was like the "local option" alternative this amendment suggests.

Another was a requirement that a transit authority expend a dollar amount equal to 5 percent of the Federal money received, and the third option was the purchase of only wheelchair, accessible, new, fixed-route buses until 50 percent of the fleet was accessible. One of the most popular options was to use the "5 percent test" which consisted of adding up the cost incurred in providing any kind of transit service—any kind at all—which could be attributed in any way to service for disabled individuals. Since many specialized services are extremely expensive, the 5-percent test, as then in the DOT planning requirements, could be met fairly easily, even though the level of service was inadequate to provide transportation to more than a handful of people.

Other transit agencies were more creative in their interpretation. For example, the Southeastern Michigan Transportation Authority tried to include the cost of providing bus shelters since they were "'wheelchair accessible," even though the agency provided no accessible fixed-route service. Similarly, the New York Metropolitan Transit Authority, which had sought for years to implement downtown minibus shuttle service, equipped the vehicles with lifts and tried to include the total capital and operating costs for this service as fulfilling the requirements of the regulation, even though it admitted that only a minute portion of the cost could be attributed to providing any kind of service to disabled individuals.

Senator WILLIAMS and I carefully developed the compromise amendment, which Senators ZORINSKY and EXON have basically accepted, with a specific purpose of precluding this kind of fast and loose computation of a 5-percent test.

Moreover, Mr. President, although a few transit agencies sought to comply with the 1976 requirements by purchasing accessible buses, the vast majority chose the substitution of a specialized service with so-called "comparable" service levels—essentially the "local option" approach in the original Zorinsky-Exon proposal. Unfortunately, transit agencies were able to qualify with so-called "comparable" services that—in fact—had highly discriminatory features.

A great deal of discretion in determining comparability under the first option I described was then given to the Metropolitan Planning Organization (MPO) and the regional UMTA office. Thus, one transit district qualified for Federal funds by simply submitting a one-page letter saying it provided an alternative service with comparable service levels, despite the fact that the service operated in only a small portion of the county, required 24-hour advance notice, had a long waiting list, and arbitrarily prioritized trip purposes, effectively prohibiting many disabled individuals from traveling. None of these features would satisfy our revised amendment, now pending.

Similarly, as recently as May 1980, the Chicago Regional Transit Authority—RTA—had engaged in only the most cursory planning efforts and has implemented no service whatsoever. The Massachusetts Bay Transit Authority has proposed projects at the appropriate level of its plan; then, after approval of each grant has amended the plan to reduce the level of funding. Section 504 and the amendment before us derived from it would not permit such a result.

I know that many persons are concerned because they believe it would be costly to make every public transportation system accessible. But that concern often results from misinformation about what section 504 and its regulations require.

Much of the misinformation results from a CBO report entitled "Urban Transportation for Handicapped Persons: Alternative Federal Approaches", which was released on November 9, 1979. CBO used substantially different assumptions than those that were used by the Department of Transportation when it developed its present section 504 regulations. Thus, the CBO report reached substantially different conclusions. Specifically, the CBO report concludes that accessibility to fixed-route urban mass transit—as required by DOT's 504 regulations—is more expensive and serves fewer severely disabled persons than two alternative approaches analyzed by CBO. DOT, when it examined the cost-effectiveness of accessible fixed-route systems and demand responsive paratransit systems, found that larger fixed-route systems were fully capable of serving those needs at a lower cost per trip than for paratransit systems in such localities.

The Department of Transportation has written a response to CBO's findings which was reprinted, at my request, in last Friday's Record at pages S7673 through S7675.

DOT points to two major reasons for the differences between the DOT and CBO conclusions. First, CBO grossly underestimated the demand for handicapped travel by using an extremely conservative methodology. Second, CBO, in estimating the costs of making existing transit systems accessible, substituted assumptions about administration of a transit authority which ignored, completely, standard maintenance and operation practices.

The language before us today is a statement that we are not willing to succumb to pressures to overturn section 504 regulations. We will not ignore civil and human rights. Congress has prohibited discrimination against individuals solely on the basis of their handicap. To accept less would be a totally unacceptable repudiation of the civil rights of disabled persons.

The Senators who have spoken out in favor of and cosponsored the provision adopted today have made it unmistakably clear that there is no intent whatsoever to repudiate section 504 of the Rehabilitation Act of 1973, as amended. In fact, the strict prohibition in that section, of discrimination against handicapped persons by federally assisted programs, has been strongly reaffirmed. What Congress is doing is providing useful guidance on some alternative methods of assuring the civil rights that title V of the Rehabilitation Act of 1973 is designed to secure.

More than in any country in the world persons in this country—including disabled persons—take seriously their constitutional right to move about freely. Handicapped people should be able to travel according to their own view of their needs to the same degree as able-bodied persons. They should be allowed to travel for any reason—as does the general public; they should not have to pay higher fares or be restricted to shorter distances; they should not have to plan their trips unreasonably far in advance; they should not be forced to travel only during certain times; and they should not be subjected to demeaning and privacy-invading "certification" procedures in which it is necessary for an individual to obtain a doctor's or a social service agency's "permission" to use a transit system. I believe that the pending amendment meets these prescriptions and reinforces these basic human rights.

Today we have acknowledged that, within certain strict parameters, a transit provider may satisfy its responsibility to disabled persons by providing a mixed system of fixed-route accessible service and comparable paratransit. I think that is an acceptable approach. With some local flexibility may come advances, innovations, and real improvements in methods of meeting the transportation needs of disabled individuals. But we have very explicitly described the criteria for an approvable transit plan. Thus, where the transit-service plan of a provider meets, as subsection (d)(1) in the amendment requires, the requirements of applicable law governing the rights of disabled persons, and withstands—according to the criteria adopted—scrutiny by the Secretary of DOT and the Architectural and Transportation Barriers Compliance Board, that plan can be approved as meeting the basic responsibilities to disabled persons.

Mr. President, I believe that this compromise is reasonable. However, we must keep foremost in our minds that what is at stake here are the treasured civil rights of fellow citizens. And, I must caution against even the thought of moving beyond this approach. We cannot accept the idea that equal means "equal, if not too expensive" because it belies the premises upon which this Nation was built. We have come this far, in good reason and conscience, but we must do all that we can to hold the line here.

● Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from Nebraska, Mr. Zorinsky, as a cosponsor to this amendment to the Public Transportation Act of 1980. It is my belief that this amendment strikes a logical compromise between the needs of the handicapped community and the fiscal ability of cities to meet these needs. Above all it is crucial to maintain that delicate balance between the preservation of section 504 and the continued existence of door-to-door transportation service.

LIMITATIONS OF SECTION 504

It is true that there have been a lot of problems with the concept of making all federally-funded public transportation systems accessible to handicapped and elderly people. It does not do a whole lot of good to have an accessible bus or subway when the handicapped individual cannot even get from the front door to the street corner or subway station, which has been adapted to the individual's special needs at great cost. A transportation system that is comprehensive would encourage door-to-door service. At the same time, certain cases necessitate accessible public transportation facilities. We must effectively address both of these issues.

We have worked very hard to bring about the progress we have made through section 504 in attempting to meet the needs of our handicapped citizens. We do not wish to destroy, intentionally or unintentionally, the effectiveness of section 504. I think this amendment accomplishes a vital balance of interest for local communities, providing increased flexibility to section 504 provisions.

QUESTION OF "MAINSTREAMING"

The issue of providing alternative transportation means, other than public transportation systems, is one that deserves a significant amount of exploration. Any development of other concepts brings into focus the whole concept of "mainstreaming." Promoting special transportation services for handicapped individuals does not mean that we are further distinguishing them from the rest of society by providing a separate mode of getting from one place to another—people who drive cars do not mix with other people in the course of traveling from one destination to another. What is needed is a means that would enable handicapped people to actually get out there in the mainstream of society—to go to work, to visit the doctor, do their shopping, and perform the same everyday functions that all Americans pursue within their communities.

A question we might ask is: Is it better to spend twice as long in the process of traveling by bus or subway in order to get to work, as it would be to have more direct services provided? What often happens in the case of public transportation systems, is that it takes a handicapped individual 40 minutes to get to where he or she is going, when it might have taken 20 minutes to arrive at the same destination by other means. It does little good to insure equal employment opportunities to handicapped citizens if they do not have an adequate way to get to their jobs.

In trying to provide beneficial alternatives, we do not want to dilute the effects of section 504. What we wish to avoid is a return to community discretion that might leave disabled people without any recourse to transportation access. Communities that intend to be active in providing services to their disabled and elderly citizens will do so without a basis in law, but we still need to provide protection for these same individuals in areas where communities tend to be lax in coming to their assistance and providing solutions.

SUCCESS OF NONMANDATED TRANSPORTATION ACCESSIBILITY

Certain local communities, on their own, without a congressional mandate, have been very successful in establishing their own transportation systems, based upon their particular knowledge of local needs. If communities have a firm commitment to the goal of providing accessible transportation services, they will do something about it in far more effective ways than we could possibly imagine from the distance of bureaucratic Washington. For those communities that did not have such a commitment to bringing transportation possibilities within the reach of our handicapped and elderly citizens, section 504 of the Rehabilitation Act has provided their only recourse.

Without a Federal mandate, many of the major national and international airlines have, on their own, proceeded to adapt airplane designs to meet the needs of disabled passengers. They voluntarily formed a commitment to accomplish this goal and, by 1981, will have the first such planes in the sky. Local communities can learn a lesson from this kind of private enterprise initiative. Where there is a will to accomplish a goal, the necessary financial and other resources will be found.

KANSAS NEEDS AND INITIATIVES

Let us consider for a moment two cities in my home State of Kansas which have met with remarkable success in implementing a separate service to accommodate the needs of the mobility-disabled in their respective communities.

In 1978, Wichita, Kans., initiated a door-to-door transportation service for those individuals who were unable to take advantage of already existing mass transit facilities. This privately operated service purchased a fleet of vans and buses all equipped with lift devices to accommodate the more seriously disabled individuals. This program is now embarking on its third year of operation, and the statistics indicate that its success has been outstanding.

Hailed by UMTA officials as one of the most cost-efficient systems anywhere, Wichita's specialized transportation service provides nearly 32,000 rides annually at a cost to the rider of $1 per ride one way. The service is in operation 5 days per week and 12 hours per day. Approximately two-thirds of STS's hourly operations are devoted to "daily" riders—those persons who use the system on a consistent basis, such as commuters and students. Another one-third of their operating time is used to transport those individuals who need to run special errands and have placed a request for transportation some 24 hours earlier. Although system operators cannot always guarantee a ride on such short notice, they have a remarkable track record in providing needed assistance.

The city of Topeka has a similar, although much older, system now entering its 5th year of operation. The "lift" was one of the first alternate service systems in the United States. Annual participation will approach 20,000 this year and has increased every year since its inception. Like Wichita, a one-way ticket on the lift will run $1. Daily riders make up only about 50 percent of the total operating time with periodic ridership constituting the remainder. Even with this heavy emphasis on 24-hour service, the lift rarely is unable to meet a request.

Whether it be midwestern ingenuity or good business sense, the two cities in Kansas which operate extensive mass transit systems have met with commendable success in establishing a special transportation service for the mobility impaired. And, they did this without codifying a local option provision into U.S. statutes.

A REALISTIC APPRAISAL OF PROGRESS

Mr. President, section 504 has not provided all the answers to the problem of accessibility to transportation for disabled people, but under this law great strides were made in support of the civil rights of these citizens.

The amendment offered today by myself and several of my distinguished colleagues provides the flexibility necessary for local communities to evaluate their own needs and respond accordingly. We have provided forward-moving leadership in the past. Let us continue what we have begun with such success and build upon the foundation that we have established.●

● Mr. JEPSEN. Mr. President, for years the handicapped community was effectively denied access to public transportation. This was not a conscious effort to discriminate, but rather a case of benign neglect. In an effort to address this problem, legislation was enacted which outlawed such discrimination.

Typically, this well-intentioned and much needed legislation has been interpreted by the bureaucracy in such a manner so as to preclude participation by the vast majority of handicapped individuals. The Congressional Budget Office has estimated that the regulations offered by the Department of Transportation would permit only 7 percent of all severely disabled persons to use mass transportation. Furthermore, it would do so at an extremely high cost.

An amendment was to be offered by Senator ZORINSKY which I believe would have adequately addressed this problem. Unfortunately, prior to its consideration, it was changed significantly. So much so that I question the positive impact it will have. Most communities will still find themselves subject to ridiculous Department of Transportation regulations. Regulations which simply do not take the needs of the handicapped community into account.

Mr. President, had there been sufficient time, I would have offered an amendment to modify the language accepted by the Senate. The Zorinsky amendment presently only exempts communities with a population of under 50,000 from the Department's regulations. My suggestion would have raised the exemption figure to include communities with populations up to 250,000. I think anything less would not prove beneficial to the majority of the communities affected by the regulations.

I understand that the House will soon consider legislation similar to the bill that was before us today. However, the bill the House will consider contains language identical to the amendment Senator ZORINSKY originally intended to offer and that I cosponsored. Since it appears that there will have to be a conference on this bill, I would urge my colleagues who will be representing the Senate to seek a compromise which better addresses this problem.

Regardless of what some people have said, the original Zorinsky amendment simply boiled down to deciding who was best qualified to determine what form of transportation would best meet the needs of the elderly and handicapped communities. Do we want the decision made in Washington by some bureaucrat who has never been to the community in question or by local individuals who know the needs of these people and what will work in their area?

Mr. President, I do not profess to be able to stand here and tell you what type of transportation is best for every community. But I can tell you that I have heard from quite a few Iowans who believe that the DOT regulations will hurt more people than they will help. If we do not support more flexibility, we are in effect saying that Washington can best determine the transportation needs of places like Council Bluffs, Iowa. Personally, I find this hard to believe since the bureaucrats do not live or work in these areas and are not familiar with the unique problems they encounter.

If there were no viable alternatives available, then I do not think we would be debating this amendment. But many of the communities we have heard from, already have paratransit systems in place that are providing excellent service in a cost-effective manner. It can be argued that the DOT's regulations do not require a community to dismantle its paratransit system. But in reality, we all know this will not be the case. I cannot think of one community in my State that will be able to afford to make the changes the DOT requires, and still maintain its present system.

Finally, Mr. President, it would be unfortunate if anyone viewed this modification as a sign that Congress is weakening in its resolve to insure the protection of the rights of all citizens. Nowhere in this amendment is there any language which abrogates a community of its responsibility to insure the nondiscrimination of the handicapped. Rather, this should serve notice on the bureaucracy that more consideration must be given to the specific needs of the community. What works in Washington, D.C. may not be feasible in Council Bluffs, Iowa.●

Mr. EXON. Mr. President, I wish to thank my friend and colleague from Idaho. We had a brief discussion about the very important point he raised. In my opinion, I think it is generally understood in the compromise that has been struck here that the Administrative Procedures Act would come into play.

What we have done with this amendment that has been agreed to is to use commonsense and provide the best possible transportation for the handicapped, dependent upon the decision made, basically, at the local level and with the approval of the Department of Transportation and the Secretary, when appropriate.

I wish to thank very much Senator GARN, representing the minority side of the aisle, and certainly Senator WILLIAMS, the chairman of the committee, for their excellent cooperation in working out this compromise.

Mr. President, I yield the floor.

Mr. ZORINSKY. Mr. President, I move the acceptance of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska (Mr. ZORINSKY).

The amendment (UP No. 1308) was agreed to.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1309

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia (Mr. RANDOLPH), for himself, Mr. BAYH, Mr. HEINZ, and Mr. SCHWEIKER, proposes an unprinted amendment numbered 1309.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 14, strike " "." and insert after line 14 the following:

"(i) (1) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract.

"(2) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

(A) their application would be inconsistent with the public interest;

(B) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues);

(C) supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(D) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum."

Mr. RANDOLPH. Mr. President, the chief sponsor of this amendment, Senator Bayh, has asked me, as a cosponsor, to present the discussion. I hope we will be able to move the amendment rather quickly. We are joined by Senator Heinz and Senator Schweiker in connection with this matter.

I wish to indicate that Senator Bayh, Senator Heinz, and myself indicated in a letter dated June 23, 1980, to the members of the Senate Steel Caucus arguments in reference to this amendment. There are 39 members, Democrats and Republicans in that organization. We pointed out that the Surface Transportation Assistance Act of 1978 contained the "buy American" provision, title IV, Public Law 95-599, to provide a preference in Federal procurement for U.S.-made steel and rolling stock, such as rail passenger cars.

Mr. President, I ask unanimous consent that the letter that I have just referred to and a list of the members of the Senate Steel Caucus be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 23, 1980.

Dear Steel Caucus Colleague: As you might recall, the Surface Transportation Assistance Act of 1978 contained "Buy American" provisions (Title IV, Public Law 95-599) to provide a preference in federal procurement for U.S. made steel and rolling stock such as rail passenger cars.

Very shortly, the Senate will consider legislation making additional authorizations for urban mass transportation programs· S. 2720, the Federal Public Transportation Act of 1980 providing direct purchase authority to the Secretary of Transportation.

Section 3 of S. 2720 gives the Secretary of Transportation authority to purchase transit vehicles and related equipment directly and then grant ownership to States and local public bodies in urbanized and nonurbanized areas. While the report language accompanying S. 2720 indicates that the Committee "expects" the Secretary to adhere to the Buy America requirements of Title IV of PL 95-599, it is our view that the Congress should send a clear message on this point and make certain in fact that "Buy American" preferences will be adhered to. We can only be sure that the Secretary will provide such a domestic preference if a new section is added to the bill identical to that of Title IV of the Surface Transportation Assistance Act of 1978.

We have enclosed a copy of the proposed amendment for your consideration and hope you can join us as cosponsors. Because S. 2720 will be considered tomorrow, we hope you can let us know your intentions as soon as possible. If you intend to cosponsor, please have a member of your staff contact either Bill Reinsch in Senator Heinz's office at x46324 of Chris Aldridge on Senator Bayh's staff at x48741.

Sincerely,

Jennings Randolph.
John Heinz.
Birch Bayh.

Senate Steel Caucus

Birch Bayh, Lloyd Bentsen, Rudy Boschwitz, Bill Bradley, Robert C. Byrd, Alan Cranston, John Danforth, Dennis DeConcini, Pete Domenici, David Durenberger, Thomas Eagleton, Wendell Ford, Jake Garn.

John Glenn, Barry Goldwater, Orrin Hatch, S. I. Hayakawa, Howell Heflin, John Heinz, Jesse Helms, Ernest Hollings, Walter Huddleston, Jacob Javits, Carl Levin, Richard Lugar, Charles McC. Mathias.

John Melcher, Howard Metzenbaum, Daniel P. Moynihan, Bob Packwood, Charles Percy, Jennings Randolph, Paul Sarbanes, Jim Sasser, Richard Schweiker, Alan Simpson, Adlai Stevenson, Donald Stewart, Strom Thurmond.

Mr. RANDOLPH. Mr. President, Senator Bayh, in remarks that he had hoped to make in support of his amendment, said, in part:

> My amendment would resolve this issue and ensure that domestic companies and domestic jobs will be protected when capital grants are given under the UMT Act and also when the Secretary uses his authority to directly purchase and then grant transit equipment.

He also says very pointedly:

> I would also like to take this opportunity to emphasize that this amendment is designed to protect domestic companies and jobs without increasing red tape.

He does urge that UMTA use every opportunity to enhance the protections for domestic companies and domestic jobs.

Mr. President, I ask unanimous consent that Senator Bayh's statement be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Bayh

The amendment that we are offering today is a very simple one—it amends S. 2720 to add a permanent domestic preference provision to the Urban Mass Transportation Act. The new section 12(i) that would be added to the general provisions section of the UMT Act is in all material aspects identical to Section 401 of the Surface Transportation Assistance Act of 1978 (P.L. 95-599) which has applied domestic preference protection to the UMT Act since 1978.

The reason for this amendment is twofold. First technical questions have been raised whether the Buy American provision in the 1978 legislation limited funds authorized under that legislation or whether it applies to all funds authorized under the UMT Act. My amendment would resolve this issue and ensure that domestic companies and domestic jobs will be protected when capital grants are given under the UMT Act and also when the Secretary uses his authority to directly purchase and then grant transit equipment. Section 401 of the 1978 Act would continue to govern highway programs administered by FHWA as it has in the past.

The second reason is to recognize that, while transit grants and highway grants are both governed by Section 401 of the 1978 legislation, the implementation of the statutory provision by UMTA and FHWA may have to be different because of the different statutory programs that they administer. For instance, UMTA gives grants both to purchase equipment and to construct facilities that incorporate equipment. A typical UMTA subway project involves more than merely constructing the right-of-way. Equipment must be purchased and installed for power distribution and communications. FHWA projects, however, typically involve only constructing the right-of-way. Adding the provision to the UMT Act will permit UMTA to tailor its regulatory procedures to its own program.

I would also like to take this opportunity to emphasize that this amendment is designed to protect domestic companies and jobs without increasing red tape. There is no intent to overturn UMTA's regulations. However, I do urge that UMTA use every opportunity to enhance protections for domestic companies and domestic jobs. To this end, I believe that it would be entirely proper for UMTA to use the "other factors" authority contained in section 12(b)(2) of the UMT Act to exclude firms from UMTA-funded grants if they have willfully abused the domestic preference provision through falsification of certification of domestic origin and other abuses.

The distinguished Chairman of the Senate Housing Subcommittee, Senator Williams, and I have been in contact on this amendment and I believe that it is entirely consistent with the views expressed in the Committee Report. I would hope and urge that this amendment be accepted.

(Mr. DeConcini assumed the chair.)

Mr. RANDOLPH. Mr. President, it is my understanding from rather hurried contact with Senator Heinz, that he wishes to discuss possible reference to the amendment that we have offered.

Mr. WILLIAMS. Will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. Mr. President, on behalf of the majority, I am pleased to accept the amendment offered by my colleague from Indiana. The amendment would make section 401 of the Surface Transportation Assistance Act of 1978 a permanent part of the Urban Mass Transit Act. It would insure that the Secretary would continue to protect American jobs, without increasing redtape.

This language will permit UMTA to tailor the implementation of this statute to meet the needs of the domestic transit industry. It will also permit UMTA to use the "other factors" authority contained in section 12(b)(2) of the UMT Act to exclude firms from

UMTA-funded contracts if they have willingly abused the domestic preference provision.

Mr. President, we have had long and very productive discussions with the Senator from Indiana (Mr. Bayh) in connection with this amendment, appropriately entitled the "Buy American" amendment. We moved in this direction with our last legislation 2 years ago. This takes us to the logical next, more effective step. I know that Senator Bayh has spent considerable time with this staff, and me with my staff, in bringing this forward.

Mr. RANDOLPH. The able chairman is correct in his reference to Senator Bayh's leadership. We have in the Committee on Environment and Public Works also worked positively on this approach and incorporated "Buy American" provisions in other statutes.

During the Committee on Environment and Public Work's consideration of the 1978 Federal-aid Highway Act an amendment was adopted which I offered to authorize the "buy American" program with respect to projects on the Federal-aid highway program. At that time I believed that it was essential that our highway program use domestic products—particularly steel. Today, I believe we must reaffirm that commitment to use American-made products in our urban mass transportation programs.

Mr. WILLIAMS. There are so many reasons to support this. We were losing capability in certain areas of manufacture, in transportation manufacture. It is important to get back that capability and have the availability of buses, railroad vehicles, and so on. We should find ways to encourage our manufacturers to stay in the business. This is a good way. Their products can be so helpful in this program.

Mr. RANDOLPH. The Senator is correct. Also in handling this bill today, Senator Garn is aware of the needs that we have. We are not trying to shut ourselves off in the world. We do not want to enter a period of isolation. We are not setting forth on that course, but we must be realistic.

We are thinking in terms of substantial purchases, of reasonable purchases and we would just insure, by our amendment. that these purchases will be of American-made products.

We do realize that jobs in our domestic industries, the jobs of tens of thousands of workers in the steel industry, for example, as well as in transportation, are affected. That is the purpose for what I call a well-reasoned amendment.

I am not sure whether we want to have the amendment as I have presented it to await the amendment to the amendment. I am not sure what the Senator from Pennsylvania desires.

Mr. HEINZ. Mr. President, what is the pending order of business?

Mr. RANDOLPH. The amendment is pending.

UP AMENDMENT NO. 1310

(Purpose: To further amend the Buy American provisions of the Surface Transportation Assistance Act)

Mr. HEINZ. Mr. President, I send an amendment to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes an unprinted amendment numbered 1310 to unprinted amendment numbered 1309.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment proposed by the Senator from West Virginia (Mr. Randolph) for the Senator from Indiana (Mr. Bayh), insert the following new paragraph:

"(3) For purposes of this subsection, 'substantially all' means not less than 70 percent."

Mr. HEINZ. Mr. President, I have discussed this amendment with the floor managers and Senator Randolph and I believe we are in agreement. We are trying to make clear what the term "substantially all" means in the terms of the amendment now pending.

The background for all this is that, when we were all conferees on the Surface Transportation Act amendments a year and a half ago, we had thought, in drafting the language that Senator Randolph, my good friend from West Virginia, is offering today, we had made it very clear that "substantially all" meant what it said, that a very significant amount of domestic articles had to be included in order for the Department of Transportation not to apply the amendment before us.

A legal interpretation, according to the scholars I have talked to, of the term "substantially all" is that "substantially all" means more than "principally all," and that "principally all" mean more than 50 percent.

The problem is that by regulation the Department of Transportation has somewhat undercut the thrust of what we intended. So I have set forth in this amendment a very simple definition, that is to say that "substantially all," for the purposes of this amendment, means 70 percent. Some would argue that is too low. Some would say that maybe "substantially all" means 90 percent. I wanted to be reasonable in this case. As I understand the law, I do not think there will be any disagreement among legal scholars that this is consistent with all interpretations of the term "substantially all."

Mr. RANDOLPH. Will my colleague yield?

Mr. HEINZ. I yield.

Mr. RANDOLPH. I took the opportunity to discuss this with others who have been concerned with this problem, and I think generally they agree that it would be helpful to specify a percentage. I feel it is very important to do so. I think the Senator's statement about 70 percent is well-reasoned and appreciated. It is certainly a matter which should go to conference. I will accept the amendment. I hope the managers of the bill would feel as I do concerning the 70 percent. We had not mentioned a percentage, but we had used the term "substantially all." We are not unduly constrictive when we say that. If it is to be of value I think it has to go up into the 70 percent bracket. Some might say 90 percent, but 70 percent would be agreeable.

Mr. HEINZ. I want to thank my very good friend from West Virginia, who should be commended by all Senators, for bringing up his amendment. I also thank him for his support to my amendment.

Mr. WILLIAMS. Mr. President, I agree with the Senator from West Virginia in his comments on the amendment offered by the Senator from Pennsylvania. We have the word "substantial" in law. It is in the legislation. To give that content with this specific percentage figure I believe is helpful, and I am happy to accept it.

Mr. GARN. Mr. President, I am pleased to accept the amendment of the Senator from Pennsylvania on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree offered by the Senator from Pennsylvania.

The amendment (UP No. 1310) was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from West Virginia, as amended.

The amendment (UP No. 1309), as amended, was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I would like to thank Mr. Randolph for his great help in this matter. The change we have made is of the utmost significance. We were all, I am sure, extremely embarrassed when just last year in my home State of Pennsylvania, in the city of Philadelphia, the Southeastern Pennsylvania Transit Authority could not even obtain agreement from the Department of Transportation to apply the provisions of the buy-American section of the Surface Transportation Act to their award of light rail transit vehicles. It is of some significance that the last remaining rail vehicle car manufacturer is the Budd Co. All the others have gone out of business because of unfair foreign competition. I would like to submit for the Record following my remarks, a recent news article describing the problems faced by the American transit car industry. It was, therefore, a tremendous embarrassment to everybody when the Department of Transportation said that a foreign bidder, because they had slightly over 50 percent American content through subcontracting, would not be subject at all to any of the provisions in the buy-American provisions of the Surface Transportation Act.

It was simply a total misreading of the intent of Congress by the DOT in their ranks that they find "substantially all" as 50 percent. We have corrected that.

I ask unanimous consent that the following article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPORTED SUBWAY CARS ROLL

(By Douglas B. Feaver)

Metro's newest subway cars—the first are scheduled for delivery some time in 1981—will be assembled somewhere in the Washington area under the careful supervision of the prime contractor from Italy.

A Japanese firm is the apparent low bidder on a big new contract to build 110 subway cars for Philadelphia.

Cleveland's new rapid transit cars are coming from the Italian firm that won the Washington Metro contract.

Down in Georgia, Atlantans are very happy with their new subway and its splendid cars built by the French.

Everybody is very happy, that is, except Budd Co., the only American firm still in the business of bidding on prime contracts for subway cars or any other kind of railroad passenger car. Budd finished last among three bidders for the Washington contract and was apparently last among the bidders in Philadelphia, behind the Japanese, the Canadians and the Italians.

Hundreds of millions of dollars are involved because modern subway cars—with their sophisticated electronic circuitry and the need to perform well despite heavy loads and constant accelerating and braking—are expensive.

Washington Metro paid $300,000 for each of its first 300 cars. Its new contract with Breda Construzioni for 94 cars is for $76.4 million, or more than $800,000 a car. The primary difference is inflation. Breda's bid was $16 million lower than one from the Canadian Car Division of Hawker Siddeley Canada Ltd. Budd's high bid was $103.3 million.

"Our contention, on the basis of a study we have done, is that dumping truly did take place" in the Washington Metro contract, Budd Chairman Gilbert F. Richards said in a recent interview. "We have licenses in France, in Spain, in Japan and in Australia, so we're intimately acquainted with the methods there of manufacturing and of building costs."

Dumping, frequently charged to foreign auto and television set manufacturers, is the process of selling a product abroad for less than market price in an effort to capture foreign sales.

Rep. James J. Howard (D-N.J.), chairman of the surface transportation subcommittee of the House Public Works Committee, where federal aid for transit systems begins in Congress, said last week that his subcommittee will consider strengthening the existing "Buy American" provisions of the Surface Transportation Act this year.

"We don't want to freeze free trade," Howard said. "But we don't want our entire transit industry and jobs going overseas."

Budd recently filed a petition with the U.S. International Trade Commission seeking the imposition of antidumping duties on Italian and Japanese rail cars, but that petition was denied last week.

The U.S. Justice Department vigorously opposed Budd while pointing out that all of the cars "manufactured" by foreign firms had to be assembled in the United States and had to contain at least 50 percent U.S. components for local transit authorities to be eligible for the 80 percent federal aid they receive in buying transit cars.

Foreign firms have entered the U.S. market in the absence of domestic firms, they have not driven domestic firms from the field, Justice argued.

In fact, Justice suggested that Budd might be seeking through its petition to gain almost exclusive rights to the potentially huge U.S. business.

Herman Foster, associate corporate counsel for Budd, said Thursday that despite the setback at the trade commission "I will have to recommend (to the Budd board) that we vigorously pursue this action." The U.S. Court of Customs would be the next logical stopping point.

New subways are under construction in Washington, Baltimore, Miami, Atlanta and Buffalo. New cars are desperately needed or on order in Boston, New York, Philadelphia, Chicago and Cleveland. Both Detroit and Los Angeles have serious subway plans which have received preliminary federal blessing. Honolulu and San Juan are looking to subway systems in the future.

Officials at the Urban Mass Transportation Administration, an agency of the U.S. Department of Transportation which doles out the federal aid for rail car purchases, estimate that orders for cars in the United States have been averaging 250 a year (excluding Amtrak) for the past five years.

With the impetus of new systems and the rebuilding of old ones, plus increased energy-crisis-generated emphasis on upgrading commuter rail lines, the UMTA estimates that car orders will average about 300 a year (excluding Amtrak) in the next decade—assuming the approval of windfall-profits-tax money for transit.

With that future, why is only Budd left in the business?

There are a number of reasons, but the biggest ones appear to be uncertainties of the past, the wide variety of specifications manufacturers must meet to compete in the United States, plus heavy losses some manufacturers claim to have suffered on fixed-price contracts.

During the same five years, four U.S. companies have dropped out of the business: Rohr Industries, Pullman-Standard, General Electric and Boeing-Vertol. Even Budd's claim to being a U.S. company is somewhat suspect because Budd is a wholly owned subsidiary of a German firm, Thyssen A.G. Several of those carmakers cited the uncertainty of federal funding programs for mass transit as one of the reasons. Both GE and Boeing-Vertol, however, have retained their plant facilities and conceivably could return to the business in the future.

A problem all manufacturers have cited at one time or another is the lack of a standard U.S. transit car.

In San Francisco, the Bay Area Rapid Transit cars built by Rohr run on a wider gauge than those in the rest of the world. Washington Metro's cars are shorter than everybody else's because it was believed money would be saved by building shorter tunnels.

Rohr Industries, which built Metro's first 300 cars plus the BART cars, bowed out of the business after it lost the Metropolitan Atlanta Rapid Transit Authority contract to the French firm, Franco-Belge.

Rohr is pursuing a $50 million claim against Washington Metro, charging essentially that Metro-ordered modifications added to the cost of the cars. Industry sources believe that Rohr shaved its bid on the Metro fleet to nail down a strong East Coast presence in the early 1970's, then got caught with its fixed-price contract in years of extraordinary inflation.

According to the International Trade Commission's report denying the Budd petition, "Pullman-Standard has indicated that a major reason for their withdrawal from the market was the nature of the designing process for rail passenger cars." A Pullman official is quoted as saying that "the negotiations to finalize design can often become unreasonably burdensome, causing delays and confusion."

Mark Aron deputy general counsel for the DOT, said "you hear every theory—that foreign companies are subsidized, that they are dumping, that they get tax breaks, etc.—but every time we look we find it is not a subsidy and that some of their industrial standards are higher than ours."

Mr. HEINZ. Mr. President, I want, once again, to thank my colleague from West Virginia (Mr. RANDOLPH) and my other colleagues for having been so helpful in this matter.

I thank the Senator from Missouri for yielding.

Mr. RANDOLPH. Mr. President, I want further, again, to underscore the leadership of Senator BAYH in this matter. Those of us who join with him believe that the Senator is acting in a well-reasoned and practical way in meeting this problem.

TRIBUTE TO SENATOR JENNINGS RANDOLPH

Mr. WILLIAMS. Mr. President, I do want to recognize the importance of the contribution of the Senator from West Virginia (Mr. RANDOLPH) in offering a "buy American" amendment. I want to be somewhat nostalgic in recalling the contribution of the most distinguished Senator from West Virginia (Mr. RANDOLPH) and his contributions in transportation. It is, of course, known to all that he has been the prod, the spur, the inspiration for so much of our vast and effective highway system or systems in this country. He has been our leader.

It also can be noted that it is not as well known that he has also been a pioneer and a leader in urban mass transportation. Indeed, in reading records, I have come upon information that indicated that his leadership was there 40 years ago, when he was talking about urban transportation for the capital city. For Washington, D.C., he was emphasizing, even then, the importance of improving transportation within this city.

Mr. President, it just happened that that was a time when I was a happy rider on a fixed guideway system within Washington. Living out at Volta place, in Georgetown, my work took me to the Washington Post at that time. Then, when I finished work there, my day took me for the evening to Georgetown University.

We had what I call a fixed guideway system in Washington at that time. There were trolley tracks. I wonder how that kind of system would qualify under our new definition now, because there were fixed tracks within the center of the roadway. That would qualify it for fixed guideway under the bill that we are now presenting. Under the formula distribution for fixed guideways, that kind of trolley has not been included, but would be under this bill.

There was one difference about those vehicles. While they were on tracks, when they got to the end of the tracks, they could switch to an overhead feature, with an electrical arm that would permit them to leave the guideway and become operative as buses as long as they stayed on the overhead. I gather that that would also qualify, where there are overhead electrical currents, where the electricity could be transmitted to the car through an arm that is flexible and the vehicle could leave one track and go to the curb.

I wonder if anybody from the staff could advise me whether it would be a fixed guideway system, the kind that we used to have running in Washington, that would go to Friendship Heights and Cabin John and others?

I am advised that it would be. That is the way the system worked in Washington 40 years ago.

Mr. President, I understand that communities now are going back to trolleys, some of our communities.

We recognize this and have applied that to the formula distribution within this bill.

That is all a discussion that arose out of recognition that the Senator from West Virginia was a pioneer in urging the improvement of urban public mass transportation 40 years ago when we were on a trolley system here in Washington, D.C.

I ask unanimous consent that a speech he made which was reported in the Washington Post for January 16, 1942, be printed in the Record where, among other things, the Senator called for what he said must come to pass. He said "Let's do it now." He was talking about a subway system for Washington, D.C.

There being no objection, the article was ordered to be printed in the Record, as follows:

D.C. Must Have Subway, More Police, Randolph Says

Because the days of the "slow moving" District of Columbia are "gone forever" and a large, bustling city is here to stay, there are going to have to be some changes made, Representative Jennings Randolph, chairman of the House District Committee, told a Federation of Business Men's Association's banquet last night.

Among those needed, he said, are these:

1. A "vast improvement" in the present "cumbersome" form of District government.
2. A subway system.
3. Five hundred to 600 more policemen.

Regarding transportation, he mentioned that 400 new buses had been ordered. E. D. Merrill, president of the Capital Transit Co., said last night that the first of the buses will be here Monday. They seat 45 persons each, as compared to 30 to 40 for the average bus now used.

In his speech at the banquet, held at the Hay-Adams House, Representative Randolph pulled no punches in expressing his opinions on many things that be regarding the present District government. Among objects of his wrath was the way Congressmen's time is wasted.

"Think of it!" he exclaimed. "Men elected from their own Congressional districts in their own States sitting around a table to name a street in the District of Columbia!"

He said his comment that the present form of District government could be "vastly improved upon" is "no criticism of the present Commissioners." These men, he said, are fine gentlemen and doing the best they can under the circumstances.

He said the District is going to have a subway system "so why not now instead of five or ten years from now?"

"It should be brought about right now, when it can be brought about," he avowed.

He said that always, "war or peace," the population of the District itself would be a million persons. "And I mean just the District, not the metropolitan area."

Randolph touched on the District health program by saying those in charge of it had not been "hard-hitting" enough in their efforts to get Congressional appropriations.

He said he admired Leon Henderson, "a jolly fellow," but didn't consider it a "patriotic endeavor" to "take a man's investment and rip it apart," as he said he considered was done by Henderson in the case of auto dealers.

A force of "500 or 600 additional policemen" will be necessary, he declared, "as sure as I stand here."

Other parts of the program included a talk on defense bonds and stamps by Frederick A. Ballard, representing the District of Columbia Bar Association; a talk on the Red Cross by Mrs. J. Jeune Carter, of its 'speakers' bureau, and the adoption of a resolution praising Gregory Hankin, chairman of the Public Utilities Commission, for ordering a crosstown bus line through Klingle Road.

UP AMENDMENT NO. 1311

(Purpose: To revise the land acquisition loan program to permit the Secretary discretion for loan periods, making the language identical to the highway land program)

Mr. EAGLETON. Mr. President, I have an unprinted amendment at the desk. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton) for himself, Mr. Danforth, and Mr. Dole, proposes an unprinted amendment numbered 1311.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, insert after line 4, the following: Advance Land Loans Section 5 of the Urban Mass Transportation Act of 1964 is amended by—

(1) inserting "unless a longer period is determined to be reasonable by the Secretary" after "made" in the second sentence;

(2) inserting "unless a longer period is determined to be reasonable by the Secretary" after "is made" in the third sentence; and

(3) striking "of" and substituting "is made unless a longer period is determined to be reasonable by the Secretary" after "loan agreement" in the 6th sentence

Renumber the subsequent sections accordingly

Mr. EAGLETON. Mr. President, I am joined in this amendment by Senator Danforth and Senator Dole. Mr. President, section 3(b) of the Urban Mass Transportation Act now authorizes the Secretary of Transportation to make loans to State or local municipal agencies to finance the advanced acquisition of real property for use as rights of way, station sites, and other purposes involving mass transportation systems. This amendment revises the advanced land acquisition loan program.

The act now requires that such loans be repaid within 10 years from the date of the loan agreement or the day the grant agreement for actual construction of the facilities on the acquired property is made, whichever is earlier. Each agreement requires the beginning of construction of facilities within 10 years following the year in which the loan agreement is executed. This amendment will give the Secretary of Transportation authority to establish a longer loan period if the local authority can show that a longer period would enhance the viability of the transit project.

This amendment would not change the mechanism in the current statute that a later construction grant under the act could permit forgiveness of the original loan amount in lieu of providing an additional cash grant. The loan would thus be canceled without having to be repaid, if the Secretary determines that it is appropriate.

Mr. President, we all realize that the acquisition of real property in advance of construction has become increasingly important as urban land becomes a more and more scarce and valuable resource. Substantial cost savings will occur if communities are encouraged to and are able to purchase rights of way as early as possible. This amendment would enable local public bodies and the Federal Government to achieve great savings in land acquisition costs.

The language in this amendment is identical to the language which governs the Secretary's discretion in the highway advanced land program. Under that legislation, actual construction must begin within 10 years or within a longer period that is determined to be reasonable by the Secretary.

My amendment is prompted by the fact that the opportunity to purchase land for a future transit system may happen many years before construction could actually take place. Many local municipalities are reluctant to commit themselves until they are certain that they can begin construction in 10 years. This reluctance leads to increased costs of acquisition.

This amendment would help ease this problem and at the same time give the Secretary the discretion to set up a particular repayment time based upon the circumstances of each case.

Mr. President, I am hopeful that the managers of the bill might see fit to accept this amendment.

Mr. WILLIAMS. Mr. President, the Senator from Missouri has rendered a real service, in my judgment. This is forward thinking, intelligent thinking. I am pleased to accept the amendment offered by our distinguished colleague from Missouri. It would conform the Urban Mass Transportation Act to current law in the Federal Highway Administration, and thus would permit the enhancement of future transit projects at reasonable, reduced costs.

As Senator Eagleton has made clear, however, this amendment is not intended, in any way, to encourage unnecessary or speculative land acquisition. This new authority is expected to be restrictive, within the Secretary's discretion, and to be utilized only when the Secretary makes a determination that an extension would be reasonable.

I think it is a wise and welcome addition to this bill, Mr. President. I am happy to accept it.

Mr. GARN. Mr. President, this is a good amendment. The minority is willing to accept it.

Mr. EAGLETON. I thank my colleagues, Mr. President.

The PRESIDING OFFICER. The

question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP 1311) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1312

(Purpose: To increase efficiency in the Urban Mass Transportation Administration by monitoring paperwork requirements)

Mr. McCLURE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from Idaho (Mr. McClure) proposes an unprinted amendment numbered 1312.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 13, add the following at the end of Section 10:
>
> "(4) If the amount of paperwork that the Urban Mass Transportation Administration requires of profit and nonprofit businesses, private persons, and State and local governments in fiscal year 1981 exceeds 100 per centum of the amount of paperwork required by the Urban Mass Transportation Administration in fiscal year 1980, the amount authorized to be appropriated by Congress for the Urban Mass Transportation Administration for fiscal year 1982 shall not exceed 100 per centum of the amount appropriated for the Urban Mass Transportation Administration for fiscal year 1980.
>
> "(5) For the purposes of this subsection, 'paperwork' means reports, applications, forms, and other written presentations that an agency, under statutory authority, requires to be submitted to the local, State, or Federal Government.".

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, many years ago, a famous American engineer said, "We can lick gravity, but sometimes the paperwork is overwhelming." Unfortunately, this statement still holds true. An ominous cloud of Federal forms is stifling our creative talents, and, in so doing, limiting our prospects of meeting many of the great challenges before us as effectively as possible.

Bearing this in mind, I am today offering an amendment to complement the work being done by the Senate Banking Committee to improve our mass transportation system. My amendment would simply direct the Urban Mass Transportation Administration to set the amount of paperwork they require in fiscal year 1981 at no more than the amount they required in fiscal year 1980. If in the unlikely event that UMTA failed to achieve this modest goal, my proposal would then hold their fiscal year 1982 authorization at a level not to exceed their 1980 authorization. This will give UMTA an incentive to join with Congress in the national battle against excessive paperwork.

By setting goals and requiring the agencies to work toward them, real gains can be made. Indeed, Senator Roth last year described the tremendous progress that has already been made at the State level. For instance, in Minnesota, the State Department of Administration set a goal of reducing the number of forms required to be completed by assistance recipients and businesses by 30 percent in 1 year. The program began in 1977 and at that time there were 35,939 forms in use in the State. By the end of the year, only 11,720 forms remained.

The same results can be attained at the Federal level as well. But we must act quickly, Mr. President. Paperwork requirements are now so large that they have assumed the form of a tax. We have a situation where the growth of Federal bureaucracy is preempting private sector resources and assuming the role of a second tax collector. That is why I am happy to note that Senators Nelson, Ford, Riegle, Stewart, Baucus, McGovern, Durkin, Huddleston, Melcher, Hollings, Boren, Biden, Weicker, and Hatch recently introduced a bill to limit agency paperwork. Upon introducing the bill, Senator Nelson remarked:

> It has always been my belief that we can reduce Federal paperwork by as much as 50 to 75 percent and, at the same time, increase efficiency and reduce costs.

I share the view of the Senator from Wisconsin and look forward to the Senate's vote on my amendment.

Mr. President, this does not require a reduction in paperwork. It simply says to stop adding to it.

I think it is an amendment which the administration of UMTA can live with. They will find a way to live without it being a very onerous requirement at all, and we may begin to find some relief for the beleaguered private sector in this country.

I say, not just the private sector, but State and local governments, as well.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, this ties limitation on growth in paperwork under urban mass transportation to the appropriation for the following years; am I right on that?

Mr. McCLURE. Will the Senator repeat that?

Mr. WILLIAMS. Do I understand this amendment correctly—this amendment would tie the appropriations for a subsequent year to a finding of no increase of paperwork in response to the administration's demands for the prior year; is that correct?

Mr. McCLURE. With one explanation and one correction, I would agree with the statement.

The correction is this, it is the authorization level, rather than the appropriation level, which would be limited.

Second, yes, the statement is correct, because it measures the first year's authorization following the experience of this year, measured against last year, with respect to paperwork; the Senator is correct on that.

Mr. WILLIAMS. The Senator has asked for the yeas and nays. Certainly, there is great concern here about mounting paperwork as one of the things we should try to reduce, both for its expense and its complexity.

I am sure the Members look forward to an opportunity to be on record, whenever possible, to express their concern with mounting paperwork, its complexity and expense.

I have nothing further to say except that when the roll is called, I am sure we will all be able to express ourselves in opposition to mounting paperwork that sometimes seems to be almost beyond control.

This is a way to bring it within some measure of control.

Mr. GARN. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh) and the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

Mr. BAKER. I announce that the Senator from Oregon (Mr. Hatfield), the Senator from South Dakota (Mr. Pressler), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 84, nays 9, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—84

Armstrong
Baker
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—9

Chafee
Culver
Hollings
Javits
Levin
Mathias
Sarbanes
Stevenson
Weicker

NOT VOTING—7

Bayh
Goldwater
Hatfield
Kennedy
Pressler
Stevens
Tower

So Mr. McClure's amendment (UP No. 1312) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgon of my staff be granted privileges of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1313

(Purpose: To clarify the discretion of the Secretary to give grants for the acquisition of rights-of-way for fixed guideway projects)

Mr. DECONCINI. I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1313.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 4, insert the following:

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 2. Section 3(a)(1)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" the second place it appears and by inserting immediately before the semicolon at the end thereof a comma and the following: "and the acquisition of rights-of-way for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses".

Mr. DECONCINI. Mr. President, the amendment I have submitted would provide loans and grants to urban areas for the acquisition of rights-of-way for fixed guideway corridor development.

This program would allow cities to purchase rights of way in the early stages of system planning, before speculation drove up the price of property along the right-of-way. This amendment will be of great assistance to cities that are currently growing at a rapid rate, and permit them to plan right-of-way purchases much in advance of what is financially feasible now.

Many cities, especially those experiencing fast growth, have had difficulty in the past obtaining UMTPA funding because of the requirement that applications for section 3 capital funds undergo alternatives analysis. Cities with low population densities, despite their growth rate, have failed to qualify for rail systems under alternatives analysis because the low density made rail cost inefficient.

My amendment would for the first time provide an alternative for low-density, high-growth cities by allowing them to plan now for transportation rights-of-way, acquire these rights-of-way, and zone for density around the planned transportation corridors. For the first time these cities could choose an alternative to the freeway and zone their growth to conform to the planned alternative.

Mr. President, this amendment has been added to the House bill by the Public Works and Transportation Committee.

I am advised that the chairman and the ranking member have reviewed this amendment and find no fault with it, and I hope they can accept it.

Mr. WILLIAMS. Mr. President, on behalf of the majority, I am willing to accept the amendment offered by my colleague from Arizona.

His amendment will clarify the authority of the Secretary to provide grants for the purchase of land rights-of-way for future fixed guideway projects. Where the Secretary chooses to exercise this authority, the grant will have to comply with the statutory requirements of section 3.

The Senator's amendment will give a forward emphasis to transit programs in cities which can expect to experience tremendous population growth in this decade. It will offer a means to encourage population densities in potential transit corridors and to incur cost savings by purchasing rights-of-way when the transit opportunities are clear, rather than after all the paperwork is completed and the real estate prices have become prohibitive.

Mr. GARN. Mr. President, on behalf of the minority I am pleased to accept the amendment of the Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Utah and the Senator from New Jersey. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 1313) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, the committee has provided that beginning in 1982 formula grant funds will be allocated on the basis of vehicle revenue service miles. This replaces the old formula based on population.

The effects of this transition will be immediate and devastating on urban areas such as Phoenix, Ariz. Phoenix has one of the fastest growing populations in the country and at the same time is in the early stages of improving its mass transportation systems. It is therefore most in need of grant funds to provide expanded service to its growing population.

Yet the allocation formula proposed by the committee would severely reduce the amount of funds cities like Phoenix would receive at the very time the funds are needed most. I understand the purpose of the committee formula is to encourage upgrading and expansion of service, but the method the committee has chosen will make it more difficult for cities who have not yet expanded service to do so.

I oppose the formula adopted by the committee. I believe it diverts funds from cities that need assistance most to cities that have already completed upgrading and expanding service. I urge my colleagues who are appointed to the conference to accept the House provisions for funding, which retain the current law and distribute funds based on population.

UP AMENDMENT NO. 1314

(Purpose: To change the formula for apportionment)

Mr. GARN. Mr. President, the Senator from Texas (Mr. TOWER) is tied up in some meetings and is unable to come to the floor at this time. On his behalf I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), on behalf of Mr. TOWER, proposes an unprinted amendment numbered 1314.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 5, line 22, strike out all through page 6, line 4, and insert in lieu thereof the following:

(c) The first sentence of section 4(e) of such Act is amended by inserting "and" before "$110,000,000" and by striking out "; $120,000,000,000 for the year ending September 30, 1982".

Beginning with page 8, line 13, strike out all through page 9, line 18, and insert in lieu thereof the following:

"(6)(A) To finance grants for construction and operating assistance under this section and under section 18 of this Act, there are authorized to be appropriated not to exceed $1,925,000,000 for the fiscal year ending September 30, 1982; not to exceed $2,055,000,000 for the fiscal year ending September 30, 1983; not to exceed $2,165,000,000 for the fiscal year ending September 30, 1984; and not to exceed $2,275,000,000 for the fiscal year ending September 30, 1985.

"(B) In each fiscal year, 86 per centum of the sums appropriated under this paragraph shall be apportioned to urbanized areas with populations of 200,000 or more. The amount available for each such area shall be an amount equal to the sum of—

"(i) 80 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the number of revenue rail and bus vehicle miles directly serving the urbanized areas, as determined by the Secretary, bears to the total number of revenue rail and bus vehicle miles directly serving all urbanized areas, except that no single eligible State's portion of an urbanized area which has revenue rail vehicle miles shall be given credit for more than 45 per centum of the total national revenue rail vehicle miles, and no urbanized area of over 750,000 population which has revenue rail vehicle miles shall be given credit for less than ½ per centum of the total national revenue rail vehicle miles.

"(ii) 20 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the number of revenue bus vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of all revenue bus vehicle miles directly serving all urbanized areas, except that sums apportioned to each urbanized area under this clause shall be used by the recipient only for the purchase of buses and related equipment.

"(C) In each fiscal year, 9 per centum of the sums appropriated under this paragraph shall be apportioned to the governor for use in urbanized areas with populations of under 200,000. The amounts available for each state shall be based on an amount calculated as the greater of the amounts determined by applying the formula in subparagraph (B) to each such urbanized area in the state to the amount apportioned under this subparagraph, or by calculating for each such urbanized area in the state the sum of—

"(i) 50 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census;

"(ii) 50 per centum of the amount to be apportioned under this subparagraph multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary;

provided however that not less than 20 percent of the sums apportioned to each state under this subparagraph shall be used only for the purchase of buses and related equipment, and provided further that the apportionment shall be reduced if an urbanized area with population less than 200,000, where public transportation service is provided by a single state or local public body covering more than one urbanized area and one urbanized area is above 200,000 population, includes its revenue vehicle miles in such larger urbanized areas apportionment.

As used in clause (ii) of this paragraph, the term 'density' means the number of inhabitants per square mile.

"(D) In each fiscal year, 5 per centum of the sums appropriated under this paragraph shall be apportioned and used pursuant to the provisions of section 18 of this Act.".

(b) Section 5(b) of such Act is amended by adding at the end thereof the following:

"(3) Beginning in fiscal year 1982, to the extent possible the Governor shall take into account service based factors, such as revenue vehicle miles, as a basis for distribution of funds available to the Governor under subsection (b)(2). The Governor may transfer up to 25 per centum of the State's apportionment under subsection (a)(6)(C) of this section to supplement the apportionment available to urbanized areas under subsection (a)(6)(B) of this section, or to supplement funds apportioned to the State under subsection (a)(6)(D) for the purposes of section 18 of this Act.

(d)(1) in section 3(a)(1)(B) strike "apportionments under section 5(a)(4)" of the Act and insert in lieu thereof "apportionments under section 5 which are limited to the purchases of buses and related equipment"

(2) in section 3(h) strike "with funds available under section 5(a)(4)" and insert in lieu thereof "with funds available under section 5 which are limited to the purchase of buses and related equipment.".

(3) Section 18 of such Act is amended by inserting "or section 5(a)(6)(D)" after "section 4(e)".

(4) On page 10, beginning with "An" on line 8, strike out all through the period on line 13, and insert in lieu thereof the following: "An incentive grant shall be 7.5 per centum of that portion of the apportionment attributable to the urbanized area under paragraph (6) which is available for operating assistance if the urbanized area qualifies for an incentive grant under either subparagraph (B)(i) or (B)(ii) of this paragraph, but not under both subparagraphs, and a total of 10 per centum of such apportionment if it qualifies under both subparagraphs (B)(i) and (B)(ii).".

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be shown as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. TOWER. Mr. President, the amendment which I am offering would change the formula under which funds are distributed to urbanized areas for the purpose of paying the Federal share of operating costs incurred by transit systems, as well as certain routine capital expenses for bus replacement.

The bill before the Senate would make a major change in the manner in which these funds are distributed. Under current law, the formula relies primarily on two factors—population and population-density—to govern the distribution of funds.

The Banking Committee amended the existing formula, however, so that beginning in 1982 funds are to be distributed based on the share of national "vehicle revenue miles" which each transit system reports. In other words, the funds will be paid on the basis of each area's level of service, as measured by miles traveled by bus and rail vehicles during operations. The precise manner in which the formula would operate has been described in more detail by Senator WILLIAMS.

I opposed this formula change during the Banking Committee's consideration of S. 2720, because it would cause abrupt change in the distribution of funds which will work to the disadvantage of some areas which are accustomed to and have been operating on the basis of the current formula. It would be particularly disruptive to urbanized areas with populations from 50,000 to 200,000.

At the same time, I recognize that the rationale for changing the formula so as to recognize actual transit service, rather than population factors, has some merit, particularly over the long-term.

The most significant adverse impact of the formula change would be among urbanized areas having populations of from 50,000 to 200,000. These areas, many of which are in Texas and other Western and Southern States, have not had the resources, the population base or the incentive to support transit services comparable to this in the larger cities. As a result, the formula change contemplated by S. 2720, by concentrating on historical vehicle revenue miles for such cities, would make it more difficult for them to compete for Federal funds.

This result would be especially unfortunate since many of the cities in the 50,000-200,000 population range have not yet been able to become partners in the national public transportation program, yet they represent a promising prospect for future gains in ridership in the years ahead. By conditioning the future apportionments for these cities on the level of existing service, the formula would make it extremely difficult for such cities to begin new services, make significant expansion efforts, and otherwise play an increasing role in the Federal public transit program.

My amendment would restore the existing formula, based on population and population-density, for urbanized areas with populations between 50,000 and 200,000. It would preserve the existing mechanism for distribution of these funds, so that apportionment attributable to urbanized areas of that size within each State would be made available to the Governor. The Governor, in turn, would redistribute the funds among such areas in accordance with statewide priorities. In order to encourage these urbanized areas to enhance their transit systems, particularly over the long term, the Governor would be encouraged to use service-based factors, such as vehicle miles, in allocating funds among the urbanized areas in the 50,000 to 200,000 population range.

The amendment would also recognize the need to provide flexibility on a statewide basis in another way. In order for the amendment to achieve its intended purpose, it is necessary to combine and reallocate funds available under section 5 and section 18, the program for small urban and rural areas. In order to assure that this allocation does not interfere with existing or proposed programs, the amendment would permit the Governor to use up to 25 percent of the funds attributable to urbanized areas of 50,000 to 200,000 population for small urban and rural programs. In addition, the amendment would permit the transfer of up to 25 percent of the funds attributable to urbanized areas of from 50,000 to 200,000 population of larger urbanized areas.

This flexibility will serve two important purposes: It will permit decision-making at the State level based on assessments reached at that level about the priorities involved in State transit decisions, and it will permit the Governor to deal with particular problems or needs which may arise as a result of the overall formula change already in the bill. There is no doubt that any change in the formula for the section 5 program has the potential to affect existing or future plans underway in specific urbanized areas; my amendment, together with the fact that the section 5 formula change is not scheduled to become effective until fiscal year 1982, should allow sufficient time and flexibility to minimize any problems which could arise.

For urbanized areas with populations exceeding 200,000, the formula now contained in the bill—based on vehicle revenue miles—would be continued. In addition, the amendment, like the bill, contains a provision that no urbanized area be credited with more than 45 percent of the total rail vehicle miles in the national total of rail vehicle miles.

This cap has the effect of reducing overall the national number of rail and bus vehicle miles, so that each area's percentage of the total will be increased proportionate to its share of the vehicle miles reported, and all urbanized areas with populations exceeding 200,000, whether their apportionments are attributable to rail or bus vehicle miles, will be entitled to receive a portion of the sums made available as a result of the cap.

Mr. President, this amendment in my view significantly improves the bill before us, and contributes to a fairer treatment of urbanized areas which operate smaller transit systems.

I urge the adoption of the amendment.●

Mr. GARN. Mr. President, in offering this amendment on behalf of Senator TOWER, this amendment would change the section 5 formula contained in the bill. Before doing so, I would like to clarify one point about the meaning of the existing language in the bill as it would amend section 5.

I would like to ask the Senator from New Jersey (Mr. WILLIAMS) whether I am correct in my understanding of the effect of the 45 percent cap contained in the bill. As I understand it, that provision means that no urbanized area can be credited with more than 45 percent of the Nation's rail vehicle miles, even if pure arithmetic would attribute to that area more than 45 percent of the rail vehicle miles. The effect of the cap would be to distribute to all other areas exceeding 200,000 in population the portion subject to the cap, whether or not their apportionments are the result of rail vehicle miles, bus vehicle miles, or a combination of the two.

Is that a correct interpretation of the 45 percent cap now contained in the bill?

Mr. WILLIAMS. That is correct. The intention of the provision is to place a cap on the maximum share of rail revenue miles which any one urbanized area would be credited with. The effect of the cap is to redistribute any overage proportionately to all urbanized areas receiving funds under that category of the formula.

Mr. GARN. I thank the Senator from New Jersey.

On behalf of the minority, I am happy to accept this amendment offered for Senator TOWER.

Mr. WILLIAMS. Mr. President, I am pleased to accept the amendment of the Senator from Texas on behalf of the majority.

I strongly support this amendment which has been so ably drafted by my distinguished colleague. His amendment helps to strengthen the new formula proposed in the bill by answering a fair distribution of funds between localities of different sizes, and by answering that funds are distributed to smaller urbanized areas on a basis which will help encourage the development of new transit service.

This new formula will retain the historical population/population density formula which is particularly suited to smaller communities and communities with developing and growing transit service. It assures that these smaller urbanized areas will receive a fair share of the overall funds for the formula program, by mandating that 9 percent of appropriated funds will go, as part of the UMTA program, to areas of 50,000–200,000 on population and 5 percent of the funds will go to small urban and rural areas under section 18.

I believe that mandating fixed percentages for these two important parts of our public transportation effort will assure that they will continue to receive an adequate share of available funding.

This Senator's amendment also helps promote a flexible program, by giving the Governor broad authority to distribute funds to urbanized areas of 50,000–200,000 within a State. The Governor would have discretion to allocate funds within the State based on appropriate factors of need. This would help assure that our limited resources are targeted where they can be used most effectively.

Additionally the Governor would have some ability to transfer funds which may not be needed in the 50,000–200,000 category to smaller or larger communities that have particular need for increased transportation funds.

I believe that this amendment will help create a balanced equitable and flexible public transportation program that will help us control our excessive use of energy.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah (Mr. GARN) for the Senator from Texas (Mr. TOWER).

The amendment (UP No. 1314) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BENTSEN. Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that all amendments to the section on urban mass transportation have been offered. Does the Senator's amendment go to that section?

Mr. BENTSEN. It does not go to that section. It adds a new title to the bill.

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with Mr. GARN and Mr. WILLIAMS. I ask unanimous consent that no further amendments now be in order on the urban mass transportation section, so that the Senate can proceed with the highway section without any further amendments being in order to this section. Our respective cloakrooms, I believe, have sent out inquiries as to whether or not Senators have further amendments and we received no feedback. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

UP AMENDMENT NO. 1315

(Purpose: To authorize the Secretary of Transportation to impose a limit on obligations in the Federal-aid highway program and to provide a formula for the allocation of such funds)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself and Mr. PRESSLER, proposes an unprinted amendment numbered 1315.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

"TITLE I"

On page 1, line 3, strike "Act" and insert in lieu thereof "title."

On page 14, after line 6, insert the following new title:

"TITLE II"

"SEC. 201. This title may be cited as the 'Federal-aid Highway Amendments of 1980.'

"OBLIGATION LIMITATION

"SEC. 202. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1981 shall not exceed $8,450,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

"(b) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by subsection (a) by allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year: Provided that, the collective obligations of all the States may not exceed one-fourth of the obligation ceiling imposed by subsection (a) in each of the first two calendar quarters of fiscal year 1981; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

"(c) Notwithstanding subsection (b), the Secretary shall—

"(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

"(2) After August 1, 1981, revise a distribution of the 80 percentum made under subsection (b) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

"(3) not distribute amounts authorized for administrative expenses.

"RURAL TRANSPORTATION STUDY

"SEC. 203. (a) The General Accounting Office is hereby authorized and directed to undertake a study of the transportation needs in rural areas. The study should include but is not limited to—

"(1) the impact of any reduction of the Federal contribution to the construction and maintenance of the Federal-aid highway secondary system;

"(2) the identification and evaluation of alternative funding methods for the Federal-aid highway secondary system;

"(3) the impact the current energy situation has had on rural transportation in view of fewer transportation alternatives in rural areas;

"(4) an assessment of the implementation of existing mass transit programs available in rural areas including the Section 18 program of the Urban Mass Transit Act;

"(5) the impact of anticipated reductions in funding for public and special client transportation by Federal agencies other than the Department of Transportation on rural mass transit; and

"(6) the identification of any other problems unique to rural transportation.".

Mr. BENTSEN. Mr. President, the amendment which I have proposed adds a new title to deal with some of the problems that we are having with the Federal-aid highway program.

Mr. STAFFORD. Will the Senator yield?

Mr. BENTSEN. I am happy to yield to my distinguished friend from Vermont.

Mr. STAFFORD. Mr. President, will the Senator, as the manager of the bill for the majority, add my name to those sponsors of the pending amendment which he is offering?

Mr. BENTSEN. Mr. President, I am delighted to add the Senator as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, what we are seeking to do here is to answer some of the problems that are budgetary problems facing the Federal-aid highway program in order to balance the budget in fiscal year 1981.

In trying to do that, the President sent to Congress a deferral of obligation authority for the Federal-aid highway program for fiscal year 1980. The proposal reduced the obligation authority available from $8.8 billion to $7.6 billion, a reduction of $1.2 billion. That will achieve an outlay savings from the highway trust fund in fiscal year 1981 of $450 million if an obligation limitation of $8,450,000,000 is established by the Federal-aid highway program for fiscal year 1981.

If this obligational limitation is adopted, it is necessary to allocate the obligation ceiling among the States in order to provide an equitable distribution of highway funds to each of the States.

Under the existing law that we have, highway authorizations are apportioned to the States on October 1 of each fiscal year. That is done by a formula for each of the several categories. These funds are then available for obligation by the States, except as limited by an obligation ceiling. Since fiscal year 1975, Congress has enacted an obligation ceiling which has reduced highway spending below the amounts authorized in the Federal-aid highway acts.

For example, for fiscal years 1980 and 1981, the collective estimate of the State highway departments is that the obligation ceiling established is substantially below that amount of money which could be obligated by the States.

Because highway funds under the statute are available on a first come, first serve basis, some of the States with a large number of high-cost highway projects ready to go in fiscal year 1980 obligated a large amount of the $7.6 billion available after that deferral by the President.

Some States would not, under those circumstances, have sufficient obligational authority to do the highway construction program which they had anticipated at the beginning of the year since the original $8.8 billion obligation ceiling would not have provided the sufficient authority to each State to undertake its minimum highway program. To avoid that problem in fiscal year 1981—and it was a very difficult problem for quite a number of the smaller States—the amendment which I am offering today allocates the obligational authority among the States. Rather than allowing the first come, first served basis, it works under the provisions of the law as the allocation formula would have been put out there if all of the money had been available.

Now, that is going to provide a more equitable distribution of highway funds among the States. It is going to give more certainty to States for funding highway projects and it is going to be particularly useful to some of the smaller States.

In short, the amendment sets an obligation ceiling of $8.45 billion and provides that the funds be allocated to the States in the ratio which each State would have received if all funds apportioned were available. The allocation of funds under this provision applies only to those categories of highway assistance for which funds are apportioned in accordance with the provisions of chapter 1 of title 23, United States Code. This provision does not apply to highway funds distributed pursuant to law at the discretion of the Secretary of Transportation.

The amendment further provides that 80 percent of these funds shall be available for obligation during the first 10 months of the fiscal year with the exception that collectively the States cannot obligate more than one-fourth of the total available obligational authority in each of the first two calendar quarters of the fiscal year. Twenty percent of the money is then going to be set aside to be used at the discretion of the Secretary to prevent lapsing of highway funds and to provide a means of redistributing any other unobligated balances from the pool of 80-percent money.

Adoption of this control mechanism is absolutely essential to provide a fair and equitable highway program in fiscal year 1981 and to achieve the desired balancing of the Federal budget under the budget resolution. I cannot overstate the need to control obligations if outlays are to be reduced.

I must also say that this distribution of highway obligation is only for fiscal year 1981. The reason for that is the most effective way, of course, of extending highway funds is on the first come, first served basis. With the kind of limitation that has been placed on us, it has really led to some inequities, particularly in the smaller States. States should be on notice that they need to be prepared to obligate on the first come, first served basis in fiscal year 1982.

Mr. President, I will move the adoption of the amendment adding title 2, but I defer now, prior to that, to my distinguished friend from the minority, the Senator from Vermont, for any comments he might have.

Mr. STAFFORD addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Vermont.

Mr. STAFFORD. Mr. President, I rise in support of the amendment offered to S. 2720, the Federal Public Transportation Act of 1980, by Senator BENTSEN, the manager of the amendment for the majority and acting in this case, as I do, for the Committee on Environment and Public Works.

The obligational limitation of $8.45 billion, which this amendment would establish for the Federal-aid highway program, is in keeping with the Congress effort to reduce Federal spending. It is important to note here that the Federal-aid highway program is unique in that it is funded by the Highway Trust Fund. The trust fund's revenues come from highway user fees, including a 4 cent/gallon Federal gas tax. While recognizing the unique funding source of this program, I believe it is important for the highway program to bear its portion of reductions being made in order to balance the budget. The obligation limitation of $8.45 billion represents a savings of over $600 million in fiscal 1981.

The President's deferral of $1.15 billion in Federal-aid highway funds during fiscal 1980 and the subsequent allocation of the remaining funds demonstrated the difficulty in dividing limited resources among States with increasing highway needs. The purpose of the formula contained in this provision is to provide each State with a definite amount of money in order that the necessary planning can be accomplished by the States throughout the year to maximize the benefit of the Federal funds available. At the same time there is adequate flexibility in the formula for the Department of Transportation to address any unique or unforeseen situations that may develop. This formula is intended to apply only during fiscal year 1981. During that time it is important that the Congress reexamine the structure of the highway program recognizing that at least in the near future there will not be sufficient Federal funds available to meet all of the growing highway needs.

Difficult decisions will have to be made by both the Federal Government and the States in determining priorities. A fundamental issue facing the Federal Government is that of defining where the

Federal interest lies now that the interstate system is nearing completion. In order to assist in that decisionmaking process, the General Accounting Office has been directed to look at several aspects of rural transportation. I believe States which are primarily rural, like my own State, may have some unique transportation problems. This study will provide valuable information about the kinds of transportation problems rural areas are experiencing, particularly with regard to the impact of increasing energy costs in areas with very few transportation alternatives.

Mr. President, I join with the distinguished Senator from Texas in urging the adoption of the amendment.

Mr. BENTSEN. Mr. President, we have the distinguished chairman of the full committee who has long played a leading role in the highway construction of this country. I would like to defer to him for any comment he may have at this time.

Mr. RANDOLPH. Mr. President, I appreciate the reference made to me by the Senator from Texas, the chairman of our Subcommittee on Transportation.

Mr. President, I support the amendment by the knowledgeable Senator from Texas (Mr. BENTSEN) to establish an obligation ceiling for fiscal year 1981 for the Federal-aid highway program and to provide an allocation formula for that obligational authority. The highway program faced many problems in fiscal year 1980 because of the sudden need in midyear to balance the budget in fiscal year 1981.

In order to achieve the reduction in outlays for this program desired by the President for fiscal year 1981, the obligation ceiling was reduced by $1.2 billion in April. With many States spending quickly from their obligational authority there was no equity in the program when the change to a lower obligation level occurred in midyear. This resulted in less obligational authority available to many States then they had reasonably expected. As a result many States have gone to court to try to protect their interests.

There have been a number of decisions feasible to the States which if applied to their fullest would seriously disrupt the Federal-aid highway program. H.R. 7542, the supplemental appropriations bill, provides a formula for the distribution and the remaining fiscal year 1980 obligational authority. This formula goes as far as possible in providing equity to the States for fiscal year 1980 given the budget crisis.

A more even and equitable distribution of funds for 1980 is sought by Senator BENTSEN in this amendment which will allocate the available obligational authority among the States in the same percentage each State would have received of the total apportionment if it were available for obligation. By providing this allocation the Federal Government provides certainty to the States so they can continue to plan and construct projects under the Federal-aid highway program.

Mr. President, I support this amendment and believe that it is important that the Senate provide for an allocation of highway funds to the States. I emphasize, however, that the committee does not expect that this will be a continuing process. I believe the majority of members of our committee would hope that following this current budget crunch the highway program return to its traditional method of distributing obligational authority—first come, first served.

Mr. BENTSEN. I thank the distinguished chairman. I would like to buttress the comments he has presented. We can see the problems coming down the road. We can see that by seeing cars and their gasoline mileage and the conservation efforts of the American public.

We can see the trust fund depleting, the amount of revenues going down. Yet the maintenance cost of the highways is continuing to increase. The highway trust fund is going to have to play a more major role than it has in the past on maintenance. Otherwise, the billions of dollars which have been invested in the best highway system in the world will go to waste.

I would anticipate that in the forthcoming year, as the highway trust fund reaches its expiration, we will see a renewal of it and a new tax that will probably take the form of ad valorem tax or a percentage added tax. Before some folks begin to worry about that, we will try to figure out how to adjust that to the nearest penny, so they will not have too many problems on that.

Unless there are further comments, I move the adoption of the amendment adding title II and ask unanimous consent that it be considered original text for the purpose of further amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1316

(Purpose: To authorize a program of road rehabilitation for roads impacted by energy transportation and of rail crossings separation)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. RANDOLPH, Mr. MCGOVERN, Mr. ZORINSKY, and Mr. HEINZ, proposes an unprinted amendment numbered 1316.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II add the following new title:

"EMERGENCY IMPACTED RAIL AND HIGHWAY TRANSPORTATION

"SEC. 201. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Energy impacted rail and highway transportation

"(a) The Secretary is authorized to make grants to reconstruct, resurface, restore, and rehabilitate nontoll public roads which are incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use. In the case of any road with respect to which Federal financial assistance is provided under this subsection, the geometric and construction standards established under section 109 of this title for the Federal-aid secondary system, except those standards which the Secretary determines are not appropriate, shall apply to the reconstruction, resurfacing, restoration, or rehabilitation of such road.

"(b) The Secretary is authorized to make grants for transportation projects which will alleviate the environmental, social, and economic impact of increased train traffic to meet national energy requirements in communities located along rail corridors incurring such increased traffic. Such projects may include, but are not limited to, low-cost systems management methods, grade crossing separation, and rail line and highway relocation. A project for elimination of a railroad crossing by relocation of a rail line may receive financial assistance under this section only if the Secretary determines that the cost of such project (1) is less than the cost of relocation of the highway, and (2) is less than the cost of grade separation between the highway and the railroad. In the case of any transportation project other than a low-cost systems management improvement financial assistance may only be provided under this subsection if the Secretary is satisfied that low-cost systems management improvement were considered before consideration of such project and other more costly improvements.

"(c) The Federal share of the cost of any project under this section shall be 80 per centum.

"(d) The provisions of this chapter, other than those provisions which the Secretary determines are inconsistent with the section, shall apply to projects under this section.

"(e) Taking into account both railroad and highway needs, the Secretary shall establish, by regulation, a formula for apportionment of funds authorized to be appropriated under this section among the States. No State shall, in any fiscal year, receive less than one-half of 1 per centium or more than 12 per centum of the total apportionment made under this subsection for such fiscal year.

"(f) There are authorized to be appropriated, out of amounts attributable to revenue from the tax imposed by section 4996 of the Internal Revenue Code of 1954, as amended, to carry out this section not to exceed $250,000,000 for the fiscal year ending September 30, 1981, $300,000,000 for the fiscal year ending September 30, 1982, $350,000,000 for the fiscal year ending September 30, 1983, $400,000,000 for the fiscal year ending September 30, 1984, and $450,000,000 for the fiscal year ending September 30, 1985.".

"(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof:

157. Energy impacted rail and highway transportation.".

Mr. HUDDLESTON. Mr. President, the amendment we have before us would provide, from the proceeds of the windfall profit tax, $250 million in 1981, with subsequent $50 million increases per year until 1985 when there would be $450 million available for the purpose of alleviating problems arising because of the transportation of heavy and bulk energy materials—such as coal. The inadequacy of those portions of the country's transportation system which must carry domestic energy supplies from point of production to point of use is well established. The need for a program such as called for in the amendment is clear.

Over the years study after study, report after report has indicated that one of the major stumbling blocks to the increased use of domestic energy supplies is the inability of our transportation system to move these supplies.

Just this month, the Federal Highway Administration published an updated version of its original report, "Highways Need To Solve Energy Problems," demonstrating the national significance of the improvements needed on the country's energy-impacted highways. This updated report again highlights the necessity of action. In it, an estimate of some $20 billion in repairs on approximately 34,000 miles of highways is documented.

Though the amounts of funding called for in the amendment are by no means sufficient to address all the needs for improvements in the system, it is a long-overdue step forward. We cannot afford to wait any longer to begin. The program called for in the amendment will allow us to do so.

I should point out that the amendment is similar to language approved by the House Public Works Committee in that committee's action on its version of the mass transit bill. Also, it should be noted that in 1978 the full House approved a similar program, though the funding then would have come from the highway trust fund and not from the windfall profit tax as we have called for in the amendment now being considered.

In that regard, I believe there can be no doubt that the windfall profit tax revenues were intended to be used for just the kind of energy investment as is represented by this attempt to preserve a sound, safe energy transportation system.

In addition to the repair and restoration of energy impacted highways, it should be noted that the amendment directs that attention be given to reducing or eliminating adverse impacts in communities along rail corridors transporting energy materials.

As the House committee report regarding this matter points out, "Coal train impacts are not limited to a specific geographic area but can be expected to occur along any coal haul route." Midwestern and Western States have particular problems with long unit trains passing through areas and causing vehicular delay, particularly the delay of emergency vehicles; neighborhood isolation from central community facilities and danger to pedestrian traffic.

Though it is indeed of overriding national importance that we assure an adequate transportation system for our energy supplies, it is at least equally important that this system be improved for the health and welfare of the citizens inhabiting energy-producing regions and other areas where there is heavy energy supply traffic.

It is the men, women, and children of these communities who must employ energy-impacted highways as their lifeline to the rest of the world. It is the energy-impacted system that carries other industrial goods to and from these regions. It is this rapidly deteriorating system that must carry the youth of these regions to and from their schools. It is the citizenry that faces potential disaster every time a lengthy unit train slices through a community cutting off fire, medical, and other vital services and transportation for undetermined lengths of time.

So, Mr. President, we have before us an amendment which will begin to address a problem of national significance—the inadequacy of our energy transportation system. We can, by the adoption of the amendment, start work on the necessary repair of our energy-impacted highways and rail grade crossings.

We would be able to stave off the bottlenecks in coal deliveries to the Nation's energy consumers at just the time we may be turning the corner toward less reliance on foreign energy supplies. Without this action there is great danger we will be accused of overlooking difficulties which could stand in the way of the implementation of the oil backout bill just approved by this body.

I, therefore, urge my colleagues to join me in supporting the amendment.

Mr. President, in summary, this amendment addresses a problem we have been confronted with for a period of time. A great deal of study and effort has been put into finding the solution. That is the problem of the condition of the energy-impacted road system in this country. One thing that we all know is that if we are to solve our energy problems in this country, our energy resources have to be moved from the point at which they are mined, in the case of coal, to the point at which they are to be used.

Even with the usage of coal at the present time, which is far below what we anticipate it will be, these highways are undergoing a tremendous strain to the extent that the ability to move and to utilize this resource of coal is being jeopardized. We have approached this problem in a number of ways over the years. We attempted at one time to establish within the highway trust fund a separate fund that would provide Federal assistance for this problem. That has not been successful.

A number of hearings have been held by the Public Works Committee under the chairmanship of the distinguished chairman from West Virginia (Mr. RANDOLPH). There have been studies made by the Department of Transportation. All have indicated the great need for this kind of assistance.

What our amendment is doing today, which I have offered on behalf of myself, Senator RANDOLPH, and others, is to provide for Federal assistance outside of the highway trust fund, from the proceeds of the windfall profit tax.

This would provide a modest program beginning with $250 million in 1981, with increases of $50 million per year up through 1985.

This is the exact proposition which has been offered and approved in the House of Representatives. I believe it will be a tremendous step in providing the assistance that is absolutely needed at this time in order to assure that we will have a transportation system that meets the needs of the country.

In addition to dealing with the roads and highways that are impacted by the movement of energy materials, it also deals with the critical area of rail crossings which exist throughout the country, and which also need attention because of this same specific problem.

Mr. President, I yield to my colleague, the Senator from Kentucky (Mr. FORD).

Mr. FORD. Mr. President, I am pleased to join in sponsoring this amendment which addresses a critical and intolerable situation which exists in my State and others that have a vital role to play in helping this nation meet its present and future energy needs.

The problem which this amendment seeks to resolve exists as a result of unprecedented demands on the energy transportation networks of States such as Kentucky, demands that will only become greater in the next decade.

The deteriorating condition of the energy transportation systems, particularly the coal-haul roads, is a matter of utmost concern to State and local officials, who must daily examine the dimension and severity of this problem and who feel that the Federal Government has a responsibility to help find a resolution. All the highway systems in Kentucky—Federal, State and local—have suffered extensive damage because we have a product, coal, that has seen production rates more than double in the last 15 years.

Kentucky has the coal, and the Nation needs it. But, quite frankly, the roads have not been adequate to sustain the burden of this upsurge in production, and inordinate problems have been created for the residents and communities of Kentucky's 60 coal-producing counties, or one-half of the counties in our State stretching from western to the eastern borders.

This situation confronted me while Governor in 1974, and I brought my case to Washington. I found the Federal Highway Administration sympathetic to our plight and receptive to the idea of a study by the Kentucky Department of Transportation detailing the scope of the problem. That study is now complete, and it resulted in a 10-year highway construction and maintenance program to accommodate the transportation needs of both the coal industry and the people of the Commonwealth in the coal-producing regions. It provided for upgrading coal-haul roads and for a maintenance program, but even a minimum cost estimate was substantial.

The demands on coal production are going to increase, not decrease. The Nation will continue to turn more and more to coal as a major source of energy. As this happens, the road systems of coal-producing States will continue to realize new and additional burdens. And the Federal Government must join with the States in assuming the responsibility of an entire nation.

For those who may think this is a problem that does not concern them, I point out that, this very day, Kentucky coal is providing electrical power in 22 of the 50 States. Right here in Washington, D.C., Pepco consumes coal extracted from Kentucky's mines and transported over Kentucky's highways. So, Mr. President, this is a national problem. But paradoxically, the needs are local ones, needs created by production and transportation requirements.

Significantly more coal is being moved over Kentucky's highways than a decade ago. Alternative methods of transport such as railroad lines have been found to be too inflexible—and sometimes too expensive—to match the increase in production in Kentucky's mines. This coal is traveling, then, over roads that, more than likely, were never intended for the weight of a coal truck—not to mention an abundance of coal trucks.

Today there are approximately 6,000 coal trucks operating in Kentucky alone, traversing some 5,000 miles of our roadways. Most of this is along steep grades or near streams, or along unstable slopes. Some of these roads were marginally deficient to begin with. You can imagine their state now. And every year the number of miles deteriorating grows and grows, while construction and maintenance costs do the same.

The amendment now before the Senate offers a reasonable approach that can substantially help States address the problems of maintaining a safe and effective energy transportation network. The fact that we are at last in a position to take the first step toward resolving this problem is a tribute to the perseverance and ability of my senior colleague, Senator HUDDLESTON, who has been working for passage of this legislation since before I was elected to the Senate.

I commend him for his diligence and urge my colleagues to join in supporting this amendment.

Mr. ZORINSKY. Mr. President, I am pleased to join my distinguished colleagues, Senators RANDOLPH and HUDDLESTON, in offering this amendment to S. 2720, the Federal Public Transportation Act of 1980.

One of the unfortunate byproducts of our Nation's drive for energy independence and the concurrent reinterest in coal has been the enormous increase in the amount of rail traffic transecting the countryside. In the past 3 years, I have consistently sought to bring to the attention of my colleagues the severe problems this large increase in rail traffic is causing for many Western and Plains State communities.

Scores of communities, large and small, are literally cut in half 50, 60, or 100 times a day, as 100-car unit trains haul coal from the western deposits to eastern markets. The impact on affected communities is severe.

Lives are endangered. First, the higher traffic volumes have increased the risk of collision at rail and highway intersections. And second, emergency vehicles are often delayed because of inadequate grade separations. Often police or firefighting equipment cannot reach the scene of an emergency in time, or an ambulance loses life-saving minutes waiting at a rail crossing for a 100-car coal train to pass.

Community development is stunted. Whole neighborhoods are isolated from community facilities, such as schools, libraries, or hospitals. The old phrase "from the wrong side of the tracks" becomes not just an expression of social disdain, but one which signifies that a person's livelihood and life are threatened by the location of his home on the other side of the railroad—the side without the school, without the company he works for, and without the fire station.

The costs of alleviating the problems associated with rail/highway intersections are high and most communities find them prohibitive. In a recent study, the Nebraska Department of Roads estimated that the installation of flashing lights would cost $40,000; of lights and gates an average of $105,000; and the cost of viaducts would average $2.5 million. Clearly few rural communities could afford to undertake such a project on their own. Similarly, most States do not have sufficient resources to wholly fund a program to eliminate grade crossing hazards.

There are more than 1,000 rail and highway intersections along Nebraska's two main railroads. At 240 of these intersections the present protection is inadequate. The costs of correcting these hazards is more than $207 million.

Earlier this year, I joined Senator HUDDLESTON and Senator RANDOLPH in introducing S. 2353, a bill which addressed both the energy-impacted highway and rail crossing problems. The language we propose today, as an amendment to the mass transit bill, is a scaled-down version of our original bill. Moreover, the language in our amendment parallels that proposed in the House bill—$250 million would be authorized in fiscal year 1981 for both energy-impacted highway and rail crossing projects. That amount would increase by $50 million each of the next fiscal years until 1985, when a total of $450 million would be authorized. The funds would be made available from the receipts of the windfall profit tax.

While the language does not specify any particular division between the highway and rail projects, it is my hope that the apportionment formula designed by the Secretary will result in sufficient funds to alleviate the impact of increased energy related traffic on communities located along rail corridors. The formula should reflect both need—through the measurement of traffic—and the cost of eliminating the hazards.

Mr. President, I understand that this amendment will be accepted by the managers of the bill, and I thank them, as well as my colleagues, Senator HUDDLESTON, Senator RANDOLPH, and Senator BENTSEN, for their efforts and their cooperation.

Mr. HUDDLESTON. Mr. President, I yield to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I do cosponsor this amendment offered by my distinguished colleague from Kentucky and I do so because I feel that it is necessary to move in the direction that, very frankly, we have tried to move on one or two prior occasions. We are thinking about an energy-impacted road rehabilitation program. We do know that in the past, in formulating a national energy policy, we have tended to neglect the crucial question of how our energy resources are to be transported from areas of production to areas of consumption.

We all recognize that we live in a time when our patterns of energy use are changing. Our transportation programs must keep pace with these changing patterns.

This problem has been studied ad nauseam. Section 153 of the Federal-aid Highway Act of 1976 required the Secretary of Transportation to report to the Congress by May of 1977 on the need for special Federal assistance for construction or reconstruction of on-system highways necessary to promote the solution of the Nation's energy problems. This long-delayed report, entitled "Highway Needs to Solve Energy Problems," arrived the week the 1978 Highway Act was considered on the Senate floor.

Yet another Department of Transportation study was released earlier this month. This study, entitled "Coal Haul Roads Study" concluded that, and I quote:

> Immediate consideration be given to the establishment of a coal roads and highways program to assure that near-term highway transportation problems will not seriously hamper coal production.

While the Congress has awaited these studies, the road and highway network in those areas of this Nation where energy resources are produced or extracted has continued to deteriorate. The increased volume of energy-related traffic on roads not designed for such traffic together with often lax enforcement of State vehicle weight limitation laws are responsible for this deterioration. The time for action is now.

The magnitude of need in this area is staggering. The effort to meet the projected increase in energy production, primarily in coal as called for in the President's energy plan, will place unprecedented demands upon our highway system. For example, my own State of West Virginia, with its vast coal reserves, has the energy-producing potential of 246 billion barrels of oil.

The amendment we offer today is specifically designed to address these problems of roadway construction and reconstruction and rail-crossing blockage. While it is true that we must protect the massive Federal investment in our Nation's roads and highways this notion applies with even greater force when those roads and highways are vital links in meeting our national energy needs. Our delay on this issue can only result in the creation of serious bottlenecks in energy deliveries to the Nation's consumers.

Our amendment empowers the Secretary of Transportation to make grants to rehabilitate roads which are incurring a substantial use for ongoing energy resource development which will result in a substantial amount of energy being transported to consumers outside the area, provided that without assistance under this program immediate or long range deterioration in the areas primary and secondary system roads would result. Eligibility for assistance would be restricted to projects located on these Federal-aid systems, and assistance would be provided for 80 percent of project cost.

Finally, the amendment authorizes $250 million for fiscal years 1981, $300 million for fiscal year 1982, $350 million for fiscal year 1983, $400 million for fiscal year 1984, and $450 million for fiscal year 1985. At a time when the revenues available to the highway trust fund are limited, we must carefully examine the need for a new program. For this reason funds for this program are to come from the windfall profit tax. This is compatible with that act since domestic energy production will foster energy independence.

I submit to you that the need for this new program has been firmly established. One of the most recent Department of Transportation studies, "Highway Needs to Solve Energy Problems," cites a $4.1 billion backlog in energy related highway needs. This figure is exclusive of the normally accruing needs through 1985, the period of the greatest projected increase in coal production. The study recommends that in the short term these needs be addressed by the Federal-aid highway program especially for those roads on the primary and secondary system.

It is clear then, that the need for this program is as thoroughly documented and well established as is the need for the significant increase in funding provided for the special bridge program of the 1978 Surface Transportation Act. While I have supported the effort to restrict highway spending to responsible levels, this program is so important to the Nation and its citizens as to justify significant new or increased expenditure.

In conclusion, let us not forget the people of these energy producing regions. It is the men, women, and children who inhabit these regions, along with the Nation's energy consumers, who are the ultimate beneficiaries of this program. These energy impacted roads are their lifeline to the rest of the world. These roads carry other industrial goods to and from these regions. And these roads, now in a tragic state of disrepair carry the youth of these regions to and from their schools.

I shall also expand on the general and rehabilitation problem with the Senator from Texas on his feet. Not only in connection with coal roads, as the Senator spoke about the problems now of roads under the impact of this amendment but I shall say, for 20 years, the Interstate System, for example, where the States were to do the reconstruction job, they are running into the fact that they do not have the money with which to do that. The Federal funds had been used for construction but not for rehabilitation. This is a big problem for us. The Senator from Texas will face it, particularly, as subcommittee chairman, as we all join with him to solve it and consider the future of the highway program.

The products of the mine, the factory and the farm must be moved. We cannot have a breakdown in our transportation system—particularly highways.

I turn aside for just a moment to say, as the Senators from Kentucky well know, that our coal unit trains, from the standpoint of moving over our rails, used to move at 30 or 40 miles an hour. Now, because of the poor condition of the rail beds, they move at 12 to 14 miles an hour. In doing that, we have troubles and over the side of a steep mountain will go 20 coal hoppers, into a stream, perhaps, below. The backup of passenger trains somehow means that as they are dispatched at Cumberland, Md., for instance, and come by bus into Washington, D.C., arriving 12 hours late.

I only say this to emphasize that the movement of products and people is very important to this country. I am very, very hopeful that we shall have unanimity in reference to the pending amendment.

Mr. BENTSEN. Mr. President, I wish to comment on the work that has been done by Senator HUDDLESTON and Senator FORD from Kentucky and the chairman of the committee (Mr. RANDOLPH) and their deep concern in trying to repair some of the infrastructure of this country in order that we can utilize coal.

I happen to come from a State in which oil is the major source of energy, but I have long been in support of the utilization of coal because it can go a long way in trying to develop energy independence in this country, and that is important for all of us.

I am certainly not objecting to this amendment, Mr. President. We have discussed, from time to time, various approaches to it. I frankly prefer this approach. I am delighted that the railroads have been included in it.

We have the problem where we are converting to coal in our State for some of our utilities and we are subjected to that 12-miles-an-hour in moving coal. Mr. President, I even read of a track being so bad that, in one instance, the railroad cars turned over while the train was standing still. So it is obvious that if we are going to increase productivity in this country, if we are going to do something about selling coal to help us on our balance of trade, we are going to have to do more than just the roads and the railroads. We are also going to have to do something about the dock facilities of this country that are so out of date.

For the railroads to say that they are not going to invest in those things unless they have 30-year contracts—that is the kind of thinking that got the railroads in the trouble they are in now.

Mr. President, I hope very much that they shall come up with the investment and the capital that is required. I personally shall support, and help, in any way, legislation to try to accomplish that, because if they do not do it, somebody else is going to do it and they are the logical ones to carry out the task.

Mr. President, I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont has examined the amendment offered by the Senator from Kentucky (Mr. HUDDLESTON). I have these comments:

Mr. President, there is a great need in this country with regard to the rehabilitation and maintenance of our highway system. In several months, the Department of Transportation will be issuing a report on the status of highway needs and I understand the projected maintenance requirements of the Federal-aid highway system may well be much greater than originally anticipated.

The Senator from Kentucky (Mr. HUDDLESTON) has offered an amendment which would address the needs regarding the rehabilitation of energy impacted roads. I agree with the distinguished Senator that this problem must be addressed and these roads must be fixed. I am not convinced, however, that the Federal Government should provide 80 percent of the funds to rehabilitate these roads, or that the money should be taken out of general revenues.

The Department of Transportation recently completed a study entitled, "Coal Haul Roads Study," which undertook to identify and classify coalroad systems and to determine what the cost of rehabilitation and reconstruction of these roads would be. According to this study, the estimated cost to repair these roads ranges from $3.9 billion to $20.4 billion, depending on the number of roads rehabilitated and the standard to which they are rehabilitated.

Energy is indeed a national concern and a national priority. However, I believe that the users of these roads, the coal, the oil and the uranium companies, who are responsible for the accelerated deterioration of these roads, should bear at least a portion of the cost of repair through some mechanism such as a severance tax, for example.

The Senator from Vermont is aware that there are some very substantial severance taxes imposed in some of the western States insofar as the mining of coal is concerned.

Mr. President, the Committee on Environment and Public Works will begin consideration of highway legislation later this year. I believe that would be an appropriate time to consider this issue and examine a variety of funding methods to address the problem of energy impacted roads.

Mr. President, in view of the urgency of the situation and the high priority for national energy supply, the Senator from Vermont is not going to oppose the amendment offered by the Senator from Kentucky.

Mr. BENTSEN. Mr. President, I have no objection to the amendment. I suggest that it be given consideration.

The PRESIDING OFFICER (Mr. LEVIN). The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1316) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1317

Mr. MATHIAS. Mr. President, I have an unprinted amendment at the desk. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. Mathias) proposes an unprinted amendment numbered 1317.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

MARYLAND TRANSPORTATION AUTHORITY

Sec. . (a) The Act entitled "An Act authorizing the State of Maryland, by and through its State Roads Commission or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State", approved April 7, 1938, and the Act of June 16, 1948 (62 Stat. 463, Public Law 654, 80th Congress), as amended by the Act of November 17, 1967 (81 Stat. 466, Public Law 144, 90th Congress) are hereby repealed.

(b) The State of Maryland, by and through the Maryland Transportation Authority or the successors of said Authority, is authorized to construct, maintain, operate, and finance transportation facilities projects, as defined in the laws of the State of Maryland, in accordance with the laws of the State of Maryland, subject, with respect to any future bridge, to the provisions of subsection (b) of section 502 of the Act of August 2, 1946 (33 U.S.C. 525).

Mr. MATHIAS. Mr. President, I have a modification of the amendment which I send to the desk.

Mr. President, the modification of the amendment merely specifies the point of the bill at the end of title II at which the amendment would be inserted.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment as modified is as follows:

At the end of title II, insert the following:

MARYLAND TRANSPORTATION AUTHORITY

Sec. . (a) The Act entitled "An Act authorizing the State of Maryland, by and through its State Roads Commission or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State", approved April 7, 1938, and the Act of June 16, 1948 (62 Stat. 463, Public Law 654, 80th Congress), as amended by the Act of November 17, 1967 (81 Stat. 466, Public Law 144, 90th Congress) are hereby repealed.

(b) The State of Maryland, by and through the Maryland Transportation Authority or the successors of said Authority, is authorized to construct, maintain, operate, and finance transportation facilities projects, as defined in the laws of the State of Maryland, in accordance with the laws of the State of Maryland, subject, with respect to any future bridge, to the provisions of subsection (b) of section 502 of the Act of August 2, 1946 (33 U.S.C. 525).

Mr. BENTSEN. Mr. President, I have no objection to the amendment.

Mr. STAFFORD. Mr. President, for the minority, we have examined the amendment and we are prepared to accept it.

Mr. MATHIAS. Mr. President, I am grateful to the distinguished managers of the bill.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1317), as modified, was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, this amendment, which I believe is acceptable to managers of the bill, would permit the State of Maryland to use revenues from existing transportation facilities to guarantee bonds for a new Interstate 95 tunnel under Baltimore Harbor, to be known as the Fort McHenry Tunnel.

My amendment will in no way change the requirements of section 129 of the United States Code which deals with Federal aid highway projects. Thus, when the Fort McHenry Tunnel is completed, opened to traffic, and the local share of its construction costs have been recovered through toll revenues, the facility will be operated and maintained as a toll-free tunnel.

In order to market revenue bonds for the local share of the I-95 Fort McHenry Tunnel, prudent investors will look for additional security in those bonds in the form of revenues from other Maryland toll facilities. Without the additional security of other State revenues, the interest rate which the Maryland Transportation Authority would have to pay on those bonds would be significantly higher.

The authority which my amendment conveys is not unique to the State of Maryland. Other transportation authorities already possess similar broad powers, some under interstate compacts that have received congressional approval. Examples include the Port Authority of New York and New Jersey, the Delaware River Port Authority, and the Delaware River and Bay Authority.

However, this amendment is crucial to the financing and construction of the I-95 Fort McHenry Tunnel, which is one of the last remaining links of the Northeast corridor Interstate Highway System between Washington and Boston. I am sure many of my colleagues who travel north from Washington on I-95 are all too familiar with the frustrating traffic bottlenecks which regularly occur at the present Baltimore Harbor Tunnel. The Fort McHenry Tunnel will relieve all of that congestion and provide a modern throughway, built to interstate standards, for the enormous volume of passenger and goods traffic which pass through Baltimore daily.

Mr. President, I am confident my colleagues see the importance of this amendment to the State of Maryland so that it might assume responsibility for the financing and maintenance of this essential project, on which construction has just recently begun.

Mr. THURMOND. Mr. President, I am pleased to speak in support of the inclusion of U.S. Highway 52 between Kingstree, S.C. and Moncks Corner, S.C. as a section of the Federal highway priority primary program.

The basic purpose of the U.S. Highway 52 expansion project is to reroute and/or widen the designated section. The section involved spans some 38.5 miles, and currently consists of a two-lane road with many dangerous curves.

Mr. President, this is the only portion of U.S. 52 between Florence and Charleston which has not been widened for four lanes of traffic. The real necessity for the inclusion of this 38.5-mile section in the priority primary program can be clearly demonstrated by the data provided by the South Carolina Highway Department. This data shows that the statewide accident rate was 1.5 accidents per mile, while the 38.5 section we are discussing today had some 4.6 accidents per mile.

Mr. President, this area spanned by U.S. 52 is one of the fastest growing areas of South Carolina, and as such, it is vitally important that an adequate transportation corridor be established and maintained.

Mr. President, I fully support the inclusion of this section of U.S. Highway 52 in the priority primary program, and ask that my colleagues support this legislation.

Mr. President, I ask unanimous consent that several letters of support be printed at this point in the Record.

Mr. President, I make note for the record that my colleague from South Carolina, Senator Hollings, is also supportive of this request and associates himself with these remarks.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Columbia, S.C., *December 28, 1979.*

U.S. Department of Transportation,
Washington, D.C.

To Whom It May Concern: We, the undersigned members of the Eleventh Senatorial District comprising Florence, Marion, Williamsburg and Horry Counties, do hereby notify you of our support for improvements and widening of Highway No. 52 from Kingstree, South Carolina, to Moncks Corner, South Carolina. We have followed very closely the expressed interest of various citizens throughout this area of South Carolina in this much needed project and enthusiastically support such applications as may be made for funds in this regard.

Highway No. 52 from Kingstree to Moncks Corner is an important traffic artery and badly in need of improvement; it represents access through a very important area of South Carolina but unfortunately an area which has not benefited from the economic development occurring in other areas of our State. This particular improvement will result in the creation of jobs, will save the consumption of energy and will generally benefit the traveling public.

It is our sincere wish that funds might be available for the beginning of this project in the very near future.

With kind regards, we are

Very truly yours,

Senator Thomas E. Smith, Jr.
Senator John H. Waller, Jr.
Senator Ralph H. Ellis.
Senator Frank H. McGill.

State Highways and Public Transportation Commission of South Carolina,
Columbia, S.C., January 4, 1980.

U.S. Department of Transportation,
Washington, D.C.

Dear Sirs: In reference to the section of highway No. 52 located between Kingstree and Moncks Corner, South Carolina is certainly deserving your consideration. There are many reasons why the existing highway should be widened. I will offer the following comments to support that concept, because I strongly feel that U.S. Highway 52 ("needs") upgraded.

1. There is an increase in vehicular traffic.
2. There are two major power plants now under construction.
3. There are Twenty Five Miles of railway roadbed.
4. Truck traffic has also increased by at least four-fold.
5. It would possibly help to bring the needed business and industries to our community.
6. Driving conditions on a narrow two lane highway is very hazardous.
7. The Cooper River Rediversion Project in process.
8. We also have a great amount of through traffic on Highway 52 to Charleston, South Carolina.

We feel there is a most definite need to complete highway 52 state four-lanes from Kingstree to Moncks Corner, South Carolina.

Sincerely yours,

DeWitt Williams,
Commissioner.

State Highways and Public Transportation Commission of South Carolina,
Columbia, S.C., January 2, 1980.

Re U.S. Highway 52 Kingstree, S.C.-Moncks Corner, S.C.

U.S. Department of Transportation,
Washington, D.C.

Gentlemen: The portion of U.S. Highway 52 between Kingstree, South Carolina and Moncks Corner, South Carolina is in dire need of improvement and possible relocation. This highway is the major traffic artery between the Greater Pee Dee area of South Carolina and the coastal port city of Charleston, South Carolina. It is my considered opinion that improvements to this roadway would be of significant economic benefit to this entire section of the State of South Carolina and more particularly the economic depressed areas of lower Florence County, Williamsburg County and upper Berkeley County. Further, the proposed improvement would eliminate many hazardous conditions that now exist on the present roadway and would have significant impact upon motor fuel conservation in that many of our citizens now travel alternate routes between the upper Pee Dee regions and Charleston, South Carolina.

I would respectfully urge your most serious consideration of the proposal to improve this United States highway.

Yours very truly,

David W. Keller, Jr.

Kingstree, S.C., *January 7, 1980.*

U.S. Department of Transportation,
Washington, D.C.

Dear Sir: For several years now, citizens and officials of Williamsburg County have been attempting to persuade State and Federal officials to consider the relocation and widening of U.S. Highway No. 52 from Kingstree, South Carolina to Moncks Corner, South Carolina. We are fully aware that such a project would be a major undertaking, but the end result would have tremendous impact on the overall economic growth and development of Williamsburg County as well as neighboring counties.

There are many, many factors which should be evaluated regarding the economic impact of the new location for Highway No. 52 in Williamsburg County. These are just a few:

1. Approximately twelve (12) miles of undevelopment area could be eliminated.
2. Better facilitation of transportation.
3. Major savings in energy.
4. Improved safety.
5. Create an ideal zone for development in housing, recreation, commercial, and industrial growth.
6. Create new job opportunities.

The Williamsburg County Development Board wholeheartedly supports such a project and offers its assistance in seeing the successful completion of this most important plan. If we can be of any assistance in the future, please let us know. Your personal attention to this matter will be greatly appreciated.

Yours truly,

Jerry B. Patterson,
Executive Director,
Williamsburg County Development Board.

Kingstree, S.C., *January 2, 1980.*

Department of Transportation,
United States of America,
Washington, D.C.

Dear Sir: In my official capacity as Mayor of the Town of Kingstree, which is the county seat of Williamsburg County, I would very much like to express my support regarding the relocation and widening of U.S. Highway 52 over its course between Kingstree and Moncks Corner.

I am in total agreement with the delegation of local officials who met with you on December 12, 1979, in an exploratory effort to seek funding for this proposal. This project would greatly enhance the position to attract industry into this area of economic depression. As a physician, I can certainly verify the hazards facing ambulances and other emergency vehicles carrying out their duties of transportation to the Charleston Medical Center.

I will assure you that the Town of Kingstree will cooperate in every manner with the development of this project. I would be more than happy to meet with you in Washington at a mutually convenient time to further discuss the project.

Sincerely,

Homer F. Gamble, M.D.,
Mayor.

House of Representatives,
State of South Carolina,
Columbia, S.C., January 4, 1980.

U.S. Department of Transportation,
Washington, D.C.

Dear Sirs: As we enter the decade of the 80's, we as a County, State, and Nation face many problems. One of the most serious being a shortage of gasoline.

With the improvement and widening of U.S. Highway No. 52 from Kingstree to Moncks Corner, South Carolina we will be able to save fuel and decrease travel distances; thus attacking one of the major problems facing us in the 80's.

There are many other considerations; greater safety for our citizens, increased attraction for the creation of new business and industry to our economically depressed area, to mention a few.

Please feel certain that we wholeheartedly support this project and will do everything needed to see it completed.

Sincerely,

John J. Snow, Jr.

Moncks Corner, S.C., *January 3, 1980.*

Re Highway No. 52.

U.S. Department of Transportation,
Washington, D.C.

Dear Sir: The section of Highway No. 52 located between Kingstree and Moncks Corner is certainly deserving of consideration for widening and upgrading. This section is a hazard to safe driving.

The economic benefits from improving the traffic flow from the Pee Dee area of the state to the Charleston port should be beneficial to the economically bad situation along this road.

The improvement of this highway would also improve the tourist traffic which could also have some economic impact to this area.

The industrial growth in the St. Stephen area also creates a large flow of truck traffic which makes driving conditions on a narrow two lane highway very hazardous.

Sincerely,

Eugene F. Oliver,
Mayor.

Bonneau, S.C., *January 2, 1980.*

U.S. Department of Transportation,
Washington, D.C.

Dear Sirs: In regards to the proposed widening of the existing S.C. Hwy. 52 from Moncks Corner, S.C., to Kingstree, S.C., it is our sincere feeling that the existing Hwy. 52 should be widened on the existing road bed, instead of seeking new routes and properties to complete the much needed four lane highway.

There are many reasons to see the existing highway be widened. It would possibly help bring the much needed business and industry to our fair city. It would help alleviate serious traffic congestion at the existing Bonneau Beach Rd. and S.C. Hwy. 52. In the event of an emergency evacuation, it would be our main source.

Also as citizens of Berkeley County, widening the existing S.C. Hwy. 52 on its original road bed would be less expensive to the taxpayers of Berkeley County. The money used to purchase new land and build a new road bed could be used in such other needed areas of Berkeley County.

With sincere regards,

Edna Thompson,
Acting Mayor.

Berkeley County Council,
Berkeley, S.C., January 4, 1980.

U.S. Department of Transportation,
Washington, D.C.

Gentlemen: I am writing to advise of my endorsement of the widening of U.S. Highway 52 in its present location from Moncks Corner, South Carolina, to Kingstree, South Carolina.

This highway is a major transporting route to the port City of Charleston and the widening of this road would create better transportation facilities to assist in upgrading this economically distressed area within Berkeley County and the State of South Carolina. I believe that before additional industry will be willing to locate in upper Berkeley County better access to the port city of Charleston and points north of Florence will be necessary. Also, this route is constantly used by ambulances and other emergency vehicles in transporting patients to and from the numerous medical facilities in Charleston. Another obvious benefit to all who travel this highway is safety.

Consideration for priority funding of this much needed project would be greatly appreciated.

Yours very truly,
JULIUS BARNES,
Chairman,
Committee on Public Service.

ST. STEPHEN, S.C., *January 3, 1980.*
U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C.

GENTLEMEN: Reference is made to the extension of U.S. Route 52 from Moncks Corner to Kingstree, South Carolina.

We feel there is a most definite need to extend this corridor as soon as possible. U.S. Highway 52 is one of the main arteries in the state of South Carolina. It serves the S.C. Ports Authority, U.S. Naval Base, U.S. Air Force, and the Westvaco Paper Company just to mention a few. As far as the Pee Dee area of the state is concerned, it also is one of the main arteries to Charleston. Locally, U.S. Highway 52 serves Georgia Pacific Corporation, Albany Felt Company, Reliable Electric Company, Highland Clete and Veneer, and the St. Stephen Knitwear.

Due to the Cooper River Rediversion Project, we have experienced an influx of traffic in the St. Stephen area. If Highway 52 were widened to four lanes, this would eliminate most of the congestion which now exists. We also have a great amount of through traffic on Highway 52 to Charleston, which is heavy during certain times of the day. This also could be improved with the extension of U.S. Highway 52 from Moncks Corner to Kingstree.

In view of the greatly increased traffic on Highway 52, the probability of an increase in accidents is also increased. We feel the present status of Highway 52 is, in essence, a safety hazard in its present state.

With regard to Berkeley County, we must strongly recommend that U.S. Route 52 remain on its original road bed. This would not only mean less cost to the taxpayer, but would be less time consuming and time is of the essence with regards to this project. Another reason for following the original roadbed is that it would be less hazardous to the environment with regards to our natural wildlife habitat.

The need to complete the extension of U.S. Highway 52 from Moncks Corner to Kingstree is one of the most urgent needed Highway projects in the state of South Carolina.

We trust you will act favorably on our request and your prompt attention to this most urgent matter will be greatly appreciated by the citizens of our community.

Sincerely yours,
JAMES J. BARRY, Jr.,
Mayor.

AUTO USE MANAGEMENT/RIDESHARING

Mr. TSONGAS. Mr. President, I appreciate the opportunity to engage my colleague, the Senator from Texas in a colloquy on auto use management, which is the administration's legislative proposal for energy conservation in transportation.

The concept is short and simple: get as many people as possible away from single-occupant vehicular travel. This can be achieved by encouraging ridesharing through carpools/vanpools, walking, or mass transit or a host of other methods. I understand that Senator BENTSEN will hold hearings in late July on auto use management, and I applaud his years of work with highway programs.

Mr. BENTSEN. The Senator from Massachusetts has a good reputation on energy conservation initiatives and I am glad that interest includes highways and transportation. The Transportation Subcommittee will hold hearings on auto use management in July and will hear from Secretary Goldschmidt and others the need for a Federal financial commitment to highway transportation energy initiatives. I hope that this hearing will help us on our deliberations on the transit conference, as the House transit bill has a sizable commitment to transportation energy initiatives.

Mr. ROBERT C. BYRD. Mr. President, urban transportation consumes about one-fourth of total domestic energy consumption. Approximately 40 percent of the oil we use goes to fuel automobiles and trucks. Large energy savings can be achieved by inducing passengers out of their cars and into carpools, buses, subways, and other forms of urban mass transit. At peak periods, a transit bus is 15 times more fuel efficient than automobiles and a heavy rail subway car is 53 times more efficient. Transit ridership has increased dramatically over the last several years, demonstrated by over 500 million new transit trips taken in 1979. Every new bus and subway trip taken by an American passenger represents a strike for energy self-sufficiency and independence.

The last major mass transit authorization bill was passed in 1978, when Congress approved $15.6 billion for fiscal years 1978–83. This bill will increase the existing authorizations for the UMTA program and extend mass transit funding through fiscal year 1985. This measure reaffirms the Nation's commitment to and the increasing public acceptance of mass transportation and will maximize the role that mass transit can play in solving our energy conservation and urban development problems.

This Federal Public Transportation Act will set the proper course for the Federal mass transit program for this decade. Changes have been made to make the program more responsive to the transportation needs and priorities of the Nation. It will assure the development of a balanced program tailored to large and small communities alike. It will assure that our mobile style of life will be preserved as we move toward reduced reliance on expensive imported oil. In addition, improved public transportation is the best preparation for any future interruption in oil supplies.

This bill will authorize a total of $25.1 billion for fiscal year 1981–85. Among other things, it will improve the procurement process for the purchase of buses by allowing the Secretary of Transportation to purchase equipment directly. The measure provides funds for the modernization of existing fixed rail transit systems, such as the subways in Chicago and New York. Of particular interest to the people of West Virginia and other rural areas is a provision which will create a public transportation planning process for rural communities. This planning process will result in the development of individual State plans for nonurbanized public transportation—a critical need for rural residents who are otherwise dependent on automobiles and high-priced gasoline. Finally, the bill provides authorization for the Federal aid-to-highways program and funds to restore and rehabilitate public roads used for coal and other energy transportation.

The distinguished chairman of the Subcommittee on Housing and Urban Affairs (Mr. WILLIAMS) is to be commended for his hard work and leadership on this important legislation. The distinguished Senator from Utah (Mr. GARN), who serves as ranking member of that subcommittee, is also to be congratulated. In addition, the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Vermont (Mr. STAFFORD) and the distinguished chairman of the Committee on Environment and Public Works (Mr. RANDOLPH) are to be congratulated for their contributions to the Federal aid-to-highways program.

The programs funded by this legislation will aid significantly in reducing America's dangerous dependence on foreign oil. Urban mass transit will also make our cities more livable as we move into the next century. Public transportation is one of the keys to the future of our Nation. As we reclaim and revitalize America's transit systems, we also protect our environment, preserve our urban centers and break the grip of OPEC. This is important legislation which I urge my colleagues to support.

Mr. JAVITS. Mr. President, I would like to express my strong support for S. 2720, the Federal Public Transportation Act of 1980. I believe this bill represents a reaffirmation of our Nation's commitment to a strong public transportation program.

During this session of the Congress, the Senate has passed legislation designed to curtail our Nation's dependence on foreign oil. In the near term, however, the only way to reduce our dependence on foreign oil is by reducing gasoline consumption. As we are all aware, the automobile is the single largest consumer of gasoline. Therefore, we must be able to reduce our need for the automobile while Detroit works on a more fuel efficient automobile.

For the vast majority of Americans living in urban areas, mass transit can be a viable alternative to the family car. However, mass transit passengers must be guaranteed decent and reliable service. In our older cities, especially, potential passengers currently are being turned away from overcrowded buses and trains. Indeed, many disillusioned mass transit passengers are returning to the comforts of the automobile. In addition, many of our older urban areas are suffering from a deteriorating infrastructure. This problem also is having a direct effect on the quality of mass transit service in these areas.

Mr. President, the authors of S. 2720 have recognized these problems and have developed a balanced approach which recognizes the interest of urban areas seeking to build new transit systems and urban areas interested in the rehabilitation of existing mass transit systems. The committee should be commended for its efforts in this regard.

There also is embodied in this legislation a philosophy that I have long advocated—a mass transit funding formula based upon the level of transit service provided by a municipality. This bill would change the present mass transit funding formula from one based on population density to one that is based on vehicle revenue miles.

Under the current funding formula, my State receives only 15 percent of the funds allocated for mass transit operating assistance. Yet, New York has more than 30 percent of the Nation's subway infrastructure, 40 percent of the Nation's rapid transit track, and more than 30 percent of the Nation's mass transit riders. Moreover, during fiscal year 1980, only 9 percent of the cost of operating New York City's mass transit system will be covered by Federal dollars, compared with between 27 percent and 49 percent for other major urban areas. These statistics demonstrate the inequity of the current funding formula. I believe the proposed funding formula eliminates many of its inequities. Inherent in the new formula is an incentive to increase transit ridership.

This new formula also is considerably more simple. There will be only one, rather than four tiers for operating assistance. This change will be extremely advantageous also to smaller urban areas.

Mr. President, now more than ever before, there is a need for targeted Federal assistance. In a time of tight budgetary constraints, prudent decisionmaking requires such action. Currently, 49 cities are allocated funds under the population density formula but do not use the money because they do not have mass transit systems. This money is not spent, nor is it recycled to cities that need it. Mass transit funds should not be given to an area alone because people live there, it should be available because mass transit service is available or because the area is committed to its construction.

I believe this legislation is in our Nation's best interest and consistent with the Nation's desire to reduce energy consumption. I urge my colleagues to support this bill.

Mr. BENTSEN. Mr. President, I know of no further amendments to this title, and I believe we are prepared to go to third reading.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, I am speaking on both titles, not just one.

The PRESIDING OFFICER. On final passage?

Mr. BENTSEN. That is correct.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—79

Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—15

Armstrong
Bellmon
Byrd, Harry F., Jr.
Domenici
Heflin
Helms
Humphrey
Jepsen
Laxalt
Lugar
Proxmire
Roth
Simpson
Wallop
Warner

NOT VOTING—6

Bayh
Goldwater
Hatfield
Kennedy
Pressler
Stevenson

So the bill (S. 2720), as amended, was passed, as follows:

S. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "Federal Public Transportation Act of 1980".

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 102. Section 3(a)(1)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "and" the second place it appears and by inserting immediately before the semicolon at the end thereof a comma and the following: "and the acquisition of rights-of-way for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses".

ALLOCATION PLAN

SEC. 103. Section 3(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

"(5)(A) Prior to January 1, 1982, the Secretary shall submit a proposed final allocation plan to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such plan shall become final when the Congress agrees to a concurrent resolution stating in substance that the Congress favors the allocation plan. The final allocation plan shall be based on a thorough survey of the necessary costs of a program for modernizing, rehabilitating, or replacing rolling stock and fixed facilities to improve the reliability, safety, and attractiveness of rail mass transportation systems. The final allocation plan shall contain for each rail mass transportation system serving an urbanized area a calculation of the ratio that the cost of the modernization or rehabilitation program for such system bears to the total of the costs of the programs for all such systems as estimated by the survey. Such survey shall be revised and updated annually by the Secretary and submitted to the authorizing committees of Congress.

"(B) For each fiscal year beginning with fiscal year 1983, of the funds appropriated for the purpose of this section and made available by the Secretary for modernization and rehabilitation of rail facilities and equipment, not less than 75 per centum shall be distributed in accordance with the allocation plan.".

DIRECT PURCHASE AUTHORITY

SEC. 104. (a) Section 3(a) of the Urban Mass Transportation Act of 1964 is further amended by adding at the end thereof the following:

"(6)(A) The Secretary is authorized to purchase equipment for use in public transportation service with funds authorized under section 4(c)(3)(E) and with funds made available under this paragraph. Such funds shall remain available until expended. Purchases under this paragraph may be undertaken directly or through the use of a Federal purchasing authority. Such purchases shall be made based upon projections of the needs of States and local public bodies and will consider costs in addition to initial acquisition costs.

"(B) The Secretary is authorized to make grants of equipment to States and local public bodies. A grant under this paragraph must comply with statutory requirements which are applicable to grants under section 3, except as otherwise provided under this paragraph.

"(C) The State or local public body which receives equipment under this paragraph must provide at least 20 per centum of the net project cost in cash or in-kind contributions. Cash shall be returned to the Urban

Mass Transportation Fund and shall be available for the purposes of this paragraph when so provided in an appropriations Act.

"(D) In an urbanized area, the value of a grant for buses and related equipment made under this paragraph shall be subtracted from the allocation for purchase of bus capital equipment under section 5 of this Act.".

(b) Section 4(c) (3) of such Act is amended by adding at the end thereof the following:

"(E) In each fiscal year, not more than $150,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for the purposes of section 3(a) (6).".

LETTER OF INTENT

SEC. 105. Section 3(a) (4) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed issuance of such letter of intent.".

ADVANCE LAND LOANS

SEC. 106. Section 5 of the Urban Mass Transportation Act of 1964 is amended by—

(1) inserting "unless a longer period is determined to be reasonable by the Secretary" after "made" in the second sentence;

(2) inserting "unless a longer period is determined to be reasonable by the Secretary" after "is made" in the third sentence; and

(3) striking "of" and substituting "is made unless a longer period is determined to be reasonable by the Secretary" after "loan agreement" in the 6th sentence

AUTHORIZATIONS AND OTHER AMENDMENTS UNDER SECTION 4

SEC. 107. (a) The first sentence of section 4(c) (3) (A) of the Urban Mass Transportation Act of 1964 is amended by striking out "$1,515,000,000" and all that follows through "1983" before the period at the end thereof and inserting in lieu thereof the following: "$2,490,000,000 for the fiscal year ending September 30, 1981; $2,625,000,000 for the fiscal year ending September 30, 1982; $2,775,000,000 for the fiscal year ending September 30, 1983; $2,930,000,000 for the fiscal year ending September 30, 1984; and $3,090,000,000 for the fiscal year ending September 30, 1985.".

(b) Section 4(d) of such Act is amended by striking out "and September 30, 1982" and inserting in lieu thereof "September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985".

(c) The first sentence of section 4(e) of such Act is amended by inserting "and" before "110,000,000" and by striking out "; $120,000,000,000 for the year ending September 30, 1982".

(d) Effective October 1, 1981, section 4(f) of such Act is amended to read as follows::

"(f) (1) There are authorized to be appropriated for administrative costs, including salaries and expenses necessary to carry out the functions of this Act, such sums as may be necessary.

"(2) There are authorized to be appropriated to carry out the purposes of sections 6, 10, and 11(a) of this Act aggregate sums not to exceed $85,000,000 by September 30, 1982; $175,000,000 by September 30, 1983; $270,000,000 by September 30, 1984; and $370,000,000 by September 30, 1985. Sums appropriated under this paragraph shall remain available until expended.".

(e) Section 4(h) (2) of such Act is amended to read as follows:

"(2) Not later than February 1 of each even-numbered year, the Secretary shall report to the Congress the Secretary's proposed authorization requests for sections 3 and 5 of this Act for the next succeeding five fiscal years. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.".

(f) Section 4 of such Act is amended by adding at the end thereof the following:

"(j) Not more than $15,000,000 of the funds appropriated for any fiscal year pursuant to subsection (c) (3) (A) of this section may be used for the purposes of section 20 of this Act, including related administrative costs.".

AMENDMENTS TO SECTION 5 FORMULA GRANT PROGRAM

SEC. 108. (a) Section 5 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out paragraph (1) (B);

(2) in paragraph (2) (B), by striking out all after "1980", and inserting in lieu thereof a period;

(3) in paragraph (3) (B), by striking out all after "1980", and inserting in lieu thereof a period;

(4) in paragraph (4) (A) strike the second sentence and insert in lieu thereof the following sentence: "In fiscal year 1981, such sums shall be made available for expenditure in urbanized areas of over 200,000 population on the basis of a formula under which urbanized areas will be entitled to receive an amount equal to the amount so apportioned multiplied by the ratio which the number of bus revenue vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of bus revenue vehicle miles directly serving all urbanized areas; for urbanized areas under 200,000 in population the apportionments shall be made in accordance with the formula set out in subsection (a) (1) (A) of this section.";

(5) in paragraph (4) (B), by striking out all after "1980", and inserting in lieu thereof a period; and

(6) by adding at the end thereof the following:

"(5) To finance grants and loans for the purposes of this section, there are authorized to be appropriated not to exceed $1,665,000,000 for the fiscal year ending September 30, 1981. Funds appropriated under this subsection shall be distributed as follows:

"(A) 54 per centum for the purposes eligible and according to the formula provided in subsection (a) (1) of this section;

"(B) 15 per centum for the purposes eligible and according to the formula provided in subsection (a) (2) of this section;

"(C) 9 per centum for the purposes eligible and according to the formula provided in subsection (a) (3) of this section; and

"(D) 22 per centum for the purposes eligible and according to the formula provided in subsection (a) (4) of this section.

"(6) (A) To finance grants for construction and operating assistance under this section and under section 18 of this Act, there are authorized to be appropriated not to exceed $1,925,000,000 for the fiscal year ending September 30, 1982; not to exceed $2,055,000,000 for the fiscal year ending September 30, 1983; not to exceed $2,165,000,000 for the fiscal year ending September 30, 1984; and not to exceed $2,275,000,000 for the fiscal year ending September 30, 1985.

"(B) In each fiscal year, 86 per centum of the sums appropriated under this paragraph shall be apportioned to urbanized areas with populations of 200,000 or more. The amount available for each such area shall be an amount equal to the sum of—

"(i) 80 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the number of revenue rail and bus vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of revenue rail and bus vehicle miles directly serving all urbanized areas, except that no single eligible State's portion of an urbanized area which has revenue rail vehicle miles shall be given credit for more than 45 per centum of the total national revenue rail vehicle miles, and no urbanized area of over 750,000 population which has revenue rail vehicle miles shall be given credit for less than ½ per centum of the total national revenue rail vehicle miles.

"(ii) 20 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the number of revenue bus vehicle miles directly serving the urbanized area, as determined by the Secretary, bears to the total number of all revenue bus vehicle miles directly serving all urbanized areas, except that sums apportioned to each urbanized area under this clause shall be used by the recipient only for the purchase of buses and related equipment.

"(C) In each fiscal year, 9 per centum of the sums appropriated under this paragraph shall be apportioned to the governor for use in urbanized areas with populations of under 200,000. The amounts available for each state shall be based on the amount calculated as the greater of the amounts determined by applying the formula in subparagraph (B) to each such urbanized area in the State to the amount apportioned under this subparagraph, or by calculating for each such urbanized area in the State the sum of—

"(i) 50 per centum of the amount to be apportioned under this subparagraph multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census;

"(ii) 50 per centum of the amount to be apportioned under this subparagraph multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary: *Provided, however*, That not less than 20 percent of the sums apportioned to each state under this subparagraph shall be used only for the purchase of buses and related equipment. *And provided further*, That the apportionment shall be reduced if an urbanized area with population less than 200,000, where public transportation service is provided by a single state or local public body covering more than one urbanized area and one urbanized area is above 200,000 population, includes its revenue vehicle miles in such larger urbanized areas apportionment. As used in clause (ii) of this paragraph, the term 'density' means the number of inhabitants per square mile.

"(D) In each fiscal year, 5 per centum of the sums appropriated under this paragraph shall be apportioned and used pursuant to the provisions of section 18 of this Act.".

(b) Section 5(b) of such Act is amended by adding at the end thereof the following:

"(3) Beginning in fiscal year 1982, to the extent possible the Governor shall take into account service based factors, such as revenue vehicle miles, as a basis for distribution of funds available to the Governor under subsection (b) (2). The Governor may transfer up to 25 per centum of the State's apportionment under subsection (a) (6) (C) of this section to supplement the apportionment available to urbanized areas under subsection (a) (6) (B) of this section, or to supplement funds apportioned to the State under subsection (a) (6) (D) for the purposes of section 18 of this Act.".

(c) (1) in section 3(a) (1) (B) strike "apportionments under section 5(a) (4) of the Act" and insert in lieu thereof "apportionments under section 5 which are limited to the purchases of buses and related equipment".

(2) in section 3(h) strike "with funds available under section 5(a) (4)" and insert

in lieu thereof "with funds available under section 5 which are limited to the purchase of buses and related equipment.".

(3) Section 18 of such Act is amended by inserting "or section 5(a) (6) (D)" after "section 4(e)".

(d) Subsection (c) (3) of such section is amended to read as follows:

"(3) Appropriations pursuant to the authority of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall be available until expended.".

INCENTIVE GRANTS FORMULA

SEC. 109. Section 5(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(7) (A) To make incentive grants under this subsection to urbanized areas, the Secretary shall apportion in each fiscal year beginning after September 30, 1982, the sums appropriated pursuant to subparagraph (C). An incentive grant shall be 7.5 per centum of that portion of the apportionment attributable to the urbanized area under paragraph (6) which is available for operating assistance if the urbanized area qualifies for an incentive grant under either subparagraph (B) (i) or (B) (ii) of this paragraph, but not under both subparagraphs, and a total of 10 per centum of such apportionment if it qualifies under both subparagraphs (B) (i) and (B) (ii). Incentive grants under this paragraph shall be supplementary to, and not in substitution for, sums otherwise available under this Act. Such grants shall not be subject to the local share requirements of this Act and may be used by the recipient for any purpose which would be eligible for assistance under this Act.

"(B) (i) An urbanized area will receive an incentive grant apportionment if mass transportation ridership for that area during any year exceeds such ridership for that area during the immediately preceding year by more than 4 per centum, as determined by the Secretary.

"(ii) An urbanized area will receive an incentive grant apportionment if the ratio of operating revenues, including such revenues as farebox receipts and dedicated tax revenues (including mandatory assessments paid by local governments on a net cost of service basis), to eligible operating expenses exceeds the national median ratio of such factors, as determined by the Secretary.

"(C) There are authorized to be appropriated for the purposes of this paragraph such sums as may be necessary.".

ENERGY CONSERVATION

SEC. 110. Section 8(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" before "(2)"; and

(2) by inserting before the period at the end thereof the following: ", and (3) on or after July 1, 1983, the Secretary finds that the program of projects includes adequate consideration of energy conservation and, in the case of a capital project, that the program of projects includes the consideration, to the maximum extent feasible, of renewable resource recovery and energy conservation measures".

REVISED FIXED GUIDEWAY DEFINITION

SEC. 111. Section 12(c) (2) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(2) the term 'fixed guideway' means any public transportation facility which utilizes and occupies a separate right-of-way or rails for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles.".

SAFETY INVESTIGATIONS

SEC. 112. Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(h) (1) The Secretary is authorized to investigate the safety of any facility, equipment, or manner of operation financed under this Act to determine whether an unsafe condition which creates a serious risk of death or injury may exist. Such investigation shall determine (A) the nature and extent of any unsafe condition; and (B) the action or range of alternative actions which might best be employed to eliminate or correct the unsafe condition. Before finally determining such action or range of actions, the Secretary shall consult with the affected State or local public body. If the Secretary determines that a condition in any facility, equipment, or manner of operation is unsafe, the Secretary shall require the State or local public body to submit a corrective action plan, which shall be developed in consultation with the Secretary. The Secretary may withhold further financial assistance from the State or local public body until a corrective action plan is approved by the Secretary and implemented.

"(2) No part of any report or other document prepared as part of any unsafe condition investigation under subsection (a), shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

"(3) The Secretary is authorized to promulgate such rules as are necessary to implement this section and to establish safety criteria and standards for use during the investigation of unsafe conditions in any facility, equipment, or manner of operation of any transit system financed under this Act.

"(4) If the amount of paperwork that the Urban Mass Transportation Administration requires of profit and nonprofit businesses, private persons, and State and local governments in fiscal year 1981 exceeds 100 per centum of the amount of paperwork required by the Urban Mass Transportation Administration in fiscal year 1980, the amount authorized to be appropriated by Congress for the Urban Mass Transportation Administration for fiscal year 1982 shall not exceed 100 per centum of the amount appropriated for the Urban Mass Transportation Administration for fiscal year 1980.

"(5) For the purposes of this subsection, 'paperwork' means reports, applications, forms, and other written presentations that an agency, under statutory authority, requires to be submitted to the local, State, or Federal Government.".

"(i) (1) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract.

"(2) The provisions of subsection (a) of this section shall apply where the Secretary determines—

"(A) their application would be inconsistent with the public interest;

"(B) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues):

"(C) supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or

"(D) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

"(3) For purposes of this subsection, 'substantially all' means not less than 70 percent.".

AREAS OTHER THAN URBANIZED AREAS

SEC. 113. (a) Section 8(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For areas other than urbanized areas, there shall be a planning process carried on by the State, in cooperation and consultation with appropriate local officials, and substate planning entities if any, which shall result in the development of a State plan for nonurbanized area public transportation equipment and services which is consistent with the requirements of this section to the extent appropriate to the nature of the area served and the services provided.".

(b) Section 18(b) of such Act is amended by adding at the end thereof the following: "After September 30, 1981, the program required under this subsection shall be based on the State plan for nonurbanized area public transportation equipment and services required under section 8 of this Act.".

USE OF MEDICARE CARDS FOR REDUCED FARES

SEC. 114. (a) Section 5(m) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection and as a condition of assistance under this Act, any person who, when boarding or paying mass transit fares, presents a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act shall receive the benefit of the rates established pursuant to this subsection for elderly or handicapped persons.".

(b) This section shall take effect ninety days after the date of enactment of this Act.

SUPPLEMENTAL AUTHORIZATION

SEC. 115. Section 4(c) (3) (A) of the Urban Mass Transportation Act of 1964 is amended by striking out "$1,410,000,000 for the year ending September 30, 1980" and inserting in lieu thereof "$1,810,000,000 for the fiscal year ending September 30, 1980".

MINIMUM FUNDING LEVEL

SEC. 116. Section 18(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act—

"(1) the aggregate amount of grants for each State under this section during each fiscal year beginning on or after October 1, 1980, shall be first allocated among the States, with the exceptions of the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, so that each State will be allocated at least 1 per centum of the amount appropriated.".

LIMITATION ON STATE ADMINISTRATIVE EXPENSES

SEC. 117. The first sentence of section 18(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "The Secretary may permit a part of the amount apportioned to each State to be used for administering this section and for providing technical assistance to recipients of funds under this section. Such part may not exceed 10 per centum of the amount allocated to each State under this section."

MASS TRANSPORTATION TO MEET SPECIAL NEEDS OF HANDICAPPED PERSONS

SEC. 118. Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d)(1) Any State, any recipient of financial assistance under section 3, or any recipient designated to receive or dispense funds under section 5 of this Act may submit for approval by the Secretary a program, which has been approved by the metropolitan planning organization after considering and soliciting the views of the community of handicapped persons for whom such transportation shall be provided. The Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, may approve any program (including a program providing transportation of handicapped persons through facilities other than facilities used by the State or recipient to provide transportation to the general public) submitted under this subsection which the Secretary determines meets the requirements of this subsection and other applicable law.

"(2) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection which—

"(A) provides that at least 5 per centum of all Federal funds apportioned under sections 3, 5, and 18 of this Act to the State or made available for expenditure by the recipient under section 3 or 5 of this Act for any fiscal year will be expended for the specific purpose of providing transportation for handicapped persons, except that the Secretary may reduce the percentage of such Federal funds below 5 per centum or waive such requirement if the Secretary determines that the program with such reduction or waiver will still comply with subparagraphs (B) and (C) of this paragraph;

"(B) provides that the State or recipient will provide transportation to handicapped persons in a manner which (i) will provide service no less beneficial for handicapped persons than that which would be required if such application had not been made, and (ii) will—

"(I) provide transportation services throughout the recipient's normal service area;

"(II) provide there will be no waiting lists for handicapped persons desiring to use the system;

"(III) provide for no prior registration or approval of handicapped persons who wish to utilize the service;

"(IV) provide for fare rates which are comparable to those of the transit system serving the general public;

"(V) provide for reasonable minimum waiting periods; and

"(VI) provide that there will be no restrictions as to the purpose of the trip as desired by the handicapped person; and

"(C)(i) provides, in the case of an urbanized area with a population of 50,000 to 750,000, that at least 50 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons; or

"(ii) provides, in the case of an urbanized area with a population in excess of 750,000, that 100 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons.

"(3) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection only after soliciting and considering the views of handicapped persons for whom such transportation will be provided.

"(4) A State or recipient may amend a program approved under this section if (A) the Secretary, with the concurrence of the Architectural and Transportation Barriers Compliance Board, determines that the program, as amended, complies with this subsection, and (B) such amendment was approved by the metropolitan planning organization after soliciting and considering the views of the community of handicapped persons for whom the transportation is being provided.

"(5) Notwithstanding any other provision of law or any regulation, if a State or recipient has a program approved by the Secretary under this subsection, such State or recipient shall be deemed to satisfy the requirements of this section and any other provision of Federal law relating to discrimination against handicapped persons to the extent that such provision of law relates to transportation of handicapped persons, except that nothing in this paragraph shall allow discrimination in use of facilities or equipment by handicapped persons able to use such facilities or equipment.

"(6) Each State and recipient for which a program respecting transportation of handicapped persons is approved under this subsection shall annually certify to the Secretary that such State or recipient is complying with such program.

"(7) (A) If the Secretary determines, after notice and an opportunity for a hearing, that a State or recipient with an approved program respecting transportation of handicapped persons is not providing such transportation in accordance with its program, the Secretary shall issue an order requiring such State or recipient to comply with its program.

"(B) If, after the 90th day following the date of issuance of an order under subparagraph (A) of this paragraph, the Secretary determines, after notice and an opportunity for an agency hearing on the record, that the State or recipient is not providing transportation to handicapped persons in accordance with its approved program, the Secretary may withhold a portion not to exceed 25 per centum of Federal funds available to the State or to the recipient under section 3, 5, or 18 of this Act. If the Secretary later determines that the State or recipient is providing transportation to handicapped persons in accordance with such program, the Secretary may resume making available such Federal funds to the State or designated area.

"(8) This subsection does not apply to any new fixed rail system for the mass transportation of the general public which is constructed after January 1, 1970, nor to the major rehabilitation or extension of any fixed rail system in existence on December 31, 1969.

"(9) Assistance under this Act used to provide transportation for handicapped persons shall not be used in substitution for other Federal funds used to provide transportation for handicapped persons.".

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Federal-aid Highway Amendments of 1980.".

OBLIGATION LIMITATION

SEC. 202. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1981 shall not exceed $8,450,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by subsection (a) by allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year: *Provided*, That the collective obligations of all the States may not exceed one-fourth of the obligation ceiling imposed by subsection (a) in each of the first two calendar quarters of fiscal year 1981; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (b) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses.

RURAL TRANSPORTATION STUDY

SEC. 203. (a) The General Accounting Office is hereby authorized and directed to undertake a study of the transportation needs in rural areas. The study should include but is not limited to—

(1) the impact of any reduction of the Federal contribution to the construction and maintenance of the Federal-aid highway secondary system;

(2) the identification and evaluation of alternative funding methods for the Federal-aid highway secondary system;

(3) the impact the current energy situation has had on rural transportation in view of fewer transportation alternatives in rural areas;

(4) an assessment of the implementation of existing mass transit programs available in rural areas including the Section 18 program of the Urban Mass Transportation Act;

(5) the impact of anticipated reductions in funding for public and special client transportation by Federal agencies other than the Department of Transportation on rural mass transit; and

(6) the identification of any other problems unique to rural transportation.

ENERGY IMPACTED RAIL AND HIGHWAY TRANSPORTATION

SEC. 204. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Energy impacted rail and highway transportation

"(a) The Secretary is authorized to make grants to reconstruct, resurface, restore, and rehabilitate nontoll public roads which are incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use. In the case of any road with respect to which Federal financial assistance is provided under this subsection, the geometric and construction standards established under section 109 of this title for the Federal-aid secondary system, except those standards which the Secretary determines are not appropriate, shall apply to the reconstruction, resurfacing, restoration, or rehabilitation of such road.

"(b) The Secretary is authorized to make grants for transportation projects which will alleviate the environmental, social, and economic impact of increased train traffic to meet national energy requirements in communities located along rail corridors incurring such increased traffic. Such projects may include, but are not limited to, low-cost systems management methods, grade crossing separation, and rail line and highway relocation. A project for elimination of a railroad crossing by relocation of a rail line may receive financial assistance under this section only if the Secretary determines that the cost of such project (1) is less than the cost of relocation of the highway, and (2) is less than the cost of grade separation between the highway and the railroad. In the case of any transportation project other than a low-cost systems management improvement financial assistance may only be provided under this subsection if the Secretary is satisfied that low-cost systems management improvements were considered before consideration of such project and other more costly improvements.

"(c) The Federal share of the cost of any project under this section shall be 80 per centum.

"(d) The provisions of this chapter, other than those provisions which the Secretary determines are inconsistent with the section, shall apply to projects under this section.

"(e) Taking into account both railroad and highway needs, the Secretary shall establish, by regulation, a formula for apportionment of funds authorized to be appropriated under this section among the States. No State shall, in any fiscal year, receive less than one-half of 1 per centum or more than 12 per centum of the total apportionment made under this subsection for such fiscal year.

"(f) There are authorized to be appropriated, out of amounts attributable to revenue from the tax imposed by section 4996 of the Internal Revenue Code of 1954, as amended, to carry out this section not to exceed $250,000,000 for the fiscal year ending September 30, 1981, $300,000,000 for the fiscal year ending September 30, 1982, $350,000,000 for the fiscal year ending September 30 1983, $400,000,000 for the fiscal year ending September 30, 1984, and $450,000,000 for the fiscal year ending September 30, 1985.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof

"157. Energy impacted rail and highway transportation.".

MARYLAND TRANSPORTATION AUTHORITY

SEC. 205. (a) The Act entitled "An Act authorizing the State of Maryland, by and through its State Roads Commission or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State", approved April 7, 1938, and the Act of June 16, 1948 (62 Stat. 463, Public Law 654, 80th Congress), as amended by the Act of November 17, 1967 (81 Stat. 466, Public Law 144, 90th Congress) are hereby repealed.

(b) The State of Maryland, by and through the Maryland Transportation Authority or the successors of said Authority, is authorized to construct, maintain, operate, and finance transportation facilities projects, as defined in the laws of the State of Maryland, in accordance with the laws of the State of Maryland, subject, with respect to any future bridge, to the provisions of subsection (b) of section 502 of the Act of August 2, 1946 (33 U.S.C. 525).

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I would like to take this opportunity to thank the distinguished Senator from Utah (Mr. GARN) the minority manager of this bill for his welcome cooperation and able management of this complex legislation. I would also like to thank the distinguished Senator from Texas (Mr. TOWER) for his efforts and cooperation in structuring a workable, effective approach to funding our transit programs.

CLEAN WATER ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, this measure has been cleared on the minority side. Mr. STAFFORD and Mr. GRAVEL are prepared to manage the bill.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 794, S. 2725, Clean Water Act authorizations.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2725) to extend certain authorizations in the Clean Water Act, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

THE SENATE WORKLOAD

Mr. BAKER. Mr. President, I rise only to acknowledge what the majority already knows, and that is in the continuing course of our efforts to try to schedule business of the Senate this item is available for consideration at this time and I expect we will finish it sometime today. I hope we will finish it sometime today.

I wish to ask the majority leader if he has some idea of what we might proceed to after this calendar item is disposed of.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for making the inquiry.

It is my hope that the Senate could proceed to the consideration of the supplemental appropriation bill. Of course, the 3-day rule has not run its course on that bill. But the bill will have to go to conference because there are amendments that have already been agreed to in committee. So that will necessitate some time. It would be necessary for the Senate to complete action on the conference report before the Senate recesses for the July break.

So, while the conferees are working on the supplemental aopropriation bill in conference, then in the meantime the Senate could be working on other matters.

The matters that have to be taken care of before the Senate recesses for the July break, in addition to the supplemental appropriation bill, are the debt limitation extension measure; and I think it is necessary that the Senate complete action on the Energy Mobilization Board conference report, which will be taken up in the House of Representatives early Friday. I talked to the Speaker just about an hour ago and he indicated that the House of Representatives would take up that energy conference report the first thing Friday so as to facilitate its getting over to the Senate at some reasonable hour on Friday.

In addition to those three, the Senate should do the military procurement authorization measure before it goes out because there will be a considerable workload awaiting the Senate's return from the break.

So let me say, in recapitulation, the supplemental appropriation is a must; debt limit is a must; Energy Mobilization Board conference report is a must; and the military procurement bill is a must——

Mr. STENNIS. Great.

Mr. ROBERT C. BYRD (continuing). Before the Senate goes out.

If we can complete our work by Saturday night we will not come in next week, but if we do not complete our work by Saturday night we will have to be back in Monday, Tuesday, and Wednesday if necessary.

There is one other matter, may I say to the distinguished minority leader, and that is ERISA. There has to be some action taken in connection with ERISA before the Senate goes out.

Mr. BAKER. Mr. President, I thank the majority leader.

I may say that I have been exploring for most of the morning on our side the possibility of abbreviating the time required under the 3-day rule and I should report to the majority leader that as of this moment I am not in a position to waive the 3-day rule, and I have no disagreement with his list of must items. For instance, I wish to see us proceed to the debt limit as soon as possible.

I see the Senator from Mississippi in the Chamber, and I agree with him, that we should try to do his bill as soon as we can. The majority had accommodated us on this side in that respect because we could not proceed to that measure today. We will be in a position to do that tomorrow if the majority leader and the distinguished chairman of the Armed Services Committee wishes.

But we will get along with this then as best we can, and I assume, then, that we have begun to see the glimmering of the last hope I have that we can get out of here Satuday. I think that if we do not get to the supplemental today or tomorrow almost certainly we will be here on Monday, and I am prepared to do that. But I must say in all candor to the majority leader I do not see the prospect that we can waive, certainly not all of the 3-day rule on the supplemental.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I know he will continue his efforts, and I compliment him on his efforts thus far.

Mr. STENNIS. Mr. President, I thank the Senator.

Mr. ROBERT C. BYRD. I know it is a difficult assignment.

Mr. President, I yield the floor.

CLEAN WATER ACT AUTHORIZATIONS

The Senate continued with consideration of S. 2725.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Jackie Schafer, Hal Bragman, John Yago, Richard Harris, Sally Walker, Bailey Guard, Phil Cummings, Pamela Odum, and Karl Braithwaite, be accorded the privilege of the floor during the consideration of the pending legislation, amendments thereto and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1318

(Purpose: To correct a reference to a date in section 5)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1318.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 23, strike "April 30, 1980." and insert in lieu thereof, "May 15, 1980.".

Mr. GRAVEL. Mr. President, all this is is a technical amendment to change a date which is relevant to the consideration of this bill.

I think the minority is in agreement on it.

Mr. STAFFORD. Mr. President, speaking for the minority I am prepared to recommend acceptance of this amendment to my colleagues on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1318) was agreed to.

Mr. GRAVEL. I thank the Chair.

I thank my colleague, and I wish to go into my statement at this time.

Mr. President, the bill before us, S. 2725, provides the necessary extensions for the expiring authorities of the Clean Water Act and also makes some amendments to the wastewater treatment construction grant program.

This year marks the eighth anniversary of the 1972 Clean Water Act. We can be pleased with much of the progress we have made in those years in cleaning our Nation's lakes, rivers, and streams.

The foresight and determination of this country to make the Clean Water Act work has resulted in many tangible benefits:

Some 50 major bodies of water in this country, including the Delaware, Willamette, and Susquehanna Rivers have shown considerable improvement;

More than 3,600 of the 4,000 national industrial pollutors are meeting their cleanup deadlines; and

Many of the dangerous pesticide residues, like DDT, have begun to gradually disappear.

What we reauthorize here is a testimony to this Nation's continuing goal to correct the pollution of one of our most vital resources.

Section 1 of the bill extends the expiring authorities of the Clean Water Act for fiscal years 1981 and 1982. The fiscal year 1981 authorization level is consistent with the March 15 report of the Committee on Environment and Public Works to the Budget Committee. The levels for fiscal year 1982 reflect a 10-percent increase over the 1981 levels to provide for some protection against inflation. The committee report describes the reauthorized activities in detail.

The committee is particularly interested in the progress of the section 208 areawide wastewater treatment planning program. While one of the main purposes of this program is to address the problem of nonpoint sources of water pollution, it is not intended to have an exclusively nonpoint source focus. Areawide agencies should be allowed to use funds available under section 208 for their point source responsibilities and should receive funds under section 201 for that purpose.

Another major program area which this bill reauthorizes is the section 106 authorization for State program grants. It is under this section that States receive funds to carry out the various functions assigned to them under the Clean Water Act. These are vital activities which are necessary to the effective implementation of the Clean Water Act. Continued and stable funding of the section 106 program grants is essential if States are to be expected to carry the burden imposed on them by the act.

Section 2 of this bill extends the period of availability of waste water treatment construction grant funds by an additional year. Funds will now be available for 3 years instead of the previously allowed 2 years. At the end of the 3-year period, States which have not obligated all of their money will lose their remaining funds to those States which have used all of their money.

This extra year of availability is specifically intended to help direct funds to priority treatment projects. These projects generally are large, complicated urban waste treatment projects which require extensive review. Ordinarily, States will pass by these high priority projects and will obligate their money to lower priority projects, such as sewers, which are simple and ready to go. This practice has avoided the problem of States losing money at the end of the 2-year obligational period. However, this practice has also worked against the effort to direct dollars to the higher priority treatment needs.

Therefore, the committee fully expects that the third year of availability of funds will enable the States to now direct their money to the highest priority projects which relate directly to wastewater treatment needs.

Section 3 of this bill authorizes the use of New York State's construction grants money for the dredging of PCB's from the Hudson River. The committee authorized this specific use of New York's construction grant money on the presumption that the most pressing environmental need in New York is the contamination of the Hudson River by PCB's.

The needs estimate for New York for future waste-water treatment needs will be reduced by whatever amount is diverted to the Hudson River project so that the State will not receive any more money than it is entitled to receive. Current estimates for the Hudson River project would require funding for 3 years at approximately $10 million a year.

The committee bill limits this special diversion of New York's construction grant money to 3 years. Further, the bill specifies that New York's construction grant money can be used only if the funds from other appropriate sources are not available. Such sources would include funding under section 115 of the Clean Water Act—in-place toxic pollutants—or funds available through the proposed "superfund" legislation. Funding has never been requested by the administration for section 115; superfund legislation is currently moving through the legislative process. In the event that funding becomes available under either of these two options, New York's construction grant money would not be used for this purpose.

Section 4 of this bill repeals the requirement known as industrial cost recovery which requires that those industrial participants in municipal wastewater treatment plants which benefit from Federal construction grants must pay back the Federal subsidy of capital construction costs attributable to that industry. The committee feels that the industrial cost recovery program is overly burdensome to both the communities and the industries involved. However, the committee's continuing belief in the principle of not providing Federal subsidies for industrial waste-water treatment led to the approval of the final section of this bill which eliminates future Federal funding of industrial capacity in municipal treatment plants.

Section 5 of the bill stipulates that after September 30, 1980, no Federal construction grant money may be used for industrial capacity of greater than 50,000 gallons per day of sanitary waste in municipal waste water treatment plants. This amendment in no way precludes joint municipal-industrial treatment plants; it simply means that the Federal Government will not provide the funding for the industrial portion. In fact, many tax advantages which have been available to self-treaters may now be available to industries which participate privately in municipal systems.

This particular amendment should reduce the demand against the construction grant program by as much as $7 billion. At current levels of appropriations, such a savings is equal to 2 years of funding for this program.

The Subcommittee on Environmental

Pollution, which I chair, intends to undertake an oversight review of the construction grant program this summer. Many pressing questions need to be examined in light of the failure of the grant program to keep pace with the needs facing it. Issues such as the types of waste water treatment projects which should be eligible for funding, the level of Federal funding, the Federal share, the method of distributing the funds, and the priorities for funding are examples of the types of problems facing us that need to be reviewed. The subcommittee will begin this review shortly and will address these and other issues which affect the future of the construction grant program. Meanwhile, this bill before us will maintain the necessary momentum until such a review is completed.

That concludes my opening remarks.

I yield the floor at this time.

The PRESIDING OFFICER (Mr. Bradley). The Senator from Vermont.

Mr. STAFFORD. Mr. President, the amendments to the Clean Water Act contained in S. 2725 represent a simple extension for 2 years of several expiring authorities in our Federal water pollution control program. The authorizations for section 314 Clean Lakes, section 106 program management, section 208 areawide waste treatment, the general authorization and other provisions strictly conform to the Budget resolution for fiscal year 1981. For fiscal year 1982 we provide a small increase for each section, as an inflation adjustment.

In addition, the Committee on Environment and Public Works saw fit to include a few additional provisions which are urgently needed at this time. My colleagues should be aware that the committee is contemplating a more comprehensive review of a number of issues pending under the Clean Water Act. In particular, the committee will direct its attention in the next Congress to the construction grants program which provides municipalities with financial assistance to abate pollution to achieve the goals of the Clean Water Act. The committee has been presented with information which suggests that substantial reforms may be necessary.

Pending before the committee are such legislative proposals as Senator Hatfield's two-tier bill and Senator Chafee's proposals to modify the allotment formula and to permit communities to proceed with construction of treatment works in advance of Federal appropriations. In addition, in a speech before the Association of Metropolitan Sewerage Agencies on the day before he was nominated by President Carter to become his Secretary of State, our esteemed colleague and my personal friend Senator Edmund S. Muskie, presented a comprehensive agenda for reform of the construction grants program.

Mr. President, I ask unanimous consent that the text of Senator Muskie's speech be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. The committee expects to investigate all of these recommendations for reforming the construction grants program, both in oversight hearings later this year and early in the next session of Congress. At the very least the committee must enact a statutory formula or other device for allotting appropriations to the States for fiscal year 1982. This will provide an opportunity to reevaluate other aspects of this program.

I appreciate that many of my colleagues are anxious to have amendments considered at this time. However, I would recommend that we refrain from attempting anything but the most urgently needed changes, for this reason: The bill as reported from committee contains an amendment which repeals the so-called industrial cost recovery requirement. It is important that final legislative action on this bill be completed prior to July 1 of this year. If it is not, the Environmental Protection Agency, under the mandate of existing law, must resume the collection of industrial cost recovery payments on that date. After much consideration, beginning as long ago as the 1977 amendments to the Clean Water Act, the committee has concluded that the industrial cost recovery program as conducted by the Environmental Protection Agency is unworkable and irreparable.

Our decision to recommend its repeal was unanimous but, in the judgment of this Senator, somewhat unhappily. Likewise, unanimous was our decision to require that, henceforth, Federal construction grant funds may not be used to treat industrial waste water in municipally owned treatment plants.

It is the view of the Senator from Vermont that the timely repeal of industrial cost recovery depends substantially on our approving here today as simple a bill as possible. Most other reforms in the program, while important, can be better addressed in next year's bill. I can assure my colleagues that this Senator will work with all Members to achieve a more effective and efficient construction grants program as expeditiously as practicable.

Mr. President, I yield the floor.

Exhibit 1

Remarks of Senator Edmund S. Muskie

It has been 10 years since the American people expressed their concern over environmental values in that eloquent public statement we called Earth Day. The Congress has always been best at riding a wave of popular sentiment. Those of us who had patiently laid the environmental groundwork in the 1960's suddenly had some powerful new allies. They included a conservative Republican President who bowed to pressure to reorganize the Government's environmental agencies into the EPA. And they included overwhelming majorities in both Houses who enacted the Clean Air Act and Clean Water Act.

The Congress proudly told the people back home they had solved the pollution problem. And as it often does, the Congress turned to other matters. Which left those of us who deal with environmental matters every day to defend and expand the new laws. We have done a pretty good job of it. But I sometimes feel like the man in Seattle who was asked whether it ever stopped raining. "I don't know," he replied. "I've only been here three years."

The storm clouds which are casting such an ominous shadow over the clean water program this year have been kicked up by 18 percent inflation, 20 percent interest rates and the realization that the long-awaited recession has finally arrived.

I head back to the capital to begin debate today on the Senate Budget Resolution—a resolution which calls for a balanced budget. This budget is the Congressional response to the economic challenge we face. It is being considered in an atmosphere of great frugality. It will force us to accomplish social goals—including environmental goals—through less costly means.

I am not going to take time today to analyze how we got into this position. But I do want to deal with how those sobering economic realities affect all major Federal programs. And I want to suggest ways in which we can preserve the construction grant program in this volatile environment.

The economic mood of the 96th Congress is frantic, to say the least. In this election year, both Houses are intent on slashing the budget. The Congress will look skeptically at every costly domestic program.

Inflation has driven the Congress to the reality of a balanced federal budget for fiscal year 1980—and sometimes to the unreality of indiscriminate budget cutting.

In this atmosphere, the construction grant program sticks out like the turkey on a Thanksgiving Day dinner table. Everyone sees room for cuts.

The program is big. It is EPA's largest program, with billions of dollars committed to the construction of wastewater treatment systems.

But bigness has not always meant success—and a nervous Congress grows increasingly skeptical.

The Senate Budget Committee recently voted to create a reduced fiscal year 1981 budget target for the Environmental Protection Agency. This new target will freeze EPA's budget next year at the current level. The result will be less money than the Administration requested for the construction grants program—and less money than Congress contemplated in the 1977 amendments to the Clean Water Act.

Worse, the Budget Committee only narrowly defeated, by a 10–7 vote, a Hollings' amendment which would have rescinded all the construction grant program funds which had not yet been obligated. You might consider this a rash vote. The Federal Housing program was saved on a tie vote. The amendment would have ripped away money for projects that you have been planning carefully for many years;

—Money for projects that have had design work and paperwork completed and are ready for approval.

—Money that would have gone toward cleaning up America's waterways.

I can hold out no realistic hope of substantial budgetary additions later in the budget process. So we face at least three choices. The first two would involve significant departures from the present system.

First, we could take the federal government completely out of the construction grant program—lock, stock and sewer plant; or

Second, we could eliminate the present allocation formula which has given some states more than they can spend while others cannot meet actual needs. This would give the Administrator of EPA discretion to approve projects based on real needs.

Or, third, we could choose to try to fix the present system to meet the goals of the law, even in troubled economic times.

All three options have been voiced in the past and will be voiced again. I hope you will agree with me that the last option is the best.

I choose it because I still have faith in the goals of the sewage treatment program.

I have seen what can be accomplished on the Androscoggin River in my home State of Maine; along the Potomac; in our Great Lakes and Lake Washington; and along thousands of miles of rivers and shorelines around the country.

I choose to fix our present system because so much is still left to be done. The Senate tried to fix the present system in 1976 and again in 1977. But we were unable to, because time ran out; other issues forced compromises in this program; and there was too little pressure to use limited funds wisely.

There are financial pressures today in abundance. We must respond with a more realistic perception of the program's goals. Now, more than ever before, we must strive for the greatest reduction of actual pollution discharge for every dollar we invest.

We face many hurdles, however, before we can begin to implement this basic objective.

Too many people still believe that any and all present and future sewage treatment needs will be fully funded.

Too many people really believe that interceptor and collector sewers, regardless of size or purpose, will continue to be eligible projects.

Too many people are willing to accept the maldistribution of grant funds under the present allocation formula.

At the same time, there are too many people who would be willing to accept patchwork corrections to current problems primarily designed to meet the narrow needs of a few states, communities and industries.

Unless these attitudes change, the program will die. Unless the people most interested in the program—in Congress, in EPA, in the states and communities—are prepared to rise above narrow, provincial interests, federal funding will soon be a thing of the past.

In order to help guarantee a construction grant program we must concentrate on two areas:

First, we must strive to cut the costs of the program wherever we can.

Second, we must make the program more accountable to actual pollution control needs.

The costs of construction have skyrocketed in the last few years. We get a lot less construction for the dollars we spend.

Of the $20.7 billion committed by the EPA for the program, only $1.7 billion worth of facilities are built and operating.

The most recent needs survey put the cost at an additional $106 billion nationally for all the needs identified.

But more important, we will need to find new ways to gain local self-sufficiency. Doing away with the industrial cost recovery program is a step in the wrong direction.

And yet just last week, a House subcommittee voted to repeal that provision of the Clean Water Act—and a similar proposal may be raised on the Senate side.

And the House has already passed a bill which would provide an additional allotment of funding for states which have expended most of their current allotment. This bill fails to deal with the fundamental problem—the fact that the allotment formula does not distribute scarce federal funds to those states where the greatest pollution control need exists. We are faced with a situation, where up to 20 states cannot use their FY 1978 funds for priority projects just before the end of the obligation period. On the other hand, as many as 16 states are in a position to use more money. Only one conclusion can be drawn—the allotment formula does not adequately reflect pollution control needs.

The challenge is to redesign the allotment formula, not only band-aid solutions where the period of availability is extended to accommodate the faster states. The Federal budget cannot afford the luxury of this type of accommodation.

It would be foolish in a year of severe budget cutting for Congress to seriously think about repealing legislation which would replenish the Treasury by recovering subsidies, or enacting legislation which assumes that we have the luxury of business-as-usual on the water pollution program.

Let me now discuss with you some of the specific legislative concerns that will be addressed in legislative markups by the Environmental Pollution Subcommittee in the next few days. First, let's take the industrial cost recovery.

When we were writing the Clean Water Act, we knew that many industries discharged their pollution into municipal sewage systems. A federal grant program to provide waste treatment for these industries would be a subsidy to them. At the same time, industries which built their own plants would have to pay those full costs. It seemed appropriate that the federal government should ask that the subsidy be paid back over the lifetime of the facility. And in the Senate bill, all those payments would have been returned to the federal Treasury.

It was a sensible, straightforward budget-balancing concept.

A subsidy returned to the federal government meant more money available to finance more facilities.

Yet this concept is under attack. Industries that have benefitted from "free" federal money do not want to pay it back.

I will oppose any measure to repeal the industrial cost recovery program—even at the risk of reporting no bill at all this year. But in order to provide some flexibility and accommodation to the objections that have been raised to this program, I would be prepared to discuss the following options:

First, in the future, the industrial share of a municipal system would not be eligible for federal funds. Industrial participation would in no way be barred, but the basis for financing that participation would change. Industry would be allowed to buy a portion of a plant and be required to provide financing for that part of the project.

Industry would own their portion of the plant, and thus be eligible for the favorable tax treatment available to other industrial pollution control activities. This option would respond to the argument that it is cheaper for industry to build its own facilities because more favorable tax advantages exist for self-treatment.

Eliminating the industrial portion of a plant from grant eligibility will release more federal funds for more waste treatment projects.

Second, for systems already finished or under construction, industry could choose to buy the portion of the plant that is now being attributed to its participation in the system. This would allow the same tax treatment as I discussed earlier for future participation in such systems.

Alternatively, a company could continue to pay the industrial cost recovery payments now required under the law, with the condition that a long-term contract be signed to guarantee the company would fulfill its obligation to repay the federal grant. In this case, it might be useful to change the basis on which industrial cost recovery payments are made. Some were suggested by witnesses at our recent hearings, but none have been fully developed.

The amounts of money we are talking about are not small. The best estimates are inadequate, but reports indicate that roughly half the construction grant money will be used for industrial capacity. Of the 30 billion dollars that have been made available for obligation, 15 billion dollars would be involved in treating industrial waste. Thus, as much as 7.5 billion dollars would have been returned to the federal government.

Let me now turn to other aspects of the construction grant program. We can no longer afford the luxury of funding collection systems. I opposed this provision in 1972 and again in 1977 because it would divert funds from actual treatment facilities. My apprehensions have been borne out.

With limited federal funds, we simply cannot continue to subsidize new growth. The needs of our existing population must be the first priority of the waste treatment program. In order to maximize our pollution control dollars, we may even have to consider eliminating interceptor sewers and any surplus capacity from eligibility for federal funds.

And the limited funding we will experience should not only make us more aware of any unnecessary technology and hardware that is added to plants—but it will also force us to better scrutinize all excessive operation and maintenance costs.

Tailoring projects to meet reduced available funds will demand thoughtful analysis.

The Congress should examine several other options to better target pollution control within current funding limits. In addition to new collectors, we may want to eliminate other categories on the current eligibility list and reduce funding for others.

First, we may want to reduce funding to a 50% grant for all categories. And we may want to defer funding of advanced waste treatment plants unless they achieve the most pollution control per dollar invested.

Second, we should reexamine the priority system to make sure that the most important projects are actually funded. A new priority system would have at least two criteria: First, projects would have to be necessary to meet permit conditions; second, the project would have to achieve the greatest amount of water pollution discharge reduction per dollar invested.

Third, we should consider changing the allocation formula so that it is based on real needs as identified in the priority system outlined above. This new allocation formula would begin with fiscal year 1982.

These options are based on the assumption that we should try once more, to fix the present system.

But I am only willing to make that effort if there is a consensus that the present system can succeed. Without that consensus, we will be forced to accept more drastic options.

I need only remind you that last year the House Appropriations Committee received a report from its own staff recommending that no funding be included in the fiscal year 1980 appropriation for federal water pollution construction grants. And remember that last year, in the Senate Budget Committee, a Member who also serves on the Senate Environment and Public Works Committee almost succeeded in gaining approval for a one billion dollar reduction in the water pollution construction grant program.

And this occurred on top of significant cuts that had already been proposed by the Administration in its budget message. It was only after I made a personal issue of reversing this vote that the billion dollars was added back to the budget target.

The only difference this year in the budget process is that the cut proposed was not a billion dollar reduction in future appropriations—the cut proposed was elimination of all existing unobligated balances, which means a substantial rescission of appropriations that have already occurred.

The present economic emergency is taking its toll throughout our society. It is affecting virtually all federal programs, except defense.

I continue to believe that federal participation in the municipal water pollution control program is still essential. But an adequate program can only be maintained if everyone who supports it also recognizes the need to refocus the program toward more actual pollution control gains.

I urge you to carefully examine the proposals I have made today.

I ask you for any possible improvements you may suggest. The deadline for Congressional action is rapidly approaching.

The constructive changes we begin here may allow us to forgo possibly destructive changes to an important environmental law.

Thank you.

UP AMENDMENT NO. 1319

(Purpose: To provide an exception from reallotment for court-ordered projects and for funds reserved for innovative and alternative technologies)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1319.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike lines 10 through 13 and insert in lieu thereof the following:

"SEC. 2. (a) Section 205(d) of the Clean Water Act is amended by adding the following:

"The Administrator, in consultation with the State, may exempt from reallotment under this subsection such funds as the Administrator determines will be necessary to satisfy the Federally fundable portion of any project which is required by consent decree or court order entered in a Federal or State court to enforce compliance with section 301(b)(1) (B) or (C) of this Act. If the Administrator later determines that the State is not contributing to timely progress towards meeting the obligations of such consent decree or court order, the Administrator may reallot the exempted funds at any such time."

(b) Section 205(i) of the Clean Water Act is amended by adding at the end thereof the following sentence: "Notwithstanding the language of subsection (d) of this section, sums reserved under this subsection from the amount provided for the fiscal year ending September 30, 1979, shall be available for obligation until September 30, 1981.".

Mr. GRAVEL. Mr. President, this is not a committee amendment that I am offering, but it is an amendment that has been literally cleared by every member of the committee and they support it. It is something that has been brought about as a compromise by several distinguished Senators in this body.

Section 2, as it is currently written, would allow an additional year for the obligation of construction grant funds. There are a few States, mainly New York, which will have a problem obligating their funds within the current 2-year limit. The additional year will keep those few States from losing unobligated funds to reallocate at the end of the 2-year period.

The problem with extending the obligation period by an additional year is that the overall spending rate will slow down, thereby contributing to a larger, unobligated balance. As the unobligated balance grows larger, the Appropriations Committee will reduce future spending levels. However, the size of the unobligated balance is not a fair measure of the future needs of the grant program, and a large, unobligated balance works to the detriment to the future stability of the program.

As a substitute for the extension of the period availability, this amendment would keep the obligation period at its current 2 years, but will allow the administrator to exempt from the allotments any funds necessary to satisfy the need of projects under court-ordered enforcement actions under the Clean Water Act. The administrator should exercise his discretion to exempt from reallotment funds for the project under court order necessary for backlog needs.

This authority should be used only to get base level treatment plants constructed. The committee expects that such funds will be used only for these projects.

Such an amendment would keep the overall program moving at a steady pace, while protecting from reallotment those funds needed for court ordered projects. Because such projects are typically large, complicated ones, a 2-year period for obligated funds to them is generally not sufficient.

Such an amendment serves two useful purposes: It avoids exacerbating the obligated balance program and thereby avoids additional pressure to reduce future appropriations; and, it protects the funding of projects which are under court order enforcement actions, which would not otherwise be able to get funding within the 2-year period.

The amendment also extends the period of availability for the special set-aside of funds for innovative and alternative projects. This set-aside allows for an increase of an additional 10 percent for projects using innovative and alternative treatment technologies.

While this is only a small sum of money, less than $20 million, many States have not been able to use their set-aside because of the shortage of funds to provide the base grant amount. This amendment extends this set-aside for 1 additional year.

The committee will address the long term resolution of this funding problem when it undertakes its comprehensive review of the construction grant program.

The committee recognizes the concern expressed by Senators MAGNUSON and HATFIELD with respect to the funding shortages faced by several States, including Oregon and Washington. These States have maintained a rapid pace of obligation of their construction grant funds and have kept their applications for new projects moving quickly, as well. These States are now facing situations where many projects are approved and ready to be funded, but where sufficient funds are not available to satisfy the needs of such States.

The committee intends to address the serious problem of faster-moving States when it conducts its comprehensive review of the construction grant program. This review, which will begin this year, will culminate early next year in a new method of distributing construction grant money. The committee intends to accommodate the faster States by insuring that construction grant dollars are directed to those States where immediate pollution control need exists. The committee wants to maximize the impact of what few dollars can be made available for this program.

An additional concern which the committee shares with Senator MAGNUSON is the level of authorization for the section 314 clean lakes program. This program is a worthwhile program with a high benefit-cost ratio. The committee is interested in some increased activity level for this program. Therefore, it will consider the higher authorization figure contained in the House bill.

I yield to my colleague from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont has examined the amendment offered by the Senator from Alaska and listened to the discussion presented by the distinguished majority manager of the bill. For the minority, I am prepared to recommend acceptance of the amendment to our side of the aisle.

Mr. GRAVEL. I thank my colleague for his contribution and also thank Senators MAGNUSON and HATFIELD for their willingness to cooperate in the compromise which has been forged at this time.

● Mr. MAGNUSON. Mr. President, I want to thank the Senator from Alaska (Mr. GRAVEL) for all his work on this legislation.

I appreciate the fact that the committee has recognized that the current funding formula is causing problems for a number of States.

I look forward to working with the committee when it conducts its comprehensive review of the construction grant program. And I am pleased to have the assurances of the chairman of the Environmental Pollution Subcommittee that the serious funding problems facing both fast-moving and slow-moving States will be addressed when the Clean Water Act is reauthorized.

I believe that it is very important that the committee amend the funding allocation formulas to insure that the construction grant dollars are directed to the faster States that have systems that are ready to be built. Such a formula should maximize the utilization of the wastewater construction grant funds.

Mr. President, the Senator from Oregon (Mr. HATFIELD) and I recognized that the current funding system was causing serious problems for this program.

Many States, for reasons that are too numerous to detail here, have had difficulty in spending their allocation of the wastewater construction grant funds. This has created a large backlog of unobligated funds—$2 billion of fiscal year 1979 funds were unspent as of April 1980. This very large unobligated balance, combined with the general concern over Federal spending has produced appropriations that are far below the authorized amounts.

The appropriations for fiscal year 1980 is $3.4 billion, down from $4.2 billion last year, $4.5 billion the year before, and well below the $6 billion a year provided in the early 1970's.

For the next fiscal year, the administration has requested $3.7 billion, and the budget resolution calls for $3.4 billion. I know that the chairman of the Appropriations Subcommittee on HUD and independent agencies will be looking at the large unobligated balance for this program as he works on this program.

Unless things change, I am concerned that we may be facing serious delays in this important program. Delays will mean continued pollution of our rivers and streams, higher project costs due to inflation, and a loss of public confidence in this program.

Community growth in areas that depend on expanded or upgraded treatment plants will remain stagnant. Of course, when a community cannot grow it affects housing availability and price, and reduces the number of job opportunities.

This situation is especially frustrating for States like Washington and Oregon. These 2 States, along with 11 others, have been able to commit their funds to projects rapidly. Their communities have done the planning and design work, and arranged the financing for the non-Federal share of the project costs. Many of these 13 States are ready to begin construction on a large number of important water quality improvement projects.

These States have done a good, responsible job. They should be congratulated.

These States are responding to the mandate of the 1972 Federal law that made water pollution control a serious national commitment.

But failure of the Federal Government to keep up its end of the financial bargain, while leaving the performance requirements for municipalities intact, is straining the credibility of the Federal legislative commitment.

To respond to this serious problem, the Senator from Oregon (Mr. HATFIELD) and I, along with 11 other cosponsors have introduced legislation, S. 1328, designed to improve this situation.

The legislation creates an incentive for fast-moving States, provides relief for slow-moving States, and addresses some of the administrative problems that the States are experiencing.

The legislation, known as the two-tier bill, would require the EPA to monitor State expenditures of each year's allocation. If a State had obligated 90 percent of its funds by March 31 of any fiscal year in which the States received funds, the State would qualify for money from a second-tier fund during the following fiscal year. The funding level for the second-tier would be determined by the Congress in the context of the overall funding level for this program.

The purpose of this provision is to allow States which have been able to expedite their construction to maintain a strong program even if some other States have been unable to obligate funds.

Presently, by maintaining a rigid allocation formula, the States which have been able to mount a successful program have been forced each year to wait for the slower States to catch up. This has been the case because the Congress has decided to try to bring down the large unobligated balance for this program by reducing the annual appropriations level.

So, we have a situation where the fast-moving States have projects that are ready to go, projects that will have to be built eventually to meet the water quality requirements of the Federal law, and projects that are getting more expensive every month because funding is not available.

The sponsors of the two-tier bill felt that if we gave each State an incentive to speed up their obligations, eventually all of the States might qualify for second-tier funding and we could get the wastewater construction grant program moving again.

As a recognition of the support for this approach, the Senate Appropriations Committee said in its fiscal year 1980 committee report that:

> The Committee would be prepared to look sympathetically on a supplemental appropriation which would be designed to restore full second tier funding for these states (which have succeeded in obligating their full entitlement of funds under this account).

By including this language in the committee report and declining to earmark a portion of the fiscal year appropriation for second tier, the Appropriations Committee hoped to send two messages. The first was that we saw second-tier funding as an addition to the regular funding for this program. We were also sending a message to the Senate Environment and Public Works Committee that members of the Appropriations Committee would favor passage of the two-tier bill.

A second part of the bill was designed to assist the slow-moving States. The bill would postpone reallocation of a State's unobligated funds. Under current law, after 24 months, the outstanding balance from any State is reallocated to those States that have been able to obligate all of their funds. The obligation period would be extended to 36 months in recognition of the long planning time needed for many of the larger projects.

Given the instability of funding, some States have decided that construction funds should be on hand before the design and specification phases begin for a project. Some States with larger projects have held funds for a long period. This has raised the overall unobligated balance.

A third provision of S. 1328 would provide some stability in the funding for State administration of this program. One of the many reasons for some State's difficulty in operating programs is the low and unstable funding for administration. Administration costs are calculated as a percentage of overall appropriations level. But in the last decade, funding levels have ranged from $3.4 to $9 billion. Some States have complained that it is difficult to plan staffing levels with such unstable funding. S. 1328, would link the administration cost to a percentage of the authorization level rather than the appropriation level. This change would stabilize management and staffing in the hope of keeping key personnel in the program for a period of years.

Mr. President, as I mentioned, there is a great deal of support for this kind of legislation. S. 1328 has 13 cosponsors. The Senate Appropriations Committee has indicated its support for this approach. In the House of Representatives a similar bill, sponsored by House majority leader JIM WRIGHT, of Texas, and Republican Representative JAMES CLEVELAND, of New Hampshire, passed that body in December of 1979.

Unfortunately, the Senate Environment and Public Works Committee has not taken any action on either the House-passed bill, or the legislation introduced by the Senator from Oregon and myself.

Therefore, I am pleased to receive the assurances of the chairman of the subcommittee that this important and pressing problem will be addressed when the Clean Water Act is reauthorized next year. I look forward to hearings on this matter in the near future. I hope that we will be successful in developing a program that will accommodate the faster moving States by insuring that construction grant funds are directed to those States where pollution control projects are ready for construction.●

● Mr. HATFIELD. Mr. President, I had intended to offer an amendment to the legislation currently pending before the Senate. The amendment would have authorized the separate appropriation of an add-on—or second tier—over and above the basic appropriation for waste water construction shared by the States. Such an appropriation would have allotted extra funds to States that have obligated all funds allocated to them by the Federal Government. However, for a number of reasons, one of which is a commitment by my distinguished colleague, Mr. STAFFORD, to conduct hearings on the two-tier allocation plan, I have decided not to offer the amendment.

I consider the two-tier approach crucial to the success of the grants program for construction of municipal waste water treatment facilities, a vital element in our overall water pollution control program.

For a variety of reasons which are not necessarily a reflection on the competence or commitment of any State, the rate at which Federal funds are being obligated for clean water projects is extremely uneven. Some States are having difficulty in using the funds they have, while others are in a position to obligate funds for projects promptly at a level far exceeding their allotments.

On a nationwide basis, a considerable backlog of unobligated funds has accumulated. The Appropriations Committees on both sides of Capitol Hill, rightly concerned over the backlog and the need for fiscal restraint, face this dilemma: If they appropriate the full $5 billion authorized for the program in fiscal year 1981, hundreds of millions of dollars would go out to States unable to use them. If they cut appropriations sharply across the board, as has been proposed, they will cripple the program in those very States which have performed precisely as the Congress mandated in the Clean Water Act of 1972.

Several other States now in the process of gearing up their capability to move projects more rapidly would be discouraged—indeed prevented—from doing so. The program would limp along around the $3 billion level, costs would rise with inflation's erosion of the construction dollar, confidence in the Government and in the program would be betrayed, and the goals of the act would not be met.

The two-tier approach would make it possible to get this program turned around and on track, now and for years into the future. It is a workable, practical alternative, making it possible to avoid the absurdity of excessive appropriations while reaffirming the commitment of the Congress to the cleanup of our rivers and streams.

Its concept—and I shall explain the mechanics presently—is simple. Assuming that the need for restraint will not evaporate, it would provide for the appropriation of the full authorized amounts for the program at least for those States which have proven themselves capable of obligating funds on a reasonably current basis.

It would authorize the separate appropriation of an add-on, or second tier, over and above the basic appropriation shared by all the States; thus no State benefitting from it would be penalizing or taking anything away from any other State. In fact, by definition a State not qualifying for the second-tier appropriation in any given year would be in that posture by virtue of its slower obligation rate, meaning that it still had allotments adequate to its current ability to commit funds. No State would lose, and no State's program would suffer.

In essence, it would provide a mechanism to gear the demand for appropriations—always within the authorized levels—to the ability of States to obligate their allotments to clean-up projects. It would restore continuity, predictability and stability to the funding mechanism, providing an incentive for States, localities, and the Environmental Protection Agency to push the program, break the bottlenecks, get rid of the backlog of funds, and get on with the job of cleaning up the Nation's waters.

If the two-tier approach had been adopted this year, here is how it would have worked: In any given year, a State which had obligated by March 31 at least 90 percent of its previous fiscal year's allotment, would be entitled to receive, in the next fiscal year, an additional appropriation sufficient to bring its total allotment up to what it would have been if the full authorized amount had been appropriated.

For example, in its first year of operation, eight States which have already obligated, as of March 31, 1979, at least 90 percent of their fiscal year 1978 allotments, would qualify for the second tier. In other words, as a measure of their rate of obligation, they have committed 90 percent of their funds 18 months, or 75 percent of the way into the 2-year period of availability of those funds for obligation.

To summarize, the two-tier approach that I have just outlined insures ample funding for States that are conscientiously complying with the Clean Water Act of 1972. Enactment of a two-tier approach, moreover, would help avert a potential absurdity: The spectacle of our branch of the Federal Government pursuing communities which have lagged in initiating clean-up projects, while another branch—the Congress—denies funding to those which are more than ready, willing and able to proceed. I refer, of course, to the Environmental Protection Agency's intention to proceed with enforcement actions against recalcitrant communities. Failure to enact our two-tier proposal would constitute a betrayal by the Congress of the compact it has with municipalities across the country to assist them in the improvement of water quality.

Mr. President, such a betrayal can only convey one message to State and local governments: Slow down compliance with Federal law, for conscientious compliance will not be supported with ample Federal funding.●

Mr. GRAVEL. Mr. President, I move adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1319) was agreed to.

UP AMENDMENT NO. 1320

(Purpose: To authorize a lower Federal share on a statewide basis to allow most efficient use of available State funds)

Mr. GRAVEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1320.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 23, add the following new section:

"SEC. 6. (a) The first sentence of section 202(a)(1) of the Clean Water Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allotted to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Clean Water Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 14 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection".

● Mr. MAGNUSON. Mr. President, this is a very simple amendment. It would allow the Governor of a State the discretion to reduce the Federal share for wastewater construction grant projects in a State. I have discussed this amendment with the committee, and I believe that the committee is prepared to accept it.

Mr. President, when Congress passed the Clean Water Act, we established a Federal funding formula that provided 75-percent matching grants for projects that qualified under the act. The 75-percent Federal share was fixed. The formula for the remaining 25 percent of the costs was left up to the State and local governments involved.

The Federal funding formula has worked well in the past. However, we are beginning to see that such a fixed formula may be causing problems for some of our States.

Many States have recognized the importance of cleaning up their water. They have also realized the current funding level from the Federal Government does not go very far.

Therefore, some States, like the State of Washington, have decided to raise additional funds to speed up their wastewater construction programs.

This fall, the State of Washington has a $450 million bond issue on the ballot. The money would be used to fund clean water programs.

It has come to my attention, that under existing Federal law, the State of Washington would have to set up a separate grant program for these State funds.

One program would fund projects with 75-percent Federal funds and 25-percent local funds.

The second program would fund projects with 50-percent State money and 50-percent local funds.

Clearly, running two separate programs will complicate matters enormously.

The projects would be much easier to administer if the State had the discretion to reduce the Federal share below 75 percent and run all of the projects under the same uniform funding formula.

A uniform funding formula could avoid a situation where one town was paying 50 percent of the cost of their project—under the State-local program—while a neighboring community was paying only 25 percent of their project cost, with the Federal Government paying the balance.

The amendment would allow a Governor the discretion to propose a uniform Federal percentage rate below the 75-percent level. The Administrator of EPA would have to concur with this lower rate.

Under the amendment, the EPA Administrator would be required to issue guidelines for concurrence in any such modification. The guidelines would provide for consideration of first, the unobligated balance of Federal funds allocated to the State under section 205 of the Clean Water Act, second, the need for assistance under this amendment to the act, and third, the availability of State grant assistance to replace the Federal share that has been reduced.

Mr. President, I want to make it very clear that this amendment would in no way affect a State's allocation of Federal funds under this program.

This amendment would simply give a State the discretion to spread the Federal funds over more projects, if the State so chooses.●

Mr. GRAVEL. Mr. President, this amendment is a very good amendment, motivated by Senator MAGNUSON's interest in accelerating the program within his State. The State of Washington has approved a very strong commitment by the people of Washington in bonds to go to this activity. The bonds are of such magnitude that the program is restricted by the amount of money that can be spent by the State to 25 percent because of the 75-percent Federal match.

If we can lower the match to 50 percent, as is contemplated by this amendment, the State will put up the other 50 percent, which means they will meet a greater obligation than is presently required under law, but it will permit them to accelerate their program in order to clean up the environment.

I commend the people of Washington for doing this. I commend the Senator (Mr. MAGNUSON) for initiating this particular amendment.

I think this is a very admirable thing they are doing. I ask the support of this body to permit that State to take this kind of an initiative which is in the highest order of local self-determination.

I yield to my colleague on the minority side for his comments.

Mr. STAFFORD. Mr. President, the Senator from Vermont has had the opportunity to examine the amendment in question and I am prepared to recommend to the minority that the amendment be accepted.

Mr. GRAVEL. I thank my colleague.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1320) was agreed to.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Senator MAGNUSON be added as a cosponsor to the last amendment, UP No. 1320, which was just agreed to, and that Senator MAGNUSON and Senator HATFIELD be added as cosponsors to the first amendment, UP No. 1319, which was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I would like to direct a question to the floor manager of the bill (Mr. STAFFORD).

Can the Senator tell me how the prohibition on funding industrial capacity contained in section 5 of the bill affects the Papillion Creek and Missouri River projects in Omaha, Nebr.?

Mr. STAFFORD. I am happy to respond to the question.

According to information provided to me by the Environmental Protection Agency, both Papillion Creek and Missouri River projects have completed their step 2 construction plans and specifications projects. Therefore, neither facility is affected by section 5 of the pending bill.

Mr. ZORINSKY. I thank the distinguished Senator from Vermont.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1795

(Purpose: To provide that the Secretary of Transportation notify the Congress whenever the unobligated balance of the pollution fund authorized under the Clean Water Act falls below $12,000,000)

Mr. HEINZ. Mr. President, I call up my printed amendment No. 1795 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 1795.

Mr. HEINZ. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill, add the following:
>
> SEC. 6. Section 311(k) of the Clean Water Act is amended—
>
> (1) by inserting "(1)" after "(k)"; and
>
> (2) by adding the following new paragraph at the end thereof:
>
> "(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

Mr. HEINZ. Mr. President, the purpose of this amendment is very simple. It is to help insure that we never again find ourselves in the near-crisis situation we are now in with respect to the Federal ability to respond to hazardous waste discharges. Very simply, the situation is this: We have a fund administered by the Coast Guard, under section 311(k) of the Clean Water Act. That fund, which is authorized at the level of $35 million, is, in fact, all but depleted. When I last was able to get current information, which was as of May 8—which, I point out, is over 6 weeks ago—there was less than $1.5 million in that fund for all hazardous waste response efforts nationwide.

That, in view of the numerous problems that we are having cleaning up hazardous waste sites, responding to emergencies, protecting the public health and safety—of course, in each of these instances, consistent with the act protecting our navigable waterways from this very dangerous kind of pollution—is something we should all be concerned about.

Mr. President, I am the first to admit that, as helpful as section 311(k) has been and is, and will be in the near future, the fact is that the long-term solution to the hazardous waste cleanup problem is only going to be found in the passage of more comprehensive legislation. I refer, specifically, to superfund, S. 1480, which I know the managers of the bill have been working very hard on, Senator STAFFORD particularly. Unless and until we can enact superfund, we are going to have to be sure that the very limited Federal response capability that we have now is adequately funded.

To correct this dangerous situation, Mr. President, I am going to offer a subsequent amendment when we turn to H.R. 7542, the omnibus supplemental for fiscal 1980. When the supplemental comes before us, which I anticipate will be in the very near future—this week—I plan to offer an amendment increasing appropriations to the fund to $30 million.

The amendment of today, Mr. President, is aimed at helping insure that we do not find ourselves caught somewhat unaware with less than $1.5 million in this very important fund. The purpose of my amendment is, therefore, to help insure that, as the resources of section 311(k) are drained away by necessities, the flow of funds to ongoing cleanup efforts is not turned off.

Specifically, Mr. President, what my amendment requires is that the Secretary of Transportation notify Congress whenever the unobligated balance of the fund falls below $12 million and, at that time—and this is terribly important, Mr. President—to recommend a supplemental appropriation sufficient to restore the fund to its authorized level.

Mr. President, I know that my colleagues understand that this is, at best, a stop-gap measure. It is still a stop-gap measure, even if we succeed later on this week with the amendment to the supplemental, but I think, nonetheless, this is an important step to take and I hope my colleagues will support it.

Mr. GRAVEL. Mr. President, I am happy to accept the Senator's amendment. I am persuaded by his very eloquent statement.

Mr. HEINZ. Mr. President, I thank my friend from Alaska. I appreciate his support.

Mr. STAFFORD. Mr. President, I have examined the amendment of the Senator from Pennsylvania. As he points out, this is a stop-gap measure which will eventually be superseded by the enactment of S. 1480, which creates a superfund for the cleanup, containment, and compensation of victims of hazardous wastes, discharges, and spills.

Mr. President, I am prepared to recommend to my colleagues in the minority that we accept this amendment.

Mr. HEINZ. Mr. President, I thank my good friend from Vermont for his support of the amendment. I am prepared to vote on the amendment.

Mr. GRAVEL. Mr. President, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1795) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1917

(Purpose: To prohibit the Environmental Protection Agency from conducting any study regarding interbasin transfer of water)

Mr. McCLURE. Mr. President, I call up my amendment No. 1917 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an amendment numbered 1917.

Mr. McCLURE. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 2725 is amended by adding at the end thereof the following new section:

"SEC. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water from the Columbia River Basin to the Southwestern United States.".

Mr. McCLURE. Mr. President, it is my intention to modify the amendment and, for that reason, ask the attention of the managers of the bill.

The wording would be changed in this manner: On line 4 of the amendment strike the word "from" and insert "outside," and in line 5, following the word "Basin," put a period and strike the remainder of the sentence. So that, rather than reading "transfer of water from the Columbia River Basin to the Southwestern United States.", it would read "transfer of water outside the Columbia River Basin."

Mr. President, I suggest that it might be well at this time to state that the amendment is so modified.

The PRESIDING OFFICER. The Senator has that right and the amendment is so modified.

The amendment, as modified, is as follows:

S. 2725 is amended by adding at the end thereof the following new section:

"SEC. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water outside the Columbia River Basin.

Mr. McCLURE. Mr. President, this amendment is offered by myself and has the support of a number of others, who are not listed as cosponsors but who have given their support, to complete the Government planning-study cycle with respect to the prohibitions that are in existing law with respect to the interbasin transfer of water from the Columbia Basin outside the basin.

It does not inject anything new, except that it deals with the question of what the Environmental Protection Agency will do, which is another agency of Government not necessarily covered by the specific language of the other prohibitions that deal with other study provisions under the Federal agencies.

This merely says that the Environmental Protection Agency is prohibited from conducting or participating in any study such as those already prohibited.

Mr. GRAVEL. Mr. President, I, generically, have problems with any legislation that would say we cannot study something.

For that reason, I would not be inclined to vote for this amendment.

Mr. McCLURE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1917) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I thank the managers of the bill.

Mr. ROBERT C. BYRD. Mr. President, S. 2725 reauthorizes seven sections of the Federal Water Pollution Control Act of 1972, known as the "Clean Water Act," for fiscal years 1981 and 1982. One important activity reauthorized in this bill is the rural clean water program (section 208). This program encourages the Department of Agriculture, acting through the Soil Conservation Service, to coordinate with the Environmental Protection Agency in providing technical assistance on water management practices to rural landowners.

A major focus of the rural clean water program is containment of runoff from agricultural lands. Control technology for this type of water pollution is not well developed, and further progress in that direction should be pursued under this portion of the Clean Water Act.

Another section of the law which this bill reauthorizes is section 106, the national pollutant discharge elimination system. This program has added a significant regulatory burden to coal producers in the Appalachian region, including West Virginia. The new discharge elimination standards promulgated under this and other sections of the Clean Water Act have been long delayed, and regulatory action under this section has slowed accordingly. The result has been a lack of expeditious action on applications for mining activities.

While these regulations are designed to protect the water which must be used by people downstream from a mine, they do little good if they are used to totally prevent mining activity, to the detriment of the State and national economy. I urge the Environmental Protection Agency to take note of the substantial delays associated with this program, and act to reduce them.

I support Clean Water Act programs in general. I thank the able floor manager, Mr. GRAVEL, and his counterpart on the Republican side, Mr. STAFFORD for their leadership on this issue.

● Mr. CHAFEE. Mr. President, the bill we are now considering, S. 2725, as reported by the Environment and Public Works Committee reauthorizes seven important sections of the Clean Water Act—our most important tool in cleaning up the Nation's waterways.

It also extends from 2 to 3 years the period during which States must obligate their funds for construction of wastewater treatment facilities. Under existing law, States have 2 years in which to obligate funds for treatment projects. If the funds are not obligated within the 2-year period, the State will lose them. Past experience has shown that States will obligate their money to lesser priority projects where little pollution control is achieved rather than forfeit funds at the end of the current 2-year period of availability. This tends to defeat the purposes of the Clean Water Act because projects which will do the most to clean up water pollution are not being built. By extending the allotment period an extra year, States will have additional time to assure that funding will go to high-priority projects.

Another key provision of S. 2725, one which I sponsored during our Committee's consideration of the bill, repeals the "industrial cost recovery requirement". ICR, which was enacted in 1972, requires industrial users of a municipal sewage plant pay for that portion of the Federal share of the plant's construction costs which is attributable to the treatment of industrial wastes. The administrative burden of the provision falls on the towns and cities who must collect these charges and on the Environmental Protection Agency who must monitor each treatment plant for a 30-year period.

Because of the unpopularity of the ICR provision, Congress, in 1977, mandated an 18-month moratorium on ICR and a 12-month study on its effects. That moratorium was extended in December of 1979 through June 30, 1980.

Unless this legislation is passed promptly, ICR will go back into effect and probably wreak havoc among many of our cities, towns and industries.

The EPA study, in 1979 which surveyed 227 sanitary districts and 394 industrial plants, including facilities in Woonsocket, R.I., where the textile industry has been heavily burdened by ICR, concluded that ICR failed to accomplish the purposes for which it was enacted. These purposes have been summarized as parity, water conservation, appropriate capacity and self-sufficiency. Here's why ICR falls short of its goals.

Parity was an important consideration when ICR was enacted. Because industries were hooking into a municipal treatment plant, many people thought they were getting a free ride. Yet, EPA found that it is often less expensive for an industry to build its own treatment facility than to dispose of its wastes into a municipal plant. Part of this is due to the fact that industry must pay operation and maintenance charges, local debt service and changes in local tax structures favor self-treatment. Industry, like residential users, also pay taxes. Thus EPA concluded that the construction grant program does not provide a subsidy to industrial users.

ICR has had little effect on water conservation when compared to the success achieved through proportionate user charges. The industrial plants surveyed by EPA reported an average reduction in water use by 29 percent, but they pointed to user charges and water rates as the impetus. ICR is not credited with encouraging water conservation.

Precaution against overly excessive treatment plant capacity was still another reason given for ICR. A plant should be built to serve existing domestic, commercial and industrial needs with a sufficient capacity for projected growth in these three areas. EPA however, found that ICR does not effect decisions on siting of plants or deter construction of excess capacity.

With respect to the self-sufficiency of municipalities in providing for their own sewage treatment needs, EPA reported that the amount able to be retained by the grantees will not make a significant contribution toward their financial capability to meet the costs of future expansion and upgrading of their treatment works. This is especially true since inflation eats up the portion retained by the grantee.

When ICR was enacted, potential dollar recovery was expected to be $4.5 to $7 billion. But now, based on assumed eventual grants, EPA has said that the total ICR revenues may amount to considerably less, $1 to $2 billion over 30 years. By the time 50 percent is given back to the Treasury and administrative costs are covered by the grantee-retained portion, there is little on which to base local government wastewater treatment self-sufficiency. Although EPA Assistant Administrator Beck now says, in 1980, that the earlier revenue estimates of $1–2 billion were low, he admits that some of his staff may disagree with him.

Mr. President, I would argue that an industrial cost recovery charge is indeed a factor when an industry decides whether to expand or locate a new plant in a particular area. So we are sometimes talking about a loss of potential in a community if that community must assess an ICR charge because of construction grant expenditures after 1973. Further, although an industry or business may not identify ICR as the sole reason for a shutdown or move, I would submit that ICR is one of a combination of things that can drag down a marginal business.

Our Environment and Public Works Committee, particularly the Environmental Pollution Subcommittee, of which I am a member, held hearings on ICR last March. During the hearings we heard from representatives of EPA, local officials, industries, and other groups. Members of the metropolitan sewage agencies testified strongly in favor of an ICR repeal. Textile manufacturers, food processors, brewers, and the pulp and paper industries also supported repeal. Although EPA said it did not favor a total repeal, it recognized that ICR had many flaws and offered suggestions such as exemptions where administrative costs exceed receipts or in certain other hardship cases.

I, however, do not believe that ICR regulations can be repaired to effectively accomplish Congress original intent.

The stream of revenues returned by ICR over the 30-year period without interest will not be adequate to finance additional treatment needs because of the impact of inflation on both construction costs and the present value of the recovered funds. Permitting case-by-case exemptions will create new uncertainty for industrial users over the costs of participation in municipal systems.

None of EPA's recommendations, even making the Federal financing of industrial costs optional, will eliminate the enormous administrative and managerial burden ICR imposes on both grantees and the agency itself. By its very nature, the complex regulatory and financial scheme, with its major demands on scarce personnel resources, cannot succeed. By its terms, ICR maintains a Federal presence in local waste treatment management for up to 30 years.

Mr. President, given the track record of ICR over the past several years it is overwhelmingly evident that it cannot and will not work. I urge my colleagues to pass this bill quickly so ICR can be repealed before the moratorium expires on June 30.●

Mr. MATHIAS. Mr. President, I wonder if I might make an inquiry of my distinguished colleague from Vermont, Mr. STAFFORD, under the provisions of section 5 of the Clean Water Act extensions, would the Environmental Protection Agency have the option of establishing the non-Federal share of the construction cost of a publicly owned treatment works based upon the incremental cost rather than the proportional cost represented by the industrial user's demands upon the facility?

Mr. STAFFORD. Mr. President, I would be very pleased to respond to the question of the Senator from Maryland, my longtime, very good friend, Senator MATHIAS.

In reply let me say, the Environmental Protection Agency is expected to develop regulations which will establish the non-Federal costs of a treatment works under section 5. This Senator expects the Agency will carefully evaluate the actual costs of treating industrial wastewater in such treatment works, in developing these regulations.

Mr. MATHIAS. I thank the distinguished Senator from Vermont.

Mr. RANDOLPH. Mr. President, few things have given me more of a sense of accomplishment during my years in this body than the progress that has been achieved in recent times in the field of water pollution control.

Because those gains have come about through legislation conceived and developed by the Environment and Public Works Committee, they give me a special sense of pride and satisfaction.

For the reason, I am gratified by the action we have taken today in adoption of S. 2725 to extend the authorization of the clean water program.

In so doing, we have insured its operation and further improvement along the lines established under the Clean Water Act of 1977—one which as you know set some major new goals and established new directions for the pollution control effort.

Among those new directions, as you so well know, was the emphasis it placed on development of new and less costly methods for sewage treatment as alternatives for conventional systems, particularly in sparsely settled areas where requirements are modest and resources limited.

At the same time, it made further provision for wastewater treatment facilities construction grants with updated requirements to address current conditions. It also tightened requirements for control of toxic pollutant discharges, calling for their complete elimination by 1984 and sooner if possible.

These and related program provisions have, as you so well know, already returned significant dividends in the form of cleaner lakes and rivers, improved municipal sanitation and public health and a more ample and dependable supply of pottable water for burgeoning demands of cities and industries.

The bill emerging from our debate today makes possible continued attention to the program priorities which have produced those results.

The unanimous 93 to 0 vote for its approval attests in a dramatic way to your recognition of the importance of those objectives and the necessity for further action to attain them.

Such concerted support, I suggest, is the best insurance that the pace toward those goals will not lag.

Mr. GRAVEL. Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. STAFFORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—93

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—7

Goldwater
Hart
Hatfield
Kennedy
Pressler
Stevenson
Tower

So the bill (S. 2725), as amended, was passed, as follows:

S. 2725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 104(u)(1) of the Clean Water Act is amended by striking "and" after "June 30, 1975," and inserting after "September 30, 1980," the following "not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,".

(b) Section 104(u)(2) of the Clean Water Act is amended by striking "and $3,000,000 for fiscal year 1980" and inserting in lieu thereof "$3,000,000 for fiscal year 1980, $2,524,000 for fiscal year 1981, and $2,774,000 for fiscal year 1982".

(c) Section 106(a)(2) of the Clean Water Act is amended by inserting after "1980" a comma and the following: "$48,730,000 for fiscal year 1981, and $53,500,000 for fiscal year 1982".

(d) Section 208(f)(3) of the Clean Water Act is amended by striking "and" after "1974," and inserting after "1980" a comma and the following: "not to exceed $39,000,000 for the fiscal year ending September 30, 1981, and not to exceed $42,900,000 for the fiscal year ending September 30, 1982".

(e) Section 208(j)(9) of the Clean Water Act is amended by striking "and $400,000,000 for fiscal year 1980," and inserting in lieu thereof a comma and the following: "$400,000,000 for fiscal year 1980, and $50,000,000 for fiscal year 1981,".

(f) Section 314 of the Clean Water act is amended by striking "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof $60,000,000 for fiscal year 1980, $13,500,000 for fiscal year 1981, and $14,850,000 for fiscal year 1982".

(g) Section 517 of the Clean Water Act is amended by striking "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $146,433,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

SEC. 2. (a) Section 205(d) of the Clean Water Act is amended by adding the following: "The Administrator, in consultation with the State, may exempt from reallotment under this subsection such funds as the Administrator determines will be necessary to satisfy the Federally fundable portion of any project which is required by consent decree or court order entered in a Federal or State court to enforce compliance with section 301(b)(1)(B) or (C) of this Act. If the Administrator later determines that the State is not contributing to timely progress towards meeting the obligations of such consent decree or court order, the Administrator may reallot the exempted funds at any such time."

(b) Section 205(i) of the Clean Water Act is amended by adding at the end thereof the following sentence: "Notwithstanding the language of subsection (d) of this section, sums reserved under this subsection from the amount provided for the fiscal year ending September 30, 1979, shall be available for obligation until September 30, 1981.".

"HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until the end of the third full fiscal year after the enactment of this section. Funds allotted to the State of New York under section 205(a) shall be available under this subsection unless funds are made available to the State of New York for the work authorized by this section under section 115 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 516(b) of this Act.".

SEC. 4. (a) Paragraph (1) of subsection (b) of section 204 of the Clean Water Act is amended by striking out clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Clean Water Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Clean Water Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement.

(d) Section 201(h) of the Clean Water Act is amended by striking out the last sentence.

(e) The second sentence of section 213(d) of the Clean Water Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204 (b)(3) of this Act, and (2)".

(f)(1) Section 75(b) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed.

(g) The amendments made by this section shall take effect on December 27, 1977.

(h) Notwithstanding any other provision of this section or the Clean Water Act, a grantee shall retain all revenues derived from the payment of costs by industrial users of waste treatment service to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to title II of the Clean Water Act as determined by the Administrator, which have been collected prior to the enactment of this section, and such retained revenues shall be used for the operation and maintenance, reduction of debt, future expansion, and reconstruction of such project.

SEC. 5. Section 201 of the Clean Water Act is amended by adding the following new subsection:

"(k) No grant made after September 30,

1980, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.".

SEC. 6. Section 311(k) of the Clean Water Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

SEC. 7. (a) The first sentence of section 202(a)(1) of the Clean Water Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State."

(b) The first sentence of section 202(a)(2) of the Clean Water Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursued to paragraph (1) of this subsection".

SEC. 6. Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency is prohibited from conducting or participating in any study regarding the interbasin transfer of water outside the Columbia River Basin.".

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BAKER. Mr. President, I will not take but just one brief moment if I may.

Mr. President, I wish to take a moment to express my personal thanks and appreciation, and I am certain the thanks of the entire Senate, for the untiring work over the past few days of the senior Senator from Vermont (Mr. STAFFORD). It is clear to me that Senator STAFFORD has been the most prominent individual member of the Senate over the past several days—playing a major role in each of the recent bills we have considered, spending long hours on the Senate floor to assure that our work is accomplished in a timely and effective manner.

Last Friday, he was Republican floor manager on S. 2080, the landmark legislation that restructures the method under which the General Services Administration provides office space for Federal activities. That bill was, to a very great extent, the product of his hard work in committee, and may prove to be one of the most important pieces of legislation considered by the Senate during the 96th Congress.

On Monday, Senator STAFFORD was floor manager on S. 1839, the very important higher education bill, which the Senate passed yesterday. That same day, he played a major role in the discussion of S. 2470, the coal conversion legislation, working very hard in an effort to assure that environmental standards are fully protected under that program.

Then today, BOB STAFFORD was floor manager for the title II provisions of S. 2720, the transportation bill that was considered this morning, and now, he is managing the clean water amendments for the Republicans.

I know I speak for the entire Senate when I express my deep and heartfelt thanks for the extremely effective and very hard work that BOB STAFFORD has given our Nation, both in recent days, and, of course, at all times. I believe this work is an indication of the character and the strength of a gentleman who is one of our finest Senators, a man who I have been proud to serve with on the Committee on Environment and Public Works and in the Senate through the past decade.

Mr. President, I finally wish to publicly express my appreciation to Senator STAFFORD for forbearing as I have time after time gone to him and asked for his willingness to manage the next piece of legislation. This long string of bills has been an inconvenience to him. It has been an imposition on his time and energy. But he has agreed to do these things gladly, and I wish to express my appreciation for them.

Mr. STAFFORD. Mr. President, I express my deep thanks and gratitude to the minority leader for his very kind words and say to him that I shall be glad to turn this desk back to the minority leader for the next few days before he starts to charge me rent for sitting here.

Mr. GRAVEL. Mr. President, let me add my voice in gratitude and admiration to the distinguished Senator from Vermont for the work he has done on this particular bill.

I have come lately to this task. I think he and Senator Muskie, who is no longer with us, really are the ones who deserve the credit for bringing all this together.

I also add my gratitude to my staff in this regard, John Yago, Sally Walker, Phil Cummings, and others, who have done the tedious work and forged the compromise at the staff level that came about and caused this bill to be accepted so harmoniously.

So I express my gratitude to all of them and, of course, my personal gratitude to the distinguished chairman of the full committee, Senator RANDOLPH, who has given guidance and leadership throughout the entire process.

I thank the Senator.

Mr. LEAHY. Mr. President, I would just like to associate myself with the words of the distinguished minority leader and others here today regarding my senior colleague, Senator STAFFORD.

I think in going through the CONGRESSIONAL RECORD in the past week the word "Vermont" has probably appeared more times than certainly anytime since I have been in the Senate, or referring to the distinguished senior Senator from Vermont in his capacity as floor manager on a list of bills that would make it appear as though he was becoming a candidate for the Guinness Book of Records from the series of measures here.

I think the fact that these bills have gone through so expeditiously is a reflection of the fact that our colleagues on both sides of the aisle discovered what we in Vermont have known for years and years, and that is that Senator STAFFORD is one on whom we could rely, one whom we can trust for both his expertise and his thorough knowledge of the subject, and the fact that he has first and foremost the interests of the country at heart.

I have only one complaint, however, about his performance, Mr. President, and that is as the junior Senator from Vermont I really could not imagine how I could possibly follow with such a performance or have the stamina to do it. I wish to applaud my distinguished senior colleague.

Mr. STAFFORD. Mr. President, if the Senator will let me simply express my appreciation to my colleague and friend, Senator LEAHY, let me so express it for the very kind things that he said.

Mr. MATHIAS. Mr. President, I am astonished at the astonishment which is being expressed here over the capacity and competence and capability and endurance of the distinguished senior Senator from Vermont. He has been the Attorney General of Vermont, he has been the Governor of Vermont, he has been the only Member of the House of Representatives from Vermont, and for many years he has been the senior Senator from Vermont. What less would we expect of him than the kind of performance he has given us today? That is the Stafford standard. [Laughter.]

We expect no less than the Stafford standard and, Mr. President, I want you to know that I am not yet prepared to let him seek ease from the burdens of his labors.

Mr. STAFFORD. I thank my friend for his very kind remarks.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. I want to add my words of praise to those which have been expressed by the distinguished minority leader with respect to Mr. STAFFORD who worked on this and other bills. He has certainly been a pillar of strength. He has been called upon repeatedly in the last 2 days to help manage measures, and he has responded graciously. His work, as usual, has been very effective. It is about what I expected, and I express my praise without any reservations.

I also praise Mr. GRAVEL who was called on without much notice to manage the clean air bill, and he responded in a fine way and did an excellent job in managing the bill, so I praise both of these fine Senators for their work.

Mr. STAFFORD. Mr. President, I express my deep appreciation to the majority leader for his kind words.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, and Senators may speak during that period, and that the period last not beyond 10 minutes.

The PRESIDING OFFICER. Without objection, it is ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the following Calendar Orders Nos. 874 through 891, inclusive, 894, 895, 898, 899, 907, and 908.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that the items he has just identified are clear on our calendar for passage and we have no objection to their consideration.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that all the calendar order numbers enumerated and to which the distinguished minority leader has consented be agreed to en bloc, that any amendments shown be agreed to, that any amendments to the preamble or title be included, and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that appropriate extracts of committee reports may be printed in the RECORD in explanation of any of the measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARIA ELENA AND CARITINA ANN FOLEY

The bill (S. 120) for the relief of Maria Elena Foley and Caritina Ann Foley, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Elena Foley and Caritina Ann Foley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-803), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to grant the status of permanent residence to Maria Elena Foley and Caritina Ann Foley, the adopted children of Jacqueline Ann Foley. The bill also provides for the payment of the required visa fees and the appropriate quota deductions.

HYONG CHA KIM KAY

The bill (S. 1528) for the relief of Hyong Cha Kim Kay, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(23) of the Immigration and Nationality Act, Hyong Cha Kim Kay may be issued a visa and admitted to the United States if she is found to be otherwise admissible under the provisions of that Act.

SEC. 2. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-804), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to provide for visa insurance and the beneficiary's admission for permanent residence notwithstanding her ineligibility as an alien who has been convicted of a violation of any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, if she is otherwise admissible under the provisions of the Immigration and Nationality Act.

FRANCISCO PANG

The bill (S. 1624) for the relief of Fransicso Pang, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, upon the presentation of Francisco Pang of this Act to any court having naturalization jurisdiction under section 310 of the Immigration and Nationality Act, and after Francisco Pang takes in open court the oath required under section 337 of such Act, such court shall admit to citizenship Francisco Pang and shall issue to him a certificate of naturalization as provided in section 338 of such Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-805), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The bill as written would waive the jurisdictional requirements, the procedural requirements, and all qualitative requirements for naturalization and would permit the beneficiary to be naturalized upon taking the oath required by the Immigration and Nationality Act.

MIN-ZEN LIN

The bill (S. 1772) for the relief of Min-Zen Lin, was considered, ordered to be engrossed for a third reading, read the third time and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Min-Zen Lin shall be classified as a child within the meaning of section 101(b)(1),(F) of such Act, upon approval of a petition filed on his behalf by Eyih Lin and Susan Tu Lin, husband and wife, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Min-Zen Lin shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-806), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to classify the beneficiary as a child within the meaning of section 101(b)(1)(F) of the Immigration and Nationality Act upon approval of a petition filed on his behalf by Eyih Lin and Susan Tu Lin, husband and wife, citizens of the United States, pursuant to section 204 of the Immigration and Nationality Act.

LAIRD H. HAIL

The bill (S. 1785) for the relief of Laird H. Hail, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Laird H. Hail the sum of $5,068.84 in full satisfaction of all claims of the said Laird H. Hail against the United States for reimbursement for expenses incurred in connection with the sale of his residence at 8844-39th Avenue, Southwest, Seattle, Washington, which sale was closed on September 1, 1972. Such amount represents reimbursement for real estate brokerage fees, legal and related costs, title insurance charges, escrow fees, State revenue stamps, sales or transfer taxes, and other incidental real estate settlement expenses incurred by Laird H. Hail in connection with the above-described sale which occurred pursuant to his transfer of duty station at the request of the United States Navy from Seattle, Washington, where he was employed by the National Oceanographic and Atmospheric Administration, to Silver Spring, Maryland, where he was employed by the United States Navy.

Sec. 2. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent, or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not to exceed $1,000.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–807), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill is to reimburse the beneficiary for expenses incurred in connection with the sale of his residence in Seattle, Washington.

ANA MARLENE ORANTES

The bill (S. 1847) for the relief of Ana Marlene Orantes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ana Marlene Orantes may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Robert I. Jump, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of said Ana Marlene Orantes shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–808), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill is to classify the adoptive daughter of United States citizens as a child and grant immediate relative status upon approval of a petition filed by the adoptive parents.

PETER CHI HUNG KWOK AND PING CHI CHAU KWOK

The bill (S. 1944) for the relief of Peter Chi Hung Kwok doctor of medicine, and Ping Chi Chau Kwok, husband and wife, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (14) and (32) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act, Peter Chi Hung Kwok, doctor of medicine, and Ping Chi Chau Kwok, husband and wife, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Under the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act, or if applicable, the total number of immigrant grant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 202 of the Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–809), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Peter Chi Hung Kwok and Ping Chi Chau Kwok, husband and wife. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

JAMES DANIEL BRONSON

The bill (S. 2027) for the relief of James Daniel Bronson was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any numerical limitation, imposed by the Immigration and Nationality Act, in the administration of such Act, for purposes of such Act, James Daniel Bronson shall be issued a visa and lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202 of the Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–910) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill is to grant permanent residence to James Daniel Bronson as of the date of the enactment of this Act upon payment of the required visa fee.

LARRY GRATHWOHL

The Senate proceeded to consider the bill (S. 576) for the relief of Larry Grathwohl, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 5, strike "thirty-six" and insert "twenty-three", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 1662 of title 38, United States Code, (relating to the time limitations for completing a program of education) the Administrator of Veterans' Affairs is authorized to grant Larry Grathwohl of Castro Valley, California, an extension of the applicable delimiting period for completion of a program of education under chapter 34 of title 38, United States Code, not to exceed twenty-three months, to begin on the date of the enactment of this Act, the said Larry Grathwohl having been unable to fully utilize his educational assistance benefits under such chapter for more than three years after his honorable discharge from the Armed Forces of the United States and before the expiration of the delimiting period applicable to him, as the result of performing undercover informer service for the Federal Bureau of Investigation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–811), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill as amended, would provide the veteran, Larry D. Grathwohl, with educational assistance benefits under chapter 34 of title 38, United States Code, during the period of time necessary for him to complete a program of education, not to exceed twenty-three months, to begin on the date of the enactment of this measure, notwithstanding the provisions of section 1662, of title 38, United States Code, (relating to the time limitations for completing a program of education).

GERALD W. FRYE

The Senate proceeded to consider the bill (S. 1307) for the relief of Gerald W. Frye, which had been reported from the Committee on the Judiciary with an amendment on page 2, beginning with line 7, strike through and including line 11, and insert in lieu thereof the following:

(2) for which he would have been reimbursed under section 5724a and the implementing regulations but for the fact such sale was not completed within the required time limit prescribed in paragraph 2–6.13 of the Federal Travel Regulations, FPMR 101–7, May 1973, because of his reliance on erroneous information given him by an officer of such agency.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense is authorized and directed to pay out of any appropriations or other funds available for the reimbursement of relocation expenses under section 5724a of title 5, United States Code, to Gerald W. Frye, $4,212.30. Such sum shall be in full satisfaction of any claim by Gerald W. Frye, an employee of the Defense Logistics Agency transferred from Orlando, Florida, to Burlington, North Carolina, for expenses—

(1) which were incurred in connection with the sale of his residence, and

(2) for which he would have been reimbursed under section 5724a and the implementing regulations but for the fact such sale was not completed within the required time limit prescribed in paragraph 2–6.13 of the Federal Travel Regulations, FPMR 101–7, May 1973, because of his reliance on erroneous information given him by an officer of such agency.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agency or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–812), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill is to reimburse a civil service employee for relocation expenses incident to his permanent change of station.

NATIONAL FAMILY WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 156) to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week", which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 2, strike "annually";

On page 2, line 2, strike "beginning on the Sunday preceding the fourth Thursday in November of each year" and insert "of November 23 through 29, 1980";

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The joint resolution, with its preamble, reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

The title was amended so as to read:

A joint resolution to authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week".

NATIONAL POW–MIA RECOGNITION DAY

The joint resolution (S.J. Res. 168) designating July 18, 1980, as "National POW–MIA Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families is deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1980, is designated as "National POW–MIA Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

COLONEL PAUL A. KELLY

The bill (H.R. 2148) for the relief of Colonel (doctor) Paul A. Kelly, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–813), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the proposed legislation is to pay $30,000 to Sheila M. Jackson, of Lehi, Utah, in full satisfaction of all her claims, and those of her husband, Melvin D. Jackson, against the United States and Colonel (doctor) Paul A. Kelly, United States Air Force, of the United States Air Force Academy, Colorado, arising from the medical malpractice which is alleged to have occurred during the delivery of a child in June 1972 at Lakenheath Air Force Base in England. The payment would be conditioned upon the execution of a written release by Sheila M. Jackson and Melvin D. Jackson which forever discharges Paul A. Kelly, his heirs, representatives and assigns, and the United States, its officers, agents, and employees, from all liability, claims, and demands, of whatever nature, arising from the incident.

ISAAC DAVID COSSON

The bill (H.R. 2475) for the relief of Isaac David Cosson, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–814), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of this bill is to pay the claimant, Isaac David Cosson, $18,000 a year for the remainder of his life in full satisfaction of any claims he may have against the United States arising from the accidental bombing of his home in 1944. The bill authorizes the Secretary of the Treasury to adjust the amount of the annual payment to reflect increases in the Consumer Price Index. The annual payment would be made in monthly installments of $1,500. The bill was amended by the House of Representatives to increase the annual payment from $16,000 to $18,000 and the provision for medical assistance and other aid or assistance was removed.

CLARENCE S. LYONS

The bill (H.R. 3818) for the relief of Clarence S. Lyons, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–815), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the proposed legislation is to pay to Clarence S. Lyons, of Louisville, Ky., the sum of $36,858.00 in full settlement of all his claims against the United States arising out of the injury of his right eye which he sustained while working in the prison industries at the U.S. Public Health Hospital, Lexington, Ky., in March 1943.

CERTAIN EMPLOYEES OF THE NAVAL ORDNANCE SYSTEMS COMMAND

The bill (H.R. 5156) for the relief of certain employees of the Naval Ordnance Systems Command was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–816), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the proposed legislation, as amended, is to pay the amounts listed opposite the names of the following named employees of the Naval Ordnance Systems Command in full settlement of their claims against the United States for premium pay due them for services rendered, during an emergency situation, upon orders given by the Naval Ordnance Systems Command which had been denied them pursuant to section 5547 of title 5 which currently limits aggregate biweekly pay without regard for emergency situations requiring extended services by specialized personnel:

(1) To Donald L. Francke of Bloomington, Indiana, the sum of $442.98;

(2) To J. Keith Crane of Bloomfield, Indiana, the sum of $677.84;

(3) To Alvin E. Gilmore of Bloomington, Indiana, the sum of $1,755.02;

(4) To Charles H. Horrell of Bedford, Indiana, the sum of $852.67; and

(5) To Allen Hamilton of Spencer, Indiana, the sum of $560.98.

JEWISH EMPLOYMENT VOCATIONAL SERVICE

The Senate proceeded to consider the bill (S. 444) for the relief of the Jewish Employment Vocational Service, St. Louis, Mo., which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "money in the Treasury not otherwise appropriated" and insert "sums appropriated to the payment of claims";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, out of sums appropriated to the payment of claims, the sum of $67,000 to the Jewish Employment Vocational Service, 1727 Locust Street, Saint Louis, Missouri, a nonprofit charity that operates the Jewish Employment Vocational Service Workshop, a workshop for the training and rehabilitation of blind and other severely handicapped workers, which produces certain commodities purchased by the United States in accordance with the Act entitled "An Act to create a Committee on Purchases of Blind-Made Products, and for other purposes" (52 Stat. 1196).

(b) Payment under this section shall be in full satisfaction of all claims by such Jewish Employment Vocational Service against the United States for certain anti-fainting capsules (ammonia inhalant ampules) manufactured by such workshop, that were seized, condemned, and destroyed pursuant to orders on December 29, and 30, 1977, by the United States District Court for the Eastern District of Missouri.

SEC. 2. Notwithstanding any contract to the contrary, no amount of the sum appropriated in the first section of this Act shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with this claim. Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine in an amount not to exceed $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-817), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of the bill is to authorize payment of $67,000 to the Jewish Employment Vocational Service ("JEVS") of St. Louis, Mo., a nonprofit, charitable organization, in full satisfaction of its claims against the United States in connection with the destruction of ammonia inhalant capsules produced by JEVS.

REAPPOINTMENT OF MURRAY GELL-MANN AS A CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 181) to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-820), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Joint Resolution 181 would provide that the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

PRINTING OF "HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM" AS A SENATE DOCUMENT

The resolution (S. Res. 443) authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program" as a Senate document was considered, and agreed to. as follows:

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144 of title 23, United States Code), entitled "Highway Bridge Replacement and Rehabilitation Program", be printed as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-821), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 443 would provide (1) that the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144 of title 23, United States Code), entitled "Highway Bridge Replacement and Rehabilitation Program", be printed as a Senate document; and (2) that there be printed 500 additional copies of such document for the use of the Committee on Environment and Public Works.

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$5,432.90
500 additional copies, at $1,333.33 per thousand	666.66
Total estimated cost, Senate Resolution 443	6,099.56

PRINTING OF BOTANIC GARDEN CONSERVATORY BROCHURE

The concurrent resolution (S. Con. Res. 102) authorizing the printing of a self-guided tour brochure of the U.S. Botanic Garden Conservatory, was considered, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed for the use of the Joint Committee of Congress on the Library one hundred thousand copies of the brochure entitled "United States Botanic Garden Conservatory—A Self-Guided Tour".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-822), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 102 would authorize the printing for the use of the Joint Committee of Congress on the Library of 100,000 copies of the brochure entitled "United States Botanic Garden Conservatory—A Self-Guided Tour".

As the number of visitors to the Botanic Garden Conservatory has increased—from 273,940 in fiscal year 1971 to 1,745,023 in fiscal year 1979—it has become apparent that there is a growing need for printed descriptions of the collection to augment the efforts of the staff to answer visitor questions as they tour the collections.

The printing-cost estimate, supplied by the Acting Public Printer, is as follows:

Printing-cost estimate

First 50,000 copies	$4,033.40
50,000 additional copies, at $51.82 per thousand	2,591.00
Total estimated cost, S. Con. Res. 102	6,624.40

CLASSIFIED INFORMATION PROCEDURES ACT

The Senate proceeded to consider the bill (S. 1482) to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 3, line 1, strike "of any classified material disclosed to the defendant" and insert "in connection with a prosecution by the United States of any classified material";

On page 4, line 10, after "Act" insert a comma and "and until the time for the Government to appeal such determination under section 7 has expired or any appeal under section 7 by the Government is decided";

On page 5, line 19, after "category" insert "approved by the Court";

On page 5, beginning with line 24, strike through and including page 6, line 5;

On page 6, line 6, strike "(3)" and insert "(2)";

On page 6, line 14, strike "(4)(A)" and insert "(3)(A)";

On page 8, line 21, after "information" beginning with the comma, strike through and including "delay" in line 24;

On page 11, beginning with line 8, strike through and including page 12, line 23;

On page 13, line 3, strike "11" and insert "10";

On page 13, beginning with line 10, insert the following:

SEC. 11. Sections 1 through 10 of this Act may be amended as provided in section 2076. title 28, United States Code.

On page 14, line 13, after "Attorney General" insert "or his designee";

On page 14, line 14, strike "make available" and insert "report orally or in writing semiannually";

On page 14, beginning with line 18, strike through and including line 19, and insert "on all cases where a decision not to prosecute a violation of Federal law pursuant to subsection (a) has been made.";

On page 14, beginning with line 22, insert the following:

REPORTS TO CONGRESS

SEC. 13. The Attorney General shall deliver to appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Classified Information Procedures Act".

DEFINITIONS

SECTION 1. (a) "Classified information", as used in this Act, means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in section 2014(y) of title 42, United States Code.

(b) "National security", as used in this Act, means the national defense and foreign relations of the United States.

PRETRIAL CONFERENCE

SEC. 2. At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any other matters which relate to classified information or which may promote a fair and expeditious trial.

PROTECTIVE ORDERS

SEC. 3. Upon request of the Government, the court shall issue a protective order to guard against the compromise in connection with a prosecution by the United States of any classified material.

DISCLOSURE OF CLASSIFIED INFORMATION TO DEFENDANTS

SEC. 4. The court may authorize the Government to delete specified items of classified information from documents to be made available to the defendant, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The Government's motion requesting such authorization and materials submitted in support thereof shall, upon request of the Government, be considered by the court in camera and not disclosed to the defendant.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION

SEC. 5. (a) Notice by Defendant.—If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or where no time is specified within thirty days prior to trial, notify the attorney for the Government and the court in writing. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the Government and the court in writing as soon as possible thereafter. Such notice shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the Government has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the Government to appeal such determination under section 7 has expired or any appeal under section 7 by the Government is decided.

(b) FAILURE TO COMPLY.—If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination by the defendant of any witness with respect to any such information.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION

SEC. 6. (a) MOTION FOR HEARING.—After the United States receives notification pursuant to section 5 or otherwise learns of any classified information that the defendant may disclose or cause to be disclosed at a trial or pretrial proceeding, the Government may, within the time specified by the court, move for a hearing concerning any such information. In connection with its motion, the Government may submit the classified information along with an explanation of the basis for the classification to the court for its examination in camera and shall provide the court with an affidavit of the Attorney General, the Deputy Attorney General, or a designated Assistant Attorney General certifying that the information is classified. The hearing, or specified portion thereof, shall be held in camera whenever the Government certifies that a public proceeding may result in the compromise of classified information.

(b) HEARING.—(1) Prior to the hearing, the Government shall provide the defendant with the notice of the information that will be at issue. This notice shall identify the specific classified information that will be at issue whenever that information has previously been made available to the defendant in connection with the pretrial proceedings. The Government may describe the information by generic category approved by the Court rather than identifying the specific information of concern to the Government when the Government has not previously made the information available to the defendant in connection with the pretrial proceedings.

(2) Following a hearing, the court shall determine whether and the manner in which the information at issue may be used in a trial or pretrial proceeding. As to each item of classified information, the court shall set forth in writing the basis for its determination. Where the Government's motion under subsection (a) is filed prior to the trial or pretrial proceeding, the court shall rule prior to the commencement of the relevant proceeding.

(3)(A) If the court determines that the information may not be disclosed or elicited at a pretrial or trial proceeding the record of the hearing shall be sealed and preserved by the Government in the event of an appeal. The defendant may seek reconsideration of the court's determination prior to or during trial.

(B) In lieu of authorizing disclosure of the specific classified information, the court shall, if it finds that the defendant's right to a fair trial will not be prejudiced, order—

(i) substitution of a statement admitting relevant facts that the specific classified information would tend to prove, or

(ii) substitution of a summary or portion of a specific classified information.

(C) If the court determines that these alternatives to full disclosure may not be used and the Government provides the court with an affidavit of the Attorney General, Deputy Attorney General, or designated Assistant Attorney General objecting to disclosure of the information, the court shall issue any order which is required in the interest of justice. Such an order may include, but need not be limited to an order—

(i) striking or precluding all or part of the testimony of a witness; or

(ii) declaring a mistrial; or

(iii) finding against the Government on any issue as to which the evidence relates; or

(iv) dismissing the action, with or without prejudice; or

(v) dismissing specified counts of the indictment against the defendant.

Any such order shall permit the Government to avoid the sanction for nondisclosure by agreeing to permit the defendant to disclose the information at the pertinent trial or pretrial proceeding. The Government may exercise its right to take an interlocutory appeal prior to determining whether to permit disclosure of any classified information.

(c) RECIPROCITY.—Whenever the court determines pursuant to subsection (b) that classified information may be disclosed in connection with a trial or pretrial proceeding, the court shall, unless the interest of fairness does not so require, order the Government to provide the defendant with the information it expects to use to rebut the classified information. The court may place the Government under a continuing duty to disclose such rebuttal information. If the Government fails to comply with its obligation under this subsection, the court may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the Government of any witness with respect to such information.

INTERLOCUTORY APPEAL

SEC. 7. (a) An interlocutory appeal by the United States taken before or after the defendant has been placed in jeopardy shall lie to a court of appeals from a decision or order of a district court in a criminal case requiring the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information.

(b) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within ten days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (i) shall hear argument on such appeal within four days of the adjournment of the trial, (ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (iii) shall render its decision within four days of argument on appeal, and (iv) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

INTRODUCTION OF CLASSIFIED INFORMATION

SEC. 8. (a) CLASSIFICATION STATUS.—Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(b) PRECAUTIONS BY COURT.—The court, in order to prevent unnecessary disclosure of classified information involved in any criminal proceeding, may order admission into evidence of only part of a writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein.

(c) TAKING OF TESTIMONY.—During the examination of a witness in any criminal proceeding, the Government may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring the Government to provide the court with a proffer of the witness' response to the question or line of inquiry and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

SECURITY PROCEDURES TO SAFEGUARD AGAINST COMPROMISE OF CLASSIFIED INFORMATION DISCLOSED TO THE COURT

Sec. 9. (a) Within one hundred and twenty days following the date of enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, shall prescribe security procedures for protection against the compromise of classified information submitted to the Federal district courts, the courts of appeals, and the Supreme Court.

(b) Until such time as procedures are promulgated pursuant to subsection (a), the Federal courts shall in each case involving classified information adopt procedures to protect against the compromise of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

Sec 10. In any prosecution in which the Government must establish that material relates to the national defense or constitutes classified information, the Government shall notify the defendant, within the time specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

Sec. 11. Sections 1 through 10 of this Act may be amended as provided in section 2076, title 28, United States Code.

ATTORNEY GENERAL GUIDELINES

Sec. 12. (a) Within one hundred and eighty days of enactment of this law, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings detailing the reasons for the decision not to prosecute. The findings shall include—

(1) the intelligence information which the Department of Justice officials believe might be disclosed,

(2) the purpose for which the information might be disclosed,

(3) the probability that the information would be disclosed, and

(4) the possible consequences such disclosure would have on the national security.

(c) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the Attorney General or his designee shall report orally or in writing semiannually to the Permanent Select Committee on Intelligence of the United States House of Representatives and the Select Committee on Intelligence of the United States Senate on all cases where a decision not to prosecute a violation of Federal law pursuant to subsection (a) has been made.

REPORTS TO CONGRESS

Sec. 13. The Attorney General shall deliver to appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–823), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of this bill is to help ensure that the intelligence agencies are subject to the rule of law and to help strengthen the enforcement of laws designed to protect both national security and civil liberties. Too often the duty of the government to protect legitimate national security secrets and to prosecute law breakers have been in conflict. Insofar as possible, S. 1482 resolves that conflict. Assistant Attorney General Philip Heymann summarized the difficulty that the Executive branch has faced in cases involving national security information:

The government's understandable reluctance to compromise national security information invites defendants and their counsel to press for the release of sensitive classified information the threatened disclosure of which might force the government to drop the prosecution. "Graymail" is the label that has been applied to describe this tactic. It would be a mistake, however, to view the "graymail" problem as limited to instances of unscrupulous or questionable conduct by defendants since wholly proper defense attempts to obtain or disclose classified information may present the government with the same "disclose or dismiss" dilemma.

To fully understand the problem it is necessary to examine the decision-making process in criminal cases involving classified information. Under present procedures, decisions regarding the relevance and admissibility of evidence are normally made as they arise during the course of the trial. In advance of trial, the government often must guess whether the defendant will seek to disclose certain classified information and speculate whether it will be found admissible if objected to at trial. In addition, there is a question whether material will be disclosed at trial and the damage inflicted, before a ruling on the use of the information can be obtained. The situation is further complicated in cases where the government expects to disclose some classified items in presenting its case. Without a procedure for pretrial rulings on the disclosure of classified information, the deck is stacked against proceeding with cases because all of the sensitive items that might be disclosed at trial must be weighed in assessing whether the prosecution is sufficiently important to incur the national security risks.

In the past, the government has foregone prosecution of conduct it believed to violate criminal laws in order to avoid compromising national security information. The costs of such decisions go beyond the failure to redress particular instances of illegal conduct. Such determinations foster the perception that government officials and private persons with access to military or technological secrets have a broad *de facto* immunity from prosecution for a variety of crimes. This perception not only undermines the public's confidence in the fair administration of criminal justice but it also promotes concern that there is no effective check against improper conduct by members of our intelligence agencies.

While only a very small precentage of criminal cases present classified information questions, these cases often involve important matters of considerable public interest. Moreover, we are increasingly confronting classified information issues in a wide range of cases including espionage, perjury, burglary, and civil rights violations, among others. The new Foreign Corrupt Practices Act provisions and the possible enactment of a charter for intelligence activities can be expected to expand the number of cases presenting classified information problems.

This bill attempts to deal with the "graymail" problem by requiring a defendant who reasonably expects to disclose or to cause a disclosure of classified information in connection with any trial or pre-trial proceeding to notify the Government prior to trial, when possible. The Government can then move for a hearing to determine whether the information can indeed be disclosed by the defendant in the course of a trial. Following such a hearing, which would ordinarily be before trial, the court determines whether and the manner in which the information at issue may be used in a trial or pre-trial proceeding. If the defendant's right to a fair trial will not be prejudiced, the court may allow the Government to substitute a statement admitting relevant facts that the specific classified information would tend to prove or to substitute a summary of the specific classified information. If the Government objects to an order requiring disclosure, the court may impose a sliding scale of sanctions against the Government, including finding against the Government on issues related to undisclosed evidence or dismissing the action. The Government is authorized to take interlocutory appeals, thus remedying the present situation in which the Government, even when faced with a district court ruling it believes to be wrong, must either compromise the national security information by permitting its disclosure at trial or withhold the information and jeopardize the prosecution.

Other important provisions of the bill include a requirement that when the defendant is required in the context of the pretrial hearing to disclose information to the Government prior to trial, the Government is under a reciprocal obligation to provide the defendant with information as specified by the legislation. In addition, the Attorney General must issue guidelines specifying factors to be used by the Department of Justice in rendering a decision on whether to prosecute a violation of Federal law where there is a possibility that classified information may be revealed. As a result of the guidelines, objective standards can be set rather than relying on ad hoc decisions in each case. In addition, the Attorney General must report semi-annually to the two Intelligence Committees of Congress on all cases where a decision not to prosecute a violation of Federal law has been made. This will permit congressional oversight of "graymail" cases that occur in the future.

HOWARD B. SCHMUTZ

The bill (S. 1192) for the relief of Howard B. Schmutz, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money in the Treasury not otherwise appropriated, the sum of $129,000 to Howard B. Schmutz, of Salt Lake City, Utah, that amount representing the value of stock grazing water rights granted to Schmutz by the United States Department of the Interior to take water for beneficial use from two springs, known as Schmutz Spring (also known as Tuckup Spring and Rock Tank Spring) and Cottonwood Spring (also known as Cottonwood (Big) Spring and Willow Spring), said springs being located in an unsurveyed area within the confines of Tuckup Canyon in Grand Canyon National Park (tracts 107–06 and 107–07, Mohave County, Arizona). And that payment constitutes full settlement and satisfaction of all claims by Schmutz against the United States for compensation for the deprivation of his vested water rights in the two springs.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid, delivered to, or received by an agent or attorney on account of services rendered, in connection with this claim, any contract to the contrary notwithstanding. Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $1,000.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–830), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The bill would compensate Mr. Howard B. Schmutz in the amount of $129,000 for having been deprived of the beneficial use of two springs, known as the Tuckup and Cottonwood Allotments, formerly within the Grand Canyon National Monument, now the Grand Canyon National Park.

NATIONAL PORCELAIN ART MONTH

The joint resolution (S.J. Res. 115) designating July 1980 as "National Porcelain Art Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Whereas the art of painting on porcelain requires great skill, intensive training, and great artistic ability, and produces works of beauty; and

Whereas throughout history, the art of porcelain painting has provided a medium for the preservation of history and culture, and further, has been recognized as a fine art by all of the world's great civilization; and

Whereas growing thousands of American artists have studied, explored, and enhanced the historic skills of porcelain painting, adding immeasurably to the cultural enrichment of our Nation; and

Whereas the efforts of these artists bring rich beauty and expanded dimensions to our national culture for the benefit and enrichment of the lives of all citizens: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of America in Congress assembled, That July 1980 is designated as "National Porcelain Art Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. MATSUNAGA. Mr. President, I support Senate Joint Resolution 115, which would designate the month of July 1980 as "National Procelain Art Month." As a cosponsor of the measure, I wish to thank its principal introducer, Senator RIEGLE, and the Judiciary Committee for bringing Senate Joint Resolution 115 to the floor in a timely manner.

The art of porcelain painting not only brings beauty and joy to many people, it also serves as a means of preserving national history and culture. It is recognized as a fine art by all of the world's great civilizations. It deserves the national recognition that Senate Joint Resolution 115 would provide.

Mr. President, our resolution enjoys very strong support throughout the country. In Hawaii, for example, several hundred artists and art teachers have called for the early passage of the measure. Senate Joint Resolution 115 also has the endorsement of the International Porcelain Art Teachers, Inc., an organization with chapters in almost every State of the Union and 21 foreign countries as well. Senate passage of the resolution would make a great many people happy, and would add not 1 cent to the Federal budget.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 2:28 p.m., recessed until 2:43 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

The PRESIDING OFFICER. The majority leader is recognized.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a further period for the transaction of routine morning business not to exceed 5 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HATCH HITS FEDERAL SPENDING

Mr. JEPSEN. Mr. President, in the July issue of Reader's Digest Senator ORRIN HATCH lays the blame for our current economic mess squarely where it belongs—on excessive Government spending and taxation. He correctly points out that the congressional budget process is a dismal failure in controlling spending and may even have contributed to the growth of spending.

I urge all my colleagues to read Senator HATCH's important and timely article. I ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INFLATION, TAXES, THE BUDGET, AND YOU

(By Senator ORRIN HATCH)

It was January 1979. Declaring the fight against inflation (then 11 percent) "our top economic priority," President Carter had submitted a federal budget which he called "lean and austere." Studying the budget documents, I came upon a series of figures that explained, in microcosm, why the nation was headed toward economic crisis. The President was proposing to spend more than $900 million to conduct the 1980 census—a figure over four times the cost of the 1970 tally.

To the President, the census process meant 275,000 temporary jobs which could be used to reward loyal supporters throughout the country. And to the mammoth federal bureaucracy the census would provide facts and figures to justify a whole series of costly new programs. Quadrupling the census budget at a time when we supposedly were involved in a desperate fight against inflation could not be justified—and the General Accounting Office urged a fullscale Congressional review of the Census Bureau's budget.

That review never took place. When I raised the issue in the Senate Budget Committee, my modest proposal to cut the census cost by $100 million was rejected on a virtual party-line vote. The result was the same when we tried to eliminate costly duplication in welfare benefits, or cap wasteful federal-employee overtime, or curb questionable subsidies to business and industry. Over the years, scores of similar votes have spurred massive deficits, producing inflation, huge interest rates, and the greatest economic crisis since the Depression.

Just look at what has happened to the average U.S. factory worker. When his wages are adjusted for taxes and inflation, he actually earns less today than a decade ago. Personal savings—the lifeblood of industrial growth—have dropped to the lowest rate in 30 years; yet taxes have surged to the highest peacetime level in America's history.

Fifteen years of reckless federal spending and unconscionable deficits have triggered this crisis. Obviously, controlling government spending is the first step we must take to break the cycle of inflation and economic stagnation. But 18 months of watching fiscal manipulation from my vantage point on the Senate Budget Committee have convinced me that solutions will not be forthcoming until there is an essential change of attitude in the nation's capital. Indeed, Congress, the President—and the American people—are going to have to confront what's really causing the present economic crisis. Consider these points:

While excessive federal spending is wrecking our economy, the system is richly rewarding politicians, bureaucrats and special-interest groups.

Late last year, while the Carter Administration was in the process of compiling the federal budget for 1981, the President's Office of Management and Budget shipped what amounted to its basic working papers to AFL–CIO headquarters for review. No special-interest group had ever before been invited to participate so fully in the budget process.

Not surprising, labor's pet spending schemes were left virtually untouched by the Administration. For example, President Carter failed to take one step that could save the government billions of dollars in coming years. By issuing an executive order he could negate the inflationary effects of the Davis-Bacon Act, a Depression-era law that, by bureaucratic interpretation, forces government to pay top union scale on vast numbers of federally financed construction projects—even if that is more than twice the going construction wage in a given community.

There is a price for such blatant handouts. This fall, labor will expend more resources than any other pressure group to win re-election of its friends in Washington, Labor, of course, is not alone in raiding the federal Treasury. Shortsighted business interests wants handouts from the Economic Development Administration. Teacher lobbies push for more federal aid. Congressmen want larger staffs. Add all this up, and a half our citizens may now depend upon government spending for a significant portion of their income.

Despite highly publicized claims to the contrary, we have not begun to control federal spending.

When runaway inflation forced the President last March to revise the 1981 budget, it was done in this way: Spending projections were lowered to $611.5 billion—a reduction of only $4.3 billion from the budget the President had submitted two months before. Projected tax revenues were raised to $628 billion—$28 billion over his original budget. As The Wall Street Journal concludes, "That's 4 for you and 28 for me."

As my colleague Sen. William Roth (R., Del.) points out, taxes projected for the 1981 budget add up to a figure $124 billion higher than 1980. This is the greatest tax increase in U.S. history, yet only one-third of it stems from new taxes and legislated tax hikes such as Social Security. The rest is a product of inflation plus its effect of pushing taxpayers into higher tax brackets.

Who says we cannot cut the federal budget beyond $4.3 billion? The Justice Department contends that as much as ten percent of federal expenditures may be eaten up by waste, abuse and fraud. In just one year, for example, federal workers ran up a government-wide overtime bill of $1.5 billion. Why not a $200-million reduction in federal overtime?

Why not, indeed, closer scrutiny of all non-essential spending? There is a law that allows the General Services Administration to spend one-half of one percent of new federal building costs on works of art. When a sculpture consisting of four large steel plates propped up by telephone poles was erected outside a new federal building in Huron, S.D., citizens petitioned to have the unwanted, $25,000 object removed. In Columbia, S.C., citizens picketed to protest the $65,000 cost of a 7000-pound aluminum structure in front of a federal building. In all, this program has cost taxpayers more than $6 million, but it continues uncontrolled in the President's new budget.

Political gimmicks—supposedly designed to force spending reform—actually encourage fiscal irresponsibility.

When Congress passed the Budget Control Act in 1974, it was hailed as a milestone in the drive to control spending. New House and Senate Budget committees—supported by a Congressional Budget Office (CBO)—would set spending ceilings before money was appropriated, thereby imposing economic discipline on the political process.

It hasn't turned out that way. In fact, the combined proposed deficits for the five years following enactment of the act were twice what they had been in the five preceding years. What happened?

Each time the House and Senate Budget committees sit down to establish levels, the CBO, serving at the pleasure of the Democratic majority, provides projections strongly weighted in favor of higher spending. The impact this additional spending has on the inflation rate is always discounted. When we in Congress began work on the 1979 budget, the CBO projected that a budget deficit of $56 billion would produce an inflation rate of six percent. Inflation turned out to be nearly twice that figure. For 1980, CBO economists initially told us inflation would round out at eight percent. But by early 1980, it was running at an annual rate of 18 percent.

How serious are the Budget committees about holding down the growth of government? Late last year a proposal was placed before the Senate to limit taxation to 20.5 percent of the Gross National Product. (In the last six years, taxes as a percentage of GNP have grown from 18.5 percent to a projected 22.5 percent in 1981.) With strong pressure from constituents for such a measure, the amendment appeared to have an excellent chance of passage. But free-spending legislators were spared a politically embarrassing vote against tax limitation when the proposal was shunted to the Senate Budget Committee for preliminary approval; as expected, the amendment is stalled in that committee.

It is time to recognize that the budget process has become a political charade which is being used to legitimize a dangerous course for our country. In the words of columnists Rowland Evans and Robert Novak: "The fact is that the system has worked to depress military spending, preserve social-welfare programs and stave off tax reduction."

Our federal tax system impedes job creation and productivity while inflation thrusts Americans into higher and higher tax brackets.

This year on the north side of Lake Erie, the Steel Company of Canada opened a new $800-million plant, a facility that eventually will provide more than 6000 jobs for Canadians. On the south side of Lake Erie, U.S. Steel has long wanted to construct a much larger facility, but those plans lie dormant. Why?

A basic answer can be found in the tax codes of the two countries. In Canada a company can write off the equipment cost for industrial expansion in only 2½ years. U.S. companies must spread those tax benefits over more than a dozen years—a job-creation "incentive" that inflation renders almost meaningless.

In the last decade, the Japanese have been modernizing steel-production facilities at a rate nearly twice that of companies in the United States. Money has been available for industrial modernization in Japan in large part because the Japanese save their earnings at a rate of 25 percent—nearly six times the rate of savings in our country.

Why aren't Americans saving? Sadly, inflation far exceeds interest earnings. High federal tax rates on savings dividends encourage Americans to spend—and go into debt.

The bottom line of these tax policies can be found in my state of Utah, where 5500 jobs at a U.S. Steel facility are in jeopardy. The short-term problem centers on demands by the Environmental Protection Agency for the installation of advanced anti-pollution devices, which U.S. Steel says it cannot afford. If federal tax laws encouraged capital investment, those environmental hurdles would not be insurmountable, a plant could be modernized, and American steel would become more competitive on world markets.

The problem is not just steel. Of the seven leading industrial nations, the United States is dead last in spending for new tools and plant equipment. That in turn explains why we also are dead last in the growth of worker productivity.

And it is all so needless. Declares Sen. Lloyd Bentsen (D., Texas), chairman of the Joint Economic Committee: "If our tax system encouraged the supply side of the economy, we might not have to fight inflation by periodically pulling up the drawbridge with recessions that doom millions of Americans to unemployment."

Theoretically, to finance ever-higher government spending, Congress would have to raise tax rates—and face the political consequences. In recent years, however, that has essentially not been the case. In little more than a decade, the proportion of American wage-earners in the 25-percent-or-higher tax bracket has grown from less than one in 11 Americans to nearly one in three. Working people—the American middle class—are being taxed at a rate once designed for the rich. The result is that the federal Treasury enjoys the benefits of a built-in tax increase each year. This is why big spenders in Washington can offer the mirage of an austere budget because what they actually are doing is raising your taxes.

What we have is a government that is fast consuming the strength of our private economy. This is occurring because we have built into our political system very real incentives to spur the massive growth of government spending and the levels of taxes we must pay. Surely we must recognize that the situation cannot be changed by cosmetic reforms or mere lip service to fiscal responsibility.

The real solution to our economic problems lies in a series of cuts in the growth of federal spending coupled with equivalent tax reductions specifically designed to spur growth and productivity. In September, when the Senate again considers the 1981 budget, I will take the first step toward this goal by proposing an immediate $20-billion reduction in non-defense spending and a comparable cut in federal taxes.

You can join us in this campaign by urging your Representatives and Senators to support this move. What are our chances for success? Similar proposals consistently have been defeated in Congress, but with the election only a few months away, maybe a majority of my colleagues will listen to your demands.

Even if this proposal fails, the effort will have been instructive. We have a blueprint to build a new era of prosperity. What we may ultimately need is new leadership in Congress to make this blueprint a reality.

DEATH OF JOSEPH F. RUGGIERI

Mr. MOYNIHAN. Mr. President, when Joseph F. Ruggieri passed away on Monday, June 23, New York lost one of its most beloved sons. A lifelong resident of Brooklyn, until he retired to warmer climes a few years ago, he was a graduate of the Brooklyn Law School and made his career in the legal profession where he distinguished himself as an advocate and counselor.

A bighearted, ebullient and outgoing man, a devoted husband, loving father and doting grandfather, he was one of those all-too-rare souls who recognized that his own success carried with it a duty to society to, as they say, pay his dues. This he did through more than half a century's involvement with public and civic affairs, as a member and leader of major organizations, as a distinguished member of numerous commissions, as an active Democrat and, in time, as a member of the New York City Council. I shall miss him. His countless friends and former neighbors in Bay Ridge and throughout the city will miss him.

The city and State that he loved and served so well were enhanced by his presence and are diminished by his passing. I ask unanimous consent that the obituary that appeared in this morning's New York Times be printed in full in the Record.

There being no objection, the obituary was ordered to be printed in the Record, as follows:

Joseph Ruggieri, 83, Ex-City Councilman From Brooklyn Area

Joseph F. Ruggieri, a former New York City Councilman at Large from Brooklyn, died Monday in St. Francis Hospital in Surfside, Fla., after a brief illness. He was 83 years old and had lived in Surfside since his retirement in 1976.

In 1963 he was elected to the City Council to fill an unexpired vacancy and the following year was re-elected for a full four-year term. He was defeated for re-election in 1969.

Mr. Ruggieri was a graduate of Brooklyn Law School, where he taught from 1927 to 1929.

From 1931 to 1941, he was an assistant state attorney general and prosecuted cases involving stock and election frauds.

For many years, Mr. Ruggieri was a law partner of the late Matthew T. Abruzzo. After Mr. Abruzzo became chief Federal judge of the Eastern District. Mr. Ruggieri remained in private practice in Brooklyn.

A widower, Mr. Ruggieri is survived by his son, Bernard J. of Manhattan; a daughter, Marie W. Conti of Manhasset, L.I., and three grandchildren.

A funeral mass will be said at 9:45 A.M. Friday in St. Patrick's Roman Catholic Church, 95th Street and Fourth Avenue, Bay Ridge.

PAUL HALL: LEADER OF THE SEAFARERS

Mr. JAVITS. Mr. President, this past Sunday, Paul Hall, the president of the Seafarers International Union died of cancer in New York. The entire American labor movement mourns the passing of Hall, who served not only as president of the SIU but also as a vice president of the AFL–CIO.

Hall devoted his entire working life to seafaring and to the welfare of seafarers. He began his working life in the sea as an engine room wiper earning $1.60 per day in the 1930's. In 1938 Hall participated in the founding of the Seafarers International Union, in an effort to develop a labor organization for seamen that was free of Communist domination then prevelant on our Nation's waterfronts.

After service in the merchant marine in World War II, Hall returned to New York where he became a port patrolman, and was elected the SIU's port agent for New York. In 1948, Hall became chief officer of the SIU's Atlantic, Gulf, Great Lakes and Inland Waters District—one of two component organizations of the SIU, the other being the Sailor's Union of the Pacific which was headed by Harry Lundberg, the founder and then president of the SIU. Upon Lundberg's death in 1957, Hall became president of the SIU and also became president of the AFL–CIO's Maritime Trades Department.

Last April 10, I had the privilege of addressing the thousands of labor union officials and members who gathered to honor Hall at the annual dinner of the New York Harbor Festival Foundation. The great outpouring of affection for Paul Hall expressed on that occasion amply demonstrated his contributions to seafaring generally, to the Port of New York, and, of course, to the members of the SIU.

Paul Hall was truly one of America's great modern labor leaders who came to leadership during the turbulent decades of the 1940's and 1950's. He admirably served not only the seafarers he represented, but all American workers in his vision of economic progress and social justice for all. I join with the members of the SIU and with the entire labor movement in mourning the passing of this distinguished labor leader.

MESSAGE FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FUQUA, Mr. HARKIN, Mr. LLOYD, Mrs. BOUQUARD, Mr. FLIPPO, Mr. WATKINS, Mr. WYDLER, Mr. WINN, and Mr. GOLDWATER were appointed as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4084. A communication from the Assistant Director, Securities and Exchange Commission, transmitting, pursuant to law, the ninth annual report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–4085. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a revised version of an analysis and recommendations on the efficiency of and need for industrial cost recovery (ICR), submitted on April 25, 1980; to the Committee on Environment and Public Works.

EC–4086. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–4087. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, a report on the role of the Multilateral Development Banks in increasing food production and improving nutrition in developing countries June 9, 1980, Office of Multilateral Development Banks; to the Committee on Foreign Relations.

EC–4088. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Program to Improve Federal Records Management Practices Should be Funded by Direct Appropriations," June 23, 1980; to the Committee on Governmental Affairs.

EC–4089. A communication from the Records Officer, United States Postal Service, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–4090. A communication from the Adjutant General, Military Order of the Purple Heart, transmitting, pursuant to law, a financial statement for fiscal year ending June 30, 1979; to the Committee on the Judiciary.

EC–4091. A communication from the General Counsel, General Accounting Office, reporting, pursuant to law, on the status of budget authority that was proposed for rescission, but for which Congress failed to pass a rescission bill as defined in section 1011 of the Impoundment Control Act; to the Committee on Appropriations, the Committee on the Budget, and the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 333. A bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism (together with additional views) (Rept. No. 96–831). Referred to the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Select Committee on Intelligence, and the Committee on the Judiciary, jointly, pursuant to order of Feb. 5, 1980.

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 459. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 826.

S. Res. 471. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6974.

VIETNAM VETERANS MEMORIAL—CONFERENCE REPORT

Mr. BUMPERS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 119) to authorize the Vietnam Veterans Fund, Inc., to establish a memorial (Rept. No. 96–832).

By Mr. MELCHER, from the Select Committee on Indian Affairs and the Committee on the Judiciary, jointly, with an amendment:

S. 341. A bill to authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes (Rept. No. 96–833).

By Mr. MELCHER, from the Select Committee on Indian Affairs and the Committee on the Judiciary, jointly, with an amendment and an amendment to the title:

S. 1795. A bill to authorize the Gros Ventre Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes (Rept. No. 96–834).

S. 1796. A bill to authorize the Assiniboine Tribe and the Blackfeet Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes (Rept. No. 96–835).

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S. Res. 473. A resolution deploring the politicization of the Mid-Decade Women's Conference and urging the U.S. delegation to oppose any politically-motivated resolutions at the conference.

By Mr. STAFFORD (for Mr. RANDOLPH), from the Committee on Environment and Public Works, without amendment:

S.J. Res. 188. An original joint resolution extending the reporting date of the National Commission on Air Quality (Rept. No. 96–836).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were transmitted:

By Mr. CHURCH, from the Committee on Foreign Relations without reservation:

Ex. C, 96–1. Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, with its Annexes I and II, and Protocols I and II, 1973.

done at London on February 17, 1978 (the Marpol Protocol) (Ex. Rept. No. 96-36).

Ex. D, 96-1. Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974, with its annex and appendix, which was signed by the United States on June 27, 1978 (Ex. Rept. No. 96-37).

Ex. S, 96-1. Amendments to the Convention on the Intergovernmental Maritime Consultative Organization, signed at Geneva on March 6, 1977, which were adopted on November 14, 1975, and November 17, 1977, by the Assembly of the Intergovernmental Maritime Consultative Organization (MCO) at its Ninth and Tenth Sessions (Ex. Rept. No. 96-38).

Ex. GG, 96-1. 1975 Amendment to Article 29 of the International Convention on Load Lines, done at London, on April 5, 1966 (Ex. Rept. No. 96-39).

Ex. J, 96-2. International Convention on Maritime Search and Rescue, 1979, with annex, adopted at Hamburg on April 27, 1979 by a conference of representatives of 51 nations convened under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO) and signed on behalf of the United States on November 6, 1979 (Ex. Rept. No. 96-40).

Ex. F, 96-2. Consular Convention Between the United States of America and the German Democratic Republic, signed at Berlin on September 4, 1979 (Ex. Rept. No. 96-41).

By Mr. CHURCH, from the Committee on Foreign Relations:

Francis J. McNeil, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to Costa Rica.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Francis J. McNeil.

Post: Ambassador to Costa Rica.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names—Katherine, Elizabeth and Marianne.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Herbert Stuart Okun, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the German Democratic Republic.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Herbert Stuart Okun.

Post: Ambassador to German Democratic Republic.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Jennifer Okun (no spouse), none, Elizabeth Okun (no spouse), none, Alexandra Okun (no spouse), none.
4. Parents names, father: Irving J. Okun, died 1956; mother: Ida Muriel Okun, none, died 1979.
5. Grandparents names, Harry Levine, died 1913 (ca.); Fanny Levine, died 1942; (FNU) Okun, died 1910 (ca.); Riva Okun, died 1940.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Mrs. Gloria O. Freedgood, none; Mr. Warren M. Freedgood, none; Mrs. Selma O. Schefman, none; Mr. Raymond N. Schefman, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Hume Alexander Horan, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States to the United Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Equatorial Guinea.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Hume Alexander Horan.

Post: Ambassador United Republic of Cameroon.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Alexander, Margaret, Theodore: none.
4. Parents names, Harold and Margaret Horan: none.
5. Grandparents names, deceased: more than four years ago.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Leyla (sister) Jack Brennan (b-i-l), none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Frances D. Cook, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Burundi.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Frances D. Cook.

Post: Ambassador to Burundi.

Contributions, amount, date, and donee:

1. Self: $100, May 17, 1976, George Grayson; $15, September 11, 1976, DNC.
2. Spouse: n/a, $5, October 30, 1976, Dem. Gen. Store; $217, January 14, 1977, 1977 Inaug. Committee.
3. Children and spouses names: n/a $25, April 3, 1978, DNC; $100, May 1, 1978, Dick Clark; $50, July 15, 1979, Women's Camp. Fund.
4. Parents names (see below). $50, October 15, 1979, Bill Richardson; $70, January 4, 1980, Women's Camp. Fund.
5. Grandparents names: n/a, (Father, Mr. Nash Cook, $20, August 26, 1976, DNC).
6. Brothers and spouses names: n/a
7. Sisters and spouses names: n/a.

By Mr. CHURCH, from the Committee on Foreign Relations:

Peter Adams Sutherland, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States to the State of Bahrain.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Peter Adams Sutherland.

Post: Ambassador to Bahrain.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Carol T. Sutherland, none.
3. Children and spouses names: Anora, Paul, Susan and Andrew Sutherland (all unmarried), none.
4. Parents names: All long deceased, none.
5. Grandparents names, all long deceased, none.
6. Brothers and spouses name: David A. Sutherland, unmarried, none.
7. Sisters and spouses names: Eleanor Reed Lukens, and spouse David C. Lukens; Prudence A. Sutherland, unmarried, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

William Bodde, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to Fiji and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Tonga and to Tuvalu.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William Bodde, Jr.

Post: Ambassador to Fiji, Tonga, Kiribati, Tuvalu.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, $5 for Democrats 1979. $25, Democrats for Carter/Mondale abroad 1976.
3. Children and spouses names, wife: Ingrid, step-daughter: Barbara, sons: Peter and Christopher.
4. Parents names, William and Georgianna Bodde (maiden name Curry) (deceased).
5. Grandparents names, Frederik Bodde and Lambertina van de Gumster (deceased), John Curry and Mary O'Connor.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Anna M. Ryan and James Ryan, Dorothea Sain.

By Mr. CHURCH, from the Committee on Foreign Relations:

Larry Gordon Piper, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of The Gambia.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Larry Gordon Piper.

Post: Banjul, The Gambia.

Contributions, amount, date, and donee:

1. Self, None.
2. Spouse, Vera Jo, None.
3. Children and spouses names, Larry G. Piper, Jr., None; Steven S. and Laura Y. Piper, None.
4. Parents names, Stevie K. Piper (Mother), None; Father deceased 1968.
5. Grandparents names, Deceased.
6. Brothers and spouses names, John A. and Anita Piper, None.
7. Sisters and spouses names, Janet and Louis C. Fry, None; Janice and Richard B. Burrage, None.

By Mr. CHURCH, from the Committee on Foreign Relations:

John J. Crowley, Jr., of West Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Suriname.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John J. Crowley, Jr.

Post: Ambassador to Suriname.

Contributions, amount, date, and donee:

1. Self, None.
2. Spouse, Ileana R. Crowley, None.
3. Children and spouses names, Gail Marie Crowley, None: Ileana Marie Crowley, None.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MORGAN:

S. 2873. A bill to provide for Small Business Administration loans and guaranteed loans for small businesses in the communications industry; to the Select Committee on Small Business.

By Mr. DURKIN (for himself, Mr. Church, Mr. Bentsen, Mr. Cohen, and Mr. Bellmon):

S. 2874. A bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOREN (for himself, Mr. Talmadge, Mr. Johnston, Mr. Zorinsky, Mr. Pryor, Mr. Armstrong, Mr. Laxalt, Mr. Helms, Mr. Lugar, Mr. Cochran, Mr. Exon, Mr. Goldwater, Mr. Thurmond, Mr. Humphrey, Mr. Dole, Mr. Long, Mr. Heflin, Mr. Tower, Mr. Stennis, Mr. Roth, Mr. Danforth, Mr. Hayakawa, Mrs. Kassebaum, Mr. Simpson, Mr. Durenberger, Mr. Nunn, Mr. Bumpers, Mr. Stone, Mr. Young, Mr. Warner, Mr. Hatch, Mr. Hollings, Mr. Boschwitz, Mr. Bentsen, Mr. Wallop, Mr. Jepsen, Mr. Chiles, Mr. Sasser, Mr. Harry F. Byrd, Jr., and Mr. McClure):

S. 2875. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JAVITS (for himself and Mr. Randolph):

S. 2876. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label and advertising for contraceptive drugs and devices state the effectiveness of the drugs and devices in preventing conception in humans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHURCH:

S. 2877. A bill to amend title II of the Social Security Act to prevent payment, in certain cases of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction, and to deem convicted felons to have refused rehabilitation services under certain circumstances; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Roth, Mr. Baker, Mr. Armstrong, Mr. Boschwitz, Mr. Chafee, Mr. Cochran, Mr. Cohen, Mr. Danforth, Mr. Domenici, Mr. Durenberger, Mr. Garn, Mr. Goldwater, Mr. Hatch, Mr. Hayakawa, Mr. Heinz, Mr. Helms, Mr. Humphrey, Mr. Javits, Mr. Jepsen, Mrs. Kassebaum, Mr. Laxalt, Mr. Lugar, Mr. Mathias, Mr. McClure, Mr. Percy, Mr. Pressler, Mr. Schmitt, Mr. Schweiker, Mr. Simpson, Mr. Stafford, Mr. Stevens, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Young, and Mr. Warner):

S. 2878. A bill to provide for permanent tax rate reductions for individuals and incentives for new plant and equipment; to the Committee on Finance.

By Mr. MELCHER:

S. 2879. A bill to amend the Department of Education Act, Public Law 96-88 (20 U.S.C. 3414); to the Committee on Government Affairs.

By Mr. NUNN (for himself and Mr. Talmadge):

S.J. Res. 187. Joint resolution to authorize and request the President to designate the week of July 20 through July 26, 1980, as "National Environmental Health Week"; to the Committee on the Judiciary.

By Mr. STAFFORD (for Mr. Randolph) (from the Committee on Environment and Public Works):

S.J. Res. 188. Joint resolution extending the reporting date of the National Commission on Air Quality. Original joint resolution reported and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MORGAN:

S. 2873. A bill to provide for Small Business Administration loans and guaranteed loans for small businesses in the communications industry; to the Select Committee on Small Business.

SBA LOANS TO MEDIA FIRMS

● Mr. MORGAN. Mr. President, at present the Small Business Administration conducts one of the most significant loan programs in the Government to aid small businesses.

With large businesses able to find credit and to pay almost any interest rate, the loans made by the Small Business Administration have been the difference between prosperity and bankruptcy for many small businesses in the United States.

Surprisingly, the Small Business Administration has excluded from its loan programs what I call media concerns. Pursuant to title 13 of the Code of Federal Regulations, section 120.2, which sets forth the administration's policy on making financial assistance available through direct loans or guaranteed bank loans, the SBA has denied loans if "the applicant is engaged in the creation, origination, expression, dissemination, propagation, or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form, or content."

Now, Mr. President, the SBA has based its policy on three concerns. First, there is a fear that the Government by lending money to newspapers, book publishers, or greeting card companies would appear to be infringing on freedom of speech and freedom of the press.

Second, there is a fear that expectation of a Government loan or denial of a loan might actually influence editorial content.

Finally, there is a fear that the Government might be embarrassed if a loan were made to a bookstore which sold books of a certain religious or political perspective or, indeed, engaged in some illegal activity such as selling pornographic materials. Even worse, SBA fears that the Government might end up owning such a newspaper or bookstore or publisher.

While this approach seems reasonable, it may be working inadvertently to the detriment of the first amendment freedoms which we all support.

First, I would argue the constitutionality of the regulations as currently drawn. They appear to violate the equal protection clause by singling out one class of applicant for the denial of financial assistance, and they appear so vague and general as to place SBA in a never-ending decisionmaking position on what constitutes ideas or print. Indeed, the regulations have been expanded to the degree that loans may not be made to history calendar publications, video tape producers and greeting card companies.

Second, I would urge that the regulations bear no relation to any Government policy spelled out in statute. There is no directive in title 15 of the United States Code calling for the exclusion of newspapers and book publishers from financial assistance. Additionally, I am unfamiliar with any other Government agency which has excluded the small businesses described in SBA regulations from loan programs.

Finally, I am more concerned about the impact of the denial of a loan to independent, small newspapers and book publishers from a public perspective. With economic concentration in the media now well documented and accelerating, the SBA may be contributing to that trend.

I have introduced S. 555, a bill to provide estate tax relief to independent newspaper owners, the intent of which is to assist in allowing local papers to stay independent. Twenty-seven Senators have cosponsored the bill and, in the House, nearly 100 have cosponsored a companion bill introduced by Congressman Udall. This demonstrates the congressional concern about the problem.

For many small newspapers and book publishers, the unavailability of a loan to purchase a new press or to expand facilities is simply another reason for selling out to a large media conglomerate.

What this proposed bill does is to prohibit the SBA from denying financial assistance to the media concerns currently excluded from the 7(a) loan program. I have not limited the bill to loan guarantees, but would look forward to hearings before the Small Business Committee on the desirability of direct and guaranteed loans.

Personally, I believe this bill would state the policy of the Congress, give direction to SBA, eliminate some constitutionally infirm regulations, and remove one impediment to the continuation of independent ownership in the media field.●

By Mr. DURKIN (for himself, Mr. Church, Mr. Bentsen, Mr. Cohen, and Mr. Bellmon):

S. 2874. A bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries; to the Committee on Banking, Housing, and Urban Affairs.

BANK HOLDING COMPANY ACT AMENDMENT

● Mr. DURKIN. Mr. President, 10 years ago, Congress enacted the Bank Holding Company Act Amendments of 1970. At that time no one foresaw the expansion of bank holding companies into diverse nonbanking activities or the impact of this involvement in commercial activities. Consequently, insufficient limits were incorporated into the 1970 legislation.

Today I am introducing legislation to prohibit bank holding companies from acting as agents or brokers in the sale of property, casualty, and certain forms of life insurance and to forbid bank holding companies from engaging in the underwriting of such insurance.

Today, independent insurance agents across the country face unfair competition through the expansion of bank holding companies into areas of retail property and casualty insurance. In fact, due to a recent Supreme Court ruling, the Federal Reserve Board is beginning to approve applications of bank holding companies desiring to enter the retail property and casualty insurance area. This infringement on the insurance industry by large banking institutions is unfair to businessmen and consumers alike. My legislation will clearly limit the activities of bank holding companies in the retail property and casualty insurance industry.

It is imperative that every effort be made to prevent the erosion of competition in the sale of property and casualty insurance. The retail property and casualty insurance industry is one of the few remaining areas of business where small, independent business entrepreneurs can, through initiative and perseverance, build viable businesses of their own. Unless this legislation is passed, even this industry will be barred to the entrepreneurs.

My legislation does not infringe on the current involvement of banks in the sale of credit life and credit disability insurance, nor does it compromise the national bank act that allows banks operating in communities of 5,000 inhabitants or less to sell property and casualty insurance. This legislation merely prevents the further encroachment of bank holding companies on non-banking areas of commercial activity.

The current situation is charged with some urgency, considering recent Court actions. Until recently pending Court actions delayed approval of applications for the entrance of bank holding companies into property and casualty insurance brokerage. Then, the Supreme Court let stand the lower court ruling that allowed the approval of such applications. As a result the Federal Reserve Board has begun to approve applications, initiating the end of competition in yet another segment of the American business community.

A companion House bill, H.R. 2255, which was modified slightly in the House Banking Committee, passed the House on June 12 by a convincing 333 to 25 vote. To expedite Senate action on this important legislation, I am today introducing in the Senate a bill embodying the changes the House Banking Committee made in H.R. 2255.

The new bill contains everything in my original bill, S. 380, plus three new exemptions to the general prohibition of BHC insurance activities: First, a new exemption to permit BHC finance company subsidiaries to offer credit property insurance in connection with loans up to $10,000; second, an expanded grandfather clause to permit finance companies that were acquired by a BHC between June 1978 and June 1979 to continue any existing insurance activities; and third, an exemption to permit BHCs to act as managing general agents for the sale of insurance to the BHC and its employees. These added exemptions accommodate most established BHC insurance activities.

The need for this legislation is clear. Banking and commerce have been separated in this country as a matter of public policy for over 100 years. More specifically, years of congressional inquiry into BHC insurance activities have demonstrated the need to keep separate the sale of insurance from extensions of credit. Through the use of enormous amounts of capital and credit, BHCs have the ability to unfairly influence the purchase of insurance to the detriment of both agents and consumers.

With the improvements made in the recently passed House bill, my legislation will help to end over 10 years of court and congressional controversy over permissible BHC nonbanking activities and the Fed's interpretation of existing law.

Mr. President, because of my great concern for preserving the strength and resources this country possesses in the form of enterprising and individualistic businessmen, I am also concerned that the power of larger financial institutions to displace these entrepreneurs be justly limited. My legislation does just that.

I urge the committee to consider my legislation as soon as possible, given the urgency of the situation, and I urge my colleagues to support this measure to slow the trend toward unfair limitations on needed competition.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker except (A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor; (B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on the date of the enactment of this subparagraph and ending on December 31, 1980, such extension of credit is not more than $10,000 and for any given year after 1980, such extension of credit is not more than an amount equal to $10,000 increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1980, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity that was lawfully engaged in by (i) a bank holding company or any of its subsidiaries on June 6, 1978, or (ii) a finance company which became a subsidiary of a bank holding company through acquisition during the period beginning on June 6, 1978, and ending on June 6, 1979; (E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; or (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).".●

By Mr. BOREN (for himself, Mr. TALMADGE, Mr. JOHNSTON, Mr. ZORINSKY, Mr. PRYOR, Mr. ARMSTRONG, Mr. LAXALT, Mr. HELMS, Mr. LUGAR, Mr. COCHRAN, Mr. EXON, Mr. GOLDWATER, Mr. THURMOND, Mr. HUMPHREY, Mr. DOLE, Mr. LONG, Mr. HEFLIN, Mr. TOWER, Mr. STENNIS, Mr. ROTH, Mr. DANFORTH, Mr. HAYAKAWA, Mrs. KASSEBAUM, Mr. SIMPSON, Mr. DURENBERGER, Mr. NUNN, Mr. BUMPERS, Mr. STONE, Mr. YOUNG, Mr. WARNER, Mr. HATCH, Mr. HOLLINGS, Mr. BOSCHWITZ, Mr. BENTSEN, Mr. WALLOP, Mr. JEPSEN, Mr. CHILES, Mr. SASSER, Mr. HARRY F. BYRD, JR., and Mr. MCCLURE):

S. 2875. A bill to amend the Farm Labor Contractor Registration Act of 1963, as amended, and for other purposes; to the Committee on Labor and Human Resources.

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1980

Mr. BOREN. Mr. President, today I am introducing a bill to clarify the Farm Labor Contractor Registration Act. Passage of this bill would insure that the present law is properly administered and enforced in a manner consistent with congressional intent. By so doing, it would preserve and strengthen the protective provisions of the act by targeting the Department of Labor's enforcement actions on those crew leaders who continue to abuse migrant workers in agriculture.

At the same time, the bill would end what has become a source of redtape paperwork, and needless harassment for farmers and other agricultural employers, including their employees.

I am pleased to say that this bill is cosponsored by Senators TALMADGE, JOHNSTON, ZORINSKY, PRYOR, HELMS, LUGAR, COCHRAN, EXON, GOLDWATER, THURMOND, LONG, HEFLIN, TOWER, STENNIS, ROTH, DANFORTH, HAYAKAWA, HATCH, HOLLINGS, BOSCHWITZ, BENTSEN, WALLOP, JEPSEN, ARMSTRONG, HUMPHREY, LAXALT, DOLE, CHILES, SASSER, KASSEBAUM, HARRY F. BYRD, JR., MCCLURE, WARNER, YOUNG, STONE, BUMPERS, NUNN, SIMPSON, and DURENBERGER.

Mr. President, the problem we are addressing today relates to the administration and enforcement of the Farm Labor Contractor Registration Act. The act was passed by Congress in 1963 to protect migrant farm workers and agricultural employers from being abused by unscrupulous crew leaders. It requires crew leaders, or farm labor contractors, to register with the Department of Labor, to be fingerprinted, disclose their salaries, post signs indicating the wages paid all employees, obtain a special medical examination, and to comply with numerous other provisions. Specifically exempt from these requirements are farmers and other agricultural employers, including their employees, who meet certain tests. These exemptions were expressly written into the act.

The Department of Labor, however, has in effect largely denied these exemptions solely on the basis of its own narrow interpretation of the law. One example is the Department of Labor's definition of "migrant worker" as anyone employed in agriculture, anyone. Clearly, this is not the case. The practical effect, however, of this and other similar interpretations has been to broaden the scope and coverage of the act to all of agriculture. As a result, farmers and other agricultural employers, including their employees, are increasingly being cited by the Department of Labor for failing to register as farm labor contractors and are being subjected to civil and criminal penalties.

Under the Department of Labor's interpretations, virtually every farmer and agricultural employer is required to register as a farm labor contractor and must comply with the provisions of the act. One only has to read the history of this legislation to find that this certainly was not the intent of Congress.

This, however, is not our only concern. By concentrating its limited resources on farmers and other good-faith agricultural employers, the Department of Labor has in effect denied migrant workers the basic protections which they are entitled to under the Farm Labor Contractor Registration Act. Until the Department of Labor begins to focus its efforts on curbing abuses by unscrupulous crew leaders as Congress intended, we can expect the problems that led to the passage of the act to continue. That is why passage of the bill I am introducing today is so important. It would provide the proper focus for the Department of Labor's enforcement program.

Mr. President, the problem we are trying to resolve with this bill is the same problem addressed in a letter from 52 Senators to Secretary of Labor Ray Marshall on October 24, 1979. Although a majority of the Senate called on the Secretary for administrative action, fully 6 months later the problem remains unresolved. The Secretary did on November 26, 1979, respond to our initial letter in a positive tone, although he did not address all of our concerns completely. For the RECORD, I am including a copy of our letter and the response of the Secretary.

The bill being introduced today addresses those concerns expressed by a majority of this body. It is also consistent with the direction of the Secretary's letter. The Secretary of Labor in his letter indicated the Department of Labor would instruct its field enforcement staff "to make certain that they concentrate on serious violations committed by the traditional farm labor contractors who have repeatedly and seriously violated the act."

While this was encouraging, the fact of the matter is that the problem of the Department of Labor subjecting farmers and other agricultural employers, including their employees, to civil and criminal penalties for failing to comply with registration and other requirements of the act continues unresolved.

The need to address this problem is evident and that is the fundamental purpose of this bill.

When Congress passed the Farm Labor Contractor Registration Act in 1963, the intent was to stop abuses by certain irresponsible contractors, often referred to as "crew leaders" or "crew pushers," who contracted for the services of migrant workers. The term "farm labor contractor" was defined to mean "any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediate family) for agricultural employment."

Specifically exempt from the definition of a farm labor contractor were farmers and other agricultural employers who engaged in such activity for their own operation. Also specifically exempt were employees who engaged in such activity only for their employer and did so on no more than an incidental basis.

Congress did not consider "farm labor contractors" to include farmers and other agricultural employers, or their employees, who are permanently located and who are tied to land or property. This was stated clearly in the Senate committee report on the 1974 amendments:

> Although specific functions of the farm labor contractor, often called a "crew leader" or "crew pusher," might vary from job to job, his role essentially remains the same—a bridge between the operator and the worker. (Senate Report 93-1206 to accompany H.R. 13342, p. 2.)
>
> Evidence has also emerged of contractor exploitation of farmers. The contractor would agree to arrive with a crew on a designated date, and simply fail to show up because better opportunities presented themselves elsewhere. This would leave the farmer with no help to harvest his ripening crop. More common is the practice of leaving after the first picking when the second or third picking became more difficult, and consequently less profitable. (Senate Report 93-1206 to accompany H.R. 13342, p. 2.)

It is a great irony that the Department of Labor is now trying to regulate under this act the very persons who, along with migrant workers, we were trying to protect.

The basic problem, as I have already indicated, stems from the Department of Labor's extremely narrow interpretation of the act. For example, the Department of Labor defines the term "migrant worker" as anyone employed in agriculture, anyone. Quoting from the Department of Labor's Field Operations Handbook dated April 18, 1979, paragraph 58a04 (d):

> The term "migrant worker" as defined by Sec. 3(g) of the Act includes any individual whose primary employment is in agriculture, as defined in Sec. 3(f) of the FLSA or who performs agricultural labor, as defined in Sec. 3121(g) of the Internal Revenue Code, on a seasonal or other temporary basis. In other words, any employee who is performing agricultural work is a migrant worker for purposes of the FLCRA. There is no distinction between the worker who moves about the country within the stream of production and the worker who remains at his home and works in his own area year around.

Mr. President, this interpretation, which I have just read, is completely contrary to congressional intent. Clearly, not everyone employed in agriculture is a migrant worker. Such a definition is absurd. The bill I am introducing today would clarify this in a manner consistent with congressional intent.

Mr. President, the Department of Labor's administration and enforcement of this act has a long history of problems.

In 1975, the Department said that anyone with a custom combine, hay harvesting or sheep shearing operation must register as a farm labor contractor. It was clear to most that those engaged in custom combining, hay harvesting, or sheep shearing were not farm labor contractors. Neither were they migrant workers. In 1976 the Congress adopted an amendment that specifically said the term "farm labor contractor" shall not include "any custom combine, hay harvesting, or sheep shearing operation."

Again in 1976, the Labor Department through its own narrow interpretations declared that anyone engaged in a custom poultry harvesting, breeding, debeaking, sexing or health service operation was a farm labor contractor. Again, it was clear that those persons were neither farm labor contractors nor migrant workers. And, Congress adopted an amendment to specifically indicate that such operations are not included within the definition of a farm labor contractor.

In 1978, the Labor Department issued an interpretation that students and other young persons engaged in detasseling and roguing hybrid seed corn or sorghum are migrant workers and that the persons involved in organizing them or transporting them are farm labor contractors. Yet again, we recognized that this was not the case and Congress adopted another amendment clarifying the act.

Mr. President, the Congress could continue that same approach. We could go through the entire food and fiber industry, sector by sector, adopting amendments to clarify the act. However, rather than handling each particular case on an individual basis, I believe we should enact this legislation to clarify the act completely once and for all.

During the hearings leading to the 1974 amendments, the Department of Labor estimated there were 6,000 crew leaders—the traditional farm labor contractors—in the United States, and that about 2,000 of them had been registered. Now, by its own extremely narrow interpretations, the Department of Labor has expanded the term "farm labor contractor" to cover literally millions of persons engaged in agriculture. The list is practically limitless. It includes dairy farmers, dairy processors, feedlot operators, cotton growers and ginners, fresh fruit and vegetable growers, sugar producers, food processors, rice growers, seed growers and processors, and many, many other farmers and agricultural employers.

The Farm Labor Contractor Act reflects the concern of Congress for the welfare of migrant farmworkers. We have done much to improve their working conditions. We have eliminated exemptions for agriculture in order to provide migrant workers, among others, protection under the minimum wage laws and other benefits. We have taken steps to inform and educate migrant workers with regard to their rights and the protections available to them. We have provided for legal assistance to migrant workers through the Legal Services Corporation. In addition, migrant farmworkers in many instances are now covered by unemployment insurance.

Mr. President, the Farm Labor Contractor Registration Act is a very important law and the Senator from Oklahoma fully supports its basic intent. But without its proper administration and enforcement, it fails to achieve its purpose.

This is clearly the situation we have today. The law is not being properly administered and enforced. The Department of Labor's time, attention and resources are being diverted away from the basic purpose of protecting migrant workers from being abused by unscrupulous crew leaders. Through its actions, the Department of Labor is endangering the entire program.

Mr. President, the problem of administering and enforcing the Farm Labor Contractor Registration Act needs to be resolved. The bill I am introducing today would accomplish this by targeting the Department of Labor's enforcement actions on those crew leaders who continue to abuse migrant workers in agriculture. By so doing, it would preserve and strengthen the protective provisions of the act. At the same time, it would eliminate an unnecessary and costly Government regulation for farmers and other agricultural employers. In effect, the bill merely clarifies the intent of Congress. At this time I ask unanimous consent that the text of the bill, a section-by-section analysis and the letters be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1980".

Sec. 2. Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. § 2042(b)(2)), is amended by striking the word "personally" and by substituting the phrase "such person's" for the word "his".

Sec. 3. Section 3(b)(3) of such Act is amended by striking the phrase "on no more than an incidental basis".

Sec. 4. Section 3(b) of such Act is amended by adding a new paragraph (11) to read as follows:

"(11) Any nonprofit or cooperative association of farmers, growers, or ranchers, duly incorporated and qualified under the nonprofit association or farmer cooperative statutes of a state, and operated solely for the mutual benefit of the members thereof; and any full-time or regular employee of such association or cooperative who engages in such activity solely for his or her employer."

Sec. 5. Section 3 of such Act is amended by adding new subsections (h) and (i) to read as follows:

"(h) The term 'for such person's own operation' refers to the operations of a person as a farmer, processor, canner, ginner, packing shed operator, or nurseryman, and includes all activities by such person or such person's employees with respect to the agricultural or horticultural commodities which are or will be the subject of or diverted from such operations, and regardless of whether such person has title to such commodities at the time such operations or activities are performed."

"(i) The term 'regular employee' includes an employee who is employed on a seasonal or part-time basis by any person referred to in subsection (b)(1) or (b)(2) of this section."

Sec. 6. Subsection 3(d) of such Act is amended by inserting the words "on a farm or ranch" after the word "grading."

Sec. 7. Subsection 3(g) of such Act is amended to read as follows:

"(g) The term 'migrant worker' means an individual engaged on a farm or ranch, on a seasonal or other temporary basis, in agricultural employment as defined in Section 3(d) of this Act who cannot regularly return to his or her domicile each day after working hours, or who is transported from and to his or her domicile each workday by the person who recruits, solicits, hires or furnishes such worker for agricultural employment on a farm or ranch owned or operated by another person."

Section-by-Section Analysis of FLCRA Bill

1. Title: The Farm Labor Contractor Registration Act Amendments of 1980.

2. Section 2 strikes the word "personally" and substitutes "such person's" for the word "his" in subsection 3(b)(2) of the Act. Subsection 3(b)(2) excludes farmers, processors, canners, ginners, packing shed operators, and nurserymen from the definition of "farm labor contractor," subject to certain limitations. The changes clarify subsection 3(b)(2) so that the listed businesses are excluded regardless of their form of doing business, including operating as an individual, corporation, partnership, association, joint stock company, or trust. This clarification reflects the interpretation adopted by the Ninth Circuit in *Marshall* v. *Green Goddess Avocado Corp.*, and by federal district courts in *Espinoza* v. *Stokely-VanCamp* and *Cantu* v. *Owatanna Canning Co., Inc.*

3. Section 3 deletes the phrase "on no more than an incidental basis" in subsection 3(b)(3) of the Act. Subsection 3(b)(3) excludes from the definition of "farm labor contractor" any fulltime or regular employee of an entity listed in subsections 3(b) (1) or (2) if the employee engages in farm labor contracting activities solely for his employer "on no more than an incidental basis." The ambiguity of the phrase "on no more than an incidental basis" has resulted in much controversy and disagreement about how the Act should be implemented.

The Secretary of Labor told 52 Senators

in a letter on November 26, 1979, that the phrase should be interpreted to mean no more than 20 percent of an employee's time. This interpretation is still vague and subject to different interpretations, as well as creating much difficulty in implementation. It also results in a situation where an employer is excluded from registration, but not the employee. As a matter of fairness and public administrative policy, many feel that in those situations in which the Act has excluded the employer from registration, his employee should be excluded as well.

Striking the phrase "on no more than an incidental basis" resolves these problems. Some have expressed concern that striking the phrase opens a loophole by allowing a crew leader to escape regulation by becoming a full-time or regular employee of an exempt employer. This fear is answered by the fact that an employer may be held liable for the actions of an employee. If an employee abuses a migrant worker, the employer may be held responsible under the Fair Labor Standards Act, the Wagner-Peyser Act, and numerous other statutes. The change is consistent with the original Congressional intent of the Act that a person, either an employer or an employee, is required to register under the Act if he supplies migrant workers for another operation or employer.

4. Section 4 creates a new subsection 3(b)(11) in the Act which excludes cooperative associations of farmers, growers or ranchers from the definition of "farm labor contractor."

5. Section 5 creates two new subsections, 3(h) and 3(i), which would provide as follows:

a. Subsection 3(h) defines the term "for such person's own operation", which is found in subsection 3(b)(2) (as amended by this bill). Subsection 3(b)(2) currently states that an employer is excluded from the definition of "farm labor contractor" if he supplies migrant workers "solely for his own operation." Congress added this phrase to ensure that a crew leader would not evade regulation under the Act by claiming also to be a farmer. However, the Labor Department has gone beyond Congressional intent by saying that an employer cannot be engaged "solely for his own operation" if he does not have title to the commodity. The new subsection 3(h) clarifies Congressional intent so that an employer can act solely "for such person's own operation" regardless of whether he has title to the commodity. This relates to the numerous situations throughout agriculture, including the livestock, cotton, citrus, fruit and vegetable industries, where a producer or processor performs an activity pursuant to his own operation, but does not have title to the commodity. Encompassed by the term "such person's own operation" are all activities by a person with respect to commodities which are or will be the subject of or diverted from his operation. For example, when a canner harvests a crop destined for his cannery, he is engaged in activities for his own operation, regardless of when title to the crop is deemed to pass. Under some circumstances a packing shed operator may harvest a grower's crop for the purpose of selecting the highest quality fruit for packing operations. That fruit which is not so selected is typically then diverted to other processing operations. The amendment would make clear that the harvesting and handling of the entire crop by the packing shed operator is regarded as "for such person's own operation."

b. Subsection 3(i) defines the term "regular employee," found in subsection 3(b)(3) of the Act, to include any seasonal or part-time employee of an entity in 3(b)(1) or (2). The purpose is to state explicitly that, for example, a foreman, who in many agricultural sectors is employed on a seasonal basis, is excluded from the definition of "farm labor contractor," if he meets the other limitations of 3(b)(3).

6. Section 6 amends Section 3(d) of the Act to clarify Congressional intent in the definition of "agricultural employment." The amendment makes clear that the inclusion in the definition of "agricultural employment" of "handling, planting, drying, packing, packaging, processing, freezing, or grading" refers to those operations that are done on the farm or ranch. This is consistent with the references in the definitions of "agricultural employment" and "migrant worker" to agriculture as defined in the Fair Labor Standards Act and agricultural labor as defined in the Internal Revenue Code. Those two statutes have long been held to differentiate clearly between an operation on the farm and an operation in a plant or business away from the farm.

7. Section 7 clarifies the definition of the term "migrant worker" in subsection 3(g) of the Act. The clarification corrects the Department of Labor's interpretation that anyone employed in agriculture is a migrant worker, *anyone*. As now defined, migrant workers would remain fully covered by the Act, including the so-called "day-haul worker."

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., October 24, 1979.

Hon. F. RAY MARSHALL,
Secretary of Labor, U.S. Department of Labor, Washington, D.C.

DEAR MR. SECRETARY: We are writing this letter to express our increasing concern over the Department of Labor's administration of the Farm Labor Contractor Registration Act as amended.

The Farm Labor Contractor Registration Act was enacted by Congress to protect not only migrant and seasonal agricultural workers, but also farmers and other agricultural employers from abuses and exploitation by unscrupulous crew leaders. This remains the purpose of the Act and we fully support the continuing need for such legislation. However, we are concerned that the law is not being administered fairly or uniformly in a manner consistent with Congressional intent.

In a growing number of actions the Department has ruled that farmers and certain other agricultural employers, or their employees, are required to register as farm labor contractors. Such a requirement we believe goes beyond any reasonable interpretation of the law.

Under Sections 3(b)(2) and 3(b)(3), no "farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation, or any full-time or regular employee of such entity . . . who engages in such activity solely for his employer on no more than an incidental basis . . ." is required to register as a farm labor contractor.

The Department's actions, which are apparently based on its own extremely narrow interpretation, are completely contrary to Congressional intent and purpose and has only served to impose an undue penalty and economic burden on those specifically exempted by Congress from the scope and coverage of the law's requirements. Moreover, these actions have resulted in a misdirection of the Department's limited resources at the expense of those the law was intended to protect.

We strongly urge therefore that the Department review its present policy and concentrate its resources on curbing abuses by unscrupulous crew leaders as Congress intended.

We appreciate your attention to these concerns and we look forward to hearing from you.

Sincerely,

J. Bennett Johnston, Lloyd Bentsen, Herman E. Talmadge, Thad Cochran, Donald W. Stewart, Russell B. Long, David Pryor, Dale Bumpers, George McGovern, J. James Exon, John Tower, Dennis DeConcini, S. I. Hayakawa, Thomas F. Eagleton, Lawton Chiles, John C. Stennis, Strom Thurmond, Pete V. Domenici, Henry Bellmon, David L. Boren, Milton R. Young, Richard (Dick) Stone, Ernest F. Hollings, Jesse Helms, Edward Zorinsky, Richard Lugar, Gordon J. Humphrey, Rudy Boschwitz, John Melcher, William S. Cohen, Barry Goldwater, Donald W. Riegle, Jr., Sam Nunn, Howard H. Baker, Jr., Bob Dole, Roger W. Jepsen, Orrin G. Hatch, Jim Sasser, Harrison Schmitt, Nancy Landon Kassebaum, William V. Roth, Jr., Bob Packwood, Harry F. Byrd, Jr., Frank Church, Dave Durenberger, Mark O. Hatfield, Howell T. Heflin, Larry Pressler, Paul Laxalt, Malcolm Wallop, Robert Morgan, James A. McClure.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 26, 1979.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BOREN: Thank you for your letter of October 24, 1979, regarding the administration of the Farm Labor Contractor Registration Act (FLCRA). We agree that enforcement under the Act be targetted on repeat and serious violations which jeopardize labor standards for agricultural workers. To the extent that FLCRA enforcement has not been so targetted in the past, we are issuing field instructions to assure that there will be appropriate and consistent enforcement priorities.

As you know, FLCRA was enacted in 1963 to provide certain basic labor protection and migrant agricultural workers whose employment was dependent upon crewleaders. In hearings preceding passage of the Act, Congress found widespread abuses in this relationship. It found that migrant workers were not receiving proper pay, transportation or housing arrangements. Often these workers and their families were transported in unsafe vehicles and were misled about the job conditions to be found at the work site.

After ten years of experience under the Act, Congress determined that the abuses had not ended, and passed the 1974 FLCRA amendments to extend coverage and improve enforcement. The legislative history of these amendments indicates that although Congress extended coverage generally, * * * recruited migrant labor for their own operation. Congress also exempted from coverage any full-time or regular employees of any incorporated farm or agricultural business if these employees only performed farm labor contractor-type activities on an "incidental" basis.

Consistent with this statutory language and legislative history, the Department has exempted family farms in which the farmer personally hires agricultural employees. We have also taken the position that the family farm does not lose the exemption for farm labor contracting activities done personally by the farmer and solely for the farm's own operation, simply because the farm is incorporated.

Even if the farmer does not personally perform those activities, the Department does not apply the Act unless the farm has employees who engage in farm labor contracting activities on "more than an incidental basis." If the farm, whether incorporting workers or where there are company performing these tasks on more than an incidental basis, the statutory exemption from registration applies.

We believe, therefore, that FLCRA applies where there is a crewleader hiring or transporting workers or where there are company employees substantially engaged in activities generally performed by crewleaders. We also believe that it is critical to enforce the Act in a way which discourages evasion of its provisions—to deter farm labor contractors from being placed on payrolls and appearing to assume the status of full-time or regular employees. This enforcement approach is consistent with both the letter and spirit of the Act. It recognizes the classic farm labor contracting activities to which the Congress intended the Act to be applied irrespective of the relationship (i.e., direct employee or independent contractor) between the farm and the individual performing farm labor contracting activities.

We recognize the concerns which have been expressed by farm operators, canners, packing shed operators, processors and others regarding the application of the Act's requirements when they hire or transport agricultural employees directly through the use of full-time or regular employees of the company and where such employees do not spend a substantial amount of their working time in these activities. In this regard, we concur in their view that the Department may not have defined the term "incidental" as specifically as possible.

We, therefore, intend to adopt an interpretation of the term "incidental" that will include any full-time or regular employee of a farmer, processor, canner, ginner, packing shed operator or nurseryman who does not spend more than 20 percent of his time in farm labor contracting activities and performs that activity solely for his employer.

With this refinement of the definition of "incidental", we believe that in the great majority of cases, neither the corporate employer nor any of its employees will be required to register as a farm labor contractor.

We are also instructing our field enforcement staff to make certain that they concentrate on serious violations committed by traditional farm labor contractors who have repeatedly and seriously violated the Act.

These administrative changes will clarify our enforcement position while at the same time preserving important protections for farm workers under the Act. These include protections designed to generally prohibit convicted felons from being crewleaders; protections relating to housing and transportation safety; protections designed to assure workers of advance and continuing notice of wages, hours and working conditions and to assure that workers will receive prompt payment of wages.

Although the Occupational Safety and Health Act and the Fair Labor Standards Act provide coverage to farm workers in certain instances, neither statute affords farm workers the basic labor protections which are set forth in FLCRA.

The Labor Department owes farm workers, the Congress and employers a FLCRA enforcement program that concentrates on major violations and we appreciate your support in helping to make FLCRA work precisely as it was intended.

Sincerely,

Ray Marshall,
Secretary of Labor.

By Mr. JAVITS (for himself and Mr. Randolph):

S. 2876. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label and advertising for contraceptive drugs and devices state the effectiveness of the drugs and devices in preventing conception in humans, and for other purposes; to the Committee on Labor and Human Resources.

CONTRACEPTIVE LABELING AND ADVERTISING ACT

Mr. JAVITS. Mr. President, I introduce today legislation to amend the Federal Food, Drug, and Cosmetic Act to require that the labeling and advertising for contraceptive drugs and devices include a statement of their range of effectiveness in preventing pregnancy. I am pleased that Senator Randolph has joined me as a cosponsor.

Full and accurate labeling and advertising is crucial to the consumer in any product. But it is difficult to find an area with more serious consequences for misleading or incomplete information than contraceptive drugs and devices.

Last year over 1 million teenagers became pregnant and over 1 million women had abortions in the United States. Failure of contraception contributes significantly to both unwanted pregnancies and unnecessary abortions.

There is an urgent need for information on the relative claims of effectiveness of contraceptive drugs and devices, particularly with respect to over-the-counter products. In selecting an appropriate contraceptive method, women today are frequently deprived of information essential to their choice. Present data is incomplete. What has been established, however, is that many forms of contraception fail to meet the claims of their manufacturers. Advertisements sometimes exaggerate the effectiveness of these products by using vague and misleading terms. Further, manufacturers advertise OTS vaginal contraceptives as a safe and effective substitute for prescription methods of birth control. While this may be true in the laboratory, in actual use the question is, Are they equally or less effective in pregnancy prevention?

There is a large market for these OTC contraceptive drugs and devices. Manufacturers of vaginal suppositories alone have a $7 million a year business, which represents 12 to 13 percent of the over the counter contraceptive market.

Contraception is a subject which, for social, religious, or economic reasons, many women, particularly teenagers, do not discuss with a doctor or clinician. A 1975 survey of sexually active teenagers indicates that half were not receiving information from either organized clinics or private physicians. Misleading advertisements are probably most harmful to this age group.

In late February the Federal Trade Commission announced that it had reached consent agreements with three major OTC contraceptive manufacturers which prohibit further advertising of their products which are "false," "deceptive or misleading." Specifically, the advertisements for three brands of vaginal suppositories may no longer compare those products to the birth control pill or the intrauterine device (IUD) without saying that these products are less effective. The agreements further require disclosures of more specific directions for use of the product, possible side effects and instructions to women to whom pregnancy is a health risk to consult a doctor in choosing a contraceptive method.

These agreements demonstrate that the FTC has recognized the importance of action in the area of contraceptive advertising and labeling. They represent only the first step, however, in tackling the problem. The consent agreements affect only three companies and further do not require specific effectiveness labeling and advertising, as does this legislation.

Our bill would do the following: First, it would require the labeling of contraceptive drugs and devices to include a range of effectiveness of that product in preventing contraception in humans, as well as directions for use, and the warning that professional advice should be sought to determine the most appropriate form of contraception.

Second, the manufacturer, packer or distributor of the drug or device must provide labeling to accompany the product containing: First, a summary of the benefits and risks associated with its use; second, the purposes for which the drug or device is intended; third, precautions to be taken during the use of the drug or device, and significant side effects that may result from the products use; fourth, warning against unsafe use of the drug or device; fifth, information concerning the proper storage and handling of the drug or device; and sixth, any other information which the the Secretary of Health and Human Services determines, pursuant to regulation, to be necessary or useful to inform users about the risks and benefits associated with the classes of drugs or devices, to promote the safe and effective use of such classes, or to protect the public health with respect to the use of such classes.

Third, the manufacturer, packer, or distributor of the drug or device must include in advertisements and other printed descriptive matter issued information respecting the range of effectiveness in preventing contraception in humans. This would include information comparing OTC products to other contraceptive methods. It should be noted that this type of labeling is not a revolutionary concept; current law requires this information for prescription contraceptive drugs and devices.

Fourth, the Secretary shall by regulation establish for drugs and devices standards for determining the range of effectiveness of such drugs and devices in preventing conception in humans, including the conduct of testing for effectiveness in actual use, and the disclosure of results of such testing, and the form and manner for which such range of effectiveness shall be stated in labels and in advertisements and other printed descriptive matter for such drugs and devices.

Mr. President, unwanted pregnancies cost society billions of dollars annually. Consumers are not only subject to health risks (which are a particular threat to teenagers) but also the high costs associated with the first year of pregnancy and birth. For example, the costs of the first year of each pregnancy and birth in New York City are estimated at $5,000. Further, society often pays the cost of unwanted children through various welfare subsidies. Last year, $4.7 billion in AFDC payments went to families in which the mother became pregnant as a teenager. Last year alone, nearly $300 million was spent by American women on abortions.

But these monetary figures can never reflect the personal anguish associated with an unwanted pregnancy. Unplanned pregnancies can be a personal tragedy for many women and couples. Surely, consumers of contraceptive drugs and devices have a right to know the reliability of the product they choose. Failure rates should be truthfully presented to prospective purchasers, to assure that the most informed judgment possible be made. Reliable and safe contraception is an essential component of a high quality health care system in our Nation.

Mr. President, I ask unanimous consent that a column on this subject entitled "More Factual Ads Are Too Late for Some," which appeared in the Washington Post last winter be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

More Factual Ads Are Too Late for Some

The ads started showing up in women's magazines in 1978, and you got the idea that there was something new and wonderful in the way of contraceptives—something that was as effective as the pill and the IUD, yet something that did not have hormones and side effects.

What was new, in reality, was not much more than new packaging of the old spermicide that is in vaginal contraceptive foams. The new products were vaginal suppositories with names like Encare oval, Semicid and S'Positive, and while the ads didn't come straight out and tell you that they were 99 percent effective like the pill and the IUD, you could sure get that impression. S'Positive, for example, advertised itself as something that "looks like a pill. But it isn't. Yet, it does all the things you want the pill to do. And none of the things you don't want it to do." You get the idea.

The suppositories were obviously the perfect contraceptive for women who did not want to use the pill because of its side effects. It seemed perfect, for example, for Ginger Zwolinski of Marquette, Mich., who was then the mother of two. "When the Encare oval came out, I just used that," she says. "They say they're as effective as the pill. They must be good. I relied on their advertisement, which was a mistake. I got pregnant with my third child, who is a year old now."

"I wrote a letter to Encare oval. I was very angry. I said I knew their product was the reason I got pregnant. I was pretty belligerent in the letter. I threatened to sue and make them pay for her. We only planned for two children. My oldest is 10 and the second is seven. That's all I wanted."

The only response she got was a brochure from the manufacturer in which someone had circled the operative small print. "They did not guarantee they were 100 percent effective. I realized there was nothing I could do," says Zwolinski. "I couldn't afford to sue them anyway."

Mary Hurley of Kalispell, Mont., at least got a letter back from the manufacturer when she complained. Hurley, who works in a health clinic and counsel's teen-agers about birth control, figured she knew what she was doing. "Having read the advertisement, I was convinced it was a very effective means of contraception." She says she used the Encare oval, followed directions carefully, and "within three months I was pregnant. I had an abortion."

Hurley wrote the Federal Trade Commission to complain, and in her letter she pointed out that a lot of teen-agers she was counseling had been using the product because you can buy them without prescriptions and they are advertised as being extremely effective.

Hurley's complaint was one of more than 100 received by the Federal Trade Commission, which yesterday announced it has negotiated an agreement with the manufacturers of the three vaginal suppository contraceptives to tone down their advertising claims.

From now on, the manufacturers are going to have to state in their advertisements that their products are not as effective as the pill or the IUD and that they are about as effective as vaginal foams. Ads will have to include the information that users have to wait 10 or 15 minutes after insertion before having intercourse, that some women may experience irritation from the products, and that women who have been told by their doctors not to get pregnant should consult their doctors before selecting a contraceptive method.

All of this is well and good, but the fact of the matter is that it has taken the FTC a year-and-a-half to extract an agreement from the companies that they will not misrepresent the effectiveness of a contraceptive.

Tracy Westen, deputy director of the FTC's bureau of consumer affairs, says he doesn't know how many women became pregnant as a result of using the vaginal suppositories. Debbie Leff of the FTC says that manufacturers were doing between $6 million and $7 million a year worth of business in the products and that they accounted for 12 to 13 percent of the over-the-counter contraceptive market.

Westen says that given the medical and legal complexities of the case, the FTC moved relatively fast. The ads, he says, did not involve a clear-cut case of misrepresentation. The manufacturers did not claim, for example, that the products were 99 percent effective, like the pill. The ads were more subtle and more difficult to challenge.

Furthermore, Westen says, the products were new, at least in form, and medical information about their effectiveness had to be developed before a strong case could be brought against them in court for their advertisting claims.

Maybe all that is correct. But surely there is something wrong with a system that allows misleading advertising for something as serious to consumers as contraceptives to be published and broadcast for more than 1½ years without being challenged. No one knows how many women got pregnant and had to get abortions or bear unwanted children during that year-and-a-half, but Jeannine Michael, director of counseling at the Eastern Women's Center in New York City, did a survey that provides a clue.

Out of a sample of 30 women seeking abortions at the clinic, 22 had become pregnant while using Encare oval, the only contraceptive suppository she asked about. Eighteen of the women had heard of the product through advertisements, and most said they chose it because they believed it was effective and safe. The patients had used the product an average of a year.

The FTC got the manufacturers to change their advertising under the consent-agreement process, which allows companies to mend their ways without admitting they have done anything illegal. In fact, Norwich-Eaton, manufacturers of Encare oval, have issued a statement that says: "The company believes all prior promotions of its product, Encare, were correct. Encare continues to be a reliable and effective method of birth control that can be used with confidence by women."

Tell that to Ginger Zwolinski.

Mr. JAVITS. Mr. President, I am pleased that Senator Randolph, of West Virginia, has joined me as a cosponsor. Mr. President, I send the bill to the desk for appropriate reference.

By Mr. CHURCH:

S. 2877. A bill to amend title II of the Social Security Act to prevent payment, in certain cases of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction, and to deem convicted felons to have refused rehabilitation services under certain circumstances; to the Committee on Finance.

SOCIAL SECURITY: NOT FOR FELONS

● Mr. CHURCH. Mr. President, today I am introducing legislation to bar convicted felons from receiving social security benefits.

The American taxpayer already foots the bill for prisoners. Since their daily needs are met, the receipt of social security benefits allows felons to buy luxuries like elaborate stereoes and color television, or even to make financial investments as some have reportedly done.

The social security system must not permit convicted criminals to regale themselves in this fashion. Prisoners' receipt of social security benefits adds outrageous insult to grievous injury when the checks are based on disabilities which are themselves related to their crimes of violence. Felons should certainly not benefit from wounds received in police shootouts, or from derangement that culminated in violence or began with imprisonment itself.

In Idaho, this outrage is compounded by the case of the Boundary County Restorium. Because social security law technically requires that benefits are not to be paid to "inmates of a public institution," eligible elderly persons, residing by choice at this fine county facility, have been barred from benefits. The fact that two different kinds of social security benefits are involved is a distinction of little difference to the people of my State.

I am trying to solve the predicament of the Restorium's residents, although this will apparently require another change in the social security law. Meanwhile, convicted felons, who are truly "inmates of a public institution," should not be allowed to profit through social security while serving prison terms.

Receipt of social security benefits by prison inmates is an outrage, and it must be stricken from the social security law.●

By Mr. DOLE (for himself, Mr. ROTH, Mr. BAKER, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DANFORTH, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JAVITS, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LAXALT, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. PERCY, Mr. PRESSLER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. WARNER):

S. 2878. A bill to provide for permanent tax rate reductions for individuals and incentives for new plant and equipment; to the Committee on Finance.

THE TAX REDUCTION-JOB CREATION ACT

Mr. DOLE. Mr. President, I am introducing a bill this afternoon for myself and 36 other Senators with reference to a Tax Reduction and Job Creation Act.

Under current law and administration proposals, taxes in 1981 will rise to a record peacetime level. This is a consequence of our failure to control inflation and Federal spending over a period of years. This level of taxation will be a continuing drag on our economy as the recession deepens. That is neither good nor acceptable policy.

What we do not need is the traditional quick-shot stimulus to the economy, achieved by temporary tax reduction. We require a fundamental change in tax policy, geared to increasing personal incentive and stimulating economic growth without inflation. Such an approach will help bring us out of recession and into a new period of productivity and stability. The old boom-and-bust cycle must be relegated to the past.

Mr. President, today we are introducing legislation that will address major problems of our tax system. The Tax Reduction-Job Creation Act will reduce tax rates for individuals and provide business with tax incentives to invest in new plant and equipment. Each of these measures is urgently needed. Under the Carter administration, inflation has greatly increased personal income tax liabilities by moving wage earners into higher brackets. At the same time, inflation inhibits upgrading our commercial and industrial base by undervaluing depreciable assets relative to actual replacement cost. Yet our industrial base must be encouraged to expand if we are to generate the economic growth and job creation that will maintain our greatness as a nation.

Mr. President, the Tax Reduction and Job Creation Act will reduce individual income tax rates across-the-board by 10 percent. This measure will restore to American workers the incentive for greater productivity, that has been eroded by years of high inflation and high taxes. In addition, our bill will establish uniform fixed depreciation periods for plant, 10 years; equipment, 5 years; and vehicles, 3 years. This is the familiar 10-5-3 concept that will generally accelerate depreciation and counter the impact of inflation on business investment decisions. With 10-5-3, businesses will have greater certainty in planning their expansion. As a result, economic growth will be fostered and more jobs will be made available in the United States. There is no more important step that we could take to make American enterprise more competitive in world markets and more responsive to the need for stable economic growth.

It is not too soon to act in the interest of a stable, expanding economy built on the basic driving force that motivates both individuals and businesses—personal incentive. I and my colleagues believe that prompt action on the Tax Reduction—Job Creation Act will simultaneously address the problems of recession, inflation, and unemployment. This is the legislation that points the way to a more secure and productive future for all Americans, and I urge the support of our colleagues.

There are many of us, I believe, I think on both sides of the aisle, that believe we need to address whether or not there should be a tax cut not in 1980 but in 1981.

I cited some of the reasons I believe that to be necessary in my statement.

My statement discusses the 10-percent rate cut in fiscal year 1981 for individuals and then the so-called 10-5-3 accelerated depreciation program which would be effective beginning in 1981.

THE REPUBLICAN TAX CUT PROGRAM

● Mr. ROTH. Mr. President, the bill we are proposing today provides for a permanent reduction in individual tax rates of approximately 10 percent and accelerated depreciation to modernize this Nation's productive capacity. Adoption of this bill is urgently needed to stop the economic slide we are in and to save jobs for the working people of this country.

Anxiety about the future, job security, income, and taxes has never been higher. For the first time in years, the American people are being told they face a future of downward mobility. Under this administration, the American people have suffered a long series of economic losses.

Inflation is at double-digit levels, and unemployment is heading for double-digit levels.

In the last 2 months, 1.7 million workers have lost their jobs—the largest 2-month increase in history. 8.2 million people are now unemployed.

Savings, investment, and productivity are at dismally low levels.

Production in our Nation's major industries—automobile, housing, and steel—has fallen to the lowest levels in years.

And average weekly earnings for American workers has fallen to its lowest level in 19 years.

The attempt to balance the budget through massive tax increases has failed. The high tax rates imposed on the American people by the Carter administration have crippled economic growth and thrown millions of people out of work.

Unemployment will not balance the budget or stop inflation. Unemployment will only produce more Federal spending, less Federal revenues, and huge budget deficits.

I believe our tax cut is urgently needed to get Americans working again. Unless we reduce the tax drag on the economy, more workers are going to lose their jobs and the budget deficit will explode.

For every 1 percent increase in unemployment, the budget deficit increases by at least $20 billion.

We have two paths we can follow. We can do nothing, allow more people to lose their jobs, and let the budget deficit increase.

Or we can take steps now to hold the budget deficit down by cutting taxes and getting people back to work again.

The first budget resolution does not prevent Congress from acting on a tax cut bill. It merely sets a revenue target. The first budget resolution also contains a provision requiring tax reduction bills to be held at the desk until the second budget resolution is adopted.

By enacting a tax cut now, the House and Senate Budget Committees can fashion the second budget resolution around a tax cut aimed at increasing economic growth, instead of around massive tax increases.

The bill we are introducing today would reduce individual tax rates by approximately 10 percent, the first step of the Roth-Kemp bill. We intend to push for future rate reductions and a tax indexing system to keep tax rates down.

This first installment of Roth-Kemp will provide substantial tax relief to all taxpayers. Under this bill, taxpayers of this country will receive a tax cut averaging $315.

In addition to providing relief to all Americans, this bill would increase the incentives for economic growth. By reducing marginal tax rates, this bill would reduce taxes on saving and investment.

Substantial tax cuts are needed to offset the massive tax increases facing the working men and women of this country.

Under present tax laws, the Federal tax burden will increase to unprecedented levels, both as a percent of GNP and as a percent of taxable personal income. Unless taxes are cut, Federal taxes as a percent of GNP will reach the highest levels in this country's history. In fact, the size of the Roth-Kemp tax cuts pales when compared with the massive real tax increases facing the American economy.

For example, the bill we are introducing today has a static revenue estimate of only $22 billion—$19.8 billion for the rate reductions and $2 billion for the accelerated depreciation provisions.

Yet the Joint Committee on Taxation estimates inflation, social security, and the windfall profit tax will increase taxes on the American people by at least $42 billion in fiscal 1981.

These enormous tax increases will impose a tremendous burden on working Americans. A typical family of four is today paying almost $1,400 more in taxes a year than it paid before the Carter administration took office. And unless taxes are reduced, the family faces an additional tax increase of $630 next year—for a total tax increase of $2,029.

Imposing a huge tax increase on the working people of this country will not reduce inflation or balance the budget. It will however, further reduce take-home pay, production, savings, and investments, resulting in more inflation, a deeper recession, and higher unemployment.

Mr. President, I support a balanced budget. But I am opposed to the Carter administration attempt to balance the budget on the backs of taxpayers.

The package we are introducing today is the first step in a long-term plan to get the economy growing again and to get Americans back to work again.●

● Mr. PERCY. Mr. President, I am proud to join my Republican colleagues in introducing this tax cut package for both individuals and business. This bill will significantly reduce the Federal income tax burden on individual taxpayers and provide business with needed incentives to revitalize our ailing economy.

Mr. President, just 2 weeks ago the Congress approved its fiscal year 1981 budget. I strongly opposed that budget because it achieved its so-called balance at the expense of American taxpayers. The budget increased Federal taxes by almost $90 billion.

During consideration of the budget, I supported an amendment offered by Senator ARMSTRONG that would have cut taxes and spending by $19 billion. This amendment would have reduced Federal spending to about 21 percent of the gross national product, balanced the budget at a reasonable level and provided tax cuts for both individuals and business.

When the Armstrong amendment was defeated, Senator HATCH offered a more modest version of the same proposal. It, too, would have allowed for a tax cut. Unfortunately, we again were defeated in our efforts to cut both spending and taxes.

I remain committed to the goal of those amendments and am pleased to join in introducing this tax cut measure.

For individuals, this bill will cut individual income tax rates by 10 percent in 1981. This will offset the massive increases in income taxes Americans have been forced to absorb as inflation has soared and pushed them into higher and higher tax brackets.

According to Commerce Department statistics, last year personal income rose by 12 percent, almost enough to keep pace with inflation. But the tax bite increased by 15.8 percent, leaving taxpayers with an 8.7 percent gain in income, well below the rate of inflation. While the rate of inflation has slowed in the last several weeks, prices continue to climb. "Taxflation" will continue to take its toll and at the same time feed ever-increasing Federal spending unless something is done. A 10-percent tax cut for individuals will reduce this burden.

On the business side, we are proposing the 10–5–3 tax depreciation system which will replace the ADR. Businesses would be able to writeoff structures in 10 years, equipment and machinery in 5 years, and certain rolling stock in 3 years.

Bringing our depreciation system more in line with true replacement costs is vital to stimulating capital investment. Without increased capital investment the economy cannot grow, there can be no productivity gains and no new jobs.

According to a 1979 report by the Joint Economic Committee and statistics compiled by the Labor Department, the United States ranks seventh in productivity, capital investment, and economic growth behind Japan, West Germany, Italy, France, Canada, and the United Kingdom. The report suggests that our low rate of capital investment and productivity is due in part to the deficiencies in our capital cost recovery system. Further, the 1980 economic report of the joint committee calls for liberalizing allowances for business depreciation.

A revised method of accounting in use for the first time in 1979 corporate annual reports underlines the necessity for immediate action. These reports, which use sales and profit figures adjusted for inflation, reveal that not only do businesses not have the money available for capital investment, some may be actually in a state of liquidation with the present level of dividends. If businesses are not able to make and retain the profits necessary to invest in new plant and equipment, there can be no long-term economic growth.

Mr. President, the taxpayers of this country cannot afford to wait a year or more for relief. Nor can we afford to continue our present course and allow the economy to founder. I urge the Senate to take positive action and enact these tax cut measures as quickly as possible.●

By Mr. MELCHER:

S. 2879. A bill to amend the Department of Education Act, Public Law 96–88 (20 U.S.C. 3414); to the Committee on Governmental Affairs.

Mr. MELCHER. Mr. President, I am sending a bill to the desk to correct a situation that involves the rural schools of the Nation.

Unfortunately, the Secretary of Education has failed to respond to my efforts over a period of several months by administratively clarifying the fact that rural elementary and secondary school programs within the Department should be administered by the Assistant Secretary of Elementary and Secondary Education.

Because the only time the term "rural education" appears in the act is in section 206, establishing an Office of Adult and Vocational Education, the Secretary, on advice of her staff, is insisting that all rural education, including elementary and secondary, is under the Assistant Secretary of Adult and Vocational Education. This is obviously ridiculous.

I had hoped that a letter from the Secretary specifically clarifying the status of rural elementary and secondary education with the Department of Education would be forthcoming as I was promised. Unfortunately, despite my hopes, and promises from various underlings of the Secretary, it has not arrived as of today. The rural people of the country, and I, are not willing to wait any longer. Apparently the only way to correct the situation is to compel the Secretary of Education, by law, to follow what is obviously the only sensible procedure in respect to programs for children in rural schools.

Various experts claim that rural children comprise as much as 35 percent of the school population of the United States. I believe a more accurate estimate would be closer to 20 percent. The variance is attributable to the lack of a clear definition of rural. Perhaps a better picture can be gained in the realization that of 15,834 operating school districts in the country 6,619, or 41.8 percent, have enrollments of less than 600 pupils. Of this group 4,296 school districts, or 27.1 percent, enroll less than 300 pupils each.

According to some experts less than 5 percent of Federal program funds reach this 41.8 percent of the Nation's school districts.

This situation was prevalent particularly during the years just preceding the establishment of the Department of Education. In January 1977 in response to an inquiry as to what staff expert in the Office of Education was the contact for rural education, a person who had retired from Government 3 years earlier was named. When I asked for a conference between a member of my staff and a high official of the Office of Education to discuss rural school programs, he informed her that his experience in rural schools was confined to a visit one time to Oklahoma City—population 789,400.

Based on this experience I wrote a strong letter to the Commissioner asking, among other things, for a specific person in the agency to contact about rural school concerns. Despite repeated phone calls, no response was received until nearly 5 months later. I learned later that the person designated as rural contact received the assignment the day before the Commissioner's letter was dated.

Frankly, in no small degree, my support for establishing a Department of

Education was stimulated by this experience.

Unfortunately, the frustrations in trying to get a fair shake for rural education continue under the Department of Education. I am determined that this foolishness cease.

I appreciate the support of Chairman RIBICOFF, chief sponsor of the Department of Education legislation, in cosigning a letter to Secretary Hufstedler on this issue. I am equally grateful to House Chairman JACK BROOKS, who also wrote the Secretary a letter clearly outlining the conferees' intent. I ask unanimous consent that these letters be printed in the RECORD at this point. The response from the Secretary to each of us was little more than a polite thank you.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., January 14, 1980.

Hon. SHIRLEY HUFSTEDLER,
Secretary of Education,
Washington, D.C.

DEAR MADAM SECRETARY: It is our understanding there have been difficulties in interpreting the language of the Department of Education Organization Act relating to rural education.

As you know, the Act assigns to the Assistant Secretary for Adult and Vocational Education responsibility for providing a "unified approach to rural education and rural family education."

We want to make clear the provision is intended to express Congress' concern for improving adult education and vocational training opportunities in rural areas.

Our intention was not to remove from the Office of Elementary and Secondary Education its responsibilities for assisting rural elementary and secondary schools. The elementary and secondary component has, and should continue, to devote attention to the unique problems of this important segment of American education.

We hope this background information will be helpful to you.

Sincerely,

ABE RIBICOFF,
JOHN MELCHER.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., January 17, 1980.

Hon. SHIRLEY HUFSTEDLER,
Secretary of Education,
Washington, D.C.

DEAR MADAM SECRETARY: It has come to my attention that an ambiguity in the interpretation of one portion of Public Law 96–88, the Department of Education Organization Act, might interfere with the efficient administration of programs for rural elementary and secondary students. As Chairman of the House-Senate Conference that agreed upon Public Law 96–88, I am writing to you in order to help correct any possible misunderstanding.

Section 206 of the Act specifies that the Secretary, through the Assistant Secretary for Vocational and Adult Education, shall "provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies."

In including this language, the conferees did not intend to assign to the Office of Vocational and Adult Education those programs dealing with rural elementary and secondary education. It was the conferee's intent that such programs should continue to be served by the successor to the Bureau of Elementary and Secondary Education. This language, rather, was intended to express Congress' concern for improving adult education, such as vocational training opportunities, in rural areas.

I hope that this letter will clarify the situation regarding the conferees' intent as to rural education.

With every good wish, I am

Sincerely,

JACK BROOKS,
Chairman.

Mr. MELCHER. On May 30 of this year I wrote the Secretary a rather strong letter asking for a specific and overt action clarifying that programs for rural elementary and secondary schools would be the responsibility of the Assistant Secretary for Elementary and Secondary Education. I ask unanimous consent that my letter be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
May 30, 1980.

Hon. SHIRLEY M. HUFSTEDLER,
Secretary of Education,
Washington, D.C.

DEAR MADAM SECRETARY: As a strong supporter of the law establishing the Department of Education I have been impressed with the progress you have made so far in establishing the Department. Achieving this in a shorter time and with less expenditure than the law allowed must have set a record of sorts.

In the rush to "get going", however, one major detail has been overlooked. In the interests of brevity, I am enclosing two letters, one from Senator Ribicoff and me, and one from Representative Jack Brooks, Chairman of the House-Senate conference which brought the final bill through the Congress. Also enclosed is a copy of the reply bearing your signature. And, finally, enclosed is a form letter from you designating the placement of various functions of the Department, all of which make sense. Missing from this listing, however, is rural elementary and secondary education, the subject of our concern.

Contacts by my staff with various members of the transition team have brought assurance that obviously the Office of Elementary and Secondary Education would be designated as the responsible unit to serve the rural school constituency. I choose to ignore one staff attorney who informed my assistant—and these are his exact words: "It doesn't make any difference what Ribicoff and Brooks say the law means. We (apparently the Department) will interpret what the law says, not Congress." If that expresses your attitude, which I doubt, then the Department of Education is doomed before it gets really started.

With all due respect to your profession, I must advise you that my main reason for supporting the creation of the Department of Education was the strong desire to release the Office of Education from the clutches of the HEW attorneys. This strange group probably has done more to foster the anti-federal aid to education attitude than any other factor.

The unconscionable delay in issuing final regulations on various federal programs, usually over 600 days from the date of enactment, while the HEW legal staff worked over the regulation proposed by USOE, has caused the competent educators and state legislators of my state to become most disillusioned with Federal education programs.

I saw in the Department of Education legislation a golden opportunity to carry out a rescue mission for education. Now I fear these same myopic legal eagles have been transferred to the new Department from HEW.

If the attitude so prevalent there—that the entire education community cannot be trusted and that every conceivable and bizarre potential loophole in a law must be nitpicked to death—is to continue to be the pattern in your agency, then God help us. The forms will get longer, the paperwork will proliferate and the frustrations will intensify.

My plea is for common sense. One important way to demonstrate that, indeed, this virtue will prevail is for you to designate, once and for all, that the responsibility to serve the rural schools of the country lies with the Office of Elementary and Secondary Education and not with the Office of Adult and Vocational Education.

The fact that under Sec. 206 the words "rural education" are included obviously refers, as Representative Brooks stated, to adult rural education and not to schools serving children and youth.

You may think this is a tempest in a teapot. I assure you it is not. The rural educators and rural parents of this country are very much concerned. They are resentful of what they believe to be an anti-rural bias on the part of this Administration.

They believe that "the Feds" are disdainful of their interests. This attitude was beginning to break down, largely due to the leadership of Dr. Tom Minter, now Assistant Secretary for Elementary and Secondary Education, who in the last few years has given evidence that he does recognize the uniqueness of rural schools and their mission. To reverse this positive development because an internal power struggle within your Department will be a tragedy of major proportions.

What is necessary and immediate is a clear and overt act on your part in designating the Office of Elementary and Secondary Education as the agency within the Department responsible for serving the rural school constituency and for coordinating programs in other components of the Department, such as research, teacher education, community school development, etc., to be sure that rural concerns are considered along with all others.

I recognize that this objective ban be achieved by legislation and have not precluded that approach. However, I would rather not bring the issue to the Senate floor to serve as a vehicle for the opponents of the Department to rehash their arguments against its existence.

I will appreciate a prompt response. And please do not send me copies of the Rural Education Initiative and the Report or the National Rural Education Seminar. I have received these. They are nice. What is needed is a positive action, which you alone can take, to satisfy the concerns of the rural education community of this country.

Best regards,

Sincerely,

JOHN MELCHER.

Mr. MELCHER. To date I have received no response to this letter.

Mr. President, there really are two reasons for my action in introducing this bill.

Primarily I am concerned for the children in the rural and small town schools of Montana and of the Nation. I am sure that Senators from rural areas share this interest.

Of concern to all Senators, however, should be the attitude of various Federal officials that Congress can be ignored, that once a law is enacted the bureaucracy can ignore the intent of Congress and go their own merry way, pursue their internal empire building with no regard for the people they serve or those who represent the people.

Perhaps not much can be done with agencies established years ago. But the Department of Education is brand new, and, as with a small child, firm direction at this stage of the game may result in a more reasonable and cooperative relationship as maturity is achieved.

One final point of clarification: My bill authorizes no additional funds or staff. It amends no programs, requires no regulations, redirects no existing programs or funds. It does not remove from the Assistant Secretary for Adult and Vocational Education the responsibility for rural concerns for adults. It merely achieves, by law, what could easily be achieved by an administrative action which the administrator refuses to carry out.

By Mr. NUNN (for himself and Mr. Talmadge):

S.J. Res. 187. Joint resolution to authorize and request the President to designate the week of July 20 through July 26, 1980, as "National Environmental Health Week"; to the Committee on the Judiciary.

NATIONAL ENVIRONMENTAL HEALTH WEEK

● Mr. NUNN. Mr. President, committees in the House and Senate are currently considering what has been popularly referred to as "Superfund" legislation to establish a fund to address the problems of toxic poisons and other hazardous substances which have been released into the environment. It is my understanding that the administration's proposals in this area would create funds of more than $1.5 billion over 4 years, and that the measure currently being examined by the Senate Environment and Public Works Committee envisions an annual fund of approximately $800 million.

I believe that the interest shown in this area by both the Congress and the administration, and the amount of money viewed as possibly necessary to address the problems, are clear indications of the degree of concern felt throughout the country with the importance of minimizing environmental conditions which adversely affect the American people.

While I have not reached any final conclusions with regard to the merits of this "Superfund" legislation, I do share the concern with our environmental health that these proposals address. The Three Mile Island nuclear accident, the Love Canal contamination, and other unfortunate instances of adverse chemical exposure have dramatically underscored the potential impact of our environmental health on human health.

All too often, however, in response to highly publicized incidents of potentially disastrous proportions, we tend to forget all of the hard work that has been, and is being, done to avoid such. Also, there is a tendency to focus on remedial efforts which are after-the-fact rather than preventive in nature.

Mr. President, I therefore believe that, at the same time that the Federal Government is considering steps to correct the mistakes of the past in this area, it is important that we also remember the diligent efforts of our Nation's environmental health professionals who are working to safeguard the health of all Americans.

The vital services that these dedicated professionals provide by insuring the quality of our food and water, and by improving all conditions relating to general health, are often taken for granted. In addition, their effectiveness in protecting the health of our citizens through maintenance and remedial measures aimed at prevention provides a reaffirmation of the old adage that "an ounce of prevention is worth a pound of cure."

While we are considering the creation of large sums of money in an effort to "cure" certain threats to our environmental good health, I also think that it would be prudent and cost-effective to attempt to develop policies which emphasize preventive environmental programs as well.

Therefore, Mr. President, on behalf of myself and my colleague, Senator Talmadge, I am today introducing a joint resolution to designate the week beginning July 20, 1980, as "National Environmental Health Week." This resolution would stress the importance of preventative environmental programs, and recognize the importance of our Nation's environmental health professionals to the well-being of America. The measure is identical to one introduced in the House of Representatives by my good friend, Jack Brinkley, dean of the Georgia delegation in the House, and I commend it to the attention of my colleagues.●

ADDITIONAL COSPONSORS

S. 100

At the request of Mr. Packwood, the Senator from Alabama (Mr. Stewart) was added as a cosponsor of S. 100, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for expenses incurred for reforestation, and for other purposes.

S. 1843

At the request of Mr. Cranston, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 1843, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

S. 2270

At the request of Mr. Domenici, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 2270, a bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes.

S. 2412

At the request of Mr. Domenici, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 2412, a bill to amend the Resource Conservation and Recovery Act to further encourage the use of recycled oil.

S. 2521

At the request of Mr. Dole, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2636

At the request of Mr. Pryor, the Senator from Maine (Mr. Cohen) was added as a cosponsor of S. 2636, a bill to prohibit the drugging or numbing of race horses and related practices, and to amend title 18, United States Code, to prohibit certain activities conducted in interstate or foreign commerce relating to such practices.

S. 2722

At the request of Mr. Wallop, the Senator from Florida (Mr. Chiles), the Senator from California (Mr. Hayakawa), and the Senator from Georgia (Mr. Nunn) were added as cosponsors of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

S. 2848

At the request of Mr. Dole, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2848, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

SENATE JOINT RESOLUTION 115

At the request of Mr. Riegle, the Senator from Montana (Mr. Melcher) was added as a cosponsor of Senate Joint Resolution 115, a joint resolution designating July 1980 as "National Porcelain Art Month."

AMENDMENT NO. 1911

At the request of Mr. Schweiker, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of amendment No. 1911 proposed to S. 2720, a bill to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes.

SENATE RESOLUTION 477—SUBMISSION OF A RESOLUTION RELATING TO CREDIT CONTROLS

Mr. ROBERT C. BYRD (for himself, Mr. Bayh, Mr. Bellmon, Mr. Biden, Mr. Cannon, Mr. Church, Mr. Cohen, Mr. Cranston, Mr. Culver, Mr. Durkin, Mr. Ford, Mr. Hatfield, Mr. Hayakawa, Mr. Hollings, Mr. Johnston, Mr. Levin, Mr. Lugar, Mr. Matsunaga, Mr. McGovern, Mr. Mitchell, Mr. Randolph, Mr. Riegle, Mr. Sasser, Mr. Stennis, Mr. Stevens, Mr. Stewart, Mr. Warner, Mr. Williams, and Mr. Zorinsky) submitted the following resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Res. 477

Whereas consumer credit controls were imposed by the Board of Governors of the Federal Reserve System on March 14, 1980;

Whereas interest rates have been reduced and financial markets are stable and active;

Whereas recent trends in loan demand, the supply of money, and producer prices indicate that interest rates will continue to moderate;

Whereas the production of durable goods fell 4.2 percent in April after a 3.9 percent decline in March, 1980;

Whereas continuation of consumer credit controls may be mistakenly interpreted by lenders, consumers, and producers as a signal from the Government that consumer credit for the purchase of durables such as automobiles contravenes Government policy; and

Whereas the Board of Governors of the Federal Reserve System has already taken initial steps to dismantle credit controls:

Now, therefore be it

Resolved, that the Senate urges the Board of Governors of the Federal Reserve System—

(1) to proceed with the dismantling of controls on consumer credit; and

(2) to continue to discourage the provision of credit for speculative, nonproductive purposes.

CONSUMER CREDIT CONTROLS

Mr. ROBERT C. BYRD. Mr. President, on March 14, as part of an anti-inflation package, the President authorized the Board of Governors of the Federal Reserve system to impose credit controls. The Fed instituted a series of measures designed to discourage lenders from increasing their level of consumer loans; from funding with so-called managed liabilities; and from increasing their total amount of loans beyond a 6 to 9 percentage range.

Credit controls were imposed pursuant to authority vested in the President and the Fed's Board of Governors by the Credit Control Act. The controls accompanied a number of other measures, including a balanced budget, all of which were designed to reassure financial markets.

In March of this year, consumer prices were increasing at an 18 percent annual rate. The prime rate was approaching 20 percent. Three-month Treasury bills were at nearly 16 percent. There was serious concern that the financial underpinnings of our economy were deteriorating.

Within approximately 3 months, the prime rate has fallen to 12 percent and should fall further. Three-month Treasury bills are down to about 6.3 percent. Producer prices increased at annual rates of only 3.6 percent in May and 6 percent in April.

The economic conditions which necessitated the imposition of credit controls have changed. The controls on consumer credit helped to break the inflationary psychology which had plagued our society. They are no longer necessary and should be dismantled as soon as possible.

On May 22, the Federal Reserve took the first step in dismantling the controls.

The resolution, which I am introducing, together with 28 cosponsors, urges the Fed to complete the job.

The continuation of controls on consumer credit has become counterproductive. Because loan demand has fallen off sharply, the controls no longer serve as a financial disincentive to consumer lending. However, controls on consumer credit do perpetuate a misimpression among some consumers and lenders that the Government does not want creditworthy people to borrow money to buy a new car, washing machine, or refrigerator.

Sales of durable goods dropped 4 percent in May, after a 7-percent decrease in April. Industrial production fell 2.1 percent in May, after a 2-percent decrease in April. Unemployment in the auto industry now exceeds 40 percent.

Removal of controls on consumer credit is not going to make overextended borrowers any more creditworthy. Nor will it make autos more fuel efficient.

But, dismantling of controls should help to bring creditworthy consumers back to the marketplace, and thus help to turn this recession around.

The resolution I am introducing also urges the Federal Reserve to continue to discourage credit for speculative, nonproductive activities. With the Fed having imposed a limit on growth in the money supply, we cannot afford to have our limited financial resources diverted to speculative undertakings. Reportedly, banks provided about $1 billion in credit to the Hunts through brokerage firms so they could speculate in the silver market. This is the kind of abuse which the resolution urges the Federal Reserve to discourage.

The money supply has been shrinking over the last few months. In order to keep the money supply growing at the rate which it has prescribed, the Fed will have to pump more reserves into the system.

Together with the good news on the inflation front, an increase in the money supply will cause interest rates to continue to moderate. As a result, dismantling of credit controls will not result in an upward surge in interest rates.

Mr. President, the Senate should go on record supporting this reasonable step. I hope that the Federal Reserve will respond quickly.

Mr. FORD. Mr. President, I am pleased to join with the majority leader in cosponsoring this resolution.

The substantial number of plant shutdowns and layoffs across Kentucky and elsewhere are mounting evidence that insufficient attention was given to the short-term impact of Federal Reserve credit policies.

The staggering interest rates of recent months have brought vital areas of the economy to a standstill, and the full long-term impact of those actions is still to be measured. While the Federal Reserve strategy might have looked workable on paper, in reality had a devastating effect which is retarding the segments of the economy that need to be stimulated.

To bring inflation under control, we need more jobs and greater productivity, rather than unemployment and reduced work forces.

In April, I lodged a strong protest with Federal Reserve Chairman Paul Volcker that the high interest rate policy aimed at reducing inflation would have a counter-productive effect and suggested an alternate strategy that emphasized larger down payments, credit card limitations, and greater restrictions on lending practices.

There is no question that certain credit restrictions were in order, but the actions taken by the Federal Reserve were too sudden and too harsh for the economy to absorb. The homebuilding industry has been brought to a standstill, the automobile industry continues to decline, and the farmer is wondering if he can finance another crop.

In essence, Mr. President, this Nation's economy has now moved from one extreme to the other. The time has come to loosen the noose and dismantle the controls on consumer credit while maintaining a hard-line position to discourage the use of credit for speculative purposes.

This resolution can send such a message to the Board of Governors of the Federal Reserve, and I urge it be adopted by the committee.

Mr. SASSER. Mr. President, I want to commend the Senator from West Virginia for introducing this legislation today, and am honored to be a cosponsor of the measure. The resolution we are offering calls on the Federal Reserve Board to complete the process of removing controls on consumer credit, while sustaining strong controls on credit used for speculative and nonproductive purchases.

This is an antirecession measure. This is designed to help bolster productive forces in the economy that are needed to bring an early end to the current downturn. I supported the Fed's credit control policy in March, even though it came somewhat later than it should have. Now is time to take the controls off consumer credit.

The signs are many that we have entered a serious economic slump.

Unemployment is already 0.4 percent above the level anticipated by the administration for the end of this year. By then, it could be as high as 9 percent;

Unemployment insurance applications have never been higher in the history of our Nation;

We recently witnessed the largest 2-month increase in unemployment since adequate records have been kept.

The people of the Nation are concerned. Many who are currently employed face the grim possibility of prolonged layoffs. I do not place the blame for these unfortunate conditions on credit controls. But, now that the economic downturn is clear and pronounced, there should be no delay in removing what is left of the controls. This will be a sign to Americans that the Government is not discouraging them from purchasing homes, automobiles, and other consumer goods.

I do blame the Fed, however, for its policy of overkill on interest rates during the fall and winter quarters. Last fall I urged the Fed to moderate the rapid rise of interest rates. At that time, I chaired a hearing of the Budget Committee to get the views of ordinary businessmen on the economy. These men were concerned about inflation, and urged the committee to balance the Federal budget. But they were unanimous in the view that excessively high interest rates would do more damage to the economy and to the balanced budget goal than anything else we could do. I regret to say that events have justified their worst fears.

I supported the credit control program as an alternative to the monetary sledgehammer pursued by the Fed during the winter. I believe there is a role for credit controls in restraining nonessential borrowing during a time of need for monetary discipline. The Fed should continue to limit the use of credit for speculative buying now, for example, as this resolution stipulates. Generally speaking, it is vastly preferable to use selective controls on credit as an alternative to price-rationing in overburdened credit markets. For inevitably it is the small guy, the innovator, and the backbone of our economy, that suffers from astronomical interest rates.

Mr. President, everyone suffers in some way from recession. This call for the dismantling of controls on consumer credit will help to ease the pain, and is a very small measure of what the Federal Government can do to speed the recovery of our economy. I hope the message to the Fed is clear, and that action will be forthcoming soon.

SENATE RESOLUTION 478—SUBMISSION OF A RESOLUTION TO AMEND THE STANDING RULES OF THE U.S. SENATE

Mr. ROBERT C. BYRD (for himself and Mr. STEVENS) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 478

Resolved, That Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "motions" in the caption a semicolon and the following: "Germaneness";

(2) by adding at the end thereof the following new paragraph:

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, to be equally divided and controlled by the Majority Leader and the Minority Leader, or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting."

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF DEFENSE AUTHORIZATIONS, 1981—H.R. 6974

AMENDMENT NO. 1920

(Ordered to be printed and lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to H.R. 6974, to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider H.R. 507, the Trinity River Division Central Valley projects and H.R. 5487, legislation to designate certain forest lands in the State of Colorado as wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on S. 1480, Hazardous Substance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A STRATEGY FOR THE NATO NATIONS

● Mr. BIDEN. Mr. President, for those of my colleagues who may have missed the article by Flora Lewis in the New York Times last Tuesday, June 17, I submit the article for the RECORD.

Recent events have presented several challenges to the cohesiveness of the NATO alliance. In this article, the views of West German Foreign Minister, Hans-Dietrich Genscher are expounded. It is clear, as Ms. Lewis points out, that the "German Government is not just reacting to pressures, but coming up with some constructive thoughts."

The article follows:

A STRATEGY FOR THE WEST

(By Flora Lewis)

BONN, June 16.—West Germany's Hans-Dietrich Genscher has a special status in the foreign ministers' set. He is the only one who heads a party—the coalition partner in Chancellor Helmut Schmidt's Government—and is not simply an appointee of his leader. That fact gives his views a little extra weight, a little extra leeway.

Mr. Genscher had no special grounding in international affairs, but he has been in office six years now, traveled the world, met all the major leaders, and learned prodigiously. Through he usualy leaves most of the declaiming to Mr. Schmidt, he has developed firm positions which help to focus West German policy through the clouds of daily debate and diplomacy.

The central questions are clear for him. "Europeans know they have to take part in the defense of the West," he says. "The U.S. is not a night watchman for Europe," guarding its peaceful slumbers. "It can only defend those who want to defend themselves."

But, he feels, the allies do not have a global strategy to meet Soviet strategy, which he crisply defines as expansionism, provided that the risks are not too high. The North Altantic alliance assures security in Europe itself, and its partners have found the means to cooperate on maintaining basic economic and social stability.

They have come to realize, however, that it is the world outside the treaty area, the volatile, trouble-prone developing world on which their well-being and safety depend. Oil, raw materials, sealanes to transport them and markets in which to earn the cash to pay for them have become the strategic stakes.

There is no regular instrument for consultation, for coordinating Western policy toward these areas as there is within NATO, and the expansion of NATO to worldwide concerns would create more problems than it would solve, as well as dilute the essentially military character of the organization.

Mr. Genscher feels it essential that Japan be involved in developing a Western strategy, and that the primacy of economic and social problems in the critical regions be recognized. NATO, he notes, would never have survived but for the Marshall Plan that created its sturdy foundation.

So Bonn looks to this weekend's summit in Venice to take up the question of how to work out a strategy for the West. The sense of need for some continuing mechanism to meet new problems as they arise, anywhere in the world, is growing in all the major European capitals. It may mean a need for some new organization, or better links among existing ones. Haphazard diplomacy from crisis to crisis clearly hasn't been good enough.

In Genscher's view, the principles on which strategic cooperation must be based are clear: the underlying common values and overriding common interests shared by the Western nations. He doesn't like the word "solidarity," which has come into vogue as the panacea for American-European ills, because it implies Europeans are sacrificing or subordinating their own interests to those of the United States.

This is precisely the kind of language Schmidt's planned trip to Moscow, just after the Venice meeting, has led Bonn to address itself more to signaling the Russians that they cannot expect to pry West Germany loose from the alliance than to telling Americans its ideas on how the allies should proceed. But they are good ideas, worthy of attention, and an encouraging sign that the German Government, at least, is not just reacting to pressures but coming up with some constructive thoughts.

There is still a revulsion in Bonn against participating in any Western military efforts outside its borders, and this is wise for historical reasons as well as useful for the emphasis it gives to the economic aspect of Western security, too often underestimated in the U.S. It isn't just arms that will help Pakistan, for example, resist tremendous Soviet pressures, but aid to meet the risk of destabilization inherent in a very wobbly economy having to accommodate three-quarters of a million Afghan refugees. Bonn is contributing.

The encouragement and support of regional groups in the developing world, such as the West African economic association or ASEAN in Southeast Asia, Genscher believes, will do more to strengthen the West than an attempt to recruit heavily armed "policemen" to guard key areas. That was the U.S. policy with the Shah's Iran, and it collapsed totally.

It is the political, social and economic fragility of so much of the world that creates the opportunities for Soviet expansion. Weapons alone cannot provide the necessary resistance, though protection is required to give stability a chance to take root.

These are indeed problems that neither the U.S. nor Japan nor Europe—even if it were more united—can handle separately. And they are as strategically important as missiles. If the Venice summit produces the beginning of a method to define and implement a concerted approach to them, it will be a crucial milestone, a sign that European governments are awakening to their responsibilities to help shape Western policy, not just criticize or submit to American views.●

ALAN H. OLMSTEAD

● Mr. RIBICOFF. Mr. President, Connecticut has lost its freest spirit.

Alan Olmstead was the most sensitive man I knew. He was completely in tune with our State—past, present, and future. He really had extrasensory perception, knowing what men would do in events before they happened. He was the preeminent columnist of our State. Alan was a poet, a philosopher, and a tiller of the soil, and above all a decent human being.

I consider myself lucky to have been Alan Olmstead's friend. Lois joins me in extending our deepest sympathy and condolences to his great wife and helpmate, Catherine, and to the other members of his family. He will be truly missed.●

WOMEN IN SCIENCE PROGRAM

● Mr. HATCH. Mr. President, last Monday evening the Senate considered and passed S. 568, the National Science Foundation/women in science authorization bill. During consideration of this measure, the Senate approved my amendment (UP No. 1288) clarifying the focus and purposes of the women in science program and making some technical amendments. The RECORD should show that the Senator from Montana (Mr. MELCHER) was a cosponsor of my amendment.●

NUCLEAR FUEL TO INDIA

● Mr. HARRY F. BYRD, JR. Mr. President, last Friday, June 20, Kingsbury Smith, national editor, the Hearst Newspapers, reported on President Carter's decision to approve the sale of 38 tons of nuclear fuel to India.

Kingsbury Smith's report recalled President Carter's 1976 campaign pledge to halt sales of nuclear reactor fuel to nations that refused to forego nuclear weapons development.

In my judgment, President Carter was unwise in authorizing the sale of nuclear fuel to India and in doing so he overrode the unanimous view of our Nuclear Regulatory Agency.

It is my hope that the Congress will override the President.

This nuclear age is a very dangerous one. The United States has a deep obligation, as I see it, to prevent the spread of nuclear weaponry. India has already exploded an atomic device and has refused to participate in the Non-Proliferation Treaty or to permit safeguards against her use of nuclear material for atomic weaponry.

I ask that the article by Kingsbury Smith be printed in the RECORD.

The article follows:

NUCLEAR FUEL

(By Kingsbury Smith)

President Carter's decision to approve the sale of 38 tons of nuclear fuel to India represents another broken campaign promise that threatens to spur the spread of nuclear weapons around the world.

Campaigning in San Diego, California, on Sept. 25th, 1976, Mr. Carter said that if elected President he would halt sales of nuclear reactor fuel to any nation that refused to forego nuclear weapons development or insisted on building its own national plant for re-processing reactor fuel.

India, under the dictatorial-minded leadership of Mrs. Indira Gandhi, has done both. It built and exploded a nuclear bomb in 1974 in flagrant violation of agreements with the United States and Canada.

In his San Diego speech, Mr. Carter assailed the Ford and Nixon administrations for failing to deal more strongly with India for its refusal to sign the nuclear non-proliferation treaty. India still has not signed that treaty and it has refused to accept International Atomic Energy Agency "safeguards" on four of its six nuclear reactors.

It has also insisted on retaining the capability to produce nuclear weapons. During his 1976 campaign, Mr. Carter warned that the more countries that possessed such capabilities "the greater the risk that nuclear warfare can erupt in local conflicts."

In an address to the United Nations in May, 1976, he said it would be "particularly alarming" if other nations developed nuclear bomb producing capabilities.

President Carter has now reversed himself on the grounds that the sale of the nuclear fuel to India "will help us to maintain a dialogue with India in which we try to narrow our differences" on "India's failure to accept international safeguards and its failure to commit itself not to conduct further nuclear explosions." He said India's position was "of serious concern to me."

There is practically no one in Congress or in the diplomatic corps in Washington who believes there is the slightest hope of persuading Mrs. Gandhi to accept full international safeguards or agree not to produce nuclear bombs.

The real reason for the President's appeasement of Mrs. Gandhi is considered to be his hope of preventing her from becoming more closely aligned with the Soviet Union. That is seen in congressional and diplomatic circles as a forlorn hope. India is already, in effect, an ally of Russia. The Soviet Government agreed last month to sell India $1.6 billion worth of weapons. Since 1973, the Soviets have supplied India with well over a billion dollars worth of weapons.

Prime Minister Gandhi supported the Soviet invasion and military occupation of Afghanistan. The Soviets supported India when, in 1971, it invaded Pakistan and dismembered that country to establish the separate state of Bangladesh.

President Carter strongly opposed the Pakistan government's plan to develop a nuclear bomb capability to protect itself from its giant Indian neighbor. His approval of the sale of nuclear fuel to India will not only further embitter the Pakistanis but it is bound to make Pakistan more determined than ever to build a bomb.

It is particularly ironic that the security interests of Pakistan, a once staunch ally of the United States, are to be endangered by the supply of American nuclear fuel to an Indian government which for years has pursued a hostile anti-American policy, especially under the leadership of Prime Minister Gandhi, who accused the U.S. of "aggressive intentions" against India in 1974, and whom Henry Kissinger once described as "cold-blooded and tough."

Congress has 60 days in which to block President Carter's decision to approve the sale of the 38 tons of nuclear fuel to India. Strong opposition has already developed in the Senate but it is not likely to prove strong enough unless reinforced by quick public support.

Some high ranking Congressional members of the President's own party are leading the move to prohibit the sale. Senate Majority Whip Alan Cranston (D-Calif.), said the export of the nuclear fuel to India would "do grave injury to the nuclear non-proliferation and foreign policy interests of the United States." N.Y. Rep. Jonathan B. Bingham, the democratic chairman of the House subcommittee on international economic policy, announced he would introduce a resolution to block the sale, adding "We are going to have a tough time explaining to our allies why we caved in on this." ●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that four such notifications were received on June 23–24, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 23, 1980.
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D. C., June 24, 1980.
In reply refer to: 1-1766/80ct
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D. C., June 24, 1980.
In reply refer to: 1-5766/80ct
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D. C., June 24, 1980.
In reply refer to 1-1446/80ct
Dr. HANS BINNENDIJK,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Director.

MAKING THE ARMENIAN GENOCIDE AN INTEGRAL PART OF THE U.S. HOLOCAUST MEMORIAL

● Mr. BRADLEY. Mr. President, among the most horrifying events in world history are the annihilation of European Jewry by the Nazis during World War II and the massacre of the Armenians in Turkey during World War I. Today I would like to call the Senate's attention to the Armenian genocide.

Although 1915 is generally recognized as the year of the genocide of the Armenian people, Ottoman persecution of the Armenians began decades before. In the late 19th century Sultan Abdul-Hamid, fearing Armenian loyalty to Russia, incited and encouraged violence against Armenians in his domain. By 1896, 100,000 Armenians living in unarmed, peaceful communities had been killed. When Abdul-Hamid was overthrown in 1908, the Armenians, as might be expected, quickly supported the new regime and renewed their hopes for an undisturbed life in their homeland. By 1915, as the crumbling Ottoman Empire was battling against the allies, these hopes were lost forever. The government in Constantinople again instituted a deliberate, systematic policy to destroy all vestiges of the Armenian community in Turkey. Brutal town-by-town raids in which men were murdered, women were forced to convert to Islam and children and the elderly were deported, resulted in the death or exile of 1,500,000—80 percent of the Armenian population in Turkey. The attempt to unify and Turkify the state was successful, for there are virtually no Armenians remaining in their historic areas of Turkey.

There are however approximately 500,000 Armenians in the United States today, and the large Armenian community in New Jersey adds to the ethnic richness and cultural diversity of the State I proudly represent.

Mr. President, on October 26, 1979, the U.S. Holocaust Memorial Council was set up and charged with implementing the recommendations of the President's Commission on the Holocaust for establishing programs to honor the memory of the Jews who perished in the holocaust. Because this memorial to the victims of genocide and the issues it raises are so important to Armenians—who like the Jews were the victims of genocide—an Armenian representative, Mr. Set Momjian, will serve on the council. In addition, the Armenian community has pledged over $1 million to the museum.

American Armenians still bear the legacy of the Turkish destruction of their community. Despite the loss of family, friends, property, and homeland, Armenians maintain deep pride in their traditions and a sense of history that neither they nor other Americans can forget. It is fitting that the Armenian tragedy of 1915 be made an integral part of the holocaust memorial, and I look forward to reviewing the council's specific recommendations when its report is submitted in December.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the two notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-66, concerning the Department of the Army's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $23.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES.

[Transmittal No. 80-66]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Thailand.

(ii) Total estimated value: Major defense equipment,* $21.0 million; other, $2.5 million; total, $23.5 million.

(iii) Description of articles or services offered: Thirty-five (35) M48A5 tanks with communications equipment and M60/M219 machine guns.

(iv) Military department: Army (USL).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress, 24 June, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 24, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-70, concerning the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $64.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80–70]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Jordan.

(ii) Total estimated value: Major defense equipment,* $58.0 million; other, 6.4 million; total, $64.4 million.

(iii) Description of articles or services offered: Forty-five thousand, two hundred eighty six (45,286) 155mm projectiles and seventeen thousand (17,000) 8 inch projectiles with component propellant charges, fuzes, and primers.

(iv) Military department: Army (VAL).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(iv) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: June 24, 1980.●

TRIBUTE TO PAUL HALL

● Mr. BRADLEY. Mr. President, I would like to pay tribute today to Paul Hall, leader of the Seafarers International Union, vice president of the AFL–CIO, and a truly great resident of New Jersey.

Paul Hall was a most unique convergence of intellectual capacity and the common touch, strength and sympathy, and idealism and practicality not often found even in outstanding leaders.

He fought the good fights—first against the Communists who sought to subvert the purposes of the Seafarers International Union during its beginning and, later, against racketeers attempting to infiltrate union halls and ships manned by his members.

Paul Hall stood for integrity and enlightened leadership in the American labor movement and in the affairs of our Nation. We have lost a special citizen of our country.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 18, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–71, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $53.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–71]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major defense equipment,* $50.0 million; Other, $3.0 million; total, $53.0 million.

(iii) Description of articles or services offered: Two F–15C aircraft to be produced and retained in the continental United States pending delivery to the territory of Saudi Arabia to replace F–15 aircraft that may be lost or damaged beyond economical repair. The aircraft will be delivered only to maintain the total number of F–15 aircraft possessed by the Saudi Arabian Government at 60 and represent a planning initiative, not an effort to increase the size of the Royal Saudi Air Force (RSAF) F–15 fleet.

(iv) Military Department: Air Force (SGK).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: June 18, 1980.●

COAL HAUL ROADS

● Mr. HEINZ. Mr. President, I am pleased to cosponsor this amendment to provide aid to energy-impacted roads and railroads. Two years ago, when we were debating the Federal-Aid Highway Act of 1978, I had the opportunity of speaking in favor of a similar amendment presented by the Senator from Kentucky and the Senator from West Virginia. That amendment, unfortunately, did not pass, but we must not make the same mistake today.

The amendment before us today addresses a national problem with a responsible solution. It will aid not only the coal bearing roads and bridges of West Virginia, Kentucky, and Pennsylvania, but also the energy-impacted transportation systems of our Western and Southern States, which are now increasingly feeling the impact of the Nation's growing need for domestic sources of fuel. It is clear that the United States must increasingly rely on our own energy sources if we are to throw off the chains of dependence on foreign oil and gas. Yet development of domestic coal, oil and natural resources has already put a heavy burden on our highways, bridges, waterways, ports and railroads, and the deterioration of these transportation links has already reached critical levels in many parts of the country. Unless we act swiftly, we will not be able to sustain the rapid level of development of energy resources which we need to insure energy independence.

Between 1980 and 1985, coal production is expected to increase by approximately two-thirds. A 1978 DOT study, "Transporting the Nation's Coal—A Preliminary Assessment," predicts that coal haul roads in particular could become a bottleneck to the flow of coal into energy-hungry regions of the country. Recent studies show that 34,000 miles of road in 21 States are used for coal hauling and that three-fourths of this coal system mileage will need improvements between 1980 and 1985. In my own State alone, the Pennsylvania Department of Transportation estimates that 2,500 miles of coal haul highways, 700 bridges, and 342 miles of rail branch lines involved in coal movement will need significant repair between 1980 and 1985.

I have seen the deplorable conditions of roads which are extensively used to transport coal. Even several years ago when I inspected the coal haul roads in Cambria County, Pa., these roads were a danger to the local community, with pavements you could crumble with your bare hands. Roads in this state of disrepair exist today throughout Pennsylvania and the rest of the Nation. Residents of Cambria County and other areas should not be forced to sacrifice their safety, their roads and their own wages as increased taxes for road repair to produce the energy which all Americans need. This is an inequitable burden for them to bear.

Mr. President, this amendment will provide the necessary Federal assistance to begin this important repair work, both to our energy impacted roads and to similarly affected rail lines. I join my colleagues from Kentucky and West Virginia in urging its passage.●

S. 2872—AMENDMENT OF THE CLEAN WATER ACT

● Mr. PELL. Mr. President, Rhode Island is known as "the Ocean State" and our priceless Narragansett Bay is both a national resource and a source of aesthetic, recreational and commercial pride to Rhode Islanders.

Unfortunately, our waters have become polluted by inadequate sewer treatment systems that just cannot handle modern demands. The centerpiece for one of these systems, an antiquated treatment plant dating back to 1913, broke down last year and dumped raw sewage from the city of Providence into the bay.

This crisis helped to focus attention on the pollution of our waters in Rhode Island and to generate support for consideration of the largest bond issue in the history of our State—$87.5 million to modernize the dilapidated Providence sewage treatment plant.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

I firmly believe that if Rhode Islanders are willing to make a commitment of this size, that commitment should not be discouraged by the Federal Government. There is, however, no clear provision that would allow the State to be reimbursed for a portion of those funds on a continuing basis.

It is for that reason that I joined my colleague (Mr. CHAFEE) in cosponsoring legislation that would amend the Clean Water Act to give state and local governments a chance to be reimbursed by the Federal Government when they use their own financial resources to construct wastewater treatment facilities.

Late last year, we moved to help Providence and many older medium and large cities by introducing legislation that would increase the priority of secondary treatment in the construction grant allotment formula and would insure a commitment to resolving the problems of combined sewer overflows.

The legislation we introduced yesterday would encourage State and local governments, currently hampered by a lack of Federal funds but facing severe water pollution problems, to move ahead with their waste-water treatment projects.

Under this bill, if a State has exhausted most of its Federal construction dollars for the year but wants to continue with its own funds, it can ask the Federal Government for a reimbursement of those funds as appropriations become available in future years.

This bill not only encourages States to tackle their serious pollution problems, it allows them to move ahead before the cost of construction becomes prohibitive. It is a measure that, in the long run, will save the taxpayer's dollars.

It is important to recognize that there also can be significant economies of scale associated with the design and construction of large pollution abatement systems as a unit, rather than as phased projects spread over a period of years as Federal funds become available.

I want to emphasize that this bill does not, in any way, guarantee Federal reimbursement to the State. The reimbursement, under this bill, could not exceed the level of appropriations earmarked for the State's share of the construction grants program.

Although this bill leaves the State to assume the risk of going ahead without assurance of future reimbursement, it does afford the State the chance to be partially reimbursed.

In my opinion, we should not discourage aggressive action at the State level by denying the possibility of reimbursement. This legislation would correct that situation and is urgently needed if we are to bring our water pollution under control.●

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 4:04 p.m., recessed until 5:04 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VALIANT GREEKS

Mr. PROXMIRE. Mr. President, Hitler's policy of genocide spread with the German advances. No one was immune. In the occupied countries, anyone caught aiding a Jew was executed.

Time was running out in Athens, Greece. It was the autumn of 1943. Only days remained before German troops were scheduled to force Athenian Jews into ships bound for concentration camps and death. But the terror of the Third Reich was not enough to frighten some heroic Athenians.

The Athenian Jews needed false identity papers and family names in order to escape. Courageously, the Athens police chief, Ebert, issued secret orders. He authorized his subordinates to grant identity papers to all applicants. Defying death, his subordinates complied. In a short time, 6,000 Jews were equipped with false papers. Because of these heroic efforts, nearly all of Athens' Jews escaped the Nazi dragnet.

Those who aided the Jews had risked their lives and the lives of their families.

Each act of assistance was an individual act of heroism.

Each act of assistance was an individual act in defiance of genocide.

Each act of assistance was an act of inspiration for the U.S. Senate to take action on the Genocide Convention.

Mr. President, the Greeks in Athens cooperated to thwart genocide. Let us cooperate with the 83 countries that have already signed the Genocide Treaty.

I ask my colleagues to ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for various reasons, it will not be possible to call up any additional legislation today. It is hoped that tomorrow the Senate can proceed on the supplemental appropriation and the debt limit, not necessarily in that order. But it is hoped that the Senate can proceed on those two measures with time agreements on both.

If the Senate is able to do that, it would seem to me that the Senate ought to be able to complete its business on both of those measures tomorrow, which would be Thursday—not later than midmorning or midday Friday, at least—so that the supplemental appropriations bill could proceed to conference and conferees could be working on that measure while the Senate continues to work on the Energy Mobilization Board conference report, which will come to the Senate on Friday, and the military procurement bill, and then be prepared to act on the supplemental appropriations conference report when it comes back to the Senate.

I say this by way of expressing the hope that time agreements can be reached, as I say, on both the supplemental and the debt limit measures.

While I am expressing hopes, I would hope also that a time agreement could be worked out on the Energy Mobilization Board conference report at such time as it gets to the Senate and, who knows, perhaps some kind of a time agreement, maybe as we go along, on the military procurement bill. But that is all I can say with respect to the program for tomorrow and Friday and Saturday.

As of now, there will be no more rollcall votes today. I intend now to make my statement for this week on the United States Senate. I assure the distinguished minority leader (Mr. BAKER), that there will be no further business transacted today so that he will not have to spend his valuable time waiting around. He can read my speech in the RECORD sometime when he is on a plane traveling to Tennessee and he will not have to spend his valuable time here just now.

May I say that I would not take the time of the Senate now for this statement if it were possible for the Senate to transact any business. But that is not possible at this time and I would like to utilize this opportunity to make my speech.

I yield to the distinguished minority leader.

Mr. BAKER. I thank the majority leader for yielding.

Mr. President, I must say that it is with genuine and deep regret that I must announce to the majority leader that it will not be possible for me to stay and hear firsthand his presentation. But I can assure him that at some point I will read not only this one but the other reports and analyses of the Senate's history which should someday be collected and published as a single volume and, at the appropriate time, I intend to suggest that these presentations be published as a Senate document. But that is another comment for another day.

On the schedule, Mr. President, I am pleased to hear the majority leader announce that there will be no further business transacted today and, therefore, no further rollcalls today.

I regret, as he regrets, that it was not possible to arrive at a schedule for the few remaining items that have to be dealt with before we recess, but it simply was not.

There was great difficulty on his side and on my side in trying to arrive at measures that we could agree to advance. But that simply did not work. So there is nothing, as a practical matter, that we can do on today. Tomorrow, it is my hope, as the majority leader knows, that we could proceed to the consideration of the debt limit, with or without a time agreement. I, frankly, would like to have a time agreement on the debt limit. I will try, over this evening and in the morning, to ascertain whether that is possible. I expect it may be possible. In that event, or in any event, I would hope that the debt limit bill might be the first order of business tomorrow.

I am not optimistic that we can give a unanimous-consent agreement on the supplemental. But I have represented to the majority leader that I will examine that prospect, as well. As I pointed out to him, that is new ground. I have not tried to explore the possibilities of any sort of time agreement or other agreement on the supplemental. But if we can do the debt limit first, on a time agreement or on whatever basis, and if we can arrive at an orderly procedure, there is some possibility that we can work out a time agreement on the supplemental and I will explore that and let the majority leader know tomorrow.

I say again, I am not overly optimistic that that can be accomplished. In any event, those who hear these remarks should know there has not been an agreement tonight on either the debt limit or on the supplemental. The report on the supplemental was filed last evening and was available either last evening or this morning, depending on that interpretation and absent unanimous consent, we could not proceed to the supplemental until the convening of the Senate on Friday. But, notwithstanding that, I will see, over this evening and tomorrow, whether we can arrive at some sort of agreement to take up the debt limit and the supplemental in that order and sequence on some basis or other on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will leave the sequence of the two measures flexible. It would seem to me that if we could get a time agreement on both, the minority leader is assured that there would be a time agreement on the debt limit and that it would be called up following the supplemental. It might be difficult for me to arrange for the managership of the debt limit to come first. I would hope he would remain flexible on that. If we get time agreements on both, I would hope we would be flexible as to which would be called up first because I could have problems with getting managers of one or the other bill on the first thing tomorrow.

Mr. BAKER. Mr. President, I thank the majority leader. Of course I will keep that in mind. I would point out that what is happening in this respect is that we are giving a great deal if we arrive at some sort of agreement. The first would be waiving a day of the 3-day rule in the case of the supplemental appropriation bill, which I am not prepared to do. But in exchange for that, I would hope that we could get the debt limit bill up because I think it simply has to be done and I would hope it would be done promptly. But to satisfy what we think of as urgent necessities on this side, we would like to see the debt limit done as promptly as possible, even on a very short-time limitation, say 2 hours.

I cannot now offer that to the majority leader, but I think it is possible to get a short-time agreement if we have the assurance it will be done before it is stacked up behind the supplemental. I will keep an open mind on it and I will explore all of the avenues this evening. I promise the majority leader I will meet with him the first thing in the morning and we will see how we have progressed.

Mr. ROBERT C. BYRD. As far as I am personally concerned, it would be fine with me to go first with debt limit, but I will not be managing the bill and I have to accede to the wishes of Mr. LONG, who will be managing the matter. It is for that reason I would hope the distinguished minority leader would attempt to be flexible about time agreements and see if he can work it out so that whatever the exigencies are with respect to the managers, the Senate can then accommodate itself.

Mr. BAKER. Mr. President, I thank the majority leader and I promise him I will take account of that fact.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, again I say I apologize for taking the time of the Senate, but I feel that this is the best opportunity I shall have this week in which to deliver what will be my 14th statement on the United States Senate, which series of statements I began back in March of this year.

If any Senator should come to the Chamber and wish to have the floor, I will be glad to yield to that Senator at that time.

(Later the following occurred:)

Mr. DOLE. I might just say as an aside, having listened to the discussion of the minority leader and the majority leader that I am very hopeful we can reach a time agreement. Certainly this Senator is willing to reach a time agreement on the debt ceiling, willing to come to some agreement, if not tonight, then in the morning that will accommodate the wishes of the minority and the majority leaders and the chairman of my committee, the distinguished Senator from Louisiana (Mr. LONG).

Mr. ROBERT C. BYRD. I thank my friend Mr. DOLE. I will say one thing about Mr. DOLE. He is never interested in being very lengthy with his arguments. He is willing, as a usual thing, to enter into brief time agreements and let the Senate vote and get on its way with its business, and I applaud him for it.

Mr. President, let me say to the distinguished acting minority leader, Mr. STEVENS, that there will be no more business today. I state that for the record so that he does not need to inconvenience himself by staying around the Chamber just to hear my speech.

Mr. STEVENS. Mr. President, I thank the Senator very much.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, today I would like to speak about another of the five elected officers of the Senate, the Senate Chaplain.

Let me preface my statement on the Chaplain by referring to a portion of the scriptures, "Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain."

Mr. President, the Founding Fathers believed that God was the ruler of the universe and that the destinies of nations were guided by His hand. Faith in God was their guiding light, and we can see from the Mayflower Compact, and the other great documents in our early history, the Declaration of Independence, the Constitution of the United States—and throughout this Nation's history—running as an unbroken thread, a spiritual awareness on the part of the men and women who founded this Nation which helped them in times of adversity and which gave strength to the men and the women who have, over the decades, built this great Nation.

As an indication of that spiritual awareness, the Senate opens its daily sessions with prayer. There are those who would attempt to deprive the Senate of this spiritual strength, but I have faith that the Senate will continue in the path that was blazed by others greater than I.

I point once again to Benjamin Franklin when he stood to his feet at the constitutional convention in 1787, at a time when the convention seemed to be about to fall apart and to end without success, and spoke to the Chair, in which sat General George Washington, saying these words: "Sir, I have lived a long time. The longer I live the more convincing proof I see that God still governs the affairs of men. If a sparrow cannot fall to the ground without our Father's notice, is it possible that we can build an empire without our Father's aid?"

I believe he went on to quote the Scripture that I quoted a moment ago—I am not sure of that at this point—"Except the Lord builds the house, they labour in vain that build it."

He went on to say, however, and I am not quoting him specifically at this point, that unless the founders drew upon that spiritual strength for guidance, "we shall succeed no better than did the builders of Babel."

We are told that that illustrious gathering took Franklin's advice, opening their daily meetings with prayer, and they gave to the world the greatest document of its kind that was ever written. So there is that spiritual awareness on the part of our forefathers that we should continue to be mindful of, and we in the Senate, as I say, have our Chaplain who opens the daily sessions with prayer.

There have been times when Senators have been called upon to open the daily sessions with prayer and, from time to time, of course, there are visiting chaplains.

While the Chaplain is the one figure with us at the opening of almost every day, and while we have all benefited from his gentle guidance and eloquent prayers, perhaps the very fact that the Chaplain is so constant a friend obscures the long history of the office he holds.

The custom of opening sessions of the Senate and House with prayer is a very old one. Indeed, it dates all the way back to the Continental Congress, before the Senate and House even existed. The Continental Congress first met in Philadelphia on September 5, 1774. When the members convened on the second day, the fiery radical from Massachusetts, Samuel Adams, arose and proposed to open the session with prayer. The suggestion touched off a heated debate, not stilled until, as one observer noted, "At last, Mr. Samuel Adams, with his gray hairs hanging about his shoulders . . . rose in the assembly, and, with the air of a perfect Puritan, said it did not become men professing to be Christian men, who had come together for solemn deliberation in the hour of their extremity, to say there was so wide a difference in their religious belief that they could not, as one man, bow the knee in prayer to the Almighty, whose advice and assistance they hoped to obtain." After this emotional plea, Adams' motion carried and the Reverend Jacob Dushe of Philadelphia's Christ Church, came forward.

From Philadelphia, John Adams once wrote home to his wife, Abigail, that "The business of the Congress is tedious beyond expression." On this particular day, however, he reported to her that he had never seen a more moving spectacle. After reading the formal Episcopal service, the Reverend Mr. Dushe broke into extemporaneous prayer. Adams noted that "Those men who were about to resort to force to obtain their rights were moved to tears." The prayer, he informed Abigail, "Has had an excellent effect upon everybody here." Appreciative members appointed the Reverend Mr. Dushe as their first Chaplain.

More than a decade later, in 1787, when many of the same patriots met again in Philadelphia to try to hammer out a Constitution, the question of an opening prayer arose once more. After several weeks of frustrating debate, the aging but still eloquent and witty Benjamin Franklin requested the floor and told his fellow delegates:

> Mr. President, the small progress we have made after four or five weeks' close attendance, and continual reasonings with each other, our different sentiment on almost every question . . . is, methinks, a melancholy proof of the imperfection of the human understanding . . . In this situation of this assembly, groping, as it were, in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it, happened, sir, that we have not hitherto once thought of humbly applying to the Father of Lights to illuminate our understandings? In the beginning of the contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for devine protection. Our prayers, sir, were heard, and they were graciously answered . . . I therefore beg leave to move, that henceforth prayers, imploring the assistance of Heaven and its blessings on our deliberations, be held in this assembly every morning before we proceed to business.

Many of his colleagues were surprised to hear such a plea from the Deist Franklin, but his motion was adopted, and in sessions which, from that point on, opened with a prayer, he and his colleagues eventually drafted our Constitution, as I stated a little earlier.

When the First Senate under the new Constitution, meeting in New York City, finally mustered a quorum of twelve members on April 6, 1789, one of its first orders of business was the matter of selecting a Chaplain.

On April 7, a committee composed of Senators Oliver Ellsworth of Connecticut, Richard Henry Lee of Virginia, Richard Bassett of Delaware, Caleb Strong of Massachusetts, and William Maclay of Pennsylvania was formed to confer with a similar House committee. Their task was "to prepare a system of rules to govern the two Houses in cases of conference, and to take under consideration the manner of electing Chaplains . . ."

This committee reported back in just seven days with a recommendation to elect two Chaplains of different denominations—one from the Senate and one from the House—who would alternate between the chambers on a weekly basis. The recommendation was accepted and on April 25, the Senate chose the Right Reverend Samuel Provoost, Episcopal Bishop of New York, as its first Chaplain. Five days later, in his new capacity, the Reverend Mr. Provoost presided over a most historic occasion. On April 30, 1789, George Washington stood before the members of the new Congress at Federal Hall and solemnly took the oath of office as the first President of the United States. Immediately following the ceremony, President Washington, his Vice President, John Adams, and the members of the Senate and House proceeded to St. Paul's Chapel, where the Reverend Mr. Provoost led them in a prayer asking for Divine Providence to watch over the new government.

The Senate's first Chaplain was as ardent a patriot as the men he served. Born in New York City in 1742, he was a member of the first graduating class of King's College, now Columbia University, in 1758. After graduation, young Provoost sailed for England to study for the Episcopal priesthood. He returned to New York as assistant minister at prestigious Trinity Church. Provoost, however, was a passionate Whig and his sympathy for the colonies against English rule did not sit well with his wealthy, loyalist congregation. Before long, his patriotism cost him his parish. During the Revolution, the Reverend Mr. Provoost and several of his neighbors in Dutchess County, New York, narrowly escaped capture and death at the hands of the British. It must have been very satisfying to Mr. Provoost when, after the British evacuated New York and his former Tory parishioners had fled, he was invited by the little band of patriotic vestrymen who remained to return as head of Trinity Church.

The Reverend Mr. Provoost served as the Senate's Chaplain until the Congress moved on to Philadelphia in the winter of 1790. For the next ten years, while the Senate met in Congress Hall, next to Independence Hall, where many members had spent the hot summer of 1776 planning the Revolution, Senate sessions were opened with prayers by the Right Reverend William White, first Episcopal Bishop of Pennsylvania and the Senate's second Chaplain.

In 1800, the Congress moved to its permanent home along the Potomac. November 17, 1800, was the date fixed for the opening of the Congress in its brand new quarters. But Congress was late for its debut. A quorum could not be mustered until November 21. Six days later, in a room one floor below me, now the beautifully restored Old Supreme Court Chamber, the Senate elected its third Chaplain, Right Reverend John Thomas Claggett, first Episcopal Bishop of Maryland.

Mr. President, Senators may have noticed that the Episcopalians seem to have had a monopoly on the job of Senate Chaplain. I noticed that, too, and as a Baptist, was concerned. But, Senators will recall that I noted that the House and Senate Chaplains had to be of different denominations. I will talk about this later but I wanted to reassure Senators now that while the Senate had Episcopal Chaplains until 1808 when it elected a Presbyterian, the House's first Chaplain was a Presbyterian and he was followed by a string of Methodists and Baptists!

When the seat of government moved to Washington, the nation's capital was little more than a tiny village. In 1800, it offered only two churches; one, a small frame Catholic chapel on F Street, and the other an Episcopal church, formerly a tobacco warehouse, at the base of Capitol Hill. Though more churches sprang up as the population grew in the early 19th century, the House of Representatives' Chamber, which today serve as Statuary Hall, was the scene of some of the city's most interesting Sunday services.

These religious services were conducted alternately by the Chaplains of the Senate and House, interspersed with distinguished visiting clergymen, and they were open to the public. From contemporary accounts, we know that the public took full advantage of the opportunity to come to the Capitol, though it is not always clear if worship was on their minds. I would like to read to Senators a wonderful passage from the journal of a keen observer, the brilliant Margaret Bayard Smith, relative of scores of Delaware Congressmen, friend of Jefferson, and wife of Samuel Harrison Smith, publisher of Washington's first newspaper, the National Intelligencer. In 1837, recalling the city's first three decades, she wrote:

> I have called these Sunday assemblies in the Capitol a *congregation*, but the almost exclusive appropriation of that word to religious assemblies prevents its being a descriptive term as applied in the present case, since the gay company who thronged the House of Representatives looked very little like a religious assembly. The occasion presented for display was not only a novel, but a favourable one for the youth, beauty and fashion of the city, Georgetown and environs. The members of Congress gladly gave up their seats for such fair auditors and either lounged in the lobbies, or round the fire places, or stood beside the ladies of their acquaintance . . . Smiles, nods, whispers, nay sometimes tittering marked their recognition of each other, and beguiled the tedium of the service . . . The music was as little in union with devotional feelings, as the place. The marine-band were the performers. Their scarlet uniform, their various instruments, made quite a dazzling appearance in the gallery. The marches they played were good and inspiring, but in their attempts to accompany the psalm-singing of the congregation, they completely failed and after a while, the practice was discontinued,—it was *too* ridiculous.

Mrs. Smith also told a good story about the Senate's thirteenth Chaplain, Reverend John Brackenridge, a stern Presbyterian, Chaplain from 1811 to 1814, years that saw the new nation embroiled in another war with England, Reverend Mr. Brackenridge used the forum of the Sunday services in the House Chamber to deliver a sermon that proved quite prophetic. His subject was the observance of the Sabbath and he launched into a vehement denunciation of those who violated its holiness. According to Mrs. Smith:

> He unshrinkingly taxed those then listening to him with a desecration of this holy day, by their devoting it to amusement—to visiting and parties, emphatically condemning the dinner-parties given at the white-house, then addressing himself to the members of Congress, accused them of violating the day by laws they had made, particularly the carrying the mail on the sabbath.

Reverend Mr. Brackenridge ended dramatically:

> It is not the people who will suffer for these enormities. You, the law-givers, who are the cause of this crime, will in your public capacity suffer for it. Yes, it is the *government* that will be punished, and as, with Nineveh of old, it will not be the habitations of the people, but your. temples and your palaces that will be burned to the ground.

A pretty strong dose of medicine to deliver to the Members by the Chaplain.

At the time of Reverend Mr. Brackenridge's sermon, no one had the remotest apprehension that the British might ever reach Washington.

But shortly thereafter, on August 24, 1814, British troops did capture this city and set fire to this very building as well as the White House and nearly every other government building. Dolly Madison told Mrs. Smith that upon her return to the city after the British had left, she chanced to meet the Reverend Mr. Brackenridge one day and said to him, "I little thought, sir, when I heard that threatening sermon of yours, that its denunciation would so soon be realized." "Oh, Madam," Brackenridge replied, "I trust this chastening of the Lord may not be in vain."

Until 1853, the House and Senate went on regularly electing their Chaplains. But in that year, the House received several memorials requesting that the offices of Chaplain in the "Army, Navy, West Point, at Indian Stations, and in both houses of Congress, be abolished." The memorials argued that the position of Chaplain, supported by tax dollars, violated the Constitutional provision for separation of church and state. (We hear the same arguments today.) They were referred to the House Judiciary Committee, which, in March 1854, reported that its members were "not prepared to come to the conclusion desired by the memorialists," and proceeded to explain why. After a lengthy discourse on the constitutionality of the Chaplaincy, decided in the affirmative, the committee declared:

> If there is a God who hears prayers—as we believe there is—we submit that there never was a deliberative body that so eminently needed the fervent prayer of rightous men as the Congress of the United States.

And there the matter ended.

Several years later, there arose a more serious, internal challenge to the offices of Senate and House Chaplain. In 1855, the House decided to discontinue its practice of electing a regular Chaplain.

Instead, various members of the District of Columbia clergy were invited to take turns opening each session and to preach the sermon on Sundays. In 1857, the Senate followed suit. The reasons behind this change appear in the floor discussion recorded in the *Congressional Globe*, forerunner of the CONGRESSIONAL RECORD. Senator James Mason of Virginia summed up the problem:

> Every Senator, I have no doubt, has had some experience (I think it is very unfortunate, but perhaps it is incident to the subject-matter) that a sort of competition has grown up by the usage of the Senate in electing a Chaplain, which I have thought is not altogether consistent with the office of a clergyman or a pastor. I will not say, by any means, a competition so much among the clergymen themselves, perhaps, as amongst Senators, who desire to prefer particular persons; but the fact is that it has become a matter of that kind, and it is not entirely agreeable to me, certainly, and I dare say is not to other Senators, to have that state of things existing.

The appointment of the Chaplain, as Senator Mason pointed out, had fallen into the realm of political patronage. At the beginning of each session, sometimes a dozen or more Senators placed in nomination the names of favored clergy. Senator Mason had touched a sensitive nerve. Many rose to support his proposal for rotating local clergymen who would receive no salary. Senator Clement Clairborne Clay of Alabama was one of the few to object, saying he did not think, as he put it, "In these degenerate days," anyone would come to pray over the Senate for free. He felt that chaos would ensue. Despite Clay's objections, the Senate decided to try the new plan for one Congress.

While the House experimented with the new system from 1855 to 1861, the Senate, after only two years, returned to its old practice of selecting an official Chapain. Had Senator Clay been right? Partly. It seems there had been problems arranging for an orderly succession of daily prayers by disparate individuals willing to volunteer their services. But, I believe Senator Henry Wilson of Massachusetts expressed another concern in his eloquent plea to return to the old system. This is what he said:

> I know, sir, there was complaint in the Senate and in the country before we adopted the plan of inviting the clergymen of the city to officiate here. That grew out of electioneering; out of the fact that clergymen came to this city seeking the place of Chaplain here. The plan was adopted of inviting clergymen of Washington city to officiate, I think, for the purpose of correcting that evil. It has been corrected; but it seems to me that to bring the clergymen of this city without pay to the Capitol to officiate, is imposing a burden on them. Besides these clergymen cannot become acquainted with us. We cannot look to them as we should look to a Chaplain of the Senate. I think the plan of the last Congress is a very poor substitute for the former plan of having a Chaplain of the body, to whom we can look and consider as such; a Chaplain who would become acquainted with us, and who would know the interests and wants of the body. I hope, therefore, that this resolution will not be pressed, and that the Senate will elect a Chaplain.

The Senate unanimously approved Senator Wilson's request and proceeded to elect the Reverend Phineas Gurley as its fortieth Chaplain.

In more recent times, charges of "electioneering" have been raised about the Chaplaincy and some have complained about the money spent for the Chaplain's salary. But I think Senator Wilson understood the importance of the office. The Senate needs a Chaplain who is well-acquainted with it, who knows its interests, and knows its members. Our current Chaplain, Reverend Edward Lee Roy Elson, is the forty-ninth individual to hold the office of Chaplain of the Senate, and he is a good example of what I am talking about. He has been our Chaplain for eleven years, and during that time he has gotten to know the Senate and to know us, his flock.

During my two decades in the Senate I have gotten to know the Reverend Mr. Elson, as I knew his predecessor, Reverend Frederick Brown Harris. Together, their service extends so far back that only four of our members today have known any other Senate Chaplain, the Reverend Peter Marshall. Marshall served from 1947 until his untimely death two years later. Incidentally, the book "A Man Called Peter," based on Marshall's life, became a nationwide best seller in 1952.

I should now like to tell Senators a little more about the two Chaplains who have served during my time.

The very first day that I stood before the Senate was Wednesday, January 7, 1959. I am sure that my colleagues, Senator CANNON and Senator WILLIAMS, remember the day, too, because we together were green freshmen in the Senate that day. Before our credentials were presented and before we took our oath of office, the session was opened with a prayer by the Reverend Mr. Harris. His words moved me deeply:

> Summoned by a new year and a new season to face matters that pertain to the Nation's welfare, before we talk to one another and to a listening world, we would turn to Thee, without whose guidance and help our feeble hands will fail and our striving will be losing.

Though I was new to the Senate, the Reverend Mr. Harris had already been its Chaplain for almost fifteen years, and would continue for another decade. First elected Chaplain in 1942, his service of nearly twenty-five years, broken only by the two-year Chaplaincy of Reverend Peter Marshall, is the longest in the Senate's history.

Tall, with gray hair and a lean, craggy face, the Reverend Frederick Brown Harris looked like just the man to lead such a diverse flock. He was born in England, the son of a minister, in 1883, and came to the United States as a small boy. He was raised in New Jersey, studied for the Methodist ministry at Dickinson College in Pennsylvania, and was ordained in 1923.

Mr. President, in 1924, he was assigned to historic Foundry Methodist Church here in Washington and stayed on for thirty years, retiring in 1955.

The Reverend Mr. Harris once learned that his job as the Senate's Chaplain was not without some peril. Around 1:30 p.m. on the afternoon of July 18, 1961, just after he had left the chamber, there was a terrible crash in the hallway. The whole chamber shook. Senator PASTORE stopped speaking in mid-sentence. Majority Leader Mansfield rushed into the hallway and took charge of the situation. An enormous temporary wall, covering the entire area where the public elevators are now located had crashed to the ground, trapping and injuring several tourists and employees. Poor Reverend Mr. Harris was one of the most seriously wounded with two severe gashes over his eye and behind his ear. After some stitches and a little rest, the Reverend Mr. Harris returned to the Senate six days later.

My most vivid memory of the Reverend Mr. Harris is from that terrible day of November 22, 1963, when we learned that President Kennedy had been shot. The Reverend Mr. Harris rushed to the Hill when he heard the news and I was in the chamber when he arrived to pray with us. I shall never forget his theme from the lines of my favorite poet Edwin Markham:

> And when he fell in whirlwind, he went down as when a lordly cedar, green with boughs, goes down with a great shout upon the hills and leaves a lonesome place against the sky.

When the Reverend Mr. Harris retired as our Chaplain in 1969, we were lucky to find so able a successor in the Reverend Mr. Elson. And we all rejoice with the Reverend Mr. Elson at the important milestone in his career which he celebrated this spring—the fiftieth anniversary of his ordination.

A native of Monongahela, Pennsylvania, the Reverend Mr. Elson had originally planned to go to West Point, but answered instead the call to the ministry. In 1928, he graduated from Asbury College in Kentucky. After serving as an Army chaplain during World War II, the Reverend Mr. Elson was called to Washington in 1946 as pastor of National Presbyterian Church. A few years later, he officiated at a very special baptism. In February of 1953, he baptized President Dwight D. Eisenhower, the first President ever baptized while in office.

The Reverend Mr. Elson has told this story of the events leading up to that day. The President had been raised in a religious family who were members of the Church of the River Brethern, a small denomination that only baptizes adults. By the time he was old enough to be baptized, he was traveling all over the country and later the world. During his 1952 campaign, several of his aides urged him to join a church but he replied, "I'd no sooner join a church during a campaign than I'd join a labor union." He said he would wait until it was clear he was acting out of conscience, not expediency, and shortly after his first inauguration, he sought out the Reverend Mr. Elson.

President Lyndon Johnson also turned to Reverend Mr. Elson and appointed him to the panel of Americans sent to South Viet Nam to oversee the elections in 1967. Another member of his National Presbyterian congregation was J. Edgar Hoover who gave the Reverend Mr. Elson a pair of silver cufflinks engraved with his fingerprints. For his outstanding work for God and country, the Reverend Mr. Elson has received the Freedoms Foundation award on nine different occasions. In 1972, he retired from his post at National Presbyterian to devote more time to his Senate congregation and to his writing.

Since becoming our Chaplain in 1969, the Reverend Mr. Elson has introduced several important "firsts" into the Senate for which I think he should be proud. In 1971, he invited the first woman minister to pray in the Senate, and later the first nun and then the first American Indian holyman, an eighty-three-year-old Sioux who brought his peace pipe.

The duties the Reverend Mr. Elson and his predecessors perform for us are not all written down but they are numerous and have evolved over almost two centuries. Just about all the Chaplain is required to do in the Senate Chamber is to open our daily deliberations with a prayer, which I think we can agree the Reverend Mr. Elson does exceedingly well. Incidentally, before 1939, prayers were delivered only at the start of each new Legislative Day. As I noted several weeks ago, Legislative Days often run for many calendar days. That was the case even back then, so that it was not unusual for many days to pass without an opening prayer.

The Reverend Peter Marshall once said he sometimes felt that the Chaplain was a little like a bit of parsley garnishing the political platter. But his prayers could often help members caught up in their own immediate battles put the nation's needs into perspective. His prayer of June 17, 1947, is a case in point. Perhaps Senators Young and Magnuson, who were already members of this body, were in the chamber at that time. The day's schedule promised to bring heated debate over a host of relatively inconsequential items but the Reverend Mr. Marshall began with this prayer: "Since we strain at gnats and swallow camels, give us a new standard of values and the ability to know a trifle when we see one . . ." This is a good example of what the Reverend Mr. Marshall believed was the unspoken rule regarding Senate prayers: "Keep it short!" He once noted, "I find that the Senators appreciate my prayers in inverse ratio to their length."

In addition to the daily prayer, the Chaplain schedules and instructs the many guest chaplains, whom each of us occasionally nominate to come before us. Though now the number of guest chaplains is limited to two per month, there was once no ceiling on the number. This prompted the Reverend Mr. Harris to note to the Majority Leader Lyndon Johnson that he'd been replaced seventeen times in just a few weeks. "Now look here, Reverend," Senator Johnson consoled, "If you want me to call a halt to this sort of thing, you let me know, and we'll just restrict the number of visiting preachers." The Reverend Mr. Harris did not remind him that he already had two requests from the Senator's office on his desk requesting the privilege for two Texans.

Another of the Chaplain's duties is to perform our weddings, and sadly, our funerals. The Reverend Mr. Harris once performed a wedding in the Caucus Room in the Russell Building for a sixty-nine-year-old Western Union messenger and a sixty-year-old widow at a specially constructed altar. During his term as Senate Chaplain, in addition to conducting the funerals for several of our predecessors in the Senate, he also led the funerals of General Douglas MacArthur, Vice President Alben Barkley, and President Herbert Hoover. The Reverend Mr. Elson has conducted the funerals of Presidents Eisenhower and Johnson, FBI Director J. Edgar Hoover, and our former colleagues Everett Dirksen, Richard Russell, Winston Prouty, John McClellan, Hubert Humphrey, and most recently, Jim Allen.

While a sad subject, the history of Senate funerals is an interesting one. The first Senator to die in office was William Grayson of Virginia, who died on March 1, 1790, just a year after taking office. Though he lived only fifty years, he had fought under Washington at the Battle of Monmouth and been a member of the Continental Congress before coming to the Senate.

The first official action taken by the Senate on the death of one of its own was in 1799 when Senator Henry Tazewell of Virginia died. Since he was in Philadelphia, far from home and family, Tazewell's funeral and burial at Christ Church was supervised by a committee of his friends in the Senate.

From time to time, especially earlier in the twentieth century, the families of deceased Senators have chosen to have the funeral services performed in the Senate chamber. With the casket placed in the open space here before me, in front of the reporter's tables, the services were conducted by the Chaplain of the Senate. Often, the President and his Cabinet, Justices, ambassadors, and members of the House joined Senators in paying their respects to their fallen colleagues. Each group of dignitaries was announced by a doorkeeper as they entered. When the services were concluded, a committee of Senators would accompany the remains back home for burial.

One of the most impressive of the more recent funerals in the chamber was that of Senator Joseph Robinson of Arkansas in 1937. At the time of his death, Senator Robinson was the Democratic Majority Leader and had been a member of this body for twenty-four years. His friends were legion and this chamber was overflowing with floral tributes. The last such funeral service in the chamber, conducted by the Reverend Mr. Harris, was that of Senator Joseph McCarthy, whose family requested the privilege in 1957.

Senators have also been among the twenty-four individuals whose remains the nation has honored in the rotunda of this building. The first was Henry Clay of Kentucky, who lay in state in the rotunda on June 30, 1852, after a funeral service in the Old Senate Chamber down the hall. He was followed in 1874 by Charles Sumner of Massachusetts, and in 1875 by Vice President and former Senator Henry Wilson of Massachusetts, who died in the Vice President's Room right outside this chamber. Senator John Logan of Illinois, whose funeral took place in this chamber, lay in state in the rotunda in 1886, followed by President and former Senator Warren Harding of Ohio in 1923, Robert Taft, Sr. of Ohio in 1953, President and former Senator John F. Kennedy in 1963, Everett Dirksen of Illinois in 1969, President and former Senator Lyndon Johnson in 1973, and most recently, our beloved colleague, Hubert Humphrey, just two years ago.

One of the most impressive sites in this city is the burial ground of several of the early Senators. I do not mean Arlington National Cemetery, but the less well-known Congressional Cemetery at the far end of East Capitol Street. In 1816, Congress set aside part of the cemetery for the interment of its members and, until the 1860's and the beginnings of Arlington, Congressional Cemetery was the national burial ground.

When one visits this peaceful spot, the first things to strike one's eye are the long rows of the so-called "Latrobe Cenotaphs," ominous sandstone memorials to those congressmen who died in office from 1807 to 1877. The second Architect of the Capitol, Benjamin Henry Latrobe, designed these massive square bases with conical caps. Although several hundred of these memorials were erected, only eighty bodies were interred under them. In many cases, burial there was only temporary, until seasons changed and the dirt roads leading home became passable once more.

Occasionally, the government would erect a cenotaph to a private citizen. One bears the name of Push-Ma-Ta-Ha, a Choctaw Chief who died of diphtheria while here in 1825 to negotiate a treaty. Carved on his cenotaph are his last words, "Let the big guns boom over me." In accordance with his wish, he was given a full military funeral.

The practice of erecting these curious four-and-one-half foot tall monuments was halted in 1877 largely because of a speech by Senator George Frisbie Hoar of Massachusetts who said that the thought of being buried beneath one of them added a new terror to death.

We are all familiar with and grateful for the opportunity we are afforded of offering tributes from the floor to our friends in the Senate when they are taken from us by death. Almost all of us have had occasion to rise in the chamber on the days set aside for such tribute and pay homage to some friend. Our parting words are gathered together and bound for family and friends as a lasting evidence of our esteem.

Until the mid-1950's, at some point after a new session began, there would be a special memorial service here in the Senate chamber and sometimes in the House chamber to honor all the members who had passed away since the last such service.

I can remember, as a former Member of the House, when there were memorial services that would be conducted in the House Chamber, a quartet of House Members would gather in the well of the House and sing the old familiar hymns. I do not remember at the moment the names of all those four House Members, but I do remember the name of one of the House Members. His name was Priest, I believe, Representative Percy Priest, from a congressional district of Tennessee.

But I was very impressed with those memorial services and very impressed with the harmony of the hymns that were sung by the House quartet.

I believe that the last ceremony held in the Senate was in 1948, and the last joint service, in which Senator Brien McMahon of Connecticut was honored along with several members of the House, was in 1953. These ceremonies were generally conducted by the Chaplain and were indeed moving. These walls would reverberate with the notes of an organ and of voices raised in sacred song. In the 1953 service, a quartet of Representatives, accompanied by another at the piano, began the program with the excellent verses of "Have Thine Own Way, Lord." There were two especially poignent moments during these ceremonies. I attended that service, as I recall. One was the solemn reading of the roll of deceased Members.

As each name was read, a lovely rose was placed in a vase in the front of the room. Finally, the program ended with the mournful sound of taps, played by one of our servicemen, which echoed through the halls.

The same Chaplain who is always there to conduct our happy and sad services is also always available to counsel and provide information to us, our families, and our staffs. The Reverend Mr. Elson often gets calls such as, "Where is the passage in the *Bible* about the seven fat and seven lean years?" or "What is the name of the Roman Catholic archbishop of . . .?"

With his counterpart in the House, our Chaplain shares responsibility for the beautiful Capitol Prayer Room. I hope that Senators have all had the chance to visit this quiet retreat just off the Rotunda. I was a member of the House in 1953 when Representative Brooks Hays of Arkansas and Senator Mike Monroney of Oklahoma conceived of the idea of setting aside a room in the building where members could go to sort out their thoughts and pray, away from the turmoil of the floor and their offices. This peaceful room was designed by Architect of the Capitol George Stewart who skillfully achieved a non-denominational decor. The room was officially opened in the spring of 1955.

I believe the Prayer Room's most impressive feature is the beautiful stained-glass window, a gift of a group of California craftsmen. In the center of the window, against a ruby background, is the kneeling figure of George Washington, representing the people of America at prayer. Above and below the kneeling Washington are the two sides of the Great Seal of the United States. There are no services in this room, nor is it generally open to the public. It is a room for us, for members of Congress, as Speaker Sam Rayburn said at its dedication, "Who want to be alone with their God."

The Chaplain visits Senators when they go to the hospital and also represents the Senate in appearances before church groups across the nation and is host to visiting religious figures who come to the Capitol. A year or so ago, the Reverend Mr. Elson created quite a stir among the tourists as he led a group of saffron-robed Tibetan monks on a tour of the building.

In closing, I would like to repeat something from that 1854 report vindicating the office of the Chaplain:

> If there is a God who hears prayers—as we believe there is—we submit that there never was a deliberative body that so eminently needed the fervent prayers of righteous men as the Congress of the United States.

To that I say, Amen!

Mr. President, I ask unanimous consent to have printed in the RECORD, at the close of my remarks, a list of the forty-nine men who have served as the Senate's Chaplains.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

CHAPLAINS OF THE UNITED STATES SENATE

(April 25, 1789 to Date)

(+ Also served as Chaplain of the House; * Died in Office)

Chaplain, denomination, and date elected:

1. Rt. Rev. Samuel Provoost, D.D., (first P.E. Bishop of N.Y.), Episcopalian, April 25, 1789.

2. Rt. Rev. William White, D.D., (first P.E. Bishop of Penna.), Episcopalian, Dec. 9, 1790.

3. Rt. Rev. John Thomas Claggett, S.T.D.; D.D., (first P.E. Bishop of Md.), Episcopalian, Nov. 27, 1800.

4. Rev. Edward Gantt, M.D., (studied theology in England, ordained there), Episcopalian, Dec. 9, 1801.

5. Rev. Andrew Thomas McCormick, Episcopalian, Nov. 7, 1804.

6. Rev. Edward Gantt, M.D., Episcopalian, Dec. 4, 1805.

7. Rev. John Johnson Sayrs, Episcopalian, Dec. 3, 1806.

(Dr. Gantt elected 10-29-07 but declined to serve).

8. Rev. Andrew Thomas McCormick, Episcopalian, Nov. 11, 1807.

9. + Rev. Robert Elliott, Presbyterian, Nov. 10, 1808.

10. Rev. James Jones Wilmer, Episcopalian, May 24, 1809.

11. + Rev. Obadiah Bruen Brown, Baptist, Dec. 5, 1809.

12. Rev. Walter Dulany Addison, Episcopalian, Dec. 12, 1810.

13. Rev. John Brackenridge, Presbyterian, Nov. 13, 1811.

14. + Rev. Jesse Lee, Methodist, Sept. 27, 1814.

15. Rev. John Glendy, D.D., Presbyterian, Dec. 8, 1815.

(Dr. Glendy elected 12-6-16 but declined to serve).

16. Rev. Sereno Edwards Dwight, D.D., Congregationalist, Dec. 16, 1816.

17. Rev. William Hawley, Episcopalian, Dec. 9, 1817.

18. Rev. John Clark, Presbyterian, Nov. 19, 1818.

19. +Rev. Reuben Post, D.D., Presbyterian, Dec. 9, 1819.

20. Rev. William Ryland, Methodist, Nov. 17, 1820.

21. Rev. Charles Pettit McIlvaine, D.D., LL.D., D.C.L., Episcopalian, Dec. 9, 1822.

22. Rev. William Staughton, D.D., Baptist, Dec. 10, 1823.

23. Rev. Charles Pettit McIlvaine, (Became a Bishop in 1832), Episcopalian, Dec. 14, 1824.

24. Rev. William Staughton, D.D., Baptist, Dec. 12, 1825.

25. Rev. William Ryland, Methodist, Dec. 8, 1826.

26. Rev. Henry Van Dyke Johns, D.D., Episcopalian, Dec. 14, 1829.

27. Rev. John Price Durbin, D.D., LL.D., Methodist, Dec. 19, 1831.

28. Rev. Charles Constantine Pise, D.D., Roman Catholic, Dec. 11, 1832.

29. Rev. Frederick W. Hatch, D.D., Episcopalian, Dec. 10, 1833.

30. Rev. Edward Young Higbee, D.D., Episcopalian, Dec. 23, 1835.

31. Rev. John Reinhard Goodman, Episcopalian, Dec. 28, 1836.

32. Rev. Henry Slicer, Methodist, Sept. 11, 1837.

33. Rev. George Grinston Cookman, Methodist, Dec. 31, 1839.

34. +Rev. Septimus Tuston, D.D., Presbyterian, June 12, 1841.

35. Rev. Henry Slicer, Methodist, Dec. 16, 1846.

36. Rev. Clement Moore Butler, D.D., Episcopalian, Jan. 9, 1850.

(The V.P. voted to break the vote between Mr. Slicer & Mr. Butler).

37. Rev. Henry Slicer, Methodist, Dec. 7, 1853.

38. Rev. Henry Clay Dean, Methodist, Dec. 4, 1855.

39. Rev. Stephen P. Hill, D.D., Baptist, Dec. 8, 1856.

NOTE.—The Thirty-fifth Congress (March 4, 1857–March 3, 1859) discontinued the custom of electing Chaplains and extended invitations to the clergy of the District of Columbia to open the daily sessions with prayer. The Thirty-sixth Congress returned to the former practice.

40. +Rev. Phineas Densmore Gurley, D.D., Presbyterian, Dec. 15, 1859.

41. Rev. Byron Sunderland, D.D., (Resigned 5/7/64 for reasons of health), Presbyterian, July 10, 1861.

42. Rev. Thomas Bowman, LL. D., (Became a Bishop, 1872), Methodist, May 11, 1864.

43. Rev. Edgar Harkness Gray, D.D., Baptist, March 9, 1865.

44. Rev. John Philip Newman, D.D., (Became a Bishop, 1888), Methodist, March 8, 1869.

45. Rev. Byron Sunderland, D.D., Presbyterian, Dec. 8, 1873.

46. Rev. Joseph James Bullock, D.D., Presbyterian, March 24, 1879.

47. Rev. Elias DeWitt Huntley, D.D., LL.D., Methodist, Dec. 18, 1883.

48. +Rev. John George Butler, D.D., LL.D., Lutheran, March 15, 1886.

49. +Rev. William Henry Milburn, D.D., (Resigned 12/2/02 because of ill health. Dr. F.J. Prettyman substituted for him for the remainder of the 57th Congress.), Methodist, April 6, 1893.

50. Rev. Forrest Johnston Prettyman, D.D., Methodist, Nov. 23, 1903.

51. *Rev. Edward Everett Hale, D.D., LL.D., Died in office June 10, 1909, Unitarian, Dec. 14, 1903.

52. Rev. Ulysses Grant Baker Pierce, D.D., Ph. D., Unitarian, June 18, 1909.

53. Rev. Forrest Johnston Prettyman, D.D., Methodist, March 13, 1913.

54. Rev. Joseph Johnstone Muir, D.D., died, Nov. 16, 1927, Baptist, Jan. 21, 1921.

55. *Rev. ZeBarney Thorne Phillips, D.D., LL.D., S.T.D., died in office, May 10, 1942, Episcopalian, Dec. 5, 1927.

56. Rev. Frederick Brown Harris, D.D., L.L.D., Litt.D., Methodist, Oct. 10, 1942.

57. *Rev. Peter Marshall, D.D., died in office, Jan. 25, 1949, Presbyterian, Jan. 4, 1947.

58. Rev. Frederick Brown Harris, D.D., LL.D., Litt.D., Methodist, Feb. 3, 1949.

59. Rev. Edward Lee Roy Elson, S.T.D., D.D., Litt.D., LL.D., L.H.D., D.Hum., D.Min., Presbyterian, Jan. 9, 1969.

Prepared in the Office of the Senate Chaplain, October 1979.

Sources: Daily proceedings and debates of the Congress. Church, State, City, College and University Archives. Descendants.

ORDER FOR RECESS UNTIL 9:50 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:50 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:50 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:50 tomorrow morning.

The motion was agreed to; and, at 7:06 p.m., the Senate recessed until Thursday, June 26, 1980, at 9:50 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, June 25, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for Your blessings to us as a nation and we pray that You will preserve and sustain us in the days before us. Teach us, O God, to keep our eyes lifted high, trusting in Your providence, and keeping our souls in communion with Your spirit. May justice and righteousness and compassion be those beacons that direct us to lives of service and may all who labor in this place see in what they do those worthy tasks that bring honor to Your name and sanctify the loves of people everywhere. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2719. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 496. An act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.

APPOINTMENT OF CONFEREES ON S. 2240, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1981

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2240) to authorize funds for the National Aeronautics and Space Administration, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. Fuqua, Harkin, and Lloyd, Mrs. Bouquard, Messrs. Flippo, Watkins, Wydler, Winn, and Goldwater.

THE FORGOTTEN HOSTAGES

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, as our hostages in Iran enter their 234th day of captivity, I am concerned that they are in danger of being forgotten by their own Government.

As the press pointed out this morning, it was just a few months ago that the administration was telling the world that release of the hostages was a No. 1 priority for America.

More than that, the President said, they were not just our problem, they were an international problem.

Yet, the President has completed a summit meeting with the European allies with hardly a mention of the hostages' fate.

Mr. Speaker, next week on the Fourth of July will mark the eighth month of captivity for our hostages.

In celebrating our Nation's independence, I hope every American will remember and pray for the freedom of those heroic Americans.

HARASSMENT OF CITIZENS BY FEDERAL AGENCIES

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, the harassment of our citizens by Federal agencies is a matter of growing concern to many of our constituents back home. I do not mean just the IRS, but OSHA, EPA, FTC, and everybody else. Our people that are charged with some violation, some mistake, and a penalty, by the nameless, faceless bureaucrats buried in these agencies. They feel they cannot afford to fight the financial resources, their own tax money used by those agencies, because the big Government has the taxpayer's money to bring charges, keep them in court, and cost them attorney fees and expenses even greater than an assessed penalty.

I have a bill pending in the Congress providing that any citizen who challenges a charge made by any agency of Government, if that citizen is successful, that the Federal Government is required or that agency is required to pay the expenses of the taxpayer successfully prevailing against such charges.

Anyone who wishes to join in this legislation, I think, will serve his constituency well. The Small Business Committee held hearings on similar legislation called "Access to the Courts," and this would go a long way toward indemnifying harassed taxpayers against frivolous charges by their Government agencies.

MOTION TO CONCUR IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 521, MAKING ADDITIONAL FUNDS AVAILABLE BY TRANSFER FOR FISCAL YEAR 1980 FOR SELECTIVE SERVICE SYSTEM

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 718 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 718

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider a motion to take from the Speaker's table the joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System, with the Senate amendment thereto, and concur in the Senate amendment, without intervening motion, and at the conclusion of the debate thereon the previous question shall be considered as ordered, and the question shall be put on the motion to concur without any intervening motion.

The SPEAKER. The gentleman from Louisiana (Mr. Long) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the customary 30 minutes for the minority to the gentleman from Maryland (Mr. Bauman), for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 718 would facilitate the consideration of House Joint Resolution 521, as amended by the Senate. This joint resolution, in the form passed by the House on April 22 by a vote of 219 to 180, transfers $13,295,000 from the military personnel account of the Air Force to the Selective Service System. The purpose of this transfer is to fund registration of 19- and 20-year-old males. House Joint Resolution 521 carries a proviso that none of the funds made available shall be used for instituting the draft.

On June 12, the Senate passed House Joint Resolution 521 by a vote of 58 to 34. The only change made by the Senate was an amendment decreasing the transfer amount by $10,000. The Senate amendment has no substantive effect on the registration system to be funded under the resolution. The amendment was offered in the Senate as a parliamentary maneuver to foil an effort to offer a lengthy series of amendments.

Thus the joint resolution before us is

essentially the same in effect as that adopted by this House a few weeks ago.

The rule provided by House Resolution 718 will permit the House to proceed immediately to consider a motion to take House Joint Resolution 521 from the Speaker's table, and concur in the Senate amendment. At the conclusion of debate, the previous question will be considered as ordered and the question on the motion to concur will be put without intervening motion.

Mr. Speaker, I urge the adoption of this rule which will permit the House to proceed expeditiously to ratify its earlier stated position on House Joint Resolution 521.

Mr. BAUMAN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I support the rule before us and I would only say that I support the bill for what it is. It is no more than a hollow gesture of restoration of draft registration. I personally would have preferred the institution of full draft registration and classification so that we would know precisely what manpower is available if, in fact, we ever face a national emergency requiring the reinstitution of a draft. I do not support a peacetime draft, but I do support a realistic peacetime registration and this legislation is only a pale imitation of what is needed.

Like many of President Carter's policies, this is a hollow gesture, designed for the purpose of impressing those who do not look carefully behind the words uttered to discover the real meaning.

□ 1010

Reinstitution of registration will undoubtedly cause a great deal of dissension in this country, as it already has, with very few of the benefits that would accrue from a true registration system with complete classification.

Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I rise in opposition to this rule. I not only object to the rule in bringing up a resolution we will not be able to amend but, more so, I rise in strong opposition to what we are doing here today.

I consider the passage of this legislation probably one of the saddest events in the history of our country. In the past, we have had the draft and we have had registration, but it has been in moments when people were more tempted to sacrifice their freedoms. In times of war or threat of war, people are more careless about their freedoms.

But today, the fact that we do not have a pending war, unless somebody has that in the plans, the fact that we are willing to sacrifice so much of our freedom, to me is rather sad. We can easily understand how a community, when it is in an upheaval, permits the military to come in and declare martial law. For us to sacrifice the most fundamental of all freedoms, the right for us to deal with our own lives, and the basic right to our life and to our property, under these conditions, is rather discouraging.

If we can draft young people, or even register them to then be used potentially in wars, foreign wars with no purpose in mind, this attacks the basic fundamentals of our entire system. The words "All men are endowed by their Creator with certain inalienable rights, and among these are life, and liberty," will have no meaning if we carelessly legislate conscription, registration, and make plans for war. This undermines and destroys the whole concept of natural rights.

When we concede to the state that the state can take a young man's life and place on him the greatest burden for the defense of the country, this undermines and degrades the whole concept of what our free society is all about.

Milton Friedman talks a great deal about the draft. He happens to be in the conservative camp, but he also detests the idea that 18-, 19-, or 20-year-olds will unfairly bear the tax burden. He looks at it as an economist, and he calls it the most vicious and most unfair tax that any nation can place on a particular group of individuls.

This is, indeed, a tax, the economic burden of extracting young people from their homes who have not benefited from the great advantages of this country and place on them the burden of serving for meager wages, begs the question: Why does the 40-year-old man or the 45-year-old Congressman or businessman or banker who has benefited so much from these great opportunities in this country and has not yet served in the military not be forced to serve also? He is capable of doing the same thing and maybe even more so than the 18- or the 19-year-old.

So this is indeed a tax placed on an innocent group who has no defenders.

Who is it that is proposing this tax? Those individuals in this Congress who are the greatest tax reducers. We have vocal leadership now in the House to reduce taxes, and I am for reducing taxes. We must reduce taxes.

But how can the same individuals who give lip service to tax reduction insist that we put this horrible tax on the young merely because they have no defenders, the 18- and 19- and 20-year-old group, who have no lobby that can come here and wheel and deal as a special interest group.

I do not believe history will forgive us for what we are doing here today; our total disregard for our free institutions; for it is conceded that this resolution will pass. The mood of the country has been aggravated with the invasion of Afghanistan where we have subsidized the enemy with the roads that we built in Afghanistan, plus other subsidies we have given them. We have literally created the conditions that are used to justify this new move for the draft. Then, all of a sudden, we say there is such a threat in the world so, therefore, we must compensate for it.

How are we going to compensate for it? We are going to draft up high school kids and make up for the blunders of our foreign policy.

It is said by those who promote the draft and conscription that those of us who oppose conscription and the impending draft are unpatriotic. I would like to contest that and say that there is nothing unpatriotic about defending principles of liberty, those ideals of freedom stated in our Constitution. I do believe we have a strong defense and are quite able to reject this notion that the state has the ultimate right to deal with our young people's lives and still be patriotic. The argument my friends use is very Machiavellian. They say, "Well, for the defense of freedom we must have a strong national defense, and for a strong national defense that means we need a lot of soldiers carrying rifles. Therefore, we must sacrifice a little bit of freedom."

This is the same argument used in the totalitarian states, and it is justified under totalitarianism. But it is not justified in a free nation to sacrifice any portion of freedom. To me it is masochistic and a self-sacrifice to take young people up and draft them and send them off for some unknown purpose, to some unknown part of the world, to fight some unknown war without any deliberate purpose or intention. We cannot compensate for any insane foreign policy by drafting up of young people to fight no-win wars. There is no conscription or draft known to man on the face of the Earth in the history of the world that has been fair. How can it be? Can everybody be represented with their conscientious objection? It is impossible. It is totally incompatible with the notions of a free nation.

Some claim we need this to show a sign of strength to our enemies. To me we are showing a sign of weakness today due to the fact that we have to compel, by force, free individuals to defend themselves, unless possibly they have a justified complaint; possibly we are not really defending ourselves but meddling unnecessarily around the world. This is the real message that needs to be told.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GONZALEZ).

(By unanimous consent Mr. GONZALEZ was allowed to speak out of order.)

ACCOMPLISHMENTS OF PRESIDENT CARTER

Mr. GONZALEZ. Mr. Speaker, the reason I have asked to speak out of order, though in a manner of speaking it may be connected, is I wish I had had the opportunity to speak earlier during the 1-minute period. I want to speak with respect to the achievements of President Carter. I think everybody very much has overlooked them and unjustly so.

President Carter, in fact, today is visiting Spain after what I consider to be one of the most successful Presidential trips abroad. He was in Yugoslavia the day before yesterday. He successfully conducted, under very difficult circumstances, the Venice meetings.

But, above all, I am asking those who

determine the Nobel Peace Prize award that President Carter be given this recognition as the Nobel Peace Prize winner for his achievement at Camp David, which, again, I think has been underestimated. The President has not been given the proper credit.

If we do not have a more war-like atmosphere in the world, it is because President Carter's achievements in this respect have been great and irrefutable. He has conducted foreign affairs without the need of a prime minister, which was the case of our two preceding Presidents. He has done so without having to use an alter ego. He has conducted open diplomacy in a world that is cynical and believes that it cannot be done, and suspects President Carter as a result.

□ 1020

I just want to impress upon the minds of my colleagues that history will write down President Carter and his achievements, even though we in our own time may not be giving him the proper credit.

Mr. BAUMAN. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the resolution just agreed to, I move to take from the Speaker's table the joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System, with the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment as follows:

Page 1, line 10, strike out "$13,295,000" and insert "$13,285,000".

The SPEAKER. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System, and the Senate amendment.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the House passed House Joint Resolution 521 on April 22 by a vote of 219 to 180. The resolution as passed the House provided for the transfer of $13,295,000 from the account of Military Personnel, Air Force, to the Selective Service System for registration of male personnel only.

On June 12, the Senate passed House Joint Resolution 521 providing for the same transfer authority but at a level of $10,000 below the House-passed version of the resolution. Today we are asking you to concur in the Senate amendment.

Mr. Speaker, at this time I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to this resolution concurring in the amendment of the Senate to provide for the transfer of $13,285,000 for premobilization registration.

Mr. Speaker, nothing has changed in this country and around the world since we first debated this matter in subcommittee and then in full committee and finally in this Chamber on April 22, to warrant a change in my position. I continue to believe that premobilization registration as planned by the administration is unnecessary and unwise.

Yes, there are problems with our military. Problems in keeping our equipment in working order; in providing continuing training opportunities for our servicemen; and problems in retaining in the military ranks experienced men once we have taken the time and expense to train them. But none of these problems are going to be addressed by premobilization registration. If anything, premobilization registration acts to provide a diversion away from these pressing military considerations.

The failure of our rescue effort in Iran gave rise to a growing concern among the people of this country about the capability of our military. And well they should be concerned about our ability to remain a free nation and to assist our allies to remain free nations. But all that premobilization registration does is to give the American people a placebo. It gives our people a false sense of security that we are doing something significant about our military posture when you and I know we are not. Premobilization registration acts to mislead the public about our readiness posture.

Unfortunately, it does not mislead the Soviet Union or other would-be aggressors who know what mobilization and military readiness are all about and who will see clearly through this sham.

I urge rejection of this resolution.

Mr. WHITTEN. Mr. Speaker, at this time I yield such time as he may require to the gentleman from Massachusetts (Mr. BOLAND), the ranking member of the Committee on Appropriations.

Mr. BOLAND. Mr. Speaker, nothing has changed since April 22. The issues are the same; the problems are the same.

Mr. Speaker, House Joint Resolution 521 passed the House on April 22 by a vote of 219 to 180. The resolution contained an additional $13,295,000 for the Selective Service System to reinstate registration of males only. These funds were to be derived by transfer from unobligated balances in the "Military Personnel, Air Force" appropriation.

The Senate passed House Joint Resolution 521 on Thursday, June 12, by a vote of 58 to 34. The Senate-passed resolution contains $13,285,000, a decrease of $10,000 below the House-passed resolution. As I understand it, the Senate amendment reducing the amount by $10,000 was agreed to in order to stop a number of subsequent dilatory amendments.

Mr. Speaker, I support the resolution and ask for concurrence in the Senate amendment.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may require to the gentleman from Pennsylvania (Mr. COUGHLIN), also a member of the subcommittee who has jurisdiction over this matter.

Mr. COUGHLIN. Mr. Speaker, the situation is the same as it was when this House first considered this question. It was a question of symbolism and not of deed.

Unfortunately American foreign policy—to the detriment of our Nation and our allies—for the past few years has been strong on symbolism and weak on content.

Now, we are being asked to send another symbol, an initial symbol that will cost more than $13 million.

The symbol is registration for the draft by 19- and 20-year-old male Americans at their local post offices.

Let us not kid ourselves. If we believe we are making a commitment to national security and to playing honest with our youth, then we are sadly mistaken.

If we believe that the Soviet leaders will think twice about pulling another Afghanistan, then we are sadly mistaken.

If we believe that we will have advanced our preparedness to any kind of marked degree, then we are sadly mistaken. This does nothing to alleviate the more pressing personnel problem of our Armed Forces—the retention of skilled people.

In this ploy to try to mollify those among us who are uneasy about the state of our Armed Forces, we even are going so far as to transfer the moneys from an Air Force account.

Why? Because we also are playing the budget subterfuge game with the initial funding for draft registration.

If we were using this subterfuge for a noble and immediate cause, perhaps, many of us could swallow the cynicism with a little dose of sugar to make it go down easier.

But, unfortunately, it is only another ploy in pursuit of a game which we should not be playing now.

Our national security is of vital concern.

Yet, by the testimony of the administration's own witnesses, this post office registration scheme really does not take the Selective Service mechanism out of deep standby. We save, again by administration witnesses' testimony, maybe 7 days in inducting individuals. These witnesses also state that it still would take about 6 months to put trained individuals into the field.

I place this in the proper perspective since we all must recognize that having a name and address without any other physical or pertinent information really does not enhance our capability to determine who would be eligible for induction. The highly mobile character of our youth further would impede any meaningful registration under the President's proposal.

Basically, we are voting for puffery rather than substance.

Yes, I, too, am deeply concerned about the state of our Armed Forces and our All-Volunteer Force.

Former President Ford is concerned, too. I believe it worth repeating his words I used in debate back in April:

> Most people, I suspect, assume that I would support registration. I do not. I think President Carter's priorities are screwed up. The first thing we should do is strengthen our Active Duty Forces. Then we need to beef up our reserves in manpower and weapons. Third is to increase the retention rate our topgrade technical people in the services. All these things are more important than draft registration.

These words make sense. Regardless of political considerations, I am convinced that Mr. Ford's statement lays the issue of draft registration on the line.

The moneys should not be transferred from the Air Force account. The draft registration in local post offices should be discarded—like a bad idea whose time never should have come.

For once, let us face reality—as it is in the world and as it is in our country.

Let us not even try to kid the Russians. Or the American people. Or ourselves.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

I would like to congratulate the gentleman on his statement, associate myself with his remarks, and say that I only wish that we were not setting down this path to further divide the country at a time when we certainly do not need to divide the country over this issue. I only wish that we were putting these funds and other funds toward a national system of service with a civilian component. Every indication I have is that young people throughout this country in large numbers—I will bet over 90 percent of them—would be willing to serve their country in a national service program with a civilian option. It would tend to strengthen the military as well. It is a shame we are not confronting the larger issue but instead sending this empty symbol as the gentleman has articulated so well.

Mr. COUGHLIN. I appreciate the gentleman's comments and am certainly sympathetic to what he is saying. I do believe American young people will respond to a fair system and will serve their country in a variety of ways. I hope that that kind of system will be considered by this Congress.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

The gentleman is on the wrong side of this issue, but we are still very close friends.

The gentleman quoted President Ford in saying that President Ford did not support this peacetime registration. I would like to quote a former Member of this body, and also the former Secretary of Defense, Melvin Laird, who recently issued a report that said that he strongly disagreed with what President Ford had done by doing away with classification and doing away with registration and doing away with the Selective Service Board. Melvin Laird said that was a very, very serious mistake. And this Congress should implement peacetime registration again. He is from the gentleman's side of the aisle, and I thought the gentleman might like to have that information.

Mr. COUGHLIN. I am glad the Commander in Chief under who he served felt differently, and I feel that the President's statement stands.

□ 1030

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I will be very brief. I would like to say to my colleagues that any person who thinks peacetime registration does not do anything, that it is just a symbol, really have not done their homework.

Mr. Speaker, the people who have the responsibility for a strong defense in this Nation such as the President of the United States plus the Joint Chiefs of Staff, the Secretaries of the different services plus your House Armed Services Committee, which voted 45 to 5 to bring this legislation to the floor, strongly believe that peacetime registration does do something. It takes the Selective Service System out of the deepfreeze, makes it an ongoing organization again. By having the names and the places these young men live will save us 60 days to 120 days in case of emergency.

The information we will gather in July by registering these young men will be invaluable to the Selective Service System. Really, Mr. Speaker, I do not think we can take the chance of gambling on the security of this Nation by not passing peacetime registration. Let us not be concerned about what the people think back home. In fact, they are a little ahead of Congress on this; 70 percent of the people polled by the recent polls in this Nation show that even including the people on the campuses, the young people, support peacetime registration.

In closing, Mr. Speaker, with the Soviets on the move in Afghanistan, with a Soviet military brigade in Cuba, with our problems in Iran, and with the world almost running out of control, I do not see how we can gamble with the security of this Nation by not having peacetime registration.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to associate myself with the gentleman's remarks. I, for one, feel there are certainly problems in the Reserves, as the gentleman from Mississippi knows. There are serious problems with the All-Volunteer Force. We have to go through a whole process of strategic modernization and we need additional support for modernizing our conventional forces.

Today, Mr. Speaker, we are not addressing those issues. We are addressing here today the question of readiness and our capability to respond in a time of crisis. There is absolutely no question that this bill will help us respond more rapidly in a time of mobilization.

Mr. Speaker, I say to all my friends who oppose this I am sure the gentleman from Mississippi as a member of the Armed Services Committee and I as a member of the Defense Subcommittee of the Committee on Appropriations will want their support for all of these other items but that is not the issue today. The issue today is whether we are going to have the capability to respond. I just want to associate myself with the gentleman from Mississippi. We are going to try to address these other problems. The problem today is readiness and I think we should approve this conference report.

Mr. MONTGOMERY. Mr. Speaker, I support what the gentleman says and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I rise in strong opposition to this bill. There is undoubtedly a problem with the All-Volunteer Force. There are serious problems of retention and readiness in our Armed Forces.

But this registration proposal is not the way to address those problems. The President says it is a signal to the Soviets. The fact is that it is a meaningless signal. The President says it is a symbol to the world. The fact is that it is an empty symbol.

Who are we fooling here? The Soviets? They know the weaknesses in our Armed Forces. They know we have neglected the core of our defense in order to goldplate our system, often with needless weaponry.

Are we fooling the young people when we tell them registration is necessary? Hardly. The fact is that today's young people are as charitable as any in history. They are as willing to serve.

There is no doubt that the vast majority of young people are willing to serve in a national service system that provides them with an option to do either civilian or military work.

We are not giving them that opportunity here. There is indeed a growing interest in the Congress in such a national service program; but clearly not a majority sentiment.

In fact, during the last decade, we have narrowed rather than broadened service opportunities for young people.

There is less of an opportunity to serve in VISTA or in the Peace Corps. It has been mentioned by proponents of the registration proposal that other countries have not only registration but a draft as well.

The fact is that many of those countries have national service programs. They are imparting skills to their young people. They are providing training, preparation for life. They are providing broadening experiences.

We are providing none of that. Instead, we are rounding up names of our young people for the flimsiest of reasons.

This is indeed a tragedy, yet another sad instance of our Nation creating an illusion of action.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, it has been said that reinstitution of registration with the potential draft, that this will be a sign of strength to our enemies, that we are willing to stand up against the Russians; the Russian invasion of Afghanistan in particular.

However, it is impossible for this to be a sign of strength or any type of symbolism if we do not discontinue completely and immediately all subsidies to our enemies through roundabout and indirect ways with foreign aid or whatever. Unless we send a message to the world that we are not willing to, willy-nilly, negotiate away our strength with treaties, such as giving away a strategic waterway, the Panama Canal, or signing treaties such as the SALT treaties which prohibit our building the weapons that we need to defend ourselves. Without an antiballistic missile system in this country, we can hardly be content with the fact that we are drafting up young people to tote rifles. Unless we have laser beam and particle beam antiballistic missiles that we can use to defend against a potential strike against this country, all this will be for naught. It will be worthless and it will do more harm than good because somebody someplace will believe we are doing something. I know there are some in this Congress who believe we are doing something and I think that is the greatest danger because we are doing nothing except destroying the foundations on which this free country has been built.

Mr. Speaker, the real issue here boils down to, how do you defend a country if it is free? Do you defend it by tyranny, do you defend it with the tyrannical act of conscripting young people who are helpless? This is the real issue.

Do we understand and do we respect the basic fundamentals of freedom? I would say the mood of the Congress and the mood of the Nation is that we are quite careless with it and it is a sign we are in a declining stage of our history rather than in one that is growing in stature.

Mr. Speaker, I might ask those who are on my side of the aisle and those who consider themselves conservatives why they think more of their guns than they do of their kids. They will fight to the last to prohibit the Government from coming in and putting a registration number on their guns but they practically shuttle their kids rights out in front of them and ask the Government to put on them a registration number. They think so much less of their kids than they do of their guns.

I might ask also those individuals who object to the practice of gambling who, on a local level might vote against gambling and yet turn their kids over to a lottery system and have them decide their destiny by a lottery. A draft cannot be fair. One cannot use 10 million young people so we have to discriminate. The question is how are you going to discriminate. That is all that will be determined.

The discrimination is rather serious. It happens to be determining whether you are going to send this young person off to the rice paddies of the Far East, are you going to send another to the fields of Korea, Vietnam or the Mideast to fight for some oil well that we would not need if we would just deregulate the economy and allow our free market to operate.

Mr. Speaker, why should we compensate for a controlled economy that is destroying the production of this country, by sending 19-year-olds off to the Mideast to fight and protect oil wells that we have no right to fight for.

Mr. Speaker, after today, I believe this will be settled. I believe the Congress will vote for this. Tragically. Sorrowfully.

Fortunately, though, Mr. Speaker, this country still has a lot of freedom left. Fortunately, there is a lot of determination, a lot of people who are determined to defend a free society and this battle will be put into a new arena. The battle will now go to the courts, to the post offices, and it will go to the campuses of this country and the people will speak out. Fortunately since we do have this vehicle for expressing ourselves in this country in the next several months we will see this.

Mr. Speaker, I do not think all is lost. I think we still have a tremendous opportunity not only to reestablish the foundations of our freedoms, but we also have a chance to reexamine our foreign policy reexamine the situation and decide why we are in the condition we are in around the world. Possibly we are becoming a little more involved than we should be. Possibly we would not need to intervene so much around the world if we had a freer society, with a freer market here at home.

With the passage of this resolution, this Congress will mark a new low point in our 204-year struggle for liberty. The peacetime draft has never been acceptable to the American people, and war is even less acceptable. Wars like Vietnam, fought by conscripts, should guide us away from such foolhardiness. Throughout our history, casualties or near-war conditions were required before the American people were willing to sacrifice so much of their freedom. With today's sabre-rattling, we see fear and concern, but no panic. We should not so easily give up what we cherish so much.

This resolution saddens me immensely. For the past 18 months, a loyal few have fought, on principle, the battle to preserve the essential element of a free society—our inalienable right to our lives.

History will not fail to record this disregard for liberty. The lack of patriotism we show by failing to defend the cause of freedom and the Constitution will embarrass those who read of this travesty. Patriotism can never mean self-sacrifice for some unnamed purpose, in some unknown part of the world. Military adventurism, without the purpose of defending our Nation, is a result of an insane foreign policy doomed to failure. Snatching children from our high schools will not compensate for the policies of fools.

Conscription attacks the most fundamental element of all liberty. It rejects the entire concept of natural and God-given rights, and ingrains once again the ancient and tyrannical notion that rights are issued by the state. If we cannot demand the right to control our lives, even in a period of peace, fear for the survival of our free society is justified.

The words, "that all men are endowed by their creator with certain inalienable rights and among them are life and liberty," are rapidly losing even minimal significance, and will be hollow words indeed after the President makes this legislation the law of the land.

In a time when much noise is made for broad tax reduction, even the most ardent advocates of tax cuts are championing this ultimate tax to be placed unfairly on 19- and 20-year-old boys—thus advocating the use of a young man's life against his will in involuntary servitude, in needless foreign no-win wars, to protect the special interests of a few.

Once this freedom is sacrificed, the principled defense of all economic and personal liberties becomes impossible. All forms of freedom, from the right of free speech to the ownership of property, are a consequence of the natural origin of our right to our lives. Defending the right to a particular lifestyle, or to operate in a free market, is impossible without a basic understanding of why the state should never have the right to conscript our youth. It is no coincidence that freedom is threatened on all fronts today. Our civil liberties are endangered and the market economy is teetering on the edge of socialist oblivion.

Today, as we witness the further demise of liberty as this legislation passes, we who love real freedom must resolve ourselves to continue the battle in a new arena—the courts and the hearts of the people. Fortunately, enough freedom lingers to permit us to enjoy the privilege of contesting what the Congress does here today.

We shall not let it be said that the loss of this freedom occurred without a whimper. The arbitrariness and unfairness of the draft that of necessity will follow, will be shouted from post office to post office and from campus to campus. If we are to survive, public opinion must be rallied to the cause, and it will be, for it is the American patriotic position that all who cherish freedom, peace, and the Constitution, must take.

If we do not have the will, determination, and understanding to defend freedom, no draft can create the morale needed to defend the country by the use of arms. Conscripted armies are the product of a totalitarian mentality. The decline of freedom will always accompany the rise of compulsory military service. Sadly, though, waylaying a compulsory service will not fill the void if the problem is our diminishing love of liberty. When a nation's love for liberty is strong enough, the threat of a conscripted army will disappear.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise today in opposition to the measure before us, House Resolution 521, a resolution to facilitate concurrence with the Senate version of the draft registration program legislation.

As my colleagues know, I have long opposed the President's draft registration program. Reflection on the concept since the House first passed House Joint Resolution 521 has not changed my mind. I will not dwell on the subject today as I have made my argument many times before, but I would like to highlight what I think are salient points against draft registration.

First, collecting postcards with the names of young men will not speed up any eventual actual draft. Those young men who send in the cards will have to be located, interviewed, given medical exams, categorized as to educational background and so forth. The lists will be virtually dated the moment they arrive in post offices around the country. Meaningless computer lists of possibly eligible 18-year-olds are no substitute for an active, vital professional military and the Soviets know it. They are not fooled by this gesture.

Spending $13 million for this registration program is a crime when you look at the state of our All-Volunteer Force. The pay levels are among the lowest, if not actually the lowest, of any industry in the Nation. Families are on welfare and foodstamps. Recruiting levels are lower today than at any time since Pearl Harbor for all branches of the Armed Forces. Retention levels of second- and third-term enlistees is down to less than 50 percent.

Not only are we having grave problems with our personnel, the condition of our actual armaments and military R. & D. programs is deplorable. We have scrapped the B-1 bomber and the neutron bomb. The MX system is waffling around. I understand that maintenance of weapons systems, ships, and planes is deteriorating because of lack of trained personnel and parts.

Members of the House, I suggest that voting today for $13.3 million to institute a program which is a hollow, unpractical gesture and which may well factionalize our Nation again is congressional overspending at its worst. We can have the military we once had; a military which was the undisputed finest fighting force in the world. Registering unwilling, untrained, and possibly unfit young men is not a step in the right direction. Let us all work together to put the money where it belongs—in pay increases for our volunteer military personnel; for our ships, planes, and weapon systems. Vote against House Resolution 521.

□ 1040

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, we have had this issue before us in the Congress and in the House before, and as you know, we lost. I say we lost because I think that while the draft registration program was passed by 39 votes in the House, which is hardly an overwhelming majority, I felt then and I feel now that this is truly a mistake.

I have been a very active supporter of the defense programs, of military programs, but I feel that this effort is going to cause a major disruption among young people in our country. It is going to accomplish basically nothing, and the message that we send, the message that is supposed to send the Soviet Union into a feeling that the United States is now totally committed to resist efforts of the Soviet Union, frankly is a joke.

We are going to end up with 4 to 5 million slips of paper in post offices that will finally get into the Selective Service System. We have clearly had it explained to us that there is going to be no draft call in 1980. The military is not prepared, according to their own statements, to do anything in 1981, so 2 years from now potentially there may be a draft. Half of these people who are registering, we will not be able to find them and we will have caused a great deal of concern and confusion with little or no accomplishment.

I would like to see this resolution defeated the second time around. I think we would then be serving our country far better. Let us move ahead with increasing pay scales and doing a better job with the Voluntary Army, and we will then be sending a very clear message. Let us reinforce the National Guard, the Reserves, the organizations that are ready to do something, and then we will have done a major job toward strengthening our country.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I just came from the Personnel Subcommittee, in which we are further discussing the manpower needs and shortages we have had in this country. We are beginning to turn around the defense of this Nation at a time when we are really in peril, when there is indeed a crisis. Whether we can see it visibly or not, it is there.

But, this standby registration is one of the most important keys to mobilization, to developing the manpower that will be absolutely imperative if we are going to be able to respond to any attack. We are not asking for any draft at this time. We are asking for standby registration. We are asking to save at least 2 critical months. We are asking to let us know what our manpower pool consists of. We cannot afford to take a chance by not voting for this particular measure. Other countries in the world recognize the danger, and of all the major world powers, only three do not even have a draft. They are the United States, Canada, and England.

All we are asking for is a standby registration, not a draft, because, as I said, we have to come back to this Congress for a draft. We need to register in order to determine who we have in this country to respond down the line sometime during their lifetimes. This could develop into one of the most important votes we will be taking for the security and mobilization needs of this Nation.

Mr. Speaker, I certainly urge an aye vote, as many Members have previously given us.

● Mr. DUNCAN of Oregon. Mr. Speaker, I continue to oppose this proposition, as I did when the matter was originally presented to the House, for reasons enunciated at that time. I am prepared to, and do associate myself with the remarks just made on the floor by the distinguished gentleman from Massachusetts (Mr. CONTE) and the gentleman from Connecticut (Mr. MOFFETT).

I am not convinced that this proposal makes any significant contribution to our defense. I do not believe it sends any kind of message to either our allies or to our potential enemies. I believe it to be deficient for its failure to include women, and I am gravely apprehensive that a totally negative message will be sent by the strong potential which exists for massive resistance by those who are required to register—a resistance which I believe our legal and political system is today unable to cope with, and rationalized by the recent passage of a draft amnesty applicable to Vietnam.●

● Mr. STOKES. Mr. Speaker, I rise in opposition to the motion to take House Joint Resolution 521 from the Speaker's table. This action would be the final legislative step in approving the President's unnecessary proposal to institute a premobilization Selective Service registration program.

This registration proposal would be the first step toward reinstating a formal draft. I caution my colleagues in the House not to be misled by this 1980 version of the Gulf of Tonkin resolution. This country is not currently at war, and contrary to impressions fostered by the President, war is in no way imminent. To require any action revitalizing the Selective Service System would begin a massive intrusion into the lives of this Nation's young people, an intrusion which cannot be permitted without a showing that the all-volunteer military system is inadequate to meet our defense needs. Such a showing has not been made by the administration or Congress.

President Carter believed that the All-Volunteer Force was adequate to defend this country until the Iranian and Afghan crises. The latter situation, the response to which was entirely out of proportion, suddenly and inexplicably produced the draft registration proposal which has been before us in different contexts since that time. Yet there has been no evidence that these situations will escalate. I have seen no indication that currently unavailable large numbers of American ground troops might be needed in the Middle East or anywhere else. The security status of the United States has not undergone a change so radical that previous reliance on all volunteers is now not sufficient.

I do not deny that, if war were imminent, conscription might be necessary. However, in the event of a sudden need for mobilization, registration without anything further would be entirely useless. It would be at least 2 weeks before draftees could report, and much longer before they could be even barely combat ready. The program before us would be wholly inadequate to meet real emergency conscription needs.

In essence, therefore, the registration proposal is a defensively meaningless gesture designed to impress the illusion of actions to meet recent world events on American voters. It will not in any sense provide an increased capability to deal with those events or other crises. In the eyes of other nations, it will be a provocative act, not a defensive one. At the time when we are finally healing the domestic wounds of Vietnam, we cannot realienate a new generation of young people with such a politically transparent action as approving this registration program. When we are just now regaining the respect and trust of other countries, we dare not lose our allies and destroy possibilities of new alliances by raising the specter of our old destructive policies of self-declared policeman of the world. This registration program cannot be allowed to go forward, and I urge my colleagues to refuse to remove House Joint Resolution 521 from the Speaker's table.

● Mr. MAGUIRE. Mr. Speaker, I wish to express my strong opposition to House Joint Resolution 521.

Last September, when we considered the registration proposal in a rational and analytical fashion, we arrived at the appropriate conclusion and overwhelmingly rejected it. But, 2 months ago, with our vision obscured, this House reversed itself. Today, we have one final chance to review this matter. Let us take this opportunity to weigh the costs and benefits of draft registration.

The costs of such an action are depressingly clear. Registration is a serious, and at this time unwarranted, intrusion of the Federal Government into the lives of those few whom we have arbitrarily chosen to bear the burden; this Nation's 18- to 20-year-old male population. As a matter of fact, the exclusion of females from registration may be so arbitrary as to be unconstitutional.

Even at the most mundane, practical level, this is a poor proposal as premobilization registration would be difficult to implement efficiently. The 18- to 20-year-old population is the most mobile in the country. It is estimated that 50 percent of the filed addresses would be incorrect within 2 years. There is little incentive for a potential draftee to keep his address file up to date, and an attempt by the Selective Service System to do so would be extremely expensive and produce dubious results.

Moreover, it has been shown time and time again that mass registration can be effectively carried out in a 1-day postmobilization drive. This method would result in both current information on the registrants and, due to the "rally around the flag" effect of an international crisis, reduced resistance. Using the most conservative estimates of a 2-percent resistance rate, we would be faced with no fewer than 80,000 men violating the law. The economic cost of the Department of Justice pursuing, trying, convicting, and imprisoning these nonregistrants would be staggering if they are pursued; and, if they were not to be pursued we would be undermining respect for law in another way. Either way, the psychological and societal costs need hardly be mentioned.

We have heard two major arguments in favor of draft registration, the time savings in calling up young Americans in a crisis, and the symbolic statement we would send to the Soviets with such an action. I contend that both of these arguments are specious.

We all know of the estimates made by the Selective Service System that preregistration would only save about 7 days in getting draftees to their training centers. But, even this gain is an illusion, as we would be providing inductees faster than training camps could absorb them. Even posing the hypothetical that there will be absolutely no volunteers, the 70,000 to 80,000 training spots that the Pentagon will have open by day 30 could be filled equally well be either pre- or post-mobilization registrants. The time savings that some of my colleagues have been citing just will not materialize. So why have preregistration?

The contention that the draft will somehow send a message to the Soviet Union and demonstrate national unity is less than convincing. The Russians know as well as we do the marginal gains (if any) that will accrue to us from premobilization registration. Moreover, it is more likely that forced registration will reveal schisms in our population, rather than demonstrating our unity. What kind of message are we sending when we pit the youth of this country against the police as thousands resist registration? Why is it the duty of the young to sacrifice in order to make a symbolic gesture of dubious value?

I am sure that careful deliberation will convince all of the Members of this House how unnecessary and untimely this legislation is. I urge my colleagues to join me in opposition to House Joint Resolution 521.

Thank you.●

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Pursuant to the provisions of House Resolution 718, the previous question is ordered.

The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN) to concur in the Senate amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 168, answered "present" 1, not voting 30, as follows:

[Roll No. 363]

YEAS—234

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Corman
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dougherty
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Emery
English
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Flippo
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gingrich
Ginn
Gore
Gradison
Gramm
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hefner
Heftel
Hightower
Holland
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La
Lott
Luken
Lungren
McDonald
McEwen
McKay
Marks
Marlenee
Martin
Mattox
Mica
Mikulski
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Neal
Nedzi
Nelson
Nichols
Pashayan
Patten
Pepper
Petri
Pickle
Preyer
Price
Quayle
Quillen
Rahall
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Solarz
Solomon
Spence
Stack
Staggers

Stangeland
Steed
Stenholm
Stratton
Stump
Symms
Synar
Tauzin
Taylor
Thomas
Trible
Volkmer
Walgren
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wyatt
Young, Fla.
Young, Mo.
Zablocki

NAYS—168

Applegate
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bingham
Blanchard
Bonker
Brodhead
Broomfield
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Daschle
Davis, S.C.
Deckard
Dellums
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Okla.
Erdahl
Ertel
Evans, Del.
Fenwick
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Frenzel
Gilman
Glickman
Goldwater
Goodling
Grassley
Gray
Green
Hall, Ohio
Harkin
Harris
Harsha
Hawkins
Heckler
Hollenbeck
Holtzman
Horton
Jacobs
Johnson, Colo.
Kastenmeier
Kildee
Kostmayer
Lagomarsino
Latta
Leach, Iowa
Leland
Lewis
Long, Md.
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marriott
Matsui
Mavroules
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Moffett
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Pease
Perkins
Peyser
Porter
Pritchard
Pursell
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rosenthal
Roth
Rousselot
Roybal
Royer
Sabo
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Smith, Iowa
Snyder
St Germain
Stanton
Stark
Stockman
Stokes
Studds
Swift
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walker
Waxman
Weaver
Weiss
Wolff
Wolpe
Wydler
Yates
Yatron
Young, Alaska

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—30

Addabbo
Anderson, Ill.
Anthony
Biaggi
Dixon
Dodd
Edwards, Calif.
Erlenborn
Florio
Ford, Mich.
Garcia
Gibbons
Guyer
Hansen
Hillis
Hinson
Ichord
Jeffords
Jenrette
Mathis
Murphy, N.Y.
Rodino
Runnels
Sebelius
Spellman
Stewart
Wilson, C. H.
Wirth
Wylie
Zeferetti

□ 1100

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Addabbo against.

Mr. Murphy of New York for, with Mr. Dixon against.

Mr. Biaggi for, with Mr. Garcia against.

Mr. Jenrette for, with Mr. Stewart against.

Until further notice:

Mr. Rodino with Mr. Sebelius.

Mr. Wirth with Mr. Wylie.

Mr. Mathis with Mr. Guyer.

Mr. Ichord with Mr. Hansen.

Mr. Dodd with Mr. Erlenborn.

Mr. Edwards of California with Mr. Hinson.

Mrs. Spellman with Mr. Anderson of Illinois.

Mr. Runnels with Mr. Charles H. Wilson of California.

Mr. Gibbons with Mr. Hillis.

Mr. Ford of Michigan with Mr. Jeffords.

Mr. Florio with Mr. Anthony.

Mr. RANGEL and Mr. BINGHAM changed their votes from "yea" to "nay."

Mr. DAN DANIEL changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the Committee on Government Operations be permitted to sit Thursday, June 26, 1980, while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill, H.R. 7590, and that the gentlewoman from Nebraska (Mrs. SMITH) and I be permitted to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1981

Mr. BEVILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. BEVILL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7590, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 24, 1980, the Clerk had read through line 21 on page 14, and pending was an amendment offered by the gentleman from Washington (Mr. PRITCHARD).

The gentleman from Washington (Mr. PRITCHARD) is recognized for 5 minutes.

Mr. PRITCHARD. Mr. Chairman, I rise to offer an amendment on the Tennessee-Tombigbee Waterway project which is very simple in content and straightforward in intent.

Congressman EDGAR and I propose that the House reduce the 1981 appropriation for Tenn-Tom from $225 million to $25 million, and limit these funds to work on that section of the waterway which has been under construction. Our amendment today would permit the nearly completed portion of the project to be completed and to function as designed all the way to Columbus, Miss. Thus, the expenditures on the lower portion of the project—on Demopolis, Gainesville and Aliceville locks, dams and reservoirs—would be fully used and unwasted. This is important, since this segment of the project can function independently for small tows.

The intent of our amendment is to halt further funding of this massive project until a General Accounting Office study has been completed and until the very serious questions raised about this project have been answered to the satisfaction of the House.

We are not here proposing to end the Tenn-Tom project. We are saying "hold on. Wait a minute." We are saying that before this Congress is forced into appropriating another $2 billion to complete this waterway, we really ought to know what is going on; why the figures do not add up; why there have been so many inaccurate claims and defenses of this project; why the original GAO study was stopped.

□ 1110

If the GAO study which we have requested finds that the Tenn-Tom project is economically feasible and beneficial, and if accurate and satisfactory answers are uncovered for the many questions which have been raised, then I will be among the first to urge completion of the project.

But, if the GAO study finds that this project does not stand up; that the claimed cost/benefit ratio is inaccurate; that the data used to justify this project was either fictitious or misinterpreted, then this waterway should be stopped immediately and Congress will have saved the American taxpayers $2 billion at the minimum.

Let us get one thing straight from the start. The Tennessee-Tombigbee Waterway is not an energy project; it is a plain, old-fashion waterway project. Last night the House debated an energy amendment; today we are discussing a public works amendment. Last night the House added $100 million for energy development; today we are proposing cutting out $200 million in public works project money, at least until we can have a GAO study.

There have been many claims and counterclaims about this project, and others will be discussing these in more detail, but I would like to focus just for a moment on what I consider the most important criteria for continuing this project. Does it make good economic sense?

Well, let us look at the evidence.

Over 90 percent of the projected benefits for this waterway are to come from the transportation of goods. If these goods do not move on the waterway, then the project is useless and almost all of this appropriated money will have been wasted.

To calculate the navigation savings for the waterway, consultants to the Corps of Engineers contacted a list of companies, most of whom surprisingly said they would not be using the waterway. The corps, however, concluded that some would use the waterway; in fact the corps has claimed these companies would ship over 28 million tons of goods, including 18 million tons of coal, in the first year of the Tenn-Tom operation. These are the figures on which this massive project has been economically justified. How do these figures stand up?

Here are some of the responses of the coal shippers whose projected use of the waterway form the basis for its economic justification:

First, Gulf Power Co. says it will ship no coal over the waterway. The corps said 8 million tons per year. The removal of these coal shipments subtracts nearly one-quarter of the total transportation benefits claimed by the corps, and by itself destroys the benefit-cost ratio for the project.

Second, Kentucky Energy Development Corp. did not respond—for good reason. They are no longer in business. Yet the corps continues to insist that Kentucky Energy Development Corp. will ship 2.4 million tons of coal over the project, at annual benefits of over $10 million.

Third, Hawley Fuel Co. of New York is relied upon by the corps to ship 1.5 million tons a year over the project. The company responded that they owned no mines in the area and did not intend to use the waterway.

Thus, of the $86 million in annual navigation benefits claimed by the corps in 1978, over $40 million were for coal shippers who were either out of business or whose shipments did not exist, or who stated flatly that they would not use the waterway. The elimination of these nonexistent, wholly fictitious transportation "savings" invalidates the claimed cost/benefit ratio.

But even if the project were marginally justifiable from an economic standpoint, its skyrocketing costs would demand a careful examination. Just such an examination was made by the Army audit agency—the GAO of the Army—and they concluded that the corps had suppressed known cost increases because of their "emotional impact."

"Emotional impact upon whom?" The obvious answer, unfortunately, is "upon the Congress." The Army audit agency found that the corps has hidden known cost increases from the Congress, has repeatedly understated the cost of this project and has based its economic justification for the project on faulty data.

The last 8 years have seen the Tennessee-Tombigbee Waterway grow from a $300-million baby into a $3-billion giant. In order to complete this project as presently anticipated, Congress will be required to appropriate $220 million each year for the next 10 years. Think about that for a moment. For the next 10 years, regardless of any other needs or demands, the Tennessee-Tombigbee Waterway is going to be at the top of the appropriations list for at least $220 million.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. PRITCHARD was allowed to proceed for an additional 4 minutes.)

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I would be glad to yield.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman has made a really critical point. If you look at the $1.657 billion that is set aside in this bill for construction of water projects, it jumps out at you that for the Tennessee-Tombigbee Waterway we are committing in fiscal year 1981, $225 million. When you search the 289 projects to find what other projects we might be investing that kind of money on, we discover that the next closest amount of money spent is a $99 million commitment to the Red River project in Louisiana.

The fact is that 8 projects in this bill out of 289 projects are funded with a third of the total amount funded in this bill.

With all the arguments that the gentleman has raised and with all the questions that the gentleman has articulated over the last several weeks on this project, it is difficult for me to understand why the Congress in a time of fiscal restraint, in a time of balancing budgets, would invest $225 million in this one project alone and yet let many of the other projects either languish or, in the energy area, not fund them fully.

I also want to suggest to our colleagues that the Army Corps of Engineers' budget alone is funded at $240 million above the administration request.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. EDGAR, and by unanimous consent, Mr. PRITCHARD was allowed to proceed for 3 additional minutes.)

Mr. EDGAR. Mr. Chairman, if the gentleman will yield further, I would just like to say that in a time of fiscal restraint we ought to look carefully at projects that take so much of the public funds, and in this case public funds that will have to be invested over the course of the next few years.

I want to remind my colleagues that last week, with a $58 million supplemental commitment that we made to this project, we brought 1980 spending to $264 million for this project alone. If we add to this $225 million we are spending almost a half a billion dollars just on this project.

So I think the gentleman in the well is making a good point, that we ought to really look again at the questions of a GAO study and the audits that have been made by the Army, and simply not commit Federal dollars at this time to this questionable project.

Mr. PRITCHARD. Mr. Chairman, I thank the gentleman for his comments.

Let me complete here by saying, is it so unreasonable that we ask for a GAO study of this project—possibly the largest project in the history of the Corps of Engineers?

Is it so unreasonable that we say "Wait a minute"? Congress has already appropriated almost $800 million for this project. Just last week, in a close vote, the House approved another $58 million to speed up the project. Before we dump another quarter of a billion dollars into this waterway, why cannot this House of Representatives have a thorough, impartial study made by the General Accounting Office?

The project is not 80 percent completed as its proponents keep claiming. It is less than 30 percent completed. This project can be halted if necessary without undue waste.

Only 24 percent of the mileage in the initial project has been completed. and only 12 percent of the ultimate project is complete. In terms of total expenditures, less than 25 percent of the project is finished.

I urge my colleagues to support our amendment; to pause now before it is too late; to have the GAO study made; to get all the facts out into the open; to discuss this enormous investment in terms of fact rather than emotion.

Mr. Chairman, let me comment on three things that the good chairman commented about when he made his remarks yesterday, three things that I think have to be answered. One, that this figure of $3 billion is sort of something that came out of the blue, and that the gentleman really does not know where it comes from.

All I would say is that I got that figure from the Corps of Engineers. I got it when they made their report January 28, 1980. The Corps of Engineers said that the total estimated project cost for ultimate development was $3,030 million.

□ 1120

So, I did not just get that out of the blue. I got that from the Corps of Engineers.

A second question was that this canal will work below Demopolis and we really may not need to go to another $1 billion. Let me just tell my colleagues that there is no way that this project can work without straightening out the canal below Demopolis. My colleagues do not have to ask me and they do not have to ask anyone on this floor. Talk to the barge people.

It is true that at high water they can take some four tows that are taking six barges, not eight barges. On the Mississippi they take 40 barges in a tow.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. PRITCHARD was allowed to proceed for 4 additional minutes.)

Mr. PRITCHARD. The corps itself concluded in 1976 that the river south of Demopolis was so crooked, narrow and subject to flooding that the barge tows in use there would remain much smaller than the size that the corps needs to accommodate the Tenn-Tom traffic. That is the corps' report.

I can tell my colleagues that they can take some barges down, but if they are going to have eight tow barges, which is what the economics are based on, then we have to have two-way traffic and we have to straighten out that river. The corps says itself that it will take another $1 billion. We cannot build half a house.

Finally I want to talk a little bit about this cost-benefit ratio. They have said it is 2.5. First of all, it is based on 3.25 percent interest. Everyone knows we are not going to have 3.25 percent interest.

Second, it is based not on the total project, but it is based on the remaining part of the project that still is to be done. If everytime we do work on a project we keep cutting it down, we get to the last shovel full and it gets to be a pretty high ratio. But even on that basis it is wrong because it is based on 60 percent of the moving coal. I think everyone knows we are not going to be able to move that tonnage of coal.

I just checked with Coal Week and a national authority on the movement of coal and he said, once again, there is no way they will move that amount of coal.

A DOT and DOE estimate will be coming out in the next 30 days. That report will show that rather than getting 18 million tons of coal a year moving on that river in 1986 they will only be moving 2 million tons of coal a year by 1980.

Finally, we have talked a little bit about the user fees. I would tell my colleagues that in the cost-benefit ratio there are no user fees. Somebody said why, of course, there will be user fees. Somehow it was left off. So the cost-benefit ratio is absolutely faulty.

Here again I think it is incumbent on all of us to insist on a GAO report.

I yield back the balance of my time.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have heard repeatedly admonitions to abide by the requirements of the time, that we not be excessive in spending, that we not bust the budget, that we abide by the principles of cost effectiveness which we seek to apply finally in Government as well as in the private sector.

Mr. Chairman, I am deeply concerned over several facts about the dollar side of this project. First, the corps has a history of keeping from the Congress the actual and projected costs for the project. Second, the costs of the project have escalated at a tremendously rapid rate. Third, a very significant portion of the costs that have already been incurred are recoverable. Finally, that those costs which are not recoverable have made improvements which are usable in the future and, therefore, cannot be regarded as costs which are sunk or costs which have represented a waste of the taxpayers' money.

First, the fact that Congress has been misled, I think, should be of great concern to Members. The Army Audit Agency conducted a study which showed, and I quote:

> Increased costs were not reported in order to reduce the "emotional impact" of any big cost increase and to negate the effect that the increase would have on the project benefit-cost ratio.

How on earth are we to credit that kind of behavior by the Army Corps of Engineers? The cost of the project initially was to be $386 million. The estimated cost of the initial phase of the project is now $1.9 billion. The cost of the ultimate project is now over $3 billion. I would guess, based on the experience that we have had in the past with many projects that we are going to be up to $4 billion or beyond by the time we actually see the further construction and completion of this project, which I hope very much that we never see.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman.

Mr. EDGAR. I thank the gentleman for yielding.

I would like to draw the gentleman's attention to a document provided by the Army Corps of Engineers. On January 28, 1980, the Army Corps of Engineers appeared before the Appropriation Committee and shared with them this document. The document points out that the estimated cost of this project from Pickwick, Tenn., to Demopolis is $1.925 billion That does not include an estimated $1 billion of additional costs that would be necessary below Demopolis to Mobile.

This document further goes on to indicate that total project costs as estimated on January 28, 1980, by the Army Corps of Engineers would be some $3.03 billion. This is the ultimate development cost for the project.

Second, I would like to share with the gentleman the fact that the Army Corps of Engineers provided some aerial photographs of the snake-like river below Demopolis, and they have on these aerial photographs already sketched in the specific cuts that would have to be made in order to get the eight tow barges below Demopolis. In fact, an extra $1 billion would be necessary in today's costs to complete the project.

I think the gentleman is correct that this estimate of January 28, based on current dollar figures, could blossom, as have the figures on the project itself. Back in 1971 we were told that the total cost of this project would be $323 million. The gentleman knows and I know that just in these 2 years, if this $225 million is committed, we will be spending almost $500 million on this one project and still not be near completion.

Mr. MAGUIRE. So the gentleman is saying that that cost of this project in 8 years has increased more than 1,000 percent, more than tenfold, and it is likely to go even beyond that.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

□ 1130

Mr. MAGUIRE. I do not know what would be a more clear example of a boondoggle than this one, if we are talking here about a project that cannot be defended on the merits, that cannot be defended on a cost-benefit ratio, and for which we have had a greater than 1,000 percent increase in cost estimates, and we are still only half-way home on that. The estimates are that, at minimum, it will take in excess of $2 billion additional to complete this project. Since a significant portion of the money can in fact be recouped, it seems to me that at the very minimum we should be about the business here in this House today of slowing our level of funding and seriously evaluating the questions which the gentleman from Pennsylvania and the gentleman from Washington have asked. I thank them both for their leadership on this. I cannot think of much that is more important to our budget-conscious country today than drawing the line on some of these multi-billion dollar boondoggle projects. I appreciate their leadership, but I would hope that we would adopt this amendment in the name of giving the taxpayers a break, giving Government a better name for cost effectiveness, and a willingness to look at the merits without just responding to political influences.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I represent a State that does not directly benefit from the construction of the Tennessee-Tombigbee project, but Arkansans know the benefit of bulk transportation that would be offered to the people of this Nation when this project is completed. I can agree with both of the gentlemen who have preceded me in the well that this project will cost money. It will cost a lot of money, but the benefits to the people of America will be greatly exceeded by the cost of the investments in constructing the project.

Take, for example, the ton miles saved from existing routes by completion of the project that are now served by the existing inland waterway system. From St. Louis to Mobile, Ala., by way of the Tennessee-Tombigbee there will be a savings of 310 miles on the waterways. From Kansas City to Pensacola, 252 miles will be saved; from Chattanooga to Mobile, 832 miles; from Uniontown, Ky., to Panama City Fla., 334 miles; from Pittsburgh, Pa., to Mobile, Ala., 402 miles; from Decatur, Ala., to Pascagoula, Miss., 716 miles; from Guntersville, Ala., to Pensacola, 774 miles—a total savings of 3,730 waterway mileage. Millions of tons of freight are now moved on the inland waterways. I do not know the tonnage that is moved between these existing points, but millions of tons per year are transported, and the savings in fuel alone to the people of this country will be enormous. Millions of gallons of fuel that will inure to the benefit of the consumers of America will be saved by the construction of this project. And, freight savings does not approach the question of energy savings. But, millions of dollars a year in transportation costs will be saved by the construction of this project.

I have one further point. From the things that I have heard in the well today, it occurs to me that there is a coalition of effort between the railroads in the southeast region and the environmental groups, both of which have a vested interest in trying to obstruct the construction of this project. Both groups are attempting to provide a barrier to its completion. This project is well underway. The benefits are well known and I think it would be a waste of good money spent to abandon this project by supporting this amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I will yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

The gentleman in the well has a national reputation for his interest in transportation, and the interface of transportation within rural America. I wonder if the gentleman is aware of two specific facts: First, that the interests who want to build a coal slurry pipeline have indicated that the route from Tennessee to Mobile will in fact be a productive route for them to explore coal slurry pipelines. In fact, last week the House Committee on Public Works and Transportation released the pipeline bill for House action, and circulated a map showing this pipeline in the committee session. The map indicated that this route was going to be used by the coal slurry pipeline.

Second, I wonder if the gentleman in the well is aware of the good study.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. If the gentleman will continue to yield, let me correct that. There is a study entitled, "The National Energy Transportation Study," not the national transportation study that our colleague, the gentleman from Pennsylvania (Mr. SHUSTER), put together, but the national energy transportation study which raises further serious questions concerning coal projects. I might remind the gentleman that the Army Corps estimated that 18 million tons of coal would be utilized in this Tennessee-Tombigbee Waterway by 1986. According to information that I have received from the national energy transportation study which is now in progress, less than 2 million tons of coal will be utilized on this corridor by 1990. Most of the benefits used to justify this project in this corridor are for the movement of coal, and yet this study that has just been put together completely negates, along with the coal slurry pipeline issue, the use of this corridor for the major transportation of coal. Would the gentleman have any response to that?

Mr. ALEXANDER. I would respond to the gentleman that there are studies and there are studies, but the transportation of coal by barge is a reality. We know the savings to consumers and the benefits from present practices of transporting coal throughout the inland waterways to the people of this Nation. The gentleman knows that we must continue to accelerate our dependence on coal because of the increased price in petroleum products. I would not agree, based upon the representations of a study, that any of these desired results are inevitable. But I would hope that if coal slurry pipelines will save the consumers of America money that we should build those pipelines. But I know that building this inland waterway system will save the consumers of America money because of the economics and the reality of transporting coal and the products that are produced in this region, based upon present practice.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(At the request of Mr. PRITCHARD, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

Many of the things that the gentleman says may be correct, and it seems to me, since both the barge people and the coal people tell us that these figures are way out of line, does it seem unreasonable to the gentleman that we ask the General Accounting Office to complete their studies so that we are on firmer ground? Is that an unreasonable request?

Mr. ALEXANDER. The gentleman asserts that the barge people have said these figures are way out of line.

Mr. PRITCHARD. Does the gentleman have statements by the barge people?

Mr. ALEXANDER. Yes; I have barge people who agree with these figures and think that the cost-benefit ratio that is established is a reasonable conclusion based upon the evidence that is abundantly available throughout the region. This request for a study, in my judgment, is a waste of time and a waste of money, and with the cost of money rising everyday, and the value that we place upon time, I think that we need to move forward to construct this project forthwith and with all deliberate speed.

Mr. PRITCHARD. The gentleman, I am sure—maybe he does not know; I do not know—certainly must be aware of just one simple fact that of the coal coming down, half of this coal was projected to go overseas, mainly to Japan. The studies show that this is high-sulfur coal. Japan does not buy high-sulfur coal; it buys low-sulfur coal. That is why the people in the coal industry say that these figures are just way out of line.

□ 1140

Mr. ALEXANDER. I understand the Japanese have developed a process to take the sulfur out of the coal.

Mr. PRITCHARD. I can tell the gentleman everyone in the coal industry says these figures do not hold up.

Does it seem unreasonable that some of us would like to complete the GAO study and then we can join with the gentleman?

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 30 seconds.)

Mr. ALEXANDER. With all deference to the gentleman from Washington, and the gentleman is my friend, I think the gentleman is a day late and a dollar short, that he has come in, you know, after the fact.

Mr. Chairman, we have been building this project for years. It has been under way for years. It is a good project. The economics are well established throughout the entire region.

Mr. Chairman, the gentleman has come too late. We do not want to waste valuable time now studying, studying, and studying. The American people are tired of these studies. We want to make progress. We want to give the people of this country the benefit of the savings of the Tennessee-Tombigbee River.

Mr. PRITCHARD. Mr. Chairman, the people are also worried about spending another $2 billion.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Tenn-Tom has been discussed for years. I will say to the Chairman I have risen on very few occasions in my 16 years here to speak on the subject of the Tenn-Tom. Why? Because I confess I have an extreme parochial interest in the Tenn-Tom. I have, therefore, been reluctant over the years to take the floor and talk about it because of that parochial interest. Yet I feel the need, today, to speak to this project.

Mr. Chairman, my hometown is Mobile, Ala. The Tenn-Tom will flow into the Port of Mobile from mid-America. It will literally tie the port of Mobile to the Great Lakes, to the Tennessee River, to the Ohio River. It will connect it directly to some 23 States.

Mr. Chairman, we in Mobile have been working since construction started to try to develop the Port of Mobile, to try to prepare for the Tenn-Tom when it was completed. The State of Alabama has adopted a bond issue for some $45 million to upgrade the port of Mobile. Some additional $45 million to $50 million will be coming along in the future to have our port ready for the traffic that will move on this waterway either for export or terminating in Mobile or originating in Mobile and moving inland.

Mr. Chairman, we have developed industrial property to take advantage of this waterway. We have at this point in Mobile alone, almost $1 billion worth of new and committed industry because of the Tennessee-Tombigbee Waterway.

We talk about benefit cost ratios. I am talking about the reality of it. People who are constructing plants, people who have completed plants, simply because the Tenn-Tom is to be a reality.

Mr. Chairman, we are talking about a waterway that goes through the very heart of some of the poorest areas of this land. Poor counties are gearing up, getting ready to bring in industry to bring jobs to their people, to locate industry on this waterway.

Mr. Chairman, from Demopolis south this is already a very active waterway. Surely, all these curves people are talking about south of Demopolis are there. They are in my district. I know probably every curve and snakelike shape of that river. The barges go up and down that river everyday in that curved section. You know and I know it would take authorizing legislation to try to start straightening out those curves and I can tell you many people in my district are not happy with that proposal.

The river is in use. It is in use as part of the Warrior-Tombigbee, it is in use in the Alabama portion of the Coosa-Alabama and it is an active river. It carries tonnage and there is no reason why, at this point, this project, as far along as it is and as much as it has been through, as many times as it has been studied, that it should now be slowed down or terminated.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I will yield to the gentleman in a moment. The gentleman has had many days of debate on this and as I said earlier I have not spoken on this project though I feel very strongly about it. I wish I did not have to speak today. I think the project can stand on its own merits. It has been studied. It has been through a court process some six times. It has been through a congressional committee every year for some 13 years.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. Edwards of Alabama was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of Alabama. It has been through the authorizing process, the appropriations process, and it has been studied to death by everybody who has taken a notion to look at something big. It is a big project. I would not stand here and tell you otherwise. However, because of its very bigness, because it stands out among projects of this type, it seems to be fair game.

Mr. Chairman, I would hope that my colleagues in this House and particularly those who are somehow concerned by the misguided view that this is going to be a budget cutting kind of amendment, I would hope that the Members of this House will pause and think what a national asset it is. Think what it means to some of the poorest sections of this country. Think what it means to those who have already privately invested many hundreds of millions of dollars. Think what it means to those States that have put many millions of dollars into it, getting ready for this. Now to come along at this stage in the game and suggest that it ought not to be constructed or that somehow it ought to be delayed is wrong. Every delay is going to run up the cost. There is no question about that. Let us get on with the Tenn-Tom. Let us build it at the corp's rate of capability and it will become an asset to this Nation of which we can be proud, I guarantee.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS. I do yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding. I think it is important to have the gentleman take the well because the gentleman, of course, is an expert on the project because the project benefits are in fact located in his district.

I wonder if the gentleman would answer three specific questions. First of all would the gentleman indicate whether or not eight tow barges which were used in the justification from Pickwick to Demopolis, can in fact get below Demopolis, Ala.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Edgar and by unanimous consent, Mr. Edwards of Alabama was allowed to proceed for 3 additional minutes.)

Mr. EDWARDS of Alabama. This gentleman is not an expert on the movement of barges.

Mr. EDGAR. If I could ask a second question relating to those barges. It has been noted to this gentleman that below Demopolis you can in fact squeeze a few six tow barges—you cannot use eight tow barges—but you can squeeze some six tow barges and in fact about 8 percent of the traffic below Demopolis is in the six tow barge area but there are places along the lower Tombigbee where you cannot get the six tow barges to pass each other, one going north and one going south. Would the gentleman have any information about whether or not the nature of the lower Tombigbee is such that those barges which are in fact utilizing the waterway at this point can pass all the way along the area?

Mr. EDWARDS of Alabama. Mr. Chairman, I would suggest there are certainly curves in the river where barges probably could not pass but barges have been passing on that river for generations. They know how to talk to each other. They simply do not try to pass on a curve. We do not do that in automobiles. We pass on the straightaway. We have plenty of straightaways in that river for barges to pass. I think that is just not a good issue.

Mr. EDGAR. A final question. Did I understand the gentleman to indicate he is not supportive of spending any additional money to straighten the curves below Demopolis, that he is not going to support an extra $1 billion commitment to provide an eight tow barge waterway from Demopolis to Mobile?

□ 1150

Mr. EDWARDS of Alabama. I do not know anybody who has offered legislation in an authorizing committee to do that. I know that in about 1976 the corps discussed that, but the corps, as far as I know, has not pursued it, and this gentleman in the well would not support it, based on what is known at this time.

Mr. EDGAR. I thank the gentleman.

Mr. BOWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have, of course, brought out most of the facts in this matter during the discussion on the supplemental appropriation request recently, which we approved, but I would simply like to remind the Members of a few points which may have been stated then.

One of these is that this is certainly very much an energy-saving measure. At the longest point of transportation, from Pittsburgh to the Gulf of Mexico, some 819 miles will be saved in transportation distance. As I believe the gentleman from Arkansas pointed out earlier, throughout the entire system some 3,700 miles will be saved in transportation distance. As a cost factor, $3 a ton for every barge shipped over the Tennessee-Tombigbee will be saved over any alternate route, including the Mississippi River. Some $100 million a year in transportation costs will be saved for an inflation-ridden nation through the use of the Tennessee-Tombigbee Waterway.

I want to agree that the Mississippi River is certainly a valuable and useful waterway, which flows alongside my congressional district, and which since the early days of our Nation has been a vital waterway, when the early mode of transportation was to go down by barge and ride a horse or wagon back up north. Now, with motorized vessels, that is not necessary, but I want to assure the Members that it is a very expensive kind of transportation, shipping back upstream against a heavy current at a very great energy loss when we have a slack water transportation alternative, the Tennessee-Tombigbee Waterway.

I want to remind the Members that the project is already some 70 percent under contract and will be 80 percent by the end of the fiscal year. It is a $1.8 billion project, that is true, but we have already spent about $1.25 billion on it. The question is, do we want to spend another $500 million or so over the next 5 years and complete this project. In my opinion, it would be a disaster for the Nation if we let it fall uncompleted with this huge investment already made. It is an outlay which I think that every estimate I have seen would result in about a 2.5-to-1 benefit cost ratio to complete from this point in time.

Again, I want to remind the Members that in terms of energy savings, this is the most energy efficient mode of transportation available. One gallon of diesel fuel, as I pointed out to the Members in the debate on the supplemental, will move a ton of freight 50 miles by truck, 180 miles by rail, but it will move it 300 miles by barge.

I also want to say a word on the user tax which was brought up in debate at that time. That user tax already applies to 215 miles of this waterway. Under the law passed 2 years ago, Public Law 95-502, the user tax, which runs from 4 to 10 cents a gallon on diesel fuel, already applies to 215 miles of this waterway. In that statute, the Inland Waterways Revenue Act of 1978, in title III, there is a provision which says that the Department of Commerce and the Department of Transportation, within 3 years of enactment must make a recommendation to the House spelling out precisely which waterways should be covered by that tax and what changes should be made. I will read from the committee report:

> It is expected that the study authorized by title III will identify these other waters and recommend whether they should be included in those waters subject to a waterway user tax.

I would like to assure the Members that I for one, if I am here, will be among those who will be voting to include the Tennessee-Tombigbee Waterway throughout its entire length. As I say, part of it is already covered. If we opened the waterway today, barges would still be paying the user tax because you have to travel 215 miles already covered by statute law.

Local commitments by the States through which the Tenn-Tom passes have been sound; 78 percent of the total non-Federal costs of relocation has been obligated by the States which are along the route of the Tennessee-Tombigbee Waterway.

I would simply like to say in closing that I commend to the Members this outstanding development project, and I oppose the amendment. There may be some Members who for some reason saw fit to vote against the supplemental appropriation. I think they could make an argument very easily to their constituents that they voted against the supplemental because they did not feel like accelerating the pace of construction, even though we commend the people doing the work for working rapidly and for saving the taxpayers' money by getting ahead of inflation.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

(By unanimous consent, Mr. BOWEN was allowed to proceed for 1 additional minute.)

Mr. BOWEN. You can make the case that you did not want to support the supplemental, but now this is getting down to the survival of the project. We have got to enable the project to live. Consider the cost to the taxpayers of this Nation of pumping the sum of some $1.25 billion into this project and then stopping it in its tracks. I think it would be a national disaster.

There is one railroad line which is opposing it the Louisville & Nashville. It parallels the waterway, but this is a misguided policy. This waterway would be an asset to this railroad as such waterways have been to other rail lines. The Tenn-Tom would directly affect the 14 States and would be a very important part of our entire national waterway system. It will produce great savings to the nation in terms of energy and in terms of the fight against inflation. I commend the Appropriations Committee for this legislation, and I earnestly hope that the members of this committee will oppose the amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yeild?

Mr. BOWEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I have one brief question. Could the gentleman detail for the House where he got the 215 mile figure?

Mr. BOWEN. Yes, that is spelled out in statute law, 33 U.S.C. 1802, to be precise, the waterway user tax legislation. It spells out that the Tombigbee River south of Demopolis is subject to the user tax.

The CHAIRMAN. The time of the gentleman from Mississippi has again expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. BOWEN was allowed to proceed for 1 additional minute.)

Mr. EDGAR. I think it ought to be stated correctly that none of the area from Pickwick, Tenn., to Demopolis, Ala., is covered by the waterway user fee.

Mr. BOWEN. That is correct, because that has not been constructed and completed. It is not open yet. This statute does not spell out a waterway to be covered by a tax unless it is open to transportation. That is the way this entire bill was written. There are 26 major waterways in America which have substantial Federal investments and which are open for coverage by this tax. The statute clearly spells out that in 3 years, which is October of next year, a report will come to this body spelling out which additional waterways that receive Federal investments should be covered by and subject to the user tax.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, it has been implied here that because the Tennessee-Tombigbee Waterway was not spelled out in that legislation, that it would be excluded. But, it is not excluded in that legislation.

Mr. BOWEN. That is absolutely right. There is no exclusion. The law simply includes those waterways which were open and navigable and which have received Federal outlays. The remainder of this waterway will obviously be covered when it is open.

I would urge my colleagues to support this legislation and oppose the amendment to kill it. It is a vital asset to the Nation, an important part of the national water system, and one which I think we can all be proud of.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. The virtues of Tennessee-Tombigbee have been well spelled out by those who have gone before, and I do not intend to repeat. Actually, this project has been under study for years and years, and everybody who looks at a map of the United States of America can certainly see why it has been a dream, not only of the people who live in the area, but of those who are interested in a Federal system of waterways.

The Tennessee River very nicely makes a curve to the south, and then curves again to the north and flows into the Ohio. When it begins to curve to the north there is a creek called Yellow Creek. Yellow Creek flows into the Tennessee and provides a beautiful natural way for building a passageway through the mountains so that the headwaters of the Tombigbee River can be reached. That is the route that the Tennessee-Tombigbee Canal will take.

☐ 1200

It will provide a waterway from the upper reaches of the Ohio, which will be in many ways superior to the use of the Mississippi River. Everybody knows, of course, that there is a current in the Mississippi River. That is what rivers are all about.

As far as the Tennessee-Tombigbee is concerned, the number of locks and dams which will be constructed, make it a waterway of slack water, so that when the barges are coming up from the gulf, instead of having to buck the current of the Mississippi, they will be in slack water. As a result they will use much less energy in delivering their cargos to this destination.

This to me is a very important unit of all our public works projects.

When I was a member of this Subcommittee on Public Works of the Appropriations Committee, the chairman was a great member from the State of Ohio, a Democrat named Mike Kirwan. Mike Kirwan used to favor public works projects, as he said, "to make America better." He was a devout, patriotic American, if I ever knew one, and he used to call this bill, Mr. Chairman, "the all-American bill"—it was, and it still is.

This bill provides the funds which are necessary for the development of the assets which God has given this country so bountifully. In my opinion, the Tennessee-Tombigbee is one of those national assets which we certainly must utilize in order to reach the degrees of development that we know our forefathers intended us to reach and for which our posterity will be so very grateful.

So, Mr. Chairman, it is my opinion as one Member that it would be wise to vote down this amendment so that this project can proceed at an economic level.

Drawing again on the experience I had as a member of this subcommittee, we felt for a long time that the process of financing projects piecemeal, as had been followed for many years, was not economical. We can build a project for less total money if we do it at a pace which is economical. The funds which are provided in this bill for Tennessee-Tombigbee provide for construction at that pace.

If we cut down on the funds which are provided, then in the final analysis this fine project will cost the American taxpayers more than it otherwise would. This project is going to be built. Our country demands that it be built, and it will be built.

Mr. Chairman, it is up to us to build it just as rapidly and as economically as we possibly can. This amendment should be defeated.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for yielding, and I wish to associate myself with his remarks.

I just wish to comment that there has been much discussion about whether or not this canal will or will not be used and to what extent.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. Rhodes) has expired.

(On request of Mr. Burgener, and by unanimous consent, Mr. Rhodes was allowed to proceed for 2 additional minutes.)

Mr. BURGENER. Mr. Chairman, one of the earlier speakers—I think it was the gentleman from Arkansas—pointed out that the mileage distances from the Midwest to the gulf ports will be greatly shortened by this project. This to me means competition with the slurry pipeline, competition with railroads. Competition in transportation as in all fields is the best friend of the consumers. The best friend of the consumers is competition, not regulation.

Everybody knows that we are going to have to use more, not less, coal. I do not think anybody can deny that. Coal is a big bulk item. One of the cheapest ways to transport coal is by barge. The cost-benefit ratio of this project is 2½ to 1 to finish the job. I wonder how many more projects in America we can afford to abandon in an unfinished state? I think we cannot follow that course.

People have talked about the cost escalating 1,000 percent. But what has not? Another delay and another study will in no way reduce the cost; it will make the cost-benefit ratio worse, not better.

So, Mr. Chairman, I associate myself with the gentleman's remarks. Even though I do not come from that part of the country, I think this is in the national interest, and I hope we get on with it.

Mr. RHODES. Mr. Chairman, I thank the gentleman from California (Mr. Burgener).

The gentleman comes from a very important port on the Pacific coast, and he knows as well as anybody could the fact that water transportation is much of the life blood which powers the economic system of the United States. I am pleased to have his support in furthering the construction of this very important waterway.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I want to thank the distinguished minority leader for his leadership in this matter, and I join the gentleman from California (Mr. Burgener) in pointing out one aspect of this decision, concerning the transport of coal.

It was my privilege to serve on the President's Coal Commission. In our recent report we pointed out that the United States made less use of its vast coal resources than any other industrial country. We must make greater use of our coal resources, and transportation is one of the keys to that use.

If we wish to reduce our reliance on imported oil, as we must, we need to provide the ways and means to transport that coal which is an abundant blessing to our society. This is such a means. I urge the defeat of this amendment.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, like the last speaker, do not come from a part of the country that is affected directly by this legislation, but like all of us, I come from a part of the country that is very clearly and very precisely impacted indirectly by this legislation. I support the legislation, and I strongly oppose the amendment.

I am chairman of the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce. I am concerned with commerce, I am concerned with competition, I am concerned with inflation, and I am concerned with reducing the cost of energy. The cost savings of moving coal by means of this waterway are very substantial. The savings come to about $2.57 a ton, which, at today's price of coal of about $35 a ton, comes to about a 6- or 7-percent savings. That is a significant saving.

The Interagency Coal Export Task Force that has been set up by the Departments of Commerce, Interior, Transportation, Labor, and State indicates that our exports of coal during this decade could increase from about 5 million tons to somewhere between 80 and 100 million tons. At the current price of coal, those exports would amount, therefore, to about $3.5 billion. That is $3.5 billion, and if we assume that there will be some price inflation cranked into those figures by the end of the decade, we may be talking about an add-on or an improvement in our balance of payments situation of something in the neighborhood or in the order of magnitude of $4 or $5 billion.

Now, that may not be a tremendous offset to the $115 billion that we are currently recycling to the Persian Gulf, oil-producing states and other members of OPEC, but it is a major step in that direction. And in terms of fighting inflation at home, reducing the price of coal at home, and enhancing the prospect of substantial coal exports abroad, I think this waterway is going to play a very significant role.

Let us remember that most of the developed countries in the world met not many months ago in Tokyo—then they met in Venice—and a key item on their agenda was to encourage the conversion of the developed world from oil consumers to coal consumers. In our own country we have as a matter of national priority the conversion of oil-consuming facilities or stationary oil users—let us say, buildings, plants, utilities, schools, hospitals, homes, factories, office buildings—in fact, the works—from oil for heat and air-conditioning to coal for heat and air-conditioning.

□ 1210

We are producing electricity now as a matter of national public policy through conversion of coal to electricity rather than oil to electricity. And I can see the substantial savings of 6 or 7 percent being passed on through a ripple effect to all aspects of the American society, helping our program of oil conservation, helping our program of making the use of coal attractive and economical, helping our balance of payments through encouraging exports. And I simply cannot see how, as a matter of commonsense, we can possibly do other than defeat this amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, I would ask the gentleman this: The thesis here is dependent on two items: First, that they have the type of coal that is going to be shipped overseas and be used—and now, of course, the coal studies show that this is high-sulfur coal and will not be shipped overseas, so the balance of payments is not going to come in as projected—and, second, it is based on eight tow barges. We now have the statement from the gentleman from Alabama, who says on the floor he will not support and he is opposed to opening up the bottom half of this waterway so they can use eight tow barges. If you do not, you do not get the benefits. You have to have the right kind of coal and you have to have the right kind of canal, or all of the estimates go down the drain. It is for that reason, it is for these reasons that the national energy's transportation studies show that the Tennessee-Tombigbee Waterway will likely carry only 2 million tons of coal in 1990 instead of 18 million tons in 1986 that the Army corps has been claiming.

The CHAIRMAN. The time of the gentleman from New York (Mr. Scheuer) has expired.

(By unanimous consent, Mr. Scheuer was allowed to proceed for 1 additional minute.)

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Chairman, I would like to speak to the item that the gentleman has raised about the balance of payments, and I would also like to say that not only in energy resources do we ship in bulk through barges, but we ship in bulk through barges a great many of our agricultural products. As all of us know, the agricultural products of this country are really our plusses in our balance-of-payments figures.

The port of Mobile can accommodate the big LASH vessels, which are the vessels which load the barges directly onto the ships, bringing them into the ports of underdeveloped countries and developed countries throughout the world, where those barges can go right off the ship with their own cranes and equipment into the shallow waterways of the underdeveloped countries, as well as into ports with the most sophisticated accommodations.

So in the balance-of-payments situation, this is a very good item.

The CHAIRMAN. The time of the gentleman from New York (Mr. Scheuer) has again expired.

(On request of Mrs. Boggs and by

unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mrs. BOGGS. If the gentleman will continue to yield, I would also like to make a point about all ports. It has been pointed out to me that the Tenn-Tom, the Tombigbee Waterway, more or less parallels the Mississippi Waterway that, of course, ends up in the port of the city which I help to represent, the Port of New Orleans.

There was a study made by the Maritime Administration on middle American ports, and that study shows that we need to expand the port system throughout middle America, that there is enough activity right now to demand it, and the projected activity throughout middle America demands an expansion of ports. There is no way that the competition of the added workload from this particular project is going to hurt the Port of New Orleans. Consequently, the board of commissioners of the Port of New Orleans endorse the Tenn-Tom project.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. Mr. Chairman, the gentlewoman mentioned the situation of the developing countries, and that really is a terribly important element for us to keep in the forefront of our minds. The quintupling of oil prices between 1973 and the present has had a very grave, a very serious, a very critical effect on the economies of the developed countries of Europe, of the North American Continent, Australia, New Zealand, Japan. It has been serious. It has been critical. But the quintupling of oil prices in this period has had an absolutely tragic, devastating, destructive, and cruel impact on the economies of the nonoil producing developing countries of Asia, Africa, and Latin America.

Up until 1973 these countries were using their pitifully inadequate foreign reserves from the sale of commodities, whether it be rubber or tin, or whatever, for the purchase of food to help keep their people alive. These are the countries in which the population explosion is taking place at a devastating pace. A generation ago, every country in sub-Saharan Africa was a food-exporting country.

Today, because of their population increase, with its doubling over a generation ago and another doubling to take place by the end of the century, they are all food-importing countries, and they are using their pitifully inadequate supplies of foreign exchange to purchase food. With the quintupling of oil prices, that has become impossible. To keep their industries going, their street cars, their telephones, and their homes and factories lit, they have had to devote virtually all of their foreign exchanges to electricity. So as a matter of international civility, compassion, and decency, anything that we can do to make available the developing world alternatives to high-cost oil, to grant them some alternatives that will give them an opportunity to meet their energy needs 10 percent cheaper, or whatever—that will be an absolute godsend.

In terms of our breaking the power of OPEC, the strangulating power of OPEC, both as to oil price and as to oil supply in the world market, nothing could be more important for us to do today than to add a little bit to the economy of moving coal, not only in our own country, but also to the desperately poor nations of the developing world, to ease somewhat the tragedy under which they are laboring.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to my colleague, the gentleman from New Jersey.

Mr. PATTEN. The West, at the economic conference, said they want to double the use of coal by 1990. Has this been computed in the gentleman's reasoning, or is it an additional argument in your favor?

Mr. SCHEUER. That is absolutely right. That was an item last year in Japan, when our trading allies met there, and it is a high priority item this year.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the debate last week on this project would indicate, my primary concern is with the question of whether or not the local sponsors can, will, or have put up their share of the funding. And I would apply the same principle to all projects everywhere and all discretionary spending.

I have had a bit of time to look into the question of local sponsorship funding since our last debate, and I just want to touch upon two or three points. I suspect that the outcome of this amendment is no more in doubt than the outcome of the other. But I think it is necessary for the record to show that there was really never any thought, any real thought, on the part of the original local sponsors of being able to meet the obligations that would be put upon them. This is a report which includes the testimony of the attorney for the local sponsors.

> When the district agreed to sponsor the navigation project, the estimated non-Federal cost of bridge and highway relocation was $14 million.

We have had the discussion of that with the distinguished chairman of the full committee.

And this is the point I want to make:

> But even this funding—

The $14 million—

> was beyond the capability of the district. Therefore, the Highway Department—

Meaning the Federal Highway Department—

> agreed, subject to funds available, to assist in meeting this commitment.

We go on to another section of the report.

> The non-Federal cost of relocation of the highways and bridges will amount to nearly $100 million. It is apparent, says the attorney for the local sponsor, that the district does not now and has never had the financial capability of underwriting even a small portion of this expense. The most the district can do, even with frugal management, is to provide interim planning money to the Highway Department and to provide from anticipated growth of income the additional funds required.

□ 1220

Now, going on beyond this, it seems clear in testimony, in the report of the Appropriations Committee hearings for fiscal year 1981, part 9, that this was clearly understood by the committee.

I am now going to quote from the chairman of the full committee, in which he says—backing up just a paragraph before that quotation:

> Congressman Bob Jones from Alabama, as you recall, was chairman of the Public Works Committee and I discussed the problem with him. By that time highway safety specifications required bridges far beyond what was contemplated in 1946 and the cost has greatly increased. So we had to cure this problem and I am proud of this. If you will listen to it, you can see that it is a general law, which it had to be, but it surely had local application. It is section 132 of Public Law 94-280, which reads in part as follows:
>
> The Secretary is authorized to construct and to reconstruct any public highway or highway bridges across any Federal public works project notwithstanding any other provision of law where there has been a substantial change in the requirements and cost of such highway and bridge since the public works project was authorized—and so forth.

Skipping down:

> When we got this change in the law and it was written because of the Tennessee-Tombigbee—

That is the point I was going to make—

> the law was changed according to this statement. We got the change in the law. It was written in because of the Tennessee-Tombigbee.

Now, I do not want to reiterate all this. What I would like to ask is whether or not those of us who seem very concerned about local financing across the board everywhere, whether it would be too much to ask of this distinguished committee to provide us with an actual accounting of moneys spent that are real Mississippi-Alabama-Tennessee moneys and not Federal funds.

Now, I know they have spent $80 or $90 million; but if $85 million of that came from Federal highway funds has the local sponsor met their statutory obligations for local monetary participation. Is there any intention of meeting the requirements of the basic provisions of the original law which authorizes this project. We all know the requirements, half of the recreational facilities shall be paid for by the States, the upkeep and maintenance thereof, and so forth; but is there any hope or intention that the local sponsors will by the end of this project come even remotely close to what the House agreed upon initially?

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(At the request of Mr. WHITTEN, and by unanimous consent, Mr. FITHIAN was allowed to proceed for an additional 3 minutes.)

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to my friend.

Mr. WHITTEN. Mr. Chairman, may I say at the present time, the State of Mississippi is in the process of raising additional funds from the State to complete many of these bridges. The amount that the gentleman refers to is nowhere near the total cost of the bridges, but this project was authorized back in 1946 prior to the time we had these increased safety requirements and environmental laws that provide that we must protect our wetlands which, of course, is desirable. As an example, there is a bridge which is being built in connection with the Tennessee-Tombigbee Waterway which would be some 400 or 500 feet in length; yet the Fish and Wildlife Service has demanded that additional bridging be provided. The Congress recognized that in order to come up to the standards that were required by modern law the legislation would have to be changed to accommodate these new requirements.

May I say again, the gentleman likes to refer to this as a local project. It is only local geographically.

Mr. FITHIAN. It is a national project.

Mr. WHITTEN. It benefits 23 States; so to say this is a local project, it is not, but the local people do have an interest in it. They will pay substantial amounts that other States will not.

Mr. FITHIAN. Let me just clarify that point. When I say local sponsorship, I am talking about that local sponsorship which is required by law.

I have no argument that this is a national project. What I am talking about is the figures that we get in the Army audit, unpublished report, which says that the States of Mississippi and Alabama participation may fall short by as much as $170 million.

In the earlier report that I was referring to, the quotation says:

> Since its organization, the district—

That is, the local district sponsoring this—

> has collected in taxes from all counties slightly less than $5 million.

Now, granted, that has to be updated; but I go back to the main point. I am not arguing that we did not have additional requirements, additional expenses and all that.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. Yes. I will be happy to yield.

Mr. WHITTEN. The answer that I have here, and it is accurate, is that the local sponsors in Alabama and Mississippi have met all obligations for non-Federal participation on schedule and thereby have allowed the corps to proceed with construction in an orderly fashion. To date the sponsors have expended or committed funds for more than 78 percent of the total non-Federal relocation costs of $165 million. That is the status at present.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. Mr. Chairman, my point is this, and the gentleman cannot possibly fail to understand the question I am asking. My question is this: When they put up local funding and they take it from the Federal highway fund have they met the requirements of the law? I think not. You can say that is local funding, but if it is Federal dollars it is not local money.

What I want to know is how many Mississippi, Alabama, and Tennessee real local dollars are put into the project? Nowhere do I find the answer—and the committee still refuses to answer. What I do find is that Mississippi has put up less than $8 million and Alabama less than that.

Mr. WHITTEN. Well, I have given the gentleman the figures for the State. Now, the State has done that and not the local counties.

May I say to the gentleman, and I say this not facetiously on my part. I have the highest regard for the gentleman.

Has the gentleman tried to stop any other big projects in the country that are 70-percent complete? Does the gentleman actually think that is smart business? All the people have been dislocated. They have been moved away. The ditches are built, and the gentleman would stop it when 70 percent of the funds have been committed. Now, has the gentleman spoken against any other major project in the rest of the country as the gentleman is doing here?

Mr. FITHIAN. Well, let me just assure my friend from Mississippi, the distinguished chairman of the Appropriations Committee, that the gentleman from Indiana, FLOYD FITHIAN, is embarking now on a policy of questioning local parts of funding for all projects. That is all I am doing.

Mr. WHITTEN. Mr. Chairman, will the gentleman listen?

Mr. FITHIAN. I have heard the argument, whether it is 46 percent or 76 percent or 86 percent. I am asking a very simple question. How many dollars has Mississippi and Alabama and the local sponsors put up?

Mr. WHITTEN. Seventy-eight percent of $165 million, and they are in the process of raising the balance.

Mr. FITHIAN. Mr. Chairman, I am asking again: How many non-Federal source dollars?

Mr. WHITTEN. As far as I know, these are non-Federal source dollars.

Mr. FITHIAN. We both know that is not correct. The information from the unpublished Army audit and elsewhere, would indicate, that the overwhelming proportion of this money that is put up as State funds is from Federal funding programs.

Mr. WHITTEN. This is the total non-Federal; but may I repeat again, this project benefits 23 States and the rest of the country will benefit, too.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I rise with some little reluctance, because the chairman of the subcommittee, the distinguished gentleman from Alabama for whom I have the greatest respect and the gentleman is my friend, and the ranking minority member of the subcommittee, the gentleman from Indiana is a very competent person and my friend, and yet to me some very significant questions have been raised here about the claimed economic benefits of this project.

Ninety percent of the claimed economic benefits from the project are said to come from navigation benefits. If, as has been alleged, some three-quarters of those navigational benefits are, indeed, fictitious, then we do have a very serious problem with this project.

To me it is significant and kind of peculiar that the General Accounting Office, which is the investigative arm of this Government, of this branch of Congress, has not been permitted to conclude a study of the project, of its validity, of the cost benefits that are involved in it, and that before we invest such substantial additional amounts of money as we are talking about here, that that kind of a study should be undertaken.

☐ 1230

Just yesterday we voted to add some $700 million to this bill in energy-related projects. We have a chance here to take some money out of the bill on a project that I believe has serious questions raised about it and one which would really benefit from a GAO study.

I have not been a big advocate of studies. I think we kind of study things to death. But this never has been studied by the GAO, and I think it should be.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment.

Mr. Chairman, almost 200 years ago the Congress of the United States commissioned Alexander Hamilton to develop a blueprint plan for a developing country, the United States, so that it might be competitive with other nations of the world. Those plans, as they were sent into Congress, were known as the Hamilton Letters.

The No. 1 priority this commission developed was that the United States had to develop a good, economical transportation system in order that we might be able to move the products, the manufactured goods, the raw materials, from areas of the country where they did not exist to areas where they were needed, and thereby we might be competitive and be able to be a partner in trade with other nations of the world. As far back as that it was recognized that transportation was an important part of the development of this country.

Today we are still struggling, trying to get better, more economical modes of transportation. Now, today we are being asked to take a step backward at a time when we can ill afford to. We say we just want one more study.

A few months ago a very noted, outspoken man, Admiral Rickover, spoke before our subcommittee. He was comparing the United States and its lack of progress, unfortunately, with that of other countries. He said that the difference between the United States and other countries is that we have to study everything to death before we have the courage and the nerve to take action. Now we are asked today to stop ongoing construction, something that has been ongoing for some time, and move back. The suggestion has been made by the gentleman from Pennsylvania and the gentleman from New Jersey (Mr. MAGUIRE) that because of the cost increases we should stop or at least slow these projects down, which would only add, of course, to further cost increases.

It has been suggested that these cost increases are reason not to construct. Well, we are living right in the midst of one of the most massive public works projects ever contemplated or started by any nation, the Washington Metropolitan Rail System.

I do not remember ever having this question posed about stopping the expansion of our metropolitan system. Years ago when the gentleman from Kentucky (Mr. NATCHER) and I served on the committee together it was going to cost approximately $2.5 billion. I remember that the gentleman from Kentucky said we could never build it for that, it has got to cost more. Now it is projected at almost $8 billion and it is not yet half complete. I do not recall these people suggesting we stop this rail system after it started.

Also with regard to the Northeast Corridor rail development, which is vital for some of the Members that have spoken here, it was started 4 years ago at a projected cost of $1.3 billion. It has nearly doubled now and has been stretched out to 5 years to complete this project. I do not recall these people suggesting that we not build this upgrading and improvement of our rail system.

It would not be wise for them to do so. But now we are talking about a project that is well under way, half completed, and which will be able to move the raw material that this country needs so badly.

Your President suggested earlier this year that we should develop a better way of utilizing our coal in this country to supply the energy our country needs, and that we must get it into export. The other body has just acted to cause industry burning oil to convert to coal. How are we going to move the coal if we do not develop programs and projects like this?

Mr. Chairman, I think it is time for our country to move on in positive programs like this and to not just sit on center.

Yesterday this body overwhelmingly voted to increase funds by $107 million. They did that because there was a standing authorization committee supporting this. They ignored the appropriation committee and went with the standing authorization committee. The President, they say, advocated the increase in spending.

Today it is just the opposite. Is there one subcommittee or one committee of this House that favors cutting this project today? I have not heard a chairman stand up and say he was representing his committee. Has anyone said the President of the United States wants this cut?

Too often we have been penny-wise and pound-foolish.

Mr. PATTEN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I am happy to yield to one of the most outspoken members of the committee, the gentleman from New Jersey.

Mr. PATTEN. I would say to the gentleman that this committee has the best pair of scissors in the House as an example for helping the economy. Why does the gentleman give the wrong impression? Our committee has cut more money; they have cut every budget since I have been in the House. We are the champs. The gentleman knows that. We have had the best pair of scissors and we have dealt most effectively with cutting.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. Mr. Chairman, I thank the gentleman for sharing his scissors with us here for a moment today; he shares with us in committee quite frequently, and his years of experience here are sage.

Are we going to turn our back on experience like this? Are we going to turn our backs on education, the needs of this country, or the letters of Alexander Hamilton of almost 200 years ago saying that we must develop a good transportation system? I do not think this body today, this committee is going to take this action. But for those who are concerned and maybe feel a little bit guilty about the $107 million budget buster yesterday, I would say, do not think that this is an economy vote because my colleagues are going to have a couple of other opportunities today to make up the difference on that increase you voted for. We can still have a balanced budget and still have opportunities for economy. There will be other opportunities this afternoon, so let us not be penny-wise and pound-foolish by supporting this amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my colleague, a member of a very important authorizing committee.

Mr. CLAUSEN. Mr. Chairman, I want to support what the gentleman has been stating and add to it this very simple fact of life: As we look at the future we are going to be dealing with alternate transportation systems as a vehicle to move energy resources. Of course, in the next decade or so, with all of the emphasis being placed upon the bringing on line of coal, clearly this particular project will make a significant contribution to that particular section of the country.

I think in the past there has been too much of a tendency to overcentralize. Here is the potential of decentralizing with the arrangement of a transportation network utilizing the navigation system of that particular area.

It should be noted, Mr. Chairman, that the work below Demopolis, Ala., has not yet been authorized. Thus, it is not under consideration today.

The Tennessee-Tombigbee project that is authorized by the Congress has a remaining benefit-to-cost ratio of 2.5 to 1. I would hope that my colleagues would focus on the issue before us in this bill. The project is 50 percent complete. It will provide low-cost water transportation to an area that is rich in coal reserves. It will serve an area that has suffered from economic depression for many decades. Over $800,000,000 has already been appropriated and I believe it is prudent policy to move forward toward completion.

I urge my colleagues to consider their vote carefully. If they do, as I have, it will be clear that the facts on this project are favorable.

Mr. MYERS of Indiana. I thank my colleague for his comments. Again I say to my colleagues stay with the committee and its years of experience and examination that we have had. Let us not ask for another study that only adds to the burden of the country which is already overburdened with problems we have today.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. There are several things we ought to ask ourselves before we vote to stop a project that has been authorized by Congress, studied by Congress, appropriated for, and begun.

In the first place, we need to ask: Does it make sense to get a project half constructed and work well begun on about 80 percent of it, and then cut it off in the middle of the effort? Does that not waste a lot of the money that already has been spent on behalf of the taxpayers?

A second question we really need to come to grips with is just why some people make careers out of opposing water resource developments in other people's parts of the country.

□ 1240

I have never quite been able to understand that except by the fact that railroads have historically opposed all water resource development. The interesting thing is that those railroads that lie alongside developed navigable waterways are the only ones that seem to be making a viable living in today's world, while the others are losing money. So the creation of additional wealth through the means of our navigable waterways program has been good for all of us, including those railroads who shortsightedly oppose all navigation projects. In this instance, it is clear that the litigation and costly delay have been the work primarily of one railroad.

So let us ask ourselves about this particular project. It has a 2½-to-1 benefit-cost ratio. That means for every dollar we put into it, the American people can reasonably expect to reap at least $2.50

in calculable benefits. Has the Corps of Engineers been overly protective of these projects? Has the corps been unrealistically optimistic? It certainly has not in the past. If you examine the history of the very conservative criteria applied by the Corps of Army Engineers, you will discover that they have been extremely the reverse.

You will discover, for example, that the Gulf Intracoastal Waterway was originally projected by the Army Engineers to generate a total of some 7 million ton-miles of commercial freight a year. It was on that basis that the corps decided that it was economically feasible. Last year it generated not 7 million ton-miles but more than 100 million ton-miles of commercial freight.

While somewhat less dramatically, the same thing applies when we look at the other waterways. The Arkansas and the Red River, the navigation projects along the Ohio River, and all the other waterway developments have, indeed, paid for themselves many times over.

Now let us ask a third question. Has the day of navigation development ended? Is it passé? I think not. The imperative demands of energy conservation make it more vitally necessary than it ever has been in the past. A given quantity of gasoline or equivalent fuel—listen to this comparison—will move 1 ton of freight 5 miles by air, or 15 miles by truck, or 66 miles by rail, or 333 miles by barge. Far and away the most energy efficient means of moving commercial freight is by barge.

In a time when the most imperative demand upon us is to conserve energy, surely it makes sense to finish this project and to develop all of the developable navigable waterways in our country to move the freight, the food, and the fiber that make us a great Nation.

Already in the last 5 years more than $1.5 billion have been invested by private interests, by individual businesses, along the navigable waterways of the Tennessee-Tombigbee. If you want to talk about local investment, let us talk about private business investment.

More than $1.5 billion have been invested by people who see in this an opportunity to create organisms of employment in that relatively underdeveloped, southeastern part of our Nation that deserves and needs its long-delayed opportunity to realize its full economic potential.

So I urge the defeat of this amendment.

Mr. EDGAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 5 additional minutes.)

Mr. EDGAR. Mr. Chairman, the distinguished majority leader has just left the well of the House in opposition to this amendment, and in his opening comments he indicated that 80 percent of this project had been completed. Our colleague, the chairman of the subcommittee, indicated in a "Dear Colleague" letter, and I quote:

> The project is 50 percent complete, and 80 percent of the funds will be committed by the end of 1980.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

I think the gentleman attributed to me a comment. I hope I did not say it was 80 percent completed. What I intended to say and what I think I said was that it was about 50 percent completed, and that work has been begun on about 80 percent of it.

Mr. EDGAR. I thank the gentleman for his clarification. The two statements, that by our majority leader and also that by the chairman of the subcommittee, are on crucial points being made in debate on the House floor. Let me try to clarify the facts as given to me by the Army Corps of Engineers. Let me specifically share them with you. Let me clarify for those who are still listening to the argument the following facts given to me by the Army Corps of Engineers.

First, as of the end of 1980, $876 million will have been spent on the initial phase of the project, the project from Pickwick, Tenn., to Demopolis, Ala., and that comes to 45 percent of the initial project cost. If you use the ultimate project cost as estimated by the Army Corps of Engineers in its January 28 statement to this very committee, that represents only 29 percent of the actual cost of the project, or the ultimate cost, has been completed.

The term "committed funds" has been used on several occasions. "Committed funds" has been thrown around here, and I would like to clarify it. It may be true that the corps has committed more money than the $876 million, but that money has to be appropriated. Those contracts have to be met with appropriated dollars.

If we look at what the corps has actually done on the project from Demopolis up to the top of the waterway, we discover that only 56.7 miles out of 232 miles have in fact been completed, and that is far less than 50 percent.

But let us clarify some specific facts. The total cost of the ultimate project from the top of this map to Mobile, Ala., is $3.03, as indicated by the Army Corps of Engineers. The estimated cost of the initial project above Demopolis is $1.925 billion as estimated by the Army Corps of Engineers. One billion dollars will be necessary to straighten out some of the crooks and crevasses of the river below Demopolis. These are not Bob Edgar's figures; these are figures estimated by the Army Corps of Engineers as late as January 28 of this year. This document is available for all to look at.

Some would say the construction below Demopolis is not necessary. Let us be clear. Eight-tow barges taken from Pickwick, Tenn., to Demopolis can in fact not get below Demopolis unless they are broken up into four- and possibly six-tow barges. At present only 8 percent of the tows below Demopolis are six-tow barges, and the Army Corps of Engineers has criteria which they use to decide whether or not six-tow barges can make it around bends in rivers. The Army Corps of Engineers says that the waterway below Demopolis cannot be an important waterway unless you straighten out some of the crooks and crevasses simply because six-tow barges cannot go below Demopolis at any considerable rate of speed and pass along the way because of the many turns.

Waterway user fees have been talked about, and one of the gentlemen mentioned that a number of miles of waterway will in fact be covered under waterway user fees. Remember, none of the areas on this map from Pickwick to Demopolis are covered by waterway user fees. The area that the gentleman mentioned is below Demopolis because that is an existing waterway that takes four- to six-tow barges.

Also, cost savings from moving coal have been talked about on the House floor. You cannot have it both ways. Either you export the coal that has been moved south and lose U.S. independence in energy, or you do not export the coal. And if you do not export the coal, the movement of coal south to Mobile, then the project's benefits simply go out the window because one of the major elements of the project benefits is southbound movements of goods and the southbound movement of coal.

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Another comment that has been made is about GAO studies. The chairman of the subcommittee yesterday in opposition to the energy amendment waved before us many GAO studies which spoke of the inefficiencies of solar energy.

Mr. Chairman, we had an ongoing study of this project by the General Accounting Office. But that particular report was, in fact, suppressed.

Mr. Chairman, I would like to also remind my colleagues that, in the total estimated cost of the project, there are some hidden and unreported costs. We heard from our colleague from Indiana about a hidden cost, that almost $100 million of the local share has been provided by Federal dollars.

Mr. Chairman, an unreported cost of the project is the cost for fish and wildlife mitigation, which has not been factored into the estimates for this project.

I would also remind the chairman about the operation and maintenance cost of the project, which will be an ongoing annual cost. If we do not have waterway user fees and if we are not getting local cost sharing and we now have to come up with continual operation and maintenance funds, the Federal Government is going to be committed to this project for years.

Mr. Chairman, I would also like to point out to my colleagues the fact there are recoverable costs. If in fact we hold the project this year to $25 million, which is a large amount of money, given the fact that 281 projects in this bill do not even get that amount of money, and you add to that the $58 million we authorized in the fiscal 1980 supplemental bill, you have enough to keep the project percolating until the questions of my colleague from Washington are fully answered by the General Accounting Office, by the authorizing committee, and by those agencies responsible for this project.

Mr. Chairman, some will argue that if we shut this project down by cutting $200 million, that somehow we will put 2,840 employees out of work. That is an estimate. It is not Bob Edgar's estimate, it is the Army Corps of Engineers' estimate of how many people are working on the project as of June.

Mr. Chairman, if in fact you divide the $225 million that is going to be spent this year by those 2,840 employees you get something around $80,000 per employee, and that is not a job creation project of reasonable nature.

Mr. Chairman, I think the bottom line is this: Regardless of the assertions, regardless of the information that has been passed back and forth, I think it has been made clear by the 2 hours of debate today and by the debate last week, that there are many questions yet to be answered about this project. The logic of throwing good money after bad escapes me.

Let me remind my colleagues if we do not answer these questions accurately we are committing ourselves to $2 billion of additional funding. Much of the money already spent on the project can be recovered either through the resale of land or by completing the project to Columbus. Part of the $25 million we will appropriate, if our amendment succeeds, can be used to complete the project to Columbus and there will then be a usable waterway from Columbus to Demopolis, and to Mobile in smaller tows.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDGAR. Mr. Chairman, I request unanimous consent to be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BURGENER. Mr. Chairman, reserving the right to object, and I shall not object, the gentleman has spent a lot of time on this. We have been over this ground so many times I would be hopeful this might be the last extension.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EDGAR. Mr. Chairman, does it make sense to spend $250 million every year through the rest of this decade just because we have already spent money on this project? We must account to the public for the $700 million to $800 million we have already spent, but we will also have to account for the $2 billion of public taxpayers' money which has not yet been spent. The latter responsibility must prevail.

Mr. Chairman, I think the amendment of the gentleman from Washington is a critical amendment. It simply provides that we reduce by $200 million the funding for this project and that we move expeditiously to get a GAO report to answer the questions.

Mr. Chairman, finally let me say this: I did some analysis of the $1.6 billion we are appropriating in this energy and water bill today. I do not know how many of us are aware, but 8 projects received one-third of that $1.6 billion, even though there are 289 projects in the bill. One-third of the $625 million that is being spent by only eight projects is going to this one project alone. Mr. Chairman, if we search the record we discover the next highest project in the shopping list of projects is for $99 million, a far cry from the $225 million of public funds being spent here.

Mr. Chairman, I would hope we would be sufficiently intelligent to pause, to look at the questions, to analyze the issues and focus our attention on supporting this amendment.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman and I serve on two different committees. A while ago, in referring to the coal slurry pipeline, the gentleman left an inference which I am sure the gentleman did not mean to leave that he was extolling the virtues of the coal slurry pipeline when the gentleman as a matter of fact led the fight that beat the coal slurry pipeline in our committee.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Edgar was allowed to proceed for 1 additional minute.)

Mr. EDGAR. I thank the gentleman for raising the issue. I will just remind the gentleman I raised the issue last week in committee: How can we invest $225 million in this waterway when one of the proposed lines of the coal slurry pipeline is along this same corridor.

Mr. Chairman, I agree with the gentleman. I led part of the fight, although I allowed the bill to come to the House floor for full debate and full discussion against the coal slurry pipeline. We are going to have a rail line, a coal line, and a barge line all transporting coal, some of which does not exist.

Mr. Chairman, I yield back the balance of my time.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall take but a few minutes. I want to make one or two points with reference to this project.

A comparable project about 40 years ago was the Texas Intercoastal Waterway Canal which connected Texas and Louisiana with some of the other canals. By the most optimistic estimates, we would handle 10 million tons per year of freight. Last year the Texas Intercoastal Waterway handled nearly 200 million tons.

The Tennessee-Tombigbee is probably just as important and will probably handle more freight, more tonnage than the other waterway. It means the difference in this area of cheap freight and high freight. Those of us who were here when the distinguished Senator from Oklahoma, Bob Kerr, put a harbor and navigation up a little creek at Tula, Okla. I just laughed at him. If you go there now, it is no laughing matter. They are unloading steel $5 a ton cheaper than you can buy it in Dallas. These projects work for everybody—especially the consumers and shippers.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Oklahoma.

Mr. WATKINS. As I told some of the reporters from the State of Oklahoma who were questioning me about the Tennessee-Tombigbee, I used the example right there that the gentleman just stated, that the Arkansas River was unlocked, giving navigation throughout this world to an area that was depressed in the economy of this country but Senator Kerr in his vision and with the help of this Congress and this Nation we unlocked that.

Mr. Chairman, I want to thank the gentleman for bringing this to our attention.

Mr. ROBERTS. Mr. Chairman, I sincerely hope my colleagues will vote overwhelmingly for the Tennessee-Tombigbee resolution and against this amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I will be happy to yield to the gentleman from California.

Mr. CLAUSEN. There have been references made to that segment of the project down to the so-called Demopolis area. I would like to ask the gentleman from Alabama, the chairman of the Appropriations Subcommittee, and I could also refer the question to the gentleman who is the chairman of the authorizing committee with whom I share the responsibility, whether or not that particular segment which has been referred to as though it is a part of the appropriation factor, has ever been authorized. To my knowledge, it had never been authorized.

Mr. BEVILL. The gentleman's committee and the Congress has not authorized that as part of this project. These gentlemen know that. We went through this same debate last week. I do not know why they continue to discuss this $1 billion in connection with the ongoing authorized project. They are talking about a project that is not authorized.

Mr. CLAUSEN. I thank the gentleman for yielding, Mr. Chairman, to verify this. I have heard this comment being made and I could not recall ever having witnessed the authorization of that particular segment.

Mr. ROBERTS. I thank the gentleman and yield back the balance of my time.

□ 1300

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I ask my colleagues to stop a minute and reflect on what we are being asked to do; we are being asked to throw away those expenditures for this project which will be committed by the end of this fiscal year. By year's end almost 80 percent would be committed and I cannot believe under any consideration that anybody could think that throwing away money is saving money.

I do not believe anybody has had more interest in saving money than I. I have long been a member of the Appropriations Committee and I am now very fortunate to be chairman of the committee. As my colleague from New Jersey said, 36 out of the last 37 years the appropriations have been below the budget requests for the various programs and projects funded by the Federal Government. I do not know anyone who has been a stronger supporter of the budget process than I, or who realizes that we have some very competent Members of Congress on the Budget Committee.

We have all worried about finances, and inflation, but the only answer we have to maintain economic wealth, is to maintain the real, natural wealth of our country. I am proud to stand here and say that I have had a part in overriding recommendations of Presidents 28 times out of 28 on watershed programs, on forestry programs, on navigation programs all in an effort to maintain our wealth of resources.

I am proud to say that when this same need existed for Bonneville Power, I stood on the House floor and fought for the Bonneville Power which is in the gentleman's area, and last week I introduced a new bill to take care of the Mount St. Helens volcano problems he has. I have never tried to delete funding for projects for all the years I have been here, that are thousands of miles away from me, because I figured that the man who lives there would know more about them than I would know.

So, let me say to my colleagues that we are talking about a project that serves and benefits 23 States. We are not talking about the outset of this project; we are talking about a project that has been approved by Congress 8 times out of 8, and on a smaller scale 13 times out of 13 times. We are talking here about a project where the people have been dislocated, where they have had their roads cut in half, where they have had their farms cut in two. They have had all the ill effects, and now before they get to the good results they want to stop, for all practical purposes, something that is about 80 percent complete. How that could be sound business to anybody from any area of the country I cannot see, unless they have got some friends who think they have an interest in it.

In so far as the railroads are concerned, I am in support of the railroads of the country. Look in your own area. Look in the Red River area; look in the Arkansas River area; look in the intracoastal waterway; see how much activity they generate in private business, in taxable income, in increased rail transportation. Why then are we talking about an amendment which would stop a project that benefits 23 States? Why are we doing that? I read in the paper—although I do not subscribe to everything I read—but I read where one of the major parties is at least talking about a plank in the platform that would phase out nuclear energy. Do we want to eliminate a project that would open up coal production at the very time when everybody is turning to coal? We are talking about a big coal section of the United States that will be opened up by this project.

Of course, my colleague, the chairman of the subcommittee, who has done a marvelous job for not only this section of the country but for every section of the United States, is going to say that this bill is within the budget ceiling. Some years ago, and I am proud of this, President Eisenhower vetoed the public works bill because it had 63 new starts in it. He said that we could not afford it with all the financial problems we had. I made the motion that carried, the only time he was overridden, and I use his very own statement in his veto message: The more we owe, the greater our problems; the greater inflation, the greater our monetary problems, then the more imperative it is that we take care of our country. That is the reason I stood here 28 times to save soil conservation, forestry, and navigation projects. I was then as I am now interested in helping the Northeast part of the United States when they had to withstand all those attacks against the St. Lawrence Seaway. I was standing here when they set out to stop the Bonneville Power in the Northwest, which has made it one of the great sections of this country, and we would be in a whale of a bad fix today without it.

Yes, and I remember when they said we were being ridiculous to build the Interstate Highway System. Would we not have been in a bad way if we had been so shortsighted as not to have the Interstate Highway System? Members say that is something different. It is an asset of this country.

I say to you, when we are dealing here with the Tennessee-Tombigbee, that this section of the country is getting what the other regions of this country have, and it contributes to the entire country. I know we are Representatives from particular districts, but I hope we are Representatives of the United States of America.

Mr. Chairman, do not be led off by a whole lot of statistics and figures that we cannot identify. What we are being asked to do is stop a big national project that is 80 percent committed.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman of the Committee, I want to assure the Committee that I have not gotten into this lightly. I have not made a career out of attacking projects. As a matter of fact, in 8 years I have rarely taken the well to speak.

Mr. WHITTEN. Will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I have the highest regard for the gentleman but I have not heard him attacking any projects in his area either. He did not speak against the work I proposed for the State of Washington when I introduced the fiscal year 1980 supplemental appropriations with the disaster relief funds in it. I believe it was necessary for the House to act to this serious situation.

Mr. PRITCHARD. I appreciate the gentleman's responsible act, and I would only say again, what we are trying to do is make sure that Congress is allocating its resources and projects in the most favorable way.

Mr. WHITTEN. If the gentleman will yield further, does Bonneville have any surplus power they could spare us?

Mr. PRITCHARD. We are sending it down to California right now.

Mr. WHITTEN. We in the Southeast are a little bit far from there. That is the reason why I wonder why the gentleman is so interested in this project especially when funding is committed to about 80 percent of the cost. While the benefits are in the future, we have got the troubles now. People have been dislocated, highways have been cut in two. Do not stop us at that point.

Mr. PRITCHARD. I guess the point is whether we who do not live in an area should question it. It is not easy that I come before you in this task. I did not welcome taking on this chore.

I have not made a career out of attacking projects, but as a former businessman and somebody who knows something about port activity, I kept seeing things that bothered me, and the further I got into this project the more I felt that we should get some answers.

Mr. WHITTEN. Around home? The things you saw, were they around your district or somewhere else?

Mr. PRITCHARD. You mean as far as——

Mr. WHITTEN. You said you saw certain things that worried you. You were in business; you were dealing with navigation and dealing with harbors. Did you see anything around your home that had problems?

Mr. PRITCHARD. I saw things in this project, and since it is a very large, expensive job, I thought we ought to get some answers. That is all I am asking for the chairman to do. I do not think I have abused my time here in 8 years as far as talking on the floor.

Mr. WHITTEN. I wish the gentleman had not saved it up for this occasion, but that is all right.

Mr. PRITCHARD. Let me just say a few things here.

Mr. WHITTEN. May I say to the gentleman, I believe you are enjoying this a whole lot more than I am.

Mr. PRITCHARD. Well, I think one thing is very clear, and I hope everyone in Congress realizes that we now have a different set of circumstances. It came out when the gentleman from Alabama said that he did not favor finishing the bottom part of this canal.

□ 1310

That is a major change. If you turn to the barge people and you talk to the coal people, they say there is not any way this will work. And as I get the Army Corps of Engineers projections for how they are going to move this tonnage, they always included straightening out the bottom part of the canal. Now, he said or inferred that if people do not want it, they will fight it. I think that is very serious.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield further?

Mr. PETRI. I yield to the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, referring to the gentleman's statement, there is no fairer Member of Congress than the gentleman who was speaking or the gentleman from Alabama, but if the project was 80 percent completed, I will bet you that he would have been for it.

Mr. PRITCHARD. Mr. Chairman, I would have to say the project is not 80 percent completed.

Mr. WHITTEN. In his area, if it was already about 80 percent completed, he certainly would not be opposed to it.

Mr. PRITCHARD. The gentleman from Alabama is a fine representative, and I know he is always going to do what he thinks is in the best interest of the country.

Mr. WHITTEN. I agree that both of you are. We are just trying to straighten you out.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman.

The CHAIRMAN. The Chair will state that the gentleman from Wisconsin (Mr. PETRI) controls the time.

Mr. PETRI. Mr. Chairman, I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I thank the gentleman for yielding.

I really do not want to prolong this discussion at all. I would say that my people in the area south of Demopolis are not excited about the prospect of straightening out those curves down there. But the point here is that, with the b-c ratio, those who support that project—and I have supported the Tennessee-Tombigbee all the way through—never contemplated spending a dime south of Demopolis. We never contemplated that.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. PETRI) has expired.

(On request of Mr. EDWARDS of Alabama, and by unanimous consent, Mr. PETRI was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of Alabama. Mr. Chairman, if the gentleman will yield further, there has never been a request to the authorizing committee to spend a dime on any of this project. Sure, it has been discussed, but it is not going to happen. So anytime we talk about $3 billion, we are not talking about the right figure, and I would reiterate that the b-c ratio we have been talking about all the way through this debate has not involved itself in that area south of Demopolis, because that is not where the construction is. There is not a dime's worth of construction on this project in my district.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield further?

Mr. PETRI. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, let me just conclude by saying the ultimate project, as the Army Corps of Engineers stated on January 28 of this year, will be built all the way to Mobile, and there is $3 billion 30 million in it. Now, I just think there have been enough questions asked to the point where it is legitimate to have the GAO complete the study that was halfway done. And that is a fact. It was halfway done, and it was stopped. I know it was stopped because the excuse was used that it was under litigation, but the GAO has turned out a number of reports when it has been under litigation.

I think it is fair to get these questions answered. That is all I am asking for. We allowed $25 million to go with the $58 million, so that they are going to keep on until we get that report.

Mr. Chairman, I promise the gentleman that if that report comes out favorable, I will be the first one in the ranks voting for it.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, I appreciate the commitment on the part of the gentleman, but he can also take credit for the hundreds of millions of dollars he would have cost us by this delay.

Mr. PRITCHARD. I do not think it is going to cost that amount.

Mr. WHITTEN Is the gentleman willing to take that responsibility?

Mr. PRITCHARD. I do not think it will cost hundreds of millions of dollars to have a report completed in the next 3 or 4 months.

Mr. WHITTEN. Mr. Chairman, does the gentleman realize that the Congress has passed on this for about 8 years—13 years overall? We have had all these reports, and it has been in court six times.

The gentleman is just a little late, unless the gentleman wants to endorse a note for the cost he will add to it by these delays.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to make these remarks as brief as I possibly can. I realize that we are tired. We spent 2 hours on this same question last week, and I think all the Members are pretty familiar with this project now.

Of course, yesterday we added some $107 million to this bill, and the bill is now over the budget, but I have checked with the members of this subcommittee, and we are in agreement that we should accept the Miller of Ohio amendment providing for a 2-percent cut. This will put the bill under the budget.

So I want to make that point clear, because we are going to come out of this Chamber under the budget, and with the Members' support, the Tennessee-Tombigbee will continue, just as it has been for 10 years. And it will be completed by 1985 or 1986.

Mr. Chairman, let me just point out that we have heard many things quoted here. We have heard the allegations that have been made, and I do not know where the gentlemen got their information. I do know they are honorable gentlemen. I know they believe everything they say because I know they have been told these things.

But I also know that the information I have has come directly from the people who are building the project, the U.S. Army Corps of Engineers, and I do not believe any member of the U.S. Army or any officer of the U.S. Army is going to come before a congressional committee, as they have been doing all these years, and misrepresent the facts. I just do not believe that any officer would jeopardize his whole career by coming up here and making false statements.

So I asked the corps about this since these allegations came up. They say the allegation of the navigation benefits from the project are not valid, and that specifically benefits are claimed for firms that are no longer in business and firms that indicated they did not plan to use the project are not valid.

I would like to share with my colleagues responses to many of these allegations which were prepared by the Corps of Engineers and which I will place in the RECORD at this point:

ALLEGATION

The navigation benefits for the project are not valid. Specifically benefits are claimed for:

1. Firms that are no longer in business.
2. Firms that indicated they did not plan to use the project.
3. Projected movements that did not materialize.

RESPONSE

In 1975, A. T. Kearney, a recognized management consulting firm, conducted a traffic survey and provided the Corps with updated navigation benefits for the Tennessee-Tombigbee Waterway. Although approximately 1,000 shippers were contacted concerning present and future commodity movements which may have potential for utilization of the waterway, 121 movements were accepted for the traffic base on the economic rationale that, if the savings via the TTW were sufficient, a company would utilize the TTW.

It must be noted that a study of this type only uses the traffic base as an indicator of the economic situation at the time and is not intended to be a market survey to identify specific future users, as the opposition would like you to believe.

One must recognize that markets and sources of raw materials for companies are subject to change because of competition within the private sector. While some of the originally identified shipments in the traffic base may not later utilize the waterway because of these changes, shipments by other companies not previously identified obviously will use the waterway because of these same changes.

Evidence gathered by the Committee over the years has indicated that, rather than overstating the tonnages that move on a navigation project, the Corps has historically been conservative in its estimates. Specific examples are as follows:

"The Summersville Reservoir, West Virginia, was estimated to cost $46,800,000 with a benefit-cost ratio of 2.6 to 1. This project was completed in 1965 at a cost of $48,746,000. The average annual value of the flood control benefits have actually been nearly four times greater than the 1959 estimate while the actual number of annual visitor days is nearly two and one-half times greater than the 1959 estimate.

"The West Branch Mahoning River Reservoir (now the Michael J. Kirwan Dam and Reservoir) in Ohio was estimated to cost

$6,940,000 with a benefit-cost ratio of 1.3 to 1. While the cost to complete the project was $17,355,000, two and one-half times the 1959 estimate, the average annual value of the flood control benefits have actually been over 10 times greater than the 1959 estimate.

"The Wilkesboro Reservoir (now the W. Kerr Scott Reservoir) in North Carolina was estimated to cost $8,350,000 with a benefit-cost ratio of 1.2 to 1. This multipurpose project was completed in 1963 at a cost of $8,990,000 and has produced average annual flood control benefits over 8 times greater than the 1959 estimate.

"The Hunt-Lima Levee and Drainage District, Illinois flood control project was estimated to cost $5,420,000 with a benefit-cost ratio of 1.8 to 1. This project was completed in 1971 at a cost of $4,772,000 and has produced average annual flood control benefits over seven and one-half times greater than the 1959 estimate.

"The Yazoo backwater, Mississippi, flood control project was estimated to cost $30,900,000 with a benefit-cost ratio of 2.2 to 1. While this project is still under construction, the average annual flood control benefits to date are over three and one-third times greater than the 1959 estimate.

"The Intracoastal Waterway-Caloosahatchee River to Anclote River, Florida navigation project was projected to cost $6,860,000 and was expected to serve 284,800 tons of waterborne commerce annually. The project was actually completed in 1967 at a cost of $7,357,000 and has served 1,505,300 tons of waterborne commerce annually, over five times greater than the amount estimated in 1959.

"The Buttermilk Channel, New York navigation project was estimated to cost $1,551,000 and was expected to serve 252,000 tons annually. This project was completed in 1965 at an actual cost of $1,048,000 and has actually served 1,000,000 tons annually, or nearly four times greater than the amount estimated in 1959.

"The Dillingham Harbor, Alaska, navigation project was projected to cost $412,000 and was expected to serve 40,000 tons annually. This project was completed in 1960 at a cost of $549,000 and has actually served 118,000 tons annually, or nearly three times the amount estimated in 1959.

"The Kahului Harbor, Hawaii, navigation project was projected to cost $963,000 and was expected to serve 178,000 tons annually. This project was completed in 1962 at a cost of $1,379,000 and has actually served 600,000 tons annually, or over three times the amount estimated in 1959."

ALLEGATION

The projected tonnages of coal to be moved on the waterway are unrealistically high and artificially inflate the navigation benefits.

RESPONSE

This allegation is without merit. The Corps, on its own volition, undertook a separate coal study after the results of the A. T. Kearney study were known. This study was conducted by the 3R Corporation and required them to assess the coal reserves in the areas identified as origins in the Kearney study, and the present and future market demands for coal in the destination area. The results of the study confirmed that both adequate reserves of coal were available and the market demand for the coal would exist in quantities comparable to those forecast by Kearney. Further, the 2R study examined the mineral content of the reserve coal and found it to be compatible with the requirements of the users in the market.

The President, on 8 May 1980, directed the Department of Energy to chair an Interagency Coal Export Task Force to examine the challenges posed by potentially huge increases in the need for coal by our major trading partners. This future demand looms even larger than was the case during the A. T. Kearney and 3R Corporation studies.

ALLEGATION

"Dramatic increase in project width and design without explicit Congressional authorization."

Increase from 170 feet to 300 feet in width.

RESPONSE

In 1967, the Secretary of the Army exercised the discretionary authority granted him in P.L. 79–525 in reference to H.D. 486, 79th Congress, 2nd Session, and increased the project width from 170 feet to 300 feet. On March 30, 1967, the Secretary informed the Public Works Committees and the Appropriations Committees of both Houses of Congress relative to this exercise of discretionary authority. All subsequent submittals to Congress by the Corps have been based on the 300-foot-wide project.

The Environmental Impact Statement which was submitted in 1971 was based on the 300-foot-wide project. The EIS was discussed on the floor of the Senate that same year and was found to be adequate in a lawsuit which was decided by Judge William Keady, U.S. District Judge for the Northern District of Mississippi. This decision was affirmed by the Fifth U.S. Circuit Court of Appeals in 1974.

More recently, opponents have alleged in an ongoing lawsuit the inadequacy of the Secretary's discretionary authority. This allegation was the subject of an evidentiary hearing in January and February 1979 before Judge Keady. The District Court found the plaintiff had knowledge of the width change for a number of years and had waited too long to challenge this action. It should be noted that in 1967 the Association of American Railroads, through a Committee chaired by the L&NRR, specifically raised the issue of the project width increase in a hearing of the Appropriations Committee.

Also the attorney for the plaintiffs in the first lawsuit in 1971 stipulated that the width of the waterway was 300 feet. This same attorney represents the plaintiffs in the present lawsuit. The Court also found that the other engineering design changes were a proper exercise of the discretionary authority of the Chief of Engineers. This opinion was also affirmed by the Fifth U.S. Circuit Court of Appeals on 24 March of this year.

ALLEGATION

The requested supplemental amount will be used to accelerate the construction schedule.

RESPONSE

The FY 1980 Supplemental is required to meet the needs of ongoing contracts. Without the Supplemental many contractors may have to shut down, laying off many of the 2,800 private-sector employees working on the project, and incurring inefficiencies and costs (both to contractors and to the Government) associated with a shutdown. No acceleration is intended with the FY 1980 Supplemental Appropriation. The FY 1981 amount proposed by the Committee is $225 million, the full capability of the Corps of Engineers. This amount would permit advancing project completion from September 1986 to September 1985. Not only will this earlier completion result in realizing the benefits of the project one year earlier, it will also prevent the increase in cost from one additional year of inflation. Instead of increasing the costs, as the opponents would have you believe, the opposite is true.

ALLEGATION

Funding of contractors' accelerated activities, including overtime, multiple shifts, etc., will increase project costs.

RESPONSE

The argument that the contractors' accelerated work utilizing overtime, multiple shifts, etc., will increase project cost is in error. The fact is that the contracts are fixed-price contracts and the contractors are merely trying to offset the ravages of inflation in fuel, material, and labor costs by an earlier completion of their contracts.

ALLEGATION

There was suppression of a massive cost increase.

RESPONSE

The opponents' allegation that the Corps has suppressed massive cost increases simply is not true. The cost estimate for the Tenn-Tom project always has been prepared in accordance with the then-current criteria and represented the best estimate based on the information available at that time. In 1975, in light of the then-rapidly escalating costs in the construction industry, the Corps carefully examined its most recent bid experience nationwide and undertook a year-long study of the Tenn-Tom cost estimate as well as benefits. The Appropriations Committee were advised of the study. As a result of the study, the cost of Tenn-Tom reported to Congress in January 1976 increased $545,000,000 from the previous estimate.

More recently, the Office of Management and Budget revised the procedure for estimating total project costs to include the effects of inflation on the outyear construction period. This procedural change has again caused the cost of the project to rise substantially from the previous estimate.

The increased funding needed during the current fiscal year is a direct outgrowth of the fuel cost escalation over the past ten to twelve months. This fuel escalation was not anticipated during the cost estimating period last year, and in particular the contractors' acceleration of contract activities were not foreseen. This phenomenon is, however, not confined to the Tenn-Tom; it is a feature nationwide affecting contracts and projects with heavy fuel dependence. This phenomenon was first detected last October-November, and explained to the Congress (both Appropriations Committees) in December 1979. It was, of course, reflected in the President's January 1980 request for a supplemental appropriation.

ALLEGATION

To make the Tenn-Tom Waterway a functional project, over $1 billion must be expended on the lower Tombigbee River.

RESPONSE

The initial project for the Tenn-Tom Waterway, as reported to Congress each year since 1976, has had and continues to have a favorable B/C Ratio. This project, as discussed in the 1976 Economic Reanalysis Summary, includes only currently authorized work on the Tenn-Tom Waterway and the connecting Black Warrior-Tombigbee Waterway south of Demopolis, and will, as currently being constructed, be a fully functional and economically viable system.

There is a study underway which is considering certain modifications to the Black Warrior-Tombigbee Waterway which could increase the economic efficiency of both waterways. No proposal for or authorization of these features had been made at that time. The ultimate benefit/cost ratio, as noted by the Corps includes the cost and benefits of these unauthorized modifications.

Justification Data Presented 28 January 1980:

Remaining B/C Ratio of Authorized Project: 2.5 to 1.

Remaining B/C Ratio of Potential Ultimate Project: 2.3 to 1.

ALLEGATION

The Tombigbee River between Demopolis and Mobile is a narrow, tortuous river incapable of handling the six barge tows utilized by the Corps in the economic justification of this project.

RESPONSE

This allegation is completely without merit. The Tombigbee River between Demopolis and Mobile is a part of the authorized and operational 200-foot-wide Black Warrior-Tombigbee Waterway (BWT). Evidence presented in the 1979 evidenciary hearing before U.S. District Judge Wm. Keady showed that the portion of the Tombigbee River in question is, for the most part, actually wider than 300 feet. Further the evidence presented showed that the Corps took into account the numerous bends in the river by reducing the average speed of the tows moving through this segment of the BWT. Testimony also established that the so-called design tow for a 200-foot-wide waterway such as the BWT is a six-barge tow—exactly the size utilized by the Corps in its analysis.

ALLEGATION

The Corps of Engineers has proceeded with the project in the absence of the legally required mitigation plan under the Fish and Wildlife Coordination Act. Opponents indicate that the U.S. Fish and Wildlife Service estimated that between 118,000 and one million acres of land would have to be acquired to compensate for the tremendous loss of fish and wildlife habitat which will occur if the project is completed; and further, that the cost of this required mitigation could be several hundred million dollars.

RESPONSE

There is no mitigation plan authorized for the Tennessee-Tombigbee Waterway, and the Corps is not legally required under the Fish and Wildlife Coordination Act to have such a plan before proceeding with the project. However, for the last several years, the Corps and the Fish and Wildlife Service have been involved in a three-phase mitigation study for the project as follows:

a. Phase I—Documentation of resource losses.

b. Phase II—Selection of appropriate mitigation lands and/or mitigation measures.

c. Phase III—Development of management plans for any mitigation lands, evaluation of costs and benefits involved, and recommendation as to management responsibility for any mitigation lands. Once all phases of the study are completed, the results will be incorporated into a feasibility report for presentation to Congress. The report will describe and assess all the alternatives, and a final report will be submitted to Congress for appropriate authorization if mitigation measures are found to be warranted. The report will be coordinated with other agencies and the public for their review and comment prior to submission to Congress. At the present time, Phase I of the study is nearing completion and the preliminary findings indicate an impact on approximately 105,000 acres of land. The mitigation noted by opponents was contained in an early working document being reviewed and revised by the Corps and FWS. No mitigation plan or detailed cost for such a plan has been developed to date.

ALLEGATION

"The project will seriously degrade the water quality of the region." Runoff from some soils in the Divide Cut will produce acid drainage. The change from free-flowing streams to impoundments will cause depletion of dissolved oxygen in the water and stratification of some impoundments.

RESPONSE

These allegations are similar to the charges made in the lawsuit filed by environmental groups in 1971 and found by U.S. District Court Judge Wm. Keady to be without merit. His decision was affirmed by the 5th U.S. Circuit Court of Appeals.

Specifically, the Corps has made provisions in the project design and construction to insure that all State and Federal water quality standards are met. Flip buckets on spillways to increase dissolved oxygen, two-cell disposal areas for dredge material, and lime neutralization and slating of potentially acid soils are some of design and construction provisions which have been added by the Corps. Also, implementation of PL 92–500, as amended by the Clean Water Act of 1977, by the States and the Environmental Protection Agency will assure that the water quality standards are met over the life of the project.

Through the phases of design over the past several years, the Corps has been advised by a board of noted environmental experts. This board has made a number of important recommendations to minimize the environmental impact of the project, and these have led to significant project changes. The interaction of the board and the Corps has been a model which deserves applause and emulation for future projects of this scope.

ALLEGATION

The AAA report in 1976 indicated that the local sponsors in Alabama and Mississippi would be unable to meet the requirements of local cooperation because of inadequate funding. The Federal Aid Highway Act of 1976 provided a Federal bailout for the States.

RESPONSE

The local sponsors in Alabama and Mississippi have met all obligations for non-Federal participation on schedule and thereby have allowed the Corps to proceed with construction in an orderly fashion. To date the sponsors have expended or committed funds for more than 78% of the total non-Federal relocation costs of $165 million.

At the time the AAA report was prepared, the effects of the rapid inflation on the construction industry were being reflected in the project cost estimates, including the local sponsors' share. When faced with the increased costs, the sponsors explored several avenues to finance their share. To criticize the sponsors for not selling bonds earlier than necessary and thereby incurring additional interest expenses is illogical.

The Federal Aid Highway Act of 1976 was passed to correct inequities which have arisen because of the changes that came about since the project was authorized in 1946. We wanted to treat this project like we would treat any other project under modern conditions, to make it equal to those projects currently being authorized.

ALLEGATION

"If the project were to be ended today, a very substantial portion of the moneys that have been expended are fully recoverable."

". . . 50 percent of the costs that have already been expended on the waterway can be recoverable through the sale of land."

RESPONSE

This allegation is simply not true. Funds allocated to date for the waterway are approximately $834,356,000. Of this total, $46,472,000 has been spent on the acquisition of 90,884 acres of land, consisting of 70,410 acres of fee land and 20,474 acres of easement land. It is estimated that the sale of these lands would return only $28,825,000. This represents only 3½ percent of the allocations to date, rather than the 50 percent claimed by the opponents of the project.

ALLEGATION

The opinion of experts is that much of the waterway will require extensive rip-rapping and other bank protection and stabilization measures, thus increasing the cost by a factor of at least 25 percent.

RESPONSE

Studies by the Corps have shown this allegation to be without merit. The project plans require rip-rapping of the banks in some of the cut areas where the slopes are steeper than natural and in areas where sloughing cannot be tolerated. These areas are around structures, utility crossings, highway abutments and similar locations.

However, for both environmental and economic reasons, the majority of the cut areas are being constructed so that upon stabilization they will have slopes that approximate the natural river conditions. Although some bank sloughing is anticipated until the banks can develop natural growth for protection, the O&M costs include sufficient funds for maintenance of these areas.

TYPICAL MILEAGE SAVINGS

From—	To—	Via TTW	Present route	Savings
St. Louis, Mo	Mobile, Ala	890	1,200	310
Kansas City, Mo	Pensacola, Fla	1,352	1,604	252
Chattanooga, Tenn	Mobile, Ala	699	1,531	832
Uniontown, Ky	Panama City, Fla	942	1,286	344
Pittsburgh, Pa	Mobile, Ala	1,599	2,001	402
Decatur, Ala	Pascagoula, Miss	606	1,322	716
Guntersville, Ala	Pensacola, Fla	674	1,448	774

ALLEGATION

If you use the current interest rate for this project, the benefit/cost ratio would be less than unity.

RESPONSE

Once again, the opposition is making an allegation that simply is not true. Using the 7⅛ percent interest rate, the remaining benefit/cost ratio for the initial authorized project is 1.25 to 1, compared to 2.5 to 1 using the legislated 3¼ percent interest rate.

ALLEGATION

Users of the waterway will not pay one dime in construction or operation and maintenance costs. The O&M costs will be much greater than the $6.7 million estimated by the Corps.

RESPONSE

Public Law 92–502 created the Inland Waterways Trust Fund for the construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways described in Section 206 of the Act. The funds for the trust are derived from the fuel used in commercial transportation on the designated waterways.

All of the 26 segments of the inland and intracoastal waterway system designated in Section 206 were completed operational projects at the time of the Act. Projects under construction, such as the Tenn-Tom, were not included. However, under the provisions of the Act, projects which are not included in Section 206 cannot benefit from the trust fund proceeds.

The current estimated Federal annual O&M costs of $6.3 million include all costs associated with dredging, bank stabilization, lock operation, and Coast Guard maintenance of aids to navigation. All foreseeable costs associated with Federal O&M responsibilities are included.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, just briefly, I will ask: It is my understanding that the administration in support of the continuance of this project, and reading from the report of the appropriation bill, has committed itself to over $200 million; is this not correct?

Mr. BEVILL. Yes, this is correct.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. BEVILL) has expired.

(By unanimous consent, Mr. BEVILL was allowed to proceed for 5 additional minutes.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield further?

Mr. BEVILL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I support this project. As a matter of fact, Mr. Jack Watson and I went down to Columbus, Miss., 2,000 people were there, and we pointed out that the President was supporting this demonstration project in rural development. This was less than 3 months ago.

☐ 1320

Mr. SHELBY. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to my colleague, the gentleman from Alabama.

Mr. SHELBY. First of all, the city of Demopolis, Ala., has been mentioned by by colleagues during this debate, and I want to commend my colleague, the gentleman from Alabama (Mr. Bevill), and I want to commend the chairman of the Committee on Appropriations, the gentleman from Mississippi (Mr. Whitten), for pushing a project not only like this in the Southeast, but all of the other projects they have talked about all over the country.

The Tennessee-Tombigbee has been completed in my district. It has been completed in the district of the gentleman from Alabama (Mr. Bevill), the chairman of the subcommittee. We would like to see this whole project completed, as the chairman, the gentleman from Mississippi said, because it is a national interest, not a regional interest.

I want to say one thing about another colleague of mine, the gentleman from Alabama (Mr. Edwards), who talked earlier. The gentleman mentioned Mobile, Ala.—that is his home town—and what it would mean to Mobile. But, you know, what this really will mean, I say to my colleagues in the House, this will be a national asset second to very few things in this country. As far as any additional work below Demopolis, Ala., as my colleague, the gentleman from Alabama, has said, there is nothing in the works, there is no authorization, I do not even know of any debate on it. They are passing barges along that area now, they are going to pass them in the future. I think it is time we move this project and get beyond the obstructionist side.

Mr. BEVILL. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Bevill) has again expired.

(By unanimous consent, Mr. Bevill was allowed to proceed for 5 additional minutes.)

Mr. BEVILL. I have already talked about the user fee. The user fee will apply to the Tennessee-Tombigbee. It applies already to the Tenn-Tom Waterway south of Demopolis that we keep talking about that is not even under consideration.

In closing, I just want to point out that I do not believe I have ever seen so much misinformation. Again, I say that I know these gentlemen received this information, but they have received misinformation. My information comes from the people who are building the project. Let me show the Members what our problem is. I think this pretty well tells us the story here. I am holding a book that was given to me this morning that shows the strategy to kill the Tennessee-Tombigbee. Now, this is interesting.

It says:

> In May we will be getting the names and addresses of people who have signed their opposition to the Tenn-Tom, they are getting organized. Structure your local campaign, break into the press with letters to the editor: "How to win your Congressman."

You are going to enjoy this. I wish every Member had a copy of this. Every Member of Congress ought to have a copy of this because it tells them how to get into your office and brag on you and tell you something you have done good recently.

They have all of the reasons set out here. "Does the Tenn-Tom make you mad?" Look at this. They go on and on.

Actually, the L. & N. Railroad has been fighting this project in court for years. They have had six decisions against them.

I do not know who prepared this material. It is like all of their information. There is no signature, there is no name, everything is a mystery. We tell you where we get our information. They will not tell us where their information is coming from. I wish I knew, because it is the most amazing thing.

Here they provide sample letters, how to write their Congressmen, and "let him know why you are against the Tenn-Tom."

Office visits: This tells you exactly how to sit, how to look, how to have your hair combed. I hope every one of you will get this and read it.

I just want to tell the Members this: We can be within the budget, we can have the Tennessee-Tombigbee that you have supported all of these years. It is a good project. There is nothing wrong with this project. I have no apologies to make for it. I urge you to vote down this amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, the Tennessee-Tombigbee project will end up costing over $3 billion. And who pays for the project? The American taxpayer. No one else.

Curiously, when the waterway fuel tax bill reached the floor of Congress in 1978, the Tenn-Tom project was excluded from the tax. Only if subsequent legislation is enacted will a fuel tax be imposed upon the users of Tenn-Tom. And, given the paltry fuel tax in the 1978 legislation, such a tax would pay for less than 20 percent of the construction, operation, and maintenance of that waterway.

The unfortunate sum total of this equation is that the American taxpayer is being asked to shoulder the burden of a project that is not wanted by the coal industry, not wanted by the petroleum industry, not wanted by the farm community, not wanted by the railroads, not wanted by labor—not wanted by anyone, it seems, except the few who fight so vigorously to keep it alive here in Washington.

The American taxpayer will be subjected to an even heavier burden during the decade of the eighties. Annual appropriations of $250 million will be necessary to complete the project by 1990. And to what purpose? So that a few nonexistent coal companies will be able to move mythical coal to unbuilt powerplants or, worse, to phantom overseas competitors.

It is time we called a halt to this foolishness. In the salad days of unending tax moneys, the Tenn-Tom project was merely a humorous anachronism. Now, however, it is no longer a laughing matter. Let us do this one thing to restore some sense of purpose and integrity to the budget of this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Pritchard).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PRITCHARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 216, not voting 21, as follows:

[Roll No. 364]

AYES—196

Ambro
Archer
Aspin
Atkinson
Bafalis
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Bereuter
Bingham
Boland
Bolling
Bonior
Bonker
Brinkley
Brodhead
Broomfield
Broyhill
Burton, John
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Cheney
Chisholm
Clay
Clinger
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dingell
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gephardt
Gingrich
Glickman
Goodling
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Heckler
Heftel
Hollenbeck
Holtzman
Hopkins
Hughes
Hyde
Jacobs
Kastenmeier
Kelly
Kildee
Kindness
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Loeffler
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Mottl
Murphy, Pa.
Neal
Nedzi
Nolan
Obey
Ottinger
Patterson
Paul
Pease
Petri
Peyser
Porter
Pritchard
Pursell
Quayle
Railsback
Rangel
Ratchford
Reuss

Richmond
Ritter
Rodino
Rosenthal
Roth
Rousselot
Russo
Santini
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Snowe
Solarz
Solomon
Stanton
Stark
Stockman
Studds
Swift
Tauke
Thompson
Vander Jagt
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Whittaker
Williams, Mont.
Wolff
Wolpe
Yates
Yatron
Young, Fla.

NOES—216

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
AuCoin
Badham
Bailey
Baldus
Barnard
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Blanchard
Boggs
Boner
Bouquard
Bowen
Brademas
Breaux
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Coelho
Coleman
Corman
Cotter
Danielson
Davis, S.C.
de la Garza
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Ertel
Fary
Fascell
Fazio
Findley
Flippo
Foley
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gore
Gramm
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harsha
Hawkins
Hefner
Hightower
Hinson
Holland
Holt
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kogovsek
Kramer
Leach, La.
Leath, Tex.
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
McCormack
McDade
McEwen
McKay
Marriott
Mica
Mikulski
Mineta
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Pepper
Perkins
Pickle
Preyer
Price
Quillen
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roybal
Royer
Rudd
Sabo
Satterfield
Scheuer
Schulze
Sebelius
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stokes
Stratton
Stump
Symms
Synar
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Volkmer
Wampler
Watkins
White
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—21

Anderson, Ill.
Biaggi
Dixon
Erlenborn
Evans, Ga.
Ford, Mich.
Ford, Tenn.
Hansen
Hillis
Jeffords
Jenrette
Kemp
Mathis
Michel
Murphy, N.Y.
Runnels
Stewart
Wilson, C. H.
Wilson, Tex.
Wirth
Wylie

☐ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Stewart for, with Mr. Ford of Tennessee against.

Mr. BROWN of Ohio changed his vote from "aye" to "no."

Messrs. SAWYER, SEIBERLING, and KASTENMEIER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. Simon). The Clerk will read.

The Clerk read as follows:

CONSTRUCTION PROGRAM

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Water and Power Resources Service use) and for other related activities as authorized by law, to remain available until expended, $596,216,000, of which $118,392,000 shall be available for advances to the Upper Colorado River Basin Fund authorized by Section 5 of the Act of April 11, 1956, and $135,235,000 shall be available for advances to the Lower Colorado River Basin Fund authorized by Section 403 of the Act of September 30, 1968: *Provided*, That of the total appropriated, $162,602,000 shall be derived from the Reclamation Fund: *Provided further*, That advances to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to this heading: *Provided further*, That the unexpected balances of the appropriation accounts for "Construction and Rehabilitation", "Colorado River Basin Salinity Control Projects", and "Recreational and Fish and Wildlife" shall be merged into one and made available for the same purposes as appropriations under this heading: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That of the total amount appropriated in this Act not to exceed $2,000,000 is for archeological research and recovery operations, in addition to any funds otherwise authorized for such operations, at New Melones Dam and Reservoir, California, authorized by the Flood Control Act of 1962: *Provided further*, That the Secretary of the Interior is authorized and directed to allocate as nonreimbursable and nonreturnable that part of the cost of constructing Red Fleet Dam on the Jensen Unit, Central Utah Project, which resulted from changes in the design to recognize state-of-the-art criteria deemed necessary for dam safety.

AMENDMENT OFFERED BY MR. CAVANAUGH

Mr. CAVANAUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cavanaugh: Page 18, line 21, strike out "$596,216,000" and insert in lieu thereof "$594,116,000".

Page 20, line 5, insert ": *Provided further*, That no funds appropriated by this paragraph may be used for the construction of, rehabilitation of, or other related activities associated with the O'Neill Unit of the Pick-Sloan Missouri Basin Project" after "dam safety".

Mr. CAVANAUGH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

☐ 1350

Mr. CAVANAUGH. Mr. Chairman, the amendment which I offer today will delete $2.1 million from H.R. 7590 for construction of the O'Neill unit of the Pick-Sloan Missouri River Basin project on the Niobrara River in north central Nebraska. The O'Neill unit is yet to be begun as it has been tied up by a court injunction since March of 1977 but when it is to be completed it will cost $230 million at current estimates.

My opposition to the O'Neill unit has been long standing and unfortunately puts me in direct opposition to my colleague, the gentlewoman from Nebraska (Mrs. Smith). We are a small State with but three Representatives and all of us have worked well together during our time here on matters which will directly affect our State. I have enjoyed my association with the gentlewoman but today we are in direct opposition over a matter of deep concern to the people of Nebraska. This is truly both an unpleasant and unfortunate situation but it reflects the controversy and conflict which the O'Neill unit has caused in our own State.

I do hope both my colleague from Nebraska (Mrs. Smith) and my colleagues in the House will realize that I would not actively oppose this project unless I had become firmly convinced that the O'Neill unit is not a justifiable expenditure of Federal taxpayers' money.

The distinguished chairman of the subcommittee spoke eloquently in his opening remarks on this legislation about the major contribution which the many water projects contained in the legislation will make to our Nation as a whole by providing new sources of electrical energy generation, adding to the country's navigational transportation system, providing flood protection and by new recreational opportunity for our ciitzens. The O'Neill unit, however, is not one of the projects contained in the bill which will add to our energy production or conservation. The O'Neill unit is to be used almost exclusively for agricultural irrigation and is designed to deliver water to an area of 77,000 acres. In fact, the dam will be a net user of energy as a result of the projected upland irrigation pumping requirements of the project. The O'Neill unit will not contribute to either increased river navigation or transportation, nor significantly add to flood control. In fact, one of the critical issues included in the Federal district court injunction is the safety of the damsite itself. In 1979 when the Water and Power Resources Service attempted to overturn the earlier court injunction, the court found that there existed "more than a possibility" that the proposed damsite is located on an erosional remnant or rebound posing a real possibility of future instability caused by fracturing or faulting.

Clearly, the agricultural production of

our Nation is our greatest asset and becomes increasingly important as we seek to expand our markets in an effort to meet the nutritional needs of the world as well as improve our balance of trade. In addition, we are constantly looking for opportunities for an increasing role for feed grains in making a direct contribution to the energy shortage which now grips us through the continued development of the technology of gasohol.

The accomplishment of each of these goals will hopefully require increased production and capacity from our farms. We must continue to develop our agricultural production technology to meet these needs economically and effectively.

But the basic question presented by this amendment is whether the $230 million presently proposed to be expended on the O'Neill project will result in an increase in the agricultural production to those directly benefited by the new irrigational opportunities sufficient to justify the expenditure, the risk, and the damage to the environment of the region which construction of this unit will entail.

The answer is simply no.

The O'Neill unit as proposed clearly lacks economic justification. Ninety-seven percent of the benefits attributable to this project are derived from irrigation and providing water which is to be distributed to a 77,000-acre area to counties of the sandhills of Nebraska, yet over 35,000 acres of the best cropland of this area are already being irrigated through private investment and ground wells and center pivot irrigation systems. Construction of the project will require the condemnation and purchase of over 30,000 acres for the dam reservoir and the 362 mile system of canals and laterals necessary for distribution. Taxpayers will be paying almost $2 million per 640 acre farm to be irrigated by the project. Although $45,245,000 of the project funds are scheduled to be recouped by those who stand to benefit, that is receive water, the remaining and increasing burden will be borne by the American taxpayer and electrical generation purchasers under the Pick-Sloan system.

Proponents of this project will cite an optimistic direct benefit-cost ratio currently at 2.1 to 1 (down from 2.3 to 1 in last year's estimate). It should be pointed out, however, that the cost-benefit ratio on the O'Neill unit has fluctuated wildly throughout the life of the project. The premises upon which many of these benefits have been calculated are clearly erroneous. The Water and Power Resources Service has exaggerated the benefits for the O'Neill unit in the following manner: First, it assumes the water provided will bring only currently unirrigated land into production when in fact almost 50 percent of the land which will benefit are already being irrigated; second, it claims as benefits of irrigation cattle feeding operations which could exist if they were profiable even without the project; third, it ignores the fact that whatever additional agricultural output does result from the project will simply depress the prices received by other farmers and force some of those who did not receive a massive Government irrigation subsidy out of business; fourth, it assumes that farmers and nonfarmers who may find employment as a result of the project will be permanently unemployed if it were not for the project while it is well known that our State is blessed with one of the lowest unemployment rates in the Nation, and fifth, the project ratio uses an unrealistic historic projection of irrigated crop yields while not projecting similar increases in necessary inputs.

Two independent studies have been conducted on the O'Neill unit by agricultural economists at the University of Nebraska and the University of Montana. In addition, the exaggerated benefit-cost ratios of the O'Neill unit were the subject of an article in the Nebraska Journal of Economics and Business in the spring 1980 edition.

Of the benefits attributed to the O'Neill unit, the most glaring error is in their forecasted increase in beef cattle production with the project. WPRS expects farm income to rise because of increased beef cattle production if the project is constructed. It is asserted that the project's water supply will increase the production of local feed grains which will in turn increase the production of beef cattle. The WPRS assumes after project completion increases in cattle feeding operations of 180 head on any farm in the benefited area. This contention is wholly fictitious. Additional availability of corn will not, as the Bureau assumes, guarantee any increase in cattle feeding operations. It is the market price for fed cattle which determines the number of cattle on feed, not the amount of locally grown feed grains.

They need strong markets for beef. Between 1973 and 1977 the number of irrigated acres in Holt County where O'Neill benefits will be felt most rose by 62 percent. During the same period cattle production fell by 54 percent. The fraud of the beef cattle benefit is so substantial that in fact the Water Resources Council pursuant to Executive Order 12113 on December 14, 1979 (see 18 CFR, part 7713) adopted revised guidelines to prohibit the inclusion of benefits derived from cattle feeding operations in benefit cost analyses for future water projects. The Council recognized that livestock feed are available for purchase at the same value as the selling price and should be valued at the first opportunity to sell rather than after they have been marketed through other enterprises such as feeding cattle.

Another serious deficiency which exists in the assumption relied upon by the WPRS in its economic analysis of the projected crop yields. In support of higher benefits accruing from the project the service estimates an average yield of 191 bushels per irrigated acre. Such yields are theoretically possible now but are grossly uneconomic.

The problem is that it takes very expensive additional inputs such as pesticides, fertilizer, energy high quality seeds and labor to achieve such yields. The University of Nebraska at Lincoln agricultural economists project an average yield between 125 and 160 bushels per acre.

The costs of production for corn are estimated to be $1.38 per bushel. In their yearly statistics for costs versus crop yields in the State of Nebraska, the University of Nebraska agricultural economists figure corn production costs to be $2.47 based on a yield of 125 bushels per acre with higher yields costing more. The highest yields are projected with a minimum of cost. The service expects the projected yields without adding the additional inputs, a gross inconsistency and a total biological impossibility.

When this reclamation project was developed in the 1950's and early 1960's the proposed service area was a dry land farming and ranching region. The project was intended simply to provide surface water to a semi-arrid region but in the late 1960's, even before the project was authorized, with the introduction of the center pivot sprinkler system, development of the ground water resources in this area of sandy soils became economically feasible. Ground water development occurred rapidly and by 1977 almost all the land in the proposed service area with a source of ground water was being irrigated. Since authorization 35,000 acres of the 77,000 proposed to benefit from the irrigation has already been irrigated through the installation of private irrigation systems. The Bureau's cost-benefit ratio, however, continues to claim the increased production projection for the total 77,000 acres as a benefit directly from the project in spite of the fact that such projection denies reality.

Now project supporters claim that the project is needed not only for surface water irrigation but also for ground water replenishment. This new proposed benefit is not reflected in the Bureau's statistics and we can only guess at this proposed benefit. It is true that there has been a decrease in the aquifer in the area in the last 10 years as a result of irrigation. But it is also to be remembered that there was no irrigation in this area 10 years ago.

Going from a nonused aquafir to a heavily used unmanaged irrigation area will have an adverse effect upon the aquifer. Nebraska is a State which still follows the law of capture when it comes to subterranean water, and proper management of ground water to protect the quality and quantity of the source is seldom applied. This Congress will not contribute to the development of proper ground water management in the State of Nebraska by spending $230 million to build the O'Neill unit which will condemn 30,000 acres for use in the project to provide irrigation to approximately 42,000 acres which remain unirrigated, and to attempt to supplant the water table of 35,000 acres already irrigated. This simply does not make sense.

These beneficiaries will be obligated to pay only less than 25 percent and be prepared to repay only $45 million of the

$230 million over the next 100 years. In theory many of the other benefits will be repaid under the Pick-Sloan plan for power usage, but a July 1978 audit investigation by the U.S. Department of the Interior raises serious questions about the payback provisions of the entire Pick-Sloan plan. This audit investigation has yet to be implemented. However, the final conclusion of the auditor was:

> That the financial posture of the Pick-Sloan is at best based on an uncertainty. At worst, it is based on an unreality. The net effect is that no one knows within reasonable limits of accuracy what rates to charge power users and M and I water users to repay Pick-Sloan costs. To remedy this condition, the entire Pick-Sloan needs to be reassessed in terms of what facilities will be built and in what time frame.

But even if the benefit-cost ratio of the O'Neill unit is accepted as an objective measure of this reclamation project in comparison with other reclamation projects, this does not mean that the Congress should abdicate its continuing obligation to justify the expenditure of Federal tax dollars. In these days of soaring inflation, overproductivity and requirements to reduce Federal spending this committee must be ever diligent in its review of existing projects before further commitments of long-term Federal funding are made.

The direct beneficiaries of this $230 million project will also be very few, not more than 1,420 individuals and 480 farms will enjoy the benefit of this expenditure. This means that the taxpayer will be providing each farm with the direct assistance of somewhere between $400,000 and more than $1.5 million and the Service puts the direct cost of irrigating the 77,000 acres at $2,814 per acre. In addition, under the Reclamation Act of 1902, which we will be called upon at a later time in this Congress to modernize, was designed to protect and improve family farming operations. The family farming operations to be benefited by the O'Neill unit are decreasing. In October of 1977 the Center for Rural Affairs of Walthill, Nebr., studied specifically the land within the external boundaries of the proposed irrigation district to be served by the O'Neill project. They found that 41 percent of the land already being irrigated but petitioned to receive O'Neill water was owned by corporate or absentee investors. Over half of the already irrigated land within the boundaries but not petitioning to receive water—but who would receive any benefit from ground water recharge—was owned by corporate or absentee investors. Agriculture on the Holt table is and will, with increased center pivot, increasingly be dominated by nonfamily farms. The outside absentee investors will be the beneficiaries of the Federal investment in the O'Neill project and this clearly is not the social objective intended by the Reclamation Act.

This point is simply not a reasonable, efficient, or economic way to increase agricultural production.

I have been asked by some of my colleagues why I am opposed to O'Neill. For even with the economic analysis which proves that this is an economically unjustifiable project, why oppose this project when there are others which will cost the taxpayers more and have worse benefit-cost ratios. In addition to the reasons which I have identified above, I oppose this project because it is in my own State, and if we are serious about reducing spending and balancing the budget, Members must begin to set an example in their own States to give up the goodies to balance the budget.

One of the most significant drawbacks to the O'Neill unit other than the economic deficiencies I have outlined previously, is where this project is to be located. In its central reaches the narrow Niobrara River Valley is a band of wild and rugged beauty separating the stark Nebraska sandhills from the South Dakota plains. Most of the area near the river is still undeveloped. In many places access to the river itself can only be gained on horseback, on foot, or via canoe from upstream. In fact, canoeing has become an increasing popular pastime along a 25-mile stretch of the river. The current is swift in many areas of ripples and some small rapids occur in this area. The Norden Reservoir as a result of this dam will extend about 11 miles within this prime canoeing area and will inundate Rocky Ford.

This vicinity is also part of the unique ecological mixing zone extending about 110 miles along the river valley, a blending of Rocky Mountain trees and Eastern hardwoods create a habitat which is unique in the Great Plains. This habitat is home to a diversity of animal life including the whooping crane and bald eagle. The project will inundate a 19-mile stretch of this zone.

There have been two recent developments in the continuing controversy over the O'Neill unit since the full House last considered funding for this proposal. In 1978, the Director of the Lower Missouri Region Bureau of Reclamation requested the U.S. Fish and Wildlife Service to conduct a study on the effect which construction of this proposal would be likely to have on the continued existence of the whooping crane, a bird which annually migrates through Nebraska and which is on the endangered species list (there are an estimated 109 of these birds left in existence). These birds have a documented history of use of these areas of the proposed dam and reservoir and in its response to the Bureau's inquiry issued on September 7, 1979, the Fish and Wildlife Service concluded that:

> The (O'Neill) project and related development on the Niobrara River are likely to jeopardize the continued existence of the whooping crane. They are likely to modify or destroy feeding, migration, roosting, and loafing habitat essential to the whooping crane.

Construction of this project will have a dramatic impact not only on the immediate area of the dam and the reservoir but will also significantly reduce downstream flows and thus reduce the attractiveness of the entire segment of the Niobara below the dams to the whooping crane. In conjunction with the report of the Fish and Wildlife Service, the Water and Power Service is now conducting a study to evaluate the possibility of increasing minimum flows in the river. Increasing minimum flows in the river to protect the whooping crane also means diminished capacity to irrigate the acres under consideration.

Recently the Nature Conservancy announced a purchase of 54,000 acres of sandhill prairies, forest, and riverfront next to the project area with $10.8 million to create a major conservation and refuge. The land now under option fronts the Niobrara River for 22 miles and adjoins the presently existing Fort Niobrara Wildlife Refuge. This purchase and grant is believed to be the largest cash contribution ever made for a private conservation effort. In announcing its purchase, the conservancy said that the Niobara River Valley could aptly be described as a biological crossroads of the Midwest, it is the meeting grounds of species from East, West, North, and South. Species are found far beyond their normal range is creating a habitat conducive to the hybridization and rapid evolution of several bird and plant species.

Researchers from both the Smithsonian Institution and the University of Nebraska say the area is of international importance to paleontologists as fossils of ice age mammals have been found along the Niobrara River Valley. If this dam is constructed some of the best, most significant areas of this new nature preserve would be inundated.

In summary, while it is essential that this Nation make every effort to increase its food producing capacity so that we may play an even larger role in feeding the hungry of the world in the years ahead, there are other less costly and more efficient methods by which we can increase our agricultural productivity than the O'Neill unit. The Norden Dam should not be built and the O'Neill unit should not be completed because it is unfair and wasteful expenditure of the American people's tax dollars which would also destroy one of the few remaining natural treasures for which such national organizations as the Nature Conservancy was willing to pay dearly and for which all Nebraskans care dearly. For these reasons I urge you to save this $230 million for the American taxpayer and save this river for the people of the State of Nebraska.

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Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Iowa.

Mr. BEDELL. How many acres are involved in this project, could the gentleman tell us?

Mr. CAVANAUGH. Mr. Chairman, 77,000 acres are projected to be the direct beneficiaries of the irrigation to be provided.

Mr. BEDELL. What is estimated to be the cost of the project?

Mr. CAVANAUGH. The project is now estimated at a total project cost of $230 million. Ninety-seven percent of that $230 million is allocated directly to the irrigation function of the project.

Mr. BEDELL. If we divide 77,000 acres into the cost of $230 million, if my figures are correct, we come up to close to $3,000 per acre.

Mr. CAVANAUGH. I think the figure is $2,800.

Mr. BEDELL. $2,800?

Mr. CAVANAUGH. $2,800 per acre direct benefit to those 77,000 acres.

Mr. BEDELL. Mr. Chairman, does the gentleman know how much the farmers are going to be paying per year for water that they get for this irrigation? It is my understanding it is less than $20, is it not?

Mr. CAVANAUGH. That is correct.

Mr. BEDELL. The taxpayers are going to put up the $2,800 per acre. Does the gentleman know how much the interest is today on the money that we borrow in order to build such a project?

Mr. CAVANAUGH. The cost per acre is $20.40 per acre.

Mr. BEDELL. That is the amount the farmers will be expected to spend each year?

Mr. CAVANAUGH. Overall the farmer will pay 25 percent of the total project cost over the course of 100 years.

Mr. BEDELL. The point is it is going to cost the taxpayers $2,800 investment at this time per acre for this project. If it is true today, where we are paying more than 10 percent on the money to finance this by the Government, then the annual interest cost, to say nothing of all of the expenditures for pumping the water and handling the project and everything else would be equivalent to over $280 per acre of taxpayers' expense, wherein it is computed the most the farmer can afford to pay is about $20 per acre.

Mr. Chairman, this is the objection that I have to this project. It comes not just to this project but to the other projects that we have all across our society.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bedell and by unanimous consent, Mr. Cavanaugh was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. Will the gentleman yield further?

Mr. CAVANAUGH. I yield to the gentleman.

Mr. BEDELL. Mr. Chairman, it appears to me it is time for us to say that we expect to look at these projects according to some sound business principles. I know of very few places where someone would borrow money and pay the interest on that money and have the benefits be less than 10 percent of the annual interest costs involved in such a project.

Mr. Chairman, we can talk about whether we should have cattle feeding included in the benefits and all these sorts of things which seem to me to be very questionable as to how these various matters are computed in order to try to show adequate benefit cost ratios, but to me it is pure and simple. You invest so much money, you get so much benefit and the benefits accrue to the farmers, we agree to that and we are saying that the benefits are less than 10 percent of the annual interest costs on the investment that is going to have to be made.

Mr. CAVANAUGH. The gentleman makes a very powerful and eloquent point, Mr. Chairman. What I think the gentleman is saying is that this particular project is part of a process that has become an anachronism. I do not think there is any question that this committee, that this Congress in the past, in the origin of the Pick Sloan project, which is a project of grand design, a plan to provide energy, transportation, flood protection and irrigation and crop production for that whole region of our country, was a noble and desirable goal to seek to achieve. However, I think we have gone about as far as we can reasonably go with this. We come to a different kind of fiscal reality now that has to be confronted and these projects now must be able to demonstrate some justification. We are not just doling out taxpayers' money to a very few narrow beneficiaries who in fact are not only going to be unfairly benefited by the taxpayers and the taxpayers then fairly have their burden, but unfairly compete with their fellow farmers also.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bedell and by unanimous consent, Mr. Cavanaugh was allowed to proceed for 30 seconds.)

Mr. BEDELL. Will the gentleman continue to yield?

Mr. CAVANAUGH. I yield to the gentleman.

Mr. BEDELL. I think it is also important to point out that these projects as we support them or oppose them, has nothing to do with the person in whose district they may be located. I certainly have the most admiration for the gentlewoman from Nebraska (Mrs. Smith) but I do believe, and I think the gentleman from Nebraska agrees, that we have to evaluate each project in an objective way.

Mr. CAVANAUGH. Mr. Chairman, the gentlewoman has been most helpful to me as has this committee been and I hope there is no personal concerns here and that this House will judge this project fairly.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mrs. Smith of Nebraska was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentlewoman is recognized for 10 minutes.

Mrs. SMITH. Mr. Chairman, I wish to commend my subcommittee chairman, the gentleman from Alabama, and the gentleman from Indiana (Mr Myers), and the other members of the subcommittee for the magnificent job they have done in fashioning this complex, enormously important appropriations bill. I thank them for their support and assistance regarding my concerns and those of my State, particularly regarding alcohol fuels and gasohol as well as water-planning projects.

Before I discuss the gentleman's harmful amendment regarding the O'Neill unit, I wish to bring to the attention of my colleagues in the House the results of the subcommittee-approved investigation about alcohol and gasohol programs within the Department of Energy.

The investigation was made out of my concern for the future development and commercialization of alcohol fuels. and this investigation persuades me that we must bring under better control the use by high Department of Energy officials of a little known but extremely influential group within the Department of Energy and known formally as the Energy Research Advisory Board (ERAB).

This advisory board almost exterminated the Nation's fledgling alcohol/gasohol program through an abuse of its findings and conclusions by Department of Energy officials. Indeed, the lingering impact of its efforts may yet result in holding down the full exploitation of alcohol as an important fuel.

My concerns. and those of other Members from farm States, were aroused by this advisory board and its work only after the subcommittee and full committee had finished its work on this bill.

So I have detailed the disturbing results of the subcommittee's investigation in the record of hearings held earlier today by the Joint Economic Subcommittee on Energy.

It was my intense interest in the future development and commercialization of gasohol that led to my discovery that this advisory board had, last December, been convened into what I can only describe as a "kangaroo court," packed with demonstrated antagonists of alcohol fuels, expressly for the purpose of finding some respectable rationale for terminating the Government's newborn alcohol fuels program.

I wish to report to the House that this antialcohol attempt failed fortuitously only because the President in January declared a grain embargo against Russia, which forced him to try to ease the impact on farmers by proposing a vastly expanded gasohol program.

Nevertheless, on May 1, 1980, the advisory board ratified its antialcohol report just as S. 932, the synthetic fuels bill, was emerging from the House/Senate conference. The bill provides great encouragement for the development of alcohol fuels.

Out of my concern for the impact of the advisory board's antialcohol report, I agreed to a long meeting last week with Secretary of Energy, Charles Duncan, who on this occasion presented me with a letter in which he recommitted himself, his department, and the administration to a nationwide development program for alcohol fuels.

I submit a copy of Secretary Duncan's letter at this point in the Record.

The Secretary of Energy,
Washington, D.C., June 16, 1980.

Hon. Virginia Smith,
House of Representatives,
Washington, D.C.

Dear Ms. Smith: I understand you have expressed concerns that a recent report on gasohol by the Energy Research Advisory Board (ERAB) has adversely affected the Department's commitment to the role of ethanol in its Alcohol Fuels policy. I want to assure you that this is not the case.

As Secretary of Energy, I depend on many sources of advice to help me formulate the Department's programs and policy. Advisors, however, do not author the Department's policy. They contribute to the total body of information which must be considered in the formulation of policy. In the course of this process, I believe it is useful to examine diverse views because it ensures that all sides of an issue are aired and examined. The ERAB report is being considered in just this way. The report, however, has not caused me to alter my views concerning the potential of ethanol for use as fuel. The Department is actively engaged in the promotion of ethanol production and the utilization of gasohol. These efforts have my full support.

I hope this letter is responsive to your concerns.

Sincerely,

CHARLES W. DUNCAN, Jr.

Now, Mr. Chairman, I am speaking in opposition to the gentleman's amendment, which I perceive is aimed at delaying and perhaps permanently blighting the economic futures of thousands of workers, farmers, businessmen, and others all across our State and making it impossible for our youth to live and work and prosper in central Nebraska.

As I have said before, this is a very, very unfair amendment—unfair to Nebraska and unfair to the people of the 10 North Central States that are a part of the mighty Pick-Sloan Missouri River Basin program, passed by the Congress and enacted in 1944, to develop these Midwestern and Western States for the purposes of flood control, irrigation, power generation, and navigation. Later the benefits for improving municipal and industrial water supplies, for providing land treatment and enhancement, water-quality control, conservation of fish and wildlife, and recreation were added.

The program includes the Missouri River channel that serves, benefits, and in floodtimes, has brought devastation to my esteemed colleague's own district, which includes his river city hometown of Omaha and to other districts in Iowa and Nebraska, bordered by the Missouri River.

The O'Neill project, here in question, is not a separate project. It is an integral unit of the Pick-Sloan plan—just as the flood-control projects in the gentleman's own district are a part of that plan.

The O'Neill unit is a part of the overall program to strengthen the upper Midwest. Some areas needed flood control. Some needed power. Some needed irrigation. Not all areas get all benefits, but all, including the gentleman's own district, share in the benefits of developing the entire area.

Few districts have benefited more than that of my friend, the gentleman from Omaha. I remember visiting Omaha in floodtimes. I watched breathlessly as people toiled around the clock to build dikes and levees against threatening floodwaters. I have visited such cities as Sioux City, Iowa, after flood. I have seen weeds hanging from telephone poles and the enormous damage done by the unwanted water. But no longer.

Three years ago, we had the second highest water levels in the history of the Missouri River. Had it not been for the Pick-Sloan program and the investment in flood protection, the gentleman's district would have suffered another devastating flood.

And the water, or much of it, was held off on 1 million acres of farmland, largely in North and South Dakota but also in Nebraska, that has been put into reservoirs to provide protection for my colleague's district, along with other similar districts.

Other States and other agencies moved the farmers off the land to provide this protection—along with the most inexpensive electricity from power-dam generation any part of the country enjoys today.

In fact, the gentleman's district has been spared inestimable loss because of more than $1 billion invested along this section of the Missouri River. I am gratified that the district of my friend from Omaha has all these benefits.

Now, how was all this paid for? It was paid for by the citizens not only of Nebraska and the other nine States involved in the Pick-Sloan program—but by all citizens in the United States.

Moreover, because flood control and deepening of channels is "nonreimbursable" all of this was done at public cost. In direct contrast, in the O'Neill unit and similar projects, at least 94 percent of the Federal dollars invested will be paid back directly into the Federal Treasury from users' fees already contracted for and from sales of power from power dams from throughout the vast Pick-Sloan area—all in accordance with long-established congressional practice and policy since 1902.

My colleague, nevertheless, quotes figures from two men who say they are economists whose assumptions and conclusions have no standing among water-planning experts, and these figures are more than 2 years old. He also quotes from an article in an economics journal by another self-appointed expert whose analysis of the O'Neill unit is similar to the other men cited earlier. The Water and Power Resource Service has rebutted the findings and conclusions in this most recent article point by point. Mr. Chairman, I submit this rebuttal for inclusion in the RECORD at this point.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 20, 1980.

Hon. VIRGINIA SMITH,
House of Representatives,
Washington, D.C.

DEAR MRS. SMITH: In further response to your letter of May 28, 1980, I am enclosing a copy of comments on the O'Neill Unit article by Mark R. Johnson that appeared in the Nebraska Journal of Economics and Business.

The economic analysis by Mark R. Johnson is similar to the one recently completed by Bruce B. Johnson and Lloyd K. Fisher of the University of Nebraska. Specifically, Mr. Johnson is critical of (1) the irrigation benefits and particularly the estimated numbers of beef cattle, (2) the low discount rate, (3) the long period of analysis, and (4) secondary benefits.

I hope that the attached information will be helpful to you. If I can be of further assistance, please let me know.

Sincerely yours,

ALDON O. NIELSEN
For R. KEITH HIGGINSON,
Commissioner.

COMMENTS ON AN ECONOMIC REEVALUATION OF THE O'NEILL UNIT IRRIGATION PROJECT

(By Mark R. Johnson)

Mr. Johnson criticizes the Water and Power Resources Service (Water and Power) economic evaluation of the O'Neill Unit irrigation benefits in the following areas:

(1) Increased cattle production with the project.

(2) Externalities.

(3) Highly uncertain forecasts—corn yield forecast.

(4) Groundwater impacts.

(5) The discount rate.

(6) The period of analysis.

(7) The source and amount of federal subsidies is not made clear.

He also criticized but did not discuss at length:

(1) The benefits of state and local taxes.

(2) The opportunity costs of farm family labor.

INCREASED CATTLE PRODUCTION WITH THE PROJECT

The argument advanced in the article is that Water and Power projection of increased livestock production is based on an "underlying assumption that the decreased marginal costs of cattle production (through lower feed prices) enables an increase in supply to meet the demand for lower-cost beef."

The author concludes that:

(1) Feed grain prices will probably not decrease as a result of the project;

(2) If feed grain price remains unchanged, cattle producers would have no more incentive to buy locally-produced grain than they have now;

(3) Expansion of beef production would occur in the future only if grain prices fall;

(4) The demand for beef is inelastic; and

(5) Beef cattle producers and grain producers are separate individuals.

The response to these conclusions is that Water and Power agrees that feed grain prices will not decrease as a result of the O'Neill Unit. It has been, however, a common practice for farmers in the O'Neill Unit to market a part of the grain they produce through livestock. This has proven to be usually more profitable than selling grain. In fact, 94 percent of the farms in Keya Paha County and 84 percent of the farms in Holt County had beef cattle as an enterprise when the 1974 Census of Agriculture was prepared. Therefore, the beef cattle producers and the grain producers are the same individual farm operators in the majority of cases. Therefore, conclusions (2) and (5) are not based on an assessment of the situation in the O'Neill area.

Water and Power budgets a typical farm for the areas under consideration for both "with" project and "without" project conditions. From the above, it is apparent that a typical farm in the O'Neill Unit area would have beef cattle as one of the enterprises. It should be noted that the article does not criticize the budgeting of the beef enterprise but rather the projection of the increase in livestock output with the project.

Conclusion (3) of the article does not take into account projections in beef consumption. The series E "OBERS Population Projections," which are much more conservative than the earlier series C projections, project that the population of the United States will reach 263.8 million by year 2000 and 297.2 million by year 2020. Interpolating those projections to year 2010, the year Water and Power projected certain elements of its irrigation benefit analysis to, results in a projected population of 280.4 million. This is an increase of 74.2 million or 36 percent from 1971, the last year for which historical data is provided in the projections.

In addition, "OBERS Projections" project that per capita beef and veal consumption will increase from about 117 pounds at current levels to between 135 and 151 pounds by 2000. A per capita consumption is not projected for 2010. If it is assumed that the higher level might be indicative of 2010, there would be a 34 pound or 29 percent increase in per capita consumption.

Recognizing the fact that there will be an additional 74.2 million people and that the 206.2 million people in the United States are projected to demand a greater quantity of beef, the OBERS have projected an increase of 14.1 billion pounds of beef by 2010 for the United States. The Niobrara Subarea which includes the O'Neill Unit area is projected to expand beef output by about 245.8 million pounds by 2010. The projected increase in livestock output as a result of construction of the O'Neill Unit would be 39.5 million pounds or about 16 percent of the total projected increase for the subarea.

Based on the above, projected demands for beef and veal will require a significant increase in both beef cattle and feed grains production if they are to be met. Water and Power has projected that a small portion of that demand would be met by farmers utilizing the water supplies to be furnished by construction of the O'Neill Unit. It should be noted that the O'Neill Unit area has traditionally fed about one-third of the grain produced in the local area. Projections by Water and Power are that "without" the project, the farm operators would feed about 54 percent of the grain produced and "with" the project about 34 percent would be fed. Both of these projections appear to be conservative in light of the OBERS projections.

Therefore, it is our conclusion that the author of the article failed to consider the dynamics of population growth and per capita beef consumption in concluding that expansion of beef production would occur only if grain prices fall. In addition, the rationale expressed as Water and Power theory is incorrect.

EXTERNALITIES

The author's conclusion with regard to externalities is that Water and Power has:

(1) Used a misleading method of measuring indirect and "public" benefits while ignoring potentially important indirect costs.

(2) That the Water and Power irrigation program has been responsible, at least in part, for a shift in the locus of production from various regions of the country, most notably the south, to western lands irrigated by Water and Power.

(3) Water and Power projects also were responsible for a share of the expenditures for Federal price and supply control programs.

There have been numerous studies that show that the increased productivity from irrigation results in increased economic activity and income for suppliers of farm inputs (induced by activity) and processing of the output (stemming from activity). One such study, "Impact Analysis of Irrigated Agriculture on Nebraska Economy 1967–1970," Lamphear and Roesler, Bureau of Business Research, University of Nebraska-Lincoln, September 1974, shows that an increase of $1, output from irrigation results in $2.33 of economic activity induced by the irrigation and by $5.62 of economic activity stemming from irrigation. Those are net increases after the value of the production under non-irrigated conditions has been subtracted out. Applying those multipliers to the O'Neill Unit output, results in a total potential economic activity within the State of Nebraska of $108 million annually. Therefore, it can be seen that the indirect benefits could be substantial.

It is generally conceded that when full employment exists, the benefits from such changes represents a transfer from one region to another and that no net gain occurs within the nation. Therefore, such benefits represent regional benefits and not national benefits. It is also generally assumed that in the long run, full employment will exist and that no net national benefits can be claimed for such activities.

Unfortunately, full employment levels on a national basis, generally considered to be around 3 percent, have only existed briefly throughout history. In addition, rural America has suffered from significant underemployment. This is evidenced by the outmigration of population from rural areas and the O'Neill Unit area is no exception. The outmigration from the area has continued since the 1930's. The young people leave the area because of a lack of employment opportunities and because of low wages for those opportunities that do exist.

From the above, it can be seen that valid arguments can be made in support of measuring indirect benefits for the O'Neill area. However, it should be recognized that the benefit-cost ratio for the unit was 1.7 to 1.0 considering direct benefits only based on the analysis evaluated in the Johnson article. The current direct benefit-cost ratio is 2.3 to 1.0. Therefore, the project is economically justified even if indirect benefits were omitted.

It is interesting to note that the author suggests that state and local taxes not claimed by Water and Power as a benefit should be. Those taxes would amount to $369,000 for the O'Neill Unit and are compared to $584,000 in public benefits which are claimed. This change would not be significant in the overall analysis.

The argument that the Water and Power program has resulted in a shift in the locus of production from various regions of the country, most notably the south to western lands irrigated by Water and Power, is taken in part from a book "Interbasin Transfers of Water" by C. W. Howe and K. W. Easter, John Hopkins Press, 1971. Howe and Easter qualified their predictions that the Reclamation program *may* have resulted in a shift of cotton from the south to the western states and displaced as many as 50,000 cotton farmers in the south. Mr. Johnson states that the Water and Power irrigation program *has been resvonsible* in part. It is noted that the qualifier in the Howe and Easter study has been omitted.

It should be recognized that the reasons for shifts in production are extremely difficult to measure. While cotton production shifted from the south to the western Untied States, cow-calf operations shifted from the western United States to the south. Also, the production of trees for paper production shifted from other areas to the south. At the time the shift of cotton acreage occurred from the south to the west, allegedly as a result of the Water and Power irrigation program, cotton production in the south was protected by acreage allotments and subsidized price programs. In addition, only about 10 percent of the cotton produced in the western states took place on Water and Power projects.

A chronology of American Agriculture, 1790–1970 prepared by the Economic Research Service of the U.S. Department of Agriculture indicates that the cotton belt began to move westward during the period of 1859 to 1870. By 1883 Texas had become the chief cotton state; this was 9 years before the establishment of the Reclamation Service in 1902. This is further evidence that other factors were working in this shift. It is our opinion that shifts in production is an extremely complex question and has not received enough analysis in this article to be meaningful.

The conclusion that Water and Power projects were responsible for a share of the expenditures for Federal price and supply control programs is undoubtedly true. However, it is equally true that Water and Power projects have contributed to the availability of farm products for export which have been so important to the national balance of payments in recent years. There is a great deal of concern that feed grain reserves have dwindled to the point that only a few weeks supply now exists where several months reserves existed at the time that Mr. Johnson is referring to.

In addition to the national needs of the United States, there is the world food situation. Food is perhaps the most potentially explosive factor in the internal politics of over half of the nations of the world today.

We are now faced with the fact that the world's number one problem is how to feed 50 percent more people in the next 20-25 years. The problem must be faced by all of us in the world community if we are going to address it seriously and quickly.

We must find the answers at a time when there is no new western hemisphere to discover, no new prairie sod to plow, no more virgin woods in the temperate climates to clear and convert to farmland.

Yes, indeed, we must increase food production at a time when most nations, including our own, are losing arable land to urban sprawl, highways, and recreation purposes. The question is "can we feed 6 billion people 20 years from now." At the present time, it is estimated that half of the world's population goes to bed hungry most nights.

We have the technology to help meet this challenge and to help the world grow adequate food supplies. At the same time, we must recognize that we are depending on less farm land to meet both the domestic and export demands for food each year. Therefore, there appears to be no question that the demand for agriculture production will have to be met through the full and wise use of our resources.

HIGHLY UNCERTAIN FORECASTS—CORN YIELD FORECAST

The author really does not take exception with Water and Power corn yield projections. Rather, he takes the position that due to uncertainty, a lower and a higher range of yields should have been evaluated.

It is Water and Power position that the projected corn yields used in the O'Neill Unit analysis are attainable under the technology that now exists. The author does not disagree with this. Other variables could also be addressed in terms of ranges that would further confuse the evaluation process, i.e., input and output prices. We believe that it is recognized that the Water and Power analysis is not an absolute forecast of future conditions but rather a reasonable projection of what may be expected in terms of benefits if the project is constructed.

GROUNDWATER IMPACT

The major point in this discussion is that 5,000 acres of the O'Neill Unit service area could be irrigated without the project and, therefore, the benefit analysis should be adjusted to reflect the reduction in benefits. The rationale provided in the article is as follows:

Total Irrigable Acres in O'Neill Unit Service Area	77,000
Percentage That Would Not Have a Groundwater Supply	67
Acres Without Groundwater Supply	52,000

Remaining Acres With Groundwater Supply	25,000
Percentage of Remaining Acres That Would Have Long Run Water Supply	60
Acres That Would Have Long Run Water Supply	15,000
Acres That Would Not Have a Long Run Water Supply Without The Project	62,000

Mr. Johnson has assumed that there are only 77,000 irrigable acres in the O'Neill Unit project service area. Actually there are 93,000 irrigable acres within the Niobrara Basin Irrigation District which makes up the project service area. The latest field survey showed about 31,000 acres were presently irrigated. Therefore, about 62,000 acres were not irrigated. In addition, the groundwater "mining" is considered to be sufficiently severe so that it is assumed that there will be an additional 15,000 acres that would not have a water supply by the time the O'Neill Unit is in operation. On that basis, Water and Power feels that full benefits will accrue to the 77,000 acres to be served by the O'Neill Unit.

Mr. Johnson has assumed that under limited groundwater recharge, there would be 62,000 acres irrigated. He has made that adjustment to the O'Neill Unit benefits. In actuality, there would be no benefits associated with groundwater recharge under those conditions. Under the widespread conditions, he has assumed that benefits could be claimed for 90,000 acres. That would be for 62,000 acres of new lands served by the O'Neill Unit and for 28,000 acres of groundwater recharge.

The Water and Power groundwater study indicates that there are about 220,000 irrigable acres within a 386,000 acre area underlain by an acquifer in Holt County. Of the 220,000 acres of irrigable lands, only 92,000 acres can be irrigated from groundwater on a sustainable basis. With the surface water that would be provided by the O'Neill Unit to 69,000 acres, in Holt County, it is assumed that the recharge from the project plus natural recharge would provide a sustainable irrigation supply for 115,000 acres resulting in a total of 184,000 acres that could be irrigated on a sustained basis. Therefore, the recharge from the project would provide a sustainable supply for an additional 23,000 acres. On that basis, benefits could be claimed for 77,000 acres of direct service from the O'Neill Unit plus 23,000 acres of recharge in a total area benefited of 100,000 acres. In addition since groundwater levels would be stabilized at higher levels, there would be a savings in pumping costs to the 92,000 acres irrigated from groundwater on a sustainable basis without the project. Water and Power has not claimed any of the groundwater recharge benefits to support the justification at the O'Neill Unit although they are certain to be created by the project.

THE DISCOUNT RATE

The article argues that the discount rate is too low and that the proper discount rate should be the opportunity cost of the capital diverted from the private sector.

The proper discount rate to use in evaluating water resource developments and deriving benefit-cost ratios has been argued ad-infinitum. Congress, because of its displeasure with a change made by the Water Resources Council in 1973, prescribed in Public Law 93-251 the formula by which the rate is to be derived. In addition, the act provides that projects which had been authorized by the Congress prior to January 3, 1969, were to be evaluated at 3¼ percent. The O'Neill Unit is in this latter category.

The question that must be raised is, what is the goal of Water Resource development? Is it for the short term good of the nation? Or, is it for the long term good of the nation?

Since water resource projects are generally designed to have a useful life of 100 years, it is difficult to rationalize that the construction of such projects is for the short term good of the nation. Yet, those that argue for high discount rates are arguing that the full cost of the project must be recovered through national economic benefits within a relatively short period of time. The higher the discount rate, the shorter the time for recovery of costs at a benefit-cost ratio of 1 to 1.

If, indeed, water resource projects are to provide the long lasting benefits that they are designed to provide, the argument for low discount rates is valid. It should be noted that there are projects that have been operating for 75 years or more and are producing gross crop values annually that are greater than the original cost of construction. Who can say that the value of the crops produced on the North Platte project in Wyoming and Nebraska in 1977 of $79.6 million should be discounted by 7 or 10 percent. The construction cost of the North Platte project was $36.7 million and the total cumulative crop production is valued at $1.7 billion.

THE PERIOD OF ANALYSIS

The main criticism here is that Water and Power is the *only* water resources construction agency still using a 100-year period of analysis.

We have checked with the Corps of Engineers and they state that they are using a 100-year period of analysis for facilities that have a 100 year useful life, i.e., large dams and major levees. Therefore, we conclude that the information presented in the article is incorrect.

SUBSIDIES

Mr. Johnson correctly states that the interest on the construction costs of the project are not presented in the computation of repayment of the costs. Water and Power, however, does not hide the fact that irrigation is repaid on an interest-free basis.

The Congress has made the decision on which costs shall be reimbursable and what the terms of repayment shall be. Therefore, Water and Power presents the reinbursable costs according to the requirements under the law.

Mr. Johnson assumes that all funds for Water and Power presents the reimbursable are borrowed by the Federal Government. This in itself is an incomplete analysis of how the Federal Government obtains the funds that are available for Water and Power programs. There is a revolving Reclamation Fund which is available for development of new projects. The taxes that the Federal Government collects are not borrowed funds. Therefore, we cannot agree that the interest cost on borrowed capital should be charged as a project cost.

A report "Design of a Method for Estimating Federal Internal Revenues Generated by Economic Impact of Reclamation Projects," Milliken et al., Denver Research Institute, January 1972, estimated the Federal tax revenues that would be generated by the increased output from Water and Power projects. Applying the results of that study to the O'Neill Unit would result in an increase of $5.7 million annually in Federal tax revenues associated with irrigation. Water and Power does not make mention of that fact in its benefit-cost analysis. Yet, it is a real increase to the Federal Treasury.

SUMMARY

Mr. Johnson has made his adjustments to the O'Neill Unit benefit-cost analysis on the basis of five main factors:

(1) No increase in cattle production. We believe that he has erred in that he has failed to consider population projections and the expanding demand for beef and veal. We also believe that the Water and Power projections are reasonable in the light of the OBERS projections for the Niobrara Subarea.

(2) Groundwater Recharge—The assumption is that Water and Power incorrectly claimed full irrigation benefits for 15,000 acres that would be served by the O'Neill Unit. He has also assumed that widespread groundwater recharge would provide benefits to a total of 90,000 acres.

It appears that the author of the article did not fully understand the magnitude of the service area, nor the assessment of the potential groundwater recharge benefits. He underestimated the former by 16,000 acres and overestimated the latter by 6,000 acres for a net error of 10,000 acres.

We believe that the Water and Power analysis of benefits is valid for the full service area to be served by the O'Neill Unit. Water and Power has not claimed benefits that will be created as a result of groundwater recharge by the project. Therefore, the analysis is conservative in that respect.

(3) Mr. Johnson takes issue with the discount rate and the period of analysis.

He believes that a higher discount rate should be used and a shorter period of analysis. Water and Power has evaluated the O'Neill Unit using the discount rate established under the auspices of the Congress. While there are many arguments regarding the proper discount rate, it is our opinion that investments to develop renewable resources for the long-term benefit of the nation should be evaluated at low discount rates. Mr. Johnson erred when he said Water and Power is the only water resource construction agency using a 100-year period of analysis.

(4) No indirect benefits—while we believe that there is good rationale for claiming indirect benefits in the case of the O'Neill Unit and that the Water and Power analysis is conservative, the O'Neill Unit is well justified on direct benefits only.

(5) The use of a range for corn yields. The argument here is that projection of yields is a highly uncertain forecast and, therefore, a range should be used. He admits that the Water and Power projections are reasonable and more conservative than could be supported for year 2010. We agree with him on that basis and believe that we should present a benefit-cost ratio based on reasonable estimates, not a range of B-C ratios.

In conclusion, we believe that the article errs in the important aspects of livestock production and groundwater recharge. Therefore, the results of the analysis of B-C ratios cannot be considered to be meaningful.

Now I am sure my distinguished colleague does not mean to be saying, in effect: "I've gotten everything my District needs. So let's stop development of the whole area under the rules we now have, and let's change the rules and apply new criterion to investment in the development of our country." I know the gentleman does not feel that way. But I say that this appropriations bill is not the proper place or means for such drastic changes in national policy. Let him submit a bill so that the authorizing Public Works Committee can have hearings and let us all testify. Let Congress work its will in proper manner on such momentous changes.

Across our 10-State area there are about 150 units like the O'Neill project either operating or under construction. In that context, the O'Neill unit is a mid-sized project, soundly conceived, carefully studied, and carefully reviewed.

Let me just list some of those who support and endorse funding of the O'Neill unit:

President of the United States.
Secretary of the Interior.
Governor of Nebraska.
Senior Senator from Nebraska.
House Appropriations Committee.
Nebraska Natural Resources District.
Rosebud Sioux Indian Tribe living next to the project.
Great Omaha Chamber of Commerce.
Omaha Building and Construction Trades Council of the AFL–CIO.
Lincoln Chamber of Commerce.
Norfolk Chamber of Commerce.
Nebraska Association of Commerce and Industry.
Sioux City, Iowa, Chamber of Commerce.
Sioux City, Iowa, AFL–CIO Ironworkers Union.
Missouri River Basin Commission.
Many, many other chambers of commerce and citizens across the state of Nebraska, including former governors and senators.

This is a vitally needed water-planning project with one of the highest cost-benefit ratios of any other project in the country at 2.5 to 1. The O'Neill unit never was on the President's so-called "hit list." The project was overwhelmingly supported by local people in two elections last year by 78 percent majorities.

The project is designed to provide for irrigation, to recharge groundwater, provide and enhance recreation value—all in a water-short area. Additionally, soaring petroleum prices led the Water and Power Resource Service recently to study the O Neill project to see whether hydroelectric power-generating facilities could be installed. The study shows that the project would save as much as $4.2 million annually in oil consumption at $30 a barrel.

This project is not one that costs taxpayers, but one that, on the other hand, is an investment in our incomparable food-producing capacity, which well may be our Nation's strongest economic asset right now.

The Federal investment will be recovered not only in direct repayment, but in increased tax revenues generated by the resulting healthy economic development that will occur in the entire region. One estimate is that the project would generate at least $109 million of additional income a year to Nebraskans throughout the State.

Those who oppose this project have worried about the supposed damage to the environment. Last year the Congress directed that the streamflow below the project be stabilized to make sure that existing habitat will be preserved and improved. Indeed, this project may well be the most carefully planned with regard to environmental concerns.

Recently, the National Conservancy bought at least 57,000 acres of land along the Niobrara in the project area. The Conservancy officials have assured that the O'Neill unit will not interfere with their plans for management of this region.

The O'Neill unit involved only 19 miles of the lovely 450-mile-long river. Nevertheless, critics allege that severe damage will be inflicted on what has been erroneously described as the last free-flowing river in Nebraska. To begin with, the river is not a free-flowing river at all. There now exists upon it three large dams and reservoirs on the main stem of the Niobrara River and 17 other dams and reservoirs are in place on its tributaries. So far as I know, there is no movement to tear them all out and return the river to its original, truly free-flowing character.

The project plans provide for protection for many areas, such as the lovely Smith Falls. In fact, recreation will be enhanced, and fish and wildlife will be encouraged. All necessary environmental needs of the endangered whooping crane will be accommodated. Other critics have said it is unwise to add new cropland for crops in so-called surplus status. Only grain exports keep our balance of trade payments from becoming disastrous. A 5-percent decline in world food production would produce widespread food shortages. Prime food-producing land is being eaten up by suburban sprawl. The O'Neill unit, and others like it under construction now, help offset that loss and the growing threat of worldwide hunger and deprivation.

There are those who complain that the repayment provisions fail to include interest that the Government has to pay to borrow money to finance water-planning projects. The reclamation laws enacted in 1902 provide for repayment without interest. If this should be changed, then we should address properly in authorizing legislation—not piecemeal in an appropriations bill drafted properly under existing laws.

Of course, not all the money invested in water projects is borrowed, however. Proceeds from sales of power and other income into the project area go into the reclamation fund, which provides a substantial amount of the money for construction of reclamation projects.

There has been discussion also of whether the dam would turn out to be safe. I have with me today a letter from Commissioner R. Keith Higginson of the U.S. Water and Power Resource Service that says a new, court-ordered study shows that the project certainly can be constructed at the site. I submit a copy of his letter at this point.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., June 18, 1980.

Hon. VIRGINIA SMITH,
House of Representatives,
Washington, D.C.

DEAR MRS. SMITH: Knowing of your keen interest in the status of the litigation of the O'Neill Unit of the Pick-Sloan Missouri Basin Program, I am advising you of our progress to date in this regard.

As you are aware, in the lawsuit brought by the Save the Niobrara River Association, Inc., the U.S. District Court found the Final Environmental Statement (FES) for the unit deficient in four areas and an injunction was issued. On April 16, 1979, the court ruled that our supplement to the FES did not adequately address two of those issues. Therefore, we are required to again supplement the FES in an effort to secure the court's lifting of the injunction.

One of the court's concerns was that the FES and the supplement do not describe fully the risk of possible danger from geologic instability at Norden Dam site and the need for specific studies of that risk.

In response to that concern, we established an independent board of consultants to review our records on design, testing, and geologic exploration data for completeness and accuracy, as well as the interpretation and considerations used previously in the feasibility design of Norden Dam. Further, the board was to review and comment on the adequacy of the design to fit the geologic conditions found.

We recently have received a preliminary draft of the board's report. Although our engineers are still reviewing and analyzing its findings, I want to advise you that it confirms our position that a safe dam can be constructed at the Norden site. It recognizes, as we do, that due consideration must be given to any weak components in the foundation and that some refinements of the early concepts in the feasibility design are necessary to assure a safe structure. We are continuing our geologic exploration program to reflect the board's recommendations and to determine the impact on the estimated cost of the dam.

Regarding the second court concern relative to alternatives to constructing the project, we have received a draft report from our contractor on this issue. We are reviewing it and it appears that a substantial revision will be necessary before it can be finalized.

We are doing everything we can to expedite the filing of the second supplement to the FES at the earliest possible date so that we can return to the court with a motion to lift the injunction. We will provide you a schedule of the activities involved in filing the supplement as soon as we have evaluated the impact of the consultant board's recommendations.

We intend to keep you fully informed on the status of this project as we proceed in response to the litigation. We will be pleased to answer any questions you may have.

Sincerely yours,

KEITH HIGGINSON,
Commissioner.

Much has been made of the fact that a court order has halted construction, implying that the court suspected the project of being unsound. The truth is that the court stopped construction because it found technical defects in the project's environmental impact statement. The Water and Power Resource Service is perfecting the impact statement and soon will circulate it as required by law for comment.

Mr. Chairman, if this soundly conceived, vital project is jeopardized by continued delay, no public works project, regardless of its merit, will be safe from similar assault. I urge my colleagues to reject this ill-advised amendment.

Thank you.

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am delighted to yield to the gentleman from California.

Mr. ROUSSELOT. So, what the gentlewoman is telling us is that in this type project there is a repayment back into the Treasury by the users of these projects?

Mrs. SMITH of Nebraska. This is absolutely true.

Mr. ROUSSELOT. So that there is not a direct loss to the Treasury, as some of the other projects are?

Mrs. SMITH of Nebraska. Indeed, it is not. About 94 percent will be paid back.

Mr. ROUSSELOT. Ninety-four percent. That certainly sounds like a very worthy project, and I compliment my colleague for bringing this point out because the implication has been that these type of water projects create a drain on the Treasury, and that simply is not correct.

Mrs. SMITH of Nebraska. That is correct. It is not true.

Mr. ROUSSELOT. I thank my colleague, the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, the gentlewoman is bringing to the attention of my colleagues, I think, a very comprehensive recitation of the history of this project that was authorized by our Interior Committee. I was one of those that was privileged to go out to the Nebraska area prior to the time the gentlewoman served in the Congress, at the time we actually authorized it. The gentlewoman has had the responsibility of funding the program once she assumed her position on the Appropriations Committee.

As I recall, the project sponsor at that time was in fact a reclamation district that would assume the local sponsorship responsibilities and obligations just alluded to by my friend from California, Mr. ROUSSELOT; the repayment provisions, under a contract with the Department of the Interior.

At that time there was a lot of concern expressed about trying to keep young people in that area, the idea being to develop young family farm interests in that area. That was one of the reasons presented to us as a justification for the authorization. But also, it is my understanding that the gentlewoman is having a similar problem to what is occurring out there in California, namely, an overdraft on the ground water supply and the aquifer. Will not this project be utilized extensively to recharge that aquifer which is now overdrawn?

Mrs. SMITH of Nebraska. In answer to the gentleman, this is absolutely correct. In fact, the wells that have been built are becoming useless. The water table is going down, and without a recharge of the aquifer that will become a barren land that is no longer productive.

Mr. CLAUSEN. Mr. Chairman, I believe that it is time that we begin considering legislation to form some sort of water management plan not only for this project but all others about whom controversy has arisen as a matter of environmental, cost-benefit, and other concerns.

At this time, I want to associate myself with the gentlewoman's remarks, and rise in opposition to the amendment and in support of the gentlewoman's position.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. RHODES. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am delighted to yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I rise in opposition to the amendment. The gentlewoman from Nebraska is most persuasive, as she always is, but my experience, I think, certainly would lead me to oppose this amendment even without her eloquence.

I was born and raised in the Midwest, and I know the devastation that happens whenever those rivers in the Missouri River system overflow. I remember so well the terrible destruction in the Kansas City area back in the days when Harry Truman was President, which of course was the impetus that provided the Pick-Sloan concept for the control of floods in that very important part of the country.

This is an important part of the Pick-Sloan project, and certainly it should be built. I intend to support the gentlewoman from Nebraska in her attempts to make sure that it is. The fact that the water table is receding certainly sounds familiar to me, coming from the part of Arizona that I come from. We also have receding water tables, and we are in the midst of constructing a project for the purpose of bringing those water tables back up to where they were.

I am pleased that this Congress, I am sure, will go along with the gentlewoman from Nebraska in making sure that the people who live in this area also receive the help that they need for that type of relief. I congratulate my good friend and colleague, and assure her that she has my support.

Mrs. SMITH of Nebraska. I thank the gentleman very much.

Mr. WHITTEN. Mr. Chairman, will the the gentlewoman yield?

Mrs. SMITH of Nebraska. I am delighted to yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say that I served on the Public Works Subcommittee for quite a long time and I serve at present as an ex officio member. The gentlewoman from Nebraska has been very helpful to all sections of the country by her support in the committee.

The CHAIRMAN pro tempore (Mr. BEILENSON). The time of the gentlewoman from Nebraska has expired.

(At the request of Mr. WHITTEN and by unanimous consent, Mrs. SMITH of Nebraska was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. On this project, we have to look at the merits. But when I read the list of those who have endorsed this project, and realize that it is in an area where water is extremely important, and when I examine the benefits that will result from project including the development of the area, I find that we should support this project as I see it.

I have to give credence to those who know the project as against those who are at some distance from the area or who have other ideas about the importance of agriculture and industry. So, I just want to say to the gentlewoman that it is a pleasure to support her project.

Mrs. SMITH of Nebraska. I thank my good friend, the chairman of the committee.

Mr. PERKINS. Mr. Chairman, will the distinguished gentlewoman from Nebraska yield?

Mrs. SMITH of Nebraska. I am delighted to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first I wish to congratulate the gentlewoman for her presentation. I have had occasion to study the project, and I find to my satisfaction that it is an excellent project. I feel that our country owes a duty to the people in areas like the gentlewoman represents to protect the people from flooding.

I have also been associated with the gentlewoman from Nebraska since she came to the Congress. She served on the Committee on Education and Labor and is a very sincere lady and a very sincere worker on any problem that comes before the committee. I think that she deserves the support of all the people in this Chamber against an amendment for a project that means so much to her area and to the whole country.

I thank the gentlewoman.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. Chairman——

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The CHAIRMAN pro tempore. The time of the gentlewoman from Nebraska (Mrs. SMITH) has expired.

(On request of Mr. JOHNSON of Colorado, and by unanimous consent, Mrs. SMITH of Nebraska was allowed to proceed for 1 additional minute.)

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I want to join the gentlewoman from Nebraska (Mrs. SMITH) in her appeal to the House not to reject this particular project within the Missouri River complex and the studies that have gone on.

It seems to me that this full Missouri River project, the Pick-Sloan project, which has been studied for a long, long period of time, has merited our support, particularly those of us who have seen the benefits within the western region of the United States.

This is not an isolated project. It is one that is part of the total conception. We have one in Colorado that has been rejected, and I think that the example of just what would have occurred this year had it been in place is one more reason why we should not willy-nilly pick these things out of the pot and say, "We don't like this one" and "We don't like that one." The whole scheme of things is such that it deserves our support.

Mr. Chairman, the gentlewoman from Nebraska has made her case very well and very ably, it seems to me. I join the gentlewoman in her opposition to the amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from Colorado (Mr. JOHNSON) for his support.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 5 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from Nebraska (Mr. BEREUTER) is recognized for 10 minutes.

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Nebraska (Mr. CAVANAUGH) which proposes to delete funds for the proposed O'Neill unit irrigation project from the fiscal year 1981 appropriations bill.

This is a very controversial project. Those who support it and those who oppose it have reviewed the same studies, talked with the same people and have arrived at exactly the opposite conclusions. This is not a reflection on the judgment of either side because both argue their positions out of a strong sense of conviction.

The project's staunchest supporter, Mrs. SMITH, within whose district the proposed dam will be constructed, is one of the most esteemed members of the Appropriations Committee presenting the bill today. She has worked long and hard to promote the project and has done so because of her firm belief that the benefits to her constituents will outweigh the costs of the project.

My respect and admiration for her work is enormous, and I have valued her advice and untiring assistance on many occasions. It is, therefore, with reluctance that I stand today in opposition to a project that I know the gentlelady supports.

However, my long-standing opposition to the project is well-known and has never been in question. It has been clearly stated for several years and was reaffirmed last year in my support for a similar amendment by Mr. CAVANAUGH.

The issue of whether to construct the Norden Dam on the Niobrara River for the O'Neill project has implications far beyond the borders of any single congressional district. It has become a major statewide issue. It is an issue that faces the State of Nebraska and all of its citizens. Given the unique features of the Niobrara River and its valley, it is also an issue with broad regional implications.

Therefore, I believe it is necessary and appropriate for me, as the Representative from the First Congressional District of Nebraska, to voice an opinion about this proposed project, and in doing so, I feel absolutely confident that I am voicing the majority opinion of my constituents.

If I may, I would like to call my colleagues' attention to a survey that I conducted in my general-purpose, annual legislative questionnaire to the citizens of the first district just last year. In that questionnaire, I asked the following question:

> Do you favor construction of the proposed O'Neill unit irrigation project and its Norden Dam on the Niobrara River?

Of the 4,400 questionnaires that were returned and reviewed, 72 percent of those responding (and most did respond) opposed the project and only 27.9 percent favored it. That sample opinion was uniform throughout the district. Indeed, a sampling of those residents from north of the Platte River in the First Congressional District, the area in my district most likely to receive greater indirect benefits from the project, showed only 27.6 percent favoring it.

While by no means a thorough, scientific sampling, I believe the results of this survey are a clear indication of how the majority of my constituents want me to vote on this issue. They are opposed to construction of the Norden Dam and, in my judgment, the opposition to the project is increasing throughout the State, except in the immediate geographic area to be benefited. These conclusions are reinforced on a daily basis when I am in Nebraska.

It should be noted that Nebraska law does not allow those citizens who do not reside within a reclamation district to vote on any particular project even though their land may be taken as a result of the project. Thirty thousand acres of Nebraska land will be taken for the project. Beyond the immediate reclamation area, no vote of the people on the merits of the O'Neill project has occurred.

I will leave to the sponsor of the amendment a full discussion of the cost-benefit studies that have been done on the project. Suffice it to say, I believe, that grave doubts remain as to the existence of a favorable cost-benefit ratio when such analysis is realistically conducted. Until a full-cost, realistic updated cost-benefit ratio can be calculated for the project, I will continue to voice my opposition and that of my constituents to the project.

Moreover, the results of other studies relative to the environmental aspects of the project have not yet been completed. The Department of Interior's Water and Power Resources Service is conducting an ongoing study of the effects of the proposed reservoir for the area located in the 45 miles downstream from the proposed dam. This final report is expected to be completed in December of this year. Two other areas to be studied by the same agency are geologic stability of the dam site and research to seek alternatives which would provide the same benefits without depleting ground water supplies.

These reports will not be available in final form until later in 1981, and will be used to supplement the environmental impact statement currently considered to be inadequate by the courts. The area is also rich in archeological and fossil resources and as yet these studies have not been released.

I certainly am not opposed to reclamation projects in principle; indeed, another project authorized by this bill, the North Loup project in Mrs. SMITH's congressional district in Nebraska, has my support. Indeed the O'Neill project is the only such project in Nebraska and surrounding States which I would oppose. That is also the view of most of my constituents.

The primary reason I oppose construction of the Norden Dam is the potential adverse effects it will have on perhaps the most unique and beautiful river valley in the Great Plains. To quote an earlier joint Department of Interior and Agriculture report:

> This [the Niobrara River] is an unusually attractive plains river with outstanding and unique geologic, geographic and biotic features. . . . it is a long, delightful ribbon of green. . . . The river is unique to the sand hills country.

Research done by the personnel of the University of Nebraska shows this river to be a unique mixing area, not only for the coniferous western and deciduous hardwood eastern forest systems, but also for three major prairie systems. The Niobrara River Valley contains a hardwood plant community which is unique in areas this far south in the United States; namely, the paper birch tree and associated flora. This river bank forest stands out in a virtually treeless area of tall grass prairies and farmland. The Fish and Wildlife Service has yet to approve of the project's effects downstream for endangered whooping crane and bald eagle habitats, for which the Niobrara River is a main flyway and breeding ground. The river bottom area is also important for other species of birds which hybridize here and nowhere else.

We are talking about a very beautiful, unique river, one that was to be included among the very first rivers to be included at the time the Wild and Scenic Rivers Act was enacted—except for the pressure of a Member of Congress at that time. In 1965, the Niobrara was placed on a nationwide inventory by the Department of Interior of 650 potential wild and scenic rivers. Later that year, it was selected as one of 22 rivers that should receive serious consideration for designation as wild and scenic. In 1970, it was placed on the list of rivers to receive consideration in all water resources planning under the provisions of section 5(d) of the Wild and Scenic Rivers Act. In his 1977 Environmental Message, President Carter reiterated that interest by naming the Niobrara as one of 20 rivers that should be authorized for study as a potential addition to the National Wild and Scenic Rivers system.

Most of the river is still undeveloped. In many places, access to it can only be gained by horseback, on foot or by canoe. Indeed, canoeing has become a very popular sport along a 25-mile stretch of the river east of Valentine—including a major part of the area to be inundated by the proposed reservoir. The Norden Reservoir which will result from the dam will extend about 11 miles within this prime canoeing area. Two-thirds of the stretch which has been identified as the most scenic and desirable for recreational activities like canoeing, photography, and nature study, would be destroyed or badly damaged. Approximately half of the vegetation would be inundated in what is commonly regarded as the most scenic portion of the Niobrara River.

Also of serious concern are the effects on the river downstream from the proposed dam, including a 25-mile stretch of the Niobrara which is located in my congressional district. By reducing downstream flows, it is certain that the basic character of the river will be altered, a river that experiences an unusually steady flow of water year round.

Mr. Chairman, I can think of few issues that I have faced, first as a State legislator running for Congress and now as a Congressman that I have studied more and continue to study.

If I really believed that the reclamation benefits of this project outweighed the costs and risks associated with it for Nebraska and for the Nation, I would support it. They do not. There are important budgetary and environmental considerations as well, and it is those considerations which require me to oppose the Norden Dam and Reservoir and the O'Neill project reclamation project which it creates.

☐ 1430

Thirty thousand acres of Nebraska land will be taken for this project. Those people cannot vote. That is not by accident. There was an attempt to change the State law last year, and the opposition to the change in law was led, to a substantial extent, by the people of the benefited district.

Beyond the immediate reclamation area, therefore, no vote of the people on the merits of the O'Neill project has occurred. I will leave to the sponsor of the amendment a full discussion of the cost-benefit studies that have been done on the project. Indeed, he has done that. Suffice it to say, I believe that there is grave doubt as to the existence of full cost ratio when analysis is realistically conducted. I understand, indeed, I know quite well, the favorable cost-benefit ratio that is cited. Until a full-cost, realistic, updated cost-benefit ratio can be calculated for the project, I will have to continue to voice my opposition and that of my constituents to the project.

Moreover, the results of other studies relative to the environmental aspects of the project have not yet been completed. The Department of the Interior's Water and Power Resource Service is conducting an ongoing study of the effects of the proposed reservoir in the area located in the 45 miles downstream from the proposed dam. This final report is expected to be completed in December of this year.

Two other areas to be studied by the same agency are geologic stability of the damsite and research to seek alternatives which would provide the same benefits without depleting groundwater supplies. These reports will not be available in final form until later in 1981 and will be used to supplement the environmental impact statement currently considered to be inadequate by the courts.

The area is also rich in archeological and fossil resources and as yet these studies have not been released.

I am certainly not opposed to reclamation projects, in principle. I can think of no project, past, present or conceived of in my State, that I would oppose, except this one. Indeed, another project authorized by this very bill, the North Loup project, in the congressional district of the gentlewoman from Nebraska (Mrs. Smith), despite mail coming to me, certainly has my full support and will continue to have my support. Indeed, the O'Neill project, as I said, is the only one about which my constituents have strong opinions, and I share them.

The primary reason I oppose the construction of the Norden Dam, however, is the potential adverse and real adverse effect it will have on perhaps the most unique and beautiful river valley in the Great Plains. To quote an earlier joint Department of the Interior and Agriculture report, this, the Niobrara River, is "an unusually attractive Plains river with an outstanding and unique geologic, geographic, and biotic features. It is a long, delightful ribbon of green. The river is unique in the sandhill country. Research done by the personnel of the University of Nebraska shows this river is a truly unique mixing area, not only for the carniverous western and deciduous hardwood of the eastern forest system, but also for three major prairie systems. The Niobrara River Valley, specifically the part to be flooded, contains a hardwood plant community which is unique in areas this far south in the United States; namely, the paper birch tree and associated flora. This river bank forest stands out in a virtually treeless area of the tall grass prairies and farmlands. The Fish and Wildlife Service has yet to approve of the project's effect downstream for endangering the whooping crane and bald eagle habitat for which the Niobrara River is a main flyway and breeding ground."

I support the Cavanaugh amendment and ask the Members of this body to support it.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I will be pleased to yield briefly to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to commend the gentleman in the well, the gentleman from Nebraska (Mr. Bereuter), as well as his colleague, the gentleman from Nebraska (Mr. Cavanaugh), for raising this issue.

As the gentleman knows, our own subcommittee was very favorably disposed to have the Niobrara studied for wild and scenic river values. The gentleman in the well indicated that he had hoped that we would not anticipate either that solution nor the solution before us while this matter was in such contention. So I think wisdom being the better part of valor, we would be all well advised to support the amendment to delete rather than anticipating a solution that might be at variance not only with the desires of the people in the gentleman's district, if not in the State, but also the highest and best use for this unique resource in this very important part of the country.

Normally, I do not intervene in debate on an item affecting such an intrastate quarrel, if you will. But I am constrained to do so because the gentleman from Nebraska has impressed me throughout the course of his tenure and service on the Committee on Interior and Insular Affairs. I have been enormously impressed with the gentleman's dedication to his responsibility as a Member of Congress and in his objectivity in analyzing any specific situation, and even the more so, I would think, because this is a situation with which the gentleman is so familiar.

So I would urge my colleagues to heed the plea of the gentleman from Nebraska (Mr. Cavanaugh) and the gentleman from Nebraska (Mr. Bereuter).

Mr. BEREUTER. I thank the gentleman for his comments, and I appreciate them.

The CHAIRMAN pro tempore. The time of the gentleman from Nebraska (Mr. Bereuter) has expired.

(On request of Mr. Phillip Burton, Mr. Bereuter was allowed to proceed for 3 additional minutes.)

Mr. BEREUTER. Mr. Chairman, we are talking today about a very beautiful, unique river, one that was to be included among the very first rivers to be included at the passage of the Wild and Scenic Rivers Act. Except for the pressure of a Member of Congress at that time, it would have been designated. In 1965, the Niobrara was placed on a nationwide inventory of the Department of the Interior of 650 potential wild and scenic rivers. Later that year it was selected as one of the 22 rivers that would receive serious consideration for designation as wild and scenic. Indeed, constituents from the Third District, the district of Mrs. Smith, have come to me lately, from the areas to be inundated, and asked me if I would consider introducing legislation to so designate the area because they are precluded from voicing their opinion under Nebraska's reclamation law.

The Niobrara was placed on the list of rivers to receive consideration in all water resources planning under provisions of section 5 of the Wild and Scenic Rivers Act.

In his 1977 environmental message, President Carter reiterated that interest by naming the Niobrara as one of 20 rivers that should be authorized for study as a potential addition to the National Wild and Scenic River System. Most of the river is still undeveloped. In many places access to it can only be gained by horseback, by foot or by canoe. Indeed, canoeing has become a very popular sport along the 25-mile stretch of the river east of Valentine, including a major part of the area to be inundated.

The Norden Reservoir, which will result from the dam, will extend about 11 miles within this prime area, two-thirds of the stretch of which has been identified as the most scenic and most desirable for recreational purposes.

Approximately half of the vegetation would be inundated in what is commonly regarded as the most scenic portion of the river. Also of serious concern are the effects on the river downstream from the proposed dam, including, I would like to emphasize, a 25-mile stretch in my district. They are quite concerned in my district about the impact that the declining stream flow would have. By reducing stream flow, it is certain that the basic character of the river will be altered, a river that experiences an unusually steady flow of water the year around.

Mr. Chairman, I can think of few issues that I have faced, first as a State legislator running for Congress, and now as a Congressman, that I have studied more and continue to study. If I really believed that the recreation benefits of this project outweighed the cost and the risk associated with it for Nebraska and for the Nation, I would support it. They do not, in my judgment. There are important budgetary and environmental considerations, as well, and it is those considerations which require me to oppose the Norden Dam and the reservoir and the O'Neill project reclamation area which it creates.

☐ 1440

The CHAIRMAN pro tempore. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 4 additional minutes.)

Mr. BEREUTER. Mr. Chairman, I support the Cavanaugh amendment and ask the Members of this body to support it.

Now, I would like to speak slightly more extemporaneously to Members of the House and especially to the people on my side of the aisle here. This is an issue that is not going to go away. It is of major, statewide concern. It will continue to be a statewide issue. If, in fact, the dam is ultimately stopped by the courts, or by some other method, or by some action on this floor or some Wild and Scenic River Act, I think generations to come in the State will look on that as a very wise decision.

This is not the timing for this debate that I would have preferred, but given the situation presented to me the only responsible course that I had to my constituents was to speak on this amendment, presenting my best arguments for the Cavanaugh amendment. Last year I did not speak on it. There are differences I note today.

I am convinced that, indeed, it is the responsible course of affairs to support the Cavanaugh amendment. I know you understand the kind of pressures that are placed upon a Member, especially in an intrastate affair. I would emphasize that they have not come from my colleague, the gentlewoman from Nebraska (Mrs. SMITH). She has been a gentlewoman in every respect.

I also think you must realize, of course, on a day to day basis the principles of representative government that we all try to meet.

I support water projects. I think it is important that subsidies be granted to Western States where rainfall is not plentiful. Indeed, I live in an area that is today almost completely dependent on irrigation, not from a reclamation project, but from other sources. I walk 200 yards from my house in Utica and I am looking at an irrigation pump, one of 200 to 300 within several miles.

I believe it is important that we complete these kinds of projects. I also emphasize again that 25 miles of the river to be affected by the project in my district. This is not a pro forma effort on my part; I do firmly oppose the O'Neill project on behalf of my constituents. I ask you to consider that fact as you frame your comments and as you vote on this issue.

Now I would be pleased to yield first to the gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman.

First, I want to commend the gentleman for an eloquent and comprehensive statement and also one that does involve considerable personal courage and personal sacrifice.

I think that the gentleman has expressed the pain with which he takes this issue and I join with the gentleman in opposing our colleague, the gentlewoman from Nebraska, in an amendment that is important to her; but I think that he also pointed out in his remarks a critical issue that I simply would like to highlight. The fact that the gentleman in the well and this gentleman have not been opponents of all reclamation projects; certainly we have supported many projects in the gentlewoman's district and in our own districts; but this one single project is unique in the deficiencies that it has economically, in the deficiencies that it has environmentally and in the deficiencies that it has in terms of what the aspirations of the people of Nebraska, and, as the gentleman has pointed out, which his constituents who are overwhelmingly opposed to this project have; so with all those issues, I think that the gentleman has brought this graphically to the House.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has again expired.

(At the request of Mr. CAVANAUGH, and by unanimous consent, Mr. BEREUTER was allowed to proceed for 30 additional seconds.)

Mr. CAVANAUGH. Mr. Chairman, if the gentleman will yield further, I want to express my personal gratitude to the gentleman, my admiration to the gentleman for the dignity and effectiveness with which he has expressed himself on this most important issue and one for which I am convinced the people of the State of Nebraska will be eternally grateful for his courage and foresight in joining me in support of this amendment.

I thank the gentleman.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. ABDNOR. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, this particular amendment was hashed out last year. I know we are taking considerable time going over the same material again today, but by the same token, I would like to remind the Members of this body that many years ago much rehashing was done over the years in trying to come to some kind of an agreement for a flood control act. It was finally brought into being in 1944 in an act by that name, and part of that act included the Pick-Sloan plan that is so important to many States, including Montana, North Dakota, South Dakota, and Nebraska. That plan had many points to it and most of those have now been completed. As a matter of fact, every phase has been pretty well completed, except for the irrigation portions.

The other portions included navigation, flood control, and hydropower. It is ironic, and pardon me for picking on my good friend and colleague, the gentleman from Nebraska, from Omaha specifically. I know of no district in the United States that gained more from the Pick-Sloan plan than that particular area. Possibly it goes back before the gentleman's time and the gentleman does not recall the floods that Omaha used to experience, because of the Missouri River going out of its banks. Today that does not happen. I might say the same is true in Iowa, particularly in the Sioux City area.

Many people in the other States made a great sacrifice to make that possible, made it possible for Sioux City, for Omaha, to enjoy navigation that people in my State would give anything to be able to have, particularly in this day of railroads going out of business.

Power—there is nothing more important, I guess, at the moment than energy; but 30 or 40 years down the road it well could be water. Let me tell you something. There is nothing that you can come up with to replace water except water. You do not have the alternatives that you have with energy.

So now we find ourselves confronted with those who would like to change the game plan, the agreement, that many, many people entered into who are not able to be here today, who said this is what the program is going to be. One of those agreements was to construct a dam, the dam we are speaking of today.

I realize that in the last 4 years there have been many changes in direction of our water project; but it is interesting to note that even the administration supports this particular project. How I wish I could get the President and the Secretary of the Interior to go along with some of the South Dakota water projects that are in the program; but this is so meritorious and such an excellent project that they have no quarrel with it. They go along with it. They recommend it. That within itself ought to tell you that it has got to be a good project, if it passed the scrutiny of the administration.

So when I think about this today and what we are confronting, let me say this. I do not know how valid the polls that we take really are; but I know elections are important. There the people who feel strongly about a matter can vote, and in this particular project everything was go. They had an overwhelming majority of 77 percent at the polls. Of all water projects, even with the higher costs that are spoken about today, this has one of the best cost-benefit ratios of any project in the Nation, and we sit there today and debate whether we ought to delete appropriations for it.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. Yes, I yield to my colleague, the gentleman from California.

Mr. BURGENER. Mr. Chairman, I appreciate my colleague yielding.

I rise in support of the project and in opposition to the amendment.

I have before me the hearings from the committee and there are certain things in this which I find quite impressive and quite convincing.

First of all, the project was authorized clear back in 1972, in October, for the purposes of irrigation, recreation, fish and wildlife enhancement and flood control. It will irrigate some 77,000 acres. Construction was started, although it is not very far along, in May 1976.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

(By unanimous consent, Mr. ABDNOR was allowed to proceed for 3 additional minutes.)

Mr. BURGENER. Mr. Chairman, will the gentleman yield further?

Mr. ABDNOR. I am happy to yield.

Mr. BURGENER. Completion is hopefully in about 1988.

Yes, it is controversial, but in the area immediately affected in the district of the distinguished gentlewoman from Nebraska, I would find it less controversial, indeed.

But what impressed me with the overall cost is this. Over the 50-year period, the amount to be repaid of this $230 million by irrigators is $45 million.

The amount to be repaid by power, now, that is power from the overall Pick-Sloan Missouri Basin program, is $171 million.

□ 1450

Wildlife and recreation costs come in there to be reimbursed, so the total reimbursement on this is $220 million over the lifespan of the project. It is a long-range investment. These are not short-term things.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman.

Mr. BEDELL. Does the gentleman understand there is absolutely no power generated at all by this project?

Mr. BURGENER. Yes, I understand that.

Mr. BEDELL. So this project does not contribute any money toward that part of the repayment.

Mr. BURGENER. No, but if I may continue and make my point, of all of the power to be generated by the total project, $107 million will be allocated from those revenues to this project to reimburse the taxpayer. So I think on balance, with the cost-benefit ratio the way it is, the overwhelming evidence is in support of this project. I would urge that the amendment be defeated.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, there were remarks made earlier which, while accurate in their totality, I think perhaps may have conveyed a wrong impression about the project. It was stated that there were 30,000 acres of land required for the project, which is true, but only 600 acres of farmland would be taken by the project. The river is 430 miles long. Only 19 miles of that 430 would be contained by the reservoir of this particular dam.

I would like to make a further point that the gentleman in the well will be familiar with. In the last 30 or 40 years since there has been a great deal of sprinkler irrigation and underground irrigation, the Ogallala formation that stretches between South Dakota and the high plains of Texas, the water tables in that vicinity have gone from a depth of about 20 to 30 feet underground to about 300 to 400 feet in many cases. Wells that used to provide great amounts of water, high gallonage of water of 2,000 to 3,000 gallons a minute, sprouting all over the high plains of Texas and North and South Dakota, those wells are now going dry.

The CHAIRMAN pro tempore (Mr. BEILENSON). The time of the gentleman from South Dakota has again expired.

(At the request of Mr. JOHNSON of Colorado and by unanimous consent, Mr. ABDNOR was allowed to proceed for 2 additional minutes.)

Mr. JOHNSON of Colorado. Will the gentleman yield further?

Mr. ABDNOR. I yield to the gentleman.

Mr. JOHNSON of Colorado. The farms that used to have two and three wells that would be irrigating a half section or three-quarters now have four or five wells on perhaps an 80-acre section, and they are barely providing irrigation water. The whole underground aquifer system on the high plains is going dry. There will not be that kind of irrigation water available for people in the next 40 or 50 years that there has been in past.

My father was a farm implement dealer in the high plains of Texas when we started sinking those wells just shortly after World War II and those wells, which I used to work on as a boy between 1945 and 1948, have almost all gone dry. Those of my colleagues who come from parts of the country where it rains have never understood, and those of us from the dry countries have never been able to explain the consequences of going to dry land farming. When you are raised out in that part of the world, the only thing that you are associated with is either dry land wheat or, in the high plains of Texas, short staple cotton. It is so short that they say it only has one end on it. We raise a little bit of dry beans. It is really a very uncomfortable economy to live in, the dry land farming economy out there on the high plains. It does not matter whether it is in South Dakota or down in Texas, the consequences are the same. If we do not provide the irrigation water for those individuals, we are going to have a very serious economic problem. We do not have that water any long for underground sprinklers, and the gentleman from South Dakota can verify what I have said, if he would.

Mr. ABDNOR. I thank the gentleman from Colorado for his remarks. He is absolutely correct.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I have been listening to what the gentleman has had to say and what others have said here. We received a great deal of testimony before our subcommittee on this project. The distinguished gentlewoman from Nebraska (Mrs. SMITH) is a very valued member of our subcommittee and does a great job for the Nation.

I certainly support the committee on this matter and oppose the amendment. The committee has heard the testimony from what we used to call the Bureau of Reclamation and is now known as Water and Power Resources Service. They came before our committee and they recommended $2,100,000. These funds are not for construction. The funds are necessary to comply with a court order. The testimony also revealed that the water level is dropping in this area of Nebraska. This is why 78 percent of the people in the area last December voted to enter into the necessary agreements. Earlier, 77 percent of the people voted for it.

We have seen the information presented by the Bureau of Reclamation. The President has requested this appropriation. The Secretary of the Interior supports the O'Neill project. He flew over and examined it.

We ought to vote against this amendment, vote it down, and move on.

Mr. ABDNOR. I thank the gentleman for those remarks.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank my colleague from South Dakota for yielding.

In response to the question of the gentleman from Iowa (Mr. BEDELL) about hydroelectric projects. While there are no plants at present, we all know there is tremendous potential for development of small, low-head hydroelectric power projects at existing projects. When we move forward in this area, we will find that the benefit-cost ratio will be much higher than at present. We know that hydro is the cheapest and the cleanest source of electric energy available to us today.

Downstream from the O'Neill project, there are some dams that have hydro capacity. In recent years we have seen where water shortages during dry periods have increased the bill for purchased power. We can store water in this reservoir and release it for hydroelectric power production during the dry years. So there is a capacity there. It will be very, very important in the future.

Mr. ABDNOR. I would like to reclaim my time. I appreciate those comments, all speaking to the benefits that have accrued from the project in the past.

While we are talking about that, I would just like to point out and sum up by saying while this has all been made possible, there has been an awful lot of sacrifice made by States in the upper Missouri River basin, which have received very little benefit. For instance, the loss of so much land, 500,000 acres in my State, has been at a great cost to our economy. In fact, North Dakota lost even more, and they lose over $30 million a year in personal income as a result of the land taken for the reservoirs. Every year they lose over $90 million in business activities. That is lost every single year.

We are finally getting to the point of developing some of the irrigation to offset these economic losses. This is one that is on the drawing board. This is one that meets all approvals. The water is necessary. I could not agree more with my friend from Colorado (Mr. JOHNSON). I know what it is like to be in the dust bowl area.

I want to urge my colleagues to vote down this amendment and let us go ahead with the project.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to my friend from Kansas.

Mr. SEBELIUS. Mr. Chairman, I thank the gentleman for yielding. He knows that his district is the same as my district, the same as the district of the gentlewoman from Nebraska (Mrs. SMITH) and the gentleman from Colorado (Mr. JOHNSON) and to some extent the gentleman from Nebraska (Mr. BEREUTER).

We do not have water out in the western end. We are part of the Pick-Sloan plan. Some of these items in the Pick-Sloan plan were given, others were received. We are down to one of the last items in it.

You know and I know the Ogallala aquifer is going down and going down rapidly. The waters that our good friend from Nebraska (Mr. BEREUTER) mentioned where he has an irrigation well near his house, this has not struck there yet. It is working its way east from the flat plains and the high plains, and it is working its way. His well is working now, but it may well be on the Platte River they are going to want more water retention in that section of Nebraska to be able to recharge the aquifers and the wells which are not going to be running, as is happening now. Some of my wells are down as much as 1,100 feet.

I would like to say that the gentlewoman from Nebraska's project is like the one I had in my district on my stream where I was born and raised. It is an overall cooperative plan to develop. This is one of the integral parts. What surprises me is that this is one that the Secretary has actually come in and beat his chest and says he wants this one as against others that he does not want.

So it must have great merit. I, for one, would certainly urge that we defeat this amendment. I, for one, would never want to defeat any project by using the back side of it, whether it is a national park or otherwise, to promote it.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Nebraska (Mr. CAVANAUGH). I believe this amendment deserves the same fate handed it in considering the fiscal year 1980 appropriations in which it was then soundly defeated.

My district and that of my neighbor to the north, the gentlelady from Nebraska, have a common border of over 200 miles. We both have projects in the Pick-Sloan Missouri Basin plan. And, we both share a common problem in our districts of a declining water table. If we do not begin to take steps in the West right now to start preserving the water table, the entire agricultural economy of this area could be placed in jeopardy. We need these projects to help keep the water where it falls and not let it run off. The O'Neill project is a meritorious project with a high benefit-cost ratio that deserves our support. I urge my colleagues to reject the amendment.

☐ 1500

Mr. ABDNOR. Mr. Chairman, I yield back the remainder of my time.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Member in whose district this project lies is one of the more valued Members of this Congress. In fact the Nation, the Congress, and especially our Committee on Appropriations is very fortunate to have the hardworking, dedicated Member that we have. But that is not the reason this project is in this bill. This project has received the same close examination of benefit and cost as well as the environmental issues and the needs of the country that any other project in anyone else's district has. Contrary to some suggestions that it might be added for the reason that we have affection for our colleague, which we do, I want to assure every Member this particular project received the same kind of close examination as all do.

It was mentioned here about the beauty of the Niobrara. I have not seen the Niobrara, but it seems as though we have because of the frequent discussions we have had in committee with our colleague, the gentlewoman from Nebraska (Mrs. SMITH), as well as testimony from a number of witnesses on this project.

We talked about the beauty of the area, and the suggestion was made that it might be included in the wild and scenic rivers. This river system, 450 miles of river on the main stem and miles of tributaries, presently has dams. This would not be an unusually large dam on the river, stretching out for 18 miles. Does this seem like a wild and scenic river to anyone—18 miles? Considering this 18-mile stretch of river, and all of the great areas in the country every one of us knows that we might designate as a wild and scenic river, we on the committee know what is being used here because we hear it constantly. Decide to build a project the country needs badly, and you will find more flora and fauna, more wildlife specimens that nobody ever heard of, from little fish that long nobody ever saw before to some little poisonous plant. All of a sudden this river becomes wild and scenic after you want to build one of these dams. We used to have a Member here who at times such as this would say, "This is so ridiculous, it is ridiculous."

The safety of the dam was mentioned here. I have a copy of a letter from the Water and Power Resources Service dated June 18, 1980, from the office of the Acting Commissioner, R. Keith Higginson, and I quote:

> We recently have received a preliminary draft of the Board's report. Although our engineers are still reviewing and analyzing its findings, I want to advise you that it confirms our position that a safe dam can be constructed at the Norden site.

This was sent to the gentlewoman from Nebraska (Mrs. SMITH).

The thing that concerns us all is saving money. This project has a benefit-cost ratio of 2.5. But going beyond that, this project will recover almost all of the investment the taxpayers make, not in benefits but in actual cash return to the Treasury. Contrast that for a moment with our foreign assistance bill that the gentleman from Maryland and the geneleman from Florida so frequently speak about. We have many projects like this that are built in other countries disregarding the benefit-cost ratio, and usually disregarding repayment. We do not seem to have much objection to this, although they suggest once in a while it be overriden. Why is it we constantly want to do things for other countries and we refuse to do things for ourselves to help our future? It is time this Congress started thinking about our children and our grandchildren and their needs.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Nebraska. I appreciate his patience.

Mr. BEREUTER. I appreciate the gentleman's yielding.

We do call it the Niobrara, and I may be especially conscientious about that pronunciation, because of difficulties with my own name. As the gentleman may know, I do think that the citizens of our State would be shocked to find those suggested number of reservoirs on the Niobrara because that is not the case. The gentleman may have bad information in that respect. I understand the kind of difficulties of remembering all the details in light of the large number of projects he faces each year that is understandable.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. MYERS) has expired.

(At the request of Mr. BEDELL and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

The gentleman indicated that there are some dams downstream at which there could be some generating capacity.

Mr. MYERS of Indiana. That could be added, yes.

Mr. BEDELL. We do face a serious energy problem.

Mr. MYERS of Indiana. We certainly do.

Mr. BEDELL. We should do all we can to solve our energy problems. Will the gentleman agree if we take the water and spread it out in the field to use it for irrigation projects, then we do not have that water available to run through turbines to generate electricity, and maybe since we need to solve our energy problem, we should look at that part of the problem.

Mr. MYERS of Indiana. As the gentleman knows, this is a multipurpose reservoir, the only one on the main stem of the Niobrara, and it is not the only one in the West where we need water, so it means one or two projects are not enough, to answer the gentleman's question. You may have to store water frequently to meet all the needs of a community, but denying this one is not going to satisfy the water needs for irrigation and generation. We have to think of both.

Mr. BEDELL. Will the gentleman yield further?

Mr. MYERS of Indiana. I yield to the gentleman.

Mr. BEDELL. I assume the gentleman will agree that water used for irrigation spread on a field is not water that you can run through a turbine to generate electricity.

Mr. MYERS of Indiana. Not at the same time, but after it goes through the turbine, it can be taken out into the field. There is no reason you cannot have a catch basin and, as a matter of fact, warm water might be better.

Mr. BEDELL. If those turbines were above where you are irrigating, it would be one thing, but here we are talking about turbines that would be below where we would spread water out in the field.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Illinois.

Mr. HYDE. I want to thank the gentleman for yielding and associate myself with his remarks. I have not always gone along with the things this committee has done, although sometimes it is presumptuous because you are experts on this subject matter. But when a project like this is endorsed by President Carter, who has made somewhat of a reputation for lint picking around the country on projects, we might further consider that when the Secretary of the Interior, who is most zealous in locking up most of Alaska and everything else that moves, supports a project like this, it is hard to resist thinking that there must be some merit in it. I want to say this. The gentleman from Nebraska (Mr. CAVANAUGH)—and I take second place to no one in my admiration for him—usually is on the side of the angels. That is why it is painful for me to resist his amendment, but I do so, and I enthusiastically support the position of the gentleman in the well.

Mr. MYERS of Indiana. I thank the gentleman.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Kansas.

Mr. SEBELIUS. I thank the gentleman for yielding.

The benefits that we speak of seem to be wide and varied. We passed a park bill to make a recreation area on the Chattahoochee going through Atlanta. Presently, a nice place to canoe and fish.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. MYERS) has expired.

(At the request of Mr. SEBELIUS, and by unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. SEBELIUS. If the gentleman will yield further, we were talking about benefits. It so happens that while we were in Atlanta studying the Chattahoochee for the park subcommittee, the water came up about a foot. The Governor of Georgia was fishing for trout in the stream. The reason the water came up a foot was because they released water from a large Federal flood control reservoir up above Atlanta which made all this wonderful recreation possible and which made it possible for the Governor Busbee to catch the trout. This Federal reservoir made the new recreation park in Atlanta possible for the people. So these benefits come from far and various ways to make this a better place to live. I certainly congratulate the gentleman.

Mr. MYERS of Indiana. Of course, a number of other States have already made their contribution to the entire O'Neill project, but this one in particular may be just a particular area of Nebraska.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

I think the gentleman has said it so well that this is an overall development project. Certain States have made their contribution of land to prohibit downstream flooding. Other benefits have come. One of them that was mentioned was hydroelectric power, and I think our colleagues should be aware that under the unique characteristics of the Pick-Sloan agreement, if the irrigated acres are not developed, the cost of the power to the areas that are now getting it in Minnesota, in Iowa, in the parts of Nebraska that are not irrigated, the cost of that electric power will go up.

☐ 1510

I do not think they really want to move ahead without taking a look at that unique impact that will come about because of the balance between irrigated acres versus hydropower versus flood benefits downstream.

Mr. Chairman, I think my good friend from Indiana as usual has made a fantastic point also in saying that this is not something for the gentlewoman from Nebraska (Mrs. SMITH). This is something for America. The cost-benefit ratio has been explored thoroughly, it has the approval not only of the bipartisan members of this committee who study it thoroughly but also the administration and people across this country. It is an investment in the future of our Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. CAVANAUGH).

The question was taken; and the Chairman announced the noes appeared to have it.

RECORDED VOTE

Mr. CAVANAUGH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 211, answered "present" 1, not voting 19, as follows:

[Roll No. 365]

YES—202

Ambro
Anderson, Calif.
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bingham
Blanchard
Bolling
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Courter
D'Amours
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Ind.
Fenwick
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Fuqua
Garcia
Gephardt
Glickman
Gonzalez
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Hopkins
Hubbard
Huckaby
Ireland
Jacobs
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kildee
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Leland
Levitas
Long, Md.
Lowry
Lundine
McCloskey
McDonald
McHugh
McKinney
Maguire
Markey
Martin
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Pa.
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Paul
Pease
Petri
Peyser
Porter
Price
Pritchard
Quayle
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Roth
Russo
Sabo
Santini
Sawyer
Scheuer
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stark
Stockman
Stokes
Studds
Swift
Synar
Tauke
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wolff
Wolpe
Wydler
Yates

NOES—211

Abdnor
Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Boggs
Boland
Bouquard
Bowen

Breaux
Brooks
Brown, Ohio
Buchanan
Burgener
Burlison
Butler
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Flippo
Frenzel
Frost
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gore
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Harsha
Heckler
Hightower
Hinson
Holt
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McCormack
McDade
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Matsui
Mazzoli
Michel
Mikulski
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nichols
O'Brien
Panetta
Pashayan
Pepper
Perkins
Pickle
Preyer
Pursell
Quillen
Rahall
Railsback
Regula
Rhodes
Roberts
Robinson
Rose
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Satterfield
Schulze
Sebelius
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Schroeder

NOT VOTING—19

Anderson, Ill.
Biaggi
Dixon
Dodd
Erlenborn
Fish
Ford, Mich.
Giaimo
Hansen
Hillis
Ichord
Jeffords
Jenrette
Mathis
Murphy, N.Y.
Runnels
Steed
Stewart
Wilson, C. H.

☐ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Stewart for, with Mr. Jenrette against.

Messrs. ASHLEY, GRAMM, LEATH of Texas, SHELBY, and LEHMAN changed their votes from "aye" to "no."

Mr. PRICE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1530

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Water and Power Resources Service pursuant to law, to remain available until expended, $114,117,000, of which $62,398,000 shall be derived from the reclamation fund and $12,858,000 shall be derived from the Colorado River Dam fund: *Provided*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advance shall remain available until expended.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take this opportunity to commend the chairman, the ranking minority member, and the other members of the committee for bringing this very good bill to us here on the floor of the House.

Mr. Chairman, as the Members know, I have been urging this body for several years to vote against further funding for the Corps of Engineers Dickey Lincoln School Dams project in Maine. This project as proposed would cost in excess of $700 million and would be larger than Egypt's Aswan Dam. It has only marginal economic and energy value, but would have severe and irreversible environmental consequences.

This project would inundate 89,000 acres of virgin timberland, would flood 55 miles of the biggest remaining free flowing wilderness river in the Northeast (the St. John's River), and would result in the loss of habitat for hundreds of fish and animal species. And all this irreversible damage to the environment would be done to provide but 2½ hours of peak period power generation. As a member of the New England delegation I stand before you a firm believer in the need to reduce our oil dependence, but Dickey Lincoln is not the way. Alternatives exist.

If we adopt the committee bill, which does not recommend any funds for the continued planning of the Dickey Lincoln project, this would be the third year in a row that the House has adopted this position. I applaud the chairman and members of the Energy and Water Subcommittee for the far-sightedness they are showing in this matter.

You may remember that earlier this year the House passed the omnibus water resources bill for fiscal year 1980. While I join many of my colleagues in having reservations about some of the provisions in this authorizing bill, I wholeheartedly support the provision which would deauthorize the Dickey Lincoln project.

Unfortunately, the Senate has not yet acted on the omnibus resources bill, although I remain hopeful that the other body will see the wisdom of the House's position on this matter, and include a deauthorization provision.

In the meantime I urge the would-be conferees on this bill to stand firm, if necessary, during the conference in opposing any additional funds for Dickey Lincoln; if not wholly on environmental and economic grounds, then at the very least until the Congress has had the opportunity to state its will through completing action on the omnibus water resources authorization bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, namely the control of atomic energy and the issuance of licenses as authorized by section 103 (42 U.S.C. 2133) so as to make the maximum contribution to the general welfare, promote world peace, increase the standard of living and strengthen free competition in private enterprise, subject at all times to the paramount objective of making the maximum contribution to the common defense and security and to the objective of protecting the health and safety of the public, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $3,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $437,220,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: Page 28, line 16, strike out "$437,220,000" and insert in lieu thereof "$446,900,000".

Mr. KOSTMAYER. Mr. Chairman, my amendment restores a little over $9 million to the Nuclear Regulatory Commission in order to enable it to carry out its functions regarding the public health and safety.

First, I want to commend the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL), and the subcommittee for the hard work which they engaged in, in this piece of legislation, but I must at the same time say that I think my amendment corrects an oversight. It is well that my amendment is supported by the administration, by the Office of Management and Budget, by the Nuclear Regulatory Commission, and by a bipartisan coalition of Republicans and Democrats on the authorizing committee, some of whom will be speaking after I have finished.

Specifically, Mr. Chairman, my amendment will restore $9 million to the Nuclear Material Safety and Safeguards Office. That is the office in the NRC which is charged with protecting the public health and safety while the country develops a plan to dispose of nuclear waste material.

We need to ask ourselves exactly what the committee has done here. I think the answer to that question is that the committee has cut almost $10 million in order to reduce the Nuclear Regulatory Commission's role in developing a national waste disposal plan with full consideration of the public health and safety in mind. While the committee may believe that reducing the role of the Nuclear Regulatory Commission when we consider the disposal of nuclear waste material may actually facilitate this situation, I do not think that it will. I think in the long run it will slow the process down.

Mr. Chairman, this reduction of $10 million in the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards is intended to reduce the role of the NRC when it comes to our country's planning for nuclear waste disposal. What it will result in, I believe, is an even larger role for the Department of Energy.

I think that whatever our position may be on nuclear waste disposal, whether we think we ought to go ahead immediately, whether we think we ought to take a slow approach, whether we think we ought to have site selection, whether we think we ought to have a demonstration project, or whatever our point of view is, this reduction in funds for the NRC will slow the process down, because what we are saying is that the NRC should not be involved in this process at the outset, and that they should be involved in the process only when we get to the point at which we will license a repository. When we get to that point when it is time to license a repository, the NRC and its advocates will come back and say:

> We have a right to delay this process because we have not been involved in it from the outset.

So I think we are talking about trying our best to expedite this process. The Congress and the people have made it clear that they want us to move in a safe and an expeditious fashion toward developing a comprehensive national policy on the disposal of nuclear waste.

Very briefly, Mr. Chairman, let me ask, what is the role of the Nuclear Regulatory Commission when it comes to this subject? It does have a role, despite the fact that it is a regulatory agency, and one might think that its role does not begin until the time of licensing.

In a letter that I received today from the Office of Management and Budget, they describe the role of the NRC in this area as follows: One of "close review and advisory opinions on DOE's waste form and site investigation activities." These funds will lessen that very role.

The committee report itself, on page 148 describes that role, and I will ask the Members to allow me to read it in part, as follows:

> The GAO's five-year report on the Commission's performance criticized the Commission's research program for failing to "close the loop" between research and the regulatory mission of the Commission and for weaknesses in the management of the program. The committee believes that the research program should be under the direct control of the Commission and the principal Commission officers so that specific short- and long-term questions and problems can be addressed in a relevant and meaningful manner.

Mr. Chairman, these funds will allow the Nuclear Regulatory Commission to address those problems in a timely, meaningful, and regulatory manner. If these funds are reduced and if this cut is sustained, the NRC will not be able to do that. So this is an issue of expediting the process and, finally, I think, an issue of the public health and safety.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I would like to join my colleague, the gentleman from Pennsylvania (Mr. KOSTMAYER), in supporting this amendment. I think it is one of the more important amendments that will come up.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. KOSTMAYER) has expired.

(On request of Mr. LUJAN, and by unanimous consent, Mr. KOSTMAYER was allowed to proceed for 2 additional minutes.)

Mr. LUJAN. Mr. Chairman, will the gentleman yield further?

Mr. KOSTMAYER. I yield to the gentleman from New Mexico.

□ 1540

Mr. LUJAN. I do not believe that we can afford to wait until all of the research has gone on before bringing the Nuclear Regulatory Commission on line. It only makes sense that if you are going to regulate a particular industry that you be ready when that industry is ready to move, that you be ready to issue those regulations, that you have the knowledge of how the process goes. So I think that the gentleman is correct in doing so.

Secondly, before the Subcommittee on Energy and Environment in the Committee on Interior and Insular Affairs we have right now a bill that moves the Nuclear Regulatory Commission into regulation of nuclear waste depositories. So I think if, on the one hand, we are saying to the Nuclear Regulatory Commission, "Move in that direction, so you will have the knowledge," then we ought to provide the funds. I think that restoring the $9.6 million makes eminent sense, and I congratulate my friend for doing it.

Mr. KOSTMAYER. I thank the gentleman for his support and I urge the Committee to restore the $9 million to the Nuclear Regulatory Commission.

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can appreciate what the distinguished gentleman is seeking to do, and certainly this subcommittee has been consistently supporting the Nuclear Regulatory Commission in the safety area as well as in their other responsibilities. But in this particular case, the administration has one plan for waste disposal while our authorizing committees here in the Congress have disagreed with that proposal. There is a difference of opinion about how this should be handled, both in the short term and in the long term. There are many open questions on this subject that need to be resolved before we plunge ahead.

The Chairman of one of the subcommittees that actually has jurisdiction in this area, the gentleman from Washington (Mr. MCCORMACK), is here and I will yield to him at this time.

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Chairman, I join the gentleman in opposing this amendment. I think that it is important to understand that we are really sort of talking about apples and oranges here.

In the first place, the entire approach to nuclear waste management has been changed by the Science and Technology Committee in its authorization program this year. It is important to remember that we do not have but just a tiny amount of commercial nuclear waste. Almost all of the waste we have is from our defense program, our military weapons program. We will not have any waste until we start reprocessing our fuel, and we are not going to start reprocessing our fuel until after 1986. So we will not have any nuclear waste to handle until somewhere about 1990. In the meantime, we will simply be storing our spent fuel and only 2 percent of the spent fuel, you understand, is waste; the other 98 percent is still fuel.

Now, in the Department of Energy, for the research programs, the research, development and demonstration programs in nuclear waste, we have a total of $175.5 million appropriated this year, following the authorization programs established by the Committee on Science and Technology. Now, what is happening is that people in the Nuclear Regulatory Commission are trying to get into the research area that is being covered today by the Department of Energy.

Now, I do not think there is any worse waste of money than doing the same thing over and over again, especially when we do not have an immediate need. The Nuclear Regulatory Commission's job is to license and to regulate. They do not even have anything to regulate for the next 5 years. And we are going to have a demonstration program that will be a series of four geologic depositories for 40 cannisters of waste that is generated from the military program, the defense program, and that we hope to get on the line by the year 1990. Shortly after that, we may be ready to establish a first site for geological storage of nuclear waste.

Now, as we work on this, we work with the existing regulatory provisions as provided by the Nuclear Regulatory Commission. But it makes no sense to have the NRC doing the same job the DOE is already doing. I think there is much too much money already going into the NRC for this area of activity. They are essentially attempting to duplicate work that is being done today.

We cut back $50 million in this area for DOE to streamline the program and get it into context with what the actual needs are for the next decade. Remember, we will not have any commercial nuclear waste to handle until about 1990. NRC is a regulatory agency to license and control those activities in 1990 and then on. I think it would be foolish of us to throw more money to the NRC to do exactly what the DOE is already doing and, therefore, I join the chairman in opposing this amendment.

Mr. BEVILL. I thank the gentleman for his very knowledgeable statement.

I also want to point out that we have a lot of problems with the Nuclear Regulatory Commission. Over the past year, various studies have highlighted the many problems. Changes are needed and the President is recommending changes. We do not need to add another $9,000,000 to this bill. So I urge the Members to vote against the amendment and support the committee.

Mr. McCORMACK. Mr. Chairman, if you would yield briefly for another subject.

I wish to address an item in the Corps of Engineers Appropriations for fiscal year 1981. Contained in the construction request for the Bonneville second powerhouse is funding for projects for the relocation of the town of North Bonneville, Wash., authorized under provisions of section 83, Public Law 93-251.

In testimony submitted to the House Appropriations Subcommittee on Energy and Water Development earlier this year, the corps testified that completion of the items funded in this appropriations bill would essentially accomplish congressional intent as provided in section 83, Public Law 93-251.

It is my understanding, Mr. Chairman, that the moneys contained in this fiscal year 1981 appropriation will complete the obligation of the Federal Government to the relocation of the community of North Bonneville, and that no moneys are needed beyond this for North Bonneville relocation.

Mr. BEVILL. I agree. This is also my understanding that funding for the town of North Bonneville will be completed in fiscal year 1981. Of course, some of these 1981 funds may actually be expended in fiscal year 1982, but I expect that no additional funding will be provided.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the amendment has been very clearly explained both by the chairman as well as the gentleman from Washington (Mr. McCormack), and what needs to be said beyond that is the fact that there is no decision today as to the disposition of our nuclear fuel that has already been spent into waste. This would be redundant. It is something that does not need to be done. But the important thing is that we already in the bill have provided for a 17-percent increase over last year. That is growth, notwithstanding the inflation rate that we have today. This particular amendment would increase it by 50 percent. This would be irresponsible spending, and this House, I am sure, and this committee, is not willing to support irresponsible spending.

I strongly urge a "no" vote on this amendment.

Mr. STACK. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Pennsylvania (Mr. Kostmayer).

Mr. KOSTMAYER. I thank the gentleman from Florida for yielding.

Mr. Chairman, I would like to respond to a couple of things, especially what my friend the gentleman from Alabama, said when he said that down the line we can appropriate this money if we regard is as necessary.

I would like to quote from the chairman of the NRC, Mr. Ahearne when he testified not long ago. It is just a sentence or two.

> The development of a sound national waste management program requires all agencies to look ahead and to insure they do not force program delays due to inadequate preparation. Each of these actions builds on others in sequence. Inadequate resources now cannot simply be made up with additional resources in subsequent years.

I would like to respond to what the gentleman from Washington (Mr. McCormack) said. I think that the argument that we are talking about here really boils down to this: What Mr. McCormack, at least in my own judgment, is saying is that we ought not to proceed with the development of a waste management program until we have solved the issue of reprocessing.

I think that is incorrect. The NRC thinks it is incorrect too. We ought to forge ahead with trying to resolve the waste management problem.

☐ 1550

Now, I would again read from the letter from the Office of Management and Budget, that whichever program we pursue in terms of waste management, we need to pursue it.

They say:

> We would anticipate that the NRC's role would be substantially the same through the mid 1980's under either the Administration's waste management policy or the several alternatives being considered by Congress. We would also anticipate that NRC's waste management activities would not be much different whether reprocessed waste or spent fuel were the ultimate waste form.

So whatever course we pursue, whether it is a course pursued by the gentleman from Louisiana in the other body, Mr. Johnston, or the course recommended by the gentleman from Arizona (Mr. Udall), or the course recommended by the administration, or the course recommended by the gentleman from Washington (Mr. McCormack), we ought to proceed with this waste management proposal and it ought to include input from the Nuclear Regulatory Commission.

Finally, let me respond to what the gentleman from Washington said regarding the research activities of the NRC, when the gentleman said the DOE should be conducting this research, not the NRC.

The GAO's 5-year—and I am reading from the committee report itself:

> The GAO's five-year report on the Commission's performance criticized the Commission's research program for failing to close the loops between research and the regulatory mission of the NRC. The committee believes that the research program should be under the direct control of the Commission and the principal Commission officers, so that specific short and long term questions and problems can be addressed in a relevant and meaningful manner.

Yet the gentleman from Washington tells us, "Let's have DOE do the research."

I think this is an issue of the public health and safety. I think this is a fundamental change in policy by the Appropriation Subcommittee.

I think we are precluding the opportunity for the Nuclear Regulatory Commission to be heard and we are listening to those, and I have respect for them, we are listening to those who would say, "Let's get going and turn this over to DOE."

I do not believe that the people of this country want this program turned over entirely to the Department of Energy. I think they want the Nuclear Regulatory Commission to be involved, to be watching every single step of the way, because this is a question of the public health and safety.

I think that the price tag of $9 million to hopefully guarantee that is a very small price to pay.

Mr. Chairman, I thank the gentleman from Florida for yielding to me.

● Mr. BEREUTER. Mr. Chairman, although other duties kept me from speaking during floor debate on this matter, I would like to take this opportunity to express my support for the amendment offered by Mr. Kostmayer to H.R. 7590, a bill making appropriations for energy and water development during the 1981 fiscal year. Mr. Kostmayer's amendment sought to increase the funding of the Nuclear Regulatory Commission by $9,680,000 to replace funds and staff deleted by the Appropriations Committee for the Commission's Office of Nuclear Material Safety and Safeguards (NMSS), and in particular, for that office's high-level waste program.

My support for the Kostmayer amendment was based upon my belief that this office should receive the full amount of funds initially contemplated. To do otherwise could seriously hamper the NRC's ability to participate in forthcoming high-level waste management activities.

During testimony before the Interior and Insular Affairs Committee on NRC funding, NRC Chairman Aherne stated:

> At $12½ million the requested high level waste management budget for fiscal year 1981 is small in comparison but by providing timely guidance to the Department of Energy, it could significantly reduce total federal expenditures for the development of a repository.

Chairman Aherne further explained that the rate of increase in the Commission's planned expenditures had been carefully spread over a period of several years. This was done specifically so the Commission could assure us of the responsible management of these additional funding. Clearly, deletion of the sum proposed by the Appropriations Committee would undercut the Commission's efforts to exercise prudent management of its financial resources.

Assuming an orderly growth in financial resources, the NRC Chairman estimated that his agency could complete activities necessary for construction authorization by December 1985. The Chairman cautioned, however, that:

> Even with this programmed growth rate, NRC may still be on the critical path for the national program, principally because it is questionable whether there will be sufficient time for NRC to develop and provide detailed criteria and guidance to DOE, before DOE prepares and submits its site characterization plans and license application to NRC for action.

Based upon this information, I believe the funds should be restored as proposed by the Kostmayer amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Kostmayer).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 366]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1610

The CHAIRMAN. Four hundred and five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. Kostmayer) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 245, not voting 19, as follows:

[Roll No. 367]

AYES—169

Addabbo
Ambro
Aspin
Atkinson
AuCoin
Barnes
Bedell
Beilenson
Bereuter
Bingham
Bolling
Bonior
Bonker
Brademas
Brinkley
Brodhead
Burton, John
Burton, Phillip
Cavanaugh
Clay
Collins, Ill.
Conte
Conyers
Coughlin
D'Amours
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dingell
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fowler
Garcia
Gilman
Gingrich
Glickman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Heckler
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hughes
Jeffords
Jenkins
Kastenmeier
Kemp
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lowry
Lujan
Luken
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Patterson
Pease
Pepper
Petri
Peyser
Pickle
Porter
Price
Pursell
Quillen
Railsback
Rangel
Reuss
Richmond
Rinaldo
Rodino
Rosenthal
Russo
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Snowe
Solarz
Spellman
Stack
Stark
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Fla.

NOES—245

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Blanchard
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Devine
Dickinson
Dicks
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Erdahl
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Flippo
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Harsha
Hefner

Heftel
Hightower
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
McKinney
Marlenee
Martin
Mattox
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nichols
O'Brien
Ottinger
Pashayan
Patten
Paul
Perkins
Preyer
Pritchard
Quayle
Rahall
Ratchford
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Tauzin
Taylor
Thomas
Traxler
Trib'e
Van Deerlin
Vander Jagt
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—19

Anderson, Ill.
Biaggi
Chappell
Chisholm
Dixon
Dodd
Erlenborn
Fish
Ford, Mich.
Hansen
Jenrette
Lewis
Mathis
Murphy, N.Y.
Rose
Runnels
Steed
Stewart
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Stewart for, with Mr. Jenrette against.

Mr. LOWRY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, last year the gentleman from Washington (Mr. DICKS), and I offered an amendment which was successful which added $5 million to fund a resident inspector program so that all nuclear powerplants in operation would have at least one full-time resident inspector, and those under construction would have inspectors also. This has been a very positive force in insuring that plants are being built that operate safely and also to give the public confidence that nuclear powerplants can operate safely. However, I am a bit concerned about the language on page 148 of the committee report.

☐ 1620

On page 148 there is a discussion about the budget recommendation and the committee report does indicate that funds were provided for increased inspection on reactors under construction and better management of the program. However, the report also makes reference to a GAO report citing certain weaknesses in the resident inspection program and that the program should move ahead in an orderly and systematic fashion.

I would ask the chairman of the subcommittee of the Committee on Appropriations, the gentleman from Alabama (Mr. BEVILL), does "orderly and systematic fashion" comprise a code word for saying that we are not going to move ahead with the resident inspector program which we referred to passed in last year's bill?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield to the gentleman from Alabama.

Mr. BEVILL. I thank the gentleman for yielding. The gentleman is correct, the statement is incorrect. That is not what it means. For the gentleman's information we have 83 percent of the operating sites which now have Federal inspectors. This subcommittee has been very much out front on this. We are most anxious to have these Federal inspectors at every single operating facility in the United States. We even go further. We are going to be putting them at construction sites.

Mr. GLICKMAN. Mr. Chairman, I appreciate the gentleman's response. That is good news. I think this is an important part of the NRC's activities. I am glad to know that Congress is moving ahead on a full-resident inspector program.

Mr. Chairman, I yield back the balance of my time.

Mr. HARRIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today as we continue debating on a multibillion-dollar appropriation to fund the continued development and implementation of the energy policy of this Nation, I must call to the attention of my colleagues, information which has been obtained by my subcommittee on Department of Energy's use of consultants and contractors.

For more than a year I, through investigations of my Subcommittee on Human Resources, have been trying to determine the extent to which the policies of this Government are influenced by consultants and contractors. I now have the answer to that question.

Staff investigations, GAO investigations undertaken at my request, investigations done by Senator DAVID PRYOR, and most recently an investigation by the Washington Post have produced shocking evidence that the policies of the American Government are not being made by accountable Government officials. Rather, executive branch policies and information being provided to this Congress by the executive branch are being developed by consultants and firms who stand to profit from the very policies they are determining.

With Senator PRYOR, I chaired a hearing yesterday on the Department of Energy's use of contractors. The question to which I was seeking an answer was: Who is actually running the Department of Energy and in whose interest is it being run?

Before I undertook my investigation into the Government's use of contractors, I would have said that the energy policies of this Nation were being formulated by Secretary Duncan, his Under Secretary, and Assistant Secretaries. Many of my colleagues in this Congress still believe that is the case. However, yesterday it was clearly demonstrated:

That 80 percent of the Department of Energy's budget, representing hundreds of thousands of "man-years" is spent on contracts;

Multimillion "support service" contracts held by firms with close ties to oil and utility companies are used throughout the Department to perform crucial planning, budgetary, and policy development activities;

The reliance on contracts is so great that compliance with procurement laws and regulations, would according to an internal Department of Energy memorandum, "seriously jeopardize the mission of both Department of Energy and its Office of Solar Applications" (that is, delaying award of a disputed support service contract for the Office of Solar Applications until GAO issues a decision on the protest);

Contractors write "scripts" for Department of Energy officials to use in congressional appearances and answer "follow-up" questions from congressional committee members;

Department of Energy cannot produce the results of millions of dollars of contracts and in many cases cannot even produce the contract itself.

The responsibility for this scandal must be shared by this Congress. Since 1960, we have authorized hundreds of new programs, appropriated billions of dollars while calling for a decrease in the number of Federal personnel. I have asked my colleagues in the past and must ask them again today—How did they think these programs were being carried out?

Two years ago, this Congress enacted a sweeping ethics and disclosure bill covering the "visible Federal workforce." As a member of the House Committee on the Judiciary, I spent many days insuring that there was "sunshine" on Government officials in crucial positions. It is now clear that we must act during this Congress to bring into the sunshine the "invisible Federal workforce" as well.

Yesterday, this House voted 254 to 151 for a dramatic increase in funds for solar programs. Just hours before. I was questioning Department of Energy officials on a multimillion-dollar contract which the Department has with Booz, Allen and Hamilton to "manage" Department of Energy's solar energy programs. A public brochure of Booz. Allen states that it serves "27 of the 50 largest utilities * * *."

We must require disclosure of these facts before contracts are let.

On Thursday I will introduce in the House, and Senator PRYOR will introduce in the Senate, the Consultant Reform Act of 1980. I urge my colleagues support for the rapid enactment of this legislation.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague from Ohio.

Mr. REGULA. I thank the gentleman

for yielding. I want to commend the gentleman for the work of his subcommittee with regard to contracting out and consultants. I think the gentleman points up a very serious problem. I will shortly be offering an amendment to this bill which requires disclosure as a condition for expenditure of funds and will bring many of these consulting contracts out into the light. I think it is an important step. The efforts of the gentleman's subcommittee are headed in the right direction, to gain a solution to the problem that is needed.

Mr. HARRIS. Mr. Chairman, I thank my colleague for his comments. We will be introducing legislation tomorrow in comprehensive fashion and would invite my colleague's cosponsorship thereon. I think it is a very important step toward identifying exactly what is being done by consultants in our Government.

I would indicate to my colleague that I will soon be offering an amendment to this bill to limit the yearend spending on this bill to 20 percent and I would solicit the support of my colleague on that amendment as well.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I do yield to my colleague from Missouri.

Mr. VOLKMER. Mr. Chairman, I, too, wish to commend the gentleman in the well for the amount of attention the gentleman has devoted to this. It is not only the Department of Energy but this pervades the entire Federal bureaucracy.

Mr. Chairman, could the gentleman give us some idea as a result of testimony the gentleman has received and through the reports that have been made to the gentleman's subcommittee, approximately, on a yearly basis, how much money is paid out to consultants and contractors?

Mr. HARRIS. I may say to my colleague there is no one in the executive branch who can give us a firm figure with regard thereto.

Mr. Chairman, my investigation indicates that we are talking about an expenditure in the amount of $8 billion to $10 billion. It could be more. It might be a little bit less, but there is no one in the Office of Management and Budget or anywhere in the executive branch who can offer a firm figure.

Mr. VOLKMER. No one really has a handle on it at all, is that correct?

Mr. HARRIS. I do not want to say that because I think my committee is coming close to getting a handle on it.

Mr. VOLKMER. Mr. Chairman, does the gentleman know which is the largest agency who hires out contracts?

Mr. HARRIS. The Department of Energy must come pretty close to the top.

Mr. VOLKMER. The Department of Energy is one of the largest in hiring out?

Mr. HARRIS. The gentleman is correct.

Mr. VOLKMER. How many consulting firms or people would the gentleman estimate are used by the Federal Government each year?

Mr. HARRIS. The number of consultants contracts is unknown. We know it runs into the thousands. We know the total amount of expenditures, as I say, is between $8 and $10 billion. The number of consultant firms involved is a much harder thing to determine because of the change in names and so forth but what we are concerned about here in many cases is the limited number of very large consultant firms.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. HARRIS was allowed to proceed for 3 additional minutes.)

Mr. HARRIS. The number of consultant firms is not that impressive.

Mr. VOLKMER. Many times, is the use of consultants brought about to avoid using Federal employees when we have limited the number of Federal employees?

Mr. HARRIS. It is one of the chief means to circumvent personnel ceilings imposed by this Congress, there is no question about it.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague from Michigan.

Mr. TRAXLER. In connection with the conflict of interest in agency hiring of consultants, I would ask the gentleman, specifically with regard to DOE, I know of one instance where DOE retained a consultant to do a particular inquiry, a paper, regarding a foreign industry. Coincidentally, that consultant was also a consultant to the foreign industry.

On the face of this, it would appear to be a severe conflict. Either the taxpayers or the foreign industry stand to be cheated because there are some real problems between the agency and the foreign industry.

What I want to know of the gentleman is, do we have adequate laws presently to protect the taxpayers and the Government against such duplicity, is it a problem of enforcement? Can the gentleman throw some light on this situation, please?

Mr. HARRIS. Mr. Chairman, in my opinion, the laws are not sufficient. This Congress went through a great exercise with regard to ethics requirements in the legislative and executive and judicial branches of Government. What it did not do was apply similar ethic standards upon consultants and contractors.

A bill I am introducing tomorrow will in fact begin to place the necessary restrictions on situations that are clearly conflicts of interest. In some cases the consultants may be representing the very industries that are being regulated by the agency which they are consulting for. The conflicts of interest, I think, are obvious, but there is no real restriction in the law to prevent this from happening.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield further, does the gentleman know, with regard to DOE, whether or not they even make an inquiry, whether it is standard practice to make an inquiry of prospective consultants as to who are their other clients who may have a conflict with the particular contract which DOE is putting out for consultant services?

Mr. HARRIS. My investigation indicates two things: First, in many cases the Department of Energy does not even inquire; and second, when they do inquire they do not pay any attention when they get the answer.

Mr. TRAXLER. Mr. Chairman, I want to support the gentleman's bill.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague for yielding. I rise to ask a question. First, I appreciate the observation the gentleman makes at this point but I note in the RECORD that yesterday when we had before us an amendment for $107 million for the same Department of Energy and some of us made the response that the DOE does not know what they are doing, often, today, why did the gentleman from Virginia vote for additional funds which was out of control as far as management is concerned.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 3 additional minutes.)

Mr. HARRIS. Mr. Chairman, I appreciate my colleague bringing up this point. The alternatives are to be presented to this House: We either accept a Department of Energy which is run by the industry or have no Department of Energy; we either accept a solar energy system that is studied by the oil companies or have no solar energy system.

□ 1630

I rise in strong opposition to that alternative. I say that we need progress for solar energy. We need to have it expanded, and we need to have it run by people that want it to work, not by people who want it to be defeated.

Mr. MYERS of Indiana. I do not disagree. More money obviously is not going to solve our problems. In fact, it probably will complicate it. We need to keep it lean, to keep it straight.

Mr. HARRIS. I thank my colleague. He makes a strong point.

Mrs. SPELLMAN. Mr. Chairman, will gentleman yield?

Mr. HARRIS. I yield to my colleague from Maryland.

Mrs. SPELLMAN. Mr. Chairman, I want to congratulate the gentleman on the hearings he has been holding and the investigations he has been making. I attended the hearings yesterday. I was appalled at what I heard, absolutely appalled.

We learned that contractors are training the very people in the agencies, the Federal employees in the agencies, who must monitor contractors. We learned that the same contractor who trains the Federal employee is also under contract to the firms who are attempting to deal with the Federal Government, and that the contractor is teaching these firms how to get contracts with the same people that the contractor is training.

If you want incest, it is really there; the most incestuous kind of a relationship. Here we are in the House attempting to trim a few dollars here and a few dollars there. In one of the committees that both the gentleman and I serve on, we are being required to take money from people who need that money desperately, and at the same time we see billions of dollars being thrown away.

I want to congratulate the gentleman on his legislation. I certainly will be backing it.

Mr. HARRIS. I thank the gentlewoman very much for her comments. May I say to my colleague that it has been her contribution to the subcommittee work and the hearings yesterday that brings many of these facts out. I would put the bottom line which all my colleagues may not realize. It is not only a contractor training the employees dealing with clients of the contractor; we discovered—and I wish my colleagues would hear this—the contract files of the Department of Energy have been contracted out.

A contractor runs the files for important contract files in the Department of Energy, and yesterday's investigation revealed something that was startling. We had examples of at least 12 major contracts in the Department of Energy where there was no contract in the contract file. I ask my colleagues, how can we save money; how can we appropriate to an agency that has not only contracted out its function, but has contracted out the maintenance of contract files to a contractor? This is the type of thing I think we have to clear up if we are going to have responsible Government.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), $112,000.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must admire the political acuity of the gentleman from Virginia and the publicity he has been able to milk from his ill-fated bill, H.R. 4717, dealing with Government contracting practices.

Our Committee on Post Office and Civil Service and the Committee on Government Operations have examined the so-called Harris proposal to curtail yearend spending by executive agencies, but there is no consensus it is workable.

There is certain political appeal but little rationale for the simple sounding amendment he offers.

The Congressional Budget Office dispatched this amendment in two succinct sentences:

> Another provision of H.R. 4717 would prohibit federal agencies from obligating more than 20 percent of their respective annual appropriations in the last two months of each fiscal year. It cannot be ascertained if this provision would reduce total obligations or if it would cause agency obligations to be redistributed over time.

The Office of Management and Budget opposes this amendment for very practical reasons and casts serious doubt on its presumed effectiveness.

W. Bowman Cutter, Executive Associate Director of Budget at OMB told our committee:

> In our opinion abusive yearend buying is attributable to errors in judgment by individuals at levels in the government where budget policy is not well understood . . . We believe that individual amounts of abusive yearend spending are relatively small and can be hidden within the proposed 20-percent limitation. Such a limitation has been in effect for many years on Defense annual appropriations for military personnel, retired pay, and operation maintenance. It has never been exceeded. However, we would be very reluctant to conclude that no wasteful or abusive yearend buying has occurred in the operation and maintenance accounts.

The Government Accounting Office is conducting a study of the problem, but will not have its report ready until sometime next month.

Mr. Chairman, we are all stalwart defenders of fiscal responsibility and foes of excessive Government spending.

I urge the House to allow the appropriate committees, under the regular procedure, to present to the House adequate and feasible recommendations to curb abuses in the system, wherever they may be found.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 30, after line 12, add a new section as follows:

SEC. . The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Mr. REGULA. Mr. Chairman, the gentleman from Virginia has just made the case on the problem involving consultants. Also, if Members have been reading the Washington Post in the last 4 days, they have seen a whole litany of horror stories about what is happening in the field of contracting out for consultant services.

The first step in solving this abuse is to get disclosure of what is being developed by way of consulting contracts. The amendment I have offered is very simple. It requires that there be disclosure as a condition to the expenditure of funds. My amendment could be called "Sunshine in consulting."

There has been a lot of concern about this problem. For example the executive branch, through an OMB bulletin, issued in April of 1980 instructed the agencies to reduce consulting services by 15 percent in 1981. We have evidence of a great number of abuses. I am not going to detail these inasmuch as Members have heard about them and read about them.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I am familiar with the gentleman's amendment, and accept it. I think it is very good. I think the gentleman is to be commended for it.

Mr. REGULA. I thank the gentleman.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, the minority had the advantage of seeing the amendment before it was presented, and offers no objection. It is a very good amendment. We thank the gentleman for offering it.

Mr. REGULA. I thank the gentleman.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Missouri.

Mr. VOLKMER. Does this amendment put anything in the law that is not already there?

Mr. REGULA. Yes, in this respect: It requires disclosure, and the evidence has been that there has not been full disclosure. In fact, in the Post article of today, it is pointed out that in studying the contracts, and I quote:

> The Office of Management and Budget estimates that $13.4 billion was spent on research contracts in fiscal year 1979. The Post's study of all 13,848 research and consulting contracts published in the Commerce Business Daily in 1979 showed a total of $9.3 billion. OMB officials say the discrepancy could indicate that many contract awards are not published.

There has been less than full disclosure.

Mr. VOLKMER. They are not published? Does the gentleman mean by disclosure that they would have to be published in the Federal Register or something?

Mr. REGULA. We leave that decision to the agencies because we cannot legislate on an appropriation bill, and we are trying to get sunshine into the consulting contract procedures.

Mr. VOLKMER. I am just trying to find out what we are trying to do. The gentleman is trying to get a handle, undoubtedly, on the problem. But, I am just wondering, in listening to the amendment, it does not limit anything exactly, but it does mean disclosure. Disclosure to whom?

Mr. REGULA. To the public. Where such expenditures are a matter of public record and available for public inspection. In other words, anytime there is going to be an expenditure for a consulting contract, it will be required of the agency that this be published, and we leave it to the agency as to the method by which they will publish.

Mr. VOLKMER. I or my staff or anybody else could call any agency, then, after this becomes law, if this stays in the bill all the way through and becomes part of the bill next year, starting October 1, we could call up any agency and say that we want to see the contract, and each week we would have a right to see the contracts?

Mr. REGULA. That is exactly right. I might also tell the gentleman that in the supplemental the Senate has added a section 306. This will be in conference, and I would urge our conferees to accept it. The section reads as follows:

☐ 1640

Effective October 1, 1981 for application in fiscal year 1982, a department, agency, or establishment as defined by section 2, chapter 1, title 31, U.S. Code, shall submit annually to the House and Senate appropriation committees as part of its budget justification the estimated amount of funds requested for consulting services, the appropriation accounts in which these funds are located, and a brief description on need for these services, including a list of those major programs that require consulting services.

Mr. VOLKMER. Mr. Chairman, that sounds like very good language. That basically would bring it out in a line item request, would it not?

Mr. REGULA. That is correct, yes. I think this is excellent language that has been added by the Senate.

Mr. VOLKMER. Mr. Chairman, I congratulate the gentleman.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I want to congratulate my colleague, the gentleman from Ohio (Mr. REGULA), for addressing this important issue.

I think it is important that we start recognizing the necessity for putting some sunshine on this practice.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. REGULA) has expired.

(On the request of Mr. HARRIS, and by unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, will the gentleman yield further?

Mr. REGULA. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, this is, I think, an important first step toward placing the correct restrictions on the use of consultants for work that is obviously governmental in nature. I hope that I can suggest to my colleague that his cosponsorship of the bill we are introducing tomorrow will be a great help in carrying this project forward.

Mr. REGULA. Mr. Chairman, I thank the gentleman from Virginia (Mr. HARRIS) for his remarks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think, in view of the overall financial situation we face, that this bill becomes more and more important.

As chairman of the House Committee on Appropriations, I am glad to report that through our Appropriations Committee, we have held appropriation bills below the budget requests 36 out of the last 37 years. The committee realizes that our overall finances are in bad shape primarily because the appropriations process has been bypassed, first by backdoor or contractual commitments and when that was stopped by the Budget Control Act, "entitlements" became the new problem.

Our public debt is tremendous. Our governmental guarantees of loans likewise. We have supported the efforts of the Budget Committee to hold the line. We have followed through with that commitment in this bill on energy and water development.

PUBLIC WORKS

Mr. Chairman, I spoke on the Tennessee-Tombigbee issue when an amendment was offered to cut out funds for the project north from Columbus to Yellow Creek. I pointed out there and throughout the debate, that Tennessee-Tombigbee was a national project, similar to the St. Lawrence Seaway of the Northeast, the Bonneville Power Administration of the Northwest, and irrigation in the Southwest. This project is a national one, it is not a local issue, and by October 1—80 percent of the cost of the project will be committed.

I pointed out that this project would lead to the development of industry and increased business for railroads, trucks, and above all would open up our great coal supply.

Mr. Chairman, I am proud to have had a part in protecting and developing our country. Twenty-eight times out of twenty-eight, we have overridden Presidential recommendations to guarantee the protection of our soil, for forestry, for flood control, for rivers and harbors, including harbor projects for watershed protection and flood protection, for water and sewer and housing loans in rural areas and cities under 20,000 population.

I have frequently said, the greater our financial problems, the more imperative it is that we look after our own country's natural resources.

THIS IS AN ALL-AMERICAN BILL

Mr. Chairman, in the bill before us, we do look after the whole country, recognizing the national interest. My colleagues and friends, Congressman TOM BEVILL of Alabama, and Congressman JOHN MYERS of Indiana, have covered much of the projects of interest to the Nation. I would therefore like to point out the benefits to my area, which in most cases are to help the people of my State benefit from projects which were authorized many years ago. The report provides the following:

Twenty Mile Creek. Provision was made for slowing down the flow of water in Twenty Mile Creek which is resulting in bank caving in Tishomingo, Prentiss and Itawamba counties.

Flood Control, Mississippi River and Tributaries. The sum of $239,324,000 for flood control, repair, and maintenance.

Sardis Lake. Clearing out rock and gravel in a 9-mile stretch below the reservoir so that water may be let out during nonfarming season.

Grenada Lake. Provides for protection of the town of Coffeeville during high water stages, and to assure a safe and healthy environment conducive to further growth of the town of Coffeeville.

Nonconnah Creek, Horn Lake Creek, including Cow Pen Creek, Mississippi and Tennessee, to complete the phase one study and submission of alternative plans.

Other Mississippi projects are Biloxi Bay in Harrison County; Mississippi Sound; Pascagoula Harbor; Pearl River Basin; Pascagoula River Basin; Sowashee Creek; and Tallahala Creek Lake.

Appalachian Regional Development programs a total of $339,300,000. For counties in my district this will fund highways; access roads; area development; health and child development; housing; natural resources and environment; and other special development programs.

Goodman Road, approximately $5,900,000 in Federal funds remain available with additional State funds for completion across Marshall County to intersect Highway 7.

TENNESSEE VALLEY AUTHORITY

For water resources development, $46,167,000.

For land, forest and recreation resources development, $13,248,000.

For coal gasification demonstration plant, $175,000,000.

SOLAR TECHNOLOGY

The committee report provides the following language: solar development and demonstration projects—within the funds provided the committee expects the department's continue support of the cost-effective demonstrations funds in previous appropriations to extend the benefits from these projects for the overall development and use of solar energy in practical applications.

Mr. Chairman, our committee has made funds available for the Pearl River Basin in the amount of $2,015,000 to complete the Pearl River Basin, Miss. study—together with a review of the Edinburg Lake cost-benefit ratio plan. This review is being done to come up with a sound plan to protect from floods our State Capitol of Jackson. In another bill we provide funds for the Soil Conservation Service to speed up watershed protection which will also help the area.

Under general construction, $660,000 is provided for the Belzoni Bridge (advance participation) and $450,000 for planning in Issaquena County.

DEPARTMENT OF THE INTERIOR

Mr. Chairman, in the Interior appropriation bill coming before our Committee on Appropriations, we expect to restore funds for construction on the Natchez Trace and for continued planning of the remainder of this project. To do this, we will not follow the administration's recommendation of not proceeding with this project.

MILITARY CONSTRUCTION

Under the military construction appropriation bill, the Navy is being required to continue the Millington Air Base at the existing level and funds are provided for this purpose.

DEPARTMENT OF AGRICULTURE

Mr. Chairman, next week we bring up the Agriculture appropriation bill which will provide for productive expenditures to protect and develop our country, its lands and forests, and will provide for rural water and sewer projects for cities up to 10,000 population.

The Agriculture bill will also provide funds for financing farm production where not otherwise available; it will provide funds for price supports made necessary largely because industry and labor are getting a bigger and bigger share of the consumer dollar, which leaves those engaged in agriculture in need of public protection by law. Remember—a healthy agriculture is essential to a healthy country.

Mr. Chairman, it is a big job I have among 435 Members and friends. I try to do my part to see that our country is taken care of—for it is to our resources that we have to look for our future well being.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read the amendment as follows:

> Amendment offered by Mr. HARRIS: Page 30, after line 12, insert the following:
>
> SEC. 503. No amount in excess of 20 percent of any appropriation contained in this Act for any agency for any fiscal year may be obligated by such agency during the last two months of such fiscal year.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Indiana (Mr. MYERS) reserves a point of order on the amendment.

The gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes in support of his amendment.

Mr. HARRIS. Mr. Chairman, I rise to offer an amendment to H.R. 7590, the energy and water development fiscal year 1981 appropriations bill. My amendment would establish firm controls over wasteful yearend spending sprees by limiting agency spending to 20 percent during the last 2 months of the fiscal year.

My Subcommittee on Human Resources has conducted an intensive investigation and received testimony from a wide variety of groups, individuals and Government agencies concerning the problem of year-end spending. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, much of the funds are being pushed out in the final weeks of the fiscal year on questionable contracts, grants, and other spending.

GAO investigations, done at my request, are documenting the fact that funds are being diverted from the purpose laid out by Congress, causing millions, perhaps billions, of dollars, to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal has stated that year-end spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The administration has expressed concern about this wasteful year end spending and has repeatedly issued directives to agencies in an effort to curb the abuses. Each summer since 1977, President Carter and OMB Director James McIntyre have urged agencies to avoid year end spending sprees. Despite these directives, the year end spending remains a major abuse. In fiscal year 1979, seven major Federal agencies spent more than 20 percent of their single year appropriations in the last 2 months of the fiscal year—47.2 percent at HUD—$16 billion, 41.7 percent at EPA—$2.2 billion, 22.9 percent at HEW—$14.3 billion, 30.3 percent at Commerce—$907 million, 23.1 percent at Interior—$1.3 billion, 22.1 percent at Postal Service—$3.2 billion, and 22.8 percent at DOT—$1.4 billion. If these seven agencies had limited spending to 20 percent in the last 2 months of the fiscal year, they could have saved $13 billion. I am convinced that a substantial portion of this amount could have been returned to the Treasury with minimal adverse effect on congressionally mandated programs.

In addition, I recently received a GAO study which I requested because of my concern that in-house capability was not being considered prior to contracts being let for consulting services. While the report showed the in-house capability was indeed not considered in many instances, it also noted that 54 percent of the consulting contracts examined were awarded during the final quarter of the fiscal year. In fact, 35 percent of those actions were initiated during the final 90 days. Senator PRYOR and I have been working closely on the widespread problem with consultant services and we hope to introduce legislation in this area later this month.

I have also requested a major GAO study specifically on year end spending which is due to be completed in June. An interim report which I received from the GAO on May 1, documented further evidence of the serious problem of year-end spending at HUD. According to GAO, HUD has been overstating its legal commitments at the end of a fiscal year and then canceling them later. The HUD procedure reflects the "use it or lose it" attitude of Federal agencies to commit any remaining funds at year end so that Congress will not trim their budget the following year. It has also allowed HUD to create a multibillion-dollar surplus of funding authority at a time when Congress is struggling to trim Federal expenditures and balance the budget.

Quite simply the flurry of obligations at the end of the fiscal year is a very poor management practice. Increased year-end obligational activity places Government negotiators in a very poor bargaining position and results in contracts and grants being let and goods being purchased without adequate consideration. This "rush" to award contracts and grants seriously impairs the objectiveness as well as the thoroughness of the proposal evaluation process. In addition, I am particularly concerned that a large number of the contracts being let at the end of the year are sole-source to big firms ostensibly based on "unique qualifications" and "time exigency." This type of year-end giveaway effectively bars firms without the "connections" and is "wired" against small businesses, which do not have the "inside track."

Direct congressional action to halt the year-end spending sprees must be taken. The waste clearly has not been eliminated administratively. As a matter of fact, it appears that while OMB has been monitoring outlays it has been ignoring obligation rates. It makes no sense to me for OMB to check funds already "spent" while ignoring the even more important tasks of monitoring funds which could be saved. As a result, the practice of obligating "use it or lose it" funds at the end of the fiscal year has continued unabated.

Congressional support to limit year-end spending has been widespread. The House and Senate Budget Committees have included language in the fiscal year 1980 second concurrent resolution stating:

> The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at the year end . . . . the conferees urge the appropriate committees to consider the need for language in FY 81 spending bills to control the obligation rates for federal programs or consider alternative legislative remedies for this program.

The conferees for the second budget resolution clearly felt Congress must take action to eliminate year-end spending abuses in all Federal agencies. In the report on the budget for fiscal year 1981, the House Budget Committee reaffirmed its concern about year-end spending and recognized that it is an area where savings can be made.

In addition, the Department of Defense has had a year-end spending limitation on its annual appropriation bill since 1953. And the Department of Health, Education, and Welfare had a year-end spending limitation in its fiscal year 1980 appropriation bill. Finally, my legislation—H.R. 4717 and H.R. 7287—to control year-end spending has bipartisan support from over 75 members.

A year-end spending limitation has also been endorsed by the General Accounting Office in recent testimony before the Government Operations Committee:

> We support the temporary use of a limitation on year-end spending as a means of conveying Congress concern—not only with year-end spending itself—but with the need to strengthen the budget execution procurement process.

At a time when Congress is struggling to trim Federal expenditures and balance the budget, we cannot ignore this uncontrolled area of Federal spending. The abuse in year-end spending is widely recognized—let us not let it continue in fiscal year 1981. I strongly urge your support of my amendment to H.R. 7590, the Energy and Water Development fiscal year 1981 appropriations bill.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to my colleague, the chairman of the subcommittee.

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding.

At this point I do want to point out that I am sure the gentleman is aware that I am certainly in support of what he is seeking to do.

But the gentleman has mentioned the DOE twice, and in all fairness I think it should be pointed out that the DOE keeps its funds until they are expended, as needed. So there is no benefit for them to spend the money in August or September or any particular month. It is the same thing to them. They have the money, and they could wait until next year to spend it if they wanted to.

Mr. HARRIS. Mr. Chairman, I am happy to have my colleague's comments.

□ 1650

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague, the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his outstanding amendment and for his outstanding statement, and I would like to associate myself with his remarks.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia.

This amendment is of course no substitute for strict procurement regulations that are properly enforced to insure that the taxpayers' dollars are used efficiently for legitimate purposes.

But we need to start somewhere at curbing the millions of dollars of waste caused by agencies funneling out the money at the end of the fiscal year as if there is no tomorrow.

I speak from firsthand experience with this issue.

I am chairman of the special investigations subcommittee of the Committee on Veterans Affairs. For several months, we have been looking into $15 million in expenditures by the Veterans' Administration at the very end of fiscal 1979 for computer hardware and consulting services.

So questionable are some of these contracts that the Justice Department has begun a preliminary criminal investigation, at the request of the Office of Management and Budget.

Here are just a few of OMB's complaints about these contracts: Restrictive performance criteria to favor the winning contractor, appearance of less than arm's length dealing, apparent lack of preaward price negotiations, inadequate documentation.

The subcommittee has not yet concluded its investigation of these contracts. But everything I have seen so far suggests that the first and foremost priority of the VA was to get this money spent by the September 31 close of the fiscal year.

If the gentleman's amendment will in any way discourage this type of panic spending, then it is worthy of support.

As an OMB witness told our subcommittee:

> Funds wasted, misspent, or unnecessarily awarded to contractors in excess of what is required, deprive our veterans of much needed funds for the quality care and benefits that they deserve.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Indiana (Mr. MYERS) wish to press his point of order?

Mr. MYERS of Indiana. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I must make a point of order against this amendment. I understand what the gentleman is attempting to do here, and I find some favor for what he is trying to do. However, I have a question about where he is trying to attempt to make this remedy.

Mr. Chairman, I make a point of order against the amendment on the grounds that it would be legislation on a general appropriations bill, and therefore violates rule XXI, clause 2.

Although the amendment uses the words "No amount," it is not a limitation in the accepted sense, that is, a refusal by Congress to appropriate for a specified purpose.

The effect of the amendment is a positive direction to the Executive, which is not in order under the precedents.

In addition, Mr. Chairman, the gentleman's amendment is not in order because the amendment proposes to change the application of existing law and is therefore legislation in an appropriation bill and is in violation of clause 2, rule XXI.

The gentleman's amendment provides that not more than 20 percent of the total appropriation made available for any agency for any fiscal year under the act may be obligated during the last 2 months of such fiscal year. Section 665 (c)(3) of title 31 of the United States Code states the following:

> (3) Any appropriation subject to apportionment shall be distributed by months, calendar quarters, operating seasons, or other time periods, or by activities, functions, projects, or objects, or by a combination thereof, as may be deemed appropriate by the officers designated in subsection (d) of this section to make apportionments and reapportionments. Except as otherwise specified by the officer making the apportionment, amounts so apportioned shall remain available for obligation, in accordance with the terms of the appropriation, on a cumulative basis unless reapportioned.

The key phrase in this quote is:

> Any appropriation subject to apportionment shall be distributed . . . as may be deemed appropriate by the officers designated in subsection (d) of this section to make apportionments and reapportionments.

This phrase allows the agency budget officers discretionary authority to apportion the appropriations received each year in a manner that he deems appropriate considering the unique financial requirements of his particular agency. The gentleman's amendment deletes this discretionary authority by prohibiting him from obligating more than 20 percent of his appropriations during the last 2 months of the fiscal year. This obviously changes the application of existing law and is in violation of the House rules. Mr. Chairman, in chapter 26, section 1.8 of Deschler's Procedures, the following is stated:

> The provision of the rule forbidding in any general appropriation bill a "provision changing existing law" is construed to mean the enactment of law where none exists, or a proposition for repeal of existing law. Existing law may be repeated verbatim in an appropriation bill, but the slightest change of the text causes it to be ruled out.

I contend the gentleman's amendment changes existing law, enacts law where none exists, is not a limitation on an appropriation bill and is in violation of clause 2, rule XXI. I ask for a favorable ruling by the Chair.

The CHAIRMAN. Does the gentleman from Virginia wish to be heard on the point of order?

Mr. HARRIS. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, if we desire to put a limitation on an appropriation bill, we ought to do it. If we do not desire to, we ought to vote against it. But we should not try to prevent this body from voting that very strong concept in this year when limitations on expenditures I think are so very important.

I think this point becomes of very startling importance to the membership. It is a fact that this amendment is a limitation amendment. It is clear and it is not confusing. It is like many other amendments that we have looked at before in this House.

> No amount in excess of 20 percent of any appropriation contained in this Act for any agency for any fiscal year may be obligated for such agency during the last two months of such fiscal year.

That is a clear limitation on authority to spend, clearly very similar to many other amendments that we put into the bill.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague, the gentleman from Illinois.

Mr. HYDE. If memory serves, was not the gentleman one of the most adamant opponents of putting limitations on appropriation bills?

The CHAIRMAN. The Chair will advise the gentleman that the Chair controls debate.

The gentleman from Illinois (Mr. HYDE) may make his argument later if he wishes.

Mr. HYDE. I will ask the gentleman that later, then.

Mr. HARRIS. That was the last Congress.

Mr. Chairman, what we have to look to on a limitation bill is the rules, and I would refer to chapter 25, section 10.6 of Deschler, which states, with regard to H.R. 11612, in the 91st Congress, 1st session:

> An amendment to a general appropriation bill which is strictly limited to funds appropriated in the bill, and which is negative and restrictive in character and prohibits certain uses of the funds, is in order as a limitation even though its imposition will change the present distribution of funds and require incidental duties on the part of those administering the funds.

Clearly, that is precisely what this language does, and I rely very strongly upon Deschler's, chapter 25, section 10.6.

Section 11.3, chapter 25, which was a ruling in the 92d Congress on H.R. 9270, states:

> An amendment to an appropriation bill prohibiting the use of funds therein for stream channelization projects under the Secretary of Agriculture unless construction had begun by a date certain was held not to impose additional affirmative duties on the Secretary and in order as a limitation on the use of funds in the bill.

This is precisely on point, clearly a limitation bill. It is a limitation bill with a date certain, precisely the same as was ruled upon on June 23, 1971, on H.R. 9270.

Mr. Chairman, I ask that the Chair overrule the point of order.

The CHAIRMAN (Mr. Sharp). The Chair is ready to rule.

The gentleman from Indiana (Mr. Myers) makes the point of order that the amendment offered by the gentleman from Virginia (Mr. Harris) constitutes legislation on an appropriation bill in violation of clause 2, rule XXI, by prohibiting the incurring of obligations of any funds appropriated in the bill in excess of 20 percent of the total amount appropriated in the last 2 months of availability of those funds.

The Chair has examined existing law (31 U.S.C. 665(c)(3)) with respect to distribution of appropriations. The Chair interprets this law to confer discretionary authority upon the Office of Management and Budget, and thereby upon the agency incurring the actual obligation, to determine the most appropriate time frame for the distribution of funds within the period of availability for which appropriated.

Under the precedents of the House cited on page 532 of the House Rules and Manual, it is not in order on a general appropriation bill to affirmatively take away a discretionary authority conferred by law. Because the pending amendment could conceivably restrict the specific authority conferred by existing law upon contracting officers to incur obligations at the time deemed most appropriate by them the Chair must sustain the point of order.

Are there other amendments?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of Ohio: Page 30, line 13, add:

Sec. 504. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

□ 1700

Mr. MILLER of Ohio. Mr. Chairman, I will not take the full 5 minutes on this amendment, because most of the people that are here are aware of what type of amendment it is. It has been offered over the last half a dozen years, maybe as many as 40 or 50 times.

It is a 2-percent reduction in all of the nonmandatory spending in the bill. That 2 percent amounts to approximately $237 million. There is approximately $11.95 billion in the bill. Most of it is nonmandatory; so we are talking about reducing $237 million.

The fact and the method that we use in order to do that by the language of the amendment is that we would stack up the high priority items and we would then be able to reduce the low priority items to a maximum of 5 percent. Every item would still have no less than 95 percent of the amount that is allocated to it in the bill.

This is like the budget resolution where we have reconciliation. This is another method of reconcilition, because that determination as to what line items would be reduced up to 5 percent would be made by the conferees.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Alabama, the chairman of the committee.

Mr. BEVILL. Mr. Chairman, I am familiar with the amendment of the gentleman. We polled our subcommittee. We are all in agreement that the gentleman is absolutely correct. We agree with the amendment. We accept it, because this would then put us back within the budget and this subcommittee wants to continue to stay under the President's budget; so we accept the amendment of the gentleman.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague for yielding and I thank the gentleman for the amendment.

The minority will accept it. The gentleman has talked to us a number of times. We have accepted the amendment in previous years. We did come to the floor with an austere bill, but 2 percent is not going to hurt any of the programs; so we do accept the amendment of the gentleman and thank the gentleman for his contribution.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from Indiana.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The amendment was agreed to.

Mr. CLAUSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the energy and water appropriations bill for fiscal year 1981 is a comprehensive and meaningful bill deserving of our fullest support.

I would like to commend my colleagues on the House Appropriations Committee for their willingness to address a number of very key issues in a realistic and responsible manner.

I am particularly grateful to the distinguished chairman of the Public Works and Transportation Committee, the gentleman from California (Mr. Johnson), for the opportunity he afforded me to have direct input in the development of this important piece of legislation from its earliest stages. The open fashion in which his committee considered the bill permitted me the opportunity to address a number of key issues affecting the management of our water resources and in one particular case, the preservation of valuable archeological resources which might have otherwise been lost because of project construction and operation.

In this bill, the committee has continued and extended efforts toward a balanced budget and the need for fiscal restraint during the coming year. The changes which the committee has made to reestablish priorities which we in the Congress believe represent a sound investment in our natural resources are commendable and emphasizes this Nation's most serious energy supply problem—imported petroleum. Dollars spent wisely and cautiously today to develop alternative energy technologies will increase the strength and wealth of our Nation.

Clearly the Nation faces some hard choices regarding its energy future. Without a deliberate and long range energy policy based on facts and sound decisions, we could be facing an increased dependence on foreign oil and gas, skyrocketing electrical bills for the consumer and serious repercussions to the national economy, including increased unemployment and spiraling inflation.

I am bringing this to your attention because of the committee recommendations on nuclear energy development. As ranking minority member on the Interior and Insular Affairs Committee, I am well aware of the serious concerns which have been raised regarding the future of nuclear power following the accident at Three Mile Island. Extensive committee investigations have clearly shown that decisions on the future role of nuclear power must be balanced and rational, based on facts—not emotion. Clearly this bill recognizes these concerns and at the same time realizes that nuclear power is an energy source which cannot be replaced in the immediate future.

I applaud the committee recommendation of increased funding for solar energy development and demonstration projects over previous years. I firmly believe that solar energy is one of the best budget investments we can make today. In addition to its well documented abilities, it is clear that expanded use of solar energy can make a significant contribution to our success in coping with the energy crisis which we now face.

The committee has given careful consideration to all the facts and details made available to them and I believe that the end product of their work is a balanced and responsive bill. I urge my colleagues to support its passage.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this briefly to explain a motion to recommit that I shall offer at the appropriate time. The motion to recommit will be with instructions to strike approximately half the increase that was added yesterday. We will accept that there possibly could be some improvements, some increase, we can strike half that and we will be well under the budget.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, as I undertstand, the amendment we just adopted from the gentleman from Ohio now puts it back under, does it not?

Mr. MYERS of Indiana. It will take us under the budget, but this will cut half of the unnecessary spending that the gentleman from Missouri and the gentleman from Virginia (Mr. HARRIS) were speaking about earlier.

Mr. VOLKMER. The gentleman is talking about the amendment of the gentleman from Florida (Mr. FUQUA)?

Mr. MYERS of Indiana. The Fuqua amendment.

Mr. VOLKMER. The gentleman wants to cut that?

Mr. MYERS of Indiana. Cut that increase in half.

Mr. VOLKMER. To cut that increase in half, but that will be made after we go back in the House?

Mr. MYERS of Indiana. That is correct.

Mr. BEVILL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DANIELSON) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7590) making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

Mr. MYERS of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MYERS of Indiana. In its present form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MYERS of Indiana moves to recommit H.R. 7590 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendments:

On page 2, line 12, strike "*Provided*" and insert in lieu thereof "*Provided*, That this appropriation is hereby reduced by $45,100,000: *Provided further*".

On page 3, before the period in line 9, insert ": *Provided*, That this appropriation is hereby reduced by $9,500,000".

Mr. MYERS of Indiana. Mr. Speaker, I will be brief. A number of people after the vote yesterday did not understand that this was an increase in the budget, and that these conditions were in existence in the Department of Energy. For those who are born again conservatives this year and interested in balancing the budget, this is an opportunity for them to express their position here.

This is a vote to save a little money. It would not cut any of the programs below what they really need.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 87, not voting 12, as follows:

[Roll No. 368]

YEAS—334

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Butler
Byron
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stokes
Stratton
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—87

Atkinson
Barnes
Bedell
Beilenson
Bethune
Bonior
Brodhead
Broomfield
Broyhill
Burton, John
Burton, Phillip
Campbell
Carr
Cleveland
Clinger
Collins, Tex.
Conable
Conyers
Crane, Daniel
D'Amours
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Edgar
Edwards, Calif.
Evans, Ind.
Fenwick
Fowler
Frenzel
Gephardt
Goodling
Gradison
Green
Grisham
Hance
Holtzman
Jacobs
Kastenmeier
Kelly
Kildee
Kostmayer
Latta
Leath, Tex.
Lee
Levitas
Loeffler
Lowry
Lundine
McDonald
Maguire
Markey
Martin
Michel
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moffett
Mottl
Myers, Ind.
Nolan
O'Brien
Obey
Paul
Petri
Porter
Quayle
Richmond
Ritter
Rodino
Roybal
Russo
Sensenbrenner
Shannon
Solomon
Stark
Stockman
Studds
Stump
Taylor
Vento
Walker
Weaver
Weiss
Wolpe
Young, Fla.

NOT VOTING—12

Anderson, Ill.
Crane, Philip
Dixon
Dodd
Erlenborn
Ford, Mich.
Jenrette
Mathis
Murphy, N.Y.
Reuss
Runnels
Stewart

□ 1720

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Erlenborn.

Mr. Reuss with Mr. Philip M. Crane.

Mr. Jenrette with Mr. Anderson of Illinois.

Mr. Ford of Michigan with Mr. Runnels.

Mr. Dodd with Mr. Stewart.

Mr. Mathis with Mr. Dixon.

Messrs. BONIOR of Michigan, LEE, QUAYLE, LEVITAS, LUNDINE, ROYBAL, RICHMOND and RODINO changed from "yea" to "nay."

Messrs. HAGEDORN, ROBERT W. DANIEL, JR., DICKINSON, and FISHER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that I may enter into a brief colloquy with the chairman of the Subcommittee on Energy and Water Development, the gentleman from Alabama (Mr. Bevill), and that the colloquy be recorded in the deliberations in the Committee of the Whole House before the Committee rose.

The SPEAKER pro tempore (Mr. Danielson). Colloquy cannot be inserted in the Record. The gentleman may wish to revise and extend his remarks.

FURTHER LEGISLATIVE PROGRAM

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute for the purpose of finding out what the program is for the evening since I just understand it has been once again changed. Mr. Speaker, I understand that we are not going to take up the State-Justice appropriations bill which has already been considered in part. We were to resume amendments on that bill. The gentleman from Maryland has an amendment pending. I wonder if someone on the majority leadership can tell us what the schedule might be and shed any light on other developments in the House of Representatives of the United States of America.

I will be glad to yield anybody.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank my colleague from Maryland.

Next the House will vote on the rule on the Rail Act, following which we shall consider S. 751, the conference report on the Navajo and Hopi Indian Relocation Amendments Act of 1980, the bill to be handled by the gentleman from Arizona (Mr. Udall).

Mr. BAUMAN. So then we probably should be through here within an hour or less, one would expect?

Mr. BRADEMAS. That is not impossible.

Mr. BAUMAN. Does the gentleman have any information on the program for tomorrow, or is that premature?

Mr. BRADEMAS. Not at this time.

Mr. BAUMAN. I wish the gentleman luck.

Mr. BRADEMAS. I thank the gentleman.

PERMISSION TO FILE CONFERENCE REPORT ON SENATE JOINT RESOLUTION 119, VIETNAM VETERANS MEMORIAL FUND, INC.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight to file a conference report on the Senate joint resolution (S.J. Res. 119), the Vietnam Veterans Memorial Fund.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Conference Report (H. Rept. No. 96–1129)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the resolution (S.J. Res. 119) to authorize the Vietnam Veterans Fund, Inc., to establish a memorial, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to establish a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

Sec. 2. (a) The Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site of approximately two acres in size located in the area of West Potomac Park known as Constitution Gardens in the District of Columbia: *Provided*, That if subsurface soil conditions prevent the engineering of a feasible foundation system for the memorial in a location in that area, then the Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select a suitable site of approximately two acres in size located in an area of West Potomac Park north of Independence Avenue other than Constitution Gardens.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission: *Provided*, That if the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to report his or its approval of or specific objection to such design and plans within ninety days of their submission, his or its approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

Sec. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the establishment of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior based upon the approved design and plans for the memorial, to insure completion of the memorial.

Sec. 4. The maintenance and care of the memorial established under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

And the House agree to the same.

Lucien N. Nedzi,
William R. Ratchford,
Peter Peyser,
Bill Frenzel,
Newt Gingrich,
Managers on the Part of the House.

Henry M. Jackson,
Dale Bumpers,
John Melcher,
Mark O. Hatfield,
Pete V. Domenici,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S.J. Res. 119 to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. SITING OF THE PROPOSED MEMORIAL

As passed the Senate, S.J. Res. 119 provides that the Vietnam Veterans Memorial is to be located on a two acre site in the District of Columbia in the area of West Potomac Park known as Constitution Gardens. Except for the reference to the District of Columbia, the House amendment deletes the site specific language.

The conferees agreed to adopt the Senate provision.

2. VIETNAM VETERANS PEACE AND BROTHERHOOD CHAPEL

The Senate version of S.J. Res. 119 includes a provision authorizing the Secretary of the Interior to provide funds for the operation and maintenance of the Vietnam Peace and Brotherhood Chapel near Eagles Nest, New Mexico. This language was added by the Senate Committee on Energy and Natural Resources in recognition of the effort of Dr. Victor Westfal in building the chapel as a memorial to his son and others who were killed in the Vietnam War. The House amendment deletes this provision.

The conferees agreed to adopt the House position relative to this provision. The conferees note that the Articles of Incorporation of the Vietnam Veterans Memorial Fund include contributions to the completion, operation and maintenance of the Vietnam Veterans Peace and Brotherhood Chapel as a purpose for which the Corporation is organized.

Lucien N. Nedzi,
William R. Ratchford,
Peter Peyser,
Bill Frenzel,
Newt Gingrich,
Managers on the Part of the House.

Henry M. Jackson,
Dale Bumpers,
John Melcher,
Mark O. Hatfield,
Pete V. Domenici,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 7235, RAIL ACT OF 1980

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 716 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 716

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7235, it shall be in order in the House to take from the Speaker's table the bill S. 1946, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 7235 as passed by the House.

☐ 1730

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 716 provides for the consideration of H.R. 7235, the Rail Act of 1980.

The rule provides for 3 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. This is an entirely open rule allowing any germane amendment to be offered under the 5-minute rule.

Mr. Speaker, the resolution makes the committee amendment in the nature of a substitute in order as an original bill for purposes of amendment and it states that the substitute shall be read by title rather than by section, further facilitating the amendment process.

Mr. Speaker, each title will be considered as having been read.

Mr. Speaker, under this rule it is also in order to offer a single motion to recommit the bill with or without instruction.

Finally, after passage of the bill the rule makes it in order to take from the Speaker's table the companion Senate bill, S. 1946 and to move to amend it with the House passed provisions of H.R. 7235.

Mr. Speaker, the economic position of the Nation's railroads has consistently declined since the end of World War II. Rail lines have become increasingly dependent on borrowed capital for maintenance and improvements and several, including most recently the Rock Island & Milwaukee Railroad, have been forced into bankruptcy. In almost every category of freight hauling, the proportion of the market served by the railroads has shrunk annually. Through far reaching regulatory reform, H.R. 7235 is intended to provide a comprehensive solution to the problems of commercial rail lines allowing them to compete effectively with other modes of transportation.

The act provides that individual lines may themselves set rates rather than proceed through the Interstate Commerce Commission for generally applicable increases. This should foster competition among railroads and make rates for particular services more sensitive to demand.

Mr. Speaker, the bill also protects shippers by limiting rate increases to a 2-year transition period providing for ICC review of increases where a monopoly situation exists and by providing for contractual arrangements between carriers and shippers only where a railroad's common carrier obligation will not be set aside. The Rail Act authorizes $1.5 billion over the next 5 years for railroad restructuring and modernization loans. It allows ConRail to make supplemental agreements divesting itself of certain money-losing lines and it provides for the protection of ConRail employees.

Mr. Speaker, as mentioned earlier, this is an entirely open rule allowing any germane amendments to be in order. I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provisions of the rule have been ably explained. To the Members, I would say this word "deregulation" has certainly caught on in the Congress last session and this session. First, deregulation of airlines. Second, deregulation of the trucking industry. Now, deregulation of the railroads.

Mr. Speaker, there are measures in the bill that are quite controversial. Section 202, the captive shippers' section certainly will be debated fully on the floor of the House.

Mr. Speaker, some say this bill is a lifesaver for ConRail, at the expense of industry. Others say this and others say that. Several issues remain to be settled.

At this time, I would like to yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Tennessee for yielding.

Mr. Speaker, I have no quarrel with the rule, but I would like to make my remarks in the vein of an early warning system for Members of the House whose districts may be affected by this legislation.

Mr. Speaker, there was ample testimony before the Committee on Rules presented by the managers of this bill indicating that all of the questions raised in the hearings and in the markup have not been settled, particularly as they pertain to short line railroad service in various parts of the country.

I happen to have in my district the Virginia & Maryland Railroad which is very important to shippers in my area and there is a companion railroad which services the entire Delmarva Peninsula which also would be affected. When I asked questions during Rules Committee testimony as to the protection afforded in this legislation for this type of shoreline railway, I was told that amendments were being drafted that would meet the problems that still exist.

I think Members should take a very close look at this legislation, if one is a Member of the House of Representatives who represents a district served by one of the following railroad companies:

Roscoe, Snyder & Pacific Railway Co. of Roscoe, Tex.

The Columbus & Greenville Railroad in Mississippi.

The Meridian & Bigbee Railroad Co. of Meridian, Miss.

The Minneapolis, Northfield & Southern Railway of Minneapolis.

The Michigan Northern Railway Co. of Cadillac, Mich.

The Detroit & Mackinac Railway Co. of Tawas City, Mich.

The Texas, Oklahoma & Eastern Railroad Co. of Hot Springs, Ark.

The Providence & Worcester Co. of Woonsocket, R.I.

The Gettysburg Railroad Co., Gettysburg, Pa.

The Lamoille Valley Railroad Co. of Vermont.

The Louisiana & Northwest Railroad in Louisiana.

The Arkansas & Louisiana-Missouri Railroad.

The North Louisiana & Gulf Railroad.

The Aberdeen & Rockfish Railroad Co. of Aberdeen, N.C.

Mr. Speaker, with regard to all of these railroad companies and many more there is a serious question about the impact of this legislation. The gentleman from Maryland and others may be offering amendments to try to protect proper rail service to our constituents. We hope that the issues will be resolved before the time the bill is brought up. At this time, I understand we do not know when it will be brought up. It may be scheduled for general debate on Monday. We may have amendments next Tuesday, but I will also point out the House is scheduled to adjourn next Wednesday for a 2-week recess and in the interim perhaps we will be able to solve some of these issues.

Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. ECKHARDT) for purposes of debate only.

☐ 1740

Mr. ECKHARDT. Mr. Speaker, as has been said a moment ago, this case raises some very, very serious questions. The gentleman in the well is strongly for railroad deregulation, and I hope that I shall be able to vote for the rail deregulation bill. I was only notified, though, a few moments ago that the rule would be considered at this time. At the time that

I heard that rule was to be considered now, I was headed back to my office to discuss a very, very serious problem in that bill with the staff of the gentleman from New Jersey (Mr. FLORIO).

The serious problem is this: In section 202 of the rail deregulation bill there is a provision that has this effect: In the case of an absolute monopoly situation in which the shippers are captive to the railroad which is the only means of transportation serving their area, the ICC may not even consider the rate under section 202 unless the railroad sets the rate at in excess of about 200 percent of variable cost. Now, let me tell the Members what that means.

The gentleman from Texas, representing the area of San Antonio, knows what I am talking about here, because his municipal utility had its rates raised over a period of only 6 years from an initially quoted rate of $8 a ton from Gillette, Wyo., to $19 a ton in the San Antonio area. That is 240 percent of the rate originally offered.

Now, hear this: But, it is only 174 percent of variable cost. Now, that means that under section 202 of this bill, San Antonio would not even have been able to go before the ICC unless the rate had been inordinately high, unless it had been above $21.50.

Now, I think that we can cure this question. It think it is a matter that all of us are concerned to cure because it is not just a transportation question, not just a coal question. It is a question that has to do with everything that can go only efficiently by rail, such as grain, farm machinery, chemicals, fertilizer, coal, and other items.

We have worked hard in this body to try to pass the fuel use bill, the bill that seeks to convert from the use of gas in generating electricity to the use of coal. This seriously impacts that question.

Now, let me state to the Members that this is not an irreconcilable dispute, not by any means. There are several ways we can handle it. I have been introducing to Members of the House a possible solution that would permit the kicking in of ICC consideration at 160 percent effectively of variable cost. There are other ways to do it. I am discussing presently these questions with the staff of Mr. FLORIO.

Well, how did I get into it? The Oversight Investigation Subcommittee went into a long hearing on this, of captive shipper rates. These are not impossible solutions. I would be in my office now trying to work this out had the rule not been called up at a time when we did not expect it. I think that would be confirmed by members of the Rules Committee itself.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished majority leader.

Mr. WRIGHT. The gentleman is exactly right. I was quite surprised to discover that this rule was being called up now. Only yesterday, the Secretary of Transportation came and talked with me about the need to push forward with this legislation. I discussed with him the need to work out this matter that the gentleman from Texas has referred to. He indicated to me that he was willing to do so. I see no reason this should be put on a "bum's rush" basis before that opportunity has been explored; the bill must be hurried before us in such a rapid fashion, and I would fully agree with the gentleman.

As I understand it, the gentleman from Texas (Mr. ECKHARDT) is in favor of railroad deregulation, if this particular matter can be worked out so that a monopoly situation cannot simply impose extortionate rates upon the residents of local communities.

Mr. ECKHARDT. That is correct. May I say this: I think there is a way to work this thing out. If we do not work it out, we run into conflict with a number of appropriation bills next week. I would like to ask the distinguished majority leader. it is my understanding that we have a heavy schedule from now until the time that we recess.

Mr. WRIGHT. We have an absolutely impossible schedule. I could recite for the gentleman at least 20 pieces of legislation whose sponsors can give you very good reasons why it is urgently important that they be passed before we adjourn next Tuesday. Obviously, we are not going to be able to accommodate all of them.

Mr. ECKHARDT. I think I can say that if we do go forward with this bill, there is going to be extensive debate. There is going to be extensive amendment. It is going to occupy a great part of the time of next week if we go to it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Well, the gentleman from Texas certainly reflects my concerns about the haste with which this is being attacked. Of course, I have already commented on the need to work on these problems.

It would be my intention, if we go forward on this resolution, to ask the House to vote down the previous question. If it is voted down, I will offer a motion that will then be in order to postpone further consideration of this rule until July 21, when we return from the recess.

Mr. ECKHARDT. The gentleman's suggestion is what I had been thinking about offering. I would be glad, if the gentleman offered it. I would offer this or support the gentleman's motion—not on the basis of opposition to railroad deregulation; I want to see it passed, but I want the rule to come up on a day certain. I want it to come up on the very first day that it can possibly come up after the recess, which would be the 22d. We come back on the 21st, which is, incidentally, a Monday. I would certainly either offer or support the motion, not in the sense of thwarting the schedule here, but in the sense of expediting it.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I will support the gentleman's position. I think one of the most important things we need is predictability about the schedule under which we are operating on important pieces of legislation so that we have adequate time to study these complex issues. One place we can reduce paperwork, it seems, is to stop printing the whip notices for the week's agenda or the day's agenda, because it does not seem to be followed anymore, and we can save a lot of paper in that way.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to my colleague from Texas.

Mr. GONZALEZ. Mr. Speaker, I rise to thank my colleague from Texas for what really amounts, in my book, to heroic work not only as chairman of the Oversight and Investigations Committee, for the hearings he has held and exposing this.

☐ 1750

But the question I have is this: Is not this undue and rather unprecedented haste under the circumstances for the pressuring of the adoption of this rule indicative of a thing that has set into this deregulatory mania, and that is the ability of the very special interests to capture their own selfish interests as superior to the general thrust of the deregulation in the bill, whether it is for railroads, airlines, or whatever?

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. BEILENSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas (Mr. ECKHARDT), for the purpose of debate only.

Mr. ECKHARDT. Mr. Speaker, I think what the gentleman from Texas (Mr. GONZALEZ) is saying is absolutely correct. I really believe very strongly that it is very much to the adverse interest of any administration to push a bill so quickly that there will be great regional dissatisfaction with the bill.

I think that is a mistake, and it is particularly a mistake when it can be so easily worked out.

However, this is not just with respect to Texas or the gentleman's area. We have found strong opposition, almost solid opposition, to section 202 in the Michigan delegation. We have found 100 percent opposition to that section, unless it is corrected, in Louisiana. Understandably, there are 22 out of 24 members of the very diverse Texas delegation who feel that this has to be cured before we can vote for the bill.

Mr. GONZALEZ. Mr. Speaker, there is no question of that.

Mr ECKHARDT. Mr. Speaker, what I am pleading for is a delay until July 22, until we return, so that we can move on railroad deregulation as quickly, as rapidly, as easily, and in as orderly fashion and with knowledge of what the amendments are as we moved on trucking deregulation.

That is all I am asking for, and I do not think what I am saying here is in opposition to the essential view of the leadership of the House. The inordinate haste really has come from a different source.

This body is not of necessity a body which jumps through a hoop anytime any administration says to do so. This Member feels it is greatly to the disadvantage of the whole House, both the Democrats and the Republicans, to do so.

Mr. Speaker, that is the reason I will either offer a motion or support the motion that the gentleman from Maryland spoke about.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Speaker, I thank the gentleman from Tennessee (Mr. QUILLEN) for yielding this time to me.

I wish to echo the remarks of many of the Members who have spoken already in an effort to delay consideration of the rule.

We have a caveat to all Members who have not had a chance to review the pending railroad deregulation bill. I happen to be one of the Members—there are three of us—who represent the city of San Antonio and who clearly know that this is not deregulatory in its own sense but is, rather, the perpetuation of a monopoly, the way we are currently viewing section 202. This is important to the consumers, for instance, of San Antonio.

I will, therefore, support the Bauman motion which will delay consideration of the rule until July 22. I urge my colleagues to do likewise, and I hope that in the interim period of time we might reach some accommodation where deregulation might be achieved without inordinate burden being placed upon the consumers who are captive shippers.

Again, Mr. Speaker, I urge my colleagues to adopt the Bauman proposal and join with the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Texas (Mr. GONZALEZ) in their approach.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I realized that this was being brought as I watched the television upstairs, and I frankly think that it was brought up too precipitously. That does not mean that it will not be brought up again before the Congress goes in recess.

But I am going to ask the gentleman from California (Mr. BEILENSON) as a favor to me, and with an understanding of the confusion that exists, to withdraw the rule.

Mr. Speaker, he can do that now, and if he chooses so to do, that is what will happen.

Mr. BEILENSON. Mr. Speaker, I withdraw House Resolution 716.

The SPEAKER pro tempore. The resolution is withdrawn.

CONFERENCE REPORT ON S. 751, NAVAJO AND HOPI INDIAN RELOCATION AMENDMENTS ACT OF 1980

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 17, 1980.)

The gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House the report of the conference committee resolving the differences of the two Houses on the bill, S. 751, amending the Navajo-Hopi Land Dispute Settlement Act.

In 1974, we enacted legislation providing for the settlement of a long-standing dispute between the two tribes to approximately 2,000,000 acres of land. The 1974 act provides for the partition of the land between the two tribes and will result in the eventual relocation of over 800 families of Navajo.

This relocation process is and will continue to be an extremely traumatic event for the Navajo people. This is probably the largest forced relocation effort required by the Federal Government since the Indian removal policies of the 1800's.

Mr. Speaker, since the passage of the 1974 act, numerous defects and oversights have been identified in its implementation. S. 751, in the two versions passed by the Senate and House, sought to remedy those defects and oversights.

After extensive negotiations, the conferees on S. 751 have arrived at a reasonable compromise of the issues in disagreement.

The major points of disagreement relate to the provisions for added lands for the relocation of Navajo families and the provision for life estates for Navajo families living on lands partitioned to the Hopi tribe.

On both of these critical issues the conferees have achieved agreement and have worked out compromises which I think will go a long way toward easing the burdens and trauma of relocation for these Navajo families.

Mr. Speaker, I urge the House to adopt the conference report.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 751, the Navajo and Hopi Amendments Act of 1979.

Although the initial Senate and House versions of these amendments could be fairly described as pro-Navajo and pro-Hopi, respectively, the distinguished chairman of the Interior Committee, Mr. UDALL, and the majority and minority conferees of both bodies should be congratulated for producing a fair and well-balanced compromise between the two bills.

I share the hope and expectation of the conferees that these amendments will permit the necessary relocation of some 800 Indian families to go forward without further delay or undue hardship.

The history of the Navajo and Hopi dispute, the 1974 settlement and the current amendments is well-explained in the committee and conference reports, and I will not attempt to summarize it now.

I would note for the record, however, the statement of the managers regarding the provision in the conference report that authorizes continued payments in lieu of taxes on those public lands which may be transferred to the Navajo Tribe.

As a Member who was deeply involved in the origination of the Payments in Lieu of Taxes Act of 1976, I want to emphasize the position of the conferees that this provision results from very unique circumstances and should in no way be considered a precedent for treatment of other, existing Indian trust lands.

Mr. Speaker, I fully support the work of the conferees and I am pleased that reasonable solutions to the problems of implementing the 1974 settlement act have been worked out.

My appreciation of this accomplishment is tempered, however, by my regret at what caused it to be needed. It should not be forgotten that the principal cause of the long and often bitter dispute between two of America's ancient Indian tribes was the consistent failure of the Federal Government to pay appropriate attention to the administration of its responsibilities in Indian affairs. The accumulated cost of repairing the damage done by such inattention, in dollars alone in this case, as in others, is staggering.

The total dollar cost of the Navajo and Hopi settlement and relocation will no doubt eventually exceed $60 million. But the larger cost—to those 5,000 Indians who are legally compelled to move to provide a just solution to a problem not really of their making—is immeasurable.

This is especially so when one considers that these people are noted for their particular love for their land, and that many of them have lived on their land for generations. The lesson of all this seems clear—the Federal Government must exercise its responsibilities over Indians with great care.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I want to thank my friend, the gentleman from California (Mr. CLAUSEN) for yielding. I will be very brief.

Mr. Speaker, this solution to the Hopi-Navajo problem is really one that should never have come about in the first place.

□ 1800

I think the solution is bad. I was on the conference for this particular piece of legislation, and I must say that I did sign the conference report because we have to do something to implement the provisions of the act of 1974. Nevertheless, I still believe that the solution imposed upon us by the legislation in 1974 is a bad solution. When people have to be moved from places where they were born and raised, it is not an equitable solution, so far as I am concerned. Not having any other alternative, Mr. Speaker, I therefore bow to the will of the majority as expressed in 1974 and at least support this as the only way that we can implement the carrying out of that policy. This legislation does that, and reluctantly I must support the legislation.

Mr. CLAUSEN. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I hope that this conference report will be adopted. The subject, of course, is one which is well known to every resident of Arizona, New Mexico, Utah, and Colorado. We have had the problems between the Navajo and Hopi for many, many years, and I suspect that they may perhaps even antedate the advent of the white man on this continent.

If it is possible to do anything at all to actually assuage the feelings of these people against each other which they have had for so many years, then certainly we want to do it. I am satisfied that this bill is not a perfect bill. If it were it probably would not have gotten this far. But the facts are that it is the best bill which we can get, and it is a bill which I think will have a very good chance of building a solid foundation of good feeling between these two tribes who have not had those feelings about each other in the past, and I sincerely hope and I believe that we are taking the right step in the right direction.

Mr. Speaker, I urge adoption of the report.

Mr. CLAUSEN. I thank the minority leader for his advice and counsel.

Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. MARRIOTT), who played a key role.

Mr. MARRIOTT. Mr. Speaker, I rise in support of the conference report on S. 751, the Navajo and Hopi Indian Relocation Amendments Act of 1979.

These amendments modify the 1974 Navajo-Hopi Settlement Act, an act which Congress hoped would finally resolve the 100-year-old dispute between the two tribes over the use and occupancy of some 1.8 million acres of land in northeastern Arizona. The settlement provided for a Federal court to partition the disputed area, and for the relocation of each tribe's members residing on lands partitioned to the other.

Today, although the disputed land has been partitioned, nearly 700 Navajo families and a few Hopi families are still awaiting relocation. Problems in acquiring resettlement lands, in setting criteria for life estates for aged and disabled Indians for whom relocation would be an undue hardship, and insufficient authority for the Federal Relocation Commission to fulfill its responsibilities in moving 5,000 people, have combined to stall the relocation process.

The conference report on S. 751 contains a series of compromises between House and Senate bills with the common goals of facilitating the relocation of Indians from the partitioned areas and lessening the human costs of such a large-scale resettlement. As one of the conferees, I am pleased to state my belief that the product of the conference is fair to both tribes, balanced and workable. As is true of many good compromises, no party will receive all it sought in negotiations, nor will any party fail to benefit from the outcome. The compromises in S. 751 are not loved by either of the tribes, but they are nonetheless acceptable to both as perhaps the best that could be achieved under current political and fiscal realities.

I believe this legislation to be among the most important to be considered by this Congress. By enacting the original Navajo-Hopi settlement in 1974, Congress made a commitment to return to the Hopi Tribe much of their lands wrongfully lost through encroachment by Navajos. By the same token, Congress made a commitment to the Navajo Tribe to see that additional lands and basic amenities were provided for the people who would have to be relocated. For Congress to fail to enact S. 751 would be to renege on those commitments and to leave several thousand people in a legal and psychological limbo.

The ultimate cost of such an occurrence, in dollars and in human anguish, would certainly be far beyond any costs now contemplated. Thus, it is extremely important to the integrity of the Congress and the United States, as well as the interests of the Navajo and Hopi Indian Tribes, that the conference report on S. 751 be approved. I urge its speedy adoption.

REMARKS OF CONGRESSMAN DAN MARRIOTT

In 1974, after several years of great effort, the 93rd Congress passed P.L. 93-531, which has come to be known as the Navajo-Hopi Settlement Act. The 1974 Act was designed to bring an end to the century-old land dispute between the Hopi and Navajo Tribes involving millions of acres of reservation lands in Northeastern Arizona.

All of the land in question was aboriginally Hopi. Not until the mid-to-late 1700's did the Navajos enter the Hopi Area. Conflicts between the two tribes persisted over the years with the federal government only adding to the problems rather than assisting in a resolution.

In 1958 Congress adopted P.L. 85-547, which was designed to permit the tribes to quiet title to some of the lands in question. That litigation culminated in 1962 with the decision of *Healing* v. *Jones*, 210 F. Supp. 125 (D. Ariz. 1962). The *Healing* decision involved approximately 2.5 million acres and held that of the total amount, 600,000 acres were exclusively Hopi, but the balance was to be a joint-use area on a share and share-alike basis. That decision was affirmed by the U.S. Supreme Court on direct appeal. (373 U.S. 758 (1963)).

Following the *Healing* case, the Navajos refused to permit the Hopis to use or occupy any of the so-called Joint Use Area. As a result, the Hopis sought and obtained a court order in 1972. The Navajos refused to comply with that order, continuing to prevent the Hopis from any use of the 1.8 million acres of jointly owned lands. Eventually, the Navajos were held in contempt of court.

At approximately the same time, Congress saw the wisdom of passing the Settlement Act, which contained many features designed to end the protracted dispute. Some of those features included (1) a mandatory negotiating period, requiring the two tribes to seek resolution with the aid of a federal mediator; (2) authorization for the court to partition the lands between the two tribes should the negotiations fail to provide a resolution; (3) the creation of a Relocation Commission which is charged with the responsibility of developing a plan to facilitate the resettlement of Navajos from lands partitioned to the Hopis; (4) benefits for relocatees which will help to ease the inevitable hardships which accompany such a move; (5) permission for the Navajos to acquire an additional 250,000 acres to facilitate resettlement; and (6) other provisions which were aimed at resolving other aspects of the land dispute and related claims.

Following the passage of the Settlement Act on December 22, 1974, the tribes met with the federal mediator during a period exceeding six months. Unable to bring the parties to agreement, the mediator submitted his lengthy recommendations to the Arizona Federal District Court in December of 1975, calling for the equal partition of the surface lands of the Joint Use Area. The court held further hearings and finally, in February of 1977, entered its partition order, adopting many of the mediator's recommendations. After two appeals to the Ninth Circuit Court, it now appears that the district court's partition order has been upheld.

As contemplated under the Settlement Act and as required by the mediator's recommendations and the court's partition order, the land division will result in the mandatory relocation of approximately 700 Navajo families and a few Hopi families.

The relocation process was to have commenced no later than two years from the final partition order and is to take no more than five years from the starting date. The two-year lapse was designed to give the Commission an opportunity to prepare a report and plan. It is sad to note that already more than three years have passed since the final partition order and still no report has been produced by the Commission. This delay has in part been due to appeals by the Navajo Tribe. Currently, the Relocation Commission's report is not expected to be submitted to Congress until March 1981, a full six years after enactment of the initial settlement legislation. The amendments in S. 751 do not grant any additional time to the Commission, and we certainly do not condone the delays added to this already over-ripe problem.

In the face of the impending relocation, the Navajo Tribe has asked Congress to take one last look at the Settlement Act in an effort to minimize the inevitable burdens of the relocation. In the process of evolving these final amendments to the original act, the Hopis, too, have offered suggestions. Both tribes have been very helpful in working out these new amendments. Although neither tribe is completely satisfied with the end product, many of their concerns are addressed and accommodated.

It is especially significant to note that these amendments are intended to constitute a "last bite at the apple." In other words, the Congressmen and their staffs which have worked directly on this matter now expect the parties and the Relocation Commission to proceed with dispatch to conclude the partition and relocation. Further delay and further legislative tampering can only result in increasing the overall difficulties associated with this problem. The equities have been weighed and reweighed by the courts and by Congress. The balances have been struck on the basis of countless pages of documentary evidence and arguments and on the basis of scores of witnesses. These new amendments are designed with one primary aim: conclude the legislation and get on with the resettlement.

In this regard, the new amendments contain the following features:

Section 2(c) authorizes both tribes to

bring an action for damages to some of the disputed lands. This section actually confirms authority granted in the 1974 Settlement Act, but because of confusion raised during litigation, the amendments were added by way of clarification. Actions for such damages have already been commenced. It is intended that these amendments will hasten the resolution of those claims. The 1974 Act gave maximum flexibility to the *Healing* supplemental proceedings to decide these issues or to defer to another judge if that proved desirable.

Section 3 provides very important language regarding tribal jurisdiction over the partition lands. Much of the frustration experienced by the Hopis has involved this issue. Outright interference by the Bureau of Indian Affairs over Hopi use and control of their partitioned lands has required these specific provisions which establish deadlines for assumption of full jurisdiction by the Hopi Tribe. The Secretary is charged with the responsibility to safeguard relocatees and life-estate tenants. But that responsibility is only meant to correct any cases of Hopi harassment (which have never yet occurred). It is ironic that this provision was included because history has shown that all the harassment has come from the Navajos with virtually no action by the Secretary to protect Hopis.

Nonetheless, this provision resolves some of the hitherto unfounded Navajo fears and may, indeed, also work for the protection of Hopis. The provision is not designed to give the Secretary of the Interior any powers to prevent the Hopis from obtaining the full and complete peaceful enjoyment of their restored lands. If the Secretary and/or Commission is unable to carry out its assignments, then it is essential that the Tribes have this full jurisdiction to make certain themselves that the relocation is accomplished within the statutory deadline.

Section 3(f) is designed to restore the status quo in the 1934 Reservation Area west of the 1882 Executive Order Area. By requiring both tribes to approve development in that area (except for limited exclusive areas where no joint consent is needed), neither tribe will be able to attain an unfair advantage over the other. Litigation regarding the title to these lands is presently ongoing and it is expected that the Hopis will also be partitioned a large tract of land in this area as well—larger by far than what was initially contemplated by H.R. 11128 in the ninety-third Congress. Such partition may result in additional relocations, which these amendments contemplate. The extent of such partition and relocation is not presently known, but the Navajos' position in the 1974 legislation has caused this uncertainty.

In 1974, rather than face the immediate partition of approximately 250,000 acres to the Hopis in this area by Congressional mandate, the Navajos opted for the present course of litigation, which will probably result in a much larger area being partitioned to the Hopis. The benefits and additional lands provided for the Navajos under the 1974 Act and these amendments are designed to resolve any Navajo hardships in the 1934 Reservation Area as well.

Section 4 provides for the addition of the original 250,000 acres to the Navajo Reservation plus another 150,000 acres, or a total of 400,000 acres of new reservation lands. While it is debatable whether any additional lands are really needed to accomplish relocation, the Navajos have claimed that these new lands are needed to relocate those who reside on lands partitioned to the Hopis.

Certainly, on the 16 million acre Navajo Reservation there is ample room for residences for the Joint Use Area Relocatee families and several hundred more from the 1934 Area. There is admittedly not enough room for those families to graze livestock, however. Because of the badly overgrazed nature of the entire area it is abundantly clear that no longer can the Navajo people expect to earn any significant part of their overall tribal income through ranching. These amendments recognize this fact of life. It is incumbent now upon tribal leaders to seek new sources of livelihood for their members. If this is not done, in the future the problem will be at their doors, not that of Congress.

Section 5 grants additional tools to the Relocation Commission and underscores Congress' intent that this Commission be, and be treated as a truly independent body, not subject to the indirect control of Interior as has occurred in the past.

Section 6 allows Congress ninety days (instead of 30 days as set forth in the 1974 Act) to review the relocation plan. It is expected that the Commission's plan will be reasonably complete, but it is recognized that many of the practical problems associated with the relocation cannot be fully anticipated until the resettlement process is actually underway. Consequently, the purpose of the Congressional review is not simply to criticize the details of the plan, but instead to make certain that relocation is actually moving forward without delay and without any major oversights.

Section 7 grants benefits to a limited group of Navajo trespassors who were evicted from executive Hopi lands in 1972.

Section 8 establishes final deadlines for the Secretary to accomplish surveying, monumenting, fencing and livestock reduction before the respective tribes take over these tasks. The Secretary's past failures in these areas are not condoned in any way by the amendments but it was felt that specific Congressional deadlines would encourage compliance with existing court orders in these areas and set dates on which the Tribes may take over these jobs.

Sections 9, 10 and 11 add further tools to the Commission to facilitate and expedite relocation. Section 11 specifically creates an annual fund which the Commission can divide between the two tribes for the purpose of helping both overcome problems created by the partition.

In addition, Section 11 provides authorization for a much needed Hopi High School and a Hopi Medical Center which is also desperately required to meet the increased activity and population in the area.

Exemptions from NEPA and FLPMA are included in section 11 to avoid any possibility that those two acts would be raised to obstruct relocation or the reclamation of the lands in question.

Section 11 also expands the government's willingness to absorb the expected litigation expenses which occur as a result of the legislation. This provision (as did Section 8 in the 1974 Act) recognizes the casual role played by the United States in these problems and also acknowledges the inherent conflict of interest that the United States has in attempting to represent either of these tribes in an action against the other.

The final provision in the amendments deals with life-estates to be granted to a limited number of physically disabled or aged residents of the lands partitioned to the other tribe. The Relocation Commission is responsible for the initial selection of these individuals. The original restrictions concerning life-estates as recommended by the mediator and adopted by the court are expanded considerably by the amendments and will clearly benefit individual Navajos. I am pleased to note that the conferees provided for up to ten life estates for those few Hopis living in the Navajo partitioned area who choose not to move.

It is possible that not all the problems relating to the life-estates will be resolved during the life of the Commission.

While the conferees expect the Secretary to assume administration of life estates after the Relocation Commission expires, the courts will, of course, provide the ultimate back-up for the resolution of any problems. These amendments are intended to change only minimally with the prior pronouncements of the court on life-estates. It is intended that the other aspects of the court's orders will remain in full effect to the extent they are not contradicted by these statutory amendments.

In short, this "final tune-up" of the Settlement Act has been accomplished after much careful debate and study. All of the conferees, I believe, recognize that this relocation project will not be easy or pleasant. But we all recognize that in the interest of justice, it must be done. While the short-term costs of this task are considerable, in the long term, getting this job done now will save much in terms of human suffering and actual dollar outlay.

For all these reasons, I support S. 751 as reported by the Conference Committee and urge you to vote with me for passage.

Mr. CLAUSEN. Mr. Speaker, I have no further requests for time.

Mr. UDALL. Mr. Speaker, I yield myself 2 minutes, and I have no requests beyond that.

Mr. Speaker, I just want to thank the gentleman from Arizona, the distinguished minority leader, for his support. This has been a bipartisan project from the beginning. Our senior Senator, Senator GOLDWATER, worked closely with me in putting this thing together over the years, and our junior Senator was a member of the conference committee and signed the report.

So this is a good solution to a very ancient and complex subject. I strongly urge its approval by the House.

Mr. Speaker, if there are no further requests for time, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396. nays 15, not voting 22, as follows:

[Roll No. 369]

YEAS—396

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio

Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—15

Bauman
Collins, Tex.
Crane, Daniel
Gramm
Guarini
Latta
Leath, Tex.
Lee
McDonald
Michel
Montgomery
Paul
Shelby
Skelton
Stump

NOT VOTING—22

Anderson, Ill.
Chisholm
Crane, Philip
Dixon
Dodd
Erlenborn
Ford, Mich.
Giaimo
Holtzman
Ichord
Jenrette
Markey
Mathis
Murphy, N.Y.
O'Brien
Patten
Pursell
Reuss
Runnels
Stewart
White
Wilson, C. H.

☐ 1810

The Clerk announced the following pairs:

Mrs. Chisholm with Mr. O'Brien.

Mr. Markey with Mr. Erlenborn.

Mr. Reuss with Mr. Pursell.

Mr. Murphy of New York with Mr. Philip M. Crane.

Mr. Jenrette with Mr. Ichord.

Ms. Holtzman with Mr. Dixon.

Mr. Todd with Mr. Mathis.

Mr. Ford of Michigan with Mr. Patten.

Mr. Giaimo with Mr. Runnels.

Mr. White with Mr. Charles H. Wilson of California.

Mr. Stewart with Mr. Anderson of Illinois.

Mr. DANIEL B. CRANE and Mr. LATTA changed their votes from "yea" to "nay."

Mr. STANGELAND changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1820

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. UDALL moves that the House recede from its amendment to the title of the Senate bill, S. 751.

The motion was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have asked for this time to inquire of the distinguished majority whip the program for the balance of the day and tomorrow.

Mr. BRADEMAS. Mr. Speaker, will my distinguished colleague, the minority whip, yield?

Mr. MICHEL. I yield to the gentleman.

Mr. BRADEMAS. I can tell the gentleman that tomorrow the House will convene at 10 o'clock in the morning. Our order of business will be as follows:

First we will consider S. 932, the conference report on the synthetic fuels bill. Next, we will complete action on the State-Justice Department appropriation bill. Then we will consider the rule on the Rail Act. Finally, the military construction appropriation bill.

Mr. MICHEL. That will conclude the business for tomorrow? What time would the gentleman predict for adjournment tomorrow?

Mr. BRADEMAS. I have not had an opportunity to consult with the Speaker, but I would hope that, without this being a commitment, we could complete our work as close to 6 o'clock as possible.

Mr. MICHEL. Might I inquire further if it is definite that we will have a Friday session this week?

Mr. BRADEMAS. The answer is "Yes."

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. ROUSSELOT. I appreciate my colleague yielding. We have had several changes today in schedule. Is this pretty firm for tomorrow?

Mr. BRADEMAS. Yes.

Mr. ROUSSELOT. Is there another rule that we might expect?

Mr. BRADEMAS. Not that I am aware of, if I may say to my friend from California.

Mr. ROUSSELOT. I saw a lot of discussion here a minute ago on the floor. It is pretty set now, does the gentleman think?

Mr. BRADEMAS. Yes.

Mr. ROUSSELOT. OK.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Illinois yield for a question?

Mr. MICHEL. I am happy to yield.

Mr. BAUMAN. I would ask the gentleman from Indiana whether or not it is the leadership's intention, since the rule on the rail deregulation bill is to be brought up tomorrow, that we will consider that bill next week and complete it? That seems to be the real problem with a number of Members.

Mr. BRADEMAS. I am not in a position to give an answer to the gentleman from Maryland because that is a matter that has not been decided by the Speaker.

Mr. BAUMAN. So we do not really know when it will be scheduled?

Mr. BRADEMAS. The gentleman from Indiana does not know.

Mr. BAUMAN. The only reason I ask is there is really no point in bringing up a rule unless the bill is going to be brought up right after that. I thank the gentleman for his information.

Mr. BRADEMAS. There are many Members of the House who would not be in disagreement with that point of view.

Mr. MICHEL. Might I further inquire of the distinguished majority whip, since we will be having a session Friday, what will be the schedule for Friday?

Mr. BRADEMAS. If the gentleman yield, I would prefer that that announcement be made on tomorrow.

Mr. MICHEL. I thank the gentleman.

DEEP SEABED HARD MINERAL RESOURCES ACT

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2759), to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, lines 1 and 2, strike out "eventually" and insert "increasingly".

Page 5, line 22, strike out "the entering into force" and insert "the ratification by, and entering into force with respect to, the United States".

Page 12, line 7, strike out "directly or indirectly".

Page 13, line 4, after "shore" insert ", or does not involve the recovery of any but incidental hard mineral resources".

Page 16, line 24, after "agreement" insert "is ratified by and".

Page 19, strike out lines 6 to 18, inclusive, and insert:

(5) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit shall be conducted within the United States: *Provided*, That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commercial recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

Page 24, line 10, strike out "Secretary" and insert "Administrator".

Page 31, strike out all after line 18 down to and including "striction." in line 22 and insert "is inconsistent with this Act or the regulations promulgated thereunder.".

Page 31, line 24, strike out "issue," and insert "issue of fact,".

Page 33, strike out all after line 22 over to and including line 10 on page 34.

Page 34, line 11, strike out "(5)" and insert "(4)".

Page 46, strike out lines 13 to 19, inclusive, and insert:

(e) EFFECT ON OTHER LAW.—For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

(f) STABLE REFERENCE AREAS.—

(1) Within one year after the enactment of this Act the Secretary of State shall, in cooperation with the Administrator and as part of the international consultations pursuant to subsection 118(f), negotiate with all nations that are identified in such subsection for the purpose of establishing international stable reference areas in which no mining shall take place: *Provided, however*, That this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(2) Nothing in this Act shall be construed as authorizing the United States to unilaterally establish such reference area or areas nor shall the United States recognize the unilateral claim to such reference area or areas by any state.

(3) Within four years after the enactment of this Act, the Secretary of State shall submit a report to Congress on the progress of establishing such stable reference areas, including the designation of appropriate zones to insure a representative and stable biota of the deep seabed.

(4) For purposes of this section "stable reference areas" shall mean an area or areas of the deep seabed to be used as a reference zone or zones for purposes of resource evaluation and environmental assessment of deep seabed mining in which no mining will occur.

Page 50, line 4, after "information" insert *knowingly and willingly*

Page 50, lines 18 and 19, strike out "Secretary" and insert "Administrator".

Page 50, lines 21 and 22, strike out "Secretary" and insert "Administrator".

Page 52, line 4, after "unless' insert "the proposed transferee is a United States citizen".

Page 84, line 20, after "is" insert "ratified by and".

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, has everybody been consulted on bringing this up? I know my colleague from California (Mr. MCCLOSKEY) has been, but I know there were other people involved. Can the gentleman explain something about this?

Mr. ASHLEY. If the gentleman from California wants a response, I will be happy to give him one if the gentleman will yield.

Mr. ROUSSELOT. I will be delighted to yield to my colleague.

□ 1830

Mr. ASHLEY. Mr. Speaker, on June 9, 1980, the House passed H.R. 2759, the Deep Seabed Hard Mineral Resources Act of 1980. It was considered under suspension of the rules because the four committees of jurisdiction had developed a "consensus" bill in which the differences among the versions had been resolved.

On June 23, the Senate considered the bill as passed by the House, offered a series of amendments, and sent H.R. 2759 back to the House. Four of the proposed Senate amendments deal with substantive matters while the remaining 12 are technical in nature and do not alter the bill's intent as it was passed by the House. Of the four substantive changes, one deals with the siting of manganese nodule processing plants, two concern the so-called balancing test, and the last promotes the creation of a "stable reference zone."

The Senate amendment regarding the siting of processing plants requires that all such facilities be located within the United States unless the President determines that there are overriding national interests or the Administrator of NOAA determines that processing at an alternative location is necessary for the economic viability of the permittee. Additionally, assurances must be given that the processed resource will be domestically used if the national interest necessitates such use.

With respect to the first "balancing test" issue, the bill as passed by the House would allow the licensee or permittee to formally object to terms, conditions, and restrictions if, in their judgment, the conditions impose unreasonable and adverse economic consequences as to outweigh the benefits to be derived. The proposed Senate amendment allows objection if the term, condition, or restriction "is inconsistent with this act or the regulations promulgated thereunder."

The second "balancing test" amendment by the Senate would delete the provision in the House-passed bill that prohibits the Administrator from modifying any term, condition, or restriction for environmental or safety reasons if it is determined "that the national interest in obtaining hard mineral resources . . . outweighs the potential injury to the quality of the environment intended to be remedied by the modification." This deletion also would remove the comparison of significant economic loss to the potential injury to the quality of the environment.

The last substantive amendment proposed by the Senate adds a provision that requires the Secretary of State, in cooperation with the Administrator, to negotiate with foreign nations which enact their own deep seabed mining legislation to establish an appropriate area of the seabed as a reference zone in which no mining would be allowed. The purpose of this provision is to establish a stable reference area for future resource evaluation and the environmental assessment of deep seabed mining.

The reasonableness of these amendments, and the tortuous history of this legislation, argues strenuously for concurrence with the Senate amendments to the House bill and final passage.

I hope that that is responsive to the interests of the gentleman.

Mr. ROUSSELOT. I thank the gentleman for being so responsive.

Reserving the right to object, I ask my colleague, the gentleman from California, I know an active member in this particular area of activity, is the result of this conference basically different from the House version except for the minor changes my colleague from Ohio explained so carefully?

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

The chairman has accurately described the three changes. I would say that the first change which requires that onshore processing plants be in the United States unless the President shall determine that the company cannot operate economically without having a foreign base, is a helpful amendment. The second change, the removal of the balancing test, I think, is also helpful because under the House bill we perhaps gave unduly broad discretion to the Administrator, and added confusion to what is otherwise a sound bill. The third amendment added by the Senator from Connecticut, Mr. WEICKER, seems almost irrelevant to me. Other than those three amendments, the bill is the same as adopted in the House.

Mr. ROUSSELOT. So the gentleman from Ohio (Mr. ASHLEY) and the gentleman from California (Mr. MCCLOSKEY) can assure us that this is basically the same legislation that we passed here in the House with those three exceptions that have been mentioned?

Mr. McCLOSKEY. That is correct. There is no change other than those three exceptions, and they make no material change, in my judgment.

Mr. ROUSSELOT. I thank my colleague.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Reserving the right to object, I yield to my other colleague, the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I just wanted to say that as I understand it, the industry people are vitally interested in this legislation, approve, or do not object to the amendments that have been made in the Senate, and strongly support the bill.

Mr. ROUSSELOT. I thank my colleague.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 2759, legislation to promote the orderly development of hard mineral resources in the deep seabed pending adoption of an international regime thereto.

Considered by four committees, Merchant Marine and Fisheries, Interior and Insular Affairs, Foreign Affairs, and Ways and Means, this measure has received close scrutiny over a period of many months and reflects a careful, balanced compromise between the need to encourage the orderly development of this Nation's ocean mining capabilities and the need to conclude a forward-looking Law of the Sea Convention deserving of universal adherence.

Mr. Speaker, serving during the last 5 years as a congressional advisor to the U.S. delegation to the Law of the Sea Conference, I recognize the delicate process of forging from among a myriad of national perspectives and concerns a treaty that would go far toward promoting the long-term interests of the United States and other nations of the international community.

While I understand also the concern expressed by nations participating in the Conference about the adverse effects of unilateral sea bed mining legislation on the treaty-making process, I believe that as amended, the measure is sensitive to these concerns by prohibiting commercial recovery by U.S. mining companies until January 1, 1988.

The distinguished head of the U.S. delegation to the Law of the Sea Conference, Ambassador Elliot L. Richardson, has expressed his support for this measure. A tireless negotiator, Ambassador Richardson deserves the gratitude of this body for his well-reasoned, prudent and incisive representation of our Nation at the UN sessions. He has pointed out in convincing fashion that passage of this legislation will not, as is often charged, negatively affect the prospects for reaching agreement at the Law of the Sea Conference.

Mr. Speaker, I believe that H.R. 2759 carefully effects a synthesis between the need to develop technology for commercial recovery and processing of the minerals, and the requirement that this Nation engage in ocean mining with the intent that principles of the common heritage concept to emerge from the Law of the Sea Conference will ultimately guide U.S. actions in this area.

Accordingly, I urge my colleagues to vote for this important measure outlining a responsible plan of action for our Nation in this area.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I would like to have the gentleman from California let me know what his views are with respect to the impact this may have on the Law of the Sea Conference and whether or not the administration is aware of these provisions and what those feelings are.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

As best I understand the situation, our chief negotiator, Ambassador Richardson, who opposed passage of this unilateral legislation until this year, now believes that passage of the legislation may assist us in negotiating a treaty capable of ultimate ratification by the Senate, and favors the passage of the legislation at this time. There is no guarantee that this passage of unilateral legislation, even though it postpones any mining until 1988, may not attract the indignation and anger of some of the Third World nations, but it is the calculated judgment of Ambassador Richardson that that hurdle must be met at this time if we are to obtain a treaty that the Senate will ratify.

The final session of the Law of the Sea negotiations initiated 10 years ago, is scheduled to commence on August 27. I know of no man other than Ambassador Richardson, who was Under Secretary of State in 1970, who initiated the concept of these negotiations, whose judgment is more to be trusted on this knife-edged question as to whether finally enacting unilateral legislation, but delaying its effect until 1988, does not give every reasonable opportunity to those nations that may disagree with one or more terms of the treaty. We are not acting unilaterally; really we are in effect deferring any unilateral action for a period of time far beyond that in which a treaty will be negotiated, if it ever can be negotiated.

Mr. JEFFORDS. I thank the gentleman. His words are really quite reassuring.

Mr. McCLOSKEY. I just wanted to add, if I may, that for four years I have opposed the unilateral enacting of this legislation by reason of the very concerns that the gentleman expressed—that we would appear arrogant to the 156 nations of the world that we are asking to join with us in a significant step toward world peace under world law. But it would be less than forthright, in the delicate balance we face today, if we did not candidly state that, if we cannot negotiate a reasonable treaty in the next year or two, we would definitely be passing unilateral legislation anyway.

So to pass legislation in 1980, deferring its effective date until 1988, it seems to me permits us to bear the burden of reasonable argument to the Third World negtiators that we are not acting arrogantly or in undue haste. If they are forthright and honest in their approach to these negotiations, they also must concede that if a treaty cannot be negotiated within a year or two, no treaty is possible and there is no other way to obtain the deep sea bed resources for the benefit of all mankind save by having the industrialized nations go forward with the technology available to put these resources to use, for the benefit of the developing nations as well as the industrialized nations.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY)?

Mr. BEDELL. Reserving the right to object, Mr. Speaker, I reserve the right to object partly to answer the question of my friend, the gentleman from Vermont (Mr. JEFFORDS). Just so we know for the record, I personally believe that the action we are taking today is very, very detrimental toward our effort to get a good Law of the Sea Treaty. So that we understand the situation, Ambassador Richardson 2 years ago also said that he felt he needed this legislation for this same reason. The legislation was stopped; it was not passed. He then agreed that it was probably a mistake because of the progress that had been made. There was significant progress made in the last session. I have no argument with the legislation if we are going to pass legislation.

I think the committees have done a good job on the legislation that they have agreed to, if we are going to pass it, but you have to realize how you would feel if you were one of the other nations up there negotiating.

☐ 1840

At a time when the United States had pledged to negotiate in good faith. At a time when we had voted for a United Nations resolution which said that those minerals are "common heritage of mankind and are not subject to appropriation by any nation or state."

Those nations feel that for us to pass this legislation at this time, when there has already been such great concession, when we have already moved so close to final agreement on this, is really a slap in the face and I think it will harden their resolve in terms of getting them to make some of the concessions that we so urgently need in order to get the type of treaty that I think we need.

Mr. Speaker, one never knows who is right or who is wrong but it would be very wrong of me not to stand here and at least tell this body that I think what we are doing tonight is not in the best interest of the United States. I think it is not in the best interest of world peace. My hopes have been that we would at least wait until after the next session which takes place in July and August and give them a chance to finally complete these negotiations before we throw this right out into the middle of it and in my opinion it will cause further antagonism for the United States and make it harder to get the concessions which at least I believe we need. However, I recognize the fact that I am marching out of step with the majority of the Members of this body and for that reason I will not be an obstructionist and will not object but I feel I should at least state my opinions.

Mr. JEFFORDS. Mr. Speaker, I would just like to say I share the concerns of the gentleman. It is only my tremendous faith that I have in Secretary Richardson that I am willing to defer to his judgment, otherwise I would be protesting in the same manner as the gentleman. Having served as an adviser to the Law of the Sea Conference and having worked with the Secretary on this issue, I was somewhat surprised to see the change in position but I certainly feel that I certainly would defer to his judgment. I have tremendous faith in him. Let us just hope that he is correct in his understanding and that things will work out as the gentleman from California believes they will.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. McCLOSKEY. I would just like to add to this dialog a personal statement that when I was first appointed by the Congress to be a member of the Advisory Committee to the Law of the Sea Delegation, at the first meeting I attended back in 1976, I heard the State Department hold off American industry by saying, "We can defer the enactment of legislation because we feel we will negotiate a final treaty, next year, 1975."

And in each year thereafter, 1976, 1977, 1978, 1979, the State Department representative—originally Ambassador Stevenson, who was succeeded by Ambassador Learson, in turn succeeded by Ambassador Richardson—have held off the political power of American industry by the representation that "next year" we would finally negotiate a treaty.

Mr. Speaker, I believe that in the compromise Ambassador Richardson has reached he has properly appraised the political pressures in the Congress of the United States, that they are not going to wait any longer and the compromise that has been drafted between the language of this bill to try to preserve an environment of international negotiating in good faith and yet respond to the political pressures that if these resources are to be derived for the benefit of all mankind, someone is going to have to mine them and the only country with the technology capable of mining them might move forward, not as an act of imperialism but as an act of applying these resources to the benefit of mankind.

On balance, I think this represents the change in Ambassador Richardson's position. He is negotiating between American business and the Senate of the United States which must ultimately ratify, between representatives of foreign nations which have from time to time been unreasonable and/or allies who likewise are on the way to matching our technology; and when he advises us that this strikes the proper balance, that this may be the only way to get a treaty that may be ratified by the Senate of the United States, I am inclined to take his judgment. If, in his negotiations, he finalizes a treaty but it is unacceptable to the Senate of the United States, then those 10 years of effort, work, pain, and patience have gone for naught.

Mr. Speaker, I know of no person in the United States other than Ambassador Richardson who can give a better judgment at this point in time as to what we ought to try to do. His job is one of the most difficult jobs in the Government today, and I think the Congress ought to back him up.

Mr. BEDELL. Further reserving the right to object, Mr. Speaker, I think the gentleman from California has stated this situation very accurately. I think the gentleman states that Mr. Richardson is under the political pressure of some of the mining interests here in the United States. I think this is a major factor which has caused him to make the decision he has made.

I guess I for one believe that if we are going to operate as we should as a Congress serving the people of the United States that we have to have the will, the power and the strength to stand up to those political pressures from special interest groups which would put their interests above the interests of the people of the United States. I guess more than anything, whereas I understand Mr. Richardson's problem, I believe we have an obligation, here, to stand up to those pressures and it is for that reason that I think what we are doing here is a mistake in spite of what Ambassador Richardson is standing for and I think the gentleman has accurately described the reasons why the Ambassador has taken the stand that he has taken.

● Mr. BREAUX. Mr. Speaker, the action of this body on H.R. 2759, the Deep Seabed Hard Mineral Resources Act, today should be regarded as little more than a formality. On June 9, 1980, this measure received our approval on a voice vote under suspension of the rules. In fact, H.R. 3350, the deep seabed mining bill of the last Congress, passed by an overwhelming majority on a recorded vote on July 28, 1978.

H.R. 2759, with Senate amendments, remains an excellent legislative measure. As I stated on June 9, 1980, before this body, the passage of H.R. 2759, the Deep Seabed Hard Mineral Resources Act, must be recognized as an action of historic proportions. By our decision to approve this measure, we advance decisively the interest of the United States in the development of secure sources of supply of critical raw materials. More than any other action of this Congress and administration, the enactment of H.R. 2759 signals the determination of this Nation to free itself from a resource dependence that threatens our economic viability, political independence, and defense security. The Deep Seabed Hard Mineral Resources Act establishes a legal framework essential to the application of advanced American technology to the recovery of the vital minerals—cobalt, manganese, and nickel—from ocean areas outside the control and jurisdiction of any nation.

Without cobalt, for which the United States is currently reliant on unstable foreign sources of supply, such as Zaire, the high technology equipment essential to our commerce and defense cannot be produced. For example, America's frontline fighters, the F–14, F–15, and F–16, are powered by engines that cannot be produced or maintained without cobalt. Manganese is essential to the production of steel. The United States is overwhelmingly dependent on imports of manganese from Gabon, South Africa, and Brazil. Nickel is required for the production of stainless steel and high temperature alloys, for the refinement of petroleum, and for the manufacture of chemicals and electrical equipment. We must obtain much of our nickel from countries, such as Canada, which have demonstrated a willingness to regulate the flow of resources for nationalistic, economic purposes. The Soviet bloc, on the other hand, is rich in cobalt, manganese, and nickel, as well as in most other strategic materials.

U.S. mining operations under the Deep Seabed Hard Mineral Resources Act can completely eliminate our dependence on foreign cobalt and will substantially reduce our reliance on foreign manganese and nickel. Our critical materials position vis-a-vis the Soviet bloc will be radically improved.

Of course this legislative effort is not taking place in a vacuum. The world is watching up in this test of our will to protect our vital national interests. We would prefer a sound international treaty regime for ocean mining. We have worked hard for many years to achieve that result through negotiations aimed at the conclusion of a widely acceptable Law of the Sea Treaty. We have made many concessions; we have allowed our industry to atrophy in an atmosphere of uncertainty. If we further delay the establishment of a domestic regime, we will face the loss of our hard-won technological capability to develop raw materials that are essential to our national security. We cannot allow the ocean mining teams to be broken up; we cannot permit needed investments to be turned to alternative projects. The enactment of H.R. 2759 will assure the revitalization of our seabed mining industry.

I hope that the Law of the Sea Conference produces a treaty that will withstand the scrutiny of the U.S. Senate. If and when that treaty is ratified and enters into force for this Nation, H.R. 2759 will be superseded by implementing legislation for the international regime.

I urge your favorable consideration of this vitally needed measure.●

Mr. BEDELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Ohio (Mr. ASHLEY)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROPOSED DIVISION OF THE FIFTH CIRCUIT COURT OF APPEALS

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RODINO. Mr. Speaker, pursuant to the petition of 24 Federal judges of the Fifth Circuit Court of Appeals, I am introducing legislation today which would divide the fifth judicial circuit into two autonomous circuits. I am joined by Congressmen JACK BROOKS, ROBERT KASTENMEIER, DON EDWARDS, and several others in sponsoring this bill.

I have agreed to introduce the bill by request so that the House Judiciary Committee can make a careful study of the issues involved.

The judges point out that there is a need to split the fifth circuit because, "the size of the court itself now creates problems which make unduly burdensome and, in the opinion of many of us, seriously impair the effective administration of justice within the circuit."

The fifth circuit is the largest appellate court in our Nation. The Omnibus Judgeship Act of 1978 increased the number of judges in the district from 15 to 26, with about 2,000 opinions rendered each year.

The judges further point out that because of its great size, conflicts occur regularly which cause unnecessary expenses by attorneys and duplication of caseloads by judges. They argue that splitting the circuit will have no "significant philosophical consequences" for either of the two new circuits.

This is the central issue which concerns me, and it is something the Judiciary Committee will thoroughly address.

The issue is not new. As chairman of the House Judiciary Committee and as chairman of the conference committee which met in 1978 to work out differences in the House and Senate versions of the omnibus judgeship bill, I steadfastly opposed all efforts to divide the fifth circuit because I believed such a division would impede the cause of equal justice for the more than 35 million Americans living in the States of Louisiana, Mississippi, Texas, Alabama, Florida, and Georgia.

The Federal courts in these six States have been in the forefront of our Nation's civil rights efforts in the last two decades. Black Americans and other minorities who have been the victims of discrimination in schools, in housing, in employment and in many other aspects of their lives, have made the fifth circuit a crucial battleground in the fight for human rights for all Americans.

Most of the decisions handed down by the courts of the fifth circuit have been upheld by the Supreme Court—a record that has moved this country forward in its journey toward social justice.

In 1978, I was concerned that splitting the fifth circuit would create an imbalance in the makeup of the Court that would prevent the continuation of civil rights advancement through our judicial system. This same concern moves me to carefully reexamine the issue before coming to a judgment in 1980, even though conditions appear to be different than in 1978.

One point of which I am certain is that America cannot afford to relax our efforts to advance civil rights. This conviction led me, as primary sponsor of the omnibus judgeship bill, to insist on language in the conference report which expressed the need to appoint qualified women and members of minority groups to the Federal bench.

I hope that the President and the Senate will be conscientious in carrying out this legislative mandate.

Also, just last summer I found it necessary to fight against a proposed amendment to our Constitution which would have prohibited the courts from ordering schoolbusing to provide equal educational opportunities for America's children. This amendment would have turned back the clock on the progress made by our courts and legislatures since the Brown against Board of Education decision in 1954.

I am distressed by these and other efforts in recent years to move backwards on civil rights—to try to abandon the promise of equality and justice that was held out to all Americans in the 1960's.

I realize that minorities still have deep reservations regarding the equal application of the law by our courts. I share their concerns. That is why I want to make sure that any action taken by the House concerning the fifth circuit not be perceived as a retreat on our Nation's commitment to advancing civil rights.

I therefore have agreed to introduce this bill to look into problems relating to the administration of justice in the fifth circuit and to determine solutions for solving these problems.

Mr. Speaker, I ask that the texts of the bill and the judges' petition be included in the RECORD, as follows:

PETITION TO THE CONGRESS

The undersigned judges in regular active service of the United States Court of Appeals for the Fifth Circuit respectfully petition the Congress of the United States to enact legislation dividing the presently existing Fifth Circuit into two completely autonomous circuits, one to be composed of the states of Louisiana, Mississippi and Texas with headquarters in New Orleans, Louisiana, to be known as the Fifth Circuit, and the other to be composed of the states of Alabama, Florida and Georgia with headquarters in Atlanta, Georgia, to be known as the Eleventh Circuit;

By separate documents we will, at an appropriate time provide to the Congress a summary of the problems that occasion this petition and of the justification for the proposed legislation.

This 5th day of May, 1980.

Respectfully submitted,

JAMES P. COLEMAN,
Chief Judge.

PROPOSED DIVISION OF THE FIFTH CIRCUIT COURT OF APPEALS

As indicated in the formal petition of all the judges in regular active service of the United States Court of Appeals for the Fifth Circuit, we respectfully submit to the Congress the following summary of the problems that occasioned the petition and that justify the requested legislation.

The Court of Appeals for the Fifth Circuit is presently authorized twenty-six active judges. In addition, it has ten senior judges who are active in the work of the Court. This makes the Fifth Circuit the largest appellate court in the history of the Republic. The size of the Court itself now creates problems which make unduly burdensome, and in the opinion of many of us seriously impair, the effective administration of justice within the Circuit.

Geographically, the Fifth Circuit, composed of six states, is huge in size extending from El Paso, Texas, to Miami, Florida. The total population will likely reach 40,000,000 in the current 1980 census. Prior to the passage of the recent Omnibus Judgeship Bill, the Court had 15 judges which number was increased to an authorized 26 judges, almost doube the previous number. This number of judges, as the Congress determined, was fully justified by the tremendous increase in the amount and nature of the litigation filed annually with the Court.

The numerical size of the court tends to diminish the quality of justice. Citizens residing in the states of the Fifth Circuit, and especially litigants and lawyers, are entitled to know with a maximum degree of reliability what the law of the Circuit is. The federal government now finds itself involved more and more in litigation in the federal courts. Thus, predictability in the law of the Circuit is most essential. Accordingly, there must be uniformity in the application of the law by the Court, especially since it does not generally sit as a body en banc but only in panels of three judges. As the Court now approaches 2,000 opinions per year, it becomes even more difficult to preserve uniformity in the law of the Circuit. The possibility of intra-circuit conflicts is extremely great and, in spite of all our efforts, occurs with regularity. The only sanction for such conflicts is resort to en banc consideration. With a twenty-six judge court this is a most cumbersome, time consuming and difficult means of resolving lawsuits. Increasingly, the members of the bar are petitioning the Court for en banc consideration of panel decisions.[1] Likewise, the judges of the Court, who are charged with the duty of preserving the rule of law in the Circuit, are required to study and absorb all of the production of all of the judges, that is, their written opinions for the Court.[2] This in itself is a tremendous task. Additionally, each member of the Court must examine all of the petitions for rehearing en banc, a chore of real magnitude but a vitally necessary one.

The impact of this great volume of work on the district judges is also serious. The 125 district judges of the Fifth Circuit are required to keep abreast of the law of the Circuit. It is now virtually impossible for a district judge to read and consider the opinions of our Court while, at the same time, keeping the functions of the district court current.

Thus, the time and efforts of the Fifth Circuit judge are used to the utmost. An ordinary working day is impossible since hours must also be spent by the judge at home, on the weekends and holidays merely to keep abreast of what is going on in the Court. While the quality of the decisions of the judges is very high, it is inevitable that the quality will eventually diminish if no relief is granted by the Congress. However, it must be emphasized that the compelling necessity for dividing the Fifth Circuit into two courts is found, not for the benefit or convenience of the judges, but for the benefit of the citizens, attorneys, and litigants within the Circuit. For example:

"First, there are obvious savings of unnecessary expense that will come from smaller geographical areas, and shortened lines of communications and transportation. The federal treasury will be saved the expenses of transporting judges and their staffs all over the Circuit from West Texas to South Florida. The cost of appeals to litigants now includes the time and expenses of their counsel traveling far distances for the purpose of presenting oral arguments. As a matter of record, practically every state bar association within the Circuit has adopted a resolution recommending a division of the Circuit.

"Second, there will be a savings from eliminating the number of copies of everything that is done. At the present time the writing of one letter or the sending of a document by a judge must, in many instances, necessitate copies to twenty-four other judges.

"Third, savings will occur from eliminating duplication on the en banc function. A court of twenty-six judges, each with three law clerks, involves over 100 highly paid people, all of whom are generally involved to some extent in monitoring the law of the Circuit, and in requesting and voting on cases to go en banc. To cut the load into two halves would cut the duplication in half."

PROPOSED DIVISION

The Court is sensitive to the concerns expressed in the Congress on the prior occasion when consideration was given to a proposal to divide the Circuit in a manner different from that as now proposed.

We represent without reservation that as now constituted the Court can be divided into two three-state circuits without any significant philosophical consequences within either of the proposed circuits.

The Congress, if it acts favorably on the proposal of the Court, will not be creating two small circuit courts. After division, each circuit's filings will be as great as any circuit in the country other than the Ninth.[3]

The Congress, anticipating that size and numbers would be a problem, attempted to provide some means of relief for the Fifth Circuit in the Omnibus Judgeship Bill of 1978. The Court has taken advantage of the authority conferred by the Congress (in Sec. 6) in that Bill. However, the administrative action taken by the Court is completely inadequate and in our judgment no remedy can be effected by administrative means.

We have now unanimously concluded that the Commission on Revision of the Federal Court Appellate System was right when in December, 1973, it recommended to Congress that the Fifth Circuit be divided into two separate and autonomous circuits.

There will, of course, be problems incident to the separation of a whole into two parts, but no unsolvable difficulty is anticipated. There is now available in Atlanta a building ideally suited, with some renovation,[4] for the headquarters of the Eastern Circuit Court as proposed.

While the Congressional conferees (on the Omnibus Judgeship Bill) recommended that a status report be filed with the Congress within one year after all judges authorized had entered on duty, we would be remiss if we did not bring our plight to the attention of Congress at this time.

What we now ask is a solution to the problems herein outlined through the cooperative efforts of Congress and the Court. These branches of government are separate, but they exist together in a symbiotic relationship. We are mindful of the concerns of Congress and we believe that our petition, adopted unanimously by the Court, gives full consideration to those concerns. We know that the Congress is mindful of the needs of the administration of justice and will act for the best interests of all of the citzens and institutions of this vast and important part of the country.

H.R. 7665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Appellate Court Reorganization Act of 1980".

SEC. 2. Section 41 of title 28, United States Code is amended—

(1) in the text before the table, by striking out "eleven" and inserting in lieu thereof "twelve";

(2) in the table, by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth ______________ Louisiana, Mississippi, Texas."; and

(3) at the end of the table, by adding the following new item:

"Eleventh ________ Alabama, Canal Zone, Florida, Georgia.".

SEC. 3. The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth __________________ 14"; and

(2) by adding at the end thereof the following new item:

"Eleventh ___________________________ 12".

SEC. 4. The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth ________ New Orleans, Fort Worth, Jackson."; and

(2) by adding at the end thereof the following new item:

"Eleventh __________ Atlanta, Jacksonville, Montgomery.".

SEC. 5. Each circuit judge in regular active service of the former fifth circuit whose official station on the day before the effective date of this Act—

(1) is in Louisiana, Mississippi, or Texas is assigned as a circuit judge of the new fifth circuit; and

(2) is in Alabama, Florida, or Georgia is assigned as a circuit judge of the eleventh circuit.

SEC. 6. Each judge who is a senior judge of the former fifth circuit on the day before the effective date of this Act may elect to be assigned to the new fifth circuit or to the eleventh circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act;

shall run from the date of commission of such judge as a judge of the former fifth circuit.

SEC. 8. The eleventh circuit is authorized to hold terms or sessions of court at New Orleans, Louisiana, until such time as adequate facilities for such court are provided in Atlanta, Georgia.

SEC. 9. The following provisions apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former fifth circuit:

(1) If the matter has been submitted for decision, then further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, then the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date

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[1] Almost 12 percent of the cases decided by panels in 1979 were reviewed by the entire Court to determine if en banc consideration was to be had. At the present time, our en banc case load is the largest ever pending before a federal appellate court.

[2] This will approach approximately 10,000 pages this year.

[3] The cases filed in Texas, Louisiana and Mississippi (the proposed Fifth Circuit) for 1979 were 2203. The number of judges will be 14.

The cases filed in Alabama, Georgia, and Florida (the proposed Eleventh Circuit) for 1979 were 1910. The number of judges will be 12.

The impact on the Circuit Court's workload from 35 additional district judges must be considered. The known and anticipated increase of 40 new appeals per each new district judgeship is based upon the national as well as the Fifth Circuit average of appeals per district judge. During the judge's first year our experience-based estimate is 10 new appeals per new judgeship, 20 during the second year and 40 during the third year. This means that by 1982 filings of appeals with our Court will increase by 30.8% over 1979 filings:

1979	4113
1980	4330
1981	4680
1982	5380

[4] This renovation will be required whether utilized as a court building or for some other purposes.

as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted the matter shall be reheard by a court comprised as though this Act had not been enacted.

Sec. 10. As used in sections 5, 6, 7, 8, and 9 of this Act, the term—

(1) "former fifth circuit" means the fifth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) the term "new fifth circuit" means the fifth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) the term "eleventh circuit" means the eleventh judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

Sec. 11. The court of appeals for the fifth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1984.

Sec. 12. This Act and the amendments made by this Act shall take effect on July 1, 1981.

CONGRESSMAN STRATTON MAKES PUBLIC HIS 1979 JOINT INCOME TAX RETURN AND A STATEMENT OF NET WORTH AS OF JUNE 1, 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Stratton) is recognized for 60 minutes.

● Mr. STRATTON. Mr. Speaker, in keeping with a policy I initiated in 1974, well before the Congressional Disclosure Act went into effect, I am today placing in the Congressional Record a copy of the joint income tax return of my wife and myself for 1979, together with a detailed statement of our net worth as of June 1, 1980. This information goes beyond the information required by either the Congressional Code of Ethics or the more sweeping recent Government disclosure law. The information follows:

1979 Joint Tax Return of Samuel S. and Joan H. Stratton

Form 1040:

Line 6(c). One dependent child: Brian.

Line 7. Total exemptions: 3.

Line 8. Wages (Congressional salary), $58,391.76.

Line 9. Interest income (U.S. Government bonds and savings accounts), $262.91.

Line 10a. Dividends, none.

Line 11. State income tax refund, $1,093.89.

Line 17. Fully taxable pensions and annuities (Naval Reserve retirement), $9,590.61.

Line 22. Total income, $69,339.17.

Line 30. Total adjustments to income (Primarily D.C. cost of living adjustment) $2,973.52.

Line 31. Adjusted gross income, $66,365.65.

Line 33. Itemized deductions (Summary from Schedule A):

Line 33. Medical expenses, $243.66.

Line 34. Taxes (state, real estate, sales), $8,036.49.

Line 35. Interest expense, $1,895.49.

Line 36. Contributions, $799.50.

Line 38. Miscellaneous, $157.75.

Line 39. Total of lines 33 thru 38, $11,132.89.

Line 40. Zero bracket amount, $3,400.00.

Line 41. Subtract line 40 from 39, $7,732.89.

Line 34. Tax table income, $58,632.76.

Line 37. Total tax (from schedule TC), $17,538.05.

Line 46. Total credits, $21.00.

Line 54. Total Federal tax paid, $17,517.05.

TOTAL TAXES PAID FOR 1979

1979 Federal tax paid, $17,517.05.

1979 New York State tax, $5,904.05.

Maryland real estate tax, 1979, $1,666.54.

Total taxes paid, $25,087.64.

Net Worth of Samuel S. and Joan H. Stratton (As of June 1, 1980)

ASSETS

Cash on hand or in checking accounts, $1,659.02.

Cash in savings accounts, $1,038.92.

Cash value of life insurance policies, $2,706.20.

Accumulated dividends on life insurance, $176.46.

U.S. Government bonds (Series E & H), purchase price, $2,465.00.

Bethesda, Maryland, residence (estimated market value), $130,000.00.

Automobiles:

75 Pinto, $1,750.00 (book value).

79 VW Beetle Conv., $7,300.00 (purchase price), $9,050.00.

Sailboat, $300.00.

Furniture, clothes, personal possessions (estimated), $6,500.00.

Accumulated contributions to date in congressional retirement fund (available only for retirement purposes), $61,866.73.

Total assets, $215,762.33.

Note on Assets:

1. Bethesda residence—purchased in 1965 for $42,600.
2. Amsterdam residence is a rented apartment.
3. Total term life insurance held: $93,860.00.

LIABILITIES

National Bank of Washington, salary advance loan, $400.00.

Bankers Trust, Albany, auto loan on 79 VW, $6,785.28.

Mortgage on Bethesda residence, $24,133.29.

Charge accounts payable, $2,833.61.

Total liabilities, $34,152.18.

COMPUTATION OF NET WORTH

Total assets, $215,762.33.

Total liabilities, $34,152.18.

Net worth, $181,610.15.●

GASOHOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Grassley) is recognized for 10 minutes.

Mr. GRASSLEY. Mr. Speaker, I favor the increased production and use of gasohol, a mixture of 90 percent gasoline and 10 percent alcohol, in the United States in order to reduce our Nation's dangerous dependence on foreign oil. The production of gasohol from domestic supplies of corn and other grains will also serve to make constructive use of agricultural products during times when, for one reason or another, production outstrips consumption. Gasohol can help to bring the supply and demand equation into balance.

Recent news articles have, however, brought to my attention one disturbing aspect of our increased utilization of gasohol. It seems that the United States is, due to a lack of distilling and refining capacity as well as marketing and pricing decisions made by other countries, such as Brazil, importing considerable quantities of fuel alcohol.

I hope that this situation is transitory and of short duration. We should not substitute an unhealthy dependence on foreign produced fuel alcohol for our well-documented addiction to foreign petroleum. American agriculture has demonstrated its willingness to work with the Federal Government to produce sufficient quantities of fuel alcohol to move our country toward energy independence. Now it remains for the Federal Government to live up to its part of the bargain.

I am not prepared, at this point, to advocate tariff or quota restrictions on the importation of fuel alcohol into the United States, although this option should not be discarded. I am suggesting that those executive branch agencies with legislative authority to assist in the production and marketing of gasohol should redouble their efforts in this regard.

I am attaching an article from the June 18, 1980, Wall Street Journal which more fully discusses this matter with particular emphasis being given to the importation of fuel alcohol from Brazil.

Growing U.S. Gasohol Demand Triggers Surge in Inflow of Brazilian Fuel Alcohol

(By Stuart Mieher)

Gasohol, long seen as a way of reducing America's addition to oil from the Middle East, may be getting motorists hooked on Brazilian sugar cane instead.

Consumption of gasohol, a mixture of 90% gasoline and 10% alcohol, is expanding rapidly, in line with federal and state efforts to reduce oil imports. But with domestic producers unable to meet demand, much of the added fuel alcohol is flowing in from Brazil, Imports from that country surged to more than 7.7 million gallons in April, 64% of U.S. alcohol imports for the month, and totaled 2.7 million in the first quarter, up from 2.5 million for all 1979.

The Brazilian fuel sells for $1.40 a gallon to companies in the U.S., 40 cents below most U.S. prices and five cents below pump prices in Brazil.

Sen. Birch Bayh (D., Ind.), chairman of the National Alcohol Fuels Commission, an independent group, says the inflow puts the U.S. "in the awkward position of substituting our national dependence on petroleum from the Organization of Petroleum Exporting Countries for a dependence on foreign fuel alcohol." The major U.S. producers say the cheap imports haven't cut into their business yet, but some are concerned the market may tighten when large distilleries under construction are completed over the next two years.

Prices of the Brazilian alcohol "appear to be below production costs, given the current price of sugar," said Richard Burket, a vice president of Archer-Daniels-Midland Co., Decatur, Ill., the largest U.S. producer of fuel alcohol. Brazil produces its alcohol from home-grown sugar cane, the cost of which currently approaches $1 per gallon of alcohol. The corn used in U.S.-made alcohol costs slightly more than $1 a gallon.

Brazilian government and industry spokesmen attribute the low price to low labor costs and more-efficient methods of production and transportation. None of the U.S. producers contacted said they plan to file dumping complaints with the Commerce Department, and the department doesn't have an investigation under way. Dumping occurs when goods are sold in a foreign country below home-market cost.

Sen. Bayh last month asked the Treasury

Department to examine methods of denying gasohol made with imported alcohol the benefits of gasohol's exemption from the four-cents-a-gallon federal gasoline tax. Archer-Daniels-Midland and other domestic producers have been prodding Congress to protect the domestic industry.

Although the Energy Department doesn't have a formal policy opposing the imports, its Office of Hearings and Appeals earlier this month issued a preliminary order barring American Motohol Inc., Washington, from mixing a new allocation of gasoline with Brazilian alcohol.

Underlying the import boost is an unexpected hitch in Brazil's conversion to automobiles that can be fueled by pure alcohol, and an unprecedented increase in U.S. ethanol consumption.

Brazil's major auto makers were hit by a strike that halted production lines. As a result, the number of alcohol-fueled automobiles produced this year is expected to fall short of the government's 250,000-unit goal by as much as 150,000.

Brazil's alcohol producers, anxious to dispose of an output estimated at 950 million gallons for the year ended May 31, found ready buyers in the expanding U.S. gasohol market.

The National Gasohol Commission, a U.S. industry group, predicts that more than 5,100 stations will be offering gasohol by the end of the month, up from 835 a year earlier. Texaco Inc. alone has introduced gasohol to more than 1,400 of its stations since Oct. 1, said R. R. Brett, head of the company's gasohol program.

VOTING RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 20 minutes.

● Mr. McKINNEY. Mr. Speaker, during my recent official leave of absence, a series of votes occurred in the House of Representatives. The following is a record of my position on those votes:

VOTING RECORD

Rollcall 241. H.R. 6940, the Infant Formula Act of 1980.

Requires infant formulas to include minimum levels of nutrients; raises federal penalties for trafficking in large amounts of marijuana; and makes certain other changes relating to infant formula and drug abuse enforcement. Approved May 20, 1980, 388–15.

Yes. Due to the lack of minimum standards for infant formula, at least 100 American children have suffered serious growth and developmental impairments. This bill is desperately needed to prevent such a tragedy from occurring in the future. I also supported a committee amendment to increase the penalty for trafficking over 1,000 pounds of marijuana to 15 years and a fine of no less than $125,000. This will ensure that the penalty for this offense (now a maximum 5 year sentence and/or a $15,000 fine) is a true deterrent, rather than simply a cost of doing business.

Rollcall 242. H.R. 7102, Veterans Health Care Personnel.

Motion to suspend the rules and pass the bill to raise special pay for Veterans Administration doctors and dentists, to make the special pay system permanent, to create a new service-connected scholarship program for doctors and nurses, and to make certain other changes in VA health programs. Passed 406–1.

Yes. VA salary levels are currently unable to attract and retain qualified medical personnel to staff veterans facilities. Inflationary forces are making the private sector much more attractive in terms of career opportunities for doctors and dentists, and in the absence of increased salaries and compensation, the quality and quantity of staff recruiting will continue to erode. Therefore, I felt that passage of this legislation was important to improve the level of VA health care.

Rollcall 243. S. 662, International Development Banks.

Adoption of the Conference report on the bill to authorize $2.5 billion for the International Development Bank (IADB), $630 million for the IADB Fund for Special Operations, $378 million for the Asian Development Fund, and $125 million for the African Development Fund. Adopted 224–181.

Yes. As my vote on the original House bill indicated, I strongly support the authorization of new funding for the multilateral development banks. U.S. participation in these banks is an integral part of our overall policy towards both developed and developing nations. Passage of this conference report will enable these banks to continue to promote economic growth and political stability in many of the world's neediest countries, at a time their capital resources have been virtually exhausted.

Rollcall 244. H. Res. 655, Incremental Gas Pricing—Phase II.

Resolution to disapprove the proposed rule by the Federal Energy Regulatory Commission to implement the second phase of the incremental pricing formula pursuant to the Natural Gas Policy Act of 1978. The rule would have the effect of increasing natural gas prices to all non-exempt industrial natural gas users. Adopted 369–34.

Yes. At the time of consideration by the House of Repersentatives, the proposed rule had virtually no support. Industry groups claimed it was inflationary, consumer groups felt it provided inadequate protection to residential gas users and even its authors, the Federal Energy Regulatory Commission, felt immediate implementation to be untimely. I agree with these assertions at this time. However, I believe the eventual implementation of a Phase II rule is essential to the development of a consistent and enduring energy policy in the U.S.

Rollcall 245. H.R. 2313, Federal Trade Commission Authorization Conference Report.

Authorizes funding for FTC activities for fiscal years 1980, 1981, and 1982, and provides for a two-chamber veto of agency regulations. Adopted May 20, 1980, 272–127.

Yes. The conference agreement strikes a true balance between allowing the FTC to operate in its lawful sphere of activity and insuring that the commission does not exceed its legislative mandate. Perhaps most important, the Senate finally agreed with the House to authorize a legislative veto of agency regulations—a provision I have consistently supported.

Rollcall 249. H.R. 6974, Defense Department Authorization.

Marriott (R–Utah) amendment to prohibit the release of public lands intended for housing and development of the MX intercontinental missile system until the Secretary of Defense submitted a written report detailing 1) the specific social, economic, and environmental impact of the MX system on the people and resources of the area, 2) the amount of public land to be closed or restricted to public use, 3) proposals for easing the impact of the system on the region, and 4) the feasibility of basing the system in other states in addition to Utah and Nevada. Rejected 135–268.

Yes. The M–X is an ill-conceived and highly overpriced addition to our defense forces. It will not appreciably add to our national security, will involve a tremendous waste of scare resources, and will adversely affect many communities already facing severe environmental and economic pressures. The billions of dollars being appropriated for the M–X would be better spent elsewhere.

Rollcall 250. H.R. 6974, Defense Department Authorization.

Final Passage of the bill to authorize $53.1 billion in FY 1981 for weapons procurement and for research and development programs of the Defense Department and to authorize ceilings on manpower levels for the active and reserve armed forces. Passed 338–62.

No. This year's budget is far too defense-heavy, and does not reflect our often-stated commitment to balance the federal budget by making reasonable reductions in *all* functional spending categories. In addition, defense priorities stress high-technology weaponry while ignoring one of our most chronic problems—severe manpower shortages and drastically underqualified recruits.

Rollcall 253. H.R. 3236, Social Security Disability Amendments of 1980.

Adoption of the conference report on the bill to make changes in the Social Security Disability Insurance and Supplemental Security Income disability programs, in order to provide new work incentives to disabled persons, by limiting benefits to future recipients, and offering additional help to those who did return to work. The bill also established a new, voluntary program of federal certification of "Medigap" insurance policies sold to supplement Medicare health insurance. Passed 389–2.

Yes. While I am concerned over some of the cutbacks in benefits which it proposes, this legislation provides badly needed budgetary savings and encourage disabled people to return to work through new financial incentives. Also, the addition of the "Medigap" amendment strengthened the bill by providing Medicare recipients with protection from fraud through certification policies for supplementary providers.

Rollcall 255. H.R. 3904, Employers Retirement Income Security Act.

An amendment to increase the level of benefit guarantees for certain plans that elect to amortize the cost of unfunded liabilities over a 20-year period, rather than 30-years as provided in the bill. Rejected 160–218.

No. While the measure is appealing on its face, it could have a detrimental affect on retirees. Faster funding requirements would decrease the likelihood of retirees getting a benefit increase.

Rollcall 256. H.R. 3904, Employers Retirement Income Security Act.

A bill to strengthen the funding requirements for private pension plans covering employees of more than one company. It permits financially troubled multi-employer plans to reduce benefits in certain cases, increase insurance premiums paid by the employer to the Pension Benefit Guarantee Corp. (PBGC), and limits the level of benefits guaranteed by the corporation. Passed 374–0.

Yes. This legislation would tighten the funding requirements and reduce government liability for 2,000 multi-employer pension plans covering 8 million workers. Without the provisions in this legislation that would permit troubled plans to reduce benefit guarantee levels many plans would fail, in turn, jeopardizing the stability of the Pension Benefit Guarantee Corporation. Thus, reducing the pension benefit guarantee levels was necessary to strike a balance and to assure the survival of the plans.

Rollcall 261. H.R. 6942, Foreign Aid.

An amendemnt to delete a provision of the bill to reduce the number of Congressional committees receiving advance notice of covert operations by federal intelligence agencies (the amendment would restore the so-called Hughes-Ryan amendment, which the Foreign Affairs Committee had voted to repeal). Rejected 50–325.

No. In spite of the past abuses by the U.S.

intelligence community, it has become apparent that current reporting requirements are hampering effective intelligence operations by the CIA. I believe the reduction in the number of committees to which the CIA must report is a valid and necessary move, one which will compromise neither Congressional oversight nor national security.

Rollcall 262. H.R. 6942, Foreign Aid.

An amendment to delete $5.5 million in military aid for Nicaragua. Adopted 267–105.

No. American aid to Nicaragua has been correctly labeled the most important Latin American policy issue since the Panama Canal debate, and I have given my full support to the reconstruction efforts currently underway in that country. I believe that our aid will strengthen and give credence to the voices of moderation who would have America play a positive and constructive role in the rebuilding of their society.

Rollcall 269. H.R. 7428, Debt Limit Extension.

A motion during consideration of the public debt limit extension legislation to refer to the House Rules Committee the rule making in order consideration of the bill to extend the public debt limit. The intent of the motion was to pressure the Rules Committee to permit floor consideration of a proposal to disapprove President Carter's oil import fee. Approved 211–175.

No. This politically-inspired, parliamentary stratagem would frustrate efforts by the U.S. Department of Treasury to issue payments to recipients of federal income security programs in a timely fashion. The only purpose of this measure is to force early consideration of the President's proposed import fee on gasoline and crude oil. During consideration of this motion the Chairman of the Rules Committee and the Speaker of the House both committed themselves to prompt consideration of the import fee under a separate rule, thereby avoiding disruption of the duties of the Treasury Department.

Rollcall 270. H. Con. Res. 307, First Concurrent Budget—FY 1981.

A motion to approve the conference version of the resolution revising the binding FY 1980 budget totals and setting FY 1981 budget targets as follows: for FY 1980—$657.5 billion in budget authority, $572.3 in outlays, $525.7 billion in revenues, and a $46.6 billion deficit; for FY 1981—$697.2 billion in budget authority, $613.3 in outlays, $613.8 in revenues, and a $500 million budget surplus. Motion rejected 141–242.

No. Worsening inflation and unemployment have made revisions of the FY 1980 budget necessary and I support those increases. However, the conference agreement on the FY 1981 budget is unacceptable. As reported to the House, the conference agreement would have increased defense expenditures $6 billion beyond the figure that the House had approved. Consequently, funding for non-defense functions, including income security and transportation, will be reduced by nearly $6 billion. The conference agreement also proposes a $500 million reduction in the budget surplus virtually eliminating any hope of maintaining a balanced budget during our present economic troubles.

Rollcall 271. H. Con. Res. 307, First Concurrent Budget—FY 1981.

A motion to approve provisions in the conference agreement which revise the FY 1980 budget levels and reconciliation but to insist that the agreement include those funding levels agreed to by the House for the FY 1981 budget. Rejected 173–199.

Yes. Continued high inflation and unemployment rates make revision of the FY 1980 budget totals inevitable, if federal entitlement programs are to continue operation. Furthermore, I believe the budget targets for FY 1981, as passed by the House of Representatives, represent the most equitable balance achievable between defense and social service needs, within the context of a balanced budget.

Rollcall 272. H. Con. Res. 307, First Concurrent Budget—FY 1981.

A motion that the House insist on its disagreement with the Senate in setting budget targets for FY 1981 and to request a further conference on agreeing to a budget resolution. Motion agreed to 202–120.

Yes. The addition of $6 billion for defense spending in the first concurrent budget resolution as proposed by the conferees was unacceptable. The House of Representatives had already agreed to include $147.9 billion of a $613 billion total budget to defense spending. That amount of funding, particularly within the context of a balanced budget, requires severe reductions in spending for virtually every other federally assisted program. The Senate's insistence upon further increases in defense spending, and consequently further cuts in non-defense programs, should be the subject of further discussion by the conferees.

Rollcall 273. H. Con. Res. 307, First Concurrent Budget—FY 1981.

A motion to table (kill) the Latta (R-Ohio), motion to instruct the House budget conferees on a resolution to agree to $171.3 billion in budget authority and $153.7 billion in outlays for national security functions in FY 1981—the levels contained in the rejected conference compromise. Motion rejected 123–165.

No. Given the previous vote of the House of Representatives to reject the budget conference proposal, which increased defense spending by $6 billion over the House passed levels, there is little reason to reverse that vote by insisting on those same higher defense-related expenditures.

Rollcall 277. H. Res. 660, Charles H. Wilson Censure.

Foley amendment to drop from the resolution the provision that Rep. Wilson be denied any chairmanship for the remainder of the 96th Congress. Adopted June 10, 1980, 261–148.

Yes. I support this amendment in order to retain in the Democratic Caucus and the Republican Conference respectively the authority to make decisions concerning seniority and committee assignments.

Rollcall 278. H. Res. 660, Charles H. Wilson Censure.

McCloskey motion to recommit the resolution to the House Committee on Standards of Official Conduct with instructions to report back to the House a substitute amendment providing that Rep. Wilson be reprimanded rather than censured. Rejected, June 10, 1980, 97–308.

No. The Committee on Standards of Official Conduct found sufficient evidence to prove clearly and convincingly that Rep. Wilson improperly converted nearly $25,000 in campaign funds to his personal use and accepted $10,500 in gifts from an individual with a direct interest in legislation before Congress.

Rollcall 280. H.J. Res. 554, Federal Trade Commission Appropriation, Fiscal Year 1980.

Approved May 30, 1980, 236–106.

Yes. This resolution is needed to allow the FTC to operate for the remainder of the fiscal year. Regardless of the current debate on how the agency should be allowed to operate, I do not believe the FTC should be shut down due to lack of funding. This supplemental appropriation brings the Fiscal Year 1980 funding level to $65.3 million, a reduction of $3,721,000 below the budget request.

Rollcall 281. H.R. 7428, Debt Limit Extension.

Adoption of the rule (H. Res. 691) providing for floor consideration of the bill to extend the public debt limit at its existing level of $879 billion through June 30, 1980. Adoption of the rule required a two-thirds majority vote for passage. Rejected 189–153.

Yes. Extension of the debt limitation is essential for the continued operation of several income security programs. Again, opponents of this measure seek its defeat in order to force immediate consideration of the President's oil import fee. In this instance, those efforts are even less justified in light of the commitment of the Rules Committee Chairman to consider the import fee, under separate rule, in just 10 days. The defeat of this rule will disrupt the schedule of payment to income security recipients and cannot be justified regardless of the intensity of opposition to the proposed fee.

Rollcall 284. H.R. 4046, the Antitrust Collateral Estoppal Act of 1979.

Authorizes courts in private antitrust cases to resolve issues against a defendant in the same way the issue was decided in a government case against the same defendant, without a repetition of evidence. Approved May 30, 1980, 254–0.

Yes. This clarifying amendment eliminates wasteful retrying of an issue and reduces the cost of complex antitrust litigation to the courts and the parties. To give only prima facie effect to such judgments, when collateral estoppel would otherwise be available, causes unnecessary delay in antitrust litigation as well as unnecessary costs.

Rollcall 290. H.R. 7428, Debt Limit Extension.

Passage of the bill to extend the public debt limit at its existing level of $879 billion through June 30, 1980. Passed 208–198.

Yes. Although I have an established record of voting against federal budget deficits and to maintain the integrity of the Congressional budget process, it would be irresponsible and unrealistic to ignore the pressures that a highly inflated economy has placed on the cost of providing entitlement benefits through federal programs. Consequently, the public debt ceiling must be raised to continue the operation of income security programs for the elderly and disadvantaged. Congressional efforts to balance the budget for 1981, which have my unyielding support, should help to avoid further debt limit increases.

Rollcall 294. H.R. 6942, Foreign Aid.

An amendment to reduce the request for Economic Support Fund aid to Zambia from $27 million to $20.3 million. Adopted 220–148.

No. Despite its ties with the Soviet Union, Zambia has been a relatively moderate and stable presence in southern Africa over the past few years, and their government has supported the United States on several key foreign policy issues, particularly during the Rhodesian peace negotiations. A reduction in aid at this point would be extremely counterproductive, particularly since many African nations are turning away from Soviet alliances and seeking increased ties with the West.

Rollcall 296. H.R. 6942, Foreign Aid.

An amendment to eliminate the committee-approved $3.5 million in Economic Support Fund aid to Syria. Adopted 320–71.

Yes. Syria has consistently proven itself to be one of the most intransigent and militant opponents of international efforts to reach a Mideast peace compromise. There is absolutely no reason why the United States should continue to provide aid to an intractable enemy of Israel, which has been one of our most enduring and reliable allies. Until Syria proves itself more amenable to entering the Mideast peace process in a constructive manner, I will continue to oppose American aid to that country.

Rollcall 297. H.R. 6942, Foreign Aid.

An amendment to the Bauman (R–Md.) amendment, to allow the bill's $25 million in Economic Support Fund aid to Nicaraga, and require the President to report to Congress every 90 days on the internal situation in Nicaragua, including the government's observance of human rights. Adopted 243–144.

Yes. Again, for the same reason I opposed the previous amendment to delete funding for the Nicaraguan government, I would support the substitute amendment by the Majority Leader to allow this ESF aid to go through. We have an opportunity to provide the Nicaraguans with critically needed resources at a time when our credibility in the region has been called into question due to our support for the Somoza regime. This is an opportunity which should not be foregone.

Rollcall 298. H.R. 6942, Foreign Aid.

An amendment to prohibit development assistance for members of the Organization of Petroluem Exporting Countries. Rejected 177–198.

No. While I can appreciate the frustration most Americans feel in attempting to deal with OPEC energy pricing, a blanket ban on aid to all nations in that cartel is not, in my opinion, a sound foreign policy decision. Among those nations are several reliable allies and moderating voices which have helped to restrain the demands of more radical members. I can see no useful purpose in alienating these nations by a proposal such as this.

Rollcall 299. H.R. 6942, Foreign Aid.

An amendment, as amended by the Broomfield (R–Mich.) amendment, to cut authorizations in the bill by 10 percent, except for funds for Egypt and Israel, the United Nation's Children's Fund, American schools and hospitals abroad, international narcotics control, peacekeeping operations, and migration and refugee assistance. Adopted 243–131.

No. Few people realize the tangible, direct benefits which the American economy reaps as a result of foreign assistance programs—in terms of increased exports and jobs. I do not believe an across the board reduction in such assistance without any specific purpose or target is useful and I would support maintaining these payments at their original levels.

Rollcall 300. H.R. 6942, Foreign Aid.

Passage of the bill to authorize $5.2 billion for foreign military and economic aid programs and arms sales loans for fiscal year 1981. Passed 221–147.

Yes. Passage of this bill represents our commitment to world development at a time when the effectiveness of our foreign policy has been waning. The United States plays a critical role in the political and economic growth of nations on every continent, and with international stability (and cooperation) in such a fragile state, I believe that any attempt to pull-back from these commitments by denying these aid benefits would be contrary to our best interests in foreign relations.

Rollcall 301. H.R. 7428, Debt Limit Extension.

Oil Import Fee/Debt Limit Passage, over the President's June 5 veto, of the bill to extend through June 30, 1980, the existing debt limit of $879 billion and to disapprove the $4.62 fee per barrel of imported oil that President Carter imposed effective March 15. Passed 335–34.

No. Incredibly, opponents of the import fee argued that its imposition would result in a savings of only 100,000 barrels of oil each day. During the debate, those opponents listed several alternative conservation measures that would alledgedly save more oil in a less costly manner. Indeed many of the examples cited should be pursued, including tougher enforcement of the 55 m.p.h. speed limit, more aggressive weatherization efforts in the older housing stock and, a better coordinated conservation program for federal buildings. However, these measures are by no means alternatives to an oil import fee. The United States will pay $90 billion this year for imported oil. We have passed the point where we can be selective in our efforts to reduce our dangerous reliance on foreign oil. This nation has throughout the years maintained a policy of taxing the importation of those commodities that are determined to be damaging to the U.S. economy. Certainly, imported crude oil has proven to be an economic devastation and should be treated as such. No price is too high to pay to reduce the flow of that oil into our markets.

Rollcall 303. H. Con Res. 323, Commendation for U.S. Hostage Rescue Attempt.

A motion to suspend the rules and adopt the concurrent resolution commending the military men who took part in the attempt to rescue the American hostages in Iran, urging the President to consider bestowing on them appropriate military medals, and recommending use of Iranian assets in the U.S. for American damage claims against Iran, particularly from the hostages and families and the military men, or their survivors and families, killed or injured in the rescue mission. Motion agreed to 400–0.

Yes. The participants in the aborted rescue attempt of the 52 Americans being held hostage in Iran deserve this nation's gratitude and highest praise. So too, the families of the hostages deserve what little compensation we can offer them for the long suffering they have endured.

Rollcall 308. S. 562. Nuclear Regulatory Commission Authorization Conference Report.

Authorizes $426.8 million for NRC activities for fiscal year 1980, strengthens penalties for safety violations at nuclear reactor sites, and adds other new safety regulations. Approved June 10, 1980, 386–9.

Yes. S. 562 embodies the congressional response to the deficiencies revealed in our nuclear regulatory process through Three Mile Island. The bill provides a substantially greater assurance that public health and safety will not be endangered by the operation of nuclear power plants.

Rollcall 310. H.R. 5200, the Fair Housing Amendments Act of 1980.

Jacobs amendment (to Hyde amendment) to allow real estate appraisers to consider factors other than race, color, religion, national origin, sex or handicap. Approved June 11, 1980, 257–156.

Yes. This amendment is offered "to let appraisers speak the truth." Under current law appraisers are prohibited from stating the scholastic standing of a school in the neighborhood, the condition of the physical plant of a neighborhood school and other factors which could reasonably affect the value of a house. The Jacobs amendment would allow appraisers to consider such factors, while preventing appraisers from letting the racial composition of a neighborhood affect their estimates. I preferred this language to the Hyde amendment, which would allow appraisers to include "all factors" in their determination.

Rollcall 311. H.R. 5200, the Fair Housing Amendments Act of 1980.

Synar substitute amendment (to Sensenbrenner-Volkmer amendment) to: (1) give the Justice Department authority to appoint administrative law judges (ALJs) to handle housing bias cases; (2) prohibit appointment as an ALJ anyone who had worked as an investigator or prosecutor for the Department of Housing and Urban Development (HUD) within the previous two years; (3) prohibit dismissal of ALJs without a Merit System Protection Board hearing; (4) require the HUD secretary to refer all land use control cases to the attorney general; and (5) give both parties to a housing discrimination case two opportunities to have conciliation before an administrative or court hearing. Adopted June 11, 1980, 205–204.

Yes. The Synar amendment retained the low cost and accessibility of administrative enforcement, while ensuring the impartiality of the system. By contrast, I felt the Sensenbrenner-Volkmer approach would involve excessive costs and time in court, and would have discouraged victims of housing discrimination from bringing suit under the bill.

Rollcall 312. H.R. 5200, the Fair Housing Amendments Act of 1980.

Sensenbrenner-Volkmer amendment, as amended by Synar. Adopted June 11, 1980, 345–66.

Yes. See vote No. 311.

Rollcall 314. H.R. 5200, the Fair Housing Amendments Act of 1980.

Sensenbrenner motion to recommit the bill to the Judiciary Committee with instructions to report it back to the House with an amendment to delete new federal administrative enforcement provisions. Rejected June 12, 1980, 196–209.

No. See vote No. 311.

Rollcall 315. H.R. 5200, the Fair Housing Amendments Act of 1980.

Passage of the bill to give the federal government new authority to enforce housing discrimination laws and to include handicapped persons within coverage of fair housing laws. Passed June 12, 1980, 310–95.

Yes. H.R. 5200 is desperately needed to enforce the Fair Housing Act of 1968—an act which has been ineffective in combating housing discrimination. As passed by the House, H.R. 5200 provides the greatest possible opportunity for conciliation to work, and protects the victim of discrimination and the defendant from the cost and time required for litigation in court.

Rollcall 316. H.R. 4048, Prejudgment Interest in Antitrust Litigation.

Sawyer amendment to eliminate awards of interest for the period prior to a court judgment in antitrust cases for which triple damages can be awarded. Rejected June 12, 1980, 154–243.

No. I felt this amendment was unnecessary since the imposition of prejudgment interest under the bill is imposed not on the treble damage judgment but on the actual damages that are found by the court. The purpose of the prejudgment interest is to deter dilatory tactics. If we remove the interest in all but government cases, we will leave intact the existing incentive for delay in most situations.

Rollcall 317. H.R. 4048, Prejudgment Interest in Antitrust Litigation.

Passage of the bill to allow a judge to award interest for the period prior to a final court judgment in antitrust cases. Passed, June 12, 1980, 227–169.

Yes. The President's National Commission for the Review of Antitrust Laws and Procedures found that purposeful delay is a serious problem in antitrust litigation, causing additional cost, waste of judicial resources, and often prompting premature settlements to avoid added expenses. I believe that authorizing the courts to award prejudgment interest on actual damages would act as an effective disincentive to delay by defendants.●

MILITARY RAISE NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WRIGHT) is recognized for 5 mintues.

● Mr. WRIGHT. Mr. Speaker, the essence of our national defense today, as it always has been and always will be, is the quality of our military personnel.

History again and again has shown us examples of bigger, better equipped armies losing to highly skilled, highly disciplined, highly motivated fighting men.

We are currently seeing our Air Force lose trained pilots and our Navy lose skilled technicians to the alluring offers of private industry. We are losing men and women we cannot afford to lose and cannot easily replace.

One essential element in dealing with this problem is fair pay for our service personnel. The Fort Worth Star-Telegram has addressed this issue clearly and concisely and I wish to insert my hometown newspaper's editorial on this important subject:

[From the Fort Worth Star-Telegram, June 3, 1980]

MILITARY RAISE NEEDED

A great deal of the defense budget debate has centered on the hardware of the military—the MX missile, a stretch version of the F-111, etc. Somewhat lost in the shadow of all that weaponry has been the debates on military pay. President Carter mentioned it prominently when he welcomed home the men of the aircraft carrier *Nimitz*, returning from duty off Iran.

Carter stressed the need for increased pay in order to keep good personnel. There are proposals before Congress addressing the same issue.

The military pay situation is bad. It is especially bad when one considers the need for a strong and well-trained military in these tense days.

The need is not so much for recruitment. That problem is being cured by the lagging economy. The need is to keep highly skilled military personnel in uniform after the government has spent years and money to train them. These persons, mostly in middle management positions, are leaving for higher paying civilian jobs. They are recruited by civilian firms because they have valuable technical skills, skills that our tax dollars provided.

Former Defense Secretary Melvin Laird estimates that to put military pay at 1971 real purchasing power levels would require a pay increase of 17 percent, costing $5 billion.

The Air Force, for example, is losing trained pilots and experienced ground crew members to private industry and airlines. Other branches are losing technicians, too.

The Navy, which has most of its bases located in large coastal cities where the cost of living is high can't compete with civilian firms for technicians.

Similar problems are faced by the Army and Marine Corps.

If we are to maintain a ready force, we must attract and keep in the military skilled technicians that can handle the complex modern weaponry. A major factor in retention is pay.

Congress and the president have been at odds on the amount of defense spending. Whatever total figure emerges from the haggling must be substantial enough to supply the much needed pay increases for military personnel.

A ready and well-trained military is absolutely essential to any role we take in international affairs.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 5 minutes.

● Mr. RAHALL. Mr. Speaker, I was absent for votes taken yesterday, June 24, 1980. Had I been present I would have voted on:

Rollcall No. 360, H.R. 3567, Soft Drink Interbrand Competition Act. I would have voted "aye."

Rollcall No. 361, H.R. 7018, FIFRA extension. I would have voted "aye." ●

PAUL HALL: "THE FATHER OF THE MODERN AMERICAN MERCHANT MARINE" 1914–80

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

Mr. ADDABBO. Mr. Speaker, on Sunday, June 22, 1980, Paul Hall, one of the greatest labor leaders and humanitarians in this Nation's history, passed away. In honor of his remarkable life, I would like to take this opportunity to pay tribute to a man many consider "the father of the modern American merchant marine." I am sure my distinguished colleagues present today will agree when I say that America has lost a fighter, and friend to the millions of Americans who earn their living from the sea.

I had the honor of meeting Paul very early in my Washington career. I knew at the very outset of our friendship that Paul was a very special man, full of dignity, foresight, and compassion. For four decades he gave all the energy his body could muster to the American maritime worker and for the American maritime industry. Paul was President of the Seafarers International Union of North America since 1957. He was chief executive officer of the SIU Atlantic, Gulf, Lakes and Inland Waters District since 1947, as well as serving as president of the 8 million member AFL–CIO Maritime Trades Department, and senior vice president of the AFL–CIO. He was no stranger to working with Presidents, serving on various commissions and committees dealing with maritime needs since the Johnson administration.

He was the chief architect of the Merchant Marine Act of 1970, legislation many consider the most important piece of maritime legislation to be passed in 50 years. This act enabled the American merchant fleet to vault into the age of automation and high technology of this and future generations.

Perhaps his proudest achievement was the establishment in 1967 of the Harry Lundeberg School of Seamanship in Piney Point, Md., for the training and upgrading of young people for careers in the merchant marine. He believed in the youth of America, considering them a precious resource that must be utilized to full potential. For his work on behalf of youth, Paul was awarded numerous awards for his work in providing jobs for young Americans, especially for disadvantaged youths.

Paul Hall's passing has left a void in the maritime industry that will be hard to fill. His tremendous contributions will long be remembered by those who have benefited from his work. My prayers go with him and are with his devoted wife Rose and his children in this difficult time.

At the memorial services for Paul conducted at SIU headquarters in Brooklyn, N.Y., on June 25, 1980, Vice President WALTER F. MONDALE praised the life and work of Paul. I insert his moving tribute into the RECORD at this point:

REMARKS OF VICE PRESIDENT WALTER F. MONDALE

Rose, Max, Margo, friends:

Paul Hall loved his country, and his country loved him back.

He understood the American story—knew the dignity of work; saw the goodness in our soul; felt the sting of injustice; pushed our values into action.

There wasn't a decent cause in America that Paul Hall didn't advance. Human rights, civil rights, civil liberties, education, rehabilitation: every fight for social justice had Paul Hall as an ally.

He put his muscle into the merchant marine—and made our nation more secure. He put his heart into the free labor movement—and made our nation more just. He was a friend not only to maritime labor, but to every one of his working brothers and sisters—reaching out in solidarity to the needle trades, to AFSCME, to the farmworkers, to the taxi drivers, to workers everywhere.

He wrote the textbook on leadership. If he talked bluntly, and he did—it was because he wanted you to know how he felt. If he worked round the clock, and he did—it was because he didn't know what "half way" meant. If he stuck by his friends when they were down, and he did—it was because he believed that loyalty runs deeper than fashion. If he stood by his commitments, and he did—it was because his integrity and honor meant everything to him.

And if he stood by you, he did it the way Paul Hall always did—"money, marbles, and chalk."

One man Paul Hall stood by is the President of the United States. I spoke with him yesterday when he was in Yugoslavia, and he asked me to read this message:

"America has lost one of its finest leaders; the labor movement has lost one of its most respected champions; and I have lost a close personal advisor and friend.

"Paul Hall embodied the best in the American character—fundamental decency, unquestionable integrity, a deep love of his country, a strong commitment to public service, and a lifelong dedication to the highest ideals of the labor movement. A poet once said, 'Every one of us is given the gift of life, and what a strange gift it is. If it is preserved jealously and selfishly, it impoverishes and saddens. But if it is spent for others, it enriches and beautifies.'

"Paul used his gift of life, always, for others: for his family, whom he loved; for the Seafarers, whom he led so ably; and for his country, which he served with all his heart and ability. The trade union movement is a more vital institution; New York is a more humane, progressive state; and America is a freer, most just, stronger nation because of Paul Hall's life and work. My heart and prayers go out to Rose, to Max and Margo; to Frank Drozak and the Seafarers Union; and to all those who will remember Paul, as I will, with love and respect and warm memories." Signed, Jimmy Carter, President of the United States.

Paul loved to read. He loved history, and poetry, and anything that had to do with the sea. And I recall this morning some words he knew by heart:

I must go down to the seas again, to the lonely sea and the sky,
And all I ask is a tall ship and a star to steer her by . . .
And all I ask is a merry yarn from a laughing fellow-rover,
And quiet sleep and a sweet dream when the long trick's over.

Paul's quiet sleep and sweet dream have come. We are blessed to have had him among us.

MORE SUPPORT FOR NEW FINANCIAL PRIVACY LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. Cavanaugh) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, today I am pleased to announce the names of 23 additional cosponsors of the Fair Financial Information Practices Act, H.R. 5559. Our bill, originally introduced in October 1979, is designed to increase our constituent's right to privacy in their financial affairs. Recent studies have concluded that people believe that they have a much greater degree of privacy with respect to bank records, credit records, insurance records, and the like than they actually do.

In large part H.R. 5559 recognizes the increased technological capabilities of computers to collect, retain, and transfer ever-greater amounts of information about individuals. Our bill would, in effect, help to modernize the protections originally provided by the Fair Credit Reporting Act (FCRA), the Fair Credit Billing Act (FCBA), the Equal Credit Opportunity Act (ECOA) and others that really broke the hard ground in this area. But more and better computers are now in use that permit ever-larger geographic areas to be linked together for the exchange of financial information.

Our concern is that individuals need greater access to all the information maintained about them so that inaccurate information can be reverified or removed and will not be perpetuated in the system. At a time when credit grantors are examining an individual's credit history more closely than ever and inaccurate information can result in a denial of credit the Congress must act to increase consumer's rights.

Below is a copy of the "Dear Colleague" letter that Congressmen Goldwater, Stark, Lowry, Reuss, McKinney, Mitchell of Maryland, Vento, and I circulated last month which further describes our support for H.R. 5559. The legislation has been criticized by the consumer reporting industry which has started a negative letter writing campaign, but we feel strongly that the additional privacy protections envisioned by our bill are necessary and are designed to minimize any costs associated with their implementations.

At the time our "Dear Colleague" was written, the Federal Reserve Board did not support the bill exactly as introduced. Since then, however, it has offered an extensive redraft, which has been helpful in the refinement process to which all legislation is subjected.

All credit denials are not based on inaccurate information, but with so many more denials than usual being made, it becomes more important than ever for consumers to be able to see the information on which the decision was based, in order to be sure that it is accurate. The present Fair Credit Reporting Act does not give consumers that right. It only allows them to find out the nature and substance of the information—for example, an unsatisfied judgment or information about one's drinking habits—but not the specific source. Without the right to see the exact information, a consumer may not be in a position to ask that it be corrected.

It is unfortunate and shortsighted that much of the consumer reporting industry combines to fight against giving the consumer the basic and much-needed right to see and copy a report that the consumer reporting agency will send to anyone who claims a "legitimate business need" for it. Although a number of consumer reporting agencies now allow consumers to see their reports, we believe the right should lie with the consumer who is the subject of the report, and not depend on the good will of the consumer reporting agency. Below is the list of new cosponsors along with a copy of our original "Dear Colleague":

List of Cosponsors

1. Hon. Edwin B. Forsythe of New Jersey.
2. Hon. Jim Weaver of Oregon.
3. Hon. Shirley Chisholm of New York.
4. Hon. Norman Mineta of California.
5. Hon. Don Edwards of California.
6. Hon. Charles Dougherty of Pennsylvania.
7. Hon. Henry Waxman of California.
8. Hon. Ted Weiss of New York.
9. Hon. Phil Burton of California.
10. Hon. Charles Diggs of Michigan.
11. Hon. Dan Glickman of Iowa.
12. Hon. Bill Gray of Pennsylvania.
13. Hon. Baltasar Corrada of Puerto Rico.
14. Hon. Louis Stokes of Ohio.
15. Hon. Vic Fazio of California.
16. Hon. James Oberstar of Minnesota.
17. Hon. Gladys Spellman of Maryland.
18. Hon. John Seiberling of Ohio.
19. Hon. Austin Murphy of Pennsylvania.
20. Hon. Barbara Mikulski of Maryland.
21. Hon. Cecil Heftel of Hawaii.
22. Hon. Robert Drinan of Massachusetts.
23. Hon. Stephen Neal of North Carolina.

House of Representatives,
Washington, D.C.

If You Have Not Been Contacted by Disgruntled Constituents Who Have Been Denied Credit—You Will!

Dear Colleague: Today we are experiencing two powerful trends which affect the financial decisions made about individual Americans by credit grantors. One is the increasing threat to personal privacy as technology makes possible the collection, retention, and transfer of ever-greater amounts of information about individuals. The second is inflation. The fight against inflation has led to the Federal Reserve Board's imposition of strong controls on certain types of consumer credit at the same time that financial institution themselves are severely limiting credit extensions due to the high cost of funds. Increasingly, critical decisions such as the granting of credit and the underwriting of insurance are based on recorded data rather than on face-to-face interactions.

Our constituents today are at far greater risk than at any time in the past of having a credit application denied. Mellon Bank of Pittsburgh, for example, turned down 40% of its Master Charge applicants a year ago, but last week declined 79% of those applicants, in spite of a sharply decreasing number of applicants. Similar trends are evident in other types of credit. Citibank, the nation's second largest bank, is severly curtailing its consumer credit, from home mortgage money to student loans. The problem extends beyond being turned down when one applies for new credit; hundreds of thousands of credit card users are having their cards revoked even though they have lived up to the terms of their contract with the card issuer.

As credit becomes increasingly tighter and tighter, it becomes critical that consumers have safeguards such as the right to know information on file about themselves on which the denial was based, in order to ascertain the accuracy of that information. As credit grantors raise the standards that an applicant must meet, inaccurate information in credit files that formerly did not disqualify an applicant now can become grounds for denial. In addition, prior inquiries from credit grantors are noted in a consumer's credit bureau file, as are the names of the companies that have granted credit to that individual; an individual may be judged to be a poor credit risk solely because the inquiring credit grantor learns from the record that other creditors did not grant credit to that individual.

To assure customers the right to know, we introduced "The Fair Financial Information Practices Act" (H.R. 5559) on October 12, 1979. The legislation will assure that individuals will have something to say about how recorded information is used in credit decisions affecting them. Individuals will have the right to know what information is collected about them and disclosed. They will have access to more information when they are denied credit and to be able to correct or amend these records when they are wrong. For your information, a more detailed fact sheet describing the bill is attached.

The bill is receiving strong Administration support, both from the White House and from the Department of Commerce. In addition, while the hearing process is just beginning on some titles of the bill, the nation's largest issuer of travel and entertainment cards (American Express) and some of the leading insurance companies (Equitable, Aetna, Metropolitan and New York Life) have already announced their support for the legislation.

We would therefore like to invite you to join us in sponsoring this very timely piece of legislation. Long-term industry trends in use of computers and telecommunications necessitates this legislation. It is the nation's more recent economic problems that make it essential to respond to this need before we adjourn. If you would like to co-sponsor, contact David at 5–4155.

Sincerely,
John J. Cavanaugh, Mike Lowry, Barry M. Goldwater, Henry S. Reuss, Fortney H. (Pete) Stark, Steward B. McKinney, Parren J. Mitchell, and Bruce F. Vento.

The Fair Financial Information Practices Act

The "Fair Financial Information Practices Act" establishes new privacy safeguards for the records of the consumer industries that rely most heavily on recorded information about individuals. Each of the Act's five titles deals with a separate industry. These industries—and examples of how the bill affects them—are:

Consumer reporting agencies, which gather information on individuals' credit experiences. Title I of the bill gives consumers the right to see and copy credit and investigative consumer reports about them. It also makes it easier for consumers to correct these reports.

Credit grantors, a category that includes credit card issuers, as well as banks and other financial institutions. Title II of the bill requires these institutions to inform individuals about their information collection and disclosure practices. It allows individuals access to the personal information that is used to make adverse credit decisions about them and permits them to correct that information. It also creates a legally enforceable "expectation of confidentiality" regarding disclosure of records. (This "expectation" is an element common to the remaining titles of this bill.)

Credit and check authorization and guarantee services, which tell merchants whether to accept a credit card or check transaction at the point of sale. Title III of the bill ensures that these services maintain reasonable procedures to assure the accuracy of the information they collect and report.

Depository institutions, including banks, saving and loan associations, and credit unions. Title IV of the bill requires that they notify individuals of their record-keeping practices.

Insurance companies, agents, and insurance-support organizations. Title V provides rights similar to those discussed above under "Credit grantors."

WHAT'S IN A NAME? THIS CONSUMER SAYS PRIVACY AND $35,000—HOW BRUCE STEINBERG TURNED JUNK MAIL INTO COURT SUIT CHALLENGING CREDIT SYSTEM

(By Kathryn Christensen)

SAN FRANCISCO.—It was just a simple form letter from Bank of America, the type that most of us throw out every day with the rest of the junk mail. But to Bruce Steinberg "it smacked of something insidious."

The letter invited Mr. Steinberg to join the ranks of 23 million BankAmericard holders "because of your excellent credit reputation." No formal application for the card was necessary, the letter said.

Mr. Steinberg, a self-employed designer of record albums and a photographer, wasn't flattered. But he was intrigued. "I almost threw the thing away, but I had a chip on my shoulder that day and I wondered how they got the idea I had a good credit reputation," he says. So instead, he resolved to find out how a bank with which he had never done business knew he was a good credit risk.

And therein lies an intriguing tale of how one ordinary consumer managed to turn his irritation into a $35,000 out-of-court settlement and to change the operating procedures of a major credit-reporting agency. Ultimately his tenacity could help bring tougher controls on the credit-checking methods used on all Americans. The story of the court case, which dates back to 1977 hasn't been told before because the settlement didn't appear in court records.

A "TRIGGER" FOR CHANGE

The case is a classic illustration of the growing computer-age conflict between an individual's right to keep his financial affairs private and businesses' right to exchange credit information. "I didn't want to blow up the system, but I wanted to be a trigger for some real change."

A less likely candidate for a battle with a corporate giant is difficult to imagine. Mr. Steinberg, who is 36, was trained as an electrical engineer and worked for General Electric and Bendix. But a few years ago he decided to abandon the rigid workday life for his present one of casual living and hardly buttoned shirts. But the carefree album covers that he designs for rock and jazz groups belie the intensity of his work on challenging the credit system. He spent most of his spare time poring over tiny type in back issues of the Federal Register and wiring letters by the flicker of the late show.

Mr. Steinberg's target was the controversial and still widely used practice of prescreening. Typically, this is a means by which companies can narrow their target audience for a direct-mail campaign when they are marketing a product or, as to the case of Bank of America, a service.

This is how Bank of America used prescreening to sell its credit card: The bank rented a huge list of names and addresses from Reuben H. Donnelley Corp., a firm that gathers names from public records, publishers mailing lists, mail-order houses and the like.

The bank turned over this list to TRW Credit Data, a division of TRW of Cleveland and one of the nation's largest credit bureaus. These firms are rather like libraries collecting and storing information on consumers from lenders. The users of these "libraries" are the lenders themselves who, before advancing credit, want such information as a consumer's payment history, highest credit limit and loan balances outstanding.

With the list of names, Bank of America also turned over the sort of qualifications it was looking for. The bank won't reveal what these were, but typically they could have * * * outstanding loans on Mercedes-Benz cars and holders of American Express cards.

TRW Credit Data then matched Bank of America's names with the names in its files and weeded out those people who didn't have the right qualifications or those who were identified as having unfavorable credit records. The roll of survivors, known in the credit industry as the "hit list," was sent to the bank, which then mailed out form letters offering its credit card.

Critics charge that because a credit bureau's files are examined without either the knowledge or the consent of the people on the list, prescreening is a dangerous invasion of privacy. Mr. Steinberg uses earthier language: "It's a rape of our files because nobody even bothers to ask."

Even the Federal Trade Commission has expressed skepticism in the past about the practice. In 1972, when Congress was considering the Fair Credit Reporting Act, it asked the agency for an interpretation of the legislation. The FTC said it felt the act banned prescreening in all direct-mail solicitation. But a year later, apparently under pressure from the credit industry, the agency changed its mind. Prescreening, it said, "results in no significant harm to consumers" and is permitted by the act. Although the agency's opinion in this case has no force of law, it is generally considered to be significant in the event of a legal challenge.

When Mr. Steinberg received the Bank of America credit-card offer he didn't know anything about the credit-reporting act or even how the bank had found his name. His first step was to call his own bank, which suggested that he contact the two largest credit bureaus in San Francisco; federal law requires credit-reporting agencies, if asked, to disclose the names of recipients of a report on a consumer during the previous six months.

"The only information provided us is your name and address and the fact that you have an excellent paying record," the bank wrote. "No confidential information has been provided."

Mr. Steinberg didn't agree, insisting that his payment record, excellent or not, is confidential information. After a great deal of research into the law and into the practice of prescreening, Mr. Steinberg hired a lawyer, and in April 1977, he sued TRW Credit Data for $3 million alleging, among other things, invasion of privacy. He asserted that the credit company's prescreening of him for Bank of America violated the credit-reporting act and that TRW also had erred by not disclosing that it had made a "consumer report on him to the bank."

TRW's response cited the FTC's opinion that the act permits prescreening. The credit firm said it hadn't made a consumer report on Mr. Steinberg by merely giving the bank his name and address. Its arguments ran that if every prescreening inquiry of the consumer were to be noted, it would make it appear that the consumer's payment record was constantly being challenged or inspected.

ENCOURAGEMENT FROM FTC

By this time Mr. Steinberg also was in touch with the FTC. The agency's lawyers, he says, had informally encouraged him to go ahead with the suit. Any consumer reporting agency using prescreening should be prepared to defend the practice if challenged, Mr. Steinberg was told by the FTC.

When Mr. Steinberg says he rebuffed TRW when the credit agency first tried to settle out of court because the settlement didn't say that any changes would be made in the way credit records are screened.

Within several months, in late 1977, however, Mr. Steinberg and TRW came to terms. The credit firm admitted no liability on any of Mr. Steinberg's charges, but it agreed to pay him $20,000 (which is taxfree) and to pay his lawyer's fees of $15,195.

TRW also agreed to change certain prescreening procedures. Instead of sending the screened list directly to a bank or to any other lender, the company now turns the list over to an independent mail-solicitation firm that doesn't have any information on the * * *.

CRUSADE CONTINUES

A spokesman for TRW Credit Data, Julie Wright, concedes that Mr. Steinberg's complaint was the catalyst for the change, but she says it might have occurred anyway "because the company constantly reviews all practices."

Mr. Steinberg's crusade is still alive. He has asked the FTC to use his case as a basis for reconsidering the guidelines that help regulate prescreening, which is still being widely practiced despite TRW's change in procedure. And recently Mr. Steinberg was asked to testify later this month before the Senate Banking Committee's consumer affairs subcommittee. The subcommittee is considering legislation that would considerably tighten the rules on privacy.

Mr. Steinberg says he's delighted with the settlement and proud of the changes he has brought about. But one of the things he savors most of all is a line in a Bank of America affidavit: "Of 352,484 persons who received the offer, the bank is aware of only one person, Bruce Steinberg, the plaintiff here, who objected." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FLORIO) is recognized for 5 minutes.

● Mr. FLORIO. Mr. Speaker, on Wednesday, June 25, I was delayed in reaching the floor and was recorded as absent on the vote to approve House Joint Resolution 521, draft registration appropriations. This vote moved that the House concur with a Senate amendment to provide $10,000 less in the resolution than the House bill, thereby clearing the measure for the President. Had I been present for the vote I would have voted in favor of the resolution, as I voted in favor of the substantive legislation approved by the House on April 22, 1980, to provide appropriations for draft registration.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, yesterterday afternoon, during consideration of the energy and water development appropriations bill, I was recorded as being paired for the amendment offered by Mr. FUQUA which restored $107 million in funding for Department of Energy basic research and solar energy programs. The reason I was not able to be present to record my vote for that amendment was that I had made a commitment to speak at the commencement exercises at Grover Cleveland High School in Ridgewood, N.Y.

While I regretted missing the vote, I believe that we in Congress have an obligation to stay in contact with America's young people. Today's high school graduates will be tomorrow's leaders in business, labor, and Government. Our problems are their problems, and they deserve our attention.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, I was necessarily absent from the House of Representatives yesterday during the vote on the Fuqua amendment to H.R. 7590, energy and water appropriations for fiscal year 1981, rollcall No. 362.

Had I been present, I would have joined the majority of my colleagues in voting in favor of the amendment, which restores $107.4 million in much-needed funding for the Department of Energy's solar and renewable energies budgets.●

AMENDMENTS TO H.R. 6711, THE YOUTH ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, when the House takes up H.R. 6711, the Youth Act of 1980, I plan to offer five amendments to make it clear that the programs authorized in that act are consonant with the need to meet our military manpower requirements and to provide information on service opportunities both in the military and in the civilian sectors. My amendments are quite brief and simple and, if possible, will be offered en bloc since they concern essentially the same issue and fall into the same title of the bill.

The first change I propose occurs in the statement of purpose of subpart 1—basic grants for youth employment and training programs. The bill as reported by committee states that "the purpose of this subpart [is] to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth." The statement of purpose refers to providing "employment, community service opportunities, and such education, training, and supportive services as are necessary to enable participants to secure suitable and approprrate unsubsidized employment in the public and private sectors of the economy." Nowhere in this statement of purpose is there any mention of providing information concerning military service opportunities. My amendment would simply add the phrase "opportunities for military service" after the phrase "community service opportunities."

The second, and most extensive of my amendments would change subparagraph (4)(B) into two parts (see page 10). This paragraph concerns the provision of youth labor market services, such as job counseling, which the Secretary of Labor is authorized to provide. My amendment would change subparagraph (4)(B) to read as follows:

> (B) Providing information concerning the Labor market, including (i) occupations and the availability of training and other occupational preparation; and (ii) service in the Armed Forces of the United States (including the Military Reserves and the National Guard), Volunteer Service Opportunities in programs established in the domestic Volunteer Service Act of 1973 or in any other Federal, State, or Local Volunteer programs, and volunteer service oportunities in private organizations involved in community improvement and conservation projects and in the provision of socially useful services.

My third alteration occurs on page 39, line 15 of the bill. As currently written, the bill directs the Secretary of Labor to consult with the Secretary of Commerce, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration in carrying out plans to enhance the prospects of program participants to enter occupations "through which they may reasonably be expected to advance to productive working lives." It seems to me quite obvious that the Secretary of Labor should also consult in developing employment programs with the Secretary of Defense. My amendment simply inserts the Secretary of Defense in the list of people with whom the Secretary of Labor should consult.

The fourth chance I propose occurs in the section concerning employment services for youth. On page 42, after subparagraph (4) Placement Activities, I would add a new subparagraph (5) "Information Concerning Military and Civilian Volunteer Service Opportunities." On the same page, on line 17, I would include after the word "information" the phrase "including military and civilian service opportunities." These changes are needed to insure that these service and career opportunities are included in the information disseminated relative to employment and labor market opportunities.

Mr. Speaker, the net effect of my amendments will be to incorporate military and civilian service opportunities into the important and laudable effort to reduce youth unemployment. It is my contention that youth employment programs should not be allowed to compete unnecessarily with our military manpower recruitment efforts. Moreover, our country should do much more in the way of informing our people of the need for service to the Nation in a wide array of areas, including military and civilian capacities. My amendments seek to accomplish these goals without doing damage to the committee's approach to reducing youth unemployment.

The actual language of my proposed changes follows:

AMENDMENT TO H.R. 6711, AS REPORTED, OFFERED BY MR. PANETTA

Page 8, line 10, insert "opportunities for military service," after "opportunities,".

Page 10, line 5, insert "(i)" before "occupations".

Page 10, line 6, insert before the semicolon the following: "; and (ii) service in the Armed Forces of the United States (including the military reserves and the National Guard), volunteer service opportunities in programs established in the Domestic Volunteer Service Act of 1973 or in any other Federal, State, or local volunteer programs, and volunteer service opportunities in private organizations involved in community improvement and conservation projects and in the provision of socially useful services".

Page 39, line 15, insert "the Secretary of Defense," after "Commerce,".

Page 42, line 10, strike out "and"; on line 11, strike out the period and insert in lieu thereof "; and"; and after such line insert the following:

"(5) provision of information concerning military and civilian volunteer service opportunities.

Page 42, line 17, insert immediately before the semicolon the following: ", including military and civilian volunteer service opportunities".●

CRISIS ON THE THAI-KAMPUCHEAN BORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

● Mr. WOLFF. Mr. Speaker, the Socialist Republic of Vietnam has again evidenced its utter disregard for the fundamental principles of international order. On Monday, June 23, contravening the repeated assurances of the Government in Hanoi, Vietnamese forces flagrantly violated the sovereignty and territorial integrity of Thailand.

At the same time, the Vietnamese action against defenseless refugees seeking food and shelter from the continuing civil war in Kampuchea—a civil war initiated by the Vietnamese invasion of Kampuchea in December 1978—underscores the Hanoi Government's callous disregard for human life.

Yet we must remember that this is a government which as a matter of national policy drove hundreds of thousands of its own citizens onto and into the sea, that this is a government whose aggression against neighboring Kampuchea drove countless thousands of

Kampucheans from their own country into Thailand, that this is a government without compassion for the victims of its cruelties.

Mr. Speaker, in its report, "Asian Security Environment: 1980," the Subcommittee on Asian and Pacific Affairs, which I have the honor to chair, found the continuing conflict in Kampuchea the principal source of instability in and the primary threat to the security of Southeast Asia. The subcommittee further expressed concern that Vietnamese actions in western Kampuchea could extend into Thailand and the refugee concentrations along the border inside Thailand.

Our worst fears have been realized.

Today again, Mr. Speaker, we have reports of large scale Vietnamese troop movements and deployment along the Thai-Kampuchean border. The crisis is real.

Let me quote from the recently released ASEAN joint statement on the situation along the Thai-Kampuchean border:

> The Foreign Ministers agreed that any incursion of foreign forces into Thailand directly affects the security of the ASEAN member states and endangers peace and security in the whole region. In this regard, they expressed ASEAN's firm support and solidarity with the government and people of Thailand in the preservation of Thai independence, sovereignty, and territorial integrity.

In this time of international tension, as chairman of the House Subcommittee on Asian and Pacific Affairs and in line with the policy of the Carter administration, I wish to reiterate and underscore the commitment of the Congress and country to the Manila Pact and the security of Thailand.

Moreover, believing that a continuation of the conflict in Kampuchea is the principal threat to the stability and security of Southeast Asia, we call on the government in Hanoi to respect the principles and positions adopted by the ASEAN government and expressed in the ASEAN joint communiques issued at Jakarta and Bangkok in early January 1979.●

RESOLUTION ON JAPAN-UNITED STATES TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today, on behalf of myself and 71 of my colleagues, I am introducing a resolution relating to the Japan-United States trade imbalance. This resolution urges Japan to assume more responsibility for the trade deficit and to take the measures necessary to decrease the deficit with U.S. cooperation. It is our belief that the current trade imbalance and its projected growth necessitates a forceful transmission of our concern to the Japanese Government. We must be committed to resolving the threat to the very substantial and traditional pattern of trade between the two allies in a way that does not adversely affect our overall relationship.

Many Americans are gravely concerned about our Nation's enormous trade deficit with Japan, a deficit which this year and for the past 2 years has averaged about $10 billion per year. During the decade of the 1970's, our cumulative trade deficit with Japan has amounted to $47 billion. Both United States and Japanese officials predict that the trade deficit will widen greatly in the future. There have been some estimates that our 1981 trade deficit with Japan could run as high as $16 billion.

We are troubled by the serious tensions which the imbalance engenders, and will increasingly engender, if we do not face the problem immediately with the Japanese. A huge deficit definitely contributes to bilateral controversy and erosion of support for an open trading system among many American workers and industries, in such areas as electronics, automobile, and steel.

The Japanese Government is very aware of the critical situation. During a 4-day meeting last month between U.S. Trade Representative Reubin Askew and Japanese officials on the auto and telecommunications trade problem, the Japanese made four commitments regarding the auto situation. First, the Japanese Government will continue to encourage economically viable investment in the United States. Presently, Honda and Nissan corporations have specific plans for building plants, while Toyota has investment survey plans. Second, in terms of access to the Japanese market, the Japanese officials agreed to relax and simplify standards and licensing procedures in 12 of 15 areas identified as problems by the U.S. industry. Third, this summer the Japanese Government and Japanese auto parts industry will send a mission to the United States to both explore investment and licensing of auto parts production in the United States and to promote Japanese imports of U.S. auto parts. Finally, the Japanese Government will propose to the Diet the elimination of tariffs on all auto parts as of April 1981. Unfortunately, in other areas, the negotiation for access to the Japanese telephone, telegraph, and telecommunications markets, did not succeed.

Although some headway is being made on the auto problem, we believe that the Japanese Government requires further encouragement to quickly act on the trade imbalance. Japanese trade barriers and business practices contribute to the trade deficit by preventing or restricting the importation or sale of American goods in areas within the fields of agriculture, processed raw materials, manufactures (including high technology products), and services. These trade barriers reduce U.S. sales to Japan by at least several billions of dollars annually. We urge that Japan take additional steps to help correct the trade imbalance by removing Japanese trade barriers and restrictive business practices, and by increasing job creating investment in the United States, and by use of American parts suppliers.

This resolution was prepared some weeks ago, but its introduction has been held up in light of the untimely passing of Prime Minister Ohira and the parliamentary elections in Japan. Now that the elections have been held, it appears that a clear majority has emerged and that the new administration in Japan will operate with a mandate. We believe that the new administration will have the will and the ability to work on numerous, admittedly difficult trade problems. We look forward to continued good relations and progress with the Government and people of Japan.

The joint resolution we are introducing today seeks to call attention to the trade problems which have developed between Japan and the United States—and that will continue to develop between the two allies unless Japan creates, with American cooperation, a planned response to the enormous trade imbalance. We must inspire all sides to address our bilateral commercial problems immediately, before the tension is exacerbated by an increasing deficit.

H. Res. 376

Whereas for the past two years, the United States has incurred bilateral trade deficits with Japan averaging $10,000,000,000 per year (the largest U.S. deficit with any trading partner) and expects to incur a similar trade imbalance in 1980; and

Whereas there are predictions that because of an imbalance in the exchange rate between the Yen and the Dollar, the trade deficit with Japan may widen dramatically in the future; and

Whereas the size of these deficits contributes to controversy between the two allies, and erosion of support among many American workers and industries (for example, the electronics, auto, and steel industries) for an open trading system; and

Whereas there are areas in agriculture (for example, beef and citrus), processed raw materials (for example, lumber, leather, and cigarettes), manufactures, including high technology products (for example, telecommunications equipment and health devices), and services (for example, computer information sharing), where Japanese trade barriers and business practices prevent or restrict the importation or sale of American goods, thus contributing to the extraordinary trade imbalances beween the two nations; and

Whereas it is probable that economically sound opportunities exist for increased Japanese job creating investment in the United States and for the increased use of American parts suppliers as a source of parts and that such investment and parts and replacement parts sourcing would help reduce future extraordinary trade imbalances between the two nations; Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that while the United States realizes Japan's almost total reliance on imports for energy and raw materials and the need to finance such imports through the export of finished products, and thus the United States anticipates some level of bilateral deficits with Japan over the long-range, it finds that the present level of the bilateral deficit and its projected growth are intolerable and unacceptable and threaten the future of the very substantial and traditional pattern of trade which has existed between our two nations. Therefore, the Congress urges Japan to assume a greater sense of responsibility for the trade deficit and take such steps in cooperation with the United States, as are required to help correct the deficit.●

JAPAN-UNITED STATES TRADE IMBALANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Frenzel) is recognized for 5 minutes.

● Mr. FRENZEL. Mr. Speaker, I am pleased to support my colleague, the distinguished chairman of the Trade Subcommittee (Mr. Vanik), in his statement on the Japan-United States trade imbalance.

I am also pleased that he had the courtesy to wait until after the Japanese elections to introduce his resolution of which I am a cosponsor. I know he has had the resolution ready for introduction for some time, but he preferred to wait until the elections had been completed.

The resolution is only a resolution. It is not a bill. It does not restrict imports. But it is intended as a warning to Japan from its friends who believe in free trade.

The warning is simple: Be a responsible trading partner.

No country can sustain for very long the huge, continuing deficits that we have suffered in our trade with Japan.

Our friends in Japan, and they are assuredly our friends, always say that the deficits are caused by our unwillingness to be competitive. Sadly, that allegation is partly true. American firms have been frightened out of the Japanese market because of restrictive laws, regulations, and rules.

We need new, real assurances that Japan has opened its markets. The best assurance is for Japan to open its Nippon telephone and telegraph contracts to foreign bidding. Japan has agreed with us to negotiate some solution to the NTT problem by January of 1981. I hope this resolution will encourage Japan to complete these negotiations promptly.

Japan and the United States have enjoyed a very special relationship for the past three decades. We have common interests all around the globe. Together, we have both prospered. The Vanik resolution acknowledges these facts, but reminds the Japanese that much hard work is required to maintain and enhance that relationship.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. Grassley, for 10 minutes, today.
Mr. McKinney, for 20 minutes, today.

(The following Members (at the request of Mr. Tauzin) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Wright, for 5 minutes, today.
Mr. Rahall, for 5 minutes, today.
Mr. Addabbo, for 15 minutes, today.
Mr. Cavanaugh, for 5 minutes, today.
Mr. Florio, for 5 minutes, today.
Ms. Ferraro, for 5 minutes, today.
Mr. Drinan, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Wolff, for 5 minutes, today.
Mr. Vanik, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Edwards of Oklahoma) and to include extraneous matter:)

Mr. Rudd.
Mr. Corcoran.
Mr. Walker.
Mr. Abdnor.
Mr. Derwinski in two instances.
Mr. Wampler.
Mr. Vander Jagt.
Mr. Beard of Tennessee.
Mr. Sensenbrenner.
Mr. Miller of Ohio in four instances.
Mr. Ashbrook in three instances.
Mr. Lungren.
Mr. Hollenbeck.
Mr. Fish.
Mr. Shuster.
Mr. Porter.
Mr. Moore.
Mr. Evans of Delaware.
Mr. Brown of Ohio.
Mr. Gilman.

(The following Members (at the request of Mr. Tauzin) and to include extraneous matter:)

Mr. Thompson in two instances.
Mr. Ertel.
Mr. Beilenson.
Mr. Nolan in two instances.
Mr. D'Amours.
Mr. Wolff in four instances.
Mr. Hamilton.
Mr. Rahall.
Mr. Harris.
Mr. Pease.
Mr. Florio.
Mr. Scheuer in two instances.
Mr. Ottinger.
Mr. Dodd.
Mr. Stokes in two instances.
Mr. McDonald in two instances.
Mr. Murphy of Pennsylvania.
Mr. Musto in two instances.
Mr. Markey.
Mr. Simon.
Mr. Hall of Texas.
Mr. Gray in two instances.
Mr. Skelton.
Mr. Breaux.
Ms. Oakar.
Mr. Jones of Oklahoma.
Mr. Howard in two instances.
Mr. Maguire.
Mr. Guarini.

ADJOURNMENT

Mr. ADDABBO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.) the House adjourned until tomorrow, Thursday, June 26, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4692. A letter from the Administrator of General Services, transmitting the annual report for fiscal year 1979 on the records disposition activities of the Federal Government, pursuant to 44 U.S.C. 3303a(f); to the Committee on Government Operations.

4693. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize additional expenditures for highway emergency relief programs and to amend provisions of title 23 of the United States Code relating thereto; to the Committee on Public Works and Transportation.

4694. A letter from the Secretary of Health and Human Services, transmitting the annual report of the Social Security Administration for fiscal year 1979, pursuant to sections 704 and 1611(e)(3)(B) of the Social Security Act and section 426(b) of Public Law 91–173; to the Committee on Ways and Means.

4695. A letter from the Comptroller General of the United States, transmitting a report on medicaid-financed drug therapy in nursing homes (HRD–80–56, June 25, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

4696. A letter from the Acting Comptroller of the United States, transmitting a report on equal employment opportunity in State and local governments (HRD–80–74, June 25, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 6635. A bill to authorize the establishment of a food security reserve of wheat, and for other related purposes; with amendments (Rept. No. 96–966, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 3351. A bill to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use Champus inpatient cost-sharing rates for certain surgery performed on an outpatient basis (Rept. No. 96–1127). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 6065. A bill to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis; with amendments (Rept. No. 96–1128). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee of Conference. Conference report on Senate Joint Resolution 119 (Rept. No. 96–1129). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN (for himself and Mr. Conable):

H.R. 7652. A bill to make expenditure reductions and to raise revenues in accordance with the budget reconciliation process; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BEARD of Rhode Island (for himself, Mr. Murphy of Illinois, Mr. Leach of Louisiana, Mr. Lederer, Mr. Nolan, Mr. Winn, Mr. Addabbo, Mr. Horton, Mrs. Fenwick, Mr. Conyers, Mr. Solomon, Mr. Hyde, Mr. Murphy of Pennsylvania, Mr. Kemp, Mr. Whitehurst, Mr. Rahall, Mr. Stanton, Mr. Lloyd, Mr. Hubbard, Mr. Anderson of California, Mr. Dougherty, Mr. Corcoran, Mr. Roe, Mr. Zablocki, Mr. Zeferetti, Mr. Lungren, Mr. Scheuer, Mr. Bowen, Mr. Rinaldo, Mr. Patten, Mr. Guarini, Mr. Vento, Mr. Moakley, Mr. St Germain, Mr. Ottinger, and Mr. Minish):

H.R. 7653. A bill to provide for the issuance of a commemorative postage stamp in honor of Father Michael J. McGivney, founder of the Knights of Columbus; to the Committee on Post Office and Civil Service.

By Mr. BEARD of Tennessee:

H.R. 7654. A bill to amend title 10 of the United States Code to require the Board of Regents of the Uniformed Services University of the Health Sciences to establish a program of training in military medicine for individuals enrolled in the Armed Forces health professions scholarship program; to the Committee on Armed Services.

By Mr. CONABLE (for himself, Mr. Kemp, Mr. Rhodes, Mr. Archer, Mr. Bafalis, Mr. Philip M. Crane, Mr. Duncan of Tennessee, Mr. Evans of Delaware, Mr. Frenzel, Mr. Gingrich, Mr. Gradison, Mr. Lee, Mr. Martin, Mr. Moore, Mr. Roth, Mr. Rousselot, Mr. Schulze, Mr. Stockman, and Mr. Vander Jagt):

H.R. 7655. A bill to provide for permanent tax rate reductions for individuals and incentives for new plant and equipment; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 7656. A bill to authorize the Secretary of Agriculture to make loans for the construction of facilities to produce ethanol for blending with motor fuel; jointly, to the Committees on Agriculture and Banking, Finance and Urban Affairs.

By Mr. HANLEY (by request):

H.R. 7657. A bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRIS (for himself, Mr. Stark, Mr. Barnes, Mr. Fisher, Mr. Fauntroy, and Mrs. Spellman):

H.R. 7658. A bill to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the adopted regional system; to the Committee on the District of Columbia.

By Mr. JENKINS:

H.R. 7659. A bill to amend the Tennessee Valley Authority Act of 1933 to make the enhancement of the economic and social wellbeing of people residing and owning property in the Tennessee and Mississippi River Basins a purpose of that act; to the Committee on Public Works and Transportation.

H.R. 7660. A bill to extend duty-free treatment to certain freight containers; to the committee on Ways and Means.

By Mr. JENRETTE:

H.R. 7661. A bill to amend the Wild and Scenic Rivers Act to designate a certain portion of the Little Pee Dee River in the State of South Carolina for potential addition to the Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. LUJAN:

H.R. 7662. A bill to establish certain fines to be imposed on any foreign government which holds hostage any citizen or employee of the United States; to the Committee on Foreign Affairs.

By Mr. MONTGOMERY (for himself and Mr. Hammerschmidt):

H.R. 7663. A bill to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain health care benefits, and for other purposes; jointly, to the Committees on Veterans' Affairs and Post Office and Civil Service.

By Mr. PERKINS:

H.R. 7664. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes; to the Committee on Education and Labor.

By Mr. RODINO (for himself, Mr. Brooks, Mr. Kastenmeier, Mr. Edwards of California, Mrs. Boggs, Mr. Bowen, Mr. Long of Louisiana, Mr. Mica, and Mr. Moore) (By request):

H.R. 7665. A bill to amend title 28, United States Code, to divide the fifth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mrs. SPELLMAN:

H.R. 7666. A bill to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself and Mr. Scheuer):

H.R. 7667. A bill to amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to clarify exemptions from such acts for the funding by insurance companies of certain employee benefit plans; to the Committee on Interstate and Foreign Commerce.

By Mr. QUAYLE:

H.J. Res. 577. Joint resolution relating to a rationing contingency plan; to the Committee on Interstate and Foreign Commerce.

By Mr. McDONALD:

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that the Bureau of the Mint should consider additional measures to alleviate the nationwide shortage of pennies, including a proposal to melt down all Susan B. Anthony dollar coins and mint them into pennies; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VANIK (for himself, Mr. Vander Jagt, Mr. Gibbons, Mr. Frenzel, Mr. Jones of Oklahoma, Mr. Bafalis, Mr. Brodhead, Mr. Cotter, Mr. Downey, Mr. Ford of Tennessee, Mr. Gephardt, Mr. Guarini, Mr. Heftel, Mr. Holland, Mr. Jacobs, Mr. Lederer, Mr. Pickle, Mr. Russo, Mr. Schulze, Mr. Shannon, Mr. Albosta, Mr. Bedell, Mr. Bevill, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Campbell, Mr. Carr, Mr. Coelho, Mr. Derwinski, Mr. Dingell, Mr. Dougherty, Mr. Evans of Georgia, Mr. Evans of Indiana, Mr. Flippo, Mr. Ford of Michigan, Mr. Frost, Mr. Hillis, Mr. Ireland, Mr. Kildee, Mr. LaFalce, Mr. Lagomarsino, Mr. Lujan, Mr. Marks, Mr. Marriott, Mr. Matsui, Mr. McDade, Ms. Mikulski, Mr. Mineta, Mr. Mollohan, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of Illinois, Mr. Neal, Mr. Nowak, Ms. Oakar, Mr. O'Brien, Mr. Pashayan, Mr. Pease, Mr. Quayle, Mr. Regula, Mr. Ritter, Mr. Roe, Mr. Seiberling, Mr. Sharp, Mr. Stokes, Mr. Tauke, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Williams of Ohio, Mr. Wolpe, and Mr. Young of Alaska):

H. Con. Res. 376. Concurrent resolution relative to Japan-United States trade; to the Committee on Ways and Means.

By Mr. BEARD of Tennessee:

H. Res. 729. Resolution to call on the President to declare a national emergency for the purpose of suspending the Davis-Bacon Act; to the Committee on Education and Labor.

By Mr. KASTENMEIER:

H. Res. 730. Resolution to congratulate Wayland Academy of Beaver Dam, Wis., on 125 years of achievement and overall excellence in the field of education; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

498. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Pennsylvania, relative to decontamination of TMI-2; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

499. Also, memorial of the Legislature of the State of California, relative to medicare and medicaid; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

ADDITIONAL COSPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1180: Mr. Kramer, Mr. Symms, Mr. Moorhead of California, Mr. Pickle, Mr. Lott, and Mr. Wydler.

H.R. 1290: Ms. Mikulski and Mr. Howard.

H.R. 2248: Mr. Fish, Mr. Clinger, Mr. Guyer, Mr. Stanton, Mr. Benjamin, Mr. Long of Louisiana, Mr. Moorhead of California, Mrs. Chisholm, Mr. Jones of North Carolina, Mr. Levitas, and Mr. Shumway.

H.R. 2414: Mr. Ullman.

H.R. 3331: Mr. Brodhead.

H.R. 5060: Mr. Bob Wilson, Mr. Patterson, and Mr. Guarini.

H.R. 5451: Mr. Jones of North Carolina, Mr. Biaggi, Mr. Anderson of California, Mr. de la Garza, Mr. Studds, Mr. Hubbard, Mr. Bonker, Mr. D'Amours, Mr. Oberstar, Mr. Bonior of Michigan, Mr. Akaka, Mr. Myers, of Pennsylvania, Mr. Lowry, Mr. Hutto, Mr. Stack, Mr. Donnelly, Mr. McCloskey, Mr. Forsythe, Mr. Pritchard, Mr. Lent, Mr. Emery, Mr. Trible, Mr. Davis of Michigan, Mr. Evans of the Virgin Islands, and Mr. Fazio.

H.R. 5510: Mrs. Schroeder and Mr. Ottinger.

H.R. 5559: Mr. Forsythe, Mr. Weaver, Mrs. Chisholm, Mr. Mineta, Mr. Edwards of California, Mr. Dougherty, Mr. Waxman, Mr. Weiss. Mr. Phillip Burton, Mr. Glickman, Mr. Gray, Mr. Corrada, Mr. Stokes, Mr. Fazio, Mr. Oberstar, Mrs. Spellman, Mr. Seiberling, Mr. Murphy of Pennsylvania, Ms. Mikulski, Mr. Heftel, Mr. Drinan, and Mr. Neal.

H.R. 6552: Mr. Cheney.

H.R. 6637: Mr. Beard of Tennessee.

H.R. 6664: Mr. Gudger, Mr. Hubbard, Mr. Charles Wilson of Texas, Mr. Buchanan, Mr. Daschle, Mr. Albosta, Mr. Leach of Louisiana, Mr. Musto, Mrs. Bouquard, Mr. Jones of North Carolina, Mr. Davis of South Carolina, Mr. Davis of Michigan, Mr. Bevill, Mr. Oberstar, Mr. Neal, Mr. Derrick, Mr. Stangeland, Mr. Alexander, Mr. Winn. Mr. Burlison, Mr. Shelby, Mr. Mathis, Mr. Barnard, Mr. Forsythe, Mr. Jones of Tennessee, Mr. Levitas, Mr. Brinkley, Mr. Shumway, Mr. Trible, and Mr. Hefner.

H.R. 6688: Mr. Bedell, Mr. Heftel, Mr. Robert W. Daniel, Jr., Mr. Tauke, Mr. Dornan, Mr. Hyde, Mr. Hinson, Mr. Stump, Mr.

Bethune, Mr. Benjamin, Mr. Skelton, Mr. Corcoran, Mr. Bauman, Mr. Hughes, Mr. Gramm, Mr. Lott, Mr. Panetta, Mr. Lee, Mr. Wylie, Mr. Lagomarsino, Mr. Frenzel, Mr. Bowen, Mr. Devine, Mr. Whitehurst, Mr. Winn, Mr. Evans of Georgia, Mr. Derwinski, Mr. Collins of Texas, and Mr. Roberts.

H.R. 6731: Mr. Roe, Mr. Downey, Mr. Garcia, and Mr. Won Pat.

H.R. 7039: Mr. Zeferetti and Mrs. Snowe.

H.R. 7162: Mr. Solomon, Mr. Ginn, Mr. Leach of Louisiana, Mr. Young of Alaska, Mr. Rousselot, Mr. Robinson, Mr. Hopkins, Mr. Derwinski, Mr. Kindness, Mr. Whitehurst, Mr. Shumway, Mr. Quillen, Mr. Gradison, Mr. Walker, Mr. Whittaker, Mr. Levitas, Mr. Buchanan, Mr. Edwards of Oklahoma, Mr. Butler, Mr. Porter, Mr. Brinkley, Mr. Marriott, Mr. Campbell, and Mr. Barnard.

H.R. 7207: Mr. Moore.

H.R. 7307: Mr. Wydler.

H.R. 7346: Mrs. Smith of Nebraska, Mr. Solomon, Mrs. Fenwick, and Mr. Paul.

H.R. 7480: Mr. Livingston.

H.R. 7532: Mr. Vander Jagt and Mr. Blanchard.

H.R. 7545: Mr. Seiberling, Mr. Rahall, and Mr. Mottl.

H.R. 7563: Mr. Gray, Mr. Grassley, Mr. Hughes, Mr. Atkinson, Mr. Murphy of Illinois, Mr. Lagomarsino, Mr. Broomfield, Mr. Hinson, and Mr. Campbell.

H.R. 7632: Mr. O'Brien, Mr. Grassley, Mr. Hansen, Mr. Stangeland, Mr. Andrews of North Dakota, and Mr. Erdahl.

H.J. Res. 69: Mr. Mitchell of New York, Mr. Fisher, Mr. Hanley, Mr. Guyer, Mr. D'Amours, and Mr. Lundine.

H.J. Res. 395: Mr. Royer, Mr. Bob Wilson, Mr. Courter, Mr. Porter, and Mr. Wyatt.

H.J. Res. 460: Mr. Sawyer.

H. Con. Res. 325: Mr. Murphy of Pennsylvania, Mr. Horton, Mrs. Fenwick, Mr. Patten, Mr. Skelton, Mr. Roe, Mr. Loeffler, Mr. Bedell, Mr. Downey, Mr. Edwards of Oklahoma, Mr. Garcia, and Mr. Edgar.

H. Con. Res. 344: Mr. Hutto, Mr. Rudd, Mr. Leach of Iowa, Mr. Gramm, Mr. Coleman, Mr. AuCoin, Mr. Royer, Mr. Albosta, Mr. Livingston, Mr. Abdnor, Mr. Rose, Mr. Tauke, and Mr. Lent.

H. Con. Res. 361: Mr. Akaka, Mr. Barnes, Mrs. Chisholm, Mr. Clay, Mr. Conyers, Mr. Donnelly, Mr. Fazio, Mr. Hollenbeck, Mrs. Holt, Mr. Horton, Mr. Hughes, Mr. Johnson of California, Mr. Kogovsek, Mr. Loeffler, Mr. Madigan, Mr. Musto, Mr. Oberstar, Mr. Ottinger, Mr. Pashayan, Mr. Pepper, Mr. Rahall, Mr. Roe, Mr. Solomon, Mr. Stangeland, Mr. Traxler, Mr. Whitehurst, and Mr. Winn.

PETITIONS, ETC.

Under clause 1 of rule XXII,

378. The SPEAKER presented a petition of the Municipal Council, Jersey City, N.J., relative to toxic and hazardous waste disposal, which was referred jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7591

By Mr. MITCHELL of Maryland:

—Page 51, line 26, add:

Sec. 612. Of the total budget authority provided in this Act, for payments not required by law, 5 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 7 per centum.

EXTENSIONS OF REMARKS

KEYNOTE SPEECH OF CHARLES L. MASSEY, PRESIDENT, THE MARCH OF DIMES BIRTH DEFECTS FOUNDATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. OTTINGER. Mr. Speaker, I would like to bring to the attention of my colleagues the speech given earlier this month by Charles L. Massey, president of the March of Dimes Birth Defects Foundation, to the Sixth National Volunteer Leadership Conference of the March of Dimes.

I am proud to note that this organization, whose national headquarters is in White Plains, N.Y., has just celebrated the 25th anniversary of the Salk vaccine against polio and is pressing on in the war against birth defects. As Mr. Massey stressed in his speech to these key volunteers, the cure for this problem lies in the interrelationship of so many of the causes of birth defects—biological, physical, familial, educational, cultural, and social. Through their many thousands of volunteers working at the community level, the March of Dimes is endeavoring to insure that every newborn child in this country has a healthy and productive start in life.

The text of Mr. Massey's remarks follow:

On this 25th Anniversary, in this state that will always be identified with the announcement of the Salk vaccine, I am prompted to add a footnote to the polio vaccine field trials—an epilogue, if you will, to the stirring evocation of the prevention of polio which you have just witnessed—a footnote which will also serve as prologue to the unfolding of the prevention of birth defects you will witness in the next days.

The vaccine field trials of 1954, the most massive in the history of human health, and the precedent-setting validation at Ann Arbor in 1955, altered forever both the design and the application of preventive medicine. In mounting the field trials the March of Dimes mobilized the public health forces and their colleagues in medicine's private sector; the schools—public, private and parochial; the PTA-ers and the Catholic Home and School-ers; the media that covered with reverent commitment; nearly two million Polio Pioneers—aged six, seven and eight—who knew even at their young ages that they were making history, and just plain people who gave their time and their dimes many times over. In all, three million volunteers—think of it—all unpaid, but not unsung. And millions more from across the nation clamoring to be included.

Even then, the crucible was the community—the caring community—217 communities in 44 states—where a giant leap of faith was forged into scientific fact. And the subsequent eradication of polio—free of iron lungs, free of braces and free of crippling—in one-tenth the time required to wipe out smallpox—is testimony to our people's conscious investment of themselves to insure their children's future health.

And it is true to this unique heritage that March of Dimes volunteers are still laboring not for their own health but for the health of future generations. Tomorrow and the following days, physicians and scientists, nurses and nutritionists, educators and lay persons sitting among you tonight will star in a multi-media production, playing the role of themselves as they demonstrate the forces they have fashioned in pursuing the prevention of birth defects. Because, on this 25th Anniversary of the Salk vaccine we celebrate more than our remarkable victory over polio. We celebrate our progress in the war against birth defects that is in many ways, even more remarkable.

Birth defects. They weren't even called birth defects when we launched our attack more than two decades ago. In fact, they were not even recognized as a separate and distinct area of medical and scientific concern. There was very little coordination of research or exchange of information when we moved into this uncharted area.

Since that shaky beginning we have learned some grim facts about our new enemy. We have learned that the tiny infant we saw in the intensive care nursery could be affected by one or any number of defects from a list of more than a thousand. It may have inherited defective genes from its parents—or it may have suffered damage during its fetal development—its mother may have been impoverished, malnourished, or an alcoholic. The possible causes are almost endless and that is why our war must be waged on many fronts. And that is why such a wide diversity and multiplicity of the projects, programs and pursuits are being handled simultaneously by the March of Dimes—biomedical research, maternal and infant care, professional education, public education, and all the rest.

What I have just mentioned may seem like just a clever March of Dimes juggling act—just a way to distribute our resources and keep everybody happy. But it represents much more than that. One reason we are able to deal with such a variety of things at the same time and do it successfully is that everything we do is focused on one central objective—the prevention and amelioration of birth defects. The relentless pursuit of that objective provides an underlying unity, an implicit theme that runs through—and holds together—and provides a rationale for everything we do. And, starting tomorrow morning, you will see and hear how all of our programs add up to a total attack on the problem of birth defects in all of its dimensions.

Tonight, however, I would like to emphasize another reason for our success—a reason that relates to the way we do business. Tonight I want to emphasize the power of the March of Dimes as a healing force in our society. You might even say that healing is our business. All our activities, from vaccinating to superwalking, from the most basic kind of laboratory research to the most down to earth, face to face caring—all are directed toward healing. Healing, to us, is an active not a passive function; it represents one of the most exhilarating challenges to be met in the last decades of this century.

That's because we give the word "healing" a special definition with extra dimensions. Not just treating and curing birth defects in the present tense, but preventing birth defects in the future tense. And not just concern for the human body and its organs, but concern for individual human beings in the total context of their environment.

The Greek physician, Hippocrates—the father of medicine—said that "healing is a matter of time but it sometimes is also a matter of opportunity."

Yes, healing is a matter of time. We know, in our fight against birth defects, that we cannot turn ahead the clock. We cannot instantly eradicate ignorance or apathy. We cannot immediately reverse the genetic faults which have been compounded through the centuries. And we cannot be given instant knowledge about many of the causes of birth defects. So, reluctantly, we must recognize the need for time in the process of healing. In all our endeavors—research, education, community awareness—we have learned that we must be patient in waiting for our efforts to have effect.

And yes, healing is a matter of opportunity. But we don't have to wait for opportunity—the opportunity to prevent those birth defects which are clearly preventable now. In our basic research programs, for instance, we are continuing our quest for new knowledge—because we don't know nearly as much as we need to know. Yet we do know a lot that hasn't been applied and we must seize every opportunity to use our knowledge wherever and whenever it is appropriate. That is why—as you will see later in this conference—we support not just basic research, but clinical, social, behavioral and environmental research. And that is why we educate, motivate, and organize communities to be concerned about the quality of maternal and newborn health. And, in case some of you are still wondering, that is why we try to inform teenagers about proper nutrition as well as proper esteem for themselves and for their future children.

In the 1940's we served a healing function when we put polio patients in iron lungs and worked to rehabilitate damaged bodies. But in the 1950's we served a more valuable healing function when we produced the vaccines that rendered the iron lung obsolete. And then in the 1960's we borrowed from the experience of the early polio years and sought to heal the consequences of birth defects—to find therapies and cures. But at the start of the 1970's we borrowed from the experience of the later polio years, and it became our primary preference to prevent birth defects in every possible way.

We acknowledge, of course, that healing in this preventive sense is not a March of Dimes exclusive. Biomedical scientists and physicians have long recognized that preventive health is an important aspect of the medical enterprise. But the March of Dimes has expanded the definition still further.

One of our major objectives, for instance, has been to bring together the physician, the patient, the scientific researcher and the fund raising public into a working partnership so they will recognize and appreci-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ate one another as mutual beneficiaries, as interdependent, rather than as adversaries operating in isolation from one another. In this manner we are healing a human breach, just as surely as the surgeon stitches together the edges of a wound.

Some of you will recall that after the Salk vaccine announcement there were disagreements about how it should be administered. In public clinics? Or in physicians' offices? In response, March of Dimes volunteers arranged dialogues in communities across the nation and the problem was solved. Not either/or, but both and private physicians willingly donated part of their time and service to public clinics and the task was completed in record time.

And more recently, in birth defects, the March of Dimes participated in a unique dialogue among obstetricians, pediatricians, family practitioners and other health professionals. The result was a plan which the professionals call the regionalization of perinatal health—which to us simply means a more effective and efficient way to organize the delivery of health services to mothers and babies. In short, we are still trying to bring people together—people who sometimes don't want to be together—who sometimes don't know they belong together until their common interests are defined.

And, as you will see at this conference, we are beginning to perform a still larger healing function in our communities. We are learning more about the interrelationship of the many causes of birth defects—not just biological, but physical, familial, educational, cultural and social.

These newly perceived realities are emerging in our consciousness, in our plans, and in our actions. In many communities across the nation the March of Dimes is already in the center of definition and dialogue—definition of purposes and values. Dialogue which seeks not debate, but consensus.

If you are asked what does all this have to do with birth defects you can answer with another question. Can we spend such prodigious efforts to bring newborns whole and healthy into the world and not to be concerned about the health of the world we bring them into? Certainly, as we meet here to celebrate an exciting 25th Anniversary we cannot be complacent as we look ahead to the next 25 years. Our work is cut out for us—and it must not be more of the same but more than the same. Encouraged by our past success we must look forward to the kind of role we might play as healers in America's society. And I am talking here not just about programs and projects, but rather what we can do with the spirited thrust of our creative imaginations.

In this troubled city and in this troubled election year we need no further reminders of the challenge we face. Listen to the impassioned rhetoric of the political candidates. Read the daily headlines, hear the nightly newscasts and observe the worried faces. It would be hard not to feel that things are coming apart at the seams and we're in for hard times.

So what can we do? We are only one single organization in a vast and complex society. Can we help put things back together? I believe we can by setting an example and persuading others to follow. For more than 40 years we have demonstrated in all of our programs that by planting the seeds of leadership we can attract large scale support from other sources.

But to be successful we must keep in mind who we are and where we're coming from. As we have heard so many times, our American society can be divided into three parts: First, there is the public sector—the government—wielding enormous political power. Then there is the profit sector—business and industry—wielding enormous economic power. And finally there is the private, or independent sector, where we find ourselves—along with other foundations, schools, churches, and service organizations. Our independent sector has the potential of wielding great moral power, but it badly needs to be reminded of its strength—it needs to be encouraged to exercise its power to heal our society. And the March of Dimes must continue to lead by interfacing with both the public and the private sectors—and thereby helping to bring together the political, economic and moral power of all three sectors for the common good.

This is not to say that there is a precise patented March of Dimes prescription—or a universal cure that everyone must accept. In our pluralistic society with its diverse cultures, customs, and beliefs the healer frequently must simply be the mediator, the bringer-together, the orchestrator of a multitude of factors into harmonious cooperation, rather than dissonant competition, or even disruptive warfare.

And the peacemaker is not always blessed. I need not remind you that some people don't seem to want to be brought together. There are those who are itching for a fight and don't even like the sound of mediation. And I need not remind you of these loaded words and phrases: Fence-sitter; middle-of-the-roader; neutral; play it safe; compromise; and, don't rock the boat. Such terms are frequently used critically to suggest that an organization or an individual is too weak to choose sides or make a moral decision.

But the fact is it often takes the greatest moral courage to steer a middle course. After all, the person in the middle-of-the-road is in the ideal spot to get run over! Either side of the road is safer. And the peacemaker, the person who steps in to stop a fight, usually winds up getting punched by both sides.

So let us not be distracted by the extremist or provoked into changing our course. In the interest of healing, let us honor those who spend their efforts putting the pieces back together—or keeping them from coming apart in the first place.

This is not to make a virtue of vacillation when action is called for. It is to make intelligent, courageous judgments on the merits of each given set of circumstances as they relate to our mission. For example, we have worked hard and lobbied hard for an increase in public funds for genetic services and we have worked hard and lobbied hard against a cutoff of public funds for maternal nutrition. These were difficult decisions.

And the decisions we must make in allocating our own limited funds are no less difficult. Questions and demands come from every side. "Why aren't we putting more money into research? Why don't we support more treatment centers?" More for education! More for generic counseling! And so on. It goes with the territory! And at the same time it demonstrates what a vital force we have become in an area which only 20 years ago was hardly recognized.

So on the eve of the journey you start tomorrow, I would leave you with these thoughts: Whatever decisions we face, we cannot expect our views, our goals, or our methods to be universally approved. We do live in a pluralistic society—and if there are some who think it may be a bit too pluralistic—or who yearn for simple answers, I remind them of the words from St. John: "In my Father's house are many mansions."

We cannot work in cloister, insulated from the world around us. But neither will we let the clamor and confusion of that world distract us from our objectives.

So as we come together and explore what role may be appropriate for our larger healing task, our central mission does not change—it merely enlarges. And not in a way that requires a large expenditure of money—but rather a largeness of spirit and imagination. These expenditures—unlike financial expenditures—can only enrich all of us as well as all of those we touch with our power of healing.●

CRUISE MISSILES BASED IN UNITED KINGDOM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. SKELTON. Mr. Speaker, on June 17, the British Secretary of State for Defense addressed the House of Commons and announced that U.S. ground-launched cruise missiles would be deployed at two bases in the United Kingdom beginning in late 1983. This decision is part of the previously announced effort to modernize NATO's long-range theater nuclear forces in response to the Soviet Union's large and expanding capability in this type of weaponry.

This was a difficult and courageous decision on the part of the British Government. As recent demonstrations indicate, there is considerable opposition in Britain to placing these U.S. ground-launched cruise missiles in their country. Moreover, the Soviet Union, speaking through Moscow Radio, reacted to the decision by threatening the British with destruction in the event of nuclear war.

Mr. Speaker, the decision of the British Government shows its determination in the face of the growing Soviet threat. We owe the British a debt of gratitude for their commitment on this vital issue. It is to be hoped that other NATO countries will soon announce that they are prepared to take similar steps in this effort to preserve the security of the alliance, and to preserve world peace.●

THE ANTITHESIS OF EQUAL OPPORTUNITY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. WALKER. Mr. Speaker, as I have stated on numerous occasions in this House, I am a strong supporter of efforts to promote equal opportunity for all individuals. Accordingly, I fully support the affirmative action concept when it is practiced in a nondiscriminatory fashion. However, the use of quotas to further the progress of one group of individuals at the expense of others is a matter of serious concern to me. By their very nature, quota systems exclude some individuals in favor of others—thereby rendering them inherently discriminatory.

We are a diverse people—all with unique characteristics and talents. We are a united people, and that unity depends on policies which are truly nondiscriminatory. To set aside a group or an individual on the basis of race, creed, color, national origin, or sex to receive special privilege is, in my opinion, the antithesis of equal opportunity for all. I have come across an excellent example of the inherent weaknesses in quota or numerically based systems on the sports page of the Seattle Post-Intelligencer which I commend to my colleagues' attention:

[From the Seattle Post-Intelligencer, June 15, 1980]

ANSWER'S NOT RACIAL QUOTAS

(By Joe Mooney)

The basketball may not be too good in Cleveland in the next year or so, but the front office quotes could be dandies.

Ted Stepien, owner of a successful Cleveland advertising firm, and thus a man who should understand the impact of a few poorly-chosen words), bought controlling interest in the Cavaliers last week. He achieved notoriety in a single bound when certain remarks he made in the past on the subject of racial quotas and their effect on marketing were dredged up.

Stepien one of 53 limited partners in the Cleveland Indian ownership, once publicly criticized what he termed the "Jewish clique" that ran the Indians and protested loudly when Frank Robinson, who was (a) black, (b) one of the game's greatest stars in his playing days, and (c) a veteran minor league manager at the time with years of experience in Puerto Rico, was named to manage the Indians. Robinson was not ready Stepien said.

Stepien later formed a slow-pitch softball league and fielded a team which had five blacks among its 15 players.

"It's the highest ratio in the league," Stepien said, "but if I had 15 black players, I wouldn't have a person in the stands. You're talking about a blue-collar, red-neck factory worker going to see all blacks. I'd be crazy to field an all-black team."

In an interview in Rave magazine, a Cleveland publication, Stepien said in 1979, he was trying to purchase the Cavaliers, who had at that time, 10 black players.

"This is not to sound prejudiced," Stepien was quoted as saying, "But half the squad would be white. I think people are afraid to speak out on that subject. White people have to have white heroes. I myself can't equate to black heroes. I'll be truthful. I respect them, but I need white people. It's in me.

"And I think the Cavs have too many blacks, 10 of 11. You need a blend of white and black. I think that draws, and I think that's a better team."

Asked about the quotes last week, Stepien said they were issued "in a context of marketing. They do not mean I'm prejudiced."

Not prejudiced? Other interpretations, of course, are available to anyone wishing to give the man the benefit of the doubt. What appears to the naked eye to be bigotry may, upon closer examination, be nothing more than a combination of candor and realism. It is one thing to withhold patronage of a business because of racial mixtures; it is quite another simply to recognize that these flaws exist in society and to speak openly about them. The NBA Board of Governors seemed willing to give Stepien the benefit of the doubt last week when they voted him into the lodge after what was reported to be careful scrutiny.

George Raveling, a black man who coaches the Washington State Cougar basketball team when he is not writing columns for this newspaper, is inclined, for the moment at least, to go along with the NBA Board of Governors.

"One of the problems, from what I hear," says George, who hears everything, "is that the guy has just never really dealt with the public before. He's kind of a guy who in his business has said whatever the hell he wanted to his employees and associates and of course, nobody was printing it. It wasn't on television and radio, and so now here he is, he owns controlling interest in an NBA team and he's making some remarks that are a little controversial."

Still, George isn't ready to buy Stepien's major premise. "It's a game that at the present time is dominated by blacks, talentwise," he says. "And, you know, it doesn't seem to be hurting the Lakers or the Sonics. I think in the final analysis, you could put five aborigines out there, and if they win, people are going to come and see them play . . . if they play good basketball.

"I think that, while maybe some people, if they had a choice, would like to see a better racial mix," George continued, "I think in the final analysis they would rather see the team they root for win, than, say, have five blacks and lose or have five whites and lose, or have five Indians or five orientals.

"There's an old saying in my profession: 'Winning covers up a multitude of mistakes.'

"A good example of the bottom line between success and failure," George continued, "is (Los Angeles coach Paul) Westhead. You know there's a guy making twenty-eight thousand bucks a year at LaSalle and he's under tremendous pressure. I know Paul well enough to know he'd be the first guy to tell you he was right on the borderline of maybe losing that job at LaSalle. But he leaves there and goes to the Lakers and all of a sudden, he's going from making $28,000 a year to $275,000 a year in two years.

"Well now, are you going to tell me that in two years his coaching became that great? Things just don't happen like that."

Raveling has the capacity to keep his head when all around him are losing theirs—except when he's discussing one of his recruits. For the moment, he is not prepared to call for Stepien's scalp, and, in fact, says, "I think you probably need a guy like that. I think it's an issue that's discussed at the kitchen table, in the bars and in office conversations, and maybe you need that kind of splash in the face, the cold water effect, you know, just to get people thinking. It is an issue, it's just not one that people want to talk about publicly. You know, of course, that the NBA's done surveys on it and they say it's not true. There's been a number of magazine articles on it, but I just think in the final analysis, winning is going to overcome everything else. If you're playing exciting basketball and you're winning, people are going to come see you.

"It's kind of an argument you can't win," George says. "One person says you should have five blacks, then people are upset and say you should have more whites. If you say you should have more whites, the people are going to . . . you know, regardless of what you say, you end up being wrong. Whatever you say ends up sounding like a racist remark.

"The thing that would concern me," he continued, "is if a person looks at the racial makeup of a team and says. 'These guys start five players and four of them are black.' But then that person isn't equally concerned that another team starts four whites or five whites. Why doesn't he find THAT alarming if he finds four black starters alarming? That's where I have a problem."

He also has a problem replacing five starters lost to graduation—any color will do—and with the game of golf in general. While the rest of the Cougar athletic department participated in a Monday morning golf tournament with Seattle's WSU boosters, George demurred. Citing golf scores that exceed most Cleveland Cavalier NBA scores, George said, "Anybody who works that hard should at least get a 6-10 center for his trouble."●

BARNABY CONRAD KEENEY

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. THOMPSON. Mr. Speaker, last week the people of the United States lost one of the Nation's most distinguished scholars and educators with the death of Barnaby Conrad Keeney of Little Compton, R.I. At the same time I lost a man who had become one of my most cherished and beloved friends and advisers. My wife and I extend our deepest condolences to Barnaby's widow, children, and grandchildren.

Barnaby Keeney was born in Oregon and educated at the University of North Carolina where he did his undergraduate work. He received both a masters and a Ph. D. from Harvard, joined the faculty of Harvard University and was an early volunteer to serve in the Army during World War II.

Dr. Keeney commanded an infantry company in numerous battles during World War II for which he received several high decorations for bravery in combat. Following the war, Dr. Keeney became an assistant professor of history at Brown University where in rapid succession he became a full professor, dean of the faculty and, finally, president. In 10 short years under Keeney's leadership, that already splendid institution was enlarged and improved dramatically.

Barnaby was possessed of a marvelously droll sense of humor of which I and many of his friends were the victims for a long period of time. I had the honor of meeting him when he became the first chairman of the National Endowment for the Humanities which was created by a bill of which I was the original sponsor, along with Representatives BRADEMAS, MOORHEAD, Senators PELL, JAVITS, and others. His tenure at the Humanities Endowment was nothing less than spectacularly successful. Upon leaving the endowment, Dr. Keeney became chairman of the consortium of the colleges and universities in the District of Columbia. He finished his academic career as president of the prestigious graduate school in Claremont, Calif. Barnaby retired to his beloved Rhode Island where he resided until his untimely death.

He was a great fisherman who occasionally claimed larger than actual catches, and year after year won fishing contests over a distinguished lawyer and Brown alumnus, Noel Field of Providence.

It would be impossible to evaluate the impact which Barnaby had on the lives of thousands of students, scholars, and educators. I shall never forget him and will always be thankful that I had the honor and pleasure of being among those who he characterized as the "Friends of Barnaby Keeney and Others."●

ANGLERS, HUNTERS TAKE BOLD STEP TO PROTECT THEIR INTERESTS AFIELD

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. BREAUX. Mr. Speaker, emotional responses to wildlife legislative considerations should never be permitted to replace sound principles of wildlife resource management. Too often a vocal public minority vigorously supports legislative effort that in no manner are responsible positions for the benefit of wildlife, fish, the environment, or man. Recently the Wildlife Legislative Fund of America and its education arm, the Wildlife Conservation Fund of America, have opened an office in the Nation's Capital to offer an alternative voice to the various protectionist organizations concerned with wildlife matters on a Federal level. The WLFA and the WCFA are charged with a singular purpose of representing the heritage of sportsmen to hunt, to fish, and to trap under the principles of sound and scientific resource management. Working for the same goals at the State and local levels, I believe these organizations can offer substantive support and counsel on the multitude wildlife issues facing our Nation.

Gene Mueller, outdoor writer for the Washington Star, has recently written an article concerning these organizations, which I would like to share with my colleagues.

The article follows:

ANGLERS, HUNTERS TAKE BOLD STEP TO PROTECT THEIR INTERESTS AFIELD

The list of attempts to stop legitimate sport hunting in the United States seems endless:

Illinois Legislature, 1979: A bill to stop hunting in state parks.

Texas Legislature, 1979 and last year's session of the U.S. Congress: Bills to stop hunting with dogs.

Ohio Legislature, 1979: A bill that would have stopped all hunting.

Maryland Legislature, 1979: A bill to prohibit dog field trials that also would have stopped waterfowl hunting.

South Dakotans may be faced with a ballot issue this year that would outlaw dove hunting.

Of course, few legislative attempts to hamper or halt hunting manage to reach the government bodies for floor votes, but the above examples serve to show how tenacious the anti-hunting movement is.

Almost like in a nightmare, "anti" activities do not cease with hunting alone. Schoolchildren in any number of county and state districts, with or without the knowledge of governing school boards, have been told by teachers that sport fishing is an ugly activity. Laughingly—or is it sadly?—children in one instance were told that (bait) worms "have feelings, too." Thus, kids should not be involved in such activities.

Even the revered Jacques Cousteau, the man who has brought life under the sea into millions of homes with incredibly detailed television footage, has raised anglers' adrenalin by inferring that sport fishing is a "perversion." The man is serious.

But if the Wildlife Legislative Fund of America and its educational arm, the Wildlife Conservation Fund of America, have their way, a great many things will change as far as the average person's outlook toward hunting, fishing and trapping is concerned.

The WLFA and WCFA has opened a national affairs office in Washington, and the two groups promise that, "For the first time, sportsmen are represented in the Nation's Capital by an organization with the single purpose of protecting their right to hunt, fish, trap and to protect scientific wildlife management practices."

Since January, 1979, the WLFA/WCFA has participated in legislative fights sponsored by anti-hunting groups in 24 states, and WLFA officers are pleased with the results. Their side won in every instance. It's been a long time since anyone has carried that much clout or fought back with such intelligent, sensible arguments.

Small wonder then that its list of endorsers reads like the who's who of American wildlife: The National Wildlife Federation; Joe Foss, former American Football League commissioner; Ducks Unlimited; Wildlife Management Institute; Sports Afield Magazine. You name them, they are in favor of WLFA/WCFA.

The Washington staff, headed by an attorney and experienced lobbyist in wildlife matters, will keep close tabs on the Congress, the Federal judicial system and the various administrative regulatory agencies.

Stephen S. Boynton will direct the day-to-day operations and keep the Columbus, Ohio, headquarters of the WLFA/WCFA appraised of national activities that may affect sportsmen adversely. Boynton has been actively involved in such issues as endangered species, international treaties concerning wildlife, Alaska lands legislation and, most recently, intervened on behalf of hunters in a Federal suit brought by the Defenders of Wildlife. The suit would have greatly restricted the hunting of bobcats.

The WLFA/WCFA office in Washington is the first of five regional satellite outlets planned in the country to help offer a rather unique political service heretofore known only to powerful special interest groups.

Currently the Wildlife Conservation Fund of America is involved in a $4.5 million, nationwide fund-raising campaign to raise the organization's capital base. They remind hunters and fishermen that donations to the Conservation Fund (not the Legislative Fund) are tax-deductible. Is the $4.5 million a lot of money? Not really when you consider that anti-hunting groups spend about $30 million a year.

At any rate, you may wish to learn more about the lobbying/educational organizations. Write to them at 50 West Broad St., Columbus, Ohio 43215, or call 466-4407 locally.●

A NEW COMMANDER FOR THE SCRANTON ARMY AMMUNITION PLANT

HON. RAPHAEL MUSTO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. MUSTO. Mr. Speaker, it is with pleasure that I rise to extend a gracious welcome to the new commanding officer of the Scranton Army Ammunition Plant, Lieutenant Colonel Denis C. Dice. A native of Pittsburgh and a 1960 graduate of the U.S. Military Academy, Lieutenant Colonel Dice has achieved an excellent record in his remarkable career.

I would like to recount some of the highlights of Lieutenant Colonel Dice's career. Soon after graduation from the Military Academy, he attended New Mexico State University and graduated in 1965 with an MSME degree. After a year in Vietnam as a combat adviser to regional forces, he moved to West Point and was an assistant professor in mechanical engineering; teaching thermodynamics, fluid mechanics, and heat mass and momentum transfer. While at West Point, he attended Fairleigh Dickinson University and was awarded an MBA degree—magna cum laude—with a major in management. Following a tour in Korea with the 2d Infantry Division, he attended the Command and General Staff College at Fort Leavenworth, Kans., and was then assigned to Picatinny Arsenal where he was chief of the Technical Support Division in the Office of the Project Manager for Base Modernization.

Lieutenant Colonel Dice has been awarded the Combat Infantryman's Badge, the Meritorious Service Medal, and the Bronze Star. He is a registered professional engineer, a member of the project manager development program and an avid handball player. Colonel Dice, his wife Ann, and their four children reside in Clarks Summit, Pa.

We wish to extend our good wishes to Colonel Dice for continued success and particularly in his command of the Scranton Army Ammunition Plant.●

THE BITTERNESS OF MIAMI

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. STOKES. Mr. Speaker, in recent weeks, we have read and heard a lot about the riot in Miami. The media has predicted that we will experience a long, hot summer. Still others have speculated on what caused such an uproar.

Miami was an uproar but it was not sudden. It just happens that America has not been listening to the cries of despair of the welfare mother, the unemployed youth, or to the minorities in this country who have been discriminated against time and time again. Mr. Speaker, it took only one incident to turn the volume up on this Pandora's box so that all of America would take note.

This is a sad commentary on our society. It seems as though we always snap to attention when the fire engine sirens start blaring. Other times, we sit back peacefully as if we were in a dream world.

But, for the poor and minorities in this country, the American dream has been a nightmare. Because of the Miami riot, the policymakers in this country are having to deal on a small level with the nightmare and frustration that plagues the everyday existence of the have-nots in this country.

These people are angry with the administration, the Congress, and all facets of a Government which by its actions or lack of such keeps them unemployed, ill-clothed, in need of adequate health care, and illiterate. Quite frankly, Mr. Speaker, they deserve to be angry. When they have cried for jobs, we cut CETA and allowed the unemployment rate to rise in an effort to curb inflation. But, strangely enough, nobody seems preoccupied with curbing poverty. When they asked for better health care, we dragged our feet on national health insurance. When they asked for welfare and food stamps, we cut the funds and made the rules more restrictive so that it became harder for people to qualify. Meanwhile we tell them that all of us will have to tighten our belts so that the budget can be balanced. Then, we wonder why they are angry enough to turn the volume up and riot.

When President Carter visited Miami, the young people threw rocks and debris at the Presidential entourage. I do not condone violence. I will agree that this was not the proper way to act, but this was the first opportunity many of these people had to vent their frustrations on a figure which, to them, symbolized the Government.

The riot in Miami and this subsequent incident should tell us about the state of affairs and the broken promises in the black community. I think that we need to take note before the cries from the community become deafening. Mr. Speaker, Mr. Carl Rowan has written a good column on the reasons for the riot and the incident with President Carter. At this time, with your permission, I enter that column in the CONGRESSIONAL RECORD:

BLACKS SOUR ON CARTER

MIAMI.—It is painful and distressing to see President Carter's motorcade pelted by rocks and bottles thrown by blacks, the very people who voted for him so overwhelmingly that they gave him the 1976 election.

Some of the president's aides may tell him to forget the Miami incident—that the rocks and bottles came from "the street people," from that black world of cloutless people who are not likely to vote in November anyhow.

But Carter surely is aware by now that the other black world where people wear ties and speak politely, the world of the Congressional Black Caucus, also is plenty angry at him.

The street people are enraged because they are the direct victims of Carter's economic policies. They are the humans behind the statistics showing that while nationwide unemployment has jumped to 7.8% it is only 6.9% for whites but 13.9% for blacks. Teenage rock-throwers are grim reminders that idle youth (one-half of urban black teenagers cannot find work) commit a great proportion of the serious crime in this society.

These ghetto blacks see things getting worse, leaving them without real hope of ever knowing economic security and the self-respect that goes with it.

More sophisticated blacks are angry at Carter because they think he plays them for fools—that he offers platitudes and cliches, but nothing of specific value.

Members of the Congressional Black Caucus express disgust at Carter's attempt to blame the current recession on OPEC and rising oil prices. They know that this is a deliberately contrived recession brought on in a desperate Carter effort to beat down inflation.

Black visitors tell the president that they resent his fighting inflation at the expense of minorities, the poor, the elderly. Carter talks about how his budget reflects "compassion" and how he is "fighting to care for the poor, the elderly, the afflicted."

"I call on you to keep the faith," Carter said to a black audience here. "We will never waver in our struggle to build an economy that sustains the hopes and dreams of the forgotten people of our country."

Nice words, but they ring hollow in the ears of people who know that 364,000 more blacks are jobless now than was the case when Carter took office—a 26% increase in black unemployment.

Carter goes to the riot-ravaged Liberty City section of this city to tell black political and business leaders that he "will meet you at least halfway" in rebuilding this inner city. The people were left wondering what, specifically, that means.

Some angry blacks carried signs saying "Hail to the Chief Racist"—a slur that this president does not deserve. I have seen nothing to suggest that Carter has adopted policies leading to a recession because he has less regard for blacks than for other Americans. The truth is that Carter just didn't know what to do to prevent runaway inflation, and he doesn't know what to do to keep this recession from plunging out of control.

I have no doubt that Carter would like to be able to say that he kept his 1976 promise to provide jobs for blacks and other minorities. But he found, as president, that he couldn't buck institutionalized racism, or override the handicaps of inferior education and lack of training imposed upon minorities by years of discrimination—especially in a time when Americans were clamoring against "reverse discrimination," berating social programs, demanding more money for defense programs.

Many blacks argue that if Carter had been a better leader, Americans would not have drifted to the right to a point where they reject compassion, social and courtroom justice and vote proudly for Ku Klux Klansmen.

Carter's relationship with blacks is likely to sour even further, and it is not pleasant to ponder the impact that this will have on the fall elections.●

PERSONAL EXPLANATION

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. ERTEL. Mr. Speaker, yesterday I was unavoidable absent during the House deliberations on three bills. Because I believe that it is important for my constitutents to know my position on legislation before the House, I am listing how I would have voted on these matters had I been present.

Roll No. 360—passage of H.R. 3567, the Soft Drink Interbrand Competition Act; I would have voted for passage.

Roll No. 361—passage of H.R. 7018, the Federal insecticide, fungicide, and rodenticide extension; I would have voted for passage.

Roll No. 362—an amendment to increase funds for operating expenses and plant and capital equipment for DOE energy supply research and development activities, and for DOE general science and research activities; I would have voted for the adoption of the amendment.●

ADMIRATION FOR YOUNG PATRIOTIC AMERICANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. WOLFF. Mr. Speaker, on Friday, June 6, at Mineola Junior High School, the winners of Nassau County's 13th annual Red Cross elementary school flag contest were announced. Ms. Beth Fabinsky of Elmont and Mr. John Nell of Mineola exhibited in their winning essays a deep sense of pride and appreciation for their country. Both of these citizens have shown me that faith in the institutions of this country run deep and true. Therefore, I would like to take this opportunity to honor Ms. Fabinsky, Mr. Nell, and every other patriotic young American who wrote a patriotic essay. They are: John Rothaupt, Denise Lacinski, Nancy Schandler, Veronica Bisek, Alica Hogan, Chris Martin, Marcus Soares, Chris Tetteris, William Simonitsch, Richard Soltero, Elaine Chiusano, Suzannah McLain, Crista Niemann, Tim O'Brien, Frank Drazka, David Hartmann, Lynda Swanson, Hoan Tebeau, Paul Gendreau, Margarita Cook, Christina Diaz, Ann Marano, Howard Nicoll, and Vicki Geraci. In particular, I would like to honor the two winners by having their essays appear in the CONGRESSIONAL RECORD.

MY FLAG AND YOURS

There is a flag that we all know and love,
Waving in the air way up above.
As people stop to admire it,
Their hearts fill with pride
As they see that patriotic sight
Waving side to side.
It's colors are red, white and blue.
The stars show how our country grew.
The stripes stand for our thirteen colonies,
From which it all began.
And this fine flag of ours
Means freedom for every man.

MS. FABINSKY.

AMERICA—LAND OF THE FREE

Freedom by definition, means to do as one wishes or chooses. No society gives its people complete unlimited freedom, for to do so would lead to complete chaos. However, America of all the world's countries gives its people the most freedom or choices.

Americans have freedom of Speech, Freedom of the Press, Right of Trial by Jury, and the right to live in ones house free from unreasonable searches and seizures. Americans are free to choose their own government and public officials, the choice of vocation or work they do in adult life, and the choice of where they want to live and worship.

In comparison with other countries whose people do not have all of America's freedoms, Americans should appreciate and be proud of its heritage and the many freedoms we possess.

MR. NELL.●

GRAIN EMBARGO

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. ABDNOR. Mr. Speaker, on Friday, June 20, Senator DOLE and I introduced legislation to end the President's suspension of the sale of agricultural commodities to the Soviet Union. Eleven of his colleagues joined Senator DOLE in cosponsoring his bill, S. 2855, and later on that same day other Members of the House introduced a bill which is identical in purpose to my H.R. 7632. In addition, Mr. O'BRIEN, and Mr. GRASSLEY, Mr. HANSEN, Mr. STANGELAND, Mr. ANDREWS of North Dakota and Mr. ERDAHL joined today in cosponsoring H.R. 7632, and I am confident others will be joining us as well.

There appears to be significant interest on the part of many to bring a speedy end to the embargo, and for good reason. The time has come to recognize that, while the Soviets must know the United States will not tolerate military aggression in the free world, the United States must not saddle its citizens with the cost of ineffective and even counterproductive foreign policy decisions. The Soviet grain embargo is now replete with inequities and loopholes that serve to give the Soviets almost all the grain they need, while depriving the U.S. farmer of the world's largest grain importer, and putting an unnecessary burden on our Nation's taxpayers.

Just last week, the Department of Agriculture gave U.S. grain exporting firms the go-ahead to sell foreign grain to the Soviet Union. This means that the Soviets are free to receive grain through U.S. exporters from even the closest of U.S. allies, while U.S. farmers remain strapped to the terms of the embargo. Even more, it means that the embargo is falling apart in reality, leaving the U.S. farmer to bear the brunt of its continuing cost. The unfairness to our Nation's farmers extends to our Nation's taxpayers, who are committing some $3 billion to the embargo effort. It would be less than responsible for Congress to perpetuate this unfairness any longer, especially in light of the ineffectiveness of the embargo.

The Department of Agriculture's own best estimates conclude that the Soviets will have only 5 percent less grain to feed livestock as a result of the suspension; this figure was released before the Department's decision to allow U.S. grain companies to ship foreign grain to the Soviet Union. Further, the Commodity Credit Corporation, which originally assumed all contract obligations for wheat to be shipped to the Soviet Union, and pledged to use the wheat only for foreign food assistance programs, as of June 18 had assigned contract rights for 101.6 million bushels of wheat, and offers for even more of the wheat contracts are still being accepted. Again, while the Soviets stand only to gain by these actions, U.S. farmers continue to experience a drop in net income of over 30 percent.

Besides the poor economics involved in continuing the embargo, the United States must now consider the reaction of other countries who are watching closely to see whether or not they can depend on the world's largest producer of food to honor its commitments. In other words, not only does the Soviet grain embargo add to an already depressed farm economy, and contribute to our skyrocketing inflation rate, it is jeopardizing the U.S. ability to market its grain in countries all over the world.

The cost of the embargo is simply too high to justify continuing it any longer. My bill, H.R. 7632, would put an end to this ineffective and unfair suspension of sales, and I urge its rapid enactment.

Thank you.●

DR. JACK VON BOKERN

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. NOLAN. Mr. Speaker, I am pleased to extend my congratulations to Jack Von Bokern, O.D., a fellow Minnesotan, as he becomes the 59th president of the American Optometric Association.

Dr. Von Bokern, who practices in Tracy, Minn., has strived to instill a broader measure of communication between his profession and the public. Such a better mutual understanding by the public of eye-vision care needs and by doctors of optometry of contemporary patient sensitivities is very much in keeping with today's emphasis on consumerism. Dr. Von Bokern is perhaps one of its most enthusiastic proponents.

He brings a strong commitment to community and his profession as he assumes the responsibility of president of AOA. He is a past president of the area Jaycees; the area Kiwanis; Tracy City Council; and the municipal hospital board. He has served as grand knight of the local Knights of Columbus and helped organize the housing and redevelopment authority for development of low rent housing in his community. He was also chairman of the Southwest Minnesota Area Health Education Council.

Dr. Von Bokern has been actively involved in professional optometric organizations as well. He is a past president of the Minnesota Optometric Association and former vice president of the North Central States Optometric Council.

Jack Von Bokern takes the helm of a dynamic, growing profession. His 20,000 members face many changes in the year ahead. His enthusiasm and ability to communicate will serve them well.

My best wishes go to Dr. Von Bokern, his wife Faye, and their family as he commences this important and exciting assignment.●

AMERICA WANTS NUCLEAR POWER

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. RUDD. Mr. Speaker, it is sad to see the Democratic Party take another step backward with its strong platform plank against nuclear power production.

Nuclear power is already 45 percent less costly on a comparable basis than either coal or oil-fired electrical power generation. Nuclear fuel is environmentally more acceptable and more immediately available than either coal or oil.

Despite fear tactics of nuclear opponents, Three Mile Island also proved that nuclear powerplants already have the potential to be completely safe in a human environment, even if improvement is needed.

Public opinion surveys show that the American people overwhelmingly favor nuclear power. In my own State of Arizona, about 73 percent of the people—a 5-to-1 margin—favor increased nuclear power as an alternative to increased use of foreign oil.

Our political parties would be wise to reflect this overwhelming public acceptance of nuclear power, rather than blindly oppose this positive energy solution.

Mr. Speaker, in the wake of Three Mile Island, much consideration has been given to Federal regulatory responsibility in the area of nuclear safety. Strong evidence indicates that Federal regulation of the nuclear power industry is already stifling the kind of technological innovation which will benefit all aspects of nuclear power production, including safety and other factors.

A most thoughtful analysis of this issue was recently presented by A. J. Pfister, general manager of the Salt River project in Arizona. Mr. Pfister was a member of a nationwide electric utility industry blue ribbon leadership group that studied all aspects of the Three Mile Island incident.

I would like to include Mr. Pfister's speech at this point in the RECORD.

THREE MILE ISLAND—LESSONS LEARNED

(Speech of A. J. Pfister before Honeywell PMS Users Group, June Symposium, June 9, 1980)

The impact of significant historical events is difficult to judge until long after the event has occurred. Certainly a year following an event is much too soon to begin an attempt to assess the impact that a single incident may ultimately have on an entire industry or on a major technology. Anyone who would venture such an assessment must qualify the analysis with a recognition of the speculative nature of the assessment and an admonition that the results of the assessment are probably more provocative than predictive.

Few would debate that the March 28, 1979 accident at Three Mile Island was a historical event. It has been one of the most intensely studied technology mishaps in the history of mankind. The issues of why the accident happened, who was to blame, and what can be done to prevent a similar accident have all been the subjects of immense investigations and voluminous reports. Indeed, the paper generated by this single incident has reached such a magnitude that few individuals have read—much less comprehend—all that has been written on Three Mile Island. Judging from the reports that have been produced, very little thought has been given to the long-term impacts of Three Mile Island on the utility industry, on nuclear technology, and on society. This omission is understandable and forgivable as the principal focus of the investigations was appropriately restricted to the whos, whats, and whys of the event. We now understand enough about the accident to begin to explore its possible long-range consequences.

In his provocative book entitled, "Connections," James Burke explores innovations which have been influential in structuring the future of mankind. Burke observes:

". . . innovation acts as a trigger of change, the plough is the first major man-made trigger in history, ultimately responsible for almost every innovation that followed."

Three Mile Island has the potential to become the progenitor of significant innovative actions that may well trigger institutional and technological changes of such magnitude that the event will be looked upon as a modern plough.

With full recognition of the qualification and admonition expressed in the opening of these remarks, let us venture into an assessment of the possible long-term consequences of Three Mile Island. Although there are a number of excellent reports on Three Mile Island, the report of the President's commission on the accident at Three Mile Island will be used as a basis for the assessment. The twelve-member President's Commission, chaired by John G. Kemeny, President of Dartmouth college, represented an interesting cross section of technical and nontechnical and pro and anti nuclear viewpoints which probably provide more clues into the potential long-term impacts of TMI than do the reports prepared by less balanced or more technical groups.

The President's commission found:

"The existence of a vast body of regulations by NRC tends to focus industry attention narrowly on the meeting of regulations rather than on a systematic concern for safety. Furthermore, the nature of some of the regulations, in combination with the way rate bases are established for utilities, may in some instances have served as a deterrent for utilities or their suppliers to take the initiative in proposing measures for improved safety."

The commission further found that regulations alone cannot assure safety and that the NRC's regulations had become so voluminous and complex as to serve as a negative factor in nuclear safety. The commission concluded that satisfaction of regulatory requirements had become equated with safety and that, "It is an absorbing concern with safety that will bring about safety—not just the meeting of narrowly prescribed and complex regulations." The commission has posed for society what may well be one of the critical institutional issues of this decade. How to improve the quality of governmental regulation rather than the quantity of regulation.

Three Mile Island, like no other event, has demonstrated the pernicious consequences of a pervasive regulatory scheme. No one would argue that we should abolish the regulation of the nuclear industry. And the issue is not whether to regulate, but rather how to develop a regulatory scheme that clearly imposes the responsibility for nuclear safety on the industry, does not inhibit innovation, and produces an absorbing concern for safety. The commission's recommendations are woefully inadequate in suggesting how to improve the quality of nuclear regulation. Regrettably, the response of the NRC to the President's commission findings has been to propose voluminous new regulations with little or no regard for their impact on nuclear safety. These deficiencies of the commission's report are understandable and the response of the NRC predictable because we know very little about how to construct regulatory schemes that produce quality regulation and we continue to judge the effectiveness of regulation in quantitative rather than qualitative terms.

The signals are clear that over regulation by government is a political issue whose time has come. The cost of regulation and its effects on innovation and productivity are subjects that are discussed with increasing frequency in political debates. As is the case of most political debates, the issue is fuzzy and the promised remedies obscure. One is invariably left with the impression that each candidate is opposed to more government regulation and that if elected the candidate will work to eliminate the oppressive regulations that yoke the voters. With so many politicians opposed to government regulation, why is it that we never reduce regulation but instead continue to impose more regulations on society? Despite suggestions to the contrary, the issue of government regulation does not seem to be a liberal versus a conservative one as there is ample evidence that politicians of all political persuasions are more capable of imposing regulations than they are of reducing or improving regulations.

We can look again to James Burke for a suggestion as to why, despite an almost universal revulsion to government regulation, new regulatory schemes are developing at an exponential rate. Burke observes:

"As the technological support systems which underpin our existence become more complex and less understandable, each of us feels less involved in their operation, less comprehending of their function, less confident of being able to operate without them."

Society seems to demand more from its government as it becomes more complex and less understandable. The rate of complexity and decreased comprehensive of society's technological support system is increasing at an exponential rate and demand for greater government involvement may well be society's natural response.

Despite increased longings for a return to a less complex society with less reliance on technology, the process is not irreversible and we are now and shall forever more be vulnerable to change which is beyond our own experience and control. All of the most effective and sincere politicians in this country cannot reverse the journey toward more governmental involvement in human affairs. The most we should expect is that the quality of the involvement will improve.

The findings of the President's commission on the deficiencies of the scheme to regulate nuclear safety may spark our innovative genius to begin to focus on how to improve the quality of government regulation. A subject that is in desperate need of attention by our most creative minds.

The response of the utility industry to some of the deficiencies identified by the President's commission might provide the flint with which to help ignite the spark. The industry has accepted the fact that it has the ultimate responsibility for nuclear safety and that it cannot rely solely on compliance with the regulations of the NRC in fulfilling that responsibility. A simple enough notion, but one that required Three Mile Island to awaken in the consciousness of every executive in every nuclear utility. One can argue, as the nuclear opponents do, that such an awareness should have been, a condition of the issuance of every license. However, there is no regulatory scheme that can measure intent and commitment. One of the little understood evils of comprehensive regulatory schemes is their tendency to distract attention from the principal objective of regulation and to create such a burden on the entity being regulated that the responsibility for compliance must by necessity be delegated to lower levels of management. Thus, the responsibility for compliance is left to an elite cadre of experts in the regulatory process and the chief executive becomes remotely involved if at all.

Three Mile Island changed all of that. The industry created the Institute of Nuclear Power Operations to establish benchmarks for excellence in the operation of nuclear units and to perform detailed evaluations of each operating nuclear unit to assure that the benchmarks are being met by the industry. The Institute has been located in Atlanta, Georgia and the board elected Admiral Dennis Wilkinson, the first commandant of the U.S.S. Nautilus, as president of the Institute. The Institute will provide the chief executive officer of each nuclear utility with an independent assessment of how his utility compares with the best operating practices in the industry. There will still be a cadre of experts who will be involved in the regulatory process, the work of which will probably remain remote to the senior management until such time as the NRC finds some way to command more of their time. The current trend to assure more attention from top management seems to be to increase the fines and penalties for violation of regulations. Perhaps this may work in the short run, but experience suggests that the ultimate effect will be to increase the number of the experts that populate the cadre of specialists in nuclear regulation and make the process even more difficult for meaningful involvement by the chief executive officer.

The Institute offers the possibility of providing a utility with a yardstick of how it measures up to the primary goal of the regulatory scheme, namely nuclear safety. It is an ambitious undertaking by the industry. While there are a few remotely analogous precedents, the industry is really pioneering new territory in most of its efforts. If the Institute is effective, and there has been a major commitment to assure that it is, then it may become a benchmark in establishing industry mechanisms to improve the quality of government regulation. It is interesting to speculate what course nuclear regulation might have taken if the institute had been established at the time of the commercialization of nuclear power generation.

The President's commission found:

"Nuclear power requires management qualifications and attitudes of a very special character as well as an extensive support system of scientists and engineers. We feel that insufficient attention was paid to this by the general public utilities corporation."

The Institute of Nuclear Power Operations will establish benchmarks of excellence for the qualifications of the management team of a nuclear utility and for the quality of scientific and engineering support required to safely operate a nuclear unit. Had such benchmarks been established before a license was issued the Three Mile Island units, perhaps the accident would have never occurred.

Thus, the lessons learned from Three Mile Island suggest that if an industry that has a major impact on society hopes to improve the quality of governmental regulation, it must develop its own mechanisms to help insure that the primary goals of the regulatory schemes are in fact met. These mechanisms must be substantive and effective if they are to be accepted by society and government as a partial alternative to regulation.

We human beings make mistakes and in a highly technological society our mistakes often impose significant risks on society. As humans, we have the capacity of profiting from our mistakes if there are techniques for detailed analysis of their consequences and a process of developing an institutional memory of the lessons learned. This was not the case with the commercial nuclear industry. There were precursors to the TMI accident. Had these precursor events been properly analyzed and the generic significance of those events transmitted to all nuclear utilities, the appropriate operating response could have been part of the routine training of every nuclear power plant operator. The President's commission found:

"There must be a systematic gathering, review, and analysis of operating experience at all nuclear power plants coupled with an industry-wide international communications network to facilitate the speedy flow of this information to affected parties."

The nuclear industry now has in place such a mechanism and its early results have already demonstrated its value.

A similar process has been long established for the airline industry and its value in improving air safety well proven. Again, one can speculate about how the early existence of such a program for the nuclear industry might have altered the course of its regulation. What is now clear, however, is that such a system is probably indispensable for the quality regulation of all high technology systems that impose a risk on society. Only through the process of learning by our mistakes and institutionalizing the lessons learned for all affected parties can we hope to lessen the frequency and severity of technological mishaps and improve society's confidence in technology.

As the nuclear industry is rapidly learning this is not an easy task, it requires an accurate reporting system, sophisticated techniques for analysis that includes individuals who have experience in the operation of nuclear units, and an extensive communication system. The industry's most innovative minds are now at work on the development and perfection of this important mechanism. When fully implemented, it will represent a major trigger of change.

The final lesson to be learned from TMI that I would like to discuss today is the one that is perhaps of most interest to this group. The President's commission found:

"The most serious 'mindset' is the preoccupation of everyone with the safety of equipment, resulting in the down-playing of the importance of the human element in nuclear power generation."

In analyzing the accident, the commission concluded:

"During the first few minutes of the accident, more than 100 alarms went off, and there was no system for suppressing the unimportant signals so that operators could concentrate on the significant alarms. Information was not presented in a clear and sufficiently understandable form."

One is reminded of the classic Charlie Chaplin film entitled "Modern Times" in which the frustrated and bewildered Chaplin is seen trying to cope with man's modern technology. A great deal has been written about man-machine relationships. Unfortunately, most of what has been written has been authored by philosophers and social scientists and was apparently not well read by engineers or the designers of nuclear control rooms.

A great deal of work is now underway to improve the operability of nuclear units from the standpoint of the operators. The issue to be resolved is what information is important to the operator during an abnormal event and how can the information be best displayed so that the operator can properly diagnose the nature of the problem and take the appropriate action. The question now seems so simple that one wonders why it took TMI to pose it for the design engineers. The answer to that question is no doubt very complex and it serves no purpose to attempt to develop an answer if we use TMI to launch a new approach to the operation of high technology systems. It is imperative that an understanding of the man-machine relationships become a part of the culture of every design engineer. If we are to have quality regulation of high technological systems we can never again develop a "mindset" that down-plays the human element in technological systems. A mindset that makes the human element the most important element is what we should be striving for. The development of the nuclear control room suggests that such a mindset will not be easily achieved. Perhaps Three Mile Island will provide the innovative spark which will lead us to develop and improve human factors engineering and will result in making the operator a partner in the design of complex systems.

There are a number of other long-term lessons to be learned from the accident at Three Mile Island, but unfortunately time does not permit me to cover them. The time has come for us to begin to examine the deeper and broader lessons of TMI and perhaps my remarks will provoke you to reexamine this important event to more fully explore its implications. If we are wise enough to take the time to understand all of the lessons learned from Three Mile Island it may well prove to be the modern plough and trigger a change to improve the quality of every innovation that follows.●

USE OF AMERICAN COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. RAHALL. Mr. Speaker, recently, I learned that the Defense Fuel Supply Center has issued a solicitation for 188,544 metric tons of bituminous coal to be shipped to U.S. Army and Air Force installations in the Federal Republic of Germany.

While in the past such solicitations have required that the coal come from mines within the United States, this clause was noticeably absent from the recent solicitation.

With 20,000 miners unemployed, industry overcapacity exceeding 150 million tons and our deficit balance of trade, I find this action to be deplorable. Rather than soliciting business for mines outside the United States, Federal agencies should be undertaking efforts to place greater reliance on American coal.

As my colleagues are aware, in the coming days and weeks, we will consider legislation whose emphasis is the greater utilization of coal—our most abundant domestic energy resource. Both domestically and internationally, technologies are being advanced enabling cleaner and more efficient use of coal—American coal.

Mr. Speaker, I could go on and on, but rather, I urge my colleagues who believe in coal and who want to revive the U.S. coal industry to contact the directorate of procurement for the defense fuel supply center, voice their outrage, and demand that any shipments to U.S. installations abroad use only American coal.●

WEST GERMANY AND CAMP DAVID

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. WOLFF. Mr. Speaker, I would like to introduce into the Record an extremely encouraging statement of support for President Carter's Camp David peace initiative from the parliamentary group of the Social Democratic Party of the Bundestag. The Federal Republic of Germany has been the most consistent and supportive of our Western European allies through the recent months of international crisis and tension. West Germany implemented significant economic sanctions against Iran and has been an unrelenting supporter of the United States throughout the hostage crisis, despite the hardships these actions may cause the West German people.

The Soviet Union's savage invasion of Afghanistan last December was met by United States-West German solidarity in the form of a mutual boycott of the Moscow summer Olympics. I need not remind you of the level of support this important action has received from the rest of our allies. The contribution of West Germany to NATO defense efforts is more costly in the human terms of number of troops maintained on station via a draft than that of any other NATO nation. They have accepted the controversial installation of American tactical nuclear weapons on their native soil. These specific instances of West German support of the foreign and defense policies of the United States are merely a set of examples of the affinity that exists between the German and American people. I would like to thank the West German people for their courage and resolve in international affairs. I regret, however, the recent participation of the West German Government in the European Council's Venice declaration. The Council's concern for the establishment of a just and lasting peace in the Middle East is shared by myself and all Americans.

However, I believe that the history of the Arab-Israeli conflict clearly demonstrates that the most meaningful progress toward solving this dilemma has been made within the framework of the Camp David agreement. The careful and successful negotiation of any agreement as complex as that required to solve the problems of the Arab-Israeli dispute must be conducted slowly in a step-by-step manner. The inclusion of Jordan into the Camp David process is even now being attempted in the White House, and the negotiations regarding Palestinian autonomy in the occupied territories have begun once again. The Venice declaration calls for the association of the PLO with any further negotiations concerning the Middle East conflict. The mere recognition of such a terrorist organ, which includes Al Fatah and Black September in its ranks, is a dangerous threat to the entire peace process and to what has already been accomplished.

I commend the parliamentary group of the Social Democratic Party of the Bundestag for their recognition of the Camp David agreement and its associated negotiations as the one and only means for achieving the just and lasting peace in the Middle East which we all desire so much. The statement of the parliamentary group follows:

May 27, 1980.

Mr. Lester L. Wolff,
Chairman of Select Committee on Narcotics Abuse and Control, House Office Building, Washington D.C., U.S.A.

Dear Sir: Allow me to present a statement to you concerning the peace negotiations based upon the Camp David Agreement, which has been signed by members of the parliamentary group of the Social Democratic Party in the Bundestag and emphasizes the resolve fully to support the efforts undertaken by the United States to achieve further progress in the peace process.

With the expression of my highest esteem,

Annemarie Renger.

Statement

In the light of the negotiations which are at present being conducted between Israel and Egypt with the participation of the United States in order to resolve the Middle East issue, we wish to reaffirm that the path which the United States has taken in making the Camp David Agreement possible was not only courageous, but represents the only realistic step which can lead to Arab-Israeli reconciliation. In fact, this Agreement has already made it possible for peace to be concluded between Egypt and Israel.

We believe that the vital interests of the western world can only be served by a policy of steadfast and constant support of the present peace process which is based on Security Council Resolutions 242 and 338. Israel has a right to existence within secure and recognized borders.

We are deeply convinced that the West needs to take concerted action in order to promote stability in the Middle East. In our opinion, it is inadmissible to equate the Soviet Union's armed aggression in Afghanistan with the tragic problems of the Arab-Israeli conflict. The fate of the 50 hostages held in Tehran must not be linked to this conflict.

Relations between the western world and the countries of Muslim persuasion, too, depend in no small measure on unity between the United States and the countries of Western Europe. This also applies to making secure the vital supply of energy.

We favour a just peace in the Middle East and believe that at the present juncture it can, also as regards Palestinian self-determination, only be found within the framework of the Camp David Agreement. We wish to assure you, that this Agreement has our full-hearted support and trust that you share our view.

Herbert Wehner, Vorsitzender der SPD-Bundestagsfraktion, Heinz Westphal, Manfred Schulte, Helga Timm, Hellmut Sieglerschmidt, gez. Sieglerschmidt, Waltraud Steinhauer, Engelbert Sander, Ulrich Dübber, Renate Lepsius, Frolinde Balser, Karl-Arnold Eickmeyer, Georg Leber, Vizepräsident des Deutschen Bundestages, Marie Schlei, Gerhard Jahn, Manfred Gebner, Vizepräsident der Beratenden Versammlung des Europarates, Wilhelm Nöbel, Annemarie Renger.●

FEDERAL INCOME TAX CUTS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. PEASE. Mr. Speaker, as we get closer and closer to November, more people have begun blowing the dust off the old Kemp-Roth tax cut bill or similar colossal-sized, across-the-board Federal income tax cuts. Fortunately, or unfortunately for the proponents of such measures, taking the dust off these proposals and exposing them to the light of day reveals that they promise much but deliver nothing—at least nothing that anyone would want to claim credit for.

Exactly as done in 1978, the latest large tax cut proposals are advertised with prominent mention of the Kennedy-Johnson tax cuts of 1964 and 1965 and much fanfare over how a relatively small tax cut wildly exceeded Treasury's expectations. Large increases in revenue are attributed to that measure as are reduced unemployment and a generally improved economy.

While the economy did certainly improve after about 1965-66, the credit cannot and should not be given solely to the Kennedy tax cuts. As in most every national economic change, a number of factors must be considered and the siren song of across-the-board tax cuts must be heard carefully before the Congress commits itself to tens of billions of dollars in hopeful anticipation.

For example: Federal revenues did increase after the Kennedy tax cuts. However, what proponents of a huge new tax cut today fail to remind us is that only part of those revenues came from increased individual income tax feedback. Additionally, revenue came from separate and unrelated payroll tax—social insurance—increases and the 1966 Tax Act.

In any event, the Kennedy tax cuts were not offered merely as a way to hand out $14 billion, but were designed to stimulate—through increased demand—the economy and result in at least some revenue feedback effects.

Those citing the Kennedy tax cuts as proof that a huge tax cut will work in 1980 fail to mention that one very large reason unemployment declined markedly was that escalation of the Vietnam war had begun—taking thousands of otherwise employable people out of the labor pool through conscription. In 1964, for example, the Department of Defense manpower level—excluding Coast Guard—was 2,693,000. In 1968 that figure had grown to 3,435,000 men and women who were no longer available for the domestic work force.

The Vietnam war also put to work American productive capacity that might have previously been idle. In fact, several factors such as the war combined to actually overheat the economy—forcing government to move to enact fiscal restraint through monetary policy.

Mr. Speaker, I am afraid that the current proponents of a Kemp-Roth style or size tax cut are opting for what seems to be an easy and politically irresistible quick fix economic cure. Public and congressional debate 2 years ago over that bill made it very clear that even conservative economists were highly dubious of the claimed results and outright incredulous over its basic assumptions. Even economics professor Arthur Laffer, father of the "Laffer Curve" and a proponent of a very large Federal income tax cut, told Newsweek in 1978 that "there's more than a reasonable probability that I'm wrong"—about these kind of tax cuts being completely self-financing.

It is interesting that the people who now propose to spend tens of billions of dollars of tax expenditures are the same people who are quick to remind us that we cannot solve problems by throwing money at them. Perhaps the difference is that now the money is in such quantities that it would not just be thrown, but dumped on problems.

Mr. Speaker, I hope each of us gives long and hard consideration to the several jumbo cut tax bills that are blooming as we get closer to elections. It is a terrible disservice to taxpayers to hold out lures of tax reductions when there is very little to support the claims made by their election year adherents and much to indicate such cuts would lead to even higher inflation and interest rates.●

PAUL HALL

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1980

● Mr. THOMPSON. Mr. Speaker, the Nation and the labor movement are diminished today by the death of Paul Hall, who guided the Seafarers International Union for the past 23 years as its president. Paul Hall's impact on the labor movement went far beyond his role as leader of the SIU. He was an effective and vocal spokesman for the rights of all working men and women and for the Nation they served. Paul was one of a relatively small group of seamen who joined together in 1938 to organize the SIU. He knew at firsthand the problems of the men who man our ships for he sailed himself as a wiper and as an oiler. He knew the men who were his shipmates and he devoted his life to improving their wages and working conditions and as we know, he was an articulate and outspoken proponent of a strong American merchant fleet.

Generations of young men and women who will go to sea in the years to come will be indebted to Paul Hall and his leadership in establishing the Harry Lundeberg School of Seamanship which opened in 1967 in Piney Point, Md., to train our young people for maritime careers. It is my hope that the graduates of that school will honor Paul Hall's faith in them, and dedicate their careers in the American merchant fleet to his memory.

Mr. Speaker, I join with my colleagues to extend our sympathy to Mrs. Hall and their children in this hour of their grief.●

OLDER PERSONS: QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, June 25, 1980, into the CONGRESSIONAL RECORD:

OLDER PERSONS: QUESTIONS AND ANSWERS

In the many public meetings and conferences I have held throughout the Ninth District, I have noticed a growing awareness of the problems of older persons. More and more frequently, I am asked about the elderly's need for secure income, adequate nutrition, affordable health care, better transportation, and so on. The following are just a few of the questions I hear:

Is the overall age of the American population changing? Yes. The American population is aging for two basic reasons. First, life expectancy at birth has increased in recent years. It now stands at 69 years for men and 77 for women. Second, the post-war "baby boom" will slowly turn into the "senior boom" of the twenty-first century. Today 11 per cent of the population is over 65, but in the year 2030 the figure will be 20 per cent.

Is poverty widespread among older persons? There is poverty, but progress has been made against it. During the past decade, the portion of elderly living below the poverty level has fallen from 30 per cent to 14 per cent. About 11 per cent of the population in general is classified as poor. Families headed by older persons earn approximately 57 per cent as much as families in general.

What accounts for the progress against poverty among the elderly? Federal programs have played a major role. Families headed by older persons receive 35 per cent of their income from federal sources. The federal government now commits 25 per cent of its expenditures to older persons. By the year 2030, the commitment may exceed 40 per cent.

Is the social security system running out of money? No. Because of the law enacted in 1977, the experts estimate that the old age and disability insurance programs—"social security" to most people—will be solvent for years to come unless the economy fails to improve at all. The old age insurance program may face a shortfall in the 1980's due to high inflation and unemployment, but the problem can be corrected by such measures as the reallocation of monies from the disability and hospital insurance programs (the latter are in better shape). Even if the economy does not improve, Congress will see to it that the elderly get their benefits. Checks have been issued on time since payments began in 1940. The cost-of-living increase, 14.3 per cent, will take effect on schedule in July.

Will social security benefits be taxed? The chances are very slim. Although the Advisory Council on Social Security made such a recommendation last December, Congress is not expected to act on it. The recommendation was disapproved by both the Democratic Caucus and the House and Senate committees which handle social security. I opposed the taxing of benefits.

Will the elderly see taxes withheld on interest and dividend income? Probably not. The President recently proposed a 15 per cent rate of withholding on interest and dividends, but the idea met with very stiff opposition in Congress. I do not support the President because I believe that savings and investment should be encouraged. I supported a law to exempt interest and dividend income ($200 per year for individuals, $400 for couples) from the income tax.

What does the balanced budget mean to older persons? In its preliminary passage of a balanced budget of $613.3 billion for 1981 (a budget whose balance is already threatened by the recession), Congress greatly increased military spending at the expense of domestic programs, many of which are intended to help the elderly. I favor a more evenhanded approach to fiscal restraint, so I voted against the budget. None of the proposed cuts is final. Actual levels of spending will be determined through the appropriations process, with the preliminary budget as a target. I will do all I can to see that programs for the elderly are treated fairly.

What is happening to the food stamp program? Because 16 per cent of all food stamp recipients are 65 or older, problems with the program cause concern among the elderly. In response to recent warnings that the program was running out of money, Congress waived a temporary cap on spending and appropriated funds to sustain the program through September. Higher unemployment and rising food prices, however, may make additional funding necessary before then.

Will older persons get help with their home heating bills? Yes. The elderly spend a big portion of their income, about 20 per cent, on home heating. In recognition of this fact, Congress approved $1.6 billion last year to help both the elderly and the poor heat their homes. The President has asked for $2.2 billion this winter, but Congress has not yet decided how much to spend. For the long term, the windfall profits tax will yield sizable revenues over the next ten years, one-quarter of which will be earmarked for fuel assistance.

How will the elderly cope with rising health care costs? Despite Medicare and other programs, older persons still pay $550 per year on the average to meet their health care needs. I support measures to hold down health care costs by preventing illness, increasing competition, eliminating unnecessary costs, and cutting red tape. Measures under consideration would prevent the unethical sale of "medi-gap" insurance, liberalize home health care benefits, improve the elderly's access to mental health services, and encourage the elderly's participation in low-cost health maintenance organizations.●

A TRIBUTE TO PETER KROMANN

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. VANDER JAGT. Mr. Speaker, an immigrant from Denmark arrived in the United States as a young man and settled in Holland, Mich. He was forever grateful for the opportunity and success offered him in his new land, and diligently contributed to his new home through business work and public service.

Among his many valuable contributions to the community was a project that embodied his spirit of patriotism. It involved the placing of 30 American flags around Holland's Memorial Stadium, a display which would honor Holland veterans who served in World War II and serve as an inspiration to those who would watch the flags unfurl.

The dreams of this Danish immigrant became a reality, and thousands of Holland, Mich., residents will delight as the flags unfurl above Memorial Stadium. And despite his vision and patriotism in pushing for the American flag display when others had other priorities at the stadium, this Danish immigrant—Peter Kromann—will never see the impressive display, not that it will diminish the pride and patriotism in his heart as he hears the flapping of Old Glory in the breeze. But, because of his blindness, Peter Kromann will never see Old Glory above Memorial Stadium as will thousands of us who have less vision.

Mr. Speaker, I would like to share with my colleagues a very touching editorial tribute to Peter Kromann which appeared in the June 12 Holland Sentinel:

A MAN WITH VISION

An immigrant from Denmark had an idea.

It was something he remembered all of his life and knew some day it would be a reality.

Recalling his youth, he thrilled to see flags in the stadiums of his native land.

Why not do the same thing in his adopted land and in the city he came to love?

When he arrived on these shores as a young man, he quickly adopted the United States as the land of opportunity and success. And as the years passed, he grew to know this nation as the greatest place on earth.

It was here he could select his vocation, earn his living, choose a bride and raise a family. Today, he and his wife celebrate their 52nd wedding anniversary.

He came to love this nation, its freedoms and for what it stands.

When he arrived in Holland, Mich., he was ready to contribute to the country that had supplied him with his new life. Work and service became his lifestyle and he exemplified the axion that one who receives, must give.

He had received much from this land and he wanted to reciprocate. He contributed to the business life of the community. He helped youth as a Boy Scout leader and also served his church.

Public service called and he responded. He served as a councilman and more than a quarter-of-a-century ago, was an instigator in the formation of the Holland Community Foundation, realizing its potential value to a community.

Because of his idea, his patriotism and foresight of a foundation, a reality has been achieved. In years to come, thousands of Holland residents will thrill as they watch 30 American flags unfurl at Holland's Memorial Stadium.

Those spinal chills all patriots feel are the culmination of what this man first felt years ago.

And the flags will serve as a living memorial to those who should be honored, Holland National Guard, Co. D, 126th Infantry, 32nd Division led by Col. Henry (Heinie) Geerds, who distinguished themselves in the jungles of New Guinea during World War II.

Those flags will also honor all Holland veterans who have served, and in several cases gave their lives, so that freedom could be enjoyed by the Danish immigrant, all the other immigrants and the thousands of Holland native-born.

While the rest of us were concerned about the mud on the stadium turf, this man was suggesting the multiple flag idea as a perfect way to accent the stadium. His idea was accepted.

To insure its success he gave generously of his own funds and inspired fellow members of the Holland Exchange Club to do likewise. These were followed by other gifts from friends including the Louis Padnos Foundation and it provided another chance for the Holland Community Foundation to coordinate worthwhile civic efforts. Contributions may be sent to Holland Community Foundation at 1 East Eighth St.

To this man Old Glory has a special meaning.

Because this man is a special person.

There was a time when he saw the red, white and blue flag blazing its colors across the sky. Now this man, this patriot with pride in his heart, will just hear its distinctive flapping in the gentle breeze or gusty wind.

The man is Peter Kromann.

It has been years since Peter Kromann saw a U.S. flag.

He has never seen the stadium.

Peter Kromann is blind.

But he saw his idea take shape and become reality. And because he fulfilled his dream, he has seen more than the rest of us.●

NEW PRESIDENT OF STATE BAR OF TEXAS

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HALL of Texas. Mr. Speaker, just recently an outstanding young attorney from my hometown of Marshall, Tex., Mr. Franklin Jones, Jr., was elected president of the Texas State Bar. This is a coveted honor, and Franklin will manifest the high ideals of the State bar, whose past presidents include some of the great names of American jurisprudence.

I have known Franklin all his life. His father, Franklin, Sr., also one of Texas' outstanding lawyers, is a close family friend. There is no question that Franklin, Sr., is one of the proudest fathers in Texas, and justifiably so. His son carries on a great tradition in a law firm that was actually started by his grandfather, S. P. "Sol" Jones—probably one of the greatest personal injury lawyers that Texas ever produced.

The State Bar of Texas is very active on the national scene and enjoys a reputation for excellence. In selecting Franklin Jones, Jr. as its new president, the State bar can be assured of positive growth and further enhancement of our Nation's legal system. The following story from the Marshall News Messenger gives insight into the strong character and fine aspirations of our new president, and I commend it to the attention of my colleagues and the Nation:

NO PRACTICAL FATHER'S DAY GIFTS FOR STATE BAR PRESIDENT

(By Wanda Walker)

The new president of the State Bar of Texas isn't telling what he got for Father's Day on the grounds that it may incriminate him.

His only son, Franklin Jones III, works in Galveston and thus was not available for the witness box.

Daughter Terry Jones would only admit that she did not plan to get anything practical for her dad.

"He always buys what he needs or wants, so I don't give him practical things," Terry testified during a brief visit in her father's office at the law firm of Jones, Jones & Baldwin, Inc.

She confessed that her tall, handsome dad is a conservative dresser, except on Christmas Day. Trying to suppress a giggle, Terry blurted, "On Christmas he wears red pants with red and green Christmas trees on them."

Jones, comfortably at ease on the oversized leather office sofa, listened and watched, smiling good-naturedly while his daughter chatted.

"On Father's Day she always gives me a card that compares her favorably to me," Jones chimed in.

Do they have serious father-daughter discussions? "Yeah, but she seldom listens," Jones quipped jokingly while his daughter took the Fifth Amendment on that question.

He gave her an Irish setter for Christmas two years ago. "If you could have seen us cleaning up after that puppy and all the trouble he got into, you would know why we named him Troubles," Jones remarked.

Wife Liz, the former Elizabeth Francisco of Houston, is generally the presiding judge at their home.

They all went to Nashville recently for a combined business and pleasure trip. Jones represented Texas at the annual meeting of the Tennessee Bar Association and then enjoyed what he called a delightful, historical day.

"We saw two things I really enjoyed—the reconstruction of the Parthenon—fabulously done—and The Hermitage, Andrew Jackson's home," Jones informed.

That gives an insight into the personal family relationship of the professional man who defied his superstitious nature when he took the prestigious office as head of the Texas Bar on Friday the 13th.

"I'm super superstitious! I won't let an umbrella be opened in the house or a hat be on the bed," he candidly revealed.

With an easy chuckle, the third generation lawyer said he approached the office "like an old landlubber who came up on the ocean for the first time. He looked at all that water and said 'that's the first time I ever saw anything that there was enough of.' "

He has a long lineage of lawyers to back him up for the big job. Grandfather S. P. Jones founded the firm he is associated with. Maternal grandfather G. N. Harrison was a judge in Brownwood, but his closest tutelage came from his father, Franklin Jones Sr.

"Whatever I've accomplished, it's been because of him," the man called Junior said. "He made it possible for me to go to law school and has helped and encouraged me in everything I have done."

His professional credentials include the B.A. and LL.B. from the University of Texas at Austin. He was admitted to the Texas Bar in 1953 and recalls that his most challenging case came when he had less than a year's experience.

Jones and Scott Baldwin (then not associated with the firm) were appointed to defend a black man who had murdered an elderly white man in Pottsboro.

The case had been transferred from Pottsboro to Marshall on a change of venue. "There were racial issues in that case and we had a segregated jury, but we got him off with a life sentence. We considered it a victory because he had confessed to the murder and it was a question of what the punishment would be."

Through the years the attorney has been involved in cases dealing with "an awful lot of money and damages that might seem more important, but when you've got a man's life hanging in the balance . . ." his words trailed off in deep recollection.

His practice now is in personal injury and civil trial litigation, but he says "My deep admiration goes to the Criminal Bar—those guys are on the cutting edge."

Jones has a pet peeve. "I am sick to death of listening to the chief justice of the U.S. Supreme Court saying lawyers are not competent and being critical of them. By and large, I haven't run up against this incompetence."

The new leader of the Texas State Bar has a broad interest in the legal profession. He is a Board Certified Trial Specialist in both civil trial, and personal injury trial law; a Fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers; a past president of the Harrison County Bar and has served as a director and vice president on the state level.

Jones brought the concept of prepaid legal services from an idea to an ongoing system sponsored by the State Bar's Texas Legal Protection Plan, which he has headed since its creation in 1975.

He has received numerous honors in the profession, including the Award of Achievement presented by the Committee of Past Bar Presidents. He was one of two lawyers, getting the honor in 1976.

Jones said he knew Ramsey Clark well 20 years ago, but he doesn't condone the actions of the former attorney general who went to Iran recently on his own personal mission to negotiate for the release of the hostages.

"I don't believe any individual should conduct foreign policy. It must be conducted by the State Department," the Marshallite stated emphatically. He predicted Clark and his companions on the trip to Iran are "going to look up and find themselves in the courthouse."

The Marshall attorney allowed there may be a lot of honors to go along with his presidency of the State Bar, but the most touching thing to him was the luncheon accorded him by the Harrison County Bar Association. Local president Joe Hughey led a large delegation of lawyers and their wives attending the Wednesday noon event at the Belo Mansion, the Dallas Bar Center.

"He is the first president of the State Bar from Marshall and we are overly proud of him and of our link with the association," Hughey said.

Special guests included Lucius Bunton, the former State Bar president who resigned to accept a Federal appointment as Western District judge at El Paso, and Charles Griggs, vice president of the State Bar.

Seeing his son's installation was, no doubt, an early and rewarding Father's Day experience for Franklin Jones Sr. But determining Franklin Jones Jr.'s best Father's Day gift may require the third degree.●

SPIRIT OF HELSINKI, VIGIL 1980—THE ABRANZON FAMILY

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. BEILENSON. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on the House floor entitled "Spirit of Helsinki" on behalf of Soviet Jewish families and individuals who are being forcibly detained in the U.S.S.R. as a result of the Soviet Government's repressive immigration policy.

Today, I would like to bring the plight of Zina and Arkady Abranzon to my colleagues' attention. The Abranzons are Jewish citizens who were planning to apply for exit visas. Since the Soviet Government generally revokes work permission when an exit visa application is made, the couple had been accumulating money and supplies in preparation for applying. Mr. Abranzon was the director of several electronics stores, and his wife was in charge of a jewelry and gift store which employed 25 people.

The Abranzons were arrested without warning on October 5, 1979, and are being held at Ivano-Frankovsk, the trial-isolation prison, in the Ukrainian Soviet Socialist Republic. The police broke into their apartment, confiscated all of their possessions, and the Soviet authorities have charged them with possession of resources. Although several trial dates have been set for the Abranzons their case has never been brought before a judge. They remain imprisoned without trial, isolated from their family and friends.

It is my belief that the releasing and granting of exit visas by the Soviet Union to the Abranzons would not only indicate to the world that country's compliance with the Helsinki accords, but would also affirm its desire to ameliorate relations between our two great nations. This action would be particularly significant, coming at a time of increased tension between the United States and the U.S.S.R.

I am deeply concerned over the Soviet Union's disturbing treatment of its Jewish citizens and ask that it abide by its international commitments by relaxing restrictions on immigration policies. I look forward to the day when there is no longer any need for such pleas—the day when families can be reunited in Israel.●

TIME TO CONSIDER EXTENDING METRO

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HARRIS. Mr. Speaker, on January 3, 1980, representatives from the entire Washington metropolitan area gathered in the East Room of the White House as President Carter signed into law H.R. 3921, my bill providing $1.7 billion to complete the entire 101-mile Metrorail system. With the appropriate measures by State and local governments, the full Metrorail system will be a reality.

In this era of congested roadways, tight gasoline supplies, high pollution levels, and constantly rising energy prices, the Washington area has been fortunate to have—in operation and under construction—one of the finest rapid rail systems in the world. As traffic has gotten worse, and as the energy situation has deteriorated, Metro ridership has steadily increased, demonstrating both the need for a clean, efficient, fast public transit system, and the important role that such a transit system can play in our efforts to curb energy use and cut our Nation's crippling dependence on foreign oil.

As a member of the House District Committee which has jurisdiction over Metro legislation, and as one who has worked over the last 20 years for a complete Metrorail system, I regarded the enactment of my legislation last year as a major milestone in the fight to improve the quality of life for the entire Washington metropolitan area. But the job did not stop with that victory, and the effort to meet new and changing transportation needs continues.

Today, I have introduced legislation to fund a study of the possible extension of Metrorail service as much as 47 miles to Burke, to the Dulles/Reston area, to Bowie via the Capital Centre, to Gaithersburg, and within the District of Columbia. We must begin planning now to preserve the excellence of the Metrorail system, and to insure that it can continue to serve the growing communities in the Washington metropolitan area.

There has been tremendous suburban growth since we first began planning Metro 20 years ago. Today, communities such as Burke, Reston, Bowie, and others well beyond the beltway, have become home for thousands of people who commute daily into Washington. The absence of a well-planned transit system for these areas has resulted in congested roads, high pollution, and an unconscionable waste of energy at a time when our Nation is struggling for energy independence.

Fortunately, we planned the 101-mile Metro system to allow for extension into growth areas, and now is the time to start considering the use of rail transit to relieve increasing congestion in Virginia's I-95 and route 7 corridors, and along route 50 and I-270 in Maryland. Growth in these areas has continued at a very heavy pace, but in many cases, rights-of-way have been preserved.

Specifically, my bill calls for study of:

Extending to Burke the Springfield/Franconia yellow line from Alexandria, which is scheduled to be completed by 1985, an extension of 10 miles along the old Southern Railway route;

Providing service to Reston/Dulles by building an 18-mile rail line branching off from the orange line at the West Falls Church station to the Dulles access road, and running along the access road's median strip to Reston and the airport;

Stretching the red line up to 6 miles beyond the Shady Grove station along the B. & O. railroad right-of-way to Gaithersburg/Germantown area;

Extending the blue line as much as 13 miles from its planned Addison Road terminus to Bowie, via the Capital Centre at Largo, a plan already endorsed by the Prince Georges County Council; and

Possible route improvements within the District of Columbia.

Above-ground extensions of the Metrorail system—such as those to be studied under my proposal—could prove to be an extremely cost-effective method of saving energy and preserving the environment in these growth areas. Tunneling beneath downtown Washington streets was a major factor in Metro's high cost that is now largely behind us.

I am pleased that Representative FORTNEY (PETE) STARK, chairman of the Metropolitan Affairs Subcommittee—which has jurisdiction over Metro legislation and on which I serve—has already agreed to cosponsor my bill. Chairman STARK has also agreed to hold early hearings on the proposal, and this is most encouraging.

My bill will provide $1.5 million in Federal funds to the Washington Metropolitan Area Transit Authority (WMATA) to be matched by $375,000 from State and local governments, to fund an 18-month study of the four possible route extensions, as well as consideration of routes within the District of Columbia.

If WMATA determines that any of these routes are economically feasible, I intend to sponsor Federal funding legislation similar to the 80 percent Federal, 20 percent local formula contained in the original Harris-Stark law to fund construction of the initial 101-mile Metro system.

It is so important that we move ahead with transportation planning without delay. Within the Congress, I think it is important that we act promptly because we have a House and a Senate that has already demonstrated its support for the Metro system through the approval of my earlier bill.

The Representatives and Senators know Metro, they understand its importance and its contribution to the quality of life in this region, and we cannot afford to let that support slip away.

Metro has proven its worth, both as an energy-saving transportation system, and as a boon to regional economic growth. Business near existing or planned Metrorail stations are thriving, and it is time we began planning for our future transportation needs by considering the extension of Metrorail to Burke and other fast-growing areas beyond the beltway.

The text of my legislation follows:

H.R. 7658

A bill to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the Adopted Regional System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 16 the following new section:

"STUDY OF EXTENSIONS OF TRANSIT LINES

"SEC. 17. (a)(1) The Secretary of Transportation shall contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering, of extending rail rapid transit lines—

"(A) from the vicinity of Virginia Route 7 on the Virginia Interstate 66 Route of the Adopted Regional System to the Dulles International Airport;

"(B) from the vicinity of Virginia Interstate Route 95 and the proposed Springfield rail rapid transit station of the Adopted Regional System to the vicinity of Virginia Route 645 in Burke, Virginia;

"(C) from the proposed Addison Road rail rapid transit station of the Adopted Regional System to the Capital Centre in Largo, Maryland and on to the vicinity of Bowie, Maryland;

"(D) from the proposed Shady Grove rail rapid transit station of the Adopted Regional System to the vicinity of Gaithersburg, Maryland, and Germantown, Maryland; and

"(E) within the District of Columbia on routes determined by the Transit Authority to be practicable after consultation with the Mayor and the Council of the District of Columbia.

"(2) The contract entered into pursuant to paragraph (1) shall require the Transit Authority in conducting the study to take into consideration estimated demand for each proposed rail rapid transit line extension, projected population growth along each proposed rail rapid transit line extension, and the engineering feasibility of each proposed rail rapid transit line extension.

"(b) The contract entered into pursuant to subsection (a)(1) shall require the Transit Authority to submit to the Secretary of Transportation and the Congress, not later than 18 months after the date the contract is entered into pursuant to subsection (a)(1), a report on the study conducted under such contract, which report shall contain proposed routes for each proposed rail rapid transit line extension specified in subsection (a)(1).

"(c)(1) The contract entered into pursuant to subsection (a)(1) shall provide for a Federal contribution to be paid by the Secretary of Transportation to the Transit Authority to pay for the costs of carrying out the contract.

"(2) The amount of the Federal contribution paid pursuant to paragraph (1) shall not exceed an amount equal to 80 percent of the costs of carrying out the contract entered into pursuant to subsection (a)(1).

"(d) Effective October 1, 1981, there is authorized to be appropriated to the Secretary of Transportation to carry out this section $1,500,000.".●

A TRIBUTE TO CLIFFORD EVANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. WOLFF. Mr. Speaker, I rise today in recognition of the outstanding work of Clifford Evans, the Washington bureau chief of RKO General Broadcasting. I have known Mr. Evans for quite some time and have always been impressed with his administrative and reporting capacity. Recently, Mr. Evans received an award for excellence in broadcast journalism—the Barnet Nover Award, at the White House Correspondents Association dinner. This was a remarkable honor, for Mr. Evans was the first broadcast journalist to win the award.

Mr. Evans was honored for his March 12 reports from Jerusalem on positive changes in the stalled Middle East peace talks. Mr. Evans had traveled with President Carter to Israel and Egypt for the President's meetings with Prime Minister Begin and President Sadat. Mr. Evans broadcast, in the face of pessimistic reports in other stories, "pointed to the possibility of the unbelievable happening in that unbelievable part of the world," as Mr. Evans has said.

I commend Mr. Evans for his work, and the White House Correspondents Association for recognizing his fine achievement. I look forward to his continued high standards in the field of international journalism.●

NUCLEAR POWER AND NUCLEAR BOMBS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. MARKEY. Mr. Speaker, I would like to submit for consideration by my colleagues two newspaper accounts of a recent important article in foreign affairs. The article is entitled "Nuclear Power and Nuclear Bombs" and is authored by Amory B. Lovins, a physicist and consultant on energy policy; his wife L. Hunter Lovins, a lawyer; and Leonard Ross, a former California Public Utility Commissioner who now teaches law at the University of California, Berkeley.

The principal message of the article is that export of civilian nuclear reactors has resulted in wanton proliferation of nuclear weapons capability around the globe. The authors argue for a fundamental reassessment of U.S. nonproliferation policy and U.S. promotion of nuclear power.

I quote from the article:

> With trivial exceptions unimportant to this argument—radioisotope production reactors, large particle accelerators, proposed fusion reactors—every known civilian route to bombs involves either nuclear power or materials and technologies whose possession, indeed whose existence in commerce, is a direct and essential consequence of nuclear fission power. Apologists, apparently intending to be reassuring, often state nonetheless that since power reactors themselves are only one of (say) eight ways to make bombs, restraining power reactors is like sticking a thumb in one of eight holes in a dike. But the other holes were made by the same drill. Arguing that reactors have little to do with bombs is like arguing that fishhooks do not cause the catching of fish, since this can also involve rods, reels, and anglers * * *

Mr. Speaker, I urge my colleagues to read this crucial article, particularly in light of the current controversy over the shipment of enriched reactor grade uranium to India. There is no greater threat to U.S. and world security than the promiscuous spread of nuclear weapons capability to country after country around the globe.

I would be happy to obtain copies of this article for interested Members of Congress.

The articles follow:

[From the New York Times, June 22, 1980]

NUCLEAR CRITIC'S SECOND-STRIKE CAPABILITY GETS TESTED

(By Anthony J. Parisi)

Implicit in just about every strategy to deal with nuclear proliferation has been the assumption that atomic power is inevitably part of the energy future. The nuclear nations have gone out of their way to make the peaceful atom available to others, hoping that sooner or later a way could be found to prevent bombs from being made from the byproducts.

So far, this hope seems to be failing. India has fashioned a bomb from nuclear materials created during what appeared to be a civilian research program, and the Carter Administration decided last week to continue to fuel India's reactors. Israel is believed to have developed a bomb capability, also surreptitiously. South Africa may have it, too, and others are clearly close.

But in the current issue of Foreign Affairs, three authors—Amory B. Lovins, a physicist, L. Hunter Lovins, Mr. Lovins' wife and an attorney, and Leonard Ross, a professor of law at the University of California, Berkeley—question the premise that nuclear power is a necessary, or even effective, way to reduce the world's oil dependence. They contend that the global business of selling nuclear power plants is already collapsing from an "incurable attack of market forces." Only by offering an alternative energy strategy, they argue, can the nuclear powers hope to prevent wanton proliferation.

In 1976, also writing in Foreign Affairs, Mr. Lovins thrust himself into the epicenter of the energy debate with the proposition that the world could choose between what he called "hard" and "soft" energy technologies. Hard technologies were epitomized by central power stations—large, concentrated, and therefore vulnerable, as well as ravenous of capital and inherently disruptive to society. Soft technologies were such small-scale affairs as neighborhood generating stations—more manageable and more acceptable, he said. He contended that an energy system of many small building blocks would be cheaper yet more reliable than the centralized systems chosen in the past. He called for a national energy policy that abandoned nuclear power, relied on a modest increase in coal to fuel the transition to renewable energy and, above all, stemmed energy demand by recapturing tremendous amounts of wasted energy.

Although he is still considered a dreamer by many in the energy industries, most specialists concede that his view of the future has so far been more right than wrong. The growth in energy consumption has plunged even more than he suggested was possible, coal has steadily increased its share of the energy market and the nuclear reactor business has fizzled—starting long before the Three Mile Island accident last year. So the reaction to Mr. Lovins's second strike has been cautious.

"There's enough importance in his basic arguments not to dismiss them out of hand by any means," said Donald R. Westervelt, an arms control specialist with Los Alamos Scientific Laboratories. "I think he is being recognized as a guy who is really trying to think the problem through. The question is whether there are any economic errors in his analysis, and that is something we intend to look into."

In the current article, the authors assert that every known civilian route to bombs involves nuclear reactors or their byproducts. "Arguing that reactors have little to do with bombs," they state, "is like arguing that fishhooks do not cause the catching of fish, since this also involves rods, reels and anglers." Thus they conclude that eliminating civilian reactors would indeed enable the nuclear powers to prevent the further spread of nuclear weapons.

Can the reactors be eliminated without heightening the world's dependence on oil? Mr. Lovins notes that only about one-tenth of the world's oil consumption goes to electricity, and that proportion can be expected to shrink even without nuclear power. Building additional nuclear reactors will displace coal, he maintains, not oil.

He argues that there are far better ways to reduce dependence on oil, even in such fuel-poor countries as Japan: using existing technology to make cars get 70 to 80 miles to a gallon and houses that require only a fraction of the fuel they now consume; encouraging factories to convert waste into gas; installing compact generators where the power is used so leftover heat can warm rooms instead of rivers. These alternatives will be costly, he concedes, but not as costly as nuclear power plants. Indeed, he points out that capital spent on uneconomic reactors is capital not available for more effective ways to cut oil consumption.

But even if Mr. Lovin's argument is economically sound, is it politically possible?

"There's a certain amount of inertia operating here," said an aide to Senator John Glenn, Democrat of Ohio, who has made the proliferation issue one of his specialties. "There are countries that have simply made commitments to nuclear power. To suggest that they might give it up is unrealistic. There have been attempts to get cooperative action before, and all of them have failed. Lovins is only talking about the stage at which you want to take sanctions."

Others argued that, even if sanctions were possible and if no other reactors were built, it was too late to dismantle the worldwide network of nuclear powerplants without leaving a significant amount of weapons-grade material behind. Still others said Mr. Lovins had actually brought little new to the issue, since each leg of his argument had already appeared in some other forum. "His first article was a seminal piece of work," said Alan McGowan, president of the Scientists' Institute for Public Information, a public-interest group that disseminates information on technological affairs. "This one is a neatly constructed argument that ties a lot of odds and ends together. But it's not in the same class, and it's not as convincing."

Mr. Lovins concedes that he tends to gather the best thinking of others, to "cross-pollinate the grapevine," as he puts it. But he dismisses doubts that his approach can succeed in the real world as symptoms of the pessimism that has settled over the antiproliferation effort. "I think we have an extraordinary opportunity over the next year or so to take advantage of the collapse of nuclear power to stop proliferation just when it seems to be getting out of hand," he said. "If other countries don't see those advantages, we are not obliged to follow their folly. It's like the debate over the SST. Some people went ahead and built the Concorde, which has turned out to be an economic disaster. Others were smart enough to develop jumbo jets instead."

[From the New York Times, June 19, 1980]

POWER OF THE MARKET

(By Anthony Lewis)

WASHINGTON, June 18.—The arguments for and against nuclear power have come to seem at the same time familiar to us and numbingly difficult to resolve. But the terms of the debate may be changing. New circumstances, new facts put the old issues in a different light—and greatly strengthen the case against nuclear plants to generate electricity.

That is the message of a provocative article in the summer issue of Foreign Affairs, just out. It is a disturbing piece, one that means to shake assumptions on a fundamental subject and does. Its scientific points will be debated by the experts. But much of its logic rests on practical arguments that ought to be meaningful to politicians and ordinary citizens in a democracy.

The piece, called "Nuclear Power and Nuclear Bombs," is by Amory B. Lovins, a physicist and consultant on energy policy; his wife L. Hunter Lovins, a lawyer, and Leonard Ross, a former California Public Utility Commissioner who now teaches law at the University of California, Berkeley. Amory Lovins, published a groundbreaking article on the "soft path" in energy—the development of renewable resources—in Foreign Affairs four years ago. That became a basic reference point in the energy debate, and the new piece may well have the same kind of impact.

We have assumed, the article says, that the worldwide spread of nuclear power is economically desirable, is necessary to reduce dependence on oil and can be regulated by international agreement so that it will not lead to the proliferation of nuclear weapons. The authors squarely challenge those assumptions.

Nuclear power stations, they say, have turned out to be much more costly than conventional generating plants. Between 1971 and 1978, one study shows, the capital cost per kilowatt went up twice as fast for nuclear as for coal plants, even including the need for the latter to meet rigorous antipollution standards. Nuclear now costs 50 percent more than coal, and tighter safety regulation after Three Mile Island will increase the differential.

That economic reality is reflected in the market. All over the world, plans for installation of nuclear generating plants have been cut way back. The United States, Brazil, West Germany: all kinds of societies have simply found the cost too forbidding. Only in such centrally-planned economies as those of France and the Soviet Union "is bureaucratic power sufficient to override economic facts"—and even in the U.S.S.R. the building of nuclear plants is way behind target.

Nor, they say, is nuclear power a rational substitute for oil. Nuclear plants make electricity, and only about a tenth of the world's oil goes for that purpose. Most of it is used for such things as vehicular fuel and petrochemical feedstocks.

So the most massive increases in nuclear power would have little effect on the urgent questions of world oil prices and supplies. For example, quadrupling Japan's nuclear capacity by the year 1990 would reduce its dependence on imported oil by about 10 percent.

"Most governments," the article says, "have viewed the energy problem as simply how to supply more energy of any type, from any source, at any price, to replace oil—as if demand were homogeneous." But in fact the price and nature of nuclear power make it economically viable for only about 4 percent of all energy uses.

As to proliferation of nuclear weapons, the article makes some new and extremely worrying technical arguments. It challenges what has been a premise of all international efforts to keep nuclear weapons from spreading to countries that do not now have them: that power reactors can be designed, operated and monitored so they do not produce material of practical use in making bombs.

All present power reactors produce, as waste, what is called "reactor-grade plutonium," which for various reasons has been considered impractical as material for bombs. But in fact, the authors say, governments or "some subnational groups" could make it into bombs as good as those now made from "weapons-grade plutonium"—or, alternatively, power reactors could be operated so as to produce the latter without greatly increasing costs or being detected.

"We cannot have nuclear power without proliferation," they conclude, "because safeguards cannot succeed either in principle or in practice." But ending the nuclear power program would make it possible to limit the spread of weapons and detect breaches of international controls, because goods and services now used for both reactors and bombs would then be "unambiguously military in intent."

Is it "a fantastic, unrealistic, unachievable goal" to wind down nuclear power programs? No, the authors say; governments would just have to obey the economic principles to which they profess allegiance. They would just have to stop applying "heroic measures to resuscitate and artificially sustain the victim of an incurable attack of market forces."

"To abandon nuclear power," they say, "does not require any government to embrace anti-nuclear sentiment or rhetoric. It can love nuclear power—provided it loves the market more.●

ABE LINCOLN, THE CRUCIBLE OF CONGRESS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. SIMON. Mr. Speaker, the other day I happened to spot a book review in the Georgia Historical Review by our former colleague in the House, Robert G. Stephens, Jr. And the book he was reviewing is the Lincoln book written by our respected colleague, Paul Findley.

The book is "Abe Lincoln, the Crucible of Congress."

Bob Stephens notes that Lincoln served in Congress with Alexander H. Stephens, from the same district Bob Stephens represented with such distinction in the House. But unfortunately our former colleague does not tell us in the review whether he is related to the other Stephens.

Bob Stephens also reflects a little of his personal philosophy in the review, noting that Findley adds "to the stature of President Lincoln. This is indeed refreshing when it seems the most popular thing today is to cast stones at any person in public life whether dead or alive."

I insert the review in the Record for my colleagues to read.

"Abe Lincoln, The Crucible of Congress," by Paul Findley. (New York: Crown Publishers, Inc., 1979. Pp. v, 270. Index, bibliographic essay, photographs. $14.95.)

I was pleased when invited to review Congressman Paul Findley's book, "Abe Lincoln, The Crucible of Congress." We served together in Congress for sixteen years and became good friends. Not only was I glad to read this book because of this friendship, but also for another reason. Findley represents Lincoln's old district. I represented the old district of Alexander H. Stephens of Georgia who was a Whig too, and was in the 1847-48 Congress with Lincoln.

If you like old-fashioned history, you will like this book. It just tells a story. It is about Abraham Lincoln's one term as a Whig member of the House. It is more readable than Claude Bowers' The Tragic Era, and more scholarly than Jim Bishop's The Day Lincoln was Shot, both of which emphasize a short span of time in this era.

At the outset the author states his thesis: to dispell a "myth" advanced by Lincoln's law partner, William H. Herndon, who alleged that "Lincoln was a failure in Congress." Findley points out that "The near unanimity with which Lincoln's biographers have embraced this myth is startling. . . ." Having taken his stand, the author defends it admirably, never losing sight of his objective.

The writer makes Lincoln a warm person. He is not portrayed from some psycho-analytical viewpoint nor as a clairvoyant or seer. Lincoln is pictured as a part of his background, and is shown in the setting of the fascinating details of Washington and Congress. The author highlights the effect those years had on Lincoln's life which led to his presidency.

Congressman Findley from nineteen years' experience has skillfully woven into the Congressional career of Lincoln a comparison with the pay, practices, and procedures of today's Congress and has come up with many amazing similarities.

There are two other features in this book which I find delightful. One is the revival of a history book with pictures. Not pictures lumped in the middle but pictures where they ought to be. When Mary Todd Lincoln is introduced, her picture is right there. When General Zachary Taylor's campaign is launched as the Whig candidate for president, the campaign banner and contemporary drawings are right there. And scattered through the pages at appropriate places are not only pictures of Lincoln's contemporaries, but also numerous heretofore unpublished depictions of Lincoln.

The second other delightful feature is the earnest desire of Findley to add to the stature of President Lincoln. This is indeed refreshing when it seems the most popular thing today is to cast stones at any person in public life whether dead or alive.

Perhaps, too, I like this book because it proves something few people nowadays do not even suspect—all Congressmen are not numbskulls.

Robert G. Stephens, Jr.,
Athens, Georgia.●

ON COMPANY BUSINESS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. McDONALD. Mr. Speaker, earlier this month, the Public Broadcasting Service (PBS) provided prime television air time for the screening of a 3-hour film, "On Company Business."

"On Company Business" is a major attack on the intelligence services of the United States, and was a major vehicle for the CIA defector, Philip Agee, to further vent his hatred for America.

Reed Irvine, chairman of the highly regarded "media watchdog," Accuracy in Media, has taken this matter up with PBS and, for the information of my colleagues I attach a copy of his letter of June 11 to Lawrence K. Grossman, the president of the Public Broadcasting Service and to his trustees.

Mr. Irvine's letter follows:

JUNE 11, 1980.

MR. LAWRENCE K. GROSSMAN,
President, Public Broadcasting Service
Washington, D.C.

DEAR MR. GROSSMAN: Accuracy in Media is deeply concerned about the role that the Public Broadcasting Service played in assisting the notorious CIA defector and professed foe of western intelligence agencies, Philip Agee.

The airing of the three hour film, "On Company Business," was clearly a landmark victory for Agee in his declared war on the foreign intelligence service of this country and on our post-war foreign policy of resisting communist aggression and expansion in the world.

This film was described by PBS as "a highly responsible overview of the CIA's history and as a major contribution to the ongoing debate on the CIA's past, present and future."

PBS described it as part of your ongoing effort to examine the role of the CIA in the formulation of American foreign policy. You imply that it is fair and balanced, saying that it includes "the views of advocates of a more active CIA, such as former CIA director William Colby and David Atlee Phillips and critics of the agency such as Philip Agee and Victor Marchetti."

You have informed public broadcasting stations that it has been praised in the New York Post as "required seeing for every responsible, thinking citizen."

PBS's characterization of the program as to its content conflicts sharply with the description of the film provided by the men who made it.

In their 1976 proposal prepared to raise funds to complete their project, producers Allan Francovich and Howard Dratch said: "The film will be the story of 30 years of CIA subversion, murder, bribery and torture as told by an insider and documented with newsreel film of actual events." They said the film "will make it clear that the CIA's policies have resulted in the subversion and overthrow of legally constituted governments and in the slander, arrest, torture and murder of hundreds of thousands of people who have dared struggle for a better life." They added: "We expect the audience to come out of the film moved enough to want to know more and yet already understanding enough to see the hand of the CIA behind the next morning's headlines."

The producers said they would "show the broken lives, hatred, cruelty, cynicism and despair which result from U.S.-C.I.A. policy."

They made it clear that their real target was not the CIA, which they described as the instrument for executing "a calculated policy determined at the highest levels of the U.S. government."

The producers asserted that their film would help prove that covert action by an intelligence agency is not consistent with democratic principles. They said: "It will be a powerful weapon in arousing public opinion by documenting the contemptuous actions being perpetrated in our name."

It would be remarkable if a project that had been described in this manner by its producers had been transformed four years later into a fair, balanced, highly responsible overview of the CIA's history.

Our analysis of the final product indicates that the final product conformed closely to the above description that the producers submitted to prospective donors in 1976.

Philip Agee was the principal insider employed to narrate the CIA record. As Terrence O'Flaherty, TV critic of the San Francisco Chronicle has said, the final product is not a documentary but rather "it is an attempt to document one man's opinion of the CIA—in this instance, Philip Agee." We agree.

Agee personally is given far more time than any other single individual—10% of the total for all three programs. In addition the views he was pushing were supported by an imposing array of friendly witnesses. These include a half dozen former CIA employees who are now hostile to the agency and to the policies of the U.S. government. They include Agee's then live-in girl friend, Angela Seixas, who was given a generous three minutes in Part II of the program to imply that the CIA was somehow responsible for her treatment at the hands of the Brazilian authorities. No basis for this nasty innuendo was provided. They include A. J. Langguth identified correctly as a former New York Times correspondent, but without revealing that his connection with the Times was only for a brief period of about one year in Vietnam in 1964-65. The exact period is a little indefinite because the personnel office of the New York Times has no record of him. The innocent viewer is led to infer that Langguth is speaking about events in Latin America from the vantage point of one who covered that area for the Times. That is false and misleading. Langguth has apparently been doing nothing but free lance writing since leaving the Times in 1965.

The witnesses interviewed in support of the Agee thesis were given about half the total time in the film. This is in addition to the 10 percent given to Agee.

On the other hand the witnesses friendly to the CIA numbered exactly two—former director William Colby and former agent David Phillips. Colby and Phillips, unsupported by any non-CIA experts or personalities, were given less than 10% of the time.

Moreover, the statements that were used from the interviews that Colby and Philips gave the producers of this film were not in any sense rebuttals of anything said by Agee and his supporting cast. Careful reading of the transcript shows that Colby's statements were in almost every case used as introductions for footage that disputed or contradicted what he said. In the case of David Philips, the statements selected were in most cases used in ways that supported Agee's thesis. Neither Colby nor Philips were shown disputing anything said by Agee, which is understandable, since neither had been informed by the producers that material from their interviews would be used in a film in which Agee would appear. The interviews themselves were obtained under false pretenses, with no indication of Agee's role in the film or his interest in it.

The filmed archival material used to supplement the interviews was also overwhelmingly supportive of the Agee thesis. This included lengthy film clips of individuals such as Salvador Allende, the late Marxist president of Chile, making statements supportive of Agee's thesis. It included clips relating to torture in Iran under the shah with the implication that this was instigated by the CIA. It included film of the trial of mercenaries recruited by the CIA to fight in Angola and interviews with parents of these or mercenaries who had been killed.

The archival material also included such things as a shot of a New York Times news story alleging that the CIA had supported a trucker's strike in Chile. The allegation was subsequently admitted to be untrue, but it is presented in this film as part of the historical record.

On the other hand the little archival material that might be considered supportive of views contrary to those of Agee consisted of short snippets of Congressional testimony or speeches by American political figures—more often than not presented as targets for Agee and his friends to attack.

Except for clips of the funeral of the murdered Dan Mitrione, no film showing the victims of communist oppression and brutality—the fruits of the system that Agee now supports and which the CIA was trying to combat, appears in this production.

An important thesis of the film is that the leftists and communists are good guys risking their lives to try to make the world a better place. It presents the CIA as the ally of the corrupt oppressors, which is foolishly trying to prevent the good guys from bringing peace, prosperity, and enlightenment to all the world. Apart from a few segments of speeches by former presidents denouncing communism nothing is presented in this three-hour film that would assert, much less demonstrate the falsity of this monstrous lie.

It is understandable that this basic falsehood would be propagated by a film intended to disseminate the views of Philip Agee about the great contest between the forces of communism and the forces of the free world.

Mr. Agee is an open and admitted partisan of the communist cause. In an article in Esquire of June 1975, he said, "I aspire to be a communist and a revolutionary."

Mr. Agee is not actually a foe of all intelligence organizations. He does not criticize all covert operations, all efforts to subvert governments. He does not criticize all deception, all disinformation, all oppression.

He criticizes such activities only when engaged in by the countries of the free world, especially the United States. He has never been known to criticize the operations of the Soviet KGB or the Cuban DGI, or the intelligence operations of any other communist country.

Asked about intelligence agencies in general in an interview published in the Zurich paper, Tages-Anzeiger, Agee said, "It depends on their goals and motives. The CIA is plainly on the wrong side, that is, the capitalistic side. I approve KGB activities, communist activities in general, when they are to the advantage of the oppressed. In fact, the KGB is not doing enough in this regard, because the USSR depends upon the people to free themselves. Between the overdone activities that the CIA initiates and the more modest activities of the KGB there is absolutely no comparison."

Agee obviously considers the communist countries his friends and allies. He made the first of several trips to communist Cuba in 1971, spending six months there. He has written that the Cubans assisted him "considerably" in his research on his anti-CIA book, "Inside the Company."

Agee clearly could not have obtained this Cuban cooperation had he not been able to satisfy Cuban intelligence that he was a totally trustworthy friend and ally. It is reasonable to assume that the Cubans tested the genuineness of his defection with intense interrogation, including the use of lie detectors, just as the CIA tests the bonafides of defectors from the intelligence services of the communist countries. This probably explains the length of Agee's stay in Cuba. It is evident that he was able to establish that he was a bonafide defector, meaning that Cuban intelligence was satisfied that he was willing to cooperate fully with them.

Subsequent developments have demonstrated that Agee has indeed been very cooperative with the intelligence services of the communist countries that are subservient to the Soviet Union. In 1976, the U.K. expelled him, charging that he had been in regular contact with foreign intelligence agents and had been involved in activities that "could be harmful to the security of the United Kingdom."

Robert Moss wrote in the Daily Telegraph that Agee met with the Cuban DGI station chief in London on at least 30 occasions before being expelled from England. While Agee is reported to have also made at least one trip to Moscow, it would appear that he is operating primarily under DGI control. The DGI is virtually an arm of the Soviet KGB. Agee has been barred from several Western European countries because of his nefarious activities.

Among the most nefarious of those activities is Agee's campaign to expose the identities of Western intelligence agents. The admitted goal of this campaign is to make it difficult for our intelligence service to function. Agee said in his 1975 Esquire article, "Eventually, perhaps, CIA people can be neutralized faster that Mr. Colby can hire them for mischief abroad."

The fact that the agents Agee identified might be harmed or even assassinated is apparently of no concern to Agee. In Esquire he said, "Yes, a few might suffer if I revealed their names." He said his concern for former colleagues "paled beside the comprehension that the results of their work brought even greater suffering to many people."

These facts about Agee could easily have been ascertained by officials of the Public Broadcasting Service and the Corporation for Public Broadcasting when it was proposed that they fund and air these programs on the activities of the CIA and U.S. foreign policy through the eyes of Philip Agee and his friends.

It is difficult to believe that any responsible broadcasting entity, much less one financed largely by the taxpayers, would wish to cooperate in airing a lengthy attack on the U.S. government, its foreign policies, and its intelligence service by a man who admittedly aspires to be a communist and who is a known collaborator with the intelligence services of countries dedicated to our destruction.

Agee's motives are clear. It is obvious that he expects this film to help advance his goal of weakening the ability of the U.S. to compete with the KGB in the ongoing war of intelligence. This will contribute to what he presumably hopes will be the ultimate triumph of his communist friends, not only in Asia, Africa and Latin America, but in Europe and the U.S. as well.●

WITHHOLDING ON SAVINGS AND INVESTMENT EARNINGS

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. SENSENBRENNER. Mr. Speaker, the Washington bureaucrats have been brainstorming another money-grabbing scheme. Their scheme is to withhold tax on savings and investment earnings.

The proposal, as outlined by Secretary of the Treasury G. William Miller, would require banks, savings and loans, investment firms, and corporations to withhold 15 percent of an individual's interest and dividends per quarter, with banks and thrift institutions having an annual withholding option. The plan was one of several anti-inflation proposals outlined by President Carter on March 14.

The reason for offering this proposal, as claimed by the Treasury Department, is that some people are not paying income tax on their dividends. The assertion fails to mention that between 84 percent and 91 percent of the taxpayers are declaring interest and dividend income.

This above assertion also completely glosses over the fact that IRS already has on file the records of the individuals who are not paying taxes on their savings and dividends. This information can be obtained by utilizing the information on Treasury form 1099, the form that every saver receives from his bank at the end of the year showing how much he or she has in savings and how much interest is received. Unfortunately, the IRS has such a muddled bureaucracy that this information cannot be extracted to find out who pays and who does not pay. The IRS should be concentrating its efforts to collect from the people who are cheating on their taxes. The 85 percent of the law-abiding citizens should, who declare the interest and dividends, should not be penalized.

The imposition of a whole new pile of forms and reports on banking institutions and individuals is wrong. The onus of paying in advance being placed on people who pay their tax because IRS cannot catch the cheater should not be tolerated.

Another reason for opposing this proposal is that the extraction of savings will take a large amount of very important investment money out of the marketplace. It will take 15 percent of what a person has saved out of his or her account where it will be unable to earn interest, and will also take a large slug of money out of the control of the saver. This is nothing more than a way for the IRS to receive an interest free loan on 15 percent of all savings in the country.

This proposal will also have a damaging effect on people on fixed incomes who depend on the interest in their savings account to supplement their income. By taking this money away, the Federal Government is saying that the money does not belong to the individual who saves it and that it cannot be used by the saver as he or she sees fit; to save, spend or use for emergencies.

Nearly every economist agrees that the standard of living today requires increased savings and investment in order to generate healthy, noninflationary growth. Ironically, President Carter has conceded that the current rate of savings in this country "is now the lowest in more than 25 years." Today, Americans are saving at less than half the 1975 rate. And Congress has just acted to encourage greater savings by exempting the first $200 in such earnings from taxation.

At such a time, it would make little sense to introduce a new disincentive against savings and investment by adopting a withholding plan that would have the effect of increasing the tax on such income.

The House Ways and Means Committee is presently holding hearings on this proposal. Hopefully, this proposal will never see the light of day and will never be reported out of the committee.

The public interest would be better served if the Carter administration dropped the withholding proposal altogether and concentrated on collecting the taxes from the negligent 9 to 16 percent who fail to report.●

ENERGY SECURITY ACT—S. 932

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. DODD. Mr. Speaker, the Energy Security Act, S. 932, represents a long overdue commitment of Federal dollars to promote energy independence for America. While many of us in Congress may differ with the spending priorities established in this bill, none of us can question the need to take this first step away from our dependence on foreign energy supplies.

In 1970, the U.S. foreign oil bill was $3.7 billion. Now, the price of our Nation's dependency on imported oil is reaching perilously close to a cost of $100 billion. In 1970, the price of imported crude oil was $1.80 per barrel. Today the base price is $37 per barrel, an increase of 1,700 percent over the last 10 years. Those figures spell disaster for our economy and our national security unless we can aggressively pursue the production of new sources of energy and encourage conservation techniques.

The Energy Security Act provides $25 billion for exploration of a variety of energy alternatives including synthetic fuels, renewable resources, conservation, and gasohol. It also mandates two actions especially critical to the Northeast—the filling of our strategic petroleum reserve and a study of the acid rain problem.

Fully $20 billion is authorized in S. 932 for the development and production of synthetic fuels from coal, peat, shale, and tar sands. A. U.S. Synthetic Fuels Corporation (SFC) would be established to provide loans, loan and price guarantees, and joint ventures to stimulate private industry investment in synthetic fuels production.

The goals of the SFC as set out in the bill are to produce the equivalent of 500,000 barrels per day in synthetic fuels by 1987 or 8 percent of our current imports of fuel and 2 million per day by 1992. The development of synthetic fuels offers great promise for the future, but there are a number of problems and uncertainties connected with synfuel production. So far, we have not found a way to produce an adequate supply of synthetic fuel economically and without unacceptable damage to the environment, particularly in the Rocky Mountain States.

This bill, however, requires annual reports to Congress on progress in synfuel projects so we will have the opportunity to review research and development efforts and reassess the entire synthetic fuels program after 4 years. Environmental impact statements must also be made on all of the corporation's projects.

The Energy Security Act is not entirely a synthetic fuels bill. The bill also includes several important provisions initiating new conservation and renewable energy projects. The $1.45 billion in loans and loan guarantees has been earmarked for biomass programs to convert urban waste into energy and other organic material such as wood and agricultural products into alcohol for fuel. This increased amount of funding for biomass will encourage not only the Nation's gasohol market but also projects similar to the waste conversion plant already operational in Bridgeport, Conn.

The Energy Security Act also will provide $3.1 billion to establish conservation and solar banks that will offer Federal subsidies in the form of below-market loans, loan guarantees, and grants to finance solar and conservation work in homes, apartments, and small businesses. As an original sponsor of the solar bank bill in the House, I am especially pleased that the Federal Government is finally making a clear commitment to the advancement of renewable energy technology.

However, the $3 billion included in this bill for the energy banks is not, in my opinion, enough to enable us to realize the full potential of conservation and solar energy. But this new funding is a good beginning, and I believe that the experience of the coming years will prove the worth of these alternatives to continuing oil imports. We must devise an effective national strategy to break the hold of OPEC, and energy conservation in our homes and businesses is a vital part of that strategy. For future generations, though, the answers to our energy problems may well lie in the development of renewable resources such as solar, wind, hydro, and biomass energy.

This legislation would also expand the current utility audit program to include small commercial offices and apartments as well as residences and permits utilities to make loans to their customers to make energy-saving improvements. I have long been a supporter of the house-doctor concept that encourages utilities to offer energy audits of homes to show homeowners how they may best reduce their conception of energy. Expanding this program will insure that weatherization and insulation measures will also be applied to larger buildings.

Another key provision of this omnibus energy bill requires the administration to fill our Nation's strategic petroleum reserve to a level of 500 million barrels of crude oil or a 75-day supply of fuel. The reserve now contains only 92 million barrels or a 12-day supply, far short of the 500 million barrel goal set by the administration to be reached by the end of this year.

The mandate in S. 932 is to start filling the reserve again at the rate of at least 100,000 barrels of crude oil per day. Congress has already authorized a $4.1 billion expenditure for stocking the reserves but none of the money has been spent. An adequately stocked strategic petroleum reserve is our insurance policy against future OPEC oil cutoffs and is critical to Connecticut because of our region's heavy dependence on foreign oil.

Finally, S. 932 authorizes up to $50 million for a 10-year study of acid rain. Acid rain is produced when gases from coal combustion combine with water in the atmosphere to form sulfuric acid. Acid rain causes serious environmental damage, and Connecticut has one of the worst acid rain problems in the country. Consequently, the acid rain study could prove to be of particular importance to my State where several powerplant facilities are being considered for conversion to coal use.

The Energy Security Act gives our Nation a foundation on which to build our country's energy security and a new direction in the fight to become an energy self-sufficient Nation. I would urge all of my colleagues to support passage of the conference report on S. 932 when it comes before the House tomorrow.●

GAO COMMENTS ON FEDERAL FOOD LABELING PROPOSALS

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. WAMPLER. Mr. Speaker, tomorrow the House Appropriations Committee is scheduled to take up Agriculture, Rural Development, and Related Agencies Appropriation Bill, Fiscal Year 1981—H.R. 7591. One of the items contained in the report to accompany the bill is a discussion of several food labeling proposals announced jointly last December by the Department of Agriculture, the Food and Drug Administration, and the Federal Trade Commission. American agriculture is deeply concerned by these proposals. On May 28, 1980, the Comptroller General of the United States sent a critical evaluation of these proposals to the heads of these departments and agencies. Inasmuch as I want to discuss the GAO's evaluation with Members of the Appropriations Committee during consideration of the bill H.R. 7591, I insert the letter from the Comptroller General Elmer B. Staats, dated May 28, 1980 to Secretary of Agriculture Bob Bergland and the enclosures, Comments on Proposed Food Labeling Regulations (CED-80-89), to be printed in the RECORD for the benefit of Members during the debate, immediately following these comments.

The letter and enclosure follow:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 28, 1980.

Hon. BOB BERGLAND,
The Secretary of Agriculture.

DEAR MR. SECRETARY: Enclosed is a copy of our evaluation of an advance notice of proposed rulemaking entitled "Food Labeling: Tentative Positions of Agencies." We commend the agencies for their original objective of developing a comprehensive food information strategy to improve the public's understanding of the food it buys and eats. We believe this objective—if achieved—will be extremely beneficial to U.S. consumers.

Our evaluation, however, indicates that the proposed regulations will fall short of the original objective as they do not constitute a comprehensive strategy for informing the public about food and nutrition. We believe the strategy must be developed before proposed food-labeling regulations are issued. Furthermore, the strategy should emphasize consumer education rather than industry regulation.

For this reason, we believe the strategy should be developed cooperatively by the many parties with knowledge of food and nutrition. One vehicle for bringing together existing knowledge and resources would be a Presidential committee of representatives from Federal, State, and local governments; industry; consumer groups; trade associations; communications specialists, educators, researchers, and health professionals. The committee could develop guidelines for providing the consumer with useful, understandable information about food.

You and the Secretary of Health and Human Services and the Chairman of the Federal Trade Commission have taken the initiative and cooperated successfully to develop dietary guidelines and a wide range of education and communication methods that could be used to improve the Nation's diet and health. Therefore, we believe you should be the leaders in creating a Presidential committee or some other forum to establish a comprehensive national food information strategy.

We are sending the same letter to the Secretary of Health and Human Services and the Chairman, Federal Trade Commission. Copies of this letter and the enclosure are being sent to the Commissioner of Food and Drugs, Department of Health and Human Services; your Assistant Secretary for Food and Consumer Service; and the Director, Bureau of Consumer Protection, Federal Trade Commission.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

Enclosure.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., April 21, 1980.

HEARING CLERK (HFA-305),
Food and Drug Administration,
Rockville, Md.

Subject: Comments on Proposed Food-Labeling Regulations (CED-80-89).

We have reviewed the food-labeling positions proposed by the Departments of Agriculture and Health, Education, and Welfare and the Federal Trade Commission in an advance notice of proposed rulemaking published in the Federal Register December 21, 1979 (Docket Number 78N-0158). We are providing our analysis of these proposals in response to the agencies' request for comments.

In the notice of proposed rulemaking, the agencies state that current food-labeling laws and regulations—established on a piecemeal basis over the last 74 years—are complex and sometimes duplicative and/or inconsistent. To correct this situation, the agencies set out to develop an overall labeling strategy that would give consumers the information they want and need to make informed food choices. The agencies intend to begin immediately implementing new regulations and drafting new laws, unless public comment presents compelling arguments or substantial new evidence against the proposals. The agencies expect their new labeling policies to be in full force within the next 2 years.

We commend the Federal agencies for their original objective of developing an overall food information strategy to improve the public's understanding about the food it buys and eats. We believe this project's objective, if met, will benefit the American public's diet and health.

Our evaluation, however, indicates that the proposed regulations will fall short of the agencies' original objectives as they do not constitute a comprehensive strategy for informing the public about food and nutrition. We believe such a strategy should be developed *before* proposed food-labeling regulations are issued. Furthermore, this strategy should emphasize consumer education rather than industry regulation. While the agencies have generated needed debate and increased consumer awareness, more must be done. To succeed, the project must be accepted by everyone affected. For this reason, we believe the strategy should be developed cooperatively by the many parties with knowledge of food and nutrition.

NEED TO DEVELOP A MORE COMPREHENSIVE STRATEGY TO INFORM THE PUBLIC ABOUT FOOD

The Federal agencies' food-labeling proposals focus on providing consumers with information by requiring, through regulation, that certain data be printed on food labels. This approach is limited and does not carry out the agencies' original intentions to develop and implement a total food information strategy.

Our analysis indicates that development of a comprehensive strategy depends upon first determining:

What information on diet is critical to proper health maintenance, product quality, consumer preference, and cost-effective food choices.

What are the best methods to educate the consumer in effectively using this information.

Without an effective food information strategy that answers these questions, both industry and consumers will be shortchanged: consumers will not have enough information to make informed choices, and industry may not be able to plan effectively for the future because it may not be certain of what is required.

Originally the Federal agencies envisioned an overall strategy to improve the public's confidence and understanding about the food it buys and eats. Now, however, they support the piecemeal implementation of a series of regulations that require certain information to be placed on food labels without proper assurance the information is needed or can be used by consumers. It appears unlikely the agencies will be able to gain adequate support for their tentative positions on food labeling because their focus is too narrow and because of the adversary spirit that typically results from imposed regulations. Instead of mutual understanding and cooperation, an atmosphere of animosity and mistrust appears to be developing between Government regulators and the food industry. For example, industry and related associations have commented that:

Proposed regulations have considered labeling of food products as the only way of communicating with consumers without clearly demonstrating that it is the best, most feasible, and cost-effective method.

Consumers may not need or use all the information that the agencies want to require on food labels.

Proposed regulations do not require that information be available for fresh meat and fruits and vegetables, alcohol, and food eaten in restaurants. Yet these foods account for over 50 percent of the money Americans spend on food.

Economic impact and feasibility studies have not been performed. Regulations that encourage change in eating habits could have a bad impact on small businesses and farmers that grow certain crops. Also, costs could exceed proposed benefits. Many Americans are concerned about regulation impacts and want them assessed before changes are made.

FOOD-LABELING PROPOSALS NEED INPUT FROM AND COORDINATION WITH OTHER SOURCES

The Federal agencies have succeeded in generating needed debate and increasing consumer awareness about food. The recent publication "Dietary Guidelines" is an example of Agriculture and Health, Education, and Welfare's cooperating and taking initiative to coordinate data, research findings, and nutrition messages. Also, other agencies within the Departments, such as the Public Health Service, have developed material describing a range of education and information methods that the media, government, schools, private sector, health care systems, and others could use to improve our Nation's diet and health.

We commend the agencies for their initiative and spirit of cooperation in developing this range of information. But putting the strategy into use will require the agencies to go a step further. We believe that many sources—educators, consumers, and industry officials—must have a hand in implementing the food information strategy to assure its acceptance by the public, industry, and all others affected. Without participation by these groups, a comprehensive program to inform the public about food is not likely to be developed, much less implemented.

Like the United States, several foreign countries have developed dietary and nutritional goals aimed at encouraging changes in eating habits and improving the health of their citizens. One of the countries, Sweden, has established a 10-year diet and exercise program, developed by panels composed of national and local government representatives, educators, industry officials, and consumers. The main thrust of the program is education and national promotion directed at specific segments of the population. The Swedish Government has judged early results of the program as successful in improving consumer knowledge of nutrition and the health of the general population.

CONCLUSIONS AND SUGGESTIONS

We believe that the Federal agencies' proposed food-labeling regulations should not be implemented at this time because they could result in information being placed on food labels that is not needed, used, or understood by most consumers. We are not advocating additional extensive research. Rather, we believe that existing knowledge and resources need to be brought together so that agreements and tradeoffs necessary to formulate a national food information policy or strategy can be reached and assessed.

One vehicle for formulating a national food policy would be a Presidential committee composed of members from Federal, State, and local governments; industry; consumer groups; trade associations; communication specialists, educators, researchers, and health professionals. This committee could provide guidelines to equip the consumer with useful and understandable information about food.

We believe the committee should do the following in formulating a national food policy:

Establish and periodically update a nutrition and food data bank, through which inquiries could be made about food, nutrition, and health.

Target information to all segments of the public, particularly those with special nutritional needs—the elderly, pregnant women, lactating mothers, children, etc. Some approaches are (1) food labeling, (2) school programs, (3) media advertisements, (4) reinforcement by the health professions, (5) point of sale leaflets, and (6) package inserts.

Set interim and long-term goals and time frames for measuring accomplishments, adjusting approaches as needed. Market-test alternative information approaches and measure their effect.

Thank you for the opportunity to respond to the food-labeling proposals. We hope our preliminary analysis and suggestions will be helpful to the agencies in finalizing their food-labeling regulations. If you have any questions about this letter, please call Mr. William E. Gahr, Senior Group Director, Community and Economic Development Division, (202) 275-5525.

GREGORY J. AHART,
Director.●

REPEAL OF DAVIS-BACON ACT

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. BEARD of Tennessee. Mr. Speaker, inflation continues to erode the purchasing power of the American dollar. And now, due to high interest rate economic policy, unemployment rolls are swelling. The grim reality is that inflation for 1980 will run at 13 percent and unemployment rates for the year will approach 8 percent.

It appears the President has deliberately chosen to sacrifice American jobs in order to halt escalating prices—perhaps feeling this is an easier course to follow than resisting special interests and cutting Government spending. The constituent input I have received rejects this view, and so do I.

Today, I am introducing a bill expressing the sense of Congress that President Carter use his discretionary authority to suspend the Davis-Bacon Act. This act, passed during the Depression in 1931, was intended to prevent itinerant labor from underbidding local wage rates. At the time, there were neither minimum wage laws nor unemployment compensation. The act requires payment of prevailing wage rates, which results in considerably higher wages than would be the case under free market, competitive bidding. The General Accounting Office has documented the inflationary impact of the act, estimating that its direct effect is over $700 million annually. Other sources indicate that this total may be as high as $6 billion if indirect costs are included.

Elected officials in both the legislative and executive branches are searching to find cures for the ailing economy. Hearings and meetings have been held, and theories examined. Ironically, steps that can be taken within the context of current law seem to have been overlooked. Davis-Bacon is a perfect case in point. A suspension of the act would be an administrative dream, only requiring the President to exercise authority he already possesses.

One often nationally cited example of the act's inflationary tendency occurred in my district—in Dickson. The city received Federal aid for the construction of a single room added to the water plant, and consequently, the small project was covered by Davis-Bacon requirements. Three months after the wage determinations were made, the Department of Labor undertook a local survey to determine the prevailing wage. This was not really necessary, because the wages had already been set at the union rates from noncontiguous Davidson County. These higher rates and the additional reporting requirements doubled the projected cost of the room.

In spite of such mismanagement, proponents of Davis-Bacon argue that prevailing wage determinations can be made with greater accuracy. GAO, however, maintains that modifications of this procedure is unlikely to be successful. Nearly 50 years of Labor Department determinations tend to confirm this claim. Even though union rates prevail in just 42 percent of the cases, the Department of Labor awards union rates—typically 20 to 40 percent higher—in 66 percent of the determinations made.

Not only is Davis-Bacon costly, it also conflicts with other Federal policies. For instance, the Federal Government decides to build a low-cost housing project to provide low-income families with affordable shelter. Davis-Bacon requirements, however, increase the cost of building the apartment project by 15 to 20 percent. Thus, laborers employed in the Government construction effort receive higher wages than they would if they were employed privately, but the cost of subsidized housing is driven up beyond the reach of targeted families.

This year the President and Congress are engaged in a concerted attempt to balance the Federal budget. I commend and wholeheartedly endorse this concept, but am very much opposed to raising taxes to match Government expenditures. Quite simply, its nothing more than a sham to placate special interest groups and then pin the burden on the general public. The Congressional Budget Office conservatively projects a $134 million fiscal year 1981 budget saving from repeal of Davis-Bacon. Obviously, this is another significant justification for Congress to reassess the need, value, and impact of this almost 50-year-old legislation.

The legal and economic environment in 1931 was very different than it is today. Workers now enjoy the protection they deserved, but were not afforded during the Depression. Davis-Bacon is an anachronism. Not suprisingly, calls for repeal have been sounded for several years, only to be stifled by organized labor. Still, a Presidential suspension is entirely appropriate at this time. It would aid the construction industry, lessen inflationary pressure in the economy, and eliminate needless Government spending. Equally important, a suspension would provide the experience necessary to determine if Davis-Bacon should be repealed once and for all.●

A SALUTE TO THE VETERANS' ADMINISTRATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. GUARINI. Mr. Speaker, this year marks the 50th anniversary of the Veterans' Administration. In New Jersey we have an efficient operation, and I would be remiss if I did not pay tribute to the New Jersey facility, under the direction of James Purdy.

Nationally, the Veterans' Administration, with Max Cleland as its Director, administers various programs in the area of hospitalization, pension compensation, housing, education, training, counseling, and other areas. It attends to programs affecting 30 million veterans nationally from America's wars and their families.

In New Jersey, the Newark office, which handles the 14th District, represents 1,108,000 veterans who, with their families, number 6 million.

Mr. Purdy and his staff of 362 handle all the veterans problems in the State except the three VA hospitals.

More than $500 million is pumped into the State's economy annually for pensions and other programs.

Mr. Purdy, a Navy veteran of World War II, was graduated from Hartford University, received a degree from New England Law School and earned a master's degree from Suffolk University in Boston. He is president of the New Jersey chapter of the Federal Bar Association.

In order to spotlight the great work the VA nationally, especially the New Jersey office, is doing daily, I am meeting with Mr. Purdy on Monday, June 30, at brief informal ceremonies. I have asked Hudson County's three Congressional Medal of Honor winners, Francis X. Burke, John Meagher, and Steve Gregg, to join me on this occasion, along with representatives from the Veterans of Foreign Wars, of which I am proud to be a lifelong member; the American Legion, the Disabled American Veterans, the Jewish War Veterans, the Catholic War Veterans, the Amvets and the Veterans of World War I.

The work of America's servicemen and the Veterans' Administration has special significance this year because of the many international problems our Nation is confronted with.

I believe the attitude of so many of our servicemen can most succinctly be reiterated in the following quotation by Daniel Webster.

AN AMERICAN

> I was born an American; I will live an American; I shall die an American; and I intend to perform the duties incumbent upon me in that character to the end of my career. I mean to do this with absolute dis-

regard of personal consequences. What are the personal consequences? What is the individual man, with all the good or evil that may betide him, in comparison with the good or evil which may befall a great country, and in the midst of great transactions which concern the country's fate? Let the consequences be what they will, I am careless. No man can suffer too much, and no man can fall too soon, if he suffer, or if he fall, in the defense of the liberties and constitution of his country.

Mr. Speaker, our Nation takes great pride in the valor of our men, and we stand proud, tall, and most exalted when we salute our veterans of all wars and the Veterans' Administration that has served them so well for the past 50 years.

I am pleased to inform my colleagues of this tribute, and I am sure that they will join with me in extending their congratulations to the Veterans' Administration.●

THE NEW COMMUNIST CONSPIRACY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. McDONALD. Mr. Speaker, in the October 1944 issue of Reader's Digest, Mr. Alexander Barmine, a high-level defector from the Soviet Union, attempted to explain the Communist strategy to the American people. His article is still timely in that after reading his article one can see how the Communist goals that Mr. Barmine outlined have been achieved in some respects and most of all how little has changed in spite of détente and other sweet sounding words. For a moment, it looked as though the Soviet invasion of Afghanistan had awakened the American Government and the American people, but like the Soviet invasion of Czechoslovakia, the signs now abound that we are about to go back to the peace-at-any-price policy, and forget this lesson. Therefore, I especially commend this article to the attention of my colleagues.

The article follows:

THE NEW COMMUNIST CONSPIRACY

Recently the American press has talked less and less about the Communist danger. Yet that danger has never been greater than it is today. As one who worked 20 years under the Communist dictatorship in close association with the Soviet leaders, I feel it is my duty to warn the American people against this insidiously growing menace to their free institutions.

The present situation is a curious paradox. The United States is waging a deadly struggle against Nazi totalitarianism. All its energies, labor, wealth, thousands of its lives, are being sacrificed to destroy this enemy of democracy. Yet, at the same time, in the press, on the radio, in the Government and among liberal circles supposed to represent the vigilant conscience of the nation, there is in process a moral and psychological disarmament before another totalitarian conspiracy—that of the Communists—which threatens our democracy even more seriously.

It is dismaying to see how our Left intellegentsia, swayed by subtle Communist propaganda, have transformed the triumph of superhuman fighting will of the Russian people into a triumph of the totalitarian Communist regime. The Russians had no choice but to fight under whatever regime they had, and they rightly decided that foreign tyranny would be worse than native. But what shall we say of American "democrats" who, instead of praising the Russian people and hoping they may reap the reward of freedom, praise the regime that oppresses them and compare it favorably with our democratic way of life?

The unspeakable tragedy of the Russian people is that they are compelled to fight the foreign aggressor without any rights or liberties of their own. Every second family of these Russian fighting men has lost someone in a purge, or to one of the concentration camps in which at least ten million victims of the dictatorship are still enduring a living death.[1]

HAPPY ACCIDENT

Under cover of this undiscriminating praise of "Russia," the totalitarian Communist habit of thought is penetrating insidiously into the body of American democracy. The credit which was passed from the Russian people to the totalitarian regime is being further handed along to the American Communists—those rabid isolationists during the Stalin-Hitler pact and "patriots" only since Hitler attacked Russia. But for the happy accident that Hitler made his attack on Russia before instead of after Pearl Harbor, these Communists would now be in jail with the Nazis. But that does not prevent them from playing, with the help of high-up New Dealers, a more and more important role in American politics. Few even of their enemies realize how important that role is.

The "dissolution" of the Communist Party, which set so many naive minds at rest, marked the beginning of a Communist conspiracy in the United States, which is vastly more dangerous than the original party ever was to our institutions. To anyone familiar with Communism, this maneuver was not a new one. From its foundation by Lenin in 1903, the Russian Bolshevik movement always had two organizations, one "legal" and one "underground." The function of the legal party was to set the stage for a seizure of power by the controlling underground group. To "liquidate" the legal party altogether in certain situations was a recognized, frequently discussed maneuver. The American Communists have now executed that maneuver. Unless you understand this, you will never find your way in the present maze of Left-Wing politics.

Four events recently followed one another in quick succession:

1. The transformation of the Communist Party of America into an "educational" association;

2. The winning by the Communist Left Wing of control of the American Labor Party;

3. The emergence of the Political Action Committee of the CIO as a major force in Democratic Party politics; and

4. The "dismantling" of certain special departments investigating Communist activity in our Army and Navy Intelligence, and the attempt to destroy their files.

Few understood the connection between these events. Yet they marked the beginning of a grandiose plan for the penetration and eventual conquest of American social, political and governmental institutions—a new Communist conspiracy.

NEW DISGUISE

For many years the American Communist Party functioned, with a frank program of overthrow by violence, as an open revolutionary party. The result was complete failure. The American people repudiated this overt attack on democracy, and the party remained a small isolated group. In all these years it never elected one Representative or Senator, and at Presidential elections never polled much more than 200,000 votes. The sole pro-Communist elected, Representative Marcantonio, of New York, campaigned as a representative of democratic organizations. But Marcantonio's success was significant, and it taught the Communists a lesson. They began to tone down their extreme program, and to penetrate our established political institutions in disguise.

It was not, however, until the Soviet Union was attacked by Hitler, and needed vastly increased help from American capitalism, that the Communists started going through the motions of suicide. This began in February 1943 when the Party published in full-page ads in 16 newspapers throughout the country a speech of its General Secretary, Earl Browder, entitled "Hitler's Secret Weapon—the Bogey of Communism." Browder laughed at democratic Americans for taking seriously the Communist threat. "American democracy," he said, "must grow up and stop believing in ghosts and witches."

Probably nothing like that had ever happened before—a political party spending $56,000 (the estimated cost) to hold its own program up to ridicule as a bogey.

But stranger things were to come.

On May 22 the dissolution of the Communist International was announced in Moscow, and Browder promptly wrote a letter to the press offering "to responsible groups and leaders in American public life" the assistance of the Communist Party in "a cooperative effort to lay the specter of Communism." And in January 1944, at an immense mass meeting in New York's Madison Square Garden, Browder "recommended" that the Communist Party go out of business! It was to be replaced by a "Communist political association." But this association would "oppose all strikes" and champion capitalism, the "big bourgeoisie," the program of the National Association of Manufacturers—everything to which Communism is diametrically opposed.

The nation's bewilderment at this volteface was typified by a New York newspaper, which called it "the most amazing episode in the history of American Communism," and asked: "What is left of Communism?"

What is left of Communism is exactly what existed at the beginning—an astute and unscrupulous conspiracy to lay the groundwork for eventually seizing political power in the United States and transforming this country into a totalitarian Communist dictatorship. The reason Americans are bewildered is that they cannot understand totalitarian methods. They imagine that a group aiming to transform America from capitalist to Communist must necessarily advocate Communism. But totalitarian conspirators do not care what they advocate. All they want is to get their accomplices in key positions. All they care about is power. Ideas, faiths, programs, parties, political associations—to them, all these things that Americans take so seriously are merely tricks and implements for the seizure of power.

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[1] Victor A. Kravchenko, Soviet official who recently resigned in Washington, places the number at 15,000,000. ("I Broke with Stalin's Russia," *Cosmopolitan Magazine*, July, '44.)

THE GRAB FOR POLITICAL POWER

This was made clear in the second of those four events previously mentioned. With the help of Sidney Hillman, a small thinly camouflaged Communist minority took over the American Labor Party, representing half a million votes in New York State. This might easily put into their hands (and at the disposal of Moscow) the balance of power, and likely the fate of a national election, in that state.

It would be impossible to exaggerate the significance of this event. To Communists it was a revelation of the sure way to power in the United States, a triumphant vindication of their new non-Party policy. If a small group of Communists, camouflaged as Left trade-unionists, could capture the whole Labor Party, why could not other groups, donning an even more conservative disguise, capture key positions in the Democratic or Republican Party? Experience with the Labor Party showed that they could find politicians ready to play the game, provided the real purpose was not mentioned.

Thus the next step in the Communist conspiracy was the attempt, through the Political Action Committee [2] of the CIO, to gain a dominating power in the Democratic Party. Here, as in the capture of the Labor Party, their accommodating ally is Sidney Hillman. He has placed no Communists in formal leadership of the PAC, but he has granted to Communists the key positions they require in order to back the PAC as one of their own organizations.

"Every worker must take action to broaden the influence of the PAC. . . . To know what to do and how to do it, you need the Daily Worker." So reads a circular letter sent out by the official organ of the Communist Political Association.

In its lower branches the PAC holds joint meetings with Communist organizations, and that much of its work is done by Communist zealots is well known to all. John L. Lewis, who has been through this game of trying to "use" the Communists for other purposes than their own, summed the thing up when he declared on February 29, 1944: "Philip Murray is the prisoner of the Communists in his own union. They control him and the CIO through their seats on his executive council, and there isn't a blessed thing he can do about it. Sidney Hillman is just as badly off. Both of them have got to play ball with the Communists now or die."

Less than four years ago Hillman himself warned the CIO against the very maneuver he is now engineering. At its Third Constitutional Convention, November 20, 1940, he pleaded—"with tears streaming down his face," to quote a New York reporter—against an attempt to cooperate with Communists who "cannot participate in the democratic processes."

"I must say to you that we must warn our young membership not to be misled by the fine speeches they will make, their professions of loyalty. . . . Their loyalty is to someone else. They will take orders. . . . I say to to you that these people are a menace to the labor movement."

Now Hillman is hand-in-glove with these same Communists. He thinks he is using them; but they know they are using him. There is just one way for democrats to beat totalitarians, and that is to refuse all cooperation and all political deals with them. Lewis learned this by bitter experience. Hillman knew it in 1940. What psychological change has come over Hillman in the meantime, I do not know; but politically only one big thing has happened. The Communists have liquidated their legal party, camouflaged themselves as democrats and procapitalist patriots of Americanism, and are conspiring in this new and more subtly unscrupulous manner to destroy our democratic institutions.

WHAT IS THE COMMUNIST PROGRAM?

The reader may find it hard to believe that the Communist Political Association really hopes, within a reasonable future, to seize the state power in America. But he must remember that, besides their "maximum" revolutionary program—total abolition of democracy and private enterprise—the Communists have a "program minimum" that must precede the "maximum" program—weaken democratic capitalist America to such an extent that she will be no serious rival to totalitarian Communist Russia.

The simplest way to achieve this objective is to create disunity inside the United States—to provoke racial and social conflicts, epidemics of hatred, suspicion, intolerance and political demoralization, until the situation borders on civil war. In short, to transform the United States into a country similar to France in the epoch of the Popular Front of 1939 and 1940.

This is the service that the American Communists, with help from liberal and New Deal groups and some members of the Administration, are now performing as their "program minimum." The present glorification of Russian totalitarianism serves this purpose directly. Every encroachment by the New Deal upon individual liberties, if not clearly required by the war effort, serves this purpose. The growth of bureaucracy, of an excessive apparatus of regimentation, serves it. Stirring up racial issues, inflating the facts of persecution, hysterical witch-hunting by the Daily Worker type of newspaper and by certain types of columnists—all serve this purpose. The perpetuation of one Administration for 16 years also serves it. The present Administration, moreover, because of its apparent blindness to the conspiratorial and totalitarian nature of Communism, consciously or unconsciously protects in numberless ways the success of the conspiracy. That is why, by orders from Moscow, the Communists are all out for the Fourth Term.

THE DRIVE ON THE NAVY DESK

But while Communists have taken over the Labor Party, and are penetrating the trade unions, worming into Government agencies in growing numbers, and hoping to get control of the Democratic Party, there are two Government institutions in which previously they have been unable to achieve any success at all. Those are the Army and the Navy. The Communists have failed here, first because high Army and Navy officers took an uncompromising attitude toward them, and second, because both possessed in their Intelligence services an extremely efficient apparatus for detecting, unmasking and blocking the Communist maneuvers—especially their efforts to penetrate into the officer corps.

To the Communists this was a disastrous defeat, for at the moment when their plot for the seizure of key posts and departments in the Government should approach completion, the attitude of the Army and Navy might frustrate the whole thing. Moreover, the exhaustive files on Communists kept by the Army and Navy Intelligence, besides barring them from responsible military posts, help to unmask those who are trying to win key positions in civil government.

That is why tremendous pressure was exerted to bring about, against strong opposition in responsible Army and Navy circles, a dismantling of those branches of the Army and Navy Intelligence which dealt with the activities of Communists and Communist-fronters, and a destruction of their files.

In the Third Naval District which includes New York City, headquarters of the American Communists, the Navy had build up an intelligently informed "Communist desk" which since Pearl Harbor had accumulated extensive files on subversive individuals and organizations. So authoritative had this intelligence unit become that its weekly reports of "trends" in the American Communist movement went regularly to the FBI, Army Intelligence and the highest Navy officers in Washington. The unit itself came to be recognized as one of the best in the country.

Several months ago, after the equivalent "desk" in the Washington Office of Navy Intelligence was partially dismantled, the New York "desk" was virtually abolished and its trained experts sent to remote and unrelated assignments elsewhere.

The embarrassment of Army and Navy officials when approached about such developments, and their half-denials, show that there has been a serious conflict, and that pressure has been strong. A U.S. Senator has asserted that an attempt was made to destroy the Army files on Communist activities, and that only prompt Senate action forestalled the attempt and preserved these vital files.

The fact that a few months earlier there had been a softening up the policy of the Civil Service Commission in questioning applicants as to their affiliation with Communist-front organizations shows that these moves have had backing in high circles. The influence of eminent Government officials, whether conscious or not, must have been used.

Such is the meaning of the four recent events mentioned. They reveal a flourishing conspiracy, helped by influential but foolish people, to undermine American democracy and the American State as a barrier against world totalitarianism. This conspiracy must be exposed.●

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[2] A more recent organization is known as the "National Citizens Political Action Committee."

TRIBUTE TO DAVID BONIOR'S CHAIRMANSHIP OF THE VIETNAM VETERANS IN CONGRESS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, a little over 2 years ago, I received a letter from DAVID BONIOR asking me to join with him and other Vietnam-era veterans in Congress in helping to focus congressional attention on the plight of the Vietnam veteran. I agreed to work with DAVE in this endeavor and I am pleased to have had the privilege. DAVE had the courage to champion an unpopular cause and in the process served both the Congress and the Vietnam veteran well during his 2 years as chairman of the Vietnam Veterans in Congress (VVIC).

With tremendous energy and persistence, DAVE BONIOR forced Congress and society as a whole to realize that the Vietnam veteran issue would not disappear simply because it was ignored. Dave's work caused many traditional veterans organizations to take stock of what services they were providing to this group of veterans. The traditional veterans groups now have greater motivation to recruit Vietnam vets, and Dave Bonior can be credited in part for this change in attitude and policy.

Dave Bonior spent time visiting VA hospitals to learn firsthand what kind of treatment our war-wounded Vietnam veterans were receiving and what their problems were. He worked with incarcerated veterans and helped to establish that, in many cases, their problems were psychological and war related. His direct contact with these veterans taught him about their needs and drove him to search for more effective programs to address their problems. His concern for good jobs and education benefits also came from taking the time to listen to Vietnam veterans, some of which were underemployed or unemployed and in need of more education to solve their problems.

I am sure that Dave Bonior will still struggle to help Vietnam veterans even though his term as chairman of the VVIC has ended. The House owes a debt of gratitude to Dave for his courageous, capable leadership of the VVIC, and for helping to chart a course which Congress can follow in its efforts to help the Vietnam veteran. I am confident that Dave will continue to flourish as a true leader in this and other areas of national importance.●

ATHLETES BOYCOTT THE OLYMPICS BUT USOC OFFICIALS PARTICIPATE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. STOKES. Mr. Speaker, as you know, we are rapidly approaching the date of the 1980 Olympic games in Moscow. Even though in this country we are pretending that the games do not exist and are down playing its significance, it is a fact that our athletes are being forced to boycott the most highly regarded competition in the world for political reasons.

Mr. Speaker, I do not have to remind my colleagues of the vote we took in this Chamber some months ago in favor of boycotting the 1980 Olympics because of the Soviet invasion of Afghanistan. I said then and I am reiterating now that the boycott will do nothing to curtail the Soviet invasion and that it will not prove to be overly detrimental to the Soviet Union. In effect, I did not think that the boycott would work.

Also, at the time of the vote, Mr. Speaker, I pointed out the misguided logic of the United States boycotting the Olympics because of the violation of human rights in Afghanistan vis-a-vis the invasion. As you recall, we declined to take such a stand on behalf of the African nations who boycotted the 1976 Olympics in Montreal because of the participation of New Zealand and that country's relationship with South Africa. We called that situation political but we call our situation protection of human rights.

Nevertheless, my colleagues voted to boycott the 1980 Olympics. Many of our Olympic hopefuls have been dejected and disillusioned about this situation since that time.

Now, the United States is committing a potentially devastating blow to the whole idea of the boycott. If allowed to happen, our credibility will be irreparably damaged abroad as well as at home. All I can think now is that I told you this would never work.

It has been reported that the U.S. Olympic Committee (USOC) officials will attend the Moscow meetings which coincide with the 1980 Olympics. Mr. Speaker, this is the height of hypocrisy. We are barring our athletes from participation in the Olympics but the USOC officials will have the opportunity to attend the meetings and may even be able to participate as scorers during the games. Am I to understand that we not only have two standards about human rights violations but also degrees of boycotts for the Olympics?

Mr. Speaker, I think that it is time for us to reconsider the move to boycott the Olympics. We asked our allies to boycott and have only received halfhearted support and now we are receiving halfhearted support from the USOC officials themselves. If we are going to boycott, we must all boycott. If we are going to participate, we must all participate.

There can be no middle ground on this issue. The record must be set straight once and for all.

At this time Mr. Speaker, I would like to enter an article in the Congressional Record which appeared in the June 20, 1980, Washington Post on the USOC officials attending the Moscow meetings during the Olympic games.

Athletes Scoff at USOC Officials Attending Moscow Meetings

(By Jane Leavy)

The Olympic flame came down from Mount Olympus yesterday, heading north for the 1980 Games in Moscow. When it arrives, American sports officials, if not atheletes, will be there to greet it.

The realization that some American officials will be in Moscow to attend meetings of international sports federations has sparked a note of ironic discord among athletes who are forbidden from attending the Games.

"I hope they have a nice time," said marathoner Tom Fleming. I hope they have a nice vacation, I hope it rains every damned day."

Bill Rodgers, who would have been the favorite to win the marathon gold medal in Moscow, said, "It was never a real boycott. It was always lacking in credibility. Now it's falling apart more and more. The Australians are increasing wheat shipments to Russia and meanwhile saying, 'We support you.'

"We've been sold down the river. The really unfortunate ones are the athletes who were for the boycott. They really look like fools."

Don Kardong, who was fourth in the marathon in the 1976 Games, put it more simply:

"This takes a hell of a lot of chutzpah," he said.

Swimmer Jessee Vassallo, who lost interest in the sport and stopped training for three months after the boycott was announced, said, "I, don't understand. Isn't there a boycott, nobody going?"

Major international sports congresses are generally held every four years at the site of the Olympic Games as a matter of convenience, according to Col. F. Don Miller, executive director of the U.S. Olympic Committee. Often federation officials are elected at these meetings, he said, and policy decisions are made.

The Carter administration approved the trips by various American sports officials so that key positions in the federations, and American influence, in general, would not be lost, according to Joseph Onek, deputy counsel to the president.

Willie Davenport, who has competed in both the Summer and Winter Olympics, said, "They're gonna lose their positions on various boards? Well, the hell with it. We're losing our position in the record books."

Kardong was equally unimpressed with the reasoning. "They're saying they need to be there or the structure of sport will be damaged. How much more damaged can it get? Isn't this supposed to be a national security issue?"

"What we objected to all along is that the boycott is specific to us," he continued. "It doesn't apply to any other U.S. citizens (there will be about 1,500 spectators and 150 media). This is just one more absurdity."

Miller says the athletes are being "short-sighted."

He pointed out that in April, when the USOC voted to approve the boycott, an athlete representative said, at the executive board meeting. "We don't want the representatives not to go because it is an extremely important forum for representation."

The need to preserve American influence in policy making and prevent "socialist countries from dominating . . . is the reason the USOC subsidizes two trips per year for the national governing bodies to international federation meetings," he said.

Round-trip economy airfare to Moscow will be paid by the USOC for officials who have not used up their two trips.

The USOC and the White House have asked officials making the trip not to remain as spectators or to participate in the Games as official scorers and judges. But according to Miller, they cannot prevent it.

(The USOC voted in April not to provide funding for officials who might want to assist in the running of the Games).

Ed Williams, the chairman of the Athletes Advisory Council to the USOC, said that based on conversations with officials of some federations there is concern that some may elect to stay on in Moscow and participate as scorers.

"What we don't want is business as usual for the officials," he said.

Williams says that while he does not object to officials attending meetings, he would object "to those going over as a joy ride. If they're going to go over and take their wives and make it a junket, there's going to be hell to pay."

Swimmer Joe Bottom said there's always been a double standard. "I've been to banquets where they have a buffet for the athletes, and a fancy sit-down dinner for the officials, with drinks that aren't served to swimmers."

Fleming said: "Some big, fat officials, former athletes who've forgotten, will be over there watching Lasse Viren win his fourth and fifth gold medals and we can't even watch on color television."

And there is great uncertainty about what the athletes will be doing. Track and field meets scheduled for July at the University of California at Berkeley and the University of Pennsylvania in Philadelphia have been canceled.

Both Rodgers and Fleming believe that the boycott will have a long-range impact on American athletic performance. "If you look at the world records that have been set in the last two or three months in swimming and track and field, they're all set by East Germans, Poles and Russians," said Rodgers. "They're moving ahead, while we're losing momentum. We are also losing our positions."

Benji Durden, who earned a position on the Olympic marathon team, when he finished second in the trials last month with a 2:10:41, accepts the reason for the officials' attendance.

"If they want to go, let them go," he said. "They can't hurt me anymore than they already have . . . But it's frustrating."

"And I'll tell you something else that's frustrating," he continued. "I got a letter this morning from the USOC. It says, 'We're attempting to find a competition you might be interested in attending at USOC expense. Do you have any ideas?' "●

HOUSE TAKES BACKWARD STEP ON NUCLEAR WASTE MANAGEMENT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. MARKEY. Mr. Speaker, the vote yesterday in the House of Representatives to reject the amendment of the gentleman from Pennsylvania (Mr. KOSTMAYER), offered to the fiscal 1981 energy and water appropriations bill, is a disturbing step backward in our Nation's nuclear waste management program.

The amendment sought to restore $9,680,000 to the NRC's 1981 budget for its Office of Nuclear Materials Safety and Safeguards, the office responsible for licensing and regulating nuclear waste facilities. The NRC requested $43,680,000 for this office to provide for sufficient resources and personnel—335 people—to oversee the environmental and public safety of our national program to provide for the permanent underground disposal of highly radioactive wastes. The Appropriations Committee OK'd only $34 million, which means that the NRC will be unable to increase this office's personnel from the 1980 level of 297 people.

In effect, this action hamstrings the NRC from stepping up the pace of its licensing supervision of the Department of Energy waste management program. It is regrettable, therefore, that the House yesterday failed to adopt the Kostmayer amendment.

In February, following the report of the Interagency Review Group on Nuclear Waste Management, the President announced a greatly expanded program to demonstrate and carry out the safe, long-term disposal of nuclear wastes. These wastes exist today both from the weapon's program, in the form of reprocessed high-level liquid wastes, and from commercial reactors, in the form of spent fuel.

The President's program lays out a timetable of careful study and exploration of various types of geologic media—salt, basalt, granite, et cetera—prior to the selection of the first waste repository. All decisions are to be made on a step-by-step basis, with the "development of all sites under the independent scrutiny of the Nuclear Regulatory Commission," in the words of Sheldon Meyers, Deputy Assistant Energy Secretary for Nuclear Waste Management.

"Early involvement in all activities for sites which are intended to be subject to future (NRC) licensing" is an important element in our waste management program, according to Meyers. Further, in his words, "Absence of this involvement could lessen the likelihood of NRC approval of unlicensed demonstration repositories for full-scale development."

In other words, the NRC effort is vital to the early stages of the DOE program. In order for the Commission to be able to issue a license for the operation of the eventual repository, it must be involved at each succeeding step in the repository development process. In addition, the NRC's expertise must extend to new technical areas—including new waste forms and new proposed geologic media. All this requires a beefing up of the NRC's program, not holding it back.

In February, President Carter announced a timetable for the construction of the first repository. Four to five suitable prospective sites were to be selected by 1985, and the repository was to be in operation by the mid-1990's. Now there are signs this timetable may begin to slip. In recent weeks, DOE has been quietly using a 1997 target date for opening of the repository. And an official of the U.S. Geological Survey believes that the goal of prospective site selection by 1985 now appears highly unlikely.

The NRC must play a strong role in guaranteeing that our nuclear waste management program is safe. It would be unfortunate, therefore, if actions taken by this House were to weaken the NRC in carrying out this assignment during the next year. Unless the NRC can make its investigations and findings promptly and completely in the earliest stages of the DOE program, we may risk unforeseen delays later on if questions are raised about the adequacy of the NRC oversight.

But there is a second reason to be troubled by the action taken to cut the NRC's waste management budget. In its report on the energy and water appropriations bill, the committee asserts that "until the question of commercial reprocessing is settled, the issue of commercial waste management cannot be settled."

It is unfortunate if our action yesterday is interpreted as striking a blow in favor of reprocessing. In the past 3 years, America has sought to discourage the emergence of a global plutonium economy. We have sought to discourage the spread of advanced nuclear power systems—such as nuclear spent fuel reprocessing—to make it difficult for nations like Taiwan, South Korea, Pakistan, and Libya to obtain bomb-grade plutonium. While we have not stopped entirely the worldwide transfer of sensitive technologies, in some cases we have certainly slowed that process. In 1978, for example, we succeeded in persuading 14 countries to agree on rules to limit the sale of sensitive nuclear components to less-developed nations. Today, for example, we are seeking to discourage Pakistan from developing weapons technology and to encourage India to refrain from further weapons testing.

Reprocessing does pose proliferation risks. That conclusion appears in the report earlier this year of the 66-nation International Nuclear Fuel Cycle Evaluation which spent 2 years studying this question at the request of the United States.

Reprocessing is not needed for nuclear waste management. That conclusion appears in the INFCE report also. What's more, reprocessing will actually make our waste management job more difficult, not easier.

In the words of an expert review of this question in the American Association for the Advancement of Science monthly magazine, *Science*:

> * * * reprocessing produces additional waste materials by converting the spent fuel into acidic liquid waste, cladding hulls, and process trash contaminated with plutonium. The volume of all reprocessing wastes would be from one to three times the volume of the spent disposal package. The high-level wastes from reprocessing would generate just as much heat as before, and disposal costs may depend more on heat then volume * * *. Although * * * reprocessing could achieve a small reduction in the long-term risks from nuclear wastes, * * * the largest risks from nuclear wastes are in their interim management * * *. Thus good waste management practice may weigh against reprocessing.

The report of the Appropriations Committee suggests that before we give the NRC an adequate budget to carry out its duties to license repositories, we must first decide, one way or the other, whether to resume commercial reprocessing. But it is important to understand that the early work of the NRC in carrying out studies relevant to its rulemaking and licensing authority will be little different whether the ultimate waste form is spent fuel or reprocessed waste. According to the Office of Management and Budget, the NRC must concentrate for at least the next 5 years on drafting regulations for ultimate licensing and preparing advisory opinions to DOE on ongoing activities. It will be highly unfortunate if any of this work is held hostage to a final decision on reprocessing.

Three years ago, President Carter announced that we would delay indefinitely our decision to begin commercial reprocessing, partly as a means to set an example to other nations still uncertain over whether or not to carry out such a program. I hope that we have not inadvertently sent the wrong signal to the world yesterday that American resolve to halt the spread of reprocessing worldwide is now beginning to waver.●

COMMENDATION FOR THE 209TH SQUADRON, OF PENNSYLVANIA CIVIL AIR PATROL

HON. RAPHAEL MUSTO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. MUSTO. Mr. Speaker, on June 8, 1980, the Civil Air Patrol Squadron 209, the Daniel J. Flood Squadron of the Pennsylvania Wing, served as honor guard at the Department of the Army's plaque presentation and wreath ceremony conducted at the Tomb of the Unknown Soldier in Arlington National Cemetery.

I rise today to call attention to this fine corps of volunteer civilian airmen in recognition of their outstanding performance. The 209th Squadron received a letter of commendation from R. J. Costanzo, superintendent of the Arlington National Cemetery, which follows:

DEPARTMENT OF THE ARMY,
Arlington, Va., June 13, 1980.

Lt. TILGHMAN L. SMITH,
Civil Air Patrol, Daniel J. Flood Squadron 209, Box 113, R.D. 2, Wapwallopen, Pa.

DEAR LIEUTENANT SMITH: I wish to take this opportunity to commend the Officers and Cadets of Squadron 209, 31st Wing, Pennsylvania Civil Air Patrol for their participation in the Plaque presentation and Wreath Ceremony which was conducted at the Tomb of the Unknown Soldier, Arlington National Cemetery, on 8 June 1980.

The entire unit conducted themselves in the most professional military manner. Their appearance and military bearing reflected a high degree of training and dedication. You can be justifiably proud of their performance at this solemn and noteworthy service.

May I also take this opportunity to especially commend Cadet Major Edward Czeck and Cadet Lt. Michael A. Smith. Their participation in the presentation of the Plaque and Wreath was flawless. They represented the Squadron with a calm dignity and poise that reflected respect for the entire unit.

Please convey my most sincere appreciation to all the members of the Squadron for their fine performance at this National Shrine to our Honored Dead.

Sincerely,

R. J. COSTANZO,
Superintendent.

The cadets of the 209th who served with honor and dignity on the honor guard are recognized, along with their previous service at the Tomb of the Unknown Soldier—the first three cadets were cited for meritorious service—are as follows:

CADET'S PREVIOUS SERVICE (TOMB OF UNKNOWN)

Maj. Edward Czeck: 1978—Wreath team; 1980—Wreath presentor.

1st Lt. Michael A. Smith, (Honor Guard, Honor Guard Commander): 1978—Wreath presentor; 1979—Orator; 1980—Orator, Plaque presentor.

2d Lt. Judith A. Smith: 1978—Wreath team; 1979—Wreath team; 1980—Commander, support guard.

WO Michael Solomon: 1979—Wreath presentor; 1980—Support guard.

WO Christopher Hall: 1979—Wreath presentor; 1980—Support guard.

WO Tilghman G. Smith: 1979—Support guard; 1980—Support guard.

S. Sgt. John F. Kennedy: 1979—Support guard; 1980—Support guard.

S. Sgt. Steven W. Smith: 1979—Support guard; 1980—Support guard.

Sgt. David Bozenko: 1979—Support guard; 1980—Support guard.

A. Desiree Ginyard: 1980—Support guard.

M. Sgt. Michael S. Lightman: 1979—Wreath team; 1980—Team medic.

I know our distinguished colleagues want to join me in congratulating the Daniel J. Flood Squadron 209 and in expressing sincere appreciation to all members of the Civil Air Patrol throughout this great Nation for their dedicated service.●

EXPLANATION OF TECHNICAL AND CLARIFYING AMENDMENTS TO S. 2245, THE MOTOR CARRIER ACT OF 1980, AND CERTAIN CLARIFYING REMARKS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HOWARD. Mr. Speaker, on Thursday, June 19, 1980, the House passed S. 2245, the Motor Carrier Act of 1980. During consideration of the bill, I offered a series of technical and clarifying amendments which the House agreed to. At that time, I intended to include for the RECORD a brief explanation of those amendments, but inadvertently did not do so. The explanation follows:

CONTRACT CARRIERS (SECTION 5)

These amendments rectify a drafting omission in the legislation. Section 5 provides that owner-operators which acquire either common or contract authority to transport processed food and certain other commodities need only file minimum rates with the Interstate Commerce Commission. As drafted, the section omits owner-operators with contract carrier authority. These amendments add such owner-operators to the provision.

EXEMPTIONS (SECTION 7)

These amendments clarify the Committee's intent with respect to certain transportation which section 7 exempts from ICC regulation. First, this section exempts the transportation of "shipping" containers, and not other types of containers. Second, it does not exempt the transportation of certain containers or devices used for the transportation of motor vehicle parts.

PRIVATE CARRIAGE (SECTION 9)

These amendments eliminate from section 9 of the bill any change in the definition of "private carrier". As reported, the bill amended the definition to expressly include corporations providing intercorporate hauling under section 9. Later, we determined that no change in the definition was necessary since the term "person" already picked up corporations. Further, the change raised a potentially controversial question over whether a regulated motor carrier could provide such intercorporate hauling.

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS (SECTION 11)

The bill establishes a 10 percent zone of rate freedom. It also provides that the base rate around which the zone operates is to be adjusted to coincide with changes in the Producers Price Index (PPI). This is to take into account inflation. Following the Committee markup, some groups expressed concern that the adjustment language could be construed as providing automatic indexing or could serve as a psychological benchmark for price increases. Neither of these results was intended. This amendment addressed those concerns. It clarifies that the upper limit of the zone of rate freedom is equal to 10 percent plus the percentage change in the PPI during the preceding 12 months. Thus, if the increase in the PPI during the past year was 8 percent, then the upper limit of the zone would be 18 percent.

TRANSITION PERIOD FOR RATE BUREAUS (SECTION 14)

This amendment does no more than provide for a transition period for the rate bureaus to revise their collective ratemaking agreements so that the agreements will meet the new conditions imposed by the bill. Rate bureaus are given 120 days after date of enactment to file new agreements. During that time and during the time it takes the Commission to review and to take action on the agreements, the bureaus may continue to function under their old agreements.

This amendment does not postpone the reforms made by this legislation. The bureaus must comply immediately. Plainly, this is in accordance with the Committee's intent to retain rate bureaus and the intent to reform them.

This transition period was implied by the legislation; this amendment eliminates any doubt as to that intent.

LUMPING AND WRITTEN CONTRACTS (SECTIONS 15 AND 16)

Section 15 of the bill, as reported, addresses certain concerns regarding loading and unloading practices. Following the committee markup, many suggested that the "words" in section 15 could be construed in a much broader manner than intended by the Committee. These amendments to sections 15 and 16 are intended to eliminate any question as to the Committee's intent.

Let me say, that the Committee's original intent was (1) to eliminate extortionate practices that occur on the docks, (2) to ensure that clear notice is given to owner-operators when they are responsible for loading and unloading their trucks, (3) to identify any compensation that the owner-operator is to receive for such loading or unloading, and (4) to ensure that any compensation provided for is received by the owner-operator. These amendments convey this intent in a more clear manner than does the bill as reported.

The amendments also provide for a study of loading and unloading practices. The study was added because the Committee wishes to know more about these practices so that it can more accurately deal with any other problems in this area. It is a matter that will be scrutinized closely in the Committee's annual oversight hearings on the effects of this legislation.

MIXED LOADS (SECTION 21)

This amendment deals with mixed loads of regulated and exempt freight. The bill now permits a regulated carrier to transport in the same vehicle at the same time mixed loads of regulated and exempt freight. The bill lists the types of exempt freight that carriers can transport under this provision. Freight transported incidental to air transportation inadvertently was left off of the list. This amendment adds such freight to this list.

SMALL COMMUNITY SERVICE STUDY (SECTION 28)

This amendment extends by one year the period of time the Interstate Commerce Commission has to study the effect of the bill on small community service. The bill now directs the Commission to submit its report by September 1, 1981. We now are convinced that that simply is not enough time to assess all of the effects of the legislation. Accordingly, the amendment changes the report date to September 1, 1982.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS (SECTION 30)

These amendments make three changes. First, they reduce the minimum level of financial responsibility for interstate for-hire carriers of general freight from $1,000,000 to $750,000. The purpose of this change is to meet recently expressed concerns about the ability of the insurance industry to write $1,000,000 policies for entire truck fleets. $750,000 is a more approachable figure for this type of freight. The bill's minimum levels of financial responsibility for the transportation of hazardous materials will not be changed by these amendments.

Second, these amendments ensure that DOT, in reporting to Congress on the effect of minimum insurance requirements, reports specifically on their effect on small and minority motor carriers and owner-operators.

Third, the amendments make a technical change in the definition of interstate commerce. As drafted, the definition does not include transportation between the United States and another country. The Committee clearly intended that such transportation be covered.

CUSTOMER SOLICITATION EXPENSES (SECTION 33)

The last amendments are intended to clear up a problem related to the meaning of the terms "business solicitation" and "entertainment expense." In the Committee report, we indicated that the two terms are intended to be synonymous. However, it turns out that they are not. To eliminate any misunderstanding as to what constitutes normal sales expenses, these amendments strike the reference to "business solicitation" expense. This is consistent with the Committee's original purpose.

Mr. Speaker, in addition to that series of amendments which were considered en bloc, I offered another technical amendment. The House also agreed to that amendment which made clear that section 7 of the bill exempts the transportation of certain "agricultural" plants from ICC jurisdiction, and not all plants.

Finally, Mr. Speaker, as I indicated to you, my colleagues, and Mr. Andrews at the time of the consideration by this body last Thursday—June 19, 1980; Congressional Record 15593—of this legislation, I would be getting an answer to the gentleman from North Dakota's question about clarification of what our committee intended to be covered as livestock and poultry feed in section 7. I am also amplifying the Journal for those proceedings to fulfill that commitment.

It seems to me that that section as written is clear. Further, pages 18 and 19 of the committee report also explain the provision by stating:

> To help alleviate this backhaul problem, the Committee believes that the unregulated motor carrier should be allowed to transport certain farm supply items back to areas of agricultural production. Accordingly, section 7 provides that the transportation of livestock and poultry feed and certain seeds and plants (that are not now exempt) be exempt from regulation by the Commission. The Committee expects this provision, along with other sections in the bill which help ease the way for owner-operators to get operating authority from the Commission to transport processed foods and agricultural fertilizers, should improve the operating efficiency of those carriers engaged in agricultural transportation and save fuel. In turn, that should help reduce the transportation costs on food items and on commodities used by farmers.
>
> This section of the bill also exempts the transportation of fish or shellfish by-products not intended for human consumption. Currently, fish and shellfish (except if treated for preserving) are exempt, but such by-products as fish meal, fertilizer, and pet food are not exempt. As a result of this situation, fish and shellfish processing plants must make separate arrangements with regulated carriers for the transportation of these by-products, which constitute a very small percentage of the items they ship. The Committee believes that no public purpose is served by the requirement that these shipments be handled separately.

Mr. Speaker, the committee used the historical definition of the Interstate Commerce Commission as to what is livestock and poultry and therefore the feed that would be exempted would comport with that definition. Or to put it another way, certain seeds or plants, feed for domestic animals as traditionally defined by the ICC plus fish or shellfish byproducts not intended for human consumption, transportation incidental to air, shipping devices, vesicular rock and wood chips are the only new exemptions added to title 49, section 10526(a) of the United States Code.●

JUSTICE FOR OLDER AMERICANS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Ms. OAKAR. Mr. Speaker, as a member of the Select Committee on Aging, one of my major concerns has been abuse of our older Americans. I am submitting for the Record today an article from the Plain Dealer by John Coyne which relates an outstanding example of a Cleveland policeman and policewoman who have gone above and beyond the call of duty to assure justice for one abused older American. Patrolmen Donald F. Milla and Marilyn S. Mason of the Cleveland Police Senior Response Unit should be commended for their steadfast and dedicated efforts to serve senior citizens. Additionally, Homicide Detective James A. Carbone should also be commended for the assistance he provided. I need add no further details to the following story which relates their efforts on behalf of senior citizens in my district:

Compassionate Police Work Leads to Landlord's Trial

(By John P. Coyne)

Cleveland Patrolmen Donald F. Milla and Marilyn S. Mason, members of a special senior citizens response team, pride themselves on knowing the old people living on the southwest side.

The two policemen take food to the elderly; they check on their health. They worry when they see old people living in substandard surroundings. And they fret when their elderly friends get sick.

And so, Milla and Mason were concerned this spring when they learned that Joseph Jablonski, 75, was not at the boarding house where he lived for the past five years.

The people that own the two-story home, at 2075 W. 11th St., told the police that Jablonski was in the hospital. But, when Milla and Mason checked Cleveland Metropolitan General Hospital, they learned the old man had died March 31, several days before.

Doctors at the hospital said they were told Jablonski died when he fell down a flight of stairs. Milla and Mason, after talking to the old man's friends, did not believe it.

Their probe showed that Jablonski had been beaten.

As a result, Jerry Roman Bak, 37, owner of Jablonski's building, is due Friday in Common Pleas Court, charged with involuntary manslaughter. Witnesses contend Bak beat the old man because Jablonski had wet his pants.

"He seemed disturbed because he had to care for Jablonski," the police said witnesses told them. "He was angry."

Bak, interviewed at his home last night, refused to comment.

For Milla and Mason, the court date is only the latest in months of checking the house on W. 11th and three other properties Bak owns in the area. Their probe started in October, when the 2d District policemen met Jablonski.

Jablonski spoke no English. His roommates said he had not had a bath in five years. And a neighbor, who tipped police, said the old man was eating dog food and sleeping in excrement.

Three other men shared the upstairs with Jablonski. Police believe Bak was collecting at least $600 a month in rent from the four.

When Milla and Mason met Jablonski, the old man was wearing only a robe. His quarters in the boarding house were filthy, the policemen said.

"The stench was so bad, I wouldn't go in the house again without a surgical mask," Mason said. "The roaches were parading on the walls."

Bak and his mother, Olha, live in the downstairs suite. Bak told police the old men were renters, and that he had no obligation to them, besides shelter.

After the October visit, police called a host of city and county agencies. The Meals on Wheels program brought Jablonski lunch every day. Nurses and city inspectors paid regular visits. Some improvements were made.

Milla and Mason also brought food to the old man. Jablonski, elated, would kiss Mason's hand.

It was in early April, when volunteers with the Meals on Wheels program said that Jablonski's food was being returned, that Milla and Mason learned of the old man's death.

They asked the county coroner's office to examine the body. After tests, deputy coroners said Jablonski's death was caused by multiple blows to the head. It was ruled a homicide.

Milla and Mason, with homicide detective James A. Carbone, interviewed about two dozen witnesses and pieced together the beating story. A county grand jury then indicted Bak.

"Milla and Mason did a fantastic job in this investigation," Carbone said.●

DON M. HARTEL—1980 TORRANCE DISTINGUISHED CITIZEN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. ANDERSON of California. Mr. Speaker, each year the Torrance Chamber of Commerce presents a "Distinguished Citizen Award" in recognition of outstanding community service. I am pleased to announce that this year's award winner is Torrance Police Officer Don Hartel. Today I share with my colleagues some highlights of his remarkable career as a dedicated crime fighter and concerned citizen. I feel this will illustrate quite clearly why he is one so deserving of this coveted award.

Don Hartel has been a public servant in Torrance for 27 years, starting as a law enforcement officer in August 1953. Presently, he serves as community relations officer, the position he has held since 1972. Here he has excelled, and has become a most valuable asset in efforts to make the Torrance community a safer and more secure place to live.

His efforts in the area of crime prevention and public safety has been of benefit to a wide variety of groups. He works well and effectively with youth, senior citizens, the business community, and others. Those who have worked with Don Hartel know him to be someone ready to respond day or night to a call for assistance from individuals, a service club, or civic organization.

Don Hartel has compiled a long list of accomplishments in developing and implementing meaningful crime fighting programs. He instituted the Neighborhood Watch program which makes neighbors knowledgeable about how they can help each other and the law enforcement agencies in preventing crime. Women in the community benefit from the program he started for their protection. These include Female Self Protection and Rape Prevention, Operation H.O.W. (Hands Off Women), Blow the Whistle on Crime, and others. Working with homeowners associations, and the Apartment Owners and managers association, he has initiated other special neighborhood and community awareness programs such as Operation Open Door, Operation Identification—which inscribes permanent identification codes on property of high value—and the Neighborhood Crime Scoreboard. For the safety and protection of children, he has worked with the PTA to develop programs such as Block Parent, Safety Aide, and Telephone Tree.

Mr. Speaker, this is indeed an impressive list of accomplishments, but more remarkable about Don Hartel is his dedication and his consistency in giving freely of his time, energy, and experience for the benefit of others. My wife, Lee, joins me in congratulating Don Hartel on being named to receive the Distinguished Citizen Award. We also extend our best wishes for future years of good fortune to Don, his wife, Nancy, and their children, Kerry, Karen, Pamela, and Jill.●

UNEMPLOYMENT COMPENSATION BENEFITS

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HOLLENBECK. Mr. Speaker, I am deeply concerned over the numerous inquiries received by my office regarding the treatment of pension benefits under the unemployment compensation program.

The benefit changes many individuals are now experiencing are a result of the Unemployment Compensation Amendments of 1976—Public Law 94-566. Unfortunately, I was not a Member of Congress at the time this legislation was passed and, therefore, was not afforded the opportunity to consider it. The bill contained a provision requiring States to reduce a claimant's unemployment compensation benefits by the amount of any work related retirement benefits he or she may receive. As we all know, the provision became effective on March 31, 1980.

New Jersey enacted pension offset legislation in accordance with the requirements of the Federal Unemployment Tax Act. Failure to enact such legislation would have jeopardized over $500 million in Federal tax credits for New Jersey's employers. In addition, New Jersey could have lost over $50 million annually in administrative grants to fund the employment security program.

Consequently, New Jersey's unemployment compensation law was amended to conform with the Federal law. With respect to the interpretation of this law, the Department of Labor and Industry followed administrative instructions which were prepared by the U.S. Department of Labor. These instructions specifically directed that both military retirement pensions and social security benefits must be deducted from unemployment insurance benefits in the same manner as all other pension payments based on the previous work of such individual.

I would like to emphasize that New Jersey's law has a flexible provision which would allow it to immediately conform with any future Federal amendments as proposed in H.R. 4612.

The current inequity can be rectified by language incorporated into H.R. 4612, which is currently pending in a House/Senate conference committee. It is unfortunate that the conferees have as yet been unable to resolve their differences.

Because of the severe impact Public Law 94-566 is having on many of my constituents, I have in response to this deadlock sent a letter to all House conferees urgently requesting expeditious action for an end to this stalemate. New Jersey is one of only two States which withold unemployment benefits from workers paychecks. During these times of economic hardship it is imperative that the citizens of our Nation receive the benefits to which they contributed and I again urge the conferees to correct this situation as soon as possible.●

FTC INVESTIGATION OF J.S. & A.

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. SCHEUER. Mr. Speaker, for the last several months, many of our colleagues have received inquiries concerning the Federal Trade Commission's (FTC) investigation of J.S. & A.

Group, Inc. As you may know, the charges leveled against the FTC by J.S. & A.'s president, Joseph Sugarman, raised serious questions regarding the Commission's investigatory practices. Because my Subcommittee on Consumer Protection and Finance has oversight responsibility for that agency, I was particularly concerned by these allegations. Accordingly, several months ago I asked my staff to sift through the conflicting claims and determine if the FTC had, in fact, acted improperly in pursuing its investigation against J.S. & A. As I noted in an earlier statement on this subject (CONGRESSIONAL RECORD, Nov. 13, 1979, 32237), I believe the Commission's actions were appropriate and proper. I am pleased to inform my colleagues that a Federal court, in rejecting Mr. Sugarman's claim, reached the same conclusion. The court noted:

> Respondent, on the other hand, has made no "substantial showing" of agency bad faith. The averments contained in the Affidavits submitted by respondent and the allegations made by it in its response to the Petition do not support JS&A's charge that the Regional staff has used the subpoena solely, or even partially, to "bludgeon JS&A into settlement for an exorbitant amount of money." *Indeed, the court believes that the factual basis of this charge is virtually nonexistent. The record contains no facts that so much as hint at the impropriety of the conduct of the staff in the premises.* (Emphasis added.)
>
> The court considers that, like the other objections to enforcement discussed above, the allegation of abuse of process, along with its concommitant request for discovery and a stay of this and a related proceeding, constitutes an unsupported attempt to delay the enforcement of this subpoena. . . .

Mr. Speaker, for the information of my colleagues, I append the entire opinion by Judge Flaum.

[U.S. District Court, Northern District of Illinois, Eastern Division]

FEDERAL TRADE COMMISSION, Petitioner, v. J.S. & A. GROUP, INC., Respondent.

MEMORANDUM OPINION—80 C 1628

Joel M. Flaum, District Judge, this is an administrative subpoena *duces tecum* enforcement action brought by the Federal Trade Commission (FTC) under 15 U.S.C. § 49. Respondent, JS&A Group, Inc. (JS&A), has responded to the Order to Show Cause issued by this court on April 4, 1980 by filing an Answer and Counterclaims. JS&A has also filed a Motion for an Order Permitting Discovery. For the reasons set forth below, the latter motion will be denied and the court will order the subpoena enforced in part and deny the FTC's petition for enforcement in part.

Pursuant to the power vested in it by 15 U.S.C. § 46(a), on September 30, 1975, the FTC launched a non-public investigation into the compliance of, *inter alia*, mail order houses with the mandate of 15 U.S.C. § 45(a)(1). During the course of this investigation, it commenced an inquiry into the business practices of JS&A. A subpoena *duces tecum* directed to respondent was served on it on July 30, 1979. In response to a Motion to Quash, the FTC modified the subpoena on September 19, 1979. On October 23, 1979, JS&A refused to comply with Specifications 3, 4, 5, 11, 12 13, 14, 17, 19, 20, 22, and 23 of the modified subpoena (Various Specifications). JS&A again refused to produce or make available the documents covered by the Various Specifications at an investigational hearing on January 17, 1980. In addition, the FTC alleges that JS&A has not fully complied with Specification 18. In this suit, the FTC seeks a court order for the production of the documents identified in the Various Specifications and in Specification 18.

JS&A has defended this action by alleging compliance with Specification 18 and, with regard to the Various Specifications, raising five affirmative defenses and a three-count Counterclaim. The court will consider the viability of each of these contentions *seriatim*.

JS&A's response to Paragraph 14 of the FTC's Petition would seem to satisfy the agency's demand concerning Specification 18, and the FTC does not mention that request in its Reply Memorandum. Hence, the court will not order any production under Specification 18.

JS&A objects to enforcement of the subpoena with regard to the Various Specifications on the ground that it was issued pursuant to an investigation of violations of the FCC's Mail Order Merchandise Rule (Rule) which it claims to be invalid. The subpoena itself states that it was issued pursuant to the ongoing investigation commenced on September 30, 1975, and the FTC rejected JS&A's contention, made in the Motion to Quash, that this representation is not true. The Affidavits filed in this court by JS&A's President, Joseph Sugarman (Sugarman), and its Executive Vice President, Mary Stanke (Stanke), do not contradict this position, as they merely claim that, prior to the date of issuance of the subpoena, several employees of the FTC's Chicago Regional Office indicated that their "primary" concern was whether JS&A had violated the Rule. JS&A has not suggested that any of the requested documents could not have been subpoenaed in regard to a "secondary" FTC concern: whether, irrespective of the Rule, JS&A was violating 15 U.S.C. § 415(a)(1).[1]

The court believes that JS&A's attempt—made for the first time before to this court—challenge the legality of the Rule is premature.[2] It is clear that JS&A's real argument is that the Rule may not be enforced against it, but it is possible that no action may ever be taken against it under that Rule, and there is no reason why the availability of this argument as a defense in any case brought hereunder by the FTC against JS&A does not provide an adequate safeguard of the latter's rights. *Cf. FTC v. Miller*, 549 F.2d 452 (7th Cir. 1977). Thus, Count I of the Counterclaim and Affirmative Defense Number 2 are dismissed as not ripe for adjudication.

The same reasoning also applies to Affirmative Defense Number 3, which was also not raised before the FTC, and so that defense, too, will be dismissed on grounds of ripeness.

Affirmative Defense Number 1, an unclean hands defense, is really just another avatar of Count I of the Counterclaim joined with Affirmative Defense Number 4. Therefore, the court will proceed to a consideration of the merits of the latter defense.

Affirmative Defense Number 4 (and Count II of the Counterclaim, which is conceptually redundant) sounds in abuse of process. More specifially, JS&A alleges that the Regional FTC staff really wanted to force it to pay $90,000.00 in civil penalties, and that this subpoena has been used for the sole purpose of aiding the Staff in illegally extorting that money from respondent. If proven, this allegation would, of course, justify the court's refusal to grant the relief sought by the FTC in this case. *CF. United States v. Powell*, 379 U.S. 48 (1964). Moreover, as this objection to the subpoena has been timely raised, it is incontestable that it may properly be considered by this court.

Finally, in Affirmative Defense Number 5 and Count III of the Counterclaim, JS&A attacks the adequacy of the protection that the FTC has said it will give to the documents requested in the Various Specifications when submitted to it.[3] Respondent has requested that the FTC pledge, before seeing the documents, to give them its standard confidential treatment plus further protection. This additional protection consists of the following promises: (a) to mark the documents "confidential"; (b) to not disclose them to any one outside of its employ except for its consultants, and to give JS&A ten days advance notice to such disclosure; (c) to return them at the end of its investigation of JS&A; (d) to officially deem them not to be "agency records" within the meaning of 5 U.S.C. §§ 552 *et seq.* or "records of the Commission" within the meaning of 16 C.F.R. § 49; and (e) to designate the documents as exempt from production in response to Freedom of Information Act (FOIA) requests pursuant to 5 U.S.C. § 552(b)(4).

The FTC's employees are bound by statute, 15 U.S.C. § 50, and by rule, 16 C.F.R. § 4.10, from making unauthorized disclosures of information obtained by the FTC. 16 C.F.R. § 4.10(2) expressly designates as not available for public inspection and copying confidential documents covered by 5 U.S.C. §§ 52(b)(4). It is this category without which respondent claims the papers requested in the Various Specifications fall.

The FTC also has a procedure by which it can designate a document as entitled to confidential treatment by the agency. If it is found to qualify for that treatment, the FTC promises not to disclose it to anyone outside of its employ, except for an outside consultant who had previously agreed not to release it, without giving its producer ten days advance notice of its intention to release it.[4] *See FTC v. Owens-Corning Fiberglas Corp.*, No. 79-1167 (D.C. Cir. March 13, 1980).

The FTC has never seen the documents covered by the Various Specifications, and so it—quite reasonably—refuses to guarantee in advance that it will extend confidential treatment to any of them, or to provide the further protections that respondent has requested. On the other hand, it has offered to extend interim confidential treatment to the documents during its examination of them and its deliberation over whether to grant them confidential status or, if JS&A would prefer, to review the documents and decide whether they are confidential while they are still in the company's possession.

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[1] Indeed, whether or not the Rule is invalid for the reasons suggested by respondents, it would be difficult for this court to imagine how any documents relevant to an investigation of JS&A's compliance with the Rule—and it is not contended before this court that any of the documents sought are *irrelevant* to such an inquiry—could be immune to subpoena under the much broader aegis of the FTC's inquest under the September 30, 1975 order.

[2] JS&A has offered no explanation as to why it failed to raise this objection to the subpoena, that found in Affirmative Defense Number 3, or its confidentiality objections, in the context of the Motion to Quash that if made before the FTC, despite the fact that it was directed by this court's Order to Show Cause to include any such explanation in its response thereto. Therefore, the court alternatively holds that it is barred from raising these objections before it under the doctrine of exhaustion of administrative remedies. *See FTC v. Stanley H. Kaplan Educational Center, Ltd.*, 433 F. Supp 989 (D. Mass 1977).

[3] JS&A does not now challenge the subpoena on grounds of burdensomeness or relevance.

[4] There are other exceptions to this rule in the contexts of court ordered or Congressionally requested production, but JS&A agrees that they are not relevant here.

JS&A has rejected these offers because of its desire to avoid the possibility of having to litigate the confidentiality of each document separately upon the filing of individual FOIA requests, and because of its feeling that "confidential" documents may accidentally be disclosed by the FTC.

The court finds two fatal flaws with these arguments. First, as they were not made in the course of the disposition of the motion to quash filed before the FTC—and no excuse for this failure to exhaust has been advanced by repondents —, they may not be made here. *See* note 2, *supra*. Second, as it may be that none of these documents are indeed confidential and that any of these documents that are confidential may never be the target of a FOIA suit, the entire dispute is too theoretical for a court to rule upon it at this time. Rather, the court concludes that the dispute is not now ripe for adjudication. *See FTC* v. *Owens-Corning Fiberglass Corp.*, No. 79-1167 (D.C. Cir. March 13, 1980); *cf. Wearly* v. *FTC*, No. 78-1115 (3rd Cir. Feb. 8, 1980); *Dresser Industries, Inc.* v. *U.S.*, 596 F.2d 1231, 1238 (5th Cir. 1979), *cert. denied*, 100 S.Ct. 731 (1980); *FTC* v. *Texaco, Inc., 555 F.2d 862, 883-885 (D.C. Cir.)* (*en banc*), *cert. denied*, 431 U.S. 974 (1977). While JS&A may desire to be able to resolve the question of the confidentiality of all of these documents at once, its desire cannot bestow upon this court jurisdiction to render a purely advisory opinion as to the adequacy of the protection afforded by the FTC to confidential documents in its control.[5]

JS&A does not object to the interim protection offered to it by the FTC. Should it elect to have the confidential status of the documents determined while it retains possession of the papers, the protective order sought would obviously not be relevant to the FTC's preliminary inspection of the papers. And the interim offer of confidential treatment is sufficient to protect the papers if the FTC holds them pending its decision as to whether they deserve confidential status. *See FTC* v. *Texaco, Inc.* 555 F.2d 862, 884 (D.C. Cir.) (*en banc*), *cert. denied*, 431 U.S. 974 (1977).[6]

Therefore, the only potentially viable defense or Counterclaim remaining before the court is JS&A's abuse of process defense. Consequently, this is the only area in which the question of whether discovery should be allowed need be considered. *See FTC* v. *Browing*, 435 F.2d 96 (D.C. Cir. 1970).

Contrary to the positions taken by both parties, what the cases hold is that, when the proper allegations have been made by a party in opposition to a petition for subpoena enforcement, a court may, at its discretion, allow preliminary discovery, hold an evidentiary hearing at which it may "sift out those rare cases where bald allegations of harassment or improper purpose can be substantiated and thereby to avoid dilatory and burdensome discovery procedures", *United States* v. *Church of Scientology of California*, 520 F.2d 818 (9th Cir. 1975), or—in the proper case—enforce the administrative agency's subpoena without granting discovery or a hearing. *See, e.g., United States* v. *Garden State National Bank*, 607 F.2d 61 (3rd Cir. 1979); *United States* v. *Wright Motor, Co.*, 536 F.2d 1090 (5th Cir. 1976); *United States* v. *Turner*, 480 F.2d 272 (7th Cir. 1973); *United States* v. *National State Bank*, 454 F.2d 1249 (7th Cir. 1972).

Paul W. Turley (Turley), Director of the Chicago Regional Office of the FTC, was the agency official who originally issued the subpoena, who made the statement on October 4, 1979 that defendant relies on as evidencing the FTC staff's intent to abuse process via this proceeding, and who ultimately made the decision to insist upon compliance with the subpoena. Turley has filed an Affidavit with the court that constitutes a *prima facie* showing that the staff's decision to seek enforcement of the subpoena was made in good faith and that this action does not represent an abuse of process.

Respondent, on the other hand, has made no "substantial showing" of agency bad faith. The averments contained in the Affidavits submitted by respondent and the allegations made by it in its response to the Petition do not support JS&A's charge that the Regional staff has used the subpoena solely, or even partially, to "bludgeon JS&A into settlement for an exorbitant amount of money." Indeed, the court believes that the factual basis of this charge is virtually nonexistent. The record contains no facts that so much as hint at the impropriety of the conduct of the staff in the premises.

The court considers that, like the other objections to enforcement discussed above, the allegation of abuse of process, along with its concomitant request for discovery and a stay of this and a related proceeding, constitutes an unsupported attempt to delay the enforcement of this subpoena (and of the subpoena served on Stanke).[7]

Accordingly, respondent is hereby directed to comply with Specifications 3, 4, 5, 11, 12, 13, 16, 17, 19, 20, 22, and 23 of the subpoena *duces tecum* served on it by the FTC on July 30, 1979, as modified. Said compliance shall occur at a time and place to be set by the responsible FTC official, but in any event, within 90 days of the date of this Opinion. Enforcement is denied as to Specification 18, as it appears that full compliance therewith has been had. Respondent's Motion for an Order Permitting Discovery is denied.

It is so ordered.

JOEL M. FLAUM,
U.S. District Judge.

Dated: May 30, 1980.●

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[5] The parties have not briefed, and the court will not now consider, the relevance of *Chrysler Corp.* v. *Brown*, 441 U.S. 281 (1979) to this case.

[6] The court also notes that JS&A has presented the court with no evidence supporting either its assertion that confidential treatment provides insufficient protection for confidential documents or that its proposed protection order would provide superior protection for said papers. It follows that respondent has also failed to adduce any evidence in support of the proposition that, if the documents prove to be confidential, and if the FTC should refuse to provide the additional safeguards requested by it, the agency would be guilty of abuse of discretion, which is the showing that would be required under *Owens-Corning* in order for this court to impose further safeguards via a protective order.

[7] While the case law would not require the court to make either discovery or an evidentiary hearing available to respondents, the court did, in the Order to Show Cause issued in this case, make an evidentiary hearing available to the parties. At the adversary hearing held by it on May 5, 1980, respondent neither proffered nor requested leave to offer any live testimony in support of its charge that the Regional staff has ever used this subpoena for purposes of harassment. (Nor was such a request made during the parties' appearance before the court on May 23, 1980.)

STATEMENT ON THE FUQUA AMENDMENT TO THE ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1981

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. GOLDWATER. Mr. Speaker, yesterday the House of Representatives wisely agreed to pass an amendment which has restored $107.4 million of the $223.3 million cut from the administration's revised fiscal year 1981 budget request. These needed funds will be appropriated to the Department of Energy's basic research and solar energy programs, which includes magnetic fusion energy, basic energy sciences, high energy and nuclear physics, solar technology, and solar applications. If we had not accepted this amendment, we would have seriously compromised our Nation's energy research and development future.

A substantial amount of funds are needed to continue operation of basic physics and energy research facilities in our Nation's universities and laboratories. We cannot continue to let this country's technological leadership slip from our grasp.

Solar energy is an important part of this amendment. It is imperative that we take aggressive steps to end our dependence on foreign oil, which will cost consumers nearly $90 billion this year alone. Solar energy has the potential to become an affordable, clean source of inexhaustible energy. But we must first lay the foundation from which we can take advantage of this energy source, and I am afraid that we are building too shaky a base on which to place our energy future. I was appalled at the prospect of a $69 million cut in appropriations for this vital program. Such a rescission would have seriously threatened solar energy's future role in the energy picture.

Mr. Speaker, this amendment provides $3 million for the operation of the Barstow Solar Thermal Power project. As my colleagues know, I have long supported the Barstow power tower. A cooperative project between the Department of Energy, Southern California Edison, Los Angeles Water and Power District, California Energy Commission, and many private contractors, this project is a demonstration of solar central receiver system power generation technology. The power tower, however, represents solar energy in its infancy. Although we have much to learn from the operation of this project, power cost projections already indicate competitive costs for commercial solar plants with fossil-fired alternatives in the late 1980's. There is the very real possibility that over 540 million barrels of oil could be saved per year by the year

2000, but these benefits will only accrue if we support solar energy now. I am happy to know that my colleagues have not abandoned efforts to realize the potential this project has to offer.

Mr. Speaker, the House of Representatives, having passed this amendment, has shown itself to be very serious about doing something to solve our energy crisis. I urge the future cooperation of my colleagues in pursuit of those avenues which allow us the opportunity to become energy-independent.●

SOFT DRINK INTERBRAND COMPETITION ACT

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. EVANS of Delaware. Mr. Speaker, as one of the earliest cosponsors of the Soft Drink Interbrand Competition Act, I am pleased my colleagues in the House have passed this critical piece of legislation.

This proposal will preserve a unique and competitive industry practice—the manufacture, bottling, and distribution of trademarked soft drinks by local companies operating under territorial licenses. The soft drink bottling industry has been in an uncertain state for nearly 10 years since the Federal Trade Commission decided to challenge the territorial provisions in the bottlers trademarks licenses. After extensive hearings were conducted over a 6-week period, the administrative law judge at the FTC issued a detailed and lengthy opinion which upheld the legality of territorial provisions and trademark licenses.

The administrative law judge not only ruled that the franchise system was lawful, but it also positively fostered competition. The judge, in his 91-page ruling, went to great lengths to explain that the present system stimulates intense interbrand competition in terms of price, product innovation, and marketing techniques. The judge also found that removing the franchises would actually change the industry in several undesirable ways.

The industry reacted with disbelief when the full Commission made only token reference to the evidentiary record, overruled its own administrative law judge on a split decision, and held that the industry's territorial restrictions violated section 5 of the Federal Trade Commission Act. In making their finding, the FTC Commissioners never tried to rebut the judge's opinion that there was intense price competition in the sale of soft drinks. Understandably, the industry was outraged with the incomprehensible and inconsistent FTC ruling and promptly turned to the Federal courts to appeal this misguided bureaucratic action.

The extended length of the resulting litigation and the uncertainty created by the FTC decision has left a strong possibility that an important segment of the industry—small business—will be adversely affected before the courts can settle the anticipated appeals. For this reason, it is important that the Congress enact H.R. 3567 as soon as possible.

Without this legislation, many small bottlers would be forced out of business and the large bottlers would control the market and price the products as they pleased. The large bottling companies with regional distribution systems and large amounts of capital would move into a small marketing area and drive the local firm out of business by undercutting its prices. Without the passage of this bill, there would be greater market control by the largest bottlers. In summary, the elimination of exclusive territories will not improve competition in the industry and, as the smaller bottlers disappear, it will bring about the exact opposite result of the intent of our antitrust laws.

Mr. Speaker, this bill is designed to resolve the chaotic situation that has prevailed in the industry since the FTC decision. Specifically, H.R. 3567 provides that exclusive territorial licenses to manufacture, distribute, and sell trademarked soft drink products shall not be deemed unlawful as long as—and this is the most important provision of the bill—there is "substantial and effective competition" between the bottling companies. By insuring that both interbrand and intrabrand competition will be considered in judging the legality of a territorial license agreement, this legislation will preserve the vigorous system of competition which has prevailed in the soft drink bottling industry for over 75 years.

This is clearly not an effort by a single industry to remove itself from the application of existing antitrust standards. In repeated litigation, the legality of those contracts has been upheld. It would therefore be unfair to allow the FTC decision to stand and thereby potentially subject small bottlers to punitive damages for operating in a manner they believed to be legal.

In addition, any bottler who operated in a market without substantial and effective competition would still be subject to treble damages after the passage of this legislation. There is no permanent exemption from antitrust laws for any industry under the terms of this bill. The bill cannot be used as a cover for price fixing, horizontal market divisions, or customer or wholesale boycotts. It is simply drafted to correct the confused application of the antitrust laws by the FTC.

Mr. Speaker, this legislation is designed to insure that competition in the soft drink industry continues while allowing the industry's numerous small businesses to continue their operations. This is a worthy proposal and I hope the President will not hesitate to sign this bill into law.●

FUNDING FOR THE TENNESSEE-TOMBIGBEE WATERWAY PROJECT

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. MOORE. Mr. Speaker, last week I voted against providing additional funds over and above the 1980 regular annual appropriation for the Tennessee-Tombigbee waterway project during consideration of H.R. 7542, providing supplemental appropriations for the current fiscal year. I did so as fiscal discipline requires observance of the regular appropriations process and outlays should be held to levels provided during this process. I did not believe circumstances involving the Tennessee-Tombigbee water project were of sufficient gravity and urgency to waive observance of the regular appropriations process. The supplemental appropriation when added to the regular 1980 appropriation is above the 1981 regular appropriation.

Today I voted to keep the $255 million for construction of this project intact within H.R. 7590 as it is the regular annual energy and water appropriations bill for next fiscal year, is less than the 1980 figure, with the supplemented funds, and such funds are warranted to honor established timetables for project completion.

Regular annual funding of this project began in 1972. While it has always been surrounded by controversy, we must realize the project is underway and will likely be completed. By providing $225 million during the regular appropriations process, ample funds are provided to avoid substantial cost overruns later when inflation would surely further add to its costs.●

THE NEWEST INDUSTRY AT THE GOVERNMENT TROUGH

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. BROWN of Ohio. Mr. Speaker, the Wall Street Journal, in today's editions, printed an article that eloquently expresses several of my reasons for opposing the conference report on S. 932. In particular, it illustrates the corporate welfare scheme nature of the proposed Synthetic Fuels Corporation.

I insert the article at this point in the RECORD, and commend it to the attention of my colleagues:

[From the Wall Street Journal, June 25, 1980]

WASHINGTON GLASSES RAISED HIGH IN TOAST TO NEWEST INDUSTRY AT GOVERNMENT TROUGH

(By David Ignatius)

WASHINGTON.—The synfuels lobbyist raised his vodka-and-tonic in a toast to Republican Sen. Peter Domenici of New Mexico. "Senator," he says, "without you there wouldn't be a synthetic-fuels industry."

The lobbyist is right. By legislating a new $20 billion subsidy program for would-be fuels producers, Sen. Domenici and the other leaders of a House-Senate energy conference have created a whole new industry—one that is starting life with its nose firmly in the government trough.

The players in the subsidy game could all be seen at a cocktail party last Thursday night, celebrating completion of the synthetic-fuels bill. In attendance: the legislators and staff aides who drafted the measure; the lobbyists who stroked them every step of the way, and the energy regulators from the Executive Branch who will soon begin doling out the money.

Symbolizing the interlocking relationship is the conference committee's chairman, Rep. William Moorhead, who is accepting congratulations around the room. Retiring from Congress this year, the Pennsylvania Democrat is already considering job possibilities with the industry he helped create. Partygoers say he has been discussed as a candidate for the $80,000-a-year position of executive director of the synfuels industry's newly formed trade association. (Rep. Moorhead's office has no comment.)

The victory party, appropriately enough, is hosted by the grateful members of the new trade association, which will be known as the National Council on Synthetic Fuels Production. Although the subsidy bill hasn't yet been signed by President Carter (the ceremony is scheduled for July 4), the trade group has already signed up 45 corporate members. The group has also arranged for office space in an impressive building just a block from the White House.

Surveying the roomful of synthetic-fuels lobbyists—each hoping to help his company cash in on the new subsidy program—one Senate aide begins to have second thoughts about his legislative handiwork.

The staff man has been up all night putting the bill in final shape; but he wonders, for a wistful moment, whether there's still time to "start all over again" with a less-generous proposal. It's too late, of course—so he has another drink.

Sen. Bennett Johnston, the leader of the Senate conferees, makes a brief appearance at the party, puffing furiously on a cigar. "We aren't creating an industry," he insists. "We're replanting it in a government hothouse so that these little seedings will grow strong and tall."

Sen. Johnston predicts that the bill's $20 billion package of federal loans, loan guarantees, purchase agreements and government-owned plants "will do with synfuels what Japan has done with automobiles." Indeed, he touts the bill as a necessary step toward a "Japan Inc." form of partnership between government and industry in the energy sector.

That sounds fine to most of the lobbyists, who seem to have left their usual free-enterprise talk back at the office. But a man from Combustion Engineering Inc., a company that hopes to sell production equipment to the subsidized synfuels plants, doubts that the program will be a bonanza for private industry.

The smart money, he notes, bid up the price of his company's stock a year ago, when the subsidy program was first discussed. Since then, he says, stock prices have dropped as investors sensed that the synfuels craze may prove as fickle as the rush to nuclear power 20 years ago.

The nagging worry of many of the partygoers is that if Ronald Reagan becomes President, he will actually follow through on his campaign talk and try to abolish the synthetic-fuels program. But Republican Sen. Domenici says he plans a talk with Mr. Reagan soon to convince him that any such radical step would be unwise.

Presidents come and go. But looking around this ornate room in the Capitol building—as the Congressmen, staff aides and bureaucrats devour the lavish buffet provided by the new synfuels trade association—it's hard to believe that the $20 billion subsidy program for synthetic fuels isn't here to stay.●

"REDTAPE CUTTER" PROGRAM

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. HARKIN. Mr. Speaker, I would like to add my comments to the RECORD about my successful "Redtape Cutting" program. My remarks follow:

COMMENTS ON RED TAPE PROGRAM

(By TOM HARKIN)

Every year, members of Congress receive dozens of cards and letters from small businesses and individuals they represent complaining about the rising tide of paperwork and regulations promulgated by the government bureaucracy.

Frankly, anyone who has ever filled out a federal tax return or has been subjected to an OSHA inspection, knows the problems associated with government paperwork and government regulation. The forms are often too long and too complicated and it sometimes seems that the regulations are formulated with big business—not small business—in mind.

To date, no one knows how many confusing and complicated government forms American small business owners and individuals are asked to fill out every year. There is, however, one thing that every member of Congress could do to stem the tide of government regulation and government forms.

In an effort to fight against useless government regulations and paperwork, I am presenting monthly "Red Tape Cutting" awards to businesses or individuals who send me examples of confusing or unnecessary government paperwork or regulations I can work to eliminate.

The reason I bring this to my colleagues' attention is two fold: First, using the examples submitted by my constituents, in many cases we were able to change a regulation or cut down on the paperwork burden to their businesses. Second, I am urging every member of Congress to sponsor a similar "Red Tape Cutting" program for individuals and small businesses in their congressional district. Why? Because I believe if every member of Congress took this issue seriously, we could put a halt to the rising tide of ridiculous and confusing government forms and regulations that is drowning small business. In doing so, we would save American small business thousands of dollars spent in record keeping and untold hours spent bent over the company books.

Under the "Red Tape Cutter" program, I am asking small business owners and citizens to become "Red Tape Tipsters" by sending me examples of government regulations and government forms which serve no useful purpose, are impossible to understand and implement or are just plain silly. I have explained to my constituents that I am looking for examples of the kind of government regulation and paperwork that make their job harder, such as burdensome reporting forms, lengthy OSHA injury surveys and oppressive census bureau forms.

The first "Red Tape Cutter" award went to Rosehill Nurseries located in Panora, Iowa. Rosehill Nurseries lost the low bid of $14,319 for landscaping Lake Bluff picnic area at Saylorville Dam in Polk County, Iowa recently because of confusing paperwork. The Army Corps of Engineers ultimately awarded the landscaping contract to another firm bidding $23,030. Thus, as a result of this bureaucratic mix up, the American taxpayer forked over nearly $8,000 more than necessary to landscape a federal picnic area.

Rosehill Nurseries' bid was thrown out because the nursery overlooked one page of a 105 page form. Rosehill officials said they did not fill out the page because it did not apply to their job and duplicated information found elsewhere on the form.

After hearing the nursery's complaint, I worked with the Army Corps of Engineers to have the bidding form changed to eliminate the confusion.

In this case, confusing paperwork cost taxpayers $8,000 and one local small business a good contract. More important, this is an example of the fact that, if every member of Congress worked together with individuals and small businesses he or she represents, Congress could eliminate a great deal of government "red tape" virtually overnight. I strongly urge members of Congress to immediately implement a "Red Tape Cutting" program in their own congressional districts.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment in Illinois yesterday, I was unable to be present and voting on a number of issues during the course of the day. If I had been present, I would have voted in the following way:

On a motion to suspend the rules and pass H.R. 3567, Soft Drink Interbrand Competition Act, "yea." I am a cosponsor of this legislation.

On a motion to suspend the rules and pass H.R. 7018, Federal Insecticide, Fungicide, and Rodenticide Act Extension, "yea."

On an amendment offered by the gentleman from Florida (Mr. FUQUA) to H.R. 7590, energy and water development appropriations bill that increases funds for operating expenses by $85.1 million and plant and capital equipment by $2.8 million for DOE energy supply research and development activities; and increases funds for operating expenses for DOE general science and research activities by

$19.5 million, "yea." This amendment will increase funding for the critical area of high energy physics, which I strongly support.●

REPUBLICANS SUPPORT REGULATORY REFORM OF THE RAILROADS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. SHUSTER. Mr. Speaker, the House Republican Policy Committee voted to endorse H.R. 7235, the Rail Act of 1980. This legislation strikes the proper balance between Government regulation to protect the public and the operation of the free market system. There is no doubt that the current regulatory scheme, regardless of its effectiveness in the past, is strangling the railroad industry to the point that it cannot meet the demands placed upon it. We must act now if we are to revive the industry so that it may play its rightfully important role in the Nation's economy in the future.

Following is the text of the policy committee's statement:

Republican Policy Committee Supports Railroad Regulatory Reform

The House Republican Policy Committee strongly endorses H.R. 7235, The Rail Act of 1980. The Committee believes that this legislation will help make the rail industry once again a healthy, efficient part of the nation's economy.

Beginning with the Interstate Commerce Act of 1887, the rail industry has been forced to obtain the federal government's approval of the most basic management decisions. While this system was necessary when rail had a virtual monopoly on freight bulk transportation, as well as long distance passenger traffic, the phenomenal growth of the inland waterways, trucking and air industries has drastically altered this situation. For example, the average return on investment in the rail industry during the last decade has been 1.3%. This compares with an average return for all transportation industries of 8.2% and for all manufacturing of 15.9%. The Policy Committee realizes that the rail industry must play an integral role in the country's future transportation system, particularly if this nation is to decrease its dependence on foreign oil through development of its domestic coal reserves. The final report of the National Transportation Policy Commission, for example, estimated that domestic coal movement, measured in ton-miles, may increase by as much as 600% by the year 2000, and that railroads would be largely responsible to help meet this demand.

If railroads will, in fact, be able to meet this increased demand depends in large measure on getting the shackles of the federal government off the industry. H.R. 7235 takes several giant strides toward accomplishing this goal. Specifically, the legislation:

Provides an opportunity for railroads to earn a reasonable return on investment by allowing greater rate freedom. At the same time, the consumer is protected from unreasonable rate increases because this provision does not apply where the Interstate Commerce Commission (ICC) determines that there is no effective competition;

Gives railroads authority to enter into long term supply contracts with shippers;

Requires the Secretary of Transportation to annually report with regard to the safety, public health, and deferred maintenance of each railroad;

Phases out the anti-competitive aspects of joint rate making through rate bureaus;

Increases efficient use of capital equipment by easing entry requirements and by encouraging restructuring of existing lines;

Provides fair labor protection benefits for employees affected by abandonments of bankrupt railroads. At the same time, it substantially tightens the benefit package provided under the Regional Reorganization Act of 1973.

The Committee recognizes that there are concerns about the ability of the ICC under this legislation to protect so-called "captive" shippers and consumers. Consequently, the Committee would not necessarily recommend opposition to amendments strengthening the ICC's authority, so long as the basic thrust of deregulating the industry was not vitiated. The House Republican Policy Committee recommends support of H.R. 7235 by all Members of the House.●

UNITED STATES SHOULD REJECT F-15 EQUIPMENT SALES TO SAUDI ARABIA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. PORTER. Mr. Speaker, the Saudi Arabian Government has recently requested that the United States increase the combat capability of the 60 F-15 fighter planes which the Saudis purchased from us in 1978. The Carter administration is presently considering the Saudi request. In my judgment it is incumbent upon the Members of Congress to take a stand, even at this early point in the administration's consideration, against approving any such request. The security of Israel, one of our staunchest allies and the only democracy in the Middle East, is of the highest concern to our country and is endangered by this proposal. Furthermore, we must not allow ourselves to be blackmailed by Arab oil, nor can the Congress permit the Carter administration to go back on the promise it made to Congress when the F-15 sale was approved in 1978.

During the debate on the original sale in that year, the Congress acted to insure that the F-15's would only be equipped sufficiently to provide for Saudi defense purposes. In testimony on May 9, 1978, Secretary of Defense Harold Brown assured the Congress that the Saudis would not receive additional bomb racks, advanced airborne radar systems, air-to-air missiles, additional fuel tanks, aerial refueling capabilities, or any other additional weaponry which would make the F-15's capable of offensive action. For example, additional fuel tanks would increase the range of the planes from 450 to 1,000 miles—hardly a defensive distance. Yet it is precisely such additional weaponry that the Saudis have now requested and the President is presently considering giving to them. There is no question that the President's approving this new sale would amount to a direct violation of the promise given to the Congress in 1978. The Members specifically prohibited any supplementary equipment sales when approving the 1978 sale; we cannot allow ourselves to be forced from that wise position now.

Furthermore, Mr. Speaker, when the original sale to the Saudis was being contemplated, I urged as a candidate that the Congress reject it because of the extreme sophistication of the F-15 aircraft, the most advanced aircraft that the United States produces. I argued that a smaller quantity of a considerably less sophisticated plane, the F-16, would serve the purpose. But Congress approved the F-15 sale, putting into the Saudi hands—the hands of a nation committed, publicly, to Israel's destruction—a weapon of the highest capability. Can there be any doubt by any Member of Congress that, with the supplemental equipment now requested extending the range and the striking power of an already deadly weapon of immense speed and firepower, Israel's future would be directly endangered?

Mr. Speaker, the Saudis make veiled threats of oil cutoffs and loss of Saudi support if we do not comply. But our commitment is clear. For over 30 years we have been the guarantor of Israel's territorial integrity—of her very survival in a sea of enemies. To allow oil blackmail to deter us for even one moment from our commitment would further undermine the credibility of an American foreign policy already under seige as a result of repeated administration errors and false signals. Let us make a clear signal now: the United States will not tolerate sophisticated weaponry of this type in the hands of Israel's avowed enemies.

Mr. Speaker, the violent situations in Iran and Afghanistan have made an already unstable region increasingly dangerous. Some would argue that because of the upheavals in the Middle East since 1978, it is all the more important to give support to the Saudi request. But we have learned from Iran not only that excessive arms purchases can destabilize autocratic governments, but also that arms intended for use by one government for one purpose can end up in the hands of another being used for entirely different purposes. Even if the Saudis presently intend no harm to our ally, Israel, the dangers for the future are real ones.

I urge my colleagues in the Congress to be prepared to act decisively to rescind any proposal the President may make for further sales of F-15 weaponry to Saudi Arabia. Increasing the quantity and sophistication of offensive weapons in the Middle East can only serve to increase the chance of even greater violence.●

THE NASHUA CORP.—A LEADER IN PRODUCTIVITY

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. D'AMOURS. Mr. Speaker, last night NBC-TV correspondent Lloyd Dobyns and executive producer Reuven Frank presented an excellent program on the problem of productivity in the United States entitled, "If Japan Can, Why Can't We?"

This in-depth white paper analyzed the decline of productivity in America and the striking reversal of roles between the United States and Japan since World War II. Thirty-five years ago Japan was a virtual colony of the United States, totally dependent on us for manufactured goods, technology, and redevelopment financing. Today the situation is reversed and it is the United States which exports agricultural goods and raw materials to Japan and imports high technology goods.

One of the leaders of Japan's reindustrialization in the postwar era has been an American, Dr. W. Edwards Deming. Dr. Deming's teachings and advice have been closely followed by many Japanese companies and have resulted in spectacular increases in productivity for those companies.

The Japanese have thought so highly of Dr. Deming's work that they have paid him the supreme accolade of naming their top industrial productivity award, a highly coveted prize in Japan, after him.

In recent years Dr. Deming has turned much of his attention to the problems of American corporations and American productivity.

One of the American companies to recognize early the potential of Dr. Deming's work and to institute imaginative production incentives was the Nashua Corp., a Fortune 500 business equipment manufacturer headed by Mr. William E. Conway with major plants in Nashua and Merrimack, N.H. The Nashua Corp. has long been an industrial leader in southern New Hampshire and I am proud to note that they are in the vanguard of what Mr. Conway has called, "the third wave of the industrial revolution."

I hope that many more American corporations will follow the lead of the Nashua Corp. in taking steps to break down the rigid, archaic thought processes that have acted as barriers to the kind of continued innovative development that made the United States the greatest industrial nation on Earth.

No one suggests that the road we must follow will be a simple one with easy answers. It will require cooperative action by business and labor to reorganize plant operations and archaic thought processes. It will also require action by the Government to stimulate investment and capital formation and to facilitate the flow of information among the various sectors of our economy. And above all it will require the continued dedication of the American people to channel our vast resources to their most productive uses.

I'd like to share with my colleagues two reviews of this excellent program which appeared in the Washington Post and the New York Times:

[From the Washington Post, June 24, 1980]

PRODUCTIVITY: IF JAPAN CAN, WHY CAN'T WE?

(By Sandy Rovner)

Have you looked at the economic news lately and wondered who really did win World War II?

Somebody at NBC News evidently did, and came up with "If Japan Can . . . Why Can't We?"—an "NBC White Paper" on Japan's burgeoning productivity and our lagging one—to be aired tonight at 9:30 on Channel 4.

It is a thoughtful, often depressing and sometimes fascinating examination of what makes and maintains a work ethic, and why we may end up freezing to death in the dark but the Japanese won't.

It is also an interesting piece of television journalism, using interviews, factory shots, even personality profiles to punch home the bad news (if it is news) that bureaucracy, grasping management and grubbing unions are wreaking havoc with American productivity and that the Japanese, with what narrator Lloyd Dobyns calls their society-by-consensus (versus ours "by confrontation") have become the world's leading prototypes of efficiency and quality. Not only that, but their productivity is now third in the world, second only to the United States and the Soviet Union, and moving up.

For a devastated country which, in the 1950s was synonymous, as Dobyns notes, "with trash," Japan has come a long way: cars, small appliances, computers * * *.

The runaway star of "if Japan Can * * *" is a 79-year-old statistical analyst for whom Japan has named its most prestigious industrial award for productivity. Never mind that he's an American, lives in Washington and works out of his home. W. Edwards Deming made Japan what it is today, and the Japanese are the first to admit it. According to NBC, a few American firms, principally Nashua, a copying company, are beginning to catch on that Japan made it by using American techniques devised by an American productivity expert. Somewhere, though, while Deming was exporting American know-how, the local version seemed to get lost. "Deming," says Nashua's president, "is the father of the third wave of the Industrial Revolution."

Deming, himself, is something less than optimistic, perhaps reflecting his lack of recognition at home.

"If Japan Can * * *" was written, directed and produced with the kind of imagination and instinct for what television can do that often brightened NBC's now-defunct "Weekend." It is not surprising to discover that it is the old "Weekend" team—Dobyns, executive producer Reuven Frank and producer Clare Crawford-Mason who make it. It was directed and co-produced by Ray Lockhart.

Alas, in an element where ratings are the chief nutrient, it also contains the same seeds of destruction that felled "Weekend." After all, who wants to watch an hour and a half on productivity when all you really want is to find out who shot J.R.?

Just one more thing, for whatever it's worth: The video cassettes from which this program was previewed were made in Japan.

[From the New York Times, June 24, 1980]

TV: "IF JAPAN CAN * * * WHY CAN'T WE?"

(By John J. O'Connor)

Tonight's "If Japan Can . . . Why Can't We?" on NBC-TV at 9:30, is a 90-minute "white paper" examining the slow-down in the growth of American productivity. Some of the reasons mentioned are the size of the United States Government and its regulatory requirements, the losing of markets to other countries, the underestimating of long-term investments and a corporate unwillingness to take risks.

All of this is compared to Japan, much smaller than the United States and now the world's third most productive country behind the United States and the Soviet Union. Japan's productivity increases are running at an annual rate of 10 percent; the American figure is down to almost zero percent. The Japanese unemployment rate is around 2 percent.

One of the keys to Japan's success is a strong bond of loyalty between worker and company. At one extreme, this takes the form of curious rah-rah-team sessions as the employees prepare for work each morning. On a more practical level, a "quality circle" system has been devised to enable the workers to participate in a sort of consensus management of the company. Ironically, an American, Dr. W. Edwards Deming, played a key role in the development of this system.

The American horizon is not totally bleak. The program's producers, Clare Crawford-Mason and Ray Lockhart, find a profitable nonunion steel mill at which the workers can and do double their normal wages through productivity bonuses. A former Motorola plant outside Chicago has reduced its productive defects dramatically under a system similar to Japan's "quality circle." And, of course, the United States is still very much predominant in agriculture, an area in which Japan does poorly.

In the end, this documentary, written by Lloyd Dobyns, the correspondent, and Reuven Frank, the executive producer, returns for a profile to Dr. Deming and his statistical method. Practically unknown in this country, he is described by one admirer as "father of the third wave of the Industrial Revolution."

Part of the reason for his anonymity in the business community may be his charge that 85 percent of all productivity problems can be traced not to the workers, but to incompetent or unimaginative management. As Mr. Dobyns says, "All humans think, and nowhere is it chiseled in stone that those in management think best."

This study runs on a bit too long, insisting on finding three pertinent examples where two will do nicely. But the attentive viewer should come away with some comprehension of what productivity is about and why economic experts keep clucking over it.●

LIBERAL POLICY: DROP WHAT WORKS, AND FIGHT FOR WHAT DOES NOT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. ASHBROOK. Mr. Speaker, for some time I have been warning my colleagues and constituents never to underestimate the dedication of liberals to ideas that do not work. But even more puzzling is their rejection of ideas that do.

The Kemp-Roth tax cut proposal is an excellent example. The tax cut of 1964, proposed by President Kennedy before his assassination, worked almost too well to be believed. The idea was that, by cutting taxes, the economy would be stimulated sufficiently to pay the first year deficit resulting from a tax reduction. But there was not even a deficit in the first year. The liberals' reaction to this enormous success was to abandon tax cuts. Throughout the Johnson administration, there were more taxes, more deficits, and a surtax. Under Carter, there have been yet more tax increases.

Liberals have always declared conservatives who warned about deficit spending to be alarmists, until now, when the only way to keep taxpayers from getting a break is to sound a warning against deficits. Faced with the imminent threat of a tax cut, liberals today are making Robert Taft, Sr., speeches look soft on the national debt. Anything is preferable to a successful policy.

Another laudable program of President Kennedy's short term of office was the space program. Here again, it is the liberals who wanted to stop the Jupiter orbital program and cripple our space program. Every year, it is the liberals who want to reduce America's thrust into space, and all the beneficial technological advances which derive from it.

Liberal thinking has never made much sense to me. Frankly, seeing its results, I consider that a blessing.●

A TRIBUTE TO WALTER BARTON: "HE DID HIS BEST"

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. GUARINI. Mr. Speaker, in the June 19 edition of the Beacon, the official organ of the Paterson Diocese in New Jersey, there appeared a touching article regarding a former Jersey City resident. Because of the special problems Walter Barton had, I believe the following is worthy of the attention of all of us who have received a better share of God's mental and physical gifts.

Gerald Costello is the executive editor of the Beacon, and Victor Winkler, a former Jersey City resident, is its managing editor. The article is as follows:

EULOGY FOR WALTER

FINNEGAN HOUSE RESIDENT MADE LIFE MEANINGFUL

(By Maura Rossi)

OAK RIDGE.—Somewhere today, there's a seven-year-old girl who owes her life to Walter. If God had made Walter just for that, his life would have been worthwhile.

This was the eulogy of Father Richard Oliveri, associate director of the diocesan special education department, for the frail 69-year-old Walter Barton who died June 8.

For the past seven years Walter was cared for in the department's Finnegan House here. For two years before that he was in Murray House, Paterson. Both are diocesan residences for retarded adults.

"All of us want our lives to be of value, and pray that we might be in the right place at the right time, when our response just at that one great moment, will make our lives meaningful," Father Oliveri said at the funeral Mass offered in St. Thomas the Apostle Church here Thursday.

"Walter had that moment," he said. He recalled the winter of 1973, when Walter was the only one at Finnegan House who made a daily trek to the roadside mailbox.

"We didn't get much mail back then, and usually mostly bills, so we'd only check every few days," Father Oliveri said.

One day Walter found a tiny baby girl, less than 12 hours old, in the box. He cradled her in his arms and carried her into the house, saving her, "according to Father Oliveri," from almost sure death from suffocation or exposure. He was retarded, but his reaction was the right one, "Father Oliveri said.

"Some of us may never get that moment," Father Oliveri said. "But there is a different way to look at Walter's life. He built no bridges. He amassed no fortune, he was not a great public servant, but he brought much to the lives of everyone he met, just by being Walter."

"It's funny how we never realize till they are gone how much the people we love give to us, how much of what we are comes from their just being what they are," he said.

"Speaking directly and personally to the mourners in the church who remembered Walter's strength and fierce independence—not always easy to cope with—he referred briefly to the 60 years Walter had lived with his mother in Jersey City, and how "he knew everybody and everybody knew him." It was after his mother's death that Walter found a home with the diocese.

"We lived with him and shared with him, and helped him to be happy," the priest said. "But it was not one sided. Walter brought joy, life, spontaneity to our lives."

Concelebrating the Mass were Father John B. Wehrlen, department director, and Father Patrick Scott, pastor of Our Lady of Good Counsel Church, Pompton Plains, who recalled later that Walter and some of the other Finnegan House residents and Father Oliveri had kept him company at what would otherwise have been a lonely Christmas dinner in his rectory last Christmas.

The mourners for Walter included some Finnegan House residents and staff, as well as those from Marathon House in Wayne, residents' relatives, neighbors and Lillian Gallagher, the department's other associate director.

Walter had become her personal charge in recent months as he declined in health and ability to care for himself. It was at her summer home in Bricktown that he died, literally in her arms. These were all the family Walter had, and they were all there.

"He's gone to bring spice to the Kingdom of Heaven," Father Oliveri said. "I hope they're ready for him."

It has been said "To live in the hearts of those you love is not to die."

Walter Barton will live forever in the memories of all those in the Diocese of Paterson, led by Bishop Frank J. Rodimer, who were enriched by him. He certainly did his best and will receive a just and proper reward.

I would like to express my special feelings to Father John Wehrlen who is doing such magnificent work with retarded adults. A graduate of St. Peter's Prep in Jersey City, recognition of his work goes well beyond the State of New Jersey.

Of special significance is the effort that Father Wehrlen made assuring that Walter Barton would receive such treatment which many times seems to be reserved for those with more of our worldly goods.

I believe the poem below written many years ago by Oliver Wendell Holmes excellently sums up this tribute to our friend Walter, who saved the life of a little girl he never got to know.

THE VOICELESS

We count the broken lyres that rest
  Where the sweet wailing singers slumber,
But o'er their silent sister's breast
  The wild flowers who will stoop to number?
A few can touch the magic string,
  And noisy Fame is proud to win them:—
Alas for those that never sing,
  But die with all their music in them!
O hearts that break and give no sign
  Save whitening lip and fading tresses,
Till Death pours out his longed-for wine
  Slow-dropped from Misery's crushing presses—
If singing breath or echoing chord
  To every hidden pang were given,
What endless melodies were poured,
  As sad as earth, as sweet as heaven!

Walter's life proves "Those who know the path to God, can find it in the dark."●

RED CHINA SHOULD NOT BE FAVORED

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. BAUMAN. Mr. Speaker, on June 10, I had the opportunity as chairman of the American Conservative Union to testify before the House Ways and Means Subcommittee on Trade on the subject of continuing the most-favored-nation status with Communist China. As I told the subcommittee, I believe it is a serious mistake for the United States to extend this privileged status to a nation that has yet to vary from its stance against our Nation, our people, and our way of life. I certainly believe it is difficult to defend a policy that would have us turn our backs on one of the most trusted and loyal allies in the Republic of China on Taiwan, as the Carter administration is doing.

For those who embrace this policy in the belief that our Nation will benefit from the promised markets on the Chinese mainland, I believe there are some sobering facts in my remarks that will give them pause. The fact is that we have nothing to gain and a great deal to lose by continuing most-favored-nation status with this oppressive giant. I urge my colleagues to consider these points carefully and to help turn our Nation away from the disastrous course onto which the President has placed us:

STATEMENT OF HON. ROBERT E. BAUMAN

Mr. Chairman: The American Conservation Union has opposed from the beginning the President's decision to terminate diplomatic relations with the Republic of China. ACU believes that the issue transcends economics; that it goes to the heart and soul of the American character and that it involves the moral and diplomatic image of the United States in world politics. It is my own opinion that we have sacrificed Taiwan on the altar of a dubious and expedient relationship with Peking; a relationship we will live to regret.

The question of Most Favored Nation status for the People's Republic of China, therefore, is an issue of profound philosophical dimensions, apart from the relatively parochial financial and economic interests involved.

Preceding from a deep-rooted suspicion of the nature and extent of the President's decision, the ACU is equally suspicious of close economic relations with the PRC. It is my view, and one which is shared by the vast majority of ACU members, that the continuation of MFN status for the PRC is a mistaken policy, derived from false assumptions and one which can provide little long-term good for the American people, and one which, finally, can only further prolong the headlong retreat from sound foreign policies which we have unfortunately witnessed over several years.

In the time allotted, let me develop several hypotheses to support this viewpoint.

1. THERE IS NO NECESSARY LONG-TERM COMPATIBILITY BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

The United States has a natural interest in promoting and supporting those countries, such as the ROC, which have had a long and close relationship with us. Now in the process of unilaterally abandoning some of those allies, we find ourselves entering into an unchartered vacuum area, especially with the Peking government. The PRC has never, to my knowledge, relented in its ideological hostility to the American system. Its behavior in foreign policy has changed very little. There is, in fact, no real concrete, economic or cultural mandate to continue MFN status to Peking. The policy of this Administration seems predicated almost exclusively upon the thin reed of a mutual fear of the Soviet Union. History is replete with examples of how this type of awkward and contrived affiliation can fall like a house of cards. A set of mutual negatives seldom promises anything positive or fulfilling.

2. THE SOVIET CASE STUDY HAS SET A DANGEROUS PRECEDENT

As we debate the wisdom of extending MFN status to Peking, it would be instructive to briefly recall the nature and result of similar ventures with the Soviet Union. During the 1920's over 200 Soviet economic concessions were made to western firms. The USSR depended greatly upon the influx of foreign capital, expertise and technology to develop its industrial might. Some of these enterprises included the largest projects then underway in the world. During World War II Stalin estimated that about two-thirds of all the large-scale industry in the USSR had been built with U.S. help or technical assistance. Small satisfaction, indeed, to those nations brutalized after the German-Soviet Pact of 1939! Even less satisfaction in 1980 with Kama River trucks, aided by American technology and finance, mowing down Afghan freedom fighters!

Obviously, even today, the Soviets have no qualms about using western economic concessions for their own ambitions. As the AFL-CIO Executive Council has testified recently:

"Many of these technologies have direct military application for such weapons as independent multiple warheads, armor piercing rockets, and submarine detection devices. Others help indirectly to build military capability by increasing industrial efficiency, thereby allowing greater diversion of resources from the consumer to the military sector. Still others are useful to the secret police for repressing the courageous activities of the Soviet dissidents."

Why should we expect any less from Communist China?

3. THE "CHINA MARKET" IS A MYTH

The idea of a vast and untapped "China Market" is often used as a reason for granting economic concessions to the PRC. The reality behind this facade, however, undercuts the argument.

The PRC is naturally very anxious to find willing partners in its program to obtain higher technology. But the gains will not be mutual. Nor has Peking ever really been a major trading partner with the United States.

American trade with the PRC has never constituted more than two percent of the total U.S. trade. The highest point of U.S.-China commercial relations occurred in the 1930's and 1940's during the mainland rule of Chiang Kai-Shek. During that period, U.S. share of the China trade was about 15 percent. Even assuming that the U.S. could gain a similar share with the PRC—an assumption even the most optimistic deem very unlikely—U.S.-Peking trade would still be less than our trade with South Korea or Hong Kong, and still much less than with Taiwan.

Today, the United States holds approximately 9 percent of the Chinese import market. Japan has a dominant 25 percent and is likely to remain dominant for the foreseeable future. Even though there will be growth in U.S. exports to China, mutual trade levels will remain only a small factor in the overall U.S. balance of trade. This becomes evident when one compares the 1978 and 1979 trade figures between the U.S. and Taiwan ($7.5 and $10 billion). Trade with other industrialized Asian nations reveal a similar disparity: Korea, $3 and $4 billion, and Japan, $37.4 and $43.7 billion. Indeed, the real economic gains for the U.S. will continue to be with those free nations we have close ties with.

The promise for the future with China will not be markedly better than the past. China's consumer market remains severely restricted by its low level of per capita income ($152 in 1978, compared to $1400 for Taiwan) and by its centralized economy. China also lacks foreign exchange and has shown recent signs of chronic instability in its economic planning. In the Spring of 1979, for example, economic goals had to be drastically curtailed, resulting in the suspension of 22 contracts held by Japanese firms.

In the final analysis, we must bear in mind the severe difficulties associated with a socialist system of 900 million people. The obstacles of the "China Market"—and the factor which makes it a myth—resides inside the system itself and the philosophy which governs it.

4. MFN CONTRADICTS THE ADMINISTRATION'S HUMAN RIGHTS DIPLOMACY

The Administration has failed, in my view, to meet both the spirit and the letter of section 402 (c)(1) of the 1974 Trade Act (Jackson-Vanik). This amendment prohibits the President from entering into any commercial relations without assurances that the recipient nation will substantially promote free emigration. In the absence of these assurances, in concrete form, I can only assume that they have not been met and that the Jackson-Vanik amendment has been circumvented.

5. MFN GRANTS UNUSUAL CONCESSIONS TO THE PRC

The PRC has $23 billion in unused credits but has refused to pay some $50 billion of unpaid loans to the Export-Import Bank. Why should the United States, therefore, extend loan guarantees at eight percent interest (when U.S. interest rates have been near 20 percent) to a Communist country which flagrantly violates the trust and confidence of international banking?

Another unresolved issue, and another U.S. concession, concerns financial compensation to those Americans who still hold $220 million in Chinese government bonds. Other nations which have received MFN status—Hungary, Yugoslavia, Poland and Romania—agreed to pay their past debts and there is no reason not to demand the same good faith from Peking.

In conclusion, Mr. Chairman, I feel strongly that the extension of MFN status to the PRC in its present form is not in the best interests of U.S. foreign policy or the American people. Apart from the international objections I have enumerated, it has been estimated by AFL-CIO testimony that between 50,000 and 100,000 U.S. workers would lost their jobs because of MFN to China. In a time of high domestic unemployment we should be actively protecting our workers, not undermining them through utopian and misguided foreign policies. Unless the conditions of MFN drastically improve, including protection and support from the Republic of China and its people, MFN does not deserve extension.

A final warning comes from Alexander Solzhenitsyn, who knows communism's true nature far more than western businessmen eagerly plying the mythical China market. His prophecy on the timeless charades of communism should serve us well in the MFN debate:

"Communism is unregenerate; it will always present a mortal danger to mankind. It is like an infection in the world's organism: it may lie dormant, but it will inevitably attack with a crippling disease. There is no help to be found in the illusion that certain countries possess an immunity to communism: any country that is free today can be reduced to prostration and complete submission. In expectation of World War III the West again seeks cover and finds Communist China as an ally! This in another betrayal, not only of Taiwan, but of the entire oppressed Chinese people. Moreover, it is a mad, suicidal policy: having supplied billion-strong China with American arms, the West will defeat the U.S.S.R., but thereafter no force on earth will restrain Communist China from world conquest."●

CALIFORNIA FEDERATION OF REPUBLICAN WOMEN

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. LUNGREN. Mr. Speaker, in the height of this political season, I would like to pay tribute to one of the most active and remarkable political organizers in the State of California—Beatrice Hawkins.

She is the woman behind many who have reached public office and is responsible not only for getting people elected but for getting people involved in the political process for the first time.

The success of her career as a political activist can be judged from the fact that the Republican women's club she founded in Seal Beach Leisure World in Long Beach is today the single largest Republican women's club in the United States.

Beatrice is a friend and confidant to just about every Republican statewide official in California and has been a friend and help to me also.

Beatrice's political career extends back to her teaching days when she taught Richard Nixon during his junior year at Whittier Union High. She taught for 35 years; and after retiring in 1953, she made public service and politics her career.

She is the founder of no less than three Republican women's clubs and has been on innumerable State committees and attended many Republican conventions.

She has given of her time and service so generously that it's our turn to recognize her achievements and to honor them.

I would not want to end this tribute, however, without pointing out that patriotism—not partisanship—is the basis of Beatrice's appeal.

Her contributions can be best summed up by the guidelines she published for Republican women in one of her clubs in 1974. As anyone who reads them can see, they proclaim values and ideals which can be adopted by everyone regardless of what political party they belong to.

Mr. Speaker, I insert a copy of Beatrice Hawkin's guidelines for Republican women at this point in the RECORD.

CALIFORNIA FEDERATION OF REPUBLICAN WOMEN

ANALYSIS OF A POOR REPUBLICAN WOMAN

Check these characteristics to see if you recognize any that fit you.

Unworthy characteristics:

1. Indifference—I am not interested in politics.
2. Laziness—I am too busy to bother with politics.
3. Greed—I get my check every month. Why should I worry about who runs the government?
4. Prejudice—I am voting for him because he is one of our kind.
5. False Pride—It is all dirty politics. Why should I get mixed up in it?
6. Cynicism—My vote won't make any difference one way or another.
7. Hopelessness—It is only the pressure groups who run things anyway.
8. Ineligibility—I forget to register.

ATTRIBUTES OF A GOOD REPUBLICAN WOMAN

1. Interest—I must study the records of candidates and know more about public affairs.
2. Ambition—I must develop a reputation for getting things done, and I must not shy away from bold initiatives.
3. Magnanimity—I must not be selfish with my time, but help others to understand the blessings of our country.
4. Understanding—I must show appreciation for those who differ in race, creed, or color.
5. Pride—I must wear my patriotic emblems with dignity and leave a heritage for the next generation to emulate.
6. Confidence—I must stimulate others to participate in political meetings.
7. Eligibility—I must find those who are not registered and urge them to assume their moral obligation to God and country.
8. Bravery—I must not be afraid to proclaim my loyalty to the flag of our country, and give the pledge from my heart.

If you possess these attributes, then you are a Federated Republican Woman.

Let us remember the following:

"There is a destiny that makes us brothers
None goes this way alone.
"All that we send into the lives of others
Comes back into our own."

EDWIN MARKHAM.●

IN OPPOSITION TO OFFENSIVE WEAPONRY FOR THE SAUDIS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1980

● Mr. GILMAN. Mr. Speaker, I am alarmed about reports that the administration is preparing to supply Saudi Arabia with military equipment designed to enhance the offensive capabilities of the 60 American F-15's sold to the Saudis recently.

I was opposed to that sale when it was initially proposed. I now hope that the Senate and House will act to block this additional shipment of offensive weaponry if the President proposes such a sale.

Mr. Speaker, for the information of my colleagues, I insert three recent editorials from New York area newspapers commenting on the proposed sale at this point in the RECORD:

[From the New York Times, June 18, 1980]

NO SAUDI SALE THIS TIME

As the above editorial suggests, the cost of oil dependence cannot be measured only at the pump. Saudi Arabia now asks for the missiles and hardware that would turn its 60 F-15 American fighter planes from defensive into offensive weapons, with sufficient range to reach some targets in Iraq, and any place in Israel. The extra missiles, fuel tanks and bomb racks were excluded from the plane sale two years ago, not by oversight or miscalculation but because the Saudis and the Carter Administration stipulated a strictly defensive mission for the planes and thus disarmed the opposition to the deal in Congress.

"They've thrown down the gauntlet," an American official said on our front page yesterday. "We need a lot of things from the Saudis," another wailed, "and there's not much we can do but to grant the request." "Afghanistan," said the State Department.

Nonsense. There are at least two other things to do. One is to deny the request, to pick up the gauntlet, and say plainly that straight dealing and firm promises by the United States to its people, to Israel and other watching nations are as essential to American power as oil—a power supporting not only Israel but also Saudi Arabia. The other course is to defer the request until the Saudis give signs that they are fulfilling the diplomatic obligations implicit in their bid for closer economic and military ties to the United States—evidence that they are using their wealth to promote stability in the Middle East, to support Egypt's pact with Israel and to encourage other peace efforts.

Either response carries some risk. The Saudis alone could manipulate the world's oil supply to produce pinching shortages and to raise the price still further. But if Saudi oil is now to be used to demonstrate American helplessness and faithlessness, the shock of some reduction in supply might as well be brought home to a nation that still refuses to free itself from the oil noose. If every Saudi desire is America's command, then what of Iraq's desires, and Libya's, and, for that matter, Indonesia's?

What's a few missiles, bomb racks and airborne tankers in return for no gas lines through another election season? That is how the question may define itself for President Carter in the days ahead. To which the American people might well reply: What's so important about the political fate of one President and one Congress when they will not present the true bill for excessive dependence on imported oil? That bill threatens to become the step-by-step destruction of the economic and diplomatic integrity of the United States.

[From the New York Post, June 18, 1980]

SAUDI ARABIAN BLACKMAIL: NEW CHALLENGE TO WASHINGTON

Is surrender to Saudi Arabian blackmail about to become a new tactic of desperation in the Administration's feverishly fluctuating Middle East policy?

The word from Washington is that the Saudis are now asking missiles, extra fuel tanks, and bomb racks for its force of American-built F-15 fighters.

Officials concede that approval of the Saudi formula would expand the F-15's two-way range to more than 1000 miles (rather then the present 450 miles) and give them the striking power to hit Israel.

The "request" has been delivered in tones of ultimatum—or at least so unnamed Administration officials indicate. One of them is quoted as saying:

"They've thrown down the gauntlet. We need a lot of things from the Saudis and there's not much we can do but grant the request."

That craven response can hardly be the last word. If the President is actually disposed (as initial reports asserted) to yield to Saudi intimidation, Congress fortunately would have 50 days under existing law to reverse the decision.

But the fact that the Administration has floated the story is as ominous as it is inflammatory. It can only create deep new apprehensions within Israel about the bizarre vagaries of U.S. policy at a critical juncture in the quest for advancement of the Camp David process.

Back in 1978, Secretary of Defense Brown solemnly assured the Foreign Relations Committee that "Saudi Arabia has not requested nor do we intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the F-15."

Now the ground is being paved for repudiation of that pledge ostensibly because of the Soviet aggression in Afghanistan. Have the Saudis overnight become reliable and indispensable partners? Can they fix any price—including a clear threat to Israel—for the dubious prospect of their eternal military comradeship?

[From Newsday, June 18, 1980]

A WEAPONS SALE THAT COULD COST U.S. CREDIBILITY

Two years ago, when the Carter administration needed Congressional support for the sale of 60 F-15s to Saudi Arabia, one of the selling points was that the jet fighters could not threaten Israel.

The Carter people convinced Congress that the planes in the projected sale had limited ranges that made them incapable of attacking Israel, and were sought by the Saudis only for defensive purposes. "Saudi Arabia has not requested nor do we intend to sell any other systems or armaments that would increase the range or enhance the ground attack capability of the F-15," Defense Secretary Harold Brown said in May 1978.

So now the Saudis come along and request new equipment for their F-15s that would do precisely that—increase their firepower and bombing capability and extend their range from 450 miles to 1,000 miles, more than enough for a round-trip raid on Israel.

The Saudis are friendlier to the United States than many Arab states and ought to be supplied with the means to defend themselves—although why they need F-15s with a 1,000-mile range is puzzling.

But the issue here goes beyond all the standard arguments over whether Washington should sell this kind of weaponry to an Arab country, thereby jeopardizing so reliable an ally as Israel.

What also makes this dismal business a matter of concern is the evidence it offers of growing Arab leverage in Washington (as one official explained, "We need a lot of things from the Saudis and there's not much we can do but grant the request") and the unsavory signal it emits—to our friends and adversaries alike—about the value of Washington's assurances.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 26, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 27

9:30 a.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To hold hearings to review the progress and assessment report of the Resources Planning Act (Public Law 93-378), to provide for the orderly development of the renewable resources of forest, range, and associated lands.
324 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of the Clean Water Act (Public Law 95-217), focusing on section 404, permitting activities in the wetlands by the U.S. Army Corps of Engineers, and section 301(h), to permit the Environmental Protection Agency to modify existing law relative to the disposal of secondary treated wastewater.
4200 Dirksen Building

Finance
Business meeting, to continue consideration of pending health insurance proposals.
2221 Dirksen Building

Labor and Human Resources
Business meeting, to mark up S. 2375, authorizing funds for fiscal years 1982, 1983, and 1984, to provide support for the training of professionals in health service needs, and to consider proposed legislation to meet reconciliation expenditures as imposed by H. Con. Res. 307, revising the Congressional Budget for the Federal Government for fiscal years 1981, 1982, and 1983, and revising the Second Concurrent Resolution on the Congressional Budget for the Federal Government for fiscal year 1980.
4232 Dirksen Building

JUNE 30

10:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings to examine overall efforts by the Federal Government and certain medical services to reduce infant mortality and birth defects.
4232 Dirksen Building

11:00 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 2126, relating to certain coal leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation, and S. 2767, to provide that per capita payments to Indians may be made by tribal governments.
5110 Dirksen Building

JULY 1

9:00 a.m.
Budget
To resume hearings on Federal credit activities, focusing on Congressional control mechanisms.
357 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 39, 380, and H.R. 2255, to limit bank holding companies in selling insurance as principals, agents, and brokers.
5302 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.
5110 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.
235 Russell Building

Governmental Affairs
Civil Service and General Services Subcommittee
To resume joint hearings with the House Post Office and Civil Service's Subcommittee on Human Resources, on the Federal government's use of consultant services, focusing on the Department of Energy.
318 Russell Building

Select on Small Business
To resume hearings on small businesses and their contributions to economic growth.
424 Russell Building

*Select on Indian Affairs
To hold hearings on S. 2829, authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.
1202 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on certain activities of the Department of Housing and Urban Development relating to the relocation of persons from areas of a concentrated low-income level.

3302 Dirksen Building

1:30 a.m.

Select on Indian Affairs

To hold hearings on the nomination of Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior.

6226 Dirksen Building

JULY 2

9:00 a.m.

Judiciary

To resume hearings on the nomination of Fred D. Gray, to be United States District Judge for the Middle District of Alabama.

2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.

235 Russell Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.

4232 Dirksen Building

10:00 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings on certain activities of the Department of Housing and Urban Development relating to the relocation of persons from areas of a concentrated low-income level.

3302 Dirksen Building

*Select on Indian Affairs

To continue hearings on S. 2829, authorizing funds for the purchase of lands in the State of Maine for the Passamaquoddy, Penobscot and Maliseet Indian tribes.

318 Russell Building

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To hold hearing on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

JULY 15

10:00 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold joint hearings with the Labor and Human Services' Subcommittee on Aging on the impact of senile dementia on older Americans.

4232 Dirksen Building

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the Appropriations' Subcommittee on Labor, Health and Human Services, and Education on the impact of senile dementia on older Americans.

4232 Dirksen Building

JULY 21

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

JULY 22

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development to insure national security and economic stability and growth.

235 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

JULY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

JULY 30

9:30 a.m.

Veterans' Affairs

Business meeting, to consider S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors, and amendment No. 1888, to provide for limited specially adapted housing benefits for certain severely disabled veterans to S. 2649, aforementioned.

412 Russell Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evalution of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 26

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, June 26, 1980*

The House met at 10 a.m.

The SPEAKER. The Chair wishes to state that today we have the distinct honor of having the prayer offered by the son of one of our Members. I am happy to introduce the Reverend Ken Bedell, Bethesda and Grove United Methodist Churches, Preston, Md.

The Reverend Ken Bedell offered the following prayer:

The Lord says, "I will condemn the person who turns away from Me and puts his trust in man, in the strength of mortal man."—Jeremiah 17: 5.

O God, who makes all things possible, we pray today for all the people of the world. We especially pray for those who suffer because of the greed or selfishness of other people.

We remember those living in this Nation who suffer because of unemployment, inadequate housing, and discrimination.

Be with those who gather in this room today to write the laws of the United States that their work would truly be to Your glory. Give them the wisdom to know Your perfect will and the courage to put aside their personal needs to work for the good of all and the coming of Your kingdom. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LOEFFLER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOEFFLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 13, answered "present" 3, not voting 54, as follows:

[Roll No. 370]

YEAS—363

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jeffords
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Mineta
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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Gingrich
Goodling
Harkin
Jacobs
Leach, Iowa
Lloyd
Mitchell, Md.
Quayle
Sabo
Schroeder
Stenholm
Walker

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Lundine
Ottinger

NOT VOTING—54

Anderson, Ill.
Applegate
Aspin
AuCoin
Beilenson
Brown, Calif.
Chisholm
Coelho
Collins, Ill.
Davis, S.C.
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Dingell
Dixon
Dodd
Early
Erlenborn
Ford, Mich.
Fountain
Garcia
Giaimo
Hagedorn
Harsha
Hawkins
Holtzman
Ireland
Jenkins
Jenrette
Johnson, Colo.
McCloskey
Mathis
Mica
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Mikulski
Miller, Calif.
Moffett
Murphy, N.Y.
Myers, Pa.
Neal
Nolan
Patten
Rahall
Reuss
Rousselot
Runnels
Spellman
Stark
Stewart
Trible
Vander Jagt
Weiss
Wilson, Bob
Wilson, C. H.
Wirth
Young, Alaska

☐ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2148. An act for the relief of Colonel (doctor) Paul A. Kelly;

H.R. 2475. An act for the relief of Isaac David Cosson;

H.R. 3818. An act for the relief of Clarence S. Lyons; and

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 568. An act to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers and to authorize appropriations for activities for the National Science Foundation for fiscal years 1981 and 1982, and for other purposes; and

S. 2489. An act to authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

REV. KEN BEDELL

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, this has been a proud and happy morning for me, as my son Rev. Ken Bedell gave the prayer this morning.

I believe that so frequently here in the

☐ **This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.**

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

House, as we hurry about our legislative activities, we fail to take time to look at what is really important in life. I want to tell this body that when the young man was born in the Bedell household some 32 years ago it was a happy moment, and, as he has come on up through life, it has been one of the most important things to his mother and me that has happened through all of our lives.

Ken Bedell graduated as a chemist from college, and as he looked at his life, he wanted to do something that he thought would be more meaningful and be of more help to people even though certainly it was not nearly as rewarding to him financially. I am extremely pleased he decided he wanted to go into the ministry. I am extremely pleased and proud what a great family he has, all of whom have brought great joy to his mother and me. I cannot tell you the pride that it gives me as a tear welled up in my eyes as he spoke to us this morning with the prayer he gave.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

The gentleman from Iowa (Mr. BEDELL) has the honor to be the father of our guest chaplain this morning, but I have the honor, perhaps not quite equal to parenthood, of being his Congressman and having him as our constituent.

I want to join in welcoming him to the House today. I know he has already made his mark in the time he has been in Caroline County, Md. It is a shared honor that the gentleman from Iowa mentions this morning. We are pleased to have Ken with us.

Mr. BEDELL. I thank the gentleman.

"LET MY PEOPLE GO"

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, in reading this morning's Washington Post, I was astounded and confused that there was no mention of our hostages in Iran. In watching last evening's television news programs, with particular reference to activities of our President in Europe, I again heard nothing about our hostages. Much is said about Afghanistan, our NATO commitments, problems in Pakistan, China's warning to Vietnam to halt Thailand raids, but the interest in our hostages has seemed to be obscured by other things. I am not blaming anybody in particular.

Perhaps the State Department will be successful in low-key negotiations to secure the release of the Americans, but the rest of the world must continuously be made aware that the release of the hostages is our highest foreign policy priority. The world will not know this if we keep it a secret from them. It is a national scandal that we seem to have lost at least the public commitment to protect our national honor. The spiritual "Let My People Go" is as relevant now as it was 3,000 years ago.

AGRICULTURAL CONSERVATION PROGRAM

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VOLKMER. Mr. Speaker, I rise to voice my support for the agricultural conservation program. From its inception under the Soil Conservation and Domestic Allotment Act of 1936 this has been an extremely effective Government program. This program is administered by local county ASC committees under ASCS in the U.S. Department of Agriculture. These nonpartisan farmer elected committees have the local knowledge to make decisions on needed conservation practices in their respective counties. This program is one of the best examples of how our people and our Government work together to protect and conserve the quality of our soil and water. This program is a partnership between a farmer and the Federal Government, each sharing a part of the cost of the conservation burden.

This year we are attempting to make the program more responsive to the local needs of county ASC committees and the conservation problems in their respective county. Consequently, the language in the appropriation bill this year must give the county ASC committees the authority to select the most needed conservation practices within their county. It is hoped that the 1981 ACP will permit county ASC committees to again have the authority to select the practices most needed in their respective counties.

I commend Chairman WHITTEN and the Agriculture Appropriations Subcommittee for restoring this important program in past years and encourage Members of Congress to authorize this much needed conservation program at $190 million for fiscal year 1981; the same level of funding as authorized for the program during the 1980 fiscal year. I only hope this Congress can look at this program in future years with the idea of increasing the level of funding to $500 million as it was in its inception.

REPUBLICAN TAX CUT PROPOSAL SHOULD BE REJECTED

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHANNON. Mr. Speaker, at a press conference held yesterday, the Republican Presidential candidate announced a plan to cut marginal personal tax rates by 10 percent. Today's headline in the Washington Post read "GOP * * * Dares President's Party To Oppose It." Mr. Speaker, I strongly oppose this tax cut proposal.

The Republican plan gives the very wealthy taxpayer approximately the same percentage tax cut as the middle-income taxpayer. This is wrong.

I do support a tax cut. But I believe that the emphasis of any cut must be on middle-income tax relief. In a tax cut package I introduced earlier this year, the working middle class would receive a greater percentage of tax relief than would those in upper income brackets. Under my bill, a family of four earning $20,000 would receive $238, while the family of four earning $100,000 would receive approximately $1,000. Under the Republican tax cut plan, the family of four earning $20,000 would receive approximately $200 in relief, but the family of four earning $100,000 would get twice as much as under my plan, over $2,000. It would be unconscionable to skew the benefits of this tax cut to the very wealthy.

Mr. Speaker, I urge that the Republican plan be rejected, and that a fair and equitable plan, weighted more toward middle-income tax relief, be adopted.

ARMED FORCES SHOULD NOT BE CUT

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, a Member of the other body, having won his battle on draft registration, is now moving to reduce the strength of the Armed Forces. He claims the reason for this is that the members of the voluntary army cannot, because of their educational backgrounds, be adequately trained.

Mr. Speaker, in my opinion his real intent in this, as it has been continually, is to force an early draft.

I hope, Mr. Speaker, that the Committee on Armed Services in the House will not support this effort to cut the Armed Forces. I think instead, Mr. Speaker, the answer is to adequately pay the members of our Armed Forces, to stimulate the Reserves and the National Guard by providing equipment and adequate pay for them. But this effort to force a draft by a Member of the other body, I think, is an outrageous one and one we should defeat.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Actually passing the peacetime registration bill yesterday, we believe, will cause young men to volunteer for the Regular Army, the National Guard, and the Reserves. We think peacetime registration will bring better quality and more recruits to the Regular Army and the Reserves.

Mr. PEYSER. I appreciate the gentleman's remarks, but I hope nobody on the Committee on Armed Services falls prey to the Senator's attempt to bring about a draft.

□ 1030

POLITICAL FERVOR FOR AN IMMEDIATE TAX CUT

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, today we bear witness to the exhibition of political fervor for an immediate tax cut, a tax cut which would be financed not by Government efficiency, by rational controls on Government waste and spending, but a tax cut which would be paid for by Treasury borrowing.

It is a costly political policy.

Most Americans want a tax cut whenever they can get it, and I understand that; but the very taxpayers who rejoice must understand that a tax cut in a political year constitutes more often a use of public funds to win elections than to fight the battle of inflation and fight the recession problem.

The tax cut is not so much to benefit the taxpayer, as it is to serve the political purposes of the candidates.

A tax cut, Mr. Speaker, paid for by deficit and more Treasury borrowing comes at too high a price. A tax cut paid for with massive Treasury borrowing is a sham which deceives the American people. It would give them a few more dollars of depreciated value.

The bottom line is that the American people would lose more by this kind of a tax cut than they would gain.

GIANT BOOK ABOUT GIANT SPEAKER OF THE HOUSE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, as I am sure you know, today is the official publication date of an important new book. It is a giant of a book about a giant of a man. It is a book about a boy who went to his first baseball game and saw the Senators whip the Red Sox and who grew up and came to Washington to avenge that loss—and the Senators have not won since. The hero of the story, my distinguished colleagues, is none other than the Speaker of this House.

Authors Paul Clancy and Shirley Elder have done a public service by writing a book which educates Americans about a man we know so well and about whom they know so little. The anecdotes and quotes scattered throughout the book paint a vivid picture of the life of one politician and the way in which he goes about his work.

The reader will find out that, fittingly, O'Neill means champion in Gaelic. That the Speaker of this House was educated by wrist-whacking Dominican nuns, that he went down to the beach every summer with a group called the Nasty Nine—not unlike, I am sure, the Dirty Dozen.

This is a fine book and I commend it to my colleagues' attention. Especially pages 47, 152, and 153 where there is mention made of a good friend of the Speaker's, a representative of the First District of Massachusetts. In the words of the authors, this man is "a good talker with an infectious sense of humor." I suggest that if the authors really want a bestseller, the next time out they should chronicle this gentleman's life.

CONGRESSMAN BEARD OF TENNESSEE INTRODUCES RESOLUTION CALLING ON PRESIDENT TO SUSPEND DAVIS-BACON ACT

(Mr. BEARD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Tennessee. Mr. Speaker, I know that you are as concerned as I am about the effect of the current recession on the construction and housing industry of this nation. Only the auto industry has been harder hit.

I, and many of my colleagues, feel that tight credit and high rates of unemployment are not the only means of holding inflation down, and, accordingly, I am introducing a resolution calling on the President to suspend the Davis-Bacon Act.

By no longer allowing the Labor Department to apply unrealistically high prevailing wage rates to Federal construction projects, we could not only inject some much-needed vitality into the building industry, but also help control inflationary pressures. The General Accounting Office has estimated that Davis-Bacon has a direct inflationary effect of $715 million. Other sources indicate that this total may be as high as $6 billion if indirect costs are included.

This suspension power, as contained in section 6 of the act, has been used in the past by Presidents Roosevelt and Nixon, and I would hope that this House will join me in urging President Carter to do the same.

TAX CUT PERSPECTIVE

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, in listening to a couple of my colleagues decry the proposal that was announced yesterday for a tax cut for Americans who feel that they are paying too many taxes now, I am moved to respond.

I think we need to put into perspective that what we are really faced with here is a question of whether we are going to have a large tax increase next year or a less large tax increase next year. Because of actions already taken and inactions failed to be taken by this Congress, we are looking at a $90 billion tax increase for the next fiscal year. The proposal that I and a number of my colleagues in concert with Governor Reagan's announcement have introduced to the Congress would reduce that tax increase as much as we believe is fiscally sound.

We encourage the Members to consider that perspective, because what they will be voting on when this measure comes before the Congress is not just a tax cut but in voting against this proposal to cut taxes they are going to be voting to increase taxes by $90 billion.

I think that perspective ought to be borne in mind.

PROVIDING ADDITIONAL DEBATE TIME AND WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 932, ENERGY SECURITY ACT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 728 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 728

Resolved, That upon the adoption of this resolution it shall be in order to consider, sections 401(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, the conference report on the bill (S. 932) to extend the Defense Production Act of 1950, as amended, and all points of order against said conference report for failure to comply with provisions of clause 2, rule XX and clauses 3 and 4, rule XXVIII, are hereby waived: *Provided*, That debate on said conference report shall continue not to exceed four hours.

The SPEAKER. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 728 waives certain points of order against the conference report on S. 932, the Energy Security Act of 1980, and, given the complexity of the conference report and the importance it has to our Nation's future energy independence, the rule also provides for 4 hours of debate.

As my colleagues are well aware, our Nation is subject to being taken economic hostage at any given moment. Our continued dependence on imported energy sources makes us susceptible to economic blackmail, and the price we have been paying and will continue to pay, until we find a way to lessen our dependence on foreign sources of oil and gas is staggering—our economy and the people of this country are in dire need of an answer to this ever deepening crisis.

Mr. Speaker, it was exactly 1 year ago today that the House took a first step toward lessening this dependence on foreign sources of oil, and in doing so, made a significant commitment to the Nation. At this time last year, we were plagued with gasoline shortages and skyrocketing fuel prices. Since then, the gas lines have disappeared and fuel stocks are plentiful, but the price of imported crude continues to rise and we continue our dangerous dependence on foreign producers for most of the oil we consume. But, the people of this country should know that in the last year the Congress has been working and today we have before us a conference agreement that gives us a chance to establish energy self-sufficiency and to honor our year-old commitment on our country.

On this date 1 year ago today, the House approved a relatively ambitious synthetic fuels program. H.R. 3930, which amended the Defense Production Act, allowed the President to use the act's powers to stimulate the domestic production of synthetic fuels. This bill, as passed by the House, set a production goal of 500,000 barrels a day of crude oil equivalent by 1984 and 2 million barrels a day by 1990. That $3 billion program was subsequently tacked on to S. 932 and was sent back to the other body. In the Senate, the synfuel production program proposed by the House was then rereferred to the Senate Committees on Banking and Energy.

The one-title House passed bill evolved into a 10-title bill on the Senate side, growing from a $3 billion program of synthetic fuel production to a $88 billion program creating a synthetic fuels corporation as well as incorporating wide-ranging provisions relating to solar energy, energy conservation, renewable energy resources and the strategic petroleum reserve. Passed by the Senate on November 8, the conferees first sat down on December 7 and worked diligently, until, on June 16, an eight-title bill was reported back to the House and Senate.

Those eight titles deal with synthetic fuels, biomass, alcohol fuels and urban waste, energy targets, renewable energy initiatives, conservation and solar energy, geothermal energy, acid rain, and the strategic petroleum reserve. The conference report was adopted last week in the Senate by a vote of 78 to 12 and today we have an opportunity to lend our approval to what our distinguished majority leader has said may be the most important legislation we will consider in the 96th Congress.

However, given the complexity of the conference report and the fact that it has evolved from a one-title House bill, the rule we are now considering waives a number of points of order against the conference report. First, the rule waives points of order under section 401(a) of the Congressional Budget Act. Section 401(a) prohibits the consideration of any bill which provides contract authority not subject in advance to an appropriations act. There are provisions of the conference report, for example, that allow the Synthetic Fuels Corporation to enter into contractual agreements for the development of synfuel plants and synfuel production and the Secretary of Agriculture is also given authority to enter into contractual agreements for the purchase of biomass energy.

Second, the rule waives section 401(b)(1) which provides that it shall not be in order to consider any bill which provides for enactment of entitlements which become effective before the first day of the fiscal year which begins during the calendar year in which said bill is reported, or in this instance, October 1, 1980. Since the affected portions of the conference agreement become effective upon enactment, the salaries prescribed for the Inspector General of the Synthetic Fuels Corporation, the Director of the Office of Alcohol Fuels in the Department of Energy, and the president of the Solar Energy and Energy Conservation Bank are in violation of this section of the Budget Act, thus requiring the waiver.

Third, the rule waives points of order against the conference report for failure to comply with clause 2, rule XX which prohibits Senate amendments that make appropriations in a legislative bill. While most of the violations are technical in nature, section 805(b)(2)(B) literally appropriates money for the filling of the strategic petroleum reserve and thus expressly needs this waiver.

Fourth, the rule waives points of order against the report for failure to comply with clause 3 of rule XXIII, which prohibits the consideration of amendments which go beyond the scope of the bills committed to conference. The scope violations are throughout the conference agreement, but the most notable example is section 805 which mandates the resumption of the filling of the strategic petroleum reserve.

Finally, the rule waives points of order against the conference report for failure to comply with clause 4, rule XXVIII which prohibits the consideration of nongermane Senate amendments. As I noted to my colleagues, the conference report has grown from a one-title House bill amending the Defense Production Act to the eight-title conference report dealing with matters far beyond the purview of the act. Consequently, half of title I and the remaining seven titles are all nongermane to the original House bill, H.R. 3930.

As my colleagues are aware, the usual time alloted for consideration of a conference report is 1 hour. However, given the complexity of this proposal and the number of conferees from various committees, the Rules Committee has alloted 4 hours debate time. Mr. MOORHEAD, the chairman of the conference committee, proposes to yield blocks of time to chairmen of committees and subcommittees represented on the conference on a roughly equal basis. Mr. McKINNEY, the ranking member, intends to do likewise for the appropriate ranking members. Mr. MOORHEAD informed the Committee on Rules that the time would be yielded to the following: First, the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs; second, the Committee on Agriculture; third, the Committee on Science and Technology; fourth, the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs; fifth, the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce; and sixth, a reservation of time to clarify matters not completely covered in the debate and for the majority leader, who served as a conferee, to conclude debate.

Mr. Speaker, I would urge my colleagues to adopt this rule. This is a fair rule and without these waivers, it would not be possible for the House to consider this conference report. I do not have to remind my colleagues that a national energy emergency exists: Every time the leaders of OPEC nations sit down at a conference table, the price of imported oil rises; every time political events in the Middle East disrupt our supply of imported oil, the shockwaves reverberate throughout our country. The provisions of this conference report give us a chance to fight back. We have all heard enough rhetoric; we have all heard our constituents ask for help. It is time we took action, positive action, to show our country and the world that we intend to get out from under the threat of economic blackmail, that we intend to do something constructive about lessening our foreign energy dependence. We are quickly approaching our Nation's 204th birthday, and I cannot think of a better gift to the Nation than a commitment, a plan, and a goal of energy independence.

Mr. Speaker, I urge my colleagues to adopt this rule and to adopt the conference report.

☐ 1040

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule allows 4 hours of debate on the conference report to accompany S. 932, the Energy Security Act. The rule waives section 401(a) of the Budget Act. This section bars consideration of any bill which provides new contract authority not subject to appropriations acts. Since various sections of the conference report fail to limit the availability of new contract authority for audits and studies of the Synthetic Fuels Corporation, the bill would be subject to a point of order.

Section 401(b)(1) of the Budget Act bars consideration of a bill which provides new entitlement authority effective before October 1 of this fiscal year. Various sections of the conference report would provide new entitlement authority in the form of fixed annual compensation amounts for certain individuals. Since these sections would become effective upon enactment and since the conference report was filed on June 19, it would be subject to points of order under this section. Consequently a waiver of this section was provided.

The rule also waives clause 2 of rule 20 against the conference report since the Senate amendments would make appropriations in a legislative bill. One such instance can be found in section 237 of the report which would allow the Secretary of Energy to establish a commercialization demonstration program and to provide financial assistance under the program.

Next there are waivers of clauses 3 and 4 of rule XXVIII, clause 3 pertains to scope and clause 4 relates to germaneness. These waivers are necessary since the conferees consolidated the one-title bill passed by the House with the 11 titles passed by the Senate. Consequently a number of provisions included in the final conference version were not considered by the House as part of its original synfuels bill.

Mr. Speaker, this is an extremely complex subject, and the legislation before us is a massive piece of legislation which deserves the most careful consideration by this body. The Rules Committee did provide for 4 hours of general debate which should be adequate time for Members to closely study the provisions of this major legislation.

I oppose the rule because of the excessive number of waivers.

☐ 1050

Mr. Speaker, I would like now to yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am opposed to this rule; I am opposed to the conference report it makes in order. This bill will pass overwhelmingly; the rule will pass overwhelmingly. The fact that the rule before us contains so many waivers should be an indication of the dangers that exist in the legislation.

Already in the very first speaker's remarks we have heard the magic phrase that will compel this House to pass this legislation, "Do something." Do something. We must do something, we are told. So like the lung cancer patient who keeps on puffing his cigars, and the incipient diabetic has to have that sugar in his coffee, and the alcoholic who is going to take just one more drink, to steady his nerves, we today will consider legislation that puts in place the Government as a solution of our energy problems. And there are very few Members of this House in private, and most in public, who would not admit that the massive energy problems we face today are a result of the Federal Government. The Government's mistaken policies have forced our national dependence on foreign oil imports and natural gas imports for 50 percent of our needs; that has made us a slave to OPEC. So we have before us a bill that started out with a modest 14 pages and now has grown to more that 400, a bill that will authorize $20 billion to be dispensed by a 7-man board of directors—we know not who—and will eventually bloat to an expenditure level of $68 billion. This is nothing but a warmed over version of the Rockefeller proposal of a $100 or $200 billion energy corporation, and the taxpayers will pay the price dearly.

If I were a major oil company or a wealthy investor with a desire to get into the synfuel business I would rejoice at the windfall bonanza that this bill will hand to big business and big oil. Of course, they want a sure thing. They want legislation like this that will have the U.S. taxpayers guarantee prices, guarantee them a market to sell their products, guarantee them the capital available from the Federal Government, guarantee them the loans they will demand. And who will be served by this? The taxpayers will not; they will pay the bill. Ruinous inflation will increase still more because of the increased Federal deficit, and the net result will be to deny the kind of free-society choices that produce true expansion of our economy and true expansion of our energy supplies.

I doubt that but very few Members have been able to read this bill in the time that it has been before us. The summary alone produced by the Republican conference runs to 20 pages. The conference report was not signed by three of the minority participants in the conference, and they have detailed in their minority views their objections.

I do not know when we are ever going to learn that it is the Government that is the problem, not the solution. It is the Government that has stood in the way of American energy production. Why not give to energy production companies in this Nation tax credits and incentives to produce without having to finance them through this kind of legislation. Why not lift the onerous restrictions imposed on industry? In a few years Congress will come back, and will again address the energy problem. The judgment then will be that it is too bad we enacted this bill.

Fascism, I will say to the Members of the House, has been defined in part as a centralized autocratic regime exercising regimentation of industry, commerce, and finance. This legislation is fascism, pure and simple, by the dictionary definition.

Socialism has been defined in part as the collective or government ownership and control of the means of production and distribution of goods. This bill is socialism, pure and simple. All of the fine words that we will hear in the next hours of debate aimed at dispelling the criticisms of the gentleman from Maryland will not remove the fact that this bill puts the Federal Government deeper into debt, deeper into control of our economic resources, deeper into producing more problems for energy production, and deeper into subverting the intention of the Constitution of the United States that never envisioned this; this tragic intrusion by government into the private sector. We will rue the day when this kind of legislation passes, and I suspect that many Members who will vote to do this—to "do something"—will do so with the private conviction that they are perhaps wrong and that in fact the American people are not best served by this approval to a serious national problem.

I know how much the people want synfuels and gasohol and cheaper energy. All of those laudable objectives should and can be met, but this is not the way to do it. I hope that those of us who voted against this bill when it first passed the House will be joined by a few more hearty souls who are willing to publicly proclaim the mistakes this bill embodies.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. Paul).

Mr. PAUL. Mr. Speaker, I would like to compliment the gentleman from Maryland for his statement because I wholeheartedly endorse everything he said.

This is one of the worst pieces of legislation I think that has ever come before this Congress. The intention is very noble; the intention is good. Synthetic fuels need to be developed, but if we look back through our history, we will find out that we—the Congress and the bureaucrats have been the ones—who have obstructed the development of synthetic fuels. We have never aided—and I do not have one moment of doubt that we will further hinder—the development of synthetic fuels with this type of legislation.

When this bill first came up in the Banking Committee and we voted on this under the Defense Production Act, it was a very, very modest proposal, a few billion dollars. Now it is up to $25 billion with a potential plan for $88 billion. And if things go the way they usually do around here, it will get into the hundreds of billions of dollars.

When the vote came in the Banking Committee the bill was passed by 39 to 1. I happened to be the individual who opposed this, and when it was voted in the full House, there were about 25, I believe, who voted against the bill. It is, indeed, a sad day for us to go ahead and pass this outrageous bill. It has grown by leaps and bounds, and if we thought for a minute it could help, it would not be so bad. But I believe it is going to be money thrown down a drain because it is nothing more than a subsidy to a nonmarket venture. It is a nonmarket venture now to develop synthetic fuels under these circumstances. If it were advantageous to the American people or to the businessmen, somebody would do it. But everybody knows that it will cost more to develop synthetic fuels then to continue with conventional production. It is not lucrative to do it, so therefore, we have to call on the American taxpayer to pay the bill. It is tragic if we can pass the cost off to the unassuming taxpayer. The businessman does not take the risk. We will help the businessman build his plants. We will allow all the risk to go on the shoulders of the American taxpayer, the little guy who cannot defend himself. But if there happens to be profit down the road in 5 or 10 or 15 years, then this profit will go into the hands of the businessman.

But there is a basic question here, that needs to be asked. The question that we fail to ask in this Congress every day, is, can we know? Can we know what is best for the economy? Can we know what the marketplace is telling us? Can we know what the people want? I do not think we ever address ourselves to that question. I happen to believe that we in the Congress, and the bureaucracy, and the computers, do not know and cannot know, what the marketplace is telling us. We may know generally that synthetic fuels are going to be necessary. I agree with that. But do we know they are necessary today? Do we know exactly how much the reserves are of gas and oil? No, we do not know. The most experienced geologists do not know. They disagree. So we do not know the instant and time when we must convert from gas and hydrocarbons over to coal or synthetic fuels or nuclear power.

So the issue is not so much, do we need it, as when we need it, and how we go through the transition. Erroneously we make a basic assumption when we come up with legislation like this that we, the Congress, know what is best, that we, the Congress—that somehow with our great wisdom—we can interpret the marketplace and know what the market is saying. The plain truth is that the Congress and all the bureaucrats, and all the computers in the world, cannot tell us what the marketplace is saying. It will only be the market that will determine what is best and when it is most economical. The fact that we come here and set up an $88 billion program and pass the cost on to the consumer indicates we are defying the marketplace, and why we must force them to subsidize such a risky venture. In a market economy the consumer has the privilege of making all the economic decisions and are not forced to pay for the error made by the politicians.

The SPEAKER. The time of the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Moorhead).

Mr. MOORHEAD of Pennsylvania. Mr.

Speaker, I rise in support of the rule on the conference report on S. 932, the Energy Security Act.

Mr. Speaker, the conference on S. 932 has been an adventure—a legislative adventure—such as I have never seen before.

It has been an adventure in compromise—creative compromise—to benefit the United States.

It was an adventure in cooperation—

Cooperation between the House and the Senate;

Cooperation on a bipartisan basis which put the Nation's interest above party differences;

Cooperation among the many House and Senate committees which are often jealous of their jurisdictions; and

Cooperation among staff members representing a dazzling array of House and Senate committees and different viewpoints.

The legislative product is something to which all of us can point with pride.

Twenty-three Members of the House and 35 Members of the Senate brought this about.

The staffs of 11 committees and subcommittees (aided and guided by Richard Olson of the majority leader's office and Lee Peckarsky of the Legislative Council's Office) brought this about. Naturally, I must pay special tribute to the staff members of the Economic Stabilization Subcommittee who were invaluable in pushing the first synthetic fuel production bill through the House of Representatives and are, I hope, seeing the final fruition of their efforts today (Ike Webber, Norman G. Cornish, Ruth M. Wallick and Dave Kiernan.)

Mr. Speaker, we have before us a monumental piece of legislation designed to meet the monumental energy problem facing the United States of America.

We need to adopt this rule to meet this need.

Remember that on September 23, 1976, we defeated a rule on an energy production bill by one vote.

This will not happen today.

When this rule is adopted, and in order to maintain the spirit of cooperation, I intend (and Mr. McKinney intends to do the same for the minority) to yield blocks of time to chairmen of committees and subcommittees represented on the conference on a roughly equal time basis.

This would mean that of the time allotted, one-sixth of the time would be yielded, not necessarily in this order, as follows:

First. Economic Stabilization Subcommittee (or Banking, Finance and Urban Affairs Committee);

Second. Agriculture Committee;

Third. Science and Technology Committee;

Fourth. Housing and Community Development Subcommittee (or Banking, Finance and Urban Affairs Committee);

Fifth. Energy and Power Subcommittee (or Interstate and Foreign Commerce Committee); and

Sixth. Reservation of time to clarify matters not completely covered in the foregoing debate and to reserve time for the majority leader as a conferee to conclude debate.

If I have insufficient time to yield to all Members who wish to speak, I hope Members who will be in charge of other blocks of time would yield.

Furthermore, I hope that Members having control of blocks of time will be able to complete their presentation in less than the allotted time because I believe that the Members of the House of Representatives realize that today is the day for decisive action.

Mr. Speaker, to make a long story short, this is the day.

This is the day we get off our knees and fight for energy independence.

This is the day the President of France referred to when he declared and, I quote:

> I am now convinced that on the day the United States will really start to move in the production of synthetic fuels, there will be a major change in the world situation.

This is the day when we send a message to those unfriendly oil nations who would seek to blackmail us with rising prices, restricted supplies and force us to listen to other unreasonable demands. We once had a Revolutionary War flag that said it simply, "Don't Tread on Me."

This is the day we start the journey of a thousand miles with that single and yet so necessary first step alluded to by the late President Kennedy.

This is the day we cast a vote to be heard around the world. We are going to fight the battle of energy independence and we are going to win.

Mr. Speaker, let us all vote for House Resolution 728 and then for S. 932.

□ 1100

Mr. FROST. Mr. Speaker, I yield for purposes of debate only 5 minutes to the distinguished majority leader, the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Speaker, I believe this to be the single most important bill upon which this Congress will have an opportunity to act this year. It may be the most important bill upon which we will act during this decade. This is a bill which has been too long delayed. It begins an initiative which we should have started in the 1950's.

In 1952, the Paley Commission appointed by President Truman warned us that we would run out of oil and gas and that we should begin immediately to build alternate sources against the day when our oil and gas reserves would be exhausted. We did not do that. Other nations with less resources than ours did so. South Africa began in the 1950's and today it has a thriving industry producing oil and gas from coal.

This day is one to which many of us have looked forward since a day in 1976, 4 years ago when, by 1 lone vote on September 23 of that year, the House failed to adopt a rule to take up a similar bill which would have permitted us to be 4 years ahead of where we are today.

Mr. Speaker, I, therefore, echo the sentiments spoken by the manager of the bill, the gentleman from Pennsylvania (Mr. Moorhead): I urge all of us to take this long, bold step forward today and take pride that the United States in its creativity has put forward a bill which will make a giant stride toward energy independence. I hope it will have an overwhelming bipartisan vote.

Mr. FROST. Mr. Speaker, I yield for purposes of debate only 5 minutes to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Speaker, today this body will act to set in place a major foundation stone for underpinning the energy security of this Nation. The Energy Security Act of 1980 covers numerous aspects of energy production and conservation, providing new incentives and initiatives for the development of synthetic fuels, liquid fuels from biomass and urban waste, and a variety of solar and conservation measures.

I welcome the substantive initiatives in this bill which are directed at helping our Nation achieve energy independence. But, my support of this conference report is given with strong reservations about one provision of title I.

This provision makes this both an authorizing and an appropriations bill.

Such a provision is unwise because it robs the Congress of the ability to use appropriations oversight to insure that the Corporation stays on track in following congressional intent with regard to its operations.

Such a provision does violence to congressional efforts to get better management control over Federal spending and achieve the balanced budget that our people have told us they want. This provision is just one more brick in the wall of uncontrollable entitlement spending the Congress is building between Federal programs and Federal budget control and balance.

With those reservations noted, I would commend to my colleagues the record of the National Alcohol Fuels Commission hearings conducted last week. Those hearings addressed the major issues confronting the future of alcohol fuels production. Two of those issues will prove the pivotal components of whether ethanol from biomass and urban waste will prove feasible as a replacement for petrofuels. The first involves economics and the second, in the food or fuel controversy.

The economic question embraces a number of component issues:

First. Can investors in alcohol fuel production facilities expect a reasonable return on investment?

Second. Can ethanol be sold and marketed on a competitive basis with petrofuels without the subsidies and tax exclusions currently provided by State and Federal Government?

Third. What will be the corollary costs of retro-fitting existing and conventional liquid fuel engines to ethanol use?

Fourth. Will capital costs attendant to the development of distribution and marketing systems for ethanol drive costs too high to make alcohol fuels competitive?

Let me address each of these questions in turn.

Cellulosic conversion of forest, agricultural, and urban wastes into ethanol has already been proved feasible at scales approaching 50 million gallons per year. A Swiss plant, using largely spruce wood as feedstock, has achieved a price per gallon of $1.54. The return on investment of that plant has exceeded 30 percent per year. Using feedstocks with little or no intrinsic values such as municipal and agricultural wastes, there is no question that alcohol fuels production will prove profitable to American investors.

The production of ethanol yields numerous salable byproducts, including distillers dry grain for animal feed and a range of marketable chemicals.

The conversion and retrofitting of liquid fuel engines to ethanol use is not likely to be a bar to increased ethanol use since the present best use of alcohol is as an additive to gasoline. All tests indicate that gasohol performs well in existing engines. For the mid-term, we will need to provide a system of tax credits for farmers and other prime users of liquid fuels to convert their engines to unblended ethanol use. I have introduced such a bill for the farm sector. It may be that similar measures will be necessary for the transportation industry as a whole.

Neither are capital costs for development of an alcohol fuels distribution system likely to become a problem. The major distributors of petrofuels are becoming increasingly receptive to the marketing of gasohol and by the time sufficient amounts of ethanol are available for sale as an unblended fuel, it seems likely that public acceptance of the product will serve as sufficient inducement for distributors to make the necessary modifications to their storage and marketing facilities.

The second major issue—the food or fuel controversy—was eloquently addressed during the NAFC hearings by both Agriculture Secretary Bob Bergland and by Denis Hayes, Director of the Solar Energy Research Institute. Secretary Bergland asserted during the hearings that:

> One billion gallons of annual ethanol production can be accommodated by an increase in grain supply in excess of the increased demand for grain for uses other than ethanol.

What that means is that our goal of 800,000 gallons of ethanol per year is realistic now. With improved productivity and development of agricultural feedstocks tailored for distillation of ethanol, there is every reason to believe that American agriculture can accommodate a developing alcohol fuels industry.

Simply put, we do not have to choose between food and fuel.

Portions of Mr. Hayes testimony on this matter before the NAFC follows:

> The easiest way to overcome the potential conflict between energy crops and other crops is to increase the total production of harvestable biomass. For example, many hilly areas cannot be tilled for food crops without risking severe erosion, but can be cultivated with coppicing trees for energy. Many areas with soil too poor to support most crops can be farmed with energy crops. For example, Brazil is cultivating cassava as an alcohol feedstock on very poor soil, and proposals have been advanced to farm guayule, jojoba, and buffalo gourd in the Southwestern American desert. Energy crop production can also be increased significantly through better management techniques.
>
> Relatively unproductive plants can be replaced with ones that produce more of the desired product. By selecting the best plants and growing their offspring, yields can be improved significantly. This process is not without some attendant risks as has been seen in the agricultural "green revolution." But if optimizing long-term yields is the goal, rather than maximizing short-term yields, significant improvements can be made without embracing monocultures and high fertilization techniques.
>
> It is also possible that significant energy crops could be cultivated in aquatic and marine environments. A variety of fresh water plants have already been successfully cultivated in pilot projects, and substantial potential seems to exist to farm several species in a nutrient-rich environment provided by treated sewage. Ocean waters are rather barren of nutrients in the surface layers, but the mechanical upwelling of nutrients from the deeper layers can be accomplished by simple technologies that do not require much energy to operate. To date, such projects have mostly studied the feasibility of farming kelp for energy.
>
> Ocean kelp farming is an interesting example of mutual benefits for both food and energy of certain new crops. Economics will probably dictate that energy not be the only product of kelp farming. A wide variety of valuable chemicals can also be obtained from the kelp, and sea animals—particularly abalone—will almost certainly be harvested as food. A kelp farm would never be established just to grow abalone, just to produce chemicals, or just to provide energy. But producing all three products, it may make excellent sense. Hence, in this case the production of a new energy crop could substantially increase the availability of a valuable high-protein food.
>
> #### CONCLUSION
>
> Alcohol fuels will not be a magic elixir to deliver us once again into the golden days of cheap gasoline. There is no such panacea. They are, and will remain, expensive relative to the fuel prices of a few years ago. They do, however, represent a real short-term opportunity to enhance our supplies of liquid fuels at costs that compete favorably with current OPEC prices.
>
> Alcohol fuels are among the most attractive of the myriad options we must pursue in our quest for energy security. With a modicum of wisdom and farsightedness, a substantial alcohol industry can be created that poses no major problems for the food and fiber sectors, or for the well-being of the environment.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I stand here as a Representative from an oil-producing State. I, like many others, strongly opposed and voted against the windfall profit tax bill which would have provided more investment capital for domestic production and synthetic fuel production in the private sector.

Let me say, Mr. Speaker, I stand in favor of this synthetic fuels bill because I know it is for the defense of our great country. For the security of our country, we must move toward energy independence as quickly as possible. This bill will help our country move toward that independence.

Mr. Speaker, I would like to say to my colleagues in the House today, our country is spending over $90 billion for foreign oil. Over 50 percent of the oil this country consumes come from the Persian Gulf area which, to say the least, is an explosive situation. If we are concerned about the survival of our Nation, if we are concerned about the independent policymaking of our Nation, as Members of this House we should support this measure unanimously and send out a message across the world that we plan to move our country toward independence, that our country will no longer be held hostage and that our people will no longer be blackmailed. Our country will move forward and show the world that we shall survive.

Mr. Speaker, as the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Texas (Mr. WRIGHT) have pointed out, this could be the most important piece of legislation that our Congress has enacted, not just during this year or not during this session of Congress but through this decade for our country.

I thank you, Mr. Speaker.

● Ms. HOLTZMAN. Mr. Speaker, it is with great reluctance that I support the conference report on the Energy Security Act. While I oppose the massive size of the synthetic fuels program it authorizes, I support the important features of the bill: A solar and energy conservation bank, a biomass program for the production of fuels, the filling of the strategic petroleum reserves, and a study of the problems of acid rain—which affects upper New York State in particular.

I oppose the synthetic fuels provisions in this bill. I voted against the synthetic fuels bill when it first came before the House because of its excessive cost and grandiose scale. The conference report before us today is even worse; it would commit $20 billion to a project with as yet unproven technology and economic worth and with severe environmental repercussions. A commitment of this size is simply not justifiable and drains vital dollars from other energy projects with proven potential for reducing our dependence on foreign oil. While I believe that this Nation needs to experiment with a synthetic fuels program, it must be one of modest and realistic proportions. Expansion should depend on whether the technology proves itself.

I voted for this conference report because other portions represent major efforts to encourage conservation and the much needed development of safer alternative sources of energy. Furthermore, under the annual appropriations process Congress will have the power to monitor synfuels development and to reduce the expenditures if necessary. We have not given away the purse strings.

Title V provides for the establishment of a solar and energy conservation bank which will, through local commercial banks, make discounted loans to homeowners and businesses. Homeowners could receive up to $5,000 for the installation of solar units and $1,250 for more traditional conservation measures. Businesses could receive up to $100,000 for solar and $5,000 for other form of energy conservation.

The conference report provides $1.45 billion for a much needed program for the production of fuels from biomass and urban waste to displace foreign imported oil. The conference report also provides for the filling of the strategic petroleum reserve.

It is my belief that America can and will make meaningful strides in achieving energy independence through extensive conservation and the innovative use of solar and other technologies. This conference report helps us achieve those goals.●

Mr. LOTT. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 323, nays 86, answered "present" 2, not voting 22, as follows:

[Roll No. 371]

YEAS—323

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Byron
Campbell
Carter
Cavanaugh
Chappell
Chisholm
Clay
Clinger
Coelho
Conte
Conyers
Corman
Cotter
Crane, Daniel
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—86

Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Burgener
Burton, John
Butler
Carney
Carr
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Devine
Erdahl
Evans, Ga.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Gradison
Grisham
Hansen
Hinson
Holt
Jeffords
Jeffries
Kelly
Kemp
Lagomarsino
Latta
Leach, Iowa
Lee
Lewis
Livingston
Loeffler
Lott
Lungren
McDonald
McEwen
Marlenee
Marriott
Michel
Moore
Moorhead, Calif.
Myers, Ind.
Pashayan
Paul
Porter
Quayle
Railsback
Regula
Rhodes
Robinson
Rousselot
Satterfield
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Whittaker

ANSWERED "PRESENT"—2

Bafalis
McCloskey

NOT VOTING—22

Anderson, Ill.
Collins, Ill.
Davis, S.C.
Dellums
Dixon
Dodd
Early
Erlenborn
Harsha
Hawkins
Jenkins
Jenrette
Mathis
Mica
Miller, Calif.
Mitchell, Md.
Patten
Runnels
Stewart
Stockman
Weiss
Young, Alaska

☐ 1120

The Clerk announced the following pairs:

On this vote:

Mr. Mica for, with Mr. Weiss against.

Until further notice:

Mr. Jenrette with Mr. Young of Alaska.
Mr. Dellums with Mr. Harsha.
Mr. Dodd with Mr. Erlenborn.
Mr. Miller of California with Mr. Davis of South Carolina.
Mr. Hawkins with Mr. Mitchell of Maryland.
Mr. Stewart with Mr. Runnels.
Mr. Patten with Mr. Early.
Mr. Mathis with Mr. Jenkins.
Mr. Dixon with Mrs. Collins of Illinois.

Messrs. PORTER, CARR, MARRIOTT, DANNEMEYER, EVANS of Georgia, DAN DANIEL, LEWIS, and DECKARD changed their votes from "yea" to "nay."

Mr. RUDD and Mr. FINDLEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore (Mr. VENTO). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1981

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of Interior and related agencies appropriation bill for fiscal year 1981.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

☐ 1130

ENERGY SECURITY ACT

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I call up the conference report on the Senate bill (S. 932) to extend the Defense Production Act of 1950, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. VENTO). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 19, 1980.)

The SPEAKER pro tempore. Pursuant to House Resolution 728 and the rules of the House, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 2 hours, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 2 hours.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, it is with deep personal pride and humility that I present to the House of Representatives our conference report on S. 932, the Energy Security Act.

My pride stems from the fact that the landmark legislation which this House passed by an overwhelming majority 1 year ago today is still the keynote of a major national program to develop a viable synthetic fuels industry. The House program in our original H.R. 3930 will lead the way in developing synthetic fuels for the national defense of our country.

My deep humility stems from the fact that this entire energy omnibus package—including synthetic fuels, energy conservation, solar energy, biomass fuels, geothermal energy, and a mandate to fill the strategic petroleum reserve—would have been impossible without the dedicated and unselfish help of the majority leader, 21 of my other colleagues in this House, 35 Senators and the many congressional staff members who worked hard and long hours.

When the House passed its synthetic fuels legislation last year by a vote of 368 to 25, the bipartisan leadership on both sides described the bill as the most important piece of legislation to come before this Congress in many years. I will let history be the judge of that.

S. 932, incorporating the House bill, now contains many titles. Here is a quick overview. Title I merges the House and Senate approaches to synthetic fuel development. Title II calls for a separate effort to encourage fuel production from biomass, including farm commodities and urban waste. Title III sets up a procedure for the congressional consideration and review of energy targets for this Nation. Title IV promotes renewable energy initiatives. Title V establishes a Solar and Energy Conservation Bank to provide subsidized loans to Americans making energy conservation improvements or installing solar systems in their homes and businesses. Title VI encourages the development of geothermal energy. Title VII calls for comprehensive environmental studies of acid rain and carbon dioxide. Title VIII requires the strategic petroleum reserve to be filled at the minimum rate of 100,000 barrels per day.

This is a multifaceted program and attacks this country's energy problem on many different fronts. House committee and subcommittee chairmen and their ranking members, who played the lead roles in negotiating these titles, will describe each in more detail. My remarks will focus primarily on title I.

The purpose of title I is to accelerate the development of a synthetic fuel industry in the United States. To accomplish this objective, this title is divided into two parts. Part A, which amends the Defense Production Act of 1950 (DPA), provides authority for a "fast start" interim program utilizing existing Federal departments and agencies to expedite the development and production of synthetic fuels to meet national defense needs. The President of the United States is directed to put this program into effect immediately upon enactment. The conferees believe that no time should be lost during the period before the U.S. Synthetic Fuels Corporation established in part B becomes "fully operational." Once the President has determined the Corporation is "fully operational," these part A authorities are placed on a "standby" basis for possible reactivation in serious energy supply shortage situations. The two parts of title I are separate and independent authorities.

However, any existing contracts in the "fast-start" interim program of the Defense Production Act may be renewed and extended subject to the appropriation of funds after the President's determination.

Much has been made about the necessity to create a one-of-a-kind Federal corporation to foster the development of synthetic fuels over the next 12 years. We did our best to give the new U.S. Synthetic Fuels Corporation the needed flexibility and, at the same time, maintain prudent control over its activities.

But, of course, the Corporation is only a name on a piece of paper right now, and it will take a number of months and possibly longer before it is "fully operational." That effort, of course, should be expedited.

Meanwhile, the House DPA program will go forward. The conference report before you directs the President to take immediate action to achieve production of synthetic fuels to meet national defense needs, utilizing the provisions of the Defense Production Act and any other applicable provision of Federal law.

Whenever needed, the President would be expected to invoke authorities of the DPA requiring the allocation of needed materials and equipment, or the priority performance of contracts or orders to make certain this synthetic fuels effort moves rapidly ahead without delay. These authorities were exercised in building the Alaskan pipeline and brought about its completion a year earlier.

Let me just say this. A lot of American firms have contracts to build energy projects overseas and those plants use much of the same equipment necessary for synthetic fuel plants. Well, America is not going to the end of the line and wait its turn for items in short supply. America is going to the head of the line.

The legislation provides that these authorities be exercised through the Department of Defense in partnership with the Department of Energy and any other Federal department or agency the President designates.

I am pleased to inform the House that the Department of Defense is prepared to issue the first of a series of requests for synthetic fuel proposals shortly after the President signs the bill. The Defense Fuels Supply Center will be seeking proposals for the production of 300 million barrels of liquid fuels made from coal and shale. I believe American industry will respond in a highly competitive way to these solicitations judging by the large number of commercial proposals recently received by the Department of Energy.

The Federal financial incentives involved include price guarantees with purchase agreements as the primary vehicle followed in priority by loan guarantees and direct loans, if necessary.

Three billion dollars is authorized in S. 932 for this purpose, but it may not cost the taxpayer a dime. This is because any subsidy involved in the price guarantee is paid only if the cost of the synthetic fuel in the marketplace is below the Government contract price at the time of delivery. All signs point to the reverse taking place with the rising cost of imported oil. It is very likely the cost of synthetic fuel will be higher in the marketplace than the Government contract price at the time of delivery. In that event, the Federal Government stands to save millions of dollars.

I might say at this point that a similar provision applies to the U.S. Synthetic Fuels Corporation when it takes over in the future for the Defense Production Act program.

In interpreting who may or may not be a "qualified concern," it is intended that the Corporation give consideration as to ways in which competition may be encouraged within the synthetic fuel industry by providing financial assistance to those concerns which can demonstrate to the satisfaction of the Board that they have, or will have, the technical and engineering experience and capability directly, or by contract, to construct and operate a synthetic fuels plant, but which otherwise would not be able to finance such a project without such assistance.

Title II of S. 932 provides for a major program to develop commercial production of fuels and energy derived from biomass resources and urban waste under programs administered by the Department of Energy and the Department of Agriculture. It is mandated that priority be given to liquid and gaseous fuels. In that connection, we urge that major attention be given to commercializing processes which utilize cellulosic conversion as quickly as possible. In regard to industrial waste, the potentialities of using higher sulfur petroleum coke also should be given attention.

The U.S. Synthetic Fuels Corporation will be an independent Federal entity with a seven-member Board of Directors appointed by the President and confirmed by the Senate. It will be empowered to provide various forms of financial assistance for commercial synthetic fuels development to the private factor, much in the fashion of the Defense Production Act.

These fuels—as in the case of the DPA—will be made from coal, shale, tar sands, heavy oil, and even water, as a source of hydrogen. Also eligible for financial assistance are coal-oil mixtures and any magnetohydrodynamic or MHD topping cycle used solely for the commercial production of electricity.

The financial resources available to the Corporation over its 12-year lifetime would total up to a maximum of $88 billion. The first phase over the next 4 years would authorize $20 billion for the Corporation. At that time, a comprehensive strategy would be submitted to Congress for phase two, along with a funding request up to $68 billion in the form of a joint resolution.

Now these sound like mind-boggling sums of money. But what we are really talking about is mostly private capital generated by Federal guarantees, loans and joint ventures. In other words, money that will be repaid. The Senate wanted the total figure to be used to reflect what the cost would be if everything in the entire effort failed and not a penny was recovered. This would be the so-called worst case.

There are no revolving funds in the Corporation or the DPA. Every dollar would be checked off the appropriation as each contract is made, even though it is not actually spent.

Eighty-eight billion dollars over 12 years is a lot of money. Is it too much? Will it harmfully divert money from our capital markets? Hardly, when you consider America will pay $90 billion this year alone for foreign oil with all of the attendant inflationary pressures this inflicts on the American people—the loss of jobs—the recession we are now suffering.

I would argue that America has an unprecedented opportunity in this legislation before us.

We can build a new industry to help solve our energy crisis.

In the process we can create thousands of new jobs in manufacturing, fabrication, construction, plant operations and support activities.

We can veritably launch a new economic cycle by creating real wealth in the very classic sense.

We can provide a meaningful new Federal, State, and local tax base.

We can make available clean fuels to America for our autos, homes, industries and utilities.

We can make America militarily defensible again.

I ask this House today to stand up and face the energy challenge before us in the truest tradition of our great country.

This is the day we can get off our knees.

Mr. McKINNEY. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, a year ago the House issued a challenge to the Senate by passing a synthetic fuels bill for the first time since 1944. Five months later the Senate raised the ante by passing a much more comprehensive energy package. After 6 months of difficult negotiations by the largest House-Senate conference in history, agreement was reached and the Energy Security Act was passed by the Senate last week. The ball, my friends, is now back in our court.

Although the original House bill was a simple approach, the conference report contains eight titles. Title I consists of two parts which provide incentives for the commercial production of synthetic fuels. Part A makes use of the Defense Production Act to get some synfuels action underway immediately. These authorities would continue until the U.S. Synthetic Fuels Corporation established under part B is operational and can take over the permanent responsibility for getting a synthetic fuel industry up to full speed. The Corporation would cease to exist after 1992 by which time it is hoped there will be at least 2 million barrels per day of synfuel production. S. 932 provides a $20 billion authorization for this program. Within 4 years the Corporation must submit a comprehensive production strategy designed to reach an interim goal of 500,000 barrels a day by 1987 and the 2-million-barrel goal by 1992. Subsequent installments above the initial authorization must be authorized and appropriated separately. The total amount cannot exceed $88 billion.

Title II establishes a comprehensive biomass and alcohol fuels program through a coordinated effort by the Department of Energy and the Department of Agriculture. The aggregate funding for this part of the biomass program is $1.2 billion through fiscal year 1982 divided evenly between the Departments. Also, a separate urban waste program is created in DOE funded at $250 million.

Title III sets energy targets which the President is required to prepare and submit annually as a title of the DOE authorization bill. The purpose of the title is to establish a process for congressional debate and vote on, and for Presidential approval of, comprehensive and consistent energy targets for the United States. No new funds are authorized for this title.

The renewable energy initiatives in title IV include solar commercialization, information dissemination, energy programs in new and renovated Federal buildings, use of photovoltaic systems and small-scale hydro initiatives. To implement these programs a total of $23 million is authorized for fiscal years 1981 and 1982 to be used under existing statutes.

Title V establishes until 1987 a solar and energy conservation bank within HUD to subsidize energy conservation improvements or to install solar equipment in residential or commercial buildings. The bank is authorized $2.5 billion for fiscal years 1981–84 for conservation loans and $525 million for fiscal years 1981–83 for solar purposes.

Title VI establishes financial assistance programs in DOE for feasibility studies and construction of specific geothermal energy projects. For the period fiscal years 1981–85 a total of $85 million in loans and loan guarantees is authorized for reservoir confirmation and in fiscal year 1981 there is $5 million for feasibility studies.

Title VII establishes an interagency task force to conduct a 10-year research program funded at $45 million into the causes and effects of acid precipitation. A 3-year study of carbon dioxide levels in the atmosphere is to be conducted by the National Academy of Science for which $3 million is authorized.

Title VIII requires the President to resume filling the strategic petroleum reserve at the minimum rate of 100,000 barrels a day.

Although I have criticized the Senate for turning our 15-page bill into a 300-page volume, I have done so in a good-natured fashion. Our colleagues developed a broader approach incorporating synfuels production, development of alternative energy sources, and energy conservation—all essential elements of a rational energy policy and something long overdue in this country. The Senate, in effect, challenged the House to do no less in developing and implementing a national goal of energy self-sufficiency.

The House conferees were dedicated to meet that challenge and have done so by improving upon the original bills from both Houses. The Energy Security Act is a very important step in the right direction. We in the United States cannot afford to forget—as we have so often in the past—that we must act today to get ready for tomorrow. We may not have gas lines this summer, but we may not have enough heating oil next winter or any gasoline next summer depending on how our OPEC suppliers feel toward America. Such an uncertain future demands that we pass this bill.

I do not believe that I have worked on any legislation during my years in Congress that will have such a significant impact on our Nation's future. I believe that this program to develop energy self-sufficiency is so important that without this we inevitably face either a major war or the loss of democracy. And in either case the American people are the losers.

My support for this legislation is explained in simple terms that all Americans can understand. The longer our country remains indefensible through reliance on imported oil—the longer American foreign policy is dictated by oil-producing nations—the longer America's economic stability is dependent on imported fuel prices—

Then the higher will be our foreign deficit and the weaker will be our economy;

The higher will be inflation as seen in food prices, gasoline, heating oil, and other necessities;

The weaker will be America's voice in international affairs;

The greater will be the instability and acts of violence in countries around the world; and

The longer nations will try to kick desert sand in America's face.

If you believe the United States should be able to defend itself in the future, you should vote for this conference report. The potential for a war of major proportions exists as a result of our depending on foreign energy sources. "Embargoes, threats and blackmail are very real concerns now because we are at the mercy of our petroleum suppliers," I said last June in support of this bill. Since November 4 I have had to add the kidnapping of American diplomats to the list.

If the price tag on this bill bothers you, keep in mind that more than $90 billion will be spent on foreign oil this year alone. A program to spend $20 billion over at least 5 years to develop a domestic synfuels industry is almost insignificant when compared to ten times that much being authorized for the defense budget, for planes, ships and tanks that cannot move without petroleum. If this Nation is going to be able to protect itself, if we are going to be able to conduct our own foreign policy, it is absolutely imperative that we develop an independence from outside energy suppliers. Without such independence we continue to be vulnerable to military and economic attack, the latter at least as devastating to our country as the former since energy self-sufficiency is as fundamental to the future as national defense.

Although American independence was declared in 1776, it was, we realize, a statement of principles and represented a goal for which we as a nation were willing to fight long and hard battles. That spirit, I believe, is as strong today as it was over 200 years ago. And this generation of Americans is as willing to do what is necessary to protect those basic freedoms which meant so much to our forefathers. I hope future generations of Americans and throughout the world will be able to look back at our action today as having as great an impact on the world as did the first American Declaration of Independence.

In closing, Mr. Speaker, I must pay tribute to my close friend, the chairman of the Economic Stabilization Subcommittee whose inspiration and leadership on this legislation will have as its testimonial the Energy Security Act of 1980. It has been a great pleasure to work with BILL MOORHEAD, especially during our subcommittee tenure of the past 4 years. We have accomplished much and it is truly fitting that such a major accomplishment be the last jewel in his congressional crown.

□ 1140

Mr. MOORHEAD of Pennsylvania. I thank the ranking member of the subcommittee, who has done such a brilliant job on this legislation.

Mr. Speaker, I now yield 2 minutes to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Speaker, I want to pick up on what the ranking member, the gentleman from Connecticut (Mr. MCKINNEY) has just said.

I rise in support of S. 932. I think any objective analysis of it will yield the fact that this will be the major energy production initiative in America, beginning when the President signs this into law.

The role of Chairman MOORHEAD and the ranking member, the gentleman from Connecticut (Mr. MCKINNEY), and their excellent staff brought it all about. We are going to hear a lot of ballyhoo about the administration and the Senate's role, but I would like to point out a few interesting dates for our colleagues and for the record.

The commitment of the gentleman from Pennsylvania (Mr. MOORHEAD) to developing synthetic fuels stems back several years. It was not just last year, but back easily until 1975 and before. It was back on March 13, 1979, our subcommittee began hearings on this synthetic fuel initiative.

The Committee on Banking, Finance and Urban Affairs passed the bill, much to the surprise of many, on May 8, by a vote of 39 to 1. This was long before the gas lines of last year and the ballyhoo and hoopla and campaign promises and platforms and brochures, and long before the cause was popular. The idea of a major synthetic fuel initiative was still controversial for a number of reasons.

Later what became known as H.R. 3930, came to this House. It was 1 year ago today exactly. For reasons which are self-evident, it passed by a whopping vote of 368 to 25.

Still later, the President announced his initiatives, and then the Senate announced and worked on its initiatives. Finally, as my colleagues know, we have had about a 6-month conference to iron out differences.

□ 1150

The SPEAKER pro tempore (Mr. BENNETT). The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, there have been so many demands for time, our time is limited here; but I yield the gentleman 1 additional minute.

Mr. BLANCHARD. Mr. Speaker, let me simply conclude by saying that if anybody ever doubts the role that one person can have in getting the ball rolling on an important issue affecting his or her time, they can look at the career and record of the gentleman from Pennsylvania, BILL MOORHEAD, and those who have helped him. We are going to miss the gentleman very, very dearly. Those of us on the subcommittee, those of us on the full banking committee, those of us in the House and also those people everywhere who believe that politics can be a force for good, progressive, and far-sighted action are going to miss the gentleman from Pennsylvania, BILL MOORHEAD. We thank him for his service to this country, to good government and to politics. We say, "Thank you, BILL MOORHEAD."

Mr. MCKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Connecticut for yielding to me this time. I take the time to urge in the strongest possible way I can a vote in favor of the conference report to cut the chains that bind America to foreign oil. For 14 years I have watched Congress debate energy issue after energy issue, resolving few, postponing some, eliminating most; yet until today, after all has been said and debated, no single energy project of any significance has been begun which would free this country of its energy dependence on foreign oil. If anything, bureaucratic and congressional mismanagement, contradiction, and overregulation have exacerbated our oil shortage. We have just plain run out of time.

Admittedly, this is a costly and complicated bill, but there is no subject in the bill that we should not address. We can cross t's and dot i's forever, but that will not produce any energy.

The bill authorizes $20 billion over a 4-year period. Sure, that is a lot of money; but last year the consumers of this country paid over $94 billion to foreigners for imported oil.

More importantly is the danger to our national defense, which has been alluded to. We passed a budget resolution recently calling for $153.7 billion for national defense; yet our ships, planes, and tanks, cannot run without oil. A major disruption in our oil supply from the Persian Gulf would be disastrous. Yes, our national defense is worth more than $20 billion.

I support the bill because of the major emphasis on coal, our ace in the hole. The technology to produce gas and oil from coal is here. It is expensive. We must mass-produce liquid coal and make it less expensive.

I think that we can get the job done through the incentives program of loans, loan guarantees, and purchase agreements provided for in this bill.

If I may get provincial, I think that the title I program could spur employment in Ohio in the coal, in the steel, and manufacturing industries where the unemployment rate is now the second highest among the States.

I support the bill because it contains an achievable biomass and alcohol fuels program.

I might say, I submitted the work of this conference to representatives of the Ohio Farm Bureau Federation and the Ohio Department of Energy on the alcohol fuel section. They endorsed the provisions wholeheartedly.

In one county in my district, Madison County, farmers have enough surplus corn right now to produce enough alcohol to make them energy self-sufficient in their farm operations. All they need is some startup money for costly construction projects.

Title V is not too dissimilar from the bill reported out of the Banking Committee to develop solar energy and to make conservation improvements in residential and commercial buildings.

We have a very serious problem. I cannot imagine how our country got into the situation we are now in. A handful of bandits just increased the price of oil again. It was an unconscionable increase. Apparently, we cannot convince them that it is in their best interests not to drag us down. Their theory is to get it now.

All of the alternative suggestions I have heard would take too long. This bill is oriented to the private sector to help get the job done. Failure to pass this bill today would mean another headstone in the graveyard of dead energy projects and an even more vulnerable America.

I urge adoption of the conference report.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on S. 932. As a conferee, I can attest to the long hours of hard work that have been committed to this proposal by Members and staff. I would like to commend each one for their dedication to producing a bill which is a long stride forward in our efforts to lessen our dependence on foreign oil. I would particularly like to commend the chairman of the conference, Mr. MOORHEAD, for his commitment to the goal of synthetic fuels development. Under his leadership, the Economic Stabilization Committee drafted and the House overwhelmingly approved the initial keystone proposal to spearhead the development of a private synfuels industry was endorsed by the administration after it passed the House and expanded by the Senate. This initial legislation of course grew in the Senate to the historic bill now before us and Mr. MOORHEAD, as chairman of the conference, is responsible for the awesome task of coordinating the differing views and priorities of conferees into a sound workable package.

S. 932 is an important step in the development of a national energy policy. It sets forth ambitious goals and programs to develop alternative domestic resources such as solar, synfuels, biomass, and to encourage energy conservation by the American people.

This country and the world is facing a severe energy problem. Our supply of conventional energy sources such as oil is finite while the demand for these resources increases daily. Obviously industrialized societies, such as the United States, are more dependent upon these resources and face a greater threat from inadequate supplies—not only in terms of energy, but also as a threat to our economic well being. We must free ourselves from that threat by developing alternative domestic resources. We have lost too much time with tangential issues and are living in peril while our tremendous resources of coal, oil shale, tar sands, biomass, solar and conservation which surpass in magnitude the oil from the world's reserve, lie relatively untapped. The conference report before us is an important step to change that. It will unleash American know-how to help resolve our energy problems.

S. 932 will, however, not directly result in any new oil or energy savings. What we are doing is establishing programs to redefine and achieve those goals. For these programs to be successful, it will require the dedication and total efforts of the American public, industry, and Government. Without that cooperation, we will not achieve the desired results.

Mr. Speaker, no legislation is perfect. There is a continuing need to review and modify any law to meet the needs of our evolving society and S. 932, a massive undertaking, is no exception. Congress will have to review the programs established by this act and make any necessary changes in the future. However, we have established a sound basis for lessening our dependence on foreign energy upon which we can act and build. I urge my colleagues to support this measure.

Mr. Speaker, I wish to ask the distinguished chairman of the Science and Technology Committee several questions regarding title VII. I am most pleased that the conference incorporated the Senate-passed title on the acid rain study into the final product. This title, which attempts to build upon the acid rain task force established by President Carter's memorandum of August 2, 1979, recognizes the serious threat presented by acid precipitation. This problem has already impacted upon areas throughout the United States including the Boundary Waters Canoe Area in northern Minnesota. Unless checked, the area and significance of the impacts of acid rain will grow. The inclusion of this title underlines our commitment to control and eliminate acid rain. The task force's research and recommendations will provide Congress, the administration, and the public with desperately needed data to deal with the problem.

In establishing the task force, the conferees agreed that the national laboratories can play a major role in the research on acid precipitation. With this in mind, the conferees directed that the national laboratories be represented on the task force and under the direction of the joint chairmen, the Administrators of EPA and NOAA, and the Secretary of Agriculture, manage the technical aspects of the Federal acid precipitation research and development programs. I would like to ask the chairmen whether it was the intent of the conference to have the national laboratories on the task force as voting members.

I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, no, it was intended that the national laboratories be members of the task force but not to participate as voting members. The national laboratories are already significantly involved in acid precipitation research and their expertise in scientific research will be invaluable in dealing with this issue. However, as voting members of the task force a conflict of interest could arise over the direction or expenditures of the task force.

The conferees intended that the national laboratories be utilized for their scientific capabilities and in the management of the research program and under the direction of the joint chairmen of NOAA, USDA, and EPA, and in addition, allowing the national laboratories to vote could, in effect, give the agents, the four laboratories, five votes, which was never the intention of the conference.

Mr. VENTO. Mr. Speaker, I thank the chairman for his thoughtful response.

Mr. Speaker, at this point I place into the RECORD the August 2, 1979, memorandum from the President entitled "Acid Rain Research Program."

The memorandum is as follows:

[Memorandum from the President, Aug. 2, 1979]

ACID RAIN RESEARCH PROGRAM

(Memorandum for the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, the Chairman of the Council on Environmental Quality, the Director of the Office of Science and Technology Policy.)

In my Environmental Message of August 2, 1979, acid rain was identified as a major global environmental problem. However, our knowledge of possible effects and specific causes of acid rain are inadequate for determining what kinds of controls would best mitigate the problems caused by acid rain. It is important that we undertake efforts to describe the magnitude of acid rain effects, to develop a more thorough understanding of its causes, and to identify measures which can mitigate acid rain impacts.

To meet these goals, we must establish a comprehensive federal acid rain research program. In order to increase the program's effectiveness as well as to reduce its costs, research should be coordinated with states and private research efforts, particularly large industry efforts. Finally, in undertaking the federal acid rain research program, we should work closely with Canada, Mexico, other nations, and international organizations which are concerned about acid rain.

I therefore direct that:

A standing Acid Rain Coordination Committee be established comprised of policy representatives from each of your agencies.

The Committee shall be co-chaired by the Department of Agriculture and the Environmental Protection Agency. The Council on Environmental Quality shall serve as the Executive Secretary of the Committee.

The Committee shall plan and manage a comprehensive acid rain assessment program. A Federal Acid Rain Assessment Plan shall be completed by January 1, 1980. The Plan shall identify necessary coordination mechanisms to ensure that the results of the assessment program will be incorporated in agency planning and decisionmaking.

The Committee shall seek cooperation of state and private research efforts, particularly industry research programs, which are conducting acid rain research so that to the extent possible duplicative research is eliminated and research is jointly planned and conducted.

Through the Secretary of State the federal acid rain research program shall be coordinated to the extent possible with similar efforts in Canada and Mexico as well as with other Nations and international bodies.

Consistent with established procedures of the agencies chairing the Committee, the Committee shall actively solicit public involvement in its planning and reviews of the research results of the Committee's program; workshops, public hearings, and other techniques should be utilized.

The Committee shall prepare and submit to the President by September 15 of each year an annual report which shall present the results of the acid rain assessment program and make recommendations as appropriate. This report shall serve as a planning document for focusing agency programs to meet the objectives of the acid rain research program.

JIMMY CARTER.

Mr. Speaker, just in summary, I think this proposal of this entire conference will go a long way toward providing us with less dependence on foreign sources. While it has been greatly expanded, I think each one has received thoughtful consideration. I know that I have received many communications over the 6-month conference from a variety of our colleagues interested in various aspects. I would commend you to vote for it.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I thank the gentleman from Texas. I simply want to say that I am proud to have been in on the genesis of this legislation under the distinguished leadership of the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Connecticut (Mr. McKINNEY).

Mr. Speaker, the Energy Security Act may well be one of the most important acts we consider in this Congress. Our dependence on foreign oil has jeopardized the independence of our foreign policy, played havoc with our economy, and helped send us into an unprecedented inflationary spiral that has caused hardship for the American people and industry.

Because energy security and independence is essential to the United States and production of at least 500,000 barrels of crude oil equivalent per day of synthetic fuels by 1987 will significantly reduce the U.S. dependence on foreign oil, I cosponsored the original synthetic fuels bill and was privileged to participate in the formulation of this legislation as a member of the Banking Committee's Economic Stabilization Subcommittee. We all realize that the costs of synfuel development may be substantial, but we cannot leave this component of a sound energy policy undeveloped. I therefore commend the conferees for bringing us this bill.

Developing alternative fuels and energy systems, however, should be accompanied by encouraging conservation of our limited energy supplies. Indeed, conservation offers us our best chance of making immediate significant reductions of oil imports. Thus, I am also pleased to note that my efforts in the Housing and Community Development Subcommittee to amend the President's Solar Bank bill to cover energy conservation as well—even when no solar installation is contemplated—have been preserved in the conference report. Other of my amendments that the conference report has preserved enable multifamily residences to be eligible for energy audit programs, allow tenants and owners of large multifamily rental and cooperative apartment buildings to qualify for solar and energy conservation subsidies and provide subsidy payments for installing individual metering systems where one meter previously monitored a multifamily residence's utility use.

All in all, this bill represents a major step toward establishing an energy policy for the United States, and I urge my colleagues to support it.

Mr. PAUL. Mr. Speaker, earlier in the debate I asked the question whether or not we as a Congress can know what is best for the economy. Can we make decisions as major such as this, deciding which fuel should be developed and where the money should be spent.

I truly believe that we cannot. I do not believe that we are capable of having that much knowledge and our past record would indicate this. I do not believe that we as a Congress have a very good record in making correct economic decisions.

☐ 1200

I would like to ask another question of this body. Is it really a proper function of Congress to do such a thing? Have we been given the authority to do this? Is it a proper legislative procedure to have a program extracting $88 billion out of the economy and out of the pockets of the average American taxpayer and put it into the pockets of somebody else for their particular benefit?

I, for one, do not believe that this is a proper function of Government. If we look at what we are trying to do here, I believe 100 percent of us would agree that our goals are very similar.

We all want to be energy independent. I have not heard one individual in the time I have been in Congress that indicated somehow or another they would like to see us dependent on the Arabs for our energy sources. I really have not seen very many people oppose an across-the-board development of synthetic fuels. I happen to endorse wholeheartedly the development of synthetic fuels. I think they are very necessary.

My question is: Who should do it, at what pace, and what should the specific decision be? Who should make these specific decisions?

Government only occasionally makes a correct economic decision, for the most part. I am firmly convinced Government misdirects the economy. They make bad decisions and then the people pay the penalty. Then, when we correct the problems we have created, it is much more expensive than if we would have just allowed free individuals in the marketplace to solve our problems.

It is this misdirection I am concerned about. In the 1950's we really got into the energy business with energy price controls. We priced natural gas much lower than the market price and, in doing this, we disturbed the marketplace. At that time there was a good bit of solar energy development spontaneously prior to 1950. When gas became plentiful and cheaper due to Government action, the efforts made on a voluntary basis to develop solar power were put aside.

Also, Government interfered in the marketplace in the 1930's when it was decided that people on farms needed cheap energy, and the Congress being very compassionate provided cheap energy for them. We subsidized and we gave them low-interest loans and, therefore, the people in the cities paid for the energy in the rural areas.

But, in doing this, we have curtailed all of the normal and natural development of wind power. There were private wind power companies in existence in the 1920's that were wiped out of business because they could not compete with the subsidies of big Government.

Therefore, we hindered the development of solar power and we hindered the development of wind power. Now we come along and take money out of the economy to develop solar power and develop wind power and do all of these things that we believe now are now necessary, but are probably 30 years late. I believe we do this with good intentions, but we do it at the wrong time. Maybe the best thing for the American people today is the development of nuclear power. This the Government and the bureaucrats do not know. It is a possibility. I do not particularly know whether it is true or not, but there is pretty good indication that nuclear power may be the safest and the cleanest of all fuel.

We have spent a good many dollars over the last several decades trying to protect our environment. I think we should have absolute protection of our environment. But what are we doing? We are now insisting that we burn coal; that we mine more coal. Nobody has proven that coal is safer than other sources of energy and evidence is available to show that coal is a very dangerous fuel.

So in the long run we may be producing much more environmental hazard than if we would have allowed the marketplace to handle the problem. But we do this always with good intentions never realizing some of the complications we might get into.

With the development of synthetic power it is estimated that we will have to use massive amounts of water. And yet many expert environmentalists are not sure whether we have the water available or not to do this.

The synthetic fuels bill should be rejected for many reasons.

SYNTHETIC FUELS

This bill calls for $25 billion, the first of an $88 billion program for the development of synthetic fuels. With our energy crisis, who could object? Does anybody really care that the technology for making gasoline from coal is more than 40 years old? Does anybody consider that the corporate recipients of these confiscated dollars are delighted that the expense of building new plants are being passed on to the middle-class patsy?

The risks will be borne by the defenseless—the profits will be reaped by the corporate welfare giants.

The promises of more abundant and cheaper energy for the taxpayer will never materialize, and when this is discovered the taxpayer is going to be very angry.

If the Congress and the bureaucrats can create consumer shortages when there are no actual shortages, how can we expect the same people to provide an abundance of new energy from scratch? Seeking to turn these destroyers into producers is absurd.

The 4-year debate in Congress over development of synthetic fuels has been misdirected. The environmentalists' reservation about synthetic fuels are well founded. However, since Government is the greatest polluter of all it is not surprising to see the American taxpayer forced to pay $25 billion to finance his own environmental hazards. How can anyone object if the program is pushed in an atmosphere of panic? Although the environmental issue was raised in 1976, it now has been brushed aside by the fear of more DOE-created shortages. The Energy Mobilization Board will also nullify any environmental protection gained through Federal or State legislation. Forced use of coal over gas and nuclear will also increase the danger to our environment.

Fancy oratory has been heard over how much should be spent on this program. Figures ranging from $3 to $88 billion have been mentioned.

But everyone seems to be satisfied with the $25 billion planned in this legislation. The only comforting feature about this amount is that it will cause less damage than one would assume. With a 20 percent inflation rate—in real terms—over a 4-year period, in terms of today's dollars this will amount to less than half of the appropriated amount in spending power. The danger exists, however, that the foolish notions of Government intervention will prevail, and massive new subsidies will be acquired, to make up for the loss.

The real debate regarding synthetic fuels has never occurred: Can we know if, when, and which synthetic fuel should be produced, and is it a proper function of the State to do so? Are we, the Congress, even with the help of our bureaucrats and scientists, capable of knowing and interpreting the market? Can one person, or one body like the Congress, even with massive computer technology and numerous economic models, know that which requires millions of voluntary choices in every other area of the economy?

When one realizes that a market economy is controlled by consumers making purchases and withholding purchases—something even the smartest businessman can only "gamble" on—it becomes apparent how foolish we are to pretend we know just when and what to do with regards to developing new fuels. Thinking otherwise demonstrates an unbelievable intellectual arrogance or a remarkable naivete.

The May 1980 issue of Research Reports, published by the American Institute for Economic Research stated it quite clearly:

> Governmental interference in the marketplace to "stabilize" production of any good imposes involuntary choices on the public by (1) increasing taxes to support the artificial production of a good and (2) limiting consumers' ability to purchase goods they actually desire. So-called stabilization programs actually benefit a small group at the expense of the public. . . .
>
> Voluntary cooperation is fostered by competition in the marketplace. It does not require governmental "direction"; it requires merely a set of rules that prohibits such acts as fraud and theft. The marketplace adjusts the actions of consumers and producers so that economic activity is geared to satisfy market participants to the greatest extent without infringing upon anyone's rights.
>
> In fact, centrally planned programs not only distort economic activity by causing surpluses in production in some areas (e.g., certain agricultural products) or shortages in other areas (e.g., crude oil), they also wrongly suggest to people that the political process can solve their economic problems. . . .

The question of whether or not our wisdom is superior to the market, or whether we are wise enough to know the market, is never raised. It is simply assumed we know what is best and that we can interpret the market. This erroneous assumption, which has directed legislation here in this body for so many years, has brought us to the economic, monetary, and political holocaust we face.

When a government presumes to know what is best for the people in economic terms, it must follow that it presumes to know what is best for everyone in social terms as well. If a warm house and adequate energy become the responsibility of the State, well-spent leisure, good books, health habits, and the like, must also be the concern of the State. With the concession, that economic and social concerns are no longer the responsibility of the individual, no personal liberty remains. We all become puppets of the State, except, of course, for the smart ones—the planners—who know what is best for all, the puppeteers—that is, the Congress, in collaboration with the bureaucracy and the special interests.

The puppeteers are not limited to the left or to the right. The worst on the left are the so-called consumer protection groups and the welfarists who ignore economic freedom and the right to private ownership of property; and on the right we find the giant corporations; and international bankers who manipulate government to their own advantage and others careless about protecting personal liberty. This explains the widespread support from both the right and the left for the Government synthetic fuels program.

The common denominator that brings these two groups together is the ignorance, or the abhorance, of the voluntary market economy. This, however, is not hard to understand, because both groups make the same fundamental error—accepting the interventionist economic philosophy. They are usually only distinguishable by their appeals to different special interest groups.

Ludwig von Mises stated it quite clearly in his essay, "Politics and Ideas," when he said:

> Under interventionist ideas it is the duty of the government to support, to subsidize, to give privilege to special groups. . . . What we see in the reality of political life practically without any exception is a situation where there are no longer real political parties in the old classical sense, but merely pressure groups. Pressure group politics explains why it is almost impossible for all governments to stop inflation. As soon as elected officials try to restrict expenditures, to limit spending, those who support special items in the budget come and declare that this particular project cannot be undertaken or that that one [synthetic fuels] must be done.

If this is not understood, and if it does not become quite clear to the American people why $25 billion will be spent on 40-year-old technology, the economic and political holocaust will be hastened. As other areas of the economy deteriorate—we have already seen it in the automobile, railroad, and steel industries—and the same approach is used, a socialist, nonmarket, economy of the fascist variety will soon be with us.

Quite simply, we as Congressmen cannot know what is best and we cannot know what the market is saying—it is too complex. All attempts will fail and only serve to distort the information that true entrepreneurs rely on and are struggling with, to make some reasonable decisions. The big difference being it is their risk, not the taxpayers', thus prompting better judgment. Government action, as with the synthetic fuels legislation, is counterproductive, and the benefits claimed from such projects will be so costly that no net gain can be achieved—it will be nothing more than a corporate CETA program, and is doomed to fail economically and become corrupt politically.

A "no" vote on this massive boondoggle is not a "no" vote on synthetic fuels. That is not the issue. The issues are who takes the risk, who pays, who benefits, when and which fuels do we make, do we heed constitutional restraints, and do we consider the immorality of theft and forced wealth redistribution? To argue that without a synthetic fuels program we will have insufficient energy is fallacious. The evidence clearly shows we are more likely to have insufficient energy supplies with Government interference than without.

For those who agree that we need synthetic fuels development, a "no" vote is a must. It is the only consumer and environmental protection vote available to us.

Casting a vote for the market puts all the responsibility and risk on the potential profitmaker. No fast track legislation would be needed to circumvent environmental protection afforded by private property rights.

If wrong decisions are made by the investor about when and which fuel to manufacture, he loses and the taxpayer does not. And the information gained is of great value to the next private planner. When the Government "planner" fails, the taxpayers suffer, the market is drastically distorted, and only misinformation is obtained. Government never makes proper corrective actions, it only pursues with a vengeance its previous mistakes—to prove they were not mistakes—by throwing more money—wealth extracted from productive American citizens—down the ratholes of market manipulation.

When losses are hidden or distributed to the public—as it is with Government errors—the significance of miscalculation of the market is not readily apparent. Perhaps oil supplies are more plentiful and more practical than are synthetic fuels, or electric cars, powered by nuclear generated electricity, may be more advantageous: Only the market knows, not you or I.

As a matter of historical fact, we know that Government intervention has prevented the natural development of clean and safe alternative energy sources.

Politically set utility rates impose no higher cost on customers in distant areas, where delivery costs are higher. That is, urban customers, including the poor, subsidize suburban and exurban homeowners.

If people in remote areas paid the market cost of delivery, alternative sources such as wind, solar, and others would not have atrophied. They would have been economically competitive many years ago.

Political intervention also undermined alternative energy through the Rural Electrification Administration. In their essay, "Property Rights and Natural Resource Management," published in Literature of Liberty, Richard Stroup and John Baden of Montana State University note:

> Perhaps the most important factor fostering the decline of our indigenous alternative energy industry was an unintended consequence of a desire to "do good." The Rural Electrification Administration (REA) was established during the 1930s to subsidize power delivery to people in rural areas. The federal government guaranteed two percent loans and eliminated income taxes to rural power co-ops. Thus, the general citizen picks up a portion of the cost of delivering expensive power and hence reduces the market incentive to develop alternative systems.
>
> Although REA legislation was enacted in the 1930s, the demise of the windmills and wind generators was postponed for another two decades, the time required for electric wires to be strung throughout the Central and Western states. Marcellus Jacobs, founder of the once successful "Jacobs Wind Electric Company," stated that without question, the spread of REA subsidized power facilities signaled the end of his business. The solar water heating industry, resurging after World War II, was also stunted by cheap electric rates. Like wind power and solar water heaters, the ultimate demise of eighteenth and nineteenth-century tidal power can also be attributed to the subsidized introduction of cheap electricity.

Having once halted the natural development of these alternative energy sources, we now want to subsidize them, when technologically their day may have passed. Even worse, we are on the verge of subsidizing dirty synthetic fuels.

The question is whether or not private citizens, entrepreneurs, and consumers Solar and Conservation Development and where synthetic fuels and alternative energy sources should be developed, or whether the decisions should be made by Government officials at the taxpayers' risk. This question has moral as well as economic and constitutional dimensions. The economic fallacy of Government control, if not obvious today to the majority, will be obvious to economic historians of a later generation. Unfortunately, it will then be too late to help warm, light, cool, or transport Americans as they would like.

The tragedy about discussing the constitutional argument against such a program is that the mere suggestion of such a point is ridiculed. Here in Congress the Constitution is whatever one wants it to be, and, unfortunately, there is minimal understanding of its true meaning. It bewilders many if the issue of constitutional restraint is raised on a specific piece of legislation, since we have drifted so far from the original intent of its limitation of power in our everyday legislative activities.

It is an argument foreign to most and, sadly, of no consequence. The Constitution is simply not used as a guide in our legislative process. It is only used in a circuitous manner to support efforts to concentrate power or justify some, occasionally correct, minor point. There is little hope for building limited-government, private-property, free-market principles, if this attitude toward the Constitution does not change in the next election or two.

The moral argument could be the most convincing, since the Congress is made up mostly of fairminded persons truly concerned about the welfare of their constituents and the nation.

When it is realized that this is corporate welfare at the expense of the poor and that new energy will not likely result, rejection of this approach will be easy, since it is morally wrong as well.

Is it fair for the poor to assume the risks and the rich to heap the rewards?

Is it fair to encourage coal burning at taxpayers' expense and hinder the developers of possibly cleaner and safer alternatives such as nuclear and solar?

Is it fair to make gasoline at a higher cost—when cheaper sources are available—just because you think it might be necessary later?

Is it fair or morally consistent to have people sent to jail for distilling their own alcohol—now that the taxpayer is being asked to subsidize such distillation?

Is it fair to tax the middle class and the producers to subsidize the whims of the corporate statists?

Is it fair to distort and hinder the market and pretend we know it when we do not—delaying a real solution to our problem?

Is it fair to override local and State laws, set up to protect the right to own and control private property, by fast-track legislation?

Is it fair to eliminate the rights of the consumer, afforded him through the market economy and free choice, and burden him with high costs, dirty fuels, poor service, shortages, and harassment?

Is it fair to give the Government bureaucrats the power to tax, spend, regulate, redistribute wealth by force, distort, and manipulate a whole industry if you, as a private citizen, cannot do the same?

Is it fair to burden millions who will suffer the consequences of Government's blunders, and make them the helpless victims of your arrogance?

Is it fair to say there are real energy shortages when Government regulations and Government-caused inflation are at fault, concocting an atmosphere of unnecessary fear, that prompts passage of such legislation?

Is it fair to pass laws curtailing private monopolies, and then make Government the biggest monopolist, passing on benefits to a few special interest groups?

Is it fair to control people, and diminish individual liberty, for the sake of collective demands?

Is it fair? Obviously not.

The synthetic fuel bill is unconstitutional and economically unsound. But above all else, it is not fair. It is not morally acceptable. It is special interest legislation at its worst. It should be rejected outright.

All evidence available, past and present, shows us that interventionism and socialism always fail and cannot solve the problems of providing for the needs of the people, whether its energy or food. The only thing command economics can offer is temporary relief for a few, not by production, since Government produces nothing but paperwork, but by theft and forced redistribution, causing eventual economic pain and suffering for everyone at the expense of our freedoms.

All evidence available to us shows, to the contrary, that freedom and the market does work, and work exceptionally well. The good news is that freedom can provide for our needs; Government intervention and control always fail. I vote for freedom and fairness and against the synthetic fuels bill.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I commend the work of the distinguished gentleman from Pennsylvania (Mr. MOORHEAD), and the gentleman from Connecticut (Mr. MCKINNEY) for their leadership in bringing this conference report to the floor. As a member of the committee on conference, I heartily endorse it.

In a nutshell, what we are contending with here is the action of the OPEC countries in charging all that the traffic will bear and then some for their precious oil. The leaders of the free world at Venice, within the last few days, have pronounced it is the policy of every one of our countries to do what we can to reduce our dependence on OPEC.

We have done some things. We have tried conservation. But until we can get our act together and work out a method of reducing waste of gasoline in this country in a manner that will be fair to the worker who has to get to and from work in a gasoline-powered automobile, we will not really have done what we need to do there.

We have freed up and decontrolled oil. But the drillers for oil are disappointing. They are not bringing in any vast new reserves.

So I think we are embarked upon a sensible initiative here in saying that the Government must play a role in encouraging those who would make synthetic oil and gasoline from shale oil, and coal, and biomass, to supplement that with a shot in the arm for solar and wind and other forms of alternative energy.

When the bill is passed and the mechanism is set up to create a national market for synthetic fuel, the Government will have to do a job of surveillance better than it has done in the past. Too often in steel we have been backing with the public funds obsolete technology. Too often, as in the case of Chrysler, we may be subsidizing an operation that does not really have a reasonable assurance of repayment.

So in the case of synthetic fuels, we are putting at hazard billions of the taxpayers' dollars. Let there be an unusual obligation upon the executive branch and upon ourselves to see that we back winners, not losers.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, there is no question that we have a very serious energy crisis in our country, not only in terms of our economy but in terms of potential confrontation with the Soviet Union.

Several of us were privileged to have had lunch yesterday with the Chairman of the Joint Chiefs of Staff, Gen. David Jones. He clearly pointed out that if we are going to have a confrontation with the Soviet Union some time down the road, it was probably going to be one over oil, and that the Soviet Union in the 1980's, for the first time, will no longer be self-sufficient in energy. He said that that confrontation, if it comes, will likely be in the Middle East and in the Persian Gulf area.

With that backdrop, it is important that the United States, in order to protect both its economy and its security, become energy independent as quickly as possible.

I have grave reservations about the approach that has been taken in this legislation, which I was privileged to be a conferee on one title of. I feel that the legislation as a philosophical statement denies the validity of the free enterprise system. It fails to allow the marketplace to make the decisions about which way we are going to go in terms of developing our energy and it substitutes for those market decisions, decisions of Government bureaucrats. It sets up two new massive Government bureaucracies, the Energy Security Corporation and the Solar and Conservation Development Bank, to deal with our energy problem when we have already seen how miserably the Department of Energy and other entities we have established have failed.

We once again go down the further road of more governmental solutions when in fact the Government created the problem that this country faces in energy in the first place. Even if successful, what this approach will mean is that we are going to, in effect, be able to produce synthetically about 5 percent of what we are now importing. So it is certainly no total solution. Yet it is the only game in town.

□ 1210

Even though I disagree with the methodology that has been established in this bill and think that we could do a lot better for less cost with a system of tax incentives that reward the successful, rather than a system of grants and loan guarantees that benefit not only the successful but the unsuccessful, because of our dire need, as some have put it on my side of the aisle, "to do something," I will reluctantly support this bill because I think that to do something is better than to do nothing.

I would like to make one final comment and that is that several weeks ago this House wisely rejected a tax increase of 10 cents a gallon on gasoline. Make no doubt about it, however obscure, however hidden it may be in this bill, there is a tax increase on gasoline that is called for in this report. So we ought to realize that we are voting for a tax increase if we support this bill. A complicated entitlement system is set up under which the U.S. Government is allowed to buy at a preferred cost fuels to fill our strategic petroleum reserves, something that I agree should be done as soon as possible. But in order to do that, under the way this bill is structured, those that could otherwise purchase cheap petroleum are now forced to go out and buy it somewhere else, giving that cheap petroleum to the Government.

The ultimate effect is an increase in the cost of each gallon of gasoline that we buy in this country of about four-tenths of 1 cent. Yes, it is not a large amount compared to the 10 cents that we were unwilling to see imposed on the American consumer just several weeks ago, about 5 percent of that amount, but, nevertheless, the principle is still the same. We are, indeed, imposing a new tax on the American consumer through this bill.

I agree that the strategic petroleum reserve ought to be filled, but it ought not to be filled by paying for it with a tax increase.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, first let me state that we are all saddened by the fact that the gentleman from Pennsylvania (Mr. MOORHEAD) will be leaving at the end of this session. He perhaps has done as much, if not more—than any other Member in the area of synthetic fuels, which is absolutely essential if we are going to ever have any independence from the OPEC countries.

Mr. Speaker, as a cosponsor of the original House synthetic fuels legislation which has evolved into this conference report, and as one of the Members who has been fighting for a synthetic fuels program ever since we lost the one we had back in 1953, I urge an overwhelming vote today.

To my way of thinking, we are sending two signals through this legislation. The first one is to both the oil exporting nations and the other consuming nations. We are saying to them, to OPEC, to the industrial nations, and to the developing nations, that finally we are taking the first real step toward energy independence.

We are saying that we have so much coal, and so much shale, that we have been foolish and wasteful not to have been using, but that time is over, and we are moving into the new time—the time of energy independence.

This is the first signal.

The second signal is to our own people. We are saying to them that there is at least one way out of the nightmare of constantly escalating imported oil prices. We are saying that we do not have to be at the mercy of merciless people—the oil exporters who have drained and damaged our economy to the point of peril, which is where it is today.

But if we are going to be really energy independent—if we are going to really be out of the clutches of the oil exporters—we have to go much further than this legislation. We have to go into commercial scale synthetic fuel production in the same kind of way we would be operating if another country had declared war on us. I think war is a useful comparison, because we are in an economic war, and we are losing it.

Anyone who has looked at the figures knows that the fiscal rope is very frayed not just in our country, but worldwide, and if it breaks not just our economy, but the world economy, will collapse.

So the people who will be involved in implementing this legislation, and in bringing about the beginning of a synthetic fuels industry, have a tremendous charge on them, a tremendous responsibility. If they are dilatory and wasteful, if they pour billions down the rathole of false research instead of into the construction of an industry, we will be in an even more dangerous situation than we are today.

But if they move ahead with the great amount of technical skills and knowledge that is already available, and that has been used and is being used in other countries to produce synthetic fuel, they will get the credit for carrying us across the threshold toward energy independence.

Mr. Speaker, not too many years ago, we lost a rule on a synthetic fuel bill on this floor by 1 vote. Today, we are going to rebuild the hope that we lost then.

In a not too distant tomorrow, I want to be standing here in support of a vast expansion of the synthetic fuel program—the legislation that will finally move us out of the clutches of the oil extortionists, and into the realm of energy independence.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that I may be permitted to yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD of Pennsylvania. Reserving the right to object, Mr. Speaker, at this time I intended to yield a block of 20 minutes to the gentleman from Washington (Mr. FOLEY) for the purpose of yielding, debating, reserving his time, and yielding back his time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding to me. I have the same concern. We are all in agreement with the need for developing synthetic fuels in this country as fast and as rapidly as we can. But the thing that concerns me is that presently under existing law in the Defense Production Act the Department of Energy is processing applications for loan guarantees. I am told there are about 900 applications presently under process. When this bill becomes law, what will the administration do with 900 applications? Are we going to go back to square 1, do they have to reapply, will we have a long term of several months before this corporation gets established and the board gets appointed? It could drag on for a year or more in this intervening period. In that time we could maybe even have a new President, and this act would slow down the process. In that time no application would be acted upon, nor any progress toward producing badly needed fuel.

Mr. PERKINS. I would say it would slow down, but the impediments we have in the act, I think, the gentleman from Pennsylvania (Mr. MOORHEAD) will agree, could drag along for some period of time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

I would like to say to the gentleman that the 900-odd applications to the Department of Energy on the loan guarantees are not for production. They are either feasibility contracts or cooperative agreements. Having worked on a feasibility study, that Corporation is in a better position to know how to bid for either a price guarantee, a loan guarantee, or a loan. But they would proceed either under the Defense Production Act or under the Corporation. However, they will have made a step forward through their feasibility study.

□ 1220

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman from Kentucky yield for a brief question?

Mr. PERKINS. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Is the gentleman saying there are no applications today for loan guarantees in the Department of Energy, those applications are all just for feasibility studies and really we have not even started to crank up to help industry to start producing synthetic fuels and other alternative sources of energy?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield, it is my understanding the only contracts are cooperative agreements and feasibilities studies.

Mr. MYERS. Then, Mr. Speaker, we are worse off than I thought we were. I thank the gentleman for yielding.

Mr. PERKINS. Mr. Speaker, let me say I would like to see the loan guarantees and every incentive we could possibly provide to get this program off the ground. I think we are going to have to make some modifications and come back with a much larger program. I do not think it will be very long before we see that day come about.

Mr. Speaker, I personally feel we must come forth with a much broader bill, more incentives, loan guarantees and on a national emergency basis just like we would be working if we were in actual war, if we are ever going to free ourselves from these OPEC nations.

Mr. McKINNEY. Mr. Speaker, I yield 3 minutes to the ranking member of the Committee on Science and Technology (Mr. WYDLER).

Mr. WYDLER. I have very mixed emotions about the conference report. If we had title I alone, I could support it wholeheartedly. I would think it would be a worthwhile venture for the Government to embark on and at least go through the first stage and see if it really was productive for country. Then if it was, to continue on with the program and get the benefits from it.

THE CORPORATION AND DPA

Mr. Speaker, this bill is at least as important for its symbolism as its substance. The world has been waiting for us to do something about energy supply since 1973. The Federal commitment in title I of this bill which sets up the Synthetic Fuels Corporation is the meaningful gesture that our allies have been waiting for. The dollars are only the "tip of the iceberg," since we know this country's public and private investment will have to be at least 10 times as much to make a major contribution to domestic energy production. Title I must certainly have a chance to make a difference in energy supply; a potential which never existed in the 1978 National Energy Act.

THE LONG CONGRESSIONAL JOURNEY

From my vantage point on the Science and Technology Committee, we have come a long way down the road with synthetic fuels. It has been a tortuous path and we have traveled it very slowly since the first congressional initiative in 1975. The rule on the first synfuels bill was defeated in this Chamber that year by a curious alliance of those who felt the marketplace would be perturbed by Federal moneys with others who could not countenance the fact that the large energy companies might profit from a Federal synfuels program. Both our committee and the Congress have learned a lot about demonstrating and commercializing technologies since then. Our committee was successful in having generic loan guarantee provisions adopted in Public Law 95-238, the fiscal year 1978 DOE authorization bill. These authorities have not been exercised in a substantive way by the DOE as of yet. Meanwhile, we have watched the frustratingly slow progress of the coal conversion demo plants—some of which were authorized over 5 years ago by the Congress. Slow progress has been due in a large measure to lack of industry confidence in the technologies and absence of strong project management in DOE.

This painful history sets the stage for what happened on the floor of the House 1 year ago. The frustration with development of a synthetic fuels industry had peaked by then and most Members decided that they actually wanted to see something built. They wanted to see someone get all the permits and licenses and go out and construct some plants. Sure, the operating shakedowns may take months and some experience will be painful, but the House decided, "Let us build them and get some gaseous and liquid product." Let us face it. We have all got to take some risks. We have got to bet on the fact that this Corporation, the industry and the DOE can work together to reach the goals we set; and the Corporation must be much more than simply a Federal bank to do it.

I hope that this legislation is a signal that the Congress intends to move broadly across the energy supply front. The companion EMB bill should at least expedite the judicial review process for vital energy projects.

I think it will take a change in national attitude to turn the country around in energy supply. We cannot continue to embrace regulation for regulation's sake nor simply advocate that all energy facilities be built in someone else's backyard.

The Congress does not have the political will to fast track nuclear projects, although nuclear plant deployment is much more environmentally attractive than coal conversion. I strongly urge the President to exercise his authorities judiciously and appoint the very best people to the Corporation's Board. The Synfuels Corporation must have good taste and good judgment. I feel that the

House conferees have improved the SFC concept immeasurably.

WARTS AND ALL

We must embrace the supply legislation which we have before us, warts and all. So, I am voting for this bill fully aware of all of its faults and imperfections. I strongly urged that the conferees move title I of the bill separately and still believe that made good sense. I cannot blame the other body completely for its weaker, extraneous provisions, but I can assure my colleagues that the Senate did more than their share. Their insistence on retaining superfluous titles in the bill turned the conference into a more protracted negotiation.

THE SENATE'S INSECURITY CORPORATION

I do not share the Senate's preoccupation with the Energy Security Corporation as the sole instrument for synthetic fuels commercialization. I believe that appropriated money available to the President under the Federal Non-Nuclear Act or Defense Production Act authorities should be used for the purposes of the act in a timely fashion. In fact, I am concerned that if the SFC behaves as much like a financial institution as certain conferees intended, it most certainly will not be able to do its job. For example, I do not believe that interposing the Corporation between the Department of Defense and producers of narrow specification jet fuel is at all appropriate. Yet, contracts under the Defense Production Act authorities must be drawn as broadly as possible to insure that the DOD can specify their own requirements.

GASOHOL—RIPOFF OR REAL PROMISE?

My major misgivings about the bill center on title II, part A, biomass energy development. The authorization levels provided for alcohol fuels projects range from $1 billion up to $1.2 billion for just 2 years. I must point out to my colleagues that this funding is completely out of proportion to the real promise of gasohol in our energy supply picture. In fact, the most promising biomass conversion processes are not ready to be demonstrated in full-scale projects. The emission effects of alcohol additives are not yet well understood. A recent TVA study of hundreds of vehicles actually showed a 3-percent reduction of miles per gallon with extended gasohol use. Further, methanol will ultimately be used instead of ethanol and there has been little groundwork done on the unique problems it presents.

I trust my colleagues on the Appropriations Committee will keep the funding for this overly zealous program down to responsible levels. I hope they will not forget the tax incentives which already exist for gasohol production and use. If they do not fund these programs only in proportion to their real promise, critical energy supply programs may be crippled or terminated because there is not an unlimited amount of appropriations for the energy budget function. If these projects are intended for primarily agricultural applications and that constituency provides their main support, then it would appear logical to fund them under agricultural budget authorities.

WASTE-TO-ENERGY

The municipal waste-to-energy provisions of this bill are far from ideal, but they will provide the encouragement to improve reliability of existing plants and demonstrate advanced technologies. Modest appropriations could be used very effectively if DOE responds to the congressional intent to see that these programs are managed in a comprehensive fashion. I would, however, have preferred to retain more of the House provisions for part B of title II.

TARGET-SETTING

Title III provides for the setting of energy targets by the Congress. I do think this approach is well-intended and deserves a trial, but I am afraid it will prove inconclusive and wasteful. The net sum of the authorization and appropriations processes is still the most meaningful indication of congressional target-setting.

OVERLAPPING INCENTIVES

I have reservations about title V on Solar energy and energy conservation, although I appreciate that some of my House colleagues worked long and hard on it. The provisions are so complex that I offer them for reading by my colleagues as dramatic proof of the attractive simplicity of tax credit incentives. This title is authorized at $250 million over the level which the President requested in March. It is a tribute to congressional schizophrenia that the conferees should insist on overfunding a burdensome administrative program in a tight budget climate. The unfortunate assumption has been made that a complex formula of subsidies is required to commercialize solar and conservation schemes in spite of the windfall profits incentives and massive technology development funding. Geothermal and renewable provisions in the bill have the same generic flaw of overlap and redundancy.

COAL'S FUTURE

There are two studies called for in title VII which are modestly funded but are critically important to the directions of our energy supply future. Since the days of discussion on the fuel use element of the National Energy Act (NEA), many of us have warned the country on the dangers of relying exclusively on coal for future electrical needs. A comprehensive research program in acid rain sources and effects will provide important data to decisionmakers on the intermediate-term future of the coal option. My home State of New York has already seen the impact of acid rain and so has Scandinavia. In the long term, 50 years from now, the levels of carbon dioxide in the atmosphere may mean the end of coal burning for electricity on a global scale. This bill calls for a status report on the CO_2 problem so we can decide what should be the emphasis of a comprehensive worldwide assessment.

SPRO AND THE SAUDIS

Title VIII, the strategic petroleum reserve provisions, is intended to bolster national security. It is, however, interesting to me that the conferees decided on language that is as curious for what it does not say as what it does say. I visited Saudi Arabia in January and had public and private meetings with Sheikh Yamani and members of the royal family. My conclusion was that we have a very special relationship with the Saudi. Also, it is well known that they are extremely sensitive to the prospects of our storing their oil directly in the reserve. I think we should move ahead on SPRO, but I am puzzled that the conferees could not bring themselves to acknowledge the unique United States/Saudi relationship explicitly in statute. My suggestion was that foreign oil purchases be confined to those from Western Hemisphere countries to allow the flexibility of purchasing from Venezuela and Mexico. In this manner, we could minimize the possibility of retaliatory actions by the Saudi, such as reducing output, while inviting interested countries to sell us oil, particularly in the event of some surplus in the world market supply.

CONCLUDING REMARKS

Mr. Speaker, we have provided some tools for energy supply in title I. The tools are not quite custom made but they must serve us well for at least the next decade. I, for one, hope that this first $20 billion infusion will be sufficient to catalyze an industry to production. The need for a massive phase II investment will be a signal to the West that phase I was not a roaring success. Let us go on with the work of enhancing national security today—let us really build something this time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of S. 932, the Energy Security Act. Passage of this legislation will be an important step in our Nation's effort to achieve energy self-sufficiency.

Although all the provisions in this bill are important, I will concentrate my remarks on title II, the Biomass Energy and Alcohol Fuels Act of 1980. June 26, 1980, marks the 1-year anniversary of House passage of H.R. 3930, the Defense Production Act Amendments, which was the companion measure to S. 932 in conference. One day after House passage of the DPA amendments, the Committee on Agriculture agreed to discharge the Subcommittee on Livestock and Grains from further consideration of H.R. 3905, the National Alcohol Fuel and Farm Commodity Production Act, and proceed to markup by the full committee. While H.R. 3930 would have increased the production of all forms of synthetic fuels by giving broad authorities to the President, H.R. 3905 was focused more narrowly on the production of alcohol for fuel and industrial purposes from agricultural commodities.

Following 6 days of markup, H.R. 3905 was reported by the committee by a vote of 36 to 1. Although that measure was never brought to the floor, it was used as the template for the House position on titles II and III of S. 932. I am pleased that the conference report on S. 932 incorporates the best provisions of both H.R. 3905 and S. 932 and I urge all Members to support it.

Title II, the Biomass Energy Act of 1980, is designed to increase national production of biomass energy resources. Biomass resources are, for the most part, different from other energy resources in that they have numerous uses other than energy. The basic purpose of the title is to increase production and use of biomass energy in a way which recognizes the multiple uses for biomass resources and in a manner which does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export markets.

To insure that appropriate consideration is given to both the food and fiber uses and the energy uses of agricultural and forestry feedstocks the Biomass Energy and Alcohol Fuels Act of 1980 provides for a program to be administered by the Department of Agriculture and Department of Energy. The bill contains specific terms, conditions, and restrictions which will enable USDA and DOE to achieve those purposes.

Following are the major provisions of the act:

The act establishes a 4-year biomass energy financial assistance program with funding for fiscal year 1981–82 at $1.45 billion to carry out the financial assistance programs. These funds are available for insured loans, guaranteed loans, purchase agreements, and price guarantees and administrative expenses associated with providing the financial assistance. The first 2 years of funding are authorized to be provided by a transfer from the $20 billion energy security reserve established in the Treasury for fiscal year 1980. The act will have no impact on the fiscal year 1981 or 1982 budget in terms of budget authority. The budget impact in terms of outlays will be minor since the types of financial assistance provided for do not involve any actual Federal liability unless a project runs into difficulty and defaults or if its eventual fuel production is sold at a price lower than the price provided for in a price guarantee or purchase commitment. It is anticipated that the only budgetary impact of the financial assistance portion of the act for the next 2 fiscal years will be for administrative expenses.

Of the $1.45 billion for activities of the Department's $1.2 billion is for activities under part A relating to projects using agricultural, forestry, and similar feedstocks and $250 million is provided for activities under part B for municipal waste activities under a newly created Office of Energy from Municipal Waste in the Department of Energy. The $1.2 billion for biomass energy activities under part A is divided evenly between USDA and DOE. Of the $600 million provided the Secretary of Energy, not less than $500 million must be for the Office of Alcohol Fuels with the remainder administered as the Secretary of Energy deems appropriate to carry out the purposes of this act.

USDA is provided exclusive jurisdiction over projects producing 15 million gallons or less of alcohol—or Btu equivalent of other fuels. DOE is provided jurisdiction over projects producing more than 15 million gallons.

Both USDA and DOE share jurisdiction over projects producing more than 15 million gallons which involve forestry feedstocks or which are operated by farmer cooperatives.

To insure that the activities of USDA and DOE are coordinated, the agencies are required to consult with each other during the application processing stage to avoid conflicts between proposed projects and national agricultural and energy policy issues. This consultation is not necessary for projects which would normally be approved at the local level or which replicate proven technologies. USDA and DOE are required to work out categories of such projects which will be exempted from the consultation requirement.

In addition to providing financial assistance for biomass energy projects, the act recognizes the critical need for additional research and extension activities in the areas of biomass energy production and use and rural energy conservation. Subtitle C of the Biomass Energy and Alcohol Fuels Act provides for increased research, demonstration and extension activities by amending certain agricultural statutes to clarify the authorities of USDA in this area and by authorizing additional funds for such activities.

USDA is provided an authorization of $12 million for each of fiscal years 1981–84 for research on the production and marketing of alcohol and other forms of biomass energy as substitutes for petroleum or natural gas. Grants under this provision can be made to colleges and universities as well as Government corporations such as TVA. A substantial portion of the research under this provision will be to identify and develop the alcohol production capabilities of diverse agricultural commodities and wood wastes and residues. An additional portion will be for developing technologies for increasing the energy efficiency and commercial and economic feasibility of alcohol production technologies including cellulose conversion and cell membrane technologies.

Subtitle C of the act requires the Secretary of Agriculture to establish up to 10 model demonstration biomass energy facilities to demonstrate the most advanced technologies available for producing biomass energy and authorizes $5 million for each of fiscal years 1981–84 for this effort. In addition the act authorizes appropriations of $10 million for each of fiscal years 1981–84 for energy extension activities of the Cooperative Extension Service. These demonstration and extension activities will be helpful in informing farmers and rural residents of the do's and don'ts of biomass energy production and use and of appropriate steps that can be taken to increase energy conservation.

Finally, subtitle D contains several miscellaneous biomass provisions which will encourage the increased use of gasohol in Federal motor vehicles, facilitate the conversion of existing idle distilling capacity to the production of alcohol for fuel uses and provide standby authority for the allocation of alcohol fuel.

In sum, title II, the Biomass Energy and Alcohol Fuels Act of 1980 is a comprehensive measure which will increase production and use of biomass energy in a way which maximizes the benefits to be derived from such production. Specific provisions will prevent biomass energy production from being inefficient or uneconomical and will help direct such production along lines which are compatible with other nonenergy uses for agricultural crops and forest products. Biomass energy development is only one aspect of this important legislation but together with the other synthetic fuels provisions and solar and conservation efforts it will play a significant role in assuring the future prosperity of our Nation.

☐ 1230

I believe, Mr. Speaker, that this area is one that all of us who are associated with the Agriculture Committee and with the agricultural concerns of this Congress take pride in. We believe it is a well-crafted title, and one that will be a positive contribution to the energy resources of our Nation in the future.

Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Indiana (Mr. FITHIAN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FITHIAN. Mr. Speaker, I am going to rise in strong support of the chairman and the ranking minority member and the work of those members on the Agricultural Committee. I want to strongly support this as a major step in the direction of producing fuel.

We have been talking about other matters in the House, and I have some very strong reservations and concerns about the inadequate effort by both the Department of Energy and the Department of Agriculture. I hope, Mr. Speaker, that the chairman of the Agriculture Committee and others will continue to help us put pressure on. We can develop some real alternate fuel. I think that long before we get other fuel from this bill, we will be getting it from alcohol fuel.

Mr. Speaker, it gives me great pride as a cosponsor of the House version of S. 932 to stand before the House today witnessing Congress taking the first faltering steps toward energy independence for our Nation. This is a proud day for America and I think that historians in years to come will point to this day as the day Congress and the Nation got serious about solving our energy problems.

Some day in the very near future, dirt

will be turned on the site of the first synthetic fuel plant authorized under this act. In all likelihood, it will produce ethanol for gasohol, our first synthetic fuel. And, in all likelihood, construction on the plant will begin within a matter of months—years before the oil shale and coal liquifaction plants authorized in other sections of this act get off the drawing boards.

That this plant—and dozens more which will follow it—will be built, and that these plants will give us a head start on our synthetic fuels program, is no accident. Dedicated advocates of alcohol fuels fought hard for every penny of the $1.2 billion this bill authorizes for alcohol fuel commercialization. The farmers who produce feedstocks for ethanol and the motorists who will benefit from it owe a debt of thanks, first, to the congressional alcohol fuel caucus, a bipartisan group which lobbied anyone who would listen during the long and difficult conference on the bill for a sound alcohol fuels policy.

I was proud to have played a role in this effort along with Congressmen BEDELL, of Iowa; DASCHLE, of South Dakota; SEBELIUS and GLICKMAN, of Kansas. The thousands of alcohol fuel advocates in rural areas around the country who supported our efforts with their letters, telegrams, phone calls, and personal lobbying with their own elected Representatives were instrumental in getting congressional action. Finally, Chairman FOLEY, who worked long and hard to develop a responsible House position on title II of the bill, Majority Leader WRIGHT, who devoted a great deal of time and effort on behalf of alcohol fuels, and Chairman MOORHEAD, STAGGERS, and FUQUA, who withstood the temptation to drop biomass sections of the bill during the long and difficult conference, all deserve the thanks of our people.

In 1929 the great American inventor Henry Ford wrote:

> We can get fuel from fruit, from the Sumac by the roadside, or from apples, weeds, sawdust; almost anything. There is fuel in every bit of vegetable matter that can be fermented. There is enough alcohol in one year's yield of an acre of potatoes to cultivate that field for a hundred years. And it remains for someone to find how this fuel can be produced commercially.

Today, half a century after, we are finally taking the action needed to realize that great American's dream.

Mr. Speaker, I thank the gentleman for yielding.

Mr. McKINNEY. Mr. Speaker, at this time I would yield 20 minutes to the gentleman from Virginia (Mr. WAMPLER), the ranking minority member of the Committee on Agriculture, to use as he so chooses.

Mr. WAMPLER. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I join my colleagues in support of the conference report to S.932, the Energy Security Act of 1980. This important legislation should lay the groundwork for development of a strong domestic energy production program which will help our country achieve energy independence.

Mr. Speaker, the United States has an abundance of raw domestic energy resources in our coal, forests, and grains, and the most advanced technology of any country in the world. Despite these assets, we have been hesitant to make the commitments necessary to develop alternative fuels, and we are now faced with a situation where an unstable and unreliable foreign cartel controls over half of our Nation's critical oil supplies.

The conference report to S. 932 is a long overdue effort by Congress to correct that situation. Approval of this legislation will create a favorable environment for the development of a domestic synthetic fuels industry which will move the country toward energy self-sufficiency.

While S. 932 has a wide array of energy proposals, the centerpiece is a $20 billion loan program to provide financial incentives for development of synthetic oil and gas from materials such as coal and oil shale. A new Energy Security Corporation will be established to provide these incentives, which include loans, loan guarantees, purchase agreements, and joint ventures. A production level of 500,000 barrels a day by 1987 and 2 million barrels a day by 1992 is the goal of this important program.

I also am pleased that S. 932 gives the President authority to act immediately, upon enactment of the bill, to start construction and operation of several synthetic fuel plants for national defense purposes. Since it may take several months for the new Synthetic Fuels Corporation to be formed and begin its duties, this provision will provide an immediate start to our synfuels industry. Once the corporation becomes fully operational, the President's initial authority will be phased out except to renew or extend existing contracts.

Although S. 932 is seeking to establish an industry relatively new to this country, I would like to point out that there is nothing new about producing synthetic fuel from coal and other sources. The United States simply has lagged behind while other countries have taken the initiative. South Africa produces around 40,000 barrels a day of coal-derived liquid fuel, and both China and Russia have synthetic fuel plants in operation. The technology is available, and we must begin to use it now.

In addition to possessing the necessary technology, America also has an abundance of domestic feedstocks available for synfuel production. Our country, which has been called "the Persian Gulf of Coal," holds close to 30 percent of the Earth's total coal reserves. Estimates indicate there are ample supplies, at expected production levels, for the next 200 years. It is important that we begin to utilize this valuable energy resource, for I believe that coal is the key component of our energy future.

There are several other provisions of S. 932 which I would like to briefly mention. One important section deals with developing energy from biomass sources, including gasohol. The approved 2-year program will be jointly administered by the Departments of Energy and Agriculture, with each Agency receiving $600 million in loan authority to fund projects which utilize agricultural feedstocks such as grain and wood. DOE also will have an additional $250 million for projects which produce fuel from municipal waste. The goal of the overall biomass program is to reach a level of production equal to 10 percent of estimated gasoline consumption in 1990.

The proper development of alcohol fuels is important in that they are the only petroleum substitutes currently available in substantial quantities. While alcohol fuels will not be a total solution to our energy problem, they can and should make a contribution to decreasing oil imports. I think alcohol fuel may be particularly effective for on-farm production and use.

I also am pleased that there are sections of the biomass program which emphasize research and development of energy from wood and forestry sources. Our forest lands are a valuable and renewable source of energy, and with proper management they can make a great contribution to our energy needs.

Energy conservation and solar energy development also are important provisions of S. 932. The bill creates an energy bank within HUD to extend loans for conservation and solar energy projects. Estimates indicate that we could consume 30 to 40 percent less energy, with virtually no penalty in the way we live, with proper energy conserving practices. Solar energy also has many useful applications and can save us large amounts of fossil fuel. Solar applications may be particularly effective for agricultural uses, such as crop drying and heating water for livestock houses.

Other provisions of S. 932 include sections which deal with such areas as geothermal and small-scale hydroelectric energy. While these methods will never provide a major portion of our energy needs, they can make a contribution in certain geographic areas. Thus, it is important that their development be encouraged, because we must utilize every available resource we have.

I understand that some of my colleagues on this side of the aisle did not sign the conference report for a variety of reasons. Some objected, I am sure, that we passed a bill that amended the Defense Production Act and encompassed about 15 pages. We now have a bill over 400 pages long and a conference report that is over 300 pages. Spending and loans in this conference report measure go far beyond what the House may have contemplated.

Other Members no doubt have different and valid reasons for opposing this measure. However, the establishment of such a broad energy program and the large-scale production of synthetic fuels is action which is unprecedented in our country. I have some reservations, as do many of my colleagues, as to whether establishing an Energy Security Corporation is the best approach in dealing with the energy crisis. But, hopefully, the flaws of the program can be corrected, and we can begin to move this country toward energy self-sufficiency.

S. 932 offers us a start toward utilizing our vast coal deposits in this country, as well as our renewable resources that can be used for gasohol. It endorses a start on programs that the private sector hopefully will take the lead in, once Congress has acted.

I recognize that once this bill is enacted and its implementation is initiated that problems which some of my colleagues foresee may arise. If that is the case, legislation may be needed to amend this Energy Security Act. If those circumstances come to pass—I reserve the right to redefine my position on certain provisions of this act in the light of those future circumstances.

I will vote for the conference report.

□ 1240

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. BEDELL).

The SPEAKER pro tempore. Without objection, the gentleman from Iowa (Mr. BEDELL) is recognized.

There was no objection.

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to accompany S. 932, the Defense Production Act amendments. I am particularly pleased with title II of this legislation which provides substantial financial incentives for the production of biomass fuels.

This legislation represents a tremendous victory for those of us who feel that the increased production of alcohol fuels must be a component of our Nation's efforts to rid itself of its dependence on oil by developing alternate fuel sources.

As many of the Members know, I have been extremely involved in promoting alcohol fuels. Last September, the Committee on Agriculture approved by a vote of 36 to 1 a bill which I had authored, H.R. 3905, which was the first bill providing significant financial assistance for alcohol fuel projects to clear a congressional committee. This legislation was largely incorporated in title II of the bill before us, and I am delighted that after a long, long uphill battle, we are finally moving forward with a major alcohol fuels program.

I have never contended that the production of alcohol fuel would totally solve our energy problems. There are many solutions to our energy dilemma, and alcohol is but one of them. However, I think that it is important to keep in mind that alcohol—unlike any of the other synthetic fuels—can be produced in significant quantities in the near- to mid-term. Alcohol production facilities are relatvely low in capital cost, and alcohol may be produced in a very decentralized manner. Most importantly, alcohol is produced from renewable resources, and its production and use does not present us with certain environmental trade-offs.

Many have said, however, that the production of alcohol from grain and other food stocks will lead to an eventual food versus fuel trade-off. Such is simply not the case, if we embark on this program in a responsible manner.

An alcohol fuel production program should emphasize the utilization of surplus, waste, or residual feedstocks. Facilities should be built today with the idea that eventually they will be converting our abundant cellulosic materials, rather than our grains, into alcohol.

Moreover, it is essential to recognize that even in the short- to mid-term we can, in a sense, have our cake and eat it too. Various tests have demonstrated that a significant portion of our corn crop could be diverted from its use as a livestock feed and instead run through the alcohol production process, with the high protein byproduct being returned to the livestock ration without a loss in feeding efficiency or meat production. In fact, tests have indicated that with the addition of the high protein byproduct to the livestock ration, crop residues may be used to displace some of the grain normally fed to livestock, with the roughage, byproduct and grain ration producing quality meat at a much cheaper cost.

Additionally, there is one thing that I hope can be done as we move to implement this new alcohol fuels program. I would hope that the Department of Energy and the Department of Agriculture will recognize the importance of alcohol fuels as a realistic and promising new energy source when they take action to exercise the new authority being extended under this legislation. We have heard some reports that because alcohol production technology is considered to be new and undeveloped in some respects, that these Departments may require applicants for financial assistance under this program to commit personal financial resources over and above what is required under most other lending programs. I strongly believe that it is imperative that these agencies realize that our energy dilemma is a grave and serious one, and that special recognition should be given to this when we look for promising and innovative solutions.

Mr. Speaker, I would like to yield to the chairman of the Committee on Agriculture for a discussion of this issue. It was at least my understanding that as the Committee on Agriculture passed H.R. 3905, it certainly was not our intent that any of the loan programs be more restrictive for alcohol fuels than they would be for other loan programs. Was that the understanding of the chairman of the committee?

Mr. FOLEY. Mr. Speaker, when we passed the legislation, yes, the gentleman is correct.

Mr. BEDELL. So it is the intent or at least the desire of the Committee on Agriculture that that should be the case? I believe that is the case, as I determined from our committee, although it is not written into law.

Mr. FOLEY. The gentleman is correct.

Mr. BEDELL. Mr. Speaker, I thank the committee chairman.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota (Mr. DASCHLE).

The SPEAKER pro tempore. Without objection, the gentleman from South Dakota (Mr. DASCHLE) is recognized.

There was no objection.

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for yelding me this time.

Mr. Speaker, I want to share in the commendations of my other colleagues of the work done by the gentleman from Washington (Mr. FOLEY) in this whole area, and certainly I commend also the gentleman from Pennsylvania (Mr. MOORHEAD).

Without question, this is the single most significant piece of legislation pending before the Congress with regard to alcohol fuels and the development of alternative forms of energy. I think it is to the credit of these gentlemen that we have been able to take a very difficult issue and, in dealing with it, come out with such a remarkable piece of legislation to assist our people throughout the country in developing new forms of energy sources.

Mr. FOLEY. Mr. Speaker, I reserve the balance of my time.

□ 1250

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent to yield 5 minutes to the distinguished gentleman from Vermont (Mr. JEFFORDS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. JEFFORDS. Mr. Speaker, I rise in opposition to this conference report. In many ways, I regret having to oppose S. 932 because it contains much that is good. The titles concerning acid rain research, wood energy programs, strategic petroleum storage, and the solar and conservation bank all provide important and necessary new authority. Certainly the committees that worked on this legislation are to be commended for that good.

However, I must oppose the report because I disagree with the basic philosophy behind the Energy Security Corporation. The Corporation is clearly the main thrust of the bill, and I can only conclude that the negatives outweigh the positives as far as our country's energy policy is concerned. I do not believe that a body like the ESC should determine where our country will go in the very substantial area of synthetic fuels. We should not grant such heavy decisionmaking responsibility to a Federal bureaucracy which could well distort the development of a synthetic fuels industry, and which cannot do the job of the free enterprise system.

This conference report also represents a trend in our legislative process which causes me great concern. I was upset earlier this year when we were faced with a windfall profit tax conference report, the tax expenditure portion of which was never considered by the House. At that time, I offered a motion to recommit the report along with Mr. D'AMOURS because we believed that the House conferees had ignored some very important energy incentives. In fact, the Ways and Means Committee has refused to report out any energy tax credit legislation in this Congress. Recently, the impact of the low income energy assistance provisions of the windfall profit tax conference report have become apparent; this is another major authorizing section which the House never considered. If Congress follows the Budget Committee's recommended funding levels for low-income energy assistance, it will result in a reduced payment level to northern areas. It is incredible to me that provisions resulting in such a major funding loss to the northern region could be enacted without full consideration by the House.

The conference report we are now considering concerns me even more. It contains far-reaching provisions, the bulk of which have never been considered by the House. This report signals a shocking failure by the House to assume its responsibilities for energy legislation. This country has a very serious energy problem and the House has failed to deliver comprehensive or cohesive energy legislation in the 96th Congress. We have been satisfied to pass bits and pieces, which we then hand over to the Senate and a few House conferees to be fleshed out.

What perplexes me more than anything is that several committees have spent considerable time drafting and reporting energy bills which were never granted a rule. For example, the Agriculture Committee reported out a major alcohol fuels bill, sponsored by Mr. BEDELL, which for some reason was never brought to the floor.

Although the House leadership has chosen not to recognize it, many Members of this body have good ideas on energy programs. We have been denied an opportunity for a full debate of energy issues; we have been precluded from bringing forward our suggestions. And now we are faced with the very serious question of who will make the critical decisions on where this country goes with synthetic fuels, and we do not have an opportunity to propose any kind of alternatives.

I have proposed an alternative to the Energy Security Corporation. When the amendments to the Defense Production Act were before the House, I proposed to offer my alternative as an amendment to H.R. 3930 in a weakened form due to a rules problem. At that time, everybody said, "It is a great idea, but wait until you have an opportunity to do it right in the right forum." I have never had that opportunity. And now we are going to sail off and spend at least $20 billion of the taxpayers' money without an opportunity to consider any less costly alternatives.

One alternative was incorporated in a bill which I introduced on June 6 of last year along with a bipartisan coalition of 19 Members. H.R. 4345, the Replacement Motor Fuels Act, now has 135 cosponsors; a companion bill was introduced in the Senate by Senators RIBICOFF, NELSON, RANDOLPH, BAUCUS, and DOMENICI.

The substance of H.R. 4345 was incorporated in a bill reported by the Education and Labor Committee on July 13, 1979. The Energy and Power Subcommittee held hearings on the bill October 10, 1979.

To briefly outline the bill's features, H.R. 4345 establishes a program for replacing, by 1987, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from renewable and nonrenewable resources. The conference report before us today requires the Department of Agriculture and the Department of Energy to draft a comprehensive plan for achieving an alcohol fuels production target equal to 10 percent of gasoline consumption in 1990. H.R. 4345 differs from the conference report in that it would make this program mandatory.

Refiners would be required to phase in substitute fuels, beginning in 1981, with quantities increasing to 10 percent by 1987. The bill is designed to allow refiners maximum flexibility in reaching that goal. They could mix the fuels themselves, or contract with others to do it. They could alter their percentages at different times of the year and among the geographic regions they serve. If they failed to meet the goal at the end of the year, they would be fined a dollar for each gallon of fuel sold in violation of the law.

The cost to the consumer of 10 percent replacement would not prove excessive. If you reduce by 10 percent the $1-per-gallon price of gasoline, and add to the remaining 90 cents a cost as high as 13 cents for replacement fuel, you arrive at a price increase of only 3 percent at the gas pump. This modest increase assumes replacement fuel costs of as much as $55 per barrel refined, or 13 cents for each one-tenth gallon of replacement fuel.

There is room for argument about some of the bill's particulars. People may dispute the size of the goal; I know many feel that 10 percent replacement by 1987 represents an overly ambitious standard. But I believe that a firm goal is necessary to get the industry going; I am also convinced that it will spur the industry in the most effective and least obstructive manner.

H.R. 4345 takes a free enterprise approach to alternative fuels development. Competition for the mandated market will determine how a replacement fuels industry develops, and competition will produce the most efficient industry. Needless to say, disincentives to efficiency are expensive when capital costs of $2 to $3 billion for a 50,000-barrel-a-day plant are at stake.

The mandate approach also promotes equity with respect to who bears the costs of development. Refiners would pass on the cost of replacement to the user, whereas the taxpayer would have to finance any subsidy program.

This approach also offers the American public the security of knowing that the energy industry will work toward a specific goal. It eliminates the concern that, for all the subsidies and incentives we offer potential producers, we may find in 10 years that we are not much closer to having a full-fledged replacement fuels industry.

H.R. 4345 is compatible with a number of other approaches. In fact, I submit that a mandate would work to improve the equity, credibility, and effectiveness of the other proposals that are pending before this Congress and contained in this conference report. Many have said in the course of the debate over petroleum substitutes that you need both a carrot and a stick to get the industry going. I firmly believe that if we propose handing out taxpayer funds in the magnitude of $88 billion over the next decade, we have to make some duties incumbent upon the recipients of those funds. We had better make sure that this truly represents a Government investment in a more secure energy future. A mandate accomplishes this by demanding some certainty that the supply will actually materialize within a reasonable time frame.

For these reasons, I cannot in good conscience support this conference report, even though it contains several provisions which reflect some of my highest priorities. Now let me review some positive features.

Title VII on acid-rain research acknowledges what scientists, industry, and I have been saying for some time: Acid rain and other related deposition problems may have some unwelcome, unnecessary, and perhaps irreversible impacts on water, forests, croplands, fish and wildlife, and manmade structures. Scientific evidence is needed now.

To address these problems, their likely sources, and possible solutions, the conference report would authorize a 10-year research effort, with a careful mix of Federal and State agencies, universities, and industry. The Federal task force that would oversee the research would be led by the National Oceanic and Atmospheric Administration, U.S. Department of Agriculture, and Environmental Protection Agency.

I commend the conference committee for an excellent job in revising title VII. Lee Shields and Roger Allbee of my staff have worked closely with the staffs of the conferees to perfect this title. The report combines the best elements of the several bills introduced on this topic, including mine.

The conferees have fairly considered testimony presented at hearings or in information briefings by EPA, Canadian representatives, and others. They have fairly considered suggestions and concerns expressed in a letter signed by me and 23 of my colleagues. They came out with an excellent and positive document that would help America find out what and where the impacts really are; seek workable ways of lessening or eliminating the emissions or other sources; and determine whether effects on land and water can be reduced or corrected.

It would result in some needed policy recommendations for the administration and Congress. And it would help us all make intelligent energy and environmental decisions based on scientific evidence.

Second, I am happy to see the provisions which mandate the Department of Energy to begin filling the strategic petroleum reserve, although a 100,000 barrel per day fill rate is insufficient to move us toward our goal in a reasonable time period. I have worked for a viable strategic storage system since 1975. It is scandalous that the administration has failed to act with any sense of urgency in an area so vital to our national defense and economic stability. I fear that a 100,000-barrel-per-day fill rate does not reflect an adequate degree of concern, but I am glad that the conferees designed their mandate in a way that seems to guarantee compliance by the Department.

I have advocated tying the Elk Hills Naval Petroleum Reserve to the strategic reserve system for several years. The conferees were well-advised to use the Elk Hills resource as a stick to goad the Department into action. If the administration continues to argue that we cannot buy oil for the reserve on the world market because such a purchase would destabilize price or supply conditions, then we should make use of the great resources we have available at the Elk Hills Reserve.

I also am very pleased with the significant provisions in the conference report for wood energy research and development. Wood is New England's fastest expanding energy resource. We badly need advancements in combustion technology, including direct combustion, gasification, pelletization, and so on. We also need to answer some technical and economic questions relating to the harvest of wood for energy uses. In both combustion and harvest, we particularly need some answers for smaller scale uses in the residential, business and industry, and institutional sectors.

Part A of title II would pave the way for addressing questions such as these, through a 2-year biomass energy program involving the close cooperation of the Departments of Agriculture and Energy.

The conference report also provides for biomass-energy research and extension work by USDA in coordination with DOE. Several provisions apply to forestry and wood energy development.

I have worked with officials of USDA and DOE in an effort to assure that wood energy is a strong component of alternative fuels research and technical assistance, and that energy is considered as a full partner in multiple-use management of our forest resources. I hope that they and my colleagues will recognize these objectives as the intent of the Congress in this conference report.

I also am quite satisfied that at least 25 percent of the research grants I mentioned earlier would include the production of alcohol from several agricultural commodities, including whey. Congressman BALDUS and I introduced a resolution last year that would require USDA to assess the whey supply situation, in an effort to improve the declining economic value of this byproduct of the cheese industry in Vermont and other States. Some 900 million pounds of whey solids were produced in 1978, and a total of 2.3 billion pounds were available in that year.

Whey used to be thought of only as a byproduct, as a waste material that quickly became a disposal problem. With the help of hearings that we held on the resolution last year, more people have come to recognize that whey is a valuable commodity in its own right—rich in many of the nutrients found in the original milk from which it was derived, and having considerable potential as well for production of ethyl alcohol for use in gasohol.

The House Agriculture Committee adopted my amendment in the Alcohol Fuels Production Act last fall, including whey as an eligible commodity.

Now, in the conference report on S. 932, the inclusion of whey in an expanded alcohol fuels program is very welcome news for dairy interests in my State.

In concluding, it is with regret that I oppose the conference report on S. 932. It embodies a lot of good work, and will launch a number of important new energy initiatives. However, I believe that the core of the act, establishing an Energy Security Corporation, represents bad energy policy. I do not think Congress should give such an organization the heavy responsibility of deciding the future of a synthetic fuels industry.

Mr. WAMPLER. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the distinguished gentleman from Ohio (Mr. WYLIE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WYLIE. Mr. Speaker, I take this 3 minutes to compliment the Members who were involved in title II, because I have had some interest in it myself and, as a member of the conference, I feel that this is a long step in the right direction to using grain and biomass to produce fuel.

I have had a longstanding interest in this concept of producing alcohol from grain and biomass. As a matter of fact, I introduced H.R. 4760, which has 90 cosponsors, which is a bill to promote the development of an alcohol automobile engine.

We should not use our oil, our precious oil, our costly OPEC oil, to burn in an automobile. The American automobile represents 90 percent of our personal travel, over 5 million jobs, over 9 percent of our GNP, and 7.5 million barrels of oil per day in petroleum use.

Now, it was mentioned a little while ago that the country of Brazil has produced an alcohol fuel engine, which it has. As a matter of fact, it blends all of its gasoline with 20-percent alcohol right now. They passed a law in Brazil which said that their automobile engines had to run on a mixture of gas and alcohol produced from wood fiber or sugarcane.

Actually, Henry Ford was the first to produce an automobile which ran on alcohol fuels. His first automobile, as a matter of fact, ran on alcohol. But oil was cheap, and it was in natural storage, and it was much easier to use. So, we got away from using alcohol as a fuel for the automobile. But we must get back to it.

Actually, we could solve two problems if we do that. We could use our surplus grain, we would not have to worry about selling it to the Russians, and we could reduce our dependence on OPEC.

The Ohio Farm Bureau Federation, as I indicated before, approves this section wholeheartedly. They have several plants that are ready to go with the production of alcohol or gasohol, and I want to compliment them for the work they have done. What they really need in help is some early-on startup financing. So this is a particularly important section of the bill to the State of Ohio, which is rich in grain resources and is rich in surplus corn from which we could produce alcohol.

Mr. WAMPLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 20 minutes for such use as he would desire to yield, or to yield back the balance of his time, to the distinguished chairman of the Subcommittee on Housing and Community Development, the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I rise in support of the conference report on S. 932. Before I discuss the elements of this legislation which fell within the province of my subcommittee, I would like to take a moment to express my esteem and respect for the distinguished chairman of the conference, my colleague and long-time friend BILL MOORHEAD. He had the intellectual capacity, the patience and abiding good humor to see us through the long and seemingly endless task of developing this complex and demanding legislation. I believe that this conference report, the product of more than a year of work and months of arduous negotiation with the Senate, is a fitting capstone to a distinguished career.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman yielding, and I asked him to yield for the purpose of joining the gentleman in congratulating our colleague, the gentleman from Pennsylvania (Mr. MOORHEAD), on this legislation. There is plenty of room, of course, for honest disagreement in regard to the quality of the legislation. But certainly the gentleman from Pennsylvania deserves the accolades of everyone for the time, the effort and the ability that he put into this legislation. And in complimenting the gentleman, I certainly want to extend that to some of the key members of the staff who worked so hard with the gentleman and others on both sides of the aisle on a subject matter that was diverse, which was technical, and which in many ways truly wore many of us down. But it was the gentleman's diligence and endurance, more, I think, than anyone else's, that stuck to it.

Mr. ASHLEY. Mr. Speaker, I appreciate the comments of my good friend, the gentleman from Ohio. As a matter of fact, I was going to express my further appreciation to the gentleman from Connecticut, the ranking minority member.

and to my friend from Ohio, for their enormous contribution in the process which produced this conference report. I then discovered, of course, that my friend from Ohio had decided not to sign the conference report or support the report, so I, of course, must at this juncture limit my compliments to those who are indeed deserving and who are consistent in their support of this program.

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In all seriousness, whether the gentleman from Ohio (Mr. STANTON) is supportive of the conference report or whether he feels it is necessary to oppose it, his contribution to the legislative process is one that has the appropriate and continuing respect of all of us.

Mr. Speaker, as I stand here today I am reminded of how much has occurred since we enacted the first National Energy Act almost 2 years ago. That act represented the first concerted effort by this body to develop a comprehensive strategy to deal with the Nation's energy crisis: A strategy aimed at increasing our domestic energy supplies while at the same time encouraging the conservation of those precious resources.

The legislation today builds upon the foundation of the National Energy Act. It represents a realistic and attainable program by which the Nation can begin to protect itself against the current insecurity of our energy supplies. Through major programs to develop synthetic fuels, biomass, gasohol, and geothermal energy, S. 932 can move us in the direction of energy independence. However, the development of domestic energy resources in and of itself is not enough. The Nation must reduce its overall consumption of energy and it must do so soon. Thus the conference report contains a major new series of initiatives aimed at encouraging our citizens and small businesses to reduce their energy consumption.

It is estimated that through a concerted use of the tools provided in this legislation and those which we provided earlier in the National Energy Act, it will be possible for the residential sector alone to save more than a million barrels of oil equivalent per day by 1990, an amount equal to approximately 6 percent of our current domestic consumption.

Title V which contains the solar energy and energy conservation initiatives builds upon the programs and concepts which this body endorsed 2 years ago. Probably the most significant element of title V is the creation of a solar energy and energy conservation bank. This bank is established within the Department of Housing and Urban Development, but is to be governed by a board of directors representing the major Federal departments concerned with energy policy. It has been designed to be an efficient mechanism to provide financial inducements to owners and tenants of residential and commercial buildings to weatherize their buildings and to utilize solar energy. These inducements have been carefully structured to minimize Federal expenditures while at the same time encouraging the greatest amount of conservation. In designing the programs of the bank we have been mindful of the availability of Federal tax credit incentives and have sought to reduce duplication and to eliminate the possibility of double subsidization.

At the same time, we have left with the bank a great deal of flexibility in designing its programs and establishing the particular levels of assistance. The parameters which we have set are just that. The bank is expected to establish particular levels of assistance only to the extent necessary to induce eligible recipients to install solar energy systems or make energy conserving improvements. It was clear from the outset that an efficient delivery mechanism was crucially important. Based on our experience with housing programs it was the view of the House conferees that the most effective delivery means was through local lending institutions and thus the bank has been structured to best take advantage of the delivery mechanism which those institutions offer. I should emphasize that the task before the bank is a formidable one. It must actively solicit the involvement of lending institutions throughout the Nation and it must structure its programs in a fashion which will make it easy for these institutions to participate.

Because the programs of the bank are so dependent upon the provision of loans by local lending institutions, the bank has been empowered to conduct a secondary market purchase program of these loans.

Another significant area which has been addressed in title V is the role of utilities in encouraging the conservation of energy. The bill provides for an expansion of the residential energy conservation service program of utility audits which we wrote into the 1978 act. When the residential conservation service program is expanded in 1982, utility audits will be available to multifamily buildings and to small commercial structures which heretofore have made little progress in conserving energy. The conferees, however, have been careful to assure that none of the changes in the utility audit programs will have the effect of delaying the implementation of the program as designed in 1978. To assist the utilities in undertaking their audit responsibilities, the conferees have also provided funding for auditor training by the States.

When we created the utility audit programs in the National Energy Act there was great concern about the role the utilities would play in the financing of energy conservation improvements. Because of this concern the Congress severely limited the ability of utilities to finance energy conservation. In hindsight, after looking at the financing programs of utilities which were grandfathered by the National Energy Act, it appeared to us that many of our concerns were unwarranted and that sufficient protections against anticompetitive acts and practices could be provided by the States under the supervision of the Secretary of Energy.

We have, therefore, removed the restrictions against utility financing. In doing so it is the expectation of the conferees that utilities will be able to encourage their customers to invest in energy conservation.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate what the gentleman is saying and his work on this section. I think it is an illustration where we decided the best thing to do was get the Federal Government out of the way in this particular case, not that we do not have a continuing concern that some utilities might abuse this possibility, but of course they will have to answer to their State regulatory agencies; and consumers in any given State have that protection.

Mr. ASHLEY. The fact of the matter is, utilities represent an infrastructure that is absolutely essential if we mean to accomplish the amount of energy conservation that is so important to the national interest.

So I appreciate the comments of the gentleman. I think we have taken the realistic view of the enormous potential that utilities offer in achieving the goals that we have set for ourselves. At the same time the conference report addressed several areas of concern relating to utility involvement in this area, particularly with respect to the potential for anticompetitive practices.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I think it is a very important point the gentleman from Indiana raises with regard to a congressional decision with regard to this issue in terms of moving the utilities into the forefront in terms of facilitating the conservation efforts perceived in this bill and the other measures to achieve this goal, utilizing those tools.

I would point out one of the statements of the managers is that where conservation is attained by a consumer that we discourage any type of discriminatory rate on that basis. In other words, penalizing consumers that do indeed consume or utilize less energy by virtue of that conservation device. I think that is a very important point at this juncture so we do not see consumers discriminated against by virtue of the fact they might use less energy.

Mr. ASHLEY. Mr. Speaker, in 1978 we were also concerned about the anticompetitive effects of permitting utilities to directly engage in the supply and installation of energy conserving improvements and little has caused us to be more confortable with that possibility. However, the conferees believe there are ways to permit utilities to assist in the provision of energy conserving improvements while preventing anticompetitive situations to occur. We have, therefore, developed a carefully structured approach whereby utilities can provide to their customers energy conserving improvements through suppliers and installation contractors who are not under the control of the utility. In essence, we have enabled utilities to act as the go-between for their customers with suppliers and installers. This process should make it easier for the residential customers to undertake energy conserving improvements.

There have been many suggestions as to how to assure that energy conservation will be undertaken in a more concentrated fashion. One of these suggestions was brought to the attention of the conferees by Senator BRADLEY. The Bradley proposal which has been incorporated on a demonstration basis into the bill provides for the installation of energy conserving improvements in residential buildings at no cost to the homeowner. The cost would be borne by the utility through its energy cost savings. This possibility is an intriguing one and the conferees believed that it was worthy of a small-scale and limited demonstration.

An area of concern to both the House and Senate conferees was the weatherization grant program. This program was designed to provide energy conserving improvements in the homes of the very low income but over the last several years significant problems have developed in the delivery of this assistance. We have, therefore, taken a number of steps to facilitate the administration of the program and to assure that it is promptly and effectively utilized.

One of the things which has become evident over the last several years is the lack of coordination among the various energy conservation programs in the Federal Government. A myriad of energy conservation standards have been developed, many of which have been in conflict with each other. It was the conferees view that it would be untenable for builders and others to follow energy conservation guidelines which directed them to undertake very different steps. To rectify the situation the bill provides for a mechanism to coordinate the development of these standards to assure their compatability.

Throughout its consideration, the conferees have been motivated by the reality that without prompt action to reduce our dependence upon nonrenewable and imported energy it is inevitable that huge increases in the price of energy and shortages in that energy will develop. The conferees believe that the approach taken by this bill is both realistic in terms of what can be achieved and responsive to the crisis which confronts us.

□ 1310

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, first of all, I commend the chairman of the subcommittee for his leadership in terms of the solar and conservation bank and the weatherization program. It has really been outstanding. I would like to do the same with respect to the chairman of the Energy and Power Subcommittee. We have really had great leadership on the majority side, as well as the minority side on these issues. In spite of the fact that we did not in the final analysis get the support of the minority members, we obviously have had the imprint of the gentleman from Ohio all over this particular title. I know if this were the only one, we would have his support.

Mr. Speaker, I would like to raise a point with the gentleman from Ohio (Mr. ASHLEY) about the solar bank title of this bill. In that title we have directed the bank's Board of Directors to issue regulations for the bank's initial programs within 6 months of enactment. The Board is composed of five cabinet secretaries, and I am concerned that each Secretary will want his department to do a full scale review of the regulations before they are issued. If that happens, it will take 6 years rather than 6 months to get the regulations out for the solar bank. In expediting the regulatory process, the bank must find ways to cut through the redtape that is waiting to ensnarl it. I think we need to make clear that we do not expect each agency represented on the Board to subject the regulations to its own formal review processes. Would the gentleman agree?

I was wondering if the gentleman from Ohio, having served in a leadership position in developing this, would give us some response with regard to my concern.

Mr. ASHLEY. Well, Mr. Speaker, I am delighted to respond to my friend, the gentleman from Minnesota, and say that the gentleman is absolutely right. We expect the bank to be up and running early next year. We certainly do not want to sit around for months awaiting the action which obviously is crucial; so I think it should be pointed out that the bank is a separate entity which establishes its own regulatory procedures. On this basis, it seems to me that, for example, with regard to environmental issues, the bank itself should establish its own regulations and procedures for compliance with our environmental laws.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his response.

Mr. ASHLEY. Let me also say to my friend, the gentleman from Minnesota, that I think the gentleman does well to compliment the chairman of the Subcommittee on Energy and Power of the Commerce Committee, because his cooperation and coordination of our staffs was something that I have not experienced in many years in the Congress. It just went enormously well. We were not always on exactly the same wavelength, but the areas of difference were rationalized in a sensible and I think very productive way.

I just want to say that I think our part of this conference report was the product of as fine a spirit of cooperative effort as any I have ever seen.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to pay my good friend, the gentleman from Ohio, the same compliment. It was a privilege to work with him. Our staffs worked with remarkable harmony and confidence. I can only commend him and his staff and the members of his committee for the splendid job he has done. I was proud to work with the gentleman.

The SPEAKER pro tempore (Mr. BENNETT). The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to further clarify the intent of the new section 216 (c)(2)(E) of NECPA, contained in section 546 of title V of this act, whereby a utility is required to make available the average price of energy conservation contract work.

In no way is this provision intended to allow utilities to encourage adherence to an average price or to engage in price fixing. Rather, the intention is to have sufficient cost information available so that contractors might use the data in calculating their own bids for conservation work. Our hope is that in many instances this might benefit consumers, because contractors might bid below the average price.

The intent of the entire subsection is that utilities should spread their conservation contracting work fairly among all contractors on State lists and to assure that no one supplier or contractor gains an unreasonably large share of the contracts. I assume the gentleman from Ohio (Mr. ASHLEY) is in agreement with my description of the provision?

Mr. ASHLEY. Indeed, I am. Utilities should take steps to make certain that their disclosure of average price information does not lead to an artificial stabilization of price nor to any excessive market share for any single contractor. That clearly is our purpose in this regard and I am pleased that the gentleman from Michigan allowed us to clarify the congressional intent in this regard.

Mr. DINGELL. Mr. Speaker, I would like to clarify an issue of concern to me which appears in title V of this act, and also in the National Energy Conservation Policy Act as passed in the 96th Congress. That is related to our subcommittee granting the Secretary of Energy standby authority to promulgate plans for utility energy inspection programs, in the event that States—in the case of regulated utilities—and nonregulated utilities fail to come up with their own plans. In the case of the Secretary promulgating plans for the States, we provided in NECPA, and we provide here, that there should be notice and an opportunity for public hearing; the same is not the case with statutory language relating to nonregulated utilities. I trust the gentleman would agree with me that we would nevertheless expect that the DOE would conduct a public hearing in the event it uses its standby authority to promulgate plans for nonregulated utilities. Is that correct?

Mr. ASHLEY. Yes. I am in complete agreement with the gentleman that, although a hearing requirement for promulgating plans for nonregulated utilities is not actually contained in the statute, certainly it should be the case that the Secretary of Energy should conduct such a hearing.

Mr. DINGELL. I thank the gentleman, and trust that the Secretary of Energy will heed our statements of concern.

□ 1320

Mr. ASHLEY. Mr. Speaker, I have no further requests for time.

Mr. McKINNEY. Mr. Speaker, I yield 20 minutes to the gentleman from Ohio (Mr. STANTON), the ranking minority member of the Subcommittee on Housing and Community Development, to use as he may wish.

Mr. STANTON. Mr. Speaker, I thank the gentleman from Connecticut for being so gracious with the time. It does remind me, Mr. Speaker, in speaking a while ago about the gentleman from Pennsylvania, my neighbor, Mr. MOORHEAD, that the gentleman from Connecticut, the man on our side of the aisle that probably had the most influence on this legislation, Mr. MCKINNEY, deserves every accolade for the contribution he has made, which has been tremendous, to this legislation.

I would say not only that, Mr. Speaker, but in relationship to other issues and other legislation that has come before our committee over the last couple of years, he has shown great leadership and great compassion in understanding the problems not only within the realm of our committee but on a variety of subjects.

Mr. Speaker, I rise reluctantly in opposition to the conference report. I do so fully aware of the gravity of the international situation and the need to reduce our dependence on other nations for so much of the energy so essential to our economy. Likewise I am most anxious to see our Nation committed to a well-rounded program to develop alternative energy sources, stimulate conservation, and improve energy efficiency. But in the final analysis I am not convinced that this bill represents the best possible course of action.

Mr. Speaker, Members may note that I did not sign the conference report and ask why.

Frankly, I did not feel comfortable about what I was being asked to sign. Although my staff participated throughout the conference in the preparation of legislative language and the statement of managers changes were being made constantly up to and after the time we were asked to sign the report. This is a large bill covering a variety of diverse subjects, involving large sums of money, and expedited congressional procedures for approving or disapproving very significant matters. I could not in good conscience endorse a report on something as large as this without personally examining the final language of the report.

But at that point I had not really made up my mind whether or not to support the bill. Since that time I have given serious thought to the bill's provisions. Most of the provisions of the bill before you represent the proposal enacted in some haste in the other body and although your conferees performed major surgery on S. 932, it still contains many provisions which this body has never formally addressed. Had we done so I suspect we might well have produced different proposals than those we are forced to consider today.

Title I is divided into parts A and B. Part A contains the Defense Production Act authorities previously passed by the House. Your conferees redrafted this to put all the synthetic fuel authorities in a new section 305 of the Defense Production Act to make it clear that all the sweeping authorities of the DPA were not available for this purpose but only those needed for synfuel production. Some of us were concerned about this when the House bill was initially considered and view this as a desirable clarification.

The bill contemplates that the authority to initiate new synfuels projects under the DPA authority will terminate when the new Synthetic Fuels Corporation becomes "fully operational," which is expected to happen some 9 to 15 months after enactment of this legislation. Considering the normal delays encountered in getting such new operations started, particularly in an election year, and the complications which may occur because of the indefinable legal structure of the Corporation, I think it is highly unlikely the Corporation will be in a "fully operational" status that quickly. To me fully operational means that it is not only staffed but actually prepared to process applications and legally capable of committing for financial assistance. Unless that situation exists we may have to amend this legislation next year to enable projects to move forward.

Part B establishes the new U.S. Synthetic Fuels Corporation and sets forth its authorities and responsibilities. I have mixed feelings about this.

I confess to lingering doubts about the need for and workability of this Synfuels Corporation. One reason advanced for forming it is that the Department of Energy has never implemented the authorities it has to develop commercialized synfuels plants. So now we propose to create a new Federal entity to do what DOE has failed to do. Unfortunately, this is not all DOE has failed to do. I have come to doubt the wisdom of voting for it and believe we might be further ahead on our energy problems if we had left the private sector more freedom to address them on its own. I continue to be mystified about the need for such a unique corporate structure and worry that it may pose more problems and delays than it is designed to overcome.

The most objectionable feature of part B is the contemplated procedure for approving the Corporation's production strategy and funding for phase II of its operations—the final 9 years of the Corporation's planned life. Section 126 provides that the Corporation will present a proposal for that last 9 years containing an authorization for the entire period which the committees must act on within 60 days and which must be acted on by both Houses under expedited procedures. I might say there is more congressional control over this in the conference version than in the Senate-passed bill but it is still unsatisfactory.

As the gentleman from West Virginia (Mr. STAGGERS) noted in one of our conference sessions we managed to get through World War II successfully with normal authorization and appropriation procedures and there is no reason we cannot handle this problem equally as well. The saving grace is that a future Congress can change this and I pray that one will.

In the final analysis my views on the Synfuels Corporation are that it is an awkward way to attempt to circumvent laws which normally apply to agencies such as DOE. If we really need this level of Government intervention in this market we would be better served by taking an established agency like DOE and making it work rather than starting from scratch to organize this new Federal entity which may take years to become operational.

Title II deals with biomass energy and alcohol fuels. It contains numerous amendments to existing programs of the Department of Agriculture which members of the Agriculture Committee can comment on. I note that many of the obviously wasteful provisions of the Senate-passed bill have been eliminated and two separate titles have been combined by the conferees into one coordinated title.

But my principal concern about this title is whether there is really any need for $1.2 billion of financial assistance for plants to generate alcohol from biomass. The technology is well known and in fact licenses to build plants are being issued currently as fast as Treasury can process them. I would hope that the Departments of Agriculture and Energy in administering this program will direct aid to those projects which promote improved efficiency and higher quality products.

TITLE III—ENERGY TARGETS

Title III calls for periodic congressional review of energy targets and the establishment of nonbinding goals for reducing imports, domestic production and end use consumption of energy. While we are obviously obligated to concern ourselves with our progress toward the achievement of energy independence the provisions of this title would seem to provide for a time-wasting exercise in symbolism. The best that can be said for it is that your conferees have made it far less burdensome than the initial proposal passed by the other body.

TITLE V—SOLAR ENERGY AND CONSERVATION

As an early advocate for energy conservation during our considerations by the Subcommittee on Housing and Community Development of this legislation. I am especially dismayed with the final product that has emerged from the conference with respect to titles V and IX.

The initial bill (H.H. 605) which was reported out of the Banking Committee received broad bipartisan support.

This support largely centered around a firm agreement to authorize funding for conservation and solar subsidies from proceeds of the energy security trust fund. As a matter of fact, this funding tie-in with the ESTF was in linchpin for the support of many Banking Committee members. This important element, which was ratified by two committees of the House, has been abandoned by the conference in favor of the dubious process of placing even more burdens for such subsidies on the backs of the taxpayer.

Another essential element which was regrettably lost in conference, and which also was a foundation for providing protection for this substantial Government investment was the abandonment of the requirement in the House position that assured expenditure of Government-subsidized loans for solar systems that are the most energy-efficient systems.

During and after the Banking and Commerce Committees completed action on these titles of the bill there was much criticism voiced that the approach for delivering such subsidies was "much too complex." In comparison to the level and magnitude of complexity, both for the cumbersome administrative establishment and the additional 20 or more permutations and methods required to calculate and deliver these subsidies added by the conference, the bill reported by the Banking and Commerce Committees looks like a sleek and streamlined model.

The House position we support did not contain a grant program, but this conference report creates one that may well prove unworkable and needlessly expensive.

Mr. Speaker, perhaps if the full House membership were now to be given an opportunity to consider the specifics, which has been denied them on titles V and IX of this report, many of the defects and complexities could be corrected. But, it is apparently more essential and politically expedient to rubberstamp this conference report for a Fourth of July ceremony, perhaps in the Rose Garden.

I must, therefore, oppose this overly complex and excessively cumbersome approach which may well, in fact, result in slowing down the process of encouraging the American public to conserve energy.

Title VII provides for a study of acid precipitation and carbon dioxide. I am pleased that the conferees have been able to rewrite this title as they have. As initially passed by the other body the study would hardly have seemed necessary as the conclusions seemed to have been reached in advance. As now written we can hope for an objective study which is what we need regarding a subject about which we presently know so little. For example, one recent study indicated that the effects of acid rain on various crops had highly diverse effects, from moderately adverse on some to highly stimulative on others. There is much we need to know about all aspects of this phenomenon and under the amended language of this title I believe it will be possible for the study to be approached objectively.

Title VIII provides a mandate to the President to renew deposits into the strategic petroleum reserve at a rate of 100,000 barrels per day. Despite the possible offense to the Saudi Arabians I favor this; our national security demands it and they must understand this.

However I am somewhat dubious as to the effect of two amendments offered in the final minutes of the conference regarding the use of entitlements and royalty oil. Like so many things in this conference rather technical proposals were offered at the last minute with explanations being glossed over so cavalierly that few not privy to the amendments could really grasp their significance. In this instance two Members of the other body in disagreement over how best to reduce the cost of obtaining oil for the SPR agreed to meld their amendments into one, the language of which none of us could see until it appeared later for the conference report printed in the RECORD. I trust they will be effective in reducing the cost of filling the reserve but it is still unclear where the incidence of the remaining costs will fall, upon users of gasoline or all taxpayers equally.

Mr. Speaker, the bill before us today is a far more expensive and extensive bill than that reported last year by the Banking Committee and subsequently passed by the House. As anyone can see, S. 932 covers subject matters well beyond the jurisdiction or the expertise of the Banking Committee and I want to express appreciation for all the help and expertise provided by the members and staffs of the Committees on Agriculture, Interstate and Foreign Commerce, and Science and Technology who shared the conference responsibilities with us. Their knowledge of the technologies involved in producing the various forms of energy addressed in the bill were essential to understanding the Senate passed proposal and the conferees efforts to make them workable.

Despite the best efforts of everyone I still believe the bill is excessively costly, that some provisions are too complex to be workable, and that it provides more Government involvement than is desirable. I must reluctantly vote against the conference report.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 5 minutes to the gentleman from Arkansas (Mr. BETHUNE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BETHUNE. Mr. Speaker, we are all for synfuels, but I am worried about a part of this bill, and the part of it I am worried about is that which allows for an enormous amount of Federal credit assistance.

Last fall we got all worked up about the Chrysler bailout proposal which was a mere $1.5 billion. Here today we are talking about credit assistance which is virtually 60 times the amount we were considering in the Chrysler matter.

As a result of that debate about Chrysler, the administration and Congress got concerned about runaway Federal credit programs. The President made recommendations in his budget proposal this year that certain programs should have a credit ceiling, and that was referred to as the President's credit budget. In the Congress, in the budget resolution this year, for the first time we included a sense of Congress resolution that we should have a ceiling on the aggregate amount of Federal credit assistance programs so we will know where we are.

Why were we alarmed about the status of Federal credit assistance? The reason we were alarmed is because such programs are completely out of hand. We do not now know the nature and extent of outstanding loan guarantees and other Federal credit assistance programs. Much of it is off of the budget. The CBO says there is now nearly $500 billion in outstanding commitments, but that is as close to it as they can get.

We are subsidizing certain activities, but we have no logical system to apportion those benefits throughout our economy because there is no disciplinary mechanism to control overall lending activity.

We do not know the economic impact. I have heard speaker after speaker take this floor and say loan guarantees do not cost anything so long as we do not have a default. In other words, if it is paid off there is no cost. That is just not correct, because there is only so much credit out there in the marketplace. If my colleagues could visualize a pie—when we subsidize a particular loan activity—we draw credit to that activity and take it away from other activities. In many instances we subsidize those ventures which are the least productive ventures.

Accordingly, we are allocating money in the credit market to nonproductive ventures and taking it away from productive ventures. That is inflationary; therefore it has an economic cost in the long term.

With respect to synfuels, and with respect to Chrysler, we are getting into something a little different. In the case of FHA housing, we have a diversity we do not have in the case of synfuels and in the case of the Chrysler Corp. In the case of FHA housing, we have many people who are buying homes. We also have geographical diversity in that loan program and, accordingly, the risk of loss is very small. But in the case of synfuels, we are putting all of our eggs in one basket. If the synfuels concept is bad we are stuck with it because it will all go down at one time. It either all stands or it all falls.

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This idea started out as a $3 billion program. I remember when it came through the Banking Committee under the guidance of our distinguished chairman, and I supported it. All of us are for shifting to coal and doing what the Germans did in World War II—making gasoline out of coal—developing alternative sources of fuel. But now this thing has mushroomed to the point where we are talking about $20 billion, and then another $68 billion in credit assistance.

All of this is going to be off the budget. As I said before, we will be locked into it. We will not be able to get away from it.

Under no circumstances would this Congress let this program fail so that we would have to pick up those debts. So, we will just keep going on and on, as was predicted during the Chrysler matter. What we are doing is busting our own credit budget which we just set about 10 days to 2 weeks ago in this Congress, and we are probably busting the President's recommendation on credit because, as I understand it, he only wanted to use about $2 billion in fiscal year 1981 for synfuels credit. We really do not know what we are doing here insofar as the extension of Federal credit is concerned.

My main point is: I think probably we are moving too fast. We may be making a mistake by getting the cart before the horse. We should develop a system to control these off-budget assistance programs so we can analyze the economic impact of what we are doing here in the Congress. We spend all kinds of time talking about the economic consequences of tax and spending, but we spend almost no time talking about lending activity which impacts the economic system just as much as taxing and spending.

I think before we launch into this much farther we ought to take a second look at it. It has been rushed to the floor because there is pressure to get this done by July 4 so the President and Congress can declare Energy Independence Day on July 4. I am not really impressed with the urgency because I recall last year when the $3 billion plan was before us here, the majority leader said, "We need to pass it by July 4 so we can declare energy independence on July 4." So this is really Energy Independence Day No. 2 we are worshiping here. We have let a whole year go by since the smaller bill was considered last July 4. We should spend a little more time and get the cart before the horse by setting up a system to discipline this body in the way it hands out Federal credit assistance.

Unfortunately the rules of the House do not permit us to slow down and amend the legislation to limit runaway credit assistance. If the rules permitted it, I would do it—but they do not. We only have the option to vote up or down on the conference report with no amendments.

Even though I am voting for this bill it is my intention to continue pressing for a system to get credit assistance programs under control. We need synfuels but we also need to realize that we cannot continue to make carte blanche extensions of off-budget credit and spending. It will catch up with us by and by.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from California (Mr. SHUMWAY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SHUMWAY. Mr. Speaker, I appreciate the yielding of time to me by the ranking minority member of the Banking Committee to give me an opportunity to add my voice to those who have expressed concern over this bill, H.R. 3930, and the conference report which is now before the House.

Mr. Speaker, I rise in opposition to that report. In doing so I would like to make it clear to my colleagues in the House that as a member of the Banking Committee and a long-time supporter of the development of alternative fuels and synthetic fuels, I was an initial cosponsor of H.R. 3930. I voted for it in the Banking Committee, and I supported it when it was considered here on the floor of the House of Representatives last year. But at that time that bill was designed simply to amend the Defense Production Act to promote the commercial production of synthetic fuels. In doing that, in reporting out that bill, our committee worked very long and hard to produce what I thought was a very simple and straightforward piece of legislation which provided the necessary incentives for the private sector to make what on a national basis is correctly perceived as an essential commitment to synthetic fuels production.

It is unfortunate, Mr. Speaker, that by the time the conference committee had completed its work on this bill, the simple 14 pages as we reported it out of the House emerged as a 412-page compendium of some eight titles, only one of which and part of another of which were ever considered here on the House floor. The amount of funds grew by the same extent. Initially we had authorized some $3 billion. We now have a bill that speaks of something in the nature of $30 billion, and the direct role of the Federal Government in this program is similarly enhanced.

Mr. Speaker, I am very much aware of the urgent need that we have in this Nation to move toward energy independence, and I have in the past and I will continue to support realistic and sensible efforts to this end. But I cannot blindly support the kind of legislation which is before us today which would have us commit billions of dollars over many years to programs which may or may not produce the desired results. The House has never debated the fundamental questions which are raised by this conference report, and without going into further detail, I know that Members have already spoken and will speak eventually on some of these points, I would simply like to suggest to my colleagues in the House that a vote in favor of this conference report would represent to me an abrogation of our legislative responsibility.

Mr. STANTON. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

The SPEAKER pro tempore (Mr. PEYSER). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WYLIE. Mr. Speaker, I especially like the solar energy and conservation sections of this bill because they take on pretty much the character of the bills which were reported out of the Banking Committee. But while I am here, I want to join in congratulating my colleague, the gentleman from Ohio (Mr. ASHLEY), for his strong work in this area and in these particular sections. And I am reminded particularly of his strong opposition to an energy audit provision which would have provided for an energy audit on the transfer of every house in the United States under the conservation section. I cannot think of anything which would hold up conservation installations longer than to have every single house studied to see if it complied with the energy conservation standards in this bill.

I also want to congratulate the gentleman from Ohio (Mr. STANTON) for his contribution to the original solar-conservation legislation and to the work of the conference on these particular sections. At the same time, and while I am on my feet, I want to congratulate the gentleman from Connecticut (Mr. MCKINNEY). A lot of other people have done a lot of work, but he did a great workmanlike job as a minority member on this committee on the conference, and I think he should be complimented.

Also I want to recognize the tireless, conscientious and excellent work of the gentleman from Pennsylvania (Mr. MOORHEAD).

This section does recognize the need for a new subsidy program and at the same time takes into account—and I do not mean to be presumptuous—a concept which I offered on tax credits for solar energy installations several years ago and which was adopted on this House floor and later passed into law. But I would say the House conferees pretty much had their own way on these two sections of the bill which, indeed, improved the legislation in this area. We have a comprehensive and what I know will be an effective solar energy program contemplated by this bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STANTON. Mr. Speaker, I have no further requests for time on the subject matter assigned, and I yield back the remainder of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 20 minutes to the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, today I would like first of all to take time to express my appreciation to the chairman of the conference, the gentleman from Pennsylvania (Mr. MOORHEAD), for the patience and the time that he devoted in trying to get this conference put together resulting in a bill that I think the House can support. Also I would like to congratulate the distinguished ranking minority member of the subcommittee, the gentleman from Connecticut (Mr. McKinney), for his work in helping bring this bill to us on the floor a year ago and that led to this conference that we had, which I do not think could have been really accomplished without the great leadership of our majority leader who spent endless hours and time in putting the fractured parts back together and trying to keep them together. He certainly deserves a great deal of credit for his work.

Mr. Speaker, today is a benchmark day for energy production from our domestic resources. The Conference Report No. 96–1104, which has been worked out over the last 8 months, contains the best approach which we could work out to encourage the private sector to develop our domestic resources into usable liquid, gaseous, or solid fuels.

The work in conference has been long, and has taken many, many hours, but I feel that we have needed this to perfect the many new incentives contained in this bill.

The Committee on Science and Technology enacted into law the Non-Nuclear Act in 1974 and began its efforts in 1975 on synthetic fuels. After a number of difficult battles: first on the conference report for the Energy Research and Development Administration on December 11, 1975, where loan guarantees were defeated, and then on September 23, 1976, when the rule for H.R. 12112 was defeated by one vote, it successfully enacted into law Public Law 95–238 which provides loan guarantee authority to the Department of Energy for synthetic fuels and municipal waste. These authorities are funded now in Public Law 96–126 and have provided the base for getting things moving through feasibility studies, cooperative agreements, and loan guarantees until this legislation is signed into law.

With this perspective from past efforts the conferees have worked to shape new legislation that addresses the many diverse resources and technologies that can be utilized to produce energy. In this statement I wanted to just touch on some of the highlights. In title I we added to the earlier definition of synthetic fuel the concept of coal-oil mixtures which displace a significant amount of oil, and hydrogen from water by electrolysis which offers great potential as well.

In addition we have greatly improved the joint venture concept contained as section 136 so that applicants who seek to build a module of a commercial plant will be able to pursue their objective while, at the same time the taxpayers' moneys are protected since 60 percent of the cost would be borne by the private applicant. Another important improvement in my opinion is the mechanism for cost control contained in section 131(u) which authorizes the Corporation to cost share with an applicant to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs. I am confident that such a provision will reduce cost overruns and give the Corporation additional flexibility to look at promising projects.

Title II of the report now contains a subtitle for a very exciting municipal waste biomass energy program to be administered by the Department of Energy, and construction loans are authorized as are guaranteed construction loans, price-support loans, and price guarantees.

"Biomass energy" is defined to mean electricity or steam produced by direct combustion of municipal waste or gaseous, liquid, or solid fuels derived from municipal waste. To preserve the concept that these processes displace oil and natural gas, the conference report requires that financial assistance for projects which directly combust municipal waste is only available if such projects do not use oil or natural gas except for flame stabilization and startup. For these projects which produce a biomass fuel, the test to be used is whether the Btu content of the fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the process.

Title IV of the report, renewable energy incentives, creates an important new pilot program in section 406, entitled energy self sufficiency through the use of renewable energy resources in one or more States. This pilot program is specifically tailored for States such as Florida and Hawaii which do not have fossil fuel resources and have traditionally had to import their energy. It is my hope that such a program, which is authorized $10 million per year, is the catalyst needed in Florida to use the wood wastes, the solar potential, and Florida's ability to grow crops which can produce energy in order to become energy self sufficient.

Title VI of the report, geothermal energy, establishes several new or expanded programs for geothermal development and builds on the prior enactments by the Committee on Science and Technology such as the Geothermal Energy Research Development and Demonstration Act of 1974 (Public Law 93–410).

Loans are authorized for reservoir confirmation to assist the geothermal industry in exploring for and confirming the economic viability of geothermal reservoirs. A reservoir insurance study is also authorized, as is a feasibility study loan program.

In addition several important amendments are made to the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 to encourage geothermal production by increasing the ceilings on qualifying small power producers to 80 Mwe capacity.

Title VII of the report, acid precipitation program and carbon dioxide study, sets up a major new $50 million 10 year national effort to examine the problems which may be caused by manmade sources of acid precipitation, while not excluding natural effects. The research programs include the four national energy laboratories, Argonne National Laboratory, Brookhaven National Laboratory, Oak Ridge National Laboratory and the Pacific Northwest National Laboratory. The acid precipitation task force is to be chaired jointly by the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration.

I am especially pleased that the conferees have endorsed the concept of an active role in the research and its management by the four national energy laboratories. We have tried to make it clear, however, that the overall direction does come from the joint chairmen of the task force, and to provide that the research funds are to be made available to the NOAA which serves as the director of the research program.

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Mr. McKINNEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, I thank my colleague from Connecticut for yielding to me. I am particularly happy my opportunity to speak came just after the gentleman who just spoke to us, the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua). I think all but two titles in this conference report contain some R. & D. initiatives that are critically important, in my judgment, to our addressing this problem.

Mr. Speaker, I rise in support of the conference report on the Omnibus Energy Security Act of 1980. This legislation will allow us to press forward with the development of synthetic fuels made from our coal, biomass, and even our urban waste resources. It also provides important elements for our solar and conservation programs—programs that I believe are essential to our national energy strategy. With this legislation, I am confident that we will be able to take full advantage of most of our domestic energy resources.

I would like to commend the conferees on the omnibus energy legislation for their fine work and long hours in structuring a comprehensive synthetic fuels program. They should be congratulated for their great efforts. This legislation is another critical step in facing our energy issues squarely and in helping our Nation reduce its reliance on foreign oil supplies. Because of their efforts, I believe the world will now know that we are indeed firmly committed to solving our energy problems and becoming energy independent.

Many elements of this legislation are worth noting in detail, and I would just like to mention a few. Of great importance is the establishment of the Synthetic Fuels Corporation, which will help us reach the initial goal of 500,000 barrels of synthetic fuels from coal by the year 1987. This Corporation is authorized to spend $20 billion during phase I of the program for the production of synthetic fuels from coal, oil shale, and tar sands. It will help us take advantage of the potential billions of barrels of oil or energy equivalent which can be obtained from oil shale, tar sands, and the vast abundance of coal reserves which lie in our country. I believe that the conferees have given the Corporation the power to proceed in a rational and appropriate pace to develop an effective synthetic fuels program.

I was particularly pleased to see the conferees recommend the establishment of an accelerated program to convert our municipal wastes into energy. I have found it extremely disturbing to see that these wastes have, to date, remained largely a grossly underutilized energy resource. The Subcommittee on Energy Development and Applications has heard on numerous occasions about the great energy potential of municipal wastes. We have heard that about 270 million barrels of crude oil per year could be saved if all of the municipal solid wastes and sewage sludge available in the United States were processed. Furthermore, recent estimates indicate the municipal waste-to-energy plants could contribute between 5 and 6 percent of the total energy requirements of U.S. electric utilities.

Unlike several alternative technologies, municipal waste can produce energy in the near term. Opportunities are now available to use this resource for various types of applications: Boiler fuels for industry, transportation fuels, and electrical production. In spite of recent progress, however, municipal solid waste remains a virtually untapped resource. Realizing its use depends in large part on the development of improved conversion and recovery technologies, and overcoming various economic and institutional barriers.

With its great potential in mind, I am pleased to see that the conferees have also found it important to create a program in municipal wastes. This program will provide the financial assistance that is needed to get many more municipal waste-to-energy plants on line now. If we actively pursue this program, I am confident that municipal wastes can provide us with a significant amount of energy in the early 1980's.

In addition to municipal wastes, this legislation provides for a vigorous conservation and solar program. The establishment of an energy development bank for conservation and solar energy measures is of great significance and will help us accelerate our use of these resources. I have long been a supporter of programs to develop both our conservation and solar resources. Based on several recent studies, I believe that they can play a significant role in our overall energy strategy. The Harvard Business School has indicated in its recent study, "Energy Future," that our Nation could consume 30 to 40 percent less energy, and still enjoy our same or an even higher standard of living. Other available information indicates that conservation is the most immediate and cost-effective means to deal with our current energy problems. Given this overwhelming evidence, it is clear that our Nation cannot afford to miss out on the great benefits of energy conservation.

The energy development bank will also play an instrumental role in helping our Nation meet the goal of deriving 20 percent of our energy needs from the Sun by the year 2000. We have heard much about the need to overcome the economical problems which solar now faces. I am confident that this new bank will help solar technologies become more competitive in the marketplace at a faster rate and allow us to reap the enormous benefits which they have to offer.

For small hydroelectric power systems, new legislative initiatives are also provided to help tap this promising energy resource. Small-scale hydroelectric development offers energy-poor areas of the country, including the State of New York, a cost-competitive, environmentally sound method of energy. According to the Corps of Engineers, the maximum development of our Nation's hydropower potential at existing dams could result in an annual increase of 160 billion kilowatt hours of electricity—a savings of 727,000 barrels of oil per day. Based on these estimates, there is no doubt that hydropower can play a significant role in reducing our foreign oil imports.

Mr. Speaker, today we are taking a great step forward to meet our future energy needs. I believe that this legislation will help our Nation finally get on the right energy track. It confirms our commitment to becoming energy independent. In the years ahead, I believe that this legislation will be seen as the major domestic energy production initiative taken by the Congress since the OPEC cartel was faced. I believe that this is a piece of legislation that we can all be proud of, and something we can take back to our constituents as as example of our commitment to energy independence. I urge the adoption of the conference report.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Missouri (Mr. VOLKMER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. VOLKMER. Mr. Speaker, I wish to commend the gentleman from Florida and the other members of the conference committee for bringing before us this monumental piece of legislation today. I say we now are ready to start again a synthetic fuels program that was begun actually under the Truman administration 31 years ago. At that time, during the 4 years from 1949 to 1953 we produced from coal through liquefaction and through gasification, in Louisiana and Missouri, in my district, liquid fuel in order to propel motor vehicles, railroads, trains, airplanes, et cetera. That was stopped in 1953.

I believe that history will show that was a very bad action by the Congress and the President. Had that and similar projects not been stopped we would be well on our way today to energy independence. I say we have to have this bill and I urge every Member to vote for it so that we do become energy independent.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the distinguished gentleman from Michigan (Mr. WOLPE).

Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WOLPE. Mr. Speaker, in what has probably been my most difficult decision in this session of Congress, I rise in reluctant opposition to the conference report before us. This has been a very difficult decision because the greatest part of my time during this session has been devoted, through my work on the Committee on Science and Technology, to encouraging many of the initiatives embraced within this conference committee report.

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There is much that is sound and worthwhile in this report. The alcohol fuel incentives and the creation of a conservation and solar bank are two examples of energy initiatives that are long overdue and that will help move this country toward the goal of energy independence and away from our dependence on diminishing fossil fuels. This makes sense for both our short-term and long-term energy policy.

At the same time, there is too much in this bill that is simply bad public policy.

I would like to emphasize that 1 year ago today, I supported the Moorhead bill when it was before the House. I viewed this measure as a responsible and moderate approach to stimulate a domestic synthetic fuels industry.

However, the bill before us, which projects an ultimate $88 billion commitment to synthetic fuels, continues the historic pattern of providing ad hoc Federal energy subsidies—not in response to an objective economic analysis of how our country's limited capital resources can be most effectively invested, but in response to the pressure of the powerful oil and coal interests; not in response to how we can, in the most cost effective way, most quickly displace petroleum, but rather in response to the latest energy fad.

I submit that the provision of Federal energy incentives should attempt to allocate increasingly scarce capital resources in the most efficient way.

Our energy policy should not be based upon the pressure of special interest groups, but upon an analysis of how we can most quickly displace the largest quantity of petroleum at the lowest possible economic, social, and environmental cost.

But there is no such criterion embraced within this report. We are committing ourselves to the continued provision of massive subsidies to synthetic fuel production without regard to the comparative cost-effectiveness of competing alternative energy technologies. Consequently, the primary long-term effects of the extraordinary Government commitment to the commercialization of synthetic fuels will be to drain capital resources from competing energy alternatives and to seriously distort the economics of the energy marketplace. This is precisely what we have done in the past—allowed unjustified subsidies to distort the marketplace, and thereby delayed the implementation of an effective national energy policy.

This legislation will continue the policy of diverting scarce capital resources into the most capital intensive energy technologies. I am reminded, in this connection, of the administration's own figures that indicated that we could be displacing a barrel of petroleum through a national residential weatherization program at a cost of $10 per barrel. That same oil displacement, attained through some of the synthetic fuel technologies that we propose to subsidize in this legislation will cost, at a minimum, between $37 and $42 for that same barrel. I stress, "at a minimum," because the Rand Corp., in testimony before the House Science and Technology Committee, reported that pilot energy projects have cost, on the average, two-and-a-half times this original estimated project cost.

A Princeton University study indicated that by the year 1990 we could displace, by residential conservation alone, 2.5 million barrels of oil a day—at a cost of $10 per barrel displaced. And yet the goal of the legislation before us is to invest $20 billion so that by 1987 we can displace no more than 500,000 barrels a day through synthetic fuel at a cost, again, of at least between $37 and $42 for that same barrel of oil displacement. In addition, a massive conservation program could begin to displace petroleum much more quickly than spending large sums on as yet unproven synthetic oil technologies which may, in addition, entail substantial social and environmental costs as well. I submit that this bill is a bad investment; a bad investment in the short term, and a bad investment over the long term.

Despite its meritorious features, I believe that this bill will retard, rather than facilitate, the move toward energy conservation, and the development of safe, and renewable energy resources. As a consequence, I feel that this legislation will further impede the development of a comprehensive national energy strategy and result in a massive waste of taxpayers' dollars on uneconomical and undesirable projects. I fear that what we are about to unleash through the creation of this Government Corporation is a new national pork-barrel of unparalleled dimension—and it will be not the American public, but the coal and oil interests, that will be its principal beneficiaries.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, S. 932, the Energy Security Act of 1980, on which the House will vote today, will stand for years as an outstanding accomplishment of this Congress. Indeed, I predict it will rank as one of the major accomplishments of any Congress.

This legislation, which we shall soon send to the President for his signature, will go a long way toward eliminating the dependency of the United States on other nations for energy.

Mr. Speaker, in recent years we have made great strides to alleviate our energy problem, but the Energy Security Act offers, for the first time, significant advances in a variety of areas.

The impetus the legislation provides for the development of a synethic fuels industry may well be its most significant provision and is the section receiving the most public attention. But the legislation also promotes the production of alcohol and other fuels from biomass and the development of solar energy. Other provisions offer additional forms of new energy development.

The production of 500,000 barrels a day of synthetic crude oil is established as a goal for 1987, increasing to 2 million barrels a day 5 years later.

By the end of 1982, the legislation envisages the production of 60,000 barrels a day of alcohol. By 1990, the goal for alcohol production would be 10 percent of domestic gasoline consumption.

Mr. Speaker, given the passage of the Windfall Profit Tax Act and with the probable passage soon of the Energy Mobilization Act, or fast-track bill, the approval of the Energy Security Act will give the United States a national energy policy.

We will be embarked on a venture as significant as any we have undertaken in the past—the freeing of America from dependence on sources of energy from areas of the world over which we have no control.

Mr. Speaker, today is indeed an historic day. It is a day future generations will look back upon with thanks and appreciation for what we have accomplished.

Mr. Speaker, I want to pay particular tribute to the outstanding work on this measure done by my distinguished colleagues, the majority leader, the gentleman from Texas (Mr. WRIGHT); the gentleman from Florida (Mr. FUQUA); the gentleman from Pennsylvania (Mr. MOORHEAD); the gentleman from Michigan (Mr. DINGELL); the gentleman from Washington (Mr. FOLEY); the gentleman from Ohio (Mr. ASHLEY); the gentleman from Connecticut (Mr. MCKINNEY); and indeed all those who have contributed to the shaping of this important legislation.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Montana (Mr. WILLIAMS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the chairman for yielding.

I was among the two dozen people who voted against the synthetic fuel bill when it passed the House a few months ago. I did so because I believed that the legislation represented a full speed ahead, break neck attitude toward the development of an energy technology yet unproven. That bill proposed to spend $88 billion to produce 2.5 million barrels of oil per day. It represented a solution that was neat, plausible and wrong.

Unfortunately, the synthetic fuels section of the legislation before us does not represent enough improvements over the bill which I opposed. Like many of my colleagues, had I been the sole author of this legislation, it would have looked far different than it does this afternoon.

It is primarily the synthetic fuels section of this legislation which disturbs me. Its cost to the public is staggering and it may be just the tip of the iceberg.

North of the district which I represent, lies Alberta, Canada, and the city of Edmonton. Just north of Edmonton is one of the world's largest synthetic oil plants. It is called Syncrude Canada Ltd. It was established in 1964 by affiliates of Exxon, Cities Service, Gulf, and Atlantic Richfield. At that time the capital costs were estimated to be $356 million.

By the time construction began on the plant, the costs were $2 billion. Arco withdrew and the private investors were about to follow when the governments of Alberta, Ontario, and Canada converged to pump in the necessary public funds to save the project.

The energy crisis in this nation is testing, not just our ability to domestically produce energy and to embark on and persevere with a national conservation effort, it is also a test of our reason and prudence in carefully fashioning legislation which promotes the appropriate development of the various energy technologies available to us. In part, the synthetic fuels section of this bill does not measure up to that test. I am, of course, encouraged that the major magnetohydrodynamics effort is included as a synthetic fuel project. Such inclusion demonstrates the understanding of the conference committee that we must broaden our concept and definition of synthetic fuel production.

In the other sections of the bill it does measure up to providing energy direction on several fronts: the alcohol fuels program will now be on the move; conservation is at last given practical direction; solar energy receives assistance, rather than neglect; and, the strategic petroleum reserve is resumed.

This legislation has my support, despite the fact that it needs improvement and despite the fact that in some measure it represents political, rather than technological considerations.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Kentucky (Mr. HUBBARD).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HUBBARD. Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act of 1980.

I strongly support the conference agreement which authorizes the establishment of a U.S. Synthetic Fuel Corporation. This agreement would also create a solar energy and conservation bank, determine incentives for alcohol production from biomass, and direct the President regarding the filling of the strategic petroleum reserve.

I am sure my colleagues in the House are aware that there are no commercial-sized synfuel plants now operating in the United States. In fact, the largest synfuel commercial plant in the world is the SASOL plant in South Africa. With these facts before us, in addition to the realization of the gasoline shortages that we as Americans have suffered in previous years, I urge that we move forward toward freeing ourselves from the chains of OPEC by passing the conference report on the Energy Security Act.

My district, the First Congressional District of Kentucky, has an abundance of coal which is idle while we slowly ponder over legislation which can effectively put it to use in American homes, automobiles, factories, farm machinery, and a number of other energy needs. Currently, there are four synthetic fuel plants under consideration for western Kentucky: a demonstration facility to be constructed by Wheelabrator Frye at Newman, a W. R. Grace facility at Baskett in Henderson County, a plant very similar to the South African "high technology" SASOL plant, to be built at Geneva in Henderson County under the auspices of Texas Gas Transmission Corp. and Texas Eastern Corp., and a possible Hygas demonstration project in Webster County. These plants will convert several thousand tons of coal per day to synthetic liquid boiler fuel. This is the kind of production we must have if we are going to achieve energy independence in America before the end of this century—independence that must be achieved.

Further, this conference agreement does take into consideration the need for increased synthetic fuel production and does allow incentives that would encourage businesses as well as the general public to become involved in efforts to alleviate the oil shortage through the use of alternative fuels.

I assure you that though we may be late in starting and though the cost seems high, we as Americans who have experienced the long gasoline lines, and the continuing "stranglehold" of OPEC and energy dependency, have no choice but to proceed with the creation of a strong synthetic fuel industry. I urge you to vote for the passage of this most important legislation.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from North Carolina (Mr. Neal).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. NEAL. Mr. Speaker, we are considering today the conference report on the Energy Security Act of 1980. In my opinion, it is one of the most important pieces of legislation to come before this House in recent years.

I say that because I think it confronts head-on—and perhaps for the first time—in serious and innovative ways the haunting problem of providing energy for America's future.

For at least the past 5 years, we have struggled with the problems of diminishing domestic petroleum reserves, increasing dependence on foreign oil, and discovery and development of new sources of petroleum. Those efforts have not been wasted—for we need to make the best use of however much petroleum there remains—but they have given scant attention to the development of alternatives upon which future generations almost certainly will have to depend.

I support the conference report, and I commend the committee for the excellent work it has done in the long and tedious process of hammering out the differences between the House and Senate versions of the bill.

The purpose for which I rise, however, is to point out to the same 137 cosponsors of H.R. 605, the solar bank bill, that the provisions of H.R. 605 are embodied in title 5 of the conference report now before us. I would say, further, that it closely conforms to the solar bank concept, as originally envisioned in H.R. 605, and is enhanced by the addition of the conservation provisions of title 5.

Mr. Speaker, we have been a considerable time in coming to this visible and meaningful support of solar energy. I will not recite the legislative history of solar bank concept, except to say that I worked on it for almost 2 years before introducing it in 1977. When we first held hearings on the bill, it got a cool reception from the administration. And although the bill was reported out of subcommittee late in 1978, it did not make full committee consideration before the 95th Congress adjourned.

Early in 1979, I reintroduced the bill and with the help of a great many colleagues, it was passed out of the Banking Subcommittees on Domestic Monetary Policy, and on Housing, and then by the full Committee on Banking, Finance and Urban Affairs. In the Senate, the concept was contained in an identical bill introduced by Senator Robert Morgan, to whom we are indebted for his hard work, influence, and guidance through the deliberative process of that body. And so today we have before us as a major title in this most important legislation, the culmination of what to many of us has been both a dream and a goal to which we ardently aspired.

The provisions of title 5 are adequately described in the report, Mr. Speaker, so I will not burden my colleagues with a repetition of all that the title contains. Very briefly, however, it creates a solar energy and conservation bank within the Department of Housing and Urban Development (HUD) to provide assistance, through interest subsidies, to the purchasers of solar energy equipment, and to others who make energy conservation improvements to new or existing buildings. The solar energy and energy conservation bank would, in effect, be a bank with two windows—one for solar, one for conservation. Its purposes are quite direct and confined. They are to hasten the development and utilization of solar energy by making it possible for homeowners and others to purchase and install solar equipment, and to put into place as quickly as possible those conservation improvements which will save energy, especially oil.

If there are any who would say that this is another agency within an agency within an already overblown bureaucracy, I would point out that the solar and conservation programs would be accomplished with very little governmental involvement. The bank would not make direct loans, but would, instead, be authorized to make payments to local financial institutions willing to provide below-market rate loans, or a principal reduction on loans, for solar and conservation improvements. The personnel and the techniques necessary to accomplish these purposes are already in place within the Department of Housing and Urban Development and as I indicated the innovative approach of the solar bank is to use private institutions and private capital to achieve our goals. Another beauty of the program, especially as it pertains to solar, is that it uses the best of our free market system, with only a modest nudge by the Federal Government. It creates, in effect, a demand for solar products, the purchase of which has been restrained by the high initial investment. At the same time, it creates a market for solar energy products which already are developed or well within the state of the art.

In doing this, Mr. Speaker, the concept calls forth the genius of our system to produce new and exciting products. It creates jobs, conserves petroleum, and hastens the development and full utilization of a source of energy that is inexhaustible, clean, safe, and efficient.

And so I would say to the cosponsors and other supporters of H.R. 605 that we can, with considerable pride, endorse and support title V of this conference report. At one time, we were much concerned that the solar bank bill would become overburdened with bureaucratic requirements. I am pleased to say that reason has prevailed, and that those entanglements have not been inflicted upon the bank. For this, we owe thanks to the committees and subcommittees which handled H.R. 605, and the conference committee which brings us this perfected version.

I urge adoption of the conference report.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. Murphy).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MURPHY of Pennsylvania. Mr. Speaker, I would like to join my distinguished colleagues not with reluctance, but with enthusiasm in speaking in strong support of the Defense Production Act amendments, more popularly known as the Synfuels Act. For too long now our Nation has been subject to the whims of foreign powers in both the supply and price of oil. We have witnessed the economic damage and disruption to the personal lives of our citizens and especially to the personal incomes of the working men and women in this country.

In a time when the prefix "petro" has been attached to so many common words, such as "petrodollars" and the slang "petrobucks," we should add one more to our vocabulary—"petroimperialism." Our dependence on foreign oil has made us victim to the economic and energy-oriented imperialism of oil-producing nations that have sought to influence our internal affairs by controlling the price and flow of their oil to this and other free world countries. With the passage of this bill we can now put those "petroimperialists" on notice that the United States will no longer allow itself to be subject to their whims, fancies, and autocratic control.

As a Member of Congress from coal country it would be easy for me to fall prey to concentrating solely on our Nation's greatest single energy reserve as the only source of energy upon which to declare our independence. And while I do so strongly believe that coal is the backbone of that new found independence, I will be among the first to take the larger view and to encourage the full development of all our great resources. This bill provides us with the opportunity to develop a coordinated program of energy development that will utilize not only our massive coal reserves, but solar, geothermal, biomass and wind energies to mention only a few of the numerous options available to us in the lexicon of domestic American energy sources.

Less than 4 years ago I first stood in these Chambers as one of the committee members privileged to have contributed to the first comprehensive National Energy Act in our Nation's history. I was then, and still am, proud of that opportunity to join so many distinguished senior colleagues in that first effort. The approval of this conference report before us now is the logical extension of those efforts of the past 3 years.

Through the final approval of this legislation by both Houses of Congress and signature into law by the President, we are throwing out another challenge. It is a challenge to the industrial expertise and power that brought this country from a small collection of independent States to the most influential nation in the history of the Earth. We, as Members of a government, elected by the people, have provided the incentives for private industry to apply their human resources of intelligence, technological skills, and individual ambition to the task of answering our foreign critics, who in recent years have predicted a fading of America's greatness. With the implementation of the many programs contained in this bill we are now challenging the individual men and women who work in our factories, our fields, and our mines to put their minds, their muscles, and their spirits to providing us with practical answers to the energy problems that have plagued us in recent years. We likewise challenge the managers and executives of those companies both large and small to dedicate themselves to the same task. This is a realistic challenge with no naive notion that the answers will come overnight, but it is a beginning that if pursued diligently will see a mobilization of effort never seen before.

Many of us here can still remember the massive and concerted effort at the outset of World War II when America dragged itself out of a devastating depression to launch the greatest industrial effort in history. Despite the doomsayers around us, we now have the opportunity to produce our way out of recessionary times and declare our independence from the economic constraints imposed on us by foreign powers. This program is not the single answer, but it is the first major step in achieving those goals. I urge you all to send this message to our President and to the world and then build on this foundation in the coming years.

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Mr. FUQUA. Mr. Speaker, I now yield 1 minute to the distinguished gentleman from New York (Mr. Ottinger), one of the conferees.

The SPEAKER pro tempore. Without objection, the gentleman from New York (Mr. Ottinger) is recognized.

There was no objection.

Mr. OTTINGER. Mr. Speaker, I would like to thank my chairman, the gentleman from Florida (Mr. Fuqua), for yielding this time to me.

I congratulate the gentleman from Florida and the gentleman from Pennsylvania (Mr. Moorhead), as well as the gentleman from Ohio (Mr. Ashley) and my other good chairman and friend, the gentleman from Michigan (Mr. Dingell), for the hard work they did on this legislation.

Mr. Speaker, while I have grave reservations about some of the provisions of S. 932, I nonetheless rise to support it. As with so many of the measures we consider, there are provisions which I feel are both good and bad, and it is frequently a difficult decision whether to support a measure despite its bad provisions or oppose it despite the merits of certain parts.

I am supporting the bill because it provides funding for conservation, solar and biomass efforts that I consider essential to resolving our energy crisis—and because I feel so very strongly that eliminating our heavy dependence on imported oil is the paramount need of the Nation, essential to our survival both economically and from national security and foreign policy standpoints. The legislation will permit us to make substantial progress in addressing these most critical of needs.

Unfortunately, the bill is being oversold by its promoters and the administration. The bill does not provide the national energy policy the country so badly needs to become reasonably energy independent. There are no quotas on oil imports to assure that we reduce our dependence on foreign oil. There are no provisions for establishing a Government purchasing agency for oil imports that could better deal with OPEC in making national oil purchases, leaving this vital function to the international oil companies that stand to gain more than a billion dollars for every dollar increase in the price of a barrel of imported oil.

There is no provision leading to cooperation among our allies for an oil consumers cartel that would be able to bargain most effectively with OPEC on both price and production. Most importantly, there is no well-designed plan of conservation and production of alternative fuels demonstrating year by year the progress to be achieved in gaining independence calibrated to the measures to be taken to make those achievements. What the bill does is to throw a huge amount of money at many possible solutions, good and bad, in the hope that progress toward independence will result. That simply is not good enough.

The bill as it emerges from conference has an extraordinary potpourri of provisions to encourage energy conservation and production. In addition to the highly publicized and dubious synthetic fuels corporation, the legislation includes important measures to advance conservation and solar energy through use of utility financing and arrangements for installation of insulation and solar devices, the solar and conservation banks so many of us have advocated for many years, a substantial biomass and alcohol fuels authorization, waste to energy promotion, eligibility of hydrogen production for support under the synthetic fuels corporation and other important energy advances.

On the negative side, however, the bill provides far too much money, on an unreasonably accelerated basis and without adequate controls, for commercial production of synthetic fuels. The subcommittee I chair on the Science and Technology Committee authorizes all the research and development of synthetic fuels.

Earlier this year we established a Synthetic Fuels Task Force chaired by Gerald Decker of Kaiser Aluminum Corp. and composed of leading experts from all over the country, to evaluate the various synthetic fuels technologies and their readiness for commercial production.

It is clear from the many hours of testimony we received from administration experts, industry technologists, and from the report of the task force and field visits of the committee to many of the synthetic fuels projects, that the prime object of the synthetic fuels corporation, namely oil from shale or coal, is still in the experimental stage in this country. These projects are frought with problems of economic and safe extraction and production, as well as very serious unresolved environmental problems and problems of severe community disruption in relatively uninhabited regions of the country where many of the resources are located.

While I have been a strong supporter of accelerated research on synthetic fuels and believe that we should push the technology to the point of putting up demonstration plants in each of the major technologies so that we have the capability at hand to produce these fuels at a time when they may be needed, I think it is foolhardy and a waste of the taxpayers' money to rush into commercial production of these fuels with an $88 billion commitment, of which $20 billion is authorized in this bill.

I do not even think the synthetic fuels goals enunciated in the bill will become a reality despite throwing this immense amount of money at them. Many of the companies promoting synthetic fuels are responsible enough to have indicated to the committee that they simply will not commit major resources to building commercial-size plants for technologies in which they do not yet have confidence, for which there is no market at presently projected prices, and for which there is no adequate revolution of the environmental problems and hazards associated with their production.

I only hope that the directors appointed to direct the Synthetic Fuels Corporation will be sensible enough not to try to force the production of inadequate or unsafe technologies or to overlook the resolution of the environmental and community problems imposed. If soundly administered, the Corporation could provide us with many of the answers so urgently needed on future production of synthetics.

I am particularly pleased with the title V provisions on utility participation in energy conservation and solar energy. Although the House never passed legislation comparable to titles V and IX of the Senate bill, the Commerce and Banking Committees did report out roughly comparable bills. Those bills closely resembled legislation I introduced last September, together with Chairmen STAGGERS and DINGELL. That legislation, H.R. 5493, the Conservation and Renewable Energy Resource Act, contained amendments to the National Energy Conservation Policy Act to permit utilities to undertake energy conservation and solar energy programs, subject to restraints against unfair anticompetitive practices.

This is a most significant advance in the conservation and solar area. The need for aggressive conservation activity by utilities has become daily clearer. That evidence is best summarized by the testimony of S. David Freeman, Chairman of the Tennessee Valley Authority, the Nation's leading utility in the conservation and solar field, before the Energy and Power Subcommittee last fall. I would like to quote at length from his testimony:

> I am convinced of the need for a strong and effective utility role in conservation for the benefit of the consumer. Whether we like them or not, the utilities reach just about every building in the country and provide the best potential delivery system for conservation measures that is currently available.
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> Insulating and weatherizing all the Nation's existing homes and buildings is a massive job, and it requires more than tax credits. It requires a comprehensive delivery system that must include direct personal contact with the homeowner, front-end financing, and postinstallation inspections for quality control. All of these features are necessary to overcome the substantial financial, procedural, informational, and indifference barriers each consumer faces.
>
> The utilities offer the best bet to get the job done for a number of reasons. They reach every home; they have knowledge about the subject matter; they have a positive financial stake in promoting conservation because it can eliminate the need for expensive new capacity; and they can provide a one-stop shopping center for consumers interested in conservation measures, and as legislation demonstrates, they are subject to regulation at the local level that can be fashioned to assure that the program is carried out in a fair and reasonable manner.
>
> I am very much aware that utilities are not universally loved to say the least, and that there is genuine concern that utility organizations might use their monopoly power unfairly to compete with companies offering weatherization service. Even so, I believe experience has shown that the Nation cannot afford to pass up the opportunity that utilities offer under proper safeguards as this legislation provides to give our lagging conservation effort a real shot in the arm, and that is what it needs.
>
> I think equally important is the changed attitude of many utilities, as compared to a couple of years ago when they shunned the conservation effort. The utility organizations today find themselves in a difficult position. They are faced with growth in demand for energy services and their options for supplying the demand are severely restricted. The marginal cost of new capacity for this capital-intensive industry has made conservation seem less of a threat and more of a promise of financial salvation.
>
> The serious cost crunch has forced some members of the industry to rethink their role. It is of historical interest, I think, that Thomas Edison thought the industry should sell light and not just kilowatt hours, because no one uses electricity for its own sake.
>
> The industry went the other way, but perhaps it is time to get back to the ideas of Edison. Because once you cross the mental hurdle of thinking beyond the bus bar, conservation, solar energy and other decentralized energy systems offer utilities a cost-effective option, much more cost effective in most instances than increasingly expensive centralized generating plants.
>
> This is not just talk as far as I am concerned. We have applied this thinking in the TVA system and we have conservation and solar programs that are working. TVA is showing that we can, as a matter of fact, provide for a substantial portion of new capacity that would otherwise be needed by instead installing insulation, storm windows, wood heaters, and solar water heaters, and, most importantly, we are developing the facts that show this equivalent capacity can be obtained much more cheaply than comparable central station powerplants.

Indeed, TVA has learned that the cost of energy saved through conservation is $200 per kilowatt of capacity deferred in contrast with $1,200 per kilowatt for a new nuclear generating station.

There has always been concern about the potential for utilities stifling competition if they are permitted to embark on other activities than supplying electricity or gas. That concern is one I share. After all, utilities are franchised monopolies, and their behavior in the past, particularly in selling appliances to increase their load, has often been far from exemplary.

However, I am convinced that this legislation contains adequate protection against anticompetitive practices. First, the suppliers and installers of energy conservation measures financed by utility contracts would have to be drawn from State lists of qualified contractors. This is required in the residential conservation service program, so utilities would not have control over contractors. Second, the Secretary of Energy is required to monitor utility programs explicitly to seek out cases of unfair rates or unfair methods of competition. In doing this, the Secretary must consult with the Federal Trade Commission, and must report annually to the Congress. And, in the event that utility programs resulting in unfair rates or anticompetitive practices, the Secretary may order the programs terminated.

What we have done, in this legislation, is to restore to the States the powers we usurped from them 2 years ago in the National Energy Act—to let them allow their utilities, or require their utilities, to embark on energy conservation and solar energy programs, but in so doing build in strong protections for competition. These provisions will permit utilities to both finance and make arrangements for installation of insulation and solar devices, overcoming principal barriers to our Nation's critically needed progress in these areas. This may well be the most important part of this legislation for achieving energy independence.

Turning for a moment to several other provisions of S. 932, I am also pleased with the commitment that has been made to developing our biomass resources, in particular alcohol fuels, and municipal waste for energy. Title II of this legislation establishes a major new effort on the Federal part to spur private investment in alcohol fuels production as well as in our virtually untapped resource of municipal solid waste.

The Department of Energy will now have an Office of Alcohol Fuels and an authorization of $500 million to pursue the goal of displacing at least 10 percent of our gasoline consumption by the year 1990. Earlier this year, I had the opportunity to visit Brazil with my subcommittee and see first hand the progress that country is making in utilizing alcohol fuels in mitigating their dependence on foreign imports. Their progress has been impressive and it is now time for this country also to utilize to the fullest extent possible similar resources. To do so, it will be necessary for us to continue important biomass research and development efforts to find new processes for producing alcohol fuels more efficiently and at less cost. The additional $100 million provided by S. 932 in authorizations will assist in that effort by promoting ongoing programs within the Department as well as allowing for new initiatives.

Subpart B of title II is addressed specifically to the use of municipal waste to recover energy and energy-intensive products. As our existing landfills approach their capacity, we have an opportunity to implement a process to extract valuable energy and at the same time avoid major environmental or economic problems caused by our accumulation of wastes. We could save the equivalent of 270 million barrels of petroleum per year and thus reduce the demand for foreign oil by over $6 billion if all municipal solid waste and sewage sludge available in this country were processed in modern waste-to-energy systems. However, we are just now beginning to take advantage of this technology.

The municipal waste-to-energy provisions of this bill were taken in part from legislation that my Energy Development and Applications Subcommittee developed over the past year. The bill will provide new economic incentives for the private sector to invest in municipal waste-to-energy systems, as well as accelerated research, development and demonstration efforts to improve the reliability and efficiency of these processes. The Department of Energy was authorized $250 million for this effort and directed to establish a new municipal waste-to-energy office to implement these provisions with minimal disruption of their existing program. Clearly, these efforts will raise the visibility of this important effort in the Department.

In sum, I am particularly pleased with the utility provisions and the Solar Energy Conservation title of S. 932, and I feel that despite the grossly excessive synthetic fuels provisions, the bill is worthy of support. The conference on S. 932 has been a long one, and in many cases a trying one, and as I close I would like to add my particular commendations to the staff members of the many committees who devoted so many hours to this legislation.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. FUQUA. Mr. Speaker, I yield back the remainder of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I now yield 20 minutes to the distinguished chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague, the gentleman from Pennsylvania (Mr. MOORHEAD), for yielding this time to me, and I yield myself 3 minutes.

Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act.

S. 932 is a significant act not simply because it establishes a major program to develop synthetic fuels, but more importantly, because it is a comprehensive piece of legislation which represents a firm commitment on the part of this Nation to develop a variety of alternative energy sources and technologies, and because it also represents the determination of this Congress to insure our energy security by providing a mechanism for filling our strategic petroleum reserve.

This is the first legislation to emerge from Congress which provides significant financial assistance, totaling $2.5 billion over the next 4 years for a conservation loan program, and $525 million for a solar loan program, thereby finally giving recognition to the important contribution these sources can provide in meeting our energy needs. The bill authorizes $1.2 billion over the next 2 years for converting biomass to alcohol fuels, and $250 million for converting municipal waste to energy. It also provides $85 million over the next 4 years for geothermal energy, and extends the $100 million authorization for a feasibility loan program for hydropower. It establishes a $10 million demonstration loan program for renewable energy sources, and authorizes a 10-year study on acid rain, and a 3-year study on the effects of carbon dioxide in the atmosphere.

As will be stated often today, but it is worth repeating, the conference on S. 932 has been long and difficult, and the complexity of the conference has been compounded not simply by the enormous scope of the Senate bill, but also by the fact that it contained provisions which had not been considered by the House during its deliberations of this legislation. Thus, in many areas, before the conferees could resolve the differences in the positions of their respective Chambers, the House conferees were first required to establish a House position. The product of the conference is 398 pages longer than the bill which passed the House, and 70 pages longer than the bill which passed the Senate. The index alone is seven pages long which is half as long as the bill which initially passed the House.

Establishing a House position and then resolving the differences between that position and the Senate bill required unique skills, and it was primarily through the perseverance of the conference chairman, Mr. MOORHEAD of Pennsylvania, and the persistence of the majority leader, Mr. WRIGHT of Texas, that the House was not only able to act but also to prevail on so many issues.

The legislation which has emerged from this conference is clearly superior to the bill which passed the Senate. While much of the credit for this belongs to the retiring gentleman from Pennsylvania (Mr. MOORHEAD), and our distinguished majority leader, Mr. WRIGHT, it should not go unnoticed that significant substantive improvements resulted from the direct participation of those Members who served on the committees who have primary responsibility for the various and diverse matters which are contained in this bill. It is significant that one of the side benefits of this conference has been to demonstrate that those committees which have jurisdiction over energy-related matters cannot only work together, but can do so in a manner which effectively utilizes their experience.

The result is all affected interests are represented and the quality of the product is thereby substantially improved. I submit that the high quality of this legislation would not have achieved the level it has if the House had been represented by a single committee on energy. The title establishing the solar and conservation bank was improved because the Banking Committee and the Commerce Committee were in conference together. The quality of the bioenergy title was improved because of the active involvement of the Committees on Agriculture, Science and Technology, and Commerce. The title on synthetic fuels was significantly improved because of the involvement of all the participating committees; and so this conference is important not simply because of the significance of the legislation it has produced, but also it is a clear demonstration of the ability of the existing committees to work together. It serves as an example of the benefits of maintaining the existing jurisdictional responsibilities of the House committees.

This conference was indeed a joint effort, and while all of the members of the conference should be commended for their dedication and effort, and while recognition should be given to the conference chairman and the majority leader, special recognition should be given to the distinguished chairman from the Agriculture Committee, the gentleman from Washington (Mr. FOLEY); the chairman of the Science and Technology Committee, the gentleman from Florida (Mr. FUQUA); the chairman of the Banking Committee, the gentleman from Wisconsin (Mr. REUSS); the ranking majority member of the Banking Committee, the gentleman from Ohio (Mr. ASHLEY); and the chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. STAGGERS), for their individual and important contributions to this conference.

Moreover, recognition should be given to the efforts of the staffs of all the committees involved, who were untiring in their efforts to resolve differences not only among the committees but between the chambers. I know that the Commerce Committee devoted more than 3,500 staff hours to this conference, and prior to the last meeting, all the staffs worked for 20 days straight, oftentimes from 9 in the morning until midnight to produce the final version of the bill and the statement of managers.

Given that most of them sacrificed their Christmas vacation, the Easter recess, and the Memorial Day recess to work on this bill, they and their families deserve more than the traditional comments of gratitude given them on such occasions; and so I want to extend my personal thank to Dick Olson of the majority leader's staff; Jack Lew of the Steering and Policy Committee; Ike Webber, Norm Cornish, Ruth Wallick, Dave Kiernan, Graham Northup, Roger Faxon, Diane Dorius, and Patti Lord from the Banking Committee; Gary Norton and Bob Bor from the Agriculture Committee; Rob Ketcham and Jack Dugan from the Science Committee; and Mike Barrett, Andy Athy, Nancy Mathews, Frank Potter, Dave Schooler, Mike Kitzmiller, Dave Finnegan, Mike Woo, Randy David, Steve Bienstock, Mark Whitenton, Mike Boland, and Mike Ward from the Commerce Committee and any others I may have missed for their efforts.

And there should be special thanks to one person in particular, who worked long hours at the laborious task of producing all of the thousands of documents on the House side in the conference, frequently on short notice, and who in very difficult and demanding circumstances always maintained her composure and performed in an efficient and professional manner, and that person is Liz Cingel of the Commerce Committee staff.

Special mention should also be made of the staff of Legislative Counsel, and in particular Paul Smith, Lee Peckarsky, Carl Tibbetts, Pope Barrow, Joe Womack, Larry Filson, Marianne Gscheidle, and the support staff for their contributions and long hours toward improving and perfecting this bill.

Because of the combined efforts of the members and the staff, the House was able to make a number of substantial improvements in this legislation. One of the more important improvements was in regard to the strategic petroleum reserve.

For the first time since we stopped buying oil for the strategic petroleum reserve in 1978, we have a mechanism to see that oil fill resumes. The Senate bill would have directed the President to commence filling the SPR at the rate of 100,000 barrels per day. There was, however, no means of compelling this fill if the President chose not to do so. To correct this problem, the House conferees proposed that unless the minimum fill suggested by the Senate was being sustained, oil production from the Elk Hills Naval Petroleum Reserve would be transferred to the SPR.

The conferees also gave the Department a number of tools to expedite the purchase or exchange of oil for the reserve at the lowest cost to the taxpayer. The Department may use the entitlements program to buy the least expensive oil, and it is also directed to make maximum use of the royalty oil now being sold by the Government to the oil companies.

Another improvement was in the establishment of a municipal waste program. The Senate bill authorized up to $1 billion to be spent on biomass energy, but it did not deal with the energy potential in urban waste. The House conferees proposed and the Senate conferees agreed that a major effort within the biomass program should be directed toward utilizing the energy in urban waste which is now being lost. The Department will have 4 years and $250 million for waste energy. This new direction for the waste energy programs of the Department will be a major achievement.

I am particularly pleased with the conservation and solar provisions contained in title V. Together with provisions in existing law, we have built a comprehensive national program to further energy conservation and the use of solar energy in our buildings and homes.

The conference report establishes a solar energy and energy conservation bank, which will provide federally subsidized loans for investments in energy conservation and solar energy systems and, in certain instances, will provide grants for conservation improvements in the homes of low-income individuals. In addition, we have made some changes in the low-income weatherization program to make that effort move more quickly; assistance to low-income groups is essential, not only to assist them in saving the Nation's energy, but also to help them reduce their energy costs.

Title V also removes restrictions, contained in the National Energy Conservation Policy Act passed by the last Congress, so that utilities will now be able to undertake solar and conservation programs. Though I was reluctant in the past to permit utilities to expand into nontraditional areas, because of a history of anticompetitive practices, I am now of the view that their participation can greatly aid our national conservation effort.

I firmly believe that the protections we have built into this act will hold anticompetitive practices to a minimum; indeed, the Secretary of Energy may order a utility program terminated, if it is determined by the Secretary in consultation with the Federal Trade Commission, that unfair rates or anticompetitive practices are resulting. The advantages of utility involvement are that they enjoy a unique relationship with owners and tenants of virtually all our buildings, and that investments in conservation and solar energy can help to avoid constructing costly new generating facilities or diminish fuel use and, thus, save all their customers money in the process.

I believe the provisions of title V will add significantly to the programs we in Congress have already enacted, and I praise my fellow conferees for their patience and thoughtfulness in the preparation of this part of the conference report.

In regard to bioenergy, the House conferees proposed a number of significant improvements which have been incorporated into this legislation. In authorizing $1.2 billion over the next 2 years for alcohol fuels, we have created a program which provides for the most economical and practicable means for significantly increasing domestic energy production in a short term. Most importantly, by establishing a coordinating program which provides for an equitable and logical distribution of responsibilities between the Departments of Agriculture and Energy, we have insured that significant quantities of alcohol fuel will be produced in a manner which does not adversely affect food prices or supplies. Moreover, we have eliminated from the Senate bill numerous provisions which would have established programs within the Department of Agriculture which would have duplicated existing programs within the Department of Energy.

Title VI makes certain amendments to the Federal Power Act and the Public Utility Regulatory Policies Act in order to facilitate geothermal small power production. In particular, the provisions of section 648 represent a significant extension of the scope of sections 201 and 210 of PURPA, as they apply to geothermal small power production facilities. Existing law directs the Federal Energy Regulatory Commission to encourage certain non-utility-owned cogeneration and small power production—including geothermal—by requiring utilities to purchase power from, and to sell power to, such facilities at rates set under the Commission's regulations, and by authorizing the Commission to exempt such facilities from State and Federal utility regulations.

The conference report expands the Commission's authority under these sections of PURPA by directing the Commission to encourage utility, as well as nonutility, geothermal small power production not in excess of 80 megawatts capacity. The Commission may exercise its discretion under section 210 to exempt such facilities from State and Federal utility regulations. The amendment does not specifically authorize the Commission to make the rate benefits of section 210(a) of PURPA available to such utility-owned facilities; however, under its broad authority to encourage geothermal small power productions, the Commission could choose to make some, or all, of the section 210 rate benefits applicable to such facilities in the same manner as such benefits are available to non-utility-owned facilities.

Title III of the legislation is entitled "Energy Targets." The conference agreement is a modified version of the energy targets provisions passed by the Senate. The House had no comparable provision.

The purpose of the energy targets title is to establish a procedure whereby the executive branch and the Congress are able to consider our energy future. During the first week in February in 1981 and every second year thereafter, the President is required to transmit to the Congress energy targets for calendar years 1985, 1995, and 2000. The energy targets will be numbers representing net imports, domestic production, and end-use consumption of energy. The numbers will be broken down by fuel type. During February of even-numbered years, that is, February of the second session of each Congress, the President must transmit to the Congress reports concerning the energy targets transmitted during the preceeding year.

Special rules are established relating to the congressional consideration of energy targets during the 97th and 98th Congresses. The energy targets established in 1981 and 1983 must be transmitted as a special title attached to the Department of Energy authorization bills for fiscal years 1982 and 1984, respectively. This will permit the appropriate committees of the Congress to consider the targets during their consideration of the Department of Energy authorization legislation. During those two Congresses, it will be in order during the consideration of the legislation, both in committee and on the House or Senate floor, to make amendments to the title on energy targets, so long as the amendments maintain mathematical consistency among the numbers. It would also be in order to either add or strike a title containing energy targets.

A special rule applies only in 1981. If

on, or before, May 15, 1981, no committee in either the House or the Senate has reported the Department of Energy authorization bill with a title including energy targets, it would be in order to introduce a joint resolution containing such targets which would be immediately referred to the appropriate authorizing committees.

If the appropriate authorizing committees have failed to report the joint resolution on, or before, July 15, 1981, it would be in order for a period of 20 calendar days following July 15 to move to discharge the committees from further consideration. These expedited procedures for floor consideration would be similar to those contained in the Energy Policy and Conservation Act, except that debate on the joint resolution would be limited to not more than 3 hours. The only amendments which would be permitted to the joint resolution are amendments which change the numbers contained in the resolution, so long as the amendment maintained mathematical consistency.

Although the Department of Energy authorization bills may contain a title setting forth energy targets, the question of germaneness to the authorization bill must be determined as if the title contained in the targets were not in the bill.

The title contains a format for the transmission of energy targets. The format is designed so that one can look at the total supply, which would consist of domestic production and net imports, and the total consumption, which would consist of end-use consumption and conversion loss. Each category, such as domestic production, is broken down by fuel types.

The energy targets which will be established pursuant to this title will be considered as an expression of national goals, and will not be considered to have any legal force or effect.

In the Acid Rain title, we were able to enfold the President's Acid Precipitation Coordination Committee into the statutorily established Acid Precipitation Task Force, thus avoiding the delay and duplication which would have resulted had the Senate bill passed as drafted.

The House conferees were also responsible for substantial reductions in the amounts authorized under this bill. The Senate bill authorized over $95 billion while the conference agreement provides an authorization of just under $25 billion over the next 4 years.

At a time when there is increased concern over Federal expenditures, a reduction of this magnitude is not simply an exercise of physical responsibility, but more importantly, a means for assuring that alternative sources of energy are developed in an orderly fashion which maximizes production and minimizes waste. This is most important in regard to title I, for it avoids the crash program envisioned by the Senate by authorizing the Corporation to seek additional funding on an incremental basis thereby enabling the industry to evolve in an orderly and technically sound manner. This will enable industry to develop a portfolio of synthetic fuel technologies that range across the spectrum in terms of technological risk, scale, location and types of raw materials so that by the time additional funds are sought, our learning in this area will be greatly accelerated.

With this more modest but more realistic strategy, we will maintain a needed degree of freedom and be more efficient in dealing with our energy problems by maintaining choices involving synthetic fuels. More importantly, by requesting funds on an incremental basis, this change affords the Congress an opportunity to periodically review the operations of the Corporation, thereby assuring effective and full congressional oversight of the activities authorized by this act.

The most extensive changes have occurred in title I. Although the structure of the Senate bill has been retained, the conferees have either rewritten or substantially altered every subtitle and virtually every section. The conference agreement is substantially different from the bill which passed the Senate, and it is regrettable that, on a bill of such importance, there is little legislative history fully documenting the changes which have occurred to adequately reflect the work of the conferees in incorporating the views of the House.

We have removed cabinet officials from the Board of Directors in order to increase its independence from the administration. We have also increased the membership of the Board and allowed some members of the Board to serve in a part-time capacity so that the Board may include those from the financial community and the industry with the needed expertise without requiring them to forgo the awards available to them in the private sector.

We have also insured that all views of the Board will be heard by requiring, in section 116(e), that any action of the Board must be by a majority vote of all members of the Board, meaning that no action shall be effective unless it has the support and vote of at least four members of the Board. We have also guarded against interim or recess appointments to the Board by requiring, in section 116(b), that the Board consist only of those who have been appointed by the President by and with the advice and consent of the Senate. We have restricted the President's authority to remove directors by limiting the grounds for removal for only neglect of duty and malfeasance in office.

We have included a strong provision in section 131(r) to insure that any financial assistance provided by the Corporation not compete with or supplant any private investment capital, meaning that enormous startup costs would not be; the Corporation is fundamentally a last resort, providing assistance only to those worthwhile projects which because of the undertaken without the assistance provided by the Corporation.

We have placed controls on the obligational authority of the Corporation by strictly limiting it to the amounts authorized, and prohibiting it from selling any of its notes or other forms of financial indebtedness to the Federal Financing Bank, thereby preventing it from rolling over its funds. Additionally, once an agreement is signed, the amounts specified in the agreement are then set aside and can never again be used for any other purpose even though these funds may never actually be expended. For example, if the Corporation provides a loan guarantee of $2 billion, and then at the initiation of production, the recipient of the guarantee wishes to terminate the guarantee, that $2 billion can never be used for any other purpose. If the recipient wishes to obtain another form of financial assistance, such as a price support, then the extent of that assistance will be limited by the requirements of section 131(j)(1), and the funds for such assistance must be drawn from the unobligated balances available to the Corporation in the Energy Security Reserve established in section 195(B) and accounted for in accordance with the provisions in section 152(b).

A major failure in the Senate bill was the total absence of congressional control and oversight over the Corporation. The House conferees recognized this and insisted upon creating an Inspector General responsible for monitoring the Corporation's activities and answerable directly to the Congress. This, perhaps more than any other legislative safeguard, will protect the taxpayer against fraud and inefficiency. I know our committee intends to use the Inspector General as a major part of our continuous legislative oversight of the Corporation.

Perhaps the most important change in title I occurred at the final meeting of the conference, when, as their last act, on a motion by the Senate, the conferees agreed to a fundamental change in the legal status of the Corporation which substantially and materially altered the entire complexion of this part of the act.

During this entire conference, there have been questions about the legal status of the Corporation. The Senate argued that, in establishing this Corporation, the Congress was merely exercising its power of incorporation, and that the Synthetic Fuels Corporation was fundamentally a non-Government corporation, having the same legal status as, for example, the Union Pacific Railroad, which was similarly incorporated by an act of Congress in 1862. Thus, the Corporation's authorities would be defined by the statute, but its activities would be governed by those laws, unless the Corporation was specifically exempted from the applicability of such laws in the organic act, which apply to a privately owned corporation. Under section 175(g), the Corporation was not even given the status of a Federal instrumentality which was a status conferred by the courts upon the railroad companies incorporated under prior acts of Congress. The Senate's purpose was to remove the operation of the Synthetic Fuels Corporation from the legal restraints placed upon traditional Government agencies.

The Synthetic Fuels Corporation, however, was clearly distinguishable from the Union Pacific Railroad, in that its Board of Directors would be composed entirely of Presidential appointees, and it would be authorized to dispense Federal funds in a discretionary manner.

This theory raises many legal questions. If this were a non-Government corporation, it would be subject to a court challenge to determine whether tax revenues could be transferred to a private corporation to be spent in a discretionary manner, and as to whether such acts constituted an appropriate expenditure of general revenues within the public purposes requirement of the Constitution.

There were many other questions such as the liability of the directors and as to whether they owed a fiduciary duty to the Corporation. The applicability of corporate law was unclear, and thus the real possibility of a director's derivative suit existed. The tax status of the Corporation was unclear. In short, the legal status of the Corporation was so vague that there was a clear possibility of endless litigation which would have inhibited the Corporation from acting and thereby undermine its ability to achieve the purposes of this act.

For 8 months, the Senate insisted upon its position. As a result, the bill was initially drafted on the assumption that this was merely an act of incorporation, establishing a nongovernmental entity. This was a fundamental theory which guided the entire drafting of this part of the legislation.

Then, as the last act of the final meeting of the conferees, the Senate offered eight amendments usually of just one or two words, which had the intended effect of fundamentally altering the legal status of this Corporation, by transforming it from a non-Government entity into a Federal agency. This action was in direct opposition to the fundamental principles upon which the bill was drafted, and did severe damage to the structural integrity of the bill. By making limited changes, these amendments clearly established the overriding principle that the Synthetic Fuels Corporation is a Federal agency. But because these amendments represent a last-minute change by the Senate and were drafted in haste, they create ambiguity because they are incompatible with other portions of the bill, portions which should have been removed or rewritten to conform the bill with what is to be its new legal status.

As the principal advocate of the position that the Corporation should be a Federal agency, I applaud the fact that the Senate finally receded on this point. However, I am concerned about the potentially serious consequences which may result from the manner by which this was accomplished in that the resulting ambiguity is an invitation to litigation which could severely curtail the operations of this Corporation. In interpreting laws, there is a presumption against inconsistencies, but I believe the courts will be hard pressed to resolve the inconsistencies between these amendments and certain provisions of this act, such as sections 143, 155, 175, and 178. It is regrettable that in order to finalize this legislation and initiate this important program, the conferees were not afforded sufficient opportunity to evaluate the potential impact of this change and make the necessary and conforming amendments.

It is regrettable that the statement of managers is simply a section-by-section analysis of the bill rather than a clear explanation of the intent of the conferees. As I am certain that the courts will be called upon to review portions of this bill, I believe it important that the intent of the conferees in establishing a Federal agency be clear and as such that such intent take precedence as a final act of the conference over any provision in the act which seemingly is incompatible with that intent.

As an agency, the Synthetic Fuels Corporation is clearly an instrumentality of the Federal Government. The courts in numerous decisions such as *California* v. *Central Pacific Railroad Company*, 127 U.S. 1 (1887) have long recognized the unique status of Federal instrumentalities and, on occasion, have even extended its applicability to private corporations acting on behalf of the Federal Government.

However, section 175(g) would seem to deny the Corporation the protection and advantages normally afforded Federal instrumentalities, and thereby jeopardize the ability of the Corporation to achieve its objectives by subjecting it to a variety of State laws. Yet, such an interpretation would clearly be contrary to the intention of the conferees.

The fundamental objective of establishing an agency in the form of corporation was to free it from the normal restraints applicable to Federal agencies and not in turn subject it to a myriad of restrictive State laws. The Synthetic Fuels Corporation is a Federal instrumentality, and, as such, is entitled to the benefits which would be derived such a status.

Whenever the interest of the Government is sufficiently involved, the courts have disregarded the corporate form and protected those interests, and it is expected, in this instance, they would continue to do so as they have done in the past, in such cases as *Fleet Corporation* v. *Western Union*, 275 U.S. 415, 1928, *Stockton* v. *Baltimore and New York Railroad*, 32 Fed. 9 (1887), and *Pembina Mining Company* v. *Pennsylvania*, 125 U.S. 181 (1888).

Another area which is not explicitly addressed in this legislation concerns the Corporation's relationship to the President and the executive branch. As a private corporation, it was clear that this relationship was limited to only those acts specified in the act, because the Corporation was not a part of the executive branch. Consequently, there was no need to address this issue in the context of the legislation itself. But by transforming the Corporation into a Government agency, these amendments have now made the Synthetic Fuels Corporation a part of the executive branch. As it performs no quasi-legislative or quasi-judicial function, there is one theory which would hold that the Corporation is a part of the Executive Office of the President and that it therefore has the same status as the Reconstruction Finance Corporation.

While the statute is silent on this point, the intent of the conferees was to establish an autonomous agency. It cannot be ignored that the Senate's initial position was based on the desire to provide this Corporation with unprecedented independence, and the change in its position was caused by the legal uncertainty stemming from the lack of precedence for its position on the legality of its action and does not reflect an intention to compromise the Corporation's independence. I believe that is a fair representation of our intent to state that the Corporation was established to pursue an independent course, free from interference or direction from the administration, and that it is our firm desire that any interference in the Corporation's internal affairs such as that which rose in connection with Dixon-Yates controversy which lead to the court's decision in *Mississippi Valley Generating Company* v. *U.S.*, 175 F. Supp. 505 be prohibited.

In urging that the conferees establish this Corporation as a Federal agency, it was not my intention to subject it to all the laws applicable to such agencies. Rather it was my intent to draft the bill on the presumption that it was an agency, and then exempt it from those laws which would impede expeditious action such as the procedural requirements regarding procurement which was the objective of the original House bill. Although not drafted on this assumption, the change which was accepted by the Conferees is consistent with these objectives. As such, this agency would be held accountable in law to the standard enunciated by the Supreme Court in *Bank of the United States* v. *Planter's Bank of Georgia*, 9 Wheaton 904 (1824), where Chief Justice Marshall stated:

> It is, we think, a sound principle, that when the government becomes a partner in any trading company, it divest itself, so far as concerns the transactions of that company of its sovereign character, and takes that of a private citizen. . . . The government by becoming a corporator, lays down its sovereignty, so far as respects the transactions of the corporation, and exercises no power or privilege which is not derived from its charter.

This principle was later affirmed by the Supreme Court in *Sloan Shipyards Corporation* v. *U.S.S.B. Emergency Fleet Corporation*, 258 U.S. 549 (1922) where the court stated that even though the Fleet Corporation was an instrumentality of the government, acted as an agency of the United States, and was owned by the Government, it was nevertheless answerable for its acts and bound by its contracts and suable in a court of competent jurisdiction like any private individual or corporation.

Moreover, it should be emphasized that the Synthetic Fuels Corporation is an entity which is distinct from the Federal Government, just as a corporation is distinct from its stockholders, and the principle expressed in *U.S.S.B. Merchant Fleet Corporation* v. *Hardwood*, 281 U.S. 519 (1930) and later in *Lindgren* v. *U.S.S.B. Merchant Fleet Corporation*, 55 Fed. 2d, 177 (C.C.A. 1932) wherein it is stated that "A suit against it (U.S.S.B. Merchant Fleet Corporation) is not a suit against the United States, and that a suit against the United States is not a suit against it" is controlling and the precedent enunciated in *Ballaine* v. *Alaska Northern Railway Company*, 259 Fed. 183 (C.C.A. 9th) 1919 (and *Keeley* v. *Kerr*, 270 Fed. 874 (D.C.Ore. 1921) is rejected.

In closing, Mr. Speaker, I would like to note that there is no disagreement concerning the need for a major synthetic fuel initiative in this country, but the overall significance of this legislation rest in its commitment to develop a variety of alternative forms of energy. For this, we need to commend our counterparts in the Senate, and particularly, the distinguished Chairman of the Senate Energy Committee, Mr. Jackson, and Senator Johnston, and the ranking minority member of that committee, Senator Hatfield, and Senator Domenici, and the chairman of the Senate Agriculture Committee, Senator Talmadge, and the chairman of the Senate Banking Committee, Senator Proxmire, for their work on this bill. Additionally, the Senate staff, and in particular, Dan Dreyfus, Richard Grundy, Owen Malone, Ben Cooper, Lee Wallace, Pete Smith, Jim Bruce, Ronnie Kuhn, Dave Swanson, and Chuck Trabandt deserve special recognition for their work and their contributions in improving this legislation.

On another point, several members have raised specific questions concerning the effects of title VIII of the bill relating to the strategic petroleum reserve. I believe the committee report adequately explains the intent of the conferees on this section but I might add the following points. The conferees have directed the President in section 805 of the bill to amend regulations under section 4(a) of the Emergency Petroleum Allocation Act ("EPAA") to permit the Government to purchase oil for the strategic reserve at or near the price of lower tier controlled oil. This is to be accomplished through sales of entitlements by the Government and by permitting the Government to purchase oil for the reserve without paying entitlements itself. The conferees intend this to be the principal mechanism for filling the strategic reserve and we want the President to use entitlement purchases before turning to other methods, such as transfers of federally owned oil, to fill the reserve.

Another feature of title VIII adopted by the conferees is restrictions on the sales of oil from the naval petroleum reserve at Elk Hills unless the President fills the strategic reserve at an annual average rate of 100,000 barrels a day. In particular, the act provides that Elk Hills oil can only be sold or exchanged to the strategic reserve unless the President meets the above goal. A question has been raised concerning what types or combinations of sales and exchanges are allowed to transfer Elk Hills oil to the strategic reserve should production be restricted.

First, let me say that I doubt such a condition will ever arise. Assuming, however, that the President fails to meet the required annual fill rate the act provides him with great latitude in choosing a method to transfer Elk Hills oil to the strategic reserve. This authority includes use of matching sales and purchase transactions involving either third parties, such as oil brokers, or Government agencies, such as the Defense Fuel Supply Center. The only requirement is that for every barrel of Elk Hills oil sold or transferred to a broker or a Government agency an equivalent barrel of oil must be delivered to the strategic reserve. We are not concerned about the mechanism of exchange. We would be concerned, however, should there be any significant delays in the delivery of oil to the strategic reserve once a sale or transfer of Elk Hills crude had been made during a time when the restrictions of title VIII applied.

Once again, it is the purpose of this act to require the President to begin filling the strategic reserve. We have given him entitlement authority to assist in that effort and we have provided the further incentive of restricting Elk Hills sales unless he responds to the requirements of the act on this issue.

Mr. Speaker, I reserve the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield 20 minutes to the ranking minority member of the Subcommittee on Energy and Power, the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I must reluctantly rise in strong opposition to the conference report on S. 932. I use the word "reluctantly" because I have long been a strong supporter of legislation providing for governmental assistance to develop synthetic fuels. In 1976, I supported H.R. 12112 which never received full floor consideration because the rule making it in order was defeated by one vote.

Last June I joined in active support of the Moorhead bill which has now been emasculated and swallowed up by this conference. But as an active supporter of synthetic fuel development I must tell you that the conference on S. 932 was the most disappointing one in which I have participated in my 15 years in Congress. This legislation can charitably be described as a lengthy collection of nonsensical, expensive, unworkable so-called energy initiatives. The conferees on this bill took a 14-page House bill designed to stimulate private industry through $3 billion of purchase agreements, Federal loans, and Federal loan guarantees, and made it into a 412-page legislative Christmas tree consisting of 8 titles. Only a small portion of one of those titles received any previous legislative consideration in the House.

S. 932—Energy Security Act

BREAKDOWN BY TITLE

Title I. Synfuels, House version, $3 billion.

Project financing, $20 billion.

Future financing, up to $68 billion.*

Administrative expenses, $35 million per year, increased each year by GNP deflator (at least $420 million).

Studies, contractors, $10 million per year for 12 years ($120 million).

Total title I, $88.540 billion.

Title II. Gasohol, no House consideration.

Project financing, $1.45 billion.

Research money, $108 million.

Total title II, $1.558 billion.

Title III. Energy targets, no House consideration, but no money.

Title IV. Renewable energy resources.

Project financing, $230 million.

Total title IV, $230 million.

Title V. Solar and conservation bank, utility conservation in House committee.

Project financing, $3.440 billion.

Total title V, $3.440 billion.

Title VI. Geothermal, no House consideration.

Total title VI, $85 million.

Title VII. Acid rain and carbon dioxide study, no House version.

Total title VII, $53 million.

Title VIII. Strategic petroleum reserve, no House consideration, $1.2 billion.

Grand total, $93.798 billion.

THE HIGH COST OF S. 932 CONFERENCE REPORT

At 412 pages and $88 billion, this conference report comes to a total of $214 million per page.

In a year of fiscal restraint, this bill authorizes $20 billion to a legally undefined Synthetic Fuels Corporation and gives it authority to request an additional $68 billion for programs that would include Federal-private joint ventures, Government-owned, privately operated undertakings, and ill-defined loan and purchase guarantees which could all easily be converted into totally Government-owned energy ventures.

We created the Department of Energy to speed the implementation of our energy programs.

But under the Moorhead bill, we expanded the authorities of the Defense Production Act, because the agencies of Government could not act fast enough.

Then the Senate established a Corporation because Government agencies, including the Defense Production Act, could not act fast enough.

Then, in conference, we decided that we needed to use the Defense Production Act authorities on an interim basis—because the Corporation, which was established because the Defense Production Act could not act fast enough—could not act as fast as the Defense Production Act authorities.

Then, we decided to turn the Corporation into a Government agency, which was the very evil we were trying to avoid when we started this process.

S. 932 also will result in a new $1.2 billion "tax" on the American public through modifications in the existing crude oil entitlements program to fund the filling of the strategic petroleum reserve. The modification in the entitlements mechanism will directly increase the cost of every gallon of gasoline and home heating oil purchased by U.S. consumers by up to one-half cent per gallon.

In addition, the conference report has approved a variety of studies and experimental programs at immense cost to the taxpayer with limited promise of practical results. These concepts are in the legislation simply because they appeal to members of the conference.

Further, S. 932 removes certain prohibitions against public utilities' providing funds and installing energy conservation measures for their customers. Thus, a utility which has a monopoly relationship with its customers will be allowed to dole out lucrative business to their favorite contractors and may actually get into the energy conservation loan business.

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*U.S. Synthetic Fuels Corporation is authorized $20 billion and is given the authority to request up to an additional $68 billion.

REASONS TO OPPOSE S. 932 CONFERENCE REPORT DUE TO TITLE V

HOW TITLE V WOULD PENALIZE SMALL BUSINESSES

At first glance, title V of S. 932 establishes another profligate set of subsidy and spending programs totaling $3.440 billion: $2.6 billion for conservation loan subsidies, $545 million for solar loan subsidies, $200 million for weatherization grants, $80 million for undefined industrial conservation research, $25 million for the training and regulation of utility energy auditors, and $10 million for demonstrating the so-called Bradley Plan, a scheme where homes would be insulated for free by "house doctors" paid by the utility which would then sell off conserved natural gas—which it buys from producers at federally controlled prices—at whatever the market would bear.

But title V cuts an even more dangerous course: It firmly steers energy conservation out of the hands of small business—where it has prospered—and into the hands of the utilities.

Title V would remove the Federal prohibition against utility supply and installation of energy conservation measures, and present small and local contractors with a cutting Hobson's choice: agree to the conditions established by the area utility program which will capture the lion's share of conservation business, or be muscled out of business by those contractors which do agree to the utility's conditions.

Many contractors opposed this change in existing law, as did the Small Business Administration.

Title V would remove the Federal prohibition against utilities financing the insulation of their customers, putting utilities in direct competition with local banks for home improvement loans. In addition, title V would classify utilities as financial institutions thereby entitling them to act as agents for the Federal solar energy and energy conservation bank.

With these new authorities, and the existing requirement that utilities offer energy audits to their customers, it is highly likely that the small businesses which have built the solar and conservation industries will soon have their backs up against the wall.

Mr. Speaker, the most disturbing thing about this bill is that it will establish a Synthetic Fuels Corporation that will be totally outside congressional oversight or control. Its creation, through poorly drafted and confused legislative language, makes it inevitable that much of the billions of dollars that we are about to devote to synthetic fuels development will be used to pay for years of litigation and "sweetheart" deals for certain contractors. This corporation has no specific operating rules or regulations, thus inviting potential abuses of the taxpayer by this Government Corporation, and abuses of the taxpayer-financed corporation by private rip-off artists. The lack of specific in the conference language to control the Sythetic Fuels Corporation was explained away because the Corporation is to be sui generis, legal Latin for "one of a kind." So was Jack the Ripper.

I sympathize with those who feel they must vote for this legislative "Christmas tree" on the theory that "doing something—even if it is the wrong thing—is better than doing nothing." But I must oppose this legislation as a meritorious idea gone totally awry. This legislation is destined to become a textbook example of how Congress, with more political ambition than economic or entrepreneural common sense, converts worthy objectives into bureaucratic nightmares.

Unfortunately, blind appeals to emotion and flag-waving will not change the contents of this legislation. I hope my colleagues have listened to reasoned arguments based upon fact, and defeat this conference report so that new conferees can be appointed and then instructed to come back with a more reasonable piece of legislation.

□ 1410

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is an expert in the energy field, and I just want to ask the gentleman if we do not already have this program in existence down at the Department of Energy, and what we are doing here will establish another layer of bureaucracy which, in a way, will hinder what has already taken place.

Mr. BROWN of Ohio. The Congress has already brought the American people the wonderful Department of Energy. We do not have programs like this, thank God, but it will be a new layer of bureaucracy.

Mr. RUDD. Mr. Speaker, this synthetic fuels program does not appear to be one, which will get the job done in the shortest period of time.

This is a very different and vastly expanded bureaucratic enterprise than the original House-passed authorization bill.

Our distinguished colleague from Pennsylvania, JOE MCDADE, made an eloquent statement on this subject this morning in the Appropriations Committee, during consideration of Interior and related agencies appropriations for fiscal year 1981.

Congress already has set aside funding for a synthetic fuels program last year as part of the appropriations process, in order to get this program underway.

That program exists right now down at the Department of Energy, and the machinery to implement it is there.

More than 900 private sector synthetic fuel proposals have already been submitted, but DOE is holding them hostage because the Carter administration and congressional leaders have told the Department to wait until this new Energy Security Corporation is established under the pending conference report. We cannot and should not allow this further delay.

Under this legislation, and the procedure it will establish, we will have another 1- or 2-year delay before a synthetic fuels program starts any productive work. By that time, many of the 900 private sector applicants will already have lost interest in the Federal program. The mechanism and the funding for a sound and potentially productive synthetic fuels program already exist.

Let us send a clear message to the Carter administration to stop procrastinating and begin implementation of this program that we already have adopted. Congress should tell the White House to stop playing politics with our energy situation through its insistence on creating more unwarranted and unaccountable bureaucratic machinery.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield such time as he may consume to the gentleman from Tennessee (Mr. GORE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GORE. Mr. Speaker, as one who was fortunate enough to serve on the conference committee, I rise in strong support of the conference report. Twelve years from now, when the Synthetic Fuels Corporation closes up shop, I am confident that those of us who supported this bill will look back with pride in the knowledge that we helped put America on the road back to energy security.

Every provision of this long and tremendously complicated bill has been closely scrutinized during the 7-month life of the conference committee. I will focus on a few specific provisions in some detail in my remarks. But this is a bill in which the total value is greater than the sum of its parts, so I would like to spend a moment reviewing the synthetic fuels portion of the bill in its totality.

America's reliance on imported oil, and the stranglehold that reliance has allowed oil-exporting nations to gain on our economy and our foreign policy, has been one of the biggest contributing factors to the inflation and diplomatic crises that have afflicted us in recent years. The American people have been told that there are no quick and easy answers to the energy problem. This is now more true than ever and this bill proves it. It is not quick and it will not be easy, but this bill is an important part of our answer.

We have the resources in this country to replace a large portion of the foreign oil we have been consuming. A lot of it is coal and a lot of it is oil locked in shale or in tar sands. We have or soon will have the technology to convert much of those resources into a form that will enable us to replace that foreign oil.

But as the energy economy is now constituted, we cannot convert coal or oil shale to useable liquid fuels at a price competitive with even the inflated price of foreign oil. And because of considerations of national security and our national economy, we cannot afford to wait for those economics to change on their own.

The major purpose of title I of this bill is to hurry that process up by providing financial assistance to private companies to encourage them to develop these technologies and produce this fuel before the market would otherwise cause them to do so.

It will not be quick. The soonest anyone expects this effort to produce any substantial number of synthetic fuel projects is 4 or 5 years from now. It will not be easy. This mission is so complicated and unique that we have proposed the creation of an entity, called the Synthetic Fuel Corporation, which is unlike anything else Congress has ever created, to undertake it. It certainly will not be cheap, although the $20 billion or $88 billion price tags that people mention when they discuss this bill can be very misleading. It is essential to remember that most of the authorization to the Corporation is for investments that will be repaid as the projects reach fruition.

But no matter how long it takes, or how much effort or how many dollars of investment, I do not believe we can afford to shrink from the challenge of reducing our dependence on foreign oil.

By the strategy we have chosen, we will attempt to acomplish this urgent mission with as little interference as possible in the normal functioning of the marketplace. It is intended that private companies will build and own most or all of the synfuels projects.

But in case that strategy does not work exactly according to plan, there is a provision in the bill to allow the Corporation to build a limited number of federally owned plants. You may have heard this provision discussed under the acronym "GOCO," which stands for Government-owned, contractor-operated plants. I am pleased that the GOCO provision survived a number of attacks and remains in the bill. I am pleased because I believe that even if it is never used, the GOCO option will enable the Corporation's Board of Directors to negotiate on a more equal basis with the private companies that will build most of the synfuels projects. My interest in this provision derives from the history of synthetic fuel development in this country.

The United States had a synfuel development program under President Truman. The oil industry bitterly opposed the program at that time and worked hard to have it killed. Ultimately, after President Eisenhower was elected, the program was killed. If synfuels had been developed at that time, the OPEC cartel might never have been able to dictate prices to us. The lesson of that story is that we should be very careful not to allow the big oil companies to have too much control over our new synthetic fuels effort.

Bear in mind that one of the biggest benefits we can gain from the development of synthetic fuels at reasonable prices is that it will inhibit future increases in the price of OPEC oil. Since under the oil price decontrol program, domestic oil companies will be able to charge the world price for their oil, we should be justifiably skeptical of the sincerity of the oil companies' determination to develop synfuels at prices sufficiently low to hold down the world price of oil.

I do not question the basic decision embodied in this bill to accomplish the development of synthetic fuels primarily through private firms. Nor am I suggesting that oil companies should be precluded or discouraged from participating in the program, since they are among the few companies that have the financial resources and the expertise necessary to develop these technologies. I am only suggesting that it is a good idea to arm the Synthetic Fuel Corporation with the tools necessary to negotiate with the oil companies on an equal basis.

Now without the GOCO provision, the oil companies or other private concerns could drive an extremely hard bargain. For example, they could insist that the Corporation guarantee them a very high price for their syncrude. Not only would this cause the Corporation to use up its resources too quickly, but the basic purpose of the bill, to encourage production of synfuels at prices that would enable them to compete with foreign oil, would be frustrated.

But with the GOCO provision, which came during the conference to be described as the "shotgun in the closet," the Corporation can say to a company that is driving too hard a bargain: "We believe this technology can produce fuel at a cheaper price and if you do not offer to do it, we will build a GOCO and show that it can be done."

A number of provisions were put in to limit the GOCO option and to make sure the Corporation does not use it too quickly or often. For example, no more than three GOCO's can be built and only during the first 4-year phase of the program. These restrictions were included largely to placate those who feared that the GOCO option was a sneaky way of setting up a Government oil company. Personally, I could have supported a less restrictive GOCO provision. But the Corporation officials should not mistakenly interpret the restrictions as a signal that the Congress does not intend for the GOCO option to ever be exercised. The bill says that the GOCO option should only be used if the Board finds that private companies are not offering to build synfuels plants under reasonable terms and conditions using any of the other financial assistance mechanisms provided in the bill. If we had intended that the GOCO option should never be exercised, we would have left it out altogether.

The other financial assistance option that survived some attacks was the joint venture option described in section 136. Under this option, the Corporation can finance up to 60 percent of the cost of a constructing a first module of a synthetic fuel plant as an equity partner in the module. Then, after the module has been built and proven commercially viable, and other modules are planned, the Corporation can sell its equity to the partner or another private concern. In my mind, this provision was inspired by the successful tar sand plant in Alberta, Canada in which the Canadian Government is a partner along with several private companies.

The original Senate joint venture provision prohibited the Corporation from playing any role in the management or operation of the module. It did not make sense to let the Corporation be a part-owner of a project without allowing it some flexibility to negotiate a role in the management decisions. So, largely at the suggestion of Chairman Don Fuqua and myself, the provision was changed to permit the Corporation to negotiate a management role for itself, provided that it would never assume primary responsibility for management. These provisions are spelled out in section 136(f) subparts (1) and (2).

I noticed in the report language on these sections it says that the conferees do not intend that the Corporation must or should negotiate a role in the decisionmaking or management of a module linked to its ownership in the joint venture. As one of the sponsors of that provision. I would like to clairfy my understanding, which was that the conferees did not intend to discourage the Corporation from negotiating a management role for itself, if the Board felt that was desirable to protect the Corporation's investment or to insure that the project is managed in the public interest. By the report language, we meant to say that we did not intend the Board to necessarily or automatically negotiate such a role for itself.

The history of first-of-a-kind energy plants indicates that they have an alarming tendency to cost a lot more than first estimate of their costs. Cost overruns of 200 and 300 percent have unfortunately been the rule, rather than the exception with such plants. In an effort to prevent this problem from occurring in the synthetic fuel program, the conferees fashioned an innovative approach to cost overruns, which is contained in section 131(u) and in parts of the sections on loans and loan guarantees by the Corporation.

In researching the problem of cost overruns on other first-of-a-kind plants, I found that the costs grow, not necessarily because of poor management of the construction, but often simply because problems could not be foreseen at the time the first estimate is prepared and submitted. As the design and engineering progress, much more accurate estimates can be made. We felt that if the Corporation could withhold final approval of financial assistance until a more mature estimate could be made, the Board could make a better decision on which of several competing projects is really the best buy for the program, and could also plan better for the real cost of constructing plants.

The Corporation does not have to use the mechanism we provided in section 131(u), but if the Board chooses to use this on a particular project, this is how it would work: A number of concerns might submit preliminary estimates for a particular type of synfuel plant. From that original pool of applicants, the Board could select one or more that seem promising and agree to share the cost of refining those proposals with some additional engineering and design work.

The sharing would be on a 50–50 basis and the Corporation's share would be limited to no more than 1 percent of the preliminary estimate. The result would be that the Corporation would receive one or more proposals with much more mature, refined initial estimates and decide whether to pick one of those proposals or whether to go ahead with the project at all. If the Corporation ultimately awards a loan or loan guarantee to a project that has received cost-sharing assistance, the amount of the cost-sharing would be incorporated into the total financial assistance given to the project.

After the project gets underway, if it turns out the cost exceeds even the refined initial estimate, the recipient could apply for a loan or loan guarantee for only 50 percent of the additional costs until the estimate reaches 200 percent of the initial estimate. Above that, the project could receive only 40 percent funding for the next 50 percent of cost growth and any assistance above that 250 percent would be subject to congressional veto.

The bill also says that the estimates should be adjusted according to a construction price index. It seems to me desirable that the inflator should be negotiated as part of the original agreement, but that provision insures that in case the agreement does not account for inflation, the contractor should not be penalized for inflationary increases over which he has no control.

I plan to follow the progress of the cost overrun strategy in the synfuels program with interest, in the hope that if it proves successful a similar provision might be included in programs for Government or Government-assisted construction.

Even with the controls contained in that provision, this problem of cost overruns may raise in some Members' minds the fear that there is no limit to the amount of assistance some of these projects might require. To reassure you on that score, I would direct your attention to section 131(j), which says that no one project, nor any one company, including any of its affiliates or subsidiaries, can receive more than 15 percent of the total authorization. This means that during the first phase of the program, when $20 billion is the authorization, no one project can receive more than $3 billion in assistance and no one company can receive more than $3 billion.

This has the added advantage of assuring that there will be at least seven projects assisted by that $20 billion and that no one company will receive too large a portion of it. Of course, $3 billion is still an awful lot of assistance and the conferees certainly hope that not every project turns out to require that much.

The conferees had some discussions of what kinds of alternative energy sources should be included in the definition of synthetic fuels. We did not want to make the definition so broad that the Corporation would be confronted with an unmanageable array of possibilities to consider, but we did not want to preclude any possibility that had a reasonable likelihood of helping reach the goal of 2 million barrels a day of syncrude by 1992.

One alternative in which I took an interest is hydrogen fuel. Some people believe that hydrogen has the potential to make an enormous contribution and it has the advantages of being available in virtually unlimited supply and of being a very clean-burning fuel. Others felt it should be excluded because they did not believe it was as close to being ready to be produced on a commercial scale at prices that will compete with traditional energy sources.

I argued for the inclusion of hydrogen, including hydrogen from water, not because I thought it should be given any special advantage over other alternatives but because I believed it should be allowed to compete on an equal basis with oil shale, liquefied coal and the others. Hydrogen was ultimately included in the definition and, if it turns out that hydrogen fuel can be commercially competitive within the life of the program, I assume the Corporation will give it the attention that it deserves.

By focusing so much of my remarks on title I of the bill, the synthetic fuels title, I certaintly do not mean to overlook the importance of some of the other titles. Title II on biomass and alcohol fuels, and title V on the solar and conservation bank, have a great and important role to play in the overall energy security strategy encompassed by this urgently needed, far-reaching legislation.

Today, as we vote on the conference report, I urge my colleagues to give it the overwhelming mandate it deserves. I was honored to serve on the conference committee and as proud to be associated with this report as I have been of anything I have done during my two terms in Congress. It has been a privilege to serve under the leadership of such fine Members as the gentleman from Pennsylvania and the distinguished majority leader who have given so much of themselves to bring us to this day.

I can think of no more fitting capstone to the long and distinguished legislative career of the gentleman from Pennsylvania than this bill, of which he is unquestionably the principal sponsor. And without the firm hand of the majority leader, exhorting us constantly to bring the conference to a satisfactory conclusion, I am afraid we might have conferred for 7 years, instead of 7 months. I am also grateful to the rest of the conferees for the lesson they have taught me and the example they have set by their commitment to full, fair, and open discussion of all issues.

I take one final opportunity to urge the rest of my colleagues to vote yes on the conference report, and yes for energy security for America.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to my good friend and colleague, the gentleman from Indiana (Mr. SHARP).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SHARP. I appreciate the gentleman's yielding, and I wonder if we might clarify a matter in one portion of the bill.

The provisions of section 648 represent a significant extension of the scope of sections 201 and 210 of PURPA, as they apply to geothermal small power production facilities. Existing law directs the Federal Energy Regulatory Commission to encourage certain non-utility-owned cogeneration and small power production—including geothermal—by requiring utilities to purchase power from, and to sell power to, such facilities at rates set under the Commission's regulations, and by authorizing the Commission to exempt such facilities from State and Federal utility regulations.

The conference report expands the Commission's authority under these sections of PURPA by directing the Commission to encourage utility, as well as nonutility, geothermal small power production not in excess of 80 megawatts capacity. The Commission may exercise its discretion under section 210 to exempt such facilities from State and Federal utility regulations. The amendment does not specifically authorize the Commission to make the rate benefits of section 210(a) of PURPA available to such utility-owned facilities; however, under its broad authority to encourage geothermal small power productions, the Commission could choose to make some, or all, of the section 210 rate benefits applicable to such facilities in the same manner as such benefits are available to non-utility-owned facilities. Is that the gentleman's understanding of section 648?

Mr. DINGELL. If the gentleman will yield, the gentleman from Indiana is correct in that interpretation.

Mr. SHARP. I thank the gentleman. I might add I appreciate the gentleman's work and the work of the leaders on the conference, especially the gentleman from Pennsylvania. While we might have misgivings with various portions and provisions of this legislation, I think the overall thrust is of significance to this country and will help set us on a better course for the future.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from Illinois (Mr. CORCORAN).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CORCORAN. Mr. Speaker, althought I oppose passage of the conference report accompanying S. 932, the Energy Security Act, I am greatly encouraged by the inclusion of title III in the pending conference report. This title would encourage the President and the Congress to establish "energy targets" for the United States for the very first time. Although the President is now required by title VIII of the Department of Energy Organization Act of 1977 to submit biennially to the Congress a proposed national energy plan, the Congress is not now an integral part of that policymaking process.

The provisions incorporated in title III of the pending legislation are very similar to legislation I introduced on September 14, 1979, H.R. 5282, the Domestic Energy Policy Act. That legislation is identical to S. 1371, introduced on June 19, 1979, by the Senator from Louisiana, J. BENNETT JOHNSTON. Title III requires the President to transmit to Congress energy targets beginning in February 1981, and every second year thereafter. Title III also sets forth expedited procedure by which the 97th and 98th Congresses are to consider these targets. These targets are to be transmitted and considered in the context of annual Department of Energy authorization bills.

My reason for sponsoring this legislation is that the people in Illinois, and elsewhere, have yet to see their Government tackling the energy problems in a comprehensive fashion. I personally believe that much of the energy crisis can be blamed on the Government's policies. Regardless of our individual views of the Government's energy policies, we ought to have in place a logical system by which the legislative and executive branches of the U.S. Government establish energy targets and policies. Title III provides just such a system.

I am pleased that H.R. 5282 attracted bipartisan support. I would like to thank at this time the Members who indicated their support for the concept of energy targets by cosponsoring H.R. 5282: The gentleman from Alabama (Mr. BEVILL); the gentleman from California (Mr. LAGOMARSINO); the gentleman from New Jersey (Mr. HUGHES); the gentleman from Puerto Rico, Resident Commissioner CORRADA; the gentleman from Iowa (Mr. TAUKE); the gentleman from Minnesota (Mr. NOLAN); and the gentleman from New Jersey (Mr. ROE). I would also like to extend my thanks to groups such as the American Society of Civil Engineers, whose leadership has eagerly supported energy targeting because it is in line with the overall problem-solving approach of engineers.

My special appreciation is reserved for Senator JOHNSTON, whose leadership on the Committee on Energy and Natural Resources, in conference, and on the floor of the other body, assured the inclusion of title III as it has moved toward enactment.

Mr. Speaker, although I must oppose the passage of S. 932, I do recommend to my colleagues the provisions of title III as a most logical procedure by which to formulate national energy policy.

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Mr. Speaker, at this time I would also like to engage the chairman of the Subcommittee on Energy and Power, our distinguished friend from Michigan (Mr. DINGELL), in a colloquy on this particular section, because as was pointed out by our friend from Ohio, it did not receive the usual committee consideration, the usual House consideration, but was added by the conferees to this particular measure now pending.

So if the gentleman would consent to engage in a colloquy, my first question would be: Does the gentleman agree with me that we ought to have the kind of comprehensive congressional assessment of national energy policy which is envisioned by title III of this conference report?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Michigan.

Mr. DINGELL. The answer to that question is generally yes, as a part of our other legislative and oversight activity, although I am not convinced title III is necessarily the best vehicle for service review.

Mr. CORCORAN. The second question I would ask, and I appreciate the chairman's response to the first question, but the second question relates to the procedure wherein the Congress will consider the submission of energy targets from the executive branch and ultimately the action by the Congress. And so, I wonder at what point next year would the gentleman anticipate House committee consideration of the energy targets that would be proposed by the administration at that time?

Mr. DINGELL. I would observe that one of the best times that this could be continued, and as a matter of fact, the best time I think this could be done would be as a result of and during the comprehensive DOE authorization process when we could go into this in connection with the missions and responsibilities of that agency.

Mr. CORCORAN. It is my understanding title III would provide that the President would make the submission sometime in February, and there would be a procedure so that by May 15 and ultimately by July 15 there would have to be committee consideration.

Would the gentleman envision the committee taking action on the authorization bill about that time?

Mr. DINGELL. If the gentleman would continue to yield, the answer to that question is yes, to the extent oversight is called for, the Congress should do it.

I emphasize that contractors will not be the most desirable mechanism for this effort. It is not the intention of the subcommittee to use contractors. I would hope they would not be used by the departments downtown in connection with this matter.

Mr. CORCORAN. I appreciate the chairman's comments on that, because I think it is one of the improvements that the conferees made with respect to the original legislation that was introduced by our friend from Louisiana in the other body, Senator JOHNSTON——

The SPEAKER pro tempore (Mr. CARR). The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 1 additional minute to the gentleman from Illinois.

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. CORCORAN) is recognized.

There was no objection.

Mr. CORCORAN. And so the point I am concerned about here is that the Department of Energy would simply contract out this particular requirement and not get involved itself in terms of its key officials in the decisionmaking process. I would hope that we would have an oversight by the committee which would make sure that it is not simply a product of a consultant, but rather, the product of the Department of Energy officials themselves.

Mr. DINGELL. If the gentleman will yield further, that is fully my intention. I think the Congress should do that.

Mr. CORCORAN. One final question, during congressional consideration, does the gentleman expect all interested parties would have an opportunity to participate in the consideration of the proposed energy targets?

Mr. DINGELL. The answer to that question is absolutely yes. I would have to observe, if the process is to work at all in establishing a useful and sensible pattern of energy targets and goals, we will have to have wide and broad public participation and participation from experts of different kinds.

Mr. CORCORAN. I thank the gentleman for his very helpful contribution on this matter.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 3 minutes to the gentleman from Texas (Mr. ECKHARDT).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ECKHARDT. Mr. Speaker, I oppose the conference agreement.

I believe that we should not try artificially to direct new energy efforts by publicly underwriting the risks.

The synthetic fuel program violates this tenet.

The conference agreement permits the authorization of up to $88 billion in financial assistance for synfuel production, with $20 billion authorized for fiscal year 1981. It establishes a U.S. Synthetic Fuels Corporation, which will administer the synfuels incentive program.

The U.S. Synthetic Fuels Corporation would have a seven-member Board of Directors to be appointed by the President and confirmed by the Senate for staggered 7-year terms.

This legislation is designed to ultimately give an $88-billion guarantee that companies embarking on a synthetic fuel program would be able to sell their high-priced product in the market. For example, if a company produced synthetic oil from coal and had to sell it for $35 a barrel when other oil was available on the market at $30 per barrel, the $88 billion fund would be available to make up the difference. For instance, the Government could pay the extra price and use the oil for its strategic oil reserves. Or the Government could simply subsidize the manufacturer of the $35 oil so as to permit such manufacturer to sell the oil in the market at $30 but receive $35 for the product.

Actually, when the plan was conceived, it was envisaged that oil on the world market would sell at about $20 and the subsidy would be about $18 additional to permit a $38-cost of synthetic fuels. Ironically, the top price in the market, taking into account uncontrolled domestic oil, is about $38 now. Therefore, it seems ridiculous to use public money to guarantee salability of synthetic fuels when present world oil prices invite them into the market without subsidy.

I think the program is ill conceived. I believe we will eventually come to the conclusion that a research and development effort involving a few demonstration plants would be far more economical and would allow resources to be used for a variety of alternative production incentives.

Another problem which has emerged concerning synthetic fuel production is that any realistic estimate of production from even the most ambitious proposal would not bring on-stream enough oil equivalent to have very much of an impact until well into the 1990's.

In addition, a concomitant to a crash program to produce synfuels would be some means of speeding the process of approval of permits to build plants which threaten environmental degradation. This has spawned the "fast track" legislation which has been bitterly opposed by environmentalists, because it permits waiver of substantive environmental law. Synfuels are much more polluting than fossil fuels because they pollute the air twice—once in the making—as with in situ burning of coal to make gas—and again in the burning of the synfuel at the point of use of such fuel as an energy source.

Tomorrow the House will consider the conference report on S. 1308, legislation to create an Energy Mobilization Board with unprecedented power to restrict the rights of States to regulate energy development within their borders. As my colleagues consider whether to recommit this conference report, they should give special attention to this sampling of the State health, safety, and environmental protection laws which will be subject to one or more of the powers of the EMB to take over, waive, or otherwise usurp State decisionmaking authority:

ALABAMA

Air Pollution Control Act of 1971.
Water Pollution Control Act.
Solid Waste Disposal Act and Amendments.
Hazardous Waste Management Act of 1978.
Surface Mining Reclamation Act of 1975.
Coastal Zone Act.

ALASKA

Alaska Statutes Title 46, Water, Air and Environmental Conservation.
Alaska Statutes—Chapter 60, Safety.

ARIZONA

Air Pollution Law.
Water Pollution Control Law.
Solid Waste Law.
Comprehensive Statewide Solid Waste Management Plan, Art. B2, Title 36.
Mining Code and Regulations.

ARKANSAS

Arkansas Water and Air Pollution Control Act.
Arkansas Solid Waste Management Act 237.
Arkansas Solid Waste Management Act 238.
Arkansas Surface Coal Mining and Reclamation Act of 1979.

CALIFORNIA

California Environmental Quality Act as amended January 1, 1980.
Air Pollution Control Laws—1979 edition.
Statutory Water Rights Law and Related Water Code Sections—January 1978.
The Porter-Cologne Water Quality Control Act—January 1978.
Solid Waste Management and Resource Recovery Act.
Hazardous Waste Control Law.
Hazardous Waste Haulers Act.
California Coastal Act.

COLORADO

Air Pollution Control Act of 1970.
Colorado Water Quality Control Act.
The Colorado Mined Land Reclamation Act.
Colorado Mining Laws with Safety and Health.

CONNECTICUT

Environmental Protection Act of 1971.
Air Pollution Act.
Water Pollution Law.
Water Resources Act.
Water Pollution Control Law.
Solid Waste Management Act.
Inland Wetlands and Watercourses Act.
Coastal Area Management Act.
Public Utility Environmental Standard Act.

DELAWARE

Environmental Protection Act.
Department of Natural Resources and Environmental Control Law.
Underwater Land Act.
Solid Waste Authority Act.
Coastal Zone Act.
Wetlands Act.

FLORIDA

Florida Air and Water Pollution Control Act.
Florida Environmental Land and Water Management Act of 1972.
Pollution Control Law.
Florida Water Resources Act of 1972.
The Pollutant Spill Prevention and Control Act.
Pollutant Discharge Act.

GEORGIA

Georgia Air Quality Control Act of 1978.
Water Quality Control Act.
Water Quality Control Act, 1977 amendments.
Solid Waste Management Act.
Georgia Surface Mining Act.
Coastal Marshlands Protection Act of 1970.

HAWAII

Environmental Quality Law.
Environmental Quality Council Law.
Environmental Quality Commission Law.
Solid Waste Disposal Act.
Land Use Laws.
Occupational Safety and Health Act.

IDAHO

Environmental Protection and Health Act of 1972 and supplement.
Water Pollution Abatement Act and amendments.
Solid Waste Disposal Sites Act.
Surface Mining Act.
Dredge Mining Act.
Local Planning Act of 1975.

ILLINOIS

Environmental Protection Act.
Surface-Mined Land Conservation and Reclamation Act.

INDIANA

Environmental Management Act.
Environmental Policy Law.
Air Pollution Control.
Stream Pollution Control Law.
Refuse Disposal Act.
Surface Mining Act & Guidelines.

IOWA

Environmental Quality Act.
Hazardous Waste Act.
Surface Mining Law.

KANSAS

Air Quality Control Act.
Water Pollution Control Statutes.
Solid Waste Management Act.
Solid Waste Disposal Act.
Mined-Land Conservation and Reclamation Act.

KENTUCKY

Kentucky Environmental Protection Law (Air and Water).
Kentucky Strip Mining Law.
Kentucky Mine Law Changes.
Laws Governing the Mining of Coal and Clay.
Oil, Gas, and Salt Water Wells, Chapter 353, KRS.
Kentucky Garbage and Refuse Disposal Law.

LOUISIANA

Environmental Affairs Act.
Stream Control Acts.
Mining and Reclamation.
State and Local Coastal Resources Management Act of 1978 and Rules and Related Material.
Natural Resources & Energy Act of 1973.

MAINE

Administrative Authority—Department of Environmental Protection.
Protection and Improvement of Water.
Solid Waste Laws.
Maine Planning and Land Use Laws.

MARYLAND

Maryland Environmental Policy Act.
Air Pollution Law.
Water, Ice, and Sewerage Laws.
Solid Waste Law.
Safe Disposal of Designated Hazardous Substances Law.
Natural Resources Laws: Title 1—Department of Natural Resources, Title 6—Gas and Oil, Title 7—Mines and Mining.
Power Plant Siting Program Acts.
Coastal Facilities Review Act—Natural Gas.
Maryland Laws Pertaining to Surface Mining, Reclamation, and Exploration.

MICHIGAN

Environmental Protection Act of 1970.
Air Pollution Laws.
Natural River Act.
Water Resources Commission Act.
Solid Waste Management Act and Amendments.
Resources Recovery Act.
Liquid Industrial Wastes Act.
Hazardous Waste Management Act.
Shorelands Protection and Management Act.
Soil Erosion and Sedimentation Control Act.
Oil and Gas Law and Rules.
Mine Reclamation Act and Rules.
Water and Power Company Act.
Power Plant Siting and Transmission Line Routine Law.
Health and Safety.

MISSISSIPPI

Air and Water Pollution Control Act.

Solid Waste Disposal Law of 1974.

Resource Conservation and Recovery Act of 1976.

Coastal Wetlands Protection Law.

Surface Mining Law.

MISSOURI

Air Conservation Law.

Water Control Law.

Waste Disposal Well Law.

Solid Waste Management Law, Rules and Regulations.

Hazardous Waste Management Law.

Reclamation of Mining Lands.

Land Reclamation Act.

MONTANA

Clean Air Act of Montana.

Montana Environmental Quality Act.

Montana Laws Regarding Water Pollution.

Montana Laws Regarding Public Water Supply.

Montana Solid Waste Management Act.

Solid Waste Management Act (1977 Amendments).

The Strip Mined Coal Conservation Act.

The Strip and Underground Mine Siting Act.

The Montana Strip and Underground Mine Reclamation Act.

The Opencut Mining Act (Reclamation).

Montana Laws Relating to Industrial Safety.

NEBRASKA

Environmental Protection Act (Air and Water).

Solid Waste Disposal Sites Law.

Oil and Gas Law and Rules.

Land Use Statutes, Regulations and Report.

NEVADA

Air Pollution Control Law.

Water Pollution Control.

Solid Waste Laws and Regulations.

Public Lands Act.

NEW JERSEY

Environmental Protection Act of 1970.

Environmental Rights Act.

Air Pollution Control Laws.

Water Pollution Control Act.

Water Quality Planning Act.

Solid Waste Management Act.

Waste Control Act.

Spill Compensation and Control Act.

Wetlands Act of 1970.

Coastal Area Facility Review Act.

Mine Safety Act.

NEW HAMPSHIRE

New Hampshire Air Pollution Control Legislation.

New Hampshire Laws for the Promulgation and Enforcement of Water Quality Standards.

Laws and Regulations Relating to Solid Waste Disposal.

Hazardous Waste Management Act.

NEW MEXICO

Environmental Improvement Act.

Air Quality Control Act.

Water Quality Act.

Hazardous Waste Act.

Surface Mining Act.

NORTH CAROLINA

Environmental Management Laws.

Solid Waste Management Act and Amendments.

Sedimentation Pollution Control Act of 1973.

Mining Laws.

NORTH DAKOTA

Air Pollution Control Act.

Water Pollution Control Act.

Solid Waste Management and Land Protection Act.

Mine and Reclamation Acts.

OHIO

State Laws Regulating Ohio EPA.

Surface Mine Law.

Surface Mine Law Amendments.

Strip Mine Law.

OKLAHOMA

Pollution Control Coordinating Act of 1968.

Clean Air Act, Regulations and Guidelines.

Water Pollution Control Statutes.

Pollution Remedies Laws.

Solid Waste Management Act.

Industrial Waste Law.

OREGON

Pollution Control Law.

Solid Waste Control Act.

Noise Control Act.

Mined Land Reclamation Act.

Land Use Law.

County Planning and Zoning.

City Planning and Zoning.

Energy Facility Law.

Safety Law and Rules.

PENNSYLVANIA

Air Pollution Control Act.

Clean Streams Law.

Solid Waste Management Act.

Mining Laws.

Oil and Gas Laws.

Land and Water Conservation and Reclamation Act.

RHODE ISLAND

Air Pollution Law.

Water Pollution Law.

Refuse Disposal Law.

Freshwater Wetlands Act.

SOUTH CAROLINA

Pollution Control Act (Air and Water).

Hazardous Waste Management Act.

SOUTH DAKOTA

Environmental Protection Act of 1973.

Environmental Policy Act.

Air Pollution Control Law.

Water Pollution Control Act and Amendments.

Solid Waste Disposal Act.

Surface Mined Land Reclamation Act of 1971.

TENNESSEE

Air Quality Act.

Water Quality Control Act.

Solid Waste Act and Regulations.

Hazardous Waste Management Act.

Surface Mining Law.

TEXAS

Clean Air Act.

Water Quality Act.

Solid Waste Disposal Act.

Surface Coal Mining and Reclamation Act.

Oil and Gas Laws.

UTAH

Air Conservation Act.

Water Pollution Control Act.

Solid Waste Management Act.

Hazardous Waste Act.

Regulation of Coal Mining and Reclamation Operations Act.

Oil and Gas Conservation Act.

Mined Land Reclamation Act.

VERMONT

Environmental Conservation Act.

Air Pollution Control Act.

Water Pollution Control Law.

Solid Waste Management Laws and Regulations.

Mines and Quarries on Public Land.

Land Use and Development Law.

VIRGINIA

Air Pollution Control Laws of Virginia.

State Water Control Law and Policy.

Groundwater Act of 1973.

Flood Damage Reduction Act.

Impoundment of Surface Waters Act.

□ 1430

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

The SPEAKER pro tempore (Mr. CARR). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MARKEY. Mr. Speaker, I thank the chairman of my subcommittee who has worked long and hard on this measure.

I rise in opposition to the bill which is pending before us today. I do not rise in opposition because I am opposed to coal liquefaction or coal gasification or oil from tar sands or any of the other fuels which are being funded by this bill.

I rise in opposition because I think that the allocation of the limited resources that we have in this measure, as large as they are, are directly in reverse of what they ought to be. These are all programs which are going to give us energy resources by the 1990's; yet we understand that our most pressing immediate national defense problem is that of imported oil today. That is what has got us into the mess with the recession, with inflation, with Iran, Afghanistan, drafting 19-year-old boys and boycotting the Olympics and a whole range of issues which we see on the front pages of the newspapers.

What are we doing here? We are being asked to accept crumbs for conservation, crumbs for a crash program to be able to back those barrels of oil out of our system, that is the real stress, the real pressure which the economic system feels right now and, instead, wait, wait for an additional 10 years before some of these synthetic programs come on line which would have become economically viable anyway with the dramatic increase in the price of world oil.

So I object to this bill. I do not do so because in principle it is not wise. I do so because in the specifics—the way it was finally detailed in the allocation of the resources, it took the programs that would have given us the most beneficial short term results and made them poor third cousins.

Now they expect the rest of us, those who are conservation supporters, to sign on because they say we have given you these demonstration projects, we have given you the kinds of programs which you are going to need for the future.

It is a national disgrace that we do not have a national program to insulate every home in this country. I think this bill is a sad indication of the inability of this country to come to grips with that problem.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield 4 minutes to the gentleman from California (Mr. DANNEMEYER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to this bill. I believe that it presents a good opportunity for any Member of this House to talk about one of the major philosophical differences between the two great parties in this country. The Democratic party controls this House by better than 63 percent of the Members. They control the Senate by 58 percent of the Members. They controlled this conference committee of 23 House Members by a division of 15 Democrats and 8 Republicans. Of the 35 Senators, there were 20 Democrats and 13 Republicans.

The Democrats controlled the composition of this bill and the conference committee report that is before us. Their philosophy is in it. What is that philosophy? Their philosophy says that we are going to tax and regulate the American people out of the crisis in which we are involved.

The Republican party says that we are going to produce our way out of this crisis.

Now, how is the philosophy of the Democratic party manifested in this bill? There are three principles that govern. The first one says, if it moves, regulate it.

The second says, if it grows, tax it.

The third one says, if it makes a profit, investigate it because it must be doing something illegal.

Now, this bill exemplifies the first principle, if it moves, regulate it.

Dr. Vincent McKelvey, former head of the U.S. Geological Service, in 1977 made a speech in which he said that this nation has a quantity of natural gas, estimated at 60,000 to 80,000 trillion cubic feet located in the gulf coast of this country. This happens to be about 3,000 to 4,000 times the amount of natural gas the U.S. consumed in 1977. President Carter fired him after this speech.

Immediately when you mention this, you ask, "Well, why aren't we producing it?" Because this Congress said in the early seventies that we would have a shortage of natural gas. How did we do it? The Congress passed a law which fixed the maximum price below the market price and guaranteed that this country would have a shortage of natural gas, because the maximum price fixed by this Congress is now $2.45 a thousand cubic feet.

Now, if it costs you $3 to $4 a thousand cubic feet to produce the gas, how much do you think you are going to get produced out of that zone? Answer, none, unless you use Government math.

Now, some may say, "Now, wait a minute, by law, effective January 1980, we deregulated the price of natural gas below 15,000 feet."

True, except that this quantity of natural gas in the gulf coast of our country is around 11,000 feeet down, so it remains regulated. What should we do? We should immediately deregulate the price of natural gas, which will be regulated until 1985.

What can we expect from this act? The evidence developed by the Heritage Foundation in a study produced last year indicates that if we had the political courage to deregulate the price of natural gas right now, rather than waiting until 1985 as the law now says, we could increase production of natural gas by 2½ million barrels a day oil equivalent by 1985.

Now, contrast that change in the law, which does not cost us anything, with what the taxpayers are going to be asked to pay for this interesting piece of legislation now before the House. It is $92 billion. And the sponsors contend that by spending this sum of money we will produce 500,000 barrels per day by 1987 and 2 million barrels per day by 1992. We have had the Department of Energy since 1977 spending $10 billion per year and it has not produced one drop of oil.

The time may come when the Federal Government should get into the synthetic fuels business for the good of the country.

But before we take this very expensive step we should adopt every reasonable proposal to let the private sector of our economy produce what it can.

If we deregulate natural gas prices immediately, we will soon know if increased production is realized. Republicans believe this is the step we should take and the American taxpayer will be the beneficiary of such an action.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from California (Mr. COELHO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. COELHO. Mr. Speaker, first, let me offer congratulations to the gentleman and to other Members who have crafted this complex and immensely important legislation. I rise to pose two questions concerning title VIII of the conference bill which deals with the strategic petroleum reserve.

In title VIII the President is directed to amend the entitlements program to provide for Government purchases of oil at or near lower-tier prices. Does the conference bill intend this to be the primary means of filling the strategic reserve?

Mr. DINGELL. That is correct. We direct the President to amend the regulations to use this authority to purchase oil at a lower-tier price.

Mr. COELHO. May I also ask if it is the gentleman's understanding concerning title VIII of the bill that sales of Elk Hills production are restricted to sales or exchanges to fill the strategic petroleum reserve unless the administration has arranged for the reserve to be filled at an annual average rate of 100,000 barrels per day?

Mr. DINGELL. That is correct. They must either fill the reserve at an annual average rate of 100,000 barrels per day or Elk Hills oil must be used to meet that goal.

Mr. COELHO. Is it also the gentleman's understanding that in the case where the Government has failed to meet a 100,000-barrel-per-day rate that the Government may either directly transfer Elk Hills production to the reserve or it may do this by various types of exchanges?

In particular, I am wondering whether the Government under title VIII, would be allowed to sell Elk Hills oil as long as the proceeds were used to purchase an equivalent amount of oil for the reserve.

Mr. DINGELL. As the report of the conferees indicates, Elk Hills oil may be indirectly exchanged for oil to be placed in the reserve. This is intended to the private parties or by the Government. In such a case, Elk Hills oil might be sold to a broker who in turn would purchase oil of similar quality and value and sell the same to the reserve. The Government could carry out the same type of transaction—selling Elk Hills crude, and purchasing similar crude for the reserve. These kinds of transactions are envisioned under the exchange authority provided to section 804(b) of the act. What would not be permitted, however, is any transaction transferring Elk Hills oil which was not closely followed by the delivery of an equivalent barrel of oil to the strategic reserve. The transfer or sale of Elk Hills oil and deliveries to the reserve must form one continuous transaction.

Mr. COELHO. I thank the gentleman. I appreciate his cooperation in explaining this to me and our colleagues.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TAUKE. Mr. Speaker, I applaud the major goal set forth in S. 932, the omnibus energy bill, to help rid us of our dependence on foreign oil and to speed up the development of our own domestic energy industries. While I have some misgivings about the conference committee report, I strongly support title II of the bill, which authorizes funds for the development of an expanded alcohol fuels program and sets production targets equal to at least 10 percent of our estimated gasoline consumption by 1990.

Recently, however, an ominous trend has developed that could serve as an obstacle to the establishment of a strong alcohol fuels industry in the United States. Because of strikes that have hit its automobile industry, Brazil has begun to export large amounts of alcohol fuel to the United States. While it is too early to tell whether this action will have a detrimental effect on our alcohol fuels industry, it could portend serious problems in the future.

It is very probable that imported alcohol from Brazil, priced at about 40 cents per gallon less than the U.S. version, could endanger the development of the alcohol industry in the United States, just when new plants become operational in the next few years. In fact, it appears now that Brazilian alcohol is even priced below U.S. production costs. It could be particularly harmful if Brazilian alcohol inhibited the U.S. ethanol industry from producing up to its full capacity.

The intent of S. 932 is to reduce our dependence on foreign energy, whether that energy takes the form of oil used in the refining of gasoline or ethanol used in the blending of gasohol. In order to meet this objective, we must monitor closely the amount of alcohol fuel imports from Brazil to insure that they do not disrupt the development of alcohol fuels in the United States.

□ 1440

Mr. DINGELL. Mr. Speaker, I am so anxious to hear what the gentleman from Ohio has to say that I ask unanimous consent to yield him 1 minute.

The SPEAKER pro tempore (Mr. CARR). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROWN of Ohio. I want to make the observation, Mr. Speaker, that we will later vote on the Energy Mobilization Board legislation. There will then be an opportunity to undo the possibilities of the passage of this act by the defeat of the Energy Mobilization Board because if the Energy Mobilization Board is not successfully passed, then there will not be the "fast track" procedural priorities available for the projects that would be allowed for in this synfuels bill. That would probably be a good thing.

However, since I support the Energy Mobilization Board legislation and oppose this, it will probably be my luck that the Energy Mobilization Board would be defeated and this would pass.

The SPEAKER pro tempore. The gentleman from Michigan has 4 minutes remaining.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to my friend, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, as a longtime proponent of alternative energy resource development and production, I want to join my colleagues from the House Committees of Energy Jurisdiction in supporting this compromise which I believe is basically acceptable to all parties in order to insure prompt enactment. It is by no means a perfect bill and I have serious reservations and concerns relating to that portion of the bill setting up a Synthetic Fuels Corporation. However, with close monitoring and possible revisions in the future, I believe that the conferees have provided us with the basic tools to spur domestic production of synthetic fuels, similar to Germany's effort during World War II.

I would like to remind my colleagues of the words stated by the President of France:

> On the day the United States will really start to move in the production of synthetic fuels, there will be a major change in the world situation.

This legislation will not only create a private synthetic fuels industry to protect us from the seemingly limitless price increases by the OPEC countries, but, most important of all, it will commit us to resume filling of our strategic petroleum reserves—an absolutely essential step in preventing future blackmail, by any foreign country, which we must rely on for petroleum imports. I believe the bill recognizes that the strategic petroleum reserve constitutes a national security asset of paramount and vital importance. The strategic petroleum reserve section of this bill is one of the key reasons causing me to vote affirmatively. This legislative directive is a must.

In particular, I support the bill for moving us ahead in the areas of solar and geothermal energy, alcohol fuels, conservation efforts and acid rain research. This becomes significant in light of recent reports by the General Accounting Office (GAO) and the Commerce Department, which have made projections of the levels of national energy consumption and supply through the year 2000.

It is important to note that both of these reports factor into their data significant emphasis on energy savings resulting from conservation efforts and significant increases in both solar and geothermal production. These reports assume that these sources will generate approximately 32 times the current level of energy. Both reports assume a virtual phaseout of oil and gas as major sources of electrical energy by the year 2000—an objective I have advocated with consistency over the years.

As you may know, I joined several of my distinguished colleagues in urging the committee of conference to provide us with the strongest possible acid rain research plan. The plan includes an integrated and coordinated approach to identify causes and effects of acid precipitation and appropriate actions. What we do know about this meteorological phenomenon is that the acidity of rain and snow falling on widespread areas of the world has been rising during the past two decades or so. It has been linked to sharp declines—and in some cases to the point of total extinction—in the number of fish in many lakes and streams. Evidence suggests that acid rain is changing the soil's chemical structure in some areas, and even forest growth has been significantly decreased. Degradation of buildings and our national monuments have been attributed to the detrimental effects of acid rain. It must be emphasized, however, that the information base and understanding of the acid rain phenomenon and its full impact on our environment is incomplete.

Finally, Mr. Speaker, I want to offer my strong support for title II, which addresses "biomass energy and alcohol fuels." I believe that the Congress must be committed to a national program for reducing the dependence of the United States on imported petroleum; and that commitment must include maximum utilization of agricultural crops and agricultural wastes and residues.

I have said before, and I say again, "It's time to bite the bullet." The stakes of uncertainty are far too high. With this legislation, we in the Congress are indicating our commitment and determination to move in the direction of a partnership between Government and the private sector in applying our scientific technology and engineering expertise to bring energy self-sufficiency for the United States closer to reality.

Our continuing challenge will be to make certain that the principal thrust of our synthetic fuel development effort takes place in the private sector. If we meet this challenge we can be successful in moving toward energy self-sufficiency and independence.

This will be the major challenge of this Congress and Congresses of the future. America's economic and security requirements are the high stakes in this most complex and demanding decade of the 1980's.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

I have been amazed to sit here and listen today to all of my good colleagues come up here and say, "Well, this is not a very good bill; it is not a perfect bill. As a matter of fact, there are a lot of defects, but I am going to go ahead and do it anyway." That reminds me several years ago when we had the bill out of the Committee on Banking, Finance, and Urban Affairs to try and enhance a settlement procedure for homes, and it was called RESPA, and we were told that that was going to solve all of the problems, and we had to come back here and almost repeal it because it was so bad.

The problem with this legislation, having listened, and I began to add up all the people who got up and spoke for it and said, "However, it has this defect" or "that defect," and "I really do not like this title" or "that title, but, you know, we have got it, and so here we are." We have over 400 pages here, most of it never really considered by the House except maybe in a couple of subcommittees that had hearings. But we are going to go ahead and do it anyway, and we are not even sure what the total effect will be.

I would like to quote one of my colleagues from the Committee on Interstate and Foreign Commerce who has studied and followed this legislation, the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN states:

> A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980's and little impact in the 1990's. It would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

I ask my colleague from Pennsylvania, who I know has spent a lot of time on this legislation: Is my colleague from Michigan just totally wrong? Does he not know what he is talking about, or is he just misreading this fat and expensive bill?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Of course I yield.

Mr. MOORHEAD of Pennsylvania. This bill is designed to produce, by 1987, the oil equivalent of at least 500,000 barrels of oil a day. We are now importing about 8 million.

Mr. ROUSSELOT. The gentleman from Michigan says that at most it would probably produce 2 million to 4 million barrels a day of synthetic fuel. Is that wrong?

Mr. MOORHEAD of Pennsylvania. Is he talking about per day?

Mr. ROUSSELOT. Yes.

Mr. MOORHEAD of Pennsylvania. The production of 2 million barrels of oil equivalent of synthetic fuel would amount to one-quarter of our total imports now.

Mr. ROUSSELOT. By 1987?

Mr. MOORHEAD of Pennsylvania. No, by 1992.

Mr. ROUSSELOT. By 1992. That is a long way in the future.

Mr. MOORHEAD of Pennsylvania. I will not be in the House then.

Mr. ROUSSELOT. Is that going to help our current problem?

Mr. MOORHEAD of Pennsylvania. If the gentleman will yield further?

Mr. ROUSSELOT. Of course, I will yield.

Mr. MOORHEAD of Pennsylvania. We should have started this years ago.

Mr. ROUSSELOT. I have heard that and I understand that point. That is what my colleague from Ohio (Mr. Wylie) told me. "What is your alternative," he says. I remember we were told that when we were given the Department of Energy. Will this be any better than the Department of Energy?

Mr. MOORHEAD of Pennsylvania. Of course it will.

Mr. ROUSSELOT. It will?

Mr. MOORHEAD of Pennsylvania. This institution and the Defense Production Act rely upon the private enterprise system, and that is the main thrust of the structure of this bill.

Mr. ROUSSELOT. So does the DOE. I just read in the paper they have all of these contracts out there that they have sent out and everyone tells me here on the floor every day about how bad the Department of Energy is. Of course, I did not vote for it, so I do not carry that responsibility of that terrible bureaucracy.

Now, can my colleague tell me how is this bureaucracy that we are building here going to be any better than DOE?

Mr. GORE. Will the gentleman yield to me?

Mr. ROUSSELOT. Let me yield to my colleague, the author of the bill, because I know he spent a lot of time on this.

Mr. McKINNEY. Would the gentleman yield to me as a coauthor?

Mr. ROUSSELOT. In just a minute.

Mr. MOORHEAD of Pennsylvania. Under the Defense Production Act the primary agency will be the Defense Department, which has been in the business of procuring for many years.

Mr. ROUSSELOT. The Defense Department is going to have the biggest input on this?

Mr. MOORHEAD of Pennsylvania. The Defense Department, I am told, is ready as soon as this bill is passed.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield 2 minutes to the gentleman from Tennessee (Mr. Gore).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GORE. I thank the gentleman for yielding.

Mr. Speaker, I would like to offer a response to the question that was just posed. First of all, was our colleague from Michigan wrong? The answer to that question is very simple: Yes. Our colleague was wrong in his assessment of the bill.

Second, how will this bill improve the current situation? The answer to that is in two parts.

To begin with, the production of synthetic fuels at the rate of 2 million barrels per day within a few years will obviously be a tremendous improvement over the current situation. In the second place, this program will have an immediate effect on the OPEC cartel because we are establishing the capacity to turn our domestic resources into liquid fuels that can be substituted for foreign oil.

□ 1450

To the extent that the foreign oil-producing nations realize that the United States now has the will and the capacity to develop its domestic resources and turn them into a form that can be used as substitutes for their oil, they must take that into consideration in their pricing policies and in their production policies. So even though we have to wait a few years to get the actual product out of these plants, it has an immediate impact because we are sending them a message that shows our determination to produce substitutes for foreign oil.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

Mr. GORE. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. Those are the same arguments we have heard from the Department of Energy. It was going to do all of these same things. My concern is how do we know by creating another bureaucracy that that is going to be any better than the Department of Energy? I do not really think that has been answered.

I remember my colleagues, the gentleman from Michigan (Mr. Stockman) and the gentleman from Ohio (Mr. Brown), and many others raised that concern about the Department of Energy, and actually we have gotten zero. That is my concern about this agency.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to yield such time as he may consume to the gentleman from New York (Mr. Weiss).

The SPEAKER pro tempore. Is there opjection to the request of the gentleman from Michigan?

There was no objection.

Mr. WEISS. I thank my distinguished colleague for yielding.

Mr. Speaker, I rise in opposition to S. 932, the omnibus energy bill. Much as I recognize the absolute necessity of reducing this Nation's dependence on imported oil, I must also insist that we not plunge headlong into an unproven technology, synthetic fuels, by spending vast sums that will likely fill the coffers of the same companies who have already benefited royally from the windfall profit of oil decontrol.

I voted last year in favor of the House synthetic fuels bill, a comparatively modest measure that kept the uncertainties of investment in this infant in some perspective. That bill authorized $3 billion to start, with another $20 billion possibly to follow, and covered 14 pages in printed form.

But the bill we are asked to vote on today would authorize $20 billion for synfuels production in the beginning, and sets up a possible $68 billion second phase. This bill covers over 400 pages, yet sets production timetables that are slower than last year's version. It would establish a unique corporation without clear operating rules. It is a bill, that has been written by a conference committee's staff and a few influential members. It is not a bill that represents the consensus of those who voted for that relatively modest and reasonable piece of legislation exactly a year ago, today.

We have been presented this bill at the behest of an administration that once disparaged the reliability of synthetic fuels technology, and once favored conservation incentives as the primary means of reducing our imported oil dependence. Yet conservation is given short shrift in this bill, while a synfuels boondoggle is proposed that will simply subsidize the energy industry. These companies should already be using their profits to explore such technologies. We may have to support them even more generously if this bill passes and the synthetic fuel product proves to be too expensive to compete with natural oil on the open market.

The bill does include provisions for energy banks to stimulate conservation and solar power development, areas where important progress needs to be made. But funding for solar would total just $525 milion for the next 3 years; funding for conservation would be $2.5 billion over a year longer period. A biomass energy program would receive $1.45 billion. I support all these efforts, but their amounts here are clearly inadequate and represent reductions in the administration's own previous proposals. Separate legislation should be written in these areas to stand on its own merits.

Before we vote on this bill, I ask this House to remember that synfuels is not a program designed to solve our energy problems, but merely to reduce them for a short term of years pending more permanent solutions.

Instead, we should use our funds for research in technologies that promise long-term solutions. Nuclear fusion is a perfect example. Here is a technology that could provide large amounts of power indefinitely, without highly radioactive waste products as in nuclear fission. Yet we appropriated just $394 million for the next fiscal year in Tuesday's vote on fusion research support.

Fusion, I should remind my colleagues, may not only shoulder a major share of our energy burden, but would also pose virtually no threat of a meltdown or similar disaster. In fact, the major problem for scientists is preventing the reaction from completely expiring. Fusion may even lend itself to synthetic fuel production, as a bill we will consider next week suggests (H.R. 6308).

Fusion is an appropriate area for a reasonable increase in funding. I heartily endorse the recent recommendation to double our research expenditures for fusion made by the Energy Research Advisory Board's Fusion Review Panel.

But even fusion does not require the staggering amounts of money proposed for synthetic fuels. Let us authorize appropriate, measured amounts for promising energy programs, such as conservation; solar power; biomass; environmentally responsible coal conversion; fusion, and a well-modulated synfuels program. All in all, we probably would save money compared to this omnibus bill's proposal.

I hope my colleagues will join me in voting against S. 932, and work together to forge a sensible energy program.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the Energy Security Act, S. 932.

Mr. Speaker, the latter half of the 20th century could justifiably be referred to as the age of synthetics. Since World War II, people have for the first time come to rely on petrochemically based synthetic materials as a larger source of their energy and material supply. Although natural materials such as cotton, wood, and rubber still maintain a vital role in the world economy, their position is slowly being usurped. Today, over one-third of the fiber used in the world and 70 percent of the rubber is synthetic. Plastics have substituted everything from paper packaging to the grass turf on football fields. Now, the gas era and the synthetics era appear to be coinciding in terms of their importance.

Accordingly, a comprehensive national energy policy must consider a variety of energy resources, including synfuels, to meet future energy needs. The development of a major synfuel industry in the United States will require participation and cooperation of all levels of government and private industry. The bill we are considering today is designed to do just that, by way of authorizing $25 billion in fiscal years 1981 through 1985 for the following:

A $20 billion synthetic fuels production program, to be dispensed by a new U.S. Synthetic Fuels Corporation, in the form of loans, loan guarantees, purchase agreements, and price guarantees to encourage synfuel production at the nationally set goal of at least 500,000 barrels per day crude oil equivalent by 1987, and at least 2 million barrels per day equivalent by 1992.

Synthetic fuels to be fostered by the Corporation would include oil from coal, peat, shale or tar sands; methyl alcohol from coal; hydrogen from water and magnetohydrodynamics processes for electrical generation.

A $1.4 billion biomass program with provisions to encourage municipalities to convert waste to energy, a catch-all word for organic material such as wood, agricultural products, sewage and garbage.

An energy bank funded at $3 billion to make loans and grants for solar and conservation work in homes, small apartments and small commercial buildings.

Other conservation methods, including home energy audits by electrical utilities.

New incentives for geothermal energy; a very underrated energy option.

Studies of the environmental effects of the fossil fuel burning and the dangers of so-called acid rain.

Mr. Speaker, this bill may well mark the beginning of a true beginning toward energy independence despite the fact that it has been a long time in coming. The first oil shock, in late 1973 and early 1974, definitely marked the end of the era of secure and cheap oil. The long string of international events since that time most certainly adds credence to that statement. Our country has been subjected to repeated price hikes that have taken their toll on every American consumer, and with little optimism in store for the future. Indeed, OPEC has just recently lifted the ceiling price on crude oil and all their members are charging whatever the traffic will bear.

Our Nation's honor and credibility has been challenged at every turn in the road, most recently in Iran, which has not only threatened us with oil blackmail, but overran our Embassy as well and is holding our personnel hostage to this very day. In short, the events following the oil crisis of 1974 have constituted a turning point in postwar history, delivering a powerful economic and political shock to the entire world. It has slowed down our economic growth. It has set into motion a drastic shift in world power. It has severely undermined our national security interest the world over and, finally, it has made us even more dependent upon the political instability of oil-exporting countries. This point must be underscored.

Considering current problems, for the United States to depend on Middle East oil means heavy reliance on a region of high risk. In the last three decades, the Middle East has been subjected to a half-dozen wars, several revolutions, assassinations and territorial disputes. Such dependence translates into interruption of supplies and major price increases. To continue importing oil in ever-increasing quantities from this arena can only lead to a damaging of our economy and security, not to mention the constraint on our foreign policy by our oil suppliers.

When we consider the energy crisis in this light, it is not imprudent to spend an admittedly high sum of $25 billion for the energy goals outlined in this bill. The alternative price is, obviously, much higher and in my opinion totally unacceptable. There are those who argue that, in time, the world oil market will stabilize and that prices will have to drop out of economic necessity. This is not a new argument. In fact, it is the same argument that was used back in 1974 during the first oil crisis when our energy crisis was considered by some as only temporary—a passing wind of strain and adjustment. I would say to those opponents today that to make that same mistake in judgment and action would be foolhardy at best.

The time has come for the American people and the Federal Government to undertake a new initiative and to begin some active endeavors to repair the damages that have been done to our country since that first warning of energy sabotage 6 years ago; and we can begin right now by supporting this omnibus energy bill. It has emerged from its 7-month-long conference where it was subjected to intensive scrutiny by many experts in the field of energy, management and Federal and industrial agencies. It has the basic outline so desperately needed for our first major effort in our entire history to become completely independent of foreign energy sources.

Quite ironically, it was Dmitri Mendeleev, the Russian chemist who first mapped out the periodic table of elements, who was so impressed by petroleum's potential as a raw material for the chemical industry that he warned that burning it as a fuel "would be akin to firing up a kitchen stove with bank notes." Mendeleev's metaphor correctly points out the direction we have been heading, moreover, it should serve as a warning to those of us who are reluctant to vote for the bill because of a lack of absolute perfection, that the Soviets, too, within this decade, will become major oil importers. Accordingly, Mr. Speaker, I urge my colleagues on both sides of the aisle to support this measure that is so vitally important to our Nation.

Mr. McKINNEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. McDADE), a member of the Appropriations Committee.

Mr. McDADE. Mr. Speaker, I rise in support of this conference report and pay special tribute to my colleague, the gentleman from Pennsylvania (Mr. MOORHEAD), who has played such an important role in this legislation, and my colleague, the gentleman from Connecticut (Mr. McKINNEY). But I do feel constrained to point out that there are some troublesome features going on on both sides of the Capitol that Members ought to be aware of. My friend, the gentleman from Pennsylvania (Mr. MOORHEAD), and my friend, the gentleman from Connecticut (Mr. McKINNEY), worked very hard some time ago to establish authority for synthetic fuels under the Defense Production Act. That authority is in place and extant. Two years ago the Appropriations Committee, specifically the Subcommittee on Interior, wrote an energy bill mandating, not authorizing, the Secretary of Energy to meet specific goals to secure production of alternative sources of fuels.

That authority set up another mechanism to fund alternative fuels and it does virtually everything that the guts of this corporation does except for permitting GOCO's (Government owned contractor operated plants). We did not have GOCO's in our language. What has the result been? The result has been that there are now pending downtown over 950 bids of people who want to come in and produce synthetic fuels in this Nation. Since June 1, the Department has been prepared to go out with one of the largest request for proposals, probably in the history of this Nation, soliciting from the private side competitive bids to produce products down into the 1980's, and that is all to the good, and it did not result from anything except the work of the Defense Production Act, the Banking Committee, and the Appropriations Committee working together to move forward on energy alternatives.

Now I am concerned that there has been some effort to tamper with the interim authorities because everyone sitting here knows that this Corporation will not be in existence for some time. No one knows how long it will take. It may take 2 years. What we do know is that the authorities to proceed in the law today and they are working, are there. The RFP could have been issued by the Department of Energy on June 1, but for some mysterious reason that RFP never appeared.

Let me tell my friends in the House that there is a cannon pointed at your heads called the supplemental appropriations bill, in which the other body has appropriated every single dollar in the reserve fund to this Corporation—every single penny—almost $20 billion.

The administration has to get Senate confirmation for four Board members of the Corporation. The Corporation has no staff. They have nowhere even to hang their hats as yet. Yet the other body has put in all the money, $20 billion for the Corporation, and if they prevail, you will not see this Corporation ever again. This House and the other body will lose totally any control, any opportunity to review the processses that are so vital to the work begun by my two friends and by my colleagues on the Appropriations Committee as we try to get this Nation over the hill in the energy program. So watch the scenario next week. We have got an urgent supplemental. Think of what was in it. Do you remember food stamps? Unemployment compensation? Do you remember trade adjustment? All of those things are in the supplemental, and you have been told we are going to finish this before we leave. So, held hostage potentially will be an effort to say to this House, yield to the Senate position. If you do you will never see this Corporation again because the Senate has already appropriated all the money.

Certainly you have to pass this urgent appropriation because of the food stamps and because of all the other programs that are in it. So get ready, because you are going to be faced, I am afraid, with a Hobson's choice on whether or not this House is going to be dealt a blow from within, in effect abolishing the people's branch, instead of having a procedure which we set, an orderly way to have the private side come in, to have them make competitive bids, to have them come into the Department either using the Defense Production Act or the authorities which we gave them in the appropriations and appropriated last year—$2.2 billion, and just this morning $4 billion—in order to carry that out. And to make them bid competitively subject, my colleagues, subject to the will of this House, as Representatives of the people of this Nation. That is a responsibility we should not relinquish.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McKINNEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding to me because it seems to me, as I have listened to the debate, that we are hearing that only through this bill will we get a synfuels policy in this country. It seems to me that there are some other alternatives available that do not go this massive regulatory route. For instance, it seems to me that we could have mandated a percentage of refined product. People testifying before the Committee on Science and Technology have stated that by the year 1985 to 1987, if you mandated, 5 percent of refined product must contain synthetic fuels, that you could easily attain the kind of goals that are set out in this particular program and perhaps exceed them. Why did we not take the real private enterprise route? Why not guarantee a continuing market with a marketplace mandate? Why do we always go the "big government" route? The legislation we are considering is a "big government" program, and I think it will ill-serve synfuels policy over the long haul. A synthetic fuels program is necessary, but it should be the right program, not this collection of misguided hopes and burdensome regulation.

Mr. McKINNEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank the gentleman for yielding.

If the programs contemplated by this bill succeed, it will be a major victory for our country. I happen to think that there is a good chance that the programs which we are contemplating in this bill will succeed; otherwise I would not support it with the vigor I have. I would suppose that now energy is our most serious problem. It exacerbates inflation. It threatens our national security. We need to do whatever we can to control our energy destiny today. I think this bill holds enough promise in this regard to warrant support. To vote this bill down is to, in effect, to continue to do nothing in synthetic fuels. This is a luxury we can no longer afford. No one knows what the total effect will be, but I come down on the side of erring—if we are—on the side of moving ahead.

I think it can help reduce our dependence on OPEC oil. In any event—to those who say vote no—I have heard no suggested alternatives, which amounts to continued reliance on the Arabs.

☐ 1500

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, because I was chairman of the conference committee, it appears to me there are a few points in our debate today that perhaps need some clarification.

My first point concerns the money involved. This legislation, while it authorizes more money than the legislation we passed 1 year ago, it uses exactly the same techniques: price guarantees, loan guarantees and direct loans. They also are in that order of priority in the legislation. If we go the reverse way, yes, direct loans do require an immediate outlay, but we would expect that the loans would be made intelligently and be repaid; hence, there would be no ultimate cost to the taxpayer.

Now let us consider the loan guarantees. There are no immediate outlays and again if the loans were made in a businesslike fashion, they would be repaid. One of the reasons for establishing a Synthetic Fuels Corporation is to try to convey the idea that we want the loan guarantees to be made on a businesslike basis.

The third technique is the one to which we give top priority and it includes purchase agreements with price guarantees.

In the event that the price of natural oil continues to go up and the contract is for a higher price than the market value today but lower than the market value at the time the synthetic fuel is delivered, there is not only no cost to the taxpayer, there is actually a saving.

The only way there will be an outflow under price guarantees is if the OPEC countries should drop their prices. Then there would be a cost to the taxpayer, but think of the benefit to our economy. The dollars would stay at home instead of flowing overseas.

I say to you, Mr. Speaker, this is a no lose proposition.

Another question is this: because most of this money will be private money, can the capital markets afford it? The answer is obviously yes. This is for investment in the United States to replace the $90 billion per year of expenditures abroad for which we buy foreign oil but get no other benefits. We would rather spend money to build something here that keeps our dollars at home rather than have them go abroad.

Mr. Speaker, the private capital market can stand this and should stand it.

There also has been some question raised about the status of the U.S. Synthetic Fuels Corporation. As everybody knows, corporations can be formed under general enabling statutes, in which case you have articles of incorporation, or they can be created by special legislation, in which case the terms of the legislation constitute the articles of incorporation.

Because we established a Corporation in this legislation and we had to provide in effect for the articles of incorporation, this legislation is lengthier than the legislation passed by the House of Representatives 1 year ago.

A question has been raised about whether the Congress has retained control over this Corporation. We started out intending to have an independent Corporation and then out of, I am afraid, almost an overabundance of caution, provided a great deal of control. We provided for an Inspector General and a Deputy Inspector General. Directors and officers are subject to the same conflict of interest laws as govern Federal employees. Activities of the Corporation are subject to the same basic standards of the Sunshine Act and the Freedom of Information Act. The Attorney General and the Comptroller can sue the Corporation. The Corporation is audited annually by independent auditors. The General Accounting Office is authorized to audit it and the Corporation is required to make numerous reports, quarterly and annually, to the Congress.

Mr. Speaker, I ask unanimous consent to insert in the Record a table showing a number of other congressional controls.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The table referred to follows:

Actions in Title I Requiring Congressional Consideration Under Special Procedures

TYPE OF ACTION AND REVIEW PROCEDURE

Part B

Phase II Comprehensive Strategy; Joint Resolution of Approval (126(c)).

Incremental Authorizations; Jt. Res. of Approval (126(c)).

Amendments to Phase I strategy altering use of funds previously authorized; Concurrent Resolution of approval (Sec. 129).

Extension of time on Phase II comprehensive strategy; 1–House resolution of disapproval (Sec. 128).

Cost overruns (over 250 percent for loans and loan guarantees, over 175 percent for Goco's); 1–House resolution of disapproval (Sec. 128).

Acquisition of control of projects; 1–House resolution of disapproval (Sec. 128).

Lease-back of acquired projects; 1–House resolution of disapproval (Sec. 128).

Western Hemipshere projects; 1–House resolution of disapproval (Sec. 128).

Part A

Invocation of "standby" authorities; 1–House resolution of disapproval in 30 days, or earlier approval by resolution of both Houses (Sec. 307).

Loans and loan guarantees exceeding specified amounts); 60-day 1–House resolution of disapproval, not privileged, no discharge provision.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if we have made any mistake, we have placed too many restrictions on this Corporation.

Mr. Speaker, now on another point, I would like to read a letter to me from Mr. Franklin Lindsay, chairman of the Itek Corp., who is chairman of an energy task force for the Committee on Economic Development.

The letter reads as follows:

Dear Mr. Chairman: I want to salute you and your colleagues on the successful completion of the House-Senate conference on S. 932. This monumental legislation can help provide a new energy security for the nation by increasing domestic energy supplies and reducing our dependence on imported oil. Your leadership has insured that synthetic fuels will play an important role in overall U.S. energy strategy.

With this legislation, and the impending passage of S. 1308, I am convinced the private sector is prepared to build and operate a number of plants that will demonstrate the commercial feasibility of converting coal and oil shale into synthetic oil and gas. As we testified before your committee, plenty of private money will be available once the excessive risks are reduced. By placing primary reliance on the market system, your legislation establishes the most efficient and effective means of bringing these plants into commercial operation in the shortest time at the lowest public cost. Your resolve to provide a limited number of financing incentives and set firm dollar and size limits has insured that the government will assume only those risks that are too large for private industry to assume alone. Your authorization of the development of a limited number of synthetic fuel plants in the private sector to demonstrate the technology, environmental effects, and economic viability of various synthetic fuel options, will provide a strong foundation for subsequent rapid expansion, should that be necessary.

These concepts were fundamental to the proposals recommended by the Committee for Economic Development in its 1979 policy statement, "Helping Insure Our Energy Future: A Program for Developing Synthetic Fuel Plants Now." We felt then and feel even more strongly now that having the commercial capability to produce synthetic fuels will bolster this country's international economic and political position by demonstrating to the world a new U.S. resolve to take charge of its energy future.

I congratulate you and your colleagues on a job well done.

Mr. Speaker, the gentleman from Ohio (Mr. Brown), has made a number of criticisms of S. 932 today and in a previous "Dear Colleague" letter, and I would like to reply to them.

He refers to the Corporation as "legally undefined." I think the Corporation is quite legally defined within the many pages of the very legislation before us. The idea may be difficult to fully comprehend, but this is a new one-of-a-kind Federal entity for a special purpose and with a set lifetime.

Now when the gentleman refers to $20 billion and then an additional $68 billion as if these were sums of money the U.S. Government is actually going to spend, I must respectfully disagree. These sums represent mostly private capital which will be generated into synthetic fuels development through the use of various Federal guarantees.

These sums will be spent only if everything completely fails, but with the skyrocketing prices of foreign oil I think that is hardly likely or even a possibility.

The $20 billion authorization is contained in this bill but it is subject to the appropriations process. The sum really is a set-aside in the unlikely event the program is a total failure and we cannot even recover a nickel of our investment. However, as each contract or guarantee is made, the amount of money is deducted from the total authorization dollar-for-dollar to the maximum liability and cannot be used again. In effect, it is a bookkeeping scorecard.

The gentleman from Ohio talked about the filling of the strategic petroleum reserve and that this might cost the taxpayers up to half a cent a gallon. In my view, that is a pretty good investment for the protection of our national security. Considering that a gallon of Coca-Cola costs more than a gallon of gasoline, it is helpful to get some of these things in perspective.

Mr. Speaker, the U.S. Synthetic Fuels Corporation created by this legislation is an independent Federal entity—a sui generis entity, if you will. This was done deliberately. The conferees determined that the energy situation facing our country today is so serious, and the need to act quickly to initiate a synthetic fuels industry so pressing, that we simply cannot afford the time-consuming, redtape-involving Government-as-usual approach to this problem.

We believe that the Corporation has to have the ability to act quickly and independent of the usual strictures under which Government agencies operate. At the same time, we simply have to trust the President will appoint men and women of good will who share the deep concern we have about our energy situation—men and women who will carry out their activities for the Corporation responsibly and honestly, and whose abiding motivation will be to get the job done well and in conformance with the purpose of the legislation. I believe that will be the case, and I think most of my colleagues do also.

Having said that, Mr. Speaker, I must point out that it is simply not true that the legislation lacks specifics to control the Corporation. S. 932 contains the following provisions for oversight of the Corporation's activities:

There is provision for an Inspector General and a Deputy Inspector General, with funds set aside for their activities, and with very specific authorities and responsibilities spelled out in the legislation;

Directors, officers and employees of the Corporation are subject to the same conflict-of-interest laws as govern Federal employees;

Activities of the Corporation are subject to the standards of the Sunshine Act and the Freedom of Information Act;

The Attorney General and the Comptroller General are empowered to bring suit against the Corporation for violation of any of the provisions of its charter, that is, this legislation;

The Corporation is required to be audited annually by independent auditors;

The General Accounting Office is authorized to audit the Corporation at its discretion, and must do so at least every 3 years; and finally; and

The Corporation is required to make numerous reports to Congress.

It seems to me, Mr. Speaker, this list

represents an effective means for Congress and the American taxpayers to keep track of the Corporation's activities, and to prevent and remedy any possible abuses of its congressional mandate.

I can understand the gentleman's (Mr. Brown of Ohio) concern that by amending the National Energy Act to permit utilities to supply and install energy conserving measures, Congress might be permitting utilities to monopolize the conservation business. This issue was of prime concern to all of the House conferees. Let me assure you that only when the majority of those conferees were convinced that the restrictions we placed on utility involvement in this area would safeguard a competitive market did we approve the compromise contained in S. 932.

Many provisions are contained in the conference report which are designed to assure that utility supply or installation programs will not have an anticompetitive impact particularly on the smaller conservation businesses that are active in a utility's service area. These provisions include the requirements that:

First. Utility programs must be undertaken through independent suppliers and contractors who are not under the control of the utility except as to the performance of their contracts and who are selected in an open, and nondiscriminatory manner from the State list required by the NECPA utility program;

Second. No supplier or contractor may gain an unreasonable share of the utility's contracts;

Third. No utility program may involve unfair methods of competition or have a substantial adverse effect upon competition;

Fourth. Where a utility offers financing in connection with a supply or installation program, such financing must also be made available for work done by individual customers themselves or by contractors not involved in the utility's program;

Fifth. No utility program may be initiated until the State has submitted, and DOE has approved, an amendment to the State residential conservation service plan which contains provisions to assure that any utility program will be undertaken in full compliance with the conditions previously enumerated;

Sixth. Finally, the Secretary of Energy, in consultation with the FTC, will be required to monitor utility financing, supply and installation programs. If any program results in an adverse effect on competition or in violations of the requirements mentioned earlier, the Secretary of DOE may, after notice and public hearing, terminate the program.

The conferees have recognized the great potential for encouraging energy conservation that exists in utility involvement in the financing, supply and installation of energy conserving measures. We have removed several obstacles in law that would prevent successful programs, like the one operated by Portland Power and Light Co., from being initiated. However, the legislation before us also includes a number of safeguards to assure that utility participation in the national conservation effort will not damage competition at the local level.

Mr. Speaker, I yield back the balance of my time.

Mr. McKINNEY. Mr. Speaker, it is a pleasure for me to yield 3 minutes to the committee chairman, the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, the best energy studies we have available show that by the year 2000, two-thirds of the energy in this country will come from coal. Today we are producing the same amount of coal we produced in 1948. We could produce next year 200 million more tons of coal without straining the capacity of the coal industry anywhere. These arguments I have heard today were made back in 1953, except there was a better way and a cheaper way to make synthetic fuels at that time. Naturally, there is nothing else here to do except accepting this conference report. It is a great step forward.

Mr. Speaker, if I had jurisdiction over this legislation it would be entirely different. I would utilize these chemical engineers who were present during World War II and who helped set up the synthetic liquid fuel plants during the war. There are several of them around today. They tell us that we should be working around the clock on a national emergency basis with the best businessmen of the country operating the Corporation, turn them loose, that can do the job, let the Government do some constructing themselves as a yardstick, just like they did TVA and not turn the oil companies loose and let them foul this thing up just like they fouled the whole thing up in 1953 in closing down all the demonstration plants.

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Speaker, I would like to pay tribute to the gentleman in the well, because in preparation for my work on this conference committee I did extensive research into the history of the synthetic fuels effort in this country.

□ 1510

I ran across remarks made by the gentleman back when President Truman's synthetic fuels program in the early 1950's was dismantled when the new administration took power, and the gentleman stood up and eloquently told his colleagues at that time that this was a terrible mistake that the country would one day regret. The gentleman's prophecy has turned out to be true, and we are now having to undertake that effort as a catch-up in order to redress the shortsighted decisions that were made over the objections of the gentleman in the early 1950's.

Mr. PERKINS. Mr. Speaker, I want to compliment the gentleman from Tennessee for his work on the bill. This is the greatest step forward that the Congress has ever taken toward the development of synthetic fuels. My only quarrel with the conference report is that it does not go far enough and carries too many restrictions. There should be more incentives and a greater amount of funds authorized. A chemical engineer who helped develop synthetic rubber tells me we need at least one hundred billion dollars and work on a national emergency basis if we want to develop five million barrels a day by 1990. I feel confident that the committees that have jurisdiction will have to get together again within the next few years because we will continue to be bled by the OPEC countries and doing too little about it.

In conclusion, let me say it is a grave mistake not to go on a much larger basis of synthetic fuels at the present time, since we have all the know-how and expertise that is necessary on a commercial basis.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. Daschle).

Mr. DASCHLE. Mr. Speaker, the United States today sits in a very awkward position so far as alcohol fuels are concerned. It is a position that cannot be explained to farmers in my district, or really to any American concerned about the high price and limited supply of liquid fuels we face in this decade.

As of this moment our country sits with massive supplies of embargoed grains depressing our farm prices and clogging our storage and shipping facilities. We sit with demonstrated technology to produce alcohol fuel from these grains at competitive prices. We sit with huge and growing bills for imported oil and a stated national policy of seeking to reduce these imports. And, incredibly, we sit in an importing posture where alcohol fuel is concerned.

In April alone the United States imported some 12 million gallons of fuel alcohol, mostly from Brazil.

The alcohol fuels provisions of this bill are specifically designed to put an end to this totally nonsensical situation. They are designed to provide the start up loans and loan guarantees that will permit construction of an American alcohol fuels industry.

The United States enjoys the most productive agricultural machine in the history of man. We suffer critical shortages of domestically produced liquid fuel. Yet, until today, our Government has done virtually nothing to unleash the productivity of our farm sector on this problem of liquid fuel shortages.

It is particularly painful to those of us who have examined the historical record that we have waited so long to act. For fully 80 years it has been a known fact that fuel alcohol from biomass sources is a technologically viable alternative to gasoline. Henry Ford knew it and fought for a lifetime to see alcohol used as a fuel. Brazil knows it and now leads the world in production and use of fuel alcohol. Ford, General Motors, and Chrysler all know it and produce standard automobiles capable of running on pure alcohol for sale today in Brazil.

The Midwest, and to a growing extent the entire Nation, is alive with excitement over the potential of alcohol fuel produced from biomass sources. On individual farms, in small communities and among large commercial investors alike, plans are waiting and ready to go. American business large and small, farm and city, wants to produce alcohol from corn, from potatoes, from sugar cane, farm wastes and a host of other sources.

The missing ingredient has been money. That is what this bill provides. It provides the limited, but critically important start-up loan funding so necessary to any fledgling industry. This money, of course, is doubly important given the very high and uncertain loan rates prevailing this year.

I want to emphasize to my colleagues that the alcohol fuel production technology this legislation would help move from the drawing boards into reality is well proven. This technology can produce alcohol fuel with a favorable net energy balance, as DOE has attested in the most comprehensive study of alcohol yet made. This technology can produce a feed byproduct when alcohol is made from corn which is 100 percent as protein nutritious as the corn itself, a fact which gives the lie to claims of world hunger if alcohol is made from grain. This technology can do these things at a cost which is competitive now, and will be increasingly lower in the very near future.

Right now, today, a farmer whose plant I visited in my own district is producing alcohol which he burns in his farm vehicles for about 75 cents a gallon. He does this with a facility he built himself, and openly admits is a trial and error device that could easily be improved.

Mr. Speaker, the alcohol fuels provisions of this legislation will lift the curtain on an industry I believe holds unparalleled potential for this Nation. To the skeptics, and I know many remain, I say why not give us this chance. The funding we are authorized under this bill is a pittance compared to the billions poured into high technology synfuels applications. I am convinced the return on these dollars will dwarf the return on the dollars we authorize for coal based synfuels production.

But the proof will be in the doing. If the $1.45 billion in alcohol fuels authority contained in this bill is adopted we will have a start. We will be permitted to show what we can do. I am as confident as I can be that, 2 years from now, when Congress meets to evaluate what our farm economy has been able to do, it will enthusiastically approve extension and expansion of alcohol fuels.

I thank you Mr. Speaker, and thank my colleagues for your support of this legislation to draft America's farmers into the battle for energy independence. It is a draft they gladly accept and one this nation will never forget.

Mr. McKINNEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, there has been a great deal said in the last 4 hours about this bill. Unfortunately, there has been a great deal said since 1974—in fact, since the early 1960's—about energy, and nothing done. The time has come to do something.

Now, I have heard people standing up and saying, "I don't like this part of this bill," or, "I don't like that part of this bill."

I have never in my legislative career ever seen anybody who liked every part of any bill. The fact that in this one bill with the committee cross jurisdiction, with the conflicting interests, with the regional problems, with the factional problems, with the political problems, with two bodies as opinionated as we both are on either side of this building about energy; I think it is an amazing fact that we have a bill here today. There were 35 Senators, over one-third of the U.S. Senate, on one conference committee.

Obviously, compromises were made, but I seriously think that the chairman, the majority leader, myself and all the other conferees and the staff, without whom we could have done nothing, brought out a far better piece of legislation than either House took into the original meeting.

A lot has been said here, Mr. Speaker, about the money. I find it somewhat farcical that we can talk about a $20 billion expenditure to save the United States of America when we willingly talk about $140 billion for defense and when just this week we voted money to register young men. Let's face it, there is only one reason we are registering those young men, and that is because we are afraid of what is going to happen to our oil supply. We are being blackmailed by every third-rate nation.

Many of my conservative friends up here often quote, "The Committee for Economic Development." Here is just a short list from that committee's booklet which I would like to read outlining the foreign policy implications of this Nation's absolute and utter dependence on oil from other sources:

> The Soviet role in the Middle East.
>
> Proliferation of nuclear-explosive materials.
>
> Overflight and landing rights for military supply in the Middle East.
>
> Advanced armaments for Persian Gulf countries.
>
> Japanese-Arab relations.
>
> Economic development of Third World countries.
>
> Chinese-Japanese trade relations.
>
> Stability of international capital markets.
>
> Brazilian-American nuclear energy relations.
>
> French cooperation with NATO.
>
> Cuban intervention in the Horn of Africa.
>
> Arab-Israeli peace negotiations.
>
> The danger of a disrupted oil supply as a political move, as an economic strategy, or from sabotage, war, or overthrow of regimes in the Middle East.

It goes on and on and on. In other words, the future of the civilized world as we know it is put in jeopardy because one of the world's greatest leaders is not a leader anymore. Our own friends, the Saudi Arabians, seriously question their alinement and their dedication to the United States of America. Russia, within this decade, will be an oil-importing nation. Hence the Saudis, having witnessed our performance in Afghanistan, having witnessed our performance in Iran, having witnessed our performace in Cuba, and having witnessed our performance in the Horn of Africa, strongly question whether or not perhaps they should not start making friends with the Russians, for a guarantee of noninterference and allowing the Saudi Arabian Government to stand.

We sit here as a nation declaring that we are the leaders of the free world; yet, if our energy were cut off tomorrow, we could not lead anything. We sit here receiving testimony from the Defense Department, from the Treasury Department, and from the GAO, telling us that we really do not have any options. Could we save the Saudi Arabians today? I doubt it. Could we save an Israel today? I doubt it.

Our energy situation has put us in an intolerable position. We can do what the British did in the Suez, which is declare a victory and leave. Or, we can push the big red button. But those are our options because we do not have the ability, we do not have the power, we do not have the energy to sustain this country's position in the world.

Our European allies in Venice as much as told the President to pack his bags and go home—politely, but they said it. Why? They see a nation where the economy is out of control, where energy is out of control, where our foreign policy is out of control, and they realize that the whole Western World's economy policy, their military defense, everything is based on the U.S. economy and its strength.

We sit here and talk about $20 billion when we are going to throw $80 to $90 billion of American dollars across the sea to nations who really do not want them and which are slowly but surely deteriorating and destroying the American economy and American power.

You know, Mr. Speaker, I could put in the RECORD, and I will ask unanimous consent to put in the RECORD, report after report—I have an office full of them—in which the Treasury Department is telling us we cannot exist; Ruth Davis of the Pentagon is telling us we cannot exist without more energy; later, Ruth Davis again this year testifying to that same conclusion. I can give the Members testimony for 10 solid years saying that this country was headed for eventual economic doom if it did not straighten out its energy problem.

Sure, there are problems in this bill. I have heard it said that this bill is socialist, that it is anti-free enterprise. But let me answer by again quoting from our good friends at the Research and Policy Committee of the Committee for Economic Development, where they say:

> Since it is the declared policy of the federal government to bring synthetic fuel production to the commercial development stage as early as possible, it is appropriate that the government reduce some of the costs and financial risks involved in the private development of these new energy technologies. Such action is desirable when it can be expected to secure greater benefits to the nation as a whole than the benefits that would accrue to private investors through the workings of the market system alone.

□ 1520

The statement comes from a group of people who are well known for their belief in free enterprise—the president of Ford Motors, the vice president of General Motors, E. I. du Pont, and so on.

I want once more to thank the staff on the majority side and the staff on the minority side. I say, "Thank you for the weekends that were destroyed and for the nights' sleep that were destroyed." And I thank my chairman for the opportunity of working on a bill that will be remembered in the long run, when my children will look back and say, "It saved this Nation."

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. EVANS).

Mr. EVANS of Indiana. Mr. Speaker, I rise in support of this bill because it recognizes that the current oil situation is a genuine threat to this Nation's security. As one who helped write this legislation in my Economic Stabilization Subcommittee, I believe the best immediate attack on this problem is to accelerate development of synthetic fuels as recommended by the Defense Department. Energy resources are our major defense material problem today and we are, therefore, amending the 1950 Defense Production Act. Under present Mideast conditions, we are not assured of secure adequate oil supplies for both peacetime operations and war reserve military needs. To spend $155 billion on defense without developing domestic sources to fuel our military forces and their industrial base makes little sense.

It is important to understand that this measure deals primarily with military needs since perhaps the gravest danger facing us today, both militarily and economically, is our reliance upon an interruptable supply of imported oil. The synfuels part of this legislation is not a research and development bill, it is a production bill. It gives the major role to free enterprise in providing synfuels with the primary focus on small businesses through price competition and the removal of regulatory requirements. This "made in America" energy solution has received strong bipartisan support. Without being specific, classified testimony given to me by the Defense Department justifies every drop of synthetic fuel that results from this bill for national defense.

Mr. McKAY. Mr. Speaker, after almost a decade of personal frustration, I am pleased to see this body consider a full-blown Synthetic Fuels Energy Security Act. I applaud the dedication of the conferees and their determination to see this Congress move the country a step closer to energy independence.

Energy independence is energy security. Furthermore, in these times of global uncertainty, energy security has become inextricably linked to the independence of basic political and economic approaches to our own national and international problems. Every American knows how vulnerable we have become. But I also think more and more Americans are beginning to realize what we can do about it.

Even with sharp growth in nuclear power, and dramatic contributions from energy conservation, solar, geothermal, wind, and other energy technologies, our requirements for additional oil imports will probably swell to over four billion barrels daily by the 1990's. The only real hope for meeting this gaping shortfall is synthetic fuels.

I first began pushing synthetic fuels programs and legislation in my early terms in Congress. The obstacles were numerous. In the beginning, critics argued that the high price of synfuels relative to other fuels augured against development. Others objected to Government involvement in areas they saw as the exclusive province of private industry. A GAO report back in 1976 condemned the Moorhead-McKay synfuels program as a serious mistake. Even after Congress, in response to ever-increasing doses of OPEC extortion, came around to the view that synfuels might be part of the answer, we had difficulty in getting the appropriate departments of government to implement our desires.

As you know, Mr. Speaker, I and Mr. McDADE, with tremendous help from Chairman YATES and the Interior Appropriations Subcommittee, overcame many of these kinds of obstacles in passing the McKay-McDade synfuels program last year. The response from private industry has been tremendous.

Over 950 applicants, representing the full spectrum of the energy industry, from the smallest to the largest entrepreneurs, are clamoring for Government incentives aimed at promoting the production of synthetic fuels on a commercial-scale for the first time ever. I have spoken with dozens of representatives from these businesses. I have seen their enthusiasm. I am aware of the tremendous risks and expense many of them have incurred as a result of their dedication to the concept of commercialization in the synthetic fuels area. I am familiar with many ingenious and promising plans these entrepreneurs have submitted.

In fact, Mr. Speaker, it is my long and extensive personal experience with these individuals as well as this area of energy policy which most arouses my concern over the course the Senate has chosen to take, and the extent to which that course is reflected in the act we are considering.

It is absolutely essential that we do nothing in promoting this or any other legislation which might jeopardize the response we are experiencing in the synfuels area. We must preserve the momentum we have achieved. A disruption of the process that is presently underway will confuse, discourage, and in some instances bankrupt the very people whose support is so critical.

I support the establishment of a synthetic fuels corporation which will ultimately assume all of the functions now contained in the McKay-McDade bill. But it will be months, if not years before that corporation is fully operational and ready to take charge of existing programs.

Therefore I am concerned that efforts may be made to prematurely transfer a significant portion of the energy security reserve to the corporation. I am also concerned about provisions which will reduce the scope and efficiency of this program such as the rejection of any leveraging in the loan guarantee program. The one-to-one reserve requirement in the loan guarantee program overstates the risk to the Government. It could also reduce the flexibility and responsiveness of program administrators, and significantly curtail the number and the size of projects that could be supported. Consequently it could retard the progress of some of the largest, most advanced, and most promising technologies.

An interim program is necessary to preserve continuity in the process and to avoid delays. Funds must be left with the Department of Energy to run the existing programs until the Synthetic Fuels Corporation gets up to speed and an orderly transfer of responsibilities can be accomplished.

● Mr. ALBOSTA. Mr. Speaker, we are about to consider two of the most far-reaching initiatives we have taken up in this Congress. After years of increasing dependence on imported oil and after years of putting up with OPEC price increases; after Arab boycotts and Iranian shutoffs; after repeated threats to our economic and political independence—we have finally said "enough."

We are about to approve a massive bill to provide alternatives to foreign oil. This ambitious program recognizes a great number of potential energy sources and I am proud to say that I followed this bill with interest and strong support from its beginning. I would like to commend the conferees for two things in particular in this bill: the first is wood energy;

The biomass title of S. 932 recognizes that wood can play a great part in our energy future. Techniques are available from industries such as Morbark Industries located in my district in central Michigan, that allow environmentally sound harvesting and chipping of whole trees. This way, forests can be thinned and selectively cut on an economic basis without wasting any of the wood or bark.

High quality wood can go for traditional uses where markets exist while lower quality or waste wood can be used for other purposes. The production of energy is one of the best ways to use wood. Wood-burning electric plants are being planned in my district for instance, by such energy leaders as the Dow Corning Corp., and Wolverine Electric Co-op.

The Energy Security Act of 1980 will make funds available to encourage many forms of wood energy including direct burning of wood in many instances. It is a credit to the conference committee that they have recognized a form of energy endorsed by national figures whose philosophies differ greatly, such as Ralph Nader and Governor Reagan. It is this cooperative spirit that will lead us together out of the energy shortage we face today.

I would also commend the conferees for strengthening the program providing for solar and conservation measures in Federal buildings. Their adjustments have recognized the increasing attractiveness of these approaches. The use of cost-effective solar and conservation measures will help to achieve the President's goal of providing 20 percent of the Nation's energy from solar power by the year 2000.

Again, I am proud to say that in my district there are people in every community who are doing their best to conserve and many others who are also eager to use the power of the Sun. Small investors and major corporations, like Dow Corning again, are involved in producing solar energy equipment in central Michigan.

The solar and conservation banks will encourage investment in these two important areas. This will be investment by individuals in their own homes. Low-income people will be assisted as favorably as possible by the sliding scales for loan rates in the bill. In these provisions, we have given help where help is most deserved and most needed.

Alcohol fuels are among the most popular alternative energy supplies. Plants are being planned for my district now to bring greater energy independence and more employment to central Michigan where the unemployment rate is as much as 15 percent and most of our energy must be imported from outside of the State. The biomass title of S. 932 will be a great help in establishing numerous alcohol plants of all sizes.

Title I of S. 932 is by far the most massive. There are those who would say that coal and shale-derived synfuels are too costly and dirty. Well, there is a project in my district conducted by Dow Chemical Co. for the extraction of natural gas from Devonian shale. This process takes place far underground with relatively little pollution.

The dirtier projects will have to be watched and controlled as well as possible. But, we must remember that we can control the harmful effects of synfuels production: But we cannot so easily control the harmful and dangerous actions that might be taken by any oil exporting country or any power that might interfere with our oil supplies.

Finally, we are going ahead with our strategic petroleum reserve as immediate insurance against an oil shortage imposed by anyone. Therefore, I support S. 932, being fully aware of the costs involved in approving it but even more impressed by the costs of not approving it.

It is my hope that after we begin and after we have had a chance to evaluate each different initiative we can choose the approaches that are most effective, most reliable and most beneficial for the country. For today let the world know that the Congress has spoken: That the people of this country from its largest corporations to its most humble individuals, will have a part in insuring our energy independence.●

● Mr. BROYHILL. Mr. Speaker, I rise in opposition to this conference report.

As a member of the conference committee on this legislation, I was deeply disappointed that the conference let a golden opportunity to really do something to develop synthetic fuels slip between its fingers. What we have before us is an unworkable hodgepodge of legislative initiatives, most having received no House consideration, and most of which would fail if they had to stand or fall on their own merit. To vote for this legislative package under these conditions is like buying a pig in a poke, which I am not inclined to do.

Mr. Speaker, when this legislation passed the House last year, it was some 14 pages long and authorized the expenditure of up to $3 billion in Federal money to assist private enterprise development of synthetic fuels. I supported that bill because I thought that it was a reasonable attempt to stimulate synthetic fuels' production in this country. But now, 1 year after the passage of H.R. 3936, we are asked to swallow this legislation which now spans over 400 pages and which has a price tag which could be over $90 billion. To my budget conscious friends I would like to point out that this bill poses the potential for busting every Federal budget over the next 10 years.

I am also deeply concerned about the workability of the U.S. Synthetic Fuels Corporation which title I of this legislation establishes. Under the conference agreement, this Corporation is not subject to the Administrative Procedures Act or the Corporation Control Act. Nor is it subject to many of the laws and regulations which govern the behavior of ordinary Government agencies or Government corporations. For that reason, the opportunity for congressional oversight over this Corporation's activities is likely to be minimal. As a result, we are practically inviting fraud, abuse, and arbitrary and capricious action on the part of this so-called Corporation.

Finally, I must point out that if we are to make our Nation less dependent on foreign oil, we must pass carefully crafted legislation which avoids heavy-handed Government action and massive Government spending. This legislation miserably fails these tests. Aside from the massive amount of money which the Federal Government will pour into this program, this legislation will give this Government Corporation the opportunity to enter into joint ventures with privately owned companies and, under certain circumstances, the Corporation may actually own synthetic fuels projects.

Mr. Speaker, I think this legislation is ill-advised and does not deserve our support. I ask my colleagues to join me in opposing this conference report.●

● Mr. FRENZEL. Mr. Speaker, this synfuels conference report has been a long time in negotiation. The extended gestation period has produced an overweight infant. Our 12-page House bill has ballooned to over 400 pages.

Our reasonable beginning has swollen to include extraneous matters which the other body insisted on combining with synfuels. One which I find troubling deals with the stretegic petroleum reserve. If the other body insists on building up the reserve, I do not object. I do, however, object to the conference committee's creation of a new tax, in contravention of the Constitution, to pay for the reserve buildup.

I believe in the development of synthetic fuels. I have voted for several House sessions for development. But I do not like this complicated 400-page grab bag.

Unfortunately, there is no alternative. Our energy situation is so desperate, and we are so dependent, that there can only be one way to vote.

The United States must develop synthetic fuels, and we must do it promptly, too. Therefore, I will vote for this conference report and for $20 billion of synfuel development.●

● Mr. BIAGGI. Mr. Speaker, last year, this body overwhelmingly approved a similar version of the Synthetic Fuels Energy Security Act. At that time, millions of Americans were confronted with long gasoline lines and the prospect of a long cold winter with diminishing supplies of home heating oil. Seemingly overnight, gasoline and oil prices soared and supplies became plentiful. Unfortunately, while a sense of calm was restored, the energy crisis remained very real. Today, our suicidal dependence on foreign oil poses a serious threat to our economic and national security. The conference report we are considering represents both a short- and long-term solution to the problem.

Simply stated, this legislation would help to establish an energy independent United States by increasing both our domestic energy supply and our Nation's energy conservation efforts.

In the area of supply, the conference agreement would exploit the domestic energy resources we have in abundance, such as coal, oil shale, and biomass, and convert them into usable fuels, such as gasoline. The increased production of these so-called synthetic fuels (synfuels) would enable us to reduce our oil imports by 500,000 barrels by 1987, and 2 million barrels by 1992. This would be accomplished by establishing incentives for private industry to build commercial-size synfuel plants. The synfuels program would be administered by a federally owned corporation called the U.S. Synthetic Fuels Corporation (SFC). In addition, the President is granted broad standby authority to involve the Federal Government in actual synfuel production if private industry is not able to meet the production goals.

The short-term cost of this program to the American taxpayer will be little or nothing. Under this legislation, private industry would build these expensive synfuel plants and pay for them, with the assurance that they will receive a minimum price guarantee for the synfuel they have been contracted by the Government to produce. In the long term, savings to the American consumer will be significant, since synfuels are much cheaper than overpriced foreign oil.

I am especially enthusiastic about the positive effect this new synfuel industry will have on our weakened economy. Each synfuel plant will provide about 20,000 jobs onsite and in various support activities. About 10 or more plants are expected to be needed to achieve the established synfuel production goals.

Our efforts to become energy independent will be further bolstered by additional incentives provided in the legislation for alcohol fuels production from farm products and urban waste, and for solar and geothermal energy exploration and production.

In the area of conservation, the legislation provides for a number of steps aimed at reducing industrial and residential use of oil, gas, and electricity. Special emphasis is given to replacing conventionally heated homes and apartments with solar energy.

Specifically, this measure would create a solar energy and energy conservation bank within the Department of Housing and Urban Development to provide subsidized loans to persons making energy conservation improvements, or installing energy equipment. General conservation loan subsidies would be available only for achieving energy savings in existing buildings, not new ones. However, the solar subsidies would be available to owners of existing buildings and to the builders of new ones.

Additional Federal assistance is authorized to increase energy productivity and conservation in private industry, and to supplement State programs aimed at stimulating residential energy conservation. The Nation's larger utilities are also required to contribute to the residential conservation effort through financing and technical assistance.

Other major features of the conference report provide for the establishment of a comprehensive Federal study on the environmental impact of domestic energy production, and require the President to resume the filling of the strategic petroleum reserve—SPR—our Nation's emergency fuel supply.

Mr. Speaker, for too long our Nation has been without an effective energy policy. Under the strong leadership of President Carter, we are addressing this extremely serious problem and are going beyond mere expressions of support for an energy independent United States. Earlier this year we passed the Windfall Profit Tax Act—another of President Carter's energy initiatives—which focused on the need to combat soaring energy costs. Today, we are considering another important component of the President's energy self-sufficiency plan—stimulating domestic energy production while increasing conservation efforts. Tomorrow we are scheduled to consider the conference report on the Energy Mobilization Board Act, the proposal by President Carter to cut Government redtape and expedite the implementation of these new energy production programs.

As a strong supporter of an energy independent United States, I have come to realize that any plan intended to achieve this goal must be comprehensive in nature—providing for a balance that encourages the production of various domestic energy sources that will have both short- and long-term benefits. The legislation before us today meets this criteria to the fullest, and I urge that it receive overwhelming approval.●

● Mr. MAGUIRE. Mr. Speaker, I rise in support of the conference agreement on S. 932, the Energy Security Act of 1980. There are two features of this bill which will truly contribute to our energy security and future in a meaningful way. The first, of course, is the commitments to production of levels of synthetic fuels which will displace a significant amount of the oil we import daily. The second is the requirement that the President resume filling the strategic petroleum reserve, which in a crisis, is an equally important component of the energy security program.

The conference agreement establishes the U.S. Synthetic Fuels Corporation the goal of which is to encourage the production of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day equivalent by 1992.

While the bill authorizes the expenditure of a total of $88 billion over the next 17 years, this figure is accounted for primarily by loan guarantees, purchase contracts, and price guarantees. This makes it highly unlikely that anything near this figure will be spent. The $88 billion figure is clearly a worst case. In fact, the Government may never have to spend a dime, but Federal backing will help to encourage private industry to commit the huge amounts of capital needed to get the synfuels effort off the the ground.

Besides the obvious reduction in our dependence on foreign oil, the synthetic fuels program may well provide a strong and much needed jolt to our economy as private investment picks up and new jobs are created. By ending the exportation of billions of Amerian dollars to the Middle East for petroleum, we will be keeping the money within the United States and taking advantages of our own abundant natural resources.

There is another important way that this bill would lessen the influence that the oil-producing nations have on the United States. I am referring to title VIII of the conference agreement that instructs the President to resume filling the strategic petroleum reserve at a rate not less than 100,000 barrels per day. That reserve has not had a drop of new oil put into it since November of 1978. We have about 2 weeks of supply in our reserves which lies in stark contrast to the Japanese, with mothballed tankers filled to the brim with oil, which lie anchored offshore with 90 days of oil. We must equal the commitment made by the Japanese to insure that we are never as vulnerable as we were during the days in 1973–74 when the embargo took place.

I would like to stress that the 100,000-barrel-per-day rate, at which the bill instructs the President to fill SPRO, is a minimum level. It is my hope that the President will take advantage of the cheaper Elk Hills Reserve oil which we have earmarked for these purchases and exceed the 100,000-barrel-per-day rate. Let us exceed the minimum for a change and get the kind of security a filled strategic petroleum reserve would yield.

In all, this is a major bill, one which I am proud to support. If we continue on this track, building upon the synthetics and the conservation incentives which are also built into the legislation, we may well be on our way to the genuine energy security which many of us have been seeking for so long.●

● Mr. ROSTENKOWSKI. Mr. Speaker, today, I join my fellow Members of the House leadership in support of the conference report accompanying S. 932, the Energy Security Act of 1980.

Mr. Speaker, we have had enough blackmail and extortion threats, we are fed up with our apparent inability or unwillingness to do something meaningful in the energy area. We are not about to go the way of other great nations over the centuries of history which have failed to address difficult problems. This measure will place America in a state of preparedness to deal with potential energy shortfalls.

This legislation calls for the creation of commercial synthetic fuel facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally acceptable manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2 million barrels of crude oil per day by 1992. Let me stress that the conference report calls for a diversity of synthetic energy sources. There is no single "quick fix" to our energy challenge, but rather the war must be waged on a variety of fronts.

This measure through the creation of the U.S. Synthetic Fuels Corporation will provide financial assistance to undertake synthetic fuels projects. But here again in the initiation of synfuel projects, a creative and diverse approach will be employed in terms of funding mechanisms. In particular, a variety of financial measures: Direct loans, loan guarantees, a guaranteed price of Government synfuel purchase, as well as a variety of joint venture alternatives will be utilitized. In addition, it will not be the role of Government to compete with private industry, but rather, Government will encourage the development of synthetic fuel.

Mr. Speaker, this conference report is needed to foster economic security and to reduce the Nation's economic vulnerability to disruptions in imported energy supplies. As a cosponsor of this legislation, I urge adoption of the conference report.●

● Mr. HAGEDORN. Mr. Speaker, I am pleased to join with my fellow colleagues today in support of S. 932, a legislative package promoting the development and utilization of solar energy, conservation, gasohol, and other alternative forms of energy. It has been almost a year since the House passed H.R. 3930 to promote the commercial production of synthetic fuels which I feel should have been enacted years ago. You may recall that back in 1975 and 1976 I supported President Ford's efforts to boost the production of synthetic fuels but the majority in Congress voted against even discussing the measure.

However, increased national concern over U.S. dependence on OPEC oil, intensified by mile-long gas lines last spring and summer and spiraling gas prices, has prompted congressional action.

As an avid proponent of ethanol production, I am pleased that title II of this legislation incorporates provisions of legislation I introduced back in February 1979. My bill, H.R. 1980, provides for research programs under the Secretary of Agriculture and the Secretary of Energy, encourages the use of grain-produced ethanol as an alternative fuel for motor vehicles and provides guaranteed loans for ethanol-producing facilities.

The need for this legislation is apparent. The American people have and must continue to utilize their creative abilities to develop alternative forms of energy which will insure us of having a sufficient supply of energy for the future. The fact remains that with the rather grim outlook on world oil production, particularly in light of the unstable conditions in the Middle East, it is absolutely imperative to develop alternative energy sources. Adoption of this legislation is a step in the right direction and has my wholehearted support.●

● Mr. GOLDWATER. Mr. Speaker, I rise in opposition to the conference report on S. 932, the Energy Security Act. I will remind my colleagues that I was 1 of 25 Members to vote against the House version, H.R. 3930, the Defense Production Act Amendments of 1979. The same reasons which prompted me to oppose that bill encourage my opposition to this conference report. I might also remind my colleagues that while the House version of S. 932 was 14 pages long and authorized $3 billion for synfuels production, the conference agreement, most of which was written without House committee debate, contains 8 titles, is over 300 pages long, and will eventually authorize almost $90 billion of the taxpayer's money.

Mr. Speaker, I believe it is bad policy for the Federal Government to create more bureaucratic agencies as an answer to our energy crisis, and that is exactly what some of my colleagues are trying to do here today. My colleagues know that I have no objection to providing necessary funds for new technologies, but I question the manner in which we are intruding on private industry under this bill. Funding research and development programs is one thing, controlling the operation and maintenance of those programs is quite another. We must allow private industry to develop synthetic fuels, and they will, Mr. Speaker, if given the opportunity they have been refused. They have been denied because of Government regulation. Proponents of this bill would have you believe private industry is afraid to venture into the field of synthetic fuels development because they feel it is too "risky." That is simply not true. Private industry will aggressively develop synthetic fuels if the Government will provide the incentives and eliminate unnecessary roadblocks, such as needless bureaucratic regulations, that stifle business growth. That is the only sensible, appropriate, fair, economic, and justifiable way to achieve this Nation's goal of energy independence. By decontrolling crude oil prices, for example, synthetic fuel prices will become competitive with oil prices. This is the incentive private industry needs, not another independent, federally owned bureaucratic agency.

Mr. Speaker, proponents of this bill encourage quick House passage of S. 932, so that the President will be able to sign the measure on July 4, declaring America's "energy independence." I am afraid that if we pass this bill, and therefore impose added delays in sensible synthetic fuel development projects, the President may find himself in future years signing Independence Day proclamations by candlelight.●

● Mr. DRINAN. Mr. Speaker, I rise in support of the conference report on S. 932, the Energy Security Act of 1980.

I am especially pleased to support, in title V of the report before us, the creation of a solar energy and energy conservation bank. I drafted and introduced similar legislation in 1978, shortly after the creation of the first "solar coalition" in Congress. Under title V, the Department of Housing and Urban Development would provide through local financial institutions subsidized loans to persons and businesses making energy conservation improvements or installing solar energy equipment. My original proposal to encourage industrial energy conservation which I first introduced in 1975, has also been adopted in the committee report. Both proposals provide for an accelerated research, development, and demonstration program in this area. Other provisions in this section of the legislation would provide matching grants for residential conservation efforts, allow utilities to finance conservation measures, and provide grants to States to train and certify energy auditors.

The provisions of title V, combined with the tax credits for solar applications in the Windfall Profit Tax Act recently signed into law, will do a great deal to reduce the effective price to homeowners of installing appropriate equipment. In so doing, these measures will combine to reduce heating and cooling bills for millions of Americans and will reduce our need for expensive imported oil. I am proud to have played a part in the evolution of this facet of the legislation before us today.

I am similarly encouraged by the incorporation of several other provisions. Adoption of this legislation would create a broad biomass and alcohol fuels program, require the Federal Government to use gasohol in its vehicles wherever practical, establish an Office of Energy from Municipal Waste in order to expedite the recovery of energy from this burgeoning source, and create new incentives for the use of renewable energy resources such as hydropower, and set up a pilot program to promote local energy self-sufficiency. Another provision would promote through studies and demonstration projects the increased utilization of geothermal energy, the natural heat of the Earth.

Of special interest to the people of New England is the provision instructing the President to resume filling the strategic petroleum reserve (SPR). Today we remain vulnerable to another OPEC boycott or to any supply disruption by our foreign oil suppliers. Because New England generates 58 percent of its electricity with residual oil, of which 97 percent is imported, the people I represent will be particularly pleased that the SPR—including a regional product reserve—will be filled over the next few years.

Another section in the conference report mandates a study on acid rain, again of particular concern of New Englanders, and on the causes and effects of a buildup of carbon dioxide in the atmosphere. We in the Northeast are exposed to acid rain generated due to coal burning in the Midwest and suffer more than any other region from its effects. The research mandated here should provide the basis for a thorough response to the problem.

My support of the conference report on S. 932 is not without some apprehension, however. Of the $25 billion authorized by this legislation $20 billion would serve to financially assist private industry to produce synthetic fuels from coal, oil shale, and other sources. Under present technology, the production and use of synfuels would lead to the production of toxic wastes and constribute to the buildup of carbon dioxide in the atmosphere, already areas of grave concern. In addition, the authorization of this great sum of money and the possible authorization of $88 billion for the federally owned Synthetic Fuels Corporation over its 12-year lifetime could well reduce the amount of Federal funds available for more worthwhile and cost-effective projects such as those I have outlined earlier. It could cause private industry to focus its efforts and capital on synthetic fuels to the exclusion of conservation technologies and renewable energy sources.

Despite these reservations, I support this comprehensive energy package and urge the support of my colleagues. No other legislation thus far this year or for the foreseeable future does more to address our energy problems. A positive piece of legislation, the product of many hours of debate and discussion, the conference report on S. 932 deals with these problems on several fronts and is deserving of our approval today.●

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, in the conference on S. 932, the House conferees were outnumbered by three to two, but we had a secret weapon. Our secret weapon was the majority leader of the U.S. House of Representatives, and I now yield the balance of the time remaining to our "secret weapon," the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I am flattered by that description.

We come to the end of a long trail. For many of us this has been an agonizing journey. For me personally today is the fulfillment of a vow that I made to myself almost 4 years ago, on September 23, 1976, when the House, by a margin of only one vote in the closing days of the session, failed to take up a bill that would have provided a start in the development of synthetic fuels. On that day, I made a promise to myself that I would not rest until we had corrected that deficiency.

This bill, as it comes before us now, is probably the most comprehensive single piece of energy legislation that the Congress has ever passed. It is high time. It is long overdue. Across a broad front, it contains initiatives for both conservation and development.

In 1973 when the Arab embargo should have shocked us out of our lethargy and into dramatic action, this country was importing some $8 billion worth of foreign oil. We thought that was too much, and indeed it was. This year, because of our profound reliance upon foreign sources, because in the intervening years we have failed to make this Nation energy independent, we will be spending some $80 billion—10 times as much—for foreign petroleum. And that exacerbates every other economic ill that besets the country.

This bill, I think, is a monument to the cooperation between the various House and Senate committees. It is a tribute to the ability of the House and the Senate to work together in the pursuit of creative solutions. It is in all respects a bipartisan product, and a tribute to the bipartisan spirit which can rise above partisan considerations when the national interest is at stake. And I want to say, over and above all of this, that it is a tribute to the persistence, the perseverance, the patience, and the dogged determination of Bill Moorhead of Pennsylvania, whose leadership has been evident for more than a year, since before that day exactly 1 year ago when we passed this bill overwhelmingly in the House. Each of us owes to Bill Moorhead, the ranking minority member, Stewart McKinney, and to the staff of their committee and to these other committees that have worked so carefully and consistently together a word of very sincere appreciation.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Texas.

Mr. HANCE. Mr. Speaker, it is very important that there be some type of assurance that the Office of Alcohol Fuels has the ability to carry out its functions as prescribed in this bill.

With that in mind, I would like to ask the gentleman if the bill will give the Department of Energy funds in connection with alcohol fuels for operating and capital expenditures rather than all of it being for loan guarantees, purchase agreements, and price supports.

Mr. WRIGHT. Mr. Speaker, the committee definitely intended and the conferees clearly intended that funding provided under the various titles of this legislation would cover both necessary administrative and program expenses. Section 204 in particular of title II provides that $600 million will be available to the Secretary of Agriculture to carry out activities under subtitle A, the Biomass Energy Development, and that $600 million will be available to the Secretary of Energy to carry out biomass energy activities.

Section 204(a) further provides that at least $500 million of that amount will be available to the Office of Alcohol Fuels to carry out its activities.

I can think of no broader term of description than the word "activities." That language definitely is intended to provide not only money to be used for financial assistance to alcohol fuel projects but also money for whatever necessary administrative expenses may be entailed, as well as other operating expenses.

Mr. HANCE. Mr. Speaker, I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, the importance of this legislation can be seen when we realize that this Nation is hemorrhaging economically by some $80 to $90 billion this year because we have allowed ourselves to become so painfully dependent upon foreign sources.

Beside that amount, which in a decade would cost us some $800 or $900 billion, very close to a trillion dollars—money that could be used to produce American goods, to buy American products, and to employ American workers—that $20 billion that we have made available for the Synthetic Fuels Corporation to commit—not spend, but commit—to stimulation investment in the private sector of an equivalent or a greater amount during the next 4 years, then that figure fades into insignificance by a comparison.

We have done those things necessary, I think, to avoid any of the predictable errors of administration that might creep into a program of this kind. We have tried by prudent restrictions to avoid the fatal errors of a runaway bureaucracy. Indeed we have tried to streamline an organization in the Energy Security Corporation which will be relatively free of the bureaucratic redtape which hamstrings so many agencies today.

We have given it a mandate. We have said to this Energy Security Corporation that we fully expect them to make available loans, loan guarantees, and guarantees of purchases sufficient to stimulate investment in the private American sector of enough money to create specific quantities of American energy from America's indigenous resources. From the coal and oil shale that lie under our grounds and from the waste products of our fields and forests, we want that Corporation to make certain we are producing not less than 2-million-barrels of American energy by the end of the decade.

We stand today, in a very broad sense, where this Nation stood in 1941 when the Japanese cut off our rubber supplies and our future was in jeopardy. We acted swiftly then, and resolutely, to create a synthetic rubber industry. It was a truly major factor in our victory in World War II.

So, today let us summon the same wisdom and the same determination and pass this bill by an overwhelming margin as our declaration of energy independence.

● Mr. STOCKMAN. Mr. Speaker, I know that many of our colleagues take their scripture studies very seriously, but I had no idea of just how seriously until I read the conference report on S. 932, the Energy Security Corporation Act. The story of Noah and his ark must have made a deep impression on the conferees. They appear to have come to the conclusion that what our country really needs to get through the energy crisis is its own Noah's ark. After loading up the new energy technologies two by two, the conferees assure us that we will be able to sail away to the mythical land of energy independence, a place where fuel supplies are cheap and plentiful. Arabs ride camels instead of Rolls Royces, and coal liquefaction plants run their auxiliary power system on methane generated out behind the barn.

The only difficulty with this vision of the future is that the conference seems to have lost sight of the basic principle of an ark: it has to float. The S. 932 ark is so overloaded that it would not survive a summer sail on the Potomac. Synfuels plants are piled high on deck; biomass ferments below deck behind small hydroelectric dams; the hold is awash with the product of millions of small alcohol stills, geothermal steam leaks from every pipe, and so many different propulsion systems fill the engine room that even the Treasury will have trouble supplying enough dollars to burn in the boilers.

Instead of carefully selecting the species to board the ark as Noah did, the conferees have behaved like the winner of a contest in which the first prize is all that you can grab off the shelves of a supermarket in 10 minutes. Running down the aisles, the conferees each grabbed their favorite brands off the shelf—oil from coal, shale, tar sands; gas from coal in high, medium, and low Btu versions, liquid fuels from waste, wood and agricultural products; solar in both passive and active modes, as well as photovoltaic; wind tides; geothermal in both large and small variants; small and not-so-small hydroelectric; conservation activities in residential, commercial, and industrial structure—and tossed them into the shopping cart.

Not satisfied with the variety of technologies subsidized under the bill, the conferees assembled an equally diverse package of subsidy mechanisms—loans, loan guarantees, grants, joint ventures, partial equity participation, Government owned-company operated, Government operated-Government-owned.

The result is a package so lacking in a coherent policy toward synthetic fuels and new energy sources that it makes the Christmas tree tax bills look like marvels of consistency. No effort is made to rank projects or technologies according to their value to the economy; $80 per barrel gasahol is just as deserving of subsidy as $20 per barrel equivalent low-Btu gas from coal, while both merit only slightly more consideration than $200 per barrel equivalent high temperature solar process heat.

Worse yet, the bill makes no effort to focus subsidies only on those portions of a project that represent the high-risk, new-technology venture. Thus a synthetic coal gas plant that is located at a new mine could get Federal subsidies for the coal gasifier itself, the coal mine, and a pipeline to transport the synthetic gas to market. Since the latter two could cost as much or more than the actual synthetic fuel producing equipment, the subsidies will rapidly balloon beyond what is necessary to offset the risk involved in the synthetic fuels part of the project.

Perhaps the greatest irony of all in the ESC is that in practical operation it will be nothing more than a money laundry that wrings the risk out of otherwise commercial ventures. The money is coming from the major oil companies, and most of the money is going to go straight back to those same oil companies. Who do you think is going to build most of the synfuels plants? Look at the operators of today's major demonstration projects—Exxon donor solvent, Gulf solvent refined coal, Ashland Oil SRC–1, Texaco Lurgi gasifiers—virtually all of the major new synfuels technologies are the product of oil industry researchers. So we take the money away from oil companies with the windfall profit tax, give it back through the Energy Security Corporation, and end up buying just what the oil companies would have bought. The only difference is that the taxpayers end up assuming the risk of failure instead of their stockholders, the companies are guaranteed a return on their investments as Government contractors, and the Congress gets to have some of the plants located where powerful Members find most appropriate—in their district or State.

Of course, when we turn these otherwise commercial synfuels plants into Government projects we will get all of the fringe benefits of Government participation—waste, inefficiency, and interminable delay.

Listening to the debate, I would have thought that we had finally done something worthwhile about our energy problems after 8 years of inactivity. But the truth of the matter is that we are already spending billions of dollars to subsidize synfuels, gasohol, solar, wind, and conservation. You might recall something called the Department of Energy we set up 3 years ago. What will be the relationship between this new Government entity and the existing programs? I suspect the answers will be none whatsoever, and so we will waste still more billions on unnecessary duplicative projects.

In the end, our energy policy has to be guided by the requirements of our economy. We do not need synthetic fuels, low-lead hydro, geothermal wells, or anything else that is subsidized by this bill, if paying the price of those fuels results in the destruction of our ability to produce goods and services efficiently and at the lowest cost.

By accepting the principle underlying the ESC—that the cost of a new energy supply is less important than its political appeal—we are laying the groundwork for the eventual permanent weakening of our economy. We simply cannot inflict higher and higher energy costs on the U.S. economy and expect to reverse the competitive disadvantages now faced by the major U.S. industries that are pleading for protection from foreign producers. Yet when we artifically introduced a subsidized, high-cost synthetic fuel into the market before it would be able to compete with conventional fuels, that is precisely what we will do.

What we really need is to restore competition to the supply of energy in this country by removing the Government controls that have paralyzed the private sector for almost a decade. We need to accelerate capital formation so that funds are available for investment in new energy projects of all types, both production and conservation. But we must leave the decisions on which projects to fund to the people who actually have to build and operate the plants. They are the ones equipped to make the difficult technical choices involved. And they are far more likely to make the right choice when it is their money, not the taxpayers.

I urge you to vote against the conference report on S. 932.●

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. CARR). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 93, answered "present" 2, not voting 21, as follows:

[Roll No. 372]

YEAS—317

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Marks
Marriott
Matsui
Mavroules
Mazzoli
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Tauke
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—93

Archer
Ashbrook
Badham
Barnard
Bauman
Beard, Tenn.
Beilenson
Brown, Ohio
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Collins, Tex.
Conable
Conyers
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Dellums
Devine
Dickinson
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Evans, Ga.
Fenwick
Findley
Forsythe
Gingrich
Goldwater
Gramm
Grisham
Hall, Tex.
Hansen
Holt
Jacobs
Jeffries
Jones, Okla.
Kelly
Kemp
Kindness
Latta
Leath, Tex.
Lee
Lewis
Livingston
Loeffler
Lungren
McCloskey
McDonald
McEwen
Madigan
Markey
Marlenee
Martin
Mattox
Michel
Mikulski
Moore
Moorhead, Calif.
Nolan
O'Brien
Pashayan
Paul
Regula
Rhodes
Roberts
Rousselot
Rudd
Satterfield
Shumway
Shuster
Stanton
Stark
Stockman
Stump
Symms
Synar
Taylor
Thomas
Walker
Weaver
Weiss
Whittaker
Wilson, Bob
Wolpe
Young, Alaska

ANSWERED "PRESENT"—2

Bafalis
Jeffords

NOT VOTING—21

Abdnor
Anderson, Ill.
Boner
Cheney
Collins, Ill.
Courter

Davis, S.C.
Derrick
Dixon
Erlenborn
Grassley
Harsha
Hawkins
Jenkins
Mathis
Mica
Miller, Calif.
Patten
Runnels
Staggers
Wilson, C. H.

☐ 1540

The Clerk announced the following pairs:

On this vote:

Mr. Staggers for, with Mr. Cheney against.

Mr. Grassley for, with Mr. Jeffords against.

Mr. Abdnor for, with Mr. Courter against.

Until further notice:

Mr. Mica with Mr. Erlenborn.

Mr. Derrick with Mr. Harsha.

Mr. Patten with Mr. Boner of Tennessee.

Mrs. Collins of Illinois with Mr. Davis of South Carolina.

Mr. Dixon with Mr. Mathis.

Mr. Runnels with Mr. Miller of California.

Mr. Charles H. Wilson of California with Mr. Hawkins.

Mr. Jenkins with Mr. Anderson.

Messrs. WEAVER, EDWARDS of California, and PASHAYAN changed their votes from "yea" to "nay."

Mr. TAUZIN and Mr. RANGEL changed their votes from "nay" to "yea."

Mr. JEFFORDS. Mr. Speaker, on this vote I am recorded as "nay." I have a live pair with the gentleman from Iowa (Mr. GRASSLEY). If he were present he would have voted "yea." Therefore, I withdraw my vote and vote "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1550

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 1308, PRIORITY ENERGY PROJECT ACT OF 1979

Mr. FROST, from the Committee on Rules submitted a privileged report (Rept. No. 96–1130) on the resolution (H. Res. 731) waiving certain points of order against the conference report on the Senate bill (S. 1308) to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6704, JUVENILE JUSTICE AMENDMENTS OF 1980

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1131) on the resolution (H. Res. 732) providing for consideration of the bill (H.R. 6704) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to extend the authorization of appropriations for such Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6386, LEGAL SERVICES CORPORATION AUTHORIZATION, 1981

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1132) on the resolution (H. Res. 733) providing for consideration of the bill (H.R. 6386) to authorize appropriations for the Legal Services Corporation for fiscal years 1981, 1982, and 1983, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6667, FEDERAL WATER POLLUTION CONTROL ACT EXTENSION

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1133) on the resolution (H. Res. 734) providing for consideration of the bill (H.R. 6667) to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery, which was referred to the House Calendar and ordered to be printed.

DESIGNATING JULY 18, 1980, AS "NATIONAL P.O.W.–M.I.A. RECOGNITION DAY"

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 507) designating July 18, 1980, as "National P.O.W–M.I.A. Recognition Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 507

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardships; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families is deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1980, is designated as "National P.O.W.–M.I.A. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

● Mr. SANTINI. Mr. Speaker, I rise to ask the House to approve, by unanimous consent, House Joint Resolution 507, which establishes July 18, 1980, as "National POW–MIA Day" to recognize American prisoners of war and missing-in-action of all previous conflicts.

A national POW–MIA recognition day would provide a fitting forum to demonstrate our concern for their past sacrifices and their future realities.

It would say to them that we remember the frustration of not being able to reach out and help, we remember the nagging suspicions caused by not knowing, and we remember the joy and our pride when they returned.

During the last four major conflicts there were more than 142,000 American POW's, and it is estimated that more than 98,000 of these are alive today. The Department of Defense still lists 42 active MIA's.

The response to my resolution, both from my fellow colleagues and the public, has been overwhelming and extremely gratifying. I urge the House to enact this resolution without hesitation or delay. Thank you.●

● Mr. GILMAN. Mr. Speaker, I rise in support of this legislation introduced by my colleague, Mr. SANTINI, which proclaims July 18 as National POW–MIA Day. As a cosponsor of this legislation I am gratified that the House has brought this measure to the floor under unanimous consent, and am pleased that the Senate, under the leadership of the distinguished Senator from Kansas, Mr. DOLE, has adopted this resolution.

Last year's commemoration of National POW–MIA Day was widely and fully supported as the memories of our missing in action were brought to public attention. This year, the tragic hostage situation in Iran, has renewed interest in our American POW–MIA's. We must not allow the memories of our 2,500 Americans to be brushed aside, as we continue in our struggle to obtain a full accounting of the Americans who so bravely defended our Nation, and who have paid so dearly for our freedom.

A day to commemorate the sacrifices of our missing in action and prisoners of war is an appropriate tribute to these 2,500 Americans. We are not commemorating the deaths of these individuals, but rather, this commemoration will focus on the men who never returned home—with the hope and faith that some of them may still be alive. We cannot in good conscience hold a memorial service for these men when our Government has not yet achieved a full accounting. Let us not allow the bureaucratic presumptive findings of death which have been handed down to close the book on the families of our missing Americans.

By designating July 18 as National POW-MIA Day, let us reaffirm our commitment to obtaining a full accounting of the whereabouts of our missing.

Accordingly, I urge the passage of this resolution which is a befitting tribute to our POW's and MIA's who have not returned from the hostilities in Southeast Asia, and I urge my colleagues to encourage appropriate ceremonies in their respective districts on POW-MIA Recognition Day.●

The SPEAKER. Without objection, the previous question is ordered on the joint resolution.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 224, nays 5.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement: Following the rollcall, the House will take up the State and Justice Appropriations, rise at 6 o'clock, and take up the rule on the Rail Act of 1980. With the completion of that, the business of the day will be over.

The vote was taken by electronic device, and there were—ayes 395, noes 0, not voting 38, as follows:

[Roll No. 373]

AYES—395

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—38

Abdnor
Anderson, Ill.
Boner
Broyhill
Cheney
Collins, Ill.
Conyers
Courter
Davis, S.C.
Derrick
Dixon
Erlenborn
Gingrich
Grassley
Harsha
Hawkins
Jenkins
McCormack
McEwen
Mathis
Mica
Miller, Calif.
Mitchell, Md.
Moffett
Murphy, N.Y.
Nolan
Patten
Reuss
Rhodes
Runnels
Solarz
Staggers
Steed
Stokes
Watkins
Waxman
Wilson, C. H.
Wydler

□ 1610

The Clerk announced the following pairs:

Mr. Staggers with Mr. Wydler.

Mr. Reuss with Mr. Rhodes.

Mr. Derrick with Mr. Grassley.

Mr. Murphy of New York with Mr. Gingrich.

Mr. Mitchell of Maryland with Mr. Erlenborn.

Mr. Mica with Mr. Abdnor.

Mr. Hawkins with Mr. Anderson of Illinois.

Mr. Solarz with Mr. Cheney.

Mr. McCormack with Mr. Courter.

Mr. Patten with Mr. Dixon.

Mr. Stokes with Mr. Harsha.

Mr. Waxman with Mr. Runnels.

Mr. Steed with Mr. Watkins.

Mr. Charles H. Wilson of California with Mr. Jenkins.

Mr. Miller of California with Mr. Mathis.

Mr. Moffett with Mr. Nolan.

Mr. Boner of Tennessee with Mr. Broyhill.

Mrs. Collins of Illinois with Mr. Davis of South Carolina.

Mr. Conyers with Mr. McEwen.

Mr. LELAND changed his vote from "no" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COOK INLET LAND EXCHANGE TIME EXTENSION

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7573) to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. YOUNG of Alaska. Reserving the

right to object, and I shall not object, I just would like to have the chairman explain the bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, H.R. 7573 would amend Public Law 96-55 so as to extend until July 15, 1982, the authority of the Bureau of Land Management and the General Services Administration to place certain types of land in a "pool" for possible selection by Cook Inlet Region Inc., as part of that regional corporation's land entitlement under the Alaska Native Claims Settlement Act (as amended).

Mr. Speaker, this is the second time that such an extension has been brought before the House during the present Congress. I regret taking the time of the House on this matter today; but it is necessary to do so because the other body has not yet seen fit to begin its consideration of the Alaska National Interest Lands Conservation Act (H.R. 39). Both the version of that important legislation which passed the House (360-65) on May 16, 1979, and the version which the Senate committee reported on November 14, 1979, contain provisions which would make permanent and broaden the authority of BLM and GSA which this bill merely extends. However, the present statutory authority of these agencies with regard to this matter expires on July 15, 1980, and it is evident that the Alaska lands legislation cannot be enacted before that date. Thus, it is again necessary to extend this authority to avoid the risk that otherwise eligible properties will not be available to Cook Inlet as part of its entitlement under the Alaska Native Claims Settlement Act.

Mr. Speaker, I believe that this measure is completely noncontroversial. It was unanimously approved by the Subcommittee on Public Lands and the full Committee on Interior and Insular Affairs, and I urge its acceptance by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I want to compliment the gentleman, the chairman of the Subcommittee on Public Lands, for bringing this bill forth on the floor of the House. We are faced with a deadline of July 15. There is absolutely no opposition to the bill. The committee has ordered the bill marked up and will present it and pass it today. The Senate will agree, and we will get it done.

I do urge passage of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. SEIBERLING)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 14, 1979 (93 Stat. 386), is hereby amended to strike "twelve" and insert in lieu thereof "thirty-six".

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. LOEFFLER) there were—ayes 97, noes 7.

Mr. LOEFFLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 0, not voting 38, as follows:

[Roll No. 374]

YEAS—395

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—38

Abdnor
Anderson, Ill.
Boggs
Boner
Bonior
Breaux
Broyhill
Cheney
Collins, Ill.
Courter
Davis, S.C.
Derrick
Dixon
Erlenborn
Gingrich
Grassley
Harsha
Hawkins
Hyde
Jenkins
Maguire
Mathis
Mica
Miller, Calif.
Mitchell, Md.
Moakley
Murphy, N.Y.
Patten
Peyser
Reuss
Rhodes
Roberts
Runnels
Solarz
Staggers
Symms
Wilson, C. H.
Wydler

☐ 1630

The Clerk announced the following pairs:

Mr. Staggers with Mr. Rhodes.

Mr. Roberts with Mr. Symms.

Mr. Murphy of New York with Mr. Wydler.

Mr. Reuss with Mr. Gingrich.

Mr. Mitchell of Maryland with Mr. Erlenborn.

Mr. Derrick with Mr. Anderson of Illinois.

Mr. Miller of California with Mr. Broyhill.

Mr. Breaux with Mr. Abdnor.

Mr. Patten with Mr. Courter.

Mr. Solarz with Mr. Hyde.

Mrs. Boggs with Mr. Harsha.

Mr. Moakley with Mr. Mica.

Mr. Dixon with Mr. Peyser.

Mrs. Collins of Illinois with Mr. Maguire.

Mr. Bonior of Michigan with Mr. Cheney.

Mr. Hawkins with Mr. Davis of South Carolina.

Mr. Mathis with Mr. Grassley.

Mr. Boner of Tennessee with Mr. Jenkins.

Mr. Charles H. Wilson of California with Mr. Runnels.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7584, which we are about to consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and on a division (demanded by Mr. LOEFFLER) there were—yeas 84; nays 27.

Mr. LOEFFLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 11, answered "present" 1, not voting 46 as follows:

[Roll No. 375]

YEAS—375

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mavroules
Mazzoli
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—11

Broomfield
Conable
Derwinski
Grisham
Holt
Jeffries
Lloyd
McDonald
Marlenee
Mattox
Thomas

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—46

Abdnor
Anderson, Ill.
Beard, R.I.
Boner
Bonior
Broyhill
Cavanaugh
Cheney
Collins, Ill.
Coughlin
Courter
Davis, S.C.
Derrick
Dingell
Dixon
Erlenborn
Giaimo
Gingrich
Grassley
Harsha
Hawkins
Holtzman
Hyde
Jenkins
McCloskey
Mathis
Mica
Miller, Calif.
Mitchell, Md.
Murphy, N.Y.
Myers, Pa.
Patten
Reuss
Rhodes
Runnels
Sharp
Simon
Solarz
Staggers
Stark
Stokes
Symms
Volkmer
Waxman
Wilson, Bob
Wilson, C. H.

☐ 1640

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7584, with Mr. VAN DEERLIN, Chairman pro tempore, in the chair.

☐ 1650

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, June 20, 1980, the Clerk had read through line 12 on page 9, and pending was an amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The Chair recognizes the gentleman from Maryland (Mr. BAUMAN) for 5 minutes in support of his amendment.

Mr. BAUMAN. Mr. Chairman, shortly before the Committee rose on this bill last week, an amendment was offered by my distinguished colleague, the gentleman from Ohio (Mr. ASHBROOK), to cut the State Department authorization contained in title I by 10 percent. It failed by only a few votes, I believe six votes.

Now, as is the keeping between the gentleman from Ohio and the gentleman from Maryland, I am always more conservative than he is, and my amendment only cuts it 5 percent. Or perhaps that is more liberal. But I do believe there is full justification for this reduction in spending of the operating costs of the Department of State.

If the Members will look at the committee report, on page 4, they will see that this bill appropriates in new budget obligational authority $1,565,608,000 and no cents for the Department of State. That is an increase over last year of $193,584,000.

Now, I know there is a temptation to attach to an argument for saving money when it deals with the State Department, the policies which that Department administers. I am not going to make that crass argument today, because, quite frankly, if we voted on the policies of the State Department rather than the money, we would probably deny them all funding for the year. But I want to devote myself to the issue of whether they are spending too much. And they are.

My amendment suggests that out of the $1,565,608,000 and no cents we cut $78,280,000, and that is only a small portion of the enormous increase that this bill allows under that account.

We have done some research into the spending of the State Department, and let me refer the Members to two accounts, the Administration of Foreign Affairs, salaries and expenses account, and the international organizations and conferences and contributions to international organizations account. We find that in that area alone, there has been an increase of spending over last year of $100,604,000. That is 6.4 percent of the total money appropriated in this title, and I am only asking for the Members to cut 5 percent. That cut could be spread over the numerous accounts that exist under the State Department.

So I think that this is a very modest approach.

Now, let me make another point to the committee. In the six appropriation bills that have been reported—and more, I think, since last week—the Appropriations Committee has in their wisdom seen fit to ignore the targets of the Budget Committee. In those 5 or 6 bills that were reported last week, more than one-half billion dollars more is being appropriated than the Budget Committee targeted. In other words, we are already half a billion dollars beyond the targets of the budget resolution we passed here several weeks ago. Unless we make these cuts in each department, in this case, starting with the Department of State, we are never going to meet the budget targets, we are never going to approach that mythical balanced budget that some people would like to have sincerely and others only talk about.

So what I am asking here today is not radical at all. It is a modest 5-percent cut. The gentleman from Iowa will protest that these figures reflect the best judgment of the committee. And that is true. But if the judgment of the committee was the final say, we would not have a House of Representatives, we would let them pass laws. It is brought before us to make a judgment.

Let me add one other point. I have before me a copy of the General Accounting Office's report on the employment of foreign nationals by Federal agencies. You may not have noted, but there are 178,000 foreign nationals employed, at a cost of $1½ billion, by the Departments of State, Defense, and all of the other Federal agencies. Do you know who gets the most GAO criticism for this kind of employment and the exorbitant pay scales that are applied to foreign nationals employed abroad? The Department of State. They are well ahead of the Department of Defense, which the GAO commends for more modest approaches. When the Department of State has a foreign national, do they pay them pensions based on the local wage scales, the local pension system? No. They always put them under the U.S. Federal pension system which they do not necessarily have to do. The GAO recommends—you may read it here—that they should reduce foreign nationals' salary schedules to local wage rates, that they look at the private sectors in the foreign countries rather than paying at the higher levels and correct the wage errors that occur.

So that is typical of the kind of judgment made by our General Accounting Office that we ask to watch how agencies are spending.

All I am saying is, a 5-percent cut is not too much.

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. My understanding is that the gentleman's 5-percent cut in this appropriation for the State Department still leaves the appropriation roughly $150 million more than it was last year.

Mr. BAUMAN. Well, it will leave the appropriation about $120 million more than it was last year for the State Department operations.

Mr. ROUSSELOT. At any rate, what it means is that this still accommodates inflation, and that it is no great "cut, meat axe approach." It generally leaves as much funding as they had last year, and a little bit more.

Mr. BAUMAN. I do not think it will hamper any of the operations of the State Department or curtail their activities in any way that will harm the United States.

Mr. ROUSSELOT. I compliment the gentleman for his amendment, and I cannot see any reason why we should not support the gentleman.

Mr. BAUMAN. I somehow knew that the gentleman from California would agree with me.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

I want to point out, first of all, that this bill is under the allocation of budget authority and outlays to our subcommittee that is required by section 302(b) of the Budget Act. Perhaps some other bills were not under the allocations made for them. But we went through this bill one item at a time and in a painful manner extracted $211 million below the budget request so that we could be under the allocation to the subcommittee also. So this bill is now under that allocation.

Now, a couple of other things about the State Department. There are two items in the bill that require extra money compared to last year. That is one reason we made reductions in some other places, so that we could accommodate these items. One is that there is $35.8 million in here for increased security at overseas posts. I think that in view of what has happened during the last year, there should be no doubt that they need this increased security. If we pass this amendment, which would remove about $78 million from the overall State Department budget, there is no way that I can see that they can provide increased security at these overseas posts. They have had some unusual expenses with regard to Iran and other places where emergencies have occurred and they had to shift people back and forth. That is a very expensive operation over which the State Department had no control.

Also, the International Labor Organization contribution is in here for $23.6 million. We were not making that a year ago and the year before, but we are now back in the Organization and owe the annual dues. We looked for ways to economize. We made reductions in the budget requests for the department and agencies in the bill to the point where we think the total in the bill is rather lean overall, and as I said, is below the allocation to the subcommittee.

□ 1700

Mr. Chairman, I would hope that we would not adopt this amendment.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman for yielding.

Is it not true that the budget that we adopted in committee is also in excess of 5 percent below what came to us after being screened through OMB?

Mr. SMITH of Iowa. That is correct.

Mr. O'BRIEN. Mr. Chairman, I rise in opposition to the amendment as well.

Mr. SMITH of Iowa. Mr. Chairman, we tried to do a good job in the committee. I ask the House to stay with us on this.

Mr. ASHBROOK. Mr. Chairman, I rise in support of this modest proposal to hold the line on spending by the bureaucrats in the State Department. Last week this House narrowly rejected a 10-percent limitation on the State Department which I offered. That amendment, like this one, is not a cut, but a limitation on the increase. This is a distinction that is missed by many when similar amendments are discussed on the House floor.

A great weight is always given to the fact that the funding levels brought to the floor of the House are lower than the levels requested by the agency. In fact, the present appropriation level is 5 percent below what the State Department wanted. However, this does not present an entirely accurate picture.

Agencies receive projections from the Office of Management and Budget (OMB) which show the level of funds needed to provide the same level of services for the next fiscal year based on inflation. This is called current services. The Congressional Budget Office provides similar figures and they are called current policy. A bureaucrat can hold to these figures or, in most cases, ignore them in favor of jacking up the level of funds needed in the hopes that something in between will result.

In the case of the State Department, the bureaucrats asked for a sum close to $100 million over the level actually needed to maintain present operation or "current services." The Appropriations Committee cut this figure back, but the State Department is still receiving many millions over the base sum. This gamesmanship turns the highly praised "zero-based budgeting" system inside-out as the zero base is merely the launching pad from where the executive branch forages for more money instead of the level from which further cuts are considered.

If this House wants to stand aside and watch this foraging occur then it may take the outrage of taxpayers across this Nation on November 4 to show the error of such a policy. There is a more immediate concern I would like to voice. While this Congress must answer to the voters in November, it must answer to itself come late summer when the second budget resolution comes to the floor. This amendment is an excellent time to begin to consider how these appropriations are already beginning to make a mockery of the budget process many here hold so dear.

For a good share of April, May, and June the Congress debated the so-called balanced budget that was finally adopted a short while ago. While I consider the budget resolution a mere shadow of what was really needed to control Government spending, it is the document that is supposed to guide this Chamber's consideration of spending bills. If we are at all serious about the budget process some attempt should be made at following the guidelines established in the first resolution on the budget. This amendment, and others that will be offered, are trying to hold to the resolution and to the process of placing some overall constraints on the spending of tax dollars.

On June 23, the Budget Committee printed its assumptions as to what the various spending ceilings should be if the House is to hold to the first resolution on the budget. These assumptions distribute the restraints on allowances and other across-the-board cuts to each appropriation bill on equal grounds and makes minor adjustments in the levels agreed upon depending on other factors inherent in the appropriation process. According to the budget assumptions this entire appropriation bill is over $483 million above the first resolution.

Neither these budget ceilings nor any other set of budget ceilings have been adopted by the Appropriations Committee as is required by section 302(b)(1) of the Budget Act of 1974. That section states:

> MATTERS TO BE INCLUDED IN JOINT STATEMENT OF MANAGERS; REPORTS BY COMMITTEES
>
> SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.
>
> (b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—
>
> (1) the Committee on Appropriations of each House shall after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts;

However, if we are to hold to the overall budget figures, the line must be held somewhere in the appropriation process. If this House decides to approve the spending in this title or this bill then that means more funds will have to be cut somewhere else. The pie is only so big. If the State Department, the Commerce Department, the Justice Department, and all the smaller agencies in this bill want a bigger slice of the pie than is embodied in the budget resolution then that means a smaller piece will have to be cut for someone else. Where will that be?

If this House does not start cutting the Federal pie equitably now, where will the cuts occur? I suggest that my colleagues not wait for the Treasury-Postal Appropriations because they are already exceeding the budget by $705 million. Do not look at the Agriculture Appropriations, for they are over budget by $385 million. In each case the spending has gone on unabated by the fact that this House passed some guidelines just 2 weeks ago. Either the House must hold the line where the Appropriations Committe did not, or several billion dollars in additional spending could slip through this Chamber. The recourse at that point will be to truly gut the remaining funding bills, probably the Department of Defense and Labor-HEW, or scrap the first budget resolution in favor of an embarassingly different second budget resolution. The House is spending itself into a corner unless it begins, today, by holding these bills in line with the spending guidelines.

Another results of this budget-busting policy is that it provides adequate opportunity for abuse by the bureaucrats. Last year when I offered a similar budgetary constraint amendment to the State Department authorization bill I was told such a constraint would severely damage programs. This House was told the budget was tight, and was already cut to the "bone and sinew" of the Department. It was not long before the State Department found all sorts of excess money to use for other purposes. This spring the State Department found $7.6 million of spare money to use to bail out the Federal Trade Commission. Where does all of this slush money come from if not from the fat built into the budget by the appropriations process?

It has always been hard for the Congress to say no to the special interests and the bureaucratic empires which seek ever more funds from the public trough. It is now time to say yes to the taxpayer: Yes to holding the spending in check; yes to less waste; yes to accountability.

Saying yes is what the Congress does best. Today we can begin saying yes to the right group—the taxpayers who will have to foot the bill if these appropriations are not held in line. We must hold the line on the State Department bureaucracy so that the line can be held equitably on all other agencies and departments. If this House caves in now it will set the stage for a continuation of the fiscal disaster it has been a partner to for the past 25 years. It is time to change this annual ritual of waste. This amendment is a good place to begin. I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 14, noes 18.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 376]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.

Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1720

The CHAIRMAN. Three hundred and sixty-nine Members have answered to their names. A quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

Does the gentleman from Maryland wish to pursue his demand for a recorded vote?

Mr. BAUMAN. Most assuredly, Mr. Chairman.

A recorded vote was ordered.

The CHAIRMAN. In accordance with the Chair's prior announcement, the time for the vote will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 240, noes 144, not voting 49, as follows:

[Roll No. 377]

AYES—240

Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bereuter
Bethune
Boland
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fish
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Heckler
Hefner
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McKay
McKinney
Madigan
Marlenee
Marriott
Martin
Mattox
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Oakar
Panetta
Pashayan
Paul
Petri
Pickle
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rinaldo
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Swift
Tauzin
Taylor
Thompson
Trible
Vander Jagt
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOES—144

Addabbo
Akaka
Alexander
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Clay
Coelho
Conable
Conyers
Corman
Danielson
Dellums
Dodd
Downey
Duncan, Oreg.
Eckhardt
Edgar
Erdahl
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Frenzel
Garcia
Gibbons
Ginn
Gonzalez
Gray
Green
Hall, Ohio
Harkin
Harris
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Johnson, Calif.
Kastenmeier
Kildee
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
McCloskey
McHugh
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Moakley
Moffett
Musto
Myers, Pa.
Nedzi
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patterson
Pease
Perkins
Peyser
Price
Pritchard
Rangel
Ratchford
Richmond
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Stark
Stewart
Stokes
Stratton
Studds
Synar
Tauke
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Weiss
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Yates
Zablocki
Zeferetti

NOT VOTING—49

Abdnor
Anderson, Ill.
Bevill
Boner
Broyhill
Cavanaugh
Cheney
Chisholm
Collins, Ill.
Courter
Davis, S.C.
Derrick
Dingell
Dixon
Drinan
Edwards, Calif.
Erlenborn
Florio
Ford, Mich.
Giaimo
Grassley
Hansen
Harsha
Hawkins
Holtzman
Jenkins
Kemp
McEwen
Mathis
Mica
Mitchell, Md.
Moorhead, Pa.
Murphy, N.Y.
Nolan
Patten
Pepper
Reuss
Rhodes
Roberts
Runnels
Solarz
Staggers
Steed
Symms
Thomas
Volkmer
Waxman
Wilson, C. H.
Wright

The Clerk announced the following pairs:

On this vote:

Mr. Staggers for, with Mr. Solarz against.

Mr. Cheney for, with Mr. Mitchell of Maryland against.

Mr. Courter for, with Mr. Dixon against.

Mr. Hansen for, with Mr. Hawkins against.

Mr. Thomas for, with Mrs. Chisholm against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read title I.

PARLIAMENTARY INQUIRY

Mr. LEVITAS (during the reading). Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. LEVITAS. Has the Clerk finished reading the first title?

The CHAIRMAN. There is one more line to be read in the first title.

Mr. LEVITAS. There is one more item?

The CHAIRMAN. Yes.

The Clerk will read.

The Clerk concluded reading title I.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—DEPARTMENT OF JUSTICE

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in order to raise a question about a provision or an amendment which I may offer later in the course of the proceedings, but specifically as it may relate to the State Department in this instance. The administration through the Attorney General has announced that where Congress has undertaken to exercise a veto of executive action or of executive department regulations, the administration will not consider these as binding actions upon the administration.

☐ 1730

In short, they have stated publicly that even if a provision for a congressional veto of a regulation or an action by the Executive is written into the law and the Congress exercises that veto in accordance with the law that the administration will simply consider it as advisory and nonbinding. They have manifested that position already in the case of the Department of Education by means of an announcement that although the Congress has vetoed four regulations of the Department of Education, they intend to continue to implement.

Now, the reason it is particularly pertinent in the State Department situation is at this very time, both Houses of Congress are considering resolutions of disapproval of the proposed sale of nuclear fuel to India. It is expected that the House and the other body may approve by concurrent resolution a disapproval of that sale and my question is, which I direct either to the distinguished chairman of the subcommittee, if he knows, or to the chairman of the Committee on Foreign Affairs, if he knows, whether or not the administration and the State Department have given any indication that they would consider as binding the concurrent resolution of disapproval if it is passed by both Houses of Congress or if they do not, I think the only way in which we can effectively enforce that provision of the law would be to provide a limitation for funding in this bill so that no funds appropriated by this bill could be used for purposes of implementing the disapproved action and so for that reason I would be happy to yield either to the chairman of the subcommittee or to the chairman of the Committee on Foreign Affairs if they know the answer to that question.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. The gentleman from Wisconsin has no indication or any opinion that the Department of State nor any of the Executive representatives have made any indication whether they would or would not deal with the resolution of disapproval merely as advisory but as in the past, however, in most instances, particularly in foreign policy, they did not take it as advisory but maintained or abided by the position taken by the legislative branch.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for his statement.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. McCORMACK. I would like to say I agree with the gentleman's position that the administration should be taking such resolutions for disapproval not as advisory but as actually restraining upon the administration.

Mr. Chairman, I hope the gentleman will not use the example he has used because I am quite certain that when this debate comes to the floor the House will not enact a disapproval of the sale of nuclear fuel to India but will approve the sale once the Members understand what it is about.

Mr. LEVITAS. I thank the gentleman. I do not want to prejudge what the House will do. I appreciate the gentleman's pointing out that aspect of it. I do not intend to anticipate the action of the House. I am simply saying that regardless of the merits of it, I would like to be assured that if the House and the other body should adopt such concurrent resolution that it would be respected and I would hope that the Committee on Foreign Affairs during the course of its hearings on this matter might get some assurances that the administration intends to follow the law, should it be implemented.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DANIELSON and by unanimous consent, Mr. LEVITAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. I yield to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. I thank the gentleman for yielding.

I appreciate fully the gentleman's concern and great sincerity, motivation, in raising this point of congressional veto.

I respectfully urge, however, that we not let the appropriation bills which are now under consideration and which may be under consideration in the immediate future, to get hung up, tied up over this very real question of legislative veto.

The question of legislative veto, itself, is an immense question, a very far reaching question and one that should be considered on the merits, either by itself or in a legislative framework in which it is a major thrust.

Mr. Chairman, this is terribly important. I do not belittle it at all but there are some very grave questions of constitutionality which someday will have to be resolved. They can be resolved only in one forum, the Supreme Court.

Mr. Chairman, I would urge my good friend from Georgia, who has done more than anyone, I think, in the history of this Congress, to sharpen the issue of legislative veto, that the gentleman withhold any effort he may feel brewing within him at the present time to attach legislative veto to these measures.

Mr. LEVITAS. Mr. Chairman, I can assure the gentleman from California that I have no intention of trying to offer legislative veto amendments to any appropriation bill. I think it would be out of order, it would be legislating on an appropriation bill.

I only suggest, Mr. Chairman, where there is already a legislative veto in the authorizing legislation or in the charter and it is exercised, that the administration obey the law.

The gentleman is correct, the Supreme Court should decide whether it is constitutional, not the Attorney General, not the President. The President's job is to faithfully execute the law. I will have more to say about this later.

Mr. DANIELSON. I thank the gentleman for his comments. I do hope we can bring out a proper form of legislation to give this the acid test.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding and I applaud the gentleman's efforts to stand up for the prerogatives of the House. I would hope we would not just throw them out and yield so easily. There is the power of the purse, a number of substantial constitutional issues that are involved that relate to our tripartite form of government, the prerogatives and rights of this House and I appreciate the efforts of my colleagues in endeavoring to uphold what should be the constitutional rights, as they relate to the power of the purse, of this body. The gentleman is to be commended for what he is doing. I think we should not yield those under any circumstances.

Mr. LEVITAS. I thank my colleague. I do not intend to yield to that type of pressure.

Mr. Chairman, this is a simple proposition, whether one favors or opposes the concept of legislative veto. Once the legislative veto has been exercised, it is a disobedience of the law by those charged with the responsibility of executing the law to disregard it and I do not think we ought to give them money to disobey the law and at the proper time appropriate amendments will be offered to simply say that where a legislative veto has been exercised and has been passed into law, that is should be respected and we should not spend taxpayers' money to disobey the law.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred thirty which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $347,700,000, of which not to exceed $400,000 shall remain available for such research until expended.

AMENDMENT OFFERED BY MR. BURGENER

Mr. BURGENER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURGENER: On page 13, line 4, delete "$347,700,000" and insert in lieu thereof "$352,644,000".

☐ 1740

Mr. BURGENER. Mr. Chairman, my amendment would add $4.9 million to restore 160 positions to the Border Patrol which the administration wants to delete. I think the committee has done an excellent job with this bill. They brought us a more balanced bill, and this $4.9 million is modest indeed when we are considering a bill of $8.5 billion.

Now, the need is critical. Last year, in conference on this very bill, we were able to add $14.5 million for some 300 or more positions, but the President would not spend the money even after he had publicly proclaimed that the need was for a thousand positions.

I would point out that the authorized level for fiscal year 1980, the year in which we are in, for Border Patrol is 2,348 positions. Presently on board are 2,120, so we are already 228 short. Now, the facts are that we have no coherent, rational, understandable immigration policy. In this particular amendment, I am not talking about the boat people; I am not talking about the Cubans; I am not talking about the Haitians, important as that emotional issue is, and it is important. I am not talking about them. I am talking about the border between the Republic of Mexico and the United States of America.

Let me give the Members a couple of startling statistics. Last year, in 1979, the Border Patrol between Texas and California apprehended 918,000—almost a million—people, apprehended at a border and turned them back. That is more than 2,500 per day. The boat people, the Cubans and Haitians, important as that is, are a drop in the bucket to what is happening on the Mexican-American border.

The Border Patrol people estimate that for every one they apprehend, at least two are not apprehended and do indeed come into the United States. When they do catch them, of course, there is no penalty except to haul them back across the border so that they can try the next day.

Let me give the Members a quote from Herbert Walsh, president of the Border Patrol Supervisors Association, Chief of the Tucson, Ariz., sector. He said just a couple of months ago:

> We don't have any control of this border right now.

How many are in the United States today? Nobody knows. Estimates range all the way from 6 to 12 million; some would say more. Why do they come? They come to work. They come for the same reason our forefathers came to this country, but it does not happen to be legal to enter the country without permission.

What kind of people are they? I think in the overwhelming majority they are decent and hardworking people. Why do they stay? They stay because it is not against the law to hire them. There is no penalty for the employer. You can hire all you want, and if apprehended, merely hauled back across the border to come back another day.

They live under the shadow of the law while they are here. Their rights are ambiguous, not clearly defined, and it is wrong. We desperately need a national policy, and we have none.

Now, let me share a couple of thoughts with the Members as a border representative who has in his district about 200 miles of the Mexican-United States border. For several years, I, with many cosponsors on both sides of the aisle, have introduced comprehensive legislation to deal with the illegal alien or undocumented worker problem. Let me indicate the general thrust of that without discussing that legislation because that will be a subject for another day. We make no attempt to close the border. We are not suggesting a Berlin Wall be built. We think it is neither possible nor is it advisable.

In many, many areas, we need them and they need us. But, it is totally out of control at the present time. Our legislation, if it is ever considered—and I have been unable to get a hearing—would protect American labor first. It would say that any prospective employer would have to publicly advertise.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. Van Deerlin and by unanimous consent, Mr. Burgener was allowed to proceed for 5 additional minutes.)

Mr. BURGENER. I thank my colleagues. This is a very, very serious problem for not only the border States, but the entire United States, because once across the border the undocumented workers and the illegal aliens go all over the country, of course. But, what we were attempting to do in that legislation was to make the problem manageable; not to stop the flow, but make it legal, orderly; contain the protection of the law; issue guest workers' permits and that sort of business. It would dramatically improve relations between Mexico and the United States, but we have been unable to get hearings on that.

They talk about a study—an important study, I am sure—that is due in March 1981. That is true, but it is a few years late.

I am not naive enough to think that 160 or 300 or 500 Border Patrol agents are going to stem the tide, but they are going to tell the Border Patrol that somebody up here cares about them, that they are not being abandoned. They do not even have money to buy gasoline for the Border Patrol cars. I have a headline here from Laredo which says:

> Border Patrol Officers Siphoning Impounded Gasoline To Run Their Cars.

Mr. Chairman, this amendment, modest as it is, will send a signal to the Border Patrol that we do care. We care about them and we care about the law, and until this Congress and this administration is able to establish some kind of rational, understandable policy, this will help stem the tide and bring order.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to my colleague from California.

Mr. VAN DEERLIN. Mr. Chairman, the gentleman has referred to the 200 miles of international border that lie within his district. A total of 66 miles of that border are shared between Congressman Burgener and myself. It is known as the Chula Vista district, and that seems to be the favorite entry point along the entire stretch of the Mexican-American border. We have more legal entry and more illegal entry than any other border crossing anywhere in the world, any other border gate.

We are, I can tell the Members, rather distraught at the present time because some 100 agents have been taken from our sector to help police the situation down in Florida. Just last week a radarscope was taken with a relatively short radius of some 3 to 4 miles, and in a period of 24 hours, 487 persons were seen crossing the border within the reach of that radarscope. That is about three a minute.

Mr. Burgener's amendment, while it would not halt the illegal flow entirely, would surely go a long way toward closing this dangerous gap. The gentleman is entirely correct. We need long-range legislation dealing with this problem, and it is up to Congress and the administration together to enact it, but until that time comes there are some very brave young men out there doing a job that Congress has commissioned them to do, which is to prevent the illegal flow. I think that we cannot deny them the support they need. That means the manpower they need to carry off this job that we have given them to do.

☐ 1750

Mr. BURGENER. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. Van Deerlin).

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to my colleague, the gentleman from Texas (Mr. Kazen).

Mr. KAZEN. Mr. Chairman, the gentleman has already brought to the attention of the House the situation about the gasoline down in Laredo and other parts of my district. It would have really made the gentleman mad to see all of the cars lined up in their parking lot, with not a single one of them moving because they were using only 2 to 3 gallons a day to patrol a sector in my area of 200 miles.

Now, they say that this was from a shortage nationwide. My understanding is that they are going to get some money, and the staff tells me that there will be some money. I certainly hope there will be, in order to give these people the tools with which they work, the tools of their trade.

Mr. Chairman, let me ask the gentleman one other thing. Does his amendment provide for any customs inspectors?

Mr. BURGENER. It does not, and that is seriously needed.

Mr. KAZEN. Mr. Chairman, let me tell the gentleman that in addition to the Border Patrol agents that we need, we certainly need the ones on the bridges and the ones who collect the tolls that go into the Treasury of the United States.

The CHAIRMAN. The time of the gentleman from California (Mr. Burgener) has expired.

(On request of Mr. Kazen, and by unanimous consent, Mr. Burgener was allowed to proceed for 3 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield further?

Mr. BURGENER. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, there has not been a shortage of money authorized or appropriated by the Congress. When the gentleman from Oklahoma (Mr. STEED) comes through with his appropriation bill, he and I for the last several years have talked about the additional personnel that is needed on the border. He has assured us on the floor of this House that the money is in that appropriation bill, but that OMB does not spend the money that this Congress appropriates.

As a result, the Treasury of the United States is losing revenue because we do not have the people of first post, that is inspectors on the bridges, and 95 percent of what they collect goes directly into the Treasury. I cannot understand why the people at OMB do what they do.

Now, the President one night, in one of his meetings when he was explaining his freeze on personnel, told us—and a lot of my colleagues were there at that meeting—that he was going to look after the thing and have them review the situation. Well they have. They have sent people down there on the border, and I still have not gotten a report on what they found but I will guarantee that they found there was a shortage of personnel on the border.

Now that Mexico has become our fourth best customer in the world, we should do everything we can to encourage trade and freight intercourse between our two countries, and these people are the ones who help do the job.

My understanding that some other Member this afternoon is going to offer an amendment—I think it will be the gentleman from New York (Mr. FISH); I read somewhere that he is going to offer an amendment—to increase the number of inspectors also. That would be a very welcome amendment as far as this Member is concerned.

Mr. Chairman, I applaud the gentleman in the well for offering his amendment, and I certainly intend to support it.

Mr. BURGENER. Mr. Chairman, I thank the gentleman from Texas (Mr. KAZEN) for his contribution.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to my colleague, the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I simply want to put this issue in the right context. Statistics, as I think the gentleman has indicated, are here with us to indicate that almost 2 million illegal aliens came in last year despite what controls we did have. We have not 200 miles of contiguous border, but we have 5,000 miles of contiguous border with Canada and Mexico.

Of course, this is not going to solve the problem.

Six years ago the best indication I could get from regional directors of INS was that something like 14 million illegal aliens were in the country at that time.

What this amendment will do is send a message indicating that there is at least a start to help control this situation. We have to start somewhere since, as the gentleman pointed out, there is no policy at the present time.

The CHAIRMAN. The time of the gentleman from California (Mr. BURGENER) has again expired.

(On request of Mr. MOORHEAD of California, and by unanimous consent, Mr. BURGENER was allowed to proceed for 5 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to my colleague, the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I rise in strong support of the gentleman's amendment.

The Border Patrol at the present time just cannot come close to controlling the situation on the border. I know that there are some stations that they maintain—one in particular near San Clemente—where thousands and thousands of people have been apprehended. But they cannot keep open on a full-time basis. In fact, they are open very little at the present time. I know that in Tijuana alone they cannot check the cars that are coming through the regular stations empty because there are just too many for them to possibly handle. There are thousands of miles along the border that are patrolled very little because there is not personnel within the department to take care of it.

This is a health problem, and it is a criminal problem, because there are people who come in who are subjected to all kinds of behavior because they are afraid of being sent back. I know that we are getting narcotics coming across the border that could be stopped by an adequate patrol.

Mr. Chairman, I very strongly support the gentleman's amendment. I think we could do the job if we could get the necessary personnel and the necessary funds.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I, too, want to commend the gentleman from California (Mr. BURGENER) for his concern in trying to beef up our forces along the border.

Our Select Committee on Narcotics not too long ago visited the border between the United States and Mexico. We went on border patrol with some of our marvelous people who are fulfilling our responsibilities along the border. We recognized how shorthanded they are in trying to do the very important job of interdicting the trafficking in illegal aliens coming across the border and at the same time trying to do something about stopping the illegal narcotics traffic across the border into the United States.

We certainly need to give support in trying to get the kind of personnel to do the job in that area.

Mr. Chairman, I commend the gentleman from California (Mr. BURGENER) for offering this amendment, and I support the amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I was puzzled by something our colleague, the gentleman from Texas (Mr. KAZEN), said, that OMB manages not to spend the funds provided. I thought that impounding funds had stopped around here, and I wonder if the gentleman can explain that further for us.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, in reply to the gentlewoman, I thought so, too, but we can just ask the distinguished gentleman from Oklahoma (Mr. STEED) what happens to the money that we appropriate for the people the money is appropriated for. He says that this Congress has done it, but it is not spent that way. They spent that money the last time to give raises to the people who were already onboard instead of employing the additional personnel.

Further, let me tell the gentleman in the well this, as long as he has yielded to me: On the narcotics end of it, these people do one heck of a job. Although Mexico has cooperated beautifully with this country in trying to control the growth of narcotics traffic and trying to interdict narcotics before they even begin their movement into the United States, they cannot do it all. I applaud what Mexico has done, and I applaud them for the cooperation they have had with us. But a lot of it still comes through, and these people are the ones who do stop one heck of a lot of that traffic that comes into the United States.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I wish to respond very briefly to what the gentlewoman from New Jersey (Mrs. FENWICK) asked.

For the past 2 fiscal years, the House Judiciary Committee has recommended and this Congress has supported increases in the Border Patrol. For fiscal year 1980, the Judiciary Committee authorized 495 additional patrol positions, and funds for this number were appropriated.

However, OMB refused to fill 194 of these positions.

For fiscal year 1981, the Department of Justice requested of OMB 112 additional Border Patrol positions. OMB, however, rejected the Department's request totally and, unbelievably, recommended to the Congress not just the status quo but a reduction in the authorized level of 199.

The net effect of this is that the level of Border Patrol personnel today, under the appropriations before us right now, are below the 1979 authorized level.

Actually, Mr. Chairman, the number of Border Patrol on duty on May 3, 1980, was 214 people below the number of people authorized in fiscal year 1978. That is the situation now.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, before I move that the Committee rise, I want to ask the gentleman just a couple of real quick questions.

I agree with most of what the gentleman said except on a couple of points: No. 1, the shortage of gasoline has nothing to do with the gentleman's amendment.

Mr. BURGENER. That is right.

Mr. SMITH of Iowa. We have already provided for that in the fiscal year 1980 supplemental that passed the House on June 19. There is plenty of money in here for the increased cost of gasoline.

The other is that we have provided in this bill funds which will permit an increase of about 250 work years over the current level.

Mr. BURGENER. But they are still desperately shorthanded.

Mr. SMITH of Iowa. That is true, but we have provided the money. Funds for the work years are here, but they have not been filled.

The CHAIRMAN. The time of the gentleman from California (Mr. BURGENER) has expired.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. BURGENER) be allowed to proceed for 3 additional minutes.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Is there objection to the request of the gentleman from California.

Mr. FISH. Mr. Chairman, reserving the right to object, I thought that the subcommittee chairman would concur with me that it was our intention that I would offer my amendment to the amendment offered by the gentleman from California (Mr. BURGENER) prior to the Committee rising.

Mr. SMITH of Iowa. It was, Mr. Chairman, if the gentleman will yield, but I understand that the Speaker also announced that at 6 o'clock we are going on with another bill, and the time is here.

Mr. FISH. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. ROUSSELOT)?

There was no objection.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding, and I appreciate his offering this amendment.

I am sure that if his amendment passes, we will make it clear to the administration that we expect them to spend this money for the 160 personnel, that that is the clear intent, and that there should be no effort to in any way invade that purpose of the gentleman's amendment.

□ 1800

Mr. BURGENER. When we take up this matter again next, whenever it is, the gentleman from New York will offer a substitute to this one.

Mr. ROUSSELOT. For additional inspectors.

Mr. BURGENER. I will fully support that. He will explain it at that time, and this debate will continue. We need to send a message loud and clear.

Mr. ROUSSELOT. I just want to compliment the gentleman and tell him I think most Members of this House understand that if they vote for the amendment, they are voting for the 160 personnel.

Mr. BURGENER. Yes.

Mr. ROUSSELOT. And they expect that to be implemented.

Mr. BURGENER. I yield back the balance of my time.

● Mr. ALEXANDER. Mr. Chairman, I wish to support the additional views of the Honorable GEORGE M. O'BRIEN and the Honorable JACK HIGHTOWER that are a part of the Committee report on this bill (page 75, H. Rept. No. 96–1091) which, after describing the severe economic conditions currently existing in the U.S. automobile and related industries; the dramatic expansion of Japanese production; the reports on competitive conditions already made by the National Highway Transportation Safety Administration and those congressionally mandated which the Department of Transportation will make, concludes:

> The committee is concerned that the ongoing investigation of the Commission will impose possible unnecessary burdens and certainly additional expenses on an already beleaguered industry and may prove counterproductive. Therefore, the committee strongly recommends that, if the FTC proceeds with its study of the auto industry, it devote considerable attention to conditions abroad that have contributed to the success of the foreign producers, including the interrelationships of foreign firms with their governments.

It is within the province of the Federal Trade Commission to investigate potential and/or alleged anticompetitive practices in the interest of protecting our consumers. But, it would appear that the funds being used to finance FTC's expensive fishing expedition into the auto industry, at a time when our Federal budget resources are under severe strain, could be better used elsewhere.●

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7584) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 7235, RAIL ACT OF 1980

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 716 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 716

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7235, it shall be in order in the House to take from the Speaker's table the bill S. 1946, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 7235 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is the rule which I asked to be withdrawn yesterday because Members were complaining that it was brought up suddenly. It is a rule that is wide open and provides for 3 hours of general debate. It provides for a motion to recommit. It also provides for the usual, or the quite often used technique of getting the bill to conference promptly by hooking up with the Senate bill. It is a matter of considerable controversy. It was a matter of controversy when it was reported out of the appropriate committee some weeks ago. As a matter of fact, I was asked by the manager of the bill, the gentleman from New Jersey (Mr.

Florio), to schedule it very promptly, and there were others who also sought a scheduling within a matter of days after the report was made by the committee. That was even before the reports were available, printed and available.

The reports became available on the 3d of June, and I saw to it that the matter would not be even scheduled for the floor until 3 weeks after that date. And you will note that the matter was heard in the Rules Committee a little bit before the 24th and was available for action on the floor on the 24th. It now will not be brought up for consideration, as I understand it, until next week, which means that those who are concerned about its contents will have had about 4 weeks in which to deal with the problems that concern them. I do not know the status of that discussion, but there has been a considerable effort on the part of opponents to delay the matter until after the recess.

I have tried to be just as fair as one could be on a controversial matter, fair to those who wanted it considered in a great rush and fair to those who wanted it delayed very extensively. I tried, as a matter of fact, within the limits of my ability, to hold it in the middle; and I think you will find that in effect, when you take the time requested of delay by those who oppose certain provisions, I think no doubt for valid reasons that may be either regional or similarly not national, but important—I am not trying to diminish the importance of the concern—it has been fair to both sides. I therefore believe the rule should be adopted without any great controversy, and I think we should then proceed as scheduled by the Speaker to consider the matter next week.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I would be delighted to yield to the gentleman.

Mr. KAZEN. When is it scheduled for next week?

Mr. BOLLING. My understanding is that there will be general debate on it on Monday and there will be action on it on the following day.

Mr. KAZEN. General debate on Monday without going into the 5-minute rule?

Mr. BOLLING. The 5-minute rule, I believe, will succeed the general debate, but not on Monday. On Tuesday.

Mr. KAZEN. In other words, general debate on Monday, and start the 5-minute rule on Tuesday?

Mr. BOLLING That is correct.

Mr. KAZEN. I thank the gentleman.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what happened yesterday on the floor of the House certainly demonstrates that this House does not know how to run a railroad. With the appropriation bills which are absolutely mandatory left undone, we spend our time, 2 days in a row, on a rule that can wait.

So here we are again today, dropping an appropriation bill to come back a second time to a rule, without any indication that the matter has been worked out.

Mr. Speaker, this matter was fully debated yesterday on this side.

I yield 8 minutes to the gentleman from Illinois (Mr. Madigan).

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Madigan).

☐ 1810

Mr. MADIGAN. Mr. Speaker, I rise in support of the adoption of the rule for House consideration of H.R. 7235. As you know, it is an open rule with 3 hours of general debate. The purpose of the rule is to permit everyone to discuss and debate the merits of this very important piece of legislation. There are those, however, who do not want to debate this legislation on its merits but rather would prefer to utilize procedural techniques to forestall and delay it. I urge my colleagues not to be fooled by false allegations that anyone has been shut out of the legislative process in the development of this legislation. Pages 50 through 52 of the committee report catalog the vast array of witnesses heard by the committee over the last year and a half during our deliberations which led to passage of this bill. The fact of the matter is that the bill was favorably reported by the full Commerce Committee by a vote of 36 to 5.

I do not want to take the time today to discuss each and every point contained in the bill. There will be time for that after the adoption of this rule when the House considers the bill. I do want to take a few minutes to talk about real and alleged opposition to this legislation.

1. SHORT LINE RAILROADS

When the bill was considered by the committee, the short line railroads expressed grave reservations about section 301 of the bill which permits rail carriers to add a surcharge or cancel a route whenever a carrier is receiving less than cost for his share of the movement. Mr. Lee had an amendment adopted in committee which provided protection for short line railroads against any abuses in the surcharge or cancellation provisions. Following consideration by the committee, a number of short lines continued to express reservations about the adequacy of the protection they were given in the Lee amendment.

Mr. Staggers, Mr. Broyhill, Mr. Lee, and I spent countless hours with the short line railroads in attempting to work out a better remedy. We have succeeded. Mr. Lee has agreed to offer an amendment on the floor which further strengthens the protection given short line railroads affected by surcharges or cancellations. As a result of our negotiations with the short lines, the American Short Line Association—which represents all the short lines—has wholeheartedly endorsed the Rail Act of 1980. Mr. Speaker, I insert the letter of endorsement from the American Short Line Association at this point in the Record:

The American Short Line
Railroad Association,
Washington, D.C., June 23, 1980.
Hon. James J. Florio,
Chairman, Subcommittee on Transportation and Commerce, House of Representatives, Washington, D.C.

Dear Representative Florio: The Board of Directors of this Association met recently and considered H.R. 7235, the "Rail Act of 1980". In particular, the Board expressed concern about the impact Section 301, Compensatory Joint Rate Relief, would have on small railroads. Various amendments were discussed which would improve the Bill and provide additional protection to these railroads. The Board agreed that no endorsement of this Bill was possible until Section 301 was revised in general accord with that discussion.

As a result of extended discussions among our representatives and those for ConRail and Southern Railway and counsel for the House Committee on Interstate and Foreign Commerce, an amendment to the Bill has been agreed upon which substantially reflects the proposals recommended by our Board. A copy of this amendment is attached. We understand that this amendment is to be offered by Mr. Lee of New York and that the Committee leadership will fully support the amendment.

In addition to this amendment, we have been assured by the Commerce Committee counsel that, unless overwhelming opposition is encountered from the Senate, the expected Conference Committee Report will include an explanation that the short line amendments are intended to provide special protection for short lines against anticompetitive, predatory, destructive or unwarranted surcharges or cancellations under Section 301, that these special protections are not to be undercut by any other provisions of the Bill, and that the existing federal antitrust laws are intended to be available to protect against anticompetitive actions under the contract provisions of Section 204 of the Bill. On the strength of this agreement, we are pleased to advise that with the attached amendment, the Association generally supports the Bill, and we are today advising our members that we believe the foregoing steps satisfy their concerns.

We appreciate your willingness to assist small railroads in this manner.

Sincerely,

Thomas C. Dorsey.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. If the gentleman can get me additional time, I would be happy to yield.

Mr. BAUMAN. Certainly. I just wanted to confirm the understanding that I have received today from officials of Conrail that while they had reserved the right to oppose the Lee amendment and encourage in the opposition in the House to that amendment, that they have now decided that they will not oppose the Lee amendment and, in fact, will accept it if it is offered. Is that correct?

Mr. MADIGAN. The Senior Vice President of Conrail in charge of legislative affairs has, I understand, given those assurances to the gentleman from Maryland. He has also given those assurances to me and has further represented to me that he is speaking for the major rail carriers in making those assurances.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman. I think that should be part of the RECORD.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his contribution.

2. PORTS

A second group of interests which has expressed concern about the surcharge provision has been port authorities. Ms. MIKULSKI will offer an amendment on the floor which gives ports standing before the Interstate Commerce Commission with respect to the imposition of a surcharge under section 301 of the bill. This amendment will preserve the treatment presently accorded port authorities under the Interstate Commerce Act.

3. AGRICULTURAL CONCERNS

Mr. Speaker, the third group concerned about this bill has been the agricultural community. As a member from a predominantly rural district, and as a member of the House Agriculture Committee, I have from the beginning been concerned about the effect of this legislation on farmers and rural communities. Throughout the bill I have insisted upon consideration for rural America primarily because it has been rural America that has suffered the worst deterioration of rail service.

In title V of the bill there is established a new program—the rail feeder line development program—which provides a real alternative to rail line abandonments or very poor rail service. Simply stated, a State, cooperative, shippers, or private entrepreneurs can insist that the Commission approve the sale of light density lines to them whenever there is an abandonment or service has badly deteriorated. The sale is made at net liquidation value, and nearly $100 million is provided for the rehabilitation of lines in order to help the new short line provide good rail service. I intend to offer an amendment which also guarantees that joint rates between new short lines and existing railroads are quickly decided by the Commission if they cannot be agreed to by the parties.

The committee also adopted my amendment to make certain that small shippers are given the opportunity for contracts entered into by large shippers if they are within a 50-mile radius. I am including in my new amendment the recommendation that the threshold of 40,000 tons be lowered to 20,000 tons.

I am also including in my amendment a provision which would strike demand-sensitive rates. The Senate bill and the House bill both now have a demand-sensitive rates provision. Many farmers and grain shippers have expressed concern about the fairness of that provision, and I believe that striking that provision will alleviate their concern.

Parenthetically, I want to say that the gentleman from New Jersey (Mr. FLORIO) has assured me of his support for all the changes in the amendment that I have just described.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. Yes, I would be happy to yield.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding the time.

I want to commend the gentleman for his concern in this bill and for the agricultural interests.

I know that railroad transportation constitutes the primary means by which farmers and small elevators and other operators move their product to the market.

I commend the gentleman for his amendment reducing under the contract portions of the bill the quantity which the shipper can contract from 40,000 to 20,000 tons.

I intend to support that amendment.

I would urge the gentleman to include in that amendment another provision which would eliminate the 50-mile radius requirement and final destination requirement. If the gentleman will do that, that will qualify many, many small elevators that otherwise would not qualify for the contract rate.

I would be pleased to discuss that with the gentleman later, but I do urge that upon him.

I commend the gentleman again for his concern for agriculture.

Mr. MADIGAN. Mr. Speaker, I would be happy to discuss that with the gentleman and I thank him for his remarks.

I do, however, believe that there needs to be some mechanism which will assure agricultural shippers of an adequate car supply. Therefore, I have drafted a section for "assured agricultural rail transportation agreement." Briefly stated, that provision will permit any agricultural shipper to obtain an agreed-upon price between a published floor and ceiling, up to 12 months in advance of his actual shipment. If the railroad then fails to deliver cars, the contract can be enforced in any court. I am convinced that this will provide agricultural shippers with an effective tool to demand better railroad service.

I ask, Mr. Speaker, that a copy of my agricultural amendment and a brief summary of that amendment be inserted in the RECORD immediately following my remarks.

4. ELECTRIC UTILITIES

Finally, Mr. Speaker, a group composed of some electric utilities simply does not want to see meaningful railroad deregulation. At every step of the legislative process, this group has argued in one way or another for tight regulation. The group was soundly defeated on the Senate side and soundly defeated in committee. Nevertheless, they have apparently entered upon a strategy of stonewalling rail deregulation. I believe that to be shortsighted for the good of the country and for the good of the electric utilities as well.

The committee report and other remarks made here today show that, in fact, rail coal rates are less today than they were 20 years ago. Pages 119 through 126 of the committee report discuss railroad rates on coal. I commend to my colleagues the reading of those parts of the report. On a revenue per mile basis, the average contribution from coal is 1.1 cents to the railroads. This compares to 2.9 cents for grain and nearly 4 cents average for the rest of the traffic on the railroad.

At the heart of the issue involving coal rates is the Clean Air Act and the willingness of electric utilities to comply with that law. The economics of compliance with the Clean Air Act are interesting to observe. Electric utility companies have a number of choices as they convert to coal. The first choice is to equip their stacks with pollution abatement devices to permit the burning of coal. The cost of that equipment is directly proportional to the sulfur content of the coal. This has led to vast exploitation of our western coal resources which happen to have low sulfur content. Electric utilities have encouraged vast strip mining and open mining operations in the West in order to save money on pollution abatement devices at their coalburning powerplants. The reason they have been able to do so is low rail rates.

Think about it, Mr. Speaker. The San Antonio coal is hauled over 1,600 miles. Coal in Kentucky, Virginia, southern Illinois, and Pennsylvania sits on the ground while utility plants in their vicinity import coal from the West. A basic economic decision has been made—that is, force railroads to keep low rail rates so that electric utilities will not have to spend money on smokestack scrubbers. The unemployed coal miners in Kentucky cannot appreciate that. Eastern States having vast supplies of coal sitting on the ground cannot understand it. And I cannot understand the duregard for the social and environmental costs associated with tearing up vast areas of the West.

That is the issue for electric utilities. We need to consider that issue on its economic basis, not on its political appeal. Unfortunately, the subject of coal rates has apparently become the burning political issue of the State of Texas. I look forward to debating all the merits of the proposal. A tradeoff this body will have to consider is whether we want to use low rail rates to exploit western coal over eastern coal; whether we want to use low rail rates to subsidize electric power plants or whether we want to encourage reasonable rail rates in order to stop the decline of the railroad industry.

Several major railroads serve the State of Texas. Two of those railroads oppose the rail bill, in part because they can see that other railroads will soon be out of business under the present regulatory system. That, Mr. Speaker, is the concern all of us must have in considering the Rail Act of 1980. It is not a "ConRail relief bill." ConRail will be a problem whether or not this bill is passed. It is a bill that can prevent duplication of the ConRail problem in the West, the Midwest, the South, and even in the State of Texas.

I urge the adoption of the rule proposed by the Rules Committee to consider H.R. 7235 Monday and Tuesday of next week.

The amendments and correspondence referred to above follow:

MADIGAN RURAL SHIPPER NEED'S AMENDMENT

Page 13, line 22, strike out "$40,000" and insert in lieu thereof "$20,000".

Page 114, line 12, strike out "$40,000" and insert in lieu thereof "$20,000".

Page 114, line 18, strike out "$40,000" and insert in lieu thereof "$20,000".

Page 15, strike out line 22 and all that follows through line 10 on page 116 and insert in lieu thereof the following:

ASSURED AGRICULTURAL RAIL TRANSPORTATION AGREEMENTS

SEC. 205. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting immediately after section 10727 the following new section:

"§ 10727. Assured agricultural rail transportation agreements

"(a) The Interstate Commerce Commission shall, subject to the restrictions of this subtitle, permit the establishment of tariffs for agricultural commodities under which rates may be raised or lowered, between established maximum and minimum levels, in response to expected or actual fluctuations in demand for rail service.

"(b)(1) Any rail carrier establishing a tariff under the authority of subsection (a) of this section shall publish such tariff at least 90 days in advance of the date of its application. Rates established under any such tariff shall remain in effect for a minimum of 6 months.

"(2) Upon the request of a shipper, any rail carrier establishing a tariff under subsection (a) of this section shall, to the extent of its available equipment, quote a charge (between the established maximum and minimum levels) for the movement, scheduled for up to 12 months in advance, or such shipper's agricultural commodities.

"(3) Whenever a rail carrier quotes a charge pursuant to this subsection and a shipper agrees to such charge, the parties shall be considered to have entered into a binding contract. Such a contract shall not be subject to section 10712 of this title.

"(c) A rail carrier may not be found to have failed to meet its common carrier obligations under section 11101 of this title by reason of entering into or carrying out a contract under this section.

"(d) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court.

"(e) In permitting the establishment of tariffs pursuant to this section under which rates may be raised and lowered between established maximum and minimum levels, the Commission shall give due consideration to the competition of other modes of transportation for the particular traffic involved and the fluctuation in demand for particular rail services.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10727 the following new item:

"10727a. Assured agricultural rail transportation agreements.".

Page 118, strike out lines 5 through 11 and insert in lieu thereof the following:

"(f) This section shall not apply to (1) surcharges under section 10705a of this title, (2) rates and conditions set forth in contracts approved under section 10712 of this title, (3) rates established under section 10727a of this title, (4) separate rates for distinct rail services under section 10728 of this title, (5) rail rates applicable to different routes, or (6) expenses authorized under section 10751 of this title.".

Page 125, after line 11, insert the following new section:

RAIL SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

SEC. 214. (a)(1) There is hereby established a Rail Shipper Needs Board (hereinafter in this section referred to as the "Board") which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transportation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board.

(2)(A) The Board shall select personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees, task forces, and advisory panels. Such individuals shall be selected on the basis of their proven expertise in transportation related fields.

(B) Individuals selected under this section may be compensated for their services at the discretion of the Board, but in no event shall any such individual receive compensation in excess of 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including travel time) in which he is engaged in the actual performance of duties vested in the Board

(b)(1) The Board shall conduct a study of the needs of urban and rural rail shippers, and shall submit reports to the Congress, in accordance with paragraph (1) of this subsection, on the results of such study. Such reports shall include—

(A) an estimate of the rail car needs of urban and rural shippers using, to the greatest extent practicable, statistics compiled by the Secretary of Agriculture, the Secretary of Commerce, the Interstate Commerce Commission, and the Secretary of Transportation;

(B) an analysis of the effect on urban and rural shippers of the provisions of this Act relating to the following areas: the regulation of railroad rates in absence of effective competition, investigation and suspension of rates, contract rates, demand sensitive rates, phaseout of capital incentive rates, permissive liabilitiy rates, rate discrimination, exemptions from regulation, intrastate rates, transition rate adjustments, and inflation-based rate increases, safe railroad investment requirements, compensatory joint rates, rate bureaus, long- and short-haul transportation, railroad entry, service during peak demand, reciprocal switching, car service compensation, car service orders for exigent circumstances, mergers, railroad cost determinations, and railroad modernization and restructuring assistance;

(C) an evaluation of the need to create a corporation owned by the rail carriers to operate a fleet of free-running freight cars which could provide service to urban and rural shippers;

(b) an analysis of potential and existing urban and rural rail Federal programs which need to be coordinated in order to insure the maximum utilization of Federal funds;

(E) a recommendation of the criteria which should be used to identify essential branch lines and to establish priorities for the funding of rail rehabilitation projects;

(F) an analysis of the economic impact upon urban and rural rail agricultural shippers of abandoning small shipper facilities and consolidating them in order to effectuate economies of scale;

(G)(i) the effect of contract ratemaking on the common carrier obligation, (ii) the interrelationship of negotiated contracts, regulated contracts and common carrier obligations, and (iii) the desirability of regulated contracts for exempted agriculture commodities;

(H) an outline of elements necessary for successful federally assisted demonstration projects involving urban rural transportation cooperatives in areas where abandonment is anticipated but where agriculture shippers and governmental units are willing to commit sufficient resources to insure the viability of the lines to be abandoned;

(I) a recommendation with respect to the need for a transportation information center,

(J) methods for reducing urban and rural grade crossings by carrying out the policies and goals of this Act; and

(K) an analysis of the possible uses of abandoned branch rail lines and terminal facilities to maximize scarce land resources for public purpose (including recreational purposes, civic purposes, rail purposes, and other public purposes).

(2) The Board shall submit an interim report to the Congress under this subsection no later than January 1, 1982, and shall submit a final report to the Congress no later than January 1, 1984.

(c) The Board may conduct a study and submit a report to the Congress with respect to the cost effectiveness, economic potential, and technical feasibility of using a conveyor system to transport agricultural commodities on abandoned railroad rights-of-way.

(d)(1) The Board shall cooperate with existing Federal departments and agencies to assure that sufficient resources and facilities exist to assist agriculture shippers in forming cooperative shipper associations and in taking advantage of expanded opportunities for contracting.

(2) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

(e) The Board shall cease to exist 5 years after the effective date of this Act.

(f) In evaluating restructuring plans submitted under section 518(h) of the Railroad Revitalization and Regulatory Reform Act of 1976, the Secretary of Transportation shall consult with the Secretary of Agriculture with respect to any aspect of such a plan that impacts upon the provision of transportation services to agricultural and rural areas.

(h) The Secretary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternative transportation services on the most favorable possible terms.

(i)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(2) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching and signalling equipment, or any other rail equipment (other than rolling stock).

(j) There are authorized to be appropriated for purposes of carrying out the provisions of this section not to exceed $2,000,000, of which not more than $50,000 may be available to conduct the study described in subsection (c) of this section.

Page 97, strike out the item in the table of contents relating to section 205 and insert in lieu thereof the following new item:

Sec. 205. Assured agricultural rail transportation agreements.

Page 98, after the item relating to section 213, insert the following new item:

Sec. 214. Rail Shipper Needs Board; other shipper assistance.

MADIGAN FEEDER RAIL LINE AMENDMENT

AMENDMENT TO H.R. 7235, AS REPORTED, OFFERED BY MR. MADIGAN

Page 165, line 16, insert "(A)" immediately after "(5)".

Page 165, line 19, strike out the closing quotation marks and the following period.

Page 165, after line 19, insert the following:

"(B) In determining whether there has been a de facto abandonment of a line for purposes of this paragraph, the Commission shall consider at least each of the following factors:

"(i) Any downgrading of the track by the Federal Railroad Administration.

"(ii) Any accidents and derailments which have occurred on such line.

"(iii) Any reductions in the frequency of service on such line.

"(iv) Any prohibition or restriction on the type or weight of rail cars permitted to operate on such line.

"(v) The extent of any deferred maintenance on such line.

"(vi) Any recent rehabilitation and improvements on such line.

"(6) Whenever a purchasing carrier under this subsection petitions the Commission for a joint rate on a through route involving the purchased line, the Commission shall, within 30 days after the date such petition is filed, prescribe a compensatory through rate over such route.".

MADIGAN AMENDMENT

CONTRACT DISCRIMINATION PROTECTION

This provision reduces the threshold for opting into contracts within a 50-mile radius from 40,000 tons per year to 20,000 tons per year.

DEMAND SENSITIVE RATES DELETED, "ASSURED AGRICULTURAL RAIL TRANSPORTATION AGREEMENTS" SUBSTITUTED

This provision strikes the demand sensitive rate section in its entirety and substitutes in lieu thereof "Assured Agricultural Rate Transportation Agreements".

Assured Agricultural Rate Transportation Agreements create a futures market for shipping agricultural commodities by rail. Tariffs permitting maximum and minimum rates for grain are permitted if the carrier publishes the tariff 90 days in advance. The carrier may then quote a price between the maximum and minimum levels. If the shipper agrees a binding contract is created. Parties to a contract have contractual remedies.

FAST TRACK FOR FEEDER LINE DEVELOPMENT

This provision lists criteria which the ICC must take into consideration when making a determination as to the existence of a de facto abandonment. These factors include but are not limited to—

1. Downgrading of the track by the Federal Railroad Administration;
2. Accidents and derailments which have occurred on the line;
3. A reduction of the frequency of service;
4. Prohibitions and restrictions on the types cars and the weight of cars permitted to operate on the line;
5. The extent of the deferred maintenance on the line; and
6. Recent rehabilitation and improvements on the line.

This provision also provides that feeder lines shall be given rates within 30 days of petitioning the Commission.

RESTRUCTURING

The Secretary of Transportation is required to consult with the Secretary of Agriculture when restructuring rail lines.

RAIL SHIPPERS NEEDS BOARD

This provision systematically incorportes into H.R. 7235 the recommendations of the Final Report of the Rural Transportation Advisory Task Force. This study was mandated by the Rural Transportation Advisory Task Force Act of 1978, Public Law 95-580.

The provision creates a Board consisting of the following:

1. The Secretary of Transportation;
2. The Secretary of Agriculture;
3. The Secretary of Commerce;
4. The Secretary of Housing and Urban Affairs;
5. The Secretary of Labor; and
6. The Chairman of the ICC.

The primary purpose of the Board is to monitor the impact of the railroad reform upon urban and rural shippers. The Board is required to report to Congress on the effects of eleven items mentioned in section 903 of the bill. The provision includes an authorization of $2,000,000 of which not more than $50,000 may be used to study the feasibility of using a conveyor system to transport agricultural commodities on railroad rights-of-way.

SENATE NEGOTIATIONS

We have agreed to the Senate's 35 percent/40 percent limitation place upon the number of cars which can be used under the contract rate provisions. In turn they have accepted the House provisions.

WASHINGTON, *June 20, 1980.*

CLIFF ELKINS,
Washington, D.C.:

This communication is to clarify the position of the Delaware and Hudson railway concerning HR-7235 the Rail Act of 1980.

While we have serious problems with No. 301 in title III concerning joint rates, surcharges and route cancellations we non-theless are willing to lend support to this bill and would not support any amendments which would change the nature of the bill other than amendments to section 301 in title III, however we will continue to work to change this section in order to have it become more equitable to the D&H, other railroads and shippers.

KENT SHOEMAKER,
President and Chief Executive Officer.

SANFORD, N.C.,
June 23, 1980.

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C.:

Representative Lee of New York has agreed to offer a new amendment to HR 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroads in section 301. We urge you to support this amendment and the bill amended.

W. B. JOYCE,
President, Atlantic and Western Railway.

COUNCE, TENN.,
June 23, 1980.

THE AMERICAN SHORTLINE RAILROAD ASSN.,
Washington, D.C.:

A copy of this message has been sent to the following Representatives: James Florio, Edward Madigan, Jamie Whitten, Trent Lot, G. V. Montgomery, Jon Hinson, David R. Bowen, Ed Jones, Jimmy Quillen, Albert Gore, Jr., Bill Boner, Marilyn Bouquard, Robin Beard, John Duncan and Harold Ford.

Representative Gary Lee of New York has agreed to offer a new amendment to HR 7235 the Rail Act of 1980 when it comes up for vote. This amendment as written will further strengthen the protection for class III railroads in section 301, we urge you to support this amendment when it is offered for vote and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

C. W. BYRD,
The Corinth and Counce Railroad.

SANTA MARIA, CALIF.,
June 23, 1980.

AMERICAN SHORT LINE RAILROAD ASSN.,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to HR-7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroad in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Mrs. SUE J. SWORD,
Vice President and Manager, Santa Maria Valley R.R.

PANAMA CITY, FLA.,
June 23, 1980.

AMERICAN SHORT LINE RAILROAD ASSN.,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroads in section 301. I urge you to support this amendment and bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

ARTHUR HOOKS,
President, Atlanta and Saint Andrews Bay Railway Co.

TAYLORSVILLE, N.C.,
June 23, 1980.

AMERICAN SHORT LINE RAILROAD ASSN.,
Washington, D.C.:

This is copy of original telegram to Representative James T. Broyhill.

DEAR REPRESENTATIVE BROYHILL: Representative Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroads in section 301. We urge you to support this amendment and bill as amended.

S. J. ZACHARY,
President, Alexander Railroad Co.

MOSS POINT, MISS.,
June 23, 1980.

AMERICAN SHORT LINE RAILROAD ASSN.,
Washington, D.C.:

This is a copy of a telegram sent to Representatives Trent Lott, Jamie L. Whitten, David R. Bowen, G. V. (Sonny) Montgomery, Jon C. Hinson, James J. Florio, and Edward R. Madigan:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 "Rail Act of 1980" when it comes up for floor vote. This amendment will further strengthen the protection for class I, II railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

T. M. VON SPRECKEN, JR.,
Vice President, General Manager, Mississippi Export Railroad Co.

CLOQUET, MINN.,
June 23, 1980.

AMERICAN SHORT LINE ASSN.,
Washington, D.C.:

We urge your support for an amendment to be introduced by Gary Lee to section 301 of the H.R. 7235. We respectfully request you support no other amendments.

W. W. Nikko,
Duluth and Northwestern Railroad Co.

Oneida, Tenn.,
June 24, 1980.

American Shortline Railroad Assn.,
Washington, D.C.:

Gary Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up before floor vote, this amendment will further strengthen the protection for class 3 railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Evans R. Tindle,
President, Kentucky and Tennessee Railways.

Chicago, Ill.,
June 24, 1980.

American Shortline Railroad Association,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to HR 7235 the Rail Act of 1980 when it comes up for the floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Chicago Shortline Railway Co.

Cedar Rapids, Iowa,
June 24, 1980.

Howard Croft,
President, American Shortline Railroad Association, Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than offered by Mr. Lee.

R. C. Blinn,
General Traffic Manager, Cedar Rapids and Iowa City Railway Co.

Lancaster, S.C.,
June 23, 1980.

American Shortline Railroad Association,
Washington, D.C.:

This is a copy of a telegram that was sent to Honorable Ken Holland, U.S. House of Representatives, Washington, D.C.

Representative Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment further strengthens the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended.

L. & C. Railway Co.,
Jack Bethey, *President.*

St. Mary's, Ga.,
June 23, 1980.

American Shortline Railroad Association,
Washington, D.C.:

Representative Lee of New York has agreed to present an amendment to H.R. 7235, the Railroad Act of 1980, coming up for vote June 24. This amendment further strengthens the protection for the class three railroads in section 301 of the bill. We urge you to support this amendment and the bill as amended and to vote against any other amendment in section 301 than that offered by Representative Lee.

R. W. Chapin,
Vice President, St. Mary's Railroad.

Laurenburg, N.C.,
June 23, 1980.

American Shortline Railroad Association,
Washington, D.C.:

Representative Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended.

Murphy Evans,
President, Laurenberg and Southern Railroad, Co.

Crossett, Ark., *June 24, 1980.*

Congressman Edward R. Madigan:

Copy of telegram sent Congressman John Paul Hammerschmidt.

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 when it comes up for floor vote. This amendment will strengthen the protection for class III railroads in section 301. I urge you to support this amendment and the bill, as amended, and vote against any other amendment to section 301 other than that offered by Congressman Lee.

S. R. Tedder,
President,
Ashley Drew & Northern Railway Co.

Santa Maria, Calif., *June 23, 1980.*

Hon. Edward Madigan,
House of Representatives,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroad in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Mrs. Sue J. Sword,
Vice President and Manager,
Santa Maria Valley Railroad.

Counce, Tenn., *June 23, 1980.*

Edward R. Madigan,
Rayburn Building,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for vote. This amendment as written will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment when it is offered for vote and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

C. W. Byrd,
President, The Corinth & Counce Railroad.

Modesto, Calif., *June 23, 1980.*

Hon. Edward Madigan,
Rayburn House Office Building,
Washington, D.C.:

Representative Lee of New York has agreed to offer a new amendment to H.R. 7235, rail act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendments to section 301 other than that offered by representative Lee.

R. F. Olsen,
President, Modesto & Empire Traction Co.

Lone Star, Tex., *June 23, 1980.*

Mr. Edward Madigan,
Transportation and Commerce Subcommittee, Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This Amendment will furnish strength and protection for class 3 railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

S. R. Moughon,
Vice President, Operations, Texas and Northern Railroad, Member Board of Directors American Shortline Railroad Association.

Kenilworth, N.J., *June 24, 1980.*

Representative Edward Madigan,
House of Representatives,
Washington, D.C.:

Representative Gary Lee has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Bernard J. Cahill,
President, Rahway Valley Railroad Co.

West Monroe, La., *June 24, 1980.*

Congressman Edward R. Madigan,
Rayburn House Office Building,
Washington, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendments to section 301 other than that offered by Mr. Lee.

J. W. Keller,
President, A. & L. M. Railway Co.

Crossett, Ark.,
June 24, 1980.

Congressman Edward R. Madigan,
Capitol One, D.C.:

Representative Gary Lee of NY has agreed to offer a new amendment to H.R. 7235 when it comes up for floor vote. This amendment will strengthen the protection for class III railroads in section 301. I urge you to support this amendment and the bill, as amended, and vote against any other amendment to section 301 other than that offered by Congressman Lee.

S. R. Tedder, *President,*
Ashley Drew & Northern Railway Co.

Oneida, Tenn.,
June 24, 1980.

Edward R. Madigan,
Rayburn House Office Bldg.,
Washington, D.C.:

Gary Lee of New York has agreed to offer a new amendment to HR 7235, the Rail Act of 1980, when it comes up before floor vote. This amendment will further strengthen the protection for class 3 railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Kentucky & Tennessee Railways,
Evans R. Tindle, *President.*

Cloquet, Minn.,
June 23, 1980.

Representative Edward Madigan,
Washington, D.C.:

We urge your support for an amendment to be introduced by Gary Lee to section 301 of the HR7235. We respectfully request you support no other amendments.

W. W. Nikko,
Duluth and Northwestern Railroad Co.

Moss Point, Miss.,
June 23, 1980.

Representative Edward R. Madigan,
Capitol One, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 "Rail Act of 1980" when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

T. M. Von Sprecken, Jr.,
Vice President, General Manager,
Mississippi Export Railroad Co.

St. Mary's, Ga.,
June 23, 1980.

Representative Edward R. Madigan,
Capitol One, D.C.:

Representative Lee of New York has agreed to present an amendment to H.R. 7235 Railroad Act of 1980 coming up for vote June 24. This amendment further strengthens the protection for the class III railroads in section 301 of the bill. We urge you to support this amendment and the bill as amended and to vote against any other amendment in section 301 than that offered by Representative Lee.

R. W. Chapin,
Vice President, St. Mary's Railroad.

Chicago, Ill.,
June 24, 1980.

Representative Edward R. Madigan,
Capitol One, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for the floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Chicago Shortline Railway Co.

Crossett, Ark.,
June 24, 1980.

Congressman Edward R. Madigan,
Capitol One, D.C.:

Copy of telegram sent Congressman John Paul Hammerschmidt.

When H.R. 7235 is presented for floor vote, Representative Gary Lee of New York has agreed to offer a new amendment which will strengthen the protection for class III railroads in section 301. We, as railroad employees ask you to support this amendment and the bill, as amended, and vote against any other amendment to section 301 other than that offered by Congressman Lee.

Philip H. Schueth.
David W. Smith.
Larry M. McClarnon.
Donald K. Smith.
Cora Sue Gill.

Camden, Ark.,
June 24, 1980.

Representative Edward Madigan,
Capitol One, D.C.:

Representative Gary Lee introduced a new amendment to section 301 of H.R. 7325, the Rail Act of 1980, when floor vote is taken this week will offer additional protective amendments for shortline railroads.

Urge you to support Lee amendment to section 301 of the bill but to oppose any other amendments but that offered by Representative Lee.

If you wish, please contact Tom Dorsey of the American Shortline Railroad Association in Washington, phone 785-2250 for details of position we support.

Don E. Ghent,
Executive vice president, East Camden and Highland Railroad Co.

Cedar Rapids, Iowa,
June 24, 1980.

Representative Edward Madigan,
Capitol One, D.C.:

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class III railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

R. C. Blinn,
General Traffic Manager, Cedar Rapids and Iowa City Railway Co.

Roscoe, Texas,

June 24, 1980.

Honorable Edward Madigan,
Capitol One, D.C.:

We understand Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class three railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendments to section 301 other than that offered by Mr. Lee.

Roger B. Mize,
Chairman of the Board,
Mickey Nunley,
President,
Roscoe, Snyder & Pacific Railway.

Hillsdale, Mich.,
June 24, 1980.

Representative Madigan,
Longworth Bldg.,
Washington, D.C.:

Representative Gary Lee, New York, has agreed to offer a new amendment to H.R. 7235, the Rail Act of 1980, when it comes up for floor vote. This amendment will further strengthen the protection of class 3 railroads in section 301. We urge you to support this amendment and the bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

John H. Marino, *President,*
Hillsdale County Railway.

Dothan, Ala.,
June 24, 1980.

Edward Madigan,
Rayburn House Office Bldg.,
Washington, D.C.:

Carbon copy of message sent to Congressman Bill Dickinson.

Representative Gary Lee of New York has agreed to offer a new amendment to H.R. 7235 the Rail Act of 1980 when it comes up for floor vote. This amendment will further strengthen the protection for class 3 railroads section 301. I urge you to support this amendment and bill as amended and to vote against any other amendment to section 301 other than that offered by Mr. Lee.

Mr. A. V. Hooks,
President, Atlanta & St. Andrews Bay Railways.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Elliott H. Levitas,
U.S. Representative,
Washington, D.C.

Dear Elliott: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Wyche Fowler, Jr.,
U.S. Representative,
Washington, D.C.:

Dear Wyche: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Dawson Mathis,
U.S. Representative,
Washington, D.C.:

Dear Dawson: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Jack T. Brinkley,
U.S. Representative,
Washington, D.C.

Dear Jack: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Ronald (Bo) Ginn,
U.S. Representative,
Washington, D.C.

Dear Bo: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President,
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Lawrence P. McDonald,
U.S. Representative,
Washington, D.C.

Dear Congressman McDonald: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President,
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Newton L. Gingrich,
U.S. Representative,
Washington, D.C.

Dear Congressman Gingrich: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Billy Lee Evans,
U.S. Representative,
Washington, D.C.

Dear Billy: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Edgar L. Jenkins,
U.S. Representative,
Washington, D.C.

Dear Ed: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President,
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. D. Douglas Barnard,
U.S. Representative,
Washington, D.C.

Dear Doug: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President.
Hugh M. Tarbutton,
Vice President.

Sandersville Railroad Co.,
Sandersville, Ga., June 23, 1980.

Hon. Wyche Fowler, Jr.,
U.S. Representative,
Washington, D.C.

Dear Wyche: We ask your help in securing floor amendments to H.R. 7235, the Rail Act of 1980, which will provide additional protection for Class III railroads. As a result of extended discussions with representatives of the American Short Line Railroad Association, ConRail, Southern Railway, and the Staff of the House Committee on Interstate and Foreign Commerce, agreement has been reached on amendments to be offered by Mr. Lee of New York with the support of the Committee leadership. Please vote for these amendments to be offered by Mr. Lee and, if the amendments are adopted, vote for the bill.

We expect efforts to be made by ConRail to limit other portions of Section 301 of H.R. 7235. Please oppose any amendments to Section 301 other than those offered by Mr. Lee.

If the amendments offered by Mr. Lee are not approved by the House, we ask you to vote against H.R. 7235.

Thank you for your consideration and assistance.

Sincerely yours,
Ben J. Tarbutton, Jr.,
President,
Hugh M. Tarbutton,
Vice President.

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Mr. BOLLING. Mr. Speaker, I yield 10 minutes to the gentleman from New Jersey, the distinguished chairman of the subcommittee that dealt with this matter, Mr. Florio.

Mr. FLORIO. Mr. Speaker, I rise in enthusiastic support of the rule to deal with this very important legislation. This is legislation that is designed to address the problems of the rail industry and the problems of the rail industry are extensive.

The rail industry over the last number of years has had a 2-percent return on investment. It is projected that there will be a $15 billion shortfall in the capital needs of the railroad industry in the next number of years.

We in the House know of our own knowledge what the problem is. We have dealt with it this year in the bankruptcy of the Milwaukee. We have dealt with it in the bankruptcy of the Rock Island. We have seen in this one year 10,000 miles of track eliminated in the Midwest.

Overregulation has, in fact, contributed to the inability of the railroad industry to attract traffic back and to enable it to compete for traffic from other modes of transportation.

This bill, in essence, will allow greater flexibility to have management decisions, decisions with regard to rates, decisions with regard to the allocation of resources, made in the marketplace as opposed to being made by Federal regulators.

For those who are concerned about the potential abuses of power that may occur as a result of being subjected to the discipline of the marketplace, I am convinced, and I think the vast majority of the people in this House will be convinced that this bill addresses that concern by retaining ICC involvement when proposed rate increases are unreasonable. Obviously the point in dispute is the definition as to what constitutes being unreasonable or not unreasonable. This undoubtedly will be the key point of the debate.

This bill is premised upon the fact that a rate is not unreasonable if it only allows the recovery of costs, not dealing with profit, just to allow the recovery of costs. If a rate is beyond that cost recovery threshold, then the ICC has jurisdiction, as it does now, to review the appropriateness of that rate.

If one disagrees with this concept of allowing railroads to control their rates without regulation to at least meet costs, then we are left with probably one other alternative. That is to do what we have done so many times, which is to come back to the Congress for money.

It may startle the Members of this body to know that in the last 5 years we have appropriated some $11 billion in moneys for railroad subsidies. If my colleagues' perception of the feeling in this House is the same as mine, that continued degree of generosity to the railroads is not going to continue.

Much has been made, and much of the debate that will take place in the 3 hours that is allowed under this rule will deal with the question of coal rates. In the other body an attempt was made to carve out a specific exemption for coal rates. That attempt was wisely, I believe, rejected.

There will be some debate, and my good friend, the gentleman from Texas, a very eloquent proponent of his position, has made this case before the committee, there will be debate, and my colleagues will hear much about a particular situation in a particular State, the San Antonio case which was a case involving a railroad which, in fact, quoted a price that many feel was too low to start with. Then they went back to the ICC and were successful in getting successive rate increases, which many feel were inappropriate and may very well be inappropriate.

My point is that it will be brought out in the debate that laws should not be made on the basis of a particular situation and that the general rule—and my colleague, a very valuable member of the committee, the gentleman from Illinois (Mr. Madigan) has made the very important case that has to be made—the general rule is that coal transportation costs have been going down over the last number of years. In constant dollars from 1959 to 1978 the rate has gone from $3.45 per ton to $3.25 per ton for transportation costs. This is as a result of the fact of a greater degree of productivity on the part of the railroad industry, unit trains, and other equipment modifications. But that productivity and that increased capability for the carting of coal comes as a result of the need for increased revenues. Those revenues have to come from the users or the taxpayers.

The fact is also that it is anticipated that in the next number of years there will be a need for some $5 billion for railroads to increase their capability and productivity in the transportation of coal for the Nation's needs.

I have talked about the benefits for the railroad that are in this bill that people will be raising. I think briefly we should touch upon the benefits for the shippers which are in this bill. Most importantly, the shipping community, as represented by the coal shippers.

This bill will eliminate general rate increases, a very important factor for the shipping community. Over the last 3 years 124 percent of the rates have been as a result of across-the-board general rate increases. That is inefficient. That should not be agreed to. That should not be carried on. This bill eliminates general rate increases.

Likewise, the shipping community will benefit from the provision in the bill which allows contract rates to be entered into. Certainly shippers should be able to be provided with the stability of such contracts. The railroads can benefit from using those long-term contracts as financing mechanisms to go and raise the $5 billion that is needed to have that increased capability to transport coal rather than coming to the Congress.

The bill will eliminate collective ratemaking. That is the process by which the railroads come together, sit together, free from the antitrust laws, and set rates. The concept of this bill is a greater degree of competition. The idea of setting rates is antithetical to the ratesetting concept inherent in the bill.

Perhaps most importantly, and for the benefit of the shippers, the bill provides for a system of uniform cost accounting principles to be adopted by all railroads so the shippers can know what it is they are being charged.

In conclusion, the most troubling thing that I have heard in the last few days was a few representations yesterday that this was going in too rapid a way, that there had not been sufficient deliberation by the committee and the subcommittee and by the House on this matter. That was troubling because our committee has spent almost a year and a half on this matter. Our subcommittee and our committee debated in full, and the gentleman from Texas played a very important role in that debate.

I would like to enter into the Record at this point the three pages of the hearings and witnesses that we had before our subcommittee, including the gentleman and representatives from his area.

The Subcommittee on Transportation and Commerce held hearings on April 24, May 31, July 2, August 7, September 27, October 16, October 23, October 25, October 30, and November 1, 1979. Hearings were also held by the Subcommittee on March 31, 1980 and April 2, 1980. Topics of the hearings included rail deregulation and its relationship to the movement of agricultural commodities, Interstate Commerce Commission regulatory reform initiatives and shipper reactions to such initiatives, joint rates and through routes, rate bureaus, shipper concerns, car service, and mergers.

The Subcommittee heard testimony from the following witnesses: On April 24, 1979, the Subcommittee heard testimony from The Honorable Brock Adams, Secretary, U.S. Department of Transportation; The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; and William H. Dempsey, President and Chief Executive Officer of the Association of American Railroads.

On July 2, 1979, the Subcommittee heard testimony from Peter Goldmark, Executive Director of the Port Authority of New York and New Jersey; John Mladinov, Assistant Commissioner for Planning and Divisions, New York State Department of Transportation; Louis Rossi, New York State Railroad Administrator of the New York State Department of Transportation; Anthony D.

Gliedman, Commissioner of Ports and Terminals for the City of New York; Michael Harbert, Executive Director of the Institute for Longshore and Maritime Studies, Mr. George Pezold, General Counsel, Freight Users Association-Long Island Division; George Mulford, Vice President of Marketing, Revere Sugar Company; O. Carey, President and Chairman, New York Dock Railroad; Vincent Staunton, Vice President, Sea Land Service, Inc.; Carmine Ragucci, President, Holland Hook Marine Terminals; Edward G. Jordan, President and Chief Executive Officer, Consolidated Rail Corporation; James A. Hagen, Senior Vice President of Marketing and Sales, Consolidated Rail Corporation; Richard Steiner, Vice President of Marketing and Sales, Consolidated Rail Corporation; and John L. Sweeney, Senior Vice President, Consolidated Rail Corporation.

On August 7, 1979, the Subcommittee heard testimony from The Honorable John Rita, Mayor of Blue Island, Illinois; The Honorable Harold Gouwens, Village President of South Holland, Illinois; Robert D. Fritz, Regional Legislative Director of the Brotherhood of Railway and Airline Clerks; Donald Lindsey, Chairman of the State Legislative Board, Brotherhood of Locomotive Engineers; John McGinness, State Legislative Director, United Transportation Union; David Henderson, Executive Director, Eastern Country Elevator Transportation Association; G. F. Mohan, Director of Pricing, Illinois Central Gulf Railroad Company; John E. Harvey, Director of Corporate Transportation, Archer Daniels, Midland Company; John D. Mitros, Executive Vice President, Chicago, Rock Island and Pacific Railroad Company; Robert L. Lighthall, Manager of Commerce and Research, A. E. Staley Company; and Donald Burquist.

On September 27, 1979, the Subcommittee heard testimony from The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; James V. Springrose, Vice President of Transportation, Cargill, Incorporated; John Norton, Director of Transportation and Distribution, DuPont Company; E. Morgan Massey, President, A. T. Massey Coal Company, Incorporated; Laurence J. Stern, Manager of Transportation, Sunkist Growers, Inc.; and Michael Levinn, Vice President of Transportation, Western Grower's Association.

On October 16, 1979, the Subcommittee heard testimony from Alexander L. Morton, Director of the Office of Police and Analysis, Interstate Commerce Commission; Joseph Ostrow, Vice President of Market Development, Western Pacific Railroad Company; James L. Tapley, Vice President of Law, Southern Railway Company; and Edward G. Jordan, Chairman and Chief Executive Officer, Consolidated Rail Corporation.

On October 23, 1979, the Subcommittee heard testimony from Donald L. Flexner, Deputy Assistant Attorney General, Department of Justice; Otis W. Cobb, Senior Assistant Vice President of Pricing, Burlington Northern, Inc.; Joseph D. Feeney, General Counsel, Western Railroad Association; David Wilson, Assistant Director of the Bureau of Competition, Federal Trade Commission; James Fournaris, Traffic Manager, Sweetheart Plastics; and Conrad Romanick, Manager of Traffic Economics and Government Relations, Dow Chemical, U.S.A.

On October 25, 1979, the Subcommittee heard testimony from John Oberdorfer, Patton, Boggs and Blow; John H. Norton, Director of Transportation and Distribution, E. I. Dupont de Nemours & Company; Roland A. Ouellette, Director of Transportation Affairs, General Motors Company; Lee Cisneros, Director of Physical Distribution, Firestone Tire and Rubber Company; R. Kingman, Executive Vice President, H. K. Webster Co., Inc.; Ellis T. Cox, Executive Vice President, Potomac Electric Power Company; Melvin Miller, President, Clayton Container Corporation; and Edwin Wheeler, President, The Fertilizer Institute.

On October 30, 1979, the Subcommittee heard testimony from Alexander L. Morton, Director of the Office of Policy and Analysis, Interstate Commerce Commission; James Compton, Vice President, North American Car Company; John Rees, Chairman of the Board, National Rail Utilization Corporation; Richard Briggs, Executive Vice President, American Association of Railroads; and Carl N. Taylor, President—Rail Division, ITEL Corporation.

On November 1, 1979, the Subcommittee heard testimony from The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; Donald L. Flexner, Deputy Assistant Attorney General, Department of Justice; John P. Fishwick, President and Chief Executive Officer, The Norfolk and Western Railway Company; and Robert A. Gallamore, Deputy Administrator, Federal Railroad Administration.

On March 31, 1980, the Subcommittee heard testimony from The Honorable William B. Johnston, Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation; William H. Dempsey, President, Association of American Railroads; Thomas McFarland, Counsel for Illinois Feed and Grain; Reeder Miller, National Grain and Feed Association; Charles Smith, State Railroad Administrator, Maryland Department of Transportation; William Druhan, Secretary, National Conference of State Railway Officials; Donald Boyes, President, National Industrial Traffic League; Edward L. Merrigan, Counsel for National Association of Recycling Industries, Inc.; and J. R. Snyder, Chairman of the Legislative Committee, Railway Labor Executives Association.

On April 2, 1980, the Subcommittee heard testimony from The Honorable Bob Eckhardt, U.S. House of Representatives; The Honorable Darius W. Gaskins, Jr., Chairman, Interstate Commerce Commission; Brock Adams, Counsel for TRAIN; John P. Fishwick, President and Chief Executive Officer, Norfolk and Western Railway Company; Thomas H. Boggs, Jr., Counsel for the Committee of Railroad Shippers, Patton, Boggs, and Blow; James J. Baylor of A. T. Massey Coal Co., Inc., on behalf of the National Coal Association; Craig McNeese of Houston Light and Power Company on behalf of Western Coal Traffic League; Ellis Cox of Potomac Electric and Power Company on behalf of Edison Electric Institute; Conrad Romanick, Manager of Traffic Economics and Government Relations, Dow Chemical, U.S.A.; Howard Croft, President, American Short Line Railroad Association; and Paul Rodgers, Administrative Director and General Counsel, National Association of Regulatory Utility Commissioners.

We will be having amendments offered. I suspect many of them will be the same amendments that were offered in the committee and that were uniformly rejected. But I think it is important that we have an airing here as to the merits of those amendments.

The bill was passed in the committee by an overwhelming margin. I believe it was 36 to 5.

We have 3 hours of debate in the bill.

I would just ask this rule be passed, the bill be considered on its merits, and that we go forward in a deliberative fashion.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I support this rule since it is completely open in dealing with a very controversial subject matter. I wish to alert my colleagues, however, to several amendments I will be offering dealing with the problems of rail safety.

When I met with Secretary Goldschmidt about these problems he urged me to support the Rail Act of 1980 as a way to reach a solution. On the surface, that rationale makes sense since the bill is intended to help our railroads improve their general financial condition. Logically, increased revenues should permit the railroads to do needed maintenance and upgrading of their rails and roadbeds.

Unfortunately, past experience offers little assurance that those new revenues would be dedicated to the urgently needed maintenance. In fact, the FRA's own analysis shows no strong relationship between profits and accident rates. Some of our railroads with the best profit records have among the worst accident records. On the other hand, some railroads which have even suffered losses have relatively good safety records. We cannot leave the safety of our rail system to chance.

For that reason, I will be offering three amendments to H.R. 7235 to strengthen its focus on the vital issue of rail safety. My amendments would:

First. Give the ICC authority to approve or disapprove proposed rates of rail carriers which the Commission determines have excessively deferred their maintenance without good cause;

Second. Require that track inspections on which DOT bases its safety reports to the ICC occur at least once each year; and

Third. Make mandatory the discretionary authority in the committee bill for the Secretary of Transportation to notify the ICC of carriers which fail to meet safety standards and for the ICC to act, within its authority, to alter any financial arrangements which might impair their ability to meet those safety standards.

These are modest amendments to respond to a most serious problem. If the Rail Act is going to fulfill its promise of improving our Nation's rail system, certainly safety should be a primary focus. I urge your support.

☐ 1830

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I rise in support of the rule, and I should never oppose a rule that would bring to the floor of the House as important an issue as this one. Regardless of how it may come out, we have an open rule, and we should deal with this bill in an open way. But since we are talking about the rule and we are really not talking about the merits of the bill, I want to talk a little bit about the procedure here.

There are a number of extremely difficult questions involved in this bill. If we should precipitately meet the question before we have had an opportunity to perhaps compromise a few of these issues, we may occupy a greater part of next week. The gentleman from New Jersey (Mr. FLORIO) has correctly said that no bill should be written merely for a section of the country, and the problems of a given section of the country may be difficult to solve, if they are met by an attempt to deal with each of them separately. But in every piece of legislation the law should be sufficiently flexible to apply to all sections of the country and all problems. I want to stress here that this is not just a question of coal going to Texas. We are talking about other bulk cargoes like steel. We are talking about automobiles from Michigan. We are talking about chemicals from Louisiana. We are talking about agricultural produce like wheat that can best and most economically be hauled in rail cars. We are talking about fertilizer going to farm territories in the country. We are talking about matters that touch many Members of this House in various regions of the country.

I want to say this, that I think we can solve this question. I have devoted a good part of this day discussing the very, very difficult question of the captive shipper rate with the distinguished gentleman from New Jersey (Mr. FLORIO). He has been most helpful, most outgoing with his staff, and with his own expertise on this matter. I feel that we can solve it, but I think that we will make a mistake if we do not give those who are earnestly attempting to work out these difficult questions time to work them out. Perhaps they can be worked out before Monday.

If they cannot be worked out, it is certainly not necessary for us to move so rapidly that we do not attempt to work them out in advance and simply throw an extremely complicated bill on the floor which could very well be solved in the same way the trucker bill, with the rates for the trucking industry, was solved the other day.

I want to mention to you that it is not only a question of rates, that is, the threshold cost at which ICC may enter into the rate question, but we have problems concerning specific agricultural concerns and shipments of grain and cotton that need to be worked out. We have the question of the ports and the short-line problem. Classification 3 railroads have pretty well worked out their portion of the problem, but not the class 2 railroads. We have the question of the ports. I have been recently in contact with our former colleague, John Young. I understand that many of those problems are not yet worked out, yet could be. We have the problem of the intrastate rate issue, that is, under the bill the intrastate commissions are denied any authority to control intrastate rates. I think this can be worked out. Yet I do recognize we cannot stick with the original language of the original bill.

All I would ask of this body and of the leadership is patience. I would like to see us go through with a rule. I would like to see us go through with general debate and if, indeed, we can meet these issues in an intelligent way so as to speed up the process, we could go ahead with the bill next week. I think, though, that it is very, very doubtful that issues as difficult as this can be worked out in a manner in which those who are concerned with them will feel totally satisfied, unless we wait until the end of the recess for the final version of the bill.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the comments of the gentleman from Texas who has just left the well, Mr. ECKHARDT. I am distraught and perplexed by the desire of the White House to move ahead at such a frantic pace when in essence there are two diligent efforts being made to reach accommodations on the captive shipper situation with respect to coal transportation. I know that there are honest efforts being made at this moment to reach an accommodation. How long that will take, no one knows. Maybe it will be Monday. Maybe it will be Tuesday. Maybe it will be Wednesday. Maybe it will be July 21 or July 22. Whatever the case, I was fully prepared to rise this evening and urge my colleagues to vote down the previous question and to delay consideration of the rule until July 22. I believe, however, that the progress made today was sufficient—we have a long way to go—and that it would not be in the best interests today of trying to reach a workable solution.

Why am I concerned, then, about a workable solution? You have heard many reflections in the past few minutes concerning the San Antonio case. The situation in San Antonio is one that from 1976 through 1980 we have seen an 84-percent increase in the cost of transportation of coal into San Antonio. At this time there is currently, for the Burlington Northern primarily, a profit margin of $21 million per year. In the event that we would pass legislation that is currently pending, we would have an increase in the cost on an annual basis of at least $14 million, and over the life of the existing facility, $380 million additionally, without any capability of the coal captive shipper or the consumer to have review upon such an exorbitant rate.

In my opinion, then, this particular section dealing with the coal shipment situation, section 202, is merely a perpetuation of the monopoly, not deregulation, because the Burlington Northern is a profitable railroad, a railroad as well that has not come to me, or any of the Members to the best of my knowledge from the San Antonio area, to explain their always increased request for rates which I deem to be exorbitant.

Mr. Speaker, I believe that with due diligence, with work on both sides of the aisle, if this is not a partisan issue but rather a nonpartisan issue, perhaps we might be able to reach an accommodation and, therefore, will not seek to have a vote on the previous question this evening. Nevertheless, in the event that we are not able to reach some accommodation in the days ahead, I as well as many of my colleagues I know will be prepared to offer many amendments in an effort to reach some solution that will be satisfactory to the consumers as well as to the rail industry in general.

☐ 1840

Again, I will not encourage a vote to defeat the previous question this evening, but I do have that kind of concern in my mind.

I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question is ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 751) entitled "An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes."

NATO BURDEN SHARING

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McEWEN. Mr. Speaker, this body soon will take up for consideration the military construction appropriations bill for fiscal year 1981, and therefore I believe it is important that my colleagues be fully acquainted with a particular issue which is of growing importance to this Nation in a time of increasing defense commitments worldwide. The issue is burden-sharing within the NATO Alliance.

The Appropriations Subcommittee on Military Construction has been concerned in recent years that several of our NATO Allies have been content to overburden the United States with respect to the provision of certain components of our common defense. We have been further concerned with the apparent unwillingness of the administration to negotiate a more equitable relationship between the United States and the Alliance.

This body has ratified the committee's efforts in past years to apprise the administration of these concerns, and I regret to have to say that the will of the Congress has not been heeded in this regard.

In the bill which Chairman GUNN McKAY and the committee will be bringing shortly before the House, the committee has reluctantly determined to propel the administration to action through certain steps we have proposed which should leave no doubt about the intentions of this Congress to introduce equity to relative burden sharing in the NATO Alliance. Foremost among these actions is the proposed denial of funding requested by the administration for the payment of foreign property taxes on housing for the families of American servicemen stationed at NATO facilities.

The "Defense Policy Report," published by Congressional Quarterly, recently published a description of the committee's proposals and the history behind them. I commend this article to the attention of my colleagues:

PERSUASION HASN'T WORKED—TWO HOUSE PANELS PREPARING TO FORCE NATO BURDEN-SHARING ISSUE

(By Andy Plattner)

Two congressional committees have apparently given up trying to persuade the administration to insist that America's allies assume a larger share of the costs of maintaining U.S. troops abroad. Now the two panels are preparing to shove that view down the administration's throat.

The House Appropriations Committee will meet June 17 to endorse legislation that would end payments traditionally made by the United States to some NATO allies and to order the administration to negotiate the end to other similar payments.

For the first time, the appropriations panel's militant position on the issue has been joined this year by the House Armed Services Committee.

The administration is urging a go-slow approach, reminding Congress that several treaties governing the situation are in place and that these things should be done through calm negotiations, and not congressional mandate. The administration's effort has focused on getting the allies to guarantee that they would perform supply and other support missions in wartime, in contrast to the increased peacetime support sought by Congress.

It appears that Congress has had enough of this approach, though, and will continue to cut NATO-oriented funding until the administration sees it the same way.

TAX BAN

The Appropriations Committee has chosen the financially minuscule area of U.S. payment of foreign property taxes to strike its blow. In the fiscal 1981 military construction appropriations bill, the panel banned such payments outright, arguing the United States should not be required to pay property taxes on family housing when it contributes billions of dollars to the defense of NATO.

It made a similar argument last year in the fiscal 1980 bill and sliced $5.7 million from that legislation, the total requested to pay such taxes. At the time it warned the Defense Department that Congress would get still tougher in the future if the taxes were paid. The Pentagon paid the taxes, no negotiations were begun to stop them, and the committee, true to its pledge, stepped hard on the administration with this year's absolute prohibition from paying the taxes.

But these property taxes, paid in Germany and England and for which no services are provided, are only the tip of the iceberg to the committee. It believes nations that benefit from U.S. military forces should pay more of the costs of supporting those forces within their borders.

THE BROADER BATTLE

After landing its property tax blow, the Appropriations Committee directed the Pentagon to "increase its efforts to seek additional host nation support wherever it is appropriate and wherever the cost to the U.S. taxpayer can be reduced. The efforts to date have been insufficient . . . these efforts should increase or additional legislative guidance will follow."

The committee, for example, noted the Army's Master Restationing Plan for Germany that would consolidate American units and move them closer to the border. The precise scope of the restationing is classified but it is said to involve moving more than a dozen brigade-size units forward at a cost of over $1 billion. The committee said the construction costs of the plan should be borne by Germany because that country "will receive the greatest tactical advantages in a military sense."

This direction comes on the heels of a report last month by the appropriations panel on the fiscal 1980 supplemental appropriation concluding that expansion of military facilities in the Persian Gulf and Indian Ocean is a NATO and Japanese responsibility, not just a U.S. problem.

The committee reduced construction funds the Pentagon had requested for the area by about $50 million, criticized it for not asking the NATO allies and Japan to share in the burden and suggested such funding come at least in part from the NATO infrastructure program. (The infrastructure is NATO's common kitty to pay for jointly used construction projects such as pipelines, airstrips and the like.)

Now, in the fiscal 1981 construction appropriations bill, the committee has gone even further, suggesting that NATO countries pay for several projects in Europe as an offset to U.S. expenditures in the Middle East. The committee cut the administration's request for construction projects in Europe by $85 million.

Armed Services Committee. The Appropriations subcommittee's lead was followed last month by the House Armed Services Committee in its work on the construction authorization bill. That panel said other industrial nations that rely on the Middle East for much of their energy supplies "must be prepared and should share part of the burden either by assisting the United States directly in Indian Ocean activities or by assuming more of the responsibilities with their own defenses."

Armed Services member G. William Whitehurst, R-Va., acknowledged this marks a swing in the panel's position. "As the bucks have become tighter," he said, "there has been a growing feeling that the Europeans should do more." Whitehurst said he was among the last to adopt this view, because he did not want to delay needed projects by wrangling over who would put up the money.

FAIR SHARES

The administration has been fighting since 1977 with Congress over NATO funding, particularly for construction; but this is the first year there appears to be consensus in Congress to force the administration's hand.

The debate can be summed up in two sets of contradictory statistics. Congressional critics of the allies' efforts argue that the European NATO members are making a far smaller defense effort than is the United States, measured in terms of defense expenditures as a portion of gross national product (GNP). In 1978, U.S. defense expenditures were about 5 percent of its GNP; the corresponding figure for West Germany's was 3.3 percent. The critics argue that the healthy economies of Western Europe could spend far more for their own defense.

On the other hand, administration officials argue that during the 1970s, the Europeans increased their defense efforts at a faster rate than the United States. For example, U.S. defense outlays increased by 2.9 percent in real terms between 1978 and 1979, while Germany's increased by 3 percent in the same period and other European countries went up by even larger amounts. Thus, according to the administration, the United States is in no position to argue that its allies should bear a heavier share of the burden of alliance defense.

Much of the congressional initiative to squeeze more from the allies has come from the military construction subcommittees of the House Appropriations and Senate Armed Services committees. Last year, while cutting U.S. construction funding for Europe, the committees told the Pentagon to get the NATO infrastructure to pay for the U.S. construction projects.

And, despite the painful slowness of NATO's bureaucracy, the committees have imposed on the administration severe restrictions on "prefinancing" construction projects in Europe: paying for the projects with U.S. funds and collecting from NATO later. Get the money up front, Congress ordered. This order has been heeded: The only prefinanced project approved in fiscal 1981 is a ground-launched cruise missile facility that is considered urgent.

Congressional frustration. The increasing congressional pressure on the administration over sharing the burden for international defense has come partly from its frustration over the lack of apparent progress in reducing U.S. overseas costs through allied payments. Some of this irritation surfaced in March behind the closed doors of the House Appropriations Military Construction Subcommittee headed by Rep. Gunn McKay, D-Utah.

McKay noted Congress' past concern over the percentage of GNP the allies put into national defense. "Maybe that is not the total equation but that has to be considered. There is a feeling in the public mind that somehow or another [the allies] should have more interest in their defense. To some extent, the troops that we provide relieves them of the economic burden on their economy, particularly in Japan."

McKay called State Department efforts to address the issue with Germany and other countries "just a flurry of paper. I think they are manipulating us at the negotiation tables. I think they are beating us right down the tube."

Rep. Ralph S. Regula, R-Ohio, was less kind. "I do not think you are working hard enough to put the pressure on those people at either end of the spectrum to carry a bigger slice. Every dollar we can save with host nation support is a dollar to put into the Indian Ocean or put into the readiness of this country."

Regula charged that the United States is subsidizing the defense of the allies, particularly Japan, and the result is killing American industry. "For 30 years, we have been putting five and greater percentages into defense while [the Japanese] have been putting less than one. That is four percent they are using to whip us in the marketplace."

Regula and McKay argue that constitutional limits on defense spending in Germany and Japan would not bar those countries from paying for the support functions needed by U.S. forces. They could rehabilitate old bases and build new facilities for U.S. use, Regula argued. And he surmised that the only way the committee could get the administration's attention on this issue was to cut the construction requests and keep insisting on more host nation support. The subcommittee has urged the administration to renegotiate long-standing status of forces agreements (SOFAs) with the allies to obtain greater cost sharing. They note the SOFAs were put in place during the years following World War II when the economic balance was vastly different.

But administration officials claim renegotiation of these agreements will not save money. And, a State Department official warned the McKay panel that if the terms of the SOFAs were re-opened on the financial points, the allies might insist on alteration of other provisions which currently favor the United States but which are irritants to the allies. These include provisions establishing

U.S. criminal jurisdiction over American servicemen and the right of U.S. forces to operate in foreign territory.

Thomas Niles, the director of the State Department's Central European affairs office, told the committee that two additional obstacles might bar the West Germans from assuming a larger share of NATO's defense load: the fear among other European allies of increasing Germany's war-making capability, and strong German distaste for anything resembling payments for the costs of occupation.

Pentagon caught. Pentagon officials generally like the idea of getting host nations to provide more help, but they want guaranteed wartime support, not peacetime savings that would result from allied assumption of construction or labor costs.

There's a divergence of view, a senior Pentagon official acknowledged. He said the military is working with the allies to nail down agreements to provide wartime logistical support but "it remains to be seen whether it will reduce the peacetime costs as Congress wants."

Because of the U.S. armed services' severe manpower shortages and the high costs of American manpower, the Defense Department wants foreign governments to assume some of the wartime requirements for manpower in NATO. Lt. Gen. Richard H. Groves, deputy Pentagon adviser for NATO affairs, told the McKay subcommittee the United States has "firm commitments" that relieve the need to deploy 80,000 American soldiers to NATO during a conflict.

"We would like to get up to the equivalent of 290,000 United States soldiers' work picked up by the Germans mainly and the Benelux countries to a lesser degree," Groves said. He explained that if the United States did not have to plan on supplying those troops, most of whom would be reservists performing supply missions, they could be removed from the force structure. That removal produces a considerable peacetime savings, he said.

Pentagon officials told McKay they estimated the dollar savings of such an agreement as worth almost $5 billion annually. They said the United States would save approximately $1 billion for each 60,000 soldiers it can remove from the force structure.

Defense Department officials say they are caught in the middle. The State Department is in no hurry and has no inclination to push these countries on this, says one senior official. "Congress, on the other hand, would like to see results, preferably in the way of reduced costs."

PENTAGON WISH LIST

The Pentagon does have a wish list of peacetime support it would like from West Germany. This includes family housing for the U.S. military personnel, an end to discrimination against U.S. personnel outside of their bases, price breaks at recreational facilities for U.S. servicemen, lower automobile insurance rates and reduced transportation costs.

Congressional sentiment for host-nation contributions to the cost of basing U.S. forces in Europe is fueled by the fact that Japan and Korea historically have contributed to such support costs. Under the SOFA with Japan, the United States is responsible for all civilian labor costs on U.S. bases, but Japan has been paying about $70 million of the $500 million annual payroll for Japanese nationals working for the U.S. military. McKay was told the United States hopes to get the Japanese eventually to pay the entire annual bill for local labor. All told, Japan now pays about $1 billion of the $2.4 billion annual cost of U.S. forces in Japan.

Brig. Gen. T. C. Pinckney, who directs the Pentagon's East Asia office, told McKay the Japanese government is being pressed to do more "in private so that it does not look like we are trying to beat them over the head and they have to dig in their heels and be defensive for nationalistic purposes."

Pinckney said the South Koreans provide the United States with several hundred million dollars' worth of support including rent-free land, airfield upgrades and family housing construction annually. He said:

"We preferred them to build up their own forces and have simultaneously reduced the size of our forces in there as theirs have gone up. Now we have begun to put intentionally more emphasis on them as their economy has come up and their defense budget has increased, to assume more host nation support for us."

LEGISLATION REFLECTING THE POSITION OF GOVERNOR REAGAN ON TAX REDUCTION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 60 minutes.

Mr. CONABLE. Mr. Speaker, I wish to advise the House that yesterday several Members of both the House and Senate introduced legislation which reflects the position of Governor Reagan on tax reduction.

H.R. 7655 and S. 2878 provide for a 10-percent across-the-board tax cut for individuals effective January 1, 1981, and a phase-in over a 5-year period of depreciation reform, popularly known as "10–5–3".

The carefully designed package would accomplish two needed goals: First, the 10-percent rate reductions will just make up for the inflation-caused tax increases occasioned on taxpaying Americans since the passage of the 1978 tax cut. It is unconscionable that our Government is the beneficiary and our citizens the victims of a nonlegislated tax increase of $20 billion.

The 10-percent rate cut merely restores to the taxpayers the funds they have paid in taxes as a result of inflation forcing them into higher tax brackets. As such, it is really only a downpayment on further tax reductions which are necessary. I hope that eventually Congress will approve the indexation of the individual tax rates to preclude this windfall to the Government. In the meantime, however, this 10-percent rate reduction is essential.

The second goal is to increase the productivity of the private sector through depreciation reform. The 10–5–3 proposal eliminates the useful life concept of depreciation and in its place provides that, at full implementation, all new buildings will be depreciable in 10 years, all equipment in 5 years, and all cars and light trucks in 3 years. Since the speedup of depreciation has the effect of reducing the tax liability of corporations, 10–5–3 will assure our industry additional dollars for needed modernization of its plant and equipment. This, in turn, will make it more efficient and competitive not only here at home but vis-a-vis industries in other countries. Most of our trading partners have, for years, permitted their industries to depreciate on a basis even more favorable than 10–5–3.

The results have been obvious: Increased productivity and more competitive goods at the expense of American companies. The GNP's of Germany, France, England, and Japan have exceeded ours in recent years. One of the key factors in producing that result is their depreciation schedules. It is time we began the process of helping our industries—rather than hindering them—regain the industrial preeminence that made us the strong Nation we are; 10–5–3 is a major step toward that goal.

I am very pleased that Governor Reagan has endorsed this legislation. It is symbolic of his concern not only for economic expansion but for the plight of an overtaxed, inflation-burdened people who deserve better. This bill, I believe, will signal to the world as well as to the American people that a Reagan administration will promote a strong economic base and a competitive American industrial sector as well as a major reduction in tax burden for its own citizenry.

The answer to the stagflation which has resulted from the Carter administration's inept policies is not recession and a budget balanced by increased tax revenues but rather productivity in the private sector, incentives for individual effort and work and less Government expenditures. The new direction in tax and economic policy represented in this legislation is the first step toward the re-Americanization of our economy and our personal lives based on economic freedom and industrial strength.

One last comment: In preparing and making this announcement, Governor Reagan consulted with the Members of Congress of his party and took their wishes into account in the best tradition of legislative-executive cooperation. Many of us who are not from California do not know Governor Reagan well, but his performance in advocacy of this measure gives promise of a partnership during a Reagan administration in marked contrast to the lack of communication and cooperation which has characterized White House and congressional relations during the Carter administration. The American people can draw comfort from this augury and, hopefully, inspiration for the appropriate placement of their votes next November 4.

Mr. CONABLE. Mr. Speaker, I yield to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I have cosponsored and I rise in support of the Tax Reduction and Job Creation Act because I am convinced that it is the only means for achieving a reduction in the inflation rate.

The administration has sought this year to balance the budget by increasing taxes. The result of this bankruptcy policy has been to discourage investment and capital formation. Consequently, American industry is losing its competitive edge and the American worker is paying the price, along with the American taxpayer who is funding the entitlement programs to provide for the unemployed.

Mr. Speaker, we simply must end this vicious cycle of burdening taxes, inflation, recession, and unemployment. Increased Government spending may affect some of the symptoms, but it will not cure the disease. The cure is to cut taxes and do it immediately.

If we continue on our current course, the tax rate next year will rise to an unprecedented level. The increase due to inflation will be accompanied by an increase in social security taxes. We do not need short-term relief as much as we need to effect fundamental change that will boost the incentive to save and invest for the stimulation of economic growth.

First, Mr. Speaker, this legislation will reduce the income tax rate across the board by 10 percent giving the average American greater reason to produce and save the fruits of his labor for investment. We lag far behind other industrial nations in this category and it is imperative that we act now to alter this unfortunate trend.

Second, it is necessary that we approve the 10–5–3 depreciation concept for American business and industry. As all of you know, this allows a 10-year depreciation period for plants, 5 years for equipment, and 3 years for vehicles. Other Western industrial nations have adopted this or similar plans, and success with respect to capital formation and more efficient business planning has occurred. The example is clear—we need only to follow it.

I do not think that these proposals are excessively bold, but they are obviously necessary. I urge my colleagues to support this effort.

Thank you.

Mr. Speaker, I yield to my friend, the gentleman from New York (Mr. Kemp) who has been such a leader in the tax-cut movement and who has worked very closely, I know, with Governor Reagan in the generation of this legislation.

□ 1850

Mr. KEMP. Mr. Speaker, I appreciate my friend yielding and I rise in strong support of Governor Reagan's strategy for jobs and economic growth in the 1980's. I was proud to join yesterday with my friend, Barber Conable of New York, in introducing the first installment of the Governor's overall program to get the country moving again—an across-the-board, 10-percent cut in the income tax rates on individuals, and an accelerated depreciation schedule for businesses to encourage a more modern and competitive industrial base.

Republicans here in Congress have rallied around the plan, realizing that only the Governor's overall program—a 3-year, 10-percent-a-year personal income tax rate reduction, accelerated depreciation, indexation, and limited Federal spending—can restore growth, jobs, and prosperity to the Nation. A one-shot "tinker-tax" tax cut cannot turn the economy around, and will only compound America's problems. And those problems are frighteningly real.

Everything indicates that this recession may be the worst since World War II, if not since the Great Depression. Housing starts have fallen more than 50 percent in the past year, farm income is down by more than a third, steel orders are down 20 to 25 percent, and more than 1.8 million Americans have been laid off in the past 3 months.

In my own Buffalo area, unemployment is already listed at 9.2 percent, one of the highest in the major cities of the Nation, and layoffs and the rate of joblessness continue to climb.

At the same time, the administration has allowed tremendous increases in the tax rates on jobs, savings, and investment, and proposes an incredible tax increase of more than $70 billion in the next year alone. These disincentives are sapping our economy's vitality.

In reality, this recession was deliberately brought about by those who still believe that we can fight inflation with unemployment. I am here today to say that Republicans do not buy that discredited notion, and that we refuse to sacrifice the poor and the jobless in the battle against inflation. Unemployment is inflationary in that it reduces the human potential for output, production, and savings.

What we are proposing today is to let monetary policy fight inflation, while we provide the means to create jobs and encourage investment in American industry. We can fight inflation and recession at the same time, and Governor Reagan is showing this administration how it should be done.

Mr. Speaker, I would like to submit Governor Reagan's statement to the Record at this time, and I commend it to the attention of my colleagues in both the House and the Senate. If we do not lower the rates of taxation they will go up by $70 billion in 1981 alone.

The statement follows:

Statement by Gov. Ronald Reagan, June 25, 1980

Los Angeles.—The Carter Administration continues to fiddle while the American economy chokes on what could well become the worst recession in half a century.

Production lines are being idled. Factory gates are closing across the land, housing construction has gone into a tailspin.

In just 100 days, the Administration's policies have thrown 1.8 million American working men and women out of jobs and into unemployment lines.

And, what has been Jimmy Carter's answer to the deepening recession? Empty Rhetoric. "The tide has turned . . . ," he tells us.

Not surprisingly, his rhetoric is not turning the tide. Rather, it is engulfing the nation in a worsening recession which has become nothing short of a depression in major segments of the economy.

The answer to this depressing situation lies in immediate action by the Congress to reinvigorate the economy. The answer lies in a tax cut . . . a genuine tax cut . . . to be effective on January 1, 1981.

Consistent with the tax reduction approach I have been outlining for months, it should take the form of an across-the-board, 10 percent cut in income tax rates on individuals, as well as an effective accelerated depreciation schedule to revive the flow of investment into American business so it can become more productive and more competitive.

Such a tax cut will help savers, investors, workers, and producers—enterprising Americans who today, more than ever, bear the weight of an escalating tax burden. This approach also will stimulate the kind of investment necessary to modernize our factories and replace outmoded equipment, creating new and more productive jobs for American workers.

Given the deteriorating economy, we simply can't afford to wait any longer to take the steps necessary to put such a productivity-oriented tax cut on the books by the year's end.

I understand that Republican leaders in both the Senate and House—spanning the party's philosophical spectrum—intend to introduce legislation today to accomplish, in part, the first phase of the tax reduction approach I have been taking in my campaign.

I want to emphasize again that such tax cuts must be coupled with substantial reductions in the rate of growth in government spending. And, there is only one way to bring that about—by sending Jimmy Carter back to Plains and electing a Congress which is ready, willing and able to follow through on this commitment.

Jimmy Carter says we cannot cut taxes until we balance the budget. But, his policy of fighting inflation with higher taxes mounting unemployment and deepening recession only guarantees there will be no balanced budget at all—next year or ever.

The fact is, the plunge in employment and production is already drying up revenues. And, these two factors are combining to balloon federal costs at dizzying speed. With each additional one percent increase in the unemployment rate, the federal deficit swells by another 25-plus billion dollars.

Clearly, a tax cut to restore investment, production and incentives—tied to a convincing reduction in the rate of increase in federal spending—is the only means to achieve the magnitude of growth in the economy necessary to balance the federal budget.

Moreover, the phased-in tax cut approach I have proposed is just the first installment of an overall program to get the country back on its feet and moving again . . . a program to steadily reduce today's stifling tax burdens on citizens and businesses, large and small.

Besides the three-year, 10-percent-a-year reduction in income tax rates on individuals, these cuts must be made real and permanent in the fourth year by indexing all federal personal income taxes—so that today's new incentives are not taken away by tomorrow's inflated tax collections.

Indeed, only a permanent, inflation-proof, continuing tax reduction program can restore growth, jobs and prosperity to the nation. A "tax-plan-of-the-month" gimmick, of the "tinkertax" variety, the sort which can be expected from the Carter Administration, will only compound the nation's problems. Any such plan—to lower one tax and raise another, or reduce taxes this year and then inflate wages and salaries into higher brackets next year—will only compound the stagflation and deterioration now afflicting our economy.

Still, a firm handle on federal spending is absolutely essential for long-term control of inflation. My goal as President would be to gradually reduce the amount of federal spending relative to the total economy, or gross national product—reminiscent provided adequately for national defense and domestic needs and also have stable prices.

If elected, my budget would take the first significant step in that direction.

I would defend that budget strongly and effectively with the presidential veto.

Jimmy Carter wants to balance the budget on the backs of taxpayers as the federal government grows ever larger. I want to balance the budget too. But, not by raising taxes.

I want to balance the budget by reining in federal spending while providing Americans with the tax relief they deserve and the strong incentives needed to get this country moving again.

Mr. Speaker, I insert in the RECORD at this point an article from the San Juan Star, "Business Outlook," of Sunday, May 25, 1980, entitled, "Revenue Increase Bolsters Romero Tax-Cut Policy":

REVENUE INCREASE BOLSTERS ROMERO TAX-CUT POLICY

(By John Simon)

Gov. Romero, buoyed by reports that income tax collections are running 13.5 percent ahead of the 1979 rate, admits that he is now a confirmed disciple of Arthur B. Laffer, the economist who has gained nationwide prominence by advocating that government revenues can be increased by cutting tax rates.

Romero, in a lengthy interview at La Fortaleza last week, conceded that there is evidence to support Laffer's theory in the most recent Treasury report.

Ricardo Muniz, assistant secretary of Treasury for internal revenue, said income tax collections as of April 30 were $654.5 million, a 13.5 percent increase over the $576.4 million in the till on that date in 1979.

Muniz noted that the increase was achieved despite the 5 percent lower tax rate and tollgate tax collections that were lagging behind 1979—$26 million vs. $38 million.

While Muniz said flat out that the figures prove you can reduce taxes and increase revenues, Romero was a bit more cautious.

TAX CUT CHRONOLOGY

1977: 5 percent—eliminated "vampirita" of 1975.

1978: 5 percent—eliminated World War II Victory Tax.

1979: 5 percent—flat reduction but withholding tables remained unchanged.

1980: 5 percent—flat reduction with new withholding tables issued to reflect 1979–80 cuts.

1981: 5 percent—flat reduction approved two weeks ago.

1982: 5 percent—flat reduction approved two weeks ago.

"It is extremely difficult to say it is all due to the tax cuts," the governor said. "But the things Laffer told us would happen are happening. In fact, he guaranteed it would happen."

Romero adopted the Laffer concept early on in his administration, first eliminating the notorious "la vampirita" 5 percent tax that was imposed during the Hernandez Colon administration. That tax, incidentally, was levied on the counsel of James Tobin, a Yale economist who headed a group commissioned by Hernandez Colon in 1974 to analyze the island's ailments and prescribe remedies.

Romero then followed with the elimination of the 5 percent surcharge (World War II victory tax) in 1978 and a straight 5 percent reduction in 1979. He has approved another 15 percent slash in three increments of 5 percent this year, 1981 and 1982.

"I'm sold that the (Laffer) theory is correct," the governor said. "He wanted me to take a much bigger step initially but I couldn't. I felt I was charged with the responsibility of balancing the budget and I couldn't gamble on a 15 percent cut in one chunk. I said if it is going to show results with 15 percent it will show results with 5 percent."

Laffer, incidentally is due in San Juan this weekend and is scheduled to have lunch with Romero and his top economic aides at La Fortaleza Monday, an informed source said.

THE LAFFER CURVE

Laffer is a 38-year-old professor of business and finance at the University of California. His theory on taxation, in simplistic terms, is that there are two tax rates that produce zero revenue: zero percent and 100 percent. Between those extremes is a range which he expresses in a curve. As tax rates move toward the high side of the curve, revenues decrease after reaching a certain level under lower rates.

Laffer's philosophy, which author Jude Wanniski says reflects that of the 19th century French economist Jean-Baptiste Say, argues that the supply of goods creates a demand for goods and that supply can be increased by removing government impediments to commerce and industry; i.e. taxes.

That notion, of course, is the opposite of the one that has dominated Western economics for 40 years; demand creates supply and demand can be increased by raising consumer purchasing power through deficit financing or money creation.

Another factor that contributes to higher revenues when tax rates are lowered is what Government Development Bank President Julio Pietrantoni calls the honesty factor. "Tax payers are honest up to a point," he said. "But once the rates go higher than they feel is fair, they are going to take steps to avoid payment."

Pietrantoni, also a Laffer advocate, said he had been told by Treasury Secretary Julio Cesar Perez that there are 100,000 more taxpayers on the books this year than last.

Since that many jobs were not added to the economy, he noted, the explanation must be better enforcement and a decline in the number of taxpayers who have been rebelling against the high rates.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his comments. I do think that if this is precipitous, it appears so only because people have not been listening. But, I sense from what I hear of developments on the other end of the Capitol today, that they are beginning to listen and to understand that the time is late.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California, my friend, Mr. ROUSSELOT.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding, and I appreciate his introduction yesterday of a follow-on to many pieces of legislation in which I know he has been a participant with our colleague from New York (Mr. KEMP).

Mr. Speaker, the United States is on the verge of the worst recession since the Great Depression of the 1930's. Unemployment is at 7.8 percent and rising, farm income is down by more than one-third, housing starts are down 50 percent—the only thing that is on the rise is Government spending. Look for the silver lining in this cloud and you will come up with a plug nickel

Mr. Carter's 1976 Presidential campaign promised us to improve our outdated tax system with pie-in-sky tax reduction program. What he really had in hand was a recipe for an upside-down cake—high inflation and high unemployment blended with low productivity and low growth.

In his quest for a way out of this stew, Mr. Carter has indulged himself in a series of Presidential flip-flops. He plays a game of on-again, off-again tax cuts, waiting for his campaign pollster to tell him what to do. Should he call for a tax cut or not? Should he push for it now, or wait until January?

Mr. CONABLE. May I ask my friend, does this have something to do with the "misery index"?

Mr. ROUSSELOT. Yes, I think it was our dear President that gave us that "misery index," and has told us that we need to do something about it. I think that was back in 1976. As a matter of fact, in that same Presidential campaign he said that our tax structure was an outrage and needed to be reformed. He did say it was a disgrace, and he came up with all kinds of pie-in-the-sky tax proposals. I am afraid that all he really had in mind was a recipe for upside down cake—high inflation, high unemployment, blended with low productivity and low growth.

Mr. Speaker, unless decisive action is taken soon, 1981 will witness a 1-year tax increase of between $95 billion and $100 billion as a result of inflation and already legislated tax hikes—the most massive tax increase in U.S. history. As usual, the middle-income American will bear the brunt of this new burden. The average family of four will be paying approximately $500 more in taxes in 1981 than in 1980.

Something must be done. The Republicans not only know what to do, they are doing it. House and Senate Republicans have authored a bill to get the economy going again. We have developed a comprehensive tax cut package, introduced yesterday by the distinguished ranking minority member of the House Ways and Means Committee, Mr. CONABLE. The Republican package, H.R. 7655, includes the first of three permanent 10-percent, across-the-board reductions in income tax rates for individuals. It will index the tax rate to provide a hedge against inflation. It accelerates depreciations to get rid of existing disincentives for plant and business moderization to encourage expansion and increase employment. The Republican proposal will not only help the individual taxpayer in his battle against tax inflation, but it will also stimulate productivity and real growth in the business sector. This remedy is immediate, with relief forthcoming at the beginning of next year.

The ranking minority member of the Ways and Means Committee has already explained the specific provisions of H.R. 7655. As a member of that committee, I am certain that he will enjoy the unified support of the minority, and hopefully the enlightened support of the majority as well.

Mr. CONABLE. Mr. Speaker, I would like to yield to the gentleman from Ohio after those stirring remarks of the gentleman from California. If I were to criticize those remarks in any way, it would be only that the cake baked by the Carter administration does not even have frosting on the bottom, so it cannot be an upside down cake.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of H.R. 7655 which would provide needed tax relief for both business and individuals through a personal tax rate reduction by widening marginal tax brackets by 10 percent and through a program of move rapid depreciation.

Inflation alone makes a tax cut for individuals urgently needed, since the interaction of rising prices and the graduated income tax constantly pushes taxpayers into higher brackets, cutting their purchasing power, and providing an inflation bonus to the Treasury. Indeed our failure to index the tax system is adding to the suffering of the present recession, since the drop in purchasing power—caused by rising tax rates—cuts into the ability of consumers to buy the homes and cars and appliances which are going begging in todays' troubled economy.

H.R. 7655 is a step toward a permanent solution to this problem—one which can easily be remedied by making automatic annual adjustments in tax rates and personal exemptions to prevent bracket creep and stabilize individual income tax rates during this period of high inflation.

Both the Kemp-Roth approach and the new welcome taxcutting initiative by Governor Reagan endorse indexing as the sound, permanent, long-term answer to this problem. My bill, H.R. 365, which would index the individual income tax now has 160 cosponsors, Republican and Democrat alike, from all regions of the country. And it has widespread and growing support from the public as evidenced by public opinion polls. For example a recent Roper poll found that 61 percent of taxpaying respondents support an automatic inflation adjustment of the Tax Code.

Mr. Speaker, all the American people can be grateful that the vacuum in economic leadership which we see in the White House today is being filled by the sound tax-reduction recommendations of Governor Reagan and the leadership of Republicans in the Congress.

□ 1900

Mr. Speaker, I thank the gentleman from New York (Mr. Conable) for yielding and commend him for his long-term efforts in this regard.

Mr. CONABLE. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. Gradison), and I also would like to add my thanks to him for his pioneering leadership in the area of indexing.

It is true that Governor Reagan, while he proposed only a 1-year cut, has consistently supported and will continue to support follow-on cuts in the tradition of Roth-Kemp and indexing, which is necessary if we are to stabilize the tax rate on the people of this country and not have the kind of one-shot benefit which is almost immediately dissipated by the phenomenon known as bracket creep. That is why a one-shot tax cut is not appropriate, and it will not be, I believe, part of the plan of the Reagan administration.

Mr. GRADISON. Mr. Speaker, if the gentleman will yield further, I would also like to commend the gentleman from New York (Mr. Kemp), who has included the indexing proposal as a basic long-term element in the Kemp-Roth approach. I believe that the growing support for this long-term initiative indicates not only support in the Congress but, even more importantly, broad support across the Nation not just for talk about this subject but for action.

Mr. Speaker, I thank the gentleman for yielding.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I want to thank the gentleman again for yielding, and I thank my colleague, the gentleman from Cincinnati, Ohio (Mr. Gradison).

I am guilty, I want to say to my friends, for shamelessly plagiarizing the idea of the gentleman from Ohio (Mr. Gradison) to index the tax brackets. I have been a long-term supporter of it, and I appreciate his leadership in that area.

I want to make the point that I think the gentleman from New York (Mr. Conable), as well as my friend, the gentleman from Ohio (Mr. Gradison), made. In effect, the central problem in our economy from our perspective is the collision of the devaluing dollar and its impact upon the steep nature of our graduated income tax system.

Not only do we need a simultaneous strategy of restoring a stable and an honest dollar, which would be in the best interests of cutting taxes and stopping inflation, but we also need to reduce somewhat the steep nature of our graduated Tax Code.

Kemp-Roth—just so my colleagues on both sides have a better understanding of it, because I can see some who are anxious to jump to their feet in combat, in friendly combat and friendly strife—Kemp-Roth, reducing the tax rates by 30 percent, would simply, if we would index the brackets since 1972 or 1973, undo the damage or repair the damage that has been done to the tax brackets by about 6 years of inflation-induced bracket creep. That is all.

I am embarrassed that it is so modest. I would like to get the top rate ultimately, by the end of Governor Reagan's first term in office, to about maybe 30 or 40 percent at the top and the bottom rates to maybe about 4 or 5 percent at the bottom with some further study. But the very steep nature of the code, going all the way up to 70 percent, is a tremendous punishment to the saver and the worker.

I want to reiterate my point, that by getting the rates down across the board, getting the 73 percent down to 50, getting the 50 percent down to 30, getting the 30 down to 20, getting the 20 down to 14 and the 14 down to 10, we are in effect just repairing some of the damage that has been done by this relentless collision of inflation operating within the environment, with a steeply inflated Tax Code.

So, Mr. Speaker, in effect, besides indexing for the past 5 years, we need to index it for the future, as the gentleman from Ohio pointed out.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I now yield to the studious and effective gentleman from Louisiana (Mr. Moore).

Mr. MOORE. Mr. Speaker, I thank the gentleman for yielding, and I want to congratulate him on his latest Republican tax initiative.

I am pleased to join with the gentleman as a cosponsor, and I would hope that the American people, when they consider the matter of tax reduction and tax cuts and when they go to the polls in November and vote for a President of the United States, will remember exactly which is the party of tax cuts and which is the party of tax increases.

We now have a flurry of activity on the part of both parties. I hope the American people will be able to distinguish between true friends and fair-weather friends.

I would just like to remind the American people that the current administration, contrary to its promises in 1976, has not authored one single tax cut proposal. Quite the contrary. They gave us the windfall profit tax, the biggest single tax increase in history. They tried to give us the 10-cent-a-gallon gasoline tax which Republicans played a key role in helping to defeat. They are trying to give us now withholding on interest accounts, which will discourage small savers and people who have interest accounts all across the country. In addition to that, there is a host of minor speed-ups in tax collections and new tax increases that they would have us accept.

This has been the position of this administration from the time it took office until today, and now suddenly we see a change of heart. Now, suddenly we see a desire for tax cuts on the part of the other side of the aisle and, presumably, the administration.

Mr. CONABLE. Mr. Speaker, if the gentleman will allow me to comment at that point, I do not believe we have heard from the administration on this, although there are all kinds of inklings that they may be thinking in that direction. We have heard from the members of the Democratic Party in the Senate to that effect, that they feel the time has come for a study that would result in a tax cut by September 1. They are responding, of course, to the pressure, the relentless pressure, put on them by the genial gentleman from Kansas, who is the minority member of the Finance Committee in the other body.

However, it is important to understand that the response of the majority party in the other body comes at a time when the head of the administration, President Carter, has himself been out of the country. Perhaps they would not have responded had he been here to discourage their favorable response to this Republican initiative. I do not know. We will have to see what the administration's position is a little later on. Clearly, it is not the result of Presidential leadership. The President is not even here, and his last known statement on this issue of tax policy was that there would be no tax cut this year.

Mr. MOORE. Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Speaker, I think the

gentleman from New York (Mr. Conable) is eminently correct in what he is saying, that we do not know the position of the administration since the President is somewhere overseas at the present time. We do not know what he thinks about this. All we know is what he has been saying, and that is that he is opposed to a tax cut.

But the hallmark of this administration has been inconsistency, so while he has said he is against the tax cut, I assume he has now read the polls and I assume he will now read the votes in the Senate and he will come out and probably support this tax cut at this late hour.

I just hope that the American people will realize that they have been bamboozled once again. I hope they realize that the initiative for this tax cut has come from the Republican Party, and that it has come from years and years of work by Members like the gentleman from New York (Mr. Kemp), the gentleman from Ohio (Mr. Gradison), the gentleman from New York (Mr. Conable), and many others who have had tax cut proposals before this Congress for years and who have worked across this country for years toward that goal. I hope they realize that only now, at the 11th hour, when it looks like it is time for campaigning once again, does it appear that the other side will come forward with a tax cut.

I also, Mr. Speaker, simply say this: The one tax cut that is really going to help anybody is the modest 204 interest exemption. I happen to have played a small part in getting that passed in this Congress, and that was despite the opposition of the administration. They fought us every step of the way in getting that modest provision put in the tax law.

☐ 1910

So, Mr. Speaker, I would simply say to the gentleman from New York and my colleagues that I sincerely hope the American people realize from whence the real impetus for tax cuts comes and where it really ought to be shaped and where it really ought to be decided. And it certainly is not the other side.

Mr. Speaker, there is no sweeter music to the ears of the taxpaying public than news of Republican unity behind substantial tax relief. Yesterday's concurrence in a 10-percent tax cut by Governor Reagan and the Republican leadership of the House and Senate as well as our respective tax-writing committees is consistent with unified Republican congressional support in the past for across-the-board tax cuts. The same is true of inclusion of updated depreciation schedules for business as provided in the 10–5–3 bill.

Economic tinkering by the current administration has given this Nation Government induced inflation followed by a Government induced recession. It is the President's belief that the only way to fight inflation is to create a recession. I disagree and join the united Republican effort to reject the President's ill-advised policies in favor of tax reduction as a means to reduce inflation, create jobs, and provide long overdue tax relief for those who earn their keep.

There is no clearer explanation of how the tax burden has grown over the last 4 years under the current administration than the statement submitted by the minority to the report on the first budget resolution for next fiscal year. A summary of its observations give us this report. Both aggregate and personal tax burdens will be at record peacetime levels in 1981. When President Carter took office the Federal tax burden as measured by the ratio of taxes to GNP was 18.5 percent. In 1981 this ratio is expected to rise to 21.8 percent, an increase in the tax burden of almost 18 percent.

The overall personal tax burden as measured by the ratio of personal income and social security taxes to taxable person income was 15.2 percent in 1977. In 1981, the personal tax burden is expected to rise to about 19.3 percent. This represents a 27-percent rise in the personal tax burden over this short period.

In just the next year, aggregate and personal tax burdens are expected to rise from 20.9 to 21.8 percent and from 18.5 to 19.3 percent, respectively.

In 1981 total Federal receipts are estimated to climb by $92 billion. Of this amount, $39 billion, or more than one-third, will be raised as a result of net new revenue-raising measures initiated during the Carter administration. Let me remind you this is the same President who wanted to impose a 10-cent-per-gallon gas tax by use of an oil import fee. The House rejected the President's plan by a 10-to-1 margin and the Senate did so by a 7-to-1 margin.

Ample evidence exists for the magnitude of tax relief proposed by Governor Reagan and supported by Republicans in Congress. It is tax relief that will reverse the upward tax creep described above and let more Americans keep more of their hard-earned dollars in their own pockets.

Mr. CONABLE. Mr. Speaker, I thank my friend, the gentleman from Louisiana, very much for his statement.

Mr. Speaker, I am thrilled by the the earnest attention of the gentleman from Ohio (Mr. Vanik), who now has an opportunity to announce his conversion to this wonderful cause.

Mr. VANIK. Mr. Speaker, I want to say that I did not intend to participate in this partisan presentation.

Mr. CONABLE. Nonetheless, I am sure the gentleman's participation is sincere, and we appreciate it.

Mr. VANIK. But I am here, and I am glad that I am here. I came here to see if I could be persuaded by the wisdom of the philosophy of Government that is propounded in the tax cut proposal. I want to give the Republican Party full credit for initiating and pressing constantly for tax cuts. I think that is consistent. I do not know what the position of my President is or what he might conclude to as his position. And it is true that he may come to this direction because of political forces. But what I want to point out is: Is it wise?

It may be well to fight for leadership and be the party of the tax cut, but is it really provident?

I am for tax cuts, I am for tax cuts if you can cut taxes out of cutting unnecessary expenditures of Government, if you can cut taxes by the savings in the economies that you can bring about. But a tax cut that is going to be paid for by Federal borrowing, all of this money that is going to be paid out on this tax cut, is going to be borrowed by the Treasury at a rate of interest which we do not understand yet. It is certainly going to go up.

My point is that there ought to be some wisdom behind a tax cut. It ought to be a tax cut that we can providently afford.

Of course, the people want a tax cut. It is easy, it is a ploy to the electorate, "Vote for me, I will cut your taxes. And the money you get back in the tax cut will be depreciated dollars."

And on the bottom line of this whole process, when you fund a tax cut with borrowed money, which may cost 8, 10, 12, 15 percent over a long period of years, if it is ever paid back, the cost of the tax cut may be borne by future generations. I think that is an inflationary step that would more than offset the gains of the process. I think of the individual taxpayer. It is not the dollar you get back in the tax refund. It is what that dollar will buy. We are starting to turn around the face of the country in this Congress.

Mr. KEMP. Turn around? Is the gentleman serious about turning around, with people out of work, unemployment rising?

Mr. VANIK. We are watching expenditures, we are making the Government more efficient.

Mr. KEMP. If this is the gentleman's definition of turning around, I would hate to see——

Mr. CONABLE. If I may reclaim my time——

Mr. VANIK. Well, I will take my own hour.

Mr. KEMP. We are looking forward to that.

Mr. Speaker, will the gentleman yield?

Mr. VANIK. You do not want to hear the truth, so just have your own time.

Mr. CONABLE. I thank my friend, the gentleman from Ohio. I know the fervor of his feelings, and I know his heroism is not inspired by the fact that he is retiring because he has consistently been an intermittent voice for economies.

Mr. VANIK. A retiring Member is probably more likely to be more objective, not worrying about going out there to solicit votes with Government funds, paid for with borrowed money in order to finance a tax cut.

Mr. KEMP. The gentleman should know something about that.

Mr. Speaker, will the gentleman from New York yield?

Mr. CONABLE. I yield to the gentleman from New York. I urge my friends, however, not to waste this wonderful opportunity for the advancement of a good cause in bickering. I think it is not necessary.

Mr. KEMP. On the contrary. A little argument is the spice of life, and I think everybody is enjoying the process, and I welcome the gentleman to the debate. He has been a consistent proponent of increasing taxes to balance the budget, and I want to present him with the award for the closest political and economical philosophy of Herbert Hoover, who, in 1931, raised the tax rates on all of the American people to try to balance the budget. For some reason, we never got to a balanced budget because somehow the economy went even further into a recession, but the gentleman from Ohio sounds a lot like that Hoover philosophy.

"Who cares about unemployment?" the gentleman from Ohio, apparently, is saying.

Who cares that our economy is declining at such a rapid rate? Who is going to care for the poor people who are thrown out of work by the gentleman's party, who are trying to fight inflation by slowing down the economy?

And I just want to make one point of economics to my friend from Ohio, and I will look forward to his answer in the RECORD, because I know I will not get it here today.

Mr. VANIK. You are not giving me any time.

Mr. KEMP. Well, I will be glad to stick around to get the gentleman's answer.

But the point I want to make, it is a matter of absolute fact that the tax revenue coming into the U.S. Government is not only predicated upon the tax rate per se, it is based upon the tax rate times the tax base. And what we are saying in the Republican Party is not to cut tax rates to lose revenue. Certainly this gentleman is not saying that, and I know the gentleman from New York is not saying that. What we are talking about, as we can explain to the gentleman from Ohio, is getting the rates of taxation down lower so that we can encourage the tax base to expand through higher levels of production, so that we will have more revenue at a lower rate.

Now, lest the gentleman think that this is somebow a snake-oil idea——

Mr. VANIK. It is.

Mr. KEMP (continuing). It was advanced first by President John F. Kennedy in the early 1960's, it is since being carried out on the island of Puerto Rico by President Carlos Romero Barcelo, who has had a 15-percent reduction in the tax rate on the island of Puerto Rico in the last 2½ years. As reported in the San Juan Puerto Rico Star 2 weeks ago, in the Sunday edition, President Carlos Romero Barcelo confirms the fact that the lower tax rates have done two things for the island's economy: No. 1, it has increased the revenue coming into the treasury by 13.5 percent over the previous year.

And, interestingly enough, I say to my friend from Ohio, who is smiling, and I appreciate his sense of competitive spirit, more taxpayers, recognizing that the system was more fair and more efficient, came back out of the subterranean or the cash economy that was growing almost as fast in Puerto Rico as it is in New York City and throughout America—incidentally, Professor Gutman of Baruch College estimates that the underground economy, the cash economy, the barter economy, the evasion and avoiding of taxes, is upward to $300 billion a year—Carlos Romero Barcelo says that there are so many more taxpayers actually paying taxes today on the island of Puerto Rico, even higher than the number of new jobs, which points out to me that people are willing to pay taxes if they feel that they are fair. They are not fair in America today because they are discouraging the working men and women of this country, they are discouraging savers and investors and producers. And I agree with Mortimer Kaplan. They are too high.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. I might say that the report that I will file is my eighth annual report of tax treatment of 140 to 200 of America's major corporations, my corporate report, which indicates that there is not going to be much taxes paid. As a matter of fact, the corporate tax structure will shrink to 5 percent within 15 years.

Mr. Speaker, I would like to speak for a moment, when the gentleman has time.

Mr. CONABLE. All right.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank my colleague for yielding.

Mr. Speaker, I rise for two purposes. The first is to compliment the distinguished ranking Republican on the Committee on Ways and Means, his colleague, the gentleman from New York (Mr. KEMP), and all Republicans who have provided the initiative for this tax reduction measure.

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My second purpose, Mr. Speaker, is to raise an issue which I think is of some concern or should be of some concern to this body and I have not heard it referred to yet tonight. The wire services tell us today that the Democratic leader of the other body, the Senate, and I am quoting the Senate Finance Committee, has been instructed to report to the Senate with a program and a bill for a 1981 tax cut by September 3.

Now, it is nice that those Johnny-come-latelies would like to see a tax cut; but there is a minor problem here and that minor problem has something to do with the Constitution. The Constitution very clearly says in article I, section 7, that all revenue measures shall originate in the House, and if the Constitution says that all revenue measures shall originate in the House, it seems to me that it is very clear on the face of it that when the other body, the Senate, takes an action to come forward with a tax bill for a 1981 tax cut, they are usurping the constitutional powers of this body.

Mr. CONABLE. Mr. Speaker, will the gentleman yield back to me briefly?

Mr. SHUSTER. I would be pleased to yield.

Mr. CONABLE. Mr. Speaker, I think the gentleman makes a very good point; but it is pretty clear, however, that the American people want a tax cut, that a tax cut is appropriate, that the timing is urgent and that if the House defaults in its responsibility in this respect, we can expect the Senate, as in the past, to attach tax measures as nongermane amendments to other vehicles sent by the House.

Now, this would be most unfortunate and I trust that as the news report that the gentleman has read pervades the media, that the leaders of our House who are responsible for tax policy in the majority party will see to it that no such default occurs.

I think the gentleman makes a good point in calling that to our attention and calling attention to the responsibility of the House under the Constitution to originate tax measures.

Mr. SHUSTER. Mr. Speaker, I would say to my good friend that there is a high constitutional principle involved here. Whether you are a Republican or a Democrat, whether you are for the tax cut or against the tax cut, I call on the Speaker and I call on the Members of this body to assert our rightful constitutional role and simply not let tax measures originate in the Senate.

I thank my friend, the gentleman from New York.

Mr. VANIK. Mr. Speaker, will the gentleman yield just for a minute and a half?

Mr. CONABLE. Yes. I am happy to yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I would like to say that I hope during the course of the next weeks we will have an opportunity to continue this dialog on the wisdom of the tax cut.

I want to point out that two-thirds of the candidates for President are against the tax cut. I do not know President Carter's position, but today I understand that our colleague, the gentleman from Illinois, JOHN ANDERSON, has opposed the tax cut as something that would work inequitably.

My argument against the tax cut is that a tax cut that is funded and paid for out of borrowed money is a sham tax cut, because the people are going to have to pay for it with inflation.

The bottom line may be a net loss, rather than a gain.

Now, that is arguable and I would certainly like to have some solid evidence presented on that point.

On the Kennedy tax cut, and I have made a very careful analysis of that cut and I have had it analyzed by whatever help I could find on this side of the issue, because most of the economists work for the business side of the economy that perpetuates this ideology and supports it with contributions and with great help. The study that I have indicates that what happened after the Kennedy tax cut was more the impact of America moving into a war syndrome. We were moving into the Vietnam war. That had far more to do at that time, the movement into the war economy had far more to do with the returning of prosperity and business to America.

I think we need a peacetime stimulant. I am not sure that this is or is not the course; but my present instincts are that this kind of a tax cut on the eve of a political election, I do not think tax cuts ought to be enacted in a campaign year. If there is a good rule that we should adopt in the future it should be that tax cuts should not be enacted within 6 months of an election. That has too much of an opportunity for those who are campaigning for office to buy the office with Treasury funds. I think in principle it is a bad idea. I do not think we get the wisest, the best kind of wisdom on the eve of a political election when people are seeking office on the basis of what they promise to give away out of the largesse of the Treasury and out of resources that have to be borrowed.

Mr. CONABLE. Mr. Speaker, I trust the gentleman from Ohio will give this advice to his President. I think it will be of considerable assistance to him in the course of the campaign.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

Mr. CONABLE. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr Speaker, I think we ought to set the record straight, because I am sure my colleague, the gentleman from Ohio, knows that within a year's time after the Kennedy tax cut was put into place, revenues went up. There was a recouping or a reflow of revenue to the Treasury.

As a matter of fact, the Treasury was against that tax cut, as the gentleman probably recalls. They said that revenues would go way down and there would be all kinds of problems and it was long before President Johnson accelerated the war in Vietnam that those revenues came back. It was within a year's time, because I have studied it as well as the gentleman has.

So I say to my colleague, the gentleman from New York once again, it is true that the other side of the aisle is beginning to get the word. I would like to report that my own senior Senator from California, Senator Cranston, that gentleman from the other body, announced this weekend that he was for a tax cut and he thought it was now on the part of the leadership. He thought now is the time; so it is amazing how many born again tax cutters we now have, now that the gentleman from New York and others have recommended this procedure.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Roth).

Mr. ROTH. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I suppose it would be easy to use rhetoric and say that Jimmy Carter has been playing with the economy like a yo-yo.

By the end of this year, the Carter administration will have added $1,400 to the tax burden of the average American family of four.

Jimmy Carter's answer to a balanced budget was to push up taxes.

His answer to the recession he created is to drive up Federal spending, and throw the budget out of balance.

Mr. Speaker, a $315 tax cut for the average American family would be the result of the Republican tax bill introduced yesterday by Mr. Conable, myself and others (H.R. 7655).

The tax cuts would total $22 billion in 1981. The cuts would include a 10-percent across-the-board reduction in individual taxes and accelerated depreciation rules for businesses that invest in new plants and equipment. About $20 billion of the cut is earmarked for individual tax papers; $2 billion for business tax reduction.

The Conable tax cut bill is the first installment of a step-by-step, long-term commitment to reducing the tax burden of the American people and getting the economy growing again.

Under the Carter budget for 1981, Federal taxes are at the highest level in history. Taxes will take 22.4 percent of the gross national product. That is higher than World War II; higher than the Korean War. Higher than the Vietnam surcharge. The highest taxes in history.

Unless taxes are cut, the average American family faces an additional tax increase next year of $630, due to inflation, payroll tax increases and the new windfall profit tax. That will push the average family's tax bill up over $2,000.

The Conable tax cut bill is the first step toward getting the economy growing again and getting America back to work again.

The May unemployment rate in Wisconsin reached 7.5 percent. That is the highest jobless rate in Wisconsin since 1954, and it is headed higher. The Carter administration's policy of throwing people out of work to try to curb inflation is a bankrupt policy.

The traditional quick fix, one-shot tax cut will not turn this recession around. The working men and women of America deserve a fundamental change in tax policy, geared to increasing job investments and a lower tax burden.

The taxpayers of this country, the working men and women of this country, cannot wait for tax relief. The Congress should get to work immediately on a tax bill. The Conable bill offers the Congress this opportunity.

Mr. VANIK. Mr. Speaker, will the gentleman yield on that point?

Mr. ROTH. Yes.

Mr. VANIK. Mr. Speaker, I think it is possible for this Congress to design a tax program that would have those goals, that would do it within a balanced budget concept and commit the country in the future when we achieve the balanced budget to provide for targeted depreciation. I think that makes sense. That would create jobs, but I think to just give everybody a pidling bit of a tax cut, which would be more than absorbed by the higher prices of everything because of the inflationary impact, would mean that the after-tax dollars might be more, but they will buy less. I think in the end the individual person would suffer.

☐ 1930

Mr. ROTH. If I can reclaim my time for a second, I think what the gentleman says has some bearing. But we have to remember the Democrats have now run Congress for the last 24 years. Where have you been in the last 24 years?

Mr. VANIK. I have been right here during every one of those years. I have been here every one of those years fighting for tax reform, for justice, for a code that would respect the rights of the individual taxpayer.

Mr. ROTH. I am sorry, but evidently you have not been successful because we are in a terrible mess.

Mr. CONABLE. Pardon me, if I may reclaim my time. I believe it is within my control.

I do not wish to prolong this unnecessarily, but if we can bring this to a conclusion I think it would be gratefully received, by the members of the staff in any event.

Mr. ROTH. If I may continue for just 30 seconds, let me say in May the unemployment in Wisconsin, a State I am familiar with, reached 7.5 percent. That is the largest unemployment in Wisconsin since 1954, and we are heading higher.

Now, we have some problems. The Carter administration has not given us the leadership. They have taken us down the wrong path and that is why I think the Republican tax proposal may not be perfect, but nothing is perfect, but at least it is a positive step in the right direction.

Mr. CONABLE. I congratulate the gentleman on his comments and think that he is altogether too modest about the perfection of the Republican tax proposal.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to compliment the gentleman from New York not only for his obvious leadership but his great patience and forebearance in conducting this special order, which I find edifying to some degree.

I just wanted to observe that the gentleman from Wisconsin (Mr. Roth) has put his finger on a very important requirement of this country at this moment: leadership. The reason we are talking about this tax cut tonight is that the Republican Party has obviously promoted tax cuts for some years as a means to restore the Nation to economic health.

But this entire proposal is the epitome of leadership. Ronald Reagan, who is going to be the next President of the United States, has made a major economic proposal which the gentleman from New York is the leader of that legislation in this House and the companion bill introduced in the other body. Within a matter of hours after the future President of the United States has made the suggestion, which is radical in terms of recent history—we want to lower taxes—we not only see the Republican Party rallying to his cause by Members of all views on this side of the aisle, but we see most of the Democratic Party rushing to get on the bandwagon that he has started rolling. I suggest to you this augers well, as the gentleman chose that verb some time ago, for the next administration that will take office on January 20. We hope our Democratic friends will support him then as they are supporting him now by imitating him.

I would only add that we will miss the gentleman from Ohio who is retiring, not only for his combativeness and his rhetoric and his views, which certainly have their place, but I suspect that if all Democrats in the House and the other body shared his views and continued to state them so articulately in favor of higher taxes and more spending, a great many more Democrats will also be retiring, but not voluntarily. I thank the gentleman.

Mr. CONABLE. If the gentleman wishes further time, I would just simply say that I wish to thank him for enlivening the political landscape here this afternoon.

Mr. VANIK. If the gentleman will yield further, I want to say to my distinguished colleague, for whom I have some respect, and with whom I serve on the Committee on Ways and Means, I am glad we had this colloquy. As I said, I think Congress has to be persuaded as to a course of wisdom.

I do not question the goals that are in the mind of the gentleman in the well and his colleagues today who advocate this program. I just think we have a different approach to the problem. I think it is for the people of America and for this Congress to arrive at a decision.

My hope is that good judgment and that wisdom will prevail. The gentleman in the well and I have agreed more times than not on issues that were before the tax committee and I think when we get to a matter of the economy and the health of America, the future of the country, its recovery from recession, these are not partisan things. These are American goals. I think we ought to forget our partisanship. I would forget mine.

I have yet to be persuaded that this kind of a tax cut will achieve that end. If I felt persuaded, I would say so. I have no reason to reject an idea that some might claim the time is ripe for. I happen to feel that this is not the way to go. I have yet to be persuaded.

I just hope that we can continue this very fine colloquy the gentleman in the well has started so that we can have more of my colleagues participate.

I just want to say in a political year it is very easy to respond easily and say of course, everyone wants a tax cut. Why not? Why not eliminate the whole Tax Code? I may end up doing the gentleman one better and say just eliminate the Tax Code and let America, let every American defend himself with his own gun and feed his own poor. That is the direction you eventually go.

If this is such a wonderful medicine, the end product of it, where it will lead us is to irretrievable debt, chaos, a failure, a weakness in government to deal with the really critical problems of our times.

I believe sincerely and my concerns are based on my fears of what can happen to America just as strongly and as validly as the gentleman's beliefs are based on the hope that this method can lead America out of it. I think we ought to continue this colloquy. I want to thank my distingished colleague from New York (Mr. CONABLE) for leading the way in this important discussion.

Mr. CONABLE. I thank the gentleman also. I understand his feeling that there is no choice but to borrow the money if we cut taxes. It is an issue of leadership, however, that could be resolved in the direction of reducing the growth of government and the growth of taxes concurrently. At a time like this, a political time, I think what we are talking about is trying to chart a course for the future.

I would hate to see us insist on a balanced budget at a high tax level, assuming that there was no alternative to a balanced budget at a high tax level. There is an alternative. Restraining the growth of government, getting the economy moving and growing faster than the Government, something that has not been characteristic of recent periods. It is going to require discipline and vision, understanding and good economics, may I say, to arrive at that alternative.

But I cannot accept the conclusion the gentleman comes to that there is no alternative as a result of a tax cut but for the Government to borrow more money. There are alternatives. Those must be explored as well, and I urge the point the gentleman makes, that cutting taxes is not enough by itself. We have to worry about the end product, the balance between income and outgo.

I say only the strategy which says Government has to grow the way it has been growing and, therefore, we have no choice but to let taxes go up is a strategy of despair and one which I cannot accept. I appreciate my colleagues' patience in waiting here during this period of time.

● Mr. EVANS of Delaware. Mr. Speaker, by constantly searching for easy answers to our exceedingly difficult economic problems, the majority party in the Congress has refused to face up to the root causes of stagflation and allowed our country to stumble into an economic crisis of staggering proportions. The joint existence of double-digit inflation and an unacceptable level of unemployment has raised serious questions about our country's economic future in the minds of many Americans.

The remedy proposed by the Carter administration—a deliberately planned recession—will generate unacceptable and unnecessary human and economic costs. The time has clearly come to embark on a new philosophy of economic thinking as we enter the 1980's.

Inflation and recession are not effective cures for one another; the events of the 1970's have certainly proved that the bitter dosage of recession will not provide lasting relief from the ravages of inflation. From the standpoint of a recession, the real difficulty is not to stimulate consumer demand, rather it is to increase the supply of goods and services.

Economic growth depends on the effective use of available resources to obtain greater output with increased productivity. We have guaranteed that our economy's productive efficiency will decline in the form of a recession by killing off any incentive to produce through heavy taxes on capital and personal income, costly regulations, and unwarranted Government interference with the market pricing system.

Rather than working as a remedy for these ills, inflation generally makes them worse. As inflation makes its way through the economy, people are pushed into higher and higher tax brackets and are left without any real increase in purchasing power. People end up with even higher tax burdens—the $90 billion tax increase in President Carter's fiscal year 1981 budget proposal raises taxes to their highest peacetime level in our country's history—and they have very little incentive to produce. High levels of taxation discourage individuals from working.

Because it does not contain any meaningful effort to restrain spending, the first concurrent budget resolution is forced to reflect the largest single-year tax increase in history to give the transparent illusion that the budget is in balance. Increasing disincentives to work and produce by raising taxes to virtually unprecedented levels weaken the capacity of our economy to produce the volume of goods and services needed to meet consumer demand.

The low rate of investment in our economy also weakens productivity growth and places upward pressure on prices. In light of an alarming decline in productivity in recent months, the improvement of incentives for investment to replace our outmoded industrial base are absolutely essential to restore productivity growth.

The growth potential of our economy has definitely been lowered by the increasing burden of taxation on both individuals and businesses. As the Congress begins to exercise fiscal restraint and we begin to lower the growth rate of Federal spending, we must cut the tax rates. A tax cut oriented toward the supply side of our economy will encourage business to invest more capital in more modern means of production, as well as provide individuals with relief from the oppressive tax burden and an incentive to work more productively.

For all of these reasons, I believe we must immediately begin to implement the Roth-Kemp approach to reducing personal income taxes by 10 percent a year for the next 3 years and phase in the accelerated depreciation schedules included in the Conable-Jones "Capital Cost Recovery Act."

This type of tax reduction program will help savers, investors, workers, and producers—enterprising Americans who today, more than ever, bear the weight of an escalating tax burden. This approach also will stimulate the kind of investment necessary to modernize our factories and replace outmoded equipment, creating new and more productive jobs for American workers. Given the deteriorating economy, we simply cannot afford to wait any longer to take the steps necessary to put such a productivity oriented tax cut on the books by the year's end.●

● Mr. RHODES. Mr. Speaker, Federal taxes today impose a growing burden on the incomes of America's working men and women, at a time when our economy is suffering an economic hangover from a spree of Democrat inflation. For years, the majority has raised taxes time and again, until today taxes are the fastest growing item in the family budget.

We have been through a spirited confrontation on balancing the budget. Its tentative balance was achieved by means of $93 billion in increased revenues, not any belt tightening among the Federal agencies. Fiscal 1981 is slated for some $42 billion in tax increases arising from past actions by the Congress.

Last year Republicans saw that Democrat fiscal policies were driving the Nation toward a recession. We asked then for tax cut legislation, which if we had been listened to, would be in effect right now, helping ameliorate the adverse impact of the recession by leaving more money in taxpayer pockets to pay the rent and buy the groceries.

Cutting taxes obviously is anethema to the Democrats. Cutting taxes means that bloat in the budget will come into focus, and the waste and misuse of tax dollars will be exposed. We Republicans believe that Government needs to be trimmed of its lard. We do not believe in soaking the taxpayers to pay for sloppy government, and that is what we have under the loosely-written legislation passed by the majority over the past two decades.

At this time in our economic history, it clearly is time for a tax cut. The old argument that if bureaucrats spend money it is not inflationary, but if taxpayers keep it to buy groceries it is inflationary, should be put in the ash can. Congress has demanded the right to tinker with the economy. It has gummed up the works. Now it has a responsibility to help American families weather the recession by cutting taxes.

It will be argued that we have a budget resolution that precludes a tax cut. We also have a second budget resolution coming up, and it can be structured around the modest cut that we will ask for. Attorney General Benjamin Civiletti has estimated that up to 1 of 10 Federal dollars is misspent. There obviously is room to provide for a tax cut.

My colleagues, Mr. CONABLE, and Mr. KEMP, and I are cosponsoring a tax cut of $20 billion for individuals and $2 billion for accelerated depreciation, the 10-5-3 program which will provide incentives for business to invest, modernize and build new facilities to provide jobs. When people go back to work, economic activity generates increased revenues, so a tax cut now will help balance future Federal budgets.

Mr. Speaker, it is time for this Congress to face reality. If you will recall your history, the old Emperor Tiberius once reminded his tax collector that a good shepherd shears his sheep, he does not skin them. Tax levels in this Nation have risen so far and fast that many Americans feel they are being skinned by Uncle Sam. The economic pickle they find themselves in today, squeezed between Democrat inflation and Democrat taxation, with a Democrat recession at the door, cries out for tax relief.

We are introducing this legislation so that the working men and women of this Nation, and the business firms that provide their jobs, will know that it is Republican policy to cut taxes when such a move is wise. Now it will be up to the present majority to help us provide this needed economic assistance, or they will fail to respond to the genuine needs of the Nation's taxpayers.●

GENERAL LEAVE

Mr. CONABLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from New York?

There was no objection.

THE MID-DECADE CONFERENCE FOR WOMEN: POLITICS AS USUAL?

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MAGUIRE. Mr. Speaker, I am today introducing a House resolution identical to that passed by the Senate Foreign Relations Committee yesterday on a 14-0 vote, regarding the next meeting of the U.N. Mid-Decade Conference which begins on July 14. It relates to yet another attempt to use an official United Nations forum, excluding Israel, to make a political statement about the Middle East situation that is reminiscent of and in fact related to the infamous U.N. statement equating Zionism and racism which outraged men and women the world over not so long ago. The Senate resolution, introduced by Senator JACOB JAVITS, was supported by Senators STONE, SARBANES, HAYAKAWA, MOYNIHAN, BAYH, DURENBERGER, HEINZ, LEVIN, RIEGLE, BOSCHWITZ, DOLE, CRANSTON, PELL, and BRADLEY. This issue is one of great concern to our distinguished chairman of the House Foreign Affairs Committee, Mr. ZABLOCKI, who wrote a strong letter of protest to the State Department recently. And many of my good colleagues, including the gentlewoman from Colorado (Mrs. SCHROEDER), have given this serious matter much thought and support this resolution.

The essence of the problem is this: At the next meeting of a women's conference devoted to health, education, and employment in Copenhagen, there is an item on the agenda for discussion, debate and presumably for a vote, regarding the effects of the Israeli presence in the West Bank area on Palestinian women. It has been placed on the agenda with the acceptance of a 66-page document relating to that item because of some of the attending conferees. If the U.S. delegation to this conference participates, without instruction by the Congress, it will implicitly be subscribing to the questionable tenets on which this issue is framed. I do not want our Nation once again having to make a hasty decision about a U.N. vote which challenges Israel's existence and that is why I am hoping the House will act on this resolution.

At the last women's conference in Mexico City, in addition to condemning Zionism, Palestinian and Arab women were singled out and treated separately, while ignoring special cases, such as Saudi Arabia, where there clearly are real issues pertaining specifically to women worthy of exploration.

The Economic Commission for Western Asia, which excludes Israel from membership and which seats the PLO as a full member, although it only has "observer" status at the U.N. was able to get this new item on the agenda for this July's meeting. And so the stage is set once again for a U.N.-sanctioned assault on Israel, in a forum which is totally unrelated to women and issues relative to their health, education, and employment.

Not only is the issue one of fairness to Israel, Mr. Speaker, but it also is one of fairness to women. As governments and societies we have much to do in order to make a world in which women can achieve, grow and contribute as men are encouraged to do. The U.N. Mid-Decade Conference, by adopting the Palestinian women's question on its agenda, are using women and their plight in society, for the purpose of selecting out and politically criticizing a specific member state, Israel. I believe the House should act quickly and go on record against this politically motivated distortion of the conference agenda.

ANALYSIS OF THE PRESIDENT'S GASOLINE RATIONING PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 5 minutes.

● Mr. GILMAN. Mr. Speaker, I have just received an analysis of the President's standby gasoline rationing plan prepared by the Library of Congress.

While the analysis refers to the difficulties of estimating State-by-State allocations, it does provide some "best-available" estimates on which we may rely.

Accordingly, I insert this analysis at this point in the RECORD for the benefit of my colleagues:

THE PROPOSED STANDBY GASOLINE RATIONING PLAN: THE DIFFICULTY OF PRECISELY ESTIMATING STATEWIDE RATION ALLOTMENTS

(Prepared by Robert L. Bamberger, analyst, Environment and Natural Resources Policy Division)

On June 12, 1980, the Department of Energy transmitted to Congress a proposed final rule for a standby gasoline rationing plan, developed pursuant to the Energy Policy and Conservation Act (P.L. 94-163) as amended by the Emergency Energy Conservation Act of 1979 (P.L. 96-102). A proposed plan was first transmitted to Congress in March 1979 and a revision released for comment in December 1979.

Those who must evaluate the plan are, not surprisingly, concerned to know how the rationing plan may specifically affect the individual States. This short paper explores how changes made in subsequent versions of the rationing plan have made it exceedingly difficult to estimate with precision the allotment to vehicle owners in individual States. Projections based upon available data are tentatively offered.

THE STRUGGLE FOR EQUALITY: THE EFFECT OF PLAN DESIGN ON ALLOTMENTS TO VEHICLE OWNERS

The original version of the plan proposed in March 1979 would have established a national pool of ration rights from which nationwide and statewide priority needs, and national and state set-asides would have been subtracted. The balance of the ration rights would have then been distributed to coupon recipients.

The House determined in May 1979 that the proposed plan was not sufficiently equitable because residents of States with higher average gasoline consumption would be entitled to a disproportionately smaller number of rights relative to their base usage while residents of States with lower average gasoline consumption would not have to conserve as much or could reap an unearned advantage through the sale of ration rights. Shortly before the statutory time allowed for consideration of the plan expired, the Administration tried to rescue the plan by submitting amendments modifying the plan to take into account differences in Statewide average fuel consumption. The confusion contributed to the defeat of the plan in the House. Congress subsequently passed the Emergency Energy Conservation Act of 1979 (P.L. 96–102) which required the Administration to develop another plan and to provide that allocations would reflect differences in average State consumption.

In its initial revision of the plan, the Department of Energy risked even greater inequalities in its attempt to comply with the Congressional directive. A revised plan, released for comment in December 1979, would have established 50 individual State pools of ration rights after designating supply for a national set-aside and national defense requirements. Drawoffs for priority uses of gasoline within each State would be assessed against each State pool. It was apparent that this system, designed largely to assure that motorists in each State would suffer a proportionate share of the shortfall, would foster greater inequalities in some instances, especially in States with overall low gasoline consumption but a relatively high percentage of gasoline consumption for agricultural production.

The final rule transmitted to Congress on June 12, 1980 provides that gasoline consumption for agriculture would also be designated from the national pool of ration rights before dividing the balance into fifty individual State pools. Allocation of supplemental allotments for firms and business, and designation of allotments for emergency services and all other priority activities within a given State would still be assessed against that State's pool of ration rights. The Department of Energy maintains, however, that an adjustment for other priority uses is not necessary . . . because there is no evidence that gasoline usage by any other priority class of end-user will disproportionately affect in any material way the gasoline available to the ordinary motorist class of end-user."[1]

THE PROBLEMS IN ESTIMATING THE VARIATION IN STATE ALLOTMENTS TO VEHICLE OWNERS UNDER COUPON RATIONING

One purpose of this report is to attempt to quantify the impact of the proposed rationing plan on individual States. The discussion to this point, however, has been necessary to demonstrate an irony of the revisions to the plan that were made to comply with the Congressional directives in P.L. 96–102. Because the March 1979 plan created one pool from which, after priority uses were netted out, all motorists would receive their allotments, it was an easy matter to assume a certain degree of shortfall and priority requirement, and then calculate the likely allotment all motorists would receive nationwide.

The creation of 50 individual pools makes it extraordinarily difficult to predict with any precision the degree to which allotments in an individual State will fall above or below a nationwide average allotment. To begin with, the allotments nationwide will vary with: (a) the specific anticipated shortfall of gasoline, home heating oil or diesel fuel; (b) the fraction of base period consumption to which agricultural consumers are held; and (c) the fraction of base period consumption to which firms and businesses are held. These factors might be reliably predicted or hypothesized.

The allotments to vehicle owners in a specific State, however, will depend in part upon the extent to which consumption in an individual State is higher or lower than the nationwide per vehicle average. Projections of estimated average monthly gasoline consumption per passenger vehicle by State and the ranking of the States in this respect, however, have been developed by DOE. In calculating the size of a State pool under rationing, DOE would utilize the most recent base period data available.

But the State allotments will ultimately depend upon the extent to which draw-offs from the State pool (i) for the State set-aside or Ration Reserve; (ii) for non-agricultural priority uses; and (iii) for supplemental allotments for commerce and firms, are higher or lower than for other States. These determinants, in the absence of base period data, cannot be reliably quantified, and their State-specific impact difficult to project.

Under the proposed plan, a minimum of 5 percent will be designated for the State Ration Reserves, but States may apply to DOE to raise or lower the amount of the set-aside. Lowering the set-aside would increase the allotment to vehicle owners; raising the set-aside would reduce the allotment. The State Ration Reserve will be a percentage of the State pool; therefore the volume of individual State set-asides will vary.

After designation of ration rights for the State Ration Reserve, DOE would then calculate the volume of ration rights to be withheld for non-agricultural priority uses and for supplemental allotments for firms. Businesses would receive supplemental allotments equal to the difference between the basic allotment and a percentage (likely to be 80 percent) of the base period consumption.

During pre-implementation, DOE would establish a mechanism for firms to report their base period consumption so that the data would be available were the plan implemented. No base period data is currently available upon which to estimate what volumes of gasoline would have to be designated for these supplemental allotments and whether the supplemental allotments would have any significant effect upon the allotment to vehicle owners. As noted earlier, DOE maintains that there is "no evidence" that designated uses other than for agriculture will have a disproportionate effect on individual State allotments. The Department believes that he draw-off of ration rights from the individual State pools for the State Ration Reserve, non-agricultural priority uses and supplemental allotments for firms and businesses will not violate the Congressional directive that motorists in different States should not suffer the shortage disproportionately.

The agency cites a lack of evidence that these designations would result in vehicle owners in some States absorbing a greater proportion of the shortage. But neither does DOE offer hard evidence that these designations would not have a significant impact on the magnitude of shortage experienced in the individual States.

AN ESTIMATE OF ALLOTMENTS BASED UPON AVAILABLE DATA AND PROJECTIONS

Modifications to the rationing plan to comply with the directive in P.L. 96–102 that motorists in individual States shall not suffer disproportionately have made more or less impossible a precise calculation of individual State allotments under coupon rationing until base period data can be developed.

We can, however, weight available projections of average passenger vehicle gasoline consumption in the fifty States against DOE's projection of the average nationwide allotment under coupon rationing.

In its report to Congress on the development of the rationing plan, DOE speculates that the average allotment to vehicle owners nationwide would be roughly 42 gallons a month, assuming: (1) a 20 percent shortfall in gasoline, home heating oil or diesel fuel; (2) agricultural gasoline consumption held to 90 percent of base period consumption; (3) firms and businesses held to 80 percent of base period; and (4) a uniform State Ration Reserve of 5 percent.

The Department has also released figures estimating projected 1980 monthly gasoline consumption per passenger vehicle and ranking the states to the national average. The table on the next two pages estimates individual state allotments assuming that these rankings would be preserved under rationing. As has been argued, it is difficult to forecast, in the absence of reliable data, whether non-agricultural priority activities and designations for commercial supplemental allotments would distort these rankings appreciably.

ESTIMATED MONTHLY ALLOTMENT PER PASSENGE VEHICLE UNDER PROPOSED COUPON RATIONING[1]

State	Ratio of projected gasoline consumption per passenger car to national average[2]	Estimated monthly allotment
Arkansas	1.19	50.0
Texas	1.19	50.0
Mississippi	1.17	49.1
South Carolina	1.16	48.7
District of Columbia	1.16	48.7
Georgia	1.14	47.9
Virginia	1.14	47.9
Delaware	1.12	47.0
Missouri	1.11	46.6
New Mexico	1.11	46.6
Louisiana	1.10	46.2
Arizona	1.10	46.2
Tennessee	1.10	46.2
Nevada	1.09	45.8
Wisconsin	1.07	45.0
Michigan	1.06	44.5
Maine	1.06	44.5
Wyoming	1.06	44.5
West Virginia	1.05	44.1
New Hampshire	1.05	44.1
Vermont	1.05	44.1
Maryland	1.04	43.7
New York	1.03	43.3
Kentucky	1.02	42.9
New Jersey	1.01	42.4
Indiana	1.00	42.0
Alabama	1.00	42.0

Footnotes at end of table.

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[1] U.S. Department of Energy. Economic Regulatory Administration. Office of Regulations and Emergency Planning. Standby Gasoline Rationing Plan. June 1980 DOE/RG–0029, p. 39–40.

State	Ratio of projected gasoline consumption per passenger car to national average [2]	Estimated monthly allotment
Utah	1.00	42.0
Illinois	1.00	42.0
North Carolina	1.00	42.0
Florida	.99	41.6
Oregon	.97	40.7
Minnesota	.97	40.7
Oklahoma	.97	40.7
Iowa	.94	39.5
Ohio	.94	39.5
Massachusetts	.93	39.1
California	.93	39.1
South Dakota	.93	39.1
Connecticut	.92	38.6
Alaska	.90	37.8
Idaho	.89	37.4
Nebraska	.89	37.4
Kansas	.88	37.0
Washington	.87	36.5
Colorado	.86	36.1
Pennsylvania	.84	35.3
Hawaii	.80	33.6
Rhode Island	.79	33.2
Montana	.74	31.1
North Dakota [3]	.59	24.8
U.S. average	1.00	42.0

[1] Assumes nationwide average consumption of 42.0 gal/mo as estimated by DOE in: Progress Report to Congress on the Standby Motor Fuel Rationing Plans. June 1980, p. 5-1—5-4.

[2] DOE calculations, appearing in tabular form in: U.S. Congress. Senate. Subcommittee on Energy Regulation of the Senate Committee on Energy and Natural Resources. Department of Energy's Proposed Standby Motor Fuel Rationing Plan. Publication No. 98-86, Jan. 28, 1980: p. 27.

[3] DOE notes that "the figure for North Dakota may be too low because of apparent inaccuracies in the census estimate of the heavy truck population in the State. An inordinately large number of trucks multiplied by a large allotment index may be causing an overestimate . . . ." Ibid., p. 28.

The projections indicate that gasoline consumption in the individual States, expressed as a ratio of the nationwide average, range between .74 to 1.19 (excluding the doubtful figure for North Dakota). Assuming that the nationwide average allotment under coupon rationing would be 42 gallons monthly, the ratios calculate to a monthly allotment ranging from 31.1 gallons to 50.0 gallons. In absolute gallons, this seems a very large spread, but the Department data suggests that motorists in Montana alloted 31.1 gallons for passenger car consumption will be suffering no greater sacrifice than motorists in Arkansas with fifty gallons. The numbers in the table assume that individual State fuel consumption during the base period would rank as shown in the projections—which may be not an unreasonable assumption—and that the drawoff for non-agricultural priority uses and supplemental allotments would be uniform in all States—which may be more open to challenge.

SOME FINAL OBSERVATIONS

The debate over rationing proposals has been peppered with references to "fairness" and "equity." But the nature of the severe supply emergency that would necessitate the implementation of rationing will be a disorderly environment in which individuals would be sorely and unevenly disadvantaged. Rationing would be implemented—were DOE to have its way—only because "better alternative[s] cannot be identified." [2] The objective of the rationing plan can realistically be only to mitigate some of the unfairness—to restore a greater measure of equity in the allocation of a product in a marketplace where supply is less than demand at the prevailing price.

It is not impractical to speculate whether one fundamental design for assigning allocations—for example, on the basis of drivers' licenses or vehicle registrations—is less inequitable than another. The Department of Energy has determined in this instance that allocations on the basis of vehicle registrations would result in a broader dispersion of coupons among all income levels and a more acceptable pattern of income transfers from the sale and purchase of additional coupons.

Some refinements in design may not appreciably shift coupons among income classes or between motorists who require more or less than the average consumption of gasoline. It may, in fact, be counterproductive to suggest that some refinements of a coupon rationing plan are "more fair" than other designs because what is fairer to one coupon recipient must appear less fair to another. This must be so because different methods of rationing do not, of course, increase the supply of gasoline, but merely allocate it.●

VINSON-TRAMMEL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise because yesterday a very important session of the Subcommittee on Investigations of the Armed Services Committee, which I had not been notified about, celebrated, in order to go into the question of the so-called Vinson-Trammel Act. That sounds like Greek to many Members and non-Members, but what it is is a statute named after the late great chairman of the Armed Services Committee in the House, Mr. Vinson, and Mr. Trammel, who served at the same time with Mr. Vinson back in the thirties and was the then prevailing law to ride herd on the profiteers that were negotiating with the Government on what we call negotiated contracts.

With the advent of World War II more sophisticated means had to develop because, by the time 1945 reached the peak point of the war, the country was using over 46 percent of its gross national product on the Federal economic activities which was, of course, the single-minded purpose: To conduct and win the war.

□ 1940

The procurement, so overwhelming, then necessitated oversight on the part of the Government to ward off what has plagued America since its inception and when George Washington's troops were frostbitten, hungry, starving, and camping, and having to ward off the war profiteers of that time. In every period of our development since then, since Valley Forge, we have had the war profiteers. After the Spanish-American War which gave rise to excessive profiteering, the Congress legislated and attempted to legislate, but it was not really until the Vinson-Trammel Act that you had a fixed and targeted law.

Essentially what Vinson-Trammel provides is that it would allow no profit in excess of 10 percent in shipbuilding or 12 percent in such things as aircraft. This, of course, would be untenable and would have been untenable even in the last three decades, so Vinson-Trammel has never been enforced. Instead of that, there was a creation, mostly again because of the then Chairman Vinson, of the Renegotiation Board. The Renegotiation Board made a tremendous dent in the profits in excess that the war profiteers had reaped during the shooting aspect of the war. When the war was over and we had our first Secretary of Defense, Forrestal, the cry was on like it is today and was especially 2 years ago, but which has always been constant and sustained on the part of those who are engaged in this industry that deals on a negotiated basis. Remember, this is not a competitive on-bid basis type of procurement procedure. So they have constantly resisted any attempt on the part of the Congress to have the cop on the corner or any kind of oversight committee or agency or bureau.

It took the first Secretary of Defense, Forrestal, devoting almost his single-purpose mind and energy the first few months he was in office to develop what turned out to be the Renegotiation Board. Subsequent to that, in every session of the Congress, efforts were made by the industry, the lobbyists and those that they convinced in Congress, to try to take the teeth out of that watchdog. Exactly 13 years ago in this month, I arose and spoke to the House on the fact that the Renegotiation Board was about to die.

At that time the most fervent advocate of abolishing the Board was a Member of the House from California. Today he is the leading lobbyist for the industry and has redoubled his efforts—and I must admit sadly that he succeeded 2 years ago in the waning hours at midnight of the last Congress, and as a result we have not had the Renegotiation Board these last 2 years. In fact, it has been phased out and, believe it or not, you have even had the champions of tax cuts and such other largesses, and efficiency in Government in getting the dollar's worth out of the tax dollar, actually applauding and cheering the fact that the only watchdog the Congress has had has been killed off as of 2 years. So then the Vinson-Trammel Act was resorted to, though it has never been enforced. But the very advocates of killing the Renegotiation Board were saying, well, you will still have the Vinson-Trammel Act.

Now, as of yesterday's hearing they are trying to kill that, and it looks to me that the skids are so greased that we will not prevent it. But why was this oversight subcommittee holding a meeting yesterday? Because the Internal Revenue Service, realizing that the law is on the books and that these profiteers—because that is the word that should be used—are very sensitive about it, they want to flavor the language and say, oh, it is not profiteering; it is excess profits that are in dispute, and the interpretations as to what constitutes excess profits. But the truth is that it has been sheer, plain, undiluted war profiteering at the same time that the very advocates who are wanting to get rid of these watchdogs of the Government are asking that we register the young. But turn scot-loose to profiteering the guy who will be making and continuing to make the millions unjustly, dishonestly, and with heedless disregard to accountability and responsibility.

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[2] U.S. Department of Energy. Economic Regulatory Administration. Office of Regulations and Emergency Planning. Progress Report.

The Senate has already accepted an amendment that kills Vinson-Trammel, and even though it has not been enforced, it is still there. It is still something that is feared by the industry, because the Internal Revenue Service, for example, as a few months ago gave notice that it was going to look into this question, because there is no question that they have derived much more than 12 percent clean profit in the aircraft contracts, and certainly more than 10 percent in shipbuilding.

So then the fat is in the fire. It is very interesting to hear these discussions about tax cuts, efficiency in Government, while at the same time advocating completely stripping the American taxpayer naked of any defense against the war profiteer—and that is all it is. It is war profiteering.

As a matter of fact, on the procurement under the jurisdiction of this Board in just the period of time that it has been abolished, which is 2 years or less, I have estimated that the taxpayer through the loss of this Board in just less than 24 months has forfeited the right to over half a billion dollars in excess or profiteering amounts of money that properly should not inure to those engaged in that contracting with the Government.

So I just feel that the House ought to be put on notice that the skids are greased. We are in the swing again, at which time Congress is, and representative bodies are, very vulnerable. They are vulnerable to the pressures, and with the existence of these jillions of PAC's political action committees, heavily financed by this segment of the industry, it looks as if once again the American people will be gypped, will be stolen blind, and with the Congress supinely going along and helping with that process.

Mr. Speaker, I yield back the remainder of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ford) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, I rise today under special order to state for the Record that I oppose House Joint Resolution 521, making additional funds available by transfer for fiscal year 1980 for the Selective Service System. Due to a death in my family, I was in Michigan and was not able to be present on the floor of the House to cast my vote against transferring $13,285,000 from the Air Force budget to the Selective Service budget.

I oppose drafting young people at this time. I do not feel it to be prudent at this time to wrench young men or young women from their civilian lives. I do not feel that there is enough evidence to support the claim that the draft is needed.

Had I been able to be on the floor of the House of Representatives, I would have voted against House Joint Resolution 521.

Thank you, Mr. Speaker.●

PROBLEMS AND PROMISES OF THE NICARAGUAN EXPERIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, I recently traveled to Nicaragua along with the majority leader, Jim Wright of Texas, Mr. Neal of North Carolina, and Mr. Hance of Texas. Our purpose was to serve as emissaries of the President in discussing the reconstruction problems of that nation.

I came away impressed with the determination of the private sector in Nicaragua to achieve the kinds of freedoms and prosperity which, in my view, are only possible under a government that embodies democratic principles.

Preceding our delegation's visit to Nicaragua was Mr. Bill Steif, a Scripps-Howard News Service staff writer. Mr. Steif has prepared a series of articles which articulate many of the problems and promises of the Nicaraguan experience as well as providing an incisive analysis of the political and economic situations that exist throughout Central America.

I recommend the reading of the articles to all my colleagues who wish to be better informed on the events and eventualities which confront us in that important region of the Western Hemisphere.

The first of the articles follows:

Nicaragua Error

Last year, for the first time, the United States supported a revolution in the Western Hemisphere. That was the Sandinista-led drive to overthrow dictator Anastasio Somoza.

Since then, the United States and Communist nations have been competing to see if the Sandinista regime will evolve into a democratic or a Marxist government.

Now it looks as if the U.S. Congress is going to stall on voting to appropriate for Nicaragua the $75 million President Carter promised that Somoza-plundered nation last winter. The rationale is that the five-member Nicaraguan juanta, three Sandinistas and two recently named moderates, is "turning left." The evidence for that is 3.000 Cubans—teachers, doctors, technicians—and small contingents of Russians, East Germans, Bulgarians and Czechs working in Nicaragua.

But the outcome is still very much in doubt. The Sandinistas say they favor a mixed economy, non-alignment and political pluralism. They reject "the Cuban model" and appear to be highly pragmatic, which is the American way.

Nicaragua needs the $75 million to rebuild its economy, but at this point the money is less important than its symbolism. If the appropriation gets bogged in the petty haggling of Congress, it will seem to Nicaraguans that the United States has reneged on its support of their revolution.

If Congress wants to turn Nicaragua over to the Communists, it can follow no better course than dragging its feet on the $75 million appropriation.●

SECOND EXCALIBUR AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, I am pleased to call to the attention of my colleagues, the second ceremony of the Excalibur Award, which occurred on March 24, 1980. One of our colleagues, Michael D. Barnes, instituted this award in order to cite Federal workers for special merit. I wish to commend Representative Barnes for his timely innovation.

I heartily endorse the concept of the Excalibur Award; it is certainly appropriate to honor our Government employees, both civilian and military, for outstanding achievement. All too often, excellence and dedication in public service are buried under the weight of reports and suppositions that the Federal bureaucracy is inherently inefficient and unresponsive.

The recipient of the second Excalibur Award, Senior M. Sgt. Udo C.J. Fischer has shown extraordinary efforts in his commitment to the preservation and protection of human life. Sergeant Fischer serves as a striking example of the fact that valor, high ideals, and service far beyond the call of duty may still be found amongst our Government employees. I congratulate him wholeheartedly for his achievements in this direction.

Clearly, the Excalibur Award is an idea whose time has come. We need a vehicle with which to focus sharply upon the ability of Government to act on behalf of its citizens, and to correct the distorted image that many persons have of the Federal service. It is for these reasons that I insert at this point in the Record the following abbreviated remarks that Representative Barnes made in presenting the Excalibur Award:

Excalibur Award Presented in Capitol for Distinguished Government Service

(Remarks of Hon. Michael D. Barnes)

Mr. Speaker, I am very pleased to be participating in our second ceremony of the Excalibur Award, which was initiated by my office only a few months ago.

Our honored recipient today (March 24, 1980) is Air Force Senior Master Sergeant Udo C. J. Fischer, who greatly impressed my Selection Committee with his contribution to the Alaskan Air Command and to the general population as well in our northernmost State.

I intend to make this ceremony part of an ongoing program on Capitol Hill to foster America's appreciation of its many outstanding public servants by drawing attention to the many significant ways men and women serve their nation with distinction—whether in federal civilian or military service.

I hope that their stories of accomplishment, courage, high ethical standards, and the ability to overcome obstacles and contribute to an improved quality of life for their fellow man will one day supersede the public's often erroneous impressions of an ineffective, inefficient bureaucracy.

I believe that together we can all demonstrate how good government and its public servants can be.

Today in our presence there can be no finer example of excellence in government service than Senior Master Sergeant Udo C. J. Fischer, an aircrew life support superintendent at Elmendorf Air Force Base, Alaska, who trains all Air Force personnel and their families as they enter Alaska—as well as the general public—in the rigors of survival in the brutal Arctic weather and terrain. He thus prevents untold misery and financial loss by supplying the critical knowledge of proper day-to-day Arctic living procedures to protect our military forces and their families and to insure the survival of aircrews under any conditions.

Sgt. Fischer is now the team leader of the Alaska Mountain Rescue Group—a civilian volunteer organization—teaching avalanche survival and accident prevention to the Alaska State Troopers, National Transportation and Safety Board, Bureau of Land Management, Department of Fish and Game, Civil Air Patrol, Bush Pilots, Boy Scouts, and industrial groups who employ personnel at remote locations.

In the most extreme winter weather and climbing on the iciest, most dangerous mountain terrains, Sgt. Fischer personally leads his mountain rescue teams, which have saved 26 lives and recovered the bodies of numerous deceased persons. Thus—without personal compensation—but with the praise of his Air Force commanders and local citizenry for his resourcefulness, expertise, leadership, and courage—he has established a significant life-saving service for the community, reflecting his great concern for the health and well-being of humanity.

I am proud to have this opportunity to salute Sgt. Fischer and to present him with this Excalibur Award for outstanding government service. Sgt. Fischer, I congratulate you warmly and wish you every success in all of your future endeavors.●

TRIBUTE TO DR. ROY H. STETLER, JR.

(Mrs. SPELLMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. SPELLMAN. Mr. Speaker, it has been said, "You give but little when you give of your possessions. It is when you give of yourself that you truly give." I rise today, Mr. Speaker, to draw my colleagues' attention to one who, for more than three decades, has "given of himself."

He is Dr. Roy H. Stetler, Jr., who for 35 years has been pastor of the United Methodist Church in a town I still consider my hometown, Cheverly, Md.

Born in Harrisburg, Pa., in 1914, Dr. Stetler came to Cheverly after serving 6 years in a church in York County, Pa. In a total of 41 years in the ministry, he estimates he has preached 3,257 sermons, performed 742 marriages, baptized 1,250 children, and made almost 27,000 pastoral visits.

But far more important than those statistics has been his "giving of himself" over the years, sharing in—to use his own words—"the joys and sorrows, victories and defeats, faith and doubts, that are all a part of everyday living." For 35 years in Cheverly, he has been seeing to the spiritual and personal needs of those around him, comforting the sick and weary, guiding the young, and being a mentor to those seeking counsel. For 35 years, he has been a source of wise, sage advice, a confidant, an ally.

In short, Mr. Speaker, for 35 years Roy Stetler has, to thousands of people, been a true, valued friend. He has touched innumerable lives and brightened an incalculable number of days with his warm smile, helpful words and pleasant personality. Any other man would have been content knowing his days were overflowing in the service to his church and his congregation. Yet, Roy Stetler stretched beyond to serve his community, and serve it well. His involvement in civic activities were many and legion. A most cherished honor bestowed upon him in 1976–78 was his elevation to grand master for the Masonic Order for the State of Maryland.

Mr. Speaker, in just a few days, Roy Stetler's official duties will come to an end as he steps down from his pulpit to begin a well-deserved retirement. On Sunday, June 29, he will offer his last sermon as pastor of United Methodist Church.

That he will be missed—greatly—by all of those who know him, goes without saying. From all parts of the country his former parishioners returned to Cheverly recently to join his many friends who gathered to pay him tribute. We are consoled by the fact that the town of Cheverly and its people will not lose from their midst this kind, gentle servant of God, for he will continue to be our neighbor and friend. Retirement for Reverend Stetler surely will be a time for new beginnings, a time to pursue new challenges and to fulfill new goals.

Mr. Speaker, I know my colleagues here today will want to join me in recognizing the many fine achievements of Roy Stetler as he prepares to leave his ministry at Cheverly United Methodist Church. I know, too, they will want to wish Roy and his lifetime partner, Ruth, all the best in whatever new endeavors they undertake in retirement. And most of all, Mr. Speaker, I know my colleagues will want to join me in offering heartfelt thanks to Dr. Roy H. Stetler, Jr., for his many years of service to his church and his community. He is truly one who "gives of himself."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PATTEN (at the request of Mr. WRIGHT), for today, on account of a death in the family.

Mr. WEISS (at the request of Mr. WRIGHT), until 1:30 p.m. today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous material:)

Mr. CONABLE, for 60 minutes, today.

Mr. GILMAN, for 5 minutes, today.

(The following Members (at the request of Mr. MAVROULES) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. ALEXANDER, for 10 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. VANIK, for 30 minutes, on tomorrow, to revise and extend his remarks and include extraneous matter.

Mr. CAVANAUGH (at the request of Mr. GONZALEZ), for 5 minutes, today, and to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VANIK, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,063.25.

Mr. SANTINI, to revise and extend his remarks immediately prior to the vote on House Joint Resolution 507.

(The following Members (at the request of Mr. EDWARDS of Oklahoma), and to include extraneous matter:)

Mr. ROYER.
Mr. EMERY.
Mr. BEARD of Tennessee.
Mr. MCCLOSKEY.
Mr. PORTER in two instances.
Mr. GILMAN in two instances.
Mr. MICHEL in five instances.
Mr. WAMPLER.
Mr. O'BRIEN.
Mr. WYDLER.
Mr. CARTER.
Mr. LENT.
Mr. LEE.
Mr. BEREUTER.
Mr. HANSEN.
Mr. GRASSLEY.
Mr. SCHULZE.
Mr. FRENZEL in three instances.

(The following Members (at the request of Mr. MAVROULES) and to include extraneous matter:)

Mr. BARNES.
Mr. ASPIN.
Mr. RODINO.
Mr. ROSENTHAL.
Mr. EDGAR in two instances.
Mr. HANLEY.
Mr. WOLFF in two instances.
Mr. GRAY.
Mr. EDWARDS of California.
Mr. DODD.
Mr. LUKEN.
Mr. MOFFETT.
Mr. DRINAN in two instances.
Mr. DASCHLE.
Mr. HARRIS in two instances.
Mr. MAGUIRE.
Mr. JACOBS.
Mr. MCDONALD in three instances.
Mr. FORD of Michigan.
Mrs. SPELLMAN.
Mr. SANTINI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2284. An act to strengthen the system of congressional oversight of intelligence activities of the United States; to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

ENROLLED JOINT RESOLUTION SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 521. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes; and

S. 932. An act to extend the Defense Production Act of 1950, and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 521. An act making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Friday, June 27, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4697. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the transfers of certain naval vessels; to the Committee on Armed Services.

4698. A letter from the Director, Defense Communications Agency, transmitting notice that a study has been conducted of the guard service function at the Defense Communications Engineering Center, Reston, Va., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4699. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Japan (Transmittal No. 78–54), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4700. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to the Netherlands (Transmittal No. 80–77), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4701. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–200, to amend the Educational Licensure Commission Act of 1976, to adopt regulations for the licensing of institutions which confer degrees, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4702. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–201, to order the closing of a portion of 26th Street NW., abutting Squares 1286 and W–1286, between Q and East Streets NW., (S.O. 77–343) (Ward 3), pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4703. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–202, to incorporate the appendixes to titles 16 and 28 of the District of Columbia Code into the standard numbering system of such titles; and for other purposes, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4704. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

4705. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Greece (Transmittal No. 80–72), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C(b) of the Foreign Assistance Act of 1961, as amended, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

4706. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Netherlands (Transmittal No. 80–77), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4707. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports covering the month of March 1980 on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4708. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to issue a decision on appeal in No. 37010, *General Electric Co.* v. *The Delaware & Hudson Rwy. Co.*, within the specified 180-day time limit, pursuant to 49 U.S.C. 10327(j); to the Committee on Interstate and Foreign Commerce.

4709. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37350, *Soda Ash, Wyoming to Illinois, Iowa, and Missouri*, within the initially specified period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

4710. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision in docket No. 37331, *Increased Rates on Coal, Alabama to Boykin, Florida*, within the initially specified 7-month period, pursuant to 49 U.S.C. 10707 (b)(1); to the Committee on Interstate and Foreign Commerce.

4711. A letter from the Executive Director, U.S. Olympic Committee, transmitting the annual report and audit of the organization for calendar year 1979, pursuant to section 113(a) of the act of September 21, 1950, as amended; to the Committee on the Judiciary.

4712. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Merchant Ship Sales Act of 1946; to the Committee on Merchant Marine and Fisheries.

4713. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 4600 Fairfax Drive, Arlington, Va., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4714. A letter from the Clerk, U.S. House of Representatives, transmitting the annual compilation of personal financial disclosure statements filed with the Clerk of the House of Representatives pursuant to the Ethics in Government Act of 1978 (H. Doc. No. 96–335); to the Committee on Standards of Official Conduct and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. H.R. 7142. A bill to eliminate any cross compliance requirement as a condition of eligibility for loans and purchases in the case of 1979 crop soybeans thus providing soybean producers with a needed source of short-term credit during their financial crisis (Rept. No. 96–1085, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 731. Resolution waiving certain points of order against the conference report on S. 1308, a bill to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes. (Rept. No. 96–1130). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 732. Resolution providing for the consideration of H.R. 6704. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to extend the authorization of appropriations for such act, and for other purposes (Rept. No. 96–1131). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 733. Resolution providing for the consideration of H.R. 6386. A bill to authorize appropriations for the Legal Services Corporation for fiscal years 1981, 1982, and 1983 (Rept. No. 96–1132). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 734. Resolution providing for the consideration of H.R. 6667. A bill to amend the Federal Water Pollution Control Act relating to authorization extensions and industrial cost recovery (Rept. No. 96–1133). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. Report on Subdivision of Budget Totals Agreed to in First Concurrent Resolution on the Budget (H. Con. Res. 307) for Fiscal Years 1980 and 1981 (Rept. No. 96–1134). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7573. A bill to provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange (Rept. No. 96–1135). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1466. A bill to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes (Rept. No. 96–1136). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7249. A bill to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets No. 236–A, B, and E before the Indian Claims Commission and the U.S. Court of Claims, and for other purposes; with amendments (Rept. No. 96–1137). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHLEY (acting chairman): Committee on Merchant Marine and Fisheries. H.R. 7039. A bill to provide for comprehensive research and development regarding U.S. fisheries, to expand the fishing vessel and fish processing capacity of the United States, and for other purposes with amendment (Rept. No. 96–1138, pt. 1). Ordered to be printed.

Mr. ASHLEY (acting chairman): Committee on Merchant Marine and Fisheries. H.R. 5451. A bill to provide for education and training in maritime subjects; with amendments (Rept. No. 96–1139). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7385. A bill to authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes; with amendment (Rept. No. 96–1140). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND:

H.R. 7668. A bill to strengthen the system of congressional oversight of the intelligence activities of the United States; to the Permanent Select Committee on Intelligence.

By Mr. EMERY:

H.R. 7669. A bill relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine; to the Committee on Interior and Insular Affairs.

By Mr. PICKLE (for himself, Mr. Jacobs, Mr. Cotter, Mr. Gephardt, Mr. Fisher, Mr. Stark, Mr. Gradison, Mr. Rousselot, and Mr. Archer):

H.R. 7670. A bill to amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 7671. A bill to rescind the embargo on shipments of U.S. agricultural commodities to the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

By Mr. FORD of Michigan:

H.R. 7672. A bill to clarify the Farm Labor Contractor Registration Act of 1963, as amended, and to simplify compliance, and for other purposes; to the Committee on Education and Labor.

By Mr. GRASSLEY:

H.R. 7673. A bill to establish a citizens oversight panel to accept complaints filed against Members, officers, and employees of the House of Representatives, and when appropriate, to direct the Committee on Standards of Official Conduct to conduct a formal investigation of any such complaint, and for other purposes; to the Committee on Rules.

By Mr. HARRIS (for himself, Mrs. Schroeder, Mr. Minish, Mr. Pease, Mr. Vento, Mr. Gilman, Mr. Mattox, Mr. Volkmer, Mr. Gephardt, Mr. Mollohan, Mrs. Spellman, Mr. Cavanaugh, Mr. John L. Burton, Mr. Whitehurst, and Mr. Lowry):

H.R. 7674. A bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mrs. HECKLER:

H.R. 7675. A bill to direct the National Institute of Arthritis, Metabolism, and Digestive Diseases to conduct such studies as may be necessary to determine the safety and efficacy under section 505 of the Federal Food, Drug, and Cosmetic Act of dimethylsulfoxide (DMSO) as a topical analgesic and to provide that, if the drug is so determined to be safe and effective, new drug applications may be approved under such section based on the evidence submitted by the Institute; to the Committee on Interstate and Foreign Commerce.

By Mr. LOWRY (for himself, Mr. Bonker, Mr. Swift, Mr. Dicks, and Mr. Pritchard):

H.R. 7676. A bill to provide for full insurance for deposits of public funds in insured banks, thrift institutions, and credit unions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NOWAK (by request):

H.R. 7677. A bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. QUAYLE:

H.R. 7678. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against income tax for up to $750 of the cost of purchasing a new highway vehicle; to the Committee on Ways and Means.

By Mr. REUSS:

H.R. 7679. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the marriage penalty by permitting the deduction, without regard to whether deductions are itemized, of 10 percent of the earned income of the spouse whose earned income is lower than that of the other spouse; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 7680. A bill to provide assistance with regard to financially distressed hospitals serving the medically indigent, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLOMON:

H.R. 7681. A bill entitled "Homemakers Social Security Benefits Act"; to the Committee on Ways and Means.

By Mr. WHITE (for himself, Mrs. Holt, Mr. Montgomery, Mr. Hillis, Mr. Kazen, Mr. Hopkins, Mr. Won Pat, Mr. Nedzi, and Mr. Nichols):

H.R. 7682. A bill to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes; to the Committee on Armed Services.

By Mr. ROBINSON:

H.J. Res. 578. Joint resolution to proclaim June 4, 1981, as "Jack Jouett Day"; to the Committee on Post Office and Civil Service.

By Mr. UDALL:

H.J. Res. 579. Joint resolution to establish a commission on Presidential nominations; to the Committee on House Administration.

By Mr. MAGUIRE (for himself, Mrs. Schroeder, and Mr. Wolff):

H. Res. 735. Resolution relating to the United Nations Mid-Decade Conference for Women; to the Committee on Foreign Affairs.

By Mr. Wolff (for himself, Mr. Jones of Oklahoma, Mr. Akaka, Mr. Brown of California, Mr. Cleveland, Mr. Drinan, Mrs. Fenwick, Mr. Jeffords, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Leland, Mr. Lowry, Mr. Markey, Mr. Pepper, Mr. Pritchard, Mr. Scheuer, Mr. Winn, Mr. Wolpe, and Mr. Yatron):

H. Res. 736. Resolution expressing the sense of the House of Representatives that international congressional fellowship programs are a valuable resource to the Congress and encouraging support for such fellowships by nongovernmental organizations; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PETRI:

H.R. 7683. A bill for the relief of Kenneth W. Hunke and Virginia F. Hunke; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 7684. A bill for the relief of Winifred Claire Sliker; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1002: Mr. Lujan.

H.R. 1459: Mr. Phillip Burton, Mr. Evans of Delaware, Mr. Harris, Mr. Hinson, Mr. Lott, and Mr. McKinney.

H.R. 3047: Mr. Mattox.

H.R. 5610: Mr. Hubbard, Mr. Hutto, and Ms. Mikulski.

H.R. 6070: Mr. Edwards of Oklahoma.

H.R. 6722: Mr. Barnard, Mr. Leach of Iowa, and Mr. Mineta.

H.R. 6725: Mr. Kramer.

H.R. 6782: Mr. Johnson of Colorado, Mr. Evans of Georgia, Mr. Whittaker, Mr. Robert W. Daniel, Jr., and Mr. Robinson.

H.R. 6918: Mr. Simon and Mr. Brown of Ohio.

H.R. 6977: Mr. Barnes, Mr. Phillip Burton, Mr. Conyers, Mr. Corrada, Mr. Gray, Mr. Guarini, Mr. Lehman, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Seiberling, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weiss, and Mr. Wolff.

H.R. 7127: Mr. Whitehurst, Mr. Mattox, Mr. McDonald, Mr. Wyatt, Mr. Derwinski, Mr. Pashayan, Mr. Long of Louisiana, Mr. Hammerschmidt, Mr. Tauke, Mr. Tauzin, Mrs. Schroeder, Mr. Rudd, Mr. Simon, and Mrs. Smith of Nebraska.

H.R. 7310: Mr. Barnard, Mr. Bereuter, Mr. Cleveland, Mr. Coelho, Mr. Conte, Mrs. Fenwick, Mr. Frenzel, Mr. Hanley, Mr. Jeffords, Mr. Lloyd, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Railsback, Mr. Roe, Mr. Simon, Mr. Skelton, and Mr. Whitehurst.

H.R. 7482: Mr. Campbell, Mr. AuCoin, and Mr. Garcia.

H.R. 7520: Mr. Brodhead, Mr. McDade, Mr. Ginn, and Mr. Barnard.

H.R. 7547: Mr. Moore.

H.R. 7555: Mr. Quillen.

H. Con. Res. 344: Mr. Zeferetti and Ms. Oakar.

H. Res. 709: Mr. Won Pat and Mr. Edgar.

PETITIONS, ETC.

Under clause 1 of rule XXII,

379. The SPEAKER presented a petition of Jesse L. Long and others, Jenny Lind, Ark., relative to the performance of Brig. Gen. James Drummond, Cuban Refugee Task Force commander, Fort Chaffee, Ark.; to the Committee on Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6386

By Mr. SHUMWAY:

—Page 2, after line 12, add the following new section:

Sec. 2. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(i) No funds appropriated under this title for fiscal year 1981, 1982, or 1983, and made available by the Corporation, either by grant or contract, may be used to provide legal assistance to any individual unless such individual (1) is a citizen of the United States, (2) is lawfully admitted for permanent residence in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), (3) is admitted to the United States as a nonimmigrant under section 101(a) (15) of such Act (8 U.S.C. 1101(a) (15)), or (4) is admitted to the United States as a refugee under section 207 of such Act (8 U.S.C. 1157).".

By Mr. GILMAN:

—On page 2, line 6, insert "Sec. 1." immediately after "That".

At the end of the bill, add the following new section:

Sec. . Section 1007 of the Legal Services Corporation Act, Public Law 93-355, as amended by Public Law 95-222 (42 U.S.C. 2996f) is amended by adding at the end of subsection (a) of such section the following:

"(11) insure that recipients which receive an award of attorneys fees shall transfer such fees, notwithstanding any other provision of law, to the general fund of the United States Treasury as miscellaneous receipts, except that such fees need not be transferred:

"(i) when the fees are awarded under the common law,

"(ii) when the fees are awarded pursuant to any State statute, or

"(iii) when the fees are awarded following a suit to which the Corporation or any recipient is a party. This section shall not be construed so as to require the transfer of any disbursements or costs usually allowed in litigation against the unsuccessful party.".

By Mr. SENSENBRENNER:

—Page 2, after line 12, insert the following new section:

Sec. 2. (a) Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2966f) (Public Law 93-355) is amended by adding at the end thereof the following new subsection:

"(i) (1) Subject to paragraphs (2) and (3) of this subsection, funds made available by the Corporation by grant or contract during fiscal years 1981, 1982, and 1983 for providing legal assistance under this title shall be subject to the following requirements:

"(A) Not less than 50 percent of the total amount of funds made available to each state in any such fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar, with open participation rights by members of the bar.

"(2) The Corporation may permit a lesser percentage of the funds made available than that required by paragraph (1) of this subsection to be used for legal assistance provided by the private bar in a particular State, but only if the refusal or inability of the private bar to provide such assistance is clearly demonstrated.

"(3) The percentage requirements set forth in paragraph (1) of this subsection shall not apply with respect to funds made available by the Corporation to provide specialized services to native American populations or migrant farm workers.".

(b) Section 1007(a) (3) of the Legal Services Corporation Act (42 U.S.C. 2996f(a) (3)) is amended by inserting ", consistent with the requirements of subsection (i) of this section," immediately after "provide".

By Mr. SHUMWAY:

—Page 2, after line 12, insert the following new section:

Sec. 2. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this title, none of the funds made available for fiscal years 1981, 1982, or 1983 to the Corporation or to any recipient by the Corporation shall be used, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or of any State or local legislative body, or of any State proposal by initiative petition.".

H.R. 7592

By Mr. JONES of North Carolina:

—On page 3, line 4, strike "$732,873,000" and insert in lieu thereof "737,023,000".

H.R. 7631

By Mr. ERTEL:

—Page 25, line 18, strike out "$982,800,000" and insert in lieu thereof "$991,200,000".

Page 25, line 19, strike out "$114,600,000" and insert in lieu thereof "$123,000,000".

Beginning on page 25, line 25, strike out "*Provided further*," and all that follows through "Center for Innovation Development:" on page 26, line 2.

By Mr. HAGEDORN:

—Page 33, beginning on line 5, strike out ": *Provided, further*," and all that follows through line 9 and insert in lieu thereof a period.

SENATE—*Thursday, June 26, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:50 a.m., on the expiration of the recess, and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

God of our Fathers, who, in every age, has watched over this Republic, give us a due veneration of great men and valiant deeds in the past, but preserve us from misgivings of our adequacy for the present hour. Make us to know that the God they worshiped and the God by whom they were guided is still the God of their sons and daughters. Give us grace to uphold what they believed and to contend for freedom and justice as they did.

Show us that we are not called to fill their places or repeat their actions, but to do the work Thou has laid upon us and to do it right, as Thou givest us to see the right, and to leave the consequences in Thy unfailing hands. Wherefore we beseech Thee to give Thy higher wisdom to the President, the Members of the Congress, to the judiciary, the foreign service, and all others in the service of the people of this good land.

We pray in His name which is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 26, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

THE DEATH OF DAVID BURPEE

Mr. BAKER. Mr. President, I was saddened to learn this morning of the death of David Burpee.

Mr. Burpee was the former owner of, and more recently a consultant to, the W. Atlee Burpee Co., the world's largest mail-order seed catalog company.

And, as I am certain any of my colleagues who have spent a number of years in this body will recall, David Burpee was a dear friend of my distinguished father-in-law and predecessor in this chair, Senator Everett Dirksen.

Together, they waged a noble campaign to designate the marigold as our national flower. Since Senator Dirksen's death in 1969, I have been honored to join with Mr. Burpee in continuing that campaign.

David Burpee's devotion and eloquence in a cause which seeks no more than the recognition of beauty and grace makes his passing all the more sorrowful.

I would now like to share with my colleagues a passage from a speech Mr. Burpee made in behalf of the marigold. It is a passage, I believe, which underscores, not only the beauty of the marigold, but the beauty and decency of David Burpee:

> It is my thought that since we are the only great nation in the world that does not have a floral emblem, that especially when world affairs are so troubled, it would be very desirable to name as our National Floral Emblem the American Marigold, the Friendship Flower. It would indicate that we desire to be friends with all the peoples of the world. And through friendship, it would perhaps help to deter future wars.

David Burpee was a wonderful, compassionate human being. I know I speak for the Senate, Mr. President, in extending our deep sympathies to his family.

I yield back the remainder of my time.

RECESS UNTIL 11 A.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11 a.m. today.

There being no objection, the Senate, at 9:52 a.m., recessed until 11 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senator from Oklahoma be recognized to make a statement, and that upon the completion of his statement the Senate stand in recess until 11:30 this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENTS REGARDING TAX CUT PROPOSALS

Mr. BELLMON. Mr. President, if somewhere out in the great beyond some intelligent being is observing the formation and conduct of U.S. economic policy surely it must now reach the conclusion that this Nation is about to reach the pinnacle of economic idiocy.

How many weeks has it been, Mr. President, since virtually every political voice in the land was being raised against the evils of 20-percent inflation, 20-percent interest, and the economic chaos such conditions would soon bring? Not many.

How many weeks has it been since the monetary authorities of this Nation began tightening the money supply, with wide support of elected officials on both sides of the aisle, in an effort to rein in runaway inflation and the accompanying economic psychosis? Not many.

How many weeks has it been, Mr. President, since politicians of both parties joined forces in an effort to restrain Federal spending, balance the Federal budget, and help restore economic stability to our country? Not many. In fact the job is not yet finished.

How many weeks has it been, Mr. President, since elected officials, generally, began rejoicing that our currency was strengthening, interest rates were falling, the rate of inflation was dropping, and the inflationary psychology which had swept the country was abating? Not many.

Now what do we see? In this morning's news accounts are lengthy reports of a tax plan which would have the effect of pushing the Nation back into deficit financing, back into another round of double-digit inflation, back into an era of ever-higher interest, high deficits, higher and higher prices, and lower and lower values for our currency.

Mr. President, we got into this economic mess when a brandnew Democratic President too quickly abandoned the fiscal policies which were in place in early 1977 and instead substituted a stimulus package which included tax cuts. This stimulus package started us on the road to high inflation which we are just now beginning to unwind from the economy.

I am afraid that once again we may too early and too eagerly abandon the hard-fought fiscal discipline embodied in the present budget.

Mr. President, I am in favor of a timely tax cut, and I believe there will be a period when a carefully structured tax cut would benefit the country's economy. I appreciate the fact that there is a need to encourage savings and increase investment in the supply side of our economy. But the time for a tax cut is after we have achieved a balanced budget—not now—not while inflation is still above 10 percent—not before the ink is even dry on the balanced budget which we labored to attain—not while the memories of our recent inflationary whirlwind are so vividly etched in the minds of most Americans.

Not before our trading partners and allies abroad have gained a modicum of confidence in the economic wisdom and political courage of our monetary and elected officials.

Mr. President, one can only ask: What happened to produce this proposed economic retreat and what will be its harvest?

First, the effects on our economy. If Congress approves a $25 billion tax cut heavily weighted toward the consumption side, and borrows the money to pay the cost, 20-percent interest and 20-percent inflation will be visited upon our country again before the year 1981 has run its course. Then our monetary authorities will have little choice but to clamp on currency and credit strictures again with resulting rises in unemployment and economic hardship.

I can only speculate on what has happened to produce this proposed economic and political aberration. Both parties seem to have discovered the pleasant one-half of Keynesian economics. Both candidates seem ready to propose that, due to the present temporary economic discomfort, which has been widely anticipated and predicted and which was carefully assumed throughout our budget deliberations, that we must plunge the Nation back into deficit. They seem to assume that it would be good politics to adopt one-half of Lord Keynes' economic theory—a theory thoroughly proven to be politically unworkable over many economic cycles. In a recent poll of my own constituents, respondents voted 83 to 16 against a tax cut and in favor of a balanced budget—a poll taken of several thousand constituents against a tax cut and in favor of a balanced budget. I believe that reflects the national attitude.

Mr. President, if we do have economic policy observers from afar, observers who already this year have seen this Government apply a 10-year $500 billion tax on the producers of energy, our scarcest and most vulnerable commodity, while at the same time killing a smaller tax on energy consumers, perhaps they will graciously and accurately attribute tax cut proposals to Presidential election year maneuvering.

However, when taken in this context, such tax cut proposals make even less sense. It is ironic that the same news accounts report that avowed conservative Ronald Reagan is leading proven populist Jimmy Carter by 10 percent in the most recent opinion polls. How will the candidates stand with voters in a few weeks? If the Presidential campaign becomes a contest to see which candidate will plunge the Nation deepest into debt to buy votes in the November election, who can say which way voters will turn in their anger, confusion, and frustration?

Mr. President, is it not possible that the citizens of our Nation and our allies who look to us for leadership and stability have reached a level of economic maturity which enables them to see through such blatant actions?

Is it not possible our citizens and those who depend upon us are ready to endure painful economic adjustments for a brief and temporary time, adjustments tempered by billions of dollars in automatic countercyclical benefits—in order to attain a period of surcease from the wild inflation-recession roller coaster, politically inspired, economic policies which have plagued our country during the recent decade? Mr. President, is it not possible that again voters are ahead of their elected leaders in their understanding of the causes and effects of inflation and are willing to wait a few months while the economy rights itself without the narcotic of another destabilizing infusion of red ink?

I am convinced that they are.

Mr. President, as I have said before, I share my colleagues' concern about the substantial rise in the Nation's tax burden and the pressing need for major and permanent tax reductions. There is no doubt that a tax reduction will later be in order. At the beginning of the present administration, taxes were 18.5 percent of GNP, now they have risen to 22 percent. The personal tax burden, including social security tax increases, was 20 percent of personal taxable income in 1976 and is expected to rise to 24 percent in fiscal year 1981. At these levels incentive to produce will be injured and economic programs will become doubtful.

Tax relief with borrowed money is no relief at all. Inflation will soon erode any gains made. Experience strongly suggests that deficit financing will raise the inflation rate or interest rates, or both. The American people are well aware of the effect of inflation on their real purchasing power, and are not likely to support substantial tax reductions if accompanied by large Government deficits and the prospect of continued high inflation.

I also believe that a responsible economic environment, confidence in the stability of our economic future, and low inflation and low interest rates will be far more powerful incentives for investment than any short-term tax cut we can devise in the heat of political battle.

Mr. President, we Republicans have long stood for lower Government spending and lower taxes. I point to a paper published by the Republican conference that rejected the high spending fiscal policies of the present administration in February 1977. At that time, we recommended a policy of long-term, permanent tax reductions, aimed toward encouraging capital formation rather than massive new Federal spending initiatives, I quote:

> There is a longer term need for capital formation in order to provide expanding employment opportunities at rising real wages. Unless that problem is addressed at this time, inflationary pressures caused by shortages, decreased output per worker and lack of additional employment opportunities appear likely in the future. To avoid these future problems, it is recommended that the Federal Government formally declare a national policy in support of adequate capital investment in the private sector . . . it must be recognized that temporary solutions have had very limited success in the past; thus, permanent, confidence-building solutions must be used now and this means a permanent tax cut.

That policy statement was not drafted last week or last month or even last year. It was written in February 1977, 3½ years ago. We are not Johnnie-come-latelies to the tax cut point of view. But, this was not the policy that was subsequently adopted. Instead the administration proposed a stimulus package of over $25 billion of added Federal spending. Significant portions of that package were adopted. We can now point directly to these new spending initiatives as an important source of the growth in Federal spending since that time. Now the roles seem to be reversing. It is Republicans who are advocating a stimulus before stability has been achieved.

Mr. President, we are now very close to achieving our balanced budget goal, and have within reach the fiscal resources to enact a program of permanent tax reductions in a responsible manner. I strongly oppose abandoning this course.

In addition, I point out to my colleagues that we are hoisting the tax cut sail just in time for the administration to take the wind out of it. If the administration announces its own tax cut package of whatever size and shape during the next few months, will we not have to stand by in tacit support? The administration would get the credit for enacting a tax cut. It would be far better for us to give top priority to balanced budgets and limited Government spending. These are goals which American taxpayers understand and appreciate.

Mr. President, I do not wish to debate the merits of each of the tax cuts. I sympathize with the desire to adjust personal income taxes for inflation. I recognize the need to spur increased productivity through increased investment from the private sector. At the appropriate time, Congress will address these problems.

However, the main reason that capital investment has decreased is that high rates of inflation drive up the replacement costs of an asset and drives down the value of depreciation collected in the later years of an asset's life. Likewise, the reason personal income taxes have increased is that inflation pushes people into higher tax brackets. It is not clear to me that the tax cuts proposed would cure the underlying economic cause of the problems which the amendment addresses or whether it would merely treat the symptoms. I suggest that these proposals require careful study, particularly with regards to their effect on inflation, before Congress acts on them.

In conclusion, Mr. President, let me express again my opposition to a premature tax cut. Any tax cuts impact on our budget and tax policy should be examined with care and caution. The first concurrent resolution provides us with a good framework to operate under during the next few months. I maintain that we should support the achievements of that resolution and reject any proposal which would alter it substantially.

RECESS UNTIL 11:30 A.M.

Mr. BELLMON. Mr. President, under the previous order, I believe the Senate will now go into recess.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 11:30 a.m.

The Senate, at 11:12 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. BELLMON.

FLOOR PRIVILEGES—H.R. 6974

Mr. BELLMON. Mr. President, I ask unanimous consent that Blythe Thomas, Don Ferrell, and Gordon Prather be granted the privileges of the floor during the consideration of H.R. 6974.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, while I am waiting on the minority leader, I yield to Mr. GLENN.

VIETNAMESE ATTACKS INTO THAILAND

Mr. GLENN. Mr. President, as chairman of the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations, I wish to call your attention to the extremely tense situation on the Thai-Kampuchean border brought on by Vietnam's recent unprovoked attacks into Thailand. These attacks killed or injured hundreds of innocent refugees and Thai civilians. Vietnam, by its actions, threatens the stability of the whole region.

Our ally Thailand's sovereignty and territorial integrity have been violated. This comes despite repeated assurances given by senior Vietnamese officials, both publicly and privately, that Vietnamese forces would not attack Thai territory. The possibility of further military activity cannot be discounted as large numbers of Vietnamese troops remain near the Thai border in Kampuchea.

Vietnamese actions are also a crime against humanity, and one which all nations should speedily condemn. The attacks have disrupted the refugee camps along the border and halted the international relief effort on which the survival of the Kampuchean people rests. Already the specter of widespread famine haunts Kampuchea. When will the suffering of these people end? Will Vietnam be responsible for the deaths of still hundreds of thousands of additional innocent civilians?

I urge Thailand to do what it can to see that the Kampuchean relief effort continues and call on Vietnam, and on the Soviet Union—without whose support these actions would not be possible—to bring an end to the present conflict.

Mr. President, I would also like to comment on the views of the ASEAN Foreign Ministers, who are currently meeting in Kuala Lumpur, Malaysia, and have expressed their serious concern over Vietnam's aggression.

The ASEAN Foreign Ministers expressed their serious concern over the act of aggression by Vietnam along the Thai-Kampuchean border and the intrusion of their troops into Thai territory. They said that this irresponsible and dangerous act will have far-reaching and serious consequences and constitutes a grave and direct threat to the security of Thailand and the Southeast Asian region.

They noted that on June 23, 1980, at 5 a.m. after attacking the encampments of Kampuchean civilians along the Thai-Kampuchean border, one company of Vietnamese forces intruded deep inside Thai territory and attacked Ban Non Mak Moon village in Prachinburi province and occupied the village. At the same time, another unit of Vietnamese forces intruded into Thai territory at Ban Non Sao area, south of Ban Non Mak Moon and clashed with Thai military forces. In these incidents many innocent Kampuchean civilians and Thai villagers suffered heavy casualties before the intruders were repelled. In the afternoon of June 24, a Thai reconnaissance plane and a Thai helicopter were shot down inside Thai territory. According to latest reports, the fighting still continues in some areas. The nature of these attacks demonstrates clearly that they were premeditated and coordinated.

The foreign ministers condemn these acts perpetrated by Vietnam and called on it to desist from all such acts against Thailand.

The foreign ministers registered their grave concern at the failure of Vietnamese leaders to honor their repeated pledges to respect the sovereignty and territorial integrity of Thailand. These latest acts of aggression against Thailand have undermined Vietnam's own credibility and have seriously undercut the trust and confidence which ASEAN has patiently attempted to forge with Vietnam.

The foreign ministers were gravely concerned that these attacks would obstruct the repatriation of Kampuchean civilians carried on a voluntary basis and cooperation with the UNHCR. They reaffirmed that it is the legitimate right of these people to return to their homeland to resume their livelihood which is in full accord with humanitarian principles.

The foreign ministers fully supported Thailand's actions in the exercise of her legitimate right to self-defense and the steps taken by Thailand at the United Nations. They also reiterated their urgent request to the United Nations Secretariat-General for the stationing of a United Nations observer team on the Thai side of the Thai-Kampuchean border.

The foreign ministers agreed that any incursion of foreign forces into Thailand directly affects the security of the ASEAN member states and endangers peace and security in the whole region. In this regard, they expressed ASEAN's firm support and solidarity with the government and people of Thailand in the preservation of Thai independence, sovereignty, and territorial integrity.

Mr. President, I fully support the stand taken by the foreign ministers of ASEAN. As chairman of the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee, I have closely followed the emergence of ASEAN as a cohesive force for peaceful development of that region of the world, and heartily applaud their efforts.

Mr. President, I also heartily endorse the decision by our former Senate colleague, and now Secretary of State, Ed Muskie. His decision on this present trip to include a visit to Kuala Lumpur and the ASEAN foreign ministers meeting is indicative of the importance he attaches to this very rapidly developing part of the world. I am sure my Senate colleagues will join me in hoping Senator Muskie will convey our very best regards to the ASEAN foreign ministers in their meeting at the present time in Kuala Lumpur.

Mr. JAVITS. Mr. President, will the Senator yield briefly?

Mr. ROBERT C. BYRD. I yield briefly to the Senator.

Mr. JAVITS. Mr. President, I would like to add my voice to yours, Senator GLENN, in respect of Senator Muskie's mission and in respect of this dreadful outrage so imperiling world peace and humanity.

Mr. GLENN. I thank the distinguished Senator from New York very much.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE.

FISCAL YEAR 1981 DEFENSE AUTHORIZATION BILL

Mr. PROXMIRE. Mr. President, the largest discretionary bill of the year will shortly be before this body—the fiscal year 1981 defense authorization bill. While it is true that the Defense appropriations bill and health, education, and welfare bills may be larger on face value, much of the dollar totals of these are tied up in entitlement programs, social security payments, and manpower obligations.

Thus we cannot escape the obvious point that this defense bill cannot be separated from any other bill in terms of fiscal responsibility. Our defense effort is not exempt from economic effects. In fact it may have peculiar economic effects in that defense spending tends to be more inflationary than nondefense spending and it produces fewer jobs per billion of expenditure.

And yet when we discuss the defense bill somehow there is little or no consideration of fiscal responsibility by those who the day before and the day after will make such a sound case for spending restraint.

We tell the Departments of Education and Health and Welfare that they should get along on less funding and the consequence will be greater efficiency—and I believe that. But when the defense bill comes to the floor, we hear exactly the opposite philosophy—that more spending creates more efficiency.

The truth is that this bill is like the old water resources bills—it has something in it for everyone. Name a program that the defense contractors want and you will find an increase for it in this bill.

Concerned about not having enough aircraft because the price is so high that we cannot buy enough? Well this bill offers no solution. It goes in the opposite direction. The bill adds $90 million over the request for the AV–88; $218 million over the request for the F–18 fighter which is threatening to turn the concept of low-cost fighter on its head; $79 million over the request for EA–6B's; $138 million over the request for F–14's; $69 million over the request for P–3C's; $297 million over the request for 18 more F–15 fighters.

The aircraft additions in the bill alone would create a firstline air force for most countries in the world—just the add-ons.

As for the Navy, it is taking on a World War II look. The committee is recommending $304 million to reactivate the old aircraft carrier *Oriskany* for service of only 5 years. And the battleship *New Jersey* will be brought out of its second retirement at a cost of $294 million. The bill adds another nuclear attack submarine for $641 million, advance funds for the *Aegis* cruiser at $131 million, two more guided missile frigates at $476 million, and numerous other items.

All of these are above budget. They were not requested by the Secretary of Defense, OMB, or the President. They are the Senate's navy and the Senate's air force.

At the same time the committee has recommended cutting 25,000 in Army troop strength.

The irony of this situation is striking. We continue the course of buying the most expensive aircraft, thus leading to lower force levels at the same time we unilaterally cut back on our Army personnel strength. If some other organization than the Senate Armed Services Committee had proposed such a cutback, I would have expected to hear cries of unilateral disarmament. In one fell swoop, we disarm two divisions of fighting troops and we continue spending ourselves into lower forces levels on aircraft such as the F–18.

But hold on to your hat, this story is just beginning. We have amendments pending to this bill which would accelerate an ABM system for the MX. Already we are admitting that the MX cannot do the job alone. Now it needs an ABM. Talk about the worst of all worlds. And there is a space-based laser system lurking around the corner—followed no doubt by a thoughtful repeal of the ABM treaty and the Outer Space treaty.

Mr. President, this bill and the amendments pending to it address some of the most critical national defense issues ever faced by this country. I would like to see rollcall votes on every one of these issues—regardless of how they turn out, even if there is only one vote and it is mine against it. The public has a right to determine where we stand on fiscal responsibility and on the military issues of the day.

THE TENDENCY TO FORGET

Mr. PROXMIRE. Mr. President, more than half the people living in America today were not born by the end of World War II.

Half the people in America today do not remember Hitler's annihilation of 6 million Jews.

Half the people in America today do not remember the Nuremburg trials.

Half the people in America today have only read about Hitler's genocide policies.

New generations are born and the incredible ignorance of the tragedy grows.

Many have never even heard the word "Holocaust," except maybe they have seen it on television.

The Members of this Senate are older than more than half the population of the United States.

Most of us remember the events of World War II.

The United States was one of the last countries to enter World War II. We were one of the last to actively commit our Nation to stop Hitler and his policies. Let us see to it that we are not the last to take action against genocide.

A recurrence is not only possible but certain to be worse.

Gas chambers and crematoriums were the Third Reich's methods for mass murder.

Today, there are more modern methods.

Today, we suspect Russia of experimenting in a fatal way with germs that can spread terrible plagues.

Evidence also indicates that Russia is using chemical warfare in Afghanistan.

Do we need more current examples of modern man's abilities to use technology for death?

Mr. President, the dangers are quite real.

Let those of us who do remember take action so that our children need never know horrors like those of Nazi Germany.

Let us join the 83 countries who have already signed the Genocide Convention.

Mr. President, I yield the floor.

NAVAJO AND HOPI INDIANS RELOCATION AMENDMENTS ACT OF 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 751 for not to exceed 2 minutes.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 17, 1980.)

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, this is the conference report to iron out the difficulties between the Hopis and the Navajos. It is a bill that has received quite a bit of attention out of our Committee on Indian Affairs and is counterpart the House of Interior Committee. It does settle some of the longstanding arguments between these two tribes.

It is a constructive bill and I hope the Senate will agree to it.

Mr. DECONCINI. Mr. President, I support the conference report on S. 751. As one of the conferees I signed the report. I want to extend my thanks to Senator MELCHER, chairman of the Senate Select Committee on Indian Affairs, for his assistance in making enactment of this legislation a possibility. Further, without the cooperation of the chairman of the House Committee on Interior and Insular Affairs, Congressman UDALL, our efforts would have been fruitless.

However, as with all compromises no one is entirely pleased with the resulting product. In my view, this legislation is no panacea. While it will help to ease the burden for those 3,500 or more Navajos that are forced to relocate, this bill has been considerably modified since I first introduced it as S. 1714 in the 95th Congress. I have always made my position clear with respect to Public Law 93–531—the statute requiring the forced relocation of those Navajos living on the Hopi side of the partition in the former joint-use area. I believe that the law is harsh, inhumane, and should be repealed. But I am also a realist—there is not sufficient support in the Congress for repeal of this statute.

The changes embodied in these amendments will ease the pain of relocation thus making the law somewhat more humane. The additional lands provided by S. 751 will provide a home for some of those forced to move. The life estates provided in the bill will allow some of the older Navajos to finish their lives on land that has been theirs and their ancestors for hundreds of years. Even though these two provisions do help, they do not, in my opinion, completely alleviate the anguish of forced relocation. Thus, I do not consider these amendments to be the legislative end of the land dispute between the Navajos and Hopis. I imagine, in fact expect, that one or both tribes will be approaching us for additional relief in the near future. I for one will attempt to assist with their requests.

Mr. President, I would like to clearify the provisions in S. 751 relating to life estates—specifically the relationship of the Federal courts with these life estate provisions. In my view the conference report is quite clear—the Navajo/Hopi Indian Relocation Commission, the Federal agency given the task of relocation, is given complete administrative control over the allocation of life estates, and the promulgating of regulations relating to life estates. The only other entity having any administrative duties relating to life estates is the Department of the Interior, and most of those occur after the Commission has been terminated. These amendments do not give the Federal courts any administrative authority over the life estates created in section 11 of the bill. In fact, the new section 30(a) in the statute, aided by these amendments, specifically repeals the Federal courts authority to award or administer life estates.

The notion that some may have regarding continued Federal court involvement in issuing administrative rules affecting the rights of life tenants is completely inaccurate. The courts only role is that of interpreting the law.

Again, Mr. President, I want to thank those who have assisted with S. 751. I would be remiss if I did not thank my senior colleague from Arizona, Senator Goldwater—for without his support this effort would have terminated long ago.

I urge my colleagues to support the conference report on S. 751.

Mr. MELCHER. I am pleased to bring to the Senate the report of the conference committee on S. 751, a bill resolving problems arising out of the Navajo and Hopi Land Dispute Settlement Act of 1974.

This Settlement Act was passed by Congress in an effort to resolve the longstanding dispute between the Navajo and Hopi Tribes involving approximately 2,000,000 acres of land known as the Joint-Use Area. In that legislation, the Congress directed a Federal court to partition the land and also required that members of one tribe residing on lands partitioned to the other tribe must relocate.

S. 751 represents an effort to alleviate the hardships of the largest relocation of Americans since the Indian removal policies of the late 1800's. This massive relocation process requires that up to 5,600 Navajo individuals, or about 800 families, have to move. The Federal Government bears the responsibility for this unfortunate situation because of its consistent failure to adequately administer its duties in this area.

Two versions of what is now S. 751 were introduced in the Senate early in this Congress. The Select Committee on Indian Affairs held extensive hearings on both measures and spent considerable time in executive session resolving differences. The Senate version that passed in October 1979, differed extensively from the House version which also passed in October 1979. The conference report on S. 751 is the result of long and difficult negotiations between the House and Senate. Agreement by the conference was reached at the end of May, after many months of extensive analysis and discussion. S. 751, I believe, represents a very fair and reasonable compromise between the House and Senate versions of the bill.

The major points of disagreement involved the provision for additional lands on which to relocate Navajo families and the provision of life estates for disabled and elderly Navajos living on what is now Hopi land. The House and Senate conference committee resolved these disagreements in a fair and equitable manner which is acceptable to both tribes and, in fact, eliminated the need for any major additional authorization of appropriations for the purchase of land for the Navajo Tribe. It provides, instead, that public lands already authorized for purchase by the Tribe can now be transferred to the Tribe without cost. Both bills had originally provided for Federal purchase of private land. That authority is now given to the tribe.

The life estate provisions are fair to those Navajos residing on Hopi lands as well as the Hopis who, rightfully, want control over the land that is now theirs.

Mr. President, I urge that the Senate adopt the conference report on S. 751.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement by the Senator from Arizona (Mr. Goldwater).

The PRESIDING OFFICER. Without objection, it is so ordered.

REMARKS OF BARRY M. GOLDWATER IN SUPPORT OF S. 751 AS REPORTED BY THE CONFERENCE COMMITTEE

Although I did not serve on the conference for S. 751, I have had a deep interest in these amendments and in the whole Hopi-Navajo controversy. My involvement in this matter goes back many years. I know the concerns and fears of both tribes very well. Having been to the area in question countless times, I also am personally acquainted with many of those who ultimately will be relocated.

As a result of this background, I am especially sensitive to the human aspects of this matter. I recognize that some Navajos will be required to leave lands on which they have lived for many years. I also recognize that this is being done to give meaning to a court decision which recognized the Hopi's age-old claim to these lands.

There is no easy solution to this problem. I am pleased, however, that we are now acting to expedite the resolution because I am convinced that further delay will harm both Navajo and Hopi alike. This bill balances the legal rights and human needs of both tribes in order to finally settle this very difficult situation.

These amendments represent Congress' final effort to soften the relocation blow and at the same time express the Nation's resolve to get this job done.

I am also pleased that these amendments have incorporated a personal pledge which I made to some of the residents of the Big Mountain Area to provide life estates for them on a priority basis so that the aged and physically infirm of that area need not all be relocated.

It is my earnest hope that these amendments will assist in providing meaningful alternatives to these good people. As they in good faith comply with the law and obtain their new homes, many of the problems and conflicts of the past can be forgotten.

I therefore urge your support of this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 2885—RECONCILIATION SPENDING REDUCTIONS

Mr. HOLLINGS. Mr. President, this is a very proud day for the Senate and the congressional budget process. This morning the Senate Budget Committee met, as required by the budget resolution Congress adopted 2 weeks ago, to report to the Senate the savings legislation which has been formulated by the nine committees who were instructed to make such savings by the budget resolution reconciliation instructions. We are hopeful that the Senate can take up and enact this legislation prior to the July recess.

I am proud, on behalf of the Senate, to be able to report that its committees, with one limited exception, have made all of the savings required by those reconciliation instructions.

Mr. President, the savings recommended by the nine committees total more than $4.8 billion in budget authority and $6.4 billion in outlays. When the Postal Service saving—to be achieved later through the appropriations process—is added in, the savings will exceed $5.3 billion in budget authority and $6.9 billion in outlays.

The one exception is that the Governmental Affairs Committee, unlike all the other committees, has not made its reconciliation savings permanent. Therefore, instead of saving $2.3 billion during the next 5 years from the civilian retirement system, as was contemplated by the budget resolution reconciliation instructions to the Governmental Affairs Committee, that committee has reported a bill which makes a single $500 million saving in fiscal year 1981 alone. The other $1.8 billion in savings during the next 5 years would be lost.

Compounding the situation is the fact that the Senate Armed Services Committee, which did make permanent savings in the comparable military retirement system, made its savings contingent on identical action by the Governmental Affairs Committee for the civilian retirement system. The total saving under the Armed Services Committee action for the 5-year period is $1.6 billion. But if the action of the Governmental Affairs Committee stands, then only $400 million—the saving in the military retirement system attributable to 1981—of this $1.6 billion saving in military retirement will be made.

To deal with this situation, the Budget Committee will offer the Senate an amendment to make the civil service retirement system savings on a multiyear basis as part of the reconciliation instructions, in order to bring those savings into line with the legislation reported by the Armed Services Committee. Under the amendment to be offered by the Budget Committee, the total 5-year saving in military and civilian retirement systems would be $3.9 billion.

Without that amendment, the savings will only be $900 million and $3 billion will be lost after 1981.

But the Senate has much to be proud of in the work of its committees on these historic reconciliation instructions. Never before has Congress attempted to make such major savings in entitlement programs. This is the first significant step Congress has ever taken in a coherent fashion to bring the uncontrollable elements of the budget under greater control. The Senate has taken the lead in reporting these savings a full week earlier than the counterpart committees of the House, and by quick passage of this savings legislation, the Senate can help assure that all of these savings will be realized.

As an aid to Senators in understanding this reconciliation savings legislation, I ask unanimous consent that a statement be printed in the RECORD which outlines the reconciliation procedure, contains an explanation of the committee amendment to restore permanent savings in the Federal retirement systems, and sets forth a title-by-title analysis of the reconciliation bill. The title-by-title analysis has been supplied by the committees which reported the reconciliation legislation.

Pursuant to section 310(c) of the Congressional Budget Act of 1974, the Committee on the Budget, to which were submitted the recommendation of various committees to make changes in laws and bills within their jurisdictions in order to reduce Federal spending, reports such recommendations without substantive revision in the form of a "reconciliation bill" and recommends that the bill as reported do pass.

Under the reconciliation procedure of the Congressional Budget Act, committees may be instructed to reduce total spending authority within their jurisdictions in order to meet the spending limits of the congressional budget.

The reconciliation process is designed to provide Congress a way to implement its budget decisions in an orderly fashion. Under the reconciliation process, once Congress has adopted a budget resolution which contains reconciliation instructions, the instructed committees must promptly report changes in legislation to achieve the required budget reductions.

The first concurrent resolution on the budget for fiscal year 1981, House Concurrent Resolution 307, as adopted by the Congress on June 12, 1980, called upon ten Senate committees to make Federal spending reductions totaling $4.95 billion in budget authority and $6.4 billion in outlays in 1981. The following table summarizes these reconciliation instructions:

[In billions of dollars]

	Budget authority	Outlays
Senate committee:		
Armed Services	−0.4	−0.4
Finance	−.9	−2.2
Labor and Human Resources	−.35	−.45
Governmental Affairs	−.5	−.5
Veterans' Affairs	−.2	−.4
Environment and Public Works	−.3	----------
Agriculture, Nutrition, and Forestry	−.5	−.5
Small Business	−.8	−.6
Commerce, Science, and Transportation	−.3	−.15
Corresponding savings assumed in the jurisdiction of the Appropriations or Public Works Committee	−.7	−1.2
Total	−4.95	−6.4

The "corresponding savings assumed in the jurisdiction of the Appropriations or Public Works Committees," shown in the above table, include $500 million in budget authority and $500 million in outlays in connection with subsidies to the U.S. Postal Service to be achieved by the Committee on Appropriations pursuant to section 3(a)(10) of the budget resolution, $700 million in outlays that has been recommended by the Committee on Environment and Public Works and $200 million in budget authority for veterans programs as a result of the reconciliation instruction to the Committee on Veterans' Affairs.

As set forth in the reports accompanying the budget resolution and in the floor debate in both Houses on that resolution, a number of the savings included in the reconciliation instructions were intended to make multibillion dollar multiyear savings by making permanent changes in existing entitlement legislation. In the case of reforms to the Federal retirement system, for example, the first-year saving from the changes contemplated by the budget resolution is $900 million, but the cumulative 5-year saving would be $3.9 billion.

REVENUE RECONCILIATION

The budget resolution provided a deadline of June 25 for legislative committees to report savings legislation to the Senate and July 2 for the tax-writing committees to report revenue-related reconciliation bills. Because the House of Representatives chose the later date for its Ways and Means Committee to report revenue legislation required by the reconciliation instructions, the Senate provided the later date to accommodate the needs of the Finance Committee, which also had the greatest burden of savings legislation.

However, we anticipate that both the Ways and Means and Finance Committees will report revenue legislation fully complying with the reconciliation instructions by the July 2 deadline.

The Senate should move expeditiously to consider the savings legislation as a separate matter.

CONTINUED NEED FOR THE SAVINGS

Achievement of the savings will not depress the economy in any measurable fashion. Failure to achieve these savings will result in deficit spending, increased inflationary pressures, and put upward pressure on interest rates.

In fact, failure to achieve those savings will jeopardize the possibility of tax reduction, not only in 1981 but in future years where the multiyear value of the mandated savings is even greater. Major tax reduction within the context of a balanced budget requires major savings of the type mandated by the reconciliation instructions from existing spending programs.

COMPLIANCE WITH THE RECONCILIATION INSTRUCTIONS

All committees required by the budget resolution to report reconciliation savings have, pursuant to the Budget Act, forwarded to the Budget Committee the changes in law to achieve savings. The Budget Committee has combined, without substantive revision, the savings legislation received from each of the instructed committees into the reconciliation bill and has reported that bill to the Senate.

The Senate can be proud of the prompt action its committees have taken to report reconciliation savings. Cutting Federal spending involves extremely tough and unpopular choices, but those decisions have been made by many committees. As will be evident from the materials which were prepared by the committees which wrote the savings legislation, some committees have not only made these tough choices, but have explained them in great and craftsmanlike detail to the Senate.

In one case, apparent misunderstanding as to the requirements of the reconciliation instructions resulted in a committee reporting savings legislation not actually complying with the reconciliation instruction itself.

The Governmental Affairs Committee, which was required by the reconciliation instruction to save $500 million in budget authority on outlays, chose to do so by a temporary, 1-year change in the Federal retirement program which would not save any money after 1981, so that the cost of the Federal civil service retirement program during the next 5 years would be reduced by only $500 million instead of $2.3 billion, as was contemplated by both Houses as a result of the debate and legislative history of the budget resolution.

In addition, because the multiyear change reported by the Armed Services Committee in the military retired pay system is contingent upon the enactment of a complemenary change in the civilian program, the failure to make a permanent multiyear change in the civilian retirement program will reduce the savings in the military retirement system from the $1.6 billion contemplated in the budget resolution to $400 million instead.

In order to give the Senate the opportunity to make the full savings called for by the reconciliation instructions, and in order to meet the legitimate public expectation that those savings will be made, the Budget Committee has reported an amendment to the reconciliation bill which incorporate the savings actually contemplated by the budget resolution in this case.

EXPLANATION OF THE COMMITTEE AMENDMENT TO MAKE FEDERAL RETIREMENT COST-OF-LIVING BENEFITS CHANGE PERMANENT

Federal civil service employees have no legal right—by contract or otherwise—to a civil service retirement annuity. The Congress has the right to change—or, in fact, revoke entirely—the civil service retirement system at any time.

The fiscal year 1981 budget resolution calls for the permanent annualization of cost-of-living increases in four programs. The permanent change in the food stamp program has already been enacted into law. Permanent changes in child nutrition benefits are included in the reconciliation bill as is the permanent change to annualize cost-of-living adjustments for military pay—contingent on a similar change for civil service retirees. It would be unfair to annualize increases in other programs on a permanent basis and not do the same for civil service retirement benefits. Further, the permanent changes in these other programs could be jeopardized if an exception is made for civil service retirees. These four changes would save $6 billion over the next 5 years and are an essential step in balancing the budget and getting Federal spending under control.

As the following examples demonstrate, civil service retirement benefits are very generous, especially in light of the fact that the system has an unfunded liability of $136 billion, and that the taxpayers subsidize over 40 percent of the system.

First. Federal retirees have a unique advantage over other retirees because their benefits are adjusted semiannually. Social security benefits are adjusted only once a year and no private pension plans are automatically adjusted twice a year. Only 3 percent of private pension plans are adjusted automatically for inflation on any basis. Sixty percent of private pensions provide ad hoc adjustments, while 37 percent provide no adjustments of any kind.

Second. Civil service workers can retire at age 55 with full benefits after 30 years of service. Under social security, the earliest retirement age is 62, and benefits are reduced if taken before age 65. Under the great majority of private pension plans, the normal retirement age is 62 or over.

Third. Federal retirees get better treatment than active Federal workers since they get two cost-of-living increases a year, while active employees get only one, and that increase is often capped. As a result, in fiscal year 1980, cost-of-living adjustments for civil service retirees are expected to be 13.3 percent compared to 7 percent for active workers. The cumulative increase over the period fiscal years 1975–81 is expected to be 94.7 percent for retirees as compared to only 49.5 percent for active workers.

Fourth. The provisions for computing the initial cost-of-living increase for new civil service retirees are overly generous. Under current law, a new retiree can benefit from the last cost-of-living increase if he will get higher benefits as a result. (This is the so-called "look-back" provision.) Also, current law provides that a retiree get the full cost-of-living increase that occurs after he retires even though he may not have been retired for the entire 6-month period that the increase covers.

A line of Supreme Court cases hold, without exception, that a Government employee does not have a vested right to a pension, and therefore a reduction or elimination of a pension constitutes neither the abrogation of a contract nor a deprivation of due process. See *Walton* v. *Cotton*, 19 How. (60 U.S.) 355, 257 (1957) (Revolutionary War pension); *United States ex rel. Brunet* v. *Teller*, 107 U.S. 64, 68 (1883) (Mexican War pension); *Pennie* v. *Reis*, 134 U.S. 464 (1889) (city police pension): *MacLeod* v. *Fernandez*, 101 F. 2d 20 (1st Cir. 1938), cert. denied sub nom. *Toste* v. *MacLeod*, 308 U.S. 561 (1939) (pension of Puerto Rican Government); *Dodge* v. *Board of Education*, 302 U.S. 74 (1937) (state teacher retirement annuity); *Flemming* v. *Nestor*, 363 U.S. 603 (1960) (social security pension); *Richardson* v. *Belcher*, 414 U.S. 78 (1971) (same).

The history of cost-of-living increases in the civil service retirement system illustrates Congress right to change benefit provisions when circumstances demonstrate the need for such changes. The Congress first provided automatic cost-of-living increases in civil service retirement benefits in 1962. Thus, prior to 1962, no retiree was entitled to any cost-of-living increases. Rather, Congress had provided increases only on an intermittent basis.

In 1965, Congress changed the formula for computing cost-of-living increases to make them more sensitive to rising prices. In 1969, the formula was changed again to compensate retirees for the time lag that existed between rises in the cost of living and the month the benefit increase became effective. This was accomplished by adding 1 percent to each cost-of-living increase—the so-called 1-percent "kicker."

In 1976, Congress repealed the 1-percent kicker because it overcompensated civil service retirees for the effect of inflation. Congress was clearly within its rights at that time in taking away the unjustifiably expensive 1-percent kicker. Instead Congress provided for semiannual cost-of-living increases in civil service annuities.

The civil service retirement system does not pay for itself, but depends on subsidies from the general taxpayer to keep it solvent. The unfunded liability of the system—the total amount by which current obligations exceed the fund's assets—is $136 billion. Each cost-of-living increase adds to this unfunded liability.

Annual payments are made from general revenues to compensate for this huge unfunded liability. In 1979 this subsidy by taxpayers totalled $8.8 billion—44 percent of the civil service fund's income that year.

In 1980, the retirement costs will be about 37 percent of Federal payroll. The employee/employer contributions—7 percent each, for a total of 14 percent of payroll—obviously fall far short of paying for the system. The taxpayer makes up the remaining 23 percent.

Annualizing cost-of-living increases will reduce the taxpayer subsidy to civil service retirement benefits by $0.5 billion in fiscal year 1981 but the cumulative savings are much higher if the change is made permanent—$2.3 billion over the next 5 years. The comparable military retirement savings will be $1.6 billion.

Balancing the budget and fighting inflation are not merely fiscal year 1981 issues—there is a long-term commitment to reduce Federal spending. Members of Congress, congressional staff, and administration executives participate in the civil service retirement system as, of course, do most other Federal civilian employees. These people are more highly paid than the average American worker and will generally get higher retirement benefits. At a time when many programs are being cut back by permanent changes in the law, it would be unseemly for these current and future Federal retirees to be exempted from permanent cutbacks.

Fifth. Under the "early-out" provisions of the civil service law, a number of employees are permitted to retire voluntarily before age 55 even though there is no danger of their losing their jobs. These provisions unnecessarily increase civil service retirement system costs—by perhaps as much as $0.1 billion a year. The unfunded liability of the civil service system is increased by about $17,000 for each employee who retires under the "early-out" provision.

Sixth. The civil service disability benefit provisions are more liberal than provisions of social security or private disability plans (which often use the social security definition of disability). Civil service disability benefits are payable if the worker is unable to do his regular job while social security disability benefits are payable only if the worker is unable to do any job in the economy that he is qualified for. For male workers age 30 to 50, the probability of becoming entitled to disability benefits is 50-percent greater under the civil service retirement system than under disability standards in private employment.

Seventh. There are very liberal provisions for crediting military service under the civil service retirement system. These provisions may increase the cost of the civil service system by as much as 2 percent of payroll. For example, a person may waive his military retired pay and have his military service counted under civil service if higher total benefits will result. Military service is rarely counted under private pension plans.

Eighth. Some civil service annuitants also receive social security benefits based on private employment. Often, those employees have worked under social security for only a short period of time. Since social security benefits are relatively higher for those with low earnings under social security—in order to provide for those in presumed need—these "double-dippers" receive a social security windfall.

Ninth. Civil service retirees can go to work in private industry, earn as much or more than they ever did, and still receive a civil service annuity. This is especially advantageous because civil service workers can retire as early as age 55. Under social security a person's retirement benefit is reduced if he returns to work and earns over a certain amount (this rule no longer applies when the worker reaches age 72). Although private pension plans generally pay full benefits even if the person returns to work—unless he returns to employment covered under the pension plan—it is questionable whether the Federal Government should pay benefits subsidized by taxpayers to people who are working and have high earnings.

SPECIAL PROCEDURES

Just as the Budget Act provides the reconciliation procedure itself, it provides in sections 310(e) and 305 special rules for the consideration of reconciliation bills.

The following rules apply to the consideration of a reconciliation bill in the Senate:

First. Debate on any reconciliation bill and all amendments thereto and debatable motions and appeals in connection therewith is limited to 20 hours.

Second. Debate on the bill (including amendments, debatable motions, and appeals) shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

Third. Debate on any amendment is limited to 2 hours, divided between the mover of the amendment and the manager of the bill or resolution.

Fourth. Debate on any amendment to an amendment, debatable motion, or appeal is limited to 1 hour, divided between the mover and the manager.

Fifth. A motion to limit debate to less than 20 hours is not debatable.

Sixth. A motion to recommit is not in order unless it contains instructions to report back within a specified number of days, not to exceed three, and debate on such a motion is limited to 1 hour, divided between the mover and the manager.

Seventh. Any amendment which achieves or maintains mathematical consistency is always in order.

Eighth. Amendments to the bill must be "germane to the provisions of" the legislation. The "germaneness rule" has been interpreted as prohibiting any amendment which introduces "new subject matter" and thus was not "germane to the provisions of" the bill to which it was offered.

Ninth. The conference report on a reconciliation bill is in order any time after the third day following the day on which the conference report is reported and is available to Senators. Debate on the conference report is limited to 10 hours, divided equally, with debate on any appeal or motion limited to 1 hour divided between the mover and the manager.

TITLE-BY-TITLE ANALYSIS

The material reprinted hereafter was received from the various committees which have reported reconciliation legislation to the Senate. In each case, it is being included without revision in order to provide a legislative history of the savings legislation which has been reported.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., June 25, 1980.
Hon. ERNEST F. HOLLINGS,
Chairman, Committee on the Budget, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed in accordance with the reconciliation instructions in the first concurrent resolution on the budget for fiscal year 1981 (H. Con. Res. 307) are the recommendations of the Committee on Agriculture, Nutrition, and Forestry for reducing spending under laws within its jurisdiction.

In accordance with the instructions, we have drafted (1) the legislative language to effect the reductions in spending authority required by the resolution, and (2) an explanation of those reductions for inclusion in your report on the reconciliation legislation. According to the Congressional Budget Office, our recommended changes in law would reduce both budget authority and outlays for the child nutrition programs in fiscal year 1981 by over $520 million.

Our Committee will be separately reporting S. 2675, the Child Nutrition Amendments of 1980. That bill, in addition to the reductions in spending authority that we are transmitting to you today, will contain provisions to improve the effectiveness and operation of the child nutrition programs and will extend all nonpermanently authorized child nutrition programs through fiscal year 1984. The programs that would otherwise expire at the end of fiscal year 1980 are the summer food service program for children, food service equipment assistance reserve program, State administrative expenses program, and nutrition education and training program. The commodity distribution program and special supplemental food program (WIC) would otherwise expire at the end of fiscal year 1982.

S. 2675 will also effect additional outlay savings of approximately $30 million in Federal expenditures that are controlled by the appropriations process. We believe that such savings should properly be counted toward the reductions required by the first concurrent resolution. However, we understand that your Committee is of a different opinion. Accordingly, the enclosed legislative language does not contain the proposed reductions.

We remain committed to the child nutrition programs, and the reductions in spending authority contained in our recommendations would not impair the basic structure of the programs. The importance of the programs in helping to assure that no child or adult is deprived of his or her opportunities for development due to a lack of a proper diet cannot be overemphasized.

With every good wish, I am
Sincerely,

HERMAN E. TALMADGE,
Chairman.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SHORT EXPLANATION

In accordance with the requirements of the first concurrent resolution on the budget for fiscal year 1981, the Committee on Agriculture, Nutrition, and Forestry recommends amendments in the statutes authorizing the child nutrition programs that would reduce spending authority for fiscal year 1981 by over $520 million in both budget authority and outlays.

SUMMARY OF COMMITTEE RECOMMENDATIONS

The recommendations of the Committee on Agriculture, Nutrition, and Forestry would—

(1) reduce the general cash reimbursement rate for all categories of school lunches (free, reduced price, and paid) by 2½ cents, except in school districts where 60 percent or more of the lunches served were served free or at reduced-price during the second preceding school year (Sec. 101);

(2) reduce the rate of commodity assistance for the school lunch program by 2 cents (Sec. 102).

(3) change the eligibility standards for free and reduced-price school meals to 125 percent of the poverty level plus a standard deduction and 185 percent of the poverty level plus a standard deduction, respectively (Secs. 103(a), (2), (3) and 103(b));

(4) lower the income poverty guideline used in the child nutrition programs by removing the provision in existing law that updates the guideline by more current CPI data (Sec. 103(a) (1));

(5) remove the incentive for schools to offer reduced price lunches at less than 20 cents per lunch (Sec. 104(1));

(6) provide for adjustments in school lunch and breakfast reimbursement rates on an annual rather than semiannual basis (Secs. 104(2) and (3) and 109(1) and (2));

(7) exclude Job Corps centers funded by the Department of Labor from participation in the school lunch and breakfast programs (Secs. 105 and 110);

(8) limit the eligibility of private nonprofit institutions in the summer program, other than private nonprofit school food authorization camps, and those serving meals primarily to migrant children, that acquire meals from vendors to those that daily serve no more than 2,000 children at no more than 20 sites (Sec. 106(a));

(9) limit meal service in the summer program to two meals (lunch and either breakfast or a supplement) daily, except in camps and service institutions serving meals primarily to migrant children (Sec. 106(b));

(10) extend the summer program through fiscal year 1984 (Sec. 106(c));

(11) provide for adjustments in the child care program reimbursement rates for supplements on an annual rather than semiannual basis (Secs. 107(a) (1) and (2));

(12) reduce equipment assistance in the child care program from $6 million to $4 million annually (Sec. 107(b));

(13) reduce the reimbursement rate for supplements served in the child care food program by 3 cents (Sec. 107(a) (3)); and

(14) reduce and freeze the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to 5 cents per half-pint (Sec. 108).

DESCRIPTION OF CHILD NUTRITION PROGRAMS

Working through State agencies, the Secretary of Agriculture provides Federal assistance in cash and commodities for use in preparing and serving nutritious meals to children while attending school, residing in service institutions, or participating in other organized activities away from home. This assistance is provided through the national school lunch, school breakfast, summer food service for children, and child care food programs. The purpose of this assistance is to help maintain the health and proper physical development of American children. Funds are also made available for food service equipment assistance, nutritional studies, nutrition education and training, and State administrative expenses.

The special supplemental food program (WIC) provides nutritional aid to low-income pregnant, postpartum, and breastfeeding women, infants, and children who are determined by competent health professionals to be a nutritional risk.

School lunch program: Assistance is provided to the States for service of lunches to all school children, regardless of family income, under section 4 of the National School Lunch Act. States must match some of the Federal cash grant from sources within the State. In fiscal year 1980, an estimated 4,420 million school lunches will receive assistance from this program including 2,453 million for children from middle and upper income families and 1,967 million for children from poor families. An estimated 26.8 million children are expected to participate in the program daily during the school year.

Special assistance: Additional assistance is provided to the States for serving lunches free or at reduced price to needy children under section 11 of the National School Lunch Act. Current eligibility standards are set at 125 percent of poverty for free lunches and 195 percent of poverty for reduced-price lunches. Public Law 95-627 changed the reimbursement for reduced-price lunches from 10 cents less than the free rate to 20 cents less than the free rate, except where a State-wide price for reduced-price lunches lower than 20 cents is in effect.

In 1980, the program will provide assistance for about 1,967 million lunches of which 1,680 million will be served free of charge and 287 million at reduced price. The special assistance program will benefit approximately 11.9 million needy children daily during the fiscal year.

School breakfast program: Federal reimbursement to the States is based on the number of breakfasts served free, at reduced price, or to paying children. Certain schools, designated in severe need, receive higher rates of reimbursement. Under Public Law 95-627, the expansion of the program is encouraged through reduction in accounting requirements, special consideration for equipment assistance, and a standard definition of the severe need category. In 1980, the program will serve an estimated total of 610 million breakfasts to 3.6 million participating children.

Summer food service program for children: Meals served free to children in poor areas (i.e., areas in which one-third of the children are eligible for free or reduced-price school meals) during the summer months are supported on a performance basis by Federal cash subsidies to State agencies. Funds are also provided for related State and local administrative expenses. During the summer of 1980, 122 million meals will be served to about 2.3 million children.

Child care food program: Preschool children receive year-round food assistance in child care centers and family and group day care homes. The program reimburses State agencies at varying rates for breakfasts, lunches, suppers, and meal supplements served. In 1980 approximately 417 million meals are expected to be served. Assistance is also provided to acquire or rent food service equipment and to offset State audit expenses related to the administration of the program.

Commodity procurement: Commodities are purchased for distribution to the school lunch, school breakfast, child care food, and summer food service programs. The commodity support rate for the school lunch program, mandated by law, is adjusted yearly to reflect changes in the Producer Price Index for Food Used in Schools and Institutions.

Special milk program: The special milk program, which was originally designed to encourage the consumption of milk by children in nonprofit schools of high school grade and under, summer camps, and similar institutions, is authorized under section 3 of the Child Nutrition Act of 1966.

Currently, funds are provided to State agencies to reimbuse participating institutions for a part of the cost of the fluid milk consumed. Reimbursement is made for the full cost of milk served free to needly children. The rate for milk served to paying children is adjusted each school year, based on changes in the Producer Price Index for Fresh Processed Milk.

In 1980, the program will reimburse an estimated 1,770 million half-pints of milk. These include 1,550 million half-pints for paying children and 220 million for children who qualify for free milk. The eligibility standard for free milk is the same as the standard established for free lunches. As provided in Public Law 95-627, children who are eligible for a free lunch under the Secretary's income poverty guidelines will, at the option of the school involved, also be eligible for free milk.

BACKGROUND AND NEED

SCHOOL LUNCH PROGRAM

Program summary

Financial and commodity assistance are provided under the National School Lunch Act to schools serving lunches meeting required nutritional standards. During the school year some 94,000 public and private schools participate in the program, making lunches available to 90 percent of the Nation's schoolchildren. Peak daily participation is more than 27 million students. More than 10 million students receive free or reduced-price meals according to nationally established income poverty guidelines.

Federal financial assistance for the school lunch program is provided to State educational agencies on the basis of the number of eligible meals served, or, for certain middle and secondary school students, the number of eligible meals offered. Reimbursement rates are adjusted twice yearly in January and July to reflect changes in the Consumer Price Index Series for All Urban Consumers for food away from home. Currently the national average reimbursement rates are 97.25 cents for free lunches, 77.25 cents for reduced-price lunches (up to 10 cents more is available for lunches if there is a statewide price that is less than the national maximum charge of 20 cents), and 17.75 cents for paid lunches. In fiscal year 1980, the Federal Government is providing total financial assistance for the school lunch program of more than $2.1 billion.

State educational agencies are also given commodities, or in some instances an equivalent cash payment, for each lunch served or offered. The value of these commodities is adjusted annually each July for changes in the Consumer Price Index for Food Used in Schools and Institutions. Currently, the value of these commodities is set at 15.75 cents for each free, reduced-price, and paid lunch. In fiscal year 1980, the Federal Government is providing commodities for the school lunch program valued at more than $700 million.

Department of Agriculture-donated commodities traditionally have been an integral part of the school lunch program. The earliest donations were made under section 32 of the Act of August 24, 1935, which permitted 30 percent of gross customs receipts to be used for purchasing agricultural surpluses and encouraging their domestic consumption. When the National School Lunch Act was enacted in 1946, it stipulated that certain money appropriated under section 6 of the Act, as well as section 32 funds, could be used by the Secretary of Agriculture to purchase commodities that schools were to use insofar as was practicable.

Yet another source of funding for commodities was added in section 416 of the Agricultural Act of 1949, which authorized the Commodity Credit Corporation to donate commodities it acquired under its price support program.

In recent years Congress has taken several steps to ensure that schools continue to benefit from this commodity legislation. In 1973, the National School Lunch Act was amended to require the Secretary of Agriculture to make cash grants in lieu of commodities for the unsupplied balance in any year in which the Department was unable to provide at least 90 percent of the commodity assistance it had initially programmed. After 1977, such cash grants were required whenever the Department could not provide 100 percent of the assistance it had initially programmed. In 1974, another amendment set the guaranteed level of commodity assistance at not less than 10 cents per lunch. It further required that the commodity assistance level be adjusted each year for changes in the Consumer Price Index for food away from home. In 1978, this index was changed to the Price Index for Food Used in Schools and Institutions. At least 75 percent of the value of this assistance must be in the form of donated foods. Finally, Congress has enacted a number of provisions designed to make commodity donations efficient and effective.

Need for legislation

In view of the need to reduce the Federal budget deficit to a minimum, the committee has recognized the importance of limiting the financial cost of the school lunch program. It has taken steps that will yield immediate savings in both budget authority and outlays in fiscal year 1981 and additional steps that will also result in significant savings in subsequent fiscal years. At the same time, the committee has avoided making legislative changes that would restrict substantially either the scope or the quality of the program.

Income poverty guidelines—The committee recommendations contain several changes affecting the income poverty guidelines that are used to determine participation in the school lunch program. These changes will also affect eligibility for the school breakfast, summer food, child care food, and WIC programs. Under current law the income eligibility level for free meals is 125 percent of the Secretary of Agriculture's income poverty guidelines, while the income eligibility level for reduced-price meals is 195 percent of those guidelines. The committee recommendations maintain the free meal eligibility level at 125 percent of poverty and lower the reduced-price eligibility level to 185 percent of poverty.

In addition, the recommendations change the procedure by which the Secretary's guidelines are updated. Current law provides that as of July 1 of each year the income poverty guidelines are to be adjusted on the basis of the average change in the Consumer Price Index for the period of the previous calendar year extended through March of the current calendar year. The recommendations eliminate the March extension, leaving the adjustments to be based on the change in the previous calendar year. As a consequence, at the time of the adjustment, the updated poverty levels will be 6 months rather than 3 months behind changes in prices. A third change is the inclusion of a standard deduction to be used in calculating family income. The deduction, similar to the one used in the food stamp program, will replace the hardship deductions for excess housing, medical, and special education expenses currently allowed under regulations. Starting July 1, 1980, the standard deduction will be $80 per month; each subsequent July 1, it is to be adjusted to reflect annual changes in the Consumer Price Index for items other than food.

Reimbursement for reduced-price lunches.—The committee recommendations also achieve savings by amending the provision governing the reimbursement rate for reduced-price lunches. In 1978, Congress set that rate at 20 cents less than the rate for free lunches, with the exception, however, that if there was a uniform statewide price of less than 20 cents for reduced-price lunches, the reimbursement rate would be the lesser of either the free lunch rate minus 10 cents or the free lunch rate minus the price charged for reduced-price lunches. The recommendations delete this exception, thereby effectively setting the reduced-price reimbursement rate for all States at 20 cents less than the free lunch rate because the incentive for charging 10 cents would be removed.

According to Department of Agriculture data, nearly all of the States and territories currently are receiving a higher rate of reimbursement under the exception to the rule. In 44 States, the District of Columbia, and Puerto Rico, the standard charge for each reduced-price lunch is 10 cents; in Hawaii, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, such lunches have no charge. All of these States and territories will receive less reimbursement under the committee recommendations.

In some cases the charge for a reduced-price lunch may be kept at less than 20 cents by increased financial support from State or local educational agencies. In other cases the price may have to be raised to 20 cents. However, in most of the affected States and territories, reduced-price lunch charges have not been raised for the past six years, if not longer. Moreover, none of the increases would apply to children in families that are most needy.

Annual indexing.—The committee recommendations amend other reimbursement provisions in the school lunch program to create further savings. Under current law, the section 4 reimbursement rate for all lunches—free, reduced price, and paid—and the additional section 11 reimbursement rates for free and reduced-price lunches are adjusted semiannually in January and July to reflect changes in the cost of operating a lunch program, as indicated by changes in the Consumer Price Index for All Urban Consumers for food away from home. Under the committee recommendations, beginning in fiscal year 1981, the adjustment will occur just once a year, on July 1. This change to annual indexing parallels similar changes being made in other Federal programs.

Section 4 reimbursement.—The committee recommendations contain an additional change in the section 4 reimbursement rate. Beginning in fiscal year 1981, this rate, which currently is 17.75 cents per lunch, would be updated annually and reduced by 2.5 cents per lunch in any school district in which during the second preceding school year less than 60 percent of the children participating in the program received free or reduced-price lunches.

The committee recognizes that even small reductions in reimbursements may cause great difficulty for economically poor school districts. It therefore has limited the scope of the section 4 reduction to districts in which fewer than 60 percent of the students participating in the lunch program received free or reduced-price lunches during the second preceding school year. However, the schools would still be affected by the change from semiannual to annual adjustments in reimbursement rates.

Commodity assistance—The committee recommendations further change the reimbursement provisions of the school lunch program affecting the value of commodity assistance. Under current law, State educational agencies are given commodities, or in some instances an equivalent cash payment, for each lunch served or offered. The national average value for these commodities was set for fiscal year 1975 at not less than 10 cents per lunch and since then has been adjusted annually each July for price increases. The current value of commodity assistance is 15.75 cents per lunch, though it is expected to be 17 cents after July 1, 1980. The bill would reduce the national average value for school lunch program commodities, or the equivalent cash payments, by 2 cents beginning in fiscal year 1981.

The committee recommendations also amend the definition of eligible "school" to exclude Job Corps Centers funded by the Department of Labor. Funds for meals served at these centers will instead be requested in the appropriation for the Department of Labor's Employment and Training Administration.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Program summary—In 1968, Congress enacted P.L. 90-302, which included a provision creating the special food service program for children. The program was originally created as a 3-year pilot project to provide lunches to children in child care centers and summer recreation programs in low income areas and areas in which large numbers of mothers worked outside the home. The summer food component of the program was designed to provide a continuation of the school lunch meal service for needy children after the school year ended. In the first year of its implementation, an estimated 98,500 children participated in the summer program receiving 2.1 million meals at a Federal cost of $400,000. Expectations were for even greater participation in 1969 and 1970, and by the last year of the pilot project (1971) just over 460,000 children were participating. However, statistics showed that this number represented less than 8 percent of the number of children receiving free and reduced-price lunches under the school lunch program.

In 1971, Congress extended the program through fiscal year 1973, and made available an additional $35 million of section 32[1] funds for fiscal year 1971 and $100 million for the fiscal year 1972 program through the enactment of P.L. 92-32.

In 1972, P.L. 92-433 extended the program through fiscal year 1975 and included a provision encouraging the use of the existing food service facilities in public and private nonprofit schools. While the summer portion of the program had continued to grow to over a million children participating in 1973, this still represented only a small percentage of the needy children receiving free and reduced-price lunches under the school lunch program.

A survey by the Department of Agriculture in 1973 and "An Appraisal of the Summer Food Service Program for Children" by the General Accounting Office (GAO) in 1974 precipitated congressional hearings on the summer program. This led to the first major legislative change in the summer food program. Largely in response to these recommendations, P.L. 94-105 included a provision for a separate summer food service program, thereby separating it from the year-round portion of the Special Food Service Program.

In addition, the summer program was extended through fiscal year 1977 and nonprofit residential summer camps were made eligible as sponsors. The changes also included definitions of eligibility, which provided that any eligible institution could enter the program upon request, and eligibility for children was expanded to include children from areas in which at least one-third of the children were eligible for free and reduced-price meals under other child feeding programs. Meals were to be provided at no cost, and reimbursement levels were established for food service operations, which included the cost of obtaining, preparing, and serving foods.

The 1975 amendments expanded eligibility for participation in the summer food program and had the effect of bringing many new sponsors and children into the program. Between 1975 and the summer of the transition quarter (1976), average daily participation in the program nearly doubled from 1.8 to 3.5 million children.

In April 1977, GAO released a report[2] on the problems and abuses in the summer food service program. Findings from this study indicated that there were significant abuses that included food waste caused by inadequate storage and spoilage; deliberate dumping; poor quality food; adult food consumption or offsite consumption by children; improper bidding procedures and indications of kickbacks and bribes; failure to meet meal pattern requirements; and overpayments for unserved meals.

To address these problems, the 1977 amendments (P.L. 95-166) included provisions designed to improve program administration and increase monitoring. The new law placed restrictions on the operation of programs using private food service management companies. These included requirements for vendor registration. In addition, the new law defined an "eligible sponsor" as one that demonstrates adequate administrative and financial capability; has not been seriously deficient in past program operations; is either a camp or conducts a regularly scheduled food service program in a low income area; and, except where needy children would otherwise not be served, provides ongoing year-round service to the community.

During fiscal year 1980, 2.3 million children are expected to participate in the summer program at a cost of approximately $127 million. Funding authority for the program expires September 30, 1980.

Need for legislation

The 2.3 million children expected to participate in the summer food service program for children during fiscal year 1980 represent less than 14 percent of the needy children who participate in the free and reduced-price lunch program during the school year. In addition, statistics indicate that participation in the summer program has gone down over the last several years.

In the past few years, legislation has been enacted to expand and clarify eligibility for summer food service program participation and sponsorship. This has increased both the number of sponsors of such programs, and sites where meals are served. The Inspector General of the USDA has reported that "the capacity to bring a program from no activity one day to service of thousands of meals at hundreds of sites the next, requires considerable planning and monitoring," and has reported that difficulties in planning and monitoring have most often occurred among large private sponsors using private vendors. In response to the Inspector General's report, the committee recommendation provide that nonprofit private nonself-preparation service institutions serving over 2,000 children at more than 20 sites be prohibited from operating the program.

The Department of Agriculture has testified that there is evidence of waste in the summer program because of multi-meal service that is not appropriate to the summer meal sites and the lack of adult supervision. Locations of sites in vacant lots, public housing projects, playgrounds, and other such locations together with limited supervision suggest enormous difficulty in handling several meals that are supposed to be served hours apart, but which often are delivered at the same time. This often results in significant waste and the taking of food offsite for consumption. For this reason, waste will be reduced by the provision in the committee recommendations that limits most institutions to two meal services per day—lunch and either breakfast or a supplement. Because of differing needs and food service environments, the proposal would not include meal limits on residential camps, day camps, and service institutions serving primarily migrant children.

In order to ensure continuous and orderly operation and administration of the summer program and protect the nutritional wellbeing of low-income children during the summer months, the recommendations provide for an extension of program authority through fiscal year 1984.

CHILD CARE FOOD PROGRAM

Program summary

The child care food program was originally part of the special food service program for children authorized under section 13 of the National School Lunch Act Amendments of 1968 (P.L. 90-302). This program provided for Federal grants-in-aid to State educational agencies for distribution to public and private nonprofit service institutions for the purpose of establishing meal programs similar to those operating in schools. The new program provided for two pilot programs, one to be operated for low-income school children in the summer months and the other to be operated year-round for children in day care centers or other nonresidential child care settings in areas in which poor economic conditions existed or in which there were high concentrations of working mothers.

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[1] Section 32, among other things, guarantees a permanent annual appropriation equal to 30 percent of gross customs receipts to be used by the Secretary for the removal of agricultural surpluses and food assistance.

[2] The Summer Feeding Program—How to Feed Children and Stop Program Abuses. Food and Nutrition Service, Department of Agriculture. General Accounting Office, CED 77-59, April 15, 1977.

In the first year of its operation, the child care segment of the special food service program for children provided $2.8 million in Federal funds for meals served to an average of 39,800 children daily. Federal funds provided through this program were to be used to reimburse the costs of obtaining food, although a special reimbursement not to exceed 80 percent of operating costs for the cost of obtaining, preparing, and serving, could be provided for programs that would have otherwise been unable to carry out an effective program. Meals were required to meet the minimum nutritional standards prescribed by the Secretary, and were to be served at no cost or reduced cost to children unable to pay the full cost. Programs were encouraged to use surplus and price-supported commodities, and the Secretary was authorized to donate such commodities to the program.

The 1970 amendments (P.L. 91-248) included a provision requiring that service institutions participating in the program determine and make public eligibility criteria for participation in the free and reduced-price portion of their programs, and that such determinations be applied equitably.

By the end of fiscal year 1975, an average of 457,100 children were participating in the child-care portion of the program daily, and Federal funding for that year totaled $48.8 million.

In the 1975 amendments (P.L. 94-105), the child care and summer food components of the special food service program for children were separated, and a new section 17, the child care food program was created and extended through September 30, 1978.

For the first time, monthly reimbursement rates were to be provided to the State agency on the basis of reimbursement rates provided for paid, free, or reduced-price school lunches. Dinners were to be reimbursed at the rate provided for lunches, and a minimum snack reimbursement was established at a rate of 5 cents for paid, 15 cents free, and 10 cents for reduced-price snacks. All of the reimbursement rates were to be adjusted semiannually to reflect changes in the Consumer Price Index series for food away from home. In addition the new law provided for a minimum level of commodity assistance, which could be provided in cash if the State agency so requested. The law also provided for $3 million of the appropriation to be used for nonfood assistance, to be apportioned to the States on the basis of the relative number of needy children under age six in the State as compared to the total of such children in the United States.

In 1978, the child care food program was authorized permanently. The definition of eligible institution was expanded to include programs developed to provide day care outside of school hours and public or private nonprofit organizations sponsoring family or group day care homes. Except for family or group day care home sponsoring institutions, service institutions were required to have Federal, State, or local licensing or approval. If such licensing or approval was not available, service institutions could still qualify if they receive funds under title XX of the Social Security Act (this title provided funds to States for social services including child care centers that meet Federal Interagency Day Care requirements) or otherwise demonstrate ability to meet standards prescribed by the State or local government or the Secretary of the Department of Health, Education, and Welfare (now the Department of Health and Human Services).

The most significant of the changes in the 1978 law provided for a simplification of sponsor claims through a three-tier system of reimbursement for meals served.

In fiscal year 1979, the child care food program grew by 13.4 percent above the 1978 level with 383.9 million meals being served to an average of 660,300 children daily. For fiscal year 1980, it is estimated that 700,000 children will participate in the program.

In an effort to respond to the growing demand for fiscal austerity, the committee has recommended a number of changes that will result in program savings. These include a reduction of 3 cents in the reimbursement rate for meal supplements (or snacks). The effect of this proposal would be to lower the Federal payment for snacks from the estimated fiscal year 1981 weighted average reimbursement rate of 30.96 cents for free, 23.28 cents for reduced-price and 7.74 cents for paid snacks. The proposed reduction in the paid reimbursement for school lunches and the change from semiannual to annual inflation adjustments contained in the bill will also apply to the reimbursement for paid meals served to children through the child care food program. These changes will not significantly affect program participation since most of the children participating are receiving meals at the free and reduced-price rate. Changes in income eligibility criteria for free and reduced-price meals under the school lunch program and the school breakfast program will also apply to the child care food program. These are expected to have minimal impact on this program because of the three-tier system of reimbursement, which in effect provides group reimbursement when there are significant proportions of eligibles in a child care center.

The recommendations also reduce the funding available for food service equipment assistance for the child care food program, since many States have not fully expended the level available to them. In fiscal year 1979, for example, total expenditures for food service equipment assistance were $3.26 million. The recommendations reduce the $6 million available from the appropriations for this program to $4 million.

SPECIAL MILK PROGRAM

Program summary

Prior to 1943, Federal assistance to schools for lunch and milk programs was dependent upon the existence of farm surpluses. With the passage of the 1943 amendments to the Act of August 24, 1935 (P.L. 78-129), a specific amounts of section 32[3] funds were authorized for the school lunch and milk program without regard to the existence of farm surpluses.

Beginning September 1, 1954, and through fiscal year 1956, the Agricultural Act of 1954 (P.L. 83-690) authorized $50 million annually from Commodity Credit Corporation (CCC) funds to be used for the purpose of increasing fluid milk consumption for children in nonprofit elementary and secondary schools. When this legislation was enacted, the CCC had been purchasing large amounts of dairy products and converting them for storage in order to boost sagging dairy prices. The 1954 act was intended to support milk prices and provide milk to school children rather than converting it and storing it in Government warehouses.

In 1956, this provision of the Agricultural Act of 1954 was amended by two Acts (P.L. 84-465 and P.L. 84-752). Public Law 84-465 increased the authorization for the program from $50 million to $75 million annually of CCC funds through fiscal year 1958 and expanded eligibility for participation in the milk program to include children in nonprofit child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of underprivileged children on a public welfare or charitable basis. The enactment of P.L. 84-752 deleted reference to "underprivileged children . . . training or cared for on a public welfare or charitable basis." With this change Congress established that the milk program was not to be targeted solely for the milk consumption of needy children but rather to all children who could be served, without regard to family income, within the confines of the funding available.

In 1958, the milk program was extended at the same authorization level for an additional 3 years (through June 30, 1961). In addition, while funding was still to be provided from CCC funds, specific language was added to the law station that the amounts expended under the program were not to be considered as expenditures for price support.

In 1959, legislation was enacted (P.L. 86-10) increasing the authorization for milk provided through CCC funds to $78 million for the fiscal year beginning July 1, 1958, and $75 million for each of the fiscal years beginning July 1, 1959, and July 1, 1960. With the passage of additional legislation in 1959 (P.L. 86-163), the authorization levels were increased to $81 million for the fiscal year beginning July 1, 1959, and $84 million for the fiscal year beginning July 1, 1960. Again in 1960, authorizations were increased by P.L. 86-446 to a total of $85 million for the fiscal year beginning July 1, 1959, and $95 million for the fiscal year beginning July 1, 1960. In 1961, the program was extended for 1 year and the authorization increased to $105 million.

With the enactment of the Agricultural Act of 1961 (P.L. 87-128), Congress mandated that direct appropriations outside the CCC be provided for continued milk reimbursement. No limit was placed on the authorization and the program was extended through fiscal year 1966.

The Child Nutrition Act of 1966 incorporated the Special Milk program in section 3 of that Act. The new Act required the Secretary to administer the program in the same way as previously, and eligibility for participation remained the same. The program was to be available in the 50 States and the District of Columbia. The program was extended through fiscal year 1970 at authorization levels of $110 million for fiscal year 1967, $115 million for fiscal year 1968, and $120 million for fiscal year 1969 and 1970.

In 1967, the administration's budget included a proposal to limit Federal reimbursement for milk under the special milk program to schools with no food service program and to schools with high concentrations of low-income children. The proposed 80 percent reduction in funding accompanying such a change was rejected by Congress in the 1967 agricultural appropriation act, which provided $104 million for the special milk program.

In 1970, the amendments to the Child Nutrition Act of 1966 (P.L. 91-295) included a provision making the special milk program permanent and authorizing appropriations up to $120 million for fiscal year 1970 and each succeeding fiscal year. In addition, this legislation, which was enacted over the President's veto, provided for program participation in Guam.

In 1973, in opposition to administration recommendations to cut back the special milk program, Congress passed amendments to the National School Lunch Act (P.L. 93-

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[3] Section 32, among other things, guaranteed a permanent annual appropriation equal to 30 percent of gross customs revenues to be used by the Secretary of Agriculture under broad guidelines for the purpose of removing agricultural surpluses and assisting low-income households in their food-related needs.

150) that included a provision allowing any nonprofit school or child care institution to participate in the program upon request. In addition, eligibility for free milk was provided under the program for children who qualified for free lunches under the National School Lunch Act.

Amendments to the Child Nutrition Act of 1966 enacted in 1974 (P.L. 93–347) included a provision establishing a minimum rate of reimbursement of 5 cents, annually adjusted to reflect changes in the food away from home series of the Consumer Price Index (CPI) for each half-pint of milk served. The new law also authorized such sums as may be necessary for that purpose.

In 1975, the National School Lunch Act and Child Nutrition Act of 1966 Amendments (P.L. 94–105) included a provision expanding program participation to Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territories of the Pacific Islands. The law also included a provision prohibiting reimbursement in amounts exceeding the cost of the milk served.

In 1977, it was brought to the attention of Congress that administrative problems were being encountered by some schools because of the free milk provision. Reports indicated that the provision of an additional free half-pint of milk to children receiving free lunches had led to public identification of needy children. In addition, there was some concern (although the later results of the special milk program study showed this not to be the case) that the addition of one-half pint of milk to that already provided through the meal service program might result in milk waste. In response to these problems, a number of schools had dropped the special milk program. In an effort to address these problems, Congress included a provision in the 1977 amendments (P.L. 95–166) requiring that free milk be provided at times other than meal service in facilities that operated the school lunch, breakfast, or child care food programs. Children not participating in the school lunch program were permitted to continue to receive milk under the special milk program during meal periods.

The Child Nutrition Amendments of 1978 (P.L. 95–627) included a change from the previous limitation on reimbursement for free milk served at mealtimes. Under the new law, free milk could be served to eligible children at the option of the school and upon the request of the child. This change allows facilities to serve free milk at mealtimes, if they choose, while at the same time allowing the child the option of refusing the extra milk.

Although the new provision does not specifically include mention of nonresidential child care institutions, the Department of Agriculture has interpreted the provision to include these facilities since the special milk program is also available to them under the law. In an effort to provide a better indicator of need adjustments in the minimum reimbursement rate, the new legislation also included a provision requiring the use of the Producer Price Index for Fresh Processed Milk (published by the Bureau of Labor Statistics of the Department of Labor) rather than the previously mandated Consumer Price Index series for food away from home.

For the period July 1, 1979, through June 30, 1980, the minimum Federal payment per half-pint of milk served under the special milk program is 7.75 cents. For the same period of time, the Federal payment for free milk served to needy children in schools that exercise the free milk option was approximately 14 cents per half-pint. The Department of Agriculture estimates that for this period 12.4 percent of the milk served will be served free to needy children and the remaining 87.6 percent of the milk will be served at the paid reimbursement rate.

NEED FOR LEGISLATION

During the course of the past 15 years, successive administrations have recommended the elimination of either the entire or a major part of the special milk program to accomplish budget savings. The committee has rejected such proposals because of concern over the effect that elimination of this program would have on those children who do not participate in the school lunch program but who purchase milk separately as part of an a la carte school lunch or to supplement a bag lunch brought from home. Study data on the special milk program has shown that 70 percent of the milk served through the program is served to children who do not participate in the school lunch program. The elimination of the special milk program could significantly affect the ability or willingness of these children to continue to purchase milk.

In an effort to respond to the current demands for fiscal austerity, the committee has proposed that the reimbursement for paid milk served in schools with a school meal service program be set at 5 cents for each half-pint. This reimbursement rate would not affect reimbursement for milk served in schools without a school meal service program or for milk served free to needy children in schools with a school meal service program.

The estimated effect of the committee recommendations would be to reduce the reimbursement for a half-pint of milk served to paying students by a little over 3 cents in fiscal year 1981. The committee expects that this change will provide substantial savings, will have a minimal effect on participating children, and will have no effect on needy children receiving free milk or those children in schools that do not have a school food service program. This proposal will not jeopardize the integrity of the special milk program because it will continue to be able to operate in all schools wishing to participate.

SCHOOL BREAKFAST PROGRAM

Program summary

Initially authorized as a 2-year pilot project, the school breakfast program was established by the Child Nutrition Act of 1966 (P.L. 89–642). In the first year of operation, the program served 80,000 children at a Federal cost of $573,000. The original legislation provided that first consideration for program implementation would be given to schools in poor areas and areas where children had to travel a great distance to school. Funds were provided to local school districts through the State educational agencies to pay for a portion of the food used in the program, but not for labor costs. In cases of "severe need",[4] Congress permitted Federal reimbursement of up to 80 percent of all operating costs. In 1971, P.L. 90–302 provided that free and reduced price breakfast eligibility was to be based on the same income eligibility guidelines as used in the school lunch program.

In 1972, P.L. 92–433 extended the authorization for the breakfast program through fiscal year 1975. Funding for the program was changed to provide payment based on the number of breakfasts served and the Secretary was authorized to make payments directly for breakfasts served in nonprofit private schools in a manner similar to that used by State educational agencies administering programs in the public schools. The 1973 amendments to the Child Nutrition Act (P.L. 93–150) established a minimum 8-cent per meal Federal reimbursement for each paid breakfast, 15 cents for each reduced-price breakfast and 20 cents for each free breakfast. In cases of severe need, a maximum payment of 45 cents was authorized for free breakfasts.

In the 1975 amendments to the Child Nutrition Act (P.L. 94–105), the authorization for appropriations for the school breakfast program was made permanent. This legislation included a statement of congressional intent that the program "be made available in all schools where it is needed to provide adequate nutrition for children in attendance." The Secretary was required to report plans for breakfast program expansion and to undertake a program of information to further the intent of Congress.

The 1977 amendments (P.L. 95–166) increased the maximum reimbursement for free and reduced-price breakfasts in severe need schools to the higher of either 10 cents above the regular reimbursement for free breakfasts or 45 cents plus a semiannual adjustment based on the series of food away from home in the Consumer Price Index. For reduced-price breakfasts, the reimbursement rate was set at 5 cents below the maximum payments for free breakfasts.

By 1978, the program had grown to a Federal funding level of $184 million and was serving breakfasts to 2.8 million children in over 23,000 schools. While this was a significant increase over the early years, congressional enactment of the 1978 amendments (P.L. 95–627) suggested concern about the fact that so few (less than 30 percent) of the schools and needy children participating in the school lunch program were participating in the breakfast program. The 1978 amendments included provisions to encourage expansion of the breakfast program by providing additional financial assistance and food service equipment to local schools initiating breakfast programs.

The school breakfast program provides assistance to State to initiate, maintain or expand non-profit breakfast programs in the schools. Under this program, Federal payments are available for each breakfast served. In fiscal year 1980, the program operated in approximately 31,000 schools and is expected to serve an estimated 610 million breakfasts to some 3.6 million children. This represents about 30 percent of the 12 million children participating in the free and reduced-price lunch program, and about one-third of the 94,500 schools offering school lunches. The major portion of participants (almost 85 percent) are low-income children who receive free or reduced-price breakfasts. Income eligibility for such breakfasts is the same as that for the school lunch program.

For the period January 1 through June 30, 1980, the basic reimbursement rate for each breakfast served is 14 cents. An additional 26.5 cents (for a total of 40.5 cents) is provided for reduced-price breakfasts, and an additional 32.25 cents (for a total of 49.25 cents) is provided for free breakfasts. These rates are adjusted semiannually for changes in the Consumer Price Index series for food away from home. The Department of Agriculture currently provides three cents per breakfast in commodity assistance to the school breakfast program, although it is not required by law to do so.

Need for legislation

In an effort to respond to the budgetary constraints for spending in fiscal year 1981, the committee bill includes language that prohibits the Secretary of Agriculture from providing commodities to school breakfast programs in fiscal year 1981. However, this restriction would be operative only for one year. In subsequent fiscal years the Secretary could provide commodities to this program at a rate up to 3 cents per breakfast, indexed for inflation. Other savings in the breakfast program will occur from the provisions that change the eligibility for free and reduced-price school lunches and require annual rather than semiannual adjustment of the reimbursement rates.

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[4] Severe need schools are those in which breakfast service is mandated by State law and in which 40 percent or more of the lunches were served at free or reduced-price in the second preceding school year and the breakfast reimbursement is insufficient to cover costs.

SECTION-BY-SECTION ANALYSIS

Section 101. School lunch program, general reimbursement:

Section 101 reduces the general cash reimbursement rate under section 4 of the National School Lunch Act for all categories of lunches served (free, reduced-price, and paid) by 2½ cents, except in school districts in which 60 percent or more of the lunches served were served free or at reduced-price during the second preceding school year. Under existing law, the section 4 cash reimbursement in fiscal year 1981 is estimated to be 19.14 cents per lunch. The 2½ cent reduction in the section 4 general cash reimbursement rate would not affect the amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966.

Section 102. Direct Federal expenditures, commodity assistance:

Section 102 amends section 6(e) of the National School Lunch Act to reduce commodity assistance in the school lunch program by 2 cents. Under existing law, commodity assistance in the school lunch program in fiscal year 1981 is estimated to be 17.1 cents per lunch.

Section 102 also amends section 6(e) of the National School Lunch Act to prohibit the Secretary of Agriculture, for the 1980–1981 school year, from offering commodity assistance to the States for the school breakfast program. In subsequent school years, the Secretary could provide 3 cents in commodity assistance to States for the school breakfast program, which could be adjusted on an annual basis to reflect changes in the Consumer Price Index for Food Used in Schools and Institutions.

Section 103. Nutritional and other program requirements:

POVERTY GUIDELINE

Section 103(a) amends section 9(b)(1) of the National School Lunch Act to provide that the income poverty guidelines for the child nutrition programs will be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget for the forty-eight States adjusted annually.

ELIGIBILITY GUIDELINES

Sections 103 (a) and (b) also change the eligibility guidelines for free and reduced price school meals from 125 percent and 195 percent of poverty, respectively, to 125 percent of poverty plus a standard deduction and 185 percent of poverty plus a standard deduction. The hardship deductions that are currently allowed under the Department of Agriculture regulations would be replaced by the standard deduction. By reducing the eligibility guideline for reduced price school meals, section 4(b) also reduces the maximum income eligibility for the special supplemental food program (WIC). The standard deduction would be the same as the standard deduction used in the food stamp program and is projected to be $80 per month when this provision is implemented.

Section 104. Special assistance:

Section 104(1) amends section 11(a) of the National School Lunch Act to remove the incentive for schools to offer reduced-price lunches at less than 20 cents per lunch. Under existing law, schools that charge less than 20 cents per reduced price lunch receive cash reimbursement equal to the free lunch reimbursement factor reduced by 10 cents or the price charged for reduced price lunches in that State, whichever is greater.

Sections 104 (2) and (3) amend section 11(a) of the National School Lunch Act to replace the semiannual adjustments in the school lunch program reimbursement rates with an annual adjustment made on July 1 of each year to reflect changes for the most recent 12 month period for which such data are available.

Section 105 Miscellaneous provisions and definitions, National School Lunch Act:

Section 105 specifically excludes Job Corps Centers funded by the Department of Labor from the definition of "school" in section 12 (d) of the National School Lunch Act.

Section 106. Summer food service program for children Service institutions;

Section 106(a) amends section 13(a)(1) of the National School Lunch Act to preclude private nonprofit institutions other than camps that purchase meals from a food service management company and that serve more than 2,000 children daily at more than 20 locations from participating in the program.

NUMBER OF MEALS

Section 106(b) amends section 13(b)(2) of the National School Lunch Act to limit meal service in the summer program to two meals (lunch and either breakfast or a supplement) daily, except in camps and service institutions serving meals primarily to migrant children.

AUTHORIZATION FOR APPROPRIATIONS

Section 106(c) amends section 13(p) of the National School Lunch Act to extend the authorization for appropriations for the summer program through fiscal year 1984. Under existing law, the authorization for appropriations for the summer program expires at the end of fiscal year 1980. The summer program is an entitlement program.

Section 107. Child care food program:

REIMBURSEMENT RATES

Sections 107(a) (1) and (2) amend sections 17(c) (1), (2), and (3) of the National School Lunch Act to provide that adjustments in the reimbursement rates for supplements will be made on an annual rather than semiannual basis.

Section 107(a)(3) provides that, beginning in fiscal year 1981, the Federal cash reimbursement rate for supplements served in the program will be reduced by 3 cents. It is currently estimated that in fiscal year 1981 the average reimbursement rate for paid supplements will be 7.74 cents, for reduced-price supplements 15.54 cents, and for free supplements 23.22 cents.

EQUIPMENT ASSISTANCE FUNDS

Section 107(b) amends section 17(n)(1) of the National School Lunch Act to reduce from $6 million to $4 million the amount available annually for providing equipment assistance to enable child care institutions to establish, maintain, and expand the program.

Section 108. Special milk program:

Section 108 further amends section 3 of the Child Nutrition Act of 1966 to reduce and freeze the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to 5 cents per half-pint. It is currently estimated that the reimbursement rate for paid milk in the special milk program in fiscal year 1981 under existing law would be 8.10 cents.

Section 109. School breakfast program:

MAXIMUM FREE BREAKFAST REIMBURSEMENT

Section 109 amends section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 to provide for a maximum free breakfast reimbursement of the higher of (1) the national average payment established by the Secretary, or (2) 45 cents, indexed annually rather than semiannually to reflect changes in the series for food away from home of the Consumer Price index.

Section 110. Miscellaneous provisions and definitions, Child Nutrition Act of 1966:

Section 110 specifically excludes Job Corps centers funded by the Department of Labor from the definition of "school" in section 15(c) of the Child Nutrition Act of 1966.

COMMITTEE CONSIDERATION

COMMITTEE MARKUP

Pending bills.—Four bills containing spending cuts were before the Committee on Agriculture, Nutrition, and Forestry when it met to consider the reconciliation instructing in the first concurrent resolution on the budget for fiscal year 1981 at markup. S. 2675, introduced by the Chairman and ranking minority member of the Subcommittee on Nutrition, Senators McGovern and Dole, respectively, which was supported by the American School Food Service Association and a coalition of agricultural and public interest groups; S. 2799, introduced by the committee's ranking minority member, Senator Helms, and Senators Jepsen and Hayakawa; S. 2810, introduced by Senator Dole; immediately prior to the markup, and the administration's bill, which was printed as a committee print, although it was not introduced in the Senate.

The committee reached agreement early in the markup on six budget cuts that were in some or all four of the bills pending before the committee. They were: a reduction of 3 cents in the reimbursement for child care supplements; a reduction in food service equipment assistance for child care institutions; elimination of Job Corps Centers from the school lunch and breakfast programs; reducing and freezing the reimbursement rate under the special milk program for milk for paying children in schools in which there are other meal programs at 5 cents; and nonentitlement cuts in food service equipment assistance, breakfast commodities, and nutrition education and training.

Other spending cuts.—The major areas of disagreement on the manner of cuts involved the cash and commodity reimbursement rates, eligibility criteria for free and reduced price school lunches, the date for determining an annual reimbursement update, and the summer food service program for children.

General reimbursement rate for lunches.—S. 2675, the McGovern-Dole bill, calls for a reduction in the basic reimbursement rate (the "section 4" rate) for all meals by 2½ cents. This reduction would not apply to those school districts in which 75 percent or more of the children receive their lunches free or at reduced-price. S. 2810, Senator Dole's bill is identical to S. 2675 except that the "safety net" for school districts would be set at 60 percent rather than 75 percent. The administration proposed a 5-cent reduction in the section 4 reimbursement for paying children only, unless the participation rate of paying children dropped to or below 50 percent of all program participants. Senator Helms' bill contained no reduction in section 4 reimbursements. The committee adopted Senator Dole's proposal.

Eligibility criteria for free and reduced-price lunches—Under current law, the income eligibility level is set at 125 percent of the Secretary's income poverty guidelines, which for fiscal year 1981 for a four-person family would be $10,250. The McGovern-Dole and Dole bills left eligibility for free meals at essentially the level of present law, $10,390 and $10,273, respectively, for fiscal year 1981. The Helms-Hayakawa-Jepsen bill lowered that level to $9,840, and the administration bill reduced the level even further to $9,160.

For reduced-price meals the variation among the proposals was greater. The McGovern-Dole bill, S. 2675, and the administration bill lowered eligibility for reduced-price almost $700 from the present law level of $15,990 to $15,310. The Dole bill lowered it approximetly $1,200 from present law to $14,743, and the Helms bill by nearly $1,650 to $14,350.

The committee also considered and adopted the replacement of the hardship deductions permitted under present regulations with a standard deduction and elimination of the update for inflation to March 31 of the year in which the adjustment is to be made rather than using the Office of Management and Budget inflation adjustment based on the previous calendar year.

Along with adoption of a standard deduction and elimination of the March 31 update, the committee set the eligibility levels at 125 percent of poverty and 185 percent of poverty, respectively, for free and reduced-price lunches. These combined changes have the effect of setting these eligibility standards at 125 and 180 percent of the current poverty level. The elimination of the March 31 update in the poverty guideline is consistent with a change made earlier this year in the food stamp program in P.L. 96–249. The committee also eliminated the incentive for schools to offer reduced-price lunches at less than 20 cents. These changes were all contained in Senator Dole's bill.

Annual adjustment of the school meals reimbursement rates

All the proposals before the committee replaced the semiannual adjustment in the reimbursement rates for school meals with an annual adjustment. Two of the proposals, the McGovern-Dole and Dole bills, changed the date of calculation, beginning with the 1982–1983 school year, from May 31 to August 31, whereas the other proposals retained the May 31 date. The Committee adopted the May 31 date. This change results in fiscal year 1981 savings of $75 million.

Summer food service program for children.—Three types of proposals were made to achieve savings in the summer feeding program. S. 2799, the Helms-Hayakawa-Jepsen bill, proposed savings of $149 million through not reauthorizing the summer program beyond fiscal year 1980. Each of the other proposals would save $18 million by limiting the number of meals served in the program to two, other than in camps and programs primarily for migrant children.

The committee adopted a third means of achieving savings—limitation on participation by private sponsors who do not prepare their own meals. The administration bill proposed to prohibit nonself-preparing-private sponsors, other than programs primarily for migrant children, serving more than 1500 children at more than 15 sites from participation in the program. S. 2810 proposed a similar limitation. S. 2675 eliminated the participation by such private sponsors unless no other sponsor had agreed to participate by March 15. The committee adopted a compromise proposal submitted by Senator Huddleston that removes the eligibility of non-self-preparing-private sponsors other than camps that serve meals to no more than two thousand children daily at no more than twenty locations. * * *

Level of commodity assistance.—S. 2675 and S. 2799 reduced the level of commodity assistance by one cent per lunch (savings: $45 million). S. 2810 reduced commodity assistance by two cents (Savings: $90 million). The administration's proposal contained no comparable provision. The committee adopted a 2-cent reduction in commodity assistance for the school lunch program.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact that would be incurred in carrying out the Committee on Agriculture, Nutrition, and Forestry recommendations.

I

The committee recommendations make various changes in the school lunch and breakfast programs, the commodity distribution program, the summer food service program for children, the child care food program, and the special milk program.

The recommendations are not regulatory measures in the sense of improving Government-established standards or significant economic responsibilities on private individuals and businesses.

II

Participation in the child nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966 is voluntary on the part of States and institutions operating the programs and the children who receive program benefits.

The provisions of the recommendations will require modifications in existing child nutrition regulations. The changes necessary to implement the provisions in the recommendations will not be difficult to make since no degree of administrative discretion is involved; they are required by the provisions of the recommendation.

III

There would be no impact on the personal privacy of recipients in the child nutrition programs as a result of enacting the amendments recommended by the committee.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry estimates that its recommendations would reduce spending authority for fiscal year 1981 by over $520 million in both budget authority and outlays. The recommended changes in law would also result in savings in subsequent fiscal years.

The committee's estimate is in accord with the cost estimate prepared by the Congressional Budget Office on S. 2675, which, as ordered reported by the committee, contains the identical reductions in spending authority. The estimate prepared by the Congressional Budget Office on S. 2675 reads as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 24, 1980.
Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2675, the Child Nutrition Amendments of 1980.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2675.

2. Bill title: Child Nutrition Amendments of 1980.

3. Bill status: Ordered reported from the Senate Committee on Agriculture, Nutrition and Forestry; June 11, 1980.

4. Bill purpose: The purposes of the bill are: (1) to extend through fiscal year 1984 authorization for the summer food service program, the special supplemental food program (WIC), a commodity distribution program, and the child nutrition state administrative expenses (SAE) provisions, (2) to modify income eligibility provisions for determining meal reimbursements, (3) to reduce certain cash and commodity meal reimbursement rates, (4) to limit the summer food service program to certain sponsors, (5) to reduce the special milk reimbursement for non-needy students, (6) to replace the semi-annual meal reimbursement adjustments with an annual adjustment, (7) to reduce the authorization for appropriation levels in the food service equipment program, and (8) to make improvements in the programs' administration and outreach provisions.

5. Cost estimate: The cost of this bill falls in the Income Security function of the federal budget (function 600). The cost estimate assumes implementation of all provisions with the school year beginning in October 1980, therefore, fiscal year 1981.

5. COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
NEW AUTHORIZATION					
Summer food program:					
Estimated authorization level	109	117	137	148	
Estimated total outlays	98	116	135	147	15
State administrative expense:					
Estimated authorization level	38	45	46	50	
Estimated total outlays	38	45	46	50	
Nutrition education and training program:					
Estimated authorization level	15	23	22	22	
Estimated total outlays	8	19	22	22	11
WIC program:					
Estimated authorization level		[1]130	1,275	1,485	
Estimated total outlays		110	1,103	1,453	222

	Fiscal year—				
	1981	1982	1983	1984	1985
CHANGE IN AUTHORIZATION					
Equipment assistance:					
Estimated authorization level	−60	−45	−40	−35	−75
Estimated total outlays	−50	−42	−37	−32	−63
National school lunch program:					
Income eligibility:					
Change in estimated authorization	−130	−140	−151	−163	−176
Change in estimated outlays	−130	−140	−151	−163	−176
Sec. 4 reimbursement:					
Change in estimated authorization	−85	−87	−88	−90	−92
Change in estimated outlays	−85	−87	−88	−90	−92
Job Corp restriction:					
Change in estimated authorization	−15	−15	−16	−16	−17
Change in estimated outlays	−15	−15	−16	−16	−17

5. COST ESTIMATE—CONTINUED

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Commodity donation program:					
Change in estimated authorization	−90	−90	−90	−91	−92
Change in estimated outlays	−90	−90	−90	−91	−92
School breakfast program:					
Severe need:					
Change in estimated authorization		+31	+35	+39	+43
Change in estimated outlays		+31	+35	+39	+43
Breakfast commodity assistance:					
Change in estimated authorization	−19	+3	+5	+8	+10
Change in estimated outlays	−19	+3	+5	+8	+10
Special milk program:					
Change in estimated authorization	−57	−62	−66	−72	−78
Change in estimated outlays	−57	−62	−66	−72	−78
Child care food program:					
Change in estimated authorization	−8	−10	−11	−12	−14
Change in estimated outlays	−8	−10	−11	−12	−14
Annualization of reimbursement:					
Change in estimated authorization	−75	−81	−80	−80	−71
Change in estimated outlays	−75	−81	−80	−80	−71
Participation response to changes in reimbursement:					
Change in estimated authorization	−29	−31	−34	−37	−39
Change in estimated outlays	−29	−31	−34	−37	−39
BILL COST SUMMARY					
Total:					
Estimated authorization level	−406	−212	944	1,156	−601
Estimated outlays	−414	−234	773	1,216	−563
Change from current services base (entitlement provisions):					
Change in authorization level	−529	(2)	(2)	(2)	(2)
Change in outlays	−525	(2)	(2)	(2)	(2)

[1] Represents a change in authorization level for this fiscal year.

[2] Not applicable.

6. Basis for estimate: The estimated authorization levels in this cost estimate for the summer food service program, state administrative expenses, and the nutrition education and training program through fiscal year 1984 reflect the entire program costs, since these programs' authorizations expire at the end of fiscal year 1980. The equipment assistance program's maximum authorization levels are reduced in the bill from $75 million under current law, to $15 million in fiscal year 1981, and then increased to $40 million by 1984. The bill removes the permanent authorization for the food service equipment program, and replaces it with an authorization expiring with fiscal year 1984. The WIC program's authorization expires at the end of fiscal year 1982, and therefore the cost estimate shows the estimated total authorization for fiscal years 1983 and 1984. The incremental costs resulting from legislative changes in the bill are shown for the WIC program for fiscal years 1981 and 1982. Outlays for these programs reflect current spending patterns.

Other provisions of the bill modify permanently authorized programs and therefore only the incremental costs resulting from the bill are shown for these programs. These include the national school lunch program, the school breakfast program, the commodity donation program, the special milk program, and the child care food program.

Methods and assumptions used to develop the cost estimate for each major bill provision follow.

Reauthorized or extended programs

SUMMER FOOD PROGRAM

The bill extends the summer food program through fiscal year 1984 with amendments. The bill limits eligibility of service institutions operating the program. Private nonprofit institutions that acquire meals from a food service management company are excluded from participating in the program unless the institution serves less than 2,000 children daily at no more than 20 locations. Further, participating summer day camp institutions are limited to serving two meals a day—a lunch and a breakfast or supplement. Under current procedures such institutions could serve four meals—lunch, supper, supplement, and breakfast.

The estimate assumes that the number of meals served in 1981 would be approximately 140 million under a simple extension of the program. With a weighted average meal reimbursement of approximately $1.06, the cost of the program would be about $150 million. An estimated 38 million meals, or approximately 28 percent of all meals served under the program, would have been provided through the non-profit institutions now excluded under the bill. Assuming that the mix of meals in these excluded institutions (breakfasts, lunches, and snacks) is in the same proportion as the meals served in all other service institutions, the bill would result in a saving of $42 million in 1981. It is assumed that new qualifying institutions do not replace the institutions excluded by this bill. It was also assumed that the proportion of meals served in the excluded institutions would not have changed over time for estimating out-year sayings. Offsetting these savings is a provision that would make funds for conducting audits of all participating institutions available to states administering the program. An estimated $1.5 million would be made available to states to conduct these audits.

For fiscal year 1981, the estimated authorization level in the summer food program is $109 million and estimated outlays are $98 million. This is $40 million less than what would have been the cost of the program with a simple extension. By fiscal year 1984, the bill results in a reduced authorization level of $55 million from what would have been estimated with a simple extension of the program.

STATE ADMINISTRATIVE EXPENSES

The bill extends the current formula for determining state administrative expenses (SAE) associated with the operation of the school lunch program, child care food program, special milk program, breakfast program, and food service equipment program. Currently, 1.5 percent of the federal funds expended for these programs in the second preceding fiscal year is authorized to be allocated to the states. The authorization level for fiscal year 1981 reflects the actual 1979 expenditure levels in these programs; similarly, the fiscal 1982 estimate reflects the estimated fiscal year 1980 program expenditures. The estimated fiscal year 1983 and 1984 authorization levels reflect the fact that certain provisions of this bill reduce expenditures in fiscal year 1981 and 1982 (excluding the 2.5 cent reduction in section 4 reimbursement discussed below). Specifically, fiscal year 1983 and 1984 federal funding for state administrative expenses is reduced by $2 million and $3 million respectively, because of other savings provisions in this bill. Estimated total outlays reflect a 100 percent spendout rate.

NUTRITION EDUCATION AND TRAINING

The bill would extend through fiscal year 1984 Section 19 of the Child Nutrition Act of 1966 that provides funding for nutrition education and training grants. For fiscal year 1981 the bill authorizes an appropriation of $15 million; for the remaining period, the bill establishes an entitlement program with appropriations set at the number of children enrolled in school multiplied by 50 cents.

The authorization level for fiscal years 1982 through 1984 is based on the National Center for Education Statistics, Projections of Education Statistics to 1986–87, using their intermediate projected enrollments. Spendout rates from these authorization levels were assumed to be 50 percent, based on past spending history.

WIC PROGRAM

The bill extends the authorization period for the WIC program through the end of fiscal year 1984. The program's current authorization expires at the end of fiscal year 1982. The bill would maintain the current law's $900 million authorization level for fiscal year 1981, but beginning with fiscal year 1982 the authorization level would be increased by the amount necessary to insure that participants increased an average of 300,000 persons per year. Based on current projections, participation in the program should average approximately 2.0 million persons in fiscal year 1981. Authorization levels for fiscal years 1982, 1983, and 1984 were based on the assumed average levels of participation of 2.3 million, 2.6 million, and 2.9 million, respectively. Including a factor for administrative costs and increased food prices, these increased participation levels would cause the current authorization level for fiscal year 1982 ($950 million) to increase by $130 million to $1,080 million. For the bill's newly authorized years, the estimated authorization level would be $1,275 million in fiscal year 1983, and $1,485 million in fiscal year 1984. The estimated total outlays for these years reflect the current spending pattern of 85 percent of authorization in the first year and the remainder in the second.

Changes in permanently authorized programs

NATIONAL SCHOOL LUNCH PROGRAM (NSLP)

The bill modifies income eligibility standards and cash reimbursement rates for the national school lunch program. These changes reduce program costs directly and indirectly through a potential reduction in program participation. It is difficult to determine precisely the magnitude of the indirect participation effects. CBO has chosen to adopt some of the Administration's assumptions concerning the participation effects that would result from lower federal subsidies that are assumed to be offset by higher meal charges to participants.

Section 4 Reimbursement. The bill reduces the general assistance (Section 4) meal reimbursement rate in the NSLP by 2.5 cents commencing with fiscal year 1981. Schools where more than 60 percent of the children receive free or reduced-price lunches would be unaffected by this provision. Under current law, the Section 4 reimbursement would average 19.1 cents per meal in fiscal year 1981. This provision alone would reduce the average Section 4 reimbursement to 16.6 cents per meal.

In fiscal year 1981, if all meals served (about 4.3 million) were reduced by 2.5 cents federal savings would reach $108 million. However, an estimated 21 percent of all meals served are in schools that would be excluded from this provision. Savings from this provision in fiscal year 1981 would, therefore, be $85 million. Savings would increase slightly in the future, due to a modest increase in the number of meals served.

Income Eligibility Modifications. The bill would eliminate a provision that updates the poverty guidelines to the beginning of the relevant fiscal year. The bill also would eliminate a provision permitting families to deduct from their incomes special hardship expenditures (for example, high medical and housing expenses) for determining the meal subsidy class. In place of the hardship deductions the bill would allow a standard deduction for all families, comparable to that used in the food stamp program. Finally, the bill would lower eligibility for reduced-price subsidies to 185 percent of non-updated poverty guidelines.

For the school year beginning this fall (fiscal year 1981) the income eligibility changes from current law are summarized below:

TABLE 1.—ANNUAL NET INCOME ELIGIBILITY LIMITS FOR MEAL SUBSIDIES UNDER CURRENT LAW AND UNDER S. 2675

	Current law [1]			S. 2675 [2]			S. 2675/current law, ratio		
	Poverty	Free	Reduced	Poverty	Free	Reduced	Poverty	Free	Reduced
Family size:									
1	$4,800	$5,225	$8,151	$3,790	$5,690	$7,972	0.91	1.09	0.98
2	5,520	6,900	10,764	5,010	7,222	10,299	.91	1.05	.95
3	6,860	8,575	13,377	6,230	8,748	12,486	.91	1.02	.93
4	8,200	10,250	15,990	7,450	10,270	14,743	.91	1.00	.92
5	9,540	11,925	18,600	8,670	11,798	17,000	.91	.99	.91
6	10,880	13,600	21,216	9,890	13,322	19,322	.91	.98	.91

[1] Does not include potential hardship deductions.

[2] Includes a standard deduction of $80 per month per family.

On net, the income eligibility modifications do not alter eligibility for free meal subsidies significantly. Smaller size families, in fact, can qualify for free meals with a slightly higher income; larger size families, however, have a small reduction in income eligibility standards. Reduced price lunch eligibility standards decline by nearly 10 percent for large family sizes and by 2 percent for smaller family sizes. Since the average family size for school lunch participants is estimated to be 5.2 persons, the overall effect of these income eligibility changes is to result in cost savings.[1]

Based on CBO projected family income distributions for fiscal year 1980 that are family-size specific (using an adjusted March 1978 Current Population Survey), the effect of these income changes is to reduce by approximately 20 percent the number of children eligible for reduced-price meals. If it is assumed that a comparable reduction in reduced-price meals were to result, savings of approximately $80 million would be achieved. This assumes that half of the children moved from the reduced-price income category to the paid category drop out of the program. This savings estimate includes $70 million for the NSLP, and an additional $10 million for the child care and the school breakfast programs, since changes in the income eligibility standards also affect these latter programs.

Hardship Deduction. Elimination of hardship deductions is expected to result in savings of approximately $24 million according to the Administration. CBO has adopted this savings estimate.

Reduced-Price Lunch Charge. The bill increases the charge for a reduced-price meal from the current national average of 12 cents to 20 cents. This increase, in combination with the income eligibility changes discussed above, is estimated to result in savings of $26 million in fiscal year 1981.

Job Corps Restriction. The bill eliminates Job Corps Centers as institutions eligible for participation in the National School Lunch Program. This provision is estimated to save $15 million in fiscal year 1981.

COMMODITY DONATION PROGRAM

Beginning with the school year ending June 30, 1981 (fiscal year 1981), the national average value of donated foods would be reduced from the current projection of 17.1 cents to 15.1 cents, a reduction of 2 cents per meal. The provision would result in reduced commodity assistance or cash payments in lieu of commodities to both the school lunch and the child care food program. Approximately 4.5 million meals served in these programs would be affected, thereby resulting in a savings of $90 million in fiscal year 1981. The estimate assumes that increased government purchases of surplus commodities would not be required as a result of the reduced support provided to schools.

SCHOOL BREAKFAST PROGRAM

This bill changes state procedures for determining eligibility for severe need federal reimbursement. Currently, eligibility is determined at the school level. The bill changes eligibility determination to the school district level. This estimate assumes there will be a 5 percent increase in school participation since all schools serving 25 percent or more of their school lunches at free or reduced rates must participate in the school lunch program in order for the school district to receive the higher reimbursement. In addition, it is assumed that 20 percent of the current free and reduced meals served will become eligible for the higher reimbursement rates due to the school district's eligibility. This provision is not effective until the school year ending June 30, 1982 (fiscal year 1982).

In addition to the changes in severe need reimbursement calculations, the bill mandates that the historical commodity assistance to breakfast programs cease for the school year ending June 30, 1981 (fiscal year 1981). In fiscal year 1981, if the Secretary continued to provide commodity assistance to breakfast programs as he has in the past, commodity assistance would cost approximately $19 million. If it is assumed that appropriations would have been provided to meet this traditional level of commodity assistance, then the bill would result in $19 million of savings in fiscal year 1981.

The bill does provide that, beginning with the school year that starts in June 1981, the Secretary may donate foods valued in an amount equivalent to 3 cents per breakfast served, adjusted on an annual basis. The estimated authorization levels for fiscal year 1982 and beyond reflect only the increase in the costs over the 3 cents level assumed in current policy. Estimated total outlays reflect current program spending levels.

CHILD CARE FOOD PROGRAM

The bill reduces the average payment rate for supplements served in child care institutions by 3 cents beginning with fiscal year 1981. Federal savings are estimated to be approximately $6 million in fiscal year 1981. Changes in child care supplement reimbursements would be as follows:

	Current Law (¢ per meal)	S. 2675 (¢ per meal)
Regular Supplement	7.74	4.74
Reduced Price Supplement	23.28	20.28
Free Supplement	30.96	27.96

Finally, the bill would lower by $2 million funds for providing equipment assistance to child care institutions.

In total, these changes would result in $23 million in savings in the child care program in fiscal year 1981. Out-year estimates assumed an absolute $2 million reduction in equipment assistance. All other fiscal year 1981 savings were adjusted for CBO projected changes in the CPI for food away from home in order to calculate in the out-year estimates.

SPECIAL MILK PROGRAM

S. 2675 would reduce the reimbursement rate for milk served to paying children to 5 cents in child care institutions and summer camps participating in other federally funded nutrition programs. In fiscal year 1981, the estimated reimbursement rate for a half-pint of milk served a paying student would be reduced approximately 3.6 cents. This reimbursement reduction is estimated to save $57 million in fiscal year 1981. This estimate was adjusted in the out years for the CBO projected changes in the producer price index for milk.

ANNUALIZATION OF REIMBURSEMENT RATES

Under current law, reimbursement rates in the school lunch, breakfast and child care food programs are adjusted semiannually in January and July. The bill would establish an annual adjustment in reimbursement rates beginning in July 1980. This provision is estimated to save approximately $75 million in fiscal year 1981 and comparable amounts in future years.

CUMULATIVE PROVISIONS AFFECTING PARTICIPATION

Little program participation impact would be expected from any single change: the provision that reduces federal subsidies by 2.5 cents per meal under section 4, the provision that reduces commodity assistance by 2 cents, and the provision that eliminates the semiannual adjustment in reimbursement rates. However, cumulatively, these provisions would probably result in at least a 5 cent increase in the charge to students and, therefore, affect participation. Given that the reduced reimbursements affect all income groups, and given that schools would continue to be required to provide meals free or at a charge not to exceed 20 cents for about 43 percent of the participants, the charge to paying students could increase by about 10 cents. This increased charge could potentially result in a 6 percent reduction in participation for paying students at a savings of nearly $29 million in fiscal year 1981. This savings was adjusted for out years to reflect CBO projected changes in the CPI for food away from home series.

7. Estimate comparisons: The USDA has estimated that passage of S. 2675 would save $549 million in budget authority under the

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[1] See: Congressional Budget Office, *Feeding Children: Federal Child Nutrition Policies in the 1980s* (May 1980).

reconciliation instruction. Additional savings of $29 million are assumed to result from appropriation action following changes in authorization levels in S. 2675. Differences between the CBO estimate and the USDA estimate lie primarily in the use of different data bases for determining the impact of changes in income eligibility standards. CBO estimates were developed using a March 1978 Current Population Survey (CPS) aged both for economic and demographic factors to fiscal year 1980. Economic assumptions used in the aging process were developed by CBO in January 1979. USDA's underlying economic and demographic characteristics result from their use of the 1975 Survey of Income and Education (SIE). Some differences also occur in the estimates due to participation dropout assumptions.

8. Previous CBO estimate: Sections of H.R. 27, Child Nutrition Amendments of 1980. House Report No. 96–1030.

9. Estimate prepared by: G. William Hoagland, HRCD (225–1260), with the assistance of: Deborah Kalcevic, BAD (225–7766).

10. Estimate approved by: James L. Blum, Assistant Director, Budget Analysis Division, (225–5825).

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the committee's recommendations are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL SCHOOL LUNCH ACT

* * * * *

APPORTIONMENT TO STATES

SEC. 4. The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary shall make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

For any school food authority in which less than 60 percent of the lunches served in the program were served free or at reduced-price during the second preceding school year, the national average payment under this section, after being adjusted in accordance with the provisions of section 11(a) of this Act, shall be reduced by 2½ cents. The amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966 shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence.

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DIRECT FEDERAL EXPENDITURES

SEC. 6.

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LEVEL OF COMMODITY ASSISTANCE

[(e) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each components shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.]

(e) (1) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(2) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. Such amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the first sentence of this paragraph, as adjusted for the school year ending June 30, 1979, in accordance with the second sentence of this paragraph, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Producer Price Index published by the Bureau of Labor Statistics of the Department of Labor (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in the three-month simple average value of the Consumer Price Index for Foods Used in Schools and Institutions for March, April, and May of each year. The adjustments required by this subsection shall be computed to the nearest one-fourth cent. Beginning with the school year ending June 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as established and adjusted in this subsection, shall be reduced by 2 cents. Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

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NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9.

* * * * *

(b) (1) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. [The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977 Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted.] *The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.* Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents. Such income guidelines for reduced-price lunches shall be prescribed at [95] *85* per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Any child who is a member of a household, if that household has an annual income which falls between (A) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (B) [95] *85* per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided*, That such local school authorities may for cause seek verification of the data in such application. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer

Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(2) *In computing household income in all States except Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 a month for each household. Such standard deduction shall be adjusted every July 1 to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the twelve months ending the preceding March 31. The first such adjustment shall be made on July 1, 1980, and shall reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the period September 1977 through March 1980. The monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for the contiguous States. The monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for the contiguous States.*

[(2)] *(3)* Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

* * * * *

SPECIAL ASSISTANCE

SEC. 11 (a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 20 cents less than the special-assistance factor for free lunches[: *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater]. The Secretary shall prescribe on July 1 of each fiscal year[, and on January 1, of each fiscal year, semiannual adjustments] *an annual adjustment* in the national average rates for lunches served under section 4 of the National School Lunch Act and the special-assistance factor for the lunches served under section 11 of the National School Lunch Act, and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under these Acts, as indicated by the change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent [six-month] *twelve-month* period for which such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (In the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

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MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12.

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(d) For the purposes of this Act—

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(6) "School" means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded *except Job Corps Centers funded by the Department of Labor*), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit," when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

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SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) "program" means the summer food service program for children authorized by this section; [(B) "service institutions" means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966;]

(B) "service institutions" means any of the following nonresidential institutions and residential summer camps that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966: (i) public institutions; (ii) private nonprofit institutions that use self-preparation facilities to prepare meals or that obtain meals from a public entity (such as a school district, public hospital, or State university); (iii) private nonprofit school food authorities, including colleges and universities; (iv) private nonprofit institutions that serve meals primarily to migrant children; (v) camps; and (vi) private nonprofit institutions that purchase meals from a food service management company and that serve meals to not more than two thousand children daily at not more than twenty locations;

* * * * *

(b).

* * * * *

[(2) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.]

(2) *Any service institution may serve lunch and either breakfast or a supplement during each day of operation, and any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.*

* * * * *

(p) For the fiscal years beginning October 1, 1977, and ending [September 30, 1980], *September 30, 1984,* there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

* * * * *

CHILD CARE FOOD PROGRAM

SEC. 17.

* * * * *

(c) The Secretary shall provide assistance to each State in the following manner:

(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act, and the national average payment rate for free lunches under section 11 of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 [and January 1] of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent [six-month] *twelve-month* period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers. *The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.*

(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 [and January 1] of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent [six-month] *twelve-month* period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers. *The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula.*

(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the national average payment rate for lunches under section 4 of this Act; and

(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 [and January 1] of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, mesured over the most recent [six-month] *twelve-month* period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers. *The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.*

* * * * *

(n)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section [$6,000,000] *$4,000,000* shall be available to the Secretary for the purpose of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

* * * * *

CHILD NUTRITION ACT OF 1966

* * * * *

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request. For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. *Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.* Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4.

* * * * *

APPORTIONMENT TO STATES

(b).

* * * * *

(2).

* * * * *

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

(ii) 45 cents, which shall be adjusted [on a semiannual basis each July 1 and January 1] *on an annual basis each July 1* to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent [six-month] *twelve-month* period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

* * * * *

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purpose of this Act—

* * * * *

(c) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded *except Job Corps Centers funded by the Department of Labor*), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

* * * * *

TITLE I—AGRICULTURE, NUTRITION, AND FORESTRY

SCHOOL LUNCH PROGRAM, GENERAL REIMBURSEMENT

SEC. 101. Section 4 of the National School Lunch Act is amended by adding at the end thereof the following: "For any school food authority in which less than 60 percent of the lunches served in the program were served free or at reduced-price during the second preceding school year, the national average payment under this section, after being adjusted in accordance with the provisions of section 11(a) of this Act, shall be reduced by 2½ cents. The amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966 shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence.".

DIRECT FEDERAL EXPENDITURES, COMMODITY ASSISTANCE

SEC. 102. Section 6 of the National School Lunch Act is amended to read as follows:

"(e)(1) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(2) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. Such amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the first sentence of this paragraph, as adjusted for the school year ending June 30, 1979, in accordance with the second sentence of this paragraph, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Producer Price Index published by the Bureau of Labor Statistics of the Department of Labor (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in the three-month simple average value of the Consumer Price Index for Foods Used in Schools and Institutions for March, April, and May of each year. The adjustments required by this subsection shall be computed to the nearest one-fourth cent. Beginning with the school year ending June 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as established and adjusted in this subsection, shall be reduced by 2 cents. Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.".

NUTRITIONAL AND OTHER PROGRAMS REQUIREMENTS

SEC. 103. (b). Section 9(b)(1) of the National School Lunch Act is amended by—

(1) striking out the second and third sentences and inserting in lieu thereof the following: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.";

(2) striking out in the eighth sentence "95" and inserting in lieu thereof "85";

(3) striking out in the ninth sentence "95" and inserting in lieu thereof "85".

(c) Section 9(b) of the National School Lunch Act is amended by redesignating paragraph (2) thereof as paragraph (3) and inserting the following new paragraph after paragraph (1):

"(2) In computing household income in all States except Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 a month for each household. Such standard deduction shall be adjusted every July 1 to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the twelve months ending the preceding March 31. The first such adjustment shall be made on July 1, 1980, and shall reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the period September 1977 through March 1980. The monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for the contiguous States. The monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for the contiguous States.".

SPECIAL ASSISTANCE

SEC. 104. Section 11(a) of the National School Lunch Act is amended by—

(1) striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater";

(2) striking out in the sixth sentence ", and on January 1, of each fiscal year, semiannual adjustments" and inserting in lieu thereof "an annual adjustment"; and

(3) striking out in the second proviso in the sixth sentence "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 105. Section 12(d) of the National School Lunch Act is amended by inserting in paragraph (6) "except Job Corps Centers funded by the Department of Labor" after "retarded".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 106. (a) Section 13(a)(1)(B) of the National School Lunch Act is amended to read as follows: "(B) 'service institutions' means any of the following nonresidential institutions and residential summer camps that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966: (i) public institutions; (ii) private nonprofit institutions that use self-preparation facilities to prepare meals or that obtain meals from a public entity (such as a school district, public hospital, or State university); (iii) private nonprofit school food authorities, including colleges and universities; (iv) private nonprofit institutions that serve meals primarily to migrant children; (v) camps; and (vi) private nonprofit institutions that purchase meals from a food service management company and that serve meals to not more than two thousand children daily at not more than twenty locations;".

(b) Section 13(b) of the National School Lunch Act is amended by amending paragraph (2) to read as follows:

"(2) Any service institution may serve lunch and either breakfast or a supplement during each day of operation, and any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.".

(c) Section 13(p) of the National School Lunch Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

CHILD CARE FOOD PROGRAM

SEC. 107. (a) Section 17(c) of the National School Lunch Act, is amended by—

(1) striking out "and January 1" each place it appears in paragraphs (1), (2), and (3);

(2) striking out "six-month" the second time it appears in each of paragraphs (1), (2), and (3) thereof and inserting in lieu thereof "twelve-month"; and

(3) inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(b) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

SPECIAL MILK PROGRAM

SEC. 108. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligbile for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

SCHOOL BREAKFAST PROGRAM

SEC. 109. Section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(2) striking out "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 110. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded".

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., June 25, 1980.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Budget Committee,
Washington, D.C.

DEAR SENATOR HOLLINGS: In accordance with your request, I am providing a copy of the bill language and report language contained in H.R. 6974, the Fiscal Year 1981 Defense Authorization bill as recommended to the Senate by the Armed Services Committee. This section of the bill provides a once a year cost-of-living increase in military retired pay contingent on a similar change in current law for Federal civilian retirees. Savings achieved by this provision are estimated to be $408 million in FY 1981. This provision meets the so-called reconciliation instructions contained in the First Concurrent Budget Resolution as finally adopted. I understand that this is all that is necessary to comply with the Budget Committee request relating to reconciliation.

It is likely that the Defense Authorization bill will be taken up this week, and no budget problems are now anticipated. If the Budget Committee includes the same provision on cost-of-living adjustments for military retired pay in its separate reconciliation bill, I am concerned that any differences in the provisions in the final bills of the two conference committees be avoided to prevent confusion.

Sincerely,

JOHN C. STENNIS,
Chairman.

[From Senate Report No. 96-826, June 20, 1980]

Sec. 317. Committee amendment to provide a once yearly cost-of-living increase in military retired pay contingent on a similar change in current law for Federal civilian retirees.

Under current law, military retired and retainer pay is adjusted semiannually on March 1 and September 1 of each year by the percentage increase that has occurred in the consumer price index over a preceding six-month period. The adjustment effective March 1 reflects a percentage increase in the index from the preceding June to December. Correspondingly, the September 1 adjustment is the percentage increase of the preceding June consumer price index over the preceding December index. This procedure was established by law effective October 1, 1976.

The committee amendment would continue the direct link between changes in military retired pay and changes in the cost of living as measured by the consumer price index. The percentage increase would be measured over a December to December time frame rather than the December to June and June to December periods under present law. The annual adjustment would become effective on March 1 of each year. The committee amendment provides for a similar change in retirement programs for the Central Intelligence Agency, the Public Health Service and the National Oceanographic and Atmospheric Administration. However, this amendment provides for no changes to retired pay adjustments unless similar changes are made for Federal civilian retirees.

Departmental Recommendations on Cost of Living Increases in Military Retired Pay

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., April 10, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a legislation proposal "To amend title 10, United States Code, to provide for annual adjustments of retired and retainer pay to reflect changes in the Consumer Price Index." The proposal is submitted as part of the Administration's Legislative Program for the 96th Congress. The Office of Management and Budget has advised that the enactment of the proposal would be in accord with the program of the President.

Under current law, military retired and retainer pay is adjusted semi-annually on March 1 and September 1 of each year by the percentage increase that has occurred in the Consumer Price Index over a preceding six month period. The adjustment effective March 1 reflects the percentage increase in the index from the preceding June to December. Correspondingly, the September 1 adjustment is the percentage increase of the preceding June Consumer Price Index over the preceding December Index. This procedure was established by Public Law 94-440, effective October 1, 1976.

This legislative proposal is part of the President's reduction proposals designed to assist in controlling inflation by balancing the Federal budget. The proposal would amend the semi-annual military retired pay adjustment mechanism to one that is annual. The amount of the adjustment would continue to be directly linked to the percentage increase in the cost-of-living as measured by the Consumer Price Index. As proposed, the percentage increase would be measured over a December to December time frame rather than the December to June and June to December periods as the present law authorizes. This annual adjustment would become effective on March 1 of each year. By such a simplified mechanism, retired and retainer pay continues to be protected from the economic pressures of inflation by an annual adjustment. Additionally, the purchasing power of retired and retainer pay is preserved in direct relation to fluctuations in the cost-of-living. This reduction is a cost-avoidance for the government that will assist in reducing outyear costs and reaffirm the Administration's commitment to strict fiscal discipline. A similar proposal is being made with respect to the civil service retirement system.

The savings to be achieved by this amendment are significant. Assuming its enactment in time to eliminate the September 1980 adjustment, estimated savings from the proposed shift of the CPI adjustments from semi-annual to annual are:

Fiscal year:	*Millions*
1980	$77.0
1981	417.2
1982	247.0
1983	198.5
1984	143.1
1985	100.5

The Department of Defense, on behalf of the Administration, recommends that the proposal be favorably considered by the Congress at the earliest possible time. Rapid consideration and passage would result in cost savings during the current fiscal year and contribute to the effort of the Administration and the Congress to balance the Federal budget.

Sincerely,

TOGO D. WEST, Jr.

[Enclosed: Legislative proposal.]

A bill to amend title 10, United States Code, to provide for annual adjustments of retired and retainer pay to reflect changes in the Consumer Price Index

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Retired Pay Amendments Act of 1980."

SEC. 2. Section 104a(b) of title 10, United States Code, is amended to read as follows:

"(b) The Secretary of Defense shall on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for December of the year prior to the preceding year.

"(2) If in any year the percent change determined under paragraph (b)(1) indicates a rise in the index, then effective March 1 of such year, the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under paragraph (b)(1), adjusted to the nearest 1/10 of one percent."

SEC. 3. The amendment made by section 2 shall apply to any retired or retained pay increase effective on or after the date of enactment.

SECTIONAL ANALYSES

Section 1 provides that the Act may be cited as the "Armed Forces Retired Pay Amendments Act of 1980."

Section 2 amends section 1401a(b) of title 10, United States Code, striking out that subsection in its entirety and inserting a new section 1401a(b).

Paragraph (1) of the new subsection provides that the Secretary of Defense shall determine annually on January 1, or within a reasonable time, the percent change in the Consumer Price Index for December of the preceding year over the Consumer Price Index for December of the year prior to the preceding year.

Paragraph (2) of the new subsection provides that, effective March 1 of each year, the retired and retainer pay of members and former members of the armed forces who became entitled to that pay before such March 1 shall be increased by the percent change computed under section 1401a(b)(1), adjusted to the nearest 1/10 of one percent.

Section 3 prescribes the effective date of the amendment as on or after the date of enactment.

[From Senate bill H.R. 6974, June 20, 1980]

ONCE A YEAR ADJUSTMENT OF RETIRED PAY AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

SEC. 317. (a) Section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase in annuities is made under section 8340(b) of title 5, the Secretary of Defense shall increase the retired pay and retainer pay of members and former members of the armed forces by the same percentage figure by which annuities are increased under such section and the increase in such retired pay and retainer pay shall be effective on the same date as the effective date for the increase in annuities under such section 8340(b). An increase under this subsection shall be applicable in the case of the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before the effective date of the increase.".

(b)(1) The amendment made by subsection (a) shall not become effective unless legislation is enacted which provides for a once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the armed forces and with respect to the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time that the once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code. becomes effective.

(2) The provisions of paragraph (1) relating to legislation which provides for a once-a-year adjustment of the retired pay and retainer pay of members and former members of the armed forces shall be applicable to cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., June 25, 1980.
Hon. ERNEST F. HOLLINGS,
Chairman, Committee on the Budget,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Under the reconciliation procedures of the First Concurrent Budget Resolution, H. Con. Res. 307, the Committee on Commerce, Science, and Transportation is required to make recommendations to the Senate Budget Committee which will result in reductions in budget authority of $300 million and outlays of $150 million for programs within its jurisdiction.

The recommendation which the Committee is submitting to the Budget Committee today will achieve $300 million in budget authority and from $255 to $260 million in outlays for fiscal year 1981, $105 to $110 million more in outlays than requested. These proposed reductions in spending programs are discussed in the enclosed recommendations and summarized in the attached table.

If you have any questions, please feel free to contact us or Edwin K. Hall, of the Committee staff at 224–0411.

Sincerely,

HOWARD W. CANNON,
Chairman.
BOB PACKWOOD,
Ranking Minority Member.

Enclosures.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, UNITED STATES SENATE

BUDGET RECONCILIATION RECOMMENDATIONS PURSUANT TO H. CON. RES. 307

On June 12, 1980, the Senate adopted House Concurrent Resolution 307 which provides for a balanced budget for fiscal year 1981. Section 3(a)(13) of this resolution provides that "the Senate Committee on Commerce, Science, and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction or changes in laws or in reported bills or resolution within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority and $150,000,000 in outlays;".

The Senate Committee on Commerce, Science, and Transportation recognizes the need for balancing the revenues and expenditures for spending programs within its jurisdiction, and makes the following recommendations to comply with the reconciliation instructions in H. Con. Res. 307:

(1) At the time the Budget Resolution was under consideration in the Senate, the Commerce Committee recommended, and the Congress enacted, an amendment to the Rail Passenger Service Act of 1970, to delete the authority for advance quarterly payments for Amtrak capital programs (P.L. 96–254, Section 208). The Congressional Budget Office estimated this action will result in a savings in outlays of $207 million for fiscal year 1981, $57 million *more* than the $150 million required by H. Con. Res. 307.

(2) The Committee recommends that S. 1648, the Airport and Airway System Development Act of 1979, which was adopted by the Senate on February 5, 1980, and is currently pending in the House of Representatives, be amended in conference to reduce the budget authority for airport development and planning grants for fiscal year 1981 from $825 million to $650 million.

The Committee's recommendation would reduce the fiscal year 1981 budget authority for this program to the level requested by the President in his first budget message. A level of $1.05 billion for airport development and planning grants *plus* facilities and equipment complies with the assumptions made for this program by the House and Senate Budget Committees in formulating the First Concurrent Budget Resolution for fiscal year 1981. Because the Committee on Commerce, Science, and Transportation believes that $400 million should be allocated for facilities and equipment for fiscal year 1981 (which is $50 million dollars over the President's request), the Committee has recommended that budget authority for airport development grants for fiscal year 1981 be cut to $650 million (which is $50 million less than the President's request).

This action will result in a reduction in budget authority of $175 million for fiscal year 1981, with a corresponding savings in outlays for fiscal year 1981 of $25 to 30 million. The Committee's recommendation can be effected by amending S. 1648 as follows: "at page 13, line 3, strike $825,000,000 and insert in lieu thereof $650,000,000."

(3) The Committee recommends that S. 2530, be amended to limit the amount authorized to be expended for the railroad rehabilitation and improvement financing program established under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, to $180 million in fiscal year 1981. S. 2530 (Calendar No. 836) reported by the Committee recommended an increase in the authorization level of $400 million for the purchase of redeemable preference shares over a two-year period until September 30, 1982. By limiting the amount authorized to be appropriated for this program during fiscal year 1981 to $180 million, and the balance for fiscal year 1982, the Committee's recommendation will result in an anticipated savings in budget authority of $70 million in fiscal year 1981, as instructed by H. Con. Res. 307. This budget authority savings of $70 million can be accomplished by the following amendment to S. 2530 as follows: "at page 47, immediately after line 2, insert the following new subsection '(c) of the funds authorized to be appropriated pursuant to the provisions of this title, not more than $180,000,000 is authorized to be appropriated in fiscal year 1981."

(4) The Committee recommends a reduction of the funds authorized to be appropriated out of the highway trust fund to carry out the purposes of section 402 of Title 23 United States Code relating to highway safety programs. The Committee feels that a reduction from $200 to $150 million in the funds authorized to be expended in fiscal year 1981 for highway safety programs reflects the level of the President's budget request for the National Highway Traffic Safety Administration's budget for these purposes and will result in a direct savings in budget authority of $50 million. This would require an amendment to section 402 of Title 23 (relating to highway safety programs) by amending Section 202(1) of Public Law 95–599, the Highway Safety Act of 1978, by striking "and $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982.", and inserting in lieu thereof the following: "and $150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982."

(5) The Committee recommends amending S. 1159 in conference to reduce the level of funding for the National Highway Traffic Safety Administration for general operations in fiscal year 1981 from $70 million to $53,800,000. This figure is very close to the $52 million recommended in the President's budget. The slightly higher figure of $53,800,000 will leave room for unanticipated contingencies. This will result in a $5 million savings in budget authority for fiscal year 1981 and will require amending Section 1 of S. 1159 by striking "$70,000,000 for the fiscal year ending September 30, 1981," and inserting in lieu thereof "$53,800,000 for the fiscal year ending September 30, 1981,".

SPENDING REDUCTIONS UNDER COMMERCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION

[In millions of dollars]

	Budget authority	Outlays
Legislation already enacted: Deletion of authority for advance quarterly payments for Amtrak capital programs (Public Law 96–254)		−207
Proposed changes in authorization bills or laws:		
Reduction in airport development and planning grant authority (S. 1648)	−175	−25–30
Limitation on funds available in fiscal year 1981 from redeemable preference share program in title V of the 4R Act (S. 2530)	−70	−11
Reduction in authorization of funds from the highway trust fund for the highway safety grant program	−50	−12
Reduction of National Highway Traffic Safety Administration authorization in S. 1159	−5	
Total savings	−300	−255–260

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., June 26, 1980.
Hon. ERNEST F. HOLLINGS,
Chairman, Senate Budget Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Committee on Environment and Public Works, on June 25, transmitted to you its proposal to reconcile $300 million in budget authority for fiscal year 1981 pursuant to the provisions of H. Con. Res. 307. The Committee wishes to amend that submission and propose in lieu thereof that the $300 million reconciliation be made by rescinding budget authority created by the 1978 Federal-aid Highway Act for the Interstate construction program.

The Committee would suggest the attached language be included in the reconciliation bill reported by the Senate Budget Committee.

With kind regards, I am

Truly,

JENNINGS RANDOLPH,
Chairman.

Attachment.

Section 108(b) of the Federal-aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1982".

SPENDING REDUCTIONS: RECOMMENDATIONS OF THE COMMITTEE ON FINANCE REQUIRED BY THE RECONCILIATION PROCESS IN SECTION 3 (a)(15) OF H. CON. RES. 307, THE FIRST CONCURRENT BUDGET RESOLUTION FOR FISCAL YEAR 1981

FOREWORD

The Congressional Budget Act provides for the adoption by May 15 of each year of a First Concurrent Budget Resolution setting an overall budgetary framework within which the Congress will operate as it considers revenue and spending legislation for the upcoming fiscal year. The revenue and spending totals in the First Budget Resolution are not binding under the usual rules of the Budget Act. In the Fall of each year a binding Second Concurrent Budget Resolution is adopted to reaffirm or revise the budgetary totals which were incorporated in the First Budget Resolution. The Congressional Budget Act provides for a "reconciliation" procedure under which the Second Budget Resolution may include instructions directing specified House and Senate committees promptly to report out legislation raising revenues or reducing spending in programs within their jurisdiction by specific amounts. The Congressional Budget Act does not provide for a reconciliation procedure under the First Budget Resolution. However, the act does permit the inclusion in that Resolution of any "procedure which is considered appropriate to carry out the purposes of this Act."

The First Concurrent Budget Resolution for fiscal year 1981 (H. Con. Res. 307) does include reconciliation instructions to the Committee on Finance and several other committees of the Senate and House. In the case of the Finance Committee, the resolution includes both revenue and spending instructions. The committee is directed by the resolution to recommend reductions in outlays for spending programs under its jurisdiction totaling $2.2 billion for fiscal year 1981, decreases in budget authority totaling $0.9 billion, and increases in revenues for that year totaling $4.2 billion.

The revenue changes will be incorporated in a separate document. This committee print incorporates committee report language and bill language relating to the outlay and budget authority reduction provisions required of the Finance Committee, assuming that these provisions will appear as title VI of the overall reconciliation bill in the Senate.

I. Summary of Finance Committee Recommendations

The recommendations of the Committee on Finance for amendments to reduce spending in programs under its jurisdiction for fiscal year 1981 pursuant to the reconciliation instructions of House Concurrent Resolution 307 have been drafted as a separate title V. References in this summary and in the following general discussion of title V to "the committee" should be considered as references to the Committee on Finance.

LEGISLATION ALREADY ENACTED INTO LAW

At the time the Budget Resolution was under consideration in the Senate, two Finance Committee bills were awaiting final action—H.R. 3236, the Social Security Disability Amendments of 1980, and H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980. Both of these measures have now been enacted into law. The $225 million of savings in these two new laws is creditable towards the $2.2 billion required under the reconciliation instructions.

UNEMPLOYMENT COMPENSATION PROVISIONS

Elimination of national trigger.—Under present law States generally pay unemployment benefits for a maximum of 26 weeks. In times of high unemployment, however, the Federal-State extended unemployment compensation program becomes effective. Under the extended benefits program an additional 13 weeks of benefits are payable. Half the cost of these extended benefits is borne by the Federal unemployment tax and half is borne by State unemployment taxes. The extended benefits program goes into effect on a State-by-State basis if the State insured unemployment rate reaches a level of 4 percent and is also 20 percent higher than the rate during the comparable period of the 2 previous years. At State option, the program can also become effective whenever the State insured unemployment rate is 5 percent or higher regardless of how it compares with the rate in the 2 prior years. In addition to these "State triggers," the program becomes effective in all States whenever the national unemployment rate reaches a level of 4.5 percent. (For both State and national triggers, the rate is measured over a moving period of 13 consecutive weeks.) The committee provision would eliminate the national trigger so that the program would go into effect only in those States where one of the State triggers applies. No savings are now estimated for this item for fiscal year 1981 because the national trigger would not have been reached this year under the CBO assumptions which were used to develop the budget resolution. In fact, however, it now seems likely that CBO reestimates later this year will indicate that the national trigger level will be reached. At that time, the provision will represent a savings of several hundred million dollars for fiscal year 1981. This provision was previously approved by the committee and passed by the Senate as an amendment to H.R. 4612.

Waiting period for benefits.—Under present law, some States pay unemployment benefits starting with the first week of unemployment while other States provide that benefits will become available only after the unemployed individual has served a "waiting week." (In some cases, States which have a waiting-week provision pay benefits retroactively for the waiting week after the individual has experienced a specified duration of unemployment.) The committee amendment would eliminate the Federal 50 percent matching share for the first week of extended unemployment compensation in any State which does not have a waiting week for regular benefits. (The elimination of Federal matching for the first week of extended benefits would also apply to States which have a waiting week which is subject to retroactive payment when the worker completes a certain duration of unemployment.) This provision is also included in H.R. 4612, as previously approved by the committee and the Senate. The provision is estimated to save $25 million in fiscal year 1981.

Optional State trigger.—Under present law, States must implement the extended benefit program when the State insured unemployment rate is both 4 percent or higher and 20 percent above the level prevailing in the State in the 2 prior years. When the "20 percent higher" factor is not met, States may at their option provide for the program to become effective when the State insured unemployment rate is at least 5 percent. If States choose this option, the trigger point for the program must be set at 5 percent. In other words, States may not provide that the program will become effective only if the rate is at least 5½ percent or 6 percent. The committee amendment would modify the optional State trigger provision so that States could specify any rate of insured unemployment which is 5 percent or higher as the optional trigger point (that is, the point at which the extended benefit program would become effective in the absence of the "20 percent higher" factor). This provision is also included in H.R. 4612. It would reduce program costs in fiscal 1981 by $30 million.

Unemployment benefits for ex-servicemen.—Under present law federally funded unemployment benefits are provided to former servicemen upon their separation from military service. To qualify, an individual is required to have served on active duty for a period of at least 90 days and to be separated under other than dishonorable or bad-conduct circumstances. The 90-day requirement does not apply where separation results from a service-incurred injury or disability. The committee amendment would require that, except in cases of service-incurred disability or injury, individuals must have served a minimum of 1 year before unemployment benefits would be payable. This provision is also in H.R. 4612. It would save $43 million in fiscal 1981.

Unemployment benefits for Federal employees.—Under present law, a Federal employee who suffers unemployment may qualify for unemployment compensation under the same rules as apply to employees of private businesses in the State in which he was last employed. The costs of benefit payments to former Federal employees are reimbursed to the State paying benefits by the Federal Government. At present, all such costs are funded through a single appropriation account within the budget of the Department of Labor rather than being charged to the appropriations of the employing agencies. The committee amendment would establish a special account within the Unemployment Trust Fund from which States would be reimbursed for the costs of unemployment benefits based on Federal employment. Each agency would be required to reimburse that account from its appropriations for the costs attributable to its employees. This provision was also included in H.R. 4612. It is estimated to reduce Federal expenditures in fiscal year 1981 by $11 million.

Limitation on extended benefits for nonresidents.—Under present law, States are required to pay unemployment benefits to individuals who meet the State qualifying requirements even if they are or become residents of another State. If an individual works and qualifies for benefits in a State in which the extended unemployment program is in effect, that State will be required to pay him such benefits (so long as he meets the requirements for them) even if he has changed his residence to a State in which the extended program is not in operation (because the new State of residence has a lower rate of insured unemployment). The committee amendment would limit benefits in the case of persons who change their State of residence. If an individual changes his State of residence after the beginning of a period of unemployment during which he would otherwise qualify for extended benefits, no extended benefits will be payable if the new State of residence is one in which the extended benefit program is not triggered on. This limitation would not apply to the first 2 weeks after the individual takes up residence in the new State. This same provision was included in H.R. 4612. It is estimated to reduce expenditures in fiscal 1981 by $46 million.

Extended benefits not payable on the basis of less than 20 weeks of employment.—Under existing law, most States pay regular unemployment benefits for a maximum of 26 weeks. In times of high unemployment benefits are payable for an additional period of up to 13 weeks under the extended benefits program. The committee amendment would require that benefits not be paid under the extended benefit program to any individual who has less than 20 weeks of qualifying employment in the base period. It is estimated that this provision will reduce benefit costs by $120 million in fiscal 1981.

Extended benefits not payable to persons who leave jobs voluntarily or for misconduct.—When an unemployed worker has voluntarily left his job without good cause, has been dischargd for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. The committee has included a provision under which an individual who had been disqualified for one of these reasons could not be paid extended benefits (even though he may have been reinstated to regular State benefit status because his State provides for only a limited period of disqualification). This provision will result in benefit savings of $32 million in fiscal year 1981.

Extended benefits not payable to persons refusing any reasonable job offer.—Generally, a worker qualifies for up to 26 weeks of benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. Newly unemployed workers are not required to take any available job but are permitted to seek a job which matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility. The committee amendment would establish a requirement that, as a condition of eligibility for extended unemployment benefits, the unemployed individual must be willing at that point to accept any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and other existing Federal standards). This provision will reduce program costs by $94 million in fiscal year 1981.

SUPPLEMENTAL SECURITY INCOME (SSI) PROVISION

Limit SSI eligibility for individuals who dispose of resources.—Under current law, the disposal or transfer of a resource prior to the filing of an SSI application does not preclude eligibility, even though the individual would be ineligible if he retained the resource. This is true with respect to cash and real or personal property although the resource may have been sold for less than its market value. The committee provision would delay SSI eligibility in the case of applicants who dispose of resources for less than current market value if retaining such resources would make them ineligible for benefits. The provision would make an individual ineligible to the extent that within the two years prior to application he disposed of assets for substantially less than their fair market value. This amendment would result in estimated savings of $15 million in fiscal year 1981.

SOCIAL SERVICES PROVISION

Federal day care regulations.—When the Social Security Act was amended in 1974 to establish a new title XX social services program, a provision was included requiring that day care services provided under State social services plans must meet the 1968 Federal Interagency Day Care Requirements, with some modifications. However, because of the controversial nature of those requirements,the Congress also included a provision requiring the Secretary of Health and Human Services to make a study of the appropriateness of the standards imposed by the legislation, and to submit a report of his findings together with recommendations to the Congress prior to July 1, 1977.

In response to the concern expressed by a number of States that they could not meet certain staffing requirements, which were to become effective October 1, 1975, the Congress enacted temporary legislation delaying their implementation and providing, instead, that day care provided with Federal funds must meet the staffing standards of the State. This temporary legislation was extended several times.

On March 19, 1980, the Department of Health and Human Services issued final rules for day care, to become effective September 19, 1980. These regulations are to apply to services funded under title XX and title IV (WIN and child welfare services). A number of States have expressed concern about the cost and effect of implementing the new standards. In view of this concern, the committee has included a provision to defer implementation of the new regulations for purposes of Social Security Act programs until October 1, 1981, providing instead that child care provided prior to that date would be subject to State standards. Savings are estimated at $20 million in fiscal year 1981.

TERRITORIAL PROVISION

Public assistance payments to territorial jurisdictions.—Under the Social Security Act there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam and the Virgin Islands. The permanent ceiling under prior law was $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. The jurisdictions were limited to 50 percent Federal matching. For fiscal year 1979, under temporary legislation enacted in November 1978, the ceiling on Federal funds for the jurisdictions was tripled, from $26 million to $78 million, and the Federal matching percentage was raised from 50 percent to 75 percent.

H.R. 3434, as recently enacted, includes a provision which would make permanent, beginning with 1980, the increases provided for the jurisdictions in the earlier temporary legislation, that is, a tripling of dollar ceiling amounts. The committee amendment would defer the implementation of the full amount of these increases. Under the amendment, the amount of the increase would be limited to one-fourth of the total for fiscal year 1980 ($13 million rather than $52 million, to allow some increase in the last quarter of 1980) and to one-half the total for fiscal year 1981 ($26 million rather than $52 million). The full amount of the increased funding would thus become effective beginning with October 1, 1981. Estimated savings would be $39 million in 1980 and $26 million in 1981.

SOCIAL SECURITY PROVISIONS

Three-month limit on retroactive benefits.—Individuals who apply for benefits under the social security program are now allowed to backdate their applications by as much as 1 year to claim benefits for months prior to the actual date of application. The committee amendment would limit retroactivity of applications to a period of 3 months. The 3-month period (as is the case with the present 12-month period) would run from the date the application is filed and not from the date on which a decision is made on the claim. It is estimated to reduce fiscal year 1981 Federal expenditures by $150 million.

Social security benefits for prisoners.—Under present law individuals who are inmates of penal institutions or other incarcerated persons, such as the criminally insane who are confined to mental institutions, may become entitled to social security benefits if they can meet the several conditions required for benefits. The committee amendment would restrict the payment of benefits to persons convicted of crimes. Under the provisions, benefits would not be payable to convicted felons except as specifically provided for by a court of law during their participation in an approved program of rehabilitation which is expected to result in their return to productive employment. The amendment would also provide that a person may not be considered a full-time student for purposes of student benefits while he is incarcerated. Moreover, any disabling condition arising in the commission of a crime would not be considered in determining whether an individual was under a disability for benefit purposes. A disabling condition which arises while an individual is imprisoned could not qualify him for disability benefits for so long as he remains in prison. This proposal is estimated to reduce benefit costs by $16 million in fiscal year 1981.

Reallocation of OASDI taxes between OASI and DI trust funds.—The optimum level of reserve in the social security trust funds has generally been considered to be an amount equal to approximately 1-year's benefit payments. Because of high inflation and other factors, the funds in recent years have fallen far below these optimum levels. The old-age and survivors insurance fund in particular has fallen to a level at which possible cash-flow problems could occur sometime in 1981. However, under current estimates, sufficient funds can be made available to assure continuing cash flow capability for the cash benefit trust funds through the end of 1981 and into 1982 from the existing cash benefit tax rate. To accomplish this, however, it is necessary to reallocate the distribution of that tax rate for 1980 and 1981 between the two cash benefit trust funds. While a reallocation of the social security cash benefit tax rate does not have any direct budgetary impact, the absence of such action would necessitate some other means of providing adequate financing to maintain cash flow in the OASI trust fund. Regardless of what funding source was used, any such alternative method of meeting the cash flow requirements (e.g. a general fund appropriation or an additional social security tax) would result in an increase in budget authority at a time when the committee is under reconciliation instructions to reduce budget authority. On this basis, the committee has included an amendment to reallocate the OASDI tax.

PROVISIONS RELATING TO MEDICARE AND MEDICAID

Hospital routine cost limits.—The bill would establish a new method of reimbursement for routine operating costs for hospitals under the medicare and medicaid programs. The new mechanism, to be effective July 1, 1980, would provide for incentive reimbursement rewarding hospitals whose routine operating costs are below average, and penalizing hospitals whose routine operating costs are substantially above average. The bill requires the Secretary to appoint a Health Facilities Costs Commission to recommend refinements in medicare and medicaid hospitals reimbursement.

Closure and conversion of underutilized facilities.—The bill would provide for including in short-term hospitals, reimbursement payments for increased operating costs and, in the case of nonprofit institutions, for increased capital costs, associated with the closing down or conversion to approved use of underutilized bed capacity or services.

Coordinated audits.—The bill would provide for medicare, medicaid, and the maternal and child health programs to share findings from a single audit where these programs reimburse the same entity on the basis of its reasonable costs.

Apportionment of provider costs.—The bill provides that medicare would not reimburse any institution for a disproportionately high share of costs until evidence is produced which justifies a specific adjustment under given circumstances for given facilities. The effect of this amendment would be to make such modifications, effective April 1, 1980, in the 8½ percent routine nursing cost differential that medicare now pays to hospitals the modification will be determined on the bases of a study to be carried out by GAO and will represent a more equitable method of reimbursing for routine nursing costs.

Inappropriate hospital services.—The bill would provide that in certain cases medicare and medicaid payments to hospitals be made at the average skilled nursing facility, intermediate care facility or detoxification facility payment rate (as appropriate), rather than the higher hospital rate, for patients medically determined by PSRO reviewers to need the lower level of care rather than acute hospital care. The bill would also authorize that benefits be provided and payment be made under medicare to qualified nonhospital inpatient detoxification facilities.

PSRO review of hospital admissions routine tests and preoperative stays.—The bill would direct PSRO's to review areas of frequent overutilization (such as diagnostic tests routinely provided on admission without a physician's order and weekend elective admissions and preoperative stays for elective procedures in excess of 1 day) to assure that payment is made under medicare and medicaid only where such services are medically appropriate.

Ambulatory surgery.—The bill would permit medicare reimbursement to be made to free-standing ambulatory surgical centers and physicians performing surgery in their offices for the use of surgical facilities needed to perform a listed group of surgical procedures. Such procedures include those which are often provided on an inpatient basis but can, consistent with sound medical practice, be performed on an ambulatory basis. Financial incentives to provide and use this type of services are included.

Criteria for determining reasonable charge for physician services.—The bill would modify existing medicare criteria for determining reasonable charges for physician services. It would require calculation of statewide median charges (in any State with more than one locality) in addition to the local prevailing charges. To the extent that any prevailing charge in a locality was more than one-third higher than the statewide median charge for a given service, it would not be automatically increased each year.

Procedures for determining reasonable cost and charge (hospital-based physician services and business services).—The bill would provide, except under certain specified circumstances, that compensation paid to contractors, employees or related organizations, consultants, and subcontractors at any tier would not be recognized for medicare-medicaid reimbursement purposes where the payments (in whole or part, in cash or kind) are based upon percentage arrangements. Percentage arrangements involving payment to hospital based physicians would nevertheless be recognized if the amount of reimbursement does not exceed an amount that would reasonably have been paid under an approved relative value schedule which takes into consideration the physician's time and effort.

Outpatient services charge limit.—The bill would require the newly established Health Facilities Cost Commission to give priority to the development of limitations on reimbursement for hospital outpatient service costs. Further, the Secretary would be required to issue regulations providing for the establishment of such limitations.

Medicare liability in accident cases.—The bill would provide that medicare not be the payor of first resort in cases where the patient was involved in an accident and his care could be paid for under liability coverage of the individual who was at fault or under no fault insurance.

Access to and purchase of medicaid services.—The bill gives the States greater discretion in arranging for care and services for medicaid recipients through cost-effective arrangements. Provision would be made to assure that beneficiaries have reasonable access to services (including emergency and elective services) that fully meet program standards of quality. In addition, provision would be made to avoid having an adverse effect on appropriate and necessary use of hospitals with graduate medical education programs.

Medicare hospital reimbursement: periodic interim payments (PIP).—The bill amends the medicare periodic interim payment (PIP) procedure for hospitals so that payment would be withheld during September 1981, in order to increase the lag between rendition of a service and payment for it to about six weeks, the delay experienced by hospitals that use the standard billing method. The deferred payments would be paid to the hospitals in October 1981.

Disallowance of State claims for Federal medicaid funds.—At present, when a State's claim for medicaid matching funds is disallowed by the Federal Government, the State may appeal the decision and retain the funds that are in dispute until a final determination is made. The bill authorizes the Secretary of HHS to offset amounts in dispute from other medicaid funds due the State until the appeals process has been exhausted. If the final decision is in the State's favor, the Federal Government would repay the money to the State with interest.

Reimbursement under medicaid for skilled nursing facilities and intermediate care facilities.—The bill amends section 249 of the Social Security Amendments of 1972, which requires States to pay skilled nursing facilities (SNF's) and intermediate care facilities (ICF's) on a reasonable cost-related basis. This provision would be amended to permit States, effective October 1, 1980, to develop their own payment systems for skilled nursing facility and intermediate care facility services. The State would have to assure the Secretary of HHS that its rates are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities in providing care and services in conformity with applicable State and Federal laws and regulations. A State, at its option, could include as part of its rate reasonable allowances in the form of incentive payments related to efficient performance and to attract investments necessary to assure the reasonable availability of services.

Home health agency reimbursement limits.—The bill limits allowable costs for home health agency services under medicare to amounts not in excess of the 75th percentile of weighted average audited costs. These limits would be applied separately to each type of visit, rather than on an aggregate basis, when revisions in the existing cost reporting procedures make this possible. The allowable cost of skilled nursing visits and home health aide visits may not exceed medicaid skilled nursing facility per diem rates, hospital-based facility rates in the case of hospital-based home health agencies and other skilled nursing facility rates in the case of non-hospital-related agencies.

Calculating medicare reasonable charges.—Medicare reasonable charges are updated in July of each year to keep pace with economic changes. All bills that the medicare carrier receives after the charges are updated are paid at the higher rate. In effect, the amount of the medicare payment often depends on how long the claimant delays billing rather than on the charge levels in effect when the medical service was provided. To eliminate this inequity, the bill contains a provision under which the medicare reasonable charges that are payable would depend on the date the medical service was rendered rather than the date the medicare claim was processed.

FUND TRANSFER PROVISION

Transfer from general funds to trust funds.—The social security and medicare programs are funded through earmarked payroll taxes paid into the Treasury. Amounts exactly equal to the tax collections are appropriated out of the General Treasury and into the social security and medicare trust funds under a permanent standing appropriation in the Social Security Act. Under the accounting system used for purposes of the Budget Act, budget authority for trust fund programs is considered to arise at the moment when the tax receipts are appropriated into the trust funds. As a result, the various savings provisions approved by the committee in trust fund programs will not result in a reduction in the 1981 budget authority for those programs although they do result in 1981 outlay reductions and do reduce the amount of budget authority that will ultimately be needed to operate the programs. In order to meet the reconciliation requirements for fiscal 1981 budget authority reductions, the committee agreed to a provision under which $0.6 billion in social security and medicare tax receipts which would otherwise be transferred to the trust funds at the end of September 1981 will instead be transferred to the trust funds after the end of that month. This will reduce budget authority for fiscal 1981 by that same amount.

SPENDING REDUCTIONS UNDER FINANCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION

[In millions of dollars]

	Budget authority	Outlays
Social security disability amendments (H.R. 3236)	−12	−133
Social services amendments (H.R. 3434)	−92	−92
A. Unemployment compensation provisions:		
Sec. 601: Elimination of national trigger		(1)
Sec. 602: Waiting period for benefits		−25
Sec. 603: Optional State trigger		−30
Sec. 604: Unemployment benefits for ex-servicemen	−43	−43
Sec. 605: Unemployment benefits for Federal employees	−11	−11
Sec. 606: Limit on extended benefits for nonresidents		−46
Sec. 607: Extended benefits:		
Not payable on the basis of less than 20 weeks of employment		−120
Not payable to persons who leave jobs voluntarily or for misconduct		−32
Not payable to persons refusing any reasonable job		−94
B. Sec. 611: Limit SSI eligibility for individuals who dispose of resources	−15	−15
C. Sec. 621: Temporary suspension of Federal day care regulations	−20	−20
D. Sec. 631: Public assistance payments to territorial jurisdictions	−26	−26
E. Social security provisions:		
Sec. 641: Reallocation of OASDI taxes between OASI and DI	(2)	....
Sec. 642: 3-mo limit on retroactive benefits	+5	−150
Sec. 643: Social security benefits for prisoners	+1	−16
F. Health provisions:		
Sec. 651: Hospital routine cost limits	−10	−70
Sec. 652: Closure/conversion of underutilized facilities		−4
Sec. 653: Coordinated audits	−4	−2

SPENDING REDUCTIONS UNDER FINANCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION—Continued

[In millions of dollars]

	Budget authority	Outlays
F. HEALTH PROVISIONS—Continued		
Sec. 654: Apportionment of provider costs	+3	−75
Sec. 655: Inappropriate hospital services	−33	−151
Sec. 656: PSRO review of hospital admissions routine tests and preoperative stays	−1	−25
Sec. 657: Ambulatory surgery		−5
Sec. 658: Criteria for determining reasonable charge for physician services	+1	−15
Sec. 659: Procedures for determining reasonable cost/charge (hcspital-based physician and business services)	−3	−25
Sec. 660: Outpatient services charge limit	−2	−23
Sec. 661: Medicare liability in accident cases	+1	−14
Sec. 662: Access to and purchase of medicaid services	−91	−91
Sec. 663: Medicare hospital reimbursement: periodic interim payments (PIP)	+2	−675
Sec. 664: Disallowance of certain State medicaid claims		−147
Sec. 665: Reimbursement under medicaid for skilled nursing and intermediate care facilities	−2	−2
Sec. 666: Home agency reimbursement limits	+3	−73
Sec. 667: Calculating medicare reasonable charges	+6	−147
G. Sec. 671: Transfer of funds to trust funds	−600	
Total	−943	−2, 397

[1] Based on economic assumtpions used in First Budget Resolution; anticipated reestimates will result in savings.

[2] Without reallocation, increase in budget authority would be required.

Source: Congressional Budget Office.

II. General Discussion of Finance Committee Amendments

A. PROVISIONS RELATED TO UNEMPLOYMENT (PART A OF TITLE V)

ELIMINATION OF NATIONAL TRIGGER UNDER THE EXTENDED BENEFITS PROGRAM

(Section 501 of the Bill)

Present law.—In most States, unemployment benefits are payable under the regular State program of unemployment compensation for a maximum of 26 weeks. The costs of these regular benefits are financed entirely from State unemployment taxes. In times of high unemployment, however, the Federal-State Extended Unemployment Compensation program becomes operative. This program provides for an additional benefit duration for workers who have exhausted their entitlement to regular State benefits. Benefits are payable under the extended program for half as many weeks as benefits were payable under the regular program. In other words, when the extended program is in effect, unemployed persons can receive up to 13 additional weeks of benefits for an overall maximum of 39 weeks. Half of the cost of extended benefits is paid for from State unemployment taxes and half of the cost is borne by the Federal Unemployment Tax.

Present law provides for the extended benefit program to be operative in any State when the insured unemployment rate (the number of persons receiving unemployment benefits as a percentage of persons working in jobs covered by the program) is sufficiently high under any one of three tests or "triggers." Under the basic State trigger, the program is in operation when the insured unemployment rate for the State is at least 4 percent and that State's insured unemployment rate is at least 20 percent higher than the average insured unemployment rate in that State during the comparable period in the two prior years. If the State insured unemployment rate is not at least 20 percent above the rate for the 2 prior years, a State may nevertheless elect to have the extended benefit program become effective whenever the State insured unemployment rate reaches a trigger level of 5 percent. In addition to the basic and optional State trigger provisions, present law also includes a national trigger. When the national insured unemployment rate is at a level of 4.5 percent or higher, the extended benefits program must be operated by all States.

Committee amendment.—The committee amendment would eliminate the national trigger for paying extended unemployment benefits. Unemployment benefits are provided in order to protect workers against the involuntary loss of income that occurs when they lose their jobs and for the period thereafter while they are trying to obtain new employment. In times of high unemployment, the availability of jobs is curtailed and the competition for them is increased. At such times, it is likely that an unemployed worker will need more time to find a new job. This relationship between the overall level of unemployment and the amount of time it takes to find a new job is the basic justification for a program of extended benefit duration. The committee believes, however, that that relationship is more properly reflected in the State triggers than in the national trigger. When a worker becomes unemployed, the question of how long he will have to search for new employment is dependent upon the availability of, and competition for, jobs in the area where he resides, not upon the national average unemployment situation.

When the extended unemployment compensation program was originally enacted in 1970, extended benefits could be triggered on for an individual State only if the State insured unemployment rate was both 4 percent and was at least 20 percent higher than in the 2 preceding years. In the case of a prolonged national recession, States would be unable to meet the "20 percent higher" requirement even though they might be experiencing a very high level of insured unemployment. For this reason, the national trigger did serve as an important safeguard under that original legislation. In the 1976 amendments, however, the law was changed to provide for an optional alternative State trigger based on an absolute State insured unemployment rate of 5 percent. The committee believes that that change in the law eliminated the need for a national trigger.

The elimination of the national trigger for extended benefits is effective as of October 1, 1980. No savings are now estimated for this item for fiscal year 1981 because the national trigger would not have been reached this year under the CBO assumptions which were used to develop the budget resolution. In fact, however, it now seems likely that CBO reestimates later this year will indicate that the national trigger level will be reached. At that time, the provision will represent a savings of several hundred million dollars for fiscal year 1981. This provision was previously approved by the committee and passed by the Senate as an amendment to H.R. 4612.

WAITING PERIOD FOR BENEFITS

(Section 502 of the Bill)

Present law.—Although there are certain Federal requirements which State unemployment compensation programs must meet, States have broad discretion to determine qualifying requirements, benefit amounts, and duration of regular benefits. Most State unemployment compensation laws provide that no benefits will be payable for the first week in which the worker is unemployed and otherwise eligible. Twelve States, however, do not now provide for such a "waiting week." These are: Alabama, Connecticut, Delaware, Iowa, Kentucky, Maine, Maryland, Michigan, Nevada, New Hampshire, Pennsylvania, and Wisconsin. Three other States (New York, Rhode Island, and Georgia) have a waiting week but will pay benefits for that waiting week in some circumstances, and nine States (Hawaii, Illinois, Louisiana, Minnesota, Missouri, New Jersey, Ohio, Texas, and Virginia) pay compensation for the waiting week retroactively after the worker has experienced a specified duration of compensable unemployment.

Committee amendment.—The committee recognizes that eligibility and benefit provisions of the unemployment compensation program have, with relatively few exceptions, been left to State discretion, and the committee does not wish to depart from that general practice by requiring that all States establish a waiting week for benefits. At the same time, the committee notes that a large majority of States do have a waiting week and most States do not make exceptions or pay retroactively for the waiting week. The existence of a waiting week does not impose an undue hardship since most workers will have some resources to fall back on for the very early stages of their unemployment. It does, however, have a very important positive effect in that it gives the unemployed worker a stronger financial incentive to seek reemployment immediately. The committee feels that most States have properly concluded that the system should convey the message that the priority is: 1) look for a new job and 2) apply for unemployment benefits, rather than the reverse.

Under present law, the Federal statute actually tends to reward States which have elected not to have a waiting period. In such States, 50 percent Federal funding for extended unemployment benefits begins with the 27th week of a worker's unemployment, while in States with a waiting period such funding begins with the 28th week of a worker's unemployment. The committee believes that this fiscal incentive should be modified so as to favor States which do utilize the waiting week rather than States which do not. The committee amendment provides that there will be no Federal matching of extended unemployment compensation for the first week in which such compensation is payable unless the State law provides for a waiting week (and does not make payment for the waiting week on a retroactive basis). (The same rule would apply to the first week of sharable regular compensation in States which provide more than 26 weeks of regular benefits.) In other words, if a State pays benefits for the first week of unemployment (on either a current or retroactive basis), the first week of extended benefits after the worker exhausts his regular benefit eligibility would be funded entirely from State funds and Federal matching would apply to the second through the thirteenth week of extended benefit eligibility.

This provision is also included in H.R. 4612, as previously approved by the committee and the Senate. The provision, which is effective October 1, 1980, is estimated to save $25 million in fiscal year 1981.

STATE OPTION AS TO CRITERIA FOR STATE "ON" AND "OFF" INDICATORS

(Section 503 of the Bill)

Present law.—As explained in the description of section 601 above, one of the three "trigger" situations in which extended benefits may be payable is the optional State insured unemployment rate of 5 percent. Prior to the 94th Congress, permanent law provided for extended benefits to be payable on a State-by-State basis only under the mandatory trigger of a State insured unemployment rate of 4 percent or more which was also at least 20 percent above the rate which the State had experienced during a comparable period in the 2 prior years. Because that requirement prevents benefits from being payable in States with high but persistent levels of unemployment, temporary legislation had been enacted on several occasions to waive the "20 percent higher" requirement. To meet this problem on a permanent basis, the law was amended to give each State the option of triggering into the program at a 5 percent insured unemployment rate without regard to how that level of unemployment compared with prior years.

Committee amendment.—Inasmuch as the 5 percent State trigger is optional with the States, the committee sees no reason why States should not be given the additional flexibility to set the trigger level at whatever level of insured unemployment which the State may find appropriate so long as it is at least 5 percent. At the time the optional 5 percent State trigger was under consideration by the Congress, there was disagreement as to the most appropriate level and the Senate version of that legislation provided for a trigger level of 6 percent. Since the question of whether to pay benefits at all under this trigger has been left to the States, it seems reasonable to give the States this additional flexibility to set the trigger at 5, 5½, 6 or whatever percent they find most appropriate.

This provision is also included in H.R. 4612. It would reduce program costs in fiscal 1981 by $30 million. It would be effective with respect to weeks of unemployment beginning after October 1, 1980.

FEDERAL SERVICE OF EX-SERVICEMEN

(Section 504 of the Bill)

Present law.—Under a special provision of Federal law, States pay unemployment benefits to recently discharged servicemen. These benefits are fully reimbursed to the States out of Federal general revenues. Benefits are payable provided that the discharge was not dishonorable or for bad conduct and provided that the individual completed at least 90 days of active service (unless discharged earlier because of a service-incurred injury or disability).

Committee amendment.—The committee understands that benefits are being paid under this provision in a very substantial number of instances in which individuals are leaving military service after quite short periods of service—well below the ordinary term of an enlistment. While they are a variety of reasons why enlistments are terminated early, the committee believes that compensation for ex-servicemen is primarily intended to be available to those who have completed more substantial periods of service. The committee amendment would modify existing law to extend from 90 days to one year the minimum length of service generally required to qualify for federally funded compensation payments. It would be effective October 1, 1980.

This provision is also in H.R. 4612. It would save $43 million in fiscal 1981.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

(Section 505 of the Bill)

Present law.—Under present law, individuals who are terminated from Federal employment (or partially terminated) may apply for benefits with the State agency of the State in which their Federal employment was located. Unemployment benefits are payable to such individuals under the same rules and procedures as apply to individuals in that State who lose jobs in private employment. To the extent that benefits are based on Federal employment, the State is reimbursed by the Federal Government (out of appropriated funds) for the benefit costs. The Federal cost of benefits for former employees are appropriated into a single account as a part of the annual Labor-HHS Appropriations Act.

Committee amendment.—An important element in the unemployment compensation program in the States is the experience-rating system which provides a strong incentive for employers to avoid unnecessary employee turnover and to monitor claims for unemployment to assure that awards are not being made by the State agency to persons not entitled to benefits. Under existing laws this same type of incentive does not exist for Federal agencies since they have no fiscal stake in the question of whether or how much unemployment compensation is paid to their employees. The costs of such compensation is borne by a government-wide account which is not reflected in individual agency budgets and therefore not subject to any effective review by the appropriations subcommittees responsible for monitoring these budgets.

The committee amendment would modify this arrangement by providing that the budget account from which States are reimbursed would receive its funding not from a single direct appropriation but rather from payments made by each agency out of that agency's appropriation. This should make each agency more aware of the need to monitor, and in appropriate cases contest, benefit claims of former employees in order to avoid excessive costs which would have to be absorbed from other parts of the agency's budget.

Under the committee amendment, a separate account for Federal employee benefits would be established. This account would be placed within the Unemployment Trust Fund but would be funded entirely from general revenues. It would operate on a revolving fund basis starting with a transfer to the account on September 30, 1980, of the amounts that have already been appropriated to pay for Federal employee unemployment benefits. Starting on that same date, States would be reimbursed out of this account for their benefit payments to Federal employees. The employing agencies would, in turn, be required to reimburse the account out of their individual appropriations. Additional appropriations could be made to the account to assure an adequate working balance and any excess amounts in the account would be transferred back to the general fund of the Treasury.

Although the change becomes effective as of October 1, 1980, the committee recognizes that it will take some time and effort for the Labor Department to begin making determinations as to the amounts owed the account by each agency and for the readjustment of budgets to accommodate this change. For this reason, the amendment is intentionally drawn in a manner which does not mandate a particular time limit within which determinations and reimbursements must be made. The amendment provides that agencies will make transfers to the account on a quarterly basis reflecting what they owe the account on the basis of Labor Department determinations which have been completed as of the start of that quarter. While this does provide great leeway to the Department in implementing this provision, the committee intends that the Department should move as quickly as feasible to begin implementation and should assure that agencies are promptly made aware of the fact and purpose of this change in the law.

This provision was included in H.R. 4612. It would result in estimated savings of $11 million in fiscal year 1981.

LIMITATION ON EXTENDED BENEFITS FOR NON-RESIDENTS

(Section 506 of the Bill)

Present law.—Under present law, States are required to pay unemployment benefits to individuals who meet the State qualifying requirements even if they are or become residents of another State. If an individual works and qualifies for benefits in a State in which the extended unemployment program is in effect, that State will be required to pay him such benefits (so long as he meets the requirements for them) even if he has changed his residence to a State in which the extended program is not in operation (because the new State of residence has a lower rate of insured unemployment).

Committee amendment.—The committee amendment would limit benefits in the case of persons who change their State of residence. If an individual changes his State of residence after the beginning of a period of unemployment during which he would otherwise qualify for extended benefits, no extended benefits will be payable if the new State of residence is one in which the extended benefit program is not triggered on.

Extended benefits the intended to allow individuals additional time to find new employment inasmuch as employment opportunities are more difficult to find in States where there is a high level of unemployment. When an individual moves from such a State into a State with a relatively lower level of unemployment, the justification for continued payment of extended benefits would seem to be eliminated. In many cases, such a move would be premised precisely on the availability of employment in the new State. To allow some period of transitional readjustment, however, the committee provision would not apply to the first two weeks after the individual takes up residence in the new State. This same provision was included in H.R. 4612. It would be effective October 1, 1980, and is estimated to save $46 million in fiscal year 1981.

LIMITATION ON PAYMENT OF EXTENDED UNEMPLOYMENT BENEFITS

(Section 507 of the Bill)

Present law.—Under existing law, regular State unemployment benefits are payable out of State unemployment payroll taxes to workers who are involuntarily unemployed and who are willing and available to accept employment which is consistent with their abilities and prior work experience. Generally, States pay benefits for a maximum of 26 weeks. In times of high unemployment, an extended benefits program becomes effective. Under this program up to 13 additional weeks of benefits are payable. The benefits are funded half from State payroll taxes and half from the Federal unemployment tax. Under present law, each State establishes the qualifying requirements for regular benefits and individuals who meet those requirements are automatically eligible for Federal-State extended benefits if the extended benefits program is in effect.

All States establish certain prior employment requirements to establish eligibility for benefits. While some States have established rules that allow benefits only for persons with a substantial earnings history, other States require much less previous work. This can result in extended benefits being paid to an individual who has qualified on the basis of a minimal period of employment.

When an unemployed worker has voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. A recent research study by SRI International concluded that the average length of unemployment tends to be lower in States which impose disqualification for the duration of unemployment.

Generally, a worker qualifies for benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. For the benefit of both the worker and the labor market, newly unemployed workers are not required to take any available job but are permitted to seek a job which matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility.

Committee amendment.—The amendment proposed by the Committee on Finance would establish certain limitations on the payment of Federal-State extended benefits to unemployed workers. For the most part, Federal law has left to the States the discretion of establishing benefit qualification rules since regular unemployment benefits are entirely financed from taxes imposed by State legislatures. However, in recent years, very substantial costs have been incurred to pay extended benefits. Half the cost of these benefits is borne from the Federal unemployment tax which is paid by all employers including those in States where the extended benefits program is not in operation. A very significant part of the cost of the extended benefits program has also been paid from interest-free loans from the Federal Treasury to a number of States that have not fully funded the heavy benefit costs of recent years. For these reasons and because benefits payable for a period in excess of six months have a somewhat different character from benefits payable during the first few weeks after unemployment occurs, the committee recommends an amendment designed to better target these long-term benefits to individuals who become unemployed after substantial attachment to the work force and who are clearly making all reasonable efforts to return to work.

The first part of the committee provision would require that benefits not be paid under the extended benefit program to any individual who has less than 20 weeks of qualifying employment in the base period. It is estimated that this provision will reduce benefit cost by $120 million in fiscal 1981.

Under another part of this provision, extended benefits would not be payable to an individual who had been disqualified for refusing employment or because he quit voluntarily or lost his job by reason of his own misconduct (even though he may have been reinstated to regular State benefit status because his State provides for only a limited period of disqualification). This change will result in benefit savings of $32 million in fiscal year 1981.

The committee amendment would also establish a requirement that, as a condition of eligibility for extended unemployment benefits, the unemployed individual must be willing at that point to accept any job which meets minimum standards of acceptability.

For the purposes of the extended benefits program, any work would be considered suitable if it:

Was within the capabilities of the claimant;

Met the conditions of present Federal law;

Met the conditions of State law and practices pertaining to suitable or disqualifying work that are not inconsistent with the provisions of this section, such as not requiring an individual to take a job that involves traveling an unreasonable distance to work or poses an unreasonable threat to the individual's morals, health or safety;

Paid wages at least equal to the Federal or, if higher, any applicable State or local minimum wage;

Paid gross average weekly remuneration equal to the individual's weekly unemployment compensation benefit, plus any "Supplemental Unemployment Benefits" (SUB) to which the individual might be entitled because of agreements with previous employers; and

Was listed with the State employment service or offered in writing. (A written job offer would involve a written statement as to the availability of the job and the hours and wages it involved. It would not have to include other details such as a description of fringe benefits.)

State agencies would be required to refer claimants of emergency benefits to any job that would be considered suitable for the individual under the provisions of this section.

If, however, an individual furnishes satisfactory evidence to the State agency that his or her prospects for obtaining work within a reasonably short period in his customary occupation are good, the determination of whether any work is suitable for the individual would be made in accordance with State law and practices pertaining to suitable or disqualifying work rather than the provisions of this section pertaining to suitable work. An example of the type of evidence required would be a recall notice from a former employer.

A similar requirement was previously enacted in the legislation extending the now-expired Emergency Unemployment Compensation Act of 1974. This provision will reduce program costs by $94 million in fiscal year 1981.

B. Supplemental Security Income Provisions (Part B of Title V)

LIMIT ON DISPOSAL OF ASSETS FOR PURPOSES OF SSI ELIGIBILITY

(Section 511 of the Bill)

Present law.—Under current law, the disposal or transfer of a resource prior to the filing of an application for benefits under the supplemental security income program does not preclude eligibility, even though the individual would be ineligible if he retained the resource. This is true with respect to cash and real or personal property although the resource may have been sold for less than its market value or even given away.

The committee has been told that transfers of this type frequently occur, particularly in cases where an aged individual may face substantial medical expenses. For example, in connection with protracted nursing home care, by transferring assets to a relative, the individual qualifies not only for SSI but also for medicaid. Moreover, under certain court decisions, the absence of an SSI provision in this area has been found to lead to similar problems in connection with the medically needy segment of the medicaid program. (The committee does not intend that its recognition of the existence of these court decisions should be construed as agreement that they are correct.)

Committee amendment.—The committee believes that it is inappropriate for the public assistance programs to be burdened with the assumption of the support and medical care of individuals who have ample personal resources. For this reason, the committee amendment would require that any resources which an individual has given away or sold for less than fair market value would still be considered as available for his support, during the 2 years following the transfer of the asset. The amount considered to be available for support would be the value of the transferred asset less any compensation received for it. The committee recognizes that there may be cases in which such a transaction takes place in good faith and unforeseen circumstances subsequently require an individual to apply for assistance. The committee believes that such a situation would be quite rare; however, the provision would allow the rebuttal of the presumption that a transfer of assets was made in order to qualify for benefits or assistance. The burden of proof in such cases would be on the individual and would require a clear showing that at the time the transfer took place there could not have been reasonable expectation that SSI or medicaid benefits would be needed.

The committee is aware, as indicated above, that certain courts have held that the absence of a provision of this type in the SSI statute precludes States from applying such a rule in "medically needy" cases. The adoption of this provision will remedy the problems this has created for the States. However, the committee does not intend that its adoption of this rule for SSI recipients should require States to apply exactly the same provisions in "medically needy" cases. States that determine medicaid eligibility on the basis of January 1972 plans could also apply this limitation.

C. Social Services Provision (Part C of Title V)

FEDERAL DAY CARE REGULATIONS

(Section 521 of the bill)

Present law.—A provision was included in the original title XX legislation to require that day care services provided under State social services plans must meet the 1968 Federal Interagency Day Care Requirements, with some modifications. However, because of the controversial nature of those requirements, the Congress also included a provision requiring the Secretary of Health and Human Services to make a study of the appropriateness of the standards imposed by the legislation, and to submit a report of his findings together with recommendations to the Congress prior to July 1, 1977.

In response to the concern expressed by a number of States that they could not meet certain staffing requirements, which were to become effective October 1, 1975, the Congress enacted temporary legislation delaying their implementation and providing, instead, that day care provided with Federal funds must meet the staffing standards of the State. This temporary legislation was extended several times.

On March 19, 1980, the Department of Health and Human Services issued final rules for day care, to become effective September 19, 1980. These regulations are to apply to services funded under title XX and title IV (WIN and child welfare services). The regulations contain requirements which cover the following areas: program of activities, health and safety, physical environment, staff training, group composition (including staffing requirements), parent involvement, social services, nutrition, and the role of State agency administration, According to the Department, the estimated average cost of care provided in a child care center under the new regulations is $3,500 per child year. This includes direct costs of providing care as well as administrative, training, medical, and other costs related to the provision of care.

Committee amendment.—A number of States have expressed concern about the cost of implementing the new standards, indicating that they believe that their enforcement will result in reducing the available supply of care, particularly for low income families, who are the primary recipients of Health and Human Services funded care. It has also been observed that some States are already experiencing difficulties in finding day care centers to serve children, and that without money to pay for stricter requirements, the difficulties of finding care will be increased. The result could be to force AFDC mothers to forego employment, and increase the likelihood that they will remain on welfare. In addition, some States are apparently giving consideration to eliminating the use of Federal funds for day care services in order not to be required to meet the new standards.

In view of these concerns, the committee agreed to defer implementation of the new regulations for purposes of Social Security Act programs until October 1, 1981. The committee amendment provides instead that child care provided prior to that date would be subject to State standards. This would allow time for further consideration of legislation to modify the proposed standards or to provide additional resources to enable States to meet those standards. Savings are estimated at $20 million in 1981.

D. Provision Relating to Funding of Territorial Programs (Part D of Title V)

PUBLIC ASSISTANCE PAYMENTS TO THE TERRITORIES

(Section 531 of the Bill)

Present law.—Under existing law there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam and the Virgin Islands. The annual permanent ceiling is $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. The jurisdictions are limited to 50 percent Federal matching.

For fiscal year 1979, under temporary legislation enacted in November 1978, the ceiling on Federal funds for the jurisdictions was tripled, from $26 million to $78 million, and the Federal matching percentage was raised from 50 percent to 75 percent. As can not result in a general increase in welfare be seen from the table, these increases did not result in a general increase in welfare payment standards. Instead, statistics show that special payments were made to individuals who were already receiving welfare. Puerto Rico, for example, amended its State plan to provide a special allowance for furniture, household replacement, and personal items, including clothing, not in the basic allowance. This resulted in a 652 percent increase over the prior month in the AFDC average payment per family in June 1979, and an increase of 1,548 percent in the month of September for persons who were already on the AFDC rolls. Puerto Rico's average payment per family for September was $756.79, compared with a national average per family of $277.48. The average payment amount declined to former levels beginning with the first month in fiscal year 1980.

AFDC PAYMENTS IN PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS, APRIL-NOVEMBER 1979

Month	Number of families	Amount of assistance	
		Average payment per family	Percent increase over prior month
A. PUERTO RICO			
April	41,597	$46.71	
May	41,247	46.21	(1)
June	40,572	347.62	+652
July	40,281	47.98	(1)
August	40,201	45.93	(1)
September	40,530	756.79	+1,548
October	40,978	55.85	(1)
November	43,834	47.23	(1)
B. VIRGIN ISLANDS			
April	964	158.69	
May	964	325.29	+105
June	968	152.97	(1)
July	964	150.77	(1)
August	966	195.87	+30
September	951	194.36	(1)
October	954	147.24	(1)
November	959	146.38	(1)
C. GUAM			
April	1,244	204.03	
May	1,268	203.17	(1)
June	1,295	203.35	(2)
July	1,286	203.58	(2)
August	1,260	204.49	(2)
September	1,258	206.46	+1
October	1,295	207.30	(2)
November	1,292	206.96	(1)

[1] Decrease.
[2] Less than ½-percent increase.

ASSISTANCE PAYMENTS TO THE AGED, BLIND, AND DISABLED IN PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS, APRIL–NOVEMBER 1979

Month	Number of recipients	Amount of assistance	
		Average payment per recipient	Percent increase over prior month
A. PUERTO RICO			
April	37,684	$17.59	
May	37,793	17.62	(1)
June	38,091	82.86	+370
July	37,815	17.75	(1)
August	37,655	17.32	(1)
September	37,495	201.91	+1,066
October	37,704	17.93	(1)
November	38,802	17.52	(1)
B. VIRGIN ISLANDS			
April	415	76.75	
May	412	176.00	+129
June	419	75.27	(1)
July	413	74.94	(1)
August	416	95.99	+28
September	406	94.97	(1)
October	405	72.47	(1)
November	403	72.15	(1)
C. GUAM			
April	870	76.70	
May	882	76.94	(2)
June	886	77.36	(2)
July	897	77.49	(2)
August	895	77.69	(2)
September	889	77.89	(2)
October	884	77.86	(1)
November	898	77.66	(1)

[1] Decrease.
[2] Increase less than 1 percent.

Committee amendment.—H.R. 3434, as recently enacted, included a provision to make permanent, beginning with 1980, the increases provided for the jurisdictions in the earlier temporary legislation, that is, a tripling of dollar ceiling amounts. The committee amendment would defer the implementation of the full amount of the increases. Under the committee agreement, the increase would be one-fourth of the total for fiscal year 1980 ($13 million rather than $52 million, to allow some increase in the last quarter of 1980), and one-half the total for fiscal year 1981 ($26 million rather than $52 million). The full amount of the increased funding would thus become effective beginning with October 1, 1981. This would give these jurisdictions time to develop a plan to provide for an equitable distribution of their increased funds. Estimated savings would be $39 million in 1980 and $26 million in 1981.

E. Provisions Relating to Old-Age, Survivors, and Disability Insurance Programs (Part E of Title V)

REALLOCATION OF OASDI TAXES BETWEEN OASI AND DI TRUST FUNDS

(Section 541 of the Bill)

Present law.—The optimum level of reserve in the social security trust funds has generally been considered to be an amount equal to approximately 1 year's benefit payments. Because of high inflation and other factors, the funds in recent years have fallen far below these optimum levels. Although the 1977 amendments sought to restore somewhat the financial condition of the funds, adverse economic conditions have caused the reserve levels to continue to decline. The old-age and survivors insurance fund in particular has fallen to a level at which possible cash-flow problems could occur sometime in 1981.

Committee amendment.—The financing of the social security program will require detailed review next year. Under current estimates, sufficient funds will be available to assure continuing cash flow capability for the cash benefit trust funds through the end of 1981 and into 1982 from the existing cash benefit tax rate. However, it will be necessary to reallocate the distribution of that tax rate for 1980 and 1981 between the two cash benefit trust funds. (This reallocation would have no impact on the medicare trust funds.) While a reallocation of the social security cash benefit tax rate does not have any direct budgetary impact, the absence of such action would necessitate some other means of providing adequate financing to maintain cash flow in the OASI trust fund. Regardless of what funding source was used, any such alternative method of meeting the cash flow requirements (e.g. a general fund appropriation or an additional social security tax) would result in an increase in budget authority at a time when the committee is under reconciliation instructions to reduce budget authority. The committee therefore has included a reallocation of the OASDI tax as shown below.

CASH BENEFITS SOCIAL SECURITY TAX RATES—EMPLOYER AND EMPLOYEE, EACH

[In percent]

Year	Present law			Committee amendment		
	OASI	DI	Total tax	OASI	DI	Total tax
1980	4.33	0.75	5.08	4.52	0.56	5.08
1981	4.525	.825	5.35	4.70	.65	5.35

CASH BENEFITS SOCIAL SECURITY TAX RATES—SELF-EMPLOYED PERSONS

[In percent]

Year	Present law			Committee amendment		
	OASI	DI	Total tax	OASI	DI	Total tax
1980	6.01	1.04	7.05	6.2725	0.7775	7.05
1981	6.7625	1.2375	8.00	7.025	.975	8.00

END-OF-YEAR CASH BENEFIT FUND BALANCES

[As a percent of following year outgo]

Year	Present law			Committee amendment		
	OASI	DI	Combined funds	OASI	DI	Combined funds
1980	15	44	18	18	20	18
1981	6	61	12	12	13	12

Note: Estimated by Social Security Administration actuaries

LIMIT RETROACTIVE BENEFITS TO 3 MONTHS

(Section 542 of the Bill)

Present law.—Individuals who apply for benefits under the social security program are now allowed to effectively backdate their applications by as much as 1 year to claim benefits for months prior to the actual date of application.

Committee amendment.—In the last Congress, the administration submitted a recommendation with its fiscal 1979 budget to change this provision so as to limit retroactivity of applications to a period of 3 months. The old-age, survivors, and disability insurance program is intended to provide a source of monthly income for persons whose support in the form of wages of an insured worker is reduced because of that worker's death, disability, or retirement. Ordinarily, individuals who may be eligible for benefits apply for benefits promptly upon becoming eligible or even some months in advance of eligibility. In some instances, however, an individual may not file an application until after eligibility has already existed for some time. A period of retroactivity prior to the month of application is provided to protect against loss of benefits based on delayed filing which may have resulted from circumstances beyond the individual's control. The committee believes that a retroactivity period of 3 months prior to the month of application should provide ample opportunity for individuals to meet the program's filing requirements. The 3-month period would run from the date the application is filed and not from the date on which a decision is made on the claim. The committee amendment includes this provision. It is estimated to reduce fiscal year 1981 Federal expenditures by $150 million.

SOCIAL SECURITY BENEFITS FOR PRISONERS

(Section 543 of the Bill)

Present law.—Individuals who are inmates of penal institutions or other incarcerated persons, such as the criminally insane who are confined to mental institutions, may become entitled to social security benefits if they can meet the several conditions required for benefits. The fact that they have been convicted of crimes and are incarcerated or are otherwise institutionalized does not interfere with their rights to benefits. This is in contrast to the old public assistance programs of the act (titles I, X, XIV) and the new supplemental security income program (title XVI), all of which explicitly deny payments to an inmate of a "public institution." (That exclusion applies to prison inmates and also to other individuals who are residing voluntarily or involuntarily in institutions maintained by public funds.)

Two related social security provisions of current law and regulation, however, do authorize the withholding of benefits to persons convicted of certain crimes. One originated as an amendment to the Social Security Act in 1956, which allows a judge, as part of a sentence, to deny payment of social security benefits of any type to an individual convicted of subversive crimes against the U.S. Government (espionage, sabotage, treason, sedition, etc.).

The second provision, provided for by regulation, precludes paying benefits to people convicted of killing a relative, and then claiming benefits based on the earnings record of the person they killed.

The data on the number of incarcerated persons receiving social security benefits is limited. Data from the 1970 census showed that approximately 4,000 prisoners in Federal, State and local penal institutions were receiving some form of social security benefits. A recent rough analysis of Federal prison inmates performed by GAO showed that 224 such inmates out of 17,000 who had known social security numbers were receiving benefits (approximately 1.3 percent). Another 5,000 inmates appeared not to have social security numbers, or their numbers were not known. Based on these data, the actuaries estimate that approximately 6,000 prisoners are now receiving social security benefits.

Committee amendment.—The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best. The committee provision therefore would require the suspension of benefits to any individual who would otherwise be receiving them on the basis of disability while he is imprisoned by reason of a felony conviction. This suspension would apply except to the extent that a court of law specifically provides to the contrary as a part of its approval of a plan of vocational rehabilitation services for that individual, and only for so long as the individual continues to participate satisfactorily in an approved vocational rehabilitation program, which is expected to result in his return to substantial gainful employment. The committee amendment would also provide that an individual may not be considered to be a full-time student for purposes of social security student benefits while he is incarcerated. In addition, the amendment provides that disabilities to the extent that they arise from or are aggravated during the commission of a crime may not be considered in determining whether or not an individual qualifies for social security benefits. Impairments not arising from the commission of a crime but occurring while an individual is in prison could not be considered for purposes of disability eligibility so long as the individual remains in prison. This provision is estimated to reduce benefit costs by $16 million in fiscal year 1981.

F. HEALTH PROVISIONS

(Part F of Title V)

CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

(Section 551 of the Bill)

Expenditures for hospital care have been increasing at double-digit rates for many years. Preliminary estimates for calendar year 1978 indicate that hospital expenditures for that year were 12 percent higher than 1977. Expenditures for hospital care, $76 billion in 1978, represent 40 percent of all national health expenditures. Hospital expenditures in fiscal year 1978 represent 3.6 percent of the GNP and $341 per capita. Historically, hospital costs per patient-day have risen much more rapidly than consumer prices in the economy as a whole.

This rapid growth in the costs of hospital care has focused increasing attention on hospitals and the present methods currently used to reimburse hospitals. Cost-based reimbursement in particular has been the subject of widespread criticism. There is little in the way of pressure on hospitals so paid to contain their costs, since any increases are simply passed along to the third parties that reimburse on a cost basis. The present "reasonable costs" procedures under the medicare program are not only inherently inflationary—because there are no effective limits on what costs will be recognized as reasonable—but also contain neither incentives for efficient performance nor true disincentives to inefficient operation.

In a nongovernmental attempt to moderate the rate of increase in overall hospital expenditures, the American Hospital Association, the American Medical Association, and the Federation of American Hospitals and other health care associations are leading a cost containment activity at the State level. This so-called "Voluntary Effort" should not be discouraged or impaired by Federal agencies through legal or other means before it has had reasonable opportunity to demonstrate success or failure.

The bill does not seek to replace the Voluntary Effort but rather to reform the method of reimbursement for hospitals under the medicare and medicaid programs. Under the new method, to be effective with hospital reporting periods that begin after June 30, 1980, reimbursement for most of a hospital's inpatient routine costs (essentially costs other than ancillary expenses such as laboratory, X-ray, pharmacy, etc.) would be related to a target rate based on similar costs incurred by comparable hospitals. Hospitals whose routine operating costs were below the average for comparable hospitals would be rewarded with incentive payments, and payments to hospitals with routine operating costs which are substantially above the average would be reduced.

This initial system, described more fully below, would be studied and extended on an as-ready basis. The committee expects that the new system will be extended to hospitals' ancillary costs and other costs that are excluded initially as soon as adjustments for patient-population differences and other methodological prerequisites are developed. Based on recommendations of a proposed Health Facilities Cost Commission, a permanent system would be developed over time which would establish payment rates and provide incentive payments with respect to all hospital costs and to costs of other institutions and organizations which are reimbursed on a cost basis. Continuing efforts would be made by the Commission to refine and improve the system of classification and comparison so as to achieve the greatest equity possible. The Secretary would appoint the members of the new Health Facilities Cost Commission on or before October 1, 1980. The Commission would consist of 15 persons who are expert in the health facilities reimbursement area. At least five of the members would be representatives of hospitals (and other providers which are subject to the new reimbursement method); at least five would be representatives of public (Federal, State, and local) health benefits programs; and the remainder would be persons who, through training, experience or attainments, are particularly and exceptionally well qualified to serve in carrying out the Commission's functions.

The method of reimbursement established by the bill for routine hospital costs would be as follows. Comparisons among hospitals would be made by:

1. Classifying hospitals in groups by bed size, type of hospital, rural or urban location, or other criteria established by the Secretary; and

2. Comparing the routine costs (as defined for purposes of applying the medicare routine cost limits under present law) of the hospitals in each group, except for the following routine variable costs: capital and related costs; cost of approved education and training programs for health care personnel; costs of interns, residents and nonadministrative physicians; energy costs, and malpractice insurance costs.

When classifying hospitals by type, hospitals which are primary affiliates of accredited medical schools would be a separate category. The Health Facilities Cost Commission should give priority to the development and evaluation of alternative definitions and classifications for this category of medical schools. The Commission should insure that the treatment of these medical center/tertiary care/teaching hospitals accurately reflects the hospital's role as a referral center for tertiary care patient services, as a source for the development and introduction of new diagnostic and treatment technologies, and/or as the source of care for a high concentration of patients needing unusually extensive or intensive patient care services provided in routine service cost centers. In addition, these hospitals generally provide a broad range of graduate medical education programs and undergraduate medical clerkships. The committee recognizes that some medical schools, because of their organization and objectives, have more than one primary affiliate, and the primary affiliate classification should provide for the possibility of including more than one hospital in unusual situations. The primary affiliates category should not include affiliated hospitals which are not primary affiliates within the meaning of the concept described above.

A per diem target rate for routine operating costs would be determined for each hospitals by:

1. Calculating the average per diem routine operating cost for each group of hospitals under the classification system (ex-

cluded would be newly-opened hospitals and hospitals which have significant cost differentials because they do not fully meet the standards and conditions of participation as providers of services; and

2. Determining the per diem rate for each hospital in the group by adjusting the labor cost component of the group's average per diem routine costs for area wage differentials. In the first year of the program only, an adjustment would be allowed where the hospital can demonstrate that the wages paid to its employees are significantly higher than the wages other employees in the area are paid for reasonably comparable work (as compared to the ratio for other hospitals in the same group and their areas).

The Secretary would adjust the per diem target rates by adding an annual estimated percentage increase in the cost of routine goods and services hospitals purchase, with an adjustment for actual changes at the end of a hospital's accounting year.

The committee recognizes that all the data for precise determination of routine operating costs and the labor and nonlabor components of such costs may not be available from cost reports for accounting years that begin in and prior to, 1980. To the extent necessary, the Secretary will be expected to make reasonable estimates on the basis of the data available to him. That is reasonably related to actual hospital cost experience.

Hospitals whose actual routine operating costs fall below their target rate would receive their actual costs plus one-half of the difference between their costs and their target rate with the bonus payments limited to 5 percent of their target rate. In the first year, hospitals whose actual costs exceed their target rate, but are no more than 115 percent of that rate, would be paid their actual costs. Those with costs above 115 percent of their target rate would have their reimbursement limited to 115 percent of the target rate.

In the second and subsequent years of the program, the hospital's maximum payment rate would be increased by the actual dollar increase in the average target rate for its group during the preceding year. In calculating the group averages, one-half of costs found excessive would be excluded from the calculation.

To ease transition of the program, only one-half of the bonuses and penalties would be applied during the first 2 years.

Adjustments to a hospital's target rate would be made for changes in the hospital's classification. Hospitals which manipulate their patient mix or patient flow, reduce services, or have a large proportion of routine nursing services provided by private-duty nurses would also be subject to an adjustment. Also, a hospital would qualify for any higher target rate that is applicable to the hospitals placed in the bed-size category which contains hospitals closest in bed size to its actual bed size. The target rate for hospitals which have average lengths-of-stay which are less than other hospitals in the same category could be calculated by multiplying the average reimbursement per patient stay for the hospital's category by the number of patient stays for that hospital, not to exceed its actual routine costs.

Adjustments would be made to the target rates of hospitals which demonstrate that their costs exceed their target rates because of (1) unusually high standby costs justified by low utilization in underserved areas; (2) atypical cost patterns of newly opened hospitals; (3) services changed for such reasons as consolidation, sharing, and approved addition of services (e.g., costs associated with low utilization of a new wing); and (4) greater intensity of patient care than other hospitals in the same category. Some hospitals have consistently shorter lengths of stay in treating patients than their group average for a reasonably similar mix of patients with comparable diagnoses. To the extent that a hospital can demonstrate that the shorter stays result from an "intensity" of service which makes it necessary for the hospital to incur additional costs, such additional costs per day would be recognized under the "intensity" exception provision, except where a hospital has had its target rate calculated on the cost-per-stay basis (to take into account shorter lengths of stay).

Hospitals would be exempted from the proposed cost limits if: (a) the hospital is located in a State which has established a hospital reimbursement control system which applies at least to the same hospitals and kinds of costs as are subject to the proposed Federal reimbursement reform system and (b) the State requests use of its own system and demonstrates to the satisfaction of the Secretary that, using the State's system, total medicare and medicaid reimbursement costs for hospitals in the State will be no greater than if the Federal system had been applicable. If the reimbursement system were not established by the State but in all other respects it meets the criteria for an exemption under the provisions of the bill, the reimbursement system would be considered to be established by the State if the State elects to have it so treated.

A State which exceeds, in the aggregate, the costs which would otherwise have been paid under the Federal programs for any two-year period would be covered under the Federal limits beginning with the subsequent year. The amount of the excessive payments would be recouped over subsequent periods through appropriate reduction (not in excess of 1 percent annually) in the cost limits otherwise applicable.

States which obtain a waiver would be reimbursed for the medicare program's proportionate share of the costs the State incurs in operating the State reimbursement control system. The State's medicaid program would pay its proportionate share of costs, which would be matchable with Federal funds as an administrative expense.

Medicare and medicaid would also pay a proportionate share of startup costs incurred by a State following approval of State reimbursement control systems. The Federal share of the startup costs would be the same proportion as the Federal payment for inpatient hospital costs in the State bears to the total inpatient hospital costs which are subject to the State system. For example, if the Federal Government pays, through medicare and medicaid, 40 percent of the total hospital costs in the State that are subject to the State system, it would be liable for 40 percent of the State program's startup costs.

The committee expressed concern over the possibility that the new limits on reimbursement might lead to increased costs for other payors. The new Health Facilities Cost Commission should review the operation of the new medicare-medicaid hospital reimbursement system and report on the extent, if any, to which hospitals bill other payors to cover costs disallowed by medicare and medicaid.

The Commission is expected to also report to the Congress when, in its opinion, a State has, under its approved ratemaking system, established reimbursement under medicare and medicaid at levels so much below what would otherwise be payable in the absence of the State system, as to actually impair the ability of the hospitals to provide necessary care at reasonable cost.

If the HEW Secretary proposes to modify the method of reimbursement for reasonable costs under titles V, XVII, and XIX of the Social Security Act, he must submit such proposals to the Health Facilities Cost Commission. If the Commission disagrees with the proposals, regulations implementing such proposals must be submitted to the Congress and may not become effective for 60 days. In addition, section 660 of this bill requires the Commission to give priority to studying and recommending to the Secretary limits on reasonable costs and charges for outpatients services.

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

(Section 552 of the Bill)

Studies have pointed to a national surplus of short-term general hospital beds ranging as high as 100,000 beds. Excess capacity contributes significantly to hospital costs since the initial construction and financing expenses have to be recovered by the hospital. In addition there are the continuing expenses associated with maintenance, and nonpatient services involved in keeping an empty bed ready for use. Surplus beds contribute to cost escalation in other less obvious ways. Unnecessary or underutilized hospital facilities can drain scarce manpower and generate scarcities of trained personnel, which in turn drive up salaries and may even threaten the quality of care. Coupled with the availability of hospitalization insurance, bed surpluses tend to generate pressures to use high cost hospital beds rather than less expensive alternative forms of care. The development of alternatives to inpatient facilities, such as primary care and community home care programs, suffers when investment is needlessly diverted to underutilized hospital bed capacity. Estimates of the savings that would accrue from closure or conversion of unused or underutilized facilities range from $2 billion to $4 billion annually, depending on whether the change involves closure or conversion of a particular service department as opposed to a whole hospital.

The bill provides for including in hospital reasonable cost payments, reimbursement for capital and increased operating costs associated with the closing down or conversion to approved use of underutilized bed capacity or services in nonprofit short-term hospitals. A hospital could apply for such payments *before or after* the conversion or closing takes place. In the case of for-profit short-term hospitals, reimbursement would be limited to increased operating costs. This would include costs which might not be otherwise reimbursable because of payment "ceilings", severance pay, "mothballing" and related expenses. In addition, payments could be continued for reasonable capital costs in the form of depreciation allowances, or reimbursement for interest payments which would ordinarily be applied toward payment of outstanding debt which had been incurred in connection with the terminated beds. In the case of complete closing down of a hospital, payments would continue toward repayment of any debt, to the extent previously recognized by the program, and actually outstanding.

The Secretary would establish a Hospital Transitional Allowance Board which would consider requests for such payments. Appropriate safeguards would be developed to forestall any abuse or speculation. Prior to January 1, 1983, not more than 50 hospitals could be paid a transitional allowance in order to permit full development of procedures and safeguards. This limited application will also provide Congress with an opportunity to assess the effectiveness and economic effect of this approach in encouraging hospitals to close or modify excess and costly capacity without suffering severe financial penalty. The Secretary of HHS is required to report to the Congress, on or before January 1, 1982, an evaluation of the effectiveness of the program and any recommendations.

The committee recognizes that a facility which is generally under-utilized, and which would therefore be potentially eligible for a transitional allowance to finance a facility conversion, may be the sole or primary source of care for needed health services in the community. It is the intent of this committee that the availability of a transitional allowance not encourage the conversion of a facility that is needed in the community. Therefore, it will be necessary for the Hospital Transitional Allowance Board to determine that the facility conversion will not have an adverse impact on access to needed health care services before the Board may recommend that the Secretary establish a transitional allowance for the hospital. Only in those cases in which reasonable access to needed health care services will not be jeopardized may a transitional allowance be recommended.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

(Section 535 of the Bill)

The bill provides for the coordinated use of audit findings in the administration of medicare, medicaid and the maternal and child health program.

The committee has been concerned that the duplication of identical or similar auditing procedures used for the purpose of determining reimbursement under various Federal health benefit programs is costly to both the programs and the entity (such as a hospital, skilled nursing facility, or home health agency) participating in the program.

The committee bill therefore requires that, if an entity provides services reimbursable on a cost-related basis under title XVIII and titles XIX or V, audits of books, accounts, and records of that entity for purposes of the State Federal programs are to be coordinated through common audit procedures. Ordinarily, it is expected that the common audit would be performed for the purposes of reimbursement under title XVIII. However, in those cases where the Secretary finds, in the interest of efficiency and economy, that a State audit would be more appropriate, the State could, if it agrees to do so, perform the common audit for the three programs.

When a State declines to participate in a common audit, the Secretary is to reduce payments that would have been made to the State under title V or XIX by the amount attributable to the duplicative State audit activity. A State participating in the common audit procedure would continue to receive Federal matching for administrative costs associated with any additional or supplemental audit data or audits that may be necessary under their medicaid and maternal and child health programs. The committee expects that the common audits will be carried out in timely fashion in order to expedite the interprogram coordination.

APPORTIONMENT OF PROVIDER COST

(Section 554 of the Bill)

Under a policy that medicare adopted in July 1969, hospitals are reimbursed for a disproportionately large share of the costs of routine nursing care on the theory that older hospital patients require an above-average amount of routine nursing services per day. This inpatient routine nursing salary cost differential is 8½ percent of the inpatient routine nursing salary cost. However, there was no objective, convincing evidence that this "plus factor" was warranted at that time, either in the case of individual hospitals or in the aggregate. Since July 1969, when the inpatient routine nursing salary cost differential became effective, there have been changes in medicare law, changes in the way services are furnished, and changes in the way medicare reimburses for routine services that make the cost differential even less tenable today. One argument against the cost differential is that the increase in the number of below-age-65 population beneficiaries has made an average routine per diem amount for all beneficiaries (excluding recognition of any differential) more appropriate. Also, with the growth of special-care beds (intensive care, coronary care, etc.), there has been a shift of the intensely ill from general routine-care areas to these special-care units. There has been greater utillization of these special-care units than of routine care areas by medicare beneficiaries. More intensive nursing care is now being given in these special-care units, making the nursing cost differential for routine services unnecessary.

The bill provides that no medicare payments may be made if the payment exceeds the proportional share of the cost, as measured by days of utilization or provider charges, until such time as evidence can be produced which, in the judgment of the Comptroller General, and concurred in by the Secretary of HHS, justifies a specific plus factor as warranted under particular circumstances for certain facilities.

Under the bill, the routine nursing cost differential would be retained through March 1981. During this time, GAO would conduct a study to determine which hospitals (classified, as appropriate, by type, size, location, patient characteristics, average length of stay, types and availability of nursing service, etc.) might be entitled to a nursing cost differential and the amount that was warranted. During the second half of fiscal year 1981, payment of the nursing cost differential would be suspended while the results of the GAO study are translated into new, more equitable nursing cost differential payment regulations. These new regulations would become effective in October 1981 and would apply not only prospectively but also retroactively, where applicable, to services furnished during the latter half of fiscal year 1981. It is the committee's intent that the Comptroller General will initiate the required studies without delay.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

(Section 555 of the Bill)

Professional Standards Review Organizations (PSRO's) have found thousands of medicare and medicaid patients being kept in costly acute-care hospital beds instead of being appropriately placed in nursing facilities home care programs or detoxification units. The situation occurs most frequently in those areas where there is a surplus of hospital beds and a shortage of long-term care beds.

To prevent this wasteful expenditure of public funds and encourage a more rational use of health resources, the bill provides that, effective October 1, 1980, medicare and medicaid payments to hospitals would be made at the average skilled nursing facility (SNF), intermediate care facility or detoxification facility payment rate (as may be appropriate) in the State, rather than the much higher hospital rate, for patients medically determined by PSRO reviewers to need care in such a lower-cost facility home care program. (In no case, however, could a facility that has a unit that can provide the appropriate level of care be paid more under this provision than it could be paid if it had placed the patient in the appropriate unit.) For example, if the PSRO determined that a hospitalized medicare patient could more appropriately be cared for in an SNF, and that he would be eligible for medicare benefits if he were an inpatient in such a facility, medicare payments for his hospital care would be paid at the SNF rate. Days of care paid by medicare at the reduced, SNF rate would be counted against the patient's eligibility for skilled nursing facility benefits, and the skilled nursing facility benefit coinsurance rates would also be applicable. To prevent undue hardship, the limitation would not apply in those geographic areas where the appropriate State or local planning agencies certify that there is no general excess of hospital beds (adjusted for patients in hospital beds who do not need that level of care) and there is a shortage of long-term care beds.

In addition, the bill provides for payment to be made under medicare for inpatient detoxification services in a freestanding facility that is not a hospital. The "detoxification facility services" to be covered would be the same as those that are reimbursable when provided in a hospital. The term "detoxification facility" means a public or nonprofit facility other than a hospital which (a) is engaged in furnishing the above services to inpatients; (b) is either accredited by the Joint Commission on Accreditation of Hospitals as meeting its Accreditation Program for Psychiatric Facilities standards (1979 edition) or found by the Secretary to meet such standards; (c) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and (d) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.

A physician (qualified to make such determinations) who has examined the patient prior to initiation of detoxification must certify that he needs to be detoxified on an inpatient basis.

Reimbursement for detoxification services would be made under medicare—Part A, on a reasonable cost basis, with no deductible or coinsurance.

The Secretary shall study and make recommendations, within 18 months of enactment, concerning the appropriateness of extending coverage to post-detoxification rehabilitation and to outpatient detoxification. The Health Facilities Cost Commission would review and recommend a method of classifying and comparing detoxification facilities in time to permit application of the reimbursement methodology within 2 years of enactment.

PSRO's would be directed to review the appropriateness of the services furnished by detoxification facilities for which medicare reimbursement is claimed. The committee understands that 3–5 days will ordinarily be sufficient for patients to complete the detoxification process.

PSRO REVIEW OF HOSPITAL ADMISSIONS, ROUTINE TESTING AND PREOPERATIVE STAYS

(Section 556 of the Bill)

Present policies direct PSRO's to review the appropriateness of hospital services received by medicare and medicaid patients. This review has been limited largely to a review of the need for the patient to be admitted to the hospital and on the appropriateness of the length of the stay. Because of inadequate appropriations, PSRO's have generally been unable to undertake the review of the ancillary and outpatient services that hospitals provide, as required by existing law. PSRO studies and testimonv before the committee have amply demonstrated the extent to which unnecessary or avoidable utilization occurs with respect to certain hospital practices that have not been subject to general across-the-board review, including: diagnostic tests routinely provided on admission without a physician's order; weekend elective admissions (i.e., Friday and Saturday admissions) to hospitals which are not equipped or staffed to provide needed diagnostic services on weekends; and preoperative stays for elective procedures of more than one day without justification for the additional days.

The bill directs PSRO's that are able to do so to give priority to reviewing these areas of relatively frequent overutilization to assure that payment is made under the public programs only when the routine tests and unusually long preoperative stays and weekend admissions for elective conditions are medically appropriate.

For example, as is now the case in some PSRO's elective admissions for surgery that involve preoperative stays of more than 1 day would require specific PSRO approval in order to be reimbursable. Similarly, weekend admissions for elective conditions would be reimbursable only where the PSRO finds that the hospital is equipped and staffed to provide necessary services over the weekend.

The committee recognizes the need for additional funds for the PSRO program to engage in these reviews and expects that such funds will be made available.

CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

(Section 557 of the Bill)

Currently, medicare can reimburse the physician for his professional services in any setting. Also, the institutional costs of ambulatory surgery in a hospital outpatient department can be reimbursed. However, a charge for the use of special surgical facilities in a physician's private office or a free-standing surgical facility that is not hospital affiliated is not reimbursable.

Under the bill the physician performing certain listed surgical procedures in his office would be compensated for his special, surgical overhead through an all-inclusive rate if he accepts an assignment; there would be no deductible and coinsurance applied in such cases. Such procedures would include those which are often provided on an inpatient hospital basis but can, consistent with sound medical practice, be performed on an ambulatory basis. The rate would encompass reimbursement for the facility, physician related services, including normal pre- and post-operative visits and routine laboratory and other diagnostic tests usually associated with the procedure.

The list of procedures eligible for such reimbursement would be specified by the Secretary following consultation with the National Professional Standards Review Council and appropriate medical organizations including specialty groups. Subsequently, procedures could be added or deleted as experience dictated.

Normal review of such claims by Professional Standards Review Organizations, carriers and other present review mechanisms should work to safeguard against inappropriate or indiscriminate performance of procedures on an ambulatory basis.

Similarly, reimbursement would be provided for the use of the facilities in an ambulatory surgical center, without deductible or coinsurance, where the center accepts assignment. In the case of an ambulatory surgical center the payment could take the form of an all-inclusive rate, covering the facility overhead and physicians' fees or, alternatively, the overhead allowance could be paid directly to the center and the professional fee could be paid directly to the surgeon and to other physicians who provide services in connection with the procedure. The deductible and coinsurance would also be waived for the physician for services performed in connection with listed surgical procedures in hospital outpatient departments and other ambulatory surgical centers where the physicians accept assignment.

The overhead factor is expected to be calculated on a prospective basis (and periodically updated) utilizing sample survey and similar techniques to develop reasonable estimated overhead allowances for each of the listed procedures which take account of volume (within reasonable limits). The committee does not intend that individual financial records be audited in order to determine a physician's or a center's specific overhead allowance. What is intended is a reasonable estimate of such costs of performing such procedures generally.

The committee expects that this provision will encourage performance of surgery in generally lower cost ambulatory settings, where appropriate, instead of the more expensive hospital inpatient setting. It anticipates that States will want to monitor the effectiveness of the new benefit with a view toward making similar modifications in their medicaid programs.

The committee is concerned that in some cases, a patient's stay in a hospital is unnecessarily protracted because it is less expensive to the medicare patient to receive diagnostic tests while in the hospital than prior to being admitted. The bill eliminates the financial incentives to unnecessarily utilize hospital care in cases where needed diagnostic services are provided in the hospital's outpatient department within the 7-day period prior to the patient's admission. The Secretary, in consultation with the National Professional Standards Review Council, would be required to specify those preoperative medical and other health services which could safely be performed on an outpatient as well as inpatient basis. A physician performing a listed service on an outpatient basis within the 7-day period prior to the patient's admission for surgery (to which the service relates) would receive reimbursement equal to 100 percent of medicare's reasonable charge if he agreed to accept such payment as payment in full.

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIANS' SERVICES

(Section 558 of the Bill)

Medicare currently utilizes more than 200 different "localities" throughout the country for purposes of determining part B "reasonable" charges. For example, one State has 28 different localities. The committee notes that this has led in many instances to marked and unjustified disparities in areas of the same State in the prevailing charges for the same service. Additionally, under present law, increases in prevailing charges are limited to levels justified by changes in the costs of practice and wage levels. The committee is concerned that the effect of present law is to further widen the dollar gap between prevailing charges in different localities.

The bill provides for the calculation of statewide median charges (in any State with more than one locality) in addition to prevailing charges in the locality. To the extent that any prevailing charge in a locality was more than one-third higher than the statewide median charge for a given service, it would not be automatically increased each year. This provision would not reduce any prevailing charges currently in effect. However, it would operate, to the extent given charges exceed the statewide average by more than one-third, to preclude automatically increasing those charges.

Under existing law, medicare allows a new doctor to establish his customary charges at not greater than the 50th percentile of prevailing charges in the locality.

The bill would permit new physicians in localities which are designated by the Secretary as physician shortage areas, to establish their customary charges at the 75th percentile of prevailing charges (rather than the 50th) as a means of encouraging doctors to move into these communities. It would also permit doctors presently practicing in shortage areas to move up to the 75th percentile on the basis of their actual fee levels.

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

(Section 559 of the Bill)

The bill provides, except under certain specified circumstances, that reimbursement to contractors, employees or related organizations, consultants, or subcontractors at any tier would not be recognized where compensation or payments (in whole or part, in cash or kind) are based upon percentage arrangements.

Percentage arrangements can take several forms. For example, some involve business contracts for support services, such as computer and data processing, financial and management consulting, or the furnishing of equipment and supplies to providers of health services, such as hospitals. Charges for such services are subsequently incorporated into the cost base against which medicare and medicaid make their payment determinations.

The contracts for these support services specify that the remuneration to the suppliers of the services shall be based on a percentage of the gross or net billings of the health care facilities or of individual departments. Other examples involve landlords receiving a percentage of provider gross (or net) income in return for office space, equipment, shared waiting rooms, laboratory services, custodial and office help and administrative services. Such arrangements can be highly inflationary and add costs to the programs which may not reflect actual efforts expended or costs incurred.

The prohibition against percentage arrangements contained in this section of the bill would include payment of commissions and/or finders' fees and lease or rental arrangements on a percentage basis. It would also apply to management or other service contracts or provision of services by collateral suppliers such as pharmacies, laboratories, etc. The percentage prohibition would flow both ways either from the supplier or service agency back to the provider or organization, or from the original provider or organization to the supplier or service agency.

The committee does not, however, intend this provision to interfere with certain types of percentage arrangements which are customarily considered normal commercial business practices such as the commission paid to a salesman. Further, the bill does not prohibit reimbursement for certain percentage arrangements such as a facility management contract where the Secretary finds the arrangement contributes to efficient and economical operation.

For example, under some existing management contracts, the contractor receives both a percentage of operating expenses as a base management fee, and a share of the net revenues of the institution after all costs have been met. Where the contractor's percentage share of net revenues exceeds the percentage on which the base management fee is calculated, the contractor could have a strong incentive to contain operating expenses. Of course, under such circumstances, the reasonableness of the percentages applicable to the operating expenses would have to be considered in terms of comparison with the costs incurred in the management and/or operation of reasonably comparable facilities which do not utilize such contracts.

In the case of hospital-based physicians, on the other hand, the bill would permit recognition of percentage arrangements if the amount of reimbursement does not exceed an amount which would reasonably have been paid to the physician under relative value schedules approved for this purpose by the Secretary. Under such an approved relative value schedule, the charges of a given physician would be subject to a test of reasonableness in terms of that physician's usual contribution of time and effort in the provision of the services for which he bills.

Percentage arrangements entered into by hospitals and hospital-based physicians before January 1, 1979, could be recognized subject to the same tests of reasonableness as were prescribed by regulations in effect on such date until such time as the hospital is able to unilaterally terminate such arrangement, or January 1, 1982, whichever is earlier.

The bill directs the Secretary to conduct a study of hospital-based physician reimbursement and the impact of alternative reimbursement methods on providers, patients, physicians, and third-party payers. He must submit his findings, together with legislative recommendations within two years of enactment.

The committee recommends that HHS adopt as its policy under existing law those provisions relating to the reimbursement of anesthesiologists' services which were included in S. 505, which contained the predecessor of this provision. That provision would provide that full fees could be paid to an anesthesiologist only where he personally performed all the professionally appropriate pre- and post-anesthetic services and carried out the most demanding procedures in connection with administration of the anesthesia for no more than two patients. Payments equal to one-half of the full fee for each patient could be made where the anesthesiologist personally directed other individuals in carrying out the most demanding procedures, provided the anesthesiologist personally performed the other pre- and post-anesthetic services and was responsible for no more than four patients during the course of anesthesia administration.

LIMITATION ON REASONABLE COST AND REASONABLE CHARGE FOR OUTPATIENT SERVICES

(Section 560 of the Bill)

The bill requires the newly established Health Facilities Cost Commission to give priority to the development of limitations on hospital outpatient and clinic costs. Further, the Secretary is required to issue regulations providing for the establishment of such limitations.

As a result of various limits placed by public agencies and others on inpatient hospital expenditures, some hospitals have sought to have a disproportionately large share of their total costs financed by the revenues from their outpatient departments. In addition, reimbursement to community health centers and similar freestanding clinics which are presently paid on a cost-related basis, have, according to the General Accounting Office sometimes proved to be excessive.

The bill therefore requires the Health Facilities Cost Commission (established under Section 202 of this bill) to give immediate priority to making a study and submitting recommendations to the Secretary with respect to setting limitations on costs or charges for outpatient services. Further, the Secretary is required to issue regulations establishing such limitations with respect to services provided on an outpatient basis by hospitals, community health centers, or clinics (other than rural health clinics) and by physicians using such facilities.

MEDICARE LIABILITY WHERE PAYMENTS CAN BE MADE UNDER LIABILITY INSURANCE

(Section 561 of the Bill)

The bill provides that medicare would not be the payor of first resort in cases where the patient is involved in an accident and his care can be paid for under liability insurance of the individual who was at fault or under a no-fault insurance plan.

Under present law, medicare is ordinarily the payor of first resort except in certain cases, e.g., where the patient has no legal obligation to pay, or where workmen's compensation is responsible for payment for the patient's care.

The bill provides that where the medicare patient is involved in an accident and his care can be paid for under the insurance of the individual who was at fault (or under a no-fault plan), medicare would have residual and not primary liability. Under this provision, medicare would pay for the patient's care in the usual manner and then seek to be reimbursed by private insurance after, and to the extent that, liability has been determined. The bill leaves to the discretion of the Secretary an evaluation of the probability of recovery and the minimum amounts estimated as recoverable, so as to avoid the administrative cost and effort of pursuing minor recoveries or situations where there is little likelihood of ultimate recovery.

ACCESS TO AND PURCHASE OF CERTAIN MEDICAID SERVICES

(Section 562 of the Bill)

The bill allows a State to arrange for purchase services for its medicaid population through cost-effective arrangements, for services that meet applicable State and Federal laws, regulations and standards.

Under present law, medicaid recipients are permitted to choose from among hospitals and other suppliers of health care that are covered by the State program.

While this well-intentioned provision was designed to permit medicaid patients to choose among any qualified supplier of covered services, in the same manner as the patients, it has met with only partial success. On the other hand, it has in some instances led to the inefficient expenditure of often limited medicaid funds by depriving the State of discretion to purchase or arrange for medicaid services, equipment and supplies prudently and economically. In some cases, this inability to negotiate with the health care community has required States to pay the top dollar for some services—especially institutional services—while at the same time shortages of funds make it necessary for the State to impose harsh restrictions on the kinds of health services it covers and the number of low income people who can qualify for aid.

The bill would allow States greater discretion in arranging for hospital and other institutional services, clinic services, laboratory services and medical supplies and equipment for Medicaid recipients through cost-effective arrangements. However, the State could not pay less for inpatient hospital services under this provision than the cost that is found to be reasonable and necessary in the efficient delivery of hospital services in the geographic area where the hospital is located.

Provision would be made to assure that beneficiaries have reasonable access to services (including emergency services) that fully meet program standards of quality. In addition, provision would be made to avoid having a substantially adverse effect on appropriate and necessary use of hospitals with graduate medical education programs.

The Secretary is expected to carefully monitor the effects, if any, of operation of this section upon appropriate and necessary graduate medical education. If a pattern is found indicating serious impairment of such graduate education the Secretary is expected to require appropriate corrective modification by a State.

MEDICARE HOSPITAL PERIODIC INTERIM PAYMENTS (PIP)

(Section 563 of the Bill)

Medicare currently offers hospitals two payment procedures. First, there is a procedure under which payments are made to the hospital on the basis of bills which state what covered services have been furnished during the billing period. On the average, there is a 6 week lag between the rendition of a service and the receipt by the hospital of the payment. (Only about 10 to 14 days of this lag is attributable to time taken by the medicare intermediary in processing the bill.)

Under the alternative procedure, hospitals receive, "periodic interim payments" (PIP) which are not directly tied to the receipt of bills. On the average, this procedure produces only a three week lag between rendition of the service and receipt of payment.

The bill would amend the PIP payment procedure for hospitals by providing for payment to be withheld during September 1981 so that the lag would be increased to the average of about six weeks delay experienced by hospitals that use the standard method. The deferred payments would be paid to the hospitals in October 1981.

DISALLOWANCE OF STATE CLAIMS FOR FEDERAL MEDICAID FUNDS

(Section 564 of the Bill)

At present, when a State's claim for Medicaid matching funds is disallowed by the Federal Government, the State may appeal the decision and retain the funds that are in dispute until a final determination is made. A decision on an appealed disallowance can take as long as two years, and during this period the Federal Government loses interest on the disputed funds whether or not the appeal is settled in its favor.

The bill authorizes the Secretary of HHS to offset amounts in dispute from other Medicaid funds due the State until the appeals process has been exhausted. If the final decision is in the State's favor, the Federal Government would repay the money to the State with interest.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

(Section 565 of the Bill)

Present law requires States participating in medicaid to pay skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) on a reasonable cost-related basis. This requirement, added by Section 249(a) of the Social Security Amendments of 1972, was designed to assure that payment rates would more closely reflect the reasonable cost necessary to provide nursing home services of adequate quality. Section 249(a) gives States the option of using medicare's reasonable cost reimbursement formula for purposes of reimbursing SNFs and ICFs or developing other reasonable cost-related methods of reimbursement acceptable to the Secretary.

States have argued that the complex and long-delayed Federal regulations implementing the statutory requirement of section 249 (a) have unduly restrained their administrative and fiscal discretion and that the Federal approval process has forced States to rely heavily on medicare principles of reimbursement. Neither of these consequences was intended when section 249(a) was enacted.

The committee continues to believe that States should have flexibility in developing methods of payment for their medicaid programs and that application of the reasonable cost reimbursement principals of the medicare program for long-term care facility services is not entirely satisfactory. These principals are inherently inflationary and contain no incentives for efficient performance.

The committee bill deletes the present language of section 1902(a)(13)(E) of the act (which was added by section 249(a) of the 1972 legislation) and substitutes language which gives the States flexibility and discretion, subject to the statutory requirements of this section and the existing requirements of section 1902(a)(30) and section 1121 of the Act, to formulate their own methods and standards of payment.

Under the bill, States would be free to establish rates on a statewide or other geographic basis, a class basis, or an institution-by-institution basis, without reference to medicare principles of reimbursement. The flexibility given the States is not intended to encourage arbitrary reductions in payment that would adversely affect the quality of care. Under the bill, the State would be required to find, and make assurances satisfactory to the Secretary, that the payment rates, taking into account projected economic conditions during the period for which the rates are set, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations and standards. The State would also be required to assure the Secretary that it has provided for the filing by the facilities of uniform cost reports and for their periodic audit by the State.

The Congress expects that the Secretary will keep regulatory and other requirements to that minimum necessary to assure proper accountability, and not to overburden the States and facilities with marginal but massive paperwork requirements. It is expected that the assurances made by the States will be considered satisfactory in the absence of a formal finding to the contrary by the Secretary.

In establishing rates, a State, at its option, could include incentive allowances designed to encourage cost containment through efficient performance, as well as incentives to attract investment where such investments would serve to alleviate demonstrated shortages of long-term care services. In addition, States would continue to have the option provided in current Federal Regulations to adjust rates downward for facilities with deficiencies where facilities are classed by quality of service or level of care.

The Secretary would be expected to continue to apply current regulations which require that payments made under State plans do not exceed amounts which would be determined under the medicare principles of reimbursement. Since States would be free under the bill to establish payment rates without reference to medicare principles of reimbursement, the Secretary would only be expected to compare the average rates paid to SNF's participating in medicare with the average rates paid to SNF's participating in medicaid in applying this limitation.

LIMITS ON REIMBURSEMENT FOR HOME HEALTH VISITS UNDER MEDICARE

(Section 566 of the Bill)

On June 5, 1980, the Department of HHS published in the Federal Register the revised schedule of limits on home health agency costs that may be reimbursed under medicare for cost reporting periods that begin during the 12-month period that will begin July 1, 1980. The limits, which are authorized under legislation enacted in 1972, expressed as costs per visit. Although separate limits are established by type of service, they are applied to each agency as a single aggregate limit, based on the agency's number of visits for each type of service. The schedule of limits was based on (1) a classification of home health agencies according to their location within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area (NECMA) or a non-SMSA; (2) limits set at the 80th percentile; and (3) an estimated inflation factor. The limits, which are presented below, are adjusted to take account of local wage differentials when applied to the individual agency—

Type of visit	SMSA (NECMA) location	Non-SMSA location
Freestanding agencies:		
Skilled nursing care	42.67	44.75
Physical therapy	42.42	49.62
Speech pathology	44.04	48.35
Occupational therapy	45.24	57.30
Medical social services	48.79	43.46
Home health aide	32.26	31.49
Provider-based agencies:		
Skilled nursing care	54.17	47.23
Physical therapy	47.87	46.37
Speech pathology	47.52	(1)
Occupational therapy	49.94	(1)
Medical social services	54.54	(1)
Home health aide	47.36	42.95

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[1] Insufficient data—Use basic services limits for free standing non-SMSA agencies.

The committee believes that these limits are set at an unrealistically high level. In part, this is because the limits are based on unaudited cost reports which include inflated costs. More important, in averaging the costs per visit, the costs of a large agency were given no more weight than those of a small agency. The result of these problems in the calculation and others is that medicare is now prepared to pay more in some instances for a single visit to the patients home than is paid for an entire day of room and board and skilled care at a nursing home.

High payment ceilings are particularly troublesome in the home health area because many of the private agencies are organized primarily to serve medicare patients. For such agencies there is little incentive to hold down costs so long as they are reimbursable under medicare.

The bill would limit allowable costs for home health agency services under medicare to amounts not in excess of the 75th percentile of weighted average audited costs. These limits would be applied separately to each type of visit, rather than on an aggregate basis, when revisions in the existing cost reporting procedures make this possible. (This methodology is similar to that used in calculating allowable charges for physicians' services.) In addition, the allowable cost of skilled nursing visits and home health aide visits would not exceed medicaid skilled nursing facility per diem rates, hospital-based facility rates in the case of hospital-based home health agencies and other skilled nursing facility rates in the case of nonhospital-related agencies.

The bill also makes changes of a technical nature that are intended only to make home health payment limits more equitable by assuring that nursing service costs and visits are properly accounted for. These changes would in no way affect beneficiaries' eligibility for home health benefits. One of these changes provides that visits that are required by regulation to assure that home health aides' services are being properly performed would be recognized for reimbursement purposes as visits. They are now treated as part of the agencies' overhead. Similar treatment would be provided for home health assessment visits which are necessary to determine whether a referred patient is suitable for home health services and eligible for medicare. For an assessment visit to qualify for visit status (even though the beneficiary was determined ineligible), the referral would have to be made by a hospital discharge planner, a physician or other person who has knowledge of the patient's health care needs and the home health benefit requirements and who believes that the patient should be eligible for covered services.

The committee is also concerned that a given home health agency may have to incur substantially more travel costs, compared to the agencies with which it is classified, in order to provide needed care to distant patients. The committee believes that the Secretary should provide for exceptions to be made for agencies that exceed the payment limits because of necessary, substantially atypical travel costs (including both transportation costs and the cost of salaries to personnel while traveling).

DETERMINATION OF REASONABLE CHARGES UNDER MEDICARE

(Section 567 of the Bill)

Medicare reasonable charges are updated in July of each year to keep pace with certain economic changes. All bills that the medicare carrier receives after the charges are updated are paid at the higher rate. In effect, the amount of the medicare payment often depends on how long the claimant delays billing rather than on the charge levels in effect when the medical service was provided. To eliminate this inequity, the bill includes a provision under which the medicare reasonable charges that are payable would depend on the date the medical service was rendered rather than the date the medicare claim was processed.

G. FUND TRANSFER PROVISION

(PART G OF TITLE V)

DEFERRED TRANSFER OF CERTAIN FUNDS TO TRUST FUNDS

(Section 571 of the Bill)

Present law.—The social security and medicare programs are funded through earmarked payroll taxes. These taxes are paid into the Treasury by employers, employees, and self-employed persons. Amounts exactly equal to the tax collections are then appropriated out of the general Treasury and into the social security and medicare trust funds under a permanent standing appropriation in the Social Security Act. Under the accounting system used for purposes of the Budget Act, budget authority for trust fund programs is considered to arise at the moment when the tax receipts are appropriated into the trust funds. As a result, the various savings provisions approved by the committee in trust fund programs will not result in a reduction in the 1981 budget authority for those programs although they do result in 1981 outlay reductions and do reduce the amount of budget authority that will ultimately be needed to operate the programs.

Committee amendment.—In order to meet the reconciliation requirements for fiscal 1981 budget authority reductions, the committee amendment provides that $0.6 billion in social security and medicare tax receipts which would otherwise be transferred to the trust funds at the end of September 1981 will instead be transferred to the trust funds after the end of that month. This will reduce budget authority for fiscal 1981 by that same amount.

III. Regulatory Impact of Finance Committee Amendments

In conformance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate the following Finance Committee evaluation is made of the regulatory impact which would be incurred in carrying out title VI of the bill.

A. UNEMPLOYMENT COMPENSATION PROVISIONS

The sections in Part A of title V of the bill modify a number of aspects of the unemployment compensation programs. Sections 501 and 503, dealing with extended benefit trigger levels, should reduce the Federal regulatory impact on the States inasmuch as they increase State flexibility by removing an existing-law mandatory provision and increase the scope of flexibility under an existing-law optional provision. Ultimately the economic impact of these provisions is likely to be a reduction in the unemployment tax burden on employers reflecting a similar reduction in benefits to individuals. The level of this impact is indicated in the budgetary impact section of this report.

Section 502 is intended to affect State benefit rules concerning payment of benefits for the first week of unemployment. These rules may require some regulatory activity by the Department of Labor to explain and monitor the carrying out of these provisions. No significant amount of paperwork is anticipated.

Section 504 simply changes a qualifying service requirement from one period of time to another (90 days to one year).

Section 505 relates essentially to the method of accounting within Federal agencies for an existing expenditure item and except for the impact within those agencies should have no regulatory effects.

Sections 506 and 507 establish certain new limits on the payment of extended unemployment compensation benefits. As such, the provisions can be expected to (and are intended to) have an impact on individuals who would otherwise receive benefits under this program. However, those affected would be a relatively small proportion of the total population extended benefit recipients. The implementation of these provisions will involve some regulatory impact on applicants and on the State agencies that administer the program inasmuch as these provisions will require somewhat different eligibility rules for the extended benefit program than those that apply to the regular program (except to the extent that States choose to implement these rules in their regular programs). However, the regulatory impact is not expected to be excessive since States already receive information concerning nonresident beneficiaries and the prior wage history of applicants. The provision barring extended benefit payments to persons who have left jobs voluntarily or for misconduct is based on existing State findings and should therefore involve minimal new regulatory impact. The provision denying extended benefits to individuals refusing any reasonable job offer does differ from existing State programs in most jurisdictions and will therefore involve additional regulatory measures. However, an identical provision was previously in force under the now-expired Emergency Unemployment Compensation Act of 1974. Consequently, the procedures to carry out this provision should not be excessively difficult to develop and implement.

The Committee on Finance believes that none of the provisions of part A of title V will have any substantial paperwork impact and that none of them can be expected to affect the personal privacy of individuals.

B. SSI PROVISION

Section 511 of the bill is intended to eliminate an abusive situation in which individuals with disqualifying assets intentionally divest themselves of those assets in order to qualify for cash and medical assistance. The provision will require some additional paperwork and some disclosure of personal information concerning property transactions which SSI applicants engaged in during the two years prior to application for benefits. This is, however, consistent with and similar in nature to other informational requirements of existing law concerning the economic status and resources of applicants for assistance. The information will be utilized solely for purposes of program administration. For the great majority of SSI recipients, this requirement will have no economic impact. It will, however, have an adverse economic impact on those individuals who would otherwise attempt to qualify for benefits by disposing of assets.

C. TEMPORARY SUSPENSION OF DAY CARE REGULATIONS

Section 521 of the bill will postpone until October 1, 1981 the implementation of regulations recently promulgated by the Department of Health and Human Services governing child care for which Federal funding is claimed under title XX of the Social Security Act. This provision will defer the substantial regulatory impact of those regulations on providers and recipients in order to allow time for Congress to further examine that impact and to determine whether the regulations should be implemented and, if so, whether additional Federal resources are required.

D. PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

Section 531 of the bill will phase-in the increased funding for territorial public assistance programs which was provided for in Public Law 96–272 (H.R. 3434). Under this section, the additional funding for fiscal 1980 will be reduced from $52 to $13 million and for fiscal 1981 from $52 to $26 million. Thereafter, the permanent increase of $52 million will be effective. This should not affect the long-term economic situation of individuals although it will have some economic impact in fiscal years 1980 and 1981. The provision should require no additional regulatory activity and no impact on paperwork or privacy.

E. SOCIAL SECURITY PROVISIONS

Section 541 of the bill is an accounting transaction between two social security trust funds which has no impact of a regulatory nature. Section 542 simply reduces an existing law limit on the retroactivity of benefits from 12 months to 3 months prior to the month of application. It should have no impact of a regulatory, paperwork, or privacy nature and should affect only those relatively few applicants who do not file for benefits until some months after they have become eligible for them. Section 543 places limitations on the payment of benefits to prisoners and to persons who become disabled in the commission of criminal actions. Because of the relatively small number of individuals affected, the Committee believes that this provision has no significant regulatory impact. It is estimated that about 6,000 persons are now receiving benefits while in prison. For those affected, there will be some impact on economic status and on privacy (in that the Social Security Administration will be required to determine that they are in prison and that their disabilities arose in the commission of crimes.) The Finance Committee does not consider these impacts to be inappropriate.

F. HEALTH PROVISIONS

In implementing the various provisions of Part F of title VI there will be some increase in Federal regulatory activity. It is not anticipated, however, that the legislation would impose an unusual or burdensome regulatory effect. Several provisions will, in fact, decrease regulatory activity and associated paperwork.

Section 551 of the bill would generate the most significant new regulatory activity since a new method of reimbursement under medicare and medicaid is required. Revised regulations will be necessary to implement a procedure for determining hospital "target" rates, as well as implement a procedure for determining exceptions to those rates. In addition, the Secretary would be required to implement procedures to evaluate State ratemaking programs for the purpose of determining exemptions from the Federal program.

The authorization for payments under the legislation to promote closing and conversion of underutilized facilities establishes a new procedure that would also require implementing regulations.

A provision that directs PSRO's to review certain questionable utilization practices would increase PSRO's review activities.

Provisions that will decrease regulations and paperwork include the provision for coordinated audits under titles V, XVIII, and XIX; and authority for States to arrange for the cost-effective purchase of certain services and certain medical devices under medicaid.

G. FUND TRANSFER PROVISION

Section 571 of the bill is an internal Treasury accounting provision which has no regulatory impact.

IV. Budgetary Impact of Finance Committee Amendments

In conformance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and with sections 308 and 403 of the Congressional Budget Act of 1974, the following statements are made relative to the budgetary impact of the Finance Committee amendments included in title V of the bill.

The Finance Committee estimates the budgetary impact of the provisions of title V to be as shown in the following table. These estimates were made after consultation with the Congressional Budget Office.

The estimates of the Congressional Budget Office on the provisions of title V appear in Appendix B.

OUTLAY REDUCTIONS UNDER FINANCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION, FISCAL YEARS 1981–85

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Legislation already enacted:[1]					
Social security disability amendments (H.R. 3236)	−133	−374	−656	−972	−1,269
Social services amendments (H.R. 3434)	−92	−88	−96	−104	−112
A. Unemployment compensation:					
Sec. 501:—Elimination of national trigger	(2)	−300	(2)	(2)	(2)
Sec. 502:—Waiting period	−25	−27	−30	−32	−33
Sec. 503:—Optional State trigger	−30	−30	−30	−30	−30
Sec. 504:—Unemployment benefits for ex-servicemen	−43	−47	−51	−55	−57
Sec. 505:—Unemployment benefits for Federal employees	−11	−12	−13	−14	−15
Sec. 506:—Limit extended benefits for nonresidents	−46	−30	−28	−19	−15
Sec. 507:—Extended benefits:					
Not payable on the basis of less than 20 weeks of employment	−120	−180	−90	−35	−20
Not payable to persons who leave jobs voluntarily or for misconduct	−32	−49	−24	−10	−6
Not payable to persons refusing any reasonable job	−94	−145	−72	−29	−16
B. Sec. 511:—Limit SSI eligibility for individuals who dispose of resources	−15	−31	−40	−49	−55
C. Sec. 521:—Temporary suspension of Federal day care regulations	−20				
D. Sec. 531:—Public assistance payments to territorial jurisdictions	−26				
E. Social security provisions:					
Sec. 541:—Reallocation of OASI taxes between OASI and DI					
Sec. 542: 3-mo. limit on retroactive benefits	−150	−250	−260	−270	−280
Sec. 543: Social security benefits for prisoners	−16	−17	−19	−21	−24
F. Health provisions:					
Sec. 151: Hospital routine cost limits	−70	+134	+46	−283	−521
Sec. 552: Closure/conversions of underutilized facilities	−2	−9	−23	−44	−72
Sec. 553: Coordinated audits	−4	−5	−6	−6	−7
Sec. 554: Apportionment of provider costs	−75	(2)	(2)	(2)	(2)
Sec. 555: Inappropriate hospital services	−151	−230	−262	−297	−239

OUTLAY REDUCTIONS UNDER FINANCE COMMITTEE PROPOSALS FOR RECONCILIATION PROCESS FOR FISCAL YEAR 1981 BUDGET RESOLUTION, FISCAL YEARS 1981-85—Continued

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Sec. 556: PSRO review of hospital admissions routine tests and preoperative stays	−25	−65	−86	−102	−119
Sec. 557: Ambulatory surgery	−5	−15	−20	−25	−25
Sec. 558: Criteria for determining reasonable charge for physician services	−15	−20	−25	−25	−25
Sec. 559: Procedures for determining reasonable cost/charge (hospital-based physician and business services)	−25	−70	−91	−114	−140
Sec. 560: Outpatient services charge limit	−23	−26	−31	−36	−41
Sec. 561: Medicare liability in accident cases	−14	−32	−75	−135	−156
Sec. 562: Access to and purchase of medicaid services	−91	−227	−273	−314	−363
Sec. 553: Medicare hospital reimbursement: periodic interim payments (PIP)	−675	+682			
Sec. 564: Disallowance of certain State medicaid claims	−147	−83	−16	−18	−20
Sec. 565: Reimbursement under medicaid for skilled nursing and intermediate care facilities	−2	−2	−2	−2	−2
Sec. 567: Home health agency reimbursement limits	−73	−86	−99	−114	−131
Sec. 568: Calculating medicare reasonable charges	−147	−226	−231	−250	−279
G. Sec. 571: Transfer of funds to trust funds					
Total	−2,397	−1,860	−2,603	−3,405	−4,172

[1] Consistent with the reconciliation accounting system, the amounts shown for H.R. 3236 and H.R. 3434 are the gross savings of benefit reduction provisions rather than the net budgetary impact of the bills.

[2] No savings under First Budget Resolution economic assumptions.

[3] No estimate available.

V. Changes in Existing Law Made by Finance Committee Amendments

In conformance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Finance Committee amendments included in title V of the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic type, existing law in which no change is proposed is printed in roman type):

SOCIAL SECURITY ACT, AS AMENDED

* * * * *

TITLE II—FEDERAL OLD-AGE SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund

Section 201. (a) * * *

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i) (1), and of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) (A) ½ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, and (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, [(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported] *(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,* which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A) ⅜ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, and (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, [(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,] *(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985(L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,* which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

* * * * *

Old-Age and Surivors Insurance Benefit Payments

Old-Age Insurance Benefits

Sec. 202. (a) * * *

Child's Insurance Benefits

(d) (1) Every child (as defined in section 216(e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 223(d)) which began before he attained the age of 22, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding whichever of the following first occurs—

(D) the month in which such child dies, or marries,

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month,

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month; or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity, or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 223(d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 216(h)(2)(B) or section 216(h)(3) shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or stepmother at the time specified in paragraph (1)(C) if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 223(a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection, such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 223(a) or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A)(i) is a full time student or is under a disability (as defined in section 223(d)), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student, or (ii) the month in which he attains the age of 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer. *An individual shall not be considered a "full-time student" for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.*

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a nonaccredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his emtitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—

(A) An individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1)(C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D)(i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists as the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefit, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

(9)(A) A child who is a child of an individual under clause (3) of the first sentence of section 216(e) and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

* * * * *

Application for Monthly Insurance Benefits

(j)(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the [twelfth] *third* month immediately succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitlement to such benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such months or any subsequent month.

(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

(iv) As used in this subparagraph, the term "retroactive benefits" means benefits to which an individual becomes entitled or a month prior to the month in which application for such benefits is filed.

* * * * *

Other Definitions

Sec. 216. * * *

Disability; Period of Disability

(i)(1) Except for purposes of section 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), [and (5)] (5), *and (6)* of section 223(d) shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

Disability Insurance Benefit Payments *

Disability Insurance Benefits

Sec. 223. (a) * * *

Definition of Disability

(d)(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202 (e) or (f) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual) "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country;

(B) a widow, surviving divorced wife, or widower shall not be determined to be under a disability (for purposes of section 202 (e) or (f)) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203(f) (8) which is applicable to individuals described in subparagraph (D) thereof. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require.

Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

(6) (A) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission of a crime by an individual (committed after the date of the enactment of this paragraph) for which such individual is subsequently convicted, or which is aggravated in connection with such a crime (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

(B) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an offense (committed after the date of the enactment of this paragraph) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.

(e) No benefit shall be payable under subsection (d) (1) (B) (ii), (e) (1) (B) (ii), or (f) (1) (B) (ii) of section 202 or under subsection (a) (1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c) (4) (A).

Suspension of Benefits for Inmates of Penal Institutions

(f) (1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 202(d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.

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TITLE V—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

* * * * *

Approval of State Plans

Sec. 505. (a) * * *

(14) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan; [and]

(15) provides—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2); and

(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this title [.]*; and*

(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the portion of costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.

(b) The Secretary shall approve any plan which meets the requirements of subsection (a).

Payments

Sec. 506. (a) From the sums appropriated therefor and the allotments available under section 503(1) or 504(1), as the case may be, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing July 1, 1968, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan with respect to maternal and child health services and services for crippled children, respectively.

(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installations as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) The Secretary shall also from time to time make payments to the States from their respective allotments pursuant to section 503(2) or 504(2). Payments of grants under sections 503(2), 504(2), 508, 509, 510, and 511, and of grants, contracts, or other arrangements under section 512, may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the section involved.

(d) The total amount determined under subsections (a) and (b) and the first sentence of subsection (c) for any fiscal year ending after June 30, 1968, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum expended from such sources for such services for the fiscal year ending June 30, 1968. In the case of any such reduction, the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable from allotments under section 503 or section 504.

(e) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder from the allotments under section 503 or section 504 for any period atfer June 30, 1968, unless the State makes a satisfactory showing that it is extending the provisions of services, including services for dental care for children and family planning for mothers, to which such State's plan applies in the State with a view to making such services available by July 1, 1975 to children and mothers in all parts of the State.

(f) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under [the fourth and fifth sentences of section 1842(b)(3)] *subparagraphs (B)(ii), (B) (iii), (C), and (F) of section 1842(b)(4);* or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D),(E), or (F) of section 1866(b)(2); or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirement imposed by section 1861(k) for purposes of title XVIII; and if such hospital has in effect such a utilization review plan for purposes of title XVIII, such plan shall service as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph in any State if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k).

(g) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

(h) For additional exclusions from reasonable charge see section 1134.

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TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

* * * * *

Federal Advisory Council

Sec. 908. (a) The Secretary of Labor shall establish a Federal Advisory Council, of not to exceed 16 members including the chairman, for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations to him for improvement of the system.

(b) The Council shall be appointed by the Secretary without regard to the civil service laws and shall consist of men and women who shall be representatives of employers and employees in equal numbers, and the public.

(c) The Secretary may make available to the Council an Executive Secretary and secretarial, clerical, and other assistance, and such pertinent data prepared by the Department of Labor, as it may require to carry out its functions.

(d) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703(b) for persons in government service employed intermittently.

(e) The Secretary shall encourage the organization of similar State advisory councils.

(f) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each fiscal year thereafter such sums, not to exceed $100,000, as may be necessary to carry out the purposes of this section.

Federal Employees Compensation Account

Sec. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

PART A—GENERAL PROVISIONS

* * * * *

Limitation on Payments to Puerto Rico, the Virgin Islands, and Guam

Sec. 1108. (a) Except as provided in 2002 (a)(2)(C), the total amount certified by the Secretary of Health, Education and Welfare under title I, X, XIV, and XVI, and under parts A and E of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—

(1) for payment to Puerto Rico shall not exceed—

(A) $12,500,000 with respect to the fiscal year 1968,

(B) $15,000,000 with respect to the fiscal year 1969,

(C) $18,000,000 with respect to the fiscal year 1970,

(D) $21,000,000 with respect to the fiscal year 1971,

(E) $24,000,000 with respect to each of the fiscal years 1972 through 1978, [or]

[(F) $72,000,000 with respect to the fiscal year 1979 and each fiscal year thereafter;]

(F) $72,000,000 with respect to the fiscal year 1979.

(G) $36,000,000 with respect to the fiscal year 1980,

(H) $48,000,000 with respect to the fiscal year 1981, or

(I) $72,000,000 with respect to the fiscal year 1982 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—

(A) $425,000 with respect to the fiscal year 1968,

(B) $500,000 with respect to the fiscal year 1969,

(C) $600,000 with respect to the fiscal year 1970,

(D) $700,000 with respect to the fiscal year 1971,

(E) $800,000 with respect to each of the fiscal years 1972 through 1978, [or]

[(F) $2,400,000 with respect to the fiscal year 1979 and each fiscal year thereafter;]

(F) $2,400,000 with respect to the fiscal year 1979,

(G) $1,200,000 with respect to the fiscal year 1980,

(H) $1,600,000 with respect to the fiscal year 1981, or

(I) $2,400,000 with respect to the fiscal year 1982 and each fiscal year thereafter;

(3) for payment to Guam shall not exceed—

(A) $575,000 with respect to the fiscal year 1968,

(B) $690,000 with respect to the fiscal year 1969,

(C) $825,000 with respect to the fiscal year 1970,

(D) $960,000 with respect to the fiscal year 1971,

(E) $1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979, [or]

[(F) $3,300,000 with respect to the fiscal year 1979;]

(F) $3,300,000 with respect to the fiscal year 1979,

(G) $1,650,000 with respect to the fiscal year 1980,

(H) $2,200,000 with respect to the fiscal year 1981, or

(I) $3,300,000 with respect to the fiscal year 1982 and each fiscal year thereafter.

(b) The total amount certified by the Secretary under part A of title IV, on account of family planning services and services provided under section 402(a)(19) with respect to any fiscal year——

(1) for payment to Puerto Rico shall not exceed $2,000,000,

(2) for payment to the Virgin Islands shall not exceed $65,000, and

(3) for payment to Guam shall not exceed $90,000.

(c) The total amount certified by the Secretary under title XIX with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $30,000,000.

(2) for payment to the Virgin Islands shall not exceed $1,000,000, and

(3) for payment to Guam shall not exceed $900,000.

(d) Notwithstanding the provisions of section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1) of this Act as amended by the Social Security Amendments of 1967 and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam, American Samoa, and the Trust Territory of the Pacific Islands as he may deem appropriate.

* * * * *

Adjustment of Retroactive Benefits Under Title II on Account of Supplemental Security Income Benefits

Sec. 1127. Notwithstanding any other provision of this Act in any case where an individual—

(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93–66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.

Health Facilities Costs Commission

Sec. 1128. (a) There is established a commission to be known as the Health Facilities Costs Commission (hereinafter in this section referred to as the "Commission").

(b) (1) The Commission shall be composed of fifteen members appointed by the Secretary—

(A) at least five of whom shall be individuals who are representatives of providers;

(B) at least five of whom shall be individuals who represent public (including Federal, State, and local) health benefit programs; and

(C) the remainder of whom shall be, as a result of training, experience, or attainments, particularly and exceptionally well qualified to assist in serving and carrying out the functions of the Commission.

One of the members of the Commission, at the time of appointment, shall be designated as Chairman of the Comission. The Secretary shall first appoint members to the Commission no later than October 1, 1980.

(2) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(4) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(5) Members of the Commission shall be appointed for a term of four years, except that the Secretary shall provide for such shorter terms for some of the members first appointed so as to stagger the date of expiration of members' terms of office.

(6) No individual may be appointed to serve more than two terms as a member of the Commission.

(7) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance of service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(8) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(c) (1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of the reimbursement of hospitals for care provided by them to individuals covered under title XVIII or under State plans approved under title XIX, with particular attention to the criteria established by section 1861(bb) with a view to devising additional methods for reimbursing hospitals for all other costs, and for reimbursing all other entities which are reimbursed on the basis of reasonable cost. These methods shall provide for appropriate classification and reimbursement systems designed to ordinarily permit comparisons of (A) the cost centers of one entity, either individually or in the aggregate, with cost centers similar in terms of size and scale of operation, (B) prevailing wage levels, (C) the nature, extent, and appropriate volume of the services furnished, and (D) other factors which have a substantial impact on hospital costs. The Commission shall also develop procedures for appropriate exceptions. The Commission shall submit to the Congress reports on its progress in addressing these issues at least once every six months during the three-year period following the date of the enactment of this section.

(2) The Commission shall study appropriate methods for classifying and comparing hospitals which, with respect to any accounting year, derive 75 percent or more (as estimated by the Secretary) of their inpatient care revenues from one or more health maintenance organizations. The Commission shall consider recommending the classification and comparison of such hospitals as a separate category in recognition of the differences in the nature of their operations as compared with other hospitals.

(3) (A) The Secretary, taking account of the proposals and advice of the Commission, shall by regulation make appropriate modifications in the method of reimbursement under titles V, XVIII, and XIX for routine hospital costs, other hospital costs, and costs of other entities which are reimbursed on the basis of reasonable costs.

(B) In any case in which the Secretary proposes to make such modifications, he shall first submit such proposal to the Commission. If the Commission disagrees with such proposal, final regulations implementing such proposal shall be submitted to Congress by the Secretary, and such regulations may not become effective until at least 60 days after they were submitted to Congress.

(4) The Commission shall review and make recommendations with respect to a method of classifying and comparing detoxification facilities so as to provide that such method may be used for reimbursement purposes for such facilities within two years after the date of the enactment of this section.

(5) The Commission shall give immediate priority to making a study and submitting recommendations to the Secretary with respect to the setting of limitations on reasonable costs and reasonable charges for outpatient services as provided in section 1134 (c).

(d) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may need.

(e) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(f) There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) Section 14 of the Federal Advisory Committee Act shall not apply to the Commission.

Payments to Promote Closing and Conversion of Underutilized Facilities

Sec. 1129. (a) (1) (B) Before the end of the third full month following the month in which this section is enacted, the Secretary shall establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the "Board"). The Board shall have five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who are knowledgeable about hospital planning and hospital operations.

(B) Members of the Board shall be appointed for three-year terms, except some initial members shall be appointed for shorter terms to permit staggered terms of office.

(C) Members of the Board shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent at the time the service involved is rendered for grade GS–18 under section 5332 of title 5, United States Code.

(D) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Board may need.

(2) The Board shall receive and act upon applications by hospitals, certified for participation (other than as "emergency hospitals") under titles XVIII and XIX, for transitional allowances.

(b) For purposes of this section—

(1) The term "transitional allowance" means an amount which—

(A) shall, solely by reason of this section, be included in a hospital's reasonable cost for purposes of calculating payments under the programs authorized by titles V, XVIII, and XIX of this Act; and

(B) in accordance with this section, is established by the Secretary for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) experienced because of a qualified facility conversion (as defined in paragrayh (2)).

(2) The term "qualified facility conversion" means closing, modifying, or changing the usage of an underutilized hospital facility which is expected to benefit the programs authorized under title V, title XVIII, and title XIX by (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources, or (C) substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency.

(3) A hospital which has carried out a qualified facility conversion and which continues in operation will be regarded as having experienced a "reimbursement detriment"—

(A) to the extent that, solely because of the conversion, there is a reduction in that portion of the hospital's costs attributable to capital assets which are taken into account in determining reasonable cost for purposes of determining amount of payment to the hospital under title V, title XVIII, or a State plan approved under title XIX;

(B) if the conversion results, on an interim basis, in increased operating costs, to the extent that operating costs exceed amounts ordinarily reimbursable under title V, title XVIII, and the State plan approved under title XIX; or

(C) in the case of complete closure of a private nonprofit hospital, or local governmental hospital, other than for replacement of the hospital, to the extent of actual debt obligations previously recognized as reasonable for reimbursement, where the debt remains outstanding, less any salvage value.

(c)(1) Any hospital may file an application with the Board (in such form and including such data and information as the Board, with the approval of the Secretary, may require) for a transitional allowance with respect to any qualified conversion which is formally initiated after September 30, 1980. The Board, with the approval of the Secretary, may also establish procedures, consistent with this section, by means of which a finding of a reimbursement detriment may be made prior to the actual conversion.

(2) The Board shall consider any application filed by a hospital, and if the Board finds that—

(A) the facility conversion is a qualified facility conversion, and

(B) the hospital is experiencing or will experience a reimbursement detriment because it carried out the qualified facility conversion,

the Board shall transmit to the Secretary its recommendation that the Secretary establish a transitional allowance for the hospital in amounts reasonably related to prior or prospective use of the facility under titles V and XVIII and the State plan approved under title XIX, for a period, not to exceed twenty years as specified by the Board, and, if the Board finds that the criteria in subparagraphs (A) and (B) are not met, it shall advise the Secretary not to establish a transitional allowance for that hospital. For an approved closure under subsection (b)(3)(C) the Board may recommend or the Secretary may approve, a lump-sum payment in lieu of periodic allowances, where such payment would constitute a more efficient and economic alternative.

(3)(A) The Board shall notify a hospital of its findings and recommendations.

(B) A hospital dissatisfied with a recommendation may obtain an informal or formal hearing, at the discretion of the Secretary, by filing (in the form and within a time period established by the Secretary) and a request for a hearing.

(4)(A) Within thirty days after receiving a recommendation from the Board respecting a transitional allowance or, if later, within thirty days after a hearing, the Secretary shall make a final determination whether, and if so in what amount and for what period of time, a transitional allowance will be granted to a hospital. A final determination of the Secretary shall not be subject to judicial review.

(B) The Secretary shall notify a hospital and any other appropriate parties of the determination.

(C) Any transitional allowance shall take effect on a date prescribed by the Secretary, but not earlier than the date of completion of the qualified facility conversion. A transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by the hospital in providing services for which payment is authorized under this Act, except that the transitional allowance shall not be considered in applying limits to costs recognized as reasonable pursuant to the third sentence of section 1861(v)(1) and section 1861(bb) of this Act, or in determining the amount to be paid to a provider pursuant to section 1814(b), section 1833(a)(2), section 1903(i)(3), and section 506(f)(3) of this Act.

(d) In determining the reasonable cost incurred by a hospital with respect to which payment is authorized under a State plan approved under title V or title XIX, any transitional allowance shall be included as an allowable cost item.

(e)(1) The Secretary is authorized to establish transitional allowances only as provided in paragraphs (2) and (3).

(2) Prior to January 1, 1983, the Secretary is authorized to establish a transitional allowance for not more than fifty hospitals.

(3) On and after January 1, 1983, the Secretary is authorized to establish a transitional allowance for any hospital which qualifies for such an allowance under the provisions of this section.

(4) On or before January 1, 1982, the Secretary shall report to the Congress evaluating the effectiveness of the program established under this section including appropriate recommendations.

Coordinated Audits

Sec. 1130. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall apportion to the program established under title V or XIX that part of the cost of coordinated audits which is attributable to each such program and which would not have otherwise been incurred in an audit of the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that represents the duplication of costs resulting from such State's failure to participate in the common audit.

* * * * *

Exclusion of certain items in determining reasonable cost and reasonable charge

Sec. 1134. (a) Except as otherwise provided in subsection (b), in determining the amount of any payment under title XVIII, under a program established under title V, or under a State plan approved under title XIX of this Act, when the payment is based upon the reasonable cost or reasonable charge, no element comprising any part of the cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

(1) a commission, finder's fee, or for a similar arrangement, or

(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement,

which is, directly or indirectly, determined, wholly or in part as a percentage, fraction, or portion of the charge or cost attributed to any health service (other than the element) or any health service including, but not limited to, the element.

(b)(1) The Secretary shall by regulations establish exceptions to the provisions of subsection (a) with respect to any element of cost or charge which consists of payments based on a percentage arrangement, if such element is otherwise reasonable and the percentage arrangement—

(A) is a customary commercial business practice, or

(B) provides incentives for the efficient and economical operation of the health service.

(2) The provisions of subsection (a) shall not be applicable to compensation payable to a physician under a percentage arrangement (including an arrangement that relates to compensation for supervisory, executive, educational, or research activity) between a physician and a hospital if the physician shows (to the satisfaction of the Secretary) that compensation under such arrangement does not exceed, on an annual basis, an amount which would reasonably have been paid to the physician under a relative value schedule which takes into consideration such physician's time and effort, consistent with the inherent complexity of the procedures and services.

(c) The Secretary shall issue regulations that provide for the establishment of limitations on the amount of any costs or charges that shall be considered reasonable with respect to services provided on an outpatient basis by hospitals, community health centers, or clinics (other than rural health clinics), which are reimbursed on a cost basis or on the basis of cost related charges, and by physicians utilizing such outpatient facilities. Such limitations shall be based upon the reasonableness of such costs or charges in relation to the reasonable charges of physicians in the same area for similar services provided in their offices.

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Part B—Professional Standards Review

Duties and Functions of Professional Standards Review Organizations

Sec. 1155. (a)(1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services (except as provided in paragraph (7)) in the provision of health care services and items for which payment may be made (in whole or in part) under this Act for the purpose of determining whether—

(A) such services and items are or were medically necessary;

(B) the quality of such services meets professionally recognized standards of health care; and

(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided on an outpatient basis or more economically in an inpatient health care facility of a different type.

In carrying out the provisions of this paragraph such organization shall give priority to making such determinations with respect to routine hospital admission testing, preoperative hospital stays in excess of one day, and elective admissions on weekends or other times when services are not available.

(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

(A) any elective admission to a hospital, or other health care facility, or

(B) any other health care service which will consist of extended or costly courses of treatment,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in clauses (A) and (C) of paragraph (1).

(3) Each Professional Standards Review Organization shall, in accordance with regulations of the Secretary, determine and publish, from time to time, the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order most effectively to carry out the purposes of this part, exercise the authority conferred upon it under paragraph (2).

(4) Each Professional Standards Review Organization shall be responsible for the arranging for the maintenance of and the regular review of profiles of care and services received and provided with respect to patients, utilizing to the greatest extent prac-

ticable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation consistent with the purposes of this part. Profiles shall also be regularly reviewed on an ongoing basis with respect to each health care practitioner and provider to determine whether the care and services ordered or rendered are consistent with the criteria specified in clauses (A), (B), and (C) of paragraph (1).

(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization.

(6) No physician shall be permitted to review—

(A) health care services provided to a patient if he was directly responsible for providing such services, or

(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significance financial interest in such institution, organization, or agency.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

(7)(A) Except as provided in subparagraph (B), a Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if (i) the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, or (ii) the State requests such organization to assume such responsibility.

(B) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities in the State that are also skilled nursing facilities (as defined in section 1861 (j)), to the extent that the Secretary finds that the performance of such function by the single State agency (described in subparagraph (A)) for that State is inefficient.

* * * * *

(h) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.

* * * * *

Requirement of Review Approval as Condition of Payment of Claims

Sec. 1158 (a) Except as provided for in section 1159 and [subsection (d)] *subsections (d) and (e)*, no Federal funds appropriated under any title of this Act (other than title V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such title or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

(1) the provision of such services or items is subject to review under this part by any Professional Standards Review Organization, or other agency; and

(2) such organization or other agency has, in the proper exercise of its duties and functions under or consistent with the purposes of this part, disapproved of the services or items giving rise to such claim, and has notified the practitioner or provider who provided or proposed to provide such services or items and the individual who would receive or was proposed to receive such services or items of its disapproval of the provision of such services or items.

(b) Whenever any Professional Standards Review Organization, in the discharge of its duties and functions as specified by or pursuant to this part, disapproves of any health care services or items furnished or to be furnished by any practitioner or provider, such organization shall, after notifying the practitioner, provider, or other organization or agency of its disapproval in accordance with subsection (a), promptly notify the agency or organization having responsibility for acting upon claims for payment for or on account of such services or items.

(c) Where a Professional Standards Review Organization (Whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single agencies administering or supervising the administration of State plans approved under title XIX.

(d) [In any case] *(1) Except as provided in subsection (e) and paragraph (2) of this subsection, in any case* in which a Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.

(2) A Professional Standards Review Organization shall not disapprove (under subsection (a)) of inpatient hospital services provided under a title of this Act to an individual on the grounds that such individual could receive appropriate and necessary medical nursing, or other care more economically in an inpatient facility or home care program of another type for which payment can be made under such title (but shall maintain and make public a quarterly report to the Secretary by hospital and area as to the number of cases and hospital days which except for this paragraph, would have otherwise been disapproved) if—

(A) there is no excess of inpatient hospital beds adjusting for patients occupying hospital beds who do not need that level of care) in the geographic area in which the hospital is located (certified by the State or local health planning agency or health systems agency); and

(B) there is no such other type of facility or home care program available to such individual to provide appropriate care for which payment can be made under such title.

(e)(1) If, for purposes of payment under a title of this Act as described in subsection (a), the Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services provided by a hospital to an individual on the grounds that such individual could receive appropriate and necessary medical, nursing, or other care more economically in an inpatient facility of another type or home care program, and such organization finds that—

(A) payment is authorized to be made under or pursuant to such title of this Act (as described in subsection (a)) with respect to services furnished to such individual in such other type of facility or home care program; and

(B) there is no such other type of facility or home care program available to such individual,

then payment, from funds described in subsection (a), to such hospital may continue to be made (but at a rate determined under paragraph (2)) for days (in a continuous period of days which begins with the day following the last day for which payment may be made, with application of subsection (d), for such inpatient hospital services furnished to such individual) with respect to which such individual meets the conditions specified in subparagraphs (A) and (B).

(2)(A) The rate at which payment may be continued under paragraph (1) shall be a rate equal to the estimated average rate per patient-day paid for services provided in such other type of facility under the State plan approved under title XIX of the State in which such hospital is located, or, if less, the reasonable reimbursement allowed to such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

(B) In the case of a State that does not have a State plan approved under title XIX, the rate at which payment may be continued under paragraph (1) shall be a rate equal to the estimated average rate per patient-day for services provided in such other type of facility under title XVIII in the State in which such hospital is located, or, if less, the rate in effect for such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

(3) Any day on which an individual receives inpatient hospital services for which payment is made at a lower rate on account of the provisions of this subsection shall, for purposes of this Act, be deemed to be a day on which he received the type of services provided by such other type of facility or home care program.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

Resources

Exclusions From Resources

Sec. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan;

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act; and

(6) assistance referred to in section 1612 (b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1612(b)(12).

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

Disposition of Resources

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

Disposal of Resource for Less Than Fair Market Value

(c)(1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

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Part A—Hospital Insurance Benefits for the Aged and Disabled Description of Program

Sec. 1811. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the costs of hospital and related post-hospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system, (2) individuals under age 65 who have been entitled for not less than 24 months to benefits under title II of this Act or under the railroad retirement system on the basis of a disability, and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

Scope of Benefits

Sec. 1812. (a) The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

(1) inpatient hospital services for up to 150 days during any spell of illness minus one day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services for up to 100 days during any spell of illness; [and]

(3) post-hospital home health services for up to 100 visits (during the one-year period described in section 1861(n)) after the beginning of one spell of illness and before the beginning of the next [.]; *and*

(4) *detoxification facility services.*

* * * * *

Conditions of and Limitations on Payment for Services

Requirement of Requests and Certifications

Sec. 1814. (a) Except as provided in subsections (d) and (g) and in section 1876, payment for services furnished an individual may be made only to providers of services which are eligible therefor under section 1866 and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year;

(2) physician certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

(B) in the case of inpatient tuberculosis hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of an individual for tuberculosis; and such treatment can or could reasonably be expected to (i) improve the condition for which such treatment is or was necessary or (ii) render the condition noncommunicable;

(C) in the case of post-hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

(D) in the case of post-hospital home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1861 (m)(7)) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) or post-hospital extended care services; a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual was under the care of a physician; [or]

(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services; *or*

(F) in the case of detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initiation of detoxification);

(3) with respect to inpatient hospital services (other than inpatient psychiatric hospital services and inpatient tuberculosis hospital services) which are furnished over a period of time, a physician certifies that such services are required to be given on an inpatient basis for such individual's medical treatment, or that inpatient diagnostic study is medically required and such services are necessary for such purpose, except that (A) such certification shall be furnished only in such cases, with such frequency, and accompanied by such supporting material, appropriate to the cases involved, as may be provided by regulations, and (B) the first such certification required in accordance with clause (A) shall be furnished no later than the 20th day of such period;

(4) in the case of inpatient psychiatric hospital services, the services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving (A) intensive treatment services, (B) admission and related services necessary for a diagnostic study, or (C) equivalent services;

(5) in the case of inpatient tuberculosis hospital services, the services are those which

the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to (A) improve his condition or (B) render it noncommunicable;

(6) with respect to inpatient hospital services furnished such individual after the 20th day of a continuous period of such services and with respect to post-hospital extended care services furnished after such day of a continuous period of such services as may be prescribed in or pursuant to regulations, there was not in effect, at the time of admission of such individual to the hospital or skilled nursing facility, as the case may be, a decision under section 1866(d) (based on a finding that utilization review of long-stay cases is not being made in such hospital or facility); and

(7) with respect to inpatient hospital services or post-hospital extended care services furnished such individual during a continuous period, a finding has not been made (by the physician members of the committee or group, as described in section 1861(k)(4), including any finding made in the course of a sample or other review of admissions to the institution) pursuant to the system of utilization to review that further inpatient hospital services or further post-hospital extended care services, as the case may be, are not medically necessary; except that, if such a finding has been made, payment may be made for such services furnished before the 4th day after the day on which the hospital or skilled nursing facility, as the case may be, received notice of such finding.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician makes certification of the kind provided in subparagraph (A), (B), (C), (D), or (E) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations.

* * * * *

Use of Carriers for Administration of Benefits

Sec. 1842.(a) * * *

(b)(1) * * *

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under Section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1870(f)) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service (except in the case of physicians' services and ambulance service furnished as described in section 1862(a)(4), other than for purposes of section 1870(f) and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1862, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title;

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; [and]

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part; *and*

(F) will take such action as may be necessary to assure that where payment under this part for a service rendered in a particular month is on a charge basis, such payment shall be determined on the basis of the charge that is determined to be reasonable for such month in accordance with this part (except that in the case of a service which was rendered prior to the beginning of the calendar year preceding the year in which the bill is submitted, or request for payment is made, with respect to such service, payment shall be determined on the basis of the charge that is determined to be reasonable in accordance with this part for the first month of such preceding year);

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. [In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

[No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the twelve-months period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary. The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the twelve-month period beginning on July 1 in any calendar year after 1974 shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similiar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.]

(4)(A) In determining the reasonable charge for services for purposes of paragraph (3) (including the services of any hospital-associated physicians), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the [fiscal year in which the bill is submitted or the request for payment is made] fiscal year in which the service is rendered.

(ii) In the case of physician services, the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Moreover, for any twelve-month period beginning on July 1 of any year (beginning with 1980), no prevailing charge level for physicians' services shall be increased to the extent that it would exceed by more than one-third the statewide prevailing charge level as determined under subparagraph (E)) for that service.

(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

(C) In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s) (6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

(D) The requirement in paragraph (3)(B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health and Human Services performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

(E) The Secretary shall determine separate statewide prevailing charge levels for each State that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 50 percent of the customary charges made for similar services in the State during the last preceding calendar year elapsing prior to the start of the [fiscal year in which the bill is submitted or the request for payment is made] fiscal year in which the service is rendered. In States with more than one carrier, the statewide prevailing charge level shall be the weighted average of the fiftieth percentiles of the customary charges of each carrier.

(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge if—

(i) the service or procedure is performed in an area which the Secretary has designated as a physicial shortage area,

(ii) the physician has a regular practice in the physician shortage area,

(iii) the charge does not exceed the prevailing charge level as determined under subparagraph (B), and

(iv) the charge does not exceed the amount generally charged by such physician for similar services.

(G) For additional exclusions from reasonable cost and reasonable charge see section 1134.

[(4)]*(5)* Each contract under this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as he may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the insurance program established by this part.

[(5)]*(6)* No payment under this part for a service provided to any individual shall (except as provided in section 1870) be made to anyone other than such individual or (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) the physician or other person who provided the service, except that payment may be made (A) to the employer of such physician or other person if such physician or other person is required as a condition of his employment to turn over his fee for such service to his employer, or (B) (where the service was provided in a hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service. No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.

* * * * *

Appropriations To Cover Government Contributions and Contingency Reserve

Sec. 1844. (a) There are authorized to be appropriated from time to time out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund—

(1)(A) A Government contribution equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee age 65 and over as determined under section 1839(c)(1) for such month, minus the dollar amount of the premium per enrollee for such month as determined under section 1839(c)(3), to

(ii) the dollar amount of the premium per enrollee for such month, plus

(B) a Government contribution equal to the aggregate premiums payable for a month for enrollees under age 65 under this part and deposited in the Trust Fund, multiplied by the ratio of—

(i) twice the dollar amount of the actuarially adequate rate per enrollee under age 65 as determined under section 1839(c)(4) for such month, minus the dollar amount of the premium per enrollee for such month, as determined under section 1839(c)(3), to

(ii) the dollar amount of the premium per enrollee for such month.

(2) such sums as the Secretary deems necessary to place the Trust Fund, at the end of any fiscal year occurring after June 30, 1967, in the same position in which it would have been at the end of such fiscal year if (A) a Government contribution representing the excess of the premiums deposited in the Trust Fund during the fiscal year ending June 30, 1967, over the Government contribution actually appropriated to the Trust Fund during such fiscal year had been appropriated to it on June 30, 1967, and (B) the Government contribution for premiums deposited in the Trust Fund after June 30, 1967, had been appropriated to it when such premiums were deposited.

(b) In order to assure prompt payment of benefits provided under this part and the administrative expenses thereunder during the early months of the program established by this part, and to provide a contingency reserve, there is also authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1969 for repayment advances (without interest) to the Trust Fund, an amount equal to $18 multiplied by the number of individuals (as estimated by the Secretary) who could be covered in July 1966 by the insurance program established by this part if they had theretofore enrolled under this part.

Special Provisions Relating to Certain Surgical and Preoperative Procedures Performed on an Ambulatory Basis

Sec. 1845 (a) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those surgical procedures which can be safely and appropriately performed either in a hospital on an inpatient basis or on an ambulatory basis—

(1) in a physician's office; or

(2) in an ambulatory surgical center or hospital.

(b)(1) If a physician performs in his office a surgical procedure specified by the Secretary pursuant to subsection (a)(1) on an individual insured for benefits under this part, he shall, notwithstanding any other provision of this part, be entitled to have payment made under this part equal to—

(A) 100 percent of the reasonable charge for the services involved with the performance of such procedure (including all pre- and post-operative physicians' services performed in connection therewith), plus

(B) the amount established by the Secretary pursuant to paragraph (2),

but only if the physician agrees with such individual to be paid on the basis of an assignment under the terms of which the reasonable charge for such services is the full charge therefor.

(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(1), an amount established with a view to according recognition to the special costs, in excess of usual overhead, which physicians incur which are attributable to securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and to assuring that the performance of such procedure in the physician's office will involve substantially less total cost than would be involved if the procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure periodically shall be reviewed and revised and may be adjusted, when appropriate, by the Secretary to take account of varying conditions in different areas.

(c)(1) Payment under this part may be made to an ambulatory surgical center for ambulatory facility services furnished in connection with any surgical procedure, specified by the Secretary pursuant to subsection (a) (2), which is performed on an individual insured for benefits under this part in an am-

bulatory surgical center, which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, if such surgical center agrees to accept, in full payment of all services furnished by it in connection with such procedure, the amount established for such procedure pursuant to paragraph (2).

(2) *The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection* (a)(2), *a reimbursement amount which is payable to an ambulatory surgical center for its services furnished in connection with such procedure. The amount established for any such surgical procedure shall be established with a view to according recognition to the costs incurred by such centers generally in providing the services involved in connection with such procedure, and to assuring that the performance of such procedure in such a center involves less cost than would be involved if such procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.*

(3) *If the physician, performing a surgical procedure (specified by the Secretary under subsection* (a)(2)), *in a hospital on an outpatient basis or in an ambulatory surgical center with respect to which payment is authorized under the preceding provisions of this subsection, or a physician performing physicians' services in such center or hospital directly related to such surgical procedure, agrees to accept as full payment for all services performed by him in connection with such procedure (including pre- and post-operative services) an amount equal to 100 percent of the reasonable charge for such services, he shall be paid under this part for such services an amount equal to 100 percent of the reasonable charge for such services.*

(*d*)(*1*) *The Secretary is authorized by regulations to provide that in case a surgical procedure specified by the Secretary pursuant to subsection* (a)(2) *is performed on an individual insured for benefits under this part in an ambulatory surgical center which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, there shall be paid with respect to the services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to paragraph* (2), *if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.*

(2) *In implementing this subsection, the Secretary shall establish with respect to each surgical procedure specified pursuant to subsection* (a)(2) *the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted, when appropriate, to take account of varying conditions in different areas.*

(*e*)(*1*) *The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those preoperative medical and other health services which can be safely and appropriately performed in a hospital on both an inpatient and outpatient basis.*

(2) *If a physician, performing a preoperative service (specified by the Secretary under paragraph* (*1*)) *in a hospital on an outpatient basis, within seven days prior to admission on an inpatient basis for the surgery to which such service relates, agrees to accept as full payment for such service an amount equal to 100 percent of the reasonable charge for such service, he shall be paid under this part for such service an amount equal to 100 percent of the reasonable charge for such service.*

(*f*) *The provisions of sections 1833* (*a*) *and* (b) *shall not be applicable to expenses attributable to services to which subsection* (*b*) *is applicable, to ambulatory facility services (furnished by an ambulatory surgical center) to which the provisions of subsections* (*c*) (*1*) *and* (*2*) *are applicable, or to services to which the provisions of subsection* (*c*)(*3*), (*d*), *or* (*e*) *are applicable.*

Part C—Miscellaneous Provisions

Definition of Services, Institutions, etc.

Sec. 1861. * * *

Provider of Services

(u) The term "provider of services" means a hospital, skilled nursing facility, home health agency, *detoxification facility*, or, for purposes of section 1814(g) and section 1835 (e), a fund.

Reasonable Cost

(v)(1)(A) [The] *Subject to subsection* (*bb*), the reasonable cost of any services shall be the cost actually incurred, excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonable based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this title, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (i) take into account both direct and indirect costs of providers of services (excluding therefrom any such costs, including standby costs, which are determined in accordance with regulations to be unnecessary in the efficient delivery of services covered by the insurance programs established under this title) in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered services to individuals covered by the insurance programs established by this title will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (ii) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

(B) Such regulations in the case of extended care services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

(C) Where a hospital has an arrangement with a medical school under which the faculty of such school provides services at such hospital, an amount not in excess of the reasonable cost of such services to the medical school shall be included in determining the reasonable cost to the hospital of furnishing services—

(i) for which payment may be made under part A, but only if

(I) payment for such services as furnished under such arrangement would be made under part A to the hospital had such services been furnished by the hospital, and

(II) such hospital pays to the medical school at least the reasonable cost of such services to the medical school, or

(ii) for which payment may be made under part B, but only if such hospital pays to the medical school at least the reasonable cost of such services to the medical school.

(D) Where (i) physicians furnish services which are either inpatient hospital services (including services in conjunction with the teaching programs of such hospital) by reason of paragraph (7) of subsection (b) or for which entitlement exists by reason of clause (II) of section 1832(a)(2)(B) (i) and (ii) such hospital (or medical school under arrangement with such hospital) incurs no actual cost in the furnishing of such services, the reasonable cost of such services shall (under regulations of the Secretary) be deemed to be the cost such hospital or medical school would have incurred had it paid a salary to such physicians rendering such services approximately equivalent to the average salary paid to all physicians employed by such hospital (or if such employment does not exist, or is minimal in such hospital, by similar hospitals in a geographic area of sufficient size to assure reasonable inclusion of sufficient physicians in development of such average salary).

(E) Such regulations may, in the case of skilled nursing facilities in any State, provide for the uses of rates, developed by the State in which such facilities are located, for the payment of the cost of skilled nursing facility services furnished under the State's plan approved under title XIX (and such rates may be increased by the Secretary on a class or size of institution or on a geographical basis by a percentage factor not in excess of 10 percent to take into account determinable items or services or other requirements under this title not otherwise included in the computation of such State rates), if the Secretary finds that such rates are reasonably related to (but not necessarily limited to) analyses undertaken by such State of costs of care in comparable facilities in such State; except that the foregoing provisions of this subparagraph shall not apply to any skilled nursing facility in such State if—

(i) such facility is a distinct part of or directly operated by a hospital, or

(ii) such a facility operates in a close, formal satellite relationship (as defined in regulations of the Secretary) with a participating hospital or hospitals.

Notwithstanding the previous provisions of this paragraph in the case of a facility specified in clause (ii) of this subparagraph, the reasonable cost of any services furnished by such facility as determined by the Secretary under this subsection shall not exceed 150 percent of the costs determined by the application of this subparagraph (without regard to such clause (ii)).

(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.

(G) *No payment with respect to a cost attributable to the program established by this title shall be made to a provider of services to the extent that such payment exceeds the proportional share of such cost, as measured by days of utilization or provider charges, until such time as evidence can be produced which, in the judgment of the Comptroller General and concurred in by the Secretary, justifies payment of such a higher proportional share as warranted under particular circumstances for certain facilities, and such payments may then be made only to the extent so justified.*

(H)(i) Such regulations shall provide that the cost per visit for each of the different types of visits a home health agency provides shall not be considered to be reasonable to the extent that it exceeds an amount that would cover 75 percent of the average per visit costs for such visits (weighted on the basis of the number of visits rendered) incurred by home health agencies which are determined to be comparable by the Secretary.

(ii) Such regulations shall require that in the case of visits by a skilled nurse or home health aide, the costs incurred by a health agency for such visits shall not be considered reasonable to the extent that the cost of any such visit exceeds the per diem rate paid, in the State where such agency is located, under the State's plan approved under title XIX of this Act for skilled nursing facility services in the area. In making such determination, in the case of a hospital-based home health agency, the comparison shall be made to the per diem rate for hospital-based skilled nursing facilities, and in the case of other home health agencies the comparison shall be made to the per diem rate for nonhospital-based skilled nursing facilities. In the case of a State which does not have a plan approved under title XIX, the per diem rate for skilled nursing facilities under this title shall be used in lieu of the per diem rate under such a State plan.

(iii) Any supervisory visit which is specifically required by regulations shall be reimbursable as a home health aide visit (but shall not count as a visit for purposes of determining a particular beneficiary's eligibility for visits). Any initial patient assessment visit shall be a reimbursable visit notwithstanding a determination of ineligibility following such visit, if there was a reasonable basis for assumng potential eligibility, such as a referral from a discharge planner, physician, or other source qualified as being knowledgeable with respect to the beneficiary and the program under this title.

(iv) Such regulations may provide for appropriate exceptions and adjustments on an agency by agency basis where warranted by unusual circumstances.

Certification and Approval of Skilled Nursing Facilities

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this title with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this title furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this title, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or skilled nursing facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) If a provider of services furnishes items or services to an individual which are in excess of or more expensive than the items or services determined to be necessary in the efficient delivery of needed health services and charges are imposed for such more expensive items or services under the authority granted in section 1866(a)(2)(B)(ii), the amount of payment with respect to such items or services otherwise due such provider in any fiscal period shall be reduced to the extent that such payment plus such charges exceed the cost actually incurred for such items or services in the fiscal period in which such charges are imposed.

(5)(A) Where physical therapy services, occupational therapy services, speech therapy services, or other therapy services or services of other health-related personnel (other than physicians) are furnished under an arrangement with a provider of services or other organizations, specified in the first sentence of section 1861(p) the amount included in any payment to such provider or other organization under this title as the reasonable cost of such services (as furnished under such arrangements) shall not exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the provider or other organization) to the person performing them if they had been performed in an employment relationship with such provider or other organization (rather than under such arrangement) plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such therapy) incurred by such person, as the Secretary may in regulations determine to be appropriate.

(B) Notwithstanding the provisions of subparagraph (A), if a provider of services or other organization specified in the first sentence of section 1861(p) requires the services of a therapist on a limited part-time basis, or only to perform intermittent services, the Secretary may make payment on the basis of a reasonable rate per unit of service, even though such rate is greater per unit of time than salary related amounts, where he finds that such greater payment is, in the aggregate, less than the amount that would have been paid if such organization had employed a therapist on a full- or part-time salary basis.

(6) For purposes of this subsection, the term "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

(7) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

(8) For additional requirements applicable to determination of reasonable cost, see subsection (bb) and section 1128(c)(3).

(9) For additional exclusions from reasonable cost and reasonable charge see section 1134.

* * * * *

Criteria for Determining Reasonable Cost of Hospital Services

(bb)*(1) It is the purpose of this subsection to set forth initial methods and criteria for determining reimbursement based upon reasonable cost, but such methods and criteria shall be subject to appropriate modification by the Secretary as provided in section 1128. In order more fairly and effectively to determine reasonable costs incurred in providing hospital services, the Secretary shall, not later than September 1, 1980, after consulting with appropriate national organizations, establish a system of hospital classification under which hospitals furnishing services will be classified on a national basis initially.*

(A) by size, with each of the following groups of hospitals being classified in separate categories: (i) those having more than 5, but fewer than 25, beds, (ii) those having more than 24 but fewer than 50, beds, (iii) those having more than 49, but fewer than 100, beds, (iv) those having more than 99, but fewer than 200, beds, (v) those having more than 199, but fewer than 300, beds, (vi) those having more than 299, but fewer than 400, beds, (vii) those having more than 399, but fewer than 500, beds, and (viii) those having more than 499 beds;

(B) by type of hospital with (i) short-term general hospitals being in a separate category, (ii) hospitals which are primary affiliates of accredited medical schools being in one separate category, and (iii) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine appropriate, in light of any differences in specialty which significantly affect the routine costs of the different types of hospitals;

(C) as rural or urban; and

(D) according to such other criteria as the Secretary finds appropriate, including modification of bed-size categories;

but the system of hospital classification shall not differentiate between hospitals on the basis of ownership.

(2) The term "routine operating costs" used in this subsection does not include—

(A) capital and related costs,

(B) direct personnel and supply costs of approved hospital education and training programs,

(C) costs of interns, residents, and nonadministrative physicians,

(D) energy costs,

(E) malpractice insurance expense, or

(F) ancillary service costs,

(3)(A) During the calendar quarter beginning on January 1 of each year, beginning

with 1981 (and in the case of 1980, as soon as possible), the Secretary shall determine, for the hospitals in each category of the system established under paragraph (1), an average per diem routine operating cost amount which shall (except as otherwise provided in this subsection) be used in determining payments to hospitals.

(B) The determination shall be based upon the amount of the hospital's routine operating costs for the most recent accounting year ending prior to October 1 of the calendar year preceding the calendar year in which the determination is made. If, for any accounting year which starts on or after July 1, 1980, a hospital's actual routine operating costs are in excess of the amount allowed for purposes of determining payment to the hospital pursuant to this subsection and subsection (v), only one-half of such excess shall be taken into account in making any determination which the Secretary shall make under this paragraph. Such amount as determined under the preceding sentences of this subparagraph shall be adjusted to reflect the percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the accounting year referred to in the first sentence of this subparagraph to the end of the quarter in which the determination is being made.

(C) In making a determination, the routine operating costs of hospitals in each category shall be divided into personnel and nonpersonnel components.

(D)(i) The personnel and nonpersonnel components of routine operating costs for hospitals in each category (other than for those excluded under clause (ii)) shall be divided by the total number of days of routine care provided by such hospitals to determine the average per diem routine operating cost for such category.

(ii) In making the calculations required by subparagraph (A) the Secretary shall exclude any newly opened hospital (as defined in the second sentence of paragraph (4)(F)), and any hospital which he determines is experiencing significant cost differentials resulting from failure of the hospital fully to meet the standards and conditions of participation as a provider of services.

(E) There shall be determined for each hospital in each category a per diem target rate for routine operating costs. Such target rate shall equal the average per diem routine operating cost amount for the category in which the hospital is expected to be classified during the subsequent accounting year, except that the personnel component shall be adjusted using a wage index based upon general wage levels for reasonably comparable work in the areas in which the hospitals are located. If the Secretary finds that, in an area where a hospital in any category is located for the most recent twelve-month period for which data with respect to such wage levels are available, the wage level for such hospital is significantly higher than such general wage level in that area (relative to the relationship within the same hospital group between hospital wages and such general wages in other areas), then such general wage level in the area shall be deemed equal to the wage level for such hospital, but only with respect to the hospital's first accounting year beginning on or after July 1, 1980 and prior to July 1, 1981.

(4)(A)(i) The term "adjusted per diem target rate for routine operating costs" means the per diem target rate for routine operating costs plus the percentage increase in costs determined under the succeeding provisions of this subparagraph.

(ii) In determining the adjusted per diem target rate, the Secretary shall add an estimated percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the quarter in which the determination is made under paragraph (3)(A) to the end of the hospital's accounting year. Where actual changes in such weighted index are significantly different (at least one-half of 1 percentage point) from those estimated, the Secretary shall issue corrected target rates on a quarterly basis. At the end of the hospital's accounting year, the target rate shall be adjusted to reflect the actual changes in such weighted index. Adjustments shall also be made to take account of changes in the hospital's classification.

(B) For purposes of payment, the amount of routine operating cost incurred by a hospital for any accounting year which begins on or after July 1, 1980, shall be deemed to be equal—

(i) in the case of a hospital which has actual routine operating costs equal to or greater than that hospital's adjusted per diem target rate for routine operating costs, to the greater of—

(I) the hospital's actual routine operating costs, but not exceeding—

(a) in the case of the first accounting year of any hospital which begins on or after July 1, 1980, and prior to July 1, 1981, an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs, plus (2) 15 percent of the amount described in clause (1), plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2),

(b) in the case of the first accounting year of any hospital which begins on or after July 1, 1981, and prior to July 1, 1982 (or if earlier, the second accounting year of such hospital which begins on or after July 1, 1980, and prior to July 1, 1982), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (a)(2) for the category of such hospital, plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2), and

(c) in the case of any accounting year after the accounting year described in clause (b), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (b)(2) for the category of such hospital, or

(II) the amounts determined for the hospital under division (I) if it had been classified in the bed-size category which contains hospitals closest in bed-size to such hospital's bed-size (with a hospital which has a bed-size that falls halfway between two such categories being considered in the category which contains hospitals with the greater number of beds), but not exceeding the hospital's actual routine operating costs; or

(III) in the case of a hospital having an average length-of-stay per patient which is less than the average length-of-stay per patient for hospitals classified in the same category, for any accounting year, an amount equal to the average reimbursement for routine operating costs per patient stay for hospitals in the same category, multiplied by the number of patient stays for such hospital during that accounting year, but not exceeding the actual routine operating costs for such hospital; and

(ii) in the case of a hospital which has actual routine operating costs which are less than that hospital's adjusted per diem target rate for routine operating costs, to (I) the amount of the hospital's actual routine operating costs, plus (II) the smaller of (a) 5 percent (2.5 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the hospital's adjusted per diem target rate for routine operating costs, or (b) 50 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the amount by which the hospital's adjusted per diem target rate for routine operating costs exceeds the hospital's actual routine operating costs.

(C) Any hospital (other than a newly opened hospital) excluded by the Secretary under paragraph (3)(D)(ii), shall be reimbursed for routine operating costs on the basis of the lesser of (i) actual costs or (ii) the reimbursement determined under this subsection.

(D) On or before April 1 (or in the case of 1980, as soon as possible) of the year in which the Secretary determines the amount of the average per diem operating cost for each hospital category and the adjusted per diem target for each hospital, the Secretary shall publish the determinations, and he shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of the determination which affect the hospital.

(E) If a hospital is determined by the Secretary to be—

(i) located in an underserved area where hospital services are not otherwise available.

(ii) certified as being currently necessary by an appropriate planning agency, and

(iii) underutilized,

the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the underutilized capacity.

(F) If a newly opened hospital is determined by the Secretary to have greater routine operating costs as a result of the cost patterns associated with newly opened hospitals, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such patterns. For purposes of this subparagraph a "newly opened hospital" means a hospital which has not satisfied the requirements of paragraphs (1) and (7) of subsection (e) of this section (under present or previous ownership) for at least twenty-four months prior to the start of such hospital's accounting year.

(G) If a hospital is determined by the Secretary to have greater routine operating costs as a result of changes in service on account of consolidation, sharing, or addition of services, where such consolidation, sharing, or addition has been approved by the appropriate State health planning and development agency or agencies, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such changes in service.

(H)(i) If a hospital satisfactorily demonstrates to the Secretary that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by the other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required.

(ii) To the extent that a hospital can demonstrate that it experiences routine operating costs in excess of such costs for hospitals having a reasonably similar mix of patients on account of consistently shorter length-of-stay in such hospital, which results from the greater intensity of care provided by such hospital, the excess routine operating costs shall be considered attributable to the greater intensity of care required, but this clause shall not apply in the case of a hospital whose routine operating costs are determined under subparagraph (B)(i)(III).

(I) The Secretary may further increase the adjusted per diem target rate applicable in Alaska and Hawaii to reflect the higher prices prevailing in such States.

(J) Where the Secretary finds that a hospital has manipulated its patient mix, or patient flow, or provides less than the normal range and extent of patient services, or that an unusually large proportion of routine nursing service is provided by private-duty nurses, the routine operating costs of that hospital shall be deemed equal to the lesser of (i) the amount determined without regard to this subsection, or (ii) the amount determined under subparagraph (B).

(5) Where any provisions of this subsection are inconsistent with subsection (v), this subsection supersedes subsection (v).

(6)(A) Notwithstanding any other provision of this Act, in the case of any State which has established a reimbursement system for hospitals, hospital reimbursement in that State under this title and under the State plan approved under title XIX shall, with respect to the services covered by such system, be based on that State system, if the Secretary finds that—

(i) the State has a reimbursement system and it at least applies to the same hospitals in the State, and to the same costs, as the Federal reimbursement reform program established by this subsection;

(ii) every hospital in the State with which there is a provider agreement under this title or under the State plan approved under title XIX conforms to the accounting and uniform reporting requirements of section 1121 of this Act, and furnishes any appropriate reports that the Secretary may require; and

(iii) such State demonstrates to his satisfaction that the total amount payable, with respect to inpatient hospital costs, in the State under this title and under the State plan approved under title XIX will be equal to or less than an amount equal to (I) the amount which would otherwise be payable for such costs under this title and such State plan without regard to the incentive payments provided by subparagraph (B)(ii) of paragraph (4), plus (II) the amount of any incentive payments which are allowed under the State's reimbursement system in recognition of demonstrated efficiencies (but not to exceed the amount of the incentive payments which would be allowed under paragraph (4)(B)(ii)).

If the Secretary finds that any of the above conditions in a State which previously met them have not been met for a two-year period, the Secretary shall, after due notice, reimburse hospitals in that State according to the provisions of this Act (other than this paragraph) unless he finds that unusual, justifiable, and nonrecurring circumstances led to the failure to comply.

(B) If the Secretary finds that, during any two-year period during which hospital reimbursement under this title and under the State plan approved under title XIX was based on a State system as provided in subparagraph (A), the amount payable by the Federal Government under such titles for inpatient hospital costs in such State was in excess of the amount which would have been payable for such costs in such State if reimbursement had not been based on the State system (as estimated by the Secretary), the adjusted per diem target rate for routine operating costs (as determined under the preceding paragraphs of this subsection) for hospitals in such State shall be reduced (by not more than 1 percent in any year) until the Federal Government has recouped an amount equal to such excess payment amount.

(C)(i) The Secretary shall pay to any State in which hospital reimbursement under this title is based on a State system as provided in subparagraph (A), an amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid by the Federal Government under this title in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system.

(ii) Payments under clause (i) shall be made from funds in the Federal Hospital Insurance Trust Fund.

(iii) An amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid under the State plan approved under title XIX in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system, shall, for purposes of title XIX, be considered to be an amount expended for the administration of such State plan.

(D) If there is in effect in a State a reimbursement system for hospitals which the Secretary finds meets the criteria prescribed in subparagraph (A) except that such system was not established by the State, at the election of the State, such system shall for purposes of this paragraph be considered to be a reimbursement system for hospitals established by such State.

Detoxification Facility Services

(cc)(1) The term "detoxification facility services" means services provided by a detoxification facility in order to reduce or eliminate the amount of toxic agent in the body, but only to the extent that such services would be covered under subsection (b) if furnished as an inpatient service by a hospital, or are physician services covered under subsection (s).

(2) The term "detoxification facility" means a public or voluntary community based nonprofit facility, other than a hospital, which—

(A) is engaged in furnishing to inpatients the services described in paragraph (1);

(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

(C) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.

Exclusions From Coverage

Sec. 1862. (a) * * *

(b) Payment under this title may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State, *or under liability insurance of the person at fault, or under no-fault liability insurance*. Any payment under this title with respect to any item or service shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under such a law or a plan, *or under such liability insurance. The Secretary may waive the provisions of this subsection with respect to liability insurance if he determines that the probability of recovery or amount involved does not warrant the pursuing of the claim.*

* * * * *

Agreements With Providers of Services

Sec. 1866. (a)(1) Any provider of services (except a fund designated for purposes of section 1814(g) and section 1835(e)) shall be qualified to participate under this title and shall be eligible for payments under this title if it files with the Secretary an agreement—

(A) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this title (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this title or for which such provider is paid pursuant to the provisions of section 1814(e)), and

(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this title because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9), but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary's determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title, and

(C) to make adequate provision for return (or other disposition, in accordance with regulations) or any moneys incorrectly collected from such individual or other person, and

(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title), with respect to the provider[.], *and*

(E) not to increase amounts due from any individual, organization, or agency in order to offset reductions made under section 1861(bb) in the amount paid, or expected to be paid, under this title.

* * * * *

State Plans for Medical Assistance

Sec. 1902. (a) A State plan for medical assistance must—

* * * * *

(13) provide—

(A)(i) for the inclusion of some institutional and some noninstitutional care and services, and

(ii) for the inclusion of home health services for any individual who, under the State plan, is entitled to skilled nursing facility services, and

(B) in the case of individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1905(a), and

(C) in the case of individuals not included under subparagraph (B) for the inclusion of at least—

(i) the care and services listed in clauses (1) through (5) of section 1905(a) or

(ii) (I) the care and services listed in any 7 of the clauses numbered (1) through (16) of such section and (II) in the event the care and services provided under the State plan include hospital or skilled nursing facility services, physicians' services to an individual in a hospital or skilled nursing facility during any period he is receiving hospital services from such hospital or skilled nursing facility services from such home, and

[(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards, consistent with section 1122, which shall be developed by the State and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII; and]

(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, applying the methods specified in section 1861(v) and section 1861(bb), which are consistent with section 1122; and

[(E) effective July 1, 1976, for payment of the skilled nursing facility and intermediate care facility services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary; and]

(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates, determined in accordance with methods and standards developed by the State, which the State finds, and make assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports; and

(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary may prescribe in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph;

* * * * *

[(23) except in the case of Puerto Rico, the Virgin Islands, and Guam, provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services; and a State plan shall not be deemed to be out of compliance with the requirements of this paragraph or paragraph (1) or (10) solely by reason of the fact that the State (or any political subdivision thereof) has entered into a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic;]

(23) provide that limitations or restrictions elected by a State with respect to choice by recipients of medical assistance provided for by the State—

(A) may apply only to institutional providers (including clinics), laboratory services, and medical devices;

(B) must be cost-effective arrangements which provide for reasonable payment based upon comparisons of costs at which services of proper quality may be obtained and are actually available (and for this purpose the plan may provide that such arrangements need not be in effect in all political subdivisions of the State notwithstanding the provisions of paragraph (1)), and must provide that in the case of inpatient hospital services, payment to a hospital shall not be deemed to be reasonable for purposes of paragraph (13)(D) if it is less than the cost that is found reasonable and necessary in the efficient and economical delivery of such needed services in the geographic area in which such hospital is located;

(C) must assure that such recipients shall have reasonable access to services (taking into account geographic location and reasonable travel time) for which they are eligible (including emergency services and provisions for timely referral and transfer to other providers when medically appropriate) through providers which meet all applicable standards under the State plan and whose services are available to such recipients; and

(D) must provide that, subject to the provisions of subparagraph (B) there will not be a resulting substantially adverse effect on the access of recipients to qualified hospitals having graduate medical education programs that undertake to provide such care;

* * * * *

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, [and] (B) to furnish the State agency or the Secretary with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency or the Secretary may from time to time request, *and (C) not to increase amounts due from any individual, organization, or agency in order to offset reductions made pursuant to the requirements contained in section 1902(a)(13)(D) in the amount paid, or expected to be paid under the State plan;*

* * * * *

(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of the State plan is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in the plan for not less than the period specified in such notice, and no payment may be made under the plan with respect to any item or service furnished by such physician or practitioner during the period of the suspension under this title;

(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization; [and]

(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action[.]*; and*

(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such title, and (C) for payment of the portion of the costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII[.]*; and*

(43) provide that any laboratory services (other than such services provided in a physician's office) paid for under such plan must be provided by a laboratory which meets the requirements of section 1861(e)(9) and paragraphs (10) and (11) of section 1861(s), or, in the case of a rural health clinic, section 1861(aa)(2)(G).

* * * * *

Payment to States

Sec. 1903. (a) * * *

(d)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) and (b) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection. Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1902(a)(25).

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(5)(A) In any case in which the Secretary estimates that there has been an overpayment to a State on the basis of a claim by such State that has been disallowed by the Secretary, and such State disputes such disallowance, the amount of the Federal payment in controversy shall not be paid to such State until such time as a final determination has been made with respect to such amount. If such final determination is to the effect that an amount is owed to such State, such amount shall be increased by an amount equal to the amount which would have been paid on the amount otherwise owed, at the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund, during the period beginning on the date that the State disputed such disallowance and ending on the date that payment is made to the State.

* * * * *

(i) Payment under the preceding provisions of this section shall not be made—

(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under [the fourth and fifth sentences of section 1842(b)(3)] *subparagraphs (B)(ii), (B)(iii), (C), and (F) of section 1842(b)(4)*; or

(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D), (E), or (F) of section 1866(b)(2), or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38); or

(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for care or services furnished under the plan by a hospital or skilled nursing facility unless such hospital or skilled nursing facility has in effect a utilization review plan which meets the requirements imposed by section 1861(k) for purposes of title XVIII; and if such hospital or skilled nursing facility has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k).

* * * * *

(q) or the purposes of this section, the term "State medicaid fraud control unit" means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, that (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Secretary and which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care facilities and that are discovered by the entity in carrying out its activities.

(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.

(r) For additional exclusions from reasonable cost and reasonable charge see section 1134.

* * * * *

TITLE XX—GRANTS TO STATES FOR SERVICES

* * * * *

Payments to States

Sec. 2002. (a)(1) * * *

(9)(A) No payment may be made under this section with respect to any expenditure in connection with the provision of any child day care service, unless—

(i) in the case of care provided in the child's home, the care meets standards established by the State which are reasonably in accord with recommended standards of national standard-setting organizations concerned with the home care of children, or

(ii) in the case of care provided outside the child's home, the care meets the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare and the Office of Economic Opportunity on September 23, 1968; except that (I) subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and staffing standards for school-age children in day care centers may be revised by the Secretary, (II) the staffing standards imposed with respect to such care in the case of children under age 3 shall conform to regulations prescribed by the Secretary, (III) the staffing standards imposed with respect to such care in the case of children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10 shall require at least one adult for each 15 children, (IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6, except as provided in subparagraph (B).

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to April 1, 1978, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of that report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

(C) The requirements imposed by this paragraph are in lieu of any requirements that would otherwise be applicable under section 522(d) of the Economic Opportunity Act of 1964 to child day care services with respect to which payment is made under this section.

(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980 and prior to October 1, 1981 which meet applicable standards of State and local law.

* * * * *

EXCERPTS FROM TITLE 5 U.S.C.—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

Chapter 85.—UNEMPLOYMENT COMPENSATION

Subchapter I—Employees Generally

* * * * *

§ 8509. Federal Employees Compensation Account.

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

(1) funds appropriated to or transferred thereto, and

(2) *amounts deposited therein pursuant to subsection (c).*

(*b*) *Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.*

(*c*) (*1*) *Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.*

(2) *Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.*

(*d*) *The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.*

(*e*) *Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—*

(*1*) *the amount of expenditures which will be made from the Account during such year, and*

(2) *the amount of funds which will be available during such year for the making of such expenditures,*

and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

(3) *to meet the expenditures described in paragraph (1), and*

(4) *to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),*

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

(*f*) *The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.*

(*g*) *Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditure authorized to be made from moneys therein.*

Subchapter II—Ex-Servicemen

§ 8521. DEFINITIONS; APPLICATION.

(a) For the purpose of this subchapter—

(1) "Federal service" means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for [90 days] *one year* or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service;

(2) "Federal wages" means all pay and allowances, in cash and in kind, of Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim of compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.[1]

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

* * * * *

Federal-State Extended Unemployment Compensation Act, as Amended

Excerpt From Public Law 91–373, August 10, 1970

* * * * *

Title II—Federal-State Extended Unemployment Compensation Program

Short Title

Sec. 201. This title may be cited as the "Federal-State Extended Unemployment Compensation Act of 1970".

Payment of Extended Compensation

State Law Requirements

Sec. 202. (a) (1) For purposes of section 3304(a) (11) of the Internal Revenue Code of 1954, a State law shall provide that payment of extended compensation shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under the State law and who have no rights to regular compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of Canada. For purposes of the preceding sentence, an individual shall have exhausted his rights to regular compensation under a State law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or (B) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) Except where inconsistent with the provisions of this title, the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and to the payment thereof.

(3) *Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State "on" indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable; except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individuals resides in such State.*

(*4*) (*A*) *Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—*

(*i*) *if such individual had less than 20 weeks of covered employment during his base period;*

(*ii*) *if such individual is unemployed because he voluntarily left employment, was discharged for misconduct, or refused suitable employment as determined under State law;*

(*iii*) *during which he fails to accept any offer of suitable work (as defined in subparagraph (B)) or fails to apply for any suitable work to which he was referred by the State agency; or*

(*iv*) *during which he fails to actively engage in seeking work.*

(*B*) *If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (iii) or (iv) of subparagraph (A), the individual shall be ineligible to receive extended compensation for any week which begins during a period which—*

(*i*) *begins with the week following the week in which such failure occurs, and*

(*ii*) *does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b) (1) (C)) for his benefit year.*

(*C*) *For purposes of this paragraph, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.*

(*D*) *Extended compensation shall not be denied under clause (iii) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—*

(*i*) *if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—*

(*I*) *the individual's average weekly benefit amount (as determined for purposes of subsection (b) (1) (C)) for his benefit year, plus*

(*II*) *the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c) (17) (D) of the Internal Revenue Code of 1954) payable to such individual for such week;*

(*ii*) *if the position was not offered to such individual in writing and was not listed with the State employment service;*

(*iii*) *if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or*

(*iv*) *if the position pays wages less than the higher of—*

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[1] Paragraph (3) was amended by section 116(e) (4) of Public Law 94–566.

(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(II) any applicable State or local minimum wage.

(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicants for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply.

Individuals' Compensation Accounts

(b)(1) The State law shall provide that the State will establish, for each eligible individual who files an application therefor, an extended compensation account with respect to such individual's benefit year. The amount established in such account shall be not less than whichever of the following is the least:

(A) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him during such benefit year under such law.

(B) thirteen times his average weekly benefit amount, or

(C) thirty-nine times his average weekly benefit amount, reduced by the regular compensation paid (or deemed paid) to him during such benefit year under such law;

except that the amount so determined shall (if the State law so provides) be reduced by the aggregate amount of additional compensation paid (or deemed paid) to him under such law for prior weeks of unemployment in such benefit year which did not begin in an extended benefit period.

(2) For purposes of paragraph (1), an individual's weekly benefit amount for a week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

Extended Benefit Period

Beginning and Ending

Sec. 203. (a) For purposes of this title in the case of any State, an extended benefit period—

[(1) shall begin with the third week after whichever of the following weeks first occurs:

[(A) a week for which there is a national "on" indicator, or

[(B) a week for which there is a State "on" indicator; and

[(2) shall end with the third week after the first week for which there is both a national "off" indicator and a State "off" indicator.]

(1) shall begin with the third week after the week for which there is a State "on" indicator; and

(2) shall end with the third week after the first week for which there is a State "off" indicator.

Special Rules

(b)(1) In the case of any State—

(A) no extended benefit period shall last for a period of less than thirteen consecutive weeks, and

(B) no extended benefit period may begin by reason of a State "on" indicator before the fourteenth week after the close of a prior extended benefit period with respect to such State.

(2) When a determination has been made that an extended benefit period is beginning or ending with respect to a State [or all the States)], the Secretary shall cause notice of such determination to be published in the Federal Register.

Eligibility Period

(c) For purposes of this title, an individual's eligibility period under the State law shall consist of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

National "On" and "Off" Indicators

[(d) For purposes of this section—

[(1) There is a national "on" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

[(2) There is a national "off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).]

State "On" and "Off" Indicators

(e) For purposes of this section—

(1) There is a State "on" indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

(B) equaled or exceeded 4 per centum.

(2) There is a State "off" indicator for a week if, for the period consisting of such week and the immediately proceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law) the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and [(ii) the figure "4" contained in subparagraph (B) thereof were "5"; except] *(ii) the figure "4" contained in subparagraph (B) thereof were "5" (or such number, or percentage of a number, which exceeds 5, as is specified by the State law); except* that, notwithstanding any such provision of State law, any week for which there would otherwise be a State "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a State "off" indicator. For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

Rate of Insured Unemployment; Covered Employment

(f)(1) For purposes of [subsections (d) and (e)] *subsection (e)*, the term "rate of insured unemployment" means the percentage arrived at by dividing—

(A) the average weekly number of individuals filing claims for weeks of unemployment with respect to the specified period, as determined on the basis of the reports made by [all State agencies (or, in the case of subsection (e), by the State agency)] *the State agency* to the Secretary, by

(B) the average monthly covered employment for the specified period.

[(2) Determinations under subsection (d) shall be made by the Secretary in accordance with regulations prescribed by him.]

[(3)] *(2)* Determinations under subsection (e) shall be made by the State agency in accordance with regulations prescribed by the Secretary.

Payments to States

Amount Payable

Sec. 204. (a)(1) There shall be paid to each State an amount equal to one-half of the sum of—

(A) the sharable extended compensation, and

(B) the sharable regular compensation,

paid to individuals under the State law.

(2) No payment shall be made to any State under this subsection in respect to compensation *(A)* for which the State is entitled to reimbursement under the provisons of any Federal law other than this Act, *or (B) paid for the first week of compensable unemployment in an individual's eligibility period, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment.*

[(3) In the case of compensation which is sharable extended compensation or sharable regular compensation by reason of the provision contained in the last sentence of section 203(d), the first paragraph of this subsection shall be applied as if the words "one-half of" read "100 per centum of" but only with respect to compensation that would not have been payable if the State law's provisions as to the State "on" and "off" indicators omitted the 120 percent factor as provided for by Public Law 93–368 and by section 106 of this Act.]

[(4)] *(3)* The amount which, but for this paragraph, would be payable under this subsection to any State in respect of any compensation paid to an individual whose base period wages include wages for services to which section 3306(c)(7) of the Internal Revenue Code of 1954 applies shall be reduced by an amount which bears the same ratio to the amount which, but for this paragraph, would be payable under this subsection to such State in respect of such compensation as the amount of the base period wages attributable to such services bears to the total amount of the base period wages.

* * * * *

APPENDIX A: TEXT OF FINANCE COMMITTEE AMENDMENTS RECOMMENDED UNDER RECONCILIATION PROCESS

TITLE V—PROVISIONS REDUCING SPENDING IN PROGRAMS WITHIN JURISDICTION OF SENATE COMMITTEE ON FINANCE

PART A—UNEMPLOYMENT COMPENSATION PROVISIONS

ELIMINATION OF "NATIONAL TRIGGER" UNDER THE EXTENDED BENEFITS PROGRAM

SEC. 501. (a)(1) Paragraphs (1) and (2) of section 203(a) of the Federal-State Extended Unemployment Compensation Act of 1970 are amended to read as follows:

"(1) shall begin with the third week after the week for which there is a State 'on' indicator; and

"(2) shall end with the third week after the first week for which there is a State 'off' indicator.".

(2) Section 203(b)(2) of such Act is amended by striking out "(or all the States)".

(3) Section 203 of such Act is further amended by striking out subsection (d) thereof.

(4) Section 203(f) of such Act is amended—

(A) in paragraph (1), by—

(i) striking out "subsections (d) and (e)" and inserting in lieu thereof "subsection (e)", and

(ii) striking out "all State agencies (or, in the case of subsection (e), by the State agency)" and inserting in lieu thereof "the State agency",

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2).

(b)(1) Section 204(a) of such Act is amended—

(A) by striking out paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3).

(c) The amendments made by this section shall take effect on October 1, 1980.

WAITING PERIOD FOR BENEFITS

SEC. 502. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A)" after "compensation", and

(2) by inserting immediately before the period the following: ", or (B) paid for the first week of compensable unemployment in an individual's eligibility period, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

(b) The amendments made by this section shall be applicable in the case of extended compensation paid to individuals during eligibility periods beginning on or after October 1, 1980.

STATE OPTION AS TO CRITERIA FOR STATE "ON" AND "OFF" INDICATORS

SEC. 503. (a) Section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended, in the first sentence following paragraph (2) thereof, by striking out the matter beginning with "(ii)" and ending with "except", and inserting in lieu thereof the following: "(ii) the figure '4' contained in subparagraph (B) thereof were '5' (or such number, or percentage of a number, which exceeds 5, as is specified by the State law); except".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning after October 1, 1980.

FEDERAL SERVICE OF EXSERVICEMEN

SEC. 504. (a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 505. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to are available for the making of payments to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

SEC. 506. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable; except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 507. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

"(i) if such individual had less than 20 weeks of covered employment during his base period;

"(ii) if such individual is unemployed because he voluntarily left employment, was discharged for misconduct, or refused suitable employment as determined under State law;

"(iii) during which he fails to accept any offer of suitable work (as defined in subparagraph (B)) or fails to apply for any suitable work to which he was referred by the State agency; or

"(iv) during which he fails to actively engage in seeking work.

"(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (iii) or (iv) of subparagraph (A), the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

"(i) begins with the week following the week in which such failure occurs, and

"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C) for his benefit year.

"(C) For purposes of this paragraph, the term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.

"(D) Extended compensation shall not be denied under clause (iii) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(i) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(I) the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C)) for his benefit year, plus

"(II) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week;

"(ii) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(iii) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or

"(iv) if the position pays wages less than the higher of—

"(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

"(II) any applicable State or local minimum wage.

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicants for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply.".

(b) The amendments made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

SEC. 508. On October 31 of any taxable year after 1979, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this part to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

PART B—PROVISIONS RELATING TO SSI

DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

SEC. 511. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"DISPOSAL OF RESOURCE FOR LESS THAN FAIR MARKET VALUE

"(c)(1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

"(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

"(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.".

(b) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after October 1, 1980.

PART C—PROVISIONS RELATING TO SOCIAL SERVICES

FEDERAL DAY CARE REGULATIONS

SEC. 521. Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980 and prior to October 1, 1981, which meet applicable standards of State and local law.".

(b) The provisions of section 3(f) of Public Law 93-647 shall not apply with respect to child day care services provided after June 30, 1980 and prior to October 1, 1981 which meet applicable standards of State and local law.

PART D—PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 531. (a) Section 1108(a)(1) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to the fiscal year 1979,

"(G) $36,000,000 with respect to the fiscal year 1980,

"(H) $48,000,000 with respect to the fiscal year 1981, or

"(I) $72,000,000 with respect to the fiscal year 1982 and each fiscal year thereafter;".

(b) Section 1108(a)(2) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to the fiscal year 1979,

"(G) $1,200,000 with respect to the fiscal year 1980,

"(H) $1,600,000 with respect to the fiscal year 1981, or

"(I) $3,300,000 with respect to the fiscal year 1982 and each fiscal year thereafter;".

(c) Section 1108(a)(3) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to the fiscal year 1979,

"(G) $1,650,000 with respect to the fiscal year 1980,

"(H) $2,200,000 with respect to the fiscal year 1981, or

"(I) $3,300,000 with respect to the fiscal year 1982 and each fiscal year thereafter.".

PART E—PROVISIONS RELATING TO OASDI

REALLOCATION OF OASDI TAXES

SEC. 541. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported.".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981 (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

LIMIT ON RETROACTIVE BENEFITS

SEC. 542. (a) Section 202(j)(1) of the Social Security Act is amended by striking out "twelfth" and inserting in lieu thereof "third".

(b) The amendment made by subsection (a) shall be effective with respect to applications filed on or after September 1, 1980.

BENEFITS FOR CERTAIN PRISONERS

SEC. 543. (a)(1) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission of a crime by an individual (committed after the date of the enactment of this paragraph) for which such individual is subsequently convicted, or which is aggravated in connection with such a crime (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

"(B) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an offense (committed after the date of the enactment of this paragraph) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.".

(2) The third sentence of section 216(i)(1) of such Act is amended by striking out "and (5)" and inserting in lieu thereof "(5), and (6)".

(b) Section 202(d)(7)(A) of such Act is amended by adding at the end thereof the following: "An individual shall not be considered a 'full-time student' for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.".

(c) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"Suspension of Benefits for Inmates of Penal Institutions

"(f)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 202(d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.".

(d) The amendments made by this section shall be effective with respect to benefits payable for months beginning on or after October 1, 1980.

Part F—Provisions Relating to Medicare and Medicaid

CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

Sec. 551. (a)(1) The first sentence of section 1861(v)(1)(A) of the Social Security Act is amended by striking out "The" and inserting "Subject to subsection (bb), the".

(2) Section 1861(v) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) For additional requirements applicable to determination of reasonable cost, see subsection (bb) and section 1128(c)(3).".

(b) Section 1861 of such Act is amended by adding after subsection (aa) the following new subsection:

"Criteria for Determining Reasonable Cost of Hospital Services

"(bb)(1) It is the purpose of this subsection to set forth initial methods and criteria for determining reimbursement based upon reasonable cost, but such methods and criteria shall be subject to appropriate modification by the Secretary as provided in section 1128. In order more fairly and effectively to determine reasonable costs incurred in providing hospital services, the Secretary shall, not later than September 1, 1980, after consulting with appropriate national organizations, establish a system of hospital classification under which hospitals furnishing services will be classified on a national basis initially—

"(A) by size, with each of the following groups of hospitals being classified in separate categories: (i) those having more than 5, but fewer than 25, beds, (ii) those having more than 24, but fewer than 50, beds, (iii), those having more than 49, but fewer than 100, beds, (iv) those having more than 99, but fewer than 200, beds, (v) those having more than 199, but fewer than 300, beds, (vi) those having more than 299, but fewer than 400, beds, (vii) those having more than 399, but fewer than 500, beds, and (viii) those having more than 499 beds;

"(B) by type of hospital, with (i) short-term general hospitals being in a separate category, (ii) hospitals which are primary affiliates of accredited medical schools being in one separate category, and (iii) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine appropriate, in light of any differences in specialty which significantly affect the routine costs of the different types of hospitals;

"(C) as rural or urban; and

"(D) according to such other criteria as the Secretary finds appropriate, including modification of bed-size categories;

but the system of hospital classification shall not differentiate between hospitals on the basis of ownership.

"(2) The term 'routine operating costs' used in this subsection does not include—

"(A) capital and related costs,

"(B) direct personnel and supply costs of approved hospital education and training programs,

'(C) costs of interns, residents, and non-administrative physicians,

"(D) energy costs,

"(E) malpractice insurance expense, or

"(F) ancillary service costs.

"(3)(A) During the calendar quarter beginning on January 1 of each year, beginning with 1981 (and in the case of 1980, as soon as possible), the Secretary shall determine, for the hospitals in each category of the system established under paragraph (1), an average per diem routine operating cost amount which shall (except as otherwise provided in this subsection) be used in determining payments to hospitals.

"(B) The determination shall be based upon the amount of the hospitals' routine operating costs for the most recent accounting year ending prior to October 1 of the calendar year preceding the calendar year in which the determination is made. If, for any accounting year which starts on or after July 1, 1980, a hospital's actual routine operating costs are in excess of the amount allowed for purposes of determining payment to the hospital pursuant to this subsection and subsection (v), only one-half of such excess shall be taken into account in making any determination which the Secretary shall make under this paragraph. Such amount as determined under the preceding sentences of this subparagraph shall be adjusted to reflect the percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the accounting year referred to in the first sentence of this subparagraph to the end of the quarter in which the determination is being made.

"(C) In making a determination, the routine operating costs of hospitals in each category shall be divided into personnel and nonpersonnel components.

"(D)(i) The personnel and nonpersonnel components of routine operating costs for hospitals in each category (other than for those excluded under clause (ii)) shall be divided by the total number of days of routine care provided by such hospitals to determine the average per diem routine operating cost for such category.

"(ii) In making the calculations required by subparagraph (A) the Secretary shall exclude any newly opened hospital (as defined in the second sentence of paragraph (4)(F)), and any hospital which he determines is experiencing significant cost differentials resulting from failure of the hospital fully to meet the standards and conditions of participation as a provider of services.

"(E) There shall be determined for each hospital in each category a per diem target rate for routine operating costs. Such target rate shall equal the average per diem routine operating cost amount for the category in which the hospital is expected to be classified during the subsequent accounting year, except that the personnel component shall be adjusted using a wage index based upon general wage levels for reasonably comparable work in the areas in which the hospitals are located. If the Secretary finds that, in an area where a hospital in any category is located for the most recent twelve-month period for which data with respect to such wage levels are available, the wage level for such hospital is significantly higher than such general wage level in that area (relative to the relationship within the same hospital group between hospital wages and such general wages in other areas), then such general wage level in the area shall be deemed equal to the wage level for such hospital, but only with respect to the hospital's first accounting year beginning on or after July 1, 1980 and prior to July 1, 1981.

"(4)(A)(i) The term 'adjusted per diem target rate for routine operating costs' means the per diem target rate for routine operating costs plus the percentage increase in costs determined under the succeeding provisions of this subparagraph.

"(ii) In determining the adjusted per diem target rate, the Secretary shall add an estimated percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the quarter in which the determination is made under paragraph (3)(A) to the end of the hospital's accounting year. Where actual changes in such weighted index are significantly different (at least one-half of 1 percentage point) from those estimated, the Secretary shall issue corrected target rates on a quarterly basis. At the end of the hospital's accounting year, the target rate shall be adjusted to reflect the actual changes in such weighted index. Adjustments shall also be made to take account of changes in the hospital's classification.

"(B) For purposes of payment, the amount of routine operating cost incurred by a hospital for any accounting year which begins on or after July 1, 1980, shall be deemed to be equal—

"(i) in the case of a hospital which has actual routine operating costs equal to or greater than that hospital's adjusted per diem target rate for routine operating costs, to the greater of—

"(I) the hospital's actual routine operating costs, but not exceeding—

"(a) in the case of the first accounting year of any hospital which begins on or after July 1, 1980, and prior to July 1, 1981, an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs, plus

(2) 15 percent of the amount described in clause (1), plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2),

"(b) in the case of the first accounting year of any hospital which begins on or after July 1, 1981, and prior to July 1, 1982 (or if earlier, the second accounting year of such hospital which begins on or after July 1, 1980, and prior to July 1, 1982), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (a)(2) for the category of such hospital, plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2), and

"(c) in the case of any accounting year after the accounting year described in clause (b), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (b)(2) for the category of such hospital, or

"(II) the amounts determined for the hospital under division (I) if it had been classified in the bed-size category which contains hospitals closest in bed-size to such hospital's bed-size (with a hospital which has a bed-size that falls halfway between two such categories being considered in the category which contains hospitals with the greater number of beds), but not exceed the hospital's actual routine operating costs; or

"(III) in the case of a hospital having an average length-of-stay per patient which is less than the average length-of-stay per patient for hospitals classified in the same category, for any accounting year, an amount equal to the average reimbursement for routine operating costs per patient stay for hospitals in the same category, multiplied by the number of patient stays for such hospital during that accounting year, but not exceeding the actual routine operating costs for such hospital; and

"(ii) in the case of a hospital which has actual routine operating costs which are less than that hospital's adjusted per diem target rate for routine operating costs, to (I) the amount of the hospital's actual routine operating costs, plus (II) the smaller of a (a) 5 percent (or 2.5 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the hospital's adjusted per diem target rate for routine operating costs, or (b) 50 percent (or 25 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the amount by which the hospital's adjusted per diem target rate for routine operating costs exceeds the hospital's actual routine operating costs.

"(C) Any hospital (other than a newly opened hospital) excluded by the Secretary under paragraph (3)(D)(ii), shall be reimbursed for routine operating costs on the basis of the lesser of (i) actual costs or (ii) the reimbursement determined under this subsection.

"(D) On or before April 1 (or in the case of 1980, as soon as possible) of the year in which the Secretary determines the amount of the average per diem operating cost for each hospital category and the adjusted per diem target rate for each hospital, the Secretary shall publish the determinations, and he shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of the determination which affect the hospital.

"(E) If a hospital is determined by the Secretary to be—

"(i) located in an underserved area where hospital services are not otherwise available,

"(ii) certified as being currently necessary by an appropriate planning agency, and

"(iii) underutilized,

the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the underutilized capacity.

"(F) if a newly opened hospital is determined by the Secretary to have greater routine operating costs as a result of the cost patterns associated with newly opened hospitals, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such patterns. For purposes of this subparagraph a 'newly opened hospital' means a hospital which has not satisfied the requirements of paragraphs (1) and (7) of subsection (e) of this section (under present or previous ownership) for at least twenty-four months prior to the start of such hospital's accounting year.

"(G) If a hospital is determined by the Secretary to have greater routine operating costs as a result of changes in service on account of consolidation, sharing, or addition of services, where such consolidation, sharing, or addition has been approved by the appropriate State health planning and development agency or agencies, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such changes in service.

"(H)(i) If a hospital satisfactorily demonstrates to the Secretary that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by the other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required.

"(ii) To the extent that a hospital can demonstrate that it experiences routine operating costs in excess of such costs for hospitals having a reasonably similar mix of patients on account of consistently shorter lengths-of-stay in such hospital, which result from the greater intensity of care provided by such hospital, the excess routine operating costs shall be considered attributable to the greater intensity of care required, but this clause shall not apply in the case of a hospital whose routine operating costs are determined under subparagraph (B)(i)(III).

"(I) The Secretary may further increase the adjusted per diem target rate applicable in Alaska and Hawaii to reflect the higher prices prevailing in such States.

"(J) Where the Secretary finds that a hospital has manipulated its patient mix, or patient flow, or provides less than the normal range and extent of patient services, or that an unusually large proportion of routine nursing service is provided by private-duty nurses, the routine operating costs of that hospital shall be deemed equal to the lesser of (i) the amount determined without regard to this subsection, or (ii) the amount determined under subparagraph (B).

"(5) Where any provisions of this subsection are inconsistent with subsection (v), this subsection supersedes subsection (v).

"(6)(A) Notwithstanding any other provision of this Act, in the case of any State which has established a reimbursement system for hospitals, hospital reimbursement in that State under this title and under the State plan approved under title XIX shall, with respect to the services covered by such system, be based on that State system, if the Secretary finds that—

"(i) the State has a reimbursement system and it at least applies to the same hospitals in the State, and to the same costs, as the Federal reimbursement reform program established by this subsection;

"(ii) every hospital in the State with which there is a provider agreement under this title or under the State plan approved under title XIX conforms to the accounting and uniform reporting requirements of section 1121 of this Act, and furnishes any appropriate reports that the Secretary may require; and

"(iii) such State demonstrates to his satisfaction that the total amount payable, with respect to inpatient hospital costs, in the State under this title and under the State plan approved under title XIX will be equal to or less than an amount equal to (I) the amount which would otherwise be payable for such costs under this title and such State plan without regard to the incentive payments provided by subparagraph (B)(ii) of paragraph (4), plus (II) the amount of any incentive payments which are allowed under the State's reimbursement system in recognition of demonstrated efficiencies (but not to exceed the amount of the incentive payments which would be allowed under paragraph (4)(B)(ii).

If the Secretary finds that any of the above conditions in a State which previously met them have not been met for a two-year period, the Secretary shall, after due notice, reimburse hospitals in that State according to the provisions of this Act (other than this paragraph) unless he finds that unusual, justifiable, and nonrecurring circumstances led to the failure to comply.

"(B) If the Secretaray finds that, during any two-year period during which hospital reimbursement under this title and under the State plan approved under title XIX was based on a State system as provided in subparagraph (A), the amount payable by the Federal Government under such titles for inpatient hospital costs in such State was in excess of the amount which would have been payable for such costs in such State if reimbursement had not been based on the State system (as estimated by the Secretary), the adjusted per diem target rate for routine operating costs (as determined under the preceding paragraphs of this subsection) for hospitals in such State shall be reduced (by not more than 1 percent in any year) until the Federal Government has recouped an amount equal to such excess payment amount.

"(C)(i) The Secretary shall pay to any State in which hospital reimbursement under this title is based on a State system as provided in subparagraph (A), an amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid by the Federal Government under this title in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system.

"(ii) Payments under clause (i) shall be made from funds in the Federal Hospital Insurance Trust Fund.

"(iii) An amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid under the State plan approved under title XIX in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system, shall, for purposes of title XIX, be considered to be an amount expended for the administration of such State plan.

"(D) If there is in effect in a State a reimbursement system for hospitals which the Secretary finds meets the criteria prescribed in subparagraph (A) except that such system was not established by the State, at the election of the State, such system shall for purposes of this paragraph be considered to be a reimbursement system for hospitals established by such State.".

(c) Part A of title XI of the Social Security Act is amended by adding after section 1127 the following new section:

"HEALTH FACILITIES COSTS COMMISSION

"SEC. 1128. (a) There is established a commission to be known as the Health Facilities Costs Commission (hereinafter in this section referred to as the 'Commission').

"(b) (1) The Commission shall be composed of fifteen members appointed by the Secretary—

"(A) at least five of whom shall be individuals who are representatives of providers;

"(B) at least five of whom shall be individuals who represent public (including Federal, State, and local) health benefit programs; and

"(C) the remainder of whom shall be, as a result of training, experience, or attainments, particularly and exceptionally well qualified to assist in serving and carrying out the functions of the Commission.

One of the members of the Commission, at the time of appointment, shall be designated as Chairman of the Commission. The Secretary shall first appoint members to the Commission not later than October 1, 1980.

"(2) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(4) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

"(5) Members of the Commission shall be appointed for a term of four years, except that the Secretary shall provide for such shorter terms for some of the members first appointed so as to stagger the date of expiration of members' terms of office.

"(6) No individual may be appointed to serve more than two terms as a member of the Commission.

"(7) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance of service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(8) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

"(c) (1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of the reimbursement of hospitals for care provided by them to individuals covered under title XVIII or under State plans approved under title XIX, with particular attention to the criteria established by section 1861(bb) with a view to devising additional methods for reimbursing hospitals for all other costs, and for reimbursing all other entities which are reimbursed on the basis of reasonable cost. These methods shall provide for appropriate classification and reimbursement systems designed to ordinarily permit comparisons of (A) the cost centers of one entity, either individually or in the aggregate, with cost centers similar in terms of size and scale of operation, (B) prevailing wage levels, (C) the nature, extent, and appropriate volume of the services furnished, and (D) other factors which have a substantial impact on hospital costs. The Commission shall also develop procedures for appropriate exceptions. The Commission shall submit to the Congress reports on its progress in addressing these issues at least once every six months during the three-year period following the date of the enactment of this section.

"(2) The Commission shall study appropriate methods for classifying and comparing hospitals which, with respect to any accounting year, derive 75 percent or more (as estimated by the Secretary) of their inpatient care revenues from one or more health maintenance organizations. The Commission shall consider recommending the classification and comparison of such hospitals as a separate category in recognition of the differences in the nature of their operations as compared with other hospitals.

"(3) (A) The Secretary, taking account of the proposals and advice of the Commission, shall by regulation make appropriate modifications in the method of reimbursement under titles V, XVIII, and XIX for routine hospital costs, other hospital costs, and costs of other entities which are reimbursed on the basis of reasonable costs.

"(B) In any case in which the Secretary proposes to make such modifications, he shall first submit such proposal to the Commission. If the Commission disagrees with such proposal, final regulations implementing such proposal shall be submitted to Congress by the Secretary, and such regulations may not become effective until at least 60 days after they were submitted to Congress.

"(d) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may need.

"(e) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section.

"(g) Section 14 of the Federal Advisory Committee Act shall not apply to the Commission.".

(d) (1) Section 1866(a) (1) of the Social Security Act is amended—

(A) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) not to increase amounts due from any individual, organization, or agency in order to offset reductions made under section 1861(b) in the amount paid, or expected to be paid, under this title.".

(2) Section 1902(a) (27) of the Social Security Act is amended by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end of clause (B) the following: ", and (C) not to increase amounts due from any individual, organization, or agency in order to offset reductions made pursuant to the requirements contained in section 1902(a) (13) (D) in the amount paid, or expected to be paid under the State plan".

(e) Section 1902(a) (13) (D) of the Social Security Act is amended to read as follows:

"(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, applying the methods specified in section 1861(v) and section 1861(bb), which are consistent with section 1122; and".

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

SEC. 552. (a) Part A of title XI of the Social Security Act is amended by adding after section 1128 (as added by section 551 of this Act) the following new section:

"PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

"SEC. 1129. (a) (1) (A) Before the end of the third full month following the month in which this section is enacted, the Secretary shall establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the 'Board'). The Board shall have five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who are knowledgeable about hospital planning and hospital operations.

"(B) Members of the Board shall be appointed for three-year terms, except some initial members shall be appointed for shorter terms to permit staggered terms of office.

"(C) Members of the Board shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent at the time the service involved is rendered for grade GS–18 under section 5332 of title 5, United States Code.

"(D) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Board may need.

"(2) The Board shall receive and act upon applications by hospitals, certified for participation (other than as 'emergency hospitals') under titles XVIII and XIX, for transitional allowances.

"(b) For purposes of this section—

"(1) The term 'transitional allowance' means an amount which—

"(A) shall, solely by reason of this section, be included in a hospital's reasonable cost for purposes of calculating payments under the programs authorized by titles V, XVIII, and XIX of this Act; and

"(B) in accordance with this section, is established by the Secretary for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) experienced because of a qualified facility conversion (as defined in paragraph (2)).

"(2) The term 'qualified facility conversion' means closing, modifying, or changing the usage of an underutilized hospital facility which is expected to benefit the programs authorized under title V, title XVIII, and title XIX by (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources, or (C) substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency.

"(3) A hospital which has carried out a qualified facility conversion and which continues in operation will be regarded as having experienced a 'reimbursement detriment'—

"(A) to the extent that, solely because of the conversion, there is a reduction in that portion of the hospital's costs attributable to capital assets which are taken into account in determining reasonable cost for purposes of determining amount of payment to the hospital under title V, title XVIII, or a State plan approved under title XIX;

"(B) if the conversion results, on an interim basis, in increased operating costs, to the extent that operating costs exceed amounts ordinarily reimbursable under title V, title XVIII, and the State plan approved under title XIX; or

"(C) in the case of complete closure of a private nonprofit hospital, or local governmental hospital, other than for replacement of the hospital, to the extent of actual debt obligations previously recognized as reasonable for reimbursement, where the debt remains outstanding, less any salvage value.

"(c)(1) Any hospital may file an application with the Board (in such form and including such data and information as the Board, with the approval of the Secretary, may require) for a transitional allowance with respect to any qualified conversion which is formally initiated after September 30, 1980. The Board, with the approval of the Secretary, may also establish procedures, consistent with this section, by means of which a finding of a reimbursement detriment may be made prior to the actual conversion.

"(2) The Board shall consider any application filed by a hospital, and if the Board finds that—

"(A) the facility conversion is a qualified facility conversion, and

"(B) the hospital is experiencing or will experience a reimbursement detriment because it carried out the qualified facility conversion,

the Board shall transmit to the Secretary its recommendation that the Secretary establish a transitional allowance for the hospital in amounts reasonably related to prior or prospective use of the facility under titles V and XVIII and the State plan approved under title XIX, for a period, not to exceed twenty years as specified by the Board, and, if the Board finds that the criteria in subparagraphs (A) and (B) are not met, it shall advise the Secretary not to establish a transitional allowance for that hospital. For an approved closure under subsection (b)(3)(C) the Board may recommend or the Secretary may approve, a lump-sum payment in lieu of periodic allowances, where such payment would constitute a more efficient and economic alternative.

"(3)(A) The Board shall notify a hospital of its findings and recommendations.

"(B) A hospital dissatisfied with a recommendation may obtain an informal or formal hearing, at the discretion of the Secretary by filing (in the form and within a time period established by the Secretary) a request for a hearing.

"(4)(A) Within thirty days after receiving a recommendation from the Board respecting a transitional allowance or, if later, within thirty days after a hearing, the Secretary shall make a final determination whether, and if so in what amount and for what period of time, a transitional allowance will be granted to a hospital. A final determination of the Secretary shall not be subject to judicial review.

"(B) The Secretary shall notify a hospital and any other appropriate parties of the determination.

"(C) Any transitional allowance shall take effect on a date prescribed by the Secretary, but not earlier than the date of completion of the qualified facility conversion. A transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by the hospital in providing services for which payment is authorized under this Act, except that the transitional allowance shall not be considered in applying limits to costs recognized as reasonable pursuant to the third sentence of section 1861(v)(1) and section 1861(bb) of this Act, or in determining the amount to be paid to a provider pursuant to section 1814(b), section 1833(a)(2), section 1903(i)(3), and section 506(f)(3) of this Act.

"(d) In determining the reasonable cost incurred by a hospital with respect to which payment is authorized under a State plan approved under title V or title XIX, any transitional allowance shall be included as an allowable cost item.

"(e)(1) The Secretary is authorized to establish transitional allowances only as provided in paragraphs (2) and (3).

"(2) Prior to January 1, 1983, the Secretary is authorized to establish a transitional allowance for not more than fifty hospitals.

"(3) On and after January 1, 1983, the Secretary is authorized to establish a transitional allowance for any hospital which qualifies for such an allowance under the provisions of this section.

"(4) On or before January 1, 1982, the Secretary shall report to the Congress evaluating the effectiveness of the program established under this section including appropriate recommendations.".

(b) The amendments made by subsection (a) shall apply only to services furnished by a hospital during any accounting year beginning on or after October 1, 1980.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 553. (a) Title XI of the Social Security Act is amended by inserting after section 1129 (as added by section 552 of this Act) the following new section:

"COORDINATED AUDITS

"SEC. 1130. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall apportion to the program established under title V or XIX that part of the cost of coordinated audits which is attributable to each such program and which would not have otherwise been incurred in an audit of the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that represents the duplication of costs resulting from such State's failure to participate in the common audit.".

(b) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such title, and (C) for payment of the portion of the costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(c) Section 505(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the portion of costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(d)(1) The amendments made by subsections (b) and (c) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title V or title XIX of the Social Security Act, on or after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan under title V or title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b) or (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

(e) The Secretary shall report to Congress, not later than March 31, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

APPORTIONMENT OF PROVIDER COSTS

SEC. 554. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(G) No payment with respect to a cost attributable to the program established by this title shall be made to a provider of services to the extent that such payment exceeds the proportional share of such cost, as measured by days of utilization or provider charges, until such time as evidence can be produced which, in the judgment of the Comptroller General and concurred in by the Secretary, justifies payment of such a higher proportional share as warranted under particular circumstances for certain facilities, and such payments may then be made only to the extent so justified.".

(b)(1) The amendment made by this section shall be effective with respect to costs attributable to services provided on or after April 1, 1981.

(2) The Comptroller General shall undertake a study to determine those providers (classified, as appropriate, on the basis of type, size, location, patient characteristics, average length of stay, types of nursing services, or other relevant criteria) for which payment of any differential is justified under section 1861(v)(1)(G) of the Social Security Act, and the extent to which such payments are justified. The Comptroller General

shall submit the results of such study to the Secretary of Health and Human Services prior to April 1, 1981, and the Secretary shall issue regulations with respect to such payments prior to October 1, 1981.

(3) In the case of any provider with respect to which it is determined under the regulations issued under paragraph (2) that such payments are justified, reimbursement to such provider shall include such payments, and retroactive reimbursement of such payments shall be made, after October 1, 1981, for services provided on or after April 1, 1981 and before October 1, 1981.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

SEC. 555. (a) (1) Section 1158 of the Social Security Act is amended by adding at the end thereof the following new subsection.

"(e) (1) If, for purposes of payment under a title of this Act as described in subsection (a), the Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services provided by a hospital to an individual on the grounds that such individual could receive appropriate and necessary medical, nursing, or other care more economically in an inpatient facility of another type or home care program, and such organization finds that—

"(A) payment is authorized to be made under or pursuant to such title of this Act (as described in subsection (a)) with respect to services furnished to such individual in such other type of facility or home care program; and

"(B) there is no such other type of facility or home care program available to such individual,

then payment, from funds described in subsection (a), to such hospital may continue to be made (but at a rate determined under paragraph (2)) for days (in a continuous period of days which begins with the day following the last day for which payment may be made, with application of subsection (d), for such inpatient hospital services furnished to such individual) with respect to which such individual meets the conditions specified in subparagraphs (A) and (B).

"(2) (A) The rate at which payment may be continued under paragraph (1) shall be a rate equal to the estimated average rate per patient-day paid for services provided in such other type of facility under the State plan approved under title XIX of the State in which such hospital is located, or, if less, the reasonable reimbursement allowed to such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

"(B) In the case of a State that does not have a State plan approved under title XIX, the rate at which payment may be continued under paragraph (1) shall be an amount equal to the estimated average allowable costs per patient-day for services provided in such other type of facility under title XVIII in the State in which such hospital is located, or, if less, the allowable costs in effect for such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

"(3) Any day on which an individual receives inpatient hospital services for which payment is made at a lower amount on account of the provisions of this subsection shall, for purposes of this Act, be deemed to be a day on which he received the type of services provided by such other type of facility or home care program.".

(2) Section 1158(a) of such Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsections (d) and (e)".

(3) Section 1158(d) of such Act is amended—

(A) by striking out "In any case" and inserting in lieu thereof "(1) Except as provided in subsection (e) and paragraph (2) of this subsection, in any case"; and

(B) by adding at the end thereof the following new paragraph:

"(2) A Professional Standards Review Organization shall not disapprove (under subsection (a)) of inpatient hospital services provided under a title of this Act to an individual on the grounds that such individual could receive appropriate and necessary medical, nursing, or other care more economically in an inpatient facility or home care program of another type for which payment can be made under such title (but shall maintain and make public a quarterly report to the Secretary by hospital and area as to the number of cases and hospital days which, except for this paragraph, would have otherwise been disapproved) if—

"(A) there is no excess of inpatient hospital beds (adjusting for patients occupying hospital beds who do not need that level of care) in the geographic area in which the hospital is located (as certified by the State or local health planning agency or health systems agency); and

"(B) there is no such other type of facility or home care program reasonably available to such individual to provide appropriate care for which payment can be made under such title.".

(b) (1) Section 1812(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) detoxification facility services.".

(2) Section 1814(a) (2) of such Act is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by inserting "or" at the end of subparagraph (E); and

(C) by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initation of detoxification);".

(3) Section 1861(u) of such Act is amended by inserting "detoxification facility," after "home health agency,".

(4) Section 1861 of such Act is amended by adding after subsection (bb) (as added by section 651 of this Act) the following new subsection:

"Detoxification Facility Services

"(cc) (1) The term 'detoxification facility services' means services provided by a detoxification facility in order to reduce or eliminate the amount of a toxic agent in the body, but only to the extent that such services would be covered under subsection (b) if furnished as an inpatient service by a hospital, or are physician services covered under subsection (s).

"(2) The term 'detoxification facility' means a public or voluntary community-based nonprofit facility, other than a hospital, which—

"(A) is engaged in furnishing to inpatients the services described in paragraph (1);

"(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

"(C) has arrangements with one or more hospitals. having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

"(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.".

(c) The amendments made by the preceding provisions of this section shall become effective on October 1, 1980.

(d) The Secretary of Health and Human Services shall conduct a study and make recommendations, within 18 months after the date of the enactment of this Act, concerning the appropriateness of extending coverage to postdetoxification rehabilitation and to outpatient detoxification.

(e) Section 1128(c) of the Social Security Act (as added by section 651 of this Act) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission shall review and make recomendations with respect to a method of classifying and comparing detoxification facilities so as to provide that such method may be used for reimbursement purposes for such facilities within two years after the date of the enactment of this section.".

(f) Section 1155 of such Act is amended by adding at the end thereof the following new subsection:

"(h) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.".

PSRO REVIEW OF HOSPITAL ADMISSIONS, ROUTINE TESTING, AND PREOPERATIVE STAYS

SEC. 556. Section 1155(a) (1) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence: "In carrying out the provisions of this paragraph such organization shall give priority to making such determinations with respect to routine hospital admission testing, preoperative hospital stays in excess of one day, and elective admissions on weekends or other times when services are not available.".

CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

SEC. 557. Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS RELATING TO CERTAIN SURGICAL AND PREOPERATIVE PROCEDURES PERFORMED ON AN AMBULATORY BASIS

"SEC. 1845. (a) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those surgical procedures which can be safely and appropriately performed either in a hospital on an inpatient basis or on an ambulatory basis—

"(1) in a physician's office; or

"(2) in an ambulatory surgical center or hospital.

"(b) (1) If a physician performs in his office a surgical procedure specified by the Secretary pursuant to subsection (a) (1) on an individual insured for benefits under this part, he shall, notwithstanding any other provision of this part, be entitled to have payment made under this part equal to—

"(A) 100 percent of the reasonable charge for the services involved with the performance of such procedure (including all pre- and post-operative physicians' services performed in connection therewith), plus

"(B) the amount established by the Secretary pursuant to paragraph (2),

but only if the physician agrees with such individual to be paid on the basis of an assignment under the terms of which the reasonable charge for such services is the full charge therefor.

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a) (1), an amount established with a view to according recognition to the special costs, in excess of usual overhead, which physicians incur which are attributable to securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and to assuring that the performance of such procedure in the physician's office will involve substantially less total cost than would be involved if the procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure periodically shall be reviewed and revised and may be adjusted, when appropriate, by the Secretary to take account of varying conditions in different areas.

"(c)(1) Payment under this part may be made to an ambulatory surgical center for ambulatory facility services furnished in connection with any surgical procedure, specified by the Secretary pursuant to subsection (a)(2), which is performed on an individual insured for benefits under this part in an ambulatory surgical center, which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, if such surgical center agrees to accept in full payment of all services furnished by it in connection with such procedure, the amount established for such procedure pursuant to paragraph (2).

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2), a reimbursement amount which is payable to an ambulatory surgical center for its services furnished in connection with such procedure. The amount established for any such surgical procedure shall be established with a view to according recognition to the costs incurred by such centers generally in providing the services involved in connection with such procedure, and to assuring that the performance of such procedure in such a center involves less cost than would be involved if such procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) If the physician, performing a surgical procedure (specified by the Secretary under subsection (a)(2)), in a hospital on an outpatient basis or in an ambulatory surgical center with respect to which payment is authorized under the preceding provisions of this subsection, or a physician performing physicians' services in such center or hospital directly related to such surgical procedure, agrees to accept as full payment for all services by him in connection with such procedure (including pre- and post-operative services) an amount equal to 100 percent of the reasonable charge for such services, he shall be paid under this part for such services an amount equal to 100 percent of the reasonable charge for such services.

"(d)(1) The Secretary is authorized by regulations to provide that in case a surgical procedure specified by the Secretary pursuant to subsection (a)(2) is performed on an individual insured for benefits under this part in an ambulatory surgical center which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, there shall be paid with respect to the services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to paragraph (2), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(2) In implementing this subsection, the Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted, when appropriate, to take account of varying conditions in different areas.

"(e)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those preoperative medical and other health services which can be safely and appropriately performed in a hospital on both an inpatient and outpatient basis.

"(2) If a physician, performing a preoperative service (specified by the Secretary under paragraph (1)) in a hospital on an outpatient basis, within seven days prior to admission on an inpatient basis for the surgery to which such service relates, agrees to accept as full payment for such service an amount equal to 100 percent of the reasonable charge for such service, he shall be paid under this part for such service an amount equal to 100 percent of the reasonable charge for such service.

"(f) The provisions of sections 1833 (a) and (b) shall not be applicable to expenses attributable to services to which subsection (b) is applicable, to ambulatory facility services (furnished by an ambulatory surgical center) to which the provisions of subsections (c) (1) and (2) are applicable, or to services to which the provisions of subsection (c)(3), (d), or (e) are applicable.".

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIANS' SERVICES

SEC. 558. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6);

(2) by striking out so much of paragraph (3) as follows the first sentence; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the reasonable charge for services for purposes of paragraph (3) (including the services of any hospital-associated physicians), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

"(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made.

"(ii) In the case of physician services, the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Moreover, for any twelve-month period beginning on July 1 of any year (beginning with 1980), no prevailing charge level for physicians' services shall be increased to the extent that it would exceed by more than one-third the statewide prevailing charge level (as determined under subparagraph (E)) for that service.

"(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

"(C) In the case of medical services, supplies, and equipment (including servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

"(D) The requirement in paragraph (3) (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health and Human Services performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

"(E) The Secretary shall determine separate statewide prevailing charge levels for such State that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 50 percent of the customary charges made for similar services in the State during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In States with more than one carrier, the statewide prevailing charge level shall be the weighted average of the fiftieth percentiles of the customary charges of each carrier.

"(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge if—

"(i) the service or procedure is performed in an area which the Secretary has designated as a physician shortage area,

"(ii) the physician has a regular practice in the physician shortage area,

"(iii) the charge does not exceed the prevailing charge level as determined under subparagraph (B), and

"(iv) the charge does not exceed the amount generally charged by such physician for similar services.".

(b) Sections 506(f)(1) and 1903(i)(1) of the Social Security Act are each amended by striking out "the fourth and fifth sentences of section 1842(b)(3)" and inserting in lieu thereof in each instance "subparagraphs (B)(ii), (B)(iii), (C), and (F) of section 1842(b)(4)".

(c) The amendments made by this section shall become effective on July 1, 1980.

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

SEC. 559. (a) Part A of title XI of the Social Security Act is amended by adding after section 1133 the following new section:

"EXCLUSION OF CERTAIN ITEMS IN DETERMINING REASONABLE COST AND REASONABLE CHARGE

"SEC. 1134. (a) Except as otherwise provided in subsection (b), in determining the amount of any payment under title XVIII, under a program established under title V, or under a State plan approved under title XIX of this Act, when the payment is based upon the reasonable cost or reasonable charge, no element comprising any part of the cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

"(1) a commission, finder's fee, or for a similar arrangement, or

"(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement, which is, directly or indirectly, determined, wholly or in part as a percentage, fraction, or portion of the charge or cost attributed to any health service (other than the element) or any health service including, but not limited to, the element.

"(b)(1) The Secretary shall by regulations establish exceptions to the provisions of subsection (a) with respect to any element of cost or charge which consists of payments based on a percentage arrangement, if such element is otherwise reasonable and the percentage arrangement—

"(A) is a customary commercial business practice, or

"(B) provides incentives for the efficient and economical operation of the health service.

"(2) The provisions of subsection (a) shall not be applicable to compensation payable to a physician under a percentage arrangement (including an arrangement that relates to compensation for supervisor, executive, educational, or research activity) between a physician and a hospital if the physician shows (to the satisfaction of the Secretary) that compensation under such arrangement does not exceed, on an annual basis, an amount which would reasonably have been paid to the physician under a relative value schedule which takes into consideration such physician's time and effort, consistent with the inherent complexity of the procedures and services".

(b) Section 506 of such Act is amended by adding at the end thereof the following new subsection:

"(h) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(c) Section 1842(b)(4) of such Act (as amended by section 158 of this Act) is further amended by adding at the end thereof the following new subparagraph:

"(G) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(d) Section 1861(v) of such Act is amended by adding after paragraph (8) (as added by section 151 of this Act) the following new paragraph:

"(9) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(e) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(r) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(f) The Secretary of Health and Human Services shall conduct a study of the hospital-based physician compensation and the impact of alternative reimbursement methods on providers, patients, physicians, and third party payors, and shall submit to the Congress a full and complete report thereon, together with recommendations for such legislation as he deems appropriate, within two years after the date of the enactment of this Act.

(g) The amendments made by this section shall become effective on October 1, 1980, except that a percentage arrangement entered into prior to January 1, 1980, shall be recognized for reimbursement purposes under the Social Security Act, subject to the same tests of reasonableness as were prescribed by such Act or regulations thereunder on January 1, 1980, until such time as the facility is able to unilaterally terminate such arrangement, or until December 31, 1981, whichever is earlier.

LIMITATION ON REASONABLE COST AND REASONABLE CHARGE FOR OUTPATIENT SERVICES

SEC. 560. (a) Section 1134 of the Social Security Act (as added by section 659 of this Act) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall issue regulations that provide for the establishment of limitations on the amount of any costs or charges that shall be considered reasonable with respect to services provided on an outpatient basis by hospitals, community health centers, or clinics (other than rural health clinics), which are reimbursed on a cost basis or on the basis of cost related charges, and by physicians utilizing such outpatient facilities. Such limitations shall be based upon the reasonableness of such costs or charges in relation to the reasonable charges of physicians in the same area for similar services provided in their offices.".

(b) Section 1128(c) of the Social Security Act (as added by sections 631 and 655 of this Act) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall give immediate priority to making a study and submitting recommendations to the Secretary with respect to the setting of limitations on reasonable costs and reasonable charges for outpatient services as provided in section 1134(c).".

MEDICARE LIABILITY WHERE PAYMENT CAN BE MADE UNDER LIABILITY INSURANCE

SEC. 561. (a) Section 1862(b) of the Social Security Act is amended—

(1) by inserting before the period at the end of the first sentence the following: ", or under liability insurance of the person at fault, or under no-fault liability insurance";

(2) by inserting before the period at the end of the last sentence ", or under such liability insurance"; and

(3) by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this subsection with respect to liability insurance if he determines that the probability of recovery or amount involved does not warrant the pursuing of the claim.".

ACCESS TO AND PURCHASE OF MEDICAID SERVICES

SEC. 562. (a) Section 1902(a)(23) of the Social Security Act is amended to read as follows:

"(23) provide that limitations or restrictions elected by a State with respect to choice by recipients of medical assistance provided for by the State—

"(A) may apply only to institutional providers (including clinics), laboratory services, and medical devices;

"(B) must be cost-effective arrangements which provide for reasonable payment based upon comparisons of costs at which services of proper quality may be obtained and are actually available (and for this purpose the plan may provide that such arrangements need not be in effect in all political subdivisions of the State notwithstanding the provisions of paragraph (1)), and must provide that in the case of inpatient hospital services, payment to a hospital shall not be deemed to be reasonable for purposes of paragraph (13)(D) if it is less than the cost that is found reasonable and necessary in the efficient and economical delivery of such needed services in the geographic area in which such hospital is located;

"(C) have reasonable access to services (taking into account geographic location and reasonable travel time) for which they are eligible (including emergency services and provisions for timely referral and transfer to other providers when medically appropriate) through providers which meet all applicable standards under the State plan and whose services are available to such recipients; and

"(D) must provide that, subject to the provisions of subparagraph (B) there will not be a resulting substantially adverse effect on the access of recipients to qualified hospitals having graduate medical education programs that undertake to provide such care;".

(b) Section 1902(a) of such Act (as amended by section 653 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (41);

(2) by striking out the period at the end of paragraph (42) and inserting "; and"; and

(3) by adding after paragraph (42) the following new paragraph:

"(43) provide that any laboratory services (other than such services provided in a physician's office) paid for under such plan must be provided by a laboratory which meets the requirements of section 1861(e)(9) and paragraphs (10) and (11) of section 1861(s), or, in the case of a rural health clinic, section 1861(aa)(2)(G).".

(c)(1) The amendments made by subsection (b) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on or after the first day of the first calendar quarter that begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(3) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SUSPENSION OF PERIODIC INTERIM PAYMENT METHOD OF REIMBURSEMENT

SEC. 563. Effective September 1, 1981, the Secretary of Health and Human Services shall withhold payments to hospitals under title XVIII of the Social Security Act under the periodic interim payment method of reimbursement to the extent necessary to provide that the lag time between the date services are rendered and the date of payment under such method of reimbursement is equal to the lag time in such payments under this title to hospitals not being reimbursed under such method.

WITHHOLDING OF DISPUTED PAYMENTS

SEC. 564. Section 1903(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) In any case in which the Secretary estimates that there has been an overpayment to a State on the basis of a claim by such State that has been disallowed by the Secretary, and such State disputes such disallowance, the amount of the Federal payment in controversy shall not be paid to such State until such time as a final determination has been made with respect to such amount. If such determination is to the effect than an amount is owed to such State, such amount shall be increased by an amount equal to the amount which would have been paid on the amount otherwise owed, at the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund, during the period beginning on the date that the State disputed such disallowance and ending on the date that payment is made to the State.".

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 565. (a) Section 1902(a)(13)(E) of the Social Security Act is amended to read as follows:

"(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates, determined in accordance with methods and standards developed by the State, which the State finds, and make assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports; and".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980.

HOME HEALTH AGENCY REIMBURSEMENT LIMITS

SEC. 566. (a) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (G) (as added by section 654 of this Act) the following new subparagraph:

"(H)(i) Such regulations shall provide that the cost per visit for each of the different types of visits a home health agency provides shall not be considered to be reasonable to the extent that it exceeds an amount that would cover 75 percent of the average per visit costs for such visits (weighted on the basis of the number of visits rendered) incurred by home health agencies which are determined to be comparable by the Secretary.

"(ii) Such regulations shall require in the case of visits by a skilled nurse or home health aide, the costs incurred by a health agency for such visits shall not be considered reasonable to the extent that the cost of any such visit exceeds the per diem rate paid, in the State where such agency is located, under the State's plan approved under title XIX of this Act for skilled nursing facility services in the area. In making such determination, in the case of a hospital-based home health agency, the comparison shall be made to the per diem rate for hospital-based skilled nursing facilities, and in the case of other home health agencies the comparison shall be made to the per diem rate for nonhospital-based skilled nursing facilities. In the case of a State which does not have a plan approved under title XIX, the per diem rate for skilled nursing facilities under this title shall be used in lieu of the per diem rate under such a State plan.

"(iii) Any supervisory visit which is specifically required by regulations shall be reimbursable as a home health aide visit (but shall not count as a visit for purposes of determining a particular beneficiary's eligibility for visits). Any initial patient assessment visit shall be a reimbursable visit notwithstanding a determination of ineligibility following such visit, if there was a reasonable basis for assuming potential eligibility, such as a referral from a discharge planner, physician, or other source qualified as being knowledgeable with respect to the beneficiary and the program under this title.

"(iv) Such regulations may provide for appropriate exceptions and adjustments on an agency-by-agency basis where warranted by unusual circumstances.".

(b) The amendment made by this section shall become effective on October 1, 1980.

DETERMINATION OF REASONABLE CHARGE

SEC. 567. (a) Section 1842(b)(4)([illegible])(i) of the Social Security Act (as added by section 658 of this Act) is amended by striking out "fiscal year in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "fiscal year in which the service is rendered".

(b) Section 1842(b)(4)(E) of such Act (as added by section 658 of this Act) is amended by striking out "fiscal year in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "fiscal year in which the service is rendered".

(c) Section 1842(b)(3) of such Act is amended by striking out "and" at the end of subparagraph (D), by adding "and" at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

"(F) will take such action as may be necessary to assure that where payment under this part for a service rendered in a particular month is on a charge basis, such payment shall be determined on the basis of the charge that is determined to be reasonable for such month in accordance with this part (except that in the case of a service which was rendered prior to the beginning of the calendar year preceding the year in which the bill is submitted, or request for payment is made, with respect to such service, payment shall be determined on the basis of the charge that is determined to be reasonable in accordance with this part for the first month of such preceding year;".

(d) The amendments made by this section shall become effective on October 1, 1980.

(e) In any case in which the Secretary of Health and Human Services is required to issue regulations on or before a specified date by reason of any amendment made by this part, the Secretary shall (and is authorized to) waive or modify any requirement of section 553 of title 5, United States Code, to the extent necessary (as determined by the Secretary) in order to issue such regulations in a timely manner.

PART G—TRANSFER OF FUNDS

SEC. 571. The Secretary of the Treasury shall delay transfer, until on or after October 1, 1981, of $600,000,000 which would otherwise be transferred during September 1981 from the general fund in the Treasury into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund. In delaying such transfer the Secretary shall insure that the funds are withheld from any or all of such trust funds in such amounts so as not to adversely affect the ability of the Secretary of Health and Human Services to make payments out of such trust funds as required under the Social Security Act. The Secretary shall, at the time of such transfer, also transfer to the appropriate trust funds an amount equal to the amount of interest which he estimates would have accrued to such trust funds if the transfer had not been delayed as provided by this section.

APPENDIX B: CONGRESSIONAL BUDGET OFFICE ESTIMATES OF BUDGETARY IMPACT OF FINANCE COMMITTEE AMENDMENTS

(NOTE.—The totals in the CBO estimates do not reflect the savings from already-enacted legislation (H.R. 3434 and H.R. 3236). These amounts are included in the committee estimates as shown in the table in Chapter IV of this report. The committee estimates are otherwise consistent with those of CBO.)

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 24, 1980.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 202 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for Title VI, Senate Resolution on Budget Reconciliation.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE: COST ESTIMATE

JUNE 24, 1980.

1. Bill title: Title V, Senate Resolution on Budget Reconciliation.

2. Bill status: As transmitted by the Senate Committee on Finance to the Senate Committee on the Budget, June 25, 1980.

3. Bill purpose: To bring the expenditures authorized by the Senate Committee on Finance within the target for that Committee established by the First Concurrent Resolution on the Budget for fiscal year 1981.

4. Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984	1985
Budget authority	−39	−839	279	−359	−387	−372
Outlays	−39	−2,172	−1,398	−1,851	−2,329	−2,791

The savings resulting from this bill fall within budget functions 550 and 600.

5. Basis of estimate: Since much of the final language of the bill was not available at the time this estimate was prepared, the attached section-by-section cost analysis is based on CBO's understanding of the provisions of the bill from press releases and conversations with Committee staff.

6. Estimate comparison: None.

7. Previous CBO estimate: Where applicable, previous CBO estimates are discussed by section under "Basis of Estimate."

8. Estimate prepared by: Human Resources Cost Estimates Unit, Charles Seagrave, Chief (225–7766)

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Sec. 501: Elimination of National Trigger:

Cost estimate:

(By fiscal years, in millions of dollars)

	Estimated outlays
1981	0
1982	−300
1983	0
1984	0
1985	0

Basis of estimate: Under current CBO economic assumptions, the unemployment rate is expected to trigger a national extended benefit program during one quarter of fiscal year 1982. Elimination of this national trigger is estimated to save $300 million in fiscal year 1982. CBO is in the process of revising its economic assumptions. It is likely that a revised set of economic assumptions will show savings from this provision in 1981.

Previous CBO estimate: An estimate of the savings from this provision was included in CBO's December 10, 1979 estimate of H.R. 4612, as ordered reported by the Senate Finance Committee. The previous estimate has been updated for economic assumptions.

Sec. 502: Waiting Period for Benefits:

Cost estimate:

[By fiscal years, in millions of dollars]

	Estimated outlays
1981	−25
1982	−27
1983	−30
1984	−32
1985	−33

Basis of estimate: Currently, 12 states do not require unemployed individuals to wait one week before receiving unemployment insurance benefits. Another 9 states require a one week waiting period, but pay for that week retroactively after a certain period of unemployment. This provision would eliminate federal matching for the first week of extended benefits in states with no waiting period. The estimate assumes that 10 percent of the states that either have no waiting period or pay retroactively, would institute a one week waiting period or eliminate retroactive payments as a result of this provision.

Previous CBO estimate: An estimate of the savings from this provision was included in CBO's December 10, 1979 estimate of H.R. 4612, as ordered reported by the Senate Finance Committee. The previous estimate has been updated for economic assumptions.

Sec. 503: Optional State Trigger

[By fiscal years, in millions of dollars]

	Estimated Outlays
1981	−30
1982	−30
1983	−30
1984	−30
1985	−30

Basis of estimate: Under current law, states are required to participate in the extended benefit program (1) when the national trigger is "on" because the national insured unemployment rate is 4.5 percent or higher or (2) when the state insured unemployment rate is both at least 4 percent and 20 percent above the comparable state insured unemployment rate for the last two years. States which are not required to participate under the above criterion may participate, if the insured unemployment rate is at least 5 percent. This bill would permit states to select a higher unemployment rate to initiate the extended benefit program. It is not known how many states would change the 5 percent trigger rate or what new trigger rate they would select. The estimate assumes that 25 percent of the states that currently use the 5 percent rule will adopt a 6 percent trigger point.

Previous CBO estimate: An estimate of the savings from this provision was included in CBO's December 10, 1979 estimate of H.R. 4612, as ordered reported by the Senate Finance Committee. The previous estimate has been updated for economic assumptions.

Sec. 504: Unemployment Benefits for Ex-Servicemen

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−43	−47	−51	−55	−57
Estimated outlays	−43	−47	−51	−55	−57

Basis of estimate: Under current law, unemployment insurance benefits are payable to ex-servicemen who have served at least 90 days. This bill would extend the minimum period of service to one year. The cost estimate is based on Department of Defense data on the length of service of enlistees from 1975 to 1977.

Previous CBO estimate: An estimate of the savings from this provision was included in CBO's December 10, 1979 estimate of H.R. 4612, as ordered reported by the Senate Finance Committee. The previous estimate has been updated to reflect new data on average benefits and lengths of receipt for this population.

Sec. 505: Unemployment Benefits for Federal Employees

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−11	−12	−13	−14	−15
Estimated outlays	−11	−12	−13	−14	−15

Basis of estimate: Under current law, unemployed former federal employees receive unemployment insurance payments financed from a general appropriation. This provision would require each agency to reimburse claims for former employees out of the agency appropriation. The provision is expected to save 5 percent of total benefit payments to former federal employees in the outyears.

Previous CBO estimate: An estimate of the savings from this provision was included in CBO's December 10, 1979 estimate of H.R. 4612, as ordered reported by the Senate Finance Committee. The previous estimate has been updated for economic assumptions.

Sec. 506: Limitation on Extended Benefits for Nonresidents.

Cost estimate:

[By fiscal years, in millions of dollars]

	Estimated outlays
1981	−46
1982	−30
1983	−28
1984	−19
1985	−15

Basis of estimate: For extended unemployment benefit recipients moving to a state where no extended benefit program currently exists, only two weeks of extended benefit payments could be made. Based on Department of Labor data on the number of extended benefit claimants applying for benefits outside of their original state, CBO estimates a fiscal year 1981 savings of 2 percent of extended benefit payments.

Sec. 507(A): Extended Benefits Not Payable on the Basis of Less Than 20 Weeks of Unemployment.

Cost estimate:

[By fiscal years, in millions of dollars]

	Estimated outlays
1981	−120
1982	−130
1983	−90
1984	−35
1985	−20

Basis of estimate: Eighteen states and the District of Columbia do not make extended benefit payments to persons with less than 20 weeks of employment. In the remaining states, Department of Labor data shows a saving of between 5 and 10 percent. This estimate assumes a savings of 7½ percent of extended benefit payments in the remaining states. The savings are reduced in 1983 through 1985 due to an improved economic forecast.

Sec. 507(B): Extended Benefit Not Payable to Persons Who Leave Jobs Voluntarily or for Misconduct.

Cost estimate:

[By fiscal years, in millions of dollars]

	Estimated outlays
1981	−32
1982	−49
1983	−24
1984	−10
1985	−6

Basis of estimate: The 1981 estimate was provided by the Department of Labor. The outyear estimates assume the savings are a constant ratio of total estimated extended benefit payments.

Sec. 507(C): Extended Benefits Not Payable to Persons Refusing Any Reasonable Job Offer

Cost estimate:

[By fiscal years, in millions of dollars]

	Estimated Outlays
1981	−94
1982	−145
1983	−72
1984	−29
1985	−16

Basis of estimate: An SRI study of the job reuqirement in the now expired federal supplemental benefits program found a savings of approximately 4 percent from requiring acceptance of any job which meets minimum standards of acceptability. This estimate assumes a 4 percent savings from total extended benefit payments.

Sec. 511: Limit Supplemental Security Income (SSI) Eligibility for Individuals who Dispose of Resources

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−15	−31	−40	−49	−55
Estimated outlays	−15	−31	−40	−49	−55

Basis of estimate: Under current law, the disposal or transfer of a resource prior to the filing of an SSI application does not preclude program eligibility, even though the individual would be ineligible if he retained the resource. This provision would delay SSI eligibility in the case of applicants who dispose of resources for less than current market value, if retaining such resources would make them ineligible for benefits. The cost estimate is based on Social Security Administration data on the proportion of all new program applicants who dispose of assets. The estimate includes medicaid savings.

Previous CBO estimate: An estimate of the savings from this provision was contained in CBO's September 20, 1979 cost estimate of H.R. 4904. The savings estimate has been modified to reflect a different implementation date.

Sec. 521: Federal Day Care Regulations

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−20	0	0	0	0
Estimated outlays	−20	0	0	0	0

Basis of estimate: The Department of Health and Human Services has issued final regulations for day care provided under state social services plans (Title XX), to be effective September 19, 1980. Some states have expressed concern about the cost of implementing the new standards, indicating that they believe that their enforcement would result in reducing the available supply of care, particularly for low income families, the primary recipients of HHS-funded care. To the extent that AFDC families are denied day care services at these facilities as a result of the new regulations, they would be eligible for additional AFDC monies to purchase day care elsewhere. This provision would postpone the implementation of the new standards one year until October 1, 1981, thereby postponing the increased AFDC costs, as well.

CBO estimates that in fiscal year 1981, without the new regulations, $100 million in federal expenditures will go to pay for day care costs incurred by AFDC parents who work. This might be expected to rise about $20 million when AFDC parents purchase child care services outside of Title XX funded institutions. Postponing the implementation date of the regulations would, thus, save the $20 million.

Sec. 531: Public Assistance Payments to Territorial Jurisdictions

Cost estimate:

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984	1985
Budget authority	−39	−26	0	0	0	0
Outlays	−39	−26	0	0	0	0

Basis of estimate: H.R. 3434, as recently enacted, raised the federal payments to the trust territories (Puerto Rico, Guam and the Virgin Islands) from $26 million to $78 million. This provision would cut payment level to $39 million in fiscal year 1980 (saving $39 million) and $52 million in fiscal year 1981 (saving $26 million).

Sec. 541: Reallocation of OASDI Taxes Between OASI and DI Trust Funds

Cost estimate:

No cost.

Sec. 542: Three Month Limit on Retroactive Benefits

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	5	20	40	62	86
Outlays	−150	−250	−260	−270	−280

Basis of estimate: Cutting the retroactive period during which OASI and DI beneficiaries can receive benefits from 12 to 3 months will save approximately $150 million in fiscal year 1981. We accept the actuaries estimates at this time, although it is possible that people's behavior patterns will result in their more prompt application for benefits, and thus the savings might be slightly lower. Available evidence, however, does not indicate that this faster application for benefits has occurred in the past when similar provisions went into effect.

Sec. 543: Cut Social Security Benefits for Prisoners

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	1	2	3	5	7
Outlays	−16	−17	−19	−21	−24

Basis of estimate: This provision will withhold benefit payments for all disabled and student prisoners, and their dependents.

A GAO study of federal benefits received by prison inmates shows that there are approximately 3,750 prisoners in receipt of Social Security benefits. Assuming an average 1981 benefit of $4,400 (including dependents), there will be $16 million in savings for fiscal year 1981

Sec. 551: Hospital Routine Cost Limits

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Hospital routine cost limits:					
Estimated outlays	−70	130	40	−290	−530
Budget authority	−10	10	−20	−60	−60
Payments for State programs:					
Estimated outlays	(1)	4	6	7	9
Budget authority	(1)	1	1	1	1

(1) Less than $500,000.

Basis of estimate: The estimate is derived from two CBO microsimulation models using medicare cost reports of 5,800 hospitals. The cost reports, the most recent available as of July 18, 1978, were updated using actual and projected aggregate increases in patient days and routine costs. Because section 651 would replace the regulations promulgated under section 223 of the 1972 Social Security Amendments, it was necessary to simulate both programs in order to determine the net effect of section 551.

Over the next five years the limits on routine hospital costs would reduce federal medicare and medicaid outlays by approximately $720 million, assuming the limits are effective July 1, 1980, as stated in the bill. The penalties, net of section 223 savings,[1] would save about $1,420 million over five years; whereas, bonus payments would cost about $700 million (see Table 1).

TABLE 1.—COMPONENTS OF IMPACT OF ROUTINE COST LIMITS ON FEDERAL MEDICARE AND MEDICAID OUTLAYS, FISCAL YEARS 1981–85

[In millions of dollars]

	1981[1]	1982	1983	1984	1985	1981–85
Gross impact of limits	−340	[2] −350	[2] −520	−1, 030	−1, 340	−3, 580
Effect of eliminating sec. 223[3]	270	370	440	510	570	2, 160
Net impact of limits	−70	20	−80	−520	−770	−1, 420
Bonus payments		110	120	230	240	700
Total costs	−70	130	40	−290	−530	−720

[1] The new reimbursement system would be phased in during fiscal year 1981, beginning with hospital accounting years starting July 1, 1980.

[2] Figures include excess penalities returned to hospitals at final settlement.

[3] Figures include estimates of impact of revised regulations included in President's fiscal year 1981 budget.

Although the limits under section 551 appear to be similar to those in effect under section 223, the section 551 limits are more restrictive for several reasons. First, the section 551 limits for any one year are based on data that are two to three years old. The data would be updated by an index of the prices hospitals pay for the goods and services used in providing the care covered by the bill, called a hospital "market basket", rather than by projected costs. Because actual cost increases usually exceed the increases in the market basket due to growth in the intensity of services, the use of the market basket index in updating the data would result in lower limits than if an index of routine costs were used. The section 223 regulations, on the other hand, are based on more recent data that is updated to some extent by an index of total routine costs, not only market basket increases. As a result, the section 551 limits would be more restrictive than the section 223 limits. Furthermore, the section 551 limits become much more restrictive over time.

The unusual pattern of savings and costs over the 1981 to 1985 period results from assumptions about the administration of the bill by HHS. Based on discussions with staff of the Health Care Financing Administration, CBO made the following assumptions:

(1) Although the bill would reduce penalties by one-half during the first two years, full penalties would be deducted from interim payments for all years. The extra one-half of penalties assessed during the first two years would be returned to hospitals at final settlement. This procedure would be necessary since one would not know the amount of one-half of the penalties until the year was completed.

(2) Bonuses would be paid at the time of final settlement, or about six months after the end of the hospitals' accounting years.

These assumptions maximize the cash savings in fiscal year 1981. All the savings would show up during the hospital's first fiscal year under the new controls, while the costs (bonuses plus one-half of penalties for first two years) would not show up until the hospital's next fiscal year.

Section 551 would also establish a Health Facilities Cost Commission that could recommend to the Secretary of HHS expansion of the controls to cover all (routine, special care, and ancillary) costs. No savings are attributed to this particular provision.

Finally, this section would provide funds totaling approximately $26 million for the administrative costs of state hospital cost commissions. The commissions would be reimbursed by the federal government for a portion of their administrative costs equal to the proportion that medicare and medicaid hospital expenditures represent of all hospital expenditures covered by the state commissions.

Further details on the estimate of this section are available on request.

Previous CBO estimate: In October, 1979, CBO estimated that the same provisions contained in H.R. 934, Section 202, would increase federal outlays by $450 million. The primary reason for the substantial change in the estimate was the development of the simulation model that greatly improved CBO's ability to analyze the impact of the provisions. In particular, the model indicated that the provision of the bill that allows hospitals with below average lengths-of-stay per patient to have different limits does not reduce the savings by as much as previously estimated. In addition, CBO now assumes that the penalties would be deducted from interim payments, rather than assessed at final settlement as was assumed in the last estimate. This assumption shifts estimated savings forward by one year.

Sec. 552: Closure/Conversion of Underutilized Facilities.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	0	−2	−2	−4	−6
Outlays:					
Medicare	−2	−7	−19	−36	−58
Medicaid	0	−2	−4	−8	−14
Total outlays	−2	−9	−23	−44	−72

Basis of estimate: The estimate assumes the conversion of acute care facilities to lesser levels of care will be the predominant activity resulting from the provision, in fiscal years 1981 and 1982, 49 hospitals are assumed to receive payments, and 50 hospitals in each fiscal year thereafter. Only hospitals with less than 400 beds are assumed to undertake conversion projects. Fifteen beds out of an average of 120 beds per hospital are assumed to be converted since this would raise the acute care occupancy rate from an average of 65 percent to 74 percent. The conversion cost is assumed to be $30,000 per bed in fiscal year 1981 dollars, amortized over 20 years. Savings are generated by recouping one-half the cost of an occupied acute care bed, offset by the costs for the long-term care patients that would fill the converted beds.

Previous CBO estimate: This estimate is

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[1] Estimates of section 223 savings include estimates of the impact of revised regulations included in President's Fiscal Year 1981 Budget.

identical to that provided to the Committee on October 25, 1979 for section 205 of H.R. 934, except that it has been extended to fiscal year 1985. Since the assumed enactment date for this estimate is later than for the earlier estimate, it is implicitly assumed that the conversion program will become operational more quickly than was previously assumed.

Sec. 553: Coordinated Audits

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	−4	−5	−6	−6	−7
Estimated outlays	−4	−5	−6	−6	−7

Basis of estimate: This provision would require that audits of providers performed for the purposes of medicaid or of Title V programs be coordinated with medicare audits whenever a provider participates in medicare and in one or both of the other programs. Federal reimbursements for state expenditures for medicaid or for maternal and child health programs would be reduced for any state not conducting common audits. The amount paid to the state would be reduced to the amount that would have been paid for auditing expenses had the state conducted common audits.

Eliminating duplicative audits should reduce administrative costs for providers, states, and the federal government. A rough estimate of potential federal savings is derived in the following manner.

HCFA estimates that medicare audits will cost about $63 million in fiscal year 1980. This figure includes the costs of coordinated medicaid audits in the more than 30 states that already perform such audits. A comparable HCFA estimate of the cost of medicaid audits is unavailable because states do not routinely report such costs. Assuming that audit costs per participating provider are identical for medicare and medicaid, however, CBO estimates that, in the absence of any coordinated audits, medicaid audits would cost about $47 million in fiscal year 1980. The 16 states and territories that were not performing common audits on June 30, 1977 accounted for about 25 percent of total medicaid administrative expenditures that year. Thus, medicaid audit costs for those states that would be affected by Section 21 are estimated to be about $12 million in fiscal year 1980 and $13 million in fiscal year 1981. The federal share of these expenditures is $7 million. Assuming arbitrarily that 80 percent of this amount would be saved through coordinated audits, over $5 million would be saved by the federal government during fiscal year 1981. Because the provision is assumed to be affective for just three-quarters of the year, however, the estimated savings shown have been reduced to $4 million. Savings in future years are assumed to increase according to CBO's projections of the Consumer Price Index.

Previous CBO estimate: This estimate is consistent with earlier CBO estimates of similar provisions included in H.R. 4000 as reported by the House Committee on Interstate and Foreign Commerce (estimate dated March 28, 1980). This estimate is considerably lower than CBO's estimate of the provision included in H.R. 934 as reported by the Senate Committee on Finance (estimate dated October 25, 1979). The reestimate is based on more complete information regarding current audit costs than was previously available.

Sec. 554: Apportionment of Provider Costs

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	3	(1)	(1)	(1)	(1)
Outlays: Medicare	−75	(1)	(1)	(1)	(1)

[1] Estimate not available.

Basis of estimate: This proposal is a modification of Section 210 of H.R. 934 as ordered reported on June 28, 1979. In effect, the 8.5 percent nursing differential would be retained during the first half of fiscal year 1981 and suspended during the second half, pending the results of a GAO study. The Office of Financial and Actuarial Analysis of the Health Care Financing Administration has estimated that complete elimination of the nursing differential would save $191 million in fiscal year 1981. CBO has verified this estimate and has adjusted it to account for the proposal being effective only during the latter half of fiscal year 1981. An estimate for subsequent fiscal years is not possible until the results of the GAO study are known.

Previous CBO estimate: See "Basis of Estimate" section above.

Sec. 555: Inappropriate Hospital Services

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Medicare: Estimated outlays	−118	−179	−204	−231	−263
Medicaid: Required budget authority	−33	−51	−58	−66	−76
Estimated outlays	−33	−51	−58	−66	−76

Basis of estimate: The provision would restrict medicare and medicaid reimbursements for inpatient hospital services furnished to beneficiaries who do not require hospital care but who are hospitalized because necessary long-term care services are unavailable. Reimbursement would be limited to the average skilled nursing facility, intermediate care facility, or detoxification facility payment rate, as appropriate.

Currently, under medicare, inpatient hospital care provided only because necessary long-term care services are unavailable is reimbursed at normal medicare rates for inpatient hospital services. Consequently, the provision would reduce medicare payments for such care. Under medicaid, most states follow current medicare practices regarding such care, but some already limit reimbursement to skilled nursing or intermediate care facility rates, and still others do not pay for such care at all. Thus, for medicaid, the effect of the provision would be reduced somewhat.

One study of medicare and medicaid hospital patients indicates that approximately 3 percent of medicare and medicaid hospital days (about four million days) are provided only because required long-term care services are unavailable. Based on the results of the study, CBO estimates that 20 percent of these medically unnecessary hospital days would escape PSRO review altogether (because of the periodic nature of that review). CBO assumes that 90 percent of reviewed days would be reimbursed at the special rate. On the basis of current payment data, fiscal year 1980 savings of $80 are estimated for each day reimbursed at the lower rate. Thus, gross first-year savings (federal and state) would be about $230 million. Exemption of hospitals in areas not having excess hospital beds is estimated to reduce gross savings by about 10 percent to $207 million.

The assumed six-month delay in implementation would cut estimated net savings in fiscal year 1981 to $177 million. Two-thirds of this amount ($118 million) is estimated to accrue to medicare. Of the medicaid portion, about $33 million would be federal savings. Savings in subsequent years grow according to CBO's projections of increases in total annual hospital days and in savings per day.

Previous CBO estimate: This estimate is consistent with earlier CBO estimates of similar provisions included in H.R. 4000, as reported by the House Committee on Ways and Means (estimate dated November 20, 1979), and as reported by the House Committee on Interstate and Foreign Commerce (estimate dated March 28, 1980). This estimate is considerably higher than CBO's estimate of the provision included in H.R. 934, as reported by the Senate Committee on Finance (estimate dated October 25, 1979). The reestimate is based on additional information about unnecessary hospital days and the PSRO review process.

Sec. 556: PSRO Review of Hospital Admissions, Routine Tests, and Preoperative Stays

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−1	−6	−5	−1	4
Outlays:					
Medicare	−23	−55	−72	−85	−99
Medicaid	−2	−10	−14	−17	−20

Savings from eliminating unnecessary routine tests are estimated on the assumption that a battery of six tests costing about $70 would be involved per admission. It is estimated on the basis of HI discharge data that 65 percent of HI admissions are for nonsurgical procedures. Based on a study by Blue Cross, it is assumed that, in 75 percent of these admissions, the affected tests are done routinely. It is further assumed that 10 percent of these tests would be eliminated by the increased priority placed by the provision on the review by PSROs of their necessity. The foregoing assumptions yield, through a multiplicative relationship, first-year savings in HI of outlays of $38 million in fiscal year 1981. These are assumed to be reduced in half in fiscal year 1981 due to delays in implementation. Outyear savings are projected to increase by both the rate of growth in medicare hospital admissions (5 percent per year) and by CBO's latest projections in the rate of growth in the medical care services component of the Consumer Price Index.

On the basis of findings by a CBO study of PSROs, it is assumed that 2 percent of medicare preop days for elective procedures could be eliminated by PSRO efforts in this area. At an assumed $148 in routine costs per day, first year savings would be $22 million. The savings are partially offset by $5 million for administrative costs. Due to delays in implementation, first-year savings are assumed to be reduced by two-thirds. Out-year savings are projected to increase by both the rate of growth in HI surgical admissions (7 percent per year) and by CBO's latest projections of the rate of increase in hospital expense per day.

Medicaid savings are assumed to be 20 percent of total medicare savings, based on the relative shares of total hospital expenditures financed by these two programs. Out-year savings are projected to grow at the same rate as total medicaid outlays.

Previous CBO estimate: The estimate is similar to the one of section 213 of H.R. 934 with some minor changes in assumptions.

Sec. 557: Ambulatory Surgery
Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority		1	2	4	6
Outlays: Medicare	−5	−15	−20	−25	−25

Basis of estimate: The parts of this proposal which provide for reimbursement for surgery done on an ambulatory basis will result in both savings and costs to the medicare program. Savings are generated by the lower cost of minor surgery done in an ambulatory rather than an inpatient setting. Costs are generated by the likely increase in the number of minor operations done because of the greater convenience to patients of an ambulatory setting. The estimate of costs is based on a three-year study of the costs and quality of surgery performed in different settings which was done by the Orkand Corporation for DHHS. This study showed that the total costs of minor surgery done in an ambulatory setting is about 25 percent less than that performed in an inpatient setting. CBO assumes that minor operations cost 60 percent of the average cost for all surgical procedures financed by medicare. It is further assumed that 0.5 percent of all medicare-financed operations will be done in an ambulatory setting in fiscal year 1981 and that this figure will increase to 4 percent in fiscal year 1985. These assumptions, combined with a 25 percent savings rate per operation and CBO's projections of the growth in HI outlays, produce an estimated savings to the medicare program of $8 million in fiscal year 1981. The savings rise to $122 million in fiscal year 1984. CBO expects these savings to be reduced slightly by HI's share in the costs produced by an assumed 40 percent refilling of the empty hospital beds created by the shift of minor operations out of hospitals. The savings are further offset by the costs of the additional demand for minor operations. These are estimated under the assumption that the number of medicare-financed operations that can be performed on an ambulatory basis will increase by one percent in fiscal year 1981, increasing to 10 percent in fiscal year 1984. The proposal also provides incentives for presurgical diagnostic tests to be done on an outpatient basis seven days prior to admission for a surgical procedure. The bulk of the savings resulting from this provision would be achieved by the similar provision in Section 556.

Previous CBO estimate: This estimate is essentially the same as that for section 234 of H.R. 934. There are some slight differences in the assumptions underlying the estimate of savings from ambulatory surgery. In addition, necessary modifications have been made for a shift in the assumed enactment date.

Sec. 558: Criteria for determining Reasonable Charge for Physicians' Services

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	1	2	4	6	8
Outlay–Medicare	−15	−20	−25	−25	−25

Basis of estimate: The cost estimates included here were developed by the Office of Financial and Actuarial Analysis of DHHS. The provision affects physicians' fees in two ways. First, it limits the difference between local prevailing fees and the statewide median fee for a procedure to one-third of the latter. The savings estimate is generated by a computer simulation of the effect of the limitation using data on 1976 medicare prevailing charges for the 50 most commonly performed physician services. The second effect of the provision is to raise the allowable prevailing charge from the 50th to the 75th percentile for new and established physicians practicing in designated physician-shortage areas. The estimate is derived from data on prevailing charges and the number of physicians practicing in physician-shortage areas.

Previous CBO estimate: This is identical to the estimate shown for section 235 of H.R. 934, except for a change in the enactment date.

Sec. 559: Procedures for Determining Reasonable Cost and Charge
Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−3	−7	−5	−1	3
Outlays:					
Medicare	−21	−59	−76	−96	−117
Medicaid	−4	−11	−15	−18	−23

Basis of estimate: This section provides that payments to contractors, subcontractors, employees, or consultants that are based upon percentage arrangements not be recognized for purposes of reimbursement by medicare. Savings are estimated separately for limitations on percentage reimbursement arrangements for hospital-based physicians (HBPs) and for limitations on percentage-based contracts for business services. Savings in medicare reimbursements to HBPs were estimated by assuming that payments would be reduced by the difference between what HBPs are paid on a percentage basis and what they would be paid as salaried employees. It is estimated on the basis of data from the American Medical Association, Health Care Financing Administration (HCFA), and a recent study of HBPs done by the Arthur Andersen Company for HCFA, which indicate that approximately 1,000 radiologists and 1,600 pathologists would be affected by this provision. The Andersen study also provided data for 1975 on the difference in income between percentage-basis and salaried physicians in hospitals. This difference was adjusted for the overhead expenses assumed to be generated by the salaried physicians and inflated to account for the growth in total hospital expenditures and physicians' incomes from 1975 to 1981. It was further assumed that only half of the apparent savings would be realized because of various adjustments likely to occur in the arrangements between the affected physicians and their hospitals. Half-year savings are assumed for fiscal year 1981 and full-year savings thereafter. Savings in medicare reimbursement for business services are assumed not to occur until fiscal year 1982 due to the complexity of the regulations that would have to be written. About 2 percent of hospitals' total expenses are for business services. CBO assumes that the average amount of overcharge resulting from percentage arrangements is 2 percent. One half of this amount is assumed to be saved in medicare reimbursements to hospitals during fiscal year 1982, 75 percent in fiscal year 1983, and 100 percent in succeeding fiscal years. Medicaid savings in all years are estimated to bear about the same relationship to medicare savings as medicaid hospital expenditures do to medicare hospital expenditures.

Previous CBO estimate: This estimate is the same as that done for section 252 of H.R. 934, in the area of HBP reimbursement. The estimate for business services was done previously and, thus, represents additional savings.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−2	0	1	2	5
Outlays:					
Medicare	−20	−23	−27	−31	−36
Medicaid	−3	−3	−4	−5	−5

Basis of estimate: The estimate is based on the assumption that all charges for outpatient visits that exceed by 80 percent charges for similar procedures performed in a physician's office would be reduced to the average charge per physician visit. About five percent of SMI outpatient charges are estimated to be reduced by 25 percent as a result of this provision. The first-year savings to SMI are about 1.3 percent of total SMI outpatient expenditures. Federal medicaid savings are estimated to bear the same relationship to SMI savings as total federal medicaid outpatient expendtiures do to SMI outpatient expenditures. Outyear savings are expected to increase at the same rate as total SMI and medicaid expenditures.

Previous CBO estimate: This estimate is similar in most respects to the estimate of section 249 of H.R. 934. In that estimate, the reduction in excessive charges was assumed to be 50 percent, whereas in this estimate that has been changed to 25 percent. Adjustments have also been made for changes in the assumed enactment date.

Sec. 561: Medicare Liability in Accident Cases.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	1	2	7	16	28
Outlays: Medicare	−14	−32	−75	−135	−156

Basis of estimate: Medicare hospital discharge data show that 10 percent of all HI discharges are for diagnoses involving accidents of all types. Similar data from the National Ambulatory Medical Care Survey show that about 5 percent of all physician office visits by persons aged 65 or older are for accident-related conditions. It is assumed, therefore, that 10 percent of HI outlays and 5 percent of SMI outlays are for injuries resulting from accidents. Data from the Health Interview Survey show that about 50 percent of accidents occurring in the 65 and older population at home, about 10 percent are related to automobile accidents, and 30 percent are due to all other causes. Accidents occurring at home are unlikely to involve situations where liability insurance claims can be made. Similarly, accidents occurring in the workplace are likely to be covered by workers' compensation. It is assumed, therefore, that recoveries from liability insurance policies would be possible for all accidents except those occurring in the home or at work. The proportion of total medicare outlays spent for medical services related to each type of accident is assumed to be the same as the proportion each represents of all accidents. For automobile accidents, it is assumed for both HI and SMI that 95 percent of the accidents involving medicare beneficiaries occur where insurance coverage is present and that 50 percent of these have the potential for recovery of medical insurance payments. For all other accidents, it is similarly assumed that 25 percent occur in circumstances in which liability insurance is present and that 50 percent of these have the potential for recoveries. For both types of accidents, it is further assumed that the actual volume of recoveries will be 5 percent of the potential level in fiscal year 1981, 10 percent in fiscal year 1982, and 20 percent in fiscal year 1983, and thereafter.

Previous CBO estimate: This estimate is similar to the earlier one of section 255 of H.R. 934, although some assumptions have changed. It is now assumed that 50, rather than 80 percent of automobile accidents involving medicare beneficiaries have the potential for recovery of medical insurance payments. Similarly, it is assumed for all other accidents that 25, rather than 60, percent occur where liability insurance is present, and that 50, rather than 80, percent have the potential for recoveries. For both types of accidents the volume of recoveries in the affected fiscal years is assumed to be 5, 10, 20, 20, and 20 percent respectively rather than 15, 20, 25, 25, and 25 percent.

Sec. 562: Access to and Purchase of Medicaid Services.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−91	−227	−273	−314	−363
Outlays	−91	−227	−273	−314	−363

Basis of estimate: CBO has tried to assess the possible impact of this provision through discussions with officials of state medicaid agencies. We have assumed that states responsible for one-half of medicaid spending will restrict choice of provider in 1981, with the proportion growing to two-thirds by 1985. First-year savings are assumed to be reduced by one-half because of implementation delays. We have further assumed that choice of provider will be restricted only in metropolitan areas and that restriction will not be effective in nursing homes because of capacity constraints. Within metropolitan area hospitals in states restricting choice, we assume a savings of 8 percent of expenditures.

The estimate of savings under competitive bidding arrangements for clinical laboratory services and medical devices is based on studies done in New York, New Jersey, and California. We assume a savings rate of 20 percent. First-year savings are assumed to be halved due to delays in implementation.

Previous CBO estimate: The part of the section on payment for clinical laboratories was previously estimated by CBO for section 258 of H.R. 934. Fiscal year 1981 savings have been reduced to reflect delays in passage of the legislation.

Sec. 563: Medicare Hospital Reimbursement: Periodic Interim Payments (PIP)

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	2				
Outlays: Medicare	−675	682			

Basis of estimate: This section mandates that the Secretary of HHS modify the Hospital Insurance (HI) periodic interim payment (PIP) system during September 1981 in such a manner that hospitals on PIP experience a three-week interruption in reimbursements. The effect would be similar to eliminating the PIP system entirely, which would presumably result in a three-week interruption in the flow of nearly one-half of all HI reimbursements. Conceivably, the providers of PIP could build up their cash positions with respect to HI by shortening the period under regular billing procedures between hospital discharge and receipt of payment. On the basis of discussions with knowledgable individuals within HCFA and the hospital industry, it appears that this could occur only to a very limited extent. CBO therefore assumes that only a two-day gain could occur in the billing cycle. The affected providers' cash shortfall could be met by increased payments under the PIP system prior to its discontinuance. This, of course, would substantially reduce the savings. CBO, therefore, assumes that neither increased payments under the PIP system nor any other special accelerated payments will be made prior to the end of fiscal year 1981. The interruption of payments to the affected hospitals is assumed to occur during September 1981. It is further assumed that the PIP system would be reestablished on October 1, 1981, and that accelerated payments equal to the cash shortfall experienced by the affected providers would be made during the first week of October. The accelerated payments would appear as an additional cost to the HI program in fiscal year 1982. There would be a small additional interest cost to the program resulting from the short-term borrowing that hospitals would have to undertake to meet the anticipated cash shortfall in September 1981.

Previous CBO estimate: This estimate updates an informal estimate provided to the Committee on October 3, 1979, for a proposal to eliminate PIP in September 1980. The estimate has been adjusted for the change in effective date and for the fact that the change would occur at the end of the fiscal year. A further adjustment has been made to take into account the higher level of HI reimbursements at the end of the fiscal year as compared to the average level during the fiscal year.

Sec. 564: Disallowance of State Claims for Federal Medicaid Funds.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Medicaid:					
Required budget authority	0	0	0	0	0
Estimated outlays	−147	−83	−16	−18	−20

Basis of estimate: This provision is designed to expedite recovery of federal payments for certain disallowed medicaid claims. Under current policy, if a state appeals a disallowance, the amount disallowed by HHS is not recovered until the appeal has been resolved. The proposal would allow HHS to recover amounts disallowed immediately upon notice of disallowance, without regard to any pending appeal. The proposal would affect disallowances after September 30, 1980.

On the basis of information provided by HCFA, it is estimated that about $140 million in medicaid claims will be disallowed by HHS and appealed by the affected states in fiscal year 1981. That figure includes $25 million of such disallowances for which recovery is assumed to be delayed until fiscal year 1981 from the last quarter of fiscal year 1980 as a consequence of active consideration of this proposal by the Congress. Current experience and the large backlog of unresolved appeals suggests that, during the next several years, the typical appeal will take 18 months. Under current law, then, that $140 million would not begin to be recovered by HHS until the third quarter of fiscal year 1982. Under the proposal, however, that amount would be offset against federal medicaid outlays in fiscal year 1981. In terms of the federal budget, therefore, the proposal would directly reduce federal medicaid outlays in fiscal year 1981 and in the first half of fiscal year 1982 and would yield interest savings thereafter. The proposal would have no effect on required budget authority.

Estimate assumes effective date of October 1, 1980 medicaid only.

Sec. 565: Reimbursement Under Medicaid for Skilled Nursing and Intermediate Care Facilities.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−2	−2	−2	−2	−2
Outlays: Medicaid	−2	−2	−2	−2	−2

Basis of estimate: This proposal is identical to section 227 of H.R. 934, which would substitute new language for section 1902(a)(13)(E) of the Social Security Act relating to reimbursement of nursing homes under medicaid on a reasonable cost-related basis. The new wording would modify the Secretary's approval authority over state medicaid plans in order to give states more flexibility in setting nursing home reimbursement rates. Based on conversations with medicaid officials in several states, knowledgeable individuals within the nursing home industry, and HCFA officials, CBO has concluded that the new wording will result in some modest cost savings. Most states probably would not significantly alter their rate-setting methodologies in response to passage of this section. One state, Oklahoma, has informed CBO that it would change its rate-setting methods in order to realize $3 million in savings. Of this $3 million savings, the federal share would be $2 million. At this time, CBO cannot estimate more reliably the magnitude of the savings because of the uncertainty concerning state actions and concerning the outcome of court actions initiated by state nursing home associations in response to changes in rate-setting methodologies made by state medicaid agencies.

Previous CBO estimate: In its original cost estimate of the budgetary impact of H.R. 934, CBO estimated that this proposal would have a negligible cost impact. That estimate was based on a draft of the bill dated Auguet 23, 1979, that differed substantively from the language contained in the final printed version of H.R. 934 dated December 10, 1979. The new estimate corrects this discrepancy.

Sec. 566: Home Health Agency Reimbursement Limits

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	3	10	17	27	37
Outlays: Medicare	−73	−86	−99	−114	−131

Basis of estimate: The average medicaid skilled nursing per diem rate in calendar year 1978 was estimated by CBO using data from the National Center for Health Statistics. This figure was supplied to analysts within the Bureau of Program Policy of the Health Care Financing Administration for use in a computer simulation of the impact of limiting home health aide and skilled nursing visit reimbursement to no more than medicaid per diem SNF rate in a state. The simulation also calculated the impact of changing application of the percentiles to a descending array of visits rather than providers and the impact of lowering the percentile to be applied from the 80th to the 75th. The resulting fiscal year 1981 savings estimate was extrapolated to the outyears by applying CBO's latest estimates of the growth rate of medicare home health care expenditures.

Sec. 567: Calculating Medicare Reasonable Charges.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	6	21	41	62	84
Outlays	−147	−226	−231	−250	−279

Basis of estimate: The estimates for all years were provided by the Office of Financial and Actuarial Analysis of DHHS. The estimate for fiscal year 1981 is composed of $173 million in savings offset by $26 million in implementation costs. The implementation costs are assumed to occur only in fiscal year 1981.

Sec. 571: Delay Transfer of Funds From the Treasury to Trust Funds

Cost estimate:

[By fiscal years, in millions of dollars]

	Budget Authority
1981	−600
1982	+600
1983	-----
1984	-----
1985	-----

Basis of estimate: The effect of specifying a $600 million delay in transfers to the trust fund from the Treasury's general fund is to reduce budget authority by that amount in fiscal year 1981, and increase it by $600 million in 1982. (There could also be $.5 million in interest loss in 1981 and regained in 1982, depending on the amount of time this transfer is delayed.) It is assumed that the entire delay in the transfer from the Treasury occurs from only one trust fund, and that the fund will be either the OASI or DI fund.

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., June 25, 1980.
Hon. ERNEST F. HOLLINGS,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 3(a)(17) of H. Con. Res. 307, we are submitting the legislative recommendations of the Committee on Governmental Affairs together with a report on the Committee action for inclusion in the report of the Senate Committee on the Budget on any reconciliation bill.

By a vote of 9 to 6, the Committee on Governmental Affairs recommends a one-time only change in the civil service retirement laws eliminating the September 1980 cost-of-living adjustment. The Congressional Budget Office estimates that $523 million in savings are associated with the elimination of the September increase.

We trust that this action fulfills the obligations and responsibilities of the Committee on Governmental Affairs pursuant to H. Con. Res. 307.

Sincerely,

ABE RIBICOFF,
Chairman.
CHARLES H. PERCY,
Ranking Minority Member.

Enclosures.

COMMITTEE ACTION

The Committee on Governmental Affairs met in a business meeting on June 25, 1980 to consider legislative recommendations to comply with section 3(a)(17) of H. Con. Res. 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981. Various proposals relating to cost-of-living adjustments for civil service annuitants were considered.

After discussion and several votes, the Commmittee approved, by a vote of 9 to 6 a legislative recommendation to provide a one-time change in the civil service retirement laws eliminating the cost-of-living increase for September 1980 only. This legislative recommendation is submitted forthwith to the Senate for its consideration pursuant to section 3(a)(17) of H. Con. Res. 307.

The Congressional Budget Office estimates provided to the Committee indicate $523 million in fiscal year 1981 savings associated with elimination of the September 1980 cost-of-living increase.

HISTORY OF LEGISLATION

Congress authorized automatic cost-of-living adjustments (COLA) in civil service annuities in 1962. Prior to 1962, Congress had intermittently enacted increases in retirement benefits to reflect increases in inflation. The legislation enacted October 11, 1962, P.L. 87–793, provided that civil service annuities would be increased automatically whenever the Consumer Price Index for a year exceeded the CPI in the base year by 3 percent or more. The base year for the first increase was 1962, and a new base year was substituted whenever a new COLA was applied. The percentage increase would be equal to the rise in the CPI between measuring periods, and would be effective on April 1 of the following year. In order to be eligible to receive the adjustment an annuitant had to have been on the retirement rolls for one year or more.

In 1965, with the adoption of P.L. 89–205, the cost-of-living formula was revised to make it more sensitive to rising prices by gearing it to a monthly price index indicator. This was accomplished by basing the "triggering" mechanism for cost-of-living increases on monthly rather than yearly increases in the CPI. In so doing, the law was amended so that whenever the Consumer Price Index rose by at least 3 percent greater than the CPI for the month of the previous increase, and remained at or exceeded the 3 percent figure for 3 consecutive months, civil service annuities would be increased by the highest monthly percentage increase in the CPI during those 3 months. The increase would take effect on the first day of the third month following the 3-consecutive month period.

The COLA formula under the Civil Service Retirement Act was again amended in 1969 to compensate retirees for the 5-month gap that existed between the initial month that the CPI rose by 3 percent and the month in which the COLA was made effective, which was the third month following the 3-month period in which the CPI rose by 3 percent. This was accomplished by adding 1 percent to each cost-of-living adjustment that resulted from an increase in the CPI. This so called "1 percent add-on" was authorized by P.L. 91–93, enacted October 20, 1969.

According to the statement of the House Committee on Post Office and Civil Service in their report on this measure (H. Rept. No. 91–158):

> Federal staff retirement systems represent a mixture of insurance and humanitarian principles. In the matter of adjusting annuities after retirement, insurance practice would guarantee that whatever annuity an employee had earned at the time of retirement should be preserved without change. On the other hand, humanitarian considerations would urge that the welfare of the retired person is the major concern, and that annuities should be adjusted to changing needs. The latter theory has prevailed through congressional action; but putting theory into practice has proved difficult.

P.L. 89–205, adopted in 1965 also removed the requirement that beneficiaries of the COLA be on the rolls for 1 year, providing that COLA would be applicable to all annuities payable on the effective date of the increase. As a consequence, until 1973 there was a perceived advantage to retiring the day before a COLA became effective as opposed to the day after. Large numbers of employees, particularly those whose pay rates were frozen, clustered their retirements immediately prior to scheduled annuity increases. A decision to remain on the job resulted in lower annuity payments and as a result the compounding effect of these adjustments provided a substantial incentive to retire and begin receiving annuities.

To correct this problem, in 1973 the procedure was changed by P. L. 93–136 so that employees would not be penalized for working past effective dates of new cost-of-living adjustments. Upon retirement, employees continued to have their annuities based upon salary and years of service, but now had the option of receiving annuities increased by the previous adjustment, based upon their salary and years of service at that time. Retiring employees were now guaranteed an annuity at least equal to what they would have received had they retired prior to the previous COLA. This provision is known as the comparative computation or the "look-back" provision.

The last change in the cost-of-living adjustment formula under the Civil Service Retirement Act occurred in 1976 with the passage of P.L. 94–440. That legislation repealed the "1 percent add-on" because it was found to overcompensate retirees for the effects of inflation. In its place, Congress enacted semi-annual adjustments based on the percentage increase in the cost-of-living, as measured by CPI. The changes made in 1976 were intended to compensate civil service retirees for the smaller increases that would occur in their annuities in the future because of the elimination of the 1 percent "kicker," by providing for cost-of-living increases on a regular semi-annual basis.

Under this current law, employees who retire from the civil service and are receiving annuities from the Civil Service Retirement System have their annuities adjusted twice annually to reflect percentage changes in the cost-of-living as measured by the Consumer Price Index. The CPI measurement periods are July-December for the March 1 increase and January-June for the September 1 increase. New retirees are also eligible to receive the entire amount of all future COLA adjustments including the initial adjustment, even if the employee retires one day before the date of the next increase, as well as to receive the benefit of the "look-back" provision. The following list represents COLA increases granted between 1965 and the present:

Effective date	Percent increase	CPI increase
December 1965	6.1	4.6
January 1967	3.9	3.9
May 1968	3.9	3.9
March 1969	3.9	3.9
November 1969	5.0	4.0
August 1970	5.6	4.6
June 1971	4.5	3.5
July 1972	4.8	3.8
July 1973	6.1	5.1
January 1974	5.5	4.5
July 1974	6.3	5.3
January 1975	7.3	6.3
August 1975	5.1	4.1
March 1976	5.4	4.4
March 1977	4.8	4.8
September 1977	4.3	4.3
March 1978	2.4	2.4
September 1978	4.9	4.9
March 1979	3.9	3.9
September 1979	6.9	6.9
March 1980	6.0	6.0

Source: 57th Annual Report of the Board of Actuaries of the Civil Service Retirement System.

RECENT ACTION

On June 12, 1980, the Senate adopted the conference agreement to the First Concurrent Resolution on the Budget for fiscal year 1981. Under the resolution the Committee on Governmental Affairs is instructed to report legislative recommendations to reduce spending for fiscal year 1981 by $500 million in budget authority and outlays. Committee action is instructed to be completed before June 25, 1980.

According to the reports of the House and Senate Budget Committees the recommended savings can be achieved through annualization of the semi-annual cost-of-living adjustment for retired federal workers.

The Committee recommendation assumes that outlay savings will be achieved starting in FY 1981 from action by the Congress to institute an annual, rather than semi-annual cost-of-living adjustment for Federal civil service retirees. (Senate Report No. 96–654)

The Budget Committee recommendation was opposed by Senator Stevens and others who offered an amendment on May 8, 1980 on the floor of the Senate to restore to the Budget the projected $500 million savings. The Steven's amendment was tabled by a vote of 50 yeas to 43 nays.

Section-by-Section Analysis

Section 1 of the bill provides that notwithstanding the provisions of section 8340 (b) of title 5, United States Code, any annuity increase which would otherwise take effect on September 1, 1980 shall not take effect. This is a temporary change in the statute to annualize the cost-of-living adjustment for civil service retirees for this year only. Paragraph (2) establishes that the annuity increase which is to take effect on March 1, 1981 shall be based on the 12 month period from December 1979 to December 1980. This change is necessary in order to assure that annuitants will receive the full amount of a cost-of-living increase over a 12-month—rather than six month period.

Section 2 of the legislation provides that the provisions of this Act shall become effective on the date of enactment.

Rollcall Votes in Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall votes taken during committee consideration of this legislation are as follows:

Vote on Stevens' motion eliminating September 1980 cost-of-living adjustments:

YEAS (5)

Chiles, Percy, Stevens, Durenberger, Javits (by proxy).

NAYS (8)

Ribicoff, Eagleton, Nunn, Sasser, Pryor, Mathias, Danforth, Cohen.

Vote on Eagleton motion to permanently annualize cost-of-living adjustments:

YEAS (6)

Ribicoff, Eagleton, Nunn, Percy, Danforth, Cohen.

NAYS (7)

Chiles, Sasser, Pryor, Javits, Stevens, Mathias, Durenberger.

Vote on motion to reconsider Stevens' proposal:

YEAS (11)

Chiles, Nunn, Sasser, Pryor, Percy, Javits, Stevens, Mathias, Danforth, Cohen, Durenberger.

NAYS (2)

Ribicoff, Eagleton.

Vote on Stevens' proposal:

YEAS (7)

Chiles, Percy, Javits, Stevens, Mathias, Danforth, Durenberger.

NAYS (7)

Ribicoff, Eagleton, Nunn, Glenn, Sasser, Pryor, Cohen.

Vote on Javits' proposal to annualize cost-of-living adjustments in 1980 and 1981:

YEAS (7)

Chiles, Percy, Javits, Stevens, Mathias, Danforth, Cohen.

NAYS (7)

Ribicoff, Eagleton, Nunn, Glenn, Sasser, Pryor, Durenberger.

Vote on Pryor motion to eliminate September 1980 cost-of-living increase:

YEAS (9)

Chiles, Pryor, Levin, Percy, Javits, Stevens, Mathias, Danforth, Durenberger.

NAYS (6)

Ribicoff, Eagleton, Nunn, Glenn, Sasser, Cohen.

A Bill to Provide for One Cost-of-Living Adjustment for Civil Service Annuities During Fiscal Year 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 8340 (b) of title 5, United States Code—

(1) any increase in any annuity which would otherwise take effect under such section on September 1, 1980, shall not take effect, and

(2) any increase under such section which is to take effect on March 1, 1981, shall be based on the percent change in the price index published for December 1980 over the price index published for December 1979.

SEC. 2. The provisions of this Act shall take effect on the date of enactment.

Separate Views of Senator Eagleton

The reconciliation process required the Governmental Affairs Committee to reduce its Fiscal Year 1981 federal spending by $500 million. The Budget Committee assumed this reduction would be accomplished by "annualizing" the cost-of-living adjustment (C.O.L.A.) for federal retirees, changing the twice yearly inflation adjustment to once a year. The Budget Committee envisioned that this change would be made on a permanent basis.

The Governmental Affairs Committee decided to make the change for Fiscal 1981 only. I am opposed to this "one-shot" approach which prevailed in the Committee by a narrow margin.

Congress is presently going through the painful process of making hard decisions to reduce spending and balance the budget. Of the benefit programs indexed according to the cost of living, only a handful have adjusted benefits to cover inflationary increases every six months. We have embarked on the process of annualizing those programs. The full Congress has changed the cost-of-living adjustment for the Food Stamp Program. The Agriculture Committee has done the same for the Child Nutrition Program. The Committee on Armed Services has voted to move the military retirement system to an annual cost-of-living adjustment as well, if the federal Civil Service retirees are treated the same way.

Simple fairness demands that we make this change with respect to federal retirees. If we fail to do so, we undermine the common approach taken to several programs which promised to save $6 billion over the next five years. We also are put in the unfortunate position of taking actions which adversely affect the least affluent segments of our society, such as those who benefit from food stamps or the child nutrition programs, while leaving the federal retirees in a special category.

U.S. Senate, Committee on
Labor and Human Resources,
Washington, D.C., June 26, 1980.

Hon. Ernest F. Hollings,
U.S. Senate,
Washington, D.C.

Dear Fritz: H. Con. Res. 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, instructs the Senate Committee on Labor and Human Resources to recommend changes in laws within its jurisdiction that will reduce spending for the Fiscal Year 1981 by $350 million in budget authority and $450 million in outlays.

On May 15 of this year, the Labor and Human Resources Committee reported S. 1839, the Education Amendments of 1980 (Report No. 96–733). This bill includes provisions to revise and reform the Federal student loan programs. CBO cost estimates of S. 1839 indicate that the savings contained in these student loan provisions meet the reconciliation instructions contained in H. Con. Res. 307.

On June 24, the Senate adopted the Education Amendments of 1980 as amended by a vote of 92–4, and Conference with the House is slated to be begin immediately after the recess.

Title IV, Parts B, D, and E of this bill contain the cost savings provisions outlined above. As passed by the Senate, this legislation appears on pages S8003 to S8012 of the Congressional Record, June 24, 1980.

Sincerely,

Harrison A. Williams, Jr.,
Chairman.

Title VII Senate Labor and Human Resources Committee

On June 24, 1980, the Senate passed H.R. 5192, the Education Amendments of 1980. This bill meets the reconciliation instruction to the Labor and Human Resources Committee by modifying the existing guaranteed student loan program and by replacing the existing National Direct Student Loan Program with a new direct student loan program.

The attached excerpts from the Labor and Human Resources Committee's report on this bill provide legislative history on the student loan provisions in the reported bill. Also attached are excerpts from the Congressional Record describing the two amendments to the student loan provisions which the Senate adopted (the first by Senator Metzenbaum and the second by Senators Bellmon and Hollings).

The following table compares the student loan savings in the Senate-passed bill to the Labor and Human Resources Committee's reconciliation instructions:

[In millions of dollars]

	Fiscal year 1981	
	BA	0
Reconciliation requirement to the Senate Labor and Human Resources Committee	−350	−450
Legislative savings from H.R. 5192	−603	−611
1. Guaranteed student loan program	(−225)	(−233)
2. Repayments from the expired national direct student loan program.	(−378)	(−378)

[Excerpts from Labor and Human Resources Committee Report on S. 1839 (Report No. 96–733)]

Part B—Guaranteed and Insured Student Loans

The Guaranteed Student Loan Program has provided private capital in the form of loans to students since 1965. A student applies for the loan from a bank, credit union, savings and loan institution, or other eligible lender. His institution of postsecondary education certifies to his enrollment status and standing within the schools, along with the amount needed by the student to meet the costs of his education.

During the period a student is in school, the Federal Government subsidizes the 7 percent interest charged to him. Repayment of principal and interest begins within 9 to 12 months after the student ceases to be enrolled at least half-time. A student has ten years to pay off his loan, with a minimum payment of $30 per month, although the average loan is paid off early, within seven years.

Due to spiraling inflation, lenders have in recent years been unable to make student loans at 7 percent interest without an additional special allowance from the Federal Government to cover their costs of money. The special allowance is calculated quarterly, based on the average 90-day Treasury bill rate for the preceding quarter. The most recent special allowance was 9 percent, reflecting the high rate of Treasury bills due to inflation.

In 45 States, the program is administered by State guaranty agencies or other nonprofit organizations or institutions. In the remainder of the States, the Federal Government insures loans directly. Defaulted loans, and those cancelled by reason of the borrower's death or disability, are paid off by the guarantor. In the case of a State with a low default rate, the Federal Government provides 100 percent reinsurance of the loan principal and outstanding interest.

Much publicity has surrounded the default rate in the Guaranteed Student Loan Program. Former HEW Secretary Califano instituted Operation Match, to check rosters of defaulting borrowers against the personnel rolls of the Department. A similar undertaking is being contemplated in the Senate. While past performance of the Office of Education in collecting defaulted loans from student borrowers has too often been deplorable, the Committee would like to note that the efforts of the Office in the past year and a half to correct this situation have been extremely successful. Default rates in the student loan program now closely approximate those in other commercial loan programs. The Committee urges the new Department of Education to continue to make loan collection a high priority, so that Federal funds are not wasted in paying off loans for which student borrowers are legally responsible.

The Committee bill extends the provisions of the Guaranteed Loan Program for five years, through fiscal year 1985. In response to the severe budgetary pressures currently facing our Nation, the bill makes significant changes in the program to reduce both its short-term and long-range costs to the Federal government. In addition, the bill strengthens the program's administrative structure, to assist in further reduction of the default rate.

Loan limitations

The Committee bill recognizes that more and more students in postsecondary education are independent students, either making their way through college on their own, without assistance from their parents or older individuals returning to school or going to college for the first time. For these students, the current limit of $2,500 per year in guaranteed loans is often insufficient. S. 1839, therefore, establishes a new limit of $3,000 per year for independent students. The bill also establishes an aggregate maximum of $15,000 in loans for independent students who have not completed their undergraduate study, and increases from $15,000 to $25,000 the aggregate maximum for graduate and professional study.

The Committee bill does not change the maximum annual loan limits and aggregate limits for dependent undergraduate students, however. While this may appear harsh, given the rising costs of undergraduate education in the country today, the Committee wished to discourage students from taking out large amounts of heavily subsidized Guaranteed Loans for undergraduate school. The parents of these students will have access to the unsubsidized parental loan program created in the Committee bill to make up additional costs. The parental loan program, because of its unsubsidized nature, has been estimated by the Congressional Budget Office to be approximately one-quarter as expensive to the Federal government as a similar dollar-for-dollar increase in undergraduate borrowing. The Committee wishes to encourage utilization of the parental loan program to the greatest extent possible, to keep the Federal costs to a minimum.

Some graduate and professional programs, such as medicine and other health professions, are extremely expensive. For these programs, a $25,000 aggregate ceiling on borrowing may be unrealistically low. For this reason, the Committee bill authorizes the Secretary of Education to exempt from the loan limits programs which he determines, by regulation, to be exceptionally expensive. The Committee anticipates that the Secretary will make every attempt to do this on a program-by-program basis, rather than dealing with every individual case or curriculum which applies for the waiver of loan limits. Of course there may be exceptionally expensive programs at individual schools which, as the exception rather than the rule for the discipline, might warrant individual determinations of eligibility for waiver. In urging program-by-program review, the Committee does not intend to preclude the Secretary from making such individual determinations.

Deferral of repayment

The Committee bill provides that the repayment requirement shall be deferred for periods of up to three years for service as an officer in the Commissioned Corps of the Public Health Service or for services as a full time volunteer for certain types of tax-exempt organizations. In addition, repayment may be deferred for two years during an internship, if successful completion of the internship is required for professional practice. Finally, the bill defers for up to three years repayment obligations of a temporarily totally disabled borrower, or one whose spouse is sufficiently disabled that the borrower is unable to seek employment because of the spouse's need for care.

These deferrals are added to provisions in existing law deferring repayment obligations for military service, Peace Corps or VISTA service, and under other circumstances, such as the unemployment of the borrower. In all cases, the responsibility to repay the loan is merely deferred for the stated period of time. The borrower's obligation to repay is not cancelled.

State agencies as lenders of last resort

The Committee was concerned that, in these times of high interest rates and stringent credit limitations, many students might not be able to obtain needed loans through private lenders. In addition, increasing numbers of students are attending postsecondary educational institutions on a less-than-half-time basis. For them, under existing law, no sources of financial aid are available.

Under the Committee bill, State guaranty agencies and other nonprofit organizations operating State loan programs would be eligible to receive from the Student Loan Marketing Association up to 25 percent of the average of the unpaid principal balance of loans guaranteed by that agency for the preceding three years, in order to make loans to eligible students who were otherwise unable to borrow money under the program. It is not the intention of the Committee to make this account available to State agencies regardless of their actual need for additional loan capital. Each such agency is expected to make applications to the Student Loan Mortgage Association for advances against their eligible borrowing amount, as students seek loans of last resort directly from such agencies.

In States which have recently established loan guaranty agencies or which are planning to establish such agencies in the future, a three-year borrowing history will not be available to establish the amount available for loans of last resort. In this instance, the amount available to the new agency will be the equipment average for a State of comparable size to the State seeking funds from SLMA. This "comparable size" criterion is similar to that used to establish per pupil expenditure rates in the Impact Aid program. It has proved, over history, to be more accurate than estimates of potential volume (or cost) for purposes of payment.

In addition to eligible students who cannot, for whatever reason, obtain loans through the private market, students attending eligible institutions less than half-time will also be able to receive loans from State agencies under this provision of the Committee bill. Testimony before the Subcommittee on Education, Arts, and Humanities indicated that banks and other private lenders would be extremely reluctant to make loans to less-than-half-time students, since the amount of the principal loaned would be *de minimus*, in the light of the size of regular commercial loans, and the cost of collection would outweigh the value of the capital loaned. Since it seemed unlikely to the Committee that commercial lenders would be willing to aid the expanding population of nontraditional students who are unable to attend college on a full-time basis, it decided to vest the State guaranty agencies with this responsibility.

To be eligible for a loan, a less-than-half-time student must not only be enrolled or accepted for enrollment at an eligible institution but be registered for not less than two nor more than six semester or quarter credits (or their equivalent) at the institution. In addition, such courses must be for credit to satisfy the qualifications for a degree, diploma or certificate. They may not be noncredit courses, as defined by the institution.

The maximum amount that a less-than-half-time student may borrow under the Committee bill is $1,250 for any academic year, or a total of $5,000. The amount of the loan shall not exceed the cost to the borrower of tuition, books, supplies, travel, and wherever necessary, child care. In no instance does the Committee intend to have the loan cover the cost of regular room, board, or living expenses for a student who attends postsecondary education on a less than half-time basis.

Interest rate and payment

The current interest rate to students under the Guaranteed Student Loan Program is seven percent. In the light of current commercial rates, which range up to 18 or 20 percent, this appeared to the Committee to be an unreasonably low amount for students to be expected to repay. Therefore, the Committee bill increases the interest rate to student borrowers from 7 percent to 9 percent. While this will not show an immediate saving in Federal costs, in the long run, over the life of the loans authorized by the Committee bill, it is estimated by the Congressional Budget Office that the Federal government would realize a $260 million savings, if compared to current law.

The Committee bill also reduces the grace period before a student is required to repay his loan, with interest, from nine-to-twelve months to four months. This change will result in no immediate savings in fiscal year 1981, but the Congressional Budget Office estimates that elimination of interest subsidies for that five-to-eight month period will reduce long-term costs to the Federal government by approximately $115 million.

In addition, the Committee believes that shortening the grace period before a loan must be repaid will result in a significant lowering of the default rates. Students are an extremely mobile population, especially in the period immediately following their graduation, when they are seeking employment. A lender often has great difficulty in locating a student borrower nine months to a year after graduation, as he may have settled in a far off community. However, with only a four month interval, this allows the student the summer months to make a career decision or to enroll in graduate school (where he would be eligible for deferment of his repayment responsibility), yet gives greater assurance that the lender or State agency will be able to keep track of his residence.

Collection practices

The Committee bill authorizes the use of credit bureau organizations in the exchange of information concerning past performance of student borrowers. Several States have made information concerning student repayment or defaults available to credit bureaus, with substantial success. If a student is aware that his failure to repay his debt to the Federal Government will be part of his credit record, he is more likely to make timely payments on his loan, so that future credit will not be impaired.

To date, however, the Federal government has not availed itself of the credit bureau mechanism, in part because of concerns about the effects of the Privacy Act. It makes little sense to the Committee that a future creditor should not be given the information that a student had not repaid his student loan, usually his first experience with credit. Surely an automobile dealer or a credit card company would think twice before giving credit to a defaulting student. Under current law, they would not have this information; the Committee bill would make it available to them.

Provisions of the Fair Credit Reporting Act would be complied with, under the Committee bill, and students would be required to be notified by the Secretary that information will be disclosed to credit bureau organizations unless the student begins to repay his loan.

Administrative improvements

The Committee bill makes a number of technical amendments to the Guaranteed Loan Program designed to make the administration of the program more efficient and less costly. First, it establishes that States may charge an insurance premium of not to exceed one percent, to defray the costs of their insurance and administrative, operating, and overhead costs. This does not increase the rate currently charged by States for insurance; however, it clarifies an ambiguity in current law which might allow the charge to rise above one percent or, on the other hand, to be reduced by unilateral administrative action by the Department of Education.

Second, the Committee bill vests responsibility in the State guaranty agency to ascertain whether the student borrower is enrolled on at least a half-time basis, to notify the lender when a student ceases to be so enrolled (thereby triggering the timing of the repayment period), to audit the note to determine that its provisions with regard to the amount of principal guaranteed match with agency records, and to examine the note to assure that its repayment provisions are consistent with the requirements of the law. No additional Federal payment is authorized to support these additional State activities. However, States may be able to derive some additional income from the provisions of the Committee bill which authorize them to establish escrow accounts for multiple disbursements of student loans.

One of the major problems in the student loan program has been that students often receive the full amount of their loan in a lump sum, then drop out of school. Since these students have received no educational services, they are too often reluctant to repay the total amount of their obligation. Instead they default on their loan.

The Education Amendments of 1976 authorized lenders to make multiple disbursements of loan principal, rather than paying the entire amount in a single check. However, the Office of Education failed for two years to issue regulations necessary to implement this section of the law. The Congress had to pass a second law, Public Law 96-49, in order to implement the multiple disbursement provision.

Still, it is costly to lenders to make multiple disbursements on small student loans. The paperwork costs often exceed the return to the lender on the loan. Single loan payments are still being made to most students, leading to higher potential Federal costs in covering defaults.

Therefore, the Committee bill authorizes State guaranty agencies to act as escrow agents for the lenders, disbursing the loan principal to the students under the specific terms of the agreement between the lender and each individual student. The Committee expects that lenders, freed from the costly obligation of making several small installment payments to students, will enter into agreements with the State agency for such multiple disbursements.

The State agency will be allowed, under the bill, to commingle the proceeds of all the student loans in escrow, prior to their being paid to the borrower. The agency may invest the loan proceeds in Federal government obligations and may retain the interest or other earnings to support the additional responsibilities given the agency under the Committee bill. If a student ceases to be enrolled at least half-time during the period of the loan, the State agency will return the undisbursed portion to the lender.

Loans to parents

The Committee bill establishes a new loan program for parents of dependent students. As college costs increase, many parents are unable to come up with the amount of cash that a needs test indicates that they are able to contribute to their son's or daughter's education. While they are able to budget in order to make the total contribution available over the course of a year, many parents do not have the savings or other liquid assets available to make a single lump-sum payment of the entire expected family contribution in the fall, when most colleges expect full payment.

Recognizing this real problem for middle-income parents, the Committee bill creates a parental loan program. It is totally unsubsidized, thereby substantially reducing its cost to the Federal government. If a parent elects to wait until his son or daughter completes his education or drops out of school, the interest rate is 14 percent, which is deferred during the in-school period and added to the principal of the loan when repayment begins. However, if the parent merely wishes a loan to assist him in his cash-flow problems, he may begin repayments within 60 days to taking out the loan. In that case, the parental interest rate is only 9 percent.

The Congressional Budget Office estimates that loans made under this program, if parents elect to begin immediate repayment, will cost the Federal government about one-fourth as much as regular student loans, due to their lack of interest subsidy. The Committee encourages parents to take out these loans to ease the acute financial burden that postsecondary education places on many families.

Under the Committee bill, a parent would be eligible to borrow up to $3,000 per year on behalf of each student in college during each academic year. The aggregate amount parents could borrow for each student cannot exceed $15,000.

Special allowances

Special allowances are paid by the Federal government to lenders to make up the difference between the interest rate charged in the Guaranteed Loan program and the cost to the lenders of the money they must obtain to make the principal amount of the loans available to the students. Under current law, the amount of the special allowance is pegged to the rate of 90-day Treasury bills for the quarter preceding the date of payment of the allowance. The Committee bill continues this special allowance rate, making technical changes to reflect the proposed interest rate increases from seven to nine percent, and the 14 percent rate on parental loans which do not go into repayment status 60 days after being taken out. In all events, the return to commercial lenders would be the same, the total of the interest charged and the concomitant special allowance.

One major change made by the Committee bill concerns the rate of return paid to holders of loans which were made or purchased with funds obtained from the issuance of tax-exempt obligations. The past few years have seen a substantial increase in the issuance of tax-exempt bonds for student loan purposes. These bonds are often issued at interest rates significantly lower than commercial rates, since they are State obligations or otherwise qualified for tax-exempt status. However, the special allowance paid on such bonds has been identical with that paid commercial lenders, an allowance which reflects the commercial cost of money. As a result, unforeseen amounts of special allowances have been paid to holders of loans which resulted from tax-exempt issuances, providing a return far in excess of the cost of administration or the cost of obtaining the capital. The Committee bill seeks to prevent this windfall by limiting the special allowance on loans made or purchased by tax-exempt funds to one-half the regular special allowance paid to commercial lenders. This figure has been estimated by the Congressional Budget Office to provide an adequate rate of return on such loans, commensurate with the cost of administration of such loans. In order to provide a measure of stability in return to bond holders, the Committee bill provides that the rate of special allowance set for such holders shall not be less than one-half of one percent.

The current method of determining special allowances on Guaranteed Loans was set by a committee, pursuant to the provisions of the Education Amendments of 1976. When this rate was set, money conditions and interest rates were significantly different from those experienced in our present economy. Therefore, the Committee believed that the entire question of adequate return, as represented by the special allowance, should be reconsidered, in the light of current rates of inflation and costs of borrowing money.

The Committee bill establishes a Committee on Determining Student Loan Special Allowances, comprised of the Secretary of Education, the Secretary of the Treasury, the Secretary of Health and Human Services, a representative of State guaranty agencies participating in the program, a student financial aid administrator, and a representative of participating eligible lenders under the program. This committee is charged with a reanalysis of the current procedures for determining special allowances under the program, taking into consideration the experiences of students and lenders under the existing system, the administrative costs of various types of leaders, relevant financial indicators which accurately reflect the costs of capital invested in the program, an administrative mechanism which will result in a prompt determination of the quarterly rate set for the special allowance, and other factors necessary to carry out the purposes of the Guaranteed Loan Program. The Department of Education is directed to give full cooperation to the functioning of the committee, including the hiring of consultants and the entering into of any necessary contracts.

The committee shall submit a report of its findings to the Congress no later than one year after the date of enactment of the Education Amendments of 1980. Every effort shall be made by the members to arrive at a unanimous recommendation concerning any new method of arriving at a special allowance payment rate. Existing payment rates shall remain in effect until the Congress, by joint resolution, adopts the method recommended by the committee, in whole or in part. The Committee hopes that the deliberations undertaken by this committee will result in suggestions to the Congress of additional ways of calculating the special allowance which will result in additional savings to the Federal government, while providing a fair rate of return to lenders under the program.

Since the Committee is cognizant of the proliferation of government committees, which seem to have perpetual life once established, the bill provides that the committee on special allowances shall cease to exist ten days after the Congress approves the joint resolution concerning a new method of calculating special allowances.

STUDENT LOAN MARKETING ASSOCIATION

Sallie Mae's primary purpose is to provide a national secondary market for student loans. This bill continues this role by modifying Sallie Mae's charter to allow the corporation to more effectively carry out this function and to assure the ability of the corporation to meet the future needs of GSLP borrowers and lenders. Sallie Mae also is authorized to act as a direct lender for the limited purposes of loan consolidation and assuring loan availability where shortages of student loan capital exist. Further, where student loan capital shortages exist in a given state, Sallie Mae is authorized to advance funds to an eligible state guarantee agency or direct lender to enable the agency or lender to make student loans.

In the interest of allowing Sallie Mae to effectively perform its secondary market functions, this bill modifies its program authorities, capital structure, and financing authorities.

Current law authorizes Sallie Mae "to make advances on the security of, purchase, service, sell, or otherwise deal" in insured loans. This bill restates these authorities, including the authority of the corporation to offer participations or pooled interests secured by insured student loans. Participations or pooled interests if offered by Sallie Mae would be used to raise capital in support of its activities. Such offerings are a common practice by secondary markets.

Student loan participation involve the purchase of a share of the future principal and interest payments to be made by student borrowers and/or the government in a pool of student loans, evidenced by a security such as a certificate of beneficial interest. Additional investment opportunities in student loans will attract capital from private investors in these securities and will provide additional support for Sallie Mae's secondary market programs.

Sallie Mae's warehousing advance program has been modified in order to make it a more competitive source of student loan financing thereby encouraging lenders to use the program to borrow funds from Sallie Mae and reinvest those funds in additional student loans. Under current law, Sallie Mae cannot advance funds in excess of 80 percent of the face amount of the insured student loan collateral pledged by the borrower. This provision, in effect, requires borrowers to pledge collateral equal to 125 percent of the warehousing advance made by Sallie Mae. This rigid collateral requirement limits a lender's ability to borrow funds from Sallie Mae without regard to other judgmental factors. Sallie Mae, with several years of experience in dealing with lenders under its warehousing advance program, is in the best position to establish appropriate collateral requirements for this program.

In order to broaden the number of lenders eligible to participate in Sallie Mae's warehousing advance program, the bill allows lending institutions to secure an advance from Sallie Mae with collateral other than insured student loans. Eligible collateral would be government guaranteed or backed obligations which currently are acceptable as collateral to secure borrowings from other agencies of government such as the Federal Reserve. Under current law, only insured student loan may be pledged as collateral, thus limiting Sallie Mae's ability to assist lenders which have only recently begun participating in the Guaranteed Student Loan Program.

This ability to pledge collateral other than insured student loans for a warehousing advance will allow participating and potential lenders to obtain capital in support of their student lending on relatively attractive terms thereby encouraging continued program participation and expanding student loan availability.

S. 1839 modifies Sallie Mae's capital structure and financing authorities. These changes will allow Sallie Mae to continue to raise funds through the issuance of its debt securities in support of its secondary market activities. At the same time, this will allow for an orderly transition after July 1, 1984, from financing through the Federal Financing Bank (FFB) with the full faith and credit of the United States to issuing nonguaranteed debt obligations directly to the public. This transition and the changes made in anticipation of it are consistent with the experience of other government-sponsored enterprises who have similarly undergone such a transition and correspond with the intent of Sallie Mae's enabling legislation.

In order to facilitate this transition, the bill makes several changes which will enable Sallie Mae to raise private equity more easily. The bill provides Sallie Mae additional flexibility in the issuance of its common and preferred stock and creates a non-voting class of common shareholders. In the interest of assuring the availability and certainty of funds to Sallie Mae, the bill also makes several changes relative to the issuance and guarantee of Sallie Mae's debt obligations, including a limited extension of the corporation's full faith and credit.

Under current law, common stock issued by Sallie Mae must have a par value of $100 per share. Under this bill, the authority to fix the par value of its common stock is vested in Sallie Mae's Board of Directors. A similar provision applies to Sallie Mae's preferred stock. It is contemplated that the par values of such common and preferred stock will reflect the normal par values of similar stocks which generally range considerably below the current fixed $100 par value. A lower par value would place Sallie Mae's stock within the price range of most corporate equity offerings, thus increasing its marketability and liquidity. Any reduction in par value would reflect current business practices and would not in any way prejudice the position of current common shareholders.

The bill also removes the authority of the Secretary of Education to approve the issuance of stock by Sallie Mae. The need for continued regulation of Sallie Mae's issuance of stock, originally justified by the risks associated with the establishment of Sallie Mae, no longer exists. Other government-sponsored enterprises which have undergone similar transitions have like authorities to issue stock.

The bill also provides for a new class of non-voting common stock. This will give Sallie Mae the flexibility to obtain additional equity from a broader group than its current common shareholders, which is limited by statute to eligible lenders. Authority to issue this stock will allow Sallie Mae to raise additional equity from the public without altering its governance as established by its enabling legislation.

Under current law, Sallie Mae's debt obligations may be guaranteed by the Secretary of Education through July 1, 1982. Sallie Mae issues its debt obligations with the approvals of the Secretary of Education and the Secretary of the Treasury. Currently, the corporation issues its guaranteed debt obligations to the Federal Financing Bank (FFB) in accordance with the policy of the Treasury Department. In recognition of the expectation of significant expansion of the corporation's secondary market activities and related program support functions, the bill extends through July 1, 1984, the full faith and credit guarantee of Sallie Mae's debt obligations while modifying certain oversight authorities of the Secretary of Education and the Secretary of the Treasury. The authority of the Secretary of Education regarding the approval of the issuance of Sallie Mae's debt obligations is limited to those obligations the Secretary is authorized to guarantee through July 1, 1984. The Committee is concerned that Sallie Mae continue its support of the Guaranteed Student Loan Program and intends that the authorities of the Secretary of Education and the Secretary of the Treasury with regard to the guarantee and issuance of the corporation's debt obligations not be construed to allow them to limit, control and constrain the corporation's programs.

As a further means of facilitating the decision-making process with regard to granting approvals of Sallie Mae's financing arrangements, the bill requires that where a required approval or denial of the corporation's financing requests is not forthcoming within 60 days, the Congress will be informed of the reasons by the Secretaries of Education and Treasury. The bill, anticipating the eventuality of Sallie Mae's reliance on the public markets for its funding needs clarifies Sallie Mae's ability to market its debt directly to the public and provides that the Secretary of the Treasury may not require that Sallie Mae use the FFB as a condition of his approval of the terms of the corporation's financing.

In order to provide for an orderly transition from the full faith and credit, Sallie Mae's enabling legislation is modified to give the Secretary of the Treasury discretionary authority to purchase obligations issued by Sallie Mae. This should allow Sallie Mae additional stability in financing its program obligations while creating no additional liabilities or commitments on the part of the Federal Government.

This authority is similar to the Secretary's authority with regard to Fannie Mae and is intended to provide assurance of funds to Sallie Mae only if necessary. Such an authority would reassure potential investors in Sallie Mae's obligations as to the long term stability and security of the corporation.

In addition to the modification of its secondary market program and financing authorities, Sallie Mae is authorized to provide for a program of loan consolidation and to assist in financing student loans where there is a shortage of capital either as a direct lender or as a source of funds to eligible state guarantee agencies or direct lenders.

Sallie Mae is authorized at the request of a borrower to make student loans under the terms and conditions of the Guaranteed Student Loan Program which allow for loan consolidation and extended flexible repayment terms. Where a borrower has received loans from more than one lender, or under both the Guaranteed Student Loan Program and National Direct Student Loan Program, and the amount of those loans exceeds $5,000, or where the total indebtedness of a borrower from one source exceeds $7,500, Sallie Mae will be able to make a new loan to the borrower with graduated or income-sensitive repayment terms of up to twenty years. Similar authorities are granted to State guarantee agencies.

Sallie Mae is authorized to make funds available where there appear to be shortages of student loan capital in individual states. Under certain conditions, a guarantee agency or, in any State, a single agency of the State or a single non-profit private agency designated by the State to act as a direct lender, may request Sallie Mae to advance funds to it in support of a program of direct loans to students otherwise unable to obtain guaranteed student loans from commercial lenders.

The Committee does not intend that Sallie Mae allocate a specific amount of funds for this purpose, but it be construed as a guarantee of access to funds by such agency, institution, organization or lender. These funds should be made available under pressing circumstances by Sallie Mae with due regard to the financial accountability and creditworthiness of such agency or lender. However, Sallie Mae is encouraged to anticipate such credit needs in its planning process and to designate procedures which allow it to assess and respond to requests in a timely manner. The Committee recognizes that the availability of funds to Sallie Mae, particularly after June 30, 1984, greatly impacts the ability of the corporation to choose among competing priorities and that Sallie Mae must maintain flexibility in this regard. Further, because Sallie Mae is a private corporation and is fully accountable to its shareholders for the assets of the corporation, there is a need to insure that applications for requests for funds provide Sallie Mae with full and accurate information relating to the creditworthiness of a State agency or lender and regarding the proposed disposition and investment of funds in guaranteed student loans. Sallie Mae should develop such criteria as are consistent with the objectives of this program.

Such assistance is intended to be in the form of loans or advances by Sallie Mae with the contractual commitment of the agency or borrower. As appropriate, such assistance may be in conjunction with or contemplate the use of Sallie Mae's other programs provided the corporation's criteria for use of such programs is complied with. Eligibility conditions and approval by Sallie Mae should reflect the statutory provisions of this program and consideration of the likelihood of eventual repayment of such funds to Sallie Mae. While this part is not intended to give Sallie Mae control over guarantee agency or lender operations and policy, such assistance should not be provided where the individual agency or lender cannot display satisfactory levels of efficiency, management capacity, an ability to repay the loan upon maturity, or other factors which are customarily considered by private sources of financing before making an investment decision. As is reasonable, the borrower may be required to keep books, records, and financial accounts regarding such an advance, and the student loans made with the proceeds in such form as requested by Sallie Mae. Likewise, the corporation may require such additional reporting or audits as are necessary to safeguard its interests and assure compliance with the terms of this program. Interest rates, terms of repayment, the amount and nature of any required collateral and other conditions of financial assistance by Sallie Mae should reflect the prevailing rates, terms, and conditions available to borrowers of similar scale and nature.

This program is intended as an alternative source of funds for student loans where there is an actual and substantial shortage of loan capital. As such, it should be considered as a last resort alternative to the statutory policy of encouraging loan availability by stimulating new sources of non-Federal financial investment in student loans through guarantees, special allowance payments, and the secondary market provided by Sallie Mae.

Notwithstanding the other provisions of this bill, Sallie Mae is authorized to act as a direct lender in areas where there is a severe shortage of student loan capital. Sallie Mae would act as a lender only upon a determination by the Secretary of Education and, as appropriate, the affected state that a severe capital shortage exists. It is intended that Sallie Mae's role be limited and temporary pending the implementation of a state agency and the expansion of private sector GSLP lending activity. Likewise, Sallie Mae's lending activity is subject to several statutory stipulations which should insure that direct lending by Sallie Mae does not displace lending by other eligible lenders or discourage the creation or continuation of state guarantee agencies.

Loan consolidation by State agencies

One of the major problems faced by student borrowers at the present time is that, upon graduation, they are faced with a number of notes, of differing terms, to repay upon graduation. Students who borrow under both the Guaranteed Loan Program and the National Direct Student Loan Program must make payments to different collectors, at differing interest rates, and upon different terms and conditions. All too often, a student is confused by his conflicting repayment requirements and unable to make timely repayments to meet his legal responsibilities. The result may be default, however unintentional.

The Committee bill authorizes State guaranty agencies, upon the request of the borrower who has received loans from two or more programs or lenders, to consolidate those loan obligations into a single new loan, under certain circumstances.

To be eligible to have his loan consolidated, a borrower must have outstanding indebtedness in excess of $5,000 from various programs or lenders, or have indebtedness of more than $7,500 from a single lender. The new loan made by the State agency shall be upon terms and conditions mutually agreeable to the borrower and the lender. In such an instance, a graduated, income-sensitive repayment schedule may be established for repayment.

Prompt default determination

The Committee is informed that, in some cases, payments to insured beneficiaries under section 430(a) of the Act have been withheld for indefinite periods without any determination of wrongdoing or lack of due diligence on the part of insured beneficiaries. The Committee believes that such actions discourage vital participation by lending institutions and are contrary to the express directives of the Act. Section 422 of the bill clarifies section 430(a) of the Act to ensure that payments will be paid promptly to insured beneficiaries.

Miscellaneous amendments

The Committee bill makes several miscellaneous amendments to the Guaranteed Loan Program, to conform to the new general provisions governing student aid concerning eligibility of students and assessment of need. In addition, the bill authorizes the Secretary to pay $10 per academic year for each student receiving a Guaranteed Loan to the institution in which he is enrolled. Funds received shall first be used to underwrite the costs of providing mandated student information, and the remainder shall be available to the college's student aid office to offset the costs to the institution of making the necessary determinations of student eligibility and need required by this part.

Part D—National Direct Student Loan Association

Part D of title IV of the Committee bill establishes a new nonprofit agency in the executive branch of the Federal government, the National Direct Student Loan Association. This Association will be responsible for administration of an expanded program of need-based loans available to students on-campus through their institution's financial aid office.

The Association's principal office shall be located in the District of Columbia. Its Board of Directors shall consist of the Secretary of Education and eight other members appointed by the President, subject to the advice and consent of the Senate. The President shall designate the appointee who shall serve as Chairman of the Board.

The Secretary, who shall be a full voting member of the Board, serves *ex officio*. Other members shall serve four-year terms; no member may serve for more than eight years. Four of the members appointed by the President shall be representative of educational institutions; the other four shall represent the general public, one of them a student.

The Association shall have the powers generally granted to corporations. The Chairman, with the approval of the Board, may employ necessary staff to carry out the activities of the Association.

In administering the National Direct Student Loan Program, the Association shall provide, either directly or by way of contract or other arrangement with State guaranty agencies or other appropriate agencies, organizations, and institutions for collection of Direct student loans, programs of pre-claims assistance for default prevention, and other programs which the Board of Directors deems necessary to assure the success of the program. State guaranty agencies shall be offered the first right of refusal to carry out these activities in their respective States.

The Association will be authorized to enter into agreements with students for prepayment of loans made under the existing National Direct Student Loan Program. Since it will have the responsibility for collection of outstanding loans made under current law, it may receive information regarding student borrowers from the Secretary and, pursuant to agreements with institutions regarding collection, make such information available to them.

The Association is authorized to issue notes, debentures, bonds, or other obligations necessary to make loan capital available to institutions for their needy students. However, all such obligations are specifically limited by annual limitations in appropriations Acts, which will control the amount of money available to the Association for payment of interest on its obligations. In addition, the Association may not issue any obligation without the prior concurrence of the Secretary of the Treasury as to the obligation's terms and conditions. The Secretary of the Treasury may direct that any issuance by the Association be sold to the Department of the Treasury or to the Federal Financing Bank. The Secretary of the Treasury is authorized to purchase any obligations of the Association, upon such terms and conditions as to yield a rate determined by him, taking into account the current average yield on outstanding obligations of the United States of comparable maturity. Interest owed by the Association may be deferred, in the discretion of the Secretary, but such deferred interest shall bear interest. The Secretary may sell any of the obligations he acquires, upon such terms and conditions as he decides, and at such prices as he determines. All actions of the Secretary shall be treated as public debt transactions of the United States.

All obligations of the Association shall be guaranteed as to principal and interest, and shall constitute general obligations of the United States, backed by the government's full faith and credit. Association funds not otherwise employed may be deposited with the Treasury, with the approval of the Secretary of the Treasury, deposited in a Federal Reserve bank, or with the approval of the Secretary of the Treasury and the Board of Directors, used in the purchase (for redemption and retirement) of the Association's obligations.

The Association shall prepare annually and submit a budget as provided by the Government Corporations Control Act. In addition, it shall maintain an integral set of accounts with respect to loans made, which the General Accounting Office shall audit annually. The Association shall report annually to the Congress and the President on the general operations of the National Direct Loan Program, including a specific description of the progress made on collection of student loans for which the Association is responsible.

There are authorized to be appropriated such sums as may be necessary to the Association for administrative costs of carrying out the National Direct Student Loan Program, to pay the differential between the rate of return on the Association's obligations and the interest rates collected under the Program, and for the costs of repayment of student loans in the event of default, death, or disability.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Part E of the Committee bill replaces the existing National Direct Student Loan Program with a new program administered by the National Direct Student Loan Administration. Under current law, which has been in effect since 1958, the Federal government makes new capital contributions, through annual appropriations, to institutional loan funds. The institution of higher education participating in the program contributes $10 for each $90 received from the Federal government. Loans are made to students in the discretion of the college financial aid administrator, bearing an interest rate of 3 percent, which begins to be charged to the student nine months after he leaves school. During his collegiate career, no interest attaches to the loan. Students entering specified careers, such as teaching the handicapped or in schools with high percentages of disadvantaged children, are eligible to have their loan obligations cancelled over a period of years. The college is responsible for collection of the loan.

While the National Direct Student Loan Program has been successful in directing loan funds to needy students for the past 22 years, it has not been without its problems. Defaults of student loans have ranged as high as 40 to 50 percent on some campuses, primarily because institutions of higher education are in the business of educating students, not acting as collection agents. Although loan cancellation has benefited a number of students who entered the teaching profession, there is no evidence that the possibility of cancellation of a loan influenced a student's choice of career. And a three percent interest rate, in the light of today's cost of money in the commercial market, is unrealistically low, in the eyes of the Committee.

Faced with the need to reduce Federal spending, in the light of the current budget situation, the Committee considered a number of alternatives in its reauthorization of the loan programs. Senators Kennedy and Bellmon had proposed a complete rewriting of both the Guaranteed and Direct Loan Program in S. 1600, to focus the programs more directly on those students in need of financial assistance. The Administration had proposed a similar reform in its bill, S. 1840.

The Committee bill seeks to adopt the best elements of both of these proposals, in order to create a vastly expanded need-based loan program available to students on-campus, while simultaneously reducing the costs of the program to the Federal government. It believes that its new provisions for the National Direct Student Loan Program meet these requirements.

Under the Committee bill, the National Direct Student Loan Association is responsible for providing funds to institutions of higher education to enable them to make loans to students with demonstrable financial need. Each institution with an agreement with the Association will analyze the overall financial need of students on its campus, taking into account other financial aid (other than Guaranteed Loans) available to them.

Subject to appropriations available to allow the Association to borrow money from the Federal Financing Bank, the Association will make necessary loan funds available to colleges based on their aggregate need for student loans. It will do so in installments, to avoid unnecessary accumulation of capital at the institutional level, taking into account the institution's actual disbursement of student loans. The first such payment by the Association will be made as soon as possible after October 1, 1980, so that the savings anticipated by the Committee bill will be realized during the 1981–82 school year, if not earlier.

The Association's agreement with an institution of higher education shall provide for the establishment and maintenance of a student loan fund at the institution. Payments made to the institution under this part, as well as any other earnings of the funds, shall be deposited into the loan fund. The fund shall be used only for loans to students, based on their need as demonstrated by the uniform needs analysis, costs of administration, distributions of capital, if any, and costs of litigation or collection, if required by the Association.

If the institution wishes to act as a collection agent, it may apply to the Association for that purpose. It will be required to demonstrate that it has a good collection record in the existing Direct Loan Program, in order for the Association to enter into an agreement with the institution. Not to exceed 10 percent of an institution's loan funds may be used for loans to less than half-time students who need assistance, in the discretion of the student financial aid administrator.

The Committee bill provides that the aggregate amount of Direct Loans which may be made available to a graduate or professional student may not exceed $12,000. A student who has completed two years of undergraduate study may borrow up to $6,000; any other student has an aggregate limit of $3,000.

Direct Student Loans, under the Committee bill, bear an interest rate of seven percent, beginning nine months after the borrower ceases to carry at least a half-time workload, and ending ten years after that date. Repayments may, at the option of the borrower, be made in graduated installments, with larger payments due later in the repayment period, and with provision for acceleration of repayment of the loan, in whole or in part. The normal minimum repayment shall be $30 per month, unless the Association provides, by regulation, for a lower payment for one year to avoid hardship to the borrower, or unless the borrower is employed in a low-income occupation during the repayment period, in which case the repayment schedule may be adjusted to reflect his income. The loan shall bear interest at the rate of seven percent per year. Repayment obligations are deferred for additional education on more than a half-time basis, for service in the Armed Forces or the Commissioner Corps of the Public Health Service, Peace Corps or VISTA service and related activities.

Upon the winding down of the current Direct Student Loan Program, institutions shall return to the Association the 90 percent Federal contribution to their student loan funds, retaining the 10 percent institutional contribution on campus. As additional repayments of Direct Loans are made to the Association, that capital shall be available to the Association for the purpose of making new Direct Loans to students. New student notes entered into under the Direct Loan Program shall be assigned to the Association for collections purposes. As noted earlier, institutions with good collection records may apply to the Association to continue as collection agents.

EXCERPT FROM STATEMENT BY SENATOR METZENBAUM IN THE CONGRESSIONAL RECORD OF JUNE 23, 1980 (P. S. 7893)

Mr. **METZENBAUM**. Mr. President, the amendment I expect to call up tomorrow, on behalf of myself and other Democratic Senators, has the support of the distinguished chairman of the committee and has the support of a number of Members on the minority side.

It might appropriately be described as being a matter of equity, a matter of fairness to the blue-collar family and the general taxpayers. The essence of this amendment is very simple and elementary.

At the present time, student loans provide for a Government subsidy with respect to the interest, and this amendment would eliminate that subsidy of interest except in certain special instances, which I will discuss.

Frankly, I believe that we must find a way to cut back on the cost of the GSL program. Loan volumes have grown at an absolutely alarming rate. In 1977, $1.5 billion in loans were issued. By 1978, that figure had gone up to almost $2 billion. By 1979, the figure had gone up to almost $3 billion. By 1980, there will be more than $5.3 billion in loan volume, based on data in the first half.

As these numbers show, the volume has almost doubled in the past year alone, and Federal outlays have tripled in the past 3 years.

In 1978, the outlay was $546 million. In 1979, the outlay was $899 million. In 1980, $1.5 billion is estimated to be the total outlay.

Mr. President, I am not opposed to the GSL program. As a matter of fact, I think it is a great program and I do not want to have any negative impact upon that program. But I firmly believe that once students, male or female, graduate from college they have two obligations. One obligation is to repay the loan that the Government was good enough to have made available to them, and the second is to repay and see to it that the Government does not suffer any more than a modest amount of interest subsidy.

Even with our amendment it still will cost the Government a certain number of dollars as far as the interest subsidy is concerned, but it will cut down immeasurably because it will provide that the students will have the obligation to repay the loan plus interest at the rate of 9 percent.

We believe that any student who needs a loan should be eligible to receive one, and there is nothing in this amendment that would provide for a limitation with respect to family income, an issue that has been a matter of great dispute. That is not in this measure. Some have one view on that subject and some have the other. But this amendment does not address itself to that issue.

We are not cutting back on the MISAA program—the Middle Income Student Assistance Act of 1978—and I commend those who provided the leadership with respect to the enactment of that legislation.

We are not placing a cap on eligibility. But our amendment is more equitable to the taxpayer and would place a cap on unnecessary lending.

Let us talk about what the impact would be upon the student. No one wants to make the student who graduates have an impossible task. No one wants to place an unfair burden on that student. But no one wants to place an unfair burden on the blue collar worker who is paying those taxes either, and this amendment might have some impact upon the student and have some impact upon the amount that the student repays.

According to CBO the average borrower of $4,000 would pay $51 a month under the committee bill, $58 a month under our amendment, and $46 a month under current law. The very worst would be a total of $144 a year if there were a loan of $4,000.

If a student borrowed $7,500 maximum for undergraduate students, the schedule would be $95 a month payable under the committee bill, $112 a month payback under our amendment, and $87 a month payback under current law, a maximum of $25 changed from the current law or $300 a year.

To summarize, we believe—I see in the Chamber three Members who I know will address themselves to this issue and who support it—the amendment will receive substantial cost savings to the GSL program without restricting loan eligibility. We believe this approach is fair to the student. Equally important, it is fair to that average Joe working in the shop who is bearing an unfair burden of taxation and wants to know why.

Any student who needs a loan should have access to one. But he or she should be willing to pay back the interest subsidy once he or she is out of school and earning a living.

Our amendment does not affect a minuscule amount of dollars. Our amendment will save $627 million in long-term savings for loans issued during each school year. Since this is a 5-year authorization bill, we would save an estimated $3.1 billion over the life of the loans authorized in this legislation.

The question might very well be asked how do we save so much money?

First, we would save because students would be paying back the interest subsidy to the Federal Government, but he or she would not pay it back until he or she is out of school.

Second, this amendment would eliminate the incentive to take out so-called "convenience" loans. The CBO estimates that our amendment would actually reduce future borrowing by as much as 25 percent. That is not because the students will not have the money available. The CBO has reported that such "convenience" borrowing has actually helped boost loan volumes issued in recent years.

According to the CBO:

The subsidy may induce many students to borrow for students from higher-income families, who have no financial need, the opportunity to borrow at zero interest is an attractive one. The rapid post-MISAA increases in borrowing suggest that many middle and upper income students have taken advantage of it.

Interest subsidy on more than the first $7,500 on borrowing is eliminated because we are concerned that a student can get himself or herself so much in debt that it would be over their head.

The fact is that there are other modifications to the amendment, all of which are more fully explained in a written memorandum that has been circularized which I ask unanimous consent to have printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

(1) What does the amendment do? Requires interest to be repaid.

Under the current guaranteed student loan program, loans are interest-free while a student remains in school due to a government subsidy. Our amendment would simply require a student to repay that interest subsidy once he/she is out of school and earning an income. This approach is fair to the student. Equally important, it is fair to the general taxpayer that subsidizes the loan program.

(2) How much money would this amendment save? $627 million on each year's loans.

According to CBO, this approach would save $627 million in long-term costs on loans issued each year. Since this is a five-year authorization bill, the amendment would save $3.1 billion.

(3) What impact would this have on the student? On the average loan it would cost student $7 more per month.

Again according to CBO, a student who borrows an average loan amount of $4,000 would pay $51 per month under the committee bill and only $58 per month under our amendment. If an undergraduate student borrows the maximum allowed of $7,500, the payback would be $95 per month under the committee bill and $112 per month under our amendment.

(4) Does the amendment apply to all students? No. Needy students are protected.

We have modified our original approach to protect students who are needy and to protect long-term graduate and professional students as well as those who enter VISTA or the military. No student would be required to repay the interest subsidy on more than the first $7,500 in loans borrowed. Interest to be repaid would accumulate no longer than three years.

(5) How is the cost savings achieved under our amendment?

According to CBO, the cost savings comes about for two reasons:

First, money would be returned to the Treasury due to student repayments.

Second, future loan volumes would be reduced by a full 25 percent, because the interest repayment plan insures money is only used for essential school purposes. In other words, it would eliminate much of the discretionary borrowing that has taken place in recent years because of the interest-free years of the loan. As CBO has stated:

"For students from higher-income families, who have no financial need, the opportunity to borrow at zero interest is an attractive one. The rapid increases in borrowing suggest that many middle and upper income students have taken advantage of it."

Our amendment would deter such "convenience" borrowing.

Excerpt From Statement by Senator Bellmon in the Congressional Record of June 23, 1980) (P.S. 7870–1)

Mr. Bellmon. Mr. President, I send an amendment to the desk.

The Presiding Officer. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon), for himself and Mr. Hollings, proposes an unprinted amendment numbered 1272:

On page 141, line 22, delete section 414(B), including all through page 144, line 16.

Mr. Bellmon. Mr. President, the bill before us would extend eligibility for Federal student assistance programs to students enrolled in school for as few as one or two courses. Under current law, a student must be enrolled at least half-time, as defined by the institution the student is attending. This amendment would continue that requirement.

No one knows, Mr. President, what would be the effect on program participation and cost of extending eligibility for these programs to the vast numbers of people who take just one or two courses at a time. Indeed, since there are many people who make it a practice to take at least one course every semester—virtually all their lives—it is possible we could be expanding eligibility for these programs to a population that could become permanent recipients of these benefits. That was never the intent of Federal student assistance legislation.

Moreover, Mr. President, the line between student assistance and income maintenance becomes almost indistinguishable, when the recipients of student assistance are not really students. We have a whole array of Federal income maintenance programs for people who are needy; and those programs are structured to assist the needy to attend school, if such schooling could help them to become economically self-sufficient. Indeed, in programs such as CETA, the Federal Government will pay stipends to economically disadvantaged participants—in addition to paying the full cost of their training—in order to help them become economically self-sufficient.

For people whose primary occupation is not school, this kind of assistance, income maintenance programs, food stamps, et cetera, are a far more reasonable approach to meeting their needs than trying to write them into Federal student assistance legislation.

Mr. President, I can understand how some could argue that we may meet some real needs, by including this new broader eligibility criteria in this legislation. I have some sympathy with the arguments put forth by the women's colleges, for instance, that this broader eligibility criteria would make it easier for women who have been out of the work force for some time to return to school, without committing themselves at first to a full time course of study.

On the other hand, I must reiterate that no one has really studied the potential impact on these programs of this broader eligibility. I would remind my colleagues, when we expand eligibility for BEOG's and for guaranteed student loans in 1978, the cost of those programs skyrocketed. (In fiscal year 1978 the cost was $2.243 billion, in fiscal year 1979 the cost was $2.656 billion; this year the costs are estimated at $3.498 billion. That is an increase of 56 percent in 2 years. The cost of the loan programs has increased 134 percent over that same 2-year period.)

When we passed the 1978 amendments, we thought we knew the probable impact of the changes in eligibility enacted then. As a matter of fact the increased costs have been about double the costs projected at that time. We cannot even make a reasonable guess as to the likely cost of the changes proposed by the committee. I submit that, in the times of necessary budgetary restraint, we simply cannot pass legislation which could significantly impact cost and program participation, without more information than we now have on these effects.

There is a provision in the House-passed bill, Mr. President, which the sponsors say will address the needs of less than half-time students; and that provision should not add to the cost of Federal student assistance programs. I would suggest, Mr. President, that the managers of the bill could either direct a study of the needs of less than half-time students—and the potential impact of our trying to meet those needs in student assistance legislation—or they could agree to the House provisions in conference, if indeed the House provision would meet those needs without additional cost.

Mr. President, most of us now agree that the existing student assistance programs are too costly. I think that one of our objectives in considering this legislation should be to bring those costs under control. In order to accomplish that objective—and still meet the needs of people whose primary pursuit is education, that is, who are students at least half-time—we must carefully allocate our scarce resources among competing needs. I simply do not feel that we can extend these programs to meet new, lower priority needs.

Mr. President, I urge adoption of the amendment.

Mr. Pell. Mr. President, am I correct in my understanding that what this amendment does is it knocks out from the viewpoint of the guaranteed student loan increased eligibility for the less than half-time students?

Mr. Bellmon. That is right.

Mr. Pell. I understand the amendment, and I understand that this acceptance of this amendment is acceptable to the Senator from New Jersey, our chairman, and for that reason we recommend on our side we accept this amendment.

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

Sec. 411. (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

Sec. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 482h(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) The matter preceding division (1) of section 428(b)(1)(A) of the Act is amended—

(1) by inserting after "student" the following: "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

Sec. 413. (a) Section 427(a)(2)(C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: (v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer (for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period requires continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

Sec. 414. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h)(1) From sums paid by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in such State described in section 435(g)(1)(D) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1)(D) and which has an application approved under section 439(p)(2) may receive payments under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.".

INTEREST RATE AND PAYMENT

Sec. 415. (a) Section 427(b) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and by inserting in lieu thereof "four months".

(2)(A) Section 428(b)(1)(E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 428(b)(1)(E) is further amended by striking out "nine months nor later than one year" in both places that it appears and by inserting in lieu thereof "four months".

(c) Section 428(a)(3)(B) of the Act is amended by striking out " 7 per centum" and inserting in lieu thereof "9 per centum".

(d) Section 428(b)(1)(F) of the Act is

amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(e) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

COLLECTION PRACTICES

SEC. 416. (a)(1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 16811);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a)(2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.".

ADMINISTRATIVE IMPROVEMENTS

SEC. 417. (a) Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) does not provide for collection of an insurance premium in excess of 1 per centum per year on the unpaid principal amount of the loan (excluding interest added to principal), payable in advance, which may be used by the insurer to insure loans and to cover administrative, operating and overhead costs of the insurer;".

(b)(1) Section 428(c)(6)(A)(ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma; and

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students".

(2) Section 428(c)(6)(B) is amended—

(A) by striking out "and" at the end of clause (i) and inserting in lieu thereof a comma;

(B) by inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f)(1)(A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4) Section 428(f)(1)(B) of the Act is amended by striking out "clause (iv)" and inserting in lieu thereof "clauses (iv) and (v)".

(5) Section 428(f)(2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(6) Section 428(f)(3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part.".

(c) Section 428(f)(3)(A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation.".

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOANS TO PARENTS

SEC. 419. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

LOAN COUNSELING PROGRAM AUTHORIZED

SEC. 418. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN COUNSELING BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan counseling on loans insured or guaranteed under this part to the student borrower. The loan counseling required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the date on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance".

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms 'student' and 'student borrower' used in this part shall include a parent borrower under this section.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or the equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request. Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 14 per centum per year on the unpaid principal balance of the loan except that, if provided in the note or other written agreement, any interest payable by the borrower may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 9 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 420. (a) Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A)(i) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 5.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(ii) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans which were made or insured prior to October 1, 1980, shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 3.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(B) The quarterly rate of the special allowance for the holders of parental loans authorized under section 428B under this Act which are paid under section 423B(c)(3) shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

"(ii) The rate set under division (i) shall not be less than one-half of 1 per centum per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 420(b) of the Education Amendments of 1980.

"(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Secretary.

"(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 9 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428 (b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

"(d) There is established a Committee on Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'committee'). The committee shall be composed of—

"(1) the Secretary of Education;

"(2) the Secretary of the Treasury;

"(3) the Secretary of Health and Human Services;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

"(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2)); and

"(6) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E).

"(e) The Secretary shall appoint the members of the committee described in paragraphs (4), (5), and (6) of subsection (d) of this section, after consultation, in the case of those members appointed under each such paragraph, with nationally recognized organizations of such persons or agencies.

"(f)(1) The committee shall prepare and submit to the Congress a report not later than one year of the date of enactment of the Education Amendments of 1980, of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowances paid under this Act which the committee determines will carry out the objectives set forth in subsection (a) of this section.

"(2) The quarterly rate of the special allowances provided for in paragraph (2) of subsection (b) shall remain in effect until the Congress by joint resolution approves of the method, in whole or in part, proposed by the committee in the report submitted under paragraph (1) of this subsection.

"(3) The committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowances established under this section.

"(4) In developing the method for the determination of the quarterly rate of the special allowances under this section, the committee shall consider—

"(A) the experience of students and eligible lenders under the method in operation during the period of the study,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

"(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(E) such other factors as the committee considers necessary to carry out the purposes of this section.

"(5) In carrying out its responsibilities under this section, the committee shall be given the full cooperation and assistance of the official in the Department of Education directly responsible for the administration of part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Department of Education as the committee deems appropriate.

"(6) In order to assist the committee in carrying out its functions under this section, the Secretary is authorized to hire consultants, and to enter into contracts, and to pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

"(7) The Secretary shall convene the first session of the committee as soon as possible after the date of enactment of the Education Amendments of 1980. The chairman of the committee shall be elected by its members.

"(8) The committee shall cease to exist ten days after the approval of the joint resolution required by paragraph (2) of this subsection.

"(g) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.".

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(C) of the Higher Education Act of 1965, the Authority shall submit to the Secretary, for the approval of the Secretary, a plan for doing business. Each such plan shall contain provisions designed to assure that—

(1) no eligible lender in the area served by the authority will be excluded from participation in the program and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a rate less than nor more than one percent of the unpaid principal amount borrowed plans accrued interest to the date of acquisition;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents or who attend an eligible institution within the area served by the Authority;

(5) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 421. (a)(1) Section 439(a)(1) of the Act is amended by striking out "Government-sponsored".

(2) Section 439(f) of the Act is amended to read as follows:

"(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) other than an institution outside of the United States.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(3) The first sentence of section 439(g)(1) of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds from any such advance secured by collateral shall be invested in additional insured student loans"; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities".

(2) Section 439(1) of the Act is amended by inserting "including those made under subsection (d)(4)" after "All obligations issued by the Association".

(c)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to those obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.".

(2) Section 439(h)(2) of the Act is amended—

(A) By striking out "July 1, 1982" and inserting in lieu thereof "July 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part.".

(d)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) The Association shall make payments in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) having an application submitted to the Association which sets forth that payments are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title.

"(2) No payment may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D) are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

"(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part of a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (q) the Student Loan Marketing Association;

"(H) for purposes of making loans under section 428(j) a State agency or a nonprofit private institution or organization having an agreement under section 428(b).”.

LOAN CONSOLIDATION BY STATE AGENCIES

SEC. 422. (a) Section 428 of the Act (as amended by section 417) is amended by adding at the end thereof the following new subsection:

“(j)(1) Each State agency and nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) and each eligible lender in such State described in section 435(g)(1)(D), or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal balance and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

“(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, except that such State agency or nonprofit private institution or organization shall provide the eligible lender with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the eligible lender and meet the requirements of sections 427, 428(b) and 428A, except that (A) the ten year maximum period referred to in sections 427(a)(2)(B) and 428(b)(1)(E) may be extended to no more than twenty years, and (B) clause (ii) of sections 427(a)(2)(B) and 428(b)(1)(D) shall not be applicable.

“(3) Notwithstanding any other provision of this part, the eligible lender, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.”.

(b)(1) Section 425(a)(2) of the Act is amended by striking out “The” and by inserting in lieu thereof “Except in the case of loans made under section 428(j) or section 439(o), the”.

(2) Section 428(b)(1)(B) of the Act is amended by striking out “provides” and by inserting in lieu thereof “except in the case of loans made under section 428(j) or section 439(o), provides”.

(3) Section 428A(a)(2)(A) of the Act is amended by inserting after “in excess of such annual limit; and” the following: “except in the case of loans made under section 438(j) or section 439(o),”.

PROMPT DUE DILIGENCE DETERMINATIONS

SEC. 423. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: “The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.”.

DEFERRAL OF PRINCIPAL DURING CERTAIN PERIODS OF STUDY, SERVICE, AND UNEMPLOYMENT

SEC. 424. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out “and any such period” and inserting in lieu thereof “that any such period”, and

(2) by inserting before the comma at the end thereof a comma and the following: “and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof”.

(b) Section 428(b)(1)(M) is amended by inserting before the semicolon at the end thereof a comma and the following: “and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof”.

RECAPTURE OF CERTAIN INTEREST SUBSIDIES

SEC. 425. (a) Section 427(a)(2) of the Act (as amended by section 416(a)(2) of this Act) is amended by striking out “and” at the end of clause (I), by redesignating clause (J) as clause (K), and by inserting after clause (I) the following new clause:

“(J) provides (subject to section 432(e)(1) and (2)), for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student,”.

(b) Section 428(b)(1) of the Act is amended by striking out “and” at the end of clause (O), by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon and the word “and” and by adding at the end thereof the following new clause:

“(Q) provides (subject to section 432(e)(1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student.”.

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

“(e)(1) No repayment of interest paid under section 428(a) on behalf of any student shall be required under section 427(a)(2)(J) and 427(b)(1)(Q) if—

“(A) the borrower has exhausted the ability to obtain loans under part E or this title and is required by reason of need to obtain a loan under this part for undergraduate study,

“(B) the borrower borrows more than $7,500, or

“(C) the borrower borrows under section 428(h) of this title.”

“(2)(A) No repayment shall be required under sections 427(a)(2)(J) and 428(b)(1)(Q) for the interest paid under section 428(a) for more than three years.

“(B) No interest shall accrue on the repayments required under sections 427(a)(2)(J) and 428(b)(1)(Q).

“(3) The Secretary shall prescribe procedures to carry out the provisions of sections 427(a)(2)(J) and 428(b)(1)(Q) as soon as possible after the date of enactment of the Education Amendments of 1980.”.

MISCELLANEOUS AMENDMENTS

SEC. 426. (a)(1) Section 427(a)(1) of the Act is amended to read as follows:

“(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and”.

(2) Section 428(a)(2)(B)(i) of the Act is amended to read as follows:

“(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);”.

(b) The first sentence of section 428(c)(1)(A) of the Act is amended by striking out everything after “of any insured loan” and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

“(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485 and then for the purpose of offsetting the costs to the institution for the program under this part.”.

(d) Section 439A of the Act is repealed.

PART D—NATIONAL DIRECT STUDENT LOAN ASSOCIATION

ASSOCIATION ESTABLISHED

SEC. 441. (a) The Act is amended by inserting after part C the following new part:

“PART D—NATIONAL DIRECT STUDENT LOAN ASSOCIATION

“STATEMENT OF PURPOSE

“SEC. 451. It is the purpose of this part to establish a Government corporation which will administer the student loan program authorized by part E of this title.

“ESTABLISHMENT

“SEC. 452. (a) There is established in the executive branch of the Federal Government a body corporate without capital stock to be known as the National Direct Student Loan Association. The Association shall have succession until dissolved.

“(b) The principal office of the Association shall be located in the District of Columbia. The Association shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen of the District of Columbia. Offices, agencies, and branches may be established by the Association in such other places as the Association deems necessary or appropriate for the conduct of its business.

“BOARD OF DIRECTORS

“SEC. 453. (a) The Association shall have a Board of Directors which shall consist of the Secretary of Education and eight other members, one of whom shall be designated Chairman by the President.

“(b) The President shall appoint, by and with the advice and consent of the Senate, the members of the Board other than the Secretary of Education who shall serve ex officio. Four of the members shall be representative of educational institutions. Four of the members shall be representative of the general public. One of the members appointed from the general public shall be a student.

“(c)(1) The term of office of each member of the Board, other than the Secretary, shall be four years; except that (A) the members first taking office shall serve as designated by the President two for terms of two years, three for terms of three years, and three for terms of four years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

“(2) The Directors appointed by the President shall serve until their successors have been appointed and have qualified.

“(d)(1) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association.

“(2) The Chairman of the Board shall,

with the approval of the Board, select, appoint, and compensate qualified individuals to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such individuals shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(e) Members of the Board of the Association who are not regular full time employees of the United States shall, while serving on the business of the Association, be entitled to receive compensation at rates fixed by the President, but not in exceeding the rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while serving away from their homes and regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"GENERAL POWERS

"SEC. 454. In carrying out the provisions of part E of this title and this part, the Association is authorized—

"(1) to adopt, alter, and vote a corporate seal, which shall be judicially noticed;

"(2) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(3) to sue and be sued, complain and defend, in its corporate name, and through its own counsel;

"(4) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(5) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(6) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made by it under part E of this part;

"(7) to enforce, pay, compromise, waive, or release any right, title, claim, lien or demand however acquired, including any equity or any right of redemption;

"(8) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for it to carry out its responsibilities under this title;

"(9) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(10) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their compensation, and to require bonds for them and fix the penalty thereof;

"(11) to make provision for and designate such committees, and functions thereof, as the Board of Directors deems necessary or desirable;

"(12) to determine and prescribe the manner in which obligations of the Association shall be incurred and its expenses allowed and paid;

"(13) to use funds received by the Association, notwithstanding any other provision of law, to carry out the provisions of Part E;

"(14) to use the services and facilities of any agency of the Federal Government and of any other public or nonprofit private entity in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon; and

"(15) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, functions, and authorized activities.

"FUNCTIONS OF THE ASSOCIATION

"SEC. 455. (a) The Association shall carry out the provisions of part E of this title.

"(b)(1) The Association shall provide, either directly or by way of contract or other arrangement with State guaranty agencies and for other appropriate agencies, organizations and institutions, for—

"(A) the collection of principal and interest of student loans made under part E;

"(B) programs of preclaims assistance for default prevention; and

"(C) such other programs as the Board of Directors deems necessary to assure the success of the student loan program authorized by part E.

"(2) In carrying out the functions set forth in paragraph (1), the Association shall first offer the State guaranty agency the right to carry out such functions.

"(3) The Association may not enter into a contract or other arrangement with any collection agency pursuant to paragraph (1) of this subsection unless the contract or other arrangement is made on a competitive basis.

"(4)(A) For the purpose of promoting responsible repayment of loans made under part E and for the collection of loans for which the Association is responsible, the Association is authorized to enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Association to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Association to such organizations, with respect to any loan for which the Association is responsible, of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(B) Such agreements may also provide for the disclosure by such organizations to the Association, upon receipt from the Association of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Association in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Association unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Association has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Association with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 16811);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Association (I) will not disclose any such information until the Association has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) will, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Association shall, within one hundred eighty days after the effective date of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Association to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

"(c) The Association is authorized to—

"(1) enter into contracts with student borrowers for the prepayment of loans made under part E prior to the effective date of the Education Amendments of 1980 and under title II of the National Defense Education Act of 1958; and

"(2)(A) obtain information with respect to the names and addresses of borrowers and other relevant information which is available to the Secretary, from whatever source such information may be derived, and (B) whenever, pursuant to an agreement entered into between the Association and an institution of higher education under which the institution acts as a collection agent, make the information obtained under this clause available to such institution, notwithstanding any other provision of law.

"OBLIGATIONS OF THE ASSOCIATION

"SEC. 456. (a) The Association is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out its functions under part E of this title and this part, subject to such annual limitations as may be provided in an appropriation Act, except that the Association shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Association be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

"(b)(1) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Association held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"(2) For the purpose of the Federal Financing Bank Act, the Association shall be deemed to be an agency of the Federal Government.

"(c) All obligations of the Association issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(d) Obligations of the Association issued pursuant to this part shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(e) In order that the Association may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this part, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(f) All moneys of the Association not otherwise employed may be—

"(1) deposited with the Treasury of the United States subject to withdrawal by the Association, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(2) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(3) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Association, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Association.

"MANAGEMENT; AUDITS; REPORTS

"SEC. 457. (a) The provisions of chapter 11 of title 18, United States Code, shall apply to the directors and all officers and employees of the Association, and the Board of Directors is authorized to promulgate regulations consistent with the provisions of that chapter.

"(b) The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers, and duties assigned to the Board under this part as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time directors, officers, or employees of the Association as the Chairman deems appropriate.

"(c) The Association shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to loans made under this part an integral set of accounts, which the General Accounting Office shall audit every three years in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Association are final and conclusive upon all accounting and other officers of the Government.

"(d) The Association shall submit to the Congress and the President an annual report containing a general description of the operations of the Association during the year, and a specific description of the progress on collection of loans made under part E of this title and all other loans for which the Association is responsible.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 458. There are authorized to be appropriated in each fiscal year to the Association—

"(1) for administrative costs of carrying out part E of this title and this part;

"(2) to pay the differential between the rate of return on obligations of the Association made under section 456 and the interest rates collected under part E of this title, and under this part; and

"(3) for the cost of repayment of student loans in the event of a default, death, or disability.

such sums as may be necessary.".

(b) Section 1201 of such Act is amended by adding at the end thereof the following:

"(n) The term 'Association' (except when used in section 439) means the National Direct Student Loan Association established under part D of title IV of this Act.".

(c) The right to alter, amend, or repeal this Act and part D of the Higher Education Act of 1965 is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Association under any power conferred by this Act or any amendment made by this Act.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

DIRECT LOAN PROGRAM REESTABLISHED

SEC. 451. Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"PROGRAM AUTHORIZED

"SEC. 461. The Association shall carry out a program of establishing and maintaining funds at institutions of higher education for making low-interest loans to students who demonstrate financial need to pursue their course of study in such institutions.

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 462. (a) The Association shall make payments under this part for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

"(1) the cost of attendance at that institution,

"(2) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

"(3) the financial assistance received by students at that institution under parts A and C of this title (other than part B), or any other provision of Federal law, and other scholarship, grant and loan assistance received by students,

subject to the limitations specified in section 464(a)(2).

"(b)(1) The Association shall make payments required by subsection (a) of this section in such installments as the Association determines—

"(A) will not result in unnecessary accumulations of capital in the student loan fund of the institution of higher education concerned.

"(B) reflect accurately the disbursement of funds for student loans by the institution of higher education concerned, and

"(C) will best carry out the objectives of this part.

"(2) The first initial payment under this part shall be made as soon after October 1, 1980 as possible, and subsequent initial payments for any academic year required by subsection (a) shall be made not later than March 1 for the academic year following the year for which the payment is made. Subsequent installment payments in each such academic year shall be made promptly.

"(c) Any institution of higher education desiring to receive payments from the Association under this part shall enter into an agreement under section 463 and shall submit an application for such payments to the Association in accordance with the provisions of this part. The Association shall set dates before which such institutions must file applications under this section. Each such application shall contain such information as is necessary to assure the validity of estimated need for loan funds.

"(d) The approval of the Association of the application under this section with an institution of higher education having an agreement under section 463 shall be deemed a contractual obligation of the United States for making the payments specified in that application.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of advances under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) payments made under this part, and

"(B) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) distributions, if any, and

"(D) costs of litigation, and other collection costs, if any, required by the Association in connection with the collection of a loan from the fund;

"(4) provide that upon the beginning of the repayment period the note or evidence of obligation shall be assigned to the Association for collection, unless the Association finds that (A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and (B) that institution has a good collection record, in which case the Association and the institution may agree that the institution act as collection agent for loans made under this part;

"(5) provide that not to exceed 10 per centum of the funds available to the institution in any fiscal year may be used for loans to less than half-time students who are determined by the institution to be in need of loans under this part; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Association and the institution.

"(b) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Each such payment shall be made in accordance with section 489. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485 of this Act and then for the purpose of offsetting the costs to the institution for the program under this part.

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., June 25, 1980.

Hon. ERNEST HOLLINGS,
Chairman,
Hon. HENRY BELLMON,
Banking minority member, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR SENATORS HOLLINGS and BELLMON: On June 12, 1980, the Congress completed action on H. Con. Res. 307, setting forth the Congressional Budget for fiscal year 1981, 1982, and 1983. Included in that resolution was a series of "reconciliation" instructions to various House and Senate committees. The Senate Small Business Committee was included among the committees receiving an instruction.

BUDGET RESOLUTION RECONCILIATION INSTRUCTION

Section 3 of that resolution provides:

"Pursuant to section 301(b)(2) of the Budget Act:

"(a)(19) The Senate Committee on Small Business shall recommend changes in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays;" . . .

"(b)(2) not later than June 25, 1980, each committee specified in subsection (a) (10)–(15) and (17)–(20) shall submit its recommendations to the Senate Committee on the Budget; and

"(c) pursuant to subsection 310(c) of the Budget Act, the Committee on the Budget, after receiving recommendations submitted under subsections (a) and (b) of this section, shall report to their respective Houses a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revisions. The provisions of subsection 310(e) of the Budget Act shall apply to consideration in the Senate of any reconciliation bill or resolution."

Pursuant to your request, and by direction of our committee, this letter will serve as the Select Committee on Small Business's recommendations to achieve the required budget savings.

BUDGET COMMITTEE ASSUMPTIONS

The Senate Budget Committee has assumed from the outset that the savings to be achieved by the Senate Small Business Committee should be achieved by eliminating the duplicative jurisdiction of the Small Business Administration and the Farmers Home Administration with respect to disaster actual loss emergency loan assistance for agricultural enterprises.

S. 2698

On June 17, 1980, the Senate adopted the conference report on S. 2698, the Small Business Development Act of 1980. The House of Representatives approved the conference report on June 19. Yesterday the enrolled bill was sent to the President for his signature. The Office of Management and Budget supports the passage of S. 2698, and we anticipate the bill will be enacted into law. Section 119 of that conference report amends section 18 of the Small Business Act, relating to duplication of benefits, to clarify that an agricultural enterprise would not be eligible for SBA physical disaster loan assistance unless that enterprise was first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates. A copy of that section of the conference report is enclosed for your information.

According to the statement of managers accompanying the conference report:

"The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA or a non-agricultural business received from SBA . . ."

In addition, through the cooperation of the Senate and House Agriculture Committees, the conference report on the bill amends the Consolidated Farm and Rural Development Act to make emergency loans by the Farmers Home Administration available for the first time to farmers who can obtain credit elsewhere. This provision was necessary to insure that, to the maximum extent possible, agricultural small businesses would be served by the Farmers Home Administration and non-agricultural small businesses would be served by the Small Business Administration on comparable terms.

The statement of managers on the conference report states:

"The underlying issue is not one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprise receives emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA."

The full text of the relevant portion of the statement of managers is enclosed for your information.

RELATION OF S. 2698 TO BUDGET INSTRUCTIONS

According to the estimates of the Congressional Budget Office, the enactment of section 119 of the conference report on S. 2698 would meet the entire budget authority and outlay savings mandated under the instruction to the Senate Small Business Committee contained in H. Con. Res. 307.

COMPLIANCE WITH THE BUDGET INSTRUCTION

It is our understanding that in your opinion the adoption of the conference report on S. 2698 qualifies as meeting the instruction to the Small Business Committee as contained in H. Con. Res. 307 and no further action by this Committee is required.

We appreciate your consideration of, and cooperation in, these matters. If we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

LOWELL P. WEICKER,
Ranking Minority Member.
GAYLORD NELSON,
Chairman.

Enclosure.

SMALL BUSINESS DEVELOPMENT ACT OF 1980: CONFERENCE REPORT

[To accompany S. 2698]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

DISASTER LOAN INTEREST RATES

SEC. 119. (a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof "; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided,* That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further,* That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.";

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983";

(c) Section 18 of the Small Business Act is amended by—

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided,* That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance

under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.";

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The principle differences among the Senate bill, House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, confronting changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

LEGISLATIVE HISTORY

The conferees want to note the legislative history of this bill.

On May 8, 1979, the Senate Select Committee on Small Business ordered favorably reported S. 918, a bill to establish authorizations for the Small Business Administration, and for other purposes (See Senate Report 96–125).

The Senate considered and approved this legislation on May 16, 1979. The House of Representatives, having considered similar versions of this legislation (H.R. 90; H.R. 4011) agreed to the Senate bill, with an amendment in the nature of a substitute. Two conference committee meetings were held in June, 1979. However, because of substantial differences between House and Senate conferees on provisions in both bills relating exclusively to disaster reforms, conferees were unable to reach agreement on a conference report until December 13, 1979 (See House Report 96–507).

The House agreed to the conference report on December 19, 1979. The Senate did not consider the conference report until mid-January, 1980.

Objections were raised in the Senate on January 24, 1980 about the accounting treatment for interest payments to the Treasury for the Small Business Administration's disaster loan revolving fund as contained in the conference report, and the Senate rejected the conference report on a roll call vote of 32–48. The conference report not being agreed to, an amendment to the House amendment to the Senate bill, containing the exact text of the conference report minus the single interest payment to Treasury provision, was adopted by a roll-call vote of 80–0. This action returned the measure to the House.

On Feburary 6, 1980, by a vote of 348–17, the House agreed to the Senate amendment with a further amendment relating to the funding mechanisms for the two Small Business Administration revolving funds, returning the bill to the Senate. That legislation (S. 918) has been pending in the Senate since that date.

Recognizing that reaching concurrence on S. 918 could have taken additional time, and in light of the May 15 deadline for reporting new spending legislation to the Senate as provided for by the Congressional Budget Act, the Senate Select Committee on Small Business reported an original bill (S. 2698) to the Senate on May 14, 1980. That bill removed all of the disaster-related provisions contained in the conference report on S. 918, and in the February 6 House-passed amendment.

The Senate considered, and passed, this legislation, with amendments including an amendment relating to disasters, on May 28, 1980.

With action delayed on S. 918, and in light of the reporting deadline imposed by the Congressional Budget Act, the House Committee on Small Business reported a series of bills containing, in their sum, many of the exact provisions as were contained in the conference report on S. 918.

On June 3, 1980, the House of Representatives considered, and adopted, one of those bills (H.R. 7297). After agreeing to that bill, the House substituted the text of H.R. 7297 for the Senate-passed legislation.

With the exception of certain disaster provisions relating to the funding mechanisms for the Small Business Administration's revolving funds, all provisions in this legislation have been considered by both Houses on several occasions.

On May 1, 1979, the Senate adopted S. 388, the "Small Business Employee Ownership Act of 1979."

Title V of this bill is the result of negotiations between Chairman Henry Nowak of the House Subcommittee on Access to Equity Capital and Business Opportunities, and Senator Donald Stewart of the Senate Select Committee on Small Business. This version takes into account changes which were suggested by expert witnesses and administration witnesses who testified before the House Subcommittee at hearings on May 8 and 15, 1979. The Nowak Subcommittee drafted similar legislation and reached consensus with Congressman William Stanton and Senator Stewart on the language contained in the Senate-passed bill, and the conference substitute.

FARMER ELIGIBILITY AT SBA

Under existing law, farmers are statutorily eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain circumstances, farmers are also eligible for assistance from the Farmers Home Administration. However, there is no requirement that farmers first seek assistance from Farmers Home before going to SBA.

The Senate bill amends section 18 of the Small Business Act, relating to duplication of benefits, to clarify that an agricultural enterprise would not be eligible for SBA physical disaster loan assistance to repair or replace property other than a residence unless that enterprise was first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates.

The Small Business Act is also amended to clarify the definition of "agricultural enterprises" and "credit elsewhere".

The House amendment contains no comparable provisions.

The conference substitute includes the Senate provision.

The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA or a non-agricultural business received from SBA.

There has been some discussion of administratively imposing a minimum loss test at SBA for agricultural producers. In the case of a disaster caused by drought, there is a variation from normal yields which would represent the amount by which yields presumably would be reduced in approximately one-half of the crop years. The conferees understand the Administration is attempting to determine a fair formula to take this natural occurrence into consideration in figuring net losses in those drought disaster cases. However, in disasters not related to drought involving crops, there is no normal reduction or increase from such nondrought causes; and since there is no arbitrary deduction from net loss in calculating the amount of loan eligibility for nonfarm businesses, homeowners and other eligible applicants, SBA should not arbitrarily reduce the amount of loan eligibility for non-drought disasters for agricultural producers.

The underlying issue is one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

SAVINGS CLAUSE

The Senate bill provides that nothing in the amendments made by this legislation to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) or section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) of the Small Business Act shall apply to any disaster which commenced on or before the effective date of this legislation.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision.

The conference substitute states that the amendments made by this section to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) and section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) do not, and shall not, apply to any disaster which commenced on or before the effective date of this Act. The word "commenced" has been used because of the inconsistent position the agency has taken in the past with the term "occurred" in determining whether particular localities are eligible for new benefits.

U.S. Senate,
Committee on Veterans' Affairs,
Washington, D.C., June 25, 1980.
Hon. Ernest F. Hollings,
Chairman, Committee on the Budget,
Washington, D.C.

Dear Mr. Chairman: Pursuant to section 3(a)(20) of House Concurrent Resolution 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, and action of the Committee at a June 25, 1980, meeting, the Committee on Veterans' Affairs is submitting to the Budget Committee the enclosed resolution and report recommending spending reductions. The Committee reconciliation resolution comprises recommendations for changes in existing laws providing for entitlements and equivalent savings legislation, designed, in conformance with the joint explanatory statement accompanying the budget resolution conference report, to enable our Committee "to remain within . . . [our] spending limits contemplated in the Resolution."

Our Committee's recommendations are as follows:

First, reduce to 10 percent the 15-percent GI Bill cost-of-living increase approved by the Senate, 78–14, on January 24 as an amendment to H.R. 5288, and postpone from September 1, 1980, to January 1, 1981, the effective date for such increase. These changes would result in reductions in fiscal year 1981 requirements of $272 million in budget authority and $265 million in outlays.

Second, modify flight and correspondence training provisions, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $35.4 million in budget authority and outlays.

Third, repeal the authority for pre-discharge education program (PREP) training, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $1 million in budget authority and outlays.

Fourth, modify vocational-objective course approval criteria, as approved in the Senate amendment to H.R. 5288. This would achieve reductions in fiscal year 1981 requirements of $4.1 million in budget authority and outlays.

Fifth, improve substantially the VA's ability to collect delinquent debts owned by individuals to the Federal Government by virtue of participation in Veterans' Administration benefits programs. This would achieve reductions in fiscal year 1981 requirements of $138 million in budget authority and outlays.

Also enclosed is a copy of a Committee resolution, adopted today pursuant to this Committee's construction-approval responsibility under section 5004(a) of title 38, which would save $109,550,000 in budget authority (by making it out of order for the Senate to appropriate certain construction funds) requested in the President's budget for four construction projects.

Mr. Chairman, our Committee makes these recommendations to postpone the GI Bill cost-of-living increase and takes this construction action with the utmost reluctance. In our view, there is now—as there was on January 24—overwhelming evidence of the present necessity for a 15-percent cost-of-living increase in GI Bill benefits. In fact, we believe that, in view of inflation, exceedng 20 percent already and projected to approximate 30 percent by 1981, since the most recent increase in the fall of 1977, there is ample justification for a greater increase. Yet, in order to carry out our commitment to our Nation's service-connected disabled veterans and the survivors of those who have died in the service of our country, we have not only cut the GI Bill increase but also postponed its effective date by four months.

During the consideration of the Resolution on the floor of the Senate, we urged and moved for higher levels for veterans' benefits and services. As agreed to by the Senate, those levels still would have been less than what is adequate and fair for the funding of veterans' programs in fiscal year 1981, yet they were higher than the House-passed level to which the Senate budget conferees agreed and which Congress approved.

In my view, the budget levels for veterans' programs are too low this year to be fair and to deal with the critical, high-priority needs that should be addressed. We emphasize that the needs of veterans should be regarded by Congress as among the highest national priorities, and we take this opportunity to reiterate our Committee's deeply held belief that a Nation which has been so well served by the millions of men and women who have served in its Armed Forces should never break its commitments to them.

Cordially,

Alan K. Simpson,
Ranking Minority Member.
Alan Cranston,
Chairman.

Enclosures.

Resolution of the Committee on Veterans' Affairs

Whereas, in section 3(a)(20) of House Concurrent Resolution No. 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, the Senate Committee on Veterans' Affairs has been instructed by the Congress to "recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act or equivalent savings legislation to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays" in order to remain within the Committee's spending limits contemplated by such resolution; and

Whereas, under section 3(b) of such resolution, the Senate Committee on Veterans' Affairs is required to submit to the Senate Budget Committee recommendations for changes in such laws or equivalent savings legislation not later than June 25, 1980;

Therefore, in compliance with such instructions, *be it resolved that the Senate Committee on Veterans' Affairs makes the following legislative recommendations:*

Sec. 1. In order to reduce fiscal year 1981 spending for legislation increasing the rates of training and educational benefits in chapters 34, 35, and 36 of title 38, United States Code, to amounts $272 million in budget authority and $265 million in outlays less than the cost of the rate increases in the provisions of title I of H.R. 5288 as passed by the Senate on January 24, 1980, the Committee recommends adoption of the following provision:

[Sec. .] The Clerk of the House of Representatives is directed to make the following changes in the Senate amendment to H.R. 5288:

On page 39, beginning with line 21, strike out all that follows through page 42, line 15, and insert in lieu thereof the following:

Sec. 101. Chapter 34 is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	243	276	17
Half-time	139	162	184	11"; and

(5) striking out in section 1692(b) "$69" and "$828" and inserting in lieu thereof "$76" and "$911", respectively.

Sec. 102. Chapter 35 is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$276"; and

(2) striking out in section 1742(a) "$311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$342", "$108", and "$108", and "$11.40", respectively.

Sec. 103. Chapter 36 is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu thereof $342";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6 month periods	62	92	119	13";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$342".

On page 95, lines 14 and 15, strike out "September 1, 1980" and insert in lieu thereof "January 1, 1981".

SEC. 2. In order to reduce fiscal year 1981 spending for flight and correspondence training programs under title 38, United States Code, by $35,400,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. .] (a) Subsection (b) of section 1677 of title 38, United States Code, is amended by striking out "90 per centum" and inserting in lieu thereof "60 per centum".

(b) Section 1798 of title 38, United States Code, is amended by—

(1) striking out in the second sentence of subsection (c) "flight, apprentice or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training"; and

(2) adding at the end thereof the following new subsection:

"(h) In the case of a loan made in a veteran under this section to pursue a program of education consisting exclusively of flight training, the Administrator shall, as hereinafter provided in this subsection, cancel the repayment obligation (which for the purposes of this subsection shall include the obligation to pay interest), or reimburse for repayments already made, or both, as appropriate, if (1) such veteran has successfully completed such program and secured employment as a pilot or in a closely related occupation, and (2) such employment constitutes such veteran's primary vocational pursuit and major source of occupational income. Upon completion by such veteran of a full year of such employment during the first five years after the completion of such training, $1,000 of the repayment obligation under any such loss shall be canceled; and, upon the completion by such veteran of any additional three-month period of such employment during such five-year period, such repayment obligation shall be canceled at the rate of $250 for each such three-month period. In the event that a veteran meets the requirement of this section for a repayment obligation cancellation in an amount exceeding any remaining unpaid balance of such obligation, the Administrator shall, to the extent that the amount of the cancellation to which the veteran is entitled exceeds such balance, reimburse such veteran for any amounts of such obligation that such veteran has repaid".

(c) Subsection (a) of section 1786 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) No veteran, spouse, or surviving spouse may be paid an educational assistance allowance under this subsection unless the Administrator has determined that no type of education other than correspondence is reasonably and feasibly available to such veteran, spouse, or surviving spouse in order to pursue successfully the educational or vocational objective being sought."

(d)(1) Except as provided in paragraph (2) of this subsection, the provisions of this section shall become effective October 1, 1980.

(2) The provisions of subsections (a) through (c) of this section shall not apply to any person receiving educational assistance under chapter 34 or 35, of title 38, United States Code, on August 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

SEC. 3. In order to reduce fiscal year 1981 spending for the pre-discharge educaton program under title 38, United States Code, by $1,000,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. —.](a) Chapter 32 of title 38, United States Code, is amended by—

(1) amending section 1641 by striking out "1696, and 1698" and inserting in lieu thereof "and 1691(a)(1)"; and

(2) amending subsection (b) of section 1631 to read as follows:

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education to pursue a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a)(1) of this title, during the last 6 months of such members' first enlistment and at any time thereafter.".

(b) Chapter 34 of title 38, United States Code, is amended by—

(1) amending section 1661(c) by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V";

(2) amending section 1691(a) by—

(A) striking out "not on active duty"; and

(B) inserting "is not on active duty and who," after "(2)";

(3) striking out subchapter VI in its entirety; and

(4) striking out in the table of sections at the beginning of such chapter the item relating to subchapter VI in its entirety.

(c) Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780(d) by—

(A) striking out in the third sentence of paragraph (2) "(other than under subchapter VI of chapter 34)";

(B) striking out paragraph (3);

(C) striking out in paragraph (5) "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(D) striking out in paragraph (6) "(5)" and inserting in lieu thereof "(4)"; and

(E) redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) striking out in section 1780(e) "and (3)";

(3) striking out in section 1780(f) "(except as provided by subsection (d)(3) of this section)";

(4) striking out in section 1784(b) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)";

(5) striking out in section 1788(a)(6) "or 1696(a)(2)";

(6) striking out in section 1789(b)(5) "or VI"; and

(7) striking out in section 1798(f)(2) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

(d) The provisions of this section become effective on October 1, 1980.

SEC. 4. In order to reduce fiscal year 1981 spending related to the provision of educational assistance for the pursuit of vocational objective courses under title 38, United States Code, by $4,100,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. .] (a) Section 1673 of title 38, United States Code, is amended by—

(1) amending subsection (a) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(C) amending clause (B) of paragraph (1), as redesignated by subclause (B) of this clause, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that (i) at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and (ii) at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;"; and

(D) adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1707(a)(1) of this title) enrolled in such institution.".

(b) The provisions of this section shall become effective on October 1, 1980.

SEC. 5. In order to achieve cost savings in fiscal year 1981 of $138 million in budget authority and outlays, the Committee recommends the enactment of the following provisions:

[SEC. —.] (a)(1) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3113. Indebtedness offsets

"(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

"(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

"(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provisions of subsection (c) of this section and the regulations prescribed thereunder.

"(b) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required.

"§ 3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

"(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty or loan-insurance program;

"(2) for the provision of care or services under chapter 17 of this title; or

"(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan-guaranties, or loan-insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most currently available address, notice of the Administrator's intention to charge interest on the indebtedness.

"(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

"§ 3115. Authority to sue to collect certain debts

"(a) Not later than 90 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney General and upon such terms and conditions at the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(b) Not later than 120 days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.".

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection and no action taken pursuant to any such contract or this subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (or defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

RESOLUTION OF THE COMMITTEE ON VETERANS' AFFAIRS, UNITED STATES SENATE

Resolved by the Committee on Veterans' Affairs of the United States Senate that, pursuant to section 5004(a) of title 38, United States Code:

(1) The following medical construction projects are approved at the following total estimated costs shown:

Veterans' Administration Medical Center, project, and estimated cost:

Altoona, Pennsylvania, ambulatory care addition, $10,400,000.

Amarillo, Texas, central air conditioning, patient, privacy, and elimination of fire and safety deficiencies, $6,139,000.

Bath, New York, ambulatory care addition, $4,400,000.

Biloxi, Mississippi, clinical addition, $20,750,000.

Boston, Massachusetts, secondary generator and updating of interior wiring, $2,550,000.

Bronx, New York, 120-bed nursing home care unit, $11,700,000.

Castle Point, New York, relocation and replacement of boiler plant, $2,800,000.

Chillicothe, Ohio, modernization, $13,700,000.

Coastesville, Pennsylvania, 120-bed nursing home care unit, $8,500,000.

Dallas, Texas, 120-bed nursing home care unit, $7,850,000.

Danville, Illinois, relocation and expansion of processing and distribution, $5,600,000.

Fayetteville, Arkansas, clinical addition, $4,500,000.

Hampton, Virginia, relocation and expansion of spinal cord injury unit, $5,150,000.

Iowa City, Iowa, elimination of fire and safety deficiencies, $2,700,000.

Kerrville, Texas, 120-bed nursing home care unit, $7,750,000.

Long Beach, California, addition and renovation for expansion of supply processing and distribution, $2,550,000.

Martinez, California, education building, $2,300,000.

Memphis, Tennessee, ambulatory care addition, $9,250,000.

Miami, Florida, outpatient addition, renovation and spinal cord injury relocation, $26,650,000.

Palto Alto, California, elimination of fire and safety deficiencies, $4,000,000.

Pittsburgh, Pennsylvania, elimination of fire and safety deficiencies, $8,400,000.

Reno, Nevada, 60-bed nursing home care unit, $5,100,000.

Reno, Nevada, laundry, $2,420,000.

Togus, Maine, renovation of bed building, $5,100,000.

Wichita, Kansas, 60-bed nursing home care unit and underground drainage culvert, $6,800,000.

(2) The development of the design and the site preparation for the following medical construction projects are approved, effective with respect to appropriations in an amount not to exceed the estimated costs shown:

Veterans' Administration Medical Center, project, and estimated cost:

New Orleans, Louisiana, expansion of clinical, outpatient, research, and education space, $4,485,000.

Palto Alto, California, correction of seismic deficiencies, $2,000,000.

Temple, Texas, clinical expansion, $1,830,000.

Tucson, Arizona, clinical expansion, $1,250,000.

ALAN CRANSTON,
Chairman.
ALAN K. SIMPSON,
Ranking Minority Member.

Adopted: June 25, 1980.

MANDATORY RECOMMENDATIONS TO ACCOMPLISH REDUCTIONS IN FISCAL YEAR 1981 SPENDING FOR VETERANS' PROGRAMS

Mr. Cranston, from the Committee on Veterans' Affairs, submitted the following [to accompany a resolution making recommendations pursuant to section 3(a)(20) of H. Con. Res. 307].

The Committee on Veterans' Affairs, having been instructed by the Congress in section 3(a)(20) and (b) of House Concurrent Resolution 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, to submit, not later than June 25, 1980, to the Committee on the Budget recommendations for changes in laws within the jurisdiction of the Committee on Veterans' Affairs which provide spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 or equivalent savings legislation in order to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays, after due consideration reports a Committee resolution containing such recommendations and recommends that the provisions of such resolution do pass.

RESOLUTION OF THE COMMITTEE ON VETERANS' AFFAIRS

Whereas, in section 3(a)(20)) of House Concurrent Resolution No. 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, the Senate Committee on Veterans' Affairs has been instructed by the Congress to "recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act or equivalent savings legislation to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays" in order to remain within the Committee's spending limits contemplated by such resolution; and

Whereas, under section 3(b) of such resolution, the Sneate Committee on Veterans' Affairs is required to submit to the Senate Budget Committee recommendations for changes in such laws or equivalent savings legislation not later than June 25, 1980;

Therefore, in compliance with such instructions, *be it resolved that the Senate Committee on Veterans' Affairs makes the following legislative recommendations*:

SEC. 1. In order to reduce fiscal year 1981 spending for legislation increasing the rates of training and educational benefits in chapters 34, 35, and 36 of title 38, United States Code, to amounts $262 million in budget authority and $268 million in outlays less than the cost of the rate increases in the provisions of title I of H.R. 5288 as passed by the Senate on January 24, 1980, the Committee recommends adoption of the following provision:

[SEC.] The Clerk of the House of Representatives is directed to make the following changes in the Senate amendment to H.R. 5288:

On page 39, beginning with line 21, strike out all that follows through page 42, line 15, and insert in lieu thereof the following:

SEC. 101. Chapter 34 is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	243	276	17
Half-time	139	162	184	11"; and

(5) striking out in section 1692(b) "$69" and "$828" and inserting in lieu thereof "$76" and "$911", respectively.

SEC. 102. Chapter 35 is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$276"; and

(2) striking out in section 1742(a) "311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$342", "$108", "$108", and "$11.40", respectively.

SEC. 103. Chapter 36 is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu of "$342";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6 month periods	62	92	119	13";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$342".

On page 95, lines 14 and 15, strike out "September 1, 1980" and insert in lieu thereof "January 1, 1981".

SEC. 2. In order to reduce fiscal year 1981 spending for flight and correspondence training programs under title 38, United States Code, by $35,400,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. .] (a) Subsection (b) of section 1677 of title 38, United States Code, is amended by striking out "90 per centum" and inserting in lieu thereof "60 per centum".

(b) Section 1798 of title 38, United States Code, is amended by—

(1) striking out in the second sentence of subsection (c) "flight, apprentice or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training"; and

(2) adding at the end thereof the following new subsection:

"(h) In the case of a loan made to a veteran under this section to pursue a program of education consisting exclusively of flight training, the Administrator shall, as hereinafter provided in this subsection, cancel the repayment obligation (which for the purposes of this subsection shall include the obligation to pay interest), or reimburse for repayments already made, or both, as appropriate, if (1) such veteran has successfully completed such program and secured employment as a pilot or in a closely related occupation, and (2) such employment constitutes such veteran's primary vocational pursuit and major source of occupational income. Upon completion by such veteran of a full year of such employment during the first five years after the completion of such training, $1,000 of the repayment obligation under any such loan shall be canceled; and, upon the completion by such veteran of any additional three-month period of such employment during such five-year period, such repayment obligation shall be canceled at the rate of $250 for each such three-month period. In the event that a veteran meets the requirement of this section for a repayment obligation cancellation in an amount exceeding any remaining unpaid balance of such obligation, the Administrator shall, to the extent that the amount of the cancellation to which the veteran is entitled exceeds such balance, reimburse such veteran for any amounts of such obligation that such veteran has repaid.".

(c) Subsection (a) of section 1786 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) No veteran, spouse, or surviving spouse may be paid an educational assistance allowance under this subsection unless the Administrator has determined that no type of education other than correspondence is reasonably and feasibly available to such veteran, spouse, or surviving spouse in order to pursue successfully the educational objective being sought.".

(d)(1) Except as provided in paragraph (2) of this subsection, the provisions of this section shall become effective October 1, 1980.

(2) The provisions of subsections (a) through (c) of this section shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on August 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

SEC. 3. In order to reduce fiscal year 1981 spending for the pre-discharge education program under title 38, United States Code, by $1,000,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. .](a) Chapter 32 of title 38, United States Code, is amended by—

(1) amending section 1641 by striking out "1696, and 1968" and inserting in lieu thereof "and 1691(a)(1)"; and

(2) amending subsection (b) of section 1631 to read as follows:

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses or program of education to pursue a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a)(1) of this title, during the last 6 months of such member's first enlistment and at any time thereafter.".

(b) Chapter 34 of title 38, United States Code, is amended by—

(1) amending section 1661(c) by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V";

(2) amending section 1691(a) by—

(A) striking out "not on active duty"; and

(B) inserting "is not on active duty and who," after "(2)";

(3) striking out subchapter VI in its entirety; and

(4) striking out in the table of sections at the beginning of such chapter the item relating to subchapter VI in its entirety.

(c) Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780(d) by—

(A) striking out in the third sentence of paragraph (2) "(other than under subchapter VI of chapter 34)";

(B) striking out paragraph (3);

(C) striking out in paragraph (5) "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(D) striking out in paragraph (6) "(5)" and inserting in lieu thereof "(4)"; and

(E) redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) striking out in section 1780(e) "and (3)";

(3) striking out in section 1780(f) "(except as provided by subsection (d)(3) of this section)";

(4) striking out in section 1784(b) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)";

(5) striking out in section 1788(a)(6) "or 1696(a)(2)";

(6) striking out in section 1789(b)(5) "or VI"; and

(7) striking out in section 1798(f)(2) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

(d) The provisions of this section shall become effective on October 1, 1980.

SEC. 4. In order to reduce fiscal year 1981 spending related to the provision of educational assistance for the pursuit of vocational objective courses under title 38, United States Code, by $4,100,000 in budget authority and outlays, the Committee recommends enactment of the following provisions:

[SEC. .] (a) Section 1673 of title 39, United States Code, is amended by—

(1) amending subsection (a) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(C) amending clause (B) of paragraph (1), as redesignated by subclause (B) of this clause, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that (i) at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and (ii) at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;"; and

(D) adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.".

(b) The provisions of this section shall become effective on October 1, 1980.

SEC. 5. In order to achieve cost savings in fiscal year 1981 of $139 million in budget authority and outlays, the Committee recommends the enactment of the following provisions:

[SEC. .] (a)(1) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3113. Indebtedness offsets

"(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

"(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

"(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provisions of subsection (c) of this section and the regulations prescribed thereunder.

"(b) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be less than that which would otherwise be deducted from future payments at a rate required.

"§ 3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

"(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty, or loan-insurance program;

"(2) for the provision of care or services under chapter 17 of this title; or

"(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan-guaranties, or loan-insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most currently available address, notice of the Administrator's intention to charge interest on the indebtedness.

"(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

"§ 3115. Authority to sue to collect certain debts

"(a) Not later than 90 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney General and upon such terms and conditions as the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(b) Not later than 120 days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.".

(2) Not later than October 1, 1980, the Administrator shall prescribe the regulations required to be prescribed under sections 3113 and 3114 of title 38, United States Code, as added by paragraph (1) of this subsection.

(3) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Indebtedness offsets.
"3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States.
"3115. Authority to sue to collect certain debts.".

(b) Section 3301 of title 38, United States Code, is amended by—

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii) (I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection and no action taken pursuant to any such contract or this subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

INTRODUCTION

The Committee resolution makes legislative recommendations for reductions in spending for veterans' benefits and services in fiscal year 1981, as required by section 3(a)(20) of H. Con. Res. 307, the First Concurrent Resolution on the Budget for Fiscal Year 1981, which was agreed to by the Congress on June 12, 1980 (hereinafter referred to as "the Resolution"). Under section 3(b) of H. Con. Res. 307, the Committee's recommendations are required to be submitted to the Budget Committee not later than June 25, 1980.

The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget for a fiscal year is required, under section 302(a) of the Congressional Budget Act of 1974, to provide for allocations of "the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority". Thus, under the Resolution, pursuant to section 306(a) of the Budget Act, allocations of $13.9 billion in budget authority and $14.1 billion in outlays were made to the Committee for "entitlements requiring annual appropriations action". As stated in the joint explanatory statement accompanying the conference report on H. Con. Res. 307 (S. Rept. No. 96–792), the purpose of the reconciliation instructions to the Committee on Veterans' Affairs and to other Committees is to direct such Committees to report legislation to achieve the fiscal year 1981 "savings necessary for the committees to remain within their spending limits contemplated in the Resolution."

Having considered the matters involved, the Committee concluded that, in order to remain within its spending limits as contemplated in the Resolution, certain revisions to its legislative agenda—as set forth in its March 1980 budget views and estimates report to the Budget Committee (Committee Print No. 24)—would be required. Thus, the Committee determined to revise its legislative agenda, in part, and to report recommendations based on such revisions, together with certain recommendations identical to recommendations it previously had made to the Senate, in a Committee resolution setting forth the Committee's recommendations to achieve savings in fiscal year 1981 spending for veterans' programs.

Thus, after carefully reviewing the requirements imposed by the Resolution and section 302 of the Congressional Budget Act of 1974, the need to achieve a balanced budget, the importance of and priorities with respect to adequate funding for veterans' benefits and services, and the Committee's legislative agenda, the Committee met in open session on June 25, 1980, and voted, 10–0, to report favorably a resolution containing certain recommendations.

In addition, the Committee voted to report to the Senate, as required under section 302(b) of the Congressional Budget Act of 1974, subdivisions of the Committee's allocations under the Resolution pursuant to section 306(a) of the Congressional Budget Act of 1974.

SUMMARY OF RECONCILIATION RESOLUTION AS REPORTED

The Committee reconciliation resolution as reported (hereinafter referred to as "the Committee resolution") contains 5 sections, each of which sets forth the Committee's recommendations with respect to programs within the Committee's jurisdiction.

Section 1: Recommendations concerning cost-of-living adjustment in GI Bill benefit programs. This recommendation would achieve reductions in fiscal year 1981 requirements of $262,000,000 in budget authority and $268,000,000 in outlays by provisions that would provide for a 10-percent cost-of-living increase in educational assistance benefits under chapters 34, 35, and 36 of title 38, United States Code, effective January 1, 1981, in lieu of the 15-percent increase in education, training, and rehabilitation assistance benefits under chapters 31, 34, 35, and 36 of title 38, effective September 1, 1980, agreed to by the Senate on January 23, 1980, during its consideration of S. 870, the proposed "GI Bill Amendments of 1980", and approved by the Senate on January 24, 1980, in the Senate amendment to H.R. 5288.

Section 2: Recommendation concerning modifications of flight and correspondence training provisions. This recommendation, identical to modifications provided for under title V of H.R. 5288 as passed by the Senate, would achieve reductions in fiscal year 1981 requirements of $35,400,000 in budget authority and outlays by providing for modifications in flight and correspondence training programs. Included in section 2 of the Committee resolution are provisions that would:

(1) Reduce from 90 to 60 percent the portion of the cost of a flight training course that the VA will pay.

(2) Make veterans pursuing flight training courses eligible for VA educational loans of up to $2,500 per year and provide that a veteran who, after completing training, obtains employment in a flight-related occupation for a period of at least 1 year may obtain

cancellation of such loan at the rate of $1,000 for each year the veterans is so employed.

(3) Provide that benefits for correspondence course training may be paid only when no other means of education are reasonably and feasibly available for the successful pursuit of the educational or vocational objective being sought.

Section 3: Recommendations concerning repeal of PREP authority. This recommendation, identical to sections 601(2) (B) and (3), 602, and 603 of H.R. 5288 as passed by the Senate, would achieve reductions in fiscal year 1981 requirements of $1,000,000 in budget authority and outlays by providing for repeal of the authority for predischarge education program (PREP) training and certain other changes in VA educational assistance provisions in light of or to conform with such repeal. Included in section 3 are provisions that would:

(1) Repeal the authority for PREP.

(2) Make a member of the Armed Forces who is participating in the post-Vietnam-era veterans' educational assistance program eligible, at no charge to entitlement, for educational assistance benefits for pursuit of secondary education courses during the last 6 months of his or her first enlistment and at any time thereafter.

(3) Provide that GI Bill benefits may be paid, at no charge to entitlement, for secondary education courses taken while a chapter-34-eligible individual is on active duty.

Section 4: Recommendations concerning modifications of vocational-objective course approval.—This recommendation, identical to modifications provided for under section 204 of H.R. 5288 as passed by the Senate, would achieve reductions in fiscal year 1981 requirements of $4,100,000 in budget authority and outlays through modifications of vocational-objective course approval criteria. Included in section 4 are provisions that would:

(1) Add to the criteria for the approval of vocational objective courses a requirement that at least 50 percent of those enrolled complete the course.

(2) Modify the existing requirement that at least 50 percent of those who have completed the course and are available for employment in the occupational field concerned be so employed by requiring that such employment be the individual's primary vocational pursuit and major source of occupational income.

(3) Exempt from further application of such criteria those institutions having a 2-year history of compliance at which less than 35 percent of the enrollees are receiving VA educational assistance.

(4) Provide the Administrator with authority to waive the 50-percent completion and 50-percent employment rules when their application would work an administrative hardship on an educational institution in light of the small number, in relation to the institution's total enrollment, of GI Bill trainees enrolled at that institution.

Section 5: Recommendation concerning enhancement of VA's ability to collect delinquent debts owed by individuals.—This recommendation, by providing increased authority to the VA to enhance its collection efforts, would increase receipts and thus achieve reductions in fiscal year 1981 requirements of $139,000,000 in budget authority and outlays. Included in section 5 are provisions that would:

(1) Require the VA, in cases where an individual has been determined to be indebted to the VA as a result of such individual's participation in a VA program, to deduct the amount of the indebtedness from future VA benefit payments to that individual and provide certain safeguards to protect individuals from erroneous deductions and undue hardship resulting from such deductions.

(2) Clarify that the 6-year statute of limitations under 28 U.S.C. 2415, regarding collection actions by the Federal Government, does not apply to certain VA administrative actions to collect a debt or determine credit worthiness for purposes of approval of VA home-loan guaranty eligibility.

(3) Require the VA to charge interest and reasonable collection costs on certain delinquent debts.

(4) Require the Administrator to take steps to authorize VA attorneys to bring debt-collection suits under the supervision and direction of the Department of Justice, and subject to such terms and conditions as may be prescribed by the Atttorney General.

(5) Authorize the Administrator of Veterans' Affairs to release to consumer reporting agencies (CRA's), pursuant to regulations which the Administrator must prescribe, the names and addresses of and other necessary identifying information pertaining to individuals who have been administratively determined to be indebted to the United States, as a result of participation in a VA benefits program, in order to obtain current address information or consumer reports, which the VA would use for purposes of determining the debtor's ability to pay the debt. In disclosing identifying information other than the individual's name and address, the Administrator would not be authorized to disclose any information that would indicate expressly or implicitly that the individual is indebted to the United States or would otherwise reflect adversely on the individual. Also, prior to making any disclosure for these purposes, the Administrator would be required to determine that the information disclosed would not be recorded or reported by the CRA (to which it was being disclosed directly by the VA) in such a way as to suggest that the VA inquiry indicates the existence of an indebtedness or otherwise reflects adversely on the individual. In addition, the CRA (to which the VA made direct disclosure) would be prohibited from indicating in its files and reports that the VA inquiry indicates an indebtedness or is otherwise adverse to the individual's credit rating and a willful violation by a CRA or one of its employees of that prohibition would be punishable by a fine of up to $5,000 for the first offense and up to $20,000 for a subsequent offense.

DISCUSSION—SECTION 1: RECOMMENDATIONS CONCERNING COST-OF-LIVING ADJUSTMENT IN GI BILL BENEFIT PROGRAMS

BACKGROUND

Senate-passed 15-percent Cost-of-Living Increase, Effective September 1, 1980.

On January 23, 1980, the Chairman offered a Committee amendment to S. 870, the proposed "GI Bill Amendments of 1980". That amendment provides for a 15-percent increase, effective September 1, 1980, in GI Bill benefits and vocational rehabilitation allowances. It was agreed to by voice vote on January 24, following the defeat on January 23, by a vote of 14 to 78, of a motion to table the amendment. The provisions of S. 870, as amended, were substituted for the text of H.R. 5288 as passed by the House, and H.R. 5288 as so amended was then passed by the Senate.

On March 6, 1980, the Congressional Budget Office advised the Committee that it estimated the fiscal year 1981 costs of this amendment as $429 million in budget authority and $407 million outlays.

10-percent Cost-of-Living Increase, Effective October 1, 1980.

In S. 1188, the proposed "Disabled Veterans Rehabilitation Act of 1980", as reported on May 15, 1980, the Committee recommended, in lieu of the Senate-passed 15-percent GI Bill rate increase, a 10-percent increase, effective October 1, 1980.

The following materials in support of that 10-percent increase are taken from the report (S. Rept. No. 95-746) accompanying S. 1188:

Part B. of title II of the Committee bill, "GI Bill Rate Increases", would provide for a 10-percent increase in the amounts of GI Bill educational assistance allowances paid pursuant to chapters 34, 35, and 36. The following table compares the benefit levels for the various allowances provided for by current law with the benefit levels which would be effective on October 1, 1980, under the Committee bill.

TABLE 2.—COMPARISON OF BENEFIT LEVELS IN CURRENT LAW AND AS PROPOSED BY COMMITTEE BILL

INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING) (CH. 34, SEC. 1682(A))

	Existing Law				S. 1188			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
Full-time	$311	$370	$422	$26	$342	$407	$464	$29
Three-quarter	233	277	317	19	256	305	349	21
Half-time	156	185	211	13	172	204	232	14
Cooperative	251	294	334	19	276	323	367	21
FARM COOPERATIVE TRAINING (CH. 34, SEC. 1682(A))								
Farm cooperative:								
Full-time	$251	$294	$334	$19	$276	$323	$367	$21
Three-quarter	188	221	251	15	207	243	276	17
Half-time	126	147	167	10	139	162	184	11

APPRENTICESHIP OF OTHER ON-JOB TRAINING (CH. 36, SEC. 1787)

	Existing Law				S.1188			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
Periods of training:								
1st 6 mo	$226	$254	$277	$12	$249	$279	$305	$13
2d 6 mo	169	197	221	12	186	217	243	13
3d 6 mo	113	141	164	12	124	155	180	13
4th and any succeeding 6-mo periods	56	84	108	12	62	92	119	13

TABLE 2.—COMPARISON OF BENEFIT LEVELS IN CURRENT LAW AND AS PROPOSED BY COMMITTEE BILL—Continued

OTHER PROVISIONS

	Existing law	S. 1188
Flight training	$288	[1] $317
Active duty and less than half-time	311	[2] 342
Correspondence courses	311	[3] 342
Special supplementary assistance	69	[4] 76
Loan	311	[5] 342

OTHER PROVISIONS—WAR ORPHANS, WIDOWS, AND WIVES EDUCATIONAL ASSISTANCE (CH. 35)

	Existing law	S. 1188
Full time	$311	$342
Three-quarter time	233	265
Half-time	156	172
Institutional-business courses	251	276
Special restorative training	311	342

[1] 90-percent of established charges, with 1-mo charged to entitlement for each $317 cost.
[2] Established charges for tuition and fees, but not to exceed full-time rate of $342 per month.
[3] Established charges, with 1-mo charged to entitlement for each $342 cost.
[4] Per month, with maximum of $911.
[5] Amount of available loan determined by multiplying months of entitlement to educational assistance times the value of 1 mo's entitlement ($342) up to maximum of $2,500.

A chronology of educational assistance allowances since the beginning of the current GI Bill program (in 1966)—including the rate increase proposed by the Committee bill—are shown in the following table:

TABLE 3.—CHRONOLOGY OF ACTUAL AND PROPOSED EDUCATIONAL ASSISTANCE RATES UNDER POST-KOREAN CONFLICT AND VIETNAM-ERA VETERANS' GI BILL PROGRAM

Law, effective date, and type of course	Percentage increases for single veteran	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89–358, June 1, 1966: Full-time institutional		$100	$125	$150	
Public Law 90–77, October 1967:					
Full-time institutional	30	130	155	175	$10
Full-time cooperative farm		105	125	145	7
Full-time training on the job		80	90	100	
Public Law 91–219, Feb. 1, 1970:					
Full-time institutional	34.6	175	205	230	13
Full-time cooperative farm		141	165	190	10
Full-time training on job		108	120	133	
Public Law 92–540, Oct. 1, 1972:					
Full-time institutional	25.7	220	261	298	18
Full-time cooperative farm		177	208	236	14
Full-time training on job		160	179	196	8
Public Law 93–508, Dec. 3, 1974, retroactive to Sept. 1, 1974:					
Full-time institutional	22.7	270	321	366	22
Full-time cooperative farm		$217	$255	$289	$17
Full-time training on job		189	212	232	9
Public Law 94-502, Oct. 1, 1976:					
Full-time institutional	8	292	347	396	24
Full-time cooperative farm		235	276	313	18
Full-time training on the job		212	238	260	11
Public Law 95–202, Oct. 1, 1977:					
Full-time institutional	7	311	370	422	26
Full-time cooperative farm		251	294	334	19
Full-time training on the job		226	254	277	12
S. 1188, Oct. 1, 1980:					
Full-time institutional	10	342	407	464	29
Full-time cooperative farm		276	323	367	21
Full-time training on the job		249	297	305	13

The current GI Bill program was established in 1966 in order that (1) service in the Armed Forces be made more attractive, (2) eligible veterans and dependents might benefit from attaining a higher educational level than they might otherwise have been able to afford, (3) individuals whose lives and careers have been disrupted by their active duty in service might receive vocational and educational readjustment assistance, and (4) individuals who served their country honorably might attain the vocational or educational objectives they would have otherwise realized had they not served in the military. Since the inception of the current GI Bill in 1966, Congress has intended that the educational assistance allowance cover, in part, the costs incurred by the veteran-student for tuition, fees, books, supplies, subsistence, and other associated costs.

Since 1966, Congress has increased the rates of educational assistance by more than 200 percent. Yet, even the benefit increases provided by past amendments have not assured that benefit levels kept pace with the rate of inflation from year to year. For example, in 1976, Congress increased GI Bill educational assistance allowances by 8 percent. However, the increase in the cost of living (as measured by the Consumer Price Index (CPI)—between September 1, 1974, and effective date of the increases provided by Public Law 93–508, and October 1, 1976, the effective date of the increases provided by Public Law 94–502—was 14.08 percent.

The Committee believes that a cost-of-living increase in GI Bill benefits is long overdue. The GI Bill purchasing power has declined since 1970 as a result of the continued rise in the cost of living as measured by the CPI. The Congress has increased benefits almost 78 percent since 1970 (from $175 to $311). However, the increase in the CPI from 1970 through April 1980 has been close to 111 percent. Since the last increase in benefits, made by Public Law 95–202, effective on October 1, 1977, the cost of living has increased by more than 30.3 percent. This rate of inflation has badly eroded the value of the GI Bill educational assistance dollar and has created hardships on many veterans attempting to pursue their educations under the GI Bill.

On January 24, in connection with the consideration of the proposed "GI Bill Amendments Act of 1980," the Senate approved a 15-percent cost-of-living increase in the rates of educational assistance allowances paid under chapters 31, 34, 35, and 36 of title 38. At that time, the cost of this rate increase, effective September 1, 1980, was estimated by CBO to be $22 million for fiscal year 1980 and $376 million [1] for fiscal year 1981 and to total $1.4 billion over the period fiscal year 1980 through 1984.

The Committee is deeply committed to providing relief to veterans training under the GI Bill. Likewise, the Committee is concerned about the need to balance the Federal budget and understands the necessity of curbing Federal expenditures as a necessary step toward efforts to reduce inflation.

Consequently, after serious examination and consideration, the Committee, in conjunction with its March recommendations to the Senate Budget Committee, recommended that a 10-percent increase in GI Bill benefits be enacted in lieu of the 15-percent increase that had already passed the Senate. This percentage increase is consistent with the President's recommendations made in his January and revised budgets for fiscal year 1981.

Thus, part B of title II of the Committee bill would provide for a 10-percent increase in GI Bill educational assistance allowances prescribed by chapters 34, 35, and 36 of title 38. A comparable increase in benefit levels for chapter 31 is proposed to be made by section 101(a) of the Committee bill. CBO estimates the fiscal year 1981 cost of this increase, together with the cost of the increase in chapter 31 rates, would be $258 million. Thus, this proposal would result in $118 million [2] in savings over the Senate action taken earlier this year.

COMMITTEE RESOLUTION PROVISION

In the view of this Committee, the Congress unjust and unreasonably failed, during its consideration of the First Concurrent Resolution in the Budget for Fiscal Year 1981, to provide adequate funding for veterans' programs. The allocations to the Committee of entitlement spending levels are insufficient to achieve the Committee's very modest and prudent legislative agenda for fiscal year 1981. Specifically, the levels fail to provide sufficient funding for a 15-percent GI Bill rate increase with an effective date of September 1, 1980, together with an adequate cost-of-living increase in service-connected disability compensation benefits and a modernization of the VA's rehabilitation programs for service-connected disabled veterans.

Thus, the Committee, recommends, only with the greatest reluctance, what it considers an unfair postponement from September 1, 1980, to January 1, 1981, of the effective date of the 10-percent increase in GI Bill benefits. To accomplish this, the Committee resolution provision would direct the Clerk of the House of Representatives to make appropriate changes in the text of H.R. 5288, as amended by the Senate, to provide for a reduction of the increase to 10 percent under chapters 34, 35, and 36 of title 38, United States Code, with an effective date of January 1, 1981.

SAVINGS ESTIMATE

CBO estimates that these changes would achieve reductions in fiscal year 1981 requirements of $262 million in budget authority and $268 million in outlays. Of those amounts, reductions of $111 million in budget authority and $147 million in outlays are attributable to the reduction from 15 percent to 10 percent in the cost-of-living increase as passed by the Senate in H.R. 5288, and reductions of $151 million in budget authority and $124 million in outlays are attributable to the postponement of the effective date to January 1, 1981.

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[1] The Congressional Budget Office, on March 6, advised the Committee of its revision of this estimate to $429 million.

[2] The Congressional Budget Office, on June 24, 1980, advised the Committee that this amount, as adjusted by the March 6, 1980, reestimate, would be $149 million.

SECTION 2: RECOMMENDATIONS CONCERNING MODIFICATION OF FLIGHT AND CORRESPONDENCE TRAINING PROVISIONS

BACKGROUND

The Committee is recommending the enactment of provisions to modify flight and correspondence training programs under the GI Bill to limit the use of GI Bill benefits for such training for genuine vocational purposes and to eliminate abuse. The recommended provisions are identical to those reported by the Committee on September 7, 1979, in S. 870, the proposed "GI Bill Amendments Act of 1980", and passed by the Senate in H.R. 5288 on January 24, 1980. The following materials in justification for those provisions are taken from the report (S. Rept. No. 96–314) accompanying S. 870:

The Administration has recommended on four occasions—for fiscal years 1977, 1978, 1979, and 1980—termination of eligibility for GI Bill benefits for enrollments in flight and correspondence training programs. This recommendation is made on the basis, as stated in the VA's March 26, 1979, letter transmitting the proposed "GI Bill Amendments Act of 1979 (S. 870), that "there is ample evidence that the training does not lead to jobs for the majority of trainees and that the courses tend to serve a vocational/recreational and/or personal enrichment rather than basic employment objectives". Under the Administration's proposed termination, no eligible veteran would receive GI Bill benefits—after the effective date of the legislation—for participation in flight or correspondence training programs.

In the past, the Committee has declined to consider favorably such proposals. However, section 204 of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94–502) mandated that the VA conduct and submit to the President and Congress, within 180 days after the date of enactment of that law, a thorough and comprehensive study of vocational objective programs. The study was to place particular emphasis on the implementation of section 1673(a)(2) of title 38—the so called "50-percent employment rule"—which provides that the Administrator shall not approve the enrollment of a veteran in any vocational objective course which fails to submit justification annually showing that at least one-half the available course graduates have, within 2 years of completion, secured employment in the occupational category for which they were trained. As discussed earlier in this report with respect to the changes proposed by the Committee bill regarding this rule, the Committee has, in the past, expressed concern about the contradiction in the Administration's rationale which suggests less than vigorous implementation and enforcement of this rule.

The report of the study on vocational objective programs, entitled "Study of Vocational Objective Programs Approved for the Enrollment of Veterans", which was received in the Senate on July 12, 1978, indicates that the completion rate for flight training courses is the third highest of all vocational training programs—76 percent compared to 67.3 percent for all courses. In addition, the flight training course rate of employment, as computed for purposes of determining compliance with the 50-percent rule, is 90.3 percent. This is the fourth highest rate of all vocational courses.

The VA report notes that, although the 50-percent employment rule "is a step in the right direction. . . . it may not adequately reflect the real 'success' and utility of the school and course." In this regard, the report notes that completion rates for flight training courses tend to be high because "students are enthusiastic and are eager to stay with the course to the end because they are interested in flying, professionally or avocationally". The report further notes that graduates of flight training courses "often . . . accept very limited, part-time employment which will enable them to fly free of charge or at modest pay after they complete the course", and, that this part-time employment, such as making occasional messenger runs and piloting for weekend sightseeing trips, boosts the employment ratios of flight school graduates.

With regard to correspondence training courses, the report indicates that many individual correspondence courses continue to meet the requirements of the law with regard to the 50-percent employment rule, although the average completion rate for correspondence courses is low—50.3 percent.

Upon examining these VA conclusions that GI Bill benefits for flight and correspondence training should be terminated, the Committee's view, as expressed in its report, "Budget Views and Estimates for Fiscal Year 1980", submitted to the Senate Budget Committee on March 15, 1979, was that, at that time, the VA did not have available hard data sufficient to justify as recommendations. At the June 6, 1979, hearing, the VA was unable to provide this data.

In order to obtain more definitive data in connection with its consideration of the Administration's latest termination proposal, the Committee requested that the General Accounting Office (GAO) undertake a study to assess the accuracy of the VA's assertions with respect to flight and correspondence training programs. (The results of that GAO survey and its report, entitled "GI Bill Benefits for Flight and Correspondence Training Should Be Discontinued", are included as the Appendix to this Report.) In conducting the survey, the GAO compiled data from IRS returns filed by a scientifically-selected sample group of veterans who completed flight or correspondence training within a 5-year period. In addition, in the case of flight training, medical files maintained by the Federal Aviation Administration (FAA) were examined, and the results of that examination were also analyzed. It is the Committee's belief that the data compiled by GAO substantiate the VA's assertions.

Based on criteria that the GAO developed for determining whether an individual is employed as a full-time pilot, it determined from the FAA data that about 83 percent of the sampled veterans completing flight training with GI Bill assistance were subsequently not employed as full-time pilots. The accuracy of that determination is supported by the survey findings that only 16 percent of the tax returns of the sampled veterans indicated flight-related occupations. The FAA data also showed that only 15.6 percent of the former GI Bill trainees reported themselves to be engaged in an aeronautical occupation and that only another 4 percent reported were flying substantially for businesses. Further, the FAA data showed that almost 57 percent of the sampled veterans trained indicated that they fly primarily for pleasure. The Committee believes that the GAO's findings are particularly significant in light of the remarkable consistency between the data obtained from IRS and the data obtained from the FAA.

With respect to correspondence training, the GAO determined that, although the percentages vary between different vocational objective programs, the average percentage of those GI Bill trainees who completed training in the six sampled programs and who were employed in the field for which they had been trained was 33.5 percent—the lowest percentage was in auto mechanics (19.3 percent) and the highest in real estate and insurance (56 percent). When coupled with an average completion rate for these six courses of 31.7 percent, this means that only an average of 10.6 percent of those *entering* training are subsequently employed in the field for which trained.

The GAO report also incorporated data based on a recent telephone sample survey of former correspondence course trainees conducted by the VA's Inspector General. That survey revealed a significant difference between the 50-percent employment rule reports submitted by the schools and the telephone responses of veterans who had completed training. For example, in the case of a locksmith course offered by correspondence, only 11 percent of the survey sample indicated that they were employed in that field and only an additional 30 percent were making some use of the skill for which they had received training. However, the employment report submitted had shown an employment rate of graduates of 80 percent.

Despite these findings, the Committee does not believe that it would be justifiable or fair to terminate totally the benefits for flight and correspondence training. The Committee believes that for some veterans, flight training is a legitimate vocational objective. In certain States, such as Alaska and Hawaii, flight training is sometimes necessary to acquire the ability to get to and from a job any may be essential to the performance of the job. With regard to correspondence training, the Committee is concerned that the termination of this training could deny the chance to utilize GI Bill educational assistance benefits to many who, for a variety of reasons, are not able to attend classes at an educational institution on a regular basis.

Thus, in the cases of both types of training the Committee believes that the abuses and failures cited by the VA can be eliminated or curbed by tightening certain aspects of the administration of the programs. The Committee notes in this regard that the modifications proposed to be by section 104 made (1) of the Committee bill in the criteria for approving vocational objective courses—the addition of a 50-percent completion rule and the revision of the 50-percent employment rule—are specifically designed to close loopholes in the flight and correspondence training programs and curb the alleged abuses that occur in those programs, such as employing course-completers in weekend, part-time positions and counting them as employed in the field, and disenrolling students prior to completion in order to avoid having to include them in the required computations to determine compliance with the present 50-percent rule. However, the Committee believes that further legislative action is necessary to limit the program to those really needing the training for employment purposes.

Committee bill provisions

With regard to flight training courses, section 401 of the Committee bill would reduce the portion of the course charge paid by the VA, under present section 1677(b) of title 38, from the current 90 percent to 60 percent, would make veterans pursuing such training eligible for VA education loans (available in amounts up to $2,500 per year), and would provide that $1,000 of the loan amount would be canceled in the event a veteran is employed full time for at least 1 year in a flight-related occupation within 5 years after completing training. Any additional 3-month period of employment subsequent to the 1-year period and within the 5-year period would qualify the veteran for cancellation of an additional $250 of the loan amount.

The Committee believes that enactment of this provision will result in curbing the abuse of GI Bill benefits by veterans pursuing flight training for recreational purposes, by providing assurance that the veteran has a substantial financial and vocational stake in the pursuit of flight training. If the veteran has already repaid all or part of the repayment obligation and the remaining unpaid balance is less than the amount of the cancellation to which the veteran is entitled, the VA would—to the extent by which the cancellation to which the veteran is entitled exceeds the unpaid balance—reimburse the veteran for the amount that the veteran has repaid.

At the same time, under the Committee bill, a veteran with a serious employment objective for pursuing flight training could be able to obtain a greater degree of initial GI Bill assistance. For example, under current law, a veteran enrolled in a program of flight training costing $5,000 would have $4,500 paid by the VA: the remaining $500 would have to be paid by the veteran. Under the proposal made by the Committee bill, of the same $5,000 cost, the VA would pay outright $3,000. However, the veteran could, if eligible, receive a $2,000 education loan to cover the balance of the cost. If, within the 5 years following completion of training, the veteran subsequently is employed full time in a flight-related occupation for 2 years (plus any additional 3-month periods necessary to cancel accrued interest), the entire amount of the loan (plus interest) would be canceled. Thus, the cost to the veteran would be less than it currently is.

In the case of correspondence training, section 402 of the Committee bill would authorize such training for those for whom the Administrator determines that no other type of training is "reasonably and feasibly available for successful pursuit of the vocational objective sought". The Committee intends to eliminate the abuse of GI Bill benefits by those taking correspondence courses even though other programs of education are available and accessible to them, but also to assure that those individuals who cannot attend classes on a regular basis—such as disabled persons, those with parental responsibilities, those with jobs not permitting them to attend classes at the times classes are offered, and certain inservice personnel—and who thus could not use their GI Bill benefits except for correspondence training would continue to be able to use their benefits for such training. In making the determinations called for by the Committee bill, the Committee expects the Administrator to resolve questions of doubts in favor of the veteran. The Committee believes, for example, that training could be approved in the case of an individual who has access to types of training other than correspondence, but who could not attend regularly or within a reasonable time period as required for successful pursuit of his or her vocational objectives.

The Committee bill would provide that, in the case of both flight and correspondence training, those modifications in the authorities would not be effective with respect to those individuals enrolled in such training as of August 1, 1979, for as long as such individuals remain continuously enrolled.

Committee resolution provision

Section 2 of the Committee resolution would amend title 38, United States Code, in a manner identical to the provisions of sections 501 and 502 of H.R. 5288 as passed by the Senate and would be effective on October 1, 1980.

Savings estimate

CBO estimates that the enactment of the provisions of section 2 would achieve reductions in fiscal year 1981 requirements of $35.4 million in budget authority and outlays.

Section 3: Recommendations Concerning Repeal PREP Authority

BACKGROUND

The Committee is recommending the enactment of provisions to repeal the authority for pre-discharge education program (PREP) training and to make technical conforming changes in appropriate provisions of title 38, United States Code. The recommended provisions are identical to those reported by the Committee on September 7, 1979, in S. 870, the proposed "GI Bill Amendments Act of 1980", and passed by the Senate in H.R. 5288 on January 24, 1980. The following materials in justification of those provisions are taken from the report (S. Rept. No. 96–314) accompanying S. 870:

BACKGROUND

In 1976, Public Law 94–502 created a new title 38, partially contributory program of educational assistance designed to meet the needs of the All-Volunteer Armed Forces. This program, established under chapter 32. Post-Vietnam Era Veterans' Educational Assistance, is a voluntary program in which persons generally entering active duty after December 31, 1976, may make contributions—in the form of payroll deductions—of up to $75 a month to their educational funds. Their contributions are then matched on a $2-for-$1 basis by the VA when the veteran enrolls in an approved program of education. Additional contributions to the fund may be made by the Department of Defense or any service branch. As of December 31, 1978, there were 111,731 service persons enrolled in and making contributions to the chapter 32 program. During fiscal year 1978, 37 veterans enrolled in programs of education and received educational assistance benefits under this program.

COMMITTEE BILL PROVISIONS

Eligibility for the chapter 32 program

Under current law, present section 1601 (1)(A), in order to be eligible for participation in the chapter 32 program, a serviceperson must initially have entered active duty on or after January 1, 1977. Eligibility for the current GI Bill program is established, as provided in section 1652(a), by active-duty service of more than 180 days, any part of which occurred after January 31, 1955, and generally before January 1, 1977.

It was brought to the Committee's attention that there is a small group of individuals now serving in the Armed Forces who fail to meet the eligibility criteria for either program. These individuals—estimated to total not more than 5,000—served on active duty prior to January 1, 1977, but were discharged or released for various reasons prior to completion of 181 days of active duty service. Subsequently, these persons have re-entered the Armed Forces and are ineligible for either the chapter 34 program—because of the minimum length of service requirement—or the chapter 32 program—because of the requirement of initial entry into active duty after December 31, 1976.

The ineligibility of these individuals for VA educational assistance under either program seems clearly the result of an inadvertent drafting oversight, which the Committee believes should be remedied by making them eligible for participation in the chapter 32 program. Thus, section 501(1) of the Committee bill incorporates an amendment offered by the Committee's Ranking Minority Member, Senator Alan K. Simpson, to amend the definition of chapter 32 eligible veteran to include this group of service persons.

VA educational and vocational counseling for chapter 32 participants

Current law does not provide for the furnishing of VA educational and vocational counseling services at the request of persons enrolled in the chapter 32 program. It is hoped that counseling relating to future education and vocational pursuits for chapter 32 participants, as well as other service personnel, would be generally available through the resources of the Department of Defense. However, the Committee does recognize a need to make the VA's counseling services available to chapter 32 participants seeking to utilize their educational benefits when they request these services.

Thus, section 501(2) of the Committee bill would amend present section 1641 to make this counseling available, upon request, to these individuals.

Repeal of the authority for the predischarge education program (PREP)

Under current law, service personnel participating in the chapter 32 program are permitted to pursue PREP training during the last 6 months of their first enlistment. These programs, authorized by Public Law 91–219 in 1970, and terminated for chapter 34 Vietnam-era veterans in 1976, are designed to provide individuals the opportunity—without charge to their GI Bill entitlement—to enroll in high school and remedial courses designed to aid them in enrolling in and pursuing a program of education after discharge from the service.

The Committee believes that a substantial continued need for the PREP authority does not exist for persons serving in the current All-Voluntary Army. In order to attract qualified men and women into the nonconscripted military forces, the military services offer many inducements, of which educational opportunities are among the most attractive. Thus, the Department of Defense now operates a wide variety of inservice education programs. These benefits, which range from vocational training through graduate work, are available to active duty personnel in the military service.

In addition, the Committee is aware of the burden on military operations that PREP may have caused as the result of the provision (in present section 1698(b)(3)) regarding release from duty in order to train during on-duty hours. The possibility of replication under chapter 32 of the type of abuses, primarily related to remedial and refresher training that led to the termination of chapter 34 PREP training in 1976 is also of great concern to the Committee. However, this is speculative since the first chapter 32 participants did not become eligible for PREP training until July 1, 1979.

The Committee believes it is vital that those chapter 32 participants who may lack high school diplomas or equivalency certificates (so-called "GED's"—General Education Diplomas) have ample opportunity to undertake and complete programs of secondary education so that their contributions to the chapter 32 program may be fully and effectively utilized. It is not clear to the Committee, however, that all the needs of these individuals would be met by the inservice education programs offered by the Department of Defense.

Thus, sections 501(3) and 502(3) of the Committee bill would terminate the authority for the PREP training and, in lieu thereof, would make chapter 32 participants eligible for educational assistance to pursue programs of secondary education (high school or GED courses but not special refresher, deficiency, or preparatory courses)—at no charge to their entitlement during the last 6 months of their first enlistments or at any time thereafter. The educational assistance allowance for this pursuit would be paid, as proposed by section 108 of the Committee bill, at the rate of tuition and fees, or $156, a month, whichever is the lesser.

Secondary education training under chapter 34

Persons who are eligible for the current GI Bill (chapter 34) and who are still on active duty are not permitted to use the free-entitlement program for secondary education under section 1691(a)(1). This exclusion was enacted in 1970 by Public Law 91–219 at the same time the PREP authority was enacted because the PREP authority was designed to prescribe the terms and conditions to be applied to such inservice education However, when the PREP authority for chapter 34 trainees was repealed in 1976 by Public Law 94–502, the prohibition on the use of the free-entitlement program for secondary education was—apparently inadvertently—not repealed. Since chapter 34-eligible servicepersons may no longer participate in PREP, eligibility for inservice use of entitlement-free secondary education benefits should be restored.

Thus, section 502(2) of the Committee bill would provide chapter 34-eligible active-duty service personnel with eligibility for this type of training assistance (but not special refresher, deficiency, or preparatory courses). The Committee notes that, by virtue of the change proposed by section 108 of the Committee bill, the rate of assistance paid for such secondary education courses would be the cost of tuition and fees, or $156 a month, whichever is the lesser.

COMMITTEE RESOLUTION PROVISION

Section 3 of the Committee resolution would amend title 38 in a manner identical to sections 601(2) and (3), 602, and 603 of H.R. 5288 as passed by the Senate and would be effective on October 1, 1980.

SAVINGS ESTIMATE

CBO estimates that the enactment of the provisions of section 3 would achieve reductions in fiscal year 1981 requirements of $1 million in budget authority and outlays.

Section 4: Recommendation Concerning Modifications of Vocational-Objective Course Approval Criteria

BACKGROUND

The Committee is recommending the enactment of provisions to modify vocational-objective course criteria applicable to GI Bill benefit programs. The recommended provisions are identical to those reported by the Committee on September 7, 1979, in S. 870, the proposed "GI Bill Amendments Act of 1980", and passed by the Senate in H.R. 5288 on January 24, 1980. The following materials in justification of those provisions are taken from the report (S. Rept. 96–314) accompanying S. 870:

Section 104(1) of the Committee bill would amend section 1673(a)(2) to strengthen the criteria for approval of vocational objective courses. That section, as amended by section 203(1) of Public Law 93–508, currently provides that the Administrator shall not approve the enrollment of a veteran in any vocational objective course which fails to submit justification showing that at least one-half of the available course graduates during the preceding 2-year period have secured employment in the occupational category for which trained—the so-called 50-percent employment rule.

Background Regarding 50-Percent Employment Rule.—Enactment of this provision resulted from Congressional concern that vocational courses may not always be of adequate quality and intensity to prepare the trainee for employment in the chosen vocation and that some vocational courses tend to serve avocational, recreational, and other personal enrichment objectives rather than basic employment goals.

In 1976, the Committee noted, in its report accompanying legislation that was enacted as Public Law 94–502 (S. Rept. No. 94–1243), its belief that compliance with the 50-percent employment rule was "an important tool in assuring that the purposes of the GI Bill are and continue to be met". In response to the Administration's proposal, for fiscal year 1977, to terminate eligibility for GI Bill benefits for flight and correspondence training on the grounds that such training "does not lead to jobs for the majority of trainees and that the courses tend to serve avocational/recreational and/or personal enrichment rather than basic employment objectives", the Committee expressed its view that such an assertion appeared to contradict directly the flight and correspondence schools' claims that 50 percent of their course graduates had secured employment in the occupation for which they were trained.

The Committee concluded that either the Veterans' Administration's position in favor of terminating authority for these programs was based upon insufficient facts or the obvious Congressional intent underlying the 50-percent rule had not been effectuated. The Committee noted that there was a "growing suspicion" that the latter was the case. The Committee expressed its belief that rigorous application and enforcement of the 50-percent employment rule would terminate enrollment for vocational/recreational purposes and training that was inferior while allowing those schools meeting basic vocational objectives to continue enrolling veterans under the GI Bill.

Thus, believing that more study was both appropriate and necessary. Public Law 94–502 mandated the Administrator to undertake a thorough study of, and to submit to Congress within 180 days after the enactment of that law a report, on vocational objective courses, compliance with the 50-percent employment rule, and the need for any legislative or administrative remedies.

The report, entitled "Study of Vocational Objective Programs Approved for the Enrollment of Veterans", was submitted to Congress on July 11, 1978. That report indicates that the average rate of employment was 81.3 percent for vocational objective course graduates in an occupation related to that for which the training was designed to prepare the trainee. Only 669 of the 28,461 courses submitting reports failed to meet the 50-percent employment rule; however, reports for approximately 7,200 additional previously-approved courses were not received with the result that the schools in question were not permitted to enroll additional veterans in those courses until those schools submitted justification of meeting the 50-percent employment rule.

Although the results of the VA's study indicate that the vast majority of courses surveyed met the 50-percent employment rule, the VA's report also suggests that much of the data may be misleading. For example, only individuals who complete a course are included when computing the 50-percent employment rule. Thus, courses with high attrition rates—such as correspondence courses—may exceed the required 50-percent employment rate by counting only a small number of graduates, and a high attrition rate may indicate that a course is promising too much or delivering too little in the way of useful vocational services. (It is also possible, it should be noted, that high attrition may indicate that a course is rigorous.) At the Committee's hearing on June 6, Guy H. McMichael III, General Counsel of the VA, testified that an on-going VA Inspector General's audit had found that of 1,100 students enrolled in one correspondence course, only 11 completed it. Of those 11, only five graduates were counted in the computation and the other six were excluded. Of those five graduates, one reported employment in the field for which trained, and the other four reported "related employment". Thus, the course demonstrated, on the basis of five graduates, a 100-percent employment ratio for graduates.

Furthermore, current law does not specify whether job placement needs to be full time. The VA's report indicates that some schools—particularly in the case of flight training—have used this lack of definition to achieve relatively high placement ratios, in technical compliance with the law, through the use of graduates as part-time instructors. In addition, individuals who work only part time or occasionally in the field for which trained may also be counted as employed for the purposes of meeting the 50-percent employment rule.

Finally, the VA report notes that the 50-percent employment rule data may be misleading because it is the school that gathers and compiles it. The VA's report contends that it is reasonable to assume that some of the data submitted is biased because the school is eager to continue to be approved for VA benefit payment purposes, and thus is interested in compiling data that produce the highest possible placement rates.

Provisions of Committee Bill.—In submitting the proposed GI Bill Amendments Act of 1979, the Administration proposed a series of modifications to tighten the 50-percent rule, including a proposal that the rule be modified to base the required computation on the number of persons initially enrolling in a course. This would have the effect of requiring that at least half of those who initiate training in a course become employed in the field for which they were trained. The Committee rejected this modification on the grounds that it would have been too harsh a criterion since many institutions would have little control over, or ability to compile data on, students who drop out of courses.

Rather, in order to take account of the attrition factor, the Committee bill would add a new requirement that more than one-half of the persons enrolled in a vocational objective course during the preceding 2-year period have completed it. The Committee believes that enactment of this provision would eliminate some schools' practice of disenrolling a student prior to graduation in an effort to avoid having to include the student in the 50-percent employment computation.

With respect to the current requirement that at least one-half of those who complete a course and are not unavailable for employment obtain employment in the occupational category for which trained, the Committee bill would add the requirement, proposed in the Administration bill, that, for an individual to be counted as being employed in that occupational category, such employment be his or her primary vocational pursuit and major source of occupational income. The Committee believes that enactment of this requirement would make the employment test a more valid indication of the effectiveness of the school's training in line with Congressional intent that vocational training lead to substantial jobs. Thus, it would no longer be sufficient for a school to establish minimum compliance by including in its computation a graduate who, for example, is employed in the occupation for which trained on a limited spare-time or part-time basis. The Committee also believes that enactment of this provision would result in the disapproval for GI Bill enrollment of courses with objectives tending to be primarily avocational or recreational in nature.

Section 104(1) of the Committee bill would provide that reporting of compliance with these two 50-percent rules would not be required in the case of a particular course if the course is determined to have a history of compliance with the rules and if the number of persons in receipt of VA educational assistance enrolled in the educational institution offering the course does not exceed 35 percent in a particular year of the institution's total enrollment. The Committee believes that the potential for abuse is substantially reduced when an institution enrolls less than 35-percent GI Bill trainees—the same test that exempts institutions from the 85–15 ratio—and can show that its performance has been in compliance with both rules. The Committee further believes that compliance reporting in these cases would not be cost effective for either the institution or the VA.

Finally, the Committee bill would also provide that the Administrator, pursuant to regulations, may waive the requirements for the 2-year computation when the Administrator determines that reporting would place an onerous and unnecessary paperwork burden on the school in light of the small proportion of GI Bill trainees enrolled there. This provision reflects the Committee's concern that many reputable institutions offering good vocational objective programs might be discouraged from seeking VA approval because of the cost of computing the 50-percent rules if they enroll only a small proportion of GI Bill trainees. Thus, this provision would allow the Administrator to waive these requirements when he determines that the small proportion of GI Bill trainees enrolled would justify such a waiver. The Administrator would, of course, be able to place reasonable and appropriate conditions and limits on such waivers, for example, to limit such waivers to a certain period of time. In addition, if the conditions justifying the waiver were no longer present, the Administrator would be authorized to withdraw it.

COMMITTEE RESOLUTION PROVISION

Section 4 of the Committee resolution would amend title 38 in a manner identical to section 204 of H.R. 5288 as passed by the Senate and would be effective on October 1, 1980.

SAVINGS ESTIMATE

CBO estimates that the enactment of the provision of section 4 would achieve reductions in fiscal year 1981 requirements of $4.1 million in budget authority and outlays.

SECTION 5: RECOMMENDATIONS CONCERNING ENHANCEMENT OF VA EFFORTS TO COLLECT DEBTS

BACKGROUND

During the past several years there has been heightened concern about the effectiveness of Federal debt-collection efforts. These efforts have been the subject of a number of reports prepared by the General Accounting Office. In addition, the need specifically to enhance the VA's ability to collect the sizable amount of overdue debts owed to it by persons indebted to the VA as a result of participation in a VA-benefits program is evident. These debts arise primarily from overpayments of educational assistance benefits and, to a lesser extent in terms of dollar value, from defaults on education loans.

On May 11, 1978, the GAO issued a report (HRD–78–112), entitled "Improvement Needed in VA's Education Loan Program". The report included recommendations to the Administrator of Veterans' Affairs for improving the collection of VA education loan defaults such as instructing regional offices to offset defaulted loans against current benefits wherever possible and developing strongly worded collection letters specifically tailored to the education loan program.

The VA, having previously studied many of those issues, concurred in most of the GAO recommendations and in May 1978 issued new guidelines which address many areas of concern cited in the GAO report, including the use of offsets against current or future benefit payments and revisions of collection letters.

On October 23, 1978, the GAO issued a report (FGMSD–78–61), entitled "The Government Needs To Do A Better Job of Collecting Amounts Owed by The Public". This report indicated that government agencies needed to be more aggressive in collecting delinquent accounts and recommended that the Secretary of the Treasury and the Director of the Office of Management and Budget issue guidelines for charging interest on delinquent debts owed to the Federal Government.

On February 23, 1979, the GAO issued a report (FGMSD–78–59), entitled "The Government Can Be More Productive in Collecting Its Debts by Following Commercial Practices". This report indicated that, by adopting certain private sector practices such as referring information about debts to credit bureaus and using credit bureau locator services to locate debtors and collection agencies to obtain repayments, the Federal Government could more effectively collect debts owed to it. The VA concurred in the use of vigorous collection efforts for debts owed for VA benefits programs. The agency also indicated that it was seeking legislation to permit the use of consumer reporting agencies in this regard, but that it favored the use of the Federal Government's own collection resources prior to referring information to consumer reporting agencies.

Another GAO report, issued on March 9, 1979 (FGMSD–79–19), entitled "The Government Can Collect Many Delinquent Debts by Keeping Federal Tax Refunds as Offsets", examined the feasibility of offsetting debts owed to the Federal Government by reducing or withholding the income tax refunds which were due to debtors.

On January 15, 1980, the GAO issued a report (CD–96–1), entitled "Unresolved Issues Impede Federal Debt Collection Efforts—a Status Report." This report reviewed the Federal Government's debt collection efforts. The report recommended a number of methods for improving Federal agency debt collection procedures, including: reporting debtors to commercial credit bureaus; charging interest on delinquent debts; collecting debts by offset against other Federal benefits; using private collection agencies; and referring debts to the Department of Justice for collection action. The report also recommended the increased use of Federal agencies to litigate their own debts in order to reduce the growing backlog of cases referred to the U.S. Attorneys and improve the timeliness of recovery action. The Committee's recommendations in its resolution are responsive to the recommendations regarding the reporting of delinquent debtors to credit bureaus, the collecting of debts by offset, and the increased use of VA attorneys to litigate VA debt claims.

In addition, on April 30, 1979, the GAO and the Department of Justice modified their jointly issued guidelines on Federal claims collection practices to require Federal agencies to implement procedures for reporting delinquent debts to commercial credit bureaus and to charge interest on delinquent debts and debts being paid in installments. (Federal Register, vol. 44, pp. 22701–02 (April 17, 1979), amending 4 CFR parts 101, 102, and 104). The Committee resolution is responsive to the goals of these guidelines.

CURRENT VA EFFORTS TO COLLECT DEBTS

The dollar amount of accounts receivable due the VA—active accounts with respect to which collection efforts have not been terminated—is enormous and is increasing. The total accounts receivable increased from $577 million as of March 31, 1979, to $620.4 million as of March 31, 1980. Educational assistance overpayments represent the largest portion of the accounts receivable due the VA—$405.8 million. Accounts receivable in the compensation, pension and loan guaranty program represents $178.6 million of the total accounts receivable due the VA. Also, as of March 31, 1980, the VA was owed $23 million as a result of education loan defaults.

Currently, the VA's administrative debt-collection process involves sending out computer-generated collection letters to debtors. These letters notify the debtor of the opportunity to dispute the amount or existence of the debt, to have the debt waived or compromised, or to pay the debt on a repayment plan. However, many debtors do not respond to these demand letters, and in those instances further collection efforts depend on the amount of the debt.

Where the debt owed the VA is $600 or more, the VA may refer the debt to the Department of Justice for consideration for collection litigation. However, individuals who owe the VA less than $600 have generally been immune to the normal collection actions by the Department of Justice.

Generally, the only recourse left to the VA to collect a debt of less than $600 has been to see if the debtor is entitled to a VA benefit which could be applied to the debt or could be withheld pending resolution of the debt. In this regard, the VA recently instituted a procedure, utilizing the VA's new automated claims processing system, "TARGET", whereby a veteran who applies for a VA home-loan guaranty must repay or enter into an arrangement to repay any delinquent indebtedness to the VA before the application will be approved. As of the end of April, 1980, the VA had collected $6.5 million as a result of this promising procedure and had established repayment plans for an additional $2.0 million. However, this approach works only where the debtor is using or wishes to use a VA benefit. A large number of veterans who are indebted to the VA do not, after the debt arises, receive or apply for VA benefits, and thus would not fall under this procedural arrangement.

AUTHORIZATION TO OFFSET DEBTS AGAINST FUTURE BENEFITS

One means of collecting overpayments is to reduce or withhold future payments of benefits to which the debtor is entitled under other VA programs. The Federal Claims Collection Standards (4 CFR 102.11) require Federal agencies to collect by offsetting debts against future payments, when feasible.

The VA currently uses offset to recover overpayments. In fact, in recent years the VA has substantially improved its effectiveness in collecting educational assistance overpayments by offset against future education, compensation and pension benefits. A recent GAO review of a random sample of 1200 terminated accounts disclosed that the VA had taken advantage of potential offsets against these benefits in over 99 percent of the cases.

The Committee is pleased with the effectiveness of VA offset procedures and, to assure that offset is utilized in all appropriate cases, the Committee resolution would add a new section 3113 to title 38, United States Code, to require the VA, when an individual is determined to be indebted to the Federal Government by virtue of the individual's participation in a VA benefits program, to deduct the amount of the indebtedness from any future payments of VA benefits to the individual.

In order to attempt to assure fair treatment, the new section would provide for several safeguards in connection with the offset of future payments.

First, the new provision would require that, before any overpayment may be deducted from future benefits payments, the individual must be provided with notice of his or her right to dispute the existence or amount of the debt or seek to have it waived, and be given a reasonable opportunity to exercise those rights. In addition, the new provision would require the VA to make determinations with respect to any such challenge or request before any deduction may be made from future benefits payment, unless the Administrator determines that the time that would be required to make such a determination before making a deduction would jeopardize the VA's ability to recover the full amount of the indebtedness from future payments. The Committee notes that, under existing VA procedures, when an individual contacts the VA to dispute the existence or amount of a debt, the VA routinely checks its records to determine whether its information regarding the indebtedness is accurate, and informs the beneficiary of its findings in this regard. The *Yamasaki* case would seem to indicate that such a procedure would satisfy minimal due process requirements. In any event, this provision would require the VA to prescribe regulations setting forth the administrative procedures to be followed, including notice to the individual of his or her rights to dispute or seek a waiver of the debt. In that regard, the Committee does not intend that a final decision of the Board of veterans' appeals be required with respect to a challenge to the existence of an indebtedness before an indebtedness could be offset from future payments.

In addition, the new section would provide that, where the individual believes that the deduction would cause an undue hardship, he or she would be able to seek—and the Administrator would be authorized and expected, to establish—a rate of deductions that would avoid such hardship while still assuring the VA's ability ultimately to obtain full recovery. This section would further require the VA to inform the individual of this provision prior to making any deduction from benefit payments. The Committee notes that this provision would not require the VA to apply the debt against the entire amount of any future monthly payments. Thus, for example, if a veteran receiving monthly pension payments of $400 were determined to owe $1,000 to the VA, the VA would not be expected to recoup the entire $1,000 from the next 2 and a half months' payment. Rather, the Committee intends that the Administrator's regulations establish guidelines for the deductions of reasonable amounts. The Committee also intends that the VA, in setting the rate at which the amount of the debt will be deducted from future payments, will take into consideration such factors as the individual's financial needs and resources and obligations for the support of other family members, the extent to which he or she is dependent on the benefit to be reduced, the amount of the debt, and the likelihood that the rate set will result in a recovery of the full amount of the debt. The Committee does not intend that this provision will supersede the Administrator's authority, under section 3102 of title 38, to waive recovery of payments or overpayments in appropriate cases.

The Committee notes that a question has arisen as to whether the decision of the United States Supreme Court in the case of *Califano* v. *Yamasaki*, 99 S. Ct. 2545 (1979), relating to a Social Security benefits program administered by the then Department of Health, Education, and Welfare, necessitates a change in the procedure by which the VA considers beneficiary requests for waiver of overpayments under section 3102 of title 38 in offset cases. In Yamasaki, the Court held that a statute, which the Court went out of its way to point out, was substantially similar to section 3102 of title 38 (*id.* at p. 2554, n. 9), compels a Government agency to grant an oral hearing prior to recouping alleged overpayments when a beneficiary requests that recovery be waived, but that the Government need not provide such a hearing when the beneficiary is merely challenging the accuracy of the overpayment determination.

In a June 25 letter (printed below) from the VA General Counsel to the Chairman of the Committee, the VA indicates that it believes that the Supreme Court's decision in Yamasaki will require the VA to revise its procedures with regard to the collection of overpayments to insure that waiver requests are treated in a manner consistent with the Court's decision. The Committee wishes to make clear that, in proposing new and additional authorities to strengthen the VA's debt-collection efforts, it does not intend, in any way, to counter or override the Yamasaki decision to the extent it is applicable to the VA.

VETERANS ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., June 25, 1980.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to inquiries made by members of the Committee staff concerning potential changes in the procedures by which the Veterans Administration (VA) recovers benefit overpayments by administrative offset. Specifically, the question has arisen as to whether the decision of the United States Supreme Court in the case of *Califano* v. *Yamasaki*, U.S. , 61 L. Ed. 2d 176, 99 S. Ct. 2545 (1979), necessitates a change in the procedure by which the VA considers beneficiary requests for waiver of overpayments under 38 U.S.C. § 3102 in offset cases. We have been considering the opinion in this case since it was issued and we will be issuing a legal opinion concerning its applicability to the VA in the near future. I would be pleased to provide you with a copy of this opinion when it has been issued.

As members of the staff have also indicated, the prerecoupment hearing issue has also arisen in a civil action brought in United States District Court for the Northern District of Ohio (*Poslick* v. *Veterans Administration*, Civ. No. 80-644, filed May 19, 1980). The plaintiff in that case has alleged that under 38 U.S.C. § 3102 and the Due Process Clause of the Fifth Amendment to the United States Constitution, pension recipients are entitled to an administrative prerecoupment oral hearing on the issues of whether an overpayment of benefits actually occurred and whether the overpayment should be waived under 38 U.S.C. § 3102.

In Yamasaki, the Court held that a statute substantially similar to 38 U.S.C. § 3102, among other requirements, compels a Government agency to grant an oral hearing prior to recouping alleged overpayments when a beneficiary requests that recovery of the overpayment be waived, but that the Government need not provide such a hearing when the beneficiary is merely challenging the accuracy of the overpayment determination. The Court found that the statute required the following to be provided prior to recoupment:

a. the fact that an overpayment has occurred;

b. the reason for the overpayment;

c. the right to request a waiver of collection of the overpayment;

d. the right to a hearing on the issue of whether the waiver should be granted; and

e. the fact that, if a hearing is promptly requested, recoupment will be delayed until the waiver decision is made.

Accordingly, in light of the aforementioned litigation, we believe there is a necessity to revise our procedures dealing with collection of overpayments to insure that waiver requests are treated in a manner consistent with the Court's opinion.

The legal opinion which was referred to above will address the applicability of the Yamasaki opinion, and other relevant precedent, to all VA benefit programs, including the pension program at issue in the Poslick case. Of the several monetary benefit programs which the VA administers, the changes necessitated by this case will have the greatest impact on the educational assistance program. A detailed cost estimate is being requested from the Office of the Controller and the Department of Veterans Benefits, but we have informally estimated that the cost of these changes could be as high as $30 to $40 million a year.

As indicated above, we will supply the Committee with a copy of our legal opinion in this matter when it is issued by this office.

Please contact this office if you desire further information concerning this issue.

Sincerely yours,

GUY H. MCMICHAEL III,
General Counsel.

The Committee expects that, in prescribing the procedures to be followed to afford the individual the "reasonable opportunity" required by the new section to exercise his or her waiver rights, the VA will incorporate the Yamasaki procedural requirements described in this letter.

The Committee is concerned that VA efforts to collect debts by means of offsets against future benefit payments could be precluded by time limitations on initiating civil actions or administrative proceedings. In a September 1978 memorandum opinion to the Chairman of the Civil Service Commission (now Office of Personnel Management), the Department of Justice concluded that the 6-year statute of limitations (28 U.S.C. 2415) on tort and contract actions brought by the Federal Government precludes the Federal Government from collecting debts more than 6 years old by means of administrative offset—except by way of an offset asserted by the United States where an individual initiates, and prevails on, a claim against the United States or has brought a claim under sections 71a and 237, of title 31, United States Code, which allow a claimant ten years in which to present to the General Accounting Office a claim against the United States.

This opinion was confirmed in a November 1, 1979, letter from the Department of Justice to the Comptroller General. However, the GAO, in its recent GAO report entitled "Unresolved Issues Impede Federal Debt Collection Efforts—A Status Report", January 15, 1980, disagrees with the Department of Justice on this point, but indicates that, in view of the Department of Justice's opinion, legislation may be needed to remove legal impediments to pursuit of time-barred debts by administrative offset. Thus, in order to clarify the VA's authority to collect debts more than 6 years old by means of administrative offset, the new section would provide that the VA's authority to deduct the amount of a debt from future payments shall not be subject to any limitations (such as 28 U.S.C. 2415) with respect to the time for bringing civil actions or for commencing administrative proceedings. This provision would assure that this collection method will remain available as long as the debt exists.

The same new section would also provide that the VA's authority to take other administrative actions in connection with collecting an indebtedness shall not be subject to any limitations with respect to the time for bringing civil actions or for commencing administrative proceedings. Such administrative actions would include, for example, the disclosure of information pertaining to a delinquent indebtedness in order to affect the debtor's credit rating (as would be authorized by new subsection (g) which would be added to section 3301 of title 38 by subsection (b)(2) of this section of the Committee resolution) or the VA's ability to deny an individual, who has been determined to be indebted to the VA, a VA-guaranteed home loan (pursuant to section 1810(b) of title 38) on the basis that the individual is not a satisfactory credit risk.

AUTHORITY TO CHARGE INTEREST AND ADMINISTRATIVE COSTS ON DELINQUENT PAYMENTS

On October 20, 1978, the GAO issued a report (FGMSD-78-61), entitled "The Government Needs To Do A Better Job of Collecting Amounts Owed By The Public." This report indicated that many debtors have little incentive to pay promptly amounts due the Federal Government when agencies charge little or no interest on delinquent accounts. The report further indicated that Federal agencies that levied substantial interest charges generally collected most accounts in a timely manner, while other agencies which had not established interest charges for later payments were encountering significant collection problems. The report concluded that the Government should generally charge interest on delinquent accounts to encourage individuals to pay debts that they owe to the Government. The report also concluded that, although it seems reasonable that interest should not be applied to collection of overpayments made by the Federal Government when the recipients are not at fault, interest charges may be warranted if the money due is not repaid within a reasonable time.

The Federal Claims Collection Standards as revised (4 C.F.R. 102.11), effective April 30, 1979, state: "In the absence of a different rule prescribed by statute, contract or regulation, interest should be charged on delinquent debts and debts being paid in installments in conformity with the Treasury Fiscal Requirements Manual."

However, a January 29, 1980, letter to the Comptroller General from the General Counsel indicated that, in the VA's view, this regulation fails to contain sufficient legal authority to impose administratively created interest charges on most debts resulting from overpayments of VA benefits.

This, in order to address the concerns raised by the GAO and the VA, the Committee resolution would add a new section 3114 to title 38 to authorize the VA to charge interest and the administrative costs of collection on delinquent payments under certain circumstances.

Specifically, the new section would authorize the VA to levy charges for interest and the administrative costs of collection on debts owed to the VA which were incurred as a result of an individual's participation in a VA benefits program, other than a loan, loan-guaranty or loan-insurance program, or as a result of the receipt of care or services under chapter 17 of title 38. In the case of an indebtedness resulting from participation in a VA loan, loan-guaranty, or loan-insurance program, the new section would authorize the VA to charge interest and administrative costs on such indebtedness to the extent that such charges are consistent with the provisions contained in the loan instruments.

However, this provision would require that, before interest or administrative costs may be charged, the individual must be notified of the amount owed, a reasonable period of time must have expired since such notification, and the individual must have failed to pay the indebtedness. The new section would further provide that interest on the debt would accrue only after the expiration of a reasonable period of time after the individual has been notified of the debt and after the individual has been notified of the intention to charge interest.

The VA often incurs substantial administrative costs in collecting an indebtedness. Thus, the new provision would authorize the VA to charge the debtor for the administrative costs—so much of the costs to the VA of collecting a delinquent indebtedness—as the Administrator determines to be reasonable and appropriate. The Committee intends that, where the cost to the VA of assessing and collecting administrative costs in connection with the collection of a debt exceeds the cost of collecting the debt, the charging of administrative costs to the debtor would be considered to be inappropriate. The Committee further intends that administrative costs not be charged on a debt where an individual has received an overpayment through no fault of his own and has repaid the overpayment or, in good faith, made reasonable payments within a reasonable time after being notified of the overpayment.

At the April 1, 1980, hearing of the Subcommittee on Special Investigations of the House Committee on Veterans' Affairs, the GAO recommended that the rate of interest which should be charged on delinquent accounts should be based on the Treasury's cost of borrowing to replace these funds. In this regard, the GAO noted that, if interest rates charged by Federal agencies are substantially lower than interest rates being charged by private-sector creditors, debtors who have debts in both areas would have a strong incentive to pay off high-interest private sector debts and to ignore or postpone payment of their low- or no-interest debts owed to the Federal Government.

The Committee agrees with the concerns raised by GAO in this regard. Thus, the new section would provide that the rate of interest to be charged on delinquent accounts be determined (and specified in regulations) by the Administrator, in consultation with the Secretary of the Treasury, based on the rate of interest paid by the United States for its borrowing.

Authority to sue

Under the Federal Claims Collection Standards (4 CFR parts 101–04) issued jointly by GAO and the Department of Justice, the VA may refer debts of $600 or more to the Department of Justice for consideration for collection litigation. However, the large number of cases referred to the Department of Justice by the VA (approximately 77,138 accounts since March 1, 1978) and by the Office of Education (approximately 24,000 cases) has resulted in a rapidly increasing backlog of debt litigation cases pending in the Department.

The total dollar value of these accounts referred to the Department of Justice by the VA since March 1, 1978, is $88.7 million. As of March 13, 1980, there were 58,952 remaining accounts pending in the Justice Department for collection action, representing a dollar value of $64.9 million; thus, of the 77,138 accounts referred, there had been disposals of only 18,186, with collections totalling only $8.6 million, or 10.3 percent of the total amount referred. Of the 77,138 cases referred, only 4,341 accounts have been paid in full. An additional 1,189 cases have been compromised, 89 waived, and collection action has been terminated on 652 accounts.

All parties concerned seem to agree that action is necessary to pursue more vigorous and prompt collection actions, and it is understandable that the Justice Department may not be able to assign sufficient priority (in view of other priority demands on its resources) to resolving these cases in order to bring about the much-needed substantial improvement in the collection of VA debts through litigation, or the threat of litigation. In addition, the GAO has recommended in a January 15, 1980, report, that Federal agencies be given the authority to collect debts through litigation.

To provide a further means of pursuing the collection of debts under $600, the VA, pursuant to a November 20, 1979, memorandum of understanding with the Department of Justice, is conducting at 10 locations a pilot project under which the VA is using its own attorneys to pursue collection actions in court against those whose debts are less than $600. To support this new effort, the Senate Committee on Appropriations Subcommittee on HUD-Independent Agencies recommended fiscal year 1980 appropriations of $472,000 for 30 additional VA employees. The Committee on Appropriations approved that recommendation and, in its report accompanying H.R. 4394, the HUD-Independent Agencies Appropriation Act for fiscal year 1980, directed the VA to proceed with the pilot project (S. Rept. No. 96–258, pages 84–85). The appropriation act, as signed into law as Public Law 96–103 on November 5, 1979, included the recommended funding for the 30 employees needed for the pilot project.

Phase I of the test involved approximately 900 cases which had been retrieved from terminated status by GAO—generally, very difficult collection cases—and distributed to 6 stations. The results of Phase I of the pilot program seem very promising. According to the Veterans' Administration, of the approximately 900 cases investigated, 9 percent were closed or terminated for the following reasons: (1) the overpayment was recouped from other benefits; (2) the overpayment was in error and appropriate records were corrected; (3) the veteran was deceased or outside the jurisdiction of the test station; or (4) the debt had grown to over $600. In cases where the debt is now over $600, action has been taken to refer the debt to the Department of Justice for collection.

Of the remaining cases, 335 (41 percent) were found to have inadequate inaccurate addresses. The General Accounting Office has been provided with a list of these cases and is attempting to provide current information. Other cases in which the VA was unable to continue to pursue collection included 47 accounts (6 percent) which were either disputed by the veteran or required further verification.

Of the 371 cases that the VA was able to pursue, 270 (73 percent) have been either permanently or temporarily disposed of either by obtaining payment in full, a promissory note, a firm repayment plan; or by initiation of litigation action. In addition, the VA has indicated that its experience with these cases suggests that the VA will obtain a high rate of voluntary resolution of debts merely by sending demand letters which indicate the VA's willingness and ability to sue to recover the debt and by taking immediate followup action.

Phase II of the pilot program involves actions on active cases in which the amount of the debt is less than $600. However, due to numerous changes in automated procedures, involving the VA's Centralized Accounts Receivables System (CARS), this program did not become fully operational until May 1980.

The potential for recovery of debts in Phase II seems substantial. In the first 3 weeks of the program, the VA has initiated collection action on 1,057 cases. In addition, the documentation necessary to initiate collection action has been requested in an additional 1,200 cases. The VA estimates that once the program has become fully operational, collection action could be initiated on as many as 3,000 cases each month.

The Committee is pleased that the results of Phase I of the pilot program, which involves accounts which had previously been terminated by the VA, have resulted in such a high percentage—73 percent—of dispositions of accounts which VA attorneys were able to pursue. Although the Committee was disappointed that the implementation of Phase II of the program was delayed until May 1980, the Committee is encouraged now that Phase II is fully operational, and it expects that it will contribute significantly to the overall debt-collection effort.

In light of the backlog of cases currently pending in the Department of Justice for collection action, the need to enhance the VA's ability to collect debts of less than $600, and the initial success of the pilot program under which the VA is using its own attorneys to pursue court action to collect such debts, the Committee believes that the VA should be given expanded authority to use its own attorneys to pursue collection actions in court. The Committee believes that such authority would result in more timely recovery action and intensified prelitigation collection efforts. In addition, the Committee believes that this authority would provide the VA with an effective means—on a nationwide basis—of collecting debts of less than $600, which, under current regulations, cannot be referred to the Department of Justice for collection action.

Thus, the Committee resolution would add a new section 3115 to title 38, United States Code, to require the Administrator to take appropriate steps to authorize VA attorneys to bring suit to recover debts owed to the VA by virtue of an individual's participation in a VA benefits program in cases where an individual has failed to respond appropriately to reasonable administrative efforts to collect the debt.

The Committee resolution further provides that the exercise of such authority shall be subject to the direction and supervision of the Attorney General and subject to such terms and conditions as the Attorney General may prescribe. In the Committee's view, the Attorney General's authority to prescribe the terms and conditions under which VA attorneys may bring suit would allow the Attorney General, for good cause relating to the need for consistent overall Federal litigation policy, to limit the categories of cases in which VA attorneys could initiate litigation.

The Committee fully expects that this provision would be carried out in good faith with a view toward greatly expanded VA efforts to collect debts through court actions brought by its own attorneys. Thus, in the Committee's view, the direction and supervision and terms and conditions of the Department of Justice reflected in the VA/Department memorandum of understanding governing the pilot program would generally be appropriate to the expanded VA litigation effort (copy printed in the Appendix to this report). In addition, the Committee urges the Administrator and the Attorney General to take all steps necessary to assure that the new program under this provision is implemented efficiently at both the Washington and local levels.

The Committee resolution also requires the Administrator and the Attorney General, within 120 days of the enactment of this provision, to submit to the appropriate Congressional Committees a joint report that describes and explains their actions with regard to the implementation of this new authority.

Finally, the Committee resolution provides that the authority of the VA to pursue collection litigation will not derogate from the Attorney General's authority to direct and supervise all litigation to which the United States, an agency, or an officer thereof is a party.

Authority to disclose certain information to consumer reporting agencies

In addition, the Committee is recommending enactment of provisions to permit the VA to disclose names, addresses, and certain other information to consumer reporting agencies—credit bureaus—for purposes of facilitating VA debt-collection efforts. The recommended provisions are identical to those reported by the Committee, on January 23, 1980, and passed by the Senate in H.R. 5288 on January 24, 1980. The following materials in justification for those provisions are taken from the report (S. Rept. No. 96–555) accompanying S. 1518.

Disclosures to locate debtors or obtain consumer reports

At the Committee's August 2, 1979, hearing, the VA testified that one of the greatest obstacles to the effectiveness of VA debt-collection efforts is its inability to locate the debtor. The VA indicated that it does not have current addresses on at least 180,000 of those it is attempting to collect debts from and that a high percentage of an additional 653,000 inactive accounts are lacking current addresses.

Although the VA is presently authorized to obtain current address information from Internal Revenue Service files very cheaply (approximately $0.10 per individual) under section 6103(m)(2) of the Internal Revenue Code, the VA's use of IRS-provided addresses is, under the IRS interpretation of that provision, very limited. The addresses may be disclosed only to VA employees engaged in debt-collection efforts and disclosures to non-Federal agencies are not permitted—even for debt-collection purposes. For example, the VA is unable to provide an IRS-provided address to a consumer reporting agency (CRA)—credit bureau—for the purposes of obtaining a consumer report to help evaluate the individual's ability to repay the debt or of giving notice of the debt to CRA's in order to affect the individual's credit rating.

In addition, under existing regulations, 4 CFR 105.3, the VA must, in referring a debt to the Department of Justice for collection action, provide evidence of the debtor's ability to repay. At present, the VA uses a contractor to obtain asset and income information by interviewing the debtor or the debtor's family or neighbors. In accordance with the VA's interpretation of current law, the contractor may not redisclose the VA-provided address information in order to obtain information for such reports. These reports cost an average of about $5.75, which is payable even where no useful information is obtained; according to the GAO, in fiscal year 1978 the debtor was not located and no useful information was developed in 42 percent of the cases.

According to the VA, legislation authorizing it to disclose names and addresses to CRA's would enable the VA to obtain the needed information more readily and economically—at a cost of less than $2.50 per case.

Authorization to disclose names and addresses

In order to allow the VA to disclose names and addresses for these purposes without the limitations attached to the use of IRS-provided addresses, the Committee bill would authorize the VA to disclose to CRA's the names and addresses of persons administratively determined to be indebted to the United States by virtue of participation in a VA benefits program for the purpose of obtaining from CRA's current address information or a consumer report which the VA would then use to pursue debt-collection efforts.

For the purposes of the provisions of the Committee bill, the definition of CRA's would include certain entities—known as "service bureaus" or "marketing agents"—which serve as intermediaries between large numbers of smaller CRA's and those who wish to purchase services, such as locator services or consumer reports, from such CRA's or to report delinquent-debt information to them. The use of such intermediaries by the VA would be much more efficient and cost-effective than the establishment of unassisted, direct contacts with the many hundreds of small credit bureaus that it otherwise would be necessary for the VA to deal with in order to obtain complete access to data on all the individuals concerned. Thus, this authorization—and all other authorizations in the Committee bill—to disclose information to CRA's would include authority to make disclosures to such intermediaries.

Authorization to disclose identifying information other than name and address

In many cases, the individual's name and former address will not be sufficient information to enable a CRA to identify the individual or distinguish him or her from others with the same name or similar names. Thus, other identifying information, such as date of birth and social security number, would generally be necessary, and the Committee bill would authorize the release of other identifying information that the Administrator determines is reasonably necessary, but not including any information that would indicate directly or implicitly that the individual is indebted to the VA or would otherwise reflect adversely on the individual.

Safeguards

In addition, since the legislation does not authorize that a disclosure to obtain current address information or a consumer report may be used for the purposes of giving notice of an indebtedness or otherwise affecting the individual's credit rating, the Committee bill would also require the Administrator to determine, to the maximum extent practicable that the CRA's to which the VA releases the information will not record or report such information in such a way as to suggest that the GA inquiry indicates the existence of an indebtedness or otherwise reflects adversely on the individual's credit rating. The Committee bill would also prohibit the CRA's to which the VA releases such information from indicating in their files and reports that the VA inquiry indicates an indebtedness or is otherwise adverse. A willful violation by a CRA or CRA employee of this prohibition would be punishable in the same manner as willful violation of the prohibition in existing subsection (f) of section 3301 of title 38 against the unauthorized disclosure by non-VA entities of names and addresses released to them by the VA under that subsection—a fine of up to $5,000 for the first offense and up to $20,000 for a subsequent offense.

In this respect, it is the Committee's intention that the VA will make such disclosures to CRA's that have the capability and practice of recording and reporting such inquiries as nonadverse or nonevaluated information. In the Committee's view, the VA could easily determine a CRA's capability and practice in this regard by an examination of sample consumer reports and the CRA's employees' manual or similar document, or by a demonstration conducted on the CRA's data processing equipment.

The Committee stresses that it understands that this safeguard provision—designed to assure that the VA selects CRA's with appropriate standards for the protection of the individuals concerned—does not make the provisions of the Committee bill impractical.

The Committee bill also provides that if, after disclosure, the individual demonstrates to the VA that he or she never received notice from the VA regarding the indebtedness or the right and opportunity to dispute the debt or seek a waiver, information in the possession of a CRA provided by the VA indicating that the indebtedness is delinquent would be deemed inaccurate for purposes of section 611 of the Fair Credit Reporting Act, which provides for the individual to dispute inaccurate information and requires the CRA to reinvestigate disputed information. In addition, the VA would be required immediately to advise the individual and the CRA's involved of the fact that the information is to be deemed inaccurate and to advise the individual of his or her remedies.

Disclosures to affect credit ratings

Both the VA and the GAO testified strongly in favor of legislation to strengthen the VA's debt-collection efforts by authorizing it to disclose to CRA's, for the purpose of affecting credit ratings, the names and addresses of those who fail to respond appropriately to reasonable administrative efforts to collect debts owed to the VA. In the view of both agencies, VA debt-collection efforts are often hamstrung by the debtor's knowledge that his or her refusal to pay a VA debt will not result in the delinquency becoming part of his or her credit history as would a failure or refusal to pay a commercial debt. In addition, both agencies testified in August that in cases of debts amounting to less than $600, there is evidence that the debtors concerned have been aware that, under VA and Department of Justice policies and practices, litigation to collect debts has been undertaken only if the debt exceeds $600. (The VA's pilot program to pursue litigation with respect to debts under $600 should ameliorate this situation.) Moreover, there is a substantial backlog of debt-collection litigation to be pursued, and court action is taken only against individuals whose whereabouts are known and who are known to have sufficient financial resources available. Thus, it appears that there currently exists little incentive for a substantial number of persons to pay their overdue debts to the VA.

Authorization to disclose debt information

Therefore, in order to provide the VA with generally the same recourse that private creditors have available to encourage timely repayment of debts by affecting debtors' credit ratings, the Committee bill would authorize the VA, when the individual has failed to respond appropriately to reasonable administrative collection efforts, to disclose to CRA's information identifying the individual and pertaining to the indebtedness. Under the Committee bill, the information so disclosed by the VA to CRA's could be redisclosed to other CRA's and to prospective creditors of the individual.

It is the Committee's belief that persons with delinquent indebtedness to the VA will be encouraged by the prospect of disclosure to CRA's and the consequent impact upon their credit ratings to cooperate with the VA in making or arranging to make repayment. In this connection, it is the Committee's understanding from the VA's testimony and the Committee's intent that debt information will not be disclosed to CRA's when the individual has indicated a good faith willingness to repay or entered into a repayment agreement or while the individual is attempting to make repayment including efforts to comply with a repayment agreement.

In addition, in cases in which disclosure of debt information is authorized, the Committee bill would authorize the VA both to disclose such information and to request address information in order to enable the VA to use a service—known as a "skip-locator" or "skip-trace" service—which CRA's provide for the purpose of assisting a creditor in locating a debtor whose current address cannot be ascertained. This service consists of the CRA including in its file and reports on a particular individual a notation indicating that a creditor of that individual is unable to locate him or her and wishes to obtain current address information. Subsequently, when a new address of the individual comes to the attention of the CRA—in connection with a request for a consumer report or otherwise—it is automatically matched (usually electronically) with the "skip-locator" notation, and the new information is provided to the creditor. Thus, if the VA were unable to obtain a current address of an individual as to whom disclosure of delinquent-debt information is authorized, it could on a continuing basis, attempt to obtain new address information through such a service.

Safeguards

In order to protect innocent persons from the disclosure of information erroneously indicating the existence of delinquent indebtedness and to assure that all persons are dealt with fairly, the Committee bill provides several safeguards in connection with the disclosure of debt information.

First, the Committee bill would require that, before information pertaining to a debt delinquency may be disclosed, the individual must be provided notice of the VA's intention to make the disclosure and of his or her right to dispute the existence or amount of the debt or seek to have it waived, and be given an opportunity to exercise those rights, and the VA must make a determination with respect to any such challenge or request.

Also, at least 60 days before disclosure, the individual must be given notice of the specific information to be disclosed and the consumer reporting agency or agencies to which it will be disclosed.

This advance notice would provide the individual with the opportunity to seek correction of any misinformation. It would also provide the individual with the opportunity to challenge the disclosure of extraneous or unnecessary information that would constitute an undue invasion of the individual's privacy or adversely affect such person's reputation in ways unrelated to his or her failure to repay the indebtedness.

In addition, notice to the individual of the identities of the CRA's to which disclosure would be made by the VA would provide information that may prove useful if the individual wished to exercise his or her right, under section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), to have included in his or her file with the CRA information disputing the VA's position or explaining his or her position in the matter. In this connection, the Committee intends that the VA include in such notices information advising the individual of his or her rights under that section.

The Committee bill would also require the VA to notify promptly each CRA to which it has disclosed debt information of any change in the status or amount of the debt to the agency and would require the VA to provide promptly, upon the request of a CRA for verification, verification or correction of any information released by the VA. At the August 2 hearing, the Associated Credit Bureaus, Inc., testified that prompt VA notification of information regarding any change in the status of a debt and prompt VA verification of any debt information would be essential in terms of fairness to the debtor and the cooperation of CRA's in accepting debt information from the VA.

Disclosures to locate veterans for study purposes

The VA, in its testimony at the August 2 hearing, commented on its present lack of authority to disclose names and addresses from its files in order to obtain current address information from CRA's to locate veterans in order to carry out program evaluation studies authorized by section 219 of title 38 or studies required by other Federal law. The section 219 studies generally involve contacting veterans to determine what VA benefits they have utilized, why they have not utilized some or any benefits, and whether VA programs are accomplishing their intended goals. These studies are generally carried out by agency contractors.

Prior to the Tax Reform Act of 1976 (Public Law 94-455), the VA had been using IRS taxpayer address information to locate veterans in connection with these studies. However, section 6103(m)(2) of the Internal Revenue Code (26 U.S.C. 6103(m)(2)) currently limits IRS disclosures of addresses to the VA to those VA employees engaged in debt-collection efforts and prohibits redisclosures to others or use of the information for non-debt-collection purposes. As a consequence the VA now has a backlog of studies which it testified it cannot complete without being able to locate large numbers of veterans for whom it does not have current addresses.

Thus, the Committee bill would authorize the VA to disclose information to a CRA when necessary to locate an individual in order to conduct one of these studies and the disclosures would be authorized subject to the same safeguards, described above, proposed for disclosures for the purposes of obtaining current address information or a consumer report on those indebted to the VA. In addition, to help assure that CRA's are not contacted about veterans for this purpose without sufficient justification and to protect against the possibility of a VA inquiry resulting in any harm to the credit ratings of veterans who are not indebted to the VA, the Committee bill would require that, before information is disclosed, the Administrator must determine, first, that the individual's inclusion in the study—in light of other alternatives reasonably available to develop information necessary for the study and the comparative costs of the alternatives and the possible consequences for the individual resulting from disclosure—warrants the disclosure, and, second, that neither the release of the information nor the fact of the inquiry would create any substantial possibility that the individual's credit rating would be adversely affected. With respect to the requirement that alternatives be weighed, it is the Committee's intention to assure that individual privacy concerns and feasible alternatives not involving disclosure are given appropriate consideration; it is not the Committee's intention generally to impose an onerous requirement of formal detailed cost-benefit analyses.

Privacy Act exemption

The Administration-requested bill, S. 1518, included a provision stating that information disclosed under that legislation would not be subject to the Privacy Act. At the August 2 hearing, the Department of Justice was asked to provide, after consulting with the VA and GAO, an opinion as to whether information disclosed by the VA to CRA's under this measure would, in the absence of an express legislative exemption, be subject to the Privacy Act when that information is in the hands of the CRA's. The Justice Department opinion, set forth in an October 10, 1979, letter to the Chairman (included as Appendix A to this report), is that, under 5 U.S.C. 552a(m), if the VA were to disclose information to a CRA under a contractual arrangement and the VA information represents an addition to the agency's files or must be maintained by the agency to perform a contract task through other CRA's, the information would, in the hands of the CRA, be considered a "system of records" maintained for the VA (within the meaning of section 552a(m)) and hence be subject to the Privacy Act.

The General Counsel of GAO, however, in a September 27, 1979, letter to the Department of Justice (included as Appendix B to this report), concluded that VA disclosure of information to a CRA, under the type of contractual arrangement anticipated in carrying out the provisions of the Committee bill, would not result in the applicability of the Privacy Act because such a contract would not require the CRA to operate a "system of records on behalf of VA as required for subsection (m) of the Privacy Act to be applicable."

It is the Committee's understanding that CRA's would not do business with the VA without a contract which, in the view of the Justice Department, would trigger Privacy Act applicability. In addition, it is clear from the testimony at the August 2 hearing and subsequent discussions that, if the VA-provided information in the hands of CRA's *were* considered subject to the Privacy Act, the CRA's would be unwilling to enter into any arrangements with the VA under this legislation because to do so would subject them to Privacy Act requirements and penalties in addition to those under the Fair Credit Reporting Act and thus make doing business with the VA insufficiently financially attractive for the CRA's in this regard.

Thus, in order to assure the VA's ability to be able to make appropriate use of the authorities previously discussed to disclose information to CRA's for debt collection and study purposes, the Committee bill would provide a Privacy Act exemption with respect to the CRA's handling of information disclosed by the VA under the Committee bill provisions. This exemption is included to assure that the overall legislative scheme in the Committee bill is workable and does not indicate the Committee's view that the Privacy Act would necessarily be applicable.

Structure of amendment to section 3301

As proposed by the Administration, S. 1518 would have amended subsection (f) of present section 3301 of title 38, to add the release to CRA's of the names and addresses of persons indebted to the VA to the categories of cases in which the release of names and addresses from VA files is authorized. The Committee bill, however, provides in a proposed new subsection (g) for the release of names and addresses and certain other information to CRA's for generally the same purposes as the Administration-requested legislation as well as for the purpose of locating veterans for certain evaluative study purposes. To understand why the Committee has chosen this structural approach and the implication of it requires some discussion of section 301.

Present section 3301 generally provides for the confidentiality of VA claims information and of the names and addresses in the VA's possession of present and former members of the Armed Forces and their dependents, and specifies various circumstances under which release is authorized. Thus, subsection (a) provides that "[a]ll files, records, reports, and other documents pertaining to any claim" and such names and addresses "shall be confidential and privileged and no disclosure thereof shall be made except as provided in this section." Subsequent subsections create certain exceptions to the general rule of confidentiality with regard to specific types of information and in specific circumstances.

Subsection (e) provides that, "[e]xcept as otherwise specifically provided in this section with respect to certain information, the Administrator may release information when the release would serve a useful purpose." Subsection (e) does not, however, authorize the release of names and addresses because subsection (f) specifically provides for VA release, pursuant to regulations of the Administrator, of "the names and addresses of present and former members of the Armed Forces, and/or their dependents" in two situations: First, "to any non-profit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title," or, second, "to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law."

In addition, present subsection (g) provides that any disclosure under section 3301 must be in accordance with the provisions of the Privacy Act.

Subsections (e) and (f) have been interpreted by the VA as allowing the combined release of an individual's name and address and other information about the individual when the criteria for release in both subsections and the Privacy Act are satisfied, that is, when the release of the name and address meets the requirements of clause (1) or (2) of subsection (f), the release of other information is determined under subsection (e) to serve a "useful purpose," and the Privacy Act does not bar the release. Thus, in the case *Fitch* v. *Veterans' Administration*, 597 F.2d 1152 (8th Cir. 1979), the VA released to the Health Division of the State of Oregon the name and address of a veteran together with information pertaining to a convulsive disorder and the individual's sex and date of birth for the purpose of that agency's use to determine the individual's qualifications for operating a motor vehicle. The U.S. Court of Appeals for the Eighth Circuit upheld the VA's action as authorized under the combination of subsection (e) and (f).

Based on this interpretation, the Administration proposed in S. 1518 as introduced to amend subsection (f) to provide for the release of names and addresses to CRA's for the purposes of locating debtors, obtaining consumer reports to assess the debtor's ability to repay the debt, and giving notice of the debt. The intention underlying the Administration draft, the Committee is advised, was to release under subsection (e) other information further identifying the individual, such as date of birth and social security number, and indicating the amount and status of the indebtedness.

The Committee, however, has chosen to provide in one new subsection—proposed new subsection (g) of section 3301, with new present subsection (g) proposed to be redesignated as subsection (h)—comprehensive and unified authorization for the release of information to CRA's for the same general purposes proposed by the Administration and for the purpose of locating veterans in connection with the conduct of evaluative studies. The reasons for the Committee's approach are that the provisions regarding such releases are more understandable when consolidated in one subsection, especially the conditions that the Committee proposes to place on the release to CRA's of information other than names and addresses that would otherwise have to be expressed as further, limited exceptions to subsection (e).

The Committee, however, wishes to emphasize that, in not accepting the Administration's proposed format in S. 1518, the Committee does not intend to imply any disagreement with the VA's interpretation of the combination of subsections (e) and (f) with respect to the disclosure of names and addresses together with other information as approved in the *Fitch* case.

Prelitigation disclosures

As introduced, S. 1518 would also have provided for the disclosure of names and addresses "for use in connection with civil proceedings for collection of" the type of indebtedness covered by this provision. However, the VA already has authority under section 3301(b)(5) to disclose any information in its files "[i]n any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper"; and the VA has agreed that, if section 3301(b)(5) were amended—as the Committee bill proposes to amend it—to make clear that disclosures thereunder could be made "in or in preparation for" litigation, the VA would have adequate and appropriate express authority to make disclosures necessary in connection with collections of any claims prior to the filing of a suit.

SAVINGS ESTIMATES

CBO estimates that changes recommended in section 5 of the Committee resolution would achieve reductions in fiscal year 1981 requirements of $139 million in budget authority and outlays. This estimate is based on the amounts of terminated overpayments—$394 million—owed to the VA as of the end of fiscal year 1979 and on the amount of current overpayments—$505 million, as of the end of January 1980.

COST ESTIMATE

On June 25, 1980, the Congressional Budget Office provided the Committee with a cost estimate of the Committee resolution. On the basis of this estimate, the Committee has determined that its recommendations would achieve total reductions in fiscal year 1981 requirements ($448 million in outlays) in excess of the required amount of $400 million in outlays, the effect of which is to reduce budget authority by $445 million. The Committee notes that these amounts exceed those required by the reconciliation instructions under section 3(a)(20) of the Budget Resolution because the budget authority savings reflected in the Committee recommendations are necessary for the Committee to remain within the spending limits imposed upon the Committee under the Resolution. The estimate is as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Resolution of the Committee on Veterans Affairs.

2. Bill status: As transmitted by the Senate Committee on Veterans Affairs to the Senate Committee on the Budget, June 25, 1980.

3. Bill purpose: To bring the expenditures authorized by the Senate Committee on Veterans Affairs within the target for that Committee established by the First Concurrent Resolution on the Budget for fiscal year 1981.

4. Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−28.1	94.7	83.7	40.4	33.0
Outlays	−55.1	101.3	89.4	47.1	33.0

The savings resulting from this bill fall within budget function 700.

5. Basis of estimate: CBO's basis of estimate for each provision is found in the attached section-by-section cost analysis.

6. Estimate comparison: None.

7. Previous CBO estimate: Where applicable, previous CBO estimates are discussed by section under "Basis of Estimate."

8. Estimate prepared by: Al Peden (225-7766).

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Provision: Ten Percent Rate Increase.

Effective January 1, 1981 (includes Chapters 34 and 35 respectively, the GI Bill and the Survivors and Dependents Educational Assistance Program).

Cost estimate (with respect to current law):

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	151.4	296.9	243.7	168.3	129.3
Outlays	124.4	303.5	249.4	175.0	129.3

Basis of estimate: This provision would raise benefit levels by 10 percent for Chapters 34 and 35 (respectively, the GI Bill and the Survivors and Dependents Educational Assistance Program). It is expected that this will raise expenditures in two ways. First, it will cause the average cost per trainee to go up by about 10 percent. Second, it will cause additional persons to train who would not have trained otherwise. The following table shows the estimated number of veterans training under the GI Bill with and without the 10 percent increase.

ESTIMATED NUMBER OF VETERANS WHO WILL TRAIN UNDER THE GI BILL

[By fiscal years, in thousands]

	1981	1982	1983	1984	1985
Without the 10-percent increase	668	442	291	200	141
With the 10-percent increase	700	516	350	238	167

Similar relative differences occur for the smaller Survivors' and Dependents' Educational Assistance.

Although this provision would represent an addition to expenditures under current law, its cost is less than the cost of the 15 percent rate increase passed as part of S. 870. CBO has estimated the latter (effective September 1, 1980) would add $413.1 million to budget authority and $391.9 million to outlays in fiscal year 1981. Fiscal year 1981 savings relative to this former provision would thus be $261.7 million in budget authority and $267.5 million in outlays.

Previous CBO estimate: Similar to a provision in S. 1188, which had an enactment date of October 1, 1980.

Provision: Modify Flight and Correspondence Training Provisions.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−35.4	−24	−20	−15	−12
Outlays	−35.4	−24	−20	−15	−12

This provision would reduce the reimbursement rate paid to flight trainees and restrict eligibility for correspondence training.

For flight training the reimbursement rate would drop from 90 percent to 60 percent of the cost of completed training. Veterans pursuing flight training, however, would be eligible for VA education loans up to $2,500 per year to help make up the difference between total tuition and the amount reimbursed. These loans would be forgiven at the rate of $250 for each three month period the veteran spends in a flight-related occupation which is his/her primary vocational pursuit and major source of occupational income. Because flight training is often used for purposes other than a primary vocational pursuit, these loans are not expected to have a large positive impact. CBO assumes that the lower reimbursement rate would attract fewer trainees. In addition, average payments to flight trainees would decrease. CBO estimates that in fiscal year 1981 there would be 9,000 fewer trainees (out of 14,000) as a result of this provision, and the average payment for flight training would drop by one third. Total savings are estimated to be $32.0 million in 1981.

Under this provision correspondence training could be approved only if the VA determines no other type of training is available. This provision is expected to significantly curtail entrances into correspondence training. CBO estimates that in fiscal year 1981 this would result in 10,500 fewer trainees (out of over 20,000) and save $3.4 million in 1981.

EFFECT ON EXPENDITURES

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Flight	−32.0	−20	−17	−13	−10
Correspondence	−3.4	−4	−3	−2	−2
Total	−35.4	−24	−20	−15	−12

Previous CBO estimate: CBO estimated a similar provision from S. 870. This former estimate assumed an earlier enactment date.

Provision: Repeal PREP Authority.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−1	−2.7	−2	−1.4	−1.3
Outlays	−1	−2.7	−2	−1.4	−1.3

Basis of estimate: This proposal would eliminate the Predischarge Education Program (PREP) provided under Chapter 32. CBO estimates that this would result in 2,500 fewer trainees and save $1.0 million in fiscal year 1981.

Previous CBO estimate: CBO has most recently estimated this proposal as part of H.R. 7394, as reported by the House Veterans Affairs Committee.

Provision: Modify Vocational Objective Course Criteria.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−4.1	−3.5	−3	−2.5	−2
Outlays	−4.1	−3.5	−3	−2.5	−2

Basis of estimate: Currently, all courses with vocational objectives are required to have 50 percent of their graduates placed in training-related jobs. This provision would strengthen that requirement in two ways: (1) A training-related job is redefined to include only the primary vocational pursuit and major source of occupational income for the veteran, thus eliminating counting sparetime or part-time employment; (2) Fifty percent of those who enroll in a course must complete it.[1]

CBO estimates that in fiscal year 1981, 57,000 people in vocational technical schools could be affected by this provision along with 5,000 flight trainees and 9,500 correspondence trainees.[2]

CBO estimates that these changes will reduce the number of eligible vocational courses and students by 9 percent. CBO has assumed, however, that two thirds of the displaced students will sign up for alternative training courses. The provision is estimated to save $4.1 million in 1981.

Previous CBO estimate: Similar provision estimated by CBO as part of S. 870, September 5, 1979.

Provision: Debt Collection Provisions.

Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	−139	−172	−135	−109	−81
Outlays	−139	−172	−135	−109	−81

Basis of estimate: There are four basic provisions which apply to VA debt collection procedures:

(1) To allow VA to disclose names and addresses of veterans and other information to consumer reporting agencies for debt collection purposes,

(2) To authorize VA to charge interest on debts owed the federal government plus additional charges to cover the cost of the debt collection procedures,

(3) To eliminate the current six year statute of limitations on debts owed the United States for programs administered by the Veterans Administration,

(4) To allow the Veterans Administration, under supervision by the Justice Department, the authority to sue to collect debts.

As of the end of fiscal year 1979, the Veterans Administration was owed an estimated $394 million in terminated overpayments. In addition, as of the end of January 1980, it had another $505 million in current overpayments outstanding. CBO expects that greater proportions of both categories will be collected should these provisions become law. In fiscal year 1981, these four provisions are assumed to result in a savings of $120 million to the federal government as a result of increased collections.

(By fiscal years, in millions of dollars)

	Cost
1981	−120.0
1982	−155.0
1983	−119.0
1984	−95.0
1985	−71.0

The Veterans Administration has indicated that they will incur costs for administering the disclosure of names to consumer reporting agencies and for hiring legal staff to prosecute cases. The following are CBO estimates of these costs after conferring with the VA.

(By fiscal years, in millions of dollars)

	Cost
1981	16.0
1982	13.0
1983	8.0
1984	4.0
1985	3.0

Finally, additional savings should result as veterans either avoid overpayments or pay them back more quickly. According to the Veterans Administration, during fiscal year 1979 there were $503 million in overpayments and through April 1980 there were $261 million in fiscal year 1980 overpayments. While there is no hard evidence available, CBO assumes a $35 million savings as a result of the deterrent factor in fiscal year 1981.

(By fiscal years, in millions of dollars)

	Cost
1981	−35.0
1982	−30.0
1983	−24.0
1984	−18.0
1985	−13.0

SECTION-BY-SECTION ANALYSIS OF COMMITTEE RESOLUTION

SECTION 1—RECOMMENDATIONS CONCERNING COST-OF-LIVING ADJUSTMENT IN GI BILL BENEFIT PROGRAMS

Section 1: Would direct the Clerk of the House of Representatives to make changes in the Senate amendment to H.R. 5288 that would substitute, for sections 101 through 104 of such amendment, new sections 101 through 104 and substitute a new effective date for such sections.

The amendments made by this section would provide for a 10-percent increase, effective January 1, 1981, in the rates of educational assistance benefits under chapters 34, 35, and 36 of title 38, in lieu of the 15-percent increase, effective September 30, 1980, passed by the Senate in title I of H.R. 5288 on January 24 1980, and would achieve fiscal year 1981 savings of $262 million in budget authority and $268 million in outlays.

Changed section 101 of H.R. 5288 would amend chapter 34 of title 38, United States Code, relating to veterans' educational assistance, to increase by 10 percent the rates of educational assistance.

Clause (1) of changed section 101 would amend subsection (b) of present section 1677, relating to the computation of charges to a veteran's educational assistance entitlement for the receipt of an educational assistance allowance for the pursuit of flight training, to increase by 10 percent, rather than 15 percent, the educational assistance allowance amount based on which one-month's entitlement to educational assistance is charged.

Clause (2) of changed section 101 would amend present section 1682, relating to the computation of educational assistance allowanaces, to increase the rates of such allowances by 10 percent, rather than 15 percent. (Under present section 1732, the rates in section 1682 for institutional, farm cooperative, and independent study training for a veteran without dependents apply to survivors' and dependents' educational assistance under chapter 35. Thus, the rate increase provided for in this clause would apply to assistance for such training under chapter 35.)

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[1] These are general requirements to which there are exceptions.

[2] This is after accounting for the effects of the provision to modify flight and correspondence training.

Clause (3) of changed section 101 would amend present section 1692(b), relating to individualized tutorial assistance, to increase by 10 percent, rather than 15 percent, the maximum monthly amount and total maximum amount payable to an eligible veteran for tutorial assistance.

Changed section 102 of H.R. 5288: Would amend chapter 35, relating to survivors' and dependents' educational assistance, to increase by 10 percent, rather than 15 percent, certain rates of educational assistance.

Clause (1) of changed section 102 would amend present section 1732(b), relating to the computation of the educational assistance allowances paid for pursuit of certain full-time programs of education consisting of institutional courses and alternate phases of training in a business or industrial establishment, to increase the rates by 10 percent, rather than 15 percent.

Clause (2) of changed section 102 would amend present section 1742(a), relating to the training allowance for special restorative training, to increase by 10 percent, rather than 15 percent, the rates of allowances payable and entitlement charged for pursuit of a course of such training.

Changed section 103 of H.R. 5288: Would amend chapter 36, relating to administration of educational benefits, to increase by 10 percent, rather than 15 percent, the references to the rates of certain educational assistance allowances.

Clause (1) of changed section 103 would amend present section 1786(a)(2), relating to the computation of charges to educational assistance entitlement for the receipt of an educational assistance allowance for the pursuit of training by correspondence, to increase by 10 percent, rather than 15 percent, the educational assistance allowance amount based on which one-month's entitlement to educational assistance is charged.

Clause (2) of changed section 103 would amend present section 1787(b), relating to the computation of training assistance allowances payable to veterans and other eligible persons for apprenticeship or other on-job training, to increase by 10 percent, rather than 15 percent, the rates of training assistance allowances for pursuit of such training.

Clause (3) of changed section 103 would amend present section 1798(b)(3), relating to the maximum aggregate amount of VA educational loans that may be made to any veteran or other person, to increase by 10 percent, rather than 15 percent, the maximum aggregate amount within the existing overall limit of $2,500.

Section 1 would also direct the Clerk of the House to change section 1103(d) of the Senate amendment to H.R. 5288, relating to the effective date of the proposed cost-of-living increase, to defer the effective date of the chapter 34, 35, and 36 rates by deleting the effective date—September 1, 1980—provided therein and to provide for an effective date of January 1, 1981—and to delete entirely the chapter 31 rate increase provisions which would be made—a 10-percent increase—by S. 1188 as reported.

SECTION 2—RECOMMENDATIONS CONCERNING MODIFICATIONS OF FLIGHT AND CORRESPONDENCE TRAINING PROVISIONS

Section 2: Would amend provisions of chapters 34 and 36, of title 38, that pertain to the authority to pursue a course of flight or correspondence training and would achieve fiscal year 1981 savings of $35.4 million in budget authority and outlays.

Subsection (a) of section 2 would amend subsection (b) of present section 1677, relating to the computation of the amount of educational assistance allowance payable to a veteran pursuing a program of education consisting exclusively of flight training, to reduce from 90 percent to 60 percent the percentage of the cost of such course paid by the VA.

Clause (1) of subsection (b) of section 2 would amend present section 1798(c), relating to educational loans, to delete the exclusion of a veteran pursuing a program of education consisting exclusively of flight training from eligibility for VA education loans, which are available in amounts of up to $2,500 per academic year.

Clause (2) of subsection (b) of section 2 would further amend present section 1798 to add a new subsection (h), as follows:

New subsection (h): Would provide for the cancellation of $1,000 of the amount of a veteran's repayment obligation with respect to any loan (including interest thereon) approved for a program of education consisting exclusively of flight training (as authorized under the amendment proposed to be made by clause (1) of this subsection) if the veteran completes such training and obtains employment of one year's duration within 5 years after completion. Such employment would be required to constitute the veteran's primary vocational pursuit and major source of occupational income. Each additional 3-month period of such employment within the same 5-year period would entitle the veteran to cancellation of an additional $250 of his or her repayment obligation. If the veteran has already repaid all or part of the repayment obligation and the remaining unpaid balance is less than the amount of the cancellation to which the veteran is entitled, the VA would—to the extent by which the cancellation to which the veteran is entitled exceeds the unpaid balance—reimburse the veteran for the amount that the veteran has repaid.

Subsection (c) of section 2 would amend present section 1786(a), relating to correspondence training, to add a new paragraph (3), as follows:

New paragraph (3): Would provide that the enrollment of an eligible veteran or eligible spouse in a correspondence course would not be approved unless the Administrator makes a determination that no other type of education is reasonably and feasibly available to such veteran or spouse for successful pursuit of the educational or vocational objective sought. (Under the current provisions of chapter 35, dependent children are prohibited from enrollment in this type of training.) This provision is designed to eliminate the use of VA educational assistance for correspondence courses where other programs of education are available while assuring that those who, for any of a variety of valid reasons—including, for example, geographical remoteness, active-duty status, parental responsibilities, and handicap—could not, as a practical matter, otherwise use their GI Bill benefits unless correspondence training continued to be available to them for such training.

Paragraph (1) of subsection (d) of section 2 would provide for an effective date of October 1, 1980, for the provisions of section 2, except as provided in paragraph (2) of this subsection.

Paragraph (2) of subsection (d) of section 2 would provide that the modifications of flight and correspondence training provisions shall not apply to any individual enrolled on August 1, 1980, in such training who continues to meet the eligibility requirements for such training as in effect on such date.

SECTION 3—RECOMMENDATIONS CONCERNING REPEAL OF PREP AUTHORITY

Section 3: Would amend chapter 32 of title 38, relating to Post-Vietnam Era Veterans' Educational Assistance, to repeal the authority for pre-discharge education program (PREP) training, and would achieve fiscal year 1981 savings of $1 million in budget authority and outlays.

Clause (1) of subsection (a) of section 3 would amend present section 1641 to delete the references to the Predischarge Education Program (PREP) authority, which is proposed to be repealed by this section and to add a conforming reference to present section 1691(a)(1) to reflect the amendment proposed to be made by this section.

Clause (2) of subsection (a) of section 3 would amend present section 1631(b), relating to eligibility for members of the Armed Forces participaing in the Post-Vietnam Era Veterans' Educational Assistance program to enroll in PREP, to repeal such eligibility and, in lieu thereof, to make such participants eligible for enrollment in courses in pursuit of a secondary school diploma (or equivalency certificate) during the last 6 months of the participants' first enlistments, or at any time thereafter, at no charge to the participants' entitlements, as provided in section 1691(a)(1), as proposed to be modified by this section. This provision is designed to assure that the needs of persons participating in the Post-Vietnam Era Veterans' Educational Assistance program for secondary educational assistance continue to be met after the PREP authority is repealed by this section.

Subsection (b) of section 3 would amend the provisions of chapter 34 that pertain to the PREP authority to repeal that authority and make other amendments in light of or to conform with such repeal.

Clause (1) of subsection (b) of section 3 would amend present section 1661(c), relating to time limitations for completing a program of education, to delete a reference to the PREP authority proposed to be repealed by clause (3) of this section.

Clause (2) of subsection (b) of section 3 would amend present section 1691(a), relating to elementary and secondary education and preparatory educational assistance, to delete the prohibition against members of the Armed Forces who are eligible for chapter 34 GI Bill benefits (by virtue of having entered active duty prior to January 1, 1977) pursuing programs of secondary educational assistance. at no charge to their entitlements while on active duty. This prohibition is, evidently, a remnant related to the authority that, prior to the enactment of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94–502), made such members eligible for PREP while on active duty.

Clause (3) of subsection (b) of section 3 would repeal (effective October 1, 1980) present subchapter VI of chapter 34, relating to the PREP authority, in its entirety and would thus terminate that program.

Clause (4) of subsection (b) of section 3 would amend the present table of sections at the beginning of chapter 34 to reflect the repeal of subchapter VI proposed to be made by clause (3) of this section.

Subsection (c) of section 3 would make a series of conforming amendments to present chapter 36, relating to administration of educational benefits, to reflect the repeal of the PREP authority as proposed by this section.

Subsection (d) of section 3 would provide for an effective date of October 1, 1980, for the amendments made by this section.

SECTION 4—RECOMMENDATIONS CONCERNING MODIFICATIONS OF VOCATIONAL-OBJECTIVE COURSE CRITERIA

Section 4: Would amend present section 1673 of title 38, relating to the disapproval of enrollment in certain courses, and would achieve fiscal year 1981 savings of $4.1 million in budget authority and outlays.

Clause (1) of subsection (a) of section 4 would amend present section 1673(a), relating to the prohibition on enrollment in certain courses, as follows:

Subclauses (A) and (B) of clause (1) of subsection (a) of section 4 would amend subsection (a) of present section 1673 by redesignating that subsection as paragraph (1) and by redesignating clauses (1), (2), (3), and (4) of paragraph (1) (as so redesignated), as clauses (A), (B), (C), and (D), respectively.

Subclause (C) of clause (1) of subsection (a) of section 4 would amend clause (B) of paragraph (1) of present subsection (a) of present section 1673 (as so redesignated), relating to certain requirements for the approval of a course with a vocational objective, to add a new requirement that at least one-half of the persons enrolled in the course during the preceding 2 years have completed it; and, with respect to the current requirement that at least one-half of those who completed the course, and are not unavailable for employment, obtain employment in the occupational category for which they trained—the so-called "50-percent employment rule"—to add a requirement that, for an individual to be counted as being employed in that occupational category, such employment be the individual's primary vocational pursuit and major source of occupational income.

Subclause (D) of clause (1) would further amend subsection (a) of present section 1673 by adding a new paragraph (2), as follows:

New paragraph (2): Would establish certain new rules regarding the requirements for approval of a course with a vocational objective.

Subparagraph (A) of new paragraph (2): Would provide that, for purposes of determining compliance with the new 50-percent-completion and revised 50-percent-employment requirements under clause (B) of paragraph (1) of present subsection (a) (as proposed to be redesignated and amended by subclauses (B) and (C) of clause (1) of this subsection), individuals who enrolled in vocational objective courses with VA educational assistance while serving on active duty shall not be counted. This is consistent with the provisions of current law under which such individuals are excluded from the computation of the number of persons who have completed the course for the purposes of determining compliance with the 50-percent employment ratio. Thus, the effect of this provision is to expand the exclusion so as to exclude from both computations active-duty personnel using GI Bill benefits.

Subparagraph (B) of new paragraph (2): Would exempt a particular vocational objective course from the requirement of continuing compliance with the 50-percent completion and 50-percent employment rules under clause (B) of paragraph (1) of present subsection (a) (as proposed to be redesignated and amended by subclauses (B) and (C) of clause (1) of this subsection), if the course has a history of compliance, for a 2-year period, with such proposed new rules and the number of persons in receipt of VA educational assistance enrolled in the educational institution offering such course in a particular year does not exceed 35 percent of the total enrollment of such institution. It is the Committee's intention that, if an educational institution demonstrates that it met these criteria during the 2-year period to be covered by the first scheduled survey of such institution to determine compliance with the proposed new rules, such institution would thereafter be exempted from the required 50-percent computations until such time as the number of VA educational assistance recipients enrolled in the institution exceeds 35 percent of the total enrollment.

Subparagraph (C) of new paragraph (2): Would authorize the Administrator to waive compliance with the required 50-percent completion and employment ratios under clause (B) of paragraph (1) of present subsection (a) (as proposed to be redesignated and amended by subclauses (B) and (C) of clause (1) of this subsection) when the Administrator determines that such computation would work an undue administrative hardship on an educational institution in light of the small number, in relation to the total enrollment of the institution, of persons in receipt of VA educational assistance who are enrolled in such institution.

Subsection (b) of section 4 would provide that the amendments made by this section would become effective on October 1, 1980.

SECTION 5: RECOMMENDATION CONCERNING ENHANCEMENT OF VA EFFORTS TO COLLECT OVERDUE DEBTS

Section 5: Would add three new sections to chapter 53 of title 38, to authorize the VA to offset overpayments against future benefits payments, to assess charges for interest and certain administrative costs on delinquent payments, and to require the Administrator to take steps to authorize VA attorneys to bring suits in court—under the supervision of the Attorney General and under such terms and conditions as the Attorney General may prescribe—to recover debts due the VA. Section 5 would also amend section 3301 of title 38 to authorize the disclosure of certain information to consumer reporting agencies for the purposes of facilitating VA debt collection efforts and locating veterans in connection with certain studies.

The provisions added by this part would increase collections and thus reduce net spending in fiscal year 1981 by $139,000,000 in budget authority and outlays.

Clause (1) of paragraph (a) of section 5 would add three sections to chapter 53: new section 3113, relating to deducting certain debts from VA benefit payments; new section 3114, relating to interest and administrative cost charges on delinquent debts; and new section 3115, relating to the authority to sue to collect certain debts:

New section 3113: Would require the VA, in cases where an individual has been properly determined to be indebted to the VA, to deduct the amount of the indebtedness from future VA benefit payments to the individual.

Subsection (a) of new section 3113: Would require the VA, notwithstanding any other provision of title 38 or of any other law, in cases where an individual has been administratively determined to be indebted to the United States by virtue of participation in a VA benefits program (for example, as a student receiving GI Bill benefits or as a VA pension recipient), to deduct the amount of the indebtedness from any future benefits payments to which the individual might be entitled. In order to attempt to assure that all persons are treated fairly, this subsection would require that, before a deduction from future benefits may be made, the individual must be provided notice of his or her rights to dispute the existence or amount of the debt or to seek to have it waived and be given an opportunity to exercise those rights. This subsection would also require the VA to make a determination with respect to any such challenge or request, unless the Administrator determines that the time that would be required to make such a determination would jeopardize the VA's ability to recover the full amount of the indebtedness (such as when the debtor is receiving a monthly GI Bill educational assistance allowance which will continue to be paid for only several months in the future) through deductions from future payments.

This subsection would also require that, before any deductions from future benefits may be made, the VA must make a reasonable effort to notify the individual of the proposed deduction and of his or her options under the provisions of subsection (c) (discussed below) pertaining to the rate at which such deductions may be made to avoid undue hardship.

The Committee does not intend that this subsection diminish the Administrator's authority to withhold and adjust the final payment of benefits for the pursuit of a program of education or training under section 1780(g) of title 38 pending receipt of proof of the individual's enrollment in and satisfactory pursuit of such program.

Subsection (b) of new section 3113: Would provide that, notwithstanding any other provision of title 38 or of any other law, the VA's authority to deduct the amount of an indebtedness from future payments or to take other administrative action to collect an indebtedness or for determining the credit worthiness of an individual indebted to the VA, shall not be subject to any limitations with respect to the time for bringing civil actions or for commencing administrative proceedings. This paragraph would assure that administrative actions to collect debts would not be precluded by the 6-year statute of limitations (28 U.S.C. 2415) on tort and contract litigation brought by the Federal Government. It is also the Committee's intention, in authorizing such actions with respect to claims for which suit would be barred, that this subsection provide a statutory sanction for the VA's practice—in determining, under present section 1810(b)(3), whether a veteran applying for a VA-guaranteed home loan is a satisfactory credit risk and in attempting to collect delinquent debts—to deny to a veteran who has such a debt a guaranty unless the veteran repays the debt or enters into a satisfactory repayment agreement.

Subsection (c) of new section 3113: Would provide that, where the individual believes that the deduction of the amount of an indebtedness would cause undue hardship, the Administrator may, upon application by the individual, set the rate at which the amount of the indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required. However, this subsection requires that the reduced rate of deduction be sufficient to assure the VA's ability ultimately to obtain full recovery.

New section 3114: Would require the VA to charge interest and administrative costs on delinquent payments of certain amounts due the United States.

Subsection (a) of new section 3114: Would require the VA, notwithstanding any other provision of title 38 or of any other law, to charge interest and the administrative costs of collection on an indebtedness to the United States resulting from an individual's participation in a VA benefits program, other than a loan, loan-guaranty, or loan-insurance program or from the provision of care or services under chapter 17 of title 38, and to charge interest and such administrative costs on an indebtedness resulting from a person's participation in a VA loan, loan-guaranty, or loan-insurance program to the extent that such charges are permissible under the loan instruments concerned. This subsection would further provide that interest and administrative costs shall not be charged until a reasonable period of time, as determined under regulations issued by the Administrator, has expired following the initial notification of the person about the amount of the debt owed and that such debt has not been paid. No interest would accrue on an indebtedness for any period prior to the date on which the VA mailed to the individual, at the individual's most currently available address, notice of the VA's intention to charge such interest or for any period prior to the enactment of this section.

Paragraph (1) of subsection (b) of new

section 3114: Would provide that the administrative costs to be charged under this section are to be that portion of the costs incurred by the United States in collecting the debt as the Administrator determines to be reasonable and appropriate.

Paragraph (2) of subsection (b) of new section 3114: Would provide that the rate of interest to be charged on delinquent payments is to be the rate of interest paid by the United States for its borrowing and would provide that such rate shall be determined by the Administrator in consultation with the Secretary of the Treasury.

New section 3115: Would require the Administrator to take appropriate steps to authorize VA attorneys to pursue collection actions in court to recover certain debts.

Subsection (a) of new section 3115: Would require the Administrator, within 90 days of the enactment of this section, to take appropriate steps to authorize the VA to use its own attorneys to pursue collection actions—subject to the direction and supervision of the Attorney General and to any terms and conditions which the Attorney General may prescribe—in courts to recover debts owed to the United States by an individual by virtue of his or her participation in a VA benefits program. In this regard, the Committee intends that the Administrator and the Attorney General shall make good faith efforts to reach an agreement providing the VA the authority to use its own attorneys to pursue collection action in court and to implement such authority at the earliest possible time. The Committee also intends that any such agreement shall reflect the provisions contained in the November 20, 1979, Memorandum of Understanding entered into between the VA and the Department of Justice which established a one-year pilot project under which the VA was authorized to use its own attorneys to pursue collection actions to recover debts of less than $600.

In the Committee's view, the Attorney General's authority to prescribe the terms and conditions under which VA attorneys may bring suit would allow the Attorney General, for good cause relating to the need for consistent overall Federal litigation policy, to limit the categories of cases in which VA attorneys could initiate litigation.

This subsection would also provide that, before the VA may bring suit against an individual to recover an indebtedness, the VA must have first determined that the individual has failed to respond appropriately to reasonable administrative efforts to collect the indebtedness.

Subsection (b) of new section 3115: Would require the Administrator and the Attorney General, within 120 days after the enactment of this section, to submit to appropriate Congressional committees a report that describes and explains their actions with regard to the provisions of subsection (a) pertaining to the VA's authority to sue to collect certain debts.

Subsection (c) of new section 3115: Would provide that the provisions of this section pertaining to the VA's authority to sue to collect certain debts shall not impair the Attorney General's authority under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.

Clause (2) of paragraph (a) of section 5: Would require the Administrator, not later than October 1, 1980, to issue regulations required to be prescribed under sections 3113 and 3114 as added by this subsection.

Clause (3) of paragraph (a) of section 5: Would change the table of sections at the beginning of chapter 53 to reflect the addition of new sections 3113, 3114 and 3115.

Paragraph (b) of section 5 would amend section 3301 of title 38, United States Code, to authorize the VA to disclose names, addresses, and certain other information to consumer reporting agencies (CRA's including certain entities which serve as intermediaries between large numbers of CRA's and those who wish to purchase reports from such CRA's) for the purposes of facilitating VA debt collection efforts and locating veterans in order to carry out studies authorized by section 219 of title 38 or required under any other Federal law.

Clause (1) of paragraph (b) would amend present section 3301(b)(5) to clarify the Veterans' Administration's authority to disclose information in preparation for litigation. Under current law, "necessary and proper" disclosures are permitted "in any suit or other judicial proceeding" and the VA's authority to make such a disclosure prior to the actual filing of a suit is not express. Thus, this amendment would make clear the VA's authority to make disclosures necessary in connection with the collection of any claims prior to the filing of a suit.

Clause (2) of paragraph (b) would redesignate present subsection (g) as subsection (h) and add a new subsection (g) as follows:

New subsection (g): Would authorize the VA to disclose names, addresses, and certain other information to CRA's for the purpose of facilitating VA debt-collection efforts and for the purpose of locating veterans who need to be contacted in certain VA studies.

Paragraph (1) of new subsection (g): Would authorize the VA to release to CRA's, in order to obtain current addresses from CRA's, the names and addresses of individuals who have been administratively determined to be indebted to the United States by virtue of participation in VA benefits programs. This paragraph would also authorize the VA to release an individual's name and address to a CRA when the Administrator determines that disclosure is necessary to locate the individual in order to carry out a program evaluation study pursuant to present section 219 or a study required by any other provision of law. In addition, it would require that, before information is disclosed for study purposes, the Administrator must determine both that the individual's inclusion in the study—in light of other alternatives, reasonably available to develop information necessary for the study, the comparative costs of the alternatives, and any possible consequences of disclosure for the individual—clearly warrant the disclosure and that neither the release of the information nor the fact of the inquiry would create any substantial risk of adversely affecting the individual's credit rating.

In addition, this paragraph would authorize the VA to release to a CRA the name and address of an individual who has failed to respond appropriately to administrative efforts to collect an indebtedness for the purpose of obtaining a consumer report to be used to assess the debtor's ability to pay the debt. This authority would also be available to the VA to meet the requirements of 4 CFR 105.3, under which the VA must, in referring a debt to the Department of Justice for collection purposes, provide evidence of the individual's ability to repay the debt.

This paragraph would also authorize the release of such identifying information, in addition to name and address, as the Administrator determines is reasonably necessary in order to identify the individual, but not including any information that would indicate expressly or implicitly that the individual is indebted to the VA or would otherwise reflect adversely on the individual's credit rating. The disclosure by the VA of other identifying information, such as date of birth and social security number, would generally be necessary because an individual's name and former address may not be sufficient information for the CRA to identify the individual or distinguish him or her from others with the same name or similar names.

In addition, in order to assure that information disclosed by the VA to a CRA for the purpose of obtaining current address information or a consumer report does not give notice of an indebtedness or otherwise reflect adversely on an individual's credit rating, this paragraph would require the Administrator to limit disclosures to only those CRA's which the Administrator has determined, to the maximum extent practicable, would not record or report the information disclosed in such a way as to suggest that the VA inquiry indicates the existence of an indebtedness or otherwise reflects adversely on the individual.

This determination would be required prior to VA disclosures to a CRA (as defined in paragraph (4)(B) of this new subsection)—including any CRA to which the VA proposes to release information through an intermediary CRA which does not itself function as a CRA within the definition set forth in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (f))—except to the extent that the Administrator determines it is not practicable to make such determinations.

This paragraph would also prohibit CRA's from indicating in their files and reports that the VA inquiry indicates an indebtedness or otherwise reflects adversely on the individual's credit rating. A willful violation by a CRA or one of its employees of this prohibition would be made punishable in the same manner as willful violations of the prohibition in subsection (f) of present section 3301 (against the unauthorized disclosure by non-VA entities of names and addresses released to them by the VA under that subsection)—a fine of up to $5,000 for the first offense and up to $20,000 for a subsequent offense.

Paragraph (2) of new subsection (g): Would authorize the VA, after an individual has failed to respond appropriately to administrative efforts to collect the debt, to disclose, for the purposes of affecting the debtor's credit rating, information relating to the debt and the individual's identity and address. This paragraph would also authorize the VA to disclose the information to a CRA and would permit redisclosure of that information to other CRA's and to the CRA's commercial subscribers, thereby influencing their decision to extend credit to a delinquent VA debtor.

In order to assure that innocent persons' credit ratings are not affected adversely and that all persons concerned are treated fairly, this paragraph would require that, before information pertaining to a delinquent debt may be disclosed, the individual must be provided notice of the VA's intention to make the disclosure and of his or her right to dispute the existence or amount of the debt or seek to have it waived and be given an opportunity to exercise those rights. and the VA must make a determination with respect to any such challenge or request. The paragraph further provides that, at least 60 days before disclosure, the individual would have to be given notice of the specific information to be disclosed and of the CRA's to which the VA would directly make disclosures.

This paragraph would also require the VA to give prompt notice to each CRA to which it has disclosed debt information of any substantial change in the status or amount of the debt and, upon the request of a CRA for verification, promptly to verify or correct any information released by the VA.

In addition, this paragraph would provide that, if after disclosure the individual demonstrates to the VA that he or she never received actual notice from the VA regarding the indebtedness or the right and opportunity to dispute the debt or seek a waiver, information indicating that the indebtedness is delinquent would be deemed inaccurate for purposes of section 611 of the Fair Credit Reporting Act (FCRA, 15 U.S.C. 1681i), which provides that, when the individual disputes the accuracy of information pertaining to him or her, the CRA is required to reinvestigate that information. In addition, the VA would be required immediately to advise the individual and the CRA's involved of the fact that the information is to be deemed inaccurate under the FCRA and to advise the individual of his or her remedies, including the right to have the CRA's provide notice of the correction to certain others who have been provided the inaccurate information.

In those instances in which the VA makes disclosures through a CRA as defined in paragraph (4)(B)(ii)(I) of this new subsection, that is, an intermediary CRA known as a "service bureau", the VA would be required to provide the CRA's to which the intermediary CRA directly made disclosure with information regarding such an inaccuracy and regarding substantial changes in the status or amount of the indebtedness.

Paragraph (3) of new subsection (g): Would provide an exemption from the application of the Privacy Act (5 U.S.C. 552a) with respect to the CRA's handling of information disclosed to them under new subsection (g). CRA's would, however, be subject to the provisions of the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681–81t) with respect to such information.

Subparagraph (A) of paragraph (4) of new subsection (g): Would provide that, for purposes of this new subsection, the terms "consumer report" and "file" shall have the meanings provided in the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g), respectively). These definitions are as follows:

(d) The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 1681b of this title. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 1681m of this title.

* * * * *

(g) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

Subparagraph (B) of paragraph (4) of new subsection (g): Would provide that, for purposes of new subsection (g), the term "consumer reporting agency" shall have the meaning provided in subsection (f) of section 603 of the FCRA (15 U.S.C. 1681a(f)) and shall also include certain entities that regularly engage either in obtaining credit information or other information on consumers from CRA's as defined in section 603 (f) of the FCRA for the purpose of furnishing such information to third parties—such an entity being known in the credit industry as a "service bureau"—or in serving as a marketing agent under arrangements enabling third parties to obtain such information from CRA's as defined in section 603(f) of the FCRA—such an entity being known in the industry as a "marketing agent."

The definition of "consumer reporting agency" in section 603(f) of the FCRA is as follows:

(f) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Expanding the definition of consumer reporting agency (CRA) beyond the definition in the FCRA would ensure that the authority to release information to a CRA includes the authority to release the information to an intermediary, a so-called "service bureau" or "marketing agent" (which might not necessarily be included in the FCRA definition), where, and to the extent, necessary in order to achieve the stated purposes of the new provision. This expansion of the definition is necessary in light of the fact that, in order to obtain nationwide coverage including areas not covered by the few, very large CRA's, it would generally be practical for the VA to deal with the large numbers of smaller CRA's only through such intermediaries.

Clause (3) of paragraph (b) would amend subsection (j) of present section 3301 of title 38 (as redesignated by clause (2) of this section), requiring that any disclosure pursuant to present section 3301 be made in accordance with the Privacy Act (5 U.S.C. 552a), to reflect the changes made by paragraph (3) of new subsection (g).

CHANGES IN EXISTING LAW MADE BY COMMITTEE RESOLUTION

In accordance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the resolution are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—VETERANS' BENEFITS

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter III—Entitlement; Duration

§ 1631. Entitlement; loan eligibility

(a)(1) A participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefit payments).

(2) The amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veterans.

(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to [participate in the Predischarge Education Program (PREP), authorized by subchapter VI of chapter 34] *enroll in a course, courses, or program of education to pursue a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a)(1)* of this title, during the last 6 months of such member's first enlistment *and at any time thereafter.*

* * * * *

Subchapter IV—Administration

§ 1641. Requirements

The provisions of sections 1670, 1671, 1673, 1674, 1676, 1677, 1681(c), 1683, [1696, and 1698] *and 1691(a)(1)* of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787 shall be applicable to the program.

* * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

[Subchapter VI—Predischarge Education Program

[1695. Purpose; definition.

[1696. Payment of educational assistance allowance.

[1697. Educational and vocational guidance.

[1698. Coordination with and participation by Department of Defense.

* * * * *

Subchapter II—Eligibility and Entitlement

§ 1661. Eligibility; entitlement; duration

Entitlement

(a) * * *

* * * * *

(c) Except as provided in subsection (b) and in [subchapters] *subchapter* V [and VI] of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.

* * * * *

Subchapter III—Enrollment

* * * * *

§ 1673. Disapproval of enrollment in certain courses

(a)(*1*) The Administrator shall not approve the enrollment of an eligible veteran in—

[(1)] (A) any bartending course or personality development course;

[(2)](*B*) any [sales or sales management course which does not provide specialized training within a specific vocational field, or in any other] course with a vocational objective, unless the eligible veteran or the institution offering such course [submits justification[*presents evidence satisfactory to the Administrator* showing that [at least one-half of the persons who completed such course over the preceding two-year period, and who are not unavailable for employment, have been employed in the occupational category for which the course was designed to provide training (but in computing the number of persons who completed such course over any such two-year period, there shall not be included the number of persons who completed such course with assistance under this title while serving on active duty)] (*i*) *at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and* (*ii*) *at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;*

[(3)](*C*) any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

[(4)](*D*) any independent study program except one leading to a standard college degree.

(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.

(b) Except as provided in section 1677 of this title, the Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

* * * * *

§ 1677. Flight training

(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:

(1) the eligible veteran must possess a valid private pilot's license and meet the medical requirements necessary for a commercial pilot's license; and

(2) the flight school courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency.

(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the safe flight course are required to pay. Such allowance shall be paid monthly upon receipt of a certification as required by section 1681(c) of this title. In each such case the eligible veteran's period of entitlement shall be charged with one month for each [$288] *$317* which is paid to the veteran as an educational assistance allowance for such course.

Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

* * * * *

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), or (c) of this section, or section 1677 or 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

Column I Type of program	Column II No dependents	Column III One dependent	Column IV Two dependents	Column V More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19

Column I *Type of program*	*Column II* *No dependents*	*Column III* *One dependent*	*Column IV* *Two dependents*	*Column V* *More than two dependents*
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	*$342*	*$407*	*$464*	*$29*
Three-quarter-time	*256*	*305*	*349*	*21*
Half-time	*172*	*204*	*232*	*14*
Cooperative	*276*	*323*	*367*	*21*

(2) A "cooperative" program, other than a "farm cooperative" program, means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty; or

(2) on less than a half-time basis.

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced non-veterans enrolled in the same program to pay, or (B) [$311] *$342* per month for a full-time course, whichever is the lesser.

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any 3-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week) shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator.

In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instuctor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the basis shown in column I:

Column I Basis	Column II No dependents	Column III One dependent	Column IV Two dependents	Column V More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10

Column I *Basis*	*Column II* *No dependents*	*Column III* *One dependent*	*Column IV* *Two dependents*	*Column V* *More than two dependents*
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	*$276*	*$323*	*$367*	*$21*
Three-quarter-time	*207*	*243*	*276*	*17*
Half-time	*139*	*162*	*184*	*11*

(d) (1) Notwithstanding the prohibition in section 1671 of this title prohibiting enrollment of an eligible veteran in a program of education in which such veteran has "already qualified," a veteran shall be allowed up to six months of educational assistance (or the equivalent thereof in part-time assistance) for the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service.

(2) A veteran pursuing a refresher training under this subsection shall be paid an educational assistance allowance based upon the rate prescribed in the table in subsection (a) (1) or in subsection (c) (2) of this section, whichever is applicable.

(3) The educational assistance allowance paid under the authority of this subsection shall be charged against the period of entitlement the veteran has earned pursuant to section 1661 (a) of this title.

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) (2) of this section. In those cases where independent study is combined with resident training and the resident training constitutes the major portion of such training, the maximum allowance may not exceed the full-time institutional allowance provided under subsection (a) (1) of this section.

* * * * *

Subchapter V—Special Assistance for the Educationally Disadvantaged

* * * * *

§ 1691. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran [not on active duty] who—

(1) has not received a secondary school diploma (or an equivalency certificate) at the time of the veteran's discharge or release from active duty, or

(2) *is not on active duty and who*, in order to pursue a program of education for which the veteran would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to as much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a) (2) of this section, an educational assistance allowance as provided in sections 1681 and 1682 (a) or (b) of this title.

§ 1692. Special supplementary assistance

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a post-secondary course of education on a half-time or more basis at an education institution; and

(2) has a deficiency in a subject required as a part of, or which is a prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Administrator may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed [$69] *$76* per month, for a maximum of twelve months, or until a maximum of [$828] *$911* is utilized, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of edcuation;

(2) the tutor chosen to perform such assistance is qualified; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

* * * * *

[Subchapter VI—Predischarge Education Program

[§ 1695. Purpose; definition

[(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Predischarge Education Program (PREP).

[(b) For the purposes of this subchapter, the term "eligible person" means any person serving on active duty with the Armed Forces who has completed more than 180 consecutive days of such active duty service as certified to the Administrator by the Secretary concerned.

[§ 1696. Payment of educational assistance allowance

[(a) The Administrator shall, under such regulations as the Administrator shall prescribe after consultation with the Secretary of Defense, pay the educational assistance allowance as computed in subsection (b) of this section to an eligible person enrolled in and pursuing (1) a course or courses offered by an educational institution (other than by correspondence) and required to receive a secondary school diploma, or (2) any deficiency, remedial, or refresher course of courses offered by an educational institution and required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment.

[(b) The educational assistance allowance of an eligible person pursuing education or training under this subchapter shall be computed at the rate of (1) the established charges for tuition and fees which the educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which such educational institution requires similarly circumstanced nonveterans enrolled in the same or similar program to have, or (2) $311 per month for a full-time course, whichever is the lesser. Where it is determined that there is no same program, the Administrator shall establish appropriate rates for tuition and fees designed to allow reimbursement for reasonable costs for the education or training institution.

[(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement earned pursuant to section 1661 (a) of this title.

[(d) After October 31, 1976, no person other than a member of the Armed Forces described in section 1631 (b) of this title shall be permitted to enroll, or re-enroll, in any course provided under the authority of this subchapter.

[§ 1697. Educational and vocational guidance

[The Administrator shall, to the extent that professional counselors are available, provide, by contract or otherwise, educational and vocational guidance to persons eligible for educational assistance under this subchapter.

[§ 1698. Coordination with and participation by Department of Defense

[(a) The Administrator shall designate an appropriate official of the Veterans' Administration who shall cooperate with and assist the Secretary of Defense and the official the Administrator designates as administratively responsible for such matters, in carrying out functions and duties of the Department of Defense under the PREP program authorized by this subchapter. It shall be the duty of such official to assist the Secretary of Defense in all matters entailing cooperation or coordination between the Department of Defense and the Veterans' Administration in providing training facilities and released time from duty necessary to carry out the purposes of the program.

[(b) Educational institutions and training establishments administered by or under contract to the Department of Defense providing education and training to persons serving on active duty with the Armed Forces shall, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Defense, be approved for the enrollment of eligible persons only at such time as the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing such Department's plan for implementation of the program established under this subchapter (except that on-going programs of education and training at such institutions or establishments may be continued for ninety days after the date of enactment of this section and prior to the submission of such report), which plan shall include provision for—

[(1) each Secretary concerned to undertake an information and outreach program designed to advise, counsel, and encourage each eligible person within each branch of the Armed Forces with respect to enrollment in a program under this subchapter, with particular emphasis upon programs under sections 1691(a) (2) and 1696(a) (2) of this title, and in all other programs for which such person, prior to or following discharge or release from active duty, may be eligible under chapters 31 and 34 of this title;

[(2) each Secretary concerned to undertake, in coordination with representatives of the Veterans' Administration, to arrange and carry out meetings with each approved educational institution located in the vicinity of an Armed Forces installation (or, in the case of installations overseas, which have the capacity to carry out such programs at such overseas installations) to encourage the establishment of a program by such institution under this subchapter and subchapter V of this chapter in connection with persons stationed at such installation, with particular emphasis upon programs under sections 1691 (a) (2) and 1696(a) (2) of this title;

[(3) the release from duty assignment of any such eligible person for at least one-half of the hours required for such person to enroll in a full-time program of education or training under this subchapter during such person's military service, unless, pursuant to regulations prescribed by the Secretary concerned, it is determined that such release of time is inconsistent with the interests of the national defense; and

[(4) establishment of an Inter-Service and Agency Coordinating Committee, under the co-chairmanship of an Assistant Secretary of Defense and the Chief Benefits Director of the Veterans' Administration, to promote and coordinate the establishment and conduct of programs under this subchapter and other provisions of this title and the implementation of the plan submitted pursuant to this section.]

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter IV—Payments to Eligible Persons

* * * * *

§ 1732. Computation of educational assistance allowance

(a) (1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents.

(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be computed at the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of [$251] *$276* per month.

* * * * *

Subchapter V—Special Restorative Training

§ 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a fulltime course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of [$311] *$342* per month. If the charges for tuition and fees applicable to any such course are more than [$98] *$108* per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed [$98] *$108* a month, upon election by the parent or guardian or the eligible person to have such person's period of entitlement reduced by one day for each [$10.40] *$11.40* that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purposes of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter I—State Approving Agencies

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§ 1780. Payment of educational assistance or subsistence allowances

* * * * *

Advance Payment of Initial Educational Assistance of Subsistence Allowance

(d) (1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payments for living quarters, the initial installment of tuition, and the other expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a serviceman on active duty, who is pursuing a program of education [(other than under subchapter VI of chapter 34)], the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs 5 (B) and (C) and (6) of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution.

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

[(3) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, a person eligible for education or training under the provisions of subchapter VI of chapter 34 of this title shall be entitled to a lump-sum educational assistance allowance advance payment. Such advance payment shall in no event be made earlier than thirty days prior to the date on which pursuit of the person's program of education or training is to commence. The application for the advance payment, to be made on a form prescribed by the Administrator, shall, in addition to the information prescribed in paragraph (2)(A), specify—

[(A) that the program to be pursued has been approved;

[(B) the anticipated cost and the number of Carnegie, clock, or semester hours to be pursued; and

[(C) where the program to be pursued is other than a high school credit course, the need of the person to pursue the course or courses to be taken.]

[(4)](3) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

[(5)] *(4)* The advance payment authorized by [paragraphs] *paragraph* (2) [and (3)] of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon the veteran's or person's registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

[(6)](*5*) Upon delivery of the advance payment pursuant to paragraph [(5)](*4*) of this subsection, the institution shall submit to the Administrator a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Administrator forthwith.

Recovery of Erroneous Payments

(e) If an eligible veteran or eligible person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsection (d)(2) [and (3)] of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 3102 of this title. from any benefit otherwise due such veteran or person under any law administered by the Veterans' Administration or may be recovered in the same manner as any other debt due the United States.

Payments for Less Than Half-Time Training

(f) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis [(except as provided by subsection (d)(3) of this section)] shall be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that such veteran or person has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided in section 1682(b) or 1732(a)(2) of this title, as applicable.

Determination of Enrollment, Pursuit, and Attendance

(g) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine *and define* enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the Administrator may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.

* * * * *

Subchapter II—Miscellaneous Provisions

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§ 1784. Reports by institutions; reporting fee

* * * * *

(b) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, of $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d) [(5)] *(4)* of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

* * * * *

§ 1786. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 1652(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701(a)(1) (B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each [$311] *$342* which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

(3) No veteran, spouse, or surviving spouse may be paid an educational assistance allowance under this section unless the Administrator has determined that no type of education other than correspondence is reasonably and feasibly available to such veteran, spouse, or surviving spouse in order to pursue successfully the educational or vocational objective being sought.

§ 1787. Apprenticeship or other on-job training

* * * * *

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

[

Co'umn I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12

]

Column I	*Column II*	*Column III*	*Column IV*	*Column V*
Periods of training	*No dependen's*	*One dependent*	*Two dependents*	*More than two dependents*
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	*$249*	*$279*	*$305*	*$13*
Second 6 months	*186*	*217*	*243*	*13*
Third 6 months	*124*	*155*	*180*	*13*
Fourth and any succeeding 6-month periods	*62*	*92*	*119*	*13*

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course.

(3) In any month in which an eligible veteran or person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training assistance allowance set forth in subsection (b) (1) or (2) of this section, as applicable, shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

(c) For the purpose of this chapter, the terms "program of apprenticeship" and "program of other on-job training" shall have the same meaning as "program of education"; and the term "training assistance allowance" shall have the same meaning as "educational assistance allowance" as set forth in chapters 34 and 35 of this title.

§ 1788. Measurement of courses

(a)(1) * * *

* * * * *

(6) an institutional course offered as part of a program of education not leading to a standard college degree under section 1691 (a)(2) [or 1696(a)(2)] of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) as determined by the educational institution.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

* * * * *

§ 1789. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree;

(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education under the provisions of subchapter V [or VI] of chapter 34 of this title (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years; or

* * * * *

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

* * * * *

(b)(1) Subject to paragraph (3) of this subsection. the amount of the loan to which an eligible veteran or eligible person shall be entitled under this subchapter for any academic year shall be equal to the amount needed by such veteran or person to pursue a program of education at the institution at which the veteran or person is enrolled, as determined under paragraph (2) of this subsection.

(2)(A) The amount needed by a veteran or person to pursue a program of education at an institution for any academic year shall be determined by subtracting (i) the total amount of financial resources (as defined in subparagraph (B) of this paragraph) available to the veteran or person which may be reasonably expected to be expended by such veteran or person for educational purposes in any year from (ii) the actual cost of attendance (as defined in subparagraph (C) of this paragraph) at the institution in which such veteran or person is enrolled.

(B) The term "total amount of financial resources" of any veteran or person for any year means the total of the following:

(i) The annual adjusted effective income of the veteran or person less Federal income tax paid or payable by such veteran or person with respect to such income.

(ii) The amount of cash assets of the veteran or person.

(iii) The amount of financial assistance received by the veteran or person under the provisions of title IV of the Higher Education Act of 1965, as amended.

(iv) Educational assistance received by the veteran or person under this title other than under this subchapter.

(v) Financial assistance received by the veteran or person under any scholarship or grant program other than those specified in clauses (iii) and (iv).

(C) The term "actual cost of attendance" means, subject to such regulations as the Administrator may provide, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Administrator determines by regulation to be reasonably related to attendance at the institution at which the veteran or person is enrolled.

(3) The aggregate of the amounts any veteran or person may borrow under this subchapter may not exceed [$311] *$342* multiplied by the number of months such veteran or person is entitled to receive educational assistance under section 1661 or subchapter II of chapter 35, respectively, of this title, but not in excess of $2,500 in any one regular academic year.

(c) An eligible veteran or person shall be entitled to a loan under this subchapter if such veteran or person—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective, except that the Administrator may waive the requirements of subclause (B) of this clause, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government;

(2) enters into an agreement with the Administrator meeting the requirements of subsection (d) of this section; and

(3) satisfies any criteria established under subsection (g) of this section.

No loan shall be made under this subchapter to an eligible veteran or person pursuing a program of correspondence, [flight, apprentice] *or apprenticeship* or other on-job [, or PREP] training.

* * * * *

(f)(1) * * *

(2) Payment of a loan made under this section shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)[(5)] *(4)* of this title for purposes of section 1784(b) of this title.

* * * * *

(h) In the case of a loan made to a veteran under this section to pursue a program of education consisting exclusively of flight training, the Administrator shall, as hereafter provided in this subsection, cancel the repayment obligation (which for the purposes of this subsection shall include the obligation to pay interest), or reimburse for repayments already made, or both, as appropriate, if (1) such veteran has successfully completed such program and secured employment as a pilot or in a closely related occupation, and (2) such employment constitutes such veterans' primary vocational pursuit and major source of occupational income. Upon completion by such veteran of a full year of such employment during the first five years after the completion of such training $1,000 of the repayment obligation under any such loan shall be canceled; and, upon the completion by such veteran of any additional three-month period of such employment during such five-year period, such repayment obligation shall be canceled at the rate of $250 for each such three-month period. In the event that a veteran meets the requirement of this section for a repayment obligation cancellation in an amount exceeding any remaining unpaid balance of such obligation, the Administrator shall, to the extent that the amount of the cancellation to which the veteran is entitled exceeds such balance, reimburse such veteran for any amounts of such obligation that such veteran has repaid.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
3101. Nonassignability and exempt status of benefits.
3102. Waiver of recovery of claims by the United States.
3103. Certain bars to benefits.
3104. Prohibition against duplication of benefits.
3105. Waiver of retired pay.
3106. Renouncement of right to benefits.
3107. Apportionment of benefits.
3108. Withholding benefits of persons in territory of the enemy.
3109. Payment of certain withheld benefits.
3110. Payment of benefits for month of death.
3111. Prohibition of certain benefit payments.
3112. Annual adjustments of certain benefit rates.
3113. Indebtedness offsets.
3114. Interest and administrative costs charged on delinquent payments of certain amounts due the United States.
3115. Authority to sue to collect certain debts.

* * * * *

§ 3113. Indebtedness offsets

(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provisions of subsection (c) of this section and the regulations prescribed thereunder.

(b) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required.

§ 3114. Interest and administrative costs charged on delinquent payments of certain amounts due the United States

(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty, or loan-insurance program;

(2) for the provision of care or services under chapter 17 of this title; or

(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan-guaranties, or loan-insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most current available address, notice of the Administrator's intention to charge interest on the indebtedness.

(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

§ 3115. Authority to sue to collect certain debts

(a) Not later than 90 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney General and upon such terms and conditions as the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

(b) Not later than 120 days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.

* * * * *

CHAPTER 57—RECORDS AND INVESTIGATIONS

* * * * *

Subchapter I—Records

§ 3301. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In *or in preparation for* any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper.

(c) The amount of pension, compensation, or dependency and indemnity compensation of any beneficiary shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim.

(d) The Administrator as a matter of discretion may authorize an inspection of Veterans' Administration records by duly authorized representatives of recognized organizations.

(e) Except as otherwise specifically provided in this section with respect to certain information, the Administrator may release information, statistics, or reports to individuals or organizations when in the Administrator's judgment such release would serve a useful purpose.

(f) The Administrator may, pursuant to regulations the Administrator shall prescribe, release the names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.

(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness:

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

(B) Following the release of information under subparagraph (A) of this paragraph—

(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4) (B) (ii) (I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all of the information so released, promptly provide verification or correction, as appropriate, of such information; and

(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A) (i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4) (B) (i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4) (B) (ii) (I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

(3) No contract entered into for any of the purposes of this subsection and no action taken pursuant to any such contract or this subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

(4) For the purposes of this subsection—

(A) The terms "consumer report" and "file" shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

(B) The term "consumer reporting agency" (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies.

[(g) Any] (h) Except as provided in subsection (g) (3) of this section, any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.

* * * * *

APPENDIX: DEPARTMENT OF JUSTICE, VETERANS ADMINISTRATION MEMORANDUM OF UNDERSTANDING

1. This memorandum sets forth procedures for the conduct of a one-year test program designed to collect educational assistance overpayments in cases where the amounts owed to the United States are less than $600. The Veterans Administration has informed the Department of Justice that it intends to conduct the program at the following Veterans Administration Regional Offices: Boston, Chicago, New York, Newark, Atlanta, Detroit, Houston, Denver, San Francisco, Los Angeles. The area of jurisdiction for each Regional Office is attached. Upon agreement of the parties to this Memorandum of Understanding, additional Regional Offices may be added.

2. Except as indicated below, Veterans Administration personnel will have primary responsibility to pursue collection efforts. This authority will include the authority to file suit and conduct litigation in federal district courts or state courts and to compromise or close claims or pending litigation.

3. The Federal Claims Collection Standards, 4 C.T.R., Chapter II, will remain generally applicable to the processing of cases in the test program. A determination to file suit will be made only after exhausting the procedures, set forth in the Standards, designed to effect administrative collection. Prior to filing suit, a final demand letter will be sent. Such letters will be sent only in those cases where the Veterans Administration is prepared to file suit promptly.

4. The Veterans Administration and the Department of Justice recognize the need for full cooperation between the Veterans Administration and the Department of Justice. Such cooperation will, *inter alia*, permit the Veterans Administration to draw upon the expertise of the United States Attorneys regarding local rules and practices. The Veterans Administration will obtain the concurrence of the United States Attorneys in those districts in which the test program is to be conducted. If concurrence is withheld by a United States Attorney, the Veterans Administration will notify the Civil Division of the Department of Justice, which will attempt to obtain such concurrence. As part of the consultation and cooperation between the Veterans Administration and the Department of Justice, the Veterans Administration will seek the advice of the United States Attorneys on such questions as whether to file suits in state or federal courts. To avoid the imposition of undue burdens on court dockets, the United States Attorney has the authority to place restrictions on the time of the filing of the actions.

5. In any case in which substantial legal issues are raised (such as the construction or constitutionality of federal statutes or issues which might affect enforcement policies of government-wide significance), the Veterans Administration will promptly notify the Civil Division. In such cases, the Department of Justice will have the right to assume primary litigative responsibility.

6. The Veterans Administration will furnish to the Civil Division and the local United States Attorneys, at least quarterly, reports containing, by judicial districts, at least the following information: the number of claims in which final demand letters have been sent; number of claims in which repayment or repayment plans have been achieved; number of suits filed and the results of such suits.

7. The Veterans Administration will furnish to the local United States Attorneys copies of all pleadings, motions, legal memoranda, orders, and opinions. The Veterans Administration will furnish to the Civil Division a sufficient sampling of such documents from each district as will keep the Civil Division generally apprised of the nature of the documents which are being filed.

8. Nothing in this memorandum shall affect the authority of the Solicitor General to authorize or to decline to authorize appeals or petitions by the government to any appellate courts. A copy of any order or judgment adverse to the government shall be sent promptly to the Civil Division. The Civil Division shall be promptly notified of any case in which an order or judgment favorable to the government has been appealed by the defendant. The conduct of appeals remains under the control of the Department of Justice.

9. The commitment of personnel by the Veterans Administration to this test program shall not affect the obligation of the Veterans Administration to provide the necessary agency support to United States Attorneys in cases not covered by the test program. In the conduct of this test program, regardless of where the primary litigative responsibility is reposed, the Veterans Administration and Department of Justice will cooperate fully and, as required by 28 U.S.C. § 519, the Attorney General will retain final authority to determine the government's litigation position.

GUY H. MCMICHAEL, III,
General Counsel, Veterans Administration.

ALICE DANIEL,
Acting Assistant Attorney General, Civil Division, Department of Justice.

S. 2885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reconciliation Act of 1980".

TITLE I—SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SCHOOL LUNCH PROGRAM, GENERAL REIMBURSEMENT

SEC. 101. Section 4 of the National School Lunch Act is amended by adding at the end thereof the following: "For any school food authority in which less than 60 percent of the lunches served in the program were served free or at reduced-price during the second preceding school year, the national average payment under this section, after being adjusted in accordance with the provisions of section 11(a) of this Act, shall be reduced by 2½ cents. The amount of State administrative expense funds disbursed under section 7 of the Child Nutrition Act of 1966 shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence.".

DIRECT FEDERAL EXPENDITURES, COMMODITY ASSISTANCE

SEC. 102. Section 6 of the National School Lunch Act is amended to read as follows:

"(e) (1) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(2) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payment in lieu thereof, shall not be less than 10 cents per lunch. Such amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the first sentence of this paragraph, as adjusted for the school year ending June 30, 1979, in accordance with the second sentence of this paragraph, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Producer Price Index published by the Bureau of Labor Statistics of the Department of Labor (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in the 3-month simple average value of the Consumer Price Index for Foods Used in Schools and Institutions for March, April, and May of each year. The adjustments required by this subsection shall be computed to the nearest one-fourth cent. Beginning with the school year ending June 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as established and adjusted in this subsection, shall be reduced by 2 cents. Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.".

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 103. Section 9(a) of the National School Lunch Act is amended by striking out in the third sentence "(and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school)".

(b) Section 9(b)(1) of the National School Lunch Act is amended by—

(1) striking out the second and third sentences and inserting in lieu thereof the following: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.";

(2) striking out in the eighth sentence "95" and inserting in lieu thereof "85";

(3) striking out in the ninth sentence "95" and inserting in lieu thereof "85".

(c) Section 9(b) of the National School Lunch Act is amended by redesignating paragraph (2) thereof as paragraph (3) and inserting the following new paragraph after paragraph (1):

"(2) In computing household income in all States except Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 a month for each household. Such standard deduction shall be adjusted every July 1 to the nearest $5 to reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the 12 months ending the preceding March 31. The first such adjustment shall be made on July 1, 1980, and shall reflect changes in the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics for items other than food for the period September 1977 through March 1980. The monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable poverty guidelines for the contiguous States. The monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for the contiguous States.".

SPECIAL ASSISTANCE

SEC. 104. Section 11(a) of the National School Lunch Act is amended by—

(1) striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater";

(2) striking out in the sixth sentence ", and on January 1, of each fiscal year, semiannual adjustments" and inserting in lieu thereof "an annual adjustment"; and

(3) striking out in the second proviso in the sixth sentence "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 105. (a) Section 12(d) of the National School Lunch Act is amended by inserting in paragraph (6) "except Job Corps Centers funded by the Department of Labor" after "retarded".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 106. (a) Section 13(a)(1)(B) of the National School Lunch Act is amended to read as follows: "(B) 'service institutions' means any of the following nonresidential institutions and residential summer camps that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966: (i) public institutions; (ii) private nonprofit institutions that use self-preparation facilities to prepare meals or that obtain meals from a public entity (such as a school district, public hospital, or State university); (iii) private nonprofit school food authorities, including colleges and universities; (iv) private nonprofit institutions that serve meals primarily to migrant children; (v) camps; and (vi) private nonprofit institutions that purchase meals from a food service management company and that serve meals to not more than two thousand children daily at not more than twenty locations;".

(b) Section 13 (b) of the National School Lunch Act is amended by amending paragraph (2) to read as follows:

"(2) Any service institution may serve lunch and either breakfast or a supplement during each day of operation. Any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not concide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.".

(c) section 13 (p) of the National School Lunch Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

CHILD CARE FOOD PROGRAM

SEC. 107. (a) Section 17 (c) of the National School Lunch Act, is amended by—

(1) striking out "and January 1" each place it appears in paragraphs (1), (2), and (3);

(2) striking out "six-month" the second time it appears in each of paragraphs (1), (2), and (3) thereof and inserting in lieu thereof "twelve-month"; and

(3) inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(b) Section 17 (n) (1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

SPECIAL MILK PROGRAM

SEC. 108. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

SCHOOL BREAKFAST PROGRAM

SEC. 109. Section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 is amended by—

(1) striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(2) striking out "six-month" and inserting in lieu thereof "twelve-month".

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 110. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded".

TITLE II—SENATE COMMITTEE ON ARMED SERVICES

ONCE-A-YEAR ADJUSTMENT OF RETIRED PAY AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

SEC. 201. (a) Section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase in annuities is made under section 8340(b) of title 5, the Secretary of Defense shall increase the retired pay and retainer pay of the members and former members of the armed forces by the same percentage figure by which annuities are increased under such section and the increase in such retired pay and retainer pay shall be effective on the same date as the effective date for the increase in annuities under such section 8340 (b). An increase under this subsection shall be applicable in the case of the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before the effective date of the increase.".

(b)(1) The amendment made by subsection (a) shall not become effective unless legislation is enacted which provides for a once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the armed forces and with respect to the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time that the once-a-year adjustment of annuities paid under chapter 83 of title 5, United States Code, becomes effective.

(2) The provisions of paragraph (1) relating to legislation which provides for a once-a-year adjustment of the retired pay and retainer pay of members and former members of the armed forces shall be applicable to cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

TITLE III—SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL-AID HIGHWAY ACT

SEC. 301. Sec. 202(1) of the Federal-Aid Highway Act of 1978 is amended by striking everything after "September 30, 1980," and inserting "$150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR THE AIRPORT AND AIRWAY ACT

SEC. 302. The Secretary of the Senate, in the enrollment of the bill (S. 1648) to provide for the improvement of the Nation's airport and airway system, and for other purposes, shall include a provision providing that the Secretary of Transportation is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of S. 1648 as adopted by the Senate in aggregate amounts of not less than nor more than $650,000,000 for fiscal year 1981.

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR THE RAIL REORGANIZATION ACT OF 1973

SEC. 303. The Secretary of the Senate, in the engrossment of the bill (S. 2530) to improve the fairness and equity of the protection provided to railroad employees under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) or the Senate amendment to the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, shall include the following provision: "Of the funds authorized to be appropriated pursuant to the provisions of title V of the Railroad Revitalization and Regulatory Act of 1976 (45 U.S.C. 827 (a)), not more than $180,000,000 is authorized to be appropriated in fiscal year 1981.".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

SEC. 304. The Secretary of the Senate, in the engrossment of the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966, and the Motor Vehicle Information and Cost Savings Act, and for other purposes, or the Senate amendment to the bill (H.R. 2585) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981 shall include the following provision: "Of the funds authorized to be appropriated pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) not more than $53,800,000 is authorized to be appropriated in fiscal year 1981.".

TITLE IV—SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 401. Section 108 (b) of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1982".

TITLE V—PROVISIONS REDUCING SPENDING IN PROGRAMS WITHIN JURISDICTION OF SENATE COMMITTEE ON FINANCE

PART A—UNEMPLOYMENT COMPENSATION PROVISIONS

ELIMINATION OF "NATIONAL TRIGGER" UNDER THE EXTENDED BENEFITS PROGRAM

SEC. 501. (a)(1) Paragraphs (1) and (2) of section 203(a) of the Federal-State Extended Unemployment Compensation Act of 1970 are amended to read as follows:

"(1) shall begin with the third week after the week for which there is a State 'on' indicator; and

"(2) shall end with the third week after the first week for which there is a State 'off' indicator.".

(2) Section 203(b)(2) of such Act is amended by striking out "(or all the States)".

(3) Section 203 of such Act is further amended by striking out subsection (d) thereof.

(4) Section 203(f) of such Act is amended—

(A) in paragraph (1), by—

(i) striking out "subsections (d) and (e)" and inserting in lieu thereof "subsection (e)", and

(ii) striking out "all State agencies (or, in the case of subsection (e), by the State agency)" and inserting in lieu thereof "the State agency", (B) by striking out paragraph (2), and (C) by redesignating paragraph (3) as paragraph (2).

(b)(1) Section 204(a) of such Act is amended—

(A) by striking out paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3).

(c) The amendments made by this section shall take effect on October 1, 1980.

WAITING PERIOD FOR BENEFITS

SEC. 502 (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A) after "compensation", and

(2) by inserting immediately before the period the following: ", or (B) paid for the first week of compensable unemployment in an individual's eligibility period, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

(b) The amendments made by this section shall be applicable in the case of extended compensation paid to individuals during eligibility periods beginning on or after October 1, 1980.

STATE OPTION AS TO CRITERIA FOR STATE "ON" AND "OFF" INDICATORS

SEC. 503. (a) Section 203(e) of the Federal State Extended Unemployment Compensation Act of 1970 is amended, in the first sentence following paragraph (2) thereof, by striking out the matter beginning with "(ii)" and ending with "except", and inserting in lieu thereof the following: "(ii) the figure '4' contained in subparagraph (B) thereof were '5' (or such number, or percentage of a number, which exceeds 5, as is specified by the State law; except".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning after October 1, 1980.

FEDERAL SERVICE OF EX-SERVICEMEN

SEC. 504. (a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 505. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

SEC. 506. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable; except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 507. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

"(i) if such individual had less than 20 weeks of covered employment during his base period;

"(ii) if such individual is unemployed because he voluntarily left employment, was discharged for misconduct, or refused suitable employment as determined under State law;

"(iii) during which he fails to accept any offer of suitable work (as defined in subparagraph (B)) or fails to apply for any suitable work to which he was referred by the State agency; or

"(iv) during which he fails to actively engage in seeking work.

"(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (iii) or (iv) of subparagraph (A), the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

"(i) begins with the week following the week in which such failure occurs, and

"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C) for his benefit year.

"(C) For purposes of this paragraph, the term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law.

"(D) Extended compensation shall not be denied under clause (iii) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(i) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(I) the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C)) for his benefit year, plus

"(II) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week;

"(ii) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(iii) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or

"(iv) if the position pays wages less than the higher of—

"(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

"(II) any applicable State or local minimum wage.

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicant for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply.".

(b) The amendments made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

SEC. 508. On October 31 of any taxable year after 1979, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this part to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

PART B—PROVISIONS RELATING TO SSI

DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

SEC. 511. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"DISPOSAL OF RESOURCE FOR LESS THAN FAIR MARKET VALUE

"(c)(1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

"(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

"(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resources or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.".

(b) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after October 1, 1980.

PART C—PROVISIONS RELATING TO SOCIAL SERVICES

FEDERAL DAY CARE REGULATIONS

SEC. 521. Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980 and prior to October 1, 1981, which meet applicable standards of State and local law.".

(b) The provisions of section 3(f) of Public Law 93–647 shall not apply with respect to child day care services provided after June 30, 1980 and prior to October 1, 1981 which meet applicable standards of State and local law.

PART D—PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 531. (a) Section 1108(a)(1) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to the fiscal year 1979,

"(G) $36,000,000 with respect to the fiscal year 1980,

"(H) $48,000,000 with respect to the fiscal year 1981, or

"(I) $72,000,000 with respect to the fiscal year 1982 and each fiscal year thereafter;".

(b) Section 1108(a)(2) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to the fiscal year 1979,

"(G) $1,200,000 with respect to the fiscal year 1980,

"(H) $1,600,000 with respect to the fiscal year 1981, or

"(I) $2,400,000 with respect to the fiscal year 1982 and each fiscal year thereafter;".

(c) Section 1108(a)(3) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (E); and

(2) by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to the fiscal year 1979,

"(G) $1,650,000 with respect to the fiscal year 1980,

"(H) $2,200,000 with respect to the fiscal year 1981, or

"(I) $3,300,000 with respect to the fiscal year 1982 and each fiscal year thereafter.".

PART E—PROVISIONS RELATING TO OASDI

REALLOCATION OF OASDI TAXES

SEC. 541. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

LIMIT ON RETROACTIVE BENEFITS

SEC. 542. (a) Section 202(j)(1) of the Social Security Act is amended by striking out "twelfth" and inserting in lieu thereof "third".

(b) The amendment made by subsection (a) shall be effective with respect to applications filed on or after September 1, 1980.

BENEFITS FOR CERTAIN PRISONERS

SEC. 543. (a)(1) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission of a crime by an individual (committed after the date of the enactment of this paragraph) for which such individual is subsequently convicted, or which is aggravated in connection with such a crime (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

"(B) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an offense (committed after the date of the enactment of this paragraph) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.".

(2) The third sentence of section 216(i)(1) of such Act is amended by striking out "and (5)" and inserting in lieu thereof "(5), and (6)".

(b) Section 202(d)(7)(A) of such Act is amended by adding at the end thereof the following: "An individual shall not be considered a 'full-time student' for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.".

(c) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"SUSPENSION OF BENEFITS FOR INMATES OF INSTITUTIONS

"(f)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 202(d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.".

(d) The amendments made by this section shall be effective with respect to benefits payable for months beginning on or after October 1, 1980.

PART F—PROVISIONS RELATING TO MEDICARE AND MEDICAID

CRITERIA FOR DETERMINING REASONABLE COST OF HOSPITAL SERVICES

SEC. 551. (a)(1) The first sentence of section 1861(v)(1)(A) of the Social Security Act is amended by striking out "The" and inserting "Subject to subsection (bb), the".

(2) Section 1861(v) of such Act is further amended by adding at the end thereof the following new paragraph:

"(8) For additional requirements applicable to determination of reasonable cost, see subsection (bb) and section 1128(c)(3).".

(b) Section 1861 of such Act is amended by adding after subsection (aa) the following new subsection:

"Criteria for Determining Reasonable Cost of Hospital Services

"(bb)(1) It is the purpose of this subsection to set forth initial methods and criteria for determining reimbursement based upon reasonable cost, but such methods and criteria shall be subject to appropriate modification by the Secretary as provided in section 1128. In order more fairly and effectively to determine reasonable costs incurred in providing hospital services, the Secretary shall, not later than September 1, 1980, after consulting with appropriate national organizations, establish a system of hospital classification under which hospitals furnishing services will be classified on a national basis initially—

"(A) by size, with each of the following groups of hospitals being classified in separate categories: (i) those having more than 5, but fewer than 25, beds, (ii) those having more than 24, but fewer than 50, beds, (iii) those having more than 49, but fewer than 100, beds, (iv) those having more than 99, but fewer than 200, beds, (v) those having more than 199, but fewer than 300, beds, (vi) those having more than 299, but fewer than 400, beds, (vii) those having more than 399, but fewer than 500, beds, and (viii) those having more than 499 beds;

"(B) by type of hospital, with (i) short-term general hospitals being in a separate category, (ii) hospitals which are primary affiliates of accredited medical schools being in one separate category, and (iii) psychiatric, geriatric, maternity, pediatric, or other specialty hospitals being in the same or separate categories, as the Secretary may determine appropriate, in light of any differences in specialty which significantly affect the routine costs of the different types of hospitals;

"(C) as rural or urban; and

"(D) according to such other criteria as the Secretary finds appropriate, including modification of bed-size categories;

but the system of hospital classification shall not differentiate between hospitals on the basis of ownership.

"(2) The term 'routine operating costs' used in this subsection does not include—

"(A) capital and related costs,

"(B) direct personnel and supply costs of approved hospital education and training programs,

"(C) costs of interns, residents, and non-administrative physicians,

"(D) energy costs,

"(E) malpractice insurance expense, or

"(F) ancillary service costs.

"(3)(A) During the calendar quarter beginning on January 1 of each year, beginning with 1981 (and in the case of 1980, as soon as possible), the Secretary shall determine, for the hospitals in each category of the system established under paragraph (1), an average per diem routine operating cost amount which shall (except as otherwise provided in this subsection) be used in determining payments to hospitals.

"(B) The determination shall be based upon the amount of the hospital's routine operating costs for the most recent accounting year ending prior to October 1 of the calendar year preceding the calendar year in which the determination is made. If, for any accounting year which starts on or after July 1, 1980, a hospital's actual routine operating costs are in excess of the amount allowed for purposes of determining payment to the hospital pursuant to this subsection and subsection (v), only one-half of such excess shall be taken into account in making any determination which the Secretary shall make under this paragraph. Such amount as determined under the preceding sentences of this subparagraph shall be adjusted to reflect the percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the accounting year referred to in the first sentence of this subparagraph to the end of the quarter in which the determination is being made.

"(C) In making a determination, the routine operating costs of hospitals in each category shall be divided into personnel and nonpersonnel components.

"(D)(i) The personnel and nonpersonnel components of routine operating costs for hospitals in each category (other than for those excluded under clause (ii) shall be divided by the total number of days of routine care provided by such hospitals to determine the average per diem routine operating cost for such category.

"(ii) In making the calculations required by subparagraph (A) the Secretary shall exclude any newly opened hospital (as defined in the second sentence of paragraph (4)(F)), and any hospital which he determines is experiencing significant cost differentials resulting from failure of the hospital fully to meet the standards and conditions of participation as a provider of services.

"(E) There shall be determined for each hospital in each category a per diem target rate for routine operating costs. Such target rate shall equal the average per diem routine operating cost amount for the category in which the hospital is expected to be classified during the subsequent accounting year, except that the personnel component shall be adjusted using a wage index based upon general wage levels for reasonably comparable work in the areas in which the hospitals are located. If the Secretary finds that, in an area where a hospital in any category is located for the most recent twelve-month period for which data with respect to such wage levels are available, the wage level for such hospital is significantly higher than such general wage level in that area (relative to the relationship within the same hospital group between hospital wages and such general wages in other areas), then such general wage level in the area shall be deemed equal to the wage level for such hospital, but only with respect to the hospital's first accounting year beginning on or after July 1, 1980 and prior to July 1, 1981.

"(4)(A)(i) The term 'adjusted per diem target rate for routine operating costs' means the per diem target rate for routine operating costs plus the percentage increase in costs determined under the succeeding provisions of this subparagraph.

"(ii) In determining the adjusted per diem target rate, the Secretary shall add an estimated percentage increase in the cost of the mix of goods and services (including personnel and nonpersonnel costs) comprising routine operating costs, based on an index composed of appropriately weighted indicators of changes in the economy in wages and prices which are representative of services and goods included in routine operating costs, during the period from the end of the quarter in which the determination is made under paragraph (3)(A) to the end of the hospital's accounting year. Where actual changes in such weighted index are significantly different (at least one-half of 1 percentage point) from those estimated, the Secretary shall issue corrected target rates on a quarterly basis. At the end of the hospital's accounting year, the target rate shall be adjusted to reflect the actual changes in such weighted index. Adjustments shall also be made to take account of changes in the hospital's classification.

"(B) For purposes of payment, the amount of routine operating cost incurred by a hospital for any accounting year which begins on or after July 1, 1980, shall be deemed to be equal—

"(i) in the case of a hospital which has actual routine operating costs equal to or greater than that hospital's adjusted per diem target rate for routine operating costs, to the greater of—

"(I) the hospital's actual routine operating costs, but not exceeding—

"(a) in the case of the first accounting year of any hospital which begins on or after July 1, 1980, and prior to July 1, 1981, an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs, plus (2) 15 percent of the amount described in clause (1), plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2),

"(b) in the case of the first accounting year of any hospital which begins on or after July 1, 1981, and prior to July 1, 1982 (or if earlier, the second accounting year of such hospital which begins on or after July 1, 1980, and prior to July 1, 1982), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (a)(2) for the category of such hospital, plus (3) one-half of the difference between the hospital's actual routine operating costs and the sum of the amounts determined under clauses (1) and (2), and

"(c) in the case of any accounting year after the accounting year described in clause (b), an amount equal to the aggregate of (1) 100 percent of the hospital's adjusted per diem target rate for routine operating costs for such year, plus (2) a dollar amount equal to the dollar amount determined under clause (b)(2) for the category of such hospital, or

"(II) the amounts determined for the hospital under division (I) if it had been classified in the bed-size category which contains hospitals closest in bed-size to such hospital's bed-size (with a hospital which has a bed-size that falls halfway between two such categories being considered in the category which contains hospitals with the greater number of beds), but not exceeding the hospital's actual routine operating costs; or

"(III) in the case of a hospital having an average length-of-stay per patient which is less than the average length-of-stay per patient for hospitals classified in the same category, for any accounting year, an amount equal to the average reimbursement for routine operating costs per patient stay for hospitals in the same category, multiplied by the number of patient stays for such hospital during that accounting year, but not exceeding the actual routine operating costs for such hospital; and

"(ii) in the case of a hospital which has actual routine operating costs which are less than that hospital's adjusted per diem target rate for routine operating costs, to (I) the amount of the hospital's actual routine operating costs, plus (II) the smaller of (a) 5 percent (or 2.5 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the hospital's adjusted per diem target rate for routine operating costs, or (b) 50 percent (or 25 percent with respect to any accounting year which begins on or after July 1, 1980, and prior to July 1, 1982) of the amount by which the hospital's adjusted per diem target rate for routine operating costs exceeds the hospital's actual routine operating costs.

"(C) Any hospital (other than a newly opened hospital) excluded by the Secretary under paragraph (3)(D)(ii), shall be reimbursed for routine operating costs on the basis of the lesser of (i) actual costs or (ii) the reimbursement determined under this subsection.

"(D) On or before April 1 (or in the case of 1980, as soon as possible) of the year in which the Secretary determines the amount of the average per diem operating cost for each hospital category and the adjusted per diem target rate for each hospital, the Secretary shall publish the determinations, and he shall notify the hospital administrator and the administrative governing body of each hospital with respect to all aspects of the determination which affect the hospital.

"(E) If a hospital is determined by the Secretary to be—

"(i) located in an underserved area where hospital services are not otherwise available,

"(ii) certified as being currently necessary by an appropriate planning agency, and

"(iii) underutilized,

the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the underutilized capacity.

"(F) If a newly opened hospital is determined by the Secretary to have greater routine operating costs as a result of the cost patterns associated with newly opened hospitals, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such patterns. For purposes of this subparagraph a 'newly opened hospital' means a hospital which has not satisfied the requirements of paragraphs (1) and (7) of subsection (e) of this section (under present or previous ownership) for at least twenty-four months prior to the start of such hospital's accounting year.

"(G) If a hospital is determined by the Secretary to have greater routine operating costs as a result of changes in service on account of consolidation, sharing, or addition of services, where such consolidation, sharing, or addition has been approved by the appropriate State health planning and development agency or agencies, the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to such changes in service.

"(H)(i) If a hospital satisfactorily demonstrates to the Secretary that, in the aggregate, its patients require a substantially greater intensity of care than generally is provided by the other hospitals in the same category, resulting in unusually greater routine operating costs, then the adjusted per diem target rate shall not apply to that portion of the hospital's routine operating costs attributable to the greater intensity of care required.

"(ii) To the extent that a hospital can demonstrate that it experiences routine operating costs in excess of such costs for hospitals having a reasonably similar mix of patients on account of consistently shorter lengths-of-stay in such hospital, which result from the greater intensity of care provided by such hospital, the excess routine operating costs shall be considered attributable to the greater intensity of care required, but this clause shall not apply in the case of a hospital whose routine operating costs are determined under subparagraph (B)(i)(III).

"(I) The Secretary may further increase the adjusted per diem target rate applicable in Alaska and Hawaii to reflect the higher prices prevailing in such States.

"(J) Where the Secretary finds that a hospital has manipulated its patient mix, or patient flow, or provides less than the normal range and extent of patient services, or that an unusually large proportion of routine nursing service is provided by private-duty nurses, the routine operating costs of that hospital shall be deemed equal to the lesser of (i) the amount determined without regard to this subsection, or (ii) the amount determined under subparagraph (B).

"(5) Where any provisions of this subsection are inconsistent with subsection (v), this subsection supersedes subsection (v).

"(6)(A) Notwithstanding any other provision of this Act, in the case of any State which has established a reimbursement system for hospitals, hospital reimbursement in that State under this title and under the State plan approved under title XIX shall, with respect to the services covered by such system, be based on that State system, if the Secretary finds that—

"(i) the State has a reimbursement system and it at least applies to the same hospitals in the State, and to the same costs, as the Federal reimbursement reform program established by this subsection;

"(ii) every hospital in the State with which there is a provider agreement under this title or under the State plan approved under title XIX conforms to the accounting and uniform reporting requirements of section 1121 of this Act, and furnishes any appropriate reports that the Secretary may require; and

"(iii) such State demonstrates to his satisfaction that the total amount payable, with respect to inpatient hospital costs, in the State under this title and under the State plan approved under title XIX will be equal to or less than an amount equal to (I) the amount which would otherwise be payable for such costs under this title and such State plan without regard to the incentive payments provided by subparagraph (B) (ii) of paragraph (4), plus (II) the amount of any incentive payments which would be allowed under paragraph (4)(B)(ii).

If the Secretary finds that any of the above conditions in a State which previously met them have not been met for a two-year period, the Secretary shall, after due notice, reimburse hospitals in that State according to the provisions of this Act (other than this paragraph) unless he finds that unusual, justifiable, and nonrecurring circumstances led to the failure to comply.

"(B) If the Secretary finds that, during any two-year period during which hospital reimbursement under this title and under the State plan approved under title XIX was based on a State system as provided in subparagraph (A), the amount payable by the Federal Government under such titles for inpatient hospital costs in such State was in excess of the amount which would have been payable for such costs in such State if reimbursement had not been based on the State system (as estimated by the Secretary), the adjusted per diem target rate for routine operating costs (as determined under the preceding paragraphs of this subsection) for hospitals in such State shall be reduced (by not more than 1 percent in any year) until the Federal Government has recouped an amount equal to such excess payment amount.

"(C)(i) The Secretary shall pay to any State in which hospital reimbursement under this title is based on a State system as provided in subparagraph (A), an amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid by the Federal Government under this title in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system.

"(ii) Payments under clause (i) shall be made from funds in the Federal Hospital Insurance Trust Fund.

"(iii) An amount which bears the same ratio to the total cost incurred by such State of administering the approved State system (including the cost of initially putting the system into operation) as the amount paid under the State plan approved under title XIX in such State for inpatient hospital costs bears to the total amount of inpatient hospital costs in such State which are subject to the State system, shall, for purposes of title XIX, be considered to be an amount expended for the administration of such State plan.

"(D) If there is in effect in a State a reimbursement system for hospitals which the Secretary finds meets the criteria prescribed in subparagraph (A) except that such system was not established by the State, at the election of the State, such system shall for purposes of tihs paragraph be considered to be a reimbursement system for hospitals established by such State.".

(c) Part A of title XI of the Social Security Act is amended by adding after section 1127 the following new section:

"HEALTH FACILITIES COSTS COMMISSION

"SEC. 1128. (a) There is established a Commission to be known as the Health Facilities Costs Commission (hereinafter in this section referred to as the 'Commission').

"(b)(1) The Commission shall be composed of fifteen members appointed by the Secretary—

"(A) at least five of whom shall be individuals who are representatives of providers;

"(B) at least five of whom shall be individuals who represent public (including Federal, State, and local) health benefit programs; and

"(C) the remainder of whom shall be, as a result of training, experience, or attainments, particularly and exceptionally well qualified to assist in serving and carrying out the functions of the Commission.

One of the members of the Commission, at the time of appointment, shall be designated as Chairman of the Commission. The Secretary shall first appoint members to the Commission not later than October 1, 1980.

"(2) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(4) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

"(5) Members of the Commission shall be appointed for a term of four years, except that that Secretary shall provide for such shorter terms for some of the members first appointed so as to stagger the date of expiration of members' terms of office.

"(6) No individual may be appointed to serve more than two terms as a member of the Commission.

"(7) Each member of the Commission shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, and all members of the Commission shall be allowed, while away from their homes or regular places of business in the performance of service for the Commission, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(8) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

"(c)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of the reimbursement of hospitals for care provided by them to individuals covered under title XVIII or under State plans approved under title XIX, with particular attention to the criteria established by section 1861(bb) with a view to devising additional methods for reimbursing hospitals for all other costs, and for reimbursing all other entities which are reimbursed on the basis of reasonable cost. These methods shall provide for appropriate classification and reimbursement systems designed to ordinarily permit comparisons of (A) the cost centers of one entity, either individually or in the aggregate, with cost centers similar in terms of size and scale of operation, (B) prevailing wage levels, (C) the nature, extent, and appropriate volume of the services furnished, and (D) other factors which have a substantial impact on hospital costs. The Commission shall also develop procedures for appropriate exceptions. The Commission shall submit to the Congress reports on its progress in addressing these issues at least once every six months during the three-year period following the date of the enactment of this section.

"(2) The Commission shall study appropriate methods for classifying and comparing hospitals which, with respect to any accounting year, derive 75 percent or more (as estimated by the Secretary) of their inpatient care revenues from one or more health maintenance organizations. The Commission shall consider recommending the classification and comparison of such hospitals as a separate category in recognition of the differences in the nature of their operations as compared with other hospitals.

"(3)(A) The Secretary, taking account of the proposals and advice of the Commission, shall by regulation make appropriate modifications in the method of reimbursement under titles V, XVIII, and XIX for routine hospital costs, other hospital costs, and costs of other entities which are reimbursed on the basis of reasonable costs.

"(B) In any case in which the Secretary proposes to make such modifications, he shall first submit such proposal to the Commission. If the Commission disagrees with such proposal, final regulations implementing such proposal shall be submitted to Congress by the Secretary, and such regulations may not become effective until at least 60 days after they were submitted to Congress.

"(d) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Commission may need.

"(e) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section.

"(g) Section 14 of the Federal Advisory Committee Act shall not apply to the Commission.".

(d)(1) Section 1866(a)(1) of the Social Security Act is amended—

(A) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) not to increase amounts due from any individual, organization, or agency in order to offset reductions made under section 1861(bb) in the amount paid, or expected to be paid, under this title.".

(2) Section 1902(a)(27) of the Social Security Act is amended by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end of clause (B) the following: ", and (C) not to increase amounts due from any individual, organization, or agency in order to offset reductions made pursuant to the requirements contained in section 1902(a)(13)(D) in the amount paid, or expected to be paid under the State plan".

(e) Section 1902(a)(13)(D) of the Social Security Act is amended to read as follows:

"(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, applying the methods specified in section 1861(v) and section 1861(bb), which are consistent with section 1122; and".

PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

SEC. 552. (a) Part A of title XI of the Social Security Act is amended by adding after section 1128 (as added by section 551 of this Act) the following new section:

"PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED FACILITIES

"SEC. 1129. (a)(1)(A) Before the end of the third full month following the month in which this section is enacted, the Secretary shall establish a Hospital Transitional Allowance Board (hereinafter in this section referred to as the Board'). The Board shall have five members, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who are knowledgeable about hospital planning and hospital operations.

"(B) Members of the Board shall be appointed for three-year terms, except some initial members shall be appointed for shorter terms to permit staggered terms of office.

"(C) Members of the Board shall be entitled to per diem compensation at rates fixed by the Secretary, but not more than the current per diem equivalent at the time the service involved is rendered for grade GS-18 under section 5332 of title 5, United States Code.

"(D) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Board may need.

"(2) The Board shall receive and act upon applications by hospitals, certified for participation (other than as 'emergency hospitals') under titles XVIII and XIX, for transitional allowances.

"(b) For purposes of this section—

"(1) The term 'transitional allowance' means an amount which—

"(A) shall, solely by reason of this section, be included in a hospital's reasonable cost for purposes of calculating payments under the programs authorized by titles V, XVIII, and XIX of this Act; and

"(B) in accordance with this section, is established by the Secretary for a hospital in recognition of a reimbursement detriment (as defined in paragraph (3)) experienced because of a qualified facility conversion (as defined in paragraph (2)).

"(2) The term 'qualified facility conversion' means closing, modifying, or changing the usage of an underutilized hospital facility which is expected to benefit the programs authorized under title V, title XVIII, and title XIX by (A) eliminating excess bed capacity, (B) discontinuing an underutilized service for which there are adequate alternative sources, or (C) substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an approprate health planning agency.

"(3) A hospital which has carried out a qualified facility conversion and which continues in operation will be regarded as having experienced a 'reimbursement detriment'—

"(A) to the extent that, solely because of the conversion, there is a reduction in that portion of the hospital's cost attributable to capital assets which are taken into account in determining reasonable cost for purposes of determining amount of payment to the hospital under title V, title XVIII, or a State plan approved under title XIX;

"(B) if the conversion results, on an interim basis, in increased operating costs, to the extent that operating costs exceed amounts ordinarily reimbursable under title V, title XVIII, and the State plan approved under title XIX; or

"(C) in the case of complete closure of a private nonprofit hospital, or local governmental hospital, other than for replacement of the hospital, to the extent of actual debt obligations previously recognized as reasonable for reimbursement, where the debt remains outstanding, less any salvage value.

"(c)(1) Any hospital may file an application with the Board (in such form and including such data and information as the Board, with the approval of the Secretary, may require) for a transitional allowance with respect to any qualified conversion which is formally initiated after September 30, 1980. The Board, with the approval of the Secretary, may also establish procedures, consistent with this section, by means of which a finding of a reimbursement detriment may be made prior to the actual conversion.

"(2) The Board shall consider any application filed by a hospital, and if the Board finds that—

"(A) the facility conversion is a qualified facility conversion, and

"(B) the hospital is experiencing or will experience a reimbursement detriment because it carried out the qualified facility conversion,

the Board shall transmit to the Secretary its recommendation that the Secretary establish a transitional allowance for the hospital in amounts reasonably related to prior or prospective use of the facility under titles V and XVIII and the State plan approved under title XIX, for a period, not to exceed twenty years as specified by the Board, and, if the Board finds that the criteria in subparagraphs (A) and (B) are not met, it shall advise the Secretary not to establish a transitional allowance for that hospital. For an approved closure under subsection (b)(3)(C) the Board may recommend or the Secretary may approve, a lump-sum payment in lieu of periodic allowances, which such payment would constitute a more efficient and economic alternative.

"(3)(A) The Board shall notify a hospital of its findings and recommendations.

"(B) A hospital dissatisfied with a recommendation may obtain an informal or formal hearing, at the discretion of the Secretary by filing (in the form and within a time period established by the Secretary) a request for a hearing.

"(4)(A) Within thirty days after receiving a recommendation from the Board respecting a transitional allowance or, if later, within thirty days after a hearing, the Secretary shall make a final determination whether, and if so in what amount and for what period of time, a transitional allowance will be granted to a hospital. A final determination of the Secretary shall not be subject to judicial review.

"(B) The Secretary shall notify a hospital and any other appropriate parties of the determination.

"(C) Any transitional allowance shall take effect on a date prescribed by the Secretary, but not earlier than the date of completion of the qualified facility conversion. A transitional allowance shall be included as an allowable cost item in determining the reasonable cost incurred by the hospital in providing services for which payment is authorized under this Act, except that the transitional allowance shall not be considered in applying limits to costs recognized as reasonable pursuant to the third sentence of section 1861(v)(1) and section 1861(bb) of this Act, or in determining the amount to be paid to a provider pursuant to section 1814(b), section 1833(a)(2), section 1903(i)(3), and section 506(f)(3) of this Act.

"(d) In determining the reasonable cost incurred by a hospital with respect to which payment is authorized under a State plan approved under title V or title XIX, any transitional allowance shall be included as an allowable cost item.

"(e)(1) The Secretary is authorized to establish transitional allowances only as provided in paragraphs (2) and (3).

"(2) Prior to January 1, 1983, the Secretary is authorized to establish a transitional allowance for not more than fifty hospitals.

"(3) On and after January 1, 1983, the Secretary is authorized to establish a transitional allowance for any hospital which qualifies for such an allowance under the provisions of this section.

"(4) On or before January 1, 1982, the Secretary shall report to the Congress evaluating the effectiveness of the program established under this section including appropriate recommendations.".

(b) The amendments made by subsection (a) shall apply only to services furnished by a hospital during any accounting year beginning on or after October 1, 1980.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 553. (a) Title XI of the Social Security Act is amended by inserting after section 1129 (as added by section 552 of this Act) the following new section:

"COORDINATED AUDITS

"SEC. 1130. If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall apportion to the program established under title V or XIX that part of the cost of coordinated audits which is attributable to each such program and which would not have otherwise been incurred in an audit of the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be the amount that represents the duplication of costs resulting from such State's failure to participate in the common audit.".

(b) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such title, and (C) for payment of the portion of the costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(c) Section 505(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under part A of title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of the portion of costs of each such common audit of such an entity equal to the portion of the cost of the common audit which is attributable to the program established under this title and which would not have otherwise been incurred in an audit of the program established under title XVIII.".

(d)(1) The amendments made by subsections (b) and (c) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title V or title XIX of the Social Security Act, on or after the first day of the first calendar quarter which begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan under title V or title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b) or (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the State legislature which begins after the date of enactment of this Act.

(e) The Secretary shall report to Congress, not later than March 31, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

APPORTIONMENT OF PROVIDER COSTS

SEC. 554. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(G) No payment with respect to a cost attributable to the program established by this title shall be made to a provider of services to the extent that such payment exceeds the proportional share of such cost, as measured by days of utilization or provider charges, until such time as evidence can be produced which, in the judgment of the Comptroller General and concurred in by the Secretary, justifies payment of such a higher proportional share as warranted under particular circumstances for certain facilities, and such payments may then be made only to the extent so justified.".

(b)(1) The amendment made by this section shall be effective with respect to costs attributable to services provided on or after April 1, 1981.

(2) The Comptroller General shall undertake a study to determine those providers (classified, as appropriate, on the basis of type, size, location, patient characteristics, average length of stay, types of nursing services, or other relevant criteria) for which payment of any differential is justified under section 1861(v)(1)(G) of the Social Security Act, and the extent to which such payments are justified. The Comptroller General shall submit the results of such study to the Secretary of Health and Human Services prior to April 1, 1981, and the Secretary shall issue regulations with respect to such payments prior to October 1, 1981.

(3) In the case of any provider with respect to which it is determined under the regulations issued under paragraph (2) that such payments are justified, reimbursement to such provider shall include such payments, and retroactive reimbursement of such payments shall be made, after October 1, 1981, for services provided on or after April 1, 1981 and before October 1, 1981.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

SEC. 555. (a)(1) Section 1158 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) If, for purposes of payment under a title of this Act as described in subsection (a), the Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services provided by a hospital to an individual on the grounds that such individual could receive appropriate and necessary medical, nursing, or other care more economically in an inpatient facility of another type or home care program, and such organization finds that—

"(A) payment is authorized to be made under or pursuant to such title of this Act (as described in subsection (a)) with respect to services furnished to such individual in such other type of facility or home care program; and

"(B) there is no such other type of facility or home care program available to such individual,

then payment, from funds described in subsection (a), to such hospital may continue to be made (but at a rate determined under paragraph (2)) for days (in a continuous period of days which begins with the day following the last day for which payment may be made, with application of subsection (d), for such inpatient hospital services furnished to such individual) with respect to which such individual meets the conditions specified in subparagraphs (A) and (B).

"(2)(A) The rate at which payment may be continued under paragraph (1) shall be a rate equal to the estimated average rate per patient-day paid for services provided in such other type of facility under the State plan approved under title XIX of the State in which such hospital is located, or, if less, the reasonable reimbursement allowed to such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

"(B) In the case of a State that does not have a State plan approved under title XIX, the rate at which payment may be continued under paragraph (1) shall be an amount equal to the estimated average allowable cost per patient-day for services provided in such other type of facility under title XVIII in the State in which such hospital is located, or, if less, the allowable costs in effect for such hospital for services of the type provided in such other type of facility (if such hospital has a unit which provides such other type of services).

"(3) Any day on which an individual receives inpatient hospital services for which payment is made at a lower amount on account of the provisions of this subsection shall, for purposes of this Act, be deemed to be a day on which he received the type of services provided by such other type of facility or home care program.".

(2) Section 1158(a) of such Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsections (d) and (e)".

(3) Section 1158(d) of such Act is amended—

(A) by striking out "In any case" and inserting in lieu thereof "(1) Except as provided in subsection (e) and paragraph (2) of this subsection, in any case"; and

(B) by adding at the end thereof the following new paragraph:

"(2) A Professional Standards Review Organization shall not disapprove (under subsection (a)) of inpatient hospital services provided under a title of this Act to an individual on the grounds that such individual could receive appropriate and necessary medical, nursing, or other care more economically in an inpatient facility or home care program of another type for which payment can be made under such title (but shall maintain and make public a quarterly report to the Secretary by hospital and area as to the number of cases and hospital days which, except for this paragraph, would have otherwise been disapproved) if—

"(A) there is no excess of inpatient hospital beds (adjusting for patients occupying hospital beds who do not need that level of care) in the geographic area in which the hospital is located (as certified by the State or local health planning agency or health systems agency); and

"(B) there is no such other type of facility or home care program reasonably available to such individual to provide appropriate care for which payment can be made under such title.".

(b)(1) Section 1812(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) detoxification facility services.".

(2) Section 1814(a)(2) of such Act is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by inserting "or" at the end of subparagraph (E); and

(C) by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initiation of detoxification);"

(3) Section 1861(u) of such Act is amended by inserting "detoxification facility," after "home health agency,".

(4) Section 1861 of such Act is amended by adding after subsection (bb) (as added by section 551 of this Act) the following new subsection:

"Detoxification Facility Services

"(cc)(1) The term 'detoxification facility services' means services provided by a detoxification facility in order to reduce or eliminate the amount of a toxic agent in the body, but only to the extent that such services would be covered under subsection (b) if furnished as an inpatient service by a hospital, or are physician services covered under subsection (s).

"(2) The term 'detoxification facility' means a public or voluntary community-based nonprofit facility, other than a hospital, which—

"(A) is engaged in furnishing to inpatients the services described in paragraph (1);

"(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

"(C) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

"(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.".

(c) The amendments made by the preceding provisions of this section shall become effective on October 1, 1980.

(d) The Secretary of Health and Human Services shall conduct a study and make recommendations, within 18 months after the date of the enactment of this Act, concerning the appropriateness of extending coverage to postdetoxification rehabilitation and to outpatient detoxification.

(e) Section 128(c) of the Social Security Act (as added by section 551 of this Act) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission shall review and make recommendations with respect to a method of classifying and comparing detoxification facilities so as to provide that such method may be used for reimbursement purposes for such facilities within two years after the date of the enactment of this section.".

(f) Section 1155 of such Act is amended by adding at the end thereof the following new subsection:

"(h) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.".

PSRO REVIEW OF HOSPITAL ADMISSIONS, ROUTINE TESTING, AND PREOPERATIVE STAYS

SEC. 556. Section 1155(a)(1) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence: "In carrying out the provisions of this paragraph such organization shall give priority to making such determinations with respect to routine hospital admission testing, preoperative hospital stays in excess of one day, and elective admissions on weekends or other times when services are not available.".

CERTAIN SURGICAL PROCEDURES PERFORMED ON AN AMBULATORY BASIS

SEC. 557. Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS RELATING TO CERTAIN SURGICAL AND PREOPERATIVE PROCEDURES PERFORMED ON AN AMBULATORY BASIS

"SEC. 1845. (a) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those surgical procedures which can be safely and appropriately performed either in a hospital on an inpatient basis or on an ambulatory basis—

"(1) in a physician's office; or

"(2) in an ambulatory surgical center or hospital.

"(b)(1) If a physician performs in his office a surgical procedure specified by the Secretary pursuant to subsection (a)(1) on an individual insured for benefits under this part, he shall, notwithstanding any other provision of this part, be entitled to have payment made under this part equal to—

"(A) 100 percent of the reasonable charge for the services involved with the performance of such procedure (including all pre- and postoperative physicians' services performed in connection therewith), plus

"(B) the amount established by the Secretary pursuant to paragraph (2),

but only if the physician agrees with such individual to be paid on the basis of an assignment under the terms of which the reasonable charge for such services is the full charge therefor.

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(1), an amount established with a view to according recognition to the special costs, in excess of usual overhead, which physicians incur which are attributable to securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and to assuring that the performance of such procedure in the physician's office will involve substantially less total cost than would be involved if the procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure periodically shall be reviewed and revised and may be adjusted, when appropriate, by the Secretary to take account of varying conditions in different areas.

"(c)(1) Payment under this part may be made to an ambulatory surgical center for ambulatory facility services furnished in connection with any surgical procedure, specified by the Secretary pursuant to subsection (a)(2), which is performed on an individual insured for benefits under this part in an ambulatory surgical center, which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, if such surgical center agrees to accept, in full payment of all services furnished by it in connection with such procedure, the amount established for such procedure pursuant to paragraph (2).

"(2) The Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2), a reimbursement amount which is payable to an ambulatory surgical center for its services furnished in connection with such procedure. The amount established for any such surgical procedure shall be established with a view to according recognition to the costs incurred by such centers generally in providing the services involved in connection with such procedures, and to assuring that the performance of such procedure in such a center involves less cost than would be involved if such procedure were performed on an inpatient basis in a hospital. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) If the physician, performing a surgical procedure (specified by the Secretary under subsection (a)(2)), in a hospital on an outpatient basis or in an ambulatory surgical center with respect to which payment is authorized under the preceding provisions of this subsection, or a physician performing physicians' services in such center or hospital directly related to such surgical procedure, agrees to accept as full payment for all services performed by him in connection with such procedure (including pre- and postoperative services) an amount equal to 100 percent of the reasonable charge for such services, he shall be paid under this part for such services an amount equal to 100 percent of the reasonable charge for such services.

"(d)(1) The Secretary is authorized by regulations to provide that in case a surgical procedure specified by the Secretary pursuant to subsection (a)(2) is performed on an individual insured for benefits under this part in an ambulatory surgical center which meets such health, safety, and other standards as the Secretary shall by regulations prescribe, there shall be paid with respect to the services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to paragraph (2), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(2) In implementing this subsection, the Secretary shall establish with respect to each surgical procedure specified pursuant to subsection (a)(2) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall periodically be reviewed and revised and may be adjusted, when appropriate, to take account of varying conditions in different areas.

"(e)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify those preoperative medical and other health services which can be safely and appropriately performed in a hospital on both an inpatient and outpatient basis.

"(2) If a physician, performing a preoperative service (specified by the Secretary under paragraph (1)) in a hospital on an outpatient basis, within seven days prior to admission on an inpatient basis for the surgery to which such service relates, agrees to accept as full payment for such service an amount equal to 100 percent of the reasonable charge for such service, he shall be paid under this part for such service an amount equal to 100 percent of the reasonable charge for such service.

"(f) The provisions of section 1833 (a) and (b) shall not be applicable to expenses attributable to services to which subsection (b) is applicable, to ambulatory facility services (furnished by an ambulatory surgical center) to which the provisions of subsections (c) (1) and (2) are applicable, or to services to which the provisions of subsection (c)(3), (d), or (e) are applicable.".

CRITERIA FOR DETERMINING REASONABLE CHARGE FOR PHYSICIANS' SERVICES

SEC. 558. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6);

(2) by striking out so much of paragraph (3) as follows the first sentence; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the reasonable charge for services for purposes of paragraph (3) (including the services of any hospital-associated physicians), there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

"(B)(i) Except as otherwise provided in clause (iii), no charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (I) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (II) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made.

"(ii) In the case of physician services, the prevailing charge level determined for purposes of clause (i)(II) for any fiscal year beginning after June 30, 1973, may not (except as otherwise provided in clause (iii)) exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. Moreover, for any twelve-month period beginning on

July 1 of any year (beginning with 1980), no prevailing charge level for physicians' services shall be increased to the extent that it would exceed by more than one-third the statewide prevailing charge level (as determined under subparagraph (E)) for that service.

"(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such clauses for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

"(C) In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under circumstances specified by the Secretary. With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality.

"(D) The requirement in paragraph (3)(B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health and Human Services performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected.

"(E) The Secretary shall determine separate statewide prevailing charge levels for each state that, as the basis of statistical data and methodology acceptable to the Secretary, would cover 50 percent of the customary charges made for similar services in the State during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In States with more than one carrier, the statewide prevailing charge level shall be the weighted average of the fiftieth percentiles of the customary charges of each carrier.

"(F) Notwithstanding any other provision of this paragraph, any charge for any particular service or procedure performed by a doctor of medicine or osteopathy shall be regarded as a reasonable charge if—

"(i) the service or procedure is performed in an area which the Secretary has designated as a physician shortage area,

"(ii) the physician has a regular practice in the physician shortage area,

"(iii) the charge does not exceed the prevailing charge level as determined under subparagraph (B), and

"(iv) the charge does not exceed the amount generally charged by such physician for similar services.".

(b) Sections 506(f)(1) and 1903(i)(1) of the Social Security Act are each amended by striking out "the fourth and fifth sentences of section 1842(b)(3)" and inserting in lieu thereof in each instance "subparagraphs (B)(ii), (B)(iii), (C), and (F) of section 1842(b)(4)".

(c) The amendments made by this section shall become effective on July 1, 1980.

PROCEDURES FOR DETERMINING REASONABLE COST AND REASONABLE CHARGE

SEC. 559. (a) Part A of title XI of the Social Security Act is amended by adding after section 1133 the following new section:

"EXCLUSION OF CERTAIN ITEMS IN DETERMINING REASONABLE COST AND REASONABLE CHARGE

"SEC. 1134. (a) Except as otherwise provided in subsection (b), in determining the amount of any payment under title XVIII, under a program established under title V, or under a State plan approved under title XIX of this Act, when the payment is based upon the reasonable cost or reasonable charge, no element comprising any part of the cost or charge shall be considered to be reasonable if, and to the extent that, such element is—

"(1) a commission, finder's fee, or for a similar arrangement, or

"(2) an amount payable for any facility (or part or activity thereof) under any rental or lease arrangement, which is, directly or indirectly, determined, wholly or in part as a percentage, fraction, or portion of the charge or cost attributed to any health service (other than the element) or any health service including, but not limited to, the element.

"(b)(1) The Secretary shall by regulations establish exceptions to the provisions of subsection (a) with respect to any element of cost or charge which consists of payments based on a percentage arrangement, if such element is otherwise reasonable and the percentage arrangement—

"(A) is a customary commercial business practice, or

"(B) provides incentives for the efficient and economical operation of the health service.

"(2) The provisions of subsection (a) shall not be applicable to compensation payable to a physician under a percentage arrangement (including an arrangement that relates to compensation for supervisory, executive, educational, or research activity) between a physician and a hospital if the physician shows (to the satisfaction of the Secretary) that compensation under such arrangement does not exceed, on an annual basis, an amount which would reasonably have been paid to the physician under a relative value schedule which takes into consideration such physician's time and effort, consistent with the inherent complexity of the procedures and services.".

(b) Section 506 of such Act is amended by adding at the end thereof the following new subsection:

"(h) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(c) Section 1842(b)(4) of such Act (as amended by section 558 of this Act) is further amended by adding at the end thereof the following new subparagraph:

"(G) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(d) Section 1861(v) of such Act is amended by adding after paragraph (8) (as added by section 551 of this Act) the following new paragraph:

"(9) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(e) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(r) For additional exclusions from reasonable cost and reasonable charge see section 1134.".

(f) The Secretary of Health and Human Services shall conduct a study of the hospital-based physician compensation and the impact of alternative reimbursement methods on providers, patients, physicians, and third party payors, and shall submit to the Congress a full and complete report thereon, together with recommendations for such legislation as he deems appropriate, within two years after the date of the enactment of this Act.

(g) The amendments made by this section shall become effective on October 1, 1980, except that a percentage arrangement entered into prior to January 1, 1980, shall be recognized for reimbursement purposes under the Social Security Act, subject to the same tests of reasonableness as were prescribed by such Act or regulations thereunder on January 1, 1980, until such time as the facility is able to unilaterally terminate such arrangement, or until December 31, 1981, whichever is earlier.

LIMITATION ON REASONABLE COST AND REASONABLE CHARGE FOR OUTPATIENT SERVICE

SEC. 560. (a) Section 1134 of the Social Security Act (as added by section 559 of this Act) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall issue regulations that provide for the establishment of limitations on the amount of any costs or charges that shall be considered reasonable with respect to services provided on an outpatient basis by hospitals, community health centers, or clinics (other than rural health clinics), which are reimbursed on a cost basis or on the basis of cost related charges, and by physicians utilizing such outpatient facilities. Such limitations shall be based upon the reasonableness of such costs or charges in relation to the reasonable charges of physicians in the same area for similar services provided in their offices.".

(b) Section 1128(c) of the Social Security Act (as added by sections 551 and 555 of this Act) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall give immediate priority to making a study and submitting recommendations to the Secretary with respect to the setting of limitations on reasonable costs and reasonable charges for outpatient services as provided in section 1134(c).".

MEDICARE LIABILITY WHERE PAYMENT CAN BE MADE UNDER LIABILITY INSURANCE

SEC. 561. (a) Section 1862(b) of the Social Security Act is amended—

(1) by inserting before the period at the end of the first sentence the following: ", or under liability insurance of the person at fault, or under no-fault liability insurance";

(2) by inserting before the period at the end of the last sentence ", or under such liability insurance"; and

(3) by adding at the end thereof the following new sentence: "The Secretary may waive the provisions of this subsection with respect to liability insurance if he determines that the probability of recovery or amount involved does not warrant the pursuing of the claim.".

ACCESS TO AND PURCHASE OF MEDICAID SERVICES

SEC. 562. (a) Section 1902(a)(23) of the Social Security Act is amended to read as follows:

"(23) provide that limitations or restrictions elected by a State with respect to choice by recipients of medical assistance provided for by the State—

"(A) may apply only to institutional providers (including clinics), laboratory services, and medical devices;

"(B) must be cost-effective arrangements which provide for reasonable payment based upon comparisons of costs at which services of proper quality may be obtained and are actually available (and for this purpose the plan may provide that such arrangements need not be in effect in all political subdivisions of the State notwithstanding the provisions of paragraph (1)), and must provide that in the case of inpatient hospital services, payment to a hospital shall not be deemed to be reasonable for purposes of paragraph (13)(D) if it is less than the cost that is found reasonable and necessary in the efficient and economical delivery of such needed services in the geographic area in which such hospital is located;

"(C) must assure that such recipients shall have reasonable access to services (taking into account geographic location and reasonable travel-time) for which they are eligible (including emergency services and provision for timely referral and transfer to other providers when medically appropriate) through providers which meet all applicable standards under the State plan and whose services are available to such recipients; and

"(D) must provide that, subject to the provisions of subparagraph (B) there will not be a resulting substantially adverse effect on the access of recipients to qualified hospitals having graduate medical education programs that undertake to provide such care;".

(b) Section 1902(a) of such Act (as amended by section 553 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (41);

(2) by striking out the period at the end of paragraph (42) and inserting "; and"; and

(3) by adding after paragraph (42) the following new paragraph:

"(43) provide that any laboratory services (other than such services provided in a physician's office) paid for under such plan must be provided by a laboratory which meets the requirements of section 1861(e)(9) and paragraphs (10) and (11) of section 1861(s), or, in the case of a rural health clinic, section 1861(aa)(2)(G).".

(c)(1) The amendments made by subsection (b) shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on or after the first day of the calendar quarter that begins more than 30 days after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(3) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SUSPENSION OF PERIODIC INTERIM PAYMENT METHOD OF REIMBURSEMENT

SEC. 563. Effective September 1, 1981, the Secretary of Health and Human Services shall withhold payments to hospitals under title XVIII of the Social Security Act under the periodic interim payment method of reimbursement to the extent necessary to provide that the lag time between the date services are rendered and the date of payment under such method of reimbursement is equal to the lag time in such payments under this title to hospitals not being reimbursed under such method.

WITHHOLDING OF DISPUTED PAYMENTS

SEC. 564. Section 1903(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) In any case in which the Secretary estimates that there has been an overpayment to a State on the basis of a claim by such State that has been disallowed by the Secretary, and such State disputes such disallowance, the amount of the Federal payment in controversy shall not be paid to such State until such time as a final determination has been made with respect to such amount. If such final determination is to the effect that an amount is owed to such State, such amount shall be increased by an amount equal to the amount which would have been paid on the amount otherwise owed, at the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund, during the period beginning on the date that the State disputed such disallowance and ending on the date that payment is made to the State.".

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 565. (a) Section 1902(a)(13)(E) of the Social Security Act is amended to read as follows:

"(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates, determined in accordance with methods and standards developed by the State, which the State finds, and make assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports; and

(b) The provisions made by subsection (a) shall become effective on October 1, 1980.

HOME HEALTH AGENCY REIMBURSEMENT LIMITS

SEC. 566. (a) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (G) (as added by section 554 of this Act) the following new subparagraph:

"(H)(i) Such regulations shall provide that the cost per visit for each of the different types of visits a home health agency provides shall not be considered to be reasonable to the extent that it exceeds an amount that would cover 75 percent of the average per visit costs for such visits (weighted on the basis of the number of visits rendered) incurred by home health agencies which are determined to be comparable by the Secretary.

"(ii) Such regulations shall require that in the case of visits by a skilled nurse or home health aide, the costs incurred by a health agency for such visits shall not be considered reasonable to the extent that the cost of any such visit exceeds the per diem rate paid, in the State where such agency is located, under the State's plan approved under title XIX of this Act for skilled nursing facility services in the area. In making such determination, in the case of a hospital-based home health agency, the comparison shall be made to the per diem rate for hospital-based skilled nursing facilities, and in the case of other home health agencies the comparison shall be made to the per diem rate for nonhospital-based skilled nursing facilities. In the case of a State which does not have a plan approved under title XIX, the per diem rate for skilled nursing facilities under this title shall be used in lieu of the per diem rate under such a State plan.

"(iii) Any supervisory visit which is specifically required by regulation shall be reimbursable as a home health aide visit (but shall not count as a visit for purposes of determining a particular beneficiary's eligibility for visits). Any initial patient assessment visit shall be a reimbursable visit notwithstanding a determination of ineligibility following such visit, if there was a reasonable basis for assuming potential eligibility, such as a referral from a discharge planner, physician, or other source qualified as being knowledgeable with respect to the beneficiary and the program under this title.

"(iv) Such regulations may provide for appropriate exceptions and adjustments on an agency-by-agency basis where warranted by unusual circumstances.".

(b) The amendment made by this section shall become effective on October 1, 1980.

DETERMINATION OF REASONABLE CHARGE

SEC. 567. (a) Section 1842(b)(4)(B)(i) of the Social Security Act (as added by section 558 of this Act) is amended by striking out "fiscal year in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "fiscal year in which the service is rendered".

(b) Section 1842(b)(4)(E) of such Act (as added by section 558 of this Act) is amended by striking out "fiscal year in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "fiscal year in which the service is rendered".

(c) Section 1842(b)(3) of such Act is amended by striking out "and" at the end of subparagraph (D), by adding "and" at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

"(F) will take such action as may be necessary to assure that where payment under this part for a service rendered in a particular month is on a charge basis, such payment shall be determined on the basis of the charge that is determined to be reasonable for such month in accordance with this part (except that in the case of a service which was rendered prior to the beginning of the calendar year preceding the year in which the bill is submitted, or request for payment is made, with respect to such service, payment shall be determined on the basis of the charge that is determined to be reasonable in accordance with this part for the first month of such preceding year;".

(d) The amendments made by this section shall become effective on October 1, 1980.

(e) In any case in which the Secretary of Health and Human Services is required to issue regulations on or before a specified date by reason of any amendment made by this part, the Secretary shall (and is authorized to) waive or modify any requirement of section 553 of title 5, United States Code, to the extent necessary (as determined by the Secretary) in order to issue such regulations in a timely manner.

Part G—Transfer of Funds

SEC. 571. The Secretary of the Treasury shall delay transfer, until on or after October 1, 1981, of $600,000,000 which would otherwise be transferred during September 1981 from the general fund in the Treasury into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund. In delaying such transfer the Secretary shall insure that the funds are withheld from any or all of such trust funds in such amounts so as not to adversely affect the ability of the Secretary of Health and Human Services to make payments out of such trust funds as required under the Social Security Act. The Secretary shall, at the time of such transfer, also transfer to the appropriate trust funds an amount equal to the amount of interest which he estimates would have accrued to such trust funds if the transfer had not been delayed as provided by this section.

TITLE VI—SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ANNUAL COST-OF-LIVING ADJUSTMENT

SEC. 601. Notwithstanding the provisions of section 8340(b) of title 5, United States Code—

(1) any increase in any annuity which would otherwise take effect under such sec-

tion on September 1, 1980, shall not take effect, and

(2) any increase under such section which is to take effect on March 1, 1981, shall be based on the percent change in the price index published for December 1980 over the price index published for December 1979.

SEC. 602. The provisions of this title shall take effect on the date of enactment of this Act.

SEC. 601. Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) The Office shall on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for December of the second preceding year.

"(2) Except as provided in subsection (c)(1), if in any year the percent change determined under paragraph (1) of this subsection indicates a rise in the price index, then, effective March 1 of such year, each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under paragraph (1) of this subsection, adjusted to the nearest 1/10 of 1 percent.".

PRORATION OF FIRST INCREASE

SEC. 602. Section 8340(c)(1) of title 5, United States Code, is amended to read as follows:

"(1) The first increase made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, shall be a percentage (adjusted to the nearest 1/10 or 1 percent) equal to the product of—

"(A) 1/12 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of full months the annuity was payable from the Fund prior to the effective date of the increase.".

EFFECTIVE DATE

SEC. 603. The amendments made by this Act shall—

(1) take effect on the date of the enactment of this Act, and

(2) apply to any annuity increase that takes effect on or after such date.

TITLE VII—SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

EXTENSION OF PROGRAMS

SEC. 701. (a) Section 424(a) of the Higher Education Act of 1965 (hereafter in this title referred to as the "Act") is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

SEC. 702. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) The matter preceding division (i) of section 428(b)(1)(A) of the Act is amended—

(1) by inserting after "student" the following "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended by striking out "and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Secretary may increase the limit applicable to graduate and professional students who are pursuing programs which the Secretary determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

SEC. 703. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term "temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period requires continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

SEC. 704. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h)(1) From sums paid by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in such State described in section 435(g)(1)(D) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1)(D) and which has an application approved under section 439(p)(2) may receive payments under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.".

INTEREST RATE AND PAYMENT

SEC. 705. (a) Section 427(b) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and by inserting in lieu thereof "four months".

(2)(A) Section 428(b)(1)(E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and by inserting in lieu thereof "four months".

(B) Such section 428(b)(1)(E) is further amended by striking out "nine months nor later than one year" in both places that it appears and by inserting in lieu thereof "four months".

(c) Section 428(a)(3)(B) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(d) Section 428(b)(1)(F) of the Act is amended by striking out "7 per centum" and inserting in lieu thereof "9 per centum".

(e) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

COLLECTION PRACTICES

SEC. 706. (a)(1) Section 430(b) of the Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

"(i) the date of enactment and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a)(2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forebearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.".

ADMINISTRATIVE IMPROVEMENTS

SEC. 707. (a) Section 428 (b)(1)(H) of the Act is amended to read as follows:

"(H) does not provide for collection of an insurance premium in excess of 1 percentum per year on the unpaid principal amount of the loan (excluding interest added to principal), payable in advance, which may be used by the insurer to insure loans and to cover administrative, operating and overhead costs of the insurer;".

(b)(1) Section 428 (C)(6)(A)(ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma;

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students".

(2) Section 428 (c)(6)(B) is amended—

(A) by striking out "and" and at the end of clause (i) an inserting in lieu thereof a comma; and

(B) by inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f)(1)(A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4) Section 428(f)(1)(B) of the Act is amended by striking out "clause (iv)" and inserting in lieu thereof "clauses (iv) and (v)".

(5) Section 428(f)(2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) the administrative costs of monitoring the enrollment and repayment status of students or".

(6) Section 423(f)(3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(c) Section 428(f)(3)(A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation,".

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOAN COUNSELING PROGRAM AUTHORIZED

SEC. 708. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN COUNSELING BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan counseling on loans insured or guaranteed under this part to the student borrower. The loan counseling required by this section shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the date on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

LOANS TO PARENTS

SEC. 709. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(c) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request. Such repayment obligation shall not be further delayed because of any current status of the student, but nothing this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 14 per centum per year on the unpaid principal balance of the loan except that, if provided in the note or other written agreement, any interest payable by the borrower may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 9 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) without one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 710. (a) Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A)(i) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 5.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

(ii) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans which were made or insured prior to October 1, 1980, shall be computed (I) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (II) by subtracting 3.5 per centum from such average, (III) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (IV) by dividing the resultant per centum by four.

"(B) The quarterly rate of the special allowance for the holders of parental loans authorized under section 428B under this Act which are paid under section 428B(c)(3) shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

"(ii) The rate set under division (i) shall not be less than one-half of 1 per centum per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 420 (b) of the Education Amendments of 1980.

"(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Secretary.

"(4) (A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 9 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428 (b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

"(d) There is established a Committee on Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'committee'). The committee shall be composed of—

"(1) the Secretary of Education;

"(2) the Secretary of the Treasury;

"(3) the Secretary of Health and Human Services;

"(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

"(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2); and

"(6) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E).

"(e) The Secretary shall appoint the members of the committee described in paragraphs (4), (5), and (6) of subsection (d) of this section, after consultation in the case of those members appointed under each such paragraph, with nationally recognized organizations of such persons or agencies.

"(f)(1) The committee shall prepare and submit to the Congress a report not later than one year of the date of enactment of the Education Amendments of 1980, of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowances paid under this Act which the committee determines will carry out the objectives set forth in subsection (a) of this section.

"(2) The quarterly rate of the special allowances provided for in paragraph (2) of subsection (b) shall remain in effect until the Congress by joint resolution approves of the method, in whole or in part, proposed by the committee in the report submitted under paragraph (1) of this subsection.

"(3) The committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowances established under this section.

"(4) In developing the method for the determination of the quarterly rate of the special allowances under this section, the committee shall consider—

"(A) the experiences of students and eligible lenders under the method in operation during the period of the study,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

"(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(E) such other factors as the committee considers necessary to carry out the purposes of this section.

"(5) In carrying out its responsibilities under this section, the committee shall be given the full cooperation and assistance of the official in the Department of Education directly responsible for the administration of part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Department of Education as the committee deems appropriate.

"(6) In order to assist the committee in carrying out its functions under this section, the Secretary is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

"(7) The Secretary shall convene the first session of the committee as soon as possible after the date of enactment of the Education Amendments of 1980. The chairman of the committee shall be elected by its members.

"(8) The committee shall cease to exist ten days after the approval of the joint resolution required by paragraph (2) of this subsection.

"(g) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.".

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(C) of the Higher Education Act of 1965, the Authority shall submit to the Secretary, for the approval of the Secretary, a plan for doing business. Each such plan shall contain provisions designed to assure that—

(1) no eligible lender in the area served by the Authority will be excluded from participation in the program and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a rate less than nor more than one percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents or who attend an eligible institution within the area served by the Authority;

(5) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 711. (a)(1) Section 439(a)(1) of the Act is amended by striking out "government-sponsored".

(2) Section 439(f) of the Act is amended to read as follows:

"(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) other than an institution outside of the United States.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(3) The first sentence of section 439(g)(1)

of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds from any such advance secured by collateral shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(1) of the Act is amended by inserting "including those made under subsection (d)(4)" after "All obligations issued by the Association".

(c)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to those obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.".

(2) Section 439(h)(2) of the Act is amended—

(A) by striking out "July 1, 1982" and inserting in lieu thereof "July 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part.".

(d)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federaly insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) The Association shall make payments in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) having an application submitted to the Association which sets forth that payments are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title.

"(2) No payment may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D) are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

"(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agency may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F), and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association;

"(H) for purposes of making loans under section 428 (j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).".

LOAN CONSOLIDATION BY STATE AGENCIES

SEC. 712. (a) Section 428 of the Act (as amended by section 707) is amended by adding at the end thereof the following new subsection:

"(j)(1) Each State agency and nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), and each eligible lender in such State described in section 435(g)(1)(D), or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal balance and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, except that such State or nonprofit private institution or organization shall provide the eligible lender with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the eligible lender and meet the requirements of sections 427, 428(b) and 428A, except that (A) the ten-year maximum period referred to in sections 427(a)(2)(B) and 428(b)(1)(E) may be extended to no more than twenty years, and (B) clause (ii) of sections 427(a)(2)(B) and 428(b)(1)(D) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the eligible lender, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.".

(b)(1) Section 425(a)(2) of the Act is amended by striking out "The" and by inserting in lieu thereof "Except in the case of loans made under section 428(j) or section 439(o), the".

(2) Section 428(b)(1)(B) of the Act is amended by striking out "provides" and by inserting in lieu thereof "except in the case of loans made under section 428(j) or section 439(o), provides".

(3) Section 428A(a)(2)(A) of the Act is amended by inserting after "in excess of such annual limit; and" the following: "except in the case of loans made under section 438(j) or section 439(o),".

PROMPT DUE DILIGENCE DETERMINATIONS

SEC. 713. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.".

DEFERRAL OF PRINCIPAL DURING CERTAIN PERIODS OF STUDY, SERVICE, AND UNEMPLOYMENT

SEC. 714. (a) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "and any such period" and inserting in lieu thereof "that any such period", and

(2) by inserting before the comma at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

(b) Section 428(b)(1)(M) is amended by inserting before the semicolon at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until four months after the completion of such period or combination thereof".

RECAPTURE OF CERTAIN INTEREST SUBSIDIES

SEC. 715. (a) Section 427(a)(2) of the Act (as amended by section 706(a)(2) of this Act) is amended by striking out "and" at the end of clause (I), by redesignating clause (J) as clause (K), and by inserting after clause (I) the following new clause:

"(J) provides (subject to section 432(e)(1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student,".

(b) Section 428(b)(1) of the Act is amended by striking out "and" at the end of clause (O), by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon and the word "and" and by adding at the end thereof the following new clause:

"(Q) provides (subject to section 432(e)(1) and (2)) for the repayment to the United States, after the beginning of the repayment period in installments during such period, of the full amount of the interest paid under section 428(a) on behalf of any student.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e)(1) No repayment of interest paid under section 428(a) on behalf of any student shall be required under sections 427 (a)(2)(J) and 428(b)(1)(Q) if—

"(A) the borrower has exhausted the ability to obtain loans under part E of this title and is required by reason of need to obtain a loan under this part for undergraduate study,

"(B) the borrowers borrows more than $7,500, or

"(C) the borrower borrows under section 428 (h) of this title.

"(2) (A) No repayment shall be required under sections 427 (a) (2) (J) and 428 (b) (1) (Q) for the interest paid under section 428 (a) for more than three years.

"(B) No interest shall accrue on the repayments required under sections 427 (a) (2) (J) and 428 (b) (1) (Q).

"(3) The Secretary shall prescribe procedures to carry out the provisions of sections 427 (a) (2) (J) and 428 (b) (1) (Q) as soon as possible after the date of enactment of the Education Amendments of 1980.".

MISCELLANEOUS AMENDMENTS

SEC. 716. (a)(1) Section 427 (a) (1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student as required by section 488, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a)(2)(B)(i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);".

(b) The first sentence of section 428(c)(1)(A) of the Act is amended by striking out everything after "of any insured loan" and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485, and then for the purpose of offsetting the costs to the institution for the program under this part.".

(d) Section 439A of the Act is repealed.

ASSOCIATION ESTABLISHED

SEC. 717. (a) The Act is amended by inserting after part C the following new part:

"PART D—NATIONAL DIRECT STUDENT LOAN ASSOCIATION

"STATEMENT OF PURPOSE

"SEC. 451. It is the purpose of this part to establish a Government corporation which will administer the student loan program authorized by part E of this title.

"ESTABLISHMENT

"SEC. 452. (a) There is established in the executive branch of the Federal Government a body corporate without capital stock to be known as the National Direct Student Loan Association. The Association shall have succession until dissolved.

"(b) The principal office of the Association shall be located in the District of Columbia. The Association shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen of the District of Columbia. Offices, agencies, and branches may be established by the Association in such other places as the Association deems necessary or appropriate for the conduct of its business.

"BOARD OF DIRECTORS

"SEC. 453. (a) The Association shall have a Board of Directors which shall consist of the Secretary of Education and eight other members, one of whom shall be designated Chairman by the President.

"(b) The President shall appoint, by and with the advice and consent of the Senate, the members of the Board other than the Secretary of Education who shall serve ex officio. Four of the members shall be representatives of the general public. One of the members appointed from the general public shall be a student.

"(c)(1) The term of office of each member of the Board, other than the Secretary, of the Association shall be four years; except that (A) the members first taking office shall serve as designated by the President, two for terms of two years, three for terms of three years, and four for terms of four years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(2) The Directors appointed by the President shall serve until their successors have been appointed and have qualified.

"(d)(1) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association.

"(2) The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified individuals to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such individuals shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(e) Members of the Board of the Association who are not regular full time employees of the United States shall, while serving on the business of the Association, be entitled to receive compensation at rates fixed by the President, but not in exceeding the rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes and regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"GENERAL POWERS

"SEC. 454. In carrying out the provisions of part E of this title and this part, the Association is authorized—

"(1) to adopt, alter, and vote a corporate seal, which shall be judicially noticed;

"(2) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(3) to sue and be sued, complain and defend, in its corporate name, and through its own counsel;

"(4) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(5) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(6) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made by it under part E of this part;

"(7) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(8) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for it to carry out its responsibilities under this title;

"(9) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(10) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their compensation, and to require bonds for them and fix the penalty thereof;

"(11) to make provision for and designate such committees, and the functions thereof, as the Board of Directors deems necessary or desirable;

"(12) to determine and prescribe the manner in which obligations of the Association shall be incurred and its expenses allowed and paid;

"(13) to use funds received by the Association, notwithstanding any other provision of law, to carry out the provisions of part E;

"(14) to use the services and facilities of any agency of the Federal Government and of any other public or nonprofit private entity in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon; and

"(15) to exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, functions, and authorized activities.

"FUNCTIONS OF THE ASSOCIATION

"SEC. 455. (a) The Association shall carry out the provisions of part E of this title.

"(b)(1) The Association shall provide, either directly or by way of contract or other arrangement with State guaranty agencies and other appropriate agencies, organizations and institutions, for—

"(A) the collection of principal and interest of student loans made under part E;

"(B) programs of preclaims assistance for default prevention; and

"(C) such other programs as the Board of Directors deems necessary to assure the success of the student loan program authorized by part E.

"(2) In carrying out the functions set forth in paragraph (1), the Association shall first offer the State guaranty agency the right to carry out such functions.

"(3) The Association may not enter into a contract or other arrangement with any collection agency pursuant to paragraph (1) of this subsection unless the contract or other arrangement is made on a competitive basis.

"(4)(A) For the purpose of promoting responsible repayment of loans made under part E and for the collection of loans for which the Association is responsible, the Association is authorized to enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Association to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Association to such organizations, with respect to any loan for which the Association is responsible, of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(B) Such agreements may also provide for the disclosure by such organizations to the Association, upon receipt from the Association of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Association in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Association unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Association has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Association with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Association (I) will not disclose any such information until the Association has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) will, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Association shall, within one hundred eighty days after the effective date of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

"(ii) Information disclosed by the Association to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

"(c) The Association is authorized to—

"(1) enter into contracts with student borrowers for the prepayment of loans made under part E prior to the effective date of the Education Amendments of 1980 and under title II of the National Defense Education Act of 1958; and

"(2)(A) obtain information with respect to the names and addresses of borrowers and other relevant information which is available to the Secretary, from whatever source such information may be derived, and (B) whenever, pursuant to an agreement entered into between the Association and an institution of higher education under which the institution acts as a collection agent, make the information obtained under this clause available to such institution, notwithstanding any other provision of law.

"OBLIGATIONS OF THE ASSOCIATION

"SEC. 456. (a) The Association is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out its functions under part E of this title and this part, subject to such annual limitations as may be provided in an appropriation Act, except that the Association shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Association be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

"(b)(1) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Association held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

"(2) For the purpose of the Federal Financing Bank Act, the Association shall be deemed to be an agency of the Federal Government.

"(c) All obligations of the Association issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(d) Obligations of the Association issued pursuant to this part shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"(e) In order that the Association may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this part, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(f) All moneys of the Association not otherwise employed may be—

"(1) deposited with the Treasury of the United States subject to withdrawal by the Association, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(2) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(3) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Association, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Association.

"MANAGEMENT; AUDITS; REPORTS

"SEC. 457. (a) The provisions of chapter 11 of title 18, United States Code, shall apply to the directors and all officers and employees of the Association, and the Board of Directors is authorized to promulgate regulations consistent with the provisions of that chapter.

"(b) The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers, and duties assigned to the Board under this part as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time directors, officers, or employees of the Association as the Chairman deems appropriate.

"(c) The Association shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to loans made under this part an integral set of accounts, which the General Accounting Office shall audit every three years in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Association are final and conclusive upon all accounting and other officers of the Government.

"(d) The Associaton shall submit to the Congress and the President an annual report containing a general description of the operations of the Association during the year, and a specific description of the progress on collection of loans made under part E of this title and all other loans for which the Association is responsible.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 458. There are authorized to be appropriated in each fiscal year to the Association—

"(1) for administrative costs of carrying out part E of this title and this part;

"(2) to pay the differential between the rate of return on obligations of the Association made under section 456 and the interest rates collected under part E of this title, and under this part; and

"(3) for the cost of repayment of student loans in the event of a default, death, or disability,

such sums as may be necessary.".

(b) Section 1201 of such Act is amended by adding at the end thereof the following:

"(n) The term 'Association' means the National Direct Student Loan Association established under part D of title IV of this Act.".

(c) The right to alter, amend, or repeal this Act and part D of the Higher Education Act of 1965 is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Association under any power conferred by this Act or any amendment made by this Act.

DIRECT LOAN PROGRAM REESTABLISHED

SEC. 718. Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"PROGRAM AUTHORIZED

"SEC. 461. The Association shall carry out a program of establishing and maintaining funds at institutions of higher education for making low-interest loans to students who demonstrate financial need to pursue their courses of study in such institutions.

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 462. (a) The Association shall make payments under this part for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

"(1) the cost of attendance at that institution,

"(2) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

"(3) the financial assistance received by students at that institution under parts A and C of this title (other than page B), or any other provision of Federal law, and other scholarship, grant and loan assistance received by students,

subject to the limitations specified in section 464 (a) (2).

"(b)(1) The Association shall make payments required by subsection (a) of this section in such installments as the Association determines—

"(A) will not result in unnecessary accumulations of capital in the student loan fund of the institution of higher education concerned,

"(B) reflect accurately the disbursement of funds for student loans by the institution of higher education concerned, and

"(C) will best carry out the objectives of this part.

"(2) The first initial payment under this part shall be made as soon after October 1, 1980 as possible, subsequent initial payments for any academic year required by subsection (a) shall be made not later than March 1 for the academic year following the year for which the payment is made. Subsequent installment payments in each such academic year shall be made promptly.

"(c) Any institution of higher education desiring to receive payments from the Association under this part shall enter into an agreement under section 463 and shall submit an application for such payments to the Association in accordance with the provisions of this part. The Association shall set dates before which such institutions must file applications under this section. Each such application shall contain such information as is necessary to assure the validity of estimated need for loan funds.

"(d) The approval of the Association of the application under this section with an institution of higher education having an agreement under section 463 shall be deemed a contractual obligation of the United States for making the payments specified in that application.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 463. (a) An agreement with any institution of higher education for the payment of advances under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) payments made under this part, and

"(B) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) distributions, if any, and

"(D) costs of litigation, and other collection costs, if any, required by the Association in connection with the collection of a loan from the fund;

"(4) provide that upon the beginning of the repayment period the note or evidence of obligation shall be assigned to the Association for collection, unless the Association finds that (A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and (B) that institution has a good collection record, in which case the Association and the institution may agree that the institution act as collection agent for loans made under this part;

"(5) provide that not to exceed 10 per centum of the funds available to the institution in any fiscal year may be used for loans to less than half-time students who are determined by the institution to be in need of loans under this part; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Association and the institution.

"(b) An institution which has entered an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Each such payment shall be made in accordance with section 489. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 485 of this Act and then for the purpose of offsetting the costs to the institution for the program under this part.

"TERMS OF LOAN

"SEC. 464. (a) (1) Loans from any student loan fund established pursuant to an agreement under section 463, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Association shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans to an individual for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $12,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $6,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $3,000 in the case of any other student.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

"(c) (1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending at a date not more than ten years and nine months after such date pursuant to regulations of the Association, except (i) that such period may begin earlier than nine months after such date upon the request of the borrower and (ii) as provided in paragraphs (3) and (4) of this subsection;

"(B) shall, at the option of the borrower, include provision for a graduated repayment schedule with larger payments due later in the repayment period and provision for acceleration of repayment of the whole, or any part, of such loan;

"(C) may provide, in accordance with regulations of the Association, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the borrower from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except (i) that the Association may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, and (ii) as provided in paragraph (4);

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 7 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Association; and

"(G) may, pursuant to regulations of the Association, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part.

"(2) (A) Except as provided in subparagraph (C), no repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

"(ii) is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) is in service as a volunteer under the Peace Corps Act;

"(iv) is in service as a volunteer under the Domestic Volunteer Service Act of 1973;

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled. The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), or (vii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year nine-month maximum period provided for in clause (A) of paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until nine months after the completion of such period of study, service, disability, or combination thereof.

"(3) The Association is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year nine-month maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(4) Pursuant to uniform criteria established by the Association, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

"(d) An agreement to make payments under this part shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"(e) In determining, for purposes of clause (2) of subsection (c) of subsection (a) of this section, with respect to a student who is a veteran (as that term is defined in section 101 (2) of title 38, United States Code), an institution shall not take into account the income and assets of his parents.

"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

"SEC. 465. (a) After September 30, 1980, and not later than March 31, 1981, there shall be a capital distribution of the balance of the student loan fund established under this part prior to the effective date of the Education Amendments of 1980 by each institution of higher education as follows:

"(1) The Association established under part D shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund by the Commissioner of Education under this part in effect prior to the date of enactment of the Education Amendments of 1980 bears the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) Each institution with an agreement with the Commissioner of Education made under this part prior to the effective date of the Education Amendments of 1980 shall—

"(1) in the case of an institution not having an agreement under section 463 of this part, enter into an agreement with the Association containing provisions, or

"(2) in the case of any institution having an agreement with the Association under section 463, add provisions to the agreement, designed to assure that the note or evidence of the obligation of such loans will be assigned to the Association for collection, unless the Association finds that—

"(A) the institution of higher education requests to act as collecting agent for loans made under this part by that institution, and

"(B) that the institution has a good collection record, in which case the Association and institution may agree that the institution act as collection agent for such loans.

The preceding sentence shall not apply with respect to any loans assigned prior to the date of enactment of the Education Amendments of 1980.".

TITLE VIII—SENATE COMMITTEE ON VETERANS' AFFAIRS

SEC. 801. In the enrollment of the bill (H.R. 5288) to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veterans' educational assistance program, and for other purposes, the Clerk of the House of Representatives shall make the following changes:

(a) Strike out any matter which amends or revises chapter 31 of title 38, United States Code, relating to the vocational rehabilitation program for veterans.

(b) Strike out any matter which amends or revises chapter 34 of title 38, United States Code relating to veterans' educational assistance and insert in lieu thereof the following:

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 101. Chapter 34 is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	243	276	17
Half-time	139	162	184	11";

(5) striking out in section 1692 (b) "$69" and "$828" and inserting in lieu thereof "$76" and "$911", respectively; and

(6) striking out in section 1696(b) "$311" and inserting in lieu thereof "$342".

(c) Strike out any matter which amends or revises chapter 35 of title 38, United States Code, relating to survivors' and dependents' educational assistance, and insert in lieu thereof the following:

SURVIVOR'S AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$276"; and

(2) striking out in section 1742(a) "$311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$342", "$108", "$108", and "$11.40", respectively.

(d) Strike out any matter which amends or revises chapter 36 of title 38, United States Code, relating to correspondence, on-job training, and education loans, and insert in lieu thereof the following:

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 103. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu thereof "$342";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$342".

(e) Strike out the effective date for any amendments or revisions made to chapters 34, 35, or 36 of title 38, United States Code, and insert in lieu thereof "January 1, 1981".

SEC. 802. (a) Subsection (b) of section 1677 of title 38, is amended by striking out "90 per centum" and inserting in lieu thereof "60 per cent".

(b) Section 1798 of title 38, United States Code, is amended by—

(1) striking out in the second sentence of subsection (c) "flight, apprentice or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training"; and

(2) adding at the end thereof the following new subsection:

"(h) In the case of a loan made to a veteran under this section to pursue a program of education consisting exclusively of flight training, the Administrator shall, as hereinafter provided in this subsection, cancel the repayment obligation (which for the purposes of this subsection shall include the obligation to pay interest), or reimburse for repayments already made, or both, as appropriate, if (1) such veteran has successfully completed such program and secured employment as a pilot or in a closely related occupation, and (2) such employment constitutes such veteran's primary vocational pursuit and major source of occupational income. Upon completion by such veteran of a full year of such employment during the first five years after the completion of such training, $1,000 of the repayment obligation under any such loan shall be canceled; and, upon the completion by such veteran of any additional three-month period of such employment during such five-year period, such repayment obligation shall be canceled at the rate of $250 for each such three-month period. In the event that a veteran meets the requirement of this section for a repayment obligation cancellation in an amount exceeding any remaining unpaid balance of such obligation, the Administrator shall, to the extent that the amount of the cancellation to which the veteran is entitled exceeds such balance, reimburse such veteran for any amounts of such obligation that such veteran has repaid.".

(c) Subsection (a) of section 1786 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) No veteran, spouse, or surviving spouse may be paid an educational assistance allowance under this subsection unless the Administrator has determined that no type of education other than correspondence is reasonably and feasibly available to such veteran, spouse, or surviving spouse in order to pursue successfully the educational or vocational objective being sought.".

(d)(1) Except as provided in paragraph (2) of this subsection, the provisions of this section shall become effective October 1, 1980.

(2) The provisions of subsections (a) through (c) of this section shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on August 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

SEC. 803. (a) Chapter 32 of title 38, United States Code, is amended by—

(1) amending section 1641 by striking out "1696, and 1698" and inserting in lieu thereof "and 1691(a)(1)"; and

(2) amending subsection (b) of section 1631 to read as follows:

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education to pursue a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a)(1) of this title, during the last 6 months of such member's first enlistment and at any time thereafter.".

(b) Chapter 34, of title 38, Untied States Code, is amended by—

(1) amending section 1661(c) by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V";

(2) amending section 1691(a) by—

(A) striking out "not on active duty"; and

(B) inserting "is not on active duty and who," after "(2)";

(3) striking out subchapter VI in its entirety; and

(4) striking out in the table of sections at the beginning of such chapter the item relating to subchapter VI in its entirety.

(c) Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780(d) by—

(A) striking out in the third sentence of paragraph (2) "(other than under subchapter VI of chapter 34)";

(B) striking out paragraph (3);

(C) striking out in paragraph (5) "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(D) striking out in paragraph (6) "(5)" and inserting in lieu thereof "(4)"; and

(E) redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; (2) striking out in section 1780(e) "and (3)";

(3) striking out in section 1780(f) "(except as provided by subsection (d)(3) of this section)";

(4) striking out in section 1784(c), as redesignated by section 303(3) of this Act, "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)";

(5) striking out in section 1788(a)(6) "or 1696(a)(2)";

(6) striking out in section 1789(b)(5) "or VI"; and

(7) striking out in section 1798(f)(2) "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

(d) The provisions of this section shall become effective on October 1, 1980.

SEC. 804 (a) Section 1673 of title 38, United States Code, is amended by

(1) amending subsection (a) by—

(A) inserting "(1)" before "The" at the beginning thereof;

(B) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(C) amending clause (B) of paragraph (1), as redesignated by subclause (B) of this clause, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that (i) at least one-half of the persons who enrolled in such course over the preceding two-year period completed it, and (ii) at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment in an occupational category for which the course was designed to provide training and such employment constitutes the primary vocational pursuit and major source of occupational income of each such person;"; and

(D) adding at the end thereof the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 per centum of the total enrollment in such institution during such period and the course has met the requirements of subclauses (i) and (ii) of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection in the case of any course with a vocational objective offered by any educational institution if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on the institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.".

(b) The provisions of this section shall become effective on October 1, 1980.

SEC. 805. (a)(1) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3113. Indebtedness offsets

"(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

"(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

"(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provisions of subsection (c) of this section and the regulations prescribed thereunder.

"(b) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required.

"§ 3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

"(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty, or loan-insurance program;

"(2) for the provision of care or services under chapter 17 of this title; or

"(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan-guaranties, or loan-insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most currently available address, notice of the Administrator's intention to charge interest on the indebtedness.

"(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

"§ 3115. Authority to sue to collect certain debts

"(a) Not later than 90 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney General and upon such terms and conditions as the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(b) Not later than 120 days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or any agency or officer thereof is a party.".

(2) Not later than October 1, 1980, the Administrator shall prescribe the regulations required to be prescribed under sections 3113 and 3114 of title 38, United States Code, as added by paragraph (1) of this subsection.

(3) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Indebtedness offsets.

"3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"3115. Authority to sue to collect certain debts".

(b) Section 3301 of title 38, United States Code, is amended by—

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the

Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection and no action taken pursuant to any such contract or this subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively;

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

Mr. BELLMON. Mr. President, I do believe that this is an historic occasion. Two weeks ago Congress passed the first concurrent resolution on the budget for fiscal year 1981, including reconciliation instructions to nine Senate committees to reduce spending by $4.95 in budget authority and $6.4 billion in outlays in fiscal year 1981. As the distinguished chairman of the Budget Committee, Senator HOLLINGS, has explained in detail in his statement, with one limited exception, the Senate committees have complied with the reconciliation instructions. The Budget Committee met this morning to review the recommendations of these committees and to report to the Senate a reconciliation bill. The Budget Committee was very laudatory of the reconciliation efforts by the committees and I believe the Senate as a whole owes these committees a vote of thanks.

I mentioned that there is one limited exception to compliance with reconciliation, and that exception is Government Affairs, which reported a temporary change in legislation in its jurisdiction. The result, if the Governmental Affairs Committee recommendation were enacted, would be to significantly reduce the long-term savings from reconciliation; although the Government Affairs recommendation does achieve the reconciliation savings required in fiscal year 1981.

When the Senate considers the reconciliation bill, the Budget Committee will offer an amendment to the Governmental Affairs Committee title to give the Senate the opportunity to make the full savings expected under the reconciliation instruction.

Mr. President, I sincerely hope the Senate will complete action on the reconciliation bill before the July recess. The Senate has taken the lead in implementation of reconciliation. Last year the Senate included reconciliation instructions in the second concurrent resolution on the budget. The House would not agree in conference last year to include reconciliation in the final version of the second budget resolution—so the conference agreement on that resolution included language to the effect that the resolution contemplated certain savings, but it did not include specific instructions to any committee to report legislation intended to insure that those savings were realized.

As we all know, the savings assumed in the second budget resolution for fiscal year 1980 did not occur. Partly because those savings were not achieved—and partly because of events outside the power of Congress to control—we had to revise the binding ceilings in the fiscal year 1980 second budget resolution, resulting in a significantly larger deficit.

With the lesson of last year behind

us, both Houses included reconciliation in the first budget resolution for fiscal year 1981. The Senate is now once again taking the lead. Senate committees were instructed to report the savings required by reconciliation a full week earlier than were their counterpart House committees. And I hope the Senate will pass this legislation expeditiously—further setting an example for the other body.

Like Chairman HOLLINGS, I believe the Senate is moving on a matter of great importance here. Through reconciliation we are making our first coherent effort to control so-called "uncontrollable spending"—Federal spending that is beyond control through the regular annual appropriations process. The savings included in this reconciliation bill actually exceed the savings required by the reconciliation instructions in fiscal year 1981. These savings will grow in future years.

Mr. President, I am very pleased that the Senate committees have responded so well to the budget resolution's call for substantial savings. I hope the Senate will move with all deliberate speed to adopt the reconciliation bill and the Budget Committee amendment to it.

MAJOR LEGISLATIVE ACHIEVEMENTS

(96th Congress—2d Session)

Mr. ROBERT C. BYRD. Mr. President, Saturday will mark the 100th day the Senate has been in session this year. These days have been filled with many productive hours in committee and on the floor in forging legislation to meet pressing national economic and social needs.

During this session, major programs to reduce America's dependence on foreign oil have become law or have been brought to the point of enactment. One of the most important steps in this effort to reduce oil imports and achieve energy security has been the enactment of windfall profit tax. This landmark measure will generate $227.7 billion in revenues to be used for a broad range of residential and business investment tax credits to encourage conservation and alternate energy development and to ease the burden of higher energy prices on lower income households.

An omnibus energy measure to foster production of synthetic fuels from coal and oil shale has been cleared for the President's signature. It sets a goal of production of the equivalent of 2 million barrels of oil per day by 1992 from alternate sources. It authorizes an initial $20 billion for an independent federally owned corporation which, in turn, will provide financial incentives, including price and loan guarantees, to private industry to encourage the development of a synthetic fuels industry. Initial funding will be drawn from the $20 billion energy security reserve that was appropriated by Congress last year. Out of this reserve, $1 billion will also be provided for solar and conservation projects financed through a newly created energy bank. Low-interest loans or direct grants will also be provided to developers and homeowners to make buildings more energy efficient. The bill also provides $1.45 billion for gasohol plants, with the expectation that they will produce substitute fuel amounting to 10 percent of American gasoline consumption by 1990.

Tomorrow, after House action, the Senate expects to consider the conference report on the third major component of the energy independence package. This legislation will create an Energy Mobilization Board with broad powers to expedite the construction of refineries, synthetic fuels plants, coal-fired powerplants and other priority energy projects deemed to be in the national interest.

Over 20 other measures important to attaining energy security have passed the Senate during this Congress. Just this week, the Senate passed legislation to reduce the use of oil for generating electricity. It requires 80 powerplants to convert to coal, decreasing oil use by approximately 300,000 barrels per day. That represents increased coal purchases, in place of $3.5 billion which would have been used to buy foreign oil.

The Senate has also dealt with legislation on a variety of other issues. We have enacted major banking deregulation legislation, recently sent the President a trucking deregulation measure, and have passed a railroad deregulation bill. We have cleared for the President's signature a bill to assist the development and expansion of small businesses.

All this legislation, Mr. President, represents a considerable achievement. Yet, I have not even mentioned other important measures passed by the Senate regarding foreign affairs, education, defense, veterans, agriculture, and housing. A more inclusive listing on the Senate's activities this year is contained in a report prepared by the staff of the Democratic policy committee. I ask unanimous consent that it be inserted into the RECORD at the conclusion of my remarks.

I would like to take this opportunity to thank Members of the Senate on both sides of the aisle for their cooperation with the leadership and their dedication to their duties which made this creditable record possible. I would like to thank Members for supporting my efforts to avoid Friday rollcall votes through May. I am convinced that this prearranged scheduling which allowed Senators to carry out other responsibilities without fear of being called to the floor, contributed to the record of significant achievement this year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR LEGISLATION ACHIEVEMENTS

AGRICULTURE

Crop insurance: Establishes an expanded and comprehensive crop insurance program for farmers; removes limits on the expansion of the Federal crop insurance program; provides additional funding for the program; provides for a reinsurance program; and requires the Federal Crop Insurance Corporation to pay a portion of the cost of crop insurance premiums under the program. S. 1125—Passed Senate September 10, 1979; Passed House amended February 13, 1980; In conference. (268)

Economic emergency loan program: Extends through September 30, 1981, the Secretary of Agriculture's authority to make insured or guaranteed economic emergency loans to farmers and ranchers who are unable to obtain sufficient credit elsewhere due to national or areawide economic stress: increases from $4 billion to $6 billion the total principal balance that may be outstanding on these loans at any time; requires that, for purposes of determining if applicants for economic emergency loans cannot obtain credit elsewhere, the applicant must submit proof of one refusal for credit under $300,000 and proof of two refusals for credit over $300,000; requires an applicant to have purchased a home or farm at least one year prior to applying for refinancing the property; requires the Secretary to review insured loans three years after they are initially granted and every two years thereafter to determine if the borrower is able to obtain financing from cooperative or private sources; disallows insured loans of more than $300,000 unless it is determined that the applicant is unable to obtain a guaranteed loan sufficient to finance his or her actual needs within a reasonable time; requires, effective October 1, 1980, as a condition of eligibility for receiving economic emergency loans, that borrowers meet the same "credit elsewhere" test required under the other farm loan programs administered by the Farmers Home Administration; and requires the Secretary to submit to Congress, by March 31, 1981, a comprehensive study of the operation and effectiveness of the economic emergency loan program. S. 2269—Public Law 96–220, approved March 30, 1980. (VV)

Grain reserves: Amends the Agricultural Act of 1949 to assist farmers with their excess 1979 crops of corn and wheat as a result of the President's embargo of grain to the Soviet Union during the recent Soviet aggression in Afghanistan; authorizes the Secretary of Agriculture to make long-term price support loans under the farmer-held reserve program on the 1979 crops of corn and wheat to any producer who did not participate in the 1979 set-aside program; authorizes the Secretary to sell corn owned by the Commodity Credit Corporation for conversion into alcohol fuel, at not less than the grain reserve release price, to those alcohol producing facilities which begin operation after January 4, 1980, and which also have the capability for producing alcohol from agricultural or forestry biomass feedstocks, provided corn supplies are not available; increases from $50,000 to $100,000 the loan ceiling under the farm storage facility loan program for the construction of storage facilities; and eliminates the current limitation on loans to the space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period. S. 2427—Public Law 96–234, approved April 11, 1980. (VV)

APPROPRIATIONS—FISCAL 1980

FTC appropriations, 1980: Transfers $12.65 million to the Federal Trade Commission, for salaries and expenses through April 30, 1980, with the proviso that obligations may not exceed $9.8 million. H.J. Res. 514—Public Law 96–219, approved March 28, 1980. (*65)

Transfers $7.6 million to the Federal Trade Commission for salaries and expenses through May 31, 1980, with the proviso that obligations may not exceed $5.8 million during this period. H.J. Res. 541—Public Law 96–240, approved May 1, 1980. (*91)

Appropriates $40.7 million for the remainder of fiscal 1980 for the Federal Trade Commission for a total 1980 appropriation of $65.3 million and restricts expenses for official reception and representation to $1,500. H.J. Res. 554—Public Law 96–261, approved June 4, 1980. (*171)

Military registration appropriation, 1980: Makes $13,285,000 available by transfer to fiscal 1980 for the Selective Service System to support the reinstitution of peacetime premobilization military draft registration for men. H.J. Res. 521—Public Law 96– . (*200)

Urgent food stamp supplemental: Appropriates $2,556,174,000 for fiscal 1980 for the Food Stamp Program; requires the Secretary of Agriculture to study and report to Congress by January 15, 1981, on the effects of limiting benefits to food stamp participants based on the value of their assets and on the impact and advisability of counting as income all educational deferred loans, grants, fellowships, veterans' educational benefits and housing subsidies in determining food stamp eligibility; and stipulates a total 1980 appropriation of not more than $9.191 billion. H.J. Res. 545—Public Law 96–243, approved May 16, 1980. (*142, *148)

BUDGET RESOLUTION

First budget resolution, 1981; Revised second budget resolution, 1980: Contains total budget authority for fiscal 1981 of $697.2 billion, outlays of $613.6 billion, and revenues of $613.8 billion, with a surplus of $200 million, and a public debt level of $935.1 billion; invokes the reconciliation process, under which eight House and nine Senate authorizing committees and instructed to reduce total spending authority within their jurisdictions, in order for each house to achieve a savings of $4.95 billion in budget authority and $6.4 billion in outlays in fiscal 1981 and requires the specified committees to submit their recommendations to their respective budget committees (Senate committees must submit spending reductions by June 25 and revenue reductions by July 2), which shall report to their respective houses a reconciliation bill or resolution, or both, carrying out all the recommendations, without any substantive revision; includes a reconciliation directive for fiscal 1980 to the House and Senate Appropriations Committees to each report savings of $3 billion in budget authority and $1 billion in outlays;

Prohibits enrollment of any spending legislation in fiscal 1981 (appropriations and entitlement) which exceeds a committee's crosswalk allocation or subcommittee subdivision under the First Budget Resolution or which reduce revenues in excess of $100 million until Congress has adopted the Second Budget Resolution and any required reconciliation legislation; requires, for this year only, completion of the Second Budget Resolution by August 28 instead of September 15;

Establishes a Congressional Federal Credit Budget to limit total new Federal credit programs in fiscal 1981 for new direct loan obligations to a level of $63.9 billion (a $25.8 billion limitation on Federal off-budget lending activity and a $38.1 billion limitation on Federal on-budget lendng activity) and for new primary loan guarantee commitments to $79.6 billion;

Calls on the President to implement a "zero net inflation impact" policy which requires the Congressional Budget Office to monitor the inflationary impact of new Federal regulations; prohibits new regulations which increase cost or prices unless corresponding reductions are made by modifying or eliminating regulations; requires development of an exemption procedure for regulations necessary to avert any imminent threat to health and safety; calls upon the President to review current inflation measures used for indexing Federal programs, as well as other indexing alternatives, and report to Congress by November 20, 1980, his conclusions and recommendations and to reflect those conclusions in his budget and legislative proposals for 1982;

Modifies the fiscal 1980 Second Concurrent Budget Resolution to provide for budget authority of $658.85 billion, outlays of $572.65 billion, and revenues of $525.7 billion, with a deficit of $46.95 billion and a public debt level of $903.6 billion; and

Includes Senate projected estimates for fiscal 1981 and 1982 respectively, as follows: Budget Authority—$775 billion and $851.6 billion. Outlays—$695.6 billion and $765.5 billion, and Revenues—$701.4 billion and $783 billion, with a surplus of $5.8 billion and $17.5 billion; and a Public Debt Limit of $965.6 billion and $991.1 billion. H. Con. Res. 307—Action completed June 12, 1980. (*134)

Roth budget resolution: Expresses the sense of the Senate that the Budget Committee shall report a Federal budget for fiscal 1981 which is balanced and which reserves any surplus for a tax reduction (one-half to increase productivity and one-half to offset social security tax increases), and that the Budget Committee shall also report such additional specific reductions, if any, necessary to reduce Federal outlays for fiscal 1981 to 21 percent of the gross national product. S. Res. 380—Senate agreed to March 25, 1980. (*64)

DEFENSE

Uniformed services health professionals special pay: Restructures the special pay system for physicians, dentists, optometrists, and veterinarians, and for the first time authorizes a special pay for podiatrists, in the Armed Forces and Public Health Service by replacing the current temporary program with a long term program that provides incentive pay. H.R. 5235—Vetoed March 11, 1980. (VV)

Restructures the special pay system for physicians in the Armed Forces and Public Health Service by replacing the current temporary program with a long term program that provides incentive pay. S. 2460—Passed Senate May 28, 1980. (VV)

ECONOMY-FINANCE

Auto industry competition: States the sense of the Congress that it is a goal of the United States to achieve technological superiority in the world automobile and truck industry and calls for a comprehensive strategy to accomplish this goal. S. Con. Res. 101—Action completed June 24, 1980. (*220)

Banking institutions—"NOW" accounts: Phases out, over six years, interest rate ceilings on deposits; authorizes the equivalent of interest-bearing checking accounts at banks, thrift institutions, and credit unions; gives the Federal Reserve Board greater control over monetary supply by requiring broader reserves; repeals State usury ceilings; and simplifies truth-in-lending requirements.

Federal Reserve Requirements: Provides certain Federal Reserve requirements for all depository institutions, but retains voluntary membership in the Federal Reserve; provides a range on reserve requirements on transaction (checking type) accounts of 8 to 14 percent with an initial rate of 12 percent applicable to all transaction accounts over $25 million and 3 percent on accounts below $25 million indexed to the change in total transaction deposits; provides that the initial rate of required reserves on all non-personal time deposits regardless of maturity is 3 percent with a range of 0–9 percent applicable to all depository institutions; authorizes depository institutions to use balances maintained in the Federal Reserve banks to satisfy depository institutions liquidity requirements under the Federal Home Loan Bank Act and the National Credit Union Act; phases in reserve requirements over 8 years for non-member institutions and 4 years for member banks; provides no phase-in period for any new types of deposits or accounts authorized after the reserve requirement provisions become effective, which is applicable to NOW accounts except for those currently authorized by law; permits the Federal Reserve Board to impose reserve requirements outside the statutory limits in extraordinary circumstances for a period of 180 days; permits the Federal Reserve Board to impose a supplemental reserve on transaction accounts within a range of 0–4 percent if the Board finds that monetary policy cannot be effectively implemented with the reserve balances required under all other provisions of the legislation after an affirmative vote of 5 or more members of the Board; requires the Federal Reserve to pay interest on the reserves imposed by this authority at a rate up to the average rate earned on the securities portfolio of the Federal Reserve System; allows the supplemental reserve provision to be used only if the basic reserves provided for under this Act equal, in dollar amounts, the reserves that would be produced if the reserve ratios were maintained at 3 percent on non-personal time deposits and 12 percent on transaction accounts; gives depository institutions holding transactions accounts access under the same terms and conditions as member banks to the Federal Reserve discount window; gives open access to price services provided by the Federal Reserve Banks to all depository institutions on the same terms and conditions as member banks within 18 months; expands the types of Federal Reserve assets that can be used to collateralize the Federal Reserve notes and removes the requirement that they be collaterialized;

Interest rate ceilings: Transfers the authority to set interest rates on all types of deposits from the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), and the Federal Home Loan Bank Board (FHLBB) to a six-member Depository Institutions Deregulation Committee made up of the heads of those agencies plus the Secretary of the Treasury, and the Chairman of the National Credit Union Administration (NCUA), with the Comptroller of the Currency as a nonvoting member; requires the Committee to meet quarterly in public session and make its decisions by majority vote of the voting members; directs the Committee to provide for a 6-year phase-out of Regulation Q just as soon as possible by increasing the permissible rates paid to depositors on all accounts to market rates, by a phased elimination of all interest ceilings on particular classes of deposits by the creation of new types of deposits, not subject to ceilings or with ceilings linked to market rates, or by any combination of those approaches; provides that the Committee will, by majority vote, increase permissible deposit rates ceilings to market rates just as soon as possible by setting a targeted increase of ¼ percent in the permissible passbook rate within 18 months after enactment; provides for additional targeted increases of ½ percent on all classes of accounts; does not bind the Committee to any target; gives the Committee authority to increase or decrease rates at any time during the six-year period; provides that the Committee's authority will expire after six years and the Committee will go out of existence; retains those provisions of the law that permit the Federal Reserve Board, the FDIC, and the FHLBB to regulate depository institutions' advertising of interest rates; allows the authority of NCUA to set interest rate ceilings for credit unions to expire six years after enactment while continuing its authority to regulate credit unions' advertising of interest rates;

Interest on checking accounts: Permits Federally-insured commercial banks, savings and loan associations, mutual savings banks, and savings to offer the equivalent of interest-bearing checking accounts, NOW accounts, nationwide as of December 31, 1980; makes permanent, effective March 31, 1980; the authority of: (1) commercial banks to offer automatic transfer services between savings and checking accounts, and (2) Federally-chartered savings and loan associations to operate remote service units; permits Federal Home Loan Banks to process NOW account drafts and other instruments issued by their members or those eligible for membership priced in accordance with the pricing principles applicable to Federal Reserve Banks; permits Federally- and State-chartered Federally-insured credit unions to offer share draft accounts as of March 31, 1980; permits the Central Liquidity Facility (CLF) to process share drafts and other instruments issued by CLF members, credit unions represented in the CLF by agent members, and those eligible for CLF membership priced in accordance with the pricing principles applicable to Federal Reserve banks which shall be available to all eligible institutions on a nondiscriminatory basis; extends for 2 years the termination date of the Alaska USA Federal Credit Union;

Thrift institutions: Allows savings and loans to invest up to 20 percent of their assets in unsecured or secured consumer loans, commercial paper, and corporate debt securities; allows savings and loans to permit associations to invest in, redeem, or hold shares or certificates of open-end investment companies; removes the geographical lending restriction from the Home Owners Loan Act; removes the first lien restriction on residential real estate loans; authorizes second trust loans; expands the authority to make acquisition, development, and construction loans, and substitutes a 90 percent loan to value ratio requirement in place of the dollar limit (now $75,000) on residential real estate loans; allows Federal savings and loans to exercise trust and fiduciary powers and to offer credit card services;

Permits Federally-chartered mutual savings banks (MSB's) to hold up to 5 percent of their assets in commercial, corporate, or business loans provided such loans are made within the State in which it is located or within 75 miles of the MSB home office and to take corporate and business demand deposits; permits Federal credit unions to make loans on individual cooperative housing units; allows Federal credit unions to raise their loan rates up to an annual rate of 15 percent subject to rules issued by the National Credit Union Administration (NCUA); permits the NCUA to raise the loan ceiling above 15 percent for periods not to exceed 18 months, after consultation with appropriate Congressional committees, the Department of Treasury, and other Federal financial regulatory agencies after the Board determines money market interest rates had risen over the preceding 6-month period and prevailing interest rate levels threatened the safety and soundness of individual credit union;

Raises the limits on all Federal deposit insurance from $40,000 to $100,000 and permits the FDIC to change its assessments;

State usury laws: Permanently preempts State usury ceilings on first mortgage loans made by banks, savings and loans, credit unions, mutual savings banks, mortgage bankers, and HUD-approved lenders under the National Housing Act, subject to a State override within three years; preempts for three years State usury ceilings on business and agricultural loans above $25,000 made by any person subject to a State override; applies a ceiling of five percent above the discount rate (including any surcharge) in the Federal Reserve district where the institution is located; permanently preempts State usury ceilings on all loans made by Federally-insured depository institutions (except national banks) and small business investment companies subject to a State override at any time and applies a ceiling of one percent above the appropriate Federal Reserve discount except to transactions subject to the preemptions of usury ceilings on mortgage loans and on business and agricultural loans above $25,000; applies separate usury limits to SBA loans;

Truth-in-lending simplification: Permits an agency not to order restitution if it would have a significant adverse impact upon the safety and soundness of the creditor and permits partial restitution in an amount which would not have such an impact; provides a detailed formula for restitution payment relating to specific types of disclosure violations; allows the Federal Reserve Board to establish tolerances for numerical disclosures if a creditor makes a minor mistake in quoting the monthly payment; removes the three-day cooling off period for open-end credit which is secured by real estate only for a three-year trial period to determine if beneficial for consumers and businesses; requires disclosure of the itemization of the amount financed upon request by the borrower; provides the Federal Reserve Board with the authority to permit a greater tolerance for the disclosure of the annual percentage rate where irregular payments are involved for a period of one year at a tolerance no greater than ½ of one percent between the disclosed rate and the actual rate;

National banks: Gives the Comptroller the authority to extend the current five-year period during which a national bank is permitted to hold real estate for an additional five years subject to the bank having made a good faith effort to dispose of the real estate within five years or a showing that disposal of the real estate within the five-year period would be detrimental to the bank; provides that a bank may expend funds for the development and improvement of such real estate, subject to such conditions and limits as the Comptroller shall prescribe, if needed to enable the bank to recover its total investment; amends 12 U.S.C. 72 to allow directors of national banks to own bank holding company stock instead of bank stock if the national bank is controlled by a holding company; allows national banks to invest in the stock of a bank, insured by the FDIC, owned exclusively by other banks (except for directors' qualifying shares required by State law) and engaged exclusively in serving other banks or their officers, directors, or employees; provides that the total amount of stock owned may not exceed ten percent of a national bank's capital account and prohibits a national bank from owning more than five percent of the voting securities of such bank; places a moratorium on the direct or indirect establishment, acquisition, and operation of a trust company across State lines until October 1, 1981, unless the trust company was acquired and in operation on or before March 5, 1980;

Regulatory simplification: Requires Federal financial institution regulatory agencies, to the maximum extent practicable, to insure that their regulations are needed; that the public and interested parties are given an opportunity to air their views; that alternatives to the regulations are considered; that costs and burdens are minimized; that regulations are written clearly and simply; and that conflicts, inconsistencies, and duplications are avoided;

Foreign control of United States financial institutions: Provides for a moratorium until July 1, 1980, on foreign acquisitions of United States depository institutions with exemptions for acquisitions of under $100 million, corporate reorganizations and transfers of ownership interests already under foreign control. H.R. 4986—Public Law 96-221, approved March 31, 1980. (385)

Council on Wage and Price Stability: Extends the Council on Wage and Price Stability for one additional year and authorizes therefor $990,000 in additional funds for a total fiscal 1980 authorization of $9,473,000 and $9,770,000 for fiscal 1981; requires that the Chairperson of COWPS be appointed by the President and confirmed by the Senate; requires COWPS to review proposals for reducing inflation through tax based income policies and anti-inflation supply-side tax reductions and report its findings to Congress by September 1, 1980 and requires an annual, rather than the present quarterly, report to the President and Congress; directs COWPS, in calculating allowable price increases, to use an annual average figure for the increase in production for nonfarm output in the private sector, as measured by the Bureau of Labor Statistics since 1973, instead of 1967 (0.5 percent rather than the current 1.75 percent), thereby increasing the allowable price increase limit of the price guidelines by 1.25 percent; establishes an Office of Productivity to evaluate the impact of government regulations on productivity, to evaluate Federal programs designed to improve productivity, and to issue an annual report to Congress recommending new Federal programs and policies to increase private-sector productivity growth; terminates the Credit Control Act of 1969 on July 1, 1981; directs COWPS, in fiscal 1981, to increase the number of positions which involve the review of proposed and existing regulations by 50 percent over the number allocated for fiscal 1980; and requires that fiscal 1981 expenditures of the Senate not exceed 90 percent of fiscal 1980 expenditures. S. 2352 Passed Senate June 2, 1980 (*169)

Federal patent procedure: Amends title 35, U.S.C., to promote the marketing of inventions developed under Federally-supported research and development projects by nonprofit organizations and small business firms; permits any such organization or firm to elect, within a reasonable amount of time, to retain title to such inventions. S. 414—Passed Senate April 23, 1980. (*84)

Patent reexamination: Amends title 35, U.S.C. to authorize the Commissioner of Patents and Trademarks, effective October 1, 1980, to establish rules and regulations necessary to implement a new procedure whereby the Patent and Trademark Office could, at the request of patent holders, challengers, or the Commissioner of Patents, reexamine prior uncited patents or publications and issue certificates of their status or validity. S. 2446—Passed Senate March 20, 1980. (VV)

PUBLIC DEBT

Extends the public debt limit to February 28, 1981, at an increased level of $525 billion which, combined with the $400 billion permanent level, makes a total public debt limit of $925 billion. H.J. Res. 569—Public Law 96- , approved June , 1980. (*257)

Small Business Administration authorization: Authorizes $1.187 billion for FY 1981 and $1.375 billion for FY 1982, and extends the salary and expense authorizations to include FY 1983 and FY 1984 at the FY 1982 levels, for the Small Business Administration, and authorizes such funds as necessary to carry out programs for which appropriations are not specifically authorized from FY 1981 through 1984; provides program authorizations for SBA's loan and other financial and guaranteed assistance programs, for capital appropriations for the various revolving funds, and for salaries and expenses;

Disallows SBA authority to invest excess monies from the surety-bond guarantee fund in bonds or guarantees, but allows investment of excess monies in the pollution control bond fund; authorizes SBA to guarantee debentures of certain State and local development companies on loans of up to $500,000 per small business; authorizes the transfer of loan processing functions to qualified banks; authorizes organizations and individuals eligible for handicapped assistance loans to participate in the procurement set-aside program up to a total of $100 million each for FY 1981 through 1983; provides priorities for the placement of government procurement contracts in labor surplus areas; adds Asian Pacific Americans to the class of "socially and economically disadvantaged" business persons eligible for SBA remedial business development programs;

Provides a 5 percent rate of interest on disaster loans to concerns that cannot obtain credit elsewhere; sets the interest rate for business concerns that can obtain credit elsewhere at the cost of money to the Federal Government plus not more than one percent; amends the Consolidated Farm and Rural Development Act to provide the same terms for emergency loans under that act; provides that farmers must seek assistance from FmHA before applying to SBA; provides SBA with borrowing authority for its disaster assistance loans, subject to prior appropriations; allows limitation of the capital in the SBA funds either through appropriation of budget authority or by placing a limitation on the amount of notes SBA may sell to the Treasury;

Small Business Economic Policy Act of of 1980": Authorizes SBA to make grants to States to defray 50 percent of the cost of developing and operating a small business development center program to assist small businesses in such areas as management, marketing, product development, manufacturing, technology development, finance and government regulations; provides that no more than 50 percent of non-Federal contributions can be in-kind contributions; provides that each center shall have a full time staff including a staff director and access to part-time specialists to be provided by qualified small business vendors; directs Federally operated laboratories, NSF, and NASA to cooperate with the small business development centers; requires that the program be administered by a Deputy Associate Administrator with this sole responsibility; establishes a National Small Business Development Center Board with 6 members from small businesses and 3 from the academic community to advise SBA; requires SBA to evaluate the program and submit a report to Congress by January 31, 1983; and provides for repeal of the program on October 1, 1984;

Small Business Economic Policy Act of 1980: Establishes a national small business economic policy to coordinate all policies, programs, and activities of each Federal department and agency to assist the development and expansion of small and medium-sized businesses and requires certain means of addressing and implementing the policy; requires the President to submit to Congress an annual report on small business and competition; and commits the Federal Government to provide private sector incentives to capital formation;

Small business economic research and analyses: Requires SBA to establish a data base of economic information pertaining to small business, and to regularly publish indices of that data; establishes the Office of the Chief Counsel for Advocacy at Executive Level IV; and requires a study of small business credit needs;

Small Business Employee Ownership Act of 1980: Authorizes SBA to make loan guarantees of up to $500,000 available under the regular business and loan guarantee program to employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Plans who meet specified qualifications for such loans. S. 2698—Passed Senate June 17, 1980. (*10, *12, *214)

EDUCATION

Higher education: Authorizes $36 billion to extend, for five years, through fiscal 1985 the provisions of the Higher Education Act (HEA), the authorizations for the Fund for the Improvement of Postsecondary Education and Title VI of the National Defense Education Act which are brought within the ambit of the Higher Education Act, and the authorization of the National Institute of Education;

Replaces the Continuing Education, Resource Material Sharing, Community Services, and Lifelong Learning Programs authorized under title I of the HEA, the Education Information Centers authorized under title IV, and the funding authorization for the Comprehensive Statewide Planning of HEA authorized under title VII; establishes a Commission on National Development in Postsecondary Education to review the effectiveness of Federal policies in the area of higher education; authorizes grants to States for planning and for continuing education; authorizes the Secretary to carry out three separate national grant and contract programs: (1) with States and institutions of higher education to develop demonstration projects for improving institutional planning and adaptation; (2) to plan, implement, and evaluate the delivery of post-secondary education to women at their workplace or in conjunction with their employer; and (3) with institutions of higher education to develop projects, demonstrating ways they could apply their institutional resources to promote training and employment of chronically unemployed or underemployed youth;

Extends existing college library programs, for grants of general support for all college libraries and grants to assist in training librarians and grants to strengthen research library resources; establishes a National Periodical System Corporation to determine if a national periodical resource system is feasible and advisable, and, if so, to design such a system;

Provides short-term Federal assistance to institutions with special needs to assist them in improving their fiscal and management operations, academic quality, long-range planning capabilities, and overall development capabilities, establishes a challenge grant program for institutions to seek alternative sources of funding for their development needs; provides general operating assistance to institutions that enroll a large number of students from low-income families; specifies that at least 30 percent of funding be awarded to community and junior colleges; assures that historically black institutions, as a group, receive at least as much money as they received in fiscal 1979;

Student Assistance: Extends the current basic Educational Opportunity Grants which are renamed as Pell Grants and increases the maximum grant to $1,900 for academic year 1981–1982 phased up to $2,600 for 1985–1986; requires students to repay at a nine percent interest rate the interest that has accrued on their guaranteed student loan once they are out of school and working.

Expands existing Federal student assistance programs in vitally needed ways; extends and makes essential adjustments to the student grant, work, and loan programs through fiscal 1985; and authorizes increases in student benefits provided by these programs and a new single needs analysis and application form for Federal assistance;

Reauthorizes the Teacher Corps Program and requires at least one Teacher Center Project in each State; authorizes a new program under which State education agencies are eligible for Federal grants to support a fellowship program and institutional allowances to train teachers to provide special education to handicapped children;

Rewrites and reforms existing Federal international education programs; authorizes the Secretary to make grants to or enter into contracts with institutions of higher education to establish foreign language centers and programs which focus on the teaching of modern foreign languages and the cultures where the language is spoken, to make grants to carry out certain research projects, and to improve undergraduate instruction in foreign languages; authorizes grants or contracts with institutions of higher education to develop international business education and training programs; authorizes the establishment of a national advisory board on these programs; authorizes contracts or grants to public or private institutions to develop programs to increase the understanding of students and the public about foreign cultures;

Rewrites the existing Construction, Reconstruction, and Renovation of Academic Facilities Title VII to organize it in a more systematic manner; focuses Federal assistance on energy conservation, meeting Federal requirements relating to the handicapped and to health and safety mandates, development of research and library facilities, asbestos detection and removal, and on institutions experiencing unusual increases in enrollment;

Retargets and extends Federal cooperative education programs for the five-year period 1981 through 1985; limits grants for planning, establishing, expanding, or carrying out programs of cooperative education to $400,000 per institution or to $300,000 times the number of institutions in a consortium; sets at 5 years the maximum length of time that any one institution can participate in the program; specifies the amount of grant funds that may be used for administrative costs; and makes such grants available for training, research, and demonstration projects.

Consolidates several existing authorities providing graduate fellowship assistance and extends existing graduate programs for five years; establishes the following new programs: (1) Fellowship for Graduate and Professional Study for 10,000 fellowships per year to be awarded to eligible students for graduate study with special emphasis on individuals who plan to pursue a public service career, who are pursuing advance study in energy resources, who are from disadvantaged backgrounds, or who plan to pursue a career in energy conservation or development; (2) National Graduate Fellows Program for 450 fellowships per year to be awarded to eligible students for graduate studies in the arts, humanities, and social sciences; (3) National Talent Grants for First Year Graduate and Professional Study for grants to institutions in order that they may provide awards to exceptionally needy first year graduate or professional students; (4) Assistance for Training in the Legal Professions, for grants to public and private agencies and nonhigher education organizations to assist disadvantaged students pursuing training in the legal professions; authorizes funds for Law School Clinical Assistance;

Moves the Fund for the Improvement of Postsecondary Education into the HEA and gives its board statutory authority;

Authorizes a new program of grants to urban universities to assist urban areas in solving the problems that confront them;

Extends several existing sections of the Higher Education Act, while at the same time refocusing the Federal planning requirement on the planning process itself and not on the planning structure;

Extends the National Institute of Education and recasts its authorization as a percentage of overall appropriations available to the Department of Education;

Establishes the Robert A. Taft Institute of Government Trust Fund to develop the Robert A. Taft Institute of Government in New York City;

Modifes the General Education Provisions Act to increase from 1 year to 2 years the period of automatic extension of the authorization or duration of expiring programs for programs that are forward funded and to provide that appropriations for an extended program are for the extent of the fiscal, not calendar, year; authorizes Congress to reject, in whole or part, final regulations submitted by the Department of Education; extends through fiscal 1981 the Pre-College Science Teacher Training Program and the Minority Institution Program which were formerly under the jurisdiction of the National Science Foundation; exempts the National Periodical System Corporation from taxation and declares the National Direct Student Loan Association authorized by this act tax-exempt, provides assistance for education of Hawaiian natives and for the Navajo Community College; amends the impact aid law to provide a special authorization for the educational costs of Cuban refugee children; and gives land grant status to colleges in American Samoa and Micronesia. S. 1839—Passed Senate June 24, 1980. (*246)

ENERGY

Coal conversion of powerplants: Requires 80 electric generating power plants to convert from their present use of petroleum to coal or another alternate energy source and provides financial assistance for conversion; requires the Secretary to grant an exemption upon finding that a utility has demonstrated that it is not feasible to finance the conversion or if the powerplant does not have, or has not had, the technical ability to use coal or an alternate fuel, or that it could not have such capability without substantial physical modification or substantial reduction in the related capacity of the powerplant; entitles each utility with a powerplant which is required to convert to a grant covering 25 percent of the qualified capital costs of converting; requires a utility to show financial need to qualify; authorizes the Secretary to provide up to an additional 25 percent in grants, an additional 50 percent in loans, or a combination thereof, thus allowing financial assistance of up to 75 percent of the cost of converting a powerplant; entitles powerplants that have already converted to the basic 25 percent grant assistance; allows the Secretary to exclude as an alternative fuel coal tar having a significant commercial value as other than a powerplant fuel;

Voluntary scrubber program: Provides for a voluntary program for installation of advanced sulfur removal systems for nonconverting existing electric powerplants to reduce emissions and authorizes $450 million therefor in fiscal 1981, to remain available until expended;

Coal washing program: Provides grants to pay up to 20 percent of qualifying costs to construct a coal preparation facility capable of reducing the sulfur content of coal; allows allocation of up to 25 percent of appropriated funds within a single State; authorizes $150 million therefor in fiscal 1982 to remain available until expended;

Davis-Bacon Act: Makes the Davis-Bacon Act applicable for projects funded under financial assistance provided by this Act:

Off-gas provision: Amends the prohibition of present law against continued use of natural gas as a primary energy source in electric powerplants after January 1, 1990, to allow the use of natural gas for the duration of a powerplant's book service life; allows electric powerplants which are required to convert from petroleum to use natural gas in conjunction with coal in such quantities as necessary to meet applicable environmental requirements; revokes the prohibition order or proposed prohibition order for certain listed powerplants; retains the Secretary's existing discretionary authority to issue new prohibition orders to powerplants or major fuel-burning installations; exempts from any 1990 cut-off synthetic gas derived from tar sands; requires each utility planning to burn natural gas after 1990 to report to the Secretary concerning construction of new coal-fired generating capacity;

Cogeneration: Amends present law to encourage additional cogeneration of electricity by non-utility cogenerators by removing the 50 percent limitation on sales of cogenerated power sold or exchanged for resale by qualifying cogenerators; and makes the cogeneration exemption mandatory rather than discretionary. S. 2470—Passed Senate June 24, 1980. (*248)

Low-income energy assistance: Revises and rewrites the existing authority under the Economic Opportunity Act authorizing low-income emergency energy conservation services administered by the Community Services Administration and reestablishes this authority in a new Title XI, entitled "Comprehensive Energy Conservation Services Program" having three major components: a weatherization program, a crisis intervention program and outreach services, and a supplemental energy conservation services program which includes energy conservation education, alternative energy development, energy audit activities, and energy conservation, demonstration, and pilot projects; makes low-income and near-poor families and individuals eligible for assistance if (1) their incomes are equal to or less than 85 percent of the Bureau of Labor Statistics' lower living standard income level ($9,814 for a family of four), and (2) their residence is in need of weatherization services under criteria established by the CSA Director; and requires equitable treatment of owners and renters. S. 1725—Passed Senate February 28, 1980. (*52)

Nuclear regulatory commission authorization: Authorizes a total of $426.821 million for fiscal 1980 which includes $66.51 million for nuclear reactor regulation; $42.44 million for inspection and enforcement, of which $4.684 million shall be for 146 additional inspectors; $15.953 million for standards development; $32.38 million for nuclear material safety and safeguards; $213.005 million for nuclear regulatory research; $18.125 million for program technical support; and $38.408 million for program direction and administration; prohibits any budget reprogramming without congressional review and approval within 45 days of amounts of more than $500,000;

Requires the Commission to approve all contracts of more than $50,000 for safeguards, research, and technical assistance, and establishes a review board to approve any NRC contract for more than $500,000; requires the President to notify the Congress 30 days before shipping any spent nuclear fuel to Pacific Islands; directs the NRC to develop, by September 30, 1980, a plan for Federal response to nuclear accidents; prohibits the storage of any nuclear waste in oceans; requires a proposed reactor to meet new Federal standards for siting away from population centers before issuance of a construction permit and directs NRC to write the standards, which specify allowable population density and other criteria; prohibits new operating licenses to be issued in a State unless the State has an NRC approved plan for evacuation and other steps in case of a nuclear emergency; allows a utility to draft an emergency response plan and submit it to the NRC for approval; directs NRC to write standards that States and utilities may follow in drafting their plans; directs the NRC to list for Congress all safety related rules and regulations that are not being met by individual nuclear reactors; makes it a Federal crime to sabotage nuclear facilities or murder, assault, intimidate or otherwise interfere with NRC personnel on a project licensed by the NRC; sets criminal penalties of $25,000 a day or two years in jail for any director, officer or employee of a firm constructing or supplying components of a nuclear facility who knowingly and willfully violated the Atomic Energy Act; authorizes the NRC as a last resort to assume control of emergency response actions, thus preempting State responsibility, if the NRC determined that a State had failed to protect the public health and safety; increases civil penalties for safety violations at nuclear plants from $5,000 to $10,000 per violation; exempts from the Freedom of Information Act any nuclear data that could reasonably be expected to have a significant adverse effect on the health and safety of the public; requires the NRC to notify governors in advance of shipments of nuclear wastes through their States except when shipments would not pose a hazard to public health and safety because of the type of waste or quantity; and requires the NRC to develop within six months a plan for improving operator training. S. 562—Public Law 96– , approved 1980. (178)

Ocean thermal energy conversion: Establishes a goal for demonstrating an electrical and energy product equivalent capacity of at least 100 megawatts from ocean thermal energy conversion (OTEC) systems by 1986, 500 megawatts by 1989 and 10,000 megawatts by 1999, and the reduction of the average cost of electricity and energy product equivalent produced by installed OTEC systems to a level that is competitive with conventional energy sources by 1993; directs the Secretary of Energy to submit to Congress by June 30, 1980, a plan and program for the conduct of research and development and demonstration programs which meet the established goals for 1986, 1989, and 1993; directs the Secretary to submit, within two years, a comprehensive commercialization plan that will permit realization of the 10,000 megawatt national goal by 1999; establishes a seven-member Ocean Thermal Energy Advisory Committee to study and advise the Secretary with regard to implementation and conduct of OTEC programs and their economic, technological, and environmental consequences; and authorizes for fiscal 1981 $25 million for operating expenses and $15 million to initiate demonstration projects for producing an electrical and energy equivalent capacity of 100 megawatts. S. 1830—Passed Senate January 25, 1980. (VV)

Oil import fee disapproval—public debt limit extension: Extends from June 5, 1980, through June 30, 1980, the present temporary public debt limit of $479 billion (which, combined with the $400 billion permanent level, makes a total public debt level of $879 billion) and disapproves the oil import fee proposed by the President on April 2, 1980, which would result in a ten-cent per gallon tax on gasoline. H.R. 7428—veto overriden to become P.L. 96-264, approved on June 6, 1980. (*174, *175)

Small business energy conservation loans: Expands the Small Business Administration's (SBA's) pollution control bond guarantee program to include guarantees to small business concerns for acquisition of energy conservation facilities including solar and other renewable sources of energy equipment. S. 2635—Passed Senate May 22, 1980. (VV)

Small business solar energy loans: Extends, through fiscal 1981, the solar energy direct loan program (section 7(1) of the Small Business Act), which is the only source of government financing for small solar companies; authorizes therefor $45 million in direct and immediate participation loans and $33 million in guaranteed loans; and directs SBA to consult with regional solar energy centers of DOE in evaluating applications for assistance under the program. S. 2224—Passed Senate May 20, 1980. (VV)

Synfuels—Energy Security Act: Title I—Synthetic Fuels: Creates an independent, wholly Federally-owned corporations called the United States Synthetic Fuels Corporation, and establishes national goals for the production of synthetic fuels in the United States of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992; provides that the Corporation shall make available financial assistance to foster commercial production, by private industry, of synthetic fuel which is obtained from coal (including lignite and peat), shale, tar sands (including heavy oil), and hydrogen which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks); also makes eligible for financial assistance those facilities used solely to produce mixtures of coal and petroleum for direct fuel use, facilities used solely for commercial production of hydrogen from water, and any MHD (magnetohydrodynamic) topping cycle used solely for the commercial production of electricity;

Sets the financial resources available to the Corporation over its 12-year lifetime at a maximum of $88 billion, subject to appropriation, and provides that appropriations are to be deposited in the Energy Security Reserve (established by the Department of the Interior and Related Agencies Appropriations Act, 1980) in at least two installments; authorizes the first installment of $20 billion upon enactment, subject to appropriation; and provides that the second and subsequent installments (up to a maximum of $68 billion) would be authorized by joint resolution, subject to appropriation.

Places the initial emphasis of the Corporations' activities on developing experience with differing fuel technologies for domestic production of synfuels while developing the industrial base to undertake achievement of the production goals; requires the Corporation, precedent to subsequent authorizations and appropriations, to submit to Congress within four years a comprehensive production strategy on which Congress must act under expedited procedures; empowers the Corporation to provide financial assistance for commercial synthetic fuel projects in a specified order of priority; provides that before construction of any government-owned contractor-operated (GOCO) synfuel plant, the Corporation must offer right of first refusal to private industry to construct such plant, giving 30 days notice; limits authority for building GOCO's to no more than three projects, prior to approval of the comprehensive strategy; makes Corporation construction projects subject to the environmental impact statement requirements of the National Environmental Policy Act; makes loans and guarantees subject to the Davis-Bacon Service Contracts Act; provides that the authority of the corporation to obligate funds shall cease after December 30, 1992; and provides for termination of the Corporation by December 30, 1997.

Title II—Biomass and Alcohol Fuels Urban Waste: Establishes a comprehensive biomass and alcohol fuels program; provides the Department of Agriculture (USDA) with jurisdiction over all projects involving agricultural and forestry resources normally producing less than 15 million gallons of synthetic fuel and gives the Department of Energy (DOE) and the USDA concurrent jurisdiction over agricultural projects producing over 15 million gallons of synthetic fuel; requires USDA and DOE to prepare an overall Federal plan for biomass energy development to achieve an alcohol production level of 60,000 barrels per day by the end of 1982, and to submit, by January 1, 1982, a comprehensive strategy to achieve an alcohol production level of at least 10 percent of estimated gasoline consumption in 1990;

Directs the Federal government, where feasible, to use gasohol in its motor vehicles, and directs the Secretary of Energy, in consultation with the Secretary of Transportation, to submit to Congress a study on whether legislation is needed to require that any new motor vehicle be capable of operating on gasohol or on pure alcohol.

Establishes a new Office of Energy from Municipal Waste in DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization; gives priority funding to commercialization of technologies which can displace oil and gas and which are both technically and economically feasible; provides for financial assistance for construction in the form of loans and loan guarantees not to exceed 75 percent of total capital costs; and authorizes the Secretary to provide price supports with no repayment of principal and interest for new facilities;

Authorizes $1.2 billion for FY 1981 and 1982 for the comprehensive biomass and alcohol fuels activities and $250 million for urban waste activities.

Title III—Energy Targets: Requires the President to prepare and submit annual energy targets for net imports, domestic production, and end-use consumption for 1985, 1990, 1995, and 2000 together with supporting data and a statement of all assumptions used in preparing the targets; establishes a process for Congress to debate and vote on, and the President to approve, a comprehensive and internally consistent set of energy targets during the first sessions of the 97th and 98th Congresses; establishes special procedures during the 97th Congress only to insure that a vote on the initial targets is obtained in each House; provides that the targets shall be considered goals, and not binding on the Congress or on the Executive Branch.

Title IV—Omnibus Solar Commercialization Act of 1980: Establishes incentives for the use of renewable energy resources by: (1) directing the Secretary of Energy to coordinate solar and conservation information dissemination activities funded by the DOE and submit annual reports to the Congress on the status of these activities, (2) requiring the Secretary to use a 7 percent discount rate and marginal fuel costs in calculating the life cycle costs of conservation and solar investments in Federal building, and (3) establishing a three-year pilot program to promote local energy self-sufficiency through the use of renewable energy resources, with a $10 million authorization in FY 1981; allows the Federal Energy Regulatory Commission under the Federal Power Act to exempt projects below 5 megawatts from certain licensing requirements on a case-by-case basis; requires the Secretary to promulgate regulations to implement the financial assistance programs for small-scale hydro commercialization programs in the National Energy Act within 6 months, and to prepare a study of Federal hydro programs; extends through 1982 the $110 million authorized in the National Energy Act for this purpose.

Title V—Solar Energy and Energy Conservation: Establishes, until September 30, 1987, a Solar Energy and Energy Conservation Bank in HUD to make payments to local financial institutions willing to provide below-market rate loans or a principal reduction on loans to borrowers for solar and conservation improvements; provides that the Bank, which will have the same corporate powers as the GNMA, will be governed by a Board of Directors, composed of the Secretaries of HUD, Energy, Treasury, Agriculture and Commerce, and establishes Advisory Committees on Solar Energy and Energy Conservation to assist it; authorizes $2.5 million for FY 1981 through 1984 for conservation purposes and $525 million for 1981 through 1983 for solar purposes of which up to $10 million in FY 1981 and $7.5 million in 1982 and thereafter would be available annually out of each appropriation to promote the solar and conservation loan programs.

Residential Energy Conservation Grants: Establishes a Residential Conservation Office in the Department of Energy to supervise a state-run grant program in which the Federal government would share the cost of residential energy conservation measures and reserves up to 15 percent of the funds authorized for conservation under the Solar Energy and Energy Conservation Bank.

Residential Energy Efficiency Program: Amends the National Energy Conservation Policy Act to authorize the Secretary of Energy to establish a program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas; and authorizes $10 million for FY 1981 and 1982 for demonstration projects.

Utility Residential Conservation Programs: Includes several amendments to the portion of the National Energy Conservation Policy Act which require the nation's larger electric and gas utilities to establish "utility programs" offering residential customers inspections and management services in arranging for the installation of certain residential energy conservation measures.

Energy Auditor Training and Certification: Authorizes $10 million in FY 1981 and $15 million in 1982 to the Secretary of Energy for grants to States to support training and certification of energy auditors of residential and commercial buildings.

Industrial Energy Conservation: Authorizes not to exceed $40 million for each FY 1981 and 1982 (which is in addition to funds authorized in other measures) to the Secretary of Energy to accelerate research, development, and demonstration of energy productivity for high pay-off Industrial Conservation Demonstration projects under the existing DOE program.

Weatherization Grant Program: Limits administrative expenses of the low-income weatherization assistance program authorized by Title IV of the Energy Production and Conservation Act to not more than 10 percent of any weatherization grant and provides that not more than one-half of this amount may be used by any State for this purpose; authorizes the Secretary to increase the $800-per-dwelling-unit-limit to not more than $1,600 to secure installation of weatherization materials where the Secretary determines than an insufficient number of volunteers, training participants, and public service employment workers are available; increases from $100 to $150 the limit on the cost of making incidental repairs necessary to installation of weatherization materials; gives the Community Action Agency (CAA) preference to continue managing a weatherization program where it has demonstrated the program is effective but otherwise repeals CAA authority in this area.

Title VI—Geothermal Act of 1980: Establishes financial assistance programs in DOE to: (1) promote exploration and confirmation of geothermal reservoirs for which a total of $85 million is authorized in Federal loans and loan guarantees for FY 1981 through 1985; (2) provide for feasibility studies for which $5 million is authorized in FY 1981; and (3) construct specific geothermal projects for which authorization is deferred until FY 1982; directs DOE to conduct a reservoir insurance study in cooperation with the insurance and reinsurance industry.

Title VII—Acid Precipitation Act of 1980: Establishes an Interagency Task Force (chaired jointly by the Administrators of the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency and the Secretary of Agriculture) to conduct a comprehensive 10-year research program to identify the causes and effects of acid precipitation; provides an initial authorization of $5 million to NOAA to establish the Task Force and develop the comprehensive plan and sets an overall ceiling of $45 million on the program.

Carbon Dioxide Study: Calls upon the Director of the Office of Science and Technology Policy to enter into an agreement with the National Academy of Sciences to carry out a comprehensive study on the projected impact of fossil fuel combustion, coal conversion and related synthetic fuels activities, and other sources on the level of carbon dioxide in the atmosphere and submit a report, including major findings and recommendations, to the Congress within three years of enactment; and authorizes therefor up to $3 million, of which at least 80 percent shall be for the National Academy of Sciences.

Title VIII—Strategic Petroleum Reserve: Requires the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day; requires that, if this specified SPR fill rate is not achieved, any production from Elk Hills and Teapot Dome Naval Petroleum Reserves must be sold or exchanged so as to be stored in the SPR; makes certain exceptions to this fill requirement. S. 932—Public Law 96– , approved , 1980. (228)

Windfall profit tax: Imposes a $227.7 billion windfall profit tax, a temporary excise or severance tax, on taxable crude oil produced in the United States according to its classification in one of three tiers; derives the tax by multiplying the appropriate tier tax rate times the windfall profit which is defined as the difference between the actual selling price of the oil and its base price (with a deduction for State severance taxes on the windfall profit); taxes tier 1 (oil discovered prior to 1979 that would have been controlled as lower or upper tier oil had price controls remained in effect) at 70 percent with a base price at the May 1979 upper tier ceiling price (which overaged $13.02 per barrel) less $.21, adjusted for inflation; includes production from the Sadlerochit Reservoir on the Alaskan north slope in this tier; taxes tier 2 (oil from stripper wells and a natonal petroleum reserve) at 60 percent with a base price of $15.20 per barrel adjusted for inflation and differences in quality and location; taxes tier 3 (newly discovered oil, certain heavy oil, or incremental tertiary oil) at 30 percent with a base price of $16.55 per barrel adjusted for inflation plus two percent and for difference in quality and location; allows independent producers a reduced tax rate on up to 1,000 barrels per day of qualifying tier 1 oil at 50 percent and tier 2 oil at 30 percent; exempts from the tax State and local governments, certain charitable medical facilities and educational institutions, and Indian tribes; exempts new oil produced in most of Alaska and front-end tertiary oil; limits the windfall profit subject to tax to 90 percent of net income from property with qualified tertiary injectant expenses being capitalized; makes the windfall profit tax deductible as a business expense; for purposes of computing percentage depletion, gross income from the property is not reduced by the windfall profit; phases out the entire windfall profit tax over a 33-month period after December 31, 1987 (but no later than December 3, 1990), or when cumulative revenues raised by the tax reach $227.3 billion, whichever is later; and makes the tax effective for production after February 29, 1980;

Residential Energy Tax Credits: (Estimated cost of $600 million for 1980–1990) Increases the existing tax credit for residential solar energy property to 40 percent of the first $100,000 of expenditures and makes additional kinds of property eligible for that credit; adds specific standards for the Secretary of the Treasury to use when exercising the existing authority to add items to the list of property eligible for the home insulation and solar energy tax credits;

Business Energy Tax Incentives: (Estimated cost of $8.086 billion for 1979–1980) Increases to 15 percent and extends through 1985 the energy investment credit for solar, wind, and geothermal equipment, as well as the solar credit to equipment used to provide process heat; provides a 15 percent energy credit for certain ocean thermal equipment; provides an 11 percent energy credit for small-scale hydroelectric equipment; provides a 10 percent energy credit through 1982 for cogeneration equipment not fueled by oil or gas; sets specific standards for the Secretary of the Treasury to use in exercising the existing authority to add items to the list of property eligible for the business energy credits; restores the regular investment credit and accelerated depreciation to boilers using petroleum coke and pitch; contains a 10 percent energy credit through 1982 for coke ovens; extends through 1985 the energy credit for biomass and gasohol equipment; contains a 10 percent energy credit through 1985 for certain intercity buses with increased seating capacity; contains a transition rule for energy credits expiring in 1982 to allow those credits through 1990 where affirmative commitments have been made; provides a $3 per barrel credit for the production of various alternative energy sources; extends through 1992 the excise tax exemption for gasohol, along with various other tax incentives for gasohol; exempts industrial development bonds used to finance small-scale hydroelectric equipment, certain solid waste disposal facilities, and certain renewable energy programs; and allows expensing of injectants used in tertiary oil recovery;

Low-Income Assistance: Authorizes $3.115 billion for fiscal 1981 for a program of block grants to the States to provide assistance to lower-income families for heating and cooling costs; restricts eligibility to households which have incomes less than the Bureau of Labor Statistics (BLS) lower living standard which in 1978 was $11,600 on a national average for a family of four; allows States to give assistance, regardless of income, to households which receive food stamps, AFDC, needs-tested veterans' pensions, or SSI with certain exceptions; allots by formula 95 percent of the total amount appropriated to the 50 States and the District of Columbia, and reserves five percent for the territories, the Community Service Administration's crisis intervention program ($100 million), and matching incentive grants for State initiatives under this program; provides that the basic formula will allot half of the funds according to a State's aggregate residential energy expenditure (relative to the total for all States), and half according to heating degree days squared, weighted by the number of households below the BLS lower living standard; provides that a State allotment shall be large enough to provide at least $120 per year to each AFDC, SSI, and food stamp household in the State; provides further that no State shall receive less than the lower of the amounts it would have received under either of two alternative formulas; authorizes $25 million to meet the additional costs resulting from the application of the minimum benefit provision to certain States; requires each State to submit an energy assistance plan, which would be subject to approval by the Secretary of Health, Education and Welfare; and provides that any assistance provided under this Act could not be counted as income or resources under any Federal, State, or local program of assistance or taxation;

Disposition of Windfall Profit Tax Revenue: Provides that the net revenues from the windfall profit tax be allocated only for the following specific purposes to a separate account at the Treasury: (a) Aid to Lower-Income Households—25 percent of net revenues; provides that for fiscal 1982 and subsequent years these funds shall be divided equally between the program to assist AFDC and SSI recipients and a program of Emergency Energy Assistance; (b) Individual and Corporate Income Tax Reductions—60 percent of net revenues for tax cuts to help taxpayers cope with higher energy prices; and (c) Energy and Transportation Spending Programs—15 percent of net revenues;

Other Income Tax Provisions: Repeals the carryover basis provisions enacted in 1976 regarding estate tax law under which the taxable base for appreciation on an inherited asset is valued at the time of its acquisition by the decedent rather than at the time it is inherited; allows a $200 exclusion for interest and dividends ($400 for married couples) effective for tax years 1981 and 1982; and modifies LIFO inventory accounting rules; and

Oil Imports: Denies the President the authority to impose oil import quotas if Congress passes a joint resolution disapproving such a quota, with a right of veto which could be overridden by a two-thirds vote of both Houses. H.R. 3919—Public Law 96-223, approved April 2, 1980. (496, *67)

ENVIRONMENT AND NATURAL RESOURCES

Channel Islands National Seashore: Establishes the Channel Islands National Park in California consisting of the islands of San Miguel, Prince Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara; authorizes $30.1 million for use by the Secretary to acquire lands within the Park boundaries; adds to the acreage of various national parks; and makes technical corrections to the National Parks and Recreation Act of 1978 (Public Law 95-625). H.R. 3757—Public Law 96-199, approved March 5, 1980. (*41)

Clean water act extensions: Authorizes $320.9 million in fiscal 1981 and $297.8 million in fiscal 1982 for programs under the Clean Water Act including: (1) research, investigations, and training including the Great Lakes and Chesapeake Bay programs, (2) grants for pollution control programs; (3) areawide waste treatment management planning process grants; (4) rural nonpoint source pollution control; and (5) clean lakes grants to States; allows the Administrator of EPA to exempt from reallocation any construction grant funds which remain unobligated more than two years for court ordered projects, and funds for innovative and alternative technologies; authorizes allocation of grant funds of the State of New York to demonstrate methods for selective removal by dredging of polychlorinated biphenyls (PCBs) in the Hudson River; repeals the industrial cost recovery provisions for grants for the construction of treatment works; and prohibits the use of grants made under the Clean Water Act after September 30, 1980, to enable a publicly owned treatment works, to treat, store, or convey the flow of any industrial user in excess of a 50,000 gallons per day equivalent of sanitary waste. S. 2725—Passed Senate June 25, 1980. (*254)

Earthquake hazard reduction: Extends, through fiscal 1983, the Earthquake Hazard Reduction Act of 1977 and authorizes therefor a total of $242.8 million for fiscal 1981 through 1983 to the Federal Emergency Management Agency; the United States Geological Survey; and the National Science Foundation to continue their ongoing programs aimed at reducing the risks to life and property from earthquakes through means of prevention and preparedness. S. 1393—Passed Senate May 22, 1980. (VV)

Endangered species: Extends programs under the Endangered Species Act of 1973 through fiscal 1982 and authorizes a total of $12 million for the section 6 State grant-in-aid program which includes the remaining $4 million of the $16 million previously authorized under Public Law 96-212. H.R. 6839—Public Law 96-246, approved May 23, 1980. (VV)

EPA authorizations: Authorizes a total of

$368,702,000 for the environmental research and development programs conducted by the Environmental Protection Agency for fiscal 1981. S. 2726—Passed Senate May 22, 1980. (VV)

Fish and wildlife conservation: Authorizes $5 million each for fiscal 1981 through 1984 to the Secretary of the Interior to establish, for the first time, a comprehensive wildlife conservation grant program, whereby States would receive Federal matching funds for the development, revision, and maintenance of approved plans and programs established for conservation of both game and nongame wildlife. S. 218—Passed Senate May 22, 1980. (VV)

Great Plains conservation: Extends through September 30, 1991, the Great Plains Conservation Program, due to expire December 31, 1981, under which the Secretary of Agriculture is authorized to enter into cost-sharing conservation contracts with farmers and ranchers; expands the scope of the contracts to include farms, ranches, and other lands susceptible to serious water, as well as wind, erosion; increases the overall limitation on program costs, exclusive of administrative costs; and increases the annual program payment limitation. H.R. 3789—Public Law 96-263, approved June 6, 1980. (VV)

Water resources—saline water conversion: extends through fiscal 1983, the basic activities of the Office of Water Research and Technology (OWRT) under the Water Research and Development Act and provides specific authorizations for the various categories of funding and makes a number of changes to the Saline Water Demonstration Program. S. 1640—Passed Senate June 3, 1980. (VV)

GENERAL GOVERNMENT

Federal Trade Commission: Amends the Federal Trade Commission Act to change procedures for agency investigations and rulemaking; authorizes $70 million for fiscal 1980, $75 million for 1981, and $80 million for 1982 for programs administered by the Federal Trade Commission; and provides for a two-house legislative veto of trade rules promulgated by the FTC;

Requires the FTC, within 120 days of the filing date, to reopen any FTC order if a person, partnership, or corporation subject to that order makes a "satisfactory showing" of the changed conditions of law or fact since the order was issued; prohibits the FTC from making public trade secrets, commercial, and financial information which it obtains confidentially from private sources; requires the FTC to establish a plan to reduce the burdens on small businesses of the quarterly financial report and to reduce the number of small businesses required to file the report; makes permanent the protection against disclosure of line-of-business data in such a way that an individual company could be identified;

Makes the FTC's investigative and reporting powers inapplicable to the business of insurance, except to the extent authorized with regard to antitrust investigations or unless requested by a majority vote of the Senate or House Commerce Committees; eliminates the threat of criminal sanctions applied to those recipients of a subpoena who in good faith resist investigations by making such sanctions inapplicable prior to a judicial order of enforcement;

Terminates FTC's rulemaking authority to issue a trade regulation rule under section 18 regarding industry standards and certification of products but leaves unaffected whatever authority the FTC may have under other provisions of the Act;

Requires the FTC to notify the relevant Senate and House committees 30 days prior to publishing a notice in the Federal Register of a proposed rulemaking; limits to $75,000 per proceeding and to $50,000 per year the amount that any person may receive under the public participation program; restricts the total authorization for this program to $750,000 annually, and calls for establishment of a small business outreach program to solicit public comment and encourage participation;

Suspends the present rulemaking proceedings regarding children's television advertising until the Commission votes to publish the text of the proposed rule and conducts its investigations under a "false or deceptive", rather than an "unfair or deceptive" standard;

Requires the FTC to promulgate rules providing that ex parte contacts between Commissioners and outside parties be "on-the-record", and that contacts between the Commissioners and the rulemaking staff be "on-the-record" when discussing facts relevant to the rulemaking but which are not in the rulemaking record; applies the civil investigative demand procedure utilized by the Justice Department under the Antitrust Civil Process Act to certain FTC investigations, and allows information sharing with other Federal agencies as long as they abide by the same standards of confidentiality; exempts from disclosure under the Freedom of Information Act any material the FTC receives in an investigation of a violation of a law within the jurisdiction of the FTC;

Requires the FTC to publish the text of any rule, or alternatives, at the commencement of a rulemaking proceeding; provides that the provision requiring the publication of a rule is applicable to any rulemaking proceeding in which all hearings have not been completed; requires publication of a semiannual regulatory agenda listing the rules which the FTC expects to propose or promulgate in the next 12 months; requires an analysis of a proposed action as to its benefits and adverse effects at the initial notice stage and upon promulgation;

Prohibits the FTC for three years from petitioning the Commissioner of Patents to cancel a trademark on the grounds that it had become the "common or descriptive name of an article or substance" under the Lanham Trademark Act, which would prevent the FTC's intended action on the word "formica"; authorizes FTC rulemaking on the funeral industry with regard to mandating price disclosures, banning deceptive or coercive practices, and prohibiting unlawful practices such as boycotts or threats; prohibits funds for study, investigation, or prosecution of any agricultural cooperative, such as Sunkist, which is exempt from antitrust laws under the Capper-Volstead Act;

Provides for a two-house legislative veto of FTC rules, under expedited procedures, by the passage within 90 days of promulgation of a rule of a concurrent resolution of disapproval; and requires the Senate Commerce Committee's Subcommittee for Consumers to hold oversight hearings every six months regarding the FTC. Consumers. H.R. 2313—Public Law 96-252, approved May 28, 1980. (*40, *152)

General Accounting Office audit of unvouchered expenses: Amends the Accounting and Auditing Act of 1950 to authorize the Comptroller General to audit unvouchered expenditures which are accounted for solely by the President or agency official involved (except for certain expenditures dealing with sensitive foreign intelligence or counter-intelligence) for the purpose of verifying to Congress that funds were legitimately expended. H.R. 24—Public Law 96-226, approved April 3, 1980. (VV)

NASA authorization: Authorizes $5,569,854,000 for the National Aeronautics and Space Administration for fiscal 1981 of which $4,416,700,000 is for research and development including $1,873,000,000 for continuing development of the Space Shuttle and the production of a four orbiter fleet to support civil and military space operations with an advanced, reusable space transportation system; $120,000,000 for construction of facilities including the Space Shuttle; and $1,033,154,000 for research and program management; and contains support for two new initiatives: the Gamma Ray Observatory and the National Oceanic Satellite System. S. 2240—Passed Senate June 3, 1980. (VV)

NASA supplemental authorization: Authorizes $300 million in fiscal 1980 supplemental funds to NASA for research and development in connection with the space shuttle program which, when added to the $1.586 billion appropriated, would provide a total authorization of $1.886 billion for the program. S. 2238—Passed Senate May 30, 1980. (VV)

National science and women in science: Authorizes $1,074,000,000 for fiscal 1981 and $1,235,500,000 for fiscal 1982 and sets aside not less than 2.1 percent in fiscal 1981 and 1982 to promote the full use of human resources in science and technology through a comprehensive program to increase the potential contribution and advancement of women in scientific, professional, and technical careers. S. 568—Passed Senate June 23, 1980. (VV)

Omnibus territories: Provides for fiscal 1981 and beyond an open end authorization for the operation of the civil government of the Trust Territory, which includes funds for completion of the capital improvement program, a basic communications system, and a feasibility study and construction of a hydroelectric facility on Ponape in the Caroline Islands; requires the Secretary of the Interior to submit to Congress, no later than January 1, 1981, a plan for a comprehensive health care and environmental monitoring program, which is in addition to the existing program under Public Law 95-134, taking into consideration the different needs of Bikini, Enewetak, Ronglap, and Utirik Atolls in the Northern Marshall Islands which were affected by radiation from U.S. nuclear weapons testing between 1946 and 1958 and authorizes such sums as may be necessary to implement the program; provides additional warranted compensation for a limited number of persons who were victims of radioactive fallout at Bikini Atoll; provides for continuance of Federal health and education programs in the Trust territory and their successor governments until terminated by Congress;

Authorizes $24.4 million to establish a grant program for health care needs of the residents of the Northern Mariana Islands; authorizes the Secretary of Treasury to enter into a contract with the Northern Mariana Islands for the purpose of establishing a local tax code to be implemented by January 1, 1982;

Repeals the prohibition on the award of interest under the Guam Land Claims provisions of Public Law 95-134; forgives the interest on loans made to Guam to assist in the rehabilitation of the island due to damage caused by World War II and Typhoon Karen and credits the interest paid against the oustanding principle; modifies, and extends for ten years, the loan guarantee program for the Guam Power Authority;

Transfers to the Virgin Islands certain lands which the U.S. acquired from Denmark; and releases the Virgin Islands, upon payment of the outstanding principle, from the mortgage on approximately ten acres of land for construction of the proposed St. Croix Armory; prohibits any change in the existing lease on Water Island before 1992 without Congressional approval; authorizes the U.S. to retain the funds attributable to the cost of collecting customs, duties, and fees on petroleum products between August 18,1978, and January 1, 1982, with all other deductions remitted pursuant to the Virgin Islands Revised Organic Act; repeals the deficit authorization contained in Public Law 95-348; authorizes the Virgin Islands to levy excise taxes on articles as soon as they are brought into the Islands; directs the Administrator of GSA to transfer to the Virgin Islands title of the former District Building located on Norre Gade; extends the guaranteed bonding authority for the Virgin Islands for five years with a provision that any funds guaranteed but not obligated at the expiration of that period would be returned to the Federal Government;

Authorizes the Secretary of the Treasury effective October 1, 1980, to assist the Governor of American Samoa in collecting all customs duties derived from American Samoa;

Requires the Department of Interior to waive matching requirements on Federal grant programs to the territories; directs Federal agencies to waive any requirement for local matching funds under $100,000 from American Samoa or the Northern Mariana Islands; authorizes the territories to use Federal services on a reimbursable basis; requires the Secretary of the Interior to notify Congress prior to any storage of spent nuclear fuel or radioactive waste in any territory; clarifies Puerto Rico's jurisdiction over its submerged lands; and transfers to Guam, the Virgin Islands, and American Samoa the mineral rights reserved to the Federal Government under the Territorial Submerged Lands Act. H.R. 3756—Public Law 96-205, approved March 12, 1980. (VV)

Public buildings: Authorizes not to exceed $2,361,399,099 for various building projects and to carry out the general policies established to be followed in locating, designing, furnishing and maintaining federal buildings; and sets a goal of increasing the percentage of Federal employees working in public buildings as opposed to leased buildings to 60 percent in ten years and 75 percent in 20 years, up from 48 percent at present. S. 2080—Passed Senate June 20, 1980. (*234)

Refugee assistance and admission: Amends the Immigration and Nationality Act to: (1) provide a new definition of refugee which eliminates current geographical and ideological restrictions and conforms to the United Nations Convention and Protocol Relating to the Status of Refugees; (2) raise the annual limitation on regular refugee admissions from 17,400 to 50,000 for fiscal 1980 through 1982 with a limitation thereafter to be determined as a result of consultation with Congress; (3) provide procedures for meeting emergency refugee and other situations of special concern to the United States if the resettlement needs of the homeless people involved exceed the 50,000 ceiling and specify the procedures for hearings and consultations with Congress on numbers and allocations of refugees in these situations; (4) provide for withholding deportation of aliens to countries where they would face persecution, unless four specific conditions are met which are set forth in the U.N. Convention; (5) limit the use of parole to individual refugees and require that in utilizing parole, the Attorney General must determine "that compelling reasons in the public interest . . . require that the alien be paroled into the United States rather than be admitted as a refugee"; (6) admit all refugees as refugees with retroactive adjustment of status to lawful permanent residents after one year; (7) establish the statutory position of U.S. Coordinator for Refugee Affairs with the rank of Ambassador at Large, to be appointed by the President and confirmed by the Senate, to develop and coordinate U.S. refugee admission and resettlement policy; (8) establish an Office of Refugee Resettlement in the Department of Health and Human Services to administer present domestic assistance programs; (9) require coordination between HSS and the Department of State in providing resettlement and placement grants during fiscal 1980 and 1981 and transfer this authority to HSS in 1982 unless the President determines, from the results of a required study of which agency is best able to administer the program, that the Director should not administer the program; (10) authorize $200 million annually for supportive services to be funded through discretionary grants and contracts; (11) provide 100 percent reimbursement for cash and medical assistance provided to refugees for three years following the refugees' arrival and specify that this limitation does not apply for fiscal 1980 and the first six months of 1981; (12) provide for the continued phasedown of the Cuban refugees program through 1982; (13) provide a three-year authorization of domestic assistance funding; and (14) authorize reimbursement of State and local public agencies for assistance provided to aliens who applied for asylum before November 1, 1979, and who are awaiting determinations of their claims. S. 643—Public Law 96-212, approved March 17, 1980. (262)

Reorganization authority extension: Extends for one year, until April 6, 1981, the President's current authority under chapter 9, title 5, U.S.C. to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch. H.R. 6585—Public Law 96-230, approved April 8, 1980. (VV)

War risk insurance: Extends, until September 30, 1984, the authority of the Secretary of Commerce under title XII of the Merchant Marine Act of 1936 to provide insurance and reinsurance against the loss or damage by war to American vessels and foreign-flag vessels owned by U.S. citizens or engaged in waterborne commerce of the United States or in such other services deemed by the Secretary to be in the interest of national defense or the national economy. S. 1452—Public Law 96-195, approved February 25, 1980. (VV)

HEALTH

Asbestos hazard detection: Makes Federal financial assistance available for the detection and treatment of hazardous asbestos materials in school buildings by providing a two-tiered program of Federal assistance: (1) a grant program available to State and local education agencies and private schools to detect potential hazards, and (2) an interest free loan program available to school districts and private schools to contain or remove detected hazards. S. 1658—Public Law 96-270, approved June 14, 1980. (VV)

Health sciences promotion: Authorizes $33.7 million in fiscal 1981, $39.7 million in fiscal 1982, $45.7 million in fiscal 1983, for NIH and health sciences programs; establishes the President's Council for the Health Sciences, a 16-member council appointed by the President and confirmed by the Senate, to oversee health research efforts within the Department of Health and Human Services (DHHS) and to provide the Congress and the President with one- and five-year recommendations each year for the funding of health sciences research throughout the department and to make recommendations regarding areas needing increased research attention and fiscal support; establishes by statute, for the first time, the National Institutes of Health (NIH) which has previously existed under general authority of the Public Health Service Act and provides three year authorizations therefor; revises the present statutory councils and other substantive changes; mandates the DHHS conduct experiments with the present peer review system for selecting grant proposals for funding, including an appeals process for rejected grant applicants and alternative systems; and provides for the development of new ways to identify innovative and unconventional research. S. 988—Passed Senate June 19, 1980. (*230)

Saccharin ban extension: Extends from May 23, 1979, to June 30, 1981, the ban on actions by the Secretary of Health and Human Services to restrict or prohibit the sale or distribution of saccharin, including any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin. H.R. 4453—Public Law 96-273, approved June 17, 1980. (VV)

HOUSING

Home Purchase Assistance: Amends the Emergency Home Purchase Assistance Act to impose the following two additional conditions on the activation of the program: (1) requires the Secretary to determine that the implementation of the section will not significantly worsen inflationary conditions, and (2) prohibits activation of the program unless the most recent four-month average annual rate of private housing starts (seasonally adjusted and exclusive of mobile homes) as calculated by the Director of the Bureau of the Census, is less than 1.6 million and automatically deactivates the program once this figure is exceeded;

Broadens the Secretary's authority to include the purchase of loans in addition to mortgages; includes mobile homes among the kinds of housing eligible for the program;

Increases mortgage limits for more than four-family residences to the per unit amounts permitted under that section of the National Housing Act under which the project is insured and makes loan limits for mobile homes the same as those contained in section 2(b) of the National Housing Act;

Deletes the existing 7½ percent maximum on interest rates under the program, and provides instead that the interest rate be set by the Secretary but should not exceed the maximum rate applicable to mortgage insured under section 203(b) of the National Housing Act and shall not be lower than three percentage points below the average contract commitment rate maintained by the Federal Home Loan Bank Board for single family home mortgages or lower than 4½ percentage points for a multifamily mortgage;

Increases the sales price under the program as follows: for a one-family residence, 90 percent of the average new one-family house price in the area, as determined by the Secretary; for a two-family residence, 100 percent of such average; for a three-family residence, 120 percent of such average; and for a four-family residence, 140 percent of such average; gives the Secretary discretion to direct a portion of assistance to promote construction of multifamily housing;

Extends the program to existing housing constructed more than one year prior to the date of the issuance of the commitment to purchase the mortgage;

Increases the mortgage amounts for multifamily dwellings to the limits specified in section 207 of the National Housing Act in the case of rental projects, section 213 for a cooperative project, or section 234 for condominium project;

Prohibits the purchase of mortgages to finance the conversion of an existing rental housing project into a cooperative or condominium, or to finance the purchase of an individual unit in a converted cooperative or condominium;

Section 235 Home Ownership: Creates a special section 235 home ownership assistance program that would authorize below market interest rate mortgages; allows effective subsidized mortgage rates as low as 11 percent, rather than as low as four percent under the present program; authorizes the Secretary of HUD to add a graduated payment mortgage feature to the program to reduce the homebuyer's effective interest rates to as low as eight percent; makes available assistance payments for persons buying dwellings that sell for up to 80 percent of the average new house price for their area, or $60,000, whichever is higher; authorizes the Secretary to set income levels by area, but directs that moderate income persons be served to the maximum extent feasible; limits recapture of the Federal subsidy to 50 percent rather than 75 percent of net appreciation upon sale of the home; authorizes HUD to use $135 million of its remaining $165 million already appropriated to support the revised section 235 provisions; provides that the program shall remain in effect only through March 1, 1981, unless the Secretary of HUD determines that there is no longer a need for emergency stimulation of the housing market; requires homebuyers to contribute at least 20 percent of their income toward mortgage principal, interest and property taxes; adds technical provisions overriding the limit that no more than 40 percent of the homes in a subdivision can be assisted by the present 235 program and the requirement for local government review for consistency with housing assistance plans of projects with more than 12 houses; and amends the Depository Institutions Deregulation Act of 1980 to make clear that the highest rate allowed either under State or Federal law can be charged on floating rate loans made prior to April 1, 1980, upon written consent. S. 2177—Passed Senate April 22, 1980. (*82) (NOTE: Comparable provisions are included in the Housing and Community Development Act.)

Housing and community development: Reauthorizes the community development block grant program at $3.95 billion for fiscal 1981, $4.1 billion for 1982, and $4.25 billion for 1983; increases loan limits for the section 312 rehabilitation loan program to a maximum of $35,000 per dwelling unit for residential properties, except for congregate housing and single room occupancy structures, which receive loan limits of $25,000 and $15,000 respectively; reauthorizes the neighborhood self-help development program at $10 million for fiscal 1981;

Housing and assistance programs: Authorizes $29.99 billion to fund 286,000 units of public housing and section 8 subsidized private rental housing, at a mix of new to existing units of 60–40; reduces the eligibility ceiling for section 8 assistance to 65 percent of median area income from 80 percent median area income; authorizes public housing operating subsidies totaling $862 million for fiscal 1981; reauthorizes operating assistance for troubled multifamily housing projects for fiscal 1981 at $31.1 million; extends the public housing anti-crime demonstration programs; and allows public housing agencies to use public housing funds as the non-Federal match to secure funds for Federal grant-in-aid programs;

Extends all basic FHA authorities for single family and multifamily housing programs, and title I property improvement loans and mobile home loans, with a requirement that the FHA interest rate be adjusted with sufficient frequency to minimize discount points; revises FHA mortgage limits for one-family units from the current nationwide limit of $67,500 to an area differential that calls for a limit of $67,500 or 95 percent of the median house sales price for the given area as determined by the Secretary, whichever is higher; increases 2- to 4-family dwelling limits proportionally; increases mortgage limits under multifamily and institutional FHA insurance programs by 20 percent to cover the cost of energy conservation measures; delays implementation of building energy performance standards for up to two years and transfers the responsibility for implementation from HUD to DOE; permanently extends the disposition of HUD-owned multifamily rental housing projects; reauthorizes the Neighborhood Reinvestment Corporation at $13,426,000 for fiscal 1981; revises the FHA section 233(f) refinancing program to permit an interest subsidy on loans through the Government National Mortgage Association (GNMA), and to curtail the use of the program for cooperative conversions; reauthorizes targeted tandem projects to the comparable FHA limits;

Planning Assistance: Reauthorizes the comprehensive planning program of the Housing Act of 1954 at $40 million annually for fiscal 1981 to 1983;

Condominium and Cooperative Conversion Protection: Establishes national standards for condominium and cooperative conversion including a right of first refusal by individual tenants to purchase their units within 90 days of notice of conversion, warrantees on units and common elements, anti-fraud provisions and optional termination by unit owners of operating contracts with developers; allows enforcement of standards through civil action in State or Federal court; allows States and localities, three years following enactment, to exempt themselves from these standards; establishes rights of civil action with respect to certain long term condominium leases with automatic escalation clauses; and makes void certain provisions of those leases;

National Flood Insurance Studies: Authorizes $61.6 million for fiscal 1981 to carry out studies or flood-prone communities and such sums as necessary for fiscal year 1982;

Rural Housing: Extends, amends and authorizes appropriations for fiscal 1981 for housing and related programs administered by the Farmers Home Administration of the Department of Agriculture; limits FmHA's capacity to insure and guarantee loans to a maximum of $3.77 billion; and requires that no less than $3.12 billion be used to assist low income persons, whose incomes are 80 percent or less of the median area income. S. 2719—Passed Senate June 21, 1980. (*242)

INTERNATIONAL

China trade: Approves the extension of nondiscriminatory (most-favored-nation) treatment with respect to products which the U.S. imports from the People's Republic of China which was transmitted by the President on October 23, 1979. H. Con. Res. 204—Action completed January 24, 1980. (*13)

International and security development assistance—Peace Corps authorization: Authorizes $4,785,931,000 for international security and development assistance and Peace Corps programs in fiscal 1981: authorizes $638.6 million for military aid programs in fiscal 1981, and provides program authority for an additional $2.575 billion in foreign military sales financing; includes military aid in the amount of $1.4 billion to Israel with $500 million grant, $551 million to Egypt, $252 million to Turkey, $183 million to Greece, and $175 million to the Republic of Korea;

Authorizes $2,049,500,000 for fiscal 1981 Economic Support Fund programs, including $785 million for Israel, $750 million for Egypt, and $200 million for Turkey;

Authorizes $25 million in fiscal year 1981 for ongoing international peacekeeping operations in the Sinai and in Cyprus; authorizes $38.6 million in fiscal 1981 for International Narcotics Control programs removes the $35 million ceiling on commercial arms exports and makes corresponding changes such as adding a concurrent resolution veto for commercial arms exports; removes the ten percent reserve requirement for the foreign military sales guarantee fund and replaces it with a floor of $750 million; directs that the costs of the grant military training programs be calculated on an incremental rather than full cost basis; provides the President with expanded emergency powers restrictions in the Arms Export Control Act and draw down up to $50 million in U.S. Defense Department stocks; defines more carefully the term "duties of a combat nature" related to the security assistance program and provides for reports to Congress in the event of significant hostilities in countries receiving U.S. defense services;

Requires Presidential reports on Soviet troops in Cuba and on leases of U.S. military property to foreign governments;

Authorizes $233,250,000 in fiscal 1981 for voluntary contributions to international organizations and programs; and $114,656,000 for Peace Corps;

Authorizes $1.282 billion for AID's functional development assistance programs; authorizes operating expenses for fiscal 1981 for AID as well as 1981 authorizations for the Sahel Development Program, American Schools and Hospitals Abroad, and International Disaster Assistance; requires the expenditure of $2.5 million of AID funds to prepare environmental profiles of developing countries and to support programs to assist in the protection and improve management of their environment and natural resources; and changes the name of AID's Auditor General to Inspector General and provides the Inspector General with authorities similar to those of Inspectors General of other agencies. H.R. 6942—Passed House June 5, 1980; Passed Senate amended June 17, 1980; In conference. (*218).

International Monetary Fund (Bretton Woods): Authorizes the U.S. Governor to consent to a permanent increase in the U.S. quota in the International Monetary Fund equivalent to $4,202,500,000. Special Drawing Rights (approximately $5.4 billion) subject to the limitation that the increase could not exceed such amounts as are appropriated in advance in appropriation acts; and directs the Secretary of Treasury to appoint a Commission to study present U.S. policy toward gold and its role in domestic and international monetary systems. S. 2271—Passed Senate June 16, 1980. (* 211)

Intelligence oversight: Changes the congressional reporting requirements of the Director of Central Intelligence and the heads of all departments, agencies, and other entities, involved in intelligence activities by requiring them to inform only the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence instead of the eight committees presently responsible for oversight of all U.S. intelligence activities including any significant anticipated intelligence activities; allows the President to limit notice to the chairmen and ranking minority members of the Select Committees, the speaker and minority leader of the House, and the majority and minority leaders of the Senate if he determines that this is necessary to meet extraordinary circumstances affecting vital interests; requires intelligence groups to report in a timely fashion any illegal intelligence activity or significant intelligent failure and any corrective action that has been planned or taken; requires the President to inform the committees fully of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given, and to provide a statement of the reasons for not giving prior notice; and requires the House and Senate, in consultation with the Director of Central Intelligence, to establish, by rule or resolution, procedures to protect against unauthorized disclosure of classified information provided to the Congress. S. 2284—Passed Senate June 3, 1980. (* 172)

International Sugar Agreement implementation: Provides for the implementation of the International Sugar Agreement of 1977 (ISA); authorizes the President to carry out and enforce the provisions of the Agreement; makes it a crime, punishable by a fine of not more than $1,000, to fail to keep any required information or to submit a required report, to knowingly submit a false report, or to violate a rule or regulation promulgated pursuant to this Act; requires biannual reports to Congress on the operation and effect of the ISA containing information on and projections of world and domestic sugar demand, supplies and prices, and a summary of international and domestic actions under the ISA and U.S. law to protect the interests of U.S. consumers and producers of sugar; directs the President, if he determines that there has been an unwarranted price increase due to the ISA or to market manipulation by its members, to request the various governing bodies to take off-setting actions to increase sugar supplies; directs the President, if the International Sugar Council fails to take corrective action within a reasonable period of time following the request, to submit to Congress his recommendations on ways to correct the situation; and provides for the suspension of the President's implementation authority if the situation is not remedied within a reasonable period of time and until such time as the President determines that manipulations have ceased. H.R. 6029—Public Law 96-236, approved April 22, 1980. (VV)

Iranian hostage release: Commends, on behalf of all Americans, the Government of Canada for its actions in protecting certain United States citizens and arranging for their departure from Iran. S. Res. 344—Senate agreed to January 30, 1980. (VV)

States the sense of the Congress that the people of the United States should observe March 18, 1980, as a national day of prayer and meditation for the hostages in Iran. S. Con. Res. 79—Action completed March 17, 1980. (VV)

Expresses the deep sympathy of the Senate to the families of the eight servicemen who lost their lives in the attempted rescue of the Americans being held hostage in Iran; and states the sense of the Senate that the President shall order the U.S. flag to be flown at half-mast on all Federal buildings and grounds from sunset on May 6, until sunset on May 9, 1980, in honor and remembrance of these men. S. Res. 417—Senate agreed to May 6, 1980. (VV)

Multilateral development banks: Authorizes $2,474,287,189 as the U.S. subscription for the newly authorized capital stock (of which 92.5 percent is callable and 7.5 percent is paid-in) of the Inter-American Development Bank and a contribution of $630 million to the Bank's Fund for Special Operations; authorizes a contribution of $378.25 million and $125 million as the U.S. share of the Asian Development Fund and the African Development Fund, respectively; states the sense of the Congress that it is U.S. policy that Taiwan should be permitted to retain its membership in the Asian Development Bank and that, if expelled, a review of future participation in the Bank, as well as future payments to the Fund, would ensue; calls for reports on all loans considered by the Boards of the various institutions and on all loans opposed by the U.S.; directs the U.S. Governors to consult with the other governors concerning adoption of an amendment to the articles of agreement of each institution which establishes human rights standards to be considered in connection with each application for assistance; and requires the U.S. to promote the development of renewable energy resources. S. 662–Public Law 96-259, approved June 3, 1980. (101)

Authorizes $3.240 billion as the U.S. contribution to the sixth replenishment of the resources of the International Development Association which will be paid in three annual installments beginning in fiscal 1981, and limits the first payment to $939.6 million; authorizes the President to accept membership for the U.S. in the African Development Bank and to appoint a Governor and Alternate Governor of the Bank who must be confirmed by the Senate; authorizes therefor $359,733,570 for the initial U.S. subscription of 29,820 shares of the capital stock of the Bank of which $89.9 million would be paid in five annual installments beginning in fiscal 1981 and $269.8 million is callable, requiring no budget outlays; and amends the Bretton Woods Agreements and the Asian Development Bank Acts to allow program limitations, rather than budget authority, to be established for callable capital subscriptions which are used by MDB's to back up paid-in capital and reserves in the event that the Bank's resources are insufficient to meet its obligations. S. 2422—Passed Senate June 16, 1980. (*212)

Nicaragua and Honduras economic assistance: Authorizes $80 million in Economic Support Funds for fiscal 1980, to remain available until expended for Nicaragua ($75 million) and Honduras ($5 million); directs the President, in furnishing assistance to Nicaragua, to take into account the extent to which that Government has engaged in human rights violations (including the right to organize and operate labor unions and the right of freedom of the press and religion) and to encourage it to respect these rights; requires that any agreements with Nicaragua regarding the use of funds in the form of loans shall specifically require that at least 60 percent be used to assist the private sector; provides that local currency shall be used in ways which will strengthen private financial institutions in Nicaragua and that local currency programs be monitored and audited in accordance with the Foreign Assistance Act; requires termination of aid to Nicaragua if the President determines that: (1) Soviet, Cuban, or other foreign combat military forces are stationed in Nicaragua and that their presence constitutes a threat to the U.S. national security or that of any of its Latin American allies; (2) Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression; (3) Nicaragua engages in systematic violations of free speech and press or (4) if the President determines that Nicaragua is cooperating with or harboring international terrorist organizations or aiding, abetting, or supporting acts of violence or terrorism in other countries in which case the outstanding balance of any ESF loan shall become due and payable; H.R. 6081—Public Law 96-257, approved May 31, 1980. (*151)

Rubber agreement implementation legislation: Authorizes $88 million in fiscal 1981 to serve as the United States' share of the direct government contributions to finance the buffer stock transaction of the International Natural Rubber Agreement (Ex. D, 96th-2d), a five year commodity agreement which seeks to stabilize short term natural rubber price fluctuations and at the same time encourage the expansion of natural rubber supplies over the longer term through the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price. S. 2666—Public Law 96-271, apporved June 16, 1980. (VV)

Summer Olympics, 1980: Urges the International Olympic Committee (IOC) to move, postpone, or cancel the summer Olympic games in Moscow; urges that the U.S. Olympic Committee and the athletes competing for positions on the U.S. team receive the continuing support, commendations, and contributions of the American people; urges that, if the IOC fails to adopt the U.S. Olympic Committee proposal, or a comparable proposal, no American team participate in those games and no American attend them in any capacity; urges the Secretary of State to inform other nations of the U.S. policy and intensify efforts to gain support for that policy; and calls on the IOC to consider the creation of permanent homes for the summer and winter Olympic games, including one in Greece, the country of their origin. H. Con. Res. 249—House agreed to January 24, 1980; Senate agreed to amended January 29, 1980. (*15)

State Department supplemental authorization: Authorizes $14,514,000 in additional funds for fiscal 1980, and $125,411,000 for fiscal 1981 for certain programs of the Department of State, the International Communication Agency, and the Board for International Broadcasting; establishes the position of Assistant Secretary for Refugee Affairs; provides for the appointment of a U.S. Representative to the Vienna U.N. office; authorizes the use of State Department funds for ceremonial gifts to international organziations; removes the limitation on funds for U.N. peacekeeping forces; extends to ten years the period of validity of a passport; provides for the Secretary of State to pay travel and relocation expenses of employees assigned to State or local governments; improves the administrative provisions of the ICA basic enabling authorities; and authorizes $50,605,000 for fiscal 1981 for the U.S. share of contributions to the International Labor Organization. S. 2727—Passed Senate June 16, 1980. (*210).

JUDICIARY

Age of nominees for Federal judgeships: Expresses the sense of the Senate that the American Bar Association and the Department of Justice should immediately end discrimination against potential lifetime Federal judges who do not qualify solely as a result of arbitrary age barriers. S. Res. 374—Senate agreed to April 1, 1980. (*69).

Civil rights of institutionalized persons: Authorizes the Attorney General to initiate a civil suit for equitable relief in any appropriate district court when there is reasonable cause to believe that any State or political subdivision thereof is subjecting persons residing in an institution to egregious or flagrant conditions which deprive them of any rights, privileges, or immunities secured or protected by the Constitution of the United States; requires the Attorney General, before initiating a suit, to have reasonable cause to believe that such deprivation of rights is part of a pattern or practice of denial rather than an isolated or accidental incident. H.R. 10—Public Law 96-247, approved May 23, 1980. (*51, *93).

Justice Department authorization: Authorizes a total of $2,097,617,000 for the Department of Justice for fiscal 1981; provides that informants who are entitled to compensation for furnishing information leading to the seizure and forfeiture of goods under customs laws may be paid from proceeds of the sale of seized property; authorizes the Attorney General to set fees based on costs for U.S. markets serving papers in private civil litigation; requires a plan for comprehensive case management information and tracking systems for each judicial district; directs the Attorney General to report to the Committees on the extent to which the Department has collected all judgements owed to the United States; and calls for a report on the backlog and status of civil and criminal fraud cases; authorizes an additional 30 senior trial attorney positions; directs the Attorney General to report to Congress on any case where he establishes a policy of refraining from enforcement of any law on the grounds that it is unconstitutional; establishes an Office of Professional Responsibility (OPR) headed by a Counsel appointed by the President and confirmed by the Senate; and sets forth its charter; requires the Attorney General to inform the Chairmen and ranking members of the Senate and House Judiciary Committees whenever an investigation is commenced into allegations of violations of the Ethics in Government Act; expresses sense of the Senate that the U.S. should not admit more than an additional 100,000 immigrants, exclusive of the immediate families of American citizens, for the remainder of the fiscal year; express the sense of Congress that the Khmer people in holding camps in Thailand be processed and resettled as refugees under U.N. auspices; states that Congress opposes efforts by private citizens to engage in negotiations concerning the hostages held in Iran; sets priorities for funding of programs under the Omnibus Crime Control and Safe

Streets Act of 1968, depending on the amount of appropriations; and includes the language of the Equal Access to Justice Act which permits a court, in its discretion, to award attorney fees and other expenses to prevailing parties in civil litigation involving the U.S. S. 2377—Passed Senate June 19, 1980. (*229)

Juvenile justice and delinquency prevention: Extends for five years the program established by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; authorizes therefor $150 million each for fiscal 1981 and 1982, $175 million for 1983, and $200 million each for 1984 and 1985 for juvenile justice programs, and $25 million each year for the same period for the runaway and homeless youth program; requires that unobligated funds at the end of each fiscal year be allocated to States on the basis of relative population of people under 18 years of age for the purpose of implementing section 223(a) (13), which is intended to keep juveniles separate from adults in institutions; retains current law that requires at least 19.15 percent of the total appropriations under title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, be spent for juvenile delinquency programs, with emphasis on programs aimed at curbing violent crimes committed by juveniles; waives the maintenance of effort provision when the total apropriations under title I does not exceed $150 million during any fiscal year; seeks to improve citizen participation by providing for State Advisory Groups to work more closely with the State agency's prospective applicants and others interested in the Juvenile Justice program; requires the Administrator to provide a detailed evaluation of the scared-straight type programs for juveniles to the Congress by June 30, 1981, and requires that a study of juvenile justice and delinquency prevention policies, programs, and practices affecting Native Americans be completed and submitted to Congress by December 31, 1981. S. 2441—Passed Senate May 20, 1980. (VV)

Legal services corporation: Authorizes $321.3 million for fiscal 1981 and such sums as necessary for 1982 for activities of the Legal Services Corporation; allows the Corporation to provide assistance in 1981 and 1982 within one State for a demonstration program under which 65 percent of funds for any county with a population of 150,000 or less would be available for assistance provided by the private bar, and 15 percent of funds would be similarly available for countries with greater populations; prohibits the use of funds for providing any legal service which seeks to invalidate any law enacted by Congress on the subject of abortions; directs the Corporation to reduce assistance to any funding recipient it finds to be engaged in illegal lobbying, outreach community education, or client solicitation; directs the Corporation to encourage programs designed to provide voluntary legal services by private attorneys; and prohibits legal assistance for action under the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act or other laws or regulations dealing with environmental conditions unless an eligible client has a financial interest of not less than $500 in the action. S. 2337—Passed Senate June 13, 1980. (*209)

Soft drink interbrand: Clarifies the application of the antitrust laws to territorial provisions contained in licenses to manufacture, distribute, and sell trademarked soft drink products by providing that the traditional territorial soft drink franchise system is lawful under the antitrust laws so long as there is substantial and effective interbrand competition; provides protection against treble damages for antitrust violations for members of the soft drink industry prior to any final determination that exclusive territorial provisions in soft drink franchise contracts are unlawful; and defines the words "antitrust law" to include the Sherman, Clayton, and FTC Acts, all amendments to these acts, and any other law pertaining to the same subject. S. 598—Passed Senate May 15, 1980; Passed House amended June 24, 1980. (*147)

Wire tap: Amends title III of the Omnibus Crime Control and Safe Streets Act of 1968 to establish uniform statutory procedures relating to court-ordered "surreptitious entries" to install court-authorized electronic eavesdropping devices. S. 1717—Passed Senate June 9, 1980. (VV)

SOCIAL SERVICES—WELFARE

Child adoption assistance and welfare—social services: Amends the Social Security Act to make improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support, and to encourage adoption of children with special needs and makes changes to Title XX of the Social Security Act: indexes the permanent ceiling on Federal matching for State social services programs; authorizes matching grants for maintenance payments made to children in public institutions housing no more than 25 non-deliquent children;

Allows funds to be used for providing emergency shelter to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation for no more than 30 days in any six-month period; and makes modifications to the AFDC programs; and permits States to retain 15 percent of child support payments they collect. H.R. 3434—Public Law 96–272, approved June 17, 1980. (VV)

Disability insurance: Amends title II of the Social Security Act to provide better work incentives and improve accountability in the disability insurance programs;

Disability insurance: Limits total future disability family benefits to 85 percent of the worker's average indexed monthly earnings or 160 percent of the worker's primary insurance amount, whichever is lower; allows all workers to exclude about the same percentage of years of low or no earnings, proportional to their age; eliminates the requirement that persons becoming disabled again must undergo another 24-month waiting period to become eligible for medicare coverage; provides that if a disabled individual were initially on the cash benefit rolls for a period of less than 24 months, the months during which he or she received cash benefits would count toward their qualification for medicare coverage if a subsequent disability occurred within those time periods; extends medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in a substantial gainful activity but was not medically recovered;

Supplemental Security Income (SSI): Provides that disabled individuals who lose their eligibility for regular SSI benefits because of engaging in a substantial gainful activity would become eligible for a special benefit status which would entitle them to cash benefits equivalent to those under the regular SSI program; terminates, for medicaid and social services purposes, the special benefit status when an individual's earnings exceed the amount which would cause the cash benefits to be reduced to zero ($481 at the present time) unless the Secretary determines otherwise;

Title II and title XVI disability programs: Provides that disability benefits will not be terminated due to medical recovery if the beneficiary is participating in a vocational rehabilitation program which will increase the likelihood of permanent removal from the disability rolls; extends to 24 months the present nine-month trial work period for purposes of the DI and SSI programs and provides that in the last twelve months of this period the individual will not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails; requires the Secretary, upon a finding that a State agency is substantially failing to make disability determinations consistent with the regulations, to terminate State administration; mandates, unless there has been a finding that an individual's disability is permanent, and a review of each disability case at least once every three years to determine continuing eligibility;

Aid to Families with Dependent Children (AFDC) and Child Support Programs: Requires AFDC recipients, as a condition of continuing eligibilty for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program; requires the provision of social and supportive services to enable the individual actively to find and retain employment; increases from 50 to 75 percent the rate of Federal matching for State and local antifraud activities for costs incurred by: (1) the welfare agencies in establishing and operating one or more fraud control units, (2) attorneys employed by the State or local welfare agencies for AFDC antifraud activities, and (3) attorneys retained under contract; modifies current law safeguards, which prevent disclosure of the name or address of AFDC applicants or recipients to facilitate audits or similar activities; extends IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements now applicable to families receiving AFDC; increases from 75 to 90 percent the rate of Federal matching for the costs of developing and implementing computerized information systems in the management of State child support programs, but retains the 75 percent rate for the cost of operating the systems;

Amendments of the Social Security Act: Provides that an individual's disability entitlement under title II shall be considered as total so that if its payment is delayed and results in higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. H.R. 3236—Public Law 96–265, approved June 9, 1980. (*27)

Disabled children—unemployment compensation: Extends until October 1, 1982, the program of Federal payments to States for costs incurred in carrying out a State plan for counseling disabled children and their families;

Amends the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the "national trigger" which makes all States eligible for the extended benefits program whenever the national insured unemployment rate reaches 4.5 percent; provides for a reduction in unemployment benefits for recipients who also receive pension payments, retirement pay, annuities, or other similar periodic payments; extends from 90 days to one year the minimum length of Federal service generally required to qualify ex-servicemen for Federally-funded unemployment compensation payments; and establishes a Federal Employees Compensation Account in the Unemployment Trust Fund as a revolving account with each Federal agency required to reimburse the account out of its own appropriation for the actual amount of the unemployment benefits which have been paid to its employees and former employees. H.R. 4612—Passed House September 27, 1979; Passed Senate amendem March 4, 1980; In conference. (*54)

Food stamp program: Increases specific dollar limitations on the program from $6,188,600,000 to $9.491 billion for fiscal 1980 and from $6,235,900,000 to $9,739,276,000 for fiscal 1981; permits States the option to determine program eligibility and benefits by using income received in a previous month, following standards prescribed by the Secretary; requires that, if a State elects to use the retrospective accounting system, certain categories of households—those experiencing sudden, significant loss of income, those with new members, those requiring immediate expedited services, and migrant farmworker must file periodic reports of household circumstances, following standards prescribed by the Secretary;

Attributes the income (less a pro rata share) and the resources of an ineligible alien to the remaining household members in determining that household's eligibility benefits; expands State agencies' authority to verify, prior to certification, any household's size as well as any factor of eligibility related to "error-prone household profiles" approved by the Secretary for State-wide use; requires photo identification cards to be presented with authorization cards as a condition of receiving food stamps in areas where the Secretary (after consultation with the Inspector General) finds that it would be useful in protecting the program's integrity; requires food stamp certification personnel to report illegal aliens to the Immigration and Naturalization Service; permits women and children temporarily living in public or private nonprofit shelters for battered women to use food stamps to purchase meals at shelters; excludes any Federal, State, or local energy assistance payments from household income when calculating benefits;

Permits the Secretary to require forfeiture of any valuable property illegally furnished in exchange for food stamps or authorization cards; establishes an error rate sanction system, under which a State that fails to meet established standards would have its Federal share of State administrative costs reduced, or if no matching funds were due, be subject to a Federal claim for recovery;

Extends workfare pilot projects for a full year, until September 30, 1981; provides that cost-of-living adjustments in the thrifty food plan, the standard deduction, and the excess shelter expense deduction be made on an annual, instead of semiannual basis; deletes the requirement that income poverty guidelines be adjusted yearly to reflect the Consumer Price Index as of March of each year, over and above the regular OMB annual inflation adjustment; reduces the ceiling on assets for an eligible household other than a household consisting of two or more persons, one of whom is age 60 or over, from $1,700 to $1,500; and substantially restricts the eligibility of students for participation in the program. S. 1309—Public Law 96-249, approved May 26, 1980. (213, * 136)

TRANSPORTATION AND COMMUNICATIONS

Airport and airway system development: Restricts Federal development funds in 1981 to airports enplaining less than 1.4 million passengers annually and in 1982 less than 700,000 passengers; authorizes $1.665 billion for fiscal 1981 for airport development and planning, facilities, and equipment acquisition and for FAA and national airway system costs, $1.52 billion for fiscal 1982, $1.6 billion for fiscal 1983, $1.73 billion for 1984, and $1.96 billion for fiscal 1985; combines apportionment of development and planning funds for individual types of small airports to allow projects to be funded by priority; provides funds for privately owned reliever airports if they serve a public purpose; and provides for additional funds for reliever airports in regions with several airports. S. 1648—Passed Senate February 5, 1980. (VV)

Aviation safety and noise abatement: Authorizes a new program to assist airports and surrounding communities in the development and implementation of noise abatement programs, to reduce existing noncompatible land uses, and to prevent future noncompatible land uses around airports; directs the Secretary of Transportation to establish, within 12 months, single systems for measuring noise at airports and surrounding areas and for determining the impact of noise upon individuals and to identify land uses which are normally compatible with various impacts of noise on individuals; permits airport operators to submit noise impact maps setting forth the noncompatible land uses within the vicinity of the airport; authorizes $25 million for the Secretary to make grants to sponsors of air carriers airports for noise compatibility planning; authorizes the Secretary to make grants to airport operators to implement an approved noise compatibility program; requires the Secretary to prepare and publish a noise exposure map and a noise compatibilitiy program for National and Dulles Airports in the Washington, D.C. vicinity within 12 months of enactment; provides that no part of any noise impact map or related information submitted to or prepared by the Secretary shall be used as evidence in any suit or action seeking damages or other relief for the noise that results from the operation of an airport; requires the Secretary to study and submit to Congress a report on the achievements of the grant programs; authorizes and makes available from the Airport and Airway Trust Fund an increase for airport construction and development of $44 million for air carrier airports and $13 million for general aviation and reliever airports; increases by $5 million the authorized funds in fiscal 1980 for expenditure at reliever airports; restores the Federal matching for smaller airports; authorizes the Secretary of Transportation to provide waivers from noise regulations on a case-by-case basis when the aircraft operator has made a good faith effort to comply, but external circumstances prevent compliance; prohibits approval of any project involving the construction or extension of a runway at a general aviation airport on a line separating two countries in a State that is not first approved by local governing bodies;

Authorizes the Secretary to promulgate noise regulations for foreign air carriers operating in the U.S. that are compatible with those for U.S. carriers; authorizes the Secretary to grant a waiver from noise regulation compliance deadlines to permit noncomplying aircraft to be operated for a reasonable period beyond a deadline if the operator is making a good faith effort to comply and there is good cause for his failure to comply; sets guidelines for the Civil Aeronautics Board to use its existing authority to impose a surcharge to ensure that noise compliance is met even if industry profits dip drastically; directs Secretary to submit status reports on the development of collision avoidance systems and proposed timetables for implementation of such systems; makes an air carrier employee who performs his regular duties in more than one State subject to the income tax of the State of residence; requires the Administrator of FAA to promulgate regulations relating to access to public areas at National and Dulles Airports by individuals and organizations who seek to solicit funds or distribute materials; imposes a fine of $1,000 and/or one year imprisonment for concealing a dangerous weapon by a person boarding an aircraft or attempting to place on board a loaded firearm or bomb; and permits limited commercial passenger service in interstate transportation at Love Field in Dallas, Texas. H.R. 2440—Public Law 96-193, approved February 18, 1980. (73)

Urban mass transit: Authorizes a total of $25.1 billion for fiscal 1981 through 1985, plus such sums as may be necessary for administrative expenses of UMTA of the Department of Transportation; provides a supplemental 1980 authorization of $400 million; provides five-year total authorizations of $13.9 billion for urban discretionary capital grants, including $9.5 billion for urban formula grants, $650 million for section 18 small urban and rural grants, and approximately $980 million for research, development, and demonstration projects; gives the Secretary the authority to use up to $150 million annually to purchase transit vehicles and related equipment directly and then grant ownership to States and local public bodies;

Amends section 4 of the Urban Mass Transit Act for fiscal years 1981 through 1985 to provide $2.490 billion, $2.265 billion, $2.775 billion, $2.930 billion and $3.090 billion respectively for discretionary grants; $100 million, $85 million, $90 million, $95 million and $100 million respectively for research and development training, and University research; $10 million each year for transportation centers; $110 million in 1981 for nonurbanized areas increasing by $10 million each year; extends authorizations for the formula grant program to provide $1.655 billion in 1981, $1.805 billion in 1982, $1.925 billion in 1983, $2.025 billion in 1984 and $2.125 billion in 1985; establishes rail and bus revenue miles as the sole elements of the distribution formula, except for cities with populations between 50,000 and 200,000; and creates a new public transportation planning process for nonurban areas;

Federal-Aid Highway Amendments of 1980: Limits obligations for Federal-aid highways and highway safety construction programs for fiscal year 1981 to $8.45 billion;

Emergency Impacted Rail and Highway Transportation: Authorizes $250 million for fiscal 1981, increasing by $50 million each year through 1985, for roads affected by the transport of heavy bulk energy materials. S. 2720—Passed Senate June 25, 1980. (*253)

Maritime authorization: Authorizes $571,-174,000 for fiscal 1981 for the Maritime Administration. H.R. 6554—Passed House April 15, 1980; Passed Senate amended June 3, 1980. (VV)

Northeast corridor: Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize an additional $750 million for fiscal 1981 through 1985 to complete the Northeast Corridor Improvement Project. S. 2156—Passed Senate May 9, 1980. (NOTE: Provisions of this bill contained in S. 2253.) (VV)

Railroad Deregulation: Provides substantial regulatory reform of the railroad industry by allowing railroads greater pricing flexibility while retaining protection for captive shippers, imposing more stringent deadlines for abandonments and merger proceedings and other restructuring transactions, and clarifying the ICC's power to exempt rail transportation from regulation;

Ratemaking: Simplifies the ratemaking provisions of 49 U.S.C. in order to provide the appropriate mix between regulation and the marketplace; provides a free zone for rate increases which do not exceed the railroads increased costs, based on a rail index to be compiled or verified by the ICC, which includes appropriate adjustments to reflect the quality and mix of material and labor; provides a five percent rate flexibility zone above cost increases, subject to a five-year maximum of 14 percent; requires the ICC within 180 days to set a revenue-to-variable-cost-ratio with regard to rates and permits ICC investigation within the rate flexibility zone for rate proposals above the "trigger point" set by the ICC; preserves existing law under which the burden of proof is on the carrier in investigation proceedings and on the shipper on complaint proceedings; mandates a phase-down of general rate bureau consideration of interstate rates that affect interstate commerce; requires tape recordings or transcripts of rate bureau meetings and a record of all votes; includes a saving provision to permit challenge of existing rates in an orderly fashion during the transition period to the new ratemaking provisions and procedures; provides specific joint rate provisions, which are effective for three years unless extended by the ICC for an additional year, which allow a railroad to impose a surcharge on a joint rate without the concurrence of other carriers and keep the revenue generated by the surcharge; mandates demand-sensitive rates in response to expected or actual fluctuations in demand for rail service; excludes rates involving the movement of grain from the demand-sensitive authority;

Industry Structure: Requires that the ICC decide smaller restructuring transactions, other than mergers, having regional or national significance within ten months and those which do not have regional or national significance within six months, and simplifies the standards under which the ICC judges such actions; substantially improves and speeds up the process by which abandonment decisions are reached by requiring an ICC decision within nine months; provides that a railroad or a potential subsidizer or purchaser of a rail line which has been approved for abandonment may request that the ICC establish the amount of subsidy or the purchase price if an agreement cannot be reached; permits the potential subsidizer to accept the ICC price or withdraw his offer but requires the railroad to accept the amount as established by the ICC; requires the ICC to apply the same standards to entry applications as to abandonment applications and provides that, when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property if the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed lane; permits the ICC to establish compensation if the railroads cannot agree; gives the ICC the power to require railroads to enter into reciprocal switching agreements (where carriers pick up and deliver traffic for other railroads) when it finds that such agreements are practical and in the public interest;

General Provisions: Clarifies the ICC's power to exempt rail transportation from regulation; restricts the ICC's car service powers to emergency situations and encourages State authorities to exercise their regulatory jurisdiction in a manner consistent with standards established in the railroad transportation policy; authorizes $20 million over a three-year period for the Department of Interior's Federal grant program to convert abandoned railroad property to conservation or recreation use; and gives the Federal Railroad Administration discretionary authority to grant exemptions from the Safety Appliances Act's requirements when they preclude development or implementation of new technology. S. 1946—Passed Senate April 1, 1980. (*72)

Rock Island bankruptcy—Northeast Corridor: Provides guaranteed obligations of not to exceed $75 million to provide employee protection, and $1.5 million for new career training for Rock Island employees who have not been hired by railroads which acquired Rock Island lines; provides for temporary operating authority on the Rock Island and Milwaukee Railroad by carriers willing to provide services; makes available $15 million from the fiscal 1980 Department of Transportation Appropriations Act (Public Law 96–131) to the Interstate Commerce Commission (ICC) to continue service over lines of the Rock Island Railroad which are likely to be acquired or which are necessary for transportation of agricultural commodities; makes available not less than $25 million in funds previously authorized under the Railroad Revitalization and Regulatory Reform Act of 1976 to encourage the purchase of Rock Island lines by non-carrier entities including associations of railway labor, employee coalitions, and shippers, pursuant to a feasible employee or employee-shipper ownership plan;

Authorizes $750 million for fiscal 1981–1985 to complete the Northeast Corridor Improvement Project. S. 2253—Public Law 96–254, approved May 30, 1980. (VV)

Truck safety: Seeks to combat the increasing number of deaths, injuries, and property damage due to commercial motor vehicle accidents by promoting highway safety, encouraging safe driving and adequate maintenance, and protecting driver health and safety;

Provides for coverage of specified commercial motor vehicles weighing at least 10,000 pounds; exempts any vehicle engaged in farming activities or logging operations;

Contains provisions to protect an employee from discharge, discipline, or discrimination if he or she refuses to operate a vehicle due to the employee's apprehension of serious injury to their person or to the public due to the unsafe condition of the equipment;

Establishes uniform maximum national standards for trucks using the interstate system of 80,000 pounds weight and 102 inches wide;

Authorizes $50 million in fiscal 1981, $100 million in 1982, and $100 million in 1983 to carry out a program of matching grants (80 percent Federal/20 percent State) for State development or implementation of programs to enforce commercial motor vehicle safety laws and regulations;

Gives the Department of Transportation sole authority to make determinations of the safety aspects of the "fit, willing, and able" requirement that specified carriers must meet to operate commercial motor vehicles. S. 1390—Passed Senate February 20, 1980. (*43)

Trucking deregulation: Amends title 40, U.S.C., to eliminate unnecessary Federal regulation of motor carriers and to encourage competition as a means of maintaining and improving a sound, privately-owned motor carrier system;

Entry policy: Eases entry by new firms into the industry and expansion of operations by existing firms; shifts the burden of proof to companies opposing the entry who must show that the service is not in the public interest; eliminates the entry test of meeting public necessity for points not regularly served by a regulated carrier, for transportation as a substitute for abandoned rail service, and for some service for the Federal government; specifically prohibits the issuing of "master certificates" based on general findings;

Removal of Restrictions: Directs the ICC to process individual applications to broaden the categories of goods that may be carried, to allow round-trip service and to eliminate unreasonable territorial limitations or other restrictions deemed contrary to the public interest; directs the ICC to eliminate all rules requiring truckers to stop at specific gateway points or take circuitous routes;

Exemptions: Exempts from ICC regulation the transportation of all foods, animal feed, agricultural seeds and plants and nonhazardous agricultural chemicals and fertilizers;

Rate Making Flexibility: Prohibits the ICC from interfering with rate changes proposed by a motor carrier if they are ten percent higher than the rate in use one year prior to the effective date of the proposed change, or ten percent lower than the charge in effect July 1, 1980;

Antitrust Immunity: Authorizes the continuation of motor carrier rate bureaus but phases out after three years the antitrust immunity now granted to truckers discussing or voting on single line rates; and denies Federal highway aid to States which enact or enforce any law limiting a gross overall vehicle length to less than 65 feet on interstate or defense highways. S. 2245—Passed Senate April 15, 1980. (*78)

TREATIES

Halibut fishery convention with Canada: Brings the 1953 Convention Between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea into conformity with the terms of the U.S. Fishery Conservation and Management Act of 1975 (FMCA) and a Canadian Proclamation of 1977 which extended the exclusive fisheries jurisdictions of each country to a point 200 miles off their coasts; limits Canadian fishing in U.S. controlled waters to 1.2 million pounds of halibut in 1980; allows U.S. trawling in Canadian waters for 3,250 metric tons of groundfish in 1980 and none thereafter; provides, for both the U.S. and Canada, power to apply and enforce penalties for violations of the Convention in their respective areas of exclusive penalties for violations of the Convention in their respective areas of exclusive jurisdiction; reduces the period of notice either party must give before termination from two years to one year; and continues the joint management of transboundary halibut through the International Pacific Halibut Commission. Ex. DD, 96th-1st—Resolution of ratification agreed to March 20, 1980. (*57)

International carriage of perishable foodstuffs: Establishes uniform inspection requirements for transportation equipment which moves perishable foodstuffs across national borders; requires that all "insulated, refrigerated, or heated" equipment utilized to ship perishable foodstuffs into Contracting States meet certain minimum standards set forth in the Annex to the Agreement. Ex. B, 96th–1st—Resolution of ratification agreed to March 20, 1980. (*60)

International natural rubber agreement: Provides for the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price, to stabilize short term natural rubber price fluctuations and encourage the long term expansion of natural rubber supplies. Ex. D. 96th–2d—Resolution of ratification agreed to March 1980. (*156)

Psychotropic substances convention: Places psychotropic (mind altering) drugs under international controls which (1) ban the use of hallucinogenics except under direct governmental supervision for research purposes in medical or scientific institutions; and (2) require nations to limit by measures they consider appropriate the manufacture, export, import, distribution, use, and possession of all psychotropic substances to medical and scientific purposes. Ex. G. 92d–1st—Resolution of ratification agreed to March 20, 1980. (*59)

Salmon fisheries protocol with Canada: Amends the Convention between the United States and Canada to increase the size of the Advisory Committee to the International Pacific Salmon Fisheries Commission from 6 to 7 members from each country, to enable the United States to provide for a native Indian adviser. Ex. G, 95th–1st—Resolution of ratification agreed to March 20, 1980. (*58)

Treaty with Peru on penal sentences: Permits citizens of either country who have been convicted in the courts of the other nation to serve their sentences in their home country provided the consent of the prisoner and the approval of both governments are obtained. Ex. II, 96th–1st—Resolution of Ratification agreed to March 25, 1980. (*61)

VETERANS

GI bill amendments: Amends and revises educational assistance programs under the GI bill for veterans and their dependents; establishes a time limit on the period during which a veteran may apply for an extension of the ten-year delimiting period on grounds of a disability; extends, from January 1, 1980, until December 31, 1982, the period during which Vietnam-era veterans (whose delimiting periods have expired or will expire before 1983) may use GI Bill benefits for on-job or apprenticeship training or for secondary education or vocational courses; requires that certain educationally disadvantaged veterans applying for benefits receive VA education and vocational counseling and requires VA counselor approval of the selected vocational course; adds to the criteria for the approval of vocational objective courses a requirement that at least 50 percent of the enrollees complete the course; clarifies and codifies current practices related to receipt of benefits for enrollment in an institution of higher learning in a foreign country and for computation of benefits and charges to a veteran's entitlement for less than half-time training and training while on active duty, courses pursued by open circuit television, and independent study; modifies the method for paying benefits to an incarcerated veteran; authorizes disclosure of certain information to consumer reporting agencies for the purpose of VA debt collection and program study;

Modifies the method for making advance payments of educational assistance allowances to eligible persons enrolled in courses not leading to a standard college degree; clarifies Congressional intent and the Administrator's authority with respect to the measurement of full-time institutional educational pursuit for payment of GI Bill benefits; clarifies the responsibilities and liabilities of trainees and educational institutions where benefits have been overpaid; includes the Post-Vietnam Era Veterans' Educational Assistance program in the 48-month limitation on assistance under two or more educational or vocational assistance programs; reduces from 90 to 60 percent that portion of the cost of a flight training course that the VA will pay and makes veterans pursuing flight training eligible for loans up to $2,500 per year; makes eligible for participation in the Post-Vietnam Era Veterans Educational Assistance program individuals who serve on active duty at least 180 days before January 1, 1977, and reentered military service on or after that date;

Includes police officers and investigators employed by the VA among the specified Federal officials whom it is a Fedreal offense to kill or assault, while performing official duties; elevates the position of Deputy Assistant Secretary of Labor for Veterans' Employment to Assistant Secretary; and requires HEW to report to Congress on the long-term health effects of certain veterans' exposure to Agent Orange. H.R. 5288—Passed House October 16, 1979; Passed Senate amended January 24, 1980. (*9)

Survivors benefits: Removes certain inequities in the Survivor Benefit Plan (SBP) to: provide that the annuity not be offset by more than 40 percent by social security; conform the cost to the military member to that of the civil service system; provide an annuity to widows or widowers whose spouses died on active duty before September 21, 1972, and who were eligible for retirement at the time of their death; allow totally disabled veterans, whose DIC benefits cancel out SBP benefits, to suspend payments; and eliminate the social security offset for the survivor of a reservist whose combined reserve and civilian earnings exceed the maximum wages subject to social security taxes during all of their military service. S. 91—Passed Senate May 28, 1980. (VV)

Veterans health care: Revises, extends and improves various VA health-care programs designed to recruit and retain sufficient qualified capable health-care personnel, and makes needed improvements in the health-care personnel system; authorizes, subject to appropriations of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers at VA health-care facilities; strengthens and clarifies the VA's authority to recover the costs of veterans' non-service-connected care from workers' compensation health care provided to victims of personal violence crimes; requires an indepth study of the health-plan coverage of veterans admitted to VA facilities for the treatment of a non-service-connected disability, as well as an analysis by the Library of Congress and CBO of the effect on health insurance premiums and VA and non-Federal administrative costs if legislation is enacted which requires veterans' private health care plan insurance carriers to reimburse the VA for the costs of non-service-connected health care provided in VA facilities; excludes the VA's beneficiary travel funds from the general executive branch travel and transportation funds which are to be substantially reduced under the fiscal 1980 Continuing Appropriations Act; and extends for one year, to February 1, 1981, the date by which the VA must complete its study on the provision of hosiptal and medical care in Puerto Rico and the Virgin Islands. H.R. 7102—Passed House May 20, 1980; Passed Senate amended June 5, 1980. (VV)

ORDER FOR BILL TO BE PRINTED—S. 2719

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2719, the Housing Community Development Act, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I believe and hope it will be possible to get an agreement on the debt limit resolution, after which, I hope that the Senate may proceed to the consideration of the supplemental appropriation bill.

The PRESIDING OFFICER (Mr. Bumpers). What is the pleasure of the Senate?

Mr. ROBERT C. BYRD. Mr. President, if the Chair will indulge me, I would like to hold the floor. It would be one of those rare occasions in which the Senate would not be regaled by a speech by a Senator who is holding the floor.

The PRESIDING OFFICER. The Chair is honored to be part of this historic occasion.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 569.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. BAKER. Mr. President, reserving the right to object, is that item the debt limit extension?

Mr. ROBERT C. BYRD. Yes, it is.

Mr. BAKER. Mr. President, I know of certain Members on our side who have a considerable interest in that subject. While I inquire of them of their wishes, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I wish to use the time during the quorum call to check with other Senators.

Mr. ROBERT C. BYRD. Mr. President, the Senator has had an hour to talk with them, and I had protected him. I intend to do the same now.

Mr. BAKER. Mr. President, if we have a few moments of a quorum call that is a convenient way to do that. This is a matter on which I am not prepared to give unanimous consent to proceed. I think I can get it. If the majority leader will give me those few moments I will most assuredly try that.

Mr. ROBERT C. BYRD. All right. I yield for that purpose.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am in a position now to advise the majority leader. I suppose the request is still pending. Is the request still pending?

The PRESIDING OFFICER. Does the Senator from Tennessee withdraw his objection to the request?

Mr. BAKER. Mr. President, I now withdraw my objection to the request.

The PRESIDING OFFICER. The pending question is the majority leader's unanimous-consent request to proceed to take up the debt limit bill.

Without objection, it is so ordered.

The Senate proceeded to the consideration of House Joint Resolution 569.

THIRTY MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 12:28 p.m., recessed until 12:58 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Hart).

The PRESIDING OFFICER. The Chair, in its capacity as a Senator from Colorado, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the temporary debt limit in this resolution will replace the present temporary limit that expires on Monday, June 30. The present limit is $879 billion, of which $479 billion is the expiring temporary limit. After Monday, the permanent debt limit of $400 billion will be the only debt limit in effect, if this resolution is not enacted in time.

House Joint Resolution 569 provides a $525 billion temporary debt limit through February 28, 1981, which will increase the total limit to $925 billion through that period. This amount was specified in the first concurrent budget resolution for fiscal year 1981 as an amount sufficient up to that intermediate date in the fiscal year.

In mid-May, the Committee on Finance agreed that an appropriate intermediate point debt limit would be $905 billion. Since then, Congress has disapproved of the oil import fee and its $10 billion in revenue, and the conference committee on the budget resolution made other changes affecting the budget surplus and financial assumptions. As a result, $925 billion now is the appropriate debt limit through next February, and the amount is consistent with the budgetary, financial, and economic assumptions embodied in the budget resolution.

The Senate should approve this resolution today without amendment. There is no threat of imminent insolvency if the resolution is not passed today, as has been the case so often with recent debt limit bills. By passing the debt limit today, the Senate will permit the Treasury to maintain its routine financial schedules that involve such things as an announcement later this week about the regular Monday auction of Treasury bills. That announcement could not be made unconditionally in the absence of this legislation because the Treasury would not know when it would be able to deliver the debt obligations. The debt limit increase is needed before any rollover or new debt is issued after Monday, June 30.

I urge the Senate to approve this legislation, without amendment, today.

Mr. DOLE. Mr. President, I believe that within a few minutes, an amendment will be offered by the Senator from Kansas, for himself, Senator ROTH, Senator BAKER, and 34 other Republican Senators. This amendment should not come with any great surprise to our colleagues on the Democratic side. I understand that they have just held a press conference, and that they are also gearing up for an assault on higher taxes. I also understand there will be some resolution sponsored by Senator BRADLEY, Senator BENTSEN, and others, indicating that they are concerned.

The Senator from Kansas knows it has been said that it is hard to write tax bills on the floor, but it is not unprecedented, and many have been written on the floor. The Senator from Kansas notes that we could send a signal to the American people and that we could remove the tax issue from this Presidential campaign if we were to act favorably on the amendment that I will offer at a later time.

I have no pride of authorship. I would be happy to cosponsor the amendment with my distinguished chairman. It would be a bipartisan effort, with no politics involved. Certainly, no one would think that of a Long-Dole amendment. I would even put the chairman's name first.

However, it is quite obvious—and I hope it is obvious to the American people—that there probably will be a tax cut. We probably can eliminate the word "probably." There will be a tax cut in fiscal 1981. I doubt that there will be any tax cut in 1980. However, with representatives of President Carter suggesting that a tax cut may be necessary, and with Governor Reagan yesterday making a statement that he favors a tax cut that would take effect even before he assumes office next January, there is no doubt in this Senator's mind that there will be a tax cut.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement made by Governor Reagan yesterday in California.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

GOVERNOR REAGAN'S STATEMENT

The Carter administration continues to fiddle while the American economy chokes on what could well become the worst recession in half a century.

Production lines are being idled. Factory gates are closing across the land. Housing construction has gone into a tailspin.

In just 100 days, the administration's policies have thrown 1.8 million American working men and women out of jobs and into unemployment lines.

And, what has been Jimmy Carter's answer to the deepening recession? Empty rhetoric. "The tide has turned. . . .", he tells us.

Not surprisingly, his rhetoric is not turning the tide. Rather, it is engulfing the Nation in a worsening recession which has become nothing short of a depression in major segments of the economy.

The answer to this depressing situation lies in immediate action by the Congress to reinvigorate the economy. The answer lies in a tax cut . . . a genuine tax cut . . . to be effective on January 1, 1981.

Consistent with the tax reduction approach I have been outlining for months, it should take the form of an across-the-board, 10 percent cut in income tax rates on individuals, as well as an effective accelerated depreciation schedule to revive the flow of investment into American business so it can become more productive and more competitive.

Such a tax cut will help savers, investors, workers, and producers—enterprising Americans who today, more than ever, bear the weight of an escalating tax burden. This approach also will stimulate the kind of investment necessary to modernize our factories and replace outmoded equipment, creating new and more productive jobs for American workers.

Given the deteriorating economy, we simply can't afford to wait any longer to take the steps necessary to put such a productivity-oriented tax cut on the books by year's end.

I understand that Republican leaders in both the Senate and House—spanning the party's philosophical spectrum—intend to introduce legislation today to accomplish, in part, the first phase of the tax reduction approach I have been taking in my campaign.

I want to emphasize again that such tax cuts must be coupled with substantial reductions in the rate of growth in Government spending. And, there is only one way to bring that about—by sending Jimmy Carter back to Plains and electing a Congress which is ready, willing, and able to follow through on this commitment.

Jimmy Carter says he cannot cut taxes until we balance the budget. But, his policy of fighting inflation with higher taxes, mounting unemployment, and deepening recession only guarantees there will be no balanced budget at all—next year or ever.

The fact is, the plunge in employment and production is already drying up revenues, and, these two factors are combining to balloon Federal costs at dizzying speed. With each additional one percent increase in the unemployment rate, the Federal deficit swells by another 25-plus billion dollars.

Clearly, a tax cut to restore investment, production and incentives—tied to a convincing reduction in the rate of increase in Federal spending—is the only means to achieve the magnitude of growth in the economy necessary to balance the Federal budget.

Moreover, the phased-in tax cut approach I have proposed is just the first installment of an overall program to get the country back on its feet and moving again . . . A program to steadily reduce today's stifling tax burdens on citizens and businesses, large and small.

Besides the 3-year, 10-percent-a-year reduction in income tax rates on individuals, these cuts must be made real and permanent in the fourth year by indexing all Federal personal income taxes—so that today's new incentives are not taken away by tomorrow's inflated tax collections.

Indeed, only a permanent, inflation-proof, continuing tax reduction program can restore growth, jobs and prosperity to the Nation. A "tax-plan-of-the-month" service, of the "tinker-tax" variety, the sort which can be expected from the Carter administration, will only compound the Nation's problems. Any such plan—to lower one tax and raise another, or reduce taxes this year and then inflate wages and salaries into higher brackets next year—will only compound the stagflation and deterioration now afflicting our economy.

Still a firm handle on Federal spending is absolutely essential for long-term control of inflation. My goal as President would be to gradually reduce the amount of Federal spending relative to the total economy, or gross national product—reminiscent of the experience of the Kennedy administration when the Nation provided adequately for both national defense and domestic needs and also had stable prices.

If elected, my budget would take the first significant step in that direction.

I would defend that budget strongly and effectively within the Presidential veto.

Jimmy Carter wants to balance the budget on the backs of taxpayers as the Federal Government grows ever larger. I want to balance the budget too. But, not by raising taxes.

I want to balance the budget by reducing the Federal spending while providing Americans with the tax relief they deserve and the strong incentives needed to get this country moving again.

Mr. DOLE. Mr. President, that statement, admittedly, is political in the sense that Governor Reagan will be the Republican nominee following our convention in Detroit. But, at the same time, I am not certain how you divorce politics from a tax cut or any other legislative effort in an election year, particularly in a Presidential election year.

Governor Reagan suggested, very clearly and very concisely, that he favors, on a 1-year basis, a 10 percent cut in income tax rates for individuals, as well as an effective accelerated depreciation schedule to revive the flow of investment into American business.

The Governor pointed out that the tax cut is necessary, that it is responsible, and that the time has come for action.

I assume that, based on the resolution that has been introduced or will be introduced by colleagues on the other side, and with the interest of nearly everyone on this side of the aisle, the safest bet in town would be that before Congress adjourns this year, there will be a substantial tax cut of $20 billion to $25 billion, effective in fiscal year 1981, that tax cut reflected in the withholding rates at that time, so that the American taxpayer will have the benefit of it at a very early time.

Taxes are too high—we all know that. Yet, we have been reluctant to do much about it, for fear that we would have to make some spending cuts in order to balance the budget.

In his statement, Governor Reagan also coupled his call for a tax cut on the consumer side and the supply side with a clear indication that he also would address restraint in the growth of Federal spending. I believe that is another key element of any tax cut proposal. There must be some recognition by Congress that we do not just go out and kill programs, but that we determine how we can restrain the growth of programs.

Mr. President, in the Finance Committee in the past few days Democrats and Republicans have joined together in an effort to make spending cuts that were not particularly pleasant. I believe there is an understanding in Congress that when necessary we will come to grips with the issue and we will make the necessary spending cuts.

Despite our record high taxes, if we look at fiscal year 1981 the new taxes proposed by the administration or taxes on inflation would have amounted to about $104 billion. Fortunately we have prevented $12.6 billion of that increase by repealing the President's oil import fee. That will save the taxpayers about $12.6 billion in fiscal year 1981. But in any event, the so-called cash management initiatives, the withholding on independent contractors, and other tax increases requested by the administration along with the social security tax increase and the windfall profit tax and other excise taxes on business and estate and gift taxes, and taxes on inflation, we come up with a fairly substantial figure of about $104.9 billion in either requested or real increases in taxes.

Part of this tax increase is due to inflation pushing people into higher rate brackets. Later on the distinguished Senator from Colorado and this Senator will offer an amendment on tax indexing which responds to this concern.

It now appears that we will have proposed to Congress a 10-cent gasoline tax, to take place of the failed oil import fee. We have what amounts to a record peacetime tax burden now being imposed on our citizens by President Carter.

It is time to change course, and that is why this Senator is pleased that Governor Reagon would make it very clear at the outset that higher taxes must stop, that we must restrain the growth of Federal spending, that we must accelerate depreciation and so we can have capital expansion, capital formation and increase jobs through the private sector. This Senator knows of no more important issue that will be on the campaign front burner this year.

PROPOSED TAX CUT

I shall propose an amendment which will be a modest step and which would also be in step with the statement made by Governor Reagan yesterday to reduce the currently overwhelming tax burden on both individuals and business. The amendment would provide a 10-percent reduction in income tax rates for individuals and the capital cost recovery concept known popularly as "10-5-3."

RATE REDUCTION FOR INDIVIDUALS

The 10-percent across-the-board rate reduction for individuals is a simple, effective way to reduce the tax burden on individuals. This reduction has the virtue of providing a stimulus to the economy by simply allowing individuals to keep a greater portion of the income they have earned. Sadly enough, this rate reduction merely will offset the effect of inflation over this year.

When we talk about a 10-percent rate reduction, we are in effect telling the American taxpayer we will just more or less keep you in on schedule with increasing inflation, that is if inflation is held at an average of 10 percent.

No one wants to spend his life working, knowing that a great part of his earnings will be taken by taxes. We have come to realize that there is a point where higher taxes become counterproductive; where taxes become a drag on the economy.

Based on comments from the other side and based on comments on this side, it is rather clear that the Members of this body in both parties believe we have reached that point.

The debilitating stagflation of recent years proves that. A modest reduction in the tax burden now will establish the course we must follow in the years ahead. So long as monetary policy remains steady, it would be foolish to allow the fiscal drag on the economy to reach the proportions suggested by the administration. A reduction in tax rates beginning January 1 will demonstrate Congress concern over the size and scope of the Government's role in the economy. It will send a message to taxpayers that we have changed our long-term strategy. It will not be a quick fix, but a move into the modern age with respect to tax and fiscal policy.

INCENTIVE FOR INCREASED PRODUCTIVITY

Similarly, industry requires an easy to use tax incentive to help create the capital necessary to undertake a major renovation of our property used in business. Such an incentive would promote greater productivity and increased employment opportunities for our citizens.

The capital cost recovery proposal would establish a simple and mandatory depreciation schedule based on three categories of business assets.

First. Ten years for nonresidential buildings and structural components;

Second. Five years for equipment, including any tangible property not in the other two categories; and

Third. Three years for automobiles and light-duty trucks.

These depreciation rules are necessary since current rules are both too complicated for many businessmen and businesswomen and inadequate to provide for replacement of capital goods in an inflationary environment.

A NEW DIRECTION FOR TAX POLICY

Mr. President, there are no panaceas for our economy, but there are sensible, well-considered steps that we can and must take to escape the perpetual Hobson's choice between inflation and unemployment. Our people should not have to choose between the destabilizing, frightening impact of double-digit inflation and the specter of double-digit unemployment. Before this year is out we may very well have experienced both.

Why? Partly because, for too long, the administration chose to encourage an excessively expansionary monetary policy to give the appearance of healthy economic growth; partly because the administration then jammed on the brakes too suddenly. But there are also more fundamental reasons, and chief among them are tax policies that discourage individual effort, fail to give a fair return on business and personal investment, and lack mechanics for combating the pernicious effects of inflation. It is these fundamental issues that we propose to address here.

Mr. President, now is the time for action on tax policy. Unless we can point the way now to fairer and more rational tax laws, we cannot hope to move out of the recession without inflationary, artificial stimulus from either fiscal or monetary measures. We do not advocate one-shot $50 rebates, real wage insurance, or any of the other gimmicks that have been proposed in recent years. Instead, we propose a modest restructuring of the tax code to encourage long-term economic growth. Such action is not inflationary—it is not a quick stimulus to the economy, but a permanent commitment to individuals and businesses. We are saying to the American people, "you will have a fair return on your personal enterprise; your taxes will not rise automatically because of inflation, your personal and business investment decisions will not be thrown off track because of inflation." If we make these commitments, and honor them, we will find our way out of our economic morass. But we must make the commitment now, while we still have a chance to influence the economic decisions that will bring us out of recession. It is time to reassert our will to govern the economic course of the Nation. For too long we have forfeited that authority to OPEC or to the Federal Reserve, which may be doing a good job now, but has not always done so.

I really believe that the American people are looking to us for leadership—not leadership in September, October, November, or December, but leadership now.

That is why those of us on this side have coordinated our efforts with Governor Reagan who said as recently as yesterday that now is the time to act. Now is the time to take positive steps to reassure the American people that we understand their problems, that we understand the needs of our economy, and that we are prepared to act on it.

Mr. President, I ask unanimous consent to have printed in the RECORD a table I have had prepared reflecting tax increases for fiscal year 1981 of $104.9 billion less the $12.6 billion oil import tax.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Tax increases for fiscal year 1981 under the President's revised budget

	Billion
NEW TAXES	
Taxflation (inflation moving people into higher brackets)	$18
Social security tax increases (of this amount, $16 billion is due to changes in law enacted in 1977)	25.4
Windfall profit tax (administration estimate: Joint Committee estimate $18 billion)	14.4
Cash management initiatives	4.3
Independent contractors	.6
Foreign tax credit	.7
Tax exempt mortgage bonds (Restrict use)	1.1
Airport trust fund taxes	.9
Railroad retirement tax	.3
Oil and hazardous substance clean-up	.2
Withholding on interest	3.4
Oil import fee	12.6
Subtotal	81.9
EFFECTS OF REAL GROWTH AND INFLATION	
Other excise taxes	*6.7
Estate and gift taxes	*.2
Customs duties	*.5
Miscellaneous receipts	**14
Total	104.9

*There are no new tax proposals in these areas. These increases in estimated receipts from F.Y. 80 to F.Y. 81 are caused by a combination of inflation and real economic growth.

**This includes general growth in tax revenues from an expanding tax base (economic growth and from inflation). The apparent but illusory "growth" in the economy as inflation raises prices and wages and also increases nominal tax revenues even at the same rates. This is distinct from taxflation, which results from people moving into higher brackets and being taxed at higher rates.

For purposes of the above list, it is assumed that:

(1) Administration receipts proposal (e.g., cash management, import fee) would not take effect before F.Y. 1981; and

(2) Windfall profit tax is measured as though it first took effect in F.Y. 1981.

These assumptions are made to dramatize the real tax increases the administration advocates: otherwise tax increases in F.Y. 1980 would tend to understate the growth in the tax burden caused by Carter administration initiatives. For example, the import fee (and gasoline tax) was projected to collect $3.5 billion in F.Y. 1980 and $12.6 billion in F.Y. 1981. It would understate the tax increase effect of this proposal to say the increase is only $9.1 billion in F.Y. 1981.

Total Federal receipts first reached $100 billion in 1963. This year they will increase by more than that amount.

Mr. DOLE. Mr. President, I yield the floor until Senator Roth comes.

Mr. HARRY F. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. Chiles). The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, on June 30 the statutory debt ceiling of $879 billion will expire. The proposal on which the Senate will be voting, namely the pending resolution, will increase the debt ceiling to $925 billion through February 1981. This is an increase of $46 billion for a period of 8 months. This is an average increase of approximately $6 billion per month.

The $925 billion ceiling represents a significant increase above the action which was proposed a short time ago. On May 14, the Committee on Finance agreed to a debt ceiling of $905 billion through February 1981. That was May 14. During the month of June, approximately 30 days later, the Secretary of the Treasury, Mr. Miller, and the Congressional Budget Office both advised the committee that in that 30-day span the needs for the Government had increased by $20 billion. In that 1 month's time the estimated needs of the United States Treasury increased by $20 billion.

The recent congressional budget for fiscal years 1980 and 1981 shows clearly that Federal spending is out of control. Looking at the current fiscal year the deficit for which the conferees on the budget by the Budget Committees agreed to is approaching $47 billion.

Furthermore, spending under the revised fiscal year 1980 budget resolution, which the conferees have agreed to, will increase by $79 billion over fiscal year 1979 spending. That is a 16-percent increase in 1 fiscal year.

Spending in the current fiscal year 1980 is more than double the figure for the fiscal year 1974. So in that 6-year period Federal spending has doubled.

Another significant fact which, so far as I know, has never been alluded to on the floor of the Senate, is that fiscal year 1980 spending of $572 billion is $79 billion more than was spent in fiscal 1979, which figure was $493 billion. This $79 billion increase in spending is the largest increase in the history of our Nation. This increase alone, a $79 billion increase, is almost equal to the total outlays of the Federal Government in the fiscal year 1958.

The assertions have been made on the floor of the Senate with great frequency that Congress is getting spending under control, that Congress and the President are working together to get spending under control. That is totally inaccurate. There are no figures that show that. I say again that spending for fiscal year 1980 under the concurrent budget resolution will increase over 1979 by the figure of $79 billion, which is, let me repeat, the largest increase in history. The next largest increase was in fiscal 1975, at which time the increase was $57 billion.

It should also be noted that the unified budget does not include the total of the Federal deficit spending. A significant portion of the Federal spending occurs outside the unified budget. In fiscal year 1981 off-budget entities, primarily the which is the current estimate. This deficit is completely outside the Federal which is the current estimate. This deficit is completely outside the Federal budget. It occurs primarily through credit programs financed by the Federal Government, and the activities of the Federal Financing Bank in lending money to other agencies, and originating new Federal credit programs.

The funds for this deficit are provided directly through Treasury borrowing in financial markets. So even if the 1981 budget were to be balanced—and it will not be balanced—we still would have a deficit in the overall operations of the Federal Government because of the off-budget items.

Using the highly optimistic projections of the first concurrent budget resolution, the fiscal 1981 total deficit will be $18.5 billion. In my judgment, leaving out the off-budget items, by the time the fiscal 1981 budget is totaled up there will be a deficit of at least $30 billion. I feel that is a conservative estimate.

Mr. President, many express little concern about the national debt. It is often said that we owe a debt to ourselves, so why worry about it. Well, there are a number of reasons why American citizens should be worried about the national debt. In the first place, the American taxpayer has to pay interest on that debt. Of every corporate and personal income tax dollar paid into the Federal Treasury, 22 cents of that dollar go to pay the interest charges on the national debt. In the current budget the interest cost to the American taxpayer is $80 billion—$80 billion to pay the interest on the national debt.

That figure, which goes for the sole purpose of paying interest charges, is more than the combined spending for the following budget functions: international affairs, science, energy, natural resources, environment, agriculture commerce and housing credit, transportation, community and regional development, administration of justice, general government, and revenue sharing. The interest on the debt is greater than all of those combined.

Second, the assertion that we need not worry about the national debt because we owe it to ourselves ignores another crucial effect of the national debt upon our national credit markets. In fiscal year 1979, new Federal debt was 20 percent of the total capital raised in the United States. New debt is only part of the debt financing of the Department of the Treasury. Approximately $200 billion of debt will have to be rolled over, which will increase greatly Federal participation in our economy.

The total of rollover debt financing and new debt of approximately $219 billion will be more than 60 percent of all the new funds raised in U.S. credit markets in fiscal year 1981.

Who will acquire this massive Federal Treasury borrowing? First, foreigners are accumulating an increasingly higher level of Federal securities. At the end of 1970 foreign ownership of Federal securities was $19.8 billion or 8.6 percent of the total privately held debt. At the end of February 1980, foreigners held $24.8 billion in Federal debt, 22.6 percent of the privately held debt. This is a debt which the taxes of working American men and women will ultimately repay to foreigners.

Second, Federal Reserve holdings of Treasury debt are highly significant. To the extent that the Federal Reserve operates on the open market to purchase Federal securities, we will be creating new printing press money which will increase our money supply and fuel the fires of inflation.

A look at the past several years shows the relationship between Federal Reserve purchases of Federal debt and inflation. From 1971 through February 1980, the consumer price index has increased by 94.9 percent, meaning that a dollar in 1971 is now only worth 51 cents. In this same period, Federal Reserve holdings of Federal debt have increased by 75.7 percent.

Federal spending has been paid for with printing press dollars—fueling inflation and making our dollar worth less and less.

The alternative to printing press money is high interest rates and an economic slowdown.

If the Federal Reserve does not accommodate Federal borrowing, the massive Federal debt will drive up the cost of money and increase interest rates.

Therefore, our Federal debt has a direct effect upon our economy. Federal deficits translated into more debt must be paid for. They are paid for by high rates of inflation or by high interest rates and, of course, by high taxes. Either way, working America suffers.

The continuing increase in the statutory debt ceiling shows that we must begin to get serious about controlling the growth of the Federal Government spending.

I want to say again that the facts do not justify the assertion that Federal spending is being brought under control.

For fiscal year 1979, the total outlays of the Federal Government were $493 billion. Under the first concurrent budget resolution for the fiscal year 1980, Federal spending, Federal outlays, will be $572 billion.

Mr. President, that is an increase of $79 billion in Government spending in that 1 year. To me, that is a totally unjustified increase. It makes a mockery out of the assertion that Congress and the President are getting Federal spending under control.

Mr. President. I ask unanimous consent that a table pertaining to fiscal years 1958 through 1981 and a letter from the Secretary of the Treasury be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIFIED BUDGET RECEIPTS, OUTLAYS AND SURPLUS OR DEFICIT FOR FISCAL YEARS 1958–81, INCLUSIVE

[In billions of dollars]

[Prepared for Senator Harry F. Byrd, Jr., of Virginia]

Fiscal year	Receipts	Outlays	Surplus (+) or deficit (−)
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+.3
1961	94.4	97.8	−3.4
1962	99.7	106.8	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−25.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
1975	281.0	326.2	−45.2
1976	300.0	366.4	−66.4
1977	357.8	402.7	−45.0
1978	402.0	450.8	−48.8
1979	465.9	493.7	−27.7
1980[1]	525.7	572.7	−47.0
1981[1]	613.8	613.6	+.2

[1] First Concurrent Budget Resolution.

Source: Office of Management and Budget, Fiscal Year 1981 Budget Revisions, First Concurrent Budget Resolution.

THE SECRETARY OF THE TREASURY,
Washington, D.C.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate,
Washington, D.C.

DEAR HARRY: On Wednesday of this week we discussed with you the issue of an appropriate ceiling for the public debt for February 28, 1981. In my testimony before your Subcommittee on Taxation and Debt Management in April, I included a table which estimated that the appropriate ceiling for public debt subject to limit would be $905 billion at that date. Since April, however, the adequacy of this $905 billion ceiling has come into question as a result of reduced receipts due to Congressional rejection of the President's gasoline conservation fee and lower than forecast activity in the economy. The Administration's revised budget projections will not be available until the middle of July. But since the Congress must act now on the debt limit, it would appear necessary to increase the estimated debt ceiling level for the end of February.

The Congressional Budget Office has estimated a ceiling of $925 billion at February 28, 1981, for use in the pending Joint Budget Resolution. While our own revised debt projections are incomplete at this time and although there are many uncertainties in the current economic situation, we believe that the CBO estimate, as a ceiling on the public debt, provides sufficient flexibility for debt management.

I would greatly appreciate your assistance in expediting the approval of a new debt ceiling. Further delay only complicates our management of the financial operations of the Government.

Best wishes.

Sincerely,

G. WILLIAM MILLER.

Mr. ARMSTRONG. Mr. President, I rise to say a word about the proposal which my colleague, the Senator from Kansas (Mr. DOLE), has already referred to, the amendment which he and others of us will be presenting at the right time as an amendment to this bill.

Mr. President, a tax cut of the size and shape which my colleague from Kansas (Mr. DOLE) will introduce recommends itself to approval by the Senate on a number of grounds. First of all, I think there is just the question of economic justice. We will do well to remember, Mr. President, and my colleagues, that in the last decade a typical American family has seen its tax bill tripled. Today, America's working men and women find that they are paying more for taxes than they are for food, for clothing, for shelter, for transportation, or even for the total of all those items.

So those of us who have a concern for working men and women—and I think that is a basic concern of every Senator—I believe will want to vote for such a tax cut, simply on the ground that their taxes have gone up so high and so rapidly that they are being driven right to the wall.

It is the dream, I think, of every American family to be self-sufficient, to be able to provide for young people's college educational opportunities, to be able to save so that families could care for themselves in their old age, to set something aside as an investment.

Many of us have, in our own States, people who are even now saving to enter business opportunities, to begin to realize that aspect of the American dream. Others are saving for homes and for the kind of pride of ownership and sense of community identification that comes with homeownership.

Well, Mr. President, taxes have gone so high in the last few years that many people are being literally frozen out of these traditional aspects of American life. So, just from the standpoint of doing something that is fair, that is reasonable, that is just to the American taxpaying working men and women, I think we need a tax cut.

To be specific, Mr. President, within the last decade the average family of four in a median income bracket is paying triple what it paid a few years ago. Such a family's tax bill, total Federal, State, and local, was $2,200 a year a few years ago. Today, it is over $6,000 a year. And for these families, the cost of taxes is not only the largest but the most rapidly rising portion of their total cost of living.

Second, Mr. President, a tax cut, such as is recommended by Governor Reagan and the Senator from Kansas (Mr. DOLE) and other Republican Senators today, addresses itself to the basic and most prominent economic fact of life in this country, which is that we are in the beginning stages or, hopefully, in the middle of a serious economic downturn, of a recession. I do not know whether we are in the early stages of a very long recession or whether, as some have hopefully forecast, in the middle of a very short recession.

My own sense of it is that things are deteriorating quite rapidly and tending to get worse. This is not a new conclusion on my part. Senators will remember that I warned this some months ago and I have repeatedly suggested that, if we wanted to head off the kind of recession we now find ourselves in, we could have very well adopted the tax cut recommendations which have been previously brought before this body.

In fact, more than a year ago I joined with a group of Senators in proposing a tax cut similar to that which comes before us today. I believe that, if it had been adopted at that time, very likely the economic downturn which we are now experiencing could have been avoided or at least moderated to a large extent.

If we are going to do something about the recession which our country is now sliding more deeply into every day, it seems to me that a tax cut is essential.

As I have pointed out on many occasions to the Senate, this is the virtually unanimous recommendation, not only of Republican Senators or of business men and women or of working men and women at home, it is also nearly the unanimous recommendation of practically every well-known economist in the country. That is what Arthur Burns says we need. That is what Art Laffer says we need. That is what Martin Feldstein says we need.

In fact, a few weeks ago I put into the RECORD a number of statements by the most distinguished economists in the country pointing out the need for a tax reduction on the grounds of getting the economy moving again. I think that case has been well made.

I would stress that while the tax cut package that we have before us this afternoon is the Republican tax program, the need for a tax cut along the line of what is being advocated today by my Republican colleagues is not a partisan matter. The economists of whom I have spoken are across the entire spectrum, not only of economic thinking but also they represent both parties and the most liberal and most conservative portions of economic thinking in both parties.

May I also point out, Mr. President, that a tax cut such as is now suggested is important in terms of the long-term growth and productivity of this Nation.

While it is only natural that we focus on the immediate recessionary problem we are facing, I think we also ought to face up to the fact right now that for a number of years we have been eating the seed corn in this country. You have to have savings. You have to set something aside to have economic growth. Literally, the choice we have to face every year is whether or not we are going to eat the seed corn or save something.

We have created a climate of taxation in this country in which we have been, each year, eating a greater and greater proportion of the seed corn. It means we do not have left over after the high taxes sufficient savings to invest in productive enterprises to keep up with the growth in productivity that we had been accustomed to in earlier generations and which is even now the rule in nations around the world.

So this is a tax cut which addresses itself to long-term productivity in this country. It comes, I might say, from the little red hen school of economics. You all remember that fable which illustrates so well the basic principle of economic life that those who are not rewarded for their economic activity quickly cease to engage in such activity. If you will remember, the little red hen baked some bread. No one would help her bake it but in the end she was forced to share it with everybody in the barnyard. Well, she did so, but I remind Senators that the little red hen was not thereafter disposed to bake any more bread. Exactly the same situation is taking place in the barnyards and business concerns in the communities and States of this Nation, people whose taxes are so high that it does not provide a sufficient incentive to attract capital.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. ARMSTRONG. I will be pleased to yield.

Mr. ROBERT C. BYRD. I wish the Senator would clarify the story about the little red hen. I did not think the little red hen shared the concoction she had cooked. Would the Senator just check on that? I would like very much to know what the Senator knows about it. He may be correct.

Mr. ARMSTRONG. Mr. President, I am reluctant to disagree. with the distinguished majority leader on a matter of literature because his reputation as a student of literature is well known. But it does so happen that within the last several days I have refreshed my recollection on this story. While I do not have the text of this story with me, later in the day I shall place in the RECORD a version of the little red hen story which sets forth in some detail the economic consideration I have in mind.

And I note, may I say to the distinguished majority leader, we have also attracted the interest of another keen student of literature, the Senator from Idaho, who wishes to comment.

Mr. McCLURE. If the Senator will yield, it is not only on the literary note that I would like to interpose a comment in this colloquy, but also on a political note. Whether the little red hen actually shared or not would certainly be revised by the actions of a Congress that demand that the rewards of labor be shared with those who do not labor. Certainly, any record of the Congress of the last several years would indicate that if the litle red hen had been subject to the laws passed by the Congress of the United States, whether she desired to share or not, she would have.

Mr. ARMSTRONG. I thank the distinguished Senator for his contribution to this debate.

The point I want to make is really a serious one, although I have brought into this the little red hen. I think the point is nonetheless a very valid one. It is this: when people have an incentive to produce and invest, they do so. That is really the history of America. We have created a great economic system, the greatest the world has ever seen, a model without parallel of productivity, growth and prosperity, and for that matter not only of total prosperity but for widely sharing the prosperity from the top to the bottom of our economy, something that has never been done or never been dreamed of anywhere else in the world on the scale we have in the United States. The reason precisely is because of the basic economic arrangement we made in this country even before we were a nation. This is a Nation which has believed in and lived by incentive, by economic freedom.

Our basic economic arrangement has been that those who work and invest are entitled to keep the largest fraction of their earnings, both from productive personal activity and from productive investment. In recent years we have permitted the rate of taxes to go so high, both on investment and on human labor, human activity, that we are discouraging the investment both of time and capital.

As a consequence, what is happening to our economy is exactly what happened in the story of the little red hen. That is, people are simply less and less willing to extend themselves either in terms of their personal involvement or in terms of their investment of capital goods.

In brief, we are becoming less and less productive, and, as we all know, during the last 5 or 6 years this Nation has been slipping and slipping badly in the rate of our increase in productivity.

In recent months we have slipped below dead even and we are now becoming less productive than we were the year before.

This is not inevitable. It is not happening in other countries. Other countries which have not adopted our tax policies are not suffering from this problem at the present time.

So I say in summary, Mr. President, that there are at least three reasons why we ought to adopt the kind of tax cut we have pending.

First, on the grounds of economic justice for the working men and women of America.

Second, because we need a tax cut to deal with the recession which is now so obviously a burden to the communities, families, and business concerns of this country.

Third, because in the interest of the long-term growth and productivity of our Nation and its economy we need to have a lower rate of taxation. We need to stop eating the seed corn. We need to permit people a greater opportunity to invest.

The tax cut which is proposed by my Republican colleagues and I, and which is endorsed by and given leadership and inspiration by Governor Reagan, addresses itself to these principal needs in a very direct way.

First, we are saying to take care of the individuals let us have a 10-percent tax cut. That 10-percent tax cut does not, I would stress, represent a reduction back to the levels of 1960 or 1970 or even 1975, which is what I would like to see. It is simply a partial rollback of enormous tax increases that have occurred.

Second, our program calls for a modest incentive for business in the form of a 10-5-3 depreciation treatment, which has been explained so well by my friend from Kansas. It is an incentive for more capital investment, more investment in productivity, job creating activities. All in all it seems to me to be the kind of plan which is attractive to everyone and which I would ordinarily think might pass in this body with little or no controversy.

I am aware, however, that there is an election around the corner.

I understand that within the last 2 hours our colleagues on the other side of the aisle have announced the formation of a task force whose responsibility will be to go out and study the need for a tax cut.

I welcome this indication of interest by our friends on the other side of the aisle. It is certainly appropriate for them to do so. But I think it is regrettable that they are putting off the possible date of enactment of such a tax cut for another 2 or 3 months. I think this was timely a year ago January, a year ago February, a year ago last spring when I first began to propose tax cuts in this Chamber.

I think it was very appropriate in May of 1979 when Senator DOMENICI and I offered a package of tax cuts. I think it was appropriate a year ago when Senator DOLE and I offered a tax indexing proposal, as we may offer later today. I think it was appropriate last September when a number of us on this side of the aisle offered tax cutting measures aimed again at economic justice and restoring productivity to our tax system.

I think it is even more appropriate today.

I say to my friends on the other side of the aisle that the recession in which we find ourselves today is a recession which had been predicted and against which we have warned on this side of the aisle over and over and over again, and the remedy which we have prescribed is a tax cut. This is not something we thought up today or yesterday. It is not an election year gimmick. It is something that many of us in this room have argued for and fought for, and have provided intellectual rationalization for, for a number of years. It is an idea whose time has come.

It will still be a good idea in September, but in September I would ask my friends on the other side of the aisle between now and when their task force reports, how many more people will be thrown out of jobs unnecessarily? How many businesses will be closed down? How many State and local jurisdictions will suffer revenue losses as a result of the recession which even now could be moderated if we act promptly?

Mr. President, this is not an extravagant package of tax reductions. It does not go as far as many of us would like. It is a modest, moderate, sensible, well thought out tax package that consists of components which have been well studied by committees in both Houses of Congress, and which have been advocated and debated in the academic, business, and economic community for a number of years.

It is a well tested, carefully thought out plan, and one which the Senate should, and I hope will, adopt.

Mr. DANFORTH addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Kansas indicate to the Senate when he has finished and will call up his amendment so we can all have a look at it?

Mr. DOLE. I thought the Senator from Missouri, the Senator from Delaware, and the Senator from Idaho, wanted time, so I intend to offer it in the next 5 or 10 minutes.

Mr. McCLURE. Will the Senator yield for a moment?

Mr. DANFORTH. Yes.

Mr. McCLURE. I have an amendment I intend to offer at some point this afternoon, and it might be that I will want to offer it before the Senator from Kansas brings his up.

I do not know yet. I have not discussed it with the Senator from Kansas.

But I wanted the Senator from Kansas and the distinguished majority leader to be aware of that.

Mr. ROBERT C. BYRD. I thank the Senator.

But I heard several distinguished Senators on the other side of the aisle talking about the package Senator DOLE is going to introduce, and some of us on this side of the aisle would like to look at it, make some comments, and see what it is. That is one of the amendments we have heard talked about in recent days, two particular amendments, Senator DOLE's and Senator ARMSTRONG'S, and it is hoped that we could have those amendments called up. I know Mr. DOLE is attempting to do that.

Mr. DOLE. Unless the Senator from Idaho has an objection, I will offer mine in about 10 or 12 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I believe that the dates of June 25 and June 26 of 1980 will go down in modern history as being red letter days because I think we are indicating by virtue of actions taken by Republican and Democratic Members of the Senate that we are about to form a consensus as to what has to be done to get the economy moving again.

It was my privilege, Mr. President, to participate in putting together the proposal that will be offered by Senator DOLE in just a few minutes. That, of course, was unveiled yesterday at a press conference, following up on a press conference that was held by Governor Reagan, the man who will be the nominee of our party for President of the United States.

Then, Mr. President, I have just had the pleasure of examining the draft of what I take to be a Senate resolution to be offered by Senator BENTSEN and a large number of Members from the other side of the aisle relating to economic policy, together with a document entitled "Charter, Task Force on Economic Policy, Senator BENTSEN, Chairman."

Now, this resolution, Mr. President, I take it, sets forth certain principles of economic policy to be advocated by Democratic Members of the U.S. Senate. It seems to me that this resolution and this statement of the task force on economic policy, together with the statement made by Governor Reagan and Republican Members of the Congress yesterday, form the basis of a clear bipartisan consensus.

As a matter of fact, I would argue that that consensus has now existed for some time.

Two of the most important items in the resolution that bears the name of Senator BENTSEN and other Democratic Members of the Senate are: Whereas our Nation needs an equitable, consistent, coordinated, and comprehensive economic policy for the 1980's; and second, whereas a tax cut is a necessary part of such a coherent economic policy.

Those are two very important points, Mr. President.

First, the statement that our Nation needs an equitable, consistent, coordinated, and comprehensive economic policy. The one thing the economy cannot stand is a stop and go approach. The one thing our economy cannot stand is chaos. The one thing that our economy cannot stand is total unpredictability as to what Government is going to do next.

Yet, that is exactly what we have been experiencing for too long now—chaos, unpredictability. A budget which is proposed in January and then withdrawn and a substitute is proposed in March. An economic program advocated with great fanfare from the East Room of the White House in March, only to be tinkered with and substantially abandoned in May. We are told that consumer credit is something which is bad, and then we are told, "Oh, no, consumer credit is something which is good."

So, this on-again off-again flip-flopping in dealing with economic matters creates the very uncertainty which we cannot stand in our economy.

The American people have to be able to plan their future. American entrepreneurs have to be willing to make investments today with some kind of predictable payoff for tomorrow. They cannot do that if they are playing with a deck of numerous wild cards created by inconsistency, lack of coordination, and, in fact, no comprehensive economic policy whatever.

So when the Task Force on Economic Policy, chaired by Senator BENTSEN, states that the decade of the 1970's was dominated by crisis management, crisis containment policies, that is exactly right. When Senator BENTSEN and others point out that we need an overall strategy to achieve clearly defined, longrun goals, that is exactly right. That is what we do not have now, and that is something that we can look toward in a bipartisan way.

Second, Mr. President, the statement in the resolution that a tax cut is a necessary part of such a coherent economic policy is a matter on which we can agree. Tax policy is clearly part of economic policy. Those who say that the problems with the economy can be solved merely by demand management, merely by reducing the rate of Federal spending, or a 1-year balancing of the Federal budget, ignore the advice of the best economists in this country.

In point of fact, policy with respect to spending offers no hope to the American people. As pointed out by Otto Eckstein in his studies, it would take a depression for a reduction in Government spending alone to reduce inflation by any seriously measurable extent.

So there are at least two important statements in this resolution. One relating to the need for a consistent, coordinated, comprehensive economic policy; and the other the statement that tax policy is a part of such an economic policy.

Mr. President, I think that one thing that is indicated both by the Republican approach and by the Democratic approach is the admission by Members of the Congress that the economic problems of America and the economic opportunities of America are not just accidental. They do not just happen. That, instead, policy which is established in Washington does affect the economy of America. Policy that is established in the White House and in the Congress of the United States does have implications for what goes on in the rest of the country.

So often, it seems that people who are in public office blame extraneous forces for what is happening in the economy as though we have nothing to do with it. To listen to statements, it is as though the people in the OPEC countries have absolute control over the economic fortunes of America.

Yet, Mr. President, the amendment which will be offered by the Senator from Kansas, the statement of Governor Reagan yesterday, and the resolution which I understand will be offered by the Democratic Members of the Senate today, clearly state that what goes on in Washington does have implications for the economy, that we need an economic policy here in Government; that we need a tax reduction here in Congress, in order to get the American economy moving again.

We are responsible in Washington, and that responsibility has been admitted, in loud and clear terms, by what we have done yesterday and by what we are about to do today.

Obviously, we can quibble with some of the details. As pointed out by the distinguished Senator from Colorado, the resolution prepared by Members on the other side of the aisle states that there is going to be a study period and the report on September 3, 1980. Our view would be that this is a matter which has been very thoroughly studied.

My—think of all the economists over a period of years who have been calling for a tax cut.

I can recall when William Miller was Chairman of the Federal Reserve Board—how he appeared before committees of Congress and stated that we need to provide tax policies which encourage investment in new plant and equipment, and how Mr. Miller, when he was Chairman of the Federal Reserve, advocated either 10-5-3 or something like it, to encourage that kind of business investment.

It was months ago, Mr. President, that the Joint Economic Committee of Congress—unanimously, I believe—came out with a very thorough studied approach based on an analysis by the famous Otto Eckstein, of Harvard, stating the kind of tax cut we need. This has been studied over and over again.

I believe that in July of 1979, the administration was going to offer a tax cut at that time, after a meeting was held in the Capitol Building between certain economic advisers of the President and certain Republican Members of Congress, asking us then what we thought about a tax cut keyed especially to accelerated depreciation and to some sort of offset for social security.

So it is not a matter of some new idea which has popped up from nowhere. This has existed for some time. I say—and I think most people on this side of the aisle will say it—that the sooner we get on with it, the better.

Mr. President, one further point: We are in an election year, and I believe that what we are doing now indicates some of the value of an election year and the value of people from different parties trying to get out front, and concepts which will better our country.

There are those who say, "Well, the Republicans tried to make this an issue. They forced the matter. The Republican candidate for President got out front on the tax cut."

The Republican Members of Congress got out front on the tax cut and have been out front for years now. I am immodest enough to say yes, that is true. We are proud of that fact. But partisanship goes only so far.

To an automobile worker in my State of Missouri who has been thrown out of work by the decline in the economy, it does not matter whether it is a Republican or a Democrat who gets things moving. To a black teenager in the city of St. Louis who cannot find a job, no matter how hard he tries, it does not matter whether it is a Republican or a Democrat who comes forward first and offers the kind of proposal which will provide him with some help for the future.

To the taxpayer who finds a higher and higher portion of his income taken by Government at tax time and who has a harder and harder time keeping up with inflation for that reason, it does not make any difference who got out in front of this issue, whether it was a Republican or a Democrat.

Mr. President, we have thrown it around for 3½ years now, without any kind of idea of an economic policy for the American people. We are now on the verge of getting the show on the road; and the fact that the Democrats and the Republicans are going to join in this effort is a great thing for the American people.

Mr. McCLURE. Mr. President, I will be very brief, because I know that the Senator from Kansas wants to offer his amendment, and the majority leader has suggested that it would be constructive and helpful if he did. I do not intend to obstruct that in any way, but I wish to address myself to the general subject.

After all, this is a bill dealing with the increase of the size of the debt limit. As a former member of the Budget Committee, I was always somewhat bemused by the form of the budget resolution, in which we established the appropriate level of spending by figure, the appropriate level of revenues by number, the appropriate size of the deficit in precise terms, and therefore arrived at the correct size of the national budget by that process.

It always offended my sense that we were sitting here voting, saying the deficit was good for us, the increase in the size of the national debt was a constructive addition to the economic policy of this country, because I never agreed with that and do not agree now. We are asking the American people to accept from us the assurance that what we have done by spending beyond our means has been helpful to them.

Obviously, I have not talked to 200 million Americans. I have not even talked to 800,000 citizens of Idaho specifically about that question. But I can tell you, without any doubt in my mind, that the great majority of the American people do not feel that they have been benefited by this country having been run into debt to the tune of hundreds of billions of dollars. They know subconsciously, if not specifically, that the debt is a burden on which they must pay now and that their children and grandchildren will pay in the future.

The average taxpaying family today, consciously or subconsciously, knows, as they sit down to try to stretch the paycheck to cover the bills they must pay each month, that they must add in their monthly budget $50 just to pay the interest on the national debt.

What many of us have been trying to say for a long while is that there is the other tax, the cruelest tax of all, the burden of inflation. That is with no deductions, no exemptions. It is no respecter of ability to pay, no respecter of the status of any individual in our society. It bears most heavily upon the most disadvantaged in our society, and that burden of taxation we call inflation.

As a result of the fiscal mismanagement, in which the administration has not been the architect—Congress has—and Congress has consistently and precisely voted for those spending measures, those revenue measures, and, in recent years, those deficit figures which have built the national debt and have created, as a result, the highest level of inflation in the history of our country, certainly in modern times. That rate of inflation on the average taxpayer adds to their monthly burden of woes an additional bill of $300 a month in reduced purchasing power.

The average taxpaying family in this country will have a $3,600 reduction in their capacity to meet their monthly payroll as a direct result of the inflation which has been brought about by the fiscal mismanagement in this country. So the debt limit debate is not simply a question of how will we accommodate to the financial demands of this Government, how will we authorize the Secretary of the Treasury to borrow more money on the money markets so that the Government can send out the paychecks, send out the checks in payment for various obligations of Government, it is also a debate over what we are doing to the people who are struggling to keep their head above water, trying to meet the needs of their own families who are willing to work, able to work, and do work and try to look after their own families, and we are increasing that burden, as I say, by $3,600 a year, $300 a month, or $4,200 a year if we add the interest on the national debt and the impact of inflation.

So the debt limit debate is more than perfunctory, more than just simply a process through which we must go.

Second, Mr. President, I shall very briefly talk again about the budget resolution, the one that has been brought in, with such great fanfare, as a balanced budget. I said at the time we talked about that budget resolution that if the Members of the Senate were subject to the laws of this land that we have passed with respect to those who sell a product, we would all be in jail, and I think there are a lot of people around this country who wish more of us were when they stop to think about what we have done to this country. They would like to see us go home at least and stop doing damage to them, because they feel more threatened by our actions than they would by our inactions.

But the balanced budget would never meet the test of the truth in labeling law. When we call it a balanced budget we have to confess that term is a fraud. It is not balanced. We have juggled the figures. We have phonied up the estimates. We have tried to con the American people into believing that we presented to them what they wanted, a balanced budget, and it is not truly balanced. We recognize, I hope, at this point with inflation doing what it is doing, with recession coming as it has come, with people being unemployed as they are being unemployed, that the revenues to Government drop and that the cost of Government for unemployment compensation and welfare programs increases more rapidly than we can reduce expenditures.

The result is no matter whether it was done by ill will, design, inadvertence, ignorance, or by whatever means we may have presented that budget resolution, it is not in balance and it will not be in balance and there is a deficit and there will be a deficit, and that is a fact of life.

How then do we break the cycle of broken aspirations of the American people, of broken promises by political officeholders, of the hopes that American people have for the future for themselves and their families, where we realize that the problems that we have, have been created by fiscal mismanagement, by a Congress that will not live within its means, by a whole host of officeholders who keep buying their political success at the expense of the future of this country, through Federal expenditures? How then will we reach a truly balanced budget?

I was persuaded by a man in the academic profession who happens to be one of the better heads in economics with whom I have had contact, that after years of study of the economic and political processes in Congress he had come to the conclusion that we would never be able to balance the budget by reducing expenditures unless we first reduced revenues, that as long as the money was there Congress could not resist the temptation to spend the money, and the only way to get expenditures down was to first reduce revenues and that discipline might be sufficient to get us to reduce expenditures.

But second, Mr. President, we must recognize, I hope, whether we adopt Dr. Laffer's view, or President Kennedy's view, at some point the burden of taxation stifles the economic system and the only way to get the economic system growing again, to get the country building again, is to reduce the burden of taxation. Whatever the theory may be, our experience has proven to us that, if as a matter of fact our tax system will reduce its drag on the business enterprise of this country, business will grow and that growth in business providing employment will provide greater revenues to the Government in the long run than a tax system that stifles the business which must be taxed and which must ultimately earn the money and provide the jobs that pay the wages upon which tax revenues are based.

So, there are those of us who believe that there is only one way to balance the budget truly and that is to get the economy going again, that we cannot balance the budget simply by raising the rate of taxation and we know that this so-called balanced budget is balanced in figures on paper only as the result of a nearly $100 billion increase in revenues, the largest year over year increase in revenues in the history of our country.

And the people of this country in asking for a balanced budget did not ask for a balanced budget to be balanced by increasing expenditures and by increasing revenues even more rapidly. They were asking and expected us to give a balanced budget that was prudent, constrained, and conservative by reducing expenditures, not increasing taxes. And what we have promised them is a balanced budget by increased burden of taxation, and what we will give them is an increased burden of taxation and a deficit. We will give them the worst of both worlds.

So some of us believe that, indeed, the tax cut is not only necessary, it is the only prudent alternative to the fiscal problems that confront this country today, and it is the only way to make good the promises to the American people that we will balance the budget and we will not get to a balanced budget until we get the economy moving again. We will not get the economy moving until we cut the burden of taxation. We will not be able to guarantee to the people of this country with any assurance at all that their tomorrows can be better than their todays, that the hope for their families for tomorrow will be better than the realization of today unless we cut the burden of taxation.

Having said that, I recognize that not just any old tax cut does the same thing, and I am delighted to hear the reference made by my colleagues to the resolution, which I understand will be offered from the other side of the aisle later today, with respect to a study, and I am delighted to see my colleague from Texas, Mr. BENTSEN, as kind of the leader on that list of 40 names that I see on that resolution because Senator BENTSEN has been very constructive in his work on the Joint Economic Committee of which I am a member, and largely because of his efforts the Joint Economic Committee filed last year and this year a single report in which there were not minority separate views but a single report agreed to by the entire committee, and last year was the first time in the history of the Joint Economic Committee that that was achieved. At least Senator BENTSEN is entitled to great credit for having achieved that result in the Joint Economic Committee.

But that result was achieved as the result of looking at the effects of a taxing system that rewards consumption and penalizes production, and pointed to the fact that if you want the economy to grow, the tax system must be redirected toward rewarding those who work, invest, and produce, and that it will only come, that economic prosperity for the country will only come, in a taxing system that is redirected toward production, investment, and reward for labor.

My good friend, Senator ARMSTRONG, a few minutes ago was talking about the fable of the little red hen. Most of us have remembered that story from when we were young. There are some who need it to be retold, and the distinguished Senator from West Virginia questioned Senator ARMSTRONG's version of the story. I will not argue about the semantics of that story, and I will not even talk about a fable, but talk for a moment about a reality, not a story but a fact, not some childhood fable but an experience that is drawn out of contemporary America.

A laboring man in a northern Idaho sawmill, a good workman, who had been there for many years, one of their best and most valued employees, a union member, a family man, a solid member of his community, suddenly they noted was sick every other Friday afternoon. That pattern had persisted for several months, and they brought him in and they said, "Hank, we noticed that every other Friday afternoon you are sick, and we do not believe it."

He kind of hung his head and he said, "Well, you are right. The first Friday afternoon I was sick. I had the flu, I went home and I went to bed and stayed in bed all weekend, and I could hardly get back to work on Monday morning. But when I got my paycheck for that week my take home pay was $1.86 less than it had been when I worked all 5 days of the week. And, frankly, my Friday afternoon is worth more than $1.86 to me."

What he was saying, Mr. President, is a fact, a reality, that when the leisure is more rewarding, after taxes, than the work is, after taxes, people will select leisure instead of labor.

It is that kind of motivation, epitomized in the story of the little red hen, but real in the lives of American working men and women, that impels them because being productive is less reward- to make the choice to be less productive because being productive is less rewarding than leisure, and it is the marginal rate of taxes, not the average rate of taxes, that determines that conduct on their part. It is not the average rate of tax that told him that Friday afternoon he might as well go fishing; it was the rate of tax at the highest level of his income, the last earnings that he made, and that is where the taxing enterprise system has led us today to more and more American people deciding that the rewards of not working are greater than the aftertax rewards of working.

That is not a profound academic subject. It is not some esoteric theory. You could look around in your own experience and see it happening in your own communities all across America, and no wonder the United States is finding that it is more and more difficult for us to compete in the world's markets, that we are more and more defensive against the Japanese, German, French, and British imports into this country; that Italian steel closed steel mills in this country a few years ago; that we have virtually no shoe manufacturing left in this country because it is done outside of this country; that we see more and more import labels from Hong Kong, South Korea, Singapore, as people in this country are not sufficiently rewarded after taxes for their labor, and other people find a greater reward in their labor than they do in their leisure in other countries.

Mr. President, it is time for us to recognize what has been a reality in this country and a reality in the world, that our taxing system is killing us. The dire results are high rates of inflation, high interest rates that result from that rate of inflation, more governmental control as we try to tinker our way out of the situation that Government has created rather than freeing up the economic enterprise system so that individuals can solve their own problems and so that the collective ingenuity and the collective industry of the American people will make us a productive nation again.

What is it that led us to this conclusion? Let me recite a story that was told to me by a distinguished West German a few years ago, an official in their government, who said, "You, in the United States, have adopted an economic theory that says you can spend your way out of recession. That is rooted in your experience in the early years of the 1930's when you were in a depression and you became convinced that the way to break the back of the depression was to get more Americans to spend more money. If they spent more money that would mean their demands were greater, the orders to the factories would increase, employment would go up, and the economy would be stimulated by increasing the demand for goods and services."

Mr. PACKWOOD. Mr. President, will the Senator yield for a comment?

Mr. McCLURE. I would be happy to yield.

Mr. PACKWOOD. The Senator will recall during those years of the depression from 1929 to 1940, following that theory, the lowest that unemployment ever got in this country was 14 percent, the lowest. The highest it ever reached was 27 percent. Either of those would be regarded as intolerable now. But the theory obviously did not work.

Mr. McCLURE. The Senator is correct.

My distinguished friend from West Germany made that very point. He said, "That theory never worked. But before you had the real proof of the theory where it convinced you, you began tooling up for production for World War II, and then you were in the war in Korea, then the war in Vietnam, and you are only now getting into a truly peacetime economy, and obviously the debacle you have in your country may be the product of the fiscal and taxing policies you have in this country, the very idea that you can spend your way to prosperity."

Mr. PACKWOOD. Mr. President, will the Senator yield again?

Mr. McCLURE. I would be happy to yield to my friend from Oregon.

Mr. PACKWOOD. Interestingly, during World War II, which was the last time, perhaps, when we had a genuine labor shortage in this country, and the industries of this country were forced to scour the hills and valleys and every place in this country to find any available manpower or womanpower, which was not used much until World War II in factories, amazingly without any Government help or CETA programs, they managed to train people to be riveters and welders and to teach them an occupation which to this day has stood them in good stead.

It seems to have been a method of worker training that the Federal Government has not yet been able to solve by their own programs.

Mr. McCLURE. That was done during a period of time when people were employed, the economy was moving forward, and we were building, and we wanted to improve upon that by stifling the expansion of the economy. That is what we have succeeded in doing.

Now we have unemployment rates rising, hopefully not to the highs they reached in the depression, and hopefully not to the lows they reached in the depression years when, as the Senator from Oregon has pointed out, the best we could achieve was much, much worse than we have now experienced.

But my friend from West Germany went on to say, "We, in West Germany, experienced a different problem and a different need. We were totally devastated during World War II, and our need in West Germany at the end of the war was to rebuild the country, and in order to rebuild the country we had to have capital. So we adopted taxing policies that rewarded not consumption, not trying to get people to spend more, we adopted taxing policies that rewarded people for deferring consumption, for saving, and when they were given rewards for deferring their consumption, for saving their money, there was capital available for investment in the rebuilding of Germany."

He said, "Maybe we could learn something from you but, perhaps, you could learn a little something from us."

I have remembered that conversation as I look at what happens in this country. If a working couple—and more and more of them, both husband and wife, work, they have to, to keep their heads above water, as their real income shrinks year after year, as they get forced into higher tax brackets and a higher proportion of their income is paid in taxes, more and more of them are working more and more hours, and many times you will find Dad holding down two jobs, trying to keep the family's head above water, trying to keep up with the inflation and the demands of the taxing system—but suppose that after all that is done and they have paid the grocer and paid the rent and paid the gasoline bill and they paid for the medical expenses, and they had gotten the kids clothed, and they paid for the education of their kids, after all of that is done, and then they paid all of their taxes, too—I should have said that comes first, because they usually pay their taxes before they ever see the paycheck—after all that is done, they have managed to save a little money and they put it in savings and that savings earns a little interest, the Government comes back for its pound of flesh and taxes the interest that is earned.

At the same time, if, instead of saving their money, they go out and spend more than they have and they incur an interest debt for having spent more than they have, they are rewarded for that spending by getting a tax deduction for the interest that is paid. The result, of course, is a powerful incentive to spend more than you make, rather than saving some of what you make.

Capital is dissipated in consumption. No wonder we have the highest rate of per capita consumption of any country in the world. No wonder others around the world look at us and say, "You're living too high. You're consuming too much of the world's goods."

We have, through our tax system, created that high level of individual consumption and the very, very low level of personal savings and the very low level of investment in new production or productive capacity in this country.

I might just add that during that period of time following World War II when West Germany needed to get capital to rebuild their country, instead of taxing the interest that was earned on savings of the average workingman and woman in Germany, the Government did not tax the interest but sent them a check equal to the amount of interest. So it was more than just doubling the effective rate of interest return, it was probably 2½, 3, maybe 3½ times the rate of return, because it was exempted from taxes and rewarded by government for saving. So they had a very high rate of personal savings.

As a result, they have had an expanding and a growing economy for many years and we are beginning to reap the whirlwind which we have sown in taxing and fiscal policies in this country.

It is not irresponsible for people in this Congress, regardless of what political stripe they may be, to suggest that it is time to revitalize the American economy; that it is time for us to look at what has happened to us; and that if we are going to balance the budget, if we are going to put people back to work, if we are going to break the back of inflation, if we are going to get the rates of interest down again, we had better be cutting taxes.

That is the subject matter of the amendment to be offered by the Senator from Kansas (Mr. DOLE) that has the support of many of us. It is past time, Mr. President, to commission another study. It is too late already to be doing what we should have done. Further delay is unconscionable at a time when this country is on its knees, when men and women are out of work, for Congress to play politics with their future by saying, "Rather than endorse what is absolutely and apparently necessary, in order to avoid someone from having the perception of political gain growing out of fiscal wisdom, we are going to commission a study and delay the time that we will take the actions that are necessary to move the economy in the direction we want it to go."

That is the issue before us today. That is the issue upon which we will vote later today.

For a number of us, it is not a new effort. Seven times last year we offered the Senate an opportunity to vote on a tax cut and seven times last year a majority of our colleagues—primarily on the other side of the aisle—voted against a tax cut. Seven times the American people had a right to look to us for some leadership and seven times last year they saw us do just exactly the opposite.

We have a chance today to rectify that and redirect and reverse that history of the past year. I hope we will undertake that effort by supporting the amendment of the Senator from Kansas (Mr. DOLE).

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1321

(Purpose: To provide for permanent tax rate reduction for individuals and incentives for new plant and equipment)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1321.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

At the appropriate place, insert the following:

TITLE I—INDIVIDUAL TAX RATES

SEC. REDUCTION IN RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b) (2), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a) (1) is schedule 2,

"(B) individuals described in subsection (a) (2) is schedule 3, and

"(C) individuals described in subsection (a) (3) is schedule 1.

"(2) APPLICATION OF SCHEDULES TO TAXABLE YEARS.—

"(A) CALENDAR YEAR 1981—The schedules in effect for taxable years beginning in 1981 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column.	
0- $2, 300	$0+ 0%	0
$2, 300- $3, 400	$0+12. 0%	$2, 700
$3, 400- $4, 400	$132+14. 0%	$3, 400
$4, 400- $6, 500	$272+16. 0%	$4, 400
$6, 500- $8, 500	$608+17. 0%	$6, 500
$8, 500- $10, 800	$948+19. 0%	$8, 500
$10, 800- $12, 900	$1, 385+21. 0%	$10, 800
$12, 900- $15, 000	$1, 626+23. 0%	$12, 900
$15, 000- $18, 200	$2, 309+27. 0%	$15, 000
$18, 200- $23, 500	$3, 173+30. 0%	$18, 200
$23, 500- $28, 800	$4, 763+35. 0%	$23, 500
$28, 800- $34, 100	$6, 618+39. 0%	$28, 800
$34, 100- $41, 500	$8, 685+44. 0%	$34, 100
$41, 500- $55, 300	$11, 941+50. 0%	$41, 500
$55, 300- $81, 800	$18, 841+57. 0%	$55, 300
$81, 800-$108, 300	$33, 946+61. 0%	$81, 800
$108, 300-	$50, 111+63. 0%	$108, 300

"Schedule 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column.	
$0- $3, 400	$0+ 0%	$0
$3, 400- $5, 500	$0+12%	$3, 400
$5, 500- $7, 600	$252+14%	$5, 500
$7, 600- $11, 900	$546+16%	$7, 600
$11, 900- $16, 000	$1, 234+19%	$11, 900
$16, 000- $20, 200	$2, 013+22%	$16, 000
$20, 200- $24, 600	$2, 937+25%	$20, 200
$24, 600- $29, 900	$4, 037+28%	$24, 600
$29, 900- $35, 200	$5, 521+33%	$29, 900
$35, 200- $45, 800	$7, 270+39%	$35, 200
$45, 800- $60, 000	$11, 404+44%	$45, 800
$60, 000- $85, 600	$17, 652+49%	$60, 000
$85, 600-$109, 400	$30, 196+53%	$85, 600
$109, 400-$162, 400	$42, 810+58%	$109, 400
$162, 400-$215, 400	$73, 550+61%	$162, 400
$215, 400	$105, 880+63%	$215, 400

"Schedule 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0- $2, 300	$0+0%	$0
$2, 300- $4, 400	$0+12. 0%	$2, 300
$4, 400- $6, 500	$252+14. 0%	$4, 400
$6, 500- $8, 700	$546+16. 0%	$6, 500
$8, 700- $11, 800	$878+20. 0%	$8, 700
$11, 800- $15, 000	$1, 518+22. 0%	$11, 800
$15, 000- $18, 200	$2, 222+23. 0%	$15, 000
$18, 200- $23, 500	$2, 958+28. 0%	$18, 700
$23, 500- $28, 800	$4, 442+32. 0%	$23, 500
$28, 800- $34, 100	$6, 138+38. 0%	$28, 800
$34, 100- $44, 700	$8, 152+41. 0%	$34, 100
$44, 700- $60, 600	$12, 493+49. 0%	$44, 700
$60, 600- $81, 800	$20, 287+54. 0%	$60, 600
$81, 800-$108, 300	$31, 737+57. 0%	$81, 800
$108, 300-$161, 300	$46, 847+61. 0%	$108, 300
$161, 300	$79, 172+63. 0%	$161, 300

TITLE II—INCENTIVES FOR NEW PLANT AND EQUIPMENT

SEC. 201. CAPITAL COST RECOVERY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. CAPITAL COST RECOVERY DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of recovery property, there shall be allowed the recovery deduction provided by this section.

"(b) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The recovery deduction for the taxable year shall be the aggregate amount determined by applying to the capital cost of recovery property the applicable percentage determined in accordance with the following table:

"CAPITAL COST RECOVERY TABLE

	The applicable percentage for the class of property is:		
	Class 1	Class 2	Class 3
"If the recovery year is—			
1	10	20	33
2	18	32	45
3	16	24	22
4	14	16	
5	12	8	
6	10		
7	8		
8	6		
9	4		
10	2		

"(2) TRANSITIONAL APPLICABLE PERCENTAGES.—

"(A) For transitional applicable percentages for additions to capital account of class 1 property before 1985, see subsection (h) (2).

"(B) For transitional applicable percentages for additions to capital account of certain class 2 property before 1985, see subsection (h) (3).

"(c) RECOVERY PROPERTY.—For purposes of this title—

"(1) RECOVERY PROPERTY DEFINED.—Except as otherwise provided in subsection (g), the term 'recovery property' means tangible property (other than land)—

"(A) used in a trade or business, or

"(B) held for the production of income.

"(2) CLASSES OF RECOVERY PROPERTY.—

"(A) CLASSIFICATION TABLE.—The classification of recovery property shall be determined in accordance with following table:

"CLASSIFICATION OF RECOVERY PROPERTY

"Class 1	Class 2	Class 3
Buildings and structural components of buildings.	Recovery property not taken into account under class 1 or class 3.	Automobiles, taxis, and light-duty trucks.

"(B) $100,000 LIMIT FOR CLASS 3.—In the case of any taxpayer for any taxable year, the capital cost (for which such year is recovery year 1) taken into account under class 3 shall not exceed $100,000.

"(C) SPECIAL RULES FOR APPLYING THE $100,000 LIMIT.—

"For special rules relating to the $100,000 limit, see subsection (1) (2).

"(d) CAPITAL COST.—

"(1) IN GENERAL.—For purposes of this section, the term 'capital cost' means, with respect to any property, the net addition to capital account for the taxable year (determined without regard to the section 1016(a) (2) adjustment for such year).

"(2) SPECIAL RULES FOR PROPERTY NOT YET PLACED IN SERVICE.—In the case of property which has not been placed in service before the close of the taxable year—

"(A) PAYMENT RULE.—Except as provided in subparagraph (B), the addition to capital account shall be treated as made when payment of an amount is made.

"(B) SELF-CONSTRUCTED PROPERTY.—If the property is constructed (in whole or in part) by the taxpayer, capital cost shall be determined under paragraph (1) without regard to subparagraph (A) of this paragraph.

"(3) AMOUNTS MUST BE FOR PERIOD AFTER 1980.—For purposes of this section, capital cost does not include any amount paid or properly charged to capital account for any period before January 1, 1981.

"(4) SPECIAL RULES.—

"(A) PUBLIC UTILITY PROPERTY ELECTION.—For election to determine capital cost of public utility property by treating advance payments as made when property is placed in service, see subsection (1) (3).

"(B) TRANSITIONAL RULE FOR FISCAL YEAR TAXPAYERS.—For special transitional rule for determining capital cost of fiscal year taxpayers, see subsection (1) (5).

"(e) TAXPAYER MAY DEDUCT LESS THAN FULL ALLOWANCE.—

"(1) IN GENERAL.—For any taxable year the taxpayer may deduct all or any portion of the amount allowable under subsection (a). The deduction for any taxable year may be increased or decreased at any time before the expiration of the period prescribed for making a claim for refund of the tax imposed by this chapter for such taxable year.

"(2) CARRYOVER OF UNUSED DEDUCTIONS.—Any amount allowable for the taxable year by subsection (a) but not deducted for such taxable year shall be carried forward and may be claimed as a deduction for any succeeding taxable year. Any deduction so claimed shall be treated as an addition to the capital cost recovery deduction allowable under subsection (a) for such succeeding taxable year.

"(3) ALLOCATION OF DEDUCTIONS.—If by reason of paragraph (1) the taxpayer deducts less than the amount allowable for any taxable year, the amount deducted shall be apportioned among the taxpayer's recovery property in the same proportion as the amount allowable in respect of the recovery property bears to the total amount allowable in respect of recovery property. A similar rule shall be applied in the case of the allowance of a deduction in a succeeding taxable year under paragraph (2).

"(4) Adjustments to basis.—For purposes of section 1016(a)(2), in the case of recovery property the amount allowable under this subtitle for exhaustion, wear and tear, and obsolescence shall be the amount allowable by subsection (a) of this section.

"(f) Recognition of Gain or Loss and Adjustment to Capital Costs on Retirement or Other Disposition.—

"(1) General rule.—Gain or loss shall be recognized on the disposition of recovery property, unless nonrecognition is specifically required or permitted by another provision of this chapter.

"(2) Mass asset account.—In lieu of recognizing gain or loss a taxpayer who maintains mass asset accounts of recovery property may, under regulations prescribed by the Secretary, elect to include in income all proceeds realized on the disposition of such property.

"(3) Adjustment to capital cost.—For purposes of this section, if gain or loss is recognized on the disposition of recovery property, the capital cost of such property shall cease to be capital cost as of the beginning of the taxable year in which such disposition occurs.

"(4) Disposition includes retirement.—For purposes of this subsection, the term 'disposition' includes retirement.

"(g) Property Excluded From Application of Section.—

"(1) Certain property excluded. — The term 'recovery property' does not include—

"(A) property placed in service by the taxpayer before January 1, 1981,

"(B) residential rental property (within the meaning of section 167(j)); and

"(C) property with respect to which the taxpayer—

"(i) is entitled to elect amortization (in lieu of depreciation), and

"(ii) elects such amortization.

"(2) Certain methods of depreciation.—The term 'recovery property' does not include property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the first taxable year for which a deduction would be allowable under this section with respect to such property—

"(i) the property is properly depreciated under the unit-of-production method, the retirement-replacement method, or any other method of depreciation not expressed in a term of years, or

"(ii) the property is a leasehold improvement which is properly depreciated over the term of the leasehold.

"(3) Special rule for certain public utility property.—

"(A) In general.—In the case of public utility property (within the meaning of section 167(l)(3)(A)), such property shall be treated as recovery property only if the taxpayer uses a normalization method of accounting.

"(B) Use of normalization method defined.—For purposes of subparagraph (A), a taxpayer uses a normalization method of accounting with respect to any public utility property if both the taxpayer's rates and its operating results on its regulated books of account reflect a tax expense determined by—

"(i) a method of depreciation on the property which is the same as, and

"(ii) a depreciation period for the property which is no shorter than, the method and period used to determine its depreciation expense on the property for purposes of establishing its cost of service for ratemaking purposes.

"(C) Secretary to prescribe regulations.—The Secretary shall provide such regulations as may be necessary or appropriate to prevent the reflection (directly or indirectly) in rates or operating results of an amount of tax expense which is inconsistent with either the depreciation method described in subparagraph (B)(i) or the depreciation period described in subparagraph (B)(ii).

"(4) Certain sales, leases, and other transactions in property placed in service before 1981.—The term 'recovery property' does not include property acquired directly or indirectly from a person who used such property before January 1, 1981, if—

"(A) within 1 year after the property is so acquired, the property is leased back to such person, or

"(B) the person so acquiring the property bears a relationship specified in section 267(b) to the person using such property before January 1, 1981.

"(h) Transitional Applicable Percentages for Class 1 Property and Class 2 Property.—

"(1) In general.—The Secretary shall prescribe tables setting forth transitional applicable percentages—

"(A) for additions to capital account of class 1 property before January 1, 1985, and

"(B) for additions to capital account of class 2 property before January 1, 1985.

If for any taxable year for any property there is a transitional applicable percentage, such transitional percentage shall be substituted for the applicable percentage set forth in subsection (b).

"(2) Transitional applicable percentages for class 1 property.—The transitional applicable percentages for class 1 property shall be determined in accordance with the following assigned recovery periods;

"(5) Tables to be similar to subsection (b) table.—The tables prescribed under paragraph (1) for any class of property for any assigned recovery period shall be based on principles similar to those used in the construction of the table under subsection (b) for that class of property.

"(i) Definitions and Special Rules.—For purposes of this section—

"(1) Recovery year 1, etc.—The term 'recovery year 1' means, with respect to any capital cost, the first taxable year for which a deduction with respect to such cost is allowable under subsection (a). The immediately following taxable year shall be recovery year 2, and the taxable years which follow shall be numbered accordingly.

"(2) Special rules for applying the $100,000 limit for class 3 property.—

"(A) In general.—If for any taxable year the capital cost (for which such year is recovery year 1) of automobiles, taxis, and light-duty trucks exceeds $100,000, the taxpayer shall select the items to be treated as class 3 property, but only to the extent of an aggregate capital cost of $100,000. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

"TRANSITIONAL RECOVERY PERIODS FOR CLASS 1 PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	18
1982	16
1983	14
1984	12

"(3) Transitional applicable percentages for certain class 2 property.—The transitional applicable percentages for class 2 property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CERTAIN CLASS PROPERTY

"For additions to capital account in—	The transitional applicable percentage shall be based on a capital cost recovery period of the following number of years:
1981	ADR lower limit.
1982	ADR lower limit minus year.
1983	ADR lower limit minus years.
1984	ADR lower limit minus years.

The capital cost recovery period determined under this paragraph shall in no case be less than 5 years.

"(4) ADR lower limit defined.—For purposes of paragraph (3), the ADR lower limit for any class of property is the lower limit of the asset depreciation range in effect on June 27, 1979, for such class of property under section 167(m). For purposes of the preceding sentence, lower limits in excess of 9 years shall be treated as equal to 9 years, and any lower limit which is not a whole number of years shall be rounded down to the next lower whole number of years.

"(B) Married individuals.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) and under subsection (c)(2)(B) shall be $50,000 in lieu of $100,000. This subparagraph shall not apply if the spouse of the taxpayer has no property which may be taken into account as class 3 property (for which this is recovery year 1) for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(C) Controlled groups.—In the case of a controlled group, the $100,000 amount specified under subparagraph (A) and under subsection (c)(2)(B) shall be reduced for each component member of the group by apportioning $100,000 among the component members of such group in accordance with their respective amounts of capital cost of automobiles, taxis, and light-duty trucks.

"(D) Partnerships.—In the case of a partnership, the limitation contained in subparagraph (A) and in subsection (c)(2)(B) shall apply with respect to the partnership and with respect to each partner.

"(E) Controlled group.—For purposes of this paragraph, the term 'controlled group' has the meaning assigned to such term by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(3) Public utility may elect not to take into account advance payments.—

"(A) In general.—In the case of public utility property (within the meaning of section 167(l)(3)), the taxpayer may elect to treat all additions to capital account for the period before property is placed in service as made during the taxable year in which the property is placed in service.

"(B) Effect of election.—An election under subparagraph (A) shall apply to all public utility property of the taxpayer for the taxable year for which the election is made and all subsequent taxable years unless the Secretary consents to a revocation of such election.

"(4) Making of elections.—Any election (or selection) under this section shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(5) Transitional rule for determining capital cost of fiscal year taxpayers.—If—

"(A) the taxpayer's taxable year is a period other than the calendar year, and

"(B) a transitional applicable percentage applies to additions to capital account in any portion of the taxable year.

then the capital cost for such taxable year shall be separately computed for each portion of a calendar year included within the taxable year.

"(j) CROSS REFERENCE.—

"For special rule with respect to certain gain derived from disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

SEC. 202 CHANGES IN INVESTMENT TAX CREDIT.

(a) APPLICABLE PERCENTAGE.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) APPLICABLE PERCENTAGE FOR RECOVERY PROPERTY.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of class 1 or class 2 recovery property (within the meaning of section 168), 100 percent, or

"(B) in the case of class 3 recovery property (within the meaning of section 168), 60 percent."

(b) CREDIT FOR EXPENDITURES BEFORE PROPERTY IS PLACED IN SERVICE.—Subsection (d) of section 46 is amended to read as follows:

"(d) QUALIFIED PROGRESS EXPENDITURES.—

"(1) IN GENERAL.—The amount of the qualified investment of any taxpayer for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by the aggregate of the applicable percentage of each qualified capital cost of the taxpayer for the taxable year.

"(2) QUALIFIED CAPITAL COST.—For purposes of paragraph (2), the term 'qualified capital cost' means the capital cost described in section 168(d)(1) for the taxable year with respect to any property which has not been placed in service before the close of such taxable year if such property, when placed in service, can reasonably be expected to be recovery property which is section 38 property.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' has the meaning given to such term by subsection (c)(7).

"(4) NO QUALIFIED PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR OF RECAPTURE.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the first taxable year for which recapture is required under section 47(a)(3) with respect to such property, or for any taxable year thereafter."

(c) AMENDMENT OF RECAPTURE RULES.—

(1) IN GENERAL.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR RECOVERY PROPERTY.—

"(A) GENERAL RULE.—If during any taxable year section 38 recovery property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) RECAPTURE PERCENTAGE.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the taxable year in which the recovery property ceases to be section 38 property is—	The recovery percentage for each class of property is—	
	Class 1 and Class 2	Class 3
The taxable year in which placed in service	100	100
The first taxable year after the year in which placed in service	80	66
The second taxable year after the year in which placed in service	60	33
The third taxable year after the year in which placed in service	40	0
The fourth taxable year after the year in which placed in service	20	0

(C) DEFINITIONS AND SPECIAL RULES.—

"(i) SECTION 38 RECOVERY PROPERTY.—For purposes of this paragraph, the term 'section 38 recovery property' means any section 38 property which is recovery property (within the meaning of section 168).

"(ii) RECAPTURE PERIOD.—For purposes of this paragraph, the term 'recapture period' means, with respect to any property, the period consisting of the taxable year in which such property is placed in service and the 4 succeeding taxable years (the 2 succeeding taxable years in the case of class 3 property).

"(iii) CLASSIFICATION OF PROPERTY.—For purposes of this paragraph, property shall be classified as provided in section 168.

"(IV) PARAGRAPH (I) NOT TO APPLY.—Paragraph (1) shall not apply with respect to any recovered property."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a)(3) is amended—

(i) by striking out "paragraph (1), paragraph (1)" and inserting in lieu thereof "paragraph (1) or (5), as the case may be, such paragraph", and

(ii) by striking out "PARAGRAPH (1)" in the subparagraph heading and inserting in lieu thereof "PARAGRAPH (1) OR (5)".

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(d) AMENDMENT OF SECTION 48.—The last sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only recovery property and any other property".

SEC. 203. AMENDMENTS RELATED TO DEPRECIATION.

(a) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of recovery property (within the meaning of section 168), the recovery deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section, and such property shall be considered for purposes of this title as property of a character subject to the allowance provided under this section."

(b) NO ADDITIONAL FIRST-YEAR DEPRECIATION FOR RECOVERY PROPERTY.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which is not recovery property (within the meaning of section 168)."

(c) TERMINATION OF CLASS LIFE SYSTEM.—Subsection (m) of section 167 (relating to class lives) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—This subsection shall not apply with respect to property placed in service after December 31, 1979."

SEC. 204. DISPOSITION OF RECOVERY PROPERTY SUBJECT TO RECAPTURE UNDER SECTION 1245.

Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) recovery property (within the meaning of section 168)."

SEC. 205. MINIMUM TAX AMENDMENT.

Subsection (a) of section 57 (defining items of tax preference) is amended by inserting after paragraph (11) the following new paragraph:

"(12) CAPITAL COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—With respect to each property which is class 1 and class 2 recovery property (as determined under section 168) and which is subject to a lease, the amount (if any) by which the recovery deduction allowed for the taxable year is greater than the straight-line capital cost recovery amount determined in accordance with subparagraph (B).

"(B) STRAIGHT-LINE CAPITAL COST RECOVERY AMOUNT.—For purposes of this paragraph, the straight-line capital cost recovery amount shall be the amount of the depreciation deduction which would have been allowed for the taxable year had the taxpayer depreciated the property, beginning with the middle of the taxable year in which placed in service, under the straight-line method for each year of its useful life assuming—

"(i) a useful life of 10 years in the case of class 1 recovery property, and

"(ii) a useful life of 5 years in the case of class 2 recovery property.

"(C) LIMITATIONS.—

"(i) CORPORATIONS.—This paragraph shall not apply to any taxpayer which is a corporation (other than an electing small business corporation as defined in section 1371 (b)) and a personal holding company (as defined in section 542).

"(ii) PROPERTY MANUFACTURED OR PRODUCED BY TAXPAYER.—This paragraph shall not apply with respect to any property which is manufactured or produced by the taxpayer.

"(D) PARAGRAPHS (2) AND (3) DO NOT APPLY TO RECOVERY PROPERTY.—Paragraphs (2) and (3) shall not apply to recovery property (within the meaning of section 168)."

SEC. 206. TECHNICAL AMENDMENTS.

(a) EARNINGS AND PROFITS.—

(1) Subsection (k) of section 312 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR RECOVERY DEDUCTION.—If for any taxable year a recovery deduction is allowable under section 168 with respect to any recovery property, then the adjustment to earnings and profits for depreciation of such property for such year shall be the amount so allowable (but not in excess of the straight-line capital cost recovery amount determined under section 57(a)(12)(B))."

(2) The paragraph heading of paragraph (2) of section 312(k) is amended to read as follows:

"(2) EXCEPTION FOR CERTAIN METHODS OF DEPRECIATION.—".

(b) AMENDMENT OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) UNUSED DEDUCTIONS UNDER SECTION 168.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 168, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 168 in respect of the distributor or transferor corporation."

(c) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on certain carryovers) is amended by striking out "and to any net capital loss" and inserting in lieu thereof "to any unused deductions under section 168(e), and to any net capital loss".

SEC. 207. EFFECTIVE DATE.

The amendment made by this title shall apply to taxable years ending after December 31, 1980.

SEC. 208.

Notwithstanding Section 10 of the First Concurrent Resolution on the Budget for Fiscal Year 1981, this resolution shall be enrolled without delay upon passage of both Houses in the same form, even if it has the effect of reducing revenues in excess of $100,000,000.

Mr. DOLE. Mr. President, this amendment has been discussed at some length on this side. It is the 10-percent rate reduction and the so-called "10–5–3" accelerated depreciation on business equipment and buildings.

If it has not already been stated for the RECORD, I would like to state that the 10-percent rate would cost an estimated $19.8 billion and the so-called "10–5–3" proposal about $2.5 billion in fiscal year 1981. This amendment has a total fiscal year 1981 cost of $22.3 billion. The calendar year cost is somewhat higher. The 10-percent reduction would be $31.8 billion and 10–5–3 on the calendar year would be $4 billion, which would be a total of about $35.8 billion.

I would like to point out that the 10–5–3 portion of this amendment has been introduced by 50-some Senators on both sides of the aisle. I will not burden the RECORD by putting those names in the RECORD again. But Senators BENTSEN, PACKWOOD, CHAFEE, HATCH, DANFORTH, TOWER, LUGAR, HEINZ, PERCY, NUNN, HUMPHREY, HELMS, HOLLINGS, have sponsored "10–5–3" and that list goes on and on. The list includes a good cross section of Democrats and Republicans. I think the 10–5–3 cosponsorship list is an indication of the strong support for this amendment.

Without further burdening the RECORD, I would like to point out that I have a list several yards long of tax reduction amendments put in by different Senators. It is quite a list—all suggesting we need rate reductions and tax reductions. So I think it goes without saying that there is a strong bipartisan support for some tax relief.

I would finally like to point out that there have been hearings on the contents of this proposal. On October 22, 1979, there was a hearing on the 10–5–3 proposal now advocated in this amendment. There were a number of outstanding witnesses there. Treasury Secretary Miller was there. He was in opposition, but he is outstanding nonetheless. Donald Lubick testified; a fine fellow, but he was opposed. Senator NELSON, Congressman CONABLE, Congressman JIM JONES, Dr. Charles Walker, Mike McKevitt, and other outstanding men in the tax field.

So there have been hearings on this proposal, and it does have widespread support. On May 20, 1980, we had hearings on the state of the economy and tax cuts in the Joint Economic Committee, of which the distinguished Senator from New York (Mr. JAVITS) is the ranking Republican member. At that time, the Joint Economic Committee heard from Otto Eckstein, Norman Ture, Michael Evans, Paul McCracken, and Allen Binder, all of whom recommended a tax cut. These hearings clearly demonstrate that this amendment is not some gimmick that has been pulled out of the air for a press conference. It has a strong foundation in both parties, and strong support in both parties.

There have been hearings chaired by the distinguished Senator from Texas, Senator BENTSEN, on the one hand and the distinguished Senator from Wisconsin, Senator NELSON, on the other hand. I just want to make the RECORD complete so that those who read the RECORD and those who report tax cut politics will understand that this is a package that has widespread support and includes all facets and all shades of philosophy in both parties.

Mr. ROTH. Mr. President, the amendment we are proposing today provides for a permanent reduction in individual tax rates of approximately 10 percent and accelerated depreciation to modernize this Nation's productive capacity. Adoption of this amendment is urgently needed to stop the economic slide we are in and to save jobs for the working people of this country.

Anxiety about the future, job security, income, and taxes has never been higher. For the first time in years, the American people are being told they face a future of downward mobility. Under this administration, the American people have suffered a long series of economic losses.

Inflation is at double-digit levels, and unemployment is heading for double-digit levels.

In the last 2 months, 1.7 million workers have lost their jobs—the largest 2-month increase in history; 8.2 million people are now unemployed.

Savings, investment, and productivity are at dismally low levels.

Production in our Nation's major industries—automobile, housing, and steel—has fallen to the lowest levels in years.

And average weekly earnings for American workers has fallen to its lowest level in 19 years.

The attempt to balance the budget through massive tax increases has failed. The high tax rates imposed on the American people by the Carter administration have crippled economic growth and thrown millions of people out of work.

Unemployment will not balance the budget or stop inflation. Unemployment will only produce more Federal spending, less Federal revenues, and huge budget deficits.

I believe our tax cut is urgently needed to get Americans working again. Unless we reduce the tax drag on the economy, more workers are going to lose their jobs and the budget deficit will explode.

For every 1 percent increase in unemployment, the budget deficit increases by at least $20 billion.

We have two paths we can follow. We can do nothing, allow more people to lose their jobs, and let the budget deficit increase.

Or we can take steps now to hold the budget deficit down by cutting taxes and getting people back to work again.

The first budget resolution does not prevent Congress from acting on a tax cut bill. It merely sets a revenue target. The first budget resolution also contains a provision requiring tax reduction bills to be held at the desk until the second budget resolution is adopted.

By enacting a tax cut now, the House and Senate Budget Committees can fashion the second budget resolution around a tax cut aimed at increasing economic growth, instead of around massive tax increases.

The amendment we are proposing today would reduce individual tax rates by approximately 10 percent, the first step of the Roth-Kemp bill. We intend to push for future rate reductions and a tax indexing system to keep tax rates down.

This first installment of Roth-Kemp will provide substantial tax relief to all taxpayers. Under this amendment, taxpayers of this country will receive a tax cut averaging $315.

In addition to providing relief to all Americans, this bill would increase the incentives for economic growth. By reducing marginal tax rates, this bill would reduce taxes on saving and investment.

Substantial tax cuts are needed to offset the massive tax increases facing the working men and women of this country. Under present tax laws, the Federal tax burden will increase to unprecedented levels, both as a percent of GNP and as a percent of taxable personal income. Unless taxes are cut, Federal taxes as a percent of GNP will reach the highest levels in this country's history. In fact, the size of the Roth-Kemp tax cuts pales when compared with the massive real tax increases facing the American economy.

For example, the amendment we are proposing today has a static revenue estimate of only $22 billion—$19.8 billion for the rate reductions and $2 billion for the accelerated depreciation provisions.

Yet the Joint Committee on Taxation estimates inflation, social security, and the windfall profit tax will increase taxes on the American people by at least $42 billion in fiscal 1981.

So what we are saying, in effect, is that this tax amendment only costs roughly half of the tax increase being imposed on the American people in 1981.

These enormous tax increases will impose a tremendous burden on working Americans. A typical family of four is today paying almost $1,400 more in taxes a year than it paid before the Carter administration took office. And unless taxes are reduced, the family faces an additional tax increase of $630 next year.

So in the 4 Carter years the typical

working American family has faced a total tax increase of $2,029.

Mr. President, I think it is only fair to point out that the typical American family is having great difficulty in making ends meet. The cost of energy, food, and rent have gone up substantially so that most Americans find that it is extraordinarily difficult to have their income cover all costs. It is particularly tragic that taxes have gone so high at this juncture when the real purchasing power of the American family is at the lowest that it has been since 1961.

It is tragic to think that in imposing a huge tax increase on the working people of this country it will neither reduce inflation nor balance the budget.

It will however, further reduce take-home pay, production, savings, and investments, resulting in more inflation, a deeper recession, and higher unemployment.

Mr. President, I support a balanced budget. But I am opposed to the Carter administration attempt to balance the budget on the backs of American taxpayers.

What we are proposing in our amendment is the first step in a long-term plan to get the economy growing again and to get Americans back to work again.

Mr. President, I have to admit that I have been excited for some time about the prospect of Governor Reagan being elected President, and I must say I am even more enthusiastic today because, yesterday, Governor Reagan called for a tax cut and, given the frantic response by my Democratic colleagues in the Senate, I can only imagine the influence he will have when he becomes President. I believe that Governor Reagan has done more for the economy in 1 day than Jimmy Carter has done in 4 years.

I was both pleased and dismayed, Mr. President, to hear of the reaction on the part of my Democratic colleagues. I was pleased to see that, for the first time, at least the Democratic Senate Members of Congress agree that there must be tax relief in 1981. Frankly, this should have come much sooner, and as no surprise, because the Joint Economic Committee, headed by the distinguished Senator from Texas (Mr. BENTSEN), has called for such a supply-side tax cut. It did so in 1980 and it did it in 1976. So I am pleased to see that the majority side has joined the Republicans, and is responding for the first time to the need for a major tax cut for the American people in 1981.

While I am pleased that they are now joining hands with the Republicans in calling for tax relief, I am dismayed at the fact that they want to postpone action until later this year. I earlier recited a litany of the failures of the economy under this administration—the double-digit inflation, double-digit interest, and the fact that the typical American worker income today is the lowest it has been since 1961.

In other words, we have gone backwards 19 years. I am dismayed at the fact that, in the last 2 months, 1.7 million Americans have lost their jobs. I do not think we can delay for a study, or for the creation of a task force, or for other such purposes from taking the steps necessary to put some tax relief in place.

(Mr. LEVIN assumed the chair.)

Mr. ROTH. Mr. President, it is no answer to say that what we are proposing today will not go into effect until 1981, so why rush it through now, why not wait until sometime in September? As I just pointed out, nearly 2 million Americans have lost their jobs during the last 2 months. I do not think that we should sit idly by, studying, talking, and planning while another 2 million people lose their jobs.

I do not want to see unemployment rise to 8, 9, even 10 percent, as people are predicting, Mr. President. Before the Joint Economic Committee, we had a number of economists say that if we took action now, even though we delayed the effective date, it would have a beneficial impact on the economy and help to get the small businessman and others to take steps now that would help create jobs and prevent further unemployment.

So, Mr. President, I hope that the majority party will join the minority party in forging today a tax program that offers hope for the American people, that will turn this economy around, and get this country moving once more.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I shall not detain the Senate long, but I did wish to share some thoughts with my colleagues about this matter of a tax reduction. I am directing my attention, Mr. President, to the situation we face, which is a very serious one, in my opinion, and to what is to be done about it.

I believe the issue before us, Mr. President, is a present and immediate one.

The important thing about tax levels is that they are relative. There is a time when tax rates may have to be increased. That is what we should have done during the Vietnam war. Had we done so at the time we would not have today the high inflation which we have because we had to make up at least $150 billion, which we spent but for which we did not provide revenue during the latter phase of the Vietnam war.

So, Mr. President, I come to the question of tax policy for now because, right now, we face a situation where the administration has told us that it proposes to deal with inflation through a controlled recession. That means induced unemployment, induced restriction of activity, an induced situation of making the United States poorer than it should be in order to squeeze out inflation.

I think this is a very misguided policy, Mr. President. One, it is completely against the grain of all Americans. Two, it is being carried out unnecessarily. There is no shortage of goods, there is no shortage of workers, and there is no shortage of customers. The only thing that there is a shortage of is confidence and the will to use money for the purpose of capital investment. It represents an erosion of faith, for the first time in my lifetime, let alone my political lifetime, in the future of our country.

Now, how do we restore that? Do we restore it by pulling in? Do we restore it by making interest rates so high as to completely paralyze activity, or the willingness of people to invest or assume risks? Do we encompass it by restricting credit so that we have to have unemployment and so that credit cannot be extended for housing, for essential new construction or other necessary means for developing our country?

I do not believe that is the right course. I believe that you cannot control a recession, that a recession can become a depression, that 8 percent unemployment is very much more likely to become 10 percent unemployment than 6 percent or 5 percent or 4 percent.

Therefore, Mr. President, we have to direct our attention to what will turn our economy around, what will restore the feeling of entrepreneurs, workers, managers, and bankers, that we are going somewhere, not going nowhere.

In my judgment, an intelligently designed tax reduction for the purpose of compensating for inflation-induced tax increases and stimulating confidence in America's future is the way to do that.

For myself, I would have preferred having the guts—and I use that word advisedly—to have a targeted tax reduction for business which will stimulate capital investment, stimulate savings which flow into capital investment, stimulate enhanced research and development, and stimulate an export drive, by providing the necessary credit mechanisms for the purpose. I would have preferred that. I think it is very much in the interests of the American people that this should have been done.

Mr. President, we have a huge storehouse of tax revenues in the windfall profits tax, which I thought, and many thought, was going to be used precisely for that purpose.

But that is not the way life works, apparently. So we have to approach it some other way.

As I said a minute ago, for me, the target is investment, capital investment, savings, enhanced research and development, enhanced selling, and enhanced development in the world. That is the target. But to get to that target, we have to satisfy other elements of the population having other demands in respect of taxation.

One of those demands is to make up for the bulge in social security taxes of roughly $10 billion which is scheduled to take place next January, and another is to make up for the fact that inflation will cause people to be ratcheted into higher income tax brackets to the extent, probably, of about $15 billion.

So when the Roth-Kemp 3-year tax cut proposal with which I did not agree and against which I voted consistently because I thought it was taking too much of a risk with inflation was brought down by the consensus in my party to a 1-year proposition of 10 percent, I felt that was a reasonable accommodation to make in order to undertake a positive constructive approach to dealing with inflation, instead of the negative approach, which is the way I construe the administration's present policy.

Mr. President, it is my judgment that this tax cut proposal commends itself to the American people both for long- and short-term reasons.

Mr. President, neither do I think 10–5–3 is the ideal way to stimulate capital investment. But, again, it represents a consensus in my party. I think it is very important to the American people to have one of the great parties dedicated to that proposition.

For myself, I believe that an acceleration of the rates of depreciation, and the extended use of investment tax credit, are very much more direct ways to stimulate capital investment.

But as I have learned after so many years in politics, the possible is not necessarily what is the optimum. I believe, therefore, as this is a possible program, that it is my duty, because I believe in the fundamental principle which is involved, to join in its support and do my utmost to make it work.

Mr. President, as to the fight on inflation, it is my judgment that inflation is not going to be defeated by contraction, but by production.

I believe the worst statistic in this country is the statistic on productivity, because when we realize that a modest 1 percent per annum improvement in productivity will make up for 5, 6, and 10 times what a diminution will, in terms of the economic health of the country, we realize how much is at stake there. Productivity is very heavily dependent on capital investment and upon the fact that the American business machine is rapidly getting more obsolescent.

If we need any proof of that, of course, we have the tremendous layoffs in the automobile industry and the tremendous layoffs in the steel industry, the very two industries where obsolescence was the strongest controlling fact.

So, Mr. President, in summary, I believe that the tax package which has been submitted by Senator Dole and others is an answer, for today. It is the real function of the opposition to offer the country another opportunity, an alternative to the course upon which it is committed by its present rulers, and its present rulers are the administration and the Democratic majority in both Houses.

This represents no disrespect. It does not represent narrow politics. It just represents our duty, our responsibility, to offer another way.

The majority has chosen the way of contraction. We are choosing the way of expansion. That is much more the American way and much more adaptable to the situation we face.

I believe, in the present exigency, Mr. President, this is the way for our country to go. I hope we will get to that point. I know, everybody knows, that this motion on this debt limit is a threshold. Today, we are introducing the subject. We will get some debate on it, sharpen our arguments, the opposition will sharpen its arguments. Our plea is for the attention and interest of our fellow citizens throughout the country. They will react and let us know in unmistakable terms what they think should be done.

But I think this is a very healthy course which we, the opposition, are taking. I have waited for it for a long time. It is now 3 years since I have had the privilege of chairing the task force on economic issues of the Senate Republican conference.

I have seen this very steep economic decline coming for a number of years. At the time I sounded like a Jeremiah about it. Now it has come. The question now before us is, How do we reverse this economic decline?

I think the positive way, the way of construction and expansion, is the way to reverse the present situation.

I have associated myself with this effort and will do my utmost to persuade my colleagues and our fellow citizens that this is best for the United States of America right now.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the tax reduction amendment now before us, and others to be offered today to the debt ceiling bill, is not a responsible action.

The proponents of these amendments have discussed the virtues of a tax cut, but not the consequences of adding a tax cut to this bill increasing the temporary debt limit. I would like to spend a few minutes, Mr. President, in discussing that problem.

Under section 9 of the recently enacted first concurrent resolution, bills which reduce revenue by more than $100 million in fiscal year 1981 cannot be enrolled until after the adoption of the second concurrent resolution.

This section was adopted because Congress decided that it should not send any tax cut to the President until it had the opportunity to review again, at the time of the second resolution, prospects for inflation, interest rates, employment, Government spending—all the things that go into careful review of budget policy.

Just a few weeks ago, Congress believed that fiscal restraint and the fight against inflation were so important that tax cutting measures should be delayed, to evaluate the compliance with spending targets as well as to consider overall economic needs.

Mr. President, we are very pleased with the actions of the committees and the action collectively of the U.S. Senate. What has occurred is that Congress, this year, in its first resolution has passed the most restrictive Federal budget that has been enacted in the past 12 years.

Last night, at midnight, June 25, was the deadline for the reconciliation instruction contained in that resolution and every committee met that deadline.

Adlai Stevenson, when asked one time whether he was conservative or liberal, replied:

> That's not the important question. The important question is, am I headed in the right direction?

I realize, for example, that the distinguished senior Senator from West Virginia (Mr. Robert C. Byrd) and others have misgivings about the budget. I had proposals myself in committee that would have cut back certain spending provisions. But, on balance, this is a very restrictive budget that has been enacted. It has cut back the size of Government spending in relation to our gross national product from about 22.3 percent in fiscal year 1980 down to 21.8 percent in fiscal year 1981. More than anything else, it called for what we characterize as reconciliations—retrenchments in the present fiscal pattern, which is very difficult.

For example, the Appropriations Committee has done that for 1980. It has exceeded the $3 billion in budget authority and $1 billion in outlays, to almost $4 billion in budget authority. The Finance Committee and its chairman, Senator Russell Long, in the report the Finance Committee has filed, took their charge very seriously, very responsibly. The majority of the members of that committee are in the Chamber, and they should be commended. They now have cut back, along with the other committees, the $4.95 billion in budget authority and $6.4 billion in outlays for the next fiscal year called for in the budget resolution. They are working on the adjustment to revenues which will be due by July 2.

So what we are seeing is the development of a balanced discipline. Much has been said about a balanced budget. If you get it, that is fine, but you are lucky. But then if you do not get it, it is said that it was a total charade, there was no intent, it was all political gimmickry. That is totally false.

The chairmen of these committees and their members have been working very hard—as have the Senator from Louisiana and the members of the Finance Committee. I have just met with the distinguished chairman of the Committee on Public Works. The Budget Committee momentarily will finalize the pro forma report back to the floor. That is what is called for in the Budget Act, that there be a pro forma compilation of the several bills of reconciliation into one reconciliation bill. We will be ready to go soon on that bill.

The Senate is to be commended for this action and the judicious and responsible way in which it has reacted to the charges given under the first concurrent resolution.

It is, in essence, then, not the Budget Committee's budget. It often is said that this is the Budget Committee's budget. It is the Senate's budget; it is Congress budget. The House went along with this, too. It is the congressional budget.

If we ever can develop that feeling within the committees—and that feeling is being developed—then we really will have succeeded and, for the first time, will begin to have a handle on Federal budgeting. Specifically, the uncontrollables will begin to be controlled, and we will be able to talk and act responsibly within the field of Federal finance.

I believe that the arguments for section 9 are just as valid today as they were several weeks ago under that budget resolution. We do not yet have the new official economic forecasts of the administration and CBO. The Budget Committee has not yet had hearings. The Senate has not yet received the midyear report to Congress from the Federal Reserve. We will receive all this very important information within the next month. In the meantime, section 9 is the policy of Congress.

Since the amendments of Senator DOLE and others reduce fiscal year 1981 revenues by $22 billion, their adoption would delay—this is highly important—the enactment of the debt ceiling bill until the second resolution is adopted in late August or early September. The current extension of the temporary debt ceiling expires on June 30.

In a couple of days, the statutory limit reverts to $400 billion. Starting July 1, Treasury would be unable to carry on its normal financing operations. No new money could be raised. Existing debt would have to be repaid once it came due, or the Government would go into default.

These technical problems for the Treasury Department have drastic implications for the average citizen. The first victims would be the social security recipients. They are expecting their checks next week. Incidentally, they are expecting checks with an increase. We have heard from our colleagues in the media, 5,000 articles about how it is going to be terrible, come January 1, with respect to the tax increase needed to balance the social security budget. That is what they asked us for 2 years ago, and that is what the Finance Committee and Congress gave them—a balanced social security budget. That tax increase in January is needed to balance what happens in July. On July 1, there will be $15 billion in increases in social security payments—a 14.3-percent increase for the social security recipients—to keep up with inflation.

We looked at that, but we could not find 10 votes in either body to do away with that increase. So we were realists. There will be an increase.

I say to all those who are back home talking about cutting budgets that I cannot tell them of a letter this Budget Committee has received asking us to cut the 14.3-percent increase in social security payments.

The Senator from Colorado (Mr. ARMSTRONG) has a letter, and we may have to hear that one. Save that for the Archives. It is a rarity, because I do not remember being asked to cut these benefits.

There we are—$15 billion goes out. Because of the large cash drains caused by social security payments, Treasury normally borrows money for a few days to pay that liability without drawing down cash balances to a dangerously low level. Treasury will be unable to borrow that money without an increase in the debt ceiling.

I ask my colleagues, what are the consequences for social security recipients of not receiving their payments for 2 months? We should look very carefully at what is at issue here.

Social security recipients would not be the only victims. Prolonged delay in increasing the debt limit would force Treasury to begin repaying debt as it came due or defaulting on that debt. Revenues used to repay debt could not be used to pay our armed forces, Federal retirees, welfare recipients, or Federal contractors. Alternatively, holders of Federal debts would not be repaid.

Surely, this violation of the full faith and credit of the Federal Government is unthinkable.

Mr. President, I want to cut taxes as much as anyone. We all know that tax burdens are rising and that inflation is eroding the value of family incomes and company profits.

But mind you me, I cannot overemphasize the importance of the timing of a tax cut. Congress itself, this Senate itself, realizes the need for a tax cut, if we could possibly justify it in the light of the inflation. But that is why the caveat of section 9 was in that first concurrent resolution—to make certain that we did not get ahead of ourselves.

Specifically, last year all the economists came in, I say to the Senator from Michigan, and they said:

> Look, we are going to have a recession come July.

And Members of Congress asked in March for a tax cut. If we had had that tax cut at that particular time rather than having the 20-percent inflation which plagued us recently we would have had a 30-percent inflation and a much larger deficit for 1980, I think it is due to the responsible action, in large measure by this Congress, that inflation is down to 11 percent now.

We had that same suggestion later last year that the recession was going to come in October and some wanted to have a tax cut last June. We then heard the recession was going to hit in December and we should have a tax cut in October before we adjourned. So the timing on this matter of tax cut is highly important.

The amendments we are being asked to legislate propose a specific set of tax measures without a systematic review of their real consequences.

Everyone, I think, in listening to the economists' warning at this particular time, understands that what we really need to do is to maintain the discipline and maintain the spending restraint going into this second concurrent resolution here at the end of the summer. If there is to be consideration by the Finance Committee and this Senate of some kind of tax proposal, then it should be directed at productivity. Productivity tax cuts should be emphasized rather than an across-the-board assault on the Treasury that generates more inflation. It is going to be very, very difficult to bring down and keep down the inflationary pressures. It is a most difficult time. So let us be very, very careful as we move along.

We are being asked to adopt major changes in our sophisticated tax system, without any consideration by the Finance Committee. No witnesses have discussed this package and no hearings were held. We do ourselves, and the country, a great disservice by short circuiting the Finance Committee and the normal legislative process.

In their haste to claim credit for cutting taxes, the sponsors of this amendment will derail the development of meaningful tax policies. Mr. President, the tax measures under consideration entail rapidly growing revenue losses in future years. Some could amount to over $90 billion by fiscal year 1983. By committing such a large amount of revenues in future years, there would be no room for subsequent consideration of proposals not included in this amendment.

For example, the Senate is on record as favoring social security tax reductions, or offsets, in the next tax cut. In Senate Resolution 380, passed in March, the Senate expressed its preference that half of any tax cut made possible in fiscal year 1981 be used for social security tax relief. This amendment does not provide tax relief in proportion to the increased social security tax burdens low-income workers will bear. Other popular proposals not addressed here include relief for the heavy tax burden paid by working married couples, the so-called "marriage penalty" which heavily penalizes lower income couples where the wife has to go to work to help support the family.

The same is true most particularly for business tax reductions. There is no special consideration given to small businesses, a group that stands to contribute much to our economic vitality. Nor are we able to consider such new ideas as tax incentives for export development or industrial innovation.

These are just a few examples of tax proposals that would be preempted by adoption of this amendment.

We could go ahead with other examples, but the point here is that there are many priorities to be weighed and they have to be weighed by the careful study of all members of our Finance Committee who are expert in this field on both sides of the aisle.

Mr. President, my last reason for opposing this amendment is that it circumvents our budget process. The sponsors of this amendment seem unwilling to wait a month to examine tax reduction in the broader context of spending and fiscal policy. I remind all my colleagues that in less than a month the Budget Committee will hold hearings and begin deliberations on the second concurrent resolution.

I submit, respectfully, that the budget process is the proper forum in which to bring up for consideration major tax reduction and, of course, the Finance Committee is the appropriate committee to actually do the job; however, it is not appropriate to do it now in the context of a routine increase in the debt ceiling.

I believe there are several problems created by ignoring the budget process. I have already briefly noted the consequences for tax policy, but similar problems exist on the spending side. By adopting this amendment, Congress will be less able to balance priorities in future years.

We are going through a great deal of agony to cut spending. But, because the revenue losses from this amendment are so large, it will be almost impossible to balance the budget in future years without scaling back long-term spending plans contained in the first resolution. We will limit our ability to meet our defense needs, to develop domestic sources of energy or to meet other top spending priorities.

The Budget Committee fully intends to cut spending even further in the second concurrent resolution. But I must remind the Senate that the budget eventually adopted and binding on Congress is the one chosen by Congress. Spending cut that cannot get a majority vote will not be made. The Senate should not cut taxes wihout knowing what spending will occur and what the consequences are for budget deficits now and in the future. That is what the budget process is for. It appears likely that the total of the tax cuts being discussed today would create deficits this year and next and in 1983 and beyond. We can not be sure—perhaps we can cut outlays enough, perhaps the economic expansion will be strong enough. Surely we need the best possible analysis of these matters—in the context of preparing the second budget resolution—before we plunge ahead blindly.

Mr. President, it would be nice to say that as a matter of fiscal prudence my family will not pay the bills we have coming due. But we cannot operate that way and neither can the Government. It is urgent that we pass the debt ceiling bill so that the Government can operate in a business-like way.

I urge my colleagues to pass the debt ceiling bill and to take up the important matter of tax policy in deliberations of the appropriate committees during the next month or two.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. HOLLINGS. I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, this is perhaps something that I should not say, but think that more of us should be participants in such a debate as is going on this afternoon. They should hear what the able Senator from South Carolina (Mr. HOLLINGS) is saying. I want the record to indicate that many of the Members feel that the Senator is well reasoned in his statement.

We have known of the Senator's position. It is not inappropriate for us to say that we trust in your judgment. What you are saying to the membership of this body is very basic. It is grounded in realism. As we study the work you have been doing—you and those who are joined with you as a Budget Committee, it is clear that you have a very onerous task. The Finance Committee members will undertake a further complex task; it is not good judgment or fair to try a shortcut to that effort—a shortcut to a tax cut, is it?

Mr. HOLLINGS. No, it is not.

Mr. RANDOLPH. Absolutely not. There is a legislative process which must be undertaken and followed through, including the hearing mechanism which provides opportunity for thoughtful analyses. That is why, in my opinion, the Senate will not agree to an illogical amendment such as we will vote on very shortly.

There is entirely too much legislating by amendment from the Senate floor. We are all guilty of this. In many instances even the sponsors of the amendments do not understand the ramifications of their proposals. That certainly is the case here.

Mr. HOLLINGS. I thank the distinguished Senator from West Virginia.

Let me comment that he makes me sound something other than a politician, and I am grateful to him for it. But let me be a politician and thereby be even more credible than before.

I am running. We have the Budget Committee. I would like to do something to sort of enhance my chances even more, come November. So I have asked economists collectively what can the Congress do that we have not already done about inflation—other than, perhaps, cut back more on spending?

The economists—and I am talking about conservative and liberal economists alike—in one voice say "The budget you have just passed, Mr. Senator, is the best, most restrictive budget we have had in a dozen years," and I quote them, "and there is just nothing you can really do to correct this situation before the general election in November. What you did was wrong in 1978, 1979. We should have had more restrictive budgets in those years." We are cutting back this year—Senator MAGNUSON in the Appropriations Committee is cutting back the best he can. We are on the Budget Committee.

Mr. RANDOLPH. We in the authorizing committees are doing it.

Mr. HOLLINGS. Yes, certainly the authorizing committees have led the way, and I commend Senator RANDOLPH as chairman of the Environment and Public Works Committee.

But let me say that the economists go on and conclude by saying, "Your task, Senator, and your Budget Committee's task and Congress' task is to look to 1983. What you do this summer and this fall in that second concurrent resolution will determine whether we go again to the peaks and the valleys, whether we have another inflation and even again higher unemployment, by throwing money at current problems." With the countercyclical approach, the local public works, billions are thrown around that have to be audited and adjusted, and what-have-you, at the local level. They finally get paid out but not totally. We had a program in 1977. This is 1980, and we have got millions left we have not paid out for a program to cure a recission back 3 years ago. It is too late now.

If you go that route, trying to look better for the general election in November, then you really doom the Nation to worse inflation and a worse recession come 1983.

So it is not an easy task. But we ought to all understand each other about whence we are coming and where we are headed.

I yield to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I just want to add some thoughts to those which have been offered by my good friend, the chairman of the Budget Committee, and I would just as soon do that in my own right. But I have listened to what he said with great care and I think what he has said makes sense.

As I understand the proposal that has been advanced by the other party here, it is, by means of an amendment to a debt limit bill, to propose that a tax cut take effect next January 1. I think there is the impression, the mistaken impression, that somehow or other the taking of that action now versus taking it in, say, 60 days or 70 days will change the impact of the timing and the consequence and the content of that tax cut.

That is just not the case because what we are talking about here with the proposal that is being presented by the other side is a tax cut that would take effect the beginning of next year, 5 months from now. So whether we act today or next week or next month or 2 months or 3 months from now does not necessarily affect at all the question of when that tax cut, if there is to be one, would take effect.

The Democratic Party Caucus today, by a vote within the Caucus, committed itself on an expedited basis to begin a process of looking at tax cut possibilities, and that by the 3d of September at the latest, after public hearings where people from outside Congress and from within Congress, both parties, would have a chance to be heard, the Finance Committee would report out, no later than September 3, recommendations for tax cut action.

The presumption, I think, is when this happens it may very well be—that the recommendations, whatever their exact form would probably be timed to begin on the 1st of January of 1981, which is exactly the time proposed by the amendment that is being offered today by my friend from Kansas, and others.

So we do not gain anything in terms of timing. If you are for a tax cut—and I happen to be for a tax cut, in fact I would be interested in a serious discussion about one that might begin to take effect before January 1, 1981 but I doubt that there are the votes here to consider that at this point, although I think there are the votes here to consider in an orderly fashion and to pass a tax cut of some form and shape that would take effect as of January 1, 1981.

So by acting in a precipitous manner, if we were to act today, it does not speed up anything. That does not provide a tax cut. This does not mean there would be any tax relief within the next few days or the next few weeks or even the next few months. We are talking about something that in any case appears to be at least 5 months away.

As long as that is the case, what is the rush in terms of almost a panic response to the problem, that is almost certain to miss the mark? Why not take the time—we are going to use the time anyway in the next 5 months, why not use the next 2 months of that 5-month period to really examine this problem in detail; let us look at the fundamental problems that are facing our economy, and let us try to make some judgments as to how we might craft a tax proposal in ways that can stimulate savings, that can increase capital investment, that can do something about modernizing the industrial base of the United States, that can stimulate productivity improvement. These are the things that we ought to be shooting at in terms of accomplishment. I think those should be our goals in structuring a very carefully considered tax cut package.

That is not something we can do today on this floor because, frankly, the analytical work and the sophisticated analysis that would require have not been done. I mean no disrespect to the sponsors when I say that because I think they know it as well. What they have got here is a very simple, a very unsophisticated, if you will, tax cut idea that would take effect 5 months from now, but really with no basis to show or to be able to prove that that is necessarily the kind of a tax cut package that will get to the fundamental problems that are plaguing our economy.

So I would be interested to look at their data. I would be interested in having them, as well as myself and others, appear before the Senate Finance Committee and let us go into these proposals in some detail. Let us examine them. Let us invite the testimony of outside experts. Let us get all the testimony we can. Let us allow citizens to have some chance to hear this debate and to participate in it whether as witnesses or just as observers. Let us in the normal order of things have a chance for the entire Senate Democrats and Republicans alike to fashion a tax cut package and have it brought on the Senate floor in the first week in September. Let us act on it, and if we decide in our wisdom that we want to have a tax cut, that we pass one and want it to take effect January 1, and then that is when it will take effect.

We may well decide, if the economy is in worse shape than some might suspect, that we might want it to take effect sooner than that. We might want it to take effect at the beginning of the fiscal year. We might want to time it so that it could take effect on October 1, or November 1, or December 1 of this year. But the point is we cannot properly make that judgment today.

To pick out January 1, 1981 now, and set that date is like shooting in the dark. There is no reason to do that, because we have the time. We are going to see that much time elapse anyway—if the amendment were approved—so why not take that time and use it constructively to think it through carefully and really do the kind of analysis that we ought to do on a matter of this importance.

I also think that we ought not to kid ourselves about any belief that a tax cut per se is a cureall for our problems, because it is not.

I am frank to say that I wish it were. I wish our problems were simple enough and easy enough to solve that this shot in the dark that we have before us would take care of it. But it will not.

My friends on the Republican side know that. They know that this is not going to solve our problems, because our problems go a lot deeper than that.

We see it in the auto industry. We see it in the steel industry. We see it in other basic industries. We have a tremendous economic problem on our hands and we are going to have to craft a strategy for the 1980's that is going to have to include a lot of innovative measures and tax policy is going to have to be part of it. But so is Government regulation, so is the question of accumulating adequate capital, and so is the question of getting special emphasis on research and development.

We are going to have to look at the import policy, export policy, monetary policy, and, obviously, fiscal policy. All of these things are going to have to be worked out in a comprehensive fashion with some careful targeting, with the Government, and the private sector, and business, and labor, all working together and thinking together.

We are going to have to put aside this excessive adversary relationship that has been wearing our country down in the last several years. We cannot afford it anymore. We are going to have to work together.

But it is in that larger context that we are going to have to look and decide this question of what kind of tax cut makes sense, how it should be fashioned, and where it should be aimed. Also, what is the total amount of the tax cut that makes sense, how it should be phased in and where it should be targeted. These are the kinds of important questions that we cannot afford to just rush past. We have done that too many times in the past and we are paying for it today.

Mr. PERCY. Will the Senator yield for a brief question?

Mr. RIEGLE. Yes, I yield for a question.

Mr. PERCY. Does the distinguished Senator from Michigan feel that it is necessary to determine what needs to be done for the automobile industry? I think it is perfectly apparent what has to be done. It has been apparent for a long time. They have to retool and refurbish their plants and equipment. Plants that are modern are doing well. Plants that are not are not doing as well. Would not the distinguished Senator feel that a 10-5-3 program for the automobile industry would do a tremendous amount to put that industry back in business in the world market?

Mr. RIEGLE. Let me say to my friend that I think that is a fair question. On the face of it, one would assume that. In fact, that was my assumption. But does the Senator know who the first people were to say that 10-5-3 did not do the job sufficiently for the auto industry were the auto firms? They are saying that that does not really get to their problem.

So I have had to take a step back now to see exactly how we would have to redo the depreciation laws to fit the particular circumstances of the automobile industry. My mind is open on it.

But we have already heard from major companies in the auto sector who are in terrible difficulty and who say that 10-5-3 is not a solution to their problems. So I am not sure right now that we have the precise answer with respect to a tax policy as it affects the auto industry that you properly indicate is in great trouble.

I think the Senator, in raising the point, helps illustrate exactly the dilemma that we face. We are talking here about a tax proposal that would take effect on January 1, 1981. As long as we have 5 months before it is going to take effect, why do we have to pass it in the next 24 hours? Why not take the next 60 days and have the Senator from Illinois and myself and others, the auto industry and anybody else that cares to participate, sit down in an orderly fashion, have hearings, invite in the experts, and let us really figure this out? Let us do it right.

If we do it in the next 24 hours, we are all going to sit around here for the next 5 months and wait for it to take effect. What is the sense in that?

Mr. PERCY. I cannot speak for what is being done on the other side of the aisle, but for several years now the economic task force of the Republican Policy Committee has been studying this issue and has deliberated for months with the top economists in the country. We have come together with a proposal which we are offering today. This is not a 24-hour deal. This is something that has been thought through over a period of years and we are ready to go. I think the country recognizes this shot in the arm is needed.

Mr. RIEGLE. But the Senator, I think, would admit that the proposal is not designed to change the situation immediately. It is designed to take effect 5 months from now. Is that not the case?

Mr. PERCY. Mr. President, I think if we enact this tax package immediately that it would have a positive psychological impact on the economy. And there is a great deal of psychology in economics.

What we have to do is show that we are for business, we are for expansion, we are for job-creating mechanisms. This tax incentive for business and reduction in individual income taxes will accomplish that. I think this economy would turn around very rapidly.

Mr. RIEGLE. Well, I think what people want to see today is something done that they have confidence is going to work. They do not want politics. They do not want things that are cooked up almost overnight and offered. They do not want that as a substitute for policy.

The Senator knows, as well as I do, that in this week's issue of Business Week the entire issue is devoted to the economic dilemma facing the United States and the fact that we have a desperate need to revise our entire economic strategy. We have not even started to debate that issue here on the Senate floor.

Now we are being offered the notion that somehow, somehow, a tax cut amendment, raised and offered and voted on in 24 hours that will take effect in 5 months, is going to solve these problems. That is just not the case and nobody is going to believe that.

In fact, if you want to disillusion people more and cause people to think that the issue of cutting taxes is simply a matter of politics rather than policy, then the way to do that would be to vote on this amendment and pass it and I think it will be discounted immediately. I think it would be seen for what it is, and that is a partisan shot taken in the course of a Presidential campaign. But no one here in this Chamber—at least not the Senators on the floor at this moment—is running for President.

So I think what we ought to do is act like a Senate and not let ourselves get caught up in Presidential politics. We have a responsibility on both sides of the aisle to come up with a tax strategy and a tax policy that makes sense in the overall context of an economic strategy for the country. Frankly, that is not what is being offered here. That is not what is being offered here. If it were, I might feel differently about it, because I am prepared to cut taxes.

In fact, I think I would be prepared to cut them, as I said earlier, before January 1, but I suspect that there are not the votes here to do it. There may well be in 60 days. There may very well be in 60 days.

If the unemployment goes up above 8 percent—as I expect it will, and some seem to think above 9 percent—we may decide that January 1 is too far down the track.

Has the Senator thought of that?

Mr. PERCY. Well, what the Senator would simply say is that this is not a drastic action at all; that nothing has been more time proven.

John F. Kennedy took an across-the-board tax cut and stimulated the economy and, in his words, got it moving again. And that really worked. And certainly the investment tax credit was proven so successful it is now a permanent part of our tax structure. We do not put out a dime in credits unless someone makes an investment in capital improvement.

We do not pay anything, no reduction in revenue, unless someone makes the decision to invest to increase productivity. So I do not think there is any risk involved in this program at all.

Mr. RIEGLE. The Senator and I would not have disagreement on that point. I think that is a critical part of a reinvestment and reindustrialization strategy for the United States. We are way behind in this area. I would say to the Senator from Illinois that I would hope we would have hearings, as we have now pledged we would have them, that we are going to have hearings on this in the Finance Committee. I would hope the Senator would come in with his proposals. I would like to hear his proposals. I would like to take a look at them.

I may end up supporting the Senator. I may ask to cosponsor. But I have not seen them yet because we have not had the hearings. I have not had the opportunity to come in and present my views in a hearing of this kind because we have not had the hearings.

I guess what I am asking the Senator is what is the matter with having the hearings? I want the Republicans and Democrats to participate. Let us have them. Let us go forward and do this in the normal fashion. It may well be that what we will end up with will be a blend of thought from both sides of the aisle which will be right on the mark in terms of what the country needs. I would hope that is the case. It is not often we divide on a party line basis here in the Senate on votes. We ought not to on this issue.

Mr. DOLE. Will the Senator yield on that point?

Mr. RIEGLE. Yes.

Mr. DOLE. I do not want to prolong on this. I want to get to a vote on this. I promised the majority leader we would vote by 3, and it is now 4. There have been hearings in the Finance Committee on the 10–5–3 package and in the Joint Economic Committee on May 20 of this year. I will say that some of us are going to Detroit. We want to go there with hope for the people.

In addition, I would like to respond to the budget issue raised by the distinguished Senator from South Carolina, Mr. Hollings. Senator Hollings suggested that this bill could not be enrolled because of provision in the budget resolution. This Senator recognizes that section 10 of the budget resolution states that any bill or resolution by more than $100 million will not be enrolled until after the second concurrent budget resolution. Nevertheless, the amendment offered by the Senator from Kansas specifically states:

> Notwithstanding Section 10 of the First Concurrent Resolution on the Budget for Fiscal Year 1981, this resolution shall be enrolled without delay upon passage of both Houses in the same form, even if it has the effect of reducing revenues in excess of $100,000,000.

This provision completely eliminates the concern raised by Senator Hollings.

Mr. RIEGLE. I will just say that we need hope and we need some practical answers that are going to work. The difference, however, with the hearing that is held after today is that we have a firm pledge, a commitment, from the chairman of the Finance Committee that the Finance Committee will act and will report to the Senate for action, by September 3 at the latest, a tax package upon which the Senate can work its will. Perhaps it will get here sooner. But the pledge is it will be here no later than that.

I think that puts hearings in an entirely different context because that means we are guaranteed floor action; the Senator is guaranteed action; I am; all 100 of us are. I think that is a change in circumstances. That was not true yesterday; it is true today.

So long as we have that time, let us use it intelligently. There is a lot of collective wisdom here in this body, in both parties in this body. Let us bring it to bear on this problem. I do not think we want to design a policy that does not look any further than the Presidential election. I think we want to design a policy here that is going to meet the needs of the 1980's, regardless of who runs or who is in the White House. That is what I think we have to look at. That is our responsibility.

If we let this thing get politicized in terms of Presidential politics, if we throw our whole process out the door to accommodate Presidential politics, we are shortchanging the American people and we are kidding ourselves about this problem.

The unemployment rate in my State today is 14.4 percent, the highest of any major State in the country. We literally are bleeding to death in Michigan. I want to see action, perhaps sooner than 5 months from now. But I do not want us to do something that is not going to help. I want to see an answer that is really going to get to the root of this problem. I think we can get there if we are willing to put our heads together in a serious effort.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I want to comment on the observation of the distinguished Senator frfom Illinois with respect to a lot of psychology in economics. There is no question about that. What would be the economic psychology of passing this tax cut?

I know of the outstanding leadership in the business world that the Senator from Illinois has given. I also know of economic advisers. I have had the privilege within the last 10 days of meeting with them. They are unanimous. I do not know of any economist who is coming around saying to have a tax cut today, none of them.

The psychology of the economics of today says that passing a tax cut means "forget about what they just did on the first concurrent resolution, forget about the hard work put in over the years to hold the line and cut back from current policy, forget about all the restraint where we cut back on Saturday mail deliveries, the matter of State revenue sharing, veterans' benefits, cost of living to retirees—just forget about all that." Like Bossy the cow, to whom you have just given a full pail, the Senate this afternoon, with this amendment, could promptly kick it over. That would be the psychology. Remember, when John F. Kennedy proposed his tax cut, there was 1 percent inflation, not 11 percent. Do not give me that Kennedy example. Let us get realistic here.

John F. Kennedy, with 1 percent inflation, was trying to wake up the country. What we are trying to do is to arrest, to fight, inflation. If we are going to maintain any credibility, any discipline, let us hold the line and be a little bit more deliberate.

I highly praise the Senator from Illinois, the Senator from Kansas (Mr. Dole), and all who have worked hard and supported this budget process; it having been a bipartisan thing. We can understand those who are trying to time a tax cut appropriately and maintain spending discipline. You will find the Senator from Oklahoma (Mr. Bellmon) and myself, both sides of our Budget Committee, walking hand in glove with you. But the time for a tax cut is not here now.

Everyone knows that this is—well, I will not say that about the Presidential thing, but I really believe the Senator from Michigan has brought it into sharp focus. He has made a very eloquent statement here and no one, as has been indicated, is suffering more than his great State of Michigan.

Mr. PERCY. Will the Senator yield for 30 seconds?

Mr. HOLLINGS. Yes.

Mr. PERCY. The Senator from Illinois did support the budget process.

Mr. HOLLINGS. Right, and I am grateful to the Senator.

Mr. PERCY. I believe in it deeply. But I had to oppose the budget that we considered 2 weeks ago. The process is right but I did not think the arithmetic was right in that budget. It did not provide for a tax cut, which I felt was absolutely crucial. It did not provide adequate spending reduction, which I felt was crucial. Therefore, we are now faced with this dilemma.

I suppose when the President of the United States presents his tax cut, that is not politics; that is statesmanship. When Republicans present a tax cut, that is politics. Whatever it is, I hope we will be working together. We ought to be united in this effort.

I tend to think the administration will come forward with a tax cut. I hope we can work together. I hope we will have an incentive for capital investment, which would help all industries and in particular the automobile industry.

We know this has been proven in Japan, in Germany, and in many other countries. We, the greatest capitalistic country on Earth, have forgotten that capital is required to make jobs and increase productivity. That is what is needed, what is necessary, and what this amendment provides. We are eventually going to come to it. Eventually, as Pillsbury said, why not now? Why wait a couple of weeks? Why wait a couple of months? We will work together on it, but I think we really feel determined now. After several years of study we know what is needed for this economy. We are eventually going to come to it. Let us do it today rather than wait 60 days.

The PRESIDING OFFICER (Mr. MITCHELL). The Senator from Utah.

Mr. HATCH. Mr. President, I do not think we are going to accomplish anything more with congressional hearings. The minute I arrived in the Senate I heard about tax rate deductions argued as potential solutions to our country's problems. I have been one of those making the argument. I sit on the Joint Economic Committee, and I sit on the Budget Committee. The Human Resources Committee puts out hundreds of millions of dollars in legislation every year. I sit on that. The Small Business Committee is completely discombobulated by the problems we have had over the last 3 years.

The problem is we have had economic policies and they really have not worked. We are going to have a 9 percent unemployment rate unless we do something to add incentives, a higher unemployment rate unless we do something to add incentives to the private sector to help these people get jobs.

I do not think it is a political thing that we want a tax cut right now and tax rate reductions over the long term, so that businesses can plan, so that they will have the incentives to plan, and that we want to have 10-5-3 so the businesses will be able to replace tired and wornout equipment and plant.

Back in 1976, personal income tax revenues to this Government were $131 billion a year. In fiscal year 1981, they will be $274 billion a year. Five years later, they have better than doubled. For calendar year 1981, they are going to be $310 billion.

Where did those extra dollars come from? Why can they not balance the budget? Why can they not get the economy going? The reason is the bad economic policies that we have been undergoing for many of the last 50 years and, certainly, the last 3 or 4 years and even before that. I do not think the Republican administrations were exactly doing everything that is right, either.

The fact of the matter is that our budget has jumped to $613 billion. Our national debt has jumped from somewhere over $613 billion to almost a trillion dollars. We are going to move this debt ceiling up to almost a trillion dollars here.

Mr. President, we know that we have had massive tax increases. The differences between the fiscal year 1980 and 1981 budget are just tremendous. We have increases of $96 billion between the 2 years, about $70 billion in extra taxes that the American public has to pay.

What are we offering to the American people other than another study, another congressional hearing? My gosh, we are congressional hearing'd to death on this subject.

Mr. President, we have, spread all over the world, 600 billion to 1 trillion of our dollars and we do not even know how many. We have debauched our currency. We would have to curtail—if we do not do that, if we do not cut taxes, we would have to curtail the proliferation of dollars all over the world, through Eurodollars and the like.

For 44 of the last 50 years, we have failed to balance the budget. Every time we want to turn around and do something that might give help to the private sector to help pull us out of this, what do we do? We want to study it more. We want to do something on a bipartisan approach. I think this is a bipartisan approach. I have talked to many Senators on both sides of the aisle who think what we need is a tax incentive to business, to give incentives to the private sector for an instance, for once, to add incentives to the economy to do so.

Mr. President, I offer my support for the Dole-Roth tax reduction amendment. This package of tax cuts is a vital step toward making the necessary structural changes in our Tax Code that would help reverse our declining economic growth. Included in this amendment are provisions for accelerated depreciation of business capital and the first year of Roth-Kemp—a 10 percent cut in individual tax rates. Because this amendment signals our commitment to seriously correct our long-term productivity problems, we cannot afford to reject it.

Increasing productivity is the only answer to reducing unemployment and strengthening our economy. Unfortunately, productivity has been falling steadily, to the point where our economic growth in 1979 was a negative 0.9 percent. With our current recessionary trends, the performance of productivity can only be worse than it was last year. The decline in productivity is, for the most part, due to the lack of incentives for capital investment in this country. Thanks to the effects of inflation, businesses end up paying taxes on overstated profits, while swallowing the costs of understated depreciation allowances which are based on the lower initial cost of an asset, and not on its inflated replacement cost.

As a result, businesses find that the retained earnings they need for capital formation are eaten away by the higher costs that inflation imposes. To merely maintain their earnings of the past year, business must produce at the same rate that inflation rises. This, however, is impossible to do without adequate capital to invest in the business. Last year, net productive investment was not sufficient to accommodate the number of new jobs that were created at the prevailing rate of productivity. Capital to improve the productivity of previously employed workers was also not available. Without additional and better tools to work with, workers cannot improve their productivity and standards of living.

Very large companies may be able to absorb the losses due to inflation, at least for a short while, but small businesses, which produce 43 percent—47 percent of our GNP and 58 percent of the jobs in our economy, do not have the resources to be victimized by our restrictive tax policies.

The accelerated depreciation schedule for business assets, 10-5-3, will be a firm step in the right direction. Dr. Martin Feldstein, president of the National Bureau of Economic Research, has done outstanding work on the problem of rising effective tax rates which are plaguing businesses. He has estimated that the understatement of depreciation in 1977 was a little more than $25 billion. This resulted in a 20 percent increase in corporate taxes and a 23 percent decrease in corporate net profits in 1978. Is it any wonder that businesses find it impossible to enter new investment projects or even maintain the ones it already has? Accelerated depreciation is an initial push to lower the effective tax rates for businesses, by structuring depreciation allowances so that they reflect the real costs that the business must bear.

Individuals have also been the victims of the inflation-tax squeeze. In 1970, a family with the median family income fell into the 17 to 19 percent tax bracket, and by 1975, inflation had shifted them up to where they paid 22 percent of its income in taxes. Bracket creep due to inflation has risen alarmingly in the past decade, so that the same family will pay taxes in the 24-percent bracket this year. The tax bracket shift is also responsible for the fact that more and more people are forced into the 28 to 32-percent range than ever before. These people are not rich, they are the middle class, and they are forced to seek tax shelters and loopholes to merely maintain their standards of living.

The Revenue Act of 1978 was an attempt to adjust the marginal rates for inflation, but that has not been sufficient to bring around the real economic growth that we need. Implementing the first year of Roth-Kemp through passage of this amendment, however, will seriously lower marginal tax rates by 10 percent and would accordingly have an expansionary effect on the economy. Individuals would be able to maintain their standards of living, possibly increase their personal savings, and have additional and better tools to work with in their occupations.

It is time to stop basing our economic policy on whether or not a particular action will result in greater revenues to the Government. Our economic policies must focus on bringing the economy back to our former economic strength. Our tax structure was designed to cope with very low levels of inflation at most, and though we are now experiencing a recession, many economists believe that we will return to even higher rates of inflation than ever once the recession is over. We must act quickly before we lose any more time.

This amendment, which would total $22.3 billion, is a start on an economic turnaround for this country, and a signal to all that we are serious about restoring economic growth to our country.

Mr. President, I thank the Chair, and I thank my colleague from Kansas and my colleague from Delaware for their leadership in this matter. I think it is something we all ought to do and we ought to do it now for the good of this country.

Mr. PERCY. Mr. President, I am proud to join my Republican colleagues in offering this amendment to cut taxes for both individuals and business. I want to commend the distinguished Senators from Kansas (Mr. DOLE) and Delaware (Mr. ROTH), for their leadership in formulating this tax cut plan.

I also thank Senator JAVITS, the senior Senator from New York, for his chairmanship of the Republican Policy Committee's economic task force and Senator BAKER for his distinguished leadership in the economic field and assistance in presenting this program today.

Mr. President, this amendment, like the Tax Reduction and Job Creation Act which Senator DOLE introduced yesterday with the cosponsorship of 36 Republican Senators, including myself, will significantly reduce the Federal income tax burden on individual taxpayers and provide business with needed incentives to revitalize our ailing economy.

Mr. President, just 2 weeks ago the Congress approved its fiscal year 1981 budget. I strongly opposed that budget because it achieved its so-called balance at the expense of American taxpayers. The budget increased federal taxes by almost $90 billion.

Whereas I have been a strong supporter of the budget process and want in every way possible to support the chairman of that Budget Committee (Mr. HOLLINGS) and our ranking minority member (Mr. BELLMON), in this particular case, I simply felt that the budget was lagging behind the reality of a deeper recession than we thought, with its attendant effects on that budget.

During consideration of the budget, I supported an amendment offered by Senator ARMSTRONG that would have cut taxes and spending by $19 billion. This amendment would have reduced Federal spending to about 21 percent of the gross national product, balanced the budget at a reasonable level and provided tax cuts for both individuals and business, that I felt at the time was desperately needed.

When the Armstrong amendment was defeated, Senator HATCH offered a more modest version of the same proposal. It, too, would have allowed for a tax cut. Unfortunately, we again were defeated in our efforts to cut both spending and taxes.

I remain committed to the goal of those amendments and am pleased to join in introducing this tax cut measure today.

For individuals, this amendment will cut individual income tax rates by 10 percent in 1981. This will offset the massive increases in income taxes Americans have been forced to absorb as inflation has soared and pushed them into higher and higher tax brackets.

According to Commerce Department statistics, last year personal income rose by 12 percent, almost enough to keep pace with inflation. But the tax bite increased by 15.8 percent, leaving taxpayers with an 8.7-percent gain in income, well below the rate of inflation. While the rate of inflation has slowed in the last several weeks, prices continue to climb. "Taxflation" will continue to take its toll and at the same time feed ever-increasing Federal spending unless something is done. A 10-percent tax cut for individuals will reduce this burden.

On the business side, we are proposing the 10–5–3 tax depreciation system which will replace the ADR. Businesses would be able to write-off structures in 10 years, equipment and machinery in 5 years and certain rolling stock in 3 years.

Bringing our depreciation system more in line with true replacement costs is vital to stimulating capital investment. Without increased capital investment the economy cannot grow, there can be no productivity gains and no new jobs.

According to a 1979 report by the Joint Economic Committee and statistics compiled by the Labor Department, the United States ranks seventh in productivity, capital investment and economic growth behind Japan, West Germany, Italy, France, Canada and the United Kingdom. The report suggests that our low rate of capital investment and productivity is due in part to the deficiencies in our capital cost recovery system. Further, the 1980 economic report of the Joint Committee calls for liberalizing allowances for business depreciation.

Mr. President, there has been a dramatic change in the 14 years I have been in the U.S. Senate on the part of organized labor on this issue. I can remember George Meany adamantly testifying with me and John Anderson, before the hearings held by the Treasury Department on accelerated depreciation. He called it a giveaway to business. Over the years, George Meany began to realize the tremendous investment required under today's conditions to support every job, the tremendous investment needed to make American labor and American wages competitive in the world market.

Certainly, Mr. President, we have no more dramatic illustration of this than NBC's great production the night before last called "If Japan Can, Why Can't We?" It was an hour and a half special on NBC News that demonstrated what is wrong with American industry today, why this economy is lagging behind other modernized economies such as Japan and Germany—lower worker productivity.

In all the years I was in industry, 28 years, every year we absorbed more than our wage increases by increased productivity. Year after year, we were able to reduce prices. That is why, for a decade, we have had average inflation of only 1.5 percent—productivity. But it took capital and capital formation to do it.

Our distinguished chairman of the Finance Committee is on the floor now. Certainly, he recognized this when, in last year's tax bill, effective January 1, 1981, we enacted an incentive to save with a tax exclusion of up to $400 on a joint return for interest and dividend income, a measure which will pump $4 billion more into the economy. That will bring interest costs down. That money is available for reinvestment. That capital formation can go to work for America by reducing our unit cost of production and increasing our productivity.

That is the way to tackle inflation. That is the dramatic way to do it. That is the way Japan and Germany are doing it today, and we have done in the past. But now we have a punitive tax system that does not recognize this high inflation.

Mr. President, a revised method of accounting in use for the first time in 1979 corporate annual reports underlines the necessity for immediate action. These reports, which use sales and profit figures adjusted for inflation, reveal that not only do businesses not have the money available for capital investment, some may be actually in a state of liquidation with the present level of dividends.

If businesses are not able to make and retain the profits necessary to invest in new plant and equipment, there can be no long-term economic growth.

Mr. President, the taxpayers of this country cannot afford to wait a year or more for relief. Nor can we afford to continue our present course and allow the economy to founder. I urge the Senate to take positive action and enact these tax cut measures as quickly as possible.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I think it is appropriate at this time to point out, as most of us recognize, that it is not often the Senate comes to grips with an issue that is so fundamental and basic that every citizen of the country will understand what we do here today will have an immediate impact on their future and welfare.

But we are dealing with such an issue today. We are dealing with the cost of maintaining the security and welfare of the United States and the amount of tribute that the Congress and Government will extract from the people of this country.

It is fundamental to this Nation and our traditions that we understand what we are about in this Chamber as we consider this measure.

We are talking about the most basic aspect of sovereignty, the right to lay and collect taxes.

Mr. President, this is a Presidential season. This is a campaign year. But this is not a Presidential issue. This is a national issue of fundamental importance. It is primarily a congressional issue, because the authority to lay and collect taxes resides not in the President, nor in the judiciary, but in this body and our brethren in the other body in the Congress of the United States.

Not 1 cent of tax has ever been extracted from the citizens of this Nation and the business and industry of this country except by the concurring resolution of the two Houses of Congress and the consent of the President, or by the action of the Congress to pass that statute to collect those taxes notwithstanding the disagreement of the President.

The Congress is the culprit, Mr. President. The Congress is the culprit. The Congress is to blame for the fact that we are not today talking about a tax cut.

We are talking, even if this measure is adopted, we are talking about the size of the tax increase that the Congress will place on the people of the United States in 1981.

All this talk about a tax cut is wide of the mark. We are talking about a tax increase, and it is not a little or technical or trivial one, but a tax burden of $105 billion, almost, that will be added, that will be added to the tax bill of the people and the business of the United States next year, an increase of $105 billion—$104.9 billion, according to the estimate I have at hand. A tax increase. A congressional tax increase.

We are the culprit, not the President, not Governor Reagan, not Republicans nor Democrats.

Every drop of taxation that is extracted from the body politic is authorized by this Congress.

So we are face to face with our fundamental sovereign responsibility, to decide how much treasure, how much tribute, we will extract from the people of this Nation in the form of taxation.

I hope the people of this country understand that we have already imposed a tax increase for next year, and what we are talking about is not a tax cut, but whether we will reduce that increased burden of taxation.

This measure, according to the estimates I am supplied by staff, if it is adopted, and I hope it will be adopted, will reduce that additional burden of taxation next year by a relatively modest amount, by something over $20 billion out of $105 billion. Less than 20 percent of what we have already done to the people of the United States for next year. And they are not aware of it, because they have not had their withholding statements delivered to them in their pay envelope, because they have not yet paid their quarterly installment on their income tax for next year, because they have not seen the withholding for their social security, and other taxes.

Mr. President, we are talking about whether we moderate the size of the tax increase, the tax burden, we have already placed on an unsuspecting American public.

Mr. President, this is not a tax increase bill. This is not a tax cut bill. This is an effort to reduce the size of the burden we have already established and placed on the backs of the American people and American business and industry.

I expect, Mr. President, it will be very difficult to adopt this measure at this time. I expect we will see virtually unified efforts on the other side of the aisle to defeat this measure. But I expect, Mr. President, that the people of this country will not forget.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I know of no other Senators desiring to make a speech at this point. I think I would like to let both sides know, and hope the cloakrooms will notify all Senators, that I intend to make a motion to table in about 10 or 15 minutes, so Senators who might not be in the vicinity of the Chamber could start making themselves available to us.

Mr. President, it is my understanding that the majority leader might wish to say a few words and I will be glad, of course, to yield to him in that regard. But I believe that Senators should know that sometime between now and the hour of 5 o'clock, either the majority leader or I would like to make a motion to table.

Mr. President, this proposed tax cut offered on the debt limit bill is a substantial reduction. The figures given me by the joint committee staff is that for individuals and corporations for the coming fiscal year 1981, the reduction would be $22.3 billion.

It would be a larger reduction for the calendar year. For calendar year 1981, it would be $35.8 billion; so that would be a very large tax reduction.

Mr. President, I was at this same desk in March of 1979, a little more than a year ago, when our distinguished friend, the Senator from Kansas (Mr. DOLE), proposed an amendment to another debt limit bill.

On that proposal, he undertook to require that we have a two-thirds majority, as I recall, in order not to have a balanced budget, or to extend the debt limit bill in the absence of a balanced budget.

I proposed an amendment to his amendment at that time, stating the intention of Congress, and certainly the intention of the Senate, that we would have a balanced budget, providing the Senate somewhat greater flexibility, because I felt that the flexibility might be necessary. I think that my wisdom on that occasion has been well vindicated by the position taken by those on the other side of the aisle.

It may very well be that economic conditions require that we abandon our efforts to have a balanced budget, reluctant though that may be.

There is no doubt about the proposal before us: If this amendment is agreed to, that is the end of the balanced budget. We have worked very hard to try to balance the budget. Those on the Finance Committee have worked diligently, and I honestly believe that we have had very sincere cooperation from those on the Republican side of the aisle. Those on the Appropriations Committee have done as well, and so have the other committees in the Senate as a whole.

So there has been a very honest, dedicated, sincere effort to give the people of this Nation—and, indeed, the people of the world—confidence in the United States, that we do intend to be fiscally responsible and, for the first time in 20 years, to balance the budget.

I have been telling people in Louisiana, whom I represent—perhaps I have been saying it up here, also—that if unemployment went above 8 percent, I do not think we would be able to balance the budget, and we might be compelled to take steps to breathe more life into the economy by way of a tax cut or even by way of increased spending. Of course, that logic is suggested by the proposal that is before us now.

However, is it really wise at this point to abandon the noble resolution of the Senate of the United States, initiated by the Senator from Kansas, that we should have a balanced budget, before we have the administration's mid-year budget review presented to us on July 15, to see what we can expect?

I am told that we may very well find that there will be a significant deficit because of the recession, because of higher spending for increased unemployment benefits, because of increased welfare costs, because of the increased cost of food stamps; so that it may well be that, despite all our determined efforts to balance the budget, it cannot be done.

It may be that we will have to settle for a much bigger deficit than I had anticipated. I believe that well could be the case. If so, the Senate and the House should face up to their responsibilities and do what they believe to be in the Nation's interest.

I think we all can agree on one thing. Polls I have taken in Louisiana show—and I am sure they show it elsewhere in the Nation—that the people of this Nation do not want a tax cut so badly that they would have it at the expense of increased inflation.

A question asked in Louisiana was this: "Do you want a tax cut if it is going to mean more inflation?" The answer came in overwhelmingly "No." If it means more inflation, the people of the country do not want that.

So if we are going to consider a tax cut, we should tailor it carefully and consider carefully the views of the best minds we can find to advise us as to how a tax cut can increase employment, increase productivity, and how it can best fight inflation, or at least restrict inflation while doing it.

I am told that any tax cut will be inflationary but that some cuts, of course, will be far more inflationary than others.

Furthermore, it may very well be that we are going to need more of a tax cut. Mr. Felix Rohatyn, a very able and brilliant financier in New York, well known to many of us, one of those who helped save the city of New York from its financial plight, has been saying that we are going to need another Reconstruction Finance Corporation to help put the automobile industry, the steel industry, and others on their feet. That is something that may be necessary. Of course, to some extent, such a proposal might serve in lieu of a tax cut, and that should be considered.

In any event, if the tax cut should prove to be necessary, I believe we all can agree that the logical date for it would be the beginning of the next calendar year, on January 1. That is the date proposed by the minority in their proposed tax cut that is being offered at this moment.

If we have until January 1, then we really do not have to charge out, ill-prepared, without careful consideration, without the benefit of hearings, without the knowledge that the President's midyear report will show, and without the additional evidence about what we can expect that could be made available to us by the best economists and the most knowledgeable business people in the United States. In other words, we do not have to go off half-cocked with respect to a proposal that would increase the deficit by $22 billion and, on an annual basis, increase the deficit by $36 billion. We are not in that kind of dire emergency. We have enough time to think. We have enough time to look at the evidence. We have enough time to see where the Nation is headed and to know a great deal more about what could be done.

Furthermore, we have enough time to consider the other options that are available to us.

I find a great deal of appeal in the proposals to shorten the depreciation periods. I have been importuned, as have others, by representatives of the business community, particularly those from big business, who find tremendous appeal in the proposal, to provide for more liberal depreciation allowances—the so-called 10-5-3 proposal. It would provide tax advantages to business and in some cases to individuals.

Let us take a look at what that proposal means. My instructions to the joint committee staff, perhaps would be to make estimates based upon a different set of assumptions as to the proposition and how it should be phased in, would be that the proposal start out with a revenue loss of $1.9 billion for fiscal 1981; 1982, $7.3 billion; fiscal 1983, $16.6 billion; fiscal 1984, $30.6 billion; 1985, $47.5 billion; 1986, $55.5 billion.

Imagine that. This one little item, in just 6 years down the road, would be a revenue loss to the Treasury and a gain to management of $55 billion a year. That may be a very good idea. It may be worth sustaining that kind of revenue loss, which really would be an enormous reduction in Government revenues for the benefit of business, to help them build modern plants and to buy more machinery. But one can question whether that is the right amount or whether it is too sweet a deal.

For example, I am told that the 10-5-3 would permit one to buy a building or construct a building which may be good for more than 50 years and write it off in 10 years. We can agree on the 10 years, but I am told that that proposal has implicit within it the so-called double declining balance.

In that situation, assuming that one has built a major building that could last for 50 years, a permanent style building, he could write off two-thirds of the cost of it in the first 5 years, even though that building would be good for 45 additional years, and perhaps even a little longer than that.

That is a very rich tax advantage for big business. In fact, it is a very rich tax advantage for anybody in a position to take advantage of it.

Some people who say that they believe the concept is correct say that it is just too rich a concept, that it is too much for the rich, over too short a period of time, and that it is not necessary to go to that extent to achieve the objectives we hope for with a tax cut.

They may be right. I am not saying they are not. I am simply saying that we should consider whether this goes too far, whether it is really too big a bonanza for some taxpayers, and whether we might regret going quite that far that fast. We should consider that in hearings.

Certainly those who do not agree with the Dole proposal should be alerted that we are thinking about passing something of this sort and have the opportunity to come up and present their arguments and buttress them with the best facts they can present.

That is the difference between the kind of hearing we have when people really think we are just talking about the matters that are not going to happen, and the kind of hearing we have when people feel that this is something that is likely to take place in the immediate future. The hearings are a lot more lively and we get a lot more information.

It has been said that we have had some hearings. There have been hearings. I recall attending one by a subcommittee of the Committee on Finance about a year ago, with regard to some of these proposals. They were not conducted in the context of the present economic situation. They were not conducted in the context where we anticipated that they were going to become law any time soon. They were more or less at that moment, in the opinion of this Senator who attended and heard some of it, an intellectual exercise in options that would be available to us for consideration. Perhaps there have been some additional hearings of some other committees, such as, the Joint Committee on the Economic Report, but there have not been hearings before the taxwriting committees on these major tax reduction proposals in the context of the present economic situation. That kind of hearing in my judgment is a must, if we are to act responsibly.

Mr. President, the majority of the Democrats feel that we are going to have to vote for a major tax cut this year, and we met and discussed it.

We agreed to a resolution, which has been discussed, and our resolution, in effect, makes a proposition to all those who favor the Dole amendment that we wish to conduct hearings on the Dole amendment and on the other recommendations. We wish to know what the President of the United States will suggest. We wish to know what his Secretary of Treasury will have to offer. We wish to know what the Council of Economic Advisers will have to tell us. None of that is available to us at this point. And we wish to know what the American people in general think about the matter.

There is nothing new about this. Some say this is a case of Republicans forcing us to do something we might not have done otherwise. That is not so. We were anticipating all along that we might have to vote for a major tax cut between now and the first of the year.

So long as we can act in time that everyone can make his plans and the Treasury can be ready to adjust to the new law before the effective date of that new law, probably next January, it really is not necessary that we act in June or July. The tax cut only gradually increases in effect by degrees, one might say.

There is nothing new in managing a major revenue bill in the Chamber, so have some Senator offer a proposal that should be the subject of careful consideration and to assure the Senator that we will conduct hearings with regard to his suggestion and others that may be relevant to the same subject, so that the Senate can act after being well advised about all the relevant facts that can be made available.

Here is the resolving clause voted today by the caucus of the Democrats of the Senate.

Therefore, be it resolved that the Senate Finance Committee shall report to the Senate no later than September 3, 1980, a responsible, targeted anti-inflationary tax cut to take effect in 1981, and designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity and stimulate competitiveness in foreign markets.

Resolved further that the Democratic Task Force on the Economy recommend to the Senate a comprehensive economic policy at the earliest possible date.

So the goal that those on the minority side of the aisle seek to achieve is not something we oppose. We merely insist that we should act responsibly, we should act knowledgeably, we should be in a position to justify what we did, not as the result of some overnight change of position, not as some effort to gain political advantage at the moment, but as a carefully studied approach to the problem by looking at all the alternatives available and suggesting what we believe is best calculated to serve the Nation's interest.

What we have before us has a lot to recommend it, but it is not the only good tax proposal that can be made.

Many times when I have been handling revenue measures of great magnitude here in the Chamber, and I have been doing it for about 20 years now, we have had proposals made that a major tax reduction should include an increase in the personal exemption, and there is a lot to be said for increasing the personal exemption. The inflation creep has very much increased the taxes on low-income people. Furthermore, the social security tax has very much increased the tax on those at the bottom of the ladder. The windfall profit tax will bring some money in that can be distributed among some of the low-income people, but it hardly begins to offset the increased cost of energy and the other increased costs of living that affect people in that category.

So the least affluent of them, all those who are not doing very well financially and have very little income with which to stand increased costs, are entitled to be considered as well as those who are the captains of American industry seeking to buy new plants and new machinery.

We should consider the needs of all Americans and I believe, Mr. President, we will do a much better job of it if we proceed in the traditional orderly fashion.

Mr. President, may I inquire of the majority leader whether he wishes to address himself to the proposals before I move to table?

Mr. ROBERT C. BYRD. Mr. President, will the Senator have printed in the RECORD the entire resolution?

Mr. LONG. Yes.

Mr. President, I ask unanimous consent to have printed in the RECORD the resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Resolved,

Whereas, the best interests of the Nation should be placed first to assure that any tax cut is meaningful and beneficial to all Americans instead of rushing into an ill-considered and inadequate program for the purpose of trying to seize some partisan political advantages; and

Whereas, inflation is still the major concern for all Americans; and

Whereas, it is essential that our Nation achieve vigorous, sustained economic growth and curtail inflationary pressures in the decade of the 1980's; and

Whereas, a tax cut is a necessary part of such a coherent economic policy; and

Whereas, our Nation needs an equitable, consistent, coordinated and comprehensive economic policy for the 1980's; and

Whereas, such an economic policy must be designed to reduce unemployment, create jobs for everyone willing to work, and to hold down inflation; and

Whereas, the details of a tax cut must be subject to the normal congressional processes which include careful committee consideration through hearings and markup; and

Whereas, a mid-year review of the economy will provide additional data on unemployment, inflation and the federal budget, which data is critical to an informed judgment on fiscal policy, and on the nature, size, and timing of a tax reduction; and

Whereas, Section 9 of H. Con. Res. 307, the First Concurrent Budget Resolution for fiscal year 1981 provides that "no bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100 million shall be enrolled until after the Congress has completed action on the Second Concurrent Budget Resolution"; and

Whereas, a tax reduction is necessary to induce an orderly recovery from the current recession so as to promote economic growth without inflation;

Therefore, be it resolved that the Senate Finance Committee shall report to the Senate no later than September 3, 1980, a responsible, targeted anti-inflationary tax cut to take effect in 1981, and designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity and stimulate competitiveness in foreign markets.

Resolved further that the Democratic Task Force on the Economy recommend to the Senate a comprehensive economic policy at the earliest possible date.

Mr. DOLE. Mr. President, will the Senator yield for an observation?

Mr. LONG. Mr. President, I ask unanimous consent that I may yield to the Senator, reserving my right to the floor.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest on the so-called 10-5-3 proposal as far as I can determine there are 30 Senators on the Democratic side cosponsoring that approach and 23 Republicans. So it appears there may be even more support on that side for that approach than on this side.

As far as the 10-percent rate reduction, I think the Senator has indicated some have questions about that, whether or not it may be inflationary, but I hope, based on what the Senator has said, that in the event by some unusual circumstances we should lose just by sheer numbers or the sheer politics of it that this meritorious amendment should be defeated, that we could then cooperate, as we do so well in the Finance Committee, to forge a tax cut package that will do service to the American people.

Mr. LONG. Mr. President, I wish to make it clear that when I move to table it is without prejudice to the amendment as well as the other amendments that will be offered. It is merely that we wish to move in what we believe to be the more orderly and traditional legislative process to hold the hearings and to have more information and perhaps more thoughtful judgment to lay before the Senate when we consider it.

Mr. President, I ask unanimous consent that I may yield to the Senator from Maine, reserving my right to the floor.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I rise in opposition to the amendment offered by the Senator from Kansas and in support of the resolution offered by the Senator from Texas, which requires the Finance Committee of the Senate to report to this body, by September 3, a responsible, targeted program of tax reductions aimed at helping economic recovery and improving productivity without stimulating an inflationary outburst.

The development by the Finance Committee of a tax bill, after the necessary hearings and working sessions have been held, and with the benefit of the mid-year economic figures which are not now available, is the responsible way to chart our Nation's future tax policy.

It is not responsible to attempt to write a tax bill on the Senate floor, on proposals whose merits have not been considered either in hearings or markup sessions, on ill-targeted reductions whose effect will be to increase inflation, and on reductions whose ultimate effects on productivity are not known. And it is not responsible to do so when the most recent and relevant economic figures are not known.

We should pause to consider the priorities this Senate has had before it this year.

Our goal is to balance the fiscal year 1981 budget. To that end, we have tightened spending in many popular and worthwhile programs. We have demanded that congressional committees rewrite existing laws to bring the costs of programs down. And we have sought to restrain even the most attractive new spending proposals to reach that goal.

The voices raised in support of that effort—I may say some of the strongest voices heard in support of fiscal restraint—had their effect on the Senate. A balanced budget resolution was reported. And the Senate adopted it.

Today, some of those same voices are telling us that the battle is already lost—that the budget is already unbalanced, and therefore, we should immediately seek to unbalance it further to the tune of $24 billion.

For we should be quite clear about the result of the tax cut proposal before us. Whatever its effects on the economy, on productivity, on the competitiveness of our exports—whatever doubt may exist about those results—it will have one result about which there can be no doubt whatsoever.

It will unbalance by $24 billion, the budget this Senate adopted 2 short weeks ago. That much is certain.

It may be true that economic conditions will not permit the 1981 budget to remain in balance. But the proposal to unbalance it before the beginning of that fiscal year, with this tax cut, is like trying to put out a fire with a bucketful of kerosene.

Those who have protested most loudly, most frequently, and most indignantly against irresponsible spending, irresponsible giveaways, and irresponsibility in the budget process—these same protestors are now proposing an across-the-board tax reduction, whether it is needed or not, and whether it affects inflation or not, and whether it increases the deficit or not.

Let us remember our priorities.

Inflation is and remains the single most important economic problem facing Americans, working people and retirees alike. Inflation strikes all Americans, regardless of their tax burdens. It affects those on social security, who have no tax burden. And it affects the unemployed, whose incomes are too low to incur a tax liability.

A tax cut will not and cannot give any relief to these people. But the inflation that this tax cut will unleash will undoubtedly have an impact on those people. They will receive a double-dose of "supply side" economics through this action. They will get no tax relief, no lightening of a burden, but the existing burdens of inflation will be increased. This is not the way to help those in our society who rely on us for help.

An across-the-board 10-percent tax cut will give the man with a $12,000 income and a $1,000 tax bill a $100 tax break. But it would give the man with a $60,000 income and a $20,000 tax bill a $2,000 tax break. An across-the-board cut of this nature will benefit most those who need it the least.

And it will fuel the inflation that hurts all Americans.

I have heard the proponents of this cut argue that a 10-percent income tax cut will increase worker productivity. I believe productivity can and should be enhanced. It may well be that selective depreciation increases would achieve that goal. But to seriously suggest that an American worker will produce "more" if he receives a 10-percent tax cut is a use of the concept of productivity that is without logic or precedent.

A small cut in taxes, applied across the board, to those who need and to those who do not, will not increase worker productivity.

It will increase inflation.

Responsible economists agree that the single most inflationary step Congress can take is to provide for a massive untargeted tax cut of precisely the kind being advocated today.

Not too long ago, disciples of fiscal discipline were warning against the stimulative effects of a tax cut.

What has happened since then?

Has the war on inflation been won?

Most Americans would describe the current situation as a lull in the battle, not a victory. I would agree with them.

Several months ago, 83 percent of the American public agreed that fighting inflation was more important than a tax cut. And they identified the balancing of the Federal budget as a key element in that fight. What signal will we send these people by endorsing this tax cut?

It is, I submit, a signal of defeat in the battle against inflation.

The congressional effort to balance the budget was beginning to take hold—it was beginning to make all of us understand that there is such an ideal as the common good, that there is a common future for the country worth striving for.

Americans demonstrated their willingness to join in that effort with their response to the administration's request for credit restraints. Americans reduced their use of credit cards. They delayed purchases, they paid in cash, or they chose affordable purchases.

Americans are willing to accept the self-restraint and discipline needed to restore our country's economic balance. The budget balancing effort had been starting to make all of us aware that individual priorities and preferences may have to be set aside for the common good. It had begun to make us recognize that some common goals were worth sacrifices.

Yet today, the proponents of this tax cut would have us abdicate our responsibilities, abdicate our trust, and join in the pursuit of political advantage under the guise of an immediate tax cut.

Americans have a right to expect more from the Congress.

And I believe Congress has a responsibility to provide better leadership.

The resolution being filed today, which I support, will give the Senate the opportunity to examine in detail, as it should be examined, the costs of this tax cut proposal and others that have been suggested. It will give Congress the opportunity to judge soberly and in a workmanlike manner the economic needs of the Nation and the tax policies best suited to fill those needs. It will give all of us the chance to comprehend, as we should, what use we will make of the $20 or $25 billion involved.

For it must be emphasized that the tax cut proposal now before us has not gone through the regular legislative process. It has not been the subject of committee hearings or other committee consideration. As put before us today, this proposal overrides the regular legislative process which is designed to permit careful and thoughtful consideration. It should not be enacted.

● Mr. EAGLETON. Mr. President, the Republican tax cut amendment was a transparent political maneuver designed to gain some quick headlines for their Presidential candidate. I believe the state of our economy is too important for such publicity-seeking gimmicks. A tax cut in 1981 very likely will be needed to keep the economy from dipping too deeply into recession. But, we cannot afford to abandon our simultaneous effort to lower the rate of inflation which is the cruelest tax of all. Fighting inflation remains our top priority.

The Republican proposal, which has not even had the benefit of a hearing, could reverse the slow but steady progress we are making in reducing interest rates and inflation. Tax cuts are popular, but I think the American people will see through this Republican ploy for the irresponsible political flim-flam that it really is.

I have sponsored a resolution calling on the Senate Finance Committee and the House Ways and Means Committee to begin hearings on the question of a tax cut and to report to both Houses of Congress before the end of the session on the size and shape of that tax reduction so as to assure that it will not lead, as I am convinced the Republican proposal would, to another steep rise in inflation.●

● Mr. HART. Mr. President, the Senate has two choices: To vote hastily today on one type of tax cut for 1981, or to begin a deliberative process to insure the tax cut we pass for next year and beyond is appropriate. It is more important that Congress make the right decision on the size and type of a tax cut for 1981, than it is to make a decision now. Thus, I am in favor of the Senate resolution to require the Senate Finance Committee to report to the Senate a tax cut proposal by September of this year.

We should not take an action today which is certain to undo our efforts to balance the budget when this Congress has not yet even achieved the spending restraints that it voted in the first budget resolution. After the Congress achieves those spending restraints and after we know more precisely the state of the economy next year, the Congress can make a much better decision with regard to the kinds of tax cuts which will stimulate growth but continue to retard inflation.

The tax cut proposal before the Senate today is a very specific proposal for cutting personal income taxes and cutting taxes regarding business depreciation. While parts of this proposal certainly have merit, I believe that over the next several months, the Senate can be certain the tax cut package it passes will stimulate productivity in the United States without accelerating or perpetuating inflation.

In the next few months, the Senate will have the opportunity to review the mid-year economic projections for our economy. These will help the Senate understand more precisely how strong the economy will be next year and how close we can come to a balanced budget.

The measure I am supporting insures that the Senate will have the opportunity to vote to provide a tax cut beginning in 1981 before this session of Congress is over. But this tax cut package will be developed in an orderly and deliberative process, using the strengths of the committee system in the Senate. I will be as involved as possible in the development of this tax cut proposal as it develops to insure it is targeted to strengthening our economy to the maximum extent, while continuing to retard the rate of inflation.

I am still committed to the goal of a balanced budget in 1981. But even more important, I am committed to the intertwined goals of restraining the growth of Federal spending, retarding inflation, and stimulating economic growth in this country. I am opposed to proposals by some that we abandon our efforts now to achieve a balanced budget. This could have the significant negative impact of reducing Congress efforts to restrain Federal spending.

The budget resolution which this Congress passed just a short while ago is one of the most fiscally conservative in years. It pares $20 billion from spending that otherwise would have occurred under existing laws. I believe Congress should exercise fiscal discipline by enacting the needed legislation to achieve these spending limits before it considers tax cuts. ●

● Mr. HATFIELD. Mr. President, I reluctantly must oppose the proposal by my Republican colleagues that calls for a $22 billion tax cut. This proposal calls for a 10-percent across-the-board tax cut for individuals that will cost approximately $19.8 billion and $2.2 billion in tax cuts for the 10–5–3 proposal to implement accelerated depreciation reform.

Tax relief for all Americans is urgently needed. President Carter's budget assumes that taxes will comprise 14 percent of personal income in 1980 and will increase to 18 percent of personal income by 1985. The Congressional Budget Office estimates that taxes now comprise 22 percent of our GNP and will increase to 24 percent of our GNP by 1985. The case for long-term tax relief to encourage saving, productivity increases, investment, and capital formation is overwhelming. At a minimum, the Federal Government needs to address the inequities of our tax system which cause taxpayers to be pushed into higher tax brackets when they receive cost-of-living increases. Therefore, I have supported Senator Dole's proposal to index the tax code to prevent inflation from putting taxpayers into higher tax brackets and I have supported special targeted tax cuts to encourage saving, productivity and capital investment. However, I believe that effective tax relief must be coupled with appropriate spending cuts in the budget. I was pleased to support Senator ARMSTRONG's proposal to the budget resolution which linked effective spending cuts with the need to provide for tax relief.

I supported Senator ARMSTRONG's amendment to cut the budget to $596 billion and provide for a $30 billion tax cut in 1981.

I consponsored the Roth resolution to hold outlays to 21 percent of GNP.

I voted for the Hatch proposal to cut $7.3 billion in 1981 spending in order to pay for productivity-related tax cuts, for saving incentives and the 10–5–3 proposal.

I am a cosponsor of S. 2745, which provides a tax-free saving account to save for your first home and college education for your children.

I cosponsored the $400 tax exemption for savings accounts interest income that was attached to the windfall profit tax.

Mr. President, the latest estimates now assume that the 1981 budget will be approximately $20 billion in the red. If we add another $22 billion in tax cuts on top of that, we may end up with a $40 to $50 billion deficit for 1981. I fail to see the difference between a budget deficit of this magnitude in 1981 as opposed to President Carter's budget for 1980.

This deficit must be financed and, if it is financed through the printing of more money, it will obviously increase the money supply and further increase inflation. If we choose to rely on floating more Government debt, we still face the problem of pre-empting the private sector's need for precious capital. In 1980, it has been estimated that the Federal Government will take approximately 23 percent of all available capital.

Do we wish to continue and further exacerbate this trend in 1981? This preemption in the private market for investment capital has already had drastic effects upon the Oregon housing industry as interest rates climbed to 18 percent.

This policy has had the effect of curtailing our available investment capital for energy sources at a time when we are striving to cut our dependence upon OPEC oil.

In the 1981 budget, interest expense on the Federal debt will already total $72 billion, the third highest function in the budget. For decades we have thrived upon deficit spending. We are still paying for the $160 billion it took to finance the Vietnam war. Since the 1974–75 recession, we have gone our merry way and pumped $200 billion of deficits into the economy when we have experienced four very prosperous years. Now our habits are coming home to haunt us.

An election year tax cut is as predictable as the Oregon rain. I have traditionally voted against these temporary political measures when the budget is not in balance. The American taxpayer is rightfully upset at having to wait for the appropriate tax relief that he so justly deserves. However, let us be truthful in the packaging of this proposal. This proposal will increase the deficit, send the wrong signals about our resolve to fight inflation to the OPEC countries and further weaken our economy and its need for investment capital.

This proposal fails to answer the difficult questions of linking spending reductions with appropriate tax cuts. It is a much more convenient position to espouse balanced budgets, massive defense increases, with guarantees to not reduce income security payments to the elderly and other transfer payments recipients. This Congress has called for a $1 trillion increase in defense expenditures over the next 5 years. In budgeted authority, the 1981 budget provides for an increase from $127 billion in 1979 to $293 billion by 1985, and a growth in outlays from $117 billion to $267.7 billion by 1985. This provides for over a 100-percent increase in both outlays and authority. This budget calls for the largest increase for defense spending since World War II and more than doubles the commitment to our NATO allies.

I do not believe it insignificant that our major competitors in the industrialized world are saving more, investing more in plants and equipment, have lower inflation rates, higher rates of productivity growth, and greater real growth in their economy. It is curious that these countries spend less on defense than the United States. This proposal fails to deal with the difficult spending cut decisions that must be made in order to propose a tax cut for the American people. Even Governor Reagan's speech yesterday unequivocally emphasized that any tax cut proposal must be coupled with substantial reductions in the rate of growth in Government spending. Until those cuts are made, I will oppose both a Governor Reagan proposed tax cut as well as President Carter's possible tax cut for 1981.●

Mr. BAYH. Mr. President, the country is in the midst of a serious recession caused by rising energy prices and high interest rates. Unemployment in the Nation is climbing above 7.8 percent. It has been over 9 percent in Indiana for every month this year. The time has come to consider a tax reduction bill which will go into effect in January, if not sooner. Such a tax cut is needed not only to deal with the unemployment problem but also to increase investment and boost productivity.

However, the amendment being offered on the Senate floor today to provide a 10-percent reduction in income tax rates needs to be carefully examined before it is adopted. Under this proposal, a family of four with $100,000 of income gets 17½ times as much tax relief as a family of four with $20,000 of income, and 106 times as much tax relief as a family of four with only $10,000 of income.

In fact, a family of four with $10,000 of income would get a total tax reduction of only $37.40, about four-tenths of 1 percent of its income. Yet the tax cut proposed would distribute $32 billion in a full calendar year. If this $32 billion were distributed on a per capita basis, this same family would receive about $570. Low- and moderate-income families deserve a far greater share of this relief than that distributed under the amendment being offered today.

The 10–5–3 depreciation proposal included in this amendment is a more responsible measure. I believe an improved capital cost recovery system is needed. However, I believe that incentives for new investment should be fully put into effect immediately rather than phased in over a period of years. By making any incentives fully effective immediately, there would be no incentive to delay investment until they are fully in effect.

Furthermore, I believe that we should not completely get away from the useful life concept in asset depreciation in order not to distort investment patterns. Nevertheless, I do believe that new incentives are needed to spur business investment and increased productivity, particularly for the automobile and steel industries. I would urge that any tax bill include such incentives.

I believe a tax cut will be enacted before Congress adjourns this session which will be effective by January if not sooner. However, this legislation can best be developed by the Senate Finance Committee. The cut being proposed by this amendment is not the way to do it. It may be good politics but it is poor tax policy.

Consequently, I support a motion to require the Senate Finance Committee to report a bill to the Senate floor which will cut taxes in such a way as to get people back to work and also deal with the inflation problem.

Mr. MATHIAS. Mr. President, we are now voting on the proposal to cut taxes, which comes at a time of the worst economic news in 50 years. If we act on it now, it will spur business revival and will lead to increased employment. So I applaud this effort to lighten the tax burden of all Americans.

One of the crucial weapons in our fight against inflation is increased productivity. To do this we must increase the power and availability of investment capital. The 10–5–3 plan, which is central to this amendment, would free up capital by providing an accelerated system of depreciation of business property.

As a cosponsor of the original Capital Cost Recovery Act, I fully support the 10–5–3 plan, and I am glad to see it as part of this tax cut package.

The package also reduces personal income tax rates by 10 percent—which means $20 billion in the pocket of our hard-pressed taxpayers. I doubt if there is a single American who does not want lower taxes. The ripple-down effect of this major tax cut will get the economy moving again, and help every household in this country make ends meet in these inflationary times.

This proposed cut gives us a golden opportunity to cure one of the glaring inequities of the Tax Code, and I hope we seize this opportunity for change. For the last 10 years, families where both husband and wife work have wound up paying more taxes just because they are married. If they divorced and just lived together they would get a big, fat tax break. This penalty results when two incomes are combined and filed jointly, throwing the second income into higher tax brackets than if it were taxed separately. In short, our tax system has turned the tender trap into a booby-trap.

This year, for the first time in our Nation's history, more than half of all married women are working. As a result, over 40 million Americans are now paying $8 billion more taxes because they are married.

For the last 5 years, I have introduced bills to allow all married couples the option of filing their taxes as if they were single, using the rate schedule for single people. The White House's Interdepartmental Task Force on Women concluded a study on the marriage tax penalty that strongly supported my proposal as the "simplest way to permanently eliminate the 'marriage penalty.'" The American Bar Association also has passed a resolution favoring my bill, and 25 of my colleagues have joined me as cosponsors. In the House, Congresswoman FENWICK has introduced an identical bill which has over 220 cosponsors, and hearings were held this spring before the Ways and Means Committee. Support to end this unfair penalty is widespread and continues to grow.

We should keep in mind that married people are, generally speaking, the people who have undertaken the care and raising of our children. Clearly, they should not be punished by our tax system for having undertaken that responsibility. The marriage tax, by its very nature, strikes at the deepest traditions of our society. Therefore, I hope we will be able to eliminate it as part of this tax cut.

Taking the longer view, I would also like to add a cautionary note to the debate. This tax cut proposal has great dramatic appeal; it has the virtue of simplicity; it will be a message loud and clear that Congress intends to get our economic machine up to speed again. It would, if enacted, give the economy a quick shot in the arm. Of course, our enthusiam is tempered by the prospect that this major tax cut will have a $22 billion effect on the fiscal year 1981 budget. I have been fighting for a balanced budget all year now, and my bill to require a balanced budget next year is now awaiting hearings in the Senate Budget and Governmental Affairs Committee. I would not want to see us refuel the dragon of inflation with an unwise tax cut now. Inflation is still public enemy No. 1.

The debate that will ensue on this tax cut will no doubt refine the bill and perhaps refocus it somewhat. I have always thought that we could better cure our long-term economic woes by improving the efficiency of our economy and hence our productivity. Generally speaking, incentives to savings and investment will bring about this type of long-range solution, and as we study this tax cut proposal we may in the end decide that so-called supply-side cuts are more appropriate in light of the economic realities of the 1980's.

Currently, our tax laws exempt interest on debt while taxing interest from savings and dividends from stocks and bonds. As a result, business has been unable to raise the capital it needs to expand and modernize, and our productivity has suffered. Last December, Congress took a small step toward alleviating these problems by increasing the dividend and interest tax exclusion to $200 ($400 for a couple filing a joint return). Rather than implement a one-time, across-the-board tax cut, I think Congress should use these funds to raise permanently that dividend and interest exclusion further. Last summer, I introduced a bill, S. 1620, to increase the dividend exclusion to $1,000. A tax cut along these lines would go a long way toward solving our long-term problems.

Nonetheless, I support this tax cut proposal because it gets us off square one and forces us to face up to the magnitude of the sorry state of the economy.

Old Judge Covington from Easton spent a lot of time at political oyster roasts on the Eastern Shore before he went off to Washington to set up one of the country's great law firms. At one fancy roast with white tablecloths and a lot of ladies present, he grabbed a steamed oyster and popped it into his mouth. He quickly realized that the oyster was too hot and, without batting an eye, he spit it out on the table right in front of all the ladies. Only "a damned fool would have swallowed that thing," he said by way of explanation not apology.

That kind of forthrightness is just what we need to solve the economic problems we face today. This tax cut proposal helps us get everything out on the table, like Judge Covington's oyster, and have the kind of frank talk we need.

Mr. THURMOND. Mr. President, I support the amendment by the distinguished Senator from Kansas (Mr. DOLE), and I am pleased to be a cosponsor. Yesterday, Senator DOLE, joined by me and 34 other Senators, introduced this proposal in the form of a bill.

This legislation would cut individual income tax rates across-the-board by 10 percent, and it would institute a system of accelerated depreciation for business capital investments. Both parts of this proposal are urgently needed, especially because of the current economic recession and resulting rise in unemployment.

Prompt enactment of this measure will result in job-creating business investments, as well as enhanced incentives for individuals to save and invest. Coupled with comparable reductions in Federal Government spending levels, this measure is not inflationary.

It would increase available funds in the private sector, which can be channeled into business investments that expand our economy, rather than pulling more and more funds out of the private sector to support inflationary spending increases by the Federal Government.

A 10-percent cut in individual income tax rates is needed to offset the effects of a continued high rate of inflation, which pushes individual taxpayers into higher tax brackets and increases their tax burden, while their real incomes fail to keep pace.

I have been an advocate for some time of indexing both individual tax rates and the capital gains tax to inflation. The policy of this administration, unfortunately, has been to deliberately use the effects of inflation to push taxpayers into higher brackets, thus yielding more tax revenues for various domestic spending programs. Mr. President, this may be the way to build favor with various interest groups who demand more and more spending for their favorite programs, but it is not what the vast majority of citizens and taxpayers—those who bear the burden and keep this country going—are seeking. They want relief from growing tax burdens; they desire policies that encourage steady economic growth without undue inflation. An across-the-board 10-percent reduction in personal income tax rates will be a step in the right direction and will pay dividends in increased savings and productivity.

Mr. President, the 10–5–3 accelerated depreciation part of this proposal is also urgently needed to boost productivity levels and spur business investment. Much has been said recently about the fact that other nations, especially Japan and West Germany, are outstripping the United States in productivity gains. If these trends are to be reversed, and if U.S. businesses are to remain competitive with those of other nations in world markets, we must provide additional incentives to spur business investment. This proposal would enable businesses to recoup the high costs of capital investment in new plants, equipment, and light vehicles much more rapidly. The concept is a sound, job-creating, anti-inflationary approach that has been endorsed by a majority of both Houses of Congress. It ought to be promptly enacted so that we can get on with the task of providing more jobs and controlling inflation.

Mr. President, I urge my colleagues to support this amendment.

● Mr. LEVIN. Mr. President, I oppose the amendment offered by the Senators from Kansas and Delaware. However, I support the mandate of the Economic Task Force calling for tax cut proposals for 1981 because I feel the economy is set for a series of tax cuts, properly targeted, which will stimulate investment and growth.

I have reservations about the accelerated depreciation schedule outlined by the Dole-Roth amendment. While I support the concept of faster depreciation writeoffs, I am concerned the benefits conferred by the 10-5-3 schedule would reward large businesses at the expense of smaller businesses. Service industries would not enjoy the degree of relief certain capital intensive industries would enjoy.

The revenue loss would also be significant and while any tax relief measure involves such a loss, there is not a consensus as to whether the same incentives could be achieved at a lower cost. I am convinced that the complex system of useful lifes must be altered and a simplified version adopted. But the adopted version, with the benefit of hearings and testimony from all interested parties, should accommodate small and larger businesses as well as the full range of businesses, be they capital intensive or service industries.

While this proposal cuts individual income taxes, I would prefer a reduction or deferral in the projected social security increase slated for January 1, 1980. This deferral or actual reduction would benefit both workers and businesses and would constitute a clear anti-inflationary tax cut. While a slash in individual tax rates is needed to offset the inflationary impact of tax increases, it is not clear whether the optimum level of reductions would be 10 percent or some other level. The question of business investment credits, capital gains reductions, and individual tax deductions should all be reviewed under a comprehensive bill. Such tax reductions should be targeted for productivity inducing investments, and I am encouraged that the Finance Committee will report out by September 1 of this year such a bill to accomplish these goals.●

Mr. LONG. Mr. President, I move that the amendment be laid on the table.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Kansas.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HATFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER (Mr. NUNN). Are there any other Senators wishing to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—58

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NAYS—38

Armstrong
Baker
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Hatfield, for.

NOT VOTING—3

Goldwater
Kennedy
Talmadge

So the motion to lay on the table UP amendment No. 1321 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BRADLEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 1222

(Purpose: To provide for indexing of income tax rates, personal exemptions, and the zero bracket amount)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. DOLE, and Mr. DURENBERGER, proposes an unprinted amendment numbered 1322.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . COST-OF-LIVING ADJUSTMENTS IN TAX RATES.

(a) RATES OF TAX.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsections:

"(f) COST-OF-LIVING ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—At the beginning of each calendar year as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary the ratio which the price index for the preceding calendar year bears to the price index for the second preceding calendar year. Each dollar amount listed in the tables under subsections (a), (b), (c), (d), and (e) of this section under the heading 'If the taxable income is:' shall be multiplied by such ratio and, as multiplied, shall, except as provided in subsection (f), be the amounts in effect under each such subsection for taxable years beginning in the calendar year in which such report is made.

"(2) AMOUNT OF TAX.—The Secretary shall adjust each dollar amount in the tables under subsections (a), (b), (c), (d), and (e) of this section under the heading 'The tax is:' to reflect the changes made under paragraph (1).

"(3) DEFINITION.—For purposes of paragraph (1), the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(g) ADJUSTMENTS FOR CHANGES IN ZERO BRACKET AMOUNTS.—The Secretary shall, after adjusting each dollar amount under subsection (f), adjust each such dollar amount to reflect any adjustment in any zero bracket amount under section 63(i) and each such amount, as adjusted, shall be the amount in effect for taxable years beginning in the calendar year in which the adjustment is made.".

(b) ZERO BRACKET AMOUNTS.—Section 63 of such Code (relating to the definition of taxable income) is amended by adding at the end thereof the following new subsection:

"(i) COST-OF-LIVING ADJUSTMENT.—Upon receipt of the report with respect to the price index ratio by the Secretary under section 1 (f), the Secretary shall multiply each dollar amount listed in subsection (d) of this section by such ratio and, as multiplied, each such amount shall be the amount in effect under such subsection for taxable years beginning in the calendar year in which such adjustment is made.".

(c) PERSONAL EXEMPTIONS.—Section 151 of such Code (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) COST-OF-LIVING ADJUSTMENT.—Upon receipt of the report with respect to the price index ratio by the Secretary under section 1(f), the Secretary shall multiply each dollar amount in subsections (b), (c), (d), and (e) of this section by such ratio and, as multiplied, each such dollar amount shall be the amounts in effect under each such subsection for taxable years beginning in the calendar year in which such adjustment is made.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by adding at the end thereof the following new subparagraph:

"(D) Each time the Secretary makes a cost-of-living adjustment under sections 63(i) and 151(f), the Secretary shall adjust each dollar amount—

"(i) under subparagraph (A) to correspond to the cost-of-living adjustments made under sections 63 and 151, and "(ii) under subparagraph (B) to correspond to the cost-of-living adjustments made under section 151,

and such amounts, as adjusted, shall be the amounts in effect under each such subparagraph for taxable years beginning in the calendar year in which the Secretary makes such adjustment.".

(2) Subparagraph (A) of section 6013(b)(3) of such Code (relating to assessment and collection in the case of certain returns of husband and wife), as amended by section 102(b)(2) of this Act, is amended by adding at the end thereof the following new sentence: "Each time an adjustment is made under section 151(f), the Secretary shall adjust the dollar amounts under clauses (ii) and (iii) to correspond to such adjustments.".

(3) Subsection (a) of section 3402 of such Code (relating to income tax collected at source), as amended by section 101(e) of this Act, is amended by inserting before the last sentence the following new sentence: "Notwithstanding the preceding sentence, each calendar year the Secretary shall to the extent necessary modify the tables in effect under such sentences to reflect the full calendar year effect of the adjustments which the Secretary makes under section 1(f), 63(i), and 151(f) during such year and such tables, as modified, shall apply with respect to wages paid during the period which the Secretary determines to be necessary to reflect such full year effect.".

(4) Subparagraph (B) of section 3402(m)(1) of such Code (relating to withholding allowances based on itemized deductions), as amended by section 101(e)(2) of this Act is amended—

(A) by striking out "$3,400" and inserting in lieu thereof "the dollar amount in section 63(d) (1)"; and

(B) by striking out "$2,300" and inserting in lieu thereof "the dollar amount in section 63(d)(2)".

(5) Subparagraph (C) of section 402(e)(1) of such Code (relating to imposition of separate tax on lump sum distributions), as amended by section 101(d)(1) of this Act, is amended by striking out "$2,300" and inserting in lieu thereof "the dollar amount in section 63(d)(2)".

(e) Effective Dates.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1980.

(2) The first report required to be made under sections 1, 63, and 151 of the Internal Revenue Code of 1954, as amended by this section, shall be made before February 1, 1981, and shall indicate the ratio which the price index for calendar year 1980 bears to the price index for 1979.

(3) The amendments made by paragraphs (3) and (4) of subsection (d) shall apply with respect to remuneration paid after September 30, 1981.

Mr. MOYNIHAN. Mr. President, we do not have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. Mr. President, I appreciate the courtesy of the Senator from New York in helping to bring order to the Chamber.

The amendment which I offer is one which I think will be of interest to every Senator, and indeed to all the people we are here to serve, because it addresses itself to the so-called bracket creep problem, to the insidious rise in taxes which are imposed upon all of us who work, on every family, indeed on every American who pays taxes, as a result of the interaction between inflation and the graduated income tax.

The amendment, which I offer on behalf of Senator Dole, Senator Durenberger, and myself, simply indexes the personal tax structure, the personal exemption, and the zero bracket amount to reflect increases in the cost of living during the previous year as measured by the consumer price index.

So it is a very simple formulation. It is the classic concept of personal income tax rate indexing, with the following effective dates: The indexing would become effective with income earned in calendar year 1981, that is, the income which would be reported ordinarily in the spring of 1982 on most people's individual income tax returns, and the withholding rates are adjusted under the terms of this amendment effective after September 30, 1981.

I have proposed these dates, Mr. President, simply because to do otherwise would run afoul of the forthcoming budget year and would change the target revenue figures which have already been adopted by the Senate.

Mr. President, the windfall profit tax revenues which accrue to the Treasury each year as a result of the interaction of inflation and our graduated income tax rate schedule, have imposed a burden and a hardship on all Americans and on the economy at large of a very great proportion. This phenomenon, which many of us refer to as taxflation, has cost taxpayers and consumers more than $15 billion since 1976. Taxflation is silent and insidious. As prices go up, working men and women, those who are fortunate enough to be able to do so, receive wage increases to keep pace with the cost of living. But they cannot keep pace because the wage increases that they may get, either through bargaining, negotiation, or through cost-of-living increases built into employment contracts, automatically push them into higher tax brackets. Therefore, a greater proportion of their income goes to pay taxes even though their real income has stayed the same or in many, many cases has actually declined.

As a result of taxflation most Americans today are paying taxes at rates which were originally intended to apply only to the very rich. Nearly 44 percent of the typical American budget today goes to pay taxes. This is more than the cost for most families of food, clothing, shelter, or transportation. Indeed, it is more than the total of all of these items combined. For the average American family, the cost of taxes is not only the largest item in their family budget; it is precisely the part of their family budget which is rising most rapidly.

A recent Wall Street Journal article stated the case very clearly.

The median income of a family of four in 1964 was $8,132, placing that family in the 18-percent tax bracket.

While the median income of a family of four has risen in the years since then to about $20,000, that family is now in the 21-percent bracket. As the article points out, because the family is now in a higher tax bracket than it was in 1964 and in the years since then, and pays more for social security, the aftertax income of that family adjusted for inflation is worth less, or in simplest terms it means that they have less after tax, after inflation purchasing power. Precisely the amount computed by this study was $902 in terms of the dollar's 1980 dollar than that of the family referred to earlier.

What is the likely outlook for the future? It appears that the situation will grow worse in the years ahead.

Taxflation will be even worse in the years ahead, because inflation is so much worse. Each time inflation goes up 1 point, taxes go up 1½ points. If present rates of inflation persist and tax brackets stay the same, the median income taxpayer will be pushed into the 50-percent tax bracket within 10 years.

Incredible though it may seem, the median income tax family will be in the 50-percent bracket within 10 years unless we make some effort to adjust or index the tax rates.

In fact, according to the Joint Taxation Committee, if the current rates of taxation remain the same, taxflation will cost the American people $172.6 billion during the next 5 years—which is more than 2½ times the entire combined profits for the 10 largest oil companies since 1973—and nearly 4 times larger than the combined assets of the 5 largest oil companies.

That is not only an astronomical sum for the total economy but, in its effect on individual taxpaying workers and families, is a very severe effect.

This is the effect precisely which we address in the pending amendment. We are not talking about a tax cut, we are not talking about going back and making up what taxpayers had already lost as a result of inflation and the graduated income tax; we are not talking about lowering real rates. We are merely addressing, in this amendment, the problem of inflation and the interaction with the tax structure and saying, let us not let things get any worse during the next few years.

Taxflation, incidentally, is one of the main reasons why inflation is so bad. The effect of taxflation is to transfer wealth from the productive private sector to the Government, which produces only rhetoric, redtape, and oceans of red ink.

This diversion of wealth from productive to unproductive uses is the principal reason why the productivity of the American economy has plunged so badly in recent years. Once, the entire world looked to us for leadership in productivity and innovation. Today, we rank dead last among all industrialized nations in the rate of capital formation, and we are scraping the bottom in the rate of productivity growth.

Inflation, we all know, is the product of too many dollars chasing too few goods. Taxflation, by inhibiting economic growth through rising taxes, cuts down on the number of goods and services for those dollars to chase, thus making inflation that much worse.

In other words, by restricting the supply side of our economy, we invite an even worse runup of prices as a result.

Mr. President, we need to put an end to this unfair Government windfall, and we need to do it now. Justice and economic policy demand it. On the grounds of macroeconomics and justice for the individual taxpayer, we must do so.

There is a simple, straightforward way to put an end to taxflation, once and for all, not a stopgap or temporary solution. We can do it now, today, by adopting the pending amendment.

All the amendment would do is index the Tax Code so that tax brackets, credits and deductions would be automatically adjusted each year to keep pace with inflation.

It can be argued that this will be a unique approach to tax policy. In fact, I recall that, a few months ago, when an amendment similar to this was brought to the floor, when the Senator from Kansas, the Senator from Minnesota, and I and others brought this amendemnt up, such an argument was made. I hope we shall not hear that today, first because the concept of tax indexing has been tested in Canada, France, West Germany, Brazil, and Denmark. It has, in fact, been tested and enacted into law in my own State of Colorado. Certainly, the concept of indexing programs is well known in this Chamber.

In fact, one reason I am so strongly in support of the concept of indexing is that we have indexed practically all the recipients of Government programs.

Employees of the Government, for the most part, are partially or totally indexed. People on welfare are indexed, food stamp recipients are indexed, Government retirees are indexed to the rising cost of living. In fact, almost everybody is indexed except the people who pay the bill, the taxpayers.

Under the circumstances, I shall sum up in this way before I yield the floor.

Here is a program that is fair, that makes sense in macroeconomic terms, which responds directly, perhaps, to the most keenly felt need of most of the people who are working and paying taxes in this country. That is for some relief from the inflationary pressure of this tax burden.

Mr. President, I hope others will join me in supporting this measure. Before I yield the floor to hear their statements, I simply ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I also ask unanimous consent that Senator THURMOND be added as a cosponsor, and the Senator from Utah (Mr. GARN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I admire the Senator from Colorado for his thinking on this subject, but I have to disagree with him on indexing. I was a supporter, once upon a time, of indexing. It is a real siren song. It looks like an easy, pat solution to the problem.

Then I made a study of what was happening in Brazil, went down there and spent some time. I had some staff people go down there and see what is happening. They have one of the most virulent, one of the most excessive inflation rates in the world taking place in Brazil today.

What they told me down there is interesting. Some of them said, "Please don't make the mistake that we made. It is a real cop-out on inflation. It is a way to give up on the fight on inflation."

You just really cannot index the entire economy. You cannot take care of all the segments of the economy. So we are going to get these very major disparities in the way people are treated and the way the private sector is treated.

Then we run into the problem of what we use for an index—which indices do we use? Which ones are tried and true that we can count on from now on, that are really going to be applicable no matter how the economic conditions change?

So we talk about something like the Consumer Price Index, the CPI, and say, "That is the one we are going to use. We have factored that into a number of things already."

How is it working? The Consumer Price Index is obviously distorting what inflation is in this country. When we saw the Consumer Price Index go to 18 percent, we knew it was wrong. Why? Because it put a disproportionate weight on the components of new homes; because it put a disproportionate weight on new home mortgages.

So when we saw the interest rates go up and when we saw the cost of new homes go up—even though people do not buy a new home every year, even though people do not go about incurring a home mortgage every year—we saw that kind of distortion take place and we heard all kinds of complaints about the CPI indicator and how we should change it.

Now what is happening? Now the CPI is going down and we are going to see the same kinds of distortions on the way down that we saw on the way up. And whom are we going to hear from? Different people this time. Absolutely different interest groups who now allege it to be a distortion—because it is not working to their interest at the present moment.

That is what we shall find if we try to index the tax system, Mr. President.

Another thing happens. You lose the option to try to adjust to a deep recession, to try to adjust to the concerns of the Senator from Georgia with regard to military affairs and defenses of this country and what should be done there; to try to adjust to the problem of do we have guns and butter at the same time or do we try to influence it in one direction or the other?

Even if we went then to the corporations and tried to index them, which my friend has not done in this particular measure, but which he has tried to do in his proposals in the past, then we get into the question of whether we are trying to encourage the modernization of the productive capacity of this country. Are we trying to encourage people to buy machinery or trying to just cut the general corporate rate?

If we are trying to cut the general corporate rate by indexing, then we have a situation where they decrease the dividends, they go buy another company, or maybe buy some equipment.

But if we are trying to achieve an economic goal for our country, we would much rather structure the entire system to put the incentives out there where they do not get it unless they buy that new equipment, unless they increase productivity, unless they try to do something that will make the United States more competitive in world trade.

That means producing the goods cheaper, more efficiently and effectively, putting more goods on the shelf at a proper price. That is how we defeat inflation in the long run.

But that is giving the option to the President and the Congress as to how we moderate the system. But if we go to the indexing approach, we have blocked ourselves in, trying to accomplish it, because we set up a formula that may or may not work at the particular time we are looking at the deficit in the budget, and a possible surplus.

I would rather see the options left to a President, be it this one or one in the future, and the Congress, whether it be controlled by the Democrats or Republicans, that these options be left so we can exercise them in the face of economic conditions at that time.

Also, looking at the problem of individuals at the time of inflation, low income individuals who are hurt most, and perhaps indexing does not take care of them as it should with the cost of living going up and we want to moderate it in their favor. But if we have locked ourselves into indexing, that is not available to us.

Mr. President, I urge very strongly that this body defeat this amendment.

Mr. President, I defer for any other comments that anyone may want to make.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, while we debate long-term policies to stabilize the rate of inflation, in this country, I am of the opinion that it is equally important to recognize there are actions we can take to blunt inflation's short-term impact on American employers and wage earners. The most important of these actions is passage of legislation indexing inflation out of the Federal income tax.

Tax indexing is nothing more than a windfall profit tax on Government. It proceeds from the philosophy that any windfall created by inflation should remain with the taxpayer as a buffer against rising prices, rather than passing to the Federal Government. And this is a sound philosophy.

Under the pressure of double-digit inflation," the present tax system has demonstrated built-in inequities and an inherent tendency to fuel the inflationary cycle. Individuals receiving cost-of-living wage increases are penalized by a tax system which simply thrusts them into higher tax brackets," and often suffer actual losses in real dollar purchasing power. They end up falling behind the rise in living costs, forcing them to rob their savings and investments to feed, clothe, and shelter their families. This fuels the desire for even higher increases in the next round of bargaining, but the result remains the same. Without indexing, the present tax system guarantees progressive erosion of real income, as it spurs inflationary psychology.

In the absence of indexing, that system inevitably makes Government the prime beneficiary of inflation. For each 1 percent rise in the Consumer Price Index, Federal tax receipts rise by approximately 1.5 percent. This process cuts deeply into savings and investment, disrupting the balance of the economic system as a whole. It also permits Government to profit from annual tax increases with the necessity of congressional actions—a paradox in this era of increasing demand for Government accountability. It is, in effect, a 1980 version of taxation without representation. Tax increases should neither be hidden nor automatic. Unless Congress chooses otherwise, the inflation dividend should remain in private hands where it can be saved, invested, or used to mitigate the human hardships of inflation.

Indexing legislation would also have a positive impact on the growth of Government. For years, a succession of Congress and administrations have taken this "inflation dividend" and used it to fuel a continuing increase in Government outlays. The result has been a vicious cycle of higher taxes, higher spending, and bigger Government. And the American people have paid for this cycle with inflation, high interest rates, and reduced economic growth. There is convincing evidence in the half dozen nations that have adopted some form of indexing, that tax indexing legislation slows the growth of Government spending. And by doing so, it inevitably slows inflation itself.

The indexing program we offer this afternoon would have an equally significant impact on capital accumulation. During the next fiscal year if indexing were in effect it would shift over $31 billion from the public to the private sector, creating new jobs, stimulating growth, and restoring the capacity to save. It would increase the availability of investment dollars, and create incentives to invest those dollars in the reindustrialization of America. For decades, Government has been seizing a greater and greater percentage of private investment dollars. The results of that trend are apparent in America's declining productivity and aging industrial base. The amendment we offer this afternoon would reverse that trend, and replace the "crisis economics" of the seventies with a program of stable economic growth.

A public opinion survey released in early April revealed that over two-thirds of the public supported tax indexing. Governor Reagan has been an advocate of indexing for many years. And under the leadership of Gov. Al Quie, my own State of Minnesota recently became one of the few States to index inflation out of its State income tax. The majority has not been silent on this issue. Congress and the administration have simply refused to listen.

This afternoon, the Senate has an opportunity to tell the American people that we understand the hardships being inflicted by an unindexed tax system in an era of double-digit inflation. A vote for tax indexing is a vote to ease those burdens. It is also a vote to reduce the size of Government, and control the factors that fuel inflation itself. It is a pleasure to join my colleague from Colorado in sponsoring this amendment, and I urge everyone of my colleagues to give it their full support.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to speak in opposition to this proposal. The Senator from Minnesota has fairly and properly suggested that it has been tried in a number of other countries, with near disastrous results in some, as in the case of Brazil, and with clearly unsatisfactory results, as in the case of our neighbor, Canada, where the indexation of income taxes has led to the addition of permanent deficits, a condition of enormous borrowing by the Central Government, and a circumstance in which the elemental disciplines which inflation imposes upon legislative bodies such as ours are removed.

If I may say so, this is a matter to which, as a member of the Finance Committee, I once was attracted as an ideal and spent some time considering.

The more I, for my part, weighed the obvious, legitimate purposes of the legislation, against what seemed to be inevitable consequences, the more it seemed to me that far from a measure which would combat inflation, it would constitute unconditional surrender to inflation.

It would be a declaration by this body that we do not expect ever to bring the rate of inflation down and take it out of our system. Rather, it is a declaration that we intend to build that expectation into a system, and, as a consequence, create a permanent situation of deficit and the diversion, through Federal borrowing, of precisely those kinds of investment funds which should be in the private sector, and about which the Senator from Texas has spoken.

It is a fact, as I understand it, that the Government in Canada is now much disenchanted with this experience and is moving away from it.

If we want to declare unconditional surrender to inflation, we have the opportunity to do so this afternoon.

It should be perfectly clear, as a matter of experience of that body, and of any other equivalent legislative body, that Government expenditures do not apply in a period such as this—particularly when we do not have control over such a wide range of costs set in international markets.

When you restrict the growth of revenue without imposing a corresponding restriction in the growth of expenditure, you create not just the relatively modest deficits of recent years but also massive ones. You tell the people of the Nation that it will not hurt to have such deficits because there will be no consequence in their personal lives. Yet, it is precisely this consequence in their personal lives that makes a responsible citizenry want to stop something such as the inflationary experience of the past 4 years.

Should we do this today, the world would recognize it as a reckless act, and would assume that the United States is no longer going to try to do what, at great cost and pain for us all, we have done in the budget for the fiscal year 1981.

That the other party should propose to declare deficits to be a permanent condition of the American economy and inflation to be an acceptable and painless circumstance seems to me to defy fiscal and economic logic. Whether it makes political good sense is another matter.

Whatever polls may say at this moment, I urge my colleagues to think very carefully before they vote on this radical experiment.

I welcome the advent of the Grand Old Party to the Brazilian school of economics, but I must say that it comes as a bit of a surprise.

I hope this will be considered most carefully before any final decision is made.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will take only a few minutes.

In some sense most of the major tax proposals before Congress are a response to inflation. Tax-favored savings accounts, dividend reinvestment plans, the 10-5-3 system of accelerated depreciation—each of these is designed to correct the distortion of investment decisions caused by inflation. Yet, nowhere is the effect of inflation more pernicious than with respect to the basic structure of the personal income tax. For that reason we are proposing an amendment that will provide automatic cost-of-living adjustments in the personal income tax. The amendment is sponsored by myself, Senator ARMSTRONG, and Senator DURENBERGER.

The progressive income tax system was created in the belief that the rate of tax should be related to the ability to pay. It was not intended that low and moderate income taxpayers should pay the higher marginal rates designed for upper incomes. Yet in times of high inflation those taxpayers are indeed pushed into higher brackets. The result is instability, uncertainty, and an automatic escalator clause in our basic revenue source.

Mr. President, the interaction of inflation with taxes is a tremendous revenue-raiser. The Joint Committee on Taxation estimates that inflation increases income tax revenues by $1.5 to $1.75 billion for each percentage point of inflation. In fiscal 1981 alone, inflation will raise personal income taxes by nearly $18 billion. Furthermore, in each year the effect of inflation on tax rates is compounded over the previous year. As a result, according to the Joint Committee, absent a tax cut inflation will increase revenues by $125 billion in 1985. That is more than the entire Federal budget was as recently as 1965.

But the impact on the individual taxpayer may be even more telling. Again, the Joint Committee on Taxation has provided dramatic evidence of how inflation raises tax rates and destroys personal incentive. Consider a typical family of four with a modest income of $19,309 in 1979 dollars. A family comparably situated in 1965 paid 7.2 percent of income in personal income taxes. In 1981, unless we act to change matters, that same family will pay 10.8 percent in income taxes. That is a rate nearly 50 percent higher than in 1965. Given such a radical increase in the tax burden, it is no wonder that people become less productive, and more prone to the psychology of inflation.

Mr. President, the answer is as simple as it is urgent. Equalize taxes by indexing the personal income tax rates, zero bracket amount, and personal exemption to inflation. In this way tax rates can remain stable unless Congress, as a matter of policy, chooses to raise or lower them. This is a decision Congress should take responsibility for, rather than ceding that duty to the Consumer Price Index. The present policy is no policy at all.

Equity, fairness, and commonsense all argue in favor of tax indexing. No rate reduction, however well designed, will "hold" in periods of inflation without indexing. With indexing, Congress can better control the fiscal effects of the tax policies it adopts. This is a step we must take now, and it is an absolutely essential component of any program to reform the tax system in the interest of stable economic growth.

Mr. President, I submit for the RECORD some interesting information in connection with tax indexing and showing the effects of taxflation. In New York, for example, if inflation persists at 13.3 percent in 1980, the figure would be approximately $2 billion, and the cost to each taxpayer would be about $245.28. It is much the same in my State. In 1981, if the inflation rate remains 13.3 percent this year, it will cost each taxpayer $237.13.

Mr. President, it seems to me that indexing is more honest. We have discussed previously what we in Congress might do. We probably are going to end up indexing sometime this year, in that we will try to offset the effects of inflation. We probably will pass a tax cut, but it may or may not take care of inflation.

With reference to Brazil, it is my understanding that they not only index taxes but also wages, prices, and everything else. They do have problems with their economy.

In Canada, they started off with a deficit and then reduced Federal spending, and now they have a budget crunch. They may want to deindex so that they can pick up all the revenue they would gain through taxflation.

In my view, failing to index does increase the tax burden. Indexing is not an accommodation to inflation.

I would be willing to predict that it is going to happen in this body. Last year we came within four or five votes of passing an indexing measure. We had bipartisan support—both Senators from Colorado, for example.

We now have indexing to some degree in Colorado, California, Arizona, Iowa, Minnesota, and Wisconsin. By the time a few more States enact indexing, when they index State taxes, I would be willing to guarantee that something will be done on the Federal level.

I suggest that it is an issue that has been discussed. I believe everyone has a position on it.

I ask unanimous consent to have printed in the RECORD the material to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TALKING POINTS ON TAX INDEXING

Taxflation causes a tremendous increase in the tax burden. Personal income taxes increased by about $11.5 billion in 1979 (with 7.7 percent inflation in 1978) and $17.6 billion in 1980 (with 13.3 percent inflation in 1979). If inflation is at 13.3 percent in 1980 (the current CBO estimate), taxes in 1981 will rise another $23.4 billion. In addition, unless tax rates are reduced, each year inflation compounds the previous year's tax increase.

Indexing is not an accommodation to inflation. Inflation bites hard enough that people will not become complacent about it just because the inflation tax penalty is removed. Furthermore, ending taxflation eliminates the automatic revenue bonus to the Government from inflation. Because Government will benefit less from inflation, it will have more incentive to bring inflation under control.

Indexing may help to eliminate the inflationary psychology. While indexing won't cause or cure inflation, it may reduce inflationary pressures by helping to keep wage increases down. With taxflation, workers realize their wages must rise faster than the cost of living so they can just stay even. Remove taxflation, and workers won't need to receive inflationary wage increases simply to maintain the real value of their take-home pay.

The public favors indexing. A Roper poll released to Finance Committee in July 1978 indicated that 57 percent prefers inflation adjustments built in to the tax system, as opposed to periodic tax cuts the Government makes to offset inflation. A more recent poll, taken this spring by the Chamber of Commerce of the United States, shows that 61 percent of the American people now favor tax indexing. Support for indexing is indeed growing.

Indexing is more honest. When Congress claims it is making a tax cut, it is really (at best) restoring to the taxpayers revenues raised by inflation. With indexing, tax cuts will be real tax cuts, and tax increases will have to be made through the legislative process.

Taxflation destabilizes the economy. In the 1970's we have high inflation accompanied by high unemployment. In this situation taxflation reduces purchasing power that might go to savings, investment, or consumption. For example, these automatic tax increases made the 1974–75 recession more severe than it would have been. This is an important fact to remember as we enter another recession with continuing high inflation.

Indexing has been tried, and it works. Canada began indexing in 1974, and they adjust their tax system by the rise in the Consumer Price Index for the last fiscal year. Other countries with some form of indexing are France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and Australia.

State income taxes in Colorado, California, Arizona, Iowa, Minnesota, and Wisconsin include indexing features.

Indexing helps to restrain the growth of Government. Canada, which indexed in 1974, had federal expenditures growing at a rate of 15.9 percent in 1974. The rate declined to 10.24 percent in 1975, 2.7 percent in 1976, and 2.1 percent in 1977. This is a *major* achievement in controlling growth of government.

Taxflation discourages savings. People have less marginal income to save and invest, after necessities. Indexing would restore some of that marginal income, so that people would be better able to invest. More money could be available for capital formation.

Ending taxflation is the least Congress can do for the taxpayer. The Government has failed to control inflation. Until inflation *is* controlled, it is adding insult to injury for the Government *also* to extract an inflation tax penalty from our citizens.

Indexing is needed as a measure of equity. Taxflation makes people uncertain of their tax liabilities, and phony 'tax cuts' further confuse the situation. If we end taxflation, people will know Congress is playing fair. They may be less inclined to evade taxes by resorting to the 'underground economy,' where income is unreported.

Indexing would not unbalance the budget. Congress can cut spending, and with indexing it can still change the tax rates. But any changes will need to be enacted by legislation, not automatically induced by inflation. Congress will have an *incentive* to be fiscally responsible, so that it won't need to raise taxes. Besides, it is unfair to balance the budget on the backs of taxpayers through a hidden tax increase.

Low-income taxpayers are most likely to suffer from taxflation. That it is because the lower tax brackets are narrower, so a rise in nominal income is more likely to jump the taxpayer into a higher bracket, or subject more of his income to the higher marginal rate.

Support for indexing is growing. With continuing high inflation, more attention is being focused on the effects of inflation on taxes. The American Bar Association has endorsed indexing, and last September the New York Times endorsed it. U.S. News and Harper's have featured articles highlighting the problem of taxflation. Columnists George Will and Michael Killian have argued for indexing, as has the National Taxpayers Union. In the House, Congressman Bill Gradison's indexing bill has 142 cosponsors. Other organizations that have endorsed indexing include the American Institute of Certified Public Accountants, the National Taxpayers' Union, and the Advisory Commission on Intergovernmental Relations.

Indexing is a real tax reform, not just a "tax cut". While indexing will tend to reduce people's tax liabilities, it is basically a reform of the tax system to take account of inflation. It would be the most fundamental and far-reaching tax reform undertaken in years.

Taxflation wiped out last year's tax cut. The Revenue Act of 1978 reduced personal income taxes by $12.4 billion, but taxflation raised them again by $11.5 billion, leaving only $900 million in tax reduction. In 1980 taxflation will add nearly $18 billion to the tax bill, putting everyone even further behind.

Periodic tax cuts do not compensate for inflation. Tax cuts are structured differently for different income groups, and do not compensate equitably for all income groups in proportion to the inflation tax penalty. Besides, over time the effective rate of tax rises anyway. The attached table, prepared by the Joint Committee on Taxation, shows the effective tax rate on an average family rising from 8.1 percent in 1964 to a projected 10.8 percent in 1981. That does not even take account of the rise in social security taxes. This trend tends to destroy the progressivity of the tax system.

Attachment.

TABLE 11.—FEDERAL INCOME AND SOCIAL SECURITY TAXES FOR A FAMILY OF 4 WITH $19,309 IN 1979[1]

Year	Income	Federal income tax	Effective income tax rate (percent)	Social security tax	Federal income and social security taxes	Effective Federal tax rate (percent)
1964	$8,132	$655	8.1	$174	$829	10.2
1965	8,272	615	7.4	174	789	9.5
1966	8,509	649	7.6	277	926	10.9
1967	8,754	685	7.8	290	975	11.1
1968	9,122	[2] 794	8.7	343	1,137	12.5
1969	9,612	[3] 891	9.3	374	1,265	13.2
1970	10,181	[4] 896	8.8	374	1,270	12.5
1971	10,618	919	8.7	406	1,325	12.5
1972	10,969	933	8.5	468	1,401	12.8
1973	$11,651	$995	8.5	$632	$1,627	14.0
1974	12,929	[5] 1,063	8.2	756	1,819	14.1
1975	14,111	1,234	8.7	825	2,059	14.6
1976	14,925	1,308	8.8	873	2,181	14.6
1977	15,888	1,471	9.3	929	2,400	15.1
1978	17,105	1,678	9.8	1,035	2,713	15.9
1979	19,039	1,858	9.8	1,167	3,025	15.9
1980	21,526	2,260	10.3	1,320	3,580	16.6
1981	23,593	2,641	10.8	1,569	4,210	17.8

[1] Assuming that income changes as does the Consumer Price Index and that deductible expenses are 23 percent of income. The CPI is assumed to rise by 11.3 percent in 1979, by 13 percent in 1980 and by 9.6 percent in 1981.

[2] Including a $55 surcharge.

[3] Including a $81 surcharge.

[4] Including a $22 surcharge.

[5] Including a $118 tax rebate paid in May 1975.

THE ISSUE: TAX INCREASES CAUSED BY INFLATION

In periods of inflation, a taxpayer's income must rise to enable that taxpayer to purchase the same amount of goods and services. These cost-of-living income 'gains' push the taxpayer into higher and higher rate brackets, increasing the effective tax rate, even though no gain in purchasing power has been realized. This phenomenon is caused by our progressive income tax rates, which requires the taxpayer to pay a higher percentage of his or her earnings in taxes in the higher brackets. The tax code does not take account of the fact that despite nominal income gains, a taxpayer's real standard of living may actually decline.

An example will help to explain this phenomenon. Consider a typical family of four which earned $15,000 in 1979. Assume an inflation rate of 12% in 1979 (the real rate was 13.3%). The family will need to earn $1,800 more in 1980 or $16,800 just to stay even with inflation. But the family will not really stay even. While its income increases by 12%, its income taxes actually increase by 29% or about $361. The family's net spendable income is actually reduced. This increase in the tax rate occurs because the structure of the personal income tax is progressive and the rate brackets are defined in current dollars instead of constant dollars.

The Joint Committee on Taxation has estimated that, for 1979, personal income tax revenues rose by nearly $1.5 billion for each percentage point increase in inflation. However, based on the evidence of recent tax returns, the Joint Committee estimates that for 1980 and 1981 taxes will increase by $1.75 billion for each percentage point of inflation. This would mean that tax liabilities for 1980 will increase by $17.6 billion.

A SIMPLE ANSWER—INDEXING

It has been argued that, notwithstanding taxflation, tax rates are stable over time because Congress periodically adjusts the rate structure. However, those adjustments have never compensated all taxpayers equitably across the income scale. Besides, in recent years those changes have not kept pace with inflation—the 1978 tax cut was wiped out almost immediately.

A better answer to the problem of taxflation is to require annual adjustments of the tax code to reflect changes in the Consumer Price Index. The rate brackets, personal exemption, and zero bracket amount can be readily corrected for inflation. The result would be that, over time, tax rates would remain constant relative to real income. Several bills have been introduced in the 96th Congress that take this approach, and a number of countries, including Canada, have adopted some form of tax indexing.

Tax indexing would neither cause nor cure inflation, but it should be distinguished from, e.g., indexing benefit payments. Tax indexing does not accommodate inflation or cushion society from its effects, but it *would* preserve Congress' control over the tax structure and increase Congress' accountability to taxpayers. And indexing could help moderate wage demands, because with taxflation workers must receive a wage increase in excess of the cost-of-living rise just in order to stay even with inflation.

OTHER EFFECTS OF INFLATION ON TAXES

Other areas of the tax code where indexing has been proposed are:

Depreciation schedules—Inflation tends to exaggerate profits because businesses depreciate based on pre-inflation dollars instead of inflated replacement costs. The purchase price of equipment could be indexed and depreciation could be taken on this figure. Professor Martin Feldstein of Harvard estimates that inflation increases corporate taxes by 50% a year just because of the depreciation problem.

Capital gains—Inflation exaggerates profits here also. A taxpayer must pay taxes on increases in the inflated price of an asset that do not represent a real increase in price. The original purchase price could be indexed so that inflation would be removed and only real gain be taxed. Professor Feldstein estimates that this problem is most acute for those with an adjusted gross income under $100,000. In 1973, Feldstein calculates that this group lost nearly $3 billion in real terms but paid tax on a nominal gain of over $1 billion.

Inventory valuation for corporate tax—Whether the last-in, first-out or first-in, first-out accounting method is used, inventory and material values are often understated during times of inflation. The purchase price of materials and the value of inventory could be indexed to remove inflation from the profit calculation.

A number of tax change proposals that have received attention recently—such as accelerated depreciation and capital gains rate reductions—are in fact substitutes for indexing as a response to inflation. In some cases the alternatives to indexing may be administratively simpler. This is not true, however, of personal income tax indexing, which is administratively simple and easy to implement.

One illustration of the effects of inflation on tax liabilities is the impact on tax revenues in each state, and on each taxpayer in that state. That impact can be measured by looking at the percentage contribution each state makes in federal income tax revenues, and the number of taxpayers in that state, compared with the nationwide effect on tax liabilities from inflation pushing people into higher tax brackets.

Attached is a chart showing the state-by-state breakdown of the effects of taxflation. Inflation is at 7.7 percent in 1978, 13.3 percent in 1979, and 13.3 percent in 1980. The figures per state are based on the states' percentage contribution to federal income tax receipts in 1977.

TAXFLATION PER STATE—1980 AND 1981

State	1980 taxflation	1980 taxflation per taxpayer	1981 taxflation	1981 taxflation per taxpayer
Alabama	$212,115,000	$154.93	$282,016,000	$205.98
Alaska	64,064,000	287.26	185,176,000	381.87
Arizona	156,868,000	157.55	208,564,000	209.46
Arkansas	108,257,000	136.34	143,933,000	181.26
California	1,948,918,000	187.91	2,591,175,000	249.83
Colorado	226,476,000	176.38	301,111,000	234.51
Connecticut	334,752,000	217.02	445,068,000	288.54
Delaware	55,228,000	185.08	73,429,000	246.06
District of Columbia	70,488,000	185.71	93,717,000	246.91
Florida	649,633,000	169.54	863,717,000	225.41
Georgia	317,081,000	152.84	421,574,000	203.21
Hawaii	76,225,000	163.41	101,345,000	217.25
Idaho	50,811,000	151.77	67,555,000	201.78
Illinois	1,155,651,000	216.44	1,536,490,000	287.76
Indiana	449,662,000	191.07	597,846,000	254.04
Iowa	215,441,000	169.71	286,439,000	225.64
Kansas	$183,392,000	$177.59	$243,828,000	$237.13
Kentucky	219,859,000	161.28	292,312,000	214.42
Louisiana	271,779,000	186.08	361,342,000	247.39
Maine	58,555,000	142.65	77,851,000	189.65
Maryland	404,360,000	202.52	537,615,000	269.25
Massachusetts	466,224,000	174.04	619,866,000	231.39
Michigan	867,292,000	211.06	1,153,105,000	280.44
Minnesota	302,720,000	169.69	402,480,000	225.61
Mississippi	103,840,000	140.04	138,060,000	186.18
Missouri	359,057,000	182.16	471,263,000	239.08
Montana	50,811,000	162.19	67,555,000	215.63
Nebraska	113,784,000	165.12	151,281,000	220.21
Nevada	68,499,000	205.34	91,072,000	273.00
New Hampshire	67,390,000	170.50	89,598,000	226.68
New Jersey	728,076,000	203.18	968,011,000	270.13
New Mexico	70,699,000	152.40	93,997,000	220.62

State	1980 taxflation	1980 taxflation per taxpayer	1981 taxflation	1981 taxflation per taxpayer
New York	$1,473,841,000	$184.49	$1,959,539,000	$245.28
North Carolina	328,134,000	139.61	436,269,000	185.62
North Dakota	37,558,000	157.18	49,935,000	208.97
Ohio	932,465,000	180.43	1,239,755,000	239.89
Oklahoma	191,136,000	175.48	254,124,000	233.31
Oregon	202,171,000	164.23	268,795,000	218.46
Pennsylvania	943,518,000	177.88	1,254,450,000	236.50
Rhode Island	67,390,000	152.42	89,598,000	202.64
South Carolina	159,086,000	136.11	211,512,000	180.96
South Dakota	34,249,000	149.02	45,536,000	198.13
Tennessee	$270,670,000	$163.57	$359,868,000	$217.48
Texas	1,120,292,000	206.57	1,489,480,000	274.64
Utah	79,534,000	145.89	105,744,000	193.97
Vermont	26,505,000	146.20	35,240,000	194.39
Virginia	423,139,000	177.53	562,582,000	236.04
Washington	341,387,000	189.90	453,889,000	252.48
West Virginia	123,728,000	173.36	164,502,000	230.49
Wisconsin	335,860,000	169.06	446,542,000	224.77
Wyoming	38,667,000	210.14	51,409,000	279.40

Mr. BENTSEN. Mr. President, this issue, as the Senator from Kansas has stated, has been debated many times on the floor of the Senate. I believe that the case for it has been presented ably by the distinguished Senator from Colorado. I am prepared to move to table, unless he would like to add something.

Mr. ARMSTRONG. Mr. President, I am prepared to go to a vote shortly.

I ask unanimous consent to have printed in the RECORD some material that I think would be useful for the RECORD. The first is a statement of the Tax Foundation, Incorporated, which points out that if a family of four were to get a 14.5-percent pay increase this year, they still would be worse off as a result of the rise in taxes. They would have less after-tax spendable income even though they got a 14.5-percent pay raise.

I also ask unanimous consent to have printed in the RECORD some questions and answers about the concept of tax indexing, which I think will be useful to those who read the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"TAXFLATION" WOULD KO 14.5 PERCENT PAY RAISE

WASHINGTON, D.C., June 30, 1980.—Even a 14.5 percent cost-of-living pay raise won't help an American worker keep the wolf of inflation at bay, tax foundation economists report. Those lucky enough to get a pay hike that exactly matches the projected 14.5 percent inflation rate for 1980 will lose money because of the effect "taxflation" has on any increase in earnings.

"Taxflation" is a term coined to describe what happens as inflationary pressures push workers into higher salary brackets which are, in turn, subjected to higher tax rates. Among other effects, this process brings the Federal government an unlegislated revenue boost each year, the Foundation's researchers explain. But while inflation may be filling the government's pockets, it is emptying the taxpayer's, according to analysis just released by the Tax Foundation.

Anyone who received a 14.5 percent pay boost for calendar year 1980 would, at first blush, seem to be at least staying even. Not so, say Foundation economists. True, the $10,000-a-year family (married couple, one earner, two children) would have an annual salary of $11,450, a net "paper" gain of $1,450 going into 1980. But his Federal income tax would go up by $224 and his social security tax by $89, leaving him with only $10,202, a rise of $1,137 in after-tax income. At a 14.5 percent inflation rate, the 1980 dollar would be worth only 87 cents as compared to the 1979 dollar.

In 87-cent dollars, the $10,202 in 1980 would have the purchasing power of only $8,910 in 1979 dollars—a loss to inflation of $1,292. In sum, the losses due to higher taxes and inflation exceed this worker's salary increase by $155. His apparent gain of 14.5 percent translates to a net loss in purchasing power of 1.7 percent, according to Foundation calculations.

Those earning at a comparatively high level fare no better, the Foundation says. The $35,000-a-year family (married couple, one earner, two children) would be making $40,075 before taxes with a 14.5 percent pay hike, an increase of $5,075 per year. After taxes, in current dollars, this would shrink to $3,317, and in 1979 constant dollars it would actually represent a $668 decline in after-tax income, a loss of 2.4 percent in purchasing power. Inflation would induce a decline in purchasing power of $3,985—while social security payroll deductions claimed another $184 and Federal income taxes took $1,574.

None of the above calculations, Foundation economists say, includes the extra bite taken from earnings by State and local taxes. Also, the 14.5 percent pay boost is admittedly unrealistic. According to a recent report from the Bureau of Labor Statistics, "median family weekly earnings from wage and salary employment rose by 8 percent between the first quarter of 1979 and 1980." Indeed, any such increase would violate the suggested limit of between 7.5 and 9.5 percent a year set forth by the President's Council on Wage and Price Stability.

The accompanying table gives income data for selected levels and the effect of a 14.5 percent increase on those earnings.

Tax Foundation, Inc. is a privately supported, nonpartisan research and public education organization founded in 1937 to monitor tax and fiscal aspects of government at all levels. Its purpose is summed up by the motto: "Toward Better Government through Citizen Understanding."

EFFECT OF A 14.5 PERCENT INCREASE IN INCOME AT SELECTED LEVELS, 1979-80[1]

[Married couple, 1 earner, 2 children]

Adjusted gross income		Change, 1979 to 1980					
			After-tax income[2]		Loss in 1980 purchasing power due to:		
1979	1980	Before tax income	Current dollars	1979 dollars	Federal income tax	Social security tax	Inflation
$10,000	$11,450	+$1,450	+$1,137	−$155	−$224	−$89	−$1,292
15,000	17,175	+2,175	+1,677	−173	−365	−133	−1,850
20,000	22,900	+2,900	+2,120	−270	−602	−178	−2,390
25,000	28,625	+3,625	+2,585	−343	−856	−184	−2,928
30,000	34,350	+4,350	+3,051	−432	−1,115	−184	−3,483
35,000	40,075	+5,075	+3,317	−668	−1,574	−184	−3,985
50,000	57,250	+7,250	+4,209	−1,150	−2,857	−184	−5,359

[1] 14.5 percent is the currently projected rate of inflation in 1980.

[2] Deductions are made for Federal individual income tax and social security tax only.

Source: Tax Foundation computations based on Treasury Department data.

TAX INDEXING: QUESTIONS AND ANSWERS

(1) What is taxflation?

As inflation increases the cost of living, a taxpayer's income must also increase to enable the family to buy the same amount of goods and services. As income levels rise, however, the taxpayer is pushed into higher and higher tax brackets—thus, paying a larger tax bill—although no gain in purchasing power has been realized. Our "progressive" tax system requires citizens to pay a higher percentage of his earnings in taxes. Thus, although the taxpayer is earning more money, his real standard of living may actually decline.

(2) How does taxflation affect a typical family?

The median income of a family of four in 1964 was $8,132, placing that family in the 18% tax bracket. While the median income of a family of four has risen to about $20,000 in 1980 that family is now in the 21% tax bracket. Because the 1980 family is in a higher tax bracket than its 1964 counterpart, and pays more for Social Security, its after-tax income, adjusted for inflation, is worth far less; its purchasing power is $902 less, in terms of the dollar's 1980 value, than that of the 1964 family.

A family of four that earns $20,000 in 1980 must earn $2,720 more in 1981 just to stay even (assuming a 13.6% inflation rate in 1980) before taxes. Even if their gross income does rise to $22,720, when their taxes are computed, their income tax has increased by $466 or 23.1%.

(3) What is tax indexing?

Tax indexing insulates taxpayers from the tax impact of inflation by automatically adjusting tax liabilities each year to reflect increases in the cost of living. Tax indexing adjusts the personal income tax rates, the personal exemption, and the zero bracket amount, i.e. the standard deduction, to reflect increases in the cost of living during the previous year as measured by the Consumer Price Index.

(4) How will indexing ease the impact of taxflation?

Tax indexing automatically corrects the income tax system to prevent inflation from pushing taxpayers into higher and higher tax brackets. It widens all tax brackets by a proportion equal to the rate of inflation. It also adjusts the personal exemption and the zero bracket amount. This has the effect of holding the real value of the tax rates constant and prevents taxpayers from being pushed up from one bracket to another, unless their real incomes have increased. The hypothetical family of four that earns $20,000 in 1980 with a 13.6% increase in earnings for 1981 will be saved about $466 in the first year by tax indexation.

(5) Does the Government have a vested interest in inflation?

The Federal Treasury is the prime beneficiary of inflation. Many economists have stated that, when the cost of living goes up by 10%, the increased taxes flowing into the Federal Treasury go up by as much as 16%. According to the Joint Committee on Taxation, in 1978 taxes were increased by nearly $9 billion. Indexing denies the government this yearly windfall tax bonus.

(6) Will indexing be inflationary?

Tax indexing will not cause nor will it cure our inflationary problems. However, indexing may help keep wage increases down. Without indexing, a worker realizes that a wage increase that just keeps pace with inflation will push him into a higher tax bracket. To achieve a real gain in income, his wages must rise faster than the cost of living. The inflation penalty inherent in the present tax structure is one of the basic causes for inflationary wage demands, since workers must receive inflationary wage increases in excess of the cost of living increases simply to maintain the actual value of their take-home pay.

(7) Didn't Congress just pass a tax cut?

Because of inflation, Congress has passed tax cuts in each year since 1975. The Revenue Act of 1978 provides a $18.5 billion in tax reduction. However, because of inflation and other factors, 80% of our 88.5 million taxpayers experienced a tax increase in 1979.

(8) Does indexing preclude the Congress from changing the tax code?

Indexing the personal income tax is not intended to be a correction for all the inequities in the income tax law. Adoption of tax indexing does not prevent any other changes which the President wishes to propose or which the Congress wishes to enact. Even with indexation, the Congress could still change the degree of progressivity in the tax system or the amount of income tax revenues collected. Tax indexing simply guarantees that taxpayers will not be subject to non-legislated tax increases.

(9) Has indexing been tried anywhere else?

A number of other countries have already adopted some form of indexing their individual income tax rates. These countries include Canada, France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and recently Australia. Under the Canadian approach, which took effect in 1974, the personal exemptions in the tax bracket are adjusted annually by the rate of change in the Consumer Price Index for the year ending the previous September. As a result, the Canadians have adjusted their tax system 6.6% for 1974, 10.1% for 1975, 11.3% for 1976, and 8.6% for 1977.

(10) Does the public favor indexation?

The Roper Organization, in a study released to the Senate Finance Committee in July of 1978, indicated that the public would prefer an annual inflation adjustment factor built into the tax system by a fairly wide margin. According to the study, 57% of the American public preferred indexation to the periodic tax cuts that the government has made from time to time to keep taxes in line with inflation. Only 32% of the public preferred the periodic tax cuts.

(11) Does indexing represent a change in fiscal policy?

Fiscal policy since the early 1960's has focused on reductions of the personal income tax rates. Congress has legislated tax reductions in personal income taxes in 1962, 1964, 1969, 1975, 1976, 1977, and 1978. However, since 1965, the Congress has not cut taxes enough to offset the inflation-based tax increases that have occurred over that period.

(12) Some economists have stated that a progressive tax system acts as an automatic stabilizer on the economy during periods of high inflation. Would indexing remove this automatic stabilizer?

The automatic stabilizer theory is based on the assumption that inflation is the result of an excess aggregate demand. This requires full employment and the sum of all our individual demands will be greater than the available supply of goods. The aggregate demand theory, however, ignores the fact that inflation may be caused by other sectors of the economy, for example, food and energy.

In addition, if inflation and unemployment are occurring simultaneously, the automatic stabilizer becomes a destabilizer. It would be counterproductive during periods of high unemployment to reduce purchasing power that might be used for investment or consumption. Indeed, the failure to index the tax system made the sharp recession of 1974–75 far more severe than it otherwise would have been.

Mr. ARMSTRONG. Mr. President, I respond to the observations of the Senator from New York only to make it perfectly clear to him that I have not the slightest intention of declaring unconditional surrender to inflation. As a matter of fact, I would be glad to join the Senator from New York tonight in declaring victory or to declare almost anything he wishes.

The fact is that whatever declaration issues forth from this place tonight will not alter the fact that prices are rising, wages are going up; that as people are pushed into higher income tax brackets, they pay a greater proportion of their income to the Federal Government.

It is not a question of whether we are giving up on fighting inflation. I believe the Senator knows that I am devoted to controlling inflation, and I am willing to take any measures I conceive to be necessary to do so. The real question is whether or not we are going to permit the Nation's wage earners, the taxpaying families, to suffer automatically as a result of this inflation. I think we should not do so.

Also, an indexing proposal is not an accommodation to inflation in any sense. Inflation bites every family hard as prices rise—as food, fuel, transportation, and everything else goes up.

Everybody is hurt by inflation—every family, every business.

The only entity that comes to mind which benefits from inflation at this time is the Government. Only the Government is better off as a result of inflation. So, basically, this concept of tax indexing is to neutralize the built-in windfall profit that accrues to the Government, and only to the Government, as a result of inflation.

So I join the Senator from New York in my desire to control inflation. I do not regard indexing as in any way an accommodation to the inflationary spiral.

Mr. MOYNIHAN. Mr. President, I assure my friend from Colorado that we do share similar purposes in this regard. It is simply that I feel that this measure would not achieve his goals.

I congratulate him on bringing forward a radical idea, which I regard as wrong, but which is, nonetheless, exactly the kind of quest for solution with which this body should be involved. In my judgment, and in the judgment of my distinguished colleague from Texas, it happens not to be an appropriate one, or one which would work. There is nothing wrong in asking for it to be considered. In that, I congratulate the Senator from Colorado. I wish he had come forward with something that would have more prospect for success.

Mr. McCLURE. Mr. President, will the Senator from Colorado add my name as a cosponsor of the amendment?

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the name of the Senator from Idaho (Mr. McClure) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I do so only because I wish to be associated with this kind of radical solution to our problem.

Mr. BENTSEN. Mr. President, I congratulate the distinguished Senator from Colorado in making, I think, the best case that can be made for indexing. But even with that articulation of the position——

Mr. MATHIAS. Mr. President, I anticipate what the distinguished Senator from Texas may do. I am wondering if he will withhold that, if it will not delay the proceedings more than a very few minutes?

Mr. BENTSEN. I withhold and defer to my distinguished friend.

UP AMENDMENT NO. 1323

Mr. MATHIAS. With that, Mr. President, I send an amendment in the nature of a substitute for the Armstrong amendment to the desk an ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. Mathias) proposes unprinted amendment numbered 1323 to the Armstrong unprinted amendment numbered 1322.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the reading of the substitute amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by adding after section 220 the following new section:

"Sec. 221. Inflation adjustment deduction.

"(a) In General.—There is allowed as a deduction the taxpayer's inflation adjustment amount for any taxable year.

"(b) Inflation Adjustment Amount.—For purposes of this section, the term 'inflation adjustment amount' means an amount equal to the sum of—

"(1) all interest earned, except for that portion which was earned at a rate of interest in excess of the percentage change in the price index for the taxable year; and

"(2) the amount by which personal service income exceeds personal service income for the prior taxable year, except for that portion of such increase which exceeds the percentage change in the price index for the taxable year multiplied by the personal service income for the prior taxable year.

"(c) OTHER DEFINITIONS.—For the purposes of this section—

"(2) INTEREST.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid by a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, credit union, or other savings or thrift institution chartered and supervised under Federal or State law, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, the deposits or accounts of which are insured under Federal or State law or protected and guaranteed under State law,

"(C) interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary, interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public, and

"(D) interest on obligations of the United States, a State, or a political subdivision of a State not excluded from gross income under any other provision of law, and interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) PRICE INDEX.—The term 'price index' has the same meaning as such term is used in section 8331(15) of title 5.".

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 221 and inserting the following new items:

"221. Inflation adjustment deduction.
"222. Cross references."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Mr. MATHIAS. Mr. President, this substitute, I think, meets the objections that the distinguished Senator from New York, for example, has just expressed because what this substitute does is merely to take the profit out of inflation for the U.S. Treasury. It does not attempt to go the whole way that the Senator from Colorado has gone and index all of the tax system. It does not put grease on the pole so that one can not grab hold of it at any point and really pull oneself out of the trough of despondency that inflation has put us in, but it takes the profit out of it for the Government.

We tax income at progressively higher rates. During periods of low or nonexistent inflation, this system is well designed, since it taxes people according to their ability to pay. However, during times of high inflation, this system becomes distorted because inflation pushes nominal income into ever higher tax brackets even though in real terms the income has not increased. The result is that American taxpayers are taxed at progressively higher rates each year.

For example, if a person who made $10,000 in 1978 got a 10-percent raise—essentially keeping even with 10-percent inflation—he or she would pay 12 percent higher taxes in 1979. Thus, not only is the raise offset by inflation, but also the real standard of living is reduced by the increased tax bite. In 1979, inflation forced 80 percent of America's taxpayers to pay over $10 billion more in taxes than in 1978.

My amendment would solve this problem by excluding all cost-of-living salary increases from Federal taxation. In essence, we would be getting up a permanent tax rate schedule with a base income level for every taxpayer. If their salaries increase at a rate that is below or equal to the increase in the Consumer Price Index (CPI), they would not pay any additional taxes. If their salaries increase faster than the CPI, signaling an increase in real income, additional taxes would be levied on the portion of the raise that is above the rate of inflation. In short, only real increases in income would be taxed. This proposal would also exclude all income accrued from savings accounts and stocks and bonds that is earned at rates below the CPI.

This proposal does not purport to be a cure for inflation. But, it does address two important aspects of our problem. First, we have got to get rid of the Government's reward for inflation. If inflation increases 20 percent in 1 year, the Federal Government receives a windfall of $30 billion in additional tax revenues. This gift allows the Federal budget to grow automatically. Before we can seriously talk about controlling excessive Government spending, we must cut the Government's growth rate to zero.

Second, we must begin to account honestly to the American people. The automatic increases in the Federal budget caused by inflation allow the President and the Congress to talk of major tax cuts, when in fact, they are nothing more than a rebate of the hidden tax increases. Our credibility is hurt each time we promise the American people a tax cut and in truth deliver a big fat zero.

Mr. President, in the past, like many of my colleagues, I have shied away from the concept of indexing, for I thought it would "institutionalize" inflation, and reduce our will to fight against it. Yet, at some point, we must realize that the American people bear a tremendous burden because of inflation. We must also realize that we are increasing that burden each year. We can no longer sidestep the issue in the hope that inflation will go away. It is time for us to face squarely the causes and effects of inflation, and to find ways to relieve both.

This is a very simple amendment. It would take the profit out of inflation for the Government. It would give the Government a greater incentive to be more realistic about fighting inflation. It does only that.

I have offered it as a substitute to the Armstrong amendment. But, let me say that I do not want to be unfair to the Senator from Colorado. He has advanced his amendment in good faith and he has argued and debated it. For me to come in at the very end and prevent him from getting a clear shot on the total picture is perhaps unfair.

I am not going to press this substitute to a final vote at this time. I offer it to put the Senate on notice that this proposal does exist and that I am serious about it.

I am going to withdraw it now, but I am going to come back with it again and again and again, and I hope that my friends who serve on the great Committee on Finance will think about it a little bit because I believe it has merit.

Mr. President, I ask unanimous consent to withdraw the substitute.

The PRESIDING OFFICER. Without objection, the substitute amendment is withdrawn.

UP AMENDMENT NO. 1322

Mr. BENTSEN. Mr. President, I say again I think the Senator from Colorado has very ably expressed his point of view and has done as good a job in supporting the idea of indexing as I have heard, but I remain unconvinced still and I hereby move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, if the Senator will withhold for 1 additional minute, I have one matter I wish to take care of before we go to the vote.

Mr. BENTSEN. I withhold with the understanding that I retain the floor.

Mr. ARMSTRONG. Yes.

Mr. President, I wish to congratulate the Senator from Maryland for his statement and I make the observation that the comments by the Senator from Maryland make a great deal of sense, that in the event my amendment is not agreed to, I hope that he will propose his amendment at another time because it deserves serious consideration and it is a worthy and good approach to solving the problem.

Mr. President, I shall ask unanimous consent to have printed in the RECORD the parable of the modern-day little red hen.

Those who were present earlier in the afternoon will recall that the distinguished majority leader and the distinguished Senator from Idaho and I had a lengthy and significant discussion about the effect of tax policy on incentives, and I recalled the story of the little red hen. The majority leader pointed out certain aspects of the story and I thought it incumbent on me to clarify the RECORD.

Mr. President, I ask unanimous consent to have that document printed in the RECORD connected with this proceeding now for the benefit of future generations of those who may peruse the RECORD.

There being no objection, the parable was ordered to be printed in the RECORD, as follows:

THE MODERN LITTLE RED HEN

Once upon a time, there was a little red hen who scratched about the barnyard until she uncovered some grains of wheat. She called her neighbors and said, "If we plant this wheat, we shall have bread to eat. Who will help me plant it?"

"Not I," said the cow.

"Not I," said the duck.

"Not I," said the pig.

"Not I," said the goose.

"Then I will," said the little red hen. And she did. The wheat grew tall and ripened into golden grain. "Who will help me reap my wheat?" asked the little red hen.

"Not I," said the duck.

"Out of my classification," said the pig.

"I'd lose my seniority," said the cow.

"I'd lose my unemployment compensation," said the goose.

"Then I will," said the little red hen, and she did.

At last it came time to bake the bread. "Who will help me bake the bread?" asked the little red hen.

"That would be overtime for me," said the cow.

"I'd lose my welfare benefits," said the duck.

"I'm a dropout and never learned how," said the pig.

"If I'm to be the only helper, that's discrimination," said the goose.

"Then I will," said the little red hen.

She baked five loaves and held them up for her neighbors to see.

They all wanted some and, in fact, demanded a share. But the little red hen said, "No, I can eat the five loaves myself."

"Excess profits!" cried the cow.

"Capitalist leech!" screamed the duck.

"I demand equal rights!" yelled the goose.

And the pig just grunted. And they painted "unfair" picket signs and marched round and round the little red hen, shouting obscenities.

When the government agent came, he said to the little red hen, "You must not be greedy."

"But I earned the bread," said the little red hen.

"Exactly," said the agent. "That is the wonderful free enterprise system. Anyone in the barnyard can earn as much as he wants. But under our modern government regulations, the productive workers must divide their product with the idle."

And they lived happily ever after, including the little red hen, who smiled and clucked, "I am grateful. I am grateful."

But her neighbors wondered why she never again baked any more bread.

Mr. ARMSTRONG. Mr. President, I thank the Senator for withholding his motion.

Mr. PERCY. Mr. President, I commend the distinguished Senator from Colorado for his amendment to index individual income taxes.

As a cosponsor of the Tax Equalization Act introduced by Senator DOLE, I support indexing tax rates to protect taxpayers from the penalty our tax system inflicts as inflation pushes them into higher tax brackets. Taxpayers who receive modest cost-of-living salary increases to compensate for inflation are pushed into higher tax brackets. The result is a higher tax bill and, in many cases, less real income.

According to the Joint Committee on Taxation, tax increases for individuals as a result of inflation will total $125.4 billion in 1985. That does not include increases in social security taxes over the same period of $40.5 billion.

For a family of four with one earner and a median $19,039 income, the effective tax rate continues to climb. Since the middle of the 1970's, "taxflation" has more than eliminated the effect of periodic tax cuts. The Revenue Act of 1978, according to committee statistics, offset these tax increases for only 1 year. In 1964 the effective tax rate for this family was 10.4 percent. By 1981, it will be 17.7 percent.

Mr. President, indexation of individual tax rates is simply a matter of equity to prevent this bracket creep, which is nothing more than an automatic, nonlegislated tax increase.

Opponents of indexation argue that it will fuel inflation because it will reduce the pressure on Congress to deal effectively with the underlying causes of inflation. Quite the contrary, it seems to me that in the absence of indexation upward pressure on wages is greater because workers realize their wages must increase faster than the cost of living to avoid a loss in real income. Taxflation, then, simply adds to the inflationary spiral as business and labor alike seek adjustments in profits and wages to compensate for the extra tax burden imposed by our progressive system.

For these reasons, Mr. President, I applaud the amendment offered by Senator ARMSTRONG as an important reform.

Mr. BELLMON. Mr. President, there are few institutions in this country so honored and extolled yet so totally misunderstood as the progressive income tax. It is presented as a tool of redistribution, a system of reading equity and method for stabilizing the economy. Here I must agree with Senator ARMSTRONG, the progressive tax structure is, in fact, a method of increasing effective tax rates over time—a method of allowing inflation to bail out excessive Government spending and irresponsible Federal deficits. Inflation alone will increase Federal tax revenues by about $10 billion in 1981 according to the the Congressional Budget Office. But, Mr. President, I disagree with the Senator from Colorado that the solution is indexing Federal tax rates to price indexes.

The alternative, of course, is periodic discretionary tax cuts. I submit for the RECORD a chart comparing the active effective tax rate and what the effective tax rate would be if indexed. Note that in 14 of the last 22 years the actual effective tax rate is lower than it would have been if the 1960 Tax Code had been indexed.

Furthermore, no indexing scheme would fully offset the rise in tax rates caused by inflation, because the tax system would have to be adjusted instantaneously to prevent over withholding and an inflation index, not presently existing, would have to be developed that accurately measures the effect of inflation on taxable income.

But my misgivings are far more basic than these, Mr. President. Obviously, additional tax cuts could always be superimposed on the general indexing procession. I have three more basic objections:

First, the necessity of frequent revision of the Tax Code requires Congress to periodically evaluate the consistency of tax policy, fiscal policy and equity. Indexing, I fear, would reduce the impetus for much of the existing oversight and reexamination. The tax system of this country is far too complex and economic institutions are too much in a state of flux to allow any tax structure to exist without constant oversight and examination. I would much prefer a simpler tax system without the morass of deductions, exemptions, credits, IRS rulings and guidelines that are aimed toward social goals as well as revenue requirements. But this is not the case now and indexing superimposed on this maze only makes it more complex.

Second, Mr. President, both economically and psychologically indexing reduces the ability of the economy to reduce inflation. If all wages, input costs, exemptions, deductions, interest rates, and import prices—indeed every good or service denominated in dollar terms—could be equally indexed, we could eradicate the evils of inflation if not inflation. But we cannot possibly hope to do all that. Instead, by assuring taxpayers that their real disposable income will be "sanforized" against shrinkage due to inflation, we arbitrarily select gainers and losers whose wages and cost were not also protected. At least with a fixed bracket system, all parties are informed ahead of time what the tax liability of their individual decisions will be. Indexing, rather than reducing arbitrariness can actually add to it.

Third, Mr. President, indexing appears to be a Federal stamp of approval on inflation. Rather than using the tax system to combat excess demand where it exists and reduce pressures on monetary authorities to increase the rate of growth of money supply, indexing would remove the tax system as a fiscal policy tool. Do we want to hold inflation harmless?

Mr. President, inflation is defined as a decrease in the exchange value of currency—an increase in money relative to the goods and services available for purchase. To hold harmless the real purchasing power of all consumers' after tax income is hardly the proper prescription under all circumstances. Though I sympathize with Senator ARMSTRONG's desire to offset the impacts of an inflation caused by irresponsible Government to the consumers' after tax income, I cannot endorse a policy which, without further changes in the Tax Code and economic system, would be equally devastating.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

INDIVIDUAL INCOME TAX LIABILITIES, ACTUAL AND ASSUMING INDEXED 1960 TAX CODE PROVISIONS, 1960-79

	Actual law		1960 tax code indexed	
Year	Income tax liabilities	Effective tax rate	Income tax liabilities	Effective tax rate
1960	39.5	10.7	39.5	10.7
1961	42.2	11.1	40.8	10.7
1962	44.9	11.1	44.3	11.0
1963	48.2	11.3	47.3	11.2
1964[1]	47.2	10.4	51.4	11.3
1965	49.5	10.1	56.7	11.5
1966	56.1	10.4	62.9	11.7
1967	62.9	11.0	67.8	11.8
1968	71.5	11.5	74.5	12.0
1969[1]	78.9	11.7	81.7	12.1
1970	81.9	11.4	86.5	12.1
1971	85.4	11.2	92.0	12.1
1972	93.6	11.3	101.8	12.3
1973	108.1	11.6	115.4	12.4
1974	115.2	11.4	124.0	12.3
1975[1]	124.5	11.7	137.7	13.0
1976[1]	141.8	12.2	143.9	12.3
1977[1]	159.8	12.4	161.0	12.5
1978[1]	188.6	12.9	182.8	12.5
1979	212.5	13.0	204.9	12.6
1980	249.2	13.8	226.9	12.6
1981[2]	283.1	14.3	251.6	12.7

[1] Years of major tax reductions.

[2] Assumes tax cut in budget resolution.

Source: Emil Sunley and Joseph Pechman, "Inflation Adjustment for the Individual Income Tax," in Henry Aaron, Inflation and the Individual Income Tax, Brookings Institution, 1976 Congressional Budget Office and Joint Tax Committee calculations were used for 1974 to 1979.

Mr. BENTSEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Colorado.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MATHIAS (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Arizona (Mr. GOLDWATER). If he were present he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Indiana (Mr. LUGAR) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "nay."

The PRESIDING OFFICER (Mr. HUDDLESTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—54

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Baker
Boschwitz
Church
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Magnuson
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Stafford
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mathias, against.

NOT VOTING—6

Goldwater
Kennedy
Lugar
Ribicoff
Simpson
Talmadge

So the motion to lay on the table UP amendment No. 1322 was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I am opposed to the indexation amendment on income tax. Indexation of income tax revenues raises some very serious questions about the commensurate level of Government expenditures. Before we consider indexing Government revenues against inflation, we must make sure that we not exacerbate the very situation we are trying to deal with through the amendment. Furthermore, indexation at this very serious economic juncture would rob us of the ability to update our economic analysis and modify our policies in light of the most recent economic data. Notwithstanding my present position on the indexation issue, I will vote against the motion to table in order to permit my colleagues to have the opportunity to debate and vote on the merits of the amendment.

UP AMENDMENT NO. 1324

(Purpose: To provide for a review of the level of the public debt on October 1, 1980)

Mr. McCLURE. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an unprinted amendment numbered 1324.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 4 strike "February 28, 1981" and insert in lieu thereof "October 1, 1980".

On line 7 strike "525,000,000,000" and insert in lieu thereof "510,000,000,000".

Mr. McCLURE. Mr. President, I am proposing an amendment to the debt limit extension that will limit the extension to September 30, 1981, and adjust the limit accordingly,

In May the Finance Committee voted to extend the temporary limit on the public debt until February 28, 1981. This is an unusually long extension of the debt limit. If adopted by the full Senate, it will preclude necessary reexamination of the Federal Government's debt financing needs.

I say such reexamination will be necessary because we are in a period of great economic uncertainty. Depending on the rate at which the recession takes hold of our economy, and the speed of recovery, the debt financing needs of our Government could increase greatly in the coming months. We cannot accurately project at this time what the debt limit should be through the end of next February. Furthermore, we ought to take another look at our action on the debt limit in connection with the second budget resolution. While the Senate has not adopted the House procedure which links the two actions, in this year of severe economic downturn, it is important that we act in a consistent manner on the budget and the debt situation of the Federal Government.

Mr. President, for the reasons cited above, I propose a simple amendment to the debt limit resolution. The amendment simply provides that the debt limit will be extended through September 30, 1980, rather than through February 28, 1981. This is consistent with the previous practice of the Congress. The reexamination comes at the end of the fiscal year, consistent with national budgeting and financial planning. In addition, under my amendment the amount of the temporary limit would be limited to $510 billion. This is consistent with the administration's original request for a temporary limit of $505 billion through September 30, 1980, plus a bit more leeway than the administration sought. I do not think it advisable to extend the debt limit through nearly the middle of the fiscal year 1981. I believe my colleagues will agree, and approve this amendment without delay.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this will be the third time we have voted for a debt limit bill this year, and all three times have been within this month of June. If we vote the tax cut, which we expect to vote on in September, that will again move forward the date we will vote on the debt limit again. We will have to vote it again even before February 28.

In addition to that, we will look at the debt in connection with the second budget resolution. There is just no need to make us vote on a debt limit bill for the fourth time in this session. I hope this amendment is not agreed to, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1324) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Will the distinguished floor leader engage in a little colloquy with me so I can understand what we are doing?

Mr. LONG. I will try.

Mr. MORGAN. Is my understanding correct that the present debt ceiling limit expires on June 30?

Mr. LONG. The Senator is correct.

Mr. MORGAN. This, of course, takes care of the national debt that has accumulated over a period of 25, 30, or 40 years, does it not?

Mr. LONG. And more than that, yes.

Mr. MORGAN. What I want to know is if we do not extend this debt limit beyond June 30, will the 35 million or so people who receive social security in this country be able to get their checks for July?

Mr. LONG. They could not be paid.

Mr. MORGAN. Why could they not be paid?

Mr. LONG. Because the debt limit would revert back to the permanent debt of $400 billion, and the Government could not borrow money to pay its debts. Therefore, there simply would not be enough cash available to pay them.

Mr. MORGAN. What the Senator is saying to me, then, is that if we do not extend the debt limit, there will not be enough money to pay, and these elderly people all across the Nation, but especially those that I am concerned about in North Carolina, will not get their social security checks in July, they will not be able to pay their rent or utility bill and will not have any money to buy groceries with from social security, is that correct?

Mr. LONG. That is correct.

Mr. MORGAN. I have a lot of farmers in my State and we have a number of farm support programs that assist the farmers in agriculture and agricultural conservation practices. But if we refuse to extend this debt limit, or if we fail to extend this debt limit, will there be any money available to pay these farmers to continue on their farming and conservation practices?

Mr. LONG. There will not be. We would not have the money available. It would be against the law to borrow any.

Mr. MORGAN. In effect, what the Senator is saying to me is that agricultural programs would come to a standstill.

Mr. LONG. They would.

Mr. MORGAN. I am very much interested in rural housing because I believe that housing is one of the greatest problems that this country has ever faced. I know that in the last 4 years the Farmers Home Administration has invested more in rural housing and development than it has in its entire history. I know that in the last 3 years more investment has been made in rural housing than there has been in three decades preceding that time. Will there be any of this Farmers Home Administration money available for the rural housing programs which are sort of my pet projects?

Mr. LONG. None will be available.

Mr. MORGAN. What about the military, the Army, will there be any money available to pay the Army?

Mr. LONG. The Army could not be paid, the Navy could not be paid, and the Air Force could not be paid.

Mr. MORGAN. In North Carolina we probably have more retired military people or as many as there are in almost any State, especially if you judge by the mail I receive on various issues, Mr. President. If we do not increase this debt ceiling will there be any money available to pay the military retirees in this country or the civil service retirees?

Mr. LONG. There would not be.

Mr. MORGAN. In the opinion of the Senator, does a vote to increase the debt ceiling indicate to the Senator that we favor unlimited deficit financing? Is that the way it is interpreted by the Senator?

Mr. LONG. No, not in my judgment. In my judgment, it is simply a matter of voting to pay the bills which have been incurred. We have done all we could to hold spending down, but when the obligations have been incurred, it is my view that we have no choice but to pay them.

Mr. MORGAN. In other words, the time to talk about deficit financing and big government spending is when we deal with these appropriation bills and spend the money?

Mr. LONG. Let me compliment the Senator for analyzing it exactly correctly.

Mr. MORGAN. Does the Senator agree with me that, as a member of the Senate, once we have engaged in debate on these appropriations bills and—whether the Senate and the Congress agree with my personal views or not—in this democratic Congress of ours, where we go by the majority rule, once Congress and the President have, according to law, incurred these obligations, as a Member of the Senate, I have a moral obligation to do whatever is necessary to pay for those obligations?

Mr. LONG. I think so. That is how I feel about it, Mr. President.

Mr. MORGAN. I thank the Senator.

I was not trying to be facetious but, Mr. President, there is an organization in Washington that is sending out leaflets all across America. They are sending out one in North Carolina in which they compare my voting record with those of my distinguished colleague from South Dakota (Mr. McGOVERN) for whom I have a great deal of respect, and Senator KENNEDY, for whom I have a great deal of respect. They have a number of issues on it.

One of those issues is "favors unlimited deficit spending." My colleague from South Dakota and my colleague from Massachusetts and myself are listed as, "Yes."

When I go back and check the RECORD vote that they refer to, it refers to one of these votes where I voted to increase the debt limit. But what the Senator is saying to me is, had I not done it and had not a majority of Congress done it, all of these people that I have listed would not have any pay coming and the Government would come to a standstill.

Mr. LONG. That is correct, Mr. President.

Mr. MORGAN. I thank my distinguished colleague.

Mr. LONG. I ask for the yeas and nays. Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, as far as the Senator from Kansas knows, there are no further amendments. Before voting on passage, I thank my colleagues on both sides of the aisle, those on this side of the aisle for supporting my amendment and those on the other side for rushing to the rescue of the American taxpayer.

I really believe that a day makes a lot of difference in Washington. We have now, I think, with some amount of certainty, said to the American people that most Members of the Senate—and there are some on both sides who do not agree—that there will be a tax cut. The only thing we have to determine now is the exact size and the exact mix, which I assume will be done in the Senate Committee on Finance, where the Senator from Kansas is privileged to serve with others, including the distinguished chairman.

I do believe that there has been some suggestion that there were politics involved in this. I cannot really believe that, but I would be willing to stipulate that if there were, there was some on each side. Certainly, we are not free of politics. You would think so, because we have been in the minority so long, but we are beginning to understand politics a little better on the Republican side. We are beginning to understand that before you can lead, you have to win; and before you can win, you have to be responsible and you have to attract people who, normally, would stay at home or vote for some other party. So we hope that, by this exercise, the American voters—and nonvoters—understand that the Republicans are alive and well and living in Washington and one who is now living in California will be living in Washington, I hope, for the next 8 years.

That is the way the system works. It seems to me that we have had a lot of cooperation with every Member, Democrat and Republican. It is not partisan in the sense that any of us has any less concern for the American taxpayer. The Senator from Kansas would never indicate that, never hint or intimate that. But I do believe that we may have hastened the time when the tax cut will become a reality. For that, I am grateful to my distinguished chairman.

Mr. President, if things go as some predict and we should take over the Senate, I shall propose that the distinguished Senator from Louisiana serve as honorary chairman of the Committee on Finance.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the third reading and passage of the joint resolution.

The resolution (H.J. Res. 569) was ordered to a third reading and was read the third time.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the national debt in the 20th century.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The national debt in the 20th Century[1]

(Totals at the end of fiscal years rounded to the nearest billion dollars)

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1

1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	19
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	58
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	410
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979	833
1980*	887

[1] Gross Federal debt.

*Estimated figure.

SOURCE.—Office of Management and Budget, fiscal year 1981 budget.

Mr. THURMOND. Mr. President, I express my strongest opposition to House Joint Resolution 569, a measure to once again increase the public debt limit. Passage of this resolution would increase the public debt limit to $925 billion through February 28, 1981.

Mr. President, I believe it is time we put a stop to placing such burdens on America's future generations. Over the last 10 years, the so-called temporary debt limit has been increased by $467 billion. The largest increases have been incurred during the Carter administration, and now we are again asked to increase the public debt limit.

Mr. President, where is all this spending going to end? Who is going to pay off this tremendous debt? Congress must make an effort to balance the budget and begin reducing the public debt—not raise it.

It is no wonder to me that so many Americans have little faith in Congress. This latest move to again increase the public debt ceiling is not in the best interest of the American taxpayers and can only be viewed by them as symbolic of the misguided economic policies of this administration and the Democrat-controlled Congress.

Mr. President, it is considered unwise in the private sector of this country for anyone—business or household—to continually have expenditures exceeding receipts. If they persist in this practice, they soon find themselves facing bankruptcy. I believe this same principle holds true for the Federal Government.

Mr. President, I think it would be most unwise to again increase the public debt ceiling. The chief cause of inflation is when the Government spends more than it takes in. How are we to reduce inflation while pursuing a policy of continued big spending? How quickly we seem to have forgotten the unprecedented high inflation rates of the last few months.

Mr. President, I do not believe increasing the public debt is in the best interest of the American taxpayer, nor the country as a whole. Furthermore, I do not believe it is the will of the American people.

I hope my colleagues in the Senate will oppose this resolution, which would be a significant step toward the restoration of fiscal responsibility in this Nation.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Indiana (Mr. LUGAR) and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—54

Baucus
Bayh
Bellmon
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Danforth
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Packwood
Pell
Randolph
Riegle
Sarbanes
Stafford
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NAYS—39

Armstrong
Baker
Boren
Boschwitz
Byrd,
Harry F., Jr.
Cochran
Cohen
DeConcini
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Nunn
Percy
Pressler
Proxmire
Pryor
Roth
Sasser
Schmitt
Schweiker
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—7

Cannon
Goldwater
Kennedy
Lugar
Ribicoff
Simpson
Talmadge

So the joint resolution (H.J. Res. 569) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I hesitate to say this, but as we sit here, we cannot hear what is going on in the Senate. I say that kindly. I want to hear my colleagues with their requests and their discussions. I am not critical, but I am just calling attention to something we need to have called to our attention.

The PRESIDING OFFICER. The Senate will be in order.

SUPPLEMENTAL APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 905, H.R. 7542, the supplemental appropriations bill.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. STENNIS. May we have order, Mr. President?

The PRESIDING OFFICER (Mr. PRYOR). The Senate will be in order.

Mr. BAKER. Mr. President, reserving the right to object, I must say, in all deference and respect to the majority leader, that we have negotiated long and hard and unsuccessfully to try to waive part of the 3-day rule in order to proceed to the 1981 supplemental. I would not totally preclude that possibility, so that we could go to it tonight.

However, I state the reservation for the purpose of finding a little time to get one or two Senators on this side to the floor, so that they may have an opportunity to speak for themselves.

In the meantime, if the Senate will forbear for a moment, or if the majority leader will withdraw his request temporarily, I will try to do that.

Mr. ROBERT C. BYRD. Mr. President, while the minority leader is awaiting some discussions with Senators on his side with respect to the supplemental, I withdraw the request temporarily.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I am looking for Senator Church, who was on the floor a moment ago. There is a conference report that I believe he and Mr. McClure would like to dispose of, and it can be done in a very few minutes, I understand.

Mr. McCLURE. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. I do not disagree with what the Senator is saying. I want to correct the statement only in this regard: I do not object to taking care of the matter. It is not something I am anxious to move to.

Mr. ROBERT C. BYRD. I stand corrected. Mr. McClure is interested, and Mr. McClure does not object.

Mr. McCLURE. Yes.

WIND AND OCEAN THERMAL ENERGY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5892.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies.

(The amendment of the House is printed in the Record of June 20, 1980, beginning at page 15862.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House—I do this on behalf of Mr. Jackson—and agree to the conference requested by the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. The motion that the Senate disagree to the House amendment and accede to the request for a conference and that the Chair appoint the conferees is agreed to.

The Chair appointed Mr. Jackson, Mr. Church, Mr. Durkin, Mr. Matsunaga, Mr. Hatfield, Mr. McClure, and Mr. Domenici conferees on the part of the Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 893, 910, 914, and 915.

Mr. BAKER. Mr. President, reserving the right to object, and I have to object. I believe I have a requirement that the distinguished senior Senator from New York be present for the consideration of Calendar Order No. 914.

I see he is now in the Chamber so I have no objection to the Calendar orders enumerated by the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAPPOINTMENT OF WILLIAM A. M. BURDEN AS A CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 180) to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. J. Res. 180

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of William A. M. Burden of New York on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 471) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6974, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(a) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6974, a bill to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 6974, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MID-DECADE WOMEN'S CONFERENCE

The Senate proceeded to consider the resolution (S. Res. 473) deploring the politicization of the Mid-Decade Women's Conference and urging the U.S. delegation to oppose any politically-motivated resolutions at the conference.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I ask unanimous consent that the following Senators may be added as cosponsors: Senators Metzenbaum, Packwood, McGovern, Stevens, DeConcini, and Williams.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to express my thanks to the leaders for giving this what I consider an important resolution prompt consideration.

Mr. President, I have introduced Senate Resolution 473 which passed the Senate Foreign Relations Committee on June 24 because of the deep concern that I and the other cosponsors of the resolution feel about the increasing misuse of the specialized U.N. agencies as fora in which to criticize Israel and inject controversial discussions of the Middle East into apolitical, technical meetings and conferences.

Such abuses of the structure of the U.N. system have been occurring with increasing frequency in recent years, and we are now witnessing an intensification of such efforts, with potentially grave consequences for the future of the Middle East and the peaceful resolution of the Arab-Israeli conflict. Recently, the Resolutions Committee of the International Labor Organization, which the United States has just rejoined after a 27-month withdrawal, gave priority to a Jordanian resolution condemning Israeli settlement policies on the West Bank.

Of potentially greater import is the decision of the Preparatory Committee for the U.N. Mid-Decade Women's Conference to include a separate agenda item on Palestinian women at the conference and to accept a biased report prepared by the Arab States and the PLO as official documentation for the conference—the subject of Senate Resolution 473.

The Mid-Decade Women's Conference, scheduled to meet in Copenhagen from July 14–30, is an integral part of the United Nations Decade for Women which began in 1975 with the International Women's Year Conference in Mexico City. We should remember the Mexico City Conference—not for the detailed objectives and programs it developed to ameliorate the conditions of women's educational, health and employment opportunities throughout the world—but rather for the statements and resolutions adopted at the conference which, for the first—but not last time, equated Zionism with racism. Those actions set the precedent for the infamous general assembly resolution that directly equated Zionism with racism. As the many national delegations who will be attending the mid-decade followup conference next month prepare for that conference, they must again face the unfortunate prospect that this conference will be diverted from its clear and specified objectives towards politically motivated debates and initiatives on an issue that does not relate to the goals of the conference and the decade.

Several days will be spent discussing the problem of women as refugees, so why has a separate item been included on the problem of Palestinian refugees? Why has a 66-page document been accepted as official documentation for the conference where official documents are limited to 32 pages?

Why not discuss the problems of Cambodian, Ethiopian, Afghan, or Arab women? The answer, Mr. President, is that the supporters of these initiatives have no interest in discussing and attempting to resolve the serious problems that confront women in every country of the world—the problems of adequate medical and nutritional care for themselves and their families, the problems of finding jobs with fair and adequate compensation, the problems of access to and acceptance into educational institutions. These are the real issues of the conference and the ones to which all delegations should be devoting their full time and energies.

Instead, Mr. President, two committees will deliberate for 2 days on the question of the "Effects of Israeli occupation on Palestinian women inside and outside the occupied territories." As is clear from the agenda item itself, the discussions are intended to focus the attention of the conference on the Arab-Israel conflict and to try to hold Israel responsible for all the problems faced by Palestinian women. The official document on which most of the debate will focus goes beyond even the blatantly political agenda item I just mentioned.

This biased report makes a clear point of referring to Israel as the "Zionist entity" or as "the 1948 occupied Palestine," thus questioning the legitimacy of the very existence of the state of Israel. And, the report argues, it is the fact of Israel's existence and the results of the "Zionist intrusion" that have created problems for Palestinians in general and Palestinian women in particular. The natural conclusion from the report's assumptions is that only the destruction of Israel can resolve the difficulties that face Palestinian women.

Mr. President, my concern is that unless the world is alerted to this exploitation of an important conference, unless the U.S. delegation is firmly committed to opposing such initiatives, unless significant preparatory work is taken with those women and those delegations who really care about pressing global women's issues, this Mid-Decade Conference could set another alarming U.N. precedent that may later be reflected in the work of other U.N. conferences.

Therefore I urge my colleagues to support and speak out on behalf of this resolution which deplores the politicization of the conference and urges the U.S. delegation to oppose any initiatives not directly related to the goals of the conference. It is rare that women from all nations of the world can meet to discuss the common and specific problems they confront in attempting to live a full existence under frequently harsh conditions.

To inject into this meeting an issue that has been discussed in almost every major international forum is doing a disservice to the cause of women throughout the world and can only be destructive of the objectives of this conference and of the goals of peace in the Middle East.

Mr. President, I ask unanimous consent to have printed in the Record, an excellent analysis of the Mid-Decade Conference by Sidney Liskofsky which I commend to all my colleagues.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

World Conference of the United Nations Decade For Women

The PLO's diplomatic warfare has been cranked up since Camp David on many fronts inside and outside the U.N. Inside, it has missed few opportunities to tack on its charges and demands to general issues and programs throughout the U.N. system, including the political bodies, Specialized Agencies, and technical conferences. The upcoming world conference of the United Nations Decade for Women, to be held this coming July 14–30 in Copenhagen, is the latest battleground.

One of the PLO's major propaganda triumphs was the International Women's Year (IWY) Conference in Mexico City in 1975, from which was launched the U.N. Decade for Women, 1976–85. At that conference, a decision was made to hold in mid-Decade yet another world conference to evaluate the progress made and obstacles encountered to date in fulfilling the aims of the Decade on the national, regional and global levels and to plan for the second half of the Decade, 1981–85. The evaluation was to be based on the Plan of Action adopted at Mexico City, which centered on the objective of equal rights with men and on needs in the areas of education, employment, and welfare services.

At Mexico City, in addition to condemning Zionism (which served as precedent later that year for the General Assembly's offensive resolution equating Zionism with racism), "Palestinian and Arab women" were singled out for special attention by the appeal to the women of the world "to proclaim their solidarity with and support for the Palestinian women." All States and international organizations were requested to give them—and the Palestinian people as a whole—"moral and material support in their struggle against zionism" (derogatorily spelled with a small "z") and for self-determination and independence. The conference called on the UN regional commissions, among them the Economic Commission for Western Asia (ECWA), to formulate regional action plans in lines with the aims of the Decade.

Pursuing the proven tactic of joining its cause to the anti-apartheid movement, despite the fundamental differences in their historical roots, their goals and methods, and their essential nature, the PLO had little difficulty in persuading last year's General Assembly to single out, from among women in all other countries, Palestinian women along with women under apartheid for special consideration at the mid-Decade conference. Accordingly, the Copenhagen agenda includes the question of the "Effects of Israeli occupation on Palestinian women inside and outside the occupied territories," to be considered under two subheadings: (a) A review of the social and economic needs of the Palestinian women, and (b) Special measures for assistance to the Palestinian women inside and outside the occupied territories.

In planning to use Copenhagen for a major propaganda offensive, the PLO had a pliable instrument in the ECWA, which is composed entirely of Arab states and includes the PLO as a full-fledged member, though it is not a UN member state. It excludes Israel even though it is a member state and is geographically a part of the region, in violation of the UN Charter principle of universality and sovereign equality of members.

Already in October 1978, the ECWA had adopted a regional plan of action for the integration of women in development, which assigned a special place "to the Palestinian woman as a primary priority for Western Asia." At the same meeting, it requested its Executive-Secretary to seek inclusion of the subject of the Palestinian woman on the agendas of all world and regional conferences dealing with the problems of women and development, in preparation for the 1980 world conference. This request was forwarded to the Preparatory Committee for the conference at its second meeting, August 27-September 7, 1979. The Committee thereupon requested its secretariat to collaborate with the ECWA in preparing for consideration at its next session two reports on Palestinian women: one on special measures to assist them, the other on their social and economic needs.

Several weeks later, in December 1979, the ECWA with the cooperation of the conference secretariat, convened a meeting in Damascus, Syria, for the purpose of adopting a regional plan of action for the second half of the Decade. The meeting was attended by representatives of the following states: Bahrain, Democratic Yemen, Iraq, Jordan, Kuwait, Lebanon, Oman, Syria, United Arab Emirates and Yemen—and the PLO. (The absentees were Egypt, Qatar, and the other Yemen.) Syria was elected chairman and the PLO representative the rapporteur.

Predictably, the meeting approved and forwarded to the Preparatory Committee, at its third session in April 1980, two reports for inclusion in the official documentation of the conference, corresponding to the two parts of the anticipated Palestinian agenda item: one on special measures of assistance, the other on their social and economic conditions. Approval of the latter document was achieved, typically, with cavalier disregard for proper procedure.

In effect, the Preparatory Committee was asked to accept the document sight-unseen. Only after vigorous protest from the Israeli observer and from Western members was it made available on a limited basis. They criticized its politicized approach to the issues of women and urged that it be either revised or treated as a background paper rather than as an official document of the conference. They also criticized the Chair's ruling in closing the discussion and thereby assuring that the document would be treated as official, for having been made without adequate discussion and in disregard of the principle of consensus by which the Committee had hitherto operated. There was also criticism of the refusal of the UN's Legal Counsel to provide an opinion as to the status of the document.

The PLO strategy for Copenhagen is evident in both documents, which are frank and uninhibited in their political approach to the conference: namely, that the Arab-Israeli conflict overall, including the Zionist idea and the very legitimacy of Israel as a Jewish state, are to be treated as central to the question of the conditions and needs of the Palestinian women, and as proper subjects for debate and action by the conference. With this thesis and this strategy, it is obvious that these documents barely touch on the real problems and needs of Palestinian women, many of which they share with women in other Arab lands, and are related to Arab customs and mores as well as Islamic doctrine and tradition. These problems and needs long antedated the State of Israel and the Zionist movement. Even less was it to be expected that the documents would point out gains that may have accrued to Palestinian women since the advent of the Jewish state.

The "special measures" document states in its introduction that the Principles of the Decade—Equality, Development and Peace—are realizable for the Palestinian woman only if the Palestinian people as a whole enjoys political independence and sovereignty on its own land. In the same vein, it rehearses a series of UN and Specialized Agency resolutions dealing with needs of the Palestinian people as a whole, not focused on women, for which assistance is to be provided—through the PLO. Many of the specific categories of need cited relate to Palestinians generally, without indication of the special relevance to women, or with the connection to women artificially tacked on.*

The report on the "social and economic conditions of the Palestinian women" also opens with an unabashed political approach, declaring that the problems of Palestinian women cannot be brought to "drastic solutions" unless linked to "the 'Palestinian Problem' as a whole," and to "the Arab-Israeli conflict in general." These are explained as embracing not only the post-1967 Israeli occupation in the West Bank and Gaza but also "the 1948 Occupied Palestine."

This document contains an uninhibited attack on Zionism and on Israel as a Jewish state, and is premised on the illegitimacy of the State of Israel, whatever its borders. Zionism and Israel are depicted as products of Western colonialism, inherently racist, and inimical to the "movement of the Arab peoples . . . towards independence, unity and social development, especially the Palestinian people;" and as destructive of Palestinian identity, culture and social structure.

The theme of women, tacked on to this over-arching thesis, is often dragged in pro forma as if to fulfill a merely technical requirement.

The argument, in short, follows this line: all Palestinians have suffered from the Zionist-Jewish state, but the greatest losses have been inflicted on the women (and also on the poor), and therefore the overall Palestinian problem and the Arab-Israeli conflict overall come within the terms of the Women's Decade and the Copenhagen conference.

Even more than the "special measures" report, this is a political manifesto, and but another application of the PLO strategy of utilizing every corner and crevice of the UN system for its anti-Israel diplomatic warfare.

By claiming special consideration for its demands, whatever the subject and irrespective of the fact that other peoples and groups have equally urgent claims to international assistance, the PLO has politicized and imposed a "selective morality" on the UN Specialized Agencies and technical programs. Even those who view the Palestinian cause as just would not deny the equal claim to international attention and assistance of the women of Afghanistan, Kurdistan and Cambodia, the Vietnamese boat-women, the indigenous Indian women of South America, or the Iranian and other women under intolerant religious rule. If the problems of Palestinian women cannot be understood and solved apart from the overall historical and political context of which they are an element, why then should not the conference inquire into the historical and political contexts in which the troubled women of these and other nations and people live?

In obliging the UN to submit to its manipulations, the PLO has harmed not only the wider purposes of the Copenhagen world conference, of advancing the cause of women everywhere, but it has added another strain to the embattled UN system. For this system is based on the assumption of complementary but yet distinctive roles for its political bodies as contrasted with its Specialized Agencies and technical programs.

Whereas states are expected to utilize the political bodies, particularly the Security Council and General Assembly, as confrontational forums where political and ideological differences are vented and fought over, the role of the Specialized Agencies and technical programs should be otherwise: they should serve as instruments for cooperative action—for defining and identifying common problems and needs, exchanging experiences, and devising and carrying out assistance programs.

In their respective areas—whether meteorology, navigation, civil aeronautics, urban planning, disease control, penology, childrearing, the aged, or other—these agencies and programs are expected to transcend or minimize political and ideological differences. This applies as well to the special problems of women.

Too often in recent years, in UNESCO, the ILO, the International Civil Aviation Organization, the World Health Organization and other Specialized Agencies, and in the UN's special conferences on women, habitat, humanitarian law, development, racism and other subjects, efforts to deal cooperatively with common problems have been overshadowed by the PLO's strategy, backed by Arab oil and Soviet power, of provoking repetitious replays—from its viewpoint—of the complex and controversial Middle East conflict. In addition to the enormous waste of the strained resources of the member states, and the diversion from their crucial and shared goals, its successes are prejudicing the integrity and credibility of the UN system itself.

Mr. MOYNIHAN. Mr. President, what appeared 5 years ago as a novel and somewhat curious development at the Mexico City World Conference of the United Nations Decade for Women, has now attained the status of ritual in that institution. I speak of the usurpation of the United Nations and its agencies as a forum for the assault upon the democratic nations of the world. Mexico City marked the birth of this practice, for it was there that we first witnessed the equation of Zionism and racism as an official tenet of an international organization.

Since that time, scarcely a conference or general assembly has passed without the invocation of this formula. So much has this become the expected course that our own President said of last September's Havana meeting of the nonalined that it was a "notable example of Soviet failure." This was the same conference, we may recall, that declared Zionism to be a "crime against humanity."

We now approach the Copenhagen review conference on the women's decade. Unfortunately, there is every reason to expect that in this forum the important issues associated with the status of women will again be obscured by attacks on Israel. Concerned by this prospect, I last month wrote the Acting Secretary of State to bring to his attention the preparations being made for these attacks. In particular I was concerned about the conference document, "Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied Territories," which in its very title challenges the legitimacy of Israel as a state: For it becomes clear in this document, Mr. President, that Israel itself is an occupied territory.

Secretary Christopher's response to my letter suggests that the Department of State is mindful of the problems it will encounter at the conference. It was not so mindful the last time around, when we were only beginning to learn that the United Nations could become a forum for an attack on the legitimacy of democratic states. So innocent were we that the chief State Department representative to the conference could refer to the attack on Israel as of no great importance. Now we have been educated by half a decade of this campaign, and yet, if I may be permitted to voice doubt about the strategy implied in Secretary Christopher's letter, our approach still seems to be what is known as damage limitation. We now hope that debate on particular agenda items can be limited, that the conference will not be dominated by attacks on Israel, that these attacks can be restricted to resolutions introduced at the end of the conference.

My own hope is that the resolution we adopt today will encourage the Department to reconsider this strategy. A simple abstention, a vote of nay, and the continued isolation of the United States and her democratic allies cannot be treated as success, limited or otherwise. We must show that we understand the nature of the challenge that is mounted on occasions such as this, and make clear to other states that it represents a challenge as well to the effectiveness, even the existence of international institutions.

Mr. President, I ask unanimous consent that my exchange of letters with Acting Secretary Christopher appear in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as followed:

May 5, 1980.

HON. WARREN CHRISTOPHER,
Acting Secretary of State, U.S. Department of State, Washington, D.C.

DEAR CHRIS: Some five years ago, while serving as United States Ambassador to the United Nations, I had the opportunity to observe firsthand the unfolding of a disturbing but famliar scene at the World Conference of the United Nations Decade for Women held in Mexico City. The issues before the Conference and the UN Commission on the Status of Women, were and are fundamental and pressing. All too predictably, however, the Mexico City Conference deteriorated into a forum for the political lashing of Israel. It marked, you may recall, the first effort to identify Zionism with racism in an international conference.

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*Examples are the requests to UNESCO to speed the setting up of an Open University in the occupied territories, and to review the national and educational content of the textbooks in use in them; to the International Labor Organization to study Israel's compliance with its labor conventions—especially with respect to the Palestinian woman; and for study of the laws limiting the movement of Palestinians in the West Bank and Gaza, and their economic and psychological effects—especially on the Palestinian woman.

It now appears that this episode may be repeated shortly at the July Mid-Decade Conference in Copenhagen. Particularly foreboding are sections of the Provisional Agenda adopted at a recent UN preparatory meeting in New York which pertain to the "effect of Israeli occupation" on Palestinian women in the occupied areas.

This effort can come as no surprise to us. The precursor of this agenda item was a report released last February by the United Nations entitled "Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied Territories." The report was in turn the product of another preparatory meeting held in Syria last December. Yet I fear that, with all this warning, we remain unprepared for the conference.

It would be a terrible loss were the July meeting to be deflected from the vital issues before it by the ritualistic assault upon our democratic ally, Israel.

It is my hope that proper actions will be taken in the remaining weeks both to forestall the occurrence of such an abuse of this important United Nations forum and to prepare our own delegation to counter effectively these and other actions which may be taken to assail Israel.

Sincerely,

DANIEL PATRICK MOYNIHAN.

DEPARTMENT OF STATE,
Washington, D.C., May 17, 1980.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate

DEAR PAT: Thank you for informing me of your concern about the Palestinian Women issue at the UN Conference for Women in Copenhagen. I share completely your view that the Conference should deal with issues of vital importance to women rather than degenerate into unfair criticism of Israel and acrimonious debate on Middle East issues. This is the primary goal of the State Department and one that I am sure will be fully shared by the U.S. delegation to the Copenhagen Conference.

The Palestinian item, officially designated, "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories," was added to the Copenhagen agenda at the 34th Session of the UN General Assembly last December. The U.S. opposed the singling out of Palestinian women for special consideration when it was first proposed at the Second Preparatory Committee in August of last year, and again during the debate in the General Assembly. We argued that problems of Palestinian women should be dealt with as part of the more general problem of women as refugees. The vote at the General Assembly on the item, however, was 119 in favor, 2 opposed (Israel and the U.S.), with 20 abstentions.

At the Third Preparatory Committee in New York held in early April of 1980, it was decided to take up the Palestinian issue at the Copenhagen Conference in two committees, and limit the time for discussion to three sessions of each main committee. One committee will review progress made during the past five years on all the issues before the Conference, and the second committee will consider new programs and measures for the second half of the Decade. The three politically sensitive issues on the agenda—Palestinian Women, Women and Apartheid, and Women as Refugees—will be given equal time in the two committees and will not be discussed during the plenary sessions, except as resolutions relating to them may be debated toward the end of the Conference. We hope this agenda for the Conference will contain the debate on the Palestinian issue so that it will not dominate the Conference.

At the Third Preparatory Committee, the U.S. delegation also firmly opposed using the report on "Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied Territories," prepared by the Economic Commission for West Asia, as the basis for discussing the Palestinian issue at Copenhagen. Despite our strong opposition, in which we had good support from our Western European allies and Japan, Australia, and New Zealand, the ECWA report was approved by the Preparatory Conference as a Conference document. Our objections and those of our allies were, however, recorded verbatim in the Preparatory Committee report. The ECWA document is now being studied within the State Department and an analysis and talking points will be provided to our delegation at Copenhagen.

Let me assure you again that our goal is to contain the Palestinian issue at Copenhagen and to counter any unfair criticism of Israel at the Conference. The U.S. delegation, which will be announced in the next few weeks, will be fully instructed to do all it can do to achieve these goals.

With regards.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

Mr. MOYNIHAN. I might also add that we have recently been made aware of what might be regarded as a new, ominous twist to the political ostracism of Israel. In the past we could at least rely upon the fact that this assault would take place within the parameters of the official procedures and regulations of the United Nations. If the purpose of these attacks were to weaken the democratic principles upon which the United Nations was founded, at least the forms and procedures of that institution were largely observed in achieving that end. Apparently no longer.

The New York Times of June 21 reported that Acting Secretary of State, Warren Christopher, has protested a recent United Nations decision to refuse to award a $23 million contract for construction of a U.N. complex in Nairobi. An Israeli construction firm had submitted the lowest bid, but, the article continued:

> United Nations sources say that protests from Arab and African nations cost the Israelis the project.

Rules well established by the United Nations require that low-bidders win competitive contracts, rules with which Secretary General Kurt Waldheim can reasonably be expected to be familiar. Have we reached the point now where even the forms and procedures do not stand against the vicious anti-Israeli campaign? Mr. President, I ask that two articles, one by Mr. Bernard Nossiter of the Times, the other a New York Post editorial, also be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Post, June 23, 1980]

BIAS UNDER UN AUSPICES

Once again a United Nations agency has cravenly submitted to the pressures of the Arab bloc. The fate of the world may hardly hinge on the denial of the lowest-bid contract to an Israeli construction firm for the building of a headquarters complex for the UN environment program in Nairobi.

But the unprecedented violation of UN rules in the awarding of such contracts was as indefensible as it was incendiary.

The U.S. has promptly and properly protested the action. It has warned UN Secretary General Waldheim the move may well lead to withdrawal of the $10 million we contribute to the UN environmental unit.

Apparently the American position had been made clear before the discriminatory move was announced.

In a dubious attempt to cover up the transaction (or non-deal), the UN has indicated that plans for the complex are being held up pending bids on a more modest structure. The maneuver can scarcely obscure this new manifestation of the arrogance of the Arab bloc.

Let there be no doubt that the U.S. does not intend to drop the subject.

[From the New York Times, June 21, 1980]

U.S. WARNS U.N. ON REJECTION OF ISRAELI BUILDER'S BID

(By Bernard D. Nossiter)

UNITED NATIONS, N.Y.—The United States has delivered a sharp protest to Secretary General Kurt Waldheim over the United Nations' refusal to award a $23 million construction project to the lowest bidder—an Israeli company.

United Nations sources say that protests from Arab and African nations cost the Israelis the project.

Warren M. Christopher, who is Acting Secretary of State while Secretary of State Edmund S. Muskie is in Europe with President Carter, was said to have warned in a note to Mr. Waldheim yesterday that "grave consequences" could follow if the United Nations violated its rules requiring low bidders to win competitive contracts.

Officials here say that the project, a headquarters complex for the United Nations Environment Program in Nairobi, will be canceled, at least for the time being. The organization intends to call for bids on a more modest headquarters next year. The agency can then contend that it is not discriminating against Israel but saving money for the United Nations.

U.S. MIGHT WITHHOLD FUNDS

The deputy chief of the United States mission, William vanden Heuvel, handed Mr. Christopher's note to Mr. Waldheim. According to American sources, Mr. vanden Heuvel explained that if the Environment Program breached the rules for competitive bidding, the United States might withdraw the $10 million it contributes to the agency.

The force of the United States protest was blunted by Washington's opposition to the Nairobi complex in the first place. It has become difficult for the United States to argue against the decision to construct a less grandiose center.

The initial plan called for a combination office building, conference hall, computer room and delegates' lounge. When the bids were opened Jan. 31 the lowest was from Solel Boneb, a large Israeli building concern. The company, which ranks 34th in the world in overseas construction, proposed to erect the headquarters for $22.8 million, $1.4 million less than its closest competitor.

Like the eight other bidders, Solel Boneb was "preselected." This means that its engineering and financial competence was approved before it made its bid. Solel Boneh has put up some of the largest structures ni Nairobi, including the Hilton Hotel.

The company has said that under normal practice it would have been awarded the contract in a month, but no award has been made and United Nations sources said there would be none.

On Wednesday the Nairobi newspaper Daily Nation quoted what it said was an aide-memoire from the Kenyan Foreign Ministry to Mostafa Tolba, executive director of the environment agency, who is an Egyptian. The document was reported to have said: "As the executive director is aware the Afro-Arab group at the U.N. Headquarters in New York protested very strongly that the contract should not be given to Messrs. Solel Boneh because it is an Israeli company with dealings with the apartheid regime in South Africa. Since it is their feelings that Israel is not acceptable, it is the view of the Kenyan government that the second lowest tenderer should get the contract."

THE SPIRIT AND THE LETTER

An American official told a reporter: "We consider it imperative that the final decision be made in accordance with the spirit and the letter of the U.N.'s rules." Indicating that this was the heart of Mr. Christopher's message to Mr. Waldheim, he added: "Our concern is the U.N., the integrity of competitive bidding procedures."

He said that the United States had been active behind the scenes for several weeks to insure that bidding rules were followed in Nairobi. He said Washington had "delivered with force" several warnings in the affair. Mr. vanden Heuvel sought out Mr. Tolba in Geneva this month to tell him how seriously Washington viewed the matter.

Mr. Tolba's agency receives $37.3 million a year, of which $32 million comes from voluntary contributions by member states. The United States provides nearly a third of the national grants.

Longtimers at the United Nations could not recall a previous case where the lowest bidder was denied a contract. Mr. Waldheim's financial rules issued Feb. 12 say that contracts should be awarded to the lowest acceptable bidder, "provided that where the interests of the organization so require, all bids may be rejected."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The amendment to the preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas a United Nations Mid-Decade Conference for Women has been scheduled for July 14–30, 1980, in Copenhagen to review and evaluate "the progress made and obstacles encountered in attaining the objectives of the United Nations Decade for Women"; and

Whereas a separate item was included in the agenda of that Conference on "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" despite United States opposition and despite the existence of the more general item of "Women as Refugees" on the agenda; and

Whereas a document drafted by the Arab States and the Palestine Liberation Organization and adopted as official documentation for the Conference, "The Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied Territories", presents a biased account of the conditions of Palestinian women by arguing that the Arab-Israeli conflict is responsible for the problems faced by Palestinian women; and

Whereas the addition of this document and separate agenda item in the proceedings of the Mid-Decade Conference is an obvious attempt to inject a highly politicized discussion into an apolitical meeting;

Now therefore, be it *Resolved,* That it is the sense of the Senate that—

(1) the inclusion of a separate agenda item on Palestinian women and the acceptance of a sixty-six-page document relating to that item present an unfortunate intrusion of political issues into a conference devoted directly to questions of health, education, and employment for women throughout the world and as such is deplored by the Senate; and

(2) the United States delegation to the Conference should be instructed to oppose any resolutions or amendments introduced at the Copenhagen Conference on issues which do not relate directly to the goals of the Conference, such as the separate issue of Palestinian women, and should actively work with other delegations to ensure that they voice similar opposition.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL COMMISSION ON AIR QUALITY EXTENSION

The Senate proceeded to consider the joint resolution (S.J. Res. 188) extending the reporting date of the National Commission on Air Quality.

● Mr. HART. Mr. President, Senate Joint Resolution 188 provides for an extension of the reporting deadline and termination date for the National Commission on Air Quality. Under current law the Commission is to submit its report and go out of existence on August 7, 1980. The resolution requires the Commission to report its findings and recommendations to Congress by March 1, 1981, and extends the life of the Commission until May 1, 1981.

As Chairman of the Commission I must stress the compelling need for the extension and would like to state at the outset that the proposal before us does not increase funds authorized for the Commission.

During deliberations on the Clean Air Act Amendments of 1977, the technical complexity of the clean air program became apparent. It also became clear that a major, independent review of air pollution issues would greatly help Congress during its next consideration of the Clean Air Act.

The 1977 amendments established the Commission and provided 3 years for it to submit a final report. Because of a Presidential delay in appointing the 9 noncongressional members of the 13-member Commission, we were unable to hold our first meeting until July 1978. The Commission thus has had only 2 of the 3 years Congress intended for its work.

Since our late beginning, the Commission has vigorously undertaken its mandated review of the Clean Air Act. We have adopted a comprehensive plan of study, developed detailed research designs for more than 25 individual projects, awarded contracts for approximately $3.5 million of our total $5 million research budget, and convened expert panels which have produced state-of-the-art reports on three technical air pollution issues, with two more reports imminent.

Our work to date confirms that more than 2 years are necessary to perform a careful review of the issues specified in the Commission's Clean Air Act section 323 mandate. We have made an excellent beginning but urgently need the additional 9 months to do a comprehensive job and to make full use of resources already invested.

In order for the extension to be meaningful, it must be enacted immediately. I urge my Senate colleagues to support Senate Joint Resolution 188.●

● Mr. STAFFORD. Mr. President, the resolution that the Committee on Environment and Public Works is bringing to the floor is of an emergency nature, and was reported by a unanimous vote. It would extend the life of the National Commission on Air Quality until early next year.

This resolution, which has been worked out with those interested in the House, requires no additional funds, either authorization or appropriation.

Rather, it will assure that the money already appropriated to the Commission will not be wasted on a hasty report of little value to the Congress.

Mr. President, I have the honor to serve as one of the four congressional members of the Commission, under the fine leadership of the Senator from Colorado (Mr. HART), who serves as Chairman of the Commission. I can assure the Senate that the work of the Commission will prove most valuable to the Nation. I certainly support this resolution, and urge its speedy approval. We need to act now so that the House can act prior to the recess, enabling the Commission to concentrate on it what it needs to—prepare the best and most fair report to assist the Congress and the Nation next year—rather than prepare for its termination by August.

Let me provide some history. The National Commission on Air Quality was authorized by the 1977 Clean Air Act Amendments. It was designed to study the Clean Air Act and to advise Congress on the implementation of the act. Unfortunately, the Commission was not appointed by the President for nearly a year after the signing of the 1977 act, so that one-third of its 3-year life was wasted. And to do a proper job, the work of the Commission could not be compressed into 2 years.

The 1977 act decreed that the Commission's work should end on August 7, 1980. This resolution extends that date to May 1, 1981, with the report due no later than March 1, 1981. Presentation of the report by that date will provide the Congress with the analysis and review we need to consider a reauthorization of the Clean Air Act during the 97th Congress.

I should point out that everyone closely involved in the Commission's work supports this extension. This is true of industry, and it is true of the environmental community.

In conclusion, Mr. President, I would point out that the Senate previously passed an extension of the Air Quality Commission in other legislation, but that conference has become bogged down over an issue totally unrelated to the Air

Quality Commission. Thus, we are moving this resolution to assure that the Commission will not be forced to close up shop when we recognize that everyone supports its extension.●

The joint resolution (S.J. Res. 188) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 323 of the Clean Air Act is amended by—

(1) striking out the first two sentences of subsection (f) (relating to certain interim reporting dates for the National Commission on Air Quality);

(2) striking out the words "at the same time as required for the report of the Commission concerning such subsection" in the next to last sentence of subsection (f);

(3) striking out the first two sentences of subsection (g) and inserting in lieu thereof the following: "Not later than March 1, 1981, a report shall be submitted containing the results of all Commission studies and investigations under this section, together with any appropriate recommendations. The Commission shall cease to exist—

"(1) on March 1, 1981, if the report is not submitted in accordance with the proceding sentence on the date specified in the preceding sentence; or

"(2) on such date (but not later than May 1, 1981) as may be determined by the Commission, by order if the report is submitted in accordance with the preceding sentence on the date specified in such preceding sentence."; and

(4) redesignating subsection (j) as (h) and by adding the following new subsection at the end thereof:

"(i) The Commission may appoint and fix the pay of such staff as it deems necessary.".

(b) Section 324 of such Act is amended by striking out the last sentence thereof.

(c) Effective on the date on which the National Commission on Air Quality ceases to exist pursuant to section 323(g) of the Clean Air Act, section 323 of the Clean Air Act is repealed and sections 324, 325, 326, and 327 of such Act are redesignated as sections 323, 324, 325, and 326 respectively.

(d) Nothing in any other authority of law shall be construed to authorize or permit the extension of the National Commission on Air Quality pursuant to any Executive order or other Executive or agency action.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER POSTPONING CONSIDERATION OF S. 2004

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 806, S. 2004, a bill entitled "The Public Transportation Energy Conservation Act of 1979," be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Church may proceed to call up a conference report to which I alluded earlier for not to exceed 10 minutes equally divided between Mr. Church and Mr. McClure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not do that.

Mr. CHURCH. Mr. President, I am just trying to locate my file. It will just take a moment.

Mr. ROBERT C. BYRD. The Senator will take it out of the 10 minutes. All right.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENTRAL IDAHO WILDERNESS ACT OF 1980—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on S. 2009 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2009) to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CHURCH. Mr. President, the conference report now before the Senate represents the end of the 15-year struggle to provide statutory protection for the magnificent Salmon River country of central Idaho. Accordingly, the primary focus of this legislation is the designation of a 2.23 million acre "River of No Return Wilderness," lying entirely within the Salmon River watershed.

The "River of No Return" region comprises the very heartland of the State of Idaho. Its wild untamed character has no match, that I know of, anywhere in the conterminous United States. This is true mountain country, with rugged peaks and canyons so abundant that many are yet unnamed. Beneath the massive granite mountains of the region lie tranquil alpine basins with lakes of deep blue. Glass-clear streams run through lush meadows and across virgin forests, meeting other creeks, until they all rush together into the whitewater of the Middle Fork of the Salmon River and from there to the main Salmon, to the Snake River, and finally into the mighty Columbia.

A rich variety of animal and bird life abound here: some 190 species of wildlife have been identified. Big game includes mule and whitetail deer, elk, moose, bighorn sheep, mountain lion, black bear, and mountain goat. The Middle Fork and Main Salmon River drainages are two of the most important big game winter areas in Idaho. Thousands of deer and elk, as well as most of the State's bighorn sheep and many mountain goats, winter in these canyons. These two drainages also contain the most important salmon and steelhead spawning beds in the entire Columbia River Basin.

On a personal level, the wilderness of central Idaho is a place for challenge, reflection, and adventure. On a national level, it will be the largest and most diverse component of the National Wilderness Preservation System yet designated.

The River of No Return Wilderness will be to the National Wilderness System what Yosemite, Yellowstone, and the Grand Canyon are to the parks system: the best in the country. It will be a treasure not only for present-day Americans to enjoy, but a valuable legacy to be passed from generation to generation. As one who has spent many happy days amidst the mountains and streams of this wild region of Idaho, I can think of no finer patrimony for our grandchildren than to leave this region in the same untamed condition in which it was left to us by the Creator.

Before I turn to a short description of the various provisions of the pending legislation, I want to take a few minutes to explain why setting aside this wilderness means so much to me and to many other Idahoans.

WHY WE NEED TO PRESERVE SOME WILDERNESS

Starker Leopold, a distinguished zoologist and the son of one of the fathers of the National Wilderness System, Aldo Leopold, outlined how wilderness is part of a balanced public land use equation. His words describe not only my own philosophy about wilderness, but my motivation in sponsoring the present legislation as well:

> Most renewable natural resources are to be used, wisely and with due provision for sustained yield. But, some areas are to be excluded from this plan and kept for the wonder and edification of the citizens.
>
> We owe it to ourselves and to the good earth that supports us to curb our avarice to the extent of leaving a few spots untouched and unexploited.

And, so it should be. Although we must rely upon our working forest lands for a variety of products, we also need to preserve some of our vanishing wilderness because, as Wallace Stegner said:

> It was the challenge against which our character as people was formed.

Something will have gone out of us as Americans if we do not preserve intact some part of the vanishing Western frontier. If the remaining wilderness is sliced to pieces, if all of the wild creatures are driven to zoos or to extinction, if we pollute the last of our clean air and water, and push roads into every mountain meadow, then never again will we be free within our own country from the noise, the exhaust fumes, and spreading congestion. If that were ever to happen, our character as a people would be changed for all time.

True, our drive toward bigger and better has brought us many wonderful things; we truly live in an age of marvels. Medical advances have increased the average lifespan, we can travel great distances in remarkably short times, and we enjoy a standard of living which is unsurpassed in the history of humankind.

But, one unexpected side effect of the "technological revolution" has been to uproot most of our people from the soil. Unlike the sodbusters and frontiersmen of yesteryear, many today have become disoriented in time and space. Members of our technological society often suffer from a form of "psychic dislocation." As Scott Momaday said:

> We may be perfectly sure of where we are in relation to the supermarket and the next coffee break, but I doubt that any of us knows where he is in relation to the stars and the solstices.

That is why we need wilderness: It provides a way for us to get back in touch with the natural world.

My good friend, the late Justice William O. Douglas, in his eloquent but straightforward way once said:

> Every person—adult or young—needs a bit of wilderness, if wonder, reverence, and awe are to be cultivated.

Those words sum up my own feelings as well, both about why we need a National Wilderness System and a River of No Return Wilderness.

MAJOR PROVISIONS OF S. 2009

Mr. President, the legislation we now have before us has four major provisions and a number of smaller ones, which I will describe briefly.

First, as I mentioned earlier, the bill designates a new 2,234,000-acre River of No Return Wilderness. The wilderness is comprised of the old Idaho and Salmon River Breaks Primitive Areas and certain contiguous national forest lands. The "ecological" basis for the wilderness is the preservation of the watershed of the Middle Fork of the Salmon River and other important drainages of the Salmon River itself. The legislation abolishes the previous classification of the two primitive areas.

Second, S. 2009 adds some 105,600 acres in the so-called Magruder corridor of the Bitterroot National Forest to the existing Selway-Bitterroot Wilderness. The Magruder corridor is an area of extremely fragile soils and marginal timber which has been under "custodial" management by the Forest Service for the last 15 years. It is a logical addition to the superlative Selway-Bitterroot Wilderness. Its designation as wilderness will provide additional protection for the existing wilderness lying north of the River of No Return area, and end a long-simmering land allocation controversy.

Third, under the provisions of section 9 of the bill, 125 miles of the Salmon River would become a component of the National Wild and Scenic Rivers System. The 46-mile portion of the river from the confluence of the North Fork of the Salmon downstream to Corn Creek would be managed as a "recreational" river and the 79-mile segment from Corn Creek to Long Tom Bar as a "wild" river. The two segments would be administered in accordance with the provisions of the Wild and Scenic Rivers Act even though portions of both stretches run through the new River of No Return Wilderness and the Gospel-Hump Wilderness.

This section of the bill also insures that existing jetboat use of these segments would be permitted to continue at not less than the level of use which occurred during calendar year 1978; provides for a prohibition on dams and other impoundments on the 53-mile segment of the Salmon River between Hammer Creek and the confluence of the Snake River; and bans dredge and placer mining within the segments of the Salmon River described above, and on the Middle Fork of the Salmon and its forks and tributaries in their entirety.

Finally, this legislation is designed to end the "wilderness against multiple-use" controversy in central Idaho by making final decisions on the wilderness boundary lines, thereby permitting multiple uses other than wilderness on over 960,000 acres of adjacent roadless lands that are currently managed as de facto wilderness pending approval of this legislation. In other words, the Congress has made a comprehensive land allocation decision for the entire central Idaho region. This decision will help aid the small communities of the region who depend upon a steady supply of Federal timber to sustain their mills. It will provide the operators of those mills with the knowledge of what the Federal "timber base" will be in the future, and allow them to make their long-range economic plans accordingly. Consequently, the townspeople of Elk City, Grangeville, Riggins and other small towns will be able to breathe a bit easier once this legislation becomes law.

OTHER IMPORTANT PROVISIONS

Because of the desirability of making the new River of No Return Wilderness accessible to the public, the boundaries of the wilderness have been carefully drawn to exclude a number of existing roads which now provide ingress to various parts of the area. The bill also requires the management plan which is to be prepared by the Forest Service during the next 3 years to "address the need for, and alternative means of, access to the wilderness." Consistent with the management plan, the agency is to try to clear all obstructions from trails within or adjacent to the wilderness on at least an annual basis. Only about a third of the trails are now maintained each year, and a more frequent maintenance schedule is necessary to disperse visitor use and better protect the wilderness resource.

The Wilderness Act gives the Secretary of Agriculture the discretion to permit the continued landing of aircraft in a designated wilderness, where such use has already become established. Because of the vastness of the new wilderness, without continued access by air, few people could see and enjoy the more remote and less accessible parts of this region. Therefore, the bill provides that the landing of aircraft shall—not may, but shall—be permitted to continue. The Forest Service is expressly prohibited from closing airstrips on national forest land within the wilderness, which are in regular use at present, except for the reason of aircraft safety. Even closings for this reason cannot occur without the express written concurence of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips.

So that there will be absolutely no question that traditional uses of the River of No Return Wilderness (and the Magruder corridor additions) should be allowed to continue in the future, the provisions of section 4(d) of the 1964 Wilderness Act which guarantee the continuation of grazing and commercial services such as outfitter and guide operations are reiterated. To underscore the jurisdiction of the State of Idaho over the water resources and fish and game within the wilderness areas, the provisions of the 1964 act which relate to these issues are also repeated.

Because of the important archaeological resources in the Salmon River country, a provision was included in the bill to require "a cultural resource management plan" as part of the overall wilderness management plan. This should encourage scientific research into man's past use of the wilderness and the river corridor and provide an outline for the protection of significant cultural resources.

Likewise, another section of the bill requires the Forest Service to inventory the old trapper and homestead cabins in the wilderness and provide a report to Congress as to what should be done with these structures. This was done in response to the past policy of the Forest Service of destroying deteriorating structures as a way to "restore" the land to its "natural condition." Although at present the agency has stopped burning these old cabins, we thought it wise to place a moratorium on such actions until the inventory had been completed and the report sent to Congress.

Finally, the bill contains provisions to help insure that the implementation of two Forest Service land management plans for forest areas lying immediately to the west of the new River of No Return Wilderness—the Warren and Landmark plans—not be postponed. Like Elk City and Grangeville, the towns of Emmett, Cascade, Council, and Horseshoe Bend have sawmills which rely on national forest timber for their continued existence. To see that the land management plans are implemented in a timely manner, section 10 of the bill sets up a procedure whereby existing administrative appeals and any future litigation would be expeditiously handled by the Forest Service and the Federal courts.

THE EFFECTS OF THIS BILL ON LOGGING AND MINING

Mr. President, I am pleased to note that it has proven possible to designate this splendid new River of No Return Wilderness without threatening the log supplies which support many of the small communities of the region; without any loss in the number of timber-related jobs. That is because most of the land being designated wilderness has never been used in calculating the "timber base" for the national forests of central Idaho.

Thus, the River of No Return Wilderness will have little effect on the timber sale programs of the region. In fact, the Chief of the Forest Service has stated in writing that the net effect of the bill will be a slight increase in the overall timber harvest level in central Idaho. The additional timber will become available when certain lands surrounding the wilderness are returned to multiple-use management. Presently, a court decison has prevented the Forest Service from developing these lands until Congress completes action on the pending bill. By protecting the timber base, we have protected the jobs of those Idahoans who labor in the mills and the woods. This wilderness is not being designated at their expense.

As for mining, the boundaries of the wilderness have been carefully drawn to exclude the most promising mineralized areas and existing mining claims. Furthermore, the bill was specifically drafted to allow the Blackbird Cobalt Mine in Lemhi County to reopen. As reported in the April 1980 Idaho Mining Review—a publication of the Idaho Mining Association—the company that controls the claims at the Blackbird property, Noranda Mining, Inc., intends to resume production at the mine by mid-1982. According to project manager James Johnstone, Noranda has located 15 to 25 years of reserves in the area of the existing mine site, which is unaffected by the proposed wilderness boundary, some 6 miles to the north. Johnstone says that at the expected rate of production of 2,000 tons of cobalt ore per day, Blackbird will produce the equivalent of the annual demand of the U.S. aircraft industry for this metal. This is good news indeed.

Cobalt is a mineral for which the United States is presently at least 90-percent dependent upon foreign sources of supply. Because cobalt superalloys offer high strength, corrosion resistance, high thermal conductivity, and stable magnetic properties, the metal has many important industrial, manufacturing, and military applications. For example, each engine in our F-15 and F-16 fighter planes contains some 900 pounds of cobalt.

So because we have kept all of the known cobalt reserves outside the wilderness, the Blackbird mine will reopen and the United States will once again have a major domestic source of cobalt for making jet engines. That is important for the short-run, but the bill anticipates future demand for cobalt as well.

Some geologists believe that the Clear Creek (West Panther Creek) Area, which lies inside the new wilderness, may contain additional deposits of cobalt. For that reason, we included provisions within the bill which will insure that the Clear Creek Area can be thoroughly explored to determine if cobalt is located there. If so, then the bill guarantees that it can be mined. In the meantime, the area has been included within the wilderness to protect the bighorn sheep herd also located in the Clear Creek Area. According to the Idaho Department of Fish and Game, this is the single most productive herd of bighorns in Idaho; brood stock for the State's sheep transplant program which is successfully reintroducing these magnificent animals to their historic range.

A FINAL WORD

Mr. President, there are those who oppose this bill even though it strikes a careful balance between economic development and wilderness preservation. These people do not want to see any wilderness set aside in Idaho because they feel that all of our forest lands ought to be accessible by automobile.

Now, I have always been a strong supporter of building more forest highways, and developing more campgrounds, marinas, and other recreational facilities, in order to meet expanding demands for vehicular recreation. When all is said and done, 80 to 90 percent of the public lands will be accessible to the majority who want to take their vacations on wheels. That is fine, but what about the people who do not? Are we to leave nothing for them, no escape from the pavement, the organized campgrounds, the crowds? I have always believed that Idaho is big enough to leave some of the public land alone, as a refuge for fish and game, to protect our watersheds, and as a sanctuary for those who, from time to time, feel the need to get away from it all.

That, to me, is what the battle for the River of No Return Wilderness is really all about. It is a fight to preserve for all time a part of the vanishing American frontier.

Mr. President, I ask unanimous consent that a copy of the letter to me from R. Max Peterson, Chief of the Forest Service, which is dated February 27, 1980, and which outlines the projected effects of this bill on the timber sale programs of the six forests in central Idaho be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., February 27, 1980.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: In our letter of August 30, 1979, we provided you with information concerning the River of No Return Wilderness Proposals. Enclosure 3 to this letter contained the productive forest land, commercial forest land, potential yield, and programed harvest under each of these proposals for the Bitterroot, Nezperce, Boise, Salmon, Challis and Payette National Forests.

Mr. Hutchinson, of your staff, recently asked that we provide similar information about the effects of S. 2009 as reported out of the Senate. We are pleased to provide this information in Enclosure 1.

Sincerely,
R. MAX PETERSON,
Chief.

Enclosure.

EFFECTS OF S. 2009 AS REPORTED OUT OF THE SENATE ON SELECTED NATIONAL FOREST TIMBER PROGRAMS

National Forests	Productive forest land (thousands of acres) (PFL)	Commercial forest land (thousands of acres (CFL)	Potential yield (millions of board feet) (PY)	Programed harvest (millions of board feet) (PH)
Boise	1,361.1	1,297.0	108.0	92.4
Salmon	1,272.2	1,017.5	57.6	33.2
Challis	1,140.4	838.8	65.4	4.2
Payette	1,517.2	791.1	95.6	86.0
Bitterroot	1,146.0	663.3	38.1	38.1
Nezperce	1,722.7	978.3	133.1	112.8

Note: The current programed harvest (timber sale) levels for the 6 affected forests were outlined in enclosure 3, attached to the Aug. 30, 1979, letter. Those levels are:

	Millions of board feet
Boise	93.0
Salmon	35.0
Challis	7.0
Payette	86.0
Bitterroot	36.0
Nezperce	105.7
	0

Mr. CHURCH. Mr. President, I ask unanimous consent that excerpts from the statement of managers report on S. 2009, which relate to the release of certain lands adjacent to the River of No Return Wilderness for multiple-use management, and to the Clear Creek portion of the new wilderness which is to be Administered under special management prescriptions, be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT OF MANAGERS

2. FINDINGS AND PURPOSES

The Senate bill contains a section setting out Congressional findings concerning the national significance of the Salmon River watershed and its wilderness environment, the importance of protecting these resources as components of the National Wild and Scenic Rivers and the National Wilderness Preservation Systems, and the compatibility of such statutory protection with existing uses of the area. The House amendment contains no such findings. With one minor change, the conferees agreed to adopt the Senate language.

The Senate version also includes a section outlining the purposes of the Central Idaho Wilderness Act. These purposes are based on the findings described above. Again, the House amendment contains no such provisions. The conferees agreed upon a slightly modified version of the Senate language. Thus, the primary purposes of the bill are: (1) to provide a cohesive framework for the management of the wilderness resources of central Idaho by designating a 2.239 million acre River of No Return Wilderness in the Salmon River watershed, designating 125 miles of the Salmon River as a component of the Wild and Scenic Rivers System, and adding 105,600 acres in the so-called "Magruder Corridor" to the existing Selway-Bitterroot Wilderness; (2) to end the "wilderness vs. multiple-use" controversy in central Idaho by making final decisions on the precise location of the wilderness boundary lines, thereby permitting multiple uses other than wilderness on certain adjacent national forest lands which are currently administered as *de facto* wilderness pending approval of this legislation; and (3) to make a comprehensive land allocation decision for the entire central Idaho region.

The conferees agreed to adopt the Senate provisions enumerating the purposes of the legislation in order to make the significance of the Congressional decisions embodied in S. 2009 clear to the public officials who will administer both the wilderness lands of the region and the adjacent non-wilderness multiple-use lands. Under the terms of the so-called "*Parker* decision" (*Parker* v. *United States*, 309 F. Supp. 593 (D. Colo. 1970), *aff'd* 448 F. 2d 793 (10th Cir. 1971), *cert. denied*, 405 U.S. 989 (1972), until such time as Congress takes final action on reclassifying the Idaho and Salmon River Breaks Primitive Areas as wilderness, the contiguous roadless lands are not available for any activities which would alter their "wilderness potential." The *Parker* decision means that until legislation such as this is approved, all of the undeveloped land contiguous to these primitive areas will remain unavailable for timber harvesting and other forms of commodity development. Although there has never been a specific determination as to exactly how far the *Parker* decision restrictions may apply in the central Idaho region, it appears that these constraints apply to areas which, in the view of both houses of Congress, are better suited for multiple-uses other than wilderness.

In this regard, the conferees note that when Congress designates a wilderness area, it establishes a precise boundary line. Lands within the boundary are to be managed under the provisions of the Wilderness Act, while lands outside that boundary line remain subject to planning and management in accordance with the statutes and regulations applicable to all nonwilderness lands within the National Forest System.[1] This is an important point. Well over three million acres of roadless land in central Idaho (and 232,900 acres in Western Montana) were examined in the context of this legislation. Fully half of that total acreage (in Idaho) is made up of the existing primitive areas which have been managed as wilderness since the 1930's. Almost another million acres are steep, rugged, alpine lands which are logically incorporated within the new River of No Return Wilderness or the existing Selway-Bitterroot Wilderness. However, it should be noted that the comprehensive decision made in this legislation insures the nonwilderness status of approximately 1.15 million acres of roadless land lying outside the new wilderness.[2] In general, these lands are more productive for other resource uses and more accessible than those being designated as wilderness. By virtue of this legislation, the land pattern in the large central core of Idaho is stabilized and settled.

The Senate Energy and Natural Resources Committee heard extensive testimony at its hearings in Salmon, Boise, Lewiston (Idaho) and Washington, D.C., about the necessity to "set the final boundary lines" and "free-up" other surrounding lands for commodity development. Similarly, the House Interior and Insular Affairs Committee heard these same concerns expressed by many witnesses at their December 1979 hearings held in Washington, D.C. This legislation is a direct response to the pleas of the citizens of Salmon, Riggins, Elk City, Grangeville and the other small Idaho and western Montana towns which depend upon the surrounding national forests as a source of raw materials for their sawmills. The land allocation questions for most of central Idaho will be settled when this legislation is approved. Thus, the operators of the mills in those towns—and the townspeople as well—will know what the timber base will be in the future and can make their long-term economic plans accordingly.

The scope of this decision

The central Idaho region covered by this decision encompasses all of those roadless and undeveloped areas within the State of Idaho which are immediately contiguous to the existing Idaho and Salmon River Breaks Primitive Areas. In addition, this decision covers land allocations northward in the so-called "Magruder Corridor" area on the Bitterroot National Forest. The decision also extends to other noncontiguous roadless areas on the main body of the Nezperce National Forest east of the Salmon River,[3] on the Salmon and Challis National Forests east and south of the proposed River of No Return Wilderness, and on nearby lands on the Bitterroot National Forest in Montana. The Montana lands are included because of their importance in assuring a continued supply of timber from National Forest lands serving the Darby, Montana mill. Thus, this decision confirms the non-wilderness multiple-use status of the following areas or portions of areas which are not being designated as wilderness by this Act:

Area name	Rare II area No.	Estimated acreage
Gospel-Hump (Jersey Jack)	01921	55,400
Mallard	01847	26,400
Meadow Creek West	C1845	95,380
Meadow Creek East[1]	D1845	97,700
Rackcliff Gedney	01841	53,000
Middle Fork Face	01842	11,200
Clear Creek	01844	26,700
Kelly Mountain	01857	800
Silver Creek-Pilot Knob	01849	36,100
North Fork State Creek	01850	14,700
Little State Creek	01851	9,200
John Day	01852	10,000
East Panther Creek	E4505	30,469
Do	S4501	14,001
Jureano	04506	31,470
Haystack Mountain	04507	12,300
Phelan	04508	14,035
Deek Creek	04509	28,170
Jeese Creek	04510	19,740
Perreau Creek	04511	9,160
Taylor Mountain	04502	48,105
Camas Creek	E4202	78,090
Sulphur Creek (M)	X4066	61,320
Spring Basin	04219	5,400
Squaw Creek	04217	106,852
Greylock	04218	11,870
Napolean Ridge	04501	7,710
Allen Mountain	04946	46,670
Allan Mountain	L1YAG	111,300
Stony Mountain	L1BAD	50,400
North Big Hole	A1001	3,800
Selway Bitterroot	A1BAA	68,400

[1] This decision directs the administration and the Forest Service to reverse their Apr. 16, 1979, recommendation that a portion of the Meadow Creek drainage and the Upper Running Creek and Upper Bargamin Creek drainages should be wilderness. Both the House and the Senate have carefully examined the administration's recommendation that the Meadow Creek East unit (D1845) be designated as wilderness and have determined that this area should not be designated wilderness but should be managed for uses other than wilderness. For a detailed discussion of this area, see S. Rept. 96–414, p. 10.

The roadless areas listed above have been thoroughly examined by the Congress. They are not being designated wilderness by this legislation and will remain subject to sustained-yield, multiple-use management under the statutes and regulations generally applicable to all non-wilderness National Forest System lands. The timber resources on these unclassified lands shall be included, as appropriate, in the normal timber management planning process, in the calculation of the potential yield (allowable sale quantity) and allowable timber harvest levels for the appropriate national forests.

Of course, the non-wilderness multiple-use status of these lands resulting from this decision does not imply that they are to receive any less careful management in the future. The National Forest Management Act of 1976 (NFMA) was designed to assure careful and judicious planning for all national forests The regulations which were promulgated by the Secretary of Agriculture pursuant to Section 6 of that Act (36 CFR 219; see Federal Register, Vol. 44, No. 181, pages 53983–53999) will help make certain that these lands are properly managed under principles of wise forest stewardship. It should be noted that the roadless lands covered by this decision may, as provided by Section 6(c) of the NFMA and its implementing regulations (§ 219.16), be managed under existing land management plans until such time as the forest-wide plans are completed.

The Section 6 regulations also provide that "Lands reviewed for wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture (RARE II) but not designated as wilderness or designated for further planning * * * will be managed for uses other than wilderness * * *" The conferees agree with this approach and feel there is no need for further wilderness study of the roadless areas listed above when the forestwide land management plans are prepared in the next few years.

There is an important point which the conferees would like to emphasize. The decision whether or not to designate any given tract of land as a component of the National Wilderness Preservation System is solely a Congressional prerogative. Thus, it follows that once Congress has examined an area and decided that it should not become wilderness, then the relevant land management agency should interpret such a decision as a definitive statement of Congressional intent; a final decision. Of course, under the first amendment to the U.S. Constitution, all citizens remain free to petition the government for "a redress of grievances"; people can seek to have a "negative" wilderness decision reconsidered in the future. Moreover, nothing in this legislation can prevent future Congresses from altering congressional decisions made in 1980. Future Congresses will be free to take lands out of a wilderness classification, add areas to the National Wilderness System, or to require the Forest Service to conduct formal wilderness studies. All of these options remain open.

The conferees also agreed to incorporate (by reference) within this Statement of Managers the area specific concerns found on pages 9–11 of Sen. Rpt. 96–414.[4]

The California v. Bergland decision

On January 8, 1980, the Federal District Court for the Eastern District of California issued its decision in the case of *California* v. *Bergland*, Civil No. S–79–523 (D. Cal. filed Jan. 8, 1980). In this litigation, the State of California questioned whether the Forest Service's final environmental impact statement (EIS) for the RARE II roadless area study was adequate to meet the procedural requirements of the National Environmental Policy Act of 1969 (U.S.C. 4331 et seq.) The District Court agreed with the State, finding that the final EIS was not legally sufficient to justify the non-wilderness allocations for 47 specific roadless tracts within the national forests in California.

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[1] In the past, the Forest Service has often established "buffer strips" on non-wilderness multiple-use lands adjacent to a designated wilderness. These buffer strips, all of different sizes and dimensions are supposed to be deterrents to developments which might alter the quality of the adjacent wilderness. For example, the Forest Service has precluded all road building and timber harvesting within a quarter mile of some wilderness boundary lines, arguing that such roads or logging activities would "degrade" the quality of the wilderness. The Conferees have drawn the boundary line of the new wilderness and the Selway-Bitterroot Wilderness additions carefully and expect that such buffer strips will not be necessary.

[2] Of this total, 961,670 acres are in Central Idaho and 232,900 acres in Western Montana.

[3] The roadless areas west of the Salmon River on the Nezperce National Forest bear no intrinsic relationship to the area covered by the conferee's deliberations on this bill. In particular, those within and adjacent to the Hells Canyon National Recreation Area are more appropriately addressed in relation to the planning for that area mandated by Public Law 94–199.

[4] These concerns relate to the Jersey Jack, Big Mallard, Meadow Creek East, Meadow Creek West, and Silver Creek-Pilot Knob areas.

Since the court's decision was rendered in the California lawsuit, some individuals in Idaho have argued that all of the RARE II non-wilderness decisions for the central Idaho region are now in "jeopardy". To allay the fears of those who feel the *California* decision might block implementation of the non-wilderness, multiple-use designations which are an integral part of the comprehensive land allocation decision embodied in this legislation the conferees make these observations:

1. Since the recommendations from the RARE II review were finalized by President Carter on April 16, 1979, there have been only two legal challenges to these recommendations.[5] West of the 100th meridian, where conflicts between various forest users have historically been most intense, no other legal actions (outside of California) have been filed.

2. More specifically, the non-wilderness status of almost all of the 961,670 acres of roadless lands in central Idaho, which has been confirmed by Congress through this legislative decision, is not being challenged by any organized group, and such a challenge is not anticipated.

During the RARE II study, a number of groups and organizations in Idaho developed their own state-wide alternatives to the recommendations proposed by the Forest Service. Among the four most prominent "state-wide" plans were those developed by Idaho's Governor John Evans, a coalition of Idaho environmental groups (the "Alternative W" plan), the Idaho Forest Industry Council, and the Western Environmental Trade Association (the "WETA" plan). Basically, each of these four plans consisted of a list of the RARE II areas that the particular group in question thought ought to be designated by Congress as components of the National Wilderness System. (Some of the plans also contained specific "non-wilderness" or "further planning" recommendations for other RARE II areas in Idaho.) A side-by-side comparison of the wilderness designations contained in each of the four plans and the "non-wilderness" multiple-use designations covered under this report, reveals only minor conflicts. Furthermore, it appears that many of these conflicts have been successfully resolved by this legislation. Therefore, it is unlikely that the "non-wilderness" allocations of this region-wide decision will be contested by Idaho-based groups or national organizations.

3. In the opinion of the court in the *California* v. *Bergland* lawsuit, Judge Lawrence Karlton noted that the RARE II study was designed primarily to provide recommendations to Congress as to which of the remaining roadless areas should be designated as wilderness. He stated that the study was aimed in part at protecting Congressional prerogatives for the designation of any of the roadless areas as wilderness and providing the Legislative Branch with sufficient information and alternatives to make well-reasoned wilderness decisions. Karlton's decision states in part:

> "* * * the RARE II program contemplated two distinct actions: legislative proposals for additions to the wilderness system, and administrative actions opening areas to development. * * *
>
> "Moreover, the fact that specific legislative proposals were contemplated also suggests a broader than normal range of alternatives must be addressed. First, since Congress reserved to itself the power to add areas to the Wilderness System, and all RARE II areas meet the minimal criteria for such inclusion, it is especially important that Congress have before it a full range of possibilities, with an in-depth discussion of the consequences of each alternative. Second, since Congress, unlike an administrative agency, is not bound by existing law or regulation, reasonable alternatives that contemplete changes in regulation or law must be disclosed in it."[6]

The information from the RARE II study and the data collected by the Forest Service in the studies of the Idaho and Salmon River Breaks Primitive Areas pursuant to the provisions of the 1964 Wilderness Act is truly voluminous. This material has been made available to the Congressional committees and members most interested in the future status of the central Idaho region, and has been generally adequate to assist Congress in its deliberations over which lands within the region should be designated as wilderness.

Admittedly, the RARE II data and the associated assessment of public opinion did not cover every point on which the Congress desired information. That is why the Forest Service studies were augmented by lengthy committee hearings and detailed reviews. Thus, further study to gather information on the wilderness values of the "non-wilderness" lands covered by this report is neither necessary nor desirable. Litigation aimed at forcing such studies would, in the view of the conferees, be inappropriate, because Congress has already made a final decision about the future status of these "non-wilderness" lands.

4. Similarly, through numerous public hearings, field inspection trips, fact-finding missions, and informal discussion sessions, Congressional decision-makers have carefully and exhaustively examined the wilderness qualities of the lands designated as wilderness by this Act and the wilderness attributes of the lands which have had their "non-wilderness", multiple-use status affirmed by this legislative decision. Therefore, any allegations that the RARE II final EIS does not fulfill the requirement that the Forest Service closely examine the wilderness attributes of the roadless areas in central Idaho before they are opened for development, are moot. That close examination has been accomplished by the Congress, acting upon the recommendations and information supplied by the Administration, as supplemented by the data and testimony gathered by congressional investigations. Allegations of inadequate wilderness review should not be valid reasons for overturning the forest-wide land management plans to be prepared for the central Idaho forests during the next few years, or subsequent Forest Service decisions to proceed with development activities in the "non-wilderness" lands listed in this Statement of Managers. In summary, the conferees feel that sufficient information has been reviewed during the legislative process to satisfy the need of Congress; the public has been actively and extensively involved in the development of this legislative product; and a final decision for central Idaho has been reached.

6. CLEAR CREEK UNDERGROUND MINING AREA

Section 5(d) of the Senate bill designates an area of approximately 39,000 acres as the "Underground Mining Area—Clear Creek." This tract is located entirely within the northeastern corner of the proposed wilderness, embracing primarily the Clear Creek and Garden Creek drainages. The House version excludes this area and an additional 24,380 contiguous acres from the wilderness.

Both the Senate designation of the "Underground Mining Area" and the House deletion of the larger roadless tract were made in recognition of the possibility that the 39,000 acre Clear Creek area may contain deposits of cobalt, a mineral which is of considerable strategic significance to the United States.

Cobalt is a mineral for which the United States is at least 90 percent dependent at present upon foreign sources of supply. Because cobalt superalloys offer high strength, corrosion resistance, high thermal conductivity, and stable magnetic properties, the metal has important industrial, manufacturing, and military applications.

Perhaps most importantly, cobalt is an indispensable basic material in America's increasingly sophisticated national defense systems and the industrial base upon which they depend. It is vital as an engine component for high speed, high performance aircraft, where each F–100 engine in the F–15 and F–16 fighter planes contains some 900 pounds of cobalt. In addition, it is essential for missile controls, tank precision rollers, armor piercing shells, and tool steels and high speed bits and cutters. The importance of cobalt to our national defense is best seen in the dramatic increase in demand that has taken place during periods of defense mobilization: demand for the metal doubled during World War II, it doubled again during the Korean War, and increased by some 39 percent during the years when the Vietnam conflict was escalating.

Often overshadowed by its defense applications is the integral role of cobalt in the production of steel. Cobalt is used in the production of a number of specialty steels from the superalloys to a wide variety of alloys, such as high speed tool steels, abrasion resistant plate, and tool and die steels. In summary, cobalt is vital to the American steel industry for nonmilitary as well as military purposes.

Since, as mentioned earlier, the United States now imports over 90 percent of its cobalt requirements, much of which comes from politically unsettled regions, there is little assurance that a reliable or steady source of supply of cobalt will be available in the future. Compounding the critical nature of this supply picture is the fact that the U.S. Strategic and Critical Materials Stockpile goal for cobalt is only 48 percent complete. Furthermore, there are no known, readily available substitutes for cobalt in essential components of the country's present and projected weapons systems. Thus, it is important that the U.S. move to develop any domestic reserves of this metal that may be discovered.

The Clear Creek area, which contains the same "Idaho Cobalt Trend"[7] which exists at the Blackbird cobalt mine (which is slated to resume production by mid-1982), was originally included within the wilderness proposed in the Senate bill because of its high wilderness and wildlife values. The lower elevations facing into Panther Creek and the main Salmon River provide winter range for many big game species, including deer, elk, mountain goat, and bighorn sheep. The higher elevation portion of the area is a scenic, glaciated cirque and lake basin, with generally sparce alpine vegetation. The area contains 13 mountain lakes and insulates the complex of mountain lakes on the Middle Fork side of the Bighorn Crags. This adjacent lake system is the most popular for recreation in the entire Idaho Primitive

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[5] The only other case now pending is *Southern Appalachian Multiple Use Club, et al.* v. *Bergland.* (U.S. District Ct., W. Dist., N.C.)

[6] *California* v. *Bergland,* Civil No. S–79–523, (D. Cal. filed Jan. 8, 1980, pg. 46).

[7] This is a unique geologic strata which contains greater than normal cobalt mineralization.

Area. Lower Clear Creek is winter range for a bighorn sheep population of some 400 animals, which is the most productive herd in the State of Idaho. The Idaho Department of Fish and Game currently live traps large numbers of animals each year for transplant throughout Idaho and even into eastern Oregon.

The conferees agreed to adopt the Senate boundary, which includes the entire 63,398-acre roadless area within the wilderness. However, for the 39,000 acre Clear Creek area, the conferees agreed to several changes:

(1) The "Underground Mining Area" designation in the Senate bill is deleted and the area redesignated as the "Special Mining Management Zone—Clear Creek" (the Management Zone or the Zone). This change was made to eliminate all presumption that the future mining of cobalt and associated minerals within the Zone *must* be conducted using only underground mining methods. As cobalt is most often mined in association with other minerals, most notably copper and nickel, the language regulating cobalt exploration and mining activities within the Zone refers to cobalt and "associated minerals." The conferees note that the mining of associated minerals within the zone can only occur in conjunction with the mining and processing of cobalt.

(2) Language is added to insure that within the Management Zone, the prospecting and exploration for, and the development or mining of cobalt and associated minerals is to be considered a dominant use of the Zone. This provision is intended to assure continued access to the area and to secure the right of individuals and companies to actively explore for cobalt and to mine and process the metal.

(3) With certain exceptions (as enumerated in 4, 5, and 6 below), these exploration and mining activities for cobalt and associated minerals are to be subject only to such laws and regulations as are generally applicable to National Forest System lands *not* designated as wilderness or included within other special management areas (which are managed under special management prescriptions). The language adopted by the conferees carries with it *no* authority which would allow the Forest Service to restrict, under any provision of the Wilderness Act of 1964, the manner in which access to the area and prospecting and exploration for and the development and mining of cobalt and associated minerals is to be carried out. In fact, these activities are specifically exempted from the rules and regulations promulgated by the Secretary of Agriculture pursuant to the Wilderness Act. This means that, among other things, the provisions of section 4(d)(3) of that Act, closing wilderness areas to the general mining laws at the end of 1983, do not apply to cobalt (and associated mineral)-related activities within the Zone. There should be no doubt that the intent of the conferees in adopting this language was to remove any restriction based on the Wilderness Act on the mining of cobalt and associated minerals within the Zone, notwithstanding the fact that the Zone is within the exterior boundary of the wilderness. The conferees adopted these provisions because of the 16 year history of restrictions on mining within the National Wilderness System and the unique circumstances surrounding the mineral cobalt.

(4) Within the Management Zone, all mining locations and access roads are to be used for mining and mineral processing only, except that personnel of the Idaho Fish and Game Department may use these same access roads to continue their bighorn sheep trapping and management efforts within the area.

(5) Subject to valid existing rights, all patents issued under the mining laws of the U.S. for claims within the Management Zone are to convey title only to the mineral deposit, reserving to the United States all title in or to the surface or the surface resources. The patentee does, however, have the right to cut and use as much mature timber from the claim as may be necessary for mining operations if the timber is not otherwise available and is cut under sound timber harvesting techniques. In addition, the patentee has the right to use as much of the surface as is reasonable necessary for the mining, removal, extraction, or benefication of the mineral deposit. The conferees note that these provisions apply to *all* mining claims, both patented and unpatented.

(6) In view of the fact that the lands within the Management Zone comprise critical habitat for significant numbers of bighorn sheep, language is added providing that consistent with the foregoing provisions, the Secretary of Agriculture may take all reasonable measures to insure that cobalt (and associated minerals) mining and processing activities within the Management Zone do not significantly impair the overall habitat of the bighorn sheep within or adjacent to the Zone. It is the intent of the conferees that such measures shall not prevent the recovery of cobalt and associated minerals.

Mr. CHURCH. Mr. President, I would like to note for the record that there is an error in the joint statement of managers contained on page 18 of House Report 96-1126. The first full sentence at the top of that page should read: "The House version excluded this area." The precise acreage deleted by the House of Representatives in the Clear Creek area remains in controversy, even though this point is now moot with the inclusion of all of roadless area (W4-504) within the new River of No Return Wilderness.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I want the record to reflect at this point that I did not sign the conference report on this bill, although I have not objected to its consideration this evening.

I did not sign the conference report for two primary reasons: One is the issue of relief language, the question of whether or not areas which have been studied for wilderness and consciously excluded from wilderness boundaries may now be subjected to ordinary multiple use management or whether or not they will continue to be under the threat of those outside the administration that might seek to require further wilderness consideration prior to further congressional consideration.

Senator CHURCH and others urged upon me, and successfully upon the Congress, that language in the report would be sufficient, and language within the report is better than not having it at all, because it may indeed be some direction to an administration if the administration desires to be directed, and the Senator, my colleague, has assurances from this administration that they accept that direction.

Certainly that cannot bind future administrations nor can it alter the statutory provisions for access to the courts by anyone outside who has not so committed himself, and certainly not legally bound himself not to challenge the management prerogatives with respect to those areas not included within the wilderness area, but not by legislation excluded from all of the rest of the statutory provisions in management and wilderness review.

Mr. President, the second reason I did not sign the report and could not agree with the conference is the action by the conference and, indeed, this body with respect to a critical mineral that is available for economic exploitation only one place within the continental boundaries of the United States, including Alaska, and that is the mineral cobalt.

There is a belt of cobalt-bearing minerals that lies half within the proposed wilderness and half outside the proposed wilderness. Cobalt is absolutely essential to the machine tool industry and to the jet aircraft industry.

The result of the impasse between the Senate and the House, in which the Senate agreed to put it inside the wilderness boundaries and the House had excluded it from the wilderness boundaries, was to say it will be in the wilderness but mining is the dominant use.

That, in my mind, is a total inconsistency in language. You cannot have a mineral area within a wilderness boundary and then say that mining is the dominant use, and yet that is what this language does.

But beyond that inconsistency it places in threat something that has never been in threat since 1963, and that is the future of mineral exploration and development within the boundaries of all of the rest of the wilderness areas in the country, because when the Wilderness Act was passed it was said that exploration will continue within the wilderness boundaries until 1983, and there is no question that it was congressional intent that if minerals were found within those boundaries within that time frame that subject to management prerogative, the minerals could be extracted within the boundaries of wilderness areas.

Now for the first time we find it necessary to say that minerals can be extracted if found within the boundaries of a wilderness area. That, I think, is a fundamental threat to the congressional understanding up until this point that the Wilderness Act itself controlled the future of mineral exploration and development within the boundaries of a wilderness area, because certainly if Congress finds it necessary to say in this specific case it will be all right to exploit minerals within the boundaries of the wilderness area, then it must necessarily follow as a matter of statutory construction that in no other area does Congress now believe that is correct.

I think my colleague from Idaho would admit that is not the intention of this language, and I would ask that question of my colleague from Idaho so that we might make this much legislative history.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHURCH. I would say to the Senator that this is a unique case. The Clear Creek area is to be managed under these special procedures because of the great importance of cobalt to the country. I think that both of the Senators from Idaho wanted to make sure that all of the cobalt that may be located in this region be accessible and available for mining.

The provision drawn up in the conference is one that will permit the mining of cobalt and associated minerals in this case, but it is not meant to be a precedent for other wilderness areas.

Mr. McCLURE. Courts looking at this action in conjunction with the Wilderness Act, the basic law of the land, should not take this as any kind of a congressional finding that it requires special language to permit exploration for or development of minerals within the boundaries of other wilderness areas; am I correct?

Mr. CHURCH. That is correct.

Mr. McCLURE. I thank the Senator for that explanation. I am still concerned that indeed courts may, as courts sometimes do, seize upon any device they find appropriate to attain whatever preconceived ideas they have decided are the appropriate end of legislation, and I am concerned that this may sometimes be seized upon by the courts as an excuse to say that Congress in this instance found it necessary to write a special provision and, therefore, Congress tacitly understood in all other instances it would not be possible to take these actions within the wilderness boundaries.

The PRESIDING OFFICER. The time on the conference report has expired.

Mr. CHURCH. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I am about to ask unanimous consent that the Senate proceed to the consideration of the supplemental appropriations bill, but before I do, let me make as clear as I can the reasons why I think it is important for the Senate to proceed to the consideration of this measure.

The 3-day rule has not expired, granted, and that is a problem. But the House, it is my understanding, will not be in session after 3 o'clock tomorrow afternoon. I was over there, along with Mr. CRANSTON and Mr. INOUYE, this afternoon and talked with the Speaker and with the majority leader and with other Members of the House Democratic leadership. They all indicated to me that the House would appoint conferees just as soon as the Senate passes the supplemental so that the conferees could go to conference.

The House leadership indicated that the House would not be in, however, after 3 o'clock tomorrow, would not be in Saturday, and would not be in again until Monday. But, as I say, the Speaker assured me that just as soon as the Senate sends the bill over he will appoint conferees. If we can send the bill over tonight or early tomorrow morning, he will appoint conferees, and hopefully, the conferees would complete their work, but the conference report would yet have to be agreed to.

It is possible for the Senate to go out for the July break Saturday night. The House will send the energy mobilization conference report to the Senate by 2 o'clock tomorrow afternoon. It is the intention of the leadership to dispose of that conference report before the Senate goes out for the July break.

The supplemental, however, must go to the other body and then return. If the House goes out tomorrow afternoon at 3 o'clock and that conference report has not been disposed of, then that means that the Senate cannot go out Saturday evening but will be in Monday.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. YOUNG. Mr. President, I would like to point out that there are 283 items in disagreement with the House, so it is going to take some time in the conference with the House.

Mr. ROBERT C. BYRD. Yes. I thank my distinguished friend, Mr. YOUNG. That is all the more reason for the Senate to act as soon as possible to get the bill over to the House.

If the conference report is not disposed of by Wednesday of next week, then the House will go out, the Senate will go out, and we will both come back the following Monday, because neither body is going out for the break unless the supplemental is disposed of before we go out. I will not even call up the adjournment resolution.

We have until Wednesday. It is true that we said earlier on that the break would not begin until the close of business on Wednesday. Of course, Senators are aware of that.

But if the Senate and House have not disposed of that supplemental appropriation bill by the close of business on Wednesday, we will not go out for the break. We will be back on the Monday following and stay until we complete action on that supplemental.

Now, everybody knows the reason why I have to say that. There are many programs that are involved and which will run out of funds come June 1 if that supplemental appropriations bill is not disposed of.

For example, the black lung program, which is very important to my own State of West Virginia and to other coal producing States, is in urgent need of supplemental money. The supplemental appropriation bill contains about $392 million for black lung payments. In addition to that, there is the food for peace program, which benefits nations facing starvation, funds for the Emergency Management Administration disaster relief program and funds for the Small Business Administration disaster relief program are urgently needed to relieve the devastation that has been caused by the tragic Mount St. Helens disaster, unemployment compensation under the Trade Adjustment Act ran out earlier this month and almost 300,000 workers have already been affected, so I need not emphasize the very critical nature of this bill.

I hesitate to ask that the 3-day rule be waived—2 days have run their course—if it were not for the fact that the supplemental bill is badly needed and time is running out. If the House goes out tomorrow afternoon, it means we cannot finish the bill before Monday, may not finish it then, may not finish it Tuesday, may not finish it Wednesday, and we will have to be back on the following Monday continuing on that bill.

So it is an extenuating circumstance and I hope that Senators will not object to the waiver of the 3-day rule under those circumstances.

If the Senate could act on the supplemental and send it over to the other body, while the conferees are working on the supplemental the Senate could proceed with the reconciliation bill and the military procurement bill and the energy mobilization conference report, which is the remaining portion of the energy bill that was acted on last year and in connection with which the conference report would, when adopted, send the bill to the President.

So I hope that Senators would allow us to waive the rule for the remaining few hours. Tomorrow the 3-day rule would have run its course and that means, if there is objection, the Senate will not be able to start on that bill tomorrow morning and the time will be short.

As I say, the other body will go out at 3 o'clock tomorrow afternoon. But if the Senate can proceed tonight, in essence, what it amounts to is waiving the rule for 3 or 4 hours, that is what it amounts to. So I would hope that Senators, under the exigencies that confront us in this instance—this is a very important bill awaiting Senate action and I hope that Senators will not object and allow 3 or 4 hours tonight to hold this bill up over the weekend, for sure, if we have to wait until tomorrow, and possibly even longer.

So I ask unanimous consent, Mr. President, having made that explanation, that the Senate proceed to the consideration of the supplemental appropriation bill.

Mr. HEINZ. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I listened very carefully to the distinguished majority leader. I understand the urgency that he has described in our dealing with the supplemental appropriation.

But, as I am sure my colleagues are aware, there is a reason for the 3-day rule and it is one that is a very important rule to protect those people who are concerned about the elements of the report which, in this instance, is not a brief report. It is rather lengthy. It is 330-some pages long.

I also must note that I did not really follow the argument of the majority leader that were the supplemental not to come up tonight, that it would in some way influence the ability of the Senate to go out by Saturday night.

The majority leader in his statement, if

I recollect him correctly, indicated that it would be necessary to have a conference; that the House would be going out at 3 o'clock. The Senator from North Dakota indicated there are some 283 items in disagreement. As a practical matter, what that would mean is there could not conceivably, at least in the judgment of this Senator—and he would love to be wrong but I do not think I am—there could not conceivably be a conference report until Monday or Tuesday. The Senate would have to be in session on Monday even if it was a skeleton staff, shall we say, to deal with that conference report.

So it is difficult for this Senator to understand why the Senate, in fact, would ever have an opportunity to go out on Saturday night. That just does not seem to be logical, at least to this Senator.

It is not as if there are not numerous and important things for the Senate to do.

So, Mr. President, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, there is no question but that there are numerous and important things for the Senate to do. When the Senate returns after the holiday it will have plenty to do. And when it returns after the August holiday it will have plenty to do.

There may be scores of items in the bill that would have to be resolved in conference.

In many instances, the distinguished Senator from Washington—and he has been here longer than any of us, he and Mr. YOUNG—has many times in conference seen scores of matters resolved quickly. I have been assured by the Speaker that the House would move quickly to appoint conferees. So the number of items in the bill do not concern me so much except to say that we do not speed the resolution of those items by holding onto the 3-day rule.

This is a good rule, the 3-day rule, but I think it has been abused time and time again. In this one instance it would seem to me that in the interests of a bill that is badly needed and because there are funds for programs that are going to be delayed, the 3-day rule ought to be waived.

What good is it going to do not to waive the rule? All we could do is save 3 or 4 hours and then tomorrow morning we will go on the supplemental. But those 3 or 4 hours tonight might make the difference of a weekend or longer. Who knows? I yield to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I have been around here for 2½ days waiting to bring this bill up. I was hopeful that the Republicans would not invoke the rule. There is no objection on our side. I was hoping that the Republicans would not invoke the 3-day rule because of the urgency of the bill. I can understand why the 3-day rule is a good rule in many cases.

I do not think the conference will take that long. I say to my colleague, Senator YOUNG. When the House gets under the pressure of wanting to go home, they agree to a lot of things. I think they might even informally agree to 200 of those amendments before we even meet.

I am hopeful that we can get started on this bill. I do not know that 3 hours will make a great deal of difference. If the Senator from Pennsylvania wants to insist on the rule, I guess he will. But that just means we will start earlier in the morning. Is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. We will start earlier in the morning?

Mr. ROBERT C. BYRD. Yes.

Mr. MAGNUSON. And then we will go at it.

I have almost a one track mind about this. The Senator from Idaho and the rest of us have the Mount St. Helens disaster relief matters in there and time is awasting on that. Even now it has been a long time before we have taken action. We promised we would. It is serious out there, very serious, and it will be more serious.

I am hopeful we can get this done before we recess for July 4.

There are some 600,000 working men and women who are currently eligible for trade adjustment assistance benefits who are also of great concern to me. Their benefits were cut off the first week of June; funds for that program are in this bill, along with those for the entire black lung program; and that concerns me.

There is $1.4 billion in this bill for liquidating contracts under the highway program. In almost every State, there are contractors who are anxiously awaiting those payments and in some cases those bills are long overdue.

There is $400 million in this bill for the EPA water and sewer program. Projects in some 30 States have been delayed and cannot go forward without those funds. In many of those, if we delay another few weeks or even days, those construction contracts will not be let this year and in some that will further endanger the health and safety of thousands of our fellow citizens.

Mr. President, I readily admit that the Mount St. Helens disaster funds do concern me greatly, but I am equally concerned about these and many other programs that await funding from this supplemental.

I am glad that the Senator from West Virginia said if we do not get it done we are going to come back and get it done.

I am willing to accept the objection, but let us start early in the morning and get going on the whole thing. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

Mr. BAKER. Mr. President, reserving the right to object, the request is for the immediate consideration of the supplemental?

Mr. ROBERT C. BYRD. Yes.

Mr. HEINZ. Mr. President, reserving the right to object, this is the same request the Senator made a moment ago?

Mr. ROBERT C. BYRD. Yes, it is, and it is on behalf of that black lung program which the Senator and I want very much to see funded.

Mr. FORD. Count me in on that.

Mr. RANDOLPH. Me, too.

Mr. ROBERT C. BYRD. And Senator RANDOLPH and Senator FORD.

Mr. HEINZ. Mr. Leader, no piling on. [Laughter.]

Mr. HEINZ. Further reserving the right to object, Mr. Leader——

Mr. ROBERT C. BYRD. And Senator WARNER.

Mr. HEINZ. As the leader knows, I have made some suggestions to him for resolving this impasse, which I do believe is resolvable. I think perhaps we could take 2 or 3 minutes to try and resolve it. If the leader would withhold his unanimous-consent request for 2 or 3 minutes, maybe we could resolve it.

Mr. ROBERT C. BYRD. Mr. President, I temporarily withdraw my request.

Mr. MAGNUSON. I want to ask the leader one question. Suppose we work this out and call up the supplemental bill. How long does the Senator expect to go on tonight? Senators are wondering.

Mr. ROBERT C. BYRD. Well, I have been telling my colleagues that we would go late—10 o'clock, 11 o'clock, maybe not any longer.

Mr. MAGNUSON. I just wanted to know. I thought maybe we would go on until we finish the bill tonight.

Mr. STENNIS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STENNIS. Mr. President, as the leader knows, we have been here ready with the military procurement bill, which is a large authorization bill, all day. I really think the preferences would ordinarily go with the appropriations bill, being a supplemental bill, concerning almost every Department and a lot of matters, but primarily because it has to come back for the final action of the legislative body before it is effective. But if we cannot waive just 3 or 4 hours or 2 or 3 hours here, we can stay here until after 12 and then it will be eligible to be taken up—the supplemental will—and we can go right on tonight on this bill.

Or, as an alternative for the leadership to consider, we can bring up the military procurement bill. We are not trying to displace anything or anyone, but we could bring it up with the understanding that if it is not finished by tomorrow afternoon at 3 or 4 o'clock, it would yield then to the supplemental bill. We could put in a full day, you might say, or part of a day, now, and the rest tomorrow. If we do not get through, we would yield the floor anyway.

In that way, we can utilize all the time and get finished a large and important bill. It is the largest authorization bill that has ever been offered in the Senate. It involves an immense amount, and policy questions are involved, too. It has been thoroughly developed in the record by the committee members. Many are prepared to present their views. I wish we could start tonight—start now—if that is the wish of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I know that the chairman has been on the floor for days, ready to proceed with that bill, and he and I have had numerous discussions. It is my intention that the Senate do proceed with that bill before we go out for the break now. I think there is some disposition in some quarters not to let that bill be disposed of before the Senate goes out, but I am fully committed to staying here through Wednesday, at the close of business. The Senate has done excellent work in the last 10 days or 2 weeks. The Senate has come in early and stayed late and it has passed an enormous amount of legislation. I had hoped that it would be possible to complete the work of the Senate by the weekend, or at least by Monday night or Tuesday night and, perhaps, not have to come in on Wednesday.

I am fully committed to staying in until Wednesday night, and if the Senate has not completed these items—the supplemental appropriation, the reconciliation, the Energy Mobilization Board conference report, and the military procurement bill—I shall not call up the recess resolution, which means that, after the Fourth of July, we come back.

Mr. STENNIS. That is a wise decision, Mr. President, if I may say. I highly commend the leadership. This bill ought to pass before the July recess for many reasons, but I shall not discuss that again now.

The best news I hear is that we are having fewer and fewer amendment prospects on each of these bills. That is the way I pick it up here tonight. If we just start now and work through, we can finish both of these measures.

Mr. ROBERT C. BYRD. Absolutely. If we had about 4 hours or 5—as a matter of fact, we completed our work on two major bills yesterday by 2 p.m. We could have had 7 or 8 hours yesterday afternoon and evening if we could have gotten the 3-day rule waived, and the bill could have been in conference by now.

So I hope that my friend, who has black lung constituents, also—I know that he conscientiously wants to see that 3-day rule run its course in this instance, as in all instances—I hope that he will, out of the goodness of his heart, not object to proceeding with this bill.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I shall yield for that purpose if I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have about as much patience I think as any man whoever sat in this Senate, but I think there comes a time when one man's patience impinges on the convenience of 99 others.

I have made the request 40 minutes ago that the Senate proceed to the consideration of the supplemental appropriation bill, and the distinguished Senator from Pennsylvania has attempted to work to resolve the matter so that he can allow me to proceed.

I am going to make the request once more, and I am not going to hold Senators here any longer tonight. So we either stay in and work a while and hopefully get the supplemental over tomorrow in time to get it back before 3 p.m. or we come in early in the morning.

ORDER FOR RECESS UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the prayer tomorrow morning the Senate either proceed to or resume consideration of the supplemental appropriation bill.

Mr. HEINZ. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. If that is objected to, of course, in the morning I can move.

Mr. HEINZ. I just want to ask a question.

Mr. ROBERT C. BYRD. Yes.

Mr. HEINZ. I reserved the right to object in order to ask is it the Senator's intention to proceed to the supplemental this evening?

Mr. ROBERT C. BYRD. It is my intention to proceed to it tomorrow morning at 8 o'clock as soon as the prayer has been rendered by the Chaplain. I would like to go to the supplemental this evening because I think there are a couple or 3 hours of work that could be done on the supplemental tonight, and that is why I suggested it.

Mr. HEINZ. So it is the Senator's intention to proceed to the supplemental tonight for some reasonable period of time?

Mr. ROBERT C. BYRD. Well, I cannot say it is my intention to proceed. It is my intention to proceed if there is no objection, but I could wait 3 hours and 40 minutes and then proceed without objection.

Mr. BAKER. Mr. President, reserving the right to object just for a moment—I do not mean to get involved in this because, as the majority leader knows, I tried pretty hard to get this arranged, and we may be on the brink of getting it arranged—but just for the sake of the record I am not sure in my mind that the bill would be eligible under the 3-day rule to be considered at 1 minute after midnight tonight. I do not press that point at this time, but I wish to record it.

Mr. ROBERT C. BYRD. I can say this: if I were a young man—strike that.

Mr. BAKER. Neither one of us is as young as we used to be.

Mr. ROBERT C. BYRD. I will say this, I will not hesitate in a moment to try that, to go to midnight tonight and then proceed to that bill.

Mr. BAKER. Mr. President, reserving the right to object, I do not doubt for a moment that the majority leader would, but by the same token I would not have the slightest hesitation in alluding to the precedents of the Senate in that respect as well, so I suppose that, like all other issues, will be decided by the Chair or ultimately by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. It is fine with me because sooner or later one day the 3-day rule is going to be eroded. If we continue to abuse the 3-day rule as it has been abused—it is a good rule—but if it continues to be abused, the Senate is going to tire, just as the Senate tired of the post-cloture filibuster. It is not one man's will that will be done, but the will of the Senate will be done.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. I will be glad to let the Senator have the last word.

Mr. BAKER. I have no desire whatever to join this issue tonight. I simply did not want the majority leader's statement that the 3-day rule would mature at midnight tonight or 1 minute after midnight be embedded in this RECORD without at least recording alongside of it my dissent from that point of view. There is no need for us to try to resolve that issue tonight. I simply want the RECORD to show, as it does now show, that I disagree with that point of view.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the further right to object——

Mr. ROBERT C. BYRD. Mr. President, we may just try that. We may just find out after midnight.

Mr. HEINZ. Mr. President, reserving the further right to object, what does the majority leader intend to proceed to after the supplemental appropriation?

Mr. ROBERT C. BYRD. My intention is to proceed to the military procurement bill after the supplemental appropriation bill is disposed of. But I call attention to the fact that there are two privileged matters that, in my judgment, are must pieces of legislation that have to be done, one being the energy mobilization conference report, and the other being the reconciliation.

Mr. HEINZ. Which could come up at any time?

Mr. ROBERT C. BYRD. Which could come up at any time.

Mr. HEINZ. During the DOD authorization, they could come up during the supplemental, they are privileged matters?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HEINZ. But I do understand, if I understand the majority leader correctly, he does intend to proceed upon the disposition of the supplemental to the DOD authorization which, unless there is some kind of unforeseen catastrophe around here, we might normally expect to proceed to tomorrow or at the latest Saturday?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. TOWER. Mr. President, reserving the right to object, may I ask the distinguished majority leader when he would expect us to take up, at what point in time would he expect us to take up, the DOD authorization?

Mr. ROBERT C. BYRD. I cannot say until we come up from the disposition of the supplemental appropriation bill.

Mr. TOWER. It might be tomorrow afternoon, tomorrow night, Saturday, Monday?

Mr. ROBERT C. BYRD. It could very well be, but I do not anticipate the supplemental being before the Senate that long. I would hope that the Senate would complete action on the supplemental at a reasonable hour tomorrow.

Mr. TOWER. Would it be the distinguished majority leader's intention then once taken up to continue deliberation and action on the DOD authorization until it is completed, even if that took us into Wednesday of next week?

Mr. ROBERT C. BYRD. No, it would not be because I think it is important that the Energy Mobilization Board conference report, which is a privileged matter, and the reconciliation measure, which is a privileged matter, be disposed of before the Senate goes out for the recess, and it is my intention that the military procurement bill be disposed of. However, the other two are privileged.

Mr. TOWER. So there is a possibility then that military procurement will be taken up, say, tomorrow afternoon and set aside either tomorrow or Saturday or Monday or some other time?

Mr. ROBERT C. BYRD. There is that possibility.

Mr. TOWER. If these other things intervene?

Mr. ROBERT C. BYRD. Yes, there is that possibility.

Mr. TOWER. So I guess, to make a long story short, my question is what is the likelihood that we would try to complete work on military procurement next week or, on the other hand, could we complete military procurement by Saturday night?

Mr. ROBERT C. BYRD. I do not know how long the Senate will want to spend on military procurement, but I think there is a good likelihood that the Senate will complete action on the military procurement bill certainly by the close of business Wednesday. It could be very much earlier. But the holiday break was not supposed to begin until the close of business on Wednesday, and I would think the military procurement bill would be disposed of by well before then.

Mr. TOWER. Would the distinguished majority leader be amenable to showing me his absentee list for next week?

Mr. ROBERT C. BYRD. All my colleagues will be here. They know we do not go out until Wednesday night if we do not complete our work. So I have no concern about my colleagues being here, my colleagues on this side of the aisle, and I would imagine that Mr. BAKER's colleagues on his side will probably be here for rollcall votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. President, there is some misunderstanding as to what was agreed to. What was the request? Was it the request that we come in at 8 o'clock tomorrow morning and either resume or proceed to the consideration of the supplemental?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So, in either event, we go to the supplemental in the morning.

SUPPLEMENTAL APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I renew my request that the Senate proceed to the consideration of the supplemental appropriation bill at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

H.R. 7542. A bill making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The pending order of business is H.R. 7542.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be considered as original text for the purpose of further amendment and that no point of order be considered as waived, with the following exception: The amendment on page 73, lines 11 through 20.

Mr. BOSCHWITZ. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. BOSCHWITZ. Reserving the right to object.

Mr. MAGNUSON. Does the Senator have a suggestion to make?

Mr. BOSCHWITZ. That the committee amendment appearing on page 76, lines 15 through 17 be reserved out for separate consideration.

Mr. MAGNUSON. Mr. President, I include that in my request.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I hope I do not have to object, but I would also like to have a point of order reserved as to one of the amendments which is contained—I understand all points of order are reserved. That is fine. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 11, strike "$2,500,000" and insert "$1,200,000";

On page 2, line 16, strike "and";

On page 2, line 20, strike "$1,000,000" and insert "$500,000";

On page 3, beginning with line 1, insert the following:

EXTENSION ACTIVITIES

(Recession)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for urban gardening for fiscal year 1980, $1,500,000 are rescinded.

On page 3, beginning with line 7, insert the following:

AGRICULTURAL CREDIT INSURANCE FUND

For additional amounts for "farm ownership loans", $600,000,000 and for "operating loans", $200,000,000.

WATER AND WASTE DISPOSAL GRANTS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $50,000,000 are rescinded.

On page 3, beginning with the line 20, insert the following;

RURAL DEVELOPMENT PLANNING GRANTS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations for fiscal year 1980, $2,000,000 are rescinded.

On page 4, line 4, after "$3,000,000" insert a comma and "to remain available until September 30, 1981";

On page 4, line 9, after "expended" insert a colon and Provided, That these funds shall be available to pay for the full costs of the emergency measures";

On page 4, beginning with line 12, insert the following:

WATERSHED AND FLOOD PREVENTION OPERATIONS

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $10,000,000 are rescinded.

RESOURCE CONSERVATION AND DEVELOPMENT

(Rescission)

Of the funds appropriated under this head in Public Law 96–108, making appropriations available for fiscal year 1980, $4,000,000 are rescinded.

On page 5, line 10, strike "$312,400,000" and insert $302,400,000";

On page 5, beginning with line 11, strike through and including "up to" in line 12;

On page 5, line 17, strike "$11,800,000" and insert the following: $14,800,000: *Provided*, That none of the funds appropriated in this Act or any other Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

On page 6, beginning with line 1, insert the following:

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For an additional amount for the "Commodity Supplemental Food Program", $250,000.

On page 6, beginning with line 10, strike through and including line 14;

On page 6, line 17, strike "$142,860,000" and insert "$100,000,000";

On page 6, line 21, strike "$122,860,000" and insert "$80,000,000";

On page 7, line 7, strike "$38,473,000" and insert "$57,773,000";

On page 8, line 6, strike "$24,500,000" and insert "$35,700,000";

On page 8, line 12, strike "$6,200,000" and insert "$9,800,000";

On page 8, line 18, strike "$32,680,000" and insert "$51,480,000";

On page 9, line 4, strike "$2,329,000" and insert "$429,000";

On page 9, line 6, beginning with the colon, strike through and including the word "training" in line 9;

On page 9, line 13, strike "$1,100,000" and insert "$1,000,000";

On page 9, line 19, strike "$573,200,000" and insert "$513,200,000";

On page 9, line 24, strike "$410,200,000" and insert "$431,562,000";

On page 9, line 25, strike "$67,856,000" and insert "$60,494,000";

On page 10, line 2, strike "$2,562,000 shall be derived by transfer from "Operation and maintenance, Defense Agencies, 1980";";

On page 10, line 5, strike "$26,600,000" and insert "$21,800,000";

On page 10, line 16, strike "$1,041,818,000" and insert "$1,028,768,000";

On page 10, line 17, strike "$212,800,000" and insert "$250,050,000";

On page 11, line 12, strike "$23,100,000" and insert "$38,750,000";

On page 11, line 18, strike "$8,400,000 shall be derived by transfer from 'Research, development, test, and evaluation, Navy, 1980/1981' " and insert "$30,000,000 shall be derived by transfer from 'Operation and maintenance, Navy Reserve, 1980' ";

On page 11, line 25, strike "$30,844,000" and insert "$32,844,000";

On page 12, line 6, strike "$1,246,209,000" and insert "$1,280,809,000";

On page 12, line 7, strike "$56,445,000" and insert "$52,845,000";

On page 12, line 15, after "1980/1982" beginning with the comma, strike through and including the quotation mark at the end of line 17;

On page 12, line 20, strike "$6,920,000" and insert "$7,420,000";

On page 13, line 9, strike "$13,483,000'" and insert "$13,983,000";

On page 13, line 24, strike "$2,400,000, which" and insert "$14,500,000, of which $2,400,000";

On page 14, line 2, after the comma, insert "and $12,100,000 shall be derived by transfer from 'aircraft procurement, Navy, 1980/1982',";

On page 15, beginning with line 6, insert the following:

OTHER PROCUREMENT, NAVY

(Transfer of funds)

For an additional amount of "Other procurement, Navy, 1980/1982", $2,150,000, which shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982", to remain available for obligation until September 30, 1982.

On page 15, line 22, strike "$51,900,000" and insert "$68,000,000";

On page 15, line 24, strike "and";

On page 16, line 2, after "1980/1984" " insert a semicolon and "$10,100,000 shall be derived by transfer from 'Research, development, test, and evaluation, Air Force, 1980/1980', and $6,000,000 shall be derived by transfer from 'Other procurement, Air Force, 1978/1980' ";

On page 16, line 12, strike "$1,200,000" and insert "$6,000,000";

On page 16, beginning with line 22, strike through and including page 17, line 6, and insert in lieu thereof the following:

During the current fiscal year, subject to notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980, appropriations available to the Department of Defense for "shipbuilding and conversion, Navy" may be transferred between such appropriations or any subdivisions thereof, to be merged with and to be available for the same purposes, and for the same period, as the appropriation or subdivision to which transferred.

On page 17, line 18, strike "$1,000,000,000" and insert "$1,250,000,000";

On page 17, beginning with line 24, strike through and including page 18, line 7;

On page 18, line 15, after the comma, insert "or pursuant to the Refugee Act of 1980,";

On page 18, line 16, following the period, strike through and including line 20;

On page 19, line 12, strike "$28,800,000" and insert "$45,300,000";

On page 19, line 14, after "(D.C. Code 47–2501d)" insert a comma and the following: of which $12,464,100 shall be solely for the District of Columbia contribution to the Police Officers and Firefighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96–122, approved November 17, 1979 (93 Stat. 866

On page 20, line 7, strike "$8,129,700" and insert "$28,129,700";

On page 20, line 11, strike "$386,600" and insert the following: $6,610,000: *Provided,* That $6,500,000 of this appropriation, to remain available until expended, together with previous appropriations for this purpose shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94–399, approved September 4, 1976, as amended, and shall be transferred to the Commission upon request of the Executive Director and the General Accounting Office

On page 20, line 23, strike "$1,878,600" and insert "$4,433,300, of which $1,400,000 shall be available solely for payment to the Federal Bureau of Prisons";

On page 21, line 4, strike "$3,237,100, of which $2,903,300 shall be" and insert "$2,903,300";

On page 21, line 6, strike "$333,800 shall be for the University of the District of Columbia";

On page 21, line 14 strike "$4,280,700" and insert the following: $9,744,500: *Provided,* That $2,227,700 of this appropriation shall be available solely for reimbursements to Saint Elizabeths Hospital: *Provided further,* That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500.

On page 21, beginning with line 20, insert the following:

TRANSPORTATION SERVICES AND ASSISTANCE

For an additional amount for "Transportation services and assistance", $1,450,200.

On page 22, line 8, strike "$19,997,900" and insert "$20,997,900";

On page 23, line 8, strike "$15,000,000" and insert "$13,000,000";

On page 23, line 14, strike "$44,350,000" and insert "$45,850,000";

On page 23, line 21, strike "$237,600,000" and insert "$235,600,000";

On page 24, line 7, strike "$5,000,000" and insert "$1,000,000";

On page 24, line 14, strike "$5,000,000" and insert "$1,000,000";

On page 24, line 18, strike "$34,400,00" and insert "$30,000,000";

On page 25, beginning with line 3, insert the following:

Notwithstanding the provisions of Public Law 96–69 appropriating $6,165,000 for the Office of the Inspector General, those funds determined by that Office to be in excess of the amount required to pay for the salaries and expenses of that Office shall be made available for obligation for the salaries and expenses of other organizations funded by this appropriation.

On page 25, line 14, strike "$33,725,000" and insert "$29,725,000";

On page 25, beginning with line 18, strike through and including line 20;

On page 25, line 25, strike "$4,650,000 and insert "$45,150,000";

On page 26, line 1, beginning with the comma, strike through and including the word "concept" in line 6;

On page 27, line 4, strike "$6,600,000" and insert "$5,000,000";

On page 27, beginning with line 23, insert the following:

FEDERAL ENERGY REGULATORY COMMISSION

For an additional amount for "Federal Energy Regulatory Commission", $1,200,000.

On page 28, line 6, strike "$180,000,000" and insert "$136,600,000";

On page 28, line 7, beginning with the colon, strike through and including "1936" in line 19;

On page 28, beginning with line 21, strike through and including page 29, line 4;

On page 29, beginning with line 6, strike through and including line 10, and insert in lieu thereof the following:

For expenses necessary for flood control and coastal emergencies, $170,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended, and section 10 of the River and Harbor Act of 1899.

On page 30, line 6, strike "$74,000,000" and insert "$70,000,000";

On page 30, line 7, strike ", of which $44,000,000 is for the Columbia River Basin" and insert a period and the following:

Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended and section 10 of the River and Harbor Act of 1899.

On page 31, line 16, strike "$29,450,000" and insert "$42,150,000";

On page 31, line 17, after "expended," insert "of which $9,700,000 shall be for continuing construction of the authorized Garrison Diversion Unit, North Dakota, and";

On page 32, line 2, strike "$14,600,000" and insert "$17,600,000";

On page 32, line 4, after the period, insert the following: None of the funds appropriated for the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall funds be used on features affecting waters flowing into Canada.

On page 32, beginning with line 21, insert the following:

EXECUTIVE OFFICE OF THE PRESIDENT: ENERGY MOBILIZATION BOARD

For necessary expenses of the Energy Mobilization Board, including services as authorized by 5 U.S.C. 3109 and the hire of passenger motor vehicles, $2,000,000, to remain available until September 30, 1981. This appropriation shall be made available only upon enactment into law of S. 1308 or similar authorizing legislation.

On page 33, line 11, strike "$87,353,000" and insert "$19,353,000";

On page 34, beginning with line 3, strike through and including line 15, and insert in lieu thereof the following:

Subchapter I—Multilateral Economic Assistance

Funds Appropriated to the President, International Financial Institutions

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, $812,301,997, to remain available until expended, for the United States share of (1) the new increase in subscriptions to (a) paid-in capital stock and (b) callable capital stock, and (2) the new increase in the resources of the Fund for Special Operations and the replenishment of the resources of the Fund for Special Operations as authorized by the Act of May 31, 1976 (Public Law 94–302): Provided, That of such amount, not to exceed $175,000,000 shall be available for the new increase in the resources of the Fund, and not to exceed $25,000,000 shall be available for replenishment authorized by the Act of May 31, 1976: Provided further, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, $328,000,000, for the United States share of the increase in subscriptions to the (1) paid-in capital stock, and (2) callable capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $33,447,900, for the United States share of the increase in subscriptions to capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $272,000,000 for the United States contribution to the fourth replenishment as authorized by the Act of August 14, 1974 (Public Law 93–373), to remain available until expended and $800,000,000, for the third installment of the United States contribution to the fifth replenishment as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, $363,000,000, to remain available until expended, for the (1) United States share of the increase in subscriptions to the (a) paid-in capital stock, and (b) callable capital stock, and (2) the United States contribution to the increase in resources of the Asian Development Fund as authorized by the Act of October 3, 1977 (Public Law 95–118) and for the new United States contribution to the increase in resources of the Asian Development Fund: *Provided*, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $41,666,667, for the United States contribution to the second replenishment of resources to remain available until expended.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 18 percent;
Inter-American Development Bank:
Paid-in capital, 34.5 percent;
Callable capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 24 percent;
Callable capital, 24 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, as amended, and of section 2 of the United Nations Environment Program Participation Act of 1973, $256,280,000: *Provided*, That not more than $10,000,000 shall be available for the United Nations Environment Program: Provided further, That not more than $120,000,000 shall be available for the United Nations Development Program: *Provided further*, That none of the funds appropriated in this paragraph shall be made available for the United States proportionate share for any programs for the Palestine Liberation Organization, the South West Africa People's Organization, the Zimbabwe African People's Union, and the Zimbabwe African National's Union: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended to finance the United States proportionate share for any program in Cuba.

Subchapter II—Bilateral Economic Assistance Funds Appropriated to the President

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until September 30, 1980, unless otherwise specified herein, as follows:

Agriculture, rural development, and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $635,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $190,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $101,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, $111,888,500: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981.

Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of sections 103–106, not less than $387,000,000 shall be available for loans for fiscal year 1980: *Provided*, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater than $588 but less than $963 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose annual per capita gross national product is greater than or equal to $963 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $20,000,000.

Contingencies: Notwithstanding the provisions of section 451, not more than $3,000,000 of the funds made available under this chapter shall be used to carry out the purposes set forth in said section.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $73,000,000: *Provided*, That in providing assistance under this paragraph for Cambodian famine victims, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the commodities are being distributed within Cambodia. The President shall report to the Congress on compliance with this provision not later than 90 days after the enactment of this provision.

Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided*, That these funds shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $92,500,000, to remain available until expended: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund," as authorized by the Foreign Service Act of 1946, as amended, $26,696,000.

Overseas training and special development activities (foreign currency program): For necessary expenses as authorized by section 612, $20,700,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

Economic support fund: For necessary expenses to carry out the provisions of sections 531 through 535, $1,984,500,000: *Provided*, That of the funds appropriated under this paragraph, not less than $785,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt: *Provided further*, That none of the funds herein appropriated may be made available to Syria without the prior determination by the President and notification thereof to Congress, that Syria is acting in good faith in furthering the process of peace initiated by the Camp David accords of which the treaty between Egypt and Israel is the first step: *Provided further*, That of the funds appropriated under this paragraph, not more than $5,000,000 shall be for refugee assistance through International Relief Organizations in Rhodesia: *Provided further*, That of the funds appropriated under this paragraph, not to exceed $60,500,000 shall be available for programs in southern Africa: *Provided further*, That the funds appropriated under this paragraph for refugee assistance shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure.

Peacekeeping operations: For necessary expenses to carry out the provisions of section 551, $21,100,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $263,000,000: *Provided*, That not more than $102,900,000 of this amount shall be for AID-Washington Operating Expenses: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this chapter shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the Institute for Scientific and Technological Cooperation: *Provided further*, That not to exceed $2,950,000 of the funds made available pursuant to this paragraph may be used to finance the operating or administrative expenses of the International Development Cooperation Agency.

International narcotics control: For necessary expenses to carry out the provisions of section 481, $48,758,000: *Provided*, That not more than $16,000,000 shall be available for the Republic of Colombia for the interdiction of drug traffic.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, as amended, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, $15,964,000: *Provided*, That not to exceed $1,036,000 of previously appropriated funds shall be available for necessary expenses during the fiscal year 1980.

PROGRAMS OF SCIENTIFIC AND TECHNOLOGICAL COOPERATION ADMINISTERED BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For expenses necessary to carry out provisions of scientific and technological cooperation administered by the Agency for International Development (hereafter referred to as the "Agency"), $12,000,000: *Provided*, That in carrying out programs of scientific and technological cooperation administered by the Agency for International Development, the Agency shall—

(1) assist developing countries to strengthen their own scientfic and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries:

Provided further, That in carrying out the functions specified in the first proviso, the Agency shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible:

Provided further, That for purposes of carrying out the functions specified in the first proviso, the Administrator of the Agency for International Development may utilize, in addition to authorities conferred by these provisions, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1946, title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the Administrator of the Agency deems necessary:

Provided further, That the Agency shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries:

Provided further, That the Administrator of the Agency shall prescribe appropriate procedures to assure coordination of the activities of the Agency with other activities of the United States Government in furthering the use of science and technology in the cause of development:

Provided further, That to carry out programs of scientific and technological cooperation administered by the Agency for International Development, the Administrator of the Agency may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by these provisions while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of programs of scientific and technological cooperation administered by the Agency for International Development;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of programs of scientific and technological cooperation administered by the Agency for International Development;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this section; and

(11) take such other actions as may be necessary and incident to carrying out programs of scientific and technological cooperation administered by the Agency for International Development.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

FUNDS APPROPRIATED TO THE PRESIDENT

PEACE CORPS

For expenses necessary for the President to carry out the provisions of the Peace Corps Act, as amended (75 Stat. 612), $105,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1160); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; $456,241,000: *Provided*, That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), $35,000,000, to remain available until expended.

In addition to amounts available under section 101(a)(1) of Public Law 96–123 for necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, (22 U.S.C. 2601(c)), $39,000,000, to remain available until September 30, 1981.

SUBCHAPTER III—MILITARY ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $110,200,000, to remain available for obligation until September 30, 1981: *Provided*, That none of the funds contained under this heading shall be available for the purchase of new automotive vehicles outside of the United States.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, as amended, $28,400,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $659,250,000: *Provided*, That of the amount provided for the total aggregate credit sale ceiling during the current fiscal year, not less than $1,000,000,000 shall be allocated to Israel.

SUBCHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this chapter that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed $6,458,241,000 (of which not to exceed $5,000,000,000 shall be for direct loans) shall be authorized during the current fiscal year for other than administrative expenses.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $14,129,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

SUBCHAPTER V—GENERAL PROVISIONS

SEC. 501. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the Principles and Standards for Planning Water and Related Land Resources dated October 25, 1973.

SEC. 502. Except for the appropriations entitled "International disaster assistance" and "United States emergency refugee and migration assistance fund", not more than 15 per centum of any appropriation item made available by this chapter for fiscal year 1980 shall be obligated or reserved during the last month of availability.

SEC. 503. Unobligated balances as of September 30, 1979, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, for the "Economic support fund" in an amount not to exceed $19,000,000 to be used for the Maqarin Dam and in an amount not to exceed $5,000,000 to be used for programs in Middle East Regional Cooperation and Development, are hereby continued available for the fiscal year 1980 in not to exceed the aforementioned amounts.

SEC. 504. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 505. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 506. None of the funds appropriated or made available pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 507. None of the funds contained in subchapter II of this chapter may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961, as amended.

SEC. 508. Appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 509. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this chapter for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the export of nuclear equipment, fuel, or technology or to provide assistance for the training of foreign nationals in nuclear fields.

SEC. 510. Funds appropriated by this chapter may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 511. None of the funds appropriated or made available pursuant to this chapter shall be obligated or expended to finance directly any assistance to Mozambique, except that the President may waive this prohibition if he determines, and so reports to the Congress, that furnishing such assistance would further the foreign policy interests of the United States.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Laos, or the Socialist Republic of Vietnam.

SEC. 513. None of the funds appropriated in this chapter shall be used for any form of aid directly to Cuba.

SEC. 514. Not to exceed 80 per centum of the funds made available by this chapter for foreign national participants to be selected for Agency for International Development training programs in the United States in fiscal year 1980 shall be available for participants who are selected by the government of their home country, and it is the sense of the Congress that at least 20 per centum of the number of trainees for which funds are obligated in fiscal year 1980 should be chosen by independent selection panels designated by the United States ambassador to the country receiving assistance upon the recommendation of the Mission of the Agency for International Development in such country, and that not less than 80 per centum of the members of each such panel should be citizens of such country.

Sec. 515. None of the funds made available by this chapter may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

Sec. 516. No part of any appropriation contained in this chapter shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Sec. 517. No part of any appropriation contained in this chapter shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 518. No part of any appropriation contained in this chapter shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan to such country by the United States pursuant to a program for which funds are appropriated under this chapter.

Sec. 519. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose United States representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

Sec. 520. None of the funds appropriated or made available pursuant to this chapter shall be available to any international financial institution whose representative cannot upon request obtain document(s) developed by the management of the international financial institutions.

Sec. 521. None of the funds appropriated or otherwise made available by this chapter to the Export-Import Bank and funds appropriated by this chapter for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed or is being sought by any other government for prosecution for, any war crime or act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Sec. 522. None of the funds appropriated or made available pursuant to this chapter for direct assistance and none of the funds otherwise made available pursuant to this chapter to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar or competing commodity.

Sec. 523. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Financial Corporation, the Inter-American Development Bank and the Asian Development Bank, and the executive director representing the United States at the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this chapter, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar or competing commodity.

Sec. 524. Each written or printed report, study, evaluation, plan, manual, presentation, publication, or other document prepared under the auspices of an agency for which funds are made available by this chapter, any portion of which is provided by other than full-time employees of such agency shall reflect in the lower right-hand corner of the title page of such document a cost component which reflects the full cost to the United States Government of such portion. A copy of each such document shall be supplied to the Director of the International Division of the General Accounting Office not later than 10 days after the date of issue of such document. Each such document shall be recorded in order of receipt by the General Accounting Office and maintained by said Office for a period of five years following its date of issue.

Sec. 525. None of the funds made available under this chapter for "Agriculture, rural development, and nutrition, Development Assistance," "Population, Development Assistance," "Health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "American schools and hospitals abroad," "Assistance to African refugees," "Sahel development program," "International narcotics control," "Economic support fund," "Peacekeeping operations," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Foreign military credit sales," "Inter-American Foundation," "Institute for Scientific and Technological Cooperation," "Peace Corps," or "Migration and refugee assistance," shall be available for obligation for activities, programs, projects, type of material assistance, countries or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1980 unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

Sec. 526. None of the funds appropriated or otherwise made available pursuant to this chapter shall be obligated or expended to finance any grant Military Assistance program or Foreign Military Credit Sales program to Panama.

Sec. 527. None of the funds made available by this chapter for expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961 shall be available for the Institute for Scientific and Technological Cooperation or shall be available for the Agency for International Development or any other department or agency of the United States to plan for the establishment of the Institute for Scientific and Technological Cooperation.

Sec. 528. Of the funds made available by this chapter for the Agency for International Development, not to exceed $10,000 shall be available for entertainment expenses, not to exceed $100,000 shall be available for representation allowances, and not to exceed $110,000 shall be available for official residence expenses: *Provided*, That of the total funds made available by this chapter under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this chapter under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this chapter for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further*, That not to exceed $8,000 shall be available for entertainment expenses of the Overseas Private Investment Corporation: *Provided further*, That of the funds made available by this chapter for the Export-Import Bank, not to exceed a total of $16,000 shall be available for entertainment allowances for members of the Board of Directors of the Bank: *Provided further*, That of the funds made available by this chapter for the Peace Corps, not to exceed $4,000 shall be available for entertainment expenses.

Sec. 529. Of the amounts appropriated or otherwise made available under this chapter for expenses necessary to enable the President to carry out sections 103 through 106, and 531 hrough 534 of the Foreign Assistance Act of 1961, not to exceed $20,000,000 shall be available for assistance to Uganda.

Sec. 530. It is the sense of the Congress that the United States should work with the Organization of American States to insure that no further military encroachments are made into the Western Hemisphere by foreign countries.

Amounts provided for each item under this chapter shall be reduced by an amount equal to the amount, if any, provided for such item before the date of enactment of this Act pursuant to the authority of the joint resolution entitled "A joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (93 Stat. 656), and the joint resolution entitled "A joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes", approved November 20, 1979 (93 Stat. 923).

This chapter may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1980".

On page 66, beginning with line 18, strike through and including line 21;

On page 67, beginning with line 16, strike through and including line 20;

On page 68, line 24, strike "$20,700,000" and insert "$10,700,000";

On page 69, line 2, strike "$75,109,667" and insert "$85,109,667";

On page 69, beginning with line 8, strike through and including line 13;

On page 69, line 18, strike "$13,000,000" and insert "$38,000,000";

On page 69, beginning with line 20, insert the following:

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $10,000,000 are rescinded.

On page 70, beginning with line 5, insert the following:

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $5,600,000, to remain available until September 30, 1981.

On page 70, line 11, strike "$3,000,000" and insert "$6,400,000";

On page 70, beginning with line 13, insert the following:

CONSTRUCTION GRANTS

Of the unobligated funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $400,000,000 shall be made available for obligation on the date of enactment of this Act, notwithstanding section 205(c) of the Clean Water Act, based on the most efficient and effective use of these funds.

On page 70, beginning with line 21, strike through and including page 71, line 2;

On page 71, line 7, strike "$625,000,000" and insert "$870,000,000";

On page 71, beginning with line 9, insert the following:

Section 401 of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, is amended by addition after the second semicolon in the first proviso, the following: "to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974;".

On page 71, beginning with line 18, strike through and including line 19, and insert in lieu thereof the following:

The limitation on travel expenses in the current fiscal year for "Emergency planning, preparedness, and mobilization" is increased by $812,000.

On page 72, line 4, strike "$300,000,000" and insert "$285,000,000";

On page 72, beginning with line 6, insert the following:

National Consumer Cooperative Bank

SALARIES AND EXPENSES

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $555,000 are rescinded.

Self-Help Development

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $6,500,000 are rescinded.

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $3,500,000 are rescinded.

SCIENCE EDUCATION ACTIVITIES

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

On page 74, line 14, beginning with the colon, strike through and including the word "management" in line 21;

On page 74, beginning with line 22, strike through and including page 75, line 3;

On page 75, beginning with line 4, insert the following:

Office of Water Research and Technology

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000, to remain available until expended.

On page 75, line 10, strike "(deferral)" and insert "(rescission)";

On page 75, line 13, strike "$45,000,000 shall not become available for obligation until October 1, 1980" and insert $85,000,000 are rescinded";

On page 75, line 20, strike "$170,000,000" and insert "$162,300,000";

On page 75, line 22, strike "$23,200,000" and insert $15,500,000";

On page 76, beginning with line 12, insert the following:

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $350,000.

On page 76, line 21, after "$1,373,000" insert a colon and the following: *Provided*, That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore, made under this head in Public Law 96–126, shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States.

On page 77, line 6, strike "$5,000,000" and insert "$3,000,000";

On page 77, line 22, strike "$6,117,000" and insert "$7,800,000";

On page 78, beginning with line 7, insert the following:

Department of the Treasury

ENERGY SECURITY RESERVE

To carry out the provisions of title I of S. 932 and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which $16,792,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), and not to exceed $2,000,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which were appropriated by Public Law 96–126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments. This funding shall be available only upon enactment of S. 832, "The Energy Security Act".

On page 79, beginning with line 1, insert the following:

Department of Housing and Urban Development

SOLAR ENERGY AND ENERGY CONSERVATION BANK

To initiate the Solar Energy and Energy Conservation Bank, $1,000,000,000, to be derived from amounts appropriated in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), for establishment of the Solar and Conservation Reserve: Provided, That this appropriation shall be made available only upon enactment into law of S. 932, "The Energy Security Act".

On page 79, beginning with line 12, insert the following:

For an additional amount for "Fossil energy research and development," $17,300,000, to remain available until expended.

On page 79, line 19, strike "$22,000,000" and insert $17,600,000";

On page 79, line 22, strike "$4,751,000" and insert "$2,600,000";

On page 80, line 2, strike "$23,000,000" and insert "$172,000,000, of which $60,000,000 shall be from appropriations made available for conservation grants for schools and health care facilities and $5,000,000 from appropriations made available for conservation grants for local government buildings";

On page 30, beginning with line 7, insert the following·

(Deferral)

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), $4,000,000 shall not become available for obligation until October 1, 1980.

On page 80, line 22, strike "$800,000,000" and insert "$2,000,000,000";

On page 81, beginning with line 4, strike through and including line 11;

On page 81, beginning with line 16, insert the following:

Federal Inspector for the Alaska Gas Pipeline

PERMITTING AND ENFORCEMENT

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), $2,700,000 are rescinded.

On page 82, beginning with line 4, strike through and including line 11;

On page 82, line 15, strike "$1,841,000,000" and insert "$1,441,000,000";

On page 82, line 17, after "1981" insert "and for Federal unemployment benefits and allowances", such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to August 1 of the current year";

On page 82, line 20, strike "; Provided, That of this amount, $400,000,000 shall become available on October 1, 1980";

On page 84, beginning with line 5, insert the following:

For an additional amount for the National Health Service Corps, $5,125,000.

For an additional amount for "Health Services", $36,000,000, for the medical examination and care of aliens who have recently arrived in south Florida, to remain available through September 30, 1981. The amounts appropriated may be used to reimburse other Department of Health and Human Services accounts for related expenses, including administrative and support costs.

On page 84, line 17, strike "$16,000,000" and insert "$21,000,000";

On page 84, beginning with line 21, insert the following:

For an additional amount for Epidemic Services, $600,000.

On page 85, line 18, strike "$9,300,000" and insert "$50,800,000";

On page 86, line 1, strike "$14,000,000" and insert "$18,500,000";

On page 86, line 8, strike "to reimburse State or local expenditures made prior to October 1, 1977" and insert "for State claims for Federal reimbursement filed either on or before September 30, 1979, if the State or local expenditure was made prior to October 1, 1976; or after September 30, 1977";

On page 86, beginning with line 18, insert the following:

(Rescission)

Of the funds provided for "Grants to States for medicaid" for fiscal year 1980 in Public Law 96–123, making further continuing appropriations for fiscal year 1980, $30,000,000 are rescinded.

On page 87, line 12, strike "$231,750,000" and insert "$225,750,000";

On page 87, line 16, beginning with the colon, strike through and including "1980" in line 19.

On page 87, beginning with line 22, strike through and including line 23, and insert in lieu thereof the following:

For expenses necessary to carry out the provisions of the Refugee Act of 1980, $516,900,000, including $23,168,000 for educational assistance for children which shall remain available through March 31, 1981.

On page 88, line 7, strike "$15,000,000 appropriated for the purpose of title I, part A, section 116; $35,000,000" and insert "$200,000,000";

On page 88, line 10, strike "and $47,600,000 of the amount appropriated for title IV, part C of the Elementary and Secondary Education Act" and insert "and $59,000,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act";

On page 88, line 14, beginning with the colon, strike through and including "repealed" in line 22;

On page 89, beginning with line 22, insert the following:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

(Supplemental)

For an additional amount for "School Assistance in Federally Affected Areas," to carry out section 7 of the Act of September 30, 1950, $20,000,000, to remain available until September 30, 1981. In addition, in accordance with section 7(c) of that Act, any funds appropriated under that Act and remaining available after payments in accordance with Public Law 96–123 under the heading "School Assistance in Federally Affected Areas" for fiscal year 1980 under sections 2 and 3 of that Act shall be available for payments under section 7.

On page 90, line 13, strike "$20,104,000" and insert "$22,000,000";

On page 90, beginning with line 15, insert the following:

(Supplemental)

For an additional amount for "Emergency School Aid", $22,000,000, of which $3,000,000 shall be available to the Dade County School Board.

On page 91, beginning with line 2, strike through and including line 7;

On page 91, beginning with line 8, insert the following:

(Supplemental)

For an additional amount for section 318 of the Adult Education Act, $17,600,000 to remain available until September 30, 1981.

In page 89, line 1, after "rescinded" insert a colon and the following:

Provided, That, notwithstanding the provisions of section 116(a), each local educational agency that is eligible to receive a payment under section 111 of the Elementary and Secondary Education Act of 1965, as amended, for fiscal year 1980, shall be entitled to an additional grant under section 116 for fiscal year 1980 if (1) it is located in a State which has in effect, for school year 1979–80, a State program under which financial assistance is provided to meet the special education needs of educationally deprived children which meets the requirements of section 131(c), and (2) not less than 50 per centum of the total funds expended under the program in the State for school year 1979–80 is expended in school attendance areas having high concentrations of children from low-income families: *Provided further*, That, notwithstanding the provisions of section 116(b)(1), except as otherwise provided in section 116, the aggregate amount to which local educational agencies in a State are entitled under section 116 for fiscal year 1980 shall be 50 per centum of the amount of State funds expended for school year 1979–80 under a State program meeting the requirements of the preceding proviso.

On page 91, line 18, beginning with the colon, strike through and including "Act" in line 21;

On page 92, line 5, after "part A," insert "$25,000,000 appropriated for title VII, part E, and $4,000,000 appropriated for title VI";

On page 92, line 8, beginning with the colon, strike through and including "1981" in line 10;

On page 92, beginning with line 11, insert the following:

SPECIAL PROJECTS AND TRAINING

(Rescission)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96–123, $1,000,000 appropriated for title III, part G of the Elementary and Secondary Education Act and $10,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95–207) are rescinded.

SCHOOL IMPROVEMENT

(Supplemental)

For an additional amount for title III, part A, section 303 of the Elementary and Secondary Education Act, $7,700,000 to remain available until September 30, 1981.

NATIONAL INSTITUTE OF EDUCATION

(Rescission)

Of the funds provided for "National Institute of Education", section 405 of the General Education Provisions Act, $3,000,000 are rescinded.

Departmental Management

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $605,000.

On page 93, line 14, strike "$4,000,000" and insert "$6,000,000";

On page 94, beginning with line 2, insert the following:

Senate

Contingent Expenses of the Senate

MISCELLANEOUS ITEMS

Of the funds appropriated under this head in Public Law 96–86, $1,000,000 are rescinded.

Administrative Provisions

Sec. 101. Effective October 1, 1979, section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (i) through (k) as (j) through (l), respectively, and by inserting after section (h) the following new subsection:

"(i) Whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under this section, the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under this section."

Sec. 102. (a) Section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" in the next to last sentence and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

(b) The seventh paragraph under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" each place it appears and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

Sec. 103. Effective February 1, 1980, section 506(a) of the Supplemental Appropriation Act, 1973 (2 U.S.C. 58(a)), is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) reimbursement to each Senator for costs incurred in the mailing or delivery of matters relating to official business;"

Sec. 104. Effective January 1, 1980, section 506(h)(1) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)(1) is amended by striking out "under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator" and inserting in lieu thereof "to an employee in the office of a Senator when traveling on business of a committee of which that Senator is a member".

Sec. 105. Effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Louisiana is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants.

Sec. 106. Any funds appropriated or made available under the heading "Senate" in any appropriation Act for the fiscal year ending September 30, 1980, and any funds appropriated by section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (Public Law 96–86), for disbursement by the Secretary of the Senate which for the fiscal year ending September 30, 1979, were appropriated under the heading "Senate", shall remain available until expended for the same purpose for which appropriated or made available.

Sec. 107. (a) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(a)(1)) is amended to read as follows:

"(a)(1) Whenever the rate of compensation of any employee whose compensation is disbursed by the Secretary of the Senate is fixed or adjusted on or after October 1, 1980, such rate as so fixed or adjusted shall be at a single whole dollar per annum gross rate and may not include a fractional part of a dollar."

(b) Section 106(b)(1) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(b)(1)) is amended by striking out "two times the multiple contained in section (1)(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "$404".

(c) Section 109(d)(1) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j–3(d)(1)) is amended by striking out "next highest multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "next higher dollar".

(d) The amendments made by this section shall take effect on October 1, 1980.

Sec. 108. (a) The Senate Recording Studio hereafter shall be known as the Senate Recording and Photographic Studios. Subject to subsection (b), all references to the Senate Recording Studio (including the revolving fund) in any law, resolution, or regulation shall be considered as referring to the Senate Recording and Photographic Studios, and any provision of any law, resolution, or regulation which is applicable to the Senate Recording Studio shall be deemed to apply to the Senate Recording and Photographic Studios.

(b)(1) The Sergeant at Arms and Doorkeeper of the Senate shall, subject to the approval of the majority and minority leaders, promulgate rules and regulations, and establish fees, for the provision of photographs and photographic services to be furnished by the Photographic Studio.

(2) Subject to the approval of the majority and minority leaders, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint not more than fifteen employees with such titles, and at such annual rates of compensation, as he deems appropriate, to carry out the functions of the Photographic Studio. Payments of compensation (including agency contributions and longevity compensation as authorized) for personnel employed pursuant to the preceding sentence shall be made by the Secretary of the Senate from funds appropriated for "Salaries, Officers and Employees" under the heading "Senate".

Sec. 109. Effective January 1, 1980, section 3 under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59), is amended—

(1) by striking out "not in excess of one

year." in subsection (a)(2) and inserting in lieu thereof "not extending beyond the term of office which he is serving on the first day of such lease, except that, in the case of a Senator whose term of office is expiring and who has been elected for another term, such lease may extend until the end of the term for which he has been so elected. Each such lease shall contain a provision permitting its cancellation upon sixty days written notice by the Sergeant at Arms and Doorkeeper of the Senate, in the event of the death or resignation of the Senator."; and

(2) by striking out "shall not at any time exceed the applicable rate per square foot charged Federal agencies" in subsection (c)(1) and inserting in lieu thereof "shall not exceed the highest rate per square foot charged Federal agencies on the first day of the lease of such office".

SEC. 110. Effective on the first day of the first month following the date of enactment of this Act, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of a Shift Supervisor at not to exceed $14,140 per annum and two Shift Supervisors at not to exceed $12,928 per annum each in lieu of three Mail Carriers at not to exceed $10,302 per annum each; a Deputy Director, Service Department, at not to exceed $35,956 per annum; a Supervisor, Typewriter Repair Section, at not to exceed $26,260 per annum in lieu of not to exceed $24,038 per annum; a Receiving Clerk at not to exceed $12,928 per annum in lieu of a Supervisor, Supply Section, at not to exceed $18,382 per annum; a Power Cutter Operator at not to exceed $13,534 per annum; a Senior Folding Machine Operator at not to exceed $15,554 per annum in lieu of a Laborer at not to exceed $11,716 per annum; an Automatic Typewriter Repairman at not to exceed $19,796 per annum in lieu of a Repairman at not to exceed $18,584 per annum; two Laborers at not to exceed $6,060 per annum each in lieu of a Laborer at not to exceed $11,716 per annum; a Manager, Member and Committee Support, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Manager, Text Processing Applications Development, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Junior Operations Clerk at not to exceed $13,332 per annum; a Manager, Office Administration, at not to exceed $31,512 per annum in lieu of an Office Manager at not to exceed $22,624 per annum; a Special Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $38,784 per annum in lieu of a Manager, User Training and Liaison, at not to exceed $38,784 per annum; a Manager, Educational Services, at not to exceed $38,784 per annum in lieu of an Office Systems Supervisor at not to exceed $32,522 per annum; a Manager, Micrographics Systems, at not to exceed $36,360 per annum in lieu of a Micrographics Supervisor at not to exceed $27,270 per annum; a Computer Output Microfilm Operator at not to exceed $14,948 per annum; a Camera Operator at not to exceed $14,544 per annum; a Senior Network Technician at not to exceed $29,896 per annum; a Network Technician at not to exceed $26,260 per annum; a Quality Control Specialist at not to exceed $15,352 per annum; a Communications Software Specialist at not to exceed $35,148 per annum; and an Office Manager at not to exceed $17,776 per annum: *Provided*, That, effective on the first day of the first month following the date of enactment of this Act, the position of Mail Supervisor at not to exceed $15,756 per annum, the position of Audio Engineer at not to exceed $16,968 per annum, and two positions of Teletype Operator at not to exceed $14,140 per annum each, are hereby abolished: *Provided further*, That the Sergeant at Arms and Doorkeeper is authorized to undertake minor reorganizations and make associated position, title, and compensation changes with respect to not more than ten positions, if and to the extent that such reorganization does not result in any additional number of positions funded from amounts appropriated for the "Office of Sergeant at Arms and Doorkeeper,": *Provided further*, That not to exceed $45,000 of the amount appropriated for the Office of Sergeant at Arms and Doorkeeper may be used to employ special deputies.

SEC. 111. There shall be available for construction of platform and seating stands, for refurbishing the Capitol Building, and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1981, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, $463,000, to be paid from the contingent fund of the Senate from funds appropriated or otherwise made available under the heading "Miscellaneous Items", and to remain available through September 30, 1981. Such moneys as may be received by donation or otherwise for use in the preparations for such inaugural ceremonies shall be deposited in the Treasury, shall be credited to the appropriation for "Miscellaneous Items", and shall be available for expenditure in like manner and for the same purposes as funds which are appropriated under the preceding sentence.

SEC. 112. (a) the unexpended balance on February 28, 1981, of the funds appropriated under the heading "Committee Employees" in the appropriations for the Senate in any appropriation Act for any fiscal year shall be transferred to and merged with the funds appropriated under the heading "Inquiries and Investigations" in the contingent fund of the Senate.

(b) Effective as of the close of February 28, 1981—

(1) paragraphs (1) and (2) of section 105(e) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(e)), are repealed, and paragraph (2) of section 105(d) of such Act is amended by striking out "subsection (e)(1)" in the second sentence and inserting in lieu thereof "that portion of subsection (e)(3) preceding subparagraph (A)";

(2) the first proviso under the heading "Committee Employees" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1974 (87 Stat. 529), is repealed; and

(3) clause (2) of the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a–1), is amended by striking out "committees and officers of the Senate" and inserting in lieu thereof "officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate".

On page 107, beginning with line 13, strike through and including line 21;

On page 107, line 23, strike "(transfer of funds)";

On page 107, line 25, beginning with "$15,300,000", through and including page 108, line 6, and insert "$10,800,000.";

On page 108, beginning with line 7, strike through and including line 10;

On page 108, beginning with line 11, strike through and including line 19, and insert in lieu thereof the following:

MILITARY CONSTRUCTION, PLANNING AND DESIGN; ARMY, NAVY, AND AIR FORCE

(Including transfer of funds)

For study, planning, design, architect, and engineering services, as authorized by law, for use by the Army, Navy, and Air Force in connection with the planning and design of military construction facilities in the Azores, Persian Gulf, and Indian Ocean areas, $5,000,000, and in addition, $20,000,000 to be derived by transfer as follows: (1) $12,000,000 from funds appropriated for the Culebra Weapons Range by Public Law 93–194 (87 Stat. 766); (2) $5,000,000 from funds appropriated for the North Atlantic Treaty Organization Infrastructure by Public Law 96–130 (93 Stat. 1018); and (3) $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, by Public Law 95–101 (91 Stat. 837). All such funds shall remain available until September 30, 1984. Such funds shall be available to the Army, Navy, and Air Force for such purposes only in amounts specified by the Secretary of Defense and only after (1) the Secretary of Defense has notified the Committees on Appropriations of the Senate and the House of Representatives of the amount or amounts made available to each such service and of the specific purpose for which such amount or amounts are to be used, and (2) a period of fourteen days has elapsed after the date of receipt of such notification by such committees.

On page 110, beginning with line 4, strike through and including line 9;

On page 110, line 18, after "purpose" insert a comma and "the estimated cost of construction for which these funds are to be used under such authorities, and the justification for invoking the section 402 or similar authority";

On page 111, line 25, strike "$130,000" and insert "$418,000";

On page 112, beginning with line 1, insert the following:

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 103. Of the amount appropriated for fiscal year 1980 for the Department of State, $126,996,000 may be made available for travel and transportation.

On page 112, beginning with line 7, insert the following:

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(Including transfer of funds)

For an additional amount for "Salaries and expenses, general legal activities", $825,000, of which $745,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

On page 112, line 14, insert "(transfer of funds)";

On page 112, line 16, strike "$4,000,000" and insert "$233,000, to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "'Law enforcement assistance'";

On page 112, line 23, strike "$6,104,000" and insert "$16,680,000, of which $2,008,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, 'Law enforcement assistance'";

On page 113, beginning with line 3, insert the following:

FEES AND EXPENSES OF WITNESSES

(Transfer of funds)

For an additional amount for "Fees and expenses of witnesses", $846,000 to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance."

On page 113, line 11, before "transfer" insert "including";

On page 113, line 13, strike "$6,400,000, to" and insert "$8,336,000, of which $7,648,000 shall";

On page 113, line 19, before "transfer" insert "including";

On page 113, line 21, strike "$3,000,000, to" and insert "$16,492,000, of which $4,492,000 shall";

On page 114, beginning with line 13, strike through and including line 19, and insert in lieu thereof the following:

On page 114, beginning with line 20, insert the following:

(Rescission)

Of the funds appropriated under this head in Public Law 96–68, making appropriations for the Department of Justice for fiscal year 1980, and other appropriations acts in previous years, $7,439,446 are rescinded.

General Provision—Department of Justice

Sec. 203. Sums appropriated by this Act for the Department of Justice may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this Act which specifically refers to this section.

On page 115, beginning with line 15, strike through and including line 16, and insert in lieu thereof the following:

For expenses necessary to carry out the provisions of Reorganization Plan No. 3 of 1979, $200,000. For expenses necessary to carry out the provisions of Public Law 95–606 and Public Law 95–482, $4,000,000, to be available immediately for grants to the United States Olympic Committee and $6,000,000 to become available upon a determination by the Secretary of Commerce that the United States Olympic Committee has collected $88,000,000 from non-Federal sources after May 15, 1980, and to remain available until expended: Provided, That any grant from the $6,000,000 provided above which is made to the Committee after the Secretary's determination shall not exceed one-half of additional funds collected from non-Federal sources. For the purpose of determining the amount of funds collected from non-Federal sources with respect to any grant pursuant to this appropriation, the Secretary may consider pledges of funds to be collected if pledged in accordance with procedures established by the Secretary. No portion of the funds appropriated hereunder shall be used (except as determined by the Secretary to be in the national interest) for the financing of programs conducted by, and none of the national governing body authority specified in section 203 of Public Law 95–606 as hereby amended shall be exercised by, a national governing body member of the Committee for a particular sport, when another amateur sports organization has been declared (pursuant to binding arbitration proceedings prescribed by the organic documents of the Committee) entitled to replace such national governing body as the member of the Committee for that sport.

On page 117, line 3, after "1982" insert a colon and *"Provided*, That no additional Federal funds shall be made available for this purpose";

On page 117, line 10, strike "$38,545,000" and insert "$40,000,000";

On page 117, beginning with line 16, insert the following:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $10,000,000, to remain available until September 30, 1981.

On page 118, beginning with line 2, insert the following:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $1,500,000, to remain available until expended.

On page 118, line 18, strike "$7,700,000" and insert "$35,400,000";

On page 119, beginning with line 6, strike through and including line 8;

On page 119, beginning with line 9, insert the following:

The Judiciary

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

PRETRIAL SERVICES AGENCIES

For an additional amount for salaries and expenses of Pretrial Services Agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $900,000, to be derived by a transfer from the appropriation "Space and facilities, the Judiciary".

On page 120, beginning with line 12, insert the following:

Department of the Treasury

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

There are appropriated such sums as may be necessary for payment of principal and interest on loans guaranteed pursuant to the Chrysler Corporation Loan Guarantee Act of 1979 and in default, to be available immediately and to remain available until December 31, 1991.

On page 121, beginning with line 3, insert the following:

Federal Trade Commission

SALARIES AND EXPENSES

For an additional amount of "Salaries and expenses", $1,600,000.

On page 121, beginning with line 12, insert the following:

SALARIES AND EXPENSES

For an additional amount of "Salaries and expenses", $2,000,000.

BUSINESS LOAN AND INVESTMENT FUND

(Rescission)

Of the funds appropriated under this head in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980, $11,000,000 are rescinded.

On page 121, line 24, strike "$839,000,000" and insert "$1,177,000,000";

On page 121, line 25, strike "$825,000,000" and insert "$1,165,000,000";

On page 122, line 1, strike "$14,000,000" and insert "$12,000,000";

On page 122, line 4, beginning with the colon, strike through and including the word "loans" in line 6;

On page 122, line 18, strike "$29,100,000" and insert "$47,100,000";

On page 122, line 22, beginning with "not" strike through and including line 25, and insert in lieu thereof the following: the Secretary of Transportation is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980.

On page 123, line 8, strike "$15,500,000" and insert "$21,300,000";

On page 124, line 14, strike "$7,900,000,000" and insert "$7,600,000,000";

On page 126, line 1, strike "25" and insert "1";

On page 126, line 12, strike "$200,000,000" and insert "$375,000,000";

On page 127, beginning with line 2, strike through and including page 128, line 3;

On page 128, line 13, strike "$400,000,000" and insert "$300,000,000";

On page 129, beginning with line 1, strike through and including page 130, line 2;

On page 129, line 22, strike "$3,600,000" and insert "$4,600,000";

On page 131, beginning with line 3, insert the following:

Office of the Secretary

SALARIES AND EXPENSES

(Rescission)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

INTERNATIONAL AFFAIRS

(Rescission)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

On page 131, beginning with line 20, insert the following:

United States Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $650,000 to be used for processing Cuban refugees: *Provided further*, That funds expended for overtime pay to Customs officers resulting from the situation involving aliens attempting to reach the United States from Cuba shall not be counted against the overtime pay limitation included in Public Law 96–74. Notwithstanding any other provision of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands, and shall be available for expenditure as the Legislator of the Virgin Islands may provide.

On page 132, beginning with line 10, insert the following:

Bureau of the Mint

SALARIES AND EXPENSES

(Rescission)

Of the funds appropriated under this head in Public Law 96–74, making appropriations for the Treasury Department for fiscal year 1980, $800,000 are rescinded.

On page 132, line 19, strike "$23,558,000'" and insert "$6,500,000";

On page 133. line 20, strike "$13.550,000" and insert "$6,975,000";

On page 133, beginning with line 21, insert the following:

Executive Office of the President

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

On page 134, line 16, strike "$6,144,000" and insert "$109,660,000";

On page 134, line 18, strike "$1,526,177,000" and insert "$1,521,928,000";

On page 134, line 19, strike "$94,279,000" and insert "$100,589,000";

On page 134, line 22, insert the following:

Florida: Miami, Courthouse Annex, $6,310,000;

On page 135, line 9, strike "$630,000" and insert "$9,071,000";

On page 135, line 13, strike the colon and insert a semicolon;

On page 135, beginning with line 14, insert the following:

Illinois: Chicago, Federal office building, $3,220,000;

West Virginia: Huntington, Federal building and courthouse, $2,305,000;

California: Laguna Niguel, Federal office building, $2,916,000;

On page 136, line 3, beginning with the semicolon, strike through and including "1975" in line 5;

On page 136, line 9, strike "$1,526,177,000" and insert "$1,521,928,000";

On page 136, beginning with line 13, strike through and including line 16;

On page 136, beginning with line 17, insert the following:

Refunds Under Renegotiation Act

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951, 50 U.S.C. App. 1231(f), for fiscal year 1980, $2,500,000 to remain available until expended.

On page 137, beginning with line 4, strike through and including line 14;

On page 137, line 15, strike "2" and insert "1";

On page 137, line 24, strike "3" and insert "2";

On page 138, beginning with line 5, strike through and including line 14;

On page 138, line 23, strike "$860,000" and insert "$500,000";

On page 139, line 6, strike "$1,000,000" and insert "$2,000,000";

On page 140, beginning with line 2, insert the following:

SENATE

"Salaries, officers and employees", $6,700,000;

"Office of the Legislative Counsel of the Senate", $36,000;

"Senate policy committees", $100,000;

"Inquiries and investigations", $1,000,000;

"Folding documents", $8,000;

On page 141, beginning with line 22, insert the following:

"Senate office buildings", $450,000;

"Senate garage", $10,000;

On page 145, line 8, strike "$700,000" and insert "$763,000";

On page 145, line 10, strike "$100,000" and insert "$153,000";

On page 145, line 12, strike "$50,000" and insert "66,000";

On page 145, line 18, strike "$100,000" and insert "$122,000";

On page 145, line 20, strike "$75,000" and insert "$101,000";

On page 145, line 22, strike "$100,000" and insert "$185,000";

On page 145, line 24, strike "1,000,000" and insert "$1,146,000";

On page 150, line 17, strike "$18,377,000" and insert "$13,577,000";

On page 150, line 21, strike "$17,060,000" and insert "$20,760,000";

On page 150, line 24, strike "$276,900,000" and insert "$283,400,000";

On page 151, line 1, strike "$302,000,000" and insert "$314,300,000";

On page 151, line 4, strike "$15,700,000" and insert "$17,200,000";

On page 151, line 8, strike "$144,700,000" and insert "$148,000,000";

On page 151, line 12, strike "$3,100,000" and insert "$3,400,000";

On page 151, line 18, strike "$25,300,000" and insert "$29,700,000";

On page 152, line 21, strike "$9,000,000" and insert "$8,335,000";

On page 154, line 7, insert the following:

"Office of Consumer Affairs", $85,000;

On page 146, beginning with line 16, insert the following:

"Office of the Secretary", $200,000;

"Departmental Administration", $800,000;

On page 146, line 20, strike "$1,983,000" and insert "$983,000";

On page 146, line 21, strike "$300,000" and insert "$1,135,000";

On page 146, line 25, insert the following:

"Office of the General Counsel", $500,000;

On page 147, line 20, strike "$5,000,000" and insert "$6,000,000";

On page 148, line 1, strike "$500,000" and insert "$1,000,000";

On page 148, line 4, strike "$1,000,000" and insert "$1,800,000";

On page 148, line 6, strike "$11,000,000" and insert "$13,400,000";

On page 148, line 13, strike "$24,250,000" and insert "$23,584,000";

On page 148, line 19, strike "$5,500,000" and insert "$5,382,000";

On page 148, line 21, strike "$797,000" and insert "$700,000";

On page 154, line 17, strike "$5,500,000" and insert "$5,900,000";

On page 155, line 8, strike "$4,900,000" and insert "$5,089,000";

On page 155, line 10, strike "$4,500,000" and insert "$7,957,000";

On page 156, line 2, strike "$450,000" and insert "$528,000";

On page 156, line 17, strike "of which $104,000 shall be derived by transfer from Fees and expenses of witness and $5,424,000 shall" and insert "to";

On page 156, line 23, strike "Buildings and facilities" and insert "Salaries and expenses";

On page 157, line 1, strike "Buildings and facilities" and insert "Salaries and expenses";

On page 157, line 7, after "$29,498,000" insert "of which $7,000,000 shall be derived by transfer from Federal Prison System, 'Buildings and facilities' ";

On page 157, line 16, strike "Fees and expenses of witnesses" and insert "Federal Prison System, 'Buildings and facilities' ";

On page 157, beginning with line 19, strike through and including line 21;

On page 161, line 9, strike "$130,000" and insert "$399,000";

On page 161, line 11, strike "$4,000,000" and insert "$4,819,000";

On page 162, line 2, strike "$7,099,000" and insert "$7,100,000, of which $5,729,583 shall be derived from 'Construction of Mint Facilities' ";

On page 162, beginning with line 6, insert the following:

"ENVIRONMENTAL PROTECTION AGENCY

" 'Salaries and expenses' ", $5,600,000;

On page 162, line 12, strike "$121,270,000" and insert "$171,270,000";

On page 164, line 10, strike "$545,000" and insert "$745,000";

On page 164, line 13, strike "$4,340,000" and insert "$5,854,000";

On page 164, beginning with line 22, insert the following:

OFFICE OF INSPECTOR GENERAL

For increased costs authorized or pursuant to law, $860,000;

On page 165, line 24, strike "$100,000" and insert "$175,000";

On page 166, line 7, strike "$250,000" and insert "$175,000";

On page 167, line 2, strike "$70,000" and insert "$50,000";

On page 168, beginning with line 11, strike through and including page 169, line 4, and insert in lieu thereof the following:

SEC. 303. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furnitrue items produced by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92–28: Provided, That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made.

(b) (1) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

(2) Notwithstanding any other provision of law, the sum of $15,000,000 is hereby transferred from the unobligated balance of the Federal Buildings Fund as of the date of the enactment of this Act to the Treasury of the United States as miscellaneous receipts.

SEC. 304. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after the enactment of this Act shall be resolved within 6 months.

SEC. 305. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

SEC. 306. (a) Effective October 1, 1981, for application in fiscal year 1982, a department, agency, or establishment, as defined by section 2, subchapter I, chapter 1, title 31, United States Code, shall submit to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services.

(b) Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of such department, agency, or establishment, or comparable official, or if the agency has no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Mr. MAGNUSON. Mr. President, as authorized by the committee, I modify that committee amendment by deleting the proviso.

The PRESIDING OFFICER. The amendment is so modified.

Mr. MAGNUSON. Mr. President, I have a short opening statement.

Mr. President, the committee recommendation for the fiscal year 1980 supplemental appropriations bill totals $23.1 billion. This is a reduction of $7.1 billion beow the President's request—a 23.5-percent reduction. It is also $1 billion below the comparable House level.

The bill contains two major parts other than emergency relief: Title I is $19.3 billion in budget authority for new programs and necessary increases, mostly mandatory, throughout the Federal Government. Also included in this title are rescissions totaling $4.3 billion, which is $2.8 billion more than those recommended by the President.

Title II amounts to $3.8 billion. This amount is provided to cover mandatory and I underline the word "mandatory" pay increases for military and civilian employees. The recommendation is $214,000 below the President's request.

In comparing the Senate recommendaations to the House passed bill, it must be noted that we have included items not considered by the House. The most significant difference is the inclusion of the conference agreement on the regular fiscal year 1980 request for the foreign operations bill. This adds $8 billion to the

Senate recommendation, but it is not considered in the House bill.

Mr. President, a great deal of time and effort have gone into producing the recommendations I bring to the Senate tonight. Every one of the 13 subcommittees is involved in this bill. The fact that the recommendation is nearly 25 percent under the President's request, and that the committee is recommending rescission of nearly three times the amount proposed by the President, is testimony to the realization of this committee that serious steps must be taken if the budget is ever to be in balance.

As far as the budget ceiling is concerned, the recommendations in this bill put us $513 million under the ceiling for budget authority and $7 million under for outlays. Finally, there is the matter of response to the reconciliation instructions. This committee was directed to reduce fiscal year 1980 budget authority by $3 billion and outlays by $1 billion, requiring rescissions in many programs. The bill before you achieves that goal, and indeed exceeds it. For budget authority, the committee has rescinded $4.3 billion, and for outlays $1 billion.

ERUPTION OF MOUNT ST. HELENS

Mr. President, the eruption of Mount St. Helens on May 18 caused terrible damage in the Pacific Northwest, especially in my own State of Washington. Once more in May and also in June the volcano erupted again. So far 24 lives have been lost and 45 people are missing. Total economic losses and damage to public and private property is impossible to estimate. It will certainly exceed $1.5 billion. Thousands of acres of timber were lost. The Columbia, the Toutle, and the Cowlitz Rivers were choked with mud. Bridges have been destroyed and over 26,000 miles of highway have either been ruined, need repair or need massive cleanup.

Crops have been ruined or severely damaged—and yet, we still are not sure what the total impact will be on our crops. Business has been lost and some businessmen have even had to close their doors. Thirty schools were forced to close early for summer vacation and many schools' heating and air conditioning systems have been destroyed. Sewers, waterworks, and other public utilities need to be restored in Montana, Idaho, Oregon, and Washington. In terms of scope, cost, and economic impact, this disaster is unlike any other in the history of this country—and who knows, the mountain could erupt again tomorrow.

The President has declared this a major national disaster. Along with other Federal agencies, the Federal Emergency Management Agency has been assisting the States and local governments. This assistance has been effective and responsive, and the committee would like to compliment those people directly involved, but I continue to urge closer cooperation and expeditious handling of claims.

Estimates for additional disaster funds needed by these Federal agencies were submitted by OMB. But this was before the mountain erupted again in June. OMB's request of $817.4 million has been approved by the committee—$134.7 million has been added so that all of the agencies will be able to meet the immediate needs of the disaster areas, especially transportation funding. It is vital that these funds get to the local counties and cities as soon as possible.

The following is a breakdown by department and agency of the total $952.1 million provided for by the committee. I ask unanimous consent that this be made part of the RECORD along with an article from the Wall Street Journal which is a good description of what it takes to clean this up.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BREAKDOWN

Department of Agriculture:	
Soil Conservation Service	$23,000,000
Agricultural Stabilization and Conservation Service	20,000,000
Department of Defense:	
Corps of Engineers	215,000,000
Federal Emergency Management Agency	86,000,000
Department of Interior:	
Geological Survey	4,000,000
Office of Water Research and Technology	3,000,000
U.S. Forest Service	25,000,000
Department of Education	20,000,000
Department of Health and Human Services	600,000
National Oceanic and Atmospheric Administration	500,000
Small Business Administration	430,000,000
Department of Transportation:	
Highway Emergency Relief Program	125,000,000
Total	952,100,000

The total of $952.1 million is $134.7 million above the President's budget request and $118.1 above the House allowances.

[From the Wall Street Journal, June 24, 1980]

AFTER A VOLCANO, CLEANING UP MEANS RECUTTING A RIVER

(By Victor F. Zonana)

PORTLAND, OREG.—Until last month, the longshoremen's union hiring hall was a convivial place where men gathered to talk sports and swap fishing yarns and maybe play a hand of poker before being sent out to work the docks.

But the May 18 eruption of Mount St. Helens changed all that. The men still gather, but now their mood is glum. They wait anxiously to be called for work, knowing that there will be jobs for only half of them. They talk quietly of tides and channel depths, but most of all they talk of the capricious mountain that clogged the Columbia River and threw them out of work.

"I've only worked on the docks one day since the mountain blew," says Andy Merrill, a burly six-footer who has taken to driving a cab to make ends meet. Still, he reports to the union hall twice daily, at 7 a.m. and 5 p.m., hoping that enough ships have gotten through for him to get a job.

A month after the eruption, the Columbia River still largely is closed to shipping. On most days, passage of ocean-going vessels is restricted to two daily "windows," two-hour periods when the tides are high enough to let the ships through. Some shipowners, who fear another catastrophic eruption, are avoiding the Columbia, and many ships that make the journey go half-empty to avoid touching bottom.

DELUGE OF DIRT

The Columbia, a scenic waterway that cuts through the Cascade Mountains just east of Portland before making a run for the Pacific Ocean, was closed by one of nature's grand strokes. In just two hours, the day after the mountain erupted, 51 million cubic yards of volcanic debris poured into the Columbia from the Cowlitz River at Longview—enough sand and dirt and rock to fill one quarter of the Panama Canal, which took 15 years to dig. The Columbia was blocked, with 33 ships trapped upriver. The U.S. Army Corps of Engineers, in one of its biggest emergency operations ever, is using 300 men and six dredges in a $44 million battle to open the river.

The work is slow and tedious. The coarse volcanic rock and sand are playing havoc with dredging equipment that wasn't built for such abrasive material. "But I feel it's worth it when I see a few ships getting through," says Michael Hay, chief of dredging operations for the corps's Portland district.

Even with the limited resumption of shipping on the river, the effects of the clog remain widespread. The corps hopes to restore the channel to its normal 40-foot depth by September.

The river is a lifeline both at home and abroad. "The Columbia is crucial to the economic health of our region," says Lloyd Anderson, executive director of the Port of Portland, which exports more tonnage than any other West Coast port. Last year, nearly $3.1 billion in exports—principally wheat and forest products—passed through the Columbia's ports, which also include Astoria, Oreg., plus Longview, Kalama, and Vancouver, Wash. Imports in 1979 totaled $2.1 billion, and consisted mainly of automobiles, petroleum products and minerals.

The shutdown of the river means that in Bangladesh, people may go hungry because of delayed grain shipments. In Japan, industrialists scurry to find new ports of entry for their U.S.-bound goods. But most of the ill-effects are being felt by Oregon longshoremen and by factory owners and farmers who can't ship their products.

"When the volcano erupted, there was a terrible panic," says Andre Nagar, a Washington, D.C., ship broker. "The plug was 10 miles long, and the channel was reduced to a 17-foot depth from 40 feet. We thought it would take months to get our ships out."

First word of the shoal came from John Satalich, a river pilot who was guiding the Norwegian ship Hoegh Mascot up-river on May 19, the morning after the mountain erupted. "Approaching Longview, I noticed a lot of logs and other debris floating in the river," Capt. Satalich recalls.

But he was unconcerned because another ship had made the passage just two hours earlier. "Suddenly, at 5:05, just as dawn was breaking, she fetched up on this gigantic bank of mud," the captain says. There was no noise, no scraping or sharp jolt. "I just looked out and realized we weren't moving," he says.

Adam J. Heineman, chief of the corps' navigation division, was awakened by a call from the Coast Guard within minutes. "They told me a ship had run aground in the middle of the channel," he says. "My first reaction was, 'They always go aground in the middle of the channel,'" he recalls sarcastically. "But this time it was true."

Mr. Heineman dispatched a survey ship to take soundings to determine the depth of the channel, which normally is 600 feet wide and 40 deep deep. But the water was so turbid—"thick and murky, with the consistency of boiling split-pea soup," Capt. Satalich recalls—that sonar equipment couldn't get any readings. "We had to send a weighted line down there by helicopter," Mr. Heineman says. "It was the first time we'd used a lead line in 30 years."

Even before the soundings confirmed his worst fears, Mr. Heineman ordered three corps dredges to Longview. When the survey ship reported that the channel had been reduced to an average 17-foot depth for five miles in each direction from Longview, where the Cowlitz River empties into the Columbia. "I started calling contractors for additional capacity," he says.

The first dredge on the scene was the Pacific, a World War veteran that once dredged clearing the harbors of sleepy fishing villages along the Oregon coast. "We got here in two days," recalls Ernest McReynolds, captain of the vessel. "I've been dredging for 23 years, but this is the worst I've ever seen it."

"GIANT VACUUM CLEANER"

The Pacific is a hopper dredge, a self-propelled vessel that creeps along at one knot while its two drag-arms extend down from each side and suck up the water, sand and rock slurry. "It's just like a giant vacuum cleaner," Capt. McReynolds explains. The vessel's 340-horsepower pump forces the slurry into four open hopper bins, where water is filtered out and the gray, rock-and-sand sediment accumulates.

When the bins are full, the Pacific retracts its drag-arms, heads for a dumping area and opens the hopper doors. Sediment rushes back into the river, and the Pacific, its load gone, rises three feet. The cycle takes 40 minutes, and the work is slow and monotonous.

In six days, the Pacific and two sister hopper dredges managed to clear a 200-feet-wide channel that had a depth of 30 feet at high tide, enough to allow some of the smaller ships up-river to escape. (The last of the trapped ships are out now.) Meanwhile, pipeline dredges were towed to Longview to start dredging the remaining 400-foot width of the channel. Pipeline dredges are more efficient but less versatile than hopper dredges, suck up the slurry and sending it through a pipeline to the shore. Three pipeline dredges currently are working the Columbia, and more on the way.

DEBRIS GALORE

Corps officials aren't sure what they will do with all the sand and rock that poured into the Columbia; they even are considering building an island. Right now, their main concern is to keep dredging and gradually increase the channel's depth. They now have the channel depth down to 36 feet during high-tide "windows" deep enough to accommodate most ships calling at Columbia River ports.

But that came too late to help James Theda, president and principal owner of a brush-making company in Portland. "I've got 40 street-sweeper brushes destined for Honolulu sitting in my warehouse," he complains. Three weeks ago, he had a crucial brush flown to Hawaii at a cost of about $200—"more than the brush was worth," Mr. Theda says. He is afraid he won't get the rest of the shipment out until next month, at the earliest, and that might cost him future orders.

Longshoremen's union officials are also gloomy, saying that their members won't all be back to work until September at the earliest.

"Down on the docks, we have an expression," says Mr. Merrill, the idled longshoreman. "It's chicken one day, feathers the next. These days it's feathers—with a vengeance."

Mr. MAGNUSON. One amazing example of the destruction is the following description from the Journal:

In just two hours, the day after the mountain erupted, 51 million cubic yards of volcanic debris poured into the Columbia from the Cowlitz river at Longview—enough sand and dirt and rock to fill one quarter of the Panama Canal, which took 15 years to dig.

FRAUD, ABUSE, WASTE, AND ERROR

Mr. President, over the course of several years, the Senate Appropriations Committee has taken a number of important actions to cut fraud and waste in Government.

In fiscal 1980, we cut $150 million from consultant spending because we found inefficiency, duplication, and waste in the use of consultants in many agencies. At the same time, we set a ceiling on the number of consultants certain agencies could hire and told them to do more of this work themselves.

In addition, the committee cut $500 million from the Federal travel budget in fiscal 1980 and urged the General Accounting Office to set up its toll-free "fraud hotline" so citizens could report wrongdoing in Government. Just during its first year of operation, the hotline received more than 14,000 calls.

I might also add that the Appropriations Committee has actively supported the recently created offices of Inspector General in agencies and departments, which have played an important role in digging into fraud and waste throughout Government.

Despite the actions the committee has taken, it is very clear that more must be done—by Congress and certainly by the executive branch. The response to the hotline and the evidence we have found in our hearings point to the serious problems that still exist within agencies. For example:

Internal controls to prevent fraud and waste often do not work or are not even applied;

All too often, Federal managers show little or no concern about stopping fraud or seeing to it that money is spent properly;

Federal managers continue to allow hundreds of millions of dollars worth of Federal audits to remain unresolved for months—and sometimes years—after the expenditures were first questioned;

Agencies continue their last-minute rush to obligate funds, often making unwise decisions that cost taxpayers millions; and

Thousands of consultants are employed throughout Government, often on unnecessary, needless, and wasteful projects.

Unfortunately, Mr. President, these are only some of the problems. But they alone show how important it is for Congress to push Federal agencies to work much harder in preventing fraud and waste. We must make it absolutely clear to all agencies and all Federal employees that we are dead serious about stopping these problems; that we will not tolerate apathy or indifference; and that we except all agencies and all employees to do their best in combating fraud, abuse, waste, and error.

In an effort to address problems of this kind, I proposed a package of general provisions and report language in the Senate Appropriations Committee hearing last week. I am pleased to say that the entire package was approved unanimously by the committee and is included in this fiscal 1980 supplemental. I believe very strongly—as do other members of the Appropriations Committee—that these actions are essential in spurring agencies on in reducing fraud and waste in Government.

Three new general provisions which the committee included in this bill would require departments and agencies to:

Resolve their current backlog of audits by the end of fiscal 1981 and resolve any new audits within 6 months;

Improve efforts to collect overdue money owed the Government; and

Report to Congress starting next January how much they intend to spend on consultants and just how they intend to spend it.

In addition, we have included report language that would:

State that the committee intends to limit last quarter spending in fiscal 1981;

State that the committee intends to cut consultant spending in fiscal 1981 by 20 percent in all agencies;

Require agencies to reduce the amount of Federal money held by grantees in excess of the grantees' immediate needs; and

Direct agencies to obtain GAO's approval of their accounting systems, if they have not yet obtained GAO approval.

I might add that this report language addresses another important area in curbing fraud and waste—internal controls and good management. The language makes it very clear that Congress believes that good internal controls and effective management are vital. And it makes it clear that we expect action in both of those areas.

In addition, Senator CHILES also included report language in the package that would require single audits of multiply funded Federal grantees and encourage agencies to take administrative action against employees who have engaged in improper or fraudulent activities.

In our view, Mr. President, stopping fraud and waste in Government must be one of our top priorities. We are losing millions of dollars every year. We simply cannot afford that, and we cannot tolerate that.

But perhaps more importantly, fraud and waste cause Americans to lose faith in their Government. Many people doubt whether their tax money is being spent wisely or used effectively. I am afraid too many people have gotten the impression that no one is minding the store.

I believe this package will help show Americans that someone is indeed minding the store and that someone is indeed trying to put an end to fraud and waste in the Federal Government. I urge active support of these provisions by my colleagues.

In reference to the general provision in the bill that deals with consultants, section 306, I want to set to rest any confusion that might exist in Federal agencies, around the beltway, or elsewhere.

It is the intention of the committee, and I am sure all Members agree, that action must be taken now so that the Congress can better control those public expenditures by all Federal agencies for consultants and consultant services.

Section 306 applies to the fiscal year 1982, which will commence October 1, 1981. Our Appropriation Committees will expect all departments and agencies, in their budget justifications and presentations to the next Congress to more thoroughly document these expenditures.

As set forth on page 15 of the report, starting with that next appropriations cycle in January of 1981:

First, each Federal agency will have to submit annually to the Appropriations Committees, as part of their budget justification, the amount of funds requested for consulting services; second, the appropriation accounts in which these funds are located; and third, a brief description of the need for these consulting services, including a list of those major programs that require such services.

That information has not been easily obtained in the past. That information must be presented bv all departments and agencies in the future. And it is that information that will allow our Appropriation Committees to get a better handle on this problem area.

ERRATA SHEETS

Mr. President, to avoid costly star prints to reflect errors which occurred in the printing of the bill and report—which was done very quickly—the committee has prepared errata sheets which have been placed on each Member's desk. It is requested that the changes indicated in the errata sheets be incorporated in the bill and report.

Mr. YOUNG. Mr. President, the distinguished Chairman of the Senate Appropriations Committee (Mr. MAGNUSON) has provided in his speech a summary of the action taken by the Senate Appropriations Committee. This is one of the largest supplemental appropriations bills the committee has ever reported to the Senate. It provides $23,102,827,398 in budget authoritv, which is $7.1 billion under the budget estimate and $7 billion over the House bill. These figures include the Foreign Operations conference report funding for fiscal year 1980. The Foreign Operations conference report, which totals $8 billion, was put on this bill by the committee as a means of moving the conference report because it had become stalled in the House.

Mr. President, the committee bill, as I have indicated, is considerably below the budget estimate, but $7 billion over the House bill and budget authority. The important thing the Senate must consider, though, is that this bill provides for $22,825,000,000 in outlavs, which is only $7 million under the budget resolution ceiling of $22,832,000,000 for this supplemental appropriations bill.

Mr. President, this bill also includes the rescission of $4.3 billion in budget authority and $1 billion in outlays.

Like most supplemental appropriations bills, there are many urgent items included in this bill. For example, there is $392 million for black lung, $2.1 billion for medicaid, $1.1 billion for Trade Adjustment Assistance and $468 million for social services. These funds are entitlements and must be paid or the Government will be sued.

In addition to the entitlements, this bill includes $3.6 billion for increased pay costs for military and civilian personnel. It also includes $3.6 billion to provide for inflation, fuel costs, and Indian Ocean operations for the Defense Department. Mr. President, these are but the highlights of this supplemental appropriations bill. Each of the Appropriations Subcommittees has considered in detail the justifications for the funds provided in this bill and has made every effort to reduce the funds to the maximum extent possible.

Mr. President, funds have been provided for two emergencies that have occurred recently. The first one is the volcanic eruption at Mount St. Helens. This has created various requirements to not only protect life and property but also to restore roads, rivers and other facilities back to their normal use. It also provides for other disasters, for which funds have already run out, such as the Grand Island tornado in Nebraska. The other emergency is the large number of refugees entering our country, particularly the Cuban refugees arriving in Florida.

The committee voted to rescind $572 million in budget authority and $286 million in outlays for State revenue sharing. The major reason for the committee action in rescinding these State revenue sharing funds was to reduce the total amount of outlays to comply with the budget resolution ceiling. With this and other smaller reductions, the committee, as I previously stated, is approximately $7 million under the outlays ceiling.

Mr. President, there is an understandable difference of views among Senators over what funds should have been cut to stay within the ceiling. If revenue sharing for the States should be restored by the Senate, corresponding cuts would have to be made in other items in the bill.

Mr. President, I support the committee action and hope the bill will be approved substantially as reported to the Senate.

DEPARTMENT OF DEFENSE

● Mr. STENNIS. Mr. President, the Defense Department submitted a supplemental request for fiscal year 1980 for $6,559,172,000 in new budget authority. In addition, the Department requested authority to transfer $572,000,000 from current and prior year programs to finance requirements in the fiscal year 1980 supplemental.

The committee's recommendation for activities under the jurisdiction of the Defense Subcommittee totals $6,517,027,000 in new budget authority and transfers $627,700,000 from funds currently available to the Department of Defense. This recommendation is $42.1 million below the budget request in new budget authority and $55.7 million above the amount requested in transfer authority. The recommendation is $64 million above the House in new budget authority and $61.4 million above the House in transfer authority.

Title I of the supplemental bill includes all of the increased program costs in fiscal year 1980. In the area of military personnel, the committee's recommendation includes slight reductions in the amounts requested to cover inflation in these accounts.

The committee has also recommended $48.3 million above the budget request to pay the increases in military entitlements included in the Nunn-Warner amendment. This bill has not yet gone to conference. However, it is possible that the conference agreement will make the entitlements effective July 1, 1980. The funds added here will meet the costs of the mandatory entitlement increases in the Nunn-Warner package.

In the operation and maintenance accounts, the committee recommends the budget request of $2.4 billion for fuel cost increases, $746 million for supplies and equipment price increases, and $60 million for inflation in other costs. Also included is $266 million for the increased level of activity in the Indian Ocean and new initiatives in support of the rapid deployment forces.

In procurement programs, the supplemental estimates included $180 million for inflation. The House bill allows $72 million to accomodate the inflationary increases—40 perecnt of the amount requested. The committee accepted the House allowance for inflation.

The President also proposed deferring a number of weapon systems for which funds were authorized and appropriated in fiscal year 1980. The budget request transferred these funds to other appropriations to offset the requirement for new budget authority. These transfers included funds for eight C–130 aircraft for the Air National Guard, retrofit of an E–4A Airborne Command Post aircraft for the National Command Authority, and needed improvements to the Hawk missile system and the F–15 aircraft. The House denied the deferral of funds for these items. The committee concurred in the actions of the House, denied the deferral of funds, and insisted that the Department procure the items for which the funds were originally authorized and appropriated—$2,830,835,000 was requested in title II to cover the increased costs of the 7-percent pay raise that went into effect last October. The recommendation of $2,821,735,000 fully funds the requested amount for the military pay raise and identifies a small amount of absorption in the civilian pay raise request.

This is a brief summary of the committee's recommendations in the fiscal year 1980 Supplemental Appropriation Bill for the Department of Defense.●

AGRICULTURE CHAPTER

● Mr. EAGLETON. Mr. President, chapter I of H.R. 7542 includes a net total of $598,020,000 in new budget authority for various agriculture and feeding programs. This consists of appropriations of $679,720,000 offset by rescissions of $81,700,000. In addition, the committee included $800 million in new loan authorizations—$600 million for farm ownership and $200 million for farm operating loans.

The chapter includes $43 million for disaster assistance, primarily involving Mount St. Helens. These funds will be used for debris removal regarding, revegetation and restoration of damaged lands that require the application of conservation measures and technical assistance in their installation.

For domestic feeding programs, the bill includes appropriations of $536,720,000. This provides $302,400,000 for various child nutrition programs, including school lunch and summer feeding, $14,800,000 for special milk, $16,044,000 for the elderly feeding program and $203,226,000 for the food stamp program. In addition to the latter appropriation, the bill provides language permitting the transfer of up to $243,000,000 of the child nutrition appropriation to the food stamp program, if necessary. This can be accomplished without adverse effect on child nutrition programs by changing from an accrual system to a cash system of reimbursement. The net result is that the total amount provided in the bill for food stamps is $446,226,000, the amount needed to finance the program at a total level of $9,191,000,000. This was the figure agreed to by the Senate last month as a maximum for the 1980 appropriation.

The bill also includes $100 million for Public Law 480, food for peace programs. This includes $20 million for title I credit sales, and $80 million for food donations, which should be sufficient to fund the highest priority needs.

With regard to rescessions, the committee recommends a total of $81,700,000, including $5,700,000 for research and extension programs $14,000,000 for small watersheds and resource conservation and development, $50,000,000 for rural and sewer grants, $10,000,000 for mutual and self-help housing grants, and $2,000,000 for rural development planning grants. While we realize that these are, in many cases, very important programs, funds can be rescinded and programs deferred until 1981 in order to achieve rescission amounts required by the budget resolution.

Finally, title II of the bill includes appropriations totaling $55,186,000 for Agriculture and related agencies pay costs. Minor adjustments have been made to the House bill to reflect later assessments of the impact of the President's hiring freeze and the split between direct appropriations and trust fund accounts.●

CHAPTER VIII: INTERIOR AND RELATED AGENCIES

Mr. ROBERT C. BYRD. Mr. President, the committee is recommending a net reduction in new budget authority of more than $2 billion for the Department of the Interior and related agencies in chapter VIII of the bill. Most of the reductions are rescissions and are made to abide by both the reconciliation instructions and the overall spending ceiling fixed in the third budget resolution for fiscal 1980. The recommended amount is more than $3.2 billion below the President's budget request and $1.4 billion under the House allowance.

I must point out that $2 billion of this reduction is a rescission of appropriations available to the strategic petroleum reserve. There are no real savings involved since this funding was not programed for expenditure and would lapse at the end of the 1980 calendar year. This SPR rescission should in no way be interpreted as any retreat from the national commitment, to which the Senate has agreed, to establish a substantial reserve for petroleum. Our recommendation still leaves $2.1 billion available for expenditure, and we will of course be looking at new appropriations for the reserve in only a few weeks when we take up the 1981 appropriation bill.

Even without the SPR rescission, however, we still have a net reduction of nearly $70 million in 1980 appropriations. This is $1.2 billion below the budget and some $217 million under the House allowance. This has been achieved by increasing rescissions in some areas and by reducing the budget request for new money wherever possible.

I will not take the Senate's time to detail all of the chapter VIII recommendations since they are covered in the committee report. However, I would like to direct attention to a major provision we have incorporated in the bill to implement the Synthetic Fuels Corporation and the Solar and Conservation Bank, both established by the Energy Security Act of 1980 that is in the final stages of enactment now. We have provided up to $18.8 billion for the Synthetic Fuels Corporation that will be established under authority of that act. And we have provided $1 billion for the Solar and Energy Conservation Bank that will be administered by the Department of Housing and Urban Development. None of this funding is new budget authority since it is all derived from the Energy Security Reserve that we established last year in the regulation appropriation bill for Interior and related agencies.

This major funding commitment is recommended now so that the two programs that are so critical to our Nation's energy independence will get off to to early and positive start. At the same time, we have delayed transferring any of the money provided earlier to the Department of Energy so that an interim program of alternative fuels production incentives can continue for 1 more year. By then the new corporation will be established and operating.

The goal of the Synthetic Fuels Corporation will be to foster a major domestic industry capable of producing such alternative fuels as gasified or liquified coal and oil from oil shale—our Nation's most abundant energy resources.

Mr. President, I believe the chapter on funding for the Interior Department and related agencies is the best possible product of our twin and sometimes conflicting goals of cutting back on Federal spending while doing all we can to stimulate energy conservation and production.

THE DISTRICT OF COLUMBIA

● **Mr. LEAHY.** Mr. President, the amount recommended by the committee for chapter IV of this bill, covering the District of Columbia, totals $75.7 million in Federal funds. This recommendation consists of $6.5 million for the Temporary Commission on Financial Oversight of the District of Columbia, a Federal payment of $45.3 million, and $52 million as the first Federal contribution to the local retirement funds. Offsetting these increases is a rescission in Federal loans for capital outlay in the amount of $28.1 million.

The work of the Temporary Commission on Financial Oversight of the District of Columbia is at this time very critical. The Commission has worked with the city in establishing and implementing a comprehensive computerized management system that will eventually lead to the city entering the bond market. The funding provided directly to the Commission will be matched dollar for dollar by the District government. Although the city did not request their matching share in this bill, the committee has added the necessary funds specifically for this purpose.

The $52 million for retirement funds is the first appropriation in response to Public Law 96–122, which established an equitable formula for funding pension costs between the local government and the Federal Government. This amount, together with $12.5 million in District funds, will establish a sinking fund for the police and firefighters', teachers', and judges' retirement funds.

The Federal payment of $45.3 million is provided to fund a variety of local needs, which I will highlight in a moment. I would note that in order to provide additional Federal payment in this amount, the committee rescinded $20 million in loan authority for capital outlay at the request of the city. Given the serious financial dilemma in which the city finds itself, it was their judgment that certain capital projects could be canceled so that additional operating funds could be provided without exceeding the subcommittee target ceiling. By handling the need in this manner, the recommendation for the District of Columbia Subcommittee is within the original target established in spring of 1979.

As I mentioned, the Federal payment of $45.3 million will fund a variety of local programs. There is a total of $20.9 million provided for pension needs, $12.5 million of which will establish the new sinking funds discussed earlier. In agreement with the House, $5.2 million has been provided to cover the cost-of-living pay increases for local government employees. Just over $7 million, the full amount requested, has been recommended for the city's general public assistance program, along with an increase of $2.2 million as payment to St. Elizabeths Hospital. In the area of public safety, $2.5 million is recommended for the Department of Corrections in addition to $1.4 million earmerked as payment to the Federal Bureau of Prisons. Finally, the city's $6.5 million matching share for the expenses of the Temporary Commission on Financial Oversight is to come from the Federal payment.

In order to provide this increase in the Federal payment, the city has offered to make sacrifices. The committee has agreed to cancel budget authority for projects totaling just over $20 million and rescind loan authority by a like amount. The specific projects are listed in the report, and we have been assured by the city that none of them will result in problems with court mandates or on-going initiatives. With that assurance, the proposal was approved.

I think that the final allowance is a good one that can be justified fully, and I urge support of the committee recommendations.●

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS

● Mr. INOUYE. Mr. President, 16 months ago the President submitted his budget estimate for fiscal year 1980 funding for foreign assistance and related programs. It is not easy for me to do it, but I have to agree with former Secretary of State Vance—it is disgraceful that the Congress has failed to enact a fiscal year 1980 foreign assistance and related programs appropriations bill.

Over 15 months ago the Foreign Operations Subcommittee started holding detailed and comprehensive hearings on the President's estimates—they were completed April 26, 1979.

After lengthy subcommittee and full committee markup sessions, during which individual items were thoroughly discussed, the committee published a detailed and comprehensive report of its recommendations to the Senate—October 3, 1979.

When the bill came to the Senate, as floor manager, I answered questions on many, many topics and I can assure you this bill received detailed and comprehensive consideration. Only after lengthy floor sessions—some lasting late into the night—did the Senate pass the fiscal year 1980 foreign assistance and related programs appropriations bill on October 12, 1979.

We then went into conference with the House on October 31, 1979—a protracted and difficult conference, but we hammered out an agreement. We worked hard; we struggled to protect Senate initiatives and to tighten controls over foreign assistance spending, and finally we reached agreement on February 25, 1980.

Now, operating under a continuing resolution, those Senate initiatives and those improved controls are as good as dead.

We have but one chance to revive them and that is to make the conference agreement a part of this supplemental bill. The money difference between the continuing resolution and the conference agreement is not large ($414.6 million); the principle is: Is the Senate Appropriations Committee to hold hearings, work through markup sessions, defend its recommendations on the Senate floor and in conference with the House and then find that all of this work is meaningless?

I hope not. I hope that the distinguished Members of this body will see the basic fairness, the integrity, the necessity of what the Appropriations Committee proposes and include the 1980 foreign assistance bill as agreed to in conference after extensive consideration by both Houses.●

CHAPTER VII

● Mr. PROXMIRE. Mr. President, chapter VII of the supplemental appropriations and rescission legislation includes a net appropriation of $387,743,000 for the Department of Housing and Urban Development; the Environmental Protection Agency; the Federal Emergency Management Agency; NASA; and the Veterans' Administration. This appropriation represents the net difference between supplemental appropriations provided, less a number of rescissions that have been approved by the Appropriations Committee. The amount provided by the committee is $676,481,000 below the budget request and $702,195,000 below the House-passed bill.

Let me briefly run down the major supplemental appropriations recommended by the committee and then go over the principal rescissions approved by the committee.

APPROPRIATIONS

The committee has recommended $870,000,000 for disaster relief activities, including $245,000,000 to reimburse other Federal agencies and State and local governments affected by the Cuban refugee situation; $86,000,000 in response to the Mount St. Helens volcanic eruption in May; and $539,000,000 for disaster relief to a number of States and territories that have been affected by severe weather conditions, and for potential 1980 disasters yet to be declared. The House has approved $625,000,000 for disaster relief, but did not have an opportunity to consider the request of $245,000,000 for Cuban refugees that was submitted by the President on June 17.

The committee has also approved a supplemental appropriation of $285,000,000 to keep the beleaguered Space Shuttle program on schedule. The House provided the full budget request of $300,000,000 for additional Shuttle funding in fiscal 1980.

In the housing area, the committee has concurred with the House and the administration in recommending bill language that would give local public housing authorities the option of using up to 50 percent of the public housing contract authority and associated budget authority currently provided in existing law and targeted for the construction, acquisition, or substantial rehabilitation of public housing units, for the upgrading and modernization of deteriorated existing public housing stock.

The committee has denied a $52.6-million supplemental appropriation requested for public housing operating subsidies. The House-passed bill included $27.6 million for this purpose. Also, the committee has deleted $300 million for the GNMA section 8 and targeted tandem programs. These funds were added to the bill on the House floor. No supplemental budget request was submitted for these housing funds in fiscal 1980.

A supplemental of $5.6 million has been recommended for research to support hazardous waste regulations development by the Environmental Protection Agency and a further $6.4 million has been included in the bill to enhance EPA's abatement, control, and compliance efforts to refine the data base on the scope of the hazardous waste problem. The House denied the $5.6 million requested for research and development in this area and provided only $3 million of the $6.4 million requested for hazardous waste abatement, control, and compliance activities.

The committee has concurred with the House in providing $5,638,000 for additional general operating expenses of the Veterans' Administration and $4 million for additional major construction activities, including $1 million for the VA's advance planning fund and $3 million to expand total construction square footage at the affiliated East Tennessee State University Medical School.

RESCISSIONS

The major rescission approved by the committee is a $572,140,000 cut in the remaining State share of revenue sharing in fiscal 1980. This rescission was not requested by the administration nor approved by the House.

The committee also has concurred with both the House and the administration in recommending the rescission of $153.2 million in community development grants. The committee has recommended the rescission of $38 million in the rehabilitation loan program as requested by the administration—$25 million more than the House proposed rescission. Also, the committee has denied a $10-million rescission proposed by the House in the comprehensive planning grant program, but approved a $10-million rescission in HUD policy development and research that was not considered nor approved by the House.

The committee has approved four other rescissions that were not recommended by the House. They are: $555,000 in salaries and expenses and $6,500,000 in the self-help development fund at the national consumer cooperative bank; $3.5 million in National Science Foundation research and related activities; and $5,000,000 in science education at the NSF. The administration did not recommend any of these rescissions, with the exception of the $5 million proposed for rescission in NSF's science education program.

Finally, the committee has recommended a total of $245,734,000 to cover increased pay costs, which is $55,685,000 more than the amount proposed by the House and $24,795,000 less than the sum requested by the administration. The major add-ons recommended by the committee to the amounts approved by the House include: $50 million for the VA's medical care account; $5.6 million for EPA salaries and expenses and $85,000 for the Office of Consumer Affairs.

Mr. President, that concludes my prepared remarks, but before I open the floor to discussion of this chapter of the supplemental I want to commend the distinguished chairman of the Senate Appropriations Committee, Senator MAGNUSON, for piloting this most complex and difficult legislation through the committee and onto the floor. Working under a tough fiscal ceiling established uuder the third concurrent budget resolution, he has done an outstanding job of bringing this important measure to the floor "on target" and within the budget resolution figure. I also want to thank the ranking minority member of the HUD-Independent Agencies Subcommittee for his continuing support and assistance.

Mr. President, I will be glad at this time to respond to any questions my colleagues may have on this chapter of the bill.●

CHAPTER X

● Mr. SASSER. Mr. President, chapter 10 of the supplemental appropriation bill includes an appropriation of $10 million which is partially offset by rescissions of $4 million. The net amount in chapter 10 is $6 million which is: $12.5 million below the budget request; and $1 million below the House allowance.

Virtually all of the amounts recommended are required to meet the costs of higher than expected printing workloads at the Government Printing Office over the past 3 years.

Also included in chapter 10 are a number of administrative provisions of a routine and housekeeping nature, such as the enactment into law of Senate resolutions which have previously been agreed to in the Senate. All of these provisions are explained in detail in the report and none will require the enactment of any additional supplemental appropriations.

I urge the adoption of chapter 10 of the bill.●

CHAPTER XI, MILITARY CONSTRUCTION

● Mr. HUDDLESTON. Mr. President, as a result of the March budget revisions, the subcommittee had before it requests totaling $117.4 million to be used as follows: $48 million for planning and design of facilities in the Persian Gulf/Indian Ocean area; $23.5 million for construction of facilities on Diego Garcia; and $45.9 million for family housing.

The subcommittee and full committee have recommended total funding of $49.8 million, which is $67.6 million less than the administration request but $15.5 million more than the House amount. If the House-initiated rescission, which we on the Senate side used as transfer authority, is included, the bill is $27.5 million more than the House amount.

The committee recommendation includes $25 million for planning and design of Indian Ocean/Persian Gulf facilities; $10.8 million for construction on Diego Garcia; and $14 million to cover increased fuel costs incurred in the family housing program.

To cover the recommendations for military construction, the committee bill proposes $15.8 million in new appropriations and $20 million in transfer authority from several sources. The family housing recommendation would also be covered by transfers.

The most significant aspect of this chapter is that it initiates support, through the planning and design and the construction recommendations, of an enhanced role for the United States in an area of the world where it has not traditionally maintained a military presence. Major construction requests for facilities in the area will be addressed in connection with the fiscal 1981 bill and may extend several years into the future. At that time, the subcommittee will also address in more detail a number of issues it has found troublesome, including lack of program definition in the Indian Ocean/Persian Gulf requests, the adequacy of country-to-country agreements governing the use of facilities, and the contribution to defense of the area made by other Western nations which are also dependent upon Middle Eastern oil supplies.

In the interim, one issue has been addressed at least on a preliminary basis. Chapter XI includes report language outlining a procedure under which a limited preference would be granted to U.S. general contractors competing for the Indian Ocean/Persian Gulf construction contracts. U.S. contractors do not have a number of the tax and subsidy benefits available to foreign contractors. In addition, the country-to-country agreements have not always protected their interests. The subcommittee intends to monitor this situation closely and expects U.S. negotiators to make a greater effort to secure the interests of U.S. firms.●

STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES

● Mr. HOLLINGS. Mr. President, the committee recommends for chapter XI new budget authority of $2,741,885,554. This consists of new appropriations of $2,796,445,000 offset by rescissions of $54,559,446. Our recommendations to the rescissions proposed by the President in our jurisdiction are as follows:

Office of Justice Assistance, Research and Statistics (LEAA): The proposed rescission of $12,439,446 from pre-1980 appropriations for the law enforcement education program (LEEP) was reduced by $5,000,000 to make funds available for police training in Miami.

National Oceanic and Atmospheric Administration: The proposed rescission of $50,000,000 from pre-1980 appropriations for the coastal energy impact fund—CEIP was reduced to $35,400,000 to allow funding of three projects in Louisiana, Texas, and Massachusetts. In addition, $54,000,000 is deferred until 1981.

Arms Control and Disarmament Agency: All of the $720,000 proposed rescission due to delay in ratifying SALT II treaty.

Small Business Administration: The proposed rescission of the 1980 congressional add-on $19,000,000 in 7(a) direct business loans was reduced to $11,000,000 to make available $8,000,000 for business in the Miami riot area.

The committee has provided the full $1.5 billion requested by the Treasury Department for possible defaults in the Chrysler loan program. We are advised that lenders would charge a premium of an extra 2 percent unless the appropriation for defaults was made up front.

We recommend the full $1,177,000,000 requested as additional capital for SBA's disaster loan fund and administrative expenses for disasters that have occurred this year, including the damage caused by the Mount St. Helen's eruption, the mud slides in California, the riots in Florida, and the tornadoes in Michigan and Nebraska.

The other major items recommended include $20,800,000 for the U.S. pavilion at the Knoxville Energy Exposition, and an appropriation to the U.S. Olympic Committee due to the disastrous impact of the U.S. boycott of the Moscow summer Olympics on their fundraising efforts. We recommend the full $10,000,000, as requested by the President on May 9, 1980. As clearly indicated in the bill and report, $4,000,000 is to be made imediately available. The remaining $6,000,000 is to be disbursed on the basis of one Federal dollar for each two non-Federal dollars that the USOC raises subsequent to May 8, 1980.

Lloyd Cutler of the White House has indicated to me that these funds are going to be used for an athletes recognition day and alternative world-class competitions for this year's Olympic athletes. The funds are also necessary to undergird the major USOC fundraising effort that President Carter and Governor Reagan will head up.

Also, Senator BELLMON, Senator BURDICK, and I attached a rider giving effectiveness to final and binding arbitration awards in the selection of the national governing bodies of the various sports.

Also included is $18,708,000 for Justice Department activities in response to the Cuban refugee situation, and a $10,000,000 increase over the continuing resolution level for EDA in order to provide new businesses in the Miami riot area.

The remaining items are for increased operating costs due to price increases and extraordinary expenses.

Mr. President, in total the committee reduced the appropriation requests by $171,975,000 in program areas and $34,992,000 in pay costs.●

TRANSPORTATION SUBCOMMITTEE—CHAPTER XIII

● Mr. BAYH. Mr. President, for the transportation chapter of the bill, we have carefully reviewed the President's requests and have identified substantial savings while, at the same time, provided for necessary increases to continue certain DOT programs for the balance of the fiscal year.

In new budget authority, the President requested $845 million. The House provided $573 million of that request, and we recommended $605 million. That is a reduction of $241 million below the President.

For limitations of obligations, the President requested a reduction of the Federal-aid highway program spending for the rest of fiscal year 1980. He deferred $1.15 billion. The House overturned this deferral and increased the limitation by $300 million. The committee recommends that we go back to the President's level, which will still leave almost $2 billion in obligations for the rest of fiscal 1980. That reduction in obligations of $300 million will save over $150 million in fiscal year 1980 and 1981 outlays. We have to make that reduction if we are to have any chance in saving the $400 million requested by the President in 1981 outlays for highway programs. It is not easy to cut highway spending, since this is a trust-funded program, paid for by the users of our highways, but the cut is not disproportional to other reductions which will be necessary for the DOT in the fiscal 1980 and 1981 budgets.

We have also included the full $1.4 billion in liquidating cash necessary to reimburse the States for highway work to be completed during fiscal year 1980. That amount was requested and is included in the House bill.

The major reduction, other than in highway obligations, is for mass transit grants. The President requested $670 million for this supplemental. The House allowed $400 million and I recommend we cut that figure to $300 million. That will still allow for the procurement of over 1,500 additional transit buses and for increased effort on existing fixed rail systems and new subway construction projects underway in Atlanta, Baltimore, Miami and Buffalo.

We also have agreed with the House action rescinding $75 million in rail rehabilitation grants for fiscal year 1980. Testimony indicates that the unobligated balance in this account is $202 million while applications which appear likely to be approved total only $100 million. So, we can make that savings and take a look at this again in the fiscal year 1981 markup next month.

We have increased the appropriation for emergency relief from $200 million in the House bill to $375 million. The committee report accompanying the bill indicates that up to $125 million shall be made available for highways devastated by the Mount St. Helen's eruptions.

The committee has deleted the $68.1 million request for rail labor assistance with the understanding that the Commerce Committee will enact legislation under which fiscal year 1981 appropriations can be used to reimburse railroads which make payments to qualified employees during the balance of fiscal year 1980.

Finally, we recommend the full $21.3 million for the Coast Guard's Oil Pollution Fund. Testimony indicated that the Fund is almost depleted and we want to be certain that adequate funds are available to enable the Coast Guard to fully meet their cleanup responsibilities during the balance of the fiscal year.●

TREASURY, POSTAL SERVICE, AND GENERAL

● Mr. CHILES. Mr. President, I am pleased to bring to the Senate today for consideration the committee's recommendations included in chapter XIV of the supplemental bill for the agencies included in the jurisdiction of the Subcommittee on Treasury, Postal Service, and General Government. The amount recommended for those agencies including the pay supplementals totals $535.6 million. We have also recommended rescissions which total $238.6 million. These recommendations for new budget authority are $42.7 million less than the administration's request and $26 million below the amount recommended by the House. A sum of $520.2 million of the amount being recommended by the subcommittee is required by and is a direct result of the last pay raise adjustment.

Of the $15.2 million recommended by the subcommittee for program increases, $6,975,000 is an item for the Secret Service and $6.5 million is a request for the Bureau of the Public Debt. The funds for the Secret Service are necessary in order to provide additional funding for the candidate and nominee protection program. The recommended funds for the Bureau of Public Debt are necessary to compensate commercial banks for the significant increase in the number of savings bond redemptions. Because of the greatly increased yield from alternative securities, people are cashing in their savings bonds at unprecedented rates, or in excess of 35 percent of the rate previously estimated by the Treasury Department.

Last week the President submitted an additional supplemental package which included $2.5 million for the General Services Administration for refunds under the renegotiation act. These refunds are necessary as the U.S. Court of Claims has determined that excess profits previously paid under the Renegotiation Act were not due. As any delay in providing these funds will only increase the Government's interest penalty, the committee has recommended approval of that item as well.

Also recommended as section 303 of title III of the bill before the Members today is language to rescind $220 million of funds previously appropriated for furniture. Also included in that section is language to transfer $15 million from the Federal buildings funds to the miscellaneous receipts of the Treasury. The $15 million to be transferred was previously made available for leasing expenses of the courts but is no longer needed for that purpose. This provision results from a series of oversight hearings which documented that no executive branch agency has adequate furniture management procedures, that agencies routinely order new furniture without first checking inventory, and that furniture currently in inventory could satisfy the needs of the Government for a substantial period of time.

The language would require OMB to allocate this reduction to the executive departments and agenices and it is the Senate's intention that this should be done in a manner not to affect maintenance and training activities at defense. The provision has been cosponsored by 37 Members of the Senate and was amended by the full committee to provide funding for furniture purchases from the National Industries for the Blind and Severely Handicapped and the Federal Prison Industries if such purchases are fully justified by agency needs.

The subcommittee has also recommended that section 303, as recommended by the House, be stricken. That House provision has the effect of gutting the "Merit Bonus Awards" that are provided under the Civil Service Reform Act. The Reform Act which passed the Senate by a vote of 87 to 1 and passed the House by a vote of 385 to 10 less than 2 years ago, created the Senior Executive Service. Under this program the Government's top managers have substantially less job security than would be available to them if they had remained in the regular career service. For taking this additional risk they become eligible for bonus pay awards for outstanding service. It seems to me that it is too early to give up on one of the centerpieces of the Reform Act before it has had a chance to work and after a substantial number of Federal workers have given up their job security to enter the new system.●

Mr. TALMADGE. These questions relate to the congressional intent indicated in the House, Senate, and conference reports to H.R. 4389, the Labor, Health, Education, and Welfare appropriations bill for fiscal year 1980.

Is it not true that the House Appropriations Committee indicated its intention that a specified portion of the money earmarked for interdisciplinary training should be provided to at least one new medical school for the development of an innovative primary care medical education program particularly suited to the needs of the underserved minority community?

Mr. MAGNUSON. Yes, the House Appropriations Committee did include this language in their report. (H. Rept. 96-244)

Mr. TALMADGE. Is it not also true that in Senate Report No. 96-247 the Senate Appropriations Committee expressed its concern for the maldistribution of physicians in rural and underserved areas of our country and, therefore, stated that a part of the funds authorized under section 788(d) of the Public Health Service Act be aimed at health manpower development in rural and underserved areas?

Mr. MAGNUSON. This is true.

Mr. TALMADGE. In addition, is it not true that the full Senate approved an amendment to H.R. 4389 which restates the Senate Appropriations Committee's intent that "the Secretary shall give special attention under section 788(d) of the Public Health Service Act to programs which address health manpower shortages in medically underserved areas"?

Mr. MAGNUSON. Yes, this is true, and the House Members concurred in this amendment.

Mr. TALMADGE. Is it not true that the primary mission of the School of Medicine at Morehouse College, a new medical school with its charter class having just completed the 2-year program, is to educate and train students from disadvantaged backgrounds for medical careers as primary care physicians to work in medically underserved rural and inner city communities?

Mr. MAGNUSON. I am sure that this is the case.

Mr. TALMADGE. Is it not also true that the School of Medicine has been approved for a $500,000 grant under the minority oriented curriculum development program, one of the programs under section 788(d) of the Public Health Service Act, which would be used to improve the school's curriculum for undergraduate medical education, to be more relevant and responsive to the delivery of primary care to underserved communities?

Mr. MAGNUSON. Yes, I understand that this is true.

Mr. TALMADGE. It is my understanding that the Appropriations Subcommittee on Labor, Health and Human Services, and Education, and the full Appropriations Committee, during consideration of the President's rescission recommendations for the Health Resources Administration, recommended that $1 million be rescinded from the $8.5 million budget for interdisciplinary training and curriculum development. Is it not true that the subcommittee and full committee also gave priority to several programs in this particular line item, but that the minority oriented curriculum development program was not included as a priority?

Mr. MAGNUSON. Yes, this is true.

Mr. TALMADGE. Because of the intent of the Congress that support should be given to programs under section 788 (d) which aim at health manpower development in rural and underserved areas, and because the $500,000 grant to the Morehouse School of Medicine would provide valuable assistance by improving the training of physicians for service in underserved areas, I feel that the Senate should make every effort to insure that this approved grant be funded.

Mr. MAGNUSON. I have no difficulty with that and agree with the Senator.

Mr. TALMADGE. I thank the chairman very much.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is consideration of H.R. 7542. The pending question is the amendment on page 73, lines 15 through 18.

Mr. BAKER. Mr. President, I ask the distinguished managers of the bill if it would be possible, since this amendment is the pending question, to put that over for further consideration until tomorrow. I wonder if the managers of the bill can consider that so that we can proceed then to the next amendment, the next item that was separated out from the committee amendments, and save this until tomorrow.

Mr. MAGNUSON. I did not hear the Senator from New York.

Mr. JAVITS. I was only trying to ascertain whether the parliamentary situation permitted an amendment. I understand there is an amendment pending.

Mr. MAGNUSON. Mr. President, I will agree with the Senator from Tennessee that we will not take up the amendment on revenue sharing until tomorrow.

Mr. BAKER. I thank the majority manager of the bill.

I will inquire of the Chair if it requires unanimous consent to arrange for that sequence of events. Otherwise, that is the pending question. Does it require unanimous consent to set that aside, postponing it until tomorrow, and proceed instead to the second amendment which was excluded from the committee amendments not considered en bloc?

The PRESIDING OFFICER. The Senator is correct, it does require unanimous consent.

Mr. BAKER. Then, Mr. President, by leave of the majority manager and minority manager, I ask unanimous consent.

Mr. DURKIN. Reserving the right to object, what is the net effect?

Mr. BAKER. The net effect is that the revenue-sharing question will go over until tomorrow.

Mr. MAGNUSON. It is to postpone a discussion on revenue sharing until tomorrow.

Mr. DURKIN. Mr. President, reserving the right to object, is this that all revenue-sharing votes will go over until tomorrow and all amendments on revenue sharing or just this one?

Mr. BAKER. It would be my understanding, Mr. President, that any amendment dealing with revenue sharing will be an amendment to this amendment.

Mr. MAGNUSON. Any amendment dealing with revenue sharing is postponed until tomorrow.

Mr. DURKIN. Is that part of the unanimous-consent request?

Mr. BAKER. Yes.

Mr. MAGNUSON. Yes.

Mr. DURKIN. Can we incorporate therein a provision that the vote on revenue sharing or a series of votes on revenue sharing will come before a certain hour tomorrow?

Mr. BAKER. Mr. President, I would not be in a position to do that at this moment, but I will observe that it would be my understanding that if this unanimous-consent request is granted, the Senate tonight would proceed next to the consideration of the second amendment which was excluded from the committee amendments, and that it would proceed then in the ordinary way. But during the day on tomorrow the first committee amendments excepted would be called up and made the pending business, and other amendments dealing with revenue sharing would be eligible for consideration at that time. I have no idea at what time that would occur tomorrow. The big thing I was trying to do tonight was to keep people who have amendments, and there are a number of them, dealing with revenue sharing from having to assemble their staffs and materials and deal with them tonight.

Mr. JOHNSTON. Reserving the right to object, Mr. President, does the request include a title-by-title consideration so that when we finish with one title we can move on then to the next without having that one title subject to further amendment?

Mr. MAGNUSON. In other words, all the Senator from Tennessee is requesting is that we put off votes relating to revenue sharing until tomorrow. In the meantime, we can proceed with other amendments. That is all we ask.

Mr. JOHNSTON. Mr. President, what I am asking—and I have no objection to that—I am wondering if, when we begin tomorrow, we could go on the bill, title by title, so that, for example, when we deal with my section on energy and water, we can have all those amendments together at one time. Then, when we finish energy and water, we can, in effect, go to third reading on that title, then move on to the next title and consider all the amendments on that.

Mr. MAGNUSON. I hope that will be true, but I cannot stop anybody from bringing up an amendment. I hope that they will take it title by title.

Mr. JOHNSTON. Would it be appropriate to ask that by unanimous consent, or at least ask the leaders to shop that around between now and tomorrow?

Mr. MAGNUSON. If the Chair will put the unanimous-consent request of the Senator from Tennessee.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Reserving the right to object, what is the question?

The PRESIDING OFFICER. The request is that the first committee amendment and any and all amendments thereto be set aside until tomorrow, and that the consideration of the second committee amendment and any other amendment dealing with revenue sharing be put over until tomorrow.

Dr. DURKIN. Reserving the right to object, Mr. President, is the suggestion of the Senator from Louisiana incorporated in that request?

Mr. MAGNUSON. No, it is not.

Mr. DURKIN. I want to make sure of that, rather than read about it in the Record later on.

The PRESIDING OFFICER. No, it is not.

Mr. DURKIN. The answer of the Chair is no?

The PRESIDING OFFICER. It is not. Is there objection?

Mr. MELCHER. Reserving the right to object, what is the committee's second amendment?

Mr. MAGNUSON. A parliamentary inquiry.

The bill is open for other amendments, other than amendments dealing with revenue sharing.

Mr. MELCHER. Is that the unanimous-consent request?

Mr. MAGNUSON. That is all it is.

Now the Senator from Louisiana wants to speak.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. The question will recur to the second committee amendment. That was excepted by the earlier unanimous consent and appears on page 76, lines 15 through 17. A floor amendment would not be in order until that amendment is disposed of, except an amendment to that amendment.

Mr. JOHNSTON. Mr. President, I shall not ask for unanimous consent now because I have not spoken to our esteemed chairman or to the majority leader, but I hope that, on tomorrow, we can have a unanimous-consent arrangement whereby we can consider the bill—actually, it is chapter by chapter. Chapter 5 is the Department of Energy; chapter 3 is special migration and refugee assistance, et cetera—that we can have an arrangement whereby we can consider that chapter and then finish the chapter—in effect, put that chapter to third reading—and that thereafter, no amendments would be in order to that.

Mr. DURKIN. I should like to record my opposition to that now.

Mr. MAGNUSON. That would be a very good arrangement if we could get away with it, but the bill is open for amendments. The Senator from Minnesota has an amendment which we are going to agree to. But that is a good arrangement. I hope that will prevail.

Mr. YOUNG. Will the Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. YOUNG. It would be a good and orderly procedure to consider this bill chapter by chapter. The Senate could operate faster and, I think, more effectively and efficiently if the request of the Senator from Louisiana were adopted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. PRESSLER. Mr. President, reserving the right to object, do I understand that the unanimous-consent request is that on each chapter of the amendment mentioned, we will not be able to offer the amendment later?

The PRESIDING OFFICER. That is not the pending request.

Mr. PRESSLER. What is the request?

The PRESIDING OFFICER. The pending request is that the first amendment of the committee, dealing with revenue sharing, not be called up until tomorrow, nor any amendment thereto, or any other amendment dealing with revenue sharing; and that the Senate proceed immediately to the second amendment, which was excepted by the committee.

Mr. PRESSLER. I have no objection.

Mr. JAVITS. Mr. President, reserving the right to object, I shall not object. I should like to ask Senator BOSCHWITZ whether he does intend to deal with the amendment which we excepted tonight. I have one which I would like to bring up if he is not going to deal with this tonight.

Mr. BOSCHWITZ. I am going to deal with mine tonight, I say to the Senator. It will be quite short, and it is hoped that a vote on it will be put over until tomorrow if it is not accepted.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request? If not, it is so ordered.

The pending question is the amendment of the committee occurring on page 65, line 15 through line 17.

The clerk will state the amendment.

The legislative clerk read as follows:

On page 76, beginning on line 15, strike all down through the language on line 17.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I oppose the committee amendment which strikes out the House language that provides $3.9 million to counties throughout the country, for payments to those counties in lieu of taxes for Federal wildlife refuges.

These payments in lieu of taxes are Federal funds designed to compensate for lost property tax revenues to individual counties with national wildlife refuges. For the past few years, the Fish and Wildlife Service has been able to pay only about 75 percent of the payments due. As of 1978, that amount dropped to 50 percent. Consequently, in 1978, a new law was passed to allow requests for appropriations to cover the deficiency effective for 1979. This is the first bill before us where we have the opportunity to provide funding to make up the deficiency. Currently, there are over 35-million acres covered under this fund, in all 50 States and 2 territories.

Mr. President, I ask unanimous consent that a table showing the State-by-State breakdown of this $3 million be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Amount restored by this amendment

State:	
Alabama	$31, 609
Alaska	436
Arizona	7, 340
Arkansas	66, 649
California	113, 125
Colorado	58, 714
Connecticut	1, 158
Delaware	41, 339
Florida	172, 473
Georgia	201, 129
Hawaii	11, 650
Idaho	24, 932
Illinois	110, 172
Indiana	30, 878
Iowa	29, 257
Kansas	23, 307
Kentucky	5, 399
Louisiana	263, 733
Maine	16, 389
Maryland	59, 290
Massachusetts	12, 517
Michigan	52, 185
Minnesota	263, 533
Mississippi	164, 504
Missouri	48, 615
Montana	93, 405
North Carolina	89, 443
Nebraska	96, 925
Nevada	32, 202
New Hampshire	3, 634
New Jersey	100, 264
New Mexico	122, 816
New York	56, 473
North Dakota	283, 243
Ohio	39, 594
Oklahoma	47, 828
Oregon	125, 746
Pennsylvania	30, 036
Puerto Rico	7, 838
Rhode Island	6, 995
South Carolina	60, 304
South Dakota	87, 083
Tennessee	32, 167
Texas	138, 184
Utah	13, 876
Vermont	2, 315
Virgin Islands	965
Virginia	75, 956
West Virginia	1, 235
Washington	124, 375
Wisconsin	79, 913
Wyoming	148, 439

(Mr. MELCHER assumed the chair).

Mr. BOSCHWITZ. Mr. President, when the Government buys or leases land for wildlife refuges, they make a contract with counties to fund payments in lieu of taxes in an amount the greater of either: First, 75 cents per acre—not a very magnanimous amount; second, three-fourths of 1 percent of the fair market value; or third, 25 percent of the net receipts collected by Interior in connection with the operation and management of the area.

In other words, Mr. President, when these lands are removed from the tax rolls by the Federal Government, the Federal Government makes this compact with the counties to pay back at least a portion of the taxes that are lost.

Although the contracts do not specifically state that counties will receive funds to make up the deficiency, there is clearly an understanding that adequate compensation would be made. Otherwise, why does the basic law allow for the "greater of?" And why did Congress pass the 1978 amendments to provide for appropriations to make up the deficiency? If Congress does not intend to pay adequate compensation, then we should be straightforward about it and amend the basic law so to state. The impression created in counties is that the Federal Government is reneging on its promises. At a time when faith in Government is dwindling, I do not think we should add to this impression by again denying counties funds that we have, at the very least, a moral obligation to provide.

I wonder if the committee might not be able to accept this amendment as I have proffered it.

Mr. MAGNUSON. Mr. President, I will turn the discussion over to the Senator from West Virginia, who is chairman of the Subcommittee on Interior.

Mr. ROBERT C. BYRD. Mr. President, I had earlier asked Mr. HUDDLESTON to handle this portion of the bill during markup on the floor. At the moment he is attending another meeting.

This is a new authorization and it comes before the committee for the first time in this supplemental bill. Briefly, the budget request responds to the 1978 authorization that enables Congress to make up any shortfall in revenues from the National Wildlife Refuge System so that full payments can be made to local governments under the Refuge Revenue Sharing Act. I understand the reason for this new authorization is a continuing failure of revenues to satisfy full payment requirements in recent years.

As with many other programs funded in this bill, the committee simply believes that sacrifices are necessary if we are to reduce spending and meet the ceiling established by the congressional budget resolution. If any local government considered this to be a mandatory appropriation, someone did not read the law. It is not mandatory. This appropriation is as much subject to congressional change as the major payments in lieu of taxes program itself. I do not need to tell any Senator tonight that there are many authorizations that are not fully funded.

If there are to be reductions in Federal spending, I see no reason why this new authorization should be exempt. Further, we cannot continue to add on funding for every politically popular program without breaching the spending ceiling for the 1980 fiscal year.

I would be opposed to the amendment.

Mr. BOSCHWITZ. Mr. President, this does not exceed any budgetary ceilings that are established, and it is $3.9 million. It is for the continuation of what amounts to a contract with the counties that if lands are removed for wildlife areas, that the taxes lost, at least in part, be compensated for by the Federal Government, and it affects all 50 States.

So, with all due respect to the majority leader, and recognizing various parts of the budget must be cut and various obligations perhaps not be met, this is an obligation that affects 3,800 counties, I believe, in all 50 States, and moneys that they have counted on. In the process of allowing their lands to be taken for wetlands and a national refuge, this, really, should be recompensed.

Mr. President, I ask the distinguished majority manager of the bill, I know many of our colleages are not here and many of them are in a different part of the city, I would be very happy to put over a vote on this until tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I ask the rhetorical question, What are we here for? We are here to do business.

With all due respect to the Senator, and I realize he is a very sweet individual and wishes to accommodate his colleagues, but they all know the supplemental appropriation bill is up and votes can be expected any time.

So I would be opposed to putting votes over until tomorrow.

The PRESIDING OFFICER. Who yields time?

The question is on agreeing to the amendment.

Mr. HUDDLESTON. Mr. President, I think the response to the request from the Senator from Minnesota has been made very well by the distinguished majority leader as the committee chairman.

If there are no other comments, I move to table the amendment by the Senator from Minnesota and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficent second.

The yeas and nays were ordered.

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that my motion to table the motion by the Senator from Minnesota be vitiated.

The PRESIDING OFFICER. Without objection—is there objection?

The Chair hears none.

Mr. BOSCHWITZ. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Minnesota reserves the right to object.

Mr. BOSCHWITZ. I am sorry. I did not listen to the request.

Mr. HUDDLESTON. The request was that my motion to table what I thought was a motion from the Senator from Minnesota be vitiated, because he has not, as I have just learned, and I came on the floor after this discussion had begun, he has not actually made a motion.

Is that correct?

Mr. BOSCHWITZ. That is correct.

Mr. HUDDLESTON. Therefore, I would like to vitiate my motion to table the motion which the Senator did not make.

The PRESIDING OFFICER. The Chair does not seem to feel it is necessary to ask unanimous consent.

The question is on agreeing to the committee amendment.

Mr. HUDDLESTON. I move the adoption of the committee amendment.

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I should like to engage briefly in a colloquy with the distinguished chairman of the Appropriations Committee, having in mind the desire and the necessity to move along with the business of the Senate.

I address my remarks to the distinguished chairman of the subcommittee: Perhaps we could move the business of the Senate along this evening and not have a vote on this matter, but I ask that we have some kind of assurance that this request I am making in a 1980 supplemental will be included in the 1981 Interior appropriation bill when it comes to the floor.

Mr. ROBERT C. BYRD. Mr. President, we cannot give that assurance, but I assure the Senator that we will be glad to consider the matter and take testimony on it. If he wishes to write to the subcommittee and submit any evidence in support of it, we will be very happy to receive it. But we cannot say today that we will include a particular matter in the bill.

I understand that there is a budget request. So the committee will look at the matter seriously, and it may very well put it in. But I would not want to commit the committee at this point.

Mr. YOUNG. I believe it is a very worthy program that should be considered seriously by the subcommittee and the full committee, in the regular bill. I support it.

Mr. HUDDLESTON. The Senator from Minnesota has a good spokesman.

Mr. BOSCHWITZ. The budget request that the distinguished Senator from Kentucky spoke about, is that for the 1979 deficiency or the 1980 deficiency?

Mr. HUDDLESTON. It is for 1981 fiscal year. I do not know what deficiency year.

Mr. ROBERT C. BYRD. Mr. President, the budget request for fiscal year 1981, under the column "New Budget Estimates," which I hold in my hand, is shown as $9.5 million.

The committee will give every consideration to the request, I assure the Senator. I simply cannot commit the committee tonight to put the money in. But with the budget request, it certainly is in favor of the Senator, and I would say he has a leg up, with the budget estimate being before the committee.

Mr. BOSCHWITZ. Does the majority leader know whether that includes the $3.9 million?

Mr. ROBERT C. BYRD. It would not include the 1980 estimate.

Mr. BOSCHWITZ. If the distinguished majority leader will give me assurance that the $3.9 million will be considered in committee, perhaps I can come forward and testify.

Mr. ROBERT C. BYRD. I give the distinguished Senator that assurance. It will be considered, and the Senator will have the opportunity to make whatever presentation he wishes to make to the committee in support of the item.

Mr. BOSCHWITZ. Then, I remove my objection to the deletion of these lines from the committee amendment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1325

(Purpose: To authorize the President to provide relocation for the families residing in the Love Canal emergency area)

Mr. JAVITS. Mr. President, if I may have a few minutes of the Senate's time, I should like to discuss an amendment I intend to bring up and explain it to the Senate first.

We all have heard about the Love Canal, in the area of Niagara Falls, N.Y. It is deeply troubled, with the President having declared an emergency there as recently as May 21, 1980.

Mr. President, I ask unanimous consent to have the declaration of emergency printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Telegram]

WHITE HOUSE,
Washington, D.C., May 21, 1980.

Hon. HUGH L. CAREY,
Governor of New York, State Capitol,
Executive Chamber, Albany, N.Y.

As you requested, I have declared an emergency for the State of New York due to the adverse impact of chemical wastes in the Love Canal Chemical Waste Landfill in the city of Niagara Falls beginning on or about May 5, 1980. I have authorized Federal relief and recovery assistance in the affected areas.

The Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency, will coordinate Federal assistance efforts and designate specific areas of the State eligible for such assistance. The Federal Coordinating Officer will be Ms. Rita Meyninger of the Federal Emergency Management Agency. She will consult with you and assist in the execution of the Federal-State assistance agreement governing the expenditure of Federal funds.

JIMMY CARTER.

Mr. JAVITS. The amendment I am introducing with my colleague, Senator MOYNIHAN, is in response to a grave and dangerous health peril at Love Canal in our State of New York. The amendment will enable the President, if he so decides, to relocate the families who have been exposed to lethal chemical wastes disposed at Love Canal. This amendment is confined solely to the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980 and, consistent with other disaster assistance programs, will mandate a 25-percent cost sharing for the State of New York.

It is not our intent here to mandate permanent relocation or to specify how such a program should be carried out. We seek only to give the President the explicit authority to relocate the families that already have suffered extensively from exposure to these lethal substances. We believe there are many methods of achieving this objective, including grants, loans, loan guarantees, and so forth, and our intent in this amendment is to be permissive, not restrictive—to give the President an open field to take whatever course of action he deems appropriate to bring about the result.

Mr. President, I have been in this Senate for 24 years, and have as much respect for it and its rules of procedure as any Member of this body. I would not ask the Senate to consider this amendment on this bill if we were not in a desperate situation. For humanitarian purposes only, we are asking the Senate to make an exception, because these are exceptional circumstances.

The President of the United States, on May 21, declared a state of emergency at Love Canal, but we are told that he cannot secure the relocation of the victims because he lacks the necessary authority. The rules of the Senate are for the purpose of facilitating the Senate in exercising its will—in acting—they are not for preventing the Senate from acting, and the bill before us is filled with legislative language for that very reason.

We wish some other authority could have been found which would have made it unnecessary to take this step. But there is no such authority, which is why we are taking this extraordinary action. We have been able to find in this bill lots of money for other disasters and emergencies, natural and manmade, and the residents at Love Canal are at far greater risk for their health and their very lives than the vast majority of the victims of the other disasters and emergencies—and have at least as much right to be saved as any other victims.

BACKGROUND

It has been almost 2 years since Senator MOYNIHAN and I alerted our colleagues to an emergency situation in Niagara Falls, N.Y. A relatively obscure site known as Love Canal became the focus of national attention when it was discovered that chemicals, buried more than 25 years ago, had surfaced and infiltrated scores of nearby homes, posing serious health hazards to the residents. The events which followed are now history: Pregnant women and children under 2 were evacuated immediately.

Following studies disclosing unusually high incidences of cancer and other disorders, the State declared the immediate area surrounding the canal contaminated and evacuated the residents.

On August 2, 1978, President Carter declared an emergency which resulted in the evacuation of additional families. Subsequently, the State purchased the abandoned homes in the first two rings around the canal.

Today, these homes remain boarded up and fenced off—a reminder of the tragedy which has made Love Canal synonymous with chemical disaster.

The recent release by the Environmental Protection Agency of the Biogencies Corp. study, indicating the possibility of serious genetic damage to the residents of Love Canal triggered the second emergency declaration by the President in as many years.

On June 21, 1980, the President, pursuant to the Federal Disaster Relief Act, authorized the temporary relocation of over 700 families. At a press conference announcing the decision, Barbara Blum, Deputy Administrator of EPA acknowledged that the action was taken "in recognition of the cumulative evidence of exposure to toxic waters by Love Canal residents and of mounting evidence of resulting health effects. When all the completed studies are evaluated and weighed against the risks, they are sufficiently suggestive of a threat to public health that prudence dictates relocation while further definitive studies are being carried out."

This is not the first time, nor will it be the last, that the families have been alarmed by test results which indicate the potential for serious health risks. During the past 2 years, various medical studies by Federal, State, and private medical experts have been conducted:

September 1978: Preliminary blood tests on 4,000 residents by the State indicated that about 10 percent had liver abnormalities. The State also released a report which indicated that miscarriages were occurring 1½ to 3½ times the expected rate among Love Canal women.

October 1978: A private study by Dr. Beverly Paigen of the Roswell Park Memorial Institute in Buffalo showed an increased risk of several medical problems including urinary tract diseases and asthma.

February 1979: A State study found the miscarriages were twice as high in the "wet" areas as those in dry areas.

July 1979: Secretary Califano released the findings of a panel of scientists which confirmed that the residents of unevacuated areas surrounding Love Canal had suffered certain adverse health effects as a consequence of exposure to the chemicals and recommended further studies.

October 1979: A medical adviser to the Federal Government on toxic chemical problems warned EPA that residents should be evacuated from the area as soon as possible.

November 1979: A preliminary and prematurely released report by the Carcinogen Assessment Group at EPA indicated residents in the Love Canal area face a high cancer risk. This report was subsequently revised a week later indicating that in fact there was no increased cancer risk.

May 1980: EPA released a report that showed 11 of 36 residents tested exhibited abnormalities in their chromosomes associated with high incidences of cancer, birth defects and miscarriages.

May 1980: University of Buffalo study indicated some residents may have nerve damage.

The results of the tests, particularly the chromosome study, have been conflicting and inconclusive, but to the residents the evidence is very clear—a suspiciously high incidence of miscarriages, birth defects, respiratory ailments, kidney ailments, skin rashes and various forms of cancer.

EPA, in concert with the Center for Disease Contol, is now—2 years after the initial discovery—in the process of designing the first comprehensive medical and environmental tests to be performed on the residents and the air and soil.

However, the medical tests will take up to 6 months to complete and up to a year to diagnose. Federal officials acknowledge that even then, the results may still be inconclusive.

The families cannot continue to be subjected to this anguish any longer. While serious and legitimate questions have been raised regarding the tests conducted to date, there is no question about the psychological effect they have had upon the Love Canal residents. It is unreasonable to require these families to return to their homes and inhumane to prolong their uncertainty. As a matter of elementary justice for these families who have been pushed to the brink of despair for themselves and their children, we must make it possible for them to relocate elsewhere.

NEED FOR AMENDMENT

The discovery of leaching toxic chemicals at Love Canal exposed a gaping hole in the ability of the Federal Government to respond to an emergency of this nature.

The Federal Disaster Relief Act of 1974 authorizes the President to provide for temporary relocation only and Federal assistance to supplement the efforts and resources of the State and local governments for physical damages to residential, educational and business structures or for economic injuries to businesses and farmers caused by disasters.

For example, if a tornado had struck Love Canal and destroyed the area (such as the recent tragedy at Grand Island, Nebr.) a Presidential declaration could have made funds available immediately to begin rebuilding the area. In this sense Love Canal is an enigma to the provisions of Federal disaster assistance which is based on the premise that residents want to rebuild and return to their neighborhoods.

While the homes at Love Canal have not been physically destroyed, they are economically worthless. The residents are faced with the choice of remaining in this "neighborhood of fear" or foreclosing on a mortgage which all but assures they will not be eligible for another.

When Congress authorized the FDRA Act in 1974 the hazards of chemical waste sites were virtually unknown. Even as recently as 1976 when Congress passed RCRA calling for "cradle to grave" regulations for toxic wastes, the problem of how to deal with abandoned waste sites was seemingly forgotten. It was not until the health emergency was declared at Love Canal that we began to focus on the need to address the problem of abandoned chemical waste sites.

Even the emergency response provisions of the Clean Water Act are too narrow in scope adequately to address the problem at Love Canal. Section 504 of the act provides for a $10 million contingency fund for the express purpose of providing assistance in emergencies caused by the release into the environment of all pollutant which may present, or reasonably present, an imminent and substantial danger to the public health or welfare.

This provision, which was enacted in 1972, was not even funded until last year when it was invoked for the first and only time to mitigate a PCB problem. Section 311 authorizes the use of Federal funds for remedial action when a hazardous substance is discharged into navigable waters.

Thus, it was not until November 1979 when the N.Y.S. Health Department released the results of a study that showed dioxin present in sediment, plants and water animals from Black Creek which flows into the Niagara River, a body of navigable water, that EPA was able to begin action without specific congressional authorization to clean up the contamination.

Congress is currently working to close the gap in existing law. S. 1480 the "superfund" bill is designed to remove the bindings which have tied EPA's hands in dealing with hazardous waste sites. I applaud the EPW Committee for their work on this bill and their commitment to report it to the Senate during this session. But, the residents of Love Canal cannot wait for enactment of this bill.

To ask these families to spend up to 1 year in a motel uncertain of their health or ability to conceive healthy children is unconscionable.

I know that some of my colleagues may question the wisdom of giving the President the authority to reimburse the State for the purchase of the homes should he decide to do so, particularly in view of the precedent it could set. But I am convinced that Love Canal represents a truly unique emergency which as I stated previously, cannot be addressed through existing legislation, nor can it wait for future legislation which will provide the necessary assistance for future Love Canals.

Mr. President, we are absolutely stymied in respect of the location of some 800 families in that area upon this chemical dump, which is a national disgrace. A report is now being debated as to genetic damage to women and children who are still in this location. The efforts to remove them or relocate them have been stymied by the fact that the Office of Emergency Management—that is, the Federal Emergency Management Agency—which administers disaster relief, says that the only way in which they can help these people is by temporary relocation, which means motels or whatever accommodations could be found for them, and that they may not have anything which is of a more substantial character.

I have read the law very carefully, and that is true. The law provides only for temporary housing.

Mr. President, no question of money is involved here. I have waited for days for the opportunity to deal with this very vexing and challenging question—which is tearing these families apart in a really heartless way—on this supplemental appropriation, because it does cover the Federal Emergency Management Agency, indeed, the particular section to which I wish to address myself found at page 71, lines 9 to 15, actually does contain some legislation put in here by the Senate committee itself.

What I need to do, and I am just being very frank with the Senate, is to liberate the President's hands in dealing with this emergency, and the only way that I feel I can do it and have any chance of having the assistance come in any kind of time is by pinpointing this situation and simply vesting in the President authority to relocate these people however he may have to do it.

The authority will remain in him. There is no question of money involved. There is plenty of money being provided now for disaster relief which is subsumed in this section.

So the amendment which I wish to propose for myself and Senator MOYNIHAN reads as follows:

> On page 71, line 15 insert the following: *Provided, however,* That the President is authorized, notwithstanding any other provision of law, from funds appropriated to the President to provide relocation for the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980, at the Love Canal in the State of New York; provided, further, that the Federal share shall not exceed 75 percent of the cost of such relocation.

Which is the standard provision respecting disaster relief.

Mr. President, this will enable the administration to move into the situation in some intelligent way, will relieve this inordinate strain upon these people and will afford us real disaster relief in a situation which is unique and kind of falls between all the tools.

Mr. President, as to the money involved, I said my amendment seeks no money. It is just the question of freeing the President's hand with authority, nothing else.

Mr. President, the money involved will be much greater with temporary relocation. We have an estimate here that for the 436 families that are being temporarily relocated it will cost about $1 million a month in order to relocate them and the biggest estimate that we have seen as to what some intelligent relocation would cost on the part of the United States is around $15 million to $20 million if the President wishes to do it.

So, my amendment is a solely designed and strictly humanitarian proposition to try to find a way in which the President's hands may be freed.

The analogy which I wish to draw is this: In 1979 Senator STENNIS, and this is why I took my cue from that situation, had a comparable disaster situation in his State and he came in the Chamber—I remember it distinctly and was deeply impressed with the way he presented the matter—and sought directly an effort to reduce the interest rate on disaster loans to homeowners so that disaster assistance might mean something to him in order to help his people. He laid it before the Senate and the Senate allowed it.

Mr. President, as everyone has heard about Love Canal, there is nothing new about this, I propose to lay the matter before the Senate the same way and simply throw myself upon the humanitarian feelings of the Senate, having carefully pinpointed what I am seeking solely to the Love Canal emergency with direct reference to the declaration of that emergency and hope that the Senate will afford the people of the State of New York a comparable treatment.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BURDICK. Mr. President, the distinguished Senator from New York told me briefly about this question and I did not fully understand what he had in mind. Is he using for the basis for his presentation this evening the Disaster Relief Act itself?

Mr. JAVITS. I am seeking to attach this amendment to that part of the bill which deals with the Disaster Relief Act. I am not seeking to amend anything except to relate to this money which is in this bill for disaster relief.

Mr. BURDICK. Does the Senator's amendment, which I have not seen incidentally——

Mr. JAVITS. I will happily send it to the Senator.

Mr. BURDICK. Does it provide for permanent housing or temporary housing?

Mr. JAVITS. It does not provide any kind of housing. It just says that the President shall be able to relocate them. It does not say how. It could be by loans. It could be in any way. But what it does do is to change for this particular purpose only the limitation of the Disaster Relief Act which speaks only of temporary housing. I have no desire to make some generic change of the law in any way. It is strictly a sui generis, as we lawyers say, situation in which we are in deep trouble.

Mr. BURDICK. In other words, the Senator is not asking for anything more than the terms of the Disaster Relief Act itself?

Mr. JAVITS. Exactly. Nothing else.

Several Senators addressed the Chair.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BURDICK. I yield.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Disaster funds have never included the idea of permanent housing. That is establishing a precedent that will cost billions of dollars, and I just cannot agree to the amendment. It establishes a bad precedent. If we are going to build permanent housing for people who are removed by the flood or something like that we would spend billions of dollars. We could rehabilitate their places and things, but I just cannot understand why the Senator thinks we are going to take 800 people, permanently remove them from the Love Canal area, get them permanent housing and have the Federal Government pay for it.

Mr. JAVITS. Mr. President, I am not seeking permanent housing nor permanent anything.

Mr. MAGNUSON. If the Senator will amend his amendment so that it does not include permanent housing I may agree.

Mr. JAVITS. I will gladly do that.

Mr. MAGNUSON. I might.

Mr. JAVITS. All I am seeking is to free the hands of the President to relocate, nothing else, in whatever way he can under the law.

The difficulty is that the present law as it applies to this situation is too restrictive.

I would be perfectly willing to include here another proviso respecting the fact it should not include permanent housing and just leave it to the conference and then leave it to the President.

Mr. MAGNUSON. Where are they going to take these people?

Mr. JAVITS. Pardon?

Mr. MAGNUSON. Where are they going to take them?

Mr. JAVITS. I think that is something which they have to deal with without having their hands tied.

Mr. MAGNUSON. For instance, there was a tornado in Grand Island, Nebr., that demolished all kinds of houses. Is the Senator going to apply this principle? They are going to relocate them and build permanent housing for them?

Mr. JAVITS. No.

Mr. President, the law now provides where housing is demolished it may be rehabilitated.

Mr. MAGNUSON. Yes.

Mr. JAVITS. The difficulty with this situation is that they cannot rehabilitate anything on this site. They must have some freedom of action to deal with these people in a unique situation.

Mr. MAGNUSON. Why can they not rehabilitate it on the site? They can clean the site up.

Mr. JAVITS. The site itself is completely polluted and should be boarded up, and that is why the urgency to move them.

Mr. MAGNUSON. Who caused that?

Mr. JAVITS. It was probably caused by the war plus the Hooker Chemical Co. which is now being sued.

Mr. MAGNUSON. Why should not the company pay for that?

Mr. JAVITS. Because that will take years, Mr. President, and in the meantime we have 800 families in torment in this place.

Mr. MAGNUSON. I wish the Senator would agree to proper language which would eliminate this idea of permanent housing——

Mr. JAVITS. All right.

Mr. MAGNUSON (continuing). Removing them. Where are they going to put them? Do they want to come to California or the State of Washington? Is the Government going to pay for permanent houses for them? I would welcome them in the State of Washington but where are they going to go?

Mr. JAVITS. Mr. President, there is no mandate in this law. All I want to do is to free the President's hands to deal with it, with more freedom than he has today. Nothing else. That is all I am seeking, because I am mandating nothing, getting no money for anything.

Mr. MAGNUSON. I am asking the Senator a simple question. Where are they going to go?

Mr. JAVITS. Mr. President, may I suggest to the Senator that I wish to accept his suggestion and work out the language with him and with Senator BURDICK which would enable us to give the President—that is all I seek—some greater freedom of action than he has today? Right now it is hopeless. It is a blank wall.

Mr. BURDICK. Mr. President, will the Senator yield again?

Mr. JAVITS. I yield.

Mr. BURDICK. Mr. President, this presents another problem that I had even with the administration about what we fashioned as the Disaster Relief Act. It was supposed to take care of disasters that are attributed to physical disasters.

Then we find the President declared a disaster in Florida for social reasons.

Now, the Love Canal situation is not really a physical disaster. It is in a kind of a gray area, and I have some reservations, not against your problem, but I have some reservations about using this fund for that purpose.

Several Senators addressed the Chair.

Mr. PROXMIRE. This is, I think, in the charter of the appropriations which comes under the subcommittee that I happen to chair.

The Senator from New York very graciously discussed this with me, and I have great sympathy for his problem.

However, I think there is a very difficult problem with the Appropriations Committee here because this appears to be clearly legislation on an appropriation bill.

As I understand, the purpose of prohibiting legislation is that the authorizing committees ought to have an opportunity to hold hearings and act. The Senator, however, makes the point that this is emergency legislation and we should act right away. It seems to me the authorizing committee could act and should act promptly on this, and if any Senator raises a point of order, I take it the amendment will be found to be not in order. Is that the Senator's understanding?

Mr. JAVITS. I think that will depend on the Chair.

Mr. PROXMIRE. But the Senator has language in the amendment "notwithstanding any other provision of law," and I take it that that language is in there for a purpose.

Mr. JAVITS. What I had to say——

Mr. PROXMIRE. The purpose being to override any provision of law which is now on the books.

Mr. JAVITS. What I had to say is that there is such language in this particular section now. But the point is it would be submitted to the Senate, there is no question about that.

Frankly, Senator PROXMIRE, I had no other choice because before the committee is going to get rolling and deal with this, and so on, when you are dealing with people who feel they are dying on the site with cancer, and so on, you simply cannot await those processes. That is my problem, and that is why I had to bring it up and must submit it to the Senate.

Mr. PROXMIRE. I understand that. I understand that FEMA, the Federal agency that is responsible for this kind of executing the law, is very much opposed to legislation of this kind on an appropriation bill without having had an opportunity to present their case to the committee to make a record and to provide options and alternatives to the committee.

Mr. JAVITS. Mr. President, may I say this: As a practical matter, I have no choice, Senator PROXMIRE, because the agency, if I am going to begin to try to satisfy them, that is why I sought no money and sought only authority in the President, where they will have plenty of opportunity in the conference and plenty of opportunity with the President to make whatever case they want to, and we may get nothing out of it, but at least the people on the site will be given a chance. That is all I am seeking.

Mr. PROXMIRE. The problem here though is there may be hundreds, certainly many, many cases, of this kind around the country. We are beginning to discover them now. If we move in this procedure without having gone through hearing, without having established a record, without having the agency responsible able to make their case, we would proceed in a disorderly way establishing a precedent for it, and it would seem to me it would be far better for us to try to act through the authorizing committee, act very promptly.

Mr. JAVITS. Senator, we are not going to act very promptly. You know that as well as I do. This matter of chemical dumps is now becoming a big issue, and we probably will act on it generically. We are now considering a bill for a superfund exactly for this purpose.

But I have got 800 families living upon

lethal chemical wastes and it is becoming a back-breaking situation. So I have come to the Senate, just like Senator Stennis did when he had a roughly comparable problem, in order to see what relief I could get, and that is why I did not send the amendment to the desk but rose to discuss it and disclosed to the Senate exactly the situation, and asked my colleagues if, because it is new, it is unique, they could help with it. That is my only purpose.

Mr. ZORINSKY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ZORINSKY. The Senator from New York is saying this would not cost any additional money. However, this amendment is throwing additional tragedy into the same numerical dollar pool, and I have people in Grand Island, Nebr., who have a tragedy not caused by a chemical company but caused by nature, who have no roofs over their heads, hundreds of homes have completely vanished, pulverized, no one to turn to to blame other than nature itself. FEMA, the Federal Emergency Management Agency, called me this evening and told me that if this amendment does pass it will compete with the people in Grand Island for the emergency dollars that are available because, as I understand, there is a shortage of those dollars existing in that pool today.

Mr. JAVITS. May I tell the Senator why that is not true? It is not true for two reasons: One, I seek no money, I seek only authority in the President. He can grant it or deny it.

Second, the Love Canal is a disaster, which was subsumed in the whole question of FEMA. There is money there for temporary relocation. They have it, they are going to spend it, and the money we are seeking, if the President's hands are free, may very well be less than what we already know they are going to have to spend in the long run.

Our point is not money. The President will decide that between the equities of your people and the equities of ours. I am seeking only the necessary authority, nothing else, in a situation which the Disaster Relief Act just does not meet, and until such time as appropriate legislation may be passed it will not meet it.

Mr. ZORINSKY. When the Senator says this does not cost money, I think that is a very misleading statement.

Mr. JAVITS. I did not say it does not cost money. I said it did cost money, but it is money already provided because they are going to do something in the Love Canal. It is only a question of what and do they have the necessary authority to do anything that makes any sense. I pointed out it did not the way the law reads today.

Mr. ZORINSKY. In the Senator's estimation, his amendment in no way will interfere or decrease the dollars available for the disaster in Grand Island, Nebr.?

Mr. JAVITS. The answer is decidedly yes.

Mr. ZORINSKY. It will affect those dollars or will not?

Mr. JAVITS. It will not. I said that.

Mr. ZORINSKY. I thank the Senator.

Mr. JAVITS. I said decidedly yes to the question.

Mr. ZORINSKY. I thank the Senator.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. JAVITS. If I may, I yield to Senator Hayakawa.

Mr. HAYAKAWA. There are funds, then, at this time and essentially you are seeking authority for the President to act in this situation.

Mr. JAVITS. Exactly.

Mr. HAYAKAWA. You are asking for no additional appropriations?

Mr. JAVITS. Right.

Mr. HAYAKAWA. Mr. President, I realize the Love Canal matter is a result of decades, many decades, of neglect, and actually I am sure of ignorance on the part of the companies and the Federal agencies involved which have dumped these poisonous chemicals into those waters.

Therefore, I want to speak in behalf of Senator Javits' motion that this is, since it does not appropriate money, and since it simply gives the President the authority to act, a situation I believe where he is on very, very sound ground in asking for this consideration.

Mr. JAVITS. I thank the Senator very much.

Mr. PROXMIRE. Mr. President, will the Senator yield? Will the Senator consider deleting from his amendment "notwithstanding any other provision of law," deleting that phrase?

Mr. JAVITS. Yes.

Mr. PROXMIRE. So it can be done within the law. If the Senator will do that then there will be no point of order.

Mr. JAVITS. Anything that will seize the conference committee of this issue is satisfactory to me. I am not trying to be a lawyer who is trying to write some kind of a cute formula. Anything that will cause the conference committee to be seized of this will be satisfactory to me.

Mr. PROXMIRE. That is the only objection I had, because then it would have to be done within the law, and I take it that is satisfactory to the Senator from New York. I thank the Senator. Will the Senator modify his amendment to that effect?

Mr. JAVITS. Let me hear from Senator Moynihan.

The PRESIDING OFFICER. The amendment has not been offered as yet.

The Senator from New York, the senior Senator, does he still wish to retain the floor?

Mr. JAVITS. I yield the floor.

The PRESIDING OFFICER. The junior Senator from New York is recognized.

Mr. MOYNIHAN. I mean only to very much agree with my senior collegaue. If the Senator from Wisconsin would accept that deletion it would certainly satisfy us.

Mr. PROXMIRE. I am willing to do it. I do not know what the other Senators would do, but I would, for my part, have no objection to the amendment if it would delete that provision.

Mr. MOYNIHAN. That is very generous of the Senator.

I simply wish to make the further point that the Federal Government, through the Environmental Protection Agency and the Department of Justice, has deeply involved itself in this matter and has roiled these waters, if you will, and has created a circumstance, in part of its own making, in which the Federal Government must, in our view, respond, and would be able to do so in consequence of our amendment.

I thank my senior colleague, and I thank the Senator from Wisconsin.

The PRESIDING OFFICER. Does the senior Senator from New York wish to offer his amendment?

Mr. JAVITS. Mr. President, I offer the amendment with the modification suggested by the Senator from Wisconsin.

Mr. MAGNUSON. Will the Senator from New York yield?

Mr. JAVITS. Yes.

Mr. MAGNUSON. And with the word "temporary"?

Mr. JAVITS. Mr. President, I withhold that amendment.

Mr. President, the difficulty with adding the word "temporary" is I do not have the word "permanent" in. It is simply to relocate in any way the President decides that relocation is proper. The difficulty with adding the word "temporary" is it takes me back to just where we are. The present law says "temporary." So if I put the word "temporary" in, I am simply back to where I am.

Mr. MAGNUSON. There is temporary housing and there is permanent housing. The Senator says he does not want permanent housing.

Mr. JAVITS. Well, the situation, Mr. President, is that these people are in an anamolous situation. If they are taken off the property, they will not go to hotels. You have a real human situation there, because they feel that they are entitled to some kind of recognition of their situation.

I do not believe that there is any contemplation of permanent housing and I am not stipulating that. All I am doing is wanting to see——

Mr. MAGNUSON. If the Senator is not stipulating, then use the word "temporary."

Mr. JAVITS. But "temporary" gives us the present law which gives the President no discretion. The present law says "temporary," so that is why I adopted this.

Mr. MAGNUSON. Well, the Senator knows he is thinking of permanent housing.

Mr. JAVITS. The Senator knows he is not.

Mr. MAGNUSON. He is thinking of permanent housing.

Mr. JAVITS. No, because I do not know how this can be settled.

Mr. MAGNUSON. That would establish a precedent that is unbelievable.

Mr. JAVITS. I am just giving the President the power—nothing else—to do whatever is required.

May I make a point to the Senator? The Senator may have the same problem that I am facing in Mount St. Helens.

There may be people who have contracted illnesses because of what comes out of that mountain.

Mr. MAGNUSON. We are not thinking of any permanent housing.

Mr. JAVITS. Neither am I. All I am saying, Mr. President, is that in this situation let us leave the President free.

Mr. MAGNUSON. We are lucky if we get temporary housing for them until they can build a new log cabin.

Mr. JAVITS. But Love Canal residents cannot rebuild on their site.

Mr. MAGNUSON. They are going to do it themselves.

Mr. MOYNIHAN. Will the Senator from Washington allow a comment?

The PRESIDING OFFICER. The senior Senator from New York has the floor.

Mr. MOYNIHAN. Will my senior colleague yield for a comment?

The PRESIDING OFFICER. Will the senior Senator from New York yield to the junior Senator from New York?

Mr. JAVITS. Yes.

Mr. MOYNIHAN. May I say to the Senator from Washington that the situations in our respective States are so very different. The very contained region of the Love Canal of which we speak is a poisoned one and will remain such. It is different from the dislocation, may I suggest, in the State of Washington, where you have an enormous natural catastrophe but which you have not poisoned a locality. Ours is small and concise in its boundary and the Federal Government has entered the matter attempting to prove, in a legal case, the extent of the toxification. This is all that Senator JAVITS refers to. I think the situations are not comparable. I would hope the amendment, as modified by the Senator from Wisconsin (Mr. PROXMIRE) will be acceptable.

Mr. MAGNUSON. I understand the situation in the Love Canal. I understand the situation in Mount St. Helens. But nobody is asking for permanent housing for people. That is building houses and that is asking them, "Where do you want to live? We will build you a house."

I just do not want the precedent of a permanent housing for people and the Federal Government to take it on, because that would involve billions of dollars.

Mr. MOYNIHAN. No, not in this case.

Mr. MAGNUSON. If it established the precedent, every time you had a disaster, a person whose home was destroyed, or something like that, would say, "Well, I want a permanent house." "Where do you want it? The same place?" "No, I want to move to California. I want a permanent house," or something else.

Mr. JAVITS. Mr. President, may I make it very clear to the Senator that this amendment does not contemplate, I do not intend, and I will oppose building permanent housing.

Mr. MAGNUSON. All right.

Mr. JAVITS. There is no such purpose whatever.

Mr. MAGNUSON. All right. Why does the Senator not put "appropriate and nonfixed place"?

Mr. JAVITS. Mr. President, I say to the Senator I am giving the President authority. I do not know how to solve this.

Mr. MAGNUSON. I want to help the people from Love Canal and I think they should have housing, but I do not want to establish the Federal Government, every time there is a catastrophe, getting into building permanent housing for somebody.

Mr. EAGLETON. Will the Senator from Washington yield?

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, we had a very robust exchange. As I hear both Senators from New York, neither one is advocating an amendment which would call upon the Federal Government to build permanent, fixed edifices. We have had an exchange about the words "temporary" and "permanent."

I think the Senator from Washington, in the wholesome spirit of compromise, has offered language which tracks with what the senior Senator from New York has repeatedly said. He has repeatedly said he is not seeking permanent structural housing; that he knows that goes beyond the current law. He is not trying to expand current law in that regard.

The Senator from New York does not like the word "temporary" because that word is used in current law. So, in the spirit of compromise, the Senator from Washington has offered language "appropriate nonfixed permanent housing."

Now, a semanticist might argue that that is not very artfully drawn, but it attempts to bridge the gap and accomplishes precisely what the Senator from New York has been seeking.

Mr. JAVITS. Will the Senator yield?

Mr. EAGLETON. Yes.

Mr. JAVITS. I have another suggestion. To paraphrase just what I have said, I will add to the amendment "This shall not include the construction of any permanent housing," and I will also include the amendment suggested by Senator PROXMIRE striking out "notwithstanding any law."

Mr. ZORINSKY. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. ZORINSKY. Mr. President, I am informed that the Senator from New York, in seeking relief for his constituents, is certainly entitled to do so. However, the budget for the Federal Emergency Management Agency is broke. The Cuban refugee situation has drained the money in that budget.

Therefore, regardless of every additional request for money put into that bucket is going to either deplete the money for other emergencies or require a supplemental aid request in addition to what is there already. I do feel the same as the Senator from New York, that his constituents are certainly entitled to as much relief as those dollars used for the Cuban refugees. However, the barrel is empty and dry.

Many people will not admit the fact that the budget is busted concerning what is available for manmade disasters versus disasters implemented by nature and acts of God. The disaster of the increased refugees used that source of dollars which is no longer available for the relief of the citizens of the State of New York, the State of Nebraska, or the problem with Mount St. Helens.

Mr. JAVITS. I can only go by what the committee said. If the Senator will be kind enough to look at page 118 of the committee report, the Senator will find that they scheduled what this disaster relief is all about. They have included, Potential 1980 disasters: estimate, $122 million.

So if the barrel is empty, it must be for some other reason than what is contained in this bill because they do have the material reserved here, $122,200,000.

Mr. ZORINSKY. As I pointed out to my able colleague from New York, it was not the original intent to use this type of dollars for the influx of refugees from Cuba. Inasmuch as this administration decided to absorb that situation, the funding came from somewhere. I am informed by people in FEMA that the money came from their budget. That was an unexpected contingency.

Mr. JAVITS. That will be replenished because there is a Cuban refugee item here of $245 million. That will be replenished now so that the Senator from Nebraska and others and I will have a crack at it. That does not mean we will get it. But I certainly hope that the preference will be given to our domestic disasters. I will join the Senator in whatever it takes to do that. It is to our interest and to his interest.

Mr. ZORINSKY. I thank the Senator.

Mr. JAVITS. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1325:

On page 71, line 15, insert the following after the semi-colon: "*Provided, however,* That the President is authorized, from funds appropriated to the President, to provide relocation for the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980, at the Love Canal, in the State of New York. Provided further, that the federal share shall not exceed 75 percent of the cost of such relocation. This shall not included the construction of any permanent housing".

Mr. SCHMITT subsequently said: Mr. President, while the distinguished Senators from New York are still on the floor, I ask that my remarks precede the vote and after the colloquy that ensued between those two distinguished Senators; namely, that they were making comparisons between the situation in Love Canal and the situation we face in the Northwestern part of the country.

There is one analogy and a very important one that the Senate must face at some point in our near deliberations. That is, there has been a fundamental change in the habitability of land, one, through natural causes, and the other through human causes.

I think the Senate and the Congress will deal with this. We have not decided. In one case, we picked a method that might not be a relocation or a potential for relocation. In another, we are still dealing with it on a more or less ad hoc basis as if it were a tornado, a single disaster, in which the land would be identical, at some near term in the future.

Clearly, that is not the case. Clearly, we are dealing in both cases with a permanent change in the habitability of land.

I do not have the solution. I just want to be sure we begin to recognize something fundamentally new in the deliberations of the Congress.

● Mr. LEVIN. Mr. President, I support this amendment because it should naturally lead to relief in other situations where polluted land has damaged the habitability of land. There are many such situations, there are thousands of dumps where through toxic or chemical pollution, the enjoyment and use of land is diminished or destroyed. This precedent will help others, as well as those whose lives have been so negatively impacted by the Love Canal tragedy.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ZORINSKY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Nunn), the Senator from Connecticut (Mr. Ribicoff), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff), would vote "yea."

Mr. STEVENS. I announce that the Senator from Indiana (Mr. Lugar), the Senator from Wyoming (Mr. Simpson), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER (Mr. DeConcini). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 84, nays 6, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—84

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young

NAYS—6

Byrd, Robert C.
Exon
Heflin
Helms
McClure
Zorinsky

NOT VOTING—10

Cannon
Goldwater
Kennedy
Lugar
Nunn
Ribicoff
Simpson
Stevenson
Talmadge
Wallop

So Mr. Javits' amendment (UP No. 1325) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes this evening.

However, Mr. Magnuson will be here for a brief period to discuss some amendments that will be accepted, I think by voice vote.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene tomorrow morning at 9:30 a.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the prayer, the minority leader will yield his time, I will yield mine, and that the Senate then resume consideration of the appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1326

(Purpose: To require that entitlements for BEOG's be reduced by $50 in order to achieve required budget savings)

Mr. EAGLETON. Mr. President, I have an unprinted amendment at the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton), for himself, Mr. Schweiker, and Mr. Pell, propose an unprinted amendment numbered 1326.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 91, line 18, after "rescinded" insert a colon and the following: "Provided, That each Basic Grant award for the 1980-81 award year shall be reduced by $50 below the entitlement amounts, notwithstanding section 411(b)(3)(B)(i) of title IV of the Higher Education Act".

Mr. EAGLETON. Mr. President, this amendment to the supplemental appropriations bill clarifies the reduction formula under the basic educational opportunity grant program necessary to achieve the savings adopted in the committee bill.

I would emphasize to the distinguished manager of this bill that this amendment has no budgetary impact. Its sole purpose is to assure that BEOG awards get to students in a timely fashion, and achieves this purpose by adopting the $50 across-the-board reduction identical to the provision in the House bill, thus taking the BEOG line item outside the scope of conference.

BEOG AMENDMENT TO THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. President, this amendment to the supplemental appropriations bill, sponsored by myself, Senator Schweiker, and Senator Pell, does not involve sums of money; it merely clarifies the manner in which the $140 million basic educational opportunity grant, or Pell grant, rescission adopted by the committee is to be achieved.

The amendment states that the rescission is to be achieved by an across-the-board reduction on each BEOG award. It reinstates the House-passed language, and makes this an item not subject to conference.

Mr. President, I must say that I offer this amendment with some reluctance, but in my view, the actions of the Department of Education have left us with no alternative if we are to avoid throwing the student financial aid community and more importantly, students trying to make decisions about their educations this summer and fall, into utter chaos.

Let me briefly outline the situation to date.

First. In March, President Carter submitted his request to Congress to defer $140 million in BEOG funds, and proposed an amendment that this be achieved through a $50 across-the-board reduction in each grant.

Second. The then Office of Education sent notices to all colleges and universities of this proposed $50 BEOG reduction—a notice which to many minds read as though it were a fait accompli.

Third. The House approved the President's $50 reduction, but rescinded rather than deferred the funds.

Fourth. The Senate subcommittee rejected the $50 reduction approach, and at the suggestion of Senator Schweiker and myself, adopted a formula, identical to the formula contained in the Higher Education Amendments of 1980 which the Senate approved by a vote of 92 to 4, that would protect the poorest students first in reducing the grant awards by tying the reduction to a student's eligibility index prior to the application of the half-cost modification.

Fifth. At the very time the supplemental appropriations bill was being considered by the full House and pending before the full Senate Appropriations Committee—despite this legislative activity—the Department put into effect a deferral of the BEOG funds which it maintained followed the reduction schedule in existing law.

Mr. President, I would have less quarrel with the Department's implementation of the deferral of $140 million under the provisions of existing law if that had been what they had done. But now we learn that the Department is not only deferring $140 million, but redistributing another $45 million.

The additional $45 million redistribution results from the Department's treatment of dependent student income in determining eligibility for a Pell grant. From the inception of the basic grant program through the 1979–80 award period, the earned income of dependent students was not considered in determining eligibility for a basic grant. Only the income of the dependent student's parents was taken into account. This year, for the first time, the then Office of Education proposed to assess dependent student income in determining a student's eligibility under the program. Again, I have no quarrel with the concept of consideration of a dependent student's income, but again, it is the manner in which the Department has gone about implementing the concept. I would also add that at the time the Senate Education Subcommittee held its hearing on this year's expected family contribution schedule, the Office of Education witnesses did not make clear the effect of their proposed change.

To be fair, perhaps they did not have a clear idea of the impact of their proposal. But we find ourselves with a method of assessment of dependent student income which unfairly penalizes low income students who have taken the initiative to find jobs to help with their own educational costs.

The Department now concedes that its family contribution schedule has "worked inequitably" for a number of students. The Senate was led to believe that the Department would seek additional funds to correct this inequity. On April 30, 1980, the Department published an emergency regulation modifying the assessment of dependent student income. Although this modification did not fully address the inequities of the original contribution schedule, it does address the greatest inequity to the lowest-income students.

Now, we find that the Department is not seeking additional funds to correct this inequity, but is adding its cost of some $45 to $50 million to the $140 million deferral. This has the effect of redistributing $185 or $190 million rather than the $140 million agreed to by the Appropriations Committee.

Mr. President, this amendment simply writes into the Senate bill that the $140 million BEOG rescission is to be achieved through a $50 across-the-board reduction. This provision is then identical to the House-passed bill and will not be subject to conference. By taking this step, the confusion and uncertainty for students, many of whom are beginning school in less than a month, can be ended. Every student financial aid officer in the country will then know that the present directive from the Department will be superseded by this legislation, and the administratively easy $50 reduction of each award can be made.

Mr. President, I stated earlier my reluctance to offer this amendment. That reluctance stems from the variance of an across-the-board reduction with the statutory reduction formula designed to protect the neediest students. If a $50 reduction is approved this year, why not a $100 or $200 across-the-board cut next year?

I believe it is essential that we make it clear that this action is being taken only because award decisions have to be made now. Students have to know how much aid they will be receiving when school starts, now. We must allay the confusion and uncertainty among students and colleges and universities, now.

I also believe the Senate should make it clear to the Department of Education that the lack of communication from the Department, and where some degree of communication exists, the misleading information provided by the Department, has to be corrected.

Finally, Mr. President, by adopting this amendment, it is the clear intent of the Senate that up to $140 million of BEOG funds be rescinded. If additional funds are needed to address the dependent student income question, the Department must submit an additional request for funds, or submit a request to reprogram funds from another account.

Mr. SCHWEIKER. Mr. President, I associate myself with the remarks of the Senator from Missouri. I think this is a good amendment. As ranking member of the Labor-HEW Appropriations Subcommittee and ranking member on the Labor and Human Resources Committee, I think it is an amendment that should be supported.

It is a fair way of distributing funds that our budgetary cut provides for.

I would like to be added as a cosponsor.

Mr. EAGLETON. Mr. President, I ask unanimous consent that Senator Schweiker be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I agree with everything that the Senator from Missouri has said. Because of the actions of the Department of Education, the student financial aid community is in a state of confusion. As of this date, students who plan to be in college this fall have no idea what amount of a basic grant they will be receiving. Such a situation is intolerable.

Senator Eagleton very accurately detailed the chronology of events that have lead to this situation. We are now in the position to reluctantly offering this amendment so that the entire basic grant award process does not come to a complete halt.

I want to reaffirm what Senator Eagleton has said about this being a one-time solution. I would prefer that the reduction formula that currently exists in the basic grant statute be followed. However, through delay and misinformation, the Department has put the Congress in the position of having to straighten out and save the basic grant program by adopting this amendment.

I want to stress one other fact. By adopting this amendment, we do not intend to let the Department off the hook with respect to dependent student income. We will insist that the Department implement the emergency regulation it recently proposed which modifies the assessment of dependent student income. And as Senator Eagleton has said, if additional funds are needed to implement this regulation, the Department should submit an additional request for funds or submit a request to reprogram funds from another account. But under no circumstances should the Department take the money out of the pockets of other basic grant recipients. To do that would be wrong, and would be asking students to pay for and subsidize the mistakes and improper actions of the Department.

Mr. BELLMON. Mr. President, on behalf of the distinguished Senator from Connecticut (Mr. Weicker), I ask unanimous consent that Phil Palmer, Stan Twardy, and Steve Moore of my staff, Tim Keeney of the Appropriations Committee staff and Bob Dotchin of the Small Business Committee staff be accorded the privileges of the floor during consideration and votes on H.R. 7542.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I agree with the Senator from Missouri that this amendment is necessary. It will remove the BEOG line item from the scope of conference and will insure that the student financial aid awards get to the students in a timely fashion. I further agree with the Senator that the intent of the Senate is clear with respect to dependent student income. If the Department requires additional funds to implement its emergency regulation with respect to this item, it must submit a request for reprograming, or borrow against the fiscal 1981 BEOG appropriation.

Mr. President, the Department, without even notifying our committee has already begun to implement its proposed deferral. The currently planned reduction is based upon the formula contained in current law, the Middle-Income Student Assistance Act, rather than the reduction of each BEOG grant by $50 as proposed by the President and agreed upon by the House in this supplemental.

Senators EAGLETON, PELL, and SCHWEIKER propose that we agree with the proposal in the budget and the House-passed bill. I agree and it is certainly our intention that not more than $50 be taken from any student's BEOG grant.

Our recommendation will require a reduction of not to exceed $140 million. Our subcommittee had originally intended to recommend a ratable reduction formula, but that was 6 to 8 weeks ago when we first anticipated being able to act on this bill. Subsequent actions by the Office of Student Financial Assistance have completely confused the situation.

While this proposal is accepted with reluctance, agreement with the language in the House-passed bill is now the only alternative available. This action is taken only because failure to do so will only further disrupt students and postsecondary institutions in their planning efforts for the next academic year starting this fall.

It certainly is not our intention, or that of our committee I believe, to establish a policy of annual across-the-board reductions in the BEOG program. I hope this is the only time that we have to take such an action.

But the pressing need at this particular time is to reach a final solution. A solution that all will understand and one that will enable the grant notifications to be issued on a timely basis. A solution that will end all this confusion and uncertainty that has been caused over the past month or two.

In attempting to preempt what should be congressional action, the Department's Office of Student Financial Assistance has caused a great deal of uneasiness and uncertainty among students, colleges, universities, and other postsecondary schools. That was done by first treating the proposed deferral as if it had been actually approved by the Congress, and then by announcing that the reduction schedule in the existing statute would be used to achieve reductions in expenditures. Notices were sent to students, to financial aid offices, and to schools that that did not even mention recommendations that were then pending in the House or the Senate. Subsequent notices have further confused students, parents, and schools and completely clouded the situation. The facts in this instance would certainly uphold the statements of some that the Office of Student Financial Assistance acted with arrogance.

Speaking at least for myself, I will certainly expect the Office of Student Financial Assistance to consult fully with our committee and other appropriate committees of the Congress before taking such decisionmaking actions in the future. Such consultations should certainly take place well in advance of implementation, because the independent action, together with such a lack of communication, by the Office of Student Financial Assistance in this instance is inexcusable.

Mr. YOUNG. Mr. President, I know of no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1327

(Purpose: To provide additional supplemental appropriations for the "Pollution Fund")

Mr. HEINZ. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1327.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 123, line 8, strike out "$21,300,000" and insert in lieu thereof "$35,000,000".

Mr. HEINZ. Mr. President, this amendment would provide $35 million to the pollution fund administered by the Coast Guard and authorized under section 311(k) of the Clean Water Act. In contrast, the administration originally requested $21.3 million; the Senate Appropriations Committee has recommended approving the administration request, whereas the House approved only $15.5 million.

The purpose of this amendment is straightforward but vital. It seeks to insure full funding of the Federal Government's hazardous waste response capability—a capability vital to the health and safety of the residents of the States we represent—until we can secure passage of the superfund legislation, S. 1480.

Funds authorized under section 311(k) of the Clean Water Act provide the Federal Government with a limited capability to respond to environmental emergencies caused by oil and hazardous waste discharges into navigable waters. Coordinating these efforts is the National Response Team under the U.S. Coast Guard.

Only because of the availability of this funding have several environmental disasters in my State been mitigated. For example, on the Susquehanna River near Pittston, Pa., over 3.5 million gallons of oil and chemicals such as benzene and sodium copper cyanide were dumped into abandoned mine tunnels from which they began leaking into the Susquehanna River at the rate of several thousand gallons per day. Only through the emergency response efforts financed by the section 311(k) fund has the discharge into the Susquehanna been contained—although a full-fledged cleanup effort would more than deplete the meager resources of the section 311(k) fund and must await passage of superfund.

Unless the Senate acts soon, however, this and other Federal hazardous waste cleanup and containment efforts are in danger of grinding to a halt. Sites at which the pollution fund is now funding or is contemplated to fund cleanup and containment operations include the following: West Memphis, Ark.; Riverside, Calif.; Lafayette, Colo.; Seymour, Ind.; North Berwick, Maine; Sharptown, Md.; Holden, Mass.; St. Charles and Verona, Mo.; Nashua and Raymond, N.H.; Edison, Elizabeth, and Pitman, N.J.; Oswego and Niagara Falls, N.Y.; Hamilton and Malvern, Ohio; Chester, Haverford, Pittstown, and Youngsville, Pa.; Burrillville and Coventry, R.I.; Rock Hill, S.C.; Memphis, Tenn.; and Barrett and Mission, Tex. In addition, other sites are under consideration by the U.S. Coast Guard and the Environmental Protection Agency.

These efforts are threatened because although the pollution fund is authorized at a level of $35 million, as of May 8, it had available less than $1.5 million. The fund has been rapidly depleted because of the increasing number of environmental health hazards to which the National Response Team must respond and because of the long time it takes to collect reimbursement from those responsible for waste discharges—in those cases where the identity of the offender can be determined.

Without additional funding, the ability of on-scene coordinators to respond quickly to environmental emergencies will be greatly curtailed, if not eliminated completely. In fact, Transportation Secretary Goldschmidt has stated that in view of current drawdown averages on the fund and the frequency of spills, another major hazardous waste incident would curtail the ability of the National Response Team to maintain a viable response capability.

To alleviate this situation, my amendment would make available to the pollution fund $35 million. Although higher than the original administration request, this $35 million level of funding is justified in light of the unforeseen depletion of the fund and the increased Federal commitment to hazardous waste sites such as Love Canal. I might add that even this $35 million funding represents only a drop in the chemical bucket as the estimated cost of cleaning up all chemical dumps nationwide is as high as $40 billion.

In short, this amendment is critical to maintaining the Federal Government's hazardous waste response capability and, more importantly, to protecting the health and safety of our citizens. I urge my distinguished colleagues to support its adoption.

Mr. President, this amendment authorizes budget authority of $35 million for the revolving fund for section 311(k) of the Clean Water Act. That is the fund from which all our hazardous waste and environmental emergencies, when they occur, should they occur, are able to obtain appropriate help from the EPA.

This amendment has no effect on outlays. That is because it is a revolving fund, and money in the form of budget authority that is appropriated to that fund is done so without fiscal year authorization.

The reason why we need to act at this point is that the budget authority in the fund to date has been exhausted, and we do not know at what future time, if any, there will be an opportunity to fully replenish the budget authority for this fund.

I have discussed this amendment with the managers of the bill. I have discussed the amendment with the staff of Senator BAYH, who is chairman of the subcommittee. I have discussed it with the Congressional Budget Office and with Senator BELLMON's staff. All have agreed that there will not be any effect on outlays and, therefore, no budget effects of the kind we seek to avoid.

I ask my colleagues to support the amendment.

Mr. MAGNUSON. Mr. President, I accept the amendment of the Senator from Pennsylvania. The amendment would add no outlays. Therefore, I am willing to accept the amendment.

Mr. YOUNG. I have no objection.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the amendment.

The amendment (UP No. 1327) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I thank all Senators, particularly Senator YOUNG, Senator MAGNUSON, and Senator BAYH, for their assistance.

UP AMENDMENT NO. 1328

Mr. DECONCINI. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 1328.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 121, line 14, insert the following: Change the period to a colon and insert thereafter: *Provided*, That none of the funds made available by this Act shall be used for the salary of anyone serving as District Director in Arizona after June 26, 1980.

Mr. DECONCINI. Mr. President, two of the primary requirements for effective program performance for any Government agency are:

First, a sensitivity and responsiveness to the realities of the local setting in which it must operate, and

Second, a decent measure of respect for the legitimate concerns and interests of those who are privileged to represent their respective States and districts in the Congress.

Unfortunately, it appears that the Small Business Administration has lost sight of these essentials of effective functioning.

The purpose of this amendment, Mr. President, is simply to reacquaint SBA officialdom with the need to be more accountable in the discharge of their responsibilities.

Mr. President, this amendment places some restrictions on the expenditure of the Small Business Administration as it relates to Arizona.

There has been a difficult problem associated with the civil service process in Arizona for more than 2 months. There has been an effort to fill the vacancy of director of Arizona through the civil service process, and there has been a certified list. The director has recently been appointed outside of that list, and this amendment provides that there will be a limitation on the funds for the director of the State of Arizona until the procedures are complied with, in accordance with the Civil Service Act.

I believe the chairman and the ranking minority member have agreed to this amendment.

I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I have checked with Senator HOLLINGS, and he has no problem with this amendment. Therefore, I accept the amendment.

Mr. YOUNG. I think it is a good amendment, and I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1328) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1329

(Subsequently numbered 1931)

(Purpose: To make funds already appropriated available to carry out certain provisions of S. 932, when enacted)

Mr. BRADLEY. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. DURKIN, proposes an unprinted amendment numbered 1329.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> "DEPARTMENT OF ENERGY
>
> *"Alternative fuels production*
>
> "Title II of the Department of Interior and Related Agencies Appropriations Act, 1980, (Public Law 96-126) under this head is amended by adding after 'the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq)' in the first proviso, the words 'and the provisions of Subtitle B—Municipal Waste Biomass Energy of Title II of the "Energy Security Act of 1980"'. This amendment to be effective upon enactment of S. 932, 'The Energy Security Act of 1980'."

Mr. BRADLEY. Mr. President, this amendment has no effect on the outlays or authorizations for 1980 or subsequent years.

It merely empowers DOE to use existing appropriations in a manner that is fully consistent with the legislative intent of both S. 932 and Public Law 96-126.

Not only is the amendment consistent with the purpose and scope of Public Law 96-126, but also, it perfects that legislation by removing a barrier that Senators JACKSON, BYRD, and others have been identified as a major obstacle to implementing the alternative fuels program in accordance with congressional intent. This barrier is the unintended exclusion of energy produced by the direction combustion of municipal urban waste.

Moreover, H.R. 7542 provides that as of June 30, 1981, any unexpended funds appropriated under the alternative fuels program will be available to implement titles I and II of S. 932.

Finally, I emphasize that my amendment has absolutely no effect on budget outlays or authority for 1981 or subsequent years. It merely enables DOE to anticipate and conform its activities on municipal urban waste energy expressed in the Appropriations Committee's bill.

Mr. HUDDLESTON. Mr. President, speaking for the subcommittee jurisdiction, we have examined this amendment. As the distinguished Senator from New Jersey has indicated, it does not include an additional outlay. We have no objection to it.

Mr. HELMS. Mr. President, I have endeavored to read the amendment. It is now being copied. I did not understand the Senator's explanation of this. I regret to do this, but will he repeat it?

Mr. BRADLEY. My amendment allows for the $2 billion that has been set aside for the municipal waste biomass portion of the $20 billion appropriation under the alternative fuels production provision of Public Law 96-126 to be expended in 1980 and 1981 for municipal solid waste energy provisions. That is exactly what it is intended to do. This is simply a conformation of that.

Mr. HELMS. Will the Senator forbear for a moment?

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I will vote for the pending fiscal year 1980 supplemental appropriations bill. This is trail-blazing legislation. It is the first bill ever reported to the Senate under the reconciliation provisions in the Congressional Budget Act. This bill complies with the specific mandates of the budget resolution and it is consistent with the spending restraint policies charted in the congressional budget.

I intend to offer, at the appropriate time, two amendments which will help limit the future cost of the trade adjustment program, one of the most rapidly growing programs in the Federal Government. This is a program for which $1.1 billion had to be included in this bill.

Clearly, the Appropriations Committee has shouldered its share of the burden of fiscal restraint called for by the budget resolution. This was not an easy bill for the committee to produce. I am sure we will see amendments here on the floor which will attempt to undo some of what the committee has achieved. In many ways this bill is a test of the willingness and the ability of Congress to stick with policies adopted in the budget resolution which the Senate approved on June 12.

There has been a continuing flow of not unexpected bad economic news in recent weeks, related chiefly to a rapid rise in unemployment statistics. This has caused some people to call for a shift from the fiscal restraint posture established in the congressional budget to a stimulative fiscal policy. My own view is that such a shift would be both premature and dangerous. Inflation is still our most serious economic problem. Efforts to stimulate the economy are almost sure to set off another round of rising inflation and will put upward pressure on interest rates which have been dropping in recent weeks. Most economic experts project a short, relatively shallow recession. Anything we do now to try to stimulate the economy would probably become effective too late to contribute to the recovery and would have the effect of exacerbating inflation.

Moreover, I am strongly opposed to the notion that we should give up now on a balanced budget for fiscal year 1981. It is far too soon to conclude that the economy is on a significantly different track than that projected in the economic estimates on which the congressional budget for the rest of fiscal year 1980 and all of fiscal year 1981 is based. The last thing we need is for Congress to engage in the type of flip-flopping on fiscal policy for which the executive branch under President Carter has become noted.

SIZE OF THE DEFICIT

Approval of this bill will make it all but inevitable that the fiscal year 1980 budget deficit will be at least $47 billion. The deficit could be somewhat larger if costs of entitlement programs rise more than now expected or if revenues drop in response to the economic downturn. I am sure all of us would like to see a lower deficit. I am convinced, however, that it is not possible to cut the billions needed to achieve balance out of this bill without unacceptable disruption of essential programs and failure to meet costs for which the Federal Government is already obligated.

NO ROOM FOR ADDITIONAL SPENDING

While this bill is within the budget resolution, it is right up against the outlay ceiling. Once this bill has been approved, there will be essentially no room left for spending bills which generate fiscal year 1980 outlays. This means that any emergency spending legislation during the remainder of the fiscal year must contain cuts to offset any proposed spending increases. So for practical purposes, we must regard this as the last spending bill for this fiscal year.

PAINFUL CHOICES

This bill incorporates some painful decisions that the Appropriations Committee had to make to keep within the budget restraint. Let me mention just two of these:

First, the bill rescinds $572 million for the general revenue sharing program. This is equivalent to half of the State share of revenue sharing payments yet to be made this fiscal year. I know there will be an attempt to reinstate these revenue sharing funds here on the floor. I too would prefer to have the spending cuts in areas other than revenue sharing, but I question whether there is sufficient support for other cuts which would total $572 million and thus enable the revenue sharing money to be restored while still keeping within the budget ceilings.

Second, the bill rescinds $200 million for elementary and secondary education concentration grants. This will essentially terminate the concentration grants program. This is a program which is still in its early stages of implementation. The committee concluded—wisely in my view—that it would be better to cut this new program and channel elementary and secondary education aid through the long-established formula grants program. Again, the decision to cut concentration grants was a difficult one, but it clearly demonstrates the seriousness of the Appropriations Committee in complying with the spending restraint policy to which Congress has committed itself.

If the Congress as a whole adopts the recommendations of the Appropriations Committee, it will take an important step toward a balanced budget in fiscal year 1981. We all know, Mr. President, that what we do in one year affects spending in subsequent years. So the more Congress moves firmly now to make hard choices, the easier it will be next year and for years thereafter to control spending and limit the size of the Federal Government.

TROUBLESOME GROWTH IN SOME SPENDING CATEGORIES

Although this bill on the whole reflects commendable restraint, there are some aspects of it that trouble me a great deal.

For one thing, the full committee added to the subcommittee recommendations nearly $1.5 billion for refugee and disaster relief. About $250 million of these funds have not yet been requested by the administration. I have no doubt that substantial added funding is justified by the Mount St. Helens disaster and the arrival of large numbers of Cuban and Haitian refugees. I am concerned, however, that these needs were not examined at the subcommittee level with the same care that is normally given to spending proposals, and we appear to be pumping out millions of dollars without having seen clear plans for its use.

Second, this bill demonstrates, once again, how urgent it is to design programs so that they are subject to appropriation control. I would like to share with the Senate some information on how cost estimates have grown in the past year and a half in three programs for which supplemental funding is included in this bill. The programs I am referring to are trade adjustment assistance, food stamps, and medicaid. The fiscal year 1980 cost estimates for these three programs combined have grown by a total $5.3 billion since the President's original budget was submitted in January 1979. The breakdown of this cost growth is as follows:

Program	President's January 1979 budget for fiscal year 1980	Latest CBO estimate	Dollar growth	Percentage growth
Food stamps	$6.9	$9.2	$2.3	33
Medicaid	12.7	14.6	1.9	15
Trade adjustment	.3	1.4	1.1	367
Total	19.9	25.2	5.3	27

Mr. President, this type of growth in so-called automatic programs, makes it extremely difficult for the Congress to maintain spending discipline. I am encouraged that there appears to be growing recognition in Congress that these types of programs can and must be brought under control. Some of the recommendations in the reconciliation bill the Senate will consider shortly will have considerable impact on the future costs of entitlement programs, including medicaid and food stamps. As I stated previously, I will offer two amendments to this bill later which, if adopted, will bring down future costs of the trade adjustment program.

We must keep looking for these opportunities to make the Federal budget more controllable and reduce pressures for future growth in spending. By doing this, we can help future Congresses to produce balanced budgets, provide tax cuts, and respond to pressing national priorities.

MANAGEMENT IMPROVEMENT

Mr. President, I hope every Senator will read the sections of the Appropriations Committee report starting on page 8 and continuing through page 19. On these pages, the committee presents a very important action plan for improving management of Federal programs. I commend the chairman of the committee, Senator MAGNUSON; the ranking minority member, Senator YOUNG; and the staff of the committee for taking on this crucially needed leadership role. The management improvement actions the Appropriations Committee is initiating cut across all of the agencies and programs dealt with in annual appropriations bills. Let me summarize a few of these actions:

First. The committee will include in each of the fiscal year 1981 appropriations bills a provision precluding agencies from obligating more than 30 percent of their funds in the last quarter of a fiscal year, or more than 15 percent of their funds in any single month.

Second. The bill includes directions to Federal departments and agencies to clean up their backlogs of actions on audit reports. By the end of fiscal year 1981, all departments and agencies must have their audit followup activities sufficiently streamlined that problems raised by audits are resolved within 6 months after the reports are completed.

The bill requires that future budget justifications from the executive branch specifically identify the amounts of funds proposed for purchasing consultant services and include a statement of why those services are needed. The bill also requires a report from the inspector general of each department and agencies on internal controls over consultant contracts.

There are several other examples on pages 8 to 19 of the report on the bill of the Appropriation Committee's efforts to improve management in Federal programs. Again, I commend the committee for its leadership in these vital areas.

Mr. President, I hope every Senator will read the sections of the Appropriations Committee report starting on page 8 and continuing through page 19.

On these pages the committee presents a very important action plan to improve management of the Federal programs.

I commend the distinguished chairman of the committee, Senator MAGNUSON, and the ranking minority member, Senator YOUNG, and the staff of the Appropriations Committee for taking on this critically needed leadership role.

Management improvement actions the Appropriations Committee is initiating cut across all of the agencies and programs dealt with in annual appropriations bills.

I am referring to such things as provisions that preclude agencies from obligating more than 30 percent of their funds in the last quarter of the fiscal year or more than 15 percent of their funds in any single month.

I believe Members should be aware that the Appropriations Committee is trying and I hope will succeed in causing the executive branch to do a better job of managing Federal programs, and I take this occasion to commend the chairman and ranking minority member and others for the efforts they have put forth in this direction.

Mr. President, I ask unanimous consent that the following members of the majority staff of the Budget Committee be accorded the privilege of the floor during the consideration and votes on H.R. 7542: Bob Sneed, Charles Flicker, Charles Riemenschneider, and Ken Apfez.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, to follow up on what the distinguished Senator from Oklahoma has just said, I take the opportunity to commend the Appropriations Committee for directing their attention to the problem of hurry up spending, but I respectfully suggest that hearings are currently going on before the Governmental Affairs Subcommittee, the Subcommittee on Oversight of Government Management, and I respectfully suggest that the solution proposed by the Appropriations Committee may well prove to be counterproductive. That is placing an artificial cap on the amount of money that any executive agency can spend during the last fiscal quarter may well result in simply pushing that spending spree or the so-called autumn binge from the fourth quarter into the third quarter without dealing with the underlying deficiencies.

Mr. President, at this time during the Senate's consideration of the fiscal year 1980 supplemental appropriations legislation, I wish to comment on an issue relating to this bill that is of great interest to me, and to the Subcommittee on Oversight of Government Management of the Senate Committee on Governmental Affairs, on which I sit as ranking minority member.

The subject to which I speak, wasteful year-end spending by Federal agencies, is one that I am sure interests all Members of this body. With inflation still in double digits, the economy in recession, and the 1981 budget sliding into the red, there is one thing that the American people will not stand for, and that this Congress should not stand for, and that is waste of taxpayer dollars.

At my request, and with the full cooperation of the chairman, the distinguished Senator from Michigan (Mr. LEVIN), the Senate Governmental Affairs Oversight Subcommittee has been investigating for the past 10 months the causes and costs of the annual "autumn binge" of Federal spending that takes place in the final weeks of each fiscal year as executive agencies rush to deplete their appropriations accounts so as to not have to return funds to the Treasury or report large unobligated balances to the Congress.

The costs are immense indeed. Our subcommittee has found that in recent years, so-called hurry-up spending practices have resulted in the purchase of millions of dollars worth of goods and services for which the Government had no current need.

Even more costly are the inefficient year-end procurement practices that have caused the Government to pay inflated prices and bear other untold costs and risks with respect to billions of dollars worth of procurements for which legitimate need existed. Far too often, standard precontract audits are waived, competition curtailed, and excessive overtime logged by Government procurement personnel in the rush to process the final flood of procurement requests.

Hurry-up spending practices also have shut out of the Procurement process contractors who would have otherwise bid on Government projects. Some firms whose potential cost-saving ideas might have been helpful to the Government have abandoned Government work altogether. Others have responded by writing the increased risk costs of doing business during the anticompetitive spending binge into their overhead rates.

These wasteful year-end spending practices were not isolated in any one Federal agency. They prevailed throughout the Government. Of the 10 Federal agencies which we examined and considered, every single one demonstrated one or more types of year-end spending abuse.

New year-end spending abuses have come to our attention constantly since we began our investigation 10 months ago. Just last week, I received a preliminary report from the General Accounting Office, pursuant to a request I made in September. Among other abuses occurring in fiscal year 1979, the GAO described the following year-end purchase made by the Department of the Interior's Bureau of Indian Affairs:

> One example of how year-end money is expended is found in a Bureau of Indian Affairs (BIA) road grader procurement. In May 1979, a requisition for a single road grader was submitted. This was advertised in the Commerce Business Daily. In August 1979, a new invitation for bids was issued for one grader plus three on option, if funds were available. Sometime during September 1979, BIA became aware it had funds available and calls were made to possible users to find out who wanted a road grader. On September 4, 1979, a contract was awarded for eight road graders for $460,440, based on a bid for four road graders. On October 5, 1979, a modification added three more road graders with contractor acceptance dated September 28, 1979. The contract is now for 11 graders at $633,105. Obligations for this amount were recorded in varying amounts to 12 different accounts; none of the accounts charged belonged to the organizations receiving the graders and only a few of the accounts can be construed as having anything to do with road graders.

The problem of hurry-up spending is so serious, so widespread, and so complex that a seemingly simple and elegant solution will not solve the problem and may in fact be counterproductive. Hurry-up spending involves failures at every level of government, from the lowest level contracting officer to the Office of Management and Budget—and, I might add, the Congress. It involves the failures of audit mechanisms and of procurement regulations that grant so much discretion that millions of dollars can be spent with precious little difficulty. It is exacerbated by late enactment of appropriations bills and huge supplemental appropriations, such as we are now considering.

That, Mr. President, is why I am concerned. I am concerned lest Congress look for the easy route in addressing this very disturbing, but nevertheless very complex, problem. I am concerned that, in its commendable desire to prevent year-end spending abuses, the Congress will make only cosmetic changes in the system. I am concerned that proposed reforms may make matters worse and will ignore the difficult and necessary task of reorganizing the process by which Federal funds are spent.

In its report accompanying this supplemental appropriations legislation, the Senate Committee on Appropriations included language expressing its own concerns:

> Although . . . some year-end spending may well be justified . . . much is the result of poor planning and management or as a result of deliberate attempts either to spend money quickly before it reverts back to the Treasury or to lessen the likelihood of cuts in appropriations for the following year. The dangers in this are obvious: Money may be spent for unnecessary goods and services or may be spent in such haste that normal safeguards are ignored. That only increases the opportunity for fraud, waste, and inefficiency.

No more analytically accurate statement of the problem of year-end spending could be made, and the Committee on Appropriations is to be commended for its strong language.

But the committee went beyond this expression of concern and "served notice" that it intends to include language in the fiscal year 1981 appropriations bills to restrict last-quarter spending. The committee's provision will prohibit obligating more than 30 percent of an agency's total budget authority during the last quarter of the fiscal year or more than 15 percent during any month of the last quarter.

Last month, our subcommittee held extensive hearings on remedies to year-end spending abuses, during which the efficacy of spending limits such as suggested by the Committee on Appropriations was discussed at length.

Based on the record from those hearings, I have very serious reservations concerning the approach the Committee on Appropriations has announced it will take.

My concerns with the cap approach, as based on the record, are essentially three.

First, caps on fourth quarter spending do not address the underlying management problems that yield wasteful year-end spending: Lack of planning, vague procurement regulations, lack of reward for saving tax dollars, and lack of punishment for not saving them.

Second, limits on fourth quarter obligations are likely to induce more waste by creating an incentive for agencies to spend wastefully in the ninth month of the fiscal year and by leaving that much less time for soliciting bids, obtaining competition, and accurately defining the Government's legitimate spending needs.

And third, if enacted, a spending cap will give the impression that Congress has taken care of the problem, which will slow the momentum for the fundamental management changes that need to be encouraged.

GAO has given its limited endorsement to a year-end spending limitation somewhat similar to that proposed by the Senate Committee on Appropriations. But even if one agrees that the GAO recommendation is significantly related to the problems GAO has uncovered—and I, for one, do not—one should also note GAO's comments on its own proposal. According to the GAO, a spending limit would "not assure that funds spent under the limitation are spent wisely and that, in the absence of a carefully developed—and carefully monitored—agency spending plan, the surge in spending could just be advanced by two months."

Even if the surge did not occur earlier, GAO said, pockets of waste could still exist in a large department even though the department as a whole was in compliance with the limit. That, in my judgment, is not much of an endorsement.

Several agencies already have such spending limits in place, most notably the Department of Defense with respect to its operations and maintenance accounts. During our hearings, we closely examined the effectiveness of this provision. The Department of Defense, which has had this provision in place since 1953, testified that, at best, the cap was essentially irrelevant to controlling wasteful year-end purchasing.

The Department of Defense continues to demonstrate hurry-up abuses, even in the accounts that are capped. In fiscal year 1978, the Defense Department issued a request for proposals on September 13, closed the proposing period on September 15, awarded a contract on September 29, and even admitted that part of the reason for the rush was the necessity of obligating funds prior to the close of the fiscal year. An audit by the GAO showed that the limit in Defense has, indeed, evened out spending, but it has not eliminated year-end abuses.

We also received testimony from Prof. John W. Cibinic of the George Washington University Law Center, an expert on procurement law who has written the most widely used legal textbook on Government contracting and who knows all sides of the contracting field, having served both in Government and the private sector, as well as academia. He has no ax to grind with anyone, and he vigorously opposed the cap on year-end spending as a solution to the problems, as did a Government employee who "blew the whistle" on his agency's wasteful year-end spending practices.

The proposal of the Committee on Appropriations contains, of course, a provision allowing the Director of the Office of Management and Budget (OMB) or the committee to grant waivers to the spending cap. Following OMB's granting of such a waiver, OMB would have to promptly report its reasons for doing so to the Congress. The intent of the waiver provision is no doubt to permit the exemption from the cap of those agencies whose spending legitimately falls in the fourth quarter.

There is always the danger in granting such exemption authority to OMB that waivers would be given indiscriminately, especially in view of the present administration's opposition to a year-end spending cap. The more likely result is that there will be some mixture of valid, errant, and politically motivated waivers, and determining the appropriateness of each would become an impossible task for the Congress. Moreover, as now written, the proposal essentially says that agencies are "free" to waste 30 percent of their budgets before Congress becomes interested. In procurement alone that may mean as much as $38 billion in taxpayer funds.

The Subcommittee on Oversight of Government Management is currently preparing its report on hurry-up spending abuses. In it will be concrete, specific, recommendations targeted at wasteful year-end spending abuses. We are focusing our reforms on improving reporting procedures so as to bring systematic hurry-up spending abuses quickly out into the open. We will be directly charging the executive branch with additional new responsibilities for formulating spending plans and establishing oversight controls to insure that they are followed. We will be recommending changes in the procurement statutes where they are warranted. And we will recommend further audit and investigation procedures.

Pending the completion of the Oversight Subcommittee's report, and notwithstanding my wholehearted praise for the Committee on Appropriations' interest in this area, I would urge the distinguished members of the committee, and my other distinguished colleagues as well, to refrain from acting precipitously on proposals that may well have an effect completely contrary to that which was intended.

Mr. BELLMON. Mr. President, I have discussed this matter with both the majority and minority leaders.

I, therefore, ask unanimous consent that it be in order that the amendment the Senator from Oklahoma has at the desk be the pending business when the Senate returns to this order of business on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I ask unanimous consent that my amendment be temporarily set aside until the morning until we can clarify some of the questions that have been raised about it. I am sure that things will work out.

The PRESIDING OFFICER. The Chair wishes to call attention of Senators that the pending business will be the amendment of the Senator from Oklahoma under the unanimous consent agreed to earlier this evening.

Mr. BRADLEY. Mr. President, I ask unanimous consent that my amendment follow on the morning the amendment of the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection. it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 5 minutes.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order numbers beginning with Calendar Order No. 209, and that a correction be made in the initials, as I understand, and the distinguished Senator from Alabama can correct me if I am wrong and if he so desires, that the initial "G" should be "U" as to Mr. Clemon.

Mr. HEFLIN. U. W. Clemon.

Mr. ROBERT C. BYRD. Mr. President, I ask that correction be made.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

NOMINATION OF U. W. CLEMON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of all the nominations beginning with page 3, going through page 3, page 4, page 5, and through page 6 of the calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the items identified by the majority leader show no objection on this side, and we have no objection to their consideration.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

I ask the Senate to proceed first with Calendar Order No. 211.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read the nomination of U. W. Clemon, of Alabama, to be a U.S. district judge for the northern district of Alabama, vice a new position created by Public Law 95-486, approved October 20, 1978.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, it is my privilege to urge upon my colleagues the confirmation of State Senator U. W. Clemon for the position of Federal district judge for the northern district of Alabama.

There has been a great deal of controversy surrounding this nomination, along with that of Fred Gray, a nominee for the middle district of Alabama. When the Judiciary Committee began deliberations on these nominations over a month ago, I candidly acknowledged while introducing the nominees that the hearings would not be routine, handled without controversy or extensive deliberation.

I was correct. There were extensive deliberations. There were numerous charges advanced. At times, tempers flared. The hearings wore on. The record became voluminous. But under the heat of grueling questioning, and before the bright lights of the media, U. W. Clemon stood tall. I am convinced he answered completely, honestly, and with the candor desired of a Federal judge.

My colleagues on the Judiciary Committee apparently agreed with me. By a unanimous vote of the 16 Members present, on Tuesday they saw fit to send Mr. Clemon's name to the floor. I am delighted to recommend him to this body. But before I do, because of the controversy surrounding his nomination, and because of the symbolic importance should Mr. Clemon be confirmed as the first black Federal judge in Alabama, I want to make a brief statement for the record.

First. The system, the process of selection, works.

I am a great believer in the institutions of American government. While I know these institutions are not perfect, and that the process of judicial selection, in particular, is not without its critics, I can tell you today that this process does arrive at the truth, and that it does guarantee fundamental fairness to all involved.

In discussing this process, I start with the judicial nominating commission which Senator STEWART and I appointed, as President Carter had recommended. It was broadly based, and comprised some of Alabama's most distinguished citizens, lawyers, jurists, and pubic figures.

U. W. Clemon bears the imprimatur of that capable screening commission based on then known information. At the time Senator STEWART and I received Mr. Clemon's name from the commission, we were not unwise in forwarding it to the White House. Mr. Clemon bears the further endorsement of the Department of Justice and the President of the United States.

After Senator STEWART and I received the name of Mr. Clemon from the commission, numerous allegations surfaced in the media regarding Mr. Clemon's integrity—I might point out that at no time did anyone ever question his ability or competence to sit on the Federal bench.

Many of these charges had the effect of maligning Mr. Clemon's good name. To his credit, however, he chose not to argue his case in the media. He, too, respected the integrity of our nomination process to give him a full, fair and unbiased hearing. And I believe it did.

Mr. Clemon's accusers came forward with their charges. We listened carefully to them. There was extensive staff work to investigate these charges independently. There were days of extensive hearings, sometimes running from 8 in the morning to 9 at night, without a break for supper.

U. W. Clemon himself took the witness stand for more than 7 hours. He responded candidly to questions from the chairman, the minority members present, and staff counsel. I was present for every word of his testimony, and personally asked him every question I had, particularly about Mr. Clemon's tax history.

There was every opportunity for anyone with an interest in Mr. Clemon's nomination to come forward—to oppose or support him. They did. A voluminous record was compiled, and it has been carefully studied by the members of the committee.

The process I have described is a sound one. It was designed to arrive at truth, expose falsehoods and inaccuracies, and insure fundamental fairness. I believe it has done all three. I particularly think the Senate, and the entire country, owe Senator MAX BAUCUS a great debt of gratitude. He conducted these hearings in a careful, deliberate and firm manner.

This is not to say there were not problems. In this Chamber 3 weeks ago, I made an extensive statement about the limitations and weaknesses in both the written report and the oral presentation of the American Bar Association. I will not repeat all of my concerns here, except to say this. I have long been an active member of the ABA. It is a great organization. It has, for many years, provided a great service to the Senate and the country in screening nominees for the Federal bench. But in this particular case, there were factual inaccuracies in the ABA's report, and procedural violations in its approach. The ABA committee, in this instance, did not carry out its assumed duty with its customary degree of excellence and professionalism. But the integrity of the process, as a whole, has emerged intact.

Second, I can say without reservation that U. W. Clemon is fit for service on the Federal bench. He is qualified by reason of his competence, his integrity, and his judicial tempeament.

First, as to his basic competence, permit me to tell you about the accomplishments of this capable man.

U. W. Clemon attended Miles College in Birmingham on a Presidential Scholarship. He received from Miles his B.A. in history, and was both president of the Student Government Association and class valedictorian—no easy feat. He received his law degree from Columbia University where he won the first year moot court competition.

He has a varied and distinguished record of professional experience. He was associated with the social science research center at Miles College. He has been a law clerk for the NLRB. He was a Warren Fellow with the NAACP legal defense and education fund. He is now a partner with the Birmingham law firm of Adams & Clemon, and he has served in the Alabama State Senate since 1974. In the Alabama Senate, he has chaired the powerful rules committee, and is currently chairman of the judiciary committee.

U. W. Clemon is a member of the Alabama, Birmingham, the National, and American Bar Associations. He is a member of the executive council of the ABA section on individual rights and responsibilities, and is a charter member and former president of the Alabama Black Lawyers Association.

He is a member of the National Council of State Legislatures, the executive council of the Alabama Law Institute, the Alabama Permanent Judicial Study Commission, the NAACP, the Southern Christian Leadership Council, the ACLU, and the Alabama Criminal Justice Advisory Commission.

Senator Clemon has received numerous awards of distinction from, among others, the United Negro College Fund, the SCLC, the University of Alabama School of Law, and in 1975 he was named the Distinguished Alumnus of Miles College.

He is admitted to practice in all courts in the State of Alabama, the U.S. District Court for the Northern District of Alabama, and the Fifth U.S. Circuit Court of Appeals. U. W. Clemon has tried both jury and nonjury cases, civil and criminal, in State and Federal courts. He has tried over 80 cases to verdict, with 70 percent of those in Federal court. He has carried numerous appeals to the Alabama Supreme Court and the fifth circuit. Specializing in civil rights and employment discrimination cases, he has been lead counsel in several landmark school desegregation cases.

Senator Clemon has taught labor relations and criminology at the college level, and has lectured extensively on employment discrimination, equal employment litigation, class actions, and the Federal Rules of Evidence, before such groups as Howard University School of Law, the Birmingham Bar Association, and the Bar Association of the City of New York.

We have confirmed nominees younger than U. W. Clemon, but I doubt we have confirmed any who have achieved more in such a short span of time. I have known him for about 12 years. While I served on the Supreme Court of Alabama he appeared before that court on several occasions. He wrote excellent and scholarly briefs and made well organized, cogent, and articulate oral arguments. From my personal observations, I can say he is a well qualified lawyer.

As to his integrity, I have carefully examined the charges against him, and it seems to me that the evidence against Mr. Clemon is insufficient to preclude him from serving on the Federal bench.

I carefully observed his demeanor throughout days of testimony. I watched his actions and reactions to grueling questioning before the Senate Judiciary Committee for more than 7 hours. I believe he answered the committee's questions honestly.

Second, in a resolution passed by the executive committee of the Birmingham Bar Association, the Birmingham Bar—the lawyers with, and against, whom he practiced—found that he is a competent and skillful lawyer who discharged his duties in a highly professional manner.

Their resolution did express serious reservations about Mr. Clemon's tax history. I share those reservations. While his income tax record leaves much to be desired, it appears he did pay all of his taxes, and he took no steps to falsify his tax records. Moreover, the evidence and testimony that Mr. Clemon knew of a Federal tax lien—the proof of which was critical to a determination that Mr. Clemon was not truthful in answering a judicial nomination questionnaire—was vague, contradictory, not credible, and, ultimately, not convincing.

Third, I have carefully considered the testimony offered by many persons who spoke in favor of Mr. Clemon's nomination. Even the American Bar Association reported in its findings that in almost every instance, the lawyers who practiced law on the opposite side of a lawsuit from Mr. Clemon spoke highly of his abilities and of his fairness as an advocate.

Many respected lawyers, including past presidents of the Birmingham Bar, the chairman of the Young Lawyers' Section of the Alabama State Bar, the president of the Alabama Trial Lawyers Association, the president of the International Society of Barristers, and many others testified in Mr. Clemon's behalf. So did a number of his colleagues in the State senate.

The testimony of one attorney in particular was instructive. This Birmingham trial lawyer has opposed Mr. Clemon in court in complicated title VII cases—by his estimation—more than any other attorney. They have both tried and settled many cases. In negotiating a settlement, or in trying a case, numerous representations, promises, and commitments are made. In such cases, a lawyer's word is his bond. This witness told us he had never had a single occasion to doubt the word of U. W. Clemon—not a single promise was not kept, not a single misrepresntation made, not a single commitment reneged on. Such testimony to any man's integrity and honesty is extremely compelling.

I was most impressed by Mr. Clemon's candor before the committee, I remain convinced that he has not intentionally misrepresented any matter before the Merit Selection Commission or the Senate Judiciary Committee. All lawyers, especially young lawyers, make mistakes. I firmly believe Mr. Clemon will take every step to see that any mistakes he may have made do not recur.

In considering all these and other factors, the evidence presented against Mr. Clemon is not sufficient to preclude me from recommending that he be confirmed. I am confident that U. W. Clemon will serve on the Federal bench with distinction.

Third, and finally, confirming U. W. Clemon to the Federal bench has both great symbolic and substantive significance.

In my opening statement at Mr. Clemon's confirmation hearings, I said, for the record, that I believe in the equality. I want to reiterate that belief.

I believe in a society in which true equality is more than a goal—in which it is more than a right—I believe in a society in which true equality should be a possession shared by all Americans, a possession we should cherish, a possession we should jealously guard, but a possession we do not have to fight to attain—because it should be a national birthright.

I believe, moreover, that we have had many long years, and many decades, of inequality, of injustice, of oppression to make amends for. And, I believe one way—one very important way—in which we can do this is by striving to see that no Americans are precluded from consideration for the Federal bench because of the color of their skin, their sex, or their surname.

To do so is more than symbolic. It is to entrust to those who have known inequality and injustice firsthand the important responsibility for guaranteeing the very protections of equality and justice afforded under the Constitution and laws of the United States to all citizens.

The vote on U. W. Clemon to be the first black Federal judge in Alabama is therefore momentous. It is momentous for reasons already stated. It is important because justice is the guardian of all liberty. We best insure justice when we insure a quality judiciary, composed of individuals of the highest integrity, and I have devoted a great deal of my life's work trying to improve the quality of the judiciary in the State of Alabama. I believe we have such an individual in U. W. Clemon.

Mr. President, I would note also, for the record, the strong bipartisan support exhibited by the Judiciary Committee for this nominee. The vote among Republicans on the committee was unanimously for Mr. Clemon, and the ranking minority member of the committee, Senator Thurmond, made an eloquent and influential statement on his behalf. I ask unanimous consent that Senator Thurmond's remarks be inserted in the Record.

CONCLUSION

When I introduced Mr. Clemon to the Judiciary Committee, I stated that, although I believed in true equality and that no individual should be precluded from service on the Federal bench because of race, sex, religion, or national origin, I hastened to add that I would not, when I was elected by the people of Alabama to represent them in the Senate, and I would not then, urge confirmation by the greatest deliberative body in the world of a nominee who was unfit for the Federal bench, or whose service as a Federal judge would bring discredit to the judiciary.

I made that statement fully aware of the charges against Mr. Clemon. Those charges, to my satisfaction, have been answered, and I can now truthfully say—with all these thoughts in mind—that I am pleased to recommend his confirmation as a member of the Federal bench to the U.S. Senate.

Mr. President, I move that Mr. Clemon's nomination be confirmed by the Senate.

Senator STEWART is here and Senator MAX BAUCUS, who presided over the hearings in the Judiciary Committee. They have remarks and statements they would like to make and I yield to the senior Senator from Alabama (Mr. STEWART).

Mr. STEWART. Mr. President, it is a rare honor for me to rise today and speak in strong support of the nomination of U. W. Clemon to the U.S. District Court for the Northern District of Alabama. This nomination was unanimously approved by the Judiciary Committee and I would respectfully request the Senate to add its stamp of approval to this nominee.

The life of U. W. Clemon is truly remarkable. Every person in this body could learn from this man. Born into a poor Alabama sharecropping family, U. W. Clemon was not given many of the things that we all take for granted. He came up the hard way, learning by experience. Sustained by the love of his family, U. W. Clemon committed his life in service to making America a better place to live. As a teenager, he saw that the law was the tool that he would need to change many of the wrongs he saw in society. He therefore kept his nose in the books, pursuing a quality education. After graduating from Miles College, an excellent institution in Birmingham, Mr. Clemon attended law school at Columbia University.

After an outstanding career at Columbia, U. W. Clemon was offered an excellent job at a prominent New York law firm. He declined this offer, explaining that the people of Alabama needed him. Returning to Alabama, Mr. Clemon opened his law office. Since that time, he has distinguished himself with an outstanding practice. Lawyer after lawyer will tell you that they have faced no worthier adversary than U. W. Clemon.

In addition to his legal career, U. W. Clemon has been a political leader both in Birmingham and in the State of Alabama. He is presently serving his second term in the Alabama State Senate and is chairman of the judiciary committee. Before I was elected to the U.S. Senate, it was my pleasure to serve in the Alabama senate with U. W. Clemon.

Based on that service with U. W., I would like to make a few personal comments about him. His service in the senate has been distinguished. He has represented his district ably. Every dealing I had with U. W. was fair. His integrity is above reproach, his talent unsurpassed and his compassion serves as a shining example to others.

In addition to my personal views, I would like to quote from the statement of Senator BAUCUS, who chaired the hearings on U. W. Clemon and who has thoroughly examined the life of this nominee. In the words of Senator BAUCUS, "U. W. Clemon is an extremely competent, hard working and honest man. His record taken as a whole leaves one with the feeling that we are dealing with an individual who is gifted and who has dedicated his entire life to others."

In closing, Mr. President, let me say that I strongly support this nomination. If this nomination is confirmed, U. W. Clemon will be a credit to the Federal bench and a credit to the Nation. I again urge my colleagues to support this nomination.

I would like to take this opportunity to commend not only my colleague from Alabama but my colleague from Montana, Senator BAUCUS, for doing an excellent job in chairing the hearings of this particular nominee.

Mr. BAUCUS. Mr. President, will the Senator yield? Mr. President, I wish this evening to commend the Senators from Alabama. They have very fully, very extensively, and very comprehensively aided the Judiciary Committee considering the nomination of Mr. U. W. Clemon. The Judiciary Committee held several days of hearings on this nomination. We have examined his record as thoroughly, I might say, as possibly could be the case, given the circumstances.

Mr. Clemon, without doubt, is a man of very high personal reputation. His integrity is beyond reproach. He is a man who will serve the State of Alabama and our country very well as a U.S. district court judge. There is a slight question in his background with respect to his failure to, at least, his late filing of tax returns and payments of taxes. But, in my judgment, Mr. President, and in the judgment unanimously of the Judiciary Committee, it was that that was a slight wrinkle in his background; that taking the record of Mr. Clemon as a whole, and looking at his professional competence and his integrity, his honesty, his forthrightness, his sense of duty to his fellow citizens in Alabama and to the country, that without a doubt he should be confirmed, and all of us, Mr. President, will be very proud of the service of Mr. U. W. Clemon as a U.S. district court judge.

Mr. President, I chaired the hearings on the nomination of U. W. Clemon for Federal district judge northern district of Alabama. Mr. Clemon's hearing lasted 2 very long days and included over 6 hours of testimony from the nominee himself. Since those hearings, my staff and I have carefully reviewed the record. We have discussed the issues raised with many members of the Alabama bar. We have also discussed the record with distinguished members of the District of Columbia Bar and with experts on legal ethics. I have not taken this confirmation hearing lightly and have attempted to conduct this confirmation and the review of the record in as fair-minded and as thorough a manner as I could.

In arriving at a decision, I have tried to keep two questions foremost in my mind. The first is who is U. W. Clemon as a person? The second is would I personally feel comfortable having my interests litigated in Mr. Clemon's courtroom?

I have concluded that U. W. Clemon is fit to be a Federal district judge. I am convinced that he has the adequate background and experience, the adequate judicial temperament, and the impeccable integrity required of a Federal district judge. Furthermore, I am convinced that those who appear before U. W. Clemon will receive justice in his courtroom.

Because of the controversial nature of this nomination and because of the nature of the charges made against Mr. Clemon, I believe it is important at this point for me to summarize my own conclusions on each of the major charges that have been made against Mr. Clemon. I think it will be important that the committee record reflect my conclusions as chairman of his confirmation hearings.

TAX HISTORY

The most significant and most troubling aspect of this nominee's record is his recent tax history. From 1974 until last year, Mr. Clemon filed his taxes late. In most cases he received a 2-month extension, but did not file until 6 or 8 months after the extension date. When he did file, Mr. Clemon failed to make his tax payment. He paid the amount due with penalties and interest over several months and in a few cases extending over a year after he had filed. Mr. Clemon has paid estimated tax penalties for failure to pay a required estimated tax payment. In addition, he has paid $44 assessed under section 6653a of title 26 for failure to keep proper records.

Mr. Clemon explained his tax history on the grounds that the cash flow of his law practice prevented him from filing and paying his taxes on time. Mr. Clemon indicated that he was not proud of his tax history and that it was not excused by his cash flow pattern. He indicated his resolve to be more careful, prompt, and responsive to his obligations as a taxpayer in the future.

I believe that Mr. Clemon's tax history does show a disregard and carelessness with respect to his legal obligation as a taxpayer. I personally believe that Mr. Clemon has now realized the seriousness of his past conduct and from his testimony I am convinced that he will do everything in his power to rectify this situation. If I had any doubt that he would revert to these past practices, I can state to the committee that I would not now support his nomination.

I consider this to be a very serious and troubling matter. I do not personally believe that it alone should be conclusive, but it does raise extremely serious questions that need to be balanced with the remainder of the nominee's record.

QUESTIONNAIRE RESPONSE

The issue raised in this area is why the nominee failed to respond accurately to an explicit question contained in the district judgeship questionnaire for the merit selection commission involving the matter of Federal and State tax liens.

The nominee did not make mention of the fact that a State tax lien had been filed against him in the previous year and that a Federal tax lien had been filed in the previous 2 months. The nominee explained that he failed to respond to the question in the questionnaire accurately because of the way in which he filled out the questionnaire. He claims he knew about the State tax lien and simply did not see the question. Furthermore, he adds that if he had seen the question he would not have answered it with respect to the Federal tax lien because he did not know about the Federal lien at that time.

This incident viewed in the light most favorable to the nominee does indicate that he filled out his questionnaire in a manner that was less than professional and less than meticulous. In my view, however, the record does not substantiate the charge that the nominee intended to cover up information. Whether or not the nominee knew of the existence of the Federal tax lien has not been clearly established. It is clear, though, that the nominee should have been more careful in filling out his questionnaire.

OTHER ISSUES

In fairness to the nominee, I want to review briefly the other allegations that I found to be either unsubstantiated or not worthy of serious consideration by this committee.

First. The speeding incident.—In its report, the ABA attempted to show the nominee's lack of judicial temperament because of remarks he made in the State legislature concerning his being arrested for speeding. The ABA failed to include the fact that the nominee had had a gun held to his head by the police officer issuing the ticket. In my mind, I suspect that many members of this committee would make intemperate remarks under those circumstances.

Second. Good-time Bill.—There have been allegations that Mr. Clemon had involved himself in legislation that would have affected the status of his brother who was in jail in Alabama. It is now clear that the legislation was wholly prospective and therefore would have had no affect on his brother. The allegation in my view is without merit.

Third. Political contribution to Senator STEWART.—There was no illegal action alleged. Rather, the ABA charged that the nominee's contribution represented poor judgment on his part. It is my understanding that many nominees have made similar kinds of campaign contributions and that using the existence of a political contribution against a nominee would be imposing a standard that we have not imposed against any other. My own view is that this charge is without merit.

Fourth. Testimony to the House Judiciary Committee.—The ABA cited testimony that the nominee gave to the House of Representatives as an example of unprofessional conduct. Specifically, they claimed he was inaccurate in a statement he made before a House committee. In my view, it is very likely that the ABA misinterpreted Mr. Clemon's remarks because of the existence of a typographical error in his testimony. In my view, the nominee was acting responsibly in his role as an advocate. I do not consider the charge a serious one, nor do I believe that it was adequately substantiated.

Fifth. Legal Services Board.—The allegation was made that the nominee should not have accepted an appointment to the Legal Services Board after he had been nominated for a Federal judgeship. Furthermore, the ABA claimed that he did not adequately review the record prior to a controversial vote on whether or not to retain the legal services director. I personally do not find it objectionable for a nominee to accept an appointment to a legal services board. Furthermore, there is substantial testimony that the nominee did read certain documents before the controversial vote and did have the views of friends and other professional contacts that he could have adequately relied upon. It is not clear that the nominee acted negligently in voting as he did. I believe the charges in this area are not serious and were not substantiated.

CONCLUSION

In my view, the only serious charges that remain are his tax history and the way in which he filled out his questionnaire. I have stated previously that I do not think that either of these two incidents should be taken lightly. I think that they do show that the nominee has not always acted in as professional and meticulous a manner as he might.

During the course of the hearings, I asked Mr. Clemon whether or not it was fair to say that his professional obligations had impinged upon his personal obligations. I was curious as to whether he viewed his duties to his client and his constituent as getting in the way of his duties to himself to handle properly his taxes and his own judicial questionnaire. He responded that he thought that this was the case. I think this is an important point to make.

The matters which reflect poorly upon him do not reflect poorly upon his professional competence and ability.

It should be noted that Mr. Clemon's professional reputation is excellent. In my view, we have before us a nominee whose professional reputation in the courtroom, in the State senate, and in professional organizations, such as the ABA, is outstanding. I was particularly impressed by the fact that all eight past presidents of the Alabama Trial Lawyers Association endorsed this nominee. Furthermore, in private discussions with members of the Alabama bar, all of them attest to his professional competence. After all of these discussions, I am convinced that Mr. Clemon will be a very competent Federal judge.

In addition, Mr. Clemon's reputation for integrity is also outstanding. No questions were raised with respect to him being totally honest. I was personally impressed with his forthrightness.

Perhaps the most important part of this confirmation process is the way in which the nominee responds to the charges against him. I was extremely impressed with Mr. Clemon's handling of his own testimony. He responded to the 2 days of hearings with humility. He was willing to take responsibility for those aspects of his record that are less than perfect. I was impressed that he seemed to be sensitive to those charges against him that were legitimate. He took personal accountability for them and he pledged to avoid such problems in the future.

I now return to the initial questions I raised at the outset of my remarks. The first was, who is U. W. Clemon? I personally have come to the conclusion that U. W. Clemon is an extremely competent, hardworking, and honest man. His record taken as a whole leaves one with the feeling that we are dealing with an individual who is gifted and who has dedicated his entire life to others. We are not dealing with a dishonest individual, but rather one who has had much responsibility placed upon him because of his commitment to public service.

It is under these circumstances that I believe the incidents that have been brought to light are part of a picture of a man who has taken it upon himself to help others and to get actively involved in his community. While his tax history is not a credit to him, and I believe he knows this, I do not believe it paints a picture that totally discredits the rest of the man's character.

On the question of whether litigants who appear before him in his courtroom in Alabama can be guaranteed justice, I am convinced that the courtroom of U. W. Clemon will be one where all parties will be treated fairly and justly. I would have no reservations about appearing in front of U. W. Clemon. And, furthermore, I have no reservations about any other individual receiving justice from him.

I, therefore, will personally cast my vote in favor of the nomination of U. W. Clemon. I believe that those members of the committee who are troubled by some of the charges have a right to be.

However, personally, I have no reservations about voting in favor of this nominee. I believe his record on the Federal bench will vindicate the trust I am now placing in him. I urge the other members of this committee to reflect upon this nominee's record in its entirety. I think that if they do they will find that they can enthusiastically support U. W. Clemon's nomination.

● Mr. THURMOND. Mr. President, I must admit that I have had great concerns over the nomination of U. W. Clemon for the position of Federal judge of Alabama.

I have attempted to make a complete and thorough examination of the very detailed hearing record in this case. While I am not totally satisfied with all aspects of the allegations against Mr. Clemon, I do not feel my reservations are sufficient enough to warrant voting against his confirmation.

Let me be more specific. I cannot condone Mr. Clemon's failure to file his taxes on time. It is every citizen's duty to support our Government through the existing tax structure and that requires the timely filing and payment of the incurred liability.

There is, however, no indication whatsoever of fraud or a failure to disclose his true and accurate, financial situation to the Internal Revenue Service. To his credit, Mr. Clemon is now current in both filing and payment of taxes.

With regard to this problem, Mr. Clemon made one particular statement during the hearing that most impressed me, and I quote from the hearing record:

> It is increasing significant to me that my tax situation is one that I simply have to make a record of in terms of prompt filing and prompt payment.

Mr. President. I believe U. W. Clemon will do just that. He has proven himself to be a man of courage and dedication. He was a sharecropper's son and 1 of 17 children. Yet, he made the decision at 14 years of age to become an attorney. Mr. Clemon had the aspirations of alleviating much of the poverty and suffering he saw around him and to his credit, I think he has accomplished a great deal of what he set out to do.

Mr. President, I intend to vote for him.●

Mr. HEFLIN. Mr. President, I would like to have the Senate know that the Senator from Montana (Mr. BAUCUS) has done a great service serving as chairman of long, exhaustive hearings in this case, and that he paid close attention to the question, examined all witnesses very carefully, and we are all in his debt for his excellent work.

I move that the nomination be confirmed.

The nomination was confirmed.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEWART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I ask that the President be notified immediately of the confirmation of Mr. Clemon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the remainder of the nominees be considered and confirmed en bloc.

The following nominees were considered and approved en bloc:

COMMUNICATIONS SATELLITE CORPORATION

Joan F. Tobin, of the District of Columbia, to be a member of the Board of Directors of the Communications Satellite Corporation.

FEDERAL TRADE COMMISSION

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner.

THE JUDICIARY

Judith Nelsen Keep, of California, to be U.S. district judge for the southern district of California.

Marilyn Hall Patel, of California, to be U.S. district judge for the northern district of California.

Thelton Eugene Henderson, of California, to be U.S. district judge for the northern district of California.

A. Wallace Tashima, of California, to be U.S. district judge for the central district of California.

Carmen Consuelo Cerezo, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Earl H. Carroll, of Arizona, to be U.S. district judge for the district of Arizona.

Alfred C. Marquez, of Arizona, to be U.S. district judge for the district of Arizona.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Francis Leon Jung, of Virginia, to be a member of the Foreign Claims Settlement Commission of the United States.

COMMISSION ON CIVIL RIGHTS

Mary Frances Berry, of Colorado, to be a member of the Commission on Civil Rights.

Jill S. Ruckelshaus, of Washington, to be a member of the Commission of Civil Rights.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Rudolph William Bramberg, Jr., of Florida, to be a member of the Board of Directors of the National Institute of Building Sciences.

S. Eugene Ruff, of North Carolina, to be a member of the Board of Directors of the National Institute of Building Sciences.

Joseph T. Power, of Virginia, to be a member of the Board of Directors of the National Institute of Building Sciences.

William F. Floyd III, of Georgia, to be a member of the Board of Directors of the National Institute of Building Sciences.

Warner Howe, of Tennessee, to be a member of the Board of Directors of the National Institute of Building Sciences.

Charlene F. Sizemore, of West Virginia, to be a member of the Board of Directors of the National Institute of Building Sciences.

Jeremiah Thomas Walsh, of New York, to be a member of the Board of Directors of the National Institute of Building Sciences.

Blanca C. Cedeño, of New York, to be a member of the Board of Directors of the National Institute of Building Sciences.

Rudolph William Bramberg, Jr., of Florida, to be a member of the Board of Directors of the National Institute of Building Sciences.

S. Eugene Ruff, of North Carolina, to be a member of the Board of Directors of the National Institute of Building Sciences.

DEPARTMENT OF STATE

Francis J. McNeil, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

Larry Gordon Piper, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Frances D. Cook, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Herbert Stuart Okun, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

William Bodde, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga and to Tuvalu.

John J. Crowley, Jr., of West Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Hume Alexander Horan, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Peter Adams Sutherland, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Phillip Ellia, to be chief warrant officer, and ending Terrance J. McHugh, to be lieutenant (junior grade), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 13, 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified immediately of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, the amendment by Mr. BELLMON will be the pending question in the morning, I believe, after the prayer.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I think I took advantage of the minority leader while he was off the floor and gave away his time, but I will be glad to restore it if he so desires.

Mr. BAKER. I thoroughly concur in that. I express my appreciation to the majority leader for changing the convening hour to the time of 9:30, which is a good time to convene under these circumstances.

I have no need for my time in the morning.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2460.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2460) entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers of the armed forces

"(a) (1) An officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training.

"(B) $5,000 per year, if the officer has less than six years of creditable service and is not undergoing medical internship training.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of crediable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4) (A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(B) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection and who is board certified is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a) (2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c) (1) An officer may not be paid additional special pay under subsection (a) (4) of this section or incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay auhorized by subsection (a) (4) or (b) (1) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining—

"(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a) (2) (A), (a) (2) (B), (a) (4), and (b) (1) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a) (5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a) (4) or (b) (1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a) (4) or (b) (1) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(g) For purposes of this section, creditable service of an officer is computed by adding—

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers of the armed forces.".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE PUBLIC HEALTH SERVICE

SEC. 3. (a) (1) Chapter 5 of such title is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: medical officers of the Public Health Service

"(a) A medical officer of the Public Health Service who is on active duty for a period of at least one year is entitled to special pay at the following rates:

"(1) $100 a month for each month of active duty if the officer has not completed two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(2) $350 a month for each month of active duty if the officer has completed at least two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to special pay under subsection (a) of this section and who is serving in a pay grade below pay grade O-7 may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary of Health and Human Services has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed 6 percent of the total amount paid in such year for special pay under section 311 of this title for medical officers of the Public Health Service, for special pay under section 313 of this title, and for special pay under this section.

"(c) (1) An officer may not be paid incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) Under regulations prescribed under section 303a(a) of this title, the Secretary of Health and Human Services may terminate at any time an officer's entitlement to the special pay authorized by subsection (b) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Health and Human Services under section 303a(a) of this title shall include standards for determining whether an officer is undergoing medical internship or initial residency training for purposes of subsection (b) of this section.

"(e) Special pay payable to an officer under subsection (b) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (b) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service.".

(b) (1) Subsection (a) of section 313 of such title, relating to special pay for medical officers who execute active duty agreements, is amended—

(A) by striking out "Secretary of Defense" and all that follows in such subsection through "Public Health Service," and inserting in lieu thereof "Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') and approved by the President, a medical officer of the Public Health Service"; and

(B) by striking out "Secretary concerned" each place it appears in such subsection and inserting in lieu thereof "Secretary".

(2) Subsection (b) of such section is amended by striking out "Secretary of Defense, the Secretary concerned" and inserting in lieu thereof "Secretary, the Secretary."

(3) Subsection (c) of such section is amended by striking out "by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate," and inserting in lieu thereof "by the Secretary,".

(4) Subsection (e) of such section is amended—

(A) by striking out "The Secretary" and all that follows in such subsection through "each year" the first place it appears and inserting in lieu thereof "Not later than July 31 of each year, the Secretary shall submit a written report"; and

(B) by striking out the third sentence in such subsection.

(5) The heading of such section is amended to read as follows:

"§ 313. Special pay: medical officers of the Public Health Service who execute active duty agreements".

(6) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active duty agreements.".

PERMANENT AUTHORITY FOR OTHER SPECIAL PAY PROVISIONS FOR HEALTH PROFESSIONALS IN THE UNIFORMED SERVICES

SEC. 4. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(b) Section 302b of such title, relating to special pay for dentists, is amended—

(1) by striking out ", in addition to any other pay or allowances to which he is entitled,"; and

(2) by striking out the last sentence of such section.

(c) Section 303 of such title, relating to special pay for veterinarians, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(d) (1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended to read as follows:

"(a) (1) Under regulations to be prescribed by the Secretary of Defense, an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Defense;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay (under the rates of basic pay in effect on April 1, 1980) when he executes that agreement for each additional year that he agrees to remain on active duty. The eligibility of an officer for special pay under the preceding sentence, and the method of computing the amount of such special pay, shall be determined in accordance with the provisions of the regulations of the Secretary of Defense which on April 1, 1980, determined the eligibility for and method of computation of such special pay, except that in computing the amount of such special pay, the rates of basic pay to be applied are the rates of basic pay in effect on April 1, 1980.

"(2) Under regulations to be prescribed by the Secretary of Health and Human Services, a medical officer of the Public Health Service above the pay grade of O–6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on July 1, 1974, or a dental officer of the Public Health Service who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Health and Human Services;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty.

"(3) Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.".

(2) Subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service."

(4) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service."

(e) Section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

GENERAL PROVISIONS RELATING TO HEALTH PROFESSIONALS

SEC. 5. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

"§303a. Special pay: health professionals; general provisions

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

TECHNICAL AMENDMENT

SEC. 6. Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303".

TRANSITION PROVISIONS

SEC. 7. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, any officer of the Army, Navy, or Air Force who at any time before the effective date of the amendments made by this Act was entitled to special pay under section 302 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such section (as in effect on the day before such effective date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date).

EFFECTIVE DATE

SEC. 8. The amendments made by sections 2 and 3 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN I ask unanimous consent that a statement by Mr. NUNN be printed in the RECORD.

STATEMENT BY MR. NUNN

Mr. President, on June 23, 1980 the House of Representatives passed the bill, S. 2460, to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to make permanent the existing special pay provisions for other health professionals in the uniformed services, with an amendment.

Mr. ROBERT C. BYRD. I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

PROTECTION OF ARCHEOLOGICAL RESOURCES IN SOUTHWESTERN COLORADO

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 5751, a bill to more adequately protect archeological resources in southwestern Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. JACKSON, that the Senate proceed to the consideration of that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

H.R. 5751, a bill to more adequately protect archeological resources in Southwestern Colorado.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. JACKSON be printed in the RECORD.

STATEMENT BY MR. JACKSON

Mr. President, the purpose of H.R. 5751 is to increase the limitation on the amounts of money which may be spent to preserve archaeological resources being salvaged in connection with the construction of two Federal water resource projects in Colorado.

The field work now in progress at the Dolores Project site can no longer be supported within the existing limitation. Unless this measure is approved by the Senate prior to the forthcoming recess, the field party will have to be disbanded and the work terminated.

Mr. President, I am confident that this measure would be approved in the usual course of events by both the Energy Committee and the Senate. In order to avoid unnecessary costs of suspending field work in progress and the loss of valuable summer working time I am asking the Senate to expedite action.

This approach has been cleared with the minority.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, and Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 932, ENERGY SECURITY ACT, CONFERENCE REPORT

Mr. DOMENICI. Mr. President, as a member of the conference on S. 932, I wish to engage one of the distinguished minority floor managers of the conference report, the Senator from Idaho, Mr. MCCLURE, in a colloquy relating to the conference report.

With regard to part A dealing with the Defense Production Act Amendments, would the Senator agree that section 102, which amends the declaration of policy in section 2 of the DPA, should be construed very narrowly to include only those specific new authorities which are contained in the remaining sections of part A?

Mr. McCLURE. The Senator is completely correct and there should be no claim or grant of authorities under the DPA, other than those specific new authorities added by this act, dealing with energy which are based on the amendment to the declaration of policy in section 2 of the DPA. In other words, notwithstanding this amendment to the declaration of policy, the DPA cannot be used in the field of energy in any new way except as we expressly provide in this act.

Mr. DOMENICI. So it is clear, therefore, that the references to "diversion of certain materials and facilities," "development of preparedness programs," "expansion of productive capacity and supply," and "assure domestic energy supplies for national defense needs" in the amended declaration of policy will not result in any new grant of authority or broadened or expanded DPA authority in the field of energy beyond the specific authorities contained in this act?

Mr. McCLURE. It should be completely clear that those references do not constitute any legal basis at all for new or broadened or expanded authorities under the DPA in the field of energy.

Mr. DOMENICI. Would you also agree that the new sections 105 and 106 in the DPA, added by section 103 of this act, should be considered as confirming the discussion we have had on the narrow construction of the amended declaration of policy?

Mr. McCLURE. New sections 105 and 106 in the DPA clearly are intended to constrain any interpretation of the amended declaration of policy solely to the specific new authorities contained in this act. Certainly, amended section 102 of the DPA must be considered in the context of and controlled by new sections 105 and 106 of the DPA.

Mr. DOMENICI. New section 105 of the DPA, added by section 103 of this act, prohibits any program of gasoline rationing among classes of end-users under any authority in the DPA. Would you agree that the term "program of gasoline rationing among classes of end-users" should be very broadly construed to prohibit any action, direct or indirect, which would have the effect of any rationing of gasoline among any classes of end-users?

Mr. McCLURE. Yes, section 105 should be construed in that broad manner to prohibit any direct or indirect action, so that the section would prohibit under this act any coupon system, allocation system, tax system or other form of Federal apportioning or rationing gasoline supplies among or between any classes of end-users, even if the actions or system was not applicable to all end-users, or discriminated among or between end-users.

Mr. DOMENICI. Section 106, also added to the DPA by section 103 of this bill, designates "energy" as a "strategic and critical material" in the DPA, with the provision that such designation grants no new authorities in the field of energy regulation or production, except as specifically contained in new sections 305 and 306 added to DPA by this act. Would you agree that section 106 should be given the broadest construction to prohibit the use of the designation as the basis for any such new authority in the field of energy?

Mr. McCLURE. I agree that new section 106 in the DPA should be construed as broadly as possible to prohibit any use of DPA authorities for the Federal Government, directly or indirectly, to regulate energy in any way or to engage in any form of energy production or supply based on the designation of energy as a "strategic and critical material." That designation should be construed solely to apply in terms of the additional authorities in the DPA for synthetic fuels development which were added by this act. The designation should not trigger any other authority, new, expanded or broadened, of any type under other provisions of the DPA.

Mr. DOMENICI. It is my understanding that the current authorities in the DPA in subsection 101(a) dealing with priority performance of contracts associated with energy has been delegated by the President to the Secretary of Energy pursuant to Executive Order 12038 (43 FR 4957, February 7, 1978) and is the subject of a rulemaking proceeding by the Economic Regulatory Administration of DOE. Would you agree that it is the clear intent of the conferees that any new authorities specifically added to the DPA by this act and dealing with such priority performance of contracts or any other such new authority impacting on economic relationships in the field of energy should be delegated by the President to the Secretary of Energy?

Mr. McCLURE. I agree completely that the President should delegate all such new authorities to the Secretary of Energy. Such a delegation will insure that there is complete continuity and coordination of the Federal Government's policies and practices under the DPA and authorities in other applicable law in the field of energy. Such continuity and coordination will best support the objectives of the DPA and all other applicable laws.

Mr. DOMENICI. Section 104(a)(2) of this act amends section 301(a) of the DPA by adding a new paragraph (2), which states categorically that authorities in sections 301, 302, and 303 of the DPA cannot be used for any activity related to synthetic fuels, except as this act provides in the new sections 305 and 306 of the DPA. Would you agree that the prohibition of this new paragraph should be broadly construed?

Mr. McCLURE. I agree completely that the prohibition in the new paragraph 301(a)(2) should be broadly construed to the effect that the only authorities of any kind for synthetic fuels are contained in sections 305 and 306. Consequently, sections 301, 302, and 303 of the DPA only will apply to synthetic fuels activity of any kind to the extent, if at all, those actions are expressly made applicable to such activity by either section 305 or 306.

Mr. DOMENICI. New sections 305 and 306 of the DPA grant specific authorities to the President to be exercised "through the Department of Defense and any other Federal department or agency designated by the President." Would you agree that the President should delegate the line authorities and responsibilities for specific synthetic fuels development to the Department of Energy, while using the Department of Defense to establish program requirements and goals, in order to avoid duplicative capabilities and bureaucratic waste?

Mr. McCLURE. I agree that the President should delegate such line authorities and responsibilities to the Energy Department, since DOE already is aggressively implementing the alternative fuels program under the fiscal year 1980 Interior appropriation, Public Law 96-126. This DOE program provides an excellent basis for the early and timely implementation of the interim program under section 305 and any emergency program under section 306. Certainly, delegating such line responsibilities to DOD would require DOD to develop a duplicative capability and would slow the interim program significantly for such a startup. Consequently, the best approach to delegation of these synthetic fuel authorities would be to use DOE, with DOD providing overall program requirements and goals.

Mr. DOMENICI. New sections 305(a)(1)(A) and 306(b)(1)(B) direct the President under those sections to utilize certain provisions of this act "and any other applicable provision of law" to "take immediate action to achieve production of synthetic fuels to meet national defense needs." Would you agree that the intent of the conferees in these sections was solely that the President use such other applicable laws only as necessary to support the express authorities contained in section 305 and 306 for synthetic fuel development, but not use such authorities in other applicable laws to independently develop or mandate production of synthetic fuels for national defense needs?

Mr. McCLURE. Yes. our clear intent was that the President only use such other authorities solely to support expressly authorized activities under sections 305 and 306. The President, however, should not under the cited subsections use any other authorities independently for synthetic fuel development, either directly by the Federal Government or by mandating activity by private parties. The cited subsections should be very narrowly construed to apply solely to activities otherwise expressly authorized by sections 305 and 306. The President is not required nor authorized by the cited subsections to do anything more.

Mr. DOMENICI. New sections 305 and 306 repeatedly refer to actions to meet "national defense needs." Would you agree that the intent of the conferees clearly is for "national defense needs" to be construed very narrowly to mean only those direct fuel requirements of the military services of the United States?

Mr. McCLURE. Yes, the conferees clearly intend that the term "national defense needs" be limited to those direct fuel requirements of the military services. The new Synthetic Fuel Corporation and the activities of other Federal agencies, principally the DOE, will develop and provide synthetic and non-synthetic fuels for other consumers including, for example, defense contractors and support industries, under other authorities. Consequently, the term "national defense needs" and the authorities under sections 305 and 306 and in part A should be limited to direct fuel requirements of the military services.

Mr. DOMENICI. New subsection 305(k) specifies the date on which the DPA interim synthetic fuels program is to terminate based on the date on which the President determines the U.S. Synthetic Fuels Corporation to be "fully operational consistent with the provisions of the U.S. Synthetic Fuels Corporation Act of 1980." Would you agree that the conferees intend the President take all necessary administrative actions and make the determination of "fully operational" at the earliest possible date, and certainly as soon as a majority of the Board of Directors is in office and the Corporation is administratively capable of issuing solicitations under that act, in order to avoid having duplicative and multiple Federal synthetic fuel programs competing with each other?

Mr. McCLURE. The conferees do want the Corporation to become "fully operational" as early as humanly possible and the President to make that determination as soon as possible. Certainly as soon as a majority of the Board is in office and the Corporation has the administrative capability to issue solicitations, it is "fully operational" for the purposes of subsection 305(k). The conferees clearly do not intend to have duplicative Federal synthetic fuel programs competing with each other. Once the Corporation is capable of issuing a solicitation, the DPA interim program under section 305 should terminate to clear the way for the Corporation's long term program.

Mr. DOMENICI. New subsections 305(c)(1)(A) and 306(d)(1)(A) allow authority for purchases and commitments to purchase synthetic fuels without regard to limitations of existing procurement law. Would you agree that the conferees intend that this partial exemption from procurement law for these purchases should be very narrowly construed to avoid any possibility of fraud or abuse in the purchases?

Mr. McCLURE. Certainly, the conferees intend that applicable procurement laws, as contained in the Federal procurement regulations, in armed services procurement regulations and other directives or regulations, shall apply to such purchases except in highly unusual and extraordinary circumstances, where such application would directly prevent a required purchase and where the Secretary of the Department determines that such a condition exists and a waiver is necessary. The cited subsection should not be construed any broader, lest Congress invite fraud and abuse in these purchases.

Mr. DOMENICI. Subsections 305(b)(2)(B) and 306(c)(1)(B) authorize specified assistance to a fabricator or manufacturer of a component for a synthetic fuel project. Would you agree that this authority should be construed narrowly to include only those fabricators and manufacturers who have a firm contractual commitment to supply such components to an actual synthetic fuel project and where such components are fabricated or manufactured exclusively for synthethic fuel projects?

Mr. McCLURE. The authority to provide such assistance to fabricators and manufacturers is intended to be very limited as the Senator has stated.

Mr. DOMENICI. Subsections 305(k)(2) and 306 (l) authorize under limited conditions the renewal and extension of contracts pursuant to authorities in sections 305 and 306. Would you agree that the conferees intend that such renewals and extensions must be limited to no more than the scope of the activity in the initial contract?

Mr. McCLURE. The cited subsections only authorize extension and renewal of the original contract, and the renewed or extended contract cannot expand in any way that scope of activity under the original contract. Renewals and extensions cannot have the effect of an amendment to the contract to expand that original scope of activity.

Mr. DOMENICI. Subsection 306(c)(2) includes limited authority for a Government synthetic fuel project. Would you agree that the authority to construct and operate the project is strictly limited to activities immediately and directly associated with that construction and operation.

Mr. McCLURE. Yes, neither the cited subsection nor any other provision of EPA would authorize any other activities beyond direct construction and operation of the project.

Mr. DOMENICI. Subsections 305(g)(4) and 306(h)(4) require a certification that the necessary appropriations have been made to support contracts. Would you agree that the conferees intend that such certification requires that the appropriations be specifically for the purposes of the section 305 or 306 program, rather than any general appropriations made to the Department assigned by the President to carry out the programs.

Mr. McCLURE. Yes, the conferees clearly intend that this certification only be made when there are specific appropriations for these programs, rather than general appropriations available to the assigned Department. This requirement will ensure continued congressional and executive notification and review of these program appropriations.

Mr. DOMENICI. Subsections 305(h) and 306(i) narrowly limit the application of NEPA's EIS requirement as it applies to financial assistance under those sections. Do you agree that NEPA shall fully comply with an EIS requirement for any action under these sections, with the sole exception of a project-specific awarding of a loan, guarantee or purchase agreement?

Mr. McCLURE. Yes, the conferees clearly agreed that the sole exception from any NEPA requirement under those sections would be for the direct act of awarding a project-specific loan, guarantee or purchase agreement. All other activity under those sections shall be subject fully to NEPA.

Mr. DOMENICI. Subsection 306(a) establishes a "trigger" based on a national energy supply shortage and has requirements based on the percentage shortfall. Would you agree that calculation of the percentage shortfall should be based on the procedures in title II of the Emergency Energy Conservation Act of 1979.

Mr. McCLURE. Yes, such calculations should use the procedures in Title II of EECA to insure that there is a settled and predictable basis for such calculations. Title II of EECA is familiar to Congress and the several States and will provide the necessary basis for calculation.

Mr. DOMENICI. Subsection 306(c)(1)(A)(IV) includes limited authority to require certain suppliers to provide synthetic fuel. Would you agree that, pursuant to the sentence beginning "Nothing in this paragraph shall be intended * * *," a fuel supplier would not be considered as "intending to produce synthetic fuel," unless the supplier already is engaged directly in actual production or has binding contractual commitments to construct and operate a synthetic fuel production facility and to supply such fuels to another party?

Mr. McCLURE. Yes, in the absence of such actual production or such binding contractual commitments for construction, operation and supply, a fuel supplier would not be subject to any requirements under the cited subsection.

Mr. DOMENICI. Subsection 306(c)(5) requires the President to recertify the determinations under 306(a)(1) before he utilizes authorities under section 306. Would you agree that the conferees intend that these recertifications be made on a contract-by-contract, project-by-project basis?

Mr. McCLURE. Yes, the recertifications should be made for each new exercise of authority for a contract or project. This recertification requirement will insure that these emergency requirements only will be used so long as the emergency lasts, and not on a continuing basis after the emergency ends.

Mr. DOMENICI. Subsections 305(b)(1)(A)(i) and 306(c)(1)(A)(i) authorize purchases of "synthetic fuels for Government use for defense needs." Would you agree that any such purchase may be made under this authority only, and to the extend that, the total purchase is required only and directly for use by the military services, based on DOD demand projections at the time of contract?

Mr. McCLURE. Yes, such purchases should only be made for such direct use by the military services, and not for any other government, government contractor, or private use. Any such other use should only be the result of unanticipated and unavoidable surplus supply exceeding the needs of the military services.

Mr. DOMENICI. Turning to part B of title I, the U.S. Synthetic Fuel Corporation Act, section 116(d) requires a Director to take an oath before assuming office. Would you agree that this requirement does not require Senate confirmation or prevent recess appointments?

Mr. McCLURE. That is correct. The President can and should make recess appointments whenever there is an unfilled directorship to insure full operation of the Corporation at all times and the requirement for an oath would not prevent it.

Mr. DOMENICI. Subsection 116(e) requires a majority of the Board of Directors to constitute a quorum and also requires Board actions by a majority vote of all members of the Board. Would you agree that when these requirements refer to a "majority," the conferees intend that the "majority" be a majority of those members then currently serving on the Board?

Mr. McCLURE. I agree with the Senator's statement, since we clearly intend that the Corporation be fully operational at all times.

Mr. DOMENICI. Section 120 authorizes expenditures for administrative expenses of the Corporation and section 195(a)(1)(B) makes available to the Secretary of Treasury any appropriations, in the energy security reserve or otherwise appropriated to the Corporation, "for the purpose of carrying out the purposes of this title." Would you agree that the Secretary of Treasury is thereby authorized to use such appropriations for any administrative expenditures required for startup of the Corporation?

Mr. McCLURE. Yes, those funds would be available to the Secretary of Treasury for startup of the Corporation and we intend that the Secretary will take all necessary actions as soon as possible to accomplish that startup to a fully operational status at the earliest possible date.

ACTIVITIES LOG OF FIFTH AND SIXTH GRADE STUDENTS AT ANDERSON ELEMENTARY SCHOOL

Mr. STEVENS. Mr. President, I would like to share with my colleagues some correspondence I received from fifth and sixth grade students at Anderson Elementary School in Clear, Alaska.

These children kept a log of their activities during a 3-year period with their teacher, Mr. Philip Erickson. Although I do not know Mr. Erickson personally, he sounds like the type of teacher we would all like to have had as we were growing up. It is a clever teacher who disguises difficult and often dry subjects such as geography in a game, providing the students with as much information as if they had simply read their text books. Mr. Erickson shows that learning can be a very alive process with songs, costumes, art work and imagination.

As schools across the Nation close for the summer, I feel it is timely that I put this log into the CONGRESSIONAL RECORD. I do this not only as a tribute to Mr. Philip Erickson, but in recognition of teachers everywhere who make the difficult job of learning much easier.

I ask unanimous consent that this article be placed in the RECORD.

There being no objection, the log was ordered to be printed in the RECORD, as follows:

ACTIVITIES LOG

A Log of Adventures by the 4th and 5th grades of Anderson School at Clear, Alaska with their teacher, Mr. Philip Erickson.

Aug. 1977. Mr. Erickson introduced himself to us and told us what to expect from him and what he expects from us. He shared the adventures he has had before coming to Alaska. We know it will be an interesting year.

Oct. 1977. Our bulletin boards are full of ghosts and goblins. We will make a new mural for each holiday. Mr. Erickson is dressed like a pirate. We made a spooky tunnel in the gym for the elementary Halloween party.

Dec. 21, 1977. Mr. Erickson has been playing his guitar for us every day. We sing along. We are learning "Country Roads". One whole wall of our room is filled with woven place mats for our Christmas party. We will play Huckle Buckle Bean Stalk today.

Jan. 1978. We started a log today. We will record all the things we see and do on our Social Studies "trips". We are excited about it. Mr. Erickson wears a stocking cap every day. Today we hid it from him.

April 1978. Mary came to Alaska. She will be doing some art work with us before they leave for Hawaii. Mr. Bresko will be are (our) substitute.

May 1978. School will soon be over and we will be starting in the new elementary building in the Fall. We are going to sing "Country Roads", at the dedication ceremony.

Sept. 1978. We are in the new school. Mr. Erickson has drawn a map of the United States on a large piece of plywood. We will cut out the states and research each one. We will have a huge map puzzle and a lot of information when we are finished.

November 1978. The skating rink is going great. We're ice skating every day with Mr. Erickson. The 5th graders are skiing. We will get to ski before winter is over.

December 1978. The rooms are decorated for Christmas. We have a large table that extends through both rooms full of food. We are having a sit down dinner.

January 1979. Mr. Erickson is telling us stories of his travels. He is reading The Lion. the Witch and the Wardrobe to us. We have finished studying the solar system and have started a film strip about it.

March 1979. We have globes hanging all around the room. We have been taping radio commercials.

May 1979. We are going to ride our bikes to the base (Clear Air Force Base) for a hamburger. Mr. Erickson is the leader. He showed us how to skip rocks at the sand pit.

Sept. 1979. Mr. Erickson is back from his summer of sailing. He has a great slide show of all his adventures.

Nov. 1979. We have a box full of red and white bean bags and balls for juggling. Many of the kids are learning very fast.

Dec. 1979. It has been a great year for skiing. We go every day now. We will be in good shape for the Skiathon in Fairbanks.

For Social Studies we are listening to taped radio broadcasts. Mr. Erickson is the newsman. We are also having contests on our map puzzles.

February 1980. Science has been great! We have had mud-slides, traction races and studies about muscles and bones.

Mr. Erickson is taking the 5th grade to town to enter the map puzzle in an Art Fair.

We are going to make a commercial for Channel 9 and go roller-skating.

April 1980. We have had paper airplane contests this week. Mr. Erickson showed us how to make better paper airplanes.

We have been playing "Ancient Bingo" for Social Studies. Soon we will start a unit on bicycle safety.

Our field trip was great. We went roller skating.

May 1980. School is nearly over and Mr. Erickson will be leaving for Washington. He isn't coming back next year. We will miss him.

Fifth Grade: Robert Berry, Colette Coleman, Sheleen Holmes, Kathy Mueller, William Murray, James Pastore, Cary Ann Taylor, Mark Taylor.

Fourth Grade: Eric Goldthrite, Shawn Hughes, Teddy Meyer, Natalie Miller, Willie Nelson, Sharon Sramaty.

TRIBUTE TO RUSSELL NIQUETTE

Mr. LEAHY. Mr. President, today I wish to pay tribute to an outstanding Vermont legislator who was elected to the Vermont House of Representatives before I was born and who went on to serve with distinction and honor in the Vermont Senate.

When he announced his retirement from the Vermont Senate this spring, Russell Niquette ended 43 years of devoted service to the State of Vermont. A Democrat from Winooski, the hotbed of Democratic politics in Vermont, Mr. Niquette acquired the nickname of "Silver Fox" for his unsurpassed ability to pass legislation important to Vermont.

Mr. President, I want the Record to show that Russell Niquette is a good orator, a good legislator, and a good friend. Furthermore, he has justly earned the gratitude of all Vermonters, regardless of party affiliation. It is a case of one of the giants of the Vermont Legislature retiring.

I ask unanimous consent that the following articles from the Burlington Free Press be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Senate Honors Niquette on Retirement

(By Marilyn Adams)

Montpelier.—They wished him "bonne chance."

Democrat Russell Niquette of Winooski, retiring senior member of the Senate, was publicly honored Saturday by his fellow lawmakers in both houses.

Following an emotional thanks from fellow Chittenden County Sen. Robert Daniels, the Senate honored Niquette, 72, with a standing ovation.

Fellow Democrat Lt. Gov. Madeleine Kunin, noting Niquette's French heritage, said, "All of us are very indebted to you and wish you bonne chance in your future."

Niquette, who entered the Legislature at age 29 in 1937 as a House member, said Friday he would retire rather than seek a ninth Senate term. He has chaired the Health and Welfare Committee.

A resolution honoring the amicable, white-haired lawyer for his unsurpassed years in public office was passed by the Senate and the House.

Niquette reminisced with colleagues during the day, one of his last at the Statehouse. Sen. Donald Smith, R-Washington, at one point remarked that he, too, had been around in 1937—as a legislative page.

Sen. Robert Gannett, R-Windham, white-haired vice chairman of the Appropriations Committee, later joked he might have to assume Niquette's longtime nickname, "Silver Fox," coined as a tribute to Niquette's deal-making skills.

On the Senate floor, Gannett recalled, "When I first arrived in the House in 1953, about as green behind the ears as anyone could be, my seatmate, Ernest Gibson (later governor), told me if I could just get associated with the member from Winooski, I would never make a mistake.

"I was fortunate to have a seat directly behind the member from Winooski. I feel I've been sitting behind him and taking his good advice ever since, and it's kept me in good stead."

Senate's "Silver Fox" Plans To Retire at Session's End

Montpelier.—The Senate's "Silver Fox" is leaving.

Sen. Russell Niquette, D-Chittenden, a 30-year veteran of the Legislature, said Friday he intends to retire at the end of this year's session.

"Another senator told me: 'Russell, you've got a lot of vitality left,'" he said. "You know, I'd have to agree with him. The only thing is, see, I'd rather use it elsewhere while I've still got time.

"If I came back for another term, I'd be 74 when it was over, and I'd have just that much less time to live a little," said Niquette, the Senate's senior member.

Niquette said he has been telling his fellow lawmakers he planned to run for re-election, because he wanted them to treat him seriously and not as a "lame duck."

"Now, I guess I'll have to apologize for that white lie," he said.

The dapper, white-haired lawyer from Winooski has such a reputation as a shrewd bargainer that fellow lawmakers have for years called him "the Silver Fox."

He first entered the Legislature in 1937 as House member.

Niquette ran for governor in 1960.

He is chairman of the Senate Health and Welfare Committee.

RELIEF FOR COLOR TELEVISION INDUSTRY

Mr. HEINZ. Mr. President, the American color television industry has been ailing for the last decade or so, the unfortunate victim of unrestrained dumping policies pursued through the early and midseventies. In 1977 the ITC, recognizing the plight of the industry, recommended a 5-year period of import restraint to provide relief from this influx of imports. The President decided on a 3-year period. July 1 of that same year saw the signing of an orderly marketing agreement (OMA) with Japan, the major predator, limiting that country's imports to 1,750,000 receivers for the next 3 years and thus promising relief to the industry until June 1980.

Unfortunately, effective relief never came. The slack in the market left by Japan's restrained presence was quickly taken up by a deluge of imports from Korea and Taiwan. This overwhelming tide of imports forced the negotiation and subsequent signing of OMA's with both Korea and Taiwan in 1979. Finally the color television industry had the relief it had been promised, but that relief has lasted little more than a year. June 30, 1980, is set as the date of expiration for all three of these OMA's with Japan, Korea, and Taiwan. Fairness demands, however, that they must not be left to expire. Each one must be renewed for an additional 3 years—the legal maximum—so that the color television industry will be afforded the full period of relief it was originally promised.

Since 1973, employment levels in the industry have declined more than 45 percent, the present level being about 65,000. And the near future looks even bleaker for two reasons: First, continued technological advancements leading to greater mechanization and a natural consolidation of assembly processes, coupled with the increasingly popular practice of assembling labor intensive parts in foreign countries with cheaper labor, have combined to necessarily reduce employment levels in this highly priced competitive industry where cost cutting is a must, and, second, as suggested by the ITC report, televisions may be considered a discretionary item whose purchase might be postponed in times of expensive credit and whose acute sensitivity to lulls in the economic cycle combine to make for a less than comfortable forecast for demand and, therefore, employment levels in the industry during the predicted recession.

Recent reported action by the President runs counter to this conclusion. President Carter has apparently decided to extend the OMA's with Korea and Taiwan only—not with Japan. The unemployment levels in the industry will, in this upcoming year, expose the full ramifications of this error.

In an effort to minimize overall unemployment one can see why a responsible government would want to pursue for an additional 3 years an arrangement such as the OMA's—agreements whose curtailment would only serve to exacerbate the already troubling problem of unemployment, especially in light of the recession.

Moreover, one of the ironies of the President's decision is that import relief for the television industry has not been inflationary. Between early 1977 and late 1979, when producer price indexes (PPI's) for electronic components and accessories in general rose by some 19.9 percent, one finds a decrease of 1.3 percent in the PPI for television receivers, as cited in an update to the Department of Labor's 1978 report.

But even beyond unemployment, what we are really talking about is the very survival of the industry itself—an industry precariously perched on the very edge of extinction. The color television industry is the last remaining segment of the consumer electronics industry left in the United States. It must not be carelessly tossed aside. The industry has just begun to construct a firm foundation—a foundation that will once again set the industry in its proud competitive posture. Between 1976 and 1979, domestic productivity moved in tandem with investment, showing an increase of over 75 percent in terms of real output per worker. This foundation must not be razed. For these reasons, the import restraint program should remain at its current status through June of 1983.

A recent letter to the President, sent by a number of my colleagues and myself, is a lucid testimony as to why the present levels of restraint need to be extended. I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 10, 1980.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The United States International Trade Commission recently recommended that you maintain import restraints on color television imports from Taiwan and Korea but remove them from Japan.

It has been called to our attention that Japan has five times the color TV productive capacity of the other two countries combined. Moreover, the European Community is negotiating with Japan to further limit importation of color television receivers and picture tubes into the European countries, most of which already have restraints on importation of complete sets, varying from voluntary agreements to outright embargos. If new and stronger limitations are imposed by the European Community, as now seems likely, Japanese exports may well be deflected to the United States, posing additional problems for the domestic industry and its workers.

The black-and-white television industry has already been wiped out by imports. The color television manufacturing industry, the last significant segment of the consumer electronics industry left in the United States, was well on its way to extinction when you entered into the Orderly Marketing Agreement with Japan in 1977. Since then it has managed to survive and indeed has begun a comeback. However, profits continue to be low in the industry and employment continues to decline.

In 1977 the ITC recommended five years of relief for this severely injured industry. The OMA you negotiated with Japan reduced the relief period to three years. Moreover, a tremendous increase in color TV shipments from Taiwan and Korea undermined the OMA, making 1978 a near-record year for imports. Thus, the industry and its workers have had only a little more than one year of effective relief.

It should also be noted that unrestrained imports from Japan were the root cause of the problem. In 1971 the Secretary of the Treasury issued a finding of dumping against Japanese television manufacturers. Unfortunately, dumping duties were not collected and no less than 19 American companies were forced out of the television manufacturing business since the 1960s with the resulting loss of at least 60,000 jobs. Today, 65,000 jobs are dependent upon the color TV industry. We have been warned by both industry and labor that these jobs will disappear if you accept the puzzling recommendation of the ITC and remove import restrictions on Japan.

The ITC staff investigation confirmed that the industry has acted responsibly in the matter of pricing. In fact, color television prices have remained *anti-inflationary* throughout the restraint period. The industry has improved its production facilities and has committed sizable capital investments to research and development.

It has also been pointed out that most of the capital required to sustain and revive the consumer electronics industry in the United States must come from color television manufacturing. If that source of capital is cut off, technological leadership in many important areas of electronics will pass from the United States to other countries.

We strongly urge you to continue the color television import restraint program at the present levels for the next three years.

Respectfully,

Birch Bayh, Richard G. Lugar, Wendell H Ford, Jennings Randolph, Howard M. Metzenbaum, John Heinz, Richard S. Schweiker, Jim Sasser, Harrison A. Williams, Jr.

BOB PACKWOOD: SOLAR MAN OF THE YEAR

Mr. PERCY. Mr. President, I rise to pay tribute to my distinguished colleague and friend, Senator BOB PACKWOOD of Oregon, upon his selection as Solar Man of the Year by the Solar Energy Industries Association.

Senator PACKWOOD has long been dedicated to the advancement of alternative energy as an important means of meeting our national energy needs. This award recognizes his farsightedness in this area, (as he has distinguished himself in so many other areas) and is a tribute to the perseverance and legislative skills he exercised in obtaining significant tax incentives for renewable energy sources as part of the windfall profit tax bill.

As a result of BOB PACKWOOD's efforts, individuals and businesses have been provided with significant incentives to install new energy technology systems, including solar systems.

In naming Senator PACKWOOD Solar Man of the Year, the Solar Energy Industries Association published an account of his accomplishments in this field in a recent newsletter. This article explains why BOB PACKWOOD is deserving of such an award, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR BOB PACKWOOD: SOLAR MAN OF THE YEAR

Senator Bob Packwood (R–Ore.) has become the outstanding spokesman for solar energy in the United States Senate. In his position as a member of the Senate Finance Committee, Senator Packwood has used his influence to promote solar energy at every opportunity, but always in realistic and practical ways.

After returning from Oregon during the August recess of 1979, Senator Packwood reported that his people were anxious to support a renewed effort by the Congress to move the nation toward use of renewable energy sources. He seized on the opportunity to build on what he correctly perceived to be "the right time" to substantially improve federal incentives for renewable energy sources. On September 17, 1979, he introduced S. 1760, which was his bill to liberalize and strengthen an earlier bill, S. 1571, providing improved tax incentives. He remarked then that: "These technologies (renewable energy sources) can have an important impact on our efforts to reduce our unacceptably high use of imported oil. The technologies affected are generally currently available for wide scale use. However, tax incentives can effectively increase the rate at which our society makes these energy investments. Although loan and grant programs can also enhance use of new energy technology, we believe that meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future."

In the following weeks, Senator Packwood and his staff organized a coordinated effort for garnering support behind his package of incentives. SEIA was one of the primary organizations working with Senator Packwood, along with other solar support groups, business interests, and labor organizations. Senator Packwood personally chaired many meetings of the group which met in his office, and handled the assignments for different groups to contact various members of the House and Senate. It was not uncommon for Senator Packwood to direct a member of his personal staff to call someone given an assignment at a meeting to review progress and obtain a report on that particular person's attitude toward the legislature. He gave the coordinated lobbying effort his own personal attention instilling in each member of the team the feeling that he was personally involved with each contact.

As the time drew near for the mark up of the Windfall Profits Tax bill in the Senate Finance Committee, much uncertainty surrounded the final outcome of the bill. Some committee members wanted no windfall profits tax passed, some wanted a very stiff tax, some wanted a mild tax, some favored adding language for tax incentives for renewable energy sources, and some were against writing any additional tax incentives into the bill. Such were the ambivalent reactions facing Bob Packwood's efforts to add the provisions of his bill, S. 1760, to the Windfall Profits Tax bill, H.A. 3919.

Senator Packwood worked closely with the Chairman of the Senate Finance Committee, Senator Russell Long (D-La.), and gained his cooperation in allowing Packwood's amendment. Senator Long, no doubt, felt that the addition of Senator Packwood's provisions would contribute to a stronger package which would result in stronger committee support. Bob Packwood also worked on each member of the Finance Committee, and received favorable response from the majority of them before the mark-up.

The result at the mark-up was an overwhelming victory for Senator Packwood and for solar energy. The Senate Finance Committee adopted almost completely the provisions of S. 1760, which provided for 50 percent residential tax credits for solar, wind or geothermal energy and 30 percent for the business tax credits. A new category of tax credit consisting of 40 percent for landlords was also created, and many new items were also eligible for the tax credits for the first time.

It was Senator Packwood who shepherded through the solar provisions in the Windfall Profits Tax bill, H.R. 3919.

ABE STOLAR

Mr. PERCY. Mr. President, Abe Stolar, a native of Chicago, was taken to the Soviet Union by his Russian-born parents in 1931. Some time after their arrival, their American passports were taken away. Stolar's father later was arrested and disappeared in the Stalin purge of 1937. After serving in the army during World War II, Abe made a career as a radio announcer and English-Russian translator.

Abe Stolar is now 68-years-old and retired. He and his wife, Gita, and their 22-year-old son, Mikhail, for many years have been seeking permission to emigrate to Israel, where they have friends and relatives. In 1975, they were granted exit visas by the Soviet Government. They vacated their apartment and shipped their belongings to Israel. Then, in a cruel last-minute reversal, the Soviet authorities prevented the Stolars from boarding the plane and canceled their exit visas. The Soviets' explanation for this varies from one occasion to the next; sometimes they give no reason. Since then the Stolars have been left to eke out a living as best they can.

The Stolar case is well known in the Chicago area. Chicago Action for Soviet Jewry has worked hard for the Stolars; just last week, they managed to get a phone call through to Moscow to let the Stolars know that they haven't been forgotten. Congregation Am Shalom of Glencoe, a Chicago suburb, has "adopted" the Stolar family. And there are others—Abe's classmates from Chicago's old Tuley High School, Illinois Lawyers for Soviet Jewry, leaders in the Chicago Jewish community, and many ordinary citizens who have been touched by the Stolars' story and want to help end their suffering.

Since I learned about Abe Stolar in 1975, I have tried to do what I can to help, through representations to Soviet officials here and in the U.S.S.R. and in urging the administration to press the case with the Soviets.

It was 5 years ago this month that the Stolars were abruptly turned back from their flight to Israel. It has been a long time, but those of us who are concerned for human rights owe it to them to persist in our efforts. On this sad anniversary, let us reaffirm that commitment.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:43 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes; and that the House recedes from its amendment to the title of the bill.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2759) to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7018. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 521. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 4:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7590. An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

ENROLLED BILLS SIGNED

At 6:16 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes; and

S. 932. An act to extend the Defense Production Act of 1950, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read by title and placed on the calendar:

H.R. 7018. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 7590. An act making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4092. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Jordan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4093. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize additional expenditures for highway emergency relief programs and to amend provisions of title 23 of the United States Code relating thereto; to the Committee on Environment and Public Works.

EC-4094. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of the Social Security Administration for fiscal year 1979; to the Committee on Finance.

EC-4095. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 444 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC-4096. A communication from the Associate Librarian of Congress, transmitting, pursuant to law, a report of the Library of Congress Trust Fund Board for the year ending September 30, 1979; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ZORINSKY, from the Committee on Agriculture, Nutrition, and Forestry, with amendments:

S. 1465. A bill to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes (Rept. No. 96–837).

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

S. 2675. A bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes (Rept. No. 96–838).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. 2885. An original bill to provide for reconciliation as provided by section 310 of the Congressional Budget Act of 1974.

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 479. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675. Referred to the Committee on the Budget.

S. Res. 480. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2675. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Donald Newton Langenberg, of Pennsylvania, to be Deputy Director of the National Science Foundation.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself, Mr. Stevens, Mr. Sasser, Mr. Magnuson, Mr. Metzenbaum, Mr. Percy, Mr. Durkin, Mr. Eagleton, Mr. Baucus, Mr. Stewart, Mr. Riegle, Mr. Leahy, and Mr. Burdick):

S. 2880. A bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes; to the Committee on Governmenal Affairs.

By Mr. BENTSEN (for himself, Mr. Baucus, Mr. Chafee, Mr. Culver, Mr. Durenberger, Mr. Gravel, Mr. Jackson, Mr. Johnston, Mr. Leahy, Mr. Magnuson, Mr. Moynihan, Mr. Thurmond, Mr. Tsongas, Mr. Talmadge, and Mr. Ribicoff):

S. 2881. A bill to amend the Internal Revenue Code of 1954, to extend the historic preservation tax incentives; to the Committee on Finance.

By Mr. RIBICOFF (by request):

S. 2882. A bill to establish an Office of Statistical Policy in the Executive Office of the President for the purposes of developing Federal statistical policy and statistical standards and ensuring that the statistical programs of the Federal agencies are responsive to national information needs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIBICOFF:

S. 2883. A bill to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building"; to the Committee on Environment and Public Works.

By Mr. CHURCH (for himself and Mr. Jackson):

S. 2884. A bill to provide for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (from the Committee on the Budget):

S. 2885. A bill to provide for reconciliation as provided by section 310 of the Congressional Budget Act of 1974. Original bill reported and placed on the calendar.

By Mr. DOLE (for himself, Mr. Helms, Mr. Boren, Mr. Jepsen, Mr. Glenn, Mr. Hayakawa, Mr. Zorinsky, Mr. Young, Mr. Lugar, and Mr. Boschwitz):

S. 2886. A bill to amend the United States Grain Standards Act to permit grain delivered to export by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WILLIAMS (for himself and Mr. Javits):

S. 2887. A bill to protect the confidentiality of data made available to the Bureau of Labor Statistics, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WILLIAMS (for himself, Mr. Proxmire, and Mr. Garn) (by request):

S. 2888. A bill to provide an improved and expedited mortgage foreclosure procedure with respect to multifamily mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. Stevens, Mr. Sasser, Mr. Magnuson, Mr. Metzenbaum, Mr. Percy, Mr. Durkin, Mr. Eagleton, Mr. Baucus, Mr. Stewart, Mr. Riegle, Mr. Leahy, and Mr. Burdick):

S. 2880. A bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes; to the Committee on Governmental Affairs.

CONSULTANT REFORM ACT OF 1980

Mr. PRYOR. Mr. President, for the past year, the Subcommittee on Civil Service and General Services, which I chair, has been investigating the billions of taxpayer dollars that the Federal Government spends each year for consultant services. Estimates of the amount of Federal funds spent annually for consultants range from a conservative $2 billion to over $9 billion, as reported recently in a shocking series of articles in the Washington Post. The legislation that I am introducing today will, for the first time, respond to the problems that currently exist in the Federal Government's use of consultant services.

During our investigation, we have found many consultant studies, costing millions of dollars, that are a complete waste because they are never used by the agencies. We have found conflicts of interest which negate the objectivity and independence that the Government thought it would obtain when awarding the consulting contract.

We have found that consultants have been awarded contracts to perform basic governmental functions, including writing Federal regulations, drafting legislation, and preparing agency budgets to be sent to Congress.

We have found many unnecessary contracts for consultants, costing millions of dollars, that were awarded in the last days of the fiscal year just to avoid returning unspent funds to the Treasury.

We have found almost a complete absence of competition in awarding consulting contracts despite estimates that competition saves 20 percent of a contract's price. Often these contracts are awarded not on the basis of a firm's qualifications but, rather, on the contractor's friendships with agency officials.

We have found that, despite a Presidential mandate to all Federal departments and agencies that they identify the total Federal expenditures for consultants, we still do not have this vital information. We do not know today how many dollars we spend for private consultants. It is impossible to identify these expenditures in agency budgets. Perhaps this is not surprising, since we have found consultants themselves are preparing many of the agency budgets that are submitted to congress.

Through a series of oversight hearings, public statements, staff investigations and congressionally initiated General Accounting Office reports, I have attempted to focus attention on the Government's use of consultants. In October 1979, the Subcommittee on Civil Service and General Services, which I chair, held its first hearing on this subject and received testimony on the improper use of consulting services by the Government agencies. On November 2, 1979, I presided over a Governmental Affairs Committee hearing on the Department of Energy procurement of consultant assistance.

As a result of my concern that the Department of Defense was using consulting services excessively and in an improper manner, I introduced an amendment to the fiscal year 1980 Department of Defense appropriation bill to reduce by $100 million the amount of funds available for consultant services. The House and Senate conference report on the bill agreed to increase the Senate reduction for consulting services from $100 million to $150 million. The bill became Public Law 96–154 on December 21, 1979.

In February 1980, the Governmental Affairs Committee approved an amendment, which I sponsored, which requires regulatory agencies to report annually to Congress on the use of funds for documents provided by consultants on contract or on appointment for the performance of a regulatory function. On March 18, 1980, I also proposed, along with my distinguished colleague (Mr. SAYER), a Senate resolution that would reduce by $500 million the amount of funds requested in the fiscal year 1981 budget for consultant services. This resolution has served as a model for the administration's effort, which was announced as part of its fiscal year 1981 budget to reduce the funding for consulting services by 15 percent.

In March 1980, I joined with Congressman HERBERT HARRIS, of Virginia, in holding 2 days of congressional oversight hearings on the findings of a General Accounting Office study of the consulting service arrangements of six major Federal agencies. The results of the random sampling of more than 100 contracts of six agencies conclusively showed that contracts for consulting services are being awarded without adequate competition; consultants under contract perform work that could be performed by agency employees; consultants' reports were not delivered on time; there exists inaccurate reporting of consulting services contracts; oftentimes consultants' reports are not used; and year-end spending for consulting contracts is excessive.

The General Accounting Office, in a June 5, 1980, report concluded that, after issuing over 30 audit reports on consultant waste since 1961, there has been little or no progress made by Federal departments and agencies during this period.

Finally, a joint House-Senate hearing I presided over 2 days ago on the Department of Energy revealed the following:

While the DOE does not know how many employees work for it under contract, the number may well be 10 times the number of civil servant employees.

The Department's recordkeeping is so poor that it is apparently paying out money on contracts for which the official contract office literally lacks any records.

The Department was not able to produce, after express and repeated request from my staff, much of the work paid for by taxpayers on millions of dollars of recent and ongoing contracts.

Contractors are literally running the Department of Energy. They prepare the Department's basic plans and budget documents, reports to Congress and congressional testimony. They answer mail from the public and Congress. They are paid to prepare basic components of their own contracts and contracts for others, and virtually run the contract file room. They prepare the DOE organization charts and the job descriptions of civil servants.

The contractors most heavily relied on by the DOE include those that boast publicly of their oil and utility industry clientele.

Mr. President, the evidence supporting the need for congressional action is overwhelming. We must act now. Although this bill is entitled the "Consultant Reform Bill for 1980," it could also be called the "Consultant Sunshine Bill" because it will, for the first time, blow away the clouds of secrecy surrounding our Government's use of consultants and let the bright light emanating from an informed public shine on what has been, until now, a covert and private industry of unknown proportions.

Mr. President, this bill has been very carefully drafted so that it will have the maximum beneficial effect on our Government's wasteful consultant practices, while having no adverse effect on slowing down an already overburdened procurement process. Furthermore, this bill has been designed not to add unduly to the Government's paperwork requirements.

Very simply stated, this legislation will require an agency to make public its intentions to award a contract, to make the contract, once awarded, available to public scrutiny, and require consultants to disclose the role they played in preparing reports under Government contracts. In addition, the bill requires consultants to fully disclose any conflicts of interest they have that could result in biased advice when writing reports. It will also require agencies to disclose in their budgets sent to Congress the amount of funds requested for the procurement of goods and services and would require agencies to evaluate the contractor's performance in certain contracts which provide for the preparation of a report. Finally, it would make Federal managers accountable for their procurement actions by linking the determination of senior executive service "bonuses" to their compliance with this bill's provisions.

It will also prohibit agencies, in fiscal years 1981, 1982, and 1983, from spending more than 20 percent of the annual procurement appropriation during the last 2 months of the fiscal year and establishes a working plan for the Federal procurement data system to make it of greater value to the Congress and to the public. Furthermore, this bill incorporates numerous recommendations from a series of GAO reports.

Congressman HERB HARRIS, of Virginia, is introducing this same bill in the House of Representatives today and I commend him for his efforts in this endeavor to reform the Federal Government's secretive and wasteful procurement of consulting services. I urge each and every one of my colleagues to support this legislation, which is based on the simple principle that, when the Government undertakes to serve the public's interest by procuring goods and services from the private sector, this activity should be subject to congressional and taxpayer scrutiny. Unfortunately, this is not how our federal system works today.

Mr. President, this shocking abuse of our federal system must not be permitted to continue.

Mr. President, I also want to say that, in the legislation I am introducing today, I am proud to be joined and have as cosponsors Senators STEVENS, SASSER, MAGNUSON, METZENBAUM, PERCY, and DURKIN.

Mr. President, I ask unanimous consent that the bill I am introducing today, with these distinguished cosponsors, together with highlights of the bill, be printed at this point in the RECORD.

There being no objection, the bill and highlights were ordered to be printed in the RECORD, as follows:

S. 2880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as he "Consultant Reform Act of 1980".

STATEMENT OF POLICY

SEC. 2. It is the policy of the United States that—

(1) governmental policymaking and decisionmaking activities which are inherently related to the public interest must be performed by accountable Federal officials;

(2) the performance of the activities described in paragraph (1) by private concerns could compromise the integrity of the governmental process;

(3) the procurement of goods and services by contract should occur only when compliance with applicable laws and regulations is ensured;

(4) goods and services that are only available in the private sector should be obtained from the private sector;

(5) the competiive pressures of the free marketplace increase the ability of private enterprise to provide goods and services at competitive prices;

(6) maximum competition in the Federal procurement process supports the basis of the free enterprise system while guaranteeing maximum return on Federal procurement expenditure;

(7) the costs of performing governmental activities are borne by the taxpayers regardless of whether the activities are performed in the private or public sector;

(8) the American people deserve and expect that governmental activities should be accomplished through the most economical means available while recognizing the inherently governmental nature of certain activities; and

(9) the integrity of the governmental process, especially where contractors are used to perform governmental functions, requires full public disclosure of the use and role of the contractors.

STATEMENT OF FINDINGS

SEC. 3. The Congress finds and declares that—

(1) laws relating to procurement actvities, regulations and management guidelines have not been consistently complied with by Federal procurement officials in awarding contracts for the procurement of goods and services;

(2) procurement practices presently do not provide for (A) the maximization of competition, (B) the prevention of duplication or overlap, (C) adequate consideration of

conflicts of interest, or (D) the maintenance of a complete and fully documented contract record;

(3) information on the Federal Government's use of contractors is not maintained in a manner which is visible to the Congress, the executive branch, and the public;

(4) no governmental authority has exercised the responsibility for and oversight of the actions of the various Federal agencies to achieve the maximum benefit possible for the Government in its procurement activities; and

(5) legislation and legislative oversight is necessary to achieve the consistency and uniformity needed in the porcurement activities of the Federal Government.

TITLE I—APPOINTMENTS

REVISION OF SECTION 3109 OF TITLE 5

SEC. 101. (a) Section 3109 of title 5, United States Code, is amended to read as follows:

"§ 3109. Employment of individual experts and consultants

"(a) For the purpose of this title—

"(1) 'agency' has the meaning given it by section 5721(1) of this title;

"(2) 'appointed consultant' means an individual—

"(A) who has a high degree of knowledge, skill, or experience in a particular field, and

"(B) whose primary function is to serve an agency in an advisory capacity in that field, rather than to perform or supervise the operating function of the agency; and

"(3) 'appointed expert' means an individual—

"(A) who has excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field,

"(B) who, because of such qualifications and attainment, is usually regarded as an authority, or as a practitioner of unusual competence and skill, by other individuals engaged in that field, and

"(C) whose primary function is to perform or supervise an operating function rather than to provide advisory services.

"(b) The head of an agency may appoint and fix the pay of appointed experts or consultants for temporary or intermittent services (not in excess of 1 year), without regard to—

"(1) the provisions of this title governing appointment in the competitive service; and

"(2) chapter 51, subchapter III of chapter 53, and chapter 54 of this title (relating to position classification and pay rates),

except that the rate of pay for any individual so appointed may not exceed the rate of basic pay payable for GS-18 unless otherwise specifically authorized by statute.

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.

"(d) The Office of Personnel Management shall prescribe regulations governing the employment of appointed experts and consultants and the reporting requirements of this section, and may take such action as it considers appropriate to assure compliance with this section and those regulations, including audit of individual cases, and, if necessary, suspension of appointing authority under this section. Agencies shall comply with the requirements of the Office, including taking any corrective action it may direct.

"(e) Each agency shall within a reasonable period after the close of each calendar quarter report to the Office of Personnel Management with respect to—

"(1) the number of days each individual appointed under subsection (b) of this section was employed during the quarter, and

"(2) the total pay paid to each individual for work performed under this section during the quarter.

"(f) In administering any personnel ceiling applicable to an agency (or unit therein) during any fiscal year, an appointed expert or consultant employed by that agency or unit under this section shall be counted as a fraction which is determined by dividing 2,080 hours into the total number of hours the appointed expert or consultant worked for that agency or unit during that year.

"(g)(1) The head of each agency shall establish procedures for the review and approval of—

"(A) the justification of the need for the services of an appointed expert or consultant under this section; and

"(B) the appointment of each appointed expert or consultant.

"(2) In any case in which need for the services of an appointed expert or consultant is found to be justified, under this section, no action may be initiated to obtain those services by contract unless it has been certified that all reasonable steps have been taken to obtain those services by appointment.".

(b) The analysis of chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3109 and inserting in lieu thereof the following new item: "3109. Employment of individual experts and consultants.".

EFFECT ON OTHER LAW

SEC. 102. Section 3109 of title 5, United States Code, as amended by the first section of this Act, shall supersede any statute enacted before the date of the enactment of this Act to the extent such statute grants authority to an agency to appoint an expert or consultant.

EFFECTIVE DATE

SEC. 103. The amendments made by this title shall take effect 180 days after the date of enactment of this Act.

TITLE II—CONTRACTS

DEFINITIONS

SEC. 201. For purposes of this title—

(1) the term "agency" has the meaning given it by section 552(e) of title 5, United States Code;

(2) the term "contract" means a written agreement, including amendments and modifications thereto, between the Government and a contractor for the procurement of goods and services;

(3) the term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliates thereof, including consultants and organizations thereof, which is a party to a contract with the Government; and

(4) the term "report" means a study, plan, evaluation, analysis, manual, oral or written presentation, or other document, including drafts thereof, which is prepared by a contractor pursuant to a contract with an agency, and which is submitted—

(A) to such agency, or

(B) on behalf of such agency to any other authority of the Government,

but does not include billing documents, invoices, or other routine business transmittals.

PUBLICATION OF CONTRACTS

SEC. 202. (a) Notwithstanding any other provision of law, as soon as practicable after an agency determines that it may need to enter into a contract in an amount in excess of $10,000, the agency shall transmit to the Secretary of Commerce a written notice describing such contract. The Secretary of Commerce shall publish each notice received pursuant to this subsection in the daily publication "United States Department of Commerce Synopsis of the United States Government Proposed Procurement, Sales, and Contract Awards". An agency is not required to transmit to the Secretary of Commerce a notice with respect to any contract—

(1) for which a national security classification has been lawfully made relative to the contract or the terms therein; or

(2) which is being awarded due to such an unusual and compelling emergency that the Government would be seriously injured if notice were required to be published.

(b) Whenever an agency modifies a contract and thereby increases the contract award by $50,000 or more, the agency shall transmit to the Secretary of Commerce a written notice describing such modification. The Secretary of Commerce shall publish each notice received pursuant to this subsection in the same manner as provided for in subsection (a) of this section but subject only to the exception provided for in subsection (a)(1).

(c) Whenever an agency is required to transmit a notice described in subsection (b) of this section, the agency shall also be required to transmit to the Committee on Appropriations of each House of Congress a written notice which shall describe—

(1) the original contract;

(2) the modification being made; and

(3) a justification for the modification.

PUBLIC AVAILABILITY

SEC. 203. (a)(1) Every agency shall maintain during each month a list of contracts which were entered into within the preceding 24 months or for which contractors have not then completed performance. Such list shall include—

(A) the contract identification number assigned by the agency;

(B) the contractor's name;

(C) the date of award and the initial and current estimated completion date;

(D) the initial and current amount of the contract award;

(E) a brief description of the work to be performed; and

(F) the names of the Government employee who authorized the award of the contract and the employee who is responsible for the program administration of the contract.

(2) The list under paragraph (1) shall be available to the public for inspection and copies shall be available but the agency may charge for duplication costs therefor.

(b) Except where for national security reasons the terms of a contract are lawfully determined to be of a classified nature, all contracts shall be considered public information and shall be available to the public upon request notwithstanding any other provision of law.

(c) Notwithstanding any other provision of law, the following information shall be available to the public upon request:

(1) the name and qualifications of any personnel designated in a contract;

(2) the contractor's experience which is contained in a proposal or other related document and which is offered as a demonstration of a qualification for performing a contract; and

(3) the documents which support an award made on a basis other than formally advertised competition.

(d) The information which subsections (a), (b), and (c) make available to the public shall not be construed to limit the availability of other contract related information.

DISCLOSURE OF INFORMATION CONCERNING THE USE OF CONTRACTORS

SEC. 204. Each report prepared by a contractor, and each report prepared by an agency which is substantially derived from or substantially includes any such report, shall include—

(1) the name and business address of the contractor who prepared or contributed to the report;

(2) the total amount to be paid by such agency under such contract;

(3) the type of procurement process used in the award of such contract;

(4) the name of the office or employee of the agency who authorized such contract;

(5) a brief description of the work performed under the contract; and

(6) in any case in which a contractor used a subcontractor to carry out any portion of the contract, the name and business address of the subcontractor and the amonut paid to the subcontractor.

ORGANIZATIONAL CONFLICT OF INTEREST

SEC. 205. (a) For purposes of this section—

(1) the term "organizational conflict of interest" means any relationship or situation in which an offeror or contractor has past, present, or currently planned interests that either directly, or indirectly through a client relationship, relate to work to be performed under a contract and which—

(A) may diminish the capacity of the offeror or contractor to give impartial, technically sound, and objective assistance and advice; or

(B) may result in an unfair competitive advantage to the offeror or contractor;

except that such term does not include the normal flow of benefits from the performance of the contract; and

(2) the terms "offeror" and "contractor" include—

(A) a chief executive or director of such offeror or contractor, to the extent that such executive or director is or becomes involved in the performance of a contract; and

(B) consultants or subcontractors proposed to be used by such offeror or contractor in the performance of the contract in any case in which such consultant or subcontractor may be performing services similar to the services provided by the offeror or contractor.

(b) (1) Whenever an offeror submits a proposal for a contract, the offeror shall include with such proposal—

(A) a statement which discloses all relevant facts relating to an existing or potential organizational conflict of interest concerning the contract; or

(B) a statement certifying, to the best knowledge and belief of such offeror, that no relevant facts exist relating to such an existing or potential organizational conflict of interest.

(2) Any consultant or subcontractor which any such offeror proposes to use in the performance of the contract shall also submit a statement containing the information required by paragraph (1) to the agency receiving the proposal.

(3) In any case in which a contract has been entered into and a modification of the contract becomes necessary, a contractor and any consultant or subcontractor used by the offeror in the performance of the contract shall submit to the agency—

(A) any statement required by paragraph (1) with respect to such modification; or

(B) a revision of any statement submited with respect to the proposal which reflects such modification.

(4) Each contractor, consultant, and subcontractor shall submit, on a timely basis, revisions of any statement made under this subsection to reflect any changes in circumstances arising after the statement was made.

(c) An agency shall evaluate each statement and certification received pursuant to subsection (b) to determine whether an organization conflict of interest exists with respect to a contract. In making such evaluation, the agency shall—

(1) examine whether—

(A) the offeror, contractor, consultant, or subcontractor has conflicting roles or interests which might bias the judgment of the offeror, contractor, consultant, or subcontractor concerning the work to be performed pursuant to the contract; or

(B) the offeror or contractor will have an unfair advantage based on the performance of the contract; and

(2) pay particular attention to proposed contractual requirements which call for the provision of advice, evaluation, or other actions which will have a direct effect on future decisions of the agency relating to contracts, procurement, research and development programs, production, or regulatory activities.

(d) Whenever, prior to the award of a contract, an agency determines that an organizational conflict of interest exists with respect to the contract—

(1) the agency shall disqualify the offeror from eligibility for award of the contract or, in the case of an organizational conflict of interest involving a consultant or subcontractor proposed to be used by the offeror in the performance of the contract, shall prohibit the offeror from using the services of such consultant or subcontractor;

(2) the agency shall include in the contract awarded to the offeror such conditions as the agency finds necessary to prevent an organizational conflict of interest involving such offeror or any consultant or subcontractor; or

(3) in any case in which the agency determines that—

(A) the facts and circumstances surrounding the contract necessitate immediate action; and

(B) the agency is unable to obtain the services to be performed pursuant to the contract from any other person other than the offeror, consultant, or subcontractor involved in the organizational conflict of interest,

the agency may award the contract to the offeror if the agency includes in the records maintained by the agency on the contract, makes available to the public, and transmits to the appropriate authorizing committees of each House of Congress a complete statement of the relevant facts disclosed by the offeror pursuant to subsection (b), consultant, or subcontractor, or otherwise known or made available to the agency.

(e) (1) Whenever an agency, after entering into a contract, determines that an organizational conflict of interest exists with respect to the contract, the agency shall—

(A) terminate the contract; or

(B) in any case in which termination is not in the best interest of the Government, modify the contract to the extent necessary to prevent or mitigate to the greatest extent possible the conflict and include in the records maintained by the agency on the contract, make available to the public, and transmit to the appropriate authorizing committee of each House of Congress a complete statement of the relevant facts determined to exist regarding the offeror, consultant, or subcontractor.

(2) (A) Except as provided in subparagraph (B) a contractor or a consultant or subcontractor to any contract shall have no cause of action against the United States for damages as a result of an action of an agency under paragraph (1) (other than a cause of action for damages specified pursuant to a convenience clause in the contract), but a contractor may have a cause of action against the United States for compensation for work performed prior to such agency action.

(B) A contractor shall have no cause of action for compensation for work performed prior to an agency action under paragraph (1) if it is determined that the contractor's, consultant's, or subcontractor's failure to completely disclose the relevant facts under subsection (b) precluded a determination of the existence of an organizational conflict of interest prior to the award of the contract.

BUDGET IDENTIFICATION AND JUSTIFICATION

SEC. 206. (a) The head of each agency shall include with the request for regular appropriations for each fiscal year submitted to the Director of the Office of Management and Budget pursuant to section 215 of the Budget and Accounting Act (31 U.S.C. 23) an itemized statement of the amounts requested by the agency for the procurement of goods and services in such fiscal year. The statement shall identify such amounts according to the same subfunctional categories to be used by the President in the submission of the Budget for such fiscal year pursuant to section 201 (a) of such Act (31 U.S.C. 11), and, within each such category, shall identify such amounts according to—

(1) amounts requested by the agency for the procurement of goods;

(2) amounts requested by the agency for the procurement of services, including amounts (specified separately) requested for contracts for the preparation of reports; and

(3) such other classifications as the head of the agency determines appropriate.

(b) The Budget transmitted by the President to the Congress for each fiscal year under section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11) shall set forth separately, within each subfunctional category used in such budget, requests for new budget authority for, and estimates of outlays by, each agency for (1) procurement of goods and (2) procurement of services, including requests and estimates (specified separately) for contracts for the preparation of reports.

(c) (1) By April 1 of the fiscal year preceding the fiscal year for which the Budget is submitted pursuant to section 201(2) of such Act, the head of each agency shall prepare and transmit to the Committees on Appropriations of the Senate and the House of Representatives an analysis of each request for new budget authority and of the estimates of outlays included in such budget pursuant to subsection (b) and a statement justifying the need for each such request and estimate.

(2) Within 60 days after the President transmits to the Congress a revision of any request or estimate included in the Budget for any fiscal year pursuant to subsection (b) the head of the agency affected by such revision shall prepare and transmit to the Congress a modification of the analysis and statement required by paragraph (1) which reflects the revision made by the President.

CONTRACT EVALUATION

SEC. 207. (a) Within 120 days after performance has been completed of any contract in a total amount in excess of $50,000 which provides for the preparation or submission of a report, the agency shall prepare a written evaluation of such contract. The evaluation shall include—

(1) a description of each report submitted by the contractor, including a description of the recommendations, conclusions, or findings therein;

(2) a description of the actions which the agency took in response to the report, or, if no such action was taken, the reasons therefor; and

(3) a summary of the performance of the contractor under the contract, including—

(A) the performance of the contractor according to the terms and specifications included in the contract; and

(B) any deviation by the contractor from the provisions of the contract originally awarded with respect to cost and time for completion of the contract and reasons for any such deviation.

(b) The agency shall include the evaluation required by subsection (a) in the records maintained by the agency regarding the contract, and shall maintain a copy of the evaluation at a central location within the agency.

PERFORMANCE APPRAISAL

SEC. 208. (a) Section 4313 of title 5, United States Code, is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) compliance with rules, regulations, and procedures applicable to the contracting out of agency functions, and furtherance of the policy set forth in section 2 of the Consultant Reform Act of 1980;".

(b) Section 5402(b)(2)(B) of title 5, United States Code, is amended by striking out "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) compliance with rules, regulations, and procedures applicable to the contracting out of agency functions, and furtherance of the policy set forth in section 2 of the Consultant Reform Act of 1980; and".

LIMITATION OF EXPENDITURES

SEC. 209. Section 3679(c) of the Revised Statutes, as amended (31 U.S.C. 665) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In exercising apportionment authority under this section for the fiscal year ending September 30, 1981, and each of the following two fiscal years, the Director of the Office of Management and Budget shall insure that no more than 20 percent of the total appropriations made available for each agency for any such fiscal year for procurement of goods and services may be obligated during the last two calendar months of such fiscal year.

"(B) The Director may exclude from the requirements of subparagraph (A) funds for procurement of goods and services for any program or operation—

"(i) if and to the extent the Director determines necessary to assure that a serious disruption in the execution of that program or operation would occur in the absence of such exclusion, and

"(ii) if the Director has submitted a written report on such waiver to the Congress as early as practicable.

"(C) The Director shall keep the Congress fully informed of actions taken to carry out subparagraph (A) for each fiscal year involved, and shall promptly report in writing any situation in which an agency's obligations exceed the 20-percent requirement in subparagraph (A) other than pursuant to a waiver under subparagraph (B). Not later than December 31, 1982, the Director shall submit a report to the Congress on the results and impacts of this paragraph and actions taken under this paragraph, including the effects upon procurement and apportionment processes, together with the Director's recommendations concerning the continuation requirements under this paragraph for any provisions of such requirements. Concurrent with the submittal of the report to the Congress under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Congress an analysis of the report and any recommendations which the Comptroller General considers appropriate.

"(D) Any reserves established or other actions taken in connection with the apportionment process solely for the purpose of satisfying the requirements of subparagraph (A) shall be exempt from the last sentence of subsection (c)(2) of this section and from section 1012(a) of the Impoundment Control Act of 1974. Nothing in this paragraph shall be construed to affect the authority of the Comptroller General under section 1015 of the Impoundment Control Act of 1974 to report a reserve or deferral to the Congress if the Comptroller General concludes that the reserve or deferral is not exempt under this subparagraph.".

PROCUREMENT DATA SYSTEM

SEC. 210. (a) Not later than September 30, 1981, the Director of the Office of Management and Budget shall promulgate and make effective a regulation establishing a data system for the collection, processing, maintenance, and dissemination of information regarding the procurement activities of the Government and of each agency.

(b) Under such system—

(1) each contract covered by the system shall be classified as to whether the contract is primarily for the procurement of goods or of services, and if for services, whether the services are primarily for the preparation of a report; and

(2) all relevant information regarding each such contract shall be included, particularly—

(A) an identification of the agency which awarded the contract,

(B) the identification number or other designation of the contract,

(C) an identification of the parties to the contract,

(D) the maximum amount payable by the United States under the contract,

(E) the estimated completion date of the contract,

(F) whether before the awarding of the contract a comparison was made of (i) the costs to the agency of directly performing the function covered by the contract with (ii) the costs of contracting with non-Federal enities for the performance of such function,

(G) the type of solicitation and procurement process which was applied in awarding the contract, and

(H) the date and a description of any modification to the contract affecting the quality, quantity, or extent of the goods or services provided, the date of the performance of the contract, or the amount payable by the United States under the contract.

(c)(1) Consistent with otherwise applicable law, the Director shall make information within the system available, on request, to the Congress, the various agencies, and the public.

(2) The Director shall prepare and transmit to the Congress quarterly and annual reports to the Congress regarding the procurement activities of the Government and of each agency from the information maintained within the system.

(d) The regulations issued by the Director under subsection (a) shall require that each agency provide on a periodic basis sufficient information to assure that the data in the systems, and in the reports under subsection (c)(2), are current, accurate, and complete.

FREEDOM OF INFORMATION ACT AMENDMENT

SEC. 211. Section 552(a) of title 5, United States Code, is amended by redesignating paragraphs (3), (4), (5) and (6) as paragraphs (4), (5), (6) and (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Each agency shall make information produced or collected pursuant to a contract available to the public to the same extent as if produced or collected by Government officials.".

EFFECT ON OTHER LAW

SEC. 212. The provisions of this title shall supersede any statute enacted before the date of enactment of this Act to the extent such statute is inconsistent with the provisions of this title.

EFFECTIVE DATE

SEC. 213. The provisions of this title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

CONSULTING REFORM ACT OF 1980

SUNSHINE IN GOVERNMENT PROVISIONS

Clarifies that except for national security reasons, all contracts are considered public information.

Requires that all written agency reports prepared wholly or partially by contractors, clearly state:

(a) the name and address of the contractor and subcontractor;

(b) the cost of the contract and a description of the contract work;

(c) the type of procurement and the government officials who authorized the contract;

Requires that a notice of intent to enter into a contract over $10,000 (or a modification over $50,000) exceptions for national security and unusual and compelling emergency be published in the Commerce Business Daily.

Mandate that agencies shall maintain and make available to the public, complete lists of contracts (exception for national security) including:

(a) the contract number;

(b) the contractor's name;

(c) the award and completion date;

(d) the initial and current dollar value;

(e) a description of the work; and

(f) the name of the government contracting officer.

Clarifies that information produced or collected under contract shall be available to the public to the same extent as if collected by government officials.

CONFLICT-OF-INTEREST PROVISIONS

Defines organizational conflict of interest and requires disclosure of all information relevant to a potential conflict of interest when a proposal for a contract is submitted.

Places the responsibility on the agency to disqualify individuals or firms from receiving contracts when a conflict of interest exists.

YEAR-END SPENDING PROVISION

Limits spending on procurement in the last two months of the fiscal year to no more than 20 percent of the total year's procurement appropriations (except in an emergency situation).

BUDGET ITEMIZATION PROVISION

Requires that agency budget requests itemize amounts requester for procurement of goods and procurement of services.

CONSULTANT JUSTIFICATION PROVISIONS

Requires that before action may be taken to initiate a contract, it must be certified that the services are needed and that the needed services can not be obtained by appointment.

Mandates that a contract evaluation occur for certain contracts over $50,000.

FEDERAL MANAGEMENT ACCOUNTABILITY PROVISION

Includes as a criterion of evaluation of Federal managers, compliance with procurement rules and regulations and furtherance of the policies in this bill.

Mr. PRYOR. Mr. President, there has been an outstanding five-part series of articles which appeared in the Washington Post, beginning June 22 and concluding today, June 26. These outline, I think in great detail, some of the major problems that we are facing today with contractors and consultants basically taking over and running this Government.

Mr. President, I ask unanimous consent at this time that this five-part series, which was in the Washington Post, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AN EPIDEMIC OF WASTE IN U.S. CONSULTING, RESEARCH

(By Jonathan Neumann and Ted Gup)

The ever expanding use of private consultants and researchers by the federal government has produced an epidemic of conflicts of interest, favoritism, massive waste and flagrant violations of government regulations and policies.

A review of all 13,848 contract awards published last year showed that the government spent more than $9.3 billion for outside expertise—a figure that has not been compiled previously.

That same review found that the government's system of awarding contracts through competition—required by regulation and policy—has virtually collapsed. Sixty-eight percent of the 16,101 research and consulting contracts advertised last year were awarded without competition.

The work done by outside firms is often unmonitored and unnecessary, while studies of critical importance performed by firms with deep financial self-interest, routinely go unquestioned. Tens of millions of dollars in studies and research sit unexamined in warehouses, agency files and cardboard boxes.

These conclusions are based on an eight-month investigation by The Washington Post. Thousands of documents were examined, and more than 600 government officials and private contractors were interviewed.

Everything in this series of articles is documented and based on on-the-record statements by those directly involved in the federal contracting business.

There are some who defend consulting work both in government and industry, and there have been competent studies and research in which the taxpayers received their money's worth. But the pervasive view of those closest to the business, both in government and in private firms, is negative. This is a series about an epidemic of waste, as told by the participants.

The series will detail, in case studies of more than 40 private firms and 11 federal departments and agencies, exactly how the government contracting system works today. It will show:

Conflicts of interest. The government awards multi-million-dollar contracts to major oil and chemical companies and their research divisions to provide and evaluate data used in regulating their own products. In many instances, the traditional adversary relationship between government regulator and private manufacturer has broken down.

Widespread waste. An examination of 13 contracts for five federal agencies totaling $15 million shows that officials and consultants agree that most of the money was wasted and half of the products resulting from the contracts were useless.

Revolving door. In hundreds of cases, government officials leave their posts to work at much higher pay with consulting firms they had monitored weeks or even days earlier. These officials then routinely receive federal contracts directed to them by former colleagues and friends from within the agencies they left behind. Some former officials charge their former agencies $300 to $500 a day.

Procurement favors. Many government officials responsible for awarding and monitoring contracts routinely accepts favors from contractors and enjoy a close relationship with them well beyond that required by work. In one instance, the contractor and the very government official who headed the office that supervised the contract lived together in the same house. In another case, a firm hired prostitutes for a senior government official monitoring the firm's trouble contracts.

So flawed is this system from start to finish that many of those involved in it openly condemn their own work.

"There are just too many people who have angles to get around the system," says John O'Mally, editor for the last 11 years of the official daily publication that advertises federal contracts to potential bidders.

"The real sexy stuff with big bucks . . . more often than not has been 'wired' for somebody," said Joseph Seltzer, a consultant who formerly served as inspector general for the Department of Energy. "It's something talked about quite openly. Whenever the fat-cat consultants get together over lunch, they talk about 'wiring' [advanced, unauthorized agreements]. The third question over lunch is 'Do you know if this thing is wired yet?' "

The process in awarding the contracts is just the first flaw. Next is the quality of the work performed. Here, again, there are voices of despair and resignation within the system.

"The bottom line on contracts—pure paper studies," says Roy Higdon, a contract-monitoring officer for the Environmental Protection Agency. "The public gets . . . maybe 10 percent of their money's worth."

"It's a game," adds William Farris, a consultant who sits on the national board of directors of the Institute of Management Consultants. "Government comes to us and wants to help in identifying their problems, but they don't seem to be able to use the material. They could spend much less and get more for it."

David Webb, a contract officer in charge of a $250,000 study that the then Department of Health, Education and Welfare labeled "an unintelligible pile of papers," says: "I look at it this way. Nothing was received and we paid thousands for it. It really is a lot of gobbledygook . . . As a taxpayer I'm sick."

At the Department of Energy, contracting officer William Stevenson says: "We're so busy trying to shovel the money out the door, we don't have time to see what happens to it after it leaves. All the money could be stolen and I wouldn't know it . . . The place is a madhouse."

But, even while they are condemning the system, some government officials and consultants decide to take advantage of it. One example is Max Paglin, who left the Federal Communications Commission in 1971 after serving 30 years there in several positions, including general counsel and executive director.

In 1977, Paglin was asked by FCC Chairman Charles Ferris to come back as a consultant. He has since received $112,442 in noncompetitive contracts to perform studies. Now, at age 66, he has his own office in the FCC general counsel's office, where he spends three to four days a week being paid at a rate of $225 a day.

"Should this thing be put out for bids?" he asks. "I'd guess in principle I'd say so." But Paglin says the award to him is justified. "I'm a unique person to produce this kind of report. I don't think there's anyone else around. I don't mean to sound boastful."

Still, Paglin acknowledges that such contract awards can cause problems:

"It's pretty damn obvious. Let's not play games. There's the sweetheart-type contract where the admiral resigns and his buddies get him a contract. Certainly there are opportunities for abuse."

An example is James Pickman, former executive deputy commissioner of education. In March 1979, while still on the job, Pickman wrote a memo to then Health, Education and Welfare secretary Joseph Califano, saying: "I am concerned about cozy relationships on the program side as well as in our grants office.

Less than a year later, Pickman resigned his HEW post. Within 11 days of his leaving, on Feb. 5, 1980, he submitted a proposal for a consultant contract. Ten days later he was awarded a noncompetitive contract. He was to be paid $1,500 a week for six weeks as an office space consultant. His task: to find office space for 14 new presidential appointees and their staffs for the new Department of Education.

"It obviously looks lousy," says Pickman of his contract. "Here I was someone who left and got a contract . . . But it was a real natural . . . This was an area I was familiar with already. To compete would have been crazy."

Pickman's award did not violate HEW regulations because the contracting officer (a former HEW associate of his) signed a document declaring that Pickman and only Pickman could do the specified work.

The Post investigation found that every federal department and agency has its own, often confusing, rules on when and how to contract out for expertise. Frequently, the agency is so vague in what it is seeking that even the contractor says he does not know what is expected of him.

While the government pays out more than $30 million a day to these contractors, rarely does it make an effort to verify consultants' billings for hours logged or travel expenses charged to the government. The contractors merely send in invoices and the government sends back checks. Audits, sometimes conducted years after the contractor has been paid, detect only the most flagrant abuses.

Even fewer safeguards exist to protect against fraud. Last year, for example, the EPA awarded a $170,000 contract to Opalack & Company, a Washington accounting firm that was auditing Department of Labor contracts. Even as the new EPA contract was awarded, the FBI was concluding its investigation of Opalack, which had won the Labor Department contract by submitting a score of resumes of people not affiliated with the firm.

"They almost invited us in," Paul Opalack said in an interview a week before he was to begin serving a six-month jail sentence for submitting the false resumes.

In another instance, in 1976, Gene Miller, a former HEW official who had been convicted and jailed for accepting a bribe, began a consulting firm after his trial in Dallas, Tex. While in jail, he received money from several schools that paid him to advise on the use of federal funds for student financial aid.

THE REGULATORS: A STUDY IN CONFLICT

(By Jonathan Neumann and Ted Gup)

Two things happened on June 25, 1975, that affected the U.S. government and Exxon.

On the northern rim of Alaska, the world's largest oil company began discharging 450,000 gallons of polluted water into the sea just east of Prudhoe Bay. Exxon later would pay a $100,000 fine for the discharge which violated regulations of the federal Environmental Protection Agency (EPA).

On the same date in Cincinnati, EPA awarded the Exxon Research and Engineering Corp. a $965,000 contract to write a report laying the groundwork for methods on how the agency should control pollution from off-shore oil drilling.

It may have been unusual that these two events occurred on the same day. But the fact that the government awarded a research contract to a corporation that had a vested interest in the results is not at all uncommon. Every year, the government turns to industry members to help it decide how they should be regulated and, if so, to what extent.

The stakes in these government-sponsored studies by private manufacturers or their research subsidiaries are high. They could affect the quality of water, air and land for years to come. They also could lead to stringent new regulations costing industry billions of dollars.

This article examines four major contracts the government awarded to industries for research firms:

A $5.8 million EPA contract to Monsanto Research Corp. to measure air, water and solid-waste pollution from several industrial processes and the production of major commercial chemicals, several of which are made by its parent company, Monsanto.

In 1977, just after Monsanto opened a new plant to expand its production of the widely used chemical acrylonitrile, Monsanto Research Corp. gave EPA data from which the agency concluded that pollution from acrylonitrile was not a serious problem. Today, an EPA expert says that conclusion "was not reasonable" and that the chemical is "a major polluter."

An $812,905 million contract to Dow Chemical, part of which was to produce a catalogue detailing chemical processes so EPA could repsond to chemical emergencies and plan for regulation. In bidding for the contract, Dow promised in writing to open up its vast corporate facilities and provide information to those working on the study. Once the project began, however, Dow's own researchers said they received virtually no specific information—other than already publicly available material—from any of Dow's facilities. The EPA official who monitored the contract said he felt Dow broke its promise.

A $669,000 contract to Arthur D. Little, a large consulting firm. One task in the contract was to assess the impact of regulating arsenic emissions from the largest copper smelter in the state of Washington. Traces of arsenic from the Asarco plant in Tacoma had been found in children's hair and urine samples.

Little's copper expert, an outspoken critic of regulation, had recently completed a similar study funded by Asarco in response to proposed federal health and safety regulations. In both the Asarco study and the EPA report, he recommended against regulation, saying that any government controls would force the plant to shut down because of economic hardship. Asarco later used the EPA-funded study in opposing further controls.

The $965,500 contract to Exxon Research and Engineering Corp. to help formulate EPA controls of off-shore oil drilling. Portions of the report were written by Exxon production personnel who designed the off-shore platforms.

The study included an on-site visit to an Exxon platform in the Gulf of Mexico. Exxon researchers concluded off-shore oil drilling did not pose any serious pollution problems. The EPA project officers monitoring the contract said they felt the report was "shallow" and self-serving.

There are many other examples. Monsanto Research alone received at least 30 contracts totaling more than $15 million from EPA during the past decade. Exxon and its subsidiaries have had four EPA contracts worth $9 million and Dow and its research arm have also received other EPA research contracts.

The Environmental Protection Agency is not alone in its reliance on private industry for research help. An examination of contracts with the Nuclear Regulatory Commission, the Department of Energy and the Department of Commerce revealed dozens of cases in which industries won contracts whose findings could have a significant impact on their private work and profits.

Exxon and its subsidiaries, for example, has had contracts with the Department of Energy, the Department of the Interior, the Navy, the Air Force and the Department of Commerce. The two Exxon contracts with Commerce called for the oil company to monitor hydrocarbon pollution along its own shipping routes.

Many high-ranking officials in Washington said they did not know that such contracts existed.

"It would come as a surprise to me," said David Bickart, EPA's deputy general counsel, when informed of the EPA-Dow contract. "I'm not aware of instances in which we've awarded a contract to the very industry we're supposed to be regulating. . . . Certainly that would be a concern." Bickart said he had been aware EPA contracted with Monsanto Research Corp.

Said Foster Knight, of the White House Council on Environmental Quality's office of general counsel: "I've heard of some pretty crazy contracts by reading [Sen. William] Proxmire. . . . But I would not expect to find EPA awarding contracts to the industry it is regulating. I find that very peculiar. . . . It bothers me."

Traditionally, the EPA and the industries it regulates have been viewed as staunch adversaries. Industry executives constantly rail against federal regulations imposed upon them. In fact, at the very times that researchers for Exxon, Monsanto and Dow were working for EPA, the legal or executive officers of the same firms were battling EPA and other federal regulatory agencies in court or in public speeches.

Even as Dow researchers were working for EPA, Paul F. Oeffice, Dow's chief executive officer, told the Arizona Business Forum in Phoenix in March 1979: "The regulatory fever which has gripped the governing bodies of this nation is a malignant disease. . . . EPA (is) the most out of control of all agencies . . . We must deal with this fourth branch of government before it strangles us."

One way industry has dealt with EPA is by taking part in the research the agency uses for control and regulatory decisions. The companies bid on EPA contracts because they say they prefer to have someone with industry experience do the work rather than risk someone unfamiliar with production or with an antibusiness bias doing the research.

Why, then, are government research contracts going to such firms?

Most government agencies say they must contract out for research studies because they lack the facilities and manpower to do the work themselves. In selecting contractors they must choose a member of the industry to be regulated or a consulting or research firm—many of which have close industry ties because their very livelihood depends upon winning industry contracts.

Some in government and industry say they do not see these alternatives as a problem. They say they do not see a potential for conflicts of interest.

"Of course we work with Dow and Monsanto," said Malcolm Huneycutt, branch chief of EPA's regional contracts office in North Carolina. 'I don't see anything wrong with that. They are the experts in the industry. We rely on them. We trust them."

Huneycutt noted that the EPA's own staff monitors the contracts to verify their reliability. But several EPA officials who actually do the monitoring said in interviews that they lack the expertise to question the reliability of the reports.

"I could be issuing an assignment to someone who could be pulling the wool over my eyes," said Joseph McSorley, an EPA contracts officer who worked on the Dow study. "We just don't have the experts to know."

Within EPA, there are widely divergent views about whether to trust the work of industry researchers. Generally, those working for the EPA's research division share Huneycutt's views. But in the EPA's regulatory branch, contracts with industry are viewed with skepticism.

"You mean to tell me they [EPA researchers] say they trust the chemical company data?" asked David Burscone, of the EPA's regulatory branch. "Over here we take pretty much the opposite view. We tend to take everything they say with a grain of salt."

An examination of government contract files and internal corporate documents, and hundreds of interviews with government program officers and industry employees provide this account of four industry studies for the EPA:

MONSANTO

On April 14, 1975, EPA awarded a $4 million contract to Monsanto Research Corp. a wholly owned subsidiary of the Monsanto Company, the nation's fourth-largest producer of chemicals.

The purpose of the contract was to study pollution emissions from 62 industrial processes, including the production of chemical products. The study was supposed to help the EPA identify possible environmental hazzards and, ultimately, to decide where controls and regulations would be needed.

The EPA selected Monsanto Research Corp. over five consulting firms that had bid competitively for the contract. Dale Denny, the EPA project officer, said that two bidders—Monsanto Research and Roy Weston, a consulting firm—had good proposals, but Monsanto was chosen because it submitted the lowest bid.

Within a year of the award, the contract price was increased to $5.8 million as the work expanded.

As a subsidiary of the chemical company, Monsanto Research takes many of its researchers from the parent firm's production plants and sends them back after they have worked on EPA contracts at the Dayton, Ohio, laboratory.

The EPA raised, and quickly dismissed, the question of whether there was a conflict of interest in Monsanto Research's work on a project of potentially vital concern to its parent company. Said EPA regional contracts chief Malcolm Huneycutt:

"We asked them [Monsanto Research] if there was a possible conflict of interest, and they said, 'No'."

Added EPA's Denny: "Monsanto Research Corp. is owned by Monsanto Chemical but they are a separate entity, so we're not dealing with Monsanto Chemical."

Once Monsanto Research got the contract, Denny said the firm proposed to EPA that it conduct the first part of its study on acrylonitrile. That chemical is widely used in producing acrylic fibers for carpets, clothing, plastics and synthetic rubber.

Monsanto was the world's second-largest producer of acrylonitrile when the contract was awarded, and it was then in the process of building a new plant in Texas City, Tex., that would make it No. 1 in the field.

In its June 1974 issue, Chemical Week featured an article entitled, "Monsanto Is Bullish on Acrylo"—a statement supported by the fact that the company's sales volume of the chemical in the next year was $110 million.

The study was headed by Thomas W. Hughes, a chemical engineer with Monsanto Research since 1970. Hughes said in an interview that a number of other chemical companies expressed surprise that Monsanto was doing a project for EPA.

"The first reaction (from the other firms) was, 'Why the hell is Monsanto doing this?' " Hughes recalled.

Even Douglas A. Horn, coauthor of the acrylonitrile study and now with a Monsanto plastics plant, said he had difficulty answering that question.

"I had asked the same question myself when I first started working that contract," said Horn. "I never really got a satisfactory answer."

Horn suggested that Monsanto may take EPA contracts because "it keeps it on top of what the government's doing. We know what the EPA's thinking about, what they're interested in and what their latest developments are."

Both Hughes and Horn said they felt that my company's engineer could conduct the study, that their association with Monsanto did not give them an exclusive expertise or insight in the area.

"I have never even seen an acrylonitrile plant," said Horn. "I have never set foot in one." Hughes also said he had never been in an acrylonitrile plant before the project began.

EPA's profound trust in Monsanto was made clear at the outset.

Even before work on the contract began, EPA officials agreed to allow Monsanto to destroy certain original documents. The information contained in them was neither to appear in reports nor to be seen by anyone from the EPA.

Those were the conditions set by Monsanto Research Corp., which did not want anyone—including EPA—to know the plants and companies from which the acrylonitrile emissions were measured. Company officials said they didn't want the plants identified for fear that specific data of any sort might reveal company trade secrets. Four U.S. chemical companies produce acrylonitrile.

EPA does have the authority under its enforcement powers to enter industrial plants, to measure pollution and to publish names, locations, and data, EPA's Denny said. But, he added, it was easier for EPA and researchers alike to rely on voluntary cooperation.

"They were to destroy original records—that was the agreement," Denny said.

Hughes, of Monsanto Research, said he did, in fact, destroy the sheets with company names on them. The final report Monsanto Research eventually sent to the EPA contained no pollution data related to specific plants or companies. Instead, the study centered on a "hypothetical" acrylonitrile plant, which was to represent the industry. The emission figures represented only totals and averages, with no independent means of verification contained in the report.

No one from EPA ever asked to examine the original data gathered by the Monsanto researchers or to check the accuracy of the data regarding the "hypothetical" plant, said Hughes, who kept the data. Of the 17 EPA studies Hughes supervised the EPA asked for supporting data in only two instances, he said.

The original data for the acrylonitrile study remains under lock in Hughes' office. To this day, Denny says he does not know which plants were examined in the course of the study. A company spokesman refused to release the data.

A draft of the report was completed on March 15, 1976, Monsanto researchers said. Before delivering it to EPA, they said they sent it to Monsanto's corporate offices to be reviewed by the company's acrylonitrile experts and a Monsanto lawyer.

But it was 16 months before Monsanto Research Corp. sent the draft report to EPA, on July 10, 1977, according to both the researchers and Denny.

A primary reason for the delay, according to Hughes, was that the Monsanto experts reviewing the report were preoccupied at the time with the construction of the Monsanto acrylonitrile plant in Texas City.

Gene Tromblee, chemical process manager of the Texas City plant, was one of those reviewing the report.

"We wanted to make sure that the analysis was averaged and not specific, so no firms could be identified," Tromblee said. Company officials also said they reviewed the study for possible technical errors.

Harry Keating, a Monsanto Company official who would later help draft corporate arguments against acrylonitrile health regulation, also reviewed the report during 1977. He said he recalls finding "one or two errors" in the report that he corrected. He said he does not recall what the errors were.

A high-level Monsanto Research official who reviewed the report was Robert Opferkuch, the contract manager for the research branch and a man who speaks openly about his antiregulatory feelings. "I would say there is too much regulation," Opferkuch said in an interview. "I happen to be an individual who doesn't like regulation."

While Monsanto Research Corporation continued to review the report, there were two major developments concerning Monsanto and acrylonitrile.

In January 1977, Monsanto opened its new acrylonitrile plant in Texas.

In March 1977, the U.S. Food and Drug Administration (FDA) announced that it would ban the use of acrylonitrile for soft drink bottles. The FDA said that tests showed that acrylonitrile may be cancer-causing, and that the chemical "migrated" from the bottle into the soft drink.

Monsanto immediately challenged the FDA, disputing the government's research with laboratory findings of its own. (Although the ban has been in effect for three years, Monsanto still contests the FDA findings.

On July 10, 1977, Monsanto Research sent the report to EPA.

In September 1977, EPA published the acrylonitrile report as part of its Environmental Protection technology series. The front cover of the report bears the official seal of the U.S. Environmental Protection Agency. The report was entitled, "Source Assessment: Acrylonitrile Manufacture (Air Emissions)."

There was no reference to Monsanto Research Corp. on the cover.

This official government report was actually the study written by Monsanto Research Corp. Inside the report, credit was given to Hughes, Horn and Monsanto Research, and EPA noted that the study was not necessarily government policy.

The critical finding made by EPA based on the study was that acrylonitrile production does not create hazardous emissions warranting further development of controls or EPA regulations.

"The final report was okay," EPA's Denny said. "Based on the Monsanto report, we decided then we weren't going to try to do any more on acrylonitrile. There was no good reason to look at it anymore (for possible controls or regulations). As far as we were concerned, acrylonitrile was on the back burner."

Two years later, as part of a major investigation of air pollution causes, the EPA's regulatory branch decided to examine acrylonitrile. As is often the case within EPA, the regulatory officials disagreed with the findings of the research branch.

In an interview, David Muscone, of chemical and petroleum section of EPA's regulatory division questioned the conclusions EPA drew from the Monsanto Research report that pollution control of the chemical was adequate.

"Quite frankly," Muscone said in an interview, "I don't see how they (EPA and Monsanto researchers) reached that conclusion . . . It was not reasonably based on the data we have . . . Our conclusion is that acrylonitrile is one of the biggest sources of hydrocarbons in the petrochemical industry.

"It is a major polluter," said Muscone.

Muscone said the Monsanto Research report was defective in two ways. First, he said, the report failed to take full account of the effect of hydrocarbons in the atmosphere after they are emitted from the plant. Second, he said, the research omitted several areas of pollution stemming from leaks during production. Both, said Muscone, should have been fully considered.

"You might say they made errors of judgment," Muscone said. "Some of their methodology just doesn't make sense . . . regardless of how they did it, their figures [on the amount of pollution emissions] are lower than they should be."

In addition, said Muscone, the study was useless to EPA's regulatory arm because it was based on a hypothetical plant. "We've got to have raw, documented data," he said. "We need to have publicly available information if we go to court. If somebody sues us, or if we challenge someone, we have to be able to back our studies with actual data."

Monsanto researchers say they believe today, as when the report was done, that their study is accurate. As Muscone's views that they failed to consider fully the effects of hydrocarbons in the atmosphere or of leaks, they say the technology to measure such effects was not developed at the time of the study. Muscone disputes that argument.

EPA today is continuing its research into the potential pollution hazards in the production of acrylonitrile. To this date, there are no EPA regulations of acrylonitrile production.

DOW

On May 11, 1973, Albert T. Maasberg, director of Dow Chemical's contract research division, wrote a nine-page letter to the EPA contracts division in North Carolina.

Maasberg wrote the letter while Dow was vying with several other firms for a $1 million EPA contract. The contract called for detailed descriptions of numerous chemical processes to be used by EPA to respond to chemical emergencies and for planning regulations.

In an effort to persuade EPA to choose Dow over its competitors, Maasberg made a promise. He said his researchers would have access to all of Dow's facilities.

It was a promise that an EPA official later said was broken.

Maasberg wrote: ". . . The proposal is submitted by the Dow Chemical Company. Therefore, all the company facilities can be made available to carry out the work and all technical personnel would be available for consultation in their particular area of expertise . . . "

He then detailed what Dow could offer across the country in its various divisions, explaining that Dow had tremendous production experience and expertise.

Two months after the letter was sent, Dow was awarded the contract. Other firms, which won other EPA contracts, contributed to different sections of the catalogue.

The EPA monitor on the Dow contract was to be Joseph McSorley, working in Research Triangle Park, N.C. For Dow, the research team working on the catalogue of chemical processes would include Burchard P. Shepard and John T. Reding. They would work in Dow's offices in Freeport, Texas.

In interviews, EPA's McSorley and Dow's Shepard said they develop a good working relationship and respect for each other. But after a short while, EPA's McSorley grew frustrated with Dow.

"One of the reasons we gave them the contract was because they had so many chemical divisions and they promised to open them up for the project," McSorley said. But once the project started, Burch [Shepard] didn't seem to have authority within Dow. He said that every time he wanted information from a different Dow division, they claimed they were 'too busy.' "

As a result, McSorley said, Dow broke its promise: its various divisions were not cooperating with the researchers.

Shepard, in an interview, said he did not recall his conversations with McSorley, but he did not dispute anything McSorley said.

While Shepard said he did not remember those conversations, he said he supports the company's right to withhold certain information. He said he personally chose not to include "proprietary data"—"information which would be valuable to our competitors"—from the EPA reports.

"We wouldn't put that in the report," he said. "No company would."

His associate, Reding, said in an interview that he did most of the research for the reports. He said he was "not particularly happy" with the work.

"I guess I felt like Dow would not be willing to give us anything they considered to be proprietary," Reding said. "So I was not sure I was always getting the latest data. They were telling us the general things to look at—what was already published in literature. They didn't give any Dow specific numbers."

In the end, Reding said, virtually all of the data he used for the reports came from already published material—material, he said, that had been available to anyone in the country.

"The results were too general for anyone to apply them too well," Reding said. For the EPA to accomplish anything, you have to get specific, and I don't think my report was specific enough."

Maasberg, the man who wrote the letter promising that Dow would make available all its facilities to its searchers, said in an interview that Dow did not break its promise.

"It's a matter of opinion," he said. "I feel we kept our promise. . . . But I can understand why Joe (McSorley) feels the way he does."

Dow's Maasberg said he recalled receiving several phone calls from EPA's McSorley requesting specific information on some of the chemical processes the EPA was interested in studying.

"What they wanted was some of our process development work that somehow they found out about," Maasberg said. "These were new developments, improvements—some of them not yet being used. We couldn't give it to anybody. This was proprietary. Besides that, you'd lose the competitive edge to other firms."

McSorley, at the EPA, said that his concerns went beyond the completeness of the Dow reports. "My concern was: could any of the information be believed by the layman?" McSorley recalled. "Is Dow really reflecting the key points of [pollution] emissions in their reports? I couldn't make that judgment because I don't have the expertise.

"If they were deliberately trying to feed false information . . . that would be very difficult for us to detect—because we're just not knowledgeable enough to know."

Dow's Maasberg, Shepard and Reding all said in interviews that the Dow reports were accurate and honest.

McSorley said the question arose in his mind simply because the contractor, Dow, has such large financial interests in the chemical processes they were writing about.

"I went to my supervisor [Malcolm Huneycutt], and said, 'I could be issuing an assignment to someone who could be pulling the wool over my eyes. What can we do?' "

Huneycutt replied: "Well, you go with the people who know the industry the best and hope you can trust their integrity."

Despite McSorley's concerns, a series of reports written by Dow researchers Shepard and Reding were published in 1975 and 1976 by the EPA.

As with the Monsanto studies, the Dow reports were published under a cover bearing the official seal of the federal agency with the titles, Environmental Protection Technology Series, and date, but no indication on the cover that the reports had been written by the Dow Chemical Company. Inside, the report was credited to Dow Chemical.

The possibility that Dow may have a conflict of interest in the contract was not discussed before the contract was awarded, Huneycutt, a branch chief in the North Carolina regional EPA contracts office, said in an interview.

"The issue never even came up," before the contract award he said.

ARTHUR D. LITTLE

A series of tests by health officials in the early 1970s showed that children living near the Asarco copper smelter in Tacoma, Wash., had elevated levels of arsenic in their hair and urine.

The test results came as no surprise to residents living near the 80-acre smelter. Since 1890, the plant—the largest copper smelter in the state and the nation's sole producer of arsenic—had been billowing out smoke laden with sulfur dioxide and arsenic. The emissions eat through the paint on houses and cars and settle on the lawns where parents warn children not to pay.

An estimated 1,000 pounds of arsenic emissions pour from the plant each day, according to a National Institute For Occupational Safety and Health study.

In 1975, EPA was in the early stages of planning air pollution regulations of the Asarco smelter. As a preliminary step, the agency planned to contract for a study of the economic impact such regulations could have on the plant.

EPA officials in the North Carolina research office chose to award the contract to Arthur D. Little Associates, a large, national consulting firm based in Boston.

A new contract would not be needed, because under the terms of an existing $669,000 EPA contract with the firm, the agency could ask for such a study at any time.

But there were those in EPA who argued that the contract should not go to Little. The firm had just written a report, paid for by Asarco, which said that government regulations would force the plant to shut down because of economic hardships.

That report, dated June 1975, was being used by Asarco to protect proposed safety regulations by the federal Occupational Safety and Health Administration (OSHA).

"The conflict of interest was obvious since they (A. D. Little) had already done the work for Asarco," said Robert L. Coughlin, an EPA economist on the West Coast.

Rauindra Nadkarni, Little's copper expert for Asarco, also recognized the appearance of conflict:

"We thought that a conflict could be perceived, and we discussed it with the EPA," Nadkarni said. "We wanted to make sure that if they chose us for the study, the issue was fully aired before anything was signed. We did not want to do the study if the EPA felt it was a conflict of interest.

The EPA nonetheless decided to assign the study to A. D. Little.

"A. D. Little was our only alternative. We couldn't afford to go out and hire someone who would be wholly objective but naive," explained Alan Basala, EPA's project officer in North Carolina. Additionally, Basala, said, giving the work to A. D. Little avoided the lengthy delay of going through the procurement process.

In March 1976, Nadkarni began the EPA study.

In an interview, Nadkarni, now an A. D. Little vice president, said that he has "a bias that is antiregulation." He said he feels there are too many regulations, and that industry should be permitted to develop its own solutions to environmental problems.

"I don't think bureaucrats are creative enough to come up with solutions," Nadkarni said. "My bias is in favor of introducing free-market concepts in pollution control."

Coughlin, of the EPA, was aware of Nadkarni's views on regulating Asarco at the time the assignment was given to A. D. Little. That was why he opposed the award.

"The guy had a point of view," Coughlin said in an interview. "I don't blame Nadkarni. If blame has to be attached, you wonder why a firm that already has expressed a point of view was hired to do the job. If you're going to kick somebody's ass, kick EPA's.

In June 1976, Nadkarni presented EPA with a draft of his report. It concluded that regulation of Asarco would create a serious economic hardship that might force the firm to shut down.

That was the same conclusion Nadkarni had reached a year earlier in his study for Asarco.

The EPA project manager, Basala, in North Carolina, was unhappy with the report.

"I just don't think it was objective," Basala said in an interview. "What he (Nadkarni) wrote was leaning in favor of the industry."

But Basala said he felt EPA carefully scrutinized the A. D. Little work. "It wasn't like we were having the fox guard the henhouse. We had our senior economists guarding the fox," Basala said.

One of those senior EPA economists monitoring the work was Coughlin—the man who had opposed the contract from the outset. In an interdepartmental memo dated Oct. 13, 1976, he wrote of the A. D. Little study:

"After reading the draft materials three times I am still stunned. I really do not know how to reach. . . . We are requested (commanded?) to take A. D. Little's hazy determinations on faith. Not one hard number is allowed to intrude upon the narrative . . . nothing so mundane as income statements, balance sheets or cash flow analysis is provided . . ."

Coughlin was not alone in his views. Another EPA economist who reviewed the study, Douglas Hale, said in an interview: "I still don't understand how A. D. Little came up with the answers they did. I can't tell where their numbers came from."

The EPA returned the first draft of the report to Nadkarni, asking him either to rewrite it, or to support his conclusions with data. Nadkarni considered the EPA's comments, then sent them a second draft that reached the same conclusions as the first.

"There were three versions of the study," Coughlin explained.

"My reaction went from outrage on draft one, to just amusement by the time they were done. It was a ridiculous piece of work."

In an interview, Nadkarni said he recalls the chronology of events but interprets them differently.

"I think that Coughlin is welcome to his opinion of whether I am biased or unbiased," he said. 'It is a charge that can be made easily . . . but the EPA was unwilling to accept anything but what they wanted—a rubber stamp' approving their conclusions.

"You normally don't like to fight with your clients, but if you have the courage of your convictions, sometimes you have to bite the hand that feeds you. I think my study was objective and has proven itself to be correct."

Nadkarni and the EPA had reached an impasse.

By the end of 1976, EPA had decided to set aside the A. D. Little report. The EPA paid the bill—$94,873.

But the report was not forgotten. When state and federal officials in the state of Washington later discussed further environmental controls for Asarco, officials of the company held up the EPA-funded study in support of their argument against regulation.

EPA economist Coughlin noted there was some irony in the use Asarco made of the EPA-funded study.

* * * * *

Coughlin also questioned whether it was total objectivity that the EPA was looking for in its study. He said the agency anticipated using the study in possible court challenges.

"When you get to the litigation stage, you prefer to find a contractor predisposed to your point of view," Coughlin said. "You want a hired gun. But we stubbed our toes. This gunman was already committed to the other side."

At the same time that A. D. Little was

working on the Asarco study for EPA's research offices in North Carolina, the firm was working on another study for the EPA's Washington, D.C. office.

That second contract—for $146,967—was to assess regulations of the copper industry nationwide. A. D. Little's copper expert, Nadkarni, was directing the study. That study, too, was criticized by EPA.

"I found absolutely gross misunderstanding and gross inattention in the report to what the regulations actually were and did," said Todd Joseph, an attorney who reviewed the study in 1977 for the EPA office of general counsel.

"It painted the EPA regulations as having a much more draconian impact on the industry than a correct understanding of the law and regulations would have," Joseph said in an interview.

Nadkarni's conclusion, published in 1976, was that proposed regulations would cost the copper industry more than $1 billion by 1987.

His report was made a part of congressional subcommittee hearings reviewing the Clean Air Act.

In 1977, Congress adopted an amendment to that act, in which it granted a 10-year exemption to EPA regulations for the nonferrous smelters, including the copper industry.

Nadkarni said in an interview that he believed his report helped persuade Congress to grant that delay.

EXXON

In February 1975, EPA announced that it was accepting bids for a contract to study the potential pollution problems of off-shore oil drilling. The study would be used in laying the foundation for EPA controls of off-shore oil drilling.

Thirty-seven firms responded to the advertisement. Among them was Exxon Research and Engineering Co., a subsidiary of the world's largest oil company.

Four firms submitted formal proposals—Exxon, and three energy consulting firms with no direct ties to the oil industry.

On June 25, 1975, Exxon was awarded the $965,500 contract.

"From a technical point of view," explained James Geiser, an EPA contract officer in Cincinnati, "Exxon clearly had the superior proposal . . . and they were the only oil company in the running—and oil companies were the only ones with first-hand knowledge."

The possibility of a conflict of interest was discussed by EPA officers, but they concluded no conflict existed, said Geiser.

The Exxon researchers subcontracted with Exxon Production Research Co. of Houston to assist them in their examination of potential pollution hazards from off-shore oil platforms. Exxon Production designed platforms under examination.

The contract called for Exxon to study ways of identifying and minimizing pollution from off-shore oil wells.

On Sept. 15, 1975, three months after Exxon researchers began their study, an EPA regulatory branch, which had compiled its own data issued interim "effluent limitations and guidelines" for off-shore oil drilling.

On Nov. 25 of that year, Exxon, along with 11 other oil companies and the American Petroleum Institute, sued EPA in federal court asking that the interim guidelines be set aside.

Exxon would be "significantly and adversely affected" by those guidelines should they be permited to stand, the company said in its petition to the court.

Meanwhile Exxon researchers continued to work on the EPA offshore-oil drilling study.

On Dec. 11, while routinely reviewing recent contracts, EPA attorney Bruce Elliott, then chief of the permits and support branch in Dallas, first learned EPA had awarded Exxon the offshore-oil study contract.

"It bothered me. I was a little bit distressed," said Elliott, whose region authority included the Gulf of Mexico, where most of the nation's off-shore drills are located. "It just didn't look right to me that we were asking an oil company to develop these guidelines. It would be possible for them to develop data that would be biased, he said.

The stakes in these effluent guidelines are enormous," Elliott added. "Depending on the level of treatment, you are talking about hundreds of millions—billions—of dollars."

On the day Elliott learned of the Exxon contract, he telephoned the EPA deputy director of the enforcement division, O. W. Lively, to inform him of it. In a memo responding to Elliott, Lively wrote: "We question the true objectivity which could be generated by such a group and feel that the agency is opening the door to possible charges that the required work and report are prejudiced."

On Dec. 16 the EPA issued a "stop work order." The next day, Frank Freestone and J. Stephen Dorrier hand delivered the message to Exxon's Steven Fruh in Houston.

"The meeting was short and slightly less than frigid," Freestone later wrote in an interoffice memo.

The Exxon research study was temporarily halted.

In the week following the issuance of the "stop work order," a flurry of letters and memos circulated between EPA offices across the country, discuss the "potential conflict of interest." A meeting was scheduled for Jan. 12, 1976, in Washington to consider the alternatives, including termination of the contract.

But the issue was not resolved at the meeting.

In a memo dated Feb. 19, 1976, William Mathis, the director of EPA contracts in Washington, suggested that the contract be terminated.

He wrote: "Because of this apparent conflict we can conceive of a potential problem whereby EPA could be cast in the role of defending the credibility of data submitted under the contract if we allow the contractor to proceed. Therefore, we would urge serious consideration to be given to termination of the contract."

Others in EPA took a different position.

David G. Stephan, head of EPA's Cincinnati laboratory, which had originally awarded the Exxon contract, urged the EPA regional administrator in Dallas, John White, to continue the Exxon project.

"At present we simply do not have the data regarding the problems," he told White in a memo. "To the extent that it exists, it is in the files and minds of the experts, most of whom are working for the industry."

With that argument as a basis for their decision, EPA chose not to end the contract. Instead, they decided to scale down the amount of work that had been originally proposed, and to assign additional work to another contractor "not to be associated with an oil company," according to the memo.

The government funded the Exxon project for another year and a half.

In their only review of an offshore oil platform, Exxon's Fruh and John Ferraro said they visited a platform owned and operated by Exxon USA located off Eugene Island about 100 miles off the Louisiana coast.

"What we were looking for was all the various discharges in the water . . . We were looking for oil in the water. What we found was, there really wasn't much of a problem. The existing platforms today are so well designed that there is no problem," Exxon's Fruh said in an interview.

Exxon Production Research Co., which designed the platform, wrote sections of the report dealing with the platform and supplied the data tables used in the final report, according to Ferraro, of Exxon Research and Engineering.

Despite the modification of the contract, EPA project officers Freestone and Dorrier continued to have misgivings about Exxon's performance on the contract. They felt problems went beyond the mere potential conflict of interest.

"The tone of all their reports seemed to be CYA—cover-your-ass," Dorrier said in an interview. "There was a lot of p.r. (public relations) nonsense in a technical report extolling their environmental awareness.'

The researchers' monthly reports EPA's Dorrier added, "seemed to have had high level clearance [from within Exxon] which greatly restricted their ability to discuss things freely. They wanted to be careful that what they said did not come back to haunt them in some later effluent guidelines."

EPA Freestone was also dissatisfied with the performance of the Exxon researchers.

"The technical performance was not what we were led to believe we would get," Freestone said in an interview. "I thought the end report was not substantially better than the outline I provided at the start. It was shallow . . . There was very, very little in the report . . . it was essentialy without any substance."

The two Exxon researchers, Fruh and Ferraro, disagreed with that assessment. In interviews, they said they thought their report was objective and worthwhile.

The two researchers also said that they were free from outside corporate pressure.

Exxon's final report included a seven-page photocopy of a 13-year-old report by the American Petroleum Institute, an oil industry trade association. It also included a photocopy of a manual and sales brochure for a monitoring product already in production.

Because the original scope of the contract had been reduced by about one-third, Exxon was paid $330,000 rather than the original contract price of $965,000.

Coincidently, the same day the Exxon Research contract was awarded—June 25, 1975—Exxon began an unauthorized discharge of polluted waste water into the Beaufort Sea from Flaxman Island, 60 miles east of Prudhoe Bay, Alaska.

That discharge of pollutants containing mud and oil from drilling operations continued for two weeks until July 7, 1975. In September 1976, Exxon signed a consent decree and paid a $100,000 fine—the largest civil penalty assessed up until the date for a violation of the Federal Water Pollution Control Act of 1972.

James Morakis, an Exxon spokesman in New York City, commented on the fact that the unauthorized discharge and the contract award came on the same day. He said:

"It was a quirk of fate . . . Exxon's a big outfit and the government's a big outfit. It sounds to me like just one hell of a coincidence . . . They're unrelated . . .

"You're being fined by one part of the government, and you're getting a contract from another part of the government. I'm sure the same thing happens with any number of the major corporations. I guess you could say it's ironic—because the one hand is taking and the other is giving."

NO LAW BARS FEDERAL CONTRACTS WITH ANY COMPANY OR INDUSTRY

There is no federal law prohibiting the government from contracting with any firm or industry.

The Environmental Protection Agency, like most federal departments and agencies, has its own rules and policies regarding conflicts of interest.

Essentially, the EPA policy on the issue is that each time the agency considers a firm for a contract, the firm must fully disclose any potential conflict of interest. After that disclosure is made, EPA contract officers are to use in deciding whether a conflict exists—and if one does, whether contract should be awarded.

There are no penalties written into the regulations if a question is later found to be wrong.

In 1978, EPA adopted a policy prohibiting firms which produce chemicals from bidding on a contract which would require them to study chemicals they produce. That provision however, does not prohibit a chemical company's research subsidiary from winning such contracts.

The issue of conflicts of interest is subject to a "recurrent debate among lawyers at EPA," according to David Bickert, EPA deputy general counsel.

"By the relatively small number of cases [conflicts] brought to my attention, it appears to be working pretty well," he said.

He pointed out, however, that of the 85 lawyers at EPA, only one is a full-time contracts lawyer. EPA awarded over 2,000 contracts last year for $309 million.

Contract Firms Deny Any Conflict in Work

MONSANTO

A spokesman for Monsanto, Dr. S. Allen Heininger, vice president of technology development, said:

"Monsanto Company categorically denies any conflict of interest existed with respect to work done by its wholly owned subsidiary, Monsanto Research Corporation (MRC) for the EPA.

"We state flatly that there has never been an attempt by anyone in the parent corporation to bring pressure to bear on MRC or alter data generated for a federal agency or anyone else.

"In effect, MRC says, 'Here's what we found. We stand by our findings, and let the chips fall where they may.'

"We remain totally confident that our relationship with MRC and/or the EPA will withstand the scrutiny of any factual investigation, and welcome it openly."

DOW

Phillip Schneider, a spokesman for Dow Chemical, said:

"For those tasks we felt we could perform—without jeopardizing anything of a proprietary nature—we felt we fully cooperated. There may be some cause for misinterpretation . . . or a question of semantics. . . . We felt we lived up to the terms of the contract. . . .

"We're dealing with one side of EPA, which is the research side. Who better to talk about these things [chemical processes] than the chemical industry—the people who developed the chemicals."

Regarding whether EPA created a conflict of interest by awarding the contract to Dow, he said:

"We do not have a yes-no answer to that . . . Government often goes to industry because they have the expertise and knowledge. . . . Whether that's right or wrong—I don't know, I'm not a lawyer. We feel that's an issue to be addressed by Congress—whether the agency should be operated that way."

ARTHUR D. LITTLE

Patrick Pollino, a spokesman for Arthur D. Little, said:

"The fact that we work for both the government and industry really improves the understanding of problems and helps avoid polarization. This also assures that we can't become a captive of either—corporation or government."

EXXON

Steven Fruh, of Exxon's office in New York and formerly a researcher who worked on the study, said:

"This was very significant work, relating to the nation's energy problems . . . We take the view that we want to be good corporate citizens and we don't want to do things that would be objectionable. We want to prevent pollution.

"We have an interest in seeing that the research is done properly. It's a complex field; it's the basic understanding that's valuable . . . In a university, people there just don't understand off-shore operations—they just don't have a basic understanding for what goes into it."

Is there a conflict of interest?

Initially, there is the obvious—an oil company working on oil measures on its own platform . . . But our interest is to do the job properly.

Federal Contracts: A Litany of Frivolity, Waste

(By Ted Gup and Jonathan Neumann)

The Department of Health, Education and Welfare paid $440 for one day's work performed by William Ewald, a consultant, on Sept. 31, 1978.

Thirty days hath September.

At the Department of Commerce, a program officer approved a bill from a contractor for 144 Mickey Mouse ties and scarves to be distributed at the firm's Miami convention.

And at the Environmental Protection Agency, a project officer was bewildered when a consulting firm submitted data as part of a $360,000 contract showing the average speed of trucks driving the streets of Manhattan was 68 miles an hour.

Billing for phantom days, spending government money frivolously, coming up with useless results or no results at all—these have come to be accepted ways of doing business in the world of federal contracting.

Many of these research and consulting contracts are intended to address serious questions. Some are intended to help the poor, the victims of crime and those addicted to drugs; some are to help solve the problems of air and water pollution and to find new sources of energy.

But these issues often seem of only secondary importance in a system that places its highest priority on billing for more and more federal funds.

Federal officials, faced with confusing regulations and an endless stream of invoices from contractors, express frustration, as do many legislators and investigators on Capitol Hill.

Sen. Max Baucus (D-Mont.) has held several hearings in the past two years on waste and fraud in contracts. His conclusion: "The extent and seriousness of these problems is pervasive. Obviously there is a pattern of abuses throughout the agencies."

Sen. David Pryor (D-Ark.) and Rep. Herbert Harris (D-Va.), held joint hearings earlier this year on wasteful contracting practices. And the General Accounting Office, the investigative arm of Congress, has cited abuses in contracts for the past two decades.

But the problems persist.

In an eight-month investigation, The Washington Post interviewed more than 600 government officials and found that more than $9.3 billion was spent in 1979 on federal research and consulting contracts.

In articles today and tomorrow, 13 contracts totaling $15 million will be examined.

Most of the money in these contracts, according to both government officials and contractors, was completely wasted. Over half of it produced nothing that was used.

The case studies follow.

The non-existent agency:

A few weeks before he was going to retire from the Department of Health, Education and Welfare in 1976, after 30 years of federal service, Charles Silvester received in his mail an "unsolicited proposal" for a consulting contract.

"I opened the envelope, looked at the proposal and tossed it in the wastebasket," Silvester recalled. "I'd been around a long time. I knew waste when I saw it."

On the day Silvester received the letter, he spoke to Harold Weinberg, the man who was to replace him as an administrator for the Social and Rehabilitative Services (SRS) agency within HEW.

"I reached into the wastebasket to show Weinberg the contract proposal," said Silvester, "I said: "You're going to get a lot of these when you take over. Read them with care.' "

Weinberg looked at the letter. He like the contract idea. A month later, he set in motion the process which led to a $130,000 contract to a local consulting firm, Moshman Associates, Inc.

The contract was to evaluate the Center for Social Statistics within the SRS. Said Weinberg later: "It made an awful lot of sense to me at the time to get an outside expert to come in and examine this thing with an objective eye."

Jack Moshman, a well-respected Washington consultant, gathered a panel of experts to begin the study in late 1976 and early 1977.

Unknown to Moshman—and to Weinberg—new HEW Secretary Joseph Califano was conducting a study of his own at the same time to reorganize parts of the HEW. Califano announced his reorganization plans in February 1977. One of his suggestions: the elimination of the SRS and its Center for Social Statistics.

By the time Califano's announcement came, much of the Moshman study had been completed.

"We had absolutely no idea that HEW was planning to abolish SRS," said Moshman later. "No one at SRS told us about it . . . We got caught somewhere in this squeeze."

But Moshman did not want the contract killed. Instead, he requested an additional $20,000 to continue the study and, since the agency no longer existed, refocus the work. "Our report could be helpful if the findings were looking at a system, not an agency," Moshman explained.

Silvester, who was still at HEW at the time, recalls going to Weinberg and saying, "Hey, let's cut our loss on this thing."

That did not happen. The department granted the extra $20,000 and, in August 1977, the consulting firm completed two neatly bound reports costing $148,712 and sent them on to HEW.

The report began with a quotation from the Roman philosopher Petronius. It said: "We tend to meet any new situation by enlarging and reorganizing, and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization."

Neither Silvester nor Weinberg ever read the report. Nor, they said, did anyone else at HEW. "It was never used for anything," said Weinberg. "This was not unusual, it was common. Nobody ever wants to read these studies."

Weinberg, like Petronius, was philosophical about the whole thing.

"Generally, people believe that fact and logic play into these major decisions," he mused. "That's not the way it works. The decisions are political. Every four years you have a change—and all the great studies in the world won't make any difference.

"That's what you learn in government . . . The whole thing is a big laugh . . . It's a big joke."

BOXES IN A WAREHOUSE

All day and night for a week late last August, lawyers for HEW and for a contractor negotiated the fate of an intensive five-year study to develop a new drug to treat heroin addiction.

In the end, the government terminated

a contract and both sides were numbed. The government had spent more than $3.4 million and it received nothing. Almost all the research had been completed—and the work was found to be very good—but the new drug was not to be developed.

Research on the drug was not stopped because of medical concerns. Those issues weren't even discussed in the negotiations. The problem was a legal, contractual dispute, attorneys on both sides say.

"I have become sort of discouraged with the whole situation," said John Weisner, head of Medical Research Applications, which collected data from 6,000 patients over five years. "Let's face it, there comes a point where you don't want to bang your head against the wall any more."

The program began in 1975, when HEW's National Institute on Drug Abuse decided to collect clinical data on a drug known as LAAM. The drug had been used in Germany to treat heroin addicts. It was said to be more effective than methadone, which is now used routinely in the U.S.

While the government had already contracted for laboratory studies on the drug, it needed major clinical trials of it before it could receive approval from the Food and Drug Administration.

Medical Research Applications, responding to an advertisement for bids, asked to do the study. No pharmaceutical firms sought the contract, apparently because there was very little potential profit in selling the drug, according to HEW officials.

As part of the contract with Medical Research Applications, the government allowed the firm to keep all of the data it would gather. The firm would then have exclusive rights to sell the drug if it won FDA approval. The purpose of this agreement was to provide an incentive for the firm to produce the drug, since no one else seemed interested in doing so.

The contract was awarded June 27, 1975, for $1.5 million. It called for testing the drug on 6,000 heroin addicts for 40 weeks. Shortly after the project began, it was expanded to a 120-week study, and the cost more than doubled. The expansion was caused by changes in FDA clinical data requirements.

By last year, most of the research was completed.

But as the project was winding up, HEW's drug abuse institute was coming under pressure from columnist Jack Anderson and from Congress. In a series, Anderson attacked several of the institute's programs, including the LAAM contract. He pointed out that the government was giving drug production rights to a firm it was paying for research.

Following the articles, the House subcommittee on health and environment—which was considering whether to reauthorize funding for the institute—criticized it for the $2 million cost overrun in the LAAM contract.

As a result of the political pressure and publicity, the officials involved in the program grew weary of the controversy.

"They felt they were giving away too much," Weisner said. "It was political. They just didn't want to take any more heat."

Jack Blaine, a federal program officer on the contract, said in an interview: "It was the government bureaucracy that botched it up. It was politics. The thing is, the contractor did a very good job."

Last August, when the drug abuse institute was negotiating whether to continue the project, the government attempted to rewrite the contract, asking Weisner to give up the rights to the drug. He declined. HEW refused to continue the contract under those terms.

"Everybody was afraid," Blaine said of the atmosphere at the institute. "People were saying, "If we do this wrong, Anderson will write an article about us.' "

In September, the contract was terminated. Weisner said that about 400,000 pages of data were placed in a warehouse at Tyson's Corner in Virginia. The project stopped.

The pages are still in the warehouse, unused.

"I can't do anything with the data without the research the government has done," Weisner said. "I've asked them to give it to me, but they said 'no.' "

Pierre Renault, an HEW project officer, said: "As far as I know, we don't have anything to show for the contract. But we might—if we invest a lot more money and redo some of the research—we might be able to salvage some of it."

Marvin Snyder, director of the drug abuse institute's division of research, said that to date, HEW has spent about $10 million on research for LAAM, including the contract with Weisner. He said he was uncertain about what the government's next step would be.

Stefanie Weldon, an HEW attorney who worked on the contract, said "I'm not sure I'll ever understand what happened . . . Sometimes we're prepared to make a silk purse out of a sow's ear. Other times we're not."

A LOT OF GOBBLEDYGOOK

In the summer of 1976 bureaucrats in the federal Office of Education went out looking for someone who could "develop an Interpretive Structure Model (ISM) and strategies for implementation based on a descriptive and prescriptive analysis of resources for environmental education and studies."

A firm in Los Angeles, Social Engineering Technology, heard the call, understood the language, apparently, and bid for and won the contract. For $449,000, it would develop an Interpretive Structure Model, known in the trades as an ISM.

At the beginning, Walter Bogan, the HEW program officer, and Sam Scheele, head of the consulting firm, thought they understood what this ISM was all about. Bogan had asked Scheele to explain his ideas for the project, and Scheele had done so in a 45-page proposal.

"This proposal is not like other proposals," the proposal began. "Social Engineering Technology is uniquely suited to the proposed project."

In explaining why Social Engineering Technology was well-qualified, the proposal said that the firm would avoid "the so-called 'dogma of immaculate perception' which suggests that fresh vision is anchored in a source of original truth. We are more inclined to adopt Thorsrud's dictum, 'There is more free space between the forbidden and the prescribed than you think.' "

Bogan at HEW was excited about the prospect of receiving an ISM.

"They promised to generate the ISM within the first quarter of the project," he said in an interview. "That way the government would know early on whether they were doing a good job."

Three months after the project started, Bogan received what he called "a pile of unintelligible papers" from the Los Angeles firm. It was their first progress report.

Scheele insisted in meetings with Bogan that his work was not at all "unintelligible," in fact, he told Bogan, SET was well on its way to developing an ISM.

Bogan disagreed.

"It was clear the contractor was not performing and was not able to perform." Bogan said. "What they accomplished wasn't recorded in any coherent way. So it was difficult to determine if there was anything useable."

In December 1976, four months after the project began, Bogan decided to terminate the contract. He said the firm had "defaulted," had not delivered what it had promised. He took steps to force the firm to repay the money it had collected from HEW.

William Deurk, an attorney for the consulting firm, immediately challenged HEW. His argument was simple: "How can the government say my client didn't deliver what he promised, when the government can't say what it is that they asked for?"

HEW lawyers agreed with that argument.

"How in the world can we say they defaulted," asked David Webb, the HEW contract officer in charge, "when it was never clear what the heck we were expecting?"

So the government agreed to pay out the money, although the contract was still to be terminated. Two weeks ago, in an informal settlement agreement, the government agreed to pay the firm at least $250,000 for the never-completed project.

"I attribute the settlement not to my advocacy," attorney Deurk said, "but to the weakness of their case."

Webb, the contract officer, said in an interview that all of the educational issues involved were "above my understanding."

"I look at it this way," he said. "Nothing was received, and we paid thousands for it. it really is a lot of gobbledygook . . . As a taxpayer, I'm sick."

But Bogan, the project officer at HEW, disagreed with the lawyers and with the contract officer. He insisted that the Office of Education needed an ISM. After the SET contract was terminated, Bogan had the HEW award a second contract for an ISM—this one for $417,700 to a consortium of educators.

Last year, their work was completed successfully and they delivered the ISM to Bogan.

A NEAT IDEA

George Catsiapsis, an economics graduate student at the University of Chicago in 1978, selected as his doctoral thesis the subject of the availability of financial aid to students.

For Catsiapsis, the subject was close to home.

"His fellowship funds had run out and he was in dire needs of support," recalls his professor, Arnold Zellner.

At Zellner's suggestion, Catsiaspsis decided to apply for a contract from the HEW Office of Education to study the availability of financial aid and its effect on students' decisions to continue their education.

On March 9, 1978, Catsiapsis submitted his proposal for an HEW contract. On June 29, 1978, the Office of Education awarded Catsiaspsis a $17,940 consulting contract. He was to begin work on the contract the next day.

"This was a stop-gap measure to get him through his doctoral study," said Zellner. "Financing graduate study is very expensive."

In awarding the contract, HEW officials said that Catsiapsis was "uniquely qualified to undertake this study" because he had direct experience with student aid programs, and familiarity with "the Hechmanesque techniques for truncated data tests."

James Hechman—the source of "Hechmanesque"—was one of Catsiapsis' professors.

But not everyone at the Office of Education supported the contract idea.

William Pierce, executive deputy commissioner, learned of the contract a month after it had been awarded. On July 26, 1978, he wrote in a memo that he was uncertain about the need for such a study. He also cited the risk of setting a "precedent" for every graduate student "who might have a neat idea."

Deputy Commissioner Edward T. York learned of the contract two months later, On Oct. 5, 1978, he wrote in a memo: "It is really too late to cancel the contract." He said HEW had two options: approve it "after the fact" or "do nothing." HEW chose the latter.

Catsiapsis completed his study and turned it over to the HEW. He said in an interview that the study answered his question: "What determines the amount parents will contribute toward their childrens educational expenses?"

His answer: "When parents decide how much to give their kids, they take into account what the government has given to their kids and they reduce the amount they give accordingly."

"That," said Catsiapsis, "confirmed my hypothesis."

To what use will the study be put?

"They will use it in other studies," Catsiapsis said.

A BIG HEADACHE

About the only thing the lawyers and participants seem to agree on is that the taxpayers got very little—some say nothing at all—for the $1.4 million that HEW spent on a contract with Roy Littlejohn Associates.

"Don't ask me to explain this one. It's just a big headache," said Al Riskin, an HEW contract officer who was asked to help unravel the Littlejohn contract.

The contract, originally for $2.3 million, was intended to provide the HEW's Office of Environmental Education with films, brochures, and programs to enhance the public's awareness of the environment.

It was terminated in February 1979, and no one was happy with the results.

"They (HEW) spent a lot of money and didn't get the products they wanted, that's essentially what happened," said Roy Littlejohn, president and owner of the Washington, D.C. consulting firm.

"I kept telling the government, 'Look, at least let's finish up the products we can deliver. But don't walk away without anything.' But they did."

Added Vincent Villa, a former Littlejohn consultant: "It was totally mismanaged. I don't think there was a clear determination of what the project was . . . The government was at least as much to blame for the confusion as anyone."

HEW's contract monitor, Walter Bogan, was the man who decided to terminate the contract midway.

"We weren't getting timely delivery of a quality we could accept," he said in an interview. Bogan noted the contract did produce at least two conferences on environmental education.

More than half of the work under the Littlejohn contract was to be done by subcontractors. At last six of them say they were never paid by Littlejohn for work they did under the contract. They claim Littlejohn owes them $200,000.

Littlejohn says he received at least $60,000 from the government for work billed by subcontractors, and that he did not pay them because their work was unacceptable.

Instead, he said, the money was deposited in his firm's bank account. He said the money will stay there until government auditors determine who should be paid how much.

In reviewing the finances of the contract, the auditors came up with some unusual findings of their own.

For one, they learned that William Ewald, one of the major subcontractors under the Littlejohn contract, billed for consulting work on 211 consecutive days in 1978. He averaged 11½ hours per day at a rate of $40 an hour.

That, noted the auditors in an internal report, was "an abnormally intensive rate of effort."

Ewald, in an interview, said that he generally puts in those long hours "whenever I'm thoroughly involved in a project."

One of the days Ewald billed for was Sept. 31, 1978. In the interview, Ewald said: "That must have been an accident on my part. I don't know. I guess maybe I was very tired on that day that didn't exist."

Federal Studies: Examples of "How Not To Do It"

(By Jonathan Neumann and Ted Gup)

In October 1975, the Environmental Protection Agency (EPA) awarded a contract to the District of Columbia to conduct a study of harmful elements that may have been in the city's water. The contract was terminated about three years later. No final report was submitted.

In his evaluation of the project on Jan. 17, 1979, EPA's Elbert Dage wrote: "The contractor made no attempt to follow standard scientific protocols or rationale . . . Monthly progress reports were not submitted . . . No financial reports were submitted. The draft final report was completely unacceptable, not understandable, illegible, grammatically incorrect, filled with irrelevant information . . . and devoid of required illustrations or graphics."

By then, $95,706 had been paid out for the study.

This is not an unusual occurrence in the world of government contracting, where $1 million is spent for every hour in the year. The federal system of awarding work to outside consultants and researchers—and then monitoring that work—has spawned an epidemic of conflicts of interest, favoritism and waste.

Today, in the third article in a series on government contracting, The Washington Post presents more case studies in waste by the federal bureaucracy, beginning with an example concerning the drinking water in the nation's capital.

The study of elements in the city's water supply was done by the D.C. Department of Environmental Services, with assistance from the National Bureau of Standards.

In an interview, Bailus Walker, who was the project officer for the District of Columbia, said: "There were some problems with the contract, but they don't come to mind at the time. I don't think that it was the highest quality. I truly can't recall the specifics. I wasn't that close to it."

The contract was riddled with problems from the start. Dage, the EPA official who wrote the scathing evaluation, said in an interview that the EPA was somewhat to blame for the poor performance.

"There were something like six different EPA project officers on the contract at different times," he said. "It unfortunately got tossed around there [D.C.] as much as it did here [EPA]."

Arnold Clark, bureau chief of the D.C. consumer health division, said that "this whole thing was screwed up."

Clark noted that two of the city's food sanitarians—Carl Diener and George Wall—were chosen to work on the study. He said they were both very good workers but he couldn't understand why they were put on this particular contract.

"They didn't know anything about that sort of thing [metal levels in water]," Clark said. "They were food sanitarians . . . I think they were chosen just to impress the federal government because they had good credentials."

The preliminary report indicated that levels of cadmium, mercury and lead in the D.C. area were "within a 'safe' range."

Dage called that conclusion "highly questionable" in a Dec. 12, 1978, letter. "Information from existing literature and local poisoning prevention programs contradicts this conclusion. Lead poisoning in children is fairly common in certain areas of this city," wrote Dage.

In the end, the government was left with no reliable information about lead, mercury and cadminum in D.C. water. And this from a project that was originally intended to serve as a model for other cities in testing metal levels in water.

Dage said he did receive a request from a New England town to use the D.C. study as a model. "What I told them," he recalled, "was that they should use the study as an example of how not to do it."

LIKE MURPHY'S LAW

On Nov. 14, 1977, the Department of Housing and Urban Development (HUD) kicked off what was to be a major effort to reduce crime rates in public housing. As part of that effort, the government awarded an $89,224 contract to BDM Corp., a McLean consulting firm.

The contract ended without its central mission ever being undertaken.

"Everything that could go wrong did. It was like 'Murphy's law,'" recalled HUD's program officer, Richard Burk.

William Young, BDM's project officer, did not dispute that assessment. "Clearly the purpose of the study was aborted," he said in an interview. "I've been in the business 12 years. It's not something that comes as a surprise to me."

For HUD, there was more at stake than an academic interest in crime deterrence. A survey completed before the award of the BDM contract found the incidence of robberies at selected public housing sites were three times that of the national rate, and that sexual assaults were twice the national rate.

The plan was to conduct surveys of break-ins and burglaries at selected public housing sites before and after the installation of special security doors, windows and locks. The surveys were to be conducted in Washington, Baltimore and Los Angeles.

The results would be used to determine how many and what kinds of security features should be purchased nationwide for public housing complexes.

The project got off to a slow start. For months after the contract began, the National Bureau of Standards which coordinated the project along with HUD, was still testing the security equipment that was to be used.

On Oct. 18, 1978, nearly a year after the study was supposed to have begun, HUD decided to delete Los Angeles from the program, to save money. Shortly after that the public housing site in Washington chose not to buy the security equipment, and also dropped out of the survey.

Thus, a year into the study, two of the three cities involved were eliminated from the survey. Only Baltimore was left.

"They then concluded that the information obtained from the study of one site (Baltimore, Md.) would be insufficient to reach any general valid, conclusions," wrote contract specialist Norm Zima, in an internal National Bureau of Standards memo.

Tenants and crime victims in Baltimore and Washington had been interviewed for the study—but none of the security features was ready to be installed.

A year after the study began, the government terminated the contract. Federal officials said the results could not be used reliably.

"I was shocked," said John Stroik, a project leader for the National Bureau of Standards. The government had spent $5,083 without answering the basic question: Would the security features reduce crime?

Without benefit of the study, public housing sites around the nation may spend more for security features than they need, or may shy away from them completely, having no evidence that they work, say government program officers and BDM's Young.

"Some tenants are kind of jaded by now," Stroik said. "They see this thing as being just another one of those government actions that would not do anything for them personally.

"It's hard for them to see what collecting data has to do with their lives. I think this one would have been different. But we'll never know, because it was never completed."

THE PHANTOM CONTRACT

At EPA, there is a project they used to call "the phantom contract."

At the firm with the contract—Optimal Data Corp. in Huntsville, Ala.—the company owner Lincoln Teng, said of the EPA project: "It's all kind of pretend."

On June 28, 1974, the EPA awarded Optimal Data a "support service" contract paying the firm $43,442 for its services in compiling various data.

"We had engineers ready to work on the contract," Teng said. "It was supposed to be for $350,000 . . . but they never asked us to do anything. They just gave us a big contract, and then they asked us to recompile data they already compiled. "It was really nothing."

Teng said he suspects the EPA gave his firm the contract simply because Optimal Data is a minority-owned firm. The government requires a certain number of contracts go to such firms.

Joseph McSorley, an EPA project officer, said in an interview that this is not so. EPA stopped the contract after $43,442 he said, simply because the EPA couldn't find the company.

"I don't know if they exist any more," McSorley said. "We tried to track them down for some voucher information, but the contracting officers couldn't find them.

McSorley said his main questions were: What was their address? Who was working for them? And did they still exist? "They'd go for seven or eight or nine months without billing us at all," he said. "And when they did bill, they wouldn't list any names of who was doing the work."

Teng, who lives in Huntsville and teaches at the University of Alabama, said in an interview: "We had an office in Atlanta . . . maybe they tried to reach us there . . . That address is no good anymore . . . Optimal Data completely stopped in 1976, the little EPA project was our last contract . . . . Legally, the company still exists, but we don't have an office and we don't have any activity going."

THE 68-MPH TRUCKS

In the summer of 1974, the Environmental Protection Agency decided to measure the truck pollution emission levels in the country's two largest cities—New York and Los Angeles.

The contract was given to a private firm, Wilbur Smith and Associates, and monitored within the EPA by project officer Roy Higdon. Some of the first data that came in stunned Higdon. It showed that trucks were driving through Manhattan at an average speed of 68 miles per hour.

"I couldn't believe that tractor-trailers were running around downtown New York City at that speed," Higdon recalled. Bewildered, he traveled down to the consulting firm's office in Columbia, S.C., and examined the raw data. The recording machinery used in the tests was all out of whack, he discovered—so much so that trucks that were standing still were recorded as going 25 miles per hour.

Wilbur Smith and Associates was awarded the $124,022 contract in the first place, Higdon explained, because it had been the low bidder. But the contract ended up costing far more than the original bid—there was a 200 percent cost overrun. And even with that, when the contract ended, less than half the assigned work had been completed.

There is general agreement that the project accomplished little of what it was supposed to, but there is dispute as to who was at fault.

Jack Cosby, the project director for Wilbur Smith, said in an interview that the major problem in the study—and the reason for the massive overrun—was that the testing equipment was faulty. He noted that the equipment was provided by EPA.

"If you're reading garbage, it's garbage," said Cosby. "And nobody can interpret it."

Higdon took a different view. "I was constantly commuting to New York to do the work we were paying someone else to do," he said. "Fifty percent of what they did in New York was useless. I had to redo the work myself."

After $360,982 was spent in New York, the contract ended. Wilbur Smith never tested a single truck in Los Angeles. Instead, Higdon went to Los Angeles with a staff of EPA engineers and conducted the entire West Coast truck pollution study without the help of an outside contractor.

"You can't be proud of this one," said Wilbur Smith's Cosby. "You don't hit a home run every time you're at bat."

In hindsight, said EPA's Higdon, "we could have gotten the work done faster and cheaper if we never awarded a contract."

Higdon resigned from EPA in 1977, after eight frustrating years on the job. "I, being a taxpayer, watched thousands of dollars go down the tubes and it teed me off," he said. "But the government is notorious for contracting out what it could do in-house . . . these contracts, sometimes they are just plain ridiculous."

NEVER AGAIN

Late in her first year as secretary of commerce, Juanita Kreps decided to measure how well corporations live up to their social, economic and environmental responsibilities. For Kreps, the subject had the highest priority. The contract memorandums were appropirately stamped "Urgent."

In a three-day period in October 1977, the Department of Commerce awarded two contracts totaling $223,462 to Human Resources Network, a Philadelphia consulting firm.

The firm was to develop a way to measure corporate responsibility and was to sponsor 12 conferences around the nation to bring government and corporate representatives together.

The Commerce Department was in such a hurray to begin the contracts that it waived the standard precontract audits. The consultants—seven in all—were each to be paid $400 a day for their work.

But six weeks after the contract started, a House subcommittee headed by the late Rep. John M. Slack (D-W.V.) questioned the legitimacy of the program. It came under sharp attack at an Appropriations subcommittee hearing on Jan. 23, 1978, when several congressmen suggested that the issue was better left to the corporations.

Within days of the hearing, both contracts were terminated by the Commerce Department.

"We were stunned," recalled Steven Nowlan, the firm's project manager. "We didn't think we were dealing with a full deck of cards in Washington."

The young Philadelphia firm only weeks earlier had hired new staff members, written letters to corporate clients asking for support, and begun preparing for the study and the conferences.

Now, it could only submit a brief report and pack up its notes.

"Some of the stuff we threw away. Some of it sat around a couple of years. Some of it still resides in a big file marked "Department of Commerce," Nowlan said. "We were made fools of in public. We never want a federal contract again."

For the nation's taxpayers, the tab was $72,811.

On April 10 of last year the Internal Revenue Service announced that it had awarded a $114,676 contract to CSR Inc. The purpose of the contract was "to conduct a general taxpayer opinion survey."

Some 60 questions posed at 5,000 households around the country probed taxpayers' opinions on how well the IRS collects taxes.

None of the questions sought to learn whether the taxpayers were happy about how the federal government is spending their money.

CONTRACTORS, CONSULTANTS GET 87 PERCENT OF DOE BUDGET

(By Phil McCombs)

The federal Department of Energy is spending about 87 percent of its $11 billion budget on outside consultants and contractors who are performing most of its basic work, Sen. David Pryor (D-Ark.) said yesterday.

Pryor and Rep. Herbet E. Harris II (D-Va.) heard testimony in hearings yesterday that the Energy Department has 4,000 contracts with more than 200,000 contract workers—nearly 10 times the agency's 21,000-member staff.

Pryor charged that this massive use of contractors has led to a "basic change in the way the government does it work. . . . [The department's] reliance on contractors is so extreme that . . . it is hard to understand what, if anything, is left for federal employes to do."

Pryor and Harris, cochairmen of yesterday's hearing's, said their congressional staff investigations showed that:

Contractors—not government officials—often prepare speeches and documents given by the officials in congressional testimony.

The Energy Department's filing system is in such disarray that the agency cannot produce the results of millions of dollars of contract work, and sometimes not even the contract document itself.

Contractors are often paid to produce their own "task orders," which describe what they are to do on a particular contract job.

The department is paying millions of dollars to big consulting firms that also work for oil and utility companies despite conflict-of-interest rules that the agency put into effect last year.

Citing what they described as a lack of accountability by contractors, Pryor and Harris said they will introduce in Congress later this week a consultant reform act seeking to increase disclosure by government consultants and to curb their role generally.

In yesterday's joint hearing of the Senate subcommittee on civil service and general services and the House subcommittee on human resources, the Energy Department's chief financial officer, John A. Hewitt Jr., testified that the agency has taken strong new steps to curb what he said were "past improper practices" regarding contractors.

"I am committed to institutionalizing the department's policy that contractors will not perform functions that government employes should perform," Hewitt said.

He said that new Energy Department rules calling for closer scrutiny of contract proposals resulted in 39 of 55 recent proposals being found not satisfactory.

"Some ((proposals) did not clearly establish the need for a consulting service contract; (others) appeared to call for the contractor to perform functions" that Energy Department officials should perform, Hewitt said.

He did not say whether the 39 proposals were ultimately rewritten and approved, but he added: "A cynic might assert that (DOE officials and contractors) are merely choosing their words more carefully."

Harris asked Hewitt why TRW Energy Systems Planning Division, a consultant, had been allowed to write its own task order, or contract, on April 24 for an assessment of coal slurry pipelins.

Hewitt said he didn't know that that had happened. "I'm sure you can still find some examples" of practices that should not take place under the new department rules, Hewitt told Harris.

"I think they (contractors generally) are still doing just like they always did," Harris said.

Robert H. Shatz, TRW's vice president for the energy systems planning division, said after the hearing yesterday that he had not seen the testimony and could not comment specifically. But he said: "I don't think contractors should run DOE and I know they don't. DOE runs the contractors."

Pryor said that Planning Research Corp., a consultant, is hired to answer letters sent to Energy Department officials by members of Congress. He mentioned a draft letter the consultant prepared on Aug. 1979, to be sent to Rep. Richard Ottinger (D-N.Y.).

Hewitt said he didn't know about such letters and said he has not signed any such letters prepared by outsiders.

A spokesman for Planning Research Corp. said after the hearing that the firm provides the department with "technical analysis" needed to answer letters. "We don't respond to political or policymaking-type questions," the spokesman said.

Pryor said the company and Booz-Allen & Hamilton Inc., another big consulting firm, do millions of dollars of contracting work for the Energy Department and, at the same time, Planning Research Corp. consults for oil companies and Booz-Allen for utility companies. The Energy Department plays a role in regulating both industries.

"This reliance persists despite the conflict-of-interest rules introduced by the department last year," Pryor said.

The company spokesman said: "We don't have any conflict of interest between DOE and the oil company (work) because the work is totally unrelated." Planning Research Corp. does solar analysis for DOE and mostly engineering and architectural work for the oil companies, the spokesman said.

Booz-Allen senior vice-president Eric Zausner said there is no conflict in working simultaneously on Energy Department solar programs and on load forecasting and other utility company projects. "We've never represented the utilities before DOE in any way," he said.

Pryor disclosed yesterday a Booz-Allen internal memorandum obtained by his staff as part of the contractor's "work product" paid for by DOE. The memo, from one Booz-Allen employe to another, told of attending a "solar jubilee" conference in Phoenix and stated that:

"The meeting was inspiring in terms of giving insight into possible business areas for (Booz-Allen)."

"This was paid for by the government," Pryor said.

Zausner said the Booz-Allen man who wrote the memo attended the meeting on his own vacation time and not at government expense. He said the memo "got in there by mistake" when the firm had to rush to provide "seven cartons of work product" to DOE in two days in preparation for yesterday's hearing.

THE REVOLVING DOOR: INDUSTRY PLUMS AWAIT RETIRED U.S. OFFICIALS

(By Jonathan Neumann and Ted Gup)

Sam Shimomura and Russ Long say they have been close friends for more than a decade.

Early last year, Shimomura was working for a consulting firm called ManTech. Long was working for the Navy, supervising Shimomura's contract.

Today, their roles are reversed. Shimomura works for the Navy, where he reviews the ManTech project. Long is a consultant for ManTech.

So it goes in the world of government contracting.

An eighth-month investigation by The Washington Post found a wide-spread system of friends and favors in the award and supervision of consulting and research contracts. Instead of dealing at arms' length, many government officials and contractors are arm-in-arm, as hundreds of former federal employes pass through the "revolving door" to take higher paying jobs as federally-funded consultants.

High-ranking officials and former officials from nearly every department and agency have been found at different times to be on both the awarding and receiving end of hundreds of noncompetitive contracts. These officials include agency commissioners, military generals, departmental investigators, contract program officers and procurement personnel.

The Post investigation found that the competitive bidding process—required by federal regulation and policy—has virtually collapsed, replaced by the very influence-peddling and "old boy" network it was designed to protect against.

In examining each of the 16.101 advertisements for research and consulting contracts in 1979, The Post found that 11,082—or two-thirds—were awarded without bidding.

Many of those noncompetitive awards went to federal officials who became consultants.

"People at DOE bounce back and forth between government and industry just like Ping-Pong balls," said Newchy Mignone, a former Department of Energy procurement officer. As a result, government officials charged with monitoring contracts often regard contractors as potential future employers, hindering their objective.

Today, The Post examines the revolving door, beginning with the case of Sam Shimomura and Russ Long.

Sam Shimomura was walking down a hallway at the Naval Sea Systems Command headquarters in Crystal City one day in 1977. There, he encountered an old friend, Russ Long. As Shimomura remembers it, Long, who then worked for the Navy, told Shimomura, a contractor, that the Navy would need some work on sonar repairs of its ships.

Shimomura, who at the time was working for a firm called Hydrotronics, said he could do the job. Long suggested that Shimomura submit a proposal—technically called an "unsolicited proposal"—to the Navy for a contract.

Shimomura did. In December 1977, the Navy awarded Hydrotronics a $75,000 contract for sonar repair. There was no bidding on the project.

In the months following the contract award, Long and Shimomura traveled together to work on the project.

"Russ and I are good friends," Shimomura said in an interview. "We travel around a lot together. He's the one that always bought the booze and left it in the room for us to consume. He always spent more money than I did . . . I've been to his house for dinner. He's been to mine."

By the summer of 1978, Shimomura was dissatisfied with his employers at Hydrotronics where he had been working for five years. Among other complaints, he felt his travel expense budget was too restricted, he said in an interview. He began looking for another job.

Shimomura went to several area firms for job interviews. In each case he was accompanied by Long, according to people present during the interviews.

At Universal Systems Inc., Long said that if Shimomura were given the job, the Navy contract would leave Hydrotronics and follow Shimomura to the new firm, according to Carl Black, a former USI executive who sat in on the interview.

According to Black, Long also said: "I'm going to be retiring in a short while and moving to Florida. If you get the contract, I think I would like to see some consulting time in there for me." Long acknowledged in an interview that he was present at the meeting, but denied that he asked for any consulting time. At that time, he said, he had no plans for retiring.

Ken Reusser, the president of USI, said in an interview that he recalled the meeting with Shimomura and Long, but didn't remember what Long said. He did not hire Shimomura. "I didn't think I could afford to hire him," Reusser said.

Shimomura was hired by ManTech Inc. in Rockville. On Aug. 21, 1978, he began his new job there. That same day he began working on the sonar repair project. No contract had yet been awarded to ManTech to do such work.

ManTech had discussed the sonar work with Long even before Shimomura was hired by the firm, according to Jack Hughes, director of corporate business operations for ManTech.

Shimomura worked on the project without a formal contract for almost a year. In July 1979, the Navy formally agreed to pay for the previous year of work, and awarded ManTech a new noncompetitive contract to continue the project, according to Hughes and Shimomura. To date, ManTech has been paid $199,000 for the sonar repair project.

On April 27, 1979, Long retired from the Navy and moved to a five-acre farm he had purchased in Lake County, Fla. Four months later, he signed an agreement with ManTech to serve as a "permanent part-time consultant."

In the past nine months, Long has been paid $7,000 in consulting fees by ManTech for about 10 weeks of work on the sonar contract according to Hughes. He is still on call as a consultant.

Two months ago, meanwhile, ManTech submitted another proposal for a noncompetitive contract on the sonar repair project. The same week that the proposal was submitted, Shimomura quit his job at ManTech and went to work for the Navy. He works on sonar repair at the Naval Sea Systems Command.

In an interview yesterday, Shimomura said that he reviews various documents in the logistics end of the ManTech contract. He said that he meets with Long "from time to time" to discuss the sonar repair project. "I meet him, I go to lunch with him," said Shimomura. "Hey, a friend is a friend."

Shimomura said in a recent interview that he did not believe he ever acted improperly in connection with the contract. He denied that he promised prospective employers in job interviews that the sonar repair contract would follow him.

"I believe that's against the law," Shimomura said.

However, he suggested how he might possibly have been misunderstood. "In order to come on board," said Shimomura, "I might have made a lot of recommendations."

Long, for his part, said he did accompany his friend Shimomura to at least two job interviews. But he insisted that he never asked for any consulting contracts. Said Long:

"There are a lot of people on the payroll of contractors that are retired military personnel who do nothing but bring in contracts. I don't think they're worth their salt. Why look at me? I'm just a small fish."

THE MAJOR GENERAL

Jack Posner, a two-star major general, retired from the U.S. Air Force on March 1, 1978, and went to work for General Research Corp., a Virginia consulting firm.

Just as Posner was leaving the military to take his job as a consultant the firm he was to work for won a $97,303 noncompetitive contract from the Air Force. In a recent interview, Posner explained how it happened.

Posner, now 57, was the director of manpower for the Air Force before he retired. In mid-1977, he addressed a group of contractors in Alexandria about the needs of the Air Force manpower office.

Several months after that speech, the Air Force received an "unsolicited proposal" from General Research Corp. "The proposal had great merit," said Posner. "I recommended it to the Office of Scientific Research, which makes contract award decisions."

The proposal was to develop a model for determining manpower requirements for military personnel. Posner said he respected the work of General Research Corp. He knew several people who worked there, including Richard Sommers, a former lieutenant colonel who retired from the Air Force in 1975. In the military, Sommers had worked under Posner.

In early 1978, Posner began discussing his possible retirement and a potential job at the consulting firm. "A lot of federal and military people tend to gravitate to a company like this because it gives them an opportunity to do something worthwhile," Posner said. He said he liked the offer from GRC and accepted a job before retiring.

On March 7, 1978, within a week of leaving the military, he began working at the consulting firm.

On April 15, 1978, GRC began work on a $97,303 manpower contract for the Air Force. A year later, the contract was renewed with no competitive bidding, for $99,774.

"Since I've been out [of the military] I've had very little contact with the Air Force," Posner said. "I don't use my contacts to get contracts."

THE VERBAL CONTRACT

On March 28, 1978, William F. Pierce, an acting executive deputy commissioner of education at the Department of Health, Education and Welfare, signed a memo waiving competitive bidding and approving a $126,000 contract for a week-long "retreat" for educators.

The conference, in Brownsville, Tex., was run by the Council of Chief State School Officers. Pierce attended the gathering in late July 1978.

In October of that year, Pierce left Health, Education and Welfare to take a post as the executive director of the Council of Chief State School Officers.

By the time he took the job, Pierce said, the council already had submitted a proposal to HEW for a contract for a 1979 conference, this time in Vermont. Pierce said the council had not yet heard from HEW, so he telephoned Ernest Boyer, the commissioner of education, for whom Pierce had worked the previous year.

"I called Ernie and I said, 'What's the status? When are we going to hear from you? . . . We need approval now so we can organize the conference.' "

Boyer gave Pierce an oral approval by telephone. Pierce then began organizing the conference, spending HEW money before a contract was formally awarded.

"There's nothing wrong with that," Pierce said. "That happens frequently."

At the same time, the Office of Education procurement division was preparing to write a contract for the conference. But they had a problem in arriving at a contract price.

In a memo dated May 30, 1979, Fred Will, director of the Office of Education contracts office, wrote that he spoke with Pierce by telephone about the contract.

"Dr. Pierce stated he could not live within the $90,000 maximum figure I recommended to Dr. Boyer," Will wrote. "His objection stemmed mainly from the fact Dr. Boyer had already given him the go-ahead and he has . . . already begun to line up the conference. This, of course, puts [HEW] in a very weak negotiating position."

The conference was funded at $99,000.

"To suggest that there's something improper here bothers me," Pierce said in an interview. "I don't see anything inappropriate or unusual with my coming here and asking the Office of Education—which has funded a program for 10 years—to fund it for an 11th."

Earlier this year, Pierce submitted a proposal asking the Office of Education to fund the program for the 12th year. This year's conference site—Daytona Beach, Fla. On Feb. 25, William Smith, who replaced Boyer as commissioner of education, approved the contract, again on a noncompetitive basis.

Smith signed a three-paragraph memo waiving bid competition and approving the $99,000 contract. With the exception of one word—"1979" was changed to "1980"—Smith's memo was exactly the same as the memo signed by Boyer the year before, approving the Vermont conference.

The memo began: "After carefully considering the alternatives . . ."

PLAYGROUND SAFETY

On Jan. 23, 1978, Carole Willett, a program analyst for the Consumer Product Safety Commission, wrote a "memorandum of need" concluding that the government should conduct a study on playground equipment safety.

Nine months later, Willett resigned and went to work for a consulting company. She immediately submitted a proposal to the Consumer Product Safety Commission and was awarded a $20,000 contract without competition in five days.

The contract was to conduct a study on playground equipment and skate board safety.

In an interview, Willett said that before she left the government job, she asked the commission's assistant general counsel, Richard W. Allen, if her new job might create a conflict of interest. He said it would not.

Willett resigned from the commission on Sept. 5, 1978. Twenty days later, she signed an employment agreement with the Onyx Corp. On the same date, she submitted a contract proposal to the Consumer Product Safety Commission.

Also on that same day, Ann Pavlich, a program officer at the product safety commission, reviewed the proposal for technical sufficiency and concluded it was fine. She was the only person to evaluate the proposal on technical matters.

Pavlich and Willett both said in interviews that they are close personal friends. They had worked together in the same suite of offices.

"Sometimes it's just as easy to go to a contractor when you know they have someone with talent," Pavlich said.

On Sept. 30, 1978, the contract was awarded to Onyx—five days after the proposal was received by the government. The next day, Oct. 7, was Willett's first day on the job with Onyx Corp.

Too Late

Larry F. Darby resigned from his position as chief of the Common Carrier Bureau of the Federal Communications Commission last July. On Jan. 4, 1980, his successor, Philip L. Verveer, asked the FCC to fund Darby at $312.50 a day for 16 days' work.

The short-term contract was to provide a report on international communications for use in a commission report on Comsat. It was to be delivered to Congress no later than May 1.

To meet the deadline, the purchase order was stamped "ASAP," bureaucratic shorthand for "as soon as possible." Given the deadline, "a competitive procedure would be unavailing," wrote an FCC attorney.

Nonetheless the FCC placed an advertisement in the Commerce Business Daily, the official government procurement publication, noting it was negotiating with Darby. Three people responded to the advertisement. All were turned away without the opportunity to submit a proposal.

One of those was Adrienne Edyth, a California consultant. "I think it's wrong if you're not allowing people to bid on a contract based on the clarity of the proposal," she said.

Darby turned in his 60-page report on April 30, too late to be of any value for the FCC report to be turned over to Congress the next day.

"Knowing I wasn't going to make the deadline, I focused on other matters," Darby said in an interview. "I would not have taken the contract and Phil [Verveer] would not have granted the contract if it was a sweetheart deal. That was not a part of it."

Joe Seltzer was inspector general at the Department of Energy from Oct. 1, 1977, to May 20, 1978. "After DOE my family and I went on holidays and then I became a consultant," said Seltzer.

"It's a world that's alien to me. It's a world I'm not that envious to know about. But I'm 60 years old and I don't want to just sit at home," he said.

Seltzer said he can't remember investigating a single consulting contract while inspector general of the Department of Energy, but he does express misgivings about the system.

"There's too much feeding at the public trough. I'm not partial to it," he said. "I never felt there was a need for using consultants unless it was to persuade Congress of our objectivity. . . . I look at the Beltway bandits [all the consultants headquartered around Washington's beltway] and I say 'My God.' I just can't believe the amount of money that's around to be plucked."

Gilbert F. Stromwell, a former assistant inspector general at the Department of Energy, recalls that his staff was so small "we couldn't even begin to make a dent" in investigations of problems with contractors.

"I've always felt that in addition to the problem that we might be wasting money—large amounts of it—we also might not make our mission," Stromwell said in an interview. "The nation might stand or fall on our making our mission and meeting the nation's energy needs."

Now 49, having spent 25 years as an investigator for the General Accounting Office before going to the Department of Energy, Stromwell talks about his future:

"I think I'll try to get some part-time work, maybe some consulting. The only other thing you could do is sit on the sidelines and starve to death. Sure, there's a revolving door."

Ban on Officials' Deals

There are a variety of federal laws aimed at addressing the "revolving door" system involving federal officials and private corporations. Government officials responsible for enforcing the laws, however, say they are seldom enforced because of their complexity and ambiguity.

The United States code sets a variety of bans on former government officials' dealings with their former agencies, with prohibitions ranging from a lifetime to one year, depending on the seniority of the official and the degree to which he was involved in the matter while in government.

But unless the former government official acts as a "representative"—an often difficult term to define—there is nothing to prohibit him from working under a contract with his former agency.

A violation of these provisions could result in criminal prosecution and as much as a $10,000 fine and two years in jail, if convicted.

Most Ads for Contracts Meaningless

Each day for 11 years, John O'Mally has edited the Commerce Business Daily, the official government publication advertising federal contract opportunities.

Having published tens of thousands of contract advertisements in the small daily tabloid, O'Mally is distressed. He has the uneasy sense that most of the advertisements are meaningless—that there will be no competition for contracts.

"The system isn't working as it was intended," says O'Mally.

He is right.

In two-thirds of the 16,101 advertisements listed in 1979, the government announced that it already had selected a probable contractor.

"When the ad gives the name of a firm, you might as well forget it," O'Mally says. "That's a pretty clear tipoff that there's not going to be any competition."

Laced among the remaining one-third of the advertisements are a variety of other methods for avoiding competition, says O'Mally.

"There's the miscoding scam," O'Mally says. "Something will deliberately be miscoded so that no one else can find it . . . That happens pretty often."

Another common practice is for an agency to advertise for a contract—but to list the closing date for bids only one or two weeks after the ad appears.

Countless other contracts are never advertised at all.

The Office of Management and Budget estimates that $13.4 billion was spent on research contracts in fiscal year 1979. The Post's study of all 13,848 research and consulting contracts published in the Commerce Business Daily in 1979 showed a total of $9.3 billion. OMB officials say the discrepancy could indicate that many contract awards are not published.

Many in the industry totally ignore the Commerce Business Daily.

"Anybody who believes you read the CBD and get your contracts is out of it. You'd starve," says Vince Villa, a Washington consultant.

But the government continues to spend $550,000 a year printing 33,000 copies five days a week. "It's depressing . . . I had no conception of what was going on until I started working here," said O'Mally. "But now it's worn off."

Doing Federal Business: Sex, Friends, Favors

(By Ted Gup and Jonathan Neumann)

In late 1975 and early 1976, Virgil Ostrander, an official in the General Services Administration, often flew from Washington to Los Angeles to resolve major problems in a $727,000 contract with a private consulting firm.

On one of those trips, Ostrander slept with a $500-a-night prostitute paid for by the consulting firm with which he was negotiating.

Barbara Jennings, the prostitute who slept with Ostrander, said the head of the consulting firm assigned her to "keep Ostrander happy." Recalled Jennings: "He said they were right in the middle of negotiations that were very, very important."

Ostrander acknowledged the sexual relationship, but said he did not know at the time that the prostitute was in the pay of the consulting firm. "I guess I was probably set up," he said.

The arrangement with Ostrander and Jennings is not unique in the dealings between federal officials and private contractors. Sex, the promise of future "consulting" payments, high-style housing, food and drink—all of these favors are routine in the world of government contracting.

Favors of this sort, along with the "revolving door" pattern detailed in yesterday's article, are symptoms of a federal contracting system that has spun out of control—a system in which the government spends $1 million an hour on outside contracts and awards more than two-thirds of them without competitive bidding.

Interviews with more than 600 government officials and contractors during an eight-month investigation by The Washington Post showed that personal closeness between those who give the money and those who get the money is commonplace. For example:

Yosef Patel, a high-ranking Department of Commerce official on the West Coast, has routinely dated female employes of consulting firms he monitored in Phoenix, Los Angeles and San Francisco. One woman in a San Francisco firm, Lisa Jacques, said she had a sexual relationship with Patel last summer. At the time, the Commerce Department was preparing to award a $600,000 project to the firm.

Louis Moret, formerly a high-ranking Commerce Department official and now an official in the Energy Department, acknowledges having had a sexual relationship with an employe of a consulting firm that had received a Commerce Department contract. Moret's sexual encounter was with Jean Ellen Gutierrez, a "hospitality suite hostess" with a Las Vegas consulting firm. It occurred during a November 1977 conference held at Caesar's Palace in Las Vegas.

Gerrold Mukai, an official in the Community Services Administration, shared a fashionable Georgetown house in 1977 with Robert Mariscal, owner of a consulting firm that has received $2.4 million in noncompetitive CSA contracts. Mukai is head of the office that supervised those contracts. Last summer, when Mariscal opened a $20 million casino in Las Vegas, Mukai flew to Nevada for the opening ceremonies.

Many government contractors have marketing divisions with personnel devoted solely to establishing and maintaining close relationships with the federal officials upon whom they rely for work and profits. The marketing personnel work full time to telephone and visit, wine and dine and entertain government officials—to plant the seeds for what will become noncompetitive contract awards.

One large firm, Computer Sciences Corporation, rents a $16,000 Sky Suite at the Capital Centre, where the company says it frequently entertains its customers, including government officials. The same firm maintained a special "entertainment account" from which marketing personnel funds other activities.

Many in the contracting business say that the real competition for contracts is to be found here, in the marketing arena. It is competition to develop an inside track.

Rick Lockett, a former CSC marketing official, spoke of the use of sex for government officials to win contracts.

"It happens in every company," Lockett said. "If you can pull something off, why not? It gets down to the consenting adult thing . . . It's never a company policy. If you think it's worth getting a contract, you do it. It's left to the discretion of each marketing guy. There isn't a marketing guy on the street that I know who wouldn't consider that [providing sex] if he thought it would help get a contract."

Lockett concluded: "The requirement of the profession is that you have to be fast and loose."

Computer Sciences Corporation officials denied that their company has provided sexual favors for anyone.

In this, the final article of a five-part series on government contracting, contracts awarded or monitored on the basis of favors, friendships, or contacts will be examined.

THE SETUP

The General Services Administration was having difficulty in 1975 with a $727,000 contract it had awarded to Mariscal and Co., a private consulting firm.

"There were some very serious problems with the contract," explained Virgil Ostrander, who at the time was the GSA program officer for the Mariscal contract. "There were real questions about defining their work scope and figuring out what they should be paid each month . . . and there were technical problems."

It was in trying to work out those problems that Ostrander came to sleep with two prostitutes he met through the Mariscal company, one of the largest minority-owned consulting firms in the country.

"I'm more or less embarrassed about walking into this sort of thing," the 45-year-old Ostrander, now a deputy assistant commissioner at GSA, said in a recent interview. "Maybe it was naivete . . . My eyes have since been opened . . . I don't even share a cup of coffee with a contractor anymore."

The purpose of the Mariscal contract was to develop a model to help the government determine the most economical way to finance buildings—whether they should be purchased, leased or rented.

But the contract, Ostrander said, was very vague in its wording, and for several months it was not clear what the consulting firm was doing for the money. The problems became so serious that by September 1975, Ostrander issued a "stop work" order, and the GSA discussed terminating the contract.

That did not happen, however, and so, in November, 1976, Ostrander flew to Los Angeles to decide the future of the contract. "That November meeting was pretty crucial," he said.

On the night of the meeting, Ostrander dined with a Mariscal official at a restaurant in the Marina del Rey section of Los Angeles. A young, blond-haired blue-eyed woman with an attractive figure walked to the table. Her name was Barbara Jennings.

"She appeared to casually walk by," Ostrander recalled. "It appeared to be a chance meeting."

The Mariscal official introduced Jennings to Ostrander, saying she was a friend. She sat at the table.

"She said she was lonely," Ostrander said later. "I liked her and took her phone number and said I would call her."

The next day, Ostrander said, he called Jennings. They went to dinner at a Chinese restaurant, Madame Woo's, and then went to Jenning's small house in Santa Monica.

"I was at her house," Ostrander recalls. "I thought she was a nice working girl."

"I slept with him only [that] once," Jennings said in an interview. "After that, I set him up with a friend of mine."

Indeed, when Ostrander was in town a short time later, he called Jennings. She said she was busy, but gave him the name and phone number of a friend. He called the "friend," and met her for dinner, and took her up to his hotel room. There he said, they slept together.

"After that," Ostrander said, "I never called them again. I suspected I may have been set up."

According to Jennings, he was. She said that the encounters were arranged by Robert Mariscal, who had told her that Ostrander is "very important to me . . . Make sure it's a good girl and make sure he's happy."

(In an interview two days ago. Ostrander changed his story regarding the second prostitute. He said he paid her $125—and that he did not know whether the Mariscal firms also paid for the encounter).

Jennings said that in her business she only serviced executives or government officials. Her rate, she said, was $500 a night. Jennings said she took a 40 percent share when she hired another woman to work for her.

In the Ostrander case, she said, she was paid by Rene Diaz, a controller for Mariscal and Co. Diaz was also a neighbor of Jennings. "He would bring home an envelope from the office, Jennings said. "Usually it would be cash. Sometimes, it was a check. If I did a good job, there'd be a small bonus."

In an interview, Diaz said that he made payments to Jennings. He also acknowledged that he has jokingly referred to himself as "the bagman" for Mariscal. "I made the payments, but I did not make any arrangements," Diaz said. "I don't know who made the arrangements."

Mariscal denied that he set up or paid for the sexual affairs. "I know Barbara socially," Mariscal said. "And I may have been together with Barbara and Virgil [Ostrander] socially. But I have never paid for companionship for any government official."

In fact, Mariscal said, he did not know that Jennings was a prostitute. "I have never known Barbara to be a hooker," he said. "Was she 'kept' by men? Yes . . . Let me say this: I know Barbara's been around."

He said that he did give money to Diaz to pay Jennings. But the money, he said, was not to pay for Ostrander.

"Frankly, I used to see Barbara personally," Mariscal said. "Any kind of financial transactions between me and Barbara had to do with my personal life."

Despite the encounters with the women, Ostrander insists that his professional judgment as the project officer was not swayed. "If Mariscal was doing it to impress me, it was only counter-impressive," said Ostrander. "If it had an influence it would have been negative."

He added: "I'd have to say I really got duped. But they didn't get anything out of it."

He said he was satisfied with the final product of the $727,000 consulting contract, but he felt it was too expensive. "I'd say we overpaid by 15 to 25 percent," Ostrander said. "The contract (amount) was too high to begin with."

VERY FOND OF YOSEF

From 1973 until last fall, Yosef Patel served as the supervisory project officer of the Department of Commerce minority business program in the western region of the U.S. Last August, Patel was transferred to serve as the department's regional officer in Honolulu.

In his six-year tenure on the West Coast, Patel frequently sat on the committees that decided who would win Commerce Department contracts. He also supervised all project officers overseeing millions of dollars worth of contracts in the region.

"Yosef had a lot of power," explained Louis Moret, one of Patel's superiors at the Department of Commerce in Washington. "He was the senior project officer. He ran the place pretty much."

Contractors throughout the region were aware of Patel's importance to their winning and keeping contracts. When he went to Phoenix, San Francisco, and Los Angeles to monitor contracts, the firms he would monitor sent secretaries or other employes to meet him at the airport, according to interviews with the secretaries. He routinely went to lunch and dinner and evening entertainment in bars and discos with executives and employes from the consulting firms he monitored, according to interviews with the employes and Patel.

He also routinely dated women working for each of the firms.

In San Francisco, Lisa Jacques, a receptionist for the San Francisco Business Development Center, a Commerce Department-funded firm, said she had a sexual relationship with Patel last summer. At the time, Commerce was determining whether to award a $600,000 grant to the firm. The company won the grant on Sept. 28.

"I don't think I had anything to do with it [the grant award]," said Jacques, who referred to Patel affectionately as "Yo."

Both she and Patel said in interviews they were friends before she joined the firm.

The executive director of the San Francisco Business Development Center, Louis Barnett, said he was unaware that Patel and Jacques had been dating.

In Los Angeles, Jerri Watts, a secretary for the consulting firm of Mariscal Co., said she dated Patel, but had not slept with him.

In Phoenix, Candy Walters, a former employe of the Phoenix Business Development Center, described her relationship with Patel:

"I'm very fond of Yosef," she said. "And I'm very affectionate. Whenever I see him, I hug him . . . I kiss him . . . I feel very warm with him . . . I'd say I'm his closest friend in Phoenix." Walters said she had not had a sexual relationship with Patel.

In an interview, Patel acknowledged that he has close relationships with women who work at consulting firms he has monitored. But he said his personal relationships do not influence his professional judgment.

"I don't have much authority," Patel said. "But whatever authority I had, I didn't abuse."

Patel denied having a sexual relationship with Jacques in San Francisco. "Oh, yes, she's a friend of mine." Patel said. "We're buddies, we're friends . . ."

At first, Patel refused to discuss whether he had a sexual relationship with Jacques. "I can't answer that. I think I have certain rights," he said.

Finally, Patel said: "No, I did not have a sexual relationship with her. Especially not during the period of contract negotiations last summer."

Executives of the firms in the three cities said in interviews that they are aware of the personal relationships between Patel and female employes at their firms. They said they saw no conflicts in those affairs.

"Candy's friendship with Patel did not affect our business with the government one way or the other," said James Salmon, executive director of the Phoenix Business Development Center.

While Patel and the firms with Commerce Department contracts insisted that Patel's objectivity as a project officer was never compromised, Commerce auditors and field officers had a different view.

Patel said that in his supervisory role he was unaware of any problems with contractors in Phoenix or Los Angeles. Other Commerce officials were aware of problems, many of them serious.

In Phoenix, after the Business Development Center won a $300,000 contract to assist minority businesses, there were numerous allegations that the firm was falsifying its performance records to receive increased funding.

Donnita Holley, a former bookkeeper for the firm, told The Post that she regularly falsified performance records, padding the number of minority firms actually receiving assistance from the Phoenix BDC by as much as 60 percent.

PBDC officials denied that there was any falsification of records. But complaints of falsified records continued to go to the Department of Commerce's Phoenix field auditor, Joseph Sotello.

"We got so many complaints," explained Louis Moret, the deputy director of the national program in Washington, "that we got sick and tired of hearing about the PBDC. The complaints kept coming all the way up here—right to Washington."

Finally, Moret said, he sent a team to Phoenix to investigate the charges. The team consisted of Patel, Sotello, and a Commerce Department auditor from San Francisco.

"Yeah, if Yosef had a woman friend at the PBDC it could cause me problems," Moret said. "But, even if he were swaying in favor of the firm, you had Sotello—who was against the firm—balancing it out."

In the end, the special audit concluded the PBDC was not falsifying its numbers. Sotello disagreed with that finding. He was overruled by Patel.

Patel later said of the Los Angeles Mariscal contract: "I never had any problems with that one." Yet on Dec. 29, 1977, the audit office of the Department of Commerce in San Francisco released a 21-page audit report challenging $163,000 of the $510,000 that was billed by Mariscal to the Commerce Department in past years.

Among the items questioned by the audit were a $262.50 credit card bill for merchandise purchased at Gucci's in Washington; $14,837 in first-class air travel for friends, relatives, and company guests; a $313.46 meal at Georgetown's Orchid 7 restaurant with a $52 tip, and a $31,600 cash payment to the "board chairman" to be used for "marketing"—winning new government contracts.

In all, the audit questioned the use of $60,666 in the contract that went to "marketing" for new contracts.

The Commerce auditors wrote: "There is no basis or precedent which would permit any contractor to be fully reimbursed under government contracts for costs incurred for the sole purpose of influencing the award of additional government contracts."

During the entire period covered by the audit, Patel was the supervisory project officer on the Mariscal contracts. Of the audit findings, he said: "I never got involved in that sort of thing."

Following the audit report, Mariscal agreed to repay the government much of the questioned costs. Two months ago, after Patel was transferred to Hawaii, the Department of Commerce terminated its contract with Mariscal.

EVERYBODY WANTS SOMETHING

While Patel was the supervisory project officer in the Western region, Louis Moret was the deputy officer of the Commerce Department's $60 million-a-year national minority business program in Washington.

In an interview, Moret, now an official at the Department of Energy, said he did not think it was a good idea for government officials to have personal relations with employes of consulting firms.

"I would rather not see my staff do that sort of thing," he said. "I'd rather not see commingling."

In his Commerce Department post, Moret traveled across the country, making speeches and conducting spot checks of numerous consulting firms. On one such visit to Las Vegas in November 1977, Moret ended up in bed in Caesar's Palace with Jean Ellen Gutierrez, a secretary from a Las Vegas firm with a Commerce Department contract.

"This was that one rare instance in three years that something like this happened to me," Moret said in an interview. "You hit it off with somebody . . . I liked her. I liked her as a person, not as an employe."

Moret said he did not think his relationship with Gutierrez influenced any of his decisions regarding the Commerce department's contract with the Nevada Economic Development Corporation (NEDCO), the firm for which Gutierrez was a secretary.

"In this business, what I've learned is that everybody wants something . . . but I think it depends on the individual. Just 'cause you get laid, does that make you beholding?" Moret said.

The 1977 visit to Las Vegas, Moret said, was not on his original itinerary. He was in Denver on Nov. 29, 1977, to deliver a speech at a minority business conference and was readying himself for a trip to Los Angeles when he got a telephone call from William (Bob) Bailey, the director of NEDCO in Las Vegas.

As part of its Commerce Department contract, NEDCO was hosting a three-day conference for businessmen and federal officials at Caesar's Palace. One of the key speakers canceled at the last moment, Bailey said, and he felt Moret would be a good substitute.

"I said okay," Moret recalled.

Later that day, he met Gutierrez. She was typing in a NEDCO-rented office at the hotel.

"If I was set up, Moret said, "it certainly turned into a better friendship than they conceived."

In an interview, Gutierrez said: "I was in awe of him, an important guy from Washington . . . I don't think it was a set up."

She did say, though, that an official at NEDCO would frequently ask her about Moret. "I guess they (her bosses) felt this was a good situation for them," Gutierrez said.

Bailey said that while he is aware that sexual favors are used in winning contracts, "I never got involved in anything like that.

"There's enough goodies in this town," he said of Las Vegas, "that if anybody wants them, they can get them."

He said he knew nothing of Moret's relationship with Gutierrez. "One thing I say," said Bailey. "She's a fine, fine lady. And if they did get together, Moret's a lucky fellow."

Moret said his relationship with Gutierrez did not influence his treatment of the Nevada firm. He acknowledged, however, that his friendship with a director of a firm in Phoenix did contribute to a noncompetitive contract award to that firm.

The firm is called Chicanos Por La Causa (CPLC)—an organization with $8 million in federal contracts. His friend was Tommy Espinosa, the firm's director.

Late in 1977, CPLC failed to win a Commerce Department contract in competitive bidding with other local firms. The contract was to assist business development.

Moret said he was disappointed that CPLC lost, so he went to the Commerce Department's regional office, and suggested that it consider awarding a noncompetitive contract to CPLC.

"I thought they were a good organization," Moret said. He said he suggested that the regional office use its discretionary fund for a CPLC contract. Moret said he felt such a contract would benefit both CPLC and the Commerce Department.

In 1978, the Commerce Department awarded Chicanos Por La Causa a noncompetitive, $50,000 contract to conduct a study of the impact of the construction of the airport in Phoenix on the surrounding Chicano community.

Espinosa said he knew his firm won the contract because of Moret's intervention. He described Moret as a "very good old friend."

Moret said, "if you do everything by the book and you don't help your friends, what's it all about? Networking is part of life."

On Sept. 29, 1977, CPLC held a cocktail reception in a Phoenix restaurant in honor of Moret.

"There are a lot of Chicanos here who are proud of Lou," Espinosa said. "We just wanted to give them a chance to meet him in person."

The reception came at the same time proposals were being written for the competitive contract CPLC would not win.

"Obviously the company's friendship with Lou didn't unfairly influence the procurement process," said Robert Martinez, a former economist and proposal writer for CPLC. "After all, we didn't win the contract."

THE GEORGETOWN HOUSE

On June 20, 1977, Gerrold Mukai began his job as the associate director for the Office of Economic Development for the Community Services Administration. In that job, he has been responsible for overseeing the award or continuation of $2 million in five noncompetitive contracts with Mariscal and Co.

On the date he started his job, Mukai was living in a Georgetown house leased by Robert Mariscal. When Mariscal came to Washington, he lived in that house, in separate quarters from Mukai.

"I've known Gerry for several years," Mariscal said in an interview. "I knew him before he went to work for the government. We're very, very close friends."

He said Mukai lived in the Georgetown house for about six weeks. Mariscal paid $500-a-month rent for the house. He said Mukai paid him "a few hundred dollars" rent per month.

Mukai, who earns $50,000 a year, said in an interview that he developed a friendship with Mariscal, but insisted that his personal relationship has had no effect on his professional judgment.

"Whenever there is any personal relationship, I have a tendency to be more than critical," he said.

Mukai said that after he moved from Mariscal's house in Georgetown, Mariscal visited him in his Reston home for dinner with his family last year.

"We did not talk about CSA," Mukai said.

He also said that he was invited to the grand opening of Mariscal's Las Vegas casino, The Nevada Palace. Mariscal is the principal owner of the $20 million casino.

Mukai said he went to the event last summer, but he said that he paid his own travel and hotel costs. He said he accepted the complimentary drinks at the casino.

Mukai said he thought at the time he went to Las Vegas that Mariscal no longer had a financial interest in the consulting company. In fact, Mariscal was still the company's owner at the time, according to corporate records.

While Mukai said he showed no favoritism toward Mariscal, he also said he never saw any problems in Mariscal contracts in his dealings with people at the firm.

However, a not-yet released specal audit by the Office of the Inspector General at the CSA has found that about $194,000 collected by Mariscal and Co. resulted from false billings and unauthorized personal and travel expenses by Mariscal executives and employes.

Mr. STEVENS. Mr. President, I am pleased to cosponsor this legislation with the distinguished chairman of the Subcommittee on Civil Service and General Services, Senator DAVID PRYOR. Since assuming the chair of the subcommittee, Senator PRYOR has taken the lead in investigation of the Federal Government's use of consultants. His investigations turned up countless abuses involving conflicts of interest, noncompetitive bidding, revolving door arrangements, and wasteful and useless products. Estimates of Government waste in this area run into the billions of dollars. I am cosponsoring this bill because I feel that some of the proposals will result in true reform.

None of us advocate the elimination of consultant use. Many of the products of consultant work are of the highest quality, and as vice chairman of the Board that oversees the Office of Technology and Assessment, I am aware of the value of reports done by consultants. However, when the groups regulated by the Government help in drafting the regulations under which they are regulated or studies conducted by so-called experts could be done by people already being paid for by the taxpayers, then restraints must be imposed to prevent waste and abuse of the regulatory process.

Mr. President, I believe this bill will improve service to the public while saving the taxpayers money.

Mr. SASSER. Mr. President, I want to commend Senator PRYOR for introducing the Consultant Reform Act of 1980.

Like many of my colleagues, I have read with dismay the recent series of articles in the Washington Post about the incredible waste in Federal spending for consultants. Routinely, in many cases, consultant contracts are let for work that is nonessential. Consultant work is often poorly done and inadequately managed by Government contract managers. Consequently, too much of Government consultant work is of little or no value to the Federal Government.

Now, who loses in this case?

First and foremost, the American taxpayer loses by this wasteful and unnecessary spending. Both Senator PRYOR and myself have suggested that a savings of $500 million could be realized in reduced consultant spending in the 1981 budget. This across-the-board savings would be accomplished in much the same manner that Federal spending for travel was reduced in the 1980 budget as a result of my recommendations to the Senate Budget Committee.

Second, the Federal Government loses when there is excessive and wasteful consultant spending. Money that is spent on wasteful contracts is diverted from other, more essential Government programs, many of which are now the subject of deep budget cuts as we balance the budget. Public confidence in Government management is also eroded by the inept way in which some consultant contracts are made and managed.

Third, the consultant industry as a whole is damaged by wasteful spending. Consultants do have a legitimate role to play in Government work. They can provide expertise which is not otherwise readily available to the Government. They can provide unbiased analyses of urgent public policy problems. They can provide the "second opinion" that is often necessary when the Congress and the executive branch are dealing with complex and controversial matters. But they can only perform these roles well if they do them honestly and with professional integrity.

All too frequently, Mr. President, some Government consultants appear to be fast buck artists, willing to write a research proposal on any topic under the Sun—whether or not the research can be conducted in a competent and professional manner.

Finally, Mr. President. I would like to make a personal reference. Last December, I chaired 2 days of hearings of the Small Business Committee during which we considered the role of small business in solar energy development.

No one disputes the fact that the United States can use as much innovation as possible in the energy field. And what better place to turn for new ideas than to small business? Studies show that the rate of innovation for small businesses is 25 times greater than it is for large corporations.

Yet, to our chagrin, the committee learned that the overwhelming amount of research for solar energy contracted by the Department of energy went to large energy corporations. This means, in effect, that for new ideas in energy, DOE is turning to the same large corporations that brought us spot shortages and higher gasoline prices—the same large corporations that fought for decontrol of natural gas and oil prices, and the same large corporations that are now reaping record profits in the billions.

I was concerned about this development, so I asked DOE to prepare a report for me explaining just why it was overlooking small business in its solar energy research program.

The DOE response to my inquiry, it turns out, was actually prepared by a consulting firm—a consulting firm with strong ties to large energy corporations. This procedure makes about as much sense as asking the Soviet Union for a report on why Afghanistan cannot govern itself.

So, Mr. President, I know that Senator PRYOR's legislation will send shivers up the spines of unscrupulous or incompetent Government consultants.

That is as it should be. Senator PRYOR is to be commended for his leadership in this legislation, and I strongly urge my colleagues to give it their full and unqualified support.

By Mr. BENTSEN (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. CULVER, Mr. DURENBERGER, Mr. GRAVEL, Mr. JACKSON, Mr. JOHNSTON, Mr. LEAHY, Mr. MAGNUSON, Mr. MOYNIHAN, Mr. THURMOND, Mr. TSONGAS, Mr. TALMADGE, and Mr. RIBICOFF):

S. 2881. A bill to amend the Internal Revenue Code of 1954, to extend the historic preservation tax incentives; to the Committee on Finance.

HISTORIC PRESERVATION TAX INCENTIVES

● Mr. BENTSEN. Mr. President, today I am joining with several of my colleagues in introducing legislation to extend for an additional 5 years the historic preservation tax incentives first enacted in 1976. These provisions allow developers of certified historic buildings to receive tax incentives for the revitalization and renovation of these structures.

For these incentives to take effect, a reconstruction project must be certified by the Secretary of the Interior as being consistent with the historic character of the property or the district in which it is located. Also, the building itself must be certified by the Heritage Conservation and Recreation Service as having historical significance.

These provisions apply only to certified, commercial, historic structures, and the renovation work must be completed before the 1981 expiration dates of these sections. This bill would extend these deadlines so that builders and developers could be assured of the continuity of the law, allowing them to plan for future restoration work.

The most widely used of the incentives is the amortization credit of section 191 of the Internal Revenue Code, created by the Tax Reform Act of 1976 and amended by the Revenue Act of 1978. It allows a 5-year amortization of the costs of certified rehabilitation of certified historic structures. This provision is being used by 96 percent of the persons taking part in this program, according to estimates of the Heritage Conservation and Recreation Service (HCRS).

The second of the incentives is an accelerated depreciation option which is available to owners who have done substantial rehabilitation work on a historic property. This provision can be coupled with the 10-percent investment tax credit available to owners of buildings 20 years or older which are used for industrial or commercial purposes.

This legislation also extends two tax disincentives designed to protect certified historic structures. The first makes demolition expenses for such structures nondeductible for income tax purposes, and the second prohibits the use of accelerated depreciation for new buildings or rehabilitations which destroy or deface a historic structure.

These incentives did not become fully operational until technical corrections were made in November 1978. However, a definite positive effect is already evident. As of June 13, 1980, the HCRS reports that 1,750 proposed or completed projects have been approved, representing a private investment of $813 million. HCRS surveys report that 41 percent of these rehabilitation projects would definitely not have been undertaken without these tax incentives. As part of a report published in August 1979, State historic preservation officers were polled and they expressed unanimous support for the reauthorization of the incentives concerning historic preservation.

These incentives not only help to preserve our Nation's proud heritage, they also contribute to community revitalization in downtown areas. By reusing existing buildings, energy costs to process new materials are reduced. Additionally, these structures are usually located in urban areas, eliminating the need to expand utility services.

Renovation projects provide jobs and help to reduce housing shortages. In Claremont, N.H., for example, abandoned textile mills along the Sugar River are being converted to low- and middle-income housing units, due in large part to these tax incentives.

With decaying inner cities, downtown revitalization is an increasingly attractive prospect. Rehabilitation of historic structures provides jobs in depressed, urban areas and stimulates the economies of those districts. Additionally, historic renovation is more labor intensive than new construction.

These tax incentives allow investors to recover their money more quickly, freeing the funds for more rehabilitation. In Fresno, Calif., a developer was able to upgrade his annual budget for renovation from $59,000 to $120,000—more than double. Now a downtown businessmen's association has taken over several rehabilitation tasks in the area

These tax advantages have provided a necessary incentive to promote the redevelopment not only of specific buildings, but of whole business districts while not expanding energy networks or acquiring expensive materials. They have led to a substantially increased interest in redevelopment of historic buildings, and have increased community awareness of not only history, but conservation.

Texas is very active in historic preservation efforts, and much of this work is being stimulated by these tax incentives. The Texas Historical Commission reports a rapidly growing number of applications for certification under these provisions. Of the 71 such applications in Texas, 17 are from San Antonio alone. The city of San Antonio, with its revitalized downtown area, the San Antonio River Corridor project, the historic Alamo and King William Districts, and the new San Antonio Missions National Historical Park, is an outstanding example of the good that can be achieved through historic preservation efforts. Other towns and cities in Texas and across the Nation are also moving rapidly to both preserve and make good use of their historic treasures.

Mr. President, I strongly support tax incentives for historic preservation. Historic preservation is good policy for many reasons. It is cost-effective. A relatively small revenue loss is stimulating over $800 million in private investment.

It is good economics. This investment is going into profitable private businesses which are providing the critical mass for a burst of economic activity.

It is good social policy. These projects are renewing and revitalizing many of our older urban areas and are providing badly-needed inner city jobs in the process.

It preserves our natural resources. We can make better use of our existing buildings rather than consuming energy and materials to destroy them and erect new ones in their place.

Last, but certainly not least, this legislation will help preserve our Nation's heritage for generations to come while allowing the freedom and flexibility to modernize. The world we give to our children will be efficient, modern, and comfortable, but it will still contain those priceless reminders of the proud heritage of our Nation.●

● Mr. MAGNUSON. Mr. President, I am pleased to join the Senator from Texas (Mr. BENTSEN) in sponsoring an extension of tax incentives designed to encourage private investment in the renovation of historic buildings.

As an original cosponsor of his provision in 1976, I have been watching its successful implementation in my State of Washington, and I have been impressed by what I have seen. Through the use of incentives such as rapid amortization, accelerated depreciation, and investment tax credits, our Nation's cities have undertaken the renovation of buildings which might otherwise have been destroyed.

Evidence of the success of this program is apparent across our country, and the State of Washington is no exception. I am sure all of us here in this Chamber can point to numerous examples of renovation in our States that have benefitted from the incentives provided in the 1976 act. In the city of Seattle alone, more than 20 buildings in the historic Pioneer Square District have been restored with the help of the positive tax climate created by these provisions.

Additional renovation work has been

completed in the area surrounding the Pike Place Market. In the city of Vancouver, the Evergreen Hotel was recently placed on the National Register, and renovation of that structure is now underway. Similar efforts are in progress in Snohomish, LaConner, Wenatchee, and Walla Walla. Without an extension of favorable investment conditions, this work may grind to a halt.

It makes good sense in so many ways to continue these tax provisions. In a year of cutting the Federal budget, this legislation is designed to attract the investment of private dollars to prevent deterioration in America's cities. As cuts are made in Federal aid programs, private investment becomes increasingly important. We in the Congress should be doing all we can to help the private sector in its efforts.

Additionally, we should keep in mind that the renovation of existing structures saves energy and materials, while at the same time preserving our past. As we become more and more concerned about conserving our natural resources, we often overlook the less obvious methods available to us. It takes a lot of energy to produce most building materials. If we can extend the life of existing structures, energy and money will be saved.

Finally, we must not overlook the pure pleasure that comes from seeing structures we have known and loved through the years come back to life as functioning buildings. The library on the corner that we used to go to as kids, the theater, even the warehouse or factory. Investment in historic buildings can mean the difference between a city with character and charm, an environment where people are proud to live; and a city without a real visible history. America's past is a natural resource we ought to be proud of, and one we should make every effort to preserve.●

By Mr. RIBICOFF (by request):

S. 2882. A bill to establish an Office of Statistical Policy in the Executive Office of the President for the purposes of developing Federal statistical policy and statistical standards and insuring that the statistical programs of the Federal agencies are responsive to national information needs, and for other purposes; to the Committee on Governmental Affairs.

STATISTICAL POLICY ACT OF 1980

● Mr. RIBICOFF. Mr. President, at the request of the Director of the Office of Management and Budget, I am introducing the Statistical Policy Act of 1980. The purpose of the legislation is to establish an Office of Statistical Policy in the Executive Office of the President for the purposes of developing Federal statistical policy and statistical standards and insuring that the statistical programs of the Federal agencies are responsive to national information needs.

I ask unanimous consent that the text of the bill, the section-by-section explanation, and the accompanying letter be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Statistical Policy Act of 1980."

SEC. 2. CONGRESSIONAL FINDINGS.—The Congress, recognizing the importance of statistical information in the development of national priorities and policies and in the administration of public programs, hereby finds and declares that:

(a) Improved coordination and planning among the statistical programs of Federal agencies is necessary to strengthen and improve the quality and utility of Federal statistics and to reduce duplication and waste in information collected for statistical purposes;

(b) While the demand for statistical information has grown substantially over the past twenty years, the lack of coordinated planning within the decentralized Federal statistical system has limited the usefulness of statistics in defining problems and determining national policies to deal with complex social and economic issues;

(c) A government-wide statistical policy needs to be established to ensure that data available from Federal statistical programs are responsive to the information needs of the President and the Congress in developing national policies, and that necessary statistical information is collected with the smallest practical imposition of reporting burden on individuals, businesses, and public entities; and

(d) A central statistical policy and coordination office is necessary to develop and implement a Federal statistical policy, to establish priorities for the Federal statistical program, to oversee and evaluate the statistical programs of Federal agencies, and to ensure that data are collected for statistical purposes by those agencies in accordance with establishing standards.

SEC. 3. DEFINITIONS.—For purposes of this Act, the term—

(a) "Agency" means an executive department, military department, Government corporation, Government controlled corporation, or other establishment in the Executive branch of the Government, or any independent regulatory agency or establishment, but does not include the General Accounting Office or the government of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

(b) "Statistical purpose" means an objective to develop or report aggregate or anonymous data in such a way that the identity of specific persons or establishments is not discernible and is not material to the intended uses of the data;

(c) "General purpose statistics" are those collected chiefly for public and general government uses and without primary reference to specific agency policy or program operations; and

(d) "Director" means the Director of the Office of Statistical Policy.

SEC. 4. ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of Statistical Policy (hereinafter referred to as the "Office").

SEC. 5. DIRECTOR AND DEPUTY DIRECTOR.—(a) There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for Level III of the Executive Schedule in section 5314 of title 5, United States Code.

(b) There shall be in the Office a Deputy Director who shall (1) be appointed by the Director, (2) be a member of the Senior Executive Service, (3) perform such functions as the Director may prescribe, and (4) act as Director during the absence or disability of the Director and during a vacancy in the position of Director.

SEC. 6. FUNCTIONS AND DUTIES.—(a) The Director shall provide overall planning and policy and establish objectives, priorities, and standards for agencies' statistical programs.

(1) In carrying out the functions under this section, the Director shall consult from time to time with the Federal Council on Statistical Policy established by section 10 of this Act.

(2) The following shall be included among the objectives sought in carrying out the provisions of this Act:

(a) To improve the quality of data collected for either statistical purposes or data collected for administrative purposes that are also used for statistical purposes;

(b) To achieve the most effective use of resources available for statistical work by the agencies, in relation to overall national needs for statistical information;

(c) To minimize the burden upon those furnishing data to agencies for general statistical purposes;

(d) To improve the relevance and utilization of Federal statistics;

(e) To achieve maximum comparability and integration among the several statistical series and analyses;

(f) To improve the presentation of statistical information and of explanations regarding the reliability and limitations upon the appropriate uses of such information; and

(g) To preserve and enhance the integrity, objectivity, and confidentiality of the Federal statistics and the confidence of the public therein.

(b) For the purpose of ensuring implementation of a Federal statistical policy and the achievement of objectives, priorities, and standards provided or established pursuant to subsection (a), the Director shall—

(1) Require agencies engaged in the collection of general purpose statistics to develop such multi-year program plans, information, and reports as are necessary for establishing Federal statistical priorities and for improving the performance of Federal statistical programs in support of the development of national policy;

(2) Develop standard statistical definitions and classifications that are compatible to the extent appropriate and practicable with those established by intergovernmental organizations of which the United States is a member;

(3) Issue guidelines and directives to improve the gathering, compilation, analysis, publication, and dissemination of statistical information by agencies;

(4) Coordinate the performance of Federal statistical functions to maximize the usefulness of information and to ensure against unnecessary duplication in the collection of data for statistical purposes among Federal agencies. In conducting such coordination the Director shall:

(A) assist the Director of the Office of Management and Budget in the review of forms used by the agencies to collect general purpose statistics in order to eliminate duplication, irrelevant data, and excessive paperwork; and

(B) with the concurrence of the Director of the Office of Management and Budget, direct agencies, in appropriate circumstances, to develop jointly forms for the collection of such data;

(5) Review agencies' budget requests for

their respective statistical programs and activities and advise the Director of the Office of Management and Budget thereon;

(6) Conduct, or provide for the conduct of, evaluations and studies of the performance of Federal statistical agencies or programs;

(7) Recommend, in coordination with the Director of the Office of Management and Budget, to the head of each agency changes in organization, management, and personnel that are necessary to implement the policies, objectives, priorities, and standards established by the Director as may be appropriate; and

(8) Provide for the interchange of information and data among the statistical programs of the agencies in accordance with applicable law and regulations regarding the confidentiality of statistical records.

SEC. 7. INTERNATIONAL ORGANIZATIONS.—The Director shall (a) determine, in consultation with the head of the appropriate agency and with concurrence of the Secretary of State, what statistical information shall be provided in response to official requests received by the United States Government from any international organization of which the United States is a member, and (b) determine which agency shall prepare the information to be provided. The statistical information prepared shall be transmitted to the requesting intergovernmental organization through established channels by the Secretary of State or by any agency now or hereafter authorized by the Secretary of State to transmit such information.

SEC. 8. ADMINISTRATIVE AUTHORITIES.—(a) The Director, in carrying out the functions and responsibilities of the Office, is authorized:

(1) to select, appoint, and employ such officers and employees as may be necessary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to select, appoint, and employ such attorneys as may be necessary subject to the provisions of title 5, United States Code, relating to classification and General Schedule pay rates;

(3) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent of the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

(4) to enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such payments as may be necessary to carry out his functions and responsibilities.

(c) Common administrative support and services (which include personnel management services, financial management services, data processing and support services, and general office maintenance, supply and other support services) shall be provided to the Office as an agency in the Executive Office of the President by the Director of the Office of Administration, as the President shall from time to time direct.

SEC. 9. COMPENSATION OF THE DIRECTOR.—(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"( ) Director, Office of Statistical Policy

SEC. 10. FEDERAL COUNCIL ON STATISTICAL POLICY.—(a) There is established a Federal Council on Statistical Policy (hereinafter referred to as the "Council").

(b) The Council shall be composed of the following members, together with such other heads of agencies as the President may designate:

(1) The Director of the Office of Statistical Policy, who shall be Chairman;

(2) The Secretary of State;

(3) The Secretary of the Treasury;

(4) The Secretary of Defense;

(5) The Attorney General;

(6) The Secretary of the Interior;

(7) The Secretary of Agriculture;

(8) The Secretary of Commerce;

(9) The Secretary of Labor;

(10) The Secretary of Health and Human Services;

(11) The Secretary of Housing and Urban Development;

(12) The Secretary of Transportation;

(13) The Secretary of Energy;

(14) The Secretary of Education;

(15) The Chairman, Council of Economic Advisers;

(16) The Director of the Office of Management and Budget;

(17) The Chairman, Board of Governors of the Federal Reserve System; and

(18) The Administrator of General Services.

(c) The Chairman may designate any other member to act as Chairman during the absence of the Chairman. Each member of the Council may designate an alternate to serve whenever the regular member is unable to attend any meeting. The Chairman may invite the heads of other agencies or alternates to participate in Council deliberations whenever matters that affect the interests of such agencies are to be considered.

(d) The Council shall advise and assist the President with respect to the improvement, development, and coordination of Federal statistical services, and shall perform such other related duties as the President may prescribe.

(e) Such administrative support and such funds as may be determined necessary by the Director to support the functions of the Council shall be provided by the Office of Statistical Policy out of funds appropriated pursuant to section 13 of this Act. Agencies shall, to the extent permitted by law, provide such information and assistance as the Council or the Chairman may request to assist in carrying out the functions of the Council.

SEC. 11. RELATIONSHIP TO OTHER LAWS AND EXECUTIVE ORDERS.—(a) Nothing in this Act is intended to allow or require the Director to obtain or release information, the release or disclosure of which is restricted by law or Executve order, or which is required by law to be maintained on a confidential basis.

(b) The performance of the functions of the Director, described in section 6(b) (4) of this Act, shall be subject to the authority or responsibility vested in the Director of the Office of Management and Budget by Chapter 35 of title 44 of United States Code (the Federal Reports Act).

SEC. 12. TRANSFER OF FUNCTIONS.—(a) Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) is amended by deleting the words "Director of the Office of Management and Budget" and replacing them with "Director of the Office of Statistical Policy."

(b) There are hereby transferred to the Director the functions vested in the President prior to the effective date of this Act by section 103 of the Budget and Accounting and Procedures Act of 1950 (31 U.S.C. 18b), including such functions under that section transferred to the President from the Director of the Bureau of the Budget by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available with functions transferred this section, as the Director of the Office of Management and Budget shall determine.

SEC. 13. AUTHORIZATION OF APPROPRIATION.—For the purposes of carrying out the provisions of this Act, there is authorized to be appropriated such sums as may be necessary.

SEC. 14. EFFECTIVE DATE.—The provisions of this Act shall take effect on March 1, 1981.

EXPLANATION

Section 1 entitles the bill as the "Statistical Policy Act of 1980."

Section 2 sets forth the findings of the Congress on the need to establish an independent office in the Executive Office of the President having sufficient authority to establish a Federal statistical policy and standards with which Federal agencies engaged in general statistical purposes activities must comply in order to improve the quality and relevance of Federal statistics to national policymaking.

Section 3 provides the definitions which set the scope of the bill. The authorities of the Office would apply to the general statistical activities of all Federal agencies, including independent regulatory agencies and establishments, and government corporations.

A "statistical purposes" is defined as an objective to develop or report aggregate or anonymous information, where the end use of the information does not require the specific identity of any person, which includes any individual, business, or other establishment. Included in this definition are the development of lists for use in a project with an exclusivelv statistical purpose and pretesting and evaluation of procedures in such a project.

Section 4 and 5 establish the Office of Statistical Policy in the Executive Office and the positions of Director and Deputy Director.

The Office would function as a separate agency in the Executive Office of the President reporting to the President. The Director is to be appointed by the President and confirmed by the Senate. The position of Director will be assigned to Level III of the Executive Schedule to accord it sufficient stature, a stature either higher than that accorded the heads of the Federal government's major statistical agencies and assistant secretaries of the cabinet departments or equal to the Executive levels of the heads of the major free-standing agencies. It is intended that the Director shall have demonstrated competence and experience in the management and design of statistical activities, particularly in the collection and assembly of data in support of decisionmaking at major levels in the governmental or private sectors. The Director should have an intimate knowledge of statistical standards and ethics, as well as the state-of-the-art of statistical methods and uses, in order to ensure the development of a Federal statistical policy which will increase the relevance and utility of statistics in the development of national social, economic, health, and scientific policy and program decisions.

The Deputy Director, who would be appointed by the Director and which position would be in the Senior Executive Service, should have qualifications similar to that of the Director. During the absence or disability of the Director or in the case of a vacancy in the office of the Director, the Deputy Director would serve as Acting Director of the Office.

Section 6 sets forth the functions and duties of the Director, as well as the objectives which the Congress intended that should be accomplished by establishment of the Office.

In summary, the primary objectives of the Office will be to:

Develop plans to enable the Federal Statistical System to meet future information needs efficiently in the face of technological, social, and economic changes.

Assist in minimizing the burden on all persons and organizations asked to supply data to the Federal government.

Maintain a proper balance between protecting individual and business rights to privacy and confidentiality and meeting the information needs for the development of public policy.

The performance of the functions and duties of the Office would be undertaken with the advice of the Federal Council on Statistical Policy, as appropriate. Briefly these functions would include:

1. Developing and monitoring the observance of standards to ensure (a) the use of uniform definitions and classifications for statistical purposes when deemed appropriate, (b) the conduct of data collection and processing, analyses, and dissemination by the agencies in accordance with high professional and technical standards; and (c) the development of standards, definitions, and classifications that are compatible to the extent feasible with those established by intergovernmental organizations to which the United States belongs.

2. Directing, pursuant to the President's authority under Section 103 of the Budget and Accounting Act of 1950 and in consultation with departments and agencies, the planning of proposals for statistical programs prior to the fiscal year for which funds would be requested, issuing guidelines for the preparation of such plans, and making recommendations with respect to such plans to the Director of the Office of Management and Budget.

3. Undertaking intermediate and long-range planning to ensure the responsiveness of the Federal statistical system to changes in technology, social values, and social and economic structures. Encouraging and coordinating intermediate and long-range planning by Federal statistical agencies including planning for the appropriate allocation of effort and resources 1) among data collection, data compilation, and data analysis, and 2) among different modes of data collection.

4. Reducing paperwork burden by promoting effective use of administrative and regulatory records for statistical purposes. Developing plans for and assigning responsibility for the creation and maintenance of general and multi-purpose sample data systems based on administrative records. Taking appropriate steps to improve access to administrative and regulatory reports for statistical purposes. Recommending modification of reports forms to enhance their value for statistical purposes. Reviewing all proposed Federal-State-local cooperative statistical activities.

5. Establishing and monitoring guidelines and standards for the dissemination of general purpose statistics by Federal agencies through publication, release of public use files, and other means.

6. In order to develop a better understanding of the kinds and quality of data needed by users, directing the undertaking of user studies by agencies, conducting statistical programs or activities, including both user surveys and in-depth case studies of how Federal statistics are used in specific areas of public policy.

7. Reviewing agencies proposed budget requests for their statistical activities and advising the Director of the Office of Management and Budget regarding the appropriateness of the agencies' proposed statistical programs and requested appropriations.

8. Reviewing and evaluating the conduct of statistical programs of the Federal agencies in terms of the overall effectiveness of the respective agency's program management, the quality of its statistical collection activities, the adequacy of the organizational placement of statistical function of the agency, and the relevance of the agency's statistical programs to the overall information needs of the agency and its functions and responsibilities. Based on such evaluations, the Director, in coordination with the Director of the Office of Management and Budget, would make appropriate recommendations to the head of the agency for necessary changes to improve the overall management, performance, and standards of the agency's statistical programs.

9. Assisting the Director of the Office of Management and Budget in the clearance of data collection instruments for general statistical purposes, including all census and statistical surveys, and data collections conducted in support of program evaluation activities and program experiments, or to produce statistical information for program managers. In performing this function, the Office would conduct technical reviews of general purpose statistical collection plans and develop improved procedures for quantitative measurement of response burden and innovative methods of controlling and reducing burden.

10. Establishing and maintaining analytical capacity to coordinate objective analysis of system-wide, cross-cutting and structural issues; to coordinate the development and improvement of economic, social, and other models; and to identify problems of quality, redundance, gaps, inconsistencies, and other weaknesses of data sources. Encouraging the establishment of analytical units in the agencies to provide more effective linkage between policymakers and the producers of statistics for the purpose of improving communication on information needs and data services.

11. Coordinating the development of economic and social indicators.

Section 7 establishes the Director's authority to oversee, in coordination with the Department of State, the participation by the Federal government in programs for the exchange and sharing of statistical information with international organizations of which the United States is a member. These organizations include the United Nations World Health Organization, the Organization of American States, and other significant international organizations.

Section 8 provides the basic administrative authorities for the Office to employ personnel, obtain for consultative services, and enter into contracts for the conduct of various projects or the performance of services in support of the purposes and functions of the Office.

Finally, the Office of Administration, established in the Executive Office of the President by Reorganization Plan No. 1 of 1977, would provide basic administrative support services (personnel, property and supplies acquisition, etc.) as it does for other offices and agencies in the Executive Office of the President.

Section 9 is a conforming amendment for compensation of the Director at a rate paid officials in Level III of the Executive Schedule.

Section 10 establishes the Federal Council on Statistical Policy, which would be chaired by the Director of the Office of Statistical Policy. This Council will replace the Statistical Policy Coordination Committee, which was established by the President in Executive Order No. 12013 (October 7, 1977) and which is chaired by the Secretary of Commerce.

The relevance of statistics to policy issues and decisions is dependent upon a number of attributes including quality, timeliness, and consistency between different data sources. In addition, statistics will not be relevant to policy concerns unless appropriate analyses are performed and there has been effective communication between policymakers and statistical planners in the development and use of the statistics. The functions to be vested in the Office are principally designed to address all of these issues.

To ensure effective policy input into the statistical planning process as well as a reverse flow of information on the potential effective uses of existing statistical capacity, and to provide advice to the President and Executive Office on statistical policy, the Director of the Office of Statistical Policy would chair the Council. The Council would review the annual statistical planning guidelines to be issued by the Office of Statistical Policy and provide advice on statistical programs and priorities. The Office of Statistical Policy would provide the necessary staff and other support for the Council.

Section 11 (a) ensures that the authorities vested in the Director would not supersede any other law or Executive order restricting the disclosure of sensitive, secret, or otherwise confidential information. Subsection 11(b) makes clear that the exercise of any data collection forms clearance decisions by the Director of the Office under the Federal Reports Act shall be subject to the authorities and responsibilities of the Director of the Office of Management and Budget by that Act.

Section 12(a) amends Section 103 of the Budget and Accounting Procedures Act of 1950 to provide that the Director of the Office of Statistical Policy, in lieu of the Director of the Office of Management and Budget, would exercise, upon delegation by the President, the Federal statistical policy responsibilities vested in the President. Section 103 directs the President to:

"Develop programs and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purposes by the various agencies in the Executive branch of the Government. Such regulations shall be adhered to by such agencies."

These authorities are now administered by the Secretary of Commerce pursuant to Executive Order No. 12013 (October 7, 1977) and would be reassigned to the Director of the Office of Statistical Policy.

Subsection (b) provides for the transfer from the Department of Commerce of the personnel performing these functions, together with the records and unexpended appropriations to the Office of Statistical Policy.

Section 13 authorizes appropriations for the Office.

Section 14 provides that the provisions of this Act shall take effect on March 1, 1981, in order to ensure an appropriate length of time to effect the establishment of the Office and the authorized transfer of functions.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 30, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal, the "Statistical Policy Act of 1980." This legislation is the result of the Administration's review of the Federal statistical system. Our conclusion is that the current system is not serving the information need of national level decision-makers as well as it should. It lacks sufficient direction for planning and the setting of priorities for the national policy information needs of the President and the Congress.

The Federal statistical system is highly decentralized, having 29,000 employees in more than 100 Federal agencies with statistical programs. The 38 largest programs have an annual budget of nearly $950,000,000. Within this decentralized statistical system, the major problems are beyond the reach of any of the existing agencies to solve. While the amount of data collected has grown substantially over the last twenty years, the current compartmentalized system does not permit adequate analysis of the crosscutting issues which now dominate the national policy agenda.

Historically, most Federal statistical programs were established to serve the information needs of the particular department or agency in which they were located. However, the increasingly crosscutting nature of major economic and social issues exceeds the bounds of any single agency program. The information needs of the President and the Congress transcend the information and statistics compiled by any single statistical agency or program.

Statistical programs are now much more important than ever before to the operation of grant programs which are dependent upon statistical formulas. For fiscal year 1980, more than $29 billion was allocated according to data from various statistical series for CETA, revenue sharing, elementary and secondary education, AFDC and community block grants.

Consequently, we believe that the necessary strengthening of the Federal statistical system can be most effectively achieved through the establishment of a central statistical, policy, planning, and program coordination unit in the Executive Office of the President, as proposed in this legislation.

The functions of the proposed Office of Statistical Policy, which would be headed by an appointee of the President with the advice and consent of the Senate, would include (1) establishing Government-wide statistical policy, (2) establishing national statistical priorities in a multi-year planning process, (3) assuring the development of appropriate analytical capacity and data for the policy needs of the President and the Congress, (4) monitoring and enhancing the integrity and objectivity of Federal statistical programs, and (5) fostering the most effective use of existing administrative records and survey data so that the reporting burden on the public can be reduced. The bill would also establish a Federal Council on Statistical Policy, chaired by the Director of the Office of Statistical Policy and composed of the heads of seventeen departments and major agencies, to advise and assist the President in the development of national priorities for the Federal statistical system.

We strongly urge prompt and favorable consideration of this legislation, enactment of which would be in accord with the program of the President.

Sincerely,

James T. McIntyre, Jr.,
Director.●

● Mr. TSONGAS. Mr. President, I am pleased to join Senator Bentsen and others in cosponsoring legislation to extend the tax incentives for historic preservation.

This legislation, which was enacted as part of the Tax Reform Act of 1976, is a critical preservation and urban revitalization tool, and should be extended for 5 years.

Senator Bentsen has detailed the provisions of the legislation, and I will not duplicate that effort. Let me just make two brief points about why I consider this legislation important.

First, Congress has made it painfully clear that they will not support historic preservation grants at a realistic level. Every year the preservation community and the preservationists in Congress do battle for $40 or $50 million dollars for the entire national grants program. The national grants program is clearly the major tool for historic preservation—and provides matching grants for survey, planning, inventory, and preservation of residential and public buildings. However, with low funding levels, this program can provide only limited assistance, and can therefore have only limited impact on the protection of historic resources and the quality of preservation work. Thus, the tax incentives have been an important addition to the grants program, and have been particularly useful in encouraging restoration of commercial buildings which would not have been funded through the grants program.

Second, I firmly believe that we cannot revitalize our urban areas without significant financial assistance from the private sector. The private investment which the tax incentives has stimulated has been exceptionally high. The program did not take full effect until late 1978, and in less than 2 years it has stimulated almost $900 million in private funds. In my State of Massachusetts we have almost 100 projects being undertaken with the incentives, with private investment totaling over $100 million.

This leverage of private funds is the essential ingredient of the urban policy advocated by the Carter administration, and in the case of historic preservation, it has clearly been very successful.

Some provisions of this legislation are slated to expire this year, and we need to extend the entire package for a period of time which will allow adequate planning and implementation of future preservation projects. I urge my colleagues to support the 5-year extension.●

By Mr. CHURCH (for himself and Mr. Jackson):

S. 2884. A bill to provide for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy; to the Committee on Energy and Natural Resources.

NUCLEAR SAFETY RESEARCH AND DEVELOPMENT ACT OF 1980

● Mr. CHURCH. Mr. President, today I am pleased to introduce in the Senate a bill which will expand the generic nuclear safety research and development programs on light water reactor technologies within the Department of Energy. I am pleased to be joined in the cosponsorship of this bill by Senator Jackson, chairman of the Energy Committee and a strong supporter of nuclear technology. Since the Three Mile Island nuclear powerplant accident in March of 1979, there has been a heightened public concern over the safety of the light water reactors which currently supply 13 percent of our Nation's electricity.

This public concern could adversely impact upon the nuclear powerplants which are currently planned or under construction unless the Federal Government takes action to assure the public that the light water reactors can be made even safer than existing operating reactors and other kinds of generating plants. The bill that I am introducing today will give the Department of Energy expanded authority and direction to perform research that is generic to all light water reactor designs rather than for any particular manufacturer's design. The Three Mile Island incident raised many questions with regard to specific aspects of nuclear powerplants. This bill gives the Department of Energy direction to examine each of these aspects for cost beneficial methods of reducing further the risks of failure in each of these areas. An important aspect that must receive further study is the behavior of the nuclear fuels under abnormal conditions so that the extent of damage in core disruptive accidents can be minimized.

A clear area of major shortcoming in the Three Mile Island incident was in the training of the plant operators in abnormal and emergency conditions. This legislation calls for a study of the feasibility of creating a reactor engineering simulator facility at a national laboratory for the purpose, among others, of training operators on how to deal with accidental reactor excursions. Through the use of this simulator, the need for generic changes in reactor designs might be demonstrated by simulating a variety of abnormal or accidental conditions.

The expanded research and development activities on reactor safety in my view should be done in national reactor facilities which are currently underutilized to maintain the technical teams that are currently associated with those facilities and to insure that the research is truly generic in nature.

A bill on nuclear safety research and development has also been introduced in the House and has recently been the subject of hearings before the Science and Technology Committee. Congressman McCormack should be commended for his leadership in the nuclear field and, particularly, in nuclear safety research and development. I believe that this bill should help solve safety issues related to our nuclear powerplants in the public's mind, and I hope we will be able to achieve its enactment this session of Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Safety Research and Development Act of 1980".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) nuclear energy is a relatively safe and environmentally acceptable means of generating electricity;

(2) an expanding nuclear-fueled electric generating capacity is an essential part of the energy sources of the United States to protect against severe energy shortages, economic instability, and military insecurity;

(3) the inherent safety of nuclear powerplants has been demonstrated through an unparalleled history in which no member of the public has been killed or injured as a consequence of any nuclear accident in any nuclear powerplant;

(4) continued development of nuclear power facilities is dependent upon public confidence in the safety of the facilities;

(5) the safety of nuclear powerplants can be improved to reduce even further the likelihood of injury to the public, disruption of society, or cost to the public due to accidents; and

(6) it is the proper and appropriate role

of the Federal Government to undertake research and development to improve the safety of nuclear powerplants.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish a research and development program for developing practical improvements in the generic safety of nuclear powerplants during the next five years, beginning in the fiscal year 1981. The objectives of such program shall be—

(1) to reduce the likelihood and severity of potentially serious nuclear powerplant accidents;

(2) to reduce the likelihood of disrupting the population in the vicinity of nuclear powerplants as the result of nuclear powerplant accidents; and

(3) to establish the level of safety of nuclear powerplants as compared to other energy sources.

Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities, in addition to those specified in this Act, which appropriately further the purpose and objectives set forth in this subsection.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "potentially significant electrical energy source" means any specific energy source which, as determined by the Secretary, has the potential for providing 10 per centum or more of the projected electric energy needs of the United States by the year 2000;

(2) the term "Secretary" means the Secretary of Energy; and

(3) the term "Government agency" means any department, agency, commission, or independent establishment in the executive branch of the Federal Government, or any corporation, wholly or partly owned by the United States, which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Federal Government.

ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM FOR IMPROVING THE SAFETY OF NUCLEAR POWERPLANTS

SEC. 4. (a) The Secretary shall establish a research and development program to carry out the purpose of this Act. As part of such program, the Secretary shall—

(1) refine further the assessment of risk factors associated with the generic design and operation of nuclear powerplants and the means of determining acceptable levels of failure risk in the design of components, subsystems, and systems.

(2) develop cost-beneficial changes in the generic design and operation of nuclear powerplants that can significantly reduce the risks from unintentional release of radioactive material from nuclear powerplants and the radiation exposure to workers during plant operation and maintenance.

(3) develop cost-beneficial generic methods and designs that will significantly improve the performance of operators of nuclear powerplants under abnormal and accident conditions;

(4) identify the effect of total or partial automation of generic plant systems on reactor safety, operation, reliability, economics, and operator performance;

(5) provide for the conduct of further experimental investigations including, but not limited to, the following:

(A) fuel failure at higher than normal burnup levels;

(B) fuel-cladding interactions under abnormal conditions;

(C) fuel and cladding interactions with coolant under various temperatures and pressures;

(D) thermohydraulic behavior in the reactor core under abnormal conditions; and

(E) mechanisms to suppress and control the generation of hydrogen gas.

(6) provide for the examination and analysis of any nuclear powerplant fuels, components and subsystems which the Secretary deems to offer significant benefit in safety analysis and which are made available to the Secretary for a nominal cost, such as one dollar.

(7) identify the aptitudes, training, and manning levels which are necessary to assure reliable operator performance under normal, abnormal, and emergency conditions; and

(8) through coordination with the appropriate Government agencies, conduct an in-depth study and evaluation and prepare a report identifying the risks associated with the use of all potentially significant electrical energy sources, which report shall—

(A) define the risks associated with each portion of the fuel cycle for each potentially significant electrical energy source;

(B) be reviewed in draft form by at least five independent experts in risk analysis on the adequacy of its scope, methodology, and conclusions; and

(C) include a description of the disposition of all comments received pursuant to subparagraph (B).

(b) In carrying out the generic safety research and development program established under this Act the Secretary—

(1) shall to the extent practicable coordinate his activities with other Government agencies through memoranda of understanding and with non-governmental entities supporting nuclear safety research and development in order to minimize his duplication of efforts by others and to ensure that advanced concepts resulting from his activities on generic nuclear powerplant safety are available for application in a timely manner;

(2) shall utilize, to the extent feasible, underutilized Federally-owned research reactors and facilities, along with the associated personnel, to maintain existing capabilities and to ensure that the research is generic in nature:

(3) shall have as a prime objective the reduction in the complexity of nuclear powerplant systems, including secondary systems and operations; and

(4) shall evaluate the potential impact on plant availability and total cost to the ratepayer, for operating and future plants, of implementing new and revised designs and operations methods which are determined to be practical in accordance with this Act.

(c) The Secretary shall explore the potential benefits of, and may enter into, international agreements in the development and implementation of the program under this Act: *Provided*, That no such agreement shall have the effect of delaying the development and implementation of such program.

NATIONAL REACTOR ENGINEERING SIMULATOR

SEC. 5. (a) The Secretary shall initiate a study of the feasibility of creating a reactor engineering simulator facility at a national laboratory for the purpose of improving the simulation of the performance of various types of reactors under off-normal conditions and other associated activities.

(b) In performing the study, the Secretary shall consider relevant factors including, but not limited to—

(1) the savings of cost and time that would accrue from the establishment of such a versatile national simulator facility;

(2) the extent to which such a facility would further the generic safety research and development program established by this Act;

(3) the importance of such a facility in emergencies to limit extent of any future nuclear power plant excursions;

(4) the potential for international cooperation in the generic safety research and development program;

(5) the opportunities for cost sharing by non-governmental entities in the construction and operation of such a facility.

(c) The Secretary shall submit by July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the study and the resulting conclusions and recommendations.

REPORTS AND DISSEMINATION OF INFORMATION

SEC. 6. (a) The Secretary shall assure that full and complete safety-related information resulting from any project or other activity conducted under this Act is made available in a timely manner to appropriate committees of Congress, Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public so that the widespread and continued safe use of nuclear power throughout the United States is promoted to the maximum extent possible.

(b) (1) Within two years after the enactment date of this Act, the Secretary shall—

(A) issue the report pursuant to section 4(a)(8), with his findings and the findings of other participants in the study under such section and a statement of the reasons for each finding;

(B) publish in the Federal Register a brief summary of the report and a statement of its availability to the public; and

(C) submit a copy of the report to the President, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.

(2) The Secretary shall thereafter update such report on a basis commensurate with new information and experience; and each subsequent report shall be disseminated in a manner consistent with the provisions of paragaraph (1).

(c) The Secretary shall not later than January 15 in each of the years 1982 through 1986, issue a report of the results of the program establish under section 4(a). Each such report shall—

(1) describe the results to date of all research programs carried out under this Act;

(2) recommend any practical changes in generic reactor design and operation which if implemented could improve reactor safety; and

(3) identify new generic safety research, development, and demonstration programs that will be undertaken and the potential benefits from each.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 7. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct of research and development activities under this Act consistent with the provisions of section 4. In the preparation of such plan, the Secretary shall consult with the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within six months after the date of the enactment of this Act. Revisions to the plan shall be transmitted to such committees whenever proposed by the Secretary.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect. The detailed description of the comprehensive plan under this subsection shall include, but need not be limited to, a statement setting forth any change in—

(1) the program strategies and plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(2) the economic, environmental, and societal significance which the program may have;

(3) the total estimated cost of individual program items; and

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated to the Secretary to carry out this Act such sums as may be authorized by legislation hereafter enacted.●

By Mr. HOLLINGS (from the Committee on the Budget):

S. 2885. A bill to provide for reconciliation as provided by section 310 of the Congressional Budget Act of 1974. Original bill reported and placed on the calendar.

(The remarks of Mr. HOLLINGS when he reported the bill appear earlier in today's proceedings.)

By Mr. DOLE (for himself, Mr. HELMS, Mr. BOREN, Mr. JEPSEN, Mr. GLENN, Mr. HAYAKAWA, Mr. ZORINSKY, Mr. YOUNG, Mr. LUGAR, and Mr. BOSCHWITZ):

S. 2886. A bill to amend the United States Grain Standards Act to permit grain delivered to export by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

GRAIN STANDARDS ACT

Mr. DOLE. Mr. President, I am today introducing legislation to amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.

I am pleased to have Senators HELMS, BOREN, JEPSEN, GLENN, HAYAKAWA, ZORINSKY, YOUNG, LUGAR, and BOSCHWITZ join with me in sponsoring this bill.

This legislation is also supported by the American Farm Bureau Federation, the National Association of Wheat Growers, the U.S. Chamber of Commerce, the National Grain and Feed Association, the National Council of Farmer Cooperatives, the North American Export Grain Association, and the National Grain Trade Council.

FGIS

Following disclosure of fraudulent activity at certain grain export elevators in the early 1970's, legislation was passed establishing a Federal Grain Inspection Service (FGIS) with authority to rigorously supervise the official weighing and grading of U.S. grain and oilseed shipments overseas.

The FGIS has been operational for several years now, and most observers agree that it has effectively controlled the incidence of wrongdoing at the export elevators.

GOVERNMENT EXCESSES

However, as is often the case when Government is given carte blanche in a regulatory area, excesses have become apparent—excesses which are superfluous to adequate supervision of exports, but which are adding significantly to the cost of marketing commodities. This cost, I contend, is always eventually borne by the farmer.

Specifically, I refer to mandatory official Government supervision of weighing of all grain inbound to an export elevator. Such supervision is expensive and, in most cases, redundant, with neither shipper nor receiver considering it necessary to settlement of the contract between them.

LEGISLATIVE RELIEF

Accordingly, I am proposing legislative relief in this bill that would amend the FGIS section of the Grain Standards Act in the following manner:

First. Provide that intracompany shipments of grain into an export elevator by any mode of transportation need not be officially weighed. This would cover, for instance, shipments of wheat from a regional elevator in Kansas to its export elevator on the gulf.

Second. Provide that official weighing requirements on inbound shipments to an export elevator by rail or truck shall be waived unless requested by shipper or receiver. This would give small independent elevators or farmers who ship directly to export elevators by truck or rail the option of requesting Government supervision if they so desire.

Third. Provide the waiver, unless requested by shipper or receiver, of supervision on outbound shipments from an export elevator if the grain is not going overseas. Such shipments are somewhat unusual, but some export elevators do make domestic shipments to feedyards or processing plants in their immediate vicinity.

It is my conviction that this legislation would save U.S. farmers millions of dollars annually in marketing costs without posing any threat to the authority or ability of FGIS to effectively monitor the export of U.S. grain and oilseeds.

This proposed amendment has been passed by the Livestock and Grains Subcommittee of the Agriculture Committee in the House.

The farmers I have talked to support this legislation. They support the idea of paring away unnecessary Government "protection" at considerable savings when it can be done with no threat to U.S. export integrity.

Mr. President, I urge my colleagues to support this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3(aa) by striking out the period and by inserting in lieu thereof "and;", and

(2) in section 3 by adding at the end thereof the following new subsection:

"(bb) the term 'intracompany shipment' means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment."

SEC. 2. Section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)) is amended to read as follows:

"(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export location shall be officially weighed in accordance with such standards or procedure, except that—

"(A) intracompany shipments of grain into an export elevator by any mode of transportation need not be officially weighed;

"(B) all official weighing requirements on grain transferred into an export elevator by transportation modes other than barge shall be waived unless the shipper or the receiver requests that such grain be officially weighed; and

"(C) all official weighing requirements on grain transferred out of an export elevator to destinations within the United States shall be waived unless the shipper or the receiver requests that such grain be officially weighed; and".●

By Mr. WILLIAMS (for himself and Mr. JAVITS):

S. 2887. A bill to protect the confidentiality of data made available to the Bureau of Labor Statistics, and for other purposes; to the Committee on Labor and Human Resources.

LABOR STATISTICS RESPONDENT PRIVACY PROTECTION ACT OF 1980

● Mr. WILLIAMS. Mr. President, today I am introducing legislation to help insure that the vital flow of information to our Bureau of Labor Statistics (BLS) at the U.S. Department of Labor will not be compromised or impeded. The importance of the information collected by the BLS cannot be overstated. It serves as a bellwether for our economy, and as a benchmark for many decisions made by labor and industry in this country.

This legislation, the Labor Statistics Respondent Privacy Protection Act of 1980, will help insure the uninterrupted flow of complete and accurate data to this important agency. It does this by providing a firm foundation for the assurance of confidentiality that the Bureau of Labor Statistics routinely accords its respondents. Under this legislation, a general rule would be enacted that would prohibit the disclosure of submissions or data received by the Bureau under a pledge of confidentiality. Disclosure for statistical purposes, in ways that would not breach the confidentiality of respondents' identities, would of course be permitted and encouraged.

Other Federal agencies sending the Bureau data would also be able to protect the confidentiality of their respondents, at least insofar as the data would be collected and used by BLS. But data collected by other agencies for their own purposes would receive no greater protection under this legislation than it would otherwise have, except that it would be protected from disclosure through the BLS. This legislation would not apply to data in the possession of State agencies that are participating in cooperative statistical programs with the BLS. But the BLS Commissioner would be permitted to make agreements with State agencies concerning data confidentiality.

With this legislation in place, we will be certain that the BLS will be protected from any effort that might be made to breach the pledge of confidentiality it gives its respondents. This will be an important aid in insuring the integrity and validity of our labor statistics collection program.

Mr. President, I ask unanimous consent that a letter from Secretary of Labor Ray Marshall to Vice President WALTER MONDALE dated June 18, 1980, urging passage of this legislation, the text of this bill, and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Labor Statistics Respondent Privacy Protection Act of 1980".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(2) "Secretary" means the Secretary of Labor;

(3) "Commissioner" means the Commissioner of the Bureau of Labor Statistics of the Department of Labor; and

(4) "agent of the Bureau of Labor Statistics" includes any contractor, subcontractor, grantee, or subgrantee of the Bureau of Labor Statistics and all employees of any such contractor, subcontractor, grantee, or subgrantee.

CONFIDENTIALITY OF DATA

SEC. 3. (a) Whenever data shall have been requested under a pledge of confidentiality, in connection with a statistical program conducted by the Bureau of Labor Statistics and submitted to the Bureau of Labor Statistics or to any agent of the Bureau of Labor Statistics by a respondent or whenever data obtained in confidence by any Federal, State, or local agency are released by such agency to the Bureau of Labor Statistics; neither the Commissioner nor any officer or employee of the Bureau of Labor Statistics, nor any agent of the Bureau of Labor Statistics shall make any disclosure of such submissions or data derived therefrom in any manner which, in accordance with regulations prescribed by the Commissioner could reasonably be uniquely associated with the identity of any individual or establishment to which such data or any portions thereof pertain, including the identity of any respondent; except for disclosure for statistical purposes only (1) to officers or employees of the Bureau of Labor Statistics or agents of the Bureau of Labor Statistics for the conduct of the Bureau's statistical programs, or (2) to Federal agencies as provided in section 4(d). Such submissions or data derived therefrom shall not be used to determine any right, benefit, privilege, or penalty, or to facilitate any investigation or prosecution of any individual or establishment to which they pertain in any manner which identifies particular data with particular individuals or establishments.

(b) The provisions of this section shall not apply to the use or disclosure by any State agency of data in the possession of such State agency, which were collected by such State agency in accordance with any cooperative statistical program conducted jointly by such State agency and the Bureau of Labor Statistics: *Provided,* That nothing in this subsection shall be construed to prohibit the Commissioner from making any arrangement with any cooperating State agency with respect to the confidentiality of data in the possession of such State agency.

TRANSFER OF DATA TO AND FROM OTHER FEDERAL AGENCIES

SEC. 4. (a) Any use or disclosure of data, confidential under any other law, which are transferred to the Bureau of Labor Statistics for statistical purposes by any other Federal agency shall be subject to the additional protections contained in this Act as well as the provisions of such other law and other terms or conditions which may be imposed on the use or disclosure of such transferred data.

(b) The provisions of sections 5 and 6 shall not apply to confidential data transferred to the Bureau of Labor Statistics from any other Federal agency pursuant to subsection (a) except where expressly authorized by the transferring agency, in accordance with any applicable law.

(c) No provision in this Act shall restrict another Government agency from its independent use or legally permissible disclosure of its data as a result of that agency's disclosure of such data to the Bureau of Labor Statistics.

(d) The Commissioner is authorized to transfer data collected under a pledge of confidentiality by the Bureau of Labor Statistics to any other Federal agency, for statistical purposes only, in which event the confidentiality protections contained in this Act shall continue in effect with respect to the data so transferred to such other agency notwithstanding any other law.

EXCEPTIONS

SEC. 5. (a) Notwithstanding the provisions of section 3, data collected in connection with any statistical program conducted by the Bureau of Labor Statistics may be used or disclosed in a nonstatistical manner which identifies particular data with particular individuals or establishments for any purpose specified by the Commissioner, subject to such restrictions and conditions as the Commissioner may require, when respondents are informed of such use or disclosure at the time any such data are requested, and when in the Commissioner's judgment a compelling public interest in permitting such use or disclosure exists.

(b) Exceptions made pursuant to subsection (a) of this section, as well as modification or revocation of exceptions, shall be made in accordance with regulations of the Commissioner issued under section 9.

WAIVER

SEC. 6. Any or all of the provisions of this Act may be waived by the respondent with respect to any information submitted by such respondent in accordance with regulations issued by the Commissioner, except that the Commissioner may, in his discretion, make such waivers with respect to data collected seventy-two or more years prior to the date of such waiver.

COMMUNITY FROM LEGAL PROCESS

SEC. 7. The following shall be immune from legal process and exempt from disclosure under any Federal, State, or local law, including the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), except to the extent that such disclosure may be authorized by waiver or exception pursuant to the provisions of this Act:

(1) all submissions exempt from disclosure under section 3 and all copies thereof in the possession of the Bureau of Labor Statistics; any Federal, State, or local agency; any agent of the Bureau of Labor Statistics or any other person pursuant to the provisions of this Act, and all copies of such submissions retained by respondents; and

(2) all data in the possession of the Bureau of Labor Statistics; any Federal, State, or local agency; or any agent of the Bureau of Labor Statistics or any other person pursuant to the provisions of this Act, to the extent that such data are derived in any manner from such submissions and could reasonably be uniquely associated with the identity of any individual or establishment to which such data or any portions thereof pertain.

CIVIL PENALTY AND DEBARMENT

SEC. 8. (a) Any officer or employee of the Bureau of Labor Statistics or any agent of the Bureau of Labor Statistics, as defined by this Act, or any officer, employee or agent of any agency to which data have been transferred pursuant to section 4(d) who knowingly makes any use or disclosure of submissions or data prohibited by this Act except in accordance with the terms and conditions of any exception or waiver provided herein shall be subject to a civil money penalty of not to exceed $5,000, debarment from participation in any statistical grant or contract with the Department of Labor for a period not to exceed five years, or both.

(b) Determinations of violations and the amount of any penalty or terms of debarment pursuant to subsection (a) shall be made by the Secretary in an administrative proceeding after opportunity for a hearing in accordance with section 554 of title 5, United States Code, and regulations to be issued by the Secretary of Labor. Any determination made in accordance with this paragraph shall constitute a final order and it shall not be subject to judicial review except in accordance with subsection (c).

(c) Any person against whom an order imposing a civil money penalty or debarment has been entered pursuant to subsection (b) may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty or debarment was imposed. In any such review, the Secretary's determination shall not be set aside if it is supported by substantial evidence. District court decisions may be appealed in the manner provided in sections 1291 and 1254 of title 28, United States Code.

(d) The amount of any penalty, as determined pursuant to this section, may be recovered in a civil action brought by the Attorney General on behalf of the Secretary in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty or debarment shall not be subject to review.

(e) For purposes of this section, the term "person" includes one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group.

RULES AND REGULATIONS

SEC. 9. The Secretary of Labor and the Commissioner of Labor Statistics may issue such rules and regulations as they deem necessary or appropriate to carry out their respective responsibilities under the Act.

EFFECTIVE DATE

SEC. 10. This Act shall take effect on the one hundred and eightieth day after the date of enactment.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 18, 1980.
Hon. WALTER MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill entitled the "Labor Statistics Respondent Privacy Protection Act of 1980." We have also enclosed a summary of the bill.

The purpose of the bill is to ensure that data collected by the Bureau of Labor Statistics (BLS) for statistical purposes that pertain to individual respondents are not used or disclosed in identifiable form for other purposes without the consent of respondents or their knowledge prior to submission of the data; that data would not be disclosed in ways that identify individual respondents; and that copies of protected documents supplied by respondents would not be susceptible to mandatory legal process.

We believe that legislative protection is needed to assure the continued quality and timeliness of the BLS's important statistical programs dealing with prices, employment, wages and productivity. All of these programs are heavily dependent on respondent cooperation. Respondent cooperation is based on the trust that the identity of survey respondents will not be disclosed and that the data provided will be held in confidence.

Confidentiality of these data is now asserted under current exemptions to the Freedom of Information Act (FOIA). Because it currently lacks a specific statutory exemption from the provisions of the FOIA, the BLS must currently rely primarily on exemptions involving trade secrets and other confidential business information. We believe that the current FOIA exceptions were intended to protect the type of confidential business information BLS collects, although the statutory language is not entirely clear on this point. Accordingly, in recent years the ability of the BLS to safeguard data submitted in confidence has been increasingly questioned, both by parties seeking access to confidential BLS data and by some BLS respondents themselves. We believe that the draft bill will provide the explicit assurances of confidentiality that are needed in order to provide adequate privacy protection for BLS respondents and to thereby ensure the continued high quality of the BLS statistical programs.

The draft bill provides confidentiality protection to all confidential data in the possession of the BLS. However, the BLS conducts certain statistical programs on a cooperative basis with State agencies. In recognition of this partnership relationship, the draft bill does not impose new restrictions on the use or disclosure of data collected by the States under such cooperative programs that are in the possession of the State agencies.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

SUMMARY OF PROPOSED LABOR STATISTICS RESPONDENT PRIVACY PROTECTION ACT OF 1980

The first section provides that the Act may be cited as the Labor Statistics Respondent Privacy Protection Act of 1980.

Section 2 contains definitions.

Section 3(a) establishes the general rule with respect to confidentiality of data submitted to the Bureau of Labor Statistics (BLS). It provides that whenever data have been collected by the BLS under a pledge of confidentiality or whenever data collected in confidence by another Federal, State, or local agency are released to BLS, the disclosure of such submissions or data derived therefrom in any manner which could reasonably be uniquely associated with the identity of any individual or establishment to which the data pertain is prohibited. Disclosure for statistical purposes only would be permitted to BLS officials, contractors, subcontractors, grantees, subgrantees, or other agents (including attorneys representing BLS), as well as to other Federal agencies. Such data could not be used to determine any right, benefit, privilege or penalty or to facilitate any investigation of or prosecution of any individual or establishment to which the data pertain.

Section 3(b) provides that the restrictions on the use and disclosure contained in section 3(a) do not apply to data in the possession of State agencies that are participating in cooperative statistical programs with the BLS, where such data were collected by the State agency. However, this section also provides that nothing in the subsection may be construed to prohibit the BLS Commissioner from making agreements with State agencies concerning data confidentiality.

Section 4(a) makes the protections of this Act applicable to data transferred to BLS from other Federal agencies, in addition to any other legal restrictions which might be imposed on the use or disclosure of such transferred data.

Section 4(b) provides that the Act's exception and waiver provisions do not apply to data transferred to BLS from other Federal agencies unless the transferring agency specifies otherwise.

Section 4(c) provides that agencies transferring data to BLS will not be restricted in their own use of the data involved.

Section 4(d) permits the BLS Commissioner to transfer confidential BLS data to other Federal agencies for statistical purposes only. In the case of such transfers of confidential data to other agencies, the protections of this act would remain in effect.

Section 5 permits the Commissioner of BLS to promulgate, through administrative rulemaking, exceptions from the basic confidentiality provisions of the Act. Such nonstatistical uses or disclosures could only be permitted when the respondent is informed of such use or disclosure at the time of collection and when the BLS Commissioner determines that a compelling public interest calls for such an exception. Such exceptions would include the use of the information as evidence in connection with administrative actions under section 8. The term respondent would encompass State and local governments as well as other entities.

Section 6 permits the BLS Commissioner to issue regulations permitting respondents submitting data to BLS to waive the confidentiality protections of the Act. BLS could also issue waivers itself seventy-two or more years after the data are collected.

Section 7 provides immunity from legal process including disclosure under the Freedom of Information Act and the Privacy Act for submissions in the possession of the BLS, other governmental agencies, contractors, subcontractors, grantees, subgrantees, agents and others. It is the purpose of this section to ensure that such data and information are not subject to disclosure under any other law and that this provision is a nondisclosure statute within the meaning of 5 U.S.C. 552(b)(3). This also protects from mandatory disclosure copies of submissions to the BLS that may be retained in the possession of the respondents. This provision also protects against the disclosure of identifiable data derived from submissions in the possession of the BLS, other governmental agencies, contractors, grantees, subgrantees, other BLS agents and others entitled to the data. While this provision protects the respondent from being forced to release a copy of the submission provided to BLS, the respondent is not insulated from any legal obligation to provide independent information or information used to compile such submissions whether or not such information happened to be contained in a document submitted to BLS.

Section 8 provides for the imposition of a civil money penalty of up to $5,000, debarment for up to five years from participation in Department of Labor statistical grants and contracts, or both, for those who knowingly use or disclose data in violation of this Act. Violations would be adjudicated by the Secretary of Labor in administrative proceedings, subject to court review. It should be noted that this section would not preclude the operation of applicable penalty provisions contained in other laws, such as those providing for the taking of disciplinary action against Federal employees in appropriate situations.

Section 9 authorizes the Secretary of Labor and the Commissioner of Labor Statistics to issue necessary and appropriate regulations to carry out their respective responsibilities under the Act.

Section 10 delays the Act's effective date for 180 days.●

By Mr. WILLIAMS (for himself, Mr. PROXMIRE, and Mr. GARN) (by request):

S. 2888. A bill to provide an improved and expedited mortgage foreclosure precedure with respect to multifamily mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964, and for other purposes; to the Committtee on Banking, Housing, and Urban Affairs.

MULTIFAMILY MORTGAGE FORECLOSURE ACT OF 1980

● Mr. WILLIAMS. Mr. President, at the request of the administration, I am today offering legislation designed to establish an expedited procedure for foreclosures of federally related multifamily residential and non-residential mortgages. Covered by the legislation would be mortgages held by the Secretary, and involving properties rehabilitated under the section 312 rehabilitation loan program, as well as projects insured under the National Housing Act.

According to the Department, it can take months, or even years, for the foreclosure process to be completed on a defaulted property, due to the cumbersome, often complex judicial proceedings that foreclosure usually entails. During this time, the defaulted buildings often fall victim to vandalism and deterioration, which cause great hardship to tenants and to the surrounding neighborhoods. By the time that HUD, or another new owner, actually secures title, the projects can be in very bad shape, requiring the expenditure of substantial sums to make them useful, productive, safe, and sanitary.

The legislation requested by the administration represents, in my view, a good faith effort to shorten and simplify the foreclosure process, while respecting to the maximum extent possible, the varying interests of those concerned with individual foreclosures. However, there are controversial questions about the Federal Government's entrance into an area that traditionally has been the domain of State judicial processes. The Subcommittee on Housing and Urban Affairs will want to examine the proposed legislation closely to determine whether the provisions properly reflect the legislation's stated goals, and whether this is the best approach to solving what is clearly a vexing and pressing problem.

Mr. President, I ask unanimous consent that the text of this legislation, along with the letter transmitting it to the Senate, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Multifamily Mortgage Foreclosure Act of 1080".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) disparate State laws under which the Secretary of Housing and Urban Development forecloses real estate mortgages and deeds of trust which the Secretary holds pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering multiunit residential and nonresidential properties burden the programs administered by the Secretary pursuant to such authorities, and cause detriment to the residents of the affected projects and the community generally;

(2) long periods to complete real estate foreclosures lead to deterioration of the condition of multiunit residential and nonresidential properties under programs administered by the Secretary pursuant to such authorities, and increase the risk of vandalism, fire loss, depreciation, damage and waste with respect to such properties, and that resulting losses and conditions burden such programs and adversely affect the projects and residents involved and the community generally;

(3) the availability of a less expensive and more expeditious foreclosure procedure for the foreclosure of multiunit residential and nonresidential properties by the Secretary will tend to ameliorate these conditions; and

(4) enactment of legislation providing the Secretary with a less expensive and more expeditious nonjudicial foreclosure procedure will reduce unnecessary litigation in the courts by removing many foreclosures from the courts where they presently contribute to overcrowded calendars.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Mortgage" means a deed of trust, mortgage, deed for secure debt, security agreement or any other form of instrument under which any interest in real, personal or mixed property, including leaseholds, life estates, reversionary interests and other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(2) "Multifamily mortgage" means a mortgage held by the Secretary pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964 covering any property, except a property on which there is located a one- to four-family residence.

(3) "Mortgage agreement" means the note or debt instrument and the mortgage instrument, deed of trust instrument, trust deed, or instrument or instruments creating the mortgage, including any instrument incorporated by reference therein (including any applicable regulatory agreement), and any instrument or agreement amending or modifying any of the foregoing.

(4) "Mortgagor" means the obligor, grantor or trustor named in the mortgage agreement and, unless the context otherwise indicates, includes the current owner of record of the security property whether or not personally liable on the mortgage debt.

(5) "Person" includes any individual, group of individuals, association, partnership, corporation or organization.

(6) "Record" and "recorded" include "register" and "registered" in the instance of registered land.

(7) "Security property" means the real, personal or mixed property, or an interest therein, including leaseholds, life estates, reversionary interests and other estates under applicable State law, together with fixtures and other property subject to the lien of the mortgage under applicable State law.

(8) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions and the Trust Territory of the Pacific Islands.

(9) "County" means county as defined in section 2 of title I, United States Code.

(10) "Secretary" means the Secretary of Housing and Urban Development.

MORTGAGES SUBJECT TO ACT

SEC. 4. Multifamily mortgages held by the Secretary encumbering real estate located in any State may be foreclosed by the Secretary in accordance with this Act, or pursuant to other foreclosure procedures available, at the option of the Secretary.

DESIGNATION OF FORECLOSURE COMMISSIONER

SEC. 5. A foreclosure commissioner or commissioners designated pursuant to this Act shall have a nonjudicial power of sale as provided in this Act. Where the Secretary is the holder of a multifamily mortgage, the Secretary may designate a foreclosure commissioner and, with or without cause, may designate a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, by executing a duly acknowledged, written designation stating the name and business or residential address of such foreclosure commissioner or substitute foreclosure commissioner. Such designation shall be effective upon execution. Except as provided in section 8(b) of this Act, a copy of such designation shall be mailed with each copy of the notice of default and foreclosure sale served by mail in accordance with section 9(1) of this Act. The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business under the laws of the State in which the security property is located. The foreclosure commissioner shall be a person who is responsible, financially sound and competent to conduct the foreclosure. More than one foreclosure commissioner may be designated. If a natural person is designated as foreclosure commissioner or substitute foreclosure commissioner, such person shall be designated by name, except that where such person is designated in his or her capacity as an official or employee of the government of the State or subdivision thereof in which the security property is located, such person may be designated by his or her unique title or position instead of by name. The Secretary shall be a guarantor of payment of any judgment against the foreclosure commissioner for damages based upon such foreclosure commissioner's failure properly to perform the commissioner's duties. As between the Secretary and the mortgagor, the Secretary shall bear the risk of any financial default by the foreclosure commissioner. In the event the Secretary makes any payment pursuant to the preceding two sentences, the Secretary shall be subrogated fully to the rights satisfied by such payment.

PREREQUISITES TO FORECLOSURE

SEC. 6. Foreclosure by the Secretary under this Act of a multifamily mortgage may be commenced, as provided in section 8, upon the breach of a covenant or condition in the mortgage agreement for which foreclosure is authorized under the mortgage: *Provided,* That any previously pending proceeding, judicial or nonjudicial, separately instituted by the Secretary to foreclose the mortgage other than under this Act has been withdrawn, dismissed or otherwise terminated. No such separately instituted foreclosure proceeding on the mortgage shall be instituted by the Secretary during the pendency of foreclosure pursuant to this Act. Nothing in this Act shall preclude the Secretary from enforcing any right, other than foreclosure, under applicable State law, including any right to obtain a monetary judgment. Nothing in this Act shall preclude the Secretary from foreclosing under this Act where the Secretary has obtained or is seeking any other remedy available pursuant to Federal or State law or under the mortgage agreement, including, but not limited to, the appointment of a receiver, mortgagee-in-possession status or relief under an assignment of rents.

NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 7. (a) The notice of default and foreclosure sale to be served in accordance with this Act shall be subscribed with the name and address of the foreclosure commissioner and the date on which subscribed, and shall set forth the following information:

(1) the names of the Secretary, the original mortgagee and the original mortgagor;

(2) the street address or a description of the location of the security property, and a description of the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

(3) the date of the mortgage, the office in which the mortgage is recorded, and the liber and folio or other description of the location of recordation of the mortgage;

(4) the failure to make payment, including the due date of the earliest installment payment remaining wholly unpaid as of the date the notice is subscribed, or the description of other default or defaults upon which foreclosure is based, and the acceleration of the secured indebtedness;

(5) the date, time and place of the foreclosure sale;

(6) a statement that the foreclosure is being conducted pursuant to the Multifamily Mortgage Foreclosure Act of 1980;

(7) the type of costs, if any, to be paid by the purchaser upon transfer of title; and

(8) the amount and method of deposit to be required at the foreclosure sale (except that no deposit shall be required of the Secretary), the time and method of payment of the balance of the foreclosure purchase price and other appropriate terms of sale.

(b) The Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this Act agree to the continued operation of the security property in accordance with the terms, as appropriate, of the loan program under section 312 of the Housing Act of 1964, the program under which insurance under title II of the National Housing Act was originally provided with respect to such property or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.

COMMENCEMENT OF FORECLOSURE

SEC. 8. (a) If the Secretary as holder of a multifamily mortgage determines that the prerequisites to foreclosure provided in section 6 are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of the mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of such mortgage, by commencing service of a notice of default and foreclosure sale in accordance with section 9 of this Act.

(b) Subsequent to commencement of a foreclosure under this Act, the Secretary may designate a substitute foreclosure commissioner at any time up to forty-eight hours prior to the time of foreclosure sale, and the foreclosure shall continue without prejudice, unless the substitute commissioner, in his or her sole discretion, finds that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. In the event that the substitute commissioner makes such a finding, the substitute commissioner shall cancel the foreclosure sale, or adjourn such sale in the manner provided in section 11(c) of this Act. Upon designation of a substitute foreclosure commissioner, a copy of the written notice of such designation referred to in section 5 of this Act shall be served upon the persons set forth in section 9(1) of this Act (1) by mail as provided in such section 9 (except that the minimum time periods between mailing and the date of foreclosure sale prescribed in such section shall not apply to notice by mail pursuant to this subsection) or (2) in any other manner, in the substitute commissioner's sole discretion, conductive to achieving timely notice of such substitution. In the event a substitute forecolsure commissioner is designated less than forty-eight hours prior to the time of the foreclosure sale, such pending foreclosure shall be terminated and a new foreclosure shall be commenced by commencing service of a new notice of default and foreclosure sale.

SERVICE OF NOTICE OF DEFAULT AND FORECLOSURE SALE

SEC. 9. The foreclosure commissioner shall serve the notice of default and foreclosure sale provided for in section 7 of this Act upon the following persons and in the following manner, and no additional notice shall be required to be served notwithstanding any notice requirements of any State or local law:

(1) NOTICE BY MAIL. The notice of default and foreclosure sale, together with the designation required by section 5 of this Act, shall be sent by certified or registered mail, postage prepaid and return receipt requested, to the following persons:

(A) the current security property owner of record, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this Act;

(B) the original mortgagor and all subsequent mortgagors of record or other persons who appear of record or in the mortgage agreement to be liable for part or all of the mortgage debt, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this Act, except any such mortgagors or persons who have been released; and

(C) all persons holding liens of record upon the security property, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this Act.

Notice under clauses (A) and (B) of this paragraph shall be mailed at least twenty-one days prior to the date of foreclosure sale, and shall be mailed to the owner or mortgagor at the address stated in the mortgage agreement, or, if none, to the address of the security property, or, at the discretion of the foreclosure commisioner, to any other address believed to be that of such owner or mortgagor. Notice under clause (C) of this paragraph shall be mailed at least ten days prior to the date of foreclosure sale, and shall be mailed to each such lienholder's address as stated of record or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such lienholder. Notice by mail pursuant to this subsection or section 8(b) of this Act shall be deemed duly given upon mailing, whether or not received by the addressee and whether or not a return receipt is received or the letter is returned.

(2) PUBLICATION. A copy of the notice of default and foreclosure sale shall be published, as provided herein, once a week during three successive calendar weeks, and the date of last publication shall be not less than four nor more than twelve days prior to the sale date. The information included in the notice of default and foreclosure sale pursuant to section 7(a)(4) of this Act may be omitted, in the foreclosure commissioner's discretion, from the published notice. Such publication shall be in a newspaper or newspapers having general circulation in the county or counties in which the security property being sold is located. To the extent practicable, the newspaper or newspapers chosen shall be a newspaper or newspapers, if any is available, having circulation conducive to achieving notice of foreclosure by publication. Should there be no newspaper published at least weekly which has a general circulation in one of the counties in which the security property being sold is located, copies of the notice of default and foreclosure sale shall be posted in at least three public places in each such county at least twenty-one days prior to the date of sale.

(3) POSTING. A copy of the notice of default and foreclosure sale shall be posted in a prominent place at or on the real property to be sold at least seven days prior to the foreclosure sale, and entry upon the premises for this purpose shall be privileged as against all persons. If the property consists of two or more noncontiguous parcels of land, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such parcel. If the security property consists of two or more separate buildings, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such building. Posting at or on the premises shall not be required where the foreclosure commissioner, in the commissioner's sole discretion, finds that the act of posting will likely cause a breach of the peace or that posting may result in an increased risk of vandalism or damage to the property.

PRESALE REINSTATEMENT

SEC. 10. (a) Except as provided in section 8(b) and 11(c) of this Act, the foreclosure commissioner shall withdraw the security property from foreclosure and cancel the foreclosure sale only if—

(1) the Secretary so directs the commissioner prior to or at the time of sale;

(2) the commissioner finds, upon application of the mortgagor at least three days prior to the date of sale, that the default or defaults upon which the foreclosure is based did not exist at the time of service of the notice of default and foreclosure sale; or

(3)(A) before public auction is completed there is tendered to the foreclosure commissioner the entire amount of principal and interest which would be due if payments under the mortgage had not been accelerated, or (B), in the case of foreclosure based upon a default other than failure to make payments, if, upon application of the mortgagor before the date of foreclosure sale, the foreclosure commissioner finds that such default is cured, and (C) there is tendered to the foreclosure commissioner all amounts due under the mortgage agreement, all amounts of expenditures secured by the mortgage and all costs of foreclosure incurred for which payment from the proceeds of foreclosure is provided in section 12 of this Act, *Provided*, That the Secretary shall have discretion to refuse to cancel a foreclosure pursuant to this clause (3) if the current mortgagor or owner of record has on one or more previous occasions caused a foreclosure of the mortgage commenced pursuant to this Act or otherwise to be cancelled by curing a default.

(b) Prior to withdrawing the security property from foreclosure in the circumstances described in subsection (a) (2) or (3), the foreclosure commissioner shall afford the Secretary a reasonable opportunity to demonstrate why the security property should not be so withdrawn.

(c) In any case in which a foreclosure commenced under this Act is cancelled, the mortgage shall continue in effect as though acceleration had not occurred.

(d) If the foreclosure commissioner cancels a foreclosure sale under this Act, a new foreclosure may be commenced thereafter as provided in this Act.

CONDUCT OF SALE; ADJOURNMENT

SEC. 11. (a) The date of foreclosure sale shall not be prior to thirty days after the due date of the earliest installment wholly unpaid or the earliest occurrence of any uncured nonmonetary default upon which foreclosure is based. Foreclosure sale pursuant to this Act shall be at public auction, and shall be scheduled to begin between the hours of 9 o'clock antemeridian and 4 o'clock postmeridian on a day other than Sunday or a public holiday as defined by either title 5, United States Code, section 6103(a) or State law. The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale, which shall be a location where foreclosure real estate auctions are customarily held in the county or one of the counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated.

(b) The foreclosure commissioner shall conduct the foreclosure sale in accordance with the provisions of this Act and in a manner fair to both the mortgagor and the Secretary. The foreclosure commissioner shall attend the foreclosure sale in person, or if there are two or more commissioners, at least one shall attend the foreclosure sale. In the event that no foreclosure commissioner is a natural person, the foreclosure commissioner shall cause its duly authorized employee to attend the foreclosure sale to act on its behalf. Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the foreclosure commissioner at the sale. The Secretary and any other person may bid at the foreclosure sale, including the Secretary or any other person who has submitted a written one-price bid, except that the foreclosure commissioner or any relative, related business entity or employee of such commissioner or entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale. The foreclosure commissioner may serve as auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 12(5) of this Act.

(c) The foreclosure commissioner shall have discretion, prior to or at the time of sale, to adjourn or cancel the foreclosure sale if the commissioner determines, in the commissioner's sole discretion, that circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary or that additional time is necessary to determine whether the security property should be withdrawn from foreclosure as provided in section 10. The foreclosure commissioner may adjourn a sale to a later hour the same day without the giving of further notice, or may adjourn the foreclosure sale for not less than nine nor more than twenty-four days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite that the foreclosure sale has been adjourned to a specified date and to include any corrections the foreclosure commissioner deems appropriate. Such notice shall be served by publication, mailing and posting in accordance with section 9 of this Act, except that publication may be made on any of three separate days prior to the revised date of foreclosure sale, and mailing may be made at any time at least seven days prior to the date to which the foreclosure sale has been adjourned.

FORECLOSURE COSTS

SEC. 12. The following foreclosure costs shall be paid from the sale proceeds prior to satisfaction of any other claim to such sale proceeds:

(1) necessary advertising costs and postage incurred in giving notice pursuant to sections 9 and 11 of this Act;

(2) mileage for posting notices and for the foreclosure commissioner's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

(3) reasonable and necessary costs actually incurred in connection with any necessary search of title and lien records;

(4) necessary out-of-pocket costs incurred by the foreclosure commissioner to record documents; and

(5) a commission for the foreclosure commissioner for the conduct of the foreclosure to the extent authorized by regulations issued by the Secretary.

DISPOSITION OF SALE PROCEEDS

SEC. 13. Money realized from a foreclosure sale shall first be applied to cover the costs of foreclosure provided for in section 12 of this Act; then to pay any liens prior to the mortgage under applicable State law which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale; then to service charges and advancements for taxes, assessments and property insurance premiums; then to the interest; then to the principal balance secured by the mortgage (including expenditures for the necessary protection, preservation and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement); and then to late charges. Any surplus after payment of the foregoing shall be paid to junior lienholders of record in order of priority under applicable State law and then to the appropriate mortgagor. If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in the preceding sentence, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs in taking or defending such action shall be deductible from the disputed funds.

TRANSFER OF TITLE AND POSSESSION

SEC. 14. (a) The foreclosure commissioner shall deliver a deed or deeds to the purchaser or purchasers and obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale.

(b) The foreclosure deed or deeds shall convey all of the right, title and interest in the security property covered by the deed which the Secretary as holder, the foreclosure commissioner, the mortgagor and any other persons claiming by, through, or under them, had on the date of execution of the mortgage, together with all of the right, title and interest thereafter acquired by any of them in such property to the hour of sale, and no judicial proceeding shall be required ancillary or supplementary to the procedures provided in this Act to assure the validity of the conveyance or confirmation of such conveyance.

(c) A purchaser at the foreclosure sale held pursuant to this Act shall be entitled to possession upon passage of title to the mortgaged property, subject only to an interest or interests senior to that of the mortgage, and any other person remaining in possession thereafter shall be deemed a tenant at sufferance.

(d) There shall be no right of redemption, or right of possession based upon right of redemption, in the mortgagor or others subsequent to a foreclosure pursuant to this Act of a mortgage executed after the date this Act is enacted into law. The previous sentence shall not alter any right of redemption under a mortgage executed prior to the date this Act is enacted into law.

(e) When conveyance is made to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed, whether as a tax upon the instrument or upon the privilege of conveying or transferring title to the property. Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice or for denying the enforcement of such a deed and its provisions in any State or Federal court.

RECORD OF FORECLOSURE AND SALE

SEC. 15. (a) The foreclosure commissioner, to establish a sufficient record of foreclosure and sale, shall include in the recitals of the deed to the purchaser, or prepare an affidavit or addendum to the deed respecting:

(1) the fact that the mortgage was held by the Secretary;

(2) the particulars of the foreclosure commissioner's service of notice of default and foreclosure sale in accordance with sections 9 and 11 of this Act;

(3) the conformity of the conduct of the foreclosure with this Act and with the terms of the notice of default and foreclosure sale:

(4) a correct statement of the costs of foreclosure, calculated in accordance with section 12 of this Act; and

(5) the name of the successful bidder and the amount of the successful bid.

(b) The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit and any other instruments submitted for recordation in relation to the foreclosure of the security property under this Act shall be accepted for recordation by the registrar of deeds or other appropriate official of the county or counties in which the security property is located upon tendering of payment of the usual recording fees for such instruments.

COMPUTATION OF TIME

SEC. 16. Periods of time provided for in this Act shall be calculated in consecutive calendar days including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

SEPARABILITY

SEC. 17. If any clause, sentence, paragraph or part of this Act shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or invalid as applied to a class of cases, such judgment shall not affect, impair or invalidate the remainder thereof and of this act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

REGULATIONS

SEC. 18. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this Act.

THE SECRETARY OF HOUSING AND
URBAN DEVELOPMENT,
Washington, D.C., June 19, 1980.

Subject: Proposed "Multifamily Mortgage Foreclosure Act of 1980."

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing proposed legislation to create an expedited mortgage foreclosure remedy for multifamily residential and nonresidential mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964. The proposed remedy would be available for use by the Secretary in connection with any mortgage covering multifamily and nonresidential projects—irrespective of its date of execution—(1) which is held by the Secretary in connection with a loan under section 312 of the Housing Act of 1964, or (2) which was previously insured under title II of the National Housing Act and which has been acquired and is being held by the Secretary by reason of assignment or otherwise, or which the Secretary holds following acquisition and subsequent transfer of the property pursuant to a purchase money mortgage agreement. The procedure contemplated is similar to the "deed of trust" foreclosure approach used in approximately half of the States.

This measure would be of special importance to the Department's multifamily mortgage insurance and rehabilitation loan programs. Lengthy delays in foreclosing defaulted mortgages caused by excessive foreclosure periods in some States increase the risk of property deterioration, vandalism and waste. The resulting loss to the Department (including its mortgage insurance funds) and the taxpayer in terms of rehabilitation costs and increased management and holding expenses is substantial. Moreover, these conditions impose a severe hardship on the tenants of affected projects and on the neighborhood in which the projects are located. The proposed legislation would ameliorate this situation by providing an efficient, equitable and, most important, relatively expeditious nonjudicial foreclosure remedy.

The availability of an expeditious foreclosure remedy would also provide HUD flexibility to deal with defaulted multifamily mortgages in a manner designed to promote the best interests of the owners and residents of the projects involved, the government and the communities in which the security properties are located. In certain instances, some delay in instituting foreclosure proceedings would give a deserving mortgagor the opportunity to bring the mortgage current or cure a nonmonetary default, thereby ensuring that the interests of the mortgagor, the tenants and the government are best served. The expeditious foreclosure remedy contemplated by the bill would permit such a delay while at the same time assuring that, if a relatively brief delay is not warranted, the mortgage could be foreclosed in a timely fashion.

In addition, the nonjudicial foreclosure procedure contemplated by the proposal would be far less costly than foreclosures conducted under State laws requiring judicial process. The savings occasioned by this measure would accrue not only to the taxpayers, but also to the defaulting property owner, since foreclosure costs are typically deducted from the mortgagor's share of sale proceeds.

Finally, the proposal would relieve the courts of the burden of entertaining judicial foreclosures of mortgages subject to the Act and, since foreclosures under the Act would be nonjudicial, the Department of Justice no longer would be required to handle foreclosures of these mortgages.

The proposed Act sets forth in detail the procedures to be followed for foreclosure. The principal features of this procedure are:

The Secretary as holder of the mortgage would designate a foreclosure commissioner who would be empowered to sell the property involved in accordance with the requirements of the Act.

The foreclosure commissioner would commence the foreclosure upon the request of the Secretary where a default or other breach for which foreclosure is authorized by the mortgage or applicable regulatory agreement has occurred.

The foreclosure would be commenced with service of a notice of default and foreclosure sale. The notice would set forth information relevant to the sale and would be published once a week for three weeks; sent by certified mail, return receipt requested, to all lienors and, at least 21 days prior to the sale, to the present and prior owners; and, in certain cases, posted on the property.

Specific provisions would prescribe the conduct of the proceeding prior to sale, the sale itself, the allowance of foreclosure costs, the disposition of sale proceeds, the transfer of title and possession, and the record of foreclosure and sale.

Since foreclosure extinguishes property rights, the proposed Act contains numerous provisions to protect the mortgagor of the property subject to foreclosure sale, as well as other parties. Most significant among these, the Secretary would be guarantor of payment of any judgment obtained against the Foreclosure Commissioner; the Commissioner would be specifically authorized to adjourn or cancel the sale if conditions are not conducive to a sale fair to the owner; even if not so provided in the mortgage instrument, the owner would have the right to have the mortgage reinstated at least one time by bringing the mortgage current or curing a nonmonetary default; the requirement that lienors of record be notified would give opportunity for the third parties most likely to bid or purchase at foreclosure to do so; the requirement that sale be by public auction would increase the chances of arriving at a sale price reflective of the value of the property; and costs would be limited to out-of-pocket expenses and such fees as are established by regulation.

The measure would also eliminate post-sale redemption periods for mortgages executed after enactment of the Act and foreclosed pursuant to it. These redemption periods—up to 18 months or longer in some States—seriously affect the salability of properities to which they apply and discourage rehabilitation and improvement of the properties. Redemption rights arising from mortgages executed prior to the Act's enactment would not be affected.

In conclusion, this legislation is of special importance to HUD's multifamily housing programs, since it would help remedy lengthy State foreclosure procedures which have caused substantial losses to the government and the taxpayer and hardship to affected residents and neighborhoods. In addition, because of the expeditious foreclosure procedure contemplated by the bill, the Department would be provided flexibility to deal with defaulted multifamily mortgages in a manner designed to promote the best interests of the owners and residents of affected projects, the Department and the communities in which the security properties are located.

The Department requests that the measure be referred to the appropriate committee and urges its early enactment.

The Office of Management and Budget has advised that there is no objection to transmittal of this legislative proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

MOON LANDRIEU.

EXPLANATION AND JUSTIFICATION

The Multifamily Mortgage Foreclosure Act of 1980 would create a nonjudicial foreclosure remedy for multifamily residential and nonresidential mortgages held by the Secretary of Housing and Urban Development pursuant to title II of the National Housing Act or section 312 of the Housing Act of 1964. The proposed remedy would be available for use by the Secretary in connection with any mortgage covering multifamily and nonresidential projects—irrespective of its date of execution—(1) which is held by the Secretary in connection with a loan under section 312 of the Housing Act of 1964, or (2) which was previously insured under title II of the National Housing Act and which has been acquired and is being held by the Secretary by reason of assignment or otherwise, or which the Secretary holds following acquisition and subsequent transfer of the property pursuant to a purchase money mortgage agreement. The procedure contemplated is similar to the "deed of trust" foreclosure approach used in approximately half of the States.

This measure would be of special importance to the Department's multifamily mortgage insurance and rehabilitation loan programs. Lengthy delays in foreclosing defaulted mortgages caused by excessive foreclosure periods in some States increase the risk of property deterioration, vandalism and waste. The resulting loss to the Department (including its mortgage insurance funds) and the taxpayer in terms of rehabilitation costs and increased management and holding expenses is substantial. Moreover, these conditions impose a severe hardship on the tenants of affected projects and on the neighborhood in which the projects are located. The proposed legislation would ameliorate this situation by providing an efficient, equitable and, most important, relatively expeditious nonjudicial foreclosure remedy.

The availability of an expeditious foreclosure remedy would also provide HUD flexibility to deal with defaulted multifamily mortgages in a manner designed to promote the best interests of the owners and residents of the projects involved, the government and the communities in which the security properties are located. In certain instances, some delay in instituting foreclosure proceedings would give a deserving mortgagor the opportunity to bring the mortgage current or cure a nonmonetary default, thereby ensuring that the interests of the mortgagor, the tenants and the government are best served. The expeditious foreclosure remedy contemplated by the bill would permit such a delay while at the same time assuring that, if a relatively brief delay is not warranted, the mortgage could be foreclosed in a timely fashion.

In addition, the nonjudicial foreclosure procedure contemplated by the proposal would be far less costly than foreclosures conducted under State laws requiring judicial process. The savings occasioned by this measure would accrue not only to the taxpayers, but also to the defaulting property owner, since foreclosure costs are typically deducted from the mortgagor's share of sale proceeds.

Finally, the proposal would relieve the courts of the burden of entertaining judicial foreclosures of mortgages subject to the Act and, since foreclosures under the Act would be nonjudicial, the Department of Justice no longer would be required to handle foreclosures of these mortgages.

The proposed Act sets forth in detail the procedures to be followed for foreclosure. The principal features of this procedure are:

The Secretary as holder of the mortgage would designate a foreclosure commissioner who would be empowered to sell the property involved in accordance with the requirements of the Act. (Sec. 5).

The foreclosure commissioner would commence the foreclosure upon the request of the Secretary where a default or other breach for which foreclosure is authorized by the mortgage or applicable regulatory agreement has occurred. (Secs. 6 and 8).

The foreclosure would be commenced with service of a notice of default and foreclosure sale. (Sec. 8). The notice would set forth information relevant to the sale and would be published once a week for three weeks; sent by certified mail, return receipt requested, to all lienors and, at least 21 days prior to the sale, to the present and prior owners; and, in certain cases, posted on the property. (Secs. 7 and 9).

Specific provisions would prescribe the conduct of the proceeding prior to sale, the sale itself, the allowance of foreclosure costs, the disposition of sale proceeds, the transfer of title and possession, and the record of foreclosure and sale. (Sec. 10–15).

Since foreclosure extinguishes property rights, the proposed Act contains numerous provisions to protect the mortgagor of the property subject to foreclosure sale, as well as other interested parties.

Major features include the following:

The foreclosure commissioner would have to be responsible, financially sound and competent to conduct the foreclosure. (Sec. 5).

The Secretary would be guarantor of payment of any judgment obtained against the foreclosure commissioner. (Sec. 5).

The commissioner would be specifically authorized to adjourn or cancel the sale if conditions are not conducive to a sale fair to the owner. (Sec. 11).

Even if not so provided in the mortgage instrument, the owner would have the right to have the mortgage reinstated one time by bringing the mortgage current or curing a nonmonetary default; subsequent reinstatement could be made at the discretion of the Secretary. (Sec. 10).

The provisions for publication, mailing and posting of the notice of default and foreclosure sale are extensive and thorough. (Sec. 9).

Foreclosure by reason of monetary default could generally be based only upon total failure to meet an installment. (Sec. 11).

No other proceeding to foreclose the mortgage could be continued or initiated during the pendency of a foreclosure under the Act. (Sec. 6).

The foreclosure sale could not be held within 30 days of the default upon which foreclosure is based. (Sec. 11).

If, subsequent to commencement of a foreclosure under the Act, a new commissioner is designated less than 48 hours prior to the time of sale, the foreclosure would be terminated and would have to be begun anew; if a new commissioner is designated more than 48 hours prior to the sale, foreclosure would continue unless the commissioner finds that such continuation would unfairly affect the interests of the mortgagor. (Sec. 8).

If a sale is adjourned to another day, a new notice of default and foreclosure sale would have to be served. (Sec. 11).

The requirement that lienors of record be notified would give opportunity for the third parties most likely to bid or purchase at foreclosure to do so. (Sec. 9).

The requirement that sale be by public auction would increase the chances of arriving at a sales price reflective of the value of the property. (Sec. 11).

Costs would be limited to out-of-pocket expenses and such fees as are established by regulation. (Sec. 12).

Lastly, the measure would eliminate post-sale redemption periods for mortgages executed after enactment of the Act and foreclosed pursuant to it. (Sec. 14). These redemption periods—up to 18 months or longer in some States—seriously affect the salability of properties to which they apply and discourage rehabilitation and improvement of the properties. Redemption rights arising from mortgages executed prior to the Act's enactment would not be affected.

In conclusion, this legislation is of special importance to HUD's multifamily housing programs, since it would help remedy lengthy State foreclosure procedures which have caused substantial losses to the government and the taxpayer and hardship to affected residents and neighborhoods. In addition, because of the expeditious foreclosure procedure contemplated by the bill, the Department would be provided flexibility to deal wtih defaulted multifamily mortgages in a manner designed to promote the best interests of the owners and residents of affected projects, the Department and the communities in which the security properties are located.

Of course, since foreclosure extinguishes property rights, the interest of the owner and other concerned parties deserve the fullest protection possible. As outlined above, the Act contains extensive provisions to assure that all parties concerned are treated as fairly as possible.●

ADDITIONAL COSPONSORS

S. 1480

At the request of Mr. Stafford, the Senator from Michigan (Mr. Levin) was added as a consponsor of S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

S. 1693

At the request of Mr. Melcher, the Senator from Idaho (Mr. Church) was added as a cosponsor of S. 1693, bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1843

At the request of Mr. Cranston, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 1843, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

S. 2325

At the request of Mr. Helms, the Senator from Oklahoma (Mr. Bellmon) was added as a cosponsor of S. 2325, a bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor organizations.

S. 2603

At the request of Mrs. Kassebaum, the Senator from Tennessee (Mr. Sasser) was added as a consponsor of S. 2603, a bill to provide for demonstration programs for the placement of certain elderly persons with foster care families.

S. 2623

At the request of Mr. Goldwater, the Senator from Louisiana (Mr. Johnston), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 2623, a bill to incorporate the U.S. submarine veterans of World War II.

SENATE JOINT RESOLUTION 168

At the request of Mr. Dole, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of Senate Joint Resolution 168, a joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Dole, the Senator from South Carolina (Mr. Hollings), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the "International Year of Disabled Persons."

SENATE RESOLUTION 473

At the request of Mr. Javits, the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. McGovern), the Senator from Alaska (Mr. Stevens), the Senator from New Jersey (Mr. Williams), the Senator from Arizona (Mr. DeConcini), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of Senate Resolution 473, a resolution deploring the politicization of the Mid-Decade Women's Conference and urging the U.S. delegation to oppose any politically motivated resolutions at the conference.

AMENDMENT NO. 1796

At the request of Mr. Cochran, the Senator from Florida (Mr. Stone), the Senator from Alabama (Mr. Heflin), the Senator from Kentucky (Mr. Ford), the Senator from Kansas (Mr. Dole), the Senator from Minnesota (Mr. Durenberger), and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of amendment No. 1796 intended to be proposed to S. 2639, a bill to mitigate the adverse effects of the suspension of trade with the Union of Soviet Socialist Republics on U.S. agricultural producers, and for other purposes.

SENATE RESOLUTION 479—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 479

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of that Act are waived with respect to the consideration of S. 2675, a bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes. Such waiver is necessary because S. 2675 provides new spending authority for the nutrition education and training program to become effective in a fiscal year for which the first concurrent resolution on the budget has not yet been adopted.

SENATE RESOLUTION 480—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 480

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 2675, a bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes. Such waiver is necessary because S. 2675 authorizes the enactment of new budget authority that would first become available in fiscal year 1981 and the bill was reported after May 15, 1980.

SENATE RESOLUTION 481—SUBMISSION OF A RESOLUTION DIRECTING THE COMMITTEE ON FINANCE TO STUDY AND REPORT ON A TAX PROGRAM

Mr. BENTSEN (for himself, Mr. Robert C. Byrd, Mr. Stevenson, Mr. Bradley, Mr. Baucus, Mr. Boren, Mr. Riegle, Mr. Cranston, Mr. Stewart, Mr. Exon, Mr. Hart, Mr. Williams, Mr. Ribicoff, Mr. Nelson, Mr. Sasser, Mr. Long, Mr. Bumpers, Mr. Burdick, Mr. Cannon, Mr. Chiles, Mr. Church, Mr. DeConcini, Mr. Ford, Mr. Glenn, Mr. Huddleston, Mr. Inouye, Mr. Jackson, Mr. Johnston, Mr. Leahy, Mr. Levin, Mr. Matsunaga, Mr. Melcher, Mr. Mitchell, Mr. Pryor, Mr. Randolph, Mr. Sarbanes, Mr. Stennis, Mr. Talmadge, Mr. Tsongas, Mr. Bayh, Mr. Eagleton, Mr. Culver, Mr. Durkin, Mr. McGovern, Mr. Stone, Mr. Moynihan, Mr. Biden, Mr. Nunn, and Mr. Kennedy) submitted the following resolution, which was referred to the Committee on Finance:

S. Res. 481

Whereas, the best interests of the nation should be placed first to assure that any tax cut is meaningful and beneficial to all Americans instead of rushing into an ill-considered and inadequate program for the purpose of trying to seize some partisan political advantages; and

Whereas, inflation is still the major concern for all Americans; and

Whereas, it is essential that our nation achieve vigorous, sustained economic growth and curtail inflationary pressures in the decade of the 1980's; and

Whereas, a tax cut is a necessary part of such a coherent economic policy; and

Whereas, our Nation needs an equitable, consistent, coordinated and comprehensive economic policy for the 1980's; and

Whereas, such an economic policy must be designed to reduce unemployment, create jobs for everyone willing to work, and to hold down inflation; and

Whereas, the details of a tax cut must be subject to the normal congressional processes which include careful committee consideration through hearings and markup; and

Whereas, a mid-year review of the economy will provide additional data on unemployment, inflation and the federal budget, which data is critical to an informed judgment on fiscal policy, and on the nature, size, and timing of a tax reduction; and

Whereas, Section 9 of H. Con. Res. 307, the First Concurrent Budget Resolution for fiscal year 1981 provided that "no bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100 million shall be enrolled until after the Congress has completed action" the Second Concurrent Budget Resolution; and

Whereas, a tax reduction is necessary to induce an orderly recovery from the current recession so as to promote economic growth without inflation;

Therefore, be it resolved that the Senate Finance Committee shall report to the Senate no later than September 3, 1980, a responsible, targeted anti-inflationary tax cut to take effect in 1981, and designed to increase employment, give relief to individuals, encourage thrift, improve America's productivity and stimulate competitiveness in foreign markets.

Resolved further that the Democratic Task Force on the Economy recommend to the Senate a comprehensive economic policy at the earliest possible date.

Mr. BENTSEN. Mr. President, the best interests of the Nation must be placed first to assure that any tax cut is meaningful and beneficial to all Americans instead of rushing into an ill-considered and inadequate program for the purpose of trying to seize some partisan, political advantage.

The responsibility of the majority party is such that it cannot and it will not resort to political one-upmanship in seeing who can cut taxes the quickest.

Our Nation cannot afford to repeat the experience of the decade of the 1970's which was dominated by crisis management or crisis containment policies where we bounced from problem to deeper problem without any overall strategy to achieve clearly defined long-run goals. America needs a coherent, consistent, coordinated and comprehensive economic policy for the 1980's.

The Democratic Task Force on the Economy which is being established today will recommend to the Senate a comprehensive economic policy which will focus on the fundamental economic issue facing our Nation: Its diminishing capacity to increase the standard of living for the average American, to create jobs for everyone willing to work, and to hold down inflation by boosting the supply of goods and services. The program will include a responsible, targeted anti-inflationary tax cut to take effect in 1981 and designed to give relief to individuals, improve America's productivity and reduce unemployment.

Inflation is still the major concern for all Americans. Therefore, any tax cut considered by the Congress must be carefully designed to help rebuild America without rekindling inflation.

The resolution which my colleagues and I are introducing today is consistent with that goal. The tax cut which will result from the process set in motion by this resolution will help to restore our economy through stimulation of investment to rebuild our productive capacity and make us once again competitive in the markets of the world.

Mr. President, our Nation was founded on the principle of freedom of opportunity to work and to succeed. The resolution which we introduced today and the economic program which the Task Force on the Economy will produce are both designed to protect and nurture that freedom.

Mr. ROBERT C. BYRD. Mr. President, this resolution expresses the Democratic majority's commitment to the implementation of a comprehensive economic program, an essential part of which will be tax reductions in 1981.

The resolution urges the Finance Committee to report a tax reduction bill by September 3. It also commits the Democratic Task Force on Economic Policy—which I appointed under the chairmanship of Senator BENTSEN—to the development of a program to reinvigorate the American economy.

Yesterday, Governor Reagan announced a tax cut plan. Concurrently with his announcement, minority party Members in the Senate introduced legislation to effect the tax reduction, and threatened to attach it to every revenue measure which comes to the floor.

Democrats will support tax cuts; but they will support them only after study, thought, and benefit of the established processes of the Senate.

Democrats will support tax cuts, but as a part of a broad integrated economic program.

We will not engage in a foot race with the minority to get a tax cut proposal to the floor. We will not play a "con game" with the American people.

The Democratic approach emphasizes the need to reduce unemployment and contain inflation. It emphasizes responsibility—rather than expediency.

The responsibility of leadership requires that we resist facile, slap-dash approaches. It requires that we not embark on this economic trip without a road map.

Mr. President, the majority party will not shirk its responsibility to the American people to move this country forward with steady, well-considered legislation.

AMENDMENTS SUBMITTED FOR PRINTING

TAX TREATMENT OF FOREIGN EARNED INCOME—S. 2283

AMENDMENTS NOS. 1921 THROUGH 1925

(Ordered to be printed and referred to the Committee on Finance.)

Mr. PROXMIRE submitted five amendments intended to be proposed by him to S. 2283, a bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad.

EQUAL TREATMENT FOR AMERICAN TAXPAYERS LIVING IN THE UNITED STATES WITH THOSE NONRESIDENT AMERICANS LIVING ABROAD

Mr. PROXMIRE. Mr. President, there is now a massive lobbying drive by American companies with employees living abroad to provide unusual and unfair tax breaks for both the companies and their employees.

At a cost to the Treasury of about $500 million, there are now several proposals to provide that Americans living abroad should pay no American income tax whatsoever on the first $50,000 of earned income and, in many cases, as much as a $65,000 exemption.

This is done in the name of promoting exports. But curiously enough, the tax amendments are not targeted to those who actually promote exports. They go indiscriminately to non-resident Americans living abroad whether they promote exports or not.

EXPORTS ARE BOOMING

Further, our exports have never been more booming. In the last 2 years they have increased at the dramatic rate of 25 percent in each year. Since 1976, when a reform in the way Americans abroad are taxed was passed but not implemented, exports from this country have doubled.

EXISTING GENEROUS TAX TREATMENT

Americans living abroad now receive extraordinarily generous tax treatment.

Income taxes they pay to a foreign government can be credited dollar for dollar against income taxes they owe at home.

Property taxes paid abroad can be deducted from their income tax at home.

Housing expenses in excess of 20 percent of their income are deductible up to certain limits. In some cases, all of the excess is deductible. At home even those who live in public housing—the poor—are required to pay 25 percent of their income as rent and receive no comparable benefit.

Expenses of sending children to the nearest American school are deductible under present law.

A trip home each year is a deductible expense.

If one lives in a construction camp, deemed a hardship post, present law allows an income exclusion of from $15,000 to $20,000.

Cost of living differentials are provided in high cost areas.

These are extremely generous provisions not available to Americans living at home in comparable hardship or high cost areas. Further, they are examples of expenses which if necessary within the United States would be a proper charge against the company hiring the employee, rather than a tax credit, exclusion, or deduction for the individual.

These generous provisions of the tax laws were passed in 1978 and were substitutes for the previous $15,000 and

$20,000 exclusion granted more or less universally to Americans who lived abroad for a year and a half or more.

It is now argued that we should go back to the old system, sweeten the pot even further by providing a $50,000 to $65,000 exclusion, and also allow for certain housing costs.

It is argued that the new provisions have reduced exports and that the change is necessary to increase exports.

THE FLAWED CHASE ECONOMETRICS STUDY

A study by Chase Econometrics has been purchased by the principal lobbying group to justify this bonanza.

But the Chase study is fatally flawed. In fact it is a hoax and its conclusions are without foundation.

Here is what it does.

First, Chase took a 1978 study which predicted that if the old provisions of the law were abandoned and the 1976 reforms were put into effect there would be a 5-percent reduction in exports.

But the 1976 reforms never went into effect. Instead the generous provisions of the 1978 law went into effect.

The Chase study, however, assumed that there had been a 5-percent reduction in exports. On that factually incorrect basis it ran a model indicating the tax revenue losses, the unemployment compensation expenses and outlays, and the increase in unemployment which results from a 5-percent decline in exports.

But there is a catch. Instead of a 5-percent cut in exports, exports have gone up by 25 percent in each of the 2 years since 1978. The 5-percent decline in exports is an assumption with no basis in fact. It is a fake.

EVIDENCE OF NEW PROVISIONS NOT YET IN

Further, the consequences of the new law are not even in. Those overseas did not have to file their 1979 tax returns—the first year of the new provisions—until June 15, 1980. No one—Chase Econometrics, the Treasury, the Commerce Department, the Congress, or anyone else—has the evidence on which to judge.

But the lobbying goes on with a vengeance. And the Chase study is a major part of the massive effort of American companies abroad to get the ordinary taxpayers at home to pick up much of the tab of the cost of their personnel abroad.

It is a blatant new tax loophole of the worst kind, now being pressed before the Senate Finance Committee.

I am against it. The 1978 law is already overly generous. But if the law is going to provide massive subsidies for those abroad, I would think that those at home in similar circumstances should receive equal treatment.

SERIES OF AMENDMENTS

I therefore have a series of amendments which I am introducing today to the major tax bill providing the bonanza, namely to S. 2283. Further, I will propose them to any companion bills which might be substituted for S. 2283.

Here is what the amendments provide:

EQUAL TREATMENT FOR HIGH COST AREAS AT HOME

First. One argument used to justify the $50,000 exclusion for Americans abroad is that costs are higher there. Of course, costs are often higher here at home for citizens moving from one area to another.

My first amendment therefore provides that a U.S. citizen at home who changes his principal place of employment and moves to a higher cost area can take the same added expense deductions and the same exclusions of income as provided those who move to higher cost areas abroad under the present law and under S. 2283.

EQUAL TREATMENT FOR THOSE PROMOTING EXPORTS AT HOME

Second. The second amendment applies the provisions of the present law and of S. 2283 to those Americans living at home who promote exports.

It would apply to workers in a plant which exports products like farm machinery, machine tools, or specialized trucks.

It would apply to farmers whose crops are exported. Farm products are probably our single biggest export. It is inconceivable to me that we would allow some nonresident American commodity trader living in London, or Rome, or Hong Kong to exclude up to $50,000 of earned income from his taxes but not allow the farmer who raised the crop which is exported to do the same.

EQUAL TREATMENT FOR THOSE ENGAGING IN HARD LABOR AT HOME

Third. The present and proposed generous allowances for those nonresident Americans living abroad apply in many cases to those who engage in physical labor, especially construction, abroad. Physical labor is as difficult when done in North Dakota or New Mexico as it is when done in Newfoundland, Egypt, or Saudi Arabia.

Therefore this amendment provides the same deductions and exclusions for one doing hard physical labor at home as for one doing hard physical labor abroad. The effect of the amendment would be to treat Americans with similar incomes doing similar work as equals for tax purposes.

EQUAL TREATMENT FOR WORKERS IN NEW INDUSTRIES AT HOME

Fourth. Another argument used to justify the proposed special treatment of Americans abroad is that the tax breaks would induce new industry and new investment going abroad.

In my view there is at least an equal if not more pressing argument to induce new investment here at home.

As many American firms abroad hire not only American citizens but foreign citizens as well, an inducement to invest at home instead of abroad would most likely produce more jobs for Americans than when the plant goes abroad.

For that reason this amendment would provide the same generous tax benefits to Americans at home working for new businesses as for Americans abroad. This amendment gives the benefits to qualified new Wisconsin businesses, but if the bill ever gets to the Senate floor I intend to provide the same treatment for new businesses in each of the 50 States and U.S. territories.

EQUAL TREATMENT FOR COAL MINERS AT HOME

Fifth. Finally, Mr. President, it is argued that those who work abroad in hardship areas or in hardship jobs deserve special tax treatment.

I can think of no job more difficult than mining. Under the most recent United Mine Workers contract, U.S. coal miners earn about $20,000 a year for a full year's work.

However, they must pay a U.S. income tax on that amount.

If they lived abroad and worked as coal miners, they would pay no U.S. income tax at all up to $50,000 or $65,000 under S. 2283, or if they were working in a hardship area, that is, a camp abroad, they could now exclude up to $20,000 of their income from taxation.

If S. 2283 passes I think it is only right that miners at home should receive the same or equal tax treatment as those in hardship camps abroad.

CONCLUSIONS

Of course, Mr. President, the right answer to these problems of equity are not to universalize proposed excessive loopholes but to treat those abroad on relatively the same tax basis as those Americans living at home.

But the appetites of the overseas tax lobby is insatiable. As a group they now have about the best tax deal of any American citizens. But having tasted blood in 1978 they are now out for more.

These amendments may point up how outrageous their demands are and how inequitable they are for the remaining American taxpayers who must pick up the tab through extra taxes they pay while their counterparts would go tax free.

Much of the pressure comes also from the companies who hire the individuals.

Ordinarily if company A moves an executive from Waterloo, Iowa, to a high-cost area like New York City or San Francisco the company offers the employee additional salary and benefits to make up the difference.

For American firms locating abroad, instead of assuming these costs the companies are asking Uncle Sam and the American taxpayer to assume the costs.

It is an example of welfare for the well-to-do.

For all these reasons I send these five amendments to the desk and ask that they be printed and appropriately referred, and I ask unanimous consent that the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1921

At the appropriate place in the bill insert the following new section:

SEC. . INDIVIDUALS MOVING TO HIGHER COST-OF-LIVING AREAS WITHIN THE UNITED STATES TREATED AS EMPLOYED OVERSEAS.

In the case of an individual who changes his principal place of employment during the taxable year, who meets the conditions set forth in section 217(c) of the Internal Revenue Code of 1954, for that taxable year, and who demonstrates, to the satisfaction to the Secretary of the Treasury, that the costs-of-living, housing expenses, and education expenses paid or incurred by him or on his behalf at the new location are greater than such costs and expenses in the area in which he resided or was employed before such change, for purposes of section 911 of the Internal Revenue Code of 1954—

(1) the new principal place of work shall be treated as a location without the United States, and the residence of the individual shall be treated as located without the United States, as long as he is employed in such place, and

(2) the individual shall be treated as an individual described in section 911(a)(2) of such Code for so long as he is employed in such place.

Amendment No. 1922

At the appropriate place in the bill insert the following new section:

SEC. . INDIVIDUALS WHO INCREASE UNITED STATES EXPORTS OR REDUCE BALANCE OF PAYMENTS DEFICIT.

For purposes of section 911 of the Internal Revenue Code of 1954, earned income of an individual who shows, to the satisfaction of the Secretary of the Treasury, that his employment or his trade or business directly or indirectly increases United States exports to other countries, or otherwise reduces the deficit in the United States balance of payments, shall be treated as an amount received from a source without the United States for services performed outside the United States, and an individual who receives such earned income shall be treated as having been present in a foreign country or countries during the period of time for which he was so employed or engaged in such trade or business.

Amendment No. 1923

At the appropriate place in the bill, insert the following new section:

SEC. . TREATMENT OF LABORERS AS INDIVIDUALS EMPLOYED WITHOUT THE UNITED STATES.

For purposes section 911 of the Internal Revenue Code of 1954, earned income from employment as a laborer shall be treated as an amount received from a source without the United States for services performed outside the United States, and an individual who receives such earned income shall be treated as been present in a foreign country or countries during the period of time during which he was so employed. For purposes of this section, the term "laborer" means an individual engaged in hard physical labor (as defined by the Secretary of Labor).

Amendment No. 1924

At the appropriate place in the bill insert the following new section:

SEC. . TREATMENT OF INDIVIDUALS EMPLOYED BY QUALIFIED NEW WISCONSIN BUSINESSES AS EMPLOYED OVERSEAS.

(a) IN GENERAL.—For purposes of section 911 of the Internal Revenue Code of 1954, earned income from a qualified new Wisconsin business shall be treated as an amount received from a source without the United States for services performed outside the United States, and an individual who receives such earned income shall be treated as having been present in a foreign country or countries during the period of time during which he was rendering the services for which such earned income was received.

(b) Qualified New Wisconsin Business.—For purposes of this section, the term "qualified new Wisconsin business" means a trade or business which, before January 1, 1980, did not have a fixed location in Wisconsin.

Amendment No. 1925

At the appropriate place in the bill insert the following new section:

SEC. . TREATMENT OF MINERS AS INDIVIDUALS EMPLOYED WITHIN THE UNITED STATES

For purposes of section 911 of the Internal Revenue Code of 1954, earned income from employment as a miner within the United States shall be treated as an amount received from a source without the United States for services performed outside the United States, and an individual who receives such income shall be treated as having been present in a foreign country or countries during the period of time during which he was employed as a miner within the United States.

SUPPLEMENTAL APPROPRIATIONS, 1980—H.R. 7542

AMENDMENT NO. 1926

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to H.R. 7542, an act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

Mr. MELCHER. Mr. President, I shall offer an amendment to the supplemental appropriations bill to reduce the amount appropriated for the United Nations development program by $37 million and uses these funds to reduce the amount scheduled for rescission in the railroad rehabilitation and improvement financing funds by a like total. This supplemental appropriations bill contains hundreds of millions of dollars in rescissions for domestic programs in order to meet the limitations laid down in the third current budget resolution for fiscal year 1980. At the same time, the bill appropriates an additional $256 million for the United Nations, $120 million of which is earmarked for the United Nations development program.

I do not believe we can continue to justify voting to cut domestic programs while continuing to pour money into the United Nations and other international funds which are not being reduced sufficiently in our belt tightening process. Issues which have plagued the management and administration of programs like the U.N. development program funded through this appropriation account continue to be unresolved. Indeed, it is difficult, if not impossible, to find any evidence that the U.N. has even begun to address concerns over the disorganized state and the waste of the entire U.N. development system. Only a year ago the news was full of the problems of the U.N. development program. It was rife with duplication, internal politics and waste. I know of no evidence that has been brought before Congress to show that this has been corrected. We are now in the fourth year of trying to encourage reform of U.N. funding of technical assistance for developing countries. In report after report, Congress has admonished the administration concerning this issue.

From Senate report on State, Justice, and Commerce, the judiciary and related agencies appropriations bill, June 21, 1977:

> For several years the Committee has spoken of the need for improved coordination and control of the technical assistance activities of the various agencies in the United Nations development system. We have seen the system grow from modest beginnings into a complex network of organizations and programs under the control of about 40 separate governing bodies. It has been our contention, confirmed in testimony by State Department officials and by a succession of United Nations management studies, that a restructuring of the system to achieve centralized direction through the United Nations Development Program would immeasurably improve both the efficiency and effectiveness of U.N. technical assistance.
>
> It has also been our contention that considerable savings could be achieved were better managerial and personnel practices instituted in the United Nations and in the specialized agencies. We now find that savings have, indeed, been achieved in the specialized agencies. However, instead of reducing the size of their assessed budgets, these agencies have embarked on an overzealous proliferation of technical assistance programs with little thought to coordination or cost restrictions. The result has been an increase in the fragmentation of the U.S. development system with a concomitant loss of effectiveness.

From Senate conference report on State, Justice, and Commerce, the judiciary and related agencies appropriations bill, June 30, 1977:

> CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS
>
> Amendment No. 2: Appropriates $325,979,000 as proposed by the House instead of $306,729,000 as proposed by the Senate.
>
> The amount approved includes funds for technical assistance which the Senate proposal would not have allowed. Approval of such funding, however, does not mean that the conferees condone the present situation with respect to such funds.
>
> The conferees are concerned over the growing tendency of United Nations specialized agencies to increase their assessed budgets to finance technical assistance programs. The Committee firmly believes that technical assistance should be financed through voluntary contributions, and not by substantial increases in regular assessed budgets of international organizations. In particular, technical assistance activities should be voluntarily financed by the United Nations Development Program.
>
> The conferees believe it is time to go beyond encouraging the Secretary of State to express concern with the international organizations funding technical assistance programs in the assessed budgets. The State Department should recognize and develop new policies to account for the fact that many of the large specialized agencies have become development institutions providing technical assistance as well as common purpose organizations fostering technical cooperation, that distinctions between assessed budget and voluntary budget activities have become obscured, and that more rationality, planning, and sense of overall objectives have to be injected into the budgeting and programming process for both assessed and voluntary contributions. The conferees instruct the Department to report on how it intends to deal with this problem in the next budget cycle.

> These comments should serve as a warning to the U.N. and other international agencies that the continuation of current funding trends threatens to call into doubt the basic understandings necessary to preserve the willingness of large donors to honor assessed contributions.

From Senate report on foreign assistance and related programs appropriations bill, July 18, 1977:

> For several years this Committee has been sharply critical of the lack of centralized direction and control of the United Nations Development System. We have noted the fragmentation in the assemblage of organizations and programs through which United Nations development and humanitarian assistance is now being dispensed, and we have suggested that to call it a "System" is to apply a misnomer. If a system is characterized by formulated and regular plans and procedures, then that which embodies United Nations development assistance most assuredly is not a system. The so-called system is under the control of 40 separate governing bodies. These consist of the United Nations and its component parts, such as UNDP, UNICEF, UNIDO, UNCTAD, and about a dozen specialized agencies. There is no central coordinating unit which exercises control over, and directs, this loose amalgam of agencies and programs.
>
> As early as 1969 the United Nations recognized this problem. In that year, it received a capacity study of its system; a study which it had, itself, commissioned. The principal author of the capacity study, Sir Robert Jackson, found that the specialized agencies, ". . . have now become the equivalent of principalities, free from any centralized control. Over the years, like all such institutions, they have learned to safeguard and *increase their powers*, to preserve their independence, and to resist change." (emphasis added)

From House of Representatives conference report on foreign assistance and related programs appropriations bill, October 12, 1977:

> The amount provided for International Organizations and Programs includes $115,000,000 for the United Nations Development Program. The managers agree, however, that future appropriations for this activity will depend on whether or not the specialized agencies of the United Nations continue to finance technical assistance programs for developing countries through their assessed budgets.
>
> The conferees concur with and support the position adopted by the conferees on the State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Bill for fiscal year 1978 on this subject. In addition, the conferees intend by this language to instruct the administration that as long as this dual method of financing technical assistance programs of the United Nations development system continues, we will find it difficult to fully support future UNDP budget estimates. In fact, it may be expected that in considering future appropriations for United States contribtions to UNDP, assessed contributions for technical assistance will be balanced against request for UNDP.
>
> The Appropriations Committees are not alone in their criticism of the way U.N. development programs are financed. Five different GAO reports and a report by the Senate Committee on Government Operations also criticize this practice. Ironically, official U.S. policy itself is in agreement with the Committees' position. We intend to put an end to the current practice.

From Senate report on State, Justice, and Commerce, the judiciary and related agencies appropriations bill, July 28, 1978:

> In fiscal year 1975 this Committee appropriated $203,903,000 for this account. This year the request for International Organizations has grown to $355,392,000. Over the past year the Committee has attemped to give the Bureau of International Organizations Affairs the oversight attention which it deserved. At this time it would appear that the performance of the Bureau has improved. For instance, the Bureau's personnel rotation policy seems to be improving, and officials of the Bureau may be taking a more positive leadership role in the various international agencies. It would appear that our U.N. representatives are starting to carry the message that the United States as the primary financial donor is determined that the size of the U.N. bureaucracy and its ever escalating salary structure be reduced. Evidence received at Committee hearings revealed that 35 U.N. executives drew larger salaries than the Vice President of the United States. Additionally, testimony was received to the effect that 17 of the world body's servants commanded more than the $75,000 per year paid to the Chief Justice of the United States. The Committee sees no reason why the American taxpayer should suffer the major burden of supporting an ever-growing international bureaucracy.

There are other reports, and I could go on. The fact is I think that it is high time that we sent both the U.N. and the American people a message—a message that we are going to be at least as tough on international programs as we are on domestic programs—a message that we are not going to continue to throw American tax dollars into wasteful foreign spending and an ever-increasing international bureaucracy—a message that the needs and welfare of our own citizens, who ultimately pay the bills, come before the bureaucratic needs of those who get rich operating international organizations.

The money being transferred by this amendment would instead be used as loans for the purchase of certain lines of the Milwaukee Railroad. These lines provide essential rail service and will be critical to the conversion of our Nation's industrial plants and utilities from foreign oil to domestic coal. It is essential to the movement of coal that competitive rail service be available. This amendment is intended to insure such competitive rail service. Senator JACKSON, chairman of the Senate Energy and Natural Resources Committee, has written to Energy Secretary Duncan in support of the effort of the State of Montana asking the Energy Department assist the State of Montana. I ask unanimous consent that Senator JACKSON's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., June 17, 1980.

Hon. CHARLES W. DUNCAN, Jr.,
Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: I want to express my appreciation for the participation of the Department of Energy in the work of the new interagency task force recently formed to focus Executive Branch attention on the proposal of the State of Montana to purchase the lines of the Milwaukee Railroad between Miles City, Montana, and Marengo. Washington, for subsequent lease or purchase by a new operator.

The fundamental importance of this project to the nation's energy needs cannot be overemphasized. In the northern Powder River Basin of southeastern Montana are some 10 billion recoverable tons of high-B.T.U. low sulfur coal. This is the equivalent of 30 billion barrels of oil. A number of companies plan to build a railroad from the Ashland/Birney area of Montana to Miles City with a view to marketing the coal, after further rail movements, to interested utilities and other industrial customers in Washington and in the Upper Midwest.

You and I have discussed at length the difficulties and problems involved in coal conversion and greater use of this valuable resource. Here, we have vast deposits of the commodity, yet the problem to be faced is how to assure that the coal can be moved competitively west of Miles City to the Pacific Northwest, and my State of Washington, in particular. The State's proposal offers what is really the last hope for competitive rail service in that part of the nation both as to this coal as well as to other Montana-originated traffic such as grain.

I would urge that the Department lend its support to the State's proposal by supporting necessary funding for acquisition and rehabilitation of the line, and through formal support of the Montana application at the Interstate Commerce Commission in Finance Docket No. 29303, as to which comments are due on July 2, 1980. The Department has a unique opportunity here to strike a significant blow for increased coal usage at a price cheap by any standard.

I would appreciate your advising me of the steps the Department plans to take. To the extent my assistance may prove necessary, please feel free to call on me.

Sincerely,

HENRY M. JACKSON,
U.S. Senator.

Mr. MELCHER. Mr. President, if anyone is not convinced of the impact of competition on rail freight rates, a chart prepared by the Montana Wheat Research and Marketing Commission in conjunction with the State's Department of Agriculture. It demonstrates convincingly the vital need of rail freight service for Northwest States.

The State of Montana's effort is critical to insuring that the States of North and South Dakota and Minnesota will continue to receive rail service. This is true because the State of Montana's plan will contribute traffic to lines east of Miles City, traffic which otherwise would not be there to support such rail service.

The issue of rail competition is not new to Members of the Senate. Senator KENNEDY recently visited Montana and heard testimony regarding the need for competitive rail service in the northern tier States. He came away from those sessions convinced as to the need for this rail competition and supportive of the plan of the State of Montana.

Our needs in the Northwest to preserve freight operation on the Milwaukee is a vital domestic need. It is essential for the economy and is of national consequence.

My amendment provides the funds to meet these urgent needs—United States needs.

AMENDMENT NO. 1927

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. HAYAKAWA, Mr. DECONCINI, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to H.R. 7542, supra.

Mr. CRANSTON. Mr. President, I rise to explain a solar energy amendment I will call up tomorrow.

Mr. President, this amendment has the bipartisan cosponsorship of my distinguished colleague from California (Mr. HAYAKAWA); two members of the Appropriations Committee, the distinguished Senator from Arizona (Mr. DECONCINI) and the Senator from New Mexico (Mr. SCHMITT); and the Senator from Arizona (Mr. GOLDWATER).

In fiscal year 1980 funds were appropriated for the 19 megawatt central receiver solar thermal powerplant at Barstow, Calif.

In the supplemental appropriations bill (H.R. 7542) now before the Senate, the House deferred $8 million of the $36,500,000 previously appropriated for this project "pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of * * * (this) project * * * as a solar repowering test facility to meet repowering objectives for the solar central receiver concept."

I support this approach and support the deferral of the $8 million for this project that goes with it.

When this House-passed language reached the Senate, however, the Senate Appropriations Subcommittee struck the House language from the bill and in its place inserted a provision which would rescind all fiscal year 1980 funding for this project—I repeat all $36,500,000—from the bill, in effect killing the project.

Our amendment simply restores the House-passed language and appropriations level to the bill.

I want to emphasize that we are not proposing a funding increase for this project. In fact, we are supporting a deferral of $8 million of previously appropriated fiscal year 1980 funds.

But we are trying to reverse an ill-advised decision to terminate this project, made by a divided subcommittee of the Senate Appropriations Committee, a decision which to me makes no sense at all.

Every member of the California congressional delegation—in both Houses—is on record in support of the continuation of this project which is expected to play a central role in our national effort to curtail our dependence on foreign oil. and to make our Nation energy self-sufficient.

The Barstow project is the cornerstone of solar thermal and solar repowering research and development. It is a cooperative project between the Department of Energy, Southern California Edison, Martin-Marietta, McDonnell Douglas and the City of Los Angeles. It has the enthusiastic support of PG&E.

This project represents the first generation of the effort to generate commercial electrical power from solar energy.

DOE has already awarded 13 conceptual design contracts for solar thermal central receiver systems on a similar joint venture basis around the country.

But these projects are absolutely dependent upon data and rely on follow-on technology based on experience anticipated to be derived at Barstow.

The termination of this project at a point when construction is 70 to 80 percent complete is senseless.

It would represent a severe setback in our effort to substitute solar power for energy derived from fossil fuels, at a time when our solar effort should be accelerated, not curtailed.

The attempt to terminate this project at this point certainly is not justifiable in terms of energy policy. There have been many recent warnings that sluggishness in the effort to develop solar energy will cost us the ability to meet even the administration's modest goal of 20 percent solar energy by the turn of the century.

In my own view, a stronger effort could result in solar energy meeting 25 percent of our energy needs by the year 2000.

Nor is the attempt to rescind these appropriated funds defensible from a budgetary standpoint.

The committee reported bill would "save" a theoretical $28.5 million in fiscal year 1980 funds over the level represented by our amendment. But the termination costs of this project, given existing contracts and already obligated fiscal year 1980 funds, would be between $15 and $25 million, eating up more than half of the theoretical saving.

The total Federal investment in this project, if it is now terminated, would amount to $86 million. The non-Federal parties to this project have committed $26 million of their own money to it, of which more than $6 million has already been spent.

And, if the appropriation subcommittee decision is sustained, more than $90 million of public and private money would be almost totally wasted, leaving a three-fourths-completed facility standing in the desert at Barstow, unusable except as a monument to this very unwise appropriations subcommittee decision.

If the Barstow project—the so-called "solar power tower"—were not essential in the development of technology for solar power generation—if the funds were being misapplied to some less significant, less high priority purpose, or if the project were poorly conceived or being mismanaged in some way, then perhaps some justification might exist for terminating the project at this point—on the grounds that one would not want to throw good money after bad.

But, in fact, the absolute opposite is true.

The Department of Energy, speaking through its Acting Under Secretary, has recently said "we believe that the project is a vital step in the commercial development of solar energy * * *. Management of this project has been subjected to almost continuous review over the past year * * *. Our findings are that the project is programatically and fiscally sound; it is well-managed and we expect it to be brough in on schedule * * *."

The letter goes on to say "the Barstow pilot plant has been a model of DOE cooperation with the utility industry." And the letter concludes "the Department of Energy believes the 10MWe solar pilot plant at Barstow is a well-conceived, well-managed project. It is vital to the successful introduction of this solar technology into the marketplace. We further believe that the potential of this technology to displace gas and oil in the utility and industrial sector adequately justifies the current and planned expenditures for the pilot plant. The Department urges your continued support for it."

Mr. President, I ask unanimous consent that the letter of Worthington Bateman, Acting Under Secretary of the Department of Energy, be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the city of Barstow has nearly completed—at a cost of $320,000—a visitor center for this project.

In urging continuation of funding, Ms. Betty Rowe, the city clerk, expresses the views of the citizens of Barstow which, in this case, completely reflect my own:

> It is difficult to believe that consideration would be given to removal of funds from the budget at this stage in the project. Millions of dollars have already been spent or are committed through binding contracts. Many more dollars of taxpayers' money will be spent in lawsuits if this project is stopped. All of this happening at a time in the history of our country when alternate sources of energy are so desperately needed.

I ask unanimous consent that the letter of the Barstow city clerk and the unanimous resolution of the Barstow City Council which accompanied it, each urging continued funding of this project, be included at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CRANSTON. Mr. President, as is frequently the case in these budget-related debates, the Appropriations Committee has attempted to present us with a Hobson's choice:

Either we accept the decision of a divided subcommittee of the Appropriations Committee or we bust the budget.

It is my view that there are more options than that. There are other less essential funds in this bill which can be delayed without the same critical effect. My amendment supports deferral of $8 million from this project. But to kill the project at this stage is both terribly unfair and terribly unwise. The burden of reconciling to the budget resolution needs to be distributed a little more evenly. And the amount involved in our amendment—$28.5 million in previously appropriated funds—is insignificant in terms of the well-established Senate Budget Committee principle of rounding to the nearest $100 million.

I urge the amendment be adopted.

EXHIBIT 1

DEPARTMENT OF ENERGY,
Washington, D.C.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Energy and Water Development Subcommittee may recommend to the full committee a recision of $36 million in FY 1980 appropriations for the 10 MW(e) Solar Central

Receiver Pilot Plant Project at Barstow, California. As you know, such a recesion would be tantamount to terminating the project. The Department of Energy (DOE) does not support such an action. We believe that the project is a vital step in the commercial development of solar energy and respectfully request that you reconsider any current plans to cancel it.

Management of this project has been subjected to almost continuous review over the past year. The most recent such review was conducted under my auspices on Friday, April 25, and independently by Mr. Jack Hewitt, the Department of Energy's Chief Financial Officer, early last week in California. Our findings are that the project is programmatically and fiscally sound; it is well managed and we expect it to be brought in on schedule.

Furthermore, the Barstow pilot plant has been a model of DOE cooperation with the utility industry. The project has been developed with the long standing support, both financial and managerial, of Southern California Edison and the Los Angeles Water and Power Authority. These partners have committed over $20 million of their own money and have played an active role in the design and management of the project.

The utility interest in Barstow, and the solar central receiver technology that it will demonstrate, is very strong. Our current studies on the potential of repowering clearly show that it will be commercially viable within the next few years. These are designs of commercially competitive solar central receiver plants which would be built using Barstow technology alongside existing gas- and oil-burning plants in the South and Southwest. We are prepared to brief you in whatever detail you wish regarding our views in this area.

However, without an operating pilot plant, the utility industry will not have the data they need on the performance of such a system in an integrated utility environment. It is the consensus of all parties that the completion of the Barstow project is crucial to reducing the technical risk associated with the first repowering initiatives in the utility industry. Without Barstow, they will be delayed significantly.

In summary, I would like to reiterate that the Department of Energy believes the 10 MW(e) solar pilot plant at Barstow is a well-conceived, well-managed project. It is vital to the successful introduction of this solar technology into the marketplace. We further believe that the potential of this technology to displace gas and oil in the utility and industrial sector adequately justifies the current and planned expenditures for the pilot plant. The Department urges your continued support for it.

Sincerely,

WORTHINGTON BATEMAN.

EXHIBIT 2

THE CITY OF BARSTOW, CALIF.,
May 21, 1980.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: Enclosed is a copy of Resolution No. 2268-80 which was adopted by the Barstow City Council on May 19, 1980 in support of continuation of funding for the Solar Pilot Plant Project at Daggett, Calif.

It is difficult to believe that consideration would be given to removal of funds from the budget at this stage in the project. Millions of dollars have already been spent or are committed through binding contracts. Many more dollars of taxpayers money will be spent in lawsuits if this project is stopped. All of this happening at a time in the history of our country when alternate sources of energy are so desperately needed!

We urge your support for retention of funding to complete the Solar Pilot Plant Project.

Sincerely yours,

BETTY ROWE,
City Clerk.

Enclosure.

RESOLUTION NO. 2268-80

A resolution of the City Council of the City of Barstow with respect to funding of the ten mega-watt solar pilot plant project.

Whereas, the U.S. Department of Energy, Southern California Edison Company, the Los Angeles Department of Water and Power and the California Energy Commission have entered into a joint venture to construct a 10 mega-watt solar pilot plant project near Daggett, California; and

Whereas, a Visitor Center for the project has been virtually completed at a cost of $320,000; and

Whereas, foundations for approximately 1800 heliostats are under construction with over 1200 already completed; and

Whereas, the foundation for the solar tower is under construction; and

Whereas, the mirrors for the heliostats have been fabricated and are in the processing of being silvered; and

Whereas, numerous other contracts and subcontracts for the construction of the project have been awarded, with work in progress; and

Whereas, all parties to this joint venture have invested large sums of money and energy in pursuing this project in good faith; and

Whereas, the credibility of the U.S. Department of Energy will be impaired by abandoning this project at this stage of construction.

Now, therefore, it is hereby resolved as follows:

1. That the City Council of the City of Barstow urges the Congress of the United States to appropriate sufficient funds to complete the construction of the 10 mega-watt Solar Pilot Plant Project as planned.

2. That the City Clerk is directed to deliver to the appropriate governmental agencies and officials a certified copy of this resolution.

Passed, approved and adopted this 19th day of May, 1980.

AMENDMENT NO. 1928

(Ordered to be printed and to lie on the table.)

Mr. TALMADGE (for himself, Mr. HELMS, Mr. MCGOVERN, Mr. LUGAR, and Mr. STEWART) submitted an amendment intended to be proposed by them, jointly, to H.R. 7542, supra.

● Mr. TALMADGE. Mr. President, this amendment adds clarifying language to the provision of H.R. 7542 that provides appropriations from the Energy Security Reserve for the implementation of S. 932, the Energy Security Act. The amendment will assure that funds are made available for the speedy implementation of title II of S. 932.

It is vital that funds be made available immediately for activities under title II if the promise of biomass energy is to be achieved. I urge my colleagues to join me in supporting this amendment.

PURPOSES OF THE AMENDMENT

H.R. 7542, as reported by the appropriations Committee, allocates not to exceed $18,792,000,000 in spending authority for the implementation of titles I and II of S. 932. Of this amount, $16,792,000,000 would be made available, on enactment of the bill, from funds in the energy security reserve. In addition, not to exceed $2,000,000,000 would be transferred—on June 30, 1981—from funds already appropriated to the Department of Energy from the Energy Security Reserve.

The amendment will accomplish two purposes.

First, it will make clear that the $18,792,000,000 allocated for S. 932 will be used to implement title II, as well as title I. I am concerned that the committee report on H.R. 7542 leaves some doubt as to whether title II activities would receive funding under this provision.

Second, it will assure that funds for title II activities become available at the beginning of fiscal year 1981. This will be done by clarifying that title II funds are to come from the $16,792,000,000 that will be made available on enactment, rather than the up to $2,000,000,000 that will be transferred from the Department of Energy on June 3, 1981.

NEED FOR IMMEDIATE IMPLEMENTATION OF TITLE II

The agricultural and forestry biomass provisions of title II adopt the major thrust of S. 1775, the agricultural, forestry, and rural energy bill that I introduced last September. The testimony at the hearings that led to the development of S. 1775 indicated that production of alternative fuels from agricultural and forestry biomass offers one of the most practicable and least costly ways of filling the energy gap in the United States created by the escalating costs and reduced availability of petroleum and natural gas. The technologies for the efficient production of alternative fuels from wood, grain, and other biomass materials are available now for commercial application.

Based on this encouraging evidence, I believe that production from the facilities developed under title II can significantly increase domestic energy production over the next few years while a large-scale synthetic fuels industry under title I of S. 932 is being developed. Title II will enable the Nation to get moving quickly on the all-out program to produce energy from alternative sources.

Because of the importance, over the next several years, of the title II programs in achieving energy independence, we must provide the funds necessary to implement title II as soon as feasible. This amendment will insure that the needed funds are made available.●

AMENDMENTS NOS. 1929 AND 1930

(Ordered to be printed and to lie on the table.)

Mr. BELLMAN (for himself, Mr. THURMOND, and Mr. YOUNG) submitted two amendments intended to be proposed by them, jointly, to H.R. 7542, supra.

AMENDMENT NO. 1931

(Ordered to be printed.)

Mr. BRADLEY (for himself and Mr. DURKIN) proposed an amendment, jointly, to H.R. 7542, supra.

MENTAL HEALTH SYSTEMS ACT—S. 1177

AMENDMENT NO. 1932

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to S. 1177, a bill to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce to the Senate and the public that the Subcommittee on debt Management of the Committee on Finance will hold a hearing on July 17, 1980. Senators BENTSEN and BOREN will preside at the hearing.

The hearing will begin at 10 a.m. in the special events center of the University of Texas, 1701 Red River Street, Austin, Tex.

The hearing will examine the impact of the Crude Oil Windfall Profit Tax Act of 1980 on royalty owners.

Witnesses who desire to testify at the hearing must submit a written request including, name, a mailing address, and phone number to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on July 8, 1980.

Written statements. Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510 not later than Friday, August 8, 1980.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will continue it oversight on SBA's Surety Bond Guarantee Program.

The hearing will begin at 10 a.m., on July 23, 1980, in room 424 Russell Senate Office Building.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a hearing on the subject of "regulatory negotiation".

The hearing will begin at 9:30 a.m. on July 29 and 30, 1980, in room 424 of the Russell Senate Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate today to hold a hearing on price volatility in the silver futures market.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Technology be authorized to meet during the session of the Senate today to hold an oversight hearing on the remote sensing satellite system.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Regulation Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on building energy performance standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Friday, June 27, 1980, to hold a hearing to review the administration's report on the Resources Planning Act.

The PRESIDING OFFICER. Without objection, so ordered.

ADDITIONAL STATEMENTS

VICTORY IS POSSIBLE

● Mr. GARN. Mr. President, I would call my colleagues' attention to a recent article in Foreign Policy magazine by Dr. Colin S. Gray and Keither Payne, both professional staff members of the Hudson Institute. The article, appropriately entitled, "Victory Is Possible," is a fine critique of the nuclear strategy of the United States from the late 1960's to the present. The authors aptly dissect the various versions of the strategy of mutual assured destruction that has been pursued by the United States since the era of McNamara and conclude that it is both immoral and dangerous to the security of the United States.

Dr. Gray and Mr. Payne point out that due to the efforts of the Soviet Union and lack of effective response by the United States and—

> Despite a succession of U.S. targeting reviews, Soviet leaders, looking to the mid-1980s, may well anticipate the ability to wage World War III successfully. The continuing trend in the East-West military balance allows Soviet military planners to design a theory of military victory that is not implausible and that may stir hopes among Soviet political leaders that they might reap many of the rewards of military success even without having to fight.

This does not have to be the case. The United States has the economic and technical capability to assure that through "a combination of counterforce offensive targeting, civil defense, and ballistic missile defense and air defense," it should be possible to "hold U.S. casualties down to a level compatible with national survival and recovery." They argue that—

> An adequate U.S. deterrent is one that denies the Soviet Union any plausible hope of success at any level of strategic conflict; offers a likely prospect of Soviet defeat; and offers a reasonable change of limiting damage to the United States.

One might add that if the United States had such a posture today, it is unlikely that the Soviet Union would be in Afghanistan and that we would be debating whether or not the Soviet Union is preparing to seize the oilfields of the Middle East.

I commend this article to my colleagues' attention and ask that it be printed in the RECORD.

The article follows:

VICTORY IS POSSIBLE

(By Colin S. Gray and Keith Payne)

Nuclear war is possible. But unlike Armageddon, the apocalyptic war prophesied to end history, nuclear war can have a wide range of possible outcomes. Many commentators and senior U.S. government officials consider it a nonsurvivable event. The popularity of this view in Washington has such a pervasive and malign effect upon American defense planning that it is rapidly becoming a self-fulfilling prophecy for the United States.

Recognition that war at any level can be won or lost, and that the distinction between winning and losing would not be trivial, is essential for intelligent defense planning. Moreover, nuclear war can occur regardless of the quality of U.S. military posture and the content of American strategic theory. If it does, deterrence, crisis management, and escalation control might play a negligible role. Through an inability to communicate or through Soviet disinterest in receiving and acting upon American messages, the United States might not even have the option to surrender and thus might have to fight the war as best it can. Furthermore, the West needs to devise ways in which it can employ strategic nuclear forces coercively, while minimizing the potentially paralyzing impact of self-deterrence.

If American nuclear power is to support U.S. foreign policy objectives, the United States must possess the ability to wage nuclear war rationally. This requirement is inherent in the geography of East-West relations, in the persisting deficiencies in Western conventional and theater nuclear forces, and in the distinction between the objectives of a revolutionary and status quo power.

U.S. strategic planning should exploit Soviet fears insofar as is feasible from the Soviet perspective; take full account of likely Soviet responses and the willingness of Americans to accept those responses; and provide for the protection of American territory. Such planning would enhance the prospect for effective deterrence and survival during a war. Only recently has U.S. nuclear targeting policy been based on careful study of the Soviet Union as a distinct political culture, but the U.S. defense community continues to resist many of the policy implications of Soviet responses to U.S. weapons programs. In addition, the U.S. government simply does not recognize the validity of attempting to relate its freedom of offensive nuclear action and the credibility of its offensive nuclear threat to the protection of American territory.

U.S. NUCEAR STRATEGY IS IMMORAL

Critics of such strategic planning are vulnerable in two crucial respects: They do not, and cannot, offer policy prescriptions that will insure that the United States is never confronted with the stark choice between fighting a nuclear war or surrendering, and they do not offer a concept of deterrence that meets the extended responsibilities of U.S. strategic nuclear forces. No matter how elegant the deterrence theory, a question that cannot be avoided is what happens if deterrence mechanisms fail? Theorists whose concept of deterrence is limited to massive retaliation after Soviet attack would have nothing of interest to say to a president facing conventional defeat in the Persian Gulf or in Western Europe. Their strategic environment exists only in peacetime. They can recommend very limited, symbolic options but have no theory of how a large-scale Soviet response is to be deterred.

Because many believe that homeland defense will lead to a steeper arms race and destabilize the strategic balance, the U.S. defense community has endorsed a posture that maximizes the prospect for self-deterrence. Yet the credibility of the extended U.S. deterrent depends on the Soviet belief that a U.S. president would risk nuclear escalation on behalf of foreign commitments.

In the late 1960s the United States endorsed the concept of strategic parity without thinking through what that would mean for the credibility of America's nuclear umbrella. A condition of parity or essential equivalence is incompatible with extended deterrent duties because of the self-deterrence inherent in such a strategic context. However, the practical implications of parity may be less dire in some areas of U.S. vital interest. Western Europe, for example, is so important an American interest that Soviet leaders could be more impressed by the character and duration of the U.S. commitment than by the details of the strategic balance.

A threat to commit suicide

Ironically, it is commonplace to assert that war-survival theories affront the crucial test of political and moral acceptability. Surely no one can be comfortable with the claim that a strategy that would kill millions of Soviet citizens and would invite a strategic response that could kill tens of millions of U.S. citizens would be politically and morally acceptable. However, it is worth recalling the six guidelines for the use of force provided by the "just war" doctrine of the Catholic Church: Force can be used in a just cause; with a right intent; with a reasonable chance of success; in order that, if successful, its use offers a better future than would have been the case had it not been employed; to a degree proportional to the goals sought, or to the evil combated; and with the determination to spare noncombatants, when there is a reasonable chance of doing so.

These guidelines carry a message for U.S. policy. Specifically, as long as nuclear threat is a part of the U.S. diplomatic arsenal and provided that threat reflects real operational intentions—it is not a total bluff—U.S. defense planners are obliged to think through the probable course of a nuclear war. They must also have at least some idea of the intended relationship between force applied and the likelihood that political goals will be achieved—that is, a strategy.

Current American strategic policy is not compatible with at least three of the six just-war guidelines. The policy contains no definition of success aside from denying victory to the enemy, no promise that the successful use of nuclear power would insure a better future than surrender, and no sense of proportion because central war strategy in operational terms is not guided by political goals. In short, U.S. nuclear strategy is immoral.

Those who believe that a central nuclear war cannot be waged for political purposes because the destruction inflicted and suffered would dwarf the importance of any political goals can construct a coherent and logical policy position. They argue that nuclear war will be the end of history for the states involved, and that a threat to initiate nuclear war is a threat to commit suicide and thus lacks credibility. However, they acknowledge that nuclear weapons cannot be abolished. They maintain that even incredible threats may deter, provided the affront in question is sufficiently serious, because miscalculation by an adversary could have terminal consequences; because genuinely irrational behavior is always possible; and because the conflict could become uncontrollable.

In the 1970s the U.S. defense community rejected this theory of deterrence. Successive strategic targeting reviews appeared to move U.S. policy further and further from the declaratory doctrine of mutual assured destruction adopted by former Secretary of Defense Robert S. McNamara. Yet U.S. defense planners have not thoroughly studied the problems of nuclear war nor thought through the meaning of strategy in relation to nuclear war. The U.S. defense community has always tended to regard strategic nuclear war not as war but as a holocaust. Former Secretary of Defense James R. Schlesinger apparently adopted limited nuclear options (LNOs)—strikes employing anywhere from a handful to several dozen warheads—as a compromise between the optimists of the minimum deterrence school and the pessimists of the so-called war-firing persuasion. By definition, LNOs apply only to the initial stages of a war. But what happens once LNOs have been exhausted? If the Soviets retaliated after U.S. LNOs, the United States would face the dilemma of escalating further or conciliating.

Deterrence may fail to be restored during war for several reasons: The enemy may not grant, in operational practice, the concept of intrawar deterrence and simply wage the war as it is able; and command, control, and communications may be degraded so rapidly that strategic decisions are precluded and both sides execute their war plans. Somewhat belatedly, the U.S. defense community has come to understand that flexibility in targeting and LNOs do not constitute a strategy and cannot compensate for inadequate strategic, nuclear forces.

LNOs are the tactics of the strong, not of a country entering a period of strategic inferiority, as the United States is now. LNOs would be operationally viable only if the United States had a plausible theory of how it could control and dominate later escalation.

The fundamental inadequacy of flexible targeting, as presented in the 1970s, is that it neglected to take proper account of the fact that the United States would be initiating a process of competitive escalation that it had no basis for assuming could be concluded on satisfactory terms. Flexible-targeting was an adjunct to plans that had no persuasive vision of how the application of force would promote the attainment of political objectives.

War aims

U.S. strategic targeting doctrine must have a unity of political purpose from the first to the last strikes. Strategic flexibility, unless wedded to a plausible theory of how to win a war or at least insure an acceptable end to a war, does not offer the United States an adequate bargaining position before or during a conflict and is an invitation to defeat. Small, preplanned strikes can only be of use if the United States enjoys strategic superiority—the ability to wage a nuclear war at any level of violence with a reasonable prospect of defeating the Soviet Union and of recovering sufficiently to insure a satisfactory postwar world order.

However, the U.S. government does not yet appear ready to plan seriously for the actual conduct of nuclear war should deterrence fail, in spite of the fact that such a policy should strengthen deterrence. Assured-destruction reasoning is proclaimed officially to be insufficient in itself as a strategic doctrine. However, a Soviet assured-destruction capability continues to exist as a result of the enduring official U.S. disinterest in strategic defense, with potentially paralyzing implications for the United States. No matter how well designed and articulated, targeting plans that allow an enemy to inflict in retaliation whatever damage it wishes on American society are likely to prove unusable.

Four interdependent areas of strategic policy—strategy, weapons development and procurement, arms control, and defense doctrine—are currently treated separately. Theoretically, strategy should determine the evolution of the other three areas. In practice, it never has. Most of what has been portrayed as war-fighting strategy is nothing of the kind. Instead, it is an extension of the American theory of deterrence into war itself. To advocate LNOs and targeting flexibility and selectivity is not the same as to advocate a war-fighting, war-survival strategy.

Strategists do not find the idea of nuclear war fighting attractive. Instead, they believe that an ability to wage and survive war is vital for the effectiveness of deterrence; there can be no such thing as an adequate deterrent posture unrelated to probable wartime effectiveness; victory or defeat in nuclear war is possible, and such a war may have to be waged to that point; and, the clearer the vision of successful war termination, the more likely war can be waged intelligently at earlier stages.

There should be no misunderstanding the fact that the primary interest of U.S. strategy is deterrence. However, American strategic forces do not exist solely for the purpose of deterring a Soviet nuclear threat or attack against the United States itself. Instead, they are intended to support U.S. foreign policy, as reflected, for example, in the commitment to preserve Western Europe against aggression. Such a function requires American strategic forces that would enable a president to initiate strategic nuclear use for coercive, though politically defensive, purposes.

U.S. strategy, typically, has proceeded from the bottom up. Such targeting does not involve any conception of the war as a whole, nor of how the war might be concluded on favorable terms. The U.S. defense community cannot plan intelligently for lower levels of combat, unless it has an acceptable idea of where they might lead.

Most analyses of flexible targeting options assume virtually perfect stability at the highest levels of conflict. Advocates of flexible targeting assert that a U.S. LNO would signal the beginning of an escalation process that the Soviets would wish to avoid in light of the American threat to Soviet urban-industrial areas. Yet it seems inconsistent to argue that the U.S. threat of assured destruction would deter the Soviets from engaging in escalation following an LNO but that U.S. leaders could initiate the process despite the Soviet threat. What could be the basis of such relative U.S. resolve and Soviet vacillation in the face of strategic parity or Soviet superiority?

Moreover, the desired deterrent effect would probably depend upon the Soviet analysis of the entire nuclear campaign. In other words, Soviet leaders would be less impressed by American willingness to launch an LNO than they would be by a plausible American victory strategy. Such a theory would have to envisage the demise of the Soviet state. The United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values.

The most frightening threat to the Soviet Union would be the destruction or serious impairment of its political system. Thus, the United States should be able to destroy key leadership cadres, their means of communication, and some of the instruments of domestic control. The USSR, with its gross overcentralization of authority, epitomized by its vast bureaucracy in Moscow, should be highly vulnerable to such an attack. The Soviet Union might cease to function if its security agency, the KGB, were severely crippled. If the Moscow bureaucracy could be eliminated, damaged, or isolated the USSR might disintegrate into anarchy, hence the extensive civil defense preparations intended to insure the survival of the Soviet leadership. Judicious U.S. targeting and weapon procurement policies might be able to deny the USSR the assurance of political survival.

Once the defeat of the Soviet state is established as a war aim, defense professionals should attempt to identify an optimum targeting plan for the accomplishment of that goal. For example, Soviet political control of its territory in Central Asia and in the Far East could be weakened by discriminate nuclear targeting. The same applies to Transcaucasia and Eastern Europe.

The ultimate penalty

Despite a succession of U.S. targeting reviews, Soviet leaders, looking to the mid-1980s, may well anticipate the ability to wage World War III successfully. The continuing trend in the East-West military balance allows Soviet military planners to design a theory of military victory that is not implausible and that may stir hopes among Soviet political leaders that they might reap many of the rewards of military success even without having to fight. The Soviets may anticipate that U.S. self-deterrence could discourage Washington from punishing Soviet society. Even if the United States were to launch a large-scale second strike against Soviet military and economic targets, the resulting damage should be bearable to the Soviet Union given the stakes of the conflict and the fact that the Soviets would control regions abroad that could contribute to its recovery.

In the late 1960s the United States identified the destruction of 20–25 per cent of the population and 50–75 per cent of industrial capacity as the ultimate penalty it had to be able to inflict on the USSR. In the 1970s the United States shifted its attention to the Soviet recovery economy. The Soviet theory of victory depends on the requirement that the Soviet Union survive and recover rapidly from a nuclear conflict. However, the U.S. government does not completely understand the details of the Soviet recovery economy, and the concept has lost popularity as a result. Highly complex modeling of the Soviet economy cannot disguise the fact that the available evidence is too rudimentary to permit any confidence in the analysis. With an inadequate data base it should require little imagination is required to foresee how difficult it is to determine targeting priorities in relation to the importance of different economic targets for recovery.

Schlesinger's advocacy of essential equivalence called for a U.S. ability to match military damage for military damage. But American strategic development since the early 1970s has not been sufficient to maintain the American end of that balance. Because the U.S. defense community has refused to recognize the importance of the possibility that a nuclear war could be won or lost, it has neglected to think beyond a punitive sequence of targeting options.

American nuclear strategy is not intended to defeat the Soviet Union or insure the survival of the United States in any carefully calculated manner. Instead, it is intended to insure that the Soviet Union is punished increasingly severely. American targeting philosophy today is only a superficial improvement over that prevalent in the late 1960s, primarily because U.S. defense planners do not consider anticipated damage to the United States to be relevant to the integrity of their offensive war plans. The strategic case for ballistic missile defense and civil defense has not been considered on its merits for a decade.

In the late 1970s the United States targeted a range of Soviet economic entities that were important either to war-supporting industry or to economic recovery. The rationale for this targeting scheme was, and remains, fragile. War-supporting industry is important only for a war of considerable duration or for a period of post-war defense mobilization. Moreover, although recovery from war is an integral part of a Soviet theory of victory, it is less important than the achievement of military success. If the USSR is able to win the war, it should have sufficient military force in reserve to compel the surviving world economy to contribute to Soviet recovery. Thus, the current trend is to move away from targeting the recovery economy.

To date, the U.S. government has declined to transcend what amounts to a deterrence-through-punishment approach to strategic war planning. Moreover, the strategic targeting reviews of the 1970s did not address the question of self-deterrence adequately. The United States has no ballistic missile defense and effectively no civil defense, while U.S. air defense is capable of guarding American air space only in peacetime. The Pentagon has sought to compensate for a lack of relative military muscle through more imaginative strategic targeting. Review after review has attempted to identify more effective ways in which the USSR could be hurt. Schlesinger above all sought essential equivalence through a more flexible set of targeting options without calling for extensive new U.S. strategic capabilities. Indeed, he went to some pains to separate the question of targeting design from procurement issues.

The United States should identify nuclear targeting options that could help restore deterrence, yet would destroy the Soviet state and enhance the likelihood of U.S. survival if fully implemented. The first priority of such a targeting scheme would be Soviet military power of all kinds, and the second would be the political, military, and economic control structure of the USSR. Successful strikes against military and political control targets would reduce the Soviet ability to project military power abroad and to sustain political authority at home. However, it would not be in the interest of the United States actually to implement an offensive nuclear strategy no matter how frightening in Soviet perspective, if the U.S. homeland were totally naked to Soviet retaliation.

Striking the USSR should entail targeting the relocation bunkers of the top political and bureaucratic leadership, including those of the KGB; key communication centers of the Communist party, the military, and the government; and many of the economic, political, and military records. Even limited destruction of some of these targets and substantial isolation of many of the key personnel who survive could have revolutionary consequences for the country.

The Armageddon syndrome

The strategic questions that remain incompletely answered are in some ways more difficult than the practical problems of targeting the political control structure. Is it sensible to destroy the government of the enemy, thus eliminating the option of negotiating an end to the war? In the unlikely event that the United States identifies all of the key relocation bunkers for the central political leadership, who would then conduct the Soviet war effort and to what ends? Since after a large-scale counter-control strike the surviving Soviet leadership would have little else to fear, could this targeting option be anything other than a threat?

The U.S. defense community today believes that the political control structure of the USSR is among the most important targets for U.S. strategic forces. However, just how important such targeting might be for deterrence or damage limitation has not been determined. Current American understanding of exactly how the control structure functions is less than perfect. But that is a technical matter that can in principle be solved through more research. The issue of whether the Soviet control structure should actually be struck is more problematic.

Strategists cannot offer painless conflicts or guarantee that their preferred posture and doctrine promise a greatly superior deterrence posture to current American schemes. But, they can claim that an intelligent U.S. offensive strategy, wedded to homeland defenses, should reduce U.S. casualties to approximately 20 million, which should render U.S. strategic threats more credible. If the United States developed the targeting plans and procured the weapons necessary to hold the Soviet political, bureaucratic, and military leadership at risk, that should serve as the functional equivalent in Soviet perspective of the assured-destruction effect of the late 1960s. However, the U.S. targeting community has not determined how it would organize this targeting option.

A combination of counterforce offensive targeting, civil defense, and ballistic missile and air defense should hold U.S. casualties down to a level compatible with national survival and recovery. The actual number would depend on several factors, some of which the United States could control (the level of U.S. homeland defenses); some of which it could influence (the weight and character of the Soviet attack); and some of which might evade anybody's ability to control or influence (for example, the weather). What can be assured is a choice between a defense program that insures the survival of the vast majority of Americans with relative confidence and one that deliberately permits the Soviet Union to wreak whatever level of damage it chooses.

No matter how grave the Soviet offense, a U.S. president cannot credibly threaten and should not launch a strategic nuclear strike if expected U.S. casualties are likely to involve 100 million or more American citizens. There is a difference between a doctrine that can offer little rational guidance should deterrence fail and a doctrine that a president might employ responsibility for identified political purposes. Existing evidence on the probable consequences of nuclear exchanges suggests that there should be a role for strategy in nuclear war. To ignore the possibility that strategy can be applied to nuclear war is to insure by choice a nuclear apocalypse if deterrence fails. The current U.S. deterrence posture is fundamentally flawed because it does not provide for the protection of American territory.

Nuclear war is unlikely to be an essentially meaningless, terminal event. Instead it is likely to be waged to coerce the Soviet Union to give up some recent gain. Thus, a president must have the ability not merely to end a war, but to end it favorably. The United States would need to be able to persuade desperate and determined Soviet leaders that it has the capability, and the determination, to wage nuclear war at ever higher levels of violence until an acceptable outcome is achieved. For deterrence to function during a war each side would have to calculate whether an improved outcome is possible through further escalation.

An adequate U.S. deterrent posture is one that denies the Soviet Union any plausible hope of success at any level of strategic conflict; offers a likely prospect of Soviet defeat; and offers a reasonable chance of limiting damage to the United States. Such a deterrence posture is often criticized as contributing to the arms race and causing strategic instability, because it would stimulate new Soviet deployments. However, during the 1970s the Soviet Union showed that its weapon development and deployment decisions are not dictated by American actions. Western understanding of what determines Soviet defense procurement is less than perfect, but it is now obvious that Soviet weapon decisions cannot be explained with reference to any simple action-reaction model of arms-race dynamics. In addition, highly survivable U.S. strategic forces should insure strategic stability by denying the Soviets an attractive first-strike target set.

An Armageddon syndrome lurks behind most concepts of nuclear strategy. It amounts either to the belief that because the United States could lose as many as 20 million people, it should not save the 80 million or more who otherwise would be at risk, or to a disbelief in the serious possibility that 200 million Americans could survive a nuclear war.

There is little satisfaction in advocating an operational nuclear doctrine that could result in the deaths of 20 million or more people in an unconstrained nuclear war. However, as long as the United States relies on nuclear threats to deter an increasingly powerful Soviet Union, it is inconceivable that the U.S. defense community can continue to divorce its thinking on deterrence from its planning for the efficient conduct of war and defense of the country. Prudence in the latter should enhance the former.●

THE CARTER ADMINISTRATION AND AVIATION SAFETY

● Mr. McGOVERN. Mr. President, I am greatly distressed today after reading the testimony of Capt. John J. O'Donnell, president of the Air Line Pilots Association, to the Democratic National Platform Committee. He stated that—

> After examining the record, we must view the three and a half years of the Carter Administration as a failure in the area of air safety.

According to Captain O'Donnell, the Nation's airline pilots find that the problems they encountered under previous administrations still exist today; there has been little improvement at the Federal Aviation Administration. He testified:

> The FAA continues to be largely unresponsive not only to the genuine and legitimate needs of the pilots but also to the hundreds of millions of airline passengers who use our national airspace system.

Captain O'Donnell points out no less than seven critical areas where the FAA has failed to act in the interests of safety. One of these is aircraft certification, and the ALPA president points out that the FAA is apparently ready to certificate new airliners with crews of only two in the cockpit. The Nation's airline pilots have long argued that a crew of three in the cockpit offers redundancy and an extra margin of safety.

Now Captain O'Donnell charges that some manufacturers are attempting to reduce the size of the cockpit crew solely for economic reasons, to save a few dollars in operating costs. The FAA, as it has many times before, is preparing to put the economic interests of manufacturers ahead of the public interest in having the highest level of safety.

I am distressed and concerned that the FAA is heeding the manufacturers, who have a clear profit motive, and ignoring the professional advice of the airline pilots who are personally responsible for the safety of all of us who fly.

I believe my colleagues should read the full indictment of the FAA contained in Captain O'Donnell's testimony to the Democratic Party Platform Committee. Therefore, I am submitting his testimony to the RECORD.

The testimony follows:

STATEMENT OF CAPT. JOHN J. O'DONNELL

Good afternoon, Mr. Chairman and members of the Committee. I am Captain John J. O'Donnell, President of the Air Line Pilots Association. On behalf of the 33,000 members of ALPA who fly for 31 airlines, I appreciate the opportunity to appear before you today.

My purpose in being here is to urge that you include provisions in the platform of the Democratic Party to increase the health and safety of the airline industry. The policies and performance of the federal government affect in countless ways our industry and the millions of passengers who rely on us for safe, efficient and reliable transportation. We look to you as the drafters of the Democratic Party platform to provide a vision of what our Nation and our industry should be. In that regard, I commend to you the platform proposals submitted by the AFL-CIO, which we strongly endorse.

Regretfully, I must report to you there has been little progress in many vital areas of aviation safety since the Carter Administration became responsible for the Federal Aviation Administration more than three years ago. The problems we encountered under the previous Republican Administration are still very much with us in the Carter Administration.

We see no evidence of a new and positive spirit at the FAA; the old attitude of business as usual survives and shows every sign of continuing into the 1980s. Too often, we see the FAA remaining mired in its own compacency.

Six years ago, during the Nixon Administration, the House Committee on Interstate and Foreign Commerce reviewed the FAA's performance and reported: "There have been instances when appropriate FAA actions in furtherance of air safety have been unreasonably delayed, or omitted entirely, because of an oversolicitous attitude on the part of some within the agency concerning the econmic well-being of the aircraft industry or the air carriers." The Committee also found many "instances of completely inappropriate bureaucratic slowness to act, and inaction."

That scathing indictment of a public agency still applies today, Mr. Chairman. There has been no substantial improvement under the Carter Administration. The FAA continues to be largely unresponsive not only to the genuine and legitimate needs of the pilots but also to the hundreds of millions of airline passengers who use our national airspace system.

As a result, the FAA fails to carry out its statutory mandate of ensuring the highest level of safety, and the safety of millions of Americans who fly each year is placed in jeopardy. For the first time in several years, the airline accident rate in 1979 reversed its course and actually went up instead of continuing to go down.

What has been the record of the Carter Administration in aviation safety?

The basic conflict between the FAA's mandate under the law to promote the highest level of safety and to foster the growth of commercial aviation continues unchanged. Indeed, the FAA Administrator refuses even to recognize the conflict.

The uncommitted surplus in the aviation trust fund—now over $3 billion—continues to grow while safety need go unmet. The Administration's response is to use the surplus for the operation of the FAA. The budget deficit is reduced while safety takes second place.

Installation of such vital safety facilities as airport control towers is delayed, as it has been in the past. I think the Committee will be shocked to know more than 250 airports in this country with scheduled passenger service lack control towers.

Our efforts in research and development are inadequate. A NASA study showed almost 100 near mid-air collisions each month in the U.S. But, by the FAA's own admission, an operational collision avoidance system is at least ten years away.

Without outside consultation, the FAA Administrator decided to destroy the Aviation Safety Reporting System, which was providing valuable data on potentially dangerous conditions throughout our airspace system. Only the unanimous protests of the aviation community prevented this travesty of safety.

The FAA's regulatory and enforcement functions continue to receive criticism from Congress, the National Transportation Safety Board and the General Accounting Office, which understandably undermines public confidence in the agency.

The process by which the agency certifies new aircraft designs are safe continues unchanged even though it has been repeatedly criticized for 20 years. After an 18-month study, the House Committee on Government Operations issued a strong indictment of the FAA's management of aircraft certification. The Committee found "the regulatory system has broken down and now fails to assure the public of the highest degree of safety. The FAA has thus far failed to resolve these problems."

The Committee's investigation disclosed two fundamental weaknesses in the FAA. "First, over the years, the FAA has become dangerously oriented to the needs of industry management at the expense of the traveling public," and second, "the FAA needs to create a more coherent system to apply its limited resources to all phases (of certification) in an effective manner."

Even as we sit here this afternoon, Mr. Chairman, the FAA is preparing to certificate new airliners with only two crew members in the cockpit instead of three. The airline industry standard for more than a decade has been a fully integrated crew of three in the cockpit, and today three-fourths of the airline aircraft in the U.S. have three in the cockpit.

That third crew member provides redundancy. the extra margin of safety that enables airliners to fly through increasingly crowded skies with the highest level of safety. And let me assure you our skies are indeed becoming increasingly crowded. The number of aircraft in the U.S. is expected to rise by 50 per cent to over 300,000 by 1990, and the number of business jets is estimated to increase from 2,500 today to 6,000 by the end of the decade. The airlines carried about 300 million passengers last year; the estimate for 1990 is 500 million, an increase of two-thirds.

Let me offer just one example of how the extra margin offered by the third crew member in the cockpit enhances safety. You may not be aware of three incidents last year when captains of wide-bodied aircraft with hundreds of passengers collapsed and died in flight. In each instance the other two crew members were able to take over and land the aircraft without incident. Try to imagine the situation if there had been only two in the cockpit. The co-pilot has to cope with the shock of seeing his superior colleague suddenly dead beside him and also fly the aircraft by himself to a safe landing without endangering his scores of passengers.

Today that extra margin of safety is threatened by the decision of some aircraft manufacturers to deviate from the industry standard. Seeking to gain an advantage in the intense battle to sell aircraft, they are offering the dubious prospect of slightly lower operating costs by having only two crew members in the cockpit. These manufacturers are avidly seeking the Carter Administration's blessing, and the FAA—still ever mindful to the economic needs of industry—is preparing to comply with the manufacturers' desires, as it has many times in the past.

The Nation's airline pilots view the move to a two-crew cockpit as a step backward taken solely for economic reasons.

We firmly believe full consideration for the highest level of safety requires three crew members in the cockpit in all future airliners.

Therefore, after examining the record, we must view the three and a half years of the Carter Administration as a failure in the area of air safety. We implore this Committee to recognize this unfortunate fact, and we urge that the Democratic Party platform you write reflects this urgent need to improve aviation safety. We believe a commitment to the highest level of safety in aviation should be part of the Democratic Party's platform in 1980.

While safety clearly deserves the highest priority, there are other needs in the airline industry that properly should be addressed in the Democatic Party platform. Let me briefly describe the current state of the industry and some of these needs.

STATE OF THE INDUSTRY

Today, the airline industry is encountering strong economic turbulence. We are obviously in a deepening recession which means the airline industry can expect declining profits and little or no growth in traffic.

Most of our larger airlines lost money in the first quarter, and most carriers have already experienced the declines in passenger traffic that characterize a recession. At the same time, inflation continues unabated, sparked by the soaring increases in the price of jet fuel. A gallon of fuel now costs almost one dollar, more than double the price of just a year ago.

In addition to enduring a recession and sharply rising fuel prices the airline industry has had to grapple with economic deregulation. Over the past two years, deregulation has created as many problems as opportunities for the domestic airline industry. It is not yet clear whether deregulation will be of net benefit to the airlines. We may never know because other factors such as the current recession and fuel price increases make it difficult to determine the impact of deregulation itself.

A similar situation exists in the international aviation arena. For the past three years, the United States government has pursued, where possible, a policy of encouraging competition with foreign governments and airlines. In some instances this policy has created new opportunities for our airlines and offered them greater flexibility. In many cases, however, it has hurt our carriers because our government has given foreign airlines greater access to U.S. markets without obtaining commensurate benefits in return. As with domestic deregulation, the net benefit of our international aviation policy is still unclear.

While the future of the airline industry in the next two years is shrouded in uncertainty and economic apprehension, it is somewhat reassuring to report that most forecasts expect the airline industry and American aviation to grow substantially in the next decade.

The question then becomes how we will pay for all the equipment needed to support and sustain this growth. Our equipment needs include not only billions of dollars for new aircraft that are more fuel-efficient and quiet. They also include substantial expenditures needed to improve our air traffic control system so it will be able to handle more aircraft with a higher level of safety than in recent years.

The source of most of this vast amount of money will be airline profits. Unfortunately, the record of the airline industry offers little encouragement that the profits in the next decade will be enough to meet our equipment needs. Therefore, we need provisions in the Democratic platform that will serve to improve the financial health of the airlines. These measures will do more than benefit airline investors; they will also help preserve the jobs of hundreds of thousands of airline employees, and they can enhance safety by encouraging investment in new equipment and trained personnel. Just as important is the necessity to maintain a healthy commercial aviation system, which is essential for this nation's economic welfare and security.

CAPITAL NEEDS

As I just mentioned, the airlines will have tremendous requirements for capital in the coming decade to finance new equipment. The carriers themselves estimate they will need no less than $90 billion.

As they struggle to raise this awesome amount of capital, our airlines—and particularly the international ones—look with envy at their foreign competitors. The reason for their envy is that our government gives low-cost loans to make it easier for foreign airlines to buy U.S. aircraft. Then those foreign carriers use their new aircraft to compete directly against U.S. airlines, which do not receive similar financial assistance.

We recognize the need for government assistance in financing aircraft exports to maintain the health of our aerospace industry. But it is often overlooked that there are only three long-range airline transports made today. These are the Boeing 747, the Lockheed L–1011 and the McDonnell Douglas DC–10. And they are all made in the U.S. Thus, an unintended result of our export financing is that foreign carriers get the benefits of the latest technology and the highest fuel efficiency to use in their competitive battles with our airlines. U.S. carriers are frequently stuck with older, less-fuel-efficient aircraft, and are finding it difficult to raise the capital needed to buy new aircraft. Unlike our airlines, most foreign carriers are government owned and enjoy ready access to public funds.

We believe it is only fair for the U.S. government to provide the same financing assistance to U.S. international airlines as it already does to their foreign competitors. Low-cost loans to cover part of the cost of new aircraft are one method of providing such assistance, and loan guarantees would be another.

There are also other fiscal policies the federal government should adopt to assist all U.S. airlines in raising the vast amounts of capital that will be needed. Examples include faster depreciation of aircraft and making tax credits refundable. In view of the airlines' capital needs, we urge the Committee to include in the platform provisions that will enable our carriers to meet these needs.

FUEL

All of us in the airline industry are fully aware of the need to conserve fuel. Airlines and pilots have already taken a variety of steps on the ground and in the air toward that end.

The only thing we ask is that the government not discriminate against us by giving priorities for fuel to other modes of transportation. It is often overlooked that the airlines carry far more intercity passengers than any other mode of public transportation. Therefore, it is short-sighted and unfair to give a priority for fuel to a competing mode of transportation. We are not asking for special consideration, only fair treatment.

In summary, Mr. Chairman and members of the Committee, ALPA recommends the following specific proposals for inclusion in the 1980 Democratic Party platform:

1. End the FAA's mandate to promote commercial aviation.

2. Improve the quality of the FAA's supervision of the airline industry so that fair, enlightened and effective regulation leads to greater safety.

3. Open the aircraft certification process to make full use of the expertise of all qualified persons before an airline transport enters passenger service.

4. Recognize the need for three crew memters passenger service.
transports to ensure the highest level of safety.

5. Increase our efforts in aviation research and development.

6. Develop an effective collision avoidance system as soon as possible.

7. Stop the current practice of limiting spending from the aviation trust fund.

8. Increase spending from the trust fund so that long-overdue facilities and equipment to enhance safety are installed.

9. Assist the airlines in every way possible to raise the capital they will need in the coming decade.

10. Ensure that the airline industry is treated fairly with other modes of transportation if it is ever necessary to allocate fuel.

On behalf of the 33,000 members of ALPA, I thank you for hearing us. By acting on the recommendations I have offered today, you will be making a valuable contribution to the safety and health of our vital airline industry.●

FEDERAL LANDS FOR ENERGY DEVELOPMENT

● Mr. JACKSON. Mr. President, on May 20, I placed in the RECORD an exchange of correspondence between myself and the Secretary of the Interior, Cecil D. Andrus, regarding access to Federal lands for energy mineral development. The letters are found beginning on page 11755. A series of enclosures which accompanied Secretary Andrus's letter were inadvertently omitted.

I, therefore, ask that these enclosures be printed in the RECORD.

The material follows:

ENCLOSURE 1

Question	Calendar year— 1977	1978	1979
1. How many applications for a permit to drill (APD's) a well on Federal and Indian lands were received?	3,674	4,056	3,879
2a. How many of the APD's were approved?	2,568	3,025	2,713
2b. How many of these APD's were approved with modification?	676	528	506
2c. How many of these APD's were rejected?	150	264	369
3. How many of these APD's were awaiting final action at the end of the year?	280	239	291
6. How many new wells actually were commenced during the year?	2,606	2,700	2,577
7a. Of the wells actually commenced, how many were exploratory tests?	477	512	430
7b. Of the wells actually commenced, how many were development wells?	2,129	2,188	2,147

ENCLOSURE 2

NOVEMBER 15, 1976.

MR. JOHN E. WEY,
Buttes Resources Co.,
Denver, Colo.

DEAR MR. WEY: Thank you for your recent letter concerning Notice to Lessees and Operators (NTL–6) which relates to the approval of oil and gas operations on Federal and Indian leases. You advise that as of October 8, 1976, Buttes Resources had not received approval for three proposed wells on Federal leases which were submitted for consideration by the Conservation Division on July 12, 1976. It is alleged that NTL–6 is the primary reason for this delay.

Enclosed is an in-depth discussion which we believe might prove beneficial to your understanding of the total situation in respect to the circumstances which led to the issuance of NTL–6.

Keeping in mind the discussion provided by the enclosure, we would like to explore the circumstances which are pertinent to the applications for a permit to drill the three wells in question. You state that Buttes had been awaiting the approval of these applications for a period of 87 days at the time of your inquiry.

According to the documented records of this Division, Buttes' initial submittal in regard to these wells was received on July 14, 1976, and was in the form of one copy each of three topographic maps showing the preferred location of its Murjo Federal 1–28, Eason Federal 1–17, and Marathon Federal 1–32 wells. These were not applications for a permit to drill but merely the required advance submittal which permits a preliminary environmental review to take place prior to an operator expending time and money to survey and stake a location and the access road. Absent such a review, it may be necessary during the onsite inspection to alter the location of the well pad or road.

NTL–6 requires that an operator submit a copy of such maps to the appropriate field offices of both this Division and BLM. Some operators follow the practice of submitting both copies to this Division and we in turn send one copy to BLM.

Although not required of us, we did check with Buttes, and after having ascertained that it had not furnished a copy of these maps to BLM, we did request Buttes to furnish another set of these maps.

Absent that inquiry, Buttes might very well have suffered a delay in obtaining the preliminary clearance. In regard to these preliminary clearances, NTL–6 provides that an operator, who is not advised to the contrary within 15 days following submittal of the topographic maps, may proceed on the basis that there is no major objection to the staking of the proposed well location.

However, despite the fact that Buttes failed to first submit maps to BLM, clearance to proceed with staking was orally given on July 22, or 11 days following the date on which Buttes first mailed the topographic maps to this Division.

There then followed a period of 28 days before the first of the applications for permit to drill one of these wells was received by this Division.

NTL–6 clearly commits the involved Federal agencies to make every effort to process applications and, if not a major Federal action, to grant approval within 30 days or to advise the operator of the reason(s) for further delay.

However, that time frame was predicated on the basis that a complete application in all respects had been received.

Therefore, in those instances where an operator chooses of its own volition to ignore the requirements of NTL–6 or fails to include other necessary documents as may be required (e.g., a designation of operator, an approved assignment of operating rights, evidence of acceptable surety, approval of non-standard location), it can not reasonably expect that the application will be acted upon within 30 days.

The applications for a permit to drill the Murjo, Eason, and Marathon Federal wells were received by this Division on August 19, September 7, and August 24, 1976, respectively.

In every case, the applications were incomplete, both from the standpoint of compliance with NTL–6 and the failure to submit other required documents.

On August 20, the day following receipt of the application for the Murjo well, Buttes was requested in writing to furnish information required by NTL–6 in regard to subsurface fresh water zones, grade(s) of casing to be utilized, the source of water and construction material, and a well site layout plat.

A designation of operator was received from Murjo Oil Company on September 4, and the additional information requested by our August 20 letter was received on September 17.

The proposed location and access road were inspected on September 20, and the required environmental analysis was written on September 22. BLM's surface clearance report, including its recommendations in regard to surface protection and rehabilitation requirements, was received on October 5.

At last report, an acceptable bond had not been provided, and the application, although now perfected except for the bond, remains unapproved.

On the day following receipt of the application for the Marathon well (August 25), Buttes was requested in writing to supplement the application by supplying information required by NTL–6 with respect to subsurface fresh water zones, grade(s) of casing, source of water and construction material, more details concerning the well pad, and additional data concerning its plans for surface restoration.

The requested information was received on September 2 and transmitted to BLM on that same date. The designation of operator from Marathon Oil Company was received on September 17.

The proposed location and access road were inspected on September 20, and the required environmental analysis was written on September 22. We received BLM's surface clearance report on October 4 and approved the application on October 7.

On September 7, the date on which we received the application to drill the Eason well, Buttes was requested by telephone to furnish information as required by NTL–6 in regard to the source of its construction material for this well.

A designation of operator was received from Eason Oil Company on September 9, and the additional information requested on September 7 was received on September 16. The proposed location and access road were inspected on September 20 and the required environmental analysis was completed on September 22.

We received BLM's surface clearance report on October 4 and the application was approved on October 8.

As can be seen from the record, Buttes did not perfect its applications to drill the Eason and Marathon Federal wells until September 16 and 17, respectively, and had yet to perfect the application for the Murjo Federal well at last report.

Nevertheless, if one examines the record in detail from July 12 through October 8, it clearly shows the following number of days to complete certain actions to be as follows:

Well	Surface clearance	Filing of APD	Notice of additional data	Receipt of additional data	Processing of APD	Total GS/BLM	Total Buttes
Murjo	11	28	1	28	[1] 21	33	56
Eason	11	47		9	22	33	56
Marathon	11	33	1	23	[2] 20	32	56

[1] Assumes this APD would have been approved by Oct. 8 if the bond had been timely filed.
[2] This APD was approved on Oct. 7.

Based on the above analysis, we would submit that the majority of the delay is not occasioned by the requirements of NTL–6 but by the failure of Buttes to timely comply therewith, and to submit other documents which are required for our consideration of an application.

In summary, we recognize that the procedures which have been adopted to implement NEPA, CEQ guidelines, departmental directives, and Secretarial Order No. 2948 to cause delays in the approval process and occasion the generation of additional costly paperwork which serves our needs and not those of industry.

Moreover, we understand that industry, long accustomed to receiving approval of its applications in a matter of a few days of the most, would find it extremely difficult to accept these new circumstances unless it can be shown that a real need exists in that regard. Thus, we have attempted to explain the rationale for these requirements in some detail.

As with industry, compliance with NEPA and the resultant directives have impacted heavily on the field offices of this Division and those of BLM from the standpoint of man-hour requirements, additional paperwork, and increased costs.

In certain instances, the sheer magnitude of the application being processed by several of our District Offices have simply inundated the available staff. We have made considerable progress in obtaining additional personnel and in perfecting our cooperative procedures with BLM and other agencies.

However, industry can significantly assist us in preventing unnecessarily long delays in the approval process by the submittal of perfected applications which comply fully with the applicable lease terms, regulations, and the instructions of our Oil and Gas Supervisors.

As with all outstanding NTL's, NTL–6 will undergo periodic reviews and will be revised as necessary. However, before undertaking the review of any NTL, a period of time in which to gain practical experience in its implementation must be provided in order that a subjective analysis can be made.

NTL–6 has now been in effect for a period of about 5 months, and it is our intent to request BLM to confer with us shortly in regard to whether practical application of NTL–6 has demonstrated a need for more or less information than that now required.

Sincerely yours,

ROBERT F. EVANS,
Acting Chief, Conservation Division.

Enclosure.

SUMMARY DISCUSSION OF CIRCUMSTANCES LEADING TO THE ISSUANCE OF NTL–6

The National Environmental Policy Act of 1969 (NEPA) is the primary force behind NTL–6 for it is the basis of all subsequent actions taken by the Department of the Interior in regard to environmental protection.

Section 102 of that Act authorized and directed that "(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of natural and social sciences and the environmental design arts in decisionmaking which may have an impact on man's environment; (b) identify and develop methods and procedures * * * which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations * * *."

When the Council for Environmental Quality (CEQ) issued its guidelines in April of 1971 for implementing NEPA, it included among those actions as possibly requiring an environmental impact statement those projects and continuing activities involving a Federal lease, permit, license, certificate, or other entitlement for use.

In October of 1971, the Department of the Interior issued its directives to implement NEPA and the CEQ guidelines.

Briefly stated, these directives required that activities involving Federal leases, permits, licenses, certificates, or other entitlements for use be assessed as to their impact on the human environment to determine whether approval thereof would constitute a "major" Federal action thereby necessitating the preparation of an environmental impact statement as directed by Section 102 (2)(C) of NEPA.

In response to the foregoing, the Geological Survey first proposed on November 19, 1971, at the direction of the Under Secretary, that it would take no action or any application for a permit to drill an exploratory oil and gas test on a Federal lease for a period of 30 days during which time comments and suggestions on the proposal would be received from the public as well as concerned Federal and State agencies.

On March 11, 1972, the Geological Survey issued its directives (516 SM 2) which were based on those issued by the Department and the CEQ, and which stated that applications for permit to drill exploratory oil and gas wells on Federal leases may require the preparation of an impact statement whereas applications to drill development wells or to conduct secondary recovery or pressure maintenance projects on Federal leases would not generally require an impact statement. On April 28, 1972, the proposal to take no action on applications to drill exploratory wells for a 30-day period was rescinded.

In general, the requirements of NEPA, as interpreted by the CEQ guidelines and Department of the Interior directives, require officials of the Conservation Division who have approval authority, i.e., District Engineers and Area Oil and Gas Supervisors, to assess and quantify the probable magnitude of the environmental effects which likely will result from a proposed operation if approval is granted.

Based on that analysis, the approving official must then determine whether his approval of the proposed operation would be a "major" Federal action. If it is concluded that it would not be, he may then approve the application.

Otherwise, the decision to approve or disapprove may only be made at a higher level after an environmental impact statement has been prepared and is available as a basis for that decision. To this point, only one such impact statement has been prepared for Federal onshore oil and gas operations, and a second one has been recommended.

In order to provide guidance to our field personnel in carrying out these directives, they were instructed in May of 1972, to require that operators submit a 12-point surface use plan with any future application for a permit to drill an exploratory well on a Federal lease. Moreover, they were instructed to make an onsite inspection of these proposed locations.

It was believed that the information gained from the surface use plan and the entire inspection, together with the approving official's knowledge of the various technical aspects of the contemplated operation, would enable him to prepare an environmental analysis which is to be the basis for his decision as to whether or not his approval would constitute a major Federal action. Subsequently, these instructions were modified because of court decisions to include exploratory wells on Indian leases and revised to require the same procedure for all development of wells in order to fully comply with departmental directives.

In October of 1972, the Secretary of the Interior issued Secretarial Order No. 2948 defining the roles and attendant responsibilities of the Geological Survey and the Bureau of Land Management in the administration of the Department of the Interior's onshore mineral leasing and operating activities. This Order places considerable emphasis on the protection of the environment and states that "The Geological Survey, before approving exploration * * * plans, drilling permits, oil, gas, * * * field development plans, or plans for the abandonment of wells or operations, consults with the Bureau of Land Management on the adequacy of the surface use, environmental protection, and reclamation aspects of the plans and will not grant approval if inconsistent with BLM's recommendations without further discussions with BLM."

The Secretarial Order, while resulting in the interdisciplinary approach mandated by NEPA in the evaluation of the environmental impact of proposed operations, did not provide the necessary specificity to insure its orderly implementation at the field level. As a result, many conflicts between personnel of this Division and their counterparts in BLM arose because of differing interpretations as to the responsibilities of each agency. Therefore, it became necessary for the Geological Survey and the Bureau of Land Management to enter into a cooperative agreement at the agency level wherein the roles and responsibilities of the two agencies in processing applications were spelled out in considerable detail. This agreement was executed in November of 1974 and, with minor modifications, was reaffirmed in August of 1975.

In order to be able to assess both the technical and environmental aspects of a proposed operation, it is incumbent on the involved personnel of the Conservation Division and the Bureau of Land Management that they possess the necessary data on which to make informed decisions. This can be accomplished in several ways, i.e., (1) the agencies can collect all of the data which is required for these assessments following the receipt of an operator's application for permit to conduct operations, or (2) the agencies can maintain certain baseline data for the various areas over their jurisdiction and require operators to furnish supplemental data, which is site specific to the operations proposed by their applications, or (3) the operators can be required to submit all necessary data for these assessments.

In considering these three options, the first was dismissed as being too time consuming and the third by reason of the fact that it would be too burdensome on the operators. Thus, Option 2, wherein the responsibility for data collection is shared with the operators, was selected.

The Secretarial Order and the implementing cooperative procedures agreement both recognize that instructions to lessees and operators in regard to operational matters are to be issued only by representatives of this Division, except in the instance of an extreme emergency. It then follows that instructions to operators for the purpose of implementing Option 2 could only be issued by this Division. However, it was also clear that those instructions would have to require that operators furnish that information which is necessary to assist BLM in carrying out its responsibility to assess proposed operating plans from the standpoint of their adequacy in regard to surface use, environmental protection, and reclamation. The instructions developed in this regard were issued to lessees and operators as NTL–6.

The Conservation Division, both here and in the field, worked closely with its BLM counterparts in developing the data requirements now imposed by NTL–6. Moreover, a proposed NTL–6 was published in the Federal Register for public comment before the final version was issued effective June 1, 1976. As you are aware, considerable criticism was received from the oil industry in regard to the initial proposal, and certain modifications were made as a result of those comments. However, no data requirements which were considered necessary to the proper analysis of a proposed operation under Option 2 were eliminated.

It was our intent in issuing NTL–6 that there would be nationwide uniformity in the manner by which we would consider applications to conduct operations. It was also our intent that the industry, being fully informed as to our procedures and requirements in this regard, would be in a position to better plan their future operations.

ENCLOSURE 3

U.S. RESERVES AND RESOURCES OF CRUDE OIL AND NATURAL GAS

	Oil			Gas		
	Total (billion barrels)[1]	Percent onshore[1]	Percent Federal onshore[2]	Total (trillion cubic feet)[1]	Percent onshore[1]	Percent Federal onshore
Measured reserves	34.250	90.6	3.7	237.132	84.8	6.1
Indicated reserves and inferred resources	27.736	89.2	3.6	201.6	66.5	6.1
Undiscovered recoverable resources	50–127	68.3	7.5	322–555	77.9	7.5

[1] Computed from U.S. Department of the Interior, Geological Survey, "Geological Estimates of Undiscovered Recoverable Oil and Gas Resources in the United States," Geologic l Survey Circular No. 725, 1975, pp. 4 and 28–31. Percentages were computed using the statistical mean of range estimates.

[2] Computed from U.S. Department of the Interior news release, "USGS Release Revised U.S. Oil and Gas Resource Estimates," Mar. 26, 1974. Computed using the midpoint of range estimates.

ENCLOSURE 4

TABLE B. 1.—AVAILABILITY OF FEDERAL ONSHORE LAND FOR DEVELOPMENT OF FOSSIL FUEL AND FERTILIZER MINERALS: STATUS IN 1975[1]

[Millions of acres]

Designated use	Formally closed		Highly restricted		Moderate or slight restriction	
	Acres	Percent	Acres	Percent	Acres	Percent
Military	22.9	2.8				
Indian (nonreservation)	.9	.1				
National parks, etc	24.6	3.0				
National recreation areas	1.4	.2	0.2	0	0.4	0
Historic and archeologic	(?)	(?)	(?)	(?)		
Fish and wildlife	1.9	.2	29.4	3.6		
Endangered species	(?)	(?)	(?)	(?)		
National forest wilderness			11.6	1.4		
National forest wilderness study			15.2	1.8		
National forest roadless					42.5	5.2
BLM roadless	.1	0	2.0	.2	22.8	2.8
Wild and scenic rivers	.1	0	.9	.1		
Irrigation projects			7.6	.9		
Stockraising and agricultural					65.8	8.0
Water supply and control	7.8	.9	1.5	.2		
Powersites			[2]15.2	1.8		
Pipeline corridors	5.3	.6				
ERDA and TVA	2.1	.3	.9	.1		
Petroleum and oil shale reserves	23.9	2.9	3.7	0.5	0.1	0
Geothermal			1.1	.1		
Surface occupancy	5.4	.7	.5	.1		
Statewide withdrawals					1.0	.1
Forest Service general					104.6	12.7
BLM general			.6	.1	136.9	16.6
Subtotal non-ANCSA	96.4	11.7	81.4	9.9	374.1	45.4
Alaska Native selections	49.2	6.0			30.8	3.7
Alaska State selections	39.1	4.7			16.4	2.0
ANCSA d–1	71.4	8.7				
ANCSA d–2	65.0	7.9				
Subtotal ANCSA	224.7	27.3			47.2	5.7
Total	321.1	39.0	81.4	9.9	421.3	51.1

[1] The Alaska situation was changed in late 1978 by major new executive withdrawals that resulted in no increase (over prior ANCSA withdrawals noted in this table) in the land formally closed to development of the fossil fuel and fertilizer minerals. See section O of this appendix.

[2] 90 overlaps stricter ANCSA withdrawals and is not included in totals.

ENCLOSURE 5

[Bureau of Land Management]

DEPARTMENT RELEASES RESULT OF BLM'S WITHDRAWAL REVIEW INVENTORY

Results of an inventory of public land withdrawals, required by the Federal Land Policy and Management Act, were announced today by the Department of the Interiors' Bureau of Land Management (BLM). The inventory is the first step in a comprehensive withdrawal review that will be made by the Bureau over the next several years.

BLM Director Frank Gregg said the withdrawal process provides a means of closing specific tracts of public land to certain kinds of use that might otherwise be allowed. The purpose of making a withdrawal is to protect the public interest or specific resource values. For example, the withdrawal of land intended for a future reservoir site might be made to prevent persons from establishing any kind of claim that would have to be "brought out" before the land could be flooded. Withdrawals might also be made to protect the scientific values associated with an archaeological site. A common reason for making withdrawals is to close certain tracts to mining under the General Mining Law of 1872.

The present inventory covers certain lands under the jurisdiction of the Bureau of Land Management, the Department of Defense, the Water and Power Resources Service, the Department of Energy, the U.S. Forest Service, the Nuclear Regulatory Commission, the National Park Service and other Federal agencies. It covered lands in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

In announcing the results of the inventory Gregg said, "Many of the withdrawals we are examining date back to the turn of the century. In a significant number of cases their cancellation is long overdue. Because the mining law was premised on the assumption that mineral development was the highest and best use of every tract of public land, withdrawal authority was needed to protect important values from mining activity. But through the years the tendency was for the withdrawal to remain in force long after the need for it has passed."

"Today with our growing energy crisis there is a need to make as much land as possible available for mineral development. In making the review, our first concern will be to look at withdrawals in high conflict areas and those having high potential for energy development. Those withdrawals lying within the overthrust belt along the west slope of the Rocky Mountains are one example. We will protect the public interest by continuing those withdrawals in areas with other, high resource values."

In recent years withdrawals of lands from mining and mineral leasing have become controversial. Mining interests claim that large withdrawals of public land have threatened the Nation with increased mineral shortages including shortages of oil and gas. On the other hand, environmental groups say that the withdrawal authority has been one effective legal tool available by the government to protect environmental and aesthetic values.

The inventory shows that out of the 67.9 million acres withdrawn, about 54.2 million acres are closed to mining under the General Mining Law of 1872 and 18.9 million acres are closed to leasing under the Mineral Leasing Act of 1920. Some of the withdrawals cover both mineral location and mineral leasing.

The inventory includes 7,911 separate withdrawals. California with 1,671 had the largest number and Nevada with 294 had the fewest. Oregon had the second largest number of withdrawals (1,418) but also had next to the lowest number of acres (1,073,070) withdrawn. The State of Washington had the least amount of land withdrawn with 622,999 acres Wyoming with 14,980,676 acres and Utah with 11,496,575 rank first and second in the amount of public land under withdrawal.

The Bureau of Land Management with 37.1 million acres has more land under withdrawal than any other Federal agency. Major BLM withdrawals include "classifications" made under the Classification and Multiple Use Act of 1964, coal withdrawals, oil shale withdrawals, livestock driveways, coal classifications, public water reserves and phosphate and potash reserves. Other agencies having significant withdrawals are: the Department of Defense—14.5 million acres; the Water and Power Resources Service—8.4 million acres; Federal Energy Regulatory Commission (Department of Energy)—2.2 million acres, U.S. Forest Service—2 million acres; Nuclear Regulatory Commission—1.4 million acres and the National Park Service—.05 million acres.

Withdrawals of public land have been made either by Congress or by administrative action. At the turn of the century large areas of public land were withdrawn for National Forest and National Parks. After widespread congressional criticism, the President asked Congress to enact legislation to define the Presidential powers regarding withdrawals. In 1910 Congress passed the General Withdrawal Act to more precisely define those powers. Since that time other legislation including the Classification and Multiple Use Act of 1964 and the Federal Land Policy and Management Act of 1976 have contained provisions for withdrawals of public land to protect certain public resources.

BLM officials say that the withdrawal authority is needed, but that the present review is the first sustained one ever undertaken to remove obsolete withdrawals in order to make the land available for multiple use management.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., January 3, 1980.

To: Deputy Secretary.

Through: Assistant Secretary, Land and Water Resources, s/James W. Curlin, Jan. 4, 1980.

From: Director, Bureau of Land Management.

Subject: Summary Report of the Inventory of Withdrawn Lands (for the 11 Western States Subject to Review Under Sec. 204(1) FLPMA).

As the first stage of the withdrawal review mandated by Section 204(1) of the Federal Land Policy and Management Act of 1976 (FLPMA), an inventory of Public lands in the 11 Western States was conducted by the respective State Offices. The BLM State Offices initial determination is that up to 67.9 million acres of withdrawn lands will be subject to review under Section 204(1), FLPMA. Enclosed is a report of the results of that inventory.

The inventory does not include all withdrawn land in the 11 States. Section 204(1) of FLPMA excludes from consideration: all public lands administered by the Bureau of Land Management, and certain lands in the National Forest System which are not closed to appropriation under the Mining Law of 1872, or to leasing under the Mineral Leasing Act of 1920; certain Indian Reservations and other Indian holdings: the National Park System; the National System of Trails; the National Wild and Scenic Rivers System; the National Wildlife Refuge System; and other lands administered by the Fish and Wildlife Service or by the Secretary through the Fish and Wildlife Service.

The report is a compilation, in tabular form, of the withdrawal data developed for the lands subject to the review in each of the 11 States. The tables depict how much public domain land there is in each State, the total number of inventoried withdrawals in each State, and the acreages of inventoried areas which are withdrawn from mineral location and mineral leasing. The tables show the extent of mineral segregation along with an "other" category; that category includes "surface only" withdrawals, withdrawals of areas where the mineral estate is unknown, withdrawals not directly affecting mineral segregation, and withdrawals with undetermined restrictions. We will have to check further with the holding agencies on withdrawals in the "other" category to determine the precise segregation. We believe, however, that most, if not all, of the lands included in the "other" category (some 11.1 million acres) are not subject to the review requirements of FLPMA, Section 204(1).

The report does not take into account the overlapping of withdrawals. Figures are gross acreages, and the totals are, therefore, somewhat inflated.

Some States' reports provided figures to the nearest one-hundredth of an acre. In such instances, the decimals were dropped from the reports, and as a result, the totals of a few columns do not reflect a correct tabulation of the figures therein. The following items from the report may be of interest:

Out of approximately 67.9 million acres of withdrawn land to be reviewed under Section 204(1) of FLPMA, about 54.2 million acres are segregated from mineral location and 18.9 million acres are segregated from mineral leasing.

The inventory covered 7,911 withdrawals. California has the greatest number (1,671); Nevada has the fewest (294).

Oregon has the second highest number of withdrawals (1,418) but is next to lowest in the amount of land withdrawn (1,073,070 acres).

Washington has the least amount of lands withdrawn (622,999 acres).

Wyoming with 14,980,676 acres and Utah with 11,496,575 acres rank first and second in the amount of land under withdrawal.

BLM ranks first among the various Federal agencies in the amount of land under withdrawal (37.1 million acres). Significant acreages of public land withdrawn by other Federal agencies are as follows:

Department of Defense—14.5 million;

Water and Power Resources Service—8.4 million;

Federal Energy Regulatory Commission (Department of Energy) 2.2 million;

U.S. Forest Service (Department of Agriculture)—2 million;

Nuclear Regulatory Commission—1.4 million;

National Park Service—0.5 million.

The withdrawal review program is now in progress and is set for completion in 1991 With the completion of the withdrawal inventory, the first phase of the withdrawal review program is concluded. Our submission of the final detailed report on all withdrawn lands subject to review under FLPMA, Section 204(f) and 204(1) and Departmental Manual 603 is scheduled for June 2, 1980.

Bureau field personnel are now actively engaged in the second part of the program known as the verification/reconciliation phase. During this phase, the Bureau requests verification of the descriptive information gathered in the inventory from the Federal agency for which the lands are withdrawn. Any discrepancies regarding record information will be reconciled at this point.

The next and last phase is called rejustification and review. In this phase, the holding Federal agency is required to submit rejustification information for continuation or extension of the withdrawal.

The District Manager develops and coordinates review schedules in consultation with representatives of the holding agency. The Washington Office will require the State Directors to notify us regarding their review schedules as soon as agreement has been reached with the holding agency. From these review schedules we can then identify withdrawal review information such as cases by holding agency, types, acreages, timing of individual reviews, etc.

The bulk of the workload associated with the program will be accomplished at the district offices with support and guidance from the State Offices. The Washington Office's role consists of establishing program policy and direction, preparing procedures, setting program priorities, providing reporting requirements and format, and consolidating State Office reports into aggregative Bureau reports, and monitoring program progress. The Washington Office will also assess withdrawal review cases which will contain the recommendations of the District Manager and endorsement by the State Director.

All State Offices plan to begin forwarding completed withdrawal review cases to the Washington Office starting in mid to late fiscal year 1980. Our first priority is to complete reviews on about 29 withdrawals located in the overthrust belt in Idaho, Montana, Utah, Nevada, and Arizona by the end of fiscal year 1980.

The Bureau is cognizant of the need and importance of this program to a balanced multiple use management concept for all of the public lands. The lack of an operational withdrawal review program has precluded for too long a review of these withdrawn acreages and their return, where warranted, to disposition under some or all of the mineral and public land laws. The need to open withdrawn lands now closed to mineral leasing to the operation of the 1920 Mineral Leasing Law is of critical importance, due to our national energy shortage. With this in mind, we are taking the appropriate steps to implement a streamlined withdrawal review process with the view toward expediting completion of the program well before 1991. Once these steps have been identified, we will prepare a detailed program implementation plan with dollar and manpower estimates. We hope to have these estimates available by March 1, 1980. We will need your full support in this effort and will keep you apprised of our progress.

Enclosed for your signature are proposed letters to Senator Jackson and Congressman Udall transmitting copies of the report.

FRANK GREG.

State	Total State acreage	Federally owned land	Public domain land	Public lands under BLM jurisdiction
Arizona	72, 688, 000	32, 117, 641	31, 795, 266	12, 596, 216
California	100, 206, 720	46, 227, 310	43, 761, 437	16, 200, 503
Colorado	66, 485, 760	23, 649, 137	22, 554, 825	7, 996, 361
Idaho	52, 933, 120	33, 722, 318	32, 912, 456	11, 953, 855
Montana	93, 271, 040	27, 627, 608	25, 225, 407	8, 140, 964
Nevada	70, 264, 320	61, 560, 572	61, 357, 030	49, 118, 324
New Mexico	77, 766, 400	26, 037, 956	24, 187, 343	12, 860, 876
Oregon	61, 598, 720	32, 315, 826	30, 943, 046	15, 724, 554
Utah	52, 696, 960	34, 315, 775	33, 761, 890	22, 886, 004
Washington	42, 693, 760	12, 420, 709	11, 033, 056	309, 030
Wyoming	62, 343, 040	30, 327, 320	29, 652, 155	17, 793, 172
Total	752, 947, 840	360, 322, 172	347, 183, 911	175, 579, 859

WITHDRAWN LAND, BY STATES, SHOWING EXTENT OF MINERALS SEGREGATION

[As of Oct. 15, 1979]

State	With-drawals	Public domain lands[1]	Withdrawn lands[2]	Withdrawn land segregation from— Mineral location[2]	Mineral location and mineral leasing[2]	Mineral leasing[2]
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Arizona	471	31,795,266	4,995,645	4,445,867	549,778	0
California	1,671	43,761,437	7,562,963	4,977,496	2,017,443	5,783
Colorado	680	22,554,825	3,536,819	3,341,566	103,544	0
Idaho	711	32,912,456	2,257,360	818,858	670,182	0
Montana	519	25,225,407	2,021,740	1,543,388	45,431	42,456
Nevada	294	61,357,030	6,740,407	2,060,010	4,174,975	0
New Mexico	286	24,187,343	12,570,931	8,238,954	2,516,174	1,779,840
Oregon	1,418	30,943,046	1,073,070	1,047,506	25,564	0
Utah	523	33,761,890	11,496,575	4,086,869	1,886,150	0
Washington	738	11,033,056	622,999	512,770	110,229	0
Wyoming	600	29,652,155	14,980,676	6,770,887	4,270,525	658,671
Total	7,911	347,183,911	67,859,185	37,844,171	16,369,995	2,486,754

[1] The figures contained in col. 3 for Public Domain Lands come from the "Public Land Statistics 1977."

[2] It is noted that the sum of columns 5, 6, and 7 does not equal the total acreage figure in column 4. Withdrawn Lands, due to acreage placed in an "other" category in certain individual State reports under Part C. Type of Minerals Segregation. The approximate 11.1 million acres called "others" includes withdrawals segregated from surface estate only, withdrawals with certain non-minerals restrictions, withdrawals known to have no mineral segregation, and withdrawals where the extent of minerals segregation was not able to be verified due to the deadline of the inventory reporting date. We can predict however, the great majority (95%) of the 11.5 acres is not segregated from either mineral leasing or mineral location.

WITHDRAWN LAND BY STATE, AGENCY, TYPE, AND MINERAL SEGREGATION

[As of Oct. 15, 1979]

	Withdrawals	Acreage (gross)
Arizona:		
A. Holding agency:		
Interior:		
Bureau of Land Management	182	609,271
Water and Power Resources Service	106	831,448
Geological Survey	16	46,910
Defense:		
Department of Army	13	1,351,580
Corps of Engineers	7	31,453
Department of Navy	3	1,606
Department of Air Force	10	1,994,647
Department of Agriculture:		
Forest Service	125	123,680
Soil Conservation Service	1	3,353
Department of Transportation:		
Federal Aviation Administration	4	482
Department of Justice: Border Patrol	3	1,055
FBI	1	160
Total	471	4,995,645
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		609,271
Public water reserve	1	11,329
C. & M.U. classifications	34	328,280
Mining Claim Occupancy Act	7	22
Coal lands	1	24,310
Reconveyed lands	28	39,442
Mineral entry	15	131,317
R. & P.P. classification	64	42,325
Disposal classification	1	4,000
Small tract classification	31	27,706
Water and Power Resources Service: Irrigation Projects	106	831,448
Geological Survey: Powersite classifications	16	46,910
Defense:		
Department of Army	13	1,351,580
Corps of Engineers	7	31,453
Department of Navy	3	1,606
Department of Air Force	10	1,994,647
Department of Agriculture:		
Forest Service		123,680
Administrative sites	49	17,756
Recreation sites	40	44,952
Roadside zones	16	22,117
Research areas	10	21,327
Watershed protection	5	15,922
Lookouts	3	625
Indian purposes	1	25
Streamside zones	1	956
Soil Conservation Service	1	3,353
Department of Transportation: Federal Aviation Administration: Air navigation sites	4	482
Department of Justice:		
Border Patrol	3	1,055
FBI	1	160
Total	471	4,955,645
C. Type of minerals segregation:		
Mineral location only	413	4,445,867
Mineral location and mineral leasing	58	549,778
Total	471	4,995,645

	Withdrawals	Acreage (gross)
California:		
A. Holding agency:		
Interior:		
Bureau of Land Management	691	1,943,802
Water and Power Resources Service	125	1,341,078
U.S. Fish and Wildlife Service	1	200
Geological Survey	69	328,891
National Park Service	3	2,105
Bureau of Indian Affairs	2	801
Defense:		
Department of the Army	26	673,023
Corps of Engineers	10	16,405
Department of the Navy	36	1,827,996
Department of the Air Force	7	90,698
Department of Agriculture: Forest Service	335	276,646
Department of Energy	6	50,832
Federal Energy Regulatory Commission	331	1,007,932
Department of Transportation:		
U.S. Coast Guard	18	1,084
Federal Aviation Administration	9	724
Department of Health, Education, and Welfare: Public Health Service	1	6
Department of State: International Boundary and Water Commission	1	731
Total	1,671	7,562,963
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management	691	1,943,802
Administrative site	2	99
Aid of legislation	2	446,856
Classification and legislation	11	544,298
Cooperative land and wildlife management area	0	0
DeFacto withdrawals (exchange lands)	11	45,348
Disposal classification NES	0	0
Game management area	1	570
Historical site	1	1,452
Hot Springs (mineral)	4	200
Management area	3	1,050
Classifications under C. & M.U. Act	32	148,257
Protection of recreation and/or public values	12	91,721
Public safety	1	563
Public water reserve	105	172,242
Recreation site	13	7,122
R. & P.P. classification	128	29,219
Resource management—Watershed studies	1	3,694
Small tract classification	341	104,986
Stock driveway	6	122,780
Townsite	5	156
Watershed protection and/or management	1	65,406
Withdrawal from disposal	3	5,966
Withdrawal for resurvey	5	70,217
Coal classification	1	240
Potash reserve	2	81,350
Water and Power Resources Service: Reservior projects	125	1,341,078
U.S. Fish and Wildlife Service: Recreation sites	1	200
Geological Survey: Powersite classifications	69	328,891
National Park Service:		
Administrative site	2	185
Historical site	1	1,920
Bureau of Indian Affairs: Aid of legislation	2	801

WITHDRAWN LAND BY STATE, AGENCY, TYPE, AND MINERAL SEGREGATION—Con.

[As of Oct. 15, 1979]

	Withdrawals	Acreage (gross)
Defense:		
Department of the Army	26	673, 023
Corps of Engineers	10	16, 405
Department of the Navy	36	1, 827, 996
Department of the Air Force	7	90, 698
Department of Agriculture: Forest Service		276, 646
Administration site	194	40, 272
Bird sanctuary	1	37, 956
Botanical area	3	21, 321
Classification and legislation	1	1, 865
Experimental area	6	45, 910
Experimental station	1	40
Gaging station	1	40
Geological area	2	766
Housing	1	17
Job Corps camp	1	160
Lookout station	3	160
Natural area	2	8, 194
Picnic and/or campground	34	8, 623
Protection of recreation and public values	2	360
Radio facilities	1	40
Recreation site	53	72, 440
Rehabilitation	1	638
Roadside zone	20	30, 652
Seed orchard	3	607
Study/research area	1	1, 282
Watershed protection and management	3	5, 173
Withdrawal from disposal	1	126
Department of Energy	6	50, 832
Federal Energy Regulatory Commission		1, 007, 932
Powersite reserves	119	194, 087
Federal power projects	212	813, 844
Nuclear Regulatory Commission		
Department of Transportation:		
U.S. Coast Guard: Lighthouse	18	1, 084
Federal Aviation Administration: Air navigation sites	9	724
Department of Health, Education, and Welfare: Public Health Service	1	6
Department of State: International Boundary and Water Commission	1	731
Total	1, 671	7, 562, 963
C. Type of minerals segregation:		
Mineral location only	1, 292	4, 977, 496
Mineral location and mineral leasing	192	2, 017, 443
Mineral leasing only	1	5, 783
Other	186	562, 240
Total	1, 671	7, 562, 963
Colorado:		
A. Holding agency:		
Interior	1	14, 631
Bureau of Land Management	271	2, 803, 248
Water and Power Resources Service	61	333, 684
Geological Survey	1	2, 883
Defense:		
Department of the Army	2	3, 171
Corps of Engineers	2	11, 559
Department of the Navy	2	54, 827
Department of the Air Force	1	8, 796
Department of Agriculture	2	11, 559
Forest Service	273	219, 658
Department of Energy: Federal Energy Regulatory Commission	50	47, 303
Nuclear Regulatory Commission	7	24, 827
Department of Transportation	1	80
Federal Aviation Administration	5	483
General Services Administration	1	110
Total	680	3, 536, 819
B. Types of withdrawals by holding agency:		
Interior	1	14, 631
Bureau of Land Management		2, 803, 248
Transfer of jurisdiction	1	440
C. & M.U. classification	15	11, 500
Oil shale lands	1	1, 312, 985
Coal withdrawals	14	1, 385, 220
Recreation site	1	5
R. & P.P. classification	98	26, 360
Disposal classifications	116	26, 883
Small tract classification	15	2, 573
Protection withdrawals	10	37, 282
Water and Power Resources Service: Reclamation projects	61	333, 684
Geological survey: Aid of legislation	1	2, 883
Defense:		
Department of the Army	2	3, 171
Corps of Engineers	2	11, 559
Department of the Navy	2	54, 827
Department of the Air Force	1	8, 796
Department of Agriculture	2	11, 559
Forest Service		219, 658
Administrative sites	54	10, 163
Recreation sites	71	98, 306
Roadside zones	11	14, 075
Research areas	10	44, 331
Campgrounds	53	35, 464
Natural areas	2	160
Picnic areas	31	7, 243
Radio relay sites	5	20
Ranger stations	32	4, 436
Winter sports areas	4	5, 460
Department of Energy: Federal Energy Regulatory Commission:		
Powersite reserves	3	12, 578
Federal power projects	47	34, 725
Nuclear Regulatory Commission	7	24, 827
Department of Transportation	1	80
Federal Aviation Administration: Air navigation sites	5	483
General Services Administration	1	110
Total	680	3, 536, 819
C. Type of minerals segregation:		
Mineral location only	613	3, 341, 566
Mineral location and mineral leasing	14	103, 544
Other	53	91, 709
Total	680	3, 536, 819
Idaho:		
A. Holding agency:		
Interior:		
Bureau of Land Management	109	606, 628
Water and Power Resources Service	97	314, 348
Geological Survey	70	351, 314
Defense:		
Department of the Army	4	1, 725
Corps of Engineers	14	137, 869
Department of Agriculture: Forest Service	291	178, 206
Department of Energy: Federal Energy Regulatory Commission	117	162, 591
Nuclear Regulatory Commission	4	503, 817
Department of Transportation:		
Federal Highway Administration	1	24
Federal Aviation Administration	2	195
Department of Justice: Immigration and Naturalization Service	1	528
Veterans' Administration	1	110
Total	711	2, 257, 360
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		606, 628
Public water reserves	52	15, 919
C. & M.U. classifications	17	22, 828
Natural area	2	26, 256
Seed orchard	1	70
Research area	3	12, 337
Phosphate and coal reserves	5	275, 618
Recreation area	1	37
Communication sites	1	5
Administrative sites	5	805
Watershed protection	2	4, 224
Stock driveway	20	248, 528
Water and Power Resources Service: Reclamation projects and reservoir sites	97	314, 348
Geological Survey: Powersite classification	70	351, 314
Defense:		
Department of the Army	4	1, 725
Corps of Engineers	14	137, 869
Department of Agriculture:		
Forest Service		178, 207
Administrative sites	173	35, 299
Recreation sites	89	64, 240
Roadside zones	5	13, 560
Research areas	1	10, 199
Watersheds	1	280
Experimental stations	1	27, 013
Historical sites	6	408
Watershed protection areas	1	1, 517
Experimental forests	1	12, 265
Roads	5	1, 106
Seed orchard	1	90
Trails rights-of-way	1	1
Natural areas	3	1, 628
Stock driveways	3	10, 601
Department of Energy: Federal Energy Regulatory Commission:		
Powersite reserves	63	130, 826
Federal power projects	54	31, 765
Nuclear Regulatory Commission	4	503, 817
Department of Transportation:		
Federal Highway Administration: Material site	1	24
Federal Aviation Administration: Air navigation sites	2	195
Department of Justice: Immigration and Naturalization Service: Public reserve	1	528
Veterans' Administration: Boise Barracks	1	110
Total	711	2, 257, 360
C. Type of minerals segregation:		
Mineral location only	327	818, 858
Mineral location and mineral leasing	176	670, 182
Mineral leasing only		
Other	208	768, 318
Total	711	2, 257, 360

WITHDRAWN LAND BY STATE, AGENCY, TYPE, AND MINERAL SEGREGATION—Con.

[As of Oct. 15, 1979]

	Withdrawals	Acreage (gross)
Montana:		
A. Holding agency:		
Interior:		
Bureau of Land Management	92	486, 192
Water and Power Resources Service	147	635, 889
U.S. Fish and Wildlife Service	1	4, 144
Defense:		
Corps of Engineers	6	631, 855
Department of the Air Force	5	188
Department of Agriculture:		
Forest Service	190	77, 693
Agricultural Research Service	5	72, 512
Department of Energy: Federal Energy Regulatory Commission	57	91, 242
Department of Transportation:		
Federal Highway Administration	11	17, 173
Federal Aviation Administration	3	3, 327
Veterans' Administration	2	1, 520
Total	519	2, 021, 740
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		486, 192
Public water reserves	35	8, 035
C. & M.U. classifications	8	22, 261
Oil shale lands	1	282, 002
Administrative site classification	14	135, 968
R. & P.P. classifications	16	9, 399
Small tract classifications	2	247
Stock driveway	16	28, 277
Water and Power Resources Service: Irrigation projects	147	635, 889
U.S. Fish and Wildlife Service: Wildlife experimental range	1	4, 144
Defense:		
Corps of Engineers	6	631, 855
Department of the Air Force	5	188
Department of Agriculture:		
Forest Service		77, 693
Administrative sites	70	28, 624
Roadside zones	8	3, 271
Recreation areas	112	45, 797
Agricultural Research Service: Experimental stations	5	72, 512
Department of Energy: Federal Energy Regulatory Commission:		
Powersite reserves	31	56, 577
Federal power projects	26	34, 664
Department of Transportation:		
Federal Highway Administration: Protective withdrawals	11	17, 173
Federal Aviation Administration: Air navigation sites	3	3, 327
Veterans' Administration: Administrative lands	2	1, 520
Total	519	2, 021, 740
C. Type of minerals segregation:		
Mineral location only	406	1, 543, 388
Mineral location and mineral leasing	42	45, 431
Mineral leasing only	11	42, 456
Other	60	390, 463
Total	519	2, 021, 740
Nevada:		
A. Holding agency:		
Interior:		
Bureau of Land Management	216	1, 240, 128
Water and Power Resources Service	10	1, 054, 956
Geological Survey	3	554
Bureau of Mines	1	18
National Park Service	4	459, 895
Bureau of Indian Affairs	1	170
Defense:		
Department of the Army	5	8, 969
Department of the Navy	5	184, 734
Department of the Air Force	4	2, 961, 626
Department of Agriculture: Forest Service	23	13, 671
Department of Energy: Federal Energy Regulatory Commission	3	18, 124
Nuclear Regulatory Commission	7	794, 746
Department of Transportation: Federal Aviation Administration	9	1, 218
National Science Foundation	0	0
Department of Commerce	1	69
General Services Administration	1	1, 482
Smithsonian Institution	1	40
Total	294	6, 740, 407
B. Types of withdrawals by holding agencies:		
Interior:		
Bureau of Land Management		1, 240, 128
Public water reserves	27	18, 406
C. & M.U. classifications	21	398, 795
Exchange lands	18	25, 757
Townsite withdrawals	2	263
Wildlife habitat withdrawals	2	6, 602
Public land sale	4	225
Coal withdrawal	1	84, 027
Recreation site	1	272
Administration site classifications	2	24
R. & P.P. classifications	81	13, 606
Potash withdrawal	1	41, 264
Small tract classifications	41	61, 250
Protective withdrawals	3	84, 211
Stock driveways	12	505, 421
Water and Power Resources Service: Reservoir projects	10	1, 054, 956
Geological Survey: Powersite classifications	3	554
Bureau of Mines	1	18
National Park Service:		
Administrative sites	2	657
Pending National Monuments	2	459, 238
Bureau of Indian Affairs	1	170
Defense:		
Department of the Army	5	8, 969
Department of the Navy	5	184, 734
Department of the Air Force	4	2, 961, 626
Department of Agriculture:		
Forest Service		13, 671
Administrative sites	15	7, 256
Recreation sites	6	5, 846
Roadside zone	1	48
Protective site	1	520
Department of Energy: Federal Energy Regulatory Commission: Powersite reserves	3	18, 124
Nuclear Regulatory Commission	7	794, 746
Department of Transportation: Federal Aviation Administration: Air navigation sites	9	1, 218
Department of Commerce: Coast and Geodetic Survey	1	69
General Services Administration	1	1, 482
Smithsonian Institution	1	40
Total	294	6, 740, 407
C. Type of minerals segregation:		
Mineral location only	218	2, 060, 010
Mineral location and mineral leasing	34	4, 174, 975
Others	42	505, 421
Total	294	6, 740, 407
New Mexico:		
A. Holding agency:		
Interior:		
Bureau of Land Management	140	9, 856, 755
Water and Power Resources Service	8	60, 822
Defense:		
Department of the Army	16	2, 442, 216
Department of the Air Force	5	51, 404
Department of Agriculture: Forest Service	97	137, 178
Department of Energy	1	640
Federal Energy Regulatory Commission	7	13, 242
Nuclear Regulatory Commission	2	4, 276
Department of Transportation: Federal Aviation Administration	3	185
National Aeronautics and Space Administration	1	1, 509
Department of Justice	1	635
Department of State: International Boundary and Water Commission	4	2, 063
Department of Treasury	1	1
Total	286	12, 570, 931
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		9, 856, 755
State aid	3	61, 391
Mineral classifications	11	194, 613
Reconveyed lands	3	1, 414
Coal classifications	11	6, 447, 607
Miscellaneous classifications	16	35, 961
Potash reserves	1	1, 779, 840
Recreation site classifications	6	19, 512
R. & P.P. classifications	76	5, 372
Watershed classification	1	1, 680
Multiple-use classifictions	5	1, 215, 853
Protective withdrawals	7	93, 509
Water and Power Resources Service: Reservoir sites	8	60, 822
Defense:		
Department of the Army	16	2, 442, 216
Department of the Air Force	5	51, 404
Department of Agriculture:		
Forest Service	97	137, 178
Administrative sites	38	12, 771
Recreation sites	46	35, 934
Roadside zones	6	9, 333
Research areas	3	13, 375
Watersheds	3	43, 905
Soil erosion control	1	21, 858
Department of Energy	1	640
Federal Energy Regulatory Commission: Powersite reserves	7	13, 242
Nuclear Regulatory Commission	2	4, 276
Department of Transportation:		
U.S. Coast Guard: Lighthouses	0	0
Federal Aviation Administration: Air navigation sites	3	185

WITHDRAWN LAND BY STATE, AGENCY, TYPE, AND MINERAL SEGREGATION—Con.

[As of Oct. 15, 1979]

	Withdrawals	Acreag (gross
National Aeronautics and Space Administration	1	1,509
Department of Justice	1	635
Department of State: International Boundary and Water Commission	4	2,063
Department of Treasury	1	1
Total	286	12,570,931
C. Type of minerals segregation:		
Mineral location only	228	8,238,954
Mineral location and mineral leasing	41	2,516,174
Mineral leasing only	1	1,779,840
Other	16	35,961
Total	286	12,570,931
Oregon:		
A. Holding agency:		
Interior:		
Bureau of Land Management	459	250,658
Water and Power Resources Service	70	149,483
U.S. Fish and Wildlife Service	4	451
National Park Service	4	75,537
Defense:		
Department of Army	38	45,121
Department of Navy	2	18,806
Department of Air Force	5	247
Department of Agriculture:		
Forest Service	762	379,636
Agricultural Research Service	1	13,938
Department of Energy:		
Bonneville Power Administration	3	161
Federal Energy Regulatory Commission	54	138,022
Department of Transportation:		
U.S. Coast Guard	7	200
Federal Aviation Administration	9	803
Total	1,418	1,073,070
B. Type of withholding by holding agency:		
Bureau of Land Management		250,658
Public water reserves	249	36,044
Recreation sites	66	36,157
Recreation withdrawals	8	2,667
Administrative sites	27	3,039
Research/scientific sites	9	62,948
Watersheds	1	40
Road withdrawals	1	60
Aid of legislation	1	126
Townsite withdrawals	1	5
R. & P.P. classifications	66	20,569
Small tract classifications	24	99
C. & M.U. classifications	6	88,899
Water and Power Resources Service: Reclamation projects	70	149,483
U.S. Fish and Wildlife Service: National wildlife refuges (proposed)	4	451
National Park Service:		
Administrative sites	1	40
Aid of legislation	3	75,497
Defense:		
Department of Army	38	45,121
Corps of Engineers		
Department of Navy	2	18,806
Department of Air Force	5	247
National Guard		
Department of Agriculture:		
Forest Service		379,63
Administrative sites	245	20,799
Recreation sites	456	152,894
Roadsice zones	25	50,036
Road withdrawals	15	201
Research/scientific areas	16	49,854
Watersheds	3	88,451
Wild and Scenic Rivers (proposed withdrawals)	1	16,960
Aid of legislation	1	439
Agricultural Research Service	1	13,938
Department of Energy:		
Bonneville Power Administration	3	161
Federal Energy Regulatory Commission: Federal power projects	54	138,022
Department of Transportation:		
U.S. Coast Guard: Lighthouses	7	200
Federal Aviation Administration: Air navigation sites	9	803
Total	1,418	1,073,070
C. Type of minerals segregation:		
Mineral location only	1,379	1,047,506
Mineral location and Mineral leasing	39	25,564
Total	1,418	1,073,070
Utah:		
A. Holding agency:		
Interior:		
Bureau of Land Management	236	7,182,223
Water and Power Resources Service	72	1,733,518
Geological Survey	24	169,692
Bureau of Mines	1	34
National Park Service	5	5,976
Defense:		
Department of the Army	9	824,707
Department of the Navy	2	114,699
Department of Air Force	3	897,285
Department of Agriculture: Forest Service	106	216,413
Department of Energy: Federal Energy Regulatory Commission	53	345,496
Nuclear Regulatory Commission	3	3,010
Department of Transportation: Federal Aviation Administration	5	1,203
National Science Foundation	1	2,312
U.S. Postal Service	1	2
Total	523	11,496,575
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		7,182,223
Public water reserves	170	58,902
C. & M.U. classifications	18	329,980
Oil shale	1	2,757,309
Coal lands	13	3,777,053
Phosphate reserves	6	179,026
Reservoir site	1	3,360
Petroleum reserves	2	32,423
Recreation site classifications (R. & P.P.)	12	19,657
Administrative site classification (R. & P.P.)	5	370
National stockpile (manganese ore)	1	106
Scientific sites	1	2,560
Municipal watershed classifications	4	4,777
Stock driveway	1	7,768
Auto racing and testing	1	8,927
Water and Power Resources Service: Reservoir sites	72	1,733,518
Geological Survey		169,692
Administration sites	2	65
Powersite classifications	24	169,627
Bureau of Mines	1	34
National Park Service:		
Access roads	1	171
Stock driveways	2	1,063
Temporary withdrawal for classification	2	4,741
Defense:		
Department of the Army	9	824,707
Department of the Navy	2	114,699
Department of Air Force	3	897,285
Forest Service		216,413
Administrative sites	61	19,529
Recreation sites	27	40,034
Roadside zones	5	6,718
Research areas	3	91,974
Municipal watersheds	4	53,322
Geologic	5	4,636
Nursery	1	198
Department of Energy:		
Federal Energy Regulatory Commission		345,496
Powersite reserves	27	311,941
Federal power projects	26	33,555
Nuclear Regulatory Commission	3	3,010
Department of Transportation: Federal Aviation Administration: Air navigation sites	5	1,203
National Science Foundation	1	2,312
U.S. Postal Service	1	2
Total	523	11,496,575
C. Type of minerals segregation:		
Mineral location only	159	4,086,869
Mineral location and mineral leasing	70	1,886,149
Mineral leasing only	0	0
Other	294	5,523,555
Total	523	11,496,575
Washington:		
A. Holding agency:		
Interior:		
Bureau of Land Management	35	4,179
Water and Power Resources Service	60	158,485
U.S. Fish and Wildlife Service	1	(1)
Defense:		
Department of the Army	31	51,225
Department of the Navy	1	160
Department of Agriculture:		
Forest Service	503	191,549
Agricluture Research Service	2	165
Department of Energy: Federal Regulatory Commission	58	146,294
Nuclear Regulatory Commission	8	65,702
Department of Transportation: U.S. Coast Guard	36	2,278
Department of Justice: Immigration and Naturalization Service	1	1,656
Veterans' Administration	1	662
Department of Commerce: Coast and Geodetic Survey Observatories	1	640
Total	738	662,998

WITHDRAWN LAND BY STATE, AGENCY, TYPE , AND MINERAL SEGREGATION—Con.

[As of Oct. 15, 1979]

	Withdrawals	Acreage (gross)
B. Types of withdrawals by holding agency:		
Interior:		
Bureau of Land Management		4, 179
Public water reserves	4	1, 006
Recreation sites	1	24
Research/scientific sites	1	80
Aid of legislation	1	4
Public purpose withdrawals	2	9
Disposition withdrawals	2	197
R. & P.P. classification	23	1, 970
C. & M.U. classifications	1	885
Water and Power Resources Service: Reclamation projects	60	158, 485
U.S. Fish and Wildlife Service: National Wildlife refuge (proposed)	1	(1)
Defense:		
Department of the Army	31	51, 226
Department of the Navy	1	160
Department of Agriculture:		
Forest Service		191, 549
Administrative sites	338	24, 561
Recreation sites	141	40, 909
Roadside zones	13	29, 053
Road withdrawals	2	9
Research/scientific areas	6	3, 647
Watersheds	2	84, 700
Wild and scenic rivers (proposed withdrawals)	1	8, 667
Agricultural Research Service	2	165
Department of Energy: Federal Energy Regulatory Commission: Federal power projects	58	146, 294
Nuclear Regulatory Commission	8	65, 702
Department of Transportation: U.S. Coast Guard lighthouses	36	2, 278
Department of Justice: Immigration and Naturalization Service: International boundary reservations	1	1, 656
Veterans' Administration: Hospital sites	1	662
Department of Commerce: Coast and Geodetic Survey observatories	1	640
Total	738	622, 998
C. Type of minerals segregation:		
Mineral location only	717	512, 770
Mineral location and mineral leasing	21	110, 228
Total	738	622, 998
Wyoming:		
A. Holding agency:		
Interior:		
Bureau of Land Management	310	12, 756, 061
Water and Power Resources Service	148	1, 776, 333
Bureau of Mines	1	641
Defense:		
Department of the Army	7	16, 856
Department of the Navy	3	35, 127
Department of the Air Force	6	4, 810
Department of Agriculture: Forest Service	76	176, 791
Department of Energy: Federal Energy Regulatory Commission	37	212, 996
Department of Transportation: Federal Aviation Administration	12	1, 057
Total	600	14, 980, 676
B. Types of withdrawal by holding agency:		
Interior:		
Bureau of Land Management:		12, 756, 061
Administrative sites	7	502
Airport lease	1	20
C. & M.U. classifications	11	87, 654
Public water reserves	97	93, 717
R. & P.P. classifications	12	9, 316
R. & P.P. patents	58	9, 151
R. & P.P. leases	59	4, 545
Public sales (1964 act)	13	3, 294
Exchange applications	3	700
Recreation areas	2	150
Small tract classification	7	1, 523
Protective withdrawals	11	32, 312
Phosphate reserves	7	1, 009, 099
Coal lands	19	6, 759, 999
Oil shale	1	4, 100, 608
Petroleum	2	643, 463
Water and Power Resources Service: Recreation projects	148	1, 776, 333
Bureau of Mines	1	641
Defense:		
Department of the Army	7	16, 856
Department of the Navy	3	35, 127
Department of the Air Force	6	4, 810
Department of Agriculture:		
Forest Service	76	176, 791
Administrative sites	38	88, 400
Recreation sites	30	70, 712
Roadside zones	8	17, 679
Department of Energy: Federal Energy Regulatory Commission: Powersite reserves	37	212, 996
Department of Transportation: Federal Aviation Administration: Air navigation sites	12	1, 057
Total	600	14, 980, 676
C. Type of minerals segregation:		
Mineral location only	475	6, 770, 886
Mineral location and mineral leasing	64	4, 270, 525
Mineral leasing only	3	658, 675
Other	58	3, 280, 589
Total	600	14, 980, 675

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[1] Under 1 acre.

ENCLOSURE 6

TOTAL OUTSTANDING ONSHORE OIL AND GAS LEASES

	Leases	Acreage	Average lease size in acres
Dec. 31, 1968	104, 287	64, 538, 852	619
Dec. 31, 1969	108, 398	69, 168, 500	638
Dec. 31, 1970	106, 843	67, 445, 470	631
Dec. 31, 1971	103, 247	67, 328, 381	652
Dec. 31, 1972	103, 503	72, 101, 537	697
Dec. 31, 1973	105, 446	75, 566, 099	717
Dec. 31, 1974	112, 478	85, 822, 158	763
Dec. 31, 1975	113, 893	89, 573, 447	786
Dec. 31, 1976	112, 566	86, 407, 905	768
Dec. 31, 1977	114, 223	93, 087, 310	815
Dec. 31, 1978	115, 789	98, 677, 527	852

COMPETITIVE OIL AND GAS LEASES ISSUED BY FISCAL YEAR

Fiscal year:			
1968	292	71, 505	245
1969	147	36, 969	251
1970	185	38, 724	209
1971	219	80, 808	369
1972	279	88, 326	317
1973	312	89, 448	287
1974	295	65, 247	221
1975	404	112, 401	278
1976	356	74, 616	210
Transition period	112	47, 976	428
1977	334	80, 529	241
1978	299	76, 438	256
1979		71, 422	

NONCOMPETITIVE OIL AND GAS LEASES ISSUED BY FISCAL YEAR

	Leases	Acreage	Average lease size in acres
Fiscal year:			
1968	14, 962	14, 508, 552	970
1969	13, 346	13, 378, 265	1, 002
1970	11, 830	11, 638, 521	984
1971	11, 299	10, 077, 988	892
1972	11, 781	10, 551, 452	896
1973	13, 038	13, 816, 182	1, 060
1974	11, 292	11, 571, 162	1, 025
1975	13, 355	14, 519, 844	1, 087
1976	9, 114	10, 199, 620	1, 119
Transition period	2, 120	2, 287, 400	1, 079
1977	10, 380	11, 766, 890	1, 134
1978	10, 325	12, 543, 459	1, 215

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[1] Under 1 acre.

U.S. NUCLEAR WEAPONS

● Mr. GARN. Mr. President, the current state of the U.S. nuclear weapons design, production, and testing complex is little more than deplorable. In response to the recent proposal to deploy an additional 100 Minuteman III ICBM's, adding a mere 200 additional warheads to the U.S. strategic force, the objection was raised that it would exceed U.S. production capability due to fissionable material shortages. This objection was something of an exaggeration by opponents of the deployment, but it is true that this very small increase in U.S. strategic forces would have to be delayed a year due to material shortages and would also create a small long-term shortfall in our ability to produce even programed weapons.

It is clear that this administration has allowed U.S. production resources to be stretched so thin that the Congress of the United States could not add a single missile submarine to the U.S. arsenal without exceeding our production capability.

This is not a problem that developed overnight. This administration's own studies, as far back as 1977, pointed out that it was just a matter of a few years until U.S. production capability was stretched to the breaking point.

Capital investment in the nuclear weapons complex is on the order of 1 percent a year compared to the 15 percent that is normal in industrial enterprises of this type. This means we are living on past capital and it is only a matter of time before we begin to lose the ability to maintain and improve our nuclear stockpile. Already we have seen a substantial reduction in the amount of basic research which is funded.

All of this is occurring at a time in which the Soviet Union is expanding its nuclear weapons complex on a yearly basis and at a time when the Soviet Union is making a concerted drive to obtain strategic nuclear superiority.

I commend the following article by Walter Pincus from the Washington Post to my colleagues' attention and ask that it be printed in the Record.

The article follows:

1st Hill Test Looms on A-Arms Budget

(By Walter Pincus)

The first test of congressional support for a stepped-up nuclear weapons program, above that proposed by the Carter administration, is scheduled for this week, when the House takes up the Department of Energy's fiscal 1981 national security program authorization bill.

By tradition, the civilian-run Energy Department, as heir to the old Atomic Energy Commission, develops and builds the nuclear portion of weapons while the Defense Department orders and takes possession of them when completed.

For the past year, there has been a growing debate within the Defense and Energy departments over whether the White House has in fact requested enough money for the nuclear weapons Carter has said he wants.

The House Armed Services Committee has now sided with those who want more money. It has added, in the bill coming to the House floor, $45 million to the administration's request for weapons testing and another $15 million as a first step toward expanding production of plutonium, a key material in weapons building.

In its report on the bill, the committee criticized "the growing malaise within the nuclear weapons complex," which it said "is rooted in the real or perceived lack of commitment to a nuclear weapons program."

Privately, one committee source said yesterday, the members believe that President Carter had "an aversion" to nuclear weapons.

Nuclear weapons testing, the committee said in its report, "has been underfunded . . . for the past several years." It added, "Nothing has contributed more to the general malaise within the national weapons program."

The Soviets, the committee said, conducted 28 underground nuclear tests in 1979, while the United States held 15. U.S. tests, the committee added, have been reduced every year since 1972, and are at a level that is "reaching crisis proportions."

The nation's two nuclear weapons laboratories, according to scientists working there, have been required to use all their underground tests over the past several years for proving designs for new warheads and bombs that are now going into production.

They have not been able, they say, to try out new concepts for weapons nor conduct tests of older warheads to see if they remain reliable.

White House officials have argued in response that testing is adequate to meet current needs, and point out that the United States is beginning the largest nuclear-weapons-building program in 20 years.

The House committee, on the other hand, reported that it was "concerned about the failure" of the White House to give the Energy Department enough money "to meet future requirements" of this building program. It added, "There will be a shortfall in defense nuclear materials" unless Congress approves the $15 million it has added to the bill.

These funds would pay for converting one nuclear production reactor in Richland, Wash., to plutonium for use in weapons. The Carter administration, on the other hand, wanted funds to store the lower grade plutonium now produced by that reactor—money the committee took out of the bill.

In another move bound to irritate the White House, the committee funded reopening of an older extraction plant that would be used to produce weapons-grade plutonium from nuclear materials now in storage.

Finally, the committee approved $4.2 million to begin design of a new production reactor to supply nuclear materials for weapons building during the next century.

One other committee action is worth noting for its implications in future weapons building. It questioned whether "transuranic wastes" are really wastes that should be disposed of. These byproducts of nuclear fission can, in the minds of some nuclear weapons scientists, be used to create an entire new family of atomic weapons.

A transuranic critical mass, the size of a golf ball, according to Dr. Edward Teller, could replace a much larger hydrogen or atomic bomb of today's design.

The problem with transuranics, as the committee noted, is the difficulty of separating them economically from other byproducts.

In another controversial action, the committee cut $36.5 million the administration requested for long-term waste management. The committee noted sharply that radioactive byproducts have been "safely" stored since the early 1940s.

"The committee knows of no member of the public who has ever been injured as a result of these storage operations," it said.●

KENTUCKY DISTILLERS' ASSOCIATION OBSERVES CENTENNIAL ANNIVERSARY

● Mr. HUDDLESTON. Mr. President, earlier this month the Kentucky Distillers' Association (KDA) observed the centennial anniversary of its establishment.

On June 10, 1880, at the historic Galt House in Louisville a group of Kentucky distillers first came together to form a trade association. At that time and place they adopted a constitution and by-laws which have guided their organization down to the present day.

KDA represents an industry that has made great contributions to the advancement of Kentucky and the Nation. It has made an important economic contribution through jobs it provides not only for those who produce its products but for those who transport and distribute and sell and serve them throughout our Nation and the world.

KDA is also an organization with a conscience and a heart. Over the years it has made substantial contributions to charities and to educational and research institutions. On its 100th birthday, this association acted with typical generosity by awarding a grant of $40,000 to the Kentucky Independent College Foundation.

Mr. President, I would like to pay particular tribute to my good friend, Frank M. Dailey, who serves as the president of KDA. For over a decade now Frank has provided the leadership for KDA in presenting that organization's views before the judicial, legislative, and regulatory branches of our Government. I believe the talk he made at KDA's 100th birthday dinner presents a very balanced view of the association's efforts in the past and comitments for the future. I, therefore, commend it to the attention of my colleagues.

The material follows:

Remarks of Frank Dailey

Comes now a moment of pleasure and privilege for me to recognize another important group of guests who have gathered with us tonight.

I refer to the large number of chief executive officers and their staffs of our member companies who have traveled great distances to mark this centennial observance.

Because they come in such large numbers it is really physically impossible, because of our limited time frame, to introduce them all but let me now on behalf of the association salute them.

I feel that their coming is not so much a matter of looking back 100 years but rather a positive gesture on their part to furnish vigor for the association as it begins its second 100 years of existence.

Ladies and gentlemen of our member companies, representing the strength of the distilling industry in the Commonwealth, and responsible for the production and distribution of over 75 percent of the world's total quality bourbon, I am proud of you and I am proud to be a part of the industry and this association.

My own belief is that our strength as a pioneer American industry comes because of the unique character of our founding and charter.

The original members of this association were unified for a single purpose as so cogently expressed in the constitution and by-laws, excerpts of which constitute a part of tonight's printed program.

IN CONSTITUTION: ARTICLE III—OBJECT OF THE ASSOCIATION

"Sec. 1.—The object of the association shall be the protection and advancement of the interests of its members, the devising and soliciting of appropriate legislation and the modification or repeal of needless and obstructive laws and regulations, the guarding of the common interest against unjust legislation, State or National." . . .

We meet within a few hundred yards of our founding place in another Galt House of another day, yet in the hundred years we mark tonight it is this unity of purpose which bonds us together.

The fact that we were bound together originally as the Kentucky Distillers Association, and that we have held together as such an entity is what gives us our unique ability to speak as one voice on legislative and regulatory matters affecting this industry on both a State and National level.

For a hundred years, now, except for the period of the great experiment, known as prohibition, the association has and still exists to be of service to its members.

Over the years it has been involved in virtually every action on the State and Federal level affecting the interest of the membership. Beginning with the adoption of the Carlisle Table of Allowances in 1880, to the reduction of State ad Valorem taxes on distilled spirits in 1980, the association has represented the Kentucky distilling interests before State and Federal agencies, bureaus and courts.

It has continued to project the image of the industries as a full partner within the industrial and economic framework of this State. It has made substantial contributions to charities, educational and research institutions and other worthwhile organizations.

Let us then begin our new century with a pledge to ourselves to maintain this strength of purpose, so that the continued moderate consumption of Kentucky Bourbon shall continue to contribute to the enjoyment and well being of our country's people and thus enhance the character of American culture for the next hundred years as it has in the past one hundred.

Finally, Mr. President, it should be noted that the Honorable John Y. Brown, Jr., Governor of the great Commonwealth of Kentucky, has issued a proclamation in honor of KDA. That item also may be of interest to other Members of the Senate.

The proclamation follows:

PROCLAMATION BY THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY

To All To Whom These Presents Shall Come:

Whereas, One hundred years ago the tenth day of June at the Galt House in Louisville. Kentucky, representatives from Kentucky Distilleries had the vision to meet and organize; and,

Whereas, As a result of their union developed the Kentucky Distillers' Association; and,

Whereas, This Association has, since its formation, contributed in large measure to the economic development of the Commonwealth of Kentucky, thereby providing jobs, services, and prosperity for many. This Association has, as well, spread across our nation and the world the name of Kentucky and the hospitality therein;

Therefore be it resolved: That in appreciation for the services and promotion this Association has attributed to our great State of Kentucky, and in gratitude of the benefits we have received from their labour;

Now, therefore, I. John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, do hereby proclaim the days of June 5 and 10 of 1980 as Kentucky Distillers' Association Day in Kentucky.●

IMPROVING JUVENILE JUSTICE PROGRAMS

● Mr. CULVER. Mr. President, as a cosponsor of S. 2441, legislation providing for changes to and the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, I would like to say how pleased I am to see the Senate take prompt action to move this bill on toward enactment. As a former chairman of the Juvenile Delinquency Subcommittee, the activities of the Office of Juvenile Justice and Delinquency Prevention are of continuing concern to me. Our young people are our most important resource, and we cannot afford to waste these untapped reservoirs of talent. We have made great strides over the last 6 years in delinquency prevention, juvenile justice and the provision of services to runaway, homeless, neglected and abused young people under this program.

This bill includes several necessary administrative changes which will mesh well with the progress which has been made since the passage of the Juvenile Justice Act in 1974 and the Runaway Youth Act in 1977. The Administrator of the Office of Juvenile Justice and Delinquency Prevention would be given authority to award, modify, terminate or deny grants, and the Office would be given a legal advisor to aid in policy development and implementation. The legislation also responds to the increasing need in native American communities for delinquency prevention programs and our recognition of the special problems of learning-disabled and mentally and physically handicapped juveniles involved in the juvenile justice system.

Since the passage of the Juvenile Justice Act and the Runaway Youth Act, my own State of Iowa has had substantial success in providing services for young people involved in the juvenile justice system and for those in need of shelter and counseling. Iowa has witnessed an 86-percent reduction in the number of juvenile status offenders detained by law enforcements officials. In 1978, Iowa's network of runaway youth facilities and help centers had contact with more than 800 young people, providing shelter, crisis intervention and individual, group and family counseling. Iowans involved in and concerned about these programs look forward to continued progress in these areas.

For too many of our young people, the work of the Office of Juvenile Justice and Delinquency Prevention is crucial. I intend to continue my efforts to encourage the Congress to enact this reauthorization bill this year, insuring that the important work of the Office of Juvenile Justice and Delinquency Prevention can proceed without interruption.●

THE ANNUAL HARVEST OF FUR SEALS

● Mr. LEVIN. Mr. President, tomorrow the annual harvest of fur seals on the Pribilof Islands of Alaska will begin. For the next 5 weeks, Aleut Natives hired by the Commerce Department, at U.S. taxpayers' expense, will attempt to find 28,000 2- to 5-year-old male fur seals to kill, in order to meet the quota that has been established for this year. Ironically, this harvest is an obligation which the United States has undertaken in compliance with a treaty negotiated for the protection of the seals. That treaty has long since outlived its usefulness, and it is my hope that it will soon be terminated, and replaced with a new regime that will truly protect and conserve the North Pacific fur seal herd.

Every year, thousands of Americans castigate the Canadian Government for condoning the slaughter of baby harp seals in Newfoundland. Yet we continue to allow our own Government to sponsor and fund a massive seal kill on our own soil. I believe we must put an end to that hypocrisy.

The treaty which requires the United States to conduct the annual seal harvest is the Interim Convention on the Conservation of North Pacific Fur Seals, which entered into force in 1957. The most recent extension of the convention expires this fall, and the administration will be seeking the approval of the Senate for another 4-year extension. I intend to oppose the protocol extending the convention when it comes before the Senate. I would like to explain the reasons for my opposition.

As unpalatable as it is for this Nation to serve as an international seal slaughterer, as the convention requires us to, that might be an acceptable role for us to fill if it were really in the interests of protecting the seals. Unfortunately, that is not the case; in fact, we are subjecting the seals to a double threat: Both killing on land, under U.S. Government auspices, and killing at sea by Japanese fishermen, which is prohibited by the treaty but which they nevertheless practice with impunity.

In order to understand why the treaty no longer serves a useful function, it is necessary to examine its history. When it was originally adopted in 1911, it represented effort to protect the fur seal population, which had been reduced by pelagic—open sea—killing to a point near extinction. The treaty prohibited pelagic sealing, and committed the Russians and the Americans—who owned the islands used by the seals for breeding purposes—to maintain their herds in accordance with the principle of "maximum sustainable yield;" that is, keeping the number of harvestable seals at the highest possible level. And indeed, the seal population has rebounded substantially over the past 70 years.

Today, however, circumstances are different. Pelagic sealing is not the threat which it once was. The Commerce Department's own studies indicate that prelagic sealing is unprofitable, and even those nations who are not party to the treaty, and therefore not under any obligation to avoid pelagic sealing, are nevertheless not following that practice.

Moreover, the United States today has a much stronger tool available to protect the seal herd, if we are willing to use it. The recent extension of our territorial waters to 200 miles—versus 3 miles when the treaty was last extended—would enable us to protect the seals from pelagic slaughter through virtually their entire migratory path. We could simply tell all other nations that we will not allow seals to be killed within our waters. And, if the administration were to accept a recommendation made by the Foreign Relations Committee in 1976, namely negotiating a protective agreement with Canada, then even tighter protection for the seals could be effected.

That is what we could do. What, in fact, are we doing? We are looking the other way while the Japanese, in direct contravention of the treaty, kill 7,000 seals a year within our 200-mile limit. Those seals are mostly pregnant females, whose pups will starve to death on the breeding grounds when their mothers fail to return. And, of course, we are providing the ccup de grace by killing tens of thousands of seals ourselves each year.

Clearly, then, the current arrangement is not serving to protect the seals from slaughter either at sea or on land. Perhaps it is accomplishing some other objective, or providing protection for the seals in some other manner?

The evidence indicates that it is not. In fact, the treaty itself may well be a threat to the seal herd. While the population has increased since 1911, there are strong indications that in recent years it has been declining. The clearest evidence of this is that the number of seals harvested annually has declined from over 50,000 in 1967 to less than 25,000 in 1979, which suggests that the harvesters have simply found fewer seals available to kill.

However, some might argue that were it not for the harvest, the seal population would mushroom and eventually exceed the carrying capacity of the islands—that is, the maximum seal population which the islands can support without causing ecological damage. Again, the evidence does not support this contention. Commercial harvesting was terminated on one of the Pribilof Islands, St. George, in 1973, for the precise purpose of determining what would happen if the seal population were left to natural forms of population control.

Preliminary studies indicates that the population on St. George's has not increased, despite the moratorium on harvesting. It thus appears that the seal population, left to its own devices, will remain stable, and will not pose an increased threat to the ecosystem or to fish populations in the North Pacific, as the Japanese and others have suggested. The harvest does not appear to serve any purpose as an artificial means of population control.

It is true that the seal harvest provides 5 or 6 weeks of employment annually for approximately 150 Aleut Natives who are now employed by the Federal Government for the harvest. I am certainly sensitive to the need to develop alternative means of livelihood for the Aleuts. But it is my belief that regardless of the fate of the harvesting program, new full-time job opportunities not dependent upon the Federal Government will have to be created if the Aleuts are to establish a viable social and economic base for the future.

Mr. President, I have already expressed my intention to oppose extension of the treaty which requires us to conduct the seal harvest when it expires this fall. I have also introduced legislation to terminate the convention after 1 year, to seek new international negotiations to establish a better protective regime for the seals, to prohibit pelagic sealing in U.S. waters, and to set up an advisory council to recommend means for developing new employment opportunities for the Aleuts on the Pribilof Islands.

That legislation has been cosponsored by Senators MOYNIHAN, PRYOR, SASSER, CRANSTON, and DURKIN. I hope that the committees to which it has been referred, particularly the Foreign Relations Committee which must act on the treaty extension, will consider our bill promptly.

Mr. President, I ask that a column from the New York Times of June 22, written by Alice Herrington, president of Friends of Animals, be inserted in the RECORD.

The column follows:

UNCLE SAM, SEAL SLAYER

(By Alice Herrington)

The Government will soon spend $9 million of taxpayers' money for an annual activity that most Americans are unaware exists. It will be used to kill about 25,000 seals from June 27 to Aug. 1 in their breeding grounds, the Pribilof Islands, off southwestern Alaska in the Bering Sea. It doesn't bother Government officials that they are spending the money to slaughter seals; they have been doing that for more than half a century. But most officials in the Internal Revenue Service and Commerce Department consider it just as well that the average taxpayer isn't aware of the program, which is euphemistically called a "harvest."

The Government needs the taxes to prop up an unnecessary fur-seal treaty among the United States, Japan, Canada and the Soviet Union and to fatten the profit margin of one fur-processing company, the Fouke Company, in Greenville, S.C. For 63 years, the company has had an exclusive Government contract to process the furs, apparently because of its special processing formula. In 1979, the Federal Treasury netted $842,811 from the sale of the fur seal skins at auction, but the overall seal program cost an estimated $9 million.

When Americans think of seals, they think of the white harp seals killed by Canada and Norway. They don't realize that every year, at the end of June, Commerce Department employees—Aleut residents of St. Paul's Island—rise at 3 A.M., drive across the rolling tundra, and bludgeon, stab and skin the northern fur seal. They keep it up for five weeks until every available 2- to 5-year-old fur seal has been slaughtered and their pelts packed away for shipment to South Carolina.

The endeavor is sanctioned by Congress and ratified by a four-nation treaty that no longer has reason to exist. The treaty was formulated in 1911 after pelagic (open-sea) killing had reduced the northern fur seal herd to a point near extinction. Under the treaty, the signatories agreed to stop pelagic sealing, which was threatening to wipe out both the herd and furriers' profits. They also agreed to maintain the herd so that it would provide "the maximum sustainable yield." They would do this by killing the seals on land—on their breeding grounds, the Commodore Islands, owned by Russia, and the Pribilof Islands, owned by the United States. The United States and the Soviet Union now each give Japan and Canada 30 percent of the land kill in exchange for a promise not to kill seals at sea. But Japan has defaulted on the promise and every year kills 7,000 seals in American waters. Since the seals killed by Japan are pregnant females, each with a pup on the breeding grounds that starves to death, the Japanese are in fact killing 21,000 seals annually. In sum, the American taxpayer in 1979 gave the Japanese free of charge 3,750 seal skins from the land kill as reward for the Japanese promise not to kill seals—but the Japanese killed 21,000 seals anyway.

The four-nation treaty was signed when territorial waters extended three miles from shore, which left the seals prey to any nation that wanted to kill them on the open sea. Today, it's meaningless. Our nation's territorial waters now reach 200 miles to sea providing a protective zone encompassing nearly the entire migratory path of the United States herd, from the Pribilofs to San Diego. If our Government wants to protect seals from open-sea killing, all it has to tell other nations is, "Don't kill our seals."

Instead, it maintains a treaty that simply perpetuates the jobs of bureaucrats in the seal program and drains taxpayers' dollars into an operation America has no use for. The skins, once processed, are auctioned to Western European furriers. The Commerce Department says the treaty is a "conservation effort"—which is akin to saying that a World War II concentration camp was a population-control center.

This might be regarded as another expensive Government absurdity were tragedy not involved. The seal herd is declining rapidly. The Government insists that the size of the herd remains unchanged but its own statistics prove that statement blatantly false.

Maintaining the herd as its "maximum sustainable yield" means that the percentage of seals killed is determined by the size of the herd. Between 1969 and 1979, that percentage dropped 44 percent, which reflects a commensurate decline in the overall size of the herd. That decline is reaching an irreversible point. But the Government continues to "conserve" seals by spilling their blood, ignoring that "extinct is forever."

There is a solution. Representative Lester Wolff of New York and Senator Levin of Michigan have introduced bills that would end the seal kill and establish a sanctuary for the animals on the Pribilofs. Legislators need a push from their constituents to get the bills out of committees, voted into law, and to the President's desk to be signed.●

THE SPIRIT OF PROJECT INDEPENDENCE

● Mr. STONE. Mr. President, America's energy problems have dominated the concern of Congress since I first entered the Senate in 1975. As we continue to devise a comprehensive energy policy, it is important to consider long-term solutions even as we must consider answers to short-range energy problems.

Mr. Frank Zarb, former Administrator of the Federal Energy Administration, recently addressed an International Conference on "The Energy Emergency: Oil and Money 1980." In his remarks, Mr. Zarb points out that the spirit and goals of Project Independence have been forgotten while the country attempts to solve the immediate "oil-money" coordinated energy effort, where a significant number of major advanced energy projects could be developed by multinational joint ventures. As we all know, the energy crisis is global in dimension. Mr. Zarb's views deserve the attention and study of Congress and, therefore, Mr. President,. I ask that Mr. Zarb's timely and instructive remarks be entered into the RECORD.

The remarks follow:

THE SPIRIT OF PROJECT INDEPENDENCE

While most of the globe strains under new political tensions and deepening economic uncertainties, there seems to be less time and fewer resources devoted to the longer-term energy challenge. Since 1974 the world economy has been on a shaky course, acting like a terminal patient who rallies from time to time only to relapse into deeper crisis. As a result, the pressing questions of the day relate more and more to immediate survival. . . . How will the United States and Western Europe pay $180 billion for oil over the next twelve months, and at the same time, maintain reasonable economic balance? . . . How will the growing number of developing countries already in serious trouble get by the next twelve months of debt service and at the same time pay their oil bills? (Countries such as Brazil will pay more than 40 percent of export revenue for oil imports in 1980) . . . . How can the banking system and the international financial institutions help to recycle OPEC surpluses in order to keep a breath of life in the international monetary system? . . . . Each week there is a new political event which threatens to interrupt the flow of oil from the Mid-East, prompting nations to buy and store extra oil for use during emergency disruptions, adding further to their balance of payments burden—payments they may be unable to make.

The subject of this conference says something about the mood of the times, "The Energy Emergency—Oil and Money 1980." . . . . and why not? . . . . There has never been a greater potential for national defaults and a very busy Paris Club . . . . The world leaps from super inflation to steep recession—both conditions producing consumer and worker unhappiness, leading to the possibility of social upheaval.

Two major "oil-quakes" since 1973 have produced one financial shock after another, with little time for recovery. It's no wonder that we here, at this meeting, have focused most of our attention on the immediate "oil-money" emergency. A total preoccupation with the crisis of the moment is understandable, but it is no less troublesome to consider that in the year 2000, this room could be filled with worried financial faces, meeting to discuss problems of the same character, but substantially deeper, producing broader and more complicated dislocations . . . it is times like this which make me wonder—what ever happened to the Spirit of Project Independence?

Some of you may recall that Project Independence was the title of a proposed United States energy program prepared in 1974–75, following the 1973–74 oil embargo. To some it represented a very basic blueprint leading ultimately to the redesign and rebuilding of systems for energy consumption and energy production throughout the world. An important number of political leaders in the United States complained that it was a wild plan with no chance of success . . . To others it was seen as a conspiracy to sabotage the free enterprise system . . . To still others it was viewed as a secret way to give huge windfalls to the multinational oil companies at the expense of the American taxpayer . . . To those who authored and supported Project Independence, it represented a state of mind, a confidence in the future, a dream that could be real—a spirit based on the understanding that oil and gas were finite. Project Independence recognized the new realities of energy, challenged old institutions, and sought to initiate the long process which would reshape the future. That spirit now seems buried under the debris of the constant day-to-day "oil-money" crisis.

With that in mind I'd like to spend the next few minutes to talk about building and financing the energy systems of tomorrow—energy which may come from some combination of heavy oil, tar sands, oil shales, black shales, methanol from natural coal seams, devonian shales, geo-pressurized methane . . . the BTU's which will come from biomass, fusion fuels, wave energy, wind energy, tidal energy, earth or space-based solar energy, ocean/thermal energy, and advanced geothermal energy, . . . giant facilities which will produce crude oil from coal in large commerical volumes, or high BTU coal gasification plants which will provide pipeline-grade natural gas at relatively low prices, in enormous volumes. These are the advanced systems which, in 1975, many said should be developed to commercial scale by 1990; and now the hope is for some modest progress by the year 2000.

In the course of the next twenty years these systems will require an investment of one and one-half trillion dollars in addition to the commitment of vast international scientific and technological talent . . . How unreal that projection sounds when we consider the crisis atmosphere of today . . . How impossible it must seem to a world so diverse in motivation as each nation and each region seeks to serve its own self interests . . . But what are those interests? And are they so different—east, west, north or south—oil exporter or oil importer—are their needs and motives so different when it comes to the question of development of energy for the world economy of tomorrow? I think not.

Consider oil-producing Saudi Arabia. Some might think that the level of Saudi interest in seeking practical alternatives to oil is relatively low. . . . But, that conclusion is wrong. . . . It is clear to Saudi Arabia, as it is to other major producing countries, that the value of their oil will not decrease with the orderly development of alternative forms of fuel—they realize more keenly than others that their crude oil supplies are finite. Whether it is forty years or sixty years, the day will come when Saudi oil reserves, as we know them, will disappear . . . and they will be left with what?—a store of dollars—legal claim on the wealth of a prosperous world economy, or the shambles of a fallen era. The Saudis know that the time to begin preparations for tomorrow—is NOW—using today's financial strength to "buy into" the future. All petroleum-exporting countries have a material stake in the development of new energy sources for the post-2000-year period.

The industrialized world, particularly the European Economic Community and the United States, where there is some degree of energy self-sufficiency, has an obvious need to develop new energy systems for the future. Countries such as Japan, where there is virtually zero energy self-sufficiency, share a more urgent requirement for the development of new energy technologies. . . . It is mindless for industrialized nations not to place advanced energy high on their list of national priorities.

Needless to say, developing countries will have an improved opportunity to develop when their energy cost, per unit of output, can be put back into reasonable proportion relative to other economic values. This new balance can be reached only when they lessen their dependence on high-priced imported oil in favor of new energy sources.

Contrary to the conclusion of some analysts, let me assure you that the Eastern-Block countries, led by the Soviet Union, also have a significant need to diversify energy sources away from conventional oil and gas. . . . It's important to remember that the Soviets now supply oil and gas to: Hungary, Czechoslovakia, Poland, Bulgaria, East Germany, Mongolia, Cuba, Vietnam, and North Korea. In addition, the USSR exports oil and gas to the West in order to obtain an important amount of its hard currency earnings. At the moment, the Soviets have a surplus of more than 100 million tons of oil and 25 billion cubic meters of gas. But signs of a declining growth rate in annual oil and gas production are beginning to show. It can be argued that when the Soviets begin to experience sharp reductions in oil and gas availability (probably early 1990's), they must have developed alternative forms of fuel or will attempt to compete, perhaps militarily, for whatever is left in the Middle East.

In a capsule, this is the situation:

A world with an essential and common need to deliver a new generation of energy systems in less than twenty years.

The work now underway in this critical area is restricted to individual nation or token bilateral projects. These efforts, including the most recent U.S. synthetic fuels legislation, are simple beginnings . . . Even added together they are not significant.

To achieve a creditable level of advanced energy production by the year 2000, the demands placed on science, high technology design and construction must be pushed to limits never before faced by mankind.

A capital investment of more than one and one-half trillion dollars is in itself a challenge, but when one adds the high risk factor for this kind of venture it pales even the boldest of bankers, investment bankers, merchant bankers and ministers of finance.

Yes, we face a formidable undertaking—more urgent than any short-term emergency facility, but less easy to energize because it lacks the focus that an immediate crisis brings to such matters.

When viewed through the budget of an individual nation, the ability to make important progress toward long-term energy security seems just too formidable to contemplate. . . . However, when looked at as a world-wide effort, the idea begins to look more feasible. Think of it . . . a world-wide, coordinated energy effort!

Such a grand scheme: . . . its purpose is right, and the concept is sound—but how can this tattered old world possibly be immobilized for an enterprise even as noble as this one?

To facilitate an international energy effort, the system adopted should emphasize:

1. simplicity,
2. minimum affiliation with world political bodies,
3. substantial participation by scientists and businessmen.

From a technical standpoint, the operating process could be relatively simple. Each country would use an existing panel or (if needed) create a small energy board, to be assigned the mission of determining energy projects in which its country will participate.

For example, properly appointed panels of the United States, Germany and Saudi Arabia might individually determine that their international interests would be served by participating in a joint venture which would develop and produce a space-based solar energy system. The three countries would then join together and negotiate proportional contribution of technology, funding, and management to accomplish this task. Similarly, the United Kingdom, France, Kuwait and Japan might combine to construct the first generation of commercial-scale high BTU coal gasification plants.

There is no point in taking time today with details, but I can clearly envision a significant number of major advanced energy projects which could be developed by multinational joint ventures.

The mechanics of a workable process, in which the world could join together in a mutual effort to develop the energy systems of tomorrow, are not complicated, but creating the attitude . . . the atmosphere for such a program to flourish is obviously more difficult . . . some would even say impossible.

In order to set a world-wide tone for international Project Independence, there are at least three major preliminary issues to be resolved. They are: (1) a rational system for crude oil pricing; (2) a comprehensive program for long-term petro-dollar investment; (3) the involvement of developing third-world countries.

MODIFIED INDEX FOR CRUDE OIL PRICING

It is time to acknowledge that since oil reserves are limited, the value of oil will continue to rise as we diminish its supply. With that in mind oil producers and consumers should agree on a loose index which will set some parameters for the price of crude oil for the next five years. This flexible index should provide for a minimum annual adjuster for inflation keyed to OPEC imports plus a maximum yearly "real" increase up to say 5 percent if the market will take it. Obviously, this system would be negotiated to achieve fine tuning—and could not work during periods of shortages brought on by war or other unusual events. However, a flexible index could provide a stabilized planning base, and reduce counter-productive "shock-swings" in oil prices. At the same time, it could provide exporters with a fair and predictable return for their oil.

Some market advocates will argue that an index scheme would preclude the market from driving down the price of crude during periods of oversupply, just as some of the hardline members of OPEC will complain that indexing will take from them a valued political tool. Purists will complain that indexing will preclude efficient allocation during periods of tight supply. Given our experiences since 1973, and the prospects for further chaos, those worn-out objections should be rejected.

COMPREHENSIVE PROGRAM FOR PETRO-DOLLAR INVESTMENT

A world-wide program to develop advanced energy systems must assume extensive funding by individual oil-producing countries. However, there will still remain enormous dollar reserves to be invested. Up to this point, the recycling of petro revenues has not been a very successful exercise.

Although industrialized countries have complained that OPEC permanent long-term investment has not been forthcoming, those countries have not gone out of their way to make permanent oil-capital welcome. It is astonishing how even an investment in a hotel by an Arab-oil group gives rise to highly visible and sometimes unenthusiastic comment. Members of OPEC have long indicated a goal to use their new financial strength to become members of the international financial establishment. They have, however, demonstrated a reluctance to get involved in investments over which they will have little control, or where their acceptance as a full partner is not welcome.

An important amount of OPEC's dollars must find their way into the real wealth of industrialized economies. It is time to consider the establishment of Joint Investment Trusts which could commingle the investment resources of the industrialized oil users with the petro-funds of OPEC. To facilitate this result, special trusts would be established in traditional money centers to manage the investment of sizeable amounts of commingled funds.

For example, the ten largest United States investing institutions, including insurance and credit companies, could match funds with selected members of OPEC, under the direction of a jointly owned management company to invest in the mainstream of the industrialized world. Its objectives would be similar to any well-run investment company seeking a maximum rate of return with reasonable risk.

Let me emphasize that this mainstream petro-dollar investment activity is separate and apart from the funding required for advanced energy projects. However, when oil-rich nations are properly accepted as full and "real" partners in the world financial community, it will be easier to convince them of their responsibilities in a more speculative international energy scheme.

DEVELOPING COUNTRY PARTICIPATION

While developing countries could contribute science and human talent, they will not at this time make significant financial input to a world-wide energy effort. However, they must be made part of the process and benefit from its results. The major principals, that is OPEC and the industrialized world, should agree that energy technology transfer to developing countries will be made easy. Further, it will be useful to involve developing countries in advanced energy plant development. For example, that space-based solar energy project jointly developed by the U.S., Germany and Saudi Arabia could be used to provide electrical power for Turkey, India or portions of Africa. Developing countries are world citizens . . . they must be part of and be the recipients of any world-wide energy effort if it is to succeed.

Well, there it is—a simple scheme to combine the resources of the world to focus on a few selected technologies on a project-by-project basis with the benefits available to all others, especially developing countries. I can already hear the skeptics articulate the extraordinary problems this approach must overcome to be workable. Many will go so far as to say it's absolutely impossible.

It won't be easy, and it is no more impossible than the course of benign neglect we are currently following. Day-to-day crises-solving is needed but it is not enough—individual efforts such as the U.S. synthetic fuels plans are well meaning but do not even begin to represent a creditable effort.

So why not try this international attempt at securing the energy needs of our grandchildren's grandchildren. Who knows if we can make this work even modestly well . . . if we can kindle a global spirit of Project Independence to produce real benefits for the human race, . . . if we can restore a feeling of a positive future to replace some of the despair and hostility. . . . Maybe—just maybe—we will achieve a little more understanding, demonstrate in a small way the rewards of cooperation. . . . and not only help to insure a secure energy future, but help to move one small step toward securing a prosperous and peaceful tomorrow.●

HISTORIC PRESERVATION

● Mr. CULVER. Mr. President, I am pleased to join with the Senator from Texas (Mr. BENTSEN) in cosponsoring this important legislation on historic preservation. This measure will extend until 1986 existing tax incentives for the rehabilitation of commercial historic structures.

At issue are four provisions of the Tax Reform Act of 1976 which allow for taxpayer amortization of rehabilitation costs and alternatively, accelerated depreciation of costs for certified historic structures. The 1976 also established disincentives to the destruction or substantial rehabilitation of historic structures inconsistent with the historic structures inconsistent with the historic character of the building. These provisions are due to expire in 1981 unless the Congress acts on this proposal for an extension. Such an extension is required if we are to maintain our commitment to the preservation of architecturally significant structures listed in the National Register of Historic Places or within Registered Historic Districts.

As a strong supporter of historic preservation, I have supported a Federal approach to this area which utilizes programs of direct grants, technical assistance and tax incentives. Because the great number of historic properties are privately owned, tax incentives to owners who take steps to preserve these structures have proven to be effective. As the buildings must be certified as historically significant, the tax expenditure is a carefully targeted one which serves to increase the economic as well as cultural benefits of historic preservation.

In my own State of Iowa there is a great interest in preserving the physical reminders of the pioneers who settled the Midwest. These tax incentives have in many instances made a crucial difference in the ability of a private owner to finance the rehabilitation of an historic structure and thereby retain for future generations the most meaningful and distinctive features of our past.

Mr. President, this measure represents a beneficial and sound approach to promoting historic preservation and I urge my colleagues to support its prompt consideration.●

THE ENERGY SECURITY ACT

● Mr. DURKIN. Mr. President, this month the Senate approved by an overwhelming margin, the Energy Security Act. S. 932. This is to date the most comprehensive package of energy legislation to be passed by Congress. This legislation is testimony to the fact that the United States is firmly committed to developing renewable energy resources and encouraging energy conservation. This bill will save consumers money and it will create thousands and thousands of jobs.

Today energy costs in New England are almost 40 percent higher than in other areas of the country. The spiraling cost of the basic necessities of life—the food on our table, the clothes we wear, the gas in our tanks, and the oil in our furnaces, are the direct result of the sky-high cost of energy. An essential first step in containing climbing energy prices is to reduce our expensive and dangerous dependence on foreign oil and to increase our energy efficiency and our use of alternative energy sources.

As chairman of the Senate Energy Conservation and Supply Subcommittee, I am working hard to address our short-term and future energy and economic needs. I am pleased that much of the Energy Security Act is the result of energy initiatives I originally introduced and sponsored. And while this legislation is an important step toward reducing our costly dependence on imported oil, it is by no means the final answer to our energy and inflation problems. We still have miles to go and many challenges to meet in our fight for an energy independent America.

The Energy Security Act has been erroneously referred to as the synfuels bill. Admittedly, the development of synthetic fuels plays a prominent part in this legislation.

The Synthetic Fuel Corporation has been created to explore the economic and environmental costs of producing oil from coal and shale. It has set a production goal for 1987 of 500,000 barrels of oil equivalent per day. This is a scaled-down version of the administration's proposal and it will give us the chance to realistically assess the economic and the environmental impact of a synthetic fuels program before expending billions of tax dollars on unknown, unproven technologies.

However, there are other provisions, particularly attractive to New Hampshire and northern New England, which are equally important to our energy future as synfuels.

SOLAR POWER

The Solar Energy and Conservation Bank, for instance, is just one of several of my initiatives which has been incorporated into S. 932. It represents the single biggest step the Government has made toward encouraging the use of solar power. This inexpensive and inexhaustible resource is ready to be harnessed for heating, cooling, and electricity now. Through the use of low-interest, long-term loans, homeowners, small businesses and industries will be able to afford to buy and install passive and active solar systems. The loans will range from $5.000 for homeowners to $250,000 for businessmen. Homebuilders will be eligible for reduced interest rates and financial assistance toward loan payments to reduce the construction and design costs of solar homes by as much as 40 percent. In addition, the use and development of solar or photovoltaic cells, which convert sunlight directly to electricity, will be encouraged by this legislation.

WATER POWER

An additional $220 million has been authorized for the small-scale hydroelectric feasibility study and construction loan program which I introduced and which was enacted into law 2 years ago. There are potentially hundreds of dams in New Hampshire which can be easily converted to generate low-cost electricity. Nashua, for example, has two hydroelectric sites ready to be retrofitted to produce low-cost electricty.

In addition, small-scale hydro projects of less than 5 megwatts are exempt from Federal licensing requirements. In this way the bungling Washington bureaucracy will not hamper the speedy development of readily-available hydroelectric power.

ENERGY CONSERVATION

Last year I introduced with Senator Kennedy the Energy Productivity Act, much of which has been incorporated into S. 932. This measure will provide homeowners and renters with direct grants and low-interest loans to make their homes more energy efficient. Simple measures such as insulation, weather-stripping, storm windows and doors, and furnace retrofits can increase residential fuel savings by 50 percent or more.

In addition, small businesses and industries are eligible for low-interest loans for energy conservation improvements and financial help for research and development projects to increase industrial energy conservation. This legislation will create thousands of new jobs and save the Nation billions of dollars.

WOOD STOVES

Wood burning stoves and other wood burning appliances are now eligible for low-interest loans covering up to 40 percent of the purchase price. Wood energy is just one of the renewable resources available to New Hampshire's hard-pressed homeowners.

GASOHOL

The Energy Security Act requires the Federal Government to prepare a plan to develop, produce, and promote the use of gasohol, a mixture of 90 percent gasoline with 10 percent alcohol-based fuel. By 1990 gasohol should provide at least 10 percent of our gasoline consumption and it will be used by the Federal motor fleet wherever possible. Finally gasohol production will be increased to 60,000 barrels per day.

URBAN WASTE

The Energy Security Act contains a new and expanded urban waste program which will help solve both our growing trash disposal and our energy shortage problems at once. It provides direct loans of up to 80 percent of the cost of construction of municipal waste-to-energy plants and guaranteed loans of up to 90 percent of the cost of construction. Already a number of New Hampshire cities and towns are moving to make use of this technology to convert municipal waste into usable energy.

ACID RAIN

Title X of S. 932 creates a comprehensive 10-year program to study the serious acid rain problem and recommend immediate action by the President and Congress. Acid rain, which results from the mixture of rain with the dangerous combination of nitrogen and sulfur oxides emissions from the industrial and utility combustion, is widely acknowledged to be one of the most serious environmental problems of the decade and it is already damaging New Hampshire's natural resources. This provision will help to attack and alleviate the acid rain problem.

ENERGY TARGETS

Until now, New England has been victimized by an unclear, inconsistent, discriminating Federal energy policy. The Energy Security Act will require the President to submit to Congress every 5 years a careful plan for our oil imports, domestic production, and overall national energy consumption. This is essential in order to avoid recurring energy crises, especially in the oil-dependent northeast.

STRATEGIC PETROLEUM RESERVES

Finally, this legislation will require the Government to drastically increase our strategic petroleum reserve to a minimum average rate of 100,000 barrels a day. This will help to protect us from the adverse economic impact of being cut off from foreign oil imports. Currently, less than a tenth of the 1 billion barrels of oil that would be needed in case of another embargo or oil cutoff is available. This is a threat to our military and economic security.

RECENTLY ENACTED TAX CREDITS

In addition to the Energy Security Act, a series of tax credits have been recently enacted extending energy and economic relief to hard-pressed, hard-working taxpayers. The purchase and installation of a number of alternative energy systems and energy conservation measures are now eligible for tax credits. These include:

Solar, a tax credit of up to 40 percent for the purchase and installation of solar, wind, and geothermal equipment.

Hydro, an 11-percent tax credit for small-scale hydroelectric equipment.

Gasohol, an extension through 1985 of the gasohol tax credit.

Cogeneration, a 10-percent tax credit for cogeneration equipment not fueled by oil or gas and,

Wood stoves, under current law the Secretary of the Treasury has the discretionary authority to provide tax credits for the purchase of wood-burning stoves. I will continue my efforts to influence the administration to grant the wood stove tax credit.

These tax credits and loans and grants will encourage energy savings and help homeowners, renters, businesses, and industries to save money.

There is no question that this legislation is the foundation for an economically and environmentally sound energy policy. I commend my Senate colleagues for their responsible action on this bill which will go a long way to reduce our energy-fueled inflation and I look forward to the day when we, as a Nation, are no longer held captive by OPEC or the major multinational oil companies.●

NUCLEAR REGULATORY COMMISSION INTERVENOR FUNDING

● Mr. HELMS. Mr. President, the Nuclear Regulatory Commission authorization bill, S. 2358, earmarks $150,000 for the Commission to establish a pilot intervenor-funding program for fiscal year 1981. Senator Simpson's effort to delete this provision from the bill was defeated in the Committee on Environment and Public Works on a 7-to-5 vote. I understand, however, that the Senator intends to oppose the committee's recommendation when S. 2358 is considered by the full Senate. I shall support him in this effort on the floor.

The Senator from Wyoming has been a leader in the effort to do something about the waste of taxpayers' money to fund so-called "public interest" groups. He realizes the clear potential for abuse associated with an intervenor funding program for NRC proceedings. The Nuclear Regulatory Commission is entirely capable of discharging its responsibilities without the assistance of federally funded intervenors. If intervenor funding is allowed, we can expect large numbers of antinuclear activists and ideologues to demand payment for their "participation" in Commission proceedings.

Senator Simpson has set forth his views on the NRC intervenor funding provision and I encourage my colleagues to give his analysis their careful consideration.

I ask to have printed in the Record the additional views of Senator Simpson contained in the Nuclear Regulatory Commission authorizations report.

The material follows:

Additional Views of Senator Simpson

I welcome this opportunity to amplify my views on the intervenor funding provision in S. 2358, the Nuclear Regulatory Commission Authorization Bill for fiscal year 1981. The Committee's proposal (section 1.(a)(7) of the bill) would provide $150,000 for a pilot program for funding of intervenors in NRC licensing and rulemaking proceedings. For the reasons set forth in detail below, I am convinced that the Committee's proposal represents questionable public policy; is unnecessary either to assure the resolution of safety or environmental issues or to provide a fair opportunity for the public to participate in NRC proceedings; creates the clear potential for abuse; involves inherent administrative difficulties; and introduces new sources of delay in what is an already lengthy and complex administrative process.

As a general proposition, I feel it is questionable public policy to provide Federal funding for the presentation of private points of view in NRC proceedings. Even though many of these groups refer to themselves as "public interest" groups, in fact, they reflect only the viewpoints of their members and often focus on essentially private concerns or interests. In the absence of a clear demonstration that such funding is needed for the agency to carry out its responsibilities, I see no justification to override the long-standing presumption in this country that public funds should not be used to support the presentation of private points of view.

In the case of the Nuclear Regulatory Commission, I see no compelling need for public funding of intervenors to assure that the agency effectively discharges its responsibilities. The Congress conferred upon the Commission and its staff the responsibility for protecting the public interest by assuring adequate protection to the public health and safety, the common defense and security, and the environment. In the case of licensing proceedings for nuclear power plants, that responsibility is carried out by means of a detailed, multi-layer review. Each application is initially reviewed by the NRC staff. The application is then reviewed independently by the Advisory Committee on Reactor Safeguards, an independent group of experts drawn from outside the agency.

Public hearings are conducted before an Atomic Safety and Licensing Board, which must resolve contested issues and which has the authority to raise issues on its own initiative or to pursue issues brought to its attention. In each case, the NRC staff is also a party. There is an automatic review of each case by an Atomic Safety and Licensing Appeal Board, whether or not the decision of the Licensing Board is challenged, followed by the opportunity for review by the Commission. In each stage of this complex proceeding, the sole responsibility of the agency and its staff is to protect the public interest. Given the depth and extent of these reviews, I fail to see the need for public funding of intervenors to assure that the agency effectively carries out its responsibilities.

This is especially true given the extent to which private organizations have availed themselves of the broad opportunities for participation in these proceedings. There certainly has been no shortage of intervenors in NRC's licensing proceedings, despite the absence of public funding to finance their participation, and these intervenors have on occasion made valuable contributions to individual proceedings. But I see no evidence that funding intervenors would result in sufficiently greater contributions to the resolution of safety and environmental issues in individual proceedings than are being made now. Intervenors have come to rely on their own resources and there is no jurisdiction for the expenditure of the taxpayers' money for this purpose.

At the same time, I believe there is the clear potential for abuse associated with an intervenor funding program for NRC proceedings. NRC's licensing proceedings are highly structured, formal adjudicatory proceedings. In the lengthy pretrial portions of these proceedings, there is the potential to abuse the system and delay the process, particularly if the intervenors are operating with a blank check from the Federal government.

Delay must also be an inevitable result of the administrative difficulties in operating the intervenor funding program recommended by the Committee. NRC Chairman Ahearne testified before the Committee that he was not sure the agency could even develop procedures to assure that funding is provided only to those who really need the funding and who will be making a valuable contribution to the proceeding. Even if such procedures can be developed, it is clear that a significant amount of NRC staff, licensing board, and intervenor time will be devoted to determining who is qualified for funding; whether an intervenor will make a contribution and if so, how valuable it will be; and how much of limited amounts of funds should be made available. Such determinations will inevitably be challenged within that agency and in the courts, taking time that would otherwise be devoted to completing the proceeding.

The administrative difficulties in operating an intervenor funding program are quite apparent in the Committee's proposal. That proposal provides no clear standards by which to measure either the need for funding or the likelihood that the intervenor will make a contribution to the proceeding. Instead, the Committee recommendation provides only very general references to financial need and the potential for making a material contribution as criteria for funding eligibility. Moreover, the difficulty in allocating $150,000 among the many competing groups and individuals in the Commission's proceedings is readily apparent.

Finally, I do not believe that intervenor funding is necessary for members of the public to present their views and to raise issues in NRC proceedings. There are other means already in place to assure that individuals or groups have a full and fair opportunity to participate. If an individual or group has a particular contribution to make, there is ample opportunity to bring this to the Agency's attention for consideration. If the individual or group wishes to testify in a particular proceeding but truly cannot afford to do so, the Commission already has ample authority under its regulations to subpoena the individual or group and to provide witness fees and mileage. (See 10 Code of Federal Regulations, section 2.720). Given this mechanism for defraying the expenses of testifying on a particular matter of interest in an NRC proceeding, I see no need for an intervenor funding program.

Moreover, the Commission has already adopted a program to open the early stages of NRC consideration of a license application to broader public involvement. This program affords an opportunity for informal public observation and participation in the early review stages of an application for a nuclear power plant license before the NRC staff's position on the application has been determined. This change together with other possible changes in the licensing process itself, seems to be a far preferable approach to improving the opportunities for public participation than simply passing the financial cost of intervention on to the taxpayer.

For the foregoing reasons, I do not believe the Committee's recommendation on intervenor funding is wise public policy or will lead to any significant benefit, either to the agency in its decisionmaking, or to the public. At the same time, the recommendation carries with it the potential for abuse and administrative difficulties. I intend to oppose the Committee's recommendations when S. 2358 is considered by the full Senate. ●

TACTICAL AIRCRAFT AND MISSILE PROGRAMS

● Mr. CANNON. Mr. President, the committee this year reviewed tactical aircraft and missile programs for which development and procurement funding of $11.8 billion was requested as part of the overall defense authorization budget presentation. Hearings held by the committee provided an up-to-date intelligence assessment of potential tactical air and antiair threat capabilities and other activities that could impact on our tactical air forces.

The committee also held special hearings on the readiness of our tactical air forces and the industrial productivity to meet these forces' requirements. An earlier committee hearing fully explored the problems experienced by the Air Force with their aircraft engines.

Mr. President, I would report that in the committee view the tactical air forces are moving forward toward modernization of their tactical aircraft and weaponry. The Air Force is nearing completion of its planned procurement of AWACS, F–15, and A–10 aircraft and is progressing rapidly with the production of the F–16 fighter. The Navy is also nearing completion of its planned procurement of F–16 and EA–6B aircraft and is moving into low rate production phase of the F–18 aircraft. The Army plans to initiate production next year of its newest attack helicopter—the AH–64.

The tactical air forces modernization for the future is directed primarily toward further improvements in the capabilities of the aircraft now coming into the inventory and most importantly a major movement into stand-off variable range weaponry. Some of the aircraft improvements include better night/all-weather and better electronic counter measures capabilities. The improvements in stand-off weaponry such as the tactical cruise missile could significantly impact on overall tactical conventional forces requirements. Much work is also being put forth to improve the reliability and durability of these systems coming into the inventory.

Mr. President, we have heard and seen many reports recently about the readiness of our aircraft forces and the condition of the weapon systems. I am not going to defend the fact that many of our tactical aircraft need improved reliability and durability. I have expressed my concern about this problem to the committee and to the services for some time. Improvements are being made and we in the Armed Services Committee have been able to see these improvements. More must be done both in this area of improving readiness and in the always controversial area of keeping the cost of these sophisticated systems down.

Mr. President, the country must understand that we are in a transition period in which we are moving forward from the period of large quantities of relatively simple jet fighters of the past into an era of highly sophisticated, technically superior weaponry of the future. The committee believes that this direction is the proper one. However, during this period we are experiencing growing pains in the areas of cost, reliability of weaponry, and operations. This should not deter us from supporting this movement if we are to compete with a potential threat that is also moving forward to improve the technical sophistication of its weaponry.

There is no such thing anymore as a tactical aircraft force of large quantities of cheap simple fighter or attack aircraft as some would propose and we should face that fact now. To spend time and money reviewing and investigating assertions that we should regress into the past in the aircraft world is to take time and money away from building for the future. I do not believe that is the way to meet our responsibilities.

Mr. President, it is with these thoughts in mind that the committee added about $2 billion to the tactical aircraft and missile programs in this request. These funds represent a balanced concern for the readiness of our forces with the addition of over $700 million for spare parts, modifications, and support items; our concern for continued modernization of our forces with the addition of 91 tactical aircraft to the budget request, and our concern for future options with the addition of funds for the AV–8B V/STOL type aircraft development as well as the initiation of the tactical conventional cruise missile.

Mr. President, I support these programs and urge my colleagues to support these programs.●

FLY THE FLAG CRUSADE

● Mr. DURENBERGER. Mr. President, many of us returned to our home States June 14 to take part in Flag Day ceremonies. The outpouring of patriotism at these events was magnificent.

I had the good fortune to spend part of my Flag Day with a person who celebrates patriotism every day of the year. Jack and Artis Poulsen spend every spare minute promoting patriotism. Their only reward is the pride they share with other Americans when their efforts encourage another person to fly "Old Glory".

As we approach our country's greatest national holiday, the Fourth of July, it is fitting that we honor two people who have done so much to restore pride in America. Jack and Artis Poulsen are truly 20th century patriots.

Mr. President, I submit for the RECORD an article from the June 1980, issue of "The International Teamster."

The article follows:

"OLD GLORY": LONG MAY IT WAVE

June 14—Flag Day—a day for Americans to join in hoisting the Stars and Stripes across the land, in celebration of freedom, democracy and independence.

For Teamster Jack K. Poulsen, every day is Flag Day.

During his work week, Poulsen is an over-the-road driver for Ben Franklin variety stores out of Minneapolis. But in his spare time, the Local 544 member, Navy veteran and super-patriot is a man with a mission—"To regain, maintain and retain the glory of Old Glory."

Poulsen is president of the National Fly the Flag Crusade, Inc., a nonprofit organization he formed to seek a return to patriotism among Americans.

Poulsen began his crusade to get Americans to fly the flag back in 1968, when he became troubled and concerned over seeing the flag "dragged, burned and desecrated" around the country during the Vietnam conflict.

Deciding to do something about it, the Teamster has since devoted virtually all his spare time to promoting the flag. Each year, he and his wife, Artis, travel the country weekends and during their vacations, giving away American flags, stickers, buttons and leaflets on street corners.

When making his cross-country stops, Poulsen is dressed in a red blazer, blue slacks and shirt, and red, white and blue tie. Thirty Old Glories adorn the top of his station wagon, which pulls a trailer imprinted with "Our Flag—Perpetual Freedom for America . . . Fly Yours Today."

During a recent visit to Washington, the Teamster stopped by IBT headquarters where he made a special flag presentation to IBT General Secretary-Treasurer Ray Schoessling.

The Teamster says things have changed a lot in the 11 years of his campaign, during which he and his wife have given away more than half a million American flags in 34 states.

"The situation in Iran is bringing a great return to patriotism," he notes.

Poulsen doesn't accept donations for what he is doing; all he wants is respect for "Old Glory, our national symbol." He finances his travels with money his own flag company makes by installing 18 foot flagpoles in the Minneapolis area.

"When I started this back in 1968, a lot of people thought I was crazy," Poulsen says, "but the only thing I'm selling is patriotism."

Poulsen is a patriotic man. He gets upset when he watches children sitting and chewing gum while the National Anthem is played at athletic contests or when a school principal doesn't want to say the Pledge of Allegiance because it "takes too much time."

His crusade won the 1977 Freedom Foundation George Washington Honor Medal. He has met presidents, governors and all kinds of state and local officials in his travels, all of whom he urged to promote the flying of the flag.

And when flags fly this June 14, you can bet that Jack Poulsen will be flying his, and probably handing out a few more, too. Utopia for Jack and Artis would be to see a flag flying from every building and home in the U.S. It's people like him who'll keep Old Glory flying high and his brother and sister Teamsters will be proudly helping.●

FEDERAL GOVERNMENT CONTRACTING ABUSES

● Mr. BAUCUS. Mr. President, as I am sure each of my colleagues are aware, the Washington Post this morning concluded a five part series on Federal Government contracting abuses. The series outlined charges of massive waste, favoritism, and conflicts of interest in the handling of Government contracts with private firms. It is apparent that Federal rules applicable to Government contract awards are being ignored in far too many cases. Hundreds of millions of dollars are being misspent and wasted.

It is clear that taxpayers are being cheated by these kinds of practices. I firmly believe it is the responsibility of this body to assure that Federal officials are held accountable for their actions. At my instruction, the staff of my subcommittee has examined many of the contracts highlighted by the Post articles. However, much remains to be done.

I have scheduled hearings for July 23, to examine further the contracts highlighted by these articles, plus many others. I intend to call many Federal officials responsible for those contracts. It is my intent to offer specific legislation that will seek to strengthen the civil and criminal penalties for failure to protect the public interest.

I commend to my colleagues the close examination of the Post articles and ask that they be printed in their entirety in the RECORD.

The articles follow:

THE REGULATORS: A STUDY IN CONFLICT

(By Jonathan Neumann and Ted Gup)

Two things happened on June 25, 1975, that affected the U.S. government and Exxon.

On the northern rim of Alaska, the world's largest oil company began discharging 450,000 gallons of polluted water into the sea just east of Prudhoe Bay. Exxon later would pay a $100,000 fine for the discharge, which violated regulations of the federal Environmental Protection Agency (EPA).

On the same date in Cincinnati, EPA awarded the Exxon Research and Engineering Corp. a $965,000 contract to write a report laying the groundwork for methods on how the agency should control pollution from off-shore oil drilling.

It may have been unusual that these two events occurred on the same day. But the fact that the government awarded a research contract to a corporation that had a vested interest in the results is not at all uncommon. Every year, the government turns to industry members to help it decide how they should be regulated and, if so, to what extent.

The stakes in these government-sponsored studies by private manufacturers or their research subsidiaries are high. They could affect the quality of water, air and land for years to come. They also could lead to stringent new regulations costing industry billions of dollars.

This article examines four major contracts the government awarded to industries or research firms:

A $5.8 million EPA contract to Monsanto Research Corp. to measure air, water and solid-waste pollution from several industrial processes and the production of major commercial chemicals, several of which are made by its parent company, Monsanto.

In 1977, just after Monsanto opened a new plant to expand its production of the widely used chemical acrylonitrile, Monsanto Research Corp. gave EPA data from which the agency concluded that pollution from acrylonitrile was not a serious problem. Today an EPA expert says that conclusion "was not reasonable" and that the chemical is "a major polluter."

An $812,905 contract to DOW chemical, part of which was to produce a catalogue detailing chemical processes so EPA could respond to chemical emergencies and plan for regulation. In bidding for the contract, Dow promised in writing to open up its vast corporate facilities and provide information to those working on the study. Once the project began, however, Dow's researchers said they received virtually no specific information—other than already publicly available material—from any of Dow's facilities. The EPA official who monitored the contract said he felt Dow broke its promise.

A $669,000 contract to Arthur D. Little, a large consulting firm. One task in the contract was to assess the impact of regulating arsenic emissions from the largest copper smelter in the State of Washington. Traces of arsenic from the Asarco plant in Tacoma had been found in children's hair and urine samples.

Little's copper expert, an outspoken critic of regulation, had recently completed a similar study funded by Asarco in response to proposed federal health and safety regulations. In both the Asarco study and the EPA report, he recommended against regulation, saying that any government controls would force the plant to shut down because of economic hardship. Asarco later used the EPA-funded study in opposing controls.

The $965,500 contract to Exxon Research and Engineering Corp. to help formulate EPA controls of off-shore oil drilling. Portions of the report were written by Exxon production personnel who designed the off-shore platforms.

The study included an on-site visit to an Exxon platform in the Gulf of Mexico. Exxon researchers concluded off-shore oil drilling did not pose any serious pollution problems. The EPA project officers monitoring the contract said they felt the report was "shallow" and self-serving.

There are many other examples. Monsanto Research alone received at least 30 contracts totaling more than $15 million from EPA during the past decade.

The Environmental Protection Agency is not alone in its reliance on private industry for research help. An examination of contracts with the Nuclear Regulatory Commission, the Department of Energy and the Department of Commerce revealed dozens of cases in which industries won contracts whose findings could have a significant impact on their private work and profits.

Exxon and its subsidiaries, for example, has had contracts with the Department of Energy, the Department of the Interior, the Navy, the Air Force and the Department of Commerce. The two Exxon contracts with Commerce called for the oil company to monitor hydrocarbon pollution along its own shipping routes.

Many high-ranking officials in Washington said they did not know that such contracts existed.

"It would come as a surprise to me," said David Bickart, EPA's deputy general counsel, when informed of the EPA-Dow contract. "I'm not aware of instances in which we've awarded a contract to the very industry we're supposed to be regulating . . . Certainly that would be a concern." Bickart said he had been aware EPA contracted with Monsanto Research Corp.

Said Foster Knight, of the White House Council on Environmental Quality's office of general counsel: "I've heard of some pretty crazy contracts by reading [Sen. William] Proxmire . . . But I would not expect to find EPA awarding contracts to the industry it is regulating. I find that very peculiar . . . It bothers me."

Traditionally, the EPA and the industries it regulates have been viewed as staunch adversaries. Industry executives constantly rail against federal regulations imposed upon them. In fact, at the very times that researchers for Exxon, Monsanto and Dow were working for EPA, the legal or executive officers of the same firms were battling EPA and other federal regulatory agencies in court or in public speeches.

Even as Dow researchers were working for EPA, Paul F. Oreffice, Dow's chief executive officer, told the Arizona Business Forum in Phoenix in March 1979: "The regulatory fever which has gripped the governing bodies of the nation is a malignant disease . . . EPA (is) the most out of control of all agencies . . . We must deal with this fourth branch of government before it strangles us."

One way industry has dealt with EPA is by taking part in the research the agency uses for control and regulatory decisions. The companies bid on EPA contracts because they say they prefer to have someone with industry experience do the work rather than risk someone unfamiliar with production or with an antibusiness bias doing the research.

Why, then, are government research contracts going to such firms?

Most government agencies say they must contract out for research studies because they lack the facilities and manpower to do the work themselves. In selecting contractors they must choose a member of the industry to be regulated or a consulting or research firm—many of which have close industry ties because their very livelihood depends upon winning industry contracts.

Some in government and industry say they do not see these alternatives as a problem. They say they do not see a potential for conflicts of interest.

"Of course we work with Dow and Monsanto," said Malcolm Huneycutt, branch chief of EPA's regional contracts office in North Carolina. "I don't see anything wrong with that. They are the experts in the industry. We rely on them. We trust them."

Huneycutt noted that the EPA's own staff monitors the contracts to verify their reliability. But several EPA officials who actually do the monitoring said in interviews that they lack the expertise to question the reliability of the reports.

"I could be issuing an assignment to someone who could be pulling the wool over my eyes," said Joseph McSorley, an EPA-contracts officer who worked on the Dow study. "We just don't have the experts to know."

Within EPA, there are widely divergent views about whether to trust the work of industry researchers. Generally, those working for the EPA's research division share Huneycutt's views. But in the EPA's regulatory branch, contracts with industry are viewed with skepticism.

"You mean to tell me they (EPA) researchers say they trust the chemical company data?" asked David Muscone, of the EPA's regulatory branch. "Over here we take pretty much the opposite view. We tend to take everything they say with a grain of salt."

An examination of government contract files and internal corporate documents, and hundreds of interviews with government program officers and industry employees provide this account of four industry studies for the EPA.

MONSANTO

On April 14, 1975, EPA awarded a $4 million contract to Monsanto Research Corp. a wholly owned subsidiary of the Monsanto Company, the nation's fourth-largest producer of chemicals.

The purpose of the contract was to study pollution emissions from 62 industrial processes, including the production of chemical products. The study was supposed to help the EPA identify possible environmental hazards and, ultimately, to decide where controls and regulations would be needed.

The EPA selected Monsanto Research Corp. over five consulting firms that had bid competitively for the contract. Dale Denny, the EPA project officer, said that two bidders—Monsanto Research and Roy Weston, a consulting firm—had good proposals, but Monsanto was chosen because it submitted the lowest bid.

Within a year of the award, the contract price was increased to $5.8 million as the work expanded.

As a subsidiary of the chemical company, Monsanto Research takes many of its researchers from the parent firm's production plants and sends them back after they have done research at the Dayton, Ohio, laboratory.

The EPA raised, and quickly dismissed the question of whether there was a conflict of interest in Monsanto Research's work on a project of potentially vital concern to its parent company. Said EPA regional contracts chief Malcolm Huneycutt:

"We asked them [Monsanto Research] if there was a possible conflict of interest, and they said, 'No.' "

Added EPA's Denny, "Monsanto Research Corp. is owned by Monsanto Chemical but they are a separate entity, so we're not dealing with Monsanto Chemical."

Once Monsanto Research got the contract Denny said the firm proposed to EPA that it conduct the first part of its study on acrylonitrile. That chemical is widely used in producing acrylic fibers for carpets, clothing, plastics and synthetic rubber.

Monsanto was the world's second largest producer of acrylonitrile when the contract was awarded, and it was then in the process of building a new plant in Texas City, Tex., that would make it No. 1 in the field.

In its June 1974 issue, Chemical Week featured an article entitled, "Monsanto is Bullish on Acrylo"—a statement supported by the fact that the company's sales volume of the chemical the next year was $110 million.

The study was headed by Thomas W. Hughes, a chemical engineer with Monsanto Research since 1970. Hughes said in an interview that a number of other chemical companies expressed surprise that Monsanto was doing a project for EPA.

"The first reaction (from the other firms) was, 'Why the hell is Monsanto doing this?' " Hughes recalled.

Even Douglas A. Horn, coauthor of the acrylonitrile study and now with a Monsanto plastics plant, said he had difficulty answering that question.

"I had the same question myself when I first started working that contract," said Horn. "I never really got a satisfactory answer."

Horn suggested that Monsanto may take EPA contracts because it keeps us on top of what the government's doing. We know what the EPA's thinking about, what they're interested in and what their latest developments are.

Both Hughes and Horn said they felt that any competent engineer could conduct the study, that their association with Monsanto did not give them an exclusive expertise or insight in the area.

"I have never even seen an acrylonitrile plant," said Horn. "I have never set foot in one." Hughes also said he had never been in an acrylonitrile plant before the project began.

EPA's profound trust in Monsanto was made clear at the outset.

Even before work on the contract began, EPA officials agreed to allow Monsanto to destroy certain original documents. The information contained in them was neither to appear in reports nor to be seen by anyone from the EPA.

Those were the conditions set by Monsanto Research Corp., which did not want anyone—including EPA—to know the plants and companies from which the acrylonitrile emissions were measured. Company officials said they didn't want the plants identified for fear that specific data of any sort might reveal company trade secrets. Four U.S. chemical companies produce acrylonitrile.

EPA does have the authority under its enforcement powers to enter industrial plants, to measure pollution and to publish names, locations, and data, EPA's Denny said. But, he added, it was easier for EPA and researchers alike to rely on voluntary cooperation.

"They were to destroy original records—that was the agreement," Denny said.

Hughes, of Monsanto Research, said he did, in fact, destroy the sheets with company names on them. The final report Monsanto Research eventually sent to the EPA contained no pollution data related to specific plants or companies. Instead, the study centered on a "hypothetical" acrylonitrile plant, which was to represent the industry. The emission figures represented only totals and averages, with no independent means of verification contained in the report.

No one from EPA ever asked to examine the original data gathered by the Monsanto researchers or to check the accuracy of the data regarding the "hypothetical" plant, said Hughes, who kept the data. Of the 17 EPA studies Hughes supervised, the EPA asked for supporting data in only two instances, he said.

The original data for the acrylonitrile study remains under lock in Hughes' office. To this day, Denny says he does not know which plants were examined in the course of the study. A company spokesman refused to release the data.

A draft of the report was completed on March 15, 1976, Monsanto researchers said. Before delivering it to EPA, they said they sent it to Monsanto's corporate offices to be reviewed by the company's acrylonitrile experts and a Monsanto lawyer.

But it was 16 months before Monsanto Research Corp. sent the draft report to EPA, on July 10, 1977, according to both the researchers and Denny.

A primary reason for the delay, according to Hughes, was that the Monsanto experts reviewing the report were preoccupied at the time with the construction of the Monsanto acrylonitrile plant in Texas City.

Gene Tromblee, chemical process manager of the Texas City plant, was one of those reviewing the report.

"We wanted to make sure that the analysis was averaged and not specific, so no firms could be identified," Tromblee said. Company officials also said they reviewed the study for possible technical errors.

Harry Keating, a Monsanto Company official who would later help draft corporate arguments against acrylonitrile health regulation, also reviewed the report during 1977. He said he recalls finding "one or two errors" in the report that he corrected. He said he does not recall what the error's were.

A high-level Monsanto Research official who reviewed the report was Robert Opferkuch, the contract manager for the research branch and a man who speaks openly about his antiregulatory feelings. "I would say there is too much regulation," Opferkuch said in an interview. "I happen to be an individual who doesn't like regulation."

While Monsanto Research Corporation continued to review the report, there were two major developments concerning Monsanto and acrylonitrile.

In January 1977, Monsanto opened its new acrylonitrile plant in Texas.

In March 1977, the U.S. Food and Drug Administration (FDA) announced that it would ban the use of acrylonitrile for soft drink bottles. The FDA said that tests showed that acrylonitrile may be cancer-causing, and that the chemical "migrated" from the bottle into the soft drink.

Monsanto immediately challenged the FDA, disputing the government's research with laboratory findings of its own. (Although the ban has been in effect for three years, Monsanto still contests the FDA findings.)

On July 10, 1977, Monsanto Research sent the report to EPA.

In September 1977, EPA published its acrylonitrile report as part of its Environmental Protection Technology Series. The front cover of the report bears the official seal of the U.S. Environmental Protection Agency. The report was entitled, "Source Assessments: Acrylonitrile Manufacture (Air Emissions)."

There was no reference to Monsanto Research Corp. on the cover.

This official government report was actually the study written by Monsanto Research Corp. Inside the report, credit was given to Hughes, Horn and Monsanto Research, and EPA noted that the study was not necessarily government policy.

The critical finding made by EPA based on the study was that acrylonitrile production does not create hazardous emissions warranting further development of controls or EPA regulations.

"The final report was okay," EPA's Denny said. "Based on the Monsanto report, we decided then we weren't going to try to do any more on acrylonitrile. There was no good reason to look at it anymore (for possible controls or regulations). As far as we were concerned, acrylonitrile was on the back burner."

Two years later, as part of a major investigation of air pollution causes, the EPA's regulatory branch decided to examine acrylonitrile. As is often the case within EPA, the regulatory officials, disagreed with the findings of the research branch.

In an interview, David Muscone, of the chemical and petroleum section of EPA's regulatory division questioned the conclusions EPA drew from the Monsanto Research report that pollution control of the chemical was adequate.

"Quite frankly," Muscone said in an interview, "I don't see how they (EPA and Monsanto researchers) reached that conclusion . . . It was not reasonable based on the data we have . . . Our conclusion is that acrylonitrile is one of the biggest sources of hydrocarbons in the petrochemical industry.

"It is a major polluter," said Muscone.

Muscone said the Monsanto Research report was defective in two ways. First, he said, the report failed to take full account of the effect of hydrocarbons in the atmosphere after they are emitted from the plant. Second, he said, the research omitted several areas of pollution stemming from leaks during production. Both, said Muscone, should have been fully considered.

"You might say they made errors of judgment," Muscone said. "Some of their methodology just doesn't make sense . . . regardless of how they did it, their figures [on the amount of pollution emissions] are lower than they should be."

In addition, said Muscone, the study was useless to EPA's regulatory arm because it was based on a hypothetical plant. "We've got to have raw documented data," he said. "We need to have publicly available information if we go to court. If somebody sues us, or if we challenge someone, we have to be able to back our studies with actual data."

Monsanto researchers say they believe today, as when the report was done, that their study is accurate. As for Muscone's views that they failed to consider fully the effects of hydrocarbons in the atmosphere or of leaks, they say the technology to measure such effects was not developed at the time of the study. Muscone disputes that argument.

EPA today is continuing its research into the potential pollution hazards in the production of acrylonitrile. To this date, there are no EPA regulations of acrylonitrile production.

DOW

On May 11, 1979, Albert T. Massberg, director of Dow Chemical's contract research division, wrote a nine-page letter to the EPA contracts division in North Carolina.

Massberg wrote the letter while Dow was vying with several other firms for a $812,905 EPA contract. The contract called for detailed descriptions of numerous chemical processes to be used by EPA to respond to chemical emergencies and for planning regulations.

In an effort to persuade EPA to choose Dow over its competitors, Massberg made a promise. He said his researchers would have access to all of Dow's facilities.

It was a promise that an EPA official later said was broken.

Massberg wrote: ". . . The proposal is submitted by the Dow Chemical Company. Therefore, all the company facilities can be made available to carry out the work and all technical personnel would be available for consultation in their particular area of expertise . . ."

He then detailed what Dow could offer across the country in its various divisions, explaining that Dow had tremendous production experience and expertise.

Two months after the letter was sent, Dow was awarded the contract. Other firms, which won other EPA contracts, contributed to different sections of the catalogue.

The EPA monitor on the Dow contract was to be Joseph McSorley, working in Research Triangle Park, N.C. For Dow, the research team working on the catalogue of chemical processes would include Burchard P. Shepard and John T. Reding. They would work in Dow's offices in Freeport, Texas.

In interviews, EPA's McSorley and Dow's Shepard said they developed a good working relationship and respect for each other. But after a short while, EPA's McSorley grew frustrated with Dow.

"One of the reasons we gave them the contract was because they had so many chemical divisions and they promised to open them up for the project," McSorley said. But once the project started, Burch (Shepard) didn't seem to have authority within Dow. He said that every time he wanted information from a different Dow division, they claimed they were 'too busy.'"

As a result, McSorley said, Dow broke its promise; its various divisions were not cooperating with the researchers.

Shepard, in an interview, said he did not recall his conversations with McSorley, but he did not dispute anything McSorley said.

While Shepard said he did not remember those conversations, he said he supports the company's right to withhold certain information. He said he personally chose not to include "proprietary data"—"information which would be valuable to our competitors"—from the EPA reports.

"We wouldn't put that in the report," he said. "No company would."

His associate, Reding, said in an interview that he did most of the research for the report. He said he was "not particularly happy" with the work.

"I guess I felt like Dow would not be willing to give us anything they considered to be proprietary," Reding said. "So I was not sure I was always getting the latest data. They were telling us the general things to look at—what was already published in literature. They didn't give any Dow specific numbers."

In the end, Reding said, virtually all of the data he used for the reports came from already published material—material, he said, that had been available to anyone in the country.

"The results were too general for anyone to apply them too well," Reding said. "For the EPA to accomplish anything, you have to get specific, and I don't think my report was enough."

Maasberg, the man who wrote the letter promising that Dow would make available all its facilities to its searchers, said in an interview that Dow did not break its promise.

"It's a matter of opinion," he said. "I feel we kept our promise . . . . But I can understand why Joe (McSorley) feels the way he does."

Dow's Maasberg said he recalled receiving several phone calls from EPA's McSorley requesting specific information on some of the chemical processes the EPA was interested in studying.

"What they wanted was some of our process development work that somehow they found out about," Maasberg said. "These were new developments, improvements—some of them not yet being used. We couldn't give it to anybody. This was proprietary. Besides that, you'd lose the competitive edge to other firms."

McSorley, at the EPA said that his concerns went beyond the completeness of the Dow reports. My concern was: could any of the information be believed by the layman?" McSorley realized, "Is Dow really reflecting the key points of (pollution) emission in their reports? I couldn't make that judgment because I don't have the expertise.

"If they were deliberately trying to feed false information . . . that would be very difficult for us to detect—because we're just not knowledgeable enough to know."

Dow's Maasberg, Shepard and Reding all said in interviews that the Dow reports were accurate and honest.

McSorley said the questions arose in his mind simply because the contractor, Dow, has such large financial interests in the chemical processes they were writing about.

"I went to my supervisor [Malcolm Huneycutt], and said, "I could be issuing an assignment to someone who could be pulling the wool over my eyes. What can we do?"

Huneycutt replied: "Well, you go with the people who know the industry the best and hope you can trust their integrity."

Despite McSorley's concerns, a series of reports written by Dow researchers Shepard and Reding were published in 1975 and 1976 by the EPA.

As with the Monsanto studies, the Dow reports were published under a cover bearing the official seal of the federal agency with the titles. Environmental Protection Technology Series, and dates, but no indication on the cover that the reports had been written by the Dow Chemical Company. Inside, the report was credited to Dow Chemical.

The possibility that Dow may have a conflict of interest in the contract was not discussed before the contract was awarded. Huneycutt, a branch chief in the North Carolina regional EPA contracts office, said in an interview.

"The issue never even came up," before the contract award he said.

ARTHUR D. LITTLE

A series of tests by health officials in the early 1970s showed that children living near the Asarco copper smelter in Tacoma, Wash., had elevated levels of arsenic in their hair and urine.

The test results came as no surprise to residents living near the 80-acre smelter. Since 1890, the plant—the largest copper smelter in the state and the nation's sole producer of arsenic—had been billowing out smoke laden with sulfur dioxide and arsenic. The emissions eat through the paint on houses and cars and settle on the lawns where parents warn children not to play.

An estimated 1,000 pounds of arsenic emissions pour from the plant each day, according to a National Institute For Occupational Safety and Health study.

In 1975, EPA was in the early stages of planning air pollution regulations of the Asarco smelter. As a preliminary step, the agency planned to contract for a study of the economic impact such regulations could have on the plant.

EPA officials in the North Carolina research office chose to award the contract to Arthur D. Little Associates, a large national consulting firm based in Boston.

A new contract would not be needed because under the terms of an existing $669,000 EPA contract with the firm, the agency could ask for such a study at any time.

But there were those in EPA who argued that the contract should not go to Little. The firm had just written a report, paid for by Asarco, which said that government regulations would force the plant to shut down because of economic hardships.

That report, dated June 1975, was being used by Asarco to protest proposed safety regulations by the federal Occupational Safety and Health Administration (OSHA).

"The conflict of interest was obvious since they (A. D. Little) had already done the work for Asarco" said Robert L. Coughlin, an EPA economist from the West Coast.

Ravindra Nadkarni, Little's copper expert and the man who wrote the report for Asarco also recognized the appearance of conflict.

"We thought that a conflict could be perceived, and we discussed it with the EPA," Nadkarni said. "We wanted to make that if they chose us for the study, the issue was fully aired before anything was signed. We did not want to do the study if the EPA felt it was a conflict of interest."

The EPA nonetheless decided to assign the study to A. D. Little.

"A. D. Little was our only alternative. We couldn't afford to go out and hire someone who would be wholly objective but naive," explained Alan Basala, EPA's project officer in North Carolina. Additionally, Basala said, giving the work to A. D. Little avoided the lengthy delay of going through the procurement process.

In March 1976, Nadkarni began the EPA study.

In an interview, Nadkarni, now an A. D Little vice president, said that he has "a bias that is antiregulation." He said he feels there are too many regulations, and that industry should be permitted to develop its own solutions to environmental problems.

"I don't think that bureaucrats are creative enough to come up with solutions," Nadkarni said, "My bias is in favor of introducing free-market concepts in pollution control."

Coughlin of the EPA, was aware of Nadkarni's views on regulating Asarco at the time the assignment was given to A. D. Little. That was why he opposed the award.

"The guy had a point of view," Coughlin said in an interview. "I don't blame Nadkarni. If blame has to be attached, you wonder why a firm that already has expressed a point of view was hired to do the job. If you're going to kick somebody's ass, kick EPA's."

In June 1976, Nadkarni presented EPA with a draft of his report. It concluded that regulation of Asarco would create a serious economic hardship that might force the firm to shut down.

That was the same conclusion Nadkarni had reached a year earlier in his study for Asarco.

The EPA project manager, Basala, in North Carolina, was unhappy with the report.

"I just don't think it was objective," Basala said in an interview. "What he (Nadkarmi) wrote was leaning in favor of the industry."

But Basala said he felt EPA carefully scrutinized the A. D. Little work. "It wasn't like we were having the fox guard the henhouse. We had our senior economists guarding the fox," Basala said.

One of those senior EPA economists monitoring the work was Coughlin—the man who had opposed the contract from the outset. In an interdepartmental memo dated Oct. 13, 1976, he wrote of the A. D. Little study:

"After reading the draft materials three times I am still stunned. I really do not know how to react . . . We are requested (commanded?) to take A. D. Little's hazy determination on faith. Not one hard number is allowed to intrude upon the narrative . . . nothing so mundane as income statements, balance sheets or cash flow analysis is provided . . ."

Coughlin was not alone in his views. Another EPA economist who reviewed the study, Douglas Hale, said in an interview: "I still don't understand how A. D. Little came up with the answers they did. I can't tell where their numbers came from."

The EPA returned the first draft of the report to Nadkarni, asking him either to rewrite it, or to support his conclusions with data. Nadkarni considered the EPA's comments then sent them a second draft that reached the same conclusions as the first.

"There were three versions of the study," Coughlin explained.

"My reaction went from outrage on draft one, to just amusement by the time they were done. It was a ridiculous piece of work."

In an inteview, Nadkarni said he recalls the chronology of events but interprets them differently.

"I think that Coughlin is welcome to his opinion of whether I am biased or unbiased," he said. 'It is a charge that can be made easily . . . but the EPA was unwilling to accept anything but what they wanted—a 'rubber stamp' approving their conclusions.

"You normally don't like to fight with your clients, but if you have the courage of your convictions, sometimes you have to bite the hand that feeds you. I think my study was objective and has proven itself to be correct."

Nadkarni and the EPA had reached an impasse.

By the end of 1976, EPA decided to set aside the A. D. Little report. The EPA paid the bill—$94,783.

But the report was not forgotten. When state and federal officials in the state of Washington later discussed further environmental controls for Asarco, officials of the company held up the EPA-funded study in support of their argument against regulation.

EPA economist Coughlin noted there was some irony in the use Asarco made of the EPA-funded study. One reason the agency had contracted with the firm was to insure that if regulations were contested, A. D. Little's reputation would be persuasive in establishing expertise.

Coughlin also questioned whether it was total objectivity that the EPA was looking for in its study. He said the agency anticipated using the study in possible court challenges.

"When you get to the litigation stage, you prefer to find a contractor predisposed to your point of view," Coughlin said. "You want a hired gun. But we stubbed our toes. This gunman was already committed to the other side."

At the same time that A. D. Little was working on the Asarco study for EPA's research offices in North Carolina, the firm was working on another study for the EPA's Washington, D.C. office.

That second contract—for $146,967—was to assess regulations of the copper industry nationwide. A. D. Little's copper expert, Nadkarni, was directing the study. That study, too, was criticized by EPA.

"I found absolutely gross misunderstanding and gross inattention in the report to what the regulations actually were and did," said Todd Joseph, an attorney who reviewed the study in 1977 for the EPA office of general counsel.

"It painted the EPA regulations as having a much more draconian impact on the industry that a correct understanding of the law and regulations would have," Joseph said in an interview.

Nadkarni's conclusion, published in 1976, was that proposed regulations would cost the copper industry more than $1 billion by 1987.

His report was made a part of congressional subcommittee hearings reviewing the Clean Air Act.

In 1977, Congress adopted an amendment to that act, in which it granted a 10-year exemption to EPA regulations for the nonferrous smelters, including the copper industry.

Nadkarni said in an interview that he believed his report helped persuade Congress to grant that delay.

EXXON

In February 1975, EPA announced that it was accepting bids for a contract to study the potential pollution problems of offshore oil drilling. The study would be used in laying the foundation for EPA controls of offshore oil drilling.

Thirty-seven firms responded to the advertisement. Among them was Exxon Research and Engineering Co., a subsidiary of the world's largest oil company.

Four firms submitted formal proposals—Exxon, and three energy consulting firms with no direct ties to the oil industry.

On June 25, 1975, Exxon was awarded the $965,500 contract.

"From a technical point of view," explained James Geiser, an EPA contract officer in Cincinnati, "Exxon clearly had the superior proposal . . . and they were the only oil company in the running—and oil companies were the only ones with first-hand knowledge."

The possibility of a conflict of interest was discussed by EPA officers, but they concluded no conflict existed, said Geiser.

The Exxon researchers subcontracted with Exxon Production Research Co. of Houston to assist them in their examination of potential pollution hazards from off-shore oil platforms. Exxon Production designed platforms under examination.

The contract called for Exxon to study ways of identifying and minimizing pollution from off-shore oil wells.

On Sept. 15, 1975, three months after

Exxon researchers began their study, an EPA regulatory branch, which had compiled its own data, issued interim "efficient limitations and guidelines" for off-shore oil drilling.

On Nov. 25 of that year, Exxon, along with 11 other oil companies and the American Petroleum Institute, sued EPA in federal court asking that the interim guidelines be set aside.

Exxon would be "significantly and adversely affected" by those guidelines should they be permitted to stand, the company said in its petition to the court.

Meanwhile Exxon researchers continued to work on the EPA offshore oil drilling study.

On Dec. 11, while routinely reviewing recent contracts, EPA attorney Bruce Elliott, then chief of the permits and support branch in Dallas, first learned EPA had awarded Exxon the offshore oil study contract.

"It bothered me. I was a little bit distressed," said Elliott, whose regional authority included the Gulf of Mexico, where most of the nation's off-shore drills are located. "It just didn't look right to me that we were asking an oil company to develop these guidelines. It would be possible for them to develop data that would be biased," he said.

"The stakes in these effluent guidelines are enormous," Elliott added. "Depending on the level of treatment, you are talking about hundreds of millions—billions—of dollars."

On the day Elliott learned of the Exxon contract, he telephoned the EPA deputy director of the enforcement division, O. W. Lively, to inform him of it. In a memo responding to Elliott, Lively wrote: "We question the true objectivity which could be generated by such a group and feel that the agency is opening the door to possible charges that the required work and report are prejudiced."

On Dec. 16 the EPA issued a "stop work order." The next day, Frank Freestone and J. Stephen Dorrier hand delivered the message to Exxon's Steven Fruh in Houston.

"The meeting was short and slightly less than frigid," Freestone later wrote in an interoffice memo.

The Exxon research study was temporarily halted.

In the week following the issuance of the "stop work order," a flurry of letters and memos circulated between EPA offices across the country, discuss the "potential conflict of interest." A meeting was scheduled for Jan. 12, 1976, in Washington to consider the alternatives, including termination of the contract.

But the issue was not resolved at the meeting.

In a memo dated Feb. 19, 1976, William Mathis, the director of EPA contracts in Washington, suggested that the contract be terminated.

He wrote: "Because of this apparent conflict we can conceive of a potential problem whereby EPA could be cast in the role of defending the credibility of data submitted under the contract if we allow the contractor to proceed. Therefore, we would urge serious consideration to be given to termination of the contract."

Others in EPA took a different position.

David G. Stephen, head of EPA's Cincinnati laboratory, which had originally awarded the Exxon contract, urged the EPA regional administrator in Dallas, John White, to continue the Exxon project.

"At present we simply do not have the data regarding the problems," he told White in a memo. "To the extent that it exists, it is in the files and minds of the experts, most of whom are working for the industry."

With that argument as a basis for their decision, EPA chose not to end the contract. Instead, they decided to scale down the amount of work that had been originally proposed, and to assign additional work to another contractor "not to be associated with an oil company," according to the memo.

The government funded the Exxon project for another year and a half.

In their only review of an offshore oil platform, Exxon's Fruh and John Ferraro said they visited a platform owned and operated by Exxon USA located off Eugene Island about 100 miles off the Louisiana coast.

"What we were looking for was all the various discharges in the water . . . We were looking for oil in the water. What we found was, there really wasn't much of a problem. The existing platforms today are so well designed that there is no problem," Exxon's Fruh said in an interview.

Exxon Production Research Co., which designed the platform, wrote sections of the report dealing with the platform and supplied the data tables used in the final report, according to Ferraro, of Exxon Research and Engineering.

Despite the modification of the contract, EPA project officers Freestone and Dorrier continued to have misgivings about Exxon's performance on the contract. They felt problems went beyond the mere potential conflict of interest.

"The tone of all their reports seemed to be CYA—cover-your-ass," Dorrier said in an interview. "There was a lot of p.r. (public relations) nonsense in a technical report extolling their environmental awareness."

The researchers' monthly reports, EPA's Dorrier added, "seemed to have had high level clearance [from within Exxon] which greatly restricted their ability to discuss things freely. They wanted to be careful that what they said did not come back to haunt them in some later effluent guidelines."

EPA's Freestone was also dissatisfied with the performance of the Exxon researchers.

"The technical performance was not what we were led to believe we would get," Freestone said in an interview. "I thought the end report was not substantially better than the outline I provided at the start. It was shallow . . . There was very, very little in the report . . . it was essentially without any substance."

The two Exxon researchers, Fruh and Ferraro, disagreed with that assessment. In interviews, they said they thought their report was objective and worthwhile.

The two researchers also said that they were free from outside corporate pressure.

Exxon's final report included a seven-page photocopy of a 13-year-old report by the American Petroleum Institute, an oil industry trade association. It also included a photocopy of a manual and sales brochure for a monitoring product already in production.

Because the original scope of the contract had been reduced by about one-third, Exxon was paid $330,000 rather than the original contract price of $965,000.

Coincidently, the same day the Exxon Research contract was awarded—June 25, 1975—Exxon began an unauthorized discharge of polluted waste water into the Beaufort Sea from Flaxman Island, 60 miles east of Prudhoe Bay, Alaska.

That discharge of pollutants containing mud and oil from drilling operations continued for two weeks until July 7, 1975. In September 1976, Exxon signed a consent decree and paid a $100,000 fine—the largest civil penalty assessed up until that date for a violation of the Federal Water Pollution Control Act of 1972.

James Morakis, an Exxon spokesman in New York City, commented on the fact that the unauthorized discharge and the contract award came on the same day. He said:

"It was a quirk of fate . . . Exxon's a big outfit and the government's a big outfit. It sounds to me like just one hell of a coincidence . . . They're unrelated . . .

"You're being fined by one part of the government, and you're getting a contract from another part of the government. I'm sure the same thing happens with any number of the major corporations. I guess you could say it's ironic—because the one hand is taking and the other is giving."

Federal Contracts: A Litany of Frivolity, Waste

(By Ted Guy and Jonathan Neumann)

The Department of Health, Education, and Welfare paid $440 for one day's work performed by William Ewald, a consultant, on Sept. 31, 1978.

Thirty days hath September.

At the Department of Commerce, a program officer approved a bill from a contractor for 144 Mickey Mouse ties and scarves to be distributed at the firm's Miami convention.

And at the Environmental Protection Agency, a project officer was bewildered when a consulting firm submitted data as part of a $360,000 contract showing the average speed of trucks driving the streets of Manhattan was 68 miles an hour.

Billing for phantom days, spending government money frivolously, coming up with useless results or no results at all—these have come to be accepted ways of doing business in the world of federal contracting.

Many of these research and consulting contracts are intended to address serious questions. Some are intended to help the poor, the victims of crime and those addicted to drugs; some are to help solve the problems of air and water pollution and to find new sources of energy.

But these issues often seem of only secondary importance in a system that places its highest priority on billing for more and more federal funds.

Federal officials, faced with confusing regulations and an endless stream of invoices from contractors, express frustration, as do many legislators and investigators on Capitol Hill.

Sen. Max Baucus (D-Mont.) has held several hearings in the past two years on waste and fraud in contracts. His conclusion: "The extent and seriousness of these problems is pervasive. Obviously there is a pattern of abuses throughout the agencies."

Sen. David Pryor (D-Ark.) and Rep. Herbert Harris (D-Va.), held joint hearings earlier this year on wasteful contracting practices. And the General Accounting Office, the investigative arm of Congress, has cited abuses in contracts for the past two decades.

But the problems persist.

In an eight-month investigation, The Washington Post interviewed more than 600 government officials and found that more than $9.3 billion was spent in 1979 on federal research and consulting contracts.

In articles today and tomorrow, 13 contracts totaling $15 million will be examined.

Most of the money in these contracts, according to both government officials and contractors, was completely wasted. Over half of it produced nothing that was used.

In one example of waste, there is the case of the nonexistent agency.

A few weeks before he was going to retire from the Department of Health, Education and Welfare in 1976, after 30 years of federal service, Charles Silvester received in his mail an "unsolicited proposal" for a consulting contract.

"I opened the envelope, looked at the proposal and tossed it in the wastebasket," Silvester recalled. "I'd been around a long time. I knew waste when I saw it."

On the day Silvester received the letter, he spoke to Harold Weinberg, the man who was to replace him as an administrator for the Social and Rehabilitative Services (SRS) agency within HEW.

"I reached into the wastebasket to show Weinberg the contract proposal," said Silvester. "I said: 'You're going to get a lot of these when you take over. Read them with care.' "

Weinberg looked at the letter. He liked the contract idea. A month later, he set in motion the process which led to a $130,000 contract to a local consulting firm, Moshman Associates, Inc.

The contract was to evaluate the Center for Social Statistics within the SRS. Said Weinberg later: "It made an awful lot of sense to me at the time to get an outside expert to come in and examine this thing with an objective eye."

Jack Moshman, a well-respected Washington consultant, gathered a panel of experts to begin the study in late 1976 and 1977.

Unknown to Moshman—and to Weinberg—new HEW Secretary Joseph Califano was conducting a study of his own at the same time to reorganize parts of the HEW. Califano announced his reorganization plans in February 1977. One of his suggestions: the elimination of the SRS and its Center for Social Statistics.

By the time Califano's announcement came, much of the Moshman study had been completed.

"We had absolutely no idea that HEW was planning to abolish SRS," said Moshman later. "No one at SRS told us about it . . . We got caught somewhere in this squeeze."

But Moshman did not want the contract killed. Instead, he requested an additional $20,000 to continue the study and, since the agency no longer existed, refocus the work. "Our report could be helpful if the findings were looking at a system, not an agency," Moshman explained.

Silvester, who was still at HEW at the time, recalls going to Weinberg then and saying, "Hey, let's cut our losses on this thing."

That did not happen. The department granted the extra $20,000 and, in August 1977, the consulting firm completed two neatly bound reports costing $148,712 and sent them on to HEW.

The report began with a quotation from the Roman philosopher Petronius. It said: "We tend to meet any new situation by enlarging and reorganizing, and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization."

Neither Silvester nor Weinberg ever read the report. Nor, they said, did anyone else at HEW. "It was never used for anything," said Weinberg. "This was not unusual, it was common. Nobody ever wants to read these studies."

Weinberg, like Petronius, was philosophical about the whole thing.

"Generally, people believe that fact and logic play into these major decisions," he mused. "That's not the way it works. The decisions are political. Every four years you have a change—and all the great studies in the world won't make any difference.

"That's what you learn in government . . . The whole thing is a big laugh . . . It's a big joke."

BOXES IN A WAREHOUSE

All day and night for a week late last August, lawyers for HEW and for a contractor negotiated the fate of an intensive five-year study to develop a new drug to treat heroin addiction.

In the end, the government terminated a contract and both sides were numbed. The government had spent more than $3.4 million and it received nothing. Almost all the research had been completed—and the work was found to be very good—but the new drug was not to be developed.

Research on the drug was not stopped because of medical concerns. Those issues weren't even discussed in the negotiations. The problem was a legal, contractual dispute, attorneys on both sides say.

"I have become sort of discouraged with the whole situation," said John Weisner, head of Medical Research Applications, which collected data from 6,000 patients over five years. "Let's face it, there comes a point where you don't want to bang your head against the wall any more."

The program began in 1975, when HEW's National Institute on Drug Abuse decided to collect clinical data on a drug known as LAAM. The drug had been used in Germany to treat heroin addicts. It was said to be more effective than methadone, which is now used routinely in the U.S.

While the government had already contracted for laboratory studies on the drug, it needed major clinical trials of it before it could receive approval from the Food and Drug Administration.

Medical Research Applications, responding to an advertisement for bids, asked to do the study. No pharmaceutical firms sought the contract, apparently because there was very little potential profit in selling the drug, according to HEW officials.

As part of the contract with Medical Research Applications, the government allowed the firm to keep all of the data it would gather. The firm would then have exclusive rights to sell the drug if it won FDA approval. The purpose of this agreement was to provide an incentive for the firm to produce the drug, since no one else seemed interested in doing so.

The contract was awarded June 27, 1975, for $1.5 million. It called for testing the drug on 6,000 heroin addicts for 40 weeks. Shortly after the project began, it was expanded to a 120-week study, and the cost more than doubled. The expansion was caused by changes in FDA clinical data requirements.

By last year, most of the research was completed.

But as the project was winding up, HEW's drug abuse institute was coming under pressure from columnist Jack Anderson and from Congress. In a series, Anderson attacked several of the institute's programs, including the LAAM contract. He pointed out that the government was giving drug production rights to a firm it was paying for research.

Following the articles, the House subcommittee on health and environment—which was considering whether to reauthorize funding for the institute—criticized it for the $2 million cost overrun in the LAAM contract.

As a result of the political pressure and publicity, the officials involved in the program grew weary of the controversy.

"They felt they were giving away too much," Weisner said. "It was political. They just didn't want to take any more heat."

Jack Blaine, a federal project officer on the contract, said in an interview: "It was the government bureaucracy that botched it up. It was politics. The thing is, the contractor did a very good job."

Last August, when the drug abuse institute was negotiating whether to continue the project, the government attemped to rewrite the contract, asking Weisner to give up the rights to the drug. He declined. HEW refused to continue the contract under those terms.

"Everybody was afraid," Blaine said of the atmosphere at the institute. "People were saying, 'If we do this wrong, Anderson will write an article about us.' "

In September, the contract was terminated. Weisner said that about 400,000 pages of data were placed in a warehouse at Tyson's Corner in Virginia. The project stopped.

The pages are still in the warehouse, unused.

"I can't do anything with the data without the research the government has done," Weisner said. "I've asked them to give it to me, but they said 'no.' "

Pierre Renault, an HEW project officer, said: "As far as I know, we don't have anything to show for the contract. But we might—if we invest a lot more money and redo some of the research—we might be able to salvage some of it."

Marvin Snyder, director of the drug abuse institute's division of research, said that to date, HEW has spent about $10 million on research for LAAM, including the contract with Weisner. He said he was uncertain about what the government's next step would be.

Stefanie Weldon, an HEW attorney who worked on the contract, said "I'm not sure I'll ever understand what happened. . . Sometimes we're prepared to make a silk purse out of a sow's ear. Other times we're not."

A LOT OF GOBBLEDYGOOK

In the summer of 1976, bureaucrats in the federal Office of Education went out looking for someone who could "develop an Interpretive Structure Model (ISM) and strategies for implementation based on a descriptive and prescriptive analysis of resources for environmental education and studies."

A firm in Los Angeles, Social Engineering Technology, heard the call, understood the language, apparently, and bid for and won the contract. For $449,000, it would develop an Interpretive Structure Model, known in the trade as an ISM.

At the beginning, Walter Bogan, the HEW contract officer, and Sam Scheele, head of the consulting firm, thought they understood what this ISM was all about. Bogan had asked Scheele to explain his ideas for the project, and Scheele had done so in a 45-page proposal.

"This proposal is not like other proposals," the proposal began. "Social Engineering Technology is uniquely suited to the proposed project."

In explaining why Social Engineering Technology was well-qualified, the proposal said that the firm would avoid "the so-called 'dogma of immaculate perception' which suggests that fresh vision is anchored in a source of original truth. We are more inclined to adopt. Thorarud's dictum 'There is more free space between the forbidden and the prescribed than you think.' "

Bogan at HEW was excited about the prospect of receiving an ISM.

"They promised to generate the ISM within the first quarter of the project," he said in an interview. "That way the government would know early on whether they were doing a good job."

Three months after the project started, Bogan received what he called "a pile of unintelligible papers" from the Los Angeles firm. It was their first progress report.

Scheele insisted in meetings with Bogan that his work was not at all "unintelligible," in fact, he told Bogan, SET was well on its way to developing an ISM.

Bogan disagreed.

"It was clear the contractor was not performing and was not able to perform," Bogan said. "What they accomplished wasn't recorded in any coherent way. So it was difficult to determine if there was anything useable."

In December 1976, four months after the project began, Bogan decided to terminate the contract. He said the firm had "defaulted," had not delivered what it had promised. He took steps to force the firm to repay the money it had collected from HEW.

William Deurk, an attorney for the consulting firm, immediately challenged HEW. His argument was simple: "How can the government say my client didn't deliver what he promised, when the government can't say what it is that they asked for?"

HEW lawyers agreed with that argument.

"How in the world can we say they defaulted," asked David Webb, the HEW contract officer in charge, "when it was never clear what the heck we were expecting?"

So the government agreed to pay out the money, although the contract was still to be terminated. Two weeks ago, in an informal settlement agreement, the government agreed to pay the firm at least $250,000 for the never-completed project.

"I attribute the settlement not to my advocacy," attorney Deurk said, "but to the weakness of their case."

Webb, the contract officer, said in an interview that all of the educational issues involved were "above my understanding."

"I look at it this way," he said. "Nothing was received, and we paid thousands for it. It really is a lot of gobbledygook . . . As a taxpayer, I'm sick."

But Bogan, the project officer at HEW disagreed with the lawyers and with the contract officer. He insisted that the Office of Education needed an ISM. After the SET contract was terminated, Bogan had the HEW award a second contract for an ISM—this one for $417,700 to a consortium of educators.

Last year, their work was completed successfully, and they delivered the ISM to Bogan.

A NEAT IDEA

George Catsiapsis, an economics graduate student at the University of Chicago in 1978, selected as his doctoral thesis the subject of the availability of financial aid to students.

For Catsiapsis, the subject was close to home.

"His fellowship funds had run out and he was in dire need of support," recalls his professor, Arnold Zellner.

At Zellner's suggestion, Catsiapsis decided to apply for a contract from the HEW Office of Education to study the availability of financial aid and its effect on students' decisions to continue their education.

On March 9, 1978, Catsiapsis submitted his proposal for an HEW contract. On June 29, 1978, the Office of Education awarded Catsiapsis a $17,940 consulting contract. He was to begin work on the contract the next day.

"This was a stop-gap measure to get him through his doctoral study," said Zellner. "Financing graduate study is very expensive."

In awarding the contract, HEW officials said that Catsiapsis was "uniquely qualified to undertake this study" because he had direct experience with student aid programs, and familiarity with "the Hechmanesque techniques for truncated data tests."

James Hechman—the source of "Hechmanesque"—was one of Catsiapsis' professors.

But not everyone at the Office of Education supported the contract idea.

William Pierce, executive deputy commissioner, learned of the contract a month after it had been awarded. On July 26, 1978, he wrote in a memo that he was uncertain about the need for such a study. He also cited the risk of setting a "precedent" for every graduate student "who might have a neat idea."

Deputy Commissioner Edward T. York learned of the contract two months later. On Oct. 5, 1978, he wrote in a memo: "It is really too late to cancel the contract." He said HEW had two options: approve it "after the fact" or "do nothing." HEW chose the latter.

Catsiapsis completed his study and turned it over to the HEW. He said in an interview that the study answered his question: "What determines the amount parents will contribute toward their children's educational expenses?"

His answer: "When parents decide how much to give their kids, they take into account what the government has given to their kids and they reduce the amount they give accordingly."

"That," said Catsiapsis, "confirmed my hypothesis."

To what use will the study be put?

"They will use it in other studies," Catsiapsis said.

A BIG HEADACHE

About the only thing the lawyers and participants seem to agree on is that the taxpayers got very little—some say nothing at all—for the $1.4 million that HEW spent on a contract with Roy Littlejohn Associates.

"Don't ask me to explain this one. It's just a big headache," said Al Riskin, an HEW contract officer who was asked to help unravel the Littlejohn contract.

The contract, originally for $2.3 million, was intended to provide the HEW's Office of Environmental Education with films, brochures, and programs to enhance the public's awareness of the environment.

It was terminated in February 1979, and no one was happy with the results.

"They (HEW) spent a lot of money and didn't get the products they wanted, that's essentially what happened,' said Roy Littlejohn, president and owner of the Washington, D.C. consulting firm.

"I kept telling the government, 'Look, at least let's finish up the products we can deliver. But don't walk away without anything.' But they did."

Added Vincent Villa, a former Littlejohn consultant: "It was totally mismanaged. I don't think there was a clear determination of what the project was . . . The government was at least as much to blame for the confusion as anyone."

HEW's contract monitor, Walter Bogan, was the man who decided to terminate the contract midway.

"We weren't getting timely delivery of a quality we could accept," he said in an interview. Bogan noted the contract did produce at least two conferences on environmental education.

More than half of the work under the Littlejohn contract was to be done by subcontractors. At least six of them say they were never paid by Littlejohn for work they did under the contract. They claim Littlejohn owes them $200,000.

Littlejohn says he received at least $60,000 from the government for work billed by subcontractors, and that he did not pay them because their work was unacceptable.

Instead, he said, the money was deposited in his firm's bank account. He said the money will stay there until government auditors determine who should be paid how much.

In reviewing the finances of the contract, the auditors came up with some unusual findings of their own.

For one, they learned that William Ewald, one of the major subcontractors under the Littlejohn contract, billed for consulting work on 211 consecutive days in 1978. He averaged 11½ hours per day at a rate of $40 an hour.

That, noted the auditors in an internal report, was "an abnormally intensive rate of effort."

Ewald, in an interview, said that he generally puts in those long hours "whenever I'm thoroughly involved in a project."

One of the days Ewald billed for was Sept. 31, 1978. In the interview, Ewald said: "That must have been an accident on my part. I don't know. I guess maybe I was very tired on that day that didn't exist."

Federal Studies: Examples of "How Not To Do It"

(By Jonathan Neumann and Ted Gup)

In October 1975, the Environmental Protection Agency (EPA) awarded a contract to the District of Columbia to conduct a study of harmful elements that may have been in the city's water. The contract was terminated about three years later. No final report was submitted.

In his evaluation of the project on Jan. 17, 1979, EPA's Elbert Dage wrote: "The contractor made no attempt to follow standard scientific protocols or rationale . . . Monthly progress reports were not submitted . . . No financial reports were submitted. The draft final report was completely unacceptable, not understandable, illegible, grammatically incorrect, filled with irrelevant information . . . and devoid of required illustrations or graphics."

By then, $95,706 had been paid out for the study.

This is not an unusual occurrence in the world of government contracting, where $1 million is spent for every hour in the year. The federal system of awarding work to outside consultants and researchers—and then monitoring that work—has spawned an epidemic of conflicts of interest, favoritism and waste.

Today, in the third article in a series on government contracting, The Washington Post presents more case studies in waste by the federal bureaucracy, beginning with an example concerning the drinking water in the nation's capital.

The study of elements in the city's water supply was done by the D.C. Department of Environmental Services, with assistance from the National Bureau of Standards.

In an interview, Bailus Walker, who was the project officer for the District of Columbia, said: "There were some problems with the contract, but they don't come to mind at the time. I don't think that it was the highest quality. I truly can't recall the specifics. I wasn't that close to it."

The contract was riddled with problems from the start. Dage, the EPA official who wrote the scathing evaluation, said in an interview that the EPA was somewhat to blame for the poor performance.

"There were something like six different EPA project officers on the contract at different times," he said. "It unfortunately got tossed around there [D.C.] as much as it did here [EPA]."

Arnold Clark, bureau chief of the D.C. consumer health division, said that "this whole thing was screwed up."

Clark noted that two of the city's food sanitarians—Carl Diener and George Wall—were chosen to work on the study. He said they were both very good workers but he couldn't understand why they were put on this particular contract.

"They didn't know anything about that sort of thing [metal levels in water]," Clark said. "They were food sanitarians . . . think they were chosen just to impress the federal government because they had good credentials."

The preliminary report indicated that levels of cadmium, mercury and lead in the D.C. area were "within a 'safe' range."

Dage called that conclusion "highly questionable" in a Dec. 12, 1978, letter. "Information from existing literature and local poisoning prevention programs contradicts this conclusion. Lead poisoning in children is fairly common in certain areas of this city," wrote Dage.

In the end, the government was left with no reliable information about lead, mercury and cadmium in D.C. water. And this from a project that was originaly intended to serve as model for other cities in testing metal levels in water.

Dage said he did receive a request from a New England town to use the D.C. study as a model. "What I told them," he recalled, was that they should use the study as an example of how NOT to do it."

LIKE MURPHY'S LAW

On Nov. 14, 1977, the Department of Housing and Urban Development (HUD) kicked off what was to be a major effort to reduce crime rates in public housing. As part of that effort, the government awarded an $89,-

224 contract to BDM Corp., a McLean consulting firm.

The contract ended without its central mission ever being undertaken.

"Everything that could go wrong did. It was like 'Murphy's law,'" recalled HUD's program officer, Richard Burk.

William Young, BDM's project officer, did not dispute that assessment. "Clearly the purpose of the study was aborted," he said in an interview. "I've been in the business 12 years. It's not something that comes as a surprise to me."

For HUD, there was more at stake than an academic interest in crime deterrence. A survey completed before the award of the BDM contract found the incidence of robberies at selected public housing sites were three times that of the national rate, and that sexual assaults were twice the national rate.

The plan was to conduct surveys of break-ins and burglaries at selected public housing sites before and after the installation of special security doors, windows and locks. The surveys were to be conducted in Washington, Baltimore and Los Angeles.

The results would be used to determine how many and what kinds of security features should be purchased nationwide for public housing complexes.

The project got off to a slow start. For months after the contract began, the National Bureau of Standards which coordinated the project along with HUD, was still testing the security equipment that was to be used.

On Oct. 18, 1978, nearly a year after the study was supposed to have begun, HUD decided to delete Los Angeles from the program, to save money. Shortly after that the public housing site in Washington chose not to buy the security equipment, and also dropped out of the survey.

Thus, a year into the study, two of the three cities involved were eliminated from the survey. Only Baltimore was left.

"They then concluded that the information obtained from the study of one site (Baltimore, Md.) would be insufficient to reach any general valid conclusions," wrote contract specialist Norm Zima, in an internal National Bureau of Standards memo.

Tenants and crime victims in Baltimore and Washington had been interviewed for the study—but none of the security features was ready to be installed.

A year after the study began, the government terminated the contract. Federal officials said the results could not be used reliably.

"I was shocked," said John Stroik, a project leader for the National Bureau of Standards. The government had spent $55,083 without answering the basic question: Would the security features reduce crime?

Without benefit of the study, public housing sites around the nation may spend more for security features than they need, or may shy away from them completely, having no evidence that they work, say government program officers and BDM's Young.

"Some tenants are kind of jaded by now," Stroik said. "They see this thing as being just another one of those government actions that would not do anything for them personally.

"It's hard for them to see what collecting data has to do with their lives. I think this one would have been different. But we'll never know, because it was never completed."

THE PHANTOM CONTRACT

At EPA, there is a project they used to call "the phantom contract."

At the firm with the contract—Optimal Data Corp. in Huntsville, Ala.—the company owner, Lincoln Teng, said of the EPA project: "It's all kind of pretend."

On June 28, 1974, the EPA awarded Optimal Data a "support service" contract paying the firm $43,442 for its services in compiling various data.

"We had engineers ready to work on the contract," Teng said. "It was supposed to be for $350,000 . . . but they never asked us to do anything. They just gave us a big contract, and then they asked us to recompile data they already compiled. It was really nothing."

Teng said he suspects the EPA gave his firm the contract because Optimal Data is a minority-owned firm. The government requires a certain number of contracts go to such firms.

Joseph McSorley, an EPA project officer, said in an interview that this is not so. EPA stopped the contract after $43,442 he said, simply because the EPA couldn't find the company.

"I don't know if they exist any more," McSorley said. "We tried to track them down for some voucher information, but the contracting officers couldn't find them.

McSorley said his main questions were: What was their address? Who was working for them? And did they still exist? "They'd go for seven or eight or nine months without billing us at all," he said. "And when they did bill, they wouldn't list any names of who was doing the work."

Teng, who lives in Huntsville and teaches at the University of Alabama, said in an interview: "We had an office in Atlanta . . . maybe they tried to reach us there . . . That address is no good anymore . . . Optimal Data completely stopped in 1976, the little EPA project was our last contract. . . . Legally, the company still exists, but we don't have an office and we don't have any activity going."

THE 68-MPH TRUCKS

In the summer of 1974, the Environmental Protection Agency decided to measure the truck pollution emission levels in the country's two largest cities—New York and Los Angeles.

The contract was given to a private firm, Wilbur Smith and Associates, and monitored within the EPA by project officer Roy Higdon. Some of the first data that came in stunned Higdon. It showed that trucks were driving through Manhattan at an average speed of 68 miles per hour.

"I couldn't believe that tractor-trailers were running around downtown New York City at that speed," Higdon recalled. Bewildered, he traveled down to the consulting firm's office in Columbia, S.C., and examined the raw data. The recording machinery used in the tests was all out of whack, he discovered—so much so that trucks that were standing still were recorded as going 25 miles per hour.

Wilbur Smith and Associates was awarded the $124,022 contract in the first place, Higdon explained, because it had been the low bidder. But the contract ended up costing far more than the original bid—there was a 200 percent cost overrun. And even with that, when the contract ended, less than half the assigned work had been completed.

There is general agreement that the project accomplished little of what it was supposed to, but there is dispute as to who was at fault.

Jack Cosby, the project director for Wilbur Smith, said in an interview that the major problem in the study—and the reason for the massive overrun—was that the testing equipment was faulty. He noted that the equipment was provided by EPA.

"If you're reading garbage, it's garbage," said Cosby. "And nobody can interpret it."

Higdon took a different view. "I was constantly commuting to New York to do the work we were paying someone else to do," he said. "Fifty percent of what they did in New York was useless. I had to redo the work myself."

After $360,982 was spent in New York, the contract ended. Wilbur Smith never tested a single truck in Los Angeles. Instead, Higdon went to Los Angeles with a staff of EPA engineers and conducted the entire West Coast truck pollution study without the help of an outside contractor.

"You can't be proud of this one," said Wilbur Smith's Cosby. "You don't hit a home run every time you're at bat."

In hindsight, said EPA's Higdon, "we could have gotten the work done faster and cheaper if we never awarded a contract."

Higdon resigned from EPA in 1977, after eight frustrating years on the job. "I, being a taxpayer, watched thousands of dollars go down the tubes and it teed me off," he said. "But the government is notorious for contracting out what it could do in-house . . . these contracts, sometimes they are just plain ridiculous."

NEVER AGAIN

Late in her first year as secretary of commerce, Juanita Kreps decided to measure how well corporations live up to their social, economic and environmental responsibilities. For Kreps, the subject had the highest priority. The contract memorandums were appropriately stamped "Urgent."

In a three-day period in October 1977, the Department of Commerce awarded two contracts totaling $223,462 to Human Resources Network, a Philadelphia consulting firm.

The firm was to develop a way to measure corporate responsibility and was to sponsor 12 conferences around the nation to bring government and corporate representatives together.

The Commerce Department was in such a hurry to begin the contracts that it waived the standard precontract audits. The consultants—seven in all—were each to be paid $400 a day for their work.

But six weeks after the contract started, a House subcommittee headed by the late Rep. John M. Slack (D W.V.) questioned the legitimacy of the program. It came under sharp attack at an Appropriations subcommittee hearing on Jan. 23, 1978, when several congressmen suggested that the issue was better left to the corporations.

Within days of the hearing, both contracts were terminated by the Commerce Department.

"We were stunned," recalled Steve Nowlan, the firm's project manager. "We didn't think we were dealing with a full deck of cards in Washington."

The young Philadelphia firm only weeks earlier had hired new staff members, written letters to corporate clients asking for support, and began preparing for the study and the conferences.

Now, it could only submit a brief report and pack up its notes.

"Some of the stuff we threw away. Some of it sat around a couple of years. Some of it still resides in a big file marked "Department of Commerce," Nowlan said. "We were made fools of in public. We never want a federal contract again."

For the nation's taxpayers, the tab was $72,811.

On April 10 of last year the Internal Revenue Service announced that it had awarded a $114,676 contract to CSR Inc. The purpose of the contract was "to conduct a general taxpayer opinion survey."

Some 60 questions posed at 5 households around the country probed taxpayers' opinions on how well the IRS collects taxes.

None of the questions sought to learn whether the taxpayers were happy about how the federal government is spending their money.

[From the Washington Post, June 25, 1980]

Contractors, Consultants Get 87 Percent of DOE Budget

(By Phil McCombs)

The federal Department of Energy is spending about 87 percent of its $11 billion budget on outside consultants and contractors who are performing most of its basic work, Sen. David Pryor (D-Ark.) said yesterday.

Pryor and Rep. Herbert E. Harris II (D-Va.) heard testimony in hearings yesterday that the Energy Department has 4,000 contracts with more than 200,000 contract workers—nearly 10 times the agency's 21,000-member staff.

Pryor charged that this massive use of contractors has led to a "basic change in the way the government does it work. . . . [The department's] reliance on contractors is so extreme that . . . it is hard to understand what, if anything, is left for federal employees to do."

Pryor and Harris, cochairmen of yesterday's hearings, said their congressional staff investigations showed that:

Contractors—not government officials—often prepare speeches and documents given by the officials in congressional testimony.

The Energy Department's filing system is in such disarray that the agency cannot produce the results of millions of dollars of contract work, and sometimes not even the contract document itself.

Contractors are often paid to produce their own "task orders," which describe what they are to do on a particular contract job.

The department is paying millions of dollars to big consulting firms that also work for oil and utility companies despite conflict-of-interest rules that the agency put into effect last year.

Citing what they described as a lack of accountability by contractors, Pryor and Harris said they will introduce in Congress later this week a consultant reform act seeking to increase disclosure by government consultants and to curb their role generally.

In yesterday's joint hearing of the Senate subcommittee on civil service and general services and the House subcommittee on human resources, the Energy Department's chief financial officer, John A. Hewitt Jr., testified that the agency has taken strong new steps to curb what he said were "past, improper practices" regarding contractors.

"I am committed to institutionalizing the department's policy that contractors will not perform functions that government employees should perform," Hewitt said.

He said that new Energy Department rules calling for closer scrutiny of contract proposals resulted in 39 of 55 recent proposals being found not satisfactory.

"Some (proposals) did not clearly establish the need for a consulting service contract; (others) appeared to call for the contractor to perform functions" that Energy Department officials should perform, Hewitt said.

He did not say whether the 39 proposals were ultimately rewritten and approved, but he added: "A cynic might assert that (DOE officials and contractors) are merely choosing their words more carefully."

Harris asked Hewitt why TRW Energy Systems Planning Division, a consultant, had been allowed to write its own task order, or contract, on April 24 for an assessment of coal slurry pipelines.

Hewitt said he didn't know that that had happened. "I'm sure you can still find some examples" of practices that should not take place under the new department rules, Hewitt told Harris.

"I think they (contractors generally) are still doing just like they always did," Harris said.

Robert H. Shatz, TRW's vice president for the energy systems planning division, said after the hearing yesterday that he had not seen the testimony and could not comment specifically. But he said: "I don't think contractors should run DOE and I know they don't. DOE runs the contractors."

Pryor said that Planning Research Corp., a consultant, is hired to answer letters sent to Energy Department officials by members of Congress. He mentioned a draft letter the consultant prepared on Aug. 22, 1979, to be sent to Rep. Richard Ottinger (D-N.Y.).

Hewitt said he didn't know about such letters and said he has not signed any such letters prepared by outsiders.

A spokesman for Planning Research Corp. said after the hearing that the firm provides the department with "technical analysis" needed to answer letters. "We don't respond to political or policymaking-type questions," the spokesman said.

Pryor said the company and Booz-Allen & Hamilton Inc., another big consulting firm, do millions of dollars of contracting work for the Energy Department and, at the same time, Planning Research Corp. consults for oil companies and Booz-Allen for utility companies. The Energy Department plays a role in regulating both industries.

"This reliance persists despite the conflict-of-interest rules introduced by the department last year," Pryor said.

The company spokesman said: "We don't have any conflict of interest between DOE and the oil company (work) because the work is totally unrelated." Planning Research Corp. does solar analysis for DOE and mostly engineering and architectural work for the oil companies, the spokesman said.

Booz-Allen senior vice-president Eric Zausner said there is no conflict in working simultaneously on Energy Department solar programs and on load forecasting and other utility company projects. "We've never represented the utilities before DOE in any way," he said.

Pryor disclosed yesterday a Booz-Allen internal memorandum obtained by his staff as part of the contractor's "work product" paid for by DOE. The memo, from one Booz-Allen employe to another, told of attending a "solar jubilee" conference in Phoenix and stated that:

"The meeting was inspiring in terms of giving insight into possible business areas for (Booz-Allen)."

"This was paid for by the government," Pryor said.

Zausner said the Booz-Allen man who wrote the memo attended the meeting on his own vacation time and not at government expense. He said the memo "got in there by mistake" when the firm had to rush to provide "seven cartons of work product" to DOE in two days in preparation for yesterday's hearing.

[From the Washington Post, June 25, 1980]

THE REVOLVING DOOR: INDUSTRY PLUMS AWAIT RETIRED U.S. OFFICIALS

(By Jonathan Neumann and Ted Gup)

Sam Shimomura and Russ Long say they have been close friends for more than a decade.

Early last year, Shimomura was working for a consulting firm called ManTech. Long was working for the Navy, supervising Shimomura's contract.

Today, their roles are reversed. Shimomura works for the Navy, where he reviews the ManTech project. Long is a consultant for ManTech.

So it goes in the world of government contracting.

An eight-month investigation by The Washington Post found a widespread system of friends and favors in the award and supervision of consulting and research contracts. Instead of dealing at arms' length, many government officials and contractors are arm-in-arm, as hundreds of former federal employees pass through the "revolving door" to take higher paying jobs as federally-funded consultants.

High-ranking officials and former officials from nearly every department and agency have been found at different times to be on both the awarding and receiving end of hundreds of noncompetitive contracts. These officials include agency commissioners, military generals, departmental investigators, contract program officers and procurement personnel.

The Post investigation found that the bidding process—required by federal regulation and policy—has virtually collapsed, replaced by the very influence-peddling and "old boy" network it was designed to protect against.

In examining each of the 16,101 advertisements for research and consulting contracts in 1979, The Post found that 11,082—or two-thirds—were awarded without bidding.

Many of those noncompetitive awards went to federal officials who became consultants.

"People at DOE bounce back and forth between government and industry just like Ping-Pong balls," said Newchy Mignone, a former Department of Energy procurement officer. As a result, government officials charged with monitoring contracts often regard contractors as potential future employers, hindering their objectivity.

Today, The Post examines the revolving door, begining with the case of Sam Shimomura and Russ Long.

Sam Shimomura was walking down a hallway at the Naval Sea Systems Command headquarters in Crystal City one day in 1977. There, he encountered an old friend, Russ Long. As Shimomura remembers it, Long, who then worked for the Navy, told Shimomura, a contractor, that the Navy would need some work on sonar repairs for its ships.

Shimomura, who at the time was working for a firm called Hydrotronics, said he could do the job. Long suggested that Shimomura submit a proposal—technically called an "unsolicited proposal"—to the Navy for a contract.

Shimomura did. In December 1977, the Navy awarded Hydrotronics a $75,000 contract for sonar repair. There was no bidding on the project.

In the months following the contract award, Long and Shimomura traveled together to work on the project.

"Russ and I are good friends," Shimomura said in an interview. "We travel around a lot together. He's the one that always bought the booze and left it in the room for us to consume. He always spent more money than I did . . . I've been to his house for dinner. He's been to mine."

By the summer of 1978, Shimomura was dissatisfied with his employers at Hydrotronics where he had been working for five years. Among other complaints, he felt his travel expense budget was too restricted, he said in an interview. He began looking for another job.

Shimomura went to several area firms for job interviews. In each case he was accompanied by Long, according to people present during the interviews.

At Universal Systems Inc., Long said that if Shimomura were given the job, the Navy contract would leave Hydrotronics and follow Shimomura to the new firm, according to Carl Black, a former USI executive, who sat in on the interview.

According to Black, Long also said: "I'm going to be retiring in a short while and moving to Florida. If you get the contract, I think I would like to see some consulting time in there for me." Long acknowledged in an interview that he was present at the meeting, but denied that he asked for any consulting time. At that time, he said, he had no plans for retiring.

Ken Reusser, the president of USI, said in an interview that he recalled the meeting with Shimomura and Long, but didn't remember what Long said. He did not hire

Shimomura. "I didn't think I could afford to hire him," Reusser said.

Shimomura was hired by ManTech Inc. in Rockville. On Aug. 21, 1978, he began his new job there. That same day he began working on the sonar repair project. No contract had yet been awarded to ManTech to do such work. ManTech had discussed the sonar work with Long even before Shimomura was hired by the firm, according to Jack Hughes, director of corporate business operations for ManTech.

Shimomura worked on the project without a formal contract for almost a year. In July 1979, the Navy formally agreed to pay for the previous year of work, and awarded ManTech a new noncompetitive contract to continue the project, according to Hughes and Shimomura. To date, ManTech has been paid $199,000 for the sonar repair project.

On April 27, 1979, Long retired from the Navy and moved to a five-acre farm he had purchased in Lake County, Fla. Four months later, he signed an agreement with ManTech to serve as a "permanent part-time consultant."

In the past nine months, Long has been paid $7,000 in consulting fees by ManTech for about 10 weeks of work on the sonar contract, according to Hughes. He is still on call as a consultant.

Two months ago, meanwhile, ManTech submitted another proposal for a noncompetitive contract on the sonar repair project. The same week that the proposal was submitted, Shimomura quit his job at ManTech and went to work for the Navy. He works on sonar repair at the Naval Sea Systems Command.

In an interview yesterday, Shimomura said that he reviews various documents in the logistics end of the ManTech contract. He said that he meets with Long "from time to time" to discuss the sonar repair project. "I meet him, I go to lunch with him," said Shimomura. "Hey, a friend is a friend."

Shimomura said in a recent interview that he did not believe he ever acted improperly in connection with the contract. He denied that he promised prospective employers in job interviews that the sonar repair contract would follow him.

"I believe that's against the law," Shimomura said.

However, he suggested how he might possibly have been misunderstood. "In order to come on board," said Shimomura, "I might have made a lot of recommendations."

Long, for his part, said he did accompany his friend Shimomura to at least two job interviews. But he insisted that he never asked for any consulting contracts. Said Long:

"There are a lot of people on the payroll of contractors that are retired military personnel who do nothing but bring in contracts. I don't think they're worth their salt. Why look at me? I'm just a small fish."

THE MAJOR GENERAL

Jack Posner, a two-star major general, retired from the U.S. Air Force on March 1, 1978, and went to work for General Research Corp., a Virginia consulting firm.

Just as Posner was leaving the military to take his job as a consultant, the firm he was to work for won a $97,303 noncompetitive contract from the Air Force. In a recent interview, Posner explained how it happened.

Posner, now 57, was the director of manpower for the Air Force before he retired. In mid-1977, he addressed a group of contractors in Alexandria about the needs of the Air Force manpower office.

Several months after that speech, the Air Force received an "unsolicited proposal" from General Research Corp. "The proposal had great merit," said Posner. "I recommend it to the Office of Scientific Research, which makes contract award decisions."

The proposal was to develop a model for determining manpower requirements for military personnel. Posner said he respected the work of General Research Corp. He knew several people who worked there, including Richard Sommers, a former lieutenant colonel who retired from the Air Force in 1975. In the military, Sommers had worked under Posner.

In early 1978, Posner began discussing his possible retirement and a potential job at the consulting firm. "A lot of federal and military people tend to gravitate to a company like this because it gives them an opportunity to do something worthwhile," Posner said. He said he liked the offer from GRC and accepted a job before retiring.

On March 7, 1978, within a week of leaving the military, he began working at the consulting firm.

On April 15, 1978, GRC began work on a $97,303 manpower contract for the Air Force. A year later, the contract was renewed with no competitive bidding, for $99,774.

"Since I've been out [of the military] I've had very little contact with the Air Force," Posner said. "I don't use my contacts to get contracts."

THE VERBAL CONTRACT

On March 28, 1978, William F. Pierce, an acting executive deputy commissioner of education at the Department of Health, Education and Welfare, signed a memo waiving competitive bidding and approving a $126,000 contract for a week-long "retreat" for educators.

The conference, in Brownsville, Tex., was run by the Council of Chief State School Officers. Pierce attended the gathering in late July 1978.

In October of that year, Pierce left Health, Education and Welfare to take a post as the executive director of the Council of Chief State School Officers.

By the time he took the job, Pierce said, the council already had submitted a proposal to HEW for a contract for a 1979 conference, this time in Vermont. Pierce said the council had not yet heard from HEW, so he telephoned Ernest Boyer, the commissioner of education, for whom Pierce had worked the previous year.

"I called Ernie and I said, 'What's the status? When are we going to hear from you? . . . We need approval now so we can organize the conference.'"

Boyer gave Pierce an oral approval by telephone. Pierce then began organizing the conference, spending HEW money before a contract was formally awarded.

"There's nothing wrong with that," Pierce said. "That happens frequently."

At the same time, the Office of Education procurement division was preparing to write a contract for the conference. But they had a problem in arriving at a contract price.

In a memo dated May 30, 1979, Fred Will, director of the Office of Education contracts office, wrote that he spoke with Pierce by telephone about the contract.

"Dr. Pierce stated he could not live within the $90,000 maximum figure I recommended to Dr. Boyer," Will wrote. "His objection stemmed mainly from the fact Dr. Boyer had already given him the go-ahead and he has already begun to line up the conference. This, of course, puts [HEW] in a very weak negotiating position."

The conference was funded at $99,000.

"To suggest that there's something improper here bothers me," Pierce said in an interview. "I don't see anything inappropriate or unusual with my coming here and asking the Office of Education—which has funded a program for 10 years—to fund it for and 11th."

Earlier this year, Pierce submitted a proposal asking the Office of Education to fund the program for the 12th year. This year's conference site—Daytona Beach, Fla. On February 25, William Smith, who replaced Boyer as commissioner of education, approved the contract, again on a noncompetitive basis.

Smith signed a three-paragraph memo waiving bid competition and approving the $99,000 contract. With the exception of one word—"1979" was changed to "1980"—Smith's memo was exactly the same as the memo signed by Boyer the year before, approving the Vermont conference.

The memo began: "After carefully considering the alternatives . . ."

PLAYGROUND SAFETY

On January 23, 1978, Carole Willett, a program analyst for the Consumer Product Safety Commission, wrote a "memorandum of need" concluding that the government should conduct a study on playground equipment safety.

Nine months later, Willett resigned and went to work for a consulting company. She immediately submitted a proposal to the Consumer Product Safety Commission and was awarded a $20,000 contract without competition in five days.

The contract was to conduct a study on playground equipment and skate board safety.

In an interview, Willett said that before she left the government job, she asked the commission's assistant general counsel, Richard W. Allen, if her new job might create a conflict of interest. He said it would not.

Willett resigned from the commission on September 5, 1978. Twenty days later, she signed an employment agreement with the Onyx Corp. On the same date, she submitted a contract proposal to the Consumer Product Safety Commission.

Also on the same day, Ann Pavlich, a program officer at the product safety commission, reviewed the proposal for technical sufficiency and concluded it was fine. She was the only person to evaluate the proposal on technical matters.

Pavlich and Willett both said in interviews that they are close personal friends. They had worked together in the same suite of offices.

"Sometimes it's just as easy to go to a contractor when you know they have someone with talent," Pavlich said.

On September 30, 1978, the contract was awarded to Onyx—five days after the proposal was received by the government. The next day, October 1, was Willett's first day on the job with Onyx Corp.

TOO LATE

Larry F. Darby resigned from his position as chief of the Common Carrier Bureau of the Federal Communications Commission last July. On Jan. 4, 1980, his succesosr, Philip L. Verveer, asked the FCC to fund Darby at $312.50 a day for 16 days' work.

The short-term contract was to provide a report on international communications for use in a commission report on Comsat. It was to be delivered to Congress no later than May 1.

To meet the deadline, the purchase order was stamped "ASAP," bureaucratic shorthand for "as soon as possible." Given the deadline, "a competitive procedure would be unavailing," wrote an FCC attorney.

Nonetheless the FCC placed an advertisement in the Commerce Business Daily, the official government procurement publication, noting it was negotiating with Darby. Three people responded to the advertisement. All were turned away without the opportunity to submit a proposal.

One of those was Adrienne Edyth, a California consultant. "I think it's wrong if you're not allowing people to bid on a contract based on the clarity of the proposal," she said.

Darby turned in his 60-page report on April 30, too late to be of any value for the FCC report to be turned over to Congress the next day.

"Knowing I wasn't going to make the deadline, I focused on other matters," Darby said in an interview. "I would not have taken the contract and Phil [Verveer] would not have granted the contract if it was a sweetheart deal. That was not a part of it."

Joe Seltzer was inspector general at the Department of Energy from Oct. 1, 1977, to May 20, 1978. "After DOE my family and I went on holidays and then I became a consultant," said Seltzer.

"It's a world that's alien to me. It's a world I'm not that envious to know about. But I'm 60 years old and I don't want to just sit at home," he said.

Seltzer said he can't remember investigating a single consulting contract while inspector general at the Department of Energy, but he does express misgivings about the system.

"There's too much feeding at the public trough. I'm not partial to it," he said. "I never felt there was a need for using consultants unless it was to persuade Congress of our objectivity. . . . I look at the Beltway bandits all the consultants headquartered around Washington's and I say 'My God.' I just can't believe the amount of money that's around to be plucked."

Gilbert F. Stromwell, a former assistant inspector general at the Department of Energy, recalls that his staff was so small "we couldn't even begin to make a dent" in investigations of problems with contractors.

"I've always felt that in addition to the problem that we might be wasting money—large amounts of it—we also might not make our mission," Stromwell said in an interview. "The nation might stand or fall on our making our mission and meeting the nation's energy needs."

Now 49, having spent 25 years as an investigator for the General Accounting Office before going to the Department of Energy, Stromwell talks about his future:

"I think I'll try to get some part time work, maybe some consulting. The other thing you could do is sit on the sidelines and starve to death. Sure there's a revolving door."

MOST ADS FOR CONTRACTS MEANINGLESS

Each day for 11 years, John O'Malley has edited the Commerce Business Daily, the official government publication advertising federal contract opportunities.

Having published tens of thousands of contract advertisements in the small daily tabloid, O'Mally is distressed. He has the uneasy sense that most of the advertisements are meaningless—that there will be no competition for contracts.

"The system isn't working as it was intended," says O'Mally.

He is right.

In two-thirds of the 16,101 advertisements listed in 1979, the government announced that it already had selected a probable contractor.

"When the ad gives the name of a firm you might as well forget it," O'Mally says. "That's a pretty clear tipoff that there's not going to be any competition."

Laced among the remaining one-third of the advertisements are a variety of other methods for avoiding competition, says O'Mally.

There's the miscoding scam," O'Mally says. "Something will deliberately be miscoded so that no one else can find it . . . That happens pretty often."

Another common practice is for an agency to advertise for a contract—but to list the closing date for bids only one or two weeks after the ad appears.

Countless other contracts are never advertised at all.

Figures from the Office of Management and Budget indicate that awards for $4 billion in research contracts alone were not advertised in the Commerce Business Daily last year. The OMB estimates that $13.4 billion was spent on research contracts in 1979, while only $9.3 billion worth of research and consulting contracts were advertised in the Commerce Business Daily.

Many in the industry totally ignore the Commerce Business Daily.

"Anybody who believes you read the CBD and get your contracts is out of it. You'd starve," says Vince Villa, a Washington consultant.

But the government continues to spend $550,000 a year printing 33,000 copies five days a week. "It's depressing . . . I had no conception of what was going on until I started working here," said O'Mally. "But now it's worn off."

Washington Post researchers Lisa McAllister and Regina Fraind contributed to this article.

[From the Washington Post, June 26, 1980]

DOING FEDERAL BUINESS: SEX, FRIENDS, FAVORS

(By Ted Gup and Jonathan Neumann)

In later 1975 and early 1976, Virgil Ostrander, an official in the General Services Administration, often flew from Washington to Los Angeles to resolve major problems in a $727,000 contract with a private consulting firm.

On one of those trips, Ostrander slept with a $500-a-night prostitute paid for by the consulting firm with which he was negotiating.

Barbara Jennings, the prostitute who slept with Ostrander, said the head of the consulting firm assigned her to "keep Ostrander happy." Recalled Jennings: "He said they were right in the middle of negotiations that were very, very important."

Ostrander acknowledged the sexual relationship, but said he did not know at the time that the prostitute was in the pay of the consulting firm. "I guess I was probably set up," he said.

The arrangement with Ostrander and Jennings is not unique in the dealings between federal officials and private contractors. Sex, the promise of future "consulting" payments, high-style housing, food and drink—all of these favors are routine in the world of government contracting.

Favors of this sort, along with the "revolving door" pattern of a federal contracting system that has spun out of control—a system in which the government spends $1 million an hour on outside contracts and awards more than two-thirds of them without competitive bidding.

Interviews with more than 600 government officials and contractors during an eight-month investigation by The Washington Post showed that personal closeness between those who give the money and those who get the money is commonplace. For example:

Yosef Patel, a high-ranking Department of Commerce official on the West Coast, has routinely dated female employes of consulting firms he monitored in Phoenix, Los Angeles and San Francisco. One woman in a San Francisco firm, Lisa Jacques, said she had a sexual relationship with Patel last summer. At the time, the Commerce Department was preparing to award a $600,000 project to the firm.

Louis Moret, formerly a high-ranking Commerce Department official and now an official in the Energy Department, acknowledges having had a sexual relationship with an employe of a consulting firm that had received a Commerce Department contract. Moret's sexual encounter was with Jean Ellen Gutierrez, a "hospitality suite hostess" with a Las Vegas consulting firm. It occurred during a November 1977 conference held at Caesar's Palace in Las Vegas.

Gerrold Mukai, an official in the Community Services Administration, shared a fashionable Georgetown house in 1977 with Robert Mariscal, owner of a consulting firm that has received $2.4 million in noncompetitive CSA contracts. Mukai is head of the office that supervised those contracts. Last summer, when Mariscal opened a $20 million casino in Las Vegas, Mukai flew to Nevada for the opening ceremonies.

Many government contractors have marketing divisions with personnel devoted solely to establishing and maintaining close relationships with the federal officials upon whom they rely for work and profits. The marketing personnel work full time to telephone and visit, wine and dine and entertain government officials—to plant the seeds for what will become noncompetitive contract awards.

One large firm, Computer Sciences Corporation, rents a $16,000 Sky Suite at the Capital Centre, where the company says it frequently entertains its customers, including government officials. The same firm maintained a special "entertainment account" from which marketing personnel funds other activities.

Many in the contracting business say that the real competition for contracts is to be found here, in the marketing arena. It is competition to develop an inside track.

Rick Lockett, a former CSC marketing official, spoke of the use of sex for government officials to win contracts.

"It happens in every company," Lockett said. "If you can pull something off, why not? It gets down to the consenting adult thing . . . It's never a company policy. If you think it's worth getting a contract, you do it. It's left to the discretion of each marketing guy. There isn't a marketing guy on the street that I know who wouldn't consider that [providing sex] if he thought it would help get a contract."

Lockett concluded. "The requirement of the profession is that you have to be fast and loose."

Computer Sciences Corporation officials denied that their company has provided sexual favors for anyone.

In this, the final article of a five-part series on government contracting, contracts awarded or monitored on the basis of favors, friendship, or contacts will be examined.

THE SETUP

The General Services Administration was having difficulty in 1975 with a $727,000 contract it had awarded to Mariscal and Co., a private consulting firm.

"There were some very serious problems with the contract," explained Virgil Ostrander, who at the time was the GSA program officer for the Mariscal contract. "There were real questions about defining their work scope and figuring out what they should be paid each month . . . and there were technical problem."

It was in trying to work out those problems that Ostrander came to sleep with two prostitutes he met through the Mariscal company, one of the largest minority-owned consulting firms in the country.

"I'm more or less embarrassed about walking into this sort of thing," the 45-year-old Ostrander, now a deputy assistant commissioner at GSA, said in a recent interview. "Maybe it was naivete . . . My eyes have since been opened . . . I don't even share a cup of coffee with a contractor anymore."

The purpose of the Mariscal contract was to develop a model to help the government determine the most economical way to finance buildings—whether they should be purchased, leased or rented.

But the contract, Ostrander said, was very vague in its wording, and for several months it was not clear what the consulting firm was doing for the money. The problems became so serious that by September 1975, Ostrander issued a "stop work" order, and the GSA discussed terminating the contract.

That did not happen, however, and so, in November, 1976, Ostrander flew to Los Angeles to decide the future of the contract. "That November meeting was pretty crucial," he said.

On the night of the meeting, Ostrander dined with a Mariscal official at a restaurant in the Marina del Rey section of Los Angeles. A young blond-haired blue-eyed woman with an attractive figure walked to the table. Her name was Barbara Jennings.

"She appeared to casually walk by," Ostrander recalled. "It appeared to be a chance meeting."

The Mariscal official introduced Jennings to Ostrander, saying she was a friend. She sat at the table.

"She said she was lonely," Ostrander said later. "I liked her and took her phone number and said I would call her."

The next day, Ostrander said, he called Jennings. They went to dinner at a Chinese restaurant, Madam Woo's, and then went to Jennings' small house in Santa Monica.

"I was at her house," Ostrander recalls. "I thought she was a nice working girl."

"I slept with him only [that] once," Jennings said in an interview. "After that, I set him up with a friend of mine."

Indeed, when Ostrander was in town a short time later, he called Jennings. She said she was busy, but gave him the name and phone number of a friend. He called the "friend," met her for dinner, and took her up to his hotel room. There, he said, they slept together.

"After that," Ostrander said, "I never called them again. I suspected I may have been set up."

According to Jennings, he was. She said that the encounters were arranged by Robert Mariscal, who had told her that Ostrander is "very important to me . . . Make sure it's a good girl and make sure he's happy."

(In an interview two days ago, Ostrander changed his story regarding the second prostitute. He said he paid her $125—and that he did not know whether the Mariscal firm also paid for the encounter).

Jennings said that in her business she only serviced executives or government officials. Her rate, she said, was $500 a night. Jennings said she took a 40 percent share when she hired another woman to work for her.

In the Ostrander case, she said, she was paid by Rene Diaz, a controller for Mariscal and Co. Diaz was also a neighbor of Jennings. "He would bring home an envelope from the office," Jennings said. "Usually it would be cash. Sometimes, it was a check. If I did a good job, there'd be a small bonus."

In an interview, Diaz said that he made payments to Jennings. He also acknowledged that he has jokingly referred to himself as "the bagman" for Mariscal. "I made the payments, but I did not make any arrangements," Diaz said. "I don't know who made the arrangements."

Mariscal denied that he set up or paid for the sexual affairs. "I know Barbara socially," Mariscal said. "And I may have been together with Barbara and Virgil [Ostrander] socially. But I have never paid for companionship for any government official."

In fact, Mariscal said, he did not know that Jennings was a prostitute. "I have never known Barbara to be a hooker," he said. "Was she 'kept' by men? Yes . . . Let me say this: 'I know Barbara's been around.' "

He said that he did give money to Diaz to pay Jennings. But the money, he said, was not to pay for Ostrander.

"Frankly, I used to see Barbara personally," Mariscal said. "Any kind of financial transactions between me and Barbara had to do with my personal life."

Despite the encounters with the women, Ostrander insists that his professional judgment as the project officer was not swayed. "If Mariscal was doing it to impress me, it was only counter-impressive," said Ostrander "If it had an influence it would have been negative."

He added: "I'd have to say I really got duped. But they didn't get anything out of it."

He said he was satisfied with the final product of the $727,000 consulting contract, but he felt it was too expensive. "I'd say we overpaid by 15 to 25 percent," Ostrander said. "The contract (amount) was too high to begin with."

VERY FOND OF YOSEF

From 1973 until last fall, Yosef Patel served as the supervisory project officer of the Department of Commerce minority business program in the western region of the U.S. Last August, Patel was transferred to serve as the department's regional officer in Honolulu.

In his six-year tenure on the West Coast, Patel frequently sat on the committees that decided who would win Commerce Department contracts. He also supervised all project officers overseeing millions of dollars worth of contracts in the region.

"Yosef had a lot of power," explained Louis Moret, one of Patel's superiors at the Department of Commerce in Washington. "He was the senior project officer. He ran the place pretty much."

Contractors throughout the region were aware of Patel's importance to their winning and keeping contracts. When he went to Phoenix, San Francisco, and Los Angeles to monitor contracts, the firms he would monitor sent secretary or other employes to meet him at the airport, according to interviews with the secretaries. He routinely went to lunch and dinner and evening entertainment in bars and discos with executives and employes from the consulting firms he monitored, according to interviews with the employes and Patel.

He also routinely dated women working for each of the firms.

In San Francisco, Lisa Jacques, a receptionist for the San Francisco Business Development Center, a Commerce Department-funded firm, said she had a sexual relationship with Patel last summer. At the time, Commerce was determining whether to award a $600,000 grant to the firm. The company won the grant on Sept. 28.

"I don't think I had anything to do with it [the grant award]," said Jacques, who referred to Patel affectionately as "Yo."

Both she and Patel said in interviews they were friends before she joined the firm.

The executive director of the San Francisco Business Development Center, Louis Barnett, said he was unaware that Patel and Jacques had been dating.

In Los Angeles, Jerri Watts, a secretary for the consulting firm of Mariscal Co., said she dated Patel, but had not slept with him.

In Phoenix, Candy Walters, a former employe of the Phoenix Business Development Center, described her relationship with Patel:

"I'm very found of Yosef," she said. "And I'm very affectionate. Whenever I see him, I hug him . . . I kiss him . . . I feel very warm with him . . . I'd say I'm his closest friend in Phoenix." Walters said she had not had a sexual relationship with Patel.

In an interview, Patel acknowledged that he has close relationships with women who work at consulting firms he has monitored. But he said his personal relationships do not influence his professional judgment.

"I don't have much authority," Patel said. "But whatever authority I had, I didn't abuse."

Patel denied having a sexual relationship with Jacques in San Francisco. "Oh, yes, she's a friend a mine," Patel said. "We're buddies, we're friends. . . ."

At first, Patel refused to discuss whether he had a sexual relationship with Jacques. "I can't answer that. I think I have certain rights," he said.

Finally, Patel said: "No, I did not have a sexual relationship with her. Especially not during the period of contract negotiations last summer."

Executives of the firms in the three cities said in interviews that they are aware of the personal relationships between Patel and female employes at their firms. They said they saw no conflicts in those affairs.

"Candy's friendship with Patel did not affect our business with the government one way or the other," said James Salmon, executive director of the Phoenix Business Development Center.

While Patel and the firms with Commerce Department contracts insisted that Patel's objectivity as a project officer was never compromised, Commerce auditors and field officers had a different view.

Patel said that in his supervisory role he was unaware of any problems with contractors in Phoenix or Los Angeles. Other Commerce officials were aware of problems, many of them serious.

In Phoenix, after the Business Development Center won a $300,000 contract to assist minority businesses, there were numerous allegations that the firm was falsifying its performance records to receive increased funding.

Donnita Holley, a former bookkeeper for the firm, told The Post that she regularly falsified performance records, padding the number of minority firms actually receiving assistance from the Phoenix BDC by as much as 60 percent.

PBDC officials denied that there was any falsification of records. But complaints of falsified records continued to go to the Department of Commerce's Phoenix field auditor, Joseph Sotello.

"We got so many complaints," explained Louis Moret, the deputy director of the national program in Washington, "that we got sick and tired of hearing about the PBDC. The complaints kept coming all the way up here—right to Washington."

Finally, Moret said, he sent a team to Phoenix to investigate the charges. The team consisted of Patel, Sotello, and a Commerce Department auditor from San Francisco.

"Yeah, if Yosef had a woman friend at the PBDC it could cause me problems," Moret said. "But, even if he were swaying in favor of the firm, you had Sotello—who was against the firm—balancing it out."

In the end, the special audit concluded the PBDC was not falsifying its numbers. Sotello disagreed with that finding. He was overruled by Patel.

Patel later said of the Los Angeles Mariscal contract: "I never had any problems with that one." Yet on Dec. 29, 1977, the audit office of the Department of Commerce in San Francisco released a 21-page audit report challenging $163,000 of the $510,000 that was billed by Mariscal to the Commerce Department in past years.

Among the items questioned by the audit were a $262.50 credit card bill for merchandise purchased at Gucci's in Washington; $14,837 in first-class air travel for friends, relatives, and company guests; a $313.46 meal at Georgetown's Orchid 7 restaurant with a $52 tip, and a $31,600 cash payment to the "board chairman" to be used for "marketing"—winning new government contracts.

In all, the audit questioned the use of $60,666 in the contract that went to "marketing" for new contracts.

The Commerce auditors wrote: "There is no basis or precedent which would permit any contractor to be fully reimbursed under government contracts for costs incurred for the sole pupose of influencing the award of additional government contracts."

During the entire period covered by the audit, Patel was the supervisory project officer on the Mariscal contracts. Of the audit findings, he said: "I never got involved in that sort of thing."

Following the audit report. Mariscal agreed to repay the government much of the questioned costs. Two months ago, after Patel was transferred to Hawaii, the Department of Commerce terminated its contract with Mariscal.

EVERYBODY WANTS SOMETHING

While Patel was the supervisory project officer in the Western region, Louis Moret was the deputy director of the Commerce Departments $60 million-a-year national minority business program in Washington.

In an interview, Moret, now an official at the Department of Energy, said he did not think it was a good idea for government officials to have personal relations with employes of consulting firms.

"I would rather not see my staff do that sort of thing," he said. "I'd rather not see commingling."

In his Commerce Department post, Moret traveled across the country, making speeches and conducting spot checks of numerous consulting firms. On one such visit to Las Vegas in November 1977, Moret ended up in bed in Caesar's Palace with Jean Ellen Gutierrez, a secretary from a Las Vegas firm with a Commerce Department contract.

"This was that one rare instance in three years that something like this happened to me," Moret said in an interview. "You hit it off with somebody . . . I liked her . . . I liked her as a person, not as an employee."

Moret said he did not think his relationship with Gutierrez influenced any of his decisions regarding the Commerce department's contract with the Nevada Economic Development Corporation (NEDCO), the firm for which Gutierrez was a secretary.

"In this business, what I've learned is that everybody wants something . . . but I think it depends on the individual. Just 'cause you get laid, does that make you beholding?" Moret said.

The 1977 visit to Las Vegas, Moret said, was not on his original itinerary. He was in Denver on Nov. 29, 1977, to deliver a speech at a minority business conference and was readying himself for a trip to Los Angeles when he got a telephone call from William (Bob) Bailey, the director of NEDCO in Las Vegas.

As part of its Commerce Department contract, NEDCO was hosting a three-day conference for businessmen and federal officials at Caesar's Palace. One of the key speakers canceled at the last moment, Bailey said, and he felt Moret would be a good substitute.

"I said okay," Moret recalled.

Later that day, he met Gutierrez. She was typing in a NEDCO-rented office at the hotel.

"If I was set up," Moret said, "it certainly turned into a better friendship than they conceived."

In an interview, Gutierrez said: "I was in awe of him, an important guy from Washington . . . I don't think it was a set up."

She did say, though, that an official at NEDCO would frequently ask her about Moret. "I guess they (her bosses) felt this was a good situation for them," Gutierrez said.

Bailey said that while he is aware that sexual favors are used in winning contracts, "I never got involved in anything like that.

"There's enough goodies in this town," he said of Las Vegas, "that if anybody wants them, they can get them."

He said he knew nothing of Moret's relationship with Gutierrez. "One thing I can say," said Bailey, "She's a fine fine lady. And if they did get together, Moret's a lucky fellow."

Moret said his relationship with Gutierrez did not influence his treatment of the Nevada firm. He acknowledged, however, that his friendship with a director of a firm in Phoenix did contribute to a noncompetitive contract award to that firm.

The firm is called Chicanos Por La Causa (CPLC)—an organization with $8 million in federal contracts. His friend was Tommy Espinosa, the firm's director.

Late in 1977, CPLC failed to win a Commerce Department contract in competitive bidding with other local firms. The contract was to assist business development.

Moret said he was disappointed that CPLC lost, so he went to the Commerce Department's regional office, and suggested that it consider awarding a noncompetitive contract to CPLC.

"I thought they were a good organization," Moret said. He said he suggested that the regional office use its discretionary fund for a CPLC contract. Moret said he felt such a contract would benefit CPLC and the Commerce Department.

In 1978, the Commerce Department awarded Chicanos Por La Causa a noncompetitive $50,000 contract to conduct a study of the impact of the construction of the airport in Phoenix, on the surrounding Chicano community.

Espinosa said he knew his firm won the contract because of Moret's intervention. He described Moret as a "very good, old friend."

Moret said, "If you do everything by the book and you don't help your friends, what's it all about? Networking is part of life."

On Sept. 29, 1977, CPLC held a cocktail reception in a Phoenix restaurant in honor of Moret.

"There are a lot of Chicanos here who are proud of Lou," Espinosa said. "We just wanted to give them a chance to meet him in person."

The reception came at the same time proposals were being offered by the competitive contract CPLC would not win.

"Obviously the company's friendship with Lou didn't unfairly influence the procurement process," said Robert Martinez, a former economist and proposal writer for CPLC. "After all, we didn't win the contract."

THE GEORGETOWN HOUSE

On June 20, 1977, Gerrold Mukat began his job as the associate director for the Office of Economic Development for the Community Services Administration. In that job, he has been responsible for overseeing the award or continuation of $2 million in five noncompetitive contracts with Mariscal and Co.

On the date he started his job, Mukai was living in a Georgetown house leased by Robert Mariscal. When Mariscal came to Washington, he lived in that house, in separate quarters from Mukai.

'I've known Gerry for several years," Mariscal said in an interview, "I knew him before he went to work for the government. We're very, very close friends."

He said Mukai lived in the Georgetown house for about six weeks. Mariscal paid $500-a-month rent for the house. He said Mukai paid him "a few hundred dollars rent per month."

Mukai, who earns $50,000 a year, said in an interview that he developed a friendship with Mariscal, but insisted that his personal relationship has had no effect on his professional judgment.

"Whenever there is any personal relationship, I have a tendency to be more than critical," he said.

Mukai said that after he moved from Mariscal's house in Georgetown, Mariscal visited him in his Reston home for dinner with his family last year.

"We did not talk about CSA," Mukai said.

He also said that he was invited to the grand opening of Mariscal's Las Vegas casino, The Nevada Palace. Mariscal is the principal owner of the $20 million casino.

Mukai said he went to the event last summer, but he said that he paid his own travel and hotel costs. He said he accepted the complimentary drinks at the casino.

Mukai said he thought at the time he went to Las Vegas that Mariscal no longer had a financial interest in the consulting company. In fact, Mariscal was still the company's owner at the time, according to corporate records.

While Mukai said he showed no favoritism toward Mariscal, he also said he never saw any problems in Mariscal contracts in his dealings with people at the firm.

However, a not-yet released special audit by the Office of the Inspector General at the CSA has found that about $194,000 collected by Mariscal and Co. resulted from false billings and unauthorized personal and travel expenses by Mariscal executives and employees.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Sven Kraemer, of the staff of the Republican Policy Committee, to participate in a conference, sponsored by a foreign educational organization, "Democratic Youth Committee of Europe," in Strasbourg, France, from June 7 through June 11, 1980.

The committee has determined that participation by Mr. Kraemer in the conference in Strasbourg, at the expense of the "Democratic Youth Committee of Europe," is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Hans Binnendijx, of the staff of the Committee on Foreign Relations, to participate in a seminar on "European-American Relations in the Post-Afghanistan Period," jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, and to be held in Bonn and Munich, West Germany, from June 23 through June 27, 1980.

The committee has determined that participation by Mr. Binnendijx in the seminar, partially at the expense of the Konrad Adenauer Foundation, which receives funds from the West German Government, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr.

Greg Pallas, of the staff of Senator EXON, to participate in a seminar on "European-American Relations in the Post-Afghanistan Period," jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, and to be held in Bonn and Munich, West Germany, from June 23 through June 27, 1980.

The committee has determined that participation by Mr. Pallas in the seminar, partially at the expense of the Konrad Adenauer Foundation, which receives funds from the West German Government, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Mary Locke, of the staff of Senator PERCY, to participate in a seminar on "European-American Relations in the Post-Afghanistan Period," jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, and to be held in Bonn and Munich, West Germany, from June 23 through June 27, 1980.

The committee has determined that participation by Ms. Locke in the seminar, partially at the expense of the Konrad Adenauer Foundation, which receives funds from the West German Government, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Peter D. Lennon, of Senator LEVIN's staff, to participate in a seminar on "European-American Relations in the Post-Afghanistan Period," jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, and to be held in Bonn and Munich, West Germany from June 23 through June 27, 1980.

The committee has determined that participation by Mr. Lennon in the seminar, partially at the expense of the Konrad Adenauer Foundation, which receives funds from the West German Government, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Dr. Michael Pillsbury to visit the Soviet Union from May 5 to May 19, 1980, partially at the expense of the Soviet Academy of Sciences Institute for the Study of the U.S.A. It has been determined that the principal purpose of Dr. Pillsbury's trip is educational and that the trip is in the interests of the Senate and the United States.•

WORKING PEOPLE LOSE A GREAT CHAMPION

• Mr. WILLIAMS. Mr. President, all those who share a concern about the condition of working people in our Nation join in mourning the loss of Paul Hall, the president of the Seafarers International Union and one of the Nation's most gifted labor leaders.

His death deprives us not only of a guiding light for the labor movement, but of a man whose rich human spirit and zest for living set him apart from the ordinary and the pedestrian.

No one will recall Paul without remembering his salt, his vigor and the enthusiasm which he brought to every project he ever tackled. He was tough-talking, high-principled, and always ready to fight for those things he considered right for his members and for workers in general.

Paul went to sea in the 1930's, when our Nation faced many challenges on many fronts, and he was always part of the effort to insure that the Nation, and its people, sailed on a course of progress and higher purpose. He helped build a strong and effective union for his fellow seafarers and he helped support the efforts which built a strong and benevolent America in the post-Depression years.

Two qualities always stood out in Paul Hall: His steadfast devotion to our Nation and to the principles upon which it was founded, and his tireless work to promote honesty, decency, and quality in his union and in our country as a whole. He fought those who did not believe in the great promise of America and he helped those who did not share equally in the benefits of America's promise. The disadvantaged and the patriotic always turned to him as a capable and talented ally.

Mr. President, tributes to Mr. Hall will flow in from all corners of our Nation but the best tribute of all is the fine legacy of progress Paul Hall has left to his union and his Nation. Our words could not surpass these gifts which he bestowed upon all of us.

Mr. President, I hope the Senate will join me in expressing our most heartfelt sorrow at the death of Paul Hall and in extending to Rose Hall and her family our profoundest condolences at his loss.•

NATIONAL POW-MIA RECOGNITION DAY

• Mr. DOLE. Mr. President, last year Congress passed House Joint Resolution 963 designating July 18 as "National POW-MIA Recognition Day." The Senator from Kansas would like to commend the Congressman from Nevada (Mr. SANTINI) who proposed this resolution and the 150 cosponsors who have shown concern and interest in honoring our former prisoners of war and those missing in action. By the establishment of July 18 as a day of recognition for our brave servicemen, we express our unified commitment.

The Judiciary Committee has reported this bill to the Senate. The Senator from Kansas feels it would be fitting and appropriate to show our consideration and gratitude for the selfless service, loneliness, pain, and persecution our servicemen have endured to protect our Nation from calamity. We Americans should be reminded of our commitment to our servicemen wherever they may be.

UNTOLD HARDSHIP

The Veterans' Administration estimates that 142,227 servicemen were captured and held incarcerated since World War II. In addition, 9,261 men were lost in combat and never recovered. The pain and hardship these men were subjected to in the hands of the enemy continue to haunt the memories of their loved ones. The implications of war may forever effect their lives.

CELEBRATION

It is our fervent hope that someday the carpets and drums will roll, and the church bells will toll, not in sorrow, but in jubilation at the return of our men who have traveled in strange hostile lands.

As the date draws near, it is imperative that the Senate act favorably in proclaiming this day a day of national recognition in behalf of the special service these men have contributed to the making of our great country. Let us honor these men and assure that their sacrifice for the American people has not been forgotten nor in vain.

I urge my colleagues in the Senate to join me in supporting this worthy piece of legislation.•

THE ENERGY EMERGENCY: OIL AND MONEY, 1980

• Mr. JAVITS. Mr. President, earlier this week, the Honorable Frank G. Zarb who is now a general partner at Lazard Freres & Co. in New York, and who distinguished himself as the Administrator of the former Federal Energy Administration spoke to an international conference in London on "Oil and Money." His remarks challenged every nation, oil producer and consumer, developed and underdeveloped economy alike, to join in a response to the global problem of converting our plant's economy to renewable and bountiful energy resources. He proposed a general long-term agreement on world oil prices coupled with a consortium of quasi-governmental representative to decide on mutual commitments of capital resources to major international cooperative energy experiments. Mr. Zarb emphasized that the expertise and demands of developing nations are essential to the selection and design of useful and effective energy solutions. Finally, he proposed an innovative system of international joint investment trusts to recycle petrodollar reserves together with consumer country investment resources.

Mr. President, without this kind of fresh, and bold thinking on the world's possibilities for affirmatively determining its economic destiny, our energy future looks bleaker and our international position more dangerous. But with vision, we can overcome.

I ask that Mr. Zarb's remarks be printed in the RECORD.

The remarks follow:

THE SPIRIT OF PROJECT INDEPENDENCE

While most of the globe strains under new political tensions and deepening economic uncertainties, there seems to be less time and fewer resources devoted to the longer-term energy challenge. Since 1974 the world economy has been on a shaky course, acting like a terminal patient who rallies from time to time only to relapse into deeper crisis. As a result, the pressing questions of the day relate more and more to immediate survival. . . . How will the United States and Western

Europe pay $180 billion for oil over the next twelve months, and at the same time, maintain reasonable economic balance? . . . How will the growing number of developing countries already in serious trouble get by the next twelve months of debt service and at the same time pay their oil bills? (Countries such as Brazil will pay more than 40 percent of export revenue for oil imports in 1980). . . . How can the banking system and the international financial institutions help to recycle OPEC surpluses in order to keep a breath of life in the international monetary system? . . . Each week there is a new political event which threatens to interrupt the flow of oil from the Mid-East, prompting nations to buy and store extra oil for use during emergency disruptions, adding further to their balance of payments burden—payments they may be unable to make.

The subject of this conference says something about the mood of the times, "The Energy Emergency—Oil and Money 1980." . . . and why not? . . . There has never been a greater potential for national defaults and a very busy Paris Club. . . . The world leaps from super inflation to steep recession—both conditions producing consumer and worker unhappiness, leading to the possibility of social upheaval.

Two major "oil-quakes" since 1973 have produced one financial shock after another, with little time for recovery. It's no wonder that we here, at this meeting, have focused most of our attention on the immediate "oil-money" emergency. A total preoccupation with the crisis of the moment is understandable, but it is no less troublesome to consider that in the year 2000, this room could be filled with worried financial faces, meeting to discuss problems of the same character, but substantially deeper, producing broader and more complicated dislocations. . . . It is times like this which make me wonder—whatever happened to the Spirit of Project Independence?

Some of you may recall that Project Independence was the title of a proposed United States energy program prepared in 1974–75, following the 1973–74 oil embargo. To some it represented a very basic blueprint leading ultimately to the redesign and rebuilding of systems for energy consumption and energy production throughout the world. An important number of political leaders in the United States complained that it was a wild plan with no chance of success. . . . To others it was seen as a conspiracy to sabotage the free enterprise system. . . . To still others it was viewed as a secret way to give huge windfalls to the multinational oil companies at the expense of the American taxpayer. . . . To those who authored and supported Project Independence, it represented a state of mind, a confidence in the future, a dream that could be real—a spirit based on the understanding that oil and gas were finite. Project Independence recognized the new realities of energy, challenged old institutions, and sought to initiate the long process which would reshape the future. That spirit now seems buried under the debris of the constant day-to-day "oil-money" crisis.

With that in mind I'd like to spend the next few minutes to talk about building and financing the energy systems of tomorrow—energy which may come from some combination of heavy oil, tar sands, oil shales, black shales, methanol from natural coal seams, devonian shales, geopressurized methane. . . . the BTU's which will come from biomass, fusion fuels, wave energy, wind energy, tidal energy, earth or space-based solar energy, ocean/thermal energy, and advanced geothermal energy. . . . giant facilities which will produce crude oil from coal in large commercial volumes, or high BTU coal gasification plants which will provide pipeline-grade natural gas at relatively low prices, in enormous volumes. These are the advanced systems which, in 1975, many said should be developed to commercial scale by 1990; and now the hope is for some modest progress by the year 2000.

In the course of the next twenty years these systems will require an investment of one and one-half trillion dollars in addition to the commitment of vast international scientific and technological talent. . . . How unreal that projection sounds when we consider the crisis atmosphere of today. . . . How impossible it must seem to a world so diverse in motivation as each nation and each region seeks to serve its own self interests. . . . But what are those interests? And are they so different—east, west, north or south—oil exporter or oil importer—are their needs and motives so different when it comes to the question of development of energy for the world economy of tomorrow? I think not.

Consider oil-producing Saudi Arabia. Some might think that the level of Saudi interest in seeking practical alternatives to oil is relatively low. . . . But, that conclusion is wrong. . . . It is clear to Saudi Arabia, as it is to other major producing countries, that the value of their oil will not decrease with the orderly development of alternative forms of fuel—they realize more keenly than others that their crude oil supplies are finite. Whether it is forty years or sixty years, the day will come when Saudi oil revenues, as we know them, will disappear. . . . and they will be left with what?—a store of dollars—legal claim on the wealth of a prosperous world economy, or the shambles of a fallen era. The Saudis know that the time to begin preparations for tomorrow—is NOW—using today's financial strength to "buy into" the future. All petroleum-exporting countries have a material stake in the development of new energy sources for the post-2000-year period.

The industrialized world, particularly the European Economic Community and the United States, where there is some degree of energy self-sufficiency, has an obvious need to develop new energy systems for the future. Countries such as Japan, where there is virtually zero energy self-sufficiency, share a more urgent requirement for the development of new energy technologies. . . . It is mindless for industrialized nations not to place advanced energy high on their list of national priorities.

Needless to say, developing countries will have an improved opportunity to develop when their energy cost, per unit of output, can be put back into reasonable proportion relative to the economic values. This new balance can be reached only when they lessen their dependence on high-priced imported oil in favor of new energy sources.

Contrary to the conclusion of some analysts, let me assure you that the Eastern-Block countries, led by the Soviet Union, also have a significant need to diversify energy sources away from conventional oil and gas. . . . It's important to remember that the Soviets now supply oil and gas to: Hungary, Czechoslovakia, Poland, Bulgaria, East Germany, Mongolia, Cuba, Vietnam, and North Korea. In addition, the U.S.S.R. exports oil and gas to the West in order to obtain an important amount of its hard currency earnings. At the moment, the Soviets have a surplus of more than 100 million tons of oil and 25 billion cubic meters of gas. But signs of a declining growth rate in annual oil and gas production are beginning to show. It can be argued that when the Soviets begin to experience sharp reductions in oil and gas availability (probably early 1990's), they must have developed alternative forms of fuel or will attempt to compete, perhaps militarily, for whatever is left in the Middle East.

In a capsule, this is the situation:

A world with an essential and common need to deliver a new generation of energy systems in less than twenty years.

The work now underway in this critical area is restricted to individual nation or token bilateral projects. These efforts, including the most recent U.S. synthetic fuels legislation, are simple beginnings. . . . Even added together they are not significant.

To achieve a creditable level of advanced energy production by the year 2000, the demands placed on science, high technology design and construction must be pushed to limits never before faced by mankind.

A capital investment of more than one and one-half trillion dollars is in itself a challenge, but when one adds the high risk factor for this kind of venture it pales even the boldest of bankers, investment bankers, merchant bankers and ministers of finance.

Yes, we face a formidable undertaking—more urgent than any short-term emergency facility, but less easy to energize because it lacks the focus that an immediate crisis brings to such matters.

When viewed through the budget of an individual nation, the ability to make important progress toward long-term energy security seems just too formidable to contemplate. . . . However, when looked at as a world-wide effort, the idea begins to look more feasible. Think of it . . . a world-wide, coordinated energy effort!

Such a grand scheme: . . . its purpose is right, and the concept is sound—but how can this tattered old world possibly be mobilized for an enterprise even as noble as this one?

To facilitate an international energy effort, the system adopted should emphasize:

1. Simplicity;

2. Minimum affiliation with world political bodies; and

3. Substantial participation by scientists and businessmen.

From a technical standpoint, the operating process could be relatively simple. Each country would use an existing panel or (if needed) create a small energy board, to be assigned the mission of determining energy projects in which its country will participate.

For example, properly appointed panels of the United States, Germany and Saudi Arabia might individually determine that their international interests would be served by participating in a joint venture which would develop and produce a space-based solar energy system. The three countries would then join together and negotiate proportional contribution of technology, funding, and management to accomplish this task. Similarly, the United Kingdom, France, Kuwait and Japan might combine to construct the first generation of commercial-scale high BTU coal gasification plants.

There is no point in taking time today with details, but I can clearly envision a significant number of major advanced energy projects which could be developed by multinational joint ventures.

The mechanics of a workable process, in which the world could join together in a mutual effort to develop the energy systems of tomorrow, are not complicated, but creating the attitude. . . . the atmosphere for such a program to flourish is obviously more difficult. . . . some would even say impossible.

In order to set a world-wide tone for international Project Independence, there are at least three major preliminary issues to be resolved. They are: First, a rational system for crude oil pricing; second, a comprehensive program for long-term petro-dollar investment; and third, the involvement of developing third-world countries.

MODIFIED INDEX FOR CRUDE OIL PRICING

It is time to acknowledge that since oil reserves are limited, the value of oil will continue to rise as we diminish its supply. With that in mind oil producers and consumers should agree on a loose index which will set some parameters for the price of crude oil for the next five years. This flexible index should provide for a minimum annual adjuster for inflation keyed to OPEC imports plus a maximum yearly "real" increase up to say 5 percent if the market will take it. Obviously, this system would be negotiated to achieve fine tuning—and could not work during periods of shortages brought on by war or other unusual events. However, a flexible index could provide a stabilized planning base, and reduce counter-productive "shock-swings" in oil prices. At the same time, it could provide exporters with a fair and predictable return for their oil.

Some market advocates will argue that an index scheme would preclude the market from driving down the price of crude during periods of oversupply, just as some of the hard-line members of OPEC will complain that indexing will take from them a valued political tool. Purists will complain that indexing will preclude efficient allocation during periods of tight supply. Given our experiences since 1973, and the prospects for further chaos, those worn-out objections should be rejected.

COMPREHENSIVE PROGRAM FOR PETRO-DOLLAR INVESTMENT

A world-wide program to develop advanced energy systems must assume extensive funding by individual oil-producing countries. However, there will still remain enormous dollar reserves to be invested. Up to this point, the recycling of petro revenues has not been a very successful exercise. Although industrialized countries have complained that OPEC permanent long-term investment has not been forthcoming, those countries have not gone out of their way to make permanent oil-capital welcome. It is astonishing how even an investment in a hotel by an Arab-oil group gives rise to highly visible and sometimes unenthusiastic comment. Members of OPEC have long indicated a goal to use their new financial strength to become members of the international financial establishment.

They have, however, demonstrated a reluctance to get involved in investments over which they will have little control, or where their acceptance as a full partner is not welcome. An important amount of OPEC's dollars must find their way into the real wealth of industrialized economies. It is time to consider the establishment of Joint Investment Trusts which could comingle the investment resources of the industrialized oil users with the petro-funds of OPEC. To facilitate this result, special trusts would be established in traditional money centers to manage the investment of sizable amounts of commingled funds.

For example, the ten largest United States investing institutions, including insurance and credit companies, could match funds with selected members of OPEC, under the direction of a jointly owned management company to invest in the mainstream of the industrialized world. Its objectives would be similar to any well-run investment company seeking a maximum rate of return with reasonable risk. Let me emphasize that this mainstream petro-dollar investment activity is separate and apart from the funding required for advanced energy projects.

However, when oil-rich nations are properly accepted as full and "real" partners in the world financial community, it will be easier to convince them of their responsibilities in a more speculative internal energy scheme.

DEVELOPING COUNTRY PARTICIPATION

While developing countries could contribute science and human talent, they will not at this time make significant financial input to a worldwide energy effort. However, they must be made part of the process and benefit from its results. The major principals, that is OPEC and the industrialized world, should agree that energy technology transfer to developing countries will be made easy. Further, it will be useful to involve developing countries in advanced energy plant development. For example, that space-based solar energy project jointly developed by the United States, Germany, and Saudi Arabia could be used to provide electrical power for Turkey, India, or portions of Africa. Developing countries are world citizens; they must be part of and be the recipients of any worldwide energy effort if it is to succeed.

Well, there it is—a simple scheme to combine the resources of the world to focus on a few selected technologies on a project-by-project basis with the benefits available to all others, especially developing countries. I can already hear the skeptics articulate the extraordinary problems this approach must overcome to be workable. Many will go so far as to say it is absolutely impossible.

It won't be easy, and it is no more impossible than the course of benign neglect we are currently following. Day-to-day crises-solving is needed but it is not enough—individual efforts such as the U.S. synthetic fuels plan are well meaning but do not even begin to represent a creditable effort.

So why not try this international attempt at securing the energy needs of our grandchildren's grandchildren. Who knows if we can make this work even modestly well, if we can kindle a global spirit of Project Independence to produce real benefits for the human race, if we can restore a feeling of a positive future to replace some of the despair and hostility, maybe—just maybe—we will achieve a little more understanding, demonstrate in a small way the rewards of cooperation and not only help to insure a secure energy future, but help to move one small step toward securing a prosperous and peaceful tomorrow.●

ANNIVERSARY OF THE LITHUANIAN OCCUPATION

● Mr. PELL. Mr. President, with the Soviet Union still occupying Afghanistan, it is appropriate that we look back on previous examples of the Soviet Union's disregard for the basic international principles of respect for national sovereignty and the self-determination of peoples. On June 15, one of the first nations to feel the chilling breath of Soviet expansionism, Lithuania, marked the 40th anniversary of its occupation by the Red army.

This event, the result of collaboration between Hitler and Stalin, took place in 1940 early in the Second World War. Without regard for the peaceful aspirations of the independent-minded Lithuanians, the Soviets marched in and forcibly incorporated Lithuania into the Soviet Union. Stalin's gulags were soon host to tens of thousands of Lithuanians.

This crass display of military power and the cynical installation of a puppet regime which followed was preceded only 17 years before by the recognition of Lithuania's sovereign rights by Lenin. Lenin's Peace Decree of 1923, in which this recognition was stated, declares that if a nation—

> Is not granted the right by means of free elections, under conditions of complete withdrawal of foreign troops or influence of a foreign power, to decide the forms of national existence, without the slightest coercion, then the joining of its territory to another is annexation, i.e., it is a capture and a taking over by force.

Although Lenin provided a good definition of annexation, he offered no such clear pronouncement against the use of annexation to his successors; or, perhaps more accurately, his apparent objections to annexation were not taken seriously by his successors. The Soviet leadership certainly acted cynically when in September 1941 they joined in approving the Atlantic Charter which, among other things, provides that the parties to that declaration would not consent to territorial changes which lack the approval of the nations involved; and also that nations have the right to choose their own form of government.

Mr. President, the Lithuanians have suffered tremendously from the Soviet Union's disregard for the Atlantic Charter principles. With the 1940 invasion, the Lithuanian people lost the right to determine their own fate, and, concomitantly, the ability to enjoy the basic human rights of free speech, movement and even life itself.

If ever the rights of subject peoples are ever to be restored, we must remember nations such as Lithuania which have been the victims of the agonizing theft of their own liberty, and remain vigilant when any people's rights are violated today.●

CHECKMATE, MR. PRESIDENT

● Mr. HATCH. Mr. President, as we approach the summer recess, we should perhaps stand back for a moment and view the fortunes of our Republic and the world in a broader perspective. This was recently done by Dr. Harry D. Schultz in a striking dramatized presentation called Checkmate, Mr. President, that he gave to the international monetary seminar in Freeport, Grand Bahama, on May 16.

Dr. Schultz is widely known as the publisher of the International Harry Schultz Letter, one of the most distinguished investment newsletters. But his present concern has nothing to do with economics. It arises from his misgivings about the world situation and his loyalties as an American. It is significant in itself when people like Dr. Schultz feel impelled to lay aside their private concerns and speak out on these matters. We may not agree with Dr. Schultz' specific solutions. But before we dismiss his view of future trends, we should remember that Dr. Schultz was predicting an increase in the gold price when it was still at $42.

Dr. Schultz' presentation began with a mock report from a television reporter, proceeded to an imaginary address from a future U.S. President to be given to the Nation on May 16, 1982, and concluded with a discussion by Dr. Schultz.

I think my colleagues will find this presentation entertaining and instructive, and I ask that it be printed in the Record.

The article follows:

CHECKMATE, MR. PRESIDENT

TV NEWSCASTER

This is Franklin Morris of CBS News on May 16, 1982. In a moment, we will take you to Washington for an unscheduled but apparently urgent address by the President of the United States. Only moments ago the President's Russian language translator, Andrei Mesanko, was seen to leave the Oval Room. CBS would conclude from that that the President may well have been engaged in a so-called hotline telephone conversation with Mr. Andropov, the new Soviet leader, formerly head of the KGB or Russian secret police. There were rumors that the two had also exchanged messages last night after the latest developments from South Africa, but CBS has been unable to confirm such an exchange. Whatever the case, these momentous spring days of 1982 seem days—and nights—of never-ending drama. CBS' Roger Mudd reported seeing Mr. Carter an hour ago after what was apparently a hastily-summoned cabinet meeting, & Roger said the President was more grim & zinc-faced than he had seen him since that unforgettable, early morning speech 2 years ago in which he announced the failure of his Iranian rescue mission.

The word is that the President is now ready. CBS takes you to Washington. Ladies & gentlemen, the President of the United States.

"PRESIDENT'S" ADDRESS

Fellow Americans, I come to you in the darkest hour of this Republic.

I must tell you that at 6:14 this evening, Mr. Andropov, leader of the Soviet Union, called me on the direct line which connects Moscow and Washington.

Before I relate to you the details of that conversation with the Soviet leader let me attempt to review briefly with you the state of our nation, militarily, as I find it this evening. And as your President, I must & do of course take full responsibility for what has happened to us in these past two years & for the answer that I feel that I must convey to Mr. Andropov after I talk to you tonight.

As you are aware, the Republic of South Africa for all practical purposes has fallen. There have been for many weeks widespread disturbances in the black townships & the closing of many South African mines. Last evening, Soviet forces landed in the Transkei. They blockaded all main seaports of the Republic and seized the naval base at Simonstown. Many gallant South Africans fight on tonight but their defense posture appears as hopeless as that of the Afghans two years ago, when the people of that rugged country were finally subdued by massive chemical attack.

Regretfully there is also word tonight that the people of Zimbabwe have accepted an offer of Soviet protection.

These two mineral-rich countries, and Southwest Africa or Namibia which came under Communist rule two weeks ago—have long been the major Free World suppliers of a number of critical metals and minerals without which the defense of our country becomes difficult indeed. I speak of platinum, chrome, manganese, cobalt, vanadium, titanium and gold.

It would be easy for me to attempt to lay blame tonight on our State Dept. for poor judgment. I speak of the State Dept.'s having advised the U.S. government to bring pressure to bear against South Africa in 1976 when that nation's army was but 19 miles from the Angolan capitol of Luanda. Had we allowed the South Africans to win the battle for Angola 5 years ago, we might still have saved not only that country, but Namibia and Mozambique as well. Indeed, Fidel Castro might not be the Latin giant he is today. Yet it is not my purpose tonight to attach blame to anyone, but to accept blame, personally, as I did when Iran fell. At that time, I was also advised that the Russian attack after they had finished with Afghanistan would be toward warm water—toward Karachi. The then Secretary of State, who has resigned, had perhaps not well considered that the Russians, with the friendship of Mrs. Gandhi, hardly needed Pakistan. Instead of driving toward Karachi, as you all know, the Soviet forces suddenly veered westward and crushed Iran. It is easy to see in retrospect that the Soviet Union planned and provoked the taking of the American hostages in Iran, and in so doing made it impossible for us to use force to intercede in Iran without sacrificing those 50 precious American lives.

Maybe we should have foreseen those events which so quickly followed on the heels of the Iranian disaster. The triple assassination in Saudi Arabia of King Khalid, Prince Fahad and Sheikh Yamani, now thought to be Russian instigated, was a shock to the free world, as was the defection of Turkey into the Soviet orbit. In fact, it was that event—the sudden treachery of our Turkish ally—who so quickly caused the collapse of NATO. The demise of NATO, and the loss of our ability to defend Western Europe, was a keen blow, as surely as the loss of our vital oil supply from the Persian Gulf. All of that, suddenly combined with the collapse of the United Kingdom, came as an enormous setback to the Western world.

That magnificent freedom fighter, Mrs. Thatcher, did all that could be asked of a single human being. But British labor unions so paralyzed Mrs. Thatcher's public transport system that even had we in the US not abandoned plans to produce the B-1 bomber, the Cruise missile & the Neutron bomb, there would have been no chance to reinforce Europe in time. Therefore, one can hardly wonder that Britain's new Socialist government has concluded with the Soviet Union that familiar and ominous "treaty of friendship & cooperation", and most recently announced that the Soviet Union will next month be given the use of our own former American bases in England.

Selfish though it may sound, I feel that I echo the thoughts of some of you when I say that last autumn's Soviet pre-emptive attack upon the People's Republic of China seemed almost a cruel Godsend at the time. At least the two great Communist powers could at last exhaust each other as the West sought to regroup. But even one billion Chinese were little match against the chemical weaponry of Soviet forces. More than one-sixth of all Soviet attack hardware is in the form of chemical weapons, and their overall chemical stockpile is 7 times greater than that of our former NATO alliance at its zenith. Given another five years. China would most nearly have overtaken Russian superiority. But you are all familiar with the fact that Congress rebelled each time this administration attempted to supply the People's Republic with sophisticated defense material to meet the Soviet threat along the Amur River and along the Outer Mongolian border, whence the Russian attack finally came.

All of this litany of international US misfortune has been merely to review for you that cascade of events which has brought us to the situation of which I must speak so painfully to you tonight.

As you know, not one Soviet soldier has yet set foot on US soil. Not one nuclear explosion has yet occurred in this country. And yet I must tell you that the defensive posture of this country is one of total inadequacy against the military capability of the Soviet Union.

The first prototype of our new standoff anti-ballistic missile system, while test flown last month, will not be ready in operational numbers until June 1983. Design difficulties have delayed the program ever since Congress first refused to authorize funds for it way back in 1978.

Since receiving Mr. Andropov's telephone call at 6:14 this evening, I have asked Secretary of Defense Brown to give me his report on how successful this country could be with a first-strike this very night against the Soviet Union. His answer was not encouraging. Although the United States has 23 Poseidon submarines at sea at this moment, bearing nearly 3000 nuclear warheads, and our further possession of 1000 Minuteman 2 and 3 ready for firing from their silos, plus 300 B-52 bombers carrying 20 standoff cruise missiles—1500 mile range. Do not be confused at those figures, however apparently reassuring and impressive.

Against us, the Soviet Union stands ready, as Mr. Andropov told me again tonight, with nearly 7000 Soviet defense radars. They would give the Russians adequate early warning of any attempted U.S. first strike. The Soviet Union further has, according to our intelligence sources, 10,000 interceptor missiles—among them killer satellites—and over 2500 Soviet interceptor aircraft. We could well achieve an initial surprise, although Andropov warned me tonight against it. He told me the Soviet Union was finally expecting a last ditch attempt on the part of the United States finally to take some sort of stand and try to save itself. Secretary Brown has agreed with Mr. Andropov that our chances of frustrating Soviet anti-missile defenses are poor at best. The Secretary has said that perhaps 100 of our nuclear first-strike bombs might penetrate and explode in Soviet territory, but that the small fraction of the Soviet population killed would not be significant in the final military decision, since many Russian citizens, and all key Soviet personnel, are already deep in their nuclear shelters. As you know, and as I have repeatedly warned the Congress, the Soviet Union (unlike the U.S.) has long planned, with its elaborate civil defense shelters, to survive a nuclear war. The Soviets have prepared for a nuclear attack and our Congress has not permitted the U.S. similarly to prepare. Furthermore, our nuclear weapons are not designed to destroy the Soviet missile silos. That means that even if the U.S. should attempt a first strike as early as a few minutes from right now, it could not only be relatively ineffective but the Soviet ability to retaliate would be devastating. As you know, and the Congress knows, this country long ago dismantled our air defense system and furthermore opted against deep civil defense shelters. Under SALT restrictions the known Soviet Inter-Continental Ballistic missile—ICBM—arms capability is better than 3000 missiles, possessing far more destructive power than all of our nuclear strike explosives put together. In short, Secretary Brown tells me that even if we were able to achieve a surprise first-strike at this late moment, in his opinion the Soviet Union would in minutes respond by destroying most of the U.S. weapons systems & centers, and killing virtually all U.S. troops at concentration points, at the very latest by early morning. Our civilian population—90 percent of you—would be alive, and yet defenseless.

It is therefore with the bitterest taste of gall and wormwood, and with abject humiliation that I must accept, as your leader, that I tell you now of the contents of the Soviet leader's telephone call to me tonight from Moscow, the demands he has made, and, worst of all, my recommendations to you regarding those demands.

Mr. Andropov has laid down the following demands upon the American people, which are to be accepted or rejected within one hour from the conclusion of this broadcast, or a state of war will exist between this country and the Soviet Union—Mr. Andropov used the expression "total war" and I can only assume, based upon past observation, that he means precisely that—conventional, nuclear and chemical warfare.

First, there is to be, by noon tomorrow, the signing of an agreement of friendship and cooperation between the U.S. and the Soviet Union. Following that, and within 24 hours, he has informed me, the Soviet Union will expect my resignation, that of the Vice-President, each member of the cabinet, the Senate and Congress, Andropov informs me that reliable replacements are available to the Soviet Union from among our own U.S. citizens I am sad to say, and that these new Soviet appointees will, within 48 hours after their naming, install a new government based upon Soviet Socialistic principles. There is more. The Soviet Union demands the immediate disarmament, and confinement to barracks, of all U.S. armed and police forces, and a temporary blackout of all TV, broadcasting and press media beginning at the end of this broadcast to you. Upon the appointment by the Soviet Union of a new U.S. government, all traditional methods of capitalistic production and commerce will be nationalized. Within 30 days one-half of all U.S. grain and foodstuffs are to be transported to the Soviet Union. All trade debts between this country, the Soviet Union & its allies are to be cancelled forthwith, and, finally, Mr. Andropov has demanded an immediate installation of Soviet armed forces throughout the United States. The first Soviet, Cuban and other eastern bloc troops are due in Miami, Galveston, New York, San Francisco, Honolulu and Los Angeles tomorrow morning from 6 a.m. onwards. All who resist will be executed without trial.

Fellow Americans, that was, and is, the message which Mr. Andropov conveyed to me at 6:14 this evening, and which I convey now to you. With sorrow that transcends any words I can summon, I recommend the acceptance of the Soviet ultimatum. To refuse would, in my opinion and in that of the Secretary of Defense as well as the Joint Chiefs of Staff, mean that many thousands of Americans will be dead by sunrise tomorrow, our defenses obliterated, and all to no avail save the pride of this stubborn and defeated President. Were there time to poll you in a referendum, I would do so. But communication must cease at the end of this television message or a war forever ruinous to this land will be upon us in moments. Where there is life, there remains hope, and for that reason, and on your behalf, I accede to and unconditionally accept the demands set down by Mr. Andropov and the Soviet Union. I leave you now in a disgrace that is not yours as a people, but mine alone as a President and leader who has failed all mankind. I wish you now good night. May God forgive me, and may He bless you all.

Dr. Harry G. Schultz:

I hope that is a speech that is never delivered, and for the rest of the time at my disposal tonight I want to tell you how I think we can best avoid ever having that speech:

I preface these remarks by telling you I am not at all sure that any President elected in 1980 would have found this much easier. Therefore, altho I do not support President Carter, the speech you have just heard from the Oval Room was an impersonal warning to all Presidential candidates.

The old definition of one US foreign policy, "don't just do something, stand there", must be reversed sharply.

We must follow a clear course of action—as our enemies have done. Marx himself laid down a red blueprint for all but the blind to see in "The Communist Manifesto". There are no diffused, confused or ill-directed rays which come from this document, just as there were none in "Mein Kampf". They clearly identify our enemies' long-term objectives.

Our proposals to prevent defeat & consequent enslavement by the Soviet Union:

1. Impose a total embargo on all trade, all technology and all food to the Soviet Union, if necessary by imposing 100% tariffs on companies which defy such an embargo or whose country of origin is still trading with the Soviet Union, in any way whatsoever.

2. Secure the Persian Gulf by military and naval presence in the United Arab Emirates, Oman and Saudi Arabia, with guard ships permanently on station in the Straits of Hormuz, and be prepared to deny Middle East oil fields to the Russians—if need be, by destroying those fields.

3. The immediate providing of arms and military advisors to The Islamic Council for the Liberation of Afghanistan, to patriot leader Savimbi in Angola, to our potential allies Somalia and North Yemen, to Pakistan, and, yes, to South Africa wherever so requested.

4. We must to any extent possible strengthen allied Naval forces shadowing Russian units now operating in both the Indian Ocean and the Mediterranean.

5. We must introduce crash programs to build the most advanced Cruise missiles, Neutron bomb and the B-1 bomber, together with enhanced chemical and biological capability, plus modifying and re-targeting our Polaris, Poseidon and Trident warheads to destroy Soviet missiles, silos and military installations. Step up satellite/laser defense and attack programs. Put industry on standby for military production.

6. Initiate immediate conscription, and implement call-up plans for all reserves in the U.S. and throughout the Western world.

7. Reinforce NATO in the European theatre with all hardware necessary and withdraw all U.S. military families to the USA.

8. Prepare nuclear shelters, reserve supplies and chemical clothing for civilian populations.

9. Establish new radio transmitters to broadcast to civilian populations in Soviet bloc and Soviet controlled Islamic areas and provide receiver transistor sets when possible.

10. Stop all Western participation in Moscow Olympics, by retaliatory tariff rises among the allies if necessary.

11. Deny all sensitive technical and military information to the media, and via the Government Printing Office in Washington, unless cleared by the Joint Chiefs of Staff.

12. Launch educational programs to alert the public to the realities of Communism and Fascism.

13. Restrict UN officials to the precincts of the UN building and their homes. Campaign to disband or restructure the UN.

14. To work towards some form of the gold standard in order to strengthen Western economic stability.

15. Make standby plans to finance these preparations via indexed war bonds.

16. Make it abundantly clear to the Soviet leaders that the USA and her allies are going onto a war footing, and will remain ready to act. Further the SALT talks cannot be considered till the West has redressed the military imbalance and Soviet ambitions have fundamentally changed; probably through the eventual disintegration of the Communist system itself.

17. To unshackle the CIA, protect them from Congressional harassment & let them get on with their job.

The Soviets only respect strength. The odds grow in their favor the longer we wait.

As the late Senator Henry Cabot Lodge, Sr., said "I am an American . . . I was born an American and I can never be anything else but an American . . . and the United States is our last and only hope, for if the United States stumbles and falls, freedom and civilization everywhere will go down in ruins." Live abroad though I may, along with hundreds of thousands of other Americans, I feel a strong kinship to and dependence upon my native country.

To paraphrase Winston Churchill, as he faced the Nazis in Britain's darkest hour, "if we do not win now, the long night of barbarism will descend upon the world for a thousand years, unbroken by even a single star of hope."

We may be hopelessly outgunned in conventional nuclear and chemical terms. Defeat is staring us in the face. Yet even at this late hour for our own sakes and those of our children, we believe there is still a chance to influence the final outcome.

And as a hedge against realization of our worst fears, we plan to sow the seeds for world resistance and survival as individuals and small groups—to whom freedom is more important than any other consideration.

We may still have some options. It is up to us.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and the Senate, at 10:48 p.m., recessed until Friday, June 27, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 1980;

COMMUNICATIONS SATELLITE CORPORATION

Thomas R. Donahue, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1981, vice George Meany.

IN THE AIR FORCE

Brig. Gen. Thomas B. Bruton, [redacted]FR (Brigadier General, Regular Air Force), U.S. Air Force for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force, under the provisions of chapter 839 and section 8072, title 10 of the United States Code.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1980:

COMMUNICATIONS SATELLITE CORPORATION

Joan F. Tobin, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1983.

FEDERAL TRADE COMMISSION

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1980.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Francis Leon Jung, of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1980.

COMMISSION ON CIVIL RIGHTS

Mary Frances Berry, of Colorado, to be a Member of the Commission on Civil Rights.

Jill S. Ruckelshaus, of Washington, to be a Member of the Commission on Civil Rights.

NATIONAL INSTITUTE OF BUILDING SCIENCES

The following-named persons to be Members of the Board of Directors of the National Institute of Building Sciences for the terms indicated:

For terms expiring September 7, 1980:

Rudolph William Bramberg, Jr., of Florida.

S. Eugene Ruff, of North Carolina.
For terms expiring September 7, 1981:
Joseph T. Power, of Virginia.
William F. Floyd III, of Georgia.
Warner Howe, of Tennessee.
Charlene F. Sizemore, of West Virginia.
Jeremiah Thomas Walsh, of New York.
For a term expiring September 7, 1982:
Blanca G. Cedeño, of New York.
For terms expiring September 7, 1983:
Rudolph William Bramberg, Jr., of Florida.
S. Eugene Ruff, of North Carolina.

Department of State

Francis J. McNeil, of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

Larry Gordon Piper, of Texas, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Frances D. Cook, of Florida, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Herbert Stuart Okun, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

William Bodde, Jr., of Maryland, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga and to Tuvalu.

John J. Crowley, Jr., of West Virginia, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Surinam.

Hume Alexander Horan, of New Jersey, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Peter Adams Sutherland, of New Hampshire, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary

U. W. Clemon, of Alabama, to be U.S. district judge for the northern district of Alabama.

Judith Nelson Keep, of California, to be U.S. district judge for the southern district of California.

Marilyn Hall Patel, of California, to be U.S. district judge for the northern district of California to fill an additional position created September 18, 1979, pursuant to the provisions of section 372(b) of title 28 of the United States Code.

Thelton Eugene Henderson, of California, to be U.S. district judge for the northern district of California.

A. Wallace Tashima, of California, to be U.S. district judge for the central district of California.

Carmen Consuelo Cerezo, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Earl H. Carroll, of Arizona, to be U.S. district judge for the district of Arizona.

Alfred C. Marquez, of Arizona, to be U.S. district judge for the district of Arizona.

In the Coast Guard

Coast Guard nominations beginning Philip Ellia, to be chief warrant officer, and ending Terrance J. McHugh, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on June 13, 1980.

EXTENSIONS OF REMARKS

MALAYSIA CONDEMNS SOVIETS ON AFGHANISTAN, BOYCOTTS OLYMPICS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. WOLFF. Mr. Speaker, today I am pleased to present for the RECORD two items from the newspaper Malaysian Digest which detail the forthright position of the Malaysian Government in condemning the Soviet invasion of Afghanistan, and in supporting the U.S. boycott of the Moscow Olympics.

While both these actions were announced some time ago, I think it appropriate and timely, in view of this weekend's upcoming conference in Kuala Lumpur of the ASEAN ministers, for the Congress and the American people to be reminded of the support of our friends, particularly in Asia.

I know we were all heartened by the stand of our European friends and allies this week on presenting a common front against Soviet aggression.

Now, with the threat to Thailand from Moscow's ally, Vietnam, once again endangering stability in Asia, the ASEAN minister's meeting has assumed even greater importance than before in terms of presenting a common front to aggression, wherever it might occur.

The strong and consistent stand of Malaysia, as with our other friends in Asia, serves as an example to the world that aggression will not be tolerated.

I now present for the RECORD two articles detailing the words of Foreign Minister Rithauddeen regarding the Soviet invasion of Afghanistan, and those of Datuk Seri Hamzah, president of the Olympic Council of Malaysia announcing his nation's boycott of the Moscow games.

The articles follow:

MALAYSIA BOYCOTTS THE OLYMPICS

The Olympic Council of Malaysia has informed the International Olympic Council that Malaysia has decided to boycott the Moscow Games in July this year.

Malaysia's decision was conveyed personally to the IOC at the recent international meeting in Lake Placid, New York, by OCM President, Datuk Seri Hamzah Abu Samah.

He told the meeting that the Olympic Council of Malaysia concurred with the advice of the Malaysian Government to boycott the Games as a gesture of protest against Soviet military intervention in Afghanistan.

On February 6, it was announced in Kuala Lumpur that the Malaysian Cabinet had met and considered the resolution passed at the Extraordinary Session of the Islamic Foreign Ministers' Conference held in Islamabad recently, regarding the participation of member states in the Moscow Olympics.

The Cabinet, in support of the resolution of the Islamic Conference, decided to advise the OCM not to take part until the Soviet Union complied with the resolution of the United Nations General Assembly and the Islamic Conference to withdraw its troops from Afghanistan.

The UN General Assembly, meeting in an emergency session in mid-January, approved by an overwhelming vote to call for the immediate withdrawal of Soviet forces from Afghanistan. The resolution also called on the Security Council to consider ways and means to implement the withdrawal call.

PRINCIPLE

The Islamic Foreign Ministers' Conference, in its resolution, condemned the Soviet military aggression against the Afghan people and demanded the immediate and unconditional withdrawal of all Soviet troops stationed in Afghan territory.

Datuk Seri Hamzah told the IOC, "Regrettably, a question of principle prevents us from participating in the Moscow Games." But he added, "We shall continue to give every support to the IOC and its activities."

He also said that Malaysia would host the Group Three Olympic soccer qualifying tournament, scheduled to be held in Kuala Lumpur from March 21 to April 6.

Datuk Seri Hamzah said the OCM's decision in no way impinged upon the essential independence of the sporting bodies in membership of the IOC, adding, "Our national council reached its decision independently and out of respect for the grave issues of principle which are not only of concern to my Government but to ourselves."

"Sports is one of the finest ways of promoting international goodwill and cooperation and as sportsmen we must therefore all condemn the Soviet military aggression against the Afghan people as a violation of human rights.

"It is also inimical to the spirit of sport and this world sporting body.

"CONSCIENCE

"We appreciate that preparations for the Olympics are in an advanced stage; however, we regret that in conscience we have to withdraw.

"We feel that when the fundamental principles are at stake the world can no longer afford to sit on the sidelines.

"Malaysia's action is intended as a gesture of protest which we hope will hasten the day when the Soviet Union may be persuaded to withdraw its troops from Afghanistan.

"When the day comes, the OCM, with the full blessing and encouragement of the Malaysian Government, will participate fully in the events of the IOC.

"When that day comes, we shall welcome the return to a sane and secure world in which nations may meet in friendly competition in the arena of sports where much goodwill may be generated for the benefit of mankind."

SOVIET AGGRESSION IN AFGHANISTAN AN AFFRONT TO MUSLIMS

Malaysia has reiterated her condemnation of the Soviet Union's armed intervention in Afghanistan and the placing of a regime of its choice there.

Addressing the plenary session of the Islamic Foreign Ministers' Extraordinary Meeting in Islamabad on January 28, Malaysia's Foreign Minister, Tengku Ahmad Rithauddeen, described the Soviet action as a blatant violation of the principles of respect for the independence, sovereignty and territorial integrity of states.

He said the aggression committed against Afghanistan was an affront to the Muslim world because, by her action, the Soviet Union tried not only to subjugate the people of Afghanistan but also to impose on them an ideology which was alien to the teaching of Islam and what Islam stood for.

"It seeks to deny Afghan Muslims, who have throughout centuries been fierce defenders of the Islamic faith and its rich heritage, of their national identity, Islamic tradition and culture," Tengku Rithauddeen said.

Tengku Rithauddeen however pointed out that while not disputing the zeal and the fighting spirit of the Afghans, Malaysia had not lost sight of the far greater dangers posed to other parts of the world, particularly the Gulf area, by the Soviet act of aggression.

"Is the Rudyard Kipling's big game over?" Tengku Rithauddeen asked. "This area is threatened and what is in the mind of most of us here today is whether more 'Persian Artichole leaf' will be swallowed. It is to be remembered in this instance—such an incursion is more blatant having regards that Afghanistan is a Non-Aligned country."

Tengku Rithauddeen explained that it was in this context that Malaysia had joined other countries in the United Nations to deplore the Soviet aggression which constituted a grave threat to international peace and security. "The Islamic world cannot ignore this against a brother Muslim country," he said.

Tengku Rithauddeen made it clear that Malaysia had no intention to be hostile to the Soviet when she spoke out against the armed intervention.

"But we cannot condone any act which infringes on these basic principles of international behavior," he said. "Malaysia therefore joins the rest of the world in calling for the immediate and total withdrawal of foreign forces from Afghanistan so that the Afghan people will be free to decide their own destiny."

On Afghan refugees, Tengku Rithauddeen renewed his appeal to the international community to come to the relief of these people.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

FAIR PLAY FOR SAM BROWN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MICHEL. Mr. Speaker, recent remarks made by ACTION director Sam Brown have received wide media circulation and editorial comment. Brown, best known as a radical activist against the American effort to keep the South Vietnamese people free from the Communist dictatorship they now endure, has stated that Government programs make "the poor dependent" and have made a "bureaucratic and expert elite that too often denies the poor the opportunity to help themselves." Brown went along in this vein, condemning programs that make the poor passive rather than active.

His comments were met with a great deal of surprise. Sam Brown it was said, has turned over a new leaf. The one-time radical has become a conservative. One editorial even compared Brown to me, a comparison which, if it becomes known to Brown's leftist movement friends, will cause him to be ostracized. In the circles Brown frequents, being called conservative is libel per se.

In all fairness to Brown, I wish to point out to his left-wing admirers that he has not fallen into conservatism. Yes, Brown does condemn the programs of the Great Society, but only because they do not—to use his word—"resonate" the way they used to. In short, they are not politically popular.

Brown wants the poor to be active and, to help them, he has been sending tax dollars to professional, left-wing agitators like the notorious group ACORN, to make sure the poor are radicalized. Just because he is politically shrewd enough to realize that the big Great Society programs are dead does not mean he has suddenly become conservative. To the contrary, an investigation by the House Appropriations Committee last year showed that under Brown, ACTION has sent millions of dollars to activist groups such as ACORN, Public Interest Research Group, Nine-to-Five, and similar groups whose sole reason for being is to organize and lead poor people in the direction the activists want to go; that is, to confront business and local governments whose policies are not progressive enough. The ACORN training manual for VISTA volunteers was so obviously political that the connection between ACTION and ACORN was later broken.

I just want to emphasize that the rumor claiming that Sam Brown has become a conservative is not true. Yes, he knows and uses the rhetoric of conservatism, but his actions in the past 4 years simply demonstrate a new direction for his advowedly left-wing energies. His admirers and his critics should know this.

At this very moment ACTION is in the process of completing a grant to a group calling itself the Tenant Action Group in Philadelphia. This grant was given by Brown over the direct opinion to the contrary of an ACTION regional director. This director, on the scene in Philadelphia, told Brown's VISTA chief, Marge Tabankin, that the Tenant Action Group was engaged in political lobbying and that the logo on the group's letterhead showed a group, in silhouette, one of whom is brandishing a wrench—obviously one of the active kind.

Sam Brown a conservative? No, just a left-wing activist who has enough sense to adopt the protective coloration of conservative-sounding rhetoric while, at the same time, using tax dollars to send to left-wing radical activist groups whose sole motive is to continue the confrontation politics of the 1960's under a new guise.

Let us give Brown a little credit: He still believes in the redistributionist goals of that coalition of radical, populist, and anti-American activists that brought him to fame. He has not abandoned either his left-wing philosophy or his belief that the poor should become active under the leadership of professional leftist agitators and self-styled organizers.

At this point I include in the RECORD: "Making the Poor Dependent" from the Peoria Journal Star, June 18, 1980:

MAKING THE POOR DEPENDENT

In recent years, Rep. Robert Michel and Sam Brown have carried on an exchange of charges over ACTION, the federal agency that Brown heads and which includes the VISTA and Peace Corps programs.

Michel is a persistent critic of wasteful spending and bureaucracy. Brown is a former leader of the mid-1960s antiwar movement who ascended into the bureaucracy.

The other day, one of them said:

"We have in short created a system of helping that encourages the poor to be passive rather than active, dependent rather than self-reliant, recipients rather than producers, clients instead of people proud of their own work." He deplored government programs that have "made the poor dependent and created a new bureaucratic and expert elite that too often denies poor people the opportunity to help themselves."

Which one said those things?

If you said Michel, you were wrong.

Michel may believe them, but it was Sam Brown who made the comments at a conference marking the 15th anniversary of the VISTA program, which is the domestic equivalent of the Peace Corps.

Brown said that the country has "made some progress" in the 15 years since the founding of VISTA.

"We are a good country, a better country than we were 15 years ago or even 10 years ago," he said.

"But, we must be sensitive, if we are ever to build a sensible republic, to the fact that the government programs which many people fought for, grew up with and cared about, no longer resonate the same way they did when they were first imagined 15 years ago.

"Despite our best intentions, the government programs we have supported have unwittingly made the poor dependent and created a new bureaucratic and expert elite that too often denies poor people the opportunity to help themselves."

Despite the fact that "millions of people are better off today because Medicare, Head Start and other social programs" created in the 1960s, the effect also has been to "strip away from individuals the sense they have control over their own lives.

"We have, in short, created a system of helping that encourages the poor to be passive rather than active, dependent rather than self-reliant, recipients rather than producers, clients instead of people proud of their own work.

"We have allowed those who wish to scorn the poor the opportunity to foster the myth that poor people will not pull their own weight.

"As a result some people have come to believe that their very sense of self-hood, their very identity as citizens and individuals has been taken from them."

Sam Brown, the student activist of the 60s, is now 36 years old. He is getting older, growing up, and learning. The facile solutions of the classroom and the rap session, he now knows, are not always the ones that work.●

EQUAL PAY FOR ARMED SERVICES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. CARTER. Mr. Speaker, it seems to me that if we are to have the best trained, best equipped Armed Forces in the world, with the highest esprit de corps, we must adequately pay them. There is no question that the shortage of trained military personnel is weakening the Army, the Navy, the Air Force, and the Marine Corps.

I am preparing a wage comparability bill to introduce as soon as it is formulated, so that the members of our armed services can be assured of pay equal to or above that of those in comparable jobs in private industry. It is my feeling that this should be done, and it should be done quickly; otherwise, a draft will be necessary.

I enclose for the RECORD an editorial by the man from Hard Scrapple, James J. Kilpatrick.

CRISIS IN THE MILITARY

As every working editor knows, "crisis" is one of those garlic words, to be used with great restraint. Deliberately and soberly, let me invoke it now: Our armed forces, on whom the very survival of this nation depends, are caught in a crisis. Congress must not fail to resolve it.

The problem can be summed up in two words that are locked together—manpower and money. The armed services are losing their most valuable people for one reason that towers above all others: Thousands of soldiers, sailors and airmen cannot afford to stay in. They are quitting at a rate that cannot be termed a drain or a slippage, but amounts to a hemorrhage.

By any yardstick that might be applied, the situation is indefensible.

What do we ask of a sailor or soldier? Only this: That he serve for a fixed term of two or three years, during which time he cannot resign, take another full-time job, join a union, go on strike or picket in support of on-the-job complaints. Only that he be separated from his family for months on end. Only that he be on call far beyond the 40-hour work week of civilian life. Only that he accept the responsibility for maintaining billion-dollar ships and weapons systems. Only that, finally, he may give up his life for his country.

And what is his compensation? The entering recruit would be financially better off if he went to work slinging hash in a fast-food drive-in. The experienced petty officer in the Navy would be better off if he abandoned his career and took his skills into the private sector. The Air Force captain, whose training represents a $4-million investment, can command half again as much income by flying freight for a commercial airline.

Some specific recent examples: After eight years in the Navy, an electronics technician earns $12,117. His skills are absolutely vital to the maintenance of a modern-day warship. His counterpart in civilian life, working 9-to-5, looking after his family, earns $16,515. A boiler technician may earn $11,730 as a petty officer in the Navy; in private industry his skills command almost twice as much.

Other reasons, of course, contribute to the appalling rates of attrition after first or second terms. Especially in the Navy, men often must be separated from their families for long tours of duty at sea. Officers and non-coms weary of teaching ill-educated recruits who can read at barely a fifth-grade level. Under today's circumstances, it is fearfully difficult to maintain the old esprit de corps that once bound men together in a fraternity of arms.

But the primary cause for this crisis remains; Money. It is ludicrous—it is grossly unjust—to pay service personnel so miserably that several hundred thousand service families must resort to food stamps and to moonlight jobs. The disparities in income and fringe benefits are not confined to comparisons of public and private employment: A staff sergeant, ordered to move his family 2,800 miles to a new assignment, gets a $950 reimbursement; a GS-9 in the Department of Agriculture, making the identical move, qualified for reimbursement up to $12,300.

This week the Senate Veterans Committee will hold hearings on a bill sponsored by Sen. Bill Armstrong of Colorado to restore one incentive that used to mean much: G.I. educational benefits. Armstrong also is fighting for a truly significant increase in base pay across the board. Other senators recognize the desperate need. Sam Nunn of Georgia and John Warner of Virginia have cosponsored a bill to make selective increases in the compensation of men with particular skills. Every one of these measures should be passed.

Yes, the bills would cost several billion dollars over the next few years. It is money we cannot afford not to spend. All the marvelous new weapons systems, all the missiles and new ships and high-powered tanks will avail us nothing without the manpower to maintain them. So long as we adhere to the policy of an all-volunteer service, nothing will attract and hold desirable personnel but adequate pay and benefits. If Congress fails to meet this reasonable demand, but one recourse will remain: The draft.●

"ON COMPANY BUSINESS"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. McDONALD. Mr. Speaker, in a letter to the chairman and trustees on the Public Broadcasting Service, Mr. Reed Irvine drew their attention to the deplorable expenditure of public funds in an attack by Philip Agee, a CIA defector of the American intelligence community, aired on prime-time television by the PBS.

The second and concluding part of this letter follows:

There is a great deal additional evidence which supports the view that this film [On Company Business] is an instrument of political warfare directed against the basic tenets of American foreign policy and serving the goals of Soviet foreign policy. We are informed that one of its producers, Howard Francovich, was responsible for another film called "Incitement to Nixonicide and Praise of the Chilean Revolution," which was financed by an organization called Non-Intervention in Chile (NICH). NICH has been identified as a support network for the terrorist Movement of the Revolutionary Left (MIR), which has described itself as "comrades in struggle against a common enemy." It describes the enemy as "the system of imperialism which, as the monopoly stage of capitalism, exploits workers both here and in Chile." NICH cooperates closely with a Cuban-based group called the "Committee of Solidarity with the Chilean Anti-fascist Resistance." This indicates that Mr. Francovich is not the disinterested scholarly documentary maker that he pretended to be on the PBS program "All About TV," where he denied that he had produced "On Company Business" with the intention of "getting the CIA." Mr. Francovich is clearly on the same wave length as Mr. Agee. We understand that Mr. Francovich and Mr. Agee were, in fact, business partners. According to Information Digest, Francovich owned 30 percent of Isla Blanca Films and Agee 20 percent in 1976.

The other producer, Howard Dratch, has been identified by Information Digest as a former officer of the Radical Student Union at the University of California at Berkeley. That was the successor organization of the Berkeley chapter of the Students for Democratic Society after that far left group fragmented. Dratch has long been associated with Pacific News Service, which is sponsored by the Bay Area Institute, which in turn is affiliated with the leftist Institute for Policy Studies. His background is hardly what you would look for if you wanted to commission a scholarly, objective study on the CIA and U.S. foreign policy.

The long list of credits for "On Company Business" includes many persons with ties to Communist Party front groups and far left organizations. Here are some listed by Information Digest:

William Schaap and Ellen Ray, Covert Action Information Bulletin which is dedicated to revealing the names of CIA agents;

Edith Tigar of the National Emergency Civil Liberties Committee, a CPUSA front;

Sylvia Crane of the National Committee Against Repressive Legislation, CPUSA front;

James Larsen, National Lawyers Guild;

Neil Gantscher, National Lawyers Guild;

Robert High, Non-Intervention in Chile;

Olga Talmonte, said to have been involved with the terrorists in Argentina; and

Morton Sobell, accomplice of Julius and Ethel Rosenberg.

The point of all this is that even if PBS and CPB had not screened "On Company Business," they could have detected from the backgrounds of those responsible for the program, beginning with Agee, that it was most unlikely that the film would be the "highly responsible overview of the CIA's history" that Barry Chase asserted it to be.

Accuracy in Media has three major complaints.

1. We believe that it is wrong for the Corporation for Public Broadcasting to fund and for Public Broadcasting Service to air at public expense films such as "On Company Business," which are clearly instruments of political warfare which serve the purposes of powers hostile to our country and to the cause of freedom.

2. Assuming that such films are shown, however, then it is clearly the duty of PBS to identify for the viewing audience who the people are whose views it is disseminating. In this case, at a minimum, Philip Agee should have been identified not only in terms of the years he served with the CIA, but in terms of his present expressed sympathy for communism and the KGB and in terms of the activities that he is engaging in that have resulted in his expulsion from the U.K. and his being banned by three other European countries. Producers Francovich and Dratch should have been identified in terms of their associations with organizations such as NICH and the SDS. PBS is guilty of grossly deceptive labeling in concealing this type of information from the viewers and in telling the affiliated stations that this program is "highly responsible" and implying that the program was balanced.

3. The program was clearly totally lacking in balance and objectivity and was therefore in gross violation of Section 396(g)(1)(A) of the Communications Act, which requires that programs funded by CPB on controversial topics be produced with strict adherence to objectivity and balance.

Moreover, since this program provided three hours of unremitting attack on American postwar policies of combatting communist expansion and subversion abroad, through the CIA, we believe that it places the licensees that showed the program in violation of the FCC's fairness doctrine.

There are several controversial issues of public importance that were treated in this film. The most basic is whether or not the United States is justified in taking measures short of war to frustrate the efforts of the USSR and its satellites to expand their control over other countries. A related issue is whether or not the United States, under the guise of fighting communist expansion, is suppressing the true forces of democracy and liberation, which would triumph but for our cruel intervention.

Clearly a proper discussion of these issues would require an exposition of what happens to countries that fall under communist control. Are the people liberated or enslaved? Does freedom flourish or is it snuffed out? Are the methods used by the intelligence forces of our adversaries good because, as Agee says, they serve good ends? Are ours evil because they serve evil ends?

We have three hours from Agee and his friends over PBS devoted to the latter proposition and to the theory that the world would be a far better place if the liberating forces of Moscow were allowed to operate unhampered by the obstacles placed in their way by the United States.

We would like to know when you have shown the other side of this coin, or if you intend to do so. If you contend that you have, please tell us the dates of the programs and provide us with the transcripts.

We would also be interested in obtaining copies of the documents submitted by the producers to PBS in justification of obtaining your cooperation in airing this program. We understand that CPB funded the program after having received assurances from PBS that it met their requirements. We would be interested in seeing copies of that correspondence. I think it will be most interesting to compare what the producers said to PBS in describing this project and what they said in their 1976 fund-raising prospectus referred to above.●

THE SPIRIT OF HELSINKI, VIGIL 1980

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1980

● Mr. HANLEY. Mr. Speaker, I am proud to participate in "The Spirit of Helsinki, Vigil 1980," which seeks to draw attention to those Soviet Jewish families and individuals who wish to emigrate from the U.S.S.R., but are unable to do so as a result of the restrictive emigration policies of the Soviet Government.

In last year's "Shatter the Silence, Vigil 1979," I again brought to your attention the case of Lev Gendin, a former electronics engineer who was denied an emigration visa to Israel in 1971 and subsequently was dismissed from his job. His wife of 3 months, Aviva Klein-Gendin, alone was granted a visa. Today she continues to work from her home in Israel for the freedom of her husband.

Lev has been continually harassed by the Soviet State since his attempt to emigrate. He has been assaulted by KGB agents both in public and within KGB prisons. He has been subjected to preliminary arrests as well as beatings, and has served over 160 days in prison. He has been denied employment befitting his education, and has been forced to accept menial labor positions to survive.

In September 1979, Lev and a friend went to Novgorodskaya Oblast in order to avoid KGB provocations. While there, an attempt to arrest them failed when they fled the city. Walking between 16 to 17 hours per day in the cold rain, they slept in swamps and forests on their way back to Moscow.

Under the Helsinki Final Act of 1975, the U.S.S.R., as a final signatory, committed itself to a policy of respect for basic human rights, including the unification of families with members living in more than one country, religious freedom, and free travel between nations.

The Soviet Government has, unfortunately, failed to live up to the terms of the Final Act. I am calling, therefore, for the commemoration of the fight for freedom by Lev Gendin, and others like him, so that, in the future, men may be able to freely enjoy those basic rights, inalienable to all.●

WAR BY ACCIDENT?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MICHEL. Mr. Speaker, Fred Charles Ikle, former Director of the U.S. Arms Control and Disarmament Agency and currently an adviser to Ronald Reagan on foreign policy, has written an incisive and thought-provoking article about the chances of setting off a nuclear war by accident. As Dr. Ikle shows, the philosophical assumptions at the heart of the Carter administration's approach to strategic nuclear forces creates the risk of causing a war by accident since it is based on launch-on-warning, a notoriously unreliable and dangerous concept.

At this point, I include in the RECORD "The Growing Risk of War by Accident" by Fred Charles Ikle, from the Washington Post, Tuesday, June 24, 1980.

The article follows:

THE GROWING RISK OF WAR BY ACCIDENT

Twice within the last two weeks, three times within seven months, a false alarm triggered the warning system of our strategic nuclear forces. Judging from published reports, computers indicated that Soviet missiles had been launched against the United States and, in accordance with prearranged procedures, our strategic forces went through the first stages of an alert.

No one was hurt, no damage was done. Harmless incidents? Or are we walking on thin ice and seeing how readily it can crack?

Mankind has suffered from many wars that were launched without much thought and purpose—launched as if by accident. The sequence of rash decisions in 1914, following the assassination of the Austrian archduke, had obviously not been planned by any of the powers that it dragged into World War I. But the nuclear missile age has burdened mankind with a more acute, a far more formidable risk of accidental war. This risk is inherent in the global interlock of armaments capable of inflicting cataclysmic destruction and designed to be committed to war irrevocably, within minutes.

How can we be sure that, for decades to come, a technical malfunction or some human error, or a combination of both, will never trigger a salvo of nuclear missiles? Substantial progress has been made during the last two decades in the design of clever and redundant safeguards for our nuclear weapons and missiles. Despite some bureaucratic resistance and inexcusable sluggishness, these safeguards have been put into effect to an increasing extent. Perhaps that's why we are still here.

However, in recent years, a combination of corrosive forces has been at work to increase, in hidden and insidious ways, the risk of accidental nuclear war. Among them are the relative decline in our strategic power, the unimaginative pursuit of arms control concepts after events have long overtaken them and—the inevitable accompaniment—deceitful political posturing that tries to conceal fundamental weaknesses.

Beginning in the 1960s, we sought to avert a nuclear arms race, with its feared instabilities, by hobbling our own strategic forces through self-restraint and by attempting to limit the growing Soviet forces through strategic arms control. The former was mighty effective; the latter, alas, was not. Soviet missile forces grew much more than ours and will continue to do so in the early 1980s, with or without the new SALT II agreement. As a result, our deterrent forces will become increasingly vulnerable to a preemptive strike. The balance of terror is becoming less stable.

Despite this disappointing failure of the SALT process, President Carter called the new SALT treaty (yet unratified) "a major accomplishment of my administration."

In planning our strategic forces for the dangerous 1980s, the administration now uses the SALT agreements and SALT concepts as the map for the future. Yet many of these concepts, inherited from the 1960s, have proved to be harmful to strategic stability. The sad truth is they tend to increase the risk of nuclear war.

For example, SALT compels the United States (and perhaps the Soviet Union) to deploy a smaller number of large missiles rather than a large number of small ones, thus concentrating the targets for a surprise attack. Similarly, SALT now tends to impair the mobility of land-base missiles, thus increasing their vulnerability. And SALT generously tolerates ballistic missiles—the main cause of strategic instability—but is intolerant toward cruise missiles even though they are too slow for a surprise attack.

If we continue on the present course—without a sustained effort to reverse the strategic deterioration—the temptation will grow to reach for desperate remedies. Last year, in his annual report to Congress, Defense Secretary Harold Brown raised the curtain on such a remedy. He pointed out that the Soviets "would have to consider the possibility of our having launched" our missiles before theirs arrived. And in this year's report to Congress, the idea is repeated. Prudently, Secretary Brown adds that "we would by no means wish to rely on having to" use such a tactic. But from the context of this statement it is clear that the notion of a "launch-on-warning" possibility is supposed to be reassuring.

"Launch-on-warning," as a remedy for the growing vulnerability of our land-based deterrent forces, is an idea that attracts strange bedfellows. Some shallow superhawks have liked it as a sign of our quick-on-the-draw toughness. Equally shallow arms control advocates (in and out of government) have promoted it as a way of defending SALT against critics who worry about the deteriorating strategic trends. And the defense budget cutters find it irresistible; it is the cheapest "fix" for the strategic vulnerability problem.

But the cure is more deadly than the disease. The more we rely on "launch-on-warning" (or, for that matter, the more the Soviets do), the greater the risk of accidental nuclear war. Anyone who tries to explain that this tactic could be implemented in a totally reliable and safe way is a fool. He does not even know how little he knows. No one can understand in sufficient detail all the possible malfunctions, unanticipated events and human errors that might interact someday to confound the "redundant" warning systems or to bypass the "safeguards" against an unintended release of the command to launch a missile salvo.

The crux of the matter is that the more important it becomes to "launch on warning," the more dangerous it will be. The tightening noose around our neck is the requirement for speed. The more certain one wants to be that our missile forces could be launched within minutes and under all circumstances, the more one has both to practice the system and to loosen the safeguards. And remember: as in June 1980, there will be false alerts.

The dilemma is similar to that President Carter faced in ordering the raid to rescue our hostages in Iran. Leaning toward caution, using too few helicopters and setting up multiple opportunities for bail-outs condemned the raid to a "false" attempt. But leaning toward boldness might have dragged us into a war where our inferior military power could not have succeeded.

In the State of the Union message, Carter proclaimed that any attempt to gain control of the Persian Gulf region will be repelled "by any means necessary, including military force." Six days later, he admitted that we did not have enough military strength to defend the region unilaterally. But President Carter has not forged new alliances recently. He has, however, strenuously urged Congress not to increase the defense budget.

We should not have to rely on launching our missiles in response to fitful warning signals. We should not provoke our adversaries by hollow gestures; we should not rush forward to extend military protection by oratory and fail to back it up with real strength; we must not manifest trigger-happiness to conceal weakness.

We cannot move toward a stable peace if we pursue a defense policy that permits a continuing deterioration in the military balance but—as if to compensate—creates a growing risk of a war by accident. Even if wrapped in various SALT treaties, such a policy cannot lessen hostility between our country and the Soviet Union. Indeed, in the most fundamental sense, such a policy is incredibly hostile. It neither rewards peaceful behavior nor punishes aggression; from the point of view of the Soviet Union, it simply poses an uncontrollable lethal threat.●

PRESIDENTIAL COMMITMENT TO URBAN POLICY

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. EDGAR. Mr. Speaker, on Tuesday, June 17, the Philadelphia Inquirer carried an editorial describing the acute need for a clear Presidential commitment to urban policy. I would like to submit this thoughtful editorial for the review of my colleagues.

NATION NEEDS A PRESIDENT COMMITTED TO THE CITIES

The U.S. Conference of Mayors meeting in Seattle last week provided what may be the closest approximation of a debate on urban policies to be heard from the presidential candidates in this election year. They appeared separately, but their remarks provided a basis for comparing their differences in approach.

Unfortunately, but not surprisingly, the prospective nominees of the major parties, President Carter and Ronald Reagan, gave no indication they understand the seriousness of social and economic problems festering in the cities, nor did they show a resolve to deal with them effectively. By contrast, Rep. John B. Anderson and Sen. Edward M. Kennedy proposed multi-billion-dollar urban programs. The Kennedy speech, prepared for delivery to the mayors, was given instead to a union convention in California after Mr. Carter objected to addressing the mayors on the same day as the Massachusetts senator.

President Carter's prescription for the cities was described appropriately by one observer as the "stand pat" approach. He defended his urban policies, emphasized the need for a balanced budget and "fiscal discipline," promised not to "refuel inflation" and, without naming anyone, criticized those who propose "quick fixes."

At least Mr. Carter will never be accused of applying a quick fix to urban problems. If, indeed, his administration has applied a fix at all, it has been painfully slow.

Mr. Reagan didn't put it in so many words but his message to the mayors was tantamount to: "Do it yourself." He denounced "federal paternalism" and a system which "first takes money out of America's cities and then doles it out with endless strings attached." He betrayed insensitivity to wretched conditions of the urban poor when he said of the cities: "The biggest problem facing them is inflation."

It is quite possible that Mr. Reagan's apparent indifference to human suffering in poverty areas of cities, principally old ones in the East and Midwest, reflects the Californian's lack of exposure to it. The Inquirer would welcome an opportunity to take the prospective Republican standard-bearer on a tour of the Philadelphia area so he could see for himself, not only in the city but in portions of the suburbs, the grim urban blight in neighborhoods where unfit housing, joblessness and despair are a way of life.

Mr. Anderson proposed an $8 billion federal aid program for the cities with heavy emphasis on mass transit improvements and rebuilding deteriorating infrastructure such as streets and sewers. He recommended as one way to reduce unemployment among teenagers a minimum wage 15 percent below the minimum for adults. He advocated housing policies with greater focus on rental properties. Commercial development in cities would be encouraged through tax incentives.

An Urban Reinvestment Trust Fund would be created by Mr. Anderson to finance aid programs for the cities, with revenues coming from federal taxes on alcoholic beverages and tobacco products. It is clear that he has studied urban problems and ways to deal with them—whatever the merits of his specific proposals.

Sen. Kennedy outlined a $12 billion program with major focus on jobs and job training. Federal funds would create public service jobs to repair streets and improve parks, schools and libraries, rehabilitate housing and make buildings more energy efficient. He advocated increases in training and employment programs for young people and in opportunities for the elderly to be constructively employed.

Still actively seeking the Democratic presidential nomination despite deficency in the number of delegates pledged to him, Sen. Kennedy also is striving to shape party policies on urban and other issues in ways that will reflect greater concern for minorities and the economically disadvantaged. Aside from platform planks and other party pronouncements, however, it is the duty of every presidential candidate to present a specific urban program and make a personal commitment to its adoption.

The program should include, at minimum, tax incentives for urban investment in housing and in job-producing commercial and industrial enterprise; a plan for targeting federal funds to areas of genuine need instead of spreading them around in pork-barrel fashion; a quantum leap upward in federal funding for mass transit and intercity public transportation to meet both operating and capital requirements and reduce dependence on fare box revenues; a federal housing policy with more emphasis on rehabilitation of existing units, protection of neighborhoods against speculators who want to recycle poor people out, and assistance for old people so they won't lose their homes because of inability to pay rising property taxes; and programs to train people for jobs, to create jobs through special tax incentives in depressed areas, and to give proper recognition to employment needs when assigning federal contracts and locating government installations.

America's cities have suffered through a decade, and more, from a lack of real commitment in the White House to making the myriad of federal programs have more than a marginal impact on the problems of joblessness, poverty and urban blight. Nobody expects a quick fix. The problems are far too complex and deeply rooted for that. Urban voters have every right, however, to serve notice that the presidential candidates cannot expect to win their support with platitudes or indifference to the massive economic problems which exist in America's industrial heartland.●

TIP FROM THE GSA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. JACOBS. Mr. Speaker, here is a tip from the GSA:

GSA WANTS TO LOOSEN TIES THAT BIND TO SAVE ENERGY

The origin of the necktie is occasionally brought up, often in attacks on why men have allowed themselves to be hornswaggled into wearing "a piece of cloth tied around their necks."

Women, of course, do not always dress more comfortably than men, and in a kind of seasonal ambisextrous lib prompted by the national need to conserve energy, the U.S. General Services Administration is encouraging a discarding—or at least loosening—of ties and other sartorial shackles by federal employees.

The government is the nation's single largest consumer of energy, much of which goes into cooling the 10,000 federal buildings GSA controls.

Following President Carter's directive that minimum cooling be used in those buildings, GSA has set their warm season temperature at 80 degrees fahrenheit (26 celsius).

That, GSA reckons, is not tie-wearing temperature—at least not tied ties. So, through its pamphlet "Keeping Cool," which it is distributing nationally, is urging government workers to at least loosen their cravats and dress more cooly during the warm months.

GSA Administrator Rowland G. Freeman III, who co-chairs an interagency energy task force, is four-square behind his agency's advice. He recently told a meeting of his senior staff: "I have no problem with (people) not wearing ties. It won't bother me to see any of you not wearing a tie, and I don't want any of you to say that is okay for some groups, but not your own." And he encourages other federal employees to join in.

GSA's pamphlet has lots of other tips on keeping the federal cool (which, of course, applies to non-feds as well):

Wear loose, informal clothing made of fabrics, such as open-weave cotton, that "breathe." "Keeping Cool" advises, "the fewer and lighter the clothing layers, the cooler you will feel."

For men in offices "with little public contact," GSA suggests short-sleeve sport shirts and lightweight slacks.

For women, who seem to have historically led the way in wise warm weather wear, GSA still has advice:

In an "informal office," the best choice for cool clothing would be a "loose dress or skirt and blouse, sandals and no hose."

Next coolest, the agency says, would be a loose blouse and slacks with sandals and no hose.

In a more formal setting, GSA recommends for women "a dress with hose."

And for all, the agency has this climatic counsel:

On your way to work, and to and from lunch or other trips during the day, take it easy. If you work up a sweat rushing around, you may stay uncomfortable all day.

Keep your work area cooler by shutting out sunlight through drawn blinds and/or drapes. "Sunlight can raise room temperatures many degreees in a few minutes," GSA informs. Also, draw blinds and drapes when leaving for the day so the office—especially if the morning sun comes in the windows—will be cooler the next work day.

When air conditioning is on, keep windows closed "so you cool the office, not the outdoors."

See that office air vents are open, properly set and not blocked by books, boxes or furniture. If no air is coming from the vents, call whoever is responsible for their operation.

Moving air makes you cooler; open hall and inter-office doors to facilitate air flow between rooms.

When not needed, turn off anything that emits heat, such as typewriters, calculators, and coffee pots.

GSA offers another reminder: your work area may have different temperatures at different times of the day. Take several readings over a 24-hour period to determine if this is true. Just because your area may be uncomfortably warm at one particular time of the day, does not necessarily mean something is wrong. It may be what the engineers call "solar gain," or that peak use of machines such as computers at a certain time raises the temperature temporarily.

So, the hope is that throughout government—and elsewhere as well—the ties that bind are being loosened for a cooler, more comfortable, less energy-consuming summer.●

QUESTIONS ABOUT THE ENERGY MOBILIZATION BOARD

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. DASCHLE. Mr. Speaker, the following article by Mr. Allen B. Morrison appeared in the Washington Star, June 25. I think it raises some serious questions we should all examine very closely before we vote on the Energy Mobilization Board. Every Member of this body is concerned about finding solutions to the energy crisis. However, in our search for solutions we must not overlook serious constitutional issues, the effect the EMB will have on established procedures for review and due process, or the assembly line environmental reviews of fast-tracked projects. These and several other questions remain to be answered before we approve the Energy Mobilization Board. The article by Mr. Morrison follows:

THE EMB: A BUREAUCRATIC DISASTER

(By Alan B. Morrison)

The next in the Carter administration's answer to the energy crisis—the Energy Mobilization Board—has just emerged from a House-Senate conference and is headed for floor action in time for a big signing on Energy Independence Day, July 4.

The concept is to establish a group of expediters in Washington who will cut through red tape and speed us on our way to cheap and plentiful energy. Last summer the congressional recess saved us from the EMB. This time hopes rest with an unlikely coalition of environmentalists, states' rights conservatives and independent thinkers who don't like running roughshod over due process.

The fundamental flaw with the EMB is its underlying premise that something called "Red Tape" prevents us from realizing our energy potential. If it were that simple, Congress could just repeal the "Red Tape Act of 1968." The trouble is that Congress has learned that there are values in society that need protection. To meld the needs of business and those of other segments of our society is not easy, and often the adjustments take time. Hence the cry of "red tape."

If the theory behind the EMB is doubtful, the design for its operation is worse. Composed of three presidential appointees, the board's first job will be to pass on requests for designation as Priority Energy Projects (certain to be called PEPs). There are two principal advantages in being PEP'ed. The board sets the schedule for all agencies—federal, state and local—to pass on all permits, licenses, variances, etc.; and a project becomes eligible for exemption from certain federal, state and local laws.

Since there is no penalty for applying, we can confidently expect virtually every energy company to apply, except for those engaged in the manufacture of nuclear power plants, who are specifically excluded.

Indeed, from industry's point of view, once the application is filed, someone else has to do the work. The board has 15 days to prepare a summary of the application. The public and affected agencies then have 45 days to submit comments once the summary is published in the Federal Register. The board then has an equal period of time to digest the comments and decide on the application. That task will be difficult enough for one project.

While there are criteria in the statute for passing on PEP applications, no sensible person expects the board to follow them, especially since the statute carefully precludes judicial review. Under these circumstances, it might be better to grant PEP status to anyone who asks and to get on with the rest of the job.

The board then has to wait 30 days after announcing its decision to designate, during which time all federal, state and local agencies must submit decision schedules for the project. If you thought the board was going to have trouble deciding in 45 days, that is child's play compared with EPA's problems. And, of course, all these schedule requests will arrive at once—on a date over which no agency has control.

Having established deadlines, the board's next duty is to enforce them. For an agency which appears to be behind schedule, the board must give it a warning before it is permitted to go to court to seek compliance with its previous schedule. That role seems a sensible one for both the board and the courts.

But EMB has another option if the agency misses its deadline. It can take over the job itself regardless of how close to completion the agency is. How anyone supposes that three people in Washington can be expected to start and finish a job faster than those who have been working on it for months is a question no sponsor has answered.

As if this weren't enough, designation as a PEP opens the possibility of not having to comply with laws that everyone else must meet. EMB can excuse a new power plant from rules that were passed after the PEP application was filed and before operations began if the rules would "substantially impede" the project and if the waiver would not result in "substantial harm to the public health and safety."

Finally there is the matter of judicial review. For the supposed purpose of eliminating delays, the bill says that most of the key decisions cannot be examined by the courts. In addition, the law would require that all cases be heard by a special federal court with judges from around the country. Presumably the same three judges will hear all the cases involving a single project—probably at the same time. Once again no one has explained how these judges will be able to speed up the process with the equivalent of perhaps 10 or 12 complex appeals rolled into one.

It may be that red tape, like beauty, is in the eye of the beholder—that everything that follows the filing of a permit request is red tape and everything that precedes it is planning. It is also possible that the EMB may not be just Even More Bureaucracy. But the bill produced by the conference has all the trappings of an unmitigated disaster. Congress should kill the bill and direct the conferees to draft a law requiring energy companies to begin cooperation with governmental agencies as soon as plans are under way, to give as much notice to those agencies as possible of their intent to file applications, and to provide both agencies and the public with sufficient data to be able to assess a project's worth.

Once there is a genuine effort at cooperation, not confrontation and avoidance, then it is time to see whether it is the government or the applicant that is causing the delay.●

QUESTIONNAIRE RESULTS

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. O'BRIEN. Mr. Speaker, every year I mail a questionnaire to each household in my district in order to gain a better understanding of how people feel about the issues before

Congress. In this year's questionnaire I asked my constituents if they favored, opposed, or were undecided on 11 of the budget cuts proposed last March by President Carter in his effort to balance the 1981 Federal budget. Unfortunately, the deepening recession greatly diminishes all chances we may have had to balance the budget.

I want to share the questionnaire results with my colleagues in the House and with the Members of the Senate. In my view, the results indicate a clear and precise message: People want less taxes but are willing to pay for Federal programs that are effective.

The President's original budget request and his revised budget figures are listed with districtwide responses.

RESULT OF 1980 QUESTIONNAIRE

[In percent]

	Favor	Oppose	Undecided
1. New economic development grants to encourage businesses to relocate in disadvantaged areas: Eliminate entire $409 million budget	72.6	19.1	8.2
2. Educational grants for disadvantaged children: $150 million from $3.7 billion budget	61.5	31.5	7.0
3. Stricter food stamp eligibility: $133 million from $6.2 billion budget	93.2	5.8	1.0
4. Basic educational opportunity grants: $150 million from $3.3 billion budget	66.1	27.0	6.9
5. Cancer research: $43 million from $1.7 billion budget	40.0	54.1	6.0
6. Law enforcement assistance: $394 million from $521 million budget	49.2	43.4	8.5
7. CETA, title VI, public service jobs: $751 millions from $2 billion budget	77.4	15.7	6.9
8. State share of revenue sharing: Eliminate entire $1.7 billion budget	49.6	38.1	12.3
9. Postal Service subsidy: $250 million from a total subsidy of $1.6 billion (could end Saturday mail delivery)	77.1	19.6	3.3
10. Retirement benefits for Federal civilian and military retirees: $1 billion from $25.2 billion budget. (Once a year instead of twice a year cost of living increase)	76.0	20.7	3.3
11. Reduce military aircraft procurement: $351 million from $8.5 billion budget	22.0	70.3	7.7

Mr. Speaker, I also asked those constitutents who derive a major source of their income from farming which of six programs benefit them the most. The six programs were ranked as follows:

	Percent
County agent services	27.7
Commodity loans and price supports	20.0
Agricultural research	18.0
Farm credit system loans	15.0
Soil conservation practice payments	14.0
Farmers Home Administration loans	5.0

●

A CONFERENCE OF INDUSTRIAL DEMOCRACIES—THE TIME HAS COME

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

• Mr. MICHEL. Mr. Speaker, on February 21, 1980, in a speech before the Association of Air Force Reserve Officers, I called for the creation of a Conference on Industrial Democracies to counter the unprecedented threat from the Soviet Union.

At that time, I stated that the collective security arrangements of the Western Alliance—and Japan—still served some of our needs but that the nature of the Soviet global threat, not only militarily but ideologically as well, demanded a new vision, a new way of meeting our collective security needs. I also stated that the attitude of the NATO countries toward the United States, while deplorable, could be traced in part at least to the weak, vacillating policies of the Carter administration. Finally, I said that what is needed is "a place where the entirety of our interest—not just military, not just economic, not just idealistic—can be debated and defended."

Nothing that has happened since that speech was first made has changed the fundamental need for a new kind of collective security arrangement, one not confined by geographic or economic limits. The recent conference in Venice showed how far we have to go before we reach the point where the industrial democracies can agree on a joint plan of action to meet all their needs. In a recent interview a prominent European expert on international affairs stated that there must be "common planning for contingencies in crises outside of Europe."

I agree as I did when I made my speech in February.

At this point I insert in the RECORD, "What's Needed to Rebuild Alliance," an interview with Christoph Bertram from U.S. News & World Report, June 30, 1980.

WHAT'S NEEDED TO REBUILD ALLIANCE

Q. Mr. Bertram, why is the Atlantic Alliance in such disarray—seemingly coming apart at the seams,

A. I think the most profound reason is that the United States today is no longer willing to provide the all-embracing framework for the Western Alliance that it provided for 30 years.

The United States has become, in a way, more nationalistic in its objectives, more assertive in the pursuit of its objectives, more impatient with obstacles and more impatient with the difficulties produced by generating support by the allies. Nothing that is happening in Europe is essentially new. What is new is that the United States resents it more and lacks the confidence to cope with it.

What we have is a profound change in alliance relationships. That's why I'm so worried about the situation at present. If the United States no longer is willing to do what it did for 30 years, the Europeans ideally should take up the slack and start thinking in terms of constructive common policies.

But they still believe—although perhaps less today—that all that is necessary for them to do as allies is to carry some of the burden, criticize the United States and make suggestions, but leave the running of the shop to the United States. They are not yet prepared mentally to take up the slack that has developed in the alliance.

Q. Then why are the allies challenging the U.S. on so many issues, such as Afghanistan, Iran and the Mideast?

A. There are two reasons. First: Once doubt has started to sink in about the wisdom of specific American policies, it is very difficult to re-establish authority rapidly. And I think that a climate of doubt has been created as a result of the contradictory signals that come out of Washington.

But there is another factor. European political instincts tend to be different from those of the United States. After all, these are countries that have all known war and all known defeat, that do not regard themselves as world powers but realize that they are affected by what's happening in the world.

If difficulties cannot be avoided, our instincts as Europeans are to live with them. The American instincts are still to solve problems, even if problems are not longer soluble. I think this explains part of the caution in Europe.

It also explains the greater skepticism as to the relevance of the measures that the United States government has decreed and announced.

Q. Specifically on what issues?

A. Europeans were skeptical, from the beginning, about an embargo against the Soviet Union after the invasion of Afghanistan because they had experiences with embargoes. Nobody who has followed the relevance of the embargo vis-a-vis Rhodesia will put a lot of credence in them.

Europeans have been skeptical about turning the hostage issue in Iran into the primary issue for American policy, because they were, from the start, doubtful whether this would help to solve the problem.

Europeans have had doubts about whether it's worth risking the dividends that détente between East and West has brought to them, unless this would seriously constrain Soviet action in the Third World. They doubted that delaying the SALT treaty and declaring that one cannot continue with business as usual with the Soviet Union were really sufficient as a policy to cope with the problem of Afghanistan and future Afghanistans.

Now, one has to add immediately, that Europeans are no better than the U.S. in defining cohesive strategies. They are, at this present juncture, making a number of generally justified criticisms of measures proposed by the United States. But the Europeans have not yet learned to regard themselves as responsible for a common Western position, and therefore their inputs have consisted of critiques rather than constructive alternatives.

Q. How much of America's troubles with its allies, as well as in other areas internationally, are attributable to President Carter's policies and performance?

A. First, let me say that even if American foreign policy had been the most farsighted and the most consistent, it would not have been able to prevent the difficulties that it has encountered. To put your question in perspective, one must recognize that these difficulties are not of America's making in most instances.

I must add that, of course, it would have been better if the United States had been able to display a more consistent policy than it has over the last 3½ years, if it had been able to be predictable for adversaries and allies alike. That has not been the case. We have seen a zigzagging of policy in the United States—on SALT, on nuclear proliferation, on human rights and on energy conservation, to mention the major issues.

Q. Do the Europeans accept Carter's assessment that the invasion of Afghanistan by the U.S.S.R. is the most dangerous threat to peace since World War II?

A. I have no doubt that the Soviet invasion is a very dangerous threat to security because if the Russians are successful in Afghanistan, then their inhibitions to do similar things elsewhere will be severely weakened.

But many in Europe—I think wrongly—would like to see Afghanistan as an isolated issue. Many in Europe want to close their eyes to the change that has occurred, because most of the continental European countries have reaped concrete advantages from the improvement in the relationship between East and West—in particular, the Germans.

That is why the Europeans are a bit resentful that they're being reminded of a new reality that they do not like. The new reality for me is that we are today in a situation in which neither the United States nor the Soviet Union seems to have a substantive interest in making concessions vis-a-vis the other for the sake of agreement. That's new.

It's a painful change for the Europeans because it means that the Soviet Union and the United States have no substantive interest in détente, in the sense of being willing to pay a price for it. Also, it means that the efforts of Europeans to try to stay out of the situation are severely curtailed. The notion that they can be an island of détente in Europe is a faulty one.

Q. What do you think of the criticism that is heard more and more that European allies are practicing the kind of appeasement that led to World War II?

A. I think that it is utterly inaccurate. I do not see appeasement at work. I see what one might call tactical mistakes. For instance, the trip by Giscard d'Estaing to Warsaw to meet with Leonid Brezhnev was, I believe, a tactical mistake, and I have doubts whether Helmut Schmidt's visit to Moscow at the end of June will have any other effect than that of confirming the Soviets in their policies.

But tactical errors are one thing; appeasement is something very different. To describe what is happening as appeasement is a misunderstanding of the term.

It is also a profound misunderstanding about the dominant political opinion in Western Europe, which is deeply concerned about what the Russians are doing, deeply skeptical about Soviet declarations of good intent, deeply worried about the danger of a next war. These are not appeasers.

And I do not think that it helps the United States to gain the support or the respect of its allies, or to provide leadership in the alliance, if it brands them appeasers of "self-Finlandizers" only because they follow a different policy.

Q. Given all these strains and misunderstandings, how long can the alliance survive?

A. To identify a problem is, of course, the first step to solving it. And, therefore, if I have voiced considerable concern about the problems for the alliance, I'm voicing that with some underlying optimism that these problems can be solved. We're already seeing a change.

Q. What sort of change?

A. First, there has been a realization over the last two months or so that it's no longer enough for the Europeans to criticize the American administration. You've seen that in the thinking about sanctions against Iran, where people said, "Well, even if we disagree with what the American President wants to do, nevertheless it's important for us that America is not humiliated in the Persian Gulf." That is why, in whatever imperfect ways the Europeans have chosen, we are striving to demonstrate solidarity with the United States.

Secondly, I think there is a recognition, which has been long in coming, that the security concerns of the alliance are no longer just in the North German plain or in the Eastern Mediterranean; that they are in the Persian Gulf, in South Asia, around Africa and in the oceans. There is a realization, I believe, that the alliance will have to address that reality.

Q. What, in your view, is needed to restore cohesion to the alliance?

A. One of the most urgent things that I feel is necessary is to sit down and develop common planning for contingencies in crises outside Europe.

If the Soviets on the 27th of December had not marched into Afghanistan but had assembled troops around Berlin, you would have had in this alliance a whole batch of documents, work that had been done, a group that had been constituted. People would open the drawers, look at the plans and develop a common policy around a common basis. Over Afghanistan there was no common planning. And as a result, there was great disarray in the Western response.

What we will have to do is to develop in the alliance a similar contingency planning to that which exists for the traditional security issues. This does not mean that in the next crisis we will have gotten things absolutely right, but at least we will have a basis on which to work together and to define the next steps.

Q. Are the Europeans ready for that?

A. I think that most European governments would be ready to do that.

Q. Mr. Bertram, with the balance of strategic military power apparently shifting in favor of the Soviet Union, are Europeans losing confidence in America's ability to protect them?

A. They still have that confidence. European public opinion is losing that confidence much less rapidly than critics in the United States of the American defense effort over the past 10 years.

Still, we in Europe are profoundly influenced by the American debate. And if the American experts tell American newspapers and the world that America is weak, then sooner or later Europeans will believe that. So there is a self-fulfilling mechanism here.

There is, of course, concern over the dynamics of the situation in which the Soviet Union has constantly expanded its military power—totally unhindered by détente—and in which the United States has reduced the emphasis on military effort. These dynamics are worrying.

But there is in most of Europe a profound degree of confidence that the Americans, if they pull their socks up, have an enormous ability to generate sound power and sound policies.●

THE BAILLY NUCLEAR SITE: TROUBLING QUESTIONS PERSIST

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. PORTER. Mr. Speaker, as we view our energy situation, we look with hopeful anticipation to the fruition of currently budding technologies and energy sources. The road from here to that horizon—a path requiring an uncertain transit time—must be traversed boldly, yet with caution—without boldness we may not reach that horizon; without caution, the trip may prove useless.

I am thinking of the Northern Indiana Public Service Co.'s nuclear powerplant, currently suspended in the early phases of assembly on the Bailly site in the Indiana Dunes area, as an example of the choices facing us on this road.

Although construction of this plant was begun against a background of anticipated power shortages—a condition that persists, and even deteriorates, as we flounder without a coherent energy policy—time has shown that the siting of this power generating station at a sensitive ecological junction is fraught with troubling and unanswered environmental questions pertaining to the water table and plant life in the area.

The Indiana utility has already altered the ecological profile of our national lakeshore through the fly ash ponds of its coal burning plant nearby—these ponds have introduced highly alkaline water into the areas surrounding them, and raised the water levels there 15 feet. The preparation of the nuclear plant's foundation itself has removed an unexpected volume of groundwater from the area. To compensate, the National Park Service has approved a recharging system that will rely on water from Lake Michigan, a source potentially lacking the plant nutrients of the pumped out groundwater. A possible threat to Cowles Bog, a national natural landmark area less than 2 miles from the site, is perceived, awaiting the results of an ongoing geological survey.

There are other troubling aspects to situating this plant in the dunes location:

Our fragile and beautiful Lake Michigan already supports six nuclear powerplants with a total of nine reactors. This essentially closed body of water requires, I am told, 100 years to purge itself of pollutants. We must balance the assumed need for a 7th plant, and a 10th reactor, with the best interests of a fluid body that supplies 10 million people with their drinking water.

As we grow increasingly conscious of the risks attendant to nuclear power generation, and concern ourselves further with the problems of evacuation in the face of Three Mile Island-type events, this plant's proximity to a national park, and densely populated urban center, may pose particular complications. Added within this umbra, too, is the northern Indiana steel mill complex, a facility that accounts for over one-fourth of our national steel production; I need not elaborate upon the chilling effects that a long-term abandonment of this complex portends.

The risk that this plant may result in the "drying up of the Dunes National Lakeshore"—as the Lake Michigan Federation has charged—and the fact that only 1 percent of the plant has presently been completed, increases the urgency of reaching a final determination on the prudence of the Bailly site.●

TIME TO CONSIDER EXTENDING METRO

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. HARRIS. Mr. Speaker, on January 3, 1980, representatives from the entire Washington metropolitan area gathered in the East Room of the White House as President Carter signed into law H.R. 3921, my bill providing $1.7 billion to complete the entire 101-mile Metrorail system. With the appropriate measures by State and local governments, the full Metrorail system will be a reality.

In this era of congested roadways, tight gasoline supplies, high pollution levels, and constantly rising energy prices, the Washington area has been fortunate to have—in operation and under construction—one of the finest rapid rail systems in the world. As traffic has gotten worse, and as the energy situation has deteriorated, Metro ridership has steadily increased, demonstrating both the need for a clean, efficient, fast public transit system, and the important role that such a transit system can play in our effort to curb energy use and cut our Nation's crippling dependence on foreign oil.

As a member of the House District Committee which has jurisdiction over Metro legislation, and as one who has worked over the last 20 years for a complete Metrorail system, I regarded the enactment of my legislation last year as a major milestone in the fight to improve the quality of life for the entire Washington metropolitan area. But the job did not stop with that victory, and the effort to meet new and changing transportation needs continues.

Today I have introduced legislation to fund a study of the possible extension of Metrorail service as much as 47 miles to Burke, to the Dulles/Reston area, to Bowie via the Capital Centre, to Gaithersburg, and within the District of Columbia. We must begin planning now to preserve the excellence of the Metrorail system, and to insure that it can continue to serve the growing communities in the Washington metropolitan area.

There has been tremendous suburban growth since we first began planning Metro 20 years ago. Today, communities such as Burke, Reston, Bowie, and others well beyond the beltway, have become home for thousands of people who commute daily into Washington. The absence of a well planned transit system for these areas has resulted in congested roads, high pollution, and an unconscionable waste of energy at a time when our Nation is struggling for energy independence.

Fortunately, we planned the 101-mile Metro system to allow for extension into growth areas, and now is the time to start considering the use of rail transit to relieve increasing congestion in Virginia's I-95 and Route 7 corridors, and along Route 50 and I-270 in Maryland. Growth in these areas has continued at a very heavy pace, but in many cases, rights-of-way have been preserved.

Specifically, my bill calls for study of:

Extending to Burke the Springfield/Franconia yellow line from Alexandria, which is scheduled to be completed by 1985, an extension of 10 miles along the old Southern Railway route;

Providing service to Reston/Dulles by building an 18-mile rail line branching off from the orange line at the West Falls Church Station to the Dulles access road, and running along the access road's median strip to Reston and the airport;

Stretching the red line up to 6 miles beyond the Shady Grove Station along the B. & O. railroad right-of-way to Gaithersburg/Germantown area;

Extending the blue line as much as 13 miles from its planned Addison Road terminus to Bowie, via the Capital Centre at Largo, a plan already endorsed by the Prince Georges County Council; and

Possible route improvements within the District of Columbia.

Above ground extensions of the Metrorail system—such as those to be studied under my proposal—could prove to be an extremely cost-effective method of saving energy and preserving the environment in these growth areas. Tunneling beneath downtown Washington streets was a major factor in Metro's high cost that is now largely behind us.

I am pleased that Representative FORTNEY "PETE" STARK, chairman of the Metropolitan Affairs Subcommittee—which has jurisdiction over Metro legislation and on which I serve—has already agreed to cosponsor my bill. Chairman STARK has also agreed to hold early hearings on the proposal, and this is most encouraging.

My bill will provide $1.5 million in Federal funds to the Washington Metropolitan Area Transit Authority (WMATA) to be matched by $375,000 from State and local governments, to fund an 18-month study of the four possible route extensions, as well as consideration of routes within the District of Columbia.

If WMATA determines that any of these routes are economically feasible, I intend to sponsor Federal funding legislation similar to the 80 percent Federal-20 percent local formula contained in the original Harris-Stark law to fund construction of the initial 101-mile Metro system.

It is so important that we move ahead with transportation planning without delay. Within the Congress, I think it is important that we act promptly because we have a House and a Senate that has already demonstrated its support for the Metro system through the approval of my earlier bill.

The Representatives and Senators know Metro, they understand its importance and its contribution to the quality of life in this region, and we cannot afford to let that support slip away.

Metro has proven its worth, both as an energy saving transportation system, and as a boon to regional economic growth. Businesses near existing or planned Metrorail stations are thriving, and it is time we began planning for our future transportation needs by considering the extension of Metrorail to Burke and other fast growing areas beyond the beltway.

The text of my bill, H.R. 7658, follows:

H.R. 7658

A bill to amend the National Capital Transportation Act of 1969 to require the Secretary of Transportation to contract with the Washington Metropolitan Area Transit Authority for a comprehensive study of extending the rail rapid transit line specified in the Adopted Regional System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1441 et seq.) is amended by adding after section 16 the following new section:

"STUDY OF EXTENSIONS OF TRANSIT LINES

"SEC. 17. (a)(1) The Secretary of Transportation shall contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering, of extending rail rapid transit lines—

"(A) from the vicinity of Virginia Route 7 on the Virginia Interstate 66 Route of the Adopted Regional System to the Dulles International Airport;

"(B) from the vicinity of Virginia Interstate Route 95 and the proposed Springfield rail rapid transit station of the Adopted Regional System to the vicinity of Virginia Route 645 in Burke, Virginia;

"(C) from the proposed Addison Road rail rapid transit station of the Adopted Regional System to the Capital Centre in Largo, Maryland and on to the vicinity of Bowie, Maryland;

"(D) from the proposed Shady Grove rail rapid transit station of the Adopted Regional System to the vicinity of Gaithersburg, Maryland, and Germantown, Maryland; and

"(E) within the District of Columbia on routes determined by the Transit Authority to be practicable after consultation with the Mayor and the Council of the District of Columbia.

"(2) The contract entered into pursuant to paragraph (1) shall require the Transit Authority in conducting the study to take into consideration estimated demand for each proposed rail rapid transit line extension, projected population growth along each proposed rail rapid transit line extension, and the engineering feasibility of each proposed rail rapid transit line extension.

"(b) The contract entered into pursuant to subsection (a)(1) shall require the Transit Authority to submit to the Secretary of Transportation and the Congress, not later than 18 months after the date the contract is entered into pursuant to subsection (a)(1), a report on the study conducted under such contract, which report shall contain proposed routes for each proposed rail rapid transit line extension specified in subsection (a)(1).

"(c)(1) The contract entered into pursuant to subsection (a)(1) shall provide for a Federal contribution to be paid by the Secretary of Transportation to the Transit Authority to pay for the costs of carrying out the contract.

"(2) The amount of the Federal contribution paid pursuant to paragraph (1) shall not exceed an amount equal to 80 percent of the costs of carrying out the contract entered into pursuant to subsection (a)(1).

"(d) Effective October 1, 1981, there is authorized to be appropriated to the Secretary of Transportation to carry out this section $1,500,000.".●

BIOLOGICAL WARFARE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. ASPIN. Mr. Speaker, the Soviet Union is not telling the whole truth about the outbreak of an epidemic of inhalation anthrax in Sverdlovsk last April, an outbreak that infected and killed many people. Our Government, on the other hand, has been acting in a manner that smells to many of too much politics and too little U.S. diplomacy. The interaction of Soviet disingenuousness and off-balance U.S. diplomacy seriously threatens the viability not only of one particular treaty—the Biological Weapons Convention—but of all arms control.

In 1970, while the United States was unilaterally dismantling its biological warfare (BW) capability, we also began negotiating an international agreement to ban such weapons. By 1972, work on what is now known as the Biological Weapons Convention was completed and the convention was signed in Washington, London, and Moscow. President Ford signed the instruments of ratification in 1975, and the treaty became binding on the United States. More than 100 other countries are now parties to the convention.

From the start, we knew that the Biological Weapons Convention was essentially unverifiable. It is the nature of biological weapons that production facilities do not have to be large or conspicuous. Even if the United States began with full and exact knowledge of the total Soviet BW picture, and even if we could establish without doubt that all these sites had been closed down, and all existing BW stocks destroyed, there would still be the possibility that covert plants had been set up elsewhere and stocks secretly manufactured.

The United States reasoned, however, that the Soviets were unlikely to violate the agreement because: First, we believed that BW weapons were too unreliable and uncertain to be of use to a major power—which, by the way, was the reason we were willing to get rid of our own; and second, we thought that Soviet leaders would weigh the possible gain from violating this treaty against the political and other costs of getting caught cheating and would be deterred.

So, here we have a situation where the United States renounces a weapons system, and then works out an agreement with the Soviets to outlaw that system internationally, based not on close verification, but on a balancing of risk against gain. It is by far the most adventurous, and some would say risky, piece of arms control this country has every agreed to. Only the provisions that require parties to consult with each other and to help resolve doubts about compliance offer any contribution to verification.

Over the years, the U.S. intelligence community has been keeping watch over sites in the Soviet Union that are believed to be associated with biological warfare. The convention does not say that you cannot have BW facilities; it only says that you cannot have biological warfare agents except for the purposes of and in quantities appropriate for peaceful or defensive research purposes, and that you cannot produce or stockpile BW weapons for military purposes. Since there was no way to know whether the Soviets were making BW agents, it was naturally a source of suspicion when we saw them building facilities that could be used to make or store those prohibited materials.

The watch kept on the Soviet BW sites produced misgivings, but no proof that the convention had been violated. Then came the Sverdlovsk incident. The subcommittee report that I am releasing today confirms that there is little doubt that an epidemic of inhalation anthrax took place in that city last April.

Inhalation anthrax hardly ever occurs as the result of natural causes. The only natural mechanism I know of, in fact, is when workers shearing sheep dislodge the spores from the animals' wool and someone inhales them. So when you have information that confirms numerous deaths in an urban area from inhalation anthrax, you know that somewhere along the line there was a man-made concentration of the spores that got into the air—or else the Soviets have a well camouflaged sheep shearing operation.

Now this much information by itself would raise some concern about Sverdlovsk, but there was more. First of all, a military facility in Sverdlovsk for years has attracted the interest of our intelligence services in connection with biological weapons. Second, after the outbreak in Sverdlovsk, our intelligence services began picking up other bits and pieces which eventually fit into a picture.

I cannot go into the details of the intelligence community's evidence, but let me say this: We had a Soviet emigre testify before an open session of the House Intelligence Oversight Subcommittee about what his sources inside the U.S.S.R. had to say about Sverdlovsk. Those sources say that there was a leak of anthrax out of a military installation rumored to be involved in BW; that there were hundreds of fatalities owing to inhalation anthrax; and that the Soviets had to mount an all-out—but unsuccessful—effort to immunize the populace and prevent panic. Nothing the subcommittee has seen in the intelligence files substantially contradicts the testimony of that witness.

On March 20, in response to a question from the United States, the Soviet Union acknowledged that there had been an outbreak of anthrax in Sverdlovsk. But the Soviet Union said the outbreak was of the gastric variety that came from tainted meat. At the very best, this is only part of the truth—and the smallest part at that. At the worst, it is a Soviet effort to brazen out the situation.

The Oversight Subcommittee's report says that, for now, it is not possible to state with certainty that the Soviets are violating the Biological Weapons Convention. But we do know enough to say that the Soviet story is not full and correct.

What makes it puzzling, in fact, is that the Soviets might have told a story that would have been much harder for us to fault. Namely, they might have said that there was indeed an outbreak of inhalation anthrax which came from supplies of the disease intended for peaceful research, legal under the convention. This story would have been very difficult to disprove and very tough for the United States to grapple with under the terms of the BW Convention.

For whatever reason, they chose not to go with that explanation. We cannot accept the tainted meat story as fulfullment of their obligation under the convention to consult with us to help resolve this issue. In fact, if they continue to adhere to this line, I believe we will have to conclude that the Soviets have violated the consultative provisions of the convention.

A serious situation is developing. We know from bitter experience that the Soviets tend to push their arms control agreements to the limit. You do not talk to the Soviets about the spirit of agreements; you talk about the letter. Their credo is what any good international lawyer will tell you: what is not forbidden is permitted. so if you imagine the most benign explanation consistent with the facts, it will be that the Soviets pushed this agreement right to the wall and then fell victim to Murphy's Law. Many would conclude on viewing the evidence, however, that the Soviets have flatly violated the convention, and the tainted meat story does a lot to feed that belief.

We expected the Soviets to be as scrupulous about the Biological Weapons Convention as we are. They appear not to have been. Much of the logic behind the convention is undermined by this simple observation. Only a very full Soviet response under the consultative provisions can possibly restore some measure of confidence.

A great deal, therefore, depends on the success of U.S. efforts to get the Soviets to come clean with us. But there are, Mr. Speaker, some problems with that effort that have more to do with us than with the Soviets.

I have in mind, of course, the charge that the United States has been playing politics with the compliance issue. There are really two distinct questions involved: Whether the U.S. Government played politics with the intelligence process; and whether the Government has played the public and diplomatic side of the problem for political purposes, rather than in the best interests of effective diplomacy.

The suspicion that the Government played politics with intelligence arises from the simple fact that there were elements of the story available to the intelligence community not long after the Sverdlovsk incident, but that the U.S. Government did not move on the issue until almost a year later.

Seen from the outside, and without benefit of any exposure to the kinds of information on hand, the rate at which this information was acquired, and the manner in which it was sorted and analyzed, one might well be suspicious. Did the U.S. Government sit on the BW story for as long as hope remained that SALT II might be ratified, and then did the Government go public once getting even with the Soviets for Afghanistan had become priority No. 1?

Mr. Speaker, in my opinion, the subcommittee report is correct where it concludes that there was no tampering with the intelligence process for political reasons. As the report makes clear, the lag from the time the first bits and pieces of information came in after the event in Sverdlovsk, to the moment when the picture came into focus, can be convincingly explained in terms of understandable problems of intelligence analysis: a process which sometimes depends on one last decisive bit of information, as it did in this case.

The subcommittee report leaves off, however, at the threshold of what may be a more important question; namely, whether the U.S. Government devised the best possible diplomatic strategy to get satisfaction from the Soviet Union—or whether the administration instead played it for the galleries, regardless of the impact on the chances for diplomatic success.

That is where the record gets murky. The fact is that the United States first approached the Soviets privately through our Embassy in Moscow on March 17. Then, one day later and before the Soviets had a chance to respond, we went public with the issue in a formal comment by the Department of State. We went public, moreover, in the middle of an international conference in Geneva, where all the states party to the convention had gathered to review its progress at the 5-year mark, in keeping with a provision of the convention itself.

To say the least, this looks like we intended to embarrass the Soviets and to make political capital out of the incident rather than to resolve it. As far as I know, Mr. Speaker, this procedure is in stark contrast to the behavior of our Government on virtually all other occasions when there has been reason for concern about Soviet compliance with an arms control agreement. We have always, to my knowledge, tried to keep a tight lip in public in order to give the private consultative process a chance to work, and we did this no matter how much gory detail got out into the press.

So the charge of playing politics with an important diplomatic problem is not one that can be instantly dismissed. Officials at State and ACDA who were responsible for the treatment of this issue have told me that they were under no pressure to go public for the purpose of getting even with the Soviets. They say, rather, that a wave of leaks to the press—which the press, it should be noted, attributed to administration sources—came just as the review conference was about to begin. In their view, the public statement was needed in order to fend off charges of a whitewash.

I can believe these assertions, Mr. Speaker—but once again, as in the case of the Iranian rescue mission, we have a case where information politically beneficial to the administration is told to the press regardless of the costs to national policy objectives.

Between the Soviets pushing an arms control agreement to the limits or beyond, and the U.S. Government, taunted by press leaks into forms of diplomacy that may only extend deadlock, there is a major threat to the arms control process.

Why the whole process and not just this particular agreement? Because, Mr. Speaker, there are few forms of arms control that offer totally assured forms of verifiability, and more importantly, because as we look into the future of arms control the verification problems become greater, not smaller.

There is, for example, a rather large verification problem with the Threshold Test Ban Treaty and its counterpart, the Peaceful Nuclear Explosion Treaty, which prohibit signers from detonating underground nuclear explosions with yields exceeding 150 kilotons.

There is a verification problem with the SALT II constraint limiting the kinds of modification that either side can make to existing ICBM types to plus or minus 5 percent in any dimension. According to public testimony given by Secretary Brown, our confidence in being able to monitor changes in these dimensions diminishes as the size of the changes get closer to plus or minus 5 percent.

Again in SALT II, there is a provision that says there will be no deployment of air-launched cruise missiles with a range in excess of 600 kilometers. And this is a provision that is very hard for us to verify.

What is more, the future of arms control—assuming there is a future for arms control—will be dealing with even more difficult verification issues.

Suppose, for example, we finally negotiate an MBFR agreement calling for the withdrawal of substantial numbers of United States and Soviet ground forces from central Europe? How precise will be our ability to verify that withdrawal and, afterwards, to keep track of troop levels?

Suppose we get a comprehensive test ban, and each time we get a little quiver on the seismic system, someone accuses the Soviets of testing portions of nuclear weapons systems under cover of an earthquake, or some such scenario? How confident will we be that we really know what is going on?

Suppose we reach intricate limits on missile technology, which depend on elaborate analysis of Soviet test data—but the Soviets begin to encode the data right up to the limit of what their lawyers, who are very good, tell them they can get away with?

In all these cases, and more, the logic up to now for accepting less then perfectly verifiable provisions in a treaty is a political argument: that the Soviets must know that Murphy's Law applies to them as well as to us—that, if they cheat, sooner or later something will escape their control and be picked up by us, and that the costs will then outweigh the benefits.

Sverdlovsk challenges that logic. Sverdlovsk tells us that perhaps the

Soviets are undeterred by such thinking. Sverdlovsk tells us there may be no political cost to the Soviets for violations. Witnesses told our subcommittee that world response to the incident has dislodged no plaster in the Kremlin. The other signers of the convention have reacted minimally, if at all.

As I said before, Mr. Speaker, between the Soviets pushing arms control agreements to the limits or beyond, and the U.S. Government, taunted by press leaks into forms of diplomacy that may only extend deadlock, there is a major threat to the arms control process.

The Soviet Union's unacceptable response to our inquiry means that our doubts become deeper, the worst explanations become more plausible and the possibility of repairing the damage becomes less likely.

The early U.S. announcements leave the impression that we care more about scoring political points than substance and that we are not really serious about resolving hazy verification issues.

The results, Mr. Speaker, cover the arms control field with question marks.

It may be that arms control agreements that rely on theories about Soviet risk/benefit calculations to keep the Soviets in line need to be reassessed.

It may be that the Soviets have a higher tolerance for risk than we thought. It may also be that they have measured the consequences of getting caught and feel they are not so bad after all.

It may be that our political system is unable to respond to incidents like Sverdlovsk in a way that the Soviets take seriously. It may be that we and our allies will be unable to convince the Soviets that the costs of violation outweigh the benefits.

If all this is so, Mr. Speaker, it may be that in the future only those arms control agreements that are verifiable in the narrowest of terms can be seriously considered.

The consequences of this would be grave. Not only would some of the most interesting elements of major negotiations, including SALT, have to be redone, but the agenda of future arms control negotiations would have to be shortened dramatically.

That, I believe, would be a loss to both sides. It may already be a loss that cannot be retrieved. It all depends on what the Soviets perceive as being in their best interests, and whether the U.S. Government is able to chart and hold to effective diplomacy to get at the truth and to restore confidence in the arms control enterprise.●

ABUSING THE TAX DOLLAR, CETA STYLE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MICHEL. Mr. Speaker, I ask you to join with me in a political fantasy. Imagine, if you will, a situation in which tax dollars are given to radical rightwing groups, and in which VISTA volunteers are given to these groups so that the members can be free for radical rightwing political activities. Imagine, furthermore, that right-to-life groups receive hundreds of thousands of dollars for alleged antipoverty work because they feel that fighting abortion is the best way to help the poor. Imagine such groups as the National Rifle Association and other conservative-oriented groups setting up interlocking directorates with subsidiary groups under their control—but not officially connected with them—for the sole purpose of going into poor neighborhoods and organizing the people to fight gun laws.

Sounds pretty wild, does it not, Mr. Speaker? Well, I ask you then how we can sit idly by when exactly the same state of affairs is taking place right before our eyes, except in this case the groups in question are leftwing in nature.

Sam Brown's donation of tax dollars to his favorite leftwing organizing groups is well known. But now we find that CETA dollars are going to so-called populist—that means dedicated to the destruction of the free enterprise system—groups in sunny California.

But is anybody outraged? Do we hear the Democratic majority demanding an accounting as they would if 1 penny of tax money went to rightwing groups such as the John Birch Society or one of its subsidiaries?

No; all we get is the usual sound of silence. At this point, I include in the RECORD, "Welfare for Radicals," Wall Street Journal, June 23, 1980:

WELFARE FOR RADICALS

Tom Hayden and Jane Fonda are too rich to need federal money, but some of their friends apparently do. Thereby hangs a tale in the unending saga of CETA abuses. CETA, you will recall, is the federal Comprehensive Employment and Training Act, which has ballooned into a $9 billion budget item; the bulk of the money goes for "public service" jobs in public or nonprofit agencies. Now the Inspector-General's office of the U.S. Department of Labor has found "prosecutive merit" in charges that some of these funds have helped subsidize political activities of the Hayden-Fonda network.

Focus of the charge is a group called the Center for New Corporate Priorities run by Santa Monica City Councilman Ruth Yannatta Goldway. Ms. Goldway, a consumer issues activist, was the first local candidate to be elected with support of Hayden-Fonda's "populist" Campaign for Economic Democracy; her husband, Derek Shearer, is an old Students for a Democratic Society colleague of Mr. Hayden. Ms. Goldway's Center for New Corporate Priorities makes no secret of its hostility to big business. In 1978, the Center received a $126,000 CETA grant for job training. More than half of Ms. Goldway's own salary at the center came from CETA money.

During the 18 months before Ms. Goldway voluntarily renounced the grant, according to a detailed report in the Santa Monica Evening Outlook, the Center placed 57 CETA trainees with 29 different community organizations. These "work-sites," in CETA jargon, ranged from the Coalition for Economic Survival, active in rent control and tenant issues, to the Interfaith Hunger Coalition, active in the Nestle boycott over infant formula marketing, to the Southwest Working Women's Coalition, to the La Raza Center for Alternative Education, and so on. Two of the recipients, the California Public Policy Center and the California Housing Research Foundation, are said to be closely aligned with Hayden-Fonda's CED, and the others would appear to be in sympathy with that brand of politics.

But the Labor Department (and its intermediary, the Los Angeles County Department of Community Development) didn't seem to mind parcelling out money to this web of activist groups. But the government sponsors professed shock at the revelation that some of these CETA workers might be involved in politics. Federal regulations bar CETA contracts from supporting political campaigns or legislative lobbying. A former CETA worker under the Center's contract has charged that fellow trainees were campaigning for Santa Monica's rent control initiative and for Ms. Goldway's own election to the City Council.

"It's all very gray," Mike Fonte, co-director of the Interfaith Hunger Coalition told the Evening Outlook. "Defining what a CETA worker can and cannot do is a real problem because the lines are not always clear."

In one sense, the charges against Ms. Goldway's group pale in comparison to other CETA abuses. A congressional committee recently heard that one CETA contractor, the Washington, D.C. Institute for Careers in Tourism, devoted more than $100,000 to such things as "Happy Hour Training" at D.C.'s Red Lion and Black Tahiti restaurants. Another contractor used CETA money for a $2,850 wedding and reception on the Queen Mary.

Ms. Goldway has also been criticized for hiring many white, well-educated CETA workers in their 20s and 30s, and that may be unfair. The program is meant to give skilled jobs to the long-term unemployed with a history of low incomes, and the people who best match that profile are graduate school drop-outs. CETA workers nationally are by far the best educated group ever to go on the government dole.

But the Santa Monica case can't simply be dismissed as a teapot tempest blown up by the far right. As one Los Angeles County official did timidly wonder, "community advocacy" doesn't seem like the kind of job training CETA was supposed to provide. In fact, the "advocacy" practiced by the Haydens, Fondas and Goldways of the world looks pretty much like undiluted politics. Federal poverty programs have been notorious for financing a whole new breed of political machines. Now CETA is making its contribution, in ways that are just now coming to light.●

RIDESHARING AT BOEING-VERTOL CO.

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. EDGAR. Mr. Speaker, recently I had the opportunity to commemorate the start of a new ridesharing program at Boeing-Vertol, a major employer in my district. I include my remarks on that occasion for the RECORD:

RIDESHARING INITIATIVE AT THE BOEING-VERTOL CO.

I am happy to be here today to commemorate the beginning of a new vanpool program sponsored by the Boeing-Vertol company. The decision to begin a vanpool program here was reached in January of this year and within two months, over 1,500 Boeing employees had expressed an interest in joining the program. Computer matching of riders and routes was arranged in March by the Delaware Valley Regional Planning Commission and the first two vans went into service on June 9.

I must congratulate the management and employees of this company for the foresight and energy consciousness they have readily displayed. Vanpooling is an innovative and cost effective expansion of carpooling. Each of your vans will save at least 5,000 gallons of gasoline each year and reduce hydrocarbon pollutants by 1.6 tons a year. In addition, the participants are sure to enjoy the convenience and economy of vanpooling to work.

The efforts of Boeing-Vertol are especially meaningful to me because of my long-standing interest in ridesharing. When I came to Congress in 1975, the federal role in promoting this proven conservation tool was nearly non-existent. Therefore, I have taken a personal interest in this issue and have introduced three bills and numerous ridesharing amendments to transportation bills during recent years. The most important gain was made in 1978 when the House adopted amendments I offered to make it a national policy to promote ridesharing, to study institutional barriers to carpool and vanpool programs, and to create a categorical grant program for ridesharing. In addition, I have worked over the years with regional transportation planning commissions, private companies, federal agencies, and vanpool groups to develop responses to laws, regulations and attitudes that have hindered ridesharing plans.

The Carter administration has also taken an interest in ridesharing as part of an energy conservation package. On October 25, 1979, the president established a National Task Force on Ridesharing to promote public discussion of the issue and make legislative recommendations to encourage ridesharing. I am anxious to learn the results of the work of the Task Force. The Department of Transportation has also increased its efforts and most recently, created a national hotline ridesharing number which interested parties can call for information. That number is 800-424-9184.

Again, let me congratulate the people here today for their participation in this important venture.●

OVERCOMING WORLD HUNGER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. DRINAN. Mr. Speaker, the Presidential Commission on World Hunger has called upon the United States to make the "elimination of hunger the primary focus of its relationship with developing countries." The Commission concluded that a food crisis, more serious than the present energy crisis, could develop over the next few decades.

The Agency for International Development has devoted the June issue of its publication Agenda to the challenges ahead in attacking the problem of world hunger and malnutrition. I commend to my colleagues the following article authored by Miss Frances Brigham Johnson who is AID's desk officer for Senegal and who was AID manager of the "International Conference on Women and Food" held in 1978. In her article, "Food For All: No. 1 Priority" Miss Johnson calls upon the United States to take the lead in the campaign against world hunger as the most fundamental demonstration to the cause of human rights. Her article follows:

FOOD FOR ALL: NO. 1 PRIORITY

(By Frances Brigham Johnson)

Hunger and malnutrition are becoming pivotal issues for national leaders and developers who want to chart enduring courses to national growth and progress. More and more leaders are recognizing that material change will be fleeting if made at a cost of neglecting or ignoring pervasive malnutrition. The World Bank estimates that some 800 million people in developing countries are not able to feed themselves even minimally.

While famine and starvation in Nigeria, the African Sahel countries, Bangladesh and Cambodia have seized world headlines, widespread chronic malnutrition is far more devastating. Malnutrition shortens life, stunts physical growth and harms the alertness of at least one out of eight men, women and children on earth. Yet, strange as it seems, most of the people who are hungry and malnourished today would still be missing the food they need if food production were to double next year.

Development leaders are now recognizing that the heart of the malnutrition and hunger problem is not food production alone, but poverty. Accordingly, developers are at last focusing on what must be done to put hungry people in control of the daily food they need. They are recognizing that the task calls for political as well as technical solutions.

Realizing that the food supply issue is central, the Presidential Commission on World Hunger, which recently wrapped up a two-year study, has recommended that *eliminating* hunger be made the primary focus of U.S. relationships with developing countries. This will mean a shift in U.S. policy on a number of fronts, and will include changes in trade relations, foreign investment and foreign affairs.

For AID the shift will mean assigning more weight to nutrition and national food supply as integrating themes for development programs and projects in agriculture, health care, education and family planning. Aid missions already are talking with developing countries about forging development strategies based on growth with equity. AID in particular has been working for some time with developing countries to establish national nutrition strategies that link agricultural production and planning with ways to alleviate malnutrition.

Beyond its technical assistance and PL 480 (food aid) activities, AID more recently has been developing a comprehensive approach for *eliminating* hunger. This approach represents a response to the presidential commission's call for accelerated efforts to assure *adequate diets for all*. That is, AID has been grappling with finding ways for each household to grow enough food or earn enough money to feed itself adequately.

AID may provide professional consultants to Third World governments to help develop national food strategies. Policy makers will consider ways to increase food production, to improve marketing, food distribution and nutrition intervention; and to set ground rules for trade and investment. International teams made up of experts from developed nations and country planning groups will use existing data and material so that the first strategy—food—can be prepared fairly rapidly.

It is expected that the food strategy will stimulate concerted effort by all concerned government agencies, aid agencies and producers, processors and distributors of food. The food strategy, once set forth, will need an institutional base—where it will be improved and refined as time goes on.

While most countries have the basic structure to formulate and support a food strategy, they have not tied together food-nutrition policy and projects as a consistent whole. It is expected that the food strategies will take into account a variety of factors that affect food supply, such as macro-economic policies governing household incomes, employment, prices, subsidies, and amounts of food available to consumers.

There is another approach to meeting hunger head-on. It is under scrutiny by development officials. Known as the "Tucson Model," it is dependent upon the developing country's adopting specific steps to attack its hunger problem.

The Tucson Model grew out of a meeting two years ago in Tucson, AZ, the Conference on Women and Food sponsored by AID.

According to the strategy, the developing country first must organize indigenous centers that can continuously assess and monitor hunger, and work to get government policies initiated or revised so that food production, processing and marketing actually result in more food for people. Second, the developing country must make credit, marketing, storage and information facilities available to more small farmers, herders and entrepreneurs. Third, the country must install selected systems, such as feeder roads, water supply systems and central storage, where such improvements would boost food or the incomes of people facing food shortages. Before hunger can be eliminated, developing countries must acknowledge two realities: that all people are entitled to food at costs within their means and that national leaderships must be willing to make adequate, daily food for all people a national goal.

In suggesting how the Tucson Model should be applied, Ray A. Goldberg, Moffett professor of agriculture and business at the Harvard Business School, stresses the necessity of active market development and commodity systems. According to the Tucson Model, on-going, in-country forums on food supply in capital cities, provincial centers, villages and schools will be needed to build political will for *food for all.* In these settings local people can look at the whole range of possibilities open to them. They can send their message to governors and ministries. Knowing what the people want to do to increase food supplies, developing country officials are apt to respond positively. While, under the Tucson Model, country analytic groups and policy makers can draw upon foreign consultants and technology, primary impetus for resolving hunger and income issues and for deciding what is to be done and who is to do it will come from local enterprise, reinforced by public policies and basic services.

To implement the model, AID must be ready to enlist the know-how of U.S. universities, business and voluntary agencies. Private sector knowledge and experience could be of great help in finding the solution to hunger.

AID's approach, growing out of work with the World Food Council and with a consortium of western U.S. universities, squares with the presidential commission's thinking that the solution to the economic riddle rests upon an accurate appraisal and determined attack on the sources of hunger.

Since the gap between income and expenses for food is a basic measure of poverty and hunger, the commission concludes that the most important task is to close the gap through policies that enable individuals and families to become self-supporting.

Given the view of the presidential commission that the United States has a special responsibility to lead the campaign against hunger, AID will be looked upon as leader in working with Third World countries in this regard. Since the United States is the most powerful member of the world's interdependent food systems, AID could play a critical role as counselor to U.S. agencies on trade and investment policy, credit, debt, and other issues that help determine whether poor people in poor countries will be able to feed themselves. And foreign aid, properly directed, can build strong customers abroad. From $6 billion in 1969, farm exports grew to $30 billion in 1978. For every ton of food assistance shipped, more than 20 tons are shipped for cash, an important fact for our balance of payments. Now one-third of all U.S. exports are shipped to Third World countries. As these countries strengthen their economies, they buy more American products, including agricultural products that can improve nutrition levels.

The presidential commission points out that by focusing international efforts on elimination of hunger, the United States can demonstrate a renewed dedication to the cause of human rights. For whether one speaks of human rights or basic human needs, the right to food is the most basic of all rights. Malnutrition kills—by making the victim more vulnerable to infectious diseases. Often deaths from gastrointestinal and respiratory diseases are actually the work of malnutrition.

For AID the challenge will be to help developing countries discover an attainable path for eliminating hunger. The commission recognizes that many long-range programs of hard work will be required. However, the commission concludes: "The worst aspects of hunger and malnutrition can be overcome even before more far-reaching development programs have become fully effective." The commissioners believe, and AID can demonstrate, that the outcome of the war on hunger by the year 2000 will be determined by decisions and actions well within the capability of nations and people working individually and together. Indeed, world order depends on it.●

GRANTS FOR FINANCIALLY DISTRESSED HOSPITALS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. RANGEL. Mr. Speaker, I am today introducing a bill which was introduced in the Senate last week by my good friend Senator JAVITS. His bill, S. 2840, would provide for grants to financially distressed hospitals serving the medically indigent.

As chairman of the Subcommittee on Health of the Committee on Ways and Means, I am very much aware of the immediate crisis facing many of our community hospitals. This crisis has occurred because community hospitals, primarily public hospitals, have assumed the responsibility of caring for those who are not protected against medical care costs by either public or private health insurance programs. Senator JAVITS has developed a good bill which would do much to alleviate the mounting fiscal pressures on hospitals. Unfortunately, given the severe fiscal restraints we are working under this session, I am not sure whether such a proposal could be funded this year. In recognition of this, I will be introducing my own bill later this week. Although it is more limited in approach, my bill would provide immediate assistance for the most severly impacted hospitals and would help to generate the necessary information to determine the appropriate future role for the medicare and medicaid programs in assuring that the communities have access to adequate health care services provided in an economical manner.●

SOVIET MEDICINE FROM THE INSIDE: NOTHING WORKS INCLUDING SOME DOCTORS—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. McDONALD. Mr. Speaker, on June 19, 1980, I inserted in the CONGRESSIONAL RECORD part I of this series. It is found on pages 15832-15834. These articles are particularly appropriate at this time because the recent issue of Time magazine on the U.S.S.R. makes a great deal of so-called free medical care available to Soviet workers. However, like the so-called freedoms in the Soviet Constitution, this is just on paper. In real life, Soviet medical care is not always available and it is certainly far from being free. Part II of this series follows:

SOVIET MEDICINE FROM THE INSIDE: NOTHING WORKS INCLUDING SOME DOCTORS—PART II

(By Vladimir Golyakhovsky, M.D.)

In Russia, we have an old saying: "It is better to have 100 friends than 100 rubles." Friendly "connections" are important even for a doctor. When my mother-in-law was suffering from a serious eye disorder, it took my wife and myself scores of phone calls to friends and friends of friends to locate a vial of dexamethasone—something that, here in the United States, I could pick up with a prescription at any drugstore.

Yet rubles, too, are important—even in our so-called "model Communist society." And that is why most doctors in the Soviet Union are women: Men simply cannot support families on their low official salaries. In the U.S.S.R., it is said that "a woman doctor is neither a woman nor a doctor," because while at work she thinks about her home life, and while at home she thinks about her work.

Recruiting qualified males in an attempt to meet the government quota can't be done without inflating entrance-exam grades. I remember one examiner who was about to give an applicant a failing grade, when the chairman declared, "He may be an idiot, but he's a man," and awarded him the top score. The percentage of male doctors is rising, but they still tend to become administrators, leaving the poorly paid job of treating patients to the women.

Doctors nevertheless live well by Soviet standards. Some even own cars. Illicit payment for free care is so common that the fees have become standard: 3 to 5 rubles to the nurse for an injection, 15 to 20 rubles to the doctor for a house call, 50 to 100 rubles to the surgeon for common surgery, and 500 to 1,000 rubles for complicated operations—unless the doctor is a full professor, in which case the fee is doubled.

I remember my embarrassment when, as a young surgeon, the mother of a teen-ager whose ankle I had repaired slipped me an envelope in a busy hospital corridor. I opened it, thinking it was a document of some kind, and found 50 rubles inside. "Nyet, nyet!" I said, trying to force it back into her hand. "Da, da!" she insisted. As people were starting to stare and this would not be good for either of us, I reluctantly pocketed the envelope and hurried away.

In the Caucasus and Baltic republics, doctors are among the wealthiest citizens. In large cities and central Russia, gratuity norms are lower, and in rural areas, payment—with meat, eggs, pickles, cakes—means that doctors and nurses don't spend any of their salary on food. Cognac for male doctors and candy for females are common gifts, but many pay by making or fixing things, and influential patients may perform more exotic services, like arranging for vacations at a resort. Retail workers sell hard-to-get imported or "deficit" goods under the table to favored doctors.

Healthy people, too, pay doctors—to sign statements that they are too sick to work (buying them a week's vacation for 3 to 10 rubles a day) and that they were not drunk while driving. The biggest bribes are paid by factory managers to public health doctors, who certify that their enterprises are not polluting the city.

The average patient pays from 500 to 1,000 rubles out of pocket during a 30-day hospital stay—which works out, according to official figures, to about one-fourth the total cost of treatment. Soviet hospitals desperately need this subsidy because inefficient administrators squander the inadequate funds they receive. The poor and powerless pay what little they can afford to insure themselves against socialized medicine—in the hope that the staff will treat them with greater care and consideration.

Many doctors who work in wretched hospitals are conspicuously wealthy. Unable to resist temptation, they become the Communist version of Chekhov's money-grubbing Dr. Ionych. First they take money for treatment. Then, gradually, they learn to take money even for things they don't do. Hundreds of such doctors, surgery assistants, and nurses are arrested each year and convicted in both secret and publicized trials. But treatment and conditions do not improve, and there are that many fewer doctors to take care of the sick.

SHORTAGES OF EVERYTHING

In downtown Moscow there is an old hospital on Basmannaya street, much like the one immortalized by Chekhov in "Ward Six." It was built more than a century ago as a temporary typhoid clinic during one of the many Russo-Turkish wars, but the government apparently intends to use it until it falls down or burns up. Even during the worst epidemics, it was never as crowded as it is now—with clinics, students' rooms, and doctors' offices all packed in tightly as pills in a bottle.

From 1971 to 1974, I was in charge of a barrack there housing some 200 surgical patients and illogically accepting up to 40 emergency patients a day. Orderlies stretchered pneumonia-prone trauma patients across a frigid courtyard and up a narrow stairway, sometimes compounding injuries by dropping them on the way. Since there was a bed shortage, patients were placed on the floor, and the staff had to cross this groaning obstacle course, reminiscent of a World War II field hopsital, to get to work. Some unfortunates remained on pallets for several days. The more affluent gladly paid pliable doctors or nurses 10 rubles for a bed assignment.

This was typical of the hospital's well-known cash-for-care policy. The pharmacy lacked medicines; the operating room lacked instruments; the supply room lacked linens; the X-ray room lacked film. Nobody had enough of anything until the patient opened his purse. Then everything was suddenly available. The head of anesthesiology sold imported "deficit" medicines at three times the regular price to relatives of patients on the edge of death. The X-ray chief did likewise with film. Surgeons charged an extra 100 rubles to perform an operation with a tri-flanged Smith-Petersen nail. The nail, they claimed, was gold. Actually, the nails were steel, but they were so hard for doctors to get they might as well have been made of gold.

Syringe needles are in such short supply that an acquaintance of mine was asked to take some with him when he went to Moscow in 1976 as a tourist. His niece, a pediatrician in the Soviet Union's largest pediatrics institute, can't get good needles. A partial alphabetic list of other basic unavailables would include: absorbent cotton, alcohol, bandages, bedpans, catheters, enema bags, gauze, laryngoscopes, scalpels, sphygmomanometers, sterilizers, surgical clamps and thread, thermometers, tubing, wheelchairs, and X-ray film. It would be easier for me to list the *available* medical equipment.

The Soviet medical industry does not produce disposable syringes, so nurses spend millions of hours boiling syringes and needles—each used hundreds or even thousands of times. Since syringes are never ready when needed, doctors have to wait the same millions of hours for them to boil and cool. I've waited in the operating room for half an hour because a syringe was being boiled, or the nurse had to run to the next department to borrow one.

Because of this pressure, syringes and needles are often boiled too briefly and consequently spread disease. In 1972, there was a mass infection of hepatitis from dirty needles at Botkin Hospital in Moscow, and in 1975, dozens of people were infected at the Institute of Clinical and Experimental Surgery, whose director is the Minister of Health. (The press widely publicizes Dr. Boris Petrovsky's kidney transplants. Nobody mentions the hepatitis.

SUPPLIES LOW, QUALITY LOWER

Needles in the Soviet Union are never the right diameter or length and are always so dull that they hurt when puncturing the skin. Poorly attached to the base of the syringe, they leak medications, especially when you inject a local anesthetic or block. You may have to remove the needle and reassemble it as many as 10 times to get it on right. Worse yet, needles often break off at this weak base—sometimes so deeply imbedded in the unfortunate patient that the doctor must operate to get one out. Glass syringes have broken in my hand on occasion, cutting me badly. When that happens, all work ceases until the nurse runs to the nearest drugstore to buy a new one.

Every master's pride is his collection of tools, but Soviet surgeons have little to brag about. A surgeon begins operating with a joyous feeling of creativity, but the dull knife seems to plow the skin instead of cutting a fine thin line. He tries another scalpel. It cuts worse. By the time he has tried five scalpels to find one that has a decent edge, he is not in the best of moods for his unlucky patient.

But dull scalpels aren't discarded. They are collected and sharpened—on ordinary emery stones, which scratch the blades and eventually cause corrosion, rust, and infection. Other infection sources in Soviet operating rooms are the fluff, cotton thread, and gauze constantly floating in the air, along with flies—sometimes so numerous that a nurse is assigned to chase them with a towel. Official Soviet statistics—which often wander from reality—put serious infections after surgery at 4 to 5 percent. True statistics are double that and in some small hospitals reach 20 to 25 percent.

Patients wait for months for an X-ray appointment. Desperate, they try other hospitals and clinics, even in larger cities. Nowhere do they find film. If they do, it is legally available only to patients holding a passport or Rx for that city, so they must bribe the technician. X-ray quality is so poor that films barely show organs, much less pathology. Either the camera is rotten, the technician is poorly skilled, or the developing solution is diluted and dirty because it has been reused too often.

There are no adhesive bandages in the Soviet Union, but we traumatology orthopedists suffered mainly because of a shortage of imported fabricated plaster bandages. About five years ago, the government began to produce its own, but they were of poor quality, and there were only enough for major institutes. In small hospitals and clinics, thousands of nurses and doctors still waste millions of hours applying plaster powder to bandages. I always taught my graduate students how to do this, lest they be unprepared for their future work. With problems like this, it's no wonder that Soviet doctors often steal "deficit" items from each other. At international meetings, like a swarm of locusts, they pick exhibits clean.

Often you'll read in patients' histories that the doctors applied "three bricks of traction." Nothing would seem easier to produce than simple iron traction weights, yet many hospitals have to use bricks instead. Not far from Moscow, there is a small, crowded, wooden hospital more than a century old. Finally, after several decades of community appeals, construction was begun on a new brick structure next door. Many months late, and many rubles over the budget, the day of the opening ceremony arrived. Party officials made the usual triumphant speeches about the government's concern for the people. A few weeks later, the building settled and developed a dangerous crack, and everyone was moved back to the wooden barracks. With no funds to repair the brick building, it gradually fell completely apart. This was, however, not a total loss. Doctors and nurses were able to collect an ample supply of bricks from the ruins for traction weights.

The absence of even simple orthopedic fasteners leads to tragic improvisations. A 12-year-old girl brought to Filatov Children's Hospital five years ago had broken her shin bone, and a doctor in a remote hospital repaired it with a large iron nail. Gangrene inevitably set in, and the leg was amputated above the knee. I thought this the epitome of incompetence and shoddy equipment—until I heard of another case where a rural doctor repaired a broken bone with the claw from a tractor's harrow.

Because of the shortage of good surgical thread, nurses are always admonishing surgeons to sew incisions with as little thread as possible. Of course, this economizing takes a lot time, leaves a weak suture, and sometimes—because the thread is of such poor quality—sutures become infected and break open.

When something is actually not in short supply, Soviet medical officials constantly urge doctors to use it up. My hospital chief criticized me for not using my quota of stored blood, so I invited him into the operating room to prove that it was often possible for a surgeon to operate without large transfusions. Unimpressed, he denounced me again at the next staff meeting.

THE CALIBER OF THE DOCTORS

It would be grossly unfair to accuse all Soviet physicians of incompetence. Since improvisation is so often necessary, many may be more accomplished than U.S. doctors, who have little experience treating patients under poor conditions.

An interesting affirmation of that hypothesis came at the 1960 All-Union Conference of Surgeons in Moscow, when I accompanied an American medical delegation that included Dr. Michael DeBakey on a scheduled tour of the clinic of chest surgery at Hospital No. 50, where my father had been working.

The clinic surgeons briefly showed the Americans the best operating and patients rooms, specially prepared to make as good an impression as possible. We didn't fool them, though. One surgeon later wrote an article in which he commented that Russian surgeons must be the best in the world, because no one else could operate so well with such poor instruments. We were all very pleased with our American colleague's perceptiveness.

Soviet doctors—particularly the women—also deserve credit for the dedication with which they endure poor working conditions. Many developed radiation diseases or burns because of our primitive X-ray techniques. From 1967 to 1968 my own leucocyte count fell in half, and other doctors at the institute suffered similarly.

When inspectors from the X-ray center hung Geiger counters on us, they discovered we were receiving three times the allowable dosage. We reported that unsettling fact in a letter to the Council of Trade Unions. We added that we were also exposed to narcotic substances, had to stand for hours at a time, and generally suffered nervous tension and physical exhaustion. We concluded by asking that surgery be classified a dangerous occupation.

We never received an answer to our letter.●

HERB AND FLORRIE TENZER'S WEDDING ANNIVERSARY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. RODINO. Mr. Speaker, on June 29 our distinguished former colleague, Hon. Herb Tenzer of New York and his lovely wife, Florrie, celebrate their 50th wedding anniversary. There is a special place in our hearts for Herbert and Florrie because while Herb retired after serving two terms in the House of Representatives, he made his mark here quickly and effectively.

I recall his initial days in Congress in 1964, particularly his seemingly endless energy and enthusiasm for a new Member of Congress in his sixties. He had been a successful business executive, chairman of the board of Barton's Candy Corp., and senior partner of a prestigious law firm which continues to grow, but he was also a man strongly committed to civil rights and programs to help those less fortunate than most in our society. His service on the House Judiciary Committee was marked by his concern for the constitutional rights of all citizens.

His Long Island constituents knew they were well served by their first Democratic Congressman in history so they reelected Herbert in 1966, but he bowed out of elective politics in 1968, not because of a political opponent but because of his love for his wife and family. He returned to his law firm in New York, Tenzer, Greenblatt, Fallen & Kaplan, where he has continued to maintain a busy pace in legal, social, civic, and religious activities.

Herb's accomplishments in the House of Representatives represent a luminous chapter in the career of a civic leader who rose from humble beginnings to a position of eminence in terms of community services and philanthropy. An eminent attorney, respected business and civic leader and a tireless worker on behalf of charitable causes, Herb Tenzer, at age 74, still brings to his efforts enormous vigor, enthusiasm and an abiding concern for the betterment of mankind.

Herb currently serves as president of the National Council to Combat Blindness, Inc. (Fight for Sight); as a voting member of the New York City Division of the American Cancer Society; as a member of the board of overseers of the Albert Einstein College of Medicine; as a member of the board of trustees of Beth Israel Medical Center.

Herb is a founder of the United Jewish Appeal of Greater New York, Inc., a past president, past campaign chairman and past chairman of the board of governors. He is a member of the board of the UJA-Federation Joint Campaign. In November 1977 Herb was elected chairman of the board of trustees of Yeshiva University; a vice president of B'nai Zion and president of the America-Israel Friendship League, Inc. He is a member of the executive committee of American Israel Public Affairs Committee. He is also a trustee of the Jewish Communal Fund. Among other awards in 1967 Herb was given the Man of the Year Award by the National Conference of Christians and Jews, Long Island chapter.

In 1975 Herbert was appointed by the Governor as a vice chairman of the State of New York Special Advisory Panel on Medical Malpractice, of which Dr. William McGill, president of Columbia University served as chairman. The panel filed its report with the Governor January 6, 1976.

In 1977 Herb was appointed by Governor Carey as chairman of the board of social welfare of the State of New York.

Herbert and Florrie have two married children, a son, Barry, who is an attorney, and a daughter, Diane Schachter. The Tenzers have eight grandchildren.

I know that this 50th wedding anniversary celebration means more to Herbert and Florrie Tenzer than all the honors and accolades which have been bestowed on them. For that reason I know I speak for the full House of Representatives in congratulating our former colleague and wishing many more happy years of married life to Herb and Florrie Tenzer.●

TESTIMONY ON NUCLEAR FUEL EXPORT TO INDIA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. DODD. Mr. Speaker, this morning I submitted testimony before the House Committee on Foreign Affairs expressing my deep concern over this administration's proposal to export 38 tons of low-enriched uranium to India.

As the House of Representatives is likely to be considering this important issue in the near future, I would like to give my colleagues an opportunity to review the reasons I believe the proposed exports will significantly endanger our nuclear nonproliferation policy.

The testimony follows:

TESTIMONY BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS—JUNE 26, 1980

Mr. Chairman, members of the committee, I am pleased to have the opportunity to submit testimony today on a matter of great importance to the future of this Nation's nonproliferation policy.

As you know, on June 19, 1980, President Carter issued an Executive order to export low-enriched uranium and various nuclear components to India, thereby overruling an earlier unanimous decision by the Nuclear Regulatory Commission. On that same day, I introduced House Concurrent Resolution 369 disapproving the proposed exports. I am pleased to have as cosponsors Mr. LONG of Maryland and Mr. OTTINGER of New York. I am particularly pleased to have their cosponsorship as the three of us had introduced a similar resolution 2 years ago when the President proposed an earlier nuclear fuel export to India.

In order to gain some historical perspective on this issue, I think that it might be useful for me to point out some of the similarities and some of the differences between the proposed exports we are considering today and those of 2 years ago.

Two years ago, the ink on the Nuclear Non-proliferation Act of 1978 was hardly dry. In order to try to stem the further proliferation of nuclear weapons capability around the world, we made a decision not to export nuclear fuel to nations which had not accepted International Atomic Energy Agency full scope safeguards on all their nuclear facilities.

However, to give our State Department ample time in which to convince other nations to accept full-scope safeguards on their nuclear facilities, we wrote a two year grace period into the legislation. At the time, I felt that it was extremely unlikely that we could, in fact, convince the Indian Government to accept safeguards and that we would later be forced into cutting off their fuel supply. It was for this reason that I opposed the sale of uranium to India two years ago. The two years grace period expired on March 10, 1980, and the Indians have shown absolutely no inclination to accept the required full-scope safeguards. In fact, during that two year period the Indian Government has gone from a policy of promising not to explode any further nuclear "devices" to explicitly stating that it reserves the right to do so.

It should be noted that the primary catalyst for developing and passing the Nuclear Non-Proliferation Act was the Indian explosion of a nuclear "device" in 1974. It was not simply the fact that India set off a nuclear explosion, it was the fact that they used Canadian equipment and U.S. supplied heavy water—in violation of the peaceful use agreements—to achieve an explosion which so alarmed the world. In response to the 1974 nuclear test, Canada immediately suspended its nuclear relationship with India. In contrast, the United States continued to supply India with nuclear material while we attempted to convince India to accept safeguards.

In the six years since 1974, we have repeatedly failed to convince India to accept I.A.E.A. full-scope safeguards or to sign the non-proliferation treaty. It is time to admit that we have failed in our non-proliferation policy towards India. The question now is whether we will continue to supply India with fuel in spite of India's consistent refusal to accept safeguards.

My answer is no—not unless we want to show the world that our nuclear non-proliferation policy is a sham. The foundation of our non-proliferation policy rests on the acceptance of safeguards by nations we supply nuclear fuel to. If we do not enforce our insistence on safeguards, then we have no non-proliferation policy.

I still believe that non-proliferation is one of the most vital foreign policy goals this Nation can pursue. Preventing the continued spread of nuclear weapons capability around the world is not only vital to our own interests, it may be the most important factor in insuring peace in the world. Over the past 25 years, we have been moderately successful in limiting the spread of nuclear weapons. However, several nations now are standing on the threshold of having a nuclear capability and are probably deciding whether to take the final step. We sent them a message in 1974 when we did not end our nuclear relationship with India after their nuclear test; I sincerely hope that we will not send these threshold nations another signal by approving the currently proposed exports.

As you know, in spite of India's refusal to accept the safeguards mandated by the Nuclear Non-Proliferation Act of 1978, President Carter is proposing that we export to India 38 tons of low-enriched uranium and various nuclear components. Interestingly, the administration is not maintaining that we still have a chance to gain India's acceptance of safeguards; instead, the administration is emphasizing the steps India might take if we do not continue our nuclear fuel exports. India has threatened to lift the current safeguards on U.S. fuel and to reprocess our spent fuel if we cut off their supply. (Reprocessing is the first step towards manufacturing weapons grade plutonium.) In other words, by threatening to reprocess our spent fuel, India is subjecting the United States to a form of blackmail. Submitting to this kind of blackmail, in my opinion, is not likely to strengthen our non-proliferation policy with the rest of the world. And the fact that India is threatening such blackmail should not give us confidence in the future direction of Indian nuclear policy.

The administration has also argued that we need to maintain our nuclear ties to India because of our heightened security concerns in South and Southwest Asia following the Soviet invasion of Afghanistan. While it is evident that this region has taken on greater importance to us since the Soviet invasion, I fail to see how abandoning our non-proliferation policy will help us in combatting Soviet influence in that region. The recently signed $1.6 billion arms deal between the Soviet Union and India should leave us with no illusions about our ability to influence Indian policy in this regard.

If we allow this latest nuclear fuel export to be sent to India, we will be clearly abdicating our leadership in the non-proliferation field. We will also be abdicating the role we in Congress established in the Nuclear Non-proliferation Act of 1978. I would urge this committee in the strongest possible terms to favorably report a resolution of disapproval of the proposed nuclear exports.

Thank you.●

EMB CONFERENCE REPORT SHOULD BE REJECTED

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. SEIBERLING. Mr. Speaker, tomorrow the House is scheduled to consider the conference report to S. 1308, the Priority Energy Project Act of 1980, which creates an Energy Mobilization Board with broad authority to expedite the construction and operation of designated priority energy projects.

As the Members of the House will recall, this legislation was initially conceived solely as a way to speed up decisionmaking in licensing and permitting procedures for important energy projects. The intent was to help important energy projects to come on line as quickly as possible by providing a way to push agencies along as they performed the various studies and analyses of costs, economic benefits, health and environmental effects, and alternatives required by several Federal statutes. The initial proposal would have only served to shorten the time the agencies took to complete the reviews for designated energy projects; it would have left intact the implementation of requirements Congress has enacted over the years mandating industry to build into their projects measures to protect public health and safety, and natural resources.

The proposal we will consider tomorrow goes far beyond the original goal of expediting the schedule of permits necessary for vital energy projects. It would create a new layer of bureaucracy with vast authority to recommend waivers of Federal and State laws requiring health, safety and environmental controls, resource protection and development processes, and individual procedural rights. And the Energy Mobilization Board as created by this legislation would itself be exempt from provisions of the Administrative Procedures Act and the Sunshine Act, and, for the most part, from judicial review. The Board we would create through this legislation would operate free from public scrutiny and with no accountability to the public, and yet with unprecedented freedom to recommend wholesale exemptions from laws developed in response to public demand.

The Board could inject itself into agency decisionmaking and usurp agency jurisdictions at all levels of government. It could exempt any designated project from regulations promulgated after enactment of the bill—even if the regulations would implement laws on the books today. And it could grant unlimited exemptions to certain projects while other industries engaged in the same activities would have to continue to meet Federal and State statutory standards. Such exemptions would undoubtedly give competitive advantages to the selected projects, and would, I believe, constitute unnecessary and undesirable Federal interference in the free market.

I have only identified a few arguments against this legislation. I would emphasize to my colleagues that the EMB proposal on paper is really only the tip of the iceberg. We literally have no idea what impact this proposal, if enacted, would have on public health and safety, and our natural resources. It is very likely that this legislation, if enacted, would not be fully implemented for years because it is likely to be challenged in the courts. And we will have done nothing to expedite energy projects vital to national interest.

I think we should vote this bill down, and I urge my colleagues to vote "no" on the conference report. The proposal is contrary to government by law. It would substitute government by personal caprice for laws which have withstood the test of litigation and attack by industry. We should defeat it.

I am including in the RECORD following my remarks a list of some of the State laws which could be waived by the EMB.

The list follows:

CALIFORNIA

California Environmental Quality Act as amended January 1, 1980.
Air Pollution Control Laws—1979 Edition.
Statutory Water Rights Law and Related Water Code Sections—January 1978.
The Porter-Cologne Water Quality Control Act—January 1978.
Solid Waste Management and Resource Recovery Act.
Hazardous Waste Control Law.
Hazardous Waste Haulers Act.
California Coastal Act.

CONNECTICUT

Environmental Protection Act of 1971.
Air Pollution Act.
Water Pollution Law.
Water Resources Act
Water Pollution Control Law.
Solid Waste Management Act.
Inland Wetlands & Watercourses Act.
Coastal Area Management Act.
Public Utility Environmental Standard Act.

LOUISIANA

Environmental Affairs Act.
Stream Control Acts.
Mining and Reclamation.
State and Local Coastal Resources Management Act of 1978 and Rules and Related Material.
Natural Resources & Energy Act of 1973.

MICHIGAN

Environmental Protection Act of 1970.
Air Pollution Laws.
Natural River Act.
Water Resources Commission Act.
Solid Waste Management Act and Amendments.
Resources Recovery Act.
Liquid Industrial Wastes Act.
Hazardous Waste Management Act.
Shorelands Protection and Management Act.
Soil Erosion and Sedimentation Control Act.
Oil and Gas Law and Rules.
Mine Reclamation Act and Rules.
Water and Power Company Act.
Power Plant Siting and Transmission Line Routine Law.
Health and Safety.

UTAH

Air Conservation Act.
Water Pollution Control Act.
Solid Waste Management Act.
Hazardous Waste Act.

Regulation of Coal Mining and Reclamation Operations Act.

Oil and Gas Conservation Act.

Mined Land Reclamation Act.●

INTERNATIONAL CONGRESSIONAL FELLOWSHIPS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. WOLFF. Mr. Speaker, my colleagues and I are pleased to introduce today a House resolution which expresses the sense of the House of Representatives that congressional fellowship programs for nationals of friendly and allied nations constitute a valuable resource for the Congress. The resolution also encourages nongovernmental organizations to support congressional fellowships for persons with expertise in areas that will assist the Congress in promoting international cooperation in matters of trade, finance, economic policy, and related areas.

I particularly want to thank my colleagues Mr. AKAKA, Mr. BROWN, Mr. CLEVELAND, Mr. DRINAN, Ms. FENWICK, Mr. JEFFORDS, Mr. JONES, Mr. LAGOMARSINO, Mr. LEACH, Mr. LELAND, Mr. LOWRY, Mr. MARKEY, Mr. PEPPER, Mr. PRITCHARD, Mr. SCHEUER, Mr. WINN, Mr. WOLPE, and Mr. YATRON for their cosponsorship of this resolution. Their support reflects, I believe, a bipartisan awareness of the potential contribution such programs can make to the operations of the Congress. In addition, participation in our daily activities permits the congressional fellows to learn more about the functioning of Congress and its role in governmental decisionmaking. This is an especially important aspect of the fellowship programs since the congressional role in foreign policy decisions is gaining increased attention internationally. Our actions in the foreign policy area are often misinterpreted in other nations due to an incomplete understanding abroad of our legislative process and of congressional powers and authority. Since these fellowships usually are awarded to persons with outstanding credentials in their home countries, I believe they can do much to improve such understanding. I hasten to add that foreign nationals who receive these fellowships work only in nonsecurity-related areas.

Finally, I would like to thank the Asia Foundation for its long-standing support of this type of fellowship, and I wish to draw attention to the fact that over the years they have sponsored more than 70 congressional fellows from all over Asia. I urge our colleagues to support this resolution to encourage the continuation of such programs and I wish to express my deep appreciation for the contribution made by international congressional fellows and their sponsors.

I submit for the RECORD a copy of the resolution:

H. RES. 736

Resolution expressing the sense of the House of Representatives that international congressional fellowship programs are a valuable resource to the Congress and encouraging support for such fellowships by non-governmental organizations

Whereas the operations of the Congress frequently require specialized experience and expertise in international economic, commercial, social and scientific affairs; and

Whereas such experience and expertise is available to the Congress through congressional fellowships sponsored by non-governmental organizations; and

Whereas such congressional fellowships awarded to nationals of friendly and allied nations serve to promote understanding abroad of the governmental role of the United States Congress: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that congressional fellowships for nationals of allied and friendly nations constitute a valuable resource for the Congress.

SEC. 2. The House of Representatives gratefully acknowledges the valuable assistance it has received from international Congressional Fellows.

SEC. 3. The House of Representatives encourages non-governmental organizations to support congressional fellowships for persons with expertise in areas that will assist the Congress in promoting international cooperation and consultation in matters of trade, finance, economic policy, and other concerns shared by the United States and its friends and allies.●

A CHALLENGE FOR THE DRUG INDUSTRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. GILMAN. Mr. Speaker, on June 18, 1980, I took out a special order on "Valium: Its Use, Misuse and Abuse" (CONGRESSIONAL RECORD, pp. 15391-15394) that was joined by my distinguished colleague from California (Mr. DORNAN) and the distinguished chairman of our Narcotics Select Committee (Mr. WOLFF).

As members of the Narcotics Select Committee that has held extensive hearings on drug abuse among our youth, the elderly, women, ethnic minorities, and in the military and that has studied international narcotics trafficking and the deadly effects of marihuana, cocaine, PCP, and other dangerous drugs, we are distressed that so many of our citizens are not aware of the dangers of drug abuse * * * that so many individuals are resorting to drugs in an attempt to escape from personal problems and the realities of living in a complex, interdependent world.

During the course of my remarks, I pointed out the urgent need for the medical profession, the pharmaceutical industry, medical/pharmaceutical schools, and the Federal, State, and local governments to act in a concerted manner to warn the public regarding the dangers of drug abuse. I stated:

> The medical profession, the drug industry and medical/pharmaceutical schools need to devote more time, effort and funds on researching the side effects of drugs.

Mr. Speaker, yesterday I was delighted to read that Joseph E. Seagrams & Sons, Inc., a subsidiary of the Canadian-based Seagrams Co. Ltd., reportedly the world's largest producer of alcohol and wine, has awarded a $5.8 million research grant to the Harvard Medical School to study why some people are more susceptible to alcoholism than others. The chairman of Seagrams, Edgar M. Bonfman, reportedly stated that the research might lead to greater understanding of the causes of alcoholism and perhaps eventually the ability to predict and prevent it.

I applaud Seagrams for providing research funds to study the root causes of alcohol abuse. As I stated in my remarks regarding the problems of the misuse and abuse of Valium:

> There is an urgent need for our nation's drug manufacturers, physicians, pharmacists, and their professional schools and associations to act in a concerted, coordinated manner by pooling their resources, personnel, funds and expertise to formulate a highly visible, drug abuse prevention campaign that would help build a society free from the debilitating effects of drug abuse. The efforts by the medical/pharmaceutical professions are vital in helping to raise the consciousness of the public regarding the dangers of drug abuse and in helping to win the "war" on a problem that is causing so much human misery for so many of our citizens.

Mr. Speaker, I am inserting at this point in the RECORD the complete New York Times report of the Seagrams research grant for the study of alcoholism and I call upon the drug industry to adopt similar initiatives by providing research funds to help prevent and control drug abuse.

[From the New York Times, June 25, 1980]

SEAGRAMS GIVES $5.8 MILLION FOR STUDY OF ALCOHOLISM

CAMBRIDGE, MASS., June 24.—The world's largest producer of alcohol and wine has awarded a $5.8 million research grant to Harvard Medical School to study why some people are more susceptible to alcoholism than others.

The financing by Joseph E. Seagrams & Sons Inc., a subsidiary of the Canadian-based Seagram Company Ltd., is the largest grant for basic research ever made by private industry, said Derek Bok, Harvard's president.

Edgar M. Bronfman, chairman of Seagrams, said the research might "lead to greater understanding of the causes of alcholism and perhaps eventually the ability to predict and prevent it."

The project will be headed by Bert Vallee, a Harvard physician, and Paul C. Cabot, a biochemist.●

SUPPORT OF BOUNDARY LEGISLATION FOR ISLE AU HAUT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. EMERY. Mr. Speaker, today I am introducing legislation to establish a permanent boundary for that portion of Acadia National Park which lies within the First Congressional District of Maine. This bill enjoys widespread support among affected parties both in the local area and within Maine's conservation community. I urge my colleagues to support this bill, and I anticipate it will achieve speedy passage.

Acadia National Park is something of an anomaly within the national park system in not having firmly established boundaries. In 1929, Congress authorized the National Park Service to accept lands donated by private owners anywhere within a wide area of Maine, encompassing all of Hancock County and portions of Knox County. Over the years, the generosity of private donors has created one of our country's most beautiful parks. At the same time, however, this peculiar method of land acquisition has produced an irregular pattern of both contiguous and noncontiguous parcels. To put it mildly, the boundaries of Acadia have not enjoyed the same rational planning and congressional review which both the Congress and the Park Service now demand of other units of the park system.

The National Park Service has been working since 1970 to establish a rational boundary for Acadia. For 10 years, the Service has been engaged in on-again-off-again planning and negotiations to develop a master plan for the park along with legislation to correct the patchwork character of current holdings and establish a permanent boundary that both the park and affected local communities could support.

Unfortunately, despite serious efforts on all sides, agreement on a legislative proposal has not yet been reached with respect to that portion of the park that lies within Hancock County. However, with respect to park lands within the town of Isle au Haut in my district, these discussions have produced a wide area of agreement. This bill is the vehicle to effectuate this agreement.

The principal element of this proposal is the establishment of a rational, manageable, and permanent boundary for the fee holdings of the park within the town of Isle au Haut. This boundary would concentrate park jurisdiction and visitor activity on the southwestern portion of the island. The park would not only retain the bulk of its current holdings, including those most significant to the visitor experience, but would also acquire several important new parcels which have heretofore been in private ownership. The current owners of these properties have graciously agreed to make them available by either donation or exchange as part of a final legislative solution so as to avoid both the need for Federal appropriations and the threat of eminent domain which is so anathematic to residents of the island.

For its part, the park would transfer to municipal ownership two current holdings on the north end of the island which are not contiguous to other portions of the park and which, by inviting trespass on private lands, have been a source of friction between park users and town residents. Most of a third parcel, connected to but largely not contiguous with other park lands, would also be transferred to municipal ownership. Transfer of this third parcel is consistent with the relocation of the park entrance away from the village community to a point in the center of park holdings and near existing park campsites. This relocation has already been accomplished administratively.

The park would retain conservation easements on all three parcels to be transferred to municipal ownership. These easements would protect the scenic integrity and general character of all lands formerly in Federal ownership. The town has also taken steps to acquire similar easements on adjacent private lands so as to provide additional protection of the view from the park's fee holdings.

The effect of this rearrangement of lands would be a net decrease in park fee ownership of approximately 80 acres, to be more than offset by a net increase in park easement holdings of approximately 400 acres. On an assessment basis, the value of lands to be owned by the park in fee will actually increase by roughly $24,000. In summary, this new boundary will enhance the park resource while at the same time making it easier for the town and the park to coexist as good neighbors on this island.

The second principal element of this bill is the recognition by all concerned that this portion of Acadia should be managed as a conservation resource. The remote island experience which attracts visitors to the park on Isle au Haut can only be preserved if the level of visitor use is carefully controlled.

The third element of this proposal is a change in the park's authority to acquire additional conservation easements outside of the fee boundary. Under the open-ended provisions of the 1929 act, the park was authorized to accept donated easements anywhere within the town of Isle au Haut. At that time, the use of easements as a conservation tool was little understood. Indeed, it is doubtful that in 1929 Congress even contemplated donations of less than full fee interests.

In more recent years, easements have been an increasingly utilized technique for furthering valued conservation objectives on the Maine coast. Uncontrolled proliferation of easements, however, could have a damaging effect upon a municipality's tax base and its ability to use its land and water resources for the livelihood of its permanent community. This prospect is particularly threatening to a remote island that depends on a traditional resource-based economy. The town of Isle au Haut consists of only 7,800 acres. Under the provisions of this bill, the park would either own in fee or hold easements with respect to about 3,800 of those acres. Additional acreage is encumbered by easements running to other entities. While municipal authorities are not unwilling to see additional easements donated to the park in the future, they feel strongly that these donations cannot remain essentially private transactions to be entered into irrespective of important municipal interests. Indeed, to leave the easement question open ended would undermine the very purpose of establishing a permanent boundary for the park.

To address this dilemma, the bill provides that future easements could be accepted by the park outside the fee boundary only after review and approval by the town selectmen. I believe this to be a reasonable balancing of the competing interests involved. If, during some future period, it developed that municipal authorities were unreasonably withholding approval of desirable easement donations, the Park Service could come back to Congress for a further review of this mechanism.

Mr. Speaker, I urge this bill upon the House as a reasonable solution to a small but long-standing problem of concern to the Park Service, to those visitors who enjoy the unique resources of the park on Isle au Haut, and to important interests of my constituents. It is the result of years of planning and discussion involving a wide range of viewpoints, and it represents a fair and equitable result. I think it is an important example of how ordinary citizens in even the smallest of communities can work cooperatively with an arm of the Federal Government to mutual benefit.●

ARE SMALLER CLASSES BETTER?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MICHEL. Mr. Speaker, anyone who says the great outpouring of tax dollars in recent years has been a total waste should consider the immense benefits that have come to researchers. Research studies undertaken with tax dollars have become a major industry. No program or policy of the Great Society was deemed worthy without at least five studies of its effects. The "Catch 22" of all of this, of course, is that it invariably happens that one study's findings are criticized by another, which leads to the need for a third, which, in turn, calls for an overview of the first three. In short, while children and parents and taxpayers cannot see much benefit in the billions of Federal tax dollars spent on education, researchers have found the Great Society a nice place to visit, even if you would not want to live there.

Recently we had a continuation of the study-the-study syndrome, this time on the topic of small class size. I cannot think of a topic that has received more exhaustive and more inconclusive studies. But here we go again.

At this point I insert in the RECORD, "Are Smaller Classes Really Much Better" from the New York Times, June 24, 1980:

ARE SMALLER CLASSES REALLY MUCH BETTER?

(By Fred M. Hechinger)

With school budgets being cut in many of the nation's cities, class size has once again become a major concern. In New York, City Council President Carol Bellamy warns that "classes are already stretched to the limit." In Washington, dismissal notices were sent to 350 elementary school teachers last week, and educators are concerned about the effect on classrooms throughout the district.

At the same time, critics of school costs question the importance of small classes and ask why so many teachers are still needed when enrollments are declining sharply. In the midst of the confusion, a research organization has issued a report raising questions about earlier studies that called small classes crucial to better achievement.

The Educational Research Service, or E.R.S., a nonprofit group, specifically challenges last year's report of a federally supported study by the Far West Laboratory for Educational Research and Development, which claimed that its analysis "established clearly that reduced class size can be expected to produce increased academic achievement."

The New York situation is an example of a nationwide problem. Miss Bellamy points to her own independent study showing that the average size of an elementary school class is about 30, but that a significant number of classes have 35 or more pupils.

Why is class size growing even though most schools enroll significantly fewer pupils? City Almanac, a publication of the New School for Social Research that covers city affairs, in citing the New York experience, offers some answers. It points out that since 1971 enrollment has declined from 1.14 million to 967,700 in the current school year, while per pupil expenditures rose from $1,612 to $3,048.

Part of the rise in costs, the "Almanac" says, stems from a significant increase in the number of handicapped children in the public school system and the greater number of services offered to them, particularly small classes. This naturally distorts statistics of general class size since the pupil-teacher ratio in special classes is 6.7 to 1.

In three year since 1975, the number of handicapped pupils rose from 38,800 to 46,400, and projections indicate that there may be close to 93,000 by 1981.

The class size issue, the publication adds, also clashes head-on with a policy proclaimed a year ago that requires more pupils who lag behind in their schoolwork to repeat a grade.

These children were supposed to be placed in "transitional classes" that would give them special attention. As class sizes became a problem again, many districts lost their transitional classes and "children who did poorly in the first grade were being returned to the same curriculum at which they failed, except this time their classes were likely to be larger."

As for why declining enrollments failed to produce sufficient savings to maintain favorable class sizes, the study points out that such savings are possible only if there are sufficiently fewer children in a specific grade in one school to eliminate a whole class and a teacher.

This leads to the question: How important are small classes for successful education? Or, how seriously is the present generation of children threatened by the prospect of larger classes?

The 1979 study that has now come under attack made the point that it is futile to compare the results attained in classes of, say, 25 pupils with those in classes of 30 since the difference, if any, is mimimal. Yet this is precisely what past studies and, for that matter, teacher contracts have usually talked about.

What matters, said Gene Glass and Mary Lee Smith, who analyzed some 3,000 reports, publications and unpublished theses involving nearly 900,000 pupils over a half-century, is what happens when a class is cut in half, for example, reduced from 30 to 15, which is what their own experiment tried.

Even then, the researchers were rather cautious in reporting actual gains. Such gains were primarily fewer discipline problems and thus more time for teaching, fewer angry or frustrated teachers, more help for children who needed it, more actual experience in science and so forth.

These are all obviously ingredients of a successful school, and are, incidentally, usually part of the private school environment. Public schools today have lost increasing numbers of pupils to private schools, leaving them with the more disadvantaged students.

The E.R.S.'s special report on class size nevertheless challenges the earlier report, complaining specifically that its claims "have been widely interpreted as providing final and convincing evidence that smaller classes are better than larger classes." The E.R.S. considered some of the Glass-Smith findings "unsupported or unjustified." (The report may be obtained for $12 from the E.R.S. at 1800 North Kent Street, Arlington, Va. 22209.)

The E.R.S. is clearly right in saying that the Glass-Smith findings should not be interpreted to mean that no further research is needed in this crucial matter. It correctly insists that "few pupil benefits can be expected from reducing class size if teachers continue to use the same teaching methods . . ." or do not take advantage of small classes to individualize instruction. And class size obviously matters more in some areas, such as first-grade basic skills, than others.

But the big cities' current experience, as underscored by Carol Bellamy's warning and the very practical and current analysis by the City Almanac, strongly supports at least the part of the original Glass-Smith thesis, which says that, particularly in the early grades, a truly small class makes an orderly, warm, personal and effective way of teaching possible.

Even then, as the E.R.S. warns, success is not assured. A good teacher in a large class may do better against heavy odds and at great personal sacrifice than a poor teacher in a small one. But the staggering difficulties faced by urban schools will surely be compounded by the larger classes, which, for the moment, are the inevitable consequence of reduced budgets.●

SUPPLEMENTAL APPROPRIATIONS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. LUKEN. Mr. Speaker, because of pressing business in my congressional district, I was unable to be present for the vote on final passage of the bill H.R. 7542, making supplemental appropriations for the fiscal year ending September 30, 1980. Had I been present, I would have voted "yea."

The bill contains supplemental funds that are urgently needed in numerous areas, including disaster assistance, food stamps, and trade adjustment assistance.

I opposed the Michel amendment that would have reduced trade adjustment assistance by $837 million. The trade adjustment assistance program was conceived in 1962 to compensate for tariff and quota reductions, and it was expanded in the Trade Act of 1974 to provide financial and technical assistance to workers who lost their jobs as a result of our trade policies.

Our country has been inundated with imports, and our workers have suffered greatly as a result. They are hard-working people who prefer to work, but they are the victims of our economic and trade policies.

We made a commitment to assist those workers, and we should not breach their confidence in us. We should not divorce ourselves from our contract with workers who are unemployed because of imports. We cannot sacrifice their welfare by reducing the amount of aid to which they are entitled.

I strongly oppose the Michel amendment because it would penalize the victims of our trade policies. It would be a grave injustice to our workers who are the backbone of our society to push them under one more time when they are trying so hard to stay afloat.●

TIME TO UNLOCK DOORS IN AMERICA TO REAL FAIR HOUSING

HON. DON EDWARDS

OF CALIFONIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. EDWARDS of California. Mr. Speaker, I want to bring to my colleagues' attention the excellent editorials that appeared in the Kansas City Star and the Kansas City Times recently regarding fair housing. Both of the editorials discuss the salient issues before Congress this year on the subject. Both point out that fundamental fairness requires that action be taken immediately on the rampant practices of discrimination in housing that currently exist in our country.

The editorials follow:

Time To Unlock Doors in America to Real Fair Housing

A breath, perhaps a deep one, closer to mandatory compliance with the fair housing law may be the result of the U.S. House passage of a bill to toughen legislation barring discrimination in housing sales and rentals.

The House approved, 310-95, a measure giving the Department of Housing and Urban Development power to enforce the measure through administrative law judges. Described by President Carter as "perhaps the most important civil rights bill" of the decade, the measure has pitted civil rights and labor lobbyists against real estate and homebuilders' interest groups. The victory for the public, although it appears overwhelming, narrowly escaped being gutted of the main provision by amendment.

The heart of the bill is a section to let HUD file complaints of housing discrimination with an administrative law judge who has the authority to settle the dispute or refer the matter to the Justice Department. Opponents wanted enforcement returned to federal court judges and magistrates, much as it is now, an expensive, time-consuming and often irrelevant process.

An amendment to remove the administrative law judge provision and send the bill back to committee was defeated by one vote, 205-204. That was a slim victory for the whole measure. Proponents of the anti-discrimination bill also stopped amendments to allow a neighborhood's racial makeup to be considered in determining home values.

In the Senate, a judiciary subcommittee has voted against the administrative law judges provision. The full Judiciary Committee is expected to reverse the action. But considering that situation and the maneuverings in the House, passage of the biting bill is no sure thing in this Congress.

The need for it is. Twelve years after the landmark civil rights legislation prohibiting discrimination based on race, color, sex, national origin or religion, persons defined solely by those characteristics are being denied, openly and covertly, homes and rental units of their choice. National statistics show that blacks stand a 50 percent chance of bias in buying a house, Hispanics a 65 to 96 percent chance of bias. Unknown numbers of persons slip through surveys or documented records of discrimination.

Open housing is the law of the land. It makes little sense for a law to be unenforceable. The Senate must move with alacrity and strength to approve its version of the House legislation. If differences emerge between the two, they must be resolved to give HUD real tools. This nation must proceed with the business of ending housing discrimination against millions of Americans.

Housing Laws Not Enforced

This year's major piece of civil rights legislation is still hanging uncertainly in the Congress. House and Senate bills giving the Department of Housing and Urban Development muscle to enforce housing discrimination laws are very much needed. Proponents, including a coalition of civil rights organizations, face an uphill battle.

The bill is expected to be on the House floor today. In the Senate, it remains bottled in the Constitution subcommittee, mostly a victim of conservative Republican opposition.

Among the significant teeth to strengthen anti-housing discrimination practices would be the creation of administrative law judges under HUD to hear cases of alleged abuse. Civil penalties could be ordered. The attorney general could intervene on behalf of individuals; now the Justice Department gets involved only if patterns of discrimination are indicated or classes of people affected. At present, the sole HUD recourse is attempted reconciliation. If that fails, the complainant must turn to private civil action, which is time-consuming and prohibitively expensive for most minorities and women who are affected.

Real estate and appraiser groups have mounted a strong lobbying campaign in opposition. The attack centers on HUD's power under the proposed law. One indication of the intense effort was a letter mailed in April to thousands of mayors and county officials, signed by two legislators but allegedly written and paid for by the National Association of Realtors. The message, urging local officials to oppose the bill in letters to their representatives, warned that HUD administrative law judges could end up regulating local zoning laws. Proponents staunchly deny this intent or result.

The point is that discrimination, despite the law, exists on a broad scale. Nationwide surveys show that blacks seeking to rent have an 85 percent chance of meeting at least one instance of bias, a 50 percent chance in buying a house. Hispanic persons risk a 65 to 96 percent chance of discrimination. The ban on bias in housing, though six years old, is fundamental but, without real enforcement weapons, it is of minimum value. H.R. 5200 and S. 506 are necessary tools to correct this unacceptable situation.●

NEW YORK TIMES SPEAKS ABOUT NORTHERN IRELAND (AGAIN)

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. BIAGGI. Mr. Speaker, for the second time in less than 1 month the New York Times has featured an editorial on the Northern Ireland issue.

On May 28, their editorials entitled "What's a Boycott Between Friends," criticized the 10-month suspension of U.S. arms shipments to the Royal Ulster Constabulary invoked by the State Department following an amendment which I offered.

On June 7, the Times published a reponse which I wrote in my capacity as chairman of the Ad Hoc Congressional Committee for Irish Affairs. I cited the fact that the suspension was invoked on human rights grounds, as our Foreign Assistance Act legislation bars the sale or shipment of U.S. arms to any nation or organization with a proven record of human rights violations. The RUC has been cited by both Amnesty International and the British Government appointed Bennett Commission for their human rights practices.

The latest Times editorial is an excellent statement on the Irish question. While I may not agree with it in its entirety, it raises some very important issues and arguments which should be read by all no matter their particular view on the subject.

For too long, the American media has not covered the Irish question in a fashion to permit a wide spectrum of views. This editorial is an example of the type of responsible journalism which leads to a proper airing of this issue.

At this point in the RECORD, I insert the June 26 editorial, entitled "To Live for Ireland."

To Live for Ireland

Many readers of Irish descent are angry with our May 28 editorial, "What's a Boycott Between Friends?" We questioned whether Congress was wise to impose an embargo on the sale of 3,000 revolvers to the British police in Northern Ireland. By withholding these defensive weapons against terrorism, we argued, Americans undercut their own appeal for British help against terrorism in Iran. But to the weekly Irish Echo, our remarks seemed callous, petty and unjust. And many other readers reproached us for failing to mention that Amnesty International had censured the police in Northern Ireland.

All right, a second look: Two distinct matters have somehow got muddled—the political arguments over Northern Ireland, about which our readers are largely right, and the moral arguments over terrorism, about which our critics might well think again.

Readers are right to contend that the status quo of British military occupation is intolerable. They are right to deplore the failure of successive British Governments to give the ill-used Catholic population a fairer share of political and economic power. And they are right to see Northern Ireland as a British creature that owes its existence to excessive British deference to armed, intransigent Protestants. Having created the entity, the British acquired a responsibility.

But on the matter of terrorism, which has claimed 2,000 lives in a decade, our critics seem to resist all complexities. To be sure, Amnesty has censured British police practices in Northern Ireland, and a special commission appointed by the British Government has called for reforms. But Amnesty has also censured the Republic of Ireland for ill-treatment of political prisoners, a condition that led the Government in Dublin to establish another committee of inquiry, which also urged reforms in Irish police practices.

Divided Ireland is afflicted, north and south, by a similar destructiveness. Both parts live under harsh emergency laws that give police arbitrary powers—a fact unmentioned in the otherwise moving ABC documentary about the North, "To Die for Ireland." In fact, the Irish Republic actively cooperates in combating terrorism with the same Northern security forces that Congress feels are undeserving of 3,000 handguns. And the toll is relentless: a few weeks ago gunmen shot the kneecaps of a citizen of the Irish Republic who had the effrontery to give evidence that helped convict two Irish Republican Army members for armed robbery.

The hope for a decent settlement lies with those who prefer to live for Ireland. Prime Minister Charles Haughey, for instance, now says the Irish Republic should modify its divorce and birth control laws—to eliminate one Protestant argument against eventual unification. Perhaps his challenge to old prejudices will embolden the British as they draw up new proposals for equitable Northern self-rule.

These are matters truly worthy of American concern. Refusing to permit the sale of 3,000 revolvers may produce wonderful arguments, but the diplomacy it produces is petty and sterile.●

HELPING OURSELVES BY HELPING OTHERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. BROWN of California. Mr. Speaker, there has been much discussion lately of the hungry and starving people that surround the prosperity enjoyed by the developed world. Gazing into our comfortable encampments from their mean vantage point, these people quite naturally wonder about the equity in the present distribution of food and resources. This country has responded with grand verbiage about the plight of the undernourished, has made some gestures of direct aid such as Public Law 480 food aid, but has done little to correct the basic problems facing these people and their countries.

There was a time, not long ago, when we believed that our technological ability could cure the hunger problems of the world. The world's food that couldn't be produced in the United States would be produced by exporting our technology to developing countries, spawning a green revolution. But we soon discovered that our food factories could not be installed in most developing countries without some accommodation and preparation, to which we were not willing to devote the necessary resources. We were approaching the problem as one of a deposit of technology on some foreign shore, not technology transfer, let alone an even more profitable process of technological exchange. In our egocentric view of reality, we saw nothing wrong in exporting energy intensive systems of agriculture into nations so energy poor that the population had denuded much of the country in search of firewood for cooking.

There is greater need now to double our efforts to establish agricultural self-reliance in the less developed countries. Questions about equity in the distribution of resources are manifesting themselves in increasing disruption in international politics. The tragedy of hunger, undernutrition, and starvation continue unabated in large areas of the world. And this country's failures in its foreign affairs demand a greater emphasis on the human needs of developing countries to build bonds of friendship that will withstand temporary disruptions.

But our efforts must be suited to the needs and capabilities of the less-developed countries and must be focused on developing indigenous technological ability that will free those countries from dependence upon us. We must do more work to adopt our agricultural technology to systems suited to the resource and expertise levels of the importing country and make them consistent with the development goals of that country. Most importantly, we must begin to think in terms of technology exchanges rather than technology transfer.

Nations that are 20 years behind the United States in per capita energy use may be seen as well to be 20 years ahead of this country if predictions about the needed domestic reductions in energy consumption are to be believed. In developing and applying suitable systems of agriculture in less-developed countries, systems that recognize limited fossil fuel availability in many of those countries, we perfect systems of agriculture and agricultural technology that may have future application in this country.

Advanced irrigation technology designed to aid drought stricken areas in other countries may be useful for large areas of the Southwestern United States that will be facing increased pumping costs, water shortages, and increasing soil salinity. Integrated pest management systems aimed at reducing the use of expensive pesticides in less developed countries have value in this country given the fact that nearly all of our major crops and many of our insect and plant pests are imported from other countries. Developing technologies that decrease the need for petrochemical fertilizer use will help both farmers in developing countries and farmers in the United States decrease their production costs.

The list of areas for increased research and development in agricultural technology is limited only by the imagination, imagination that appears to have been a limited resource in past thinking in our agricultural development work. I urge my colleagues to read the following editorial from Science magazine on the challenge facing us in our attempts to deal with the world hunger problem.

The article follows:

FOOD, THE HIDDEN CRISIS

As familiar as the energy crisis is to all of us, there is another, energy-related crisis that has been recurring since the beginning of history and continues to plague us today. That is the international food supply and the problem of world hunger. In many ways, world hunger is a hidden crisis, for it comes to our attention only in a sporadic fashion. Yet it probably represents a more explosive threat to world peace than does nuclear proliferation.

Hunger comes in several varieties. One is literal starvation. Another is malnutrition (nutritional imbalance), which is far from uncommon, even among the affluent. Today, however, the major variety of world hunger is chronic undernutrition, a problem preponderantly though not exclusively of the poorer nations. The United Nations Food and Agriculture Organization estimates that as of 1975 around 450 million people were chronically undernourished. Calculating differently, the World Bank put the figure at above 1 billion—one-quarter of the population of the earth. More than half of them are children, and more of them are women than men.

Hunger is not an inevitable part of the human condition. In our report, the Presidential Commission on World Hunger declares that "if decisions and actions well within the capability of nations and people working together were implemented, it would be possible to eliminate the worst aspects of hunger and malnutrition by the year 2000." To accomplish this goal, we must increase our efforts to redress the imbalance of food supplies between the developed nations and the less-developed nations, where hunger presents its starkest face. Unfortunately, most projections show that even if we fully unleashed our total agripower, the United States alone still would not be able to meet the levels of food demand in the developing countries projected for the year 2000. Obviously, the solution to the food and hunger problem in the countries of the developing world lies within their own borders; they must build a self-reliant system of food production and distribution.

One of the major obstacles to achieving such self-reliance is energy-related. Much of the highly vaunted agricultural productivity in the United States is due to agricultural research based on energy-intensive technology. Until recently, this same approach was carried over into the transmission of our research and technology to the developing world. Thus, the developing countries have been holding their own in the last few years largely because of strategies and techniques developed as part of the so-called Green Revolution. Because of their higher rates of population growth, these countries have had to achieve food production growth rates that are higher than those of the developed nations just to stay where they are on a per capita basis. This the Green Revolution has helped them to do. The elements of the Green Revolution, however, are primarily improved plant varieties, chemical fertilizers, irrigation, and mechanization—all fossil fuel-intensive.

Research efforts are now shifting away from energy-intensive technology. The new focus is on greater photosynthetic efficiency, more efficient nutrient and water uptake, improved biological nitrogen fixation, and breeding genetic resistance to pests and environmental stress. These highly sophisticated, promising areas of research will require marshaling of the best scientific talent in both the United States and the developing world. Whether it involves germ plasm banks or somatic hybridization, the effort will entail a collaborative approach by U.S. agricultural experiment stations, international agricultural research centers, and scientific institutes in the less-developed nations.

In the long run, we must recognize that knowledge itself—theory, invention, discovery, technology—and human skills must be shared globally if the world hunger problem is to be solved.—CLIFTON R. WHARTON, Jr., Chancellor, State University of New York, Albany 12246.●

ISAAK SHKOLNIK: PRISONER OF CONSCIENCE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MOFFETT. Mr. Speaker, I wish to again draw the attention of the Members of the House of Representatives to the plight of Isaak Shkolnik, a Soviet Jew who, for the past 10 years, has attempted to emigrate to Israel.

Mr. Shkolnik has always dreamed of living in Israel. Soon after the six-day war he decided to make that dream a reality. He began his attempts to emigrate to Israel with his family while participating in the Jewish community activities in both Vinnitsa, his home, and in Moscow. All his attempts to emigrate, however, were in vain. The documents he needed to start the process of emigration from the Soviet Union were sent from Israel but were never received by the Shkolniks.

They did, however, appear at his trial. They were used as evidence of his disloyalty to the Soviet Union. Isaak applied for an exit visa in 1972 and was subsequently arrested for anti-Soviet agitation and was tried for treason against the motherland. At first, because of his British acquaintances at work, he was charged with being a British industrial spy. Because of protests from the British Government, the charge was dropped. He was later accused, but not tried, as a spy for Israel.

Despite a total lack of evidence, Isaak was convicted and sentenced to 7 to 10 years at hard labor for "collecting information and passing it on to foreign powers." During this time, pressure was applied by the Soviet Government as they offered to drop the more serious charge if Isaak would give up the idea of emigrating to Israel.

During his imprisonment, the Soviet Government continued to offer deals for his release. His wife and daughter emigrated to Israel in 1976—so the deals then consisted of his freedom from prison for his renunciation of his intent to emigrate and the return of his family to the Soviet Union. Shkolnik refused to deal with the Soviet authorities and thus remained in prison until July 1979.

Upon his release from prison, Isaak went to live with his father in Lvov. He then repeatly applied for an exit visa only to be thwarted, frustrated, and denied by the Soviet Government in his every attempt. Their current method for keeping him from emigrating is to deny him a visa because he does not have official residency. He, however, has not been allowed to register in Lvov where he still lives with his father because, they tell him, he is a resident of Vinnitsa where he lived with his family before his imprisonment. But in Vinnitsa he does not have an apartment or house and cannot obtain one, for they too are controlled by the Soviet Government.

Obviously the Soviet authorities are making every effort to keep Mr. Shkolnik from emigrating. Isaak, however, still dreams of living in Israel. His family awaits him eagerly but is fearful they will never see him again. His wife, in a recent letter, wrote:

> My husband's situation is desperate. The authorities purposely set him up for persecution . . . The longer Isaak is forced to remain in Russia the more likely he is to be further persecuted.

Isaak's only crime is being a Jew with a desire to emigrate to Israel. There exists countless others whose crimes are as trivial as Isaak's but who remain imprisoned for political reasons within the Soviet Union. They and their families' sufferings touch us deeply and serve as a reminder of the continual suppression of human rights in the Soviet Union. It is to these violations of rights that I address myself today and ask the Congress to respond. We must remind the Soviet Union that we care and are watching. These violations of human rights must not go unnoticed and must be challenged.●

AN ECONOMIC BILL OF RIGHTS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. ROSENTHAL. Mr. Speaker, a dedicated and thoughtful group of concerned Democrats, the Progressive Alliance, has offered the Platform Committee of the Democratic Party a comprehensive statement of the economic rights all of our citizens should enjoy in a free and productive society. These past several years have seen a sharp erosion in the economic position of most Americans, and neither Government nor the private sector have been able to arrest the decline in living standards. This Democratic credo is an effective reminder of Government's fundamental obligations to the people. I wish to share it with you and all of my colleagues:

DEMOCRATIC CREDO: ECONOMIC BILL OF RIGHTS

For over five decades, Americans seeking a decent, just and fruitful society have looked to the Democratic Party, the party of democracy, for leadership.

Franklin Delano Roosevelt personified the best of this proud history as he led a progressive coalition of small farmers, the poor, the minorities, the working people and the unemployed in the struggle against the Great Depression. At the head of this progressive coalition, Roosevelt pledged the party, and the country to the great cause of democracy and economic security. He and the Democratic Party taught that:

This Republic had its beginning and grew to its present strength under the protection of certain inalienable political rights—among them the rights of free speech, free press, free worship * * * our rights to life and liberty.

As our nation has grown in size and structure, however—as our industrial economy expanded—these political rights proved inadequate to assure us equality in the pursuit of happiness * * *. True individual freedom cannot exist without economic security and independence. "Necessitous men are not free men." People who are hungry and out of a job are the stuff of which dictatorships are made.

In 1941, Roosevelt called the American people into war, a war which was to be fought for the Four Freedoms—Freedom from Want, Freedom from Fear, Freedom of Speech and Freedom of Religion.

In elaborating this pledge at the end of the Second World War, Roosevelt and the Democratic Party called for a new Economic Bill of Rights which would guarantee to all Americans:

The right to a useful and remunerative job in the industries or shops or farms or mines of the Nation;

The right to earn enough to provide adequate food and clothing and recreation;

The right of every farmer to raise and sell his products at a return which will give him and his family a decent living;

The right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home or abroad;

The right of every family to a decent home;

The right to adequate medical care and opportunity to achieve and enjoy good health;

The right to adequate protection from the economic fears of old age, sickness, accident and unemployment;

The right to a good education.

The years of the Cold War and postwar prosperity in the United States did not extinguish this great progressive purpose in the Democratic Party. Each movement of citizens seeking justice—the civil rights movement, the poor people's campaign, the anti-war movement, the environmental movement, the women's movement—looked to the Democratic Party to encompass its aspirations—and to put into practice these human rights. Two years ago, President Carter signed the International Human Rights Covenants, once again restating the pledge to an economic bill of rights.

Now in this time of economic stagnation, of joblessness and inflation, a progressive alliance again calls the Democratic Party to reaffirm its great tradition and commitment to equity, fairness and justice.

Today the elderly live with gnawing insecurity as inflation erodes their hard-earned savings and pensions. The young live with despair at finding jobs, and a home for their families. The poor live in increasing destitution. Working people and entire communities find their lives disrupted as plants are closed, and big business flees abroad flying only the flag of profit. Blacks, Hispanics, other racial minorities and women find their hopes for equal rights grounded upon the shoals of economic decline. At the same time, the economic royalists have declared open war upon working and poor Americans, demanding that they bear the burden for restructuring our economy. Our political system is awash with big business funds seeking to purchase support for this offensive.

Once again, a progressive alliance looks to the Democratic Party to hear the calls of the frightened, the talented, the poor, the working and small business people of this society. We ask that the entire Democratic Party supply leadership to the nation drawing a new covenant which will bind our nation together on principles of economic justice, individual dignity and security. We ask that the Democratic Party recommit itself to being a caring party with concern and commitment for those who need and produce, not those who take, with recognition that to be a citizen in America requires:

That the Democratic Party stand for an economic bill of rights for all Americans—extending to all citizens the basic elements of a decent existence. That neither economic stagnation, nor inflation, nor private greed, nor selfish interest can impede fulfilling this primary pledge to all Americans.

That the Democratic Party is prepared to affirm this commitment by countering the offensive of the economic royalists against democratic institutions, calling for an extension of democracy into and over the big corporations, to ensure that these great economic behemoths serve the interests of the American people and not simply the private appetites of an international elite.

These fundamental commitments must be enshrined in the platform of the Party. This platform must be clearly understood and not be a complex shopping list of incomprehensible programs. For a party platform should consist of a series of covenants with the American people to guarantee their basic human rights.

These guarantees should include:

The right to a useful and remunerative job in the industries or shops or farms or mines of the Nation: A Democratic Congress and President should aggressively implement and strengthen the Full Employment and Balanced Growth Act of 1978. Inflation should never again be fought through unemployment. Moreover, full employment is linked to affordable and secure supplies of safe energy. A Democratic Congress and President should fight to secure passage of legislation which reduces our dependence on foreign oil and the control of global energy corporations over our energy and economic future.

The right to earn enough to provide adequate food and clothing and recreation: A Democratic Congress and President should extend indexed minimum wage coverage to all Americans. It is expected that a Democratic Congress and President will fight to eliminate discrimination in employment and conditions of employment, including wages, on the basis of age, nationality, race, religion and sex. They should also fight to secure legislation requiring equal pay for work of equal value. Moreover, a Democratic Congress and President should promote and advocate equal rights for all Americans including public employees, with regard to wages and working conditions and access to a meaningful collective bargaining process.

The right of every farmer to raise and sell his products at a return which will give him and his family a decent living: A Democratic Congress and President should fight to secure passage of legislation which would lead to the strengthening of the Food and Agriculture Act of 1977 and require non-farm corporations to divest their farm operations.

The right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home and abroad: A Democratic Congress and President should enforce antitrust laws aggressively, increase worker-community control over the giant corporations and foster a dual economic system in which private enterprise competes with and is measured by economic enterprise operated in the cooperative and/or public sectors. Moreover, they should fight to secure legislation requiring foreign corporations with significant sales in the United States to produce a substantial amount of their products in this country.

The right of every family to a decent home: A Democratic Congress and President should fight to secure passage of legislation which would improve and enlarge the housing stock, including reinvestment, regeneration and rehabilitation. At the same time they should also provide affordable interest rates to enable all Americans to realize the American dream of owning their own home.

The right to adequate medical care and the opportunity to achieve and enjoy good health: A Democratic Congress and President should fight to secure passage of the Health Care for all Americans Act of 1979. They should also continue to promote policies which protect the right of every American to live and work in a clean and healthy environment.

The right to adequate protection from the economic fears of old age, sickness, accident and unemployment: A Democratic Congress and President should fight to secure passage of legislation which would require that general revenues be used to finance part of the social security system and provide for additional cost-of-living increases in social security benefits. They should also fight to secure passage of legislation to increase unemployment compensation benefits, extend maximum benefit duration and extend coverage to all wage and salary earners. A Democratic Congress and President should fight to continue our Nation's long standing policy of strong budgetary support for necessary social services.

The right to a good education: A Democratic Congress and President should fight to secure passage of legislation which would put an end to educational instruction which is racially or sexually discriminating or which penalizes students on the basis of income. Moreover, they should also fight to secure passage of legislation which would create educational opportunities for all Americans regardless of age and educational alternatives which would emphasize work study and apprenticeships as well as classroom education. This can only be accomplished when Federal funds allocated to education increase dramatically from their current inadequate level.

It is expected that the Democratic presidential candidate and congressional candidates will support and fight to implement this platform. Moreover, all Democrats should support this platform at their level of participation.

If President Roosevelt, Martin Luther King, Jr., John and Robert Kennedy, Lyndon Johnson, and Hubert Humphrey were alive today they would be pressing our party to accept these economic rights on a par with the basic civil rights we support, and they would ask us to link them to the rights of participation and security. Public opinion polling is no substitute for participation and decision-making of our citizenry in their places of work, at polling booths or in exercising political rights to bring about economic justice. The great leaders of our party would also tell us weapons alone cannot make us secure. We must also deal with our major internal economic and social problems. International security is absolutely dependent on domestic security.

It is for all of these reasons—in the search for a decent world—that the Democratic Party should reaffirm its commitment to these basic principles. In the final analysis, loyalty to the primacy of these rights is the test of what it means to be a Democrat.●

SUSPENDING THE DAVIS-BACON ACT

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. BEARD of Tennessee. Mr. Speaker, I recently introduced a resolution asking for this House to request that President Carter exercise his discretionary powers, as so provided in the act, in suspending the Davis-Bacon Act.

The General Accounting Office estimates that such action would result in the removal of a direct inflationary impact of more than $700,000,000 from our economy.

The source of Davis-Bacon's inflationary pressures is the Labor Department's method of establishing prevailing wage rates for Federal construction projects. In the June 24 edition of the Wall Street Journal, Lindley Clark, Jr., suggests that the task of implementing rates that more accurately reflect local conditions might be impossible. Such an argument obviously lends further credibility to the notion of suspending the act, legislation that in its 49-year history has clearly lost its real purpose. To better inform my colleagues, I submit Mr. Clark's column in its entirety:

INCOMES POLICY

(By Lindley H. Clark, Jr.)

"Incomes policy," Gottfried Haberler once wrote, "means different things to different people." Prof. Haberler, long at Harvard and now at the American Enterprise Institute, has his own incomes policy. He calls it Incomes Policy II, to distinguish it from wage-price controls and other such notions.

What worries Prof. Haberler is exactly what worries anyone who devises a pet incomes policy: Wages and prices seem to be flexible mainly in one direction—upward.

When government lets some of the air out of an inflated economy, as it is now trying to do, businessmen and workers are slow to adjust to a new environment. Businessmen can't reduce labor costs by reducing salaries so they do it by laying off workers. Many prices similarly resist reduction.

What to do? Well, Prof. Haberler proposes a direct attack on the rigidities that make it hard for the economy to adjust to a less inflated way of life. Everyone knows the rigidities exist. Prof. Haberler listed a few: Restrictions on imports, monopolistic business practices, monopolistic labor union power, government regulation of business, minimum wage laws. All of them have staunch defenders.

Prof. Haberler wants to make the economy more competitive. As nice as that may sound, the difficulties are obvious. The late Arthur Okun, who also ached for a more flexible economy, so despaired of making changes that he called merely for a moratorium on new price and wage-raising measures.

Here and there, however, a few gains have been made. The airlines, which once fixed their prices under government sponsorship, have been deregulated, and Congress is at least making motions toward doing the same thing in trucking. Over the past two decades world trade has become freer, although there has been some backsliding and some threats of more—as in the United Auto Workers call for curbs on imports of Japanese cars.

Prof. Haberler is a realist, under no illusions as to the ease with which changes can be made. But he argues that the longer we put off change the worse our situation becomes.

Some of the rigidities are so indefensible that they are hard to believe. By coincidence the American Enterprise Institute has just published a small book about one of them, the Davis-Bacon Act. "The Economics of the Davis-Bacon Act, An Analysis of Prevailing Wage Laws" was written by John P. Gould of the University of Chicago's Graduate School of Business and George Bittlingmayer, a University of Chicago graduate student.

Davis-Bacon is a sort of Depression hangover. It was passed in the early 1930s, when government officials had the misguided notion that the way to everlasting prosperity was to keep wages and prices from falling. Later the National Industrial Recovery Act was to authorize price-fixing. Such efforts, of course, contributed to increased unemployment and decreased sales.

The Davis-Bacon Act compelled contractors performing construction work for the federal government to pay prevailing wages and fringe benefits in the communities where the work was performed. The Labor Department determines what the "prevailing" wages and benefits are and in practice this has come to mean union wages and benefits, even if there is no union in the community.

The sweep of Davis-Bacon has grown as the years have passed. Since 1931 many other laws have been passed (the authors list no less than 77) requiring Davis-Bacon determinations on projects that merely are assisted by the federal government, projects on which the government isn't even a party to the contract.

The most obvious result of this is an inflation of government construction costs. Precise figures are hard to come by, but Mr. Gould and Mr. Bittlingmayer estimate the added costs may run as high as $1 billion a year.

Other effects also are important. High prevailing wage determinations discourage nonunion construction firms from bidding on government-financed projects. This means that union contractors face less competition, and the bargaining power of unions is enhanced.

To the extent that nonunion contractors are excluded from government-aided projects, job opportunities for younger workers, blacks and other minorities are reduced. Several studies have shown that such workers find jobs much more easily with the nonunion firms.

Davis-Bacon may even increase frictional unemployment among union construction workers. The existence of high Davis-Bacon rates may persuade some workers to wait until jobs at those rates open up.

It should be emphasized that there is no dark plot afoot at the Labor Department. Government-assisted construction projects run to some $40 billion a year, involving many thousands of wage determinations. The department never has had the funds to do the job properly, and studies by the General Accounting Office suggest the job actually may be impossible.

In the real world in which the department must work, it's obvious that union wage data is more easily obtained than nonunion wage data; the unions, in fact, probably run a data-delivery service. There has been an understandable tendency to simplify the determinations by avoiding computations for specific projects and relying on area standards.

It's obvious that the unions find Davis-Bacon valuable. At one point in the early 1970s Richard Nixon suspended the act to blackjack the unions into participating in a voluntary wage hold-down system.

It's also obvious that eliminating the act would be a step toward implementing Prof. Haberler's Incomes Plan II. There are a lot of steps to take, but we can take them only one at a time.●

THE OVERKILL OF COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. RAHALL. Mr. Speaker, President Carter will soon be returning from the Venice Economic Summit, of which he participated in with six other leaders of major industrial countries. The Western powers of the world have realized that there is no way they can solve their chronic problems of inflation, sluggish economic growth, and unemployment without overcoming the major problem of energy.

OPEC has them all in its grasp.

In a statement following the summit, the leaders stated: "We intend to double coal production and use by early 1990."

Now, as a Member of Congress from a major coal producing State, I should be pleased. To an extent I am, but Mr. Speaker, my enthusiasm is clouded by the ever-present reality of the massive regulatory maze that is stifling the coal industry.

To explain the complexity of this problem, I would like to point out that there are at least 13 agencies and 39 subdivisions of the Federal Government which have an impact on the production, transportation, and use of coal.

In my home State of West Virginia, there are 14 separate agencies and 34 subdivisions that do the same thing.

A list of those Federal agencies is as follows:

FEDERAL AGENCIES THAT IMPACT THE MINING, TRANSPORTATION, AND USE OF COAL

Department of Energy: Office of Fossil Energy, Office of Resources Application, Office of Environment, Federal Energy Regulatory Commission, Economic Regulatory Administration, Energy Information Administration, Office of Energy Research, and Office of Policy and Evaluation.

Department of Interior: Bureau of Mines, Geological Survey, Office of Surface Mining Reclamation and Enforcement, Bureau of Land Management, U.S. Fish and Wildlife Service, Office of Hearings and Appeals, and Interior Board of Surface Mining and Reclamation Appeals.

Department of Agriculture: Forest Service, Soil Conservation Service, and Rural Electrification Administration.

Department of Labor: Mine Safety and Health Administration, Office of Worker's Compensation, National Labor Relations Board, and Federal Mine Safety and Health Review Commission.

Department of Transportation: Federal Railroad Administration, Federal Highway Administration, Office of Secretary and General Council, and United States Coast Guard.

Department of Commerce: Economic Development Administration, Census Bureau, and Customs Bureau.

Department of Health and Human Services: National Institute of Occupational Safety and Health.

Environmental Protection Agency: Office of Air Quality Planning and Standards, Office of Water and Waste Management, Office of Toxic Substances, Office of Enforcement, Office of Research and Development, Office of Planning and Management.

Department of Defense: Army Corps of Engineers.

Interstate Commerce Commission.

Appalachian Regional Commission.

Tennessee Valley Authority.

Department of Treasury: Internal Revenue Service, and Alcohol, Tobacco and Firearms.

In as much as these agencies have specific areas of responsibility, I would like my colleagues to be made aware of where the State and the Federal Government duplicate effort.

FEDERAL AND STATE AGENCIES THAT REGULATE, DUPLICATE, AND OVERLAP

BEFORE OPERATION AGENCIES

Mine refuse: Mine Safety and Health Administration; Mine Refuse and Dam Control Section; Reclamation, Department of Natural Resources; Environmental Protection Agency, Hazardous Waste; Office of Surface Mining; Water Resources—Department of Natural Resources; and Air Pollution Control Commission.

Water quality: Environmental Protection Agency, National Pollutant Discharge Elimination System, New Source, and Safe Drinking Water; Office of Surface Mining; Reclamation, Department of Natural Resources; Water Resources, Department of Natural Resources; Environmental Analysis, Department of Natural Resources; Wildlife Resources, Department of Natural Resources; U.S. Fish and Wildlife Service; and Corps of Engineers.

Reclamation: Reclamation, Department of Natural Resources; Office of Surface Mining; Wildlife Resources, Department of Natural Resources; U.S. Fish and Wildlife Resources, Wetlands; Water Resources; Mine Safety and Health Administration, Deep Mine; Department of Mines, Deep Mine; and Local Government.

Dust: Environmental Protection Agency, Reclamation, Water Resources, Mine Safety and Health Administration, Office of Surface Mining, Department of Mines, Air Pollution Control Commission, Black Lung, and National Institute of Occupational Safety and Health (NIOSH).

Explosives: Mine Safety and Health Administration; Department of Mines; Fire Marshal; Office of Surface Mining; Reclamation, Department of Natural Resources; Department of Transportation; and Alcohol, Tobacco, and Firearms.

Haulageway Construction: Right-of-Way Division, Department of Highways; Permit Section (Approach Permit); Mine Safety and Health Administration; Department of Mines; Reclamation, Department of Natural Resources; Office of Surface Mining; and Public Land Corporation.

Bathhouses: Health Department, Sanitation, and Solid Waste; Environmental Protection Agency; Mine Safety and Health Administration; Department of Mines; Water Resources Division, Department of Natural Resources; and National Institute of Occupational Safety and Health (NIOSH).

FEDERAL AND STATE REGULATORY AND INSPECTION AGENCIES DURING MINING OPERATIONS

Environmental Protection Agency: Water Quality, Air (Dust-Tipple-Deep Plant), Mine Refuse Disposal, and Bathhouse Discharge.

Office of Surface Mining: All Aspects of Every Type Mining Operations and Facilities Until All Areas Are Completed.

Mine Safety and Health Administration: All Aspects of Safety On or In All Types of Mining Operations and Facilities, Mine Refuse, and Explosives.

Department of Mines: Safety, Deep Mine Abandonment, and Explosives.

Alcohol, Tobacco, and Firearms: Explosives (Usually Done by MSHA).

Reclamation Division: All Aspects, Excluding Employee Safety, of All Types Mining Operations and Facilities.

Water Resources Division: Water Quality-All Mining.

Wildlife Resources: Quality Streams.

U.S. Fish and Wildlife Service: Wetlands, and Quality Streams.

Corps of Engineers: Wetlands, and Dredge and Fill.

Mine Refuse and Dam Control: Mine Refuse, and Dam Construction.

Department of Transportation: Explosive Haulage.

Department of Highways: Weight Limits.

Air Pollution Control Commission: Dust, and Air Quality From Any Facility.

National Institute of Occupational Safety and Health: Dust Standards, Noise Standards, Bathhouses, and Toilet Facilities.

Mr. Speaker, it is the observation of many in the coal industry and among those who actually mine the coal that such practices are killing coal and its use in America.

There is no doubt that with a great reliance on coal, will come insurances for environmental integrity and worker health and safety. We must be honest with ourselves on this fact, but laws and regulations that are tightened and overabundant and produce no benefits to health or safety will only serve to cut off this Nation's only link to energy independence.●

CONGRESSMAN WYDLER'S 1980 QUESTIONNAIRE RESULTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. WYDLER. Mr. Speaker, I am happy to report that once again I have received an excellent response to my annual questionnaire from my fellow residents of the Fabulous Fifth District, all of whom received this 14-question poll earlier this year.

This response was truly gratifying and indicates that our country is not sinking deeper and deeper into a state of apathy—as many of our leaders feel. Rather, these thousands of responses show unquestionably that the people of our Nation are very much concerned about the direction our country is taking, and that they care enough to want their voices heard at the highest levels of government.

For me, this input is one of the highlights of my job. I have been sending out these questionnaires since the first year I came in office and have always found this feedback to be stimulating, thought provoking and extremely valuable.

The questions in this poll cover a variety of topics, from the economy to national security. They were selected because they reflect current issues and have a tremendous impact on every American. When the tabulations are complete, I have a clear picture of how my district views the Nation and the world—and the decisions they want to see enacted and do not want to see enacted.

This year's questionnaire indicated that 74 percent of those polled would like to see a balanced budget mandated by law or constitutional amendment, with 80 percent supportive of cuts in Government spending to fight inflation.

On energy-related issues, 68 percent expressed opposition to an additional tax on gasoline to discourage consumption, and 80 percent indicated support for federally assisted development of alternative energy sources.

With regard to defense, the overwhelming majority—81 percent—called for military superiority to the Soviet Union, even if it means increasing defense appropriations.

The complete results of the questionnaire are summarized below for your consideration:

RESULTS OF THE ANNUAL "FABULOUS FIFTH" QUESTIONNAIRE OF FIFTH CONGRESSIONAL DISTRICT, NASSAU COUNTY, N.Y.

[In percent]

1. Do you favor wage and price controls?	
Yes	53.19
No	40.44
No opinion	6.37
2. Do you believe the economy will improve in 1980?	
Yes	10.84
No	82.42
No opinion	6.74
3. Would you support reinstitution of Selective Service registration on a standby basis to meet unexpected emergencies?	
Yes	81.43
No	14.85
No opinion	3.72
4. Should American military capability be superior to the Soviet Union, even if it means spending more on defense?	
Yes	81.00
No	12.48
No opinion	6.52
5. Which of the following is the best way to deal with inflation?	
a. Wage and price controls	40.85
b. Restrict business profits	31.32
c. Cut government spending	79.38
d. Reduce taxes	46.69
6. Do you favor a constitutional amendment that would require Congress to balance the Federal budget?	
Yes	73.32
No	18.27
No opinion	8.41
7. Do you think income tax rates should be adjusted each year to compensate for inflation (called indexing)?	
Yes	71.19
No	15.77
No opinion	13.54
8. From what you know now, are you in favor of the SALT II Treaty?	
Yes	24.46
No	59.76
No opinion	15.78
9. Which of the following parts of President Carter's energy plan do you approve of?	
a. Gradual decontrol of domestic oil prices	35.28
b. A windfall profits tax	58.71
c. Federal funding to develop urban mass transit	52.82
d. Federal Funds to compensate low-income amilies for higher energy costs	33.89
e. Federal funds to stimulate research and development of alternative energy sources	79.91
10. If the election for President were held now, which one of the following candidates would you vote for? (Choose only one):	
John Anderson, U.S. Representative from Illinois	4.34
Howard Baker, U.S. Senator from Tennessee	2.43
Jerry Brown, Governor of California	.67
George Bush, former U.S. Representative from Texas and former CIA Director	6.49
Jimmy Carter, President	12.06
John Conally, former Governor of Texas	.85
Phil Crane, U.S. Representative from Illinois	1.03
Robert Dole, U.S. Senator from Kansas	.08
Gerald Ford, former President	23.33
Ted Kennedy, U.S. Senator from Massachusetts	5.10
Ronald Regan, former Governor of California	32.96
Undecided	10.66
11. Would you favor a Federal law or constitutional amendment which would require Congress to balance the budget even if it meant cuts in or abolition of some Federal programs?	
Yes	74.33
No	18.23
No opinion	7.44
12. Do you approve of the job the U.S. Congress is doing?	
Yes	7.67
No	81.91
No opinion	10.42
13. In order to reduce promptly our dependence on imported oil from the troubled Middle East, do you think Congress should increase the tax on gasoline to discourage consumption?	
Yes	26.49
No	68.00
No opinion	6.51
14. Do you believe there should be a limit on the number of years a Congressman can serve?	
Yes	53.83
No	39.21
No opinion	6.96

●

WHAT THE "COST" SIDE OF THE COST-PRICE SQUEEZE IS DOING TO FARM INCOME

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. WAMPLER. Mr. Speaker, recent USDA production cost estimates prepared for the Senate Committee on Agriculture, Nutrition, and Forestry illustrate why the farmers are hurting badly from high costs as well as low commodity prices.

My colleague, Mr. SEBELIUS of Kansas, has called to the attention of his colleagues on the committee a report prepared by the Economics, Statistics, and Cooperative Service of the Department of Agriculture. I commend him and I quote from his statement bringing this to our attention:

The report, which was submitted to Congress, showed that U.S. Agriculture Department analysts expect grain sorghum production costs to rise 42 percent per bushel over 1979 estimates. In 1979, Kansas led the nation in sorghum production, with a crop of almost 257 million bushels.

Other major crop costs also were expected to rise. USDA predicted that corn costs will rise by 36 percent per bushel and wheat costs by 32 percent.

The report is inserted in the RECORD for all to read.

COSTS OF PRODUCING SELECTED CROPS IN THE UNITED STATES—1978, 1979, AND PROJECTIONS FOR 1980

SUMMARY

Per acre production costs (excluding land costs) increased by an average of 17 percent in 1979 for 10 major U.S. crops: cotton, corn, grain sorghum, barley, oats, wheat, soybeans, flaxseed, peanuts, and rice. Sorghum increased the most (24 percent) and rice the least (12 percent). Nonland production costs in 1980 are projected to increase between 18 percent per acre (for cotton) and 25 percent (for rice); costs for producing feed grains (corn, barley, oats, sorghum, and wheat) are projected to increase by about 22 to 24 percent per acre.

Fuel, interest rates, and machinery prices led the 1979 cost increases. Fuel prices rose 48 percent, interest rates on ownership costs rose 22 percent (the major cause of the consistently large increases in machinery ownership costs), and machinery prices rose 11 percent.

The average nonland cost per unit of production (pounds for cotton, hundredweight for rice, bushel for the other crops) for all crops increased except cotton in 1979. Higher cotton yields in 1979 caused costs per pound of lint to decrease 13 percent. Costs per unit increased 24 percent for oats, 16 percent for flaxseed, 14 percent for peanuts, 12 percent for barley, 11 percent for wheat, 10 percent for rice, 7 percent for corn and grain sorghum, and 6 percent for soybeans.

Per acre production costs in 1980 are projected to increase 26 percent for rice, 24 percent for corn, peanuts, and sorghum, 23 percent for wheat and barley, 18 percent for cotton, 22 percent for oats, 21 percent for flaxseed and soybeans, and 18 percent for cotton.

Record crop yields (per planted acre) were set in 1979 for barley, corn cotton, sorghum, and wheat. Yields of flaxseed, oats, peanuts, and rice were above average. Peanut and rice yields assumed for 1980 are unchanged from the actual yields in 1979. Yields assumed for other crops, however, are below 1979 levels: cotton, down 11 percent; corn, down 10 percent; sorghum, down 12 percent; barley, down 9 percent; oats, down 2 percent; soybeans, down 6 percent; and flaxseed, down 24 percent. Assumptions are based on long-term trend yields.

If yields decline to trend in 1980, the increasing costs per acre, will mean greater increases in nonland costs per unit of production. Cost increases in 1980 (again based on long-term trend yields) are projected as follows: 42 percent per pound for cotton; 36 percent per bushel for corn; 42 percent per bushel for sorghum; 37 percent per bushel for barley; 39 percent per bushel for oats; 32 percent per bushel for wheat; 29 percent per bushel for soybeans; 64 percent per bushel for flaxseed; 31 percent per pound for peanuts; and 26 percent per hundredweight for rice.

AVERAGE NONLAND PRODUCTION, MAJOR CROPS, UNITED STATES, PRELIMINARY 1979 AND PROJECTED 1980

Commodity	Cost per planted acre		Cost per unit		Yield per acre [1]	
	1979	1980	1979	1980	1979	1980
Barley (bushels)	$108.44	$133.15	$2.26	$2.85-3.26	47.9	40.9-46.7
Corn (bushels)	173.49	215.13	1.59	2.00-2.35	109.2	91.5-107.3
Flaxseed (bushels)	68.44	82.76	5.35	7.26-10.34	12.8	8.0-11.4
Sorghum (bushels)	119.69	149.11	1.94	2.52-3.01	61.6	49.6-59.2
Oats (bushels)	84.57	102.88	1.65	1.92-2.21	51.3	46.5-53.5
Soybeans (bushels)	114.40	138.41	3.59	4.37-4.89	31.9	28.3-31.7
Wheat (bushels)	89.18	109.43	2.74	3.31-3.79	32.5	28.9-33.1
Cotton (pounds)	305.46	359.33	.599	.724-.880	510	409-496
Peanuts (pounds)	424.53	525.41	.164	.196-.209	2,586	2,513-2,678
Rice (hundredweight)	311.56	391.07	6.84	8.30-8.87	45.5	44.1-47.1

[1] Calculated 15-year trend yield per planted acre covered by cost of production estimates for all crops, except 5-year trend for peanuts. Statistical probability is two out of three that actual yields will fall within these ranges. ●

AMERICA'S AID ROLE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. DRINAN. Mr. Speaker, an excellent article appeared in the New York Times on June 21 demonstrating the urgent necessity of continued and increased economic assistance by the United States to the Third World.

The article is written by the Administrator of the U.S. Agency for International Development, Douglas J. Bennet, Jr.

I reproduce it here and commend it to the Members of the House:

AMERICA'S AID ROLE

(By Douglas J. Bennet, Jr.)

WASHINGTON.—Recent turbulence in third-world countries demonstrates convincingly that what they do directly affects the United States, just as what we do affects them. It also underscores the increasing urgency in basic issues between us: trade, migration, financial adjustment, economic development, use of global commons.

The turbulence brings risk but it also provides the United States with the opportunity to identify itself anew with the cause of progress and equity in the third world.

We have this opportunity now because we stand for human rights; because of the Soviet Union's flagrant trampling on the aspirations of independent Afghan people; because we have improved our relationships with black Africa; because Fidel Castro's authoritarian state is foundering; because we have demonstrated over 30 years our commitment to helping these countries with economic development, which is what counts most with them; because we have the resources, if we use them flexibly and in sufficient measure.

While we cope with the short-term crises of this turbulence, we cannot ignore longer-term, quieter crises: The globe's population will increase by half in the next two decades, and for some poor countries will double, unless we do now what we know must be done to stop it; hunger will spread, unless we do what we already know how to do to grow more food around the world; deforestation will create further irreparable losses in the world's productive-resource base, as people look further afield for fuel, farmland and pasture; energy shortages and oil costs, which are substantially disrupting our own society, can usually bankrupt third-world countries and disrupt the global financial structure—unless we can recycle petrodollars through those struggling economies.

There are two very important points to understand about these longer-term crises.

First, they are manageable. Based on what we know today, we do not have to walk into a Malthusian trap. In light of the clear economic interest of both the developed and developing countries, it is foolish not to make the required investment.

Second, whatever help may come from the industrial world, the largest part of the development task is, and must be, the responsibility of third-world nations themselves. Their governments are the only ones that can elicit the active engagement of their people by giving them a stake in their societies. Their governments are the ones that determine whether farmers receive a fair price for growing food, or whether they are squeezed into subsistence by efforts to keep food prices down for city dwellers. They determine whether rigid ideology or fairminded pragmatism is more likely to produce economic development and social justice

For those who have the impression that the third world remains stalled in poverty, there are hopeful facts to keep in mind. Average life expectancy has increased from 25 to 50 years. In the last 25 years, primary-school enrollment has quadrupled and secondary enrollment increased ninefold. Adult literacy rose from 10 percent to 24 percent between 1960 and 1974. The World Bank now predicts that India, given current consumption patterns, will not have a food-grain gap for the next 20 years. Population-growth rates have dropped dramatically in a number of countries. Smallpox has been eradicated.

Foreign aid is obviously an important contributing factor to this progress. It represents a transfer of resources and technical know-how that can allow a recipient country the only chance to break the poverty cycle.

Thirty years ago, we were virtually alone as an aid donor. Today, we remain the largest, but most industrialized countries, and many donors among members of the Organization of Petroleum Exporting Countries, contribute substantially more of their gross national products to development than we do.

The United States can play the important leadership role it takes to succeed. We've done it before and have succeeded more than we realize. We have an aid agency with expert missions in some 70 countries, an asset unique among donors. We have the largest number of private voluntary organizations concerned with development, and a generous public that contributes through them over and above our tax-dollar contribution. We have pioneered with a Peace Corps. On all counts, the United States has never had a better opportunity to exert positive leadership on third-world issues. ●

THIRTY-FIVE YEARS OF THE UNITED NATIONS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. BARNES. Mr. Speaker, as chairman of the International Institutions and Development Committee of Members of Congress for Peace Through Law, I would like to draw my colleagues' attention to the fact that 35 years ago today 50 nations signed the United Nations Charter at the founding of the organization in San Francisco.

The United States has played a very special role in the United Nations. We have expected great things of it. After the end of the Second World War in 1945, the Western Allied Nations and China, who had declared themselves "united nations" against fascism during the war, set out to create an international institution that would make such resort to force unnecessary in future generations.

We have not always succeeded. But we have avoided the ultimate disaster of global war, which we know now would inevitably be a nuclear holocaust the world would not survive. We are often unhappy, angry, and dissatisfied at actions taken by the General Assembly, especially when majorities of its members approve resolutions we do not support. But we must always look beyond this valuable sounding board and, I might add, escape valve for world public opinion to the invaluable and vital work the U.N system is performing in keeping the peace in the Middle East, on Cyprus, on the Kashmir border between India and Pakistan—a mission entering its fourth decade—and elsewhere.

The massive humanitarian efforts it undertakes through the U.N. Children's Fund and the U.N. development program, both ably headed by Americans we all know and respect, Jim Grant, formerly Director of the Overseas Development Council now at UNICEF and our former colleague Brad Morse at the UNDP, have saved millions of lives over the years. Refugees, the poor, the sick, elderly, children, women—all members of the world's needy and underprivileged—have advocates whose work keeps their plight before the conscience of the world's more fortunate people.

Scientific, educational, medical, environmental, agricultural, and cultural problems shared by nations and regions and indeed by the world are the United Nations system's concerns. This global system tackles problems no single nation can solve and provides the machinery to make solutions work. We all owe both the farsighted statesmen, including our own Presidents Roosevelt and Truman, and the dedicated professionals who gave the United Nations birth and keep it going today, a debt we can never adequately repay. The best we can hope to do is to keep that system healthy and our own commitment to leadership in it as deep and real as our national leaders can make it.

Mr. Speaker, I know that all of my colleagues join me in extending to the United Nations and its very able Secretary General Dr. Kurt Waldheim our very best wishes on the 35th anniversary of its founding.●

THE PLIGHT OF ABE STOLAR

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. PORTER. Mr. Speaker, it is with great concern that I bring the House of Representatives the case of Abraham Stolar, an American-born Jew detained with his family in the Soviet Union. In 1936, Mr. Stolar moved to the Soviet Union at the age of 19 with his father, mother, and sister. Although Mr. Stolar's mother and sister were slaughtered in Siberian concentration camps, Mr. Stolar joined the Soviet Army and performed frontline duty during World War II. After the war, Mr. Stolar became a radio announcer and settled in Moscow with his new wife, Gita, whose parents had been murdered by the Nazis.

The Stolars' repatriation attempts began in 1974 when they applied to emigrate to Israel. In May of 1975, the family obtained Soviet exit permits; however, on June 19, 1975, immediately before boarding the plane to Israel, the Stolar family was detained at passport control on the pretext that Gita had access to secret information through her employment as a geologist.

Since 1975, the Stolar's subsequent applications to leave the U.S.S.R. have been met with constant refusals. The Stolars have changed their applications to U.S. exit visa only in order to enhance the possibility of emigration. Since 1975, the Soviet Union has been forcing them to live in a sparsely furnished, government-owned apartment with virtually no belongings. In addition, as foreigners, the Stolars are prevented by Soviet law from traveling more than 25 miles from Moscow.

The Stolars' detention is a clear violation of international law. Mr. Stolar is an American citizen due to his birth in the United States. He never applied for Soviet citizenship, only a residency permit. Mrs. Stolar was issued Israeli citizenship in August 1976, which the Soviet Union has refused to recognize. Gita Stolar's alleged exposure to secret information as a geologist has no basis in reality as was confirmed by the Ministry of Geology during the processing of the Stolar's exit visa applications. Officials in the Soviet Union have no justifiable reason to detain the family. They are, in effect, being held as hostages.

The members of the Stolar family have been classified as refuseniks, who are defined by the free world as individuals continually refused the right to emigrate without cause. The free world should not tolerate such a gross violation of human rights. We must make it clear to the Soviet Union and all other nations who violate human rights that such action is intolerable. Out of compassion, humanitarianism, and the inalienable right to freedom, the Congress must do everything in its power to secure the release of the Stolars and other individuals held against their wills for no just cause.●

A VIGIL ON BEHALF OF YANKEL GROBERMAN

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. SANTINI. Mr. Speaker, I am pleased to participate in the "Spirit of Helsinki, Vigil 1980" on behalf of Yankel Alexandrovich Groberman.

The Spirit of Helsinki Vigil being maintained by the U.S. Congress is on behalf of all prisoners of conscience and all who are being detained in the Soviet Union as a result of that Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights—including the reunification of divided families whose members live in different countries—religious freedom, minority rights, and free travel between countries.

We who take freedom from such harassment for granted must do all we can to change these practices.

Today, I would like to bring to my colleagues' attention the plight of a 31-year-old refusenik from Beltsy. He has been applying for an exit visa since March 1973. His wife and 5-year-old son live in Israel, as do his parents. Since his occupation has been that of laborer, Soviet offices could not deny him permission to emigrate on the basis of state secrets gathered through work. Instead, they based their rejection on "army secrets", even though his group was demobilized in 1969.

In November 1978, just as Yankel Groberman was finally about to leave the U.S.S.R., he was arrested and refused permission to emigrate once again, this time on the dubious grounds that he was needed as a prosecution witness at a trial.

Then, in January 1979, Yankel and two other refuseniks were sitting in a cafe when seven young non-Jews entered and began shouting derogatory anti-Semitic remarks at them. They were provoked into defending themselves and the three Jews were immediately hauled off to the police station. Interestingly, the seven who began the melee were not detained. In May 1979, the distressing news reached the West that Yankel was tried and sentenced to a 4-year prison term.

It is critical that Members of Congress join together to speak out against such practices, which violate the most basic human rights standards embodied in the Helsinki Final Act. As a signatory party the Soviet Union must be pressured into respecting its international obligations. It is my earnest hope that this vigil will contribute in some measure to the Soviet Union's release of Yankel Groberman and others who are being detained in violation of their human rights.●

THE PRICE OF APATHY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. GILMAN. Mr. Speaker, as we are all aware, voter turnout and active participation in the political process has reached a critically low point, as fewer and fewer Americans are casting votes, exercising their rights as citizens and voters, and enjoying the kind of representation associated with that active participation in the American governmental process.

It has become a disturbing fact of life that special interest parties and groups can usurp some of the power base of established and traditional political parties. With the apathy of Americans in elections, we face a special and real threat that special interest groups can swing an election, and bring to office those candidates which reflect the views and philosophies of narrow interests. This is a sad, but certain fact, and yet, despite the fact that fewer and fewer Americans participate annually in elections, the American public has reached an alltime high in the number of demands they impose on our Government—they demand accountability, responsibility, and responsiveness on all levels—local, county, State, and Federal.

I have recently received an article by Edward Costikyan which I would like to share with my colleagues and which recently appeared in the New York Times. I believe that the author's contention that the American voter apathy has created a politically dangerous situation is worthy of our serious consideration. Accordingly, I include the full text of his article at this point in the RECORD:

JUNKING DEMOCRACY

(By Edward N. Costikyan)

The decline in voting participation by our citizens since 1965 threatens the whole democratic process.

That threat was made manifest, for example, when a group of evangelical Protestants calling themselves the Moral Majority of Alaska seized control of Alaska's Republican Party in recent months. They were able to do so because as the percentage of voters declines in general elections, in primaries or, as in the case of Alaska, in caucuses, a small, well-organized special-interest group whose adherents participate in large numbers can seize control of the political process. As voting participation declines, the power of special interests expands.

This equation is not rebutted by a recent statistical study of the 1972 Presidential election that concluded that the attitudes of voters and nonvoters were so similar that the political consequences of low turnout are surprisingly small. Every election is idiosyncratic. In 1972, when Richard M. Nixon was re-elected, George McGovern drew the support of the non-disillusioned post-1960 activists who still had faith in the election process. He left unmoved, and in many cases nonvoting, many traditional Democrats. Who voted, and who did not, was the product of the dynamics of 1972; if there was indeed a balance between the views of voters and nonvoters, it was the product of luck.

What is more important than the results in one year is the trend of voter participation, and that is down, down, down. In 1968, 60.9 percent of eligible voters cast ballots in the Presidential election; in 1972, the figure dropped to 55.4 percent; in 1976, to 54.4 percent.

Jimmy Carter in 1976 got the ballots of 27 percent of the voters nationwide. Edward I. Koch was elected Mayor in 1977 by 12 percent of New York City's eligible voters. Brendan T. Byrne was elected Governor in 1977 by 15 percent of New Jersey's eligibles. Hugh L. Carey was elected Governor in 1978 by approximately 18 percent of New York's eligible voters; of the remaining 82 percent, 16 percent voted against him and 66 percent didn't vote at all.

The problems that this nonvoting creates are frightening. If the trend continues this year, a national participation average of well under 50 percent may be likely. (John B. Anderson's candidacy may reverse, or slow down, the trend, because a third choice would tend to bring to the polls people who would otherwise not vote.) What kind of legitimacy to govern does an official have when he or she is elected by 25 percent, or 20 percent, or 15 percent, of the electorate? To what supporting constituency can that leader look for backing on hard decisions, and how will he or she be regarded by heads of other governmental units?

Worse than the problem of legitimacy is the threat of special-interest domination of our political processes. Since fundamentalists have taken control of Alaska's Republican Party, why not the state government next? If only 30 percent of the voters turned out, and were split two or three ways, why couldn't a special interest representing one-sixth of the populace, or about 16 percent of the possible vote, take control and impose its views on a supine majority? Why is it that right-to-lifers pose a threat to rational government officials? Ask Iowans to explain how Dick Clark lost despite his fine Senate record and they will tell you that he was beaten by the nonvoters in a low turnout dominated by special interests.

John Stuart Mill wrote: "The idea of a rational democracy is, not that the people themselves govern, but that they have security for good government. This security they cannot have by any other means than by retaining in their own hands the ultimate control. If they renounce this, they give themselves up to tyranny."

The American people are gradually renouncing the ultimate control of government by allowing politics to turn into a spectator sport. Democracy's insurance policy against the capture of government by a small segment of the population is a large turnout of disinterested and even uninterested citizens, who vote because they are in the habit of voting and who are unmoved by someone else's crusade. Without such a voting population, we face the threat of the tyranny against which John Stuart Mill warned.●

THE UNREST IN SOUTH AFRICA

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. GRAY. Mr. Speaker, South Africa is once again engulfed in bitter turmoil as the black, colored—mixed race—and Asian populations commemorate 4 years since the Soweto rebellion of 1976 and 200 years of enslavement under white domination. The underlying grievances over which black students revolted 4 years ago are still very real today. Blacks have no basic political or human rights in the country in which they were born. The white minority Government of South Africa is even trying to deprive blacks of citizenship in their homelands or bantustans to which the South African Government is granting independence. This is the grand plan of apartheid designed to preserve the white minority domination in South Africa.

Blacks in South Africa will not accept any such plan. They have marched against apartheid, rallied against it, and made speeches against it. For this they have been banned, imprisoned, tortured, and murdered. But in spite of this violent repression, blacks have pressed on with their protests. This year black protests have been joined by those from the colored and Asian populations. They too are tired of being treated as second-class citizens in their own country. The colored students this year led a boycott of schools to protest their inferior education which they are given. The response of the South African Government has been threats, intimidation, and increased violence.

The colored students have won the support of their parents for their demands. Their parents have additional grievances since the South African Government recently dissolved the elected Colored Representative Council and replaced it with another council composed solely of Government appointees.

South African Government intransigence and suppression of peaceful protest has become increasingly marked in recent weeks. In May of this year, 53 persons including 2 Anglican bishops were arrested for marching in a peaceful and prayerful protest against the arrest of a colleague who was jailed for publicly supporting the demands of the colored student boycott. Over the past months the South African Government has rounded up and jailed thousands of individuals on a variety of specious charges in hope of blunting the protests. Two weeks ago the Government canceled a commemorative church service in Soweto for those who died there in 1976 and imposed a ban on all meetings in the country in what the New York Times called the most severe restriction on political activity in nearly 200 years. Moderate black leader Bishop Desmond Tutu called this ban an insult to the entire black population.

When black, colored, and Asian protests continued last week, the South African police responded with characteristic violence despite attempts to avoid the international outrage which they received 4 years ago in Soweto. As in 1976 protesters were again gunned down in the streets. Thus far 42 persons have reportedly been killed and more than 200 wounded. These killings are no accidents—the police commissioner issued "shoot to kill" orders to his force. He made a public announcement that the police will not use birdshot, rubber, or plastic bullets, but will use live ammunition.

Such violence on the part of the South African authorities is entirely consistent with the way in which they have implemented the apartheid system of institutionalized racism. It is also consistent with the way in which they have sought to maintain their illegal occupation of Namibia. Earlier this month the South African Army invaded Angola killing hundreds of refugees and innocent civilians.

The South African Government is trying very hard to avoid exposing its violence and atrocities to the scrutiny of the world community. South Africa is afraid of adverse publicity such as that which followed the 1976 Soweto massacres and the murder in prison of Steve Biko the following year. The tightly controlled South African media has been further restricted in recent days. Local South African journalists are permitted to cover the protests only after receiving prior approval from the police and then only under police escort. Foreign journalists are barred completely from the protest areas and the police commissioner even accused foreign journalists of inciting riotous behavior. If anyone is inciting riots in South Africa it is the South African police backed by 200 years of racism.

How long will a population of 20 million blacks be forced to suffer under the tyranny of 4 million whites? How long will blacks suffer the humiliation of carrying passbooks and being separated from their families? How long will blacks be banned, imprisoned, and murdered for demanding their basic political and human rights?

It will not be long. The tide of black resistance is rising. Blacks know that it is their own labor which keeps the economy of South Africa running. During the past few months there have been strikes of automobile workers, textile workers, and meatcutters. The Ford Motor Co. and Volkswagen plants in Port Elizabeth have been forced to cut production.

Two weeks ago guerrillas of the banned African National Congress struck dramatically at the heart of the South African economy. In a well-planned and coordinated raid, the guerrillas set off explosions at three heavily guarded oil refineries. The burning oil tanks are a graphic harbinger of the future of white South Africa.

Larger protests and more frequent guerrilla attacks are certain in the future of South Africa in spite of all the sophisticated methods which the Government there uses to suppress dissent. The people of South Africa will not give up their struggle on account of repression and history has proven this. They cannot give up their struggle until they win the universally recognized human rights which are their goal.

United States support for South Africa does not encourage her to change but rather makes her increasingly intransigent. This country must give a forceful signal to South Africa that significant concrete changes must be put into effect. We should of course continue to apply internationally recognized sanctions against South Africa such as the United Nations arms embargo that we supported. Yet, we must enforce these laws more vigorously so that weapons and ammunition such as that supplied to South Africa by the Space Research Corp. will no longer be exported.

The diplomatic gestures and statements deploring violence which came from the State Department in recent weeks are not enough. The Government of South Africa is unaffected by these notes and messages. They are also meaningless to the millions of black, colored, and Asian South Africans who are struggling for their freedom and facing the guns of the racist South African police.

The United States must send a firm and unequivocal signal to South Africa now.●

U.N. MID-DECADE CONFERENCE FOR WOMEN

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. MAGUIRE. Mr. Speaker, today I am introducing a resolution relating to the U.N. Mid-Decade Conference for Women. My colleagues Mrs. SCHROEDER and Mr. WOLFF join me in sponsoring this resolution the text of which follows:

H. RES. 735

A resolution relating to the United Nations Mid-Decade Conference for Women.

Whereas, a UN-Mid-Decade Conference for Women has been scheduled for July 14-30, 1980, in Copenhagen to review and evaluate "the progress made and obstacles encountered in attaining the objectives of the United Nations Decade for Women"; and

Whereas a separate item was included in the agenda of that Conference on "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" despite US opposition and despite the existence of the more general item of "Women as Refugees" on the agenda; and

Whereas a document drafted by the Arab states and the PLO and adopted as official documentation for the Conference, "The Social and Economic Conditions of Palestinian Women Inside and Outside the Occupied Territories", presents a biased account of the conditions of Palestinian women by arguing that the Arab-Israeli conflict is responsible for the problems faced by Palestinian women; and

Whereas the addition of this document and separate agenda item in the proceedings of the Mid-Decade Conference is an obvious attempt to inject a highly politicized discussion into an apolitical meeting; and

Whereas the spectre of an irrelevant, politically-motivated debate threatens to detract from the positive results that may emerge in achieving the objectives of the Decade: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that (1) the inclusion of a separate agenda item on Palestinian women and the acceptance of a 66-page document relating to that item present an unfortunate intrusion of political issues into a conference devoted directly to the questions of health, education and employment for women throughout the world and as such is deplored by the House of Representatives; and (2) The U.S. delegation to the Conference should be instructed to oppose any resolutions or amendments introduced at the Copenhagen Conference on issues which do not relate directly to the goals of the Conference, such as the separate issue of Palestinian women, and should actively work with other delegations to ensure that they voice similar oppositions.●

ENERGY RESEARCH PROGRAMS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. BEREUTER. Mr. Speaker, on Tuesday, June 24, the House approved an amendment to the energy and water appropriations bill offered by my colleague from Florida, Congressman FUQUA. His amendment partially restored funds—$107.4 million—for the Department of Energy's basic research and solar energy programs.

To meet our Nation's energy demands and reduce our dependence of foreign oil, we need an aggressive program of research and development into alternative energy sources. This is particularly true of solar energy which I believe offers our country tremendous potential for meeting energy demand.

I shared the concerns of the author of the amendment that the recommended funding levels provided in the committee bill would undermine our Nation's research capability in the critical areas of energy supply and conservation, and would generally compromise the future of American science. The funds included in the Fuqua amendment affect activities being carried out in universities and in governmental and industrial laboratories across the country.

This amendment was not a "budget buster." It represented an investment in our Nation's future. I am pleased that the majority of my colleagues agreed with that viewpoint and supported the amendment by a vote of 254 to 151.●

GOVERNOR REAGAN'S REAL RECORD

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. HANSEN. Mr. Speaker, there has been a number of comments regarding the record of accomplishment of Ronald Reagan during his two terms as Governor of the State of California. For the benefit of my colleagues and concerned Americans everywhere, I include for the RECORD an editorial from the Los Angeles Herald-Examiner of the Hearst Newspaper syndicate. The editorial, which was written during the last week of Reagan's governorship, reflects the accomplishments for which Ronald Reagan was responsible through the eyes of one of the leading newspapers in this country.

Governor Reagan consistently sought out experienced, competent, and able people in his successful efforts to retrieve California from the brink of insolvency and now indicates his desire to seek the same kind of capable people to rescue America from fiscal chaos and disastrous foreign policy setbacks.

Ronald Wilson Reagan was the answer to California's prayers and I believe that he is the man of the future to lead America back to prosperity and responsible leadership among the nations of this world.

The Hearst editorial should give great assurance to thinking Americans who are looking for good management in the White House to deal with the urgent and serious problems we face.

I highly commend it to my colleagues.

The article follows:

[From the Los Angeles Herald-Examiner, Jan. 2, 1975]

REAGAN'S RECORD

Gov. Ronald Reagan will turn over the reigns of government to his elected successor next Monday, and become once again Citizen Reagan, a role he has not played since 1966.

To his distinguished career of college student-body president, radio sports announcer, film producer and narrator for the U.S. armed forces, movie actor, film industry official, television host and articulate spokesman for conservative candidates and causes, Reagan has added eight illustrious years as California's chief executive.

Rather than retire to his Pacific Palisades home or to his ranch north of Santa Barbara, however, he will immerse himself in activities designed to spread nationwide the admirable gospel of limited government and bureaucratic fiscal restraint.

No one is more capable of propagating these sermons than is Ronald Reagan, and no messages are more imperative to curb greater inflation or relieve business and industrial stagnation.

When he took office as governor in 1967, Reagan discovered that California was tottering on the brink of insolvency, spending a million dollars more every day than it was collecting in taxes. Through various reforms, he was able to reverse the suicidal spending tide and put the state on a relatively sound, businesslike basis.

His welfare reform measures reversed the pattern of additional thousands of citizens being added each month to the state's welfare rolls. Today there are nearly 400,000 fewer Californians on state welfare, yet the truly needy are receiving a 40 percent increase in benefits. Overall, according to authoritative estimates, the state welfare burden already has diminished by well over a billion dollars.

Reagan's refusal to knuckle under to the threats and demands of riotous anarchists on the state's campuses helped restore order to our institutions of higher learning.

His law enforcement task force recommended some 100 anti-crime reforms—a few major ones, such as the reinstatement of capital punishment for specific crimes, fortunately were adopted.

California property owners received some needed relief as a result of Reagan's tax reforms.

State assistance to public schools was doubled to assure a basic quality education for every pupil enrolled in public schools throughout the state, no matter how poor his school district.

In a memorable 1964 speech, candidate Reagan told a nationwide television audience: "If we fail, at least let our children and our children's children say of us we justified our brief moment here. We did all that could be done."

The governor's two terms at the state's helm have been more than justified. In personally doing all that could be done, often against hostile, partisan opposition, Reagan at least partially realized his dream of having California set a standard of economy and efficiency that few contemporary American governments have realized.

Whatever the future holds for him, Reagan's brand of responsible leadership was a fresh breath in an era when profligate government spending was and is a widespread, pathological obsession. His integrity, dynamic personal appeal, clear thinking and scrupulous courage have been both beneficial and inspiring.

Citizen Reagan has our sincere best wishes for continued good fortune in his future endeavors, wherever the path may lead. His rare and outstanding personal qualities will be genuinely missed from the ranks of responsible helmsmanship.●

ACTION TAKEN ON SOCIAL SECURITY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. PICKLE. Mr. Speaker, in recent days the 1980 social security trustees report has brought to the fore renewed concern about the viability of the social security trust funds. This report indicated there likely will be cash flow problems in the largest of the social security funds, the retirement and survivors fund, by the end of next year.

The Congress and the American people should be reassured, however, that the Subcommittee on Social Security has proceeded in an orderly manner to deal with this difficulty. The subcommittee has watched the status of the trust funds very closely since the beginning of 1979. The trustees report comes as no surprise, and the subcommittee already has held numerous and extensive hearings on the effects of the economy on social security and explored the various options open to us. Today we took intermediate action on this matter.

Many seem to regard the current troubles in social security as though they have stumbled upon a great discovery. Let me tell you: this is something the subcommittee has lived with every day.

The social security program is too important to this country and to the American people to make hasty changes. The subcommittee has worked carefully and in a nonpartisan matter, and we will allow this most vital of programs to become a political football or a tool of political posturing and rhetoric.

This morning the subcommittee took action to insure the viability of all the funds throughout next year. Specifically, the subcommittee reported a bill, H.R. 7670, which will reallocate between the old age and disability funds so that both funds will remain sound throughout 1981.

A comparison of the old and new allocations is as follows:

ALLOCATION COMPARISON

	OASI	Disability insurance
Preset law:		
1980	4.330	0.750
1981	4.525	.825
Proposed change (H.R. 7670):		
1980	4.520	.560
1981	4.700	.650

The allocations would revert to present law beginning in 1982. They do not change in any way the overall social security tax rates.

This action will give the Congress the time it needs to address the major policy questions in the social security field.

The Congress should realize that the problems faced by social security do not stem from the program itself. The program itself is sound. It is still the most successful social program in America today. Moreover, the actions the Congress took in 1977 provide the foundation we need to face the years ahead. The difficulties we face now come not from the social security program but from the economy. No program, even social security, can face high unemployment and double-digit inflation repeatedly without running into short-term difficulties.

In that regard, the subcommittee will continue both to monitor the status of the funds and to bring forward corrective actions wherever they are needed.●

FARM LABOR CONTRACTOR REGISTRATION ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. FORD of Michigan. Mr. Speaker, today I am introducing a bill to amend the Farm Labor Contractor Registration Act. The same legislation has been introduced in the other body by Senator Javits.

The Farm Labor Contractor Registration Act was enacted in 1964 to prevent the exploitation of migrant agricultural workers and their employers by irresponsible farm labor contractors. Congressional hearings revealed widespread abuses of migrants by the middlemen, known as crew leaders or body brokers, who recruited and transported them. Farmworkers were commonly promised higher wages and more work than they eventually received, were transported long distances under unsafe and degrading conditions, were housed in subhuman quarters, subjected to physical abuse, and kept in virtual peonage.

The 1964 Act attempted to curb these abuses solely by regulating the activities of the crew leaders. All farm labor contractors were required to register with the Department of Labor, and contractors found guilty of certain crimes and violations of farmworkers' rights were denied registration or subjected to criminal prosecution and fined.

After a decade's experience with the act, however, it became clear that it had not achieved its intended results. Investigations by the House and Senate, including hearings by the Agricultural Labor Subcommittee, which I chaired, demonstrated that the law was too narrowly conceived and drafted to protect migrants in all of the wide variety of circumstances in which they are recruited, hired, transported, and housed. Furthermore, the enforcement mechanisms proved so ineffective that a Labor Department investigation found more than 70 percent of the contractors studied were violating the act.

In response, we made numerous changes in the law in 1974 to strengthen the enforcement mechanisms, to provide a private right to sue, to extend coverage to intrastate contracting activities, and to extend the registration requirements to certain agricultural employers who rely on foremen and other employees to perform their farm labor contracting rather than engaging in those activities personally. The expansion of the registration requirement seemed necessary to prevent circumvention of the act by unscrupulous employers who could immunize crew leaders simply by hiring them as employees.

The 1974 amendments also provided new substantive protections for migrant workers. Contractors are required to furnish proof that housing they intend to furnish to migrants meets Federal and State standards. Similarly, before transporting workers they are required to prove that the vehicles are adequately insured.

Unfortunately, the Department of Labor's enforcement program since passage of the 1974 amendments has caused a storm of criticism while doing very little to stem the exploitation of migrant farmworkers.

As recent hearings before the Government Operations Subcommittee on Manpower and Housing revealed, DOL has apparently concentrated its scarce resources on securing the registration of every employer who might conceivably be construed to be a contractor. Apochryphal stories, such as the one related to the subcommittee about a farmhand cited for a Farm Labor Contractor Registration Act violation because his tractor was not insured before he gave a fellow employee a ride, have become commonplace.

At the same time, migrants and their advocates complain that well-known body brokers continue to exploit farmworkers and commit criminal acts with impunity; that large growers continue to provide squalid housing conditions to migrants who have traveled hundreds of miles and have no alternative but to accept it; and that the Labor Department's compliance officers are unresponsive and untrained.

A groundswell of resentment has risen against the act among responsible agricultural employers who have no problem with the Farm Labor Contractor Registration Act's protections for migrants, but who feel they have been abused and harassed for technical violations unrelated to the treatment of their workers. They rightly feel that many of the act's administrative requirements are unduly burdensome and are essentially irrelevant to a stationary employer whose whereabouts are not in question. Many farmers and corporate officers have complained, for example, about the requirement that a farm labor contractor provide a thumbprint with the registration forms, a duty they find demeaning.

Responding to their complaints, several Members of this body have introduced bills to amend the Farm Labor Contractor Registration Act which, while well-intentioned, have major drawbacks. As hearings on similar measures in the 95th Congress demonstrated, all of these bills suffer from a lack of balance: Though they would certainly deter the DOL's compliance officers from unreasonably interfering with the legitimate activities of agricultural employers, they would also insulate many illegitimate activities from prosecution and leave the majority of migrant farmworkers once again unprotected against the abuses that engendered the original act.

The amendments I am offering today provide the necessary balance between eliminating redtape, paperwork, and administrative burdens, and preserving the rights of farmworkers against abusive employment practices. The bill distinguishes, clearly and unambiguously, between the contracting activities of the independent, itinerant crew leader and the permanent local situs employer and his employees, relieving the latter of most of the act's administrative duties.

Of equal importance, this legislation will simplify and clarify the 1974 amendments as they relate to the coverage of the act, and put an end to the wasteful litigation and controversy that the 1974 amendments unfortunately engendered.

For a detailed analysis of the amendments I am offering today and a more complete history of the Farm Labor Contractor Registration Act, Mr. Speaker, I would refer my colleagues to the excellent statement of Senator Javits on page S6267 of the June 4, 1980, Congressional Record.

The text of the bill follows:

H.R. 7672

A bill to clarify the Farm Labor Contractor Registration Act of 1963, as amended, and to simplify compliance, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Act of 1980".

Sec. 2. (a) Section 3(b)(1) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)(1)) is amended by inserting before the semicolon at the end thereof "or labor union".

(b) Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)(2)) is amended to read as follows:

"(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman, who recruits, hires, solicits, furnishes, or transports migrant workers for its own operation, and its employees, but such entity and such employees shall be required to comply with the provisions listed in section 6(b) of this Act;".

(c) Section 3(b)(3) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)(3)) is amended to read as follows:

"(3) any farmer, processor, canner, ginner, packing shed operator, or nurseryman, regardless of the legal form of business organization, if he or she engages in any such activity individually on behalf of an operation owned and operated only by one or more members of his or her immediate family;"

(d) Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by adding a new paragraph (4) as follows:

"(4) any farmer, processor, canner, ginner, packing shed operator, or nurseryman, regardless of the legal form of business organization, and its employees, which is owned and operated only by one or more members of the same immediate family, provided that not more than ten (10) non-family employees performed agricultural labor for it on any single day during the preceding twelve month period."

(e) Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by adding a new paragraph (5) as follows:

"(5) Any employee of an entity referred to in section 3(b)(3), who does not recruit, solicit, hire, or furnish migrant workers but who may, from time to time, transport not more than two (2) other employees in a vehicle owned or controlled by the entity for which the entity has complied with the requirements of paragraphs 6(b)(2) and (b)(3) as they pertain to vehicles;"

(f) Paragraphs 3(b)(4) through 3(b)(10) of the Farm Labor Contractor Registration Act of 1963, as amended, (7 U.S.C. 2042(b)(4) through 2042(b)(10)) are amended by redesignating them as paragraphs 3(b)(6) through 3(b)(12), respectively.

(g) Subsection 3(g) of the Farm Labor Contractor Registration Act of 1963, as amended, (7 U.S.C. 2042(g)) is amended by striking the period at the end thereof and adding the following: ", except that the term 'migrant worker' shall not include an individual employed solely within a food processing or freezing plant if such worker is not required to be absent overnight from his or her permanent residence and is not furnished housing by his or her employer, and is not transported or caused to be transported by his or her employer to or from the place of employment."

(h) Section 6 of the Farm Labor Contractor Registration Act of 1963, as amended, (7 U.S.C. 2044) is amended by—

(1) inserting "(a)" after "Sec. 6";

(2) redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively, and

(3) redesignating paragraphs (1) through (8) of paragraph (2), as so redesignated, (A) through (H), respectively.

(i) Section 6(a)(2) (as so redesignated by subsection (i) of this Act) is amended by inserting "or, if not recruited, at the time the worker is hired" after "recruited".

(j) Section 6(a)(5) (as so redesignated by subsection (i) of this Act) is amended by inserting in the third sentence after "In addition" the following: ", unless the migrant workers are paid by check by an entity referred to in section 3(b)(1), (2), or (3),".

(k) Paragraph 6(a)(5) of the Farm Labor Contractor Registration Act of 1963, as amended, (as so redesignated by subsection (i) of this Act) is amended by inserting in the fourth sentence after "showing" the following: "total earnings,"; and by inserting in the fourth sentence after "withheld" the following: ", and the net earnings".

(l) Section 6 of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2044) is amended by inserting after subsection (a) the following new subsection:

"(b) Every farmer, processor, canner, ginner, packing shed operator, or nurseryman, and its employees described in section 3(b)(2) of this Act, excluding those persons described in section 3(b)(3), shall—

"(1) be subject to the following provisions of this Act: subsections (c) and (d) of section 4; subsection (a) of this section, except paragraph 1 and subparagraph (E) of paragraph (2); and sections 7 through 19;

"(2) maintain a policy of insurance or show satisfactory proof of financial responsibility as required by subsection 5(a)(2) of this Act;

"(3) maintain all vehicles and housing in accordance with the standards referred to in section 5(a)(4) of the Act;

"(4) refrain from knowingly giving false or misleading information to migrant workers concerning the terms, conditions or existence of agricultural employment; and

"(5) not fail, without justification, to comply with the terms of any working arrangements he has made with migrant workers."●

REDUCE TAXATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. LEE. Mr. Speaker, today I wish to add my enthusiastic endorsement to both the concepts and the specifics of this Congress most recent proposal to reduce the taxation of Americans, introduced in this House yesterday by my fellow New Yorker, Mr. CONABLE. I applaud the leaders of this effort in both Houses of Congress for their rationale and their dedication.

I have added my name as a cosponsor of this measure in recognition of the personal and professional economic pains which all Americans are today forced to endure. In the past, there was never such a monster as recessionary inflation; the two terms were mutually exclusive. But today, rising unemployment and rising inflation ride hand-in-hand as two of the horsemen. America's gross national product shows no growth; America's rate of productivity growth will not budge from the negative column; America's Consumer Price Index soars while the value of the dollar nosedives. Certainly, Mr. Speaker, this Nation is long overdue for action based on a sound footing in plain, old logic. The economists who have promoted the anti-inflation, prorecession, antigrowth, progovernment spending programs of these recent years have deceived us for long enough.

I believe that the policy carried within my colleague's most recent legislative initiative is based on solid commonsense. The $22.3 billion figure represented by this proposal, when apportioned between individual tax reductions and business-bolstering reductions, will give this Nation a start on the road toward recovery and stability.

I would like to briefly examine each of the legislation's two purposes, reductions for individuals and reductions—through fair and equitable breaks available to all businesses—for our commercial and manufacturing communities.

Mr. Speaker, inflation has ravaged the American family's budget. At one time, to affect a 10-percent, across-the-board individual tax reduction would have meant inviting a sharp inflationary spiral as Americans rushed to shopping plazas to spend their windfall. I no longer believe that will happen. The simple fact is that each and every dollar that comes into the average American household today is precious; that it is being used to help them to simply survive. The helter-skelter spending days ended some time this year. Without offering a break from this Nation's largest historical tax burden, many will not survive. And without promoting some, even minor, return to reason and return to optional-use income in the American family, this Nation will find itself in deep depression. This reduction of personal income tax burden can help avoid that economic catastrophe.

This legislation's second thrust, the targeted tax reduction for business through the use of a highly respected program of accelerated depreciation writeoffs, is commonsense as well. Particularly in my Northeast section of the Nation, business and industry are at the brink of decay because of the lack of capital to invest. This Nation must explore every possible way to provide its industry with that capital. The formula proposed within this bill offers a supremely fair approach by reducing the amount of time which manufacturers or commercial enterprises must carry on their taxable ledgers those investments in construction of new and more productive workplaces, the purchase of productivity expanding machinery and tooling, and the rolling stock necessary to both make and deliver their products. Had this kind of legislation been approved 5 years ago, our automobile industry would today be healthy and prosperous instead of courting financial ruin and laying off American workers by the hundreds of thousands.

There is no question that the august group of my colleagues in this House and in the Senate who have joined to support this concept is a gathering of the most respected Members of our legislative process. I take great pride in being given the opportunity to join in this campaign for economic commonsense.

Mr. Speaker, I urge my fellow Members of this Congress representing both sides of the political aisle to join in this movement, not because it is a campaign year again, but because it is good for Americans and good for America.●

THE DRUG CRISIS AND THE FEDERAL DRUG STRATEGY COUNCIL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. GILMAN. Mr. Speaker, as a member of the Select Committee on Narcotics Abuse and Control, I was delighted when our newly inaugurated President announced on March 15, 1977, that he intended to activate the Office of Drug Abuse Policy (ODAP), a unit within the Executive Office of the President (EOP) that had been dormant under the previous administration, and to revitalize the Drug Strategy Council that was created under the Drug Abuse Office and Treatment Act of 1972—Public Law 92-255. The Strategy Council is a Cabinet-level body consisting of the Attorney General, the Secretaries of Health, Education, and Welfare—recently renamed the Department of Health and Human Services—State, Defense, Treasury, the Administrator of Veterans Affairs, and the Director of the Office of Management and Budget (OMB), together with six members from the private sector. The President's March 14 announcement clearly suggested that he intended to vigorously wage war on drug abuse and that he would provide "the highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy" envisaged by Congress when it created ODAP in 1976.

In May of 1977, the Senate confirmed the Presidentially appointed Director and Associate Director of ODAP, and under the leadership of Dr. Peter Bourne and Lee Dogoloff, ODAP immediately initiated a series of comprehensive policy review studies in the areas of border management, drug law enforcement, narcotics intelligence, and drug treatment and rehabilitation.

Much to my dismay, and those of many of my colleagues, in July of 1977, 4 months after the activation of ODAP and without consulting the Congress or his narcotic administrators, the President abruptly reversed himself by proposing the dismantling of the congressionally created ODAP (Reorganization Plan No. 1, July 15, 1977). This action negated his rationale for activating ODAP in the first place, wherein it was stated that:

> "Drug abuse continues to drain our human resources, especially from our youth, with no end in sight"—and his professed determination—"to make every effort to reverse this trend." (White House Press Release, March 14, 1977.)

When ODAP was dismantled from the President's Executive Office, its operations were folded into the newly created Domestic Policy Staff, headed by Stuart Eizenstat, and major policymaking functions were transferred to OMB, the initiators of the proposal to dismantle ODAP. With the termination of ODAP, the one unit within the President's Executive Office that could assist him in formulating a comprehensive, coordinated Federal drug strategy and that could help bring order out of the fragmented effort by this Nation to prevent and control drug abuse, it became clear that drug-related issues would be relegated to the backburner of Presidential priorities.

Literally hours before the President submitted his reorganization proposal to the Congress, the narcotics Select Committee in its oversight hearings on July 12 and 13, and again on September 23, 1977, received testimony from our top narcotics administrators that revealed that they were not aware of OMB's proposal to dismantle ODAP and that OMB did not consult with them—or with Members of Congress—before arriving at its recommendation to abolish ODAP.

Although the small drug unit within the White House Domestic Policy Staff, led by Associate Director Lee Dogoloff, together with this Nation's chief drug administrators—Peter Bensinger, Administrator of the Drug Enforcement Administration (DEA); Marthea Falco, Assistant Secretary of State for International Nacotics Matters; Dr. William Pollin, Director of the National Institute on Drug Abuse (NIDA); and Robert Chasen, Commissioner of the U.S. Customs Service—attempt to minimize the fragmented efforts within the executive branch to prevent and control drug abuse and to develop a comprehensive, coordinated Federal drug strategy, the highly visible Federal leadership that Congress sought when it created ODAP and the Strategy Council has been lost.

If there is a long-term Federal drug strategy, as contemplated by the Drug Abuse Office and Treatment Act of 1972—and as amended in 1976—then I am at a loss to locate it. I have yet to see a copy of the Federal drug strategy for 1980. Despite some discussion that a 5-year Federal drug plan is being formulated, I have yet to see any details of this proposal, let alone participate in any of its deliberations. From our Narcotics Select Committee's hearings on the Federal drug strategy and on drug abuse prevention and treatment, I am convinced that this Nation's so-called drug abuse prevention campaign of 1979 was a dismal failure, and I am not aware that a drug abuse prevention campaign for 1980 even exists.

Recently two members of the Federal Drug Strategy Council, representing the private sector—Dr. Joyce Lowinson, director of the division of substance abuse services at Albert Einstein College of Medicine; and Dr. David F. Musto, senior research scientist at the Yale Medical School's Child Study Center—courageously voiced their frustration over the inactivity of the Strategy Council. They have stated that the Strategy Council "has not functioned as Congress intended, nor indeed as it was described to us when we accepted membership" in the Council. They further state: "The executive branch and the Congress should agree either to revise the law and declare the Council an advisory body that meets at the convenience of the White House Secretariat or to abolish the Council altogether" (New York Times, May 22, 1980, Op-Ed).

Mr. Speaker, if the Strategy Council is not performing the function that Congress intended when it created this body in 1972, and if the Council "is a facade behind which bureaucrats alone continue to establish policy," as Drs. Lowinson and Musto contend, then perhaps more authority should be granted to our top narcotics administrators to formulate a comprehensive, coordinated national drug strategy and to carry out the functions that have been mandated to the so-called Strategy Council. In this regard, an editorial appearing in the New York Times (June 14, 1980) states: "The Administration needs to put its drug policy in order."

The dismantling of ODAP and the demise of the Strategy Council comes at a time when narcotics trafficking and drug abuse in this country and throughout the world has reached epidemic proportions. Nearly every region of the world reports epidemic trafficking of high-grade heroin, marihuana, cocaine, and other dangerous drugs and the growing numbers of drug abuse among their citizens.

The demise of the Strategy Council and the absence of highly visible Federal leadership for drug-related issues within the White House comes at a time when the President is proposing a $40 million cutback—or 25 percent—of NIDA's $160 million drug treatment programs, when more and more of our citizens are resorting to heroin, marihuana, cocaine, PCP, and other dangerous drugs, when more and more individuals are misusing and abusing licitly prescribed drugs, and when hospital emergency rooms are reporting increased numbers of drug-related injuries and deaths. The 1979 national survey on drug abuse, released by NIDA on June 20, 1980, shows the dramatic increase in the use of marihuana and cocaine and other dangerous drugs among our citizens, especially among the youth of this Nation.

Clearly, this Nation is becoming a drug-oriented society that appears to be unchecked, and the public appears to be unaware of the dangers of narcotics trafficking and drug abuse. The fragmented effort to prevent and control drug abuse that exists among a plethora of diverse departments, agencies, bureaus, institutes, and commissions within the executive branch and the absence of a comprehensive, coordinated Federal drug strategy rests with the President—the buck stops at the Oval Office.

Mr. Speaker, the Congress also has a vitally important mission to perform in preventing and controlling drug abuse, but it too must put its own house in order to correct the fragmentation that exists among the numerous congressional committees having piecemeal jurisdiction over complex drug problems. This Congress, or certainly the 97th Congress, urgently needs to create a permanent congressional committee that would devote its entire efforts to the problems of narcotics trafficking and drug abuse, rather than relying upon the fragmented approach that currently exists within our congressional committee structure.

Mr. Speaker, in an effort to bring to the attention of my colleagues the urgency to shore up the sagging White House leadership on drug-related issues and to implement vigorously Public Law 92-255 and Public Law 94-237, requiring "highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy," I am inserting at this point in the RECORD the complete texts of the article appearing in the New York Times of May 20, 1980, and the editorial of June 14, 1980. I urge my colleagues in both the executive branch and in the Congress to work together to develop and implement a comprehensive, coordinated Federal drug strategy. Drug abuse is too important to the health of our citizens to receive low-level attention by Government officials.

The articles follow:

[From the New York Times, May 22, 1980]

DRUG CRISIS AND STRATEGY

(By Joyce H. Lowinson and David F. Musto)

The rising volume of heroin entering the United States and the increasing rate of addiction and narcotics-related deaths among young people raise serious doubts about the nation's ability to meet new demands for treatment.

Both of us come to this concern from a special and unexpectedly frustrating perspective. We serve on the White House Strategy Council on Drug Abuse, whose members were appointed by President Carter in November 1977. At that time, he expressed concern about the prevention of drug abuse and directed us to carry out our statutory responsibilities. The Council is composed of six persons from outside the Government and seven Federal members: the Secretaries of State, the Treasury, Defense, Health and Human Services, and the Attorney General, Administrator of Veterans Affairs, and the Director of the Office of Management and Budget. The Federal members send lower-ranking officials to the meetings.

Congress established the council to determine Federal strategy for prevention of drug abuse and drug trafficking, and to monitor Federal compliance with the strategy, and to decide upon modifications based upon experience and new research.

We regret to say that the council has not functioned as Congress intended, nor, indeed, as it was described to us when we accepted membership. As public representatives, we are distressed that despite the crisis in heroin addiction, the council has not met, in spite of our urgings, since Oct. 3.

Our requests for information that by law we are entitled to receive have been met in some instances by delays of years, at other times with only superficial responses. The council has working groups and subcommittees about which we are given only the sketchiest information.

Since November 1977, we have never received classified information although we cannot understand how we can serve any supervisory function without it. For example, we worry about the growing of opium poppies in Afghanistan and Pakistan by rebel tribesmen who apparently are the chief adversaries of the Soviet troops in Afghanistan. Are we erring in befriending these tribes as we did in Laos when Air America (chartered by the Central Intelligence Agency) helped transport crude opium from certain tribal areas?

It is our opinion, after two years of patiently asking for information, requesting more-frequent meetings, repeatedly seeking from the White House staff some explanation of why the council is not functioning as it should, that the executive branch and Congress should agree either to revise the law and declare the council an advisory body that meets at the convenience of the White House secretariat or to abolish the council altogether. We have grave doubts that the council can work as Congress and the President originally intended. The council apparently is a facade behind which bureaucrats alone continue to establish policy. The public is not well-served by interposing an impressive-sounding "strategy council" between Congress and the officials in various departments who are truly responsible for developing policy.

In the seven months since the last council meeting, the Administration has proposed cuts of $40 million in a $160 million national drug-abuse treatment program and would require local and state governments to absorb all the costs of inflation in the remaining programs. There are now, and certainly will be in the immediate future, thousands of addicts seeking treatment who cannot be accommodated.

The heroin crisis is a bipartisan concern. Recently, Representative Lester L. Wolff, a Democrat and chairman of the House Select Committee on Narcotics Abuse and Control, and State Senator Frank Padavan, a Republican and chairman of the New York State Senate Committee on Mental Hygiene and Narcotics Control, have held hearings at which the treatment quandary has been documented. According to the New York State Division of Substance Abuse Services, in 1979 drug-related deaths in New York City rose 77 percent.

Heroin entering the United States originates increasingly from opium produced in Iran, Afghanistan and Pakistan. On the streets, this drug is more potent, cheaper and more available than at any time in the last 20 years. Young teenagers are appearing at treatment centers. Seizures of heroin have increased dramatically. Julio Martinez, director of the New York State Division of Substance Abuse Services, warns that this crisis is bound to worsen.

It is difficult to believe that the need for treatment can be less in 1980 than in earlier years. The cost of jailing drug users is far higher and less effective than the cost of treatment. It is economically unsound to cut funds for treatment. We urge reconsideration of these cuts.

[From The New York Times, June 14, 1980]

A HEROIN WAVE, AND NO STEERSMAN

Just as unprecedented supplies of heroin are expected to reach the United States, the nation's drug policy is sputtering badly. Federal funds for drug treatment programs have been cut lately, and the White House Strategy Council on Drug Abuse has not met for seven months. Plainly, the Administration needs to put its drug policy in order.

The danger seems indisputable. Huge new supplies of heroin from Afghanistan, Iran and Pakistan are already recorded in Western Europe, where the number of addicts in several countries is rising sharply. From Europe, according to the Federal Drug Enforcement Administration, the stuff moves to the United States. More heroin on the streets would push prices down and potency up. Easier access will mean wider use. That's what happened in the late 1960's when 6 metric tons of heroin, most of it from Turkey, created a drug abuse crisis. This time, authorities say, more than 10 times the amount available in the late 60's may end up in the United States. Government is unprepared.

One highly effective way of stifling the drug trade is to keep drugs out of the country. Yet the Government now invests little in diplomatic efforts to control illicit opium crops abroad. Once the drugs arrive in America, well-coordinated investigations can help keep them off the streets. Yet various Federal agencies have been expending their energies in arguments over jurisdictions. The Customs Service resents the anti-smuggling efforts of the Drug Enforcement Administration, and reluctant State Department officials say drug-busting can upset other diplomatic negotiations.

Through most of the 1970's, the addict population was steadily declining. Now, the National Institute for Drug Abuse reports more and more people seeking treatment, particularly in the Northeast. New York State reports a 46 percent increase last year in the number of drug-related hospital cases, 11 percent in drug-related arrests and 77 percent in drug-related deaths. Yet $40 million—25 percent—has been sliced off a $160-million national drug program that goes mostly to support treatment of addicts.

Congress made clear, when it chartered the Strategy Council on Drug Policy in 1976, that it wanted the White House to steer both enforcement and treatment.

That responsibility had better be taken seriously.●

SECTION 911 TAX PROBLEMS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. FRENZEL. Mr. Speaker, I believe sections 911 and 913 of the Tax Code represent a critically important aspect of the country's economic future. Unfortunately, the House Ways and Means Committee, despite plenty of requests, has been unwilling to look at this subject this year.

In 1978, this Congress recognized, in what has come to be known as the Ribicoff amendments, that it had made a dreadful mistake in reducing the foreign exemption in 1976. Even by 1978, only 2 years later, it was apparent that we had shot ourselves in our collective foot in the 1976 act.

In our excessive zeal for tax reform, we forgot about, or perhaps we never knew about, competitiveness abroad. Our own mistakes were compounded by some grotesque Treasury rules that imputed high income for expenses of living in miserable circumstances abroad.

Those 1978 amendments took care of some of the very worst Treasury rulings and helped to compensate Americans abroad for extraordinary living expenses. But they carried with them an awful price in administrative complexity and cost, and they did not address the central problem.

The real problem is, of course, that the United States is the only major trading country to tax the earned income of its citizens who are working outside of its borders. Thus, for U.S. companies, U.S. nationals are far more expensive than are foreign nationals.

Therefore, the goods and services of U.S. companies abroad are not competitively priced unless the U.S. companies hire foreign nationals. The problems are extreme for services, such as construction, which have a high American supervisory labor cost component. But section 911 also poses cost difficulties for any U.S. firms who want to have Americans selling American exports in foreign countries.

The 1976 changes have caused Americans abroad to be brought home in droves. These Americans have been replaced by foreign nationals. These foreign nationals are undoubtedly good people, but experience proves that they do not order American products instinctively as an American would, and they do not instinctively place American interests first.

In short, since 1976, a number of us in Congress—a number which is now thankfully growing—have warned that U.S. export business was being lost because of the unwise tax policy in sections 911 and 913 of the Internal Revenue Code. We warned about continuing trade deficits, and the effect on unemployment here at home.

Finally, we are able to describe those warnings in more definite terms because of a recently completed study by Chase Econometrics. The Chase study reinforces the generally accepted belief that the tax which the United States places on its citizens abroad is forcing many American exporters to replace their U.S. employees with foreign nationals whose income is not subject to tax by their native country. These individuals are likely to purchase products from their home country, as opposed to purchasing American-made products.

The study determines that the current tax treatment of Americans abroad has resulted in a drop of at least 5 percent in exports in 1980. Chase estimates that this decline will raise domestic unemployment by at least 80,000, and reduce Federal tax receipts by more than $6 billion. This is many times the estimated $279 million a total exemption of foreign earned income would cost the Treasury.

Sections 911 and 913 are also placing an unnecessarily onerous burden on American charitable efforts abroad. Just as U.S. nationals are too expensive for American corporations, so too are they too costly for church missions, charities, agricultural foundations, and so forth. Our humanitarian and spiritual efforts abroad are being hampered as much as, or more than, our trade efforts.

Because of these conditions, on September 7, 1979, I introduced legislation (H.R. 5211) to do away with taxation on income which is entirely earned abroad. If it could be passed, I believe that the Yankee traders could again go abroad and compete fairly. It is now time for the Congress to take action to remove the inequities in the tax laws pertaining to overseas Americans, in order to restore American competitiveness abroad.●

CITIZENS OVERSIGHT PANEL PROPOSED

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. GRASSLEY. Mr. Speaker, the Abscam scandal that has dazed Capitol Hill recently has plunged public confidence in our country's legislators to rock bottom. The public has been shocked at allegations of videotaped payoffs to Congressmen. But there is a growing body of evidence of illegal congressional conduct in the past decade and, I fear, a growing public perception of a system of congressional ethics that appears to tolerate rather than deter such crimes.

Congress has shown that it has been unwilling, or for that matter, unable to keep its house in order. In the last decade, 46 Members of Congress or their staff have been either charged with crimes by the Justice Department or investigated for serious offenses by their respective committees—an average of four a year. Members of Congress must establish credibility with the public that elects them by adhering to—and enforcing—their code of ethics.

Even before Abscam, following Koreagate and Watergate, public pressure has been mounting for Congress to crack down on the enforcement of its code of ethics. The talk of reform among many Members, however, has been far less enthusiastic in the cloakroom than on the House floor.

Given the volume of prosecutions in Congress in the seventies and the underwhelming response of the congressional ethics committees, we should be considering ways of strengthening the system of penalties for public offenses.

Today, I am reintroducing legislation that I have proposed previously in the 94th and 95th Congresses. Since that time, one Member of Congress has resigned in disgrace for misusing office account money. Another Congressman pleaded guilty to violation of Federal election laws in 1977 and served 7 months in prison. A third was convicted of taking salary kickbacks from his staff prior to his election and subsequently censured by his colleagues. It appears the present is every bit, if not more ripe for initiating some meaningful reform.

My bill would form a Citizens Oversight Panel which would allow private citizens to accept complaints concerning conduct of Members of Congress and their staffs. If, after a preliminary investigation, the majority of citizens on the panel determined the ethics code might have been violated, the panel could direct the House Committee on Standards of Official Conduct to investigate.

I believe this bill would help place elected officials under closer scrutiny and would force Members of Congress to be more diligent in weeding out unethical behavior. Although the public currently may raise questions concerning congressional activities, it is next to impossible to force the Committee on Standards of Official Conduct to initiate an investigation. There is a consensus that the Ethics Committee has been less than responsive since its creation in 1967. It has been loathe to take action. My legislation would allow a group of citizens, theoretically free from political and institutional considerations, to direct that an investigation be taken.

With renewed pressure from the electorate we should pass this legislation into law, restoring public trust and confidence in Congress and improving citizen access to Congress in case doubts are raised about an official's conduct.●

AUTOMOTIVE AFTERMARKET NEWS MARKS ITS SILVER ANNIVERSARY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. PORTER. Mr. Speaker, this month marks the silver anniversary issue for Automotive Aftermarket News, which was launched with its June 1955 issue, under the name of Jobber Product News.

However, the automotive industry knew of this new publication months before, since in December 1954 at the IASI show in Navy Pier, a single sheet flyer, tabloid in size and printed both sides, heralded the news of the "event to come." These flyers had a coupon whereby interested parties could mail in their desire to receive the new automotive aftermarket newspaper.

The initial circulation was 40,000. The first issue ran 16 pages. It included 28 advertisements. And, among these charter advertisers, still active in the market places are such well-known names as Accurate Parts, AC Spark Plug, Amalie, Cole-Hersee, Dura-Bond, Graymills, Kem Manufacturing, Plews Oiler, Rinshed-Mason, Signal-Stat, Storm-Vulcan, Van Bergen & Greener and Van Norman. The other advertisers have disappeared or merged.

On page 1 of this first issue, founding publisher Emil G. Stanley, in his editorial headed "Your New Automotive Jobber Monthly News Tabloid," said that JPN's "scope will be broad including general news, features, equipment, parts, supplies, accessories, and merchandising. JPN is to be edited for all size establishments." Great emphasis was made of the easy to read format and about the progressive policies of this new newspaper.

In February 1963, JPN became Jobber News & Products. The announcement on page 1 explained the change in the name as logical, since it clarified the aims and objectives of the paper.

With the July 1970 issue, Jobber News Products became Automotive Aftermarket News. The publisher's editorial was headed "Only the Name has Changed." The new name, the editorial explained, "more accurately describes the broad scope coverage of aftermarket news." That change to the name of AAN took place as the newspaper finished its 15 years of uninterrupted publishing.

And now, as AAN celebrates its silver anniversary, its dedication and coverage of timely news and features is unparalleled. AAN's editor, William Wolfe, in the December 1979 issued wrote an all-encompassing editorial under the heading "AAN's service and dedication wins industry acclaim and recognition." In his concluding paragraph he so aptly summed up AAN's position and posture when he wrote:

> Thus we, AAN editors, pledge now to continue to carry out in full measure the planks of that first editorial platform (published June, 1955) so that AAN's tradition of acclaim and recognition from the industry can continue to be earned in the future as in the past as we move toward our next 25 years and a golden anniversary.

The June 1980 issue is AAN's silver anniversary issue. It is an issue that should be long remembered by the readers. Mr. Emil G. Stanley, publisher; Mr. William S. Wade, executive vice president; and Mr. William H. Wolfe, editor, are to be congratulated for their tremendous service to the automotive industry and the public.●

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT: PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. McDONALD. Mr. Speaker, on many occasions over the past 5 years I have drawn the attention of this House to the operations of the Institute for Policy Studies (IPS), which has been defined as a consortium of Marxists pressing for revolutionary change in America's domestic and foreign policies. IPS has utilized a number of tactics; however, the single cohesive cord that binds together the multitude of IPS projects is the influencing of U.S. policies along lines favorable to the Soviet Union, its satellites, client states, and controlled terrorist so-called national liberation movements.

The Review of the News and Barron's, joined even by the Washington Post, have pointed out that the Institute for Policy Studies and its subsidiary Transnational Institute are the subject of an excellent novel by Newsweek editor Arnaud de Borchgrave and Robert Moss, editor of the Economist's prestigious Foreign Report, entitled "The Spike" (Crown, N.Y.). "The Spike" concerns the formation of an "Institute for Progressive Reform" and its "Multinational Institute" by the Soviet KGB in order to develop an influence network—"assets" in intelligence terminology—in Congress, the executive branch, and the media.

A magnificently detailed study of the real world Institute for Policy Studies has been published in the June-July 1980 issue of Midstream magazine. The author, Dr. Rael Jean Isaac, a political sociologist, has considerable expertise on the activities of IPS, having published previous monographs and studies on the critical role of the Institute for Policy Studies as a support group for the Soviet-supported terrorists of the Palestine Liberation Organization.

Over the next several days, I intend to examine and expand on Dr. Isaac's excellent Midstream article, an excerpt of which follows:

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT

(Rael Jean Isaac)

An unusual organization has been edging into prominence for some years. Its members—"Fellows"—have published many articles in *The New York Times,* and have appeared on television: *The Times* identifies the organization only as "a research organization based in Washington, D.C.," while Jim Lehrer, on Channel 13, the "educational channel" of New York City, refers to it as a "liberal research outfit."

Moreover a new novel, *The Spike,* has just appeared, written by two well-known commentators on world affairs, Arnaud de Borchgrave and Robert Moss, which is widely assumed to be based on this same organization. In the novel it is the channel through which the Soviet Union hopes to take over the United States.

Plainly, this "liberal research outfit" would seem to deserve some attention. What, in fact, is the Institute for Policy Studies?

Though the subject of a 1971 article in *Esquire,* a two-part series in *Barron's* in 1976, and a 1978 article in *The New York Post,* the Institute has received remarkably little attention in the major media, which, however, frequently publish the writings of its Fellows. Yet the Institute represents an unprecedented success story: the achievement of the New Left, after its supposed demise, in shaping United States policy.

The Institute for Policy Studies was founded almost 20 years ago by Marcus Raskin and Richard Barnet, who were to remain its directors for 15 years. The two men had met while attending a White House/State Department disarmament conference on April 14, 1961. Raskin was on the staff of the National Security Council as an aide to McGeorge Bundy, and Barnet was Deputy Director for Political Research of the U.S. Arms Control and Disarmament Agency. Barnet noticed Raskin's alienation—his contempt for and hostility toward "the whole military-industrial establishment sitting there at one table."

As Barnet later told an interviewer: "Marc and I both grimaced at the same moment—and knew we didn't belong here." Within two years Barnet and Raskin had put together the necessary funding, personnel, and programming: the Institute began work in 1963.

But the roots of IPS go back earlier. While Barnet's prior activities gave no hint of the path he was to take (Harvard Law School, graduate studies at Harvard and Princeton, a stint at a respected Boston law firm before entering government), on coming to Washington in 1959 as a legislative assistant to the then freshman Wisconsin Democratic Congressman Robert Kastenmeier, Raskin had organized the "Liberal Project."

These were the Eisenhower years, when the major criticism of the Presidency was that its incumbent spent too much time on the golf course. While in retrospect they seem golden years, scarcely rich soil for the appearance of a Congressional protest movement, a small group of Congressmen, most of them first elected in 1958, felt that American policy was coasting on the outworn ideas of the New Deal and did not take into account a radically changed postwar world. James Roosevelt, one of the leaders of the group, spoke of a breakdown in "the transmission belt of ideas between intellectuals and politicians." The model the Congressmen had in mind for the "Liberal Project" was the English Fabian Society, which provided the ideas (and to a considerable extent the personnel) for the Labor Party in England in the first decades of the century.

The Liberal Project died when five of the dozen Congressmen who made it up lost their seats in 1960. Its chief legacy was a volume called *The Liberal Papers,* edited by James Roosevelt, presenting the new perspective it was hoped would provide a foundation for policy.

Though the tone of the *Liberal Papers* is calm, civilized, and rational, and—in sharp contrast to what was to become the Institute for Policy Studies—the good faith of

United States policy-makers is not impugned, an analysis of it points to themes that were to be fundamental for IPS: the need for total disarmament; the abandonment of existing alliances; the need to encourage revolutionary change in the underdeveloped world. Several contributors to the *Liberal Papers* were to play a part in IPS. David Riesman (with Barnet and Raskin) was one of the three trustees listed in the certificate of incorporation in November, 1962; Michael Maccoby and Arthur Waskow were to become Fellows of the Institute.

The distinguishing marks of IPS have been its choice of audience, its methods, and its ideas. To begin with the least imaginative of these—the ideas—they have been endlessly restated in the voluminous writings of the IPS founders and Fellows, some of them published directly by the Institute, some by mainstream publishing houses. Perhaps the best source is the writings of Marcus Raskin, described by IPS colleagues as "one of this country's most able political thinkers and theorists" and "one of America's leading political scientists and political philosophers."

Raskin describes the United States as an imperialist country ("The American imperium . . . is now viewed as the world's primary enemy by the poor and the young") whose inhabitants themselves are colonized. Within our Colonized Society (these as well as all subsequent capital letters are Raskin's) there are "four overlapping Colonies" each of which "hollows out man and objectifies him for the purpose of running the Colony." The most important Colony, the one that maintains the others, is the Violence Colony, whose rulers, specialists in the techniques of violence, use "the rest of society as their hostage." A primary tool of the Violence Colony is the university, which is "the fundamental shield and terrorizing instrument of the state."

Cowed by the Violence Colony, people in the Plantation Colony "work at meaningless and unreal jobs to obtain things that they are led to want" but which do not satisfy "human needs." In the Channeling Colony (known by less profound minds as the educational system) people are "broken" into "accepting authority structures. Its inmates learn to become bored, user-used and hollowed out." People are lulled into passive acceptance of the other colonies by the Dream Colony, which "provides a surrogate of action and passion for the colonized, replacing their own actions and passions, which could stem from human feeling."

Raskin explains how the small elite that colonizes the mass of American citizens enforces the external empire. The turning point, says Raskin, came in 1940, when the United States gave up its status as one of several great powers "to reach for the brass ring: world hegemony." While war with "great powers" would be avoided after 1945, "fighting continuous war in the lands of the poor and wretched was acceptable, and to some extent was the way the ruling elite thought American dominance would be maintained." Eventually, a President's day would be "spent in activities that were more criminal than political, from plotting wars to buying foreign government officials." As the elite saw it, war for the public "would be a sport, a diversion at most. . . . The droning of everyday life would be relieved with the purpose and determination of the leaders."

In Raskin's books the political leadership of the United States becomes a cabal of evildoers, a replica of the Nazi leadership—to be dealt with in a similar way. "Decolonization" can only be accomplished if the "national-security state is dismantled." The only incentive for leaders to avoid imperial adventures is to know they will be held personally responsible. Citing the Nuremberg Laws. Raskin provides his own model law "for demilitarizing American society." Crimes include "threatening and provoking other nations and lands with U.S. or third-party military and paramilitary forces," and even "developing a militarist economy." Those found guilty would be liable to discharge from the Civil Service or, if their offense was severe, confiscation of property and custodial imprisonment for seven years "at socially useful work."

Once the Violence Colony is eliminated, decolonization of the other social sectors will become possible. The Plantation Colony will be replaced by workers operating their own industries established with government taxes. One presumes that those, like Raskin, who knew what human needs *really* are will decide what is produced by them. The Channeling Colony will be overcome when records are destroyed, grades and tests abolished, and "free inquiry" put in its place. The Dream Colony will be replaced by a television that is used "to build continuous new relationships between people in an associative democratic way."

There is not much danger that a dismantled Violence Colony will be resurrected because in the "Reconstructed Society" all decisions will be made in face to face local meetings. These meetings will choose whether, for example, a MIRV missile is desired over a new community center. Workers will control their own taxes until the end of the year and then decide to what authority they wish to give them. National budgets will be voted in local assemblies. In short, the "Reconstructed Society" is an anarchist-syndicalist federation of autonomous cooperatives. Since present human imperfection is wholly attributable to the colonizing agents, in Raskin's utopia there will be no hierarchy, no coercion, no real organization beyond the local level.

The flood of writings by IPS Fellows neither add to nor contradict Raskin's outpourings. The United States is civil. IPS Fellows Paul Jacobs and Saul Landau explain how Americans have celebrated a terrible past. "Racism" against every minority group is the real history of the United States. The democratic institutions of the United States are worthless. Elections, says IPS Fellow Michael Parenti, are only a symbol and voting "less an exercise than a surrender of sovereignty." A favorite IPS theme, it is echoed by, among others, Arthur Waskow, who calls elections "an elaborate way of collecting power from the people and handing it over to someone else." IPS Fellows are enthusiastic about Third World terrorist and revolutionary movements and the states that embody them; many of these of course, have dispensed with elections altogether.

While the Soviet Union is not always defended as flawless, the United States is consistently portrayed as the aggressor in U.S.-Soviet relations. Parenti puts "totalitarian" in quotes, suggesting this is a false label applied to the Soviet Union. Richard Barnet contrasts "substantive" and "procedural" freedoms. We have the "procedural" freedoms (speech, the press, assembly) while the Soviet Union has the more solid-sounding "substantive" freedoms (medical care, jobs, housing). Barnet asserts on his own authority that he is sure that Soviet citizens if given the choice between the two, would select their "substantive" freedom. What IPS Fellows never concede is that the Soviet Union poses any threat to the United States. Soviet behavior is invariably defined as "defensive" in nature.●

THE SOUTHERN BAPTIST CONVENTION CONDEMNS ABORTION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. ASHBROOK. Mr. Speaker, the Nation's largest Protestant body, the Southern Baptist Convention, has gone on record as favoring the outlawing of abortion, by law or by constitutional amendment.

Once again, the absurdity of the proabortion movement as a Catholic bishop's plot is revealed. The influence of Catholic bishops at a Southern Baptist convention is generally agreed to be minimal.

The full text of the article reporting the Southern Baptist resolution, from the June 13 Baltimore Sun, follows below:

SOUTHERN BAPTISTS CONDEMN ABORTION, URGE LAW

ST. LOUIS. (AP)—The nation's largest Protestant body, the Southern Baptist Convention, strongly condemned abortion yesterday and called for a law to prohibit it "except to save the life of the mother."

The Southern Baptists, in one of the sharpest antiabortion stands taken by a major Protestant denomination, urged either legislation or a constitutional amendment to outlaw abortion.

"All medical evidence indicates that abortion ends the life of a developing human being," declared a resolution approved after an hour's debate by the convention of 13,500 "messengers."

It asserted the "sacredness and dignity of all human life, born and unborn," and denounced all policies allowing "abortion on demand," claiming present national laws and policy permitted such abortions.

Dr. William D. Hillis, a faculty member at the Johns Hopkins School of Hygiene and Public Health and at Good Samaritan Hospital, opposed the position, arguing it did not allow for consideration of individuals who may need abortion in cases of rape or incest.

Southern Baptists in the United States number 13.4 million. Although the convention does not purport to speak for all of them, it is the denomination's most broadly representative organ, expressing its views and acting for it.

The decision put the convention into the struggle for revised law or constitutional change barring abortion except to save the mother's life. Similar stands have been taken by the Catholic Church and numerous Protestant antiabortion groups.

Most major Protestant denominations, however, have adopted positions in support of the 1973 U.S. Supreme Court decision allowing abortion.

Southern Baptists had earlier taken a less severe view of the issue, and several "messengers" argued for reaffirming those past qualified positions, but their efforts failed.

The Rev. Larry Lewis, of St. Louis, led the campaign for the new resolution, saying past statements had been interpreted as supporting abortion.

"Something has to be done," he said. "It is intolerable that the lives of 1.5 million babies are being taken every year." Others cited abortion as the principal cause of death today.

The convention also called for "the right to have voluntary prayer in public schools," saying the Supreme Court had made it illegal to pray or read the Bible in those schools.

However, the convention said it opposed any undermining of the court's decision forbidding "government-authored or sponsored religious exercises in public schools."●

THE FOURTH CONGRESSIONAL DISTRICT OF NEW YORK REGISTERS OPINIONS ON THE MAJOR ISSUES FACING OUR COUNTRY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. LENT. Mr. Speaker, the tabulation of my 10th annual questionnaire has been completed. As I have done each year since my election to the House of Representatives, I am making available to my colleagues my constituents responses concerning some of the most serious problems faced by our Nation today.

In the belief that the more than 21,000 responses to the questionnaire will be of major benefit to my colleagues as they consider legislation, and of value to President Carter and his administrative offficals in exercising their responsibilities in the executive department, I insert the results of the questionnaire in full at the conclusion of my comments.

Mr. Speaker, let me state first that I was greatly heartened by the overwhelming number of constituents who participated in this year's poll. More than 21,000 responses to the questionnaire reached my office. It is a strong indication of the sense of civic duty to be found among my constituents in the Fourth Congressional District.

It is important to recognize that in the 10 years that I have conducted these questionnaires, I have never seen such a strong expression of urgent concern on the part of so many, for our country's economic condition. It is obvious to me that there is a great desire for stronger action in Washington in solving our difficulties.

The questionnaire results also reveal a widespread belief that the United States should reduce its dependence on imported oil. In addition, my constituents showed an overwhelming preference for a congressional directive requiring a balanced budget for fiscal year 1981, even if this means reducing some of the President's spending requests.

The Fourth District's concerns, expressed through the questionnaire results, touch on some of the most vital questions facing the 97th Congress. I am certain the questionnaire tabulations will be of assistance to my colleagues in dealing with these issues. With that thought in mind, Mr. Speaker, I insert the tabulations of the results of my 10th annual questionnaire in the CONGRESSIONAL RECORD at this time:

TABULATION OF QUESTIONNAIRE RESULTS

[In percent]

Question	Yes	No	Undecided
1. Do you favor a U.S. boycott of the summer Olympic Games in Moscow?	79	20	1
2. President Carter's fiscal year 1981 budget proposes a $15.8 billion deficit. Do you favor a congressional directive requiring a balanced budget, even if this means reducing some of the President's spending requests?	80	15	5
3. At this time, do you feel the United States has taken sufficiently strong action in response to the Russian invasion of Afghanistan?	38	59	3
4. Do you favor implementation of draft registration now—with a draft call-up only in time of war?	74	22	4
5. If draft registration is approved, do you favor requiring young women to register?	60	39	1
6. To reduce our dependence on imported oil, do you favor converting oil-burning utility plants to coal, despite possible relaxation of clean air standards?	79	19	2
7. Do you favor selling U.S. arms and/or military equipment to the People's Republic of China?	40	55	5
8. Do you favor scrapping the SALT II Treaty, rather than shelving it temporarily?	48	48	4
9. Do you favor the Youth Differential legislation to encourage the hiring of young people by permitting them to be employed for less than the current minimum wage?	55	42	3
10. Do you favor increasing defense spending to restore cutbacks in weapons systems like the F-14 and A-10 fighter planes, the B-1 bomber and long range transport aircraft, even if this means cutting back on social programs?	69	27	4
11. From an economic standpoint, do you expect 1980 will be a better year than 1979?	6	90	4
12. What, in your opinion, is the most serious problem facing America today?			
Inflation-economy			68.0
Energy			8.6
Carter lack of leadership			8.1
Foreign affairs			5.5
Taxes			3.8
Crime			2.4
Miscellaneous			3.6

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THE ROAD TO PRODUCTIVITY AND ECONOMIC GROWTH, PART X—CONGRESS TODAY CALLS SCHULZE BILL A SHOT IN THE ARM FOR THIS NATION'S ECONOMY AND BUSINESS COMMUNITY AND EVERYBODY WHO WORKS FOR A LIVING

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1980

● Mr. SCHULZE. Mr. Speaker, today I submit for the RECORD an article on my bill H.R. 6300, the Individual Investors Incentive Act, which appeared in the May 1980 issue of Congress Today magazine.

This magazine is the major publication of the National Republican Congressional Committee, and is nationally circulated to Republicans who have a demonstrated interest in current legislation. I am indeed pleased that the NRCC has seen fit to publicize the enormous potential contribution of H.R. 6300 to our struggling economy.

While it is gratifying to receive such interest from within my own party, I would like to note that H.R. 6300 has received substantial bipartisan support in the House of Representatives and I would like to encourage my colleagues on both sides of the aisle to closely read this important article and to add their names to the growing list of cosponsors of this vital legislation.

The article follows:

TAKE STOCK IN AMERICA—AND INVEST IN OUR FUTURE

"Britons May Receive Tax Breaks To Boost Equities Investment"—The Wall Street Journal.

"Quebec Alters Tax Rules"—The New York Times.

"Tax Incentive for French Investors Sends Paris Bourse Soaring * * *"—The Corporate Shareholder.

And what does all of this have to do with you?

If Rep. Richard Schulze (R.-Pa.) has his way, plenty.

You see, Dick Schulze is author of the "Schulze bill," the "Individual Investor Incentive Act of 1980."

What the Schulze bill proposes is a simple incentive for Americans to invest in American corporations, with potential for nothing short of a revolutionary shot-in-the-arm for this nation's economy, business community and every American who works for a living.

Simply stated, the Schulze bill would provide for a tax credit of 10 percent, up to $1,000 to individual taxpayers and $2,000 to married couples filing joint income tax returns, for net additions to investments in stocks and bonds of domestic corporations.

In short, invest in American business and write-off ten percent of that investment on your income tax.

And there you have it. It sounds simple enough because it is, and it sounds like a good idea because it is. But just how good? Certainly it helps you, but where does the revolution come in? And what do Britain, Quebec and France have to do with any of this?

To answer the first question of just how good this bill could be to the economy of this country, ask Ira G. Corn, Jr., Chairman of Michigan General Corporation and a member of the Board of Directors of the Committee of Publicly Owned Companies (COPOC).

In testimony before the House Ways and Means Committee last January, Corn told legislators that enactment of the Schulze bill would enable the United States to "resume its economic growth and leadership by vastly increasing the number of Americans who are owners of American business enterprises."

That is how good the Schulze bill could be for the United States. That statement alone indicates the revolutionary potential for this one piece of legislation, by signifying a light at the end of the tunnel for declining American productivity and economic health.

It is also revolutionary in that it's the first good economic news we've had in a very long time.

But why is it Dick Schulze, Ira Corn and others are so sure this will work?

That is where France, Quebec and Great Britain come into this story—especially France and the Loi Monory.

The Loi Monory is French for the Monory Law, named after France's Minister of Finance, Rene Monory, and the law after which the Schulze bill is patterned. Enacted in 1978, the Monory Law was a response to the economic problems facing France, problems very similar to those faced by the United States today.

Equity, or venture capital, was practically nonexistent for all except the biggest corporations. Very few new stocks were being issued and the average Frenchman, leary of stocks, found other uses for his savings.

For France then, just as for the United States today, this stagnating cycle had left publicly owned companies weak and unprofitable. There was no money available for investment in new enterprise and little hope that the situation would change.

Even more alarming than the poor economic picture faced by France, however, was the political position, in which it found itself. Eurocommunism was exerting its pressure with a Socialist-Communist alliance posing a real threat to traditional French government.

But what has happened since then is more surprising and heartening than even Rene Monory could have expected.

With the Monory Law, Frenchmen investing in the stocks and bonds of French companies are permitted to deduct up to 5,000 francs (aproximately $1,200) from their taxable income each year for four consecutive years. The money must remain invested for a minimum of three years, though not in the same securities, or a penalty is incurred.

Again, simple enough, but the result of this simple law have been astounding.

Within a year, one million Frenchmen had purchased stock in French companies, with half of these being first-time investors. Average stock prices on the Bourse (the Paris stock exchange) rose a dramatic 65 percent. New equity capital, which had been only 500 million francs ($120 million) in 1977, increased tenfold—to five billion francs. And last year, the French were saving at a rate of 17 percent of their disposable income.

The Loi Monory has improved the French economy and given the French people a renewed stake in, and commitment to, democratic capitalism. It has sparked an international movement being called "people's capitalism."

In Quebec, a stock savings plan introduced by Finance Minister Jaques Parizeau and similar to the Monory Law was adopted last year. There officials agree that the plan has been a boon to raising equity and attracting investors who had never purchased stock in the past.

Sweden has a similar law and Margaret Thatcher's Conservative government has proposed a Monory-style law for Great Britain.

But will any of this translate to the American system? Again, Ira Corn of OPOC:

"American companies, particularly the small and medium-sized companies upon which we primarily depend for job creation and technological innovations, are substantially deprived of access to capital funds. Where funds are available, their availability is limited to borrowing at extremely high rates of interest.

"The French experience with this measure means that its potential impact here in the U.S. can be measured empirically rather than theoretically."

If the French experience is applicable, there seems no better time than now for America to adopt the Schulze bill.

According to Corn, in 1971 American companies were able to raise 20 percent of their long-term financing needs through the issuance of stock, but by 1978 only four percent of that money was raised by equity offerings.

This, combined with a savings-rate for Americans of only four percent of their disposable income, displays the need for the investment incentive measure.

Passage of the Schulze bill however, will depend upon broad grassroots support.

The bill has already been endorsed by COPOC, the National Association of Investment Clubs (NAIC) and Stockholders of America, with the expectation of ever-increasing support as the measure gains national attention.

The legislation has even been called a "populist bill" because of its appeal not only to investor but to all taxpayers and to companies of all sizes. It's a bill for the little guy, the big guy and everybody in between. Surprisingly, it could mean more for those with less income than for those in the upper tax brackets.

As pointed out by NAIC chairman, Thomas E. O'Hara, "the smaller the investor's income, the greater the percentage of his or her potential benefit."

In the Schulze bill, securities purchased must be held for at least one year or the tax credit is forfeited. Mutual funds with at least 60 percent of their assets in stocks and bonds of domestic corporations would also qualify for the Schulze tax credit.

If enacted, it will take effect on December 31, 1980.

So beginning next year, America could join the ranks of the French, British, Swedish and Canadians in having an incentive to take stock in the business of our home country.

The French may have Monory; the Canadians, Parizeau; and Britons, Margaret Thatcher. But we've got Dick Schulze and the Schulze bill. And maybe next year everyone will be talking about the Loi Schulze.●

HOUSE OF REPRESENTATIVES—*Friday, June 27, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are conscious, O Lord, of the many people who have enriched our lives by their love and by their interest in our well-being. So in the busy pace of each day, help us, O Lord, not to forget the kindness of others and remind us always that we do not live alone but instead are sustained by the support of those about us. We especially give thanks and praise for our families that have nurtured us, for our friends who have supported us, and for colleagues who have encouraged us. O Lord strengthen us all in the power of Your spirit, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

H.R. 5751. An act to more adequately protect archeological resources in southwestern Colorado; and

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit.

The message also announced that the Senate disagrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 5892) entitled "An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies," and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. DURKIN, Mr. MATSUNAGA, Mr. HATFIELD, Mr. MCCLURE, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2460. An act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2009) entitled "An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes."

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley;

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.;

S. 576. An act for the relief of Larry Grathwohl;

S. 1192. An act for the relief of Howard B. Schmutz;

S. 1307. An act for the relief of Gerald W. Frye;

S. 1388. An act to amend the existing geothermal leasing and permitting laws, and for other purposes;

S. 1482. An act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information;

S. 1528. An act for the relief of Hyong Cha Kim Kay;

S. 1624. An act for the relief of Francisco Pang;

S. 1772. An act for the relief of Min-Zen Lin;

S. 1785. An act for the relief of Laird H. Hall;

S. 1847. An act for the relief of Ana Marlene Orantes;

S. 1944. An act for the relief of Peter Chi Hung Kwok, doctor of medicine, and Ping Chi Chan Kwok, husband and wife.

S. 2027. An act for the relief of James Daniel Bronson;

S. 2470. An act to reduce consumption of petroleum and natural gas by electric utilities and for other purposes;

S. 2720. An act to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes;

S. 2725. An act to extend certain authorizations in the Clean Water Act, and for other purposes;

S. Con. Res. 102. Concurrent resolution authorizing the printing of a self-guided tour brochure of the U.S. Botanic Garden Conservatory;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month";

S.J. Res. 156. Joint resolution to authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week";

S.J. Res. 168. Joint resolution designating July 18, 1980, as "National P.O.W.-M.I.A. Recognition Day";

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 188. Joint resolution extending the reporting date of the National Commission on Air Quality.

REPUBLICAN TAX CUT

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to speak about the Republican tax cut, but I do so, not in a partisan fashion but, rather, with a deep concern over a high constitutional principle. The media are reporting that the "jittery Senate Democrats" have been forced to acknowledge that a 1981 tax cut is necessary. In fact, they have gotten so much religion that the majority leader, Senator BYRD, has ordered the Finance Committee to "report to the Senate with a program and a bill for a 1981 tax cut by September 3."

Mr. Speaker, article I, section 7 of the Constitution very clearly states that all revenue measures shall originate in the House of Representatives. Thus, Mr. Speaker, if we do not act on the Republican tax cut proposal before Labor Day we will have effectively abrogated our constitutional responsibility.

Whether you are a Republican or a Democrat, whether you are for the tax cut or against it, I call on all the Members of this body, and especially you, Mr. Speaker, to assert our rightful constitutional role and simply not let tax measures originate in the Senate.

PERSONAL EXPLANATION

(Mr. HINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINSON. Mr. Speaker, due to a previous longstanding commitment, I was forced to be out of town on last Thursday evening and Friday.

Except for those rollcalls on which I am paired, had I been present I would have voted as follows:

On rollcall No. 348 I would have voted "no."

On rollcall No. 350 I would have voted "aye."

On Friday, June 20, 1980, on rollcall No. 351 I would have voted "aye."

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

On rollcall No. 352 I would have voted "aye."

On rollcall No. 353 I would have voted "aye."

On rollcall No. 354, I would have voted "aye."

On rollcall No. 356 I would have voted "no."

On Wednesday last I was absent for rollcall No. 363. I would have voted "aye."

ANOTHER SETBACK FOR U.S. LEADERSHIP

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the news that France has and can produce the neutron artillery shell is another serious setback for U.S. world leadership.

President Carter's unilateral decision 2 years ago to shelve production of this weapon after he had indicated he would make it available to our allies in Europe, was only made to placate the Soviets.

His decision flatly ignored our interest and the interests and desires of our European allies, who face a serious threat from Soviet-backed Warsaw Pact military buildup on their own borders.

The French effort to develop and deploy its own neutron weapon is understandable, but it serves to underscore the extent of worldwide distrust and disdain for President Carter and his administration's foreign policy.

The President has flip-flopped numerous times on his policy toward the Soviets. We should delay no further in developing and producing the needed neutron weapon.

EXCESSIVE USE OF CREDIT ASSISTANCE

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, last fall the Congress passed the Chrysler bailout proposal. Yesterday the synthetic fuel proposal passed. In those proposals, of course, there were provisions for loan guarantees and other Federal credit assistance. It adds up to quite an amount. Right now we have nearly $500 billion in off-budget credit assistance items.

Mr. Speaker, I am not opposed to loan guarantees. In fact I voted for the synfuels bill yesterday. My point is this: I think we need to be careful because Government is preempting the field of private credit, and political decisions are replacing market decisions as to where the credit in this country should be allocated. I think it will hurt us in the long run. If we decide politically to encourage credit for nonproductive ventures it can be inflationary.

I think the President was on the right track when he made his recommendation for us to be sensitive to this problem. The Congress was right when we put a target credit ceiling in our budget proposal. But we still do not have a good, air-tight mechanism to control this problem.

Mr. Speaker, I have a bill which would create a system to bring some order to this business so that we will know what we are doing in the field of credit assistance before we get too far out of line. I am afraid we are going to get blindsided by this entire problem if we do not get it under control now.

EXTENDING REPORTING DATE OF NATIONAL COMMISSION ON AIR QUALITY

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 188) extending the reporting date of the National Commission on Air Quality, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 188

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 323 of the Clean Air Act is amended by—

(1) striking out the first two sentences of subsection (f) (relating to certain interim reporting dates for the National Commission on Air Quality);

(2) striking out the words "at the same time as required for the report of the Commission concerning such subsection" in the next to last sentence of subsection (f);

(3) striking out the first two sentences of subsection (g) and inserting in lieu thereof the following: "Not later than March 1, 1981, a report shall be submitted containing the results of all Commission studies and investigations under this section, together with any appropriate recommendations. The Commission shall cease to exist—

"(1) on March 1, 1981, if the report is not submitted in accordance with the preceding sentence on the date specified in the preceding sentence; or

"(2) on such date (but not later than May 1, 1981) as may be determined by the Commission, by order if the report is submitted in accordance with the preceding sentence on the date specified in such preceding sentence."; and

(4) redesignating subsection (j) as (h) and by adding the following new subsection at the end thereof:

"(i) The Commission may appoint and fix the pay of such staff as it deems necessary.".

(b) Section 324 of such Act is amended by striking out the last sentence thereof.

(c) Effective on the date on which the National Commission on Air Quality ceases to exist pursuant to section 323(g) of the Clean Air Act, section 323 of the Clean Air Act is repealed and sections 324, 325, 326, and 327 of such Act are redesignated as sections 323, 324, 325, and 326 respectively.

(d) Nothing in any other authority of law shall be construed to authorize or permit the extension of the National Commission on Air Quality pursuant to any Executive order or other Executive or agency action.

● Mr. CARTER. Mr. Speaker, I would like to rise in support of this legislation to authorize an extension of the National Commission on Air Quality in order to enable the Commission to complete its legislatively mandated functions.

The Commission was created by the 1977 Clean Air Act amendments for the purpose of exploring alternative means for achieving good air quality which are consistent with the Nation's economic, public health, and energy goals and reporting on the results of these studies to Congress. The information from these reports will be of incalculable use to Congress in its future consideration of clean air issues.

Mr. Speaker, this legislation will involve no increase in authorizations, but it will provide the Commission with the necessary time to complete the important work that it had undertaken.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON S. 1380, ENERGY MOBILIZATION BOARD

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 731 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 731

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1308) to provide for an expedited and coordinated process for decisions on nonnuclear energy projects, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clauses 3 and 4, rule XXVIII, are hereby waived.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. Bauman) for the purpose of debate, pending which I yield myself such time as I may consume.

Mr. Speaker, this is a relatively ordinary rule on a conference report. The matter will be considered under the usual rules of the House. There are two important waivers required in order for the bill to be considered expeditiously. One has to do with scope and the other has to do with germaneness. I am not aware of any serious opposition to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the chairman of the Committee on Rules is certainly correct that the rule is relatively simple. I know of no great opposition to it. I do think the Members of the House should look very closely at the legislation that this will make in order. The conference report is the product of many months of work but it is one of the most horrendous distortions of the intention of this House, at least as it applied to the original legislation, that I have seen. It is a license for the Federal Government, in my view, to run roughshod over existing Federal statutes, State laws, and local agencies. It will allow a great many decisions that ought not to be made at the Federal level, by three people appointed by the President of the United States.

Mr. Speaker, potentially, this could complicate further the production of energy in this country instead of simplifying that process. Mr. Speaker, I would appeal to all Members who voted in favor of this legislation when it first passed the House, although I did not happen to be one of them, to examine carefully the terms of the conference report. I think they will discover that if their objective was to streamline the procedures by which we facilitate energy production in this country, there have been major roadblocks thrown into that process by this legislation in its final form.

Mr. Speaker, I hope the House will reject the conference report. It is not in the best interest of the United States or of our energy independence. It is a bureaucratic nightmare of the first order and it certainly deserves to be rejected.

□ 1010

I would hope that the Members would seriously consider the content of this bill instead of swallowing it whole once the label "energy" is applied to it.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, let me tell the gentleman that I am one of those who did support the Energy Mobilization Board the first time it came along, and as a matter of fact I was on the conference committee. Many of us who have lived practically with this bill day and night, and have studied all of the provisions of it, feel as the gentleman from Maryland does, that it is a bureaucratic nightmare.

We will, during debate, show several places where energy projects can be delayed by litigation. We started off by trying to hurry up the process, and we have just so many, many roadblocks that I just do not think that it is workable.

Second, let me tell the gentleman that there are a couple of other provisions that have been left out of this bill that the majority of this House was in favor of. One was that there would be no waiver of State and local laws.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may require, and I yield to the gentleman from New Mexico.

Mr. LUJAN. Many of us were under the impression that there would be no waiver of State and local laws. It is possible now to waive State and local laws through this legislation.

Then, we have the grandfather clause kind of in reverse which says that if a project is already started, the laws should be waived if they are passed later on just to put a stumbling block before the project. So, all in all, as it has turned out, it has turned out to be just the opposite of what we intended to do, and I intend to oppose this legislation.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's comments, particularly since he served as a conferee, which gives him firsthand knowledge that the rest of us do not have about the contents of the bill.

I too have serious concerns about the unconstitutionality of Federal legislation which allows a three-man Federal agency to override State statutes, local zoning ordinances, and various other protections adopted at State and local levels.

The gentleman from Maryland had an amendment adopted to this bill when it was before the House that would have prevented this Energy Board from overriding a decision reached in a referendum in a local jurisdiction dealing with energy projects. Specifically, in my case, my amendment would have protected the outcome of a massive vote in St. Marys County, Md., which opposed the location of a refinery on the Potomac River in an area that is very dear to fishermen and others.

My amendment was completely dropped in conference. It is only one minor point, but the wider question is whether or not all of our congressional districts will be jeopardized in the name of a new federalism that may produce more disruption rather than more energy.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, yesterday's action by this body in voting for the Energy Security Act of 1980 underscored the commitment to securing the country's energy future. But more is required. Last summer, as the President was preparing for his Camp David energy summit, I wrote to him that it was mandatory that the Nation somehow break the impasse created when the forces of energy production are stopped by the forces of environmental protection. I reminded him that for every energy action there is an equal and opposite environmental preservation reaction. I suggested that one way this stoppage could be resolved was by establishing a board similar to the War Mobilization Board of the World War II era.

Today, we will be acting on the conference report of the Priority Energy Projects Act of 1980. This bill, commonly known as the "fast track" bill, provides the means to prevent the bureaucratic logjam that can all too frequently impede energy production. The Energy Mobilization Board (EMD) imposes a time constraint on the decisionmaking process at the Federal, State, and local levels. This forced responsiveness, I believe, is essential to overcoming bureaucratic inertia. The EMB, however, is not, as some have charged, going to ride roughshod over State and local rights. Designating a project as a priority energy project will not be a capricious action by the EMB. Rather it is an action taken only after an extensive public review and comment period. The project decision schedule that is established for a designated priority energy project lays out the decisionmaking timetable. To insure that this timetable—the project decision schedule—is met, the EMB has been given broad authority. This authority is the tool which must be available to expedite energy decisions and to mitigate the confrontations between producers and preservationists.

In this increasingly complex world, restrictive laws and regulations have become pervasive. Although there is a need for regulations to insure the orderly progress of Government, too often they become the strategy for achieving the obstructive ends of narrow interests.

We simply cannot afford to impede the progress toward energy self-sufficiency by allowing every production initiative which collides with the interests of protectionist elements in our society to fall prey to the delays and obstructions that are built into so many of our regulations and laws.

Mr. Speaker, the Congress has procrastinated long enough in addressing the mounting energy crisis. In passing the Energy Security and Crude Oil Windfall Profit Tax Acts of 1980, we have set in motion a national drive toward energy self-sufficiency. By providing the economic resources and incentives to surmount our crippling dependence on foreign energy and suppliers, we have finally chosen a path to our energy future.

It is now time to provide the means for swiftly and safely traversing that path. In my view, the Priority Energy Projects Act of 1980 gives us the means to streamline the decisionmaking process and to get on with the business of attaining our energy goals.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do not rise in opposition to the rule. I hope the rule is passed. I rise only to comment on the debate on the legislation which follows.

The Energy Mobilization Board has been a matter of significant controversy over the last year. That controversy will finally come to a head during the debate, and at the time of final passage the Members will have an opportunity to vote on a motion to recommit. The nature of the issue, I believe, is familiar to all of the Members of the House.

There have been two broad approaches to what the fast-track legislation ought to be. The approach found in the conference committee agreement before us defines the heart of the fast-track concept giving an appointed Federal Board the power to waive laws—Federal, State, county, and local.

That approach is objectionable to a great many Members of Congress and is an approach that I believe is totally out of the scope of what a fast track ought to be. In addition, it raises serious constitutional questions.

The motion to recommit will focus on that waiver issue, and will attempt to take out of the bill the ability of the Energy Mobilization Board to waive State, County, and local laws. In its place, we should go back to work on the real substance of speeding up energy development; giving the Board strong powers to set and enforce deadlines and streamline procedures.

The procedural fast track was offered in legislation which the House addressed last fall—the Udall-Clausen-Wirth amendment to the Energy Mobilization Board. That is an approach which does not waive State, county, and local laws, but which does address the question of streamlining many of the overlapping, confusing, Federal procedures such an environmental impact statements, various hearings processes, which are the real elements that slow down priority energy projects.

Those of us who are hoping that the Members will vote for the motion to recommit after we pass this rule, are convinced that it is a procedural approach that makes sense, not a waiver of substantive law. The Members may believe that they dealt with the State law waiver issue last fall with the so-called Santini-Lujan amendment. At that time, the Santini-Lujan amendment was characterized as eliminating the Board's authority to waive State, county, and local law.

During the House-Senate conference meetings, it became clear that the Santini-Lujan amendment did not eliminate the waiver of State, county, and local law; and that waiver still exists within this legislation. The motion to recommit will focus on eliminating those provisions. So, I hope, first, that the Members would pass this rule; second, that they carefully listen to the debate; and third, that they support the motion to recommit with instructions.

The instruction will be to get rid of the objectionable—and many of us feel constitutionally questionable—waiver of State, county, and local laws. The motion to recommit is supported by the Nation's Governors, by county and municipal officials across the country, by the cities, by the State legislatures, by public interest groups, by all the environmental groups. Support for this motion is so overwhelming that it is hard to find any real support for the legislation which includes a waiver of State, county, and local laws.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 66, not voting 81, as follows:

[Roll No. 378]

YEAS—286

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bethune
Biaggi
Blanchard
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dingell
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Lederer
Lee
Lehman
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Young, Fla.
Young, Mo.
Zablocki

NAYS—66

Archer
Ashbrook
Bauman
Bereuter
Bingham
Broomfield
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Clay
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Dannemeyer
Deckard
Derwinski
Dickinson
Eckhardt
Edwards, Calif.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Goodling
Grisham
Guyer
Holt
Jacobs
Jeffries
Kelly
Kindness
Lagomarsino
Leach, Iowa
Lewis
Livingston
Lott
Lungren
Maguire
Martin
Mattox
Michel
Miller, Calif.
Mitchell, N.Y.
Myers, Ind.
Pashayan
Paul
Pease
Porter
Quillen
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Steed
Vanik
Walker
Weaver
Weiss
Wilson, Bob
Yates

NOT VOTING—81

Abdnor
Addabbo
Ambro
Anderson, Ill.
Andrews, N.C.
Ashley
Badham
Bedell
Bevill
Boggs
Boner
Broyhill
Buchanan
Cheney
Chisholm
Corman
Crane, Philip
Dicks
Dixon
Dodd
Donnelly
Dougherty
Edgar
Edwards, Okla.
Erlenborn
Florio
Ford, Mich.
Garcia
Ginn
Grassley
Hanley
Hansen
Harsha
Hawkins
Heckler
Holland
Holtzman
Jeffords
Jenkins
Kemp
Kramer
Leach, La.
Leath, Tex.
Leland
McDade
McDonald
Mathis
Mazzoli
Mica
Moakley
Mollohan
Moorhead, Pa.
Nolan
Patten
Petri
Quayle
Rahall
Rhodes
Richmond
Rodino
Rosenthal
Rousselot
Runnels
Santini
Schulze
Shumway
Simon
Smith, Iowa
Stark
Stenholm
Stokes
Symms
Synar
Tauke
Thomas
Whitehurst
Wilson, C. H.
Wydler
Yatron
Young, Alaska
Zeferetti

☐ 1030

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. McDonald against.

Until further notice:

Mr. Bedell with Mr. Whitehurst.
Mr. Corman with Mr. Rousselot.
Mr. Moakley with Mr. Quayle.
Mr. Mollohan with Mrs. Heckler.
Mr. Zeferetti with Mr. McDade.
Mr. Rosenthal with Mr. Dougherty.
Mr. Richmond with Mr. Kemp.
Mr. Ford of Michigan with Mr. Philip M. Crane.
Mr. Stenholm with Mr. Schulze.
Mrs. Boggs with Mr. Tauke.
Mr. Rahall with Mr. Wydler.
Mr. Rodino with Mr. Young of Alaska.
Mr. Hanley with Mr. Petri.
Mr. Bevill with Mr. Rhodes.
Mr. Yatron with Mr. Shumway.
Mr. Stokes with Mr. Thomas.
Mr. Dodd with Mr. Grassley.
Mr. Mazzoli with Mr. Hansen.
Mr. Simon with Mr. Jeffords.
Mr. Hawkins with Mr. Abdnor.
Mr. Ginn with Mr. Badham.
Mrs. Chisholm with Mr. Broyhill.
Mr. Ambro with Mr. Erlenborn.
Mr. Donnelly with Mr. Cheney.
Mr. Florio with Mr. Buchanan.

Mr. Edgar with Mr. Anderson of Illinois.

Mr. Mica with Mr. Kramer.

Mr. Symar with Mr. Andrews of North Carolina.

Mr. Mathis with Mr. Holland.

Mr. Moorhead of Pennsylvania with Mr. Leland.

Mr. Patten with Mr. Nolan.

Mr. Ashley with Mr. Stark.

Mr. Leach of Louisiana with Mr. Symms.

Mr. Runnels with Mr. Garcia.

Mr. Santini with Mr. Harsha.

Mr. Leath of Texas with Ms. Holtzman.

Mr. Jenkins with Mr. Edwards of Oklahoma.

Mr. Dicks with Mr. Boner of Tennessee.

Mr. Dixon with Charles H. Wilson of California.

Messrs. BEREUTER, YATES, and CARR, and Mrs. FENWICK changed their votes from "yea" to "nay."

Mr. GRAY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 7252, NAVAL PETROLEUM RESERVES AUTHORIZATION FOR FISCAL YEAR 1981

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill (H.R. 7252) to authorize appropriations for fiscal year 1981 for conservation, exploration, development and use of the naval petroleum reserves and naval oil shale reserves, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 1308, ENERGY MOBILIZATION BOARD

Mr. DINGELL. Mr. Speaker, I call up the conference report on the Senate bill, S. 1308, to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 21, 1980.)

The SPEAKER. The gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself 10 minutes.

□ 1040

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

● Mr. DINGELL. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous material.

Mr. Speaker, this was a long and difficult conference. The conferees from both Houses worked hard to resolve very thorny issues and come up with an agreement that very closely resembles the House-passed bill. I commend all my colleagues. I want to particularly commend Congressmen OTTINGER and MOFFETT and their staff person, Cathy Huwit, who worked hard to craft this bill into a reasonable compromise, as well as Congressman BUD BROWN and the minority staff.

S. 1308 establishes a three-member, full-time Board. It calls for the Board to receive applications for designation of energy projects as priority energy projects and for establishing a project decision schedule applicable to the project. The schedule will set deadlines for final Federal and non-Federal agency decisions and actions within 12 months after the agency receives a completed application. The objective of the schedule is to expedite all agency decisions and actions, but not tilt them in one direction or another. Provision is made for full State participation in this process.

The term "energy project" is broadly defined to include all forms of projects for increasing energy supplies, including alternative fuels such as solar energy, conservation, and for developing new technology. It applies to energy projects already under way, but for which all agency decisions or actions have not yet been made, as well as new energy projects. It applies to facilities for the production of energy-efficient consumer products. In short, any energy project, other than nuclear projects, may apply for a designation. The Board must decide if the energy project warrants a designation under the criteria in the conference agreement.

The agreement speeds up the process under the National Environmental Policy Act of 1969 for determining if an environmental impact statement is required and for designating the lead agency to prepare the statement, but it does not undermine NEPA. The Council on Environmental Quality must make this determination within a short timeframe. If the Council does not act timely, the Board will do so. Also, the Board can require only one impact statement.

The agreement also seeks to expedite judicial review of Federal and non-Federal agency decisions and actions concerning a designated project. The Temporary Emergency Court of Appeals (TECA), which was established in 1970 by the Congress to handle oil and gas matters under other laws, will consider appeals from these agency decisions and actions. The appellant has 30 days to file an appeal, or be barred. Appeals to the Supreme Court must also be filed within 30 days.

Should an agency not comply with the project decision schedule, provision is made for court enforcement of the schedule, or in the extreme, for "bump-up" of the agency decision to the Board to decide in lieu of the agency. It is my hope that the Board will never have to resort to this bump-up authority.

The agreement adopts the House grandfather proposal for suspending, modifying or amending certain Federal, State, or local statutes, rules, regulations, or standards that present a substantial impediment to implementation of the project. They must be enacted or promulgated after enactment of S. 1308 and after commencement of construction of a project or the date an application is filed for designation of the project, whichever is earlier, but before initial commercial operation of the project. This "grandfather authority" must be project-specific. There must be notice and a public hearing. There must be Board findings and terms and conditions. The Board issues an order suspending, modifying or amending the law and it is subject to limited judicial review in TECA. Appeals must be filed within 60 days after the Board's order. No order could be issued or be effective if it related to certain laws, such as labor laws, civil rights laws, antitrust laws, water rights, and primary air quality standards.

The House bill required congressional approval of this grandfather authority. The Senate bill did not. I, Congressmen OTTINGER and MOFFETT and many other colleagues, believed the House approach was better. The Senate, however, with the support of several environmental representatives, insisted upon judicial review of the Board's order. We ultimately agreed, but only after insisting on a hearing by the Board with a transcript and a beefing up of the findings.

The agreement provides for expedited congressional approval of a Presidential recommendation for modifying, suspending or amending Federal statutes, rules, regulations, or standards that present a substantial impediment to the implementation of the project and that were enacted or promulgated prior to the grandfather period, just as in the House-passed bill.

The Board first considers the matter. It must hold a hearing, make findings, and make a recommendation to the President.

I emphasize the word "Federal." The bill does not authorize suspension, and so forth, of State and local laws. This is the same as in the House bill.

The President can reject the Board's recommendation, do nothing, accept it, accept it with modifications, or remand it to the Board. If accepted, he must make new findings and include terms and conditions and submit it to Congress. He cannot thereafter amend it. It is not effective until approved by Congress by joint resolution. The Congress will act under modified EPCA procedures similar to those adopted in the Emergency Energy Conservation Act of 1979. The recommendation and resolution will be referred to the committee of jurisdiction over the law to be suspended, modified, or amended.

The Congress will have 60 calendar days of continuous session to consider the matter. After 40 such days, a committee can be discharged. During the 40 days, a motion not to report the resolution can be adopted by a majority of the full membership of the committee with a quorum present. This will preclude discharge. Any three members can request a committee meeting to consider the resolution. The President is authorized to make recommendations for no more than 12 projects in each Congress.

Mr. Speaker, I believe this is a reasonable agreement with adequate safeguards. It should help to expedite energy production and conservation. I urge House approval of the conference report.

□ 1050

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Yes; I will yield to the gentleman briefly.

Mr. ECKHARDT. Mr. Speaker, I would like to ask the gentleman, when the gentleman say it only permits the suspension of Federal law, the gentleman means it will suspend laws which derive from Federal law which may be passed by the States, does he not?

Mr. DINGELL. The hard fact of the matter is that it will deal with statutes which are federally enacted. It will not deal with any State statutes which may stand upon their own feet.

The SPEAKER. The time of the gentleman from Michigan has again expired.

Mr. DINGELL. Mr. Speaker, I yield myself 1 additional minute, and I regret that I cannot further yield to my colleague, the gentleman from Texas.

Mr. Speaker, I have a few personal comments for my colleagues.

This has been a long and a difficult conference. We have not come up with what it was that we wanted. I have not come up with what I wanted personally on an Energy Mobilization Board. There are criticisms which can be leveled at this proposal; but I would call attention to certain very brutal realities with which we find ourselves faced.

The SPEAKER. The time of the gentleman from Michigan has again expired.

Mr. DINGELL. Mr. Speaker, I yield myself 2 additional minutes.

The first is that this country during this forthcoming year is going to import $90 billion worth of oil. That is more than the entire net worth of the auto industry; more than the entire net worth of the entire State of Iowa by $20 billion. This is a cruel tax on the American people which is causing not only recession, but also appalling inflation.

Now, we do not suggest that laws which are on the books for sound environmental reasons should be decimated; but I would point out to my colleagues that hard cases make bad law, and as one who has offered as much conservation legislation as anyone in this Chamber, and that includes the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the original Clean Air Act, more than a score of amendments to the Clean Water Act, and a number of other pieces of legislation, including legislation relating to the protection of endangered species, I would point out that unless we are prepared to give a little bit here and there through a carefully controlled mechanism, like this bill, and I would point out the mechanism here is very carefully controlled, then we can expect that there will be wholesale attempts to repeal these laws, or cut them up with a meat ax, as the country gets more and more desperate under the impact of inflation and depression that is created by the enormous cost of oil imports and as the country gets more and more desperate by reason of its inability to move forward into the new technologies which are necessary for this country to survive in the period of the eighties.

Mr. Speaker, I urge my colleagues strongly to accept the work product of the conferees. It is the best that we could achieve and it does mean responsible progress in this area. Recommittal may well mean no bill at all.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I hope my colleagues will support the conference report of S. 1308—the Priority Energy Project Act of 1980. I think, given the difficult negotiations with the Senate and the mood of the House, that this is the best fast-track measure we can get.

The Energy Mobilization Board established pursuant to the conference report has the authority to select from energy project applicants those priority projects whose expedited implementation is in the national interest. In order to accomplish this, the Board would have the authority to establish a specific project decision schedule for each priority energy project. In establishing this Project Decision Schedule, the Board will set firm deadlines for actions to be taken by the project and by Federal, State, and local agencies. The Board is given the authority to enforce these deadlines through court enforcement or in certain cases by making the decisions in lieu of an agency which has missed a Project Decision Schedule deadline.

The final decisions of the Board and of the agencies on the Project Decision Schedule, over which there is Federal jurisdiction, shall go to the Temporary Energy Court of Appeals or TECA. This judicial review process is consolidated in a single court, with appeal to the Supreme Court, and should save years of litigation.

The Board would also be given the power to review statutory impediments to the implementation of energy projects. If the Board finds that a Federal law or regulation is substantially impeding the implementation of a priority energy project, the Board may recommend to the President and the President may recommend to the Congress that specific provisions of Federal law or regulations be modified or suspended with respect to that project. The President may make recommendations for only 12 projects every Congress. The Board also would have the power to suspend new laws or regulations imposed upon priority energy projects if these laws or regulations are enacted or promulgated after the project begins construction but before initial commercial operation of the project. The Board would not be permitted to suspend new laws or recommend expedited congressional modifications of laws relating to civil rights, criminal laws, and water rights among others.

Personally, I would have preferred to see a much stronger Energy Mobilization Board, one which would not be shackled with as many procedures as have been provided in this bill and one which would have had the ability to cut through laws inhibiting energy development in this country. Nonetheless, this bill represents an important first step toward shortening the amount of time it takes to implement an energy project in this country. It is important to realize that this legislation is not a substitute for reexamining those laws and regulations which we now have on the books. In this regard, I strongly believe that the Energy Mobilization Board legislation should not serve as an excuse for Congress failing to evaluate the need for amendments to its past legislation. On the contrary, I believe the Board will be able to provide the Congress with information which the Congress will need to determine which amendments to make to existing laws that are unreasonably inhibiting our economic and energy growth.

The Board will be able to inform the Congress on these matters as a result of the Board's experience in coordinating agency actions with respect to priority energy projects, and pursuant to the studies required by this conference report. These studies require the Board to list those Federal laws which significantly hinder the completion of energy projects. The people's elected representatives in the Congress must then make sure that our national energy priorities are balanced against our national priorities for our environment.

Although imperfect, I believe that this legislation is a symbol that Congress recognizes that we as a nation must stop straitjacketing ourselves with redundant and overly zealous agency regulations and with myopic Government decisionmakers who are guided solely by missions unrelated to or at odds with energy production.

I believe that this legislation has great potential for making substantial improvements in this Nation's ability to get energy projects underway.

I urge my colleagues to vote for the conference report on S. 1308 as the first step in the desperately needed process of the congressional review of its past laws, some of which have put our Nation's economy and energy development on a slow track.

□ 1100

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in opposition to the conference report and in support to the motion to recommit. In my opinion, the beneficial aspects of the report are far outweighed by its deficiencies and I urge my colleagues to join me in voting for the motion to recommit.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, in situations like this we risk appearing to look as though we are ungrateful for compliments. The gentleman from Michigan, the distinguished chairman of the Subcommittee on Energy and Power, has complimented several of us today for our work in the conference.

I must say that it was a very good conference to be on and one that I was pleased to be on, honored to be on. The gentleman from Michigan did a superb job on improving what I felt was not such a good bill, to put it mildly.

We come out of the conference in better shape with regard to making waivers of substantive law more difficult. We come out of the conference with some greater ability to obtain judicial review of use of this grandfather mechanism which some of us viewed as very dangerous. We come out of the conference in better shape with regard to removal of mandatory expedited agency procedures for streamlining of the board. It is a better bill than we went into conference with, and some of us are pleased that we were given the opportunity to help make it a better bill. The distinguished subcommittee chairman was the real reason for that, not only entertaining the idea of having us on the conference, as did the distinguished gentleman from the Committee on Interstate and Foreign Commerce, Mr. STAGGERS, but also the idea of a full participation. I am thankful for that.

But what is a reasonable idea, which is to cut red tape, has really become a monster, not in conference but in conception in the House. From the early part, the fact is the idea of having projects designated as priority projects is a good idea, the idea of putting them on a timetable and a schedule is a good idea. The people who initially mentioned this idea way back before anything was put down on paper wanted it to be a procedural mechanism to cut unnecessary duplication and red tape. It is now a mechanism that has a very real potential for wiping out important regulations and important laws.

Sponsors of projects can actually shop around to get themselves unhooked from laws and regulations that they see on the horizon. In other words, they can go in and get designated as a priority energy project without really careful review.

That may make some people in this body happy. But the fact is it can turn into a tremendous abuse.

This whole proposal has within it the potential for an executive branch pork barrel machine that would make the legislative pork barrel look minor by comparison. It surprises me that we, throughout this process, have had the foes of big government, in many cases, particularly on the other side of the aisle, come out in favor of trampling of State and local prerogatives by big brother, the Federal Government. That is precisely what this piece of legislation does.

In my remaining few seconds I want to compliment the gentleman from Michigan. Despite my opposition to the bill, I want to acknowledge that largely through the efforts of the gentleman from Michigan (Mr. DINGELL) it is a better bill than we began with. He is a legislative genius, a mastermind of conference committees. I am proud to have had this opportunity to work with him.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I want to take just a brief moment to compliment all of the conferees from both sides of the aisle of Commerce and Interior Committees that participated in this effort. It was clearly a very difficult, extended conference with differing points of view, but I think it is a credit to the House for the manner in which they conducted themselves. I would particularly like to compliment the gentlemen from Ohio (Mr. BROWN), Michigan (Mr. DINGELL), New Mexico (Mr. LUJAN), and Chairman UDALL.

I do rise to express some reservations about the conference report on S. 1308 and in favor of the motion to recommit that will be offered.

I voted in favor of the bill as it passed the House because I felt we needed a process in which key decisions regarding nationally important energy projects could be expedited through a coordinated information gathering and leverage mechanism. I believe the whole "fast-track" concept started after Interior's Subcommittee on Oversight and Investigation held hearings on the delays encountered by the California Sohio project. Based on these hearings, I was convinced we needed better communication and coordination between the Federal and State governments. Therefore I joined Chairman UDALL when he introduced legislation calling for the fast-track concept on priority energy projects, but with the emphasis on expediting and coordinating procedures as contrasted with the substantive waiver of laws. We also included a cap on the number of personnel to avoid the charge that the Board would be even more bureaucracy.

However, as the legislative process progressed, the cap was removed. This was a serious mistake which left the Board open to the change of being another massive bureaucracy.

As I stated in my remarks of October 30, 1979, during consideration of the original House bill:

> The basic objectives of our substitute is to provide the Energy Mobilization Board with the authority and flexibility to speed up the decisionmaking process on priority energy projects at all levels of government.
>
> The legislation—
>
> First, establishes a Board to select priority energy projects.
>
> Second, empowers the Board to streamline and enforce decision schedules and timetables for Federal, State, and local Agencies.
>
> Third, empowers the Board to streamline Federal Agency procedures.
>
> Fourth, preserves the rights and responsibilities of each level of Government for administration of the laws it has enacted.
>
> Fifth, contains vital protection of State water rights.

Those remain in my view to the primary elements of a "fast-track" bill, with the addition of an effective process for judicial review such as in the conference report. We need to identify key projects, move them forward in a priority fashion, identify those agencies and individuals responsible for delays, and use the SMB as an agency to inform the Executive and Congress of these factors so that we can take appropriate action as we did for the Alaska pipeline.

The conference report, however, goes too far in a number of respects. It unnecessarily preempts States' rights. The grandfather authority of section 316 allows the Board, without any congressional approval, to suspend or modify State and local laws enacted after a project is designated. The House bill required approval by joint resolution under their procedure.

The waiver authority of section 317 includes State and local laws which are required by Federal statutes. Many House Members believe all State laws were excluded when the Santini-Lujan amendment was adopted on the House floor.

The streamlining authority of section 313 allows State independent regulatory agencies, such as public utility commissions, to modify their procedures without State approval. Federal independent regulatory agencies, such as FERC, on the other hand, cannot modify their procedures at all under section 311.

Another area that I was very much concerned about was the number of employees. Under the bill passed by the Interior and Insular Affairs Committee, we had a cap of 60 employees. We understand now, on the basis of the most recent Department of Energy assessment, there will be somewhere in the vicinity of 700 employees necessary to man this energy mobilization staff effort.

Third, the major authorities of the Board are not exempt from the requirements of NEPA. It is entirely possible that Board decisions to streamline, bump up, grandfather, or recommend a waiver, will be major Federal actions requiring an individual environmental impact statement every time they are used.

Fourth, the time procedure and procedural requirements, terms, conditions, and ambiguities raised in various provisions of the bill, in my view, spell out only one thing: Even More Bureaucracy.

For these reasons I am supporting the motion to recommit, but I do not thereby intend that S. 1308 should not be considered further. As a conferee, I would urge that conference be reconvened so that we do not lose the sections on judicial review which I believe are very important.

□ 1110

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

So the gentleman is telling us as one who supported the previous bill that this eliminated too much of the streamlining procedures?

Mr. CLAUSEN. That is correct.

Mr. ROUSSELOT. So it really adds to the time. Second, it adds too much to the bureaucracy which we all know will add to the time factor also?

Mr. CLAUSEN. I think that is a fair summary.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. BROWN of Ohio. Mr. Speaker, how much time does the gentleman from Michigan (Mr. DINGELL) have left?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) has 19 minutes remaining; the gentleman from Michigan (Mr. DINGELL) has 13 minutes remaining.

Mr. BROWN of Ohio. I yield 4 minutes to the gentleman from Texas (Mr. LOEFFLER), a member of the conference, as was the gentleman from California (Mr. CLAUSEN), and as was I.

Mr. LOEFFLER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report.

The paralysis among decisionmakers at all levels of government, and the increasingly time-consuming and complex process of securing approval for critically needed energy projects, all point to the absolute need for Congress to take action to speed up this process.

Certainly, the Energy Mobilization Board is no substitute for the need to change those laws and regulations which hamper energy development. What is needed?

Opening up Federal land for energy development.

Speeding leasing and development of offshore lands.

Increasing the development and use of coal, nuclear, and other sources of domestic energy currently restricted by Federal rules and regulations. We must relieve this Nation's vast energy capabilities of unnecessary and debilitating regulatory and statutory impediments.

The EMB was not designed to be a substitute for such action. It will, if used properly, at the very least allow us to review those laws and regulations in detail, to point to those Federal, State, and local restrictions which are impediments to rational energy development, which will allow us the opportunity to eventually do something about them.

We have the ability, through this legislation, to affect a law or regulation, Federal, State, or local, which has arbitrarily been passed during construction of an energy facility to prevent such a project's completion. Existing Federal laws which have shown to be substantial roadblocks to the construction of an energy project will also have the ability to be modified, under very strict guidelines, by Congress.

The bill formed by the conference is not what it was when the Subcommittee on Energy and Power reported a measure with strong provisions aimed at reducing the delays caused by endless regulatory holdups and litigation. The bill has been encumbered with hearings and restrictions which I feel will cause undue delay, and, yes, we are creating another Federal agency with jurisdiction over energy projects.

But, we also have a Board which can set a deadline, make a decision in lieu of a reluctant agency, modify a law or a procedure, all to insure that an energy project which is in the national interest will proceed in a more expected fashion. For the first time in decades through the legislative process we are not placing new requirements or regulations on energy production or development, we are simply attempting to speed the process.

I cannot honestly express overwhelming enthusiasm for this measure. Yet it is a positive step, albeit a small step, toward enhancing energy self-sufficiency here at home and relieving the stranglehold that OPEC currently has over our economic and energy needs here in the United States. I, therefore, encourage my colleagues to support this conference report.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I wanted to ask the very fundamental question, I gather the gentleman has come to the conclusion that without this bill we find ourselves in the current situation where anyone can file a lawsuit, which goes on in the courts endlessly, and which prohibits the undertaking of any of these energy-priority projects by such means; is that correct?

Mr. LOEFFLER. That is correct.

Mr. BROWN of Ohio. Under this bill we are setting a very definite time limit for agency decisions, so that they are foreshortened, and we are thereby encouraging the establishment of priority energy projects.

Mr. LOEFFLER. That is true, and one can reflect on the unfortunate demise of the Sohio project.

Mr. BROWN of Ohio. This would have dealt with the Sohio project, I will say to the gentleman.

I thank the gentleman.

Mr. LOEFFLER. I thank the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. I thank the gentleman for yielding that time to me.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the conference report on EMB as it stands now, and in support of a motion to recommit the bill which will be offered shortly.

Our country is built on the concept of federalism. The 10th amendment to the Constitution clearly states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people."

Yet this bill tramples all over those rights as guaranteed by the Constitution. It tosses in the governmental waste basket 200 years of State and local decisionmaking and replaces it with an all-knowing, all-seeing three-person board which can overrule the policies and the desires of governments closest to the people. Even the Wizard of Oz did not have that kind of power. Further, I can tell my colleagues that this is no yellow brick road that we are being taken down by this bill. It is, rather, the road to bigger and more centralized Government, and I for one do not intend to march down that path willingly.

This bill was bad when we considered it last November. But it is even worse today.

The bill approved by the House last November provided for the waiver of "new" Federal, State, and local laws only with a favorable recommendation by the President and approval by both Houses of the Congress under an expedited procedure. This bill gives the three-member politically appointed Federal Energy Mobilization Board the power to waive Federal, State, and local laws at their own discretion. If you love the crowd at the Department of Energy, you are really going to love this Energy Board.

I am sure that proponents of this legislation believe that these sweeping powers will only be used in the most rare of circumstances. I hope so—but there are absolutely no guarantees. This bill would give the board in Washington, D.C., the authority to override laws enacted by and for people in their own communities.

This is not a fast track: it is a steamroller. This so-called fast-track bill has become an oxcart weighted down with EMB—even more bureaucracy.

Mr. Speaker, virtually all of us verbally blast big government when we are back in our districts. Today is the time to put our votes where our mouths are. I urge you to support the motion to recommit.

Mr. LUJAN. I thank the gentleman for his comments.

Mr. Speaker, as one of the conferees, I rise in opposition to the conference report and intend to offer a motion to recommit which will allow the conferees to renegotiate a bill which I believe should more closely carry out the intent of the House, particularly regarding those provisions which are most offensive to States rights.

I want to make certain that my colleagues understand that I support the concept of a "fast track" for priority energy projects. I cosponsored a major amendment with the gentleman from Nevada (Mr. SANTINI) which eliminated many of the concerns of Members regarding the impact of the "waiver" and "grandfather" authorities on State and local law. Unfortunately, the bill as reported by the conference reverses what I intended and what the House approved. The motion to recommit does not kill the Energy Mobilization Board, it merely gives the conferees another chance to agree to a bill which is acceptable to both the House and the President.

My primary objections are to the sections of the conference agreement which authorize suspension of new laws ("grandfather") and existing laws ("waiver").

Under the conference agreement, the Board, in its own discretion, can waive new State, local, or Federal laws if they are enacted after the project applies for designation. No approval by Congress is necessary. Congressional approval of the grandfather authority was a key element of the Santini/Lujan compromise and its rejection by the conferees is the single most offensive provision of the bill before the House today.

In addition, the conferees made it absolutely clear by a vote of 10 to 8 that existing State and local laws are subject to waiver if they are derived from a Federal statute. Just yesterday the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN) reaffirmed this interpretation before the Rules Committee. In my opinion, this violates the intent of the Santini/Lujan amendment and is another unnecessary intrusion into States rights.

These are my primary reasons for offering the motion to recommit the bill to conference. I know other Members have equally important concerns and I hope they will support my motion. It will leave open the possibility that later in this session we can approve a "fast-track" bill which neither offends States rights nor creates a new massive Federal bureaucracy.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I would be glad to yield to the gentleman from Kentucky.

Mr. PERKINS. I wish to thank the gentleman for yielding to me. Heretofore in 1974 and 1978 we have passed legislation requiring utilities to switch from oil and gas to coal, but if I understand this conference report correctly, there is an exemption for natural gas. It would appear to me that this really is not a conversion bill in the true sense at all. We are dillydallying and 10 years from now we will be burning natural gas under boilers that we should be utilizing for coal. I just wonder if there is any way that we can get around a situation like this in this conference report.

Mr. LUJAN. I am not sure that we can. I wish that we had a little more time, but I am informed our time has expired.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. UDALL) and regret that that is all I have to give him.

Mr. UDALL. Mr. Speaker, I take no satisfaction in coming today urging a no vote on this conference report. It is a bad bill, and maybe we can improve it enough to have it enacted if we can go back to conference. I would support the motion to recommit of the gentleman from New Mexico.

A year ago, about a year ago, I think, my name was the first name to go on a fast-track bill of this kind. A year ago this legislation came out of our committee by a vote of 42 to 1 with bipartisan support from the gentleman from California (Mr. CLAUSEN), the gentleman from New Mexico (Mr. LUJAN), and a whole range of other people.

☐ 1120

Our bill then was based on a few simple principles and not many of them remain. One was, we were not going to have a big bureaucracy, we were going to have a small office to expedite with some tough people who could get on the phone and through persuasion and setting project timetables could get the job done.

Now, I saw the proposal they are working on to staff this agency and 2 years from now they are going to have a $22 million agency, a $22 million budget. They are starting off right away with at least 200 employees that we can identify in the staffing proposal that is already being put together.

Mr. Speaker, the second principle that our bill was based on was that we were not going to override substantive laws. If a State zoning act or coastal zoning or strip mining law or the Federal Clean Water Act or any kind of environmental legislation or safety legislation needed change, it would be changed in the ordinary process. This board was going to deal with procedures. If the law says take 6 months and you can do it in 6 weeks, we were going to have mechanisms to speed up and to get the job done.

The other principle upon which we were relying in our legislation was that we would deal with a limited number of projects. There was no attempt there to do everything or to have everybody fast tracked. We were suggesting that they pick out a few special kinds of projects like the Sohio Pipeline and get to work getting them built.

So here we are, Mr. Speaker, with a States rights invasion of a major sort of kind. Seven conferees did not sign this report and most of them did not sign the report because of this attempt to override State laws and local laws. If we have a coastal zoning act, if we have zoning laws in our community, in many cases this unelected board can come through and wipe them out or suspend them as far as a particular project is concerned.

Mr. Speaker, I strongly urge my colleagues that we vote down this conference report, that we go back to the conferees and see if we cannot do a better job.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, on page 5726 of the CONGRESSIONAL RECORD of yesterday, I have listed 250 State laws that will be affected, by the Board in its exercise of the powers this legislation authorizes.

Mr. UDALL. Mr. Speaker, this is an important list. Those Members who have doubts and who are interested in State rights, get the RECORD from yesterday and see what it will do to your State. It is rather devastating in many cases.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. In addition to the possibility that very important health and environmental legislation might be overridden, is it not also the case that we would have litigation and time delays that boggle the mind?

Mr. UDALL. Mr. Speaker, I have a table put together which I will put in the RECORD which charts the delays and shows up to 1 year of delays.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. CORCORAN). The gentleman from Illinois is a member of the subcommittee but is not a conference member.

Mr. CORCORAN. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, it comes as no surprise that I rise in opposition to this conference report. You will recall that last autumn I worked vigorously, but unsuccessfully, to defeat the House-passed measure.

Mr. Speaker, one of the reasons I opposed the legislation at that time, and I am steadfast in my opposition today, is because this Energy Mobilization Board will not achieve the purpose, will not achieve the promise, that its supporters set forth and hold before us today.

I say this for several reasons but most importantly, I say it because we can make no changes in the Federal regulatory roadblocks which stymie energy projects today in our attempt to get off the self-inflicted U.S. dependence on OPEC oil, until—and I underscore that—until we make some changes in the underlying laws which have exploded out of Washington in the last 10 years or so.

Mr. Speaker, a further difficulty with this particular measure is that it gives the appearance, it gives the impression, that we are doing something about energy, but regrettably it is a false impression.

What we need to recognize is that in order to solve the problems confronting us, we must review the offending Federal statutes as the former Deputy Administrator of the Environmental Protection Agency, John Quarles points out. I am not talking about decimating these laws, as was said here earlier in the debate, but Congress must make some changes, must provide some flexibility, and we must provide a workable way of resolving the natural conflicts among equally desirous goals such as more energy, quality air, and pure water. Until we make those changes we are not going to do anything in the way of resolving the impasse that exists today in our country in our attempt to develop key energy projects. The fundamental failure of this legislation is that we give the impression we are doing something that we are not doing and that is a great mistake.

I urge my colleagues to reject this conference report.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, this is a bill not to be loved, but it is a bill to be passed. This represents the first systematic effort to deal with one of the most serious problems of modern government which is, how to bring about timely decision in a dynamic economy.

Mr. Speaker, in the past we have dealt with this kind of problem in a very piecemeal way after considerable delay, after frustration, as witnessed in the cases of the Alaskan pipeline and the Sohio pipeline.

Mr. Speaker, I know that friends in this Chamber are concerned about the fact we may be creating another level of bureaucracy. I would say to them that this Board only acts upon petition by citizens who think it will solve some of their bureaucratic problems. If this Board does not prove in the first few cases that it is able to solve some of those bureaucratic problems, other citizens will not turn to it for relief, and I certainly will join others in Congress to dump it ahead of the 8-year sunset provision.

Second, Mr. Speaker, some of our friends are concerned that this bill will lead to a roughshod overriding of existing environmental laws. I would suggest to them that this is wrong. Environmental laws can only be changed under this law with the approval of Congress, which has the constitutional responsibility for making those laws and for changing those laws.

This bill will provide a far more rational way to do that than we have shown ourselves to be capable of in the past because it will provide a way to identify and to assess and to act upon conflicts in specific cases between environmental laws and energy production needs.

Next year, we will see one of the most horrendous battles over the Clean Air Act and I predict at that time the environmental movement will be pointing to this provision as one reason that it thinks we should not overturn those laws.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MARRIOTT). The gentleman from Utah is not a member of the conference but is a member of the Committee on Interior and Insular Affairs.

Mr. MARRIOTT. Mr. Speaker, I came to this meeting today in favor of this Energy Mobilization Board and I still believe that we need to put together some type of an energy mobilization program to get energy projects on a fast track. However, I think, after hearing the debate today and, as one who worked on this bill in the Committee on Interior and Insular Affairs, I think a lot of questions have been raised that really shed some doubt on this issue that ought to be resolved before we pass the bill and, therefore, I would to recomit the bill and take another hard look at it, to give some of us who supported the bill earlier a chance to reassess.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STOCKMAN). The gentleman from Michigan is not a member of the conference but is a member of the Subcommittee on Energy and Power.

Mr. STOCKMAN. Mr. Speaker, I thank the gentleman for yielding.

Let me say I rise in reluctant opposition to this conference report because I did support the concept of fast track in the subcommittee and in the full committee, as well as the original House version. However, after listening to the debate today and studying this legislation, I have concluded that we have ended up after the conference, not with a fast track at all but with a circular track. Instead of getting a mean, lean taskmaster who can move the agencies forward on these projects, we have ended up with a bureaucratic paraplegic that can expedite nothing but a fast outpouring of litigation and hand-to-hand bureaucratic combat among the Federal agencies across the length and breadth of the Federal Government.

Mr. Speaker, one of the reasons we wanted an Energy Mobilization Board was to cut down on the amount of hearings and forums that projects have to go through, but if we read the 47 pages of this bill we will see that on every page there is a new hearing or a new appeal. To designate, you have a hearing. If any agency does not like a decision schedule, you have a hearing. If EMB wants to move to impose a deadline you have litigation and appeal to the court.

□ 1130

If it wants to use the bump-up, you have a hearing. If it wants to use the grandfather clause, you have a hearing, and so on down the line.

We wanted to reduce paperwork, but this bill will create enormous new volumes of paperwork. It will take cartons and tons of paper just to apply and provide information on everything from conservation, to renewable energy resources, to competitive effects, and whether or not the designation itself will have adverse competitive effects on the industry that is being affected.

We wanted a substantive waiver, and what did we get? We got a recreation of the legislative process. The waiver practically requires that we go through the normal legislative process that we could use anyway and that we did use in the case of the Sohio pipeline legislation.

We wanted a bump-up provision, but the bill, if Members will read it on page 26, they will find that it is nothing but a swamp of litigation that will never work. So, what I think we have in the legislation before us is strictly a formula for insitutionalized bickering and maneuvering in the Federal Government that will produce no energy whatsoever.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY of Pennsylvania. Mr. Speaker, I rise in support of the conference report as a beginning to our conversion from oil to coal as our dominant source of energy.

Mr. Speaker, I am speaking in support of the conference report on S. 1308 as the beginning step in converting our oil based energy system to one based on coal and other domestic energy resources. Projects brought before the Energy Mobilization Board will hasten the day when coal returns to the dominance it deserves.

We have been at the mercy of the oil sheiks and foreign producers of petroleum for too long now. Primary causes for our dependence on foreign producers are the serious delays we have encountered in developing our own resources. There are many examples that bear grim witness to our lethargic progress in returning to our own resources for solutions to our energy crisis. A pipeline that could have delivered precious Alaskan oil to southwestern and gulf coast refineries was finally abandoned when, out of frustration, the private industries involved threw up their hands in disgust; disgust with the myriad collection of Federal, State, and local regulations that halted all progress and escalated the costs of the project beyond rational bounds.

We are years behind in developing a pipeline system to deliver much needed natural gas from the Arctic because too many agencies could not reach a concensus on the safety and advisability of developing an all-American route including LNG tankers to the west coast. We are now faced with similar delays in land claims, environmental considerations, and international negotiations in resolving yet another gas pipeline from Alaska.

With all that, we must also recognize that our petroleum and natural gas resources are indeed finite and turn to other sources of energy. If we can do this, without the inordinate delays we have been facing, we stand a realistic chance to use coal to resolve our most immediate problems within the decade. By resolving these problems we will create the necessary leadtimes to seek answers to the more complex energy problems that face us in the long term.

Our most immediately available source of large scale domestic energy lies in the extensive coal reserves spread throughout our country. We have enough petroleum for our children's generation and in some cases even our grandchildren's time, and beyond that we have sufficient coal for generations not yet conceived. It will be through the efforts that this assembly has put forth these past months that those unborn generations will find the economic and organizational base with which to resolve the longer range problems.

The creation of an Energy Mobilization Board and a fast-track system of reducing time-consuming and uncoordinated permitting processes and cutting through the maze of confusing and often conflicting Federal, State, and local regulations is essential to getting on with the business of converting domestic coal to oil, of installing efficient and clean coal burning electrical generators, and exploiting the other more exotic energy options already at our disposal.

At no time do those of us who so strongly support this legislation suggest that the EMB will circumvent those laws designed to protect the public interest. Instead, this legislation seeks to fine tune those laws and provide for a swifter execution of the decisionmaking process. This is no guarantee that every project proposed will be rubber stamped into existence under the guise of energy need. It will instead guarantee that those projects not worthy of merit will be put aside swifty and justly and those projects critical to the safety and economic stability of the Nation will be acted upon expeditiously.

A stable, American owned and controlled energy system is the key to productivity and progress. Approval of this conference report will give us the mechanism to produce our own energy, shake off the stranglehold of foreign producers, and bring us back to the levels of productivity and prosperity that we once took for granted.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Interstate and Foreign Commerce, my good friend and colleague from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I think that we all recognize that energy is the most important item for the Congress of the United States today. If we do not, we are remiss. It is the main cause of inflation, and results in the recession that is now occurring.

We are being blackmailed by the OPEC countries, and we have to pay whatever price that they demand of us. I say that we should stop bringing in any oil from overseas now, and ration gasoline and live within our own means.

Mr. Speaker, it reminds me of the story of Gulliver's Travels, the great giant that was traveling over the world. He laid down to sleep and Lilliputians came along and tied him down with ropes so that he could not get up. That is the way America is today. It is in a straitjacket. We are letting a lot of little people bind up this great Nation to the point where we cannot react or build or do anything about progress.

I say the time has come to turn private industry loose and let it work and produce things that Americans can produce. That is the problem that is going on in this land. So, let us pass this conference report.

God has blessed this country with a bountiful supply of coal. We have enough coal to keep this country supplied with energy for hundreds of years. If we do not pass this conference report today the coal market will be set back many years, as well as the progress of this great Nation.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, today we are considering legislation to create an Energy Mobilization Board (EMB) which will set and enforce binding deadlines for Federal, State, and local agency decisions on priority energy projects. Included in the provisions, subject to congressional and Presidential approval, is the power to waive Federal laws. I do not oppose the broad concept of an EMB as I believe there is a need for expediated decisionmaking for new energy projects. It is my hope that the establishment of a Board will consolidate these procedures, but that end is not accomplished by this report.

I am deeply concerned that the conference report currently before us establishes unprecedented and excessive powers in the Board. Furthermore, I do believe that expeditious review of energy projects is possible without usurping legitimate State and local responsibilities. In the fall, the House adopted the Lujan-Santini amendment which I and many of my colleagues believed protected State and local government's rights by exempting their existing laws from the Board's waiver authority. Unfortunately, action by the conferees expanded the Board's waiver authority to cover too broad a spectrum of State and local laws.

I strongly object to the unprecedented authority given to the Board. Empowering an appointed Federal agency in Washington to exempt major energy projects from existing laws enacted by States will override local authority in addressing local issues. In addition, authorizing the Board to waive new State and local laws at its own discretion will allow three Federal appointees to overrule local governments in protecting their citizens from the impact of rapid development of new energy resources. Think of the potential impact on environmental regulations.

The motion to recommit, if passed, will allow the House conferees to return to conference with the clear mandate that Members want to protect State and local responsibilities as was intended in the original House bill. So, due to the excessive powers afforded the Board in the conference report I urge my colleagues to support the recommittal motion. Finally, should this motion fail, I strongly believe a vote against final passage will be in the best interests of our Nation's long-range energy goals.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, as I have listened to this debate, I am sure that other Members have had the same feeling that I have; that on both sides of this issue, whether Members favor it or whether they are against it, there is plenty of room for doubt. It gets back to one key vote that we are going to have today; that is, the vote on recommitting this conference report.

If ever there was a bill that deserved to be recommitted, it is this bill that we have here today. Many years ago I heard our famous Speaker, Sam Rayburn, make a statement. He said, "When in doubt, don't."

There is so much doubt in the Halls of Congress today about this fast-track bill—most people believe it is not a fast-track; most people believe it does not take care of the environment; most people have serious doubts about this report. The key vote will come when Mr. DEVINE of Ohio submits the motion to recommit. It is a completely open motion to recommit. It just simply recommits it back to the conference. At that time, we should vote to recommit this conference report.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I rise in reluctant support of this legislation. My reluctance is due to the fact that I know this kind of fast-track legislation with its waivers of law, however constricted, is not substantively needed in order to expedite major energy projects; that it sets a bad precedent for short-circuiting enacted laws; and that it poses a degree of threat to the environmental health and safety laws of the country that so many of us, and particularly the environmental organizations with which I have worked so closely over the years, have worked so hard and long to enact. I am sure that expedition of important energy projects could be achieved by executive action, consolidating hearings and setting deadlines, without the risky provisions of this statute.

The substantive considerations, however, cannot be paramount in this situation. The basic environmental laws of of the land are seriously endangered by genuine concerns about our energy crisis, and by mostly false concerns about the economic and job effects of environmental laws. Almost all of our basic environmental laws will be up for reauthorization next year, and the threat that they will be jeopardized in the name of the energy crisis, jobs, and economics is overwhelming.

While virtually all my environmental friends in and out of Congress disagree with me, I think it is vital that we pass this legislation as a safety valve to prevent decimation of the environmental laws. Indeed, several of those who have spoken and written against this bill have done so indicating their feeling that the Clean Air Act, the Clean Water Act, the Toxic Substances Act, and other of our basic environmental laws ought to be the subject of drastic amendment; they state that their opposition to this bill derives from the fact that its adoption would make those basic changes more difficult.

Indeed, antiregulatory sentiments are so great in the land, and the urgency is such with respect to energy issues, that there is a willingness to sweep aside almost any law that might impede energy production.

If we fail to pass this bill, I predict that every environmentally related bill and every energy measure in the future will contain exemptions of laws that are far more sweeping than those in this bill, and without the protections so painstakingly crafted by the excellent work of my chairman, the gentleman from Michigan (Mr. DINGELL) and the superb staff of our committee.

I strongly supported the efforts in conference, and before that in the House, by Messrs. UDALL, MOFFETT, WIRTH, and others to delete waivers of substantive law altogether and to subject the grandfather clause to congressional review. We achieved a very important degree of success in conference in limiting waivers, broadening the requirement for findings and public hearings, and extending judicial review. The product is far from perfect, but I feel strongly that the safeguards we obtained are far stronger than we would be able to get in subsequent attempts to amend the basic laws.

Criticism of the conference report on both sides of this issue reflects the true balance we have achieved. The Energy Mobilization Board provides a mechanism to streamline energy projects. What it does not do is provide a carte blanche to those who would brush aside environmental concerns.

Neither the grandfathering or waiver provisions in the act can impair primary air quality standards, civil rights, labor rights, water rights, antitrust prohibitions or constitutional rights—under any circumstances.

Judicial review is also a strong part of the act, and regulatory agencies have been excluded from the streamlining process.

Let me illustrate for you some examples of how the legislation has been modified to insure that the best features of both bills are included, although not every portion of the bill is satisfactory to me by any means.

First, I was quite concerned about the makeup of the Board. The House provision called for five members, which I strongly supported. The Senate provision, however, was for four members, one of which was full time and the remainder were part time. I was also concerned that these members might not be subject to the requirements of the Ethics in Government Act. The compromise reached by the conferees, including myself, was a three-member Board operating on a full-time basis and all subject to the Ethics in Government Act.

In addition, we were able to have influence insuring all Federal laws, such as the Federal Advisory Committee Act, the Federal Property Administrative Service Act, Federal Tort Claims Act, Administrative Procedures Act, and other laws would be applicable to the Board, with few exceptions, just as they are applicable to other Federal agencies.

Second, I was greatly concerned that the Board would not be subject to the Sunshine Act. A very sound compromise was reached in which many meetings covering the most important final decisions and actions of the Board, would be subject to the Sunshine Act, plus an opportunity for the Board to designate other meetings to be included under this act. In addition, the conference agreement clearly states that the intent is not to close meetings, whether scheduled or nonscheduled and not to deprive the Congress of the opportunity to know what is going on in the Board. "Openness" is still the watchword of this legislation. I think that is very significant from the standpoint of environmentalists and consumers.

Third, I was concerned that the Board and not the Council on Environmental Quality would be deciding whether or not an environmental impact statement would be required and which agency would be the lead agency. Through House insistence we were able to require that the House provision be adopted to allow the CEQ to make these decisions. Only if the CEQ fails to perform its duty within a reasonable time, will the Board be able to step in and take over that function. I see no reason why the CEQ would fail to act on a timely basis.

I point out that the legislation also does not exempt the Board NEPA, nor does it change the present law regarding the judicial review of NEPA.

In the case of the court enforcement of the Project Decision Schedule, we were able to achieve the objective of insuring that the agencies will have an opportunity to challenge the Board on its reasonableness of the Project Decision Schedule and to determine whether or not that schedule is appropriate and allow the agencies to comply with all the requirements of law. The challenge would occur not at establishment, but at the time of final agency decision or action when the facts and experience are known.

In addition, in establishing the Project Decision Schedule, we were able to maintain the House position regarding "no tilt." In essence, this means that the Board does not have the opportunity to favor one decision over another. We also require that all applicable laws will continue to be applicable to these designated projects.

In connection with the bump-up, we limited the bump-up to the situations where there is an actual failure to comply with the Project Decision Schedule. Most importantly, we require that the decision of the Board be made in accordance with applicable State, Federal, or local law and that any judicial review of that Board decision will be made in accordance with that law.

In the case of court enforcement of the PDS, we insisted and obtained a hearing by the Board first and a clear statement that the court will review challenges to the deadlines established by the PDS.

In the connection with the grandfather provision, I think it is important to point out that while we were unable to retain the House version of congressional review, we were able to require that the Board in reaching a decision on grandfather, would first have to hold hearings after notice and make a series of findings even tougher than those found in the House bill, and be subject to judicial review, particularly with regard to the effect of the grandfather on public health and safety.

In regard to streamlining, we were able to modify the Senate streamlining provisions extensively to insure that they could only be adopted in accordance with reasonable procedures similar to the ones that were used by the agency in adopting the procedures to be changed. We also provided that there would be adequate public participation and that the changes in procedures will be applied solely to designated projects. Finally, the agencies themselves will have sole discretion whether to adopt them. This is particularly important in the case of the States because we do not allow the Board to mandate any changes in State or local procedures. It protects States' rights.

We merely give the States an option which they can ignore. In the case of the Federal agencies, we provide for the Board to make recommendations concerning the changed procedures. But the Board must justify its recommendations and be specific. The agency can turn the Board down, and based on a record, have an opportunity to make it clear that the suggestions of the Board have little or no merit and should be abandoned. The Board can still order the agency to impose the change procedures. However, we provide for judicial review of that Board's order and of the agency procedures, not only from the mandatory sense, but also from a voluntary sense. Just as importantly from a consumer standpoint particularly we provide that the mandatory procedures do not apply to independent Federal regulatory agencies, like the Interstate Commerce Commission, the Securities and Exchange Commission, and the Federal Energy Regulatory Commission.

In the case of judicial review, we limited significantly the scope of the areas where judicial review was possible. Under the Senate bill, you could have had judicial review in TECA, not only in matters arising during the preoperation of a designated project, but also as to matters arising after it had begun commercial operation. Included with this wide scope of judicial review called for in the Senate bill, were matters relating to property rights, tort claims, and other issues that had nothing to do with developing an energy project but a great deal to do with subsequent management and operation of that project consistent with applicable laws.

The judicial review provisions we faced from the other body clearly were a great intrusion on the prerogatives of the States. They probably would have undermined many environmental laws as well as laws involving worker health and safety and consumers. I think the conferees' agreement regarding judicial review severely cuts back the Senate proposal and makes it much more workable and acceptable.

In addition, there was a wide range of automatic designations concerning hydroelectric projects and oil and gas matters that were going to be included in this bill from the Senate that were abandoned through our insistence. While we finally did agree to some modest changes on procedures relative to oil and gas matters, we did not agree to the detailed automatic designations applicable to oil and gas matters that was proposed by the other body.

In the case of the famous waiver, a number of modifications from the House position were made. Those modifications related to the procedures to insure that the committee of jurisdiction would have an opportunity to prevent a waiver from going through if that were in the public interest and the belief of the Members. Not only that, we were able to limit the number of projects to which a waiver could apply during any Congress. We also require a hearing by the Board. I must say that in the long run, it may be more difficult to obtain a waiver through this process than it is to pass a bill to do the same thing. No bill must stand the scrutiny within the executive branch that this proposal must.

Mr. Speaker, I am convinced that we had an opportunity to mold this legislation in a way that was much more acceptable than could have been the case if many of us were not on the conference. I want to commend particularly the chairman of the House conferees, Congressman STAGGERS, and the subcommittee chairman, Congressman DINGELL, for assisting and supporting Congressman MOFFETT and myself, as well as other Members in their endeavors to insure that more moderate and workable legislation, aimed not at undermining environmental laws or consumer laws, but aimed at expediting decisionmaking relative to energy projects, including and most importantly including, conservation projects and alternative fuel projects, such as solar and biomass.

While I would have preferred to have made more modifications in the conference agreement and eliminate some of the provisions of concern to me and some of my colleagues, I believe that the legislation is vastly improved over either of the versions passed by the two Houses. I firmly believe that because Congressman MOFFETT and I indicated a willingness to sign the conference report if our principal concerns were met, Chairman DINGELL and others were able to negotiate a more acceptable law. If we had not so indicated, I am convinced a far different bill would have resulted with or without the waiver.

So on balance, despite the reservations I have expressed, I think the product should be supported, from fear of much worse consequences if we fail to pass it far more than from enthusiasm for the bill itself. I think it is the best bill we could get in this Congress, and it is important for protection of the environment that it be passed.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of the bill. We have before the House today an opportunity to finish the work of national energy policymaking that this Congress has been engaged in persistently and successfully for several months. We can seal our commitment to the rapid, yet orderly and considered development of an independent American energy base.

In 1973, the oil embargo and a fourfold oil price increase for crude oil, should have led to a recognition of our dependency and movement to correct it. Instead, as soon as the crisis ended, we went back to our old habits and policies. Then, we were spending about $8 billion a year on imported oil. Today, due to our inaction, we are importing nearly half our supplies from the same few countries. Those producers will be handing us an oil import bill approaching $90 billion this year. That is money we ship out of the country, away from our industries, from the economy, and from the pockets of American citizens.

This is just one of a whole litany of problems that we have all heard about. And as of yesterday, we can say that they are problems that we have attacked head-on through the coherent, focused, and important programs written into the Energy Security Act that we passed by an overwhelming vote.

But there is another side to this campaign that is at least as important, in my mind, as the incentives we have written into law. The legislation we passed yesterday gave us a valuable set of new tools to work with. The second aspect of our policy must be to inject our regulatory and legal machinery with the flexibility to use these tools in a timely and efficient way. The incentives will not work for us if the regulatory framework does not allow them to.

Over the past 3 years, the scope of energy regulation in this country has increased dramatically. At the same time the regulatory agencies are working independently, and sometimes at odds with each other. The overall goals of the country tend to get lost. I am sure many of my colleagues are familiar by now with the case of Sohio's recent decision to scrap plans for a crude oil pipeline after a $50 million investment and 5 years of attempting to obtain the more than 700 permits they needed to proceed. The project would have allowed the United States to utilize 400,000 barrels of Alaskan oil.

Some of us are aware of the cases of refineries in Maine, California, and Virginia. After 5 years, they still have not been able to get through the permitting process despite their obvious importance to attaining national energy goals. One Government source has estimated that Federal, State, and local regulations have become so complex that the construction of a geothermal plant on the west coast would involve at least 25 agencies, 12 public hearings, several environmental impact studies and up to 12 opportunities for court challenge. I submit to my colleagues that we cannot afford to play with time when it comes to our energy security. Known U.S. reserves of oil would not last more than 5 years at the rate we are consuming it.

The Energy Mobilization Board seeks to address this critical need to move ahead quickly by providing the necessary focus to the regulatory apparatus. It will make certain that our laws and regulations meet the legitimate requirements they seek to impose, while at the same time do not act as a disincentive to national energy production goals. These regulations are acting as a disincentive today. The bill seeks to make them work for us instead of against us.

The bill creates a three-member board, as you know, which is empowered to set decisionmaking timetables for agencies. Authority to waive laws is limited to those which are passed after construction of priority energy projects has already begun. In cases where existing Federal law presents an impediment to construction, the bill allows waivers only through Presidential recommendation, and approval by both Houses of Congress.

The way our laws are set up today, we will effectively sabotage our own plans to achieve energy independence by uncoordinated and time consuming regulation. This bill seeks to address this problem by establishing a streamlined mechanism to deal with the priority projects we need to achieve the energy goals this Congress has set. It does not represent an assault on the integrity of our laws. It is a bill that attempts to reach a balance between the legitimate but sometimes competing objectives of our regulatory system. It is a bill that will allow this country to act. I urge my colleagues to support it.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I rise to support the motion to recommit S. 1308, which establishes an Energy Mobilization Board to expedite decisionmaking for priority energy projects. I want to make it clear that I support the general intent of this legislation. There is a compelling need to remove procedural regulatory impediments which frustrate our ability to bring into operation critical energy projects that will help us reduce our dependence on imported oil. This is important to our national security and economic strength. The outrageous price increases levied by OPEC demand that we take all responsible steps to free ourselves from the cartel's continuing economic and political blackmail.

But on the most important issue in this legislation—whether the Energy Mobilization Board can waive Federal or State laws—this conference report completely contradicts the judgment of the House last year.

In two critical respects, this conference agreement, by exceeding the scope of the House bill, places in grave jeopardy the landmark work of the past decade to protect and enhance our Nation's precious land, air, and water resources.

I am terribly concerned over the grandfather provision, and the waiver authority.

First, the EMB will be permitted to suspend any new Federal, State, or local law enacted after an energy project files for fast track consideration—without congressional approval. We had insisted on this basic safeguard of concurrence by Congress in any waiver of laws we will pass in the future, but the conferees removed it.

It is extremely dangerous to place such sweeping authority—the lawmaking authority—in a three-person agency. Congress—not a regulatory agency—should decide whether or not any of our laws should be waived, or modified, or suspended in any way. I cannot understand why so many who are so concerned over the ability of regulatory agencies to abuse their authority would give away our power to waive laws passed by Congress to an unelected agency or board.

Second, and most importantly, this conference report repudiates a firm understanding over the question of whether existing State law can be waived by the Board to expedite needed energy projects.

Many of my colleagues and I were very concerned about giving vast authority to a new Federal agency to sweep aside valid State laws intended to protect public health, safety and the environment. Over the past decade, State and Federal Governments have worked together through statutes like the Clean Air Act and the Surface Mining Act to establish comprehensive plans to deal with problems covered by these acts.

During floor debate on the bill in November, the House recognized the importance of preserving these programs by adopting the Santini-Lujan amendment which said that the board would never override State substantive or procedural laws. At that time, I engaged in a colloquy with the author of the amendment, the gentleman from New Mexico (Mr. LUJAN) to clarify any ambiguity concerning this point.

That colloquy bears repeating. I said:

> As I understand the amendment, there would not be a waiver of State law permitted. My question is, if the State law was pursuant to or in implementation of a Federal law, such as the Clean Air Act or the Clean Water Act, would the prohibition against waiver of a State law apply to those State laws that have been adopted pursuant to Federal direction?

Mr. LUJAN replied:

> Mr. Chairman, if I understand the gentleman correctly, the gentleman's question is would a State clean air act be subject to waiver under this bill, even if it was mandated by some other Federal law.

I said,

> That is correct.

Mr. LUJAN said:

> The Clean Air Act could not be waived under the provisions of this act.

I might add that this exchange took place with the managers of the bill present on the floor.

Now we learn that during conference the House language has been reinterpreted to allow the board to waive State laws enacted pursuant to a Federal statute. We should not support legislation which tramples these State-Federal partnerships so necessary for protection of the Nation's public health, safety, and environment. I would hope that the managers of the bill would join in our effort to return to the meaning and intent of the language adopted last November to protect State laws from Federal waivers.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise in strong opposition to the conference report on S. 1308, the Priority Energy Projects Act of 1980, the so-called fast-track legislation.

The conference report creates a three-member Energy Mobilization Board which would be vested with far-reaching powers, including the ability to override or ignore actual statutes and regulations or their spirit in the name of domestic energy development. While I wholeheartedly agree that the Nation must decrease its dependence on expensive and vulnerable fuel imports, I do not believe that it should do so at the cost of undermining civil liberties and toppling constitutional balances.

Under the conference agreement, for example, the Board could suspend Federal, State, and local laws enacted after an application for priority designation is filed, which in the opinion of this unelected and unaccountable body, constitute a "substantial impediment to the implementation" of energy projects which they have designated as priority projects. Congressional review of the Board's decision would not be permitted. Judicial review is so narrow as to be virtually meaningless.

The conference committee also declined to include a provision in the House bill prohibiting the waiver of State and local laws, so that the agreement we are being asked to vote for now permits the Board to waive existing Federal laws, including health and safety requirements, and State and local laws derived from a Federal law, such as numerous environmental protection laws.

These provisions display a blatant disregard of the principles of federalism which are at the foundation of our democratic form of government. Indeed, the entire notion of bypassing either substantive or procedural provisions of Federal and/or State and local laws strikes me as antithetical to our Constitution. This kind of carte blanche authority to sidestep the legislative process cannot be reconciled with the central concept of due process.

Although I remain opposed to any version of fast-track energy legislation which does not provide for constitutional safeguards, I will support the motion to recommit to conference with instructions to prohibit the waiver of existing State and local laws and regulations and to require congressional approval of any EMB suspension of new Federal, State, or local laws. I do this not because I could support the agreement that should result any more enthusiastically. I do so only because, if some form of fast-track legislation is going to be passed by this body, I would prefer it to be in the least objectionable form possible.

In sum, I simply do not see the need for an Energy Mobilization Board invested with such enormous authority and the dangerous potential to upset our system of checks and balances. Domestic energy development is vital, yes, but the fast-track approach is not the solution to our problems. Indeed, creation of the proposed board will not necessarily expedite energy projects and will definitely imperil our Constitution.

The Board's proponents say it will cut useless redtape and overcome bureaucratic obstacles. But we do not need a special governmental body to accomplish these aims. Congress is quite capable of reaching these objectives through its normal legislative procedures, as was clearly demonstrated in the House's consideration and passage of synthetic fuel measures designed to speed up this type of energy development.

Creation of the Energy Mobilization Board would represent a most alarming precedent. What other super-bureaucracies could then be manufactured in the name of some other urgent national concern? I have faith in our economic and political system to resolve our current energy problems without resorting to such an extraordinary and highly questionable panacea.

I urge my colleagues to join me in rejecting the conference report on the fast track energy bill. It is a bad idea that endangers our democracy and which would probably do very little to improve our energy situation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I think at at this point it is important to reiterate what we are trying to achieve in this bill. In the last 20 years, in the name of clean air and clean water and protecting endangered species, we have imposed dozens of restraints on the American economy which have literally strangled us in terms of our ability to produce energy. The objective of the Energy Mobilization Board is to get on with the job of cutting through redtape and regulation to produce energy from the resources we have here in America at a price the consumers can afford to pay.

If Members are looking for a perfect bill, this is not one. The reason it is not is that there is not unanimity on whether we should have growth, much less on how to expedite it. People in my part of the country think that those that stand in the way of progress ought to be tarred and feathered, if not hung. People in other parts of the country may think they ought to be enthroned. We tried here to come to a reasonable compromise. We tried to give people who dissent an opportunity to express that dissent. Give them their day in court, but bring that day in court to hand quickly; move adjudication to the front of the docket and make a decision—a decision yes or a decision no, but make a decision.

I think we have a bill here that does not trample States' rights. Only if a bill is passed after a project is designated can we have a waiver from EMB. We talk about a waiver of general legislation, but only if both Houses of Congress act and the President approves can law be set aside. That is not waiving law; that is making law.

We passed yesterday by an overwhelming majority a bill to spend $20 billion to provide subsidies to help us get over all the impediments we have put in the way of American business. Why not sweep those impediments aside and let free enterprise work on the problem as well?

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in opposition to the conference report and in support of the motion to recommit. I do so not because I am an environmental kook. I do not think anyone would accuse me of that. I find myself in league today with some persons who claim to have a higher regard for the environment than I, and mine is quite high, but if the principle embodied in this conference report is applied to every national problem as it is being applied to energy, the Constitution of the United States is through. It is through, it is destroyed, and the Union of the States is destroyed with it. That I cannot abide.

The Founding Fathers may not have ever envisioned a day when we would need more than tallow candles to light the signing of their documents. Yet, they wrote a Constitution whose general principles should still apply today. They did not envision the abuse of the Constitution as embodied in this conference report; an effort to run roughshod over every State and local law. That is what is involved in this issue.

Members talk about doing something about the energy problem and yesterday we were told that the synfuels bill was the answer. Well, if that was Frankenstein, this bill is the Bride of Frankenstein. The two of them will produce much woe, but they will not produce much energy. I plead with you—I plead with you—to reject this bill on principle and preserve the Constitution and the rights of the States and local governments. That is the true conservative position.

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Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I rise in support of the motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I remember very well when we had all the discussion on the Department of Energy, and this is almost a rerun. All the things we have been promised by that wonderful agency (DOE) were going to happen, we were told, when we passed the Department of Energy. I say to the Members, "If you love the Department of Energy and all the things it is doing to help energy, you vote for this bill." It will make it worse, but it will be a lot of fun.

So, Mr. Speaker, I urge my colleagues to vote for the motion to recommit on the basis of what my colleague, the gentleman from New Mexico (Mr. LUJAN), has stated. We do not need more massive bureaucracy to create more problems for the meaningful production of energy.

The Carter Energy Mobilization Board will not put us on the road to energy self-sufficiency. I was opposed to a vote for the defeat of the administration's proposal last fall. Yet, Members of this body who voted for the EMB last year have stated today that the conference report we are now considering will "paralyze decisionmaking on permits for the most important new energy projects. Too many concessions have been made to the entrenched regulatory bureaucracies that are the source of the problem * * *."

Further, President Carter initiated this fast-track measure as an anti-Federal bureaucracy bill, yet it is now a super-bureaucracy measure, pushing aside State and local governments.

I repeat, Mr. Speaker, the Department of Energy—that streamlining agency—has proven that the EMB will only "second-story" the energy bureaucracy, piling on further trappings and confusion. The EMB (even more bureaucracy) is a disaster. We should kill this bill and direct the conferees to come up with a plan to assist our energy companies, not hinder them.

Mr. Speaker, I urge my colleagues to vote for the motion to recomit.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I rise in opposition to this conference report. We all will agree that we need some way to expedite the construction of very badly needed energy-producing projects. But at what cost are we doing this?

First, for those who have been working for environmental laws, this would permit overriding all of that effort. For those Members on this side of the aisle who are interested in protecting the rights of local governments and the legislative branch of Government, in voting for fast-track they are overriding those efforts. This calls for 12 projects which could be considered during each Congress, and there is not a reason in the world why this Congress could not consider each of those projects individually and protect the right of this Congress to be the decisionmaker.

How many times have we heard Members on this floor criticize the process by which we have given our legislative responsibilities and rights away for decisionmaking to the Executive? This is another case where we are giving away those rights to the Executive that belong to us to make the decisions. These are the decisions that we should make.

Mr. Speaker, let us vote against this conference report and find a better way to accomplish the same purpose.

● Mr. GOLDWATER. Mr. Speaker, this legislation meets with my disapproval for one basic reason: It is an admission to ourselves and to our constituents that we have done nothing to this point except enact shabby, ineffective laws in the area of energy policy. The President, fearful that he will be accused of not taking action on the energy problem, has sent this proposal to the Hill, and I do not think it is worth our approval.

Why not just admit that changes have to be made in the existing apparatus? Would it not be better to go back over the maze of regulatory procedures we have already enacted, and make the necessary changes there, rather than create a new layer of bureaucracy, with new rules, a new, but certainly no better approach, and all the vague and ambiguous powers that this Board would have.

As one who has strongly advocated innovative energy technologies and a greater commitment to energy development, it is not easy for me to vote "no" on a bill which is designed to expedite our forging ahead with energy production. In monitoring this debate I am more convinced than ever that an Energy Mobilization Board will plunge us only deeper in the bureaucratic quicksand we presently find ourselves in. Let us go back to the drawing board, rewrite the laws as they exist now, and scrap any plans for a government body which only exacerbates the present situation of chaos and confusion.

I urge my colleagues to oppose this conference report.●

● Mr. RAHALL. Mr. Speaker, I rise today to express my very strong support for the conference report on S. 1308. This measure is essential to our overall national energy policy, because it will remove the obstacles and eliminate many of the time delays that presently hinder the development of vital energy projects.

Nothing can be more important to the future of this Nation than the development of both demonstration and commercial facilities utilizing domestic energy resources. Indeed, the United States is not energy poor, it is energy rich.

Over the years, Federal, State, and local government indecision has slowed down the progress of our energy growth. This fast-track legislation will put us on the right track toward developing American energy.

During the consideration of the original house version of this bill, I offered an amendment which would enable utilities converting from oil or natural gas to coal or coal derived fuel, to receive automatic fast-track status.

I commend the conferees for refining this amendment, as I believe it will reduce, by a number of years, the delays experienced by utilities who want to use American fuel.

Numerous members of both the House and Senate, the administration, and the President's Coal Commission have stated the immediate need to use more coal as the chief source for producing electricity. This fast-track bill will assist in that effort, and in turn will stimulate an industry that is being stifled by overcapacity and massive layoffs.

Mr. Speaker, we have the windfall profit tax, we have a syn-fuels program, we will soon have the fast-track mechanism in place, coal conversion is next. Only then will we have fulfilled our commitment to the American people, to construct a comprehensive energy program.●

● Mr. FRENZEL. Mr. Speaker, when the Energy Mobilization Board passed the House, in a very different form, I voted for it. It would be a good idea to speed up some of our important energy projects.

But, this conference report on S. 1308 would seem only to add more delays to the completion of energy projects. It adds another layer of bureaucracy, and, worse, it adds extra opportunities for lawsuits against energy projects. We are already tied in regulatory knots and litigated to death on many projects. We surely don't have any need for more legal delays.

My guess is that wherever there is a project of national importance, it will be handled in the same way as we dealt with the Alaska pipeline—by special legislation. When we get tired of writing and rewriting environmental impact reports, and tired of lawsuits, we will have to pass bills to move specific energy projects along to completion.

This bill, S. 1308, seems to have attracted few friends. Environmentalists and developers alike seem to feel that it only complicates our problems and compounds our confusion.

One might guess, uncharitably, that it is before us only because the President believes he needs to pass a couple of energy bills for publicity purposes. I can see no good reason to create another Board and encourage more lawsuits. I don't want to pass unnecessary, complicating bills just so we can say we have "an energy policy."

I urge the Members to vote against it. I shall.●

● Mr. HARRIS. Mr. Speaker, I rise in support of the motion to recommit this measure to conference committee because I believe firmly in the principles of American federalism, and in preserving the integrity of State and local governments.

The legislation reported by the conference committee—unlike the legislation I supported last November—violates those principles by creating a remote Federal agency with the power to disrupt carefully crafted State and local laws and regulations.

There is no question that America must face up to its complex energy problems which are at the heart of double-digit inflation and which are a major cause of international instability in these dangerous times. Our response to the energy situation, however, must be carefully balanced to address competing environmental, economic, and energy considerations.

The House legislation approved last November, in contrast to the conference version we have before us today, struck the proper balance between those often conflicting interests. It created an Energy Mobilization Board which could speed consideration of energy projects without running roughshod over State and local governments. And it strengthened the partnership between different levels of Government by preserving the authority and prerogative of those governments.

But now we are asked to approve an Energy Mobilization Board capable of waiving State and local laws, and capable even of making decisions in place of appointed and elected State and local bodies.

I urge my colleagues to keep in mind that the purpose of "energy mobilization" legislation is to speed consideration of proposed energy projects: to eliminate redtape and duplicative procedures that delay the approval—or disapproval—of energy projects. That point is crucial. Energy mobilization must not be used as a blank check for the energy industry. It must be designed to expedite decisons so that we can get on with the good projects, and dispose of the bad.

The requirements of State and local laws, which are thrown into jeopardy by this legislation, are not frivolous. As a former member of a county board of supervisors, I know that State and local governments are closest to the people. The environmental and economic decisions made by those governments must not be cast aside by some Federal agency in Washington.

When a major energy project is proposed, a myriad of issues arises including questions about pollution levels, water supply and water quality, project siting, financing, taxation, waste disposal, et cetera. These are issues affecting the quality of life—and perhaps life itself—in people's communities.

I cannot support legislation that throws the authority of State and local governments into question by creating an all-powerful Federal agency.

I am also disturbed that there is no limit in the conference version on the number of projects that could be given "priority" status. Fast tracking should not become a routine procedure. It should be used with discretion and commonsense. Otherwise the fast track itself will become clogged with every proposal coming under the magic label of "energy."

Energy mobilization is an important concept. I supported creation of a carefully constructed Energy Mobilization Board that could have helped lead our Nation to energy independence within the framework of our constitutional system by respecting State and local governments and by recognizing the difficult and competing nature of energy, economic, and environmental issues.

I would support such an Energy Mobilization Board again. I urge my colleagues to support the motion to recommit this measure to conference committee, and instruct our conferees to report a bill that expedites energy decisions, but that does not hand out a blank check to the energy industry at the expense of State and local governments.●

● Mr. MARKS. Mr. Speaker, I regretfully rise in support of recommitting this conference report establishing an Energy Mobilization Board. As my colleagues know, I have been an outspoken advocate of legislation to expedite those energy projects vital to our Nation's economic well-being and our national security. You will recall that I supported legislation both in the Commerce Committee and in this Chamber providing for the creation of an Energy Mobilization Board. Unfortunately, this conference report differs significantly from the legislation originally passed by this chamber last year.

The most significant change is that language was added in conference allowing for the waiver of certain State and local laws by a majority vote of the Energy Mobilization Board. This so-called grandfathering provision raises very serious constitutional questions.

During markup of this legislation last year in the Commerce Committee, serious consideration was given to allowing the waiver or suspension of Federal laws solely by the Energy Mobilization Board. I, and a majority on the committee, opposed this concept. The committee bill allowed for waiver of Federal law, but only with the approval of both the President and a majority of both Houses of Congress. This concept was accepted by a majority of the full House. In addition, the House passed bill gave no authority for waiving State and local law.

Incredibly, the conference report provides for waiver of certain State and local law under a procedure much less strict than that required under the bill to waive Federal law. Indeed, the conference report would allow State and local law to be waived by a vote of two unelected Board members.

Despite my commitment to the establishment of an Energy Mobilization Board, I cannot support what the conference has done. It is my hope that this House will vote to recommit this legislation and that the conference committee will promptly act to remove the serious flaw posed by the grandfather provision. We must get an Energy Mobilization Board. It must, however, be a Board that does not trample on the rights of our State and local governments.●

● Mr. BETHUNE. Mr. Speaker, with an energy crisis upon us, with a regulatory crisis upon us, and with certain political crises perceived to be upon some, it is only natural that many in this body are willing to rush to judgment on the proposed Energy Mobilization Board.

I have long recognized the energy crisis that our Nation faces and I am a very strong advocate of finding ways to produce our way out of the crisis domestically. Likewise, my abhorrence for the regulatory mess that has been created over the years may be unequaled. But, in spite of my strong desire to see these challenges met, I find the proposed Energy Mobilization Board is not the solution.

The EMB was originally proposed as a fast track to move energy development through the regulatory maze. Some have now come to call it a circular track. I am inclined more toward the analogy of the new thrill rides at regional theme parks. Not only does it look to me like it will return to its starting point, but I fear that it will be a bumpy and scary ride as it passes through Federal, State, and local jurisdictions.

Rather than finding a way to cut redtape, we have discovered a way to complicate existing redtape. Rather than finding a way to enhance the benefits of our federalist system, we have found a way to annihilate the functions of State and local government. Rather than make the Federal Government's activities more coherent, we have introduced guaranteed chaos.

Our objectives are still laudable. We must discover the methods through which we can produce our way out of the energy crisis. But, I am firmly convinced that those methods lie not within governmental bureaucracies, but within the talents of the private sector. The ideas, technology, and ingenuity to produce alternative energy sources call for us to better exploit existing resources in the domain of the private sector.

Likewise, we must eradicate excessive regulation. This can be better accomplished by this Congress facing its obligation to exercise oversight responsibility by forcing overzealous regulatory agencies to streamline their processes for all applicant's, not just certain PEP's (priority energy projects). This Congress should also face its obligation and review the vast amount of potential energy resources that, by regulatory means or possession, have been put out of the reach of the private sector's development hand.

In conclusion, it is my hope that the House will reject this conference report, and that after due deliberation, we will either achieve more by this bill or face our responsibilities as I have outlined above and do the things necessary to allow the private sector to develop energy resources without the redtape hassel. I share in the observations of some of my colleagues that the few things that are meaningfully accomplished by this legislation can be done by the President in ordering the consolidation of environmental impact statements and in scheduling Federal Government agency decisionmaking.●

●Mr. JEFFORDS. Mr. Speaker, today the House must resolve whether to recommit to conference the legislation establishing an Energy Mobilization Board to expedite the decision processes on energy developments.

While I agree that a more timely and efficient decisionmaking process is in our national interest, I am unconvinced that this legislation would accomplish that end. It seems likely that the technique of waiving Federal, State, and local laws would result in more delay and litigation than the present processes. I believe there are other, more appropriate, means of enhancing the efficiency of the decisionmaking on energy projects.

I find the idea that we can expedite decisionmaking by the creation of yet another Federal bureaucracy very questionable. Recent unofficial reports indicate that the establishment of the Energy Mobilization Board would result in the hiring of between 200 and 700 more Federal employees. It seems unlikely that an agency with no particular expertise would be able to aid the determination of the particular energy, economic, environmental, and social questions which apply to a specific project.

Even if one concedes that an Energy Mobilization Board would serve a worthwhile purpose, it is doubtful that the Board established under this conference agreement would accomplish its objective. The powers of an Energy Mobilization Board should serve to expedite decisionmaking processes. A careful reading of the conference report discloses that this EMB would become entangled in endless litigation because of the dangerously broad powers which this Board may exercise.

The conference agreement would allow the Energy Mobilization Board to set deadlines for the decisionmaking of all agencies, including Federal, State, and local governmental entities. The legislation would also give all agencies streamlining authority which might directly contradict current Federal, State, and local laws. There are serious constitutional challenges which could be raised to such a Federal intrusion into these areas of State and local law.

Perhaps the most dangerous provision of the conference agreement is the "grandfather" provision which would allow unelected officials on the Energy Mobilization Board to suspend indefinitely any law which is enacted after an application for priority designation is filed. This grandfather provision would allow the suspension of State and local as well as Federal law. The present version of the bill would subject this indefinite suspension of law to only a limited form of judicial review. The version of this bill which passed the House last fall had the additional protection of congressional review prior to the suspension of Federal, State, and local laws. I believe this provision to waive subsequent State and local laws is potentially disastrous for the continuation of meaningful State and local involvement in the area of energy facility siting.

This grandfather provision poses serious problems for my own State of Vermont. Not only are we faced with the possible waiver of subsequent State and local laws, our presently existing State land use laws could be affected. This provision could also impede future laws enacted to control the increasing acid rain problem my State is experiencing. The automatic fast-tracking of coal-fired facilities contained in this legislation is a dangerous action to take prior to the completion of the studies on acid rain which this House voted for as part of the synthetic fuels bill, S. 932, earlier this week. To allow the suspension of any laws which are enacted as a result of that acid rain study negates the protection that such a study could provide for my State and the entire Northeast.

In addition to the suspension of subsequent Federal, State, and local laws, the proposed conference agreement would allow the general waiver of Federal laws, and State or local laws which are passed pursuant to any existing Federal law. This would have the effect of granting the Energy Mobilization Board the power to waive a wide variety of State and local laws. Many laws by the States have some connection to a Federal law. For example: State land use laws and local zoning ordinances referenced in a State coastal zone management plan could be subject to waiver because the State plan was drawn up pursuant to the Federal Coastal Zone Management Act. This provision could have devastating effects on the internal operations of State and local governments which had previously worked to conform their laws to the scheme of Federal requirements. The reward for cooperating with the Federal Government would now be to invalidate those State and local laws. This proposed Energy Mobilization Board is not an expediter, it is a steamroller which threatens our 200-year-old tradition of State and local government.

This question of how to equip the Energy Mobilization Board is similar to equipping a carriage drive. Instead of giving the driver a whip to urge on the teams of Federal, State, and local agencies, this legislation would only give the driver a gun to shoot the horses leaving the driver to pull the carriage himself. I believe our State and local governments deserve more respect than would be afforded by this legislation. Our constituents deserve more respect than the disguised offering of this nonsolution to a crisis which threatens our economic and strategic well-being. As managers of this carriage it is our responsibility to address the real problems of providing efficient government. For these reasons I believe the responsible vote here today will be in favor of recommittal.●

MOTION FOR CALL OF THE HOUSE

Mr. GRAMM. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. Murtha). That point of order does not lie at this time, but the Chair will inquire, does the gentleman move a call of the House?

Mr. GRAMM. I do, Mr. Speaker. I move a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the motion offered by the gentleman from Texas (Mr. Gramm) for a call of the House.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

So the motion was rejected.

The SPEAKER pro tempore. A call of the House is not ordered and the Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the remainder of my time.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Brown) is recognized for 2½ minutes.

Mr. BROWN of Ohio. Mr. Speaker, first, let me say to the gentlemen on my side of the aisle that I regret the fact that more of the time in this debate on our side of the aisle has been consumed in condemning the legislation than has been used in support of it. But, as I understand it, that is the way the process works, and we have done it on the basis of the views of those Members who were in the conference and those Members who are on the subcommittees related to the conference.

I would also say to my friends on my side of the aisle, as well as those on the other side of the aisle, that they have a choice in this legislation as to whether or not they want to speed the consideration of national interest energy projects or leave the situation as it is now. Now, we are faced with endless lawsuits brought by anonymous persons, usually persons who do not have direct interests in energy projects.

Mr. Speaker, there are some other choices, too. We will recall that we sat in this Chamber a few months ago and listened to the President of the United States threaten to take the United States to war if the Russians moved any further in the Middle East to threaten our oil supplies. That would seem to be an alternative to the development of synthetic energy projects and projects that would relieve us of our dependence on foreign oil.

There are also other choices. Those choices include the possibility of some waiver of our environmental laws so we can burn coal in this country, but we will not get that done if we leave it in the hands of the environmentalists who put out those buttons that some people are wearing that say, "Even More Bureaucracy."

We do not have to solve our energy problems with bureaucracy; we can do it with commonsense. We can do it in such a way that I hope another President next year will have the opportunity to increase our energy situation.

But I would say to the Members that if they are trying to beat this legislation for merely partisan reasons, they are in error, and I do not mind saying so. I am a partisan, but I have to tell the Members that I think there are some things that are more important than mere partisanship on a piece of legislation, and I hope that is not the reason for Members' votes.

I know some of the Members are concerned about States' rights, and I am, too. But there are other principles involved here that are stronger than States' rights, and those involve perhaps—just perhaps—our survival as a country.

I know that the Members on my side of the aisle will vote out of pure personal conviction, and I hope that they will vote with satisfaction as to what they have done. But if we go back to conference, I can tell the Members what will happen out of that conference: Either nothing and we will have our energy future decided in courts, as is being done now, or the conference will produce something that is not permanent or effective. Then we will have a bill that is worse than the one we have now.

Mr. Speaker, this is not a bad bill, and I urge my colleagues to vote for it.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, today I join the Members of the House leadership as well as many Members on both sides of the aisle, in support of the conference report accompanying S. 1308, the Priority Energy Project Act of 1980.

We are all aware that the American people have grave concerns about the future strength of our Nation. In particular, these concerns stem largely from our continuing dependence on foreign sources of oil. This dependence can only be viewed as detrimental to our national strength.

This measure calls for placing crucial energy projects on a "fast track" to shorten the time period needed to bring them into being. Thus, it is the intent of this act to utilize to the fullest extent the constitutional power of Congress to regulate interstate and foreign commerce in order to reduce the threat of economic disruption from oil supply interruptions.

This legislation through the establishment of the energy mobilization board will provide a coordinated and prompt process for consideration of certain vital energy projects. Through the adoption of streamlined procedures, Federal, State, and local agencies will be authorized to make decisions on priority energy projects in a timely manner.

Mr. Speaker, in light of yesterday's action by this Chamber to promote a major initiative in synthetic fuels, the adoption of this measure to fast track significant energy projects will demonstrate both at home and abroad that our Nation has in fact the determination to wage a major campaign against the energy challenge which we now face. I urge adoption of the conference report.

Mr. DINGELL. Mr. Speaker, I yield such time as remains on our side, for purposes of debate, to my good friend, the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

The SPEAKER pro tempore. The gentleman from Texas (Mr. WRIGHT) is recognized for 4½ minutes.

Mr. WRIGHT. Mr. Speaker, I rise in support of this conference committee report and in opposition to the motion to recommit, which in effect is a motion to kill the legislation. The motion to recommit would have the effect of killing all results from the efforts that have been put into this enormously important project.

The question, then, is whether we will or will not set in motion the machinery to cut through the redtape and expedite major nationally important energy projects for the United States.

Almost any energy program that has come before us can be attacked on one ground or another. Almost any Member can find some reason to justify voting against any energy bill, and that really, my friends, is why we are in the position we are in today.

We have temporized, justified, and found reasons not to do those things that America needs to do if we are to make ourselves energy independent. We have found reasons to slow down action and defer decisions. We have found reasons not to act.

I have here a schematic drawing of those procedures necessary for a geothermal energy project. It will take 9 years to complete them. Look at them. That is the kind of thing we are trying to change by this bill. It is what we will perpetuate if we vote for the motion to recommit. This is the kind of project we are trying to speed up in the conference committee report.

Most of you read last year about the dismal failure of the Sohio project. The Sohio project would have provided our country some 400,000 more barrels daily of our oil from Alaska, and would have saved American consumers about $2 a barrel in transport costs. But it failed because there were some 700 permits required in the State of California. The Sohio project cost $50 million, with 5 years of delay, and finally the proposed sponsors threw up their hands and quit. It would have saved us 400,000 barrels of oil that we are buying from the Arabs every day, and yet bureaucracy killed it.

Do we want that to happen repeatedly, indefinitely? I know we do not want that to happen indefinitely. But are we willing to change?

Just this morning representatives of the Government of Canada came and had breakfast with the Secretary of Energy and with some of us from the House and the Senate.

□ 1150

Do you know what their concern is about the Alaskan natural gas pipeline? They are apprehensive of putting up the money which they must decide to do in the next 2 weeks to finance what they call the prebuild, to prebuild their portion of the pipeline.

Do you know why they are apprehensive? They are afraid that we, with our penchant for delay, litigation and redtape, will not complete our part in time to link up and give them gas, and that they will sit there for several years paying interest on the money they borrowed to pay their longer portion while we wallow in redtape.

By our track record, my friends, and if we vote to recommit this bill, we will give them cause. We will give all of our friends, as well as our foes, in the world cause to believe that we are not serious, not serious at all when we say we want to have energy independence.

That is the issue. Not some petty question of whether this bill has just that right nuance that you might prefer in some obscure provision. The question is: Do we mean it when we say energy independence is important to us and we are not going to let anything stand in the way?

If we had fought World War II with the same general dalliance that we have approached our energy failures, we would have lost World War II. Do we have a revival of the spirit that says America can do? If we do, we will pass this conference report.

We turned down those very objections by a vote of 250 to 153 when this bill was before the House last year. So I urge you to have the same stamina, the same determination, the same dedication to make America energy independent, cutting through redtape, expediting procedures and approaching this in the way that it has to be approached, with a sense of priority, by voting for this conference committee report and rejecting the motion to recommit.

● Mr. KEMP. Mr. Speaker, I would like to register my strong support for this motion to recommit. The point at issue here is not whether bureaucratic redtape has held domestic energy production down. We all know that it has. The question, rather, is whether creating a new Government entity will solve the problem. Can we fight bureaucracy with more bureaucracy? I doubt it.

In reality, this new Board will not mobilize anything. EMB should stand for even more bureaucracy—and if Jimmy Carter signs the bill on the 4th of July, we will move further from, not closer to, our goal of energy independence.

This EMB is even worse than the one

the House approved and sent to conference last November. At least the House version protected the legitimate rights of States and local governments. Today, we are being asked to overlook these rights because we have to do something, anything, about the energy crisis before November. I reject that argument, and suggest instead that passing this bill today will only make our energy problems worse.

The fundamental flaw of the EMB approach is the belief that we can fight old bureaucracy with new. Anyone who has witnessed government up close should realize that it just will not happen. Somehow, someway, this board will end up adding to the regulatory load.

How will the EMB outlined in this conference report make our energy problems worse? First of all, the EMB will be swamped with requests. There are several advantages to being fast tracked—the board sets a schedule for all agencies—Federal, State, and local—to pass on all permits, licenses, variances, and so forth; and the project becomes eligible for exemption from certain Federal, State, and local laws. And since there is no penalty for applying, one would expect that nearly every major energy project will apply.

Now the problems really start. The three member EMB faces an incredible schedule—they have 15 days to prepare a summary of each application, then only 45 days to digest the comments of all interested public and affected agencies on the applications and decide. Anyone who expects the EMB staff to stay small for any length of time is an optimist, to say the least.

Then the agencies will be put to work. All Federal, State, and local agencies involved will have only 30 days to submit decision schedules for the deluge of projects. That makes the EMB's job look like child's play. And if the agencies miss their deadlines, the EMB can take over—though no one has explained how a three member board can start and finish a job faster than those who have been working on it for months.

Finally there is the matter of judicial review. The conference report requires that all cases be heard by a special Federal court with judges from around the country. Presumably the same three judges will hear all the cases involving a single project. Imagine the complexities and the delays when these judges try to rule on the equivalent of perhaps 10 detailed appeals rolled into 1.

In sum, instead of an energy fast track, Congress has produced a circular track that will paralyze energy decisionmaking. Too many concessions have been made to the entrenched regulatory bureaucracies that are the source of the problem. Too many opportunities of dilatory litigation have been opened up. And too many new layers of bureaucracy have been piled on top of old.

The EMB is just a symbolic attempt to duck the real job at hand—an overhaul of the costly and duplicative requirements laid down by dozens of new statutes in the past 10 years or so. As former EPA deputy administrator John Quarles has asked, "Can we truly cut through the regulatory requirements without examining the underlying body of environmental law?"

Congress is hiding behind this fast-track gimmick—it is afraid to come out and challenge the real problems, many of which resulted from past congressional blunders. We must be brave enough to take another look at the Clean Air Act, the Clean Water Act, the Wilderness Act, the new strip mining legislation. And we must increase the economic incentive for energy production by removing the price controls and taxes that are holding American energy producers down.

This EMB is just camouflage, another layer of bureaucracy, an energy mirage. When the dust settles, the U.S. energy industry will still be hopelessly bound by Government regulations, we still import more than half of our oil, and we still will be subject to the long gas lines of last summer.

The American people will not be fooled by this Carter reelection ploy. Let us show them that Congress has at least as much commonsense.●

The SPEAKER pro tempore. All time has expired.

Mr. DINGELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT

The SPEAKER pro tempore. For what reason does the gentleman from Ohio (Mr. DEVINE) rise?

Mr. DEVINE. Mr. Speaker, I offer a motion to recommit.

Mr. LUJAN. Mr. Speaker, I am a member of the conference committee, and I am opposed to the bill.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I offer a motion to recommit, and I am opposed to the bill.

The SPEAKER pro tempore. The gentleman qualifies.

PARLIAMENTARY INQUIRY

Mr. LUJAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LUJAN. Mr. Speaker, does not a member of the conference committee have preference in recognition to the ranking minority member on the standing committee working on the bill?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) was on his feet at the time of the recommital motion. Does the gentleman from Ohio, the second ranking minority member of the conference committee, have a motion?

Mr. BROWN of Ohio. I am unqualified for the motion to recommit. I was standing, however, to make sure that the motion to recommit was protected for the minority, and when the chair recognized the gentleman from Ohio (Mr. DEVINE), the ranking minority member of the Commerce Committee, I took my seat.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. DEVINE) is recognized as the senior Member.

Mr. LUJAN. Mr. Speaker, I did not hear an answer to my parliamentary inquiry.

The SPEAKER pro tempore. As the gentleman knows, the Chair's control over recognition is not subject to challenge and the Chair recognized the gentleman from Ohio (Mr. DEVINE).

The gentleman from Ohio (Mr. DEVINE) is recognized for a motion.

Mr. DEVINE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DEVINE. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DEVINE moves to recommit the conference report to accompany the Senate bill, S. 1308, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 131, answered "present" 1, not voting 69, as follows:

[Roll No. 379]

YEAS—232

Akaka
Ambro
Anderson, Calif.
Andrews, N. Dak.
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Bereuter
Bethune
Bingham
Boland
Bonior
Bonker
Brinkley
Broomfield
Brown, Calif.
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derwinski
Devine
Dickinson
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Forsythe
Fowler
Frenzel
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio

Hamilton
Hammerschmidt
Harkin
Harris
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hughes
Hyde
Jacobs
Jeffries
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Lewis
Livingston
Lloyd
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McDonald
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moffett
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nichols
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Peyser
Porter
Pritchard
Pursell
Quillen
Railsback
Ratchford
Regula
Reuss
Rinaldo
Robinson
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Sawyer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Shuster
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Stanton
Stark
Steed
Stockman
Studds
Swift
Taylor
Thompson
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Walker
Wampler
Waxman
Weaver
Weiss
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.

NAYS—131

Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Atkinson
Bailey
Baldus
Barnard
Benjamin
Bennett
Biaggi
Blanchard
Boggs
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Ohio
Burlison
Byron
Chappell
Coelho
Cotter
Danielson
de la Garza
Derrick
Dingell
Dornan
Duncan, Oreg.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Ferraro
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gonzalez
Gore
Gramm
Gray
Hall, Tex.
Hance
Hefner
Heftel
Hightower
Hubbard
Huckaby
Hutchinson
Hutto
Ichord
Ireland
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
LaFalce
Lederer
Lehman
Leland
Levitas
Loeffler
Long, La.
Luken
Lundine
McCormack
McEwen
McKay
Miller, Ohio
Montgomery
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Nedzi
Nelson
Nowak
Pepper
Perkins
Pickle
Preyer
Price
Rangel
Ritter
Roberts
Rostenkowski
Russo
Satterfield
Scheuer
Sharp
Shelby
Skelton
Solomon
Staggers
Stangeland
Stewart
Stratton
Stump
Tauzin
Traxler
Van Deerlin
Volkmer
Walgren
Watkins
White
Whitley
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wright
Wyatt
Zablocki

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—69

Abdnor
Addabbo
Anderson, Ill.
Badham
Bedell
Bevill
Broyhill
Cheney
Chisholm
Corman
Crane, Philip
Dicks
Dixon
Dodd
Donnelly
Dougherty
Early
Edgar
Erlenborn
Florio
Garcia
Ginn
Grassley
Hanley
Hansen
Harsha
Hawkins
Heckler
Holland
Holtzman
Jeffords
Jenkins
Kramer
Leach, La.
Leath, Tex.
McDade
Mathis
Mazzoli
Mica
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Nolan
Patten
Petri
Quayle
Rahall
Rhodes
Richmond
Rodino
Rosenthal
Runnels
Sabo
Santini
Schulze
Shumway
Simon
Smith, Iowa
Stenholm
Stokes
Symms
Synar
Tauke
Thomas
Whitehurst
Wydler
Yatron
Zefferetti

☐ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Jeffords for, with Mr. Ottinger against.

Ms. Holtzman for, with Mr. Rahall against.

Mr. Richmond for, with Mr. Santini against.

Mr. Nolan for, with Mr. Corman against.

Mr. Hawkins for, with Mr. Wydler against.

Mrs. Heckler for, with Mr. Hanley against.

Mr. Cheney for, with Mr. Rodino against.

Mr. Mitchell of Maryland for, with Mrs. Chisholm against.

Mr. Sabo for, with Mr. Mollohan against.

Until further notice:

Mr. Zeferetti with Mr. Quayle.

Mr. Garcia with Mr. Runnels.

Mr. Moakley with Mr. Schulze.

Mr. Smith of Iowa with Mr. Whitehurst.

Mr. Rosenthal with Mr. Thomas.

Mr. Mazzoli with Mr. Shumway.

Mr. Mathis with Mr. Stenholm.

Mr. Addabbo with Mr. Symms.

Mr. Bedell with Mr. Synar.

Mr. Bevill with Mr. Kramer.

Mr. Mica with Mr. Jenkins.

Mr. Moorhead of Pennsylvania with Mr. Harsha.

Mr. Patten with Mr. Hansen.

Mr. Yatron with Mr. Rhodes.

Mr. Florio with Mr. Abdnor.

Mr. Dodd with Mr. Badham.

Mr. Early with Mr. Broyhill.

Mr. Dicks with Mr. Philip M. Crane.

Mr. Dixon with Mr. Donnelly.

Mr. Edgar with Mr. Dougherty.

Mr. Ginn with Mr. Grassley.

Mr. Leach of Louisiana with Mr. Petri.

Mr. Simon with Mr. Erlenborn.

Mr. Holland with Mr. Leath of Texas.

Mr. Tauke with Mr. McDade.

Mr. Stokes with Mr. Anderson of Illinois.

Mr. BONER of Tennessee changed his vote from "yea" to "nay."

Mr. GUDGER, Mrs. COLLINS of Illinois, Messrs. COUGHLIN, BONKER, and HUGHES changed their votes from "nay" to "yea."

Mr. OTTINGER. Mr. Speaker, I have a live pair with the gentleman from Vermont (Mr. JEFFORDS). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

MILITARY CONSTRUCTION APPROPRIATIONS, 1981

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 720 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 720

Resolved, That during the consideration of the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived: beginning on page 2, line 3 through page 8, line 20; beginning on page 12, line 3 through page 13, line 13; and beginning on page 13, line 21 through page 14, line 5.

The SPEAKER. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 720 waives certain points of order against H.R. 7592, the Department of Defense military construction appropriation for fiscal year 1981.

While the military construction authorization for fiscal year 1981, H.R. 7301, has been reported by the Armed Services Committee and granted a rule for floor consideration by the Committee on Rules, a waiver is still necessary for the appropriation since the authorization has not finally passed and has not been signed into law.

In addition, the bill also contains provisions which limit the uses of funds and make other requirements, which is legislation in an appropriation bill. Consequently, the Committee on Rules has granted a rule waiving clause 2 of rule XXI, which prohibits the consideration of unauthorized appropriations and prohibits the consideration of legislation in an appropriation bill.

The committee has also granted a waiver of clause 6, rule XXI, which prohibits reappropriation of unexpended balances of funds. There are several instances in the appropriation bill where unexpended balances from previous fiscal years have been reappropriated, thus requiring the waiver.

The rule, I should point out, specifically names those sections of the bill that are granted waivers.

Mr. Speaker, H.R. 7592 provides $4.8 billion in new budget authority for military construction in fiscal year 1981. This amount is approximately $586 million below the administration's budget request of $5.387 billion and the $5.38 billion authorized by H.R. 7301. As such, H.R. 7592 does not exceed any of the amounts recommended in the pending authorization legislation.

Mr. Speaker, so that the House may proceed to the important business of considering the appropriation of funds for military construction in fiscal year 1981, I would urge my colleagues to adopt House Resolution 720.

Mr. BAUMAN. Mr. Speaker, the gentleman from Texas has adequately described the rule. I yield back the balance of my time.

Mr. FROST. Mr. Speaker, having no further requests for time I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electric device, and there were—yeas 322, nays 21, answered "present" 1, not voting 89, as follows:

[Roll No. 380]

YEAS—322

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dingell
Downey
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McEwen
McHugh
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—21

Ashbrook
Bauman
Bethune
Broomfield
Conyers
Crane, Daniel
Dannemeyer
Davis, S.C.
Dornan
Fowler
Goldwater
Jeffries
Kelly
Levitas
Lungren
McDonald
Maguire
Paul
Rousselot
Walgren
Weiss

ANSWERED "PRESENT"—1

Hagedorn

NOT VOTING—89

Abdnor
Addabbo
Anderson, Ill.
Badham
Bedell
Bevill
Broyhill
Buchanan
Cheney
Chisholm
Corman
Crane, Philip
Daschle
Dellums
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Drinan
Early
Eckhardt
Edgar
Erlenborn
Evans, Ga.
Florio
Garcia
Ginn
Grassley
Hall, Tex.
Hanley
Hansen
Harsha
Hawkins
Heckler
Holland
Holtzman
Jeffords
Jenkins
Kramer
Leach, La.
Leath, Tex.
McCormack
McDade
McKinney
Mathis
Mazzoli
Mica
Moakley
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Nolan
Oakar
Patten
Petri
Quayle
Rahall
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Rosenthal
Runnels
Sabo
Santini
Schulze
Shumway
Simon
Smith, Iowa
Stark
Stenholm
Stokes
Symms
Synar
Tauke
Thomas
Vander Jagt
Vento
Whitehurst
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wright
Wydler
Yatron
Zeferetti

☐ 1230

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Abdnor.
Mr. Hanley with Mr. Rinaldo.
Mr. Richmond with Mr. Schulze.
Mr. Rodino with Mrs. Heckler.
Mr. Florio with Mr. Harsha.
Mr. Zeferetti with Mr. Anderson of Illinois.
Mr. Vento with Mr. Buchanan.
Mr. Hawkins with Mr. Cheney.
Mr. Corman with Mr. Philip M. Crane.
Mr. Early with Mr. Dickinson.
Mr. Mazzoli with Mr. Dougherty.
Mr. McCormack with Mr. Erlenborn.
Mr. Moakley with Mr. Grassley.
Mr. Moorhead of Pennsylvania with Mr. Quayle.
Mr. Murphy of New York with Mr. Wydler.
Mrs. Chisholm with Mr. Bob Wilson.
Mr. Nolan with Mr. Vander Jagt.
Mr. Dodd with Mr. Thomas.
Mr. Dellums with Mr. Synar.
Ms. Holtzman with Mr. Symms.
Mr. Santini with Mr. Stenholm.
Mr. Stark with Mr. Whitehurst.
Mr. Stokes with Mr. Petri.
Mr. Bevill with Mr. Badham.
Mr. Dicks with Mr. Broyhill.
Mr. Dixon with Mr. Jenkins.
Mr. Mollohan with Mr. McDade.
Mr. Patten with Mr. Jeffords.
Mr. Williams of Montana with Mr. Mica.
Mr. Sabo with Ms. Oakar.
Mr. Runnels with Mr. Shumway.
Mr. Drinan with Mr. Hansen.
Mr. Eckhardt with Mr. Kramer.
Mr. Edgar with Mr. Leach of Louisiana.
Mr. Garcia with Mr. McKinney.
Mr. Rahall with Mr. Evans of Georgia.
Mr. Bedell with Mr. Daschle.
Mr. Ginn with Mr. Donnelly.
Mr. Hall of Texas with Mr. Holland.
Mr. Leath of Texas with Mr. Mathis.
Mr. Roberts with Mr. Rosenthal.
Mr. Smith of Iowa with Mr. Tauke.
Mr. Charles Wilson of Texas with Mr. Yatron.
Mr. Wright with Mr. Rhodes.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. McKAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. McEwen) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Utah (Mr. McKay).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7592, with Mr. Gephardt in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Utah (Mr. McKay) will be recognized for 30 minutes, and the gentleman from New York (Mr. McEwen) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah (Mr. McKay).

Mr. McKAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want first to express my appreciation to the members of the committee, in particular the gentleman from New York, the ranking member (Mr. McEwen). It will be Mr. McEwen's last military construction appropriations bill. I would like to commend him for his strong contribution to the national defense and express the appreciation of the committee for his devotion and hard work over the past 10 years that he has been on the Committee on Appropriations. The gentleman from New York will be greatly missed in the next year. He has provided a steady stream of carefully developed advice on issues relating to military construction funding. His knowledge and experience will not be quickly replaced, nor will his good sense of humor and even approach to complex issues. We wish him well in his new endeavor.

I would like also to express my appreciation to the gentleman from Oklahoma (Mr. Steed) who will be leaving this committee. He has been a steady supporter of the committee and all its needs, and he has defended the military in its needs for national defense for some time. I wish him well in his new endeavors.

We have met many times for the past 5 months in hearings to arrive at the best possible bill. What you have before you today is the result of this diligence. I regret, Mr. Chairman, that the authorizing bill has not been presented before this House. The order of priorities is out of order. The bill of the gentleman from Michigan (Mr. Nedzi) should have been here before, but apparently the calendar system has not been willing to follow that order. We would have preferred it that way.

We in our bill have taken very careful pains not to add into the bill anything that the authorizing committee has not acted on and reported out, so as not to be in violation of the sense of what we ought to be doing here in order. We considered a total request of nearly $5.4 billion this year. The subcommittee is recommending in this bill $4.8 billion, a reduction of $590 million from the President's request, which is about an 11-percent reduction.

In arriving at this recommendation, the subcommittee took into consideration the fiscal condition of the country, the needs of the military forces, and the need to balance our domestic and overseas spending in order to determine our genuine defense requirements.

The bill I present to you today represents a balanced and proper allocation of military construction spending which admits to the fact that there are other things that will have to be and ought to be taken care of, and through time will, but this represents the highest priorities of those that need to be done now. There are several major areas of emphasis that I would like to bring to your attention that the committee is recommending.

First, we have in here $97 million for the beginning of the planning and design for the deployment of the MX missile. I might say at this point that the gentleman from Nevada (Mr. Santini), who was not able to be here today should be commended for his efforts in first putting the feet of the military to the fire with regards to split basing. In bringing that concept before this body last year, Mr. Santini has clearly indicated his profound concern for the impact of this system on his constituents. He has worked closely with this committee to assure that all facts and facets are considered—particularly as they pertain to mineral, land, and human uses—before we proceed. We do require a number of things, one of which, of course, is the environmental impact statement, required by NEPA. We will not appropriate any funds out of this bill to proceed with construction until after that evaluation is totally completed and reported back to this committee.

We would also like to emphasize this committee's clear belief that U.S. materials such as steel, cement, and so forth, should be considered in the planning of this project and used wherever possible in its construction. It is essential to our national defense that we support and promote our own business and industry. This committee adopts that policy and will do everything possible to invigorate our economy and contribute to the full employment of labor and other resources through its appropriations activity.

□ 1240

Second, we have in here insisted on host nation support from our NATO allies and others, Japan in particular. After World War II we were in a position where our allies had nothing with which to defend themselves so we needed to contribute much more to our mutual defense needs. That has now been reversed. Because of our added mission in the Persian Gulf and those considerations, we feel it is time that the foreign nations where U.S. troops are stationed must begin to come up with more support for our Forces as well as their own. We are putting more of our gross national product on defense then any of our principal allies. When we do that, that allows them to contribute more to economic matters, which puts us in an unfair advantage in world markets and trade.

Third, in the NATO program we have funded what we feel is essential in the NATO infrastructure program for joint funding for our requirements in Europe but we must push them to come up with a little greater funding.

We have provided some $209 million for construction of facilities in the Indian Ocean so that we can protect our supply of oil as well as our NATO allies.

Also, we have dealt with the needs of energy conservation. There is no question that we need to move ahead with solar energy. We do have some projects, demonstration projects, that we agree with, because we need to move ahead but we did cut out of what has been proposed all those that did not meet the Department of Energy life cycle cost. Some of those presented to us had a 500-year payback and some of them never pay back. so we do not want to require the military to buy a lot of Model T Fords in a 1980's environment. We need to push ahead with some things, but we have to be certain they are economically practical and will save, actually save money and scarce energy resources.

With regard to the Space Shuttle we cut out some money because they have fallen behind in their target launch dates for the final development of the Space Shuttle. We fully agree it has to go and we want to fund it as fast as they are ready. As soon as they get to the point where they are ready to launch then we will make the facilities ready for them. They have had several years of delays and it would appear they will have more.

In family housing we have provided $1.85 billion for the family housing program. This includes funds for 2,551 new family housing units. These are very necessary to keep our military families well housed.

Mr. Chairman, we have met many times over the past 5 months in hearings to arrive at the best possible bill. What you have before you today are the results of this diligence.

The areas we focused on involved the most significant issues facing the committee today—the MX missile, Indian Ocean, NATO, the Pacific, medical care, support of U.S. troops and dependents abroad, energy conservation, pollution abatement, base closures, security of nuclear and chemical weapons, and safety. The committee carefully reviewed the MX program, family housing, the role of the Reserve components in the total force, the Space Shuttle—in conjunction with the Defense and HUD-Independent Agencies Appropriations Subcommittees—and shipyard modernization. I will provide additional information here on a number of the major recommendations that are explained in more detail in the committee report.

MX MISSILE PROGRAM

The MX missile is the U.S. response to an increase in the vulnerability of land-based missiles. This vulnerability results from the Soviet's improved ICBM's being capable of destroying any target on the Earth's surface. The MX is designed to complicate the Soviet's targeting problem by providing 4,600 multiple targets within which a total of 200 MIRV'ed MX missiles could be located.

The fiscal 1981 budget contains the first request for deployment funds for the MX missile. This is in the form of planning and design funds to begin site identification, planning and design for training, operational, and maintenance facilities. It is essential to begin this design in fiscal 1981 in order that construction can be started in fiscal 1982. The start of construction, in turn, largely determines the ability to achieve the 1981 initial operational capability and the 1989 full operational capability.

The committee is recommending the full requested amount of $97 million in this bill to begin design of the MX missile system. The site-specific design of facilities funds are available contingent upon completion of a split basing analysis as part of the environmental impact statement. By design of site-specific facilities, the committee means designing buildings and other above-grade structures to fit a particular site. Master planning and design of roads, and building designs that are adaptable to any site, may go forward. This is consistent with the requirements of NEPA.

The committee has also imposed the following additional requirements on the Department of Defense in regard to the MX missile program:

The Air Force cannot design an area security system for MX. This is to assure that it conforms to the Minuteman model of point rather than area security and that there be a minimum disruption of the environment.

A construction management plan must be presented to the Congress to identify the extent and location of the MX construction work force impacts. This is intended to help avoid a "boom town" crisis in the affected areas.

Examination of a "grid" deployment method to better utilize land and minimize roadways and shelters designed so that as many as 10 or 12 missiles can be moved among 250 or more shelters. This will be based on the same survivability and backfill criteria of the currently planned linear roadway system to permit increasing the number of shelters within the already utilized valleys should this become necessary. This will avoid the need to increase the number of valleys used should the Soviets fail to comply with the SALT agreements.

Elimination of "SALT ports" will reduce the environmental impact of the MX system by avoiding the once-a-year or so requirement to dig a hole in each missile shelter. This will permit the desert to reconstitute itself and will maintain a more stable ecological balance.

A community impact assistance plan and program is essential to the success of the MX missile program, and the committee has set aside $4,000,000 for this purpose to assure that proper planning is done.

As the MX program evolves over the years, the committee expects that there will be technological problems in the missile and its transporter, there will be cost increases that cannot be controlled, and there will be other delays that cannot be anticipated at this time. Notwithstanding these circumstances, the committee feels it is in the interest of our national defense to proceed at this time with design that will permit deployment of the MX missile in the time frame proposed by the Department of Defense.

PROJECTED MX DESIGN AND CONSTRUCTION FUNDS

[In millions of dollars]

Year	Planning and design	R. & D. facilities	Construction	Total
1980		[1] 65.0		65.0
1981	97.0	17.0		114.0
1982	124.5		372.7	497.2
1983	191.0		2,512.7	2.703.7
1984	246.4		2,468.0	2,714.4
1985	229.3		4,248.4	4,477.7
1986	119.3		5,069.3	5,188.6
1987	45.0		4,238.0	4,283.0
1988	9.0		1,329.0	1,338.0
1989	1.0		394.0	395.0
Total	1,062.5	82.0	20,632.1	21,776.6

[1] Includes $57,000,000 at Vandenberg Air Force Base, Calif. and $8,000,000 at Arnold Engineering Development Center Tennessee.

HOST NATION SUPPORT

The United States has over 500,000 military personnel stationed in foreign nations. The costs of maintaining these troops abroad are, for the most part, paid by the American taxpayer. This is because they contribute to the security of the United States and are an extension of our foreign policies.

At the same time, however, the fact that the United States maintains troops in a foreign country means that that country does not have to have as large a military establishment as it otherwise would have to. Its military costs are lowered by the U.S. presence. There are other economic benefits that a country gets from having U.S. military benefits.

Because of these reasons, the committee is directing that the Department of Defense make efforts to increase the support provided by foreign nations to U.S. troops stationed abroad. The committee recommendation would delete funds for construction of facilities that should, in our view, be paid by the host nation that benefits from the presence of U.S. troops. These funds are for overseas pollution abatement, property taxes on family housing abroad, facilities for the Army's restationing in Germany, and other facilities. The total reduction is $50,000,000.

NATO CONSTRUCTION PROGRAM

The committee recommendation includes $583,000,000 for NATO-related construction and the NATO infrastructure program. This is below the amount requested in fiscal year 1980.

The committee has deleted several items from the NATO request because of the policy view that the NATO allies should be carrying more of the responsibility for funding facilities that are operational in nature or are jointly used. This "fair share" philosophy has been applied by the committee in previous years, and we reemphasize it this year by reducing the direct U.S. funding for NATO projects and increasing our contribution to the NATO infrastructure program, which jointly funds NATO construction.

The bill includes a new appropriation account, requested by the Defense Department, for the NATO infrastructure program.

Several factors were considered in the committee's review of this request. First among these was the belief that the United States and the NATO allies must operate on a "fair share" basis which does not impose an undue or unfair burden on any individual member. Second, the current status of the U.S. budget, with its substantial deficit, and the value of the dollar and strength of our economy must be measured against the relative value of NATO currencies and their economies. Third, the ability of each ally to contribute to common defense must be considered in the context of per capita income and per capita defense expenditures. In such a comparison, the United States ranks highest on both counts. Finally, the committee heard testimony and considered the apparent growth in Warsaw Pact capabilities as a factor in deliberating on the requested appropriations. However, the committee also considered that the NATO alliance represents a formidable opponent with tremendous assets and versatility which cannot be underestimated in any comparison.

PERSIAN GULF/INDIAN OCEAN PROGRAM

The bill contains $209 million to begin construction of facilities in the Indian Ocean to protect the Free World's oil supply. We have identified a number of cost offsets to gain host nation support to reduce total U.S. costs in this area.

The committee's report reviews in detail our concern over first, the inadequate expression by the Defense Department of objectives in the Indian Ocean, second, the lack of adequate planning and commitments, and third, the need for other nations to provide direct or indirect financial support for the program.

The committee has also indicated in its report its desire to give American firms preference in awarding the construction contracts that will be awarded in the Persian Gulf/Indian Ocean area.

ENERGY CONSERVATION

The committee has recommended $222 million for energy conservation projects. The Department of Defense annually uses 170 million barrels of oil, which is approximately 2 percent of all the energy consumed in the United States. The committee has been supportive of efforts by the Department to reduce energy consumption and is pleased to learn that the estimate for fiscal year 1981 is below last year.

Unfortunately, not all energy conservation measures initiated through the military construction program have proven to be economically feasible. Many solar energy projects proposed in fiscal year 1981, when evaluated against life cycle costs, have payback periods of more than 300 years. The Department of Energy has developed a regulation to help determine when solar energy should be used. The committee has deleted funds for solar projects that have not met the DOE policy on life cycle costs.

POLLUTION ABATEMENT

The committee has recommended pollution abatement projects totaling $107 million. The Department of Defense has made great improvements in the past several years in addressing its pollution abatement needs, and the committee continues its support for eliminating outstanding pollution violations.

The committee has recommended all of the pollution abatement projects requested in the United States but has denied projects overseas. The committee feels that there is a need for the Department of Defense to reduce its $1 billion domestic pollution abatement backlog and that overseas pollution projects should be financed by the host nation.

MEDICAL

The committee recommends a Defense Department medical construction program of $200 million. The Department has more than $1 billion in hospital replacements planned, and the committee is concerned that, because of the small fiscal year 1980 program, the replacement program is not proceeding on an orderly course.

The committee has continued its efforts to encourage the Defense Department to develop more programs to share facilities. This policy saves both operating and military construction dollars. In order to test the effectiveness of sharing of specialized services, the committee has directed the Department of Defense to develop and implement a program in three separate geographic locations.

The committee's report spells out the need for improved planning in medical readiness, sizing of health clinics, light care beds, and sizing of hospital rooms.

MILITARY CONSTRUCTION, ARMY

The committee is recommending appropriations totaling $828,308,000 for military construction, Army. This is $82,753,000 less than the amount requested and $102,659,000 above the fiscal year 1980 appropriation. The major reductions fall in the proposed overseas and NATO programs, where the committee felt that greater reliance on the NATO infrastructure program was preferable to increased U.S. funding and that more support should be obtained from the various host nations. The committee also deferred projects in the United States which were not ready to be constructed or for which alternatives were available.

MILITARY CONSTRUCTION, NAVY

The total recommended for Navy military construction is $732,873,000. This amount is $30,727,000 below the budget estimate for 1981, and it is $165,873,000 above the amount appropriated in fiscal year 1980.

The committee has continuing concern over the amount of funding requested for shipyard construction and Marine Corps facility construction. Delays in proposing improvements in both areas are creating long-term problems of eliminating backlogs.

The committee has approved a Navy construction program that includes funds for shipyard improvements, the Marine Corps, operational facilities, and major improvements for the new submarine support facility at Kings Bay, Ga.; oil spill prevention projects; and additional funding for the Trident support facility at Bangor, Wash.

The committee has recommended the $25 million in construction proposed as the first stage of the $293 million new naval hospital in San Diego. The committee has directed the Secretary of the Navy to reexamine the site issue for the facility and to certify that certain requirements are met.

MILITARY CONSTRUCTION, AIR FORCE

The recommendation of $783,797,000 for the Air Force fiscal year 1981 military construction program is $135,003,000 below the requested amount and $218,341,000 above the amount appropriated for fiscal year 1980.

The principal reductions in the Air Force request concern the Indian Ocean facilities and NATO projects in Europe. The committee deferred some Space Shuttle construction at Vandenberg Air Force Base, Calif., and the bill will require a first launch of the Shuttle before 1981 construction can proceed because of the many construction changes that have occurred and because of developmental problems in the engines and orbiter program. A total of $97 million is included for MX planning and design, as discussed earlier.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

The committee recommends a total of $136,100,000 for defense agencies. This amount is $99,600,000 below the fiscal year 1981 estimate and $56,250,000 below the amount recommended in fiscal year 1980. The major reductions made under military construction, defense agencies include emergency construction funding and the static war headquarters in Europe. The committee feels that the headquarters should be funded through the NATO infrastructure program.

The committee recommends the initial $32,700,000 funding of the $106,200,000 Defense Intelligence Agency facility. Planning and design are now complete for this facility, and the committee feels the project should proceed.

MILITARY CONSTRUCTION, RESERVE COMPONENTS

The recommendation for all reserve component construction in fiscal 1981 is $214,504,000, which is $7,804,000 above the amount requested and $94,504,000 more than the amount provided in fiscal year 1980.

The committee is continuing to require that the reserve components construct what is justified in the President's budget to the Congress and that any changes to the budget originally presented to the Congress be done through the existing reprograming procedures.

FAMILY HOUSING, DEFENSE

The committee recommends $1,855,537,000 for family housing in fiscal year 1981, which is $195,738,000 below the budget estimate and $356,840,000 above the fiscal year 1980 appropriation. The fiscal year 1981 request was 30 percent above last year, and the committee tried to reduce this increase to bring it in line with other departmental requests. The major areas of reduction are in the large increases proposed in administrative overhead, furniture, leasing, and property taxes to other governments.

The committee report goes into considerable detail on many of the issues that have been surfaced by the committee. Although I will not discuss them here, the following areas are of concern to the committee: First, the need for DOD and HUD to develop a workable program for stimulating off-base housing construction by the private sector; second, the lack of uniform costs among the services for operating and maintaining family housing units; third, the large amount of unobligated and unexpended family housing construction funds; fourth, the number of surplus family housing units that need to be disposed of quickly; and fifth, the high cost of overseas lease agreements. In regard to overseas lease agreements, the committee feels that the Department is entering into lease/construct agreements that will far exceed the cost of construction. The committee has deleted $20,000,000 in new leasing funds and directed the Department to begin plans instead for new construction.

The committee has recommended $222 million for the requested new construction and for the modernization of existing units.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I will yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding, Mr. Chairman.

Mr. Chairman, I want to commend the gentleman from Utah, the ranking member of the committee as well as the committee for the fine work on this bill. I think it is a very essential, very well balanced bill.

Mr. Chairman, I might ask the gentleman from Utah, is it correct to say the committee's concern about the Space Shuttle program and the condition that a test flight occur before further spending at Vandenberg Air Force Base relates specifically to delays in testing of the Shuttle itself and not to the designation of Vandenberg as a launch site or to any difficulties with that site?

Mr. McKAY. Mr. Chairman, the gentleman is correct. We have no problem with that. Vandenberg is the site and in fact the only site from which the military launches can be made on the west coast. It is strictly a matter of NASA's incapability to deliver the Shuttle at the time planned.

Mr. LAGOMARSINO. I thank the gentleman.

Will the gentleman yield for a further question?

Mr. McKAY. I do yield to the gentleman from California.

Mr. LAGOMARSINO. The language of the bill as it relates to planning for impact assistance to States and local communities affected by MX missile system development could be interpreted to restrict such planning and assistance solely to localities in the States of Utah and Nevada and not to other areas near the training and testing sites. Could the gentleman assure us that localities affected by MX testing, development and ongoing training over the next decade or so will also be considered in the planning and provision of impact assistance?

Mr. McKAY. In this particular bill we have specified that it related to MX and to the Trident new basing but the committee is sensitive to impact aid assistance. We already have several programs in existing law, and other ways, to meet those needs where there is heavy impact and I assure the gentleman as the time comes about where those heavy impacts should occur the committee would take them under very careful consideration as we have in the past.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

First of all, Mr. Chairman, I want to congratulate the gentlemen in the committee for the work they did in marking up this bill.

As the gentleman well knows and as is pointed out graphically at page 20 of the committee report, the Department of Defense is the largest energy user in our country and the committee has, according to its report, embarked on an aggressive program of energy conservation and alternative sources and they are to be congratulated on that.

Mr. Chairman, I have one concern and that has to do with some of the cuts made in solar energy for residences and for some of the other buildings and facilities that we have in the Department of Defense. Could the gentleman tell me about how much was cut?

Mr. McKAY. The committee cut out $50 million of that request.

Mr. DOWNEY. Mr. Chairman, I understand the committee made these cuts because it concluded that the projects were not cost effective; and in estimating the cost effectiveness of solar systems in the Department of Defense I was wondering if the gentleman could tell us what percent discount rate was used?

Mr. McKAY. It was a 10-percent discount rate, as is specified in the DOE criteria.

Mr. DOWNEY. Mr. Chairman, in continuing with this line of questioning, was an increase in the cost of fuel figured into or taken into account?

Mr. McKAY. That is required in the DOE criteria, and is also the basis on which we arrived at our judgments.

Mr. DOWNEY. With respect to annual operation and maintenance costs, I understand 3 percent was used as the figure; is that correct?

Mr. McKAY. I believe that is correct.

Mr. DOWNEY. I would point out to the gentleman, I am not going to offer an amendment on this but, both with respect to the discount rate, that S. 932, which was the synthetic fuels bill, and the Science and Technology Committee, use a discount rate of 7 percent when they are taking a look at the life cycle cost of solar systems. With respect to operation and maintenance costs, rather than 3 percent which was used, a 1.5-percent figure is normally concluded by the Department of Energy.

My principal concern, I would tell the chairman, is that the Department of Defense, in using the DOE methodology, may have made some errors, and it would be my hope that the chairman would be open to any suggestions at conference with respect to rectifying any of these mistakes.

Mr. McKAY. Mr. Chairman, I have no problem with that if it resulted from the application of the criteria. Any time we can rectify anything that is in error, we should. I would say that the committee based its decisions on information provided by the Department of Defense, all of which is contained in the hearing record.

Our only concern is, as we look at the number of dollars in providing housing and the things necessary to take care of our troops, we also want to make sure we are getting our money's worth, solar, of course, is in a testing and experimental stage in a lot of ways and we have no problem putting anything in that shows reasonable payback as compared to other sources. We have pushed to fund those facilities, those things which will meet some kind of reasonable criteria.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for his openmindedness and I thank the gentleman for yielding.

Mr. McEWEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I must acknowledge and thank my chairman for his generous remarks about my service on this subcommittee. Let me say it has been a pleasure serving with the gentleman from Utah (Mr. McKay). Also, I have enjoyed serving with the other members of this subcommittee including the gentleman to whom the gentleman from Utah referred, the gentleman from Oklahoma (Mr. Steed). Also, we appreciate the assistance of our staff who have supported us in our work, Mr. Shulaw, Mr. Peel, Mr. Smith, Mr. Allen, and Colonel Hallanan.

Mr. Chairman, I share the regret expressed by our subcommittee chairman that we do not have an authorizing bill ahead of our appropriation bill.

I see the gentleman from Michigan (Mr. Nedzi) is present on the floor. Let me say we have worked closely with Chairman Nedzi and his authorizing subcommittee.

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We have not included here in this bill any project that was not brought out by Mr. Nedzi's subcommittee. As the gentleman from Michigan is also leaving after this Congress, may I say that I have enjoyed the association with the gentleman from Michigan (Mr. Nedzi).

With regard to this bill, Mr. Chairman, the chairman of the subcommittee, the gentleman from Utah, has covered it very well. I believe that our committee has been diligent and conscientious in our hearings and our markup in providing what we believe is necessary; where something can be deferred at a savings of the taxpayers' money, we have.

I want to add just a word of my esteem for the gentleman from Utah, which has grown over the years of my association with him; and particularly this year, Mr. Chairman, when he had to face the question of the MX missile basing in his own State of Utah. Chairman McKay has been responsive in listening to the concerns of his own area, but at the same time, Mr. Chairman, he has not lost sight of the needs of America for an adequate defense and the importance of the MX missile system. So, I want to say to my chairman, you have my greatest admiration for the manner in which you have handled this. You have truly been statesmanlike. I know how difficult it is when there are concerns in your home area to deal with those, while at the same time not losing sight of national interest.

The chairman has mentioned several major areas of subcommittee emphasis. I would only emphasize one, and that is the question of host nation support. The decision to eliminate or reducep funding for several needed projects was not easy to make, but we face increased spending in Europe, and now in the Indian Ocean area, where the interests of other nations should be equal to or greater than our own. Thus, it seems imperative that these other nations be convinced that they should assume a fair share of this burden. If withholding funds is the only way that we can gain their attention, then so be it.

Mr. Chairman, at this time I would like to yield 2 minutes to the gentleman from Massachusetts (Mr. Conte), the ranking Republican on the full committee.

Mr. CONTE. Mr. Chairman, the military construction appropriation bill now before us is particularly significant to me and to the Nation because it marks the final time the bill will embody the wisdom and dedication of two of my very good friends.

The gentleman from New York (Mr. McEwen) has served this House with distinction. More specifically, he has been a valuable and important member of the Military Construction Subcommittee, ably filling the role of ranking minority member.

Likewise, the gentleman from Oklahoma (Mr. Steed) leaves us at the conclusion of this Congress, having contributed for many years to the security of our Nation as a member of the Milcon Subcommittee.

Mr. Chairman, these two gentlemen, retiring at the conclusion of this Congress, have left their mark on our national security. Each has had to face the tough decisions of which matters of defense bring to those with this responsibility. There is no instance where Bob McEwen and Tom Steed ever did anything except place their country first. Now, they go to retirement from this body, but what they leave behind should be an example for all who follow.

I hope my good friend, Bob McEwen, for whom I have the greatest love and respect, will spend many relaxing and successful decades on the St. Lawrence River, and may he wet his line often, and may he have many successful and beautiful days out there. I have been up in that part of the world, and I know how beautiful it is. I wet my line up there with some success, and I hope that I will be able to go up and pay a visit to him during the fishing season.

The bill we consider here today, while their final effort, is but another of the long list of outstanding appropriations bills which bear their mark. I will miss them, the Appropriations Committee, the Congress, and the country will miss them. And I could not let this occasion pass without thanking them for their work and to, once again, urge passage of the bill which they have worked so hard to bring to this floor.

Mr. McEWEN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Regula).

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. I will be very brief. First of all, I want to commend those members of the committee, and particularly the gentleman from New York, who will be leaving this year. I have been serving on this committee for 4 years, and it has been a real pleasure because this committee has tried to do what many people are suddenly discovering is relevant; that is, bring good management to the determination of how we expend taxpayer money.

As I observe the actions of this subcommittee, I think that it really applies four tests to every project. Obviously, it is difficult because we are managing the real estate of the military services. These bases are scattered throughout the world, so it is difficult to assess the impact that might result from the actions of the subcommittee in funding various projects.

But, the tests are these:

First, is it necessary? Is this a base, is this a project, that is required?

Second, is it cost effective? Is this the best way to solve a problem that is presented to the subcommittee?

Third, does this project represent good management? Is there a different way that it could be handled. Is it something that will be needed not only today, but in the future? The judgments on expenditure of funds becomes very important if we are to have the necessary resources in the years ahead to meet the commitments of this Nation.

We have just been through the adoption of a first budget resolution. It has been a painful exercise because we have discovered that the resources and the wealth of this Nation are not unlimited. We have discovered that it is difficult to make the choices that will effectively use tax dollars to meet the needs of our people and the responsibilities of our Government. Right now, many of the subcommittees or the committees are dealing with the problem of reconciliation, and the tests that have been applied in this subcommittee to military construction projects, are now hopefully being applied to every facet of the Government, or at least they should be.

The fourth test that this subcommittee applies to the project is this: Will this contribute to the security of the United States of America? That is the very most important of all. Will this expenditure of taxpayer dollars enhance the ability of the United States to remain a secure and a free nation, and to be a partner with the free world in protecting those things that we all cherish?

I think that this is a good bill with the tests that have been applied by the subcommittee. We are trying to use the dollars allocated to our committee in a way that will make sure that our military forces have what they need, but that it will be done in a cost-effective way; that these are projects that will be useful not only now, but in the years ahead.

The credibility of this bill is a tribute to the chairman and to the ranking minority member, because they particularly spent those days after days after days listening to witnesses testify as to what their needs are. It is a hard job. It is a tedious job. It is a very important job, and all of the people in these United States should be grateful to the chairman and the ranking minority member for the kind of dedication they give to this responsibility.

Mr. Chairman, I certainly urge the passage of the bill.

Mr. McKAY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BURGENER).

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Mr. BURGENER. Mr. Chairman, I thank the distinguished chairman of this subcommittee for yielding me this time.

Before I engage the gentleman in a colloquy, I would like to say a word or two about our ranking minority member, the gentleman from New York (Mr. MCEWEN), who leaves the Congress at the end of this term voluntarily—the way most of us would like to leave.

I want to express my personal appreciation to BOB MCEWEN for his dedicated service, first to his constituents, and then to his State and to his Nation, of, I believe 16 years, if I am not mistaken, in this House, with 10 years on the Committee on Appropriations and 8 years on this particular Subcommittee on Military Construction.

I want to express a very special word of thanks to him and to the distinguished subcommittee chairman, the gentleman from Utah (Mr. MCKAY), for their attention to duty one long Thursday afternoon some months ago, after the House was out of session and had adjourned for the weekend. The rest of us had gone home, or to our districts, but these two gentlemen spent long hours listening to my constituents, to constituents of the gentleman from California (Mr. BOB WILSON), and to constituents of the gentleman from California (Mr. VAN DEERLIN) about a very serious matter that we have in San Diego concerning a Navy hospital. I only mentioned that be-because it is typical of the gentleman's devotion to duty. So far as I know, he never missed a hearing of his subcommittee, and that is the kind of service that this House needs. I appreciate it very much, BOB, and we are going to miss you very, very much.

Mr. Chairman, will the distinguished chairman of the subcommittee, the gentleman from Utah (Mr. MCKAY), be kind enough to answer a question or two for me?

Mr. McKAY. Yes, I will.

Mr. BURGENER. Mr. Chairman, as we know, the gentleman did spend long, long hours listening to people from San Diego County and listening to the Navy about the need for a new naval hospital in San Diego. I refer now to the language in the committee report which is on pages 34 and 35, and in a moment I will be pleased to yield to my senior colleague, the gentleman from California (Mr. BOB WILSON), on the same subject.

Near the bottom of page 34, the committee says: "The Committee continues to support the need for a new hospital to replace the San Diego Regional Medical Center," and it does place into this bill $25 million, which would be the 1981 funding toward an ultimate cost of $293 million to build this facility.

The committee cites three conditions which must be met: First, the hospital is to be constructed on land owned in fee simple by the Federal Government; second, the facility must be able to be constructed within the fiscal year 1981 estimate of $293 million and within the planned timeframe; and third, the program scope will not be sacrificed because of the site selected. And if the site meets these criteria, then the decision as to the location of the hospital is left to the Secretary of the Navy.

Is my understanding correct?

Mr. McKAY. Mr. Chairman, if the gentleman will yield, let me state that the gentleman is correct.

Mr. BURGENER. Mr. Chairman, I think that is very fair. We have had a lengthy dispute in our community about the location of the hospital; but there has been little or no dispute about the need for the hospital.

I would like to thank the committee for its patience and its understanding, and I would urge the Members to hold firm on this language in the conference report. This is a good and fair agreement. If this criteria is met, I think the site will be decided on merit by the proper people who can best decide it.

Mr. Chairman, I appreciate what the committee has done, and let me say, "When you get to conference, if you hold firm on what you have already done, I think you will have done your usual excellent job."

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to my colleague, the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I take just a moment of the time for two reasons: First of all, to join with those who have commended BOB MCEWEN for the job he has done. We have been very proud of him. I am personally proud to call him a friend. He has always been very fairminded, generous, and evenhanded in his dealings with me. I am going to miss him.

As the gentleman knows, I am joining with him in retiring, along with the gentleman from Missouri (Mr. ICHORD), who is here. The chairman of our Subcommittee on Military Installations and Facilities, the gentleman from Michigan (Mr. NEDZI), is also retiring. I am not sure about the gentleman from South Carolina, but I guess he has also decided to join us.

I am forming a new organization to be known as FFMC, which will be in action for the next 6 months and then will go out of business. I appoint you all vice chairmen of this group, which is known as the Future Former Members of Congress. I would be very happy to have you in this organization with us.

The CHAIRMAN. The time of the gentleman from California (Mr. BURGENER) has expired.

Mr. McEWEN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, I

thank the gentleman from New York (Mr. McEwen).

Mr. Chairman, I would just like to engage in colloquy with the chairman of the subcommittee on this particular matter, if I may.

I commend the gentleman, who conducted some hearings in connection with the hospital that were, I think, rather arduous and perhaps rather confusing. We had a lot of very emotional testimony in the hearings on the subject matter before the committee.

I believe the committee made as fair a decision as it could in opting for the fee ownership. I was personally in favor of the rental agreement, the lease agreement, which the Navy had entered into with the city previously, but I can understand the problems involved and the precedent that would be set under that condition.

I think, as our colleague, the gentleman from San Diego, Calif. (Mr. Burgener) has said, that the three conditions that have been put on this question are eminently fair. I am concerned, I must say, about what the Senate is doing. I have heard rumors that they are going to put much more restrictive conditions on this particular matter calling for approval by each of the committees in the House and the Senate, the authorizing and appropriating committees, of any changes or any decisions that are made in addition to this.

I would hope that the subcommittee chairman would agree that the three conditions that have been put in this will be upheld in conference. I think that would be very important, because if it got very complicated beyond this, we would have a good chance of losing the hospital, and I would hope I could get some assurance from the distinguished subcommittee chairman that he would stand very firmly for the conditions that have been put in here.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, as the gentleman knows, I am charged by the House to uphold the House position as far as is absolutely feasible. I fully intend to do that.

The committee has for a long while been concerned about properties the military has leased which have wound up costing us two, three, and four times what they should have if we had bought them.

Mr. Chairman, I can assure the gentleman that we will push to hold the House position on everything we have included in the bill.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I would like to share in the gentleman's remarks. I, too, endorse the conditions we have put in here, and I will do what I can to maintain them.

Mr. ICHORD. Mr. Chairman, will the gentleman yield for a question?

Mr. BOB WILSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I wish to commend the chairman of the Subcommittee on Military Construction, the gentleman from Utah (Mr. McKay), for the overall excellent bill that he brings to this body, and I commend also the distinguished members of his committee under his leadership as well as the leadership of the distinguished gentleman from New York (Mr. McEwen).

I am particularly impressed, I would state to the gentleman from Utah (Mr. McKay), with that portion of the committee's report dealing with MX basing, and I hope that all of the members of the committee have taken the time to read this section of the report and to study that section as it relates to sections 118 and 119 of the bill.

May I state, Mr. Chairman, that I well understand the gentleman's zeal in making sure that his State is protected. I do not share, as the gentleman well knows, all of the concerns that the gentleman from Utah (Mr. McKay) has, but he has taken the time to study and review the issue of MX basing in detail, he has concluded that the MX is essential to our national security, he has acted intelligently to protect the interests of the citizens in the deployment area, and he has accomplished that goal without creating unnecessary perturbations in this, the Nation's most critical strategic program.

For purposes of clarity, I would ask the subcommittee chairman, what is meant by the term, "split basing," as used in the report?

□ 1310

Mr. McKAY. What it amounts to is that you would have to consider more than two States specifically identified at this point in the Air Force plan. Presently you have Utah and Nevada, which are designated as the area for MX. Under split basing, that would mean that you would have to find another State or two States or some other place to take some part of perhaps half, or whatever it may turn out to be, of the missiles as a deployment area.

Mr. ICHORD. Does the gentleman have any estimate as to the cost of split basing at this time?

Mr. McKAY. We do not know that exact figure. There are estimates anywhere from $2 to $7 billion. But I do not think we will know that until after the EIS and NEPA requirements have been met, which we have required be done, then they cannot proceed with site-specific design. That is required within their study anyway to determine what those facts are and how much the cost will be and where the location will be and whether it can be there. All of those things must come back to our committee prior to allocating funds for actual construction.

Mr. ICHORD. I thank the gentleman for that explanation.

Mr. McKAY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Anderson).

Mr. ANDERSON of California. Mr. Chairman, it was with some disappointment that I learned that this bill, the military construction appropriations legislation for fiscal year 1981, does not include funding necessary to construct family housing on the Middle Reservation at Fort MacArthur in California.

The need certainly exists for housing at the fort. There are, scattered throughout the Los Angeles/Long Beach area, many Department of Defense installations. Studies conclusively show that housing in the area is among the most expensive in the Nation. And not only is it expensive, it is virtually unavailable. The vacancy rate in this metropolitan area is hovering at around 1 percent.

Of particular immediate need is housing for enlisted personnel and lower-ranking officers and their families stationed at the Air Force Space Division—formerly SAMSO—in El Segundo. And with the Navy's return to Long Beach, we can count on an even increased defense housing need in the area in the near future.

To help meet this requirement, the Air Force identified the need for construction of family housing on the middle reservation of Fort MacArthur, as was authorized in Public Law 96–125. Fort MacArthur is ideally suited for this purpose, as it is being vacated as an active base by the Army. The U.S. Government already owns the land, and the people of San Pedro have always welcomed a military presence in the area.

The administration, in its line-by-line military construction request, did not list housing for Fort MacArthur. I am told that they believed such a request was not necessary, as they intended to utilize funds reprogramed from previous years to construct the housing. This year for the first time, however, such reprograming is not, generally speaking, being permitted.

So, although this item was not included in the administration line-by-line request for fiscal year 1981 funding, they did clearly desire that such housing be constructed during the coming year, as is reflected in Air Force testimony.

I regret that the bill before us today does not accommodate this need for family housing, although I certainly respect the committee's wisdom in clamping down on the reprograming of funds for uses such as this.

I will be working with our colleagues in the Senate to see if they can add a specific line-item to include the $12.5 million that is needed for the project. Of 200 units eventually needed on the middle reservation, the Army interposes no objection to the immediate construction of 100 to 125 of them. Work on these units should begin as soon as possible. Clearly, it is a project that will eventually be undertaken. It would seem to make sense that we beat future inflation rates, which in the past year have added $1 million to the cost, by doing this work now.

Mr. Chairman, I certainly support the bill that is before us today, and urge our colleagues to similarly support it. But with all due respect to the distinguished gentleman from Utah (Mr. McKay) and his able colleagues on the committee, I want to point out this relatively minor—but to those servicemen stationed in the Los Angeles/Long Beach area, extremely significant—omission. At the same time, let me express the hope that this can be rectified before the legislation is presented to the President.

Mr. McEWEN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. Corcoran).

Mr. CORCORAN. Mr. Chairman, the reason I asked for this time is because, in doing some research on behalf of a National Guard project in my district, at Marseilles, Ill., I found out that there appears to be a rather serious case of underfunding for the construction programs associated with the National Guard. It for that reason that I rise this afternoon in order to ask a question or two of the leadership of the committee.

In following up on the general problem, I have learned, of course, that the Army National Guard currently makes up a rather substantial portion of the Army; but at the same time, the funding in real dollars for Army National Guard construction continues to go down. I could cite some figures here which I suspect are familiar to the members of the subcommittee. But it is for those reasons that I would like to engage the chairman of the subcommittee, the gentleman from Utah (Mr. McKay), in a question or two about this apparent lack of funding support for military construction of projects for the National Guard.

After all, we are requiring of the National Guard an important part of the overall mission of the Army. The readiness requirements, the training requirements, and all of those things that go to make up the quality of the National Guard are continually being demanded by the Army, but yet it would appear to me that the funding for the construction of training facilities has not kept pace with that concern.

So I wonder, particularly at this time, when we do have a growing concern in the country and a growing concern, fortunately, in the Congress over adequate support for our Defense Establishment, whether I am misinformed, or whether there is in fact a lack of funding for construction projects. For that reason, I would ask the chairman of the subcommittee this question: Are we seriously underfunding these projects? Why has there been a decline in the amount of dollars going into the construction projects for the Army National Guard?

Mr. McKAY. The committee has generally followed the budget request and the authorization. Last year we funded more than the administration's request, but we must follow the lead of the authorization committee, and we have usually funded the National Guard's request up to its full authorization. That is usually the way it works around here. You have to have authorization before you can get appropriations. So we have tried to do that, unless it was a specific project that did not have its design done, or where there had been a dispute with the State, the State was not putting up their share of the funds. Some of those kinds of things may have interferred in a specific area, but generally we have supported up to the full request.

Mr. CORCORAN. I am informed by the adjutant general of the State of Illinois that the backlog is somewhere in the range of $736 million for these projects, and the current appropriation, which as I recall in this bill is around $34 million, really will not make a dent in that backlog. How could that be funded?

Mr. McKAY. It could be in any given State that that possibility exists for several reasons. Either the projects have not been approved, or the State has not come up with their share of the matching funds, which this fund is. The Federal Government does not fund all of the National Guard costs. The State has to come up with a certain amount and the Federal comes up with another amount. In some cases the National Guard, in their screening of what they are willing to recommend in those priorities, maybe does not get them to the Congress per se.

Mr. CORCORAN. I thank the gentleman for his contribution.

Mr. McEWEN. Mr. Chairman, I have no further requests for time.

Mr. McKAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Guam (Mr. Won Pat).

Mr. WON PAT. Mr. Chairman, I am pleased to add my support for H.R. 7592, the Military Construction Appropriations Act of 1981. This bill provides for essential constructions at U.S. and foreign military facilities. As a member of the House Armed Services Committee, I have had the opportunity to review the contents of this measure and believe that its passage is in the best interest of the United States.

I am especially pleased to support those portions of the bill which provide funds for military construction in Guam. The amount appropriated and also authorized by my committee totals $5.5 million for bases in Guam. Included in this amount is $1.9 million for an ocean surveillance building in the naval communications station; $490,000 for a lighting system at the naval supply depot; $440,000 for additions to a firefighting station at Andersen AFB; and $4 million for construction of oil and gas facilities at the base.

This amount is a solid investment in American security in the Western Pacific. Frankly, I believe this amount for construction is too little; I have repeatedly urged the Department of Defense to review their plans for the Western Pacific. I am deeply concerned that we are putting too great a priority on the Middle East and Europe and forgetting that this Nation is essentially a Pacific naval power. This is a lesson we forgot and had to relearn to our great sorrow in World War II. I only hope we are not making the same mistake.

I salute the members of the House Appropriations Committee for the content of this bill. It is very much needed and I hope that it is adopted by the House today.

Thank you.

● Mr. PANETTA. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, H.R. 7592, the military construction appropriation bill for fiscal year 1981 includes funds for a number of essential projects in the 16th Congressional District in California. I want to thank the chairman of the military construction subcommittee, the gentleman from Utah, for his work in recognizing the importance of these projects.

The bill includes funding for a health clinic and beds at Fort Hunter Liggett, an isolated outpost which is sorely in need of improvements in its health care facilities. The new clinic will enhance the effectiveness of the training post and boost the morale of troops stationed there. In addition, the bill provides needed funds for a motor vehicle maintenance facility. By constructing these two projects at Fort Hunter Ligget simultaneously, the Army will be able to save money and time. I applaud the committee's support for these projects.

At Fort Ord, Calif., funds are provided for a new health clinic and for 500 family housing units. Both of these projects are desperately needed for the health and welfare of members of the military and their dependents who are stationed at Fort Ord. The committee's support for these projects is very much appreciated both by me and by the military personnel who have volunteered to serve this Nation in uniform.●

Mr. McKAY. Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

The Chair hears none.

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

Military Construction, Navy

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $732,873,000, to remain available until September 30, 1985: *Provided*, That of this amount, not to exceed $63,790,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That $1,000,000 of the funds available for planning and design shall be available only to assist State and local governments in community impact planning for the fleet submarine support base at Kings Bay, Georgia.

The Clerk read as follows:

Amendment offered by Mr. JONES of North Carolina: On page 3, line 4, strike "$732,873,000" and insert in lieu thereof "$737,023,000".

Mr. JONES of North Carolina. Mr. Chairman, I am offering an amendment to add $4,150,000 for Naval military construction for the cryogenics generating plant and support equipment repair facility at the Cherry Point, N.C., Naval Air Rework Facility, MILCON Project P-515 (revised). This money will allow the construction of a desperately needed new building to house repair and laboratory facilities essential to the maintenance of our naval and Marine Corps aircraft.

Not only does the Cherry Point NARF repair and service some of our most advanced military aircraft, but it also maintains the sophisticated support equipment used in keeping these planes ready for national defense purposes. We have all witnessed a recent tragic reminder that expensive equipment can be of full utility only if it is serviced properly. Construction of this new facility at Cherry Point will guarantee that the planes and support equipment there are receiving the care which is essential.

I had originally planned to offer an amendment for this project when the House considered the military construction authorization bill, H.R. 7301. This would have laid the foundation for the present amendment to this appropriations bill. As fate would have it, however, the appropriations bill has preceded the authorization bill to the House floor. Because of the urgent need for this new facility, documented by the U.S. Marine Corps, I just felt compelled to offer the present amendment.

Let me repeat again, this is not in the authorization bill, but my colleagues of the House, and those of this body who are looking on the screens in their offices, nothing we are doing here today has been authorized. Sure, we have an authorization bill, but it has not been considered or approved by this House. Therefore, I respectfully contend that my amendment is in order, proper, and should be given full consideration.

I will continue my efforts to include the project in the authorization legislation when we consider it in the near future.

Cherry Point is responsible for maintenance and repair of cryogenics generating plants, that is, equipment which produces liquid oxygen and nitrogen for military aircraft. These generating plants can be deployed at bases, in the field, or at sea to produce breathing oxygen for air crews. They also generate liquid oxygen and nitrogen required for servicing aircraft and meeting various medical needs.

Another function of this facility is to overhaul, examine, disassemble, and make ready various equipment used to maintain military planes. This equipment includes air compressors, hydraulic jacks, areo stands, and other items vital for the proper care and operation of the Navy and Marine aircraft.

Mr. DAVIS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from South Carolina.

Mr. DAVIS of South Carolina. Mr. Chairman, I rise in support of this amendment. While the Cherry Point installation is located in North Caroline, it supports squadrons all up and down the east coast, one of them being located at Beauford Marine Corps Station in my district. We have had a good many fatal air crashes coming out of this. You have got to go back and look at the fact maybe some of these crashes are caused by the inadequacy of these repair facilities. This was one item not brought to the authorizing committee because of the reshuffling that took place with some of the Space Shuttle funds, some of the moneys that are involved in the Indian Ocean area, but as the argument will be presented by the Appropriations Committee, it is not authorized.

I am a member of that authorizing subcommittee. I would predict almost that it, this time, will be in the bill, authorizing military constructon when it leaves the House. I think it will stay in conference. I think if we could go ahead with this project, we are going to contribute to the defense of the country, but more importantly we are going to contribute to the safety of the men who fly the aircraft.

I think this is a needed facility. It is something that deserves the immediate attention of the House, and it really gets down to the basic concept of whether or not we are going to buy expensive aircraft and then not be able to maintain them adequately so we can provide for the defense of this country.

I support the gentleman's amendment.

Mr. JONES of North Carolina. I thank the gentleman from South Carolina (Mr. DAVIS) for his support.

Finally, Mr. Chairman, the Materials Engineering Laboratory provides research and analysis of materials associted with aircraft operations. It is involved in the fields of metallurgy, chemistry, high polymer repairs, and analysis of gasses, oils, and fuels.

The Cherry Point NARF sorely needs a new building designed to accommodate these functions. Presently these activities are housed in two small "temporary" buildings constructed in 1964 for storage purposes. Because of the large size of the generating units, only a few can be worked on simultaneously in the cramped quarters. Work on some of the equipment must be done outdoors in uncovered areas, weather permitting. Tools and materials have to be stored away from the shop because of lack of space. The utilities are inadequate; heating and ventilation systems are poor. Some jobs, such as welding, painting, and steam cleaning have to be done away from the shop because of safety and pollution requirements.

Despite these trying conditions, the personnel at Cherry Point do a remarkable job. Nevertheless, the deficient physical facilities take their toll in productivity and efficiency. This appropriation will be a modest investment in maintaining the quality of our military air defenses. I urge the acceptance of this amendment and ask that the Members keep in mind the safety of those brave men and women who fly military planes around this Nation and around this world day by day.

Thank you, Mr. Chairman, for permitting me to speak.

Mr. McKAY. Mr. Chairman, I rise reluctantly in opposition to the amendment of the gentleman from North Carolina (Mr. JONES).

Mr. Chairman, what the gentleman says about improving our military posture in general is true. There is no question about it. It is true that Cherry Point has been a major facility for the Marines. The committee does not wish to impair that situation, but I have to reluctantly oppose the amendment for several reasons.

One is that it was never brought to this committee before. It was not brought to the authorization committee. Second, when this committee went before the Committee on Rules to seek a waiver, we sought a waiver of clause 2, rule 21, and the basis of which was to conform to the House authorization bill as proposed. This was so that we did not get out of line with the authorization people. This is constantly an issue on this floor.

If we are to accept an amendment on the floor of an unauthorized project, even though that bill has not been to the floor, that would be contrary to the spirit and purpose of the rule granted waiving points of order for the lack of authorization.

Consequently, I must reluctantly oppose it.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Section 835 of the House rules reads as follows:

> Where an unauthorized appropriation is permitted to remain in a general appropriation bill by waiver of a point of order, an amendment merely changing that amount is in order.

That is all my amendment does. As a matter of fact, currently in the so-called authorization bill, wherever it is, there is $732,873,000. All we are doing is changing the 732 to 737.

□ 1330

So, of course, the gentleman is not raising a point of order. I am well aware of that; but in spite of the tacit agreement with the Committee on Rules, which I will not question, it does seem that the rules and regulations support my position to go ahead, and if we can possibly agree with the amendment.

Mr. McKAY. Mr. Chairman, the gentleman is technically correct; but I believe in the spirit of what we requested from the Committee on Rules and in the consideration that that committee has afforded us, I believe that we still have to oppose the amendment.

Mr. DAVIS of South Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I can appreciate the argument of the chairman of the subcommittee; but I would like to ask the gentleman from Utah (Mr. McKay), are we on the authorizing committee to just stand and say that everything we do in the committee is all that can be done by the House? In the future, does the gentleman just plan to ask for a closed rule on these types of bills when we have this type of situation?

I think that any tacit agreement with the Committee on Rules that precludes, literally precludes the Members of this body from offering an amendment does great harm to the system. Maybe the budget process is what has caused it, the fact that we no longer are able to deal in an orderly manner because of the budget resolutions to where the authorizing bills do come before the appropriation bills and, therefore, we are stuck with bringing them up.

But really, does the gentleman think that this agreement should tacitly refuse to accept any amendment that would add to the security of this country by bringing a closed rule and saying that we will conform only to what is written in that bill, no matter what the need of the country is?

Mr. McKAY. Well, as the gentleman knows, this is not a closed rule.

Mr. DAVIS of South Carolina. It is a closed rule, if it is the argument of the committee that they do have an agreement with the committee, that you have an agreement with the Committee on Rules, that you will conform with what is in the authorization, which has not been authorized, not even brought to the floor.

Mr. McKAY. The gentleman knows that this committee has worked very closely with the authorizing committee. We have suggested to the leadership that their bill comes to the floor before ours. It was not our choice that we came ahead.

Technically, the amendment can be offered, because it is open; but in compliance with what we agreed to in order to get the waivers to proceed under the conditions that face us with the leadership, not my choice, and we questioned, too, why if it is so vital that the committee on which the gentleman serves did not bring it before that committee, the amendment that the gentleman proposes, and bring it before the committee and amend it on the bill, that the gentleman has proposed out of the committee.

Mr. DAVIS of South Carolina. If the gentleman will let me have my time back, that is exactly why it was not before our committee. It was the reshuffling of priorities that took place with the Indian Ocean, with the Space Shuttle and everything else, and the gentleman knows as well as I do that most of the NARFS involved got knocked back another year. This is what happened here; so the fact is that is why it was not coming forth.

Mr. McKAY. But the fact remains that that committee did not consider it as it reported its bill out ready for the floor, and in regard to the spirit in which we tried to cooperate with that committee we feel compelled at this point not to accept this amendment.

Mr. DAVIS of South Carolina. Well, I would just rather that an issue concerning the security of the country be argued and judged on the needs of the country and the defense system, rather than a tacit understanding with the Committee on Rules.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, I would like to remind the gentleman from South Carolina that the chairman in his brief remarks on opening this debate, and in my even briefer remarks, we both referred to the fact that we each regretted that we are coming to the floor with an appropriation bill ahead of the authorization. With the pending amendments, we have a perfect illustration of why we would have much preferred to have an authorization before we had to come to the floor for an appropriation.

But may I say to the gentleman from South Carolina, who is a distinguished member of the Committee on Armed Services, if we were to start adding projects that were not, as in the instant amendment, a part of the bill that has been reported from the Committee on Armed Services, I think the gentleman would object, and rightly so; so we have taken as our guide here the product as it is at this moment. I realize it may be amended on the floor; but unfortunately, it has not reached that point.

Finally, let me say that in examining the projects contained in the original requests of the Department of Defense in the austerity budget, before we had the austerity amendments to the austerity budget, I do not find under Cherry Point, N.C., any request for this project. If this be now a high priority project, I would say to the gentleman from North Carolina that if the Navy would make their views known on this, the Senate has still not acted; the conference is ahead of us.

But finally, the basic thing, and I support our chairman on this, we went before the Committee on Rules and we gave that assurance that we were considering here only projects that were in the authorizing bill as reported by the committee.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from North Carolina (Mr. Jones) is recognized for 5 minutes.

There was no objection.

Mr. JONES of North Carolina. If the chairman will yield to me for a colloquy, I would like to say that I am somewhat disappointed. I thought we had a very meritorious case within the bounds of the rules. Actually, I had some hope that the chairman and the ranking minority member might accept the amendment; but apparently they feel bound differently; so I would like to propound a question to the chairman, that if, indeed, this amount of money should be added in the Senate version, could the gentleman possibly find a way to support it, based on the very fine remarks the gentleman made a few moments ago, in conference?

Mr. McKAY. Mr Chairman, based on the most eloquent plea of the gentleman from North Carolina, I would not see it otherwise than to give it every right consideration when we go to conference.

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman.

Mr. Chairman, in view of that and in view of the lateness of the hour, with Members wanting to get away, Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from North Carolina (Mr. Jones) is withdrawn.

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to commend the gentleman from Utah for his hard work on this legislation. I am especially pleased that the committee saw fit to add $1.6 million to the Navy's original request of $1.1 million in military construction funds for the Willow Grove Naval Air Station, which is located in my district in southeastern Pennsylvania.

This important Defense Department aviation facility serves the Army, Navy, Marine Corps, Air Force, and Pennsylvania National Guard. One of the primary missions of NAS Willow Grove is the training of aviation reserve forces. In the event of the need for NATO reinforcement or some other contingency action, military forces at NAS Willow Grove are identified as essential elements of our national defense posture.

In 1977, the Navy conducted an air installations compatibility use zones or AICUZ study at NAS, Willow Grove. As you know, an AICUZ is a comprehensive study of the installation's air operations and its impact on the community. The goal of the AICUZ program is to obtain compatible land use in the area adjacent to the Naval Air Station. The Navy recognizes the need to limit encroachment upon its air station so that its mission is not impaired, and a compatible land use pattern is developed to protect the well-being of those people who live and work nearby. The plan provides a means to protect both the air station and its neighbors.

The AICUZ outlined a number of land use zones around the naval air station and detailed the type of development, if any, which should be permitted in these zones. The zone with the highest accident potential is the area directly beyond the runways. This area is called the clear zone. This zone has traditionally been acquired by the Navy either through easement or outright purchase in order to be kept clear of obstructions to flight.

The Horsham Elementary School, which was built before the naval air station, lies in the clear zone, 200 yards south of the main runway. The school was closed in June 1979 due in large part to community concern about its hazardous location as identified in the AICUZ study. The Navy supported the closing of the school and made a commitment to seek funds to acquire the site. The Navy recognizes that it bears a large measure of the responsibility for the closing of the school and therefore has an obligation to purchase it. If this acquisition does not take place soon, the school district will have to consider sale of the site to commercial interests for uses which are not compatible with the AICUZ study.

Three properties were identified by the AICUZ for acquisition. The Horsham Elementary School is one of those properties, but it is the third priority within that package. It is estimate that it will take $2.1 million to acquire the first two priority properties alone. The cost projections of those acquisitions have risen dramatically in recent years due to inflation, and to imminent development at one of the priority sites. It is estimated that an additional $600,000 would be required to purchase the elementary school.

Fortunately, the committee decided to approve an increase to $2.7 million in fiscal year 1981 in military construction funds for the Willow Grove Naval Air Station. In so doing, the committee has clearly recognized the importance of this base and the Navy's obligation to purchase the Horsham school. Passage of H.R. 7592, with this additional $1.6 million in funding, will enable the Navy to acquire the two properties it has identified as the most critical in the clear zone, and enable it to keep faith with the people of Horsham and Hatboro, by acquiring the third site, the school.

This naval air station is a vital part of our Reserve component and if the Navy can carry out its mission there, we must do all we can to aid in that effort. The continued success of this facility, which is important to all of us, depends upon limiting incompatible land use in the area and minimizing public exposure to aircraft. The additional funding in H.R. 7592 insures that this policy—which is clearly in the best interests of the Navy and the community—will continue.

Again, Mr. Chairman, I want to express my appreciation to the committee for its support and to the chairman, Mr. McKAY, of Utah, for his leadership on this matter.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX: Page 14, after line 5, insert:

SEC. 122. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Mr. BREAUX. Mr. Chairman, I would like to first of all thank the chairman of the subcommittee, the gentleman from Utah; and also the distinguished ranking member of the subcommittee, the gentleman from New York, for his cooperation.

I have discussed my amendment with both gentlemen. I would say that it is very simple and it is very clear, I think, just from a reading of the amendment. It simply says that we are not going to use any moneys that are appropriated under this act to pay for compensation, for wages or salaries, for anybody doing work on a military installation or on any program that these moneys are for, that happens to be an illegal alien.

Some might ask, well, is that a problem? The answer that I have received is, yes; it is.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, I have looked over this amendment. I see no reason why we should not accept it. In fact, on the majority side, I would agree to accept it; but I would say further that we would hope that in the future we would have the benefit of the appropriate committees dealing with those laws pertaining to this problem. This committee will want to hold some hearings in the next year relative to it; but in the meantime, I think the gentleman has an appropriate amendment.

Mr. BREAUX. I thank the gentleman from Utah.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I would be glad to yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I think the gentleman from Louisiana has a meritorious amendment.

There is one point I would like to clarify, if we might. The gentleman's amendment says that no part of the funds appropriated in this act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Are we placing a burden upon the officer who has to make that determination?

□ 1340

I know the gentleman had a case, a specific case that was referred to the Department of the Army. Frankly, I was appalled at the answer the gentleman received where they said, "Well, we have no authority to do anything about this."

Does the gentleman have in mind the situation like that where somebody brings to their attention that there are or are believed to be illegal aliens and then require them to act on it?

Mr. BREAUX. The gentleman is correct in his question and statement. The point I am trying to reach is a case where it has been pointed out to military officials that there are, in fact, illegal aliens in their employment. The response I have gotten back when we have brought that to the attention of military officials is "We do not have any authority to do anything about it."

The intent of my amendment is to not place a contracting officer of the military in the position of being the Immigration and Naturalization Service or the U.S. Border Patrol, for instance. But there are a number of situations where it is brought to their attention that there are in fact illegal aliens in their employment. I think that they should have the authority to say, "We will not pay these people," and this is what this amendment would do.

Mr. McEWEN. I thank the gentleman for that clarification. With that understanding, I think this is a good amendment.

Mr. BREAUX. With that, I would ask for support of my amendment and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 14, after line 5, add a new section as follows:

SEC. 123. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Mr. REGULA. Mr. Chairman, I offer this amendment in response to growing concern about the abuse, waste, and conflicts of interest involved in the Federal Government's use of private contractors and consulting services. Adoption of this amendment will get a little sunshine into the consulting contract procedures. With more than $9 billion a year spent on consultant contracts, I believe Congress and the American public have a right to monitor these expenditures.

I recognize that many of the contracts that are funded under this bill contain secret information. This amendment exempts from disclosure those contracts which contain information which is classified either by law or Executive order.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the distinguished chairman of the subcommittee.

Mr. McKAY. Mr. Chairman, I have had a chance to look over the gentleman's amendment. We had quite a discussion about this yesterday on the floor of the House on another matter. I think the gentleman is absolutely correct. I would agree to accept the amendment on this side.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman.

Mr. McEWEN. Mr. Chairman, we on this side accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Regula).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the traning and adminstration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $82,340,000, to remain available until September 30, 1985.

The Clerk read as follows:

Amendment offered by Mr. Foley: Page 6, line 9, strike out "$82,340,000" and insert "$83,200,000".

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished chairman of the subcommittee.

Mr. McKAY. Mr. Chairman, I have looked over this amendment and, on the basis of new information provided to the committee and the fact that we had some oversight in the markup of our bill, I see no reason why we should not accept this amendment on this side. We would like to accept the amendment.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, we are happy to accept the amendment on our side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Foley).

The amendment was agreed to.

Mr. EMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 7592 and commend the chairman and his committee for their work.

I would especially commend the chairman for his consideration and acceptance of the request of the gentleman from New Hampshire, Mr. D'Amours, for an additional $11 million to complete a much needed machine/tool shop at the Kittery-Portsmouth Naval Shipyard. These additional funds will complete the shop and will greatly increase the capability and efficiency of the yard to overhaul our nuclear submarine fleet.

On another matter of great importance to the State of Maine, I would like to call the attention of the chairman of the Military Construction Subcommittee to the great needs of our Strategic Air Command base at Loring Air Force base in northern Maine.

As the chairman well knows, the Air Force for the past 4 years has been trying to reduce operations at Loring to a very bare minimum. However, due to the persistent efforts of the Maine congressional delegation and the interest of the Military Construction Subcommittees of both the Armed Services and Appropriations Committees, the administration has seen fit to reverse its original position and keep Loring as a fully operation SAC base.

Now, however, after 4 years of virtual neglect, many of the facilities at Loring, especially the living quarters for both the married and single enlisted and officer personnel, are in great need of repair or replacement. In fact, in an earlier letter to former Senator Muskie, the Air Force acknowledged the need for some $40 million worth of projects at Loring for military construction and family housing.

Regrettably, at the time the Air Force submitted its request for military construction funds for the 1981 fiscal year, the decision to keep Loring at full operational capability had not been made. Consequently, the Air Force request for only $10 million for Loring was submitted to the committee.

Over the past few months, I along with my House colleague, Mrs. Snowe and our colleague from the other body, Senator Cohen, have been working to identify the most urgent needs at Loring. Since this project was only recently finalized, the delegation made the decision to seek the initial funds for Loring in the Senate appropriations bill and then to petition the House conferees to accept the Senate add-on during the conference.

Mr. Chairman, it now appears that the Senate will include an additional $16 million for Loring for the fiscal year 1981. Included in this request are funds for the construction of a new enlisted men's dormitory, and the upgrading of some 400 additional Wherry housing units on the base. The total fiscal year 1981 military construction request for Loring will now amount to $25 million.

Mr. Chairman, being assigned duty to northern Maine may not be the most glamorous assignment for a B-52 crew and their families. However, the people of northern Maine are warm, considerate people who are proud of their contribution to our national security needs and do the best they can to make our Air Force personnel welcome and comfortable. Anything we in the Congress can do to make life a little more enjoyable there will, I am sure, be greatly appreciated by our servicepeople.

Mr. Chairman, I hope you and your committee will give extra consideration for our needs at Loring and be receptive to any Senate request for funds for Loring.

The Air Force, in a letter to Senators Cohen and Muskie, has identified some $40 million in family housing and military construction needs at Loring.

The fiscal year 1981 military constructional budget for Loring in the Senate looks like this:

[Dollar amounts in millions]

	Administration request	Senate add-on
Military construction: Construction of 1 enlisted men's dorm	$7.6	$4.3
Housing: Upgrade 400 Wherry housing units	3.0	9.6
Construction of garages and vestibules of 144 Capehart housing units		1.0
Subtotal	10.6	14.9
Total	$25.7	

Mr. McKAY. Mr. Chairman, will the gentleman yield.

Mr. EMERY. I yield to the chairman of the subcommittee.

Mr. McKAY. As the gentleman knows, we are required to support the House position as much as possible. I can assure the gentleman that any additional information or efforts that we can consider at that time, we will give it every possible consideration.

Mr. EMERY. I thank the chairman very much for his assurance and yield back the balance of my time.

Mr. McKAY. Mr. Chairman, there being no further amendments, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Gephardt, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7592) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 308, nays 19, not voting 106, as follows:

[Roll No. 381]

YEAS—308

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dingell
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harris
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marlenee
Marriott
Martin
Matsui
Mattox
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Ratchford
Regula
Reuss
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stratton
Stump
Swift
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolpe
Wright
Wyatt
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—19

AuCoin
Beilenson
Conyers
Dellums
Downey
Johnson, Colo.
Kastenmeier
Leland
Lundine
Maguire
Miller, Calif.
Moffett
Ottinger
Paul
Rangel
Stark
Studds
Weaver
Weiss

NOT VOTING—106

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Badham
Bedell
Bevill
Boland
Broyhill
Burton, John
Chappell
Cheney
Chisholm
Clay
Cleveland
Corman
Cotter
Crane, Philip
D'Amours
Daschle
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Early
Edgar
Erlenborn
Evans, Ga.
Florio
Fuqua
Garcia
Giaimo
Ginn
Grassley
Gudger
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Holland
Hollenbeck
Holtzman
Hutchinson
Jeffords
Jenkins
Kramer
Latta
Leach, La.
Leath, Tex.
McDade
Marks
Mathis
Mavroules
Mazzoli
Mica
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nolan
Patten
Pepper
Petri
Quayle
Quillen
Rahall
Railsback
Rhodes
Richmond
Rinaldo
Rodino
Rosenthal
Runnels
Russo
Sabo
Santini
Schulze
Shumway
Simon
Smith, Iowa
Snowe
Stenholm
Stokes
Symms
Synar
Tauke
Thomas
Vander Jagt
Vento
Whitehurst
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wydler
Yatron
Zeferetti

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Rahall against.

Until further notice:

Mr. Richmond with Mr. Abdnor.
Mr. Chappell with Mr. Gudger.
Mr. Boland with Mr. Quayle.
Mr. Cotter with Mr. Railsback.
Mr. Hutchinson with Mr. Hansen.
Mr. Hawkins with Mr. Anderson of Illinois.
Mr. Hanley with Mr. Badham.
Mr. Mavroules with Mr. Harsha.
Mr. Moorhead of Pennsylvania with Mr. Rhodes.
Mr. Zeferetti with Mr. Quillen.
Mr. Wolff with Mr. Rinaldo.
Mr. Vento with Mr. Schulze.
Mr. Stokes with Mr. Shumway.
Mr. Santini with Mrs. Heckler.
Mr. Russo with Mr. Hollenbeck.
Mr. Rodino with Mr. Jeffords.
Mr. Rosenthal with Mr. Broyhill.
Mr. Mathis with Mr. Cheney.
Mr. Mazzoli with Mr. Cleveland.
Mr. Mica with Mr. Daschle.
Mr. Dodd with Mr. Dickinson.
Mr. Florio with Mr. Donnelly.
Mr. Fuqua with Mr. Dougherty.
Mr. Dicks with Mr. McDade.
Mr. Corman with Mr. Marks.
Mr. Clay with Mr. Latta.
Mr. John L. Burton with Mr. Kramer.
Mr. Bevill with Mr. Jenkins.
Ms. Holtzman with Mr. Petri.
Mr. Mitchell of Maryland with Mr. Wydler.
Mr. Moakley with Mr. Bob Wilson.
Mr. Mollohan with Mr. Whitehurst.
Mr. Yatron with Mr. Vander Jagt.
Mr. Williams of Montana with Mr. Thomas.
Mr. Tauke with Mr. Synar.
Mr. Smith of Iowa with Mr. Symms.
Mr. Bedell with Mr. Andrews of North Carolina.
Mrs. Chisholm with Mr. Dixon.
Mr. D'Amours with Mr. Philip M. Crane.
Mr. Early with Mr. Erlenborn.
Mr. Garcia with Mr. Grassley.
Mr. Giaimo with Mr. Edgar.
Mr. Ginn with Mr. Evans of Georgia.
Mr. Harkin with Mr. Holland.
Mr. Leach of Louisiana with Mr. Murphy of New York.
Mr. Mottl with Mr. Leath of Texas.
Mr. Murphy of Illinois with Mr. Pepper.
Mr. Murphy of Pennsylvania with Mr. Nolan.
Mr. Myers of Pennsylvania with Mr. Patten.
Mr. Runnels with Mr. Simon.
Mr. Sabo with Mrs. Snowe.
Mr. Charles Wilson of Texas with Mr. Stenholm.

Messrs. MOFFETT, MILLER of California, and DOWNEY changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McKAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

AUTHORIZING SECRETARY OF INTERIOR TO DESIGN AND CONSTRUCT GUNITE LINING ON BESSEMER DITCH IN COLORADO

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2546) to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colo., to prevent or reduce seepage damage on adjacent properties, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1410

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I do so for purposes of asking the gentleman from Texas to explain what is involved. I will yield to him for that explanation.

Mr. KAZEN. Mr. Speaker, the bill would authorize the Secretary of the Interior to design and construct a gunite lining on approximately 8,000 feet of the Bessmer Ditch in the vicinity of Pueblo, Colo. The ditch is privately owned and conveys water to approximately 20,000 acres of irrigated land. With the construction of the Pueblo Dam, a feature of the Federal Fryingpan-Arkansas project, previously silt-laden flows of water from the Arkansas River into the ditch became silt-free and a serious seepage problem resulted. This problem has now become critical to a number of moderate- and low-income family housing along the areas adjacent to the ditch near the city of Pueblo. The property owners and ditch company have unsuccessfully sought a judicial remedy.

The cost of lining the ditch would be approximately $1.5 million. The bill, as amended by the Senate, makes the cost reimbursable to the United States as a part of the capital cost of Pueblo Dam and Reservoir, Fryingpan-Arkansas project. The amended bill also specifically provides that it shall not be considered a precedent for any Federal liability or responsibility in any similar situation. These amendments removed any objection of the Department of the Interior to enactment of the bill. The Bessmer Ditch Co. will be responsible for maintenance of the ditch.

The bill was cosponsored in the Senate by Senators HART and ARMSTRONG.

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman for his explanation. It is my understanding that there is no direct cost to the taxpayers because of the reimbursable features of the proposed construction.

Therefore, Mr. Speaker, I withdraw my reservation of objection and support the gentleman's request.

• Mr. KOGOVSEK. Mr. Speaker, I strongly urge favorable passage of this bill in order to help alleviate the ongoing Bessemer Ditch seepage problem in the town of Pueblo, Colo. It is estimated the loss of water has increased from 19 to 40 percent, and the recipients of the 21 percent are the owners of homes, businesses, and educational institutions who have absolutely no need for that water. In fact, these people are being seriously injured by it. It is extremely important the Bureau of Water and Power Resource Services be authorized to design and construct, or contract to design and construct, appropriate reinforcement on certain areas of the Bessemer Ditch in order to help resolve the seepage problems of the people of Pueblo, Colo.

The bill would authorize the Secretary of the Interior to design and construct a gunite lining on approximately 8,000 feet of the Bessemer Ditch in the vicinity of Pueblo, Colo. The ditch is privately owned and conveys water to approximately 20,000 acres of irrigated land. With the construction of the Pueblo Dam, a feature of the Federal Fryingpan-Arkansas project, previously silt-laden flows of water from the Arkansas River into the ditch became silt-free and a serious seepage problem resulted. This problem has now become critical to a number of moderate and low income family housing along the areas adjacent to the ditch near the city of Pueblo. The property owners and ditch company have unsuccessfully sought a judicial remedy.

The cost of lining the ditch would be approximately $1.5 million. The bill, as amended by the Senate, makes the cost reimbursable to the United States as a part of the capital cost of Pueblo Dam and Reservoir, Fryingpan-Arkansas project. The amended bill also specifically provides that it shall not be considered a precedent for any Federal liability responsibility in any similar situation. These amendments removed any objection of the Department of the Interior to enactment of the bill. The Bessemer Ditch Co. will be responsible for maintenance of the ditch. The bill was cosponsored in the Senate by Senators HART and ARMSTRONG.•

The SPEAKER pro tempore. (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2546

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to design and construct a gunite lining on approximately eight thousand feet of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties. Nothing in this Act shall be construed in any administrative or judicial proceeding as establishing congressional acquiescence or approval of any theory of Federal liability for damages or as establishing a precedent for Federal liability or responsibility in any situation similar to that addressed by this Act.

SEC. 2. The design and construction costs of the works authorized by this Act shall be included as capital costs of Pueblo Dam and Reservoir, Fryingpan-Arkansas Project, Colorado, and shall be allocated to the purposes served by Pueblo Dam and Reservoir in accordance with procedures established pursuant to Federal Reclamation Law. The Bessemer Irrigating Ditch Company, which owns, operates, and maintains the Bessemer Ditch, shall be responsible for maintaining or replacing the completed gunite lining authorized by this Act.

SEC. 3. There is hereby authorized to be appropriated for fiscal year 1981 for the design and construction of approximately eight thousand feet of gunite lining on the Bessemer Ditch in the vicinity of Pueblo, Colorado, the sum of $1,500,000 (based on October 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes of construction costs as indicated by engineering cost indices applicable to the type of construction involved.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL 5 P.M. JULY 15, 1980, TO FILE REPORTS ON H.R. 6520, H.R. 6318, H.R. 7267, H.R. 4124 and H.R. 7242

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs have until 5 p.m., July 15, 1980, in which to file reports on the following bills:

H.R. 6520, relating to the Federal reclamation laws;

H.R. 6318, confirming a conveyance of certain real property to A. C. Taber and his wife, Mary Taber;

H.R. 7267, establishing a reservation for the Confederated Tribes of Siletz Indians of Oregon;

H.R. 4124, providing that the United States will hold certain public lands in trust for the Tule River Indian Tribe; and

H.R. 7242, relating to production of oil from tar sand and hydrocarbon deposits.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING TITLE IV OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from the further consideration of the bill (H.R. 7685) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the Corporation must pay benefits under terminated multiemployer plans, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I do so, so that the Members may know what is happening on this important bill. Under that reservation, I will yield to my friend from New Jersey (Mr. THOMPSON) for an explanation.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I make this request with the support of the distinguished ranking minority member of our committee, Mr. ASHBROOK, of my distinguished colleague, the minority member from Illinois, Mr. ERLENBORN, and of course, with the support of the chairmen of both the Education and Labor and Ways and Means Committees.

Mr. Speaker, I make this request of my colleagues not out of desire, but out of necessity, and with a strong sense of disappointment that a commitment made to this body and the American public has not been kept. I make it out of a sense of responsibility to the working men and women of America whose retirement income security is endangered if we do not have yet another extension of PBGC discretionary authority.

Notwithstanding that this body passed the Multiemployer Pension Plan Amendments Act by a vote of 374 to 0 over 1 month ago, the other body has still to act on the bill. Tuesday, July 1, is the date that mandatory coverage will go into effect if we have not enacted a public law by midnight Monday. Three times before we extended the deadline because of our certain knowledge that automatic coverage under current law would cause many of the pension plans which cover over 8 million workers to terminate.

Mr. Speaker, we hope the other body will pass a bill tomorrow. But the situation in that body changes—not hour-by-hour—but minute-by-minute.

I fully recognize that implicit in this situation is the possibility of delay and even chicanery. I am compelled, therefore, to protect the 374 to 0 House vote, the sole purpose of which is to protect the pensions of millions of American workers. It is not that I do not trust any individual. It is simply that I am unable after my long experience here to trust an uncertain procedure which might result in disaster for 8 million American workers.

Mr. ASHBROOK. Mr. Speaker, although I rise in support of H.R. 7685, I must express my reservations to the continued delay of the bill extending mandatory coverage under title IV of ERISA to multiemployer pension plans. When this current proposal for an extension is adopted it marks the third time within a year that mandatory coverage for multiemployer plans has been delayed. This is a failure which, it should be made clear, is made necessary only because the Senate has failed to act in a timely fashion on the multiemployer legislation, H.R. 3904, which the House passed on May 22, 1980. The other body has not carried out the understanding to expedite the consideration of the multiemployer bill, even though we in the House receded at the Senate's insistence with respect to the most recent 60-day delay to July 1, 1980.

I withhold my objection to the unanimous consideration of this further delay to August 1980 only to avert the potential $4 billion disaster which might otherwise ensue if mandatory coverage for multiemployer plans under present law is permitted to go into effect on July 1.

It is unclear to me how the added time under the current delay has aided the Senate in fashioning a solution which is any more workable or fair than the bill which passed the House this May by a vote of 374 to 0. However, I will agree to this extension in order to give us the time to work out our differences with the Senate in conference.

I will have to state my objection to any attempt by the Senate at this late date to play brinkmanship with the multiemployer bill. I hope that the managers of this legislation in the other body will follow the prudent course of agreeing to an early conference in order to expedite passage of the bill within the 30-day extension period.

Mr. Speaker, under one further reservation, I know that many Members on this side have indicated, since we are looking at a day certain, July 1, I ask my colleague for the record, is this our intention, that this be the only action; that there will be no effort to bring up a Senate bill on Monday when there will not be any votes scheduled? Is that a correct statement of our position?

Mr. THOMPSON. The gentleman is exactly correct.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7685

A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95–214, Public Law 96–24, and Public Law 96–239 is further amended—

(1) by striking "July 1, 1980 in paragraphs (1), (2) and (4) and substituting "August 1, 1980 in each such paragraph; and

(2) by striking "June 30, 1980" in paragraphs 2(B) and 4(D) and substituting "July 31, 1980" in each such paragraph.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL PORCELAIN ART MONTH

Mr. TRAXLER. Mr. Speaker, as a sponsor and under the authorization of the chairman of the Subcommittee on Census and Population of the Committee on Post Office and Civil Service, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the Senate joint resolution (S.J. Res. 115) designating July 1, 1980, as "National Porcelain Art Month," and ask for its immediate consideration.

☐ 1420

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 115

Whereas the art of painting on porcelain requires great skill, intensive training, and great artistic ability, and produces works of beauty; and

Whereas throughout history, the art of porcelain painting has provided a medium for the preservation of history and culture, and further, has been recognized as a fine art by all of the world's great civilization; and

Whereas growing thousands of American artists have studied, explored, and enhanced the historic skills of porcelain painting, adding immeasurably to the cultural enrichment of our Nation; and

Whereas the efforts of these artists bring rich beauty and expanded dimensions to our national culture for the benefit and enrichment of the lives of all citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1980 is designated as "National Porcelain Art Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. TRAXLER. Mr. Speaker, I rise in support of Senate Joint Resolution 115, a resolution identical to one that I introduced in the House that would designate July 1980 as National Porcelain Art Month. I would like to thank Chairman GARCIA and the more than 220 cosponsors of my resolution honoring porcelain artists throughout America.

Porcelain painting is an art that has survived centuries and provided a medium for preserving the history and culture of some of the world's greatest civilizations. American porcelain artists make use of innovative designs, techniques, and glazes to produce the thinnest, hardest, and technically the finest porcelain in the world. This resolution would only serve to give deserved recognition and added inspiration to the thousands of artists in our country who are preserving and enhancing the rich beauty of painting on porcelain.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7593, LEGISLATIVE BRANCH APPROPRIATIONS, 1981

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 721 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 721

Resolved, That during the consideration of the bill (H.R. 7593) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1981, and for other purposes, all points of order against sections 304 and 306 of said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. I yield the usual 30 minutes for debate to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 721 is a rule waiving points of order against two specified sections of the bill H.R. 7593, legislative branch appropriations for fiscal year 1981.

The rule waives points of order under clause 2 of rule XXI which prohibits legislation in an appropriation bill. The waiver applies only to two specified sections of the bill: Section 304 and section 306.

Section 304 provides that the Government Printing Office may print and distribute the publications of the U.S. Capitol Historical Society, the Supreme Court Historical Society, or the White House Historical Society, if any of those societies make a request and the request is approved by the Joint Committee on Printing of the House and Senate. Since the Government Printing Office would have to be reimbursed for all actual expenses, this provision will not ultimately cost any money to the Federal Government. But it is legislation, so it technically would not otherwise be in order in this bill. The waiver must be provided to permit the section to be considered by this House.

The second section, section 306, caps the salaries of certain high level employees in the legislative, executive, and judicial branches of the Federal Government and in the government of the District of Columbia. The section also places a limitation on the bonuses that members of the Senior Executive Service may receive. Since this, too, constitutes legislation in an appropriation bill, the waiver of clause 2, rule XXI was necessary.

H.R. 7593 is the annual appropriation for the expenses of the House and the legislative branch agencies such as the Library of Congress, the Congressional Budget Office, the Architect of the Capitol, the Government Printing Office, and the General Accounting Office. As is customary, the Senate will add its own funding when this bill reaches the other body.

I would like to point out, just briefly, Mr. Speaker, what an excellent job the Appropriations Committee has done with this bill. It reflects a very careful examination of legislative branch spending and a conscious effort to insure that we in this branch share in the general belt-tightening of this budget-conscious year. This appropriation bill, Mr. Speaker, not only does not keep pace with inflation, it actually represents a 2-percent cut from the 1980 appropriation plus supplementals.

The subcommittee and the full Appropriations Committee have done an excellent job on the bill, Mr. Speaker, and should be commended for their fine work. I urge the adoption of this resolution in order to expedite the consideration of this appropriation bill.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from California (Mr. BEILENSON) has done his usual excellent job of describing the contents of this rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, may I first point out that I have nothing but the greatest respect for the chairman of this subcommittee, the gentleman from Indiana (Mr. BENJAMIN). I consider him one of the unsung statesmen of our time and really one of the great leaders on the world scene if our horizons would stretch that far.

Therefore, it is with a heavy heart that I must oppose this rule.

I would like to point out to the Members that this rule specifically waives points of order against legislation in an appropriation bill. One of the reasons for that is that one of the amendments adopted in committee emasculates civil service reform, and as we well know, Mr. Speaker, two wrongs never make a right. That applies to the legislative procedure, as well as to any normal occurrence.

Taking into account this unfortunate attack against civil service reform and the fact that those of us who are on the side of nobility and better administration of the Federal Government have not had a chance to rally our forces out of necessity I must oppose the rule. And in the process, I assume that by the time we finish voting on the rule, this measure will spill over into next week, along with 50 other items, and maybe at that time wisdom, judgment, and diplomacy will prevail and we will work out a better solution to this impending problem.

Mr. Speaker, I call the attention of all the Members to the fact that aside from the nitpicking of the legislative branch, which I personally do not participate in, there is this other subject with which I am very, very concerned.

Amendments to the fiscal 1981 legislative appropriation bill restricting the authority to award Senior Executive Service bonuses, effectively hamper the ability of the Chief Executive to receive quality performance from top executive managers.

The Senior Executive Service, with its key elements of performance appraisal and bonus rewards for excellence, is a critical part of civil service reform. Without the ability to grade the performance of top Federal managers and reward those who are outstanding—or remove those below par—the goals sought in civil service reform will prove illusive.

Civil service law permits the awarding of performance bonuses to no more than half the SES corps, with the allowable bonus ranging up to 20 percent of base pay. Amendments to limit these awards to roughly 5 percent in most cases erase any distinction between adequate and superior performance.

The success of civil service reform is dependent on the success of the Senior Executive Service. Without productive and efficient management, the bureaucracy will stagnate.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just observe that I would have to disagree with my colleague, the gentleman from Illinois (Mr. DERWINSKI).

The rule is a rule full of waivers, and as my colleagues know, I never really waver in my support of waivers, but the rule is in effect a vote on whether or not we want to vote ourselves a pay raise. The issue is whether or not Members of Congress want to vote for a pay raise for themselves and I think that it is very commendable that the committee has decided that we should not have a pay raise.

Therefore, Mr. Speaker, I support the rule, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I thank the gentleman from California (Mr. BEILENSON) for yielding me this time.

Mr. Speaker, I rise to join the gentleman from Illinois (Mr. DERWINSKI) in opposition to this rule. As the gentleman from Illinois so correctly stated, what this rule does is emasculate the civil service reform program that was enacted by Congress in the last term. The rule waives objections to legislation that will eliminate the very heart of the civil service reform concept that this Congress enacted.

What we will be doing if we adopt this rule is assuring that civil servants who in good faith entered into the senior executive service and gave up a whole range of rights in order to be eligible for the possibility of a bonus for meritorious service will not have any funds available for those possible bonuses. We are taking out of the civil service reform the ability to run the Federal Government the way private enterprise is run, that is, on the basis of merit. The people are paid whether or not they are doing a good job. That was the thrust of the civil service reform legislation that was passed by this Congress overwhelmingly, and this legislation essentially guts it at this time.

In order to give those of us who oppose the gutting of civil service reform the opportunity to address this issue, we need to defeat this rule.

Therefore, I reluctantly—I say, "reluctantly," because I would like to be able to support the rule to bring this important legislation to the floor—will be joining with the distinguished gentleman from Illinois (Mr. DERWINSKI) in opposing this rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I rise in support of the rule.

We have placed a limitation in section 306(c) of the bill which would set a ceiling of $52,750 on the salaries and bonuses of Senior Executive Service personnel, and others employed under similar personnel systems.

This limitation is identical to the one

approved by the House in H.R. 7542, the supplemental appropriations and rescission bill for 1980, and does not in any way affect the payment of differentials, allowances or other payments that are not part of basic pay or rank or performance awards.

☐ 1430

There are almost 7,000 members of the SES, and their salaries range from $47,889 to $52,750. Thus, with a $52,750 cap, the bonuses could range up to $4,861, and almost 97 percent of SES employees would theoretically be eligible for these bonuses.

Section 306 of the bill also freezes the salaries of every official and employee of the Federal Government, and some others, who make $50,112.50, or above—that is, GS-18's, level V's and above.

Thus, the 6,000-plus SES employees who now make less than $50,112.50 would be eligible for the 1980 cost-of-living increase, if one is proposed by the President. Assuming the cost-of-living adjustment is effected for these employees, they would still be eligible for performance and rank awards up to $2,637. It is entirely possible, therefore, under section 306, that a Senior Executive Service employee can obtain a $7,500 increase in income as a result of the bonus in 1980 and 1981.

These figures are not as frugal as some would have us believe. They are not as generous as the $10,000 and $20,000 bonuses set up by the Civil Service Reform Act of 1978—but they are extremely generous when compared to the income increases that other senior officials of the Government will receive—which will be zero—no increase at all.

We have been accused of undermining the civil service reform. Let us look at that in perspective—

We have not eliminated bonuses—merely adjusted the maximum. As I have indicated with these figures, this is not impairment of the reform—it is only adjusting it to a realistic level.

We have been accused of not allowing the law to work. Well, the Congress has done exactly the same thing to the annual cost-of-living raises which were authorized in the Federal Pay Comparability Act of 1970 (Public Law 91-656) and the Executive Salary Cost-of-Living Act of 1975 (Public Law 94-82). We have also not allowed the Federal Salary Act of 1967 to work; that is the act that set up the Quadrennial Commission on Executive, Legislative, and Judicial Salaries.

For example, due to various restrictions placed on the operations of pay legislation, there have been only 12 salary increases for Members of Congress in the past 191 years. Going back to 1789, there has been a salary adjustment about once every 16 years.

Since 1975, when the so-called annual Executive Salary Cost-of-Living Act was enacted, we have seen two cost-of-living raises for senior officials of this Government, and three occasions in Public Law 94-440, Public Law 95-66, and Public Law 95-391, where the Congress disengaged the law. On another occasion—last year in the continuing resolution—we limited what should have been a 12.9-percent raise for the senior officials of the Government to 5.5 percent.

This year, in this bill, we will do it again. There will be no cost-of-living adjustments for senior officials once again.

Thus, in the last 6 years, we will have thwarted the cost-of-living law on five out of six occasions.

We have forced our very best people in Government to subsidize inflation. GS-18 salaries have gone up 32.6 percent since 1975, while the value of the dollar has declined by 50 percent. Thus, prices have risen at a rate 50 percent higher than salaries. Since the 1977 increase, the situation is even worse—salaries have gone up by 5.5 percent while the price level is projected to increase by over 54 percent. That is patently one of the most unfair statistics I have ever encountered, and I believe the wage earning taxpayer would agree.

Because of this lid on senior salaries, next year we will face a Quadrennial Commission recommendation that, if it is at all realistic, will call for a very large increase in senior salaries in order to achieve any kind of comparability with private and other public sector counterparts. We all know where those Quadrennial Commission recommendations will probably land—in the trash can.

So—it is not this bill, or the bonus issue, that is the culprit here. The whole senior level salary issue is in a mess—and we have routinely over the years been ignoring it due to political expediency.

Of course, the executive branch wants these bonuses very bad. That is not surprising given the overall salary compression because we are afraid to give senior officials a pay raise. But, that is exactly the problem with the bonuses. They are being used in lieu of salary increases.

It is not fair, however, to reward an elite corps of 7,000 individuals with pseudo-salary increases, while freezing about 23,000 others to no increases at all.

How about the members of the Cabinet—the so-called Executive Level I appointees. These people have awesome responsibilities, certainly much more than members of the Senior Executive Service, yet their salaries will be frozen—and the bonus provisions do not extend to them.

If we want to use the wages of senior level Federal workers as some sort of a sacrificial lamb, the burden should be spread equally and fairly to all. Let us not create a clique of exempted personnel.

We are already seeing other personnel systems springing up to take advantage of these bonuses. This situation will only get worse.

Finally—as I have pointed out—section 306 does provide for some incentive rewards. Several Members have told me that they would vote for no bonuses at all. Others have proposed a limit of $50,000—that would result in a reduction in some salaries. So the $52,750 may be the best we can get in this climate.

We have set out a compromise here and one which I hope exerts pressure on the authorizing committees and the administration to work out an overall approach to resolving the top level salary problem. That is what is urgently needed to solve the underlying problem.

I would ask that the rule be supported so that we would be equitable to all, whether they are in the middle range of Government executive salaries or at the top or the bottom range of Government executive salaries.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I wanted to call to the attention of my colleagues that just a few years ago I was 1 of only 10 Members who had the good judgment to vote against the civil service reform. And one of the reasons that I opposed it was because I knew that year after year the bonuses which were such an important part of this whole reform mechanism would have to be fought through here in the House. I knew that they would be sitting ducks.

What is happening here today proves that I was right. But this is one time I do not want to be proven right. I would much rather you would say, "GLADYS SPELLMAN, you were a cynic. You see, the system really is working, because as long as you have voted in that system, let us make it work."

So I would ask you to join those who are opposing this rule, and let us make it possible for that reform system to really work.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. DINGELL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 48, not voting 131, as follows:

[Roll No. 382]

YEAS—254

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Blanchard
Bolling
Boner
Bonker
Bowen
Brademas
Brodhead
Broomfield
Brown, Ohio
Buchanan
Burgener
Burlison
Byron
Carney
Carr
Carter
Cavanaugh
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dingell
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
English
Erdahl

Ertel
Evans, Del.
Evans, Ind.
Fascell
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hefner
Heftel
Hightower
Hillis
Hinson
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Lederer
Lee
Lehman
Leland
Lent
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Markey
Marlenee
Marriott
Martin
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Peyser
Pickle
Pritchard
Pursell
Rangel
Ratchford
Regula
Reuss
Roberts
Robinson
Roe
Rose
Roth
Royer
Rudd
Satterfield
Sawyer
Scheuer
Sebelius
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snyder
Solarz
Solomon
Spence
Stack
Stangeland
Stanton
Steed
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Volkmer
Walker
Wampler
Waxman
Whitley
Whittaker
Whitten
Williams, Ohio
Winn
Wolpe
Wyatt
Wylie
Yates
Young, Alaska
Young, Fla.
Zablocki

NAYS—48

Annunzio
Barnes
Bingham
Bonior
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Campbell
Dannemeyer
Davis, S.C.
Dellums
Derwinski
Emery
Fary
Fazio
Fisher
Ford, Mich.
Green
Harris
Holt
Jacobs
Levitas
Lewis
Luken
McClory
Madigan
Maguire
Matsui
Mattox
Nedzi
O'Brien
Paul
Pease
Perkins
Porter
Price
Rostenkowski
Roybal
Schroeder
Seiberling
Sensenbrenner
Shannon
Spellman
Stark
Walgren
Weaver
Weiss

NOT VOTING—131

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Badham
Beard, Tenn.
Bedell
Bevill
Boggs
Boland
Bouquard
Breaux
Brinkley
Broyhill
Butler
Chappell
Cheney
Chisholm
Clay
Cleveland
Conte
Corman
Cotter
Crane, Philip
D'Amours
Daschle
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Early
Edgar
Edwards, Okla.
Erlenborn
Evans, Ga.
Florio
Fuqua
Garcia
Gibbons
Ginn
Goldwater
Grassley
Gudger
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Holland
Hollenbeck
Holtzman
Hutchinson
Jeffords
Jenkins
Johnson, Colo.
Jones, Tenn.
Kramer
LaFalce
Latta
Leach, La.
Leath, Tex.
Livingston
Long, La.
McDade
Marks
Mathis
Mavroules
Mazzoli
Mica
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nichols
Nolan
Patten
Pepper
Petri
Preyer
Quayle
Quillen
Rahall
Railsback
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Rosenthal
Rousselot
Runnels
Russo
Sabo
Santini
Schulze
Shumway
Simon
Smith, Iowa
Snowe
St Germain
Staggers
Stenholm
Stokes
Symms
Synar
Tauke
Thomas
Vander Jagt
Vanik
Vento
Watkins
White
Whitehurst
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yatron
Young, Mo.
Zeferetti

□ 1450

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Philip M. Crane.
Mr. Hawkins with Mr. Cleveland.
Mr. Staggers with Mr. Livingston.
Mr. Zeferetti with Mr. Railsback.
Mr. Wolff with Mr. Whitehurst.
Mr. Mollohan with Mr. Vander Jagt.
Mr. Dodd with Mr. Bob Wilson.
Mr. Mavroules with Mr. Rhodes.
Mr. Rahall with Mr. Wydler.
Mr. St Germain with Mr. Rinaldo.
Mr. Wirth with Mr. Ritter.
Mr. Charles H. Wilson of California with Mr. Schulze.
Mr. Wright with Mr. Symms.
Mr. Young of Missouri with Mr. Marks.
Mr. Yatron with Mr. Latta.
Mr. Charles Wilson of Texas with Mr. Hollenbeck.
Mr. Williams of Montana with Mr. Jeffords.
Mr. Vanik with Mr. McDade.
Mr. Moakley with Mr. Abdnor.
Mr. Preyer with Mr. Badham.
Mr. Quillen with Mr. Broyhill.
Mr. Pepper with Mr. Butler.
Mr. Patten with Mr. Petri.
Mrs. Boggs with Mr. Quayle.
Mr. Cotter with Mr. Dougherty.
Mr. D'Amours with Mr. Dickinson.
Mr. Bevill with Mr. Cheney.
Mr. Chappell with Mr. Goldwater.
Mr. Murphy of New York with Mr. Conte.
Mr. Mottl with Mr. Edwards of Oklahoma.
Mr. Hutchinson with Mr. Erlenborn.
Mr. Moorhead of Pennsylvania with Mr. Kramer.
Mr. Corman with Mr. Johnson of Colorado.
Mr. Murphy of Illinois with Mrs. Heckler.
Mr. Mitchell of Maryland with Mr. Hansen.
Mr. Jones of Tennessee with Mr. Harsha.
Mr. Hanley with Mr. Grassley.
Mr. Richmond with Mr. Smith of Iowa.
Mr. Rodino with Mr. Stenholm.
Mr. Rosenthal with Mr. Stokes.
Mr. Gudger with Mr. Tauke.
Mr. Harkin with Mr. Thomas.
Mr. Leach of Louisiana with Mr. Watkins.
Mr. Mathis with Mr. Runnels.
Mr. Vento with Mr. Santini.
Mr. Sabo with Mr. Holland.
Mr. Russo with Mr. Leath of Texas.
Mr. Synar with Mrs. Snowe.
Mr. White with Mr. Rousselot.
Mr. LaFalce with Mr. Shumway.
Mr. Simon with Mr. Long of Louisiana.
Ms. Holtzman with Mr. Nolan.
Mr. Nichols with Mr. Mica.
Mr. Mazzoli with Mr. Jenkins.
Mr. Gibbons with Mr. Fuqua.
Mr. Ginn with Mr. Garcia.
Mr. Evans of Georgia with Mr. Edgar.
Mr. Early with Mr. Donnelly.
Mr. Clay with Mrs. Chisholm.
Mrs. Bouquard with Mr. Brinkley.
Mr. Breaux with Mr. Boland.
Mr. Bedell with Mr. Andrews of North Carolina.
Mr. Alexander with Mr. Beard of Tennessee.
Mr. Dicks with Mr. Dixon.
Mr. Florio with Mr. Daschle.

Mr. SEIBERLING changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON SENATE JOINT RESOLUTION 119, VIETNAM VETERANS MEMORIAL

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate joint resolution (S.J. Res. 119) to authorize the Vietnam Veterans Fund, Inc., to establish a memorial.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. HAMMERSCHMIDT. Mr. Speaker, I reserve the right to object.

Mr. Speaker, as the original sponsor of this measure in the House I would like to express my deep gratitude to my distinguished colleague from Michigan (Mr. NEDZI) and to the gentleman from Minnesota (Mr. FRENZEL) for their swift action in bringing about a conference and an agreement with the other body.

I have reviewed the conference report, and I believe it is the best possible agreement, both for the purposes of the Vietnam Veterans Memorial Fund, and for the Congress as a legislative body. It is almost exactly, as I understand it, the original proposal by the Vietnam Veterans Memorial Fund, prior to amendments being added by the House and the Senate.

Again, Mr. Speaker, I am delighted that this resolution has been acted on with such promptness, and I hope that there will be no objection to passing this conference report today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan (Mr. NEDZI)?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object.

I do so for the purpose of yielding to the distinguished gentleman from Michigan to explain the conference report.

Mr. NEDZI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, this matter went to conference because there were two items of disagreement. One focused on including a specific site designation for the proposed memorial and the other was a reference to the Peace and Brotherhood Chapel in New Mexico.

The House accepted the Senate language with respect to constructing the memorial in Constitution Gardens and the Senate agreed to delete the provision regarding the Memorial Chapel in New Mexico.

The conferees were unanimous and I

trust that the House will accept the conference report.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I would confirm the statement of the distinguished subcommittee chairman indicating that all members of the conference committee of both Houses and both parties have signed it.

I hope the bill is speedily passed.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan (Mr. NEDZI)?

There was no objection.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of June 25, 1980.)

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. NEDZI) is recognized for 30 minutes.

Mr. NEDZI. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I am one of the conferees. I stand here today saying that it is about time that we did something to convert the second-class status of the Vietnam veteran. There were 2.7 million Americans that fought in that war; 57,000 Americans died in that war. Although that war concluded 7 years ago, we have done nothing as a country to pay recognition to the Vietnam veteran. This memorial will be a start, but we need to do much more. We need to help the Vietnam veteran who has a problem as a result of being exposed to agent orange.

We need to do something to expand the drug rehabilitation centers. We need to see to it that the hospitals are made adequate. We need to see to it that the education benefits are no longer diminished.

Mr. Speaker, it is time to reverse the fact that we have turned our backs on the Vietnam veteran. I am proud to say that this memorial will be a step in the right direction.

Mr. NEDZI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

POLICY DIRECTIVE ON CONGRESSIONAL RESEARCH SERVICE PROCEDURE IN REQUESTS FOR INFORMATION CONCERNING MEMBERS OF CONGRESS

(Mr. NEDZI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NEDZI. Mr. Speaker, the Joint Committee on the Library is forwarding today to all Member offices as well as to all House and Senate committee offices a policy directive on the Congressional Research Service's (CRS) procedure in processing requests for information concerning Members of Congress.

We urge all Members to review the procedure with staff.

The following letter cites the directive in detail:

JOINT COMMITTEE ON THE LIBRARY,
Washington, D.C. June 26, 1980.

DEAR COLLEAGUES: We are writing to enlist your assistance in ensuring that the resources of the Congressional Research Service (CRS) are utilized in a nonpartisan manner.

It has come to the attention of the Joint Committee on the Library that clarification is needed regarding CRS's procedure in processing requests for information concerning Members of Congress.

The current policy is that CRS will not furnish information about an individual Member to another Member or committee without the consent of the Member concerned. This restriction applies to personal and political information concerning a living former Member as well, unless he/she is a nominee to federal appointive office or is a holder of such office.

This policy will continue with the following additional requirements:

Any member or committee request for information specifically concerning other members must be transmitted in the form of a letter signed by the requesting member or committee chairman. Additionally, CRS will not proceed with such requests without the written consent of the member concerned.

As is the case with all of its congressional communications, CRS will treat such letters confidentially. The only exceptions will be in cases of specifically identified articles or citations and instances of tributes to Members who are retiring or receiving special honors.

We trust this procedure will help to preserve congressional confidence in CRS and will permit CRS staff to devote their energies to the kinds of professional and technical support traditionally expected of the Service by the Congress.

Cordially,

CLAIBORNE PELL,
Chairman.
LUCIEN N. NEDZI,
Vice Chairman.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

☐ 1500

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I ask to address the House for 1 minute for the purpose of inquiring of the majority the program for the balance of today, this week, and next week.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, the program of the House of Representatives for the week of June 30, 1980, is as follows:

On Monday, June 30, the House will meet at noon. All recorded votes will be postponed until Tuesday, July 1.

There will be seven bills considered under suspension. Those bills are H.R. 7482, Olympic Gold Medal; H.R. 7321, National Tourism Policy Act; H.R. 5341, Ocala Wilderness; H.R. 7114, Earthquake Hazard Reduction Act Amendments; H.R. 6065, military leave for Federal employees; H.R. 5164, small vessels inspection amendments; and H.R. 5451, the Maritime Education and Training Act.

The House will then consider the conference report on S. 2009, the Central Idaho Wilderness Act. That will be followed by consideration of H.R. 7235, the Rail Act of 1980. There is an open rule which has already been adopted providing for 3 hours of debate, and there will be general debate only on Monday.

On Tuesday, the 1st of July, the House will meet at 11 o'clock on the Private Calendar which will be followed by votes, any recorded votes on suspensions, and the conference report that will have been debated on Monday, June 30. No bills will be considered under suspension.

Next on Tuesday will come H.R. 7584, complete consideration of the State-Justice appropriations bill for fiscal year 1981.

Then we will consider H.R. 7631, the appropriation bill for the Department of Housing and Urban Development for the fiscal year 1981.

Next will be complete consideration of H.R. 6711, the Youth Act of 1980.

Next will be H.R. 7262, the Housing and Community Development Act, on which an open rule providing for 2 hours of debate has already been adopted.

Next will be H.R. 7152, the intelligence authorizations bill, an open rule with 1 hour of debate.

Then H.R. 7235, the Rail Act of 1980, to complete consideration of that bill.

On Wednesday, July 2, the House will meet at 10 o'clock in the morning on H.R. 7591, the Agriculture appropriations bill for the fiscal year 1981 and on H.R. 7593, the legislative appropriations bill for fiscal year 1980.

The House will adjourn by 5:30 p.m. on Monday, and the adjournment hour for other days will be announced.

Conference reports may be brought up at any time, and any further program will be announced later.

At the close of business on Wednesday, the House will adjourn until noon on Monday, July 21, 1980, for the Independence Day-district work period, and the Republican National Convention, which are not the same enterprises.

Mr. DEVINE. I thank the gentleman.

I would like to clarify three items. I notice the gentleman said the House will meet on Tuesday, July 1, at 11 a.m. Is that correct?

Mr. BRADEMAS. Provided, if I may say to my colleague, a unanimous-consent request to that effect will be agreed to.

Mr. DEVINE. Next, on Tuesday the gentleman mentions two bills that will be up for consideration. One was the State-Justice appropriation bill, H.R. 7584. It is my understanding that we are currently under the 5-minute rule on that legislation; is that accurate?

Mr. BRADEMAS. That is correct.

Mr. DEVINE. And also H.R. 6711, the Youth Act of 1980, which is listed for complete consideration. We are also under the 5-minute rule on that legislation?

Mr. BRADEMAS. The gentleman is correct.

Mr. DEVINE. Now, relative to the supplemental appropriation bill, I understand the other body is considering that at some length and that there are multitudinous amendments being adopted by the other body. I find nothing on this schedule to suggest that that may be considered next week other than under other possible business. Recognizing that we go into a recess on July 3, that would put consideration of this extremely important legislation over for several weeks, and many appropriations sorely needed will not be considered. Does the gentleman know or can he tell us whether or not that may be considered during the coming week?

Mr. BRADEMAS. If the gentleman will yield further, it is the hope of the leadership on this side that we, indeed, will be able to vote on that bill next week. But if it is not possible to vote on that bill next week, it may be possible, the gentleman from Indiana must advise the gentleman from Ohio, that we in the House shall have to return on Monday, the 7th of July, to consider that bill. So I reiterate my hope that we shall be able to vote on the supplemental appropriation bill next week.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I am happy to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

What are the prospects at this point that the differences between the two bodies will be worked out in time to get to the floor next week? Can the gentleman respond as to the likelihood of its being here?

Mr. BRADEMAS. I can only give voice to the hope that I have already expressed. I have no further information and would not like to enter a prediction at this time. I can only express my hope, as I am sure is the hope of my colleague from Indiana, that we shall be able to finish that bill next week.

Mr. MYERS of Indiana. If the gentleman will continue to yield, on Wedneday, which is the 2d of July, that is supposed to be the last day of next week. Is there a likelihood that this body could go into session late that evening in hopes of getting that supplemental bill back and in a conference form?

Mr. BRADEMAS. I really would not want to suggest a specific hour of adjournment. As I said earlier, if I may say to my friend from Indiana, that the hour of adjournment on Tuesday and Wednesday will have to be announced later. I simply restate my hope that we shall be able to finish the supplemental and not have to remain beyond the middle of the afternoon on Wednesday.

Mr. MYERS of Indiana. If the gentleman will continue to yield, in the event we are very close to an agreement, would there be any likelihood that we might stay on Thursday, which would be the 3d, instead of coming back on the 7th, since that will be the only bill that we would evidently be coming back for? And may I add to the same question: Would there be any other legislation if we have to come back on the 7th to take up that week, or will we be back just 1 day to consider that conference report?

Mr. BRADEMAS. I am not advised that that would be the situation. From the information that has been afforded me, I understand that we would be returning, if we have not completed work on the supplemental appropriation bill next week, on Monday the 7th of July for the purpose of considering that bill.

Mr. MYERS of Indiana. And that bill only?

Mr. BRADEMAS. That is correct.

Mr. MYERS of Indiana. One last observation, if the gentleman will continue to yield.

Mr. DEVINE. I yield to the gentleman.

Mr. MYERS of Indiana. For the past several weeks we have had a rather large program, ambitious we have been calling it. But now I must say it is ridiculous.

As an example, 2 weeks ago we had 21 bills. We finished six. This week we had 22 bills on the schedule and we have finished, I believe, 9. We are really gaining on them. This week we have 17, 4 of which are appropriation bills.

Some of the bills have been on the calendar for the third week in a row, such as the Agriculture appropriations bill, I believe, and the State-Justice has been on for a couple of weeks. Several of these have been on for several weeks. Why do we continue to put all of these bills on the calendar with no hope of bringing them up?

I give the gentleman an example. We had some people come out this past week because they expected to see their bill on the floor. It is not cheap to come up to Washington anymore. They come to Washington to visit their bill, and they will sit in the gallery and watch it be heard on the floor, and hopefully voted upon. It was on the program; they expected it to be here.

Why do you continue to put all of these bills on when we know it is impossible to get all of these bills completed?

Mr. BRADEMAS. The gentleman from Indiana, my colleague and friend, a Member of the House from my own home State, has been a member of the Committee on Appropriations for some years and a Member of this body for some years, and he knows that it is not always easy to predict the outcome of votes on important legislation. For example, even earlier today there was a recommittal on an important bill.

It is simply not possible, given the magnitude of the bills on which the House is called upon to vote, and the controversial nature of many of the amendments and the number of amendments. But I should be doing the gentleman an injustice if I tried to give him a lecture on the legislative process.

I hope that with good cooperation and good will on both sides of the aisle we can make our way through the jungle of all of this legislation.

Mr. MYERS of Indiana. As the gentleman knows, he cited the Appropriations Committee, and we do have four appropriation bills up next week. If we only considered those four bills, and then if we did away with this Monday schedule and took up appropriation bills, really knowing the appropriation bills and knowing the legislative process, that is probably all that we could get done. But it would be wise, it seems to me, if the majority, the party making these programs, would take the advice of a few of us around here and get on with the very important business of appropriations. Then if we have time we can pick up this other.

□ 1510

But this week, for example, we have taken up bills that were not that important. As the gentleman said, one was even defeated here today, the conference report. But why do we not take up the important bills that we are constitutionally required to take up on appropriatons and then fill these others in when we have time?

Mr. BRADEMAS. I appreciate and always listen with interest to the views of the gentleman from Indiana.

Mr. MYERS of Indiana. The gentleman listens but does not follow my advice.

Mr. DEVINE. Mr. Speaker, if I could reclaim my time, I would like to ask the gentleman, in the event the leadership finds it necessary to schedule the supplemental appropriations for the week of July 7, is there any likelihood, with this floundering in the scheduling, that we may run over into the Republican Convention which would occur shortly thereafter?

Mr. BRADEMAS. I would not want to deny the Nation the opportunity to observe that spectacle.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

There was one question the gentleman from Indiana (Mr. BRADEMAS) did not exactly respond to, asked by his colleague, the gentleman from Indiana (Mr. MYERS). That was the possibility, if the supplemental is not finished in those bodies by next Wednesday, of considering it on Thursday. It would seem to me that that would create a minimum amount of disruption.

Mr. BRADEMAS. I appreciate that suggestion. Indeed, perhaps my friend, the gentleman from Maryland, did not hear me. I did respond to that by saying that it is my understanding that that alternative is not going to be considered.

Mr. BAUMAN. So under no circumstances would it be considered?

Mr. BRADEMAS. I would not want to go that far. I never want to say in this body "under no circumstances." But I appreciate the suggestion of the gentleman from Maryland and the gentleman from Indiana, and it will be spread upon the record. If the Speaker chooses to opt for a different date, I certainly will advise the Members of the House. But we are not seeking to inconvenience people; we are seeking to complete the business of the House; and it is my hope, which I reiterate for yet the third or fourth time, that we will be able to vote on the supplemental next week.

Mr. BAUMAN. I would just say to the gentleman from Indiana—and, of course, he has his own problems to solve over there in scheduling—it seems to me that bringing us back on Monday when we might finish it on Thursday is providing the maximum amount of disruption for Members who may not have planned to be here the following week. I will go home and explain it to my four kids and my wife, and all of us can do that. But when most of us could simply be accommodated by staying here 1 more day, it does seem strange that the leadership would drag us back the next Monday.

Mr. BRADEMAS. I think it is not a question of wanting to drag Members back or accommodate or discommode Members. Members on this side of the aisle have wives and children, too.

Mr. BAUMAN. I have heard that rumor.

Mr. BRADEMAS. And more than is the case with respect to the other side.

Mr. MYERS of Indiana. More wives and children?

Mr. BAUMAN. More Members, I think.

Mr. BRADEMAS. That is why more Members on our side seem to win election to the House of Representatives, but I am venturing into an extraneous matter, perhaps.

But I will say to the gentleman from Maryland that one of the reasons for having set the date of Monday as an alternative is in the event that we have not been able to see an agreement on the supplemental reached. Obviously, if we are able to reach it by Wednesday, we would vote on it on Wednesday. I have no more desire than does the gentleman from Maryland to remain here. I want to go back to my home district. So I think we are all interested in seeing a resolution of this legislation as speedily as possible, and I assure my colleagues on the other side that I will do everything I can, as I am sure the Speaker and the majority leader will, to expedite a resolution of that measure.

Mr. BAUMAN. I thank the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

I understood we would consider it on Thursday, when the gentleman responded to my original question.

Mr. BRADEMAS. The gentleman did not accurately hear me in that event.

Mr. MYERS of Indiana. I am sorry I did not hear the gentleman. I wish he would, though, since he said he would listen to the advice I have already offered. Could he convey it on to the Speaker? I think most Members would rather stick around here Thursday. The conferees would have a pretty good knowledge or idea of how soon they can complete their work. It seems to me if we are going to have to come back on Monday, we are going to have to complete that conference work sometime Thursday, and it might be well to have enough Members stay here to pass it on Thursday, rather than have to come back on Monday.

The other question is, and this would be a possibility, the conferees would work right through next Thursday and Friday—Thursday anyway—and then the following week might we come back some other day besides Monday? Are we going to be coming back as soon as the conference has completed their work?

Mr. BRADEMAS. I can only repeat what I have several times said, that it is our hope that we shall be able to complete action on the supplemental appropriations bill next Wednesday, and that in the event we are not able to do so, there is the probability we would have to return on Monday, the 7th of July.

Mr. MYERS of Indiana. Not on Tuesday or Wednesday?

Mr. BRADEMAS. I can only say the gentleman may disagree with the information I am trying to give him, but I am giving him the information. If the gentleman chooses to ignore it or to disagree with it, he is free to do so.

Mr. MYERS of Indiana. Let me back up. If the work is not completed by next Thursday in the conference, will the conferees continue to meet the following week, and then might we come back some other day when they complete their work other than Monday? If they did not complete their work until the 8th or 9th of July, will we come back the day after that, or what kind of schedule are we going to have?

Mr. BRADEMAS. I am not going to try to enter into all of the contingencies in respect of consideration of the conference. I am not a member of the conference committee. I can only reiterate to the gentleman what I have said.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Ohio, a member of the Committee on Appropriations.

Mr. MILLER of Ohio. I thank the gentleman for yielding.

I would like to ask the gentleman from Indiana (Mr. BRADEMAS) about the appropriations bills that are on the schedule now. We have had the Treasury-Postal Service-General Government Subcommittee bill of the Committee on Appropriations listed at least 2 weeks ago, and it was listed as the first Appropriations Subcommittee bill to be on the floor. Now I understand it has been scheduled about five times and pulled about five times. At least we do not have it for next week. Could the gentleman enlighten us as to when we might have it and why we have had it pulled off the floor continually? My good friend, the gentleman from Oklahoma (Mr. STEED) has been very disappointed. I as ranking member on the subcommittee have attempted to be prepared at the time, and for some reason every time it is scheduled it is lifted again.

Mr. BRADEMAS. The bill is scheduled for consideration on the 24th of July.

Mr. MILLER of Ohio. The 24th of July. Is there any particular reason why it has been pulled? Might it be pulled again because of that same reason?

Mr. BRADEMAS. I can only say to the gentleman he should direct that question to the chairman of the Committee on Appropriations.

Mr. MILLER of Ohio. I thank the gentleman from Indiana.

Mr. DEVINE. Mr. Speaker, I yield back the remainder of my time.

ADJOURNMENT TO MONDAY, JUNE 30, 1980

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REQUEST TO MEET AT 11 A.M. TUESDAY, JULY 1

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House convenes on Tuesday next, it convene at 11 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Did the Chair hear an objection?

Mr. BAUMAN. The Chair certainly did.

The SPEAKER pro tempore. Would the gentleman from Maryland assist the Chair by restating it?

Mr. BAUMAN. I object.

The SPEAKER pro tempore. The gentleman has objected.

Objection is heard.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman objects.

Objection is heard.

PROVIDING FOR DISPLAY OF CODE OF ETHICS FOR GOVERNMENT SERVICE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5997) to provide for the display of the Code of Ethics for Government Service, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 11 to 14, inclusive, and insert:

(3) the Code of Ethics for Government Service shall read as follows—

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of government duties.

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Your agency ethics official and the Office of Govern-

Ethics are available to answer questions on conflicts of interest; and

Page 2, line 19, after "1980." insert "There shall be no costs imposed on the Federal Government for the printing, framing or other preparation of the Code of Ethics for Government Service under this Act.".

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

Mr. LEACH of Iowa. Reserving the right to object, Mr. Speaker, I have no reservation other than I would like to inquire of the gentlewoman if she will explain what has occurred in the changes in the bill since it left the House floor.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman and the ranking minority member on my subcommittee for asking about this.

Basically, in essence the Senate amendment to H.R. 5997 makes three changes. First, the basic code of ethics is rewritten to eliminate gender references. No longer does the code speak as if every Federal worker is a male. Obviously, I gladly accept this change.

Second, the Senate amendment places an addendum at the end of the code of ethics informing employees that—

> Your agency ethics official and the Office of Government Ethics are available to answer questions on conflict of interest.

This new sentence is a helpful addition in light of the passage last Congress of Public Law 95–521, the Ethics in Government Act of 1978.

Third, the Senate added language to assure that no costs are imposed on the Federal Government for printing, framing, or other preparation of the code of ethics. The Senate provision was added because the Senate was aware, as we were, that a nonprofit organization has offered to supply 200,000 copies of the code of ethics, laminated and ready for hanging. However, nothing in the Senate amendment prevents the Government from incurring the nominal costs of distributing the code to agencies or the costs of displaying the code. The Senate language does not mean that the codes presented to the Government have to be framed. Rather, lamination is a less expensive and entirely suitable alternative. The committee recently received correspondence from Senator CHILES clarifying the intent of the Senate amendment. I include that letter in the RECORD:

The letter is as follows:

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT,
Washington, D.C., June 18, 1980.

Hon. JAMES M. HANLEY,
Chairman, Committee on the Post Office and Civil Service, Washington, D.C.

DEAR CHAIRMAN HANLEY: Two minor questions have arisen after Senate consideration of H.R. 5997, a bill to distribute a Code of Ethics.

First, the bill as amended on the Senate floor would prohibit the Federal government from incurring any costs for printing, framing or other preparation of the Code of Ethics. In adding this language the Senate was attempting to make clear that while these costs should not be borne by the government, the nominal costs of distributing the codes through normal government channels would be acceptable.

Second, it is my understanding that the Ethics Resource Center has agreed to print, laminate and provide to the General Services Administration about 200,000 copies of the code as well as a small number of unlaminated copies so that federal officials who might want to frame a copy could do so at their own expense. It is not the Senate's intent that either the Ethics Resource Center or the Federal government incur the cost of such frames.

Sincerely,

LAWTON CHILES,
Chairman.

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentlewoman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2240, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1981

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1981 for research and development, construction of facilities, research and program management and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–1142)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,873,000,000;

(2) Space flight operations, $779,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $352,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $45,200,000;

(7) Space applications, $378,700,000;

(8) Technology utilization, $12,600,000;

(9) Aeronautical research and technology, $290,800,000;

(10) Space research and technology, $115,200,000;

(11) Energy technology, $4,000,000; and

(12) Tracking and data acquisition, $349,750,000.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;

(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;

(3) Modification of the unity plan wind tunnel, Ames Research Center, $3,400,000;

(4) Modifications to various buildings for energy conservation, Jet Propulsion Laboratory, $1,500,000;

(5) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $2.000,000;

(6) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;

(7) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;

(8) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;

(9) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(10) Decommissioning of Plum Brook Station reactor facility, Lewis Research Center, $1,000,000;

(11) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(12) Rehabilitation of electrical switchgear, engine research building, Lewis Research Center, $1,700,000;

(13) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(14) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(15) Modification of 26-meter antenna, DSS-44, Canberra, Australia, $1,200,000;

(16) Replacement of azimuth radial bearing, DSS-14, Goldstone, California, $950,000;

(17) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(18) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(19) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(20) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(21) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(22) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management", $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by resting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

Sec. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (21), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Sec. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (22) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Adminisrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation.

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Sec. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

And the House agree to the same.

Don Fuqua,
Thomas R. Harkin,
Jim Lloyd,
Marilyn Lloyd Bouquard,
Ronnie G. Flippo,
Wesley W. Watkins,
John W. Wydler,
Larry Winn, Jr.,
Barry M. Goldwater, Jr.,
Managers on the Part of the House.
Howard W. Cannon,
Adlai E. Stevenson,
Wendell H. Ford,
Barry M. Goldwater,
Harrison H. Schmitt,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 2240 to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1981 for Research and Development, Construction of Facilities, and Research and Program Management, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the disposition of the differences agreed upon by the managers and recommended in the accompanying conference report.

The NASA original request for fiscal year 1981 totaled $5,736,654,000 and the revised request totaled $5,517,654,000. The Senate authorized $5,569,854,000 and the House amendment authorized $5,622,154,000. The committee of conference agrees to a total authorization for fiscal year 1981 of $5,587,904,000, as follows:

SUMMARY—ADJUSTEMENTS TO FISCAL YEAR 1981 NASA AUTHORIZATION

	Budget request	Revised budget request	House action	Senate action	Committee of Conference
Research and development:					
Space Shuttle	$1,873,000,000	$1,837,000,000	$1,878,000,000	$1,873,000,000	$1,873,000,000
Space flight operations	809,500,000	767,500,000	769,500,000	779,500,000	779,500,000
Expendable launch vehicles	55,700,000	55,700,000	55,700,000	55,700,000	55,700,000
Physics and astronomy	438,700,000	346,600,000	370 700 000	352,700,000	352,700,000
Planetary exploration	179,600,000	175,300,000	179,600,000	179,600,000	179,600,000
Life sciences	49,700,000	39,100,000	49,700,000	43,200,000	45,200,000
Space applications	381,700,000	356,700,000	386,700,000	372,400,000	378,700,000
Technology utilization	13,100,000	12,100,000	13,100,000	12,100,000	12,600,000
Aeronautical research and technology	290,300,000	275,300,000	295,800,000	285,300,000	290,800,000
Space research and technology	115,200,000	110,200,000	120,200,000	110,200,000	115,200,000
Energy technology	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Tracking and data acquisition	359,000,000	349,000,000	350,050,000	349,000,000	349,750,000
Total	4,569,500,000	4,364,500,000	4,473,500,000	4,416,700,000	4,436,750,000
Construction of facilities	120,000,000	120,000,000	115,500,000	120,000,000	118,000,000
Research and program management	1,047,154,000	1,033,154,000	1,033,154,000	1,033,154,000	1,033,154,000
Grand total	5,736,654,000	5,517,654,000	5,622,154,000	5,569,854,000	5,587,904,000

The points in disagreement and the conference resolution of them are as follows:

1. NASA requested $1,873,000,000 for the Space Shuttle program.

The House authorized $1,878,000,000, adding $5 million to the request for the procurement of long lead materials to maintain the option to build a fifth Space Shuttle orbiter.

The Senate authorized the NASA request, $1,873,000,000 with report language authorizing the procurement of long lead materials for a fifth orbiter from within the authorized amount.

The conference substitute adopts the Senate position but within the amount authorized, directs NASA to procure long lead materials necessary to maintain the most efficient production schedule for a fifth Space Shuttle orbiter.

2. NASA requested $767,500,000, a reduction of $42 million from the original budget request, for the space flight operations program.

The House authorized $769,500,000 increasing the revised request by $2 million, the net result of adding $12 million for development of a solar electric propulsion system (SEPS) and $5 million to advanced programs, and a reduction of $15 million in Spacelab procurement funds.

The Senate authorized $779,500,000 adding $12 million to the revised budget request to initiate SEPS development.

The Conference substitute authorizes $779,500,000 including $13.8 million for advanced programs and $144.7 million for Spacelab.

3. The NASA request for the physics and astronomy program was $346,600,000 following a reduction of $92.1 million in the revised budget.

The House authorized $370,700,000 increasing the revised request by $24.1 million, of which $18 million restored in part, Shuttle/Spacelab payload development funding and $6.1 million restored the research and analysis funding cut.

The Senate authorized $352,700,000, increasing the revised request to restore the $6.1 million research and analysis cut.

The Conference substitute adopts the Senate position.

4. NASA requested $39,100,000 for the life sciences program, a reduction of $10.6 million in the original budget request.

The House authorized the original request of $49,700,000, restoring the budget revision reductions of $6.5 million in flight experiments and $4.1 million in research and analysis activities.

The Senate authorized $43,200,000, increasing the revised request by $4.1 million to restore the reduction in research and analysis funding.

The Conference substitute authorizes $45,200,000 including $14.7 million for flight experiments.

5. The NASA request for the space applications program was $356,700,000, following a reduction of $25 million in the budget revision.

The House authorized $386,700,000, an increase of $30 million in the revised request. Of the increase, $9.3 million was applied to the operational land observing system (a partial restoration of the $16 million deleted by the budget revision), $3 million was a partial restoration of the budget reduction in resource observations applied research and data analysis, partial restorations of $5 million each were made in the reductions in environmental observations applied research and analysis and Shuttle/Spacelab payload development, $5 million represented a full restoration of the cut in technology transfer, and $2.7 million was added to support development of the space processing analytical float zone experiment.

The Senate authorized $372,400,000 for the space applications program, an increase of $15.7 million in the revised request. Of the increase, $5 million was a partial restoration of the budget reduction in resource observations applied research and data analysis, $3 million was a partial restoration of the reduction in technology transfer funding, and the remaining $7.7 million was for new initiatives—$2.7 million for the analytical float zone experiment (identical with the House) and $5 million for a multilinear array technology program.

The Conference substitute authorizes $378,700,000, an increase of $22 million in the revised request. Of the increase, the Conferees agreed that $9.3 million is to be allocated to the multilinear array technology and to definition studies of an operational system including private sector involvement. The funds authorized include $15.8 million for resource observations applied research and data analysis, $52.9 million for environmental observations applied research and data analysis, and $11.5 million for technology transfer.

6. NASA requested $12,100,000 for the technology utilization program, a reduction of $1 million in the original budget request.

The House authorized $13,100,000, restoring the $1 million revised budget cut in biomedical applications activities.

The Senate authorized the revised budget request, $12,100,000.

The Conference substitute authorizes $12,600,000 for the technology utilization program.

7. The NASA revised budget request of $275,300,000 for the aeronautical research and technology program reflected a $15 million reduction in the original budget.

The House authorized $295,800,000, an increase of $20.5 million above the revised request. The increase was to be applied as follows: variable cycle engine high temperature validation, $4.5 million; high-performance flight experiments, $5.5 million; high speed aircraft structures technology, $4 million; aircraft technology for future fuels, $4 million; conservation of scarce aerospace materials, $1 million; and general aviation and commuter propeller technology, $1.5 million.

The Senate authorized $285,300,000 for the aeronautical research and technology program, increasing the revised request by $10 million for general research applications including work on future aircraft fuels and scarce aerospace materials.

The Conference substitute authorizes $290,800,000 for the aeronautical research and technology program with the increase above the revised request to be used for aircraft technology for future fuels, conservation of scarce aerospace materials, variable cycle engine high temperature validation, high-performance flight experiments, high speed aircraft structures technology, and general aviation and commuter propeller technology.

8. The NASA request for the space research and technology program was $110,200,000 after a reduction of $5 million in the original budget submission.

The House authorized $120,200,000, increasing the revised request by $10 million, with the increase to be applied as follows: $3.1 million restoring the revised budget cut in the research and technology base; $1.9 million restoring the budget cut in systems technology activities; $3 million to enhance chemical propulsion technology activities; and $2 million for added effort on space platform and large space structure technologies.

The Senate authorized $110,200,000, the revised budget request.

The Conference substitute authorizes $115,200,000 with the $5 million increase to the revised request to be used for advanced chemical propulsion technology and space platform and large space structure technologies.

9. The NASA revised budget request for the tracking and data acquisition program was $349,000,000, a reduction of $10 million in the original budget submission.

The House authorized $350,500,000, an increase of $1.5 million restoring the revised budget reducton in operations.

The Senate authorized the revised budget request for the program, $349,000,000.

The Conference substitute authorizes $349,750,000 for tracking and data acquisition activities.

10. NASA requested $1,500,000 for a construction of facilities project for modifications to various buildings for energy conservation at the Jet Propulsion Laboratory.

The House deferred this request.

The Senate authorized the requested amount.

The Conference substitute adopts the Senate position.

11. NASA requested $3,000,000 for a construction of facilities project to initiate decommissioning of the Plum Brook Station reactor facility at Lewis Research Center.

The House deferred this request.

The Senate authorized the requested amount.

The Conference substitute authorizes $1,000,000 for this project and requests that NASA, in view of the necessity for a phased accomplishment of this project due to radiation hazards, provide the authorizing Committee of the House and the Senate with a project plan for work in ensuing fiscal years by December 31, 1980.

13. The House amendment added a clarifying provision to the bill to conform to the requirement of the Congressional Budget Act of 1974. The words "hereby authorized" were added to the second line of section 1(d) following the word "appropriations."

The Senate bill did not include the foregoing langauge.

The Committee of conference adopts the House provision.

14. The House amendment consolidated two construction of facility projects at various locations as items 13(A) and 13(B) in subsection 1(b) (13).

The Senate bill established each of these projects as an individual line item.

The conference substitute adopts the Senate position noting that the two projects are individual, unrelated, and separate undertakings and, therefore, should be presented accordingly.

Don Fuqua,
Thomas R. Harkin,
Jim Lloyd,
Marilyn Lloyd Bouquard,
Ronnie G. Flippo,
Wesley W. Watkins,
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Managers on the Part of the House.
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Wendel H. Ford,
Barry M. Goldwater,
Harrison H. Schmitt,
Managers on the Part of the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

TEXT OF PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND PERU CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-336)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, June 27, 1980.)

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, because of health reasons, I was not able to be present for votes in the House from Tuesday, June 17 through Friday, June 20, 1980. The following is an explanation of how I would have voted had I been present:

Rollcall No. 332: A vote on the motion offered by Representative de la Garza to suspend the rules and pass H.R. 7018, the Federal Insecticide, Fungicide, Rodenticide Act extension, as amended. The measure failed by a vote of 215 to 199. If I had been present, I would have voted against the measure.

Rollcall No. 333: A vote on the motion offered by Representative Rostenkowski to suspend the rules and pass H.R. 4155, Internal Revenue Code amendments for student loan defaulters, to allow the Treasury Department to disclose to the Education Department the mailing addresses of taxpayers who have defaulted on guaranteed student loans. The measure passed by a vote of 411 to 0. If I had been present, I would have voted against the measure.

Rollcall No. 334: A vote on the motion offered by Representative Rostenkowski to suspend the rules and pass H.R. 4968, Internal Revenue Code amendments for real estate investments. The measure failed by a vote of 214 to 196. If I had been present, I would have voted against the measure.

Rollcall No. 335: A vote on the motion offered by Representative Rostenkowski to suspend the rules and pass H.R. 7171, miscellaneous changes in tax laws. The measure was passed by a vote of 393 to 17. If I had been present, I would have voted in favor of the measure.

Rollcall No. 336: A vote on the motion offered by Representative Spellman to suspend the rules and pass H.R. 2510, review of disability retirement determinations. The measure passed by a vote of 362 to 48. If I had been present, I would have voted in favor of the measure.

Rollcall No. 337: A vote on the motion offered by Representative Ullman to suspend the rules and pass H.R. 7477, Internal Revenue Code amendments for the airway trust fund to extend the present aviation excise tax at their current rate through September 30, 1980. The measure was passed by a vote of 394 to 20. If I had been present, I would have voted in favor of the measure.

Rollcall No. 339: A vote on the amendment offered by Representative Fithian to H.R. 7542, the supplemental appropriations and rescission bill of 1980, to rescind $100 million in GSA furniture purchasing authority for 1980, and designate $42 million for disaster assistance under title II of Public Law 480. The amendment passed by a vote of 346 to 47. If I had been present, I would have voted in favor of the amendment.

Rollcall No. 342: A vote on the amendment offered by Representative Pritchard to H.R. 7542, the Supplemental Appropriations and Rescissions Act of 1980, to delete funds for the Tennessee-Tombigbee waterway project. The amendment failed by a vote of 230 to 185. If I had been present, I would have voted in favor of the amendment.

Rollcall No. 343: A vote on the amendment offered by Representative Ashbrook to H.R. 7542, the Supplemental Appropriations and Rescissions Act of 1980 regarding the tax exempt status of private, religious, or church-operated schools under the Internal Revenue Code. The amendment passed by a vote of 326 to 81. If I had been present, I would have voted against the amendment.

Rollcall No. 344: A vote on the amendment offered by Representative Lehman to H.R. 7542, the Supplemental Appropriations and Rescissions Act of 1980, to provide refugee resettlement assistance. The amendment passed by a vote of 210 to 188. If I had been present, I would have voted in favor of the amendment.

Rollcall No. 345: A vote on the final passage of H.R. 7542, the Supplemental Appropriations and Rescissions Act of 1980. The measure passed by a vote of 294 to 106. If I had been present, I would have voted in favor of the measure.

Rollcall No. 346: A vote on the final passage of S. 2698, the conference report on the Small Business Development Act of 1980. The measure passed by a vote of 210 to 193. If I had been present, I would have voted in favor of the measure.

Rollcall No. 347: A vote on the amendment offered by Representative Fenwick to H.R. 6418, the Motor Carrier Act of 1980, to exempt from ICC regulation food or eligible products or byproducts (except alcoholic beverages and drugs) intended for human consumption. The measure failed by a vote of 287 to 113. If I had been present, I would have voted in favor of this measure.

Rollcall No. 348: A vote on the amendment offered by Representative Levitas to H.R. 6418, the Motor Carrier Act of 1980, to strike section 8 in the bill which permits wholesale food or grocery brokers who usually deliver their goods to their customers to reduce the price of those goods by the actual amount of the transportation costs if their customers pick up the goods themselves. The measure failed by a vote of 338 to 57. If I had been present, I would have voted against the measure.

Rollcall No. 349: A vote on the amendment offered by Representative Levitas to H.R. 6418, the Motor Carrier Act of 1980, to provide for a congressional veto of rules related to motor carriers of property promulgated by the ICC or the Department of Transportation. The measure failed by a vote of 192 to 189. If I had been present, I would have voted against the measure.

Rollcall No. 350: A vote on final passage of H.R. 6418, the Motor Carrier Act of 1980, to ease regulation of the trucking industry. The measure passed by a vote of 367 to 13. If I had been present, I would have voted in favor of the measure.

Rollcall No. 352: A vote on House Resolution 702, the rule providing for consideration of H.R. 6711, the Youth Act of 1980. The measure was passed by a vote of 330 to 1. If I had been present, I would have voted in favor of the measure.

Rollcall No. 353: A vote on House Resolution 715, the rule providing for consideration of H.R. 7584, the Departments of State, Justice, Commerce, the judiciary, and related agencies appropriations for fiscal year 1981. The measure was passed by a vote of 325 to 10. If I had been present, I would have voted in favor of the measure.

Rollcall No. 356: A vote on the amendment offered by Representative Crane to H.R. 7584, the Departments of State, Justice, Commerce, the judiciary, and related agencies appropriations for fiscal year 1981, providing that no more than $1,000 be used to operate an embassy in Israel which is not located in the city of Jerusalem. The measure failed by a vote of 252 to 80. If I had been present, I would have voted against the measure.

Rollcall No. 358: A vote on the amendment offered by Representative Ashbrook to H.R. 7584, the Departments of State, Justice, Commerce, the judiciary, and related agencies for 1981, providing that no more than 90 percent of the funds in title I of this bill be expended except for payment to the American Institute in Taiwan. The measure failed by a vote of 157 to 151. If I had been present, I would have voted against the measure.

ANNUAL CORPORATE TAX STUDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 30 minutes.

● Mr. VANIK. Mr. Speaker, today I am inserting in the Record the final edition of my annual corporate tax studies. Since the studies began in 1972, I have documented year after year the various ways in which the U.S. Congress has catered to the desires of corporate taxpayers at the expense of the general taxpayers. Two trends stand out in the 8 years I have conducted the study. One is that certain companies and groups of companies are more adept than others at extracting tax favors from the Government. The second is that there has been an alarming and more or less unwaivering decline in the effective rate of corporate income tax as well as a major shift in budget receipts from corporations to individuals.

Can you guess which major American companies escaped paying Federal taxes completely in 1978? Banks such as J. P. Morgan & Co., industrials like U.S. Steel and General Dynamics Corp., American Airlines, Occidental Petroleum Corp., and nine others. This study is the eighth annual report I have provided on the effective Federal tax rate of America's Fortune 100 top industrial, and banking, transportation, utility, and retailing companies. The study is prepared at my request by the staff of the Joint Committee on Taxation with the assistance of accountants from the General Accounting Office. The study includes five different ways of measuring corporate tax payments.

The basic trend line of Federal corporate tax rates established in the last 8 years is steadily downward—this year is no exception to that rule. This pattern of tax payments destroys the conservative myth that there is a need for across-the-board corporate tax relief or that corporate tax cuts in the past have resulted in increased tax receipts. Without the impetus of new tax laws, the corporate share of Federal income tax contributions will soon fall to a nominal 5 or 6 percent. There appears to be very little room for corporate capital formation by cutting corporate taxes unless the country moves to refundable tax credits—or a Treasury-taxpayer supported Government dole for business and industry.

In 1978, 14 of the profitable companies with pretax worldwide earnings of $3,525,910,000 paid no Federal income taxes. This compares with 17 companies earning $2,061,293,000 that paid no Federal income taxes in 1977 (table 1). Also, in 1978 30 companies with worldwide pretax income of $14,471,562,000 paid 10 percent or less in effective Federal income taxes (table II).

Ten years ago, income taxes paid by corporations provided 17 percent of the revenues required to pay for the activities of the Federal Government. Today, corporate income taxes produce only 14 percent of Federal receipts. By 1983, it is estimated that this figure will fall to 11 percent. At the rate we are going, I believe corporate income tax payments will soon become a token 5 or 6 percent of Treasury receipts.

What the corporations do not pay is collected from the general taxpayer (table III).

The big oil companies included in this study paid an average effective Federal tax rate of 13.3 percent on worldwide income of $28.4 billion. This rate is deceptively high because some of the largest multinational oil companies are able to reduce or eliminate completely their Federal tax liability through the foreign tax credit. In a study prepared at my request by the Treasury Department from actual 1977 tax returns, the tax devices used to reduce Federal taxes to absurdly low rates are itemized. See Congressional Record of August 2, 1979, 22179. Decontrol will only aggravate this trend in spite of the windfall excise tax.

Utilities, airlines, and railroads again lead the list of corporate nonpayers of tax. The investment tax credit changes of the Tax Act of 1976 have eliminated taxes for some of the most profitable airlines. Deregulation of the airline industry will help fill the company coffers but will do little to improve their contribution to the Federal budget.

The Nation's banks once again recorded the lowest average effective Federal tax rate. The 10 largest banks paid 6.3 percent on $19.9 billion in worldwide pretax income.

Where data was available to separate foreign and domestic earnings, the study shows that the companies paid $17.5 billion in taxes to foreign governments and paid $18.1 billion to our own U.S. Government.

The report covers 145 companies comprised of 100 industrial, 5 airline, 5 railroad, 5 trucking, 10 utility, 5 retailing, and 10 commercial banking companies. Numerous technical problems, which are explained in the report, are encountered in the computation of effective tax rates from public source documents. Accordingly, the rates presented are only approximations of the actual effective rates for 1978. Because a few did not furnish adequate data, some categories of taxes or rates could not be computed.

REFLOW OF CORPORATE TAX CUTS DISPUTED

For the companies covered in the study, as has been the case in every previous year, the statutory tax was a myth. The average effective Federal tax rate paid by the companies in my study is 18.6 percent. This rate of 18.6 percent is about the same an average family of four would pay if they earned $30,951 a year today (table IV).

This compares with the statutory rate of 46 percent, reduced from 48 percent by the Revenue Act of 1978. This study starkly demonstrates that Federal tax subsidies provided giant corporations significantly reduce or eliminate their Federal tax obligations.

Observers already maintain that the corporate tax reductions of 1978 have increased investment, stimulated the economy, created jobs and done everything except cure the common cold. I am skeptical of those who would sell this medicine as the magic potion to cure our sagging economy. A double or triple dose of a useless potion does not improve its curative powers. Across-the-board corporate tax cuts in the past have not produced the desired results and have only contributed to deficits and shifting the tax burden to individuals.

The Kemp-Roth tax cut of 1978 would have plunged us deeper into inflation and created intolerable budget deficits. An economic study showed that the Kemp-Roth bill, when fully enacted, would actually have increased inflation a full percentage point per year over the no-tax-cut alternative. The latest business call to arms—10–5–3 or accelerated depreciation—will also be an unacceptable drain on the Treasury as well as spreading the benefits wastefully throughout the economy. In addition, in spite of claims to the contrary, there is almost no feedback to the Treasury in higher corporate tax receipts.

METHODOLOGY

Since actual tax returns are not available, the figures in this report are taken from two public sources: Annual financial reports to stockholders of the various companies, and separate annual reports required by the Securities and Exchange Commission. In cases where the amount of taxes paid was in doubt, the uncertainty was decided in favor of the corporate taxpayer. This extra-conservative approach means that the amount of actual taxes paid by the companies may be even less than shown here and actual effective tax rates are probably overstated. This phenomenon is described in a note to the text, "'Overstating' the Provisions for Federal Income Taxes." Another technical note explains how tax rules work so that the actual amount paid to the Federal Treasury in any year may be less than the current tax expense used in computing the effective rates:

> Interperiod tax allocation is an accounting concept that is based on the assumption that the vagaries of the tax law that result merely in timing differences should not affect the overall reported tax expense of the company in a given year. The concept provides in essence that the total tax expense for the period should be the statutory rate times income before tax (after allowing for permanent differences). Some portion of this expense will be due currently under the tax law while the rest will be due (or perhaps refundable) in the future. The portion that is

due currently is termed "current tax expense" and the portion that is due (or refundable) in the future is termed "deferred tax expense".

It is sometimes difficult to determine whether a particular difference should be classified as a permanent difference or a timing difference. Realization of timing differences in the future may depend on the level of future profits or may be affected by the level of investment in plant assets or other factors. Subjective determinations are often required. No attempt was made to reclassify the companies' determinations.

The companies in the report will be certain to state that they actually paid much more in taxes than the study indicates. I remind you that the study covers only the Federal corporate income tax. Companies do pay other taxes such as sales taxes, excise taxes, State, city and local taxes, franchise taxes, and taxes to foreign governments. Every American citizen pays these taxes, too. The fifth way of computing effective tax rates, the effective rate of U.S. tax on adjusted worldwide income, was added to the study this year and last to allow companies to take their foreign taxes as a cost of doing business abroad (see note 6). However, as a member of the House tax-writing committee, I am specifically concerned about changes in the Federal income tax.

REASONS FOR LOW TAX RATES

The effective tax rates are lower than the statutory rate because of the special accommodations made to encourage reinvestment, define business deductions, offset taxes of other jurisdictions, and other reasons. The special provisions enacted for different sectors are a testimony to their influence in Congress. The maritime industry, while not covered in this study, is a good example of putting tax incentives where they will do the least good. The shipping sector already pays almost no Federal corporate income taxes.

The omnibus maritime bill, which was considered by the Ways and Means Committee, would provide accelerated depreciation, an increased investment credit, and expand the use of a special tax-deferred capital construction fund. The proposed changes in the construction fund and the tax laws would in many cases create a negative income tax and invite tax shelter abuses.

Defense contractors, already extraordinary recipients of large Federal favors, receive special tax treatment as well. General Dynamics Corp., Lockheed Corp., and Boeing Co. all appear on the list of companies paying no taxes. Other defense-related industries, such as Rockwell International Corp. and McDonnell Douglas Corp. pay less than 5 percent in effective Federal taxes.

After 8 years of careful review of the corporate tax contribution to the Federal Treasury, it becomes more and more apparent that the corporate community will soon become a free-loader, making practically no contribution to the cost of defending the corporate resources or the cost of feeding the needy. As corporations and businesses disappear from the scene as taxpayers, it becomes more and more apparent that the Federal taxes on dividends may constitute the only tax contribution made by business and enterprise. It also becomes apparent that as corporate and business tax contributions ebb and phase out, the burdens on the individual taxpayer must increase—a very unpleasant, intolerable prospect.

PAST STUDIES

To provide a reference to all past corporate tax studies, the following is a list of studies by tax year covered by the report and the date it appeared in the CONGRESSIONAL RECORD.

Tax year

Study appeared in Congressional Record on:

1971 (1st annual): July 19, 1972; p. 24486.

1972 (2nd annual): August 1, 1973.

1973 (3rd annual): December 18, 1974, Vol. 120; No. 178, Part 2.

1974 (4th annual): October 7, 1975, Vol. 121; No. 150.

1975 (5th annual): October 1, 1976, Vol. 122; No. 151, Pt. 3.

1976 (6th annual): January 26, 1978, Vol. 124; No. 6.

1977 (7th annual): June 22, 1979, pp. 16190–16195; June 26, p. 16709.

The Annual Corporate Tax Study for Tax Year 1978 with tables and explanatory notes by the Joint Committee on Taxation follows:

STUDY OF THE EFFECTIVE 1978 INCOME TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

PREFACE

The effective rates of tax presented in this study are computed on the basis of information contained in the companies' annual reports to the Securities and Exchange Commission and shareholders. The financial statements included in such reports are prepared in accordance with generally accepted accounting principles, which in many instances are different than tax accounting rules. Accordingly, the income before tax, current tax expense and effective rates presented in this study are only approximations of the actual amounts reported in the companies' income tax returns. The following are some of the principal problems in estimating effective tax rates from published financial information:

Consolidation of subsidiaries

For financial statement purposes, companies generally consolidate subsidiaries that are more than 50-percent owned, including foreign subsidiaries. For Federal income tax purposes, however, generally only 80-percent or more owned domestic subsidiaries are eligible to be included in a consolidated income tax return. Thus, the "taxable entity" and the "financial statement entity" upon which this study is based may not be the same.

In financial statements, the entire Federal income tax expense of all consolidated subsidiaries is reported as though it were an income tax or refund wholly attributable to the majority interest of the consolidated group. However, the minority interest in the subsidiaries' income or loss (perhaps as much as 49 percent) is eliminated net of tax. Thus, the consolidated financial statements often show the total tax expense of even 51-percent owned subsidiaries while eliminating the after-tax income attributable to the minority interest.

To compensate for this, the net income per financial statements was adjusted to reverse the elimination of the income or loss attributable to the minority interest.

Equity accounting for investments in affiliates and joint ventures

Generally, investments in affiliates (20 to 50 percent owned companies) and joint ventures are accounted for by the equity method. This method, which is sometimes called a one line consolidation, produces the same net income as does the consolidation method, but through a different technique. Under the equity method, the parent corporation's proportionate share of the "after tax" earnings of the affiliate or joint venture is shown on one line in the income statement. In a consolidation, on the other hand, all income and expense accounts of the subsidiary are combined with those of the parent, and the minority interest is eliminated as a single item.

Under the equity method the parent corporation's provision for income taxes generally does not include the tax attributable to the parent's equity in the net income or loss of the affiliate or joint venture. If the equity earnings were reported in this normal manner, an adjustment was made to eliminate the equity income or loss from net income of the parent.

In some instances, equity earnings were shown "broad" in the financial statements, which means that the pre-tax equity income is included in income of the parent and the related taxes are included in the parent's tax provision. This occurs usually where the parent owns more than an 80 percent interest in the equity company, but is not consolidating it for some other reason. If equity earnings were reported in this manner, no adjustment was deemed necessary.

"Overstating" the provisions for Federal income taxes

Corporations may "overstate" the accrued Federal income tax liability, and thus overstate the provision to provide a "cushion" for potential increases in tax liability resulting from Internal Revenue Service examinations. Corporations "book" this "overstatement" because of the tendency to resolve doubtful items in the corporate favor while realizing that they may result in tax deficiencies on examination by the Internal Revenue Service. Because the amount of this "overstatement" of the provision for Federal income taxes cannot be determined from public information sources, no attempt was made in this study to adjust for this amount in arriving at the estimated current Federal income tax expense.

Interperiod tax allocation

If generally accepted accounting principles and tax accounting rules were exactly the same, then all corporations would show an effective rate of tax equal to the statutory rate before credits. The various differences between tax and financial accounting rules account for the variances in effective tax rates. Some of these differences are 'timing differences" which will reverse in future periods, while others are "permanent differences" which will not reverse. Examples of timing differences include accelerated depreciation, completed contract method of accounting for long-term contracts, installment sale reporting, amortization of investment tax credit and provision for losses on discontinued operations. Examples of permanent differences include the 85 percent dividends received deduction and non-taxable municipal bond interest.

Interperiod tax allocation is an accounting concept that is based on the assumption that the vagaries of the tax law that result merely in timing differences should not affect the overall reported tax expense of the company in a given year. The concept provides in essence that the total tax expense for the period should be the statutory rate times income before tax (after allowing for permanent differences). Some portion of this law while the rest will be due (or perhaps expense will be due currently under the tax refundable) in the future. The portion that is due currently is termed "current tax expense" and the portion that is due (or refundable) in the future is termed "deferred tax expense."

It is sometimes difficult to determine whether a particular difference should be classified as a permanent difference or a timing difference. Realization of timing differences in the future may depend on the level of future profits or may be affected by the level of investment in plant assets or other factors. Subjective determinations are often required. No attempt was made to reclassify the companies' determinations.

Intraperiod tax allocation

This accounting technique results in showing the effect of taxes on the various sections of the income statement. For example, the tax expense or savings attributable to extraordinary items or discontinued operations is shown separately from that which is attributable to normal operations. Occasionally the extraordinary item is recognized for financial statement purposes in a period different than for tax purposes, which causes interperiod and intraperiod tax allocation rules to operate together.

For purposes of this study, whenever sufficient information was provided, all intraperiod taxes were aggregated by their current and deferred tax components.

NOTES TO TABLE OF RATES

*Unavailable or data insufficient to allow for a reasonable allocation of worldwide income between U.S. and Foreign sources, or no foreign operations.

[1] Worldwide income before tax is comprised of income before Federal and foreign income taxes, adjusted to eliminate the equity in earnings or losses of unconsolidated subsidiaries and to restore the minority interest in earnings or losses of consolidated subsidiaries. In several instances the adjustment for equity in earnings of an unconsolidated subsidiary is not made because the parent has at least 80 percent ownership of the subsidiary and the subsidiary's income taxes are separately disclosed. In these circumstances it is likely that the subsidiary is consolidated with the parent for tax purposes, even though it is not for financial statement purposes.

[2] The allocation of income between U.S. and foreign sources is based on information voluntarily disclosed in the companies' financial statements. Effective for fiscal years beginning after December 15, 1976, Financial Accounting Standards Board Statement No. 14 requires certain disclosures relating to foreign operations. The SEC also requires similar information to be disclosed.

Uniform methods of allocating income between U.S. and foreign sources have not been developed; and corporate administrative, capital and product development costs are subject to arbitrary allocation methods. However, the information provided, subject to the accuracy of the allocations, provides information useful in analyzing the effective income tax burden of multinational corporations.

Most companies allocate unrealized foreign currency exchange gains and losses recognized under FASB Statement No. 8 to foreign source income. Net exchange gains decrease the current effective tax rate and net exchange losses increase the effective tax rate. Some companies report high effective foreign tax rates (perhaps in excess of 100 percent) because of the recognition of such losses for financial reporting purposes.

[3] Current worldwide tax expense is comprised of the current portion of the Federal and foreign income taxes reported for financial accounting purposes. Generally, financial accounting rules require that the income taxes currently payable be stated separately from those payable in the future. The taxes payable in the future, called "deferred taxes," are attributable mostly to "timing differences" in recognizing income and deductions for financial accounting and tax purposes. The taxes payable currently in most cases represent the tax estimated to be shown on the return to be filed. However, the current provision for each year is adjusted by the over- or under-estimation of the prior year's current provision. To the extent of the current and prior year errors in estimation the current income tax provision does not represent actual current tax expense.

[4] The allocation of current income taxes between U.S. and foreign expense is required by the SEC. In some instances, where the amount involved is not material, State or foreign income taxes may be included with U.S. income taxes. Thus, companies that do not separately state U.S. and foreign earnings must at least separately state U.S. and foreign income taxes allocated between current and deferred, when they are material.

[5] The effective tax rates are computed by dividing the worldwide, foreign and U.S. current tax expense by worldwide foreign and U.S. income before tax, respectively.

In addition, an effective rate of U.S. tax on worldwide income is computed by dividing the current U.S. tax expense by worldwide income before tax.

For those companies which chose to disclose foreign earnings, the computation of the effective U.S. tax rate on U.S. income and foreign tax rate on foreign income is possible. For those companies which chose not to disclose foreign earnings, only the effective rate of the U.S. tax on worldwide income and worldwide tax on worldwide income is determinable.

The estimated rate of U.S. tax on U.S. income may be overstated to the extent that some portion of the U.S. tax is actually attributable to foreign earnings This will occur when the foreign tax paid on foreign earnings is less than the U.S. tax on those earnings, so that even after utilization of the foreign tax as a credit against U.S. tax, an incremental U.S. tax is payable on the foreign earnings. It is not possible to adjust accurately for this occurrence on the basis of publicly available information.

[6] This effective rate is computed by dividing current U.S. Tax Expense (see footnote No. 4) by Worldwide Income Before Tax (see footnote No. 1) reduced by the total foreign income tax provision which is comprised of both current and deferred foreign income taxes.

	Thousands						Percent				
	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[2]	Current U.S. tax expense[4]	Current foreign tax expense[4]	Current worldwide tax expense[3]	Effective U.S. tax rate on U.S. income[5]	Effective rate on foreign income[5]	Effective worldwide tax rate on worldwide income[5]	Effective U.S. tax rate on worldwide income[5]	Effective rate of U.S. tax on adjusted worldwide income
Industrial corporations:											
General Motors Corp	5, 048, 660	1, 010, 340	6, 059, 000	2, 259, 300	511, 000	2, 770, 300	44. 8	50. 6	45. 7	37. 3	41. 0
EXXON Corp	2, 506, 148	5, 560, 000	8, 066, 148	858, 000	4, 447, 000	5, 305, 000	34. 2	80. 0	65. 8	11. 4	25. 0
Ford Motor Co	913, 400	1, 652, 700	2, 566, 100	385, 800	680, 300	1, 066, 100	42. 2	41. 2	41. 6	15. 0	22. 8
Mobil Corp	(*)	(*)	845, 573	230	2, 430	2, 660	(*)	(*)	. 3		
Texaco, Inc	340, 175	1, 141, 164	1, 481, 339	90, 900	572, 100	663, 000	26. 7	50. 1	44. 8	6. 1	11. 7
Standard Oil Co. of California	1, 010, 989	463, 508	1, 474, 497	430, 130	238, 188	668, 318	42. 6	51. 4	45. 3	29. 2	35. 2
International Business Machines Corp	2, 734, 625	3, 062, 943	5, 797, 568	1, 120, 542	1, 560, 848	2, 681, 390	41. 0	51. 0	46. 3	19. 3	26. 1
General Electric Co	1, 553, 000	540, 200	2, 093, 200	590, 400	221, 100	811, 500	38. 0	40. 9	38. 8	28. 2	32. 3
Gulf Oil Corp	692, 283	1, 260, 717	1, 953, 000	36, 000	889, 000	925, 000	5. 2	70. 5	47. 4	1. 8	3. 6
Chrysler Corp	(*)	(*)	(321, 500)	(102, 900)	21, 800	(81, 100)					
International Telephone & Telegraph Corp	173, 699	500, 430	674, 129	46, 998	252, 883	299, 881	27. 1	50. 5	44. 5	7. 0	11. 5
Standard Oil Co. (Indiana)	1, 228, 082	1, 385, 412	2, 613, 494	417, 100	939, 700	1, 356, 800	34. 0	67. 8	51. 9	16. 0	26. 2
Atlantic Richfield Co	(*)	(*)	1, 298, 716	71, 100	140, 941	212, 041	(*)	(*)	16. 3	5. 5	6. 2
Shell Oil Co	(*)	(*)	1, 293, 336	203, 676	17, 878	221, 554	(*)	(*)	17. 1	15. 7	16. 0
United States Steel Corp	(*)	(*)	230, 700	(16, 000)	14, 700	(1, 300)	0	(*)	0	0	
E. I. du Pont de Nemours	(*)	(*)	1, 300, 800	410, 600	46, 200	456, 800	(*)	(*)	35. 1	31. 6	32. 9
Western Electric Co., Inc	1, 047, 666	0	1, 047, 666	407, 841	0	407, 841	38. 9	0	38. 9	38. 9	38. 9
Continental Oil Co	(*)	(*)	1, 396, 281	92, 129	743, 618	835, 747	(*)	(*)	59. 9	6. 6	15. 3
Tenneco Inc	(*)	(*)	752, 000	157, 000	29, 000	186, 000	(*)	(*)	24. 7	20. 9	21. 8
Procter & Gamble Co	(*)	(*)	1, 020, 032	(*)	(*)	390, 870	(*)	(*)	38. 3	(*)	(*)
Union Carbide Corp	408, 000	209, 300	617, 300	22, 000	88, 100	110, 100	5. 4	42. 1	17. 8	3. 6	4. 1
Goodyear Tire & Rubber Co	251, 020	129, 264	380, 284	75, 014	82, 072	157, 086	29. 9	63. 5	41. 3	19. 7	23. 3
Sun Co., Inc	(*)	(*)	719, 305	207, 287	131, 713	339, 000	(*)	(*)	47. 1	28. 8	36. 4
Caterpillar Tractor Co	(*)	(*)	928, 600	331, 000	31, 500	362, 500	(*)	(*)	39. 0	35. 6	37. 2
Eastman Kodak Co	(*)	(*)	1, 610, 634	515, 050	151, 900	666, 950	(*)	(*)	41. 4	32. 0	35. 6
Phillips Petroleum Co	(*)	(*)	1, 645, 616	284, 762	616, 685	901, 447	(*)	(*)	54. 8	17. 3	28. 4
Dow Chemical Co	(*)	(*)	836, 468	192, 100	102, 300	294, 400	(*)	(*)	35. 2	23. 0	26. 8
International Harvester Co	194, 244	136, 449	330, 693	91, 008	43, 400	134, 408	46. 9	31. 8	40. 6	27. 5	34. 0
Westinghouse Electric Corp	(*)	(*)	278, 900	119, 600	31, 500	151, 100	(*)	(*)	54. 2	42. 9	50. 2
RCA Corp	373, 900	111, 900	485, 800	80, 100	33, 500	113, 600	21. 4	29. 9	23. 4	16. 5	18. 0
Beatrice Foods Co	373, 469	108, 922	482, 391	175, 276	40, 692	215, 968	46. 9	37. 4	44. 8	36. 3	40. 0
United Technologies Corp	318, 546	154, 345	472, 891	140, 000	73, 000	213, 000	43. 9	47. 3	45. 0	29. 6	35. 0
Occidental Petroleum Corp	(*)		840, 350	0	771, 363	771, 363	0	(*)	91. 8	0	0
Bethlehem Steel Corp	(*)	(*)	299, 600	25, 000	9, 000	34, 000	(*)	(*)	11. 3	8. 3	8. 6
Union Oil Co. of California	(*)	(*)	702, 614	138, 300	105, 800	244, 100	(*)	(*)	34. 7	19. 7	23. 3
Xerox Corp	530, 200	514, 700	1, 044, 900	118, 600	273, 500	392, 100	22. 4	53. 1	37. 5	11. 4	15. 2
Rockwell International Corp	(*)	(*)	323, 800	6, 000	36, 400	42, 400	(*)	(*)	13. 1	1. 9	2. 1
Esmark, Inc	(*)	(*)	116, 868	9, 600	16, 700	26, 300	(*)	(*)	22. 5	8. 2	9. 5
Kraft, Inc	(*)	(*)	337, 000	111, 800	28, 500	140, 300	(*)	(*)	41. 6	33. 2	36. 2
Boeing Co	(*)	(*)	584, 000	(98, 900)	(*)	(98, 900)	0	(*)	0	0	0
General Foods Corp	(*)	(*)	431, 395	165, 452	21, 285	186, 737	(*)	(*)	43. 3	38. 4	40. 3
LTV Corp	(*)	(*)	42, 397	1, 653	569	2, 222	(*)	(*)	5. 2	3. 9	4. 0
Standard Oil Co. (Ohio)	(*)	(v)	593, 805	8, 959	5, 077	14, 036	(*)	(*)	2. 4	1. 5	1. 5

	Thousands						Percent				
	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[2]	Current U.S. tax expense[4]	Current foreign tax expense[4]	Current worldwide tax expense[3]	Effective U.S. tax rate on U.S. income[5]	Effective rate on foreign income[5]	Effective worldwide tax rate on worldwide income[5]	Effective U.S. tax rate on worldwide income[5]	Effective rate of U.S. tax on adjusted worldwide income[6]
Ashland Oil, Inc	(*)	(*)	420, 195	147, 761	40, 588	188, 349	(*)	(*)	44.8	35.2	39.2
Monsanto Co	(*)	(*)	563, 500	164, 300	16, 100	180, 400	(*)	(*)	32.0	29.2	30.1
Philip Morris, Inc	(*)	(*)	704, 672	231, 948	24, 966	256, 914	(*)	(*)	36.5	32.9	34.5
R. J. Reynolds Industries, Inc	(*)	(*)	809, 100	284, 400	28, 700	313, 100	(*)	(*)	38.7	35.2	36.6
Firestone Tire & Rubber Co	(*)	(*)	(174, 200)	(61, 500)	43, 700	(17, 800)	0	(*)	0	0	0
Amerada Hess Corp	126, 690	356, 938	483, 628	54, 710	285, 837	340, 547	43.2	80.1	70.4	11.3	29.2
Minnesota Mining & Manufacturing Co	(*)	(*)	1, 003. 983	293, 900	129, 700	423. 600	(*)	(*)	42.2	29.2	33.9
Cities Service Co	(*)	(*)	196, 200	39, 200	26, 100	65, 300	(*)	(*)	33.3	20.0	22.9
Marathon Oil Co	256, 918	460, 527	717, 445	37, 550	382, 676	420, 226	14.6	83.1	58.6	5.2	11.2
Georgia-Pacific Corp	(*)	(*)	504, 000	128, 000	0	128, 000	(*)	0	25.4	25.4	25.4
Armco Steel Corp	(*)	(*)	329, 204	26, 362	37, 446	63, 808	(*)	(*)	19.4	8.0	9.0
Greyhound Corp	(*)	(*)	68, 942	12, 228	8, 555	20, 783	(*)	(*)	30.1	17.7	20.5
Coca-Cola Co	(*)	(*)	672, 125	89, 146	190, 024	279, 170	(*)	(*)	41.5	13.3	18.8
Colgate-Palmolive Co	(*)	(*)	313, 886	(*)	(*)	121, 798	(*)	(*)	38.8	(*)	(*)
Gulf & Western Industries, Inc	(*)	(*)	261, 000	17, 000	36, 200	53, 200	(*)	(*)	20.4	6.5	7.6
W. R. Grace & Co	(*)	(*)	299, 689	16, 667	92, 459	109, 126	(*)	(*)	36.4	5.6	8.0
PepsiCo, Inc	(*)	(*)	400, 117	133, 670	26, 578	160, 248	(*)	(*)	40.1	33.4	35.8
Deere & Co	(*)	(*)	403, 270	175, 600	15, 100	190, 700	(*)	(*)	47.3	43.5	45.4
International Paper Co	(*)	(*)	339, 500	56, 700	48, 200	104, 900	(*)	(*)	30.9	16.7	19.5
McDonnell Douglas Corp	(*)	(*)	252, 670	8, 188	0	8, 188	(*)	0	3.2	3.2	3.2
Ralston Purina Co	(*)	(*)	272, 200	92. 000	15, 600	107, 600	(*)	(*)	39.5	33.8	36.0
Aluminum Co. of America	(*)	(*)	444, 500	117, 100	45, 300	162, 400	(*)	(*)	36.5	26.3	29.2
American Can Co	(*)	(*)	198, 800	62, 700	20, 700	83, 400	(*)	(*)	42.0	31.5	35.2
Continental Group, Inc	(*)	(*)	92, 200	(17, 100)	26, 900	9, 800	(*)	(*)	10.6	0	0
Borden, Inc	(*)	(*)	208, 327	42, 600	12, 000	54, 600	(*)	(*)	26.2	20.4	22.1
Weyerhaeuser Co	463, 556	44, 882	508, 438	118, 450	11, 400	129, 850	25.6	25.4	25.5	23.3	24.3
TRW Inc	(*)	(*)	305, 283	76, 167	56, 375	132, 542	(*)	(*)	43.4	24.9	31.3
National Steel Corp	(*)	(*)	197, 653	51, 125	(*)	51, 125	(*)	(*)	25.9	25.9	25.9
Litton Industries, Inc	(*)	(*)	303, 032	31, 545	35, 332	66, 877	(*)	(*)	22.1	10.4	8.6
Sperry Rand Corp	(*)	(*)	421, 382	(*)	(*)	101, 250	(*)	(*)	24.0	(*)	(*)
Champion International Corp	224, 116	53, 517	277, 633	61, 886	16, 759	78, 645	27.6	31.3	28.3	22.3	23.9
Bendix Corp	139, 200	91, 600	230, 800	73, 200	41, 700	114, 900	52.6	45.5	49.8	31.7	36.1
Signal Cos., Inc	277, 700	39, 100	316, 800	97, 700	18, 600	116, 300	35.2	47.6	36.7	30.8	32.8
Honeywell, Inc	(*)	(*)	298, 700	66, 400	32, 400	98, 800	(*)	(*)	33.1	22.2	25.7
Consolidated Foods Corp	(*)	(*)	221, 861	54, 384	35, 549	89, 933	(*)	(*)	40.5	24.5	32.0
Getty Oil Co	415, 626	453, 175	868, 801	113, 604	266, 413	380, 017	27.3	58.8	43.7	13.1	23.0
Johnson & Johnson	229, 151	273, 411	502, 562	82, 790	104, 899	187, 689	36.1	38.4	37.3	16.5	21.6
Lockheed Corp	(*)	(*)	101, 200	0	21, 300	21, 300	0	(*)	21.0	0	0
Republic Steel Corp	(*)	(*)	155, 091	20, 768	874	21, 642	(*)	(*)	14.0	13.4	13.5
American Brands, Inc	275, 839	103, 582	379, 421	134, 731	44, 722	179, 453	48.8	43.2	47.3	35.5	41.2
Allied Chemical Corp	(*)	(*)	261, 545	2, 320	152, 459	154, 779	(*)	(*)	59.2	.9	3.1
Inland Steel Co	(*)	(*)	223, 298	36, 370	5, 136	41, 506	(*)	(*)	18.6	16.3	16.6
General Mills, Inc	(*)	(*)	250, 300	73, 400	18, 700	92, 100	(*)	(*)	36.8	29.3	31.7
CBS, Inc	(*)	(*)	347, 980	128, 179	21, 909	150, 088	(*)	(*)	43.1	36.8	39.6
Raytheon Co	(*)	(*)	261, 147	44, 433	2, 280	46, 713	(*)	(*)	17.9	17.0	17.2
Textron, Inc	(*)	(*)	279, 389	112, 796	10, 832	123, 628	(*)	(*)	44.2	40.4	42.0
CPC International, Inc	(*)	(*)	249, 800	30, 600	63, 200	93, 800	(*)	(*)	37.6	12.2	17.0
Farmland Industries, Inc	28, 160	0	28, 160	46	0	46	.2	0	.2	.2	.2
General Dynamics Corp	(*)	(*)	154, 036	(3, 775)	(3, 129)	(6, 904)	0	0	0	0	0
Owens-Illinois, Inc	(*)	(*)	146, 037	27, 080	11, 590	38, 670	(*)	(*)	26.5	18.5	18.9
American Home Products Corp	485, 819	196, 498	682, 317	232, 394	102, 206	334, 600	47.8	52.0	49.0	34.1	39.8
Dresser Industries, Inc	(*)	(*)	363, 800	105, 500	44, 800	150, 300	(*)	(*)	41.3	31.8	33.3
Iowa Beef Processors, Inc	60, 883	0	60, 883	27, 224	0	27, 224	44.7	0	44.7	44.7	44.7
FMC Corp	170, 585	21, 932	192, 517	36, 179	6, 205	42, 384	21.2	28.3	22.0	18.8	19.4
Warner-Lambert Co	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Reynolds Metals Co	(*)	(*)	217, 100	72, 700	18, 000	90, 700	(*)	(*)	41.8	33.5	36.2
PPG Industries, Inc	(*)	(*)	234, 500	88, 200	13, 200	101, 400	(*)	(*)	43.2	37.6	39.9
Total (not counting companies with unavailable figures)	22, 850, 349	20, 037, 456	74, 573, 309	14, 328, 033	16, 730, 382	31, 672, 333	31.9	43.5	34.9	20.0	23.6
Transportation corporations:											
Airlines:											
UAL	(*)	(*)	314, 664	9, 255	2, 105	11, 360	(*)	(*)	3.6	2.9	3.0
Trans World Corp	(*)	(*)	90, 207	1, 274	15, 931	17, 205	(*)	(*)	19.1	1.4	1.7
American Airlines	(*)	(*)	100, 748	0	0	0	0	0	0	0	0
Eastern Airlines	(*)	(*)	67, 257	0	0	0	0	0	0	0	0
Pan American World Airways	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total, airlines (not counting companies with unavailable figures)	(*)	(*)	572, 876	10, 529	18, 036	28, 565	0	0	11.35	2.15	2.35
Railroads:											
Union Pacific	389, 130	0	389, 130	46, 234	0	46, 234	11.9	0	11.9	11.9	11.9
Burlington Northern	117, 251	0	117, 251	2, 502	0	2, 502	2.1	0	2.1	2.1	2.1
Southern Pacific	130, 934	0	130, 934	4, 142	0	4, 142	3.2	0	3.2	3.2	3.2
Santa Fe Industries	236, 654	0	236, 654	34, 100	0	34, 100	14.4	0	14.4	14.4	14.4
Seaboard Coast Line Industries	64, 022	0	64, 022	(517)	0	(517)	0	0	0	0	0
Total, railroads	937, 991	0	937, 991	86, 461	0	86, 461	6.32	0	6.32	6.32	6.32
Trucking:											
United Parcel Service	(*)	(*)	143, 041	62, 336	(*)	62, 336	(*)	(*)	43.6	43.6	(*)
Consolidated Freightways	(*)	(*)	106, 949	45, 071	2, 008	47, 079	(*)	(*)	44.0	42.1	43.2
Roadway Express	104, 417	0	104, 417	41, 390	0	41, 390	39.6	0	39.6	39.6	39.6
Leaseway Transportation	(*)	(*)	60, 150	9, 980	(*)	9, 980	(*)	(*)	16.6	16.6	(*)
Yellow Freight System	69, 479	0	69, 479	11, 654	0	11, 654	16.8	0	16.8	16.8	16.8
Total, trucking (not counting companies with unavailable figures)	173, 896	0	484, 036	170, 431	2, 008	172, 439	28.2	0	32.12	31.74	33.20
Utility corporations:											
American Telephone & Telegraph	8, 363, 094	0	8, 363, 094	1, 332, 017	0	1, 332, 017	15.9	0	15.9	15.9	15.9
General Telephone & Electronics	994, 581	158, 701	1, 153, 282	200, 364	38, 645	239, 009	20.1	24.4	20.7	17.4	18.6
Southern Co	454, 471	0	454, 471	13, 135	0	13, 135	2.9	0	2.9	2.9	2.9
Pacific Gas & Electric	461, 376	0	461, 376	104, 924	0	104, 924	22.7	0	22.7	22.7	22.7
American Electric Power	343, 393	0	343, 393	(889)	0	(889)	0	0	0	0	0
Commonwealth Edison	448, 358	0	448, 358	18, 718	0	18, 718	4.2	0	4.2	4.2	4.2
Consolidated Edison	444, 469	0	444, 469	84, 300	0	84, 300	19.0	0	19.0	19.0	19.0
Southern California Edison	300, 745	0	300, 745	(49, 219)	0	(49, 219)	0	0	0	0	0
Public Service Electric & Gas	377, 942	0	377, 942	11, 245	0	11, 245	3.0	0	3.4	3.0	3.0
Middle South Utilities	191, 096	0	191, 096	(5, 805)	0	(5, 805)	0	0	0	0	0
Total, utilities	12, 379, 525	158, 701	12, 538, 226	1, 708, 720	38, 645	1, 747, 435	8.8	2.4	8.8	8.5	8.63

	Thousands						Percent				
	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[3]	Current U.S. tax expense[4]	Current foreign tax expense[4]	Current worldwide tax expense[3]	Effective U.S. tax rate on U.S. income[5]	Effective rate on foreign income[5]	Effective worldwide tax rate on worldwide income[5]	Effective U.S. tax rate on worldwide income[5]	Effective rate of U.S tax on adjusted worldwide income[6]
Retailing corporations:											
Sears, Roebuck	(*)	(*)	656, 222	276, 000	(*)	276, 000	(*)	(*)	42. 1	42. 1	4. 2
Safeway Stores	185, 247	79, 311	264, 558	83, 108	35, 590	118, 698	44. 9	44. 9	44. 9	31. 4	37. 4
K Mart	543, 112	36, 955	580, 067	244, 714	17, 855	262, 569	45. 0	48. 3	45. 3	42. 2	43. 5
J. C. Penney	(*)	(*)	442, 000	117, 000	(*)	117, 000	(*)	(*)	26. 5	26. 5	26. 5
Kroger	142, 053	0	142, 053	47, 616	0	47, 616	33. 5	0	33. 5	33. 5	33. 5
Total, retailing (not counting companies with unavailable figures)	870, 412	116, 266	2, 084, 900	768, 438	53, 445	821, 883	41. 1	46. 6	38. 46	35. 14	36. 0
Commercial banking corporations:											
BankAmerica Corp	469, 920	281, 000	750, 920	99, 000	103, 000	202, 000	21. 1	36. 7	26. 9	13. 2	15. 3
Citicorp	(*)	(*)	786, 814	55, 000	245, 000	300, 000	(*)	(*)	38. 1	7. 0	10. 2
Chase Manhattan Corp	(*)	(*)	295, 090	260	67, 210	67, 470	(*)	(*)	22. 9	. 1	. 1
Manufacturers Hanover Corp	127, 610	139, 621	267, 231	29, 450	30, 032	59, 482	23. 1	21. 5	22. 3	11. 0	13. 2
J. P. Morgan & Co	(*)	(*)	347, 864	(2, 765)	75, 211	72, 446	0	(*)	20. 8	0	0
Chemical New York Corp	35, 031	73, 268	108, 299	(16, 853)	15, 884	(969)	0	21. 7	0	0	0
Continental Illinois Corp	146, 554	72. 000	218, 554	5, 844	32, 849	38, 693	4. 0	45. 6	17. 7	2. 7	3. 2
Western Bancorp	(*)	(*)	223, 203	49, 900	4, 300	54, 200	(*)	(*)	24. 3	22. 4	22. 8
Bankers Trust New York Corp	39, 286	85, 241	124, 530	5, 525	34, 645	40, 170	14. 1	40. 6	32. 3	4. 4	5. 8
First Chicago Corp	(*)	(*)	165, 799	4, 000	21, 700	25, 700	(*)	(*)	15. 5	2. 4	2. 7
Total, commercial banking (not counting companies with unavailable figures)	818, 401	651, 133	3, 288, 304	229, 361	629, 831	859, 192	10. 4	33. 2	22. 1	6. 3	7. 3

* Not available.

TABLE I.—CORPORATIONS PAYING NO EFFECTIVE FEDERAL INCOME TAXES, 1978

	Thousands				Percent	
	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[1]	Current U.S. tax expense[4]	Effective U.S. tax rate on worldwide income[5]	Effective rate of U.S. tax on adjusted world[6] wide income -
United States Steel Corp	(*)	(*)	230, 700	(16, 000)	0	0
Occidental Petroleum Corp	(*)	(*)	840, 350	0	0	0
Continental Group, Inc	(*)	(*)	92, 200	(17, 100)	0	0
General Dynamics Corp	(*)	(*)	154, 036	(3, 775)	0	0
Seaboard Coast Line Industries	64, 022	0	64, 022	(517)	0	0
American Electric Power	343, 393	0	343, 393	(889)	0	0
Southern California Edison	300, 745	0	300, 745	(49, 219)	0	0
Middle South Utilities	191, 096	0	191, 096	(5, 805)	0	0
J. P. Morgan & Co	(*)	(*)	347, 864	(2, 765)	0	0
Chemical New York Corp	35, 031	73, 268	108, 299	(16, 853)	0	0
Lockheed Corp	(*)	(*)	101, 200		0	0
Boeing Co	(*)	(*)	584, 000	(98, 900)	0	0
American Airlines	(*)	(*)	100, 748		0	0
Eastern Airlines	(*)	(*)	67, 257		0	0

Note: Footnotes in text above.

TABLE II.—CORPORATIONS PAYING 10 PERCENT OR LESS IN EFFECTIVE FEDERAL INCOME TAXES, 1978

	Thousands				Percent	
	U.S. income before tax[2]	Foreign income before tax[2]	Worldwide income before tax[1]	Current U.S. tax expense[4]	Effective U.S. tax rate on worldwide income[5]	Effective rate of U.S. tax on adjusted worldwide income[6]
Texaco, Inc	340, 175	1, 141, 164	1, 481, 339	90, 900	6. 1	11. 7
Gulf Oil Corp	692, 283	1, 260, 717	1, 953, 000	36, 000	1. 8	3. 6
International Telephone & Telegraph Corp	173, 699	500, 430	674, 129	46, 998	7. 0	11. 5
Atlantic Richfield Co	(*)	(*)	1, 298, 716	71, 100	5. 5	6. 2
Continental Oil Co	(*)	(*)	1, 396, 281	92, 129	6. 6	15. 3
Union Carbide Corp	408, 000	209, 300	617, 300	22, 000	3. 6	4. 0
Bethlehem Steel Corp	(*)	(*)	299, 600	25, 000	8. 3	8. 6
Rockwell International Corp	(*)	(*)	323, 800	6, 000	1. 9	2. 1
Esmark, Inc	(*)	(*)	116, 868	9, 600	8. 2	9. 5
LTV Corp	(*)	(*)	42, 397	1, 653	3. 9	4. 2
Standard Oil Co. (Ohio)	(*)	(*)	593, 805	8, 959	1. 5	1. 5
Marathon Oil Co	256, 918	460, 527	717, 445	37, 550	5. 2	11. 1
Armco Steel Corp	(*)	(*)	329, 204	26, 362	8. 0	9. [illegible]
Gulf & Western Industries, Inc	(*)	(*)	261, 000	17, 000	6. 5	7. 0
W. R. Grace & Co	(*)	(*)	299, 689	16, 667	5. 6	8. 6
McDonnell Douglas Corp	(*)	(*)	252, 670	8, 180	3. 2	3. 2
Allied Chemical Corp	(*)	(*)	261, 545	2, 32	. 9	3. 1
Farmland Industries, Inc	28, 160	0	28, 160	46	. 2	. 2
UAL	(*)	(*)	314, 664	9, 255	2. 9	3. 0
Trans World Corp	(*)	(*)	90, 207	1, 274	1. 4	1. 1
Burlington Northern	117, 251	0	117, 251	2, 502	2. 1	2. 2
Southern Pacific	130, 934	0	130, 934	4, 142	3. 2	3. 9
Southern Co	454, 471	0	454, 471	13, 135	2. 9	2. 2
Commonwealth Edison	448. 358	0	448, 358	18, 718	4. 2	4. 0
Public Service Electric & Gas	377, 942	0	377, 942	11, 245	3. 0	3. 2
Citicorp	(*)	(*)	786, 814	55, 000	7. 0	10. 1
Chase Manhattan Corp	(*)	(*)	295, 090	260	. 1	58
Continental Illinois Corp	146, 554	72, 000	218, 554	5, 844	2. 7	3. 2
Bankers Trust New York Corp	39, 286	85, 244	124, 530	5, 525	4. 4	5. 8
First Chicago Corp	(*)	(*)	165, 799	4, 000	2. 4	2. 7

Note: Footnotes in text above.

TABLE III.—FEDERAL BUDGET RECEIPTS BY MAJOR SOURCE

[In percentages [1]]

Major source	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980 (estimate)	1981 (estimate
Individual income taxes	46.7	45.8	45.4	44.4	44.9	43.6	43.9	44.0	45.0	46.8	46.2	17.2
Corporation income taxes	16.9	14.2	15.4	15.7	14.6	14.5	13.8	15.3	14.9	14.1	14.2	12.9
Social insurance taxes and contributions	23.4	25.8	25.8	30.5	31.6	30.8	30.9	30.4	30.7	30.4	31.3	32.1
Excise taxes	8.1	8.8	7.4	4.2	3.7	5.9	5.7	4.9	4.6	4.0	3.6	3.2
Other	4.9	6.0	5.9	5.2	5.2	5.2	5.7	5.3	4.7	4.7	4.7	4.5

[1] Totals may not add to 100 due to rounding.

TABLE IV.—EFFECTIVE FEDERAL INCOME TAX RATES BY SECTOR, 1969–78

	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
Industrials and mining	NA	NA	NA	29.2	24.8	24.8	24.8	18.8	[1]26.5	[2]21.8
Transportation	0	0	18.9	12.8	15.1	16.3	22.4	14.2	9.2	13.5
Utilities	41.7	36.2	29.3	36.5	18.0	14.1	4.8	8.3	7.2	8.5
Retailing	44.6	40.6	39.2	41.5	33.5	33.0	37.7	36.9	33.6	35.1
Commercial banks	31.7	27.4	31.4	14.4	9.6	11.7	11.2	8.0	7.1	6.3
Oil and gas	5.8	10.1	6.1	7.9	9.6	7.6	9.0	9.3	11.0	13.3
Average, all companies	26.9	25.8	24.4	28.6	24.9	22.6	21.3	17.3	17.8	18.6

[1] Excluding oil and gas companies. With oil and gas companies included, the effective tax rate is 19.6 percent.

[2] Excluding oil and gas companies. With oil and gas companies included, the effective rate is 20.0 percent. ●

CLEANING UP THE ENERGY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, every Member of this House knows that this country is being strangled to death by Government regulations. If any do not then I advise them to poll their constituents. The well-meaning proposal to disentangle our energy policy from these burdensome restrictions is understood and needed. However the final product of the House/Senate conference report on creating an energy mobilization board falls far short and in fact might delay the development of selected energy facilities rather than expedite their process.

I commend to my colleagues today's June 27, 1980, Washington Post article which states as follows:

> If all goes according to the schedule, every member of the House will have a chance today to take a second close look at what could be landmark legislation. The bill in question creates an Energy Mobilization Board empowered to put selected energy facilities on a "fast track" bypassing federal, state and local laws and regulations.
>
> What makes this a landmark bill, however, is not the positive achievements it might produce, but rather the damage it is likely to do: to federal-state relations, to separation of powers within the federal government and to environmental, health and safety laws already on the books. This imbalance between the bill's potential to do good and its likelihood of making things worse is reflected in its lack of supporters. Outside the administration, in fact, it is hard to find anybody who is enthusiastic about the idea. Even representatives of energy industries and other business groups who stand to gain most from it are lukewarm or conspicuously absent from the debate.
>
> The EMB is intended to cut through bureaucratic red tape, speed up new construction, reduce litigation and end regulatory uncertainty. Closer examination reveals that it is likely to do the opposite. As the president of one energy company up it, "It just puts another layer of bureaucrats on top of the bureaucrats." The new agency, though headed by only a three-person board, would have a staff of several hundred. The bureaucratic infighting between it and the many established agencies with overlapping jurisdictions is easy to foresee. Despite the drafters' effort to rule out grounds for judicial challenge, experts from business, state and environmental groups all believe that *increased* litigation is inevitable. And instead of making the energy business more predictable, the EMB's power to grant economic advantages worth tens of millions of dollars to one project, but not to its competitors, would add a new wild card to an already stacked deck.
>
> The current draft of the legislation also empowers the EMB to grant waivers of federal law and of state and local laws. Yet during its consideration of the bill, the House, by a vote of 415 to 1, passed an amendment prohibiting the board from waiving any state laws. This House provision—now gone—was a sensible one, eliminating a prospective source of unending conflict between the federal government and the states. The motion now before the House is to recommit the EMB bill to the House-Senate conference with instructions to remove the board's power to waive existing state and local laws and to tighten up its authority to waive laws that may be passed in the future. Both are wise and necessary improvements.
>
> The EMB was a bad idea from the beginning, one that sets aside the central constitutional principle of equal justice under the law in favor of case-by-case waivers of law for individual projects. If it eventually speeds up anything at all, it will not be by much, and it is just as likely to end by slowing projects down. Those who oppose the motion to recommit what is meant to correct a glaring flaw do so on the ground that the compromise that has been worked out is "too fragile" to withstand further consideration. But a proposal that holds such a great potential for constitutional mischief and environmental damage demands the most careful scrutiny that Congress can give. If it cannot stand up to such consideration, it is not good enough to be passed.●

THE HARE AND THE TORTOISE: WHY COUPON RATIONING WILL NOT WORK IN AN EMERGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STOCKMAN) is recognized for 25 minutes.

● Mr. STOCKMAN. Mr. Speaker, the House is entering its third round of debate on gasoline rationing. Yet the underlying issue of whether rationing is an effective tool for managing a serious petroleum shortage has moved further from resolution than ever. Meanwhile, the plan submitted by the President on June 12 could not be implemented before November 1981, at the earliest, even if an emergency began tomorrow. That was the testimony of Hazel Rollins, the DOE official charged with developing and administering the rationing plan. Yet the law under which the plan was devised expires in September 1981—2 months before coupons could hit the streets. More importantly, the allocation and price control authority of DOE also expires in September 1981. As I will describe later in my remarks, rationing will be impossible without the control mechanisms provided by the expiring law.

Thus far, the debate in Congress has focused on the internal details of a rationing plan—whether to allocate gasoline on the basis of vehicle ownership or driver's license, how many cars or drivers per household will qualify for coupons, how much gasoline each business will get, how the adjustment for historical use by State will be computed, what groups and industries will get high priority and extra coupons, and so on down the line. Although the plan submitted by the President addresses each of these vital questions in some manner, virtually all of them remain unresolved: DOE says there will be a limit on eligible vehicles per family, but does not specify whether it will be to three or five; it names nine high priority groups, including agriculture, taxi fleets, emergency vehicles, police, sanitation, mail and parcel service, newspaper distribution, and car rentals, but does not say whether they will get 5, 25, or 50 percent more than the regular allotment. DOE retains the blanket authority to change any and all of the details of the rationing plan it submitted, and even to delegate administration of the program to any other agency of Federal, State, or local government.

Another serious set of unresolved questions center on the availability of the data needed to implement rationing. DOE testified that it has been unable to arrive at an agreement with the various States on their historic gasoline consumption, a vital statistic for computing rationing allotments. Even the availability of satisfactory lists of vehicle registrations, businesses, and other important information about potential recipients of rationing coupons remains uncertain.

At this point, Mr. Speaker, I would suggest to my colleagues that little purpose is served by having a debate on rationing that follows the lines of the previous two. We can argue back and forth all we want about the design details of a rationing plan, but we will never get the answers until it is too late, simply because the information does not exist yet. I suggest instead that we go back to the basic questions: Is gasoline rationing a workable tool for responding to a supply disruption, or have we wasted the last 5 years? Do we need to look at alternatives that are based on a different generic approach?

The only valid way to evaluate a proposed policy solution is to analyze the problem to which it is addressed and its capacity to achieve the objectives for which it is designed. By definition, the proposed DOE standby gasoline rationing plan is addressed to a severe, international petroleum supply curtailment, involving a crude oil production outage of at least 5 million barrels per day. It would take a production cutoff of at least this magnitude to produce a sustained U.S. gasoline and distillate shortage of 20 percent—the statutory trigger level. Since available crude supplies are readily reshuffled and rerouted in the world market, the circumstances, location and direct dependence of the United States on the interrupted area are not significant considerations.

Within this context, coupon rationing of gasoline is designed to achieve the following objectives:

First. Mitigate losses of GNP and employment at home, and help alleviate our diplomatic and security vulnerabilities abroad.

Second. Reduce or eliminate disorder in the petroleum distribution system, such as long gas lines.

Third. Relieve the financial hardship to gasoline users that would occur if prices were allowed to rise to a market clearing level.

Fourth. Prevent the vast windfalls to domestic petroleum producers, refiners and marketers that would otherwise occur if supplies were substantially reduced and prices allowed to soar.

As a result of new developments in the last 18 months, however, it is now doubtful whether there is any imaginable supply interruption scenario in which coupon rationing could achieve any of these four objectives. These major new factors include the breakdown of the OPEC price structure and fixed price contracts, and the scheduled full decontrol of the domestic petroleum markets and the imposition of a windfall profit tax. As explained below, world and uncontrolled domestic markets will adjust to a sudden major supply outage with the speed of a hare: Prices will explode and demand will be forcibly curtailed through sheer economic pressure. By comparison, the implementation of rationing and its related control structure would proceed at the pace of a tortoise—even if a fully completed plan is on standby. Under these circumstances, rationing would become effective too late to relieve hardship and would exacerbate economic and supply dislocations in the petroleum distribution system. It possesses virtually no promise as an emergency management program.

THREE WAYS TO RATION: MECHANICS AND IMPACTS

There are three ways to ration gasoline in the event of a sudden, severe supply curtailment. The first is to allow prices to rise quickly and to a sufficiently high level to squeeze excess demand out of the market through economic pressure on users, causing the highest bidders to get the available supply. Under present conditions, a 20-percent gasoline supply shortfall would raise pump prices to $2.50 to $3 per gallon. Under this solution there would be no gas lines or retail market disorder, but low- and middle-income families would suffer severe financial hardship. Moreover, marketers, refiners and others in the supply chain would reap large windfall profits on inventories.

The second approach—used in the United States during the relatively modest Iranian outage—is price controls and queues (lines) at the pump. This solution reduces financial hardship to consumers, prevents windfalls to domestic suppliers (foreign suppliers presumably cannot be regulated), but also extracts a heavy intangible cost in the form of time lost waiting in line, motorist impatience, anger, and even violence at the gas pump.

The third possible solution is strict petroleum price controls and a white market coupon rationing system. The price controls would prevent consumer hardship and supplier windfalls, and the coupons would alleviate lines at the station by constraining the legal right to purchase gasoline to the actual supplies available. Three features of this latter solution are important to note, however.

First, it does not eliminate the windfall or huge inventory profit inherent in the economics of a sudden reduction in supply relative to precrisis demand. It simply shifts the windfall from domestic petroleum suppliers to holders of excess gasoline coupons, that is, motorists who choose to sell them on the white market rather than use them to purchase gasoline. Under the assumed crisis conditions, white market coupons could trade at $2 per gallon or more, if pump prices were controlled at current $1.30 per gallon levels. If coupons are distributed on the basis of vehicle registration, as in the proposed DOE plan, the windfall profit would be captured willy-nilly by those with the most eligible vehicles and the least need to drive.

Second, coupon rationing will not prevent financial hardship to consumers unless it is accompanied by effective price controls. Absent such restraints, pump prices would quickly rise to the market clearing level, even if final retail demand were limited by a fixed quantity of coupons matched to the available, reduced gasoline supply. This is because uncontrolled resellers, jobbers, brokers, refiners, importers and speculators upstream from the retail pump would bid up the price of available supplies at each stage of the market. The white market value of coupons would thus quickly approach zero because their economic value depends upon a differential between the market-clearing price and the actual retail price at the pump.

Third, the price control system must be comprehensive, covering each stage of the market; it must also employ allocations, entitlements and supplier-purchaser freezes in order to minimize inequity and distortion; and it must cover a substantial share of the crude oil supply from which the rationed gasoline is refined. If domestic refinery product prices or wellhead crude prices are not strictly controlled, the available supplies will be bid up to the world market price at the last uncontolled stage of the domestic market. Under these conditions, downstream controls would be futile, since they must necessarily permit acquisition costs to be passed-through. Thus, without a comprehensive domestic petroleum market control system, market-clearing prices would prevail at the pump, white market coupon values would fall to nearly zero, and the intended protection of consumers from financial hardship would not be achieved.

Finally, the Federal Government faces a trade-off in imposing a workable coupon rationing/price control system under current windfall tax policy. If it freezes domestic crude oil prices at the precrisis level, and then reimposes the whole machinery of refinery entitlements and gasoline allocation and price controls, it not only renews all of the existing regulatory distortions, inequities, and anomalies, but also gives up massive amounts of windfall profit tax revenue. In the event of a loss of 5 million barrels per day of production in the Middle East, for example, or about 10 percent of free world crude supplies, the world market prices could quickly reach $60 per barrel or more. Domestic crude oil prices would adjust to these levels immediately. Since under the existing windfall tax mechanism, the Government collects roughly half of all incremental revenues above the current $32 per barrel average domestic price, the revenue foregone per quarter would be $11.5 billion, or $46 billion annually at current domestic production levels.

UNEXAMINED WILD CARD: THE PENDING PHASE-OUT OF DOMESTIC CONTROLS

The experience with the domestic petroleum price control and allocation system over the last 7 years indicates that even when it is fully institutionalized and functioning under stable conditions, it is exceedingly difficult to administer. The refinery entitlements system, needed to equalize the cost of controlled domestic and uncontrolled foreign oil, is always out of kilter due to grade, quality, transportation, and refinery configuration factors. Disputes over allowable refinery costs, banking practices and product passthroughs have created regulatory and litigational nightmares. There are now 5,000 adjustment or relief requests pending, largely by wholesalers and marketers. Precise retail margins, base periods and allocation entitlements are being constantly changed.

Under existing policy, this entire domestic petroleum market control machinery will be dismantled within 12 months. But in the event of a sudden supply interruption after September 1981, it would have to be recreated literally within 30 days—well before the actual rationing machinery would be started up and coupons distributed. If there were any significant delay, the surge in world and domestic crude prices would clear the market at double or triple the precrisis price level. Imposition of controls and distribution of coupon tickets at that point would be academic for the reasons indicated above. Moreover, any belated effort to roll back domestic crude oil, refinery and retail prices after the domestic market had adjusted to world price levels would create administrative and judicial chaos. Nearly 500,000 crude oil producers, refiners, jobbers and retailers would face rollbacks of up to $30 per barrel of crude and $1.50 per gallon for product. There would be almost no way to sort out who owed rebates to whom. It would be like attempting to change a tire on a car traveling 45 mph.

The existing domestic petroleum market control apparatus is now embodied in 10,000 pages of regulations, guidelines, and orders. While it is theoretically possible to keep a similar standby system on the shelf for activation in the event of a supply crisis, the problem of updating it and putting it into operation in the first 30 days of a crisis would be enormous. Thus the necessary policy of petroleum market decontrol is eliminating the regulatory support machinery that is essential for emergency coupon rationing to achieve its intended purposes.

THE WORLD MARKET FACTORS: BREAKDOWN OF ANY PRETENSE OF OPEC PRICE DISCIPLINE

The 1979 experience with leap-frogging premiums, surcharges and continuous unilateral price adjustments by individual exporters demonstrates that official OPEC prices and contract commitments would be abandoned within a few days of a major production outage. Moreover, non-OPEC exporters—Mexico, Malaysia, the North Sea—would likely follow suit as they did consistently during the last 18 months. There are two primary factors which almost guarantee this kind of spontaneous pricing response—all pledges of statesmanship and restraint by exporting countries notwithstanding.

First, petroleum users worldwide would scramble to line up supplies and build inventories as they did during most of 1979. These demand pressures would quickly drive international spot markets to soaring levels. In the 3 weeks between February 2 and February 23, 1979, for example, fears over Iran caused the fuel oil spot price in Rotterdam to jump from $32 to $44 per barrel, while gasoline went from $28 to $42 per barrel. There are no existing nor conceivably effective future international cooperation agreements capable of imposing discipline and serious restraint in such circumstances.

Second, the exporters have learned that if they sell contract oil substantially below prevailing spot prices, downstream parties—brokers, speculators, international oil companies, even governments—will capture the windfalls. For reasons of economic self-interest and domestic politics, they are not likely to tolerate the capture of these windfalls by other parties. They will therefore adjust posted and contract prices frequently in order to capture maximum economic value for themselves.

These considerations mean that a sudden production outage in any major exporting country—whether due to revolution in Saudi Arabia or an oil worker's strike in Mexico or the North Sea—will have identical impacts on the world market. Within weeks the price of every uncontrolled barrel of crude oil and every market priced gallon of product—from Tokyo to Riyadh to Hamburg to San Francisco—will escalate dramatically until it reaches a level sufficient to squeeze excess demands out of all national markets.

The uncontrolled U.S. gasoline market could not be shielded from this blitzkrieg world wide price-rationing process unless the Federal Government moved with lightning speed to insulate it with an airtight package of controls, allocations, entitlements and end-use coupons. Even then, up to one-third of the crude supply would be derived from the world market. These supplies, priced at world market levels, would ripple through the cost structure of the controlled domestic petroleum market. In addition, if such a domestic price control and market insulation maneuver were attempted, complex allocation and quasi-rationing schemes at end-use markets would be needed for the whole slate of petroleum products—jet fuel, heating oil, residual oil, and chemical feedstocks—in addition to gasoline.

SORTING OUT THE POLICY ISSUES

This analysis makes clear that the real issues in the proposed rationing plan are not its internal mechanics, such as coupon distribution by vehicle registration or driver's license, priority classes, the historic use formula, special case relief provisions, and the manner in which the white market is managed and policed. The crucial question is whether or not the precondition for effective implementation can be met: That is, a shift from a completely decontrolled domestic market to a comprehensive allocation and price control system—stretching from the import terminals to the gas pumps—within 30 days after an interruption event.

The experience during both the 1973–74 interruption and the 1979 Iranian cutback suggests that such an attempt would promote absolute chaos in the nation's complex, multistage petroleum production, refining and distribution system. World market prices and domestic market conditions would be changing so rapidly that price and allocation rules would be obsolete before they could be published. DOE would be engulfed with tens of thousands of relief and adjustment petitions instantaneously. There would be huge gaps and bottlenecks in the physical distribution system, with some towns dry and others well supplied; some grades of product available and others nonexistent; some marketers reaping bonanzas and others forced into such absurdities as buying gas at $3 and selling at $2.75.

It is therefore worth considering whether the multiple objectives of an emergency coupon rationing system could be met with a different, less troublesome set of policy tools—specifically, through a mix of market, tax and direct relief measures.

GAS LINES, MARKET DISORDERS AND BOTTLENECKS

With a rigid price and allocation control system these market disorder phenomena would be quickly eliminated by economic forces. Most supply/demand/price imbalances would be quickly arbitraged by alert market operators. Many weaker firms at all stages of the market, however, would be threatened by bankruptcy or severe financial impairment. Only the alert, efficient and flexible would prosper.

WINDFALLS AND INCOME REALLOCATIONS

In the initial stages of a crisis, all holders of precrisis petroleum inventory would experience large windfalls. For example, a jobber who purchased 1 million gallons of gasoline for $1 per gallon (wholesale price) could realize a windfall gain of a million dollars over a 3- or 4-week holding period. However, after a worldwide adjustment period of relatively modest duration, most of the revenue gains from higher prices would shift to crude oil producers. Since crude is the commodity in short supply, it would capture the "rents" from a sudden change in petroleum supply and demand balances. Stated differently, the windfall to downstream firms would be a one-time inventory gain, whereas the windfall to crude producers would be a quasi-permanent increase in economic rents. It could only be eliminated by a restoration of production in the interrupted area or the addition of new production from elsewhere.

From the point of view of domestic policy, this means that there is a mechanism already in place that would automatically capture most of the windfall—the excise tax on crude oil production. A temporary inventory tax on major refiners and large distributors and marketers could capture most of the remainder. In short, there are far more efficient existing or potential mechanisms to capture the windfall than a $2 billion coupon rationing agency, a nationwide coupon white market lottery and an extensive system of supporting price control and allocation apparatus.

FINANCIAL HARDSHIP RELIEF

Under the postulated 5 million barrel per day world crude oil production outage, the Federal Government would collect upward of $46 billion per year from the windfall tax and additional billions from a potential inventory tax. This would be more than ample resources to finance direct relief to gasoline consumers and other petroleum users. Through a combination of emergency increases in social security payments, reductions in the IRS withholding tables, and supplements to other transfer payment programs, financial hardship from higher gasoline and heating oil costs could be rapidly offset.

The advantages of such an approach to financial hardship relief are threefold: First, it can be precisely calibrated and targeted on relative "need" as defined by taxable income and public assistance status; there would be certainty as to the actual distribution of benefits. By contrast, vehicle ownership, the only practical, moderately fraud proof system for distributing rationing coupons, bears no known relationship to customary criteria of need; second, a tax and transfer system could be started up and implemented for one-thousandth the administrative cost of coupon rationing. If tax and subsidy relief formulae were designed and put on standby basis with appropriate implementation triggers, financial relief could appear in paychecks and benefit checks well before coupon rights showed up in the mailbox; third, there would be no interference with physical economics of the domestic petroleum market.

THERE IS AN ALTERNATIVE TO EMERGENCY COUPON RATIONING

The foregoing analysis makes clear that the hare of world wide price and market adjustments will overwhelm the tortoise of gasoline coupon rationing and its supporting apparatus of a complex price control and allocation system in the event of a sudden, major supply emergency. The alternative package of market supply adjustment, windfall taxes, and direct financial relief measures proposed above is a more promising solution to the domestic equity, distribution and financial hardship problems that would be generated by a supply interruption. But it should be noted that neither white market coupon rationing nor this alternative package will deal with the two fundamental problems implicit in a major oil supply interruption.

The first is massive domestic economic losses and severe reductions in production and employment occasioned by a sudden change in the price and/or quantity of petroleum. A shortage of this magnitude will cause factories to lose business, auto sales and production to plunge, resort and recreation areas to suffer, et cetera—no matter what internal rationing mechanism is used to allocate the reduced supply. When the vast web of interconnected economic activity represented by the U.S. economy loses 20 percent of its jet fuel, gasoline, industrial fuels and feedstocks in a matter of weeks, the infrastructure of dependent activities will be traumatically curtailed until long term adjustments can be organized.

Similarly, the external diplomatic, political, and security posture of the United States will be imperiled, regardless of rationing mechanism. The level of pain and dislocation in the economy will be so great that the Government will be under enormous pressure to make whatever concessions are necessary to boost crude oil supplies—if they are available.

The domestic economy and our foreign diplomacy can therefore be insulated from the ravages of worldwide petroleum price rationing only if there is spare crude oil supply capacity available outside the disrupted producing areas sufficient to significantly alleviate world market imbalances. This highlights the urgent, critical imperative of strategic storage. If the industrial nations of the world had a combined capacity to withdraw 3 to 5 million barrels a day from supplementary commercial inventories and strategic storage, it is difficult to imagine a sustained supply disruption of sufficient magnitude to cause catastrophic economic losses. At current production rates, for example, a 5-million-barrel withdrawal capacity could reduce the closure of the entire Persian Gulf from a catastrophic 40-percent reduction in the world export market to a more flexible 20 to 25 percent curtailment.

The key point is that any rationing schemes—whether price based, hybrid or coupon—can only allocate the shortage and ameliorate the financial hardships and inequities. Only spare crude oil supplies and storage-based surge capacity can reduce the severe aggregate economic damage.

Therefore, the following program is proposed as a more complete and effective answer to the kind of supply interruption emergency to which the coupon rationing plan is addressed:

First. Aggressively fill the U.S. strategic petroleum storage and undertake negotiations for OECD stockpile coordination.

Second. Delegate domestic petroleum supply allocation to price and market forces.

Third. Mitigate financial hardship with a standby tax reduction and transfer payment relief mechanism that could be activated immediately after the onset of a crisis.

Fourth. Rely on the windfall profit tax and an emergency inventory gain tax to prevent undue windfalls to domestic producers and suppliers, and use the proceeds to finance the hardship relief scheme. ●

COMMEMORATING THE 100TH ANNIVERSARY OF THE BIRTH OF HELEN KELLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

● Mr. BUCHANAN. Mr. Speaker, today we commemorate the 100th anniversary of the birth of Helen Keller; one of this Nation's greatest citizens.

Although robbed of both sight and hearing by illness at the age of 19 months, Helen Keller matured to become a symbol of courage and hope to millions of handicapped people throughout the world. Given the gift of communication through her lifelong friend and partner, Anne Sullivan, Miss Keller chose to spend her life traveling around the world seeking aid and understanding for the handicapped and disabled, especially those of impoverished and underdeveloped nations.

The vision, moral strength and determination of this Alabama woman in the face of seemingly insurmountable obstacles serve as an example to us all. Author of 11 books, fluent in seven languages, this remarkable woman found peace and light within herself as she offered peace and light to the world through her unique insights on world issues and humanitarian crusades.

It is hard for most of us to imagine a sightless and soundless world. Yet many of us fail to appreciate these gifts. Helen Keller herself once told us:

> Life's greatest handicap is not blindness, but having eyes and not being able to see.

As we honor and recall the achievements of this incredible woman, let us also remember the valuable lessons she has taught us; of integrity and self-determination, and of courage and hope in the face of adversity.●

POLITICAL AND ECONOMIC SITUATION IN EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, I have reference to a five-part series of articles by Scripps-Howard News Service staff writer, Bill Steif, relating to the political and economic situations in the nations of Central America. The first of the series was entered in the CONGRESSIONAL RECORD (p. 16973) on June 26, 1980. The second of the series, dealing with El Salvador, follows:

CAMERICA

(By William Steif)

SAN SALVADOR.—"I'll take you to your hotel," he says.

We get into his armored van with pistol-packing bodyguards and motorcyclists fore and aft.

"I never say where I'm going until I'm in the van," says Napoleon Jose Duarte, a member of El Salvador's ruling junta. "We never stop until we reach the destination."

"Have there been any attempts on your life since October (the month the junta took over)?"

"Three times by shooting," he replies as we race through the streets. "And three times on my son's life."

This is not a place for nervous nellies.

Walking around this capital city, the visitor sees some of the destruction wrought by extremists of the right and left.

Only the charred, red-brick walls of a McDonald's are standing. That was the work of the left, attacking the United States by blowing up a bastion of capitalism.

A middle-class, split-level home is boarded up. Three weeks ago rightists bombed the house because a leading Christian Democrat lived there. The Christian Democrats support and participate in the five-man junta which is trying to govern this mountainous nation on the Pacific Coast.

The cavernous, unfinished cathedral downtown, where Archbishop Oscar Romero was assassinated March 24, is awash in graffiti, as are most walls in the area. The Gran Hotel San Salvador, behind the cathedral, has been shut since the Oct. 15 coup that overthrew Gen. Carlos Humberto Romero and resulted in the junta's formation.

The newspapers record the daily toll of violence, often with gruesome photos. Nineteen leftists die in a shootout with police near the Honduran border; rightists kill two doctors on the road; 15 bodies are found near San Miguel; a Santa Ana businessman is murdered; a rightist "death squad" kills three at Nahuizaleco; and on and on.

No one knows the box score. One diplomat says "more than 1,000 have been murdered since the first year." Another says 2,500.

U.S. Ambassador Robert White orders Marine guards to use tear gas on 30 to 40 rightists picketing his residence at 5 a.m. so he can escape. The wall in front of his residence is a mass of graffiti, delivering the message: "White is red." At night rightists spray bullets into the fortress-like U.S. Embassy's second-floor glass windows.

You can feel the tension in El Salvador, a nation the size of Massachusetts. Unemployment is 35 percent of the work force—"at least," says an economist. That doesn't counter under-employment: Hundreds stand around doing tasks like opening doors in hopes of a 25-centavo tip (about a nickel). Seventy-three percent of Salvadorean children under age 5 are malnourished, one in five seriously so.

Salvadorans are hard-working and aggressive. This was one of Central America's richer countries, with per capita income of $697 in 1978.

At the root of fear is change.

Several hundred families dominated El Salvador for generations. Before the revolution, 7.5 percent of all the nation's farms accounted for 72.9 percent of all cultivable land. These farms, in turn, were the chief producers of El Salvador's coffee, sugar and cotton exports, representing three quarters of the Salvadoran yearly foreign currency earnings.

Social pressure simmered and about two years ago began to take the form of armed violence, not political debate. General Romero's two half-hearted land reform attempts were aborted by the big landowners. The communists, nurtured in Marxist-leaning universities, theorized they'd have to destroy the economy to rebuild it, and began, inspiring massive panic among peasants and wealthy people alike.

The Oct. 15 revolution, led by two younger, non-political colonels, was a result, overthrowing General Romero and the older military linked with landowners and their industrial and business allies.

"They were very reluctant revolutionaries," says Ambassador White.

They still are, this junta of Cols. James Gutierrez and Adolfo Majano, Christian Democrats Jose Antonio Morales Ehrlich and Duarte, and an obscure, non-political physician, Dr. Jose Ramon Avalos Navarrete.

Duarte, 54, is a 1948 Notre Dame engineering graduate. He helped found the Christian Democratic Party here and was elected mayor of San Salvador three times from 1964 to 1970. He ran for president against Col. Arturo Armando Molina Barraza in 1972 and won by 10,000 votes out of 300,000 cast. The military and the rich oligarchs were not about to let Duarte become president. They held a second vote, a third and finally threw the choice to the national assembly, where they bought enough legislators to install Molina.

Around Easter 1972, Duarte says, he was taken to a police station, tortured and exiled to Guatemala. He wound up in Venezuela. His wife and six children joined him and he worked in business.

Last October he was asked to return "by the underground Christian Democrats" to join the junta. "My wife said I had to go back."

Duarte says, "We're decelerating the violence. I believe we're winning the battle, but the process began 52 years ago and you can't stop it in three months." The junta is making "structural changes" in the economy, and each change means "an increment of violence."

The problem, he says, "is not who governs but who obeys"—that is, the junta desperately is trying to form a moderate center to support it.

Three weeks ago Duarte was worried that there would be no planting, but now "the campesinos (peasants) are readying the land. We'll have a 20 percent drop in cotton output, 10 percent in sugar and coffee—coffee is 57 percent of our national income. But this country is not broke.

"We need credit to buy raw materials from the United States and Europe. Our industry (textiles, plastics, shoes, building) is paralyzed. No one sells us anything unless we pay in advance."

The junta has changed El Salvador, irreversibly. It has nationalized the banks, savings and loan and insurance companies, nationalized coffee marketing and imposed controls on foreign trade to stem the flight of capital. But its more important and controversial action is the land reform program it introduced in early March.

This is the Western Hemisphere's most revolutionary land program. One of the brains behind it is Roy Prosterman, a University of Washington law professor. The AFL–CIO's American Institute for Free Labor Development is working with the reformers. So is the U.S. Agency for International Development.

The basic land decree sets a "ceiling" of 247 to 370 acres (depending on quality) on the acreage any farmer can own. It bars "indirect" forms of land exploitation, such as tenant farming and share-cropping.

The 376 largest farms were expropriated. Those farms cover 554,000 acres, a sixth of the nation's cultivable soil. The 376 estates eventually will be turned into cooperatives. The U.S. agencies are helping train the campesinos for that task.

The former landowners are to be paid non-negotiable government bonds the junta hopes will be invested in new industry and business. Ironically, the value of the expropriated lands is based on what the owners said they were worth in a 1976–77 tax re-evaluation. The owners undervalued their lands, and they'll be paid accordingly.

All tenants and sharecroppers have the right to buy the land they work, in installments, based on the same system of evaluation. Some 400,000 acres, worked by 160,000 families, are affected.

About half the $47.2 million that the Agency for International Development is sinking into El Salvador this year is going into aspects of agrarian reform.

This helps explain why rich rightists (often from the sanctuary of Miami homes) are paying mercenaries to attack centrists like Duarte. And why the rightists who remain here carry signs saying "White is red."

The U.S. ambassador says "the left has weakened noticeably because of the reform program and because the military has proved more effective in seeking out and fighting real armed guerrillas." Today, he says, "the extreme right, which keeps the country in turmoil, is the bigger threat."

The junta, White says, "is a very moderate centrist government. Land redistribution was an absolute necessity. The junta respects free enterprise as much as any government in Latin America. They seek a reasonably just society and are just trying to bring about some equilibrium.

Can Fidel Castro's Cubans fish in these troubled waters?

Unlikely, says a major embassy's top military officer. There's Cuban moral and ideological support for the left, but "not a Cuban has been captured, not a Cuban body has been found, nor any Cuban weapons. Most of the left's weapons are Israeli. The Cubans don't want to get caught because of their own internal problems."

Over all, there may be 2,000 to 3,200 leftist "combatants" in El Salvador, and 50,000 to 60,000 "sympathizers." The extreme right has the force of money, which buys moonlighting thugs from the army's ranks, and also from the national guard, treasury police, national police, even the customs police.

The hatreds and the fears run deep. A middle-class Salvadoran says: "The people are getting their revenge."

Sadly, on themselves.●

PERPETUAL PROFITEERING (NO. 2)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I follow the course of the discussion I presented yesterday to be titled "Perpetual Profiteering No. 2."

Mr. Speaker, this has to do with the

ironic set of events I mentioned yesterday: At a time when Congress approves the registration of 19- and 20-year-olds as a selective group to be registered for some eventuality yet unknown or unfathomed, at the same time that is happening, and we are asking for sacrifice from that segment of our population, the Congress is completing the job of turning loose the war profiteers whom we have always had amongst us. This is very ominous under the present circumstances because there is no question but what we are presently on a war footing, a war-appropriations footing. Ever since World War II we have had cold wars intermixed with shooting wars, war conditions, certain segments of our population being asked to sacrifice while others are not, but all during this interim whether we are in a period of cold war, hot war or no war we had to devote quite a bit of our assets to the maintenance of a defense system that was undreamed of even before the 1940's.

As a result, men such as our first Secretary of Defense, Mr. Forrestal, were quick to see that it was necessary to have some protection in the procurement process for the interests of the general taxpaying public of the United States and the Government itself, because war profiteering also connotes inefficiency and the defrauding of the armed services in types of material and efficiency of materiel. This is something that has dogged our history since the time of George Washington when he was contending with cold, snow, and all of the elements.

□ 1530

Washington had war profiteers to contend with then. We had them in subsequent wars, the war with the English of 1812, with the French and the Spanish and with Mexico, and we certainly had them during the Spanish-American War, where it was so bad that the Congress then formally had to countenance the first kind of legislation that would provide some kind of oversight.

The reason I say this is that as of 2 years ago, in the waning hours of the last Congress—in fact, at midnight—the death knell was given and sounded for the only oversight facility that the Government had had to oversee particularly the procurement process in the most sensitive area of all, the one most subject and exposed to abuse, the negotiated contract segment, which today amounts to two-thirds of the total procurement budget in billions and billions of dollars. We are talking about $70 billion, $75 billion. Now, the effort we predicted 2 years ago is to remove any vestige or control in the form of a law that is known as the Vinson-Trammell Act, which dates back to 1934, but which has not been enforced.

For one thing, it is very rigid. It provides rigorously that no profit over 10 percent would be allowed in shipbuilding; for example, the procurement of ships for the Government; no more than 12-percent profit in the procurement of aircraft, and of course by standards of development since World War II, that was considered unjust, unfair, and too rigid, so it really has not been enforced. So that, the only thing we had was the Renegotiation Board, but with a whoop and a holler the lobbyists for this tremendous industry, one of the strongest industries and lobbies in the Nation, finally killed off the Renegotiation Board.

Mr. Speaker, I ask unanimous consent that I may be permitted to enter into the Record at this point a news article that appeared in the Washington Post 3 days ago.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Tax Break Nears for Arms Contractors

(By T. R. Reid)

While economists ponder the wisdom of a general tax cut next year, Congress is moving toward swift enactment of a retroactive tax cut for a select group of defense contractors.

A House Armed Services subcommittee has scheduled hearings for today on legislation—already approved by a Senate committee—that would suspend application of the Vinson-Trammel Act, a tax statute that requires contractors to repay any excess profits—defined as more than 10 percent on ships or 12 percent on aircraft—earned on contracts with the Pentagon.

The bill's passage seems certain a tribute to the hard work of defense industry lobbyists, who have battled successfully to keep the government from collecting the profits tax since it went into effect four years ago.

Actually, the lobbyists would have preferred an outright repeal of the profits tax, but that seems politically impossible just four months before every House member must face the voters. "The only pressure I know of against outright repeal," said Rep. Paul N. McCloskey Jr. (R-Calif.), "is the concern that in an election year, defense contractors will be perceived as getting a special favor from Congress."

Accordingly, the pending legislation provides only for a temporary suspension of the law until October 1981. By then, McCloskey and other industry allies hope to have convinced the new Congress to repeal the tax for good.

The political concern is so great that the lobbyists and their congressional supporters have devised a way to pass the tax-cut bill without the need for a floor vote.

"It's all wired," said Rep. Joseph G. Minish (D-N.J.), the most outspoken House supporter of continued profit controls. "They hold this quickie hearing, and then the House guys use that to go along with the Senate bill in conference."

Translation: When the Senate legislation suspending the profits tax—an innocuous paragraph buried deep with a $52 billion procurement bill—goes to a House-Senate conference committee, House conferees will accept the Senate-passed provision. This way no separate House vote on the profits tax will be needed.

One reason legislation suspending the Vinson-Trammel profits tax seems sure to pass is that nobody—not even advocates of the concept of taxing excess profits—defends the obscure and inflexible profit-control system incorporated in that statute, which was passed in 1934.

Proponents of defense profit controls—including the Pentagon's top contracting officers and the Defense Department's resident gadfly, Adm. H. G. Rickover—want Congress to pass a revised profits tax to replace Vinson-Trammel. But those who oppose any tax on excess profits seem to have the upper hand in both houses now.

Four years ago, in response to a strenuous grass-roots lobbying drive by defense contractors and subcontractors in every state, Congress acted to kill the Renegotiation Board, a tiny federal agency that was recouping about $40 million annually in excess profits from Pentagon contractors.

The Renegotiation Board was considered an alternative to the Vinson-Trammel tax, and so the tax was suspended during the board's lifetime. When the agency was killed, in September 1976, contractors once again became legally bound to pay the profits tax.

But no firm has yet paid a penny of tax, because the Internal Revenue Service and the Defense Department have yet to issue regulations to govern its collection.

Dale W. Church, a deputy undersecretary of defense, explained candidly to a Senate committee this spring why the agencies had spent four years working on the regulations.

"We in the Department of Defense are simply stuck with the Vinson-Trammel Act," Church said. ". . . we have been moving rather slowly in trying to look at the many facets of it and trying to come up with a regulation or procedure which is the . . . least onerous on our contractors."

Because the government has not tried to collect the tax, no one seems sure how onerous it would be. Contractor organizations say almost no tax would be collected, because other defense procurement laws prevent firms from earning high profits. But the Defense Department says some form of after-the-fact control of contract profits is needed to prevent profiteering.

Mr. GONZALEZ. Some of my colleagues took umbrage at this article, saying that it reflected on the Congress because it implied that lobbyists had such powerful control that they could dominate our will. Well, of course I am sorry to say that I feel the language of that article was very mild and did not even go to part of the whole truth of this sorry picture, this sorry spectacle, because that is what the Congress has done. It has capitulated under the steady and tremendous and unyielding and unceasing pressure of these high-powered and now highly financed lobbyists. With the advent of the PAC's, the political action committees, it was inevitable that this last watchdog, which was half toothless, would have been killed and eliminated as it was 2 years ago.

But, now the effort is made and has reached the point, I am afraid, as I said yesterday, where the skids are so greased that there is no way to impede this. It will come to us by way of an amendment that is coming over from the Senate, and one that is being appended now in the House committee.

Three days ago I appeared unexpectedly and unprepared, really, because I did not even know that the Subcommittee on Investigations of the House Armed Services Committee was going to have a hearing on this amendment, which is an amendment offered by the overall committee chairman. What it does is, absolutely terminate and, to all intents and purposes, eliminate the Vinson-Trammell Act.

Now, one might act, if the Vinson-Trammell Act has not been enforced, why worry about it? Well, because since the elimination of the Renegotiation Board, the only thing on the books is the Vinson-Trammell Act. Whether we like or not, it is still the law and still sets that limit on profits.

So, the IRS finally, after many of us had raised inquiries for 3, 4, 5 years, finally began to look into the matter a few months ago, so that these powerful industries that do not want to account and explain and justify the tremendous, unconscionable profits that they are exacting today, and by way of parenthesis I will state categorically that just since the elimination of the Renegotiation Board the American taxpayer, the defense procurement system, has been charged more than—well, I would say more than $450 million in profiteering, or what they mildly call, excess profits.

There is no accounting for it. But, with the IRS sayings, "We want to go over this in view of the extension of the Vinson-Trammell Act." This has got the lobbyists and the special interests very worried. The language of the amendment offered would even be retroactive, and it would kill in its tracks any attempt of the IRS to try to recoup some of these unconscionable, inordinate, improper, unjust margins of profit.

Now, the point was made the other day that by raising this issue we were saying or implying that all of these defense, these special defense procurement companies, were crooks. Well, that of course is not true, because the fact remains that we had a history of achievement by the Renegotiation Board, whose great blessing was that it could define, it could at least define and redefine what would on a given occasion be a proper yield of profit, even if it exceeded the percentage that the Vinson-Trammell Act said would not be exceeded. But, it was a process that offered protection, and that Board brought back to the Treasury billions of dollars over the years of its existence even though the Congress systematically took tooth by tooth out of that watchdog, and then finally had it killed in the dark hours of the waning session, past midnight, on October 15, 2 years ago, when that session of the Congress was ending.

The same thing is being attempted now in the rush and pell-mell of getting the defense authorization bill. We will have the pressure to, almost without any consideration being asked, take these amendments. Frankly, there is no question in my mind that this is a losing fight, but only because I believe that the majority of the colleagues in and out of the armed services are not aware of what is involved. Also, because I do not believe that the great vast majority of the American public has been told or is aware of what is involved, and yet this is what is involved.

It seems to me that at this particular point, when we are also asking certain segments of our society to sacrifice, we are excusing from accountability those who will profit off of these sacrifices, and have all through the years in the course of the history of our Nation.

It is perpetuating profiteering; it is sanctifying profiteering; it is saying that the Congress does not care any longer. Even—even in the sparse economic era of the 1930's, when procurement did not even amount to the levels of a budget of a 10th-grade city in the United States today, even then at least the Congress provided laws for oversight accountability and some protection to the Government itself and the people and the taxpayers.

At this time, when we have the highest budgetary allocations in this very sensitive area, at this time when it has been this particular sector of the industry that comes in on a negotiated basis, not competitive—in fact, the majority of these that get the 75 percent of the $70 billion in procurement on a negotiated basis, they are the sole source of either the equipment, the material, or the technology.

☐ 1540

Men such as Admiral Rickover have literally consecrated their lives to combating this, only to have to confess that they have been overwhelmed and defeated as of this moment.

Mr. Speaker, I yield back the balance of my time.

SENIOR CITIZEN "WON'T EVER RETIRE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the wisdom, experience, and vitality of our Nation's senior citizens can never be overestimated, and one of my constituents has brought to my attention the fine work being done by his mother-in-law, Mrs. Valeria A. Morys, who is the owner-operator of a nursing home in Columbus, Nebr., and who also has a long and splendid record of civic service and personal accomplishment.

Mrs. Morys will be 90 years of age on July 14, and I extend to her my warmest best wishes for many more years of good health and success. A news clipping from the Omaha World-Herald newspaper on the work of Mrs. Morys follows:

[From the Omaha (Nebr.) World-Herald, Nov. 10, 1979]

NURSING HOME OWNER: AT 89, SHE TAKES CARE OF ELDERLY

(By Tom Allan)

COLUMBUS, NEBR.—Duaine McPeck, field agent for the Nebraska Sheriffs and Peace Officers Association calls Valeria Morys "unbelievable."

She's the owner-operator of Val Morys "Doorway to Happiness" Haven, a Columbus nursing home.

What makes her special is that at age 89 she's older than most of the home's 46 residents.

McPeck, who calls on her as an associate member of the association, said "She's got more pep and vitality than most people half her age. She's unbelievable."

The widow, who boasts of being a "Triple 7"—mother of seven, grandmother of seven and great-grandmother of seven—"so far," credits her zest for life without thought of retirement to "work and worry."

WON'T EVER RETIRE

She has an administrator but she's still the boss of a staff of 29 and does all the ordering and purchasing and most of the paperwork. Active in St. Bonaventure Catholic Church, she also conducts the daily rosary at the home.

"I'll be 90 next July but I won't ever retire," she said. "What would I do? Play cards or belong to some club? That would get too tiresome. I'd rather keep busy here."

A dean of the convalescent home operators in the state, she said she never had a day of formal schooling as a child.

Yet she was on the board of Platte County's School District 34 for 16 years, became a licensed practical nurse and designed the still modern-looking buff brick home which, when built in 1956, was a model for nursing homes throughout Nebraska.

STUDIED FOR LICENSE

"My folks were farmers and they didn't think going to school was necessary," said the rural Platte Center native. "I had never been in a school except to look it over. I just picked up knowledge as I went along. Being on the school board and passing a government civil service test to work in the Veterans Administration headquarters in Washington in 1944–45 with no schooling is pretty good, I think."

She got her first formal education studying for her LPN license. That was when her desire to help people came to the fore.

"My mother used to send me over to the neighbors to help when they were sick," she said. "That's how I got started. Then in Washington I used to help out at Walter Reed Army Hospital. Helping the wounded drove me in all the more. So I took LPN training."

MODEL FOR STATE

With her late farmer husband, Joseph, she opened her first home on a farm near Genoa, Nebr. in 1945. She moved to Columbus in 1954, operating in a rented home while designing the convalescent home.

"I designed it all on one floor with lots of exits and having all rooms open to the air outside," she said. "Verne Pangborn, former State Health Department official, will tell you it became the model for others throughout the state."

Her husband died in 1958, two years after its completion.

"And I've carried on ever since," she said.

She said she'll continue to tackle her tasks with the same zest she did in her much younger days like when she chalked up another accomplishment. "I won a new 1929 4-door Chevy once," she said. "I sold 200 World-Herald subscriptions in just seven weeks."

Her prescription for active longevity includes "taking good care of yourself, eating right. I used to smoke when I was younger. That was before the kids noticed. When they did I quit." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I was unable to be on the House floor for several recorded votes that were taken last week. Had I been present, I would have voted as follows:

On rollcall No. 348 (June 19, 1980), amendment to H.R. 6418 that sought to strike section 8 from the bill: "no."

On rollcall No. 349 (June 19, 1980), amendment to H.R. 6418 that sought to provide for a congressional veto of rules related to motor carriers of property promulgated by the ICC or the Department of Transportation: "yes."

On rollcall No. 350 (June 19, 1980), passage of H.R. 6418, Motor Carrier Act of 1980: "yes."

On rollcall No. 352 (June 20, 1980), adoption of rule providing for consideration of H.R. 6711, the Youth Act of 1980: "yes."

On rollcall No. 353 (June 20, 1980), adoption of rule waiving certain points of order against H.R. 7584, State-Justice-Commerce appropriations: "yes."

On rollcall No. 356 (June 20, 1980), amendment to H.R. 7584 that sought to provide that not more than $1,000 of State Department funds for operating buildings abroad may be used to operate or maintain an embassy in Israel which is not located in the city of Jerusalem: "no."

On rollcall No. 358 (June 20, 1980), amendment to H.R. 7584 that sought to provide that no more than 90 percent of funds appropriated for the State Department could be expended, except for any sums appropriated for the payment to the American Institute in Taiwan: "yes." ●

FINANCIAL PRIVACY ACT IMPLEMENTATION—GAO REPORT

(Mr. CAVANAUGH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. CAVANAUGH. Mr. Speaker, I ask unanimous consent to have printed in today's RECORD my statement and analysis of the GAO's report on the initial implementation of the Right to Financial Privacy Act of 1978.

The 95th Congress took a great step toward safeguarding the privacy of personal financial records when it passed the Right to Financial Privacy Act of 1978 (Public Law 95-630). As one of the last actions of that Congress it established procedures that Federal agencies must follow to obtain access to an individual's financial records held at a financial institution. The impetus for the new law was a combination of factors including: First, the 1976 Supreme Court decision in the case of *U.S.* v. *Miller*, 425 U.S. 435 (1976) which held that an individual had no constitutional right to privacy in records maintained by a financial institution—a relationship that basically did not exist when the fourth and fifth amendments to the Constitution were enacted to protect individuals from unreasonable searches and seizure—despite the sensitive nature of that information; second, the recommendations of the 2-year Privacy Protection Study Commission; third, the requirement of the Bank Secrecy Act of 1970 (which functionally has resulted in financial institutions photocopying the front and back of all checks); and fourth, the realization that the increased use and capabilities of computers in the electronic transfer of funds poses additional threats to the achievement of a level of financial privacy which our citizens believe they already have but do not.

All during the lengthy process of honing the act to strike an appropriate balance between privacy values and legitimate law enforcement interests, it was recognized that this new law would have a pervasive effect on virtually all Federal agencies that utilize customers' financial records. Motivated by the rarely acknowledged responsibility that the Congress has to oversee the implementations of its laws, just prior to the March 10, 1979 effective date of the law I requested that the General Accounting Office (GAO) monitor the initial efforts of Federal agencies to incorporate the new procedures into their day-to-day operations and report back to the Congress on any problems. The GAO's report entitled "Federal Agencies Initial Problems with the Right to Financial Privacy Act of 1978" is now available.

Given the scope and complexity of the act, there are surprisingly few problem areas identified in the report. In fact, the report concludes without making any remedial legislative recommendations and states "many of these problems undoubtedly are attributable to the newness of the act and may be resolved as agencies gain more experience with it." The report states: "The GAO believes that before determining whatever changes to the law are needed, agencies need more time to work out administrative problems."

The report does reveal several problems which have been experienced in implementing the act. The most serious difficulty concerns the Justice Department's interpretation of section 1112 of the act relating to the transfer of financial records between the various agencies of the Government. The law requires that the transferring agency must notify the individual within 14 days of the transfer of records unless a court order delaying the notification is obtained by either the transferring or receiving agency; a finding must be made that the notice would disrupt the investigation. Confusion has resulted from an official Justice Department interpretation issued by its Office of Legal Council (OLC) on May 22, 1979. After reviewing the OLC's opinion the GAO has concluded that "In our view the legislative history of the act does not support the Justice interpretation that bank supervisory agencies have 'implied authority' to transfer records without complying with the post-transfer notice requirement. Contrary to the Justice opinion, the GAO believes the act requires prompt customer notification when protected financial information is disclosed."

The GAO's conclusion echoes that expressed by Congressmen GOLDWATER, STARK, MCKINNEY, ROUSSELOT, and I in a February 26, 1980, letter to the Attorney General and the heads of the bank supervisory agencies criticizing the OLC interpretation and advising that:

> Rather than attempting to make explicit statutory authorization for each instance where the Congress believed interagency transfer was appropriate, the House adopted the Goldwater-McKinney language to provide a relatively simple method for transfer, while still providing some measures of privacy protection.

The Right to Financial Privacy Act, like other laws that require people to change the way they operate has met some initial resistance. As agencies experience with the procedures increases and interpretive problems are worked out, they will become more comfortable with it. The banking industry, as was documented by the Privacy Protections Study Commission, has been moving toward limiting access to financial records for several years on its own. In addition, both before and since the enactment of Public Law 95-630 several States have approved either constitutional or new statutory privacy protection for financial records. Our Federal law now establishes clear standards to be followed by Federal agencies in obtaining financial records. The GAO report indicates that the agencies have worked hard to train their field agents and update their operating manuals. I agree with the GAO's conclusion that many of the initial problems or confusion will work themselves out, but I stand ready to consider any necessary changes as long as they do not alter the act's basic principles or disrupt the delicate balance between providing privacy protections and recognizing legitimate law enforcement interest.

Below is a more detailed analysis of the GAO report along with a letter from Mr. William J. Anderson, Chief of the GAO's General Government Division, clarifying the details of two law enforcement examples cited in the report:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., June 25, 1980.

Hon. JOHN J. CAVANAUGH,
House of Representatives.

DEAR MR. CAVANAUGH: In a June 16, 1980, meeting with our staff concerning our report "Federal Agencies' Initial Problems with the Right to Financial Privacy Act of 1978" (GGD-80-64, May 29, 1980), you asked that we furnish you with the current status of two examples cited on page 25 of the report.

In the first example we noted that a financial institution would not report a known teller embezzlement to the FBI. When the violation was referred to the FBI through the Federal Deposit Insurance Corporation, the institution would not make pertinent records available. Subsequently, an FBI official told us that the Assistant U.S. Attorney had decided that the case did not merit prosecution because restitution of the small amount of funds involved had been made and the suspected crime involved the account of a relative of the teller. In view of the Assistant U.S. Attorney's decision, the FBI made no further attempt to obtain information.

With regard to the second example, we reported that since the effective date of the act, banks in the New York City area had frequently refused to provide information about counterfeit notes. The Secret Service was still experiencing this problem at the close of our review. After our meeting with you, we discussed this matter with a Secret Service official. He told us that the Secret Service still has problems obtaining sufficient information about counterfeit notes received by New York City banks, but the extent of the problem is decreasing. The Secret Service attributed the improvement to banks' increased familliarity with the requirements of the act.

We trust that this information will meet your needs.

Sincerely yours,
WILLIAM J. ANDERSON, *Director.*

SUMMARY—INTERAGENCY CRIMINAL REFERRALS

The greatest controversy identified in the GAO report centers around the method that the agencies that regulate the nation's financial institutions (the Federal Reserve, the National Credit Union Administration (NCUA), the Federal Home Loan Bank Board (FHLBB), the Comptroller of the Currency (CoC), and the Federal Deposit Insurance Corporation (FDIC) must follow when referring criminal matters involving protected financial records to the Department of Justice. The Financial Privacy Act establishes a procedure for these agencies when exercising their responsibility to make referrals. Section 1112 requires that they be made for a legitimate purpose, and that the customer whose records are transferred be notified within 14 days after the transfer is made. This notice can be delayed by court order if the court finds that the notice would disrupt the investigation.

JUSTICE IMPROPERLY ASSERTS TRANSFER WITHOUT NOTICE

The Justice Department has advanced through an official interpretation from its Office of Legal Counsel (OLC) that the Bank supervisory agencies have an "implied" authority to transfer records without notifying the customer at all if the case involves the safety and soundness of a financial institution. This argument is based on the contention that since "the Right to Financial Privacy Act was but one of twenty titles in an omnibus statute that was primarily concerned with strengthening the powers of supervisory agencies and tightening the restrictions on bank officers, directors, and shareholders" . . . "it would be anomalous to conclude that a statute which was intended on the whole to strengthen the regulation of financial institutions was also intended to deprive the regulators of one of their oldest and strongest weapons for dealing with the most serious cases of management abuse."

The procedures of the Act, however, do not deprive the regulators of supervisory tools. The GAO report notes that the Financial Privacy Act had a separate history from the supervisory provisions of the bill and that it clearly had purposes distinct from those provisions. (However, it is inaccurate to characterize these purposes as contradictory, as the GAO did. Rather, every effort was made to strike a balance between law enforcement and privacy interests, and the Justice Department agreed to every aspect of the bill before it was approved by the Congress). After detailing that history through several Congresses, particularly the 95th, the GAO concludes: "Contrary to the Justice opinion, GAO believes the act requires prompt customer notification when protected financial information is disclosed."

This opinion follows on the letter I, along with four other Members of Congress, sent to the Attorney General on February 26, 1980 which gave the background for the interagency transfer provision that is now the law. In that letter we said:

"Rather than attempting to make explicit statutory authorization for each instance where the Congress believed interagency transfer was appropriate, the House adopted the Goldwater-McKinney language to provide a relatively simple method of transfer, while still providing some measure of privacy protection."

Thus, the statute does not deprive the regulators of their right to transfer information. While eight of the statute's twenty titles were designed to strengthen regulation, there were twelve others that did not have this purpose. For example, other titles required the Treasury to issue gold medallions, provided consumer protection in electronic fund transfers, extended the Regulation Q interest rate ceilings, and reauthorized the Export-Import Bank's statutory authority to promote exports. It would be more accurate to characterize this legislation as an amalgamation of much of the House and Senate Banking Committee's collective agenda for the 95th Congress than as a "law enforcement" bill.

IS 14 DAYS LONG ENOUGH FOR THE JUSTICE DEPARTMENT TO SEEK DELAYED NOTICE ORDER FROM COURT?

The Justice Department now asserts that 14 days do not give it long enough to seek a court order authorizing delayed notification to an individual whose records have been transferred.

The GAO report states that "the extent of this problem could not be shown" since neither Justice nor the financial agencies "had any data on the number of criminal referrals made where the 14-day delay period was considered too short . . ." (p. 19)

A Justice Department memorandum on this issue also noted that "the Department reviewed and assented to the text of the amendment" which provided for the 14-day delay. period. In fact, before the Act was passed representatives of the Department made no comment whatsoever to alert the Congress that 14 days would not be sufficient time.

Nevertheless, if the Department can show that 14 days is not sufficient, I would actively consider an amendment to extend the period.

LACK OF EXPRESS REFERRAL AUTHORITY

The report states that because the Act does not give agencies expressed authority to make criminal referrals it has "caused confusion and disagreements between the Justice Department and several supervisory agencies about what procedures to use in referring suspected criminal violations . . ."

The cause of the confusion is not the Act, rather it is the Justice Department's persistent misreading of its clear provisions. The GAO's own conclusion that the Department's interpretation is incorrect supports this view. The Act was not intended to grant any authority to any agency to refer criminal matters to the Justice Department, since it is obvious that all government agencies have that authority, and duty, unless it is specifically limited. The Financial Privacy Act provides such a limit, but one which was designed to permit all proper referrals and let customers whose records are transferred know what is being done with their records.

NONIDENTIFIABLE REFERRALS

The Act permits transfers without notice of information that is not identifiable as being a particular customer's records. The Comptroller of the Currency's office has used this method in making criminal referrals, but the FBI has said that it does not provide them with enough information to conduct an investigation.

While the Comptroller's practice is within the letter of the law, I agree with the FBI that the method is not well suited to criminal referrals. This provision was designed to facilitate transfers of large volumes of information in cases where the identity of the individual is not relevant and where the data is presented in such a manner that no privacy interest is affected. Criminal referrals do not have these characteristics, and I recommend that the "nonidentifiable information" provision not be used for criminal referrals.

FINANCIAL INSTITUTIONS' RESPONSE TO FORMAL WRITTEN REQUESTS

During the consideration of the Financial Privacy Act the Justice Department pointed out that the legislation would make it impossible for agencies, such as the FBI, with investigative responsibilities but without formal subpoena power to obtain financial records. According to the Privacy Protection Study Commission these agencies, in the past, obtained access to financial records using a "flash the badge" approach. The Act was specifically intended to end this practice.

IS SUBPOENA POWER NEEDED?

The Act's formal written request procedure was intended to provide a reasonable substitute for subpoena power. However, law enforcement agencies that have tried to sue this procedure have found that financial institutions are reluctant to comply with these requests. To remedy this problem the FBI has asked Congress for subpoena power. From my perspective as the sponsor of the **Financial Privacy Act, I have no objection to granting the FBI this new subpoena power if the Judiciary Committees and the Congress believe it is absolutely necessary. However, those who must decide this should be aware of the origins of this new proposal.**

In discussions with the Department of Justice during the last Congress, it was agreed that privacy legislation should end informal access to financial records. Congress agreed that FBI agents should not be able to obtain financial records simply by showing a badge. However, the FBI was very concerned that this access be replaced with something, since if the legislation were enacted they could only get financial records using a grand jury subpoena.

I made clear to the Justice Department that the Banking Committee, which considered the Financial Privacy Act, had no jurisdiction to grant subpoena power to the FBI. I did suggest that the Financial Privacy Act's effective date could be delayed to give the FBI time to obtain subpoena power through the regular channels. This suggestion was not adopted by the Justice Department. Instead, the Department offered the formal written request procedure as a compromise. I agreed to this procedure since it formalized the informal access then enjoyed by the FBI, with privacy protections, and raised no jurisdictional obstacles.

The Department projected that financial institutions would comply with the formal written requests since the customer would be given a chance to challenge FBI access, and the institution would be reimbursed for its expenses. The Department now says that some banks are not honoring these formal written requests as a matter of bank policy. Therefore, it says the FBI needs a new subpoena power.

I believe the Judiciary Committees should examine the assertions of the Department carefully in this area to determine if the facts support them. Since the formal written request is such a new idea there may simply be a lag in the bank's acceptance of it.

EFFECT OF STATE LAW

One reason financial institutions have been reluctant to comply with formal written requests is that compliance might be questioned under some state laws. The Justice and Treasury Departments have recommended that the Act be amended to specifically override state protections.

There are several problems with this proposal:

1. While conflicting state laws may be a part of the problem, it is far from clear that such an amendment would be enough to induce financial institutions to honor these requests. Many have adopted, as a matter of customer relations, a policy of complying only with coercive access.

2. During the consideration of this legislation, the House Banking Committee dropped a provision that would have limited access to financial records by state and local governments. This was done to protect state prerogatives in this area, and in the hope that states would adopt privacy protections similar to the Federal provisions. The suggested amendment would send the wrong signal to the states.

3. The purpose of the legislation was to add to privacy protections. An amendment cutting back on them is out of place. If an agency needs coercive access to financial records to do its job properly, it should come to Congress and request the authority it needs. These requests can then be handled by the committee with jurisdiction over that agency and with the most knowledge of its needs.

4. Some of those who favored dropping coverage of state and local governments also argued that a provision limiting their access would be an unconstitutional infringement on state police power. It may also be unconstitutional to provide that state laws

cannot prevent supposedly non-coercive federal access.

CRIMINAL REFERRALS BY FINANCIAL INSTITUTIONS

Section 1103(c) of the Act permits financial institutions to notify the government when they have information about a possible criminal violation, and does not require the institution to notify the customer when they use this provision.

According to the GAO report financial institutions have been reluctant to supply sufficient information to law enforcement agencies for those agencies to act on because they are concerned that too much disclosure could prompt customer suits against them.

Since the Act provides express authority to financial institutions to report crimes they uncover, the only question is what is the proper scope and content of those reports. As the committee report on this provision makes clear, the Act was intended to allow financial institutions to report sufficient information so that government law enforcement officials could seek the actual records under the notice and challenge procedures of the Act.

This is not an easy issue to resolve, and I did not expect it to be when the Act was under consideration. The Justice Department has attempted to define the type and amount of information a financial institution may reveal when it uses its 1103(c) authority. I expect that these efforts, and the financial community's response to them, will result in a procedure that is compatible with the privacy and law enforcement goals of the Financial Privacy Act.

If this attempt does not work out I would be willing to consider amendments to the Act in this area as long as they do not open a loophole that would permit the disclosure of financial records without customer participation. However, I would like to give Justice and the financial institutions time to work with the current law, rather than derailing the ongoing clarifying efforts with precipitous amendments.

TRANSFER AMONG SUPERVISORY AGENCIES

Section 1112(d) of the Act states that nothing in the Act prohibits any supervisory agency from exchanging information with another supervisory agency. This was designed to permit these agencies to carry out their responsibilities unimpeded by the fragmented nature of the Federal financial institutions system.

DEFINITION OF "SUPERVISORY AGENCY"

According to the GAO report "some supervisory agencies believe that, under the act's definition . . . the transferring and receiving supervisory agency must both have statutory authority to examine the institution" if records from that institution are transferred (pp. 28–29).

This interpretation stems from the definition of "supervisory agency" which ties the term to the type of financial institution a particular agency has authority to examine. However, when read with 1113(b) the intent of the Act becomes more clear. The Act was intended to permit supervisory agencies to obtain information only from those institutions over which they have supervisory authority, and then only in the exercise of their supervisory functions. Section 1112(d), on the other hand, was intended to permit supervisory agencies, such as the Comptroller of the Currency and the Federal Home Loan Bank Board, to easily exchange information. This was intended to permit normal supervisory functions which could involve more than one supervisory agency to go forward unhindered.

CUSTOMER CHALLENGE DECISION PERIOD

The Act requires that a court decide customer challenges within 7 days after the government has responded to the challenge. According to Justice, in those few cases where a customer has challenged, courts have not met the 7-day requirement.

This requirement was added to the Act at the behest of the Justice Department to cut down on any delay caused by a customer challenge. Before the Act was passed, I was concerned that the requirement could prove too onerous, but was assured it would work. Since it did not interfere with the privacy protections in the Act, I agreed to include the provision.

Neither the GAO report nor the Justice Department have made any recommendations in this area.●

FLAWS IN "THE SALT SYNDROME"

(Mr. DOWNEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DOWNEY. Mr. Speaker, today is the anniversary of the signing of SALT II—one of the most beneficial treaties in history from the U.S. point of view, yet unratified today because of events entirely unrelated to SALT. Over the past years, we have sent the Soviets the loud clear message that if they do not behave in a way of which we approve we are going to continue to shoot ourselves in the foot.

Today I wish to address in particular a film entitled "The SALT Syndrome," produced by a private ultraright organization called the American Security Council. This organization is extremely well funded and has distributed the film widely. It has been shown repeatedly on television stations across the country, and has misled and disturbed many Americans.

Two facts need to be emphasized regarding this film. First, it spends most of its time discussing, not SALT, but the United States-Soviet military balance. This is a standard debating technique on this type of issue: If you cannot win on the merits, avoid the issue and talk about other things to create a general state of anxiety in which people will believe anything. Second, it is loaded with inaccuracies and misleading statements.

An analysis of this film has been prepared by members of the Department of Defense, the Department of State, and the Arms Control and Disarmament Agency. To this analysis, I have added some comments of my own in footnote form. The analysis, with my comments, is inserted below:

THE SALT SYNDROME: CHARGES* AND FACTS—ANALYSIS OF AN ANTI-SALT "DOCUMENTARY"

CHARGES

[Secretary of Defense Robert McNamara] began to disarm.

FACTS

While McNamara was Secretary of Defense the US engaged in a massive expansion of its strategic nuclear forces. We introduced Minuteman ICBMs, and Polaris submarines and missiles. We also began the development of a light nationwide ABM system and development of multiple independently targeted warheads (MIRVs) for our ballistic missiles. This was hardly an era of unilateral US disarmament.[1]

CHARGES

1,000 American B–47 strategic bombers were phased out beginning in 1961.

FACTS

B–47 medium bombers were phased out as obsolete, but were supplanted by vastly more capable long-range B–52s. Minuteman ICBMs, and Polaris SLBMs.[2]

CHARGES

Our supersonic B–58 strategic bombers were deactivated in 1970.

FACTS

The B–58 medium bomber was retired because it was not cost-effective.[3]

CHARGES

In 1977, [President Carter] cancelled the B–1 bomber, which was to replace our obsolete B–52 bombers.

FACTS

As an alternative to the B–1, President Carter accelerated the development of the air-launched cruise missile (ALCM). B–52s are not obsolete—they will continue to be effective launch platforms for cruise missiles into the 1990s. While the aircraft design is relatively old, the weapons and avionics of the B–52 are quite modern and are being further improved.[4]

CHARGES

[The Soviets] are already testing three even newer strategic bombers.

FACTS

In 1979 the Soviets may have had one or more new bombers under development, but none had yet been flight-tested.[5]

CHARGES

The US has no plans for a new strategic bomber until at least the 1990s.

FACTS

The US has continued the B–1 program in research and development, as well as other work which will keep open the option to develop a new manned, penetrating bomber in the future. Additionally, the US is considering the deployment of a cruise missile carrier aircraft by the mid-1980s. Meanwhile, ALCM-carrying B–52s will begin joining the force in 1982, and by the mid-1980s over a thousand ALCMs will be operationally deployed.[6]

CHARGES

The Soviet Union's medium and heavy strategic bomber force now numbers 675, while the US bomber force has been reduced to 414.

FACTS

Misleading comparison. These figures count medium range Soviet Badgers and Blinders equally with long range US B–52s. In heavy bombers alone the US has a substantial lead.[7]

CHARGES

The number of United States strategic missiles was frozen at the 1967 level.

FACTS

The United States has not stood still in strategic forces since 1967. Before SALT began, the United States decided to shift from quantitative to qualitative improvements in strategic forces. In the missile force these improvements included the the deployment of MIRVs—which accounts for the fact that since 1967 the total number of warheads in the US inventory has more than doubled, and the number of missile warheads has quadrupled while the total number of launch vehicles has declined slightly; the Minuteman ICBM upgrade program (MK–12A RV, W78 warhead, guidance improvements, silo upgrade, and Command Data Buffer System); the replacement of Polaris SLBMs with longer range, more accurate, and greater payload Poseidon and Trident missiles. In addition there have been numerous improvements to the B–52 force (new SRAM weapons, new electronic counter-measures, new navigation equipment, improved SRAM guidance, and now the addition of air-launched cruise missiles).

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*Charges are quotations from the film transcript.

Numbered footnotes at end of article.

CHARGES

But the Soviets continued to build missiles even after they passed US numerical limits about 1969.

FACTS

The Soviets passed us in number of launch platforms, but we were modernizing our missile force by replacing single-warhead missiles with MIRVed missiles, in reality outstripping the Soviets by multiplying the number of nuclear warheads per missile. The Soviets did not begin to deploy MIRVs until the mid-1970s.

CHARGES

President Carter further accelerated our disarmament by cancelling our only ICBM production line.

FACTS

The MM III line was producing spare and test missiles we had no intention or means of deploying; besides, the US already had a sufficient surplus of MM IIIs. President Carter has approved development of the MX mobile ICBM.

CHARGES

At that time [1978] the Soviets were producing or testing eight new ICBMs.

FACTS

Untrue. The Soviets were producing or testing three fourth generation ICBMs—the SS–17, –18, and –19.

CHARGES

The Soviets have at least 1,400 ICBM launchers to our 1,054.

FACTS

True, but incomplete. The U.S. places about 25 percent of its 9200 strategic nuclear weapons on ICBMs, whereas the Soviets place approximately 75 percent of their 6000 weapons on fixed-silo ICBMs. The other 75 percent of our weapons are dispersed on less vulnerable mobile platforms—bombers and submarines. Only 25 percent of Soviet weapons are deployed on bombers and submarines.

CHARGES

Many of [the Soviet] ICBM silos are designed to be reloaded and refired. . . .

FACTS

Soviet silos do not appear to be designed for this capability. Even if they were, reload and refire in the middle of a nuclear war would be no easy feat. The Soviets, who do very realistic testing and training, have never trained for this complex task. In any case, U.S. retaliatory capabilities could destroy any ICBM reload facilities long before a second Soviet salvo could be fired from reloaded launchers. SALT II bans any testing of a rapid reload operation, and prohibits the location near silos of additional ICBMs and hardened storage facilities vital to a realistic refire system.[8]

CHARGES

The Soviets have at least 1,000 extra missiles for refire, making their advantage in ICBMs at least 2,400 to our 1,054.

FACTS

We have over 200 extra missiles ourselves, and believe the Soviets may have several hundred more than that. There are legitimate reasons for keeping retired missiles, such as for obtaining spare parts and for test purposes. It is unlikely that any excess older missiles the Soviets may have would be used for refire. A complex operation with thousands of people and vehicles—all observable—would be necessary to launch these missiles without their silo launchers. There is no evidence of any such infrastructure.[9]

CHARGES

Because of the larger size of the Soviet missiles, they have a six to one advantage over the U.S. in missile firepower.

Footnotes at end of article.

FACTS

The Soviets do have an advantage in missile megatonnage; we have a comparable advantage in heavy bomber megatonnage. There are many other indices of strategic military capability more important than simple megatonnage. For example, the U.S. has nearly twice as many nuclear weapons on its total force of ICBMs, SLBMs, and strategic bombers than does the U.S.S.R. The reliability and accuracy of U.S. missiles are both better than those of Soviet missiles.

CHARGES

Soviet mobile ICBMs are not included in the ICBM count because they can be hidden from our satellites in any building. So, we don't know how many they have; but, the US has no mobile ICBMs.

FACTS

We are confident the Soviets have not deployed any mobile ICBMs. SS–16s, the only mobile ICBM they have even partially tested, cannot be further tested, produced, or deployed under the terms of SALT II. If (after Protocol expiration) the Soviets deployed another type of mobile ICBM, any such missiles would be included in the ICBM count—and the Soviets are obligated by SALT II to make them countable. The US is developing MX, a formidable ICBM for deployment in a mobile basing mode.

CHARGES

The number of US sub-launched ballistics missiles was frozen at the 1967 level.

FACTS

Misleading. As with ICBMs, the US shifted in SLBMs from quantitative to qualitative improvements, replacing Polaris missiles with MIRVed Poseidons, and now replacing Poseidon missiles with new MIRVed Trident SLBMs. The number of US SLBM warheads has increased severalfold since 1967, even though the number of missiles has remained the same.[10]

CHARGES

The Soviet advantage in all types of ballistic missile submarines is now 93 to our 41, more than 2 to 1.

FACTS

Our advantage in number of SLBM warheads—a more meaningful comparison—is more than 3 to 1. Moreover, US submarines are all nuclear-powered, whereas more than a quarter of Soviet ballistic missile submarines are diesel-powered. US submarines are quieter, at sea more often, and are augmented by superior ASW forces.[11]

CHARGES

The SS–N–8 [has] a range of 5,500 nautical miles, 3,000 miles longer than any of our sub-launched ballistic missiles.

FACTS

Not true. The new US Trident C–4 missile now being deployed in Poseidon submarines has a range comparable to that of the Soviet SS–N–8.[12]

CHARGES

The first Trident, the comparable US submarine, will not be operational until 1981.

FACTS

The first Poseidon submarine backfitted with Trident I missiles entered operational service in 1979. Twelve Poseidon SSBNs are being backfitted with Trident I SLBMs. The first US Trident submarine will become operational in 1981, and will be far superior to the Soviet Delta submarine.[13]

CHARGES

The United States Navy in the last ten years has been cut in half . . . In the meantime, the Soviets have vastly built up their Navy.

FACTS

The US Navy has retired many obsolete WWII ships, and replaced them with fewer but more capable new ships. US ship retirements in the past few years have given us a leaner, more modern, and more capable fleet. In fact, the Soviet Navy, which started far behind us, has also been declining in size recently, not increasing. With regard to large ocean-going surface combatants (over 3,000 tons), the US Navy has deployed more than twice as many platforms as the Soviet Navy since the early 1960s. The US continues to hold superiority over the Soviet Navy in performance of critical missions such as strike warfare, amphibious warfare, and anti-submarine warfare, as well as in readiness.[14]

CHARGES

In attack submarines, the Soviet advantage is 3 to 1.

FACTS

True in terms of the number of ships, but our attack submarine force is vastly more capable than the Soviet force which relies more heavily on diesel subs. The overall US anti-submarine warfare capability is far ahead of Soviet ASW.

CHARGES

When all types of active combat ships—large and small—are counted, the Soviets' numerical advantage is almost 5 to 1.

FACTS

A misleading comparison. Our ships are much larger; in total tonnage, we are far superior to the Soviets. The absurd practice of counting all ships—large and small—as equal conceals major force differences. For example, the US has 13 heavy aircraft carriers; the Soviets have two light aircraft carriers, which are equipped with less capable aircraft. Any such comparison should also take into account NATO and Warsaw Pact navies; in that case, the balance is greatly in NATO's favor. Overall US and other NATO navies have twice the naval tonnage and several times the firepower of the Soviet and other Warsaw Pact navies. We are working to counter Soviet ship-borne cruise missiles by improved fleet air defenses and by development of our Harpoon and Tomahawk weapons. We are also upgrading our naval forces with new classes of destroyers, frigates, and attack submarines. The US Navy enjoys other advantages as well, including geography. The Soviet Union must divide its large naval forces between four separate and widely dispersed fleets. It would be extremely difficult for the Soviet Union to utilize ships from one fleet in another theater in the event of hostilities, since these ships must pass through geographical barriers and bottlenecks which are subject to closure by US/NATO naval operations.

CHARGES

The United States followed Secretary McNamara's theory of no defense, which is called Mutual Assured Destruction.

FACTS

The bedrock of U.S. nuclear strategy is the ability to inflict an unacceptable blow on an opponent even in retaliation—an assured destruction capability. But U.S. objectives also include crisis stability and essential equivalence—denying the Soviet Union any political or military advantage that might derive from perceptions of relative capabilities. Also, contrary to what many believe, the U.S. has always aimed a majority of its strategic weapons at military—not civilian—targets. In the final analysis, however, neither side has any effective defense of its country against massive destruction in a nuclear war.

CHARGES

Haig. This is a policy [assured destruction] which I believe to be immoral, self-defeating and devastating in the context of America's ability to manage inevitable crisis.

FACTS

The U.S. has always targeted heavily against military targets, while also retaining the ability to destroy cities and industry—

precisely so that we will not have to rely entirely on our ability to destroy Soviet cities as our only means of nuclear deterrence. The U.S. has capabilities to respond at varied steps on the escalation ladder and to implement limited nuclear options.

CHARGES

The Soviet civil defense program provides shelters for military and civilian leaders and protection for a larger percentage of industry.

FACTS

The Soviets provide protection for most of their leadership and a large number of key industrial workers. The bulk of the general population, however, must rely on evacuation from urban areas for its protection.

CHARGES

Soviet losses would be dramatically reduced by their civil defense preparations.

FACTS

CIA estimates that the Soviets would suffer over 100 million prompt casualties—about half of those fatalities—in an all-out nuclear exchange for which they had little or no time to put civil defense measures into effect. With full implementation of their civil defense program, Soviet casualties would be reduced to around 50 million, with fatalities numbering in the low tens of millions. These figures, however, do not reflect the long-term effects of radiation resulting from a massive nuclear attack. Nor do they take account of casualties from the widespread famine and disease which would likely occur in the aftermath of a nuclear war.

CHARGES

The Soviet Union also built a massive strategic defensive weapons system backed by 100 times as many radars as we have. The Soviets built 2,600 fighter interceptors while the US cut back to 309. Their supersonic fighters can overtake our aged B–52s from behind. The Soviets built 12,000 surface-to-air missiles to shoot down bombers while the US cut back to zero.

FACTS

The Soviets built an extensive air defense because they face a far more significant threat from US (and other) aircraft than we do from theirs. The large Soviet force of fighter interceptors has major deficiencies in performance against low-flying B–52s. With electronic counter-measures and other devices, most B–52s can penetrate Soviet airspace and survive. In the 1980s, the air-launched cruise missile will give the B–52 a standoff capability and will significantly complicate the air defense problem for the Soviets. Another reason for the disparity in US and Soviet air defense efforts is our judgment that it is wiser to invest resources in areas other than protection against strategic bombers, particularly since neither side is permitted under the ABM Treaty to deploy a significant defense against the devastating threat posed by ballistic missiles.[15]

CHARGES

KEEGAN. During SALT I we caught the Soviets in a massive violation of that accord by testing the SA–5 in an anti-ballistic missile mode. . . . Now, this missile . . . is capable of defending the Soviet Union against ballistic missiles.

FACTS

During 1973 and 1974 the US observed Soviet missile tests that led us to believe that the SA–5 radar had been used to track strategic ballistic missiles in flight. The Soviets could have been using the radar in a range instrumentation role to obtain precision tracking. On the other hand, this could have been the first step toward testing the system "in an ABM mode". The Soviets maintained that no air defense radar had been so tested and noted that the use of non-ABM radar for range safety or instrumentation was not limited by the ABM Treaty. In any case, they ceased the activity of concern to us. US intelligence believes that the SA–5 system has no ABM capability now and could not be given one without a great deal of testing which would be observable through our national technical means.[16]

CHARGES

KEEGAN. The Soviets are now on the threshold of deploying a particle beam weapon which would throw giant lightning bolts up at incoming ballistic missiles to simply obliterate them. It is my judgment that the weapon has now been largely perfected and will appear in the field operationally early in the 1980s.[17]

FACTS

This has been General Keegan's personal crusade for a number of years. This thesis has virtually no support in the US technical and intelligence communities. Particle beam weaponry is considered many years away from becoming a reality, if ever.

CHARGES

KISSINGER. We have placed ourselves at a significant disadvantage voluntarily. This is not the result of SALT. It is the consequence of unilateral decisions extending over a decade and a half of a strategic doctrine adopted in the sixties . . . and of the choices of the present Administration. All these actions were unilateral, hence avoidable.

FACTS

The United States is not at a strategic disadvantage to the Soviets. Both sides are roughly equivalent, although to maintain the balance we need the increased programs the Administration has proposed. Our strategic posture today is the result of decisions made over the past four Administrations, and Dr. Kissinger is correct in stating that our position today is not the result of SALT. Rejecting SALT II—and the limitations it imposes on Soviet strategic forces—would make it more difficult, not easier, for us to maintain strategic equivalence.

CHARGES

By 1972 the Soviets had already gained a 3 to 2 numerical advantage over the U.S. in the first SALT agreement.

FACTS

This charge ignores the fact that the U.S. had a substantial MIRV and warhead lead at the time, and that SALT I did not count long-range bombers where the U.S. maintained a significant advantage in numbers and capability over the USSR. Moreover, SALT II provides for equal numerical limits, thus eliminating the alleged Soviet advantage in SALT I.

CHARGES

CLEMENTS. Every one of the U.S. defense programs that was promised in order to get SALT I has now been either cancelled, delayed or stretched out, and it puts us in the position of facing the threat of the 80s with equipment designed for the 60s.

FACTS

No U.S. weapons program has been slowed by a political or SALT-related decision. MX is on schedule for initial deployment in 1986; Trident SSBNs will be on schedule by the delivery of the sixth boat in 1985, now that management and cost problems have been brought under control; the cruise missile programs are substantially on schedule. Minor delays in the cruise missile programs were due to technical problems. Given the complexity and size of major defense acquisition programs, there are invariably delays in deployment. The B–1 bomber was not put into production because an alternate—the cruise missile—was considered more cost-effective.[18]

CHARGES

JACKSON. To enter into a Treaty that favors the Soviet Union, as this one does, on the ground that we will be in a worse position without it, is . . . appeasement in its purest form.[19]

FACTS

It is not appeasement to enter into a treaty that is in our own interest. And the test of our interest is whether we are better off with the treaty or without it. SALT II benefits the U.S. because it limits the strategic arms race, increases our knowledge—and the predictability—of Soviet forces, and puts some limits on the size of the Soviet-strategic forces. It provides these benefits while allowing the U.S. to do all it needs and plans to do to maintain its retaliatory capabilities and the strategic balance. The Treaty does not favor the Soviet Union; it advances the national security of both countries.

CHARGES

SINGLAUB. From a historical point of view, it's clear that we cannot trust the Soviets to keep SALT II. Out of 27 summit agreements with the Soviet Union, they have broken or cheated on all but one. And that, of course, includes SALT I. I think it's quite clear that we must have some form of positive verification of this treaty.

FACTS

General Singlaub's statement is nonsense. He does not specify which 27 agreements he is referring to, much less the 26 the Soviet's are supposed to have violated (indeed Soviet compliance performance under 14 arms control agreements signed since 1959 has been good). Singlaub's specific charge that the Soviets cheated in SALT I is inaccurate. We raised a number of issues with the Soviets in SALT I—as they did with us—but in every case the activity in question either ceased or subsequent information clarified the situation and allayed our concern. SALT II will actually help us monitor Soviet strategic forces by establishing rules for verification.

CHARGES

GRAHAM. There is no way that intelligence, for instance, can tell you how many of a certain missile are being manufactured in the Soviet Union. We can't verify that. We can't varify the range of a cruise missile any more than you can verify how far an automobile will go if you go out and take a picture of it in the parking lot. And furthermore, you can't tell, and this is very important, how many individual warheads are within a Soviet missile nosecone.

FACTS

Our verification capability can determine Soviet compliance with SALT II—that is, we can detect any Soviet violation before the Soviets could derive any military advantage from such cheating. The US was willing to accept some monitoring uncertainties—over the range of cruise missiles, for example—because it benefitted us to have flexibility in developing such systems. As for the number of warheads on Soviet missiles, the US knows how many warheads have been tested from specific Soviet missiles. We follow these tests using a variety of monitoring sources. By counting the number of warheads tested, we can have reasonable confidence that no more would be deployed. If additional warheads were deployed on Soviet missiles without being flight-tested, the Soviets would almost certainly have lower confidence in their reliability than they would for weapons which had been flight-tested. Thus, this kind of Soviet cheating—even if undetected—would not improve their military power.

CHARGES

MIDDENDORF. The trouble with signing these agreements is that as well meaning as

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Footnotes at end of article.

we are, we live up to them and the Congress just simply will not vote increased conventional weapons spending following SALT II, as they did not after SALT I.

FACTS

This is the heart of the critics' case against SALT II. The debate over SALT II, if it has done nothing else, has relieved concerns about euphoria setting in. The Soviet invasion of Afghanistan reinforced this. The United States has committed itself to a significant real annual increase in defense spending over the lifetime of SALT II. The Treaty limits Soviets forces and does not constrain planned US programs. It is up to us to determine how vigorously we will pursue permitted modernization or support programs not subject to SALT limits.

CHARGES

HAIG. That agreement will now, in effect, codify some fundamental deficiencies between the United States and the Soviet Union with grave consequences on America's ability to manage inevitable crisis in the period ahead.

FACTS

On the contrary, SALT II is an equal agreement that allows us to modernize and correct deficiencies in our forces, while limiting the challenge we face from the USSR. Failure to ratify SALT II would raise doubts among our allies about the US ability to fashion and pursue a coherent foreign policy and provide leadership in world affairs.

CHARGES

GRAHAM. SALT II is so lopsided that if we allow the Soviets to get away with this one then we will never be able to get any equitable arms control agreements with the Soviets no matter how hard we try.[20]

FACTS

An agreement that provides for equal ceilings on numbers of strategic delivery systems, MIRVed launchers, and launchers for fixed-silo MIRVed ICBMs is hardly lopsided. SALT II, when combined with current US modernization programs, will allow the US sufficient retaliatory forces to carry out its strategic missions. Moreover, SALT II is the product of nearly seven years of difficult negotiations. It is a compromise arrived at through tough bargaining on both sides. The way to pursue further arms agreements with the Soviet Union is to ratify SALT II and proceed to SALT III negotiations, not to reject SALT II in the false hope that repeating the negotiations will result in an accord more to our liking.

CHARGES

One of the ways in which the numbers were manipulated to make SALT II look equal was that over 200 B-52s, retired to the aircraft boneyard in Arizona, are counted against the US limits as strategic weapons, even though they would take more than a year to get flying again.

FACTS

The SALT II data base numbers were never manipulated. It was very much in the US interest to count mothballed B-52s in the aggregate total.[21] Doing so cost us very little, and prevented the Soviets from claiming that some of their strategic forces should not be counted because they were "mothballed." The film here makes a US gain appear to be a concession. Under the Treaty terms, by the end of 1981 the Soviets will have to dismantle 10 percent of their strategic launchers—250 *operational* bombers or missile launchers to get down to 2,250. The US will merely have to complete the dismantling of a few non-operational mothballed B-52s.

CHARGES

The 150 deployed operational Soviet Backfire bombers are *not* counted as strategic weapons in the Soviet limits.

FACTS

The Backfire has characteristics that fall between those generally attributed to existing heavy bombers and those of medium bombers. (Tactical aircraft and medium bombers on both sides are not covered by the SALT ceilings.) Close observation by US intelligence over a number of years indicates that this bomber is currently being deployed for use in a theater role or against naval forces, not in a strategic role, and is a replacement for older Soviet medium bombers. It is not included in the Treaty ceilings. However, it could reach the US on one-way, high-altitude, unrefueled missions, and the Backfire is limited by a binding Soviet commitment made at the Carter-Brezhnev Vienna summit. No more than 30 Backfires can be built per year, and there are limits on upgrading the capabilities of this aircraft. The US has reserved its right to build an aircraft similar to Backfire.[22]

CHARGES

KEEGAN. We should be concerned because with a range of over 5,100 nautical miles, the Backfire bomber, launching from its bases in Northeastern Siberia, can cover all of the United States, recovering in Cuba, Mexico or Latin America.

FACTS

Backfire does have some inherent intercontinental capability flying certain flight profiles. However, concern about the Backfire threat to the United States is a reason to support SALT II, not oppose it. The Soviets have agreed to limit the Backfire production rate and have provided certain commitments against upgrading the aircraft's intercontinental capability. Without SALT II the Soviets could do anything they wanted to do with Backfire to improve its capability.

CHARGES

ROWNY. The Treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBMs.[23]

FACTS

The United States did not want heavy ICBMs when we were entirely free to build them, and would not build them today if we had the right to do so. In 1974 in the context of resolving a number of issues, including the heavy ICBM question, President Ford and Secretary Kissinger were able to gain concessions in other areas, notably equal aggregates (which require the Soviets, but not the US to reduce) and the exclusion of US aircraft in W. Europe and E. Asia which could attack the USSR. We would gain nothing by insisting now on a theoretical right to build a missile we do not need or want. Nor does it make sense to reopen negotiations by insisting on such a theoretical right—at the risk of losing real concessions we have already gained. This point was convincingly made by General Jones (Chairman of the Joint Chiefs) and General Ellis (Commander of SAC) in their Congressional testimony on SALT II.

CHARGES

The 308 Soviet heavy missiles . . . give the Soviets a first-strike capability.[24]

FACTS

With or without heavy missiles, by the early 1980s the Soviets will have a theoretical capability to destroy a substantial part of our Minuteman ICBM force in a preemptive attack—if they ignore our ability to launch under attack, and assume the massive preemptive attack would work as planned. However, Minuteman vulnerability does not mean the vulnerability of our overall deterrent. US retaliatory capabilities—even after a first strike—will increase by over a thousand additional warheads between 1980 and 1985 due to ALCM deployments. The US would have thousands of surviving warheads on submarines at sea and bombers on alert, even under the most pessimistic scenario of Soviet pre-emptive attack.

CHARGES

In just 17 years, the SALT Syndrome has reduced the U.S. from a position of clear military superiority to one of clear inferiority.

FACTS

The United States and the Soviet Union are now essentially equivalent militarily. The Soviets lead in some areas; we lead in others. The choice facing us today is not between the sort of nuclear superiority we enjoyed in 1962 and nuclear inferiority, but between two types of nuclear parity—one at a higher level, which would be more expensive and less stable, or one at the lower level established by the limitations of SALT II.

CHARGES

The Soviets now have a 2 to 1 advantage over the United States in offensive strategic weapons, a 47 to 1 advantage in defensive strategic weapons, a 2 to 1 advantage in major surface combat ships and submarines, and a more than 4 to 1 advantage in tanks and artillery.

FACTS

These are misleading statistics which use selected data in comparisons designed to show overwhelming Soviet superiority. These "bean counts" say nothing about the quality of weapons, the scenario, the capabilities of allies, the sufficiency to carry out missions, or the like. A comparable exercise could show the same superiority for the United States. For example, we lead the Soviets by 8 to 1 in heavy bomber weapons. In perhaps the most significant indicator of strategic strength, the United States leads the Soviets by 9,200 strategic nuclear warheads to about 5,000, almost a 2 to 1 edge—just the reverse of the assertion in the film. Overall, in a net assessment of strategic forces, both sides are roughly equal.

CHARGES

Since SALT I, the Communists have accelerated their takeover of other countries, without opposition from the United States. Communism has indeed been succeeding in its move toward world domination . . . If SALT II is ratified without really major changes, we can expect greater coercion everywhere in the world.

FACTS

This statement is rhetorical nonsense. It disregards many Soviet setbacks and many U.S. advances around the world. The Soviets have certainly proven themselves willing to exploit opportunities for mischief, and we must respond and resist appropriately. But their foreign policy has hardly been an unbroken record of success in recent years: expulsion from Egypt, continuing conflict with China and world reaction to their Afghan invasion, to name just a few difficulties. In any event, neither Soviet successes nor failures are the result of SALT, as the film implies. Among other benefits, the ratification of SALT II will permit the U.S. to devote more resources and attention to conventional forces which are far more likely to be needed in meeting the threats we will face in the years ahead.

CHARGES

KISSINGER. Too much time has been lost. Too many weapons systems have been unilaterally abandoned. Too many military adventures have been encouraged by the Soviet Union. The growth of Soviet strategic nuclear forces has been inexorable for a decade and a half. It is imperative that we recognize without illusion the dangerous trends that are emerging. It is crucial that we begin to rectify them now.

FACTS

Dr. Kissinger is correct; we must take steps to correct some adverse trends of the past several years. But this statement is

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Footnotes at end of article.

hardly an argument against SALT II. The United States would gain nothing by rejecting SALT II. None of these problems would be resolved by rejecting the Treaty; none of the solutions to our problems would be more feasible in the absence of agreement. The way to meet our needs is to proceed with our own vigorous programs to continue to improve and modernize our strategic forces and to set real limits on Soviet forces by ratifying SALT II.

CHARGES

Lawrence. In a nation-wide opinion survey, we found that 77 percent of all registered voters favor some kind of nuclear arms limitation. But, at the same time, as many as 89 percent would be opposed to an agreement which contains some of the terms of SALT II. For example, 80 percent would oppose an agreement that leaves out some Soviet missiles and bombers which could strike the United States. Clearly, even though Americans want to limit nuclear arms, the more they find out about the details of SALT II, the more they oppose it.[25]

FACTS

As all pollsters know, if you ask a loaded question, you get a predetermined answer. All these statistics reveal is that a very large majority of Americans favor a good SALT Treaty and oppose a bad one. Not very surprisingly, people like some provisions of the Treaty more than others. No poll can tell how good or bad the Treaty really is. Most Americans favor a SALT II agreement coupled with vigorous defense programs of our own, which is the course the Administration is pursuing.

CHARGES

Moorer. Our choice is clear. We either must accept disaster through weakness and disarmament or peace through strength.

FACTS

The combination of carefully negotiated arms control agreements, represented by SALT II—and sound military programs, as represented by our present and planned future forces, gives us far more security than either a diplomacy unbacked by strength or an unending arms buildup unsupported by diplomacy.

CHARGES

Clements. History tells us that only the strong survive.

FACTS

History tells us that the strong and wise survive. The U.S. is already strong, but the most difficult task facing a strategist is to find some way to control the forces of one's opponent. No matter how many weapons the U.S. builds, strategic arms control is required in order to constrain the Soviet buildup. SALT II limits the Soviet threat to us, places some limits on the strategic arms competition, and enhances our ability to monitor Soviet strategic developments. At the same time it permits us to modernize our strategic forces as much as we need to and continues the negotiating process to create more limits on Soviet programs and nuclear weapons in general.

FOOTNOTES

[1] We also began development of the Short Range Attack Missile (SRAM) which has been deployed in large numbers, which even today is unstoppable by any expected Soviet defense, and which exceeds by far the technology of any Soviet counterpart.

[2] It is ironic that those who object most vigorously to the age of the B-52 now also object to the retirement of the much older and less effective B-47.

[3] The B-58 lacked range and electronic countermeasures capability necessary for the strategic mission. In addition, it was highly unreliable, expensive to maintain, and not particularly safe. Loss of an outboard engine at speed, for example, would result in instant destruction of the aircraft.

[4] Again, it is impossible to understand the logic of describing the B-52 as "obsolete" while longing for the B-47 and B-58. As far as the B-1 is concerned, we cannot have confidence it will penetrate Soviet defenses after 1990. This is why the Strategic Air Command's enthusiasm for the B-1 is considerable less than it was several years ago.

[5] Anyone concerned about new Soviet strategic bombers should support SALT II, since the treaty sharply limits these aircraft. Defeat of SALT II will provide the Soviets with license to build them in unlimited numbers.

[6] There is no technology available to either side which would enable a bomber to penetrate the defenses in 1990. Perhaps this will change as research continues. But the B-1 is already obsolescent and would be a waste of taxpayers' funds at this point.

[7] There are several hundred U.S. fighters with more range and payload than some of the "bombers" included in the Soviet total.

[8] Therefore, anyone concerned about reloadable Soviet silos should support SALT II.

[9] And it would be prohibited by SALT II.

[10] We introduced MIRV sub-launched missiles eight years before the Soviets.

[11] The 93 figure includes short-range weapons neither suitable nor used for strategic missions. Correcting for this, plus on-station rates (US 55%, USSR 15%), plus warhead numbers, plus megatons, gives the US submarine-launched ballistic missile force about six times more useable destructive power than its Soviet counterpart.

[12] Missile range is dependent, in part, upon payload. With equal payload, the Trident has longer range than any Soviet submarine-launched missile. With equal range, it has greater payload.

[13] The film is particularly dishonest here, in that it seeks to confuse missiles and submarines.

[14] The Soviet fleet also is seriously deficient in endurance, vulnerability to bottling up, and ability to operate under conditions of disrupted communication.

[15] It is no trick for a fighter to overtake a bomber: Soviet fighters could also overtake the B-1. The trick is to find the bomber when it flies low, which is the only way we fly. At present, Soviet ability to do this is rudimentary to nonexistent.

[16] Note also that the SA-5 was never tested against an actual ballistic missile, unlike our much more capable but still inadequate Safeguard.

[17] Presumably accompanied by time travel, anti-gravity, and intercontinental thought control?

[18] A judgment proven correct by subsequent developments in Soviet defense technology, which has made the B-1 look progressively worse and the cruise missile look progressively better.

[19] It is impossible to comprehend the logic of deliberately placing ourselves in a worse position. The use of emotionally loaded words such as "appeasement" does not disguise this fact.

[20] If SALT is lopsided, it is in favor of the U.S. If the treaty is not ratified, at present levels of expenditures the Soviets can increase total strategic weapons by one third, MIRV ICBMs by one half, and warheads per ICBM by double over the SALT ceilings. If they increase spending, they can do even more. On the other side of the coin, SALT II permits us to do everything the Pentagon wants—MX, Trident, cruise missile with unlimited range, even the B-1 if we want to waste money.

[21] This provision originated in the Department of Defense.

[22] In the absence of the treaty, we can look forward to unlimited Backfires.

[23] I challenge the SALT opponents to tell us what they offer instead. If there is no treaty and the Soviets simply continue present deployment rates, fractionate to 20 warheads per missile, and deploy their older heavy missiles now being retired in conformity with SALT, I calculate the Soviet heavy ICBM force will increase by 262 percent in number of missiles, 243 percent in throwweight, 322 percent in megatons, and 435 percent in warheads, above the SALT limits by 1985. This is with no increase in spending levels. U.S. heavy ICBM's will remain at zero because our weapons designers see no use for them. Why do the SALT opponents want this to occur?

[24] This is a shameful lie. It assumes our bombers, cruise missiles, and missile submarines—none of which are threatened by Soviet ICBM's—are worthless.

[25] Mr. Lawrence should ask his respondents if they favor rejection of SALT II which would lead to the heavy ICBM consequences suggested in note 23.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dannemeyer) to revise and extend their remarks and include extraneous material:)

Mr. Hammerschmidt, for 5 minutes, today.

Mr. Stockman, for 25 minutes, today.

Mr. Buchanan, for 5 minutes, today.

The following Members (at the request of Mr. Flippo) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 5 minutes, today.

Mr. Cavanaugh, for 10 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. White, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Downey, to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,670.25.

Mr. Cavanaugh, and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $982.50.

(The following Members (at the request of Mr. Dannemeyer) and to include extraneous matter:)

Mr. Brown of Ohio.

Mr. Dornan in two instances.

Mr. Bereuter.

Mr. Daniel B. Crane.

Mr. LAGOMARSINO.
Mr. CAMPBELL.
Mr. GRADISON.
Mr. BROOMFIELD.
Mr. PORTER.
Mr. VANDER JAGT.
Mr. GILMAN in two instances.
Mr. ROYER.
Mr. MCCLORY.
Mr. STOCKMAN.
Mr. COURTER.
Mr. ASHBROOK in two instances.
Mr. FISH.

(The following Members (at the request of Mr. FLIPPO) and to include extraneous matter:)

Mr. WALGREN.
Mr. STOKES.
Mr. KASTENMEIER.
Mr. MINISH.
Mr. ALEXANDER.
Mr. SKELTON.
Mr. STARK.
Mr. NOWAK.
Mr. LEHMAN.
Mr. KOSTMAYER.
Mr. MURPHY of New York.
Mr. ZABLOCKI.
Mr. MCDONALD.
Mr. MUSTO.
Mr. TRAXLER.
Mr. SANTINI.
Mr. HARRIS.
Mr. BONKER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 120. An act for the relief of Maria Elena Foley and Caritina Ann Foley; to the Committee on the Judiciary;

S. 444. An act for the relief of the Jewish Employment Vocational Service, St. Louis, Mo.; to the Committee on the Judiciary;

S. 576. An act for the relief of Larry Grathwohl; to the Committee on the Judiciary;

S. 1192. An act for the relief of Howard B. Schmutz; to the Committee on the Judiciary.

S. 1307. An act for the relief of Gerald W. Frye; to the Committee on the Judiciary;

S. 1482. An act to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; to the Committee on the Judiciary and the Permanent Select Committee on Intelligence;

S. 1528. An act for the relief of Hyong Cha Kim Kay; to the Committee on the Judiciary;

S. 1624. An act for the relief of Francisco Pang; to the Committee on the Judiciary;

S. 1772. An act for the relief of Min-Zen Lin; to the Committee on the Judiciary;

S. 1785. An act for the relief of Laird H. Hall; to the Committee on the Judiciary;

S. 1847. An act for the relief of Ana Marlene Orantes; to the Committee on the Judiciary;

S. 1944. An act for the relief of Peter Chi Hung Kwok, doctor of medicine, and Ping Chi Chau Kwok, husband and wife; to the Committee on the Judiciary;

S. 2027. An act for the relief of James Daniel Bronson; to the Committee on the Judiciary;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month"; to the Committee on Post Office and Civil Service;

S.J. Res. 156. Joint resolution to authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week"; to the Committee on Post Office and Civil Service;

S.J. Res. 180. Joint resolution to provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration;

S.J. Res. 181. Joint resolution to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration; and

S. Con. Res. 102. Concurrent resolution authorizing the printing of a self-guided tour brochure of the United States Botanic Garden Conservatory; to the Committee on House Administration.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2460. An act to amend chapter 5 of title 37, United States, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2148. An act for the relief of Col. (Dr.) Paul A. Kelly;

H.R. 2475. An act for the relief of Isaac David Cosson;

H.R. 2759. An act to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes;

H.R. 3818. An act for the relief of Clarence S. Lyons;

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command;

H.R. 5751. An act to more adequately protect archeological resources in southwestern Colorado; and

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit.

ADJOURNMENT

Mr. FLIPPO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Monday, June 30, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4715. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Pakistan (Transmittal No. MC-25-80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4716. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly report on foreign military sales as of March 31, 1980, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4717. A letter from the Director, Defense Security Assistance Agency, transmitting addenda to the quarterly report on foreign military sales as of March 31, 1980, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4718. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of the Defense Department's intention to obligate $1.6 million in the Army stock fund for war reserve stocks, pursuant to section 736 of Public Law 96-154; to the Committee on Appropriations.

4719. A letter from the Administrator of Veterans' Administration, transmitting notice of a proposed new records system pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4720. A letter from the Federal Cochairman, Upper Great Lakes Regional Commission, transmitting the 1979 annual report of the Commission, pursuant to section 510 of the Public Works and Economic Development Act of 1965, as amended; to the Committee on Public Works and Transportation.

4721. A letter from the Acting Comptroller General of the United States, transmitting a report recommending the formation of a military-VA-civilian contingency hospital system (HRD-80-76, June 26, 1980); jointly, to the Committees on Government Operations, Armed Services, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7252. A bill to authorize appropriations for fiscal year 1981 for conservation, exploration, development and use of the naval petroleum reserves and naval oil shale reserves, and for other purposes; with amendment (Rept. No. 96-970, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHLEY (acting chairman): Committee on Merchant Marine and Fisheries. H.R. 6626. A bill to consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958, to exempt Small Business Administration loans from the environmental impact requirements of the National Environmental Policy Act of 1969, and to limit the annual amount of Small Business Administration loans, guarantees, and other obligations or commitments to the extent or amounts provided in appropriation acts; with amendments (Rept. No. 96-1028, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHLEY (acting chairman): Committee on Merchant Marine and Fisheries. H.R. 5604. A bill to provide for the control of interstate and foreign commerce in fish and wildlife; with amendment (Rept. No. 96-1141). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee of conference. Conference report on S. 2240 (Rept. No. 96-1142). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THOMPSON (for himself and Mr. Erlenborn):

H.R. 7685. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans; to the Committee on Education and Labor.

By Mr. BEARD of Tennessee:

H.R. 7686. A bill to amend section 1979 of the Revised Statutes of the United States to limit the availability of civil actions under such section to situations involving a deprivation of rights secured by the Constitution and civil rights and equal protections laws; to the Committee on the Judiciary.

By Mr. FINDLEY:

H.R. 7687. A bill to provide that no increase in pay for Members of Congress and certain other Federal officials may take effect unless the Federal budget is in balance, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FOWLER (for himself and Mr. Heftel):

H.R. 7688. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to homebuilders for the construction of residences incorporating certain solar energy utilization characteristics; to the Committee on Ways and Means.

By Mr. FUQUA (for himself, Mr. Winn, Mr. McCormack, Mr. Goldwater, Mr. Brown of California, Mr. Fish, Mr. Scheuer, Mr. Ottinger, Mr. Lloyd, Mr. Flippo, Mr. Royer, Mr. Watkins, Mr. Young of Missouri, Mr. Wolpe, and Mr. Ertel):

H.R. 7689. A bill to amend the Presidential Science and Technology Advisory Organization Act of 1976 and to amend the National Science Foundation Act of 1950 to provide additional information to the Congress for the purpose of providing a basis for implementing multiyear research and development authorizations; to the Committee on Science and Technology.

By Mr. HEFTEL (for himself and Mr. Fowler):

H.R. 7690. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to homebuilders for the construction of residences incorporating certain solar energy utilization characteristics; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 7691. A bill to amend the Internal Revenue Code of 1954 to extend to 48 months the rollover period for nonrecognition of gain on the sale of a principal residence; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 7692. A bill to provide for cancellation of nonimmigrant visas of Iranian students and for the prompt departure of such students from the United States; to the Committee on the Judiciary.

H.R. 7693. A bill to designate management of certain lands in the Sam Houston National Forest, Tex., for uses other than wilderness; to the Committee on Agriculture and Interior and Insular Affairs.

By Mr. WON PAT (for himself, Mr. Evans of the Virgin Islands, Mr. White, Mrs. Holt, Mr. Montgomery, and Mr. Kazen):

H.R. 7694. A bill to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam; jointly, to the Committees on Armed Services and Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MURPHY of Pennsylvania presented a bill (H.R. 7695) for the relief of Helen Tsouris, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 785: Mr. Mattox.

H.R. 792: Mr. Wolff.

H.R. 4646: Mr. Hutto, Mr. Musto, Mr. Sharp, Mr. Hightower, Mr. Duncan of Oregon, Mr. Bonior of Michigan, Mr. Traxler, Mrs. Boggs, Mr. Tauzin, and Mr. Brooks.

H.R. 4796; Mr. Bedell and Mr. Williams of Ohio.

H.R. 6637: Mr. Snyder.

H.R. 7337: Mr. Lott.

H.R. 7362: Mr. Sebelius, Mr. Gramm, Mr. Lujan, Mr. Lagomarsino, Mr. Chappell, Mr. Bennett, Mr. de la Garza, Mr. Pickle, Mr. Holland, Mr. Corcoran, Mr. Jacobs, Mr. Hance, Mr. Hall of Texas, Mr. Collins of Texas, Mr. Leath of Texas, Mr. Davis of South Carolina, Mr. Frost, Mr. Roberts, Mr. Whitehurst, Mr. Lee, Mr. Snyder, Mr. Myers of Indiana, Mr. Cleveland, Mr. Skelton, Mr. Dannemeyer, Mr. Forsythe, Mr. Nolan, Mr. Whittaker, Mr. Burgener, Mr. Huckaby, Mr. Evans of Georgia, Mr. Mattox, and Mr. Simon.

H.R. 7505: Mr. Whitehurst, Mr. Porter, Mr. Studds, Mr. Edgar, Mr. Neal, Mr. Evans of Georgia, Mr. Hughes, and Mr. McDade.

H.R. 7548: Mr. Alexander, Mr. Baldus, Mr. Conable, Mr. Ertel, Mr. Evans of the Virgin Islands, Mr. Fuqua, Mr. Hamilton, Mr. Nichols, and Mr. Burgener.

H.J. Res. 157: Mr. Bethune.

H. Con. Res. 354: Mr. Hughes and Mr. Robert W. Daniel, Jr.

H. Res. 735: Mr. Bingham and Mr. Derwinski.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6386

By Mr. VOLKMER:

—On page 2, line 11, strike "$380,000,000" and insert in lieu thereof the following: "$343,000,000".

On page 2, line 12, strike "$450,000,000" and insert in lieu thereof the following: "$360,000,000".

H.R. 7235

By Mr. DINGELL:

—Amend section 204(a) to add a new paragraph (d)(4) to section 10712, following present section 10712(d)(3), as follows:

"(4) Any contract in existence as of the effective date of the Rail Act of 1980 shall continue to have the same force and effect hereafter as if it had been entered after and pursuant to the provisions of this section."

By Mr. ECKHARDT:

—Page 99, line 9, strike the word "most" and insert in lieu thereof "much".

Page 99, line 17, between the words "and" and "are" insert "for some individual railroads".

Page 99, line 19, strike the word "will and insert in lieu thereof "may" and on lines 20 and 21, strike "between $16,000,000,000 and $20,000,000,000;" and insert in lieu thereof "major proportions".

Page 99, line 22, between the words "failure" and "to" insert "of the financially weak railroads" and strike "within the railroad industry".

—Page 101, line — strike "and the demand for services".

Page 101, line 17, between "allowing" and "rail" insert "efficient".

Page 101, line 19, insert "while maintaining reasonable rates" after "Commission".

Page 102, line 22, strike out the closing quotation marks and the period.

Page 102, after line 22, insert:

(12) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation; and

(13) to encourage and promote energy conservation.

—Page 104, after line 15, insert:

(iii) the challenged rate exceeds the cost recovery percentage established under section 10709(e) by more than 10 percentage points.

—Page 109, line 11, strike "fourth" and insert in lieu thereof "fifth".

Page 109, line 13, strike "fourth" and insert in lieu thereof "fifth".

—Page 110, strike lines 6 through 8.

Page 111, strike lines 3 through 13.

Page 111, line 14, strike "(3)" and insert in lieu thereof "(2)".

—Page 112, strike lines 5 through 25, strike pages 113 and 114, on page 115, strike lines 1 through 21 and insert in lieu thereof a section to read as follows:

"§ 10712. Authority for rail carriers to establish contract rates and service

"(a) One or more rail carriers may enter into contracts with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such contracts may contain provisions on subjects including, but not limited to, extension of credit to such purchasers, cancellation or termination, service, safety and inspection standards in excess of those required under existing law, escalation or reduction of charges, car compensation, force majeure, and financing of or investment in railroad equipment, plant and other facilities.

"(b)(1) Service under such a contract shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the existence of a contract shall not eliminate the obligation of a rail carrier to provide transportation or service on reasonable request, as set forth in section 11101 of this title. Upon complaint, the Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title.

"(3)(A) A contract entered into under this section may be investigated or suspended under section 10707 of this title only upon the following grounds:

"(i) that fulfillment of the contract will cause the carrier to be unable to fulfill its common carrier obligations under section 11101 of this title,

"(ii) that the carrier has discriminated by refusing to enter into a contract for rates and services with a prospective purchaser of rail services under similar conditions to the contract at issue, and that the complainant or affected shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered, or

"(iii) that the proposed contract constitutes a destructive competitive practice.

In making a determination under clause (iii) the Commission shall consider the difference between contract rates and published single car rates. If the Commission does not suspend or investigate a contract entered into under this section, it may not modify, abrogate, or otherwise impair the obligations under such contract: *Provided, however*, That the provisions of this subparagraph shall not interfere with the Commission's authority to order a carrier to provide rates and services substantially similar to the contract at issue upon a showing of discrimination.

"(B) If the Commission determines that the carrier has discriminated against a complainant or a prospective purchaser by failing to enter into a contract for rates and services under similar conditions to the contract at issue, and such complainant or prospective purchaser was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered, the Commission shall order the carrier to provide rates and services substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(c)(1) Any carrier may, without specific authorization from the Commission, enter into contracts involving utilization of carrier owned or leased equipment not in excess of 35 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC): *Provided, however*, That with regard to proposed contracts between class I carriers and shippers originating an average of 1,000 cars or more per year during the past 3 years by major type on a particular carrier, no more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contracts without prior Commission authorization.

"(2) Carriers or other parties may seek relief from the limitations of paragraph (1) of this section, and the Commission may grant such relief as it deems appropriate, if it appears that additional equipment may be made available without impairing the carrier's ability to meet its common carrier obligations under section 11101 of this title.

"(3) Any interested party may request modification of the Commission's findings upon a showing of changed circumstances or other good cause.

"(d) Except as expressly provided in this section or in other section of this title, contracts authorized under subsection (a) of this section shall not be subject to the provisions of chapter 107, subchapter II of chapter 111, or section 11701 of this title, except that complaints may be filed alleging violations of sections 11101 or 10741 of this title, subject to the limitation that available remedies for a violation of such sections shall not include modification or abrogation of contracts which have become effective without suspension or investigation. Contracts authorized under subsection (a) of this section shall be subject to the provisions of sections 10704, 10705, 10706, 10707, 10726, 10741, 10761, and 10762 of this title.

"(e) The Commission shall establish a railroad contract rate advisory service. The advisory service shall:

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various shipments and the published single car rates and submit a report on such impact to the Congress not later than 90 days after the date of enactment of this section.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 10711.

"10712. Authority for rail carriers to establish contract rates and service.".

—Page 117, strike lines 20 through 25 and on Page 118, strike lines 1 through 11.

—Page 100, line 23, after "public" delete the word "and" and insert:

"(5) to eliminate rates for rail transportation that do not equal or exceed the variable costs of providing such transportation; and

Page 100, line 24, delete "(5)" and insert "(6)".

—Page 120, strike lines 3 through 12.

—Page 121, line 2, delete "10" and insert in lieu thereof "5".

—Page 144, strike lines 17 through 25 and on page 145, strike lines 1 through 7.

—Page 160, line 9, add after "required" "and the Commission is directed to affirmatively assist such parties in obtaining relevant cost data from rail carriers in such proceedings.".

—On page 108, insert after line 24 the following new paragraph:

(2) Any new or changed rate established by a rail carrier for the transportation of coal that is both produced and consumed in the United States must be reasonable. No such rate shall be deemed unreasonable unless it yields revenues in excess of 150 percent of variable costs.

On page 104, line 1, delete "(2)" and insert in lieu thereof "(3)".

On page 104, line 3, add after "(1)" "or (2)".

On page 104, add after line 20, the following new paragraph:

"(4) In determining whether a rate described in (b)(2) of this section is reasonable, the Commission shall consider the impact of the proposed rate on the attainment of the national energy goal of meeting the Nation's energy requirements at a reasonable cost and lessening reliance on foreign energy sources."

—Page 116, strike lines 15 through 25 and substitute in lieu thereof the following:

"(b) Notwithstanding any other provision of law, in the case of any rate, classification, rule or practice established under section 10729 of title 49 which was contested by the affected shipper or shippers, the Commission shall, upon request of an affected shipper, conduct an investigation into the lawfulness of such rate, classification, rule or practice in a proceeding to be completed within 180 days of such request."

—In Title I—Rail Transportation Policy, insert the following new section:

"RAILROAD AND WATERWAY TRANSPORTATION COORDINATION

"With respect to the relationship between rail carriers and water carriers, none of the amendments to title 49, United States Code, made by the "Rail Act of 1980" shall be construed to modify the application of existing law with respect to competition and coordination or to make lawful a competitive practice that is unfair, destructive, predatory, or otherwise undermines competition."

—In Title I—Rail Transportation Policy, insert the following new section:

"TRANSPORTATION OF COMMODITIES MANUFACTURED OR PRODUCED BY A RAIL CARRIER

"With respect to the transportation of commodities that are manufactured or produced by a rail carrier, none of the amendments to title 49, United States Code, made by the "Rail Act of 1980" shall be construed to modify the application of existing law with respect to prohibiting a rail carrier from transporting an article or commodity that: (1) is manufactured, mined, or produced by the rail carrier or under its authority; or (2) is owned by the rail carrier or in which it has an interest."

—In Title II—Railroad Rates, Profits, and Reinvestment, insert the following new section:

"REMITTANCE OF EXCESS DEMURRAGE CHARGES FOR SHIPPER-OWNED RAILROAD CARS

"With respect to excess demurrage charges for shipper-owned railroad cars, title 49, United States Code, shall be amended by inserting the following:

"'The railroad on whose lines a railroad car is being detained under demurrage, if such railroad car is shipper-owned, shall remit to the railroad car owner, all demurrage charges collected by the railroad except for an amount determined by the Commission to represent a reasonable charge for handling remittance of excess demurrage charges for shipper-owned railroad cars. Excess demurrage charges shall not be remitted to the shipper who owns the railroad car if the car owner causes the need for accruing the charge; in such instance, the excess amount shall be retained by the delivering railroad.'"

—On page 114, line 12, strike "40,000", and in lieu thereof insert "20,000".

On page 114, line 18, strike "40,000", and in lieu thereof insert "20,000".

On page 115, strike lines 22 through 24 and on page 116 strike lines 1 through 10 and insert in lieu thereof:

"DEMAND-SENSITIVE RATES

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates, except those rates involving the movement of grains or cotton, may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates."

On page 118, line 7, after "contracts" and before "approved", add "for the shipment of goods other than grains or cotton".

—On page 104, line 20, add after "title", "and the impact of the proposed rate on the attainment of national energy goals.".

On page 105, strike lines 12 and 13, and insert in lieu thereof "including the imbedded cost of debt, but excluding any return on equity capital.".

On page 107, line 20, add after "commodity", "*Provided, however*, That the existence of alternative sources of supply for a commodity shall not be considered if the shipper is contractually obligated to ship from the source of supply directly in question, and".

On page 108, after line 2, add the following subsection:

"(C) Notwithstanding subsections (A) and (B) of this section, the absence of an actual or present potential transportation alternative shall be presumed where the rail carrier(s) proposing a rate has (have) carried 70 percent or more of the involved traffic or movement during the preceding year; market share of proponent carrier will be deemed to include the share of any affiliates, and of any carrier participating in the rate or with whom the proponent carrier has discussed, considered, or approved the rate in issue."

On page 114, line 12, strike "40,000", and in lieu thereof insert "20,000".

On page 114, line 18, strike "40,000", and in lieu thereof insert "20,000".

On page 115, strike lines 22 through 24 and on page 116 strike lines 1 through 10 and insert in lieu thereof:

"DEMAND-SENSITIVE RATES

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates, except those rates involving the movement of grains or cotton, may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates."

On page 118, line 7, after "contracts" and before "approved", add "for the shipment of goods other than grains or cotton".

On page 120, strike lines 3 through 12 and thereafter renumber sections 211 through 213.

On page 125, strike lines 14 through 24, and strike pages 126 through 137, and on page 138 strike lines 1 through 17, and insert in lieu thereof a section to read as follows:

"SEC. 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"'(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"'(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"'(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursurant to this subparagraph, it must report its reasons to Congress.'"

—On page 104, line 20, add after "title", "and the impact of the proposed rate on the attainment of national energy goals.".

On page 105, strike lines 12 and 13, and insert in lieu thereof "including the imbedded cost of debt, but excluding any return on equity capital.".

On page 107, line 20, add after "commodity", "*Provided, however*, That the existence of alternative sources of supply for a commodity shall not be considered if the shipper is contractually obligated to ship from the source of supply directly in question, and".

On page 108, after line 2, add the following subsection:

"(C) Notwithstanding subsections (A) and (B) of this section, the absence of an actual or present potential transportation alternative shall be presumed where the rail carrier(s) proposing a rate has (have) carried 70 percent or more of the involved traffic or movement during the preceding year; market share of proponent carrier will be deemed to include the share of any affiliates, and of any carrier participating in the rate or with whom the proponent carrier has discussed, considered, or approved the rate in issue."

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"'(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"'(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.'"

By Mr. ROBERTS:

—(f) Except for the international shipment of commodities through ports, this section shall not apply to (1) surcharges under section 10705(g) of this title, (2) rates and conditions set forth in contracts approved under section 10712 of this title, (3) separate rates for distinct rail services under Section 10728 of this title, or (4) rail rates applicable to different routes between the same end points.

By Mr. TRAXLER:

—On page 114, line 19, strike "the same", and insert in lieu thereof "a single".

On page 114, line 20, insert following "same", "or similar".

—On page 116, line 10, insert following "charges", "and the supply of necessary transport equipment".

On page 116, following line 10, insert "Agreed charges shall include the rate per one-hundred pounds and a deposit in an escrow account by both carrier and shipper not to exceed $2.00 per ton for the specific movement. Upon failure to perform by one party the non-performing party shall forfeit to the performing party all rights to both escrow accounts.".

—On page 125, after line 11, insert the following new section:

ASSISTANCE FOR AGRICULTURAL SHIPPERS

SEC. 214. The Secretary of Agriculture, in cooperation with the Secretary of Transportation, is authorized to establish regional agricultural transportation representatives to assist shippers in securing railroad or alternate transportation services on the most favorable possible terms.

—On page 172, line 19, strike "plan." and insert in lieu thereof the following: "plan. To the extent that such restructuring may impact upon the shipment of agricultural products, including but not limited to grain, livestock, foodstuffs, farm equipment, seed or fertilizer, the Secretary of Transportation shall consult with the Secretary of Agriculture in order to minimize any adverse impacts upon agricultural shipments as a result of such restructuring.".

H.R. 7593

By Mr. KOSTMAYER:

—Page 33, after line 13, add the following:

"SEC. 307. No part of the funds appropriated by this Act shall be used for the printing or purchase of either 1982 House wall calendars or 1982 United States Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

H.R. 7631

By Mr. MITCHELL of New York:

—Page 18, line 25, strike out "$136.017.000" and insert in lieu thereof "$203,017,000".

SENATE—*Friday, June 27, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, take from our souls the strain and stress, and let our ordered lives confess the beauty of Thy peace. Grant us the faith, we pray, to believe that more things are wrought by prayer than this world dreams of. Teach us to pray without ceasing—to pray in our hearts and in our minds and in our souls. May the time of work and the time of prayer be woven of one fabric. Guard our thoughts, control our speech, and guide our actions. We pray not only for security or safety but for loyalty to the highest and best. And may we find our supreme joy in work well done; our chief reward the advancement of Thy kingdom on Earth. Hear both the spoken and the unuttered prayers of our hearts and answer them according to Thy will. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 27, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be adopted and approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

SUPPLEMENTAL APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 7542, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the two leaders have a total of 15 minutes restored to their standing order and that it be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield my portion of that time to Mr. STEVENS.

Mr. STEVENS. Mr. President, I am grateful to the distinguished majority leader. I yield such time as he may need to the distinguished Senator from Pennsylvania (Mr. HEINZ).

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I express my gratitude to the majority leader and to the Senator from Alaska (Mr. STEVENS) for their yielding to me.

NEED TO MOVE WITH CAUTION ON ANGOLA

Mr. HEINZ. Mr. President, recently the newspapers have carried a number of optimistic articles regarding developments in Angola. George Gause, an American imprisoned in the country, has been released. Top Angolan officials have been quoted as expressing dissatisfaction with Russian involvement in their country. The suggestion has been made, most recently on the floor of the Senate by the Senator from Massachusetts (Mr. TSONGAS) and the Senator from South Dakota (Mr. MCGOVERN), the chairman of the Subcommittee on African Affairs, that Angola is seriously interested in the restoration of diplomatic relations with the United States and that recent positive developments there are evidence to that effect.

I have no reason to doubt that Gause's release was intended as a meaningful gesture, or that the Angolan Government wants better relations with the United States. Its desires, however, represent only a part of the equation. More important to us should be the American interest and the signal that establishment of diplomatic relations would send at this time.

Certainly recognition does not imply approval or endorsement of policies. We recognized the Soviet Union nearly 50 years ago, and the People's Republic of China less than 2 years ago, and we do not regard ourselves as "approving" of either of their governments. On the other hand, recognition has historically been more than a simple admission that a government exists and effectively controls the country. We delayed recognition of the PRC for almost 30 years, despite that government's clear control of the cities and the countryside. Similarly, we have avoided diplomatic relations with the Castro regime in Cuba despite its position of control, presumably because of our dissatisfaction with the character of that government, its policies, or both.

What then is the significance of recognition? Like so much in Washington, it appears to lie in the gray area between extremes, and to be connected to a relatively short-term analysis of our interests. It implies a presumption on the part of our policymakers that it would be to our advantage to act—that the establishment of diplomatic ties is not without symbolic and eventually substantive significance for us. In 1948, we very quickly recognized Israel to dramatize our political support for a Jewish state. This year we did the same with Zimbabwe in an effort to add legitimacy and endorsement to the negotiations that produced an election and in recognition that free elections were held, despite the fact that most of us would have preferred a different winner.

Conversely, our belated recognition of the PRC, after almost every other country in the world had acted, was a product of the shifting balance of power in Asia and the changing nature of our relations with the Soviet Union, which dictated a counterweight.

In all these cases a familiar thread runs through—a perception that we had something to gain by a shift in policy that was dramatized by the act of diplomatic recognition.

It is also necessary, however, to view the issue of recognition in a context larger than that of a simple bilateral relationship. In particular, the international tension between the United States and the Soviet Union means that there is a larger picture than just a bilateral relationship between the United States and Angola. The United States should continue to tell the Angolan Government that we are unhappy with its willingness to allow its soil to be a staging ground for Soviet/Cuban activity at a time when the Soviet Union, by its invasion of Afghanistan shows blatant disregard for a peaceful world and even a nonaligned independent government. Now would be a particularly bad time from this broader perspective, for the United States to recognize Angola, the first site for the current wave of Soviet imperialistic actions. At a time when we are boycotting the Olympics, recognition would not only provide exactly the wrong signal, it would be another example of the inconsistencies that have so plagued the Carter administration's foreign policy.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

Another part of a broader context is the rest of South Africa. While many parts of Africa have experienced turbulence along the path to independence and economic development, southern Africa has been distinct from the rest of the continent in the tenacity and determination with which its white minority has fought to preserve for itself the lifestyle it has created over the years. Yet one by one the pieces have fallen into place. The Portuguese were the last colonial power to leave the continent, and did so with the least transition and preparation. The result has been economies devastated by a lack of trained and experienced personnel, particularly managers. In Mozambique the policies of the Machel government contributed to this problem. The Angolans, seeing Machel's failure, are aware of the problem, but it is not yet clear that they are willing or able to do anything about it.

Elsewhere in southern Africa, Rhodesia has finally become Zimbabwe after years of resistance. Hopefully Zimbabwe will remain peaceful for all and reassuring to the white minority. Namibia will in all probability be next, the details of a solution having been negotiated and only the will to go ahead left wanting; I hope, only temporarily. Ultimately only South Africa itself will be left, an inevitably intractable problem as black Africa, anxious for its final victory, concentrates its resources and attention on a determined and entrenched government.

Despite the recent promising development in Zimbabwe and our hopes for Namibia, it seems likely these states are fragile and we are in for a sustained period of tension in that part of the world. It is in our interest to contain that tension, encourage peaceful resolutions of the various disputes, and in the process endeavor to keep the area free of disruptive foreign influences, particularly foreign military involvement.

Tht single most obvious—and troubling—case of a foreign military presence right now is the contingent of Cuban troops, estimated at 20,000, in Angola. The MPLA insists the Cubans are there to defend against South African troops who are accustomed to attacking SWAPO forces in Angola. The most recent attack occurred only earlier this month, killing 200 guerrillas and 16 South Africans. But, in fact, of course, the Cubans in the first instance play a vital role in the continuing civil war with UNITA, thus keeping the MPLA in power, and in running the deteriorating economy.

This Cuban presence, regardless of its real purpose, has two local impacts that are undesirable from our point of view. It delays peace by making a settlement between the MPLA and UNITA less immediately necessary, and it increases the suspicions of the South Africans, thereby delaying a Namibian settlement.

I am tempted, of course, to go a step further, and note the former U.S. support for Savimbi and UNITA and suggest that the Cubans are complicating a settlement favorable to Savimbi, which we would like to see. That may well be true on one level, but it is also true that the Cubans present complications to any solutions, regardless of our own political preferences.

Savimbi, representing some 40 percent of the population, appears to be in a position of being unable to win, but also unable to lose, if only because he represents such a significant part of the populace. Sooner or later the MPLA leaders must come to terms with him, despite their reluctance, and the Cuban presence which shifts the military balance in the country, serves only to postpone that day.

The Cubans represent a real source of concern to South Africa, which would like to maintain moderate, non-Communist forces on its borders. Removal of the Cubans will not solve that problem since it is unlikely that a government as conservative as South Africa would win an election in Namibia under any circumstances, but neither will their continued presence provide a solution.

Given these two negative effects, it has been and should be our policy to encourage removal of the Cuban troops. The MPLA claims that such cannot happen until a Namibian settlement. Many observers doubt it will happen even then in more than token amounts, but it seems fair nonetheless to put MPLA statements to the test and to consider Angolan recognition only after a Namibian resolution.

The important questions are whether recognition at an early date would encourage the MPLA to push harder for a Namibian settlement, and whether we or they should take the first step toward better relations which will inevitably, the argument goes, lead to other positive steps.

A Namibian settlement is so clearly in the MPLA's present interest that it is difficult to believe they are not already doing everything they can to obtain such a settlement. Elections in Namibia and the presumed SWAPO victory would remove the threat of South African troops to Angola and significantly complicate UNITA's ability to receive South African and other outside support. It would also rid the country of SWAPO forces and help allow the Angolan people and Government to refocus some attention on their economy. Obviously the Angolan civil war, the other major disruptive force would remain, but it is hard to see how American recognition could make the case for a Namibian settlement more compelling to the MPLA than it already is.

The second, and more important, question is one on which objective observers will differ. Some would argue that conciliatory signals have already been forthcoming, that recognition would be an appropriate response on our part, which in turn would be followed by further reciprocal actions. In short, recognition is the best way to start the process that could lead to the Cubans going home.

I disagree with that analysis, and in doing so am inclined to take the Angolans at their word rather than attempt to read their recent actions like tea leaves, looking for signs of other meanings. The MPLA says it would be difficult to remove the Cubans so long as Namibia is unresolved, and I am inclined at minimum to believe them. Recognition at this time would serve no useful policy or purpose. At some future time, however, it could well serve as an incentive for the MPLA to follow through on its own statement with respect to the Cubans. Moreover, recognition, especially when it is desired so much, as appears to be the case today, is one of the only two chips we have to play, the other one being foreign assistance. Given the present composition of the Angolan Government, and our own domestic, economic, and political constraints, I think everyone would agree that aid is not a realistic possibility at this time even if diplomatic relations were established. If we are not prepared to provide the aid Angola so badly needs, it makes little sense to build expectations we cannot meet.

In saying this I do not discount the validity of recent signals or deny the MPLA's interest in diplomatic relations. Neither should anyone deny the modesty of those signals or the realization that recognition now would surrender an important card for nothing in return, whereas recognition later could produce substantive results in terms of a reduction in the Cuban presence.

Having said this, I think we should also recognize that this is not the most pressing foreign policy issue the administration faces, though looking at its recent record on the big issues makes one wonder whether we should have begun with these smaller ones first. Our African policy will not stand or fall on the recognition of Angola, and neither will a Namibian settlement.

The issue, does, however, have some importance in terms of our consistency of purpose and the credibility of our other commitments and in terms of this administration's relations with Congress. We have taken the clear position that Cuban troops are unacceptable in Angola, in Ethiopia, in Africa, or anywhere outside of Cuba for that matter. To recognize a regime responsible for their presence without conciliatory action on that issue casts doubt on the credibility of all our commitments.

The problem of credibility is not a new one for this administration. The President's various conflicting statements about the Mideast and the role of the Palestinians, culminating in our vote switches at the U.N. on March 1, his about-face on Soviet troops in Cuba, his reversal on neutron bomb deployment, to mention a few, have all contributed to a pervasive feeling on the part of our friends and allies that the United States can no longer be counted on, that many of our policies change with the wind and that those that do not are not competently implemented.

It is precisely this growing problem

that concerns the Congress. Observing the decline of American prestige worldwide and the increased skepticism of our friends and allies regarding our determination to stand up for our interests, many Members view the administration's sudden shifts with concern, and would view a shift of policy to recognition of Angola the same way.

Our entire African policy has long been under attack from the right as providing support to various left-wing, ultimately (or inevitably) anti-American forces. I reject that criticism, as do many moderates in the Congress who think it is unrealistic to expect carbon copies of the American system springing up in societies ill-equipped politically or economically and who can accept concepts of nonalinement and approaches to economic development very different from our own. We cannot, however, go so far as to accept that such policies encompass conciliatory gestures to regimes that openly invite a foreign Communist presence, especially a military presence. That is not respect for others' nonalinement; that is not welcoming neutrality. Such a posture on our part is at best an accommodation to Soviet imperialism, at worst, appeasement. We must draw a line in our policy in this regard, and once drawn we would be well-advised not to erase it, knowing at the same time that we must be flexible enough to respond to changing circumstances, should the MPLA decide to send the Cubans home.

This, of course, Mr. President, is something that I think we all hope they do and the policy that I urge, therefore, is designed to accomplish that goal.

Mr. President, I yield back the remainder of my time.

SUPPLEMENTAL APPROPRIATIONS, 1980

The Senate continued with consideration of the bill (H.R. 7542).

AMENDMENT NO. 1929

(Purpose: To provide that trade readjustment allowances not be paid until unemployment insurance has been exhausted and that the amount of such allowance be the same as unemployment insurance amounts)

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BELLMON) is recognized to call up an amendment.

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask unanimous consent to have it considered.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) for himself, Mr. THURMOND, and Mr. YOUNG proposes an amendment numbered 1929.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following section:

EXHAUSTION OF UNEMPLOYMENT INSURANCE; AMOUNT OF ALLOWANCE

SEC. . (a) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) Such worker has exhausted all unemployment insurance benefits for which he was eligible under any State or Federal law.".

(b) Section 232(a)(1) of such Act (19 U.S.C. 2292(a)(1)) is amended to read as follows:

"(1) an amount equal to the amount of unemployment insurance for which such worker was eligible for the most recent full week—

"(A) which began after his most recent total or partial separation, and

"(B) for which he was eligible (for the full week) for unemployment insurance, reduced by".

(c)(1) Section 232(c) of such Act (19 U.S.C. 2292(c)) is repealed.

(2) Section 232(d) of such Act (19 U.S.C. 2292(d)) is amended—

(A) by striking out "unemployment insurance, or a training allowance" and inserting in lieu thereof "a training allowance"; and

(B) by striking out "the unemployment insurance or the training allowance" and inserting in lieu thereof "the training allowance".

(3) Section 232(e) of such Act (19 U.S.C. 2292(e)) is amended by striking out "as unemployment insurance,".

(d) Section 233(b)(4)(A) of such Act (19 U.S.C. 2292(b)(4)(A)) is amended to read as follows:

"(A) for a totally separated worker is the first week for which he receives a trade readjustment allowance following his most recent total separation, and".

(e)(1) Section 234(1) of such Act (19 U.S.C. 2294(1)) is amended by inserting before the comma at the end thereof the following: ", or under which he was entitled to unemployment insurance for any week after the week of his most recent total or partial separation".

(2) Section 234(2) of such Act (19 U.S.C. 2294(2)) is amended by inserting "or was not" after "is not".

(f) Section 237(b)(3) of such Act (19 U.S.C. 2297(b)(3)) is amended by striking out "no later than 1 year after the date of his last total separation" and inserting in lieu thereof "no later than 1 year after the first week for which he receives a trade readjustment allowance following his most recent total separation".

(g) Section 238(c)(1) of such Act (19 U.S.C. 2298(c)(1)) is amended by inserting before the comma at the end thereof the following: ", or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has not exhausted his unemployment insurance benefits".

(h)(1) The amendments made by this section shall apply only with respect to trade readjustment allowances payable for weeks beginning after October 1, 1980.

(2) With respect to a worker who was paid, prior to October 1, 1980, a trade readjustment allowance for a week beginning prior to October 1, 1980, such amendments shall not apply to such worker for the duration of such worker's period of eligibility for such an allowance based upon his most recent total or partial separation occurring prior to October 1, 1980.

Mr. BELLMON. Mr. President, I ask unanimous consent that Senator ARMSTRONG be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I thank my cosponsors, Senator YOUNG, Senator THURMOND, and Senator ARMSTRONG, for their assistance with this matter. I believe it is an important matter which the Senate needs to address as part of our efforts to get our fiscal house in order.

This amendment will implement two recommendations made by the General Accounting Office after a comprehensive study of the trade adjustment assistance program.

First, the amendment will make trade adjustment benefits available only after the exhaustion of benefits under the unemployment insurance program.

Second, the amendment will limit the amount of trade adjustment benefits to amounts paid under the unemployment insurance program. This amendment will produce substantial savings in a program in which costs have begun to explode. No current beneficiary will be affected by the amendment since the amendment takes effect October 1, 1980.

I call the attention of my friend from Michigan to that fact, that no current beneficiary is affected by this amendment, since it does not become effective until October 1, 1980. It applies only to those applicants coming into the trade adjustment assistance program in the future.

Mr. President, I should like to briefly summarize for the Senate how the present trade adjustment program works: A firm lays off part of its workforce. Someone, usually a labor union official, petitions the Labor Department to certify the laid-off workers for trade adjustment assistance. The Labor Department reviews the situation to see whether imports "contributed importantly" to the layoffs. If an affirmative findings is made, the workers are certified for trade adjustment assistance back to the date they were laid off. They then receive both any unemployment insurance benefit to which they are entitled, plus a trade adjustment (TAA) benefit. The trade adjustment assistance and unemployment insurance combined may not exceed 70 percent of a worker's prelayoff earnings or $269, the average manufacturing wage, whichever is lower.

Once a worker starts receiving TAA, he may get it for up to 52 weeks. After his unemployment insurance is exhausted, TAA benefit pays the entire amount. If a worker is over 60 or is in a training program, TAA can continue for up to 78 weeks.

The present trade adjustment assistance program, Mr. President, is a far cry from the program Congress expected when it enacted the original legislation in 1962. The trade adjustment program is another example of how well-intentioned and supposedly low-cost programs suddenly explode in costs. This type of cost eplosion in an entitlement program adds to pressures on the Federal budget and makes it very difficult to maintain fiscal discipline. Recent growth in costs of the trade adjustment program make it clear that steps must be taken now to control the program to keep it from ballooning into a multibillion-dollar welfare program.

This amendment is based on the two recommendations made by the GAO in its January 15, 1980 report on the trade adjustment assistance program. It will make trade adjustment benefits available only after the exhaustion of benefits under the unemployment insurance program and will limit the amount of trade adjustment benefits to the amounts paid under the unemployment insurance program. These two provisions taken together will produce savings of $438 million in fiscal year 1981.

Mr. President, the trade adjustment assistance program is almost out of control. When the President submitted his original fiscal year 1980 budget in January of 1979, the fiscal year 1980 cost of the TAA program was projected to be $300 million. In January of this year when the President submitted his fiscal year 1981 budget, the cost of the TAA program was estimated at $381 million.

In other words, Mr. President, according to President Carter's assumptions, the program costs had grown by only $81 million during the 12-month period.

Now the President has before us a supplemental bill which contains appropriations for costs projected to be $1.44 billion.

In other words, Mr. President, since the President prepared his 1981 budget, less than 6 months ago, the costs of this program have leaped from $381 million to $1.44 billion, or a factor of more than 300 percent.

The supplemental even contains borrowing authority for the Labor Department to cover costs as high as $1.8 billion in fiscal year 1980. This would be a 372 percent increase since the President's January budget submission. Controls are urgently needed in this program before it becomes completely and irrevocably out of control. I do not believe Congress ever dreamed or intended the trade adjustment assistance program to be like it is today.

With the Trade Expansion Act of 1962, Congress first gave benefits to workers forced out of their jobs by imports. The act was passed to gain labor's support for trade liberalizations. In return for the advantages to the public resulting from freer trade, the Congress agreed to help workers affected by Federal policies encouraging foreign trade. In effect, benefits were to be paid to those whose employment security was threatened by conscious policy decisions regarding international trade.

The Trade Act of 1962 was liberalized in 1974 to allow more workers to qualify for adjustment assistance. The program has, however, become unfair and inequitable to the vast majority of Americans, and many Americans agree with this. Instead of protecting those workers whose jobs are lost as a result of trade policies, we are now subsidizing significant numbers of people who are out of work because of the mismanagement and bad judgment of some American manufacturers.

While all of us in the Senate consider ourselves champions of the free enterprise system, believing it to be the backbone of our American economy, we seem increasingly unwilling to live with some of its unpopular consequences, as when the auto industry finds itself unable to sell cars of the types it is producing. The trade adjustment assistance program is now pumping out large amounts of money to people laid off because American manufacturers guessed wrong about the energy crisis and its effects on the buying preferences of the American people.

It takes some imagination to justify a special, very high employment benefit for laid-off auto workers on the theory that Federal trade policies caused the layoffs.

The Trade Act of 1974 significantly liberalized eligibility requirements for the trade adjustment program. Workers no longer had to prove that their job losses were a direct result of Government-negotiated trade concessions. Imports only had to contribute to layoffs, no longer having to be the sole cause—or even the major cause. This means that benefits may be paid when increased imports are an important factor in producing layoffs, but not necessarily more important than any other factor.

In addition, if a firm's workers are certified for trade adjustment assistance, the certification is good for 2 years. If a worker is subsequently laid off, even if the reason is not related to imports, the worker is eligible for TAA benefits.

More workers than ever before are receiving TAA benefits, resulting in huge cost increases. In the entire year of 1976, for example, 144,920 workers were ruled eligible for assistance. Keep in mind that 1976 was a year in which recovery from the 1973–74 recession was just beginning. Two months ago—April 1980—178,000 workers of Ford Motor Co. and General Motors Corp. were certified for trade adjustment benefits in a single month. Mr. President, The recent cost growth in the program is staggering. I ask unanimous consent to have printed in the Record at this point a table showing the growth in costs and participants of this program.

There being no objection, the table was ordered to be printed in the Record, as follows:

GROWTH OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM

Fiscal year	Benefit payments (millions)	Percent increase over prior year	Number of beneficiaries	Percent increase over prior year
1975	$13.7	NA	5,917	NA
1976	69.9	410.2	46,824	684.1
1977	150.9	115.8	110,702	136.4
1978	258.3	71.1	156,599	41.4
1979	268.7	4.0	131,722	−15.8
1980 (estimated)	1,440.0	436.0	593,000	50.1

(Mr. Pryor assumed the chair.)

Mr. BELLMON. Mr. President, this table shows the tremendous growth in program costs and caseload since the Trade Act was liberalized in 1974. In fiscal year 1975, there were only 5,900 workers getting TAA benefits at a cost of $13.7 million. In 1 year the number of recipients jumped to 69,000 in fiscal year 1976. This is a significant increase, but even more striking is the fact that for the entire period between 1962 and 1974 a total of only 35,000 workers received TAA. Since 1974 there has been steady growth, but it was not until this year that costs really exploded.

As can be seen, Mr. President, the costs of the trade adjustment assistance program have increased by over 430 percent since last year, and by 278 percent since the President submitted his budget request in January. The program will cost at least $1.4 billion in fiscal year 1980, with nearly 600,000 persons certified for benefits.

Mr. President, the TAA program is more generous, more costly per beneficiary than any of the welfare programs so far dreamed up by Congress. TAA pays out almost $13,000 tax free in benefits to some of the highest paid workers in America. There is no income limitation, no assets test, no needs basis, not one test to see if someone needs the benefits he is collecting. No welfare program could get away with this, but it is permitted in the TAA program which is really a welfare program for a select group of Americans.

The TAA beneficiaries do not pay into any fund or have any money withheld from their paychecks to get benefits from the program. All beneficiaries have to do is to be laid off by a company that the Department of Labor finds has suffered from foreign competition.

I believe this is one of the most poorly designed programs that the Federal Government has operating today. It pays high benefits to people who may not be faced with financial troubles. The benefit levels are so high that they provide a strong work disincentive.

Mr. President, that is my major opposition to what is happening. This program is a serious disincentive to workers to move to where there are jobs, to be retrained for other jobs in the community, or to look for jobs.

As long as they receive these very high levels of benefits, they have every reason to stay where they are and to make no real effort to improve their own condition.

The problem is more serious when one realizes that the automobile industry is probably in for several years of readjustment. These benefits are simply keeping many workers from recognizing readjustments are in order and, therefore, we may be leading them down a blind alley.

The program, in my judgment, has become a sham because it does not meet its original objective, which is to provide trade readjustment and retraining for workers affected by a surge of imports.

The unfortunate thing about this vast

increase in expenditures is that the program is misdirected, inefficient, and ineffective. The program does not really meet the needs of people who receive the benefits. The GAO study, to which I referred earlier, resulted in the following findings:

Weekly cash payments helped few workers adjust to their changed economic conditions during their layoffs. Seventy-one percent of the workers had returned to work by the time their first check arrived in a lump sum payment. Only 23 percent were permanently separated from their employer.

Workers waited an average 488 days (16 months) after their layoff before receiving cash benefits.

Sixty-nine percent had returned to work before they applied for assistance, and 90 percent were back by the time they received their first check, suggesting that most workers achieved the adjustment envisioned under the Trade Act without the cash assistance provided by it.

The majority of workers (77 percent) did not have substantial financial problems while they were laid off.

Forty-two percent of the workers sampled received company funded supplemental unemployment benefits (SUB). Many import affected workers received nearly 95 percent of their prelayoff take-home pay from TAA, unemployment insurance (UI) benefits, and supplemental benefits under union contracts.

Many State officials believe the needs of import-affected workers can be met through the unemployment insurance program and other existing programs. These officials believe that providing Trade Act weekly cash payments in addition to other benefits creates a work disincentive.

Seventy-three percent of import-affected workers used none of the employment services and relocation allowances because they were not aware of the services available to them, had little need for them because they had returned to work or expected to return to work for their former employer, or were not willing to move to take advantage of a job in another community.

Other GAO reports have found that although the trade adjustment assistance program provides for relocation and retraining assistance to displaced workers, the program in fact has been primarily income maintenance in nature. In a 1978 study of the auto industry, GAO found that most laid-off workers received benefits equal to about 95 percent of their regular pay from State unemployment insurance and company/union supplemental funds. These benefits, together with the auto industry's high wage scale, strong seniority system, and substantial fringe benefits, were disincentives for workers to take advantage of training programs or job search and relocation allowances.[1]

The trade adjustment assistance program is not meeting the fundamental needs of laid-off auto workers. Income maintenance is not what is needed in an industry that is undergoing fundamental structural changes. We need to take a look at whether another approach is needed to help unemployed auto workers. One approach would be to help these workers' transition into other job fields. Instead, the TAA program does little in the way of helping workers into another field, but rather emphasizes income supplementation.

Mr. President, it is painfully obvious that reforms are needed in this program. This amendment will implement the recommendations by the GAO in its January report which says:

> Congress should amend the Trade Act of 1974 to require that import-affected workers exhaust unemployment insurance benefits before receiving Trade Act cast benefits, which should be continued at an amount comparable to that received in unemployment insurance benefits rather than the current level (70 percent of average weekly gross wages, less any unemployment insurance benefits).

These recommendations are sensible and reasonable. Requiring workers to use all of their regular unemployment insurance benefits before receiving trade adjustment benefits will provide the worker with a longer period of income protection for those who do not find a job. Instead of TAA benefits being paid for 52 weeks at a high level, as is the usual case now, my amendment would lengthen the income protection period to 78 weeks for the average case. That is, the eligible laid-off person would receive 26 weeks of unemployment compensation and, if still unemployed, would then be eligible for up to 52 weeks of TAA.

Limiting TAA benefits to no more than the regular UI benefit, as my amendment proposes, will save millions of dollars and prevent windfalls to workers who are unemployed for short periods.

This amendment is needed because the TAA program was not designed or intended to cope with the situation we now face in the auto industry. Most laid-off auto workers qualify for the maximum TAA benefit amount. A worker is eligible for the lesser of 70 percent of his previous average weekly wage or the average weekly manufacturing wage. This means, for most auto workers, $269 per week, or $12,912 a year. This is all tax free unless a worker's income exceeds $20,000, if it is an unmarried worker, or $25,000 in the case of a married couple. When this level of benefits is multiplied by the number of high wage workers now eligible for TAA benefits, a cost explosion occurs. The high wages in the auto industry, which lead to payment of the maximum TAA benefits, create a real problem when the TAA benefits end.

The worker is used to a certain level of high income through TAA, and when this ends, creating a sharp drop off in income, the worker then looks to the Government for help. The situation we have generates a greater demand for more and more public assistance. There will inevitably be pressure for extension of TAA benefits if the auto industry continues in the doldrums and large numbers of workers start to exhaust their benefits. We need to break this pattern, and I believe my amendment does this. If we do not take this action, this program will almost certainly become another uncontrollable program with huge costs and future large "urgent" supplementals.

Another point that is frequently heard in defense of this misdirected program is that the TAA program is a solemn, almost sacred social contract between the Government and American workers and their labor unions in exchange for their support of the Multi-National Trade Agreement of last year. It is said that we would be breaking our word to the American worker if we reduced TAA benefits.

This is a distortion of history. The same arguments were widely circulated around the Senate in support of H.R. 1543, a bill which would expand the TAA program even further. In fact the administration opposed that bill until well after the MTN agreements were signed and sealed. It was only when the administration wanted labor's participation in its anti-inflation program—several months after the MTN ratification—that it endorsed H.R. 1543. Mr. President, there is no social compact which would be broken if we trim TAA benefits for future recipients.

Even the New York Times, which does not have the most conservative editorial writers as we all know, stated in a recent editorial—on May 20, 1980—that "Special benefits should be paid only after regular unemployment benefits expire—and at the same level, not higher." The New York Times does not put the TAA program at the sacred altar of untouchable programs and it recognizes the urgent need for these reforms in the TAA program. The Wall Street Journal in a recent editorial expressed its alarm at the exploding costs of the TAA program and urged restraint.

Mr. President, the provisions of this amendment will save $438 million in fiscal year 1981. This will help to offset the rapid growth in costs in this program for which we must now approve a $1 billion supplemental. This is a program that was projected to cost about a third of that only a few months ago when the President prepared his 1980 budget.

Mr. President, I say again that this amendment does not take anyone off this program who is now on it. It becomes effective October 1, 1980.

This amendment is not onerous or punitive in any way, Mr. President. It is clear from the GAO reports that we have a program badly in need of changes and savings reforms. Generous though we want to be, we cannot sanction preferential treatment to a certain group of workers just because their economic adversity stems from more competitive foreign goods, and we cannot condone a program that is bad policy.

As the Washington Post states in an editorial of April 10, 1980, on trade adjustment assistance,

> The cost of such measures is mounting. The country cannot afford to keep shoveling

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[1] Worker adjustment assistance under the Trade Act of 1974 to New England workers has been primarily income maintenance, October 31, 1978; worker adjustment assistance under the Trade Act of 1974—problems in assisting auto workers, January 11, 1978.

out aid that is chronically misdirected and comes too late to those who actually need it.

Mr. President, I ask unanimous consent that the editorials I have mentioned be printed in the Record, and I urge the adoption of the amendment.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, May 20, 1980]

PROTECTION, NOT PROTECTIONISM

What's the difference between a recently unemployed auto worker and, say, an unemployed architect, each of whom last year earned $25,000?

The auto worker is better off. Besides regular unemployment insurance and supplementary benefits paid by the industry, he qualifies for special help from Washington worth as much as $269 a week for a year. He could collect more without a job than with one.

Such peculiar, if temporary, prosperity is accounted for by the trade adjustment program designed by Congress to win organized labor's grudging support for liberalized trade legislation in 1974. It offers special protection to the victims of import competition. The idea of such protection is sensible. But the cost of the program is becoming alarmingly high, and the funds are not being shrewdly spent.

Earlier this month, the Administration was forced by the nationwide recession and the depression in Detroit to ask Congress for an additional $1.1 billion to finance the import protection program—on top of $400 million already requested. Although auto workers are likely to get most of this money, workers laid off in the steel, rubber, textile and electronics industries have been certified for similar benefits.

We have no quarrel with the original logic of the program. But workers in dying or shrinking industries don't merely need money; they need training, help in finding new jobs and in moving their families to new job markets. The original Trade Adjustment Act tried to accomplish those goals. In practice, it has not succeeded. Laid-off workers have received money but have usually returned eventually to their old jobs. The program is now little more than a cash grant that gives some of the unemployed—those "substantially" hurt by imports—an unfair advantage over others who get only routine unemployment benefits.

Until recently, no one cared much about this inequity. The program was small and inconspicuous. But now, with the auto industry in serious trouble, requests for money, training and new jobs are suddenly on the rise. Unfortunately, the Labor Department has no funds for the larger task.

Congress should refit the program to serve its broader purpose. The nation should offer extended benefits to workers hurt by imports, but only to those who agree to enter training programs that lead to jobs elsewhere. Special benefits should be paid only after regular unemployment benefits expire—and at the same level, not higher.

Until the Government has a sound program to help the victims of import competition, Washington will be wasting funds better spent on retraining and relocation. And if it doesn't help such people, the cries for outright protectionism can only increase.

[From the Washington Post, Apr. 10, 1980]

THAT $1 BILLION SURPRISE

Tuesday came the news that what was previously thought of as an unassuming federal program, trade adjustment assistance, was about to blow the federal budget out of shape (yet again) with an unexpected billion-dollar increase. The story of this program is instructive; like many others, it came into being largely as an element in the negotiations over major changes acted initially in 1962 in order to gain labor support for the Trade Expansion Act, and then liberalized significantly as the price of labor's agreement to the trade act of 1974. The aims of the program are to provide cash (at a more generous rate than ordinary unemployment benefits) and education and retraining to workers displaced by the effects of free trade. These objectives are humane and they make sense. Helping hatters and shoemakers to find other work is certainly smarter than maintaining protectionist trade policies.

The trouble is that, although almost $270 million was spent on the program in 1979—and much more is expected to go out this year—the program is not really addressing the needs and the distress it was meant to relieve. One recent national study found that almost three-fourths of the workers who received trade adjustment assistance (TAA) benefits went back to work at their old firms, apparently at their original jobs. Few industries, it appears, are so affected by trade that they have massive and permanent shutdowns. For the workers who had gone back to their old jobs, the federal government had only financed a temporary layoff at a substantially higher rate than standard unemployment insurance.

The same study also found that half of the beneficiaries got their money only after they had gone back to work. Finally, there was no evidence that the "adjustment" (education and training) part of the program was much used by anyone.

Despite the imprecision of the program, copies of it have begun to spring up. The Redwood Parks Act of 1978 provided handsome cash, education and medical benefits to loggers who lost their jobs. Since it went into effect, loggers with seniority have been vying to be fired in order to enroll in the program.

The policy-makers who agreed to add adjustment assistance to their bills have gone back to concentrating on foreign trade, or national parks, or whatever. If asked, many would probably say that even a badly functioning, expensive program was a small price to pay for such important new policies. Maybe so. But the cost of such measures is mounting. The country cannot afford to keep shoveling out aid that is chronically misdirected and comes to those who actually need it too late.

[From the Wall Street Journal, June 17, 1980]

UNEMPLOYMENT PERKS

In deciding whether to mash the panic button about the current surge in unemployment, we need to keep in mind the actual nature of unemployment in a modern welfare state. It can of course be a serious psychological hardship, and is a symptom of lost potential output. But by now government and industry have erected a huge safety net to reduce the financial burden on idle workers.

Few people question the principle of such a safety net. Certainly we do not. But we do worry that programs to help the unemployed have become so vast and so uncontrolled that they can be put part of the problem rather than part of the solution. One principal cause of our current inflationary/recessionary economic dilemma is that the federal budget is out of control. And it is out of control chiefly because of income transfer payments, direct federal payments to individuals who qualify for one or another bureaucratic definition of hardship.

There are few better examples of this than the Trade Adjustment Assistance program, which makes up the bulk of a $1.1 billion supplemental appropriations request for unemployment compensation that will come before Congress this week. The program was intended to head off protectionist complaints about free trade by offering assistance to workers displaced by import competition while they found jobs in more progressive industries. As recently as 1976, it aided 46,800 workers at a cost of $69.9 million.

In its original 1980 budget, the Carter administration envisioned an expenditure of $381 million. But spending has now mushroomed to an estimated $1.44 billion. Two weeks ago the program literally ran out of money, and recipients were told that they would have to wait for their checks until Congress approves more funds. This was held up while Congress wrote a balanced 1981 budget, but with that piece of fiction out of the way the 1980 spending floodgates are reopening.

Trade adjustment assistance exploded because Secretary Ray Marshall's Department of Labor decided to offer benefits to most laid-off automobile workers, doubling the rolls to 305,000 workers, with an additional 80,000 applications pending.

Trade adjustment assistance provides a worker with benefits amounting to about 70% of his gross pay. But unemployed auto workers already qualify for the auto companies' supplemental unemployment benefits, negotiated by the United Auto Workers in 1955. Under SUB, auto company funds pay the difference between all public unemployment benefits at 90% of a worker's take-home pay for a period of one year. The pay ments under TAA and SUB are about the same.

So the Labor Department's decision to cover auto workers has no immediate effect on the workers' welfare. Its only effect is to relieve the auto companies of the obligations they have negotiated, shifting the financial burden from the private sector to the taxpayer. A UAW spokesman tells us that the SUB funds are now being used chiefly for bridging loans to workers who have to wait four to 10 weeks to get their TAA payments; they then use the retroactive payments to repay the SUB fund, and can then collect federal checks for up to a year.

Like most income-transfer payments, TAA is an entitlement. Once a worker has been certified by the Labor Department, he is legally entitled to the money. Congress votes on the appropriations, but it has left itself little choice but to approve them. If it refuses money for TAA this week, some worker is likely to sue and some court is likely to order Congress to appropriate money, setting off the biggest separation-of-powers dispute since Marbury v. Madison.

The trade assistance scheme is probably the most extreme example, but there are other special unemployment programs for military personnel and even 400 former employes of the Redwood National Park in California. Altogether they cover some 600,000 unemployed. By contrast, total unemployment now runs about 8.2 million, and the surge over the last two months has been 1.7 million. There are proposals in Congress to extend TAA coverage not only to industries affected by importers, but to their suppliers. In other words, give all the unemployed 70% of their gross for a year.

This is precisely the kind of thing we need to avoid. In the last few recessions, transfer payments have shot up, but have not declined in real terms in the following recovery. If we are ever to get a grip on the budget and our economic problem generally, the last thing we need is to pad the safety net with new and better unemployment programs.

Mr. MOYNIHAN. Mr. President, I acknowledge, and not for the first time, the thoroughness and the care with which the Senator from Oklahoma has made the case today for what would be major legislation were it adopted by this body.

This moves me, however, to point out that, indubitably and avowedly, this is legislation; it is legislation on an appropriations bill. The Senator from Michigan will make that as a point of order, and I believe the matter will be concluded then. However, before the point of order is made, I wish to offer an alternative view.

This proposal was, in essence, considered at some length in the Committee on Finance, which is the authorizing committee for the legislation, under the very severe restraint of a $2.2 billion reduction in expenditures, required by the budget process. It was rejected. It was rejected by the full committee for precisely the reason which I believe my colleague from Pennsylvania would acknowledge, as he was present. It was rejected because a compact would be broken; not just legislation changed, but a compact broken.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. HEINZ. Mr. President, I fully agree with the Senator from New York. He is precisely right.

The Senator from New York was instrumental in helping write and pass the multilateral trade negotiation legislation, and he and I worked very closely in that regard.

The only way we were able to convince labor, business, and our colleagues was to say that we will find a way, in the name of having open borders, fair and free trade, to protect those people who are threatened with economic losses due to a policy of free and fair trade.

So, for us to go back on that promise now would only cast doubt on any promise we might make in the future. We cannot afford to risk our credibility in that regard.

Mr. President, I oppose this amendment. It is an amendment which would virtually destroy a vital program that is a basic element of our national trade policy, and in doing so would break faith with the American workers who have supported such a policy knowing full well it would not be without cost to them.

The trade adjustment assistance program has a long history, going back to its original creation in the Trade Expansion Act of 1962. Little used over the next 12 years, it was significantly broadened and made more workable by the Trade Act of 1974. Since that time it has become an integral part of our free trade policy.

As everyone knows, Mr. President, we are facing difficult economic times, both at home and abroad. Productivity growth in the United States is an embarrassment, and we are increasingly confronted with more efficient, lower-priced competition from other countries. Particularly damaging has been the competition from newly industrializing countries going through the same development process we once undertook. Able to capitalize on available raw materials and a large labor supply at low wage rates, they can produce large quantities of adequate quality, labor-intensive goods at low prices. The result is our shoe, textile and apparel, and consumer electronics industries are being devastated.

At the same time, we are also facing an increase in dumped or subsidized materials by countries determined to maintain their own employment levels at any cost to their taxpayers. The most dramatic case, of course, is steel, where a major antidumping case is now working its way through the process we created last year in the Trade Agreements Act of 1979.

These developments, Mr. President, pose a formidable challenge to American labor and industry. An easy answer would be import protection, but we—both Congress and the administration—have rejected that route as a matter of policy. We have instead recognized that a free market economy is a dynamic one, that change will occur and that such change is not without social costs. Put very simply, a free trade policy is not without victims.

The adjustment assistance program is designed to deal with these costs by providing aid to the victims. It provides additional funds, retraining, and job search allowances for workers who have lost their jobs because of imports. As anyone who has examined this program carefully knows, adjustment is an extra ordinarily difficult thing. Workers in the most severely affected, labor intensive industries, have few skills, often live in towns with few other opportunities, and are unwilling or unable to relocate. The program is not as successful as we would like. In fact, the Finance Committee has already reported one bill, H.R. 1543, to expand and improve it, and I expect even more sweeping changes to be made in the program before its authorization expires in 1982.

The fact remains, however, that our commitment to the program, which this amendment would destroy, is basic. Last year Congress rewrote our trade laws in the Trade Agreements Act of 1979 to take account of changes agreed to in the multilateral trade negotiations. I was deeply involved in the development of that legislation. We could have written a blatantly protectionist act. Labor could have pushed for it. Industry could have pushed for it. But they did not. And the reason they did not is the Government's commitment to an expanded and improved adjustment assistance program, a promise by us that we would not sacrifice thousands of American workers to the abstract principle of free trade.

When the Finance Committee considered a proposal similar to the pending amendment during our budget reconciliation process, the distinguished Senator from Connecticut (Mr. RIBICOFF), the chairman of the Trade Subcommittee, made the case most eloquently. He simply stated that this is a matter of keeping our word—keeping our promise to American labor—and that in politics no obligation is greater than that. Last year we passed the law—we have codified our trade policy with near unanimity in both Houses. Now we must not renege on the other part of the bargain—we must maintain and improve our adjustment assistance program.

Mr. President, this amendment would do exactly the opposite at the worst possible time—when there are over 300,000 auto workers and 75,000 steelworkers laid off—most due to imports, and when our economy is sliding into a serious recession.

The amendment would seek to implement some recommendations made by GAO last January. These recommendations have never been the subject of hearings in either body. They have never been considered or debated by the committees of jurisdiction, except briefly last week as part of the reconciliation process. And they have been widely criticized as being based on outdated information compiled during a period when the program was just beginning to implement the 1974 changes, and processing was badly backed up. These criticisms may or may not be accurate. The recommendations may or may not have some merit. They have never been evaluated or examined or discussed, and as a result the Senator from Oklahoma is asking us to legislate in the dark.

Further, the full magnitude of what the Senator is proposing can be seen in the cost estimates. The Congressional Budget Office estimates implementation of the GAO recommendations would reduce the cost of the adjustment assistance program by over 90 percent. It would assume expenditures of only $90 million in fiscal year 1981 compared to an estimated $1.4 billion for fiscal year 1980. Clearly this recommendation, and therefore this amendment, do not simply remove fat. They cut deeply into flesh and bone and would leave the program a corpse.

Finally, Mr. President, I would say to the Senator from Oklahoma that this program expires in 1982, which means the reauthorization process will begin next year. That is the proper time to consider changes of this magnitude, and it is the proper place—in the authorizing committee and not on the floor on an appropriation bill. I am confident the Senator's proposals will receive a fair hearing at that time.

Mr. President, this amendment is opposed by a bipartisan group of Senators who are determined that commitments we made last year not be broken at any time, and particularly at a time when we are heading for economic disaster. We owe the American people more than that, and I hope this amendment will be defeated.

Mr. MOYNIHAN. Mr. President, after I respond, I will yield to the Senator from Oklahoma.

The Senator from New York's experience in this matter goes back further than just this most recent MTN. As an Assistant Secretary of Labor, I was much involved in the Trade Expansion Act of 1962, from which this provision springs.

At that time, nothing was more striking than the disproportion between those measures which President Kennedy was required to obtain for the protection of the textile industry, to assure its votes, and the very marginal provisions of trade adjustment that workers received.

As the Senator from Oklahoma has acknowledged, so tightly were those provisions for trade adjustment drawn that in the next 12 years, only about 50,000 persons qualified. It proved impossible to establish imports as a primary cause of layoffs to determine eligibility, and therefore, the present phrase "contribute importantly" was established in 1974.

The events that have brought about the sudden onset of claims are the massive movements in the world economy; and far from regretting that they are costing us the money they do, it seems to me that we should welcome the fact that they were in place before this extraordinary downturn in automobiles, steel, and rubber came into effect.

I take exception to one particular point the Senator has made on which there can be honest disagreement. He suggests that the level of these benefits, and 70 percent of weekly wages is not very high, is preventing a large number of persons from leaving the automobile industry permanently or the steel industry permanently. I am not at this point prepared to accept that we are going to lose a third of our automobile industry in this country.

If the provision has the effect of retaining a workforce available for a period of time, a trained and experienced workforce, while technological adjustment goes on of the order clearly required, it seems to me that is good economics and longterm investment is preserved in a way that it would not otherwise be the case.

In any event, this is legislation which we have been committed to not for just a few years but for 18 years. It is at the heart of foreign trade policy of the United States.

It is legislation on an appropriation bill. It has been rejected by the Finance Committee. I hope and I am sure it will be rejected by the Senate as a whole.

But the Senator from Oklahoma wished to query me and before I sit down, and I, of course, wish to give him that opportunity.

Mr. BELLMON. Mr. President, I thank my friend from New York.

The question had to do with the statement made earlier about breaking of some kind of a social compact.

It is my understanding that the administration, which would have been a part of any such contract or compact, testified against the Trade Adjustment Assistance Act after the multinational trade agreements were entered into. It is very difficult for me to understand how any compact could be involved here if the administration which would have negotiated that contract opposed the program.

Mr. MOYNIHAN. I can speak very clearly to that. The Committee on Finance and this Senator, and I think most of us who were involved—Senator RIBICOFF who cannot be here today but I know he would wish to be associated with what Senator HEINZ, Senator RIEGLE, and I said—undertook to obtain a further modification of the current law that is incorporated in H.R. 1543. The administration was not always in favor of the new legislation. H.R. 1543 provides for the extension of these benefits to persons in supply plants as well as primary producers. We understand this to be a commitment made.

We have not even begun to keep that commitment; the legislation has not passed.

This is legislation to roll back a commitment we made 18 years ago. In the view of those involved, an inability to perform on the promises made would certainly be amplified by breaking promises already in place.

Mr. BELLMON. Does the Senator mean to say that some deal cut 18 years ago is binding now on this Senate? I cannot believe that.

Mr. MOYNIHAN. No. The Trade Expansion Act of 1962.

Mr. BELLMON. That is 18 years ago.

Mr. MOYNIHAN. Yes. That act marks the beginnning of our understanding with American business and American labor. Let me tell the Senator I was in those negotiations, and at that we made it clear that we would continue a policy of open borders, but that we would protect those affected from the consequences of our trade policy by adjustment assistance.

Mr. BELLMON. Does he feel that any kind of a deal made back then limits what the Senate might decide to do today?

Mr. MOYNIHAN. No, it does not. A bill could change it. Congress may pass any bill it can, but not on appropriations measures. But at this point the trade union movement is struggling to support the traditional free trade policies of this country, and gave its support to the MTN which has already been obtained. The measures that were to accompany it have not been enacted. To now ask us to go back on measures that have been in place for 18 years would be unacceptable and it is beyond my imagination that this body would do so. In any event, it would be against our rules to do it.

I see the Senator from Michigan is on his feet. I know he wishes to speak to this matter in which he has made a reputation for his conviction and his command of the detail, including the provisions about legislating on appropriations bills.

Mr. RIEGLE. Mr. President, I thank the Senator from New York for his kind words and also for his lucid comments on this issue.

Mr. MAGNUSON. Mr. President, may I ask the Senator from Michigan to yield to the Senator from New York?

Mr. MOYNIHAN. Mr. President, the Senator asked if I might yield to him. Is that agreeable to the Senator from Michigan?

Mr. RIEGLE. Mr. President, I am happy to yield to the Senator.

Mr. MOYNIHAN. I believe the Senator from Michigan has the floor. He will be happy to yield to the Senator from Washington.

Mr. MAGNUSON. I know. But as the chairman of the committee I have charge of the time I think.

Mr. MOYNIHAN. The Senator surely does.

Mr. MAGNUSON. I wonder how long this debate is going to continue on clearly what is a legislative matter. The Senator is correct.

Mr. RIEGLE. Not very long, Mr. Chairman. I have a brief statement to make, and I wish to raise a point of order because this amendment would be legislation on an appropriation bill

Mr. MAGNUSON. We have to get this bill finished. I am just wondering why we take up time on legislative matters here.

I understand the Senator from Michigan will move to make a point of order.

Mr. RIEGLE. Yes, after the issue is briefly discussed.

Mr. MAGNUSON. Do it quickly and get it over with.

Mr. RIEGLE. Mr. President, I have great regard for the Senator from Oklahoma, as he knows. I listen carefully to what he says, but I must take strong exception to it. I will not rebut his presentation point by point.

But I wish to address one argument he has made. He said that the workers have made no contribution to any fund from which these TAA benefits are drawn. I cannot believe that he meant that. Obviously the funds are drawn from the Federal Treasury. The workers who are now receiving TAA have paid tax funds into the Treasury for years. If the Senator were to talk to the workers who are unemployed, as I have, and if he suggests to them that they have paid nothing in exchange for their trade adjustment protection then, I can assure the Senator, he will meet a bitter reaction, indeed.

American workers have provided those moneys as much as anyone in the country. When they did so, they were assured that if they were badly hurt by an invasion of foreign goods, as we see in the auto industry, a Federal program was designed to deal with their problem. That encouraged them to support a national policy of open trade. Now suddenly when they need this program the most, the Senator from Oklahoma and others wish to just rip it away.

I just think that would be an irresponsible step, and the amendment is certainly not appropriate on this piece of legislation. I think the Senate must express a better understanding of the relationship that citizens in this country who work and who pay taxes have to their Government. That is particularly needed at a time of a growing trade catastrophe.

Mr. President, the amendments offered by the Senator from Oklahoma would radically change key provisions of the Trade Act of 1974.

PART OF A MAJOR SOCIAL COMPACT

That act was passed by Congress as part of a national policy to encourage the development of international trade. It was passed in the belief that open trade would bring benefits to the American economy as a whole. But Congress also recognized that a sudden increase in foreign competition can severely hurt many American firms and workers.

Therefore, trade adjustment assistance has for years been part of a major social compact between the U.S. Government and American workers. American labor has long supported open trade, and, in exchange, Congress has made sure that if a worker lost his or her job as a direct consequence of increased imports, he or she would be able to receive temporary financial assistance, retraining, and relocation allowances.

Since 1975, trade adjustment assistance has been provided to employees of numerous U.S. industries, including textiles, steel, clothing, shoes, and electrical machinery. That assistance has been important to tens of thousands of workers and their families—in virtually every State.

AMENDMENTS WOULD DRASTICALLY CHANGE ENTITLEMENT

The proposed amendments would suddenly overturn that major national commitment—just when American workers need it most.

One of these amendments would prevent workers from receiving trade adjustment assistance until after they had exhausted their unemployment insurance, and it would also slash a worker's trade adjustment assistance down to the level of unemployment insurance benefits, which vary greatly from State to State.

Mr. President, the trade adjustment assistance program was designed to provide temporary financial stability to workers who lost their jobs largely because of imports. Benefits were set at a level that would give workers and their families a decent chance to adjust their lives to devastating financial shock. Protection would be provided to eligible workers so that they would not suddenly lose their homes, their possessions, their life savings and their credit ratings as well as their jobs. Senator BELLMON'S first amendment would, instead, drop these workers' incomes to unemployment insurance levels, which average only $90 per week nationwide. Mr. President, for a family of four, that amounts to only 60 percent of the poverty level according to OMB estimates. Adoption of this amendment would break faith with these workers and impose severe hardships.

The second amendment would make workers eligible for trade adjustment assistance only if it could be proved that their unemployment were primarily due to imports. Current law requires workers to demonstrate that rising imports contributed importantly to their unemployment.

This amendment would adopt an eligibility standard that was proven to be clearly unworkable in the years before 1974. Fewer than 50,000 workers were able to benefit from the program during the 12-year period between 1962 and 1974. Workers in large, complex industries would virtually be denied protection because individual workers in such an industry can rarely prove that their unemployment results from one primary cause.

RISING COSTS ARE A MEASURE OF THE ECONOMY'S DISTRESS

Mr. President, the Senator from Oklahoma is concerned about the recent impact of trade adjustment on the Federal budget. There is no doubt that spending under the program has risen above the levels that had been projected only a few months ago by OMB and the Budget Committees.

However, that is not a valid criticism of this program's design—it is instead, evidence that our economic forecasting has been so inaccurate. A few months ago, few realized that massive damage would be caused by the Japanese auto manufacturers' decision to exploit the open trade policies of the United States. But today, the Japanese share of the U.S. auto market is soaring past 23.3 percent and is heading towards 30 percent.

A few months ago, most of the budget projections for trade adjustment and other programs were built on the assumption that the country was heading into a short and shallow recession. But today unemployment is now 7.8 percent and rising rapidly. The census forecast projects that national unemployment may exceed 9 percent in a few months, and may rise above the peak experienced in the 1975 recession.

If budget projections did not sufficiently take into account the enormous Federal costs of rising imports and a deepening recession, it is not the fault of the Trade Act.

In recent years, trade adjustment assistance has been one of this country's major economic safety nets. It makes absolutely no sense to remove the net just because large numbers of Americans are beginning to fall into it.

Trade adjustment benefits are temporarily helping to stabilize personal income and consumption spending. If we did not have it, the recession would be that much worse. The extent of human suffering would increase dramatically. These amendments would inflict devastating economic damage in large regions and the impact would spread throughout the Nation.

AN IMPROPER WAY TO IMPROVE TRADE ADJUSTMENT

My friend from Oklahoma offers these amendments because criticisms have been lodged against the trade adjustment assistance program. He mentions a study by GAO and one by a private firm.

Mr. President, I am sure that this program—as is the case for every Federal program—can be improved. I, for one, want to see the program's training component strengthened. Today, 30,000 trade-impacted workers want retraining for new careers but cannot get it. Such retraining was to be a key part of this program, but funds are exhausted. I believe that should be corrected.

I also believe that help should be extended to employees of supplier firms who have lost their jobs clearly as a result of the flood of auto imports that would be accomplished by H.. 1543, a bill to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974. That bill has passed the House; it has been reported favorably by the Senate Finance Committee; it has been on the Senate Calendar since last December 3; and it should now be enacted promptly.

By contrast, the Bellmon amendments would deal with the program in a completely inappropriate way. They would radically change a major entitlement program with legislation on a general appropriation bill. They would circumvent proper consideration in committee. They clearly are subject to a point of order.

A BETTER SOLUTION IS NEEDED

Mr. President, I do not think that trade adjustment assistance is the best solution to the problems facing our basic industries and the people who work in them. I would greatly prefer to see Federal resources going to strengthen the ability of American industry to compete in world markets.

We need to be far more effective in creating industrial jobs in this country. We need a comprehensive strategy to keep Americans working to meet America's needs. That will require new forms of cooperation in this country among government, business, and labor to improve our productivity and competitiveness.

Trade adjustment assistance will have to remain as a key element of national trade policy, but the cost of trade adjustment could be drastically reduced by policies that regain American industrial leadership.

POINT OF ORDER

Mr. President, as I mentioned earlier, I am convinced that these amendments are not in order. However, trade adjustment assistance is vitally important to tens of thousands of American families and I believe it is important that this issue be debated by the Senate.

I know that a number of other Senators want to address this issue. I reserve my right to make the point of order at the close of the debate.

My statement refutes, I think, quite fully the arguments that have been put forward by the Senator from Oklahoma. I think this is an issue that we can debate in an appropriate time when we have an authorizing bill in the Chamber and when we have the kind of legislation here in which that kind of debate would be appropriate.

It is not today, and if there is no one else seeking to speak at this time I shall yield the floor.

Mr. LEVIN addressed the Chair.

Mr. RIEGLE. Let me say, before yielding the floor, because I see my colleague wishes to speak, that as soon as any other comments are made it will be my intent to raise a point of order and I will do so.

I yield the floor.

● Mr. METZENBAUM. Mr. President, I rise to express in the strongest terms my opposition to the amendment offered to the supplemental appropriation bill which would change the benefit levels and scope of the current trade adjustment assistance program. That program, which assists workers who are displaced by foreign competition, is the concrete result of the promise made by Congress to assist American workers who suffer because of our national policy of trade liberalization. It is unthinkable that Congress could or would renege on its promise to the hundreds of thousands of working men and women in this Nation whose jobs have, in fact, fallen victim to that policy.

Never has trade adjustment assistance been more important or more urgently needed than it is today. Nationally, unemployment now exceeds 7.8 percent. In my State of Ohio the unemployment rate, in some areas, has already climbed above 10 percent. While inflation continues at a double-digit clip. During this period of economic instability. It would be sheer folly for the Senate to tamper with a program designed to help a large number of the Nation's unemployed.

Just last week, the Senate overwhelmingly supported—by a vote of 90 to 4—a resolution which I introduced, recognizing the crisis confronting the U.S. auto industry due to the surge in foreign imports, particularly from Japan and Germany. The resolution outlined steps to help the U.S. auto industry stabilize its share of the U.S. market. It would be patently absurd were the Senate now to turn its back on those most directly and adversely affected by the current crisis.

The trade adjustment assistance program is of vital importance to hundreds of thousands of workers in main-line American industries like autos, steels, textiles, rubber, glass and plastic—all of which have suffered severely from the impact of foreign competition. TAA provides those displaced workers with temporary help in the form of cash payments, retraining, job search and relocation assistance. In my state of Ohio alone, the program has already helped about 70,000 workers.

Trade adjustment assistance has been an important part of our Nation's trade policies since the early 1960's. The Government knew then that efforts to liberalize trade with foreign nations would translate into import-caused injury for some domestic industries. That is why Congress in 1962—and in 1974—promised American workers the opportunity to receive relief because of injury—and not just limit them to seeking relief from injury.

We must not break our promise to American workers, and we must not once again impose the greatest burdens upon those who can least afford to bear them.

I strongly oppose the amendments to the supplemental appropriations bill offered by the distinguished Senator from Oklahoma because they make significant, and, unacceptable, changes in the bargain that we in Congress struck with American labor.

The Senator from Oklahoma proposes, for example, to prohibit trade adjustment assistance payments to individuals. certified under the program after October 1, 1980 until they have first exhausted their State unemployment insurance benefits. He also would reduce TAA benefits to rates not exceeding State unemployment benefit levels. And, finally, the Senator proposes that we apply more stringent import-causation tests to determine worker eligibility.

Procedurally, these amendments have no place being attached to a fiscal year 1980 appropriations bill—they make broad and sweeping changes to the existing statute and would not become effective until fiscal year 1981. Such changes should be considered by the authorizing committee and not be added as riders to a supplemental appropriations bill.

But, I object also to the substance of the amendments. For instance, tying trade adjustment benefits to the exhaustion of State unemployment benefits would weaken the special compensatory feature of the current Trade Adjustment Program—a feature which states that American workers deserve special assistance—separate and distinct from regular unemployment insurance—in order to adjust to economic fluctuations caused by our international trade policies.

Limiting trade adjustment benefit levels to individual State unemployment insurance levels would destroy the program's current nationwide policy regarding what is an appropriate benefit level for workers impacted by national trade policies.

It would build in State-by-State discrepancies in benefit levels.

And with respect to the proposal to link certification to the stringent test of whether import competition is a primary cause of layoffs, I want to point out that Congress tried this before—under the Trade Expansion Act of 1962—and found it too restrictive. Even though increased import competition stemming from the 1962 act resulted in job layoffs, very few displaced workers received any assistance.

These proposed changes in TAA are ill-timed and ill-advised.

No one in this Nation gets rich sitting back collecting trade adjustment assistance benefits. More accurately, and I am inferring from the hundreds of phone calls, letters, and personal conversations I have had on this matter, the hundreds of thousands of laid-off workers who are currently eligible are using those benefits to put food on the table and to help pay their families bills. And any budgetary saving we realize from these amendments is illusory—any reduction in TAA benefits will inevitably be offset when these unemployed Americans are forced to apply for other forms of public assistance.

It makes no sense to me to penalize through these unfair amendments tens of thousands of hard-working Americans who are unemployed through no fault of their own. It makes no sense to add to the misfortune of those who bear the main burden of foreign competition and domestic recession. And I believe, Mr. President, that it is wrong to deny to displaced workers the help that Congress has repeatedly promised to them.

Mr. President, these amendments serve no useful purpose. I urge the Senate to reject them.●

● Mr. GLENN. Mr. President, I rise to speak in support of supplemental appropriations for trade adjustment assistance and in opposition to Senator BELLMON's amendments that would alter this program.

I speak in support of supplemental appropriations for trade adjustment assistance because of the need for additional funding to meet the costs of tremendous increases in unemployment of autoworkers caused by unprecedented and unforeseen increases in auto imports. From 18 percent of the U.S. automarket in 1978, imports have grown to account for 29 percent of the U.S. market in recent months. This unprecedented penetration of the Nation's most important industry has taken a frightful toll on American workers and their communities. From last year's total of 2.3 million workers employed directly or indirectly by the U.S. auto industry, today barely 1.6 million are so employed.

These developments have rendered the State of Ohio an economic disaster area. In 1979, 390,000 Ohio workers were directly or indirectly employed in the auto industry. Today, some 70,000 of these workers—almost 20 percent—have lost their jobs. The result is that Ohio has gone from a statewide unemployment rate of 5.7 percent in 1979 to a rate currently approaching 10 percent.

The Labor Department estimates that, as a result of increased auto imports, as many as 300,000 autoworkers will become eligible for trade adjustment assistance benefits totaling $1.1 billion in fiscal year 1980. Since the program's inception, 98,214 Ohio workers have been certified as eligible for adjustment assistance. Moreover, a high proportion of the additional 300,000 workers the Labor Department estimates will qualify by the end of this year are from Ohio. Unfortunately, neither the administration nor Congress took account of this increased caseload in setting spending limits for fiscal year 1980. As a result, we must vote these supplemental appropriations so that eligible workers can receive the benefits they are entitled to by law.

I speak in opposition to Senator BELLMON's amendments because they fail to take account of the unique purpose of trade adjustment assistance and because debate on supplemental appropriations is not the proper forum for consideration of program reform. On the first point, we must not forget that these trade adjustment assistance benefits are an essential part of our ongoing efforts to liberalize international trade. We have committed ourselves to those efforts to make possible the most productive use of the world's resources and to expand opportunities for economic development.

In the Trade Expansion Act of 1962 and the Trade Act of 1974 Congress recognized that while this open trade policy benefits the American economy as a whole, it brings injury and unemployment to many firms and workers. To ease the impact of increased imports and to enable workers and firms to adjust to changes in international trade Congress established the trade adjustment assistance program in 1962 and expanded it in 1974.

Senator BELLMON's amendment to limit TAA benefits to the amounts provided by unemployment insurance programs would undermine this aspect of our national trade policy. Unemployment insurance programs are set by State governments and vary dramatically from State to State. Implementation of Senator BELLMON's amendment would be an unfortunate and unfair departure from our national import relief policy wherein the injuries caused by changes in our national trade policy are met with uniform benefits nationwide.

As for Senator BELLMON's second amendment, if his criterion of "primary" import causation had been in the current law, auto workers would not now be eligible for adjustment assistance; 300,000 workers who have been injured by imports—injured because the U.S. trade policy has allowed free and open access to our domestic markets while our trading partners have erected numerous barriers to auto imports—these 300,000 workers would not be eligible if Senator

BELLMON's amendment was part of our current law.

Mr. President, we have a trust to keep with American workers in trade-related industries. We must act promptly to provide the supplemental funds that these workers are entitled to by law. We must reject any and all attempts to modify these programs until the Finance Committee has had an opportunity to carefully consider such proposals. This is the wrong time to reduce trade adjustment assistance benefits. This bill is not an appropriate vehicle for consideration of reforms in the trade adjustment assistance programs.

I urge my colleagues to support additional funding for adjustment assistance programs and to reject Senator BELLMON's proposals to modify these programs.●

Mr. THURMOND. Mr. President, I rise today in support of the amendment by the distinguished Senator from Oklahoma (Mr. BELLMON). This amendment, which I am pleased to cosponsor, would greatly improve the trade adjustment assistance program, and at the same time, reduce the cost of the program by approximately $438 million in fiscal year 1981.

This amendment would incorporate the recommendations of the General Accounting Office into the trade adjustment assistance program. The provisions of this amendment require that workers exhaust regular unemployment insurance benefits before they can receive trade adjustment assistance. In addition, the amount of each trade adjustment payment could not exceed the regular unemployment insurance benefit payment for each worker.

Mr. President, the present trade adjustment assistance program is in great need of improvement. Currently, eligible workers can receive trade adjustment benefits concurrently with regular unemployment insurance benefits. In addition, the trade adjustment payments are normally much greater than the regular unemployment insurance benefits. I do not feel that this is fair to unemployed persons who fail to meet the requirements for coverage, or to the taxpayers who underwrite the cost of the special trade adjustment assistance program. I see no reason why one group of employees should have access to additional compensation not available to others, simply because they were forced into unemployment for a different reason. These trade adjustment benefits, when combined with unemployment compensation and supplemental unemployment benefits received under employer or union plans, provide an incentive for workers to refrain from actively seeking alternative employment. Adoption of Senator BELLMON's amendment would eliminate these problems from the program.

Mr. President, workers adversely affected by imports would benefit from adoption of this amendment. By requiring that regular unemployment benefits be exhausted first, the period for income protection for those who cannot find a job would be significantly lengthened. This would insure that those workers who do in fact lose their jobs due to competition from foreign goods imports receive adequate protection and adjustment assistance.

Mr. President, this is a much-needed amendment. It would result in extended benefits to workers at a lesser cost than the present program. I hope my colleagues in the Senate will support this amendment.

Mr. LEVIN. Mr. President, I oppose Senator BELLMON's amendment. The TAA program provides benefits to workers in industries which have been impacted by imports. The program is working well and is doing what was intended. Cushioning the blow for workers whose jobs are lost by imports. The increased costs in this fiscal year have resulted because workers have lost their jobs because of increased import penetration. TAA was written to help such workers, and in the past this program has assisted workers in the auto, apparel, footwear, steel, and textile industries.

At the present time auto workers are the hardest hit due to imports. In our next economic crisis it will be another industry—perhaps the beef industry—which will suffer from imports from South America. Our policy has been to be fair to our trading partners by not erecting barriers. We have also had a policy of being fair to our workers by providing TAA. If Senator BELLMON's amendment passes, we will continue being fair to our trading partners and cease being fair to our workers, the citizens of our country.

Senator BELLMON's amendment seeks to limit the disbursement of TAA benefits to the period after a worker has used up his regular unemployment benefits and limit the amount of the TAA benefit to that which the worker was receiving from unemployment. TAA is a Federal program and a result of a Federal policy which developed and was most recently broadened under the Trade Act of 1974. Essentially, persons representing workers were assured that if our trade barriers were lowered, there would be certain cushioning guarantees when new waves of imports caused job losses. Unemployment compensation is a State program with levels and benefits determined by each State. TAA is not simply a substitution to unemployment compensation. It is a different program, with different rules and eligibility criteria. The amount which a worker receives while on TAA is and should remain a Federal determination because TAA is a Federal program. Senator BELLMON's amendment would have workers in different States receiving different amounts of Federal benefits because they would be based in the level of unemployment benefits in a State operated program. That is simply unfair.

The workers of this country who are impacted by imports should get what they were told they would receive, and, based on which promises and commitments doors to foreign imports were open ever wider in this country.

Mr. RIEGLE. Mr. President, I would just inquire of the Senator from Oklahoma, I know he has delivered his statement, and it would be my intention now to raise a point of order.

Mr. BELLMON. Mr. President, I appreciate my friend from Michigan offering me this opportunity, but I think, in keeping with the point raised by the Senator from Washington, we should not extend our time on this matter, and I am perfectly agreeable if the Senator wishes to raise a point of order at this time.

Mr. RIEGLE. Mr. President, I would make a point of order that the amendment offered by the Senator from Oklahoma is legislation on a general appropriation bill.

The PRESIDING OFFICER. Is the Senator making the point of order——

Mr. RIEGLE. The Senator from Michigan is making the point of order that it constitutes legislation on an appropriation bill and, therefore, it should be ruled out of order.

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma amends the Trade Act of 1974. It is, therefore, clearly legislation on an appropriation bill, and the Chair, therefore sustains the point of order.

Mr. BELLMON. Mr. President, it is my intention to appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. It is my understanding, Mr. President, that this motion is debatable, but I would like to use only a brief couple of minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. BELLMON. Mr. President, I appeal the ruling of the Chair upon the basis that legislation on an appropriation bill is clearly not unusual in the Senate as we currently operate.

I would agree that normally it is not desirable, but it does go on continually. In this case this is the only way, the only opportunity, the Senate will have to vote on this issue this year, and it is an issue of great importance and, of course, it has an enormous fiscal impact on our efforts to produce a balanced budget for 1981. It appears this is the only way to get the issue of controlling costs in the trade adjustment assistance program before the Senate.

It would have been preferable to have the Finance Committee report a bill limiting the costs of the TAA program. I wrote to the distinguished chairman of the Finance Committee, Senator LONG, and the distinguished ranking member, Senator DOLE, expressing the need for the Finance Committee to handle this matter. However, Finance decided not to deal with this program as part of its reconciliation actions. I am not trying to preempt the jurisdiction of the Finance Committee at all in offering my amendments. Rather, I am offering these amendments now because it will be the only chance the Senate will have to reform the TAA program this year. And I fervently believe that waiting until next year may be too late. By then the program could be irrevocably beyond control and we may never be able to institute these changes.

This is not a precedent-setting matter,

Mr. President. We legislate on appropriation bills all the time. The Hyde amendment issue has been legislation on an appropriation bill, as has been the Clinch River Breeder Reactor, and the Labor-HEW appropriation bill in fiscal year 1979 rewrote the Higher Education Act while there was a bill pending at the same time. I realize that this is not the most proper way of doing things, Mr. President, but I believe it is proper in this case. I believe that a supplemental appropriation of $1.1 billion to a program that 6 months ago was assumed to cost $381 million justifies a closer look at the way the program operates. And I believe the closer look justifies the approval of my amendments. I believe this issue is crucial to controlling costs in the Federal Government and I believe the issue merits further discussion. I urge my colleagues to support my appeal of the ruling of the Chair.

Mr. MOYNIHAN. Mr. President, I respectfully request that the appeal of the distinguished Senator from Oklahoma be tabled, and I so move.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York to lay on the table the appeal from the ruling of the Chair.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from Kansas (Mrs. Kassebaum), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), and the Senator from Illinois (Mr. Percy) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

I further announce that, if present and voting, the Senator from Maryland (Mr. Mathias) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 24, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—65

Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stennis
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NAYS—24

Armstrong
Bellmon
Cochran
Exon
Garn
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Laxalt
McClure
Schmitt
Simpson
Stafford
Stevens
Stevenson
Thurmond
Tower
Wallop
Warner
Young

NOT VOTING—11

Baker
Cannon
Dole
Goldwater
Kassebaum
Kennedy
Lugar
Mathias
Percy
Ribicoff
Talmadge

So the motion to lay on the table the appeal of Mr. Bellmon was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. Bradley) is recognized.

Mr. MAGNUSON. Mr. President, the Senator from New Jersey has an amendment.

The PRESIDING OFFICER. The Senator will not proceed until there is order in the Chamber.

Will Senators please clear the well? Will Senators please clear the aisles?

Mr. MAGNUSON. Mr. President, I understand that they have worked out an agreement on the amendment of the Senator from New Jersey which he will explain and then we can accept it.

Mr. BRADLEY. Mr. President, the Senator is correct.

Mr. MAGNUSON. Senator Melcher will have an amendment which we will also accept.

If anybody else has a noncontroversial amendment, please have it ready. We will try to move swiftly on any noncontroversial amendments.

Mr. President, I do not expect any votes momentarily.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MELCHER. Mr. President, I ask unanimous consent that my amendment may be taken up right after the Bradley amendment.

Mr. HATFIELD. Mr. President, reserving the right to object, I would like to reserve the right to object to inquire what these amendments are about. I do not think we have had the subject of the amendments announced. I would like to at least find out what the amendments are about.

Mr. MAGNUSON. I will say to the Senator from Oregon we discussed the Bradley amendment at some length last night when I thought everybody was listening. We have worked out an agreement, I hope.

Mr. WEICKER. Mr. President, reserving the right——

Mr. MAGNUSON. Mr. President, it involves the Department of Energy.

Mr. HATFIELD. Mr. President, I wonder if the Senator from New Jersey can briefly describe his amendment.

Mr. MAGNUSON. The Senator from New Jersey will explain his amendment.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Stevenson). The Senator will state it.

Mr. WEICKER. Mr. President, what is the issue on the floor at the present time? Is there an amendment pending?

The PRESIDING OFFICER (Mr. Stevenson). Under the agreement, the Melcher amendment follows the Bradley amendment.

Mr. WEICKER. Reserving the right to object, and I am not saying I shall object, it was my understanding—I grant it was only an understanding; there was nothing locked in—that upon conclusion of the Bellmon amendment and the Bradley amendment this morning, we were then going to the issue of general revenue sharing, to which I have an amendment.

Mr. MELCHER. Will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from Montana.

Mr. MELCHER. I want to explain that the amendment I shall offer is a very simple, short amendment that would allow the restored rescission money for rail rehabilitation and improvements to be loaned for the purchase of western lines of the Milwaukee Railroad after the 1st of October. We were led to believe by all that there is no objection to it and we think it will be accepted.

I should be very willing, if there is any controversy over it, to set it aside, because I do not want to interfere with the Senator's amendment.

Mr. MAGNUSON. I say to the Senator from Connecticut, if he will yield to me——

Mr. WEICKER. Yes, I yield.

Mr. MAGNUSON. I have the floor, I guess.

We thought we would get two or three of these noncontroversial amendments out of the way before we went to revenue sharing.

Mr. WEICKER. I do not want to interfere with the Senator from Montana, who has a brief amendment here. Obviously, he has the way cleared to have it passed. But could we then move to the matter of general revenue sharing? I do not want to wait, in other words, much longer, since this is the principal issue confronting us. I am not desirous, and neither is Senator Durkin nor any of those who share my views in this matter, of delaying the bill this morning. We know it has to go to the House and back, so could we please get going on it?

Mr. MATHIAS. I think the Senators should be on notice that if the Senator's amendment is not accepted, there are some alternatives that ought to be considered. So I think we ought to be on notice that this is not necessarily a quick and easy process.

Mr. WEICKER. Mr. President, I ask unanimous consent that consideration of my amendment follow consideration of the amendment of the Senator from Montana.

Mr. MAGNUSON. If we dispose of the amendment of the Senator from Montana, we shall go to the Senator's amendment.

Mr. WEICKER. I ask unanimous consent that I may follow the Senator from Montana, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1931

(Purpose: To make funds already appropriated available to carry out certain provisions of S. 932, when enacted)

The PRESIDING OFFICER. The amendment of the Senator from New Jersey will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. DURKIN, proposes an amendment numbered 1931.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, following line 24, add the following:

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

Title II of the Department of Interior and Related Agencies Appropriations Act, 1980 (Public Law 96–126), under this head is amended by adding after "the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901, et seq.)" in the first proviso, the words "and the provisions of Subtitle B—Municipal Waste Biomass Energy of title II of the Energy Security Act of 1980".

This amendment to be effective upon enactment of S. 932, the Energy Security Act of 1980.

Mr. BRADLEY. Mr. President, this is the amendment which would take the alternate fuels production provision of the Interior Appropriations Act—we appropriated $20 billion. A little over $16 billion of that in this act is being set aside for the energy security reserve; $2 billion remains under the control of the Department of Energy. What my amendment states is simply that up to $250 million could be spent for municipal solid waste energy systems under the provisions that have been enacted in S. 932, to be used solely for purchase commitments and price guarantees up to a level of $250 million maximum for municipal solid waste energy systems.

Mr. President, this harmonizes S. 932 and the Interior appropriation. It is totally consistent with the action taken by the Senate and by the conference as it pertains to municipal solid waste. It deals again with assuring that there would be money, if DOE chose, for purchase commitments, price guarantees, price support loan guarantees.

The second thing it does is make consistent what was enacted in S. 932 to make direct combustion of municipal solid waste energy systems eligible for this funding.

It is a very simple amendment, Mr. President, and I hope that the committee will be able to adopt it.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. BRADLEY. Yes.

Mr. HATFIELD. I ask the Senator whether the Senator's amendment is discretionary or mandatory that such expenditures be made?

Mr. BRADLEY. It is discretionary. It simply states that up to $250 million, which is the level that we have placed in S. 932, of the $2 billion can be used. It is discretionary if the Department of Energy chooses to use it.

Mr. HATFIELD. I thank the Senator.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. MAGNUSON. Mr. President, I am happy to accept the amendment, but first I want to hear the Senator from Indiana.

Mr. BAYH. Mr. President, I should like to have the opportunity to study the ramifications of this amendment. I know the Senator from New Jersey is deeply concerned about the conversion of garbage and municipal waste into alcohol. Our Alcohol Fuels Commission has been studying this as part of an overall program, part of which involves grain and sugar cane and all other kinds of technology, a part of which is the garbage conversion.

There are two different programs. I have not yet had the chance to sort out where the amendment of the Senator from New Jersey fits into the overall program. He is convinced it is not inconsistent; I am not. I should like to have either a quorum or further discussion on this while I have a chance to read the letter of the report language in this supplemental.

The Senator from Louisiana and I tried to get something in there that would do what we thought was important to protect this $2.2 billion from being assumed by the Energy Security Corporation and I want to make certain we do not undo that.

Mr. President, I think we want to accomplish the same thing that the Senator from New Jersey wants to accomplish. I just want to make sure that the language in this amendment is doing, not undoing, what we have tried to do.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment of the Senator from New Jersey and proceed with the amendment of the Senator from Montana.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Will the chairman yield on that unanimous-consent request?

Mr. MAGNUSON. Yes.

Mr. BRADLEY. I do not think this is going to take a long time and I should prefer to deal with the amendment, rather than the revenue sharing amendment or some other amendment that is going to take a very long period of time.

Mr. BAYH. If the Senator will yield, I think the amendment of the Senator from Montana is only going to take a matter of 5 or 10 minutes, is it not?

Mr. MAGNUSON. I am trying to save time here and get things moving.

Mr. BRADLEY. So this amendment would come back after the amendment of the Senator from Montana. Fine.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

Mr. BAYH. Mr. President, I suggest that the Senator from New Jersey now appears ready to accept the original and very wise suggestion of the Senator from Washington to go forward with his amendment.

Mr. MAGNUSON. Mr. President, I propound a unanimous-consent request that we lay aside the amendment of the Senator from New Jersey, take up the amendment of the Senator from Montana, and then go back to the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1330

(Purpose: To ensure sufficient availability of railroad rehabilitation and improvement funds)

The PRESIDING OFFICER. The amendment by the Senator from Montana will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1330:

At page 128, line 9, strike "$75,000,000 are rescinded" and insert in lieu thereof the following:

"$45,000,000 are rescinded: *Provided further,* That none of the funds restored by this amendment to the Rail Rehabilitation and Improvement Financing Funds shall be used for any purpose other than the purchase of preference shares and trustee certificates convertible to redeemable preference shares for the purchase of properties defined by section 505(h)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, *Provided, however,* That funds obligated from this restoration shall not be expended prior to October 1, 1980."

Mr. MELCHER. Mr. President, this amendment would provide the restoration of some of the money back from the rescission process.

What it would allow is $45 million to be rescinded, instead of the $75 million that is proposed to be rescinded, and then would allow for $30 million that would be used as loans for the purchase of certain lines of the Milwaukee Railroad. These lines provide essential rail service and will be critical to the conversion of our Nation's industrial plants and utilities from foreign oil to domestic coal. It is essential to the movement of coal that competitive rail service be available, and continued operation in the West is vital for that coal. This amendment is intended to insure such competitive rail service. Senator JACKSON, chairman of the Senate Energy and Natural Resources Committee, has written to Energy Secretary Duncan in support of the effort of the State of Montana asking the Energy Department assist the State of Montana. I ask unanimous consent that Senator JACKSON's letter be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., June 17, 1980.

Hon. CHARLES W. DUNCAN, Jr.,
Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: I want to express my appreciation for the participation of the Department of Energy in the work of the new interagency task force recently formed to focus Executive Branch attention on the proposal of the State of Montana to purchase the lines of the Milwaukee Railroad between Miles City, Montana, and Marengo, Washington, for subsequent lease or purchase by a new operator.

The fundamental importance of this project to the nation's energy needs cannot be overemphasized. In the northern Powder River Basin of southeastern Montana are some 10 billion recoverable tons of high-B.T.U. low sulfur coal. This is the equivalent of 30 billion barrels of oil. A number of companies plan to build a railroad from the Ashland/Birney area of Montana to Miles City with a view to marketing the coal, after further rail movements, to interested utilities and other industrial customers in Washington and in the Upper Midwest.

You and I have discussed at length the difficulties and problems involved in coal conversion and greater use of this valuable resource. Here, we have vast deposits of the commodity, yet the problem to be faced is how to assure that the coal can be moved competitively west of Miles City to the Pacific Northwest, and my State of Washington, in particular. The State's proposal offers what is really the last hope for competitive rail service in that part of the nation both as to this coal as well as to other Montana-originated traffic such as grain.

I would urge that the Department lend its support to the State's proposal by supporting necessary funding for acquisition and rehabilitation of the line, and through formal support of the Montana application at the Interstate Commerce Commission in Finance Docket No. 29303, as to which comments are due on July 2, 1980. The Department has a unique opportunity here to strike a significant blow for increased coal usage at a price cheap by any standard.

I would appreciate your advising me of the steps the Department plans to take. To the extent my assistance may prove necessary, please feel free to call on me.

Sincerely,

HENRY M. JACKSON,
U.S. Senator.

Mr. MELCHER. Mr. President, we have geared this amendment so that this amount of funds will be available next fiscal year. We believe this meets any possible objection to the proposal.

We would like to indicate that the small amount of money that would not be rescinded, $30 million, extremely important in the long run over the next several years and into the next decade on whether or not we can have continued operation of the Milwaukee in the West.

We think this may be essential in permitting the plan that Montana presented for operation of the line to continue. I hope the Senate can concur in the amendment.

Mr. President, there is no outlay impact, this only impacts budget authority.

Mr. STEVENS. If there is no outlay in this, why are we shifting the amount to be rescinded, to rescind the full amount?

As I understand it, the Senator wants to take $30 million we would have rescinded, to shift to an obligation account for 1981.

Mr. MELCHER. In fiscal 1981, correct.

Mr. STEVENS. Is this not legislation—is this already authorized, to shift that money from one fund to another point?

Mr. MAGNUSON. We do not need an authorization.

Mr. STEVENS. I am asking if this is not legislation on an appropriation bill.

Mr. MAGNUSON. I understand we do not need an authorization.

Mr. STEVENS. I generally support what the Senator wants to do. But we supported rescission of $75 million. Why should we not rescind the full $75 million and get this $30 million somewhere else?

Mr. MAGNUSON. If I might respond, I would be amazed if, as a matter of fact, we got around the authorizing process by guessing that we can avoid a portion of a rescission, to shift that into a year for which there is no authorization.

I think perhaps there does need to be an authorization for this, and this constitutes the authorization and is, therefore, perhaps subject to the question the Senator from Alaska has raised about being legislation on an appropriation.

Mr. MELCHER. The money is there.

Mr. McCLURE. The money is there, but not authorized to be expended in 1981.

Mr. STEVENS. I say to the Senator that we are rescinding, not deferring it.

The effect of the Senator from Montana's amendment is, in fact, to defer $30 million into 1981, as I understand it, as opposed to the committee action of rescinding $75 million.

I want to know whether the spending for which the Senator wants to defer this is authorized at the present time.

Is it authorized already or is this both an authorization to spend the money and a deferral of this fund, rather than a rescission as the committee recommended?

Mr. MELCHER. I respond to my friend from Alaska that in this particular section of the law, only $18 million has been authorized. But we found it is inadequate for this year. So we are using the most direct means of making other funds available.

We do not want in any way to trample on the budget process, that is why we deferred expenditure of these loans to fiscal year 1981. I think it is a wise expenditure. I hope the Senate can accept it.

Mr. STEVENS. Unfortunately, I have the task today of trying to assure that those involved on our side have been consulted.

I am not certain we have been able to consult the people on the authorizing committee who would deal with this. I would like to have an opportunity to make certain there is no objection to circumventing the role of the authorizing committee in this way.

This is both authorizing and appropriating legislation in a very short—I congratulate the Senator—five-line sentence.

It should be reviewed a little bit, with all due respect to my good friend from Montana.

Mr. MELCHER. I say to my friend from Alaska that we have checked with the authorizing committee. I notice Senator KASSEBAUM is on the floor now. I think, perhaps, she can speak for the minority on it.

Mr. STEVENS. I say to my friend that I have just been informed the authorization expires for expending funds at the end of fiscal 1980, that this is not only legislation in terms of deferring the money rather than rescinding it, but it is extending the authorization into fiscal 1980–81.

I really believe we ought to hear from the legislative committee as to whether this is acceptable to the members of the legislative committee, that we completely circumvent their authority, to determine whether this authorization is extended into the next fiscal year.

I say that I am compelled to raise the point of order which lies against this amendment, in my opinion, until it is cleared by the legislative committee.

Mr. MELCHER. I say that we have gone through the legislative committee on our side. I cannot say whether it has been cleared on the minority side.

There is pending in that committee an authorization of $180 million for this particular section of the law for fiscal 1981.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Montana numbered 1330.

Mr. JOHNSTON. I thank the Chair.

Mr. President, last night I stated my intention to ask unanimous consent to take this bill up chapter by chapter after we had completed the revenue-sharing amendments.

I wonder if my colleagues would be in the mood to accept that unanimous consent. The idea of it is that we could have all subcommittee chairmen having to be on the floor at all times waiting for their amendments, unless we take it up chapter by chapter; is that possible?

Mr. STEVENS. We discussed this with the ranking minority member of the Appropriations Committee and he desires to do this.

I am compelled to raise an objection against this. There has been objection lodged due to the fact that Members have amendments which take funds from one title and put it into another title in order to balance the situation budgetwise in fiscal 1980.

They attached it last night to an amendment which would close off any amendments already passed, but——

Mr. JOHNSTON. I know that would be true with respect to revenue sharing. That is why I say we should put that at the front.

Would it apply to any other amendments?

Mr. STEVENS. Yes.

Mr. YOUNG. The main thing was, the Senator from Louisiana did not request third reading and——

Mr. JOHNSTON. The idea was to try to take them up and try to have third reading after each chapter. If that is not possible, maybe we could have an agreement to take them up and possibly foreclose Senators, but put some peer pressure on Senators to bring up amendments by chapter.

Mr. YOUNG. If it is section by section, it will be more orderly and will keep the Senators in the Chamber.

Mr. STEVENS. If the Senator is seeking a situation in which Senators will present amendments on a title-by-title basis then setting the title aside and taking up another title, with the understanding that if a subsequent amendment affects the title because the amendment is being offered to a subsequent title, I do not see any problem. We do not want to take money from a previously passed over title in order to have an amendment presented to a title that is before the Senate, however. I am sure the Senator from Louisiana understands the problem.

Mr. JOHNSTON. Could we take it up title by title and then lay each one aside and not be able to return to that chapter until we finish all the chapters, and not foreclose?

Mr. MAGNUSON. The Senator from Louisiana has a good idea. There are not going to be that many amendments. Let us take them up as they come.

Mr. JOHNSTON. All right.

I hope the chairman is correct about the amendment number.

Mr. MAGNUSON. What are we going to do on the Melcher amendment?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

What does the Senator from Washington seek at this point? On the Melcher amendment, we do have the Commerce Committee staff here. I understand there is one matter they wish to discuss with Senator MELCHER's staff, and I ask that we have a few minutes in which to do that, so I suggest the absence of a quorum.

Mr. MAGNUSON. We will have a few minutes on the Melcher amendment and a few minutes on the Bradley amendment.

Mr. STEVENS. It is a tough job to protect against amendments we have not seen. I saw that amendment 5 minutes ago. It involves changing the recommendations of the Appropriations Committee.

It involves extending an authorization that expires on September 30. It involves appropriating money the administration has not requested. Those items raise some severe problems for me. I have due respect for the chairman, but those problems have to be worked out.

Mr. MAGNUSON. I understand that. I am just trying to work out an agreement.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. Mr. President, I address a question to the Senator from Montana. It is my understanding that his amendment is subject to the authorization bill that is coming from the Commerce Committee today. Is that correct?

Mr. MELCHER. That is correct.

Mr. STEVENS. Would the Senator have an objection to modifying his amendment to provide that the transfer of funds that would not be rescinded is subject to authorization?

Mr. MELCHER. Yes, I am glad to modify the amendment.

Mr. STEVENS. On that basis, I have no objection.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. MELCHER. Mr. President, I think that clears it up.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. MAGNUSON. I am willing to accept the amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

At page 128, line 9, strike "$75,000,000 are rescinded" and insert in lieu thereof the following: "$45,000,000 are rescinded: *Provided further*, That none of the funds restored by this amendment to the Rail Rehabilitation and Improvement Financing Funds shall be used for any purpose other than the purchase of preference shares and trustee certificates convertible to redeemable preference shares for the purchase of properties defined by section 505(h) (1) (B) of the Railroad Revitalization and Regulatory Reform Act of 1976, *Provided, however*, That funds obligated from this restoration shall not be expended prior to October 1, 1980, subject to authorization."

The PRESIDING OFFICER. The amendment is so modified.

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment as modified.

The PRESIDING OFFICER. Without objection, the amendment (UP No. 1330) as modified is agreed to.

The question now recurs on the Bradley amendment.

The Senator from New Jersey.

AMENDMENT NO. 1931

Mr. BRADLEY. Mr. President, I see the distinguished Senator from Louisiana standing, and I wonder whether he has any thoughts about this matter which he would like to share with the Senate.

Mr. JOHNSTON. Mr. President, I just want to make one thing clear. The language of the amendment is slightly ambiguous, and I should like to make sure that I understand what it means.

The word "only" is used on the third from the last line, where it says "only for such purposes." "Such purposes" there refers to purchase commitments and price guarantees. Is that correct?

Mr. BRADLEY. The Senator is correct. Purchase commitments and price guarantees—price guarantees to include price support loans and price supports as price guarantees.

Mr. JOHNSTON. I want to make sure that it is not only for the purpose of the urban waste program.

What the Senator is doing is making $250 million available, up to $250 million available, for urban waste; that for the urban waste program, you can only use it for purchase commitments and price guarantees; but that you do not have to use any of the $250 million.

Mr. BRADLEY. The Senator is correct. In that you do not have to use all the $250 million. But all the $250 million is available for municipal solid waste systems, to be spent in purchase commitments and price guarantees, with price guarantees being defined as price support loans and price supports.

Mr. JOHNSTON. The purpose of the Senator's amendment is that it is ambiguous under the Federal Nonnuclear Act, as to whether you can use that act for this program. Am I correct?

Mr. BRADLEY. Will the Senator repeat that?

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. JOHNSTON. The sum of $2.2 billion was made available in the Interior appropriations bill last year to fund the Federal Nonnuclear Act. As I understand it, there is some question as to whether the Federal Nonnuclear Act would include the purpose of urban waste. Am I correct that there is an ambiguity and that this clears up this ambiguity?

Mr. BRADLEY. The Senator is correct.

This makes explicit that these moneys can be used for price supports, price support loans, for urban waste energy systems, urban waste energy systems that involve combustion, and that are included in those eligible areas.

Mr. JOHNSTON. Mr. President, I believe that this amendment is fair. Of the ethanol program of $1.450 billion, $250 million was made available by title 2 of S. 932 for this purpose. If we do not adopt this language, we will have the anomaly of not being able to get started on this program—I think DOE has so interpreted it—whereas, you could get started on the gasohol program and on the synfuels program.

So I think this is a fair amendment and I hope the Senate will accept it.

Mr. DOMENICI. Mr. President, I ask the Senator from New Jersey so I will understand: This does not mandate or set aside exclusively money for the title II subtitle B program. Is that correct?

Mr. BRADLEY. It sets aside money for the title II program if DOE choses to exercise its authority under that program. It sets aside only for the purposes that we have described.

Mr. DOMENICI. But that is only as to the purchase commitments or price guarantees?

Mr. BRADLEY. Purchase commitments or price guarantees, as I have defined it in this colloquy, or for the eligible systems, as I have defined it in this colloquy.

Mr. DOMENICI. I guess the question I have is the $250 million could be used for something else? Maybe that is the way to put it.

Mr. BRADLEY. That is correct.

Mr. DOMENICI. I thank the Senator.

Mr. BRADLEY. It could be used for something else. The purpose of this is to encourage DOE to move into the area of municipal solid waste of energy with this explicit language.

Mr. DOMENICI. Or as I understand one of the Senator's concerns is to clarify because presently there are those who do not think it could be used for this?

Mr. BRADLEY. There are far too many people who think it cannot be used for this.

Mr. DOMENICI. I thank the Senator for clarification, and with that understanding I join with the Senator from Louisiana in commending the Senator. I think there would be a vacuum but for this and it does clarify for the Department of Energy that this fund is now available along with other objectives for the objective of the program described and limited as stated here. I thank the Senator.

Mr. McCLURE. Mr. President, the concern that I had has been clarified in the colloquy with the Senator from New Mexico. My concern was that reading the language might lead to the inference that this $250 million was taken from this fund and could be used for no other purpose than this particular program. With the understanding that the money is available not only for this but for any other purpose under that title I think it carries out the legislative intent.

I support what the Senator is doing by the amendment and I do hope the Senate will adopt the amendment.

Mr. BAYH. Mr. President, in discussing this matter with the Senator from New Jersey I think we have accomplished the purpose that he wants to accomplish and indeed I want to accomplish. We should change the "shall" to "may" and I would feel more comfortable if we are talking about the target to talk about $150 million instead of $250 million.

Mr. STONE. Mr. President, will the Senator briefly yield?

Mr. BAYH. I am glad to yield.

Mr. STONE. Mr. President, I commend the committee for noting in their report that UMTA has recently signed a full funding contract for the completion of the Dade County rapid transit system. The committee also directs UMTA to use this supplemental appropriation to fund the Dade project in a manner consistent with the full funding agreement. This agreement calls for $160 million for fiscal year 1980, of which UMTA has made available only $120 million. I would urge UMTA to make the additional $40 million available to fully fund the construction of this much needed system.

Mr. President, the completion of this transit system will not only provide Dade County with an important transportation alternative in a congested area, but will also provide many construction jobs. The recent civil disturbances in this area have underscored the need to make available employment opportunities, especially in the inner city area. The construction of this system will provide much needed jobs for minorities and minority contractors.

Mr. BAYH. I thank the Senator from Florida.

Mr. STONE. I thank the Senator from Indiana.

Mr. BAYH. What we want to do, of course, is to develop a wide variety of technology as to solid waste. This technology is just around the corner. What I hope we do is to send the signals to DOE that moneys are available and may be used for the present technology which is basically a combustion technology but that this should not be done at the expense of continuing to develop the technology which is right around the corner of moving further to take the garbage and the solid wastes that have cellulose and turning that into liquid fuel where we really have a shortage. That process is in the laboratory. It is out in two particular pilot projects now. They are just getting started. I hope we will send signals to DOE, all right use this money now up to a certain amount for combustion but do not do that at the expense of moving forward in the development of more sophisticated technology for the use of that same kind of basic feedstock.

Does the Senator from New Jersey have objections to changing the "shall" to "may" and the "$250 million" to "$150 million?"

Mr. BRADLEY. Let me assure the Senator from Indiana that I prefer it to be $250 million, but if it is helpful to get his acceptance of this I have no problem reducing it to $150 million and replacing "shall" with "may" to be available for purchase commitments and price guarantees including price support loans as defined under S. 932.

Mr. BAYH. I appreciate the willingness of the Senator from New Jersey to change his amendment.

I pledge to him on my behalf and as much as I can for the entire Alcohol Fuels Commission, which has been studying this, that we look at solid waste conversion as a bonanza as an energy find that we have never witnessed in this country before.

And a big chunk of that is going to come from municipal waste and we should be moving as rapidly as we can to develop the most sophisticated technology for cellulose conversion and without getting into an extended discussion of this, the hearings we had just last week show that the technology which is now being envisioned is really elementary compared to some of that that was discussed by Barry Commoner and some of the other witnesses which unlock a pentose kind of cellulose conversion that we do not need to bore the Senate with right now.

Mr. MAGNUSON. Mr. President, in view of the colloquy, in view of the amended version of the Senator from New Jersey and if the Senator from North Dakota is agreeable then I am willing to accept the amendment.

Mr. YOUNG. Mr. President, I think all the differences have been resolved on this side and I have no objection.

Mr. BAYH. Has the Senator technically changed his amendment as we have discussed?

Mr. BRADLEY. I have modified the amendment, and sent it to the desk.

Mr. BAYH. I thank the Senator.

Mr. BRADLEY. I move the amendment as modified.

Mr. BAYH. If the Senator will yield, I apologize for causing him this concern. I think we are on the same wavelength which is of course the right wavelength, I hope. I just did not want to have language go in there that would confuse the situation and I appreciate his interest in this, and that is all I can say.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modified amendment is as follows:

On page 78, line 22, after the word "commitments", insert the following: ": *Provided*, That of the $1,500,000,000 made available to the Department by Public Law 96-126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932).".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

(Putting the question.)

The amendment (UP No. 1931), as modified, was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the committee amendment.

Mr. MAGNUSON. Mr. President, before he reads the amendment, we have disposed of five or six amendments which were not as controversial as the ones now coming up. We agreed last night we would take up the committee amendment which deals with revenue sharing at this time and I expect there will be a lot of discussion on it.

The PRESIDING OFFICER. Under the previous order the Senator from Connecticut is recognized.

COMMITTEE AMENDMENT

Mr. WEICKER. Mr. President, will the clerk state the committee amendment?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 73, beginning with line 11, insert the following:

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1980, $572,140,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

Mr. WEICKER. Mr. President, I have an amendment which I intend to offer on behalf of Mr. DURKIN, Mr. BAKER, and myself to restore $572 million under the general revenue sharing program for fiscal year 1980.

There are several sound economic reasons for restoring these funds. First, our economy has gone into a deep recession which has created severe financial hardships for most State and local governments. While the State and local sector ran a surplus of $1.6 billion in 1979, this year presents a drastically different situation. For the first quarter of 1980, the Bureau of Economic Analysis at the Department of Commerce has reported that the State and local sector of the economy was in deficit by $4.2 billion. This figure is expected to double in the second quarter.

Second, general revenue sharing was authorized by Congress in 1976 as an entitlement program.

At that point the Congress made a firm financial commitment to the States. To cut these funds now would show bad faith on the part of the Senate. State legislatures have already appropriated these funds for expenditure in accordance with their understanding of the entitlement nature of this program. Such an abrupt action as cutting half of the remaining fiscal year 1980 State share will cause budgetary chaos in many States and since the amendments of last night, in some 39,000 county and municipal governments. The 39 State legislatures which have already adjourned, may be forced to hold special sessions in order to find ways to make up for the potential revenue shortfall brought on by this rescission.

Mr. President, it has been argued that the States no longer need fiscal assistance under revenue sharing because of the large surpluses they have registered over the last few years. Although it may appear that the States have been on solid financial ground, that impression is somewhat deceiving.

During 1978 the total of all State budget surpluses was roughly $27 billion. However, when the fiscal condition of each of the States was closely examined, most of this sum existed in three States: Alaska, California, and Texas. All of these States are either major food or energy producers. Therefore, all of these States experienced rising revenues as a result of effect of inflation on the price of these commodities. Clearly, these States are not typical of the rest of the country.

By and large most of the States have been operating on tight budgets. Generally, State constitutions prohibit deficits; therefore, they are forced to balance revenues with expenditures. Furthermore, many States are required to keep reserve funds as a buffer against cyclical declines in revenues without which mandated expenditures might force States into illegal deficit spending.

Proponents of this rescission have also argued that this action is warranted because many States have reduced taxes. Although some States have passed tax cuts during the past few years, most cuts have been designed for specific purposes. For example, in the Northeast, tax cuts were aimed at stopping the flow of population and business to lower tax areas. High taxes were preventing local economic growth and development. In other regions, property tax relief was targeted to special groups rather than to provide general tax relief. Generally it was the poor, the near poor, the elderly, and the disabled who benefited.

Mr. President, before the Senate considers cutting these funds, it is important to review how they have been used by the States. The Secretary of the Treasury has testified before Congress that State governments pass through an estimated 60 percent of State general revenue sharing funds to local governments. These funds have subsequently been allocated in the following ways: 32 percent went to education; 26 percent went to social services such as care for the aged and mentally ill, emergency medical services, and environmental services; 15 percent went to capital improvements, such as hospitals, vocational-technical schools, correctional facilities, and libraries; 15 percent went to cover the cost of retirement benefits for State and local government employees; and only 3 percent went for tax rebates and reductions.

In my own State of Connecticut, 86 percent of the State's share is used to provide outpatient care, training and educational activities, occupational therapy, and community services and outreach efforts in mental health care centers and State hospitals.

As the Advisory Commission on Intergovernmental Relations and others have noted, the Federal Government often imposes mandates upon State and local governments without determining the cost of these mandates or providing adequate Federal funding to comply with them. "There are few who would question the desirability of such national goals as fair treatment of all races and sexes, pure air and water, preservation of historic sites, access to governmental information, or citizen participation," the Commission says. "Yet requiring conformance with these and other goals as a condition of receiving Federal funds has placed a great administrative burden on recipients of Federal aid." A recent University of California-Riverside study identified 1,260 Federal mandates, of which 80 percent have been imposed since the enactment of revenue sharing. In the view of State and local officials, revenue sharing helps to compensate for these mandates, the cost of which would otherwise be borne by State and local taxes.

As the recession deepens, local governments will be hard pressed to maintain adequate services. Because of ever increasing inflation localities will be forced to lay off workers in an effort to stay within budget constraints.

Ultimately it will be the individual taxpayer who will be asked to pay the difference. Higher sales and property taxes will be needed by State and local governments in order to make up this potential revenue gap.

The Senate Budget Committee and the entire Senate have already voted in three separate budget resolutions, for full funding of general revenue sharing in fiscal year 1980. In July 1979, the Senate voted the full appropriation for general revenue sharing by a 2-to-1 margin. The will of the Senate on funding revenue sharing is well established and should once again be affirmed by adoption of this amendment.

The proper time for debate and votes on altering the general revenue sharing program is in this year's consideration of the program's renewal. Finance Committee hearings have been held and a full debate on all revenue sharing issues will occur as legislation moves through the committee and onto the Senate floor. The appropriate place for program reductions and revisions is the reauthorization process, not this supplemental appropriations bill.

Mr. President, I ask unanimous consent at this point that a statement by Senator BAKER in support of my amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BAKER. Mr. President, I support the efforts of the Senator from Connecticut (Mr. WEICKER) which seek to fully restore State participation in the general revenue sharing program, which the Appropriations Committee had reduced.

I am not surprised that revenue sharing was targeted for budget reductions. The program has no well-organized constituency to fight for its preservation. Its ultimate beneficiaries are not an organized interest group.

But those beneficiaries, Mr. President, are the millions of American taxpayers. And they will be poorly served by reductions in this program. I urge the Senate, just as I know our late colleague, Hubert Humphrey, would, not to allow these reductions to take place.

The two pillars of Government power are revenues and regulations. The National Government has steadily supplemented its revenues through new taxes and consolidated its control over the lives of our citizens with a maze of new regulations which threaten the very core of American productivity.

Revenue sharing is the only program enacted in the last 40 years which reverses the flow of this power. It is the only mechanism we have devised to place our resources in the hands of those best qualified and best able to use them effectively—the State and local governments.

It has been said that, had the States not existed before 1787, we would have had to invent them. It is impossible to govern this Nation from a central location. No government can competently address itself to the variety of circumstances and needs of our continental Nation.

Our federal system provides a flexible mechanism for effective government. Yet, through concentration of revenues and regulations, we are sapping the strength of this mechanism. Without revenues, States are powerless to address their need and circumstances. Unable to solve their own problems, they turn to the Federal Government. Thus, we are caught in a vicious cycle: Denying States the resources they need we compel them to seek Federal aid, aid this Government has proven unable to provide with any measurable degree of proficiency.

In the supplemental appropriation, we have gone even one step further. We have reneged on a commitment to return to the States funds upon which they have based a great many budgetary decisions, funds which should never have been in the possession of the Federal Government in the first place.

If the Senate upholds this cut, we will be saying to the States, "You can no longer trust the Federal Government." We will be saying that longstanding policies will be cast aside in the face of immediate compulsions; that short-term political costs are of a higher priority in this body than our commitment to our constitutionally mandated Federal system.

I do not want to send them this message. It is one that has been sent all too often in recent years.

There are alternative reductions which, although painful, I would be willing to support in order to preserve the integrity of the budget process.

But I believe that we would be doing a greater disservice to the Nation if we do not restore full funding of general revenue sharing.

We must do our utmost to preserve the fiscal flexibility and overall ability of the State governments to act reasonably and intelligently. We deny them this opportunity when we cut funds in the middle of the fiscal year. When we compel them to cancel programs arbitrarily; when we prevent any possibility of an orderly transition to a reduced level of funding.

I, for one, am not prepared to sacrifice general revenue sharing and the principles for which it stands to the spending priorities and wastefulness of the Federal bureaucracy.

By all standards of fairness, Mr. President, we cannot do this to the States. The repercussions will haunt us for many days to come and do irreparable damage to this Government's relations with the States.

I urge my colleagues as strongly as I can to support the amendment of the Senator from Connecticut.●

Mr. WEICKER. Now, Mr. President, I would like to make clear on the floor exactly what form will be used in restoring these funds to the supplemental appropriation bill. It will be my intention at an appropriate time, and all those who care to be heard will have been heard, to move, pursuant to rule XVI, to make the point of order that the committee amendment is non-relevant and, therefore, out of order. That vote, in effect, will be a vote on revenue sharing. Should the committee amendment be declared nonrelevant, then clearly the bill will be subject to a point of order by the Budget Committee.

It would be my intention at the time that that point of order is made to ask for a budget waiver. It is not my intention, therefore, to ask for any specific corresponding cuts to make up the $572 million. This was the approach discussed with many of my colleagues during the past week. I found in my own reasoning on this matter that what is involved here is the word of the U.S. Senate. A commitment was made. The commitment should be honored. It is not a question, after a careful budgetary process, to go ahead and knock out this area or that area. I have many disagreements with the actions of the Appropriations Committee. I have disagreements with the foreign operations tactic to bring forth an appropriations bill, in effect, on the back of a supplemental appropriations bill.

I have a great deal of difference with the excessive amounts asked in the name of Mount St. Helens disaster.

I have disagreement on the matter of coastal energy impact funds being requested by the Senator from Louisiana.

I have disagreements with the excessive funds put into this bill in the name of the Cuban refugee assistance.

But these matters have been deliberated at length very carefully by the committee, and they have been included in this bill, and I do not feel it is up to me to go ahead and wipe that record out in the sense of another good—maybe not a greater good, but certainly another good. But the fact is what we are talking about here is a commitment made by the Government of the United States, its executive and legislative branches, and whether or not we are going to live up to it. We are not talking about 1981, we are talking about whether revenue sharing should continue or how it should be structured in the future. We are talking about that amount of money which is relied upon by the various governments in the sense of carrying out the business of their States and local communities, a reliance based upon the promises made to them by the Government of the United States.

I think that is exactly what budget waivers are meant for, not to create new programs but to live up to the commitments that we have made.

So, again, I want to make clear what the tactic will be: it is that I intend, at the appropriate time, to make the point of order that the committee amendment is not relevant. I hope I will be sustained in that. If I am sustained in that, it, admittedly, will put the budget out of whack. I will then ask for a budget waiver to accommodate the $572 million that will be required to continue the revenue sharing for the remainder of fiscal year 1980.

Now, I know that there are those who care to speak and I would like to yield. I will either yield for questions or I will certainly yield if I do not lose my right to the floor if unanimous consent is agreed to in that regard.

I hope my colleagues will understand that is is necessary to maintain this position I have in this debate, vis-a-vis holding the floor and being able to make the point of order, which, once it is made, is nondebatable. I want to make sure everybody is heard. I am not here for extended debate purposes and I am not here to close anyone out.

I just want to make certain that I can make that motion and nothing is going to intervene in the meantime as we set forth the course of action and try to bring these funds back into the budget.

Mr. DURENBERGER. Will the Senator yield to me for approximately 5 minutes?

Mr. WEICKER. I am glad to yield to the distinguished Senator from Minnesota (Mr. DURENBERGER) if I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, as the Senator from Connecticut has well indicated, it was 4 years ago that this Congress renewed its contract with State and local governments to share approximately $6.9 billion in tax receipts each year through fiscal 1980. The 39,000 local governments have used the funds wisely and have fulfilled their end of the contract and seems to me that today we can do no less.

The revenue sharing program was enacted as an entitlement program to provide for some certainty. Congress action 4 years ago encouraged State and local governments to budget the funds wisely for necessary services. The States acted in good faith. They have not squandered the money; it is Congress that is prepared to squander its promise, to renege on its contract.

And, as the Senator from Connecticut well pointed out, the commitment was made, the commitment must be honored.

The supplemental bill before us today would cut in half the payment to be made on July 5 just 9 working days from now. Instead of sending out checks totaling $572 million, the Office of Revenue Sharing will be sending payments of $286 million.

In my State of Minnesota, the State government, and counties, cities, and townships will lose $5.7 million. The State has already budgeted these funds for medical services for the poor and elderly and the local governments are counting on their shares for a variety of essential services. The Minnesota State Legislature has adjourned and, according to the constitution, cannot come back into session.

Mr. President, I cannot justify the elimination of these services. I cannot equate the damage inflicted on the land and waterways of the Pacific Northwest by Mount St. Helens with the damage we are prepared to inflict on the elderly, the poor, the mentally ill, and the sick who depend on services provided by general revenue sharing funds.

The State of Washington would not carry the burden of a natural disaster alone—and it should not—and no one is proposing that we not provide assistance for the cleanup. But, the burden of Mount St. Helens must not be shifted from the State of Washington to the Nation's poor and elderly, as this proposal would have us do.

Nor can I justify eliminating essential services to increase allocations for refugees or foreign aid. This, to me, is no more than robbing Peter to pay Paul.

Let me remind my colleagues that State aid to local governments in this country far exceeds all Federal aid to State and local government combined. Forty percent of the State revenue-sharing funds go to local aid; and a cutback in these funds will have serious consequences.

Eighty-five percent of the State revenue-sharing funds are committed to current public services, including mental health programs in States like Alabama, Michigan, and Connecticut. A number of States use revenue sharing to assist the elderly, including California, Hawaii, and Rhode Island. Mr. President, the list of appropriate and necessary services funded by revenue sharing is as long as the list of States.

Many of my colleagues in the past have argued that States do not need revenue sharing. This is the old budget surplus argument. It was valid for awhile for a few States, particularly those which are the producers of energy fuel, but that was before the recession. That argument ignores the facts.

In Minnesota, through the first 11 months of fiscal year 1980, the general fund net revenues were $21 million below the January 1980 revised estimates. The current general fund balance is minus $17.3 million; if revenue sharing is trimmed according to the supplemental bill, the deficit will exceed $28 million. Revenue from Minnesota sales tax is 1.4 percent less than in January 1980 and the revenue from the corporate tax is a full 8 percent less than it was at the beginning of this year.

But if Minnesota is in trouble with the diversified economy, the problems of finding State and local government delivery of human services is even greater in States like Michigan and Pennsylvania and even the State of Idaho. The problem is much, much worse, and it is well outlined in an article in the June 18, 1980, Wall Street Journal.

Mr. President, I ask unanimous consent that that article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Recession Hurts States as Their Income Slows While Expenses Jump

(By Daniel Hertzberg)

The recession is pummeling many state governments.

In Michigan, where the big auto industry is caught in a deep slump, unemployment is approaching 15 percent. As unemployment lines grow, state tax revenues aren't keeping pace with inflation. And projected welfare costs for the budget year beginning next October have jumped $100 million since Jan. 1.

The result: Michigan's "rainy day" fund, which was laid away earlier to be used in hard times, will be exhausted this fall.

"The old-timers tell me that this is the worst budget situation Michigan has had since the Depression," says Gerald Miller, the state's budget director. On June 9, Standard & Poor's Corp. cut the rating of Michigan's bonds to A-plus from double-A, a move that will increase the state's borrowing costs. Standard & Poor's cited the "uncertain future" for Michigan's auto makers and the potential for further economic difficulties in the state. Michigan's governor, William Milliken, says:

"This economic downturn isn't of our making, yet we're bearing the brunt of it."

HARD AND FAST

The laments of Michigan's officials are echoed in state capitals all around the country. In a recession, state governments generally get hit hard and fast. Their tax revenues plunge as personal income drops and residents cut back on purchases. At the same time, expenditures for welfare, Medicaid and unemployment compensation all rise. All this bodes ill for hard-pressed cities and local governments, which typically are sustained in part by large sums from state coffers.

The outlook for state budgets is "bleak," declares Vermont's governor, Richard Snelling, chairman of the National Governors Association's fiscal-affairs committee. A study by the association says that in the year ending June 30, state revenues are declining by 0.4% in real, or inflation-adjusted, terms while spending is growing by 2.4% in real terms.

Unlike the federal government, most states must operate in the black regardless of economic conditions. All but two states—Connecticut and Vermont—have laws forbidding deficit spending. Because of those requirements, most states have generally sought to maintain a modest surplus in general-fund accounts. However, in fiscal 1980 state governments expect year-end budget surpluses to fall to $7.5 billion from $10 billion in fiscal 1979.

Three states—Alaska, California and Texas—account for $3.6 billion, or 48%, of the projected surpluses. "Because the state of California has big reserves, the idea got around everybody had big reserves," complains Gov. Dixy Lee Ray of Washington. Vermont's Gov. Snelling says it is possible that in 1981 "state governments, in the aggregate, will have the largest deficit they've ever had."

CUSHIONS GONE

One factor behind the dismal projections is taxes. Over the past couple of years, states profited as their tax revenues surged because of inflation; in turn, mindful of the national tax revolt that followed California's tax-cutting Proposition 13, many states lowered taxes to reflect their recent windfalls. According to the Tax Foundation, a non-profit research organization, states reduced their tax levels in 1978 and 1979 by a total of $4 billion or more annually.

In addition, some states are hobbled by tax or spending limits inspired by Proposition 13. In 1979, for instance, new state or local tax and spending limits were imposed in 12 states.

All this has left some states without a revenue cushion to soften the blows of the recession.

Another important factor in states' fiscal plight: Congress voted this month to eliminate the states' portion of federal revenue sharing, which amounts to $2.3 billion a year, but to continue the local share. Such aid, Treasury Secretary G. William Miller told legislators, "is a good place to tighten our belts." Many Congressmen agree.

Of course, some states are getting hit harder than others, as was the case in the 1973–75 recession. That downturn was "essentially a regional recession," says John Shannon, assistant director of the Advisory Commission on Intergovernmental Relations, an independent federal agency financed primarily by Congress. "They felt it hard in Detroit but very little in Dallas." Older manufacturing areas, he says, "took it on the chin."

Likewise, in the 1980 recession, Mr. Shannon predicts that "stress will be considerably greater in so-called declining areas of the Northeast" and the Middle Atlantic states. Sun Belt states, by contrast, are growing at healthier rates than those in the Snow Belt and will benefit more from rising federal outlays for defense.

WINNERS AND LOSERS

During the current recession, Mr. Shannon says, energy is likely to aggravate U.S. regional differences. "The big winners," he says, "could be energy-producing states, the big losers the energy-consuming states of the Northeast and Midwest." Alaska over the next 10 years expects $53 billion in budget surpluses thanks to its oil-tax windfall.

Michigan's Gov. Milliken sees "a great danger" that Northern industrial states will bear the brunt of the recession unless Washington is "sensitive" to their plight. Bearing out that fear, a recent report by Merrill Lynch, Pierce, Fenner & Smith Inc. included Michigan in a list of states likely to be hit hardest by the economic downturn and loss of federal funds. The other states: Delaware, Illinois, Indiana, New Jersey, New York, Ohio, Pennsylvania and Rhode Island.

Fearful of the downturn they knew was coming, Pennsylvania officials in the past year cut 2,500 jobs from the payroll. Still, "maybe we weren't pessimistic enough," says Robert Willburn, budget secretary. State officials now are calling for elimination of 1,000 more jobs and for cutting 80,000 people from the welfare rolls.

There is pessimism a plenty in Idaho, where, in 1978, voters approved a property-tax ceiling modeled on Proposition 13. Since then, fallout from the national economic slowdown has struck the state with unexpected force. The state's lumber and timber operations, says Gov. John Evans, are "closing right and left" as the housing industry slumps. Tourism, a major Idaho industry, is down 10 percent to 25 percent because of high gasoline prices. Sales-tax growth is lagging behind inflation.

Idaho had a small surplus of $10 million to draw on, in contrast with California's $4 billion. As a result, Gov. Evans says, "we've had to substantially cut back programs" to provide $30 million in budget relief to local government hit by the property-tax ceiling.

Gov. Evans and officials in other states hit by tax cuts may take some consolation from recent events in California. In that state, seemingly a taxation bellwether, citizens in a June 3 referendum voted down Proposition 9, a measure that would have cut California's personal-income-tax rates in half. Before the referendum, William G. Hamm, the state's nonpartisan legislative analyst, said that approval of the proposition would result in "significant cuts in state services."

Still, there is no question that California and other states will be operating with leaner budgets for a long time. That means the possibility of substantial changes in the way states conduct their business. As the pace of federal aid slows, for example, state and local governments may prove much more assertive in resisting federal spending mandates unless those mandates are backed by federal dollars.

In the style of financially pressed big cities like New York, states are likely to emerge from their current bind with much of the fat removed from their work forces. That isn't good news for some state employes; but, observers say, citizens can take heart from less cumbersome, and correspondingly less expensive, public payrolls. The recession, therefore, says Mr. Shannon of the Advisory Commission on Intergovernmental Relations, "isn't a picture of unrelieved disaster."

Mr. DURENBERGER. Mr. President, according to the Bureau of Economic Analysis of the Department of Commerce, the State-local sector of the economy was $4.2 billion in debt during the first quarter of 1980, before the recession's impact was felt. Second quarter statistics indicate that the deficit is close to $11 billion. Private sources indicate that even in a mild recession the deficit will rise to almost $17 billion.

We even have the specter of municipal bankruptcies facing us in this country. I recommend to my colleagues an excellent analysis of this problem in the June 1980 issue of Dun's Review. I ask unanimous consent that that article be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINANCIAL CRUNCH FOR STATES AND CITIES

While the federal government has been awash in red ink for the past decade, one of the few bright spots in the nation's fiscal picture since the recovery from the 1973–75 recession has been the healthy balance sheets of state and local governments (chart, page 65). But the situation began to deteriorate last year, and this year the states and localities could run up a total deficit of as much as $10.8 billion, according to Data Resources, Inc.

Next year, the situation will be even worse. Under the hammer blows of a recession and a proposed slash of $6 billion in federal aid, the state and local deficit in 1981 could soar to as much as $17 billion, compared to just $6 billion in the last recession, projects DRI. "The fiscal situation of state and local governments will be very bad, rivaling the 1973–75 recession, if not worse," warns Robert Rafuse Jr., Deputy Assistant Secretary of the Treasury for state and local finance. "The spending cuts will aggravate the situation, since they are timed to hit in the first quarter of 1981, which is likely to be near the bottom of the recession." As far as business is concerned, the budgetary bind could bring on either onerous new taxes or a major cutback in vital public services or both.

Between 1957 and 1977, Washington showered state and local governments with its largesse to the tune of an incredible 463% rise in two decades after adjusting for inflation (chart). But in the five years between 1977 and 1982, federal aid is expected to decline 17% in real terms. And the states and localities are in no position to fill the gap.

The impact is likely to be uneven, with the older industrial states of the Northeast and Midwest bearing the brunt of the problem and the Sun Belt states coming through relatively unscathed. Already in economic trouble, the older manufacturing areas, which are heavily dependent on the hard-pressed steel, automobile and rubber industries, are likely to be hit hardest by the recession, and their major cities could be faced with bankruptcy.

TOUGH CHOICES

The situation is bound to present tough choices for governors and mayors. They will either have to cut services—education, welfare, health, to name a few—in the face of rising unemployment or raise taxes, which, in view of the national tax revolt, is probably politically impossible. Floating more bonds is unlikely to be a viable option because the debt instruments of the beleaguered states and localities are likely to be rapidly downgraded so that there will be few takers. "If the troubled cities are as politically unstable as was Cleveland, ten or twelve could easily slip over the edge," contends municipal finance consultant Philip Dearborn.

Historically, states have always been particularly vulnerable to recessions because of their heavy reliance on income taxes, which decline with the economy. During the last downturn, however, a thick cushion of accumulated surpluses helped ease the blow of declining taxes and rising spending requirements. This time, inflation and the recent spate of tax cuts have depleted those surpluses, so that experts fear a number of states will find the going considerably rougher.

The ratio of state surpluses to spending will shrink from 8.7 percent in 1979 to 5.8 percent this year, according to the National Governors Association. More significantly, if Alaska, Texas and California, which account for nearly half of the total surpluses, are excluded, the ratio shrinks to 3.7 percent—well below the generally accepted "danger point" of 5 percent. Altogether, 29 states are expected to end the year with ratios under 5 percent, up from fifteen in 1979, and seventeen states will dip below 2 percent, up from nine last year. Among those with the very lowest ratios are New York, Michigan, Massachusetts, Connecticut, Pennsylvania, Alabama, Arkansas and Tennessee.

SHRINKING FUNDS

Beyond the states' operating funds, which are used to support basic services like police, prisons, education and health care, special funds are also in trouble. The Census Bureau reports that motor fuel levies—which are used to build and repair highways—have declined by 6.8 percent since 1975 because of lower gasoline consumption. Moreover, civil service pension funds in most states are severely underfunded. The shortfall is between $150 billion and $175 billion, according to The National Governors Association.

Aggravating the situation, of course, are the expected cuts in federal aid. If the President's proposals are endorsed by Congress, the 1981 cuts will include $1.7 billion in general revenue sharing and about $2 billion-to-$3 billion in antirecession aid, welfare assistance and grant programs ranging from education aid, housing grants and public service jobs to mass transit aid and crime prevention assistance. The House budget resolution basically reflects the President's proposals, while the Senate's cuts grant aid more deeply and includes $700 million for revenue sharing.

It is generally agreed that these cuts would not in themselves be enough to push any state over the fiscal edge. Indeed, revenue sharing only accounts for a little more than 1 percent of the total state budgets, and about 40 percent of it is passed through to local governments. Similarly, the grant cutoffs only account for a small percentage of total state budgets. But experts caution that the timing of the cuts is particularly bad.

The immediate impact of the revenue sharing cutoffs on the state level will be the postponement of about $500 million in planned capital investments, says Raymond Long, executive director of the National Association of State Budget Officers. That will not only intensify the downward trend in capital spending resulting from inflation and the troubled bond market, it will also accelerate the falloff in revenues caused by the recession, Long maintains. "Every dollar in construction generates about three-to-four times as much in economic activity, and 35 cents-to-40 cents more in tax revenues," he explains. "If the recession is as deep as 1973–75, this drop will contribute to a much slower rate of recovery."

Even more significant than the loss of revenue sharing is the cutoff in grant money, according to Long. "State resources just won't permit picking up additional spending burdens in a period of declining revenues. States that have the ability to raise taxes will do so. [Twenty-two states are presently considering tax hikes mostly of the motor vehicle and sales tax variety.] But more often than not, what we will see is a decline in the level of service, and further reductions in the size of the public sector work force."

Of course, the brunt of the recession and federal budget cuts will not be felt evenly throughout the fifty states. The nation's "little OPEC" states—Alaska, Texas, Oklahoma and Louisiana—are awash in cash and expect further windfalls in tax revenues from oil decontrol. Alaska, which expects a whopping budgetary surplus of $1.5 billion of this year, has so much money from its lucrative North Slope drillings that it recently decided to eliminate its personal income tax, and rebate an estimated $130 million to taxpayers this year in a "share-the-wealth" plan. Similarly, Texas estimates that unanticipated increases in oil and gas taxes will more than offset declining revenues due to the recession and federal aid cuts.

Other states not likely to be severely hurt include such natural-resource-rich ones as Montana, Colorado and Wyoming, which are expected to end the year with surplus-to-spending ratios of 8.4 percent, 16.4 percent and 17 percent respectively. Also well prepared for the downturn are major food-producing states like Kansas, North Dakota and Nebraska.

It's a far different story in the older manufacturing states. Faced with drastic layoffs throughout the auto industry, Michigan is clearly in the deepest trouble. With unemployment already over 12 percent, Budget Director Gerald Miller estimates that Michigan will have to raise taxes or cut spending substantially in 1981 just to cope with the recession. If the President's proposed cuts are approved, an additional $200 million will be needed. With the strong anti-tax mood now dominating the state, Miller puts prospects for tax hikes between "slim and none," and predicts instead deep cuts in the state's health, education and welfare programs.

Other states particularly sensitive to the downturn are Ohio, which depends heavily on auto parts manufacturing, and Pennsylvania, whose economy is closely tied to the troubled steel industry. To balance their budgets, both states are opting for spending cuts rather than tax increases, which are politically unpopular. Pennsylvania is considering layoffs, cutting some 80,000 welfare recipients from the rolls and curtailing aid to localities, which is used mostly to support education, says Deputy Budget Secretary Robert Bittenbender. Ohio Budget Director William Keip maintains it is too early to tell where his state's cuts will be made.

Massachusetts, New York and New Jersey will also be hurt, although probably not as badly as during the last recession. The reason is that all three states have since diversified their industrial bases, moving from manufacturing to less cyclically sensitive service industries. In addition, state officials have been more fiscally conservative so that spending is under better control than it was during the last recession.

More vulnerable to this downturn than past ones, however, are states like California, whose revenue-raising powers have been severely restricted through tax cuts and spending limitations. Proposition 13, the recession and federal aid cuts are expected to shrivel this state's projected 1980 surplus of $1.8 billion to just $112 million by mid-1981. And First Boston Corp. estimates that if "Jaws II," which would halve the state's income taxes, passes, state tax revenues would be slashed by almost $5 billion, pushing the budget deep into the red, and significantly impairing the state's credit-worthiness.

TROUBLED ALABAMA

Also in trouble are states like Alabama that have over the years failed to raise taxes in line with expenditures. The state will be $15 million in the red this year unless taxes are raised or spending cut, maintains former finance Director David Bronner. Moreover, if the President's proposed cuts are approved, Alabama will lose an additional $36 million next year, approximately 10 percent of its planned budget. To extricate themselves, state officials are considering cuts in Medicaid payments and increases in taxes on gasoline, alcohol, cigarettes and corporate profits.

In similar financial binds are Tennessee and Arkansas. Tennessee plans to eliminate some 3,000 state jobs, cut Medicaid payments by $5 million and reduce planned highway construction. Arkansas is planning a 5.6 percent across-the-board spending cut, coupled with a tripling of its motor fuel taxes.

But while many states will face tough political choices as a result of the recession and the aid cuts, none is expected to actually default. On the other hand, many experts fear that a number of the nation's older cities could actually go belly up. "We will probably see more defaults or what amounts to defaults in the declining regions of the country—the industrial Northeast and Midwest," says Roy Bahl, director of Syracuse University's Metropolitan Studies program. "If we have a recession like the last one, it will be devastating. But even with a mild downturn, many of these cities will be on the edge because of inflation."

A recent survey of 302 cities by Congress' Joint Economic Committee revealed that expenditures are growing faster than revenues in cities of all sizes. As a result the percentage of these cities with operating deficits has increased from 30.3 percent in 1978 to 45.4 percent in 1979, and is expected to hit 56.3 percent this year.

REVENUE LOSSES

On the revenue side, the problems are myriad. Historically, cities have depended more on property taxes, which are considered less sensitive to recessions, than on sales and income taxes. But since the last downturn, many more cities have imposed income and sales taxes to fill the revenue gap. And these receipts are certain to slide with the economy. In addition, tax limitations recently enacted by many states have restricted cities' revenue raising power. And a distressed bond market has made it costly if not impossible to market debt securities for capital projects.

On top of that, of course, come the federal aid cutoffs, including some $2 billion in grant money and about $700 million in state revenue sharing, which in past years has been passed through to local governments. These cuts are significant to the cities because of their increasing reliance on federal funds for operating expenses. As a share of total revenues, federal aid to localities rose from 2.8 percent in 1968 to 13.2 percent in 1978, with at least 28 cities topping the 20 percent mark.

While the growth in federal aid has been declining since then, federal grants still account for a significant share of many municipal budgets, and reducing them will necessitate some painful adjustments. Worst hit will be older cities in the Northeast and Midwest that have been using federal dollars for essential services like police and fire. For the nation's newer Southern and Western cities, the cuts will force reductions in social programs and capital investment.

On the expenditure side as well, the nation's urban centers are beset with problems. As major purchasers of energy, construction materials, food and other supplies, inflation has hit them particularly hard. Moreover, pent-up wage pressures are likely to push costs up even further in the months ahead. "The most frightening thing of all is the fact that since 1973, there has been only one year when public employee compensation has increased as fast as the Consumer Price Index," points out Bahl. "If there is a catch-up, we can expect something like what happened in the late 1960s: cities facing enormous wage pressures at a time when available resources are declining."

Taking all these factors into account, analysts generally agree that the healthiest cities are located in the South and Southwest—among them, Atlanta, Miami, Houston and Dallas. Similarly, if California's voters reject the tax-slashing "Jaws II" proposition, the Golden State's cities are also expected to weather the recession and federal aid cutting pretty well. But if the proposition passes, California's cities could be in a position similar to their Northeastern and Midwestern counterparts, which are sure to be hardest hit. The cities in the most precarious position, in Philip Dearborn's view are: New York, Chicago, Philadelphia, Boston, Detroit, Cleveland, Baltimore, Newark, Buffalo, St. Louis, Pittsburgh and New Orleans.

Whether these cities actually default, of course, depends on how well they cope with their problems. The options are politically thorny, but clear: cut programs, lay off workers, postpone capital expenditures, convince the federal government to restore some of the proposed spending cuts.

Whether Washington would step in with more aid if bankruptcy threatens is debatable. Presently, the sentiment is to let the cities and states fend for themselves. There is considerable support for eliminating, or at least scaling down, revenue sharing to the states, as well as for major cuts in grant money.

Similarly, there is little backing for President Carter's early spring proposal—popularly known as the "New York State primary amendment"—which would provide $500 million a year for two years to help cities whose state aid has been cut as a result of the elimination of federal revenue sharing to the states.

Still, Congress could change its mind if the cities got in deep financial trouble, and the states could not or would not bail them out. As the Treasury's Rafuse sees it: "If the recession turns out to be as mild as the government has forecast, the Administration and Congress will probably stick to their guns. But if it is worse, as I personally expect, all bets are off, and present decisions will have to be rethought."

Gambling on just such a shift, state and local lobbyists are fighting hard to preserve at least some of the threatened federal aid programs. But even if they win this round, most of the lobbyists concede that cities and states can no longer count on federal dollars to finance ever-expanding services.

LEANER TIMES

"There is no question that we have reached a turning point," says Alan Beals, executive director of the National League of Cities. "Federal aid to cities and states as a share of the Gross National Product has not only topped out, but is declining. Assuming that we are entering a decade of severe limits, we must now begin to sort out the appropriate role for the federal, state and local units of government."

Clearly, that task will not be easy. The cities and states will be fighting for the most flexible aid programs, particularly revenue sharing. Congress and the Administration, on the other hand, will be pushing for more targeted programs that offer better administrative control and more direct political payoffs. What they will probably end up with is not a choice between the two approaches, but a good deal less of both.

Mr. DURENBERGER. Mr. President, Minnesota and most other States cannot afford this loss of revenue any more than the State of Washington and other States in the Northwest can afford the entire cost of cleaning up after Mount St. Helens or Florida can afford the entire cost of caring for the refugees from Cuba.

Mr. President, I ask unanimous consent that a letter and a statement from Illinois Governor James R. Thompson and a letter from the National Conference of State Legislatures be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, April 14, 1980.

DAVE DURENBERGER,
Select Committee on Intelligence, Washington, D.C.

DEAR SENATOR DURENBERGER: Thanks for sending me a copy of your remarks in defense of General Revenue Sharing before the League of Cities.

As you might guess, the preservation of the principle of Revenue Sharing is the highest priority we in Illinois have in the current national debate over the scope and shape of the Federal budget.

In hopes of helping turn the tide against the demise of the State Share of GRS, I and other Governors are calling on our delegations to support a proposal authored by Rep. John Wydler of New York which would amend the First Budget Resolution to restore 95 per cent of the States' GRS funding and cut a like amount from a variety of categorical grant programs.

Enclosed for your information is a copy of a memorandum to the Illinois Delegation spelling out our reasons for backing the Wydler approach.

Sincerely,

JAMES R. THOMPSON,
Governor.

MEMORANDUM FOR THE ILLINOIS CONGRESSIONAL DELEGATION

From Governor James R. Thompson.
Re Fiscal year 1981 budget resolution.

As you know, the Carter Administration and the House and Senate Budget Committees have recommended that the entire State share of General Revenue Sharing be eliminated and that lesser cuts be made in a number of categorical grant programs as part of an effort to balance the 1981 Federal budget.

As previously reported to you via the State of Illinois Washington Office, the ranges of cuts being considered by the President and the Congressional Budget Committees could mean a direct loss of as much as $300 million in funds anticipated for our State programs over the next two fiscal years and another $200 million in programs and benefits for local governments and individuals in Illinois.

For the economy of Illinois as a whole, these proposed cuts in existing programs and in anticipated new programs could add up to nearly $1 billion over the next 27 months.

While we do not quarrel with the need to balance the Federal budget, we do quarrel with the apparent consensus between the Administration and Congressional leaders that not only must two-thirds of the proposed cuts be drawn from the 15 per cent of the Federal budget earmarked for grants to States and localities, but that a prime target for funding elimination must be the State share of General Revenue Sharing, the one program which permits us to focus Federal dollars on our own priorities. In our case, as you know, the priority for GRS dollars is local education to which we devote our entire $113 million annual share of these monies.

To eliminate Revenue Sharing but keep almost all of the nearly 500 categorical grant programs in place will, in effect, make Illinois and all other States even more dependent on Federal grant programs, forcing us to maintain and even expand the bureaucratic machinery we need to track, apply for and account for Fedearl aid funds.

The Nation's Governors have long proposed—most recently during the budget drafting process last fall—that most categorical grant programs be consolidated into broad-purpose block grant mechanisms which would permit us to accomplish far more at the State and local level with far less reliance on Federal funds.

We maintain that position and will press for it once again next year. In the interim, it is of paramount importance that the concept of Revenue Sharing be preserved, and that Illinois and all other States remain free to use GRS funding for our highest priorities.

Thus I strongly urge that Members of the Illinois Congressional delegation support a proposal being advanced by Rep. JOHN WYDLER of New York which would amend H. Con. Res. 307 to reduce a number of categorical grant programs by five per cent, or $1.628 billion and leave in place 95 per cent of the

State share of GRS, or $1.628 billion for Fiscal Year 1981.

Adoption of the Wydler approach would at once ease our problems in adjusting to massive cuts in Federal aid next year and, even more importantly, start us on the road to constructive change in the Federal-State-local fiscal relationship.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
November 5, 1979.

Mr. JAMES T. MCINTYRE, Jr.,
Director, Office of Management and Budget, Washington, D.C.

DEAR JIM: On behalf of the seven Directors of State and Local Government Organizations, I want to thank you for your desire to consult with us. We know we can bring to you the priority concerns of state and local officials nationwide.

We are aware of the fact that you confront many budget constraints. State and local governments continue their strong partnership with the federal government to fight inflation and restrain program costs. We have been accustomed to annual increases in federal assistance from 12–14 percent and recently have had to adjust to no growth. Due to no annual growth and inflation, revenue sharing is forty percent below 1972 levels.

Our principals are clearly saying that renewal of revenue sharing with an annual increment is their highest priority for 1980. We seek your strong support in this regard. During our November 1 discussion, you asked for our comments on the state share. Following are some of the reasons for a continuation of the state share. Many of these comments also apply to an annual increment of $250–300 million.

FEDERALISM AND STATE REVENUE SHARING

We support the ACIR view that renewal of revenue sharing may well shape the "contours and character of the federal aid system for the 1980's." The states are critical as partners in the federal system and support a mix of federal assistance through revenue sharing, block grants, and categoricals. A decrease of the state role in revenue sharing would be a severe tilt of the system toward categoricals, with more Washington-based control and bureaucracy. One reason revenue sharing is so popular is the flexibility and discretion granted state and local officials to spend federal funds as they see the need. There are no application forms for state or local revenue sharing funds, no "grantsmen" and the lowest administrative costs of any federal program, 1/10 of 1 percent.

If states were eliminated, several master keys to a federal partnership may be lost. There would no longer be a requirement that states maintain their level of state assistance to local governments. Currently, there is a dollar-for-dollar drop in a state's revenue sharing funds for a drop in state aid to locals. Elimination of states would further increase the dependency of declining central cities and distressed rural areas on federal assistance without encouraging state assistance in solving local problems.

Over half of the states have agreed to perform the local audit of funds for the Office of Revenue Sharing. This audit covers all local funds and is a very positive effort that is encouraged by state participation in revenue sharing. The governor is a partner with the federal government in the enforcement process of local civil rights compliance in the revenue sharing law. This joint effort should be encouraged by continued state participation in revenue sharing.

That the revenue sharing program, including the state role, is the highest priority for funding is an astonishing fact that surfaces out of all the debate about the federal grants-in-aid system. The current revenue sharing program is considered by many to be the "bellwether" of the federal aid system, in general.

STATE USE OF REVENUE SHARING FUNDS

Although state revenue sharing is only about two percent of state budgets, the impact is much greater and it would be very disruptive if these funds were discontinued. Since state aid to local governments is more than all federal aid combined and 40 percent of the state revenue sharing funds go to local aid, elimination of states would directly affect state-local aid.

Eighty-five percent of state revenue sharing funds are for current services, which if cut, would impact on income support and employment during a depressed national economy.

A major use of state revenue sharing funds is for local education costs. Revenue sharing helps states assume more and more of local education costs, which in turn relieves pressure on local property taxes, and helps states adopt more progressive education equalization formulas.

States also spend 26 percent of their revenue sharing funds for social services which are of direct benefit to the poor and disadvantaged, such as the following:

Alabama—mental health.
Alaska—medicaid.
California—aged, blind, disabled.
Colorado—indigent and child care.
Connecticut—mental health.
Hawaii—mental health, handicapped, elderly.
Kansas—tax relief for the elderly.
Kentucky—building accessibility for its handicapped.
Michigan—mental health.
New Hampshire—mental health.
New Mexico—rural health.
Ohio—mental health.
Rhode Island—elderly.

Because revenue sharing is "fungible," arguments can be made about the exact use of funds; however, if the current funds were eliminated, there can be no question that in many states, local aid, education equalization and social services would be immediately affected.

ECONOMIC IMPACTS OF STATE REVENUE SHARING FUNDS

Much debate has occurred over the federal deficit and state surplus issue with too little consideration given to the constitutionally mandated state surplus condition, the necessity to maintain reserves against cyclically declining revenues, the cost of new federally mandated expenditures, such as social security increases, and the concentration of surplus in a few states.

State and local governments had a $12 billion shift in revenues from the second quarter of 1978—$6.5 billion surplus to the second quarter of 1979—$6.1 billion deficit (Survey of Current Business). Data Resources, Inc., now predicts a $13 billion state and local deficit for 1980 and a $12 billion deficit for 1981. To cut states from revenue sharing at this time would do the reverse of what is needed during a recession, cause more unemployment in a labor intensive sector, and hurt the hard pressed states with the highest per capita receipts of revenue sharing. The revenue sharing formula directs most of its funds on a per capita basis to hard pressed central cities and high stress states. Revenue sharing funds are already "targeted." To cut states from general fiscal assistance would hurt high stress states the most and may weaken vital support for targeted fiscal assistance.

Treasury Department estimates that for each billion in revenue sharing, GNP is increased by $2.3 billion and employment by 67,000, with a minimal impact on inflation. State revenue sharing equals about seven percent of state sales taxes. A cut in state revenue sharing would put pressure on states to increase sales taxes which directly affect inflation upward. Since revenue sharing has the lowest administrative cost of any federal aid program, it has a payout in direct proportion to the funds. Such a program should be one of the last to be reduced directly or indirectly through inflation (40 percent since 1972.)

CONGRESS AND THE STATES IN REVENUE SHARING

The state share of revenue sharing was debated by Congress this year. Much of the debate centered on state surplus which has now become a deficit. The House voted by a two-to-one margin in June to retain the state share. The Senate voted to retain the states by the same margin in July. The Senate Budget Committee, by a non-binding close vote, proposed a cut in the state share in future years; however, most agree this was a symbolic vote that will be changed next year. Congressional support for the states is very clear by a wide margin.

In September of this year, the Chairman of the Northeast-Midwest Congressional Coalition joined with the Coalition of Northeastern Governors and the Southern Growth Policies Board in calling for renewal of revenue sharing with no change in the formula. The current ⅓–⅔ split plus a three factor Senate formula and a five factor House formula was the result of extensive formula research, consultation, and compromise. It is doubtful that a better formula can be devised for general fiscal assistance to state and local governments. An effort to eliminate the states may result in eliminating the program.

POLITICAL IMPACTS OF THE STATE SHARE

If states are eliminated, the funds would stop on September 30, 1980, one month before the elections. There are over 200,000 elected state and local government leaders with revenue sharing as their priority federal assistance program. State and local officials will be very active during the 1980 elections for President, one-third of the Senate and the Congress.

The revenue sharing program is viewed by many as one way to decentralize power and authority from Washington to the states. Those who propose to cut the states out of revenue sharing must be prepared to defend this action in light of the "Washington bureaucracy" syndrome.

These are our summary arguments for retention of the states in the revenue sharing program. Considerably more detail can be furnished for each argument. Please call me or any of the Directors if you want additional information about any of the points we have raised. Once again, we appreciate your consideration of our views.

Sincerely,
EARL S. MACKEY,
Chairman, State, County and City Public Interest Groups.
WILLIAM J. PAGE, Jr.,
Council of State Governments.
MARK E. KEANE,
International City Management Association.
BERNARD F. HILLENBRAND,
National Association of Counties.
STEPHEN B. FARBER,
National Governors' Association.
JOHN J. GUNTHER,
U.S. Conference of Mayors.

Mr. DURENBERGER. Mr. President, I conclude by complimenting the Senator from Connecticut (Mr. WEICKER), indicating to him my support in his efforts here today. As the ranking member of the Revenue Sharing Subcommittee of the Senate Finance Committee, I know how hard we have worked, Senator BRADLEY and I—Senator BRADLEY is the chairman of that subcommittee—on the issue of the future of revenue sharing, on the authorization, in a whole variety and series of hearings around this country.

I agree with the Senator from Connecticut that the appropriate place to discuss the future of revenue sharing and the relationship between Federal, State, and local governments is in the consideration of revenue sharing for 1981.

Mr. WEICKER. I thank the distinguished Senator from Minnesota for his comments and also for his efforts during the course of the year to make sure that this program is sound. I look forward to hearing his comments on what the program should consist of in the years ahead.

Mr. BRADLEY. Will the Senator yield 5 minutes to me?

Mr. WEICKER. Without losing my right to the floor, I yield to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, I strongly oppose this proposed reduction in general revenue sharing. I am joined in this by the administration, the National Governors Association, the National Conference of State Legislators, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, and the American Federation of State, County, and Municipal Employees.

Mr. President, there are several reasons for my opposition to this cut.

First, these funds were authorized by Congress in 1976 as an entitlement program, as strong a promise of payment as Congress can legislate. To cut the funds now would show bad faith by the Senate and cause very serious hardships for many States.

I refer only to three very good examples. In Michigan, for example, where 600,000 people are unemployed, the State's 1981 budget will be below the current year's budget in actual dollars. Revenues from tax withholding collections, for example, are down 6 percent. A cut of revenue sharing would even go deeper and hurt the people of Michigan very directly.

In Oregon, there has been a revenue shortfall of $50 million, or 2 percent of the general fund budget.

In Tennessee, sales tax collections in May were below the levels collected at the same time last year. A 6-percent growth in sales tax revenues had been projected for this year.

Clearly, to cut so precipitously in the last part of the fiscal year would create severe hardship for a number of States.

The second reason I oppose this cut, Mr. President, is that State legislatures have already appropriated these funds for expenditure this year in accordance with their understanding of the entitlement nature of general revenue sharing. Moreover, 39 State legislatures have already adjourned for this year.

These State revenue sharing funds are currently being used to support a number of ongoing State and local programs. For example, approximately 32 percent of the State general revenue sharing funds go for education, 26 percent for social services, 14 percent for capital improvements, and 15 percent for pension benefits.

I might say, Mr. President, that these comments apply to the proposal to cut only the State share. Now we have a cut proposed for both the State and local share. So every mayor will not get what he or she has been expecting and has budgeted for the entire year, based upon the entitlement commitment that the Congress had given them.

Third, I oppose this proposal because over 80 percent of the State revenue sharing funds are used for operating services. The impact of this amendment would mean a direct cut in jobs in the middle of 1980. With a recession at hand, such action is the reverse of what our economy needs. The recent jump in unemployment rates is sufficiently worrisome. We should not exacerbate that by taking actions that would add to this problem.

The fourth reason I oppose this proposal, Mr. President, is that the Senate Budget Committee and the entire Senate have already voted twice in the two budget resolutions for full funding of general revenue sharing in fiscal 1980.

Fifth, the proper time for debate and votes on altering the program of general revenue sharing is not on an appropriations bill at the last minute in the last quarter of the year, but it is, rather, when we consider renewal of the entire program.

In the Finance Committee, Senator DURENBERGER and I have held hearings to debate all the issues surrounding general revenue sharing—the size of the total authorization, the division between State and local governments, the formula that would affect both State and local shares, and how much targeting should be involved in both State and local shares.

That is the appropriate place to address the general proposition of general revenue sharing for State governments.

I have spoken throughout this time as someone who, in this process, would favor a three-tier program of general revenue sharing, target fiscal assistance, and countercyclical revenue sharing placed into one program that we could have on the shelf to deal with the responsible relationship between Federal, State, and local governments.

Mr. President, for all these reasons I urge each Senator to join us in opposing the cut in State revenue sharing. I thank the Senator from Connecticut for yielding for the purpose of this statement.

Mr. DURKIN. Will the Senator yield?

Mr. PROXMIRE. Will the Senator yield?

Mr. WEICKER. I had already promised my good friend from New Hampshire that I would yield to him without losing my right to the floor.

Mr. DURKIN. I thank the Senator from Connecticut. I am pleased to cosponsor the Senator's efforts.

We talk about not disrupting the budget process. Just imagine what this cut in fiscal 1980 funds is going to do to the budget process in the great majority of States.

I think the figures have been articulated already. Thirty-nine States have wrapped up their sessions, and in the next week or so approximately 44 or 45 will have completed their legislative calendars and their sessions will be adjourned.

In a number of States, the effects of this recession will require a special session of the legislature, including my own State if we are not very, very fortunate.

The money has been promised. It was as clear a promise as Congress can make.

We hire pollsters to find out why Congress is dropping in credibility. I think actions such as this, cutting out money from fiscal 1980, which has not only been promised but obligated and appropriated, is the reason.

There is an argument that this will not impact on the local communities. I do not think that argument can be fairly made. The net effect of this cut may well tie up the aid to local communities in court suits. We cannot rule out the possibility that this will be tied up in litigation on the money going to the local communities.

In my own State, and I think it is true of many States, the money goes to educate the handicapped and for water pollution control projects. Ironically, they are two federally mandated programs. My State uses its share of revenue sharing to meet its obligations under federally mandated programs.

I will not repeat all the arguments which have been offered by the Senator from New Jersey and the Senator from Connecticut, but before this debate is over we are going to see another sheet of surplus figures, probably the same one that was handed out in the Appropriations Committee when this came up.

Before we hear all about the surpluses in the States, I think we ought to point out that this fiscal survey of the States by the National Governors Association, the State budget officers, was in March 1980. That was before unemployment began to jump. That was before the receipts to the States began to dwindle, whether they were tax receipts, receipts from tourism, or receipts from the various tax proposals.

I note they list the State of New Hampshire, this august body, the National Governors Association, lists New Hampshire with an $18 million surplus.

The Governor of New Hampshire would be the happiest man in the original 13 States if New Hampshire, in fact, had an $18 million surplus. In fact, the Governor has had two special legislative 1-day sessions since these figures were compiled to reallocate appropriated funds and increase the appropriations. The State of New Hampshire does not have an $18 million surplus, and we have heard that Minnesota does not. We have heard that other States, I suspect the great majority, do not have these surpluses in light of the fact that unemployment has gone up.

We know what happens in the Federal budget. When unemployment goes up 1 percent, the impact on the Federal budget deficit is about $22 billion. It is foolish to assume that anything that has that big an impact on the Federal budget does not have an impact on the budgets of the 50 States.

In a sense of fairness, if the word of the Congress is going to mean anything, I would urge that we restore this money for fiscal 1980. In 1981 we can address the problem in the authorization. We can address the whole problem there.

I would like to point out that a very similar point of order was made on July 27, 1979, and was sustained by the Chair. I thank the Senator from Connecticut for yielding.

(Mr. EXON assumed the chair.)

Mr. WEICKER. I thank the distinguished Senator from New Hampshire for his support on this matter.

Mr. PROXMIRE. Will the Senator yield?

Mr. WEICKER. I yield 10 minutes to the distinguished Senator from Wisconsin without losing my right to the floor.

Mr. PROXMIRE. Mr. President, in the first place, as to whether or not this amendment is germane, let me make two points: First, the program is clearly within our jurisdiction. We have funded it annually for each of the last 4 years and it is perfectly germane for the committee to rescind funds that have previously been appropriated. That is what we have done over and over again. We have rescinded, I believe, well over $12 billion in this bill, and we can obviously rescind funds here. There is no argument that I can understand—$4 billion is the recission amount. There is no reason that I can understand or have heard why we cannot rescind funds in this case. That power is given to us by the 1974 Budget Act.

Mr. President, Senators should realize that if they vote to restore the funds, vote for the Weicker amendment, we shall be faced with two very unpalatable alternatives. First, we shall have to send the bill back to the Committee on Appropriations, because it violates the outlay ceiling contained in the third budget resolution. This is because the $286 million in outlay savings resulting from the revenue-sharing rescission would be wiped out. It would be wiped out. This wipes them out.

Senator WEICKER has been very frank about this. He has told us that he would face that issue and he would ask for a waiver. A budget resolution that we passed a scant 2 weeks ago, after months of consideration, much acrimonious debate, he would ask to waive and permit a more than $500 million increase in funds that would be well over $200 million in outlay above the commitment that was made by the Budget Committee and by the Senate, as I say, 2 short weeks ago.

Mr. President, let me discuss why the committee chose to rescind these funds rather than other funds. I might point out that every rescission is very painful and every rescission results in disappointment. And in every rescission, the people whose funds are cut feel that they had an entitlement to the funds because the funds were promised in an appropriation bill. The fact is that this bill before us contains a rescission of $38 million for urban rehabilitation loans. I am sure that that money was needed and wanted and planned for and expected. The Senate appropriated the money, the House appropriated the money, the President signed the bill. It was expected, it was in the law. Now we are rescinding it.

Community development grants, $153 million. A very large proportion of the community development grants was rescinded. Again, that was expected by the communities, they counted on it, they expected to get it. But the President and the committee rescinded those funds.

Health services, family planning child health, $21 million—a large proportion of the funds that were originally appropriated rescinded.

So we have a clear precedent in this very bill for rescinding funds that are counted on, expected, and the people who would spend them feel they are entitled to them. I think the most powerful case that we can possibly make against any expenditure, however, is in the area of revenue sharing. I should like to make that argument now, briefly.

In fiscal year 1980, according to statistics compiled by the National Governors Association—and these are the most recent figures we have available. They have been attacked on the floor this morning by various Senators, who argue that those figures are no longer pertinent or appropriate. These estimates were made in March. They may vary somewhat, but they are still reasonably accurate. At that time, 45 States out of 50 expected to show surpluses. Thirty-two States expected surpluses in excess of the sums received through the revenue-sharing program, through the entire program—not just the amount we are rescinding, but the entire program, which is, of course, four times as much as we are rescinding for States.

In fiscal year 1979, not one State had a deficit. Forty-eight States had a surplus. Thirty-five States had surpluses that exceeded 5 percent of their expenditures. Nineteen States had surpluses that exceeded 10 percent of their expenditures.

Mr. President, we all know that in 1979, the Federal Government had a very large deficit. I can recall very well when revenue sharing was proposed to the Joint Economic Committee, about 15 years ago, by Walter Heller. Mr. Heller said we need revenue sharing because, if we do not have it, the Federal Government is going to run surpluses that will drive us into recessions and depressions; we are going to have to find a way to get rid of that money; therefore, we ought to give it to the States and local governments. That was the argument.

We all know what happened. We have had one small surplus since that time and every other year, we have had very large deficits.

It is just ridiculous for us, Mr. President, under these circumstances, to feel that we have to continue the entire revenue sharing amount, which is $6.8 billion, instead of cutting $500 million—one-half billion dollars—which is, of course, a relatively small percntage of the revenue-sharing amount.

Furthermore, the whole revenue sharing for the States provides only 2 percent of States' expenditures. So the proposed rescission, which is one-quarter of that 2 percent, has only one-half of 1-percent impact on the operating budgets of those States not running a surplus. We have had all kinds of crocodile tears about how the States are going to go into bankruptcy and how they are going to have an impossible situation if they lose one-half of 1 percent of their operating revenue. That is what we are talking about. It is very important to the Federal Government, because there are 50 States and that amounts to a lot of money. As far as the States are concerned——

Mr. DURKIN. Will the Senator yield?

Mr. PROXMIRE. I shall yield in just 1 minute.

As far as the States are concerned, that is one-half of 1 percent of their operating budget.

I am happy to yield to my friend from New Hampshire.

Mr. DURKIN. Under the usual agreement that the Senator from Connecticut does not ultimately lose his right to the floor.

Would the distinguished Senator from Wisconsin clarify something for me? It is my understanding that, last night, the first committee amendment amended this. So this is not the action of the Committee on Appropriations; the committee amendment amended it so that it comes not just out of the State share, but comes out across the board.

Mr. PROXMIRE. I am glad the Senator raised that point, because we want to make it very, very clear. It is clear in the committee report that our intention is to take it out of the State share. That will be what we shall work on very hard to do in conference.

The Senator is technically correct. In order to get an amendment that was not subject to a point of order and would not interfere with the legislation that was passed by the Committee on Finance, it was necessary for us to provide simply that there was a reduction overall of $500 million in revenue sharing. Technically, that is right. It could come out of the cities' share, but there is no question of the intent, there is no question of the effect: This will come out of the States' share. That is what we expect to do and that is what I am sure will happen.

Mr. DURKIN. Mr. President, I learned at my mother's knee that the road to hell is paved with good intentions. The net effect is that, even though that may be the intention, it can come out of the State and out of the local share and, rather than impacting on just a small group, less than 1 percent, it could impact on almost 39,000 units of government. In New Hampshire, it could impact on 245 communities. We only have 299, if you count Barks Location and a couple of the smaller communities.

Mr. PROXMIRE. May I say to my friend, I want to finish my statement. The Senator can then get time from Senator WEICKER if he wishes.

Mr. President, I simply want to say this is our intention, I am convinced it will be done that way. This is the way we had to do it in order to avoid a point of order. The effect is going to be to take it out of the State share, not the local share.

Mr. President, to conclude, I shall take just a few more minutes.

A total of 24 States cut personal income taxes and 13 States cut sales taxes in 1979. According to the ranking minority member of the Senate Budget Committee 48 States have cut taxes in the last few years as a result of their surplus condition.

It makes little sense for the Federal Government, which is still in a deficit position, to provide revenue sharing to the States, a majority of which are running substantial surpluses, until the Federal Government has surplus revenues to share.

We should certainly take a critical look at this. There is no accountability, none, for the expenditure of State revenue sharing funds.

We have heard from various Senators that this goes to help handicapped children in their education or to help them overcome their handicaps.

Of course, we all want to do this. We have heard other heartbreaking stories of how these funds go to ameliorate these conditions.

Mr. President, a 2-year study of revenue sharing by the League of Women Voters a few years ago showed that about 40 percent of the State legislators, the press that covers the State legislatures, and the Governors did not know where revenue sharing money went.

Furthermore, we have testimony by the assistant Secretary of the Treasury that this is a very murky area and it is extremely hard to know where the money goes. This testimony before our subcommittee:

> It is just getting to what you are discussing here—how much of what states spend on education ends up in the hands of cities and counties—that isn't recorded. It's not possible to get it meaningfully other than through the sort of special studies Mr. Altman mentioned.

There are none we have available that indicate this happens.

What the States do, of course, whether we provide that money, is that they take the most attractive and compelling expenditures they have, that the States go for, and say that is where it goes.

Of course, that is the kind of argument we would expect.

Mr. President, let me also point out that in reinforcing the statement I just made, Mr. Altman, who is Assistant Secretary of the Treasury, said:

> The data on use of funds is not very reliable. The reasons for that is, as I said, that many, indeed I think most, receive revenues in what amounts to a general purpose account and make payments out of that account for a whole variety of purposes. And any figures which the states supply to us on what percentage of an incoming revenue stream was used for police protection or for construction is very broad and very subjective.

Mr. President, in conclusion, if we go ahead and spend that $572 million, we either have to cut somewhere else, and the Appropriations Committee spend many hours trying to find a place to cut, there is no possibility of getting anything like a majority in the committee, I am positive not on the floor, for a $572 million cut, but we have to ask for a waiver on a resolution which 2 weeks ago the Senate passed.

This is very difficult to do. There is not a Senator here who does not have a Governor or a State legislature that is after him for this money.

We would all like to provide whatever money we can.

Mr. President, this is simply not fiscally responsible for us to vitiate, void, a budget resolution which not only was approved by the Budget Committee after very serious debate, but by the Senate of the United States.

I hope for that reason, Mr. President, that the Senate will sustain the germaneness position taken by the committee and vote "aye" on the germaneness issue and "no" on the Weicker amendment.

I understand the chairman of the Budget Committee is here. Would the Senator yield?

Mr. WEICKER. Mr. President, I have already made two brief commitments to Senators. I will not foreclose anybody.

Mr. President, I ask unanimous consent to yield for 2 minutes, without losing my right to the floor, to the distinguished Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, many States, including my State, are facing many problems trying to meet the pressing needs of their citizens. The general revenue sharing program is not a giveaway program, it was enacted in 1972 and at that time a solemn commitment was made between the States, the counties, the municipalities, and the Federal Government. This was a commitment by those who believe in the constitutional guarantees of federalism. I strongly believe that the Federal Government must stand by its commitment. The basic purpose of the general revenue sharing program throughout its existence has been to bring about a balance in the total tax revenues going to the Federal, State, and local governments of our Nation.

As the gross national product escalates, Federal revenues continue to increase at a greater rate than State and local revenues. The net effect of this means that the percentage of total tax revenues that the Federal Government takes reflects a constant growth while State and local revenues lag behind.

Due to the inflation windfall, States and local governments cannot meet their needs through tax hikes. Your National League of Cities will tell you this.

The Congress has already agreed to cut the State share of revenue sharing programs next year. Why start now? The revenue sharing program is one of the few programs providing dollars to the States with no strings attached. This important program is designed to meet the needs of the citizens as they are perceived by the State and local officials.

When you talk about money well spent, you are talking about the revenue sharing program. The U.S. Treasury Department, Office of Revenue Sharing recently reported that almost 15 percent of revenue sharing moneys goes for police protection, 8 percent for fire protection, 7.3 percent for health and more than 12 percent for highways.

Mr. President, I believe the evidence is clear that the general revenue sharing program has been money well spent. And every concept of placing the decision-making responsibility for the use of these funds in the hands of State and local officials and the manner in which these funds have been used are all concrete evidence of the importance of this program.

It is my understanding that the State of Alabama expected to receive $36 million from the revenue sharing program this year. If these funds are not restored, this means that my State would lose $9 million in revenue sharing funds. State officials have already made plans based on the $36 million proposed figure. A loss of $9 million would be devastating in my State. The funds have been authorized. Plans have been made. To cut it off would be truly devastating.

The use of these funds for emergency medical services, care for the aged and mentally ill, hospitals, law enforcement, libraries, fire protection, educational and correctional facilities are concrete instances of the benefits derived from the revenue sharing program.

Therefore, Mr. President, I support the amendment to restore the money to this very important program.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. Mr. President, I ask unanimous consent to yield 5 minutes to the distinguished Senator from Illinois (Mr. PERCY) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I was very honored to work with Senator BAKER when the original revenue sharing legislation was first proposed in 1967.

Finally in 1972, after years of struggle, revenue sharing was adopted as a policy and clear commitments were made up and down the line. This was a program that would not be pulled away from them.

Certainly, it would come as a great hardship on the States and localities if, at this late stage, we pulled away funds that had been counted on by the States and localities. Particularly, 39 States would have to call their legislatures back into session, many because they would have a deficit, or approach a deficit.

The State of Illinois is required by law to have a balanced budget. But in order to meet that constitutional requirement, they need to demonstrate and show a surplus.

So I can certainly speak from deep, strong feeling that the hardship in the State of Illinois would be very great indeed as I am sure it would be in many other States.

I ask the manager of the bill whether anything was done last night to resolve the legal question that hangs over the supplemental appropriation. The revenue sharing law says funds should be divided between the State and local communities one-third/two-thirds. The supplemental at one point only cuts the State's share.

Has that been resolved last night?

Mr. PROXMIRE. The Senator is absolutely correct.

The way this came out of the committee, we just cut the State's share.

Last night, in order to avoid a point of order, to make sure it was not legislation on an appropriation bill, interfering with legislative determination, we modified that to provide the revenue sharing funds would be reduced generally.

However, the committee report, the intention of the committee, is clearly to have that taken out exclusively of State funds. We made it clear in the report. We will in conference. There is no question that is our determination.

I discussed that earlier with Senator Durkin. But that is the determination of the committee.

Mr. PERCY. I certainly still wish to support the work of our distinguished colleague from Connecticut who fully appreciates the hardship and readjustment this would cause States and localities.

We are pulling the rug out from under them, beyond the last minute. This is the month of June and there is very little many States can do at this late stage.

Mr. BELLMON. Will the Senator yield?

Mr. PERCY. I am happy to yield to the Senator.

Mr. BELLMON. Mr. President, I would like to point out to the Senator from Illinois that his State, the State of Illinois, would lose, under the terms of the discontinuance of half the State's revenue sharing, $28.2 million.

But the report filed by States show a $400 million surplus.

This would not in any way cause difficulty for the State of Illinois.

In addition to that, in 1978 the State of Illinois reduced personal income taxes, reduced general sales tax and property tax. Again in 1979, the State of Illinois reduced sales tax again.

So, what is happening is that not only the State of Illinois, but other States, are reducing their own taxes time after time, while the Federal Government is struggling hard to balance its budget, and then they complain that when we do try to get our house in order that we always cause hardship.

It does not make any sense. They have been cutting their taxes. All the States except nine have more surplus in their budgets than they will lose through this reduction in the revenue sharing. In spite of that, 44 States last year cut taxes. They have been doing this year after year.

Mr. PERCY. I do not think anyone in the State of Illinois would feel that their taxes are being cut. In recent years, we have had a brand new income tax proposed. We have increased property taxes considerably on business. So taxes in Illinois are very heavy.

The State constitution requires that the budget be balanced. In order to achieve a balance and maintain an adequate credit rating for bonds, they must have at least a 5 percent leeway. Obviously, with the recession now much deeper and automotive and other industries affected, there will be large additional demands that would be made for funds. So in order just to balance the budget, they have to show at least on paper, a surplus. But that is a paper surplus.

If the economy goes into a tailspin and the recession continues, it will call for some drastic action by the States, I am afraid.

Mr. BELLMON. The record is that the State of Illinois has a $4 million surplus out of a total budget of $8 billion.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the Record a letter sent by the Governor of Illinois to Senator Durenberger, dated April 14, on this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Governor,
Springfield, April 14, 1980.

Hon. Dave Durenberger,
Select Committee on Intelligence,
Washington, D.C.

Dear Senator Durenberger: Thanks for sending me a copy of your remarks in defense of General Revenue Sharing before the League of Cities.

As you might guess, the preservation of the principle of Revenue Sharing is the highest priority we in Illinois have in the current national debate over the scope and shape of the Federal budget.

In hopes of helping turn the tide against the demise of the State Share of GRS, I and other Governors are calling on our delegations to support a proposal authored by Rep. John Wydler of New York which would amend the First Budget Resolution to restore 95 per cent of the States' GRS funding and cut a like amount from a variety of categorical grant programs.

Enclosed for your information is a copy of a memorandum to the Illinois Delegation spelling out our reasons for backing the Wydler approach.

Sincerely,

James R. Thompson,
Governor.

Enclosure.

Memorandum for the Illinois Congressional Delegation

From Governor James R. Thompson.
Re Fiscal year 1981 budget resolution.

As you know, the Carter Administration and the House and Senate Budget Committees have recommended that the entire State share of General Revenue Sharing be eliminated and that lesser cuts be made in a number of categorical grant programs as part of an effort to balance the 1981 Federal budget.

As previously reported to you via the State of Illinois Washington Office, the ranges of cuts being considered by the President and the Congressional Budget Committee could mean a direct loss of as much as $300 million in funds anticipated for our State programs over the next two fiscal years and another $200 million in programs and benefits for local governments and individuals in Illinois.

For the economy of Illinois as a whole, these proposed cuts in existing programs and in anticipated new programs could add up to nearly $1 billion over the next 27 months.

While we do not quarrel with the need to balance the Federal budget, we do quarrel with the apparent consensus between the Administration and Congressional leaders that not only must two-thirds of the proposed cut be drawn from the 15 percent of the Federal budget earmarked for grants to States and localities, but that a prime target for funding elimination must be the State share of General Revenue Sharing, the one program which permits us to focus Federal dollars on our own priorities. In our case, as you know, the priority for GRS dollars is local education to which we devote our entire $113 million annual share of these monies.

To eliminate Revenue Sharing but keep almost all of the nearly 500 categorical grant programs in place will, in effect, make Illinois and all other States even more dependent on Federal grant programs, forcing us to maintain and even expand the bureaucratic machinery we need to track, apply for and account for Federal aid funds.

The Nation's Governors have long proposed—most recently during the budget drafting process last fall—that most categorical grant programs be consolidated into broad-purpose block grant mechanisms which would permit us to accomplish far more at the State and local level with far less reliance on Federal funds.

We maintain that position and will press for it once again next year. In the interim, it is of paramount importance that the concept of Revenue Sharing be preserved, and that Illinois and all other States remain free to use GRS funding for our highest priorities.

Thus I strongly urge that Members of the Illinois Congressional delegation support a proposal being advanced by Rep. John Wydler of New York which would amend H. Con. Res. 307 to reduce a number of categorical grant programs by five percent, or $1.628 billion and leave in place 95 percent of the State Share of GRS, or $1.628 billion for Fiscal Year 1981.

Adoption of the Wydler approach would at once ease our problems in adjusting to massive cuts in Federal aid next year and, even more importantly, start us on the road to constructive change in the Federal-State-local fiscal relationship.

Mr. WEICKER. Mr. President, I notice the distinguished majority leader on the floor.

I wish to explain to my colleagues that I have no desire to limit anybody's discussions here, pro or con. I have a list before me that includes Mr. McClure, Mr. Sarbanes, Mr. Johnston, Mr. Sasser, Mr. Hollings, Mr. Pressler.

As I announced at the outset, in my opening statement, I intend to make a point of order as to the nonrelevancy of the committee amendment. I just want to be certain that that is the first item that comes up for a vote. In that sense, I have held the floor and yielded the floor to others, but I want to be in a position to make that motion.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. WEICKER. I would like to have a unanimous-consent agreement that this will be the first vote taken on this matter. If not, let us proceed on an individual basis. There is no desire to extend debate, to cut off anybody, pro or con, on this amendment. I am trying to effectuate a system that is awkward which could be resolved in one unanimous-consent request.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. WEICKER. I yield, without losing my right to the floor.

Mr. BAYH. I do not want the Senator to lose his right to the floor.

I can see why the Senator wants to make sure this matter is placed to a vote I just want to understand what he is going to do, so that perhaps some others of us might be able to do what we think is right.

We tried to avoid a point of order in the Appropriations Committee by taking out certain language which would ease the minds of several of us who are concerned about local revenue sharing but are desirous of striking out State revenue sharing in an effort to balance the budget. The Senator from Connecticut does not support that. However, is he saying that he is going to make a point of order that the whole amendment is irrelevant?

Mr. WEICKER. That the committee amendment is not relevant. That is correct.

Mr. BAYH. So that if we take the language in there that was taken out in an effort to try to avoid a point of order, it would not change——

Mr. WEICKER. In response to the Senator from Indiana, the effect of what I am trying to do is this: If I am sustained, that the committee amendment is nonrelevant, that would eliminate the rescission of $572 million. That having been done, it admittedly opens the amendment to a point of order from the Budget Committee. At the time the Budget Committee makes that point of order, I will go ahead and ask for a budget waiver.

I have stated exactly what the course of action is going to be—no tricks; that is it.

Mr. BAYH. The Senator has put it on the table.

Mr. WEICKER. I am not advocating, in other words, an amendment for further cuts. The first vote, in effect, will be a vote on revenue sharing, a clean vote. up and down.

Mr. BAYH. Mr. President, will the Senator yield further?

Mr. WEICKER. I yield for a question.

Mr. BAYH. I ask my chairman or the distinguished Senator from Oklahoma, or someone else, to tell the Senator from Indiana why the Senators who are in favor of this cut—in other words, on the other side of the Weicker position—why do we not put this language in there, which could ease concerns about local revenue sharing? We are going to be hit by a point of order one way or the other. If we have the votes to override the point of order, we are going to prevail. If we do not, the Senator from Connecticut will prevail, and then he has outlined a plan which he is going to follow. He has been very forthright about what he is trying to accomplish.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield to the Senator from Washington without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I do not know why we cannot do something simple around here. I guess it is against the rules to do something simple.

The Senator from Connecticut wants to raise the amount of money that the committee put in for revenue sharing which would go back to the States. Is that correct?

Mr. WEICKER. The Senator from Connecticut wants to restore the rescission voted by the Appropriations Committee to the tune of $572 million.

Mr. MAGNUSON. I do not know why we do not have a vote up and down on that. If the Senator from Connecticut loses, it is over. If the Senator from Connecticut prevails, then the Senate will have busted the budget.

Mr. WEICKER. That is right.

Mr. MAGNUSON. Then, I understand, the Senator from Connecticut is going to move to waive the budget.

Mr. WEICKER. That is correct.

Mr. MAGNUSON. That would be two votes, and it would be very simple.

Mr. WEICKER. That is right.

Mr. MAGNUSON. If the Senate wants to waive the budget resolution provision, that is the Senate's will all right, because the budget figures are not sacred for all time. Why do we not have those two votes and get it over with?

Mr. WEICKER. I say this to the Senator from Washington: I do not expect that it will take more than 20 minutes or a half-hour. It is an up and down vote.

Mr. MAGNUSON. Let us vote and get it over with. If the Senator from Connecticut prevails, he will make a motion to waive the budget.

Mr. WEICKER. What will happen is that the Budget Committee will have to make a point of order against the bill, because it would be $572 million over, at which time I will ask for a waiver.

Mr. MAGNUSON. Then we would get it over with.

Mr. WEICKER. I agree.

Mr. MAGNUSON. The budget figures are not sacred; the Senate can change them.

Mr. WEICKER. I agree. I am not arguing that.

Mr. MAGNUSON. We surely have a right to waive the budget figures or to stick with them. The Senate has that right.

The only reason some of us opposed the amendment by the Senator from Connecticut in the committee was that we had reached the budget ceiling figure. The whole bill would have been subject to a point of order—the whole bill if we went above the ceiling. Some of us had some other things riding in that bill that were very important to us.

Why not get these two votes out of the way and get the entire matter out of the way? Let us be simple about this.

Mr. WEICKER. I say to my good friend the distinguished Senator from Washington that that is all I want to do.

I solicit the assistance of the distinguished majority leader. This is a Rube Goldberg mechanism, my holding the floor, when I intend to do nothing with it except to be in a position to make my motion. I do not want to restrict anybody. I am not trying to engage in extended debate. I just want to make certain that the point of order will be the first vote to come up.

Mr. MAGNUSON. The Senator from Connecticut will have a vote on his motion to raise the figures.

Mr. WEICKER. I am ready to vote any time anybody wants to vote.

Mr. MAGNUSON. If the Senator from Connecticut prevails, then the Senate will have busted the budget.

Mr. WEICKER. That is correct.

Mr. MAGNUSON. Then he will make a motion to waive the budget figure.

Mr. WEICKER. That is correct.

Mr. MAGNUSON. It is as simple as that.

I do not know why we have to be confused here about rules and points of order and moving to reconsider and then moving to table that, and everything else. Let us get going.

Mr. WEICKER. Mr. President, I am informed that there are others who would not feel offended if I made my point of order right now. On the other hand, I do not want to do it in the sense of cutting anybody off.

I think we probably all have our mind set as to what we are going to do here, and if Senators wish to go ahead and vote, I am perfectly willing to.

If there is anyone, as I said, whose day and year is going to be ruined by being cut off at this juncture, then I will be glad to yield.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WEICKER. Mr. President, I ask unanimous consent to be permitted to yield to the distinguished Senator from Idaho without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Connecticut for yielding to me.

I do not intend to take long. I see some consultations underway on the other side of the aisle. So I do not think I am delaying the process by taking a little bit of this time.

I wish to comment that, first of all, most Members of the Senate did not know that as to the action that was taken last night that extended the rescissions from the States' share to all general revenue sharing all local governments are affected by that change in the action that was taken last night, and I think they should know.

Second, as to this idea that the States have a surplus, they are mandated by their constitutional provisions and statutory provisions not to create a deficit. So, of course, their budgets look different than ours. They do not own a printing press. They are not permitted to own a printing press.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. McCLURE. I have not enough time. I will be glad to yield if I get additional time.

Mr. BELLMON. Are they mandated to cut taxes?

Mr. McCLURE. As to this idea that it is horrible for States to cut taxes, I can understand people who like to balance the budget by increasing taxes here, that they might be offended by the States giving the taxpayers some relief. It does not offend me if the taxpayers get relief, whether it is from this body or from the State legislature. It all comes out of the same pocket as far as the taxpayers are concerned.

To those who argue that as a matter of fact it is a tremendous impact upon the Federal Government not to have this rescission but almost an impact upon the States, only about 1 percent of their budgets, I point out, that it is 10 times as much impact on the States as it would be for the Federal Government to reduce its expenditures by this amount. So if the States are expected to reduce their expenditures by this amount which is only 1 percent of their budgets I will point out it is one-tenth of 1 percent of the Federal budget. We can surely find one-tenth of 1 percent cut somewhere throughout the Federal budget or perhaps one-tenth of 1 percent on every item in the Federal budget to accommodate this.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. McCLURE. I thank the Senator for yielding.

● Mr. PRESSLER. Mr. President, I rise in strong support of the amendment offered by the Senator from Connecticut. As previously stated, the amendment would restore the $572 million in State and local government revenue-sharing funds. The cuts proposed by the Appropriations Committee would take effect in July and October of this year.

I have supported the concept of revenue sharing ever since coming to Congress in 1975. It allows the Federal Government to fund State and local programs while enabling localities the autonomy needed to administer the program with a minimum of paperwork and management cost. In South Dakota, State revenue sharing provides funding for educational programs, while the localities use their funds to provide a variety of social programs.

It seems to me, however, that the issue at hand today is not the merits nor imperfections of the revenue-sharing program. Instead, we are dealing with an obligation the Congress and the President have to our States and localities: We simply cannot provide them with revenue sharing or any other Federal funds at the beginning of a fiscal year, only to cut a substantial portion of those funds three quarters of the way through the same fiscal year. The Federal Government must not be permitted to conduct business in such a manner.

Mr. President, I have received a letter from the Governor of South Dakota in this regard, and I ask that it be printed in its entirety following my remarks. Governor Janklow points out the devastating effect that the removal of revenue-sharing funds would have on our local school districts. I am certain that other States would experience similarly detrimental consequences.

I ask my colleagues to study this amendment carefully. The removal of revenue-sharing funds by Congress would destroy many worthwhile State and local programs. As a result, I urge my fellow Senators to support this amendment.

The letter follows:

PIERRE, S.D., *June 24, 1980.*

Hon. LARRY PRESSLER,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

I understand that a Senate committee yesterday recommended that the last two State revenue sharing payments for this fiscal year be cut by a substantial amount.

Rarely have I requested special appropriations action or consideration by our congressional delegation. However, in this instance, I feel you should be made aware that this reduction will bring substantial and severe damage to the elementary and secondary educational system of South Dakota.

As I am sure you are aware, one hundred percent of South Dakota's State revenue sharing funds are sent directly to the local school districts for the education of kindergarten through twelve. Not one dime has ever been or is being spent for the support of State government or any of its programs. For the fiscal year beginning July 1, 1980, the legislature included the entire Federal revenue sharing funds into the local aid to education funding. The contracts that have been entered into with the school teachers in the various school districts and the budgets that have been adopted by the local boards of education throughout the State have included their share of the revenue sharing payments. If these payments are cut it will mean millions of dollars worth of losses to the local school districts of South Dakota, and I think you can clearly understand the havoc that that would wreak with the local school systems of this State.

As I indicated above, I have rarely written to ask that you take extra effort for additional Federal funding. However, in this one instance, I would be remiss as Governor of South Dakota if I didn't respectfully urge that you take whatever actions you feel appropriate to save the total amount of State revenue sharing funds in the Federal budget.

Respectfully,

BILL JANKLOW,
Governor of South Dakota.●

CHAPTER VII

Mr. PROXMIRE. Mr. President, chapter VII of the supplemental appropriations and rescission legislation includes a net appropriation of $387,743,000 for the Department of Housing and Urban Development; the Environmental Protection Agency; the Federal Emergency Management Agency; NASA; and the Veterans' Administration. This appropriation represents the net difference between supplemental appropriations provided, less a number of rescissions that have been approved by the Appropriations Committee. The amount provided by the committee is $676,481,000 below the budget request and $702,195,000 below the House passed bill.

Let me briefly run down the major supplemental appropriations recommended by the committee and then go over the principal rescissions approved by the committee.

APPROPRIATIONS

The committee has recommended $870,000,000 for disaster relief activities, including $245,000,000 to reimburse other Federal agencies and State and local governments affected by the Cuban refugee situation; $86,000,000 in response to the Mount St. Helens volcanic eruption in May; and $539,000,000 for disaster relief to a number of States and territories that have been affected by severe weather conditions, and for potential 1980 disasters yet to be declared. The House has approved $625,000,000 for disaster relief, but did not have an opportunity to consider the request of $245,000,000 for Cuban refugees that was submitted by the President on June 17.

The committee has also approved a supplemental appropriation of $285,000,000 to keep the beleaguered Space Shuttle program on schedule. The House provided the full budget request of $300,000,000 for additional Shuttle funding in fiscal 1980.

In the housing area, the committee has concurred with the House and the administration in recommending bill language that would give local public housing authorities the option of using up to 50 percent of the public housing contract authority and associated budget authority currently provided in existing law and targeted for the construction, acquisition, or subtantial rehabilitation of public housing units, for the upgrading and modernization of deteriorated existing public housing stock. The committee has denied a $52.6 million supplemental appropriation requested for public housing operating subsidies. The House-passed bill included $27.6 million for this purpose. Also, the committee has deleted $300 million for the GNMA section 8 and targeted tandem programs. These funds were added to the bill on the House floor. No supplemental budget request was submitted for these housing funds in fiscal 1980.

A supplemental of $5.6 million has been recommended for research to support hazardous waste regulations development by the Environmental Protection Agency and a further $6.4 million has been included in the bill to enhance EPA's abatement, control, and compliance efforts to refine the data base on the scope of the hazardous waste problem. The House denied the $5.6 million requested for research and development in this area and provided only $3 million of the $6.4 million requested for hazardous waste abatement, control, and compliance activities.

The committee has concurred with the House in providing $5,638,000 for additional general operating expenses of the Veterans' Administration and $4 million for additional major construction activities, including $1 million for the VA's advance planning fund and $3 million to expand total construction square footage at the affiliated East Tennessee State University Medical School.

Finally, the committee has directed the immediate release of $400,000,000 of $3.6 billion in EPA waste treatment construction grant funds proposed for deferral by the administration. The House has urged that the $400,000,000 portion of the deferral be released in August, 1980—1 month earlier than the September release date recommended by the administration.

RESCISSIONS

The major rescission approved by the committee is a $572,140,000 cut in the remaining State share of revenue sharing in fiscal 1980. This rescission was not requested by the administration nor approved by the House.

The committee also has concurred with both the House and the administration in recommending the rescission of $153.2 million in community development grants. The committee has recommended the rescission of $38 million in the rehabilitation loan program as requested by the administration—$25 million more than the House proposed rescission. Also, the committee has denied a $10 million rescission proposed by the House in the comprehensive planning grant program, but approved a $10 million rescission in HUD policy development and research that was not considered nor approved by the House.

The committee has approved four other rescissions that were not recommended by the House. They are: $555,000 in salaries and expenses and $6,500,000 in the Self-Help Development Fund at the National Consumer Cooperative Bank; $3.5 million in National Science Foundation research and related activities; and $5,000,000 in science education at the NSF. The administration did not recommend any of these rescissions with the exception of the $5 million proposed for rescission in NSF's science education program.

Finally, the committee has recommended a total of $245,734,000 to cover increased pay costs, which is $55,685,000 more than the amount proposed by the House and $24,795,000 less than the sum requested by the administration. The major add-ons recommended by the committee to the amounts approved by the House include: $50 million for the VA's medical care account; $5.6 million for EPA salaries and expenses and $85,000 for the Office of Consumer Affairs.

Mr. President, that concludes my prepared remarks, but before I open the floor to discussion of this chapter of the supplemental I want to commend the distinguished chairman of the Senate Appropriations Committee, Senator MAGNUSON, for piloting this most complex and difficult legislation through the committee and onto the floor. Working under a tough fiscal ceiling established under the third concurrent budget resolution, he has done an outstanding job of bringing this important measure to the floor "on target" and within the budget resolution figure. I also want to thank the ranking minority member of the HUD-Independent Agencies Subcommittee for his continuing support and assistance.

Mr. WEICKER. Mr. President, I ask unanimous consent that I be permitted to yield 2 minutes to the distinguished Senator from Indiana (Mr. BAYH) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I thank my friend and colleague from Connecticut.

I appreciate his candor and his forthrightness in telling us what he is going to do.

I regret, despite my appreciation for that, I find myself on the opposite side of this issue. It is awfully difficult to find places to cut, and I guess I come into this argument from a position of wearing another hat which is sort of a hat of thorns from some standpoint and that is the chairmanship of the Subcommittee of the Judiciary on Constitution.

I sit there and read all these petitions and these resolutions coming in from the States memoralizing us to balance the budget and excoriating us in the chamber of the State legislatures and at home in my local newspaper because we do not take the necessary steps to balance the budget.

I find that the ultimate hypocrisy to have State legislators telling us to balance the budget but do not cut out revenue sharing coming back to the States.

It seems to me if we are going to balance this budget we are all going to have to cinch up our belt a little bit.

We have done a real job of cutting back, and I think we should have done it before. We are doing it right now. But let us say to our friends in the States they are going to have to cut back just a little on the State revenue sharing, and I will support the Senator from Wisconsin with every bit of influence I have if I happen to be on that conference committee to see that this is limited to State revenue sharing, that we do not take money away from the local governments that are desperately strapped in the inflationary times in which we are living.

Mr. MAGNUSON. Mr. President, will the Senator yield to me a minute?

Mr. WEICKER. Mr. President, I ask unanimous consent that I may be permitted to yield 1 minute, without losing my right to the floor, to the Senator from Washington and then that I may yield 5 minutes, without losing my right to the floor, to the distinguished Senator from South Carolina, and 1 minute to the distinguished Senator from Tennessee, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I yield 1 minute, without losing my right to the floor, to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I just did not want it to be interpreted that I was supporting the Senator's amendment. I am against it. I am like the Senator from Indiana. I am against it. But I am trying to make this simple and see what the Senate wants to do.

I am against the Senator's amendment, and I think my State has a surplus, comparatively big surplus.

Mr. WEICKER. I might add to my good friend because of his good work and perseverance it will have a bigger surplus by the time the Mount St. Helens funds get there. [Laughter.]

Mr. MAGNUSON. Mount St. Helens has nothing to do with this issue. It has nothing to do with it.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Connecticut.

Of course, the point is that the motion to get the revenue-sharing funds restored does not have any offsetting spending reductions. So, the simple fact is that the amendment to restore or the point of order to restore the revenue-sharing funds cut by this supplemental appropriation bill will violate the 1980 congressional budget we adopted just 2 weeks ago, unless it is offset by other spending reductions at least as great as the revenue-sharing funds contained in the amendment.

This supplemental appropriation bill uses up all but $513 million in budget authority and $7 million in outlays under the budget we adopted just 2 weeks ago. Any amendment or set of amendments which has the effect of increasing the cost of this bill by more than $7 million in outlays or $513 million in budget authority will break the budget for 1980.

Such an amendment will add to the already staggering $46 billion deficit for 1980. Worst of all, it will make the entire supplemental appropriations bill subject to a point of order because we would breach the budget totals.

The Senator says we will have to debate that possible breach of the budget totals, but I cannot see the Senate having gone through all of this budget process, with the conferences, the agreements with the House of Representatives, the difficulties with the executive branch, and the whole thing for the past month—I started saying the last month, but it has really been the last 6 months—then coming out here at the very end and moving very casually to breach the budget. Comments were floating around here in the Chamber that they are not sacred, but I think commonsense would be sacred. I think the budget discipline would be respected. I think the actions on the part of all Senators, all the chairmen, and all this hard work would not go for naught.

So I agree that I would not want to cut revenue sharing. I would rather be able to make all of my constituents happy. I am sure every Senator would.

But this bill is down into the short road, and this is where the rubber meets the road. In the budget resolution 2 weeks ago, the Senate told the Appropriations Committee to save $3 billion in budget authority and $1 billion in outlays in this appropriation bill.

The $1 billion outlay saving was the hardest to achieve. It is very late in the fiscal year. Funds under most programs are already thoroughly committed. Very little of the outlays in the budget are really still under control at all in these last 4 months of the fiscal year ending in September.

So the Appropriations Committee, the chairman and the individual subcommittees, went about making very painful cuts in a whole raft of programs, but when we got to the end, the last half billion dollars which the Senate and Congress told us to save, there was no other place really available, looking over the work that was done, and then we had the very close vote on revenue sharing offered by the distinguished Senator from Wisconsin.

If this revenue-sharing reduction is eliminated, the savings instruction that

Congress gave the Appropriations Committee 2 weeks ago will be violated.

The budget is going to be broken, the supplemental will be dead, the discipline will really be broken, and the Senate will look foolish in the eyes of the American people.

The distinguished majority leader started us on this course way back in early March, and we have been following it and working hard, to the extent of not only meeting day and night, but on weekends and on Sunday. We were taking part in an historical event, if ever one occurred, changing the President's budget which had been submitted in January, and persuading him to resubmit a new one at the end of March.

Now, having gone through all of this, and having passed a budget resolution by a very good vote, many Senators want to very casually, in light of all these State budget surpluses and everything else, just in casual fashion, they want to go ahead and suspend the budget and forget about the 3 or 4 months we put into this process and the discipline we have developed.

The effect of delaying the supplemental bill is almost unthinkable. Vital programs from black lung benefits to defense will be jeopardized, and it is really impossible to believe that if the bill goes back to the committee that savings in some other area will be found. We will either have no supplemental to meet the urgent needs within the budget for 1980, or the budget we adopted just 2 weeks ago will be violated.

Why not cut revenue sharing? The American people are demanding a balanced budget. Their State legislators are demanding that we pass a constitutional amendment to balance the budget. Those people calling on the telephone about this issue are the same people who called, articulated, pontificated, and preached to us all year long at every inauguration and every other session with them, asking why can we not in Washington do like they do back in Columbia, S.C.

The PRESIDING OFFICER. The 5 minutes of time of the Senator from South Carolina have expired.

Mr. WEICKER. I yield 3 more minutes.

Mr. HOLLINGS. The arguments have been made that States have already relied on this revenue-sharing money in making their budgets. But the simple fact is that 40 States are showing general operating fund surpluses vastly greater than the amount of revenue sharing, and we could go down the particular States.

The point has already been made. We got into one just a moment ago about the projected surplus of the State of Illinois.

My own State, sure, it will suffer. It will lose funds under this particular amendment, about $7.6 million. But they have estimated that they have a $23 million surplus.

Others like Illinois have gotten a budget surplus of $400 million, Indiana projects $200 million.

Some people say the calls are coming in. Heavens, we are mature enough to know about the calls coming in. Read some of the mail, some of the names they call you when they talk about the cost of living. We have to look at these things objectively. When you come down to this issue of revenue sharing, the State surpluses are there. We have been blamed for the Federal deficit and problems in the economy—and we are doing a good job in bringing that interest rate down from the 20 percent to 12, so let us keep it going now. Let us continue it through. We have hit the ball, but let us get the proper followthrough. Let us not break ranks at the last minute here, in a casual fashion, and talking about waiving points of order.

The Senator from Connecticut has been very candid. He wants to just make the point to eliminate the rescission. I think it ought to be emphasized that on cutting back taxes, of course, that great State of Connecticut does not even have an income tax to cut back on. They are in great shape.

Mr. WEICKER. In resnonse to the Senator from South Carolina, I would like to say that it has the highest sales tax in the United States.

Mr. HOLLINGS. Highest sales tax—it has one of the highest per capita incomes in the United States. Everytime they talk about the sun belt and its advantages, I will swap that for the State of Connecticut's per capita income. It is that rich and has all those resources.

But in any event——

Mr. WEICKER. I remind my good friend, my colleague, of the time when he came up and raided my State of one of its finest carpet companies, and brought it down to his State through his eloquence and through all the attractiveness of his State.

Mr. HOLLINGS. The distinguished father of the distinguished Senator, Mr. Lowell Weicker, Sr., led the way in the development of the Bigelow Sanford Co. in my State. We had industry appreciation days, but not only for that particular company, and we needed someone who knew industry, who had the confidence of the American business leadership, who could make a good talk and who appreciated productivity, and Mr. Lowell Weicker, Sr. came down.

He not only helped us get additional industry but he cleared us out of every pheasant and chukar and dove he could find. He was the best shot I have ever seen anywhere, and I have been on many a hunt. I brought the best hunters, this was the Governor's hunt, and we brought the best we had, and he outshot them all. So I have the greatest respect for him.

The Senator from Connecticut, the senior Senator (Mr. RIBICOFF), helped us in the formulating of our technical training program. So we like to learn. But let us also learn about the balanced budget, Senator. We have got an AAA credit rating which we obtained 20 years ago. The only way we can maintain any kind of rating in the eyes of the American people with respect to fiscal affairs nationally is to follow through on all of the hard work we have done.

Let us not come up with an idea to borrow money, to raise the interest rates again, to bolster the interest rates and get the Government into the capital markets one more time, to shove out private capital, because then we will all want to talk about jobs and start that seriatim of events. Let us hold tight, knowing the States understand, the Governors understand.

The argument has been made that States have already relied on this revenue sharing money in making their budgets. But the simple fact is that 40 States are showing general operating fund surpluses vastly greater than the amount of revenue sharing we are talking about reducing in this bill.

Let us look at some figures supplied by the National Governors Association regarding these 40 States' 1980 surpluses. Revenue sharing for those 40 prosperous States simply subsidizes their surpluses at the cost of an increased Federal deficit.

Look at Alaska, for example, which expects a surplus of $1.5 billion but has only about $2 million at stake in this revenue sharing reduction.

These figures show Ohio with a $210 million surplus, and $23 million of that will be subsidized by revenue sharing.

Texas shows a surplus of $181 million; $28 million will be subsidized by revenue sharing.

New Jersey shows a $144 million surplus, of which $19 million will be subsidized by revenue sharing.

Missouri shows a quarter-billion-dollar surplus; $10 million of it will be subsidized by revenue sharing.

In Minnesota revenue sharing will pay for $11.5 million of that State's $147 million surplus.

In Maryland, revenue sharing will pay for $11 million of that State's $196 million surplus.

Look at Louisiana, where revenue sharing will pay for $10 million of that State's $255 million surplus.

And Kansas, where revenue sharing will pay for $5 million of that State's $156 million surplus.

In Indiana, revenue sharing will provide $11 million of that State's $201 million surplus.

In Illinois, revenue sharing will provide $28 million of that State's $400 million surplus.

And in California—the State tax cutting capital of America—revenue sharing will subsidize $67 million of that State's whopping $1.8 billion surplus.

Just in case you think these estimates provided by the National Governors Association may be too liberal, just remember that last year the actual State surpluses turned out to be twice as high as these estimates predicted.

And many other of these same States have followed California in actually cutting their taxes, using the subsidy provided by revenue sharing to help make up the difference.

We are not just subsidizing State operations with our Federal deficit. We have been subsidizing State tax cuts.

Make no mistake about it. My own State of South Carolina will be hurt by this amendment. But South Carolina, like more than 30 other States, has asked us for a constitutional amendment to balance our Federal budget. Surely those same State legislatures must be willing to share part of the burden in that balancing effort. That is what this bill is asking them to do.

And remember, in any case, Congress has already decided, in this year's congressional budget, that revenue sharing should be ended this year. All this bill does is reduce the remaining 1980 State share by 25 percent. We are not even eliminating those final revenue sharing payments.

Two weeks ago the Senate passed a budget resolution which made greater savings from existing programs than any budget Congress has ever adopted. It passed by a vote of 61 to 26. Most of those who voted against it did so because they thought it spent too much. And those who voted for it endorsed the savings it contains.

So nearly every Member of this body was unanimous in telling the Appropriations Committee to make this billion-dollar outlay saving in 1980.

We have done it.

Now the question is whether the Senate will stand by its commitment to save this money, because there is no other way to save it.

I appreciate the Senator's yielding such time to me.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I believe time was yielded to the distinguished Senator from Tennessee (Mr. SASSER).

Mr. SASSER. Mr. President, this morning I would like to associate myself with the comments of the distinguished Senator from Connecticut.

I support the reinstatement of $572 million to the general revenue-sharing program on several important grounds. General revenue sharing, as you know, is an entitlement program and has been since its inception 8 years ago. You all have heard many times about the merits of the program—its flexibility, the fact that State and local governments can spend the funds according to their own, rather than our, priorities, and its dependability.

But I am not here to debate these and other merits of the general revenue-sharing program.

This week these very policy issues have been considered in a House markup on the administration's proposal to extend the general revenue-sharing program; and Senator BRADLEY's subcommittee will be marking up the bill soon. These markups and the ensuing floor debates will provide ample opportunity to shape the program for future years.

What I am here to discuss is whether we are going to follow through on our past commitments or not.

As the term "entitlement" implies, the Congress felt that this program was important enough to entitle State and local governments to receive payments for its duration.

In turn, State and local governments have taken us at our word and have planned and obligated these funds for various purposes. In fact, 39 State legislatures have concluded their business for this year, and have adjourned; and several more will do so at the end of the month. They did so with the reasonable expectation that the decisions they had made concerning the expenditure of general revenue-sharing funds would stand.

Are we now going to break our longstanding commitment in the waning hours of the program? I would sincerely hope that the Senate's answer is "No."

Now because of action taken last night, we are being asked to cut $572 million in revenue-sharing funds from State and local governments all across the country.

The initial amendment called for taking revenue-sharing funds exclusively from State governments. But now $382 million in revenue sharing will be denied to local governments during the next 6 months, while State governments will lose $190 million.

Neither State or local governments can afford these revenue sharing reductions. The Department of Commerce now reports that because of the deepening recession, State and local governments combined may show a deficit of $17 billion this year if economic conditions persist.

State and local governments are tightening their belts. State and local taxes are being held down. And State and local governments all across the country have already included 1980 revenue sharing funds in their budget. By cutting back on revenue sharing now, we will be severely compounding State and local fiscal problems.

My own State of Tennessee, for example, has had to reduce its 1980–81 budget by nearly $34 million this year. In the process the State has had to reduce its work force by nearly 3,000 positions. Additionally, Tennessee has placed a freeze on the hiring of all new employees, severely curtailed State equipment purchases and travel expenditures.

If Tennessee's State revenue shortfalls continue, the State may have to take other drastic actions such as curtailing $40 million in capital outlays, reducing State medicaid outlays by as much as $42 million, and cutting nearly $19 million in State highway construction outlays.

The State of Tennessee has bitten the bullet during these fiscally austere times. They simply cannot afford to lose another $11 million from their State revenue sharing entitlement nor can local governments in Tennessee or elsewhere.

In conclusion, Mr. President, if we approve this rescission of 1980 revenue sharing funds at this late date, it will constitute a breach of faith with State and local governments. This is bad public policy. It says that the Federal Government cannot be trusted when it provides entitlements to State and local governments. Approving this recission will do considerable damage to our Federal system. I urge my colleagues to take action today to restore these 1980 revenue sharing funds.

I yield the remainder of my time to the Senator from New Jersey.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BRADLEY. Mr. President, let us be very clear on what this vote is. This is a vote not just on cutting the States' share but a cut of the local share of revenue sharing as well.

The distinguished Senator from Wisconsin has said that the inclusion of the local share is only a tactic here so we can avoid a point of order; that when he gets to the conference he will make sure it is going to be a cut only in States' share.

Let me suggest to the Senate, Mr. President, that if this is indeed the tactic that the Senator from Wisconsin exercises, what we could be voting on here today is not just a loss of part of the States' share and local share but all of the States' and local share. This is because I know State governments that are even today preparing to litigate a lawsuit in which the argument will be made that you cannot change legislation through the appropriation process. If the States are to be eliminated from revenue sharing, you have to change the underlying authorizing legislation which entitles both States and local governments to their share of revenue sharing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WEICKER. Mr. President, I yield 3 minutes, without losing my right to the floor, to the distinguished Senator from Oklahoma (Mr. BELLMON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I support the rescission of revenue sharing in this bill, and I oppose this and any other attempts to reverse the recommendation of the Appropriations Committee. I realize that this is one of the more difficult choices made by the Appropriations Committee—but this choice was necessary in order that the committee bill could be accommodated within the revised fiscal year 1980 second budget resolution and meet the reconciliation instruction included in that resolution.

Mr. President, it was only 2 weeks ago that Congress adopted the conference report on the revised 1980 budget. That revised budget resolution increased the binding ceilings for fiscal year 1980 by $19.45 billion in budget authority, and $16.75 billion in outlays. It increased the projected deficit for this fiscal year to $46.55 billion.

Many Senators said when the revised 1980 budget was considered by this body that these increases were excessive, unwarranted, and unconscionable. The majority of the Senate felt otherwise. We adopted the increased ceilings—and I supported that position. Having adopted these new higher budget ceilings for fiscal year 1980, surely Congress intends to live within them.

The compelling question before the Senate is not whether the revenue sharing cut in this bill is legislation on an appropriations bill, nor whether it is germane. The critical question before the Senate is: Do we intend to exercise the discipline necessary to stay within our own 2-week-old budget: and if we do intend to stay within the budget, what kinds of cuts will we have to make in other programs if the revenue sharing funds are restored?

Mr. President, this bill is not only consistent with the totals in the second budget resolution. It fulfills the reconciliation instruction to the Appropriations Committee included in that resolution. The Appropriations Committee should be commended by the Senate for this. This is the first bill ever reported, in either House, pursuant to a reconciliation instruction; and the Appropriations Committee has set a fine example by scrupulously adhering to the requirements of their reconciliation instructions. This Senator would sincerely hope—indeed expect—that the bill passed by this body would also achieve those reconciliation savings.

Reconciliation is the first coherent attempt Congress has made to address the problem of so-called uncontrollable spending. The Senate has taken the lead in the implementation of the reconciliation process. Last year, the Senate included reconciliation instructions in the second concurrent resolution on the budget. The House would not agree to include reconciliation in the final version of the second budget resolution last year; so we compromised on the inclusion of language in the conference agreement to the effect that the resolution contemplated certain savings. That resolution did not include specific instructions to any committee to insure that those savings would be realized. Partly because those savings were not realized—and partly due to events beyond the power of Congress to control—we had to revise the second budget resolution ceilings upward in the manner I described at the beginning of my remarks.

As I have just said, the revised 1980 budget does include reconciliation instructions to the Appropriations Committee to reduce spending in laws already on the books by $3 billion in budget authority and by $1 billion in outlays. This bill, as reported, fully meets those instructions. By way of a reminder, the Senate-passed version of the revised budget would have required Appropriations to cut $4.3 billion in budget authority and $2.6 billion in outlays.

If the general revenue sharing rescission is striken from this bill, an additional $572 million in outlays must be cut from amounts already enacted—or this bill would not meet the reconciliation requirements of the second budget resolution.

Mr. President, the fiscal year 1981 budget assumes a one-third reduction in funding for general revenue sharing. That amount is equal to the State share of program funding. The administration supports the termination of general revnue sharing grants to States in fiscal year 1981. The rescission in general revenue sharing funds included in this supplemental appropriations bill will not seriously disrupt the program; we have already assumed a significant cutback in funding for the program in fiscal year 1981.

Mr. President, I was an original supporter of the general revenue sharing concept. The idea of providing money to the States and localities with no strings attached in lieu of categorical grants so that they might tailor programs to more effectively address their own needs is a sound one. Unfortunately, there are parts of the original plan that have not proven to be sound. When we provided general revenue sharing, we planned to reduce the number of categorical grants. We have not done this. The States have been very happy to get the infusion of general revenue sharing funds, but have refused to give up the old categoricals. Between fiscal years 1975 and 1978, at a time when the States were in surplus and the Federal Government deep in debt, we not only made general revenue sharing payments—we actually increased the number of categorical grants by 50 percent. That 50-percent figure is net—new programs minus any old ones that were phased out or folded into the new ones. So that part of the revenue sharing concept has not worked out.

Just the other night, I offered an amendment to study, once again, the Domenici-Bellmon education consolidation proposal. We had to settle for further study, because strong vested interests continue to lobby hard against any kind of grant consolidation or reduction. As a veteran of 5 years of battle on this proposal alone, I am about to conclude that we may never be able to phase out categoricals; and we surely cannot afford both categorical and general revenue sharing at once.

Another rational behind the original general revenue sharing concept was that the progressive Federal income tax would inevitably generate large budget surpluses. We all know this has not been the case. In fact the Federal budget has been in deficit every year since the general revenue sharing program was enacted. States have been able to cut taxes. Local governments have been able to cut taxes.

Mr. President, I strongly urge the Senate to reject this amendment and—and make up our minds to live with our 2-week-old budget and the discipline it implies.

Mr. President, I ask unanimous consent to have printed in the RECORD some information that I believe Members need to know about before they vote on this issue.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 4.—MAJOR 1978 TAX REDUCTIONS

State	Personal income tax				General sales tax				Property tax			
			Increased			Increased exemption						
	Rate decrease	Credits	Standard deduction	Personal exemption	Rate decrease	Food	Drug medicine	Increased credit	Homestead relief[1]	Circuit breaker[1]	Other	Classification
Alabama									×			×
Alaska		×										
Arizona							×					
California		×		×			×				×	
Colorado		×[1]		×						×		
Connecticut											×	
District of Columbia									×	×		×
Hawaii				×[2]								
Idaho		×[3]								×		
Illinois									×			
Indiana		×[4]		×[3]			×		×			
Iowa							×			×		
Kansas								×[4]		×		
Louisiana							×					
Maine	×			×					×		×	
Maryland							×			×		
Massachusetts									×			×
Michigan							×					×
Minnesota	×	×[5]										
Mississippi			×									
Missouri							×					
Nebraska								×	×			
New Mexico	×	×			×						×	
New York	×		×	×						×		
Ohio							×					
Pennsylvania										×		
Rhode Island										×		
South Carolina									×			
South Dakota								×[6]	×		×[7]	×
Vennessee							×		×			
Texas									×			
Termont	×	×					×					

TABLE 4.—MAJOR 1978 TAX REDUCTIONS—Continued

State	Personal income tax				General sales tax				Property tax			
			Increased			Increased exemption						
	Rate decrease	Credits	Standard deduction	Personal exemption	Rate decrease	Food	Drug medicine	Increased credit	Homestead relief[1]	Circuit breaker[1]	Other	Classification
Virginia							X		X[8]			
Washington						X						
Wisconsin		X										
Wyoming							X	X[6]				

[1] Homestead and circuit breaker relief program are generally restricted to low income, elderly and the disabled.
[2] For blind, deaf, and totally disabled.
[3] For elderly only.
[4] For low income elderly.
[5] Reduced special credit for those 65 and over, blind, or disabled.
[6] For senior citizens and disabled.
[7] Repealed State personal property tax.
[8] At local option.

Source: ACIR staff compilations based on Commerce Clearing House, State Tax Review, various issues; Federation of Tax Administrators, Tax Administrators News, vol. 42, No. 9, September 1978; ACIR questionnaire response.

TABLE 1.—SELECTED TAX REDUCTIONS AND RESTRICTIONS 1979

	State personal income tax			State general sales tax		Local property tax			
	Rate reduction	Base reduction	Indexation	Rate reduction	Base reduction	Homeowner tax relief	Pate or levy limit	Assessment constraint	Truth-in-taxation
Arizona		X[2]						X	
Arkansas					X	Limited			
California		X[2]	X[a]						
Colorado		X[1,2]			X				
Delaware	X								
District of Columbia						General[1,2]			
Florida						General[b]	X		
Georgia					X	Limited[c]			
Idaho								X	
Illinois				X					
Indiana	X	X[1,2]				General[1]			
Iowa		X[1,2,3]	X			General[2]			
Kansas		X[1,2]			X	General[2]			
Kentucky					X		X		X
Louisiana		X[2]							
Maryland		X[1,2]			X	General[2]			
Massachusetts		X[1]					X		
Michigan		X[2]					X		
Minnesota	X	X[1,2]	X		X	General[2] Limited.		X	
Mississippi		X[1]			X				
Missouri		X[2]			X	Limited			
Montana		X[1]				General[1]			
Nebraska	X								
Nevada					X	Limited	X		
New Mexico		X[2]					X		
New York	X	X[2]			X				
North Carolina		X[1]							
North Dakota		X[2]				Limited			
Ohio						Limited			
Oklahoma		X[1]				General[2] Limited.			
Oregon		X[1,2,3]				General[1,2]		X	
Pennsylvania			X[b]			Limited			X
Rhode Island		X[2]				Limited			X
South Carolina				X[d]		Limited			
South Dakota				X					
Tennessee						Limited			X
Texas						General[1,2] Limited			
Utah		X[2]						X	
Vermont	X	X[2]							
Virginia									X[e]
Washington						Limited			
West Virginia				X[f]					
Wisconsin	X	X[1,2,3]	X		X	General[1,2]			
Wyoming					X	General[1]			

LEGEND

State personal income tax "base reduction:"
[1] New or expanded exemptions or deductions.
[2] New or expanded credits (including renters' property tax credit).
[3] Rebates.
Local property tax "homeowner tax relief:"
General[1]—New or expanded tax relief with no age or income restrictions.
General[2]—New or expanded tax relief with income restrictions.
Limited—New or expanded tax relief with age or disability qualifications.
[a] The 3 percent threshold in the personal tax inflation adjustment factor was eliminated.
[b] Pending voter approval of proposed constitutional amendment.
[c] The legislature approved several proposed constitional amendments, which if approved by the voters, would provide tax relief in individual Georgia counties.
[d] The sales tax on residential fuel will be phased out over next 3 yr.
[e] Tightened restrictions on existing truth-in-taxation law.
[f] Sales tax on food to be phased out over next 2 yr.

Source: ACIR staff compilations based on Commerce Clearing House, State Tax Reporter.

TABLE A-1.—PROJECTED STATE GENERAL OPERATING FUND RESOURCES, EXPENDITURES AND BALANCES, FISCAL YEAR 1980

[Dollar amounts in millions]

	1980 projected resources (including 1979 balances forward)	1980 projected expenditures	1980 projected balance	Reduction in revenue sharing proposed (−25 percent)	1980 projected operating balance as percentage of 1980 expenditures
Alabama	$1,538.2	$1,538.2	0	9.0	0
Alaska	2,827.4	1,260.4	$1,567.0	1.9	124.3
Arizona	1,357.1	1,170.1	187.0	6.7	16.0
Arkansas	823.3	823.3	0	5.7	0
California	20,410.2	18,575.6	1,834.6	66.6	9.9
Colorado	1,450.0	1,246.0	204.0	6.4	16.4
Connecticut	2,388.3	2,388.0	.3	7.1	.01
Delaware	644.1	609.9	34.2	1.7	5.6
Florida	3,805.8	3,686.5	119.3	17.1	3.2
Georgia	2,895.2	2,814.8	80.4	12.6	2.8
Hawaii	1,105.9	994.0	111.9	2.7	11.3
Idaho	378.0	357.6	20.4	2.2	5.7
Illinois	8,540.0	8,140.0	400.0	28.2	4.9
Indiana	2,215.4	2,014.1	201.3	11.2	10.0
Iowa	1,819.5	1,749.2	70.3	7.3	4.0
Kansas	1,291.8	1,135.1	156.7	5.1	13.8
Kentucky	1,890.0	1,866.5	23.5	9.2	1.2
Louisiana	3,572.2	3,317.2	255.0	10.2	7.7
Maine	540.2	524.4	15.8	3.2	3.0
Maryland	2,828.4	2,632.8	195.6	11.0	7.4
Massachusetts	3,922.8	3,903.1	19.7	17.9	.5
Michigan	4,696.7	4,696.7	0	24.5	0
Minnesota	3,914.4	3,767.2	147.2	11.4	3.9
Mississippi	996.2	982.5	13.7	7.9	1.4
Missouri	2,159.5	1,931.7	227.8	10.2	11.8
Montana	258.3	238.2	20.1	2.3	8.4
Nebraska	649.5	610.5	39.0	4.0	6.4
Nevada	$407.2	$352.4	$54.8	1.5	15.5
New Hampshire	266.7	248.5	18.2	2.0	7.3
New Jersey	4,806.0	4,662.0	144.0	18.8	3.1
New Mexico	790.0	780.1	9.9	3.4	1.3
New York	12,863.6	12,853.3	10.3	62.1	.1
North Carolina	2,873.4	2,844.7	28.7	14.1	1.0
North Dakota	412.2	308.9	103.3	1.7	33.4
Ohio	4,771.8	4,561.4	210.4	23.0	4.6
Oklahoma	970.4	855.5	114.9	6.5	13.4
Oregon	1,461.3	1,459.5	1.8	6.5	.1
Pennsylvania	6,366.8	6,322.5	44.3	27.6	.7
Rhode Island	690.7	662.2	28.5	2.5	4.3
South Carolina	1,544.4	1,539.0	5.4	7.6	.4
South Dakota	229.7	224.1	5.6	2.0	2.5
Tennessee	2,686.0	2,677.0	9.0	11.0	.3
Texas	4,247.8	4,067.0	180.8	27.5	4.4
Utah	750.1	750.1	0	3.6	0
Vermont	228.8	227.1	1.7	1.8	.7
Virginia	2,663.6	2,468.8	194.8	11.8	7.9
Washington	3,660.8	3,461.5	199.3	7.9	5.8
West Virginia	1,056.0	1,043.0	13.0	5.2	1.3
Wisconsin	3,375.8	3,281.1	94.7	13.3	2.9
Wyoming	316.2	230.4	85.8	1.2	37.0
Total	136,357.7	128,853.7	7,504.0	8	5.8

Note: Totals reflect rounding.

Source: Fiscal Survey of the States 1979–80, National Governors' Association and National Association of State Budget Officers, March 1980.

Mr. BELLMON. First is a table showing the major 1978 tax reductions for 50 States. This table shows that during 1978 13 States cut personal income taxes, 18 States cut general sales taxes, 24 States cut property taxes.

In 1979 25 States cut personal income taxes, 14 States cut general sales taxes, and 34 States cut local property taxes.

Mr. President, I also have another table which shows that if this reduction goes into place there will be nine States that will have a larger reduction than the amount of their surplus. All the other States have surpluses in their 1980 budgets that more than offset the reduction in Federal funds that is anticipated by the action of the Appropriations Committee. Most of those surpluses are significantly larger than the reductions.

For instance, Arizona projects a surplus of $187 million, the reduction from revenue sharing is $6.7 million; California a $1.8 billion surplus, their loss of revenue under this action is $66 million; Colorado has a surplus of $204 million, their reduction is $6.4 million if we go through with the Appropriations Committee action; Delaware has a surplus of $34 million, they lose $1.7 million; Florida has a surplus of $119 million, they lose $17 million; Georgia has a surplus of $18 million, they lose $12 million; and right on down the line. So there is action we can take which will help us balance our Federal budget.

The States, in cutting their revenues, they still have hard surpluses. And here we are trying to get our fiscal house in order and they should be helping us rather than screaming at us. There are 31 States that told us we should balance our budget and we are trying to do it.

Mr. PROXMIRE. Will the Senator from Oklahoma yield?

Mr. BELLMON. I am happy to yield.

Mr. PROXMIRE. Can the Senator envision a more blatant repudiation of the Budget Act? Two weeks after the Senate voted 61 to 26 in favor of the budget resolution—61 to 26 in favor of giving instructions to the committees to come within the budget resolution—then they turn around in 2 weeks and repudiate that position. It seems to me if we do that now, this precedent is going to haunt us for a long, long time. What force is the action either by the Budget Committee or the Senate on a budget resolution likely to have in the future?

Mr. BELLMON. Mr. President, if we set this precedent today on a matter that, to me, is so obviously unjust, I do not know how we will ever hold back the threat of motions to override the budget process in the future.

Mr. PROXMIRE. And nothing has happened in the last 2 weeks to justify this change.

Mr. BELLMON. Nothing at all.

Mr. DURKIN. Will the Senator from Oklahoma yield?

Mr. BELLMON. I do not have any time remaining.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WEICKER. Mr. President, I will yield to the Senator from New Hampshire in a minute.

I would like to bring this matter to a vote. I agreed to recognize as many Senators as I could, and I will certainly yield to the Senator from New Hampshire without losing my right to the floor.

Mr. DURKIN. Mr. President, I just need 10 seconds.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I would like to point out that those figures that the distinguished Senator from Oklahoma read were compiled in March prior to current unemployment figures and they are now totally out of date. He would not go to the window at Rockingham with those figures.

Mr. BELLMON. Those 1978 and 1979 figures still stand.

Mr. WEICKER. Mr. President, it is my intention to make the point of order. In conclusion, I give myself 30 seconds.

There are two things which I think are important to remember. We made a promise. Maybe that no longer means anything insofar as the United States and its relations with the world, but I suggest it better mean something here at home. We are not asking Senators to enact anything for fiscal year 1981, no new programs, but merely to honor a promise made. And then the point that my distinguished colleague from New Hampshire (Mr. DURKIN) made, which answers the point raised by the Senator from Oklahoma, if there were no mechanism to account for changes in circumstances, that would be one thing, but there is what is known as a budget waiver. And why is the waiver in there? So that if the occasion demands because of changed circumstances, that is, a recession. We are in a recession. That is what changed. And because it has changed means that we have to change our approach toward this matter.

Mr. President, I ask that we live up to the commitment made earlier and restore the $572 million for State revenue sharing.

Mr. President, pursuant to rule 16, I make the point of order that the committee amendment to H.R. 7542, beginning on page 73, line 11, of the bill and running through line 18 of that page is not relevant and is, therefore, out of order.

The PRESIDING OFFICER. Under rule 16, paragraph 4, affecting appropriations: "No amendment not germane or relevant to the subject matter contained in the bill" shall be received. All questions of relevancy of appropriations amendments are to be submitted to the Senate and decided without debate.

The question before the Senate is, Is the committee amendment germane?

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, is a tabling motion in order?

The PRESIDING OFFICER. A tabling motion would be in order.

Mr. BELLMON. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), and the Senator from Indiana (Mr. LUGAR) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 37, nays 54, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—37

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
DeConcini
Domenici
Eagleton
Exon
Glenn
Gravel
Hart
Hollings
Huddleston
Inouye
Jackson
Johnston
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Nelson
Nunn
Proxmire
Randolph
Roth
Schmitt
Stennis
Stevenson
Stone
Young

NAYS—54

Armstrong
Boschwitz
Bradley
Bumpers
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Long
Mathias
McClure
Mitchell
Moynihan
Packwood
Pell
Percy
Pressler
Pryor
Riegle
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—9

Baker
Cannon
Dole
Goldwater
Kennedy
Lugar
McGovern
Ribicoff
Talmadge

So the motion to lay on the table the point of order made by Mr. WEICKER was rejected.

The PRESIDING OFFICER. The motion recurs on the point of order.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. CHILES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. Is the point of order debatable?

The PRESIDING OFFICER. It is not debatable.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. The quorum call having been rescinded, is it not now the next order of business for the vote to occur?

The PRESIDING OFFICER. The Senator is correct.

The question is, Is the amendment germane? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), and the Senator from Indiana (Mr. LUGAR) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "nay."

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 36, nays 55, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—36

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
DeConcini
Eagleton
Exon
Glenn
Gravel
Hart
Hollings
Huddleston
Inouye
Jackson
Johnston
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Nelson
Nunn
Proxmire
Randolph
Roth
Schmitt
Stennis
Stevenson
Stone
Young

NAYS—55

Armstrong
Boschwitz
Bradley
Bumpers
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
Domenici
Durenberger
Durkin
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Long
Mathias
McClure
Mitchell
Moynihan
Packwood
Pell
Percy
Pressler
Pryor
Riegle
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stevens
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—9

Baker
Cannon
Dole
Goldwater
Kennedy
Lugar
McGovern
Ribicoff
Talmadge

The PRESIDING OFFICER. The committee amendment is held not to be germane and therefore fails.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was held nongermane.

Mr. DURKIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair is having trouble determining who is seeking recognition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have just sat by and have not participated in this debate, but I think it is a very significant one and I have respect for all of the Members who voted "nay" just now and prevailed.

I think we should understand what we are doing. What we are doing is we are busting the budget, and it is just as simple as that, to the extent of $572 million.

I have great respect for everyone who thinks we should do that. I have great respect for all of those who are concerned about State revenue sharing. But let us not kid ourselves. This is a vote to bust the budget.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. No; not until I conclude.

Mr. DURKIN. I just wanted to——

Mr. METZENBAUM. I am not yielding. I have the floor.

I look down the list of Senators who voted for this. I am impressed. I am impressed by the fact that the very Senators who are the best speakers in the Senate about the need to balance the budget, the ones who make the most noise in the Budget Committee, are the ones who have voted in this respect.

Look down the list, and it looks like the rollcall of the most conservative Members of the Senate, the ones who are found across the country—some absent today because they are out across the country telling people we have to balance the budget and the big spenders and the liberals are not willing to balance the budget.

I wish to say to my friends across the

aisle look at the list of Senators who have voted on this particular issue and they will find that the very Senators who make the best speeches, the ones who stand up and scream at the top of their lungs about balancing the budget, what side are they on? They are out there on another $572 million on a give me, give me approach: "Balance the budget if it does not affect me or my State. But do not balance the budget if you are going to have any negative impact upon my State."

Look at the list: ARMSTRONG, DOMENICI, GARN, HATCH, HAYAKAWA, HELMS, HUMPHREY, JEPSEN, KASSEBAUM, LAXALT, MCCLURE——

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM (continuing). SIMPSON, THURMOND, TOWER, WALLOP.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. Beg pardon.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. Not at this point. I will shortly.

Mr. McCLURE. Mr. President, the Senator used my name.

Mr. METZENBAUM. If I used the Senator's name incorrectly, I did so on the basis of this.

Mr. McCLURE. The Senator used my name. I did not think he said it incorrectly. I think the Senator is obligated to yield if he uses my name.

Mr. METZENBAUM. I did not say anything derogatory about the Senator from Idaho. I only pointed out how he voted.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senators will suspend.

Mr. McCLURE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Senators will suspend.

Mr. METZENBAUM. I certainly would not want to——

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Ohio has the floor. Does he yield?

Mr. METZENBAUM. I certainly would not suggest anything derogatory about any of my friends who have voted as they have just done. I have only brought the facts to the attention of the public.

Several Senators addressed the Chair.

Mr. METZENBAUM. And I just feel that those who sit with me on the Budget Committee as well as others—not all, of course—have just voted to bust the budget to the extent of $572 million. I think that is a significant reality of life.

Now I am happy to yield to my friend from Idaho, to my friend from New Hampshire, to anyone else.

Mr. STEVENS addressed the Chair.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Ohio yielded to the Senator from Idaho.

Does the Senator from Idaho yield to the Senator from Alaska?

Mr. McCLURE. Mr. President, I will just in very short order be very happy to.

I thank the Senator for yielding.

I do believe that senatorial courtesy demands when a Senator's name is used that he is entitled to respond, and I appreciate the Senator from Ohio yielding to me for that reason.

Mr. President, let us not be deluded by what has just been said. The Senator from Ohio is one of the biggest spenders in this body, and I do not say that in derogation. I say that with great affection.

[Laughter.]

Mr. McCLURE. Mr. President, if this budget has a $46 billion deficit the Senator from Ohio knows why it is $46 billion in deficit because he voted for virtually all of it, and I do not say that in derogation. I say it with affection to my friend.

But, Mr. President, this resolution is not over yet. We are not yet in deficit under this supplemental. This Senate still has the opportunity to make whatever other adjustments it wishes to make in the remainder of the supplemental, and this Senator will be, as many of the others whose names were read, looking with great care and attention to determine whether or not we can find out of the remainder of this bill one-tenth of 1 percent of the entire Federal expenditures for 1980, and that is all it takes to balance the budget.

I am sure we will find somewhere that one-tenth of 1 percent. Maybe we will find it everywhere. Maybe that is the answer. One-tenth of 1 percent off of every item that is included in the budget, and it will be in balance.

I thank the Chair and I thank the Senator from Ohio for yielding.

I yield.

Several Senators addressed the Chair.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Florida.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I think we should refocus on what the Senator from Connecticut did.

He has presented an objection to the committee amendment which many of us voted against in committee which in effect reneged on the promise that the Federal Government had made to the States and to local governments for revenue sharing.

The legislatures of many States have adjourned and will not be back in session. There are antideficiency statutes, and in an election year if we do not take the action we just did, many of them will be faced with calling their legislatures back into session before the election. That is reneging on a commitment made by the National Government to State and local governments which many of us find unpardonable.

I support the budget process. I support my good friend from Washington in his efforts on this bill, and the Senator from North Dakota, too. I know they are not pleased with what we have done, but I think we have done the right thing because we cannot send out signals to States and local governments that they can expect funds and let their legislatures and their elected bodies pass budgets, approved budgets which, incidentally, are balanced budgets, balanced because they expected the funds, and then in midstream change the signals on them.

As the Senator from Idaho said, we have to find a place to cut now in order to make up for this.

I say to my good friend from Ohio that he mistakes this if he thinks this is a budget-busting amendment. This is a promise-keeping amendment, and it is something we had better learn to do so far as this Senator is concerned.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would just like to respond to the Senator from Alaska, who said the legislatures have gone out of session, that there are States counting on this money.

Well, the fact is that my friend from Alaska knows his State has $1.5 billion in surplus, and I envy them. I do not criticize them. But I certainly think that with $1.5 billion in surplus there is no need for the Federal Government which is attempting to balance its budget for us to be standing on the floor trying to figure out——

Mr. STEVENS. Mr. President, will my friend yield?

Mr. METZENBAUM. Certainly.

Mr. STEVENS. I will say to you that is true. We are fortunate to have a surplus in Alaska, after having struggled through 21 years with abject poverty. We have some money now. But I speak for this side of the aisle, for the Senator from Tennessee who is absent, for instance, and I speak particularly of the Governor of Tennessee who told me about the plight of their State with regard to revenue sharing, and other Governors throughout the country who remarked to me about the problems of State governments in managing themselves under a balanced budget concept if Congress is going to renege on a commitment made under the revenue sharing program so they can have a balanced budget.

To force them into a situation where they are either in violation of antideficiency statutes or in election years must call their legislatures back into session just prior to an election I think is wrong.

The Senator from Ohio can argue all he wants to and can state this is a concept of big spending. I do not see that at all, and I will be happy to deal with the Senator and cut, if you want to cut, twice as much as this from this bill. I will help you find the money. As a matter of fact, I know of one item where it can stand just about twice as much and I would be happy to talk about that if the Senator would like to do it.

Mr. METZENBAUM. The Senator from Ohio does not rise on this issue to attack the principle of revenue sharing for the States because, as a matter of fact, I recognize that many States are much in need. All I am saying is that the very people who speak the loudest about balancing the budget were found on the last two votes to be the ones who were prepared to bust the budget.

All I am saying is that you have got a perfectly legitimate right to do so, but at least you ought not to be in a position to say on one day we "want to balance the budget" and the next day bust it to the extent of almost $600 million.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Will the Senators have the kindness to desist? Has the Senator from Ohio yielded the floor?

Mr. METZENBAUM. I yield to the Senator from Florida.

Mr. CHILES. Mr. President, I note the hour is 2 o'clock and the day is Friday, and we were talking about a recess, and we were talking about at one time whether we were going to leave on Monday or Tuesday or the recess was going to start on Wednesday.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. ROBERT C. BYRD. We "ain't" going to leave.

Mr. CHILES. That was the kind of feeling I had, Mr. President. You kind of confirm it for me. But that is the feeling I had because I think it is going to be very interesting—let us get away from the kind of merits a minute about this bill. The Appropriations Committee did not really want to cut this money. I do not think anybody really wanted to cut the money in the Appropriations Committee. But part of it was, I think, the fight was hard enough and the struggle was hard enough to try to get this bill into balance having this $500 million.

Now, if the $500 million is gone, and I know how it is, all of us always have a place we are willing to cut $500 million—I have got 10 or 15, everybody has got some—but the interesting thing is going to be whether 51 are ready to cut, and that is what we perhaps ought to start doing, seeing if we have 51 who are ready to cut the $500 million or, you know, we have talked about how bad it is to go back on our word on revenue sharing. That is bad for me. But it was a lot worse for me to go back on my word of saying I was going to try to balance the budget. It is a lot worse to me to say that we are going to come up with a product that does not balance, is not in balance, that the Budget Committee is going to make a point of order on, because we have got items that are not in balance, and I think it is going to be an interesting exercise for the Senate now in the—well, I guess we have got about in the—3 weeks we have while the House is going to the convention, during that period of time to see where we get this $500 million and get 51 votes for the $500 million in cuts so that we can make sure that we keep this revenue sharing money and we stay pure on that particular question.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to add my 2 cents worth to what has already been said.

For 2 years I have urged this body to eliminate revenue sharing to the States, and during consideration of the budget resolution we eliminated revenue sharing for the States for 1981. I even voted against the Kassebaum amendment, which would have restored $700 million to the States.

I have never much believed in the whole concept of revenue sharing, for that matter, but I have been trying with the Senator from Connecticut, both in committee and on the floor, for a very simple reason, part of it admittedly parochial and provincial, and that is because my State assumed they had a contract with the Federal Government for the money, and we give 80 percent of revenue sharing to the highway department in my State, and it is obligated. It has already been contracted to be spent. The Governor unhappily under our constitution does not have the right to just give money from one fund to another. He cannot rake up the money we are going to lose, so it will require either the abrogation of a contract on the part of the State, which would be most unhealthy, or a legislative session.

Nobody here ought to get pious about a balanced budget. I do not know anybody here who goes around championing unbalanced budgets.

We are talking about the budget for 1980 which is not even close to being balanced, and we are in the process right now of adding to a $25 billion deficit to the tune of about $18 billion. So we are not going to balance this 1980 budget.

But I, for one, if you will let me find the $500 million, I will find it for you in a birddog minute. Everybody on that side will find it for you. We have all got places where we can find $500 million so fast it will make your head swim, if we could just get 49 or 50 other Senators to agree with us. Unhappily it is not an easy chore to accomplish.

We will go to work on this budget and somehow or other under the brilliant tutelage of our majority leader we will stay here and hammer this out and we will find $500 million. But I just wanted to say that nobody around here ought to be castigating anybody else's vote on this.

BARBER CONABLE said in the House the other day something very revealing. He said: "If you are for $155 billion for defense you are a super patriot. If you are for $150 billion you are a Communist." You start talking about taking some money out of the social programs and somebody says you are trying to balance the budget off the hides and backs of women and children who are starving.

We ought to lower our voices and raise the level of the dialog and get this bill finished.

The PRESIDING OFFICER. The Senator from Louisiana (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. President, in the Appropriations Committee we had two votes on this question of revenue sharing. The first one went in the direction that the Senate is now going, and that is we restored the money for the States on revenue sharing. The majority of the committee did that because it is a good program and because everything that has been said here in behalf of revenue sharing is true: It is a fine program; the money is put to good use. And, in spite of the fact that most of the States have surpluses, in spite of the fact that 32 States have surpluses that exceed the amount that they receive in revenue sharing, nevertheless, the members of the Appropriations Committee, a majority, on the first vote said, "Let's go ahead and restore the money, because that money is put to good use."

But, Mr. President, we then got into the process in the Appropriations Committee of trying to determine where we would find that $572 million. As we looked at the different programs and looked at the things that we would have to cut, we came back by a fairly substantial vote, Mr. President, and determined that we could not do it that way. This was the only real place that we could make those cuts and do so sensibly without just utterly decimating some programs that are very good programs.

Oh, you can look at one or two places in the budget and find some waste. But, by and large, there is no way to find this $572 million.

Serving on the Budget Committee, Mr. President, has been absolutely revealing to me. I used to believe all these cliches and truisms that they said about Government, those cliches like, "Cut the fat." There is a Presidential candidate, who I will not name right now, who says:

> We are going to cut taxes. We are going to increase defense 10 percent. We are not going to cut social security, medicare, medicaid, or any other programs.

"How are you going to do it?" He says, "We are going to cut the fat."

Well, Mr. President, that is very appealing to people out there across America, because they believe that, because they have been given examples of what our colleague from Wisconsin (Mr. PROXMIRE) calls the "Golden Fleece Award." They think there are these little golden fleeces all over the Federal Government and that is all this waste and it is easy to do. All you have to do is cut out this excess and examples of conspicuous waste and conspicuous spending and it is all going to work out.

Mr. President, I have found on the Budget Committee, if I have not learned anything else, that it does not work that way. Cutting waste in Federal Government is like trying to cut the waste in a cafeteria. You can go into a cafeteria after lunchtime and see all this food that was not eaten. You say, "Look at this conspicuous waste. There ought to be a way to cut out this waste." But if you are the manager of that cafeteria and you try to manage the portions so that each person gets exactly what they need and no more, and enough, you will find it cannot be done.

That is what we have in the Federal Government. We have in every program human beings, bureaucrats, professional employees, some of whom are good and some whom are bad, who manage the programs and not all of the money is exactly the same or gets to the right place it is supposed to go.

But if anybody in this Chamber thinks for 1 minute that they can come in and make 572 million dollars' worth of cuts without having it absolutely decimate some programs, then they are absolutely dead wrong.

We sent a letter out—I say "we"—I think it was Senator HART, who was chairman of the subcommittee. He sent a letter out to all of the Governors who had been saying, "Cut the categorical programs." He sent a letter out to every Governor and said, "Governor, you say you want to cut the categorical programs. Which one?" He did not receive from one Governor one suggestion.

I have a little collection of letters my Governor sent telling me the different programs not to cut. I just received a whole bunch of wires from home saying, "Don't cut historic preservation." I was persuaded that maybe we could find some middle ground.

But by the time, Mr. President, you deal with all of the programs that are nondiscretionary, by the time you take care of defense, by the time you take care of social security, medicare, medicaid, food stamps, interest on the debt, and these other things that we talk about but we cannot really do very much about, that does not leave very much left to really cut.

What you have a choice of right here, Mr. President, is revenue sharing as opposed to decimating a huge number of programs. And when you look at those programs, you are going to find that so many of them are programs that Senators are not going to want to cut.

Mr. President, I would like to preserve revenue sharing. I think everybody would. But what is at stake here is the budget process. You can say that the budget process has failed because we have not balanced the budget this year. I do not believe that, Mr. President. I think we have accomplished a great deal in the Budget Committee this year.

I am like the Senator from Arkansas. I could have a true balanced budget—everybody could—if you take the cuts in the places that are not the highest priority to you. But when you get the collective body together and do as well as the Budget Committee did this year, I think it is an accomplishment of historic proportions. We have never done that before since I have been here in 7 years.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. JOHNSTON. Mr. President, we have not done that in 7 years since I have been here. It is a meaningful accomplishment. If we throw that down the drain, if we say, "Revenue sharing is good and our Governors want the money"—and sure, they want the money. They do not have to raise the taxes. They do not have to take the credit for that. All they have to do is get a check from Washington. If you were Governor, you would like to do that.

But compare those cuts in revenue sharing with 40-some States, I think it is, that have a surplus and 32 that have a surplus that exceeds the amount of revenue sharing, compare that to these programs you are going to have to decimate. You are going to have to absolutely zero them out in some respects. I think, Mr. President, this Chamber is going to come back to the conclusion that the only way to do it—well, there are two ways to do it: One is to throw the budget process out and have a budget waiver and the other way to do it is to come back to revenue sharing. And I think we are going to come back there. The question is how long it is going to take us to get there. I hope we will make that decision. It is only logical.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. DOMENICI. Will the Senator yield?

Mr. JOHNSTON. Mr. President, I will yield first to my colleague from West Virginia.

Mr. RANDOLPH. Mr. President, I will be very brief. Is it not a fact that the counties and the communities still have revenue sharing within the States?

Mr. JOHNSTON. That is right. The action of the Budget Committee does not cut the counties and the cities at all. It puts it all on the State's share.

Now, there are some parliamentary maneuvers on that you can argue that is going to take it away from the cities and counties, but it does not. The intent is clear and the result is clear. This takes it from the States.

Mr. RANDOLPH. My colleague is correct.

Several Senators addressed the Chair.

Mr. WEICKER. Mr. President, let us have a proper response to the question from the Senator from West Virginia. That is not a correct response.

The PRESIDING OFFICER. The Senator from Connecticut does not have the floor. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I thank the Chair.

I yield to my colleague from New Mexico.

Mr. DOMENICI. I thank my good friend.

His statement was correct, that the Budget Act does not eliminate revenue sharing for cities and local units of government.

But the Budget Act does not affect the appropriation. This appropriations bill indeed does affect the cities and local governments. When we are two-thirds or three-quarters through a year, we are saying to them, "What you expected, what you put into your budgets, what you planned to spend to pay policemen, in some cases, to pay for hospitals, in some cases, to pay for poverty programs, is gone."

Nobody ought to be under the misunderstanding that under this appropriations bill local units of government are not going to be hurt, and the same kind of hurt that we hear when we are told not to cut our programs, because it is the same kind of people.

So I do not believe the Senator was correct in telling our good friend, the senior Senator from West Virginia, that the local governments will not be hurt. That is just not so.

Mr. MAGNUSON. Well, now, wait a minute.

Mr. JOHNSTON. Mr. President, sweeping aside the parliamentary trappings of this whole thing, the action of the Appropriations Committee is to take all of the cuts out of the State's share. That is the intent. I think that will be the result.

It is true in some situations that the State's share would, through the trickle down policy, go to States and counties, but in terms of the share that goes to counties and cities, that will remain intact with the Appropriations Committee action, and all of the cuts would come from the State's share.

Mr. DOMENICI. Will the Senator yield to the Senator from New Mexico on his own time?

Mr. JOHNSTON. Did the Senator have a question?

Mr. DOMENICI. No. I wanted to speak to the issue.

Mr. JOHNSTON. Mr. President, I will yield the floor.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. DOMENICI. Mr. President, I have the greatest respect for the Senator from Louisiana.

Mr. MAGNUSON. Will the Senator yield for a moment?

Mr. DOMENICI. I would be pleased to yield.

Mr. MAGNUSON. It was never the intention of the Appropriations Committee to touch cities and counties. If there is any misunderstanding about it, we are certainly going to correct that before we complete this bill. If there is a technical misunderstanding, I can understand why, because last night we took out some language that was subject to a point of order. But we are going to clear that up. That is out of the way.

If the Senator will read the report of the committee. Our recommendation would only affect the States. Those were the only votes we had in the Appropriations Committee, to cut the States out of revenue sharing. I do not think the Senator from New Mexico ought to discuss it until we are through with the bill. We are going to clear that up.

Mr. DOMENICI. I have great respect for the chairman but I do not know why I should not discuss it. I believe the chairman is going to do what he said. But the way the situation is now, the intention may become the end product, as of right now with the striking of the proviso language on page 73——

Mr. MAGNUSON. I understand that. But what is the use of wasting all the time on what is in there now? It is misinterpreted, and we are going to clear it up.

Mr. DOMENICI. I hope the Senator does.

Mr. MAGNUSON. I hope the Senator will vote with us when we get it cleared up.

Mr. DOMENICI. I may and I may not. I just want to respond to a lot of noise that has been made that is not any more relevant than mine to the issue, and I will not take more than 3 minutes. Then I will yield.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOMENICI. I am pleased to.

Mr. ROBERT C. BYRD. I hope when the Senator completes his statement, the Senate can move on to other amendments. Other amendments are pending.

Mr. DOMENICI. As I say, I have the greatest respect for my friend from Louisiana, but I would like Senators to consider the statements he made today about us not being able to find $572 million unless we are prepared to literally cut good programs for this country. Just so Senators have it in perspective, No. 1, we are not talking about a balanced budget. We are talking about a deficit of $46 billion, a deficit that we have already permitted under the third resolution to grow by over $19 billion, a budget that, by coincidence, will spend $572 billion.

And he says here on the floor of the

Senate that we cannot find in a $572 billion budget with a $46 billion deficit money to cut, that the only place we can find the money to cut is to take $572 million from our States and cities, two-thirds or three-quarters of the year down the fiscal path, and just say to them, "$572 billion of American taxes and we cannot find any way to live up to a solemn commitment to you that you can use revenue sharing, save on administrative costs, take care of local problems; we just cannot find that."

That is the issue. If Senator Metzenbaum thinks we are excessive spenders because we are worried about this problem, we are not worried about it because we want to break the budget resolution: we are worried about it because it is not credible that a Congress cannot find money to continue a solemn commitment to our States and cities when the year is almost finished, when we are talking about $572 million out of a budget of $572 billion that is in deficit by $46 billion.

We are arguing about the priorities of that kind of argument. It is almost beyond belief to anyone that this is anything other than, in fact, saying, "That is not as important as $572 billion worth of expenditures and, therefore, we will just forget about our commitment to the States and cities and we ought to call it what it is. We have decided to spend everywhere else. The year is almost finished and now we say we cannot find $572 million."

I say, a 5-percent administrative cost for the rest of the year, which we put in for 1981, would just about equal that. There are arguments that revenue sharing saves administrative costs and we are cutting out the saver. Five percent administrative cost savings for the rest of this year will yield more than $572 million, about $580 million or $585 million. That is one way to do it. We did it in the 1981 budget. We can certainly instruct the Appropriations Committee to go out and say 5 percent administrative cuts for the Federal Government, but do not break the solemn commitment to our States and cities.

Several Senators addressed the Chair.

Mr. MAGNUSON. Can I have the attention of the Senator from New Mexico?

Mr. DOMENICI. Yes.

Mr. MAGNUSON. I would hope that the Senator's speech, and I do not disagree with parts of it, would not mention the cities. It is not the intention of myself and the Appropriations Committee, no matter what side we are on, to affect the counties and the cities. There was a legislative tangle here which I hope we are going to clear up. I do not know why he keeps mentioning the cities. By the time the bill is through, the cities will not be involved. I would be the first one to object to cutting these funds that go to the counties and cities. In our recommendations we are just talking about the States. That is all we are going to do. I would not go on with this bill if it was going to affect the cities and the counties. Why keep talking about it?

Mr. DOMENICI. Mr. President, I am informed that, actually, the outlay effect for the 1980 budget is not $572 million, but, rather, $286 million. That is all we are talking about. So, just to show what that might mean in another way, a 2.5-percent administrative cost for the Federal Government for the remainder of the year would take care of that. That is just to put it into perspective so that those who think we are trying to break the budget will understand that we are considering some options to this drastic idea of breaching a solemn commitment to our States and it will not violate our commitment to our cities if the distinguished chairman of the Committee on Appropriations is able to effect his intent, both here and in the conference with the House.

I thank the Senator for yielding.

UP AMENDMENT NO. 1331

(Purpose: To protect the interests of the State of South Dakota with respect to the Garrison Unit, North Dakota)

Mr. PRESSLER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from South Dakota (Mr. Pressler) proposes an unprinted amendment numbered 1331:
>
> On page 32, line 7, insert the following before the period: "or South Dakota".

Mr. PRESSLER. Mr. President, I have a series of three amendments which I shall try to move. They involve the Garrison diversion project in North Dakota and its relationship to Canada and South Dakota. I have the greatest admiration for my two colleagues from North Dakota, Senator Young and Senator Burdick. I speak with great respect to them, not only because of the State they represent, but because of my personal esteem for them. Nevertheless, there have been issues surrounding the Garrison diversion project that have troubled me and South Dakota, as well as Canada. That involves the runoff waters from the Garrison diversion project.

I do not oppose the Garrison diversion project. Rather, I hope that memorandums of understanding between North Dakota and South Dakota as well as Canada's concerns could be worked out prior to continued construction.

Under the planned Garrison diversion project, the 79-percent runoff waters were originally scheduled to go to the Souris River and the Red River into Canada and the Hudson Bay watershed. Canada then became concerned about the impact these waters would have on their fish and biota.

I am told, indeed, that Prime Minister Trudeau raised these concerns with President Carter in Venice last Monday morning.

In this bill, there is language, on page 32, saying that:

> None of the funds appropriated from the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall funds be used on features affecting waters flowing into Canada.

However, the Canadians are not satisfied with this language. Indeed, I have a telegram which I received this morning saying that only the Pressler amendment would satisfy the Canadians. The telegram is from the Prime Minister of Manitoba, who says he is speaking for the Government of Canada. I submit that for the Record. The telegram was sent to Senator Byrd and Senator Baker. I ask unanimous consent to have it printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

> George Rejohn,
> *Canadian Embassy,*
> *Washington, D.C.:*
>
> The following telegram has been sent to: Senator Robert C. Byrd, Senate majority leader and Senator Howard H. Baker, Jr., Senate minority leader, Washington, D.C.
>
> I understand that it has been suggested that the wording of the supplemental appropriation for the Garrison Diversion Unit is acceptable to Canada and Manitoba. May I affirm in the most positive terms that the wording is not acceptable. It is the position of this Government that the only language which recognizes the concerns of Canada and Manitoba is that contained in the Pressler amendment.
>
> I would appreciate your communication of this message to your Senate colleagues to insure that there is no misunderstanding on this point.
>
> Sterling Lyon,
> *Premier of Manitoba.*

Mr. PRESSLER. Mr. President, now we turn to the issue of South Dakota. Even if the project is modified and built in such a fashion to accommodate Canada, the runoff waters would all go down one river in South Dakota, the James River. The James River is a meandering stream. To handle waters of this size, it might well have to be channelized. There have been objections raised by farm groups and landowners all along the James River. We have been virtually peppered with telegrams.

The Governor of our State has sent a very strong telegram urging that this appropriation not go forward, that construction not begin unless we have some assurances on water quality. The waters that run off the irrigation project will have some pesticides and other chemicals. Indeed, Canada would not accept them. Now South Dakota is being asked to accept them. We are not saying that South Dakota does not want water. We are saying that we want some agreement as to how much, when and how clean. What rights can our State exercise over these waters and what rights do we have with respect to the impact Garrison waters may have on historic James River flows?

Originally, we had been scheduled to get about 20 percent of the waters. Indeed, we shall fulfill our responsibility for our sister State, but we should like to have consideration that the project not go forward until a memorandum of understanding exists between South Dakota and North Dakota and, also, that the problems with Canada have been resolved.

Mr. President, I ask unanimous consent to have printed in the Record the telegram from the Governor of South Dakota.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

PIERRE, S. DAK.,
June 23, 1980.

Hon. LARRY PRESSLER,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

In reference to the $9.7 million appropriation for the Garrison Irrigation Project which is contained in the fiscal year 1980 supplemental appropriations bill, I support the appropriation if the bill includes assurances to protect South Dakota from:

Water quality degradation;

Infringement of water rights; and

Increased flooding on the James River.

And allows for South Dakota's approval of the development and operational plans in order to fulfill those assurances.

Sincerely yours,

WILLIAM J. JANKLOW,
Governor of South Dakota.

Mr. PRESSLER. Mr. President, I might say that the Governor's point on increased flooding is also a problem. The James River is a river that, sometimes during the year, is dry, and sometimes floods in different months, in an unpredictable fashion. Certainly, additional waters without flood control provisions would be a great problem to our State.

What I am saying, Mr. President, is that I have great respect for the Garrison unit and for the work that has been put into it over the years, but I do feel that, as a Senator from South Dakota, I certainly have a responsibility to raise the issue of South Dakota's rights and responsibilities in this matter.

Indeed, if we are suddenly, for example, required to take all the irrigation runoff waters that have been scheduled for Canada, if they are all to come down our tiny, meandering James River, we have a problem in our State. I think it is my duty to protect the rights of my State.

Let me also say, Mr. President, that the point has been made that three of my city mayors have said that they would like the additional water; indeed, in South Dakota, we are looking for additional water in our eastern cities. We have talked about the WEB pipeline and about other pipelines to bring Missouri water eastward. But in South Dakota, we would appreciate getting clean, good water. It appears that water from Garrison is going to require costly treatment before it could be used for human consumption. Not all towns have the capacity to store and treat water extensively.

Mr. President, I ask unanimous consent that there be placed in the RECORD at this point a copy of the minutes of a meeting of the South Dakota Board of Water and Natural Resources pertaining to this subject.

There being no objection, the minutes of the board were ordered to be printed in the RECORD, as follows:

IMPACT OF GARRISON RETURN FLOWS ON JAMES RIVER, SOUTH DAKOTA, ASSUMING PHASED IMPLEMENTATION PLAN FOR GARRISON UNIT

Techniques—Mr. Murphy gave a brief summary of the techniques used by the Water & Power Resources Services (formerly the Bureau of Reclamation) in predicting the water quality in the James River. He stressed 3 points: (1) the Bureau of Reclamation uses a computer modeling technique in determining the water quality, but is good except in determining nitrates in the water; (2) the data that one can expect is not the best data as one could produce in the future; (3) several assumptions are made in determining this information or data. The model assumes that "best irrigation management practices" will be enforced. This is an irrigation management system which tells when to schedule irrigation, and when to apply the fertilizer and pesticide. The Bureau also took various soil samples from different sites, and then took certain ones to represent the overall project area, so the sample area selected could make a big difference in what the return flows look like. The Bureau also assumes that it will take approximately 40 years before equilibrium conditions are reached with peak pollutants at 20 years of development. To project this data they have used historical conditions with a 21-year base (1953–1973).

Instream flows—Mr. Murphy reminded the group that the data from reports is projected at the North Dakota/South Dakota border. Many of South Dakota's concerns on water quality are downstream from the border. He noted that the water quality will change from the border to Huron or Mitchell because of additional flow below the border, instream effects, and the impacts of the Sand Lake Refuge.

Water quality standards—The James River is classified for: (1) warm water semipermanent fishery; (2) limited contact recreation; (3) wildlife propagation and stock watering; (4) irrigation; and (5) domestic water supply only from the James River Diversion Dam to the City of Huron.

The EPA recommends for drinking water sources that total dissolved solids not exceed 500 mg/1. The Water Quality Standard for this state is 1000 mg/1 for a domestic water supply and 2600 mg/1 for irrigation sources. High total solids cause general problems of unpalatability, corrosion, scaling, and higher treatment costs. This is more of an indicator than a parameter of health concern.

Hardness—No EPA recommendation or water quality standard limit. Hardness increases water treatment costs especially for the City of Huron.

Sulfate in the domestic water has a laxative effect, EPA recommends 250 mg/1.

Nitrates—EPA and the State require no more than 10 mg/1. Nitrates are a real concern as high concentrations may cause methemoglobinemia (better known as blue babies). No hard data is available on expected concentrations.

Dissolved oxygen—This has not been a concern of EPA, since they feel that additional water increases dissolved oxygen. The limit that EPA has set is 5 mg/1, but usually the James River exceeds that amount except under ice conditions in the winter. We feel that summer flooding could reduce Dissolved Oxygen to zero.

There are no standards for Phosphate, but it is a very good nutrient for plan growth. EPA predicts that various alternatives will reduce the amount of phosphates in the James River at the North Dakota/South Dakota border by about half. A decrease in algae in the water could make a significant difference in the cost of treating the water for the City of Huron.

Suspended solids—May be of concern because of sediment problems from the irrigation projects. This used to be true of flood irrigation, but now with sprinkler irrigation sedment runoff is greatly reduced. There could be some sediment problems from channel clearing.

According to Water & Power Resources Services, all alternatives will adversely affect in water quality by approximately the same amount.

Wildlife mitigation—Since the two mitigation areas of concern in South Dakota have been dropped Gam, Fish & Parks and U.S. Fish & Wildlife Services are no longer concerned about that aspect of the project. They are not prepared to assess the impacts on wildlife from the various alternative Garrison Plans. Discussion followed.

Observations and conclusions—Mr. Neufeld, Secretary, South Dakota Department of Water and Natural Resources, covered the final stage of this report. (1) Until the Canadian situation is cleared up the authorized project is not going to be built with all the drainage that is in Minnesota and Canadian Drainage; (2) return flows will be increased over the authorized project and no decision has been made concerning the increase on return flows; (3) there will be degradation of the water quality; (4) we expect to see the violations of water quality standards in the James River, as established by the Board of Water Management; (5) we will definitely need some dilution water; (6) we know what it will do to Huron's water treatment costs; (7) the Board of Water and Natural Resources should establish a policy that the State of South Dakota remain in the same position regarding quality and quantity of flows.

That may require an addition of some dilution of flows or augmented flows of the Garrison Project.

We must determine the amount of dilution flows necessary and the effect they will have on the channel carrying capacity of the river dilution; (8) South Dakota has to be formally involved in project negotiations, since any new plan must go back for reauthorization; (9) James River modification must be studied before we need dilution flows; (10) we must also determine the overall cost not only in terms of dollars, but in terms of benefit for water available for irrigation, municipal supplies and the quality of water in South Dakota; (11) then we must determine what will be done with respect to wildlife mitigation plans and anything that will be authorized. Basically it's a list of more questions than conclusions.

Discussion followed.

GARRISON DIVERSION UNIT—170,000-ACRE PLAN [SO-CALLED PHASED IMPLEMENTATION PLAN]

JAMES RIVER AT THE NORTH DAKOTA-SOUTH DAKOTA BORDER—MEDIAN WATER QUALITY AND FLOWS

	January	February	March	April	May	June	July	August	September	October	November	December
Historic:												
Flow (1,000 AF)[1]	53	50	2.68	6.36	3.20	4.82	2.57	1.07	95	84	90	69
TDS (mg/l)[2]	719	706	562	415	554	490	530	547	583	615	595	633
Sulfate (mg/l)[3]	207	207	162	124	169	140	149	153	156	172	162	174
Hardness (mg/2)[1]	371	369	245	234	310	279	297	302	317	323	325	334
Composite:												
Flow (1,000 AF)[1]	3.57	2.73	4.72	1.19	2.73	5.77	1.23	1.23	4.15	5.01	4.87	4.26
TDS (mg/l)[2]	832	848	764	647	729	717	744	751	771	744	774	793
Sulfate (mg/l)[3]	291	297	267	226	255	251	260	263	270	260	271	278
Hardness (mg/l)[4]	541	560	443	388	452	455	476	481	470	469	503	515

[1] 70 percent of the flow would occur after August and before April.

[2] TDS (total dissolved solids) would be increased in every month.

[3] Sulfate would increase in every month.

[4] Hardness would increase in every month.

Mr. PRESSLER. Also, there may have been some misunderstanding by the three cities that have sent a resolution on this subject. They passed their resolution, I might say, before the Governor's telegram was sent. It is my understanding that the three cities in question passed resolutions in support of the project after representatives of the Garrison Diversion Conservancy District, North Dakota, came into the State and said that up to 100,000 feet of additional water might be available for the James River because of changes that had been made in the project's wildlife plan.

These changes involved less water in a proposed new mitigation plan than had been involved in the original mitigation plan. The Garrison Conservancy District did not tell my constituency that they had filed a lawsuit in Federal court seeking to prevent the implementation of the new mitigation plan—the very plan from which they previously stated South Dakota could receive its extra municipal water supplies. Such deception is disturbing. In the authorized Garrison project, there are no provisions for supplying municipal and industrial water to any cities in South Dakota. My amendment would allow us to study changes in project design that might provide this water for the James River which is something the authorized project does not.

Mr. President, I think if that fact were known at the time and if the Governor's position had been known, we might have a different message from some of our towns.

Mr. President, let me say that this matter troubles me greatly. I had hoped to reach an agreement with the Senators from North Dakota and not to have had to offer the amendment which I just submitted. They have made an offer. It is one that I, however, cannot yet accept; but they did offer that South Dakota would be given until December 1981 to come up with its terms. But during this time construction would go forward. Under this offer if no agreement was reached at the end of that time, December 1981, the spigots would nevertheless be turned on. It would put South Dakota into a position of having to sign the agreement.

Therefore, the amendment which I just sent to the desk would add to the language on page 32, "or South Dakota." That is, that funds would not be used on features affecting waters flowing into Canada or South Dakota.

Under this amendment we would be given the same treatment as Canada. We would have to come back later with legislation after the problems have been worked out between the States. I would prefer, of course, if we could simply write this feature into the present legislation.

Mr. President, I also note that a number of groups have endorsed my amendment, including the North Dakota Farmers Union, the National Audubon Society, the Brown County, S. Dak., Farm Bureau, the High Plains Wildlife Association, the James River Watershed Steering Committee, the Lower Crow Creek Watershed District, the South Dakota Wildlife Federation, the Committee To Save North Dakota, the West Brown, S. Dak., Irrigation District, and other groups whose members would be directly affected by the Garrison project.

Mr. President, I ask unanimous consent to have printed in the RECORD the North Dakota Farmers Union message. It is signed by Stanley Moore, the president of the North Dakota Farmers Union, expressing some concern and supporting the Pressler amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

URGENT LEGISLATIVE MESSAGE

> The North Dakota Farmers Union, a general farm organization of 36,000 farm families, requests your support for the amendment to be offered by Senator Larry Pressler to the energy and water resources supplemental appropriations bill.
>
> While we believe the Federal commitment of Missouri River diversion to North Dakota should be honored and are unalterably opposed to any action that would violate the historic commitment of water rights and priorities for our State, we urge no further land be taken by condemnation or any construction contracts be let until lands for right-of-way and mitigation purposes are identified through full legal description, and an acceptable mitigation plan is developed, and stronger attempts are made to resolve the concerns of the Canadian Government.
>
> Although Senator Pressler's amendment does not address all of these issues, it would provide a basis for resolving these concerns by permitting funding for continued study and review of the project and by maintaining North Dakota's water priorities for a diversion program.

The PRESIDING OFFICER. Is the Senator proposing to substitute or amend his amendment?

Mr. PRESSLER. No, not at this time. Maybe the Chair has my second amendment. "Or South Dakota" is the language of the amendment which is currently before us.

The PRESIDING OFFICER. So long as the Senator has the right to modify his amendment, he may not offer a new amendment.

Mr. PRESSLER. There may be some confusion on the part of some Senators because I have not yet offered the original printed amendment, No. 1918. I sent an unprinted amendment to the desk. That is what I am talking about. I may later offer my printed amendment.

I originally planned to call my printed amendment up first.

However, I have been told my printed amendment could have been the subject of a point of order and might be challenged by the Senators from North Dakota. Therefore, I offered an unprinted amendment after consulting with the Parliamentarian and others.

It is, I believe, regrettable that my printed amendment, No. 1918, which would permit construction to proceed as soon as an understanding is reached on the part of South Dakota and until Canada's objections were resolved would not be simply accepted. I had hoped that the technical objections to it might be waived. These waivers occur all the time. It would be a simple and fair way out of the dilemma with which we are now faced.

The PRESIDING OFFICER. The Senator is not attempting to amend the amendment?

Mr. PRESSLER. No. I am presently pursuing my unprinted amendment.

Mr. JOHNSTON. Mr. President, what is the pending amendment? Is it the amendment that says, on page 32, line 7, before the word "or South Dakota"?

The PRESIDING OFFICER. Yes. The Chair so understands.

Mr. PRESSLER. Yes.

Mr. JOHNSTON. And that is the intention of the Senator to pursue this amendment?

Mr. PRESSLER. Yes.

Mr. JOHNSTON. I thank the Chair.

Mr. PRESSLER. Yes.

I may offer my printed amendment, if this one fails. I am told it may be subject to a point of order, although I would disagree with that and would try to get a vote on that question.

But, absent an agreement on that printed amendment, I felt in this area I could best protect the interests of South Dakota by offering a simple and direct amendment so we would be treated the same as Canada.

I ask the managers of the bill if they would accept the pending amendment, possibly, with additional language stating that "until a memorandum of understanding protecting the interests of South Dakota has been agreed to by the States of North and South Dakota," if that would be a possibility? But at the moment I have the amendment "or South Dakota" at the desk, and that is what I am offering and have been talking about.

Mr. YOUNG. Mr. President, the amendment pending, I understand, would add the words "or South Dakota." following "Canada."

Add South Dakota with Canada; is that right?

Mr. PRESSLER. Yes. Or South Dakota. I can say exactly——

Mr. YOUNG. That would nullify the whole appropriation and the whole project. That would kill it.

With respect to Canada, we have written the strongest language in the bill itself, that none of this money can be used for any feature of the project that would affect waters flowing into Canada.

I do not know what stronger language could be used.

Adding South Dakota to it is hard to understand. I have worked with South Dakota a lot over the years. In fact, Sioux Falls honored me by naming a boulevard on the EROS project after me because of my work with them.

Cities in South Dakota, namely, Huron, Mitchell, Aberdeen, have asked me to help them get water. I will have their printed resolutions in the RECORD. They are major cities on the James River flowing in South Dakota.

They want this water and think it is of good quality. They have to have it. The only problem we have is extreme environmentalists. I am not talking about ordinary environmentalists but the extreme environmentalists.

They killed the Oahe irrigation project in South Dakota and that project would have provided water for these cities.

Now, they need water. They killed their own project and they want this water from North Dakota.

They talk about the river perhaps being polluted by return flows from the Garrison project. There is only a potential of 33,120 acres of irrigable land in the whole James River Basin in North Dakota. Presently they are irrigating 14,500 acres from wells and from the river. So there are only 18,000 more acres that could be irrigated. That could not possibly adversely affect the water.

I say again, these cities in South Dakota do not think this water would adversely affect them.

Mr. President, since statehood, North Dakota has sought diversion of water from the Missouri River eastward in North Dakota for irrigation and municipal water supplies. The need has never been more urgent than now.

Most of North Dakota is experiencing the worst drought in 50 years. Much of the State has little or no crop because of the severe draught. Too, because of the severe drought the lack of both pasture and hay, there is heavy liquidation of cattle by ranchers. More than 25 cities are urgently looking forward to diversion of water from the Missouri River for their essential water supplies.

Under the Pick-Sloan plan, which was a part of the Flood Control Act of 1944, North Dakota in exchange for losing 550,000 acres of rich river bottom land, was assured of a million-acre irrigation project and water for our cities. After long and careful investigation of suitable irrigable land and in the interest of a very sound irrigation program, the project was reauthorized in 1965 with the diversion of Missouri River water from the huge Garrison Reservoir to irrigate 250,000 acres and to supply water to more than 25 cities.

Of the multipurpose features of the Pick-Sloan plan—downstream floor control, navigation, hydroelectric generation and irrigation—only the Garrison diversion irrigation project is left uncompleted. The other purposes have long since been fulfilled with great benefits to our economy.

The Garrison diversion project is in deep trouble now because of strong environmental opposition, as well as opposition from the Canadian Government. Canada fears that the Garrison diversion project, if completed, would result in the drainage of water from the Missouri River Basin System into their major drainage basin, the Hudson's Bay System. They fear the introduction of undesirable species of fish and the transfer of various forms of biota. We do not believe that this is a valid concern.

This project has been supported by every Governor of North Dakota since its beginning. Every session of the State legislature and every Member of Congress has supported this project since it was first proposed. It has had and continues to have widespread support.

Since construction of the project began in 1968, the Federal Government has already spent $146.166.853. If the project were abandoned, the environment would have to be restored. The cost of this restoration is estimated at $115.5 million. Mr. President, these cost figures are contained in a letter I received from Mr. R. Keith Higginson, Commissioner of the Water and Power Resources Service, dated June 2, 1980. I ask unanimous consent to have this letter printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. YOUNG. Mr. President, in a desperate effort to salvage this project, North Dakota is asking for only $9.7 million in this appropriations bill to realize something out of these huge expenditures on this project to date. In order to allay the concerns of the Canadian Government, a special directive has been written into the bill itself, prohibiting the use of any of the funds in this bill in manner which would in any way affect water flowing into Canada.

How can we write stronger legislation?

This should give them complete assurance. The only purposes for which the $9.7 million in this bill could be used would be for a relatively small irrigation project and municipal water supply projects affecting only the James River Drainage Basin, which flows directly into the Missouri River. This assures no adverse effects whatever to Canada.

There has been some opposition from South Dakota interests, mostly environmental. We believe that we can demonstrate that benefits to South Dakota would be substantial. This project would furnish water supplies to three major South Dakota cities which have passed resolutions supporting this $9.7 million amendment. I ask unanimous consent that these resolutions be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. YOUNG. The project would provide water for these cities, especially when the James River stops flowing completely, which it often does in some of the drier years. It would also provide South Dakota with some irrigation and flood control for farmland and several cities.

Only recently, the water became so low that they had to stop the farmers in South Dakota from using water to irrigate. Rains came later and they were able to resume the irrigation.

I ask unanimous consent to also have printed in the Record at the conclusion of my remarks a letter and resolution adopted by the James Basin Water Development Association of Redfield, S. Dak., which also supports the project.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. YOUNG. Mr. President, a major problem with the overall 250,000-acre authorized project is the recent change in policy of the Fish and Wildlife Service for the acquisition of wildlife mitigation land. This and problems with Canada would have to be resolved before this entire project could become a reality. We can not help but feel that sometime in the future Canada may take a different position, or we will be able to demonstrate that the project will not be harmful to them and the project could then go forward with perhaps some modifications. We are convinced that if the unit we are proposing for construction now is completed, it will demonstrate to both Canada and South Dakota interests that the project will have no ill effects on them but will, in the case of South Dakota, result in important benefits.

The International Joint Commission and its Study Commission have recommended that we proceed with a project which would demonstrate that there are no undesirable side effects from the project. This unit would do just that.

The Water and Power Resources Service has spent a sizable amount of money to develop a fish screen and is presently spending more money testing this screen which, if successful, would prevent the transfer of any fish, fish eggs, or biota, from any project waters into waters flowing into Canada. This, of course, would only be useful at a future time when the Canadians would be agreeable to proceeding with construction of the full project. I mention this only to point out the good-faith efforts being made by our Government to assure the Canadians of our desire to meet their legitimate objections.

There is much talk of "biota transfer" from the Missouri River Basin into the Hudson's Bay Basin of Canada. All of this talk would lead one to believe that biota transfer is something new and that without Garrison diversion there would not be any transfer of any kind between the two basins.

At the present time, in their migration, tens of millions of ducks, geese, and small birds land on lakes, rivers, potholes, and sloughs all along their journey north, including such areas in western North Dakota and eastern Montana. These birds then fly on to Canada and, consequently, carry with them any form of biota which may exist in any of the bodies of water on which they may have rested. There are also fish hawks and predatory animals which carry biota, weed seeds and what have you from one drainage basin into the other. In some of the central and southern areas of North Dakota, the two drainage basins are separated by only a very few miles.

It should also be pointed out that the Red River of the North flows undisturbed and unfiltered from southern North Dakota, Minnesota, and South Dakota into Canada. The Red River contains every species of rough fish which will survive in our climate. Therefore, at the present time, all of these species are permitted to move unrestricted up the Red River into Canada. If anything, the fish screens and other safeguards proposed for the Garrison diversion project would vastly improve the purity of the water flowing into Canada.

Let me say again, the $9.7 mililon contained in this bill, with the strong directive in the appropriations bill itself, absolutely assures Canada that these funds will in no way be used in a manner adversely affecting Canada. If Congress approves this small amount, we will have assurance that the Garrison diversion project will not be completely abandoned. Abandonment is something only the very extreme environmentalists want.

Even though Garrison diversion is one

of the several projects on Secretary of the Interior Andrus' "hit list," the Secretary himself this year requested $12.7 million to continue the Garrison diversion project. Unfortunately, his request was turned down by the Office of Management and Budget. That was over the strong objections of the present Governor of North Dakota, who is of the same political affiliation as the President and the Secretary.

Mr. President, it would be ironic if this project were abandoned when our area is suffering the worst drought year since the 1930's, after $146 million has been invested, and when restoration of the environment, if the project where abandoned, would cost $115.5 million.

Mr. President, I ask unanimous consent to have an excerpt from the committee report printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

WATER AND POWER
RESOURCES SERVICE,
Washington, D.C., June 2, 1980.

Hon. MILTON R. YOUNG,
U.S. Senate, Washington, D.C.

DEAR SENATOR YOUNG: This is in further response to your letter of May 14 concerning the Garrison Diversion Unit in North Dakota.

As of April 30, 1980, the total Federal investment in the Garrison Diversion Unit stands at $146,166,353. That amount includes $3,717,822 for Jamestown Dam and Reservoir and $19,395,872 for Snake Creek Pumping Plant. The remainder is for the McClusky Canal; the partially completed Lonetree Reservoir; and advance planning, design, and partial land acquisition for other features.

The estimated restoration costs which were transmitted to you in Assistant Secretary Guy R. Martin's letter of July 13, 1977, have been updated to January 1980 price levels. Those updated costs are:

McClusky Canal	$107,000,000
Wintering Dam	3,700,000
Highway 14 Relocation	4,800,000
Total	115,500,000

No other major features requiring restoration have been completed since July 1977. Please note that no restoration costs for the Snake Creek Pumping Plant are included.

As you are aware, no funding for the unit is requested in the President's fiscal year 1981 budget. As a result all new contracts for major facilities requiring funds after the end of fiscal year 1980 have been deferred until the future funding picture is clarified.

Please let us know if you have any questions.

Sincerely yours,
R. KEITH HIGGINSON,
Commissioner.

EXHIBIT 2

This Joint Resolution ratified and adopted by the Cities of Aberdeen, Huron and Mitchell each being an incorporated municipality in the Sovereign State of South Dakota.

Whereas: The State of South Dakota is, again, experiencing a year of less than normal precipitation; and

Whereas: Adequate water is of critical importance to all segments of South Dakota Society; and

Whereas: The purpose of the Oaha Unit, Missouri River Basin Project, was to provide critically needed water to most of the State of South Dakota east of the Missouri River; and

Whereas: The Oahe Unit as authorized has lost some support and deauthorization is being called for by opponents of the project; and

Whereas: No economically acceptable alternative has yet been offered or planned to bring Missouri River water into the James River valley; and

Whereas: The need for this water is even greater today than it was when the original Oahe Unit was planned and authorized; and

Whereas: The signators hereto, represent a vaste majority of East River citizens who are increasingly dependent on water flows in the James River:

Now, therefore, be it resolved, that the undersigned oppose deauthorization of the Oahe Unit until such time as an economically acceptable alternative to provide water supplies and benefits equivalent to those promised in the original authorization has been provided.

Be it further resolved that the same undersigned go on record as supporting the Garrison Unit in North Dakota and the diversion of Missouri River water from this project into the James River as a means of partially meeting the federal obligation.

RES. 2-80 URGING COMPLETION OF PORTIONS OF GARRISON DIVERSION UNIT

Whereas, the City of Mitchell and the City of Huron depend directly on the James River to provide municipal water; and

Whereas, the present demand for James River water exceeds the supply available most years as evidenced by present stringent regulations curtailing irrigation whenever flow drops below present levels; and

Whereas, irrigation could be expanded tremendously to the land lying along either side of the river within a mile or so if a controlled supply of water were available; and

Whereas, the State of South Dakota as well as all the cities and towns and the rural people in the James River Basin would benefit from a controlled flow of water into the James River; and

Whereas, the Garrison Diversion Unit, a multi-purpose water development project in Eastern North Dakota, will have the facilities when completed to deliver a controlled supply of Missouri River water into the James River; and

Whereas, it appears that the best interests of the people of the James River Basin of South Dakota would be served by completion of portions of the Garrison Diversion Unit; and

Whereas, the next scheduled phase of construction, i.e. completion of the Lonetree Dam and Reservoir, and the New Rockford Canal will accomplish this.

Now therefore, be it resolved that the Lower James Conservancy Sub-District requests sufficient funding be provided for completion of the Lonetree Dam and Reservoir, and the New Rockford Canal, and that the State of South Dakota enter into negotiations with North Dakota to develop the framework for agreement to provide controlled delivery of water to the James River Basin through facilities of the Garrison Diversion Unit; and

Be it further resolved that copies of this resolution be delivered to the Governor of South Dakota, the Governor of North Dakota, the Congressional Delegation of South Dakota, and to the Department of Interior.

EXHIBIT 3

JAMES BASIN WATER
DEVELOPMENT ASSOCIATION,
Redfield, S. Dak., April 17, 1980.

Re Garrison Diversion Unit.

Senator MILTON YOUNG,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR: Enclosed is a Resolution supporting the continued construction of the Garrison Diversion Unit in North Dakota by the James Basin Water Development Association.

Yours for better water,
EARL CHESNIK,
President.

Enclosure.

RESOLUTION SUPPORTING GARRISON DIVERSION UNIT

Whereas the uncertainty of Construction of the Oahe Diversion Unit may limit development on the James River in South Dakota, and:

Whereas there is a need for water in the James River for the purpose of irrigation development and for a source of water for the Cities of Huron and Mitchell, and:

Whereas the Garrison Diversion Unit in North Dakota can provide a source of water for irrigation and municipal water in the James Basin in South Dakota.

Now, therefore, be it Resolved that the Board of Directors of the James Basin Water Development Association this 10th day of April 1980 support the continued construction of the Garrison Diversion Unit in North Dakota.

EXHIBIT 4

The Committee recommends $9,700,000 to continue construction of the Garrison Diversion Unit, North Dakota except for those features of the project affecting water flowing into Canada. Testimony to the Committee by Departmental officials is that, in the absence of funding, the Service will have to close down the Garrison activities and the Bismarck Project Office. The total Federal investment in the Garrison Diversion Unit is over $146 million. Estimated environmental restoration costs if the project were discontinued would exceed $115 million based on current 1980 price levels. Additionally, the direct and indirect impacts which would be caused by not providing this relatively small appropriation is unacceptable to the Committee.

Once again, the need for this important reclamation project is brought clearly into focus as a result of the drought which began last fall. This drought has been described as the worst since the 1930's and for example has resulted in one of the heaviest sell-off of cattle due to the lack of lifegiving moisture for pastures and hay.

This appropriation reaffirms our strong support for the project, and is consistent with our policy during the last two years that funds are not to be used for construction of features affecting waters flowing into Canada. So that there is no doubt on this point, a provision has been included in the appropriation language in the bill prohibiting the use of these funds for construction of such features affecting waters flowing into Canada. A provision is also included prohibing the use of these funds for construction mitigation land by condemnation.

Mr. JOHNSTON. Mr. President, I hope the Senator from South Dakota will not press his amendment. If I may explain to him why, I hope I can satisfy him that the action in this bill will in no way prejudice South Dakota; and we will give him a full opportunity to be heard on the question of whether the Garrison diversion project could prejudice South Dakota waters in any way.

Frankly, our judgment is that it will not hurt South Dakota at all. As a matter of fact, it will help South Dakota, because whatever flows we would get into the James River in South Dakota would be at the driest time in South Dakota and probably would have a beneficial effect. That is what seems to be the expert testimony we have received.

Nevertheless, I should like to paint the picture of where we are in this matter, and I hope the Senator from South Dakota will be satisfied with what we are doing.

First of all, for the benefit of my colleagues, I will say very briefly what this Garrison diversion project is.

There was a plan back in the forties called the Pick-Sloan plan involving all States on the Missouri River with respect to hydroelectric power, flood control, irrigation, and municipal water supply. Part of that plan, one of the central parts of that plan, was the Garrison Dam which was completed in 1944.

That dam took some 500.000 acres of prime bottom land, farmland in North Dakota and it was part of the plan, part of the understanding, part of the deal, if you will, that we would have a Garrison diversion project which would divert water from the reservoir back to irrigate North Dakota to make up for that lost land.

Initially that plan was to have a million acres irrigated. But in 1965 because of complaints from Canada in that the Canadians thought there would be reflows over into Canada which would bring pollution or problems into Canada, it was reauthorized and the size of the project was cut down to 250,000 acres, to just one quarter of what it had been prior to that time.

The action of the committee this year is a very modest action, indeed. We do two things which I think are important.

First of all, we insure that there are no parts of this project which can affect Canada. So we have taken care legislatively of Canada.

Insofar as this would affect South Dakota, all we do in this bill is have $9.7 million which all that does is keep the Bismark office open, keep the plan ongoing. It really does not fund any construction which could hurt South Dakota at all. But we have some 144 employees with an ongoing plan.

If the Senator from South Dakota will withdraw his amendment, then here is what will happen:

First of all, we can assure him that during the ensuing year we will have hearings and afford him, his experts, and his people in South Dakota a full opportunity to come in and make their case and be heard as to whether there is any untoward effects to South Dakota.

The obverse side of that is that if we should grant his amendment then you would have no Garrison diversion project. The whole plan would be dead because if your waters cannot go to Canada or South Dakota, then you cannot have waters anyway and you must terminate the project and that in turn would mean termination costs of some $115 million. This is after $146 million has alreay been spent. I think it would be the height of folly for this body to terminate a project like this when frankly I think the project is an excellent one.

I believe, if the Senator will bear with us on the committee and come in and look at the project, look at its effect on South Dakota, not to mention its effect on North Dakota, he will find that it will not hurt South Dakota at all and in fact will help South Dakota. But if in fact he is not satisfied then there is going to be no construction because of this $9.7 million which could in any way affect South Dakota. In other words, he will have plenty of time between now and next year to make his objections if he is not satisfied.

They have had one of the worst droughts in history—I think my colleague from North Dakota can speak to that—this year.

Mr. BURDICK. That is correct.

Mr. JOHNSTON. And the need for water both for municipal purposes and for irrigation is more clear than ever.

Will the Senator maybe feel constrained to withhold the amendment, the assault on Garrison diversion for this year, understanding that we are not going to build any structures that are going to impinge on South Dakota during the ensuing year, with that very careful examination in which he would have an opportunity to participate?

Mr. PRESSLER. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. PRESSLER. Perhaps we can listen to the Senator from North Dakota first and then I shall respond. Could I listen to the Senator from North Dakota first?

Mr. JOHNSTON. Yes.

Mr. BURDICK. Mr. President, it was with mixed emotions that I heard the statement of my friend from South Dakota.

I want him to know that for 20 years we have been working with the South Dakota people. We have worked as one family between North and South Dakota to develop this plan. This is not a plan that was developed overnight. This was developed by meetings in North Dakota, and meetings in South Dakota. The people in South Dakota knew at all times how this plan was going to operate so there would be no surprises. The only surprise is that we find objection at this time.

I know that the sister project, the Oahe project in South Dakota, has met with some problems.

That is not our affair, however.

But the entire operation of the Garrison plan, the manner in which the water was pumped out of the Missouri River into new canals down the James River, was well known to the people of South Dakota. As has been stated here already this afternoon, there are periods of drought, many times when the James River in South Dakota does not even flow. And there was the Garrison Reservoir, there was the channel, there was the pumping station, to bring water into that river at that time.

Second, using the canal and the pumps, this controlled system could even be effective during high water periods for flood control in South Dakota.

So the objection today comes as a complete surprise because I thought over the years we had done everything to alleviate problems that South Dakota might have.

The South Dakota Senator is incorrect in assuming that the waters originally intended to go to Canada will now flow southward to South Dakota. There are two kinds of water that go into the James River: That which flows naturally in the water course of the James River and one that which is supplemented by the pumping station bringing the water from the Missouri River Reservoir, through the canal and down the James. Through this procedure, we can control the supply of water. The mere fact that Canada is not going to receive the water does not mean that South Dakota will automatically become the recipient of the water.

As my friend, the chairman of our subcommittee, has just said, I hope that we can sit down and resolve any problem that we have not addressed over the last 20 years. We will be glad to sit down again. But to restrict the waters from flowing southward is to kill the project, and the Senator can understand how we feel about that. I think he would regret it himself in years to come, because the three cities he mentioned want this water dearly, and we are willing to help them get the water.

Mr. McGOVERN. Mr. President, will my colleague from North Dakota yield for a short series of questions regarding this appropriation for the Garrison diversion unit?

Mr. BURDICK. I am happy to yield to my colleague from South Dakota. I know his constituents are concerned about the impact of the Garrison diversion unit on their State.

Mr. McGOVERN. I thank the Senator for yielding. My initial question has to do with the purpose of this appropriation. Am I correct in stating that it would finance construction of certain features of the "authorized" plan of development for the Garrison diversion unit?

Mr. BURDICK. The Senator is correct. This appropriation allows work to proceed on features of the project which have been authorized by Congress and which are directed toward irrigation of lands within the James River Basin.

Mr. McGOVERN. I appreciate my colleague's explanation. The impacts of the authorized project on the James River, a stream which winds its way out of North Dakota and into South Dakota, have been known for quite some time. There is no dramatic impact upon the character of the river in South Dakota. There will be some dewatering of the stream in late summer months when the river can be expected to be bone dry or stagnant under normal circumstances. There will be some additional flows in the winter months as well. These will be felt by South Dakota during snowmelt in the spring, a time of year when the river can fully be expected to be flooding in any case. The difference in the character of the river while Garrison is being operated under present plans will be difficult to discern.

Although South Dakota is interested in seeing if this situation can be altered somewhat, no alarm has been expressed by the South Dakota Department of Water and Natural Resources or its governing board. Gov. Bill Janklow seems confident the matter can be satisfactorily resolved while construction on Garrison proceeds at least another year. A Garrison task force has been formed by the State administration to work cooperatively with North Dakota and the U.S. Government in resolving it.

Mr. BURDICK. I am aware of communication between Gov. Janklow and Gov. Link of North Dakota about this.

Mr. McGOVERN. As my colleague from North Dakota is also aware, there are three communities in the James River Basin in South Dakota that very much hope the project might be modified in a way to actually benefit them. Aberdeen, Huron, and Mitchell were originally to have enjoyed better quality water and a more reliable water supply from construction of the initial stage, Oahe unit. Now that project is stalled, and they are looking toward Garrison.

Whether or not their desire can eventually be accommodated, it is imperative that South Dakota participate directly in planning of modifications to the Garrison diversion unit. Landowners along the river do not want to see flooding dramatically aggravated. The communities want to be assured of the best possible quality water for their use. Landowners holding water rights must have their rights protected. If South Dakota is not included in the planning of potential project modifications, our only recourse will be the courts. That is not a pleasant prospect.

I am confident North Dakota and the U.S. Goverment recognize the importance of consultation with South Dakota and the need for an agreement to be reached before modifications are implemented as part of the project operating plan. Hopefully, next year we can report on our progress in this regard, otherwise continued South Dakota support for the project will be in jeopardy.

Mr. BURDICK. I understand the point the Senator is making and certainly understand North Dakota's need to consult with South Dakota and to reach agreement concerning the future of the James River. I hope it becomes possible for South Dakota to reap direct benefits from the project.

Mr. McGOVERN. I thank that Senator for that assurance. The James River is an important resource for both our States. It is the source of water supplies for municipal, domestic, and agricultural uses.

Would my colleague entertain one final question regarding the concerns expressed by Canada?

Mr. BURDICK. I will be pleased to respond to my colleague's questions.

Mr. McGOVERN. I thank the Senator. My fellow members of the Foreign Relations Committee and I have received correspondence from the Government of Canada about the effects of this appropriation on their interests. Am I correct in responding to them that this appropriation will not fund construction of any portion of the project which might potentially have a direct impact upon their interests, and that before any such features are constructed that the differences between the United States and Canada on this question will have been resolved to the satisfaction of both Governments?

Mr. BURDICK. Yes; that is correct. The assurances that construction shall not proceed on any feature of the project that would adversely affect waters flowing into Canada are included in both the report and in the legislation itself.

I say to my good friend from South Dakota (Mr. PRESSLER) let us not stop this project, stop it cold in its tracks after all these years, after we have worked on it together. Let us do what the chairman said. Let us sit down and talk about it, but please let us not kill the project at this time.

Mr. PRESSLER. I would like to respond, if I may, to the fine statements we have heard here. Let me say how much it does mean to me to work with the Senators from North Dakota and, indeed, the Senator from Louisiana, who made an excellent statement.

The Senators from my neighboring State have always been most gracious and helpful to me. Our two States long worked together. Let me state very strongly that I do not intend to do anything to harm North Dakota's interests. I only want a simple provision written in law to guarantee my State a little say in the project.

Let me also say it is not just the environmentalists who have raised this issue. It includes and ranges from groups like the Governor, myself, to farm groups, to others throughout our State, and certainly sportsmen and wildlife groups. We would have inserted in the RECORD a variety of telegrams and other communications we have received, but they are too numerous to burden the RECORD with.

My goal is not to kill the project. I am not seeking to reduce the funding by a penny. I am merely protecting my State's interests in much the same way that my colleagues claim Canada's interests have been protected in this bill.

Certainly there is one point to which I would like to respond, and that is the claim that we have been aware all the time that so much Garrison water was going to come down the James River. But we really were not aware that all the water would come down this river; it comes as sort of a surprise to us that supposedly none of the water is going to Canada. Under the original plan which had been negotiated and worked out, it had been my understanding that close to 75 percent of the water would go to Canada. It has now developed that they would not accept it because the water could pollute the Hudson Bay watershed. There was a great publicity campaign in Canada regarding the destruction of fish and wildlife and land that potentially could occur. Canada objected to such an extent that the water will supposedly not go to Canada, and if the International Joint Commission's recommendation stands, and if we are to uphold our 1909 Boundary Waters Treaty with Canada, the waters will not and cannot enter Canada's watershed.

Thus it is a surprise to us that we are getting so much more water potentially, and I say potentially because if none of it is going to Canada the only place it can go is down the James River.

In an attempt to sidestep the Canadian objections to further construction, representatives of the North Dakota State government met privately with the Department of Interior officials in Billings, Mont., this year and produced a draft memorandum of understanding to rework the existing project. South Dakota was not adequately consulted about this meeting. Had the Department of the Interior approved the draft memorandum set forth by North Dakota's Governor, the ramifications would have been clear. The memorandum called for construction of those portions of the garrison project within the Missouri River basin watershed.

It is fortunate for South Dakota that the memorandum was ultimately rejected by the Department of Interior. In blunt terms, this memorandum sought to achieve as much construction as possible before having to resolve the Canadian issue, and construction of Missouri River watershed features will impact South Dakota's interests.

Let me say to the Senator from Louisiana and the Senator from North Dakota——

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. PRESSLER. Only for a question. I would like to hold the floor.

Mr. YOUNG. Why would the Senator think more water would be going to South Dakota? The same amount would be going regardless of whether that part of the project draining into Canada would be completed or not. I do not think the part in the Hudson Bay drainage basin can be completed until we reach agreement with the Canadians, and that is why we provide in the bill that no water can go up there. But the same amount of water will go to South Dakota under either plan.

Mr. PRESSLER. I thank the Senator.

If we could provide for a memorandum of understanding between the Governors of the States, I would withdraw this particular amendment. We could draft a simple provision that said that nothing would be constructed that would affect South Dakota, until South Dakota agrees to the specifics of the plan. I am confident that a mutually agreeable arrangement can be worked out between these States.

I am seeking a mechanism for an agreement between the Governors of the two States, a memorandum of understanding. I am basically for this project. But if we could have a memorandum of understanding protecting the interests of South Dakota and the interests of North Dakota, the project would have greater acceptance. That memorandum of understanding would discuss how much water is coming and when and how clean. It would also discuss our respective States' water rights. I am told that construction on the new

Rockford and James River feeder canals, or the James River modification at La Moure, including pumps and drains, could at least begin to be constructed with the funds appropriated in fiscal year 1980. This causes South Dakota a great deal of apprehension. But would the Senator agree to an amendment that would say that prior to construction there would be a memorandum of understanding between the two States?

Mr. BURDICK. The amendment before us is not needed. We have given our assurances, like we have given them for the last 20 years. There two Governors will sit down and talk this over. We do not have to have an amendment to do that. Are we not people of good faith?

Mr. PRESSLER. As my good friend and colleague from North Dakota knows, our two States have historically worked together in harmony. We share common interests and we will continue to have faith in each other. It seems to me, however, that it is a simple thing to provide these assurances in the bill before us. It would not jeopardize the project. I have heard from many people in my State including my Governor who do not want the project to go forward without assurances to the people of South Dakota.

Mr. JOHNSTON. Mr. President, I will point out to the Senator that only $9.7 million is involved, and approximately half of that will be for personal costs. There are some projects which would be eligible for funding if we had the money. But with the balance of the money over and above personnel, you do not have money to build those projects which you just named and which, in fact, are eligible for funding. But there just simply is not enough money.

What you would basically do is to spend that money on design and in engineering rather than construction, even though they are admittedly available for construction.

I really think the Senator has the kind of assurance he would need, that is, to be heard before we really proceed to major funding of the construction part of the project.

If the Senator wants the matter to be voted on, of course, that is his right, and we will understand that. If the Governor is putting pressure on you and he says, "I want to be heard and I want a vote," well, let us vote. I think we will win, frankly.

But what we are trying to tell you is that we are ready to work with you. The North Dakota Senators, your own colleague, and we on the committee are not only willing to work with you but are anxious to work with you to resolve this in a way so that the people in South Dakota can be satisfied that there has been cooperation, and I think you will be satisfied if you give us a little time.

Mr. PRESSLER. Mr. President, may I say that I personally have the greatest regard for the good will and for the assurances shown here on the floor today. But I shall have to push forward and ask for a vote on my amendment.

Mr. President, I ask for the yeas and nays on this amendment.

Mr. JOHNSTON. Mr. President, will the Senator withhold that because I am going to move to table and ask for the yeas and nays, and I hope that will resolve the question so that we will not have two back-to-back votes.

Mr. PRESSLER. Yes. I would like to make a few concluding remarks before we vote, if that is possible.

Is the Senator asking for the yeas and nays?

Mr. JOHNSTON. Yes; I will move to table and ask for the yeas and nays.

Mr. PRESSLER. Is there any possibility that we could have an agreement to an amendment that would provide that there would be a memorandum of understanding between the Governors of the two States. I would offer that amendment or someone else could offer it and we could have it as part of the law. If the Senator has no objections and, indeed if both States are willing to work together, surely there should be no objection to having such an amendment.

Mr. President, I do have such an amendment, but I was told there would be a point of order raised against it. It is, of course, a Senator's right to raise such a point of order if he so desires. But I do have prepared an amendment that provides for a memorandum of understanding and, indeed, if the Senator were prepared to accept that one, and not raise the objection, I will withdraw this one and offer that amendment and we can adopt it and the Senator will hear no more speeches from me.

Mr. JOHNSTON. Mr. President, I have not seen such an amendment, nor has my staff.

What does the amendment say?

Mr. PRESSLER. The amendment provides that there would be a memorandum of understanding protecting the interest of South Dakota between the Governors of the two States.

Mr. JOHNSTON. Mr. President, what we are trying to tell the distinguished Senator from South Dakota is that he will have time to make his case; that we are not going to get out and start pouring a lot of concrete between now and this time next year. We do not have the money to do that. But this kind of language would give an effective veto to the Governor of South Dakota, whether there is any reason at all for him to protest or not.

Our information is that this is going to be beneficial to South Dakota. If that is not so, we will have time to resolve that this year. But we do not want to stop all activities here. We do not want to stop engineering and design and preliminary sort of construction.

Mr. President, I do not want to cut the Senator off if he has some concluding remarks, but I am ready to move to table.

Does the Senator have some concluding remarks?

Mr. PRESSLER. Very briefly.

Let me conclude by saying that South Dakota's interest would be very much served by a provision for a memorandum of understanding. Let me say that I am not trying to cut the fund by $1 for the Garrison diversion project. I do not seek to kill or delay it. Let me say that I think that an agreement can be worked out between the States to their mutual satisfaction.

As the Senator has pointed out, there are some in my State who feel the water would be beneficial and, indeed, the Governor may well feel that way after finding out exactly how many acre-feet of water South Dakota would receive and what quality it will be, and what rights we have with respect to this water and what impact the project water would have on our State's water rights.

It would seem only reasonable for South Dakota to request statutory language recognizing the need for such a memorandum of understanding.

The Garrison project is being built with Federal funds, and therefore it is a Federal interest to acknowledge South Dakota's right to protect the State's interests with respect to potential project impacts on our land and water resources. These details cannot be worked out among friends on the Senate floor, nor should we attempt such a task.

As a Senator from South Dakota, I certainly find it difficult to be put on the defensive for raising what I think is a very legitimate issue regarding my State.

It has been pointed out that the James River is dry sometimes during the year. Sometimes it is flooded. Sometimes it floods at unusual times of the year. I live on a farm not far from the James River and I have seen great variations. If we are going to put additional waters into the James River, we certainly do need careful planning. I have a graph based on State of South Dakota projections which show my State receiving less than historic flows in the James River during dry months, assuming 170,000 acres of the Garrison project drain into the river.

Mr. President, I ask unanimous consent that such a chart be placed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

JAMES RIVER FLOWS—SOUTH DAKOTA

	Historic	Assuming phased implementation plan, 170,000 acres
January	•	•••••••
February	•	•••••
March	•••••	•••••••••
April	••••••••••••	••
May	••••••	•••••
June	•••••••••	•••••••••••
July	•••••	••
August	••	••
September	•	••••••••
October	•	••••••••••
November	•	•••••••••
December	•	••••••••

• = 500 acre-feet of water (rounded).

Mr. PRESSLER. So, Mr. President, I would ask the yeas and nays but I understand that there is a previous motion to take, but I would like the yeas and nays on this issue.

Mr. President, during this debate we have mentioned the historic common interest of the States of North and South Dakota. That common interest has carried over to the warm working relationships between Senators of these States.

I have been fortunate to serve with and get to know my most distinguished colleagues from North Dakota, Senators Young and Burdick, who are among the very most respected in this Chamber. It is infrequent when we differ on matters affecting our region and States.

It is, therefore, with some discomfort to find myself on the opposite side on this issue with them. Regardless of the outcome of this vote, I look forward to continue working together for the interests of our sister States. I have already noted their generous offer to work with them and the Appropriations Committee in the coming year to resolve difficulties involving the Garrison diversion unit.

The PRESIDING OFFICER (Mr. Eagleton). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as I have stated previously, it is not our intention to tread on the sensibilities of the people of South Dakota. We will hear their complaints and I think within the next 12 months we will convince them that this project is in their interest. But we are not going ahead hurly-burly in the meantime. We do want, and I think the people of North Dakota are entitled to have, this project continued after all these years.

Therefore, Mr. President, I would move to table and ask for the yeas and nays.

Mr. PELL. Mr. President, before the Senator moves to table, would he withhold that so I may make a statement?

Mr. JOHNSTON. Yes, I withhold that request.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, as chairman of the Foreign Relations Committee's Arms Control, Oceans, International Operations, and Environment Subcommittee, I have been deeply concerned about the international environmental impact of large projects that affect neighboring countries or the global commons.

Two years ago the Senate unanimously approved Senate Resolution 49. This resolution, which I sponsored, set forth a draft treaty that would require nations to file environmental assessment statements with the United Nations Environment Program for projects that might affect the environment of other nations or the global commons.

In this regard, I understand that, although we are voting only on whether to add a reference to South Dakota to the one already in the bill regarding Canada, I wish to point out that Canada is opposed to further construction appropriations for the Garrison diversion project.

On June 20 of this year, the Canadian Ambassador to the United Nations, the Honorable Peter M. Towe, wrote to my colleague, Senator Warren Magnuson, as chairman of the Senate Appropriations Committee, to express Canada's concern over the appropriation we are considering today. Mr. Towe dealt directly with the impact of this appropriation when he stated:

> Canada deeply appreciates Congressional recognition of Canadian concerns and particularly that funds be used only for portions of the project not directly affecting Canada.
>
> Nevertheless, in the absence of any significant project design changes, we are most concerned that continued construction could generate a momentum ultimately resulting in actions damaging to Canadian fisheries and water quality, in violation of the Boundary Waters Treaty.
>
> This is because the current design does not permit the operation of Missouri Basin project features without the construction of the Lonetree Reservoir in the Hudson Bay Drainage Basin.

The Canadian Ambassador is telling us that his Government does not really expect the United States to build a project feature that we do not intend to use. I must say I can see his logic. Even though there is no motion before us to delete the funding contained in the bill for the Garrison project, I wanted my colleagues to be fully aware of Canada's concerns.

Mr. JOHNSTON. Mr. President, I wonder if the Senator is aware that we have language in our bill that provides as follows:

> None of the funds appropriated for the Garrison diversion unit may be used for the acquisition of mitigation lands by condemnation nor shall such funds be used on features affecting waters flowing into Canada.

So we acknowledge the legitimacy of the Senator's concern and have specifically provided for it in this bill.

Mr. PELL. I am aware of that language. But I still believe that, in view of my position as chairman of the International Operations and Environmental Subcommittee and the treaty I am trying to get the United Nations Economic Program to support, it would be appropriate to insure that my colleagues are informed of Canada's concerns regarding this project.

Mr. JOHNSTON. If the Senator will permit me, what interest do the Canadians have in a project that we build in the United States affecting only people in the United States not affecting Canada?

Mr. PELL. Because, as you look ahead, any expenditure that we make now, even though it does not immediately affect Canada, brings us closer to stages of the project that could have a direct effect on Canada.

Mr. JOHNSTON. Mr. President, the language of the bill specifically prohibits funds to be used on features affecting waters flowing into Canada. It was because of the Senator's concern, and others who voiced a like concern, that we put that specific language in there.

I do not know how we can write language more clear. I hope the Senator will, between now and the time that the clerk calls the roll, look at that specific language and realize that we have specifically, without question, unequivocally taken care of his concern.

Mr. PELL. I appreciate having that assurance, but I did want to register my concern about the longer term effect of any expenditure on the project as long as its design features remain unchanged.

Mr. JOHNSTON. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Pell). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota (Mr. Pressler). The yes and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Texas (Mr. Leahy), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Georgia (Mr. Talmadge), and the Senator from North Carolina (Mr. Morgan) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) and the Senator from North Carolina (Mr. Morgan) would vote "aye."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from Indiana (Mr. Lugar), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted?

The result was announced—yeas 62, nays 26, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—62

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cochran
Cranston
DeConcini
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Helms
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Laxalt
Long
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pryor
Randolph
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stevenson
Stewart
Tower
Wallop
Williams
Young
Zorinsky

NAYS—26

Armstrong
Chafee
Cohen
Culver
Danforth
Durenberger
Hayakawa
Heflin
Heinz
Hollings
Humphrey
Jepsen
Levin
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Riegle
Simpson
Stone
Thurmond
Tsongas
Warner
Weicker

NOT VOTING—12

Baker
Cannon
Dole
Goldwater
Kennedy
Leahy
Lugar
McGovern
Morgan
Ribicoff
Stafford
Talmadge

So the motion to lay on the table Mr. Pressler's amendment (UP No. 1331) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, Mr. JACKSON has a resolution which he will call up. It has been cleared on both sides of the aisle. It has been cleared with the majority.

Mr. President, I inquire whether the distinguished Senator from Washington and Mr. STEVENS will accede to a time limit.

Mr. JACKSON. Five minutes.

Mr. ROBERT C. BYRD. Five minutes equally divided?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMPORTANCE OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM—SENATE CONCURRENT RESOLUTION 104

Mr. JACKSON. Mr. President, on behalf of Senator STEVENS and myself, I submit a concurrent resolution which is at the desk, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 104) expressing the sense of Congress regarding the importance of the Alaska natural gas transportation system.

Mr. JACKSON. Mr. President, on October 28, 1977, the Senate passed a joint resolution approving the President's decision selecting a transportation system for the delivery of Alaskan natural gas from Prudhoe Bay, through Canada, to the lower 48 States.

Since that time, the private parties designated to construct the project have been pursuing various regulatory matters in the United States and Canada which must be resolved before construction can begin.

The regulatory process has been a difficult one, involving decisions by numerous agencies and departments of the Federal Governments in both the United States and Canada. Progress has been substantially slower than we anticipated it would be when the Congress approved the President's decision.

The Canadian Government is on the verge of making one of the most significant decisions to date on the project. It is a critical one involving the fate of the so-called "prebuild" aspect of the project.

Construction of the entire system from Prudhoe Bay, across difficult terrain in Alaska and Canada, with two new pipelines going from Canada to California and Illinois, will take several years. The sponsors of the project have proposed to build a portion of the system in advance, thus enabling early deliveries of gas to be exported from Canada. The prebuild could be constructed by the end of 1981 if construction begins this summer.

The Canadian Government officials have maintained throughout negotiations involving the project that they are willing to endorse the prebuild provided that they have adequate assurances the entire project will be completed.

The purpose of the resolution I am introducing today is to reassure our friends to the North that the U.S. Government is, indeed, still committed to completion of the project. Though progress has admittedly been slow and painful to date, there is no doubt in my mind that the entire system will eventually be built. The North Slope gas reserves include 26 trillion cubic feet, or more than 10 percent of this Nation's entire proven gas reserves. The system, when complete, will supply the United States with 5 percent of our annual natural gas demand. It is vital that we pursue construction of a pipeline to get that gas to market and to encourage additional exploration and development of the frontier areas in both Alaska and Canada.

Last Thursday, June 19, the sponsors of the gas pipeline and the oil companies who will eventually produce the gas signed two significant documents. The first is a "cooperative agreement for design and engineering of Alaska gas pipeline and conditioning plant." The cooperative agreement sets out the terms and conditions under which the producers and sponsors will participate in the design, engineering, construction planning, data gathering, and cost estimating of the gas pipeline and the gas conditioning facilities to be built in Alaska. The sponsors and the producers will each pay 50 percent of the cost of the design and engineering.

The second document is a "joint statement of intention" which commits the producers and the sponsors to work together to develop a financing plan that will enable the Alaska Natural Gas Transportation System to be completed and placed in service at the earliest practicable date. I ask unanimous consent that the joint statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, I remain convinced that construction of the Alaska Natural Gas Transportation System is in this Nation's best interest, is vital to our national security, and of benefit to both Canada and the United States. I personally am committed to take whatever action is necessary to insure timely completion of the project.

I hope that the Canadian Federal Government will give final approval to the prebuild in the very near future. If they do so, it will be with our assurances that the Congress remains committed to the project.

I urge adoption of the resolution.

Mr. President, this resolution, simply stated, says this:

Resolved by the Senate (the House of Representatives, concurring), That it is the sense of the Congress that the System remains an essential part of securing this nation's energy future and, as such, enjoys the highest level of Congressional support for its expeditious construction and completion by the end of 1985.

EXHIBIT 1

JOINT STATEMENT OF INTENTION

Atlantic Richfield Company, Exxon Corporation, and The Standard Oil Company (Ohio) (the producers), and Alaskan Northwest Natural Gas Transportation Company, a partnership (Alaskan Northwest), enter into this Joint Statement of Intention at the request of the United States Department of Energy.

PRELIMINARY RECITALS

The Producers and Alaskan Northwest have a common interest in the efficient and cost-effective construction and operation of the Alaska Natural Gas Transportation System (ANGTS) including the conditioning plant at the earliest practicable date. Alaskan Northwest has developed a construction schedule for the ANGTS which would result in completion of the system in 1985.

The facilities to be constructed in the State of Alaska which are necessary to placing the ANGTS in service require immense capital investment, and private sector lenders who will be asked to advance funds for the construction of Alaskan facilities will require reasonable assurance that the facilities will be completed and placed in service, and their debt serviced.

The President's Decision and Report to Congress describes the plan for private financing of the ANGTS to be implemented by Alaskan Northwest. Alaskan Northwest has indicated that the Alaskan segment of ANGTS can be financed in the private sector, if there is meaningful participation by the Producers in the financing structure. The Producers have indicated willingness to participate in a substantial way with Alaskan Northwest in the financing of the Alaskan pipeline and conditioning plant upon reasonable terms and conditions, provided they are not placed in the position of becoming, in effect, the ultimate guarantors of completion of the ANGTS and provided that their financial exposure is effectively limited.

In an effort to move forward in surmounting the acknowledged difficulties presented by this project, the parties have entered into a Cooperative Agreement for continued design and engineering of the Alaskan gas pipeline and the conditioning plant which will prepare natural gas produced from the Prudhoe Bay unit of Alaska for transmission through ANGTS.

STATEMENT OF INTENTION

It is the mutual objective of the Producers and Alaskan Northwest that the ANGTS be completed and placed in service at the earliest practicable date and, accordingly the Producers and Alaskan Northwest intend to use their best efforts, on a joint and cooperative basis, to expedite design, engineering and cost estimation.

The Producers, together with their advisers, will work with Alaskan Northwest in an effort to develop its financing plan in such time and manner so that necessary governmental approvals may be obtained and construction commenced and completed as scheduled by Alaskan Northwest.

It is recognized that in order for the financing plan to be acceptable to the financial community the project must be economically sound and the financing plan must accommodate reasonably desired protections for the interests of potential lenders. If the parties, or any of them, conclude that alternate approaches in financing, or waivers of law under the Alaskan Natural Gas Transportation Act are necessary to effectuate a feasible and effective plan of financing, such party or parties may develop alternatives and advise appropriate authorities of their conclusions.

This Statement of Intention shall be signed after approval hereof by the Department of Energy.

Mr. STEVENS. Mr. President, I am pleased to join my good friend from Washington in sponsoring this resolution.

We have had a meeting this morning with representatives of the Canadian Government and Members of the House of Representatives as well as the Secretary of Energy and his assistants.

The Senate should realize the importance attached to this resolution by the representatives of the Canadian Government. The Minister of Pipelines, Bud Olson; the Administrator of the Northern Pipeline Agency, Mitchell Sharpe; and the Deputy Energy Administrator, Mickey Cohen, made it plain to us that there must be a congressional statement, so far as they are concerned, which reassures the congressional support for the Alaska natural gas transportation system.

This resolution is intended to meet that part of their request to us.

There are other matters, which we will pursue in the future. But I do think it is important, in view of the timing of this portion of this session of Congress, for the Senate to go on record immediately to respond to the Canadian request for our reassurance that the Alaska natural gas transportation system is critically important to our energy program in this country.

I thank my good friend from Washington and his staff for working closely with us to make certain that this project really stays on the front burner. It is very important to us. It will carry 10 percent of the Nation's known supply of gas to the markets in the south 48, and it should be built as soon as possible.

Mr. SCHMITT. Mr. President, if the Senator will yield, I should like my name to be added as a cosponsor of this measure, and I associate myself with the remarks that have been made. This is an extremely important commitment that we must maintain. The resolution is an important affirmation of that.

Mr. STEVENS. Mr. President, I am delighted to ask unanimous consent that the name of the Senator from New Mexico be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 104

Whereas, the Alaska Natural Gas Transportation System is a critically important energy project that will tap Alaska's North Slope natural gas reserves which constitute more than ten percent of this nation's entire proven natural gas reserves;

Whereas, the System, when complete, will supply the United States with five percent of its annual natural gas demand, displacing over 400,000 barrels of oil, thereby greatly reducing this nation's excessive dependence on foreign oil;

Whereas, the Congress has already expressed its overwhelming support for the System in approving by joint resolution the President's 1977 Decision on the Alaska Natural Gas Transportation System;

Whereas, a portion of the System known as prebuild can be constructed by the end of 1981 to bring Canadian gas to this nation until the entire system is complete in 1985;

Whereas, prebuild will contribute to completion of the entire system by spreading demand for capital, labor and materials over several years, and will enable this nation to obtain Canadian natural gas to displace 200,000 barrels of foreign oil a day;

Whereas, the Federal Energy Regulatory Commission has issued decisions granting certificates for the prebuild facilities in the United States;

Whereas, the Sponsors of the Alaskan segment of the system and the North Slope natural gas producers have entered into an agreement to fund and manage jointly the design, engineering and cost estimation for the Alaskan segment and have made a joint statement of intention to work to develop a financing plan for the Alaskan segment with the object of completing construction by the end of 1985; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the System remains an essential part of securing this nation's energy future and, as such, enjoys the highest level of Congressional support for its expeditious construction and completion by the end of 1985.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 30 seconds, without losing my right to the floor, to the Senator from Montana.

SUPPLEMENTAL APPROPRIATIONS, 1980

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1332

(Purpose: Technical amendment)

Mr. MELCHER. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1332.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 130, line 18, strike "$75,000,000" and insert in lieu thereof the following: "$45,000,000".

Mr. MELCHER. Mr. President, this is a technical amendment to track with the amendment we accepted this morning, which changes the rescission of railroad rehabilitation and improvement financing funds from $75 million to $45 million.

It is also necessary to have this technical amendment so that the Treasury Department will be able to sell the preference shares amounting to $30 million.

I think it is acceptable to both sides. I hope the Senate will concur.

Mr. MAGNUSON. We accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 1332) was agreed to.

AMENDMENT NO. 1927

Mr. CRANSTON. Mr. President, I call up amendment No. 1927 and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. HAYAKAWA, Mr. DECONCINI, and Mr. SCHMITT, proposes an amendment numbered 1927.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 1, delete "$45,150,000" and insert "$9,650,000 are rescinded, and $8,000,000 are deferred pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of Project 76–2–b, Ten Megawatt Central Receiver Solar Thermal Power Plant, as a solar repowering test facility to meet repowering objectives for the solar central receiver concept."

On page 26, line 7, delete "are rescinded."

Mr. CRANSTON. Mr. President, this amendment has the bipartisan cosponsorship of my distinguished colleague from California (Mr. HAYAKAWA) and two members of the Appropriations Committee, the distinguished Senator from Arizona (Mr. DECONCINI) and the distinguished Senator from New Mexico (Mr. SCHMITT).

Mr. President, I ask unanimous consent that Senators GOLDWATER and MATSUNAGA be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, in fiscal year 1980 funds were appropriated for the 10 megawatt Central Receiver Solar Thermal Power Plant at Barstow, Calif.

In the supplemental appropriations bill (H.R. 7542) now before the Senate, the House deferred $8 million of the $36,500,000 previously appropriated for this project "pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of * * * (this) Project * * * as a solar repowering test facility to meet repowering objectives for the solar central receiver concept."

I support this approach and support the deferral of the $8 million for this project that goes with it.

When this House-passed language reached the Senate, however, the Senate Appropriations Subcommittee struck the House language from the bill and in its place inserted a provision which would rescind all fiscal year 1980 funding for this project—I repeat all

$36,500,000—from the bill, in effect killing the project.

Our amendment simply restores the House-passed language and appropriations level to the bill.

I want to emphasize that we are not proposing a funding increase for this project. In fact, we are supporting a deferral of $8 million of previously appropriated fiscal year 1980 funds.

But we are trying to reverse an ill-advised decision to terminate this project, made by a divided subcommittee of the Senate Appropriations Committee, a decision which to me makes no sense at all.

Every member of the California congressional delegation—in both Houses—is on record in support of the continuation of this project which is expected to play a central role in our national effort to curtail our dependence on foreign oil, and to make our Nation energy self-sufficient.

The Barstow project is the cornerstone of solar thermal and solar repowering research and development. It is a cooperative project between the Department of Energy, Southern California Edison, Martin-Marietta, McDonnell Douglas, and the city of Los Angeles. It has the enthusiastic support of P.G. & E.

This project represents the first generation of the effort to generate commercial electrical power from solar energy.

DOE has already awarded 13 conceptual design contracts for solar thermal central receiver systems on a similar joint venture basis around the country.

But these projects are absolutely dependent upon data and rely on follow-on technology based on experience anticipated to be derived at Barstow.

The termination of this project at a point when construction is 70–80 percent complete is senseless—70–80 percent complete.

It would represent a severe setback in our effort to substitute solar power for energy derived from fossil fuels, at a time when our solar effort should be accelerated, not curtailed.

The attempt to terminate this project at this point certainly is not justifiable in terms of energy policy. There have been many recent warnings that sluggishness in the effort to develop solar energy will cost us the ability to meet even the administration's modest goal of 20 percent solar energy by the turn of the century.

In my own view, a stronger effort could result in solar energy meeting 25 percent of our energy needs by the year 2000.

Nor is the attempt to rescind these appropriated funds defensible from a budgetary standpoint.

The committee reported bill would save a theoretical $28.5 million in fiscal year 1980 funds over the level represented by our amendment. But the termination costs of this project, given existing contracts and already obligated fiscal year 1980 funds, would be between $15 and $25 million, eating up more than half of the theoretical saving.

The total Federal investment in this project, if it is now terminated, would amount to $86 million. The non-Federal parties to this project have committed $26 million of their own money to it, of which more than $6 million has already been spent.

And, if the Appropriation Subcommittee decision is sustained, more than $90 million of public and private money would be almost totally wasted, leaving a three-fourth completed facility standing in the desert at Barstow, unusable except as a monument to this very unwise Appropriations Subcommittee decision.

If the Barstow project—the so-called solar power tower—were not essential in the development of technology for solar power generation—if the funds were being misapplied to some less significant, less high priority purpose, or if the project were poorly conceived or being mismanaged in some way, then perhaps some justification might exist for terminating the project at this point—on the grounds that one would not want to throw good money after bad.

But, in fact, the absolute opposite is true.

The Department of Energy, speaking through its Acting Under Secretary, has recently said:

> We believe that the project is a vital step in the commercial development of solar energy. Management of this project has been subjected to almost continuous review over the past year, our findings are that the project is programmatically and fiscally sound; it is well-managed and we expect it to be brought in on schedule.

The letter goes on to say:

> The Barstow pilot plant has been a model of DOE cooperation with the utility industry.

And the letter concludes:

> The Department of Energy believes the 10MW(e) solar pilot plant at Barstow is a well-conceived, well-managed project. It is vital to the successful introduction of this solar technology into the marketplace. We further believe that the potential of this technology to displace gas and oil in the utility and industrial sector adequately justifies the current and planned expenditures for the pilot plant. The Department urges your continued support for it.

Mr. President, I ask unanimous consent that the letter of Worthington Bateman, Acting Under Secretary of the Department of Energy, be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the city of Barstow has nearly completed—at a cost of $320,000—a visitor center for this project.

In urging continuation of funding, Ms. Betty Rowe, the city clerk, expresses the views of the citizens of Barstow which, in this case, completely reflect my own:

> It is difficult to believe that consideration would be given to removal of funds from the budget at this stage in the project. Millions of dollars have already been spent or are committed through binding contracts. Many more dollars of taxpayers' money will be spent in lawsuits if this project is stopped. All of this happening at a time in the history of our country when alternate sources of energy are so desperately needed!

I ask unanimous consent that the letter of the Barstow city clerk and the unanimous resolution of the Barstow City Council which accompanied it, each urging continued funding of this project, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CRANSTON. Mr. President, as is frequently the case in these budget-related debates, the Appropriations Committee has attempted to present us with a Hobson's choice: that either we accept the decision of a divided subcommittee of the Appropriations Committee or we bust the budget.

It is my view that there are more options than that. There are other less essential funds in this bill which can be delayed without the same critical effect. My amendment supports deferral of $8 million from this project. But to kill the project at this stage is both terribly unfair and terribly unwise. The burden of reconciling to the budget resolution needs to be distributed a little more evenly. And the amount involved in our amendment—$28.5 million in previously appropriated funds—is insignificant in terms of the well-established Senate Budget Committee principle of rounding to the nearest $100 million.

For these reasons, I urge that the amendment be adopted.

[EXHIBIT 1]

DEPARTMENT OF ENERGY,
Washington, D.C.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations,
Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Energy and Water Development Subcommittee may recommend to the full committe a recission of $36 million in FY 1980 appropriations for the 10 MW(e) Solar Central Receiver Pilot Plant Project at Barstow, California. As you know, such a recision would be tantamount to terminating the project. The Department of Energy (DOE) does not support such an action. We believe that the project is a vital step in the commercial development of solar energy and respectfully request that you reconsider any current plans to cancel it.

Management of this project has been subjected to almost continuous review over the past year. The most recent such review was conducted under my auspices on Friday, April 25, and independently by Mr. Jack Hewitt, the Department of Energy's Chief Financial Officer, early last week in California. Our findings are that the project is programmatically and fiscally sound; it is well managed and we expect it to be brought in on schedule.

Furthermore, the Barstow pilot plant has been a model of DOE cooperation with the utility industry. The project has been developed with the long standing support, both financial and managerial, of Southern California Edison and the Los Angeles Water and Power Authority. These partners have committed over $20 million of their own money and have played an active role in the design and management of the project.

The utility interest in Barstow, and the solar central receiver technology that it will demonstrate, is very strong. Our current studies on the potential of repowering clearly show that it will be commercially viable within the next few years. These are designs of commercially competitive solar central receiver plants which would be built using Barstow technology alongside existing gas- and oil-burning plants in the South and Southwest. We are prepared to brief you in whatever detail you wish regarding our views in this area.

However, without an operating pilot plant, the utility industry will not have the data they need on the performance of such a system in an integrated utility environment. It is the consensus of all parties that the completion of the Barstow project is crucial to reducing the technical risk associated with the first repowering initiatives in the utility industry. Without Barstow, they will be delayed significantly.

In summary, I would like to reiterate that the Department of Energy believes the 10 MW(e) solar pilot plant at Barstow is a well-conceived, well-managed project. It is vital to the successful introduction of this solar technology into the the marketplace. We further believe that the potential of this technology to displace gas and oil in the utility and industrial sector adequately justifies the current and planned expenditures for the pilot plant. The Department urges your continued support for it.

Sincerely,

C. WORTHINGTON BATEMAN.

EXHIBIT 2

BARSTOW, CALIF.,
May 21, 1980.

Sen. ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: Enclosed is a copy of Resolution No. 2268-80 which was adopted by the Barstow City Council on May 19, 1980 in support of continuation of funding for the Solar Pilot Plant Project at Daggett, Ca.

It is difficult to believe that consideration would be given to removal of funds from the budget at this stage in the project. Millions of dollars have already been spent or are committed through binding contracts. Many more dollars of taxpayers money will be spent in lawsuits if this project is stopped. All of this happening at a time in the history of our country when alternate sources of energy are so desperately needed!

We urge your support for retention of funding to complete the Solar Pilot Plant Project.

Sincerely yours,

(Mrs.) BETTY ROWE,
City Clerk.

Enclosure.

RESOLUTION NO. 2268-80

Whereas, the U.S. Department of Energy, Southern California Edison Company, the Los Angeles Department of Water and Power and the California Energy Commission have entered into a joint venture to construct a 10 mega-watt solar pilot plant project near Daggett, California; and

Whereas, a Visitor Center for the project has been virtually completed at a cost of $320.000; and

Whereas, foundations for approximately 1800 heliostats are under construction with over 1200 already completed; and

Whereas, the foundation for the solar tower is under construction; and

Whereas, the mirrors for the heliostats have been fabricated and are in the processing of being silvered; and

Whereas, numerous other contracts and subcontracts for the construction of the project have been awarded, with work in progress; and

Whereas, all parties to this joint venture have invested large sums of money and energy in pursuing this project in good faith; and

Whereas, the credibility of the U.S. Department of Energy will be impaired by abandoning this project at this stage of construction.

Now, therefore, it is hereby resolved as follows:

1. That the City Council of the City of Barstow urges the Congress of the United States to appropriate sufficient funds to complete the construction of the 10 mega-watt Solar Pilot Plant Project as planned.

2. That the City Clerk is directed to deliver to the appropriate governmental agencies and officials a certified copy of this resolution.

Mr. JOHNSTON. Mr. President, I am a little like the teacher who was applying for a job and was asked whether she thought the world was round or flat. She said, "Mr. Principal, I can teach it either way."

I can teach this one either way, because there is a great deal to be said for it in a positive way, and there are a great many arguments to be made against this particular project.

To attempt to resolve these arguments, I, together with the staff, went to the California office of the Department of Energy last year, looked into all the pros and cons, looked into the fact that this is a high-cost project delivering not much energy, with more potential, looked on the other side, at the positive aspects; that private industry has invested a great deal of money; that it has potential for real powering; and we came up with the conclusion that this project should be continued. This was just last year. Considering the same factual situation, basically, that we have now, our conclusion was that it would be unfair, unwise, and bad Government policy to have a project terminated, when the project has been started, the Government has invested money, and private industry has responded with its money. That was last year.

Along comes this year, and the first thing that happens is that we go to the Budget Committee; and I plead and cry and scream and do everything else to get more money for the energy function, at a time of severe shortage, of energy emergency, for the first time when we can really call it an energy crisis, and we cut back the energy function and do so not just to cut out the fat but also cut into the bone.

So our job on the committee, Mr. President, was to find some bone to cut. Where was the bone we could cut that would be least harmful? Frankly, we worried about Barstow. We said, "Let's put it in"; then, "Let's take it out."

After all that conversation, we ended up taking this project out, which would terminate the project. It would have an effect this year by $36 million. After termination costs are paid, it would save the Government, overall, about $58 million.

Our judgment is one about which we are very skittish; we are not sure of it. We are not comfortable with it. But we did not know where else to find a cut in this budget that would be a lower priority.

The House has included money for Barstow, and we cannot argue with the House a great deal on this one.

All I can tell my dear friends from California is that we will go to the conference on this matter, not with closed minds, recognizing all the very strong arguments and the very valid arguments that our friends from California have made, and we will try to find other ways to make these cuts.

If the Senator should withdraw his amendment, we cannot guarantee that when we go to conference, we will find the money and that this will be restored. All I can tell the Senator is that we are more than sympathetic—indeed, we are in agreement—with the distinguished delegation from California. They are right—it should be funded. But so should some other projects be funded.

We will go into the conference with an open mind, looking for ways to find the $36 million to fund this project. I can tell my distinguished colleagues that we will do our very best. I hope that is good enough.

I also have given Senator CRANSTON my personal as well as my official indication that we will do the very best we can. It is something that we on that committee want to do and that I personally want to do.

So, if the amendment can be withdrawn, we will approach it with that in mind.

Mr. HAYAKAWA. Mr. President, I am happy to join my distinguished colleagues from California, New Mexico, and Arizona in encouraging the Senate to restore funding for the solar and megawatt pilot plant project near Barstow, Calif.

As Senators know, the Barstow project is a concept for harnessing solar power which employs a field of remote controlled heliostats or mirrors that reflect sunlight to a central receiver at the top of a tower. Water pumped up to the receiver is converted to steam which operates a turbine generator on the ground, producing electric power. This concept represents a first attempt to produce large quantities of electricity from solar power.

Mr. President, we must address this issue today because the Senate Appropriations Committee chose to rescind $36.5 million of the $108 million that Congress had already appropriated for the construction and operation of the solar thermal powerplant. Rescission of these funds is not supported by President Carter, who not only life the project in his revised budget for fiscal year 1980, but also requested additional funds in fiscal year 1981. To date, DOE has committed $90 million towards this project, and the utility associates involved have committed $7 million. If the project is canceled, the utilities will incur a loss of $6 million and DOE will incur a loss of $64 million. This, Mr. President, is twice the amount of the rescission. In addition, years of research and development have gone into the development and eventual commercialization of the solar central receiver technology. Construction has begun, site preparation is complete, the majority of the heliostat foundations have been installed, and further technical work is well underway.

Barstow is an excellent test facility for this kind of experiment, and the data and experience gained from the project is an integral step toward the commercialization of large-scale solar energy utilization. This is especially true with respect to the solar thermal repowering program for electric power production and industrial heat applications. Repowering would incorporate solar central receiver plants which would be built using Barstow technology alongside existing fossil fuel generating plants. This supplemental source of energy could supply additional power for the existing plants during peakload periods without the use of more fossil fuels. Certainly, this would be a welcomed environmental improvement, and the application of solar heat would get the maximum use out of an existing powerplant.

In other words, the ingenuity of this rests in the fact that existing powerplants which now use oil and other fossil fuels can be supplied with solar heat through this particular technology.

The Department of Energy has already funded conceptual designs for the repowering of seven utility plants and six industrial plants. If progress continues as scheduled, these operational demonstrations could be online by 1985. But the experience gained from Barstow is needed before entering into the final design stage, and in fact is crucial to the survival of the repowering program. The potential of this technology to displace oil and gas in the utility and industrial sectors where premium fuels are heavily used, clearly indicates the need for continued funding of the pilot plant.

Independent of Barstow, approximately $98 million has been invested in the development of solar central receiver technology. Utilities, equipment manufacturers, and other interested organizations have financed their own programs to follow closely the progress and results of Barstow over the 5-year process.

In other words, what is going on over at Barstow is of interest not to California alone but to the entire energy industry.

Many of these same organizations are conducting extensive feasibility studies on the repowering and industrial retrofit applications based on data gathered from the Barstow facility. In addition, the Department of Energy has spent approximately $25 million per year to develop improved or lower cost heliostats and alternative receiver designs to achieve higher performance standards, and 21 million to build the testing facility for these designs. Canceling Barstow now would result in a great financial loss for industry and the Federal Government, would certainly jeopardize the accomplishments already realized in the area, and most importantly, retard the Nation's efforts to lessen our dependence on imported oil and place more emphasis on alternative energy sources.

As you are aware, Barstow is a joint venture between the utility industry and the Department of Energy. Thus far, the working relationship has been one of mutual cooperation and support. I am very concerned that cancellation of this project would undermine the support that DOE has developed among the utilities, and endanger industry's willingness to invest in future alternative energy projects with the Federal Government.

This kind of cooperation is of great value not only in the present instance but in setting the example for future cooperation of the same kind.

Let me conclude by urging my colleagues to support the deferral of $8 million and keep this important project alive.

Mr. JOHNSTON. Mr. President, it appears that we had our signals a little bit crossed. I thought we could have the amendment withdrawn and go to conference and that I could say only good things about the project. I am advised that I was misadvised, that Senators wish to push the amendment on through, which sort of obligates me to tell the Senate what this project is really like.

Mr. President, this is one of those solar projects. But is the solar community for it? No. The solar community is not for this project.

I was out at the Surry Energy Research Institute. They think this project is a turkey.

Do Senators wish to know why?

First of all, let us talk about the cost. The cost of a kilowatt of electricity from this project is 60 to 90 cents. That compares to 2 to 3 cents from coal or nuclear. That is, 60 to 90 cents compared to 2 to 3 cents.

The cost of this kind of power would have to decrease from about $14,000 per installed kilowatt to $1,700 per installed kilowatt.

Can one make those savings? We do not think so, because in this kind of project most of the expense goes into things like concrete, wood, steel, mirrors, things that are not high technology, things that by maximum production we cannot lower the cost as we are already mass producing concrete and steel, so we are never going to bring the cost of this down. The economics do not work out.

There is very limited market potential for this. If we get everything that could be done, it could be probably no more than 3,000 to 5,000 megawatts nationwide. That is the equivalent to three to five coal or nuclear powerplants, the total nationwide potential of this. It is a very high development cost for a very limited market.

It is now estimated that the future development cost associated with central receiver plant is estimated between $400 million and $500 million, or about $100 million a year between now and 1985.

We do not have that kind of money, Mr. President, to be chasing this rainbow.

Other solar concepts have much greater potential for providing competitively good electricity.

Mr. President, do you want to know what the Academy of Sciences says about this project? The National Academy of Sciences just in a report issued I believe it was earlier this year says that—and let me read a short paragraph:

> The most heavily financed system for generating electricity with thermal from the sun is the solar tower concept—

Which is what we are dealing with—

> with rays off mirrors, focusing sunlight on the boiler at the top of a tower.
>
> Although this concept is technically feasible, there is insufficient information for reliable cost estimates. Projected costs appear to lie in the range of 5 to 10 times the current busbar cost of electricity if storage costs are included. Because so much of the cost is embodied in structural materials, such as concrete and steel, which represents well-developed technologies for which large costs reductions are unlikely, reducing cost will be difficult.

They further state that:

> Large-scale Government demonstrations of long-term solar technologies such as the planned demonstration of a solar thermal central station power plant could be counterproductive if undertaken prematurely.

That is the National Academy of Sciences.

Mr. President, do you want to know about this big investment by industry? Let me tell you. Industry has invested and spent $3 million. DOE has invested $25 million.

If we refund the $3 million to private industry, pay the termination costs, and there would be some termination costs, we could save somewhere between $58 million and $68 million of Federal funds.

We could save between $58 million to $68 million with only $3 million having been spent by private industry, and we can refund that.

So, Mr. President, if you want to know why we very reluctantly cut this budget, that is why. It costs too much. There is very little market penetration. The solar community does not support it. It could be counterproductive according to the National Academy of Sciences, and we can save $56 million to $68 million total. We can save $36 million this year.

If someone can show me where to find $36 million in this budget for lower priority energy projects, I do not know where it is. I know I sweated and strained to find some more money for the uranium resources assessment and we could not do that.

But we had to terminate, for example, completely the gas-cooled breeder reactor which was zeroed out of the program after private industry had invested much more than this $3 million, much more support for it, much more to be said for it, from people like the National Academy of Sciences.

So, Mr. President, if my friend from California must have a vote, I think we have got the facts on our side. If they will let me go to conference and look at this thing, look at the other side, the obverse side, that I talked about first, we will try to look at it in an affirmative way.

But I hope the distinguished Senator from California will not push us to a vote at this time because I am trying to strain and to find every good thing I can about this turkey project. [Laughter.] It is hard enough to find those good things, but the agreeable personality of my good friend from California is very high on the list, and if they let us go along with sort of being agreeable, we will do the best we can. Can the Senator do that?

The PRESIDING OFFICER. (Mr. TSONGAS). The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise to support the amendment before us. I do not think it is a turkey at all any more than anything else that this Congress has spent good dollars on.

Mr. President, the amendment before the Senate will assure the completion of the first major solar energy project in this country. It will not add money to the fiscal year 1980 appropriation bill which we passed only 8 months ago. We thought this was a good idea 8 months ago. It still is today.

It will, in fact, reduce outlays in fiscal year 1980 by $8 million.

The subject of this amendment, the solar thermal pilot plant at Barstow, Calif. (project 76-2-b) has been in design, planning and construction for several years. Over $90 million of the $108 million appropriated has already been obligated. If we kill this project, Mr. President, we do not simply close the books, turn off the equipment and walk away. It will cost the taxpayers at least—at least—another $30 million in termination costs—over and above what has already been spent. For what? What will we have paid upwards of $70 million for? For nothing.

Mr. President, the central issue here today is spending. The number of dollars to be spent in fiscal year 1980. But the real issues are really much larger. If we kill this project, we do more than waste a lot of money: We kill whatever hope we might have had to reach our own, near-term goals for the development of energy alternatives: We kill the cautious but growing cooperation and participation by industries and electric utilities (Southern California Edison, along with the city of Los Angeles has already committed $7 million and would have sunk costs of over $6 million). We also, Mr. President, kill the faith of millions of Americans have placed in the Congress to lead this country to the development of its solar energy potential and another step toward energy independence.

In a letter to the Appropriations Subcommittee on Energy and Water Development, Secretary Duncan of the Department of Energy, described the Barstow project as—

> An essential step on the path to commercializing solar central receivers.

He called it—

> the most cost-effective way to use solar energy for high-temperature process heat and electricity throughout the entire West and Southwest.

He also indicated

> termination of this joint government/industry project would delay commercialization at least three years, and would also jeopardize the future possibilities for the Federal government to enter into cost-shared development and demonstration with industry.

Thirteen projects rely on the Barstow plant for technical data, and without it, solar power generation could be set back nearly a decade. Before 1990, solar kilowatt costs will be comparable to fossil fuels and a single solar powerplant is estimated to displace 5 million barrels of oil annually, saving $100 million a year from imported oil.

In the committee's fiscal year 1980 report, the committee stressed the market potential of solar thermal repowering and directed the Department to proceed in fiscal year 1980 with a solar repowering experimental program. The Department indicated, in a response to questions I submitted during the committee hearings, that it is complying with the committee directive and is proceeding with cost-sharing program after a large and enthusiastic response from utilities and industries to the DOE request for proposal.

Mr. President, as a member of the Appropriations, Subcommittee on Energy and Water Development, I truly appreciate the effort the chairman, my distinguished colleague, Senator JOHNSTON, has made to trim and prioritize spending within the limitations of the budget resolution, to be realistic and to bring in a substantial reduction. The chairman has not singled out solar energy projects for deferrals or rescissions, and I compliment him for that. I think he and the staff have worked hard to attempt to find realistic areas to reduce the fiscal year 1980 budget.

However, I firmly believe, as I have expressed, that killing the first major energy demonstration project in this country would be counterproductive at best.

We all recognize the problems which have surfaced with this project. There is no doubt that changes will have to be made and that is the reason we are asking that $8 million be deferred. The House included language in its report which directs the Department to develop a plan to utilize the project as a test facility to support repowering objectives, and I would ask the subcommittee to accept that language in conference.

Mr. President, this project is a crucial step to the establishment of a viable energy alternative and a true investment in the future.

I urge my colleagues to reevaluate the committee's recomendation on the Barstow project and support continuation of the funding which is critical to the development of solar energy.

I do it cautiously because I realize that with other votes today we have exceeded the budget limitation. But this is a small increase. It is one that will cost only more dollars if we are not wise enough to accept it today.

I thank the Senator.

Mr. SCHMITT. Mr. President, this is one of those situations in which you find something to agree with with what everybody has said. I do agree with the distinguished Senator from Louisiana that the energy policy of this country, particularly with respect to a phased-in reduction of solar energy in an appropriate manner and at an appropriate time, has left a great deal to be desired, and if we could start over one might well not have taken the step we did in the construction of the Barstow plant.

But we have constructed it, for the most part. It does have a potential to be very useful as a test facility, particularly in the area of repowering.

It is my feeling and my hope that the Senator from Louisiana is sincere in his offer, and I believe that he is, to work in conference, and it may be that we can find a way to do that.

I yield to the distinguished Senator from California in the decision of whether to push this amendment to a vote. But it is, however, possible that we can follow the House lead in working toward a minimum cost, run-out cost, so that it can be a test facility for a variety of purposes, particularly those that are related to repowering, and I hope at least that possibility will be considered by the Senator from Louisiana.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, it certainly will be, and I hope we will get a chance to consider that in conference.

In addition to the unkind things I have said about the project—and I hate to do that, I want Senators to know that, because I want to be prepared, if we can find a way to cut elsewhere, to keep the project going. I would like to, if we can, find a way to make the cuts elsewhere.

But I hope the Senate will not tie our hands in conference. We are not going to have anything to talk about in conference if we take the higher numbers on every project that comes along. I hope the Senate will go along with us on this project. Frankly, this is a high-priority project because of the character of the two Senators from California, and that is a lot to say for it. We will keep that in mind as we think of good things in conference. But I hope the Senate will not tie our hands at this point.

Mr. President, we can save $58 million to $68 million. Only $28 million has been spent—more than that has been committed—but only $28 million has been spent. I hope the Senate will go along with us and let us take this to conference.

Mr. President, I am prepared to move to table, unless other Senators desire to speak.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. JOHNSTON. Mr. President, I certainly do not want to cut off any of my colleagues. I would say there is a long list of amendments. We are going to be here Saturday and Sunday, too. But I will certainly yield and withhold my motion.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, as a cosponsor of the amendment offered by my distinguished colleagues from California, the majority whip, Mr. CRANSTON, and Mr. HAYAKAWA, to provide for the continuation of funding for the 10-megawatt central receiver solar thermal powerplant at Barstow, Calif., I rise in its support. The amendment is both sensible and necessary.

The Barstow project has proceeded from conception to construction, and is only one step away from operation. To deny needed funding at this time is akin to dropping a college student during his very final semester because there is some uncertainty on whether his entire college career would be cost effective.

The Barstow solar tower power project is the very first of its kind to connect into a utility grid.

Mr. JOHNSTON. Will the Senator yield at that point for a question?

Mr. MATSUNAGA. Yes.

Mr. JOHNSTON. Is the Senator aware that the only thing on site now is some concrete footings; that there has been no actual construction, other than the visitor's center and the concrete footings?

Mr. MATSUNAGA. Regardless, it is going through the construction phase.

Mr. JOHNSTON. That is right, for concrete footings.

Mr. MATSUNAGA. It has gone through the construction phase.

Of course, speaking of the high cost of it, the Senator will concede that the very first oil-fired powerplant was very expensive, indeed. The developmental work required to produce the first nuclear powerplant was outrageously expensive, on a dollar per installed kilowatt basis. The Barstow project is not inexpensive, to be sure, but this is because of the necessary research and development work always associated with technology innovations.

The concept of using the rays of the Sun to generate electricity or to provide process heat, not only makes good commonsense, but in time will become cost competitive with conventional sources. The next generation of central receivers is already projected to cost considerably less than those of the first generation, and commercial scale applications are well within reach during this decade.

On the island of Molakai, Hawaii, in the middle of the Pacific Ocean, the resident of the community have supported the local utility company in its effort to bring to that island a solar electric system. I believe that they will succeed. In only a few years, fully one-third of the electrictiy will be solar generated, replacing expensive foreign oil that is shipped in halfway around the world.

Solar thermal electricity is a concept that should be supported because it represents a promising alternative which could someday be integrated with the full spectrum of indigenous options to make our Nation energy self-sufficient. To deny support for this alternative at this time will be tantamount to forever suppressing its development.

I urge my colleagues that we ought to support this amendment, in that we are headed toward clean energy, solar energy, and we are headed toward the use of energy which is endless. So long as we learn to harness solar energy, it is endless, and this is a good beginning. Let us not foresake it now.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, on the matter of what has been actually constructed and what has actually occurred, foundations for approximately 1,800 heliostats are under construction; 1,200 have already been completed. The foundation for the solar tower is now under construction. The mirrors for the heliostats have been fabricated. They are in the process now of being silvered. All over the country there are contracts and subcontracts in State after State, not just California, by any means; contracts and subcontracts upon which people are now at work, companies are now working, and funds have been obligated for portions of this project.

The distinguished Senator from Louisiana (Mr. JOHNSTON) asked where might we find some money to offset the meager amount in this bill that we are seeking to keep there or to restore. If we just defer $28 million of the $1 billion appropriated for fiscal year 1980 for the solar bank, we would have an offsetting figure right there. And that is an easy one to do. Not very much of that $1 billion can be appropriated and actually spent and used in this fiscal year.

I am a coauthor of that solar bank bill. I do not want to divert money from it for less worthy purposes. But here is a purpose totally consistent with the purposes of that bank.

The committee recommendations, as reported, were $7 million under the required level in this bill. That is another source of something. There is $2 million in the bill for the Energy Mobilization Board that can be deferred or rescinded in light of the House action today recommitting that bill. There is a source of a little bit more money.

The fact is that $86 million is the total Federal investment in this project if it is now terminated. And to terminate a project that is going to cost the Federal Government that much to save a small amount in this bill does not seem to me to make sense.

The recently-completed solar domestic policy review—that is a White House operation—forecasts that solar energy can displace 18 to 20 quads of oil and gas by the year 2000. Central power systems, according to their study, can contribute 3.5 quads of this displacement through thermal electric and processed heat total energy applications.

The McDonnell-Douglas Corp. states:

> The solar thermal central receiver is a promising concept to reduce our dependency on imported oil. The central receiver solar system can be cost-competitive over a broad range of plant sizes from 0.5 megawatts to 300 megawatts.

The Department of Energy has made very plain its view that this is a project that merits support, stating:

> We believe that the project is a vital step in the commercial development of solar energy. It is vital to the successful introduction of the solar technology into the market place.

I rest my case.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator has suggested that this funding be taken out of the solar and conservation bank. Is the Senator prepared to propose an amendment to that effect authorizing or even directing that, of the $1 billion in the solar and conservation bank, this project be funded from that?

Mr. CRANSTON. Mr. President, I think the way to do it would be to suggest a deferral from that amount from the bank in order to make room for this project. I do not know that it would work to actually fund the project from the bank. But we can defer it so we stay within the budget limitations that are concerned in this particular bill at this time.

Mr. JOHNSTON. Does the Senator mean defer this project?

Mr. CRANSTON. No; defer $28 million of the $1 billion appropriated for fiscal year 1980.

Mr. JOHNSTON. That is not a budget outlay in fiscal year 1980, whereby this will be a budget outlay to the extent of $36 million.

Mr. CRANSTON. There is going to be some money spent during this fiscal year from the solar bank, is there not?

Mr. JOHNSTON. It is possible, but I would doubt it.

Mr. President, we will look at this in conference. It is appropriate to do it from the solar bank. There is a great deal of solar interest in the House, probably even more there than there is in the Senate. There is a big delegation from California in the House that is also very interested in this.

We will do the best we can, Mr. President. But if you tie our hands and add $36 million to this bill—which was in balance, was under our budget ceilings until we had that Big Bertha amendment on revenue sharing. I hope we do not just open up the floodgates and say, "All right, boys, the picnic is on. Come in and grab your cake and candy and hot dogs. It is all here."

We cannot get into that, not in 1980, not when the people demand a balanced budget.

Mr. President, we had a tough time in that committee doing the dirty work of cutting projects. It is nasty, dirty work. You have to say "No." I hope the Senate will not come in behind us and say, "Well, we are going to be generous. We are not going to say no to anybody."

Unfortunately, if you are going to have fiscal restraint, you have to be willing to stand up and say no even to your friends.

So, Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from California (Mr. CRANSTON). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from

Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Indiana (Mr. LUGAR), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 35, nays 50, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—35

Bayh
Bellmon
Bentsen
Biden
Burdick
Byrd,
Harry F., Jr.
Chiles
Church
Danforth
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hollings
Huddleston
Jackson
Johnston
Long
Magnuson
Mathias
McClure
Metzenbaum
Mitchell
Nunn
Percy
Proxmire
Pryor
Randolph
Roth
Wallop
Warner
Young

NAYS—50

Armstrong
Boren
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Chafee
Cochran
Cohen
Cranston
DeConcini
Durkin
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Javits
Jepsen
Kassebaum
Laxalt
Levin
Matsunaga
Moynihan
Nelson
Packwood
Pell
Pressler
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—15

Baker
Baucus
Cannon
Culver
Dole
Goldwater
Kennedy
Leahy
Lugar
McGovern
Melcher
Morgan
Ribicoff
Stafford
Talmadge

So the motion to lay on the table Mr. CRANSTON'S amendment (No. 1927) was rejected.

Mr. JOHNSTON. Mr. President, I am not going to spend very long and I will ask for the yeas and nays on the adoption of this amendment.

Now, on the Subcommittee on Energy and Water, we worked long and hard trying to come up with a balanced budget. That was our mandate from the Senate. You voted it. It was not just our idea to come up with a balanced budget. We got a target, a tough target.

I argued in the Budget Committee and said it was too low, but the committee said that we had to accept it, and the Senate on the floor said that we had to accept it.

We got in there, did the grizzly, dirty job of cutting from solar applications, from biomass, from commercial waste management, from——

The PRESIDING OFFICER. Will the Senator suspend for a moment? The Senate will be in order.

Mr. JOHNSTON (continuing). From the Appalachian Highway, the gas-coal breeder reactor, a lot of projects we zeroed out and came up with a balanced budget that is within our targets.

If the message which the Senate is sending to us now is, "Look, you go do the dirty work in committee and we will come and be Santa Claus on the Senate floor, whatever anybody wants we are just going to grant it to them," I say that we can play that game as well as you. But, please, do not tell us in the Subcommittee on Appropriations that we are spending too much if we play that game.

I do not think that is what you want us to do. All I am asking is to uphold the committee, which is trying to uphold your directions for a balanced budget.

We will look awfully silly as we add $572 million for revenue sharing, and all we have heard is that, "We will find the money."

You will find it, $36 million, in the opposite, wrong direction on this vote.

We cannot do that. We will make ourselves a laughing stock. We cannot afford to do that.

We are responsible Members of the U.S. Senate who have taken a position on a balanced budget, on targeted spending, and it is time to live up to it and face up to it.

I talked about this project and I will not repeat that. There are things to be said for and against it. I will not repeat that.

All I want to note is if you bust this budget, then stand up and be counted, because if you are going to vote this $36 million, I do not know where you are going to draw the line—$36 million in the wrong direction after we have added all that money for revenue sharing.

I hope the Senate will, at least a few of us will, switch and uphold the committee. And if they do, we will do the best we can on this project in conference.

Mr. President, I ask for the yeas and nays on the adoption of the amendment.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. PROXMIRE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. PROXMIRE. I think it is about time the Senate recognized the work the Senator from Louisiana has done. He worked so hard in committee, hour after hour, day after day, and had to make very tough decisions. He did not want to make them, to cut down this part of the budget. But he made them.

I think if Senators really believe in fiscal responsibility, the very least we can do is support the Senator from Louisiana who is asking this $36 million not be added, and we have just added more than $500 million in revenue sharing.

If we are going to have any chance of having fiscal responsibility, we have to support the Senator.

I point out also that about 38 Senators yesterday voted for a $22 million cut in taxes, and the other Senators on our side were saying. "We favor a tax reduction in about 3 months."

So the whole Senate is on record for billions of dollars of tax cuts. Now we are asked to go over the budget resolution we passed only 2 short weeks ago.

I do hope some Senators can find it in their hearts to support the Senator from Louisiana.

Mr. CRANSTON. Mr. President, I will only proceed about 1 minute.

I say that this is for a project that has been authorized by both Houses, for which money has been appropriated by both Houses, where this position has been sustained now, the one I am advocating and the Senators HAYAKAWA, SCHMITT, GOLDWATER, DECONCINI, and others are advocating. It has been sustained by the House, and $86 million has been spent or obligated, not just in California, but on subcontracts and contracts across the country. Money is now in the works in various places across the country.

To now throw that out the window, those tens of millions of dollars, to save $28.5 million in this 1980 budget, a budget already out of balance, is not fiscally prudent.

The Senator from Louisiana has done very effective work in this general field of energy and in conserving money and trying to spend it wisely. But everybody is subject to making some mistakes. I think he has been led to a mistaken judgment on this particular issue since this rounds off downward, not upward. It is under $50 million.

It does not break the budget. I am convinced we can find the money to offset this when the conference is held.

But to throw out money spent and leave a monument to folly in the desert, I think makes no sense at all.

Mr. BIDEN. Mr. President, I will not proceed long.

I would like to point out to my colleagues in the Senate that the exercise we are going through here is one that the Budget Committee went through and then the authorizing committees individually, and then the Appropriations Committee. They have gone through it. That is when we first started talking about a balanced budget in the Budget Committee. Everyone stood lock step, arm-in-arm, and said, "We are for a balanced budget," Democrat and Republican.

There were a few exceptions, but, by and large everyone on the committee.

We went through our first round of cutting the budget and we went through each line and said, "No, we can not cut that, because we made an investment of *x* amount of dollars so far in that," and then we went down the line and came back the next week and said, "We can not make it doing it this way, we will have to go back and make cuts we do not want to make."

And after a long exercise of this, we found we had to make some painful cuts.

Then the Appropriation Committee was given a directive from the Senate, and they, I understand, went through a similar process. First, they went down the line, and said, "We will not cut that, we will do that."

After a couple of weeks of doing that, they found, yes, we will not make it, and they had to go back and make painful cuts.

I want to underscore that the Senator from Louisiana, while the Senator from Delaware was saying, we can cut more on the energy side, was saying, "No, you are going too low." He fought and fought and fought to keep it from going lower and he lost, and the Senate confirmed what the Senator from Delaware and others said about a lower number for the energy function.

Now the Senate seems to be going through the same exercise. We come up and add over a half billion dollars in revenue sharing and decide that is going to break the budget, but we will find the money somewhere else.

I am telling you now, we will be here tonight, and tomorrow, and Monday, and Tuesday, and Wednesday, and you are not going to find it anywhere else.

All of you will have to make one of two decisions, and decide either that, "I am going on record to break the budget now by waiving the budget resolution," or "I am going to change my vote, on one, two, three, four, or half a dozen things I did on Friday, Saturday, Monday, and Tuesday.

So I am giving you a piece of unsolicited advice: Spare yourself the embarrassment, as on the committee, of having to reverse yourself, because you are going to have to reverse yourself. There is no way, unless somehow we do the other easy thing and say, "Well, RUSSELL LONG, find us another billion dollars in revenue."

Now, he can do almost anything, I have found out in 8 years. But even RUSSELL LONG may not be able to find us another $1 billion if we lay that burden on his back.

So, spare yourself the embarrassment, give yourself a chance, do not look like what you are going to look like on Wednesday, as I did in the Budget Committee. Decide now, tell the folks in the press gallery, "I am not for balanced budget. I never meant it in the beginning," or stand up and say, "I think I had better not go through this routine of voting for more revenue sharing, voting for more solar energy, voting for everything else that affects my State."

I sense a little bit of fever that is happening here, a fever of "Let's get out sooner." The fever seems to be that since the Republicans decided that Ronald Reagan's tax cut was the thing to do and we Democrats decided that a tax cut is eventually the thing to do, everybody has said, "We don't have a balanced budget any more. We're not going to have a balanced budget when it's all over. So why not go ahead and do what we want to do and help our States?"

I do not have any doubt that the Senator from California is right, that this is a worthwhile project. I do not have any doubt that $37 million, or whatever the number is, already has been spent. We have heard the same arguments on 25 other things in the budget, where money is already expended, where we already are underway, and where cutting it off means that $5 million, $10 million, or $20 million is going to have been wasted.

Mr. CRANSTON. Mr. President, will the Senator yield ?

Mr. BIDEN. I will yield in a moment. Step up; step up and buy a piece of the action. Either decide you are for a balanced budget or you are not for a balanced budget.

JESSE HELMS will stand up—will you not, JESSE?—and say he is for a balanced budget. [Laughter.]

He is for it.

On our side, JOE BIDEN will stand up and say it. If you want two greater extremes, I do not know where they are, except maybe ORRIN HATCH and HOWARD METZENBAUM. [Laughter.]

The point is, folks, that there is not an easy way. You are not going to find the money unless, somehow, RUSSELL LONG, the miracle worker, and the Finance Committee are able to give us another billion dollars or $2 billion in revenue we do not know is there.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. CRANSTON. I hope the Senator from Delaware has not seduced the Senator from North Carolina, who voted not to table.

Does the Senator think the 1980 budget is balanced? This affects the 1980 budget, and my impression is that the 1980 budget never has been balanced.

Mr. BIDEN. That is true, it is not balanced. But we in the Budget Committee, at the directive of all of you to do as much as we could to bring that budget less out of balance than it was, when we were presented with it and did the painful cuts—the chairman of the Budget Committee is on his feet, and he will give you the numbers as to how much was cut and how much you asked us to cut. We made significant cuts in the deficit that the fiscal year 1980 budget left us.

You all applauded it, and you all probably sent out press releases talking about how we made these cuts. I hope you are going to send out the same press releases saying, "I voted to increase the deficit."

It may be good business to do that, but let us understand that is what we are doing, and nobody is talking about how we are going to find this money.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. CRANSTON. This has nothing to do with balancing the budget, since it relates to $28 million. That does not unbalance the budget, and it does not even affect the size of the deficit, because we round that off in budgetary operations.

Mr. BIDEN. That is true; I forgot that.

Mr. CRANSTON. We round off cents in checkbooks, and we round off hundreds of millions of dollars.

Mr. BIDEN. Let us round off anything under a billion dollars. We do not count that. Go ahead.

Mr. DECONCINI. Mr. President, the point is, Are we going to continue the investment in solar energy—$28 million for this year, $8 million deferred; or Are we going to be embarrassed and have to spend $30 million to dismantle this project? Take that home in a press release or anything else, and I will tell you the reaction you get from your constituency, when you go home and tell them, "Hey, guess what? We have already spent $34 million in this project. We have obligated $90 million. We're going to waste $30 million, and not have a chance to have a viable solar energy project."

Mr. HOLLINGS. Mr. President, the distinguished Senator from California, the former Comptroller, knows better.

The second budget resolution, which was not just approved by the Budget Committee but by the U.S. Senate of which the Senator from California is a leader, adopted totals of $658,850,000,000 in budget authority and $572,650,000,000 in outlays.

It is true that those spending totals exceed the expected revenues, but we have operated for the past decade in deficit. The last balanced budget we had was in 1968 and 1969—the end of Lyndon Johnson's administration and the beginning of Richard Nixon's administration.

We have been on a binge, but Congress said "stop," and we have worked very vigorously, very diligently, and very painstakingly to get back down to a limit.

The Senator from California knows that we set that limit—three readings in the House and three in the Senate. This is not a vote on the merit of each particular program, but on the overall merit of trying to hold down the deficit in order to achieve some semblance of budget discipline, to exercise the kind of restraint, as we have been.

Yesterday afternoon, I commended nine committee chairmen, including the chairman of the Veterans' Committee. In the Veterans' Committee, they cut back over $400 million. We have cut back a lot of things—revenue sharing, Saturday mail, veterans benefits, LEAA funds. We can take all those needed projects and go back to discussing their individual merits. But the Senator from California is the chairman of the Veterans' Committee, which was instructed to cut back on veterans spending, and he and his committee complied.

The Senate will soon consider a reconciliation bill, and I am sure we will pass it. It will cut back, or reconcile, $6.4 billion, because we have kept the faith; we have developed discipline.

Now, unemployment may be a little higher than we have estimated, and it might be next to impossible to keep the totals in the second resolution within the limits set by the first. But the Senator from Oklahoma is going to be working toward restraint and holding the line and cutting back on spending in the second concurrent resolution, and I will be doing the same on this side of the aisle, for the good of us all.

Do not tell me about solar energy. We are now, right this minute—yes, out of balance. Do not say we are not out of balance. Do not talk in technical language. I know when they are giving me the bum's rush.

You are out of balance now $140 million in budget authority and $303 million in outlays. On reconciliation, you are still within the margin by $726 million, but you are out $572 million. Once you took the action you did on revenue sharing, you put yourself about $570 million shy of meeting the reconciliation totals.

The Senator says, "Why don't you make a point of order?" against the bill? We have been trying to work with the leadership on both sides of the aisle, with the chairman of the Appropriations Committee, and with other Senators who have good amendments; and they are saying, "Hold up. You might not have to make that point of order, because we have an amendment that is going to cut not quite as much revenue sharing—some from CETA funds, an amount from the Defense Department." They are trying to work out something that they hope will carry and get us out of this dilemma. But let us not talk loosely about the budget not being balanced and go out and spend more on solar energy.

The Senator from Louisiana is leading the way for all of us, and I serve on his subcommittee. When we meet, literally, as a subcommittee, we try to arrive at a figure for all the program justifications. We put down that need and then we see how we can get by the Senate floor; because we know, generally speaking, that many do not even know about the energy crisis or want to be bothered with it.

But they like to identify with particular causes. All Senators are human. We like to show that we do know something.

So all we have to do is come out here in the Chamber and say "aye." I do not know what it is but "aye." And we add $100 million, and they put on another $50 million, and then they do this, and then they get on other projects. We have just been throwing money at solar.

We could debate the merits of that, but let us debate the merits of the good work so far done by the committee. There is no use to go through it. Yes, we will be here next week because what we are aiming for is the point when we are going to have to recommit the bill. We are going back into the Appropriations Committee and everyone is going to be locked in, as the Senator from Delaware so eloquently pointed out. We work ourselves into these corners because we do not show the leadership. Responsible Senators who know better come into this Chamber and say "Oh, it is not balanced. Forget it."

What kind of darn nonsense is that? Why did we reconcile the Veterans' Affairs Committee? Why did we reconcile the other committees? Why are we going through this day and night?

Do Senators wish to serve on the Budget Committee? If so, volunteer.

The Budget Committee worked until 12 o'clock at night. We work over here on weekends. We work every day and every night on the budget. We are glad to do it, but do not come and give us this kind of nonsense that, "It is not balanced so forget it; go ahead and vote against Senator JOHNSTON."

I do not think the Senate wants to do that. We have been trying to be polite and persuasive. I know Senators get tired of hearing about the budget. We are trying to work with the leadership on this situation but, heavens sake, we are out of balance now. We have to vote this one down, and a lot more, and get some other rescissions in here to bring this bill back within the reconciliation instructions of the Senate as well as within the budget totals. That is of interest to the Senate at this particular point. This amendment would put us $303 million over in outlays. We are going to have to find this amount of savings somewhere.

(Mr. METZENBAUM assumed the chair.)

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. I yield.

Mr. DOMENICI. This does not specifically have to do with solar power. But I have been wondering, since the Senator from South Carolina is on both the Budget Committee and the Appropriations Committee, how is it that the funding for general revenue sharing for this Nation is in an urgent supplemental appropriation? Why was it not in the appropriations bill last summer when we passed all of the major bills of this country? And there was not a word in the Senate in the budget resolution and there was not a word in the House of Representatives in the House resolution to cut general revenue sharing. Why is it that we did not fund it back then instead of coming here in a supplemental and taking up the issue of funding this entitlement program? Could the Senator enlighten the Senate on why we even have this issue?

Mr. HOLLINGS. The distinguished Senator, as a member of the Budget Committee, knows that we are all in trouble. When we found that we had 20-percent inflation, the leadership of this particular body, the leadership on the House side, and the leadership within the administration held crisis meetings around the clock. If we had started earlier, we could have exercised the restraint that we should have shown last year, as the Senator indicates. Now we are trying to show that restraint, and we have done it.

I have been cross-examined by the media constantly. "You have a pretty budget out, Senator. We know they are not really going to take seriously that requirement to save $6.4 billion. How are you going to get around RUSSELL LONG? He is not going to comply."

He has done it. In fact he is working on raising the revenues in accordance with those instructions by July 2 by $4.2 and the Finance Committee is on course, meeting today to work on it.

So we have done pretty well, but there is no use to be like Bossy the Cow, about to give a full pail and promptly kick it over with irresponsible talk that the budget is not balanced and say, "Go ahead, everyone, come in with an amendment with meritorious need, put it up, and forget about the restraints the Senate put on itself."

Mr. DOMENICI. I understand the particular reasoning of rescission. But how is it that it gets this late in the year? We are still talking about cutting revenue sharing when we are $46 billion in the red. How does it happen we did not cut other things and we have to cut revenue sharing? How did that happen?

Mr. HOLLINGS. That happened for the same reason that we keep adding on projects such as the one in this amendment.

Mr. DOMENICI. Let me ask the Senator, aside from add-ons, about which the Senator is very, very legitimately concerned such as the one before us, if the Senate wants to vote on whether or not we want general revenue sharing for the rest of this year we all know that for 1981 there is a commitment to begin cutting it. If the Senate wants to vote on that issue would not one way to do it be to just bring the issue of whether or not we want the Appropriations Committee to go back in session and either cut or rescind an amount to fund revenue sharing and return a bill with revenue sharing in it or not?

Mr. HOLLINGS. That is right. That is the only alternative we have.

Mr. DOMENICI. Some of us want revenue sharing and it is almost impossible to find enough money in this bill because most of Americas' appropriations are already out there and we cannot rescind any more here in the Chamber, but we could ask the Appropriations Committee to rescind additional ones, could we not?

Mr. HOLLINGS. That is right.

Mr. DOMENICI. Could we do that by an instruction saying we want to pay the general revenue sharing and we ask that the Appropriations Committee go back out and rescind sufficient money to fund it plus cutting additional items?

Mr. HOLLINGS. If we could get the other 49 votes, the Senator from New Mexico and I, and work out a package, we could move to recommit with instructions to report forthwith. That may be what I would like to do. I have been trying to work on that all day to try to get out of this particular jam. I rely on the consciences of grown men. I do not think they are going to vote to waive the Budget Act in a spending spree in 1980. I just think that their consciences will not allow them to do that. I really do not think I have to get a rollcall and ask them please not vote to waive the budget. I think that would be a devastating vote.

We are not going to get out of this very easily, as if we had not spent enough money and all of a sudden want to go on a spending spree before the Fourth of July.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. Could I follow with one additional question and then I shall yield?

Mr. BIDEN. Sure.

Mr. DOMENICI. I say to my good friend, the chairman of the Budget Committee, this appropriation contains how many billion dollars?

Mr. HOLLINGS. The second concurrent resolution is $572,650,000,000.

Mr. DOMENICI. Yes. But this supplemental appropriation. This is about $15 billion?

Mr. HOLLINGS. Yes, this one here. The supplemental contains $16,332,000,000 in budget authority and $15,949,000,000 in outlays and that was within the limitations of the budget. I can tell the Senator now the House of Representatives is holding to the budget. They are going to hold to it, and the Senate is going to hold to it, but it is going to be very difficult to do with this kind of talk I am hearing here this afternoon, that the budget is not balanced.

Mr. DOMENICI. Let me see if the Senator will agree with me. One of the reasons that it is difficult to cut items in this supplemental appropriation is that unless we are rescinding we are limited to finding cuts within this $15.9 billion.

Mr. HOLLINGS. That is right.

Mr. DOMENICI. Well, the rest of the $572 million is not before us, and so when we look around and say, "Let us find something to cut administratively," we are limited to this or rescissions, and the Appropriations Committee made some rescissions. But all the rest of the American budget is not affected by this bill, and we cannot cut items that are out there in administrative costs, civilian personnel, the military, and those things that have already flown.

Mr. HOLLINGS. I think Members ought to know we worked out the reconciliation totals very, very deliberately. We had great questions about it. The subcommittee chairmen who worked it out came up at that particular time with $2.6 billion that they thought could be saved between that particular time and the end of the fiscal year, September 30.

Then when the budget resolution was finally formulated within the committee of conference, we did not call for $2.6 billion; we said, "Well, $1 billion would be a good target there," looking at the amounts we could actually get enacted.

But just as the Senator from Delaware was describing the Budget Committee, the very, very same thing occurred in the Appropriations Committee. It was not easy, but it was not too traumatic, and it does go to our own credibility and our own self-respect and our own dedication to this process that we succeeded.

I do not mean to cry over every point that the budget is unbalanced—like Chicken Little—the sky is falling—because then we would lose total credibility in the work of the budget.

But here now we were on course, and now more spending has been added on. We have got to get back to those budget limits. Your conscience would not allow you to waive the budget. So you are going to have to go back in to find the savings. So let us all work to somehow see where we can fashion together 51 votes to get us back down to the level both on the budget side and the reconciliation level.

We are all right on budget authority in reconciliation process because the Senate Appropriations Committee did an outstanding job on that. We get way more than what we thought we could get even after the Weicker amendment. But on outlays we are way out of balance at this particular time, and Senators should know it.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me see if I can make my point just slightly differently. If the whole budget of the United States, the appropriate outlay budget, just assume, if it is spread out evenly during the year and if every quarter is spent as it is in the previous quarter, the point I am trying to make is there is $184 billion of appropriated funds, entitlements or otherwise yet to be spent. We have only $15 billion before us. The only way to get to the $184 billion is through rescissions or some act of the Senate to go back and cut some of those.

It just seems to me that the issue is a very clear one. If the U.S. Senate does not want to cut revenue sharing we are never going to find enough money in this little piece, this supplemental. We are going to have to address the issue of whether we want to go back to that $184 billion that is flowing out there, much of it in entitlements, interest on the national debt but, it seems to me that the issue on revenue sharing is either we go with the committee and not fund it or we instruct the Appropriations Committee to go back into the $184 billion that is flowing and not yet spent, plus this $15 billion we have before us, and find the money by recissions or other actions.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I would be pleased to yield.

Mr. BIDEN. Another way possibly that we could understand what we are doing is that everyone who has an amendment today and tomorrow, as long as this bill is on the floor, that adds money, if they would be gracious enough to also include in that amendment a similar amount of money that would be deducted from a particular program that would be helpful so that we could get 51 votes all at once and we would not have this cumbersome delay, and people who wanted to add $28 million or $560 million would have a second part to their amendments, and keep it nondivisible, so that they add $560 million worth of cuts, and then we would all know what we were cutting, and we would be able to balance it in that way.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BIDEN. I yield. I do not have the floor. The Senator from New Mexico has the floor.

Mr. PROXMIRE. Mr. President, I make a point of order that the amendment is in violation of section 311 of the Budget Act inasmuch as it exceeds the budget resolution, and I ask for the ruling of the Chair.

The PRESIDING OFFICER. Under section 311, the point of order is well taken.

Mr. CRANSTON. Mr. President, I would like to speak to that ruling. Section 1332(a) of the Congressional Budget and Impoundment Act of 1974 provides that after—I would like to ask the Chair to rule again after I have pointed out these facts—Congress has completed action on a second or subsequent budget resolution for a fiscal year it shall not be in order in either House to consider any bill, resolution or amendment providing additional new budget authority—and that is the point I stress, additional new budget authority—for such fiscal year, if the enactment would cause the appropriate level of total new budget authority or outlays in the budget resolution to be exceeded.

My amendment does not provide "additional new budget authority." It does not provide new budget authority at all. Rather it proposes a somewhat smaller rescission of existing budget authority than the Senate Appropriations Committee has for the first time proposed to the Senate for this particular project.

The committee's proposal has no special standing in the Senate, none at all. It has never been approved by the Senate, never, and my amendment raises the precise question of whether the committee's proposal to repeal existing appropriations is wise or justified. This has previously been authorized and appropriated and signed into law by the President.

The Budget Act in title X has a procedure set out for the approval or disapproval of rescissions, and the fact that this particular rescission is proposed by the Appropriations Committee as a part of a supplemental appropriation bill gives it no special legislative standing of any sort whatsoever.

The procedure for approving rescissions of existing budget authority appropriations requires approval of the rescission by both Houses within 45 consecutive legislative days. But the House of Representatives has expressly declined to approve this particular rescission. In the House version of the supplemental appropriations bill $5 million less is proposed for a rescission than the Senate would propose if my amendment were adopted. That is because the Appropriations Committee has proposed to rescind, in addition to all of the money for the solar power tower at Barstow, an additional $5 million, while my amendment restores only the moneys for the solar power tower.

Were the Senate to approve a point of order—and I would like to have all Senators reflect on this point—if the Senate were to approve the point of order in effect denying the Senate an opportunity to consider this amendment, it would be setting a very bad precedent, and I do not believe there is any such precedent now, with very, very serious implications for the future for, in effect, it would be approving the right of the majority of one committee to repeal existing law while disallowing any opportunity for the rest of the Senate to object to that action, as I have objected.

This would not be an appropriate or wise use of the Senate Rules, and I would like to ask if the Chair, in view of what I have stated, holds to the position that was announced before I spoke.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. Is the Senator from Wisconsin seeking recognition?

Mr. PROXMIRE. Simply to state, Mr. President, that this was designed for a very clear purpose. It was designed so that the budget resolution would have some respect, meaning, and effect.

If a Senator can come in and point out that there has been authorization before, obviously we would be in a position where the rescission could have no force and the effect of the budget resolution would be so feeble as to be completely ineffective.

I would hope that the Chair would sustain the point of order which, as I understand it, was the position taken by the Parliamentarian initially.

Mr. CRANSTON. Mr. President, nothing in the Budget Act was designed to give the Appropriations Committee or the Budget Committee the power to repeal existing law without the Senate having an opportunity to consider the matter. I believe the Chair made a ruling yesterday that is in accordance with my position.

The PRESIDING OFFICER. I point out to the Senator from California that section 311 provides:

> If the adoption and enactment of such amendment would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of revenues set forth in such concurrent resolution.

The point of the paragraph is that that would not be permissible.

Mr. CRANSTON. The Chair referred, in reading that language, to new budget authority. We are not dealing with new budget authority.

The PRESIDING OFFICER. The language refers also to the outlays and also talks about the most recently agreed to concurrent resolution on the budget for such fiscal year.

Mr. CRANSTON. Mr. President, I appeal the ruling of the Chair. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I think the Senator continues to emphasize, and I am sure the distinguished Senator from California knows better, all total budget outlays. This amendment violates the total budget outlays. It is exactly what the Chair read and exactly the point made by the Senator from Wisconsin.

The ruling of the Chair is manifestly correct just by reading the language. There it is very clear. It deals with reconciliation bills. It talks about the new resolution made by Congerss and that is the whole idea here of bringing in any conference report on any such bill or resolution.

So we have had the conference report. We had the second concurrent resolution, and we had the revised estimates in the first concurrent resolution for 1981. We have had the revised estimates for 1980 as a resolution also enacted here just a couple of weeks ago.

It exceeds, this particular amendment, the total budget outlays set forth in the most recently agreed to concurrent resolution on the budget. So the Chair has read the language in its fullest context. I would appeal, of course, that we confirm that ruling. It is so manifestly clear that there is no confusion about that.

The PRESIDING OFFICER. I thank the Senator from South Carolina.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is, shall the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Indiana (Mr. LUGAR), the Senator from South Dakota (Mr. PRESSLER) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The result was announced—yeas 72, nays 11, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—72

Armstrong
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Danforth
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Levin
Long
Magnuson
Mathias
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stevens
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—11

Cranston
DeConcini
Durkin
Hayakawa
Heflin
Laxalt
Matsunaga
Sarbanes
Stennis
Stevenson
Weicker

NOT VOTING—17

Baker
Baucus
Burdick
Cannon
Culver
Dole
Goldwater
Kennedy
Leahy
Lugar
McGovern
Melcher
Morgan
Pressler
Ribicoff
Stafford
Talmadge

So, the ruling of the Chair was sustained as the judgment of the Senate.

Mr. LONG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. There are several persons seeking recognition. The Chair recognizes the Senator from Louisiana.

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I send it in behalf of myself, Mr. MAGNUSON, and Mr. BUMPERS.

The PRESIDING OFFICER. The Chair wishes to inquire of the acting minority leader, was he seeking recognition in his capacity as acting minority leader?

Mr. STEVENS. Yes, Mr. President, I was.

Mr. LONG. Mr. President, I was recognized and there is nothing in the rules that says a Senator cannot be recognized because somebody is seeking recognition in his capacity as anything.

The PRESIDING OFFICER. Under the precedents, a majority leader or a minority leader does have priority. The Chair was in error in not recognizing the acting minority leader, who was on his feet at the time.

Mr. LONG. Mr. President, I make the point of order that when any Senator has been recognized, he has been recognized—anybody.

The PRESIDING OFFICER. The Chair will say to the Senator from Louisiana that that is the tradition. But the Chair will point out that there is precedent in the Senate that has, uniformly and over a long period of time, called for recognition of the majority leader in the first instance and the minority leader thereafter.

Mr. LONG. Well, Mr. President, I have been recognized. I have sent an amendment to the desk and I ask for the clerk to read it. The amendment will sit there and the clerk has it. As far as I am concerned, after the clerk reads the amendment, you can recognize anybody you want to. But to send an amendment up there and to try to reverse history at this point is something that, in my judgment, just cannot be done.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LONG. Yes, I yield.

Mr. STEVENS. Mr. President, I think that the precedents of the Senate ought to be abided by. I should be happy to be recognized and yield to my friend from Louisiana, but I do think that the two leaders, at times, are entitled to attempt to work out the problems of the Senate. I informed the Senator from West Virginia that I intended to attempt to resolve this problem about revenue sharing in my capacity as minority leader and I was seeking the floor for that purpose. I should be happy to have the Senator from Louisiana go ahead of me if that is what he wants to do.

We are trying to work our way out of this revenue-sharing problem and I have an amendment to do that when I get recognized.

Mr. LONG. Mr. President, I insist that, as far as any Senator is concerned, any Senator, when he has been recognized, he has been recognized. To suggest otherwise, Mr. President, in my judgment, is patently ridiculous. I have heard it said on occasion that many are slaves because one is a tyrant; therefore, let us hate the tyrant.

Mr. HELMS. Amen.

Mr. LONG. But it makes better sense to say it the other way around: One is a tyrant because many are slaves; let us hate the slaves.

As far as I am concerned, Mr. President, I know what the rules of this Senate are and I am willing to cooperate with people. But somebody is going to have to tie me in my seat to tell me I have not been recognized when I have been recognized. I am willing to say, having been recognized, I am willing to cooperate and yield to anybody I want to. I have not seen it happen in 32 years in the Senate that when somebody has been recognized and has sent an amendment down to the desk, he has been told, well, you have not been recognized.

Mr. STEVENS. Mr. President, I will say I have not seen it happen in 12 years in the Senate that the majority or the minority leader has not been recognized when he is on his feet seeking recognition when there is nobody on the floor.

Mr. LONG. I have seen it happen, I say, and I have seen it when I was sitting up in the chair.

It is all right with me. I was not seeking to defeat anything the Senator is trying to do. All I am trying to do is send something down there to be heard when my turn came. My turn came and I was called on. I offered my amendment and sent it up to the desk. And to be told I am not recognized——

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Who has the floor?

The PRESIDING OFFICER. The Chair has recognized in the first instance the Senator from Louisiana.

Mr. BUMPERS. Did he yield? Does the Senator from Louisiana have the floor?

The PRESIDING OFFICER. At this moment, the Senator from Louisiana has the floor. Thereafter, the Chair pointed out that the minority leader should have been recognized under the precedents and the Chair, having recently heard the majority leader address himself to this very issue, felt it appropriate that the minority leader be recognized.

As a matter of fact, the Senator from Louisiana is not in error. He was recognized. He had the floor. He sent an amendment to the desk, but the Chair attempted to correct his failure to recognize the minority leader, which should have been done under the precedents.

Mr. LONG. Mr. President, if the clerk will merely state the amendment, the Senator can go ahead and make his statement. I shall be glad to go ahead and let the Senator be recognized.

Mr. STEVENS. Mr. President, this Senator does not seek the floor to make a statement. I sought the floor as acting minority leader to introduce an amendment. The question is, are the precedents of the Senate going to be followed or are they not? As far as I am concerned, I hope they are.

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair is attempting to ask the Parliamentarian.

Mr. MAGNUSON. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG. I am happy to yield to the Senator.

Mr. MAGNUSON. Everybody is talking about how long they have been in the Senate. I have been here 36 years and I want to get this bill done. Now, may I inquire of the Senator from Louisiana, just what is his amendment? Does his amendment pertain to the bill or is it nongermane?

Mr. LONG. Mr. President, I discussed this with the Senator——

Mr. MAGNUSON. I am for the bill. I am a cosponsor. But I do not like interruptions here because we have to get this bill done, and every time we get an interruption, I just do not know when we will complete this bill.

We have emergency relief funds, black lung, EPA, highway liquidation funds, and everything, in the bill. We have to get it over to the House.

I am for the Senator, but I wonder whether or not it is the proper time.

Mr. LONG. Mr. President, we are not under any germaneness rule. The Senator can offer an amendment. I would just like mine read.

The PRESIDING OFFICER. The Chair will announce that the Chair was in error in not recognizing the acting minority leader. But that being the case, the Chair did recognize the Senator from Louisiana and, under the circumstances, the Chair states to the acting minority leader that the Chair did not note him on the floor seeking recognition, he was entitled to be recognized, but, under the circumstances, the Senator from Louisiana has been recognized.

The clerk will state the amendment.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that I be permitted to withdraw my amendment with the understanding that when the matter to be proposed by the Senator from Alaska has been disposed of, I will then be recognized for the purpose of offering my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object——

The PRESIDING OFFICER. Is there objection to the Senator from Louisiana being recognized to offer his amendment after the Senator from Alaska has brought up his amendment and had it disposed of?

Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from Louisiana for permitting us to preserve the precedents of the Senate.

Mr. President, in order that this procedure might be clear, I would like to ask the Senator from Connecticut to make his motion prior to my submitting the amendment.

Mr. WEICKER. Will the Senator from Alaska yield?

Mr. STEVENS. I do yield for that purpose.

Mr. WEICKER. Mr. President, I move in accordance with section 904 of the Budget Control Act to waive any points of order which could be raised under titles III and IV of that act with respect to the pending bill and any amendments thereto.

Mr. STEVENS. Mr. President, I ask that motion be set aside in order that I might submit an amendment and have it considered.

The PRESIDING OFFICER (Mr. STONE). Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Reserving the right to object——

The PRESIDING OFFICER. The Chair has announced the consent.

Mr. DOMENICI. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. The distinguished minority leader did not ask for unanimous consent, he moved.

Mr. STEVENS. Well, I asked.

Mr. DOMENICI. He made a motion. He did not ask for unanimous consent. The Senator from New Mexico presumed there was going to be debate, and the next thing I heard, that was a unanimous-consent request.

Mr. WEICKER addressed the Chair.

Mr. STEVENS. I yield to the Senator from Connecticut to explain his position.

The PRESIDING OFFICER. The Chair recalls and is advised that the Senator from Alaska asked consent for the temporary set-aside of the motion of the Senator from Connecticut, and hearing no objection, the Chair announced that consent was granted.

The motion of the Senator from Connecticut has not been debated yet and will be subject to debate when and if it is brought up—when it comes back.

Mr. DOMENICI. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. I do not know whether or not I have a technical objection, but I heard the words, "I ask." But there was no inclusion in that request of any unanimous-consent request. He asked that a motion be in order, or that he be permitted to do something. That is not a unanimous-consent request.

Mr. WEICKER addressed the Chair.

Mr. STEVENS. I yield to the Senator from Connecticut to explain.

Mr. WEICKER. May the Senator from Connecticut respond to the Chair for the edification of the Chair?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. What has been done here, in effect, is the Senator from Connecticut offered a motion waiving any points of order by the Budget Committee that might be raised against the bill because of amendments that have been passed, that is, revenue sharing.

In other words, that we are going to bust the budget, I believe that is the expression used by the opponents of the Weicker amendment. I say, "Bust the promise made," to those who are opponents of the Weicker amendment.

In other words, that there is $572 million that will be added on here. I have set that aside. In the alternative, the Senator from Alaska has an amendment which proposes specific cuts to match the $572 million.

We wanted our colleagues to know they will have a choice then by their adding $572 million, or matching with cuts the $572 million that was passed in the Weicker amendment.

That is what is on the floor before the Chamber. That is what we attempted to do.

Mr. DOMENICI. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. A failure on the part of the Senate to do anything at this point in no way means we have accepted the proposition we are waiving any sections of the Budget Act?

Mr. STEVENS. No.

The PRESIDING OFFICER. That is correct.

In order to be eminently fair, because the Chair announced no objection very quickly, the Chair is going to put the request as a request of the Senator from Alaska to see if there is objection, because the consent does have the effect of interposing the motion of the Senator from Connecticut before the amendment of the Senator from Louisiana, which was a consent order.

So now the Chair puts the request of the Senator from Alaska to temporarily set aside the motion of the Senator from Connecticut till after the disposition of the amendment of the Senator from Connecticut and which would then come before the amendment of the Senator from Louisiana.

Is there objection?

Mr. METZENBAUM. Reserving the right to object. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Is it not the fact that the entire matter before us at this moment is subject to a point of order in violation of the Budget Act?

The PRESIDING OFFICER. Is the Senator referring to the bill?

Mr. METZENBAUM. To the bill.

The PRESIDING OFFICER. The Chair will not respond to that as a hypothetical. In other words, unless the Senator from Ohio raises a point of order, the Chair will not respond to that as a parliamentary inquiry.

Mr. STEVENS. Mr. President, I still have the floor.

I have no intention of going against my good friend, the Senator from Louisiana. He was very gracious to yield for this purpose.

We assured the Senator from Louisiana that once my amendment was disposed of, he would come next. That would leave the Weicker motion still there, set aside, to come back in.

The PRESIDING OFFICER. Is the request, then, of the Senator from Alaska to temporarily set aside the motion of the Senator from Connecticut until after his amendment and the amendment of the Senator from Louisiana have been disposed of?

Mr. STEVENS. That is correct. But let me inform the Chair that should my amendment be agreed to, the Weicker motion would no longer be in order, because we would be in balance.

The PRESIDING OFFICER. That is hypothetical.

Let the Chair put the request: Is there objection to that request?

Mr. DURKIN. Mr. President, reserving the right to object——

Mr. METZENBAUM. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I make the point of order that the matter pending before us now is not in order.

The PRESIDING OFFICER. Does the Senator from Alaska yield for that purpose?

Mr. STEVENS. I do not yield for that purpose. I have an amendment that would put us in order, if the Senator will allow me to get there.

Mr. METZENBAUM. Mr. President, I point out that I was recognized and I had a right to make the point of order.

The PRESIDING OFFICER. No. The Senator was recognized under the reservation of the right to object. The Senator from Alaska has the floor and has put a request.

Is there objection?

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alaska has the floor.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. If I am not mistaken, the motion of the Senator from Connecticut has been made.

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. And has been set aside.

The PRESIDING OFFICER. The Senator is correct. The motion of the Senator from Connecticut was set aside; and, based on the previous consent order, it would not be brought up until after the disposition of the amendments of the Senator from Alaska and the Senator from Louisiana.

The Senator from Alaska.

Mr. STEVENS. I have an amendment at the desk, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. METZENBAUM. Was not unanimous consent requested in order to follow this procedure?

The PRESIDING OFFICER. The Senator is correct, and objection was heard.

Mr. METZENBAUM. So that how can the Senator from Alaska——

The PRESIDING OFFICER. By the previous order.

The amendment will be stated.

Mr. METZENBAUM. The Senator from Connecticut has been recognized.

The PRESIDING OFFICER. That is not correct.

The amendment will be stated.

UP AMENDMENT NO. 1333

(Purpose: To bring supplemental appropriations bill in to compliance with the Budget Resolution)

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1333.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 6 strike "136,600,000" and insert "106,600,000".

On page 54, line 9 strike "6,458,241,000" and insert "6,308,241,000".

On page 73, after line 10 insert the following:

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $286,000,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

On page 79, strike lines 12 through 14.

On page 82, lines 3 and 4, strike the linetype.

On page 82, after line 11, insert the following: "Of the funds appropriated for this purpose in P.L. 96–123, $213,260,000 shall not become available for obligation until October 1, 1980.".

On page 150, line 25, strike "283,400,000" and insert "255,400,000.".

On page 151, line 2, strike "314,300,000" and insert "283,300,000.".

On page 151, line 4, strike "17,200,000" and insert "15,500,000.".

On page 151, line 6, strike "210,300,000" and insert "189,300,000.".

At the end of the bill add the following section:

EXHAUSTION OF UNEMPLOYMENT INSURANCE; AMOUNT OF ALLOWANCE

SEC. . (a) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) Such worker has exhausted all unemployment insurance benefits for which he was eligible under any State or Federal law.".

(b) Section 232(a)(1) of such Act (19 U.S.C. 2292(a)(1)) is amended to read as follows:

"(1) an amount equal to the amount of unemployment insurance for which such worker was eligible for the most recent full week—

"(A) which began after his most recent total or partial separation, and

"(9) for which he was eligible (for the full week) for unemployment insurance, reduced by".

(c)(1) Section 232(c) of such Act (19 U.S.C. 2292(c)) is repealed.

(2) Section 232(d) of such Act (19 U.S.C. 2292(d)) is amended—

(A) by striking out "unemployment insurance, or a training allowance" and inserting in lieu thereof "a training allowance"; and

(B) by striking out "the unemployment insurance or the training allowance" and inserting in lieu thereof "the training allowance".

(3) Section 232(e) of such Act (19 U.S.C. 2292(e)) is amended by striking out "as unemployment insurance,".

(d) Section 233(b)(4)(A) of such Act (19 U.S.C. 2292(b)(4)(A)) is amended to read as follows:

"(A) for a totally separated worker is the first week for which he receives a trade readjustment allowance following his most recent total separation, and".

(e)(1) Section 234(1) of such Act (19 U.S.C. 2294(1)) is amended by inserting before the comma at the end thereof the following: ", or under which he was entitled to unemployment insurance for any week after the week of his most recent total or partial separation".

(2) Section 234(2) of such Act (19 U.S.C. 2294(2)) is amended by inserting "or was not" after "is not".

(f) Section 237(b)(3) of such Act (19 U.S.C. 2297(b)(3)) is amended by striking out "no later than 1 year after the date of his last total separation" and inserting in lieu thereof "no later than 1 year after the first week for which he receives a trade readjustment allowance following his most recent total separation".

(9) Section 238(c)(1) of such Act (19 U.S.C. 2298(c)(1)) is amended by inserting before the comma at the end thereof the following: ", or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has not exhausted his unemployment insurance benefits".

(h)(1) The amendments made by this section shall apply only with respect to trade readjustment allowances payable for weeks beginning after enactment of H.R. 7542.

(2) With respect to a worker who was paid, prior to the date of enactment, a trade readjustment allowance for a week beginning prior to that date, such amendments shall not apply to such worker for the duration of such worker's period of eligibility for such an allowance based upon his most recent total or partial separation occurring prior to the date of enactment.

Mr. STEVENS. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor. Does the Senator yield for the purpose of a parliamentary inquiry?

Mr. STEVENS. Yes, I yield to the Senator for that purpose only.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, is the Stevens amendment divisible?

Mr. STEVENS. It is divisible, Mr. President. It has not been read, but I state that it is divisible.

The PRESIDING OFFICER. The Chair states that the amendment is divisible.

Mr. STEVENS. Mr. President, I did not yield for that purpose, to divide it.

The PRESIDING OFFICER. That is correct. The Senator yielded for a parliamentary inquiry, which has been answered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I hope the Senate will give me a moment to explain this, because it is a difficult problem we face in terms of the revenue-sharing action we have taken.

I voted, as the Senate knows, to attempt to keep the commitments to the States and local governments in terms of revenue-sharing funds.

We also are faced with the proposition raised by the Senator from Ohio, and he has a valid approach, that the bill before us does not comply with the budget resolution; and it cannot comply unless some other adjustments are made.

This amendment is an amendment that, admittedly, could be required to be divided; and if it is divided, the whole concept will fail. In effect, it is a reconciliation amendment within the appropriation bill itself.

One might argue points of the amendment. If any Member of the Senate has other suggestions as to how we could effect the same savings, I would be pleased to modify it; or, as a matter of fact, if the approach is not going to receive some substantial support, I will withdraw it.

This is just an attempt to do something that I think must be done—that is, we must find a way to put us back in compliance with the budget resolution and get the supplemental bill to the House. I will tell the Senate what this amendment would do.

Instead of the $527 million rescission that the committee originally proposed, which has been ruled out of order, this would rescind $286 million of the State revenue funds.

It would reduce the funding for the Corps of Engineers construction by $30 million, which was added by the Senate over the budget estimate; $106.6 million would still be left in that account.

It would reduce the funding for the Export-Import Bank by $150 million, leaving $6.3 billion in that account.

It would deny supplemental funding for MHD and combustion assistance.

It would increase the deferral—not the rescission or the reduction, but the deferral—of CETA funds until next year by $50 million.

It would require the civilian employees of DOD to absorb 10 percent of their pay increases. The other civilian agencies of the Federal Government has been required to absorb 40 percent of their pay increase. DOD, because of our feeling about the military, was not asked to absorb any. I believe DOD could absorb 10 percent of the civilian pay increase in one way or the other.

It also adopts the Bellmon trade adjustment assistance amendment, which would become effective upon the enactment of the supplemental. The result would be to have savings and outlays of $481 million which would put us in a position where we would be under the budget resolution in outlays but still $91 million over the total budget in terms of reconciliation, and the bill would not be subject to a point of order, as I understand it.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I will yield in a moment.

There are some items here I do not like, myself. But I instructed the staff working with us, from both sides of the aisle, to give us areas which could be reduced which are not labor sensitive. These are intended not to require any unemployment as a result of reductions which would be affected directly. We are in a period of high unemployment, and I do not like to see unemployment result as a direct effect of trying to have compliance with a resolution we have a right to change.

On the other hand, this affects the deferral into next year of substantial funds, and it also requires the States, as opposed to the local governments, to absorb a portion of this budget compliance action. If it has substantial support from the Senate, I believe it offers a way out tonight from this problem. If it does not, we are in trouble.

If my friend wants to have individual votes on seven different portions of the bill, then I can say that any one of them would put us in the position where we would be back searching for an item in the supplemental. Remember, the supplemental does not cover the whole spectrum of appropriations bills. It covers only the area where a supplemental is required between now and September 30.

I urge that this is a way out. I do not take any great pride in authorship. I just say that it would do the job and get us out of here before next Wednesday. Otherwise, we will be on the supplemental until then, or we may find the supplemental back in committee because of the point of order.

I yield to the Senator from Maryland, first, without losing my right to the floor. I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SARBANES. At this point, I do not want to get into debating. I just want to understand it.

First of all, the Senator did not give us the figures that would be saved on the MHD, on the civilian employees, and on the trade adjustment assistance. Can we have those?

Mr. STEVENS. I will have them in just a moment. Will the Senator defer?

Mr. SARBANES. The second question: Is the Senator's proposition on the trade adjustment acceptance now to pass what the Senate defeated earlier today on a vote of 65 to 24?

Mr. STEVENS. It amounts to the same

thing. The figures would be the same, yes. That would be the answer.

All I can say to the Senator from Maryland is that if we look at the supplemental and try to find the savings that would be required, unless we either waive the Budget Act on one hand or rescind our action on State revenue sharing on the other, something must be coming out of that.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. STEVENS. It is $6.5 million for combustion assistance and $10.8 million for MHD.

Mr. SARBANES. How much for trade adjustment assistance?

Mr. STEVENS. Eighty-six million dollars in outlays in 1980.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. STEVENS. Let me make sure I have answered my friend here.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I said I will yield to the Senator from Delaware without losing my right to the floor, Mr. President, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I think all of us in here owe a debt of thanks to the Senator from Alaska because he is now taking us through that painful procedure that the Budget Committee went through and the Appropriations Committee went through, and he is pointing out very graphically—I am going to oppose his amendment—but he is pointing out graphically that we are going to have to decide to go back down the hill on something or change the budget process. We are going to have to go back down the hill on trade adjustment that was acted on by an overwhelming vote to which the Senator from Maryland referred or we are going to have to go back down the hill on revenue sharing or we are going to have to back off our commitment on the budget so, I say to Senators, get used to it. This is the process I was talking about. Get ready to back down on something.

Hopefully between now and the time this process ends we will not add too many more things to the budget that we will eventually have to back down on.

So I compliment my friend from Alaska. He has put the issue in sharp focus. We are going to have to do some cutting in the Chamber of things that we have already done just as the committees have learned to do. My compliments to the Senator from Alaska.

Mr. SARBANES. Mr. President, will the Senator from Alaska yield.

Mr. STEVENS. I am happy to have the compliments. I wish I had the support of the Senator from Delaware.

I yield to the Senator from Louisiana under the same terms of not losing my right to the floor, and so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President. I wonder if the Senator from Alaska will agree with me that the effect of the cut in the Corps of Engineers which is $30 million would result in the deferral or termination of some 30 to 40 corps projects? We cannot be too precise because some would be terminated and some would be simply delayed. It would result in contractors having a lot of layoffs of employees in the midst of the recession.

Will the Senator agree with me that that is the probable result?

Mr. STEVENS. Mr. President, to a certain extent I agree with that. The Corps of Engineers funding, though, is already an obligation of the United States. It is authorized. The projects are underway. This would push off into next year. It is the same as a deferral. If we do not put up the supplemental money they are going to have to complete the work next year. But it is not a rescission and it is not a deferral. It is just saying we are only going to make available $106.6 million instead of $136.6 million. The figures are changed, but they will have to adjust their actions for the remainder of 1980 accordingly.

We can see what they do in 1981 with those same projects. Most of them continue to be funded in 1981. I am certain the Senator realizes. He is more familiar with this item than I am. But again it is an item where we have to remember this is money that was added over the budget estimate by the Senate. It is not money that was within the original budget request nor was it within the original committee action, as I understand it. It is the action of the Senate that added the $30 billion.

Mr. JOHNSTON. I think the Senator is correct. Not all these projects are going to be terminated. Some will be terminated, because we were about almost $200 million short. These are ongoing contracts and if we take this much away from them we are going to terminate some, slow down others, about 30 to 40 in number. I want the Senate to understand just with that little $30 million what the result is going to be, and if it happens please do not come blame me and say, "Why did you not tell us about that," because I am telling Senators now that is the result.

I think the Senator from Alaska is honest enough to admit it.

Mr. SARBANES. Mr. President, will the Senator from Alaska yield without losing his right to the floor?

Mr. STEVENS. Mr. President, I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I wish to follow on the comments of the Senator from Delaware. I do think we do have hard choices, but one of the choices that is brought into sharp relief is the basic question as to whether the budget figure established for us is one we want to work with. I mean there are two ways to solve the problem, and obviously one of them is to accept that budget figure and then to try to find within this bill some way to stay within it when we have made the judgment that certain programs should be maintained or increased and other programs should be eliminated.

Another judgment is when we come right down to looking at it and perceiving what is involved in order to stay within the budget figure we may reach the conclusion that adding everything up it is better to keep some of these programs and alter the budget figure a little bit.

The Senator from Florida earlier in the day talked about balance.

Mr. STENNIS. Will the Senator permit me——

Mr. SARBANES. Let me make this one point and I will stop on balance.

This budget is not in balance. This is the 1980 budget. It is in significant deficit. The issue that is involved here is not whether a budget is to be thrown out of balance. The issue involved is whether the supplemental will stay within the limit established for it by the Budget Committee.

But as we face these specific problems we may reach the judgment that we should not do that and it will not throw the budget out of balance. I mean that is not involved in the 1980 budget.

Mr. CHILES. Mr. President, if the Senator will yield, I think he is exactly right and if I said that I misspoke that myself. I was meaning within the budget resolution and if the body wants to destroy the budget resolution and say, "We do not care anything about it," the body is the one that created the budget resolution and sets the figures to start with, and if they now wish to scrap that, that is certainly something they can do.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

The Senate will be in order.

If the Senator from Alaska will suspend, the Senate needs to be in order.

The Senator from Alaska.

Mr. STEVENS. Mr. President, again let me point out that we are in a difficult process. If the Senate wants to face the problem of ruling on the point of order of the Senator from Ohio we could leave out the rescission for the Export-Import Bank and leave out the item covered by the Bellmon trade adjustment assistance amendment and still be in balance as far as outlays are concerned, but we would not be in compliance with the Budget Act in terms of reconciliation.

Again I am trying to seek some kind of accommodation. We would still be $32 million under the budget resolution if I deleted from this amendment the recommendation on the Export-Import Bank funding and the Bellmon Trade Adjustment Assistance Act.

Mr. President, I send such a modification to the desk and ask that I be permitted to modify without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object.

Mr. STENNIS. Mr. President, if I am in order, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

Mr. STEVENS. Is my amendment so modified?

The PRESIDING OFFICER. The amendment is modified.

The modified amendment is as follows:

On page 73, after line 10 insert the following:

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

(Rescission)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $286,000,000 are rescinded: *Provided*, That the total amount rescinded shall be taken from funds allocated to State governments pursuant to 31 U.S.C. 1226.

On page 79, strike lines 12 through 14.

On page 82, lines 3 and 4, strike the linetype.

On page 82, after line 11, insert the following:

"Of the funds appropriated for this purpose in P.L. 96–123, $213,260,000 shall not become available for obligation until October 1, 1980."

On page 150, line 25, strike "283,400" and insert "255,400,000".

On page 151, line 2, strike "314,300,000" and insert "283,300,000".

On page 151, line 4, strike "17,200,000" and insert "15,500,000".

On page 151, line 6, strike "210,300,000" and insert "139,300,000".

At the end of the bill add the following section:

EXHAUSTION OF UNEMPLOYMENT INSURANCE; AMOUNT OF ALLOWANCE

SEC. . (a) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) Such worker has exhausted all unemployment insurance benefits for which he was eligible under any state or Federal law.".

(b) Section 232(a)(1) of such Act (19 U.S.C. 2292(a)(1)) is amended to read as follows:

"(1) an amount equal to the amount of unemployment insurance for which such worker was eligible for the most recent full week—

"(A) which began after his most recent total or partial separation, and

"(B) for which he was eligible (for the full week) for unemployment insurance, reduced by".

(c)(1) Section 232(c) of such Act (19 U.S.C. 2292(c)) is repealed.

(2) Section 232(d) of such Act (19 U.S.C. 2292(d)) is amended—

(A) by striking out "unemployment insurance, or a training allowance" and inserting in lieu thereof "a training allowance"; and

(B) by striking out "the unemployment insurance or the training allowance" and inserting in lieu thereof "the training allowance".

(3) Section 232(e) of such Act (19 U.S.C. 2292(e)) is amended by striking out "as unemployment insurance,".

(d) Section 233(b)(4)(A) of such Act (19 U.S.C. 2292(b)(4)(A)) is amended to read as follows:

"(A) for a totally separated worker is the first week for which he receives a trade readjustment allowance following his most recent total separation, and".

(e)(1) Section 234(1) of such Act (19 U.S.C. 2294(1)) is amended by inserting before the comma at the end thereof the following: ", or under which he was entitled to unemployment insurance for any week after the week of his most recent total or partial separation".

(2) Section 234(2) of such Act (19 U.S.C. 2294(2)) is amended by inserting "or was not" after "is not".

(f) Section 237(b)(3) of such Act (19 U.S.C. 2297(b)(3)) is amended by striking out "no later than 1 year after the date of his last total separation" and inserting in lieu thereof "no later than 1 vear after the first week for which he receives a trade readjustment allowance following his most recent total separation".

(g) Section 238(c)(1) of such Act (19 U.S.C. 2298(c)(1)) is amended by inserting before the comma at the end thereof the following: ", or would be so entitled (determined without regard to whether he filed application therefor) but for the fact that he has not exhausted his unemployment insurance benefits".

(h)(1) The amendments made by this section shall apply only with respect to trade readjustment allowances payable for weeks beginning after enactment of H.R. 7542.

(2) With respect to a worker who was paid, prior to the date of enactment, a trade readjustment allowance for a week beginning prior to that date, such amendments shall not apply to such worker for the duration of such worker's period of eligibility for such an allowance based upon his most recent total or partial separation occurring prior to the date of enactment.

Mr. STENNIS. Mr. President, if the Senator will yield for a question, if it is in order, I need information here about this military money or civilian pay. Does the Senator yield?

Mr. STEVENS. I yield for a question. I can yield for a question any time. I yield for a question.

Mr. STENNIS. I thank the Senator. Item No. 6 reads, "require a 10-percent pay absorption for civilian employees of the Department of Defense, and other civil agencies of 40 percent."

As I understand there has already been an order requiring them to absorb 5 percent. But here is the real rub now. This pay comes out of what we call the O. & M. funds, operations and maintenance, some huge sum, and from that same fund pay for fuel. We would not have a more uncertain figure than the cost of the fuel.

I remember that $4 billion, $4.2 billion, has already been put in addition to the President's original estimate, and he raised his $2.2 billion, I believe, and before we got to it it had run up as high as $4.2 billion.

So you see you are getting into a matter here that has already been touched some, and this is what you really call the readiness fund. This is the fuel oil and the matters that go into it.

Mr. STEVENS. I might say to the Senator from Mississippi it is specific though that it is the civilian employment.

Mr. STENNIS. I know.

Mr. STEVENS. The civilian employment at DOD is not touched and affected by this budget process as every other civilian agency in the Government, and I can understand the readiness fund and I can understand the military side, the total defense side. But this says to the Department of Defense, "You absorb some portion of the cut that civilian employment of the Federal Government must face." It is not affecting any of the readiness moneys; it is not affecting any of the money for fuel; it is not affecting any of the money for equipment. It says to DOD, "Absorb 10 percent of the increased pay costs that are coming about, have come about, in this year." The others have absorbed 40 percent, Senator, they are not affected by this because they have already been ordered to take the 40 percent.

Mr. STENNIS. My point is this money is all in there together, and when they go to taking it out you increase the problem and you find yourself short.

What about making it 5 percent, just settle it? I am not trying to dodge anything. What about making it 5 percent, and certainly it will make it safer?

Mr. STEVENS. If we make it 5 percent, I have got to modify the amendment and put the trade adjustment assistance back into the amendment to have it be effective. The question is, Are we going to face up to it and say we are going to satisfy the budget resolution and control outlays for 1980 or are we not, and if the Senate does not want to do it, I will withdraw the amendment.

I am not seeking anything, and I know that no State is affected by the Department of Defense civilian employment more than mine, and per capita I would say we have more civilian employees in the Department of Defense than any State of the Union. But this says, "Absorb 10 percent," when to some of the departments that come within our jurisdiction we said, "Absorb a hundred percent." Most of them absorbed 40 percent. DOD has absorbed none in terms of civilian employment out of that fund yet, Senator. This is a very small item, and I have great respect for my friend on defense matters. But this is a civilian item now.

Mr. STENNIS. Well, if the Senator will yield to me, I do not have any doubts that the way they keep the books, the way the funds are provided, we are going to be encroaching on gasoline or fuel that is used, flying time, time for training, time for many of the things that go into the very heart of this readiness problem, and I am afraid I believe that is too much by far. If you put in 5 percent, it would be a more reasonable fund.

Mr. STEVENS. All I can say to the Senator is there is nothing in the record to indicate that the Department of Defense would have any right whatsoever to defer spending for any of the items he mentioned. They could not get away from absorbing 10 percent of the increased costs of civilian employment for fiscal 1980 alone.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to my good friend from Washington without losing my right to the floor.

Mr. MAGNUSON. It seems to be a reasonable amount because NIH, HEW, the National Science Foundation—and I am just naming a few—absorbed 100 percent. So this is not very much to be asking of the Defense Department. There are other departments, too, that have absorbed 100 percent. Most of them have absorbed 40 percent, but some of them 100 percent.

Mr. STEVENS. Mr. President, I might say to the Senate that if there is a motion made to divide the amendment, and if that is the case, I will withdraw it; if there is a motion to divide the amendment I will withdraw it. If not I intend to ask for a vote on this amendment at 7 o'clock.

Mr. President, I ask unanimous consent that I may yield to the Senator from New Mexico without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I will say, first, to my good friend from Alaska, his amendment is debatable, is it not?

Mr. STEVENS. It is debatable, but I would ask the Senate to vote—there are several people leaving tonight, and if we are going to try, let us try it.

Mr. DOMENICI. It is subject to amendment?

Mr. STEVENS. It is subject to amendment.

Mr. DOMENICI. Let me ask the Senator as a matter of doing this right, if it is the will of the U.S. Senate that the revenue-sharing figure remain in this appropriation bill, if that is our desire as the Senate, and if we desire that the budget resolution be complied with, would not the Appropriations Committee be better qualified to decide what they would cut or rescind to make up for the $572 million rather than our trying to do it in bits and pieces here on the floor?

Mr. STEVENS. I might say to the Senator I am a member of the Appropriations Committee and have served on it now for 10 years. I do not see any reason why I cannot attempt to accomplish the result that appears to be necessary. Again all I would say to the Senator is if we do not do something like this we are either going to waive the Budget Act that you support and I support or we are going to have the point of order that the whole bill is not in compliance with the Budget Act, and the bill will, in fact, go back to committee and then, as I understand it, the point of order from the Senator from Oregon, as I understand it, will send the bill back to committee.

Mr. DOMENICI. Let me ask my good friend, I have a substitute here, I am not going to send it to the desk for a while, but I would just like to talk to the Senator about it. I think I would like to have the Senator consider this issue. It merely says that this bill shall be recommitted to the committee with instructions to restore general revenue-sharing funds in their entirety and to cut through further, either through further rescissions or other savings, sufficient funds to keep from breaching the budget resolution.

I ask my good friend from Alaska actually if the issue whether the Senate wants revenue sharing in or not, would it not be far more appropriate to tell the Appropriations Committee that we do and let them find the $572 million in rescissions or whatever they want? I mean, we are so restricted here on the floor because we only have the supplemental before us, we do not have the authority, according to the ruling, to rescind anything else.

Mr. STEVENS. Mr. President, may I state to my friend from New Mexico and to the Senate this is June 27, the fiscal year ends on the 30th. We are going to be in conference with the House on Monday. I do not know what could be gained by sending this bill back to committee and trying to get it up again. You know, we faced the problems once before in getting this bill up again. Even if the substitute of my good friend would be to get it back to the floor in the same position it is right now, it would again be subject to debate.

Let me say this: If any Senator has a better suggestion on any one of these items that will come out in balance—and I have yielded to my good friend from Maryland, although I still think there is a problem we will face in reconciliation later—but I do think we could right now fashion an amendment to put this bill back in position where it is not subject to a point of order, where, in fact, we met a portion of the problem with regard to State revenue sharing and, at the same time, got the bill passed tonight so we could go to conference with the House on Monday.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to my friend from Washington, and I ask unanimous consent that I may do so without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. All these items are going to be in conference, they are going to be in conference anyway. The House has passed a bill, and this is not the only part of this bill. This involves emergency funding, well, Mount St. Helens is No. 1, and there are millions of dollars in here for Mississippi, California, and other places. There is black lung which expires, and I just do not know why we cannot move this bill.

Now, I do not particularly agree with all the items that the Senator from Alaska is suggesting, but it is going to conference anyway. We are going to go to conference on all the items. We have got 315 differences of opinion. How long do you think that is going to take in a House conference?

Everything that we do here is going to be in conference anyway, and I just do not understand this delay over an item that is, well, revenue sharing for the States and for the States only. I would not let this bill go through if it were not for the States only. That has to go to conference, too, and I just do not understand—the Senator from Alaska has proposed some items. I do not agree with with them all, but it does not make any difference whether we agree with them all or come back.

If you recommit this bill, we come back with some other items maybe and they go to conference. We are going to conference on all the items, practically every item in this bill.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. JOHNSTON. Would there not be another 3-day rule if it went back to the Appropriations Committee and then came back to the floor?

Mr. MAGNUSON. Yes, there would be a 3-day rule. If you people want to hold up everything in this bill, if you want to hold up everything, you will rue the day.

Mr. DURKIN. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I hope he does not hold that gun on me. [Laughter.]

You are going to rue the day if you hold this bill up because of revenue sharing and we do not pass it. Black lung, food stamps, everything expires. And we cannot handle 315 items in dispute unless we get to a conference on Monday.

I just do not understand all this going on all day long over one item. And that is a minor part of the bill with me.

I like revenue sharing. As a matter of fact, the Senator from Louisiana (Mr. LONG) and I started it. We started it way back.

But I think this is terrible. I think the public is wondering what is the matter with us. This is only one item. This is a $16 billion bill and you are going to hold it up over revenue sharing.

Mr. DOMENICI. Mr. President, is the Senator talking to me?

Mr. HOLLINGS. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. Mr. President, I yield to the chairman of the Budget Committee without losing my right to the floor. I intend to yield the floor in a few moments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the Senator.

Mr. President, let me commend the Senator from Alaska (Mr. STEVENS) in the effort that is being made. I know the give and take. The Senator from Alaska has made a very valid proposal. We all can find something wrong in each of these proposals. I hope that no one thinks that those of us who have been working in the process agrees with everything or that it is politically popular to agree with the items within the budget.

But what we are really confronted with, as I note now, is a definite affirmative action move by two or three, at least. They do not want any budget. I asked them what do they want. "Well, let's take that out and put something else in." I have been running around trying to add and subtract. They said, "Let's add nothing or subtract nothing. Let's just waive the budget."

And if that is what we are going to do, make the point of order of division and put the Senate through an exercise of multiple rollcalls. Let us see whether they want to waive the budget. Perhaps we ought to get a vote so that we can come back to this kind of solution. Because we cannot satisfy that crowd. They have the bit in the teeth and they want to, by God, waive the budget. I am amazed at it.

Let us have that vote and come back and maybe then we can work out something on both sides of the aisle that the Senator from Alaska is trying his dead-level best to do.

Mr. DURKIN. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. Yes, I yield for a question.

Mr. DURKIN. Mr. President, I am going to make a point of order on this amendment, even though I commend the Senator for all the work he has done in it and in an effort of compromise.

But there are some things that hit very hard in this amendment. My staff worked with the staff the other day, with the staff of the Senator from Connecticut all week and tried to find an acceptable package of cuts.

Mr. STEVENS. The Senator will make a point of order?

Mr. DURKIN. It hits the bill in two places. The Senator said he was going to withdraw it if I asked for a division. Maybe he would like to withdraw it inasmuch as I am going to raise the point of order whenever I get the floor in my own right.

Mr. STEVENS. Mr. President, I will yield the floor, that is true. The Senator is correct, the amendment touches the bill in more than one place. We are not going to get out of here unless we do. I think sometime tomorrow night about midnight we will come back to this, because unless we get a package that results in a concept of balancing this bill, it is going to go back to the committee on a point of order and we will never be able to comply with the timeframe of getting a bill passed by both Houses and out of conference by the end of June 30.

I agree with my chairman, we know what is in this bill, there is going to be serious hardships to many people if these programs come to a halt because the appropriations process fails due to our inability to comply with our own system of budget control.

I have stated before that I have some serious questions about the Budget Act because of the restrictions it puts on us in our inability to work within it to accomplish our own goals. I am trying to do that.

I might say to my friend that I hope he will not make that point of order. It is a valid point of order.

I yield to my friend from Louisiana (Mr. JOHNSTON) and then I intend to yield the floor.

Mr. JOHNSTON. Mr. President, this amendment does not suit me. As I made the point a moment ago, it cuts $30 million from the Corps of Engineers, which is under our subcommittee. I know that is going to do a lot of harm. It is going to stretch out or terminate some projects. We are going to hear some screams and yells—they will be belated—and it is going to hurt.

But, Mr. President, there is no way to balance this budget and live within those limitations without taking some cuts. I think the easiest and best way to do it is revenue sharing. But the Senate has said no.

Now, this is a good way to do it. The chairman of the Appropriations Committee will vote for it, the chairman of the Budget Committee will vote for it. None of us particularly like it. There is no good way to do it. It looks to me as though if we cannot go with this—I heard the Senator from New Hampshire, Senator DURKIN, on this floor talking about revenue sharing and how wonderful it is and he was one of the instigators of this. Now he does not want to go along with it.

Mr. DURKIN. Mr. President, I cannot claim I created revenue sharing. I only arrived here in 1975.

Mr. JOHNSTON. The Senator has to go with this or something.

Mr. STEVENS. Mr. President, I made the point I would yield the floor by 7 o'clock.

I send another modification to the desk and I want to state why.

There have been several people raising the question about CETA funds. Assuming there is no point of order made about reconciliation, that would make the outlays barely, barely, there would be $6 million—it is within $6 million under the budget resolution, by my latest version, which leaves the deferral of the CETA fund out. But I warn the Senate that the bill is still subject to a technical point of order under reconciliation.

The PRESIDING OFFICER. The amendment is so modified.

Mr. PROXMIRE. Will the Senator yield very briefly?

Mr. STEVENS. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I want to join the Senator from Louisiana and the chairman of the committee in commending the Senator from Alaska. He has done exactly the right thing. The Senate did reject what the Appropriations Committee provided. The Senator from Alaska is trying his very best to give us an opportunity to reconcile this situation and not have the budget resolution waived.

I would hope that Senators would find a way to go along with him. All of us can find provisions here we do not like. But I think the Senator from Alaska is exactly on the right track.

Mr. STEVENS. Mr. President, I promised to yield to my friend from New Mexico. I yield to the Senator from New Mexico without losing mv right to the floor and then I will yield to Senator JAVITS.

Mr. DOMENICI. I thank the Senator from Alaska.

I want to say to the chairman of the Appropriations Committee that it was not my intention. in asking questions, that this bill be delayed. I do not think I have a reputation of trying to delay things.

I was concerned that we live uo to the budget resolution ceilings in budget authority and outlays and, if we could, in reconciliation instructions.

I was not sure that we were going to do that under the amendment of the Senator from Alaska. If I understand it, it will be in conformity as to outlay, budget authority. but it will not be totally in compliance under reconciliation instructions. Is that correct?

Mr. STEVENS. The Senator is correct.

Mr. DOMENICI. What is the reconciliation disparity, so we will know?

Mr. STEVENS. $91 million.

No, it is more now because of my last action.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DOMENICI. Mr. President, I did not get my question answered, What is the figure?

Mr. STEVENS. The reconciliation figures are now $263 million.

Mr. DOMENICI. And a point of order does not lie on that, in any event, does it?

Mr. STEVENS. It is my understanding that it does not, as the bill stands now.

Mr. DOMENICI. Well, I just want to join in commending the Senator. There is not any way that we can do much better. We are, at least, not breaching the budget. Everyone should know that we have already added $16 billion to the second concurrent in this appropriation. Sure, we can breach it, as suggested by certain Senators. But we have reached the point where—how much more can we breach the resolution we adopted just a few months ago? I think we ought to proceed to adopt it. I wish the Senator from New Hampshire would let us vote on it.

It seems to me it makes sense.

Mr. STEVENS. I yield to the Senator from New York without losing my right to the floor.

Mr. JAVITS. Mr. President, we have a practical proposition. I believe the Senator has trimmed this down admirably. He has dealt with most if not all real objections to it. I expect to vote with the Senator.

SEVERAL SENATORS. Will the Senator yield?

The PRESIDING OFFICER. All Senators will suspend. The Senator from Alaska has the floor and he has yielded temporarily to the the Senator from New York without losing his right to the floor.

Mr. JAVITS. Mr. President, it seems to me that the way to handle this and to handle Senator DURKIN's problem, which is undoubtedly a real one—each of us has some problem with the problem but the idea is impeccable and we are deeply indebted to Senator STEVENS—is this: Would he consider the possibility of letting the Senate first decide whether it wants to increase this budget, to wit, the Weicker motion. I am going to vote against it. I am not known to be a big economizer but I think we are in a very tough bind. I hope others will follow. Let us clear the decks of any idea that we are going to increase the budget. Then the Senator's become so logical a proposition that it is hard to see how anybody will resist it. I hope this will appeal to the Senator from New Hampshire as well.

Mr. CHILES. Will the Senator from Alaska yield?

Mr. STEVENS. Let me say to my friend from New York that I would have no objection if we could work this out with the Senator from Louisiana, who is next under our procedure. I believe the Weicker motion, if it is voted on first, might provide a nice guideline for the Senate as to what we are going to do. We would literally be between a rock and a hard place if we voted down the motion to grant the budget waiver and at the same time increase revenue sharing.

I have held this floor for too long. I

want to get off and not hold the floor any longer. I want to summarize what my amendment now does.

I voted for revenue sharing restoration. But realizing that they ought to take part of this burden, too, my amendment takes $143 million out in outlays and $286 million in budget authority from revenue sharing for the States. It reduces the funding for the Corps of Engineers by $30 million. It denies the supplemental funding, the increases, for MHD and combustion systems. It requires a 10-percent absorption for civilian employees only by DOD.

That can be argued but again I make it very plain that is $100 million in outlay and $100 million in budget authority. It touches nothing other than civilian employees and should not be interpreted any other way.

The net effect of that is, if this amendment were adopted we would be within $6 million of total budget balance as far as the budget resolution is concerned. We would still be over $263 million in terms of reconciliation. But as has been stated, that would not be subject to a point of order.

We would also be under the budget in terms of budget authority.

Mr. President, I thank you.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I do not want to delay things any longer than I have to. I commend the Senator from Alaska for the work he has done on this.

Mr. President, I raise the point of order that the amendment still strikes the bill in more than one place.

The PRESIDING OFFICER. The point of order having been made, the Chair having examined the amendment rules that the point of order is well taken and the amendment falls.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it possible to move to table the point of order?

The PRESIDING OFFICER. The point of order has now been ruled on.

Mr. STEVENS. The only available motion to the Senator from Alaska is to appeal the ruling of the Chair.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. If the Chair were not sustained, we could still touch more than one part of this appropriation?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I appeal the ruling of the Chair.

Mr. SARBANES. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. SARBANES. If the Chair's ruling is not sustained, the precedent has been established, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I hope the Senator will not insist on that appeal. To me it is very outrageous for any Senator who is occupying a position of leadership——

Mr. STEVENS. The Senator is correct. I withdraw the appeal.

The PRESIDING OFFICER. The appeal is withdrawn.

Mr. CHILES addressed the Chair.

Mr. LONG. Mr. President, I have an amendment.

The PRESIDING OFFICER. The Senator from Louisiana has the floor next.

UP AMENDMENT NO. 1334

(Purpose: To express the sense of the Senate on mortgage bonds)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long), for himself, Mr. Magnuson, Mr. Bumpers, Mr. Dole, and Mr. Pryor, proposes an unprinted amendment numbered 1334:

At the appropriate place insert the following: That it is the sense of the Senate that any change, enacted after the date on which this resolution is adopted by the Senate, in the treatment, for Federal income tax purposes, of interest on obligations issued by State or local governments to provide financing for owner-occupied or multifamily residences shall not apply in the case of any issue of such obligations issued before January 1, 1981, if—

(1) all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before a date that is one year after the date on which the bonds were issued, or

(2) all such proceeds are not committed by firm commitment letter before such date, but—

(A) it was reasonably expected, at the time of issuance, that all of such proceeds would be committed by firm commitment letter within one year from issuance, and

(B) any proceeds for which commitments were not made before such date are used to redeem obligations within eighteen months from the date of issue.

Mr. LONG. I ask unanimous consent to include in the Record a portion of the Senate Finance Committee's report which accompanied Senate Resolution 435, which is the subject of my amendment.

There being no objection, the report was ordered to be printed in the Record, as follows:

PRESENT LAW

Interest on bonds issued by State and local governments is generally exempt from Federal income tax. However, there are certain circumstances when interest on such bonds is not tax-exempt. For example, interest on such bonds which are classified as industrial development bonds or which are "arbitrage bonds" (i.e., reinvestment of bond proceeds expected to produce a materially higher yield than paid on the underlying bonds) would not be exempt from Federal income tax.

In 1968, Congress substantially restricted the uses for which tax-exempt industrial bonds could be issued. In doing so, Congress provided a specific exception for industrial development bonds used to provide residential real property. The explanation of this exception in the legislative history on the Revenue and Expenditure Control Act of 1968 makes no distinction between multifamily rental housing and single-family, owner-occupied residents. However, at that time, tax-exempt bonds generally were not being issued for single-family residences.

Beginning in the early 1970's several State governments instituted tax-exempt bond programs (nonindustrial development bonds) to finance the purchase of owner-occupied residences. More recently, many local governments have instituted similar programs. Under these programs, the State or local government typically will issue bonds and lend the bond proceeds through one or more private lending institutions to private individuals for the purchase or rehabilitation of homes.

On April 25, 1979, legislation was introduced in the House of Representatives which would generally restrict the use of tax-exempt State and local bonds issued to provide mortgages for housing.

SUMMARY OF H.R. 5741

On March 26, 1980, the House approved H.R. 5741, "The Mortgage Subsidy Tax Act of 1979." This measure generally restricts the issuance of tax-exempt bonds for housing unless a series of requirements are met. Tax-exempt bonds for single-family, owner-occupied residences would only be authorized where:

a. The mortgages are for the principal residence of the borrower.

b. The borrower must not have been a homeowner within the last three years, except in the case of rehabilitation loans, "targeted areas," etc.

c. The borrower cannot have income in excess of 115 percent of the median family income in the Standard Metropolitan Statistical Area (SMSA) or county (if not an SMSA) where the mortgage is placed. A higher limit is authorized where the residence is located in a "targeted area" (i.e., low-income area or an area of chronic economic distress).

d. The purchase price of each residence cannot be more than 80 percent of the average purchase price for the past year in the SMSA (or county) where the residence is located. In a "targeted area" the price could be up to 110 percent of the average purchase price.

e. At least 75 percent of the funds to be loaned out must be to purchasers generally making no more than 5 percent down payments.

f. The effective interest rate on mortgages to homeowners would be limited to 1.0 percentage point above the yield to maturity to the purchasers of the bonds, calculated on the date of issuance. Arbitrage earnings other than the 1.0 percentage point on home mortgages would be required to be returned to the borrowers.

g. The total amount of housing bonds that can be issued in a State year would be limited to the greater of $50,000,000 or 5 percent of the average for all mortgages originated in the State during the preceding three years.

h. A series of transitional rules are also provided to permit the issuance of various bond issues which were in the process of being approved by the appropriate governing bodies prior to April 25, 1979. A special exemption for State housing finance agencies would permit the issuance of up to $150 million of tax-exempt bonds by such agencies even where no action was taken prior to April 25, 1979.

In addition, in the case of multifamily rental housing, the present exception for tax-exempt bonds would be limited to multifamily housing projects in which at least 20 percent of the units are to be occupied by low- and moderate-income individuals. Special transitional rules are also provided.

REASON FOR RESOLUTION

The tight money policy that has been adopted by the Federal Reserve and the Carter administration has resulted in a substantial decrease in the number of housing starts in this country. This slow down in the housing industry has resulted in large numbers of workers in the housing industry being put out of work. Moreover, the high interest rates have placed homeownership beyond the means of most needy families.

While some restrictions must be placed on the use of tax-exempt mortgage bonds, it will take some time for the committee and the Senate to consider this bill. In the meantime, State and local governments cannot issue bonds under the permanent restrictions of the House passed bill because these rules may be substantially revised by the time the bill becomes law. In addition many local governments are not covered by the transitional rules and can't use this avenue to provide needed housing and employment to their citizens.

EXPLANATION OF RESOLUTION

The committee's resolution provides that any legislation to be passed by the Senate restricting the use of mortgage bonds will not apply to bonds issued before January 1, 1981, provided that bond proceeds (exclusive of issuance costs and a reasonably required reserve) are committed to mortgages within one year after the date of issuance. In order to satisfy this commitment requirement, a firm commitment letter must commit to an individual a stated amount of money for the purchase or improvement of a particular residence for a stated period of time at a stated interest rate. A particular bond issue will not become taxable solely by reason of the fact that all of the proceeds of the issue were not committed to mortgages within one year from the date of issuance as long as the uncommitted portion of the proceeds are used to redeem obligations within 18 months of the date of the issuance of the bonds.

This resolution will provide a more responsible transitional rule that permits State and local Governments to continue their housing programs until final restrictions on the use of mortgage bonds can be agreed to.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of a parliamentary inquiry?

Mr. LONG. I yield.

Mr. STEVENS. Mr. President, it is my understanding now that following the amendment of the Senator from Louisiana, the motion of the Senator from Connecticut to waive the Budget Act will be the next order of business?

The PRESIDING OFFICER. Following the disposition of the amendment of the Senator from Louisiana, that is correct.

Mr. STEVENS. Mr. President, I merely want to state that if the motion of the Senator from Connecticut is not adopted, it would be my intention to offer the amendment just objected to as four separate amendments and still try to find a way out. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the purpose of this amendment concerns housing under construction over the entire United States. Here is the reason why: A great number of States have local housing groups which are using revenue bonds to finance housing. In Louisiana alone we would have $800 million worth of housing under construction except for the fact that on the House side, a bill was introduced on April 25, 1979, to limit what could be done with housing bonds. That bill, H.R. 5741, passed the House in March of this year and is currently pending in the Senate Finance Committee. There is uncertainty as to what will happen with regard to that legislation and it will take some time for the committee and the Senate to consider the House-passed bill. So, the Senate Finance Committee met to deal with the transition problem and, by a vote of 15 to 1, reported a resolution that provides that whatever we do about revenue bonds for housing, it would not be retroactive. The States, the counties, and the cities would have until January 1 to issue revenue bonds, and they would have a year from the date of issuance to commit the proceeds to mortgages.

Mr. President, we expect to act on this legislation. We do expect to limit what can be done with revenue bonds in the future. However, we would like to clear it up that the permanent rules would not be retroactive. By clearing this matter up about the retroactivity, people can go ahead and put housing under construction under the rules of present law.

Mr. SARBANES. Mr. President, will the Senator yield briefly?

Mr. LONG. Yes.

Mr. SARBANES. I commend the Senator for the proposal which he sent to the desk. This can be of enormous assistance at this particular time in meeting the housing needs and responding to some of our economic problems.

I think the overhang, the possibility of retroactivity—we understand that the Senator will be addressing the substance of the problem itself, but the danger of retroactivity is having an absolutely chilling effect. I commend the Senator for his proposition.

Mr. MAGNUSON. Will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. MAGNUSON. Of course, the Senator and I have discussed this matter on several occasions, because it involves the housing industry. It is a good move in the right direction. It will help a lot in my area, where we have big timber interests and housing. I commend him, too, for bringing it up.

I was hoping that he would wait a little bit, but as long as he got it up, I want to join with him again.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I say to the Senator from Louisiana that I support his amendment.

Mr. President, I want to address several questions to the manager of this bill, if I can get the floor. For 2½ hours, one or two persons have been holding the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Virginia be recognized after the vote on the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there further discussion on the amendment? If not——

Mr. FORD. Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I should like to ask the sponsor of this amendment a question or two, if I may.

How long do counties and cities and housing corporations of the various States—what is the deadline? Anything that they now have in the bill, can they continue with that? What is the situation?

Mr. LONG. Mr. President, they can issue bonds until January 1, 1981, under the provisions of present law.

Mr. FORD. Until December 31, 1980, regardless of what position they are in now?

Mr. LONG. Yes.

Mr. FORD. They could start up today and do it.

Mr. LONG. That is correct.

Mr. FORD. Is there any procedure under this legislation as to how the funds are to be dispensed?

Mr. LONG. Would the Senator repeat that?

Mr. FORD. How are the funds to be dispensed? What is the mechanism for developing the bond issue and what criteria will be developed as it relates to the housing industry?

Mr. LONG. It is up to the locality under the present law.

Mr. FORD. It is up to the locality to do whatever they want to?

Mr. LONG. Yes.

Mr. FORD. Does this eliminate in a great many places the ability of savings and loans to recoup the losses that they have sustained in the last 6 months, with high interest rates, long-term low-interest money, and they are now excluded from the bond issue that is being proposed by a county or a locality?

Mr. LONG. Well, Mr. President, in the beginning, savings and loans were not participating, but they are now participating. They are, in fact, becoming very much a part of the bond issues.

Mr. FORD. I ask the Senator what savings and loans are encouraging counties to issue bonds outside their ability to loan?

Mr. LONG. My understanding is that now that the local governments are encouraging and permitting the savings and loans to participate, and they are more and more becoming a part of it.

Mr. FORD. What part of it? How do they become a part of it?

I want to know, Mr. President, if a county issues bonds and they dispense the funds, is not the county in control of it? Savings and loans, banks, no one else has an opportunity to get in?

Mr. LONG. The localities that are now issuing housing bonds are beginning to recognize that the savings and loan institutions have more expertise to place the mortgages and to service the mortgages after they have been placed. I know in my own hometown, the savings and loans are very much a part of the program.

Mr. FORD. Mr. President, we passed a bill here not too long ago, and the distinguished chairman of the Banking Committee is here, to work out regulation Q, we worked out a committee—

DICI, I think it is. They were supposed to be putting together a 6-year term to eliminate the differential. That was the understanding that we had. Now the committee that we authorized under that piece of legislation says the differential can only be between 7½ and 8½, and it put a floor under the interest rates they can charge. It just happened.

What I am saying here is that we have institutions that, for a long, long time, have been doing a real good job. We have been getting along well in our State. I am not opposed to these bonds being issued, but I think somewhere along the way, decisions have been made that are undercutting institutions that have been the stabilizing influence in the communities.

If these bond issues are going around the banks and going around the savings and loans and that kind of thing, I am a little concerned that we might be moving into an arena that we should not be moving into.

I did not agree with the proposal when it went out the last time as it related to the committee, as it related to regulation Q, those things. Even the hospitals 5 years later, military hospitals, are finding out that we are right about that.

I hope I am wrong about this, Mr. President, but I believe we are getting into a procedure that is bad.

Mr. SARBANES. Will the Senator yield?

Mr. LONG. Let me just say this: Up to now, the Federal Government, as I understand it, has not sought to regulate the extent to which States or local governments can issue tax-exempt bonds for housing. We expect to act on legislation that will put a limit on the extent to which they can issue revenue bonds for housing. When we do, I suggest the Senator might bring an amendment in. All we are doing here is saying they can continue to do what they have been doing under present law, up until the end of the year.

Mr. FORD. Is it true that, up until 6 months ago, the Ullman bill to prohibit these revenue bonds was on the fast track?

Mr. LONG. It was not on any fast track over here.

Mr. FORD. It was doing pretty well. I thought it was a kind of going thing.

Mr. LONG. It was not on any fast track over here. We did not have it until a short time ago.

Mr. FORD. The Senator will have to understand that, 6 months ago the bill to prohibit these bonds was on a fast track.

Mr. LONG. The House worked on the bill for approximately 1 year after introduction. It was very controversial.

Mr. FORD. I am concerned about issuing bonds based on a community's ability to go out into the housing market, where States have attempted to control it, where they have their own housing corporations, where the savings and loans have been doing a good job. We now limit, we have a floor under interest rates that savings and loans can charge. We have already limited the differential between 7½ and 8½. It is awfully hard to factor a quarter in a 1-percent differential.

We keep plowing these things in and it bothers me some. Maybe I stopped this one from going through on a voice vote 10 minutes ago, but I did want to get into the record some of the things that are happening, as I see it, relating to revenue bonds for every county in every State to usurp the institution that has been doing a job for us all along.

Mr. PROXMIRE. Will the Senator yield for a question?

Mr. LONG. Mr. President, I ask unanimous consent to modify my amendment on line 2 to change the word "resolution" to " bill."

Mr. FORD. What was the modification? From a resolution to a bill?

Mr. LONG. No. It reads: "*Resolved* that it is the sense of the Senate that any change enacted after the date of this"—it says "resolution."

I changed the word "resolution" to "bill."

Mr. FORD. The Senator is changing it from a resolution to a bill?

Mr. LONG. No, I am changing a word from "resolution" to "bill," just to make a proper reference.

The amendment, as modified, is as follows:

> At the appropriate place insert the following: That it is the sense of the Senate that any change, enacted after the date on which this bill is adopted by the Senate, in the treatment, for Federal income tax purposes, of interest on obligations issued by State or local governments to provide financing for owner-occupied or multifamily residences shall not apply in the case of any issue of such obligations issued before January 1, 1981, if—
>
> (1) all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before a date that is one year after the date on which the bonds were issued, or
>
> (2) all such proceeds are not committed by firm commitment letter before such date, but—
>
> (A) it was reasonably expected, at the time of issuance, that all of such proceeds would be committed by firm commitment letter within one year from issuance, and
>
> (B) any proceeds for which commitments were not made before such date are used to redeem obligations within eighteen months from the date of issue.

Mr. PROXMIRE. May I ask the Senator if there is any estimate as to the revenue loss that might be involved here?

Mr. LONG. This has been explored with the Budget Committee and it does not present a problem with the budget.

In other words, the budget assumes the present law. This amendment just seeks to maintain the present law until the end of this year.

Mr. PROXMIRE. Is the Treasury aware of the resolution?

Mr. LONG. Yes.

Mr. PROXMIRE. Did they have any objections?

Mr. LONG. They have not expressed a strong objection to the transitional rules, but they are concerned with the permanent rules that we will be working on for the future.

Mr. PROXMIRE. The position of the Treasury is one of concern that this form of using municipal bonds and other tax exempt bonds can be enormously expensive. Is that right?

Mr. LONG. I have heard them say in the long term they are concerned about it, yes.

Mr. METZENBAUM. Mr. President, the colloquy between the Senators is of interest but Members cannot hear. Could we have order in the Senate?

The PRESIDING OFFICER. The point is well taken.

Mr. LONG. Here is the problem we have right now. I do not believe it is the intention of the Senate to shut housing down for the remainder of 1980. But that is the way it is working out under the House passed bill.

It will take some time before we can act. That will mean that during the remainder of this year, we will not have housing going up. We ought to be building.

Mr. SARBANES. If the Senator will yield, this is a temporary measure. It only addresses the issue until the end of this calendar year.

It meets a number of the problems which the Senator from Louisiana has outlined. There are jurisdictions, I understand, that are prepared to go out under the existing circumstances, even though that is not the best way to do business, and this clarifies that ambiguity and that problem.

It does not address the question of the permanent legislation on which I think a consensus is developing that something is necessary.

But this addresses an immediate situation. It seems to me it is a constructive action to take.

Mr. PROXMIRE. If the Senator will yield, what concerns the Senator from Wisconsin is that this is something that moved ahead and it has proven effective on the Treasury in the long run.

The localities and States can provide any income, or not have any income test, if they wish, and use it for upper income housing, or not.

Mr. SARBANES. If the Senator will yield, the effect is there now.

Mr. LONG. The Treasury is very much concerned about the long-term effect of unrestricted housing bonds and the tremendous impact that would have on revenues.

I discussed this matter with Mr. ULLMAN, the manager of the bill. Mr. ULLMAN is prepared to go along with the idea of moving forward today, in light of what we are talking about, provided that we will pass legislation for the future.

The House has put their proposal for the long term on their budget reconciliation resolution.

So we are likely to have an opportunity, in the budget reconciliation resolution, to vote for legislation similar to H.R. 5741.

I am not sure that is the best way to do it, but, meanwhile, if we pass my amendment today, we will let people start building some houses.

Mr. PROXMIRE. If the Senator will yield, is this not an invitation, however, in the next 6 months, for the States and localities to rush in anticipating that maybe after the first of the year they could be shut down? Is this not very likely they will get just a flood over the next 6 months, State after State?

In my own State, they think of a one-half billion dollar housing program.

Mr. LONG. We do not have near enough houses under construction today.

Mr. PROXMIRE. That is true.

Mr. LONG. And if we have far more than we believe desirable, we can still act. There is nothing here that says Congress cannot act either on the budget resolution, the reconciliation resolution, or any bill that passes the Senate.

I do not think it should be retroactive, and housing bond issues ought to be permitted to go ahead.

Mr. HARRY F. BYRD, JR. If the Senator will yield, concern has been expressed bv the Senator from Wisconsin. I also think the Senator from Maryland puts it in perspective, that this is merely a temporary measure to a permanent one, and I would oppose it, but it is a temporary measure and I am, for that reason, disposed to go along with it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Iowa.

I have one question of the Senator from Louisiana. Does this include State, municipal housing, bonding authorities, as well?

Mr. LONG. Yes.

Mr. DURKIN. I thank the Senator from Louisiana and I thank the Senator from Iowa.

Mr. JEPSEN. I advise the Senator that the Senator from Kansas (Mr. DOLE) is very much involved in this thing. He will be here in a very few minutes and would like to make some comments before we put this to a vote.

Mr. LONG. Well, the Senator voted for it. I hope he will let us vote on it. We have the amendment pending. The Senator from Kansas voted for it in the committee.

Mr. SARBANES. Mr. President, I ask unanimous consent that the statement of the Senator from Kansas with respect to this amendment appear in the RECORD immediately prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. JEPSEN. I object.

The PRESIDING OFFICER. Objection is heard.

LONG TAX-EXEMPT AMENDMENT

Mr. WILLIAMS. Mr. President, I think this measure is a most helpful one. The distinguished Senator from Louisiana, Mr. LONG, should be commended for his continuing attention to, and interest in, not only the subject of tax-exempt mortgage revenue bonds, but his deep concern for the adequacy of homeownership opportunities for American families as well.

As the chairman of the Senate Housing and Urban Affairs Subcommittee, I have been greatly disturbed with the state of our Nation's housing market. High interest rates combined with soaring housing prices have shut literally millions of Americans out of the homebuying market thus depriving them of one of our society's most deeply cherished rewards.

My subcommittee has held a number of hearings in this area and the Senate has passed several important measures which we have developed as a result of these hearings. During the course of our deliberations, it has been made clear to many of us on the subcommittee that tax-exempt mortgage revenue bonds can provide a useful tool not only to reopen the door to homeownership once again, but also to bolster a depressed housing industry which contributes so importantly to the overall health of our economy.

As the Senator from Louisiana has stated, the House bill as initially developed—and even as passed after a number of changes—has brought uncertainty, indeed, chaos to the bond market. As a result, the effectiveness of this important housing tool has been placed in jeopardy.

Now, Mr. President, we have been concerned that in some places, abuse of mortgage revenue bonds has occurred. Careful attention to focusing these bonds on people with moderate incomes and in areas most in need of housing assistance has not always been paid. However, it would be a serious mistake to close down so many worthwhile programs such as those put forth by the State Mortgage Finance Agency in New Jersey, which has made a special effort to target its bond proceeds to areas of distress and to people in need.

Mr. President, it would be a mistake to close down programs just beginning and which have no record of abuse, such as the one in the good Senator's own State of Louisiana. We should not allow the problems of a few to bring to a halt the good work of many.

Mr. President, I have introduced legislation, cosponsored by a number of Senators, including members of the Finance Committee, which I believe would assure properly targeted and responsible mortgage revenue bond programs across the country.

This legislation has had the benefit of productive contribution from groups and individuals ranging from the National Association of Housing and Redevelopment Officials to the Council of State Housing Agencies as well as knowledgeable private citizens. Legislation along these lines, I believe, can form the basis for the permanent resolution of the issue which the distinguished chairman of the Finance Committee has stated is his interest and his objective.

I look forward to working with the distinguished Senator in developing a permanent response to the issue of tax-exempt mortgage revenue bonds and once again, I wish to offer my commendation for this amendment which will place us squarely on the path to that result.

Mr. LONG. Mr. President, Senator DOLE is here, and I hope we can vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, I am going to move to reconsider the vote and then ask for the yeas and nays, because I believe it would be good to have a rollcall vote.

I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the Long amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The PRESIDING OFFICER. Is there any other Senator who desires to vote?

The result was announced—yeas 79, nays 3, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—79

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—3

Durenberger
Proxmire
Weicker

NOT VOTING—18

Baucus
Burdick
Cannon
Culver
Garn
Goldwater
Hatch
Kennedy
Leahy
Lugar
McGovern
Melcher
Morgan
Percy
Pressler
Ribicoff
Stafford
Talmadge

So the motion to lay on the table the motion to reconsider the vote on Mr. LONG's amendment (UP No. 1334) was agreed to.

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. EAGLETON). The motion of the Senator from Connecticut as previously described.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a parliamentary inquiry?

The PRESIDING OFFICER. Let us have order. The Senator will state it.

Mr. HARRY F. BYRD, JR. I think the Chair will find that under the unanimous-consent agreement the Senator from Virginia was to be recognized.

The PRESIDING OFFICER. The Senator from Virginia is absolutely correct. When the Chair recognized the Senator from Connecticut he was not aware the Senator from Virginia was in the Chamber, and under the previous order he is recognized.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BUMPERS. What is the consent agreement?

The PRESIDING OFFICER. The consent agreement was that on the disposition of the Long matter the Senator from Virginia (Mr. HARRY F. BYRD, JR.) would be recognized. That has been previously entered into.

Mr. WEICKER. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. When was that entered into?

The PRESIDING OFFICER. At some time prior to my assuming the Chair. [Laughter.] At 7:11 p.m.

Mr. WEICKER. Mr. President, the unanimous-consent agreement was, I believe, that we went ahead and acted on first the amendment of the Senator from Alaska, then on the amendment of the Senator from Louisiana, and then on the motion of the Senator from Connecticut.

The PRESIDING OFFICER. That is the pending motion. But at 7:11 p.m. the unanimous-consent agreement was entered into whereby the Senator from Virginia was to be recognized.

If the Senator from Connecticut would yield to the Senator from Virigina we could move along.

Mr. WEICKER. I do not intend in any way to impede the Senator from Virginia. I suppose what I object to is a unanimous-consent request which superseded one and was made without the Senator from Connecticut on the floor, which superseded a unanimous-consent request which was as the Senator has outlined. This is not the problem of the Chair. It is the problem of the leadership. In any event, I do not intend to obstruct.

Mr. HARRY F. BYRD, JR. Let me explain the situation. The Senator from Louisiana had an amendment which was about to be voted upon. I sought and obtained the floor and wanted to speak at that point and to query the managers of the bill on some figures. The Senator from Louisiana appealed to me to let his amendment come to a vote and then ask unanimous consent or someone asked unanimous consent that I be recognized immediately thereafter. But if the Senator from Connecticut has a problem I would be glad to cooperate with him in any way he wishes.

Mr. WEICKER. My good friend from Virginia, not at all. Might I just ask for administrative and logistical purposes how long the Senator from Virginia will be?

Mr. HARRY F. BYRD, JR. Not very long.

Mr. WEICKER. If I understand, my motion is already before the Chair?

The PRESIDING OFFICER. That is correct.

Mr. WEICKER. Then I am delighted to go ahead and I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. What I will need are the managers or one of the managers of the bill to whom I can propound several questions, otherwise the time does not do me any good.

Mr. PROXMIRE. If the Senator will yield, Mr. President, the chairman of the committee, the distinguished Senator from Washington, is the manager. He is not on the floor. Several of us handle our own subcommittees, and it depends on what section of the bill the Senator wants to inquire about.

Mr. HARRY F. BYRD, JR. I want to inquire, may I say to the Senator from Wisconsin, as to how much the bill before us now is over the amount in outlays and in budget authority, and what the bill was when it originally came to the Senate.

Mr. PROXMIRE. I will try to get that information for you as soon as I can.

The question is how much is this bill in budget authority over the amount as it came to the Senate; is that correct?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. PROXMIRE. We have added $44 million in budget authority. That excludes revenue sharing——

Mr. HARRY F. BYRD, JR. I do not want to exclude that.

Mr. PROXMIRE. I am trying to get the information to the Senator. Revenue sharing, an additional $572 million in budget authority; an additional $286 million in outlay, so that the total is $616 million added in budget authority, $286 million added in outlays.

Mr. HARRY F. BYRD, JR. $618 million added in budget authority and $286 million in outlays?

Mr. PROXMIRE. $616 million and $286 million; that is correct.

Mr. HARRY F. BYRD, JR. What about rescissions?

Mr. PROXMIRE. A sum of $602 million in budget authority and $572 million in outlays.

Mr. HARRY F. BYRD, JR. You mean we added that much?

Mr. PROXMIRE. We have lowered the amount to be rescinded by that much. That was the Senator's question, as I understand it.

Mr. HARRY F. BYRD, JR. Yes. Would you mind giving me those figures again?

Mr. PROXMIRE. Yes. Let me give the Senator the total amount rescinded which is $3,726 million in budget authority and $428 million in outlays.

Mr. HARRY F. BYRD, JR. $3,736 million——

Mr. PROXMIRE. $3,726 million.

Mr. HARRY F. BYRD, JR. In budget authority?

Mr. PROXMIRE. That is correct.

Mr. HARRY F. BYRD, JR. Where did that come from?

Mr. PROXMIRE. Well, the Senator, as I understand it, was asking how much we have now rescinded because we lost some of those rescissions because of the action taken by the Senate.

Mr. HARRY F. BYRD, JR. Yes.

Mr. PROXMIRE. So we now have, we are down to—we had over $4 billion in rescissions, we had $4,328 million when we started and now we only have $3,726 million.

We have $1 billion in outlays that we had rescinded, and now we are down to only $428 million.

Mr. HARRY F. BYRD, JR. Now we are getting on the same wavelength. What I was interested in was the difference between the original and what it is now, which is about $4 billion something, is it not?

Mr. PROXMIRE. $602 million less in budget authority and $572 million in outlays.

Mr. HARRY F. BYRD, JR. What is the figure $428,000 that was given?

Mr. PROXMIRE. That is the total amount of outlays that would be rescinded under the bill at the present time, compared to a billion dollars that was rescinded as reported by the committee.

Mr. HARRY F. BYRD, JR. Let me see if I have an accurate understanding of this. Insofar as the Weicker amendment is concerned, that increased the outlays by $286 million.

Mr. PROXMIRE. Well, the Weicker action, as I understand it, killed the committee amendment.

Mr. HARRY F. BYRD, JR. In killing the committee amendment, it added $286 million in outlays?

Mr. PROXMIRE. That is correct.

Mr. HARRY F. BYRD, JR. And it added $572 million in budget authority?

Mr. PROXMIRE. That is right.

Mr. HARRY F. BYRD, JR. And the budget authority is subject to a point of order?

Mr. PROXMIRE. Yes. The bill is now clearly subject to a point of order, in my judgment. Of course, that is up to the Chair.

Mr. HARRY F. BYRD, JR. So, in order to get the bill back to a point where it is not subject to a point of order, insofar as outlays are concerned, something needs to be done to the extent of $286 million and in budget authority something needs to be done to the extent of $616 million?

Mr. PROXMIRE. $279 million in outlays and $103 million in budget authority. That is what we need.

Mr. HARRY F. BYRD, JR. The figure that we got earlier was that budget authority had been increased by $44 million.

Mr. PROXMIRE. That is correct. But the reason there is a difference here is because in the bill, as it came from the Appropriations Committee, we had $7 million above the balance that was needed to reconcile it.

Mr. HARRY F. BYRD, JR. That takes care of $279 million versus $286 million on outlays?

Mr. PROXMIRE. That is correct?

Mr. HARRY F. BYRD, JR. Now, let us forget the outlays and get to the budget authority. On the budget authority, I was given a figure of $44 million and another figure of $572 million, for a total increase in budget authority of $616 million.

Mr. PROXMIRE. Because we had $513 million, we took $616 million from that, and that puts us $103 million over the amount of the budget authority that we should have.

Mr. HARRY F. BYRD, JR. I was under the impression, from the figures that I just received, that the Senate is $616 million over; $44 million, plus $572 million.

Mr. PROXMIRE. Well, it is $513 million plus—I should say, we take away from that $513 million, $616 million, and that means we are $103 million over in budget authority.

Mr. HARRY F. BYRD, JR. I must say, this is not at all clear.

Mr. PROXMIRE. We were $513 million under in budget authority when the Appropriations Committee came to the floor.

Mr. HARRY F. BYRD, JR. $513 million under?

Mr. PROXMIRE. That is right.

Mr. HARRY F. BYRD, JR. And we have added?

Mr. PROXMIRE. $616 million, so we are now $103 million over.

Mr. HARRY F. BYRD, JR. I thank the Senator very much. That clears up that point.

I thank the Senator for yielding.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Connecticut.

MOTION OF SENATOR WEICKER

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion of the Senator from Connecticut.

Mr. WEICKER. Mr. President, I will now address the motion that I have before the Senate, which waives, insofar as the revenue sharing items are concerned, any points of order that might be raised by the Budget Committee against the bill because of the $572 million added for general revenue sharing.

What I find interesting is those that are talking, both on the Appropriations Committee and on the Budget Committee, as if nothing had changed, nothing had happened here on the Senate floor, as if the matter still were as it came from the Appropriations Committee.

The fact is that the Senate has spoken and it has spoken decisively. It has said that revenue sharing is a priority item of spending. The bill, as it now exists, is not the bill that cleared the Appropriations Committee. It is not the bill that was discussed out here on the floor. It is not the bill to which the Senator from Wisconsin and the Senator from Louisiana and others addressed themselves to before it was amended.

It is now a bill without the recission of $572 million in it. It no longer has that in there. And it was not even a close vote. A large majority of our colleagues decided that this item, in their judgment, was important enough that it should stay in the supplemental appropriations bill.

The only question that now sits before the Senate is, how are you going to go ahead and pay for it? Are you going to make other cuts, as was initially suggested by the distinguished Senator from Alaska? Or are you going to say that this is the type of situation that was envisaged when the Budget Act was passed and deserves a special consideration in terms for budget authority to cover it?

For the last 2 weeks, the distinguished Senator from New Hampshire, Senator DURKIN, the distinguished Senator from Tennessee, Senator BAKER, myself, and others have participated in trying to formulate an answer here. We have tried every way we could to go the cut route and it just did not work. It did not work in the sense of fairness to all.

You are going to hear a lot of talk about the fact that this blows the whole budget process. It certainly does not, not unless that process has an automatic mechanism requiring no thinking, no commonsense, and no judgment by the Members in this Chamber. An automatic mechanism is a very convenient way of shucking off the responsibility that sits on each of our shoulders to set priorities and then to be willing to stand up and make the sacrifice or the payment necessary to satisfy those priorities.

When I hear statements made from my distinguished colleagues on the Budget Committee that we are talking about an adherence to a principle—adherence to what? Is there anybody in this Chamber that believes that this is a balanced budget that we are talking about?

It might be one thing to give this story to your constituents and to the press, but nobody is going to stand up here, in candor, and say that we are talking about a budget that is balanced. It is out of balance, and that is indisputable.

So, again, we come to the point that you decided that this was an item of priority spending. In this motion, what I am saying is that the waiver should be granted. These are extraordinary circumstances that brought you to that initial decision. What brought you to that initial decision. What brought you to that decision was principally two reasons:

No. 1, that we had made a promise on this spending to the States and localities, which States and localities, acting on that promise, passed their budgets and are now operating on the premise that that money will be received. This is not fiscal year 1981 funding; this is fiscal year 1980. It is the promise that was made. I have no doubt that the Senate as a legislative body will change revenue sharing, indeed if not eliminate it, in the future. We are talking about fiscal year 1980 and that promise was made.

The second matter which governed, I think, the judgment which was made here on the floor this morning was the fact that we are in a recession. That is why the governmental process calls for acts of judgment instead of automatic mechanism.

The situation is a good deal different today than it was last week or than it was the week before that. Nobody knows this better than my friends on the other side of the aisle rushing around to match my colleagues on this side of the aisle, vis-a-vis the elements of a tax cut. These are changing times.

I have no objection to that. We have every right to change within this Chamber. What we do not have the right to do is by virtue of our vacillation or our politics screw up everybody else's budget, deny them their hopes, their aspirations, which are based on the promises that we made.

So now the time comes to exercise that judgment to say, "No; the Budget Act is not an automatic mechanism." From the time of its inception and passage we have reserved to ourselves the right to exercise an element of judgment in that budget process in the form of a budget waiver. I am not going back to my constituency and say I have saved revenue sharing, that I have given them this money for mental health, education, police, and fire, but there is no price to be paid. I am not about ready to do that. I am saying I think these are important elements for the quality of life in my State and they have to pay for them. That is the same message I am giving here on the floor of the Senate.

I am not trying to figure some way to wangle special interest funds away from this group or say that these aspirations are not as important as they manifest themselves in the various sections of the appropriations bill. What I am saying is that here is a mechanism that is fair for all, that does not involve any pet projects.

No Senator should have any restraint in voting for this measure on the basis that it indeed serves a special interest of the Senator from Connecticut or any other individual Senator. If a Senator wants to take a close look at what came out in the appropriations bill they will see it is loaded with special interests, all of which have been accommodated by the great Budget Committee with all its principles.

This item of revenue sharing was in the budget resolution all along. It still is. Now, all of a sudden, there is $1 billion for Mount St. Helens, most of which has not been requested by the various agencies of the executive branch. And $25 million for Cuban refugees—none of those moneys were requested by the various agencies to which the Senator from Florida wants to give those moneys, and so on down the list of special interests all within this appropriations bill.

I am not going to stand here and whack away at those individually. Believe me, on their merits, most of those deserve to fail. This does not.

I am willing to accommodate the judgment, good, bad, indifferent, or otherwise, of the committee, and stick with the figures given, except in this instance where I feel the situation demands treatment that I have described and that I have contained in the motion before the Senate.

I do not intend, Mr. President, to spend a great deal of time on this because the choices are very simple: You either go the budget waiver route or there will be corresponding cuts.

Believe me, in the sense of fairness to all, in the sense of doing the right thing without having all the facts on every item that is in the appropriations bill at your fingertips, the more honest way to go is the budget waiver.

This item of revenue sharing means a great deal to many people. None of them individually have the clout to go ahead and get a specific appropriation for their pet interest in life. But, collectively, I think we know the good that comes from this money. It is money, I might add, that involves not just the States but the counties, the towns, and the cities. It is money without the administrative costs of Washington. It is money directed toward the priorities in those areas by the people who are affected by the situations within that particular political subdivision. They know best.

I would hope that we would do without the second guessing that will attach to any sort of an amendment for corresponding cuts and face up to the fact that what we did this morning has to be paid for, and in paying for it we are not unbalancing the budget because the budget is unbalanced. And in paying for it we are not violating any principles because a mechanism was put in there—I am talking about the budget waiver—to accommodate human judgment under extraordinary circumstances which exist here now.

That is it, in short. I anticipate the arguments that will be presented by the Budget Committee, but this place is not something to be run by the Budget Committee. It still involves the judgment of each Senator. No one can use that as a reason for failing to exercise that judgment or the reason for failing to have the courage to ask for the appropriate payment for the exercise of that judgment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators. Mr. President?

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, the Senator from Connecticut mentioned that we had the vote on revenue sharing and that that was not even a close vote. He is certainly correct on that. It was not very close. I think it is kind of unique, though, the point that we are coming up with now. We are coming up with the first time, in effect, where we have a motion to waive the Budget Act.

It is also kind of unique that this whole debate on this supplemental is the first time that we have operated on a supplemental in which we were bumping the ceiling.

We just look back and we see the vote on the motion to table the amendment of the Senator from California on the energy projects. That was not a close vote on a motion to table. By a strong vote the Senator from California won. We did not table that amendment.

Then a point of order was made, and to my memory maybe it has been made once before, and that is about the first time we have had a budget point of order made on an amendment to bring something out of budget.

We did a long time back when a motion was made early on on a food stamp measure, and we sent that back. That was several years ago.

Here in this supplemental we see that motion made and that vote turned around 180 degrees, where the body originally wanted to go with the Senator from California and what was a good project—no one wanted to turn him down on that project—so we did not table his motion.

Then, when we realized that it was breaking the budget ceiling and that a point of order had been made, then the Senate turn directly around and, by an even stronger vote, upheld the Chair that the point of order was valid, that it did break the budget ceiling.

Now, I think we are getting an opportunity to see the same kind of test. We had the vote this morning—and it was not close—that, on germaneness—which was really a test as to whether we wanted to strike revenue sharing in 1980—it should not be struck. And the body said no, it should not.

We did the same thing in the Appropriations Committee. The first vote that came up was turned down because nobody wanted to strike it in 1980 and we knew the States had depended on that in 1980. We did not want to take that money away. It was only when we went through the process and saw nobody else would get a majority to make a cut to bring it back into what the Senate held were the figures.

Everybody keeps talking about the Budget Committee. It is the Senate that passed the concurrent resolution that set the ceiling. We had a debate on that and everybody had their opportunity to raise or lower that and the Senate spoke to that. That is a discipline that we put upon ourselves when we passed the Budget Committee legislation.

That is what all of us have gone home and made speeches about and said we have a tool now to put some restraint on ourselves.

Today, I think it has been an interesting exercise, because our heads have been bumping on that ceiling we put upon ourselves.

Mr. WEICKER. Will the Senator yield?

Mr. CHILES. I shall yield when I finish.

It is tough and we are finding it tougher all the time, Mr. President. How many times, though, in the years before we had the Budget Act, did we see that every time we came to the supplemental or to the regular appropriation bill, a Senator had a project? It was a good project. He was running for election; he needed some help. How could you turn him down on that project?

And "a" Senator with "a" project, his name was really legion, because all of us had one. And before long, we had blown every bill out.

That is how we have operated on all those deficits all those years.

We know that. It is hard to discipline ourselves. How do you vote against something like revenue sharing, when all our Governors are calling us and saying, "Don't do that. My legislature has gone home. We have pledged this money. We have done something with it." How do we make those kinds of decisions?

When we started out on this process, we had said every bill that comes up to appropriations, every single bill that is voted on is good. I have never voted for a bad appropriation. They are always going to help somebody. There is always a class of people that is for them.

I never really hear people telling me to vote against appropriations. I hear always from the group that wants it. But nobody before ever said, "Wait a minute. There are only so many dollars in the store and when the store runs out of dollars, then we have to set some priorities."

So what we have found ourselves doing

in the Appropriations Committee for the first time—and it is very hard—in the Budget Committee—and that is hard too—and on this floor, is saying we have to set priorities. So we cannot all get what we want any more.

I have my projects; that is right. I fight for them. The Senator from Connecticut has his and he fights for those. But somewhere, now, we have our overall ceiling that we have to come within; we have to fight within.

We are getting ready now to have a very, very interesting vote, because this is the test—the test on whether we are going to be able to take that discipline that we placed on ourselves or whether we are going to say, "Well, it is easier this time. Waive it. After all, we are going to get rid of revenue sharing in 1981 and, after all, things have changed."

For all of these reasons, yes, this budget is not in balance in 1980. We knew it was not. It is further out of balance now than it was when we started because we had things in the supplemental that we felt had to be accommodated.

Part of those things that we accommodated were moneys that are going to State governments and going to local governments. In fact, it is kind of interesting to note the figures. In this supplemental today, not counting the revenue sharing, we have $3.8 billion in budget authority and $3.02 billion in outlays that are going to State and local governments by virtue of this supplemental.

So, when we start talking about, "Oh, my goodness, this is cutting some money from State government and it may hurt local government," what we are doing in this bill is giving $3 billion in outlays and $3 billion in budget authority to State and local governments. We are giving them those kinds of funds and I think they are going to be there and want to have those kinds of funds—want to receive it.

I think what we are going to find out now—and again, I think it was easier to vote earlier this morning on that revenue-sharing measure, because at that time we were not facing the reality of what that was going to do. Everybody was saying, oh, we can make these cuts up.

How many cuts have we made up since we had that vote on revenue sharing? We have not made up any yet, but we have lost some money. We have lost a little money in it so far.

But we are going to have some kind of vote, maybe after this, to see if we make up the cuts.

But the test—and I think it is a very valid test that the Senator from Connecticut makes——

Mr. STONE. Will the Senator yield?

Mr. CHILES. I shall in just a minute.

Do we want to waive the process now? Do we want to say that the figure we said we could live within we cannot live within? And if we are going to waive it for the amount of revenue sharing, what about the Senator from California? Should he not have a waiver for his project? And some of the other things that are very necessary to waive, are they not going to get waived once we start waiving the ceiling?

I submit that I think they are and I think that, once we start waiving it, no longer have we set a discipline on ourselves. No longer do we have a ceiling that we are going to have to live within. We are right back to business as usual, except we have a high-falutin' Budget Committee with a lot of staff that we have appropriated some money for. We have a lot of hearings and we think we are doing a lot of good. But we are not doing anything. We are not going to follow the product that ultimately comes out, the product that, ultimately, this body has to approve.

It is this body that approved that ceiling and now I think we are going to get the opportunity to determine: Do we mean it or not?

I yield to the Senator from Florida.

Mr. STONE. Will the Senator agree that if we vote down this waiver, if we stick to the budget ceiling, do we not also commit ourselves to do the job immediately thereafter and for the rest of the evening on the rest of this bill?

Mr. CHILES. I think we do and I think this kind of puts us in the position that some Members in here have written and made their commitment back home. That is for a constitutional amendment to balance the budget.

That constitutional amendment for a balanced budget—I am worried about that, because I think we get into items that we are now talking about, that our Republican friends want to have a tax cut right now. Certainly, it takes the budget out of balance and we would not be able to do that if we had a constitutional amendment.

But that proposition is like the State legislatures in which many of us served—you cannot go home until you raise the revenue or cut the cloth to fit the pattern. That is where we are now. We set the ceiling and the distinguished chairman of the Budget Committee is going to make points of order on this bill, on items, until we do fit it.

I agree with the distinguished Senator from Florida. If we do turn this down, certainly, we are committed to either raise the revenue or make cuts. It can be done in several ways, but we come back to the ceiling.

I yield to the distinguished Senator from Connecticut.

Mr. WEICKER. Mr. President, the distinguished Senator from Florida mentioned the fact that we passed the concurrent budget resolution. Does the distinguished Senator from Florida also agree that in that concurrent budget resolution was this money for revenue sharing?

Mr. CHILES. It was an item that the Budget Committee was assuming there would be room for at the time we passed that. As the Senator knows, those assumptions are not binding on the Appropriations Committee. They are there to show how we go about coming up with the figures that we come up with. But they are not binding on the Appropriations Committee and it is not required to follow them.

Mr. WEICKER. I understand that, but it certainly indicates that the commitment was there, was being made, in all forms, whether in the Budget Committee what have you. That is the issue before us. It is not some wild idea off the wall. It is something that has been there all along.

There have been other accommodations made, political special-interest accommodations, and I think we know what they are. This one was planned for all along. The commitment was there all along. The promise was there all along.

So, please, do not make it look as though this is dragging in something beyond the budget process and bringing it up anew before this body. That is not true.

Mr. CHILES. I say to the distinguished Senator from Connecticut that, at the time we made that assumption that there would be room for revenue sharing, we also assumed some cuts would be made.

That did not turn out to be made. It did not materialize. So some things we assumed did not materialize.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think the Senator from Connecticut is right on two very important points. The first point is that we are at a time of decision, and that is whether or not we accommodate the $500-some million, and the only way, realistically, to do that is to lift the budget ceiling.

There is no other realistic way for us in the short term.

We know the morass that we find ourselves in when we try to find an equivalent amount of cuts within a limited amount, as the Senator from New Mexico pointed out, of money.

We are not talking about the remainder of the unexpended 1980 budget. We are talking about 15 billion or 16 billion dollars' worth, and so we have a very difficult time.

Realistically, we are all knowledgeable as to the political realities of this body. The practical fact of the matter is that we are very unlikely to come up with an amount of money in cuts within the $15 billion or $16 billion that would allow us to, first, stay within the ceiling we set, and, second, at the same time accommodate the revenue sharing.

So the Senator from Connecticut is right. He is doing, in my opinion, the right thing. He is making a motion here for us to lift, or raise, if you will, that ceiling, in effect, by waiving the Budget Act.

I, as a member of the Budget Committee, am not here to instruct my colleagues or anyone else as to what they should do in terms of priorities. But it seems it is part of our responsibility. The able chairman of the committee can speak to this better than I, but the responsibility of the Budget Committee is not to wield power, not to attempt to force the Senate to accept those priorities, but merely to, if you will, educate the Senate as to what they are doing.

Sometimes many of us, myself included, are unaware of the complexities of the procedural problem that we face.

But the fact of the matter is that

this morning, about 4 hours ago, the Senator from California, to reiterate the point the Senator from Florida made, the Senator from California made a compelling case for solar energy, and the Senate as a whole, not because they are chameleons, or political opportunists, not because they do not want to face the music, but because they thought it could be done, and the projects made sense, said, "Yes." They focused on one point.

Thus, this project, which will cost x amount of dollars if, in fact, we cut it off, does it make sense to continue, and based on that criteria, it made sense.

Then the Senator from Delaware and several others stood up and said, "Gentlemen and lady, are you aware of what you just did? What you just did was the following." Then we made our arguments.

Then the Senate turned around and by a vote of, I believe, 72 to 11, or something like that, said "Yes, Budget Committee, you are right. Thanks for pointing out to us what we just did."

I assume that is what you all did.

Now, we are on the floor again. There are some of us on this committee who support revenue sharing and some who do not. I quite, frankly, do not like it, never have liked it, and am sick of representatives of States coming into town passing one resolution, and only one, both Democrat and Republican, and that is that the Federal Government should spend less money.

I am for that, for the spending less money, and the first ones I want to get less are the 35 States that have surpluses, like mine, but who like to lecture me and send resolution after resolution about the irresponsibility of this body.

In my State, for example, they owe the Federal Government money. They have a surplus. They can pay it. They not only do not want to pay it, they want the Federal Government to send them more money.

Other Senators raise a point of order who think I am absolutely wrong about revenue sharing.

It is the culmination of the new federalism that allows control by local authorities who know better what to do with their money. We know all the arguments.

But the fact of the matter is, here we are on the floor of the Senate, and the Senator from Connecticut is right. Except for one little point.

The fact of the matter is that in addition to our having to bump the ceiling, one other thing is at stake.

Every businessman with whom I spoke, forgetting labor folks for a minute, every businessman with whom I spoke during the torturous budget process—and after this, Mr. Chairman, you have my resignation. I do not want to be on the committee any more.

They were saying one thing, saying, "Senator, you all are going to go through the motions, the House and Senate and the Budget Committee are going to make a number of cuts. But you know what you are going to do? After all is said and done, you are going to come in before the close of business, and for good reasons, flood, pestilence, and political necessity, you are going to come forward and say, you know what, we cannot stay within that ceiling."

Therefore, why should we, business people, rely upon your assertions that you have everything under control when I, as a corporate executive, agree to a budget and, even if the building burns down next week, I have got to live within it. But you do not run your operation like a business.

And all my Republican and Democratic friends stood up and said, "You know, you are right, but we really mean it this time. We are willing to make some of those hard decisions that we know are going to be before us."

For example, I do not think Chairman MAGNUSON planned on Mount St. Helens blowing up like it did. He is a powerful figure, but I do not think he had anything to do with that. [Laughter.]

Yet we all acknowledge that we have to do something about it.

Tomorrow, a hurricane blows away part of a State, and we are going to need to help.

So businessmen said, because you have to do that, we know there is no reason why the Street, Wall Street, or the business community, or any of the fiscally sound and economically conscious elements of our society should have any faith in you.

I note Senator ARMSTRONG smiling. He is a good, sound, fiscal conservative.

We come along and say, "Well, you were wrong. We meant what we said and we are going to make those tough decisions, regardless of whether it is pestilence or political necessity."

Mr. WEICKER. Will the Senator yield?

Mr. BIDEN. I am just about finished.

Mr. WEICKER. These businessmen the Senator talked to, did they include businessmen who represented the Chrysler Corp., the $1.5 billion, for which the Senator from Delaware voted?

Mr. BIDEN. At the time that came up, it was all part of that mix. We knew what we were doing, the Chrysler was close to going. In addition, we also worried about whether others would go, on down the road.

We know that. We know that is a possibility.

I am not talking about where we spent it, but once we set it, there is a discipline and an integrity to the process, whether or not we vote to blow the ceiling, and I acknowledge the Senator from Connecticut is correct.

Mr. DURKIN. Will the Senator yield?

Mr. BIDEN. Not right now.

The Senator from Connecticut is correct, that the States did count on it. The States did want it.

BIDEN caveat: They do not deserve it, but they want it, and they planned on it, and they had reason to plan on it, just as a number of other folks had reason to plan on the fact that they would not be caught in a thing that they never heard of before—a rescission. It sounds like an incision, and that is sort of what it is. Three pages of it, the committee went through.

Folks were told earlier in the year, "You're going to get x plus 10." Now we are saying, "You're only getting x plus 2," or, "May be you're not even getting x."

As one famous American said, "Life is not fair." It is not fair. We are in the position of saying, "Do we stick with the integrity of the process, or do we go forward and do what is justifiably and reasonably asked by the Senator from Connecticut?" That is, lift the ceiling.

I suggest to the Senate that the integrity of the process is very much at stake; and, quite frankly, I do not care much about the specific issue as much as I do about what it does to the Senate. What is going to be written tomorrow? What are the headlines going to say for the next couple or days about how Congress has no discipline to stay within the ceilings they set, or close to it? Forget the balanced budget. Is there any integrity to the process?

I yield the floor.

Mr. HOLLINGS. Mr. President, this is about the fifth time the Senator has resigned from the Budget Committee. [Laughter.]

I keep talking him into coming back. He is a most valued member.

The Senator from Florida has made a very eloquent analysis of exactly the dilemma we are in, the issue before us.

The resignation we hear about is what frustrates us all, because no Senator in this body who has the least awareness of what is encompassed within this budget process would insult the hard work and the dedication of the members of that committee in such a casual fashion.

We do not plead for acceptance, as the Senator from Delaware says. It is not our duty to force our opinion as a Budget Committee but, rather, to educate and to administer what the Senate has found to be a good, wise, and restrictive policy, in a time when the political temptations are great to just waive.

Now let us go to the real history of the Budget Act, because the distinguished majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), is on the floor, and the Rules Committee, as he knows, led the way.

There is no question that section 904 was never intended to waive the particular spending limit in the fashion that the Senator from Connecticut attempts here this evening. When we wrote the Budget Act, we specifically provided for those authorizing bills that were reported after May 15 by including section 402, a waiver section.

With regard to spending in future years, as we considered the budget process, we realized that could occur, and so we provided a waiver for those cases. But for spending this year, on this resolution, there is no waiver, and it is intended as such.

If you want to change that procedure, then let us take it in consonance, in conjunction with all the other particular priorities; because the budget process is a sort of conjunctive effort. We must look at it in its entirety.

We can go back and get a different budget. We can get a different resolution. But look at section 904, which is employed here and has been employed by the Senate before, in emergency situations.

It is entitled "The Exercise of Rulemaking." I have been here 14 years. I do not remember the suspension of rules of the U.S. Senate. We can do that. This is a rulemaking power. The House and the Senate enacted the provisions of this title and of titles I, III, IV, and the provisions of sections 606, 701, 703, and 1017, as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are to be considered as part of the rules of each body, respectively, or that body to which they specifically apply, and such rules supersede other rules only to the extent that they are inconsistent therewith, and with full recognition of the right of each House to change them. Thus, any provision of titles I, II, or IV may be waived.

Section 904 was included in the Budget Act so that we might change the budget rules of the House and the Senate without getting a Presidential signature. But it is not intended to be a waiver rule. Why go through this exercise? It is like floating interest—you have a floating budget limit. All you need to do is move on the floor to raise the limit.

The House of Representatives did not have any difficulty with this. They kept the limit. They adhered to it and never considered any idea of waiving the budget limit just because it was impossible to live within.

We have not exercised that discipline within this body this afternoon.

There are those—the Senator from New Hampshire and the Senator from Connecticut—who do not want the budget process. They have told me so. They say, "I want a waiver." Therein lies the reason for our appeal to the Senate's attention.

When Senator WEICKER says, "Automatic mechanism; no regard to the Members on the floor," then we have to be heard. We have to be heard.

We start in January, and we held our hearings. We heard Members of the Senate and the House of Representatives. We heard the outstanding economists, financial experts, bond analysts, everybody you can think of, as well as defense experts, because that was a matter in issue this year. Governors came before us. We heard about revenue sharing and all these things. After a deliberative process, we held our markup, and it was not an easy thing to do.

We reported by April 15, and Senators know how we came on the floor with some 40 amendments that we beat down, working until 3 or 4 o'clock in the morning. And now it is called an automatic mechanism. It is an exhausting mechanism. That is why the Senator is resigning—because, evidently, they do not understand and they do not appreciate.

You do not have to agree, but do not come here, casually, and say that the intent of the Budget Act is that when you want to exceed the limit, it can just be waived.

Mr. BIDEN. I am resigning because I want to be with a committee that gives something.

Mr. HOLLINGS. It is a constant task in saying no, no, no, as the Senator indicates.

But it is not an automatic mechanism. That is a false argument. But the balanced budget is not.

It was not a balanced budget last year, when we adopted the first concurrent resolution in November. It was not balanced this year. The first concurrent resolution was adopted in May 1979. The second concurrent resolution was adopted on November 28.

Now we have adopted the revised second concurrent resolution for 1980, and it never was balanced, and no one has ever said it was balanced.

If we could restrict ourselves, we could work toward balancing next year's budget.

But let us do not be casual about it and say, "Well, now, it is not balanced so we can do what we want."

No one ever contended in all of the debates and consideration that we could not cut back. We tried to.

The Senator from Colorado and others can remember the many motions we made to try to cut back $20 billion on the 1980 budget.

But we faced the Chrysler loan. We faced the nearly $4 billion in military and civilian pay costs. We faced here medicaid and trade adjustment assistance.

We saw the emergencies coming down in Florida, Mount St. Helens, the slides on the west coast, the floods down in Louisiana and all over. So we had to provide for those things.

But let us not come here at this hour and say, "Now we just did not want to do away with revenue sharing so the way to pay for it is to waive the budget resolution."

What you in essence do when you make this motion, which is for the first time on an appropriation bill is, just to say "disregard that budget limit." What we are really doing is to decide instead of a budget process that we prefer anarchy. We set the worst possible precedent we could possibly set. We worked now for 6 years. We have had all the doubting Thomases and all the opposition. There are many instrumentalities that would like to see the budget process die. The White House would like to take it over. We are a bad memory to them on both sides, whether it be a Republican or Democratic President. We found in the defense budget a 2-percent cut insurance. It was not until we got this budget process that we found that out, that they were ballooning their request by 2 percent, saying that, "After Congress got through and did their cuts we would get what we wanted originally."

We made the decisions to be honest about budget totals even when we saw false projections by the administration.

We have seen, for example, some outside groups that opposed this budget process from the very beginning, they have a free reign over there in the House of Representatives.

The question is are we going to take control of ourselves here this evening? The question is not the Budget Committee. It is ourselves. The Senator from Connecticut who makes the motion to waive the Budget Act tonight voted for the budget resolution just 2 weeks ago, when we passed it.

Now he says 2 weeks later "just take off the limit."

His motion is not really provided for in these rules. It never was intended. And everyone should understand the history and background of this budget process and appreciate that it is far from any automatic mechanism.

Here we are in the sixth month of the year. We have met more and heard as many witnesses and marked as much, I say to my colleagues, as any other committee of Congress this year.

This is Congress' budget process. The Members themselves voted some 61 to 26 just 2 weeks ago for this particular budget. The House of Representatives adhered to it. They found a way to deal with this appropriations bill without waiving the budget rules and doing away with the process.

Please, let us not embarrass ourselves here and by doing away with the budget process. Let us not go to anarchy with a floating budget level as is now recommended in this particular motion.

Mr. BELLMON. Mr. President, will the distinguished Senator yield.

Mr. HOLLINGS. I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise to support everything our Budget Committee chairman has said, but I wish to approach it from a little different angle. I wish to begin by commending the Senator from Connecticut. I believe he has brought the Senate with this motion face to face with the problem that led with the Budget Act creation back in 1974. This is the way we used to do it. We would come in here, someone comes up with a popular proposition, we all agree to it, and then someone else would offer an amendment to raise spending and we would agree with that.

I remember one time here when we had the HEW appropriation bill which the distinguished Appropriations Committee chairman would remember. We had 18 different amendments adding money to that bill, and then we wonder why we have such a huge deficit. So the Budget Act was created to give us some discipline.

Now, after having fought for 6 months to get a budget that is within the limits we have set, after all the blood, sweat and tears we go through we come now here almost literally in the 11th hour and move to sweep the whole process aside and go back to our old system of spending whatever comes in our minds.

Members remember that it was only 2 weeks ago that we passed the budget resolution by a vote of 61 to 26 which set the limits for spending for fiscal year 1980 and 1981.

That budget mandated some savings for both those years so now we have come to our first appropriations bill since the budget resolution and we are face to face with the idea that we are going to back up on what we agreed to only 2 weeks ago.

It is interesting to note that counting all the amendments we approved here today we already are over the budget, and the Senator from Connecticut voted for the resolution, so now he and others wish to waive it to make room for this spending.

Mr. President, there were 26 votes against the budget resolution and virtually everyone of those Senators voted "no" because they wanted less spending, not more. A lot of them are on my side of the aisle. I do not remember many Senators coming to us and stating that they had voted against the resolution because they wanted to spend more. They virtually all wanted to see a smaller resolution than the one we have.

Setting aside the budget resolution only 2 weeks after it was passed in my opinion is a serious matter. This would be the beginning of a very serious erosion in the budget process and it is an erosion that would be very hard to reverse once it gets put in place.

Mr. President, the Senator from Connecticut could have saved us a lot of trouble and a lot of trauma if he made this motion 3 or 4 months ago. We would not have worked half as hard to get a resolution before the Senate if we had known we were going to do all that work and then have someone come in here at the 11th hour and move to wipe it all out.

So I do not believe that the Senate is ready now to confess defeat and to say we are ready to see the Budget Act, in effect, to be set aside.

So, therefore, I strongly oppose this motion by Senator WEICKER. As we all know, what he is trying to do is to spare the Senate the agony or the responsibility of trying to find cuts to offset the increased spending that the Senate agreed to when it endorsed Senator WEICKER's motion to restore the State revenue sharing.

There are other ways of doing this. If we decide the State revenue sharing is of highest priority there will be other motions to find other ways to cut back. This happens to be the way the Appropriations Committee tried to stay within the budget ceiling.

The Senator from Delaware has been reminding us all day that the Senate has a bitter pill to swallow. Now comes along Senator WEICKER with a sugar pill that we can take this and get out of any pain or any trouble at all by simply suspending the act.

Mr. President, I feel it would be a very serious mistake if we did this.

To me this is nothing but a copout. We want to have it both ways. We want to pretend we have a Budget Act; yet we want to go ahead and spend anything that we feel is necessary for us to meet what we think are the commitments we made to the Governors or anyone else.

I do not believe we can have it both ways. If we are going to have restraints we have to protect the act and turn down the motion of the Speaker from Connecticut.

Mr. WEICKER. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BELLMON. I do not have the floor.

I yield.

Several Senators addressed the Chair.

Mr. HOLLINGS. Mr. President, I agree. At the time I am going to move to table that motion, but I did not want to do it to cut off any discussions.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, let me make a quick statement first if I may.

Mr. President, there are not many advantages to missing votes and being absent most of the day which I regret, but one of the advantages to missing a good bit of the session today is I come back to the Chamber with a different perspective and detachment that possibly some other Members in the Chamber do not have.

When I walked in the Chamber a little while ago I could virtually feel the tension that had grown up in the course and process of the consideration of the supplemental.

I could also see and identify the major players in this piece, and I commend them for it.

I could see the distinguished Senator from Connecticut who won a major victory and had I been here I would have supported him. As a matter of fact, I was prepared to make the point of order or an amendment as he did. I think he did a better job than I would and I commend him for it.

I can see the distinguished Senator from Washington who is the respected chairman of the committee trying to find a way to get out of this problem that has been caused by an overrun in the budget. And I can see the calm, cool of the majority leader as he moved among the chairs trying to see what was going to happen next or maybe trying to say what is going to happen next.

But I could also see the distinguished chairman of the Budget Committee and the ranking minority member of the Budget Committee protecting their turf also. I commend them for it. That is what they are supposed to do, and that is the way the act was built and designed and I think it was entirely proper.

But the single bit of remaining perspective that came through to me as I walked through the Chamber on returning this afternoon was surely this is not the only way to deal with this problem.

Surely there are other ways. I sat and listened to the debate for a while and I heard the outstanding presentation by the chairman of the Budget Committee and the supplement given and the additional information and points of view of the Senator from Oklahoma, the senior Republican. I heard such things as, "We are going to suspend the Budget Act," or "This is a copout," or that "This is going to destroy the budget process," or "This was never intended," and it dawned on me that surely we are not narrowly confined to just that focus.

Let me examine just for a moment what else we might do to try to explain my perspective.

The budget waiver is not the only thing we can do. As a matter of fact, before this speech is over I may encourage the Senator from Connecticut to withdraw his budget waiver, his motion for a budget waiver, and I may not, but I may.

But there are other things certainly that can be done to accomplish his purpose in mind and to reconcile the point of view and to protect the turf of the Budget Committee and the Appropriations Committee.

I have here in my hand a two-page list of other items with which we are all familiar: Mount St. Helens is about $1 billion; Soil Conservation Service $3 billion; increased military and civilian pay costs $3.7 billion; medicaid $2.1 billion; trade adjustment assistance $1.4 billion; disaster relief, not including Mount St. Helens, $785 million; SBA Disaster Loan Fund, not including Mount St. Helens, $750 million; Black Lung Disability Trust Fund $400 million; Student Loan Insurance Fund $650 million; urban mass transit $300 million; additional food stamps $200 million; forest fire costs $140 million; and Chrysler $1.5 billion.

Mr. President, it goes without saying then that we are not bereft of opportunity. There are certainly more ways than one to skin a cat, and I do not plan on trying to see our cat skinned, if I can help it. I am speaking of revenue sharing, and I speak with frank prejudice.

Many of you in this Chamber do not recall—the Senator from South Carolina does and the Senator from Oklahoma, certainly our senior Member, Senator Young, recalls—that I made my maiden speech on this subject. The late Senator Hubert Humphrey and I not only cosponsored the original revenue-sharing bill but we did something that might be done more often in this campaign season of Presidential elections. We got a revenue-sharing plank that was identical in language adopted by the Republican and Democratic national conventions in the same year. We did that and we sat down and constructed a formula for revenue sharing that was intricately put together and adjusted to meet competing needs and requirements, and we designed that package so that it became a compact with the States. There were assurances that flowed from the voices of so many Senators on this floor saying, "This is not a grant-in-aid program. This is a compact with the States. You can depend on it. We are not even going to put it through the regular appropriation process. So you can depend on it, you can depend that we will have a trust fund. So you can depend on it."

Mr. President, I am devoted and dedicated to revenue sharing so that I am prepared to say, as I do now say, that I will be willing to cut any other program in this bill, any other program, in order to preserve that compact we made with the several States when our bipartisan effort produced revenue sharing, which was the first major advance in the reversing of the flow of power to Washington and returning it to the States in more than 30 years. I will do almost anything to do that.

That leads me then to the final point I wish to make, Mr. President. I would like to see us not go with a budget waiver. I must tell you I am impressed with the concerns expressed by the Senator from South Carolina and the Senator from Oklahoma. I disagree with them that this is not an appropriate subject for a budget waiver. I think there are no restrictions of that under the act, but I agree with them it is not the prime and best way to deal with this subject.

I would far rather see us do one of three things: I would rather see us go about the business of trying to adjust this act, this bill, so that we save the amount of money that is required to makeup for the additional revenue-sharing funds by adjustments to all or any parts of the bill, with one amendment or a series of amendments or I would prefer to see us go through the business of finishing this bill and testing it then on a point of order, and I believe a point of order would lie against this bill if, in fact, it exceeds the budget.

It would be a point of order not because of the new budget resolution we adopted but because of the second concurrent, which is embedded in this act, which is sometimes referred to, I think, as the third concurrent budget resolution.

But in any event there is a possibility we could address this question by a point of order which would send this bill back to the Appropriations Committee to make those adjustments.

Mr. MAGNUSON addressed the Chair.

Mr. BAKER. Wait just a minute. I have great respect for the chairman of the Appropriations Committee but I aim to finish.

You can do that or we can also go about the business of making a motion to commit this thing with instructions to report back with these adjustments already made.

Mr. MAGNUSON. And somebody will invoke the 3-day rule.

Mr. BAKER. Mr. President, I do not yield.

The PRESIDING OFFICER. The Senator from Tennessee does not yield. The Senator from Tennessee has the floor.

Mr. BAKER. Mr. President, those are three alternative possibilities we have.

There are three things we can do. The first one of those, in my judgment, is the most desirable, that is, for the Senate to swallow that bitter pill, to bite the bullet, and get on with the business while we are still considering this piece of legislation on the floor.

The reason I was rude to the chairman of the Appropriations Committee is because he had not heard me express that preference yet. My preference is to see that we do what we should do here on the floor and get together and construct a series of amendments or a single amendment that will earn the credits that are required to fund the full portion of State-share revenue sharing. We can do that. That is my preference.

Now, my recommendation to the Senator from Connecticut: I do not know whether we can do that or not. I do not know who will take the initiative. I do not know what status we will be in later tonight or even tomorrow if we finish with this bill. But you do not have to offer the budget waiver now, and I would urge him to consider, and those who are cosponsoring this with him, that he temporarily withdraw that budget waiver and we proceed with this bill and see how it may adjust or not adjust in the course of this evening and prior to final disposition.

Mr. WIECKER. I would like to say to my distinguished colleague and minority leader and friend, I am very much moved by his remarks, both in the sense of accurately describing the condition here on the floor and in relating it to the history of the legislation and in offering a variety of solutions to the predicament in which we find ourselves.

I think it is also true that the motion of the Senator from Connecticut was as much to protect the victory which he had won this morning in a parliamentary sense as it was meant to achieve anything insofar as substance was concerned.

I have no objection at all to the alternate methods described by the distinguished Senator from Tennessee. At least, I understand, in conversation with the distinguished Senator from Oklahoma, that he has developed such a package of cuts to bring the supplemental into line, leaving in place the amendment of the Senator from Connecticut.

That is the reason why I am on my feet, that is the reason why I have been on my feet, most of this day. If it would accelerate a resolution of the problem confronting us—I have no desire whatsoever, as I stated earlier this morning as I was trying to get through my amendment—to in any way inconvenience the membership or keep this place in session all night long or tomorrow and make it impossible to go to conference. That is not my point.

I spoke for revenue sharing and I won on that point. How we go ahead and preserve that amendment, I am certainly willing to accommodate and to compromise whatever way this body deems fit.

Having stated that, I am prepared for my part to withdraw the motion. However, I want to repeat I am prepared to do so in the hope that there is not going to be an end-around play here, that, in effect, vitiates the action which the Senate took this morning on revenue sharing. That is my only interest.

Mr. DOMENICI. Mr. President, will the Senator yield to the Senator from New Mexico?

Mr. BAKER. Mr. President, will the Senator yield once more? I was not aware of the fact that the yeas and nays have been ordered. It will require unanimous consent to do what the Senator from Connecticut has indicated he is willing to do. I suppose we all have to take our chances if this is granted, frankly, on what the final result will be. But nothing in this action, as I see it, will jeopardize the Senator from Connecticut's opportunity to offer that waiver later in the bill if he wishes.

So, Mr. President, I hope, as soon as practical, the Senator from Connecticut might be permitted to ask that unanimous consent request in order to withdraw his motion and proceed.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I will oppose the withdrawal of the motion. I will object to the waiving of the yeas and nays which have been ordered on that motion.

We have had several hours of discussion of this motion. I understand the distinguished Senator from South Carolina (Mr. HOLLINGS), who is chairman of the Committee on the Budget, will move to table that motion. I think we ought to have the Senate vote on that motion to table.

If the motion to waive were to be withdrawn, of course, it could be renewed later. If the motion to table that motion to waive is made and is sustained, that motion cannot be made again for a while, at least, as I understand it. So, we may as well have the action of the Senate on the budget waiver proposal now, or else we may be faced with it again later this evening or tomorrow.

I would suggest that, inasmuch as we have debated this matter thoroughly ad nauseam that we ought to proceed now, when the distinguished Senator is ready to move to table.

I appreciate the reasons that have been stated by the distinguished minority leader and the distinguished Senator from Connecticut. But I think now that we have gone this far we ought to have the Senate speak on the motion to waive. I hope the Senator from South Carolina will move to table that motion.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BUMPERS. Mr. President, the question probably ought to be directed to someone else, but I am sure the majority leader will know the answer.

That is, No. 1, this bill, except for the motion now pending, is subject to a point of order; is that not correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. BUMPERS. So if the motion to table the motion to waive is not agreed to, somebody could make the point of order and the Chair would sustain it and what happens to the bill?

Mr. ROBERT C. BYRD. If the Senate sustains the Chair, the bill will go back to committee or go back on the calendar.

The PRESIDING OFFICER. The bill would go back on the calendar.

Mr. BUMPERS. The final question is—and maybe this ought to be directed to the distinguished chairman of the Budget Committee—if the motion to table is sustained and the bill is subject to a point of order, at that point he or the distinguished Senator from Tennessee, perhaps, or somebody else, could offer a package of cuts equaling the amount that exceeds the budget resolution which would again put the bill back in order; is that correct?

Mr. HOLLINGS. That is right.

Mr. BUMPERS. But if somebody chooses to create more havoc than has already been created around here tonight and gets the floor to make a point of order in this thing, then "Katie bar the door?"

Mr. HOLLINGS. That is true.

Mr. President, let me say, particularly to the Senator from Tennessee, that what he has suggested is what was going on.

In fact, I was working with the minority whip, Senator STEVENS, and all of us here, and we were working out just that kind of a program.

The distinguished Senator from New Hampshire (Mr. DURKIN) and others said, "Wait a minute." I said, "What do you want?" We were acting in a spirit not of tenseness, as the Senator talked about as he comes back from his travels, but, on the contrary, in a spirit of give and take. But there was an adamant feeling, "No, I want that vote on this waiver. I believe that we ought to waive."

And so therein is the answer to the question of the distinguished Senator from Arkansas (Mr. BUMPERS). That is why we had not made the point of order. We did not want to cut off anybody. Sure, we wanted to give the Senate the chance to work its will. We wanted to see if we could get other savings in here that were not thought of by the Appropriations Committee or others, and let the amendments come up. But the spending proposals were getting totally out of line, up and up and up.

Mr. DURKIN. Will the Senator yield?

Mr. HOLLINGS. In just a minute, I will yield.

The Senator from Tennessee said we are protecting our turf. I say to the Senator most respectfully, we are protecting his turf, every Senator's turf.

This is not the Budget Committee's bill. This is the Appropriations Committee's bill, as amended.

And as strongly as you feel about the issue of revenue sharing—and we can look back at the date when the Senator and I both came up with that proposal. I put mine in the 1st of February, 1967. And I feel just as strongly about and know the value of it as anyone else.

I think there is an even higher priority in this budget process of bringing that inflation rate down from 20 percent to 12 percent, creating some public confidence in Congress and creating some confidence in this Washington Government and getting a hold of ourselves.

So it is not the Senator from Oklahoma and the Senator from South Carolina protecting their turf.

I will gladly yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from South Carolina.

Inasmuch as the Senator made reference to the point of order, I thought I should make the reason clear. First, the proposal called for reducing at least half the remaining fiscal 1980 revenue sharing. It was going to knock out $30 million from the Corps of Army Engineers, which concerned some other Members here. It was going to knock out about $150 million from the Export-Import Bank. It was going to knock out funds for CETA. It was going to reduce the pay for civilian employees in DOD. It was going to adopt the Bellmon trade adjustment formula on the date of enactment of the supplemental.

That is why I make the point of order and I will make the point of order again if that comes up in that form.

Mr. HOLLINGS. Mr. President, right at that point we had the Senator from Alaska yielding on trade adjustment assistance, was prepared to yield on CETA, and he yielded on a couple of other things in the amendment and it still was not satisfactory.

I do not want to cut off the debate, but I think we should move on. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from Connecticut (Mr. WEICKER).

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Iowa (Mr. JEPSEN), the Senator from Indiana (Mr. LUGAR), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there Senators in the Chamber not having voted wishing to vote?

The Chair hears none.

The result was announced—yeas 43, nays 39, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—43

Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
DeConcini
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Long
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Stennis
Stevenson
Stewart
Stone
Williams
Zorinsky

NAYS—39

Armstrong
Baker
Boschwitz
Bradley
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Durkin
Hatfield
Hayakawa
Heinz
Helms
Javits
Kassebaum
Laxalt
Levin
Mathias
McClure
Packwood
Percy
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young

NOT VOTING—18

Baucus
Burdick
Cannon
Culver
Garn
Goldwater
Hatch
Jepsen
Kennedy
Leahy
Lugar
McGovern
Melcher
Morgan
Pressler
Ribicoff
Stafford
Talmadge

So the motion to lay on the table the motion of Mr. WEICKER was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any further amendments?

Mr. DOMENICI addressed the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 1335

(Purpose: To Restore $65 Million for Energy Conservation Programs for Schools, Hospitals, and Public Buildings and Other Purposes)

Mr. BUMPERS. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposed an unprinted amendment numbered 1335:

On page 80 strike lines 2 through 6 and insert the following: $107,000,000. Of the total moneys appropriated for the operation of the executive departments and agencies of the Federal Government for the fiscal year 1980, $65,000,000 of the amounts available for obligation for contractual support, including experts and consultants, is rescinded.

The PRESIDING OFFICER. The Senate will be in order. The Members will take their seats. Senators will cease conversation in the aisles. Staff will retire to the assigned seats in the back.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I assume that the reason all Senators are staying is that they are waiting with bated breath to find out what this amendment is. It will only take me about 3 or 4 minutes to tell them.

Mr. President, in 1978, Congress adopted the National Energy Policy Act. In that bill, we provided a substantial amount of assistance to schools and hospitals for energy conservation. It was to be administered by the States and the States would share the cost on a 50-50 matching basis. For reasons which are unknown to me, the Appropriations Subcommittee rescinded $65 million of the aid that was going out this year for these two purposes. The President did not rescind it; the House did not rescind it; the Senate Appropriations Committee did.

My point is very simple and I shall make it brief. This is a case where we have done something that was really penny-wise and pound-foolish. With the amount of money that is being spent this year, if we allow this $65 million in authority and $20 million in outlays, the budget impact is really only $20 million this year. The total savings of imported oil is 2.3 million barrels, which translates, at $35 a barrel, into $81.9 million.

In other words, Mr. President, if my amendment is adopted, we get a return of $16.9 million the very first year, to say nothing of every year thereafter.

In Arkansas—and it is not only true in Arkansas; it is true all across the country—the State energy departments, which are administering these funds, are literally swamped with applications. We have over three times as many applications as we can fund, even with the restoration of this money.

All Senators, somewhere on their desks, if their staff has not run off with it, will find a "Dear Colleague" letter which shows two things: How much money this can mean to each Senator's State; No. 2, how many applications they have pending that they cannot fund unless this rescission is restored.

Finally, Mr. President, the beauty of this is that this amendment has no budget impact, because I also provide that the Government can rescind $65 million—actually, this would be done by OMB—in consultant contracts. In the last 48 hours, Mr. President, Senators have seen revealed how much money the U.S. Government is spending on consultant contracts on an annual basis. Billions. Billions, Mr. President. For us to rescind $65 million which would return $81 million the very first year is extremely foolish, when we know this kind of money is being spent in consultant contracts, with practically no return, in many instances.

Mr. President, we passed a synthetic fuels bill, which the President is going to sign out in the Rose Garden next Monday. I consider it the most significant energy bill to pass Congress since I have been here, because it has billions in there for conservation. I have argued and argued that this is the only option open to this country for the next 10 years—not that we should not be spending billions for synthetic fuels; not that we should not be spending billions on other methods of trying to replace imported oil.

But it is the cheapest we can buy when we do not use it, and it is the one which will provide cleaner air, cleaner water, a more secure existence of this country.

Talk to a college president, talk to a high school superintendent, talk to a hospital administrator, and especially in the latter category, he will say why he is so strongly opposed to the hospital cost containment legislation is because his energy bills are doubling every year and he has no control over them.

Mr. President, here is a chance for us to do something for the country, to help public institutions that need our help desperately, and break OPEC dependence and make the OMB scrutinize those consulting contracts more closely.

Mr. PERCY. Mr. President, I commend my distinguished colleague for doing something we ought to do more of in the Senate.

Congressman Steiger, our former beloved colleague, introduced in the House, and I did in the Senate, the Government Accountability Act, which in the long term OMB decided they would work with us on. It is part of S. 2, which we hope to report from Government Affairs in a matter of weeks. It is now sponsored in the House by my colleague from Illinois, JOHN ERLENBORN.

But the principle is now right before us. Take money from the least cost-effective areas and put it in the most highly cost-effective areas.

We know today, with the price of oil going up to $32 a barrel, or more on the spot market, that any money we put in energy conservation is probably the most cost-effective money we put in.

It costs us the equivalent of about $2 or $3 a barrel and we get it back permanently.

Some of these consultants, as my distinguished colleague (Mr. PRYOR) pointed out, are among the lowest cost-effective, least cost-effective money we spend.

So this amendment simply is to take $65 million from the least effective areas, the most wasteful, and put it in the most effective and, certainly, in an area which will help lessen our dependence on imported oil.

I urge my colleagues to join in this and support this amendment. I certainly have, and I commend my distinguished colleague.

Mr. PRYOR. Mr. President, I rise to support my colleague's amendment to this bill.

I must say, Mr. President, I do not know exactly all of the precise terms of this particular amendment my colleague has introduced this evening. But I do know one aspect of this bill that I believe to be very just, that is, where this money will come from. That seems to be very wisely stated by my colleague (Mr. BUMPERS).

I have done quite a bit of work for the last year in this particular area. Mr. President, I can attest without any reservation that this amendment of my colleague, which is attempting to transfer the use of Government consultants, one, is very wise, and, two, I think is very justified.

The basic problem we might have in any form of an amendment, or an approach at this stage, is deciding exactly how we identify where these consultants are, how the funds are being expended for them, and the way to properly identify where this particular money is.

I feel the way my colleague has described this amendment, in other words, directing OMB to locate this particular funding source, is the proper approach.

I feel this money is definitely there. I feel it could be effectuated with the adoption of the Bumpers amendment.

I also appreciate his interest in the interests of energy, energy conservation, and I rise to support my colleague.

Mr. MAGNUSON. Mr. President, I do not know much about the conservation part of the amendment, but the Senator and I know about the consultant problem.

All of us in the Appropriations Committee have been working on that for several years. We tried to cut them at least 20 percent. The junior Senator from Arkansas has done yeoman work on it, and Senator SASSER has done a great job. Senator PRYOR has worked on this in Governmental Affairs and I have joined him in sponsoring legislation he has now introduced.

I do not know much about the conservation. I will leave that to somebody else. But I know if we take any money out, a good place is consultants and their contracts.

Mr. HUDDLESTON. Mr. President, speaking for the subcommittee, let me say we approach our task of attempting to exercise some restraint on budgeting and meet the guidelines set down for us by reviewing programs under our jurisdiction.

The comments made by the distinguished Senator from Arkansas on the value of this program can equally be made on the value of 100 programs that have been cut.

We are trying in this body to achieve a balanced budget. We are trying to restrain Federal spending.

If I perceive the wishes of the majority of the people in America as I traveled around, that is what they want us to do. But the fact, of course, is that we cannot cut the budget, we cannot balance the budget, unless we cut some programs. It is just as simple as that.

I am having the same experience others are having, I am sure, even from the people in our constituencies. They all say they want the budget cut, yet we still get a flood of requests for increased funding. They all say virtually the same thing, "Sure, we want a balanced budget, we want to restrain Government spending, but this particular program happens to be so important, so cost-effective, that any cut in it at all would have very, very dire consequences. So cut all the other programs."

I fear some of us here on the Senate floor are trying to carry out that charade. Sure, it is fine for the Budget Committee to wrestle with these figures, trying to balance them, make the tough decisions. In the Appropriations Committee we do the same thing; we look them over carefully, and we know we will have to make some unpopular decisions.

But then when we come up here, some of us seem to have the opinion that we can vote for every special interest group in our State—that we can avoid voting against anybody—and still vote for a balanced budget.

Well, it is not going to happen. Everybody wants to go to heaven, nobody wants to die.

If we are going to restrain Government spending, if we are going to balance the budget, we are going to cut some programs, and some of them are going to be good programs. They are going to be programs we fought for over the years and tried to increase the funding on, and maybe this is one of them.

What we propose to do in this rescission will not destroy this program. The Department of Energy said it would get out $157 million in grants. They said they would get them out in 6 weeks, out to the schools and the hospitals around the country for this weatherization program.

Well, it is several months later and they still are short. They have obligated less than $120 million of that amount.

If this rescission stands, the worst we will do to the program is possibly delay the grants for a few short weeks. More than $60 million is still available, even with this rescission.

If we do not abide by this rescission, then we go to conference with no bargaining ground. If we do abide by the committee's recommendations, then we are in conference. If the situation justifies it, if we can stay within our budget authority, then we can make necessary adjustments at that time.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. HUDDLESTON. Mr. President, the Senator from Arkansas proposes a very appealing way to compensate for this budget-busting suggestion he is making.

We have all read the headlines and the stories, and we have seen the problems that apparently exist in the consultation services and contracting services of the Federal Government. I do not doubt for a moment that there are substantial abuses in the programs, and undoubtedly there are some funds that we can secure and allocate to some other purpose.

As the distinguished chairman of the Appropriations Committee has indicated, the Appropriations Committee has been working on this project for some time. But I do not believe that the Senate of the United States wants to abdicate its authority, to apportion the funds of this Nation to the director of OMB and say, "Look, you pick out the projects. You pick out the places that you don't like and grab $65 million and put it into this program for us."

That is not the way we have done business in the past, and I do not believe it is the way we intend to do business in the future. I do not believe we want to embark upon that course here tonight.

So, I urge Senators to recognize the effort that has been made by the committees in developing these figures, realizing that consideration has been given to every program, with every program in competition with every other program, in striving for a balanced budget, in arriving at figures that meet the budget resolution restraints which were placed upon us by a majority vote of this body. I urge the Senate to reject the amendment by the Senator from Arkansas.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. PROXMIRE. Mr. President, I commend the Senator from Kentucky. It is not easy to stand up and argue against a popular program, which he has done. He has done an excellent job.

I ask the Senator whether it is true that the committee has had no opportunity to determine how much is available in the last 3 months on consultants' contracts and where the money is. We do not know whether the $60 million cut can be made, or whatever figure the Senator from Arkansas proposes. If we do know, we should make that reduction independently, but not go ahead with a program which, as the Senator from Kentucky has pointed out, the committee has considered, thought about, along with dozens of other programs, and decided that it must—in the supplemental, at least—have a lower priority.

Mr. HUDDLESTON. I thank the distinguished Senator from Wisconsin.

We might say that a contract, by its nature, is something that you cannot reach out there and get on a moment's notice.

We are talking about the remainder of this fiscal year. You can cancel contracts. You can refuse to enter into future contracts and save money. But you cannot, all of a sudden, say, "We are not going to pay anything for which we have contracted services."

It may not be as easy to grab $65 million as we might think at this point, in the short time we have available.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, the Senator from Wisconsin has the floor, and I should like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PROXMIRE. As I understand this amendment, it constitutes a rescission from the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. I understand that a rescission from the floor is deemed to be legislation on an appropriation bill and subject to a point of order. Is that correct?

The PRESIDING OFFICER. That is the precedent.

Mr. PROXMIRE. My second inquiry is this: Would it be in order for a Senator to demand a division, so that we vote in the first place on the money that would be put into weatherization and in the second place on the consultant fee part of the amendment?

The PRESIDING OFFICER. The Chair advises the Senator from Wisconsin that it would not be in order. The rule on a division precludes the division of an amendment to strike and insert.

Mr. PROXMIRE. Mr. President, I make the point of order, then, that the amendment is not in order because it constitutes legislation on an appropriation.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

What did the Chair just say?

The PRESIDING OFFICER. That a request for a division was not in order. The parliamentary situation now is that the Senator from Wisconsin has raised a point of order against the amendment offered by the Senator from Arkansas.

Mr. BUMPERS. Mr. President, the Senator from Wisconsin makes a point of order that this is legislation on an appropriation.

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. The Chair is not sustaining that proposition, is it?

The PRESIDING OFFICER. The Chair is about to sustain it. [Laughter.]

Mr. BUMPERS. This amendment was practically drafted by the Parliamentarian so that is going to be very interesting.

I will now read the amendment in full:

> On page 80 strike lines 2 through 6 and insert the following: $107,000,000. Of the total moneys appropriated for the operation of the executive departments and agencies of the Federal Government for the fiscal year 1980, $65,000,000 of the amounts available for obligation for contractual support, including experts and consultants, is rescinded.

How is that legislation?

The PRESIDING OFFICER. In the amendment, the language beginning with the word "of"—"of the amounts available for obligation for contractual support, including experts and consultants, is rescinded"—constitutes a new rescission from the floor.

By precedent established on June 26, 1976, rescissions offered from the floor constitute legislation and would be out of order.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, in the interim, while the distinguished Senator from Arkansas is consulting with the Parliamentarian, I ask unanimous consent that it be in order for me to have a short colloquy with the distinguished Senator from Louisiana (Mr. JOHNSTON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I make this comment to my friend from Louisiana that because of the current shortfall in funds available to the Corps of Engineers, progress on the Falls Lake project in North Carolina has been temporarily delayed. I have been advised that the corps offices in Wilmington and Cary, N.C., have an immediate need for a minimum of $350,000 so that they can resume negotiations with landowners for the acquisition of several key tracts.

It is my understanding that the committee has recommended in this bill a supplemental appropriation for the corps in the amount of $136,600,000. My question is this: Is my understanding correct that the minimum amount needed, $350,000, for the Falls Lake project at this time, is included in this $136,600,000 appropriation for the Corps of Engineers?

Mr. JOHNSTON. Mr. President, in response to my esteemed colleague from North Carolina I say that there is a serious funding shortfall in ongoing construction contracts nationwide for the current fiscal year and that, of course, has pertained also to the Falls Lake project.

However, the committee provided the President's supplemental request plus an additional $31 million in this supplemental bill. If the amount as reported by the committee is not cut we expect that there should be sufficient funds to meet the ongoing requirements of the Falls Lake project.

Of course, if further cuts are made here in the Chamber, as has been suggested tonight, it could impact on the Falls River project as well as other projects nationwide, as I previously explained in response to the proposed amendment of the Senator from Alaska (Mr. STEVENS). But as it now stands we believe we can meet the ongoing requirements of the Falls River project and have every expectation that that will be done.

Mr. HELMS. I thank the Senator for this clarification. And I assure him that I have an amendment I will offer that will afford an opportunity to Senators to relieve some of the pressure in this bill by making spending cuts in other areas which ought to be reduced.

Mr. JOHNSTON. I thank the Senator.

Mr. HELMS. It has also been my understanding that the Senate does intend and expect that a minimum of $350,000 contained in this bill will be made available as soon as possible for the Wilmington and Cary offices of the U.S. Army Corps of Engineers to resume negotiations for the acquisition of land in the Falls Lake project.

I also ask unanimous consent that a resolution adopted by the Raleigh, N.C., City Council on June 17, 1980, urging completion of the Falls Lake project without further delay be printed in the RECORD at the conclusion of my remarks. The intent of the Senate is certainly in accordance with the purpose of the Raleigh City Council resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. (1980)-259

Whereas, construction of the Falls Lake has been supported by local, state and federal officials for a number of years; and

Whereas, the Falls Lake has been designated the number one water resources project in North Carolina by the state; and

Whereas, more than 75% of the estimated total project cost has been allocated or budgeted by the U.S. Government; and

Whereas, the cost-benefit ratio of this project remains extremely favorable.

Now therefore be it resolved by the City Council of Releigh that:

Section 1. Continued funding for the Falls Lake in accordance with the capability of the U. S. Army Corps of Engineers to meet the revised August 1, 1982 scheduled date for closing of the dam locks and filling of the lake is crucial to serve the best interest of the citizens of Raleigh and the Neuse River Basin;

Section 2. The timely funding of this project will be more economical to the public than extended delays since the major elements of the project are under contract and further delays could result in higher costs with deferred public benefits;

Section 3. Since water supply to the Raleigh area is one of the many benefits from the Falls Lake, the completion of this project is essential for the water systems plans of the Raleigh Metropolitan area and Wake County;

Section 4. The appropriate congressional and federal executive branch officials be provided with a copy of this resolution and urged to continue the support necessary to achieve the revised completion schedule for the Falls Lake.

Mr. MORGAN. Mr. President, I rise with a question for the distinguished chairman of the Energy and Water Development subcommittee. It concerns the construction funding in this supplemental bill for the Corps of Engineers. The Senate bill includes $136 million in general construction funds for the remainder of fiscal year 1980.

These funds are a matter of great importance to my State and particularly to Durham, Granville, and Wake Counties, where the Falls Lake project is located. This project was authorized in 1965 and over $84 million has been allocated to it since that time.

This vital project on the Neuse River north of Raleigh, the State capital, has two important purposes. It will reduce and control damages from floods, several of which have devastated the area in the last 15 years. And it will provide a stable and adequate supply of water for the city of Raleigh and smaller towns to her south.

Unfortunately, the Falls Lake project, like others around the country, has suffered from what has been, in effect, a freeze on funding by the corps. The lifting of that freeze is what we will accomplish by passing this supplemental appropriations bill.

Of immediate concern to this project is the need for some further land acquisition. The corps must have this land in order that it may proceed to advertising for bids on clearing additional acreage and the relocation of a railway line, some secondary roads, and other work of this sort.

My question to the distinguished chairman of the subcommittee is a simple one: Is it your understanding that there has been a shortfall in funding for the Falls Lake project, and do you believe that a portion of the general construction funds for that corps in this bill should be used for this project?

Mr. JOHNSTON. Yes, the Senator is correct. It is our understanding that there is a funding shortfall on ongoing construction contracts for the current fiscal year on the Falls Lake project on other projects nationwide, and the committee has provided $150 million in the supplemental bill to meet these needs. We fully expect that a portion of the funds provided be used to meet the ongoing requirements on the Falls Lake project.

Mr. President, is the Senator from Arkansas ready to go?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. I yield to the Senator.

UP AMENDMENT NO. 1336

(Purpose: To restore $65 million for energy conservation programs for schools, hospitals, and public buildings and other purposes)

Mr. BUMPERS. Mr. President, I send a modification to the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. (Mr. TSONGAS). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1336:

On page 80 strike lines 2 through 6 and insert the following: $107,000,000. The total amounts available for obligation for contractual support, including experts and consultants, is reduced by $65,000,000.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is that amendment in order?

The PRESIDING OFFICER. The amendment is in order.

Mr. BUMPERS. Mr. President, I am prepared to vote and I ask for the yeas and nays.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. BUMPERS. I withdraw the request for the yeas and nays, Mr. President.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I just want to make one last 60-second argument here.

I want everyone to understand what I am doing here has no budgetary impact. We are simply transferring money from one of the most wasteful areas of the Federal Government into the most effective. We are taking it away from the consultants and we are giving it to the hospitals and schools so that they can weatherize their institutions and try to cut their costs.

I have just pointed out to Senators that the States are sharing in this on a 50-50 basis. They love it. They are waiting for the money. The Department of Energy has promised them they will receive it before the end of this year. Half of it has already gone out.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS. Mr. President, the Senator from Kentucky has suggested that everyone wants to go to Heaven but no one wants to die.

Here is a chance to do both.

Incidentally, that reminds me of the story about the preacher asking everyone who wanted to go to Heaven and everyone stood up except one little man in the back, and the preacher was just incensed and he finally asked him. He said: "You, sir, will you stand up? Are you telling this audience, this congregation, that you do not want to go to Heaven?"

And he said: "Well, yes, I do, but I thought you were getting up a load for tonight."

Here is a chance to vote for an amendment that makes a little sense. It will give everyone a nice comfortable feeling after all the animosity and hostility that have been vented tonight. Senators can tell their hospital administrators and their school superintendents that we are trying to help them curb their costs so they can provide better education and better health care. Senators can go back home and tell them they are helping Senator PRYOR, and the distinguished Senator from Washington (Mr. MAGNUSON), and the distinguished Senator from Tennessee (Mr. SASSER) curb some of the abuses in consultant contracts.

I cannot see how we can improve on that.

I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. McCLURE. Mr. President, as I understand the effect of the amendment, the language stricken appears on page 80 of the bill, and it relates to a rescission which starts on the bottom of page 79, lines 23 and 24, and that rescission is in appropriations provided under this head in the Department of the Interior and Related Agencies Appropriations Act and refers to the Public Law 96–126. It then adds a sentence after the amount rescinded to deal with the question of the contracts and so on that will be reduced.

My question to the Senator from Arkansas is that I understand that to ask if he agrees that the contract and support activities which are thus being reduced are reduced only in the Department of the Interior and Related Agencies Appropriations Act. It would be under the same section of the bill.

Mr. BUMPERS. That is not my understanding. Is the Senator talking about the reduction in consultant contracts?

Mr. McCLURE. The amendment that is at the desk is an amendment to a section that deals with the Department of the Interior and Related Agencies Appropriations Act. If it deals with more than that subject matter, it would be subject to a point of order for touching the bill in more than one point.

I would read both from the standpoint that to be in order it must be interpreted that way and, second, from the standpoint that it is within the section that deals only with this single appropriation act, that the reductions would, therefore, have to fall within the agencies covered by that appropriation bill.

Mr. BUMPERS. Senator, that is, of course, obviously not the intent of the amendment. There would not be $65 million in that one single paragraph.

Mr. McCLURE. Let me say, if that is not the intention of the amendment, I think he had better withdraw the amendment and redraft it. But I would caution the Senator if he does withdraw it and redraft it, it will touch the bill in more than one place and would thus be subject to a point of order.

Mr. President, I think we find ourselves here again in a kind of "Catch 22" that is involved in this balancing act in which we are involved here where the Budget Act requires us to balance and increase in one area by a decrease in another, and a rule of this Senate that does not allow a bill to be touched in more than one place.

If there is rescission which deals only with the appropriation bill with a limitation on contracts or a rescission of contracts, deals only with the single appropriation bill in which he seeks to reinsert the money or to reduce the rescission, then I think it is not subject to a point of order. But it would be so confined to the appropriation bill thus affected.

Mr. BUMPERS. The modified amendment says, "Total amounts available for obligation for contractual support, including experts and consultants, is reduced by $65 million." Is it the Senator's contention that that amends the bill in more than one place?

Mr. McCLURE. It would be my understanding that it does not because it would be my understanding that that reduction or that limitation on services, contracts, consultants relates only to the public law that is in that paragraph of the bill, and that public law which is in that paragraph of this bill is the appropriations provided to the Department of Interior and Related Agencies Appropriations Act, 1980, Public Law 96–126. That is in the language, the section of the bill, which the Senator does not strike, does not touch, by his amendment.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BUMPERS. Is the Senator's point well taken, the Senator from Idaho?

The PRESIDING OFFICER. Does the amendment amend the bill in more than one place, is that the question?

Mr. BUMPERS. No, he is not saying that.

The PRESIDING OFFICER. Will the Senator from Idaho restate his point?

Mr. McCLURE. Allow me, Mr. President, to make a parliamentary inquiry, which is that the amendment, as drafted, dealing with the language which begins on page 79 of the bill, which deals with the appropriations act thus set forth and identified on line 25, page 79, and line 1, page 80, a specific act, and is followed in the same paragraph with the instruction that the contract services, and so forth, as identified in the amendment will be reduced by $65 million, that it is thus confined to that appropriations act.

The PRESIDING OFFICER. The amendment has been redrafted in such a way that it is not part of any single sentence.

Mr. McCLURE. It is not part of any single sentence, I certainly agree with the Chair, but it is part of that paragraph of the bill, and it must, therefore, relate to that bill which is identified in that paragraph.

The PRESIDING OFFICER. The Senator is not correct.

Mr. McCLURE. Mr. President, I then make a point of order that the amendment is out of order because it touches the bill in more than one point. Mr. President, it cannot be both. If it is not confined to this bill, then it is not confined to this and it touches the bill at more than one point.

The PRESIDING OFFICER. The requirement that an amendment not amend the bill in more than one place is a mechanical matter.

Mr. McCLURE. Mr. President, are you about to try to tell me if it is not in abutting sentences it does not touch it at more than one point even though it touches at a multitude of places?

The PRESIDING OFFICER. If the Senator will allow the Chair to complete his statement——

Mr. McCLURE. I did not want the Chair to complete it without having thought about it. [Laughter.]

Had the previous ruling the Chair earlier this evening upon the amendment of the Senator from New Hampshire escaped the attention of the Chair?

The PRESIDING OFFICER. Which inquiry is the Senator pursuing?

Mr. McCLURE. Whichever one the Chair would like to answer.

The PRESIDING OFFICER. The Chair will attempt to answer the original parliamentary inquiry.

The Chair will state that if it is the effect of the amendment to change the bill in more than one place then it is not in order.

Mr. McCLURE. The Senator has made that point of order.

The PRESIDING OFFICER. The Chair will read:

> An amendment consisting of two provisions amending a bill at different points is, in fact, two amendments and cannot be offered together if a question is raised.

The amendment offered by the Senator from Arkansas is not two provisions and does not amend the bill in different places.

Mr. McCLURE. Mr. President, then the point of order that was raised earlier against the amendment of the Senator from Arkansas is equally invalid. The ruling that was just made, and I do not mean to quarrel with the Chair, and I appreciate the Chair's indulging the Senator from Idaho, but to indicate that the amendment a moment ago and the ruling a moment ago that the amendment was invalid but the amendment now is valid is totally and completely illogical.

I have no quarrel with the Senator from Arkansas and what he is trying to do and I understand the dilemma and I do not necessarily oppose what he is trying to do.

But to say that the amendment can amend everything within the bill, affect every department and agency not only within the bill but outside of the bill, and then to rule that it does not affect except at one point is on its face patently ridiculous.

Mr. SARBANES. Mr. President, will the Senator yield at that point?

Mr. McCLURE. Of course, I would be happy to.

Mr. SARBANES. Would the Senator consider an amendment reducing all appropriations by 2 percent as being in order?

Mr. McCLURE. I will allow the Senator to address the question to the Chair.

Mr. SARBANES. Well, the Senator is making a point of order, and I wonder what his view would be on that sort of an amendment.

Mr. McCLURE. Again I would invite the Senator to address the question to the Chair. I think it is a good question.

Mr. SARBANES. I am making the point that I believe such an amendment would be in order, and obviously would affect the bill and would affect matters in the bill in a great number of places, but it would not be amending the bill in more than one place and, therefore, would not be subject to a point of order.

Mr. McCLURE. May I say to the Senator from Maryland that the Chair has already ruled in a contrary fashion within the last 10 minutes. It is not a question of whether I agree with the Senator from Maryland or not, but the Chair does not.

Mr. SARBANES. On which point of order was the Chair ruling?

Mr. McCLURE. On the original point of order.

Mr. SARBANES. By the Senator from Wisconsin?

Mr. McCLURE. No, on the original point of order against the original amendment of the Senator.

Mr. SARBANES. That was the point of order of the Senator from Wisconsin that ran to the question of rescission. It was not a question of amending the bill in more than one place. The point of order, as I understand it, was sustained against the question of legislation on an appropriation bill.

Mr. McCLURE. The Senator is correct.

Mr. SARBANES. And not amending it in one place.

Mr. McCLURE. Earlier today or this evening, when Senator DURKIN raised the question about amending the bill in more than one place, the point of order was sustained.

Mr. SARBANES. A point of order was sustained against the amendment of the Senator from Alaska, amending the bill in more than one place. And it technically did exactly that, because I saw the amendment at the desk and it technically amended the bill in, originally, seven places, I think subsequently reduced to four, and it was subjected to a point of order. But this amendment does not do that and the earlier point of order against the amendment which was sustained did not run to the question of amending the bill in more than one place, but to legislation on an appropriations bill.

Mr. McCLURE. I would suggest that it might be just as logical to consider balancing this amendment, this bill before us tonight, to offset the revenue sharing rescission which was disapproved by the Senate by a provision saying, "And the administration shall cut expenditures by $571 million wherever they may find it."

Mr. HUDDLESTON. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I think it is almost a moot question as to whether the amendment is out of order.

As I understand the way it is now written, the $65 million that is to be recovered must come from this one account.

Mr. BUMPERS. No.

Mr. HUDDLESTON. Explain to me why it would not.

Mr. BUMPERS. That is what the Chair just ruled on. That is the very same point the Senator from Idaho is making. The Chair ruled that is not the case and it does not amend the bill in more than one place.

Mr. HUDDLESTON. Would the Chair report to the Senate what alterations were made in the Senator's original amendment that removed the point of order that was placed against it by the distinguished Senator from Wisconsin?

The PRESIDING OFFICER. The Senator from Arkansas' original amendment was a new rescission. It was a change to a limitation.

Mr. HUDDLESTON. It was a rescission because it used the word "rescission." Is that correct?

The PRESIDING OFFICER. The Senator will suspend for a moment. Will the Senator from Kentucky restate his question?

Mr. HUDDLESTON. The reason it was determined to be a rescission was because it used the word "rescission," is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUDDLESTON. And the change in it merely changed the word from rescission to reduction, is that correct?

The PRESIDING OFFICER. A rescission would affect previous appropriations bills. A limitation would affect this appropriations bill.

Mr. HUDDLESTON. Now, would the clerk then read the amendment as it is now written to the Senate?

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> On page 80 strike lines 2 through 6 and insert the following: $107,000,000. The total amounts available for obligation for contractual support, including experts and consultants, is reduced by $65,000,000.

Mr. HUDDLESTON. The fact is, of course, that the effect of the amendment has not been changed by the changing of the word from rescission to reduction. The same arguments that were made against the proposal by the Senator from Arkansas with his original amendment would prevail at this time. He is asking us to breach the ceiling set by the Subcommittee on Interior and the full Appropriations Committee in breaching such limitations as were imposed upon us by the Budget Committee and enacted by this body. And then to recapture those expenditures by instructing the Director of the Office of Management and Budget to grab $65 million back from contracts relating to consultative services of the Federal Government.

Now, aside from the arguments against busting the budget restraints that have been set, just to say one thing further about that $65 million: if that is a valid approach, then why are we wasting all of our time here trying to balance a budget? Why are we trying to fit all of the programs that all of us want within some kind of restraint? Why do we not write the thing the way we want to write it and then tell them downtown to find the money from the contracts and the consultants?

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HUDDLESTON. I yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Is it not a little bit misleading to think of all these contracts and consultants taking up 80-something percent when you consider that includes such things as Los Alamos with the nuclear program, and the nuclear weapons program at Berkeley and at Stanford Linear Accelerator and Livermore and a host of programs where Government contractors are used that show up as contractors?

That is not some little study they are putting out somewhere. That is nuclear weapons research. That is the fission program. That is a host of programs where we want the Federal Government to use contractors. We do not want them to hire a big bureaucracy to run nuclear weapons, for example, because the expertise is on the outside. Is that not correct?

Mr. HUDDLESTON. That is correct. And I do not know what Jim McIntyre's favorite programs are. The ones he considers to be the most frivolous, where he is going to get that money the quickest, might be the ones that you think are the most desirable and necessary.

The Appropriations Committee has already cut $150 million out of consultative services of the Federal Government and, the words of the Chair notwithstanding, it is the opinion of the Appropriations Committee that this whole $65 million would have to come from one account, the energy conservation account. That is the way the amendment is drafted. I do not know whether you want to sacrifice what might be going on in those areas for this particular piece of legislation.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. HUDDLESTON. Yes.

Mr. PROXMIRE. Is there any indication that there is $65 million in that one account in the 3 months of this fiscal year that remains?

Mr. HUDDLESTON. The fact is there is not that kind of money.

Mr. PROXMIRE. So, if there is not that kind of money in the account, and the Senator's interpretation is correct and that it must come out of that account, and that is the interpretation the Senator says to the committee, then the result is, once again, we are going over the budget by whatever the difference is. Is that correct?

Mr. HUDDLESTON. That is my judgment as to what would happen.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Iowa (Mr. JEPSEN), the Senator from Indiana (Mr. LUGAR), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 56, nays 24, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—56

Armstrong
Baker
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Johnston
Kassebaum
Laxalt
Long
Mathias
Matsunaga
McClure
Nunn
Proxmire
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young

NAYS—24

Boren
Bradley
Bumpers
Church
Durkin
Eagleton
Heflin
Inouye
Jackson
Javits
Levin
Magnuson
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Percy
Pryor
Riegle
Sarbanes
Stewart
Tsongas
Zorinsky

NOT VOTING—20

Baucus
Burdick
Cannon
Culver
Garn
Goldwater
Hatch
Jepsen
Kennedy
Leahy
Lugar
McGovern
Melcher
Morgan
Nelson
Pressler
Ribicoff
Stafford
Stennis
Talmadge

So the motion to lay on the table Mr. BUMPERS' amendment (UP No. 1336) was agreed to.

AMENDMENT NO. 1928

(Purpose: To clarify the provisions of H.R. 7542 appropriating funds to implement titles I and II of S. 932)

Mr. ROBERT C. BYRD. Mr. Presi- amendment now so that when the Senate comes in in the morning, it will have an amendment pending?

Mr. HELMS. I shall be glad to, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, Mr. HELMS would like to lay down an amendment.

Mr. HELMS. Mr. President, I call up amendment No. 1928 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) for Mr. TALMADGE, Mr. HELMS, Mr. MCGOVERN, Mr. LUGAR, and Mr. STEWART, proposes amendment numbered 1928.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 15, strike out the second comma and insert in lieu thereof a colon and the following: "*Provided*, That, effective October 1, 1980, $1,450,000,000 of the amount so derived shall be available to the Secretary of Agriculture and the Secretary of Energy for carrying out activities and providing financial assistance under subtitles A and B of title II of S. 932, as authorized under section 204 of S. 932;".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JOHNSTON. Mr. President, would the Senator give us a brief explanation of his amendment?

Mr. HELMS. Mr. President, the amendment would clarify the provisions of H.R. 7542 appropriating funds to implement titles I and II of S. 932.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would withhold his request for the yeas and nays? We have heard that this amendment was floating around and we have worked out a compromise he cannot refuse. I hope he will withdraw the request for the yeas and nays and come in in the morning in a mood to accept.

Mr. HELMS. I am perfectly willing to do anything the Senator wishes. We can vitiate them now or tomorrow morning.

I might add, Mr. President, that I am submitting this amendment on behalf of Senator TALMADGE and others on the Agriculture Committee.

Mr. ROBERT C. BYRD. Mr. President, does the Senator withdraw his request for the yeas and nays?

Mr. HELMS. If the Senator wishes, I shall be glad to.

I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Reserving the right to object, Mr. President, why not make it 10 o'clock?

Mr. ROBERT C. BYRD. No, no, I thank the Senator, but let it stay at 9:30. At present, it is 9. I am trying to change it to 9:30.

Mr. MAGNUSON. All right, OK, I give in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight.

SUPPLEMENTAL APPROPRIATION

Mr. JAVITS. Mr. President, I am glad that the Senator from Florida (Mr. CHILES) is in the Chamber, because I say to him that I am very gratified to see what he has done about a rescission in this bill which was going to have a very bad impact on sheltered workshops for the blind and the handicapped, and by seeing fit to reduce that rescission from $229 million to $220 million.

He saved the highly desirable activities of these sheltered workshops. I express my gratitude to him.

Mr. President, I express my deep appreciation to the chairman of the committee, Senator MAGNUSON, to Senator EAGLETON, and particularly to Senator CHILES, for their courtesy and wisdom in reducing the amount of the proposed reduction in funds available for furniture purchases by Federal agencies. I share Senator CHILES' great concern with the need to reduce waste in Government spending, and with the need to utilize existing inventories of furniture.

However, the bill which the Senator originally proposed, S. 2435, which would have rescinded $229 million, would have had a severely deleterious impact on the sheltered workshops for the blind and other severely handicapped, which produce furniture items under government contract through the auspices of the Javits-Wagner-O'Day Act, Public Law 92–28.

Currently these workshops provide employment for almost 400 severely handicapped and blind workers, and the total value of their present and anticipated production for sale to agencies of the Federal Government is approximately $9 million. Under the full rescission of $229 million, seven of these workshops would have been forced to close.

The reduction of the rescission amount from $229 to $220 million will allow for the continuation of current and projected fiscal year 1980 sales of furniture items produced by the workshops, provided government requirements exist.

Furthermore, the language in the supplemental bill, in section 303 on page 169, makes clear that agencies of the Government may purchase furniture items produced by the workshops, providing these requirements exist, in accordance with the mandatory procurement provisions of the Javits-Wagner-O'Day Act.

I greatly appreciate the concern demonstrated by Senator CHILES for these individuals in his willingness to modify his proposal, and his courtesy in adopting this suggestion.

CHAPTER IV

Mr. MATHIAS. Mr. President, before mentioning the specifics of the D.C. portion of this supplemental, I would like to make some general comments. The issue of deciding on an ad hoc basis the amount due the District is an extremely troublesome, uncertain, and haphazard process.

Two major problems exist with the current procedure for providing the Federal payment. The first is the difficulty in determining what is an equitable amount. The second is providing the funding in a stable, dependable manner that the city can use to plan its budget. Until 1925, the payment was on a formula basis and was from 40 to 50 percent of the budget of the District and recently legislation has been introduced in the House to return to a formula apportionment.

Since 1925, the size of the payment with respect to the budget has varied significantly. We all recognize, although none so sharply as Mayor Barry, the problems caused by this type of uncertainty. The fiscal year 1980 supplemental for the District of Columbia is an indispensable element of Mayor Barry's budget plan for fiscal year 1980. Budget cuts of over $50 million and increases in taxes and fees of $24 million are also needed.

It should be made clear from the onset that the supplemental is not to bail the city out of its current financial deficit.

The items covered by the supplemental all qualify as unfunded requirements under the very strict guidelines of the Federal Anti-Deficiency Act which sets out the costs that are eligible for a supplemental. The request for payment of these items would have occurred regardless of the city's budget status. However, the denial of any part of the request would, of course, drive the city deeper into debt.

The District's supplemental request involves $61.8 million for the Federal payment. This $61.8 million plus $238.2 million already appropriated brings the Federal payment to the authorized level of $300 million for fiscal year 1980. The full Federal payment covers about 21 percent of the city's fiscal year 1980 budget, with the remaining 79 percent coming from locally derived revenues.

The need for a Federal payment is designed to compensate the District for the cost of the Federal presence. The Federal Government owns almost 17 million square feet (or 105 buildings) of building space in the District and the value of this tax exempt property is estimated to have increased 23 percent in the last year. At the same time, the Federal payment, as recommended by the House, represents only a 7-percent increase. The House Appropriations Committee approved $28.8 million for the supplemental (or 47 percent) of the request. This action leaves $33 million in unfunded needs.

If the Senate had provided the full payment, as I recommended, we would have allowed for a growth roughly comparable to the increase in property value. Of course, we all know that there are other expenses associated with being the Nation's Capital, such as extra policy and sanitation, loss of revenue from the heavy concentration of nonprofit organizations, tax exempt embassies, et cetera.

A historic look at the Federal payment is instructive. In fiscal year 1976, the District got $248.9 million. Now in fiscal year 1980, they could get up to $300 million. This translates to a 21-percent increase over those 5 years or about 4 percent per year—and that is with the full $300 million in fiscal year 1980. During the same time period, the Federal budget has increased by about 75 percent or 15 percent annually. If we had kept the Federal budget to the same level of increase as the District of Columbia's, we would have spent $200 billion less in fiscal year 1980 than we now will.

Last week during our full committee markup the Senator from Vermont (Mr. LEAHY) initially recommended a Federal payment of $25.3 million or $36.5 million less than the city's request of $61.8 million. His concern, and rightly so, was that we not exceed the subcommittee's allocation as determined through the budget process. At that time I recommended a method whereby we could stay within the budget allocation and still provide the full $61.8 million Federal payment.

I proposed that we, in effect, transfer funds from one city account to another. In essence, the city has $125 million in borrowing authority from the Federal Treasury for capital outlays. The Budget Committee counts this authority as part of the city's budget allocation just like the Federal payment. The District could forego borrowing $45 million from the Capital loan account and make these funds available for use in the District's operating budget. Under this plan, the city would have to curtail some construction projects to a time when its financial condition was less precarious.

My amendment did not carry in committee, however, Senator LEAHY did offer a compromise that would provide an additional $20 million through transfer, raising the Federal payment from $25.3 million to $45.3 million. I would like to complement the Senator on his Solomon-like proposal and assure him of my support when we take the supplemental to conference.

VA HEALTH CARE

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I would like to take this opportunity to thank the chairman of the Appropriations Subcommittee on HUD and Independent Agencies (Mr. PROXMIRE), the ranking minority member of that subcommittee (Mr. MATHIAS), and my colleague on the Veterans' Affairs Committee who also serves on the subcommittee (Mr. DURKIN), as well as the chairman of the Appropriations Committee (Mr. MAGNUSON), and the ranking minority member of the committee (Mr. YOUNG), for their very able assistance in terms of the supplemental appropriations for fiscal year 1980 for the Veterans' Administration.

I am very pleased and grateful that the Senate bill includes $171 million for the administration pay-raise supplemental request for the VA's medical care account. This amount, which is $50 million higher than was included in the House-passed bill, is critically necessary in order to assure that the VA health care system will be maintained at the level of operations that Congress decided upon last year when funds were enacted for an add-on of 4,250 full-time equivalent employees in the VA's Department of Medicine and Surgery. The Administration, in making this supplemental request, now clearly seems to recognize the great importance of providing stability in the staffing of VA health care programs so that eligible veterans can be—and are—provided the health care services to which they are entitled. If this Administration-requested supplemental amount were not provided in the Senate bill, the VA would be required to cut back very sharply in health care staffing in order to stay within the severe restraints that the House-passed bill would impose.

I discussed the difficulties that such reductions would entail in my June 2 letter to the chairman of the Subcommittee on HUD and Independent Agencies, and I ask unanimous consent that that letter be printed in the RECORD at this point, along with a June 18 letter I wrote to the chairman of the full Appropriations Committee, in which I discussed the issue of assuring adequate funding for VA beneficiary travel.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 18, 1980.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to urge that the Appropriations Committee, in reporting legislation on the President's supplemental request for fiscal year 1980, assure that adequate funding is available for the travel-expense reimbursement to which service-connected disabled and needy veteran-patients are entitled under the provisions of title 38, United States Code. These so-called beneficiary travel reimbursements help defray the costs to eligible veterans of travel to and from VA health-care facilities in connection with the provision of medical care and treatment.

As you may be aware, the Office of Management and Budget, in implementing the limitation in section 112 of Public Law 96–86 on fiscal year 1980 obligations for executive branch employee travel and transportation expenses, applied that limitation to the reimbursement of veteran patients. As originally applied to the VA, the limitation seriously threatened widespread cut-offs of reimbursements to which service-connected disabled and needy veterans are entitled. Because it seemed clear to our Committee that Congress had not intended the limitation to apply to these non-government-employee veterans' benefits under title 38, our Committee reported in section 401 of S. 2534, the "Veterans' Administration Health-Care Program Amendments of 1980", a provision clarifying that the limitation does not apply. On June 5, the Senate amended H.R. 7102 with the provisions of S. 2534 as reported and passed H.R. 7102 as so amended. A copy of section 401 is enclosed for your information.

In the meantime, on May 16, 1980, the President submitted fiscal year 1980 budget amendments that included increases in the amounts proposed in his fiscal year 1980 budget for travel and transportation expenses. Among those amendments was an increase—not entailing an increase in overall

VA budget authority or outlays—in VA travel and transportation for the purpose of avoiding a shortfall in reimbursements for veteran-patients. It is my understanding, based on consultations with responsible VA officials, that this increase—to $128,445,000—in the limitation on VA travel and transportation expenses is sufficient to avoid shortfalls in veteran-patient reimbursements. Under the terms of section 112 of Public Law 96–86, setting the government-wide limitation at an amount $500 million below the total proposed for travel and transportation in the President's budget "as amended and supplemented", it would seem clear that the President's budget amendments increasing the amounts proposed for such expenses would serve automatically to increase the limitation and thus require no Congressional action to effectuate the increase.

Nevertheless, I understand that the Office of Management and Budget has not yet determined that that is the legal result of the budget amendments. Thus, I urge that your Committee take whatever action you consider necessary—either by means of report language or appropriate legislative clarification—to assure that the increase for the VA will be given effect. I would prefer that this appropriation matter be resolved—in a timely manner avoiding hardship to the many veterans whose benefits have been jeopardized—through the appropriations process.

I very much appreciate your long-standing concern and support for our Nation's veterans and would greatly appreciate your favorable consideration of this request.

Cordially,

ALAN CRANSTON,
Chairman.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 2, 1980.

Hon. WILLIAM PROXMIRE,
Chairman, HUD-Independent Agencies Subcommittee, Committee on Appropriations, Washington, D.C.

DEAR BILL: I am writing with respect to the supplemental appropriations bill for fiscal year 1980 scheduled for markup by the HUD-Independent Agencies Subcommittee on June 3, 1980. As Chairman of the Committee on Veterans' Affairs, I have noted the action of the House Appropriations Committee on its bill to provide supplemental appropriations for FY 1980, H.R. 7325, and would like to comment on several recommendations made by the House Appropriations Committee with respect to the VA-requested supplemental that are of great concern to me.

As you know, H.R. 7325, as reported by the House Appropriations Committee with respect to the Administration's request for supplemental appropriations of $202,348,000 to offset the October 1, 1979, Federal pay-raise costs in the VA, would reduce the supplemental request by $50 million in the medical care account, $600,000 in the medical and prosthetic research account, $500,000 in the medical administration and miscellaneous operating expenses account, $2 million in the general operating expenses account, $200,000 in the minor construction account, for a total of $53,300,000. I urge that the Senate Appropriations Committee not take similar action with respect to the supplemental request for the VA and that the full amount requested be appropriated.

With respect to the medical care supplemental, I strongly believe that it is essential to the effective and efficient operation of the VA's health-care system that the supplemental request be granted in order to maintain that system at the level of operations that Congress decided upon last year when it appropriated funds for an add-on of 4,250 FTEE's.

As you will recall, the Congress in providing for that add-on was, in large part, motivated by the need to restore unwise cuts that the Administration had made in the VA health-care personnel levels in fiscal year 1979 when, instead of using the $32.3 million that the Congress had appropriated for additional personnel, the Administration required that those funds be used to defray the costs to the VA of the October 1, 1978, pay raise. Also, in the winter of 1978–79, the Administration had subjected VA health-care facilities to the Government-wide hiring freeze. Those actions had very serious and still continuing adverse effects—fully documented in a joint House-Senate Veterans' Affair Committee hearing on October 25, 1979—on the VA's ability to provide quality health-care services.

Thus, in addition to providing fiscal year 1980 funding to restore VA health-care personnel cuts that had been imposed in fiscal year 1979, the Congress enacted a provision in the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96–151, section 301) requiring the Director of the Office of Management and Budget to provide the VA with health-care personnel ceilings at levels no less than those for which the Congress had appropriated funds in certain VA health-care accounts.

In restoring prior personnel cuts and enacting legislation to assure that funding for specified personnel levels be used for that purpose, the Congressional purpose was to seek to provide the VA system with a very badly needed reasonable measure of stability so that—at least for the duration of a fiscal year—once the Congress had decided upon a specific personnel level, the VA's central office and medical facilities could plan for and operate at that level. During the current fiscal year, I believe that the Administration's pay-raise supplemental request is consistent with the Congressional intent in this respect. Likewise, I believe that the Administration's action in permitting exemptions of VA patient-care personnel from the current freeze on Executive Branch hires reflects the Administration's recognition of the fact that the VA's health-care programs suffer very greatly (as the 1978–79 results illustrated) when they are subjected to repeated fluctuations in the ceilings and funding available for personnel.

Now that Administration actions seem clearly to recognize the need for reasonable stability in VA health-care programs, it would be most unfortunate and unwise for the Congress to switch signals on the VA and the sick and disabled veterans who depend on the VA for medical care by cutting the pay-raise supplemental requests for VA health-care accounts and thus imposing reductions in personnel and other resources necessary for the VA to continue to provide the levels of services that the Congress itself decided upon just seven months ago. For the Congress to reverse itself by failing to grant the pay-raise supplemental request would, I believe, run a gross risk of undoing the progress that VA medical facilities have made during the past year in recovering from the very serious impacts of the fiscal year 1979 actions.

With respect to the pay-raise research supplemental, we have worked together very hard to avoid debilitating cuts in the very effective VA research program, and I urge that the House Appropriations Committee recommendation for this cut not be sustained.

With respect to the pay-raise supplemental request for the VA's general operating expenses (GOE) account, I would note, as I am sure you are aware, that slippage in the implementation of the TARGET computer operations, the workload resulting from implementation of the improved pension program under Public Law 95–588, and personnel reductions in the VA's Department of Veterans' Benefits (DVB) have resulted in a large backlog of unprocessed applications for compensation, pension, and education applications.

For example, as the Director of DVB recently testified before the House Veterans' Affairs Committee, on March 31, 1980, there were "243,117 unworked cases"—about 10 to 15 percent above what the VA considers an acceptable range—in DVB field offices, and the average processing time for service-connected disability compensation cases had increased from 110 days in the second quarter of fiscal year 1978 to 122 days in the second quarter of fiscal year 1980. Any reduction in the pay-raise supplemental request for the GOE account would make this very serious situation worse now and throughout fiscal year 1981.

Although I am concerned about the House Committee's action disapproving certain other supplemental requests for the VA appropriations accounts, I believe that the pay-raise supplementals discussed above are the most urgent items in terms of the VA's continuing capability to maintain its programs for the benefits of the Nation's veterans.

As always, I appreciate your interest in and concern for veterans' programs and your cooperation with the Veterans' Affairs Committee in assuring adequate support for them.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

Mr. CRANSTON. Mr. President, with respect to the June 18 letter regarding the availability of funds for the VA beneficiary travel program, I am very grateful, as are many veterans, to the Senator from New Hampshire (Mr. DURKIN) and the Senator from Maryland (Mr. MATHIAS) for their efforts to assure that the report accompanying the bill—S. Rept. No. 96–829—would express, which it does on page 19, the appropriations committee's view that the President's budget amendment increasing his budget for VA beneficiary travel automatically raises the limitation imposed on this program under OMB's interpretation of section 112 of Public Law 96–86, the fiscal year 1980 continuing appropriations measure. It is my understanding that the funds thus to be made available for the VA beneficiary travel program under the President's budget amendment will be sufficient to avoid shortfalls in beneficiary travel reimbursements for the remainder of the fiscal year. It is also my understanding that OMB accepts the appropriations committee's view regarding the effect of budget amendments on the section 112 limitation.

In order to clarify the record further on the VA beneficiary travel question, I would note that the Veterans' Affairs Committee has made clear its view that OMB's insistence on including the VA beneficiary travel reimbursement program in the overall limitation on spending for the travel of officers and employees in the executive branch required by Public Law 96–86 is erroneous. In this regard, the committee reported and the Senate passed, on June 5, a provision, section 401 of the Veterans' Administration Health-Care Program Amendments of 1980—The Senate amendment to H.R. 7102—to exclude the VA beneficiary travel reimbursement program from that limitation and, thus, clarify that this program should not be within the category of expenditures in which savings are to be derived under Public Law 96-86.

Mr. President, as I stated in my recommendations to the Appropriations Committee, I strongly believe that, if the Congress fails to grant the full pay-raise supplemental request for the VA's medical care account, the progress that the VA health care system has made in the past year in recovering from the severe blows dealt to it during fiscal year 1979 will be seriously jeopardized. Thus, I strongly urge the Senate conferees to hold firm on the Senate's position on this very important issue in the Senate-House conference on the supplemental and, thus, not compromise on this critically needed funding.

ASHBROOK AMENDMENT TO THE 1980 TREASURY SUPPLEMENTAL APPROPRIATIONS BILL

Mr. JAVITS. Mr. President, the supplemental appropriations bill continues in effect the Ashbrook amendment which prohibits the IRS from implementing new procedures to help determine whether private schools that are tax exempt are racially discriminatory. I opposed this amendment last year and continue to oppose it. It is well documented that some private schools have been established as sanctuaries for white students while the public schools are undergoing desegregation. The IRS admits that its present procedures are ineffective for determining whether tax-exempt schools are discriminatory and that it knows of at least 20 schools which have actually been adjudicated discriminatory which still enjoy tax-exempt status. The IRS should not be prevented from developing new standards to insure that the Federal Government is not supporting these schools through the tax exemption.

Mr. CHILES. I opposed the original IRS guidelines, as did many of our colleagues, because I believe they went too far as they seemed to put the burden of proof on the schools to justify that they are not discriminating. But I fully support the view of the courts that private schools established for the purpose of segregation or which are operated in a racially discriminatory manner are not entitled to public support in the form of tax-exempt status.

Mr. JAVITS. I concur with the latter statement of the distinguished Senator from Florida. The IRS' proposed revenue procedures would have created an inference of discrimination in the case of two categories of schools: Those which had been adjudicated discriminatory and those which were created or substantially expanded in the wake of public school desegregation. No one disputes that these schools have the right to exist, but the Government should not help them to flourish by means of the Federal tax exemption. No taxpayer has a "right" to an exemption, and it is reasonable to require these particular categories of schools—what one court has called "badge of doubt" schools—to demonstrate that the absence of black students is not caused by racially discriminatory policies.

Mr. BRADLEY. Is there any judicial authority for requiring the two classes of schools you described to demonstrate that they do not discriminate in their admissions policies?

Mr. JAVITS. On May 5, 1980, the U.S. District Court for the District of Columbia directed the IRS to implement just such a standard in the case of Green against Miller. The Green case applies only to Mississippi. A companion case, Wright against Miller, which would apply the same principles on a nationwide basis, was dismissed for jurisdictional reasons and is presently on appeal.

Mr. CHILES. If we pass the Ashbrook amendment to the 1980 supplemental appropriations bill, what impact would that have on the court order in Green? The Appropriations Subcommittee did not intend to create a conflict with the courts.

Mr. JAVITS. It would have no effect whatsoever. The language of the amendment only prohibits the IRS from implementing new standards on its own initiative. It does not suggest that the IRS can or should fail to comply with a Federal court order. The IRS must spend the funds necessary to comply with the court order.

Mr. BRADLEY. I fully agree. If the Congress were to prohibit the IRS from spending supplemental funds to carry out the Green order, we would be setting the stage for a constitutional confrontation between the judicial and legislative branches. We do not have the benefit of seeing the evidence presented to the court in that case. It would be an extremely provocative and, in my view, irresponsible act for the Congress to create such a conflict.

Mr. JAVITS. If the Senate feels constrained, against my judgment, to pass the Ashbrook amendment, it should be with the clear understanding that the prohibition against spending funds to implement new procedures is not intended to prohibit the IRS from complying with the court order in the Green case.

I greatly appreciate the assistance of my colleagues in helping to clarify this matter.

CHAPTER VII

Mr. MATHIAS. Mr. President, Senator Proxmire has presented a clear and concise summary of chapter VII and I will therefore only attempt to highlight some of the items which I consider to be particularly important. Before doing that, however, I would like to compliment Senator Proxmire. We all know how diligently he has worked on this supplemental and all the preceding bills. It should not go unnoticed that on this occasion the Senator from Wisconsin has realized his fondest dreams. Here we are passing a supplemental to provide urgently needed new funding for fiscal year 1980 and the recommendations contained in chapter VII results in an actual decrease in fiscal year 1980 outlays. Congratulations, Bill.

The first item I would like to mention is the $153.2 million rescission from HUD's community planning and development grants. Both the House and the Senate have approved the rescission but differ in where the funds should be taken from. The Senate committee report specifies that none of the funds rescinded shall come from the technical assistance portion of the Secretary's discretionary fund. These technical assistance grants have proved to be of immense value to local governments. All funds in this account are either obligated, reserved or committed to pending proposals for technical assistance in support of activities including neighborhood revitalization and rehabilitation programs.

The Senate restored $10 million rescinded by the House in HUD's comprehensive planning grants program. The effect of the House action would be to terminate many employees in State planning agencies throughout the country that depend on these section 701 grants. Much of the 701 State grant funds are also passed through as grants and technical assistance to local governments. Rescinding $10 million now would significantly disrupt the process including the withdrawal of funding notification letters and the establishment of new funding levels for applicable agencies.

The Senate also restored $5.6 million in EPA's research and development program and $3 million in EPA's abatement control and compliance program. The funds in both of these accounts are slated for use in the EPA hazardous waste program. The R. & D. funds will be used for the development of guidance manuals for EPA's regional offices and the abatement control and compliance funds are necessary for testing specific industrial wastes to determine if they are hazardous.

The Senate also restored $1 million cut by the House from the U.S. Regulatory Council. Without this $1 million the Regulatory Council would have had to stop many of its major efforts to develop innovative regulatory techniques which ultimately might reduce the regulatory burden of U.S. industry.

The Senate also took several actions relative to the Veterans' Administration that are worthy of note. First we restored $50 million cut by the House for VA medical care salaries and expenses. If we had not added back these funds the VA would have been forced to reduce their medical care personnel by 2,400 staff years. This would have reduced the VA's medical care personnel below the level mandated in the fiscal year 1980 appropriations bill. The other action involved transferring $8.4 million from medical care to VA beneficiary travel. The transfer of these funds, which is covered by committee report action, will allow the VA to pay for travel costs incurred by vets seeking medical attention who could not afford to pay for such costs. This language is contained on page 19 of the report.

One of the more controversial issues in this bill is the elimination of $572 million in State revenue-sharing funds. Since several amendments will be offered on this issue I will not impose upon my colleagues time to discuss it at this point. I would just note, however, I believe that this type of legislation does not reflect well on the Senate.

SUPPLEMENTAL FUNDING FOR REFUGEE PROGRAMS

Mr. CHILES. Mr. President, the supplemental appropriations bill reported in the Senate contains two categories of funding for expenses caused by the recent influx of Cuban and Haitian arrivals.

Category 1 relates to the initial expenses of receiving, housing, transporting and resettling the refugees. Most of this funding involves expenses already incurred by various Federal agencies. A small amount of reimbursement to State and local governments for the initial impact of receiving and resettling the refugees is included. These are the funds for which the President has submitted a supplemental budget request.

Category 2 relates to the continuing costs of health, welfare, education and social services for refugees who settle in a State after leaving the Federal processing center. OMB has estimated these costs at $100 million for 1980 in a letter from Director MacIntyre. However, the administration has not yet submitted a supplemental request, pending resolution of the legal status question. The appropriations bills from both houses include these funds with bill language leaving open the question of legal status. It is clear that whatever status emerges from the conference of the authorizing committees, the Federal Government should reimburse the States and localities for the impact of a Federal policy.

The bill as reported by the Senate Appropriations Committee contains both categories of funding.

However, the House bill only contains funds for category 2, the continuing costs of the entrants once they are resettled.

Failure to grant the President's request for category 1 funding would seriously disrupt the activities of the Federal agencies which have already incurred major expenses. The Department of Defense has had to house and feed the Cubans at military bases. The Coast Guard made a major effort in guarding the safety of the heavily laden small boats, as well as enforcing the prohibition on immigration when it was announced. The Public Health Service had to provide initial medical care and examinations to all entrants. The costs of housing, feeding, transportation and medical care continue until all the entrants are relocated to communities around the country. Grants of $300 per entrant are being made to private social service agencies which are relocating the entrants so they will not remain in processing centers as wards of the Federal Government. Regardless of how one feels about the various decisions of the administration on refugees, these are clearly unavoidable costs for which funds must be appropriated.

The first item in the category 1 supplemental funds is $245 million for FEMA (the Federal Emergency Management Administration). This is mostly to reimburse the Department of Defense for their expenses in running the various camps housing the Cuban arrivals, but there are also some funds to reimburse State and local governments for their reception expenses, such as police protection and temporary housing.

The second item is $25.3 million to pay for education programs. Two-thirds of this money, $17.6 million, is for adult education programs in English language, literacy and job skills. We have learned over the years that most immigrants want to work but lack the simple necessary skills. The earlier Cuban arrivals and the more recent Indochinese have both been notable successes in attaining economic self-sufficiency, and there is no better investment we can make.

The administration estimates that at least one-third of the 130,000 recent arrivals are adults who lack these basic skills. Concentrating these large numbers of people in relatively few areas—60 percent are in south Florida—obviously creates too much of a burden for a local school district to bear alone. The committee also added $7.7 million to elementary and secondary school improvement programs to serve the estimated 25,000 school age children who arrived. The rapid cultural change for these children means that schools require counseling and psychological services, as well as English language and bilingual instruction, and inservice teacher and staff training.

The third part of the administration's supplemental request is $36 million for health services. The Public Health Service has had to pick up responsibility for providing acute medical care at the military camps, as well as providing the initial medical screenings and immunization activities. This has required detailing PHS medical staff, hiring local medical staff and purchasing medical supplies. Of the $36 million, $6 million is set aside for establishing or expanding community health centers in areas with large concentrations of low income arrivals. Since we know that refugees tend to settle in certain areas which mostly lack accessible health services, it is more economical to establish community clinics than to have them come to municipal hospitals and pay for high cost care under medicaid.

The committee provided $12 million of the $14.2 million requested to reimburse the Immigration and Naturalization Service for the extra expenses it has incurred for overtime, travel, per diems, detention of persons and equipment. Responding to the crisis disrupted the regular workings of the INS, and failure to reimburse it would seriously impair its normal operations. Since we face a continued possibility of renewed flow of refugees from various parts of the world, it is important to restore the INS to a full level of operational capacity.

The sixth part of the supplemental approved by the Senate Appropriations Committee is $39 million for the State Department's Emergency Refugee and Migration Assistance Fund. It needs to be clarified that these funds are only to cover processing, transportation, reception and resettlement costs of the Cuban and Haitian arrivals. They are not to be used for the ongoing welfare and medicaid program costs of the arrivals after they are settled in one or another State. One substantial part of this item is the provision of $300 per capita grants to private voluntary agencies to resettle the arrivals. The private agencies, rather than the Federal Government, have the contacts in the community and the experience and expertise to get these persons placed with families and become independent members of the community.

I want to clarify that we erroneously stated in the committee report that some of these funds would be for reimbursing State and local governments. That report language was based upon preliminary information from the administration. Later materials and the President's official request indicate that the funds are not intended to be used for that purpose. In the transportation chapter of the bill, the committee added $47.1 million over the house allowance, to pay the increased costs to the Coast Guard for its operations related to the Cuban boatlift. Also included in this figure are higher fuel costs for the entire Coast Guard operation.

Finally, we added $650,000 for the extra costs borne by the U.S. Customs Service due to the Cuban arrival situation. It was necessary to detail over 150 Customs personnel to South Florida and to Camp McCoy, Wis., and pay their excess costs. We have held this funding to a minimum, and required that any funds not used for processing Cuban refugees will revert to the Treasury.

Mr. CHURCH. Mr. President, I have noted with some concern that the House Appropriations Committee included a $5 million rescission for the liquid metal fast breeder reactor base program. This reduction was not called for by the administration, which has been anything but enthusiastic about breeder reactors. The action of the Senate Appropriations Committee has also been to recommend a $5 million rescission for the breeder base program activities.

Mr. President, if we do not maintain an adequate level of support for the operating expenses associated with the breeder base program, we will have to begin the dismantling of the highly trained technical teams throughout the country which support the breeder reactor technology. Thus, while the Congress has consistently supported the construction of a demonstration plant, by inadequately funding the breeder base program we will forego the breeder option altogether because we will not have the technical wherewithal to design and build a large demonstration plant.

While I note that the Senate Appropriations Committee report says that the $5 million rescission should not result in any loss of personnel, I am informed that we are mortgaging our future for a few months and, unless operating funds in excess of the House approved amounts are adopted by the Senate in the fiscal year 1981 Appropriations Act, major attrition in the technical teams working on breeder technology will occur. This is an unacceptable prospect in my judgment, and I hope to work with Members of the Appropriations Committee to insure that this $5 million rescission is not a precursor of more ominous things to come in the breeder base program in fiscal year 1981.

Mr. President, while I gave consideration to offering an amendment to restore the $5 million to this bill before us, I realize that there is little latitude to restore funding for a variety of programs for which Members would like to maintain adequate support. Thus, I strongly urge the leadership of the Appropriations Committee to provide an adequate recommendation on the fiscal year 1981 appropriations bill to maintain the integrity of the breeder base program.

Mr. COHEN. Mr. President, I would like to bring to the attention of my colleagues the recommendation of the Appropriations Committee to rescind $100 million from the Department of Energy's weatherization program. I am concerned that funding for the DOE weatherization program, one of the first programs to assist low-income and elderly individuals to reduce their consumption of household energy, is being cut by 50 percent. It is ironic and disappointing that during a time of well-recognized vulnerability caused by our dangerous dependence on imported oil, we would cut back on a proven, effective method of dramatically reducing oil consumption. If we cut back significantly on the one program that helps low-income citizens to reduce their energy consumption, the public will become increasingly skeptical of the Government's pronouncements as to the seriousness of the energy situation. Our colleagues in the House have passed a supplemental appropriations bill which does not include a rescission for this vital program. I hope that when the House and Senate conferees meet to resolve the differences in the two bills, the House position on weatherization grants will prevail.

Some of my colleagues may remember that in 1973, the State of Maine, along with Wisconsin, initiated the first weatherization program in the country. Based on Maine's success, legislation was enacted that provided Federal weatherization assistance for low-income citizens.

The Energy Conservation and Production Act of 1976 (Public Law 94-385), as amended by the National Energy Conservation Policy Act of 1978 (Public Law 95-619), provides the legislative authority for DOE's weatherization assistance program. Under the law, DOE is authorized to make grants to States, which in turn distribute funds to local governments and agencies to weatherize homes. Grant funds can be spent for weatherization materials, program support, administration, labor and training, and technical assistance.

Although the DOE program was initially plagued with many problems, it has become very effective and valuable. Onsite evaluation data recently compiled by DOE has confirmed that weatherization results in an actual energy savings of 12 to 15 percent per home. In terms of energy saved, the 262,000 homes weatherized to date represent a savings of about 655,000 barrels of oil equivalent per year. At $30 a barrel, this represents a saving of $19.6 million.

DOE has recently undertaken an aggressive program and expects to weatherize an additional 30,000 homes per month between now and the end of this year. At this rate, 310,000 homes will be weatherized in calendar year 1980, with expenditures of at least $226 million. This rate of activity outstrips the program's fiscal year 1980 appropriation of $198.95 million, although the increased activity is temporarily cushioned by carryover funds. The program outlined by DOE for calendar year 1981 calls for weatherizing at least 300,000 homes and requires the availability of all currently appropriated funds to supplement the requested fiscal year 1981 appropriation. If the rescission occurs, DOE will have to cut back State weatherization programs by one-third immediately because only $189 million will be appropriated in fiscal year 1981 and DOE is now operating at a $300 million annual rate.

Certainly, DOE's tremendous progress in reducing the number of homes in need of weatherization must not be halted. By reducing the 1980 weatherization appropriation by 50 percent, we are effectively retarding our Nation's most effective energy conservation effort.

It is true that many States have not utilized all of their fiscal year 1980 money. The DOE weatherization program encountered significant operational problems initially, which slowed considerably the anticipated completion date. The unavailability of labor, inflexible regulations, and management problems have prevented the full utilization of weatherization funds. But the DOE has greatly accelerated its rate of activity and fully expects to expend all fiscal year 1981 and previous years' appropriations by December 1981. By October 1, 1980, the DOE will have obligated all fiscal year 1980 funds except for $40 million.

Some may argue that if the weatherization program is funded at the requested level of $189 million for fiscal year 1981, there will be no interruption in the program, even with a rescission of fiscal year 1980 funds. Unfortunately, this is not an accurate assessment. Several States are operating ambitious weatherization programs and have expended a large share of their fiscal year 1980 funds, including the States of Indiana, South Carolina, Maine, New Hampshire, Missouri, Tennessee, Kentucky, and New Mexico. These States will suffer an interruption in their weatherization programs if the fiscal year 1980 appropriation is reduced. If these States continue to spend at their present rate, which is certainly a desirable goal in terms of energy conservation, they will run out of funds in a few months.

DOE has advised me that fiscal year 1981 weatherization funds will not reach the local level until February or March. States have to submit their plans to DOE for review and, once they are finally approved, it takes usually a month for the grant to arrive in the State and another month before services are actually delivered. We can all agree that this seems to be a long period of time for the funds to reach the local program operator. However, the fact remains that if $100 million is withdrawn from the program at this time, several States may have to completely terminate their weatherization activities until fiscal year 1981 funds can be delivered. These States may be forced to terminate their program temporarily because they proved to be too effective and efficient.

The recommended rescission has prompted DOE to determine exactly how to reduce the State's allocations to reflect the significant reduction. One option for DOE to implement the rescission would be to reduce the formula allocation to each State by 50 percent. DOE will have to deobligate from 32 States that have already received over 50 percent of their allocation. This will have a profound impact on the States that have accelerated their weatherization programs. The second option being considered by DOE will reduce the fiscal year 1980 allocation by $100 million to States that are unlikely to spend their funding in calendar year 1980. This option is preferable to the first option in that it will not have as severe an impact on the States that have accelerated their programs.

However, this option will impact large, cold climate States such as New York, New Jersey, Illinois, Michigan, Wisconsin, and Massachusetts. The third option would be to withhold any funding to any State over and above their tentative allocations. Again, this would severely impact States that have accelerated their programs by forcing termination until fiscal year 1981 funds can arrive.

The impact these options will have on the various States is shown in the tables which follow my remarks.

Mr. President, conservation is clearly a major national imperative. Studies have shown that it is possible to decrease the energy use in the United States by 20 percent simply by using straightforward conservation methods. This is double the reduction envisioned for the synthetic fuels program, which is predicted to provide the fuel to displace 10 percent of our energy imports by 1990. And conservation can be achieved many years earlier at far less than the $88 billion ultimately projected for the synthetic fuels program.

Why then, are we reducing the funds for one of the few conservation programs so dramatically? To penalize the States that have developed the most effective weatherization programs by failing to provide the necessary funds is shortsighted at best and wholly contrary to our efforts to cut back on oil usage.

If weatherization asssitance is terminated in a few States for a few months, millions of barrels of oil will be needlessly consumed and the need for direct energy assistance payments to individuals will not decrease as we had hoped. The real value of the weatherization program rests on its being capable for dramatically—and permanently—reducing energy consumption in a home.

With the continual rise in the cost of fuel, it is safe to assume that, in the future, the cost of subsidizing fuel purchases will grow as well. Last year's emergency fuel assistance program provided up to $400 of fuel per household. In 1984, the Government will have to spend more than $500 to provide the same amount of oil. But if a low-income home is weatherized, significantly reducing the household's consumption of oil, the Government is actually removing the family from its fuel assistance list. In addition, reducing the fuel bills through weatherization allows the individual homeowner to divert his resources to other necessities of life.

Mr. President, the importance of the DOE weatherization program to our Nation's energy conservation effort cannot be overstated. I would hope that my colleagues in the Senate will join me in urging the conferees to accept the House position on this matter.

The tables follow:

OPTION I.—REDUCE FORMULA ALLOCATION TO EACH STATE BY 50 PERCENT

State	Tentative and T & TA allocation	Obligations and T & TA to date	50 percent and T & TA under formula	Δ
REGION I				
Connecticut	$2,838,720	$1,901,400	$1,419,360	*(−$482,040)
Maine	3,184,010	1,918,772	1,592,005	*(−326,767)
Massachusetts	6,115,730	3,191,588	3,057,865	*(−133,723)
New Hampshire	1,520,480	852,117	760,240	*(−91,877)
Rhode Island	1,220,950	798,375	610,475	*(−187,900)
Vermont	1,505,080	1,505,080	752,540	*(−752,540)
REGION II				
New Jersey	5,297,220	0	2,648,610	(+2,648,610)
New York	19,890,400	0	9,945,200	(+9,945,200)
REGION III				
Delaware	550,600	1,281,902	275,300	*(−1,006,602)
District of Columbia	705,710	345,857	352,855	(+6,998)
Maryland	2,311,710	929,010	1,155,855	(+226,845)
Pennsylvania	13,913,700	7,388,850	6,956,850	*(−432,000)
Virginia	3,191,050	1,756,589	1,595,525	*(−161,064)
West Virginia	2,792,850	1,540,113	1,396,425	*(−143,688)
REGION IV				
Alabama	1,787,010	1,787,010	893,505	*(−893,505)
Florida	640,150	626,654	320,075	*(−305,579)
Georgia	1,979,730	1,979,730	989,865	*(−989,865)
Kentucky	3,984,480	3,984,480	1,992,240	*(−1,992,240)
Mississippi	1,181,570	1,181,570	590,785	*(−590,785)
North Carolina	3,380,580	3,204,190	1,690,290	*(−1,513,900)
South Carolina	1,109,520	1,109,520	554,760	*(−554,520)
Tennessee	3,508,180	1,593,695	1,754,090	(+160,395)
REGION V				
Illinois	11,922,100	0	5,961,050	(+5,961,050)
Indiana	5,735,680	3,151,280	2,867,840	*(−283,440)
Michigan	13,733,500	0	6,866,750	(+6,866,750)
Minnesota	10,398,900	10,398,900	5,199,450	*(−5,199,450)
Ohio	11,503,100	0	5,751,550	(+5,751,550)
Wisconsin	7,802,140	0	3,901,070	(+3,901,070)
REGION VI				
Arkansas	1,737,620	1,203,420	868,810	*(−334,610)
Louisiana	842,660	842,660	421,330	*(−421,330)
New Mexico	1,549,740	1,549,740	774,870	*(−774,870)
Oklahoma	2,067,950	1,233,450	1,033,975	*(−199,475)
Texas	2,745,000	2,295,000	1,372,500	*(−922,500)
REGION VII				
Iowa	4,985,040	2,243,200	2,492,520	(+249,320)
Kansas	2,085,550	462,625	1,042,775	(+580,150)
Nebraska	2,613,220	1,165,100	1,305,610	(+141,510)
Missouri	6,131,130	5,528,300	3,055,565	*(−2,462,735)

State	Tentative allocation	Planned obligation	Δ
REGION VIII			
Colorado	$3,586,200	0	−$3,586,200
Montana	1,941,700	$1,631,028	−310,672
North Dakota	2,139,800	941,512	−1,198,288
South Dakota	1,851,000	1,610,370	−240,630
Utah	1,561,700	1,561,700	0
Wyoming	787,300	533,300	−254,000
REGION IX			
Arizona	587,800	260,540	−260,540
California	4,646,800	2,320,400	−2,320,400
Nevada	400,600	206,300	−200,300
REGION X			
Alaska	957,100	957,100	0
Idaho	1,458,000	1,458,000	0
Oregon	2,114,400	2,114,400	0
Washington	3,297,700	3,297,700	0
Total			−$90,985,537
T&TA			−9,014,463
			−100,00,000

Note: + equals over, — equals under, * equals deobligation.

OPTION II.—REDUCE FORMULA ALLOCATIONS TO STATES NOT SPENDING PRIOR YEARS FUNDING

State	Tentative allocation	Planned obligations	Δ
REGION I			
Connecticut	$2,535,200	$2,535,200	0
Maine	2,849,100	2,849,100	0
Massachusetts	5,514,300	3,191,588	−$2,322,712
New Hampshire	1,336,800	1,336,800	0
Rhode Island	1,064,500	1,064,500	0
Vermont	1,322,800	1,322,800	0
REGION II			
New Jersey	4,770,200		−4,770,200
New York	18,990,400		−18,990,400
REGION III			
Delaware	450,600	301,902	−148,698
District of Columbia	596,100	238,440	−357,660
Maryland	2,056,100	678,513	−1,377,587
Pennsylvania	13,013,700	13,013,700	0
Virginia	2,855,500	1,427,750	−1,427,750
West Virginia	2,493,500	1,246,750	−1,246,750
REGION IV			
Alabama	1,579,100	2,291,000	+650,000
Florida	536,500	536,500	0
Georgia	1,754,300	1,754,300	0
Kentucky	3,576,800	4,576,800	+1,000,000
Mississippi	1,028,700	1,543,050	+514,350
North Carolina	3,027,800	0	−3,027,800
South Carolina	963,200	2,963,200	+2,000,000
Tennessee	3,143,800	5,143,800	+2,000,000
REGION V			
Illinois	11,022,100	0	−11,022,100
Indiana	5,168,800	10,168,800	+5,000,000
Michigan	12,833,500	0	−12,833,500
Minnesota	9,498,900	9,498,900	0
Ohio	10,603,100	0	−10,603,100
Wisconsin	7,047,400	0	−7,047,400
REGION VI			
Arkansas	1,534,200	1,000,000	−534,200
Louisiana	720,600	0	−720,600
New Mexico	1,363,400	2,363,400	+1,000,000
Oklahoma	1,834,500	1,834,500	0
Texas	2,450,000	2,450,110	0
REGION VII			
Iowa	4,486,400	2,243,200	−2,243,200
Kansas	1,850,500	462,625	−1,387,875
Nebraska	2,330,200	1,165,100	−2,552,975
Misrouri	5,528,300	14,428,300	+8,900,000

State	Tentative and T. & T.A. allocation	Obligations and T. & T.A. to date	50 percent and T. & T.A. under formula	Δ
REGION VIII				
Colorado	$3,994,820	0	$1,997,410	(+$1,997,410)
Montana	2,185,870	$1,631,023	1,092,935	(+538,093)
North Dakota	2,403,780	941,512	1,201,890	(+260,378)
South Dakota	2,086,100	1,610,370	1,043,050	*(−567,320)
Utah	1,767,870	1,561,700	883,935	*(−677,765)
Wyoming	916,030	533,300	458,015	*(−75,285)
REGION IX				
Arizona	696,580	260,540	348,290	(+87,750)
California	5,154,880	2,320,400	2,577,440	(+257,040)
Nevada	500,600	200,300	250,300	(+50,000)
REGION X				
Alaska	1,102,810	1,102,800	551,405	*(−551,395)
Idaho	1,653,800	924,800	826,900	*(−97,900)
Oregon	2,375,840	1,741,520	1,187,920	*(−553,600)
Washington	3,677,470	3,017,930	1,838,735	*(−1,179,195)

Note: + equals over, — equals under, * equals deobligation.

OPTION III

State	Tentative allocation	Planned obligation	Δ
Connecticut	$2, 535, 200	$2, 535, 200	0
Maine	2, 849, 100	2, 849, 100	0
Massachusetts	5, 514, 300	3, 191, 588	−$2, 322, 712
New Hampshire	1, 336, 800	1, 336, 800	0
Rhode Island	1, 064, 500	1, 064, 500	0
Vermont	1, 322, 800	1, 322, 800	0
REGION II			
New Jersey	4, 770, 200	0	−4, 770, 200
New York	18, 990, 400	0	−18, 990, 400
REGION III			
Delaware	450, 600	301, 902	−148, 698
District of Columbia	596, 100	238, 440	−357, 660
Maryland	2, 056, 100	678, 513	−1, 377, 587
Pennsylvania	13, 013, 700	13, 013, 700	0
Virginia	2, 855, 500	1, 427, 750	−1, 427, 750
West Virginia	2, 493, 500	1, 246, 750	−1, 246, 750
REGION III			
Alabama	1, 579, 100	1, 579, 100	0
Florida	536, 500	536, 500	0
Georgia	1, 754, 300	1, 754, 300	0
Kentucky	3, 576, 800	3, 576, 800	0
Mississippi	1, 028, 700	1, 028, 700	0
North Carolina	3, 027, 800	0	−3, 027, 800
South Carolina	963, 200	963, 200	0
Tennessee	3, 143, 800	3, 143, 800	0
REGION V			
Illinois	11, 022, 100	0	−11, 022, 100
Indiana	5, 168, 800	5, 168, 800	0
Michigan	12, 833, 500	0	−12, 833, 500
Minnesota	9, 498, 900	9, 498, 900	0
Ohio	10, 603, 100	0	−10, 603, 100
Wisconsin	7, 047, 400	0	−7, 047, 400
REGION VI			
Arkansas	1, 534, 200	1, 534, 200	0
Louisiana	720, 600	0	−720, 000
New Mexico	1, 363, 400	1, 363, 400	0
Oklahoma	1, 834, 500	1, 834, 500	0
Texas	2, 450, 000	2, 450, 000	0
REGION VII			
Iowa	4, 486, 400	2, 243, 200	−2, 243, 200
Kansas	1, 860, 500	462, 625	−1, 387, 875
Nebraska	2, 330, 200	1, 165, 100	−2, 552, 975
Missouri	5, 528, 300	5, 528, 300	0
REGION VIII			
Colorado	3, 586, 200	0	−3, 586, 200
Montana	1, 941, 700	1, 631, 028	−310, 672
North Dakota	2, 139, 800	941, 512	−1, 198, 288
South Dakota	1, 851, 000	1, 610, 370	−240, 630
Utah	1, 561, 700	1, 561, 700	0
Wyoming	787, 300	533, 300	−254, 000
REGION IX			
Arizona	587, 800	260, 540	−260, 540
California	4, 640, 800	2, 320, 400	−2, 320, 400
Nevada	400, 600	200, 300	−200, 300
REGION X			
Alaska	957, 100	957, 100	0
Idaho	1, 458, 000	1, 458, 000	0
Oregon	2, 114, 400	2, 114, 400	0
Washington	3, 297, 700	3, 297, 700	0
Total			90, 451, 337
T & TA			9, 548, 663
			100, 000, 000

Note: + eq uals o ver, − equals under.

REVENUE SHARING FOR THE STATES

Mr. DOLE. Mr. President, I support the point of order by the distinguished Senator from Connecticut (Mr. WEICKER). With all due respect to my colleagues on the Appropriations Committee, it was not appropriately within their jurisdiction to reduce the revenue sharing entitlement due the States under the currently authorized program.

I do not support burgeoning Federal spending or a continual expansion of Federal aid to other governmental units. But when cuts must be made, they should be made in accordance with the law and in areas where need is least urgent. That is why I supported the Kassebaum-Bradley amendment to the first budget resolution. That is also why I have introduced legislation, S. 2681, that would preserve the States' share in future years for those States that choose an equivalent reduction in categorical grant aid. This preserves budget restraint and the principle that general-purpose aid is the most efficient form of support to State and local governments. It is also the most desirable form in a Federal system, because it maximizes local decisionmaking on local needs.

Mr. President, whether the Members like it or not, the States share is an entitlement for the States for the period of authorization. The current program expires at the end of fiscal year 1980. It is clearly not in order for the Appropriations Committee to reduce that entitlement for fiscal year 1980. Revenue sharing is within the jurisdiction of the Finance Committee, where I serve as ranking minority member. That is why Senator WEICKER's point of order must be sustained.

No one wants to see more spending items become "uncontrollable" for budget purposes. But we are dealing here with an existing entitlement very limited in nature, which the Appropriations Committee is powerless to reduce. I do not want to suggest that my friends on that committee are neglecting their duties, but I strongly urge that committee to look elsewhere to make the necessary reductions in the fiscal 1980 budget.

PORTSMOUTH URANIUM ENRICHMENT PLANT

● Mr. METZENBAUM. I would like to get some clarification on the effect of the proposed deferral of $135 million for the uranium enrichment plant in Portsmouth, Ohio. I have been in touch with the Department of Energy and with our Energy Subcommittee, and I am informed that this deferral will not, in itself, affect the 1988 completion date of the first phase of this project. Is that correct?

Mr. JOHNSTON. That is correct. We specifically provided for a deferral rather than a rescission in order that these funds will remain available for the plant, and to meet the plant schedule.

Mr. METZENBAUM. I thank the Senator very much. I just wanted to ask that question and get the answer on the record. As you know, this plant is very important to our nuclear nonproliferation goals, to our energy independence goals, and to my State of Ohio. I am very interested in seeing to it that it remains on track.●

PUBLIC LAW 480 FUNDING

● Mr. BOSCHWITZ. Mr. President, it was my original intent today to introduce an amendment to increase the supplemental appropriations for the Public Law 480 program from $100 million to $142 million. However, after much discussion with my friend from Kansas and other Members of this body, I decided against an amendment. It certainly is my hope, however, that when this supplemental appropriation bill goes to conference, my distinguished colleague from Washington and the other House and Senate conferees will give the utmost attention to the Public Law 480 funding level.

The House Appropriations Committee recommended $80 million for title II and $20 million for title I in their version of the fiscal year 1980 supplemental appropriations bill. A House floor amendment, adopted by a vote of 346 to 47, added an extra $42 million for title II, bringing the total for the program to the $142 million level requested by the administration. The Senate Appropriations Committee reported out a figure of $100 million for the Public Law 480 program.

In a letter dated May 6 to Agriculture Appropriations Subcommittee Chairman EAGLETON, Secretary Bergland indicated that:

> The need for this supplemental from both the international and domestic perspectives has, if anything, become more serious since its submission to Congress in February. The food deficit situation in many countries is already acute and is already causing starvation in some areas. Moreover, the additional Public Law 480 shipments also would assist in mitigating the recent decline in U.S. farm prices.

The need for additional funding for title II under the Public Law 480 program has been well documented. The United Nations World Food Council, meeting 2 weeks ago in Tanzania, issued an appeal "to all countries and international agencies to undertake, on a special emergency basis, additional food assistance," to countries of East and West Africa. "Available information indicates that in East Africa alone, current food import needs for the coming 12 months, after current crops are harvested, will be between one and one and one-half million tons." East African countries in an unbroken line from Ethiopia through Mozambique now face serious drought and food shortages. These countries—Ethiopia, Somalia, Kenya, Uganda, Tanzania, Zambia, and Mozambique—have a combined population of 95 million people. In several countries—Somalia, Uganda, and Ethiopia—immediate emergency assistance will be needed to avoid starvation for many.

While the details in countries differ, there are several general problems which should be highlighted. First, drought conditions have affected virtually all countries in East Africa. Regional sources of food exports are therefore limited. Malalwi, Kenya, and Zimbabwe—normally self-sufficient in terms of meeting their domestic needs—must all import grain this year.

Second, large-scale movement of people within and across countries will shape the requirements of emergency feeding programs. Two forces are at work here. Some countries—especially Somalia, Kenya, Ethiopia, and Uganda—have nomadic peoples whose normal source of food is cattle—milk and meat. As drought persists, milk supplies will disappear and cattle are slaughtered. The net result of this creates additional demand for grain in those countries, causing the grain shortfall to expand, Moreover, political conflicts in the area have created large refugee communities which strain the resources of the countries which harbor them.

The Somali-Ethiopian war has currently left Somalia with over 1.5 million refugees, about 40 percent of their original population of 3.7 million. This war also disrupted food production in both countries.

There is little prospect for improvement over the next few months. Because of insufficient rainfall during the maturing stage of the grain crop, production in both East and West Africa is expected to decline sharply. Present rainfall conditions in northern Uganda, Kenya, and Tanzania are disappointing. In addition, for those areas with the largest food problems—Ethiopia and Somalia—dry, hot weather continues.

Estimates of what is needed—over and above normal trade and aid—differ. The world food council estimates East Africa will require 1.1 to 1.5 million tons of cereals over the next 12 months. AID projects a need of about 941,000 tons for the 1980 crop years. The Department of Agriculture indicates that East Africa will suffer a shortfall of approximately $1.4 million tons. If there was no refugee problem and no increase in the consumption of grain in this region, the shortfall would be close to 1 million tons. With these changing conditions, however, grain import requirements could rise to as high as 2.5 million tons.

It would be my hope, Mr. President, that the House and Senate conferees would accept the House figure for the additional funding for the Public Law 480 program in 1980. ●

PUBLIC LAW 480

● Mr. DOLE. Mr. President, I would like to engage in a colloquy with the distinguished Senator from Washington (Mr. MAGNUSON) on a matter of great concern to the Senator from Kansas. I want to include in the legislative history of today's considerations my distress that the Senate supplemental appropriations bill fails to provide adequate funding for Public Law 480, the food for peace program.

This is a program which I have strongly supported in the past and which will continue to be of priority interest to me because it is the program which strives, through peaceful efforts, to meet the basic needs of those peoples of other nations who more than likely would otherwise perish.

Mr. MAGNUSON. Will the Senator from Kansas yield? I certainly share the concern of the distinguished Senator from Kansas and join him in expressing support of this very worthy program which has made many friends for our country among the suffering peoples of the world.

Mr. DOLE. The Senator from Kansas thanks the distinguished Senator from Washington for his recognition of the value of this food for peace program in aiding peoples who are the victims of human disasters of the highest magnitude. The plight of the peoples who would benefit from additional funding under the Public Law 480 program has been fully described by the news media and in this assembly by my colleagues, most recently by articles inserted in the RECORD by Mr. TSONGAS. These people are literally starving to death. Their situation is not one of their own making or one that can be alleviated without help.

Mr. MAGNUSON. The Senator from Washington commends the distinguished Senator from Kansas for reminding this body of the important humanitarian purposes of the Public Law 480 program.

Mr. DOLE. As we are all aware, the House has provided $142 million in supplemental funds for the food for peace program, while the current Senate appropriations equal $100 million. It is the hope of the Senator from Kansas and many of his colleagues in this Chamber that the distinguished Senator from Washington will also express his support of this program when he goes to conference by seeking to provide funding that comes as close as possible to the House figure, within the framework of fiscal restraint which has become a matter of bipartisan concern in the Congress.

The Senator from Kansas had indeed hoped to identify funds within the Senate supplemental appropriations bill which could be made available for this vital program. It was his earnest hope that the Senate could be as forthcoming in this humanitarian area as the House before the bill went to conference.

However, the number of rescissions and other equally important concerns leads him to believe that the best course is to call upon the distinguished chairman of the Appropriations Committee to seek in conference these additional funds so necessary to meet refugee needs of Kampucheans, Afghans in Pakistan, and displaced persons in Somalia, as well as the resources to meet the needs created by the deepening food shortages in Africa. This has been a program supported fully by both sides of the aisle and in both bodies of this Congress. The Senator from Kansas is most anxious that this important program be returned to its proper place in our list of national priorities, and sincerely hopes that the Senate conferees will do all they can to insure that the Public Law 480 program is given the high priority it deserves.

Mr. MAGNUSON. I am pleased that the distinguished Senator from Kansas has made his concerns known today so I may assure him that I will have them in mind when we go to conference.

WASHINGTON, D.C., *June 26, 1980.*

Senator WARREN G. MAGNUSON, *Chairman,*
SENATOR MILTON R. YOUNG, *Ranking Minority Member,*
Senate Committee on Appropriations, Dirksen Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON AND SENATOR YOUNG: We are writing regarding the P.L. 480 provisions in the FY 80 supplemental appropriations bill. As you know, the House bill provides for $142 million, the Senate bill for $100 million. We urge that with your leadership, Senate conferees accept the House figure on this item, thus making available $122 million for Title II and $20 million for Title I, for the balance of the fiscal year.

The justifications for Conference action to adopt the higher House figure are as follows:

(1) There is an indisputable need for additional P.L. 480 commodities in a host of countries, particularly to meet refugee needs of Kampucheans, Afghanistanis in Pakistan, and displaced persons in Somalia. The Administration is also seeking to be responsive to deepening food shortages throughout Africa.

(2) For reasons of national interest as well as humanitarian concern, a prompt and generous response now, rather than after the turn of the fiscal year, is very much in order. The Title II programs, which would receive the $42 million in additional funds, are of proven effectiveness in refugee and disaster relief situations.

(3) The $142 million in the House bill is a moderate figure, about midway between the $196.7 million the Administration has requested and the $100 million which the Senate bill would provide. The Administration advises that if the supplemental is enacted before the July recess, commodities valued at the full $142 million will be purchased and shipped before the fiscal year expires.

(4) The purchase of more than 100,000 tons of food commodities from U.S. farmers will have a desirable effect on farm prices, taking up some of the slack occasioned by the suspension of grain sales to the USSR.

We therefore urge you to accept the House's provisions with respect to the supplemental funds for P.L. 480.

Sincerely,

PAUL E. TSONGAS,
CARL LEVIN,
BOB DOLE,
ALAN CRANSTON,
MARK HATFIELD,
GEORGE MCGOVERN. ●

● Mr. ROTH. Mr. President, as we consider the supplemental and appropriations bill of 1980, I would like to raise a concern relating to the ability of States to participate in Federal programs which utilize formula distribution.

In recent years many congressional committees have inserted minimum allotment and hold harmless clauses in legislation enacting programs. A purpose of a minimum allotment is to insure that all States have a sufficient amount of funds to conduct a viable program reflective of the intent of the authorizing legislation. For small States, the minimum allotment can be the difference in taking advantage of Federal resources aimed at achieving national objectives and providing their populations with the services being furnished through a Federal program.

While language included in authorizing legislation to establish minimum allotments or hold harmless provisions would seem to be sufficient to insure safeguards for base levels of funding to conduct programs, this is not always the case. At times the appropriations process will either allow insufficient amounts to trigger a minimum provision or include language which supersedes the intent of the authorizing legislation.

I applaud all actions to restrain Federal spending and control the budget. In the process, however, States need to be treated equally. Therefore cuts should be made in equal percentages across all States for programs where cuts are enacted and minimum allotments should be preserved to allow a fair chance of running a program should a State elect to do so.●

● Mr. GRAVEL. Mr. President, I would like to clarify the language in chapter 12 of H.R. 7542, under the Small Business Administration "Disaster Loan Fund" heading. I would like to make sure that my understanding is correct that of the $1.2 billion supplemental for SBA's disaster loan fund, the money shall be made available for all loans for which applications have already been processed and committed for the declared Federal disaster in February due to tornado winds in Anchorage, Alaska.

Mr. HOLLINGS. That is correct. SBA gave us a list of the amounts that make up the $1,165 million but unfortunately Alaska was not included due to the relatively small amount required for that particular disaster. The full $1,165 million will be available to meet the needs of all the disaster victims, and if these estimates prove to be insufficient, the committee is ready to supply additional assistance.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for morning business not extend beyond 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6974, FISCAL YEAR 1981 MILITARY AUTHORIZATION BILL, SECTION 105 (a) AND (b)—MANDATING REPORTS TO THE CONGRESS ON THE U.S.S. "FORRESTAL" AND ALL NAVY OVERHAUL PROJECTS

● Mr. WARNER. Mr. President, in H.R. 6974, the fiscal year 1981 defense authorization bill, the Committee on Armed Services unanimously adopted two closely related provisions for the purpose of providing a management tool for a defense function where improved congressional oversight is critically needed. This is the Navy's overhaul and repair program.

PURPOSE OF PROVISION

Section 105(a) provides that beginning next year funds involving major repair work of at least $10 million on ships of 3,000 tons or over must be authorized by law. In addition, detailed information to be available when the funding request is considered will be submitted on cost, manpower utilization, and industrial base issues in connection with these projects.

Section 105(b) which relates only to the *Forrestal* provides that the $95 million advance funds requested in the bill may not be used for a particular shipyard, and that the shipyard assignment for the *Forrestal* may not be designated until the Secretary of the Navy completes and submits to the Congress a study on comparative shipyard costs, types of manpower to be ultilized, fleet readiness, and other relevant data, and the Congress is afforded the opportunity of making a judgment on this study when the next funding request for the *Forrestal* is considered.

In effect, what this section requires is that the Congress have before it certain fundamental oversight information when further funds are considered next year for the *Forrestal*.

REMOVAL OF MISCONCEPTIONS

At this point, Mr. President, I would like to remove certain misconceptions regarding the scope and intent of this provision.

First, the committee language does not determine in any manner the shipyard assignment for the *Forrestal;*

Second, this language has no impact whatsoever on the U.S.S. *Saratoga*—SLEP No. 1;

Third, the *Forrestal* shipyard assignment is not a public versus private shipyard issue. The Navy needs the industrial base of both resources; and

Fourth, this is not a "North versus South" issue which characterized certain of the debate last year on the *Saratoga.*

DISCUSSION

I would emphasize that the committee language does not bind the Congress in any way with respect to actions that might be taken at a future date on the *Forrestal* program. Moreover, the Secretary of the Navy has complete discretion regarding the scope and content of the mandated study.

The issue before the Senate is whether to acquire this critically needed management tool by obtaining this information or proceed as some are urging to approve the money and ask no questions. This section goes to the heart of whether this body is to insist on effective congressional oversight of this program, and the Senate should face this issue head-on.

If the Congress is to make a sensible judgment on this program, it must have available the essential information on comparative shipyard costs, manpower utilization, and fleet readiness. It is important to note that the advance funds will be available at all times for planning and long-lead purposes.

As the Senate knows, this four-ship, 10-year total SLEP program, extending each carrier life 15 years, is no small funding matter. Over $2 billion will be expended. The *Forrestal,* the second of these ships, is not scheduled to enter dry dock for about 33 months, until about March 1983, for its 28-month modernization.

NO INFORMATION AT THE PRESENT TIME AND UNADDRESSED ISSUES

Mr. President, none of the information mandated by this section is presently before the Congress.

I wish to refer briefly to these unaddressed issues and indicate the reasons why the Congress should have this oversight information.

COMPARATIVE SHIPYARD COSTS

Mr. President, even with prospective increased naval appropriations, we should continue to make certain that shipbuilding funds are used in the most efficient and economical manner. How can any such judgment be made if there is no information on the relative costs for competing yards?

THE IMPACT OF THE "FORRESTAL" PROGRAM ON FLEET READINESS

Mr. President, the Senate should be advised as to whether crew personnel of the *Forrestal* will be assigned as a part of the shipyard industrial work force in lieu of civilian personnel when the modernization work is begun on this carrier about March 1983. The Congress is obligated to exercise its judgment on this matter because of the definite prospect of further erosion in the already critical state of fleet readiness if skilled crew personnel are to be diverted from the active fleet and assigned to industrial shipyard work.

FLEET READINESS IMPACT OF "SARATOGA" CREW ASSIGNMENT

Mr. President, the *Saratoga* issue, decided last year in the Congress, is over. The fact remains, however, that over 1,100 skilled and experienced *Saratoga* crew members will be assigned to the Philadelphia Shipyard industrial work force. Admiral Hayward testified last year that most all of these men are skilled and over 50 percent are engineering ratings.

Their shipyard assignment can only further diminish the critical state of fleet readiness since they will no longer be available for service in the fleet or essential shore duties. As a result of the *Saratoga* assignment action, the 20,000-man shortage of skilled Navy personnel will be increased by about 5 percent.

What does all this have to do with the *Forrestal*? The issue is whether the assignment experience of the *Saratoga* is to be repeated with the *Forrestal*, and if so, whether Congress is to be advised and have an opportunity to make a judgment on the matter.

How can the Senate exercise its oversight function if it does not even seek the information for determining whether the *Forrestal* assignment will have an impact on fleet readiness? As the Senate well knows, the Chief of Naval Operations has indicated that manpower is the Navy's No. 1 problem. For instance, we know that some of the shortages of the skilled petty officers are now reaching crisis proportion.

Thirty-eight percent of European forward deployed ships are so short of experienced petty officers that ships are arriving in the lowest category of military personnel readiness.

Last year there were reenlistment shortages in 61 percent of the 85 major enlisted skill areas. Less than one-half of the Navy petty officers completing their second reenlistment terms were retained.

When the nuclear carrier *Eisenhower* recently left for a long-term Indian Ocean deployment, almost 1 of every 7 billets was vacant due to the personnel shortage of 735 men.

The 30,000-ton Navy supply ship U.S.S. *Canisto* only recently was unable to go to the Mediterranean with fuel and other supplies because of the lack of 14 skilled petty officers. The ship had on board only 2 of its 9 required boiler tenders and only 6 of the required 13 machinist mates.

These are only examples of the extremely serious, overall condition of the Navy at the present time.

RECENT STATEMENT OF SECRETARY BROWN

I would observe, Mr. President, that within the last few days Secretary Brown has urged the Congress to refuse the funds for reactivating the battleship *New Jersey*, noting that the Navy is hard pressed to man its existing ships and that this activation would necessitate an additional 1,500 men. I observe with some irony that the Secretary's concern does not extend to the removal of 1,100 skilled seamen from the *Saratoga* to the Philadelphia Navy Shipyard.

POLICY OF ASSIGNING NAVY PERSONNEL TO INDUSTRIAL DUTIES

Mr. President, I would like to raise another policy implication of using skilled crew personnel for industrial shipyard work. Admiral Hayward has only recently supported a return to the draft in view of the Navy's many manpower problems. What is to be our policy, Mr. President, if we are to draft men into the Navy for reassignment to an industrial shipyard to perform what should be considered civilian jobs. Are men to be drafted in the Navy to fill vacancies of skilled personnel who are assigned to industrial shipyards? It is my strong view that the principal purpose of sailors is to man the fleet and be available for combat.

Mr. President, the practice of using men in uniform as military labor is an issue the Congress at some time must address. In the past, in times of strict peace, probably no great harm was done when Navy crew personnel were required to assist in short 3- to 6-month overhaul jobs on their ships. As we all know, times are now different. The Navy is hard pressed even to meet its combat manpower requirements. Moreover, aside from fleet readiness, industrial shipyard assignments cause severe morale problems. This general practice was severely criticized several years ago by the General Accounting Office. Admiral Hayward testified last year to the morale and other problems expected to result from the 1,100 *Saratoga* ship crew assignment. This situation will not be helped by the fact that the *Saratoga* crew will personally subsidize the labor costs at Philadelphia by $73 million, according to the General Accounting Office, which would be the additional cost of a full civilian labor force.

At the same time, we have a constantly declining civilian shipyard industrial base. This entire issue needs careful examination, and the *Forrestal* is the next case in point.

UNFORESEEN INDIAN OCEAN PROBLEM

Mr. President, the Navy's manpower conditions were severe last year. We all know that what has made their resources even more critical is the Indian Ocean crisis which occurred well after the debate on the *Saratoga* last year. There is no way that the Senate last May could have foreseen this current problem. I therefore wish to make it clear that my remarks should not be interpreted as criticizing the action taken last year by the Senate.

SECTION 105(B) WILL CAUSE NO DELAY OR DISRUPTION TO THE FORRESTAL PROGRAM

Mr. President, I would like to respond to the charge that the committee's language will cause delay and disruption to the *Forrestal* SLEP program.

With respect to delay, the experience of the *Saratoga* completely refutes any contention that the *Forrestal* would be delayed by the enactment of this section. The *Saratoga* is on schedule according to the Navy. The period of time for which advance funds will have been available to the *Saratoga* is less than what they will be for the *Forrestal* under this amendment. A major portion of the *Saratoga* advance funds ($44 million) will have been available prior to October 1, 1980 only 9 months—since December 1979 when the fiscal year 1980 appropriation act became law. The remaining portion of the *Saratoga* advance funds (about $62 million) have been available without regard to shipyard assignment for about a 17-month period, from May 3, 1979 to October 1, 1980.

The *Forrestal* advance funds in this bill will be available without regard to shipyard restrictions for at least 17 months prior to dry dock entry since it is my firm understanding that some funds will be requested for the *Forrestal* next year and the Senate can be confident that the Congress will act on these funds. The terms of section 105(b) will have been met.

I would emphasize, Mr. President, that Secretary Brown in his letter of June 24 to various Senators is completely wrong in his interpretation of section 105. He assumes that since funds to complete the *Forrestal* will not be requested until fiscal year 1983 the shipyard assignment would be held up until that time. Such is not the case. The legislative history is clear based on what I have stated that it is the intention of the committee that after the report is received next year and Congress has had the opportunity to act on whatever *Forrestal* funds are requested next year the designation of a shipyard assignment could be made.

Mr. President, the Secretary's recent letter made an interpretation which is contrary to both the explicit language and the legislative history of this section.

I insert in the Record at this point Secretary Brown's letter and my letter of response to him on this matter.

The letters follow:

THE SECRETARY OF DEFENSE,
Washington, D.C., June 24, 1980.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIDEN: I am responding to your letter of June 9, 1980 concerning the possible delay in industrial assignment of *Forrestal* SLEP. The amendment proposed by the SASC contains three major provisions:

(1) Funds authorized for advance procurement are restricted to those procurements which will not result in selection or designation of a particular shipyard for performnance of SLEP-related work.

(2) A comprehensive study shall be conducted after enactment of the authorization bill to:

Compare Service Life Extension Program (SLEP) execution costs at public versus private shipyards;

Compare the number of Federal civilian personnel, armed forces personnel, and private industry personnel that will be utilized in performing the work at public versus private shipyards; and

Evaluate other factors considered significant in selecting an execution site.

(3) The Secretary of the Navy may not designate the execution site until the above study is submitted to Congress and, "Congress has enacted after the date of the enactment of this act, legislation authorizing funds for the performance of such work."

Such provisions as these would prevent the Secretary of the Navy from designating the *Forrestal* SLEP execution site until the FY 83 authorization bill (authorizing funds for the completion of the *Forrestal* SLEP) is enacted. This would require delaying designation of the *Forrestal* SLEP industrial activity until a few months before SLEP commencement, far beyond the date necessary to support orderly advance planning for an availability of this size. This action would have the following impact:

(1) The start date of *Forrestal* SLEP would slip significantly past January 1983 and would thus create severe perturbations to fleet operations and maintenance schedules.

(2) Parallel advance planning by all industrial activities under consideration would be required to help minimize the extent of the slip in start date. Such parallel advance planning would require additional FY 81 authorization of approximately $10 million for design work and $3 million for shipchecks. Additional increases in advance planning funds would be required in FY 82 as parallel planning proceeded. Parallel shipchecks by two shipyards also creates additional ship's force support workload.

(3) Ship's force plans for transfers of families from homeport to the SLEP execution site would be held in limbo until the

eleventh hour. This would have an adverse impact on morale and retention.

In selecting industrial activity assignments for major ship availabilities (such as the CV SLEPs), the Navy evaluates many factors, not the least of which is a thorough review of shipyard workload impact, both public and private. This is done so that the Navy's decision maximizes both the proper and expeditious accomplishment of work and maintenance of a strong national ship repair mobilization base. Exhaustive review of these factors is in process now in preparation for a decision on *Forrestal's* SLEP assignment.

Accordingly, we oppose the amendment proposed by the SASC. Identical letters are being sent to Senators Bradley, Heinz, Roth, Schweiker, and Williams.

Sincerely,

HAROLD BROWN.

COMMITTEE ON ARMED SERVICES,
Washington, D.C., June 26, 1980.

Hon. HAROLD BROWN,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I appreciate the courtesy of receiving a copy of your recent letter to Senator Biden concerning the matter of the *Forrestal* SLEP.

Having read your letter very carefully, I am concerned that your letter is in error and is based on a mistaken interpretation of the meaning and intent of Section 105 of the FY 1981 Defense Authorization bill as reported by the Senate Armed Services Committee.

Your letter interprets Section 105 as preventing a shipyard designation for the *Forrestal* SLEP until the FY 1983 Authorization bill is enacted (i.e. Summer 1982).

This is an inaccurate interpretation and is not supported by the text of the amendment or its legislative history.

The amendment requires that the Secretary of the Navy not designate a site for the *Forrestal* SLEP until a study is submitted to Congress and "Congress has enacted after the date of the enactment of this act, legislation authorizing funds for performance of such work."

The operative phrase is ". . . legislation authorizing funds for performance of such work . . ." and that language is directed to the FY 1982 Defense Authorization bill, not the FY 1983.

The reference to the FY 1982 bill is clear and definitive because, under the current Administration five-year shipbuilding plan submitted to the Congress, funding for "such work" (the performance of the *Forrestal* SLEP) is included in FY 1982. (A copy of the five-year plan as submitted to Congress is attached).

The legislative history is clear on this matter as is the intent of the author of the amendment and the intent of the Armed Services Committee. There has never been any intent to delay the SLEP program.

I refer you specifically to page 70 of the Committee Report on H.R. 6974 which states:

"The Committee would observe that the recommended approach will permit proper review without program disruption since the *Forrestal* is not scheduled to enter a shipyard until fiscal year 1983."

In summary, this amendment contemplates and intends that a shipyard designation be made in calendar year 1981, provided the mandated report is submitted to the Congress. This would allow a minimum of 17 months prior to a drydock entry of March 1983. This length of time following shipyard assignment has been more than adequate for the *Saratoga* which, according to the Navy, is "on schedule."

Since your letter is based on a mistaken interpretation of Section 105, your arguments against this provision are accordingly invalid.

The Defense Authorization Bill may be called up imminently. In fairness to the membership of the Senate and in view of the inaccuracy of your letter, I urge its immediate retraction.

Sincerely,

JOHN W. WARNER.

Enclosure.

NAVY SHIPBUILDING PROGRAM, FISCAL YEARS 1981–85

[Congressional submission]

	Fiscal year—				
	1981	1982	1983	1984	1985
Trident	1/1, 087. 2	1/1, 346. 9	1/1, 593. 3	1/1, 621. 2	2/3, 242. 4
SSN–688	1/461. 9	1/539. 3	1/623. 3	2/1, 024. 2	....
Future attack (FA–SSN)	14. 4	77. 6	1/712. 4	1/690. 0	4/2, 057. 2
Carrier (CV–SLEP)	1/515. 4	53. 0	1/582. 7	57. 1	1/670. 7
Aegis cruiser (CG–47)	2/1, 626. 9	3/2, 689. 2	3/2, 731. 4	4/3, 789. 1	4/4, 008. 7
Guided missile destroyer (DDC–X)					1/736. 8
DD–963(U)		35. 0	21. 3	1/189. 4	176. 8
Guided missile frigate (FFG–7)	4/1, 019. 8	4/1, 114. 9	3/940. 6	4/1, 351. 1	....
Frigate (FFX)			1/190. 2	....	4/900. 7
Mine countermeasure ship (MCM)		1/87. 3	....	4/346. 8	4/337. 9
LSD–41	1/340. 3	....	1/460. 7	....	1/428. 2
Surtass (TAGOS)	5/179. 9	4/150. 8			
Oiler (TAO)			2/328. 2	2/310. 8	....
Cargo ship (TAK(C))	1/45. 5				
Rapid deployment ship (TAKX)	2/207. 0	3/318. 0	3/349. 8	3/375. 4	3/404. 6
Salvage ship (ARS)	1/93. 0	2/160. 0	1/105. 0		
Service craft	35. 4	43. 2	29. 6	46. 2	....
Land craft	13. 4	7. 1	....	32. 6	....
OUT/PD	223. 8	239. 1	236. 7	241. 3	208. 4
Escalation	254. 5	59. 8			
Total	6, 118. 4	6, 921. 2	8, 905. 2	10, 075. 2	13, 172. 4
New/conversions	17/2	19/—	17/1	21/1	23/1

I emphasize that the advance funds are available at all times for planning and long-lead components so long as they do not relate to a particular shipyard.

With regard to disruption, the experience of the *Saratoga* clearly demonstrates that a shipyard assignment some 30 to 33 months prior to drydock entry is not necessary for planning, design, and long-lead procurement purposes.

In the case of the *Saratoga*, much of the design effort for Philadelphia was contracted to a private organization.

The long-lead components are procured without regard to the shipyard involved since they are unaffected by shipyard assignment. Seventeen months was sufficient without shipyard assignment restrictions for the *Saratoga*. The *Forrestal*, SLEP No. 2, should not require even this amount of time.

SUMMARY

Mr. President, the issues I have discussed clearly point up the need of section 105 and the management tool the mandated information would provide. I urge the Senate to retain this section in order to provide the committee and the Congress with the essential legislative information needed to do our job.●

THIS IS WAR

Mr. MOYNIHAN. Mr. President, the editorial page of the New York Daily News is deeply respected, both in the city and far beyond, for its good sense, its clear vision and its unwavering reasonableness. Hence it is no minor event for the Daily News to refer to a Federal agency as "power-mad" and to state that—

> Not since former President Gerald Ford brushed off the city's fiscal pleas, has Washington treated us so arrogantly and unfairly.

The agency alluded to is the Environmental Protection Agency, and the action alluded to was the disapproval, by the EPA's regional administrator in New York, of the State's mass transit plan called for by the Federal Clean Air Act.

It should be noted that the bureaucrat who took this action is an employee of a President who campaigned for office 4 years ago against what he termed "a horrible, bloated, confused, overlapping, wasteful mess; that's our Government," he said.

This is the clearest evidence we have seen in some time that the "mess" is, if anything, worse now than it was in 1976. It should be borne in mind that New York—and the Daily News—are not asking for aid. They are rebelling against tyranny. They are announcing that they will not accept such treatment by the Federal bureaucracy; that they will fight it; that they will hold responsible for the actions of the bureaucrats the persons who appointed them; and that they will regard as a live and legitimate issue in the present election year the accountability of elected officials for the behavior of the bureaucrats who serve them.

Mr. President, I ask unanimous consent that the text of the New York Daily News editorial of June 26, 1980, be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THIS IS WAR

New York must wage the fight of its life in the next 60 days or else end up as a ward of a power-mad federal agency. Not since the fiscal crisis of 1975 has the welfare of New York been so threatened. Not since former President Gerald Ford brushed off the city's fiscal pleas, has Washington treated us so arrogantly and unfairly.

The villain is the local federal Environmental Protection Agency chief, Charles Warren. Yesterday, he signed a proposal to disapprove the mass transit plan prepared for New York under the Federal Clean Air Act. It is 81 pages of bureaucratic doubletalk that threatens to start blocking hundreds of millions of federal sewer and highway funds in 60 days unless the EPA wins its childish anti-Westway crusade.

In its czar-like arrogance, this agency has decided exactly how the New York area should improve mass transit and how much it should spend on it. It doesn't matter that New York State just passed a bond issue to upgrade mass transit. It doesn't matter that Albany just approved a $300 million package so the MTA would be able to keep the fare increase to 10 cents. This single federal office seems willing to cripple this town economically if it does not get its own way on Westway.

Everyone knows that the number one reason this city's mass transit is falling apart is that Washington cheats New York in mass transit funds. Now another part of the federal monster would rob this city of the riverfront park, the environmentally safe underground highway and the $1.4 billion economic benefits of Westway. It would block $500 million of other highway and sewer projects until local officials agreed to go along with the EPA blackmail.

What would this city get in return? A ground level, open-air highway that would cut off the city from its lower Westside waterfront. The rotting piers and docks would stay. So would the inferior subway system. For the—Iffy trade-in—would add New York to a list of more than 120 urban areas all competing in Congress for the special trade-in funds. Congress votes on those funds every year. And we all know how well Congress treats New York City. Many cities that have traded in highways are now sorry they did. Together, they are behind $5.8 billion so far.

The local EPA office claims its intention is to improve mass transit, not necessarily to stop Westway. But the EPA's paper plan only works if New York gives up Westway for the long shot of big federal transit bucks.

We simply cannot allow these self-important bureaucrats to decide an issue so crucial to the future of this city.

THE SALT PROCESS

Mr. BIDEN. Mr. President, this morning in the Washington Post, I believe it was the Evans and Novak column, cited me as suggesting I had abandoned the SALT process and that I had given a recent speech indicating the SALT process was a horse which we would have ridden into the swamp and I did not want to be part of it.

Although this is a bit unusual for me to take the floor to respond to an article written by any journalists, I feel that the subject matter, the SALT process, is so important that I want to make it absolutely clear that though Mr. Evans and Mr. Novak were not present at this meeting, after speaking to Mr. Novak today, he said he was under the impression my comments related to SALT. The fact is they related to my view to have a much more enlightened foreign policy as it relates to the Third World.

I indicated I personally was tired of picking the wrong horse and riding it into a swamp.

I indicated further I thought we need a more enlightened foreign policy as we go into the 1980's and that nonalinement was not always bad, sometimes it was better to have a true nonalinement than to be alined with a leader in the Third World country which did not represent the point of view or the aspiration of his or her people.

I want to make it absolutely clear that I think SALT is needed, more now than when I was arguing for it prior to the invasion of Afghanistan.

I think the country will come to realize that, everyone, from the Joint Chiefs to my colleagues.

Mr. President, I appreciate the time, and I think SALT is so vital I would not have taken the time, otherwise.

I thank my colleagues for their indulgence, and I yield the floor.

Mr. WILLIAMS. Mr. President, I say to the Senator from Delaware that I am glad he made that statement.

When I had breakfast this morning, I read that column. It started off the day with disappointment. Now that disappointment has been worn away with that explanation. The Senator was not riding a horse into the swamp with SALT.

HOW DID WE EVER BECOME SO VULNERABLE?

Mr. McCLURE. Mr. President, I would like to submit for the Record an article printed in the Wall Street Journal on June 25, 1980, pertaining to the current unrest in Zaire. My concern is the disruption of mineral supply which could result from a continual build up of unrest.

I have continually taken the position that future supplies of minerals vital to the United States should not depend on the unstable nature of exporting countries. There is an element of danger which should be recognized if the United States continues to be so dependent and consequently, vulnerable. During consideration of the Idaho wilderness bill I reiterated the need for cobalt and the need to insure the availability of Idaho's deposit. It is my feeling that the present Idaho wilderness conference report does not adequately provide for the mining of this cobalt deposit.

I am most disturbed about this, especially when I review current world situations such as the unrest in Zaire. We cannot afford to forfeit our resources at home and remain dependent on unstable countries like Zaire. I for one am not going to look back in future years and say "How did we ever become so vulnerable?"

I ask unanimous consent that the article "Unrest in Zaire" by Johnathan Kwitny and printed in the Wall Street Journal on June 25, 1980, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Anti-Mobutu Feeling Swells Among Masses Living in Destitution

(By Jonathan Kwitny)

Kinshasa, Zaire.—Mingi, a 21-year-old engineering student at the national university here, has two things in common with millions of other Zairians: poverty and anger.

There is much to fuel his anger. In a nation rich with diamonds, cobalt and copper, a privileged elite siphons off the benefits. President Mobutu Sese Seko is a multimillionaire. The bureaucrats, military officers and others in his favor also prosper. The politically connected class of merchants known as commercants can be seen jouncing along Kinshasa's dirt roads in $20,000 Mercedes-Benzes.

Mingi lives in a four-room mud house with a sister, her baby and six other people. There is no electricity or running water. His government allowance as a student is $25 a month. It isn't enough in a country where rampaging inflation has driven the cost of a paperback textbook to $10. In a country that could be a garden of agricultural abundance, he can afford only one meal a day, usually of starchy manioc root.

Mingi, of course, can't supplement his allowance as some female students have taken to doing—by selectively prostituting themselves. Mingi's intended bride is such a student. He is bitter about sharing her with two older and richer men, who pay her $4 to $7 a night when she stays with them.

ECONOMIC REALITIES

She recently has become pregnant—with his baby, Mingi's informs matter-of-factly, as though no other possibility existed. But he complains that he can't afford to support her, or to pay the $300 or so that her family would demand as a marriage price.

Mingi and several thousand fellow students have been on strike since April, or say they have; President Mobutu says he forestalled the strike by swiftly closing the university and dispersing students around the country by force. But the students, who have been demanding increases in their grants, say they will walk out again when the university reopens in October.

And student leaders say they will try to bring working people into the streets with them, particularly the 32,000 miners in Kolwezi, the copper-cobalt center. There, most miners interviewed said they expect a student strike in October and plan to join it. Those plans will take pluck; a year ago army troops violently broke up a student strike, causing many injuries and reportedly two deaths. Leaders of the students or the mine workers take care to meet clandestinely, knowing that political dissenters in the past have met with police beatings, imprisonment or death.

"If you have a problem with security, your embassy will help you," Mingi says to an American visitor. "If we have a problem, there is no one who will do anything to make us free." In Kolwezi, the mining center, a miner confides, "You make a strike, they will kill you. All the people, they talk about a strike, but they are afraid."

MANY COMPLAINTS

Interviews around Zaire with students, workers, farmers, women in their homes, frustrated job seekers and others disclose a rising tide of resentment in this nation of 28 million or so—resentment at the near-absence of government services, at the corruption and favoritism that surround the authoritarian Mobutu government, and at the Western nations, mainly the U.S., France and Belgium, that are seen as propping up the Mobutu regime.

"It's you (the U.S.) who are keeping him in power," says a Zairian regional administrator who has begun to criticize government policies—anonymously. "If the Americans put pressure on him to leave, cut off all aid, he'd be gone today. If America set the pattern, Belgium, France and the other countries would follow." (Repeated efforts by a reporter to obtain interviews with Mr. Mobutu or other government officials for this story met with failure.)

And who would replace Mr. Mobutu? The people don't know. Many emphasized that they don't want a Communist-style revolution. "We just want honest leaders," says a student strike organizer in Kinshasa. In fact, there are potential leaders at home and abroad, but there is no single visible challenger to the man who has survived handily since he seized power 15 years ago. For Western diplomats and bankers, it is an awkward matter; Mr. Mobutu represents a counted-on alliance and a huge economic stake.

Zairians sometimes use the example of Iran, and the shah, in talking about their hopes for an upheaval. "We read and we make the comparison," says one student leader.

Mr. Mobutu, for his part, portrays himself as a bastion of anti-communism. Zaire's cobalt, some 50 percent to 60 percent of the world's supply, is crucial to the American aviation and defense industries. Its copper and diamonds are crucial, too. Not least, this technically bankrupt nation is in hock to Western governments, international organizations and Western banks to the tune of a staggering $6 billion or so.

VANISHING RICHES

Zaire ships some $1.5 billion of copper and cobalt yearly from Kolwezi, but the miners know that little of it comes back to them. One recent evening a group of them gathered at dusk on a grassy hillside overlooking a vast open-pit copper mine, and talked about their grievances. (Unions are outlawed, and Kolwezi officials deny that one exists in the mines, but the workers, operating by word of mouth, apparently have established a representational system with an overall leader.)

Wages are a bitter subject. They range from $13 a month for menials to about $35 a month for a veteran miner, not enough to support the big families that are common. The cheapest protein, beans, costs about 35 cents a pound, and most foodstuffs are out of the miners' reach. They know that many of their children are suffering from malnutrition.

Whom to blame? "Les superieurs de chez nous" (the leaders of our country), said one miner. "The corruption is everything," a second asserted, and a third man added bluntly, "The president of the republic puts it in his pocket."

It's hard to say; the bureaucratic apparatus is labyrinthine. The state took over Gecamines, the principal mining company, from its European owners in 1972 (though Europeans still largely manage it). Under law, Gecamines turns over its production—worth about $120 million a month—to a state sales board called Sozacom, which is controlled by a Mobutu appointee.

After deducting the costs of freight and sales commissions, Sozacom is supposed to return an average 45 percent of its revenues to Gecamines. Gecamines says that in the month ended May 3, a typical month, Sozacom netted $102.3 million and turned over $40.5 million to Gecamines. But expatriate sources in Kolwezi say that only about $20 million a month actually comes back to Gecamines. The other $20 million or more, they assert, is skimmed off in graft.

John Castiaux, expatriate chief of Gecamines' computer operations in Lubumbashi, confirms that only about $20 million a month is returned. But he wouldn't say where the rest goes or comment further except to say, "It's politics." Umba Kyamitala, a Zairian and executive director of Gecamines, sticks by the official accounting. "The guy in the computer section cannot give you the exact figures," he asserts.

Even if Mr. Umba is right, some $60 million of Sozacom's monthly intake is going into the central banking system, which is believed also to be a conduit for corruption. And these manipulations may be only part of the picture; commodities-market authorities in the U.S. last year pointed to strange fluctuations in world cobalt prices and said they probably were due to off-the-book sales from Zaire.

So it is too with diamonds. The national diamond monopoly is MIBA, seized from the Belgians in 1973 (in 1978, 20 percent was returned to them, to pay for spare parts). Lequeux Norbert, MIBA's expatriate chief engineer, estimates that $30 million to $40 million of diamonds is smuggled onto the black market each year in addition to the $90 million worth produced officially (Zaire has an estimated 25 percent of the world supply, though most are of industrial rather than jewelry quality).

ACROSS THE CONGO RIVER

Many people in Mbuji-Mayi, Zaire's diamond capital, think the black market takes an even larger share than is estimated by Mr. Norbert. They note that the adjacent Republic of Congo, a nation with no known diamond deposits, has become a major international exporter of the gems.

Much of Zaire's coffee production also leaves the country off the books. Suitcase loads of cash gleaned from various skims also are discreetly exported. Since Zaire's roads are too poor for long-distance travel, the Congo River is a major thoroughfare, and boats from the interior with cargo bound for the Atlantic seaport of Matadi easily can stop at villages on the Congo Republic side of the Congo River to unload illegally.

The International Monetary Fund, as the chief international guarantor and creditor of Zaire, has been increasingly anxious about establishing controls over Zairian national finances and ensuring that earned foreign exchange is used to pay the huge foreign debt. In fact, an IMF team was brought in two years ago to monitor Zairian finances.

But Manoudou Toure, the Senegalese economist who heads the IMF team, bluntly admits that he "can't control" the outflow—or even say how much Sozacom really pays to Gecamines of the nation's mining revenues.

"We are under the supervision of the Zairian authorities," he says. "I have to take for granted what they tell me. The people who are powerful here, the people who export coffee and diamonds and so forth, are very shrewd, very full of technical resources to bypass the law." Earlier this year, Belgian customs officials were brought in to supervise baggage checks at the bribery-riddled Kinshasa airport, but the scene is chaotic and, says a Belgian, the job is "very, very difficult."

Most of the smuggling is done by the wealthy class of commercants. Many travel regularly to Europe, where they keep their money. It is commonly thought that they are allowed to continue because they give a large cut of their proceeds to Mr. Mobutu's ruling elite.

Graft often is funneled through the regional commissioners, who are approximately equivalent to American governors. They are appointed by President Mobutu, always from outside the region they govern, and often from his own home region. David J. Gould, a University of Pittsburgh professor who did a 1977 field study here, says he interviewed businessmen large and small who were paying a total of $100,000 a month in bribes to the regional commissioner of Shaba Province. The man's salary was $2,000 a month.

So the commissioners stay loyal. High-ranking officers in the military are said to have their arrangements too. At the lower levels of the military, soldiers are more or less licensed to steal. Thus the "checkpoints" on highways where "beer money" is collected from commercial vehicles—including even women with market baskets on their heads. The fee varies according to the value of the cargo.

So, among those with power or connections, the money flows. The masses of the Zairian citizenry are pauperized. "On the radio everybody hears that the U.S. just gave us a bunch of money," says a resident of Mbuji-Mayi. "Nobody sees the money. Why do children go to school in this town without shoes on?"

The level of development is dismally low. The entire national public health budget is less than $10 million; of that, four-fifths goes to Kinshasa, most of it to a hospital named after Mr. Mobutu's mother. Ellen Leddy, a U.S. Peace Corps volunteer, is finishing a survey in which she found that 34 percent of children between birth and age five are suffering from the lethal protein deficiency called kwashiorkor.

FOR WANT OF BEANS

"But you can't talk about statistics," she says. "I just saw seven kids who will die—I look at them and I know they're dying. They could be cured with some mashed beans every day. But beans cost one zaire (the national currency, now worth about 35 cents), and one zaire is a lot."

Many Zairians now have a lot fewer zaires than they had last year. On Christmas night, a Mobutu-ordered currency exchange all but wiped out most people's savings. Mr. Mobutu announced that the existing currency was invalid; citizens were given three days to visit a bank and exchange up to $1,000 of old money for the new currency.

Any sum over $1,000 was worthless. The president said the move was to strengthen the currency. Those who could get to banks found crushing lines, demands for bribes from banking officials—and sometimes that the new banknotes had run out. Commercants and other members of the elite seem to have retained their fortunes, however, and it is commonly believed that they got to change all the money they wanted to, by making payments in the proper places.

"Yeah," says a teacher in Kinshasa, "There was a limit, but for the bosses there was no limit."

Yet only in Mbuji-Mayi—where there are two banks to serve the four million residents of Eastern Kasai Province—was a single bank window broken, and that apparently was an accident. "I can't understand it," says a U.S. diplomat. "These people are so hopeless they'll take anything. You can call it Bantu passivity if you want to be racist about it."

A similar observation comes from an American missionary who says his group, the Communite Presbyterian du Zaire, lost more than $350,000 in the money exchange—funds it had raised to run schools, hospitals and rural dispensaries. (Banking officials, he says, have promised "to see what we can do," but nothing has happened yet.)

THE OTHER CHEEK

He recalls 13 hours of "pushing and shoving like everybody else" to change $350 of his own money, and marveling that people didn't revolt. "There are missionaries who have been here 20 or 30 years and seen it time and time again," he says. "The people get screwed to the wall and just turn the other cheek."

The students think they represent a new and more outspoken generation. But there is fear—of the government, of the army that remains loyal to Mr. Mobutu, and of violence itself; the bloody 1960s left almost every family here with grisly memories of murdered relatives, friends hiding in the bush and the atrocities of roving death squads.

There is a vivid consciousness of the Western role in Zaire. "Of course you killed Lumumba," says the "brigadier" for striking architectural students in Kinshasa. Patrice Lumumba, the country's first premier after independence from Belgium in 1960, was murdered in 1961 and has become the national hero. Many look to his exiled sons for eventual leadership.

The Senate Intelligence Committee, in 1975, did in fact report an abortive plot by the Central Intelligence Agency to kill Mr. Lumumba—to the extent of having delivered poison for the plot to Kinshasa. The committee also uncovered ties between the CIA and the Zairians who actually did murder Mr. Lumumba, though it was never proved that the murder resulted from an American plot.

There is evidence also that the CIA helped put Mr. Mobutu in office in 1965 (and had him on its payroll before that), and students here say they have seen American troops training the Zairian army (the Pentagon says the U.S. military presence is limited to two dozen U.S. soldiers).

When Zairian exiles invaded mineral-rich Shaba Province in 1978, it was French Legionnaires and Belgian paratroopers who came to the rescue and retook Kolwezi, transported in American planes. Western troops staged a similar "rescue" in Kisangani in 1964, while, according to Senate-committee evidence, U.S. planes manned by anti-Castro Cubans helped put down a revolt against Mr. Mobutu's group.

TAX CUTS

Mr. McCLURE. Mr. President, the Senator from Indiana recently pointed out during an appearance on Face the Nation that the Republican Party is united in the view that we need immediate tax cuts to get the economy going again, to provide incentives to save and invest, to provide new jobs through economic growth, to make America's industries competitive and productive again. We need to reverse the decline in our country's military strength by moving ahead with needed weapons, by honoring our commitments to our allies and living up to our responsibility to pay our Armed Forces a decent wage. We will never balance the budget or meet our defense needs or find our way out of our ruinous inflation without economic growth and right now our economy is being strangled by a punitive and counterproductive tax system. We cannot afford 4 more years of hesitation and retreat. I agree with Senator LUGAR that we have to get this country moving again and I ask that a transcript of his interview on Face the Nation be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

Mr. HERMAN. Senator Lugar, you are one of five candidates under serious consideration as Ronald Reagan's running mate and you said that you would accept. As a potential candidate then, are you at all worried that 1980 could be a repeat of the 1964 Goldwater campaign with the Republican right wing scaring off Republican moderates and independent voters?

Senator LUGAR. I think 1980 is going to be a tremendous campaign in which Ronald Reagan will win, Republican candidates in the Senate and the House will win in very large numbers, and as a matter of fact, a conservative trend which is apparent in this country, a conservative trend that wants strength and the rearming of America, credibility abroad, strength in terms of new jobs in our economy, through tax cuts, through incentives for people to invest in this economy, these are the waves of 1980. And they are waves that are apparent, I believe, to conservatives and liberals alike.

So quite apart from 1964 which for many reasons did not turn out well for the Republican Party, 1980 as a matter of fact, I believe, is going to be a crusade that will see the Republicans win.

ANNOUNCER. From CBS News, Washington, a spontaneous and unrehearsed news interview on Face the Nation with Senator Richard Lugar, Republican of Indiana. Senator Lugar will be questioned by CBS News Congressional Correspondent Phil Jones, by Eleanor Randolph, a Political Correspondent for the Los Angeles Times, and by the Moderator, CBS News Correspondent George Herman.

Face the Nation is produced by CBS News, which is solely responsible for the selection of today's guest and panel.

Mr. HERMAN. Senator Lugar, if you should be nominated as Vice-President on the Republican ticket, I think we've already heard your first campaign speech.

Let me plow into that just a little bit. You talked about a conservative swing in the United States. Is that really true? Even inside the Republican Party it seems to me you're already showing some signs of friction between the conservative wing and the moderate or liberal wing as evidenced in the struggle over whether Former Senator Brock would continue to be the Republican National Chairman. The conservative swing doesn't even seem to have won all of your Party.

Senator LUGAR. Well, I think we're talking about personalities, rivalries, the bringing together of a campaign organization. We're not talking——

Mr. HERMAN. No ideology?

Senator LUGAR. No. I think that the Republicans and the Congress, all 41 of us in the Senate for example as well as Kemp in the House and others who have followed that and Governor Reagan are in favor of tax cuts, immediate tax cuts that might get this economy going again. That is a very broad ideological stance.

I think there is unanimous consent that our strategic weapons are in decline in relation to the Soviet Union, that our personnel policies in the armed forces border on the disastrous, that maintenance of our military equipment is likewise in disarray, and in short, the basic policies of the Republican Party, strength that is perceived as strength at home and abroad and new jobs through risk capital and getting out into the economy and creating a new revival, these cross all of the lines of potential personal rivalries in the campaign.

I wouldn't equate any of the competition for place in the party with ideology.

Ms. RANDOLPH. We want to talk about you as a potential vice-presidential nominee. In the early '70s you were known as Richard Nixon's favorite mayor. You defended him until late in the Watergate era and Nixon even made it clear at some point that he was looking at you as a possible Republican Presidential nominee in 1976.

Do you believe that would cause trouble for you? Would you have trouble shedding the Nixon image if you were the vice-presidential nominee in 1980?

Senator LUGAR. I think first of all it's best to put the facts on the record. President Nixon never called anyone his favorite mayor. He never called me his favorite mayor.

Peter Braestrup, in an article in the Washington Post at one point said that Mayor Lugar keeps going back and forth into the White House. He must be President Nixon's favorite mayor.

Of course I was the only Republican mayor of a large city at that time. I was joined by Pete Wilson, Mayor Perk of Cleveland and others later on.

Now I did in fact support President Nixon's revenue sharing measures, his new federalism measures. I felt these were vital steps. And I thought many of the things he did in foreign policy were great.

I also called for him in a very conspicuous speech in 1974 to tell the truth, come absolutely clean. I felt that was the only salvation for his Presidency and for himself. He did not do so and that speech as a matter of fact led to entry of rivalry into the senatorial campaign in 1974 in which at that point I was trying to get a convention nomination in the State of Indiana. So it had some cost involved.

Now there is no doubt that the campaign of 1974 in Indiana and around the nation was fought on the basis of President Nixon and his fortunes. And I and many other candidates had problems that year.

But I suspect that in 1976 when my opponent revived that charge, it was passe and I think that it is now.

Mr. JONES. Senator, when the campaign began for the nomination you had so little regard for Ronald Reagan as being a winner in 1980 that you were one of the first ones out proposing another candidate for the Republican nomination, Senator Howard Baker.

Now why aren't you out front pushing Howard Baker for the number two spot instead of indicating that you would be happy to take that?

Senator LUGAR. First of all, I do believe Howard Baker would be the best choice for Vice-President. I've indicated that on every occasion. I thought he would be a great Presidential nominee and this is why I served as Chairman of his national campaign.

I felt that he had the best possibilities of articulating the issues, the complexities of those issues, and of bringing along the Congress. I believe that we have to change the Presidency. And that's why I became involved at all.

Now this is not out of lack of regard for Governor Reagan, but in fact I felt Howard Baker, as we took a look at the situation a year ago, was the best prepared and would be the most effective.

Now Howard Baker is not going to be the nominee for President. He may be the nominee for Vice-President.

But I've stated I think equally as enthusiastically that Governor Reagan really did prove to be a very adept campaigner. He has been very satisfying with regard to his responses and his general outlines and I think that he's a winner.

Mr. JONES. You are in effect sort of campaigning for the number two spot by indicating that you wouldn't mind having it, you would be honored to have it.

Is this because you feel that Howard Baker doesn't have a chance, that Ronald Reagan will never select him?

Senator LUGAR. No, I think that he does have a very good chance and, secondly, I'm not campaigning. I've simply responded truthfully to questions that are usually artfully put aside. Most times when people are asked would you in the dead of night if the question came or the call came accept. And usually the proposed candidate says, well, I would have to consider it or I would be honored, but I really can't tell you.

Obviously everyone would say, yes, certainly to Governor Reagan. He's going to be President of the United States. Someone who is going to be the Vice-President could be a very effective part of that administration. I can't think of any assignment that would be more exciting.

Mr. HERMAN. Let me ask you. Is this all——

Senator LUGAR. So as opposed to demurring, sure, I would like to.

Mr. HERMAN. Senator Lugar, is this all in the newspaper field? I mean have you heard anything directly from Mr. Reagan or the people around him?

Senator LUGAR. No, and it is clearly a newspaper situation. I read about these things from day to day, whether they're down to 18 or down to 5. Some suggested last week that they're down to 2. Maybe it's been expanded to a large group.

Mr. HERMAN. But they have not asked you?

Senator LUGAR. No. I've had no conversation.

Mr. HERMAN. Have they approached you?

Senator LUGAR. None whatsoever. That's why it's purely a speculative journalistic campaign at this point.

Ms. RANDOLPH. But, Senator Lugar, Ronald Reagan is going to have to pick a Vice-President in about a month. Do you think he should reach into the moderate wing part of the Party, or do you think he should look for someone who thinks about the same way he does on most of the major issues?

Senator LUGAR. I think first of all he ought to look for somebody who in dire circumstances could serve as President of the United States with credit. That's the prime requisite.

Secondly, I would suspect that he would want someone who shared his point of view, who would continue his policies as they are articulated or as his administration develops them.

Now beyond that he may have many ideas as to the sorts of duties he wants a Vice-President to have and that may guide his judgment at that point.

Ms. RANDOLPH. Do you share his points of view on the major issues?

Senator LUGAR. Yes. I think without any doubt Governor Reagan has articulated as well as anyone can that the Soviet Union is a general menace to the world. We shall have to be prepared to meet that.

We shall have to get jobs in this country through risk capital, through reinvestment, through all the incentives in market economy.

Those are his issues. They are ones that I share.

Mr. HERMAN. Is somebody who worked for the passage of the Panama Canal Treaty somebody who shares the views of Ronald Reagan?

Senator LUGAR. Well, clearly Governor Reagan opposed the Panama Canal Treaty. I did and so did a lot of other people. We did not feel that that was in the best interests of American foreign policy or perception of American strength or the continuity of our obligation to keep traffic going.

Mr. HERMAN. So somebody who worked for it would not be in the tradition and philosophy of Governor Reagan?

Senator LUGAR. Well, certainly on that issue would not. Now there are lots of issues. Governor Reagan himself, as I recall, has said there are a whole gamut of things that one ought to take a look at, but very clearly his position on that was straightforward.

Mr. JONES. Senator, if I might go back to our initial line of questioning about any problems between the moderates and conservatives in the Republican Party, in my going around Capitol Hill in the last week or so I have talked with a lot of moderates, your colleagues and staff people, who are complaining because, as they put it, those right wing crazies are trying to take over the Party. They're having a field day.

Now do you sense any of this going on with the right wing?

Senator LUGAR. No, I don't. And I would just suggest this: After a Presidential nominee is nominated by a convention, usually he takes a very large role in naming the Chairman of the Party.

What we're seeing is this telescoped backwards. The nominee is known. It's Governor Reagan. And he is now making certain that the organization of his compaign fits together. And that includes the Republican National Committee.

Now in fairness, the press had almost nothing to write about for a couple of weeks. This was as good a story as they could find.

Mr. JONES. Well, did the press save Bill Brock instead of Ronald Reagan?

Senator LUGAR. No, no, not at all. Ronald Reagan made the decision and Ronald Reagan, as far as I can tell, made the decision a while back. He may have needed to reaffirm it and there was no doubt a great deal of jockeying for position, but that happens in a campaign. It happens during an administration.

I think the instructive thing was the way that Governor Reagan handled it. And he did. He was decisive. He said what he wanted to say and I would guess set his organization.

Mr. HERMAN. Let me go back picking up some of the things you said to my original question which is that in essence, using what you've just said, Governor Reagan is going to get a Party organization and leadership that fits his ideas, that fits his philosophy.

Not every Republican will agree with that. I mean you have Republicans ranging from Senator Javits to Jack Kemp in the House.

Will Governor Reagan, after establishing this leadership and this image of the Party, be so monolithic in that side and in that direction that Republicans on the other side, on the other wing of the Party will not be able to vote for him as in 1964?

Senator LUGAR. Apparently not so at the present. I don't know of any——

Mr. HERMAN. That does not worry you at all?

Senator LUGAR. No. I don't know of any Republican senatorial nominee including Jake Javits who is not enthusiastically backing Ronald Reagan.

Now that doesn't mean that within our Party circles we can't ponder day by day go to the right or left or wherever we go and so forth and argue about it. That's a vital Party. But there is a degree of cohesion here——

Mr. HERMAN. But you have to win independents. The Republicans are a minority party. You have to win independent voters.

Senator LUGAR. Of course. So taking your premise, George, let's say there was division in the Republican Party. I don't think there's much, but let say there was. So that is division among 30 percent of the population.

The electoral majority for Governor Reagan may pick up two-thirds of the Republicans. I would hope all of them, but at least two-thirds and maybe two-thirds of the independents, and maybe a third of the Democrats.

It may well be that there are a lot of independents and Democrats who are worried about the economy who would like to see the thing turned around, who are worried about the Soviet Union that would like to see Governor Reagan elected. I think there are a lot of them.

Mr. HERMAN. Iran? Would that be a major factor in your picking up some Democrats?

Senator LUGAR. Well, of course, because Iran indicates the poverty of the Carter foreign policy, our inability to have any mobile forces that could react, a whole harmless situation of withdrawal for years, a pledge that not a single American boy or girl would die, and in fact now of course the nation is in real jeopardy because Carter deliberately withdrew us from areas where we could be effective and left us nothing in return.

Ms. RANDOLPH. What would you do?

Senator LUGAR. Well, I would go about the strategic job of rebuilding our ICBMs into a mobile mode so they are protected from first strike attack.

If we're going to go with the B–52s, making certain that the cruise missiles worked, moving on the Trident II submarine programs so that we're sure that we cannot be obliterated in a first strike attack and so that our allies know that, too.

Then move on to make certain that we pay our armed forces enough money so that we retain people we need to, that we maintain our equipment, that we build enough ships to keep the sea lanes free. In other words, that we assume the responsibility that America only can assume to keep freedom alive.

Now that is a big order. But that begins to address the problem of the Soviet Union, the credibility with our allies, our credibility elsewhere.

In addition to that, we shall have to have economic growth in this country dynamic enough to pay for that.

In other words, we will have to have strength and growth and we must have both. That is a tall order, but that, I would guess, is the Reagan agenda and what the next four years are going to be like for a Republican Administration and I hope a Republican Congress.

Mr. JONES. Senator, would you go along with Governor Reagan who was quoted as saying that he would forego a balanced budget in 1981 if needed to provide more money for defense?

Senator LUGAR. Yes, I would. I think the defense issue is absolutely critical. We're not going to have much of a domestic economy if every time we turn around we are beset by cutoffs of supplies, not only oil but vital metals and minerals, or if the Soviet Union simply grabs things off the table and denies us what we need.

Without strength, we're not going to have a domestic economy. Therefore, we may have to take some risks. That's what a tax cut now would be. It would be a risk. It's a risk that is acceptable in my judgment.

Mr. JONES. Well, do you think we've reached that point? Should we now say that we can't balance the budget in '81 because of defense needs?

Senator LUGAR. It may well be we should. I think the defense budget as it stands is inadequate and I think we need a tax cut now.

Now if that means that there is a risk of an unbalanced budget, I think that's acceptable, but I think we've got to take a look at what our real priorities are and they are national defense and economic growth and jobs for Americans.

Mr. HERMAN. Is the risk of increased inflation acceptable?

Senator LUGAR. Well, we're going to have increased inflation if we do not have economic growth. If we do not have on the supply side enough goods and services in this country, and if we have cutoffs of oil and metals and minerals abroad, we're going to have skyrocketing inflation.

The policy that Governor Reagan is proposing and that I'm seconding are the only ones that in the intermediate term as well as the long term can abate inflation, can drive down what is now seen as an irreducible minimum by the President's Cost and Wage and Price Control Board of 10 percent as I heard stated this year. That is unacceptable over the course of the intermediate or long term.

Ms. RANDOLPH. What is the acceptable unemployment rate? What is your acceptable unemployment rate?

Senator LUGAR. Well, I believe we have to reduce unemployment to the three to four percent range in this country. That was the goal that most of us sought during the so-called Humphrey-Hawkins debate last year in which we finally came to a conclusion that we must have at least a three percent unemployment as a goal and zero percent inflation.

Now everybody laughed that out of court and said that's preposterous and, indeed, under Carter it is. There is no game plan whatever.

I'm saying that in a real live economy with dynamic growth we can move toward that low unemployment goal and we can move toward a zero inflation picture, but only if the supply side, the growth side is adequate.

And I think we have to do that because to argue any other way is not only to be impractical but to be immoral. To give the impression to poor people in this country that somehow through public service jobs or a stimulation of the economy by the Congress that we're going to alleviate the poverty is incorrect. It will only be through the growth of jobs in the private sector.

Mr. JONES. Senator Lugar, you are a member of both the Intelligence and Foreign Relations Committees. Do you know where the American hostages are located now in Iran?

Senator Lugar. No, I don't. I don't.

Mr. Jones. Have you received any information as a member of those committees?

Senator Lugar. Well, I've asked the question if that's what you want from the Administration people this week. We have had the private briefings and all I will respond to you again is that I do not know.

Mr. Herman. When you talk about building strength, you're talking not just about a defense budget I assume. Do we need a draft to build the strength that you think is required for this country?

Senator Lugar. We may, but I would say for the moment that our critical need is to pay for our armed services so that people who have been in 3, 6, 9 or 12 years stay. The draft would be a quick fix in terms of numbers. It is not a satisfactory answer to experience.

And to use the sophisticated weapons that we have, we'll have to have people who have been around for a long while and who want to stay there, who see it as a competitive career.

Now for the moment we don't need the draft at all. Volunteers are adequate.

I voted for registration this past week because of its symbolic nature and because it makes the President's policy totally incredible with regard to the Soviet Union if the Congress had reversed itself and said we really don't need anything at all. We clearly do need to be thinking about that issue.

For the moment, the draft is not the answer. It's compensation for our armed forces.

Mr. Jones. Aren't you worried about the signal that may be sent to the Soviet Union if we have a high level of noncompliance to draft registration which many are predicting?

Senator Lugar. Certainly I'm worried about that and this is why I'm disturbed about the debates that suggest that as one reason for voting against even token registration we vote against it because a large percentage of young Americans would not register. That's unconscionable. As a matter of fact, we all have an obligation to this country and it's time we saw that.

And I would just say that the young people that I've talked to in the colleges and the high schools of Indiana are prepared to register. They're prepared to do their duty. They would prefer not to go to war and I would prefer for them not to do that, too.

But in order to keep peace in this world, we better make very, very clear that Americans are prepared to fight if we have to. And it's only under those circumstances that we shall probably not have to fight.

Mr. Herman. Senator, in the course of forming a Reagan-Lugar platform, or whatever you want to call it, a position, what about the European drive to get the PLO into the Middle Eastern negotiations? Do you see that as interference with Camp David or do you see that as a constructive step.

Senator Lugar. It's not a constructive step and it could only have occurred if the Europeans had come to a conclusion that Carter was a disaster and that's the conclusion they've come to.

In other words, that there is nothing going with this Administration that is going to change the Middle East or anything else.

Now having come to that conclusion, they have quietly gotten their own foreign policy together and that's going to cause a lot of mischief, not only for the Egyptians, the Israelis and everybody else, but certainly for us.

We have got to regain leadership and for the moment that will be awfully tough to do given the President's situation.

Mr. Herman. Is their basic idea correct that the PLO should be in some way involved?

Senator Lugar. Oh, I don't think so. I would guess that the problems finally come down to our working with Egypt and Israel, hopefully with Jordan, and this coming visit with Hussein this week is critically important in that respect, to fashion something in the Camp David mold that leads to a degree of self-government by people who are living in the West Bank area and adjacent circumstances, but that's a long way from getting into the PLO.

Now the PLO have an opportunity to participate if they affirm that Israel is going to stay, and, secondly, that Resolution 242 of the United Nations is going to be upheld and they haven't said that. And until they do, in my judgment, they are not a party.

Mr. Jones. Senator Lugar, there are indications that Governor Reagan would like to resume normal diplomatic relations with Taiwan if he's elected President. Do you agree with that stance?

Senator Lugar. I think there's much merit in taking a look at that. One of the reasons that we've gotten to this strange position almost of a military alliance now with the mainland Chinese is simply because we are in jeopardy with the Soviet Union. By failing to see the Soviet menace, we have left to all sorts of convenient alliances.

I would guess that the Taiwan situation is one we need to examine very carefully, to take another look around. Now Governor Reagan's position, I think, has been extended to something beyond what he said or intimated, but taking the full thrust of your question, a re-examination of Taiwan I think would be in order.

Mr. Herman. You characterized what the Europeans think of the Carter policy. Are you aware of the quote in the Wall Street Journal that Europeans are saying we're afraid the Americans may change a bunch of incompetents for a bunch of nuts, presumably meaning the Reagan ticket?

Senator Lugar. Well, I'm aware that they have a certain unease. They always will with the new. But that's why we ought to state right clearly what we're about.

Now I think they would like to see a strong United States able to defend herself in the world.

Mr. Herman. Thank you very much, Senator Lugar, for being our guest today on Face the Nation.

Senator Lugar. Thank you.

Announcer. Today on Face the Nation, Senator Richard Lugar, Republican of Indiana, was interview by CBS News Congressional Correspondent Phil Jones, by Eleanor Randolph, a Political Correspondent for the Los Angeles Times, and by the Moderator, CBS News Correspondent George Herman.

Face the Nation has been sponsored by IBM.

Next week another prominent figure in the news will Face the Nation.

This broadcast was produced by CBS News.

DELAY IS COSTLY

Mr. PROXMIRE. Mr. President, 35 years have passed since World War II. But reminders of the holocaust are again in the news.

The Justice Department has recently moved to deport Mike Pasher of California. He is alleged to have participated in the hanging and the shooting of 100 Lithuanian Jews in July of 1941.

The Justice Department has also moved to strip U.S. citizenship from Arnold Trucis of Philadelphia. He is accused of persecuting Latvian Jews when he was a Nazi S.S. officer.

I support these actions by the Justice Department. However, one thing concerns me. These men have been in the United States for more than 20 years. Why is it only recently we have taken the time and spent the money to see that justice is done?

Mike Pasher is 79. Arnold Trucis is 70. Their deportation proceedings may drag on for 7 years, even without unusual delays. It is unfortunate that we have waited so long.

It is now expensive to gather evidence and find witnesses in order to prosecute war criminals. The men involved may not live long enough to see their case resolved.

Mr. President, our delay in pursuing war criminals has been costly.

Our delay in ratifying the Genocide Convention has also been costly. And the price tag rises every day. The cost is not monetary. The cost is in world opinion.

The State Department has cited instances which show the costs that we have incurred. Our efforts to halt the genocide in the Nigerian Civil War would have been far more effective if we had signed the Genocide Treaty. Instead we were viewed as moral hypocrites.

We are reminded of our inaction on this treaty when we protect human rights violations.

These costs are too high. Let us end the price we pay. We should wait no longer. I urge the ratification of the Genocide Convention.

TAX REDUCTION, 1980

Mr. HARRY F. BYRD, JR. Mr. President, the tax burden borne by our citizens and businesses is a heavy one. I would like to see it reduced.

The problem is how to reduce that burden without perpetuating or indeed exacerbating the cruel inflation that is robbing from the paycheck of every work man and woman in our Nation.

On Thursday, I voted against the tax reduction proposal recommended by Governor Reagan and put before the Senate by the Republican leadership.

Simultaneously, I declined to sign a resolution recommended by the Democratic Caucus directing the Senate Finance Committee to bring before the Senate a tax reduction proposal.

My action in each case reflected my uncertainty as to the wisdom of reducing taxes without curbing spending at a time when the Federal Government is running smashing deficits. The deficit in the current fiscal year will be the third largest since World War II, nearly 40 years ago.

Some maintain that the budget for next year is in balance.

I disagree. I foresee a deficit of $30 billion or more.

Most Americans naturally would like a reduction in the high taxes now being paid. So would I. But can we have a real tax reduction without getting Federal spending under control?

If we continue the rapid growth in spending with large deficits and heavy Government borrowing, high inflation is likely to erode the benefits of any tax cut.

Spending is out of control.

President Carter recommended, and

the Congress through the budget resolution has approved, a $65 billion increase in Federal spending over the total authorized last November for the current year.

With all of this in mind, I have some concern about reducing taxes without restraining spending.

But 38 Republicans and 50 Democrats feel otherwise—88 percent of the Senate. So there will be a tax reduction.

As a member of the Senate Finance Committee, I will work to shape a tax reduction that will be equitable to taxpayers and stimulate productivity and capital formation.

I am not willing, however, to support a tax reduction proposal that is based on gimmickry or one which is weighted toward any particular group.

A reduction in taxes for individuals should be broad-based; a cut for business should emphasize a liberalized depreciation schedule so as to stimulate plant and equipment expansion.

Governor Reagan's program is along this line and has much to commend it. But I shall withhold judgment until the Finance Committee has a chance to consider alternatives.

THE TRADE ADJUSTMENT ASSISTANCE ACT: A NECESSARY PART OF THE FREE TRADE PACKAGE

Mr. BRADLEY. Mr. President, the Multilateral Trade Agreements were approved by this body by an overwhelming vote of 90 to 4.

A sound trade agreement assistance program for American workers, firms, and communities is the necessary complement to the more liberal trading rules embraced by this Nation last summer. If we do not retain this critical, one might say adhesive, element of the trade package, the Congress will have reneged on its commitment to provide the American people with an equitable and effective body of trade laws.

Trade liberalization as we all know has a different impact on Americans as consumers than as producers and a different impact on workers and firms in different sectors of the American economy. As consumers, Americans clearly benefit from freer trade. So do workers and firms in strong export-oriented industries. But not all industries benefit, and for varying reasons, many industries soon find themselves increasingly squeezed out by a rapid rise in lower-priced foreign imports. The reasons for slippage are many and vary widely across firms. Slippage is not always the result of being uncompetitive. For example, it may have to do with a firm's temporary financial shortfalls, or with unfair practices on the part of foreign producers seeking to capture the U.S. market.

If the distress of the firms in these industries, the workers who operate them, and the communities which contain them, is ignored by Government policy, then these unfortunate people will by themselves bear the full costs of obtaining the reciprocating benefits derived for Americans on the whole from freer trade. Freer trade is a collective benefit and it is neither fair, nor good social policy, to place on certain sectors of American society the full burden of paying for this benefit—to require them to pay with their own livelihoods.

Liberalized trade is something achieved by Government in the national interest, and trade adjustment assistance is an obligation that society has to trade-impacted citizens, to be made through Government, in the interest of maintaining national equity.

As a practical level, we also must recognize that absent an effective trade adjustment program, in the future there will be strong resistance to further trade liberalization. Protectionist pressures will build irresistibly—and understandably. In the long run, this will work to the detriment of our Nation's economic welfare, and to the detriment of productive relations with our foreign allies. The cost of protectionism is far greater than the costs of a decent trade adjustment assistance program. We should not carelessly allow these higher costs to be incurred.

It has taken decades for trade adjustment assistance to develop into a viable program, to become a viable and creative alternative to the industrious building of barriers to trade. It has taken decades for it to come to be regarded as something other than "burial insurance." Increasingly it is being accepted as a fair program that can pave the way for larger, shared benefits for all.

With the deepening recession this year, trade impacted firms and workers will be finding adjustment to be even more difficult to achieve. Alternative employment will dry up. This is not the time to turn our backs on our fellow Americans; it is rather the time to support and improve a strong trade adjustment assistance program.

THE ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Mr. SCHMITT. Mr. President, several Western States have been experiencing an infestation of grasshoppers in the past few years. The Animal and Plant Health Inspection Service (APHIS) is responsible for the assistance of States in eradicating major infestations. My State of New Mexico is currently experiencing a major outbreak of grasshoppers and the Governor has declared disaster areas in 16 of 32 counties of the State.

Mr. President, I think we all are vividly aware of the uniqueness of each State and the different circumstances surrounding the similar problems which they face. This is particularly true in the eradication of grasshoppers where local economics, terrain, and local priorities vary widely.

In response to criticism of the lack of uniform standards for the grasshopper spraying programs and complicated spraying blocks in Nebraska last year, APHIS has imposed impossibly rigid standards upon the program. APHIS is demanding blocks sprayed be of no less than 10,000 acres and that they be of a specified shape. This ultimatum comes from Washington and does not even allow the local APHIS representatives to make modifications in the program, let alone State agriculture officials.

Mr. President, I sympathize with the APHIS officials in their attempt to respond to criticism of the program, but the implementation of totally inflexible standards, in many cases, bars the program from effectively achieving its purpose.

I would like to bring this situation to the attention of the Senate and the Committee on Appropriations. I have spoken with Secretary Bergland, who agreed that the program must be more flexible to effectively meet local needs. He further stated that he would make every effort to insure that the grasshopper program will be more flexible and responsive to local conditions. As a first step, I have been informed that the regional director of the Department of Agriculture at Brownsville will meet with New Mexico's Secretary of Agriculture, Dr. Bill Stephens, on Monday. I should like to thank the Secretary for the promptness of this action.

Mr. EAGLETON. Mr. President, the Senator from New Mexico (Mr. SCHMITT) brought this problem to my attention yesterday. I think his point is a good one; there does need to be a certain amount of flexibility in the grasshopper spraying programs conducted by APHIS if they are to meet local needs and effectively control the pest. I am pleased to see that Secretary Bergland has been so responsive to the appeal from the Senator from New Mexico and hope that this commitment will be carried out fully. If necessary, the Appropriations Subcommittee on Agriculture will inquire into this matter at the first opportunity.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND PERU CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 217

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(d)), the text of the proposed agreement between the United States and Peru Concerning Peaceful

Uses of Nuclear Energy, with an accompanying agreed minute. The proposed agreement is accompanied by my written determination, approval, and authorization and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary analysis of the provisions of the agreement, and the views of the Director of the United States Arms Control and Disarmament Agency and of the Members of the Nuclear Regulatory Commission are also enclosed.

The Nuclear Non-Proliferation Act of 1978, which I signed into law on March 10, 1978, establishes certain requirements for new agreements for cooperation. In my judgment, the proposed agreement for cooperation between the United States and Peru, together with its agreed minute, meets all statutory requirements.

Peru has long supported the Treaty of Tlatelolco and the Non-Proliferation Treaty, having ratified the former on March 4, 1969, and the latter on March 3, 1970, and supports international nonproliferation efforts generally. The proposed agreement reflects the desire of the Government of the United States and the Government of Peru to broaden the scope of peaceful nuclear cooperation in a manner that recognizes the shared nonproliferation objectives of our two countries. The proposed agreement will, in my view, further the nonproliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *June 27, 1980.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 10:56 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2148. An act for the relief of Colonel (doctor) Paul A. Kelly;

H.R. 2475. An act for the relief of Isaac David Cosson;

H.R. 2759. An act to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes;

H.R. 3818. An act for the relief of Clarence S. Lyons;

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command;

H.R. 5751. An act to more adequately protect archeological resources in southwestern Colorado; and

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill and joint resolutions, without amendment:

S. 2546. An act to authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colo., to prevent or reduce seepage damage on adjacent properties, and for other purposes;

S.J. Res. 115. Joint resolution designating July 1980 as "National Porcelain Art Month"; and

S.J. Res. 188. Joint resolution extending the reporting date of the National Commission on Air Quality.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7685. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

At 4:02 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S.J. Res. 119) to authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2460. An act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL ORDERED HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7685, dealing with ERISA, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 27, 1980, he had presented to the President of the United States the following enrolled bills:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes;

S. 932. An act to extend the Defense Production Act of 1950, and for other purposes; and

S. 2460. An act to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4097. A communication from the Director for Science and Education, Office of the Secretary, Department of Agriculture, reporting, pursuant to law, on implementation of the provisions of Senate Resolution 225, relating to futures markets; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4098. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed letter of offer to the Netherlands for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4099. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Congress Should Mandate Formation of a Military-VA-Civilian Contingency Hospital System," June 26, 1980; to the Committee on Armed Services.

EC-4100. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed letter of offer to Japan for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4101. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the transfers of certain naval vessels; to the Committee on Armed Services.

EC-4102. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Merchant Ship Sales Act of 1946; to the Committee on Commerce, Science, and Transportation.

EC-4103. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 4600 Fairfax Drive, Arlington, Va.; to the Committee on Environment and Public Works.

EC-4104. A communication from the Federal Cochairman, Upper Great Lakes Regional Commission, transmitting, pursuant to law, the 1979 annual report of the Commission; to the Committee on Environment and Public Works.

EC-4105. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems Remain in Reviews of Medicaid-Finance Drug Therapy in Nursing Homes," June 25, 1980; to the Committee on Finance.

EC-4106. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4107. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report for fiscal year 1979 on the records disposition activities of the Federal Government; to the Committee on Government Affairs.

EC-4108. A communication from the

Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–201, "Closing of a Portion of 26th Street, N.W. Act of 1980" and report, adopted by the Council on June 3, 1980; to the Committee on Governmental Affairs.

EC–4109. A communication from the Chairman, D.C. Act 3–200, "District of Columbia Educational Institution Licensure Regulations Adoption Act of 1980" and report, adopted by the Council on June 3, 1980; to the Committee on Governmental Affairs.

EC–4110. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Equal Employment Opportunity in State and Local Governments: Improving the Federal Role," June 25, 1980; to the Committee on Governmental Affairs.

EC–4111. A communication from the Librarian of Congress, transmitting, pursuant to law, a report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1979; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM–777. A resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Environment and Public Works:

"House Resolution No. 185

"Whereas, on March 28, 1979, a nuclear accident occurred at the Unit 2 plant on Three Mile Island (TMI–2) which has been identified as the worst accident in the history of commercial nuclear power generation; and

"Whereas, this accident caused extreme damage to the reactor core and to equipment at the facility; and

"Whereas, as a result of this accident, volumes of radioactive fission products are contained within the reactor containment building and the auxiliary and fuel handling buildings; including approximately 650,000 gallons of highly contaminated water in the containment building; and approximately 425,000 gallons of water contaminated at intermediate levels in the auxiliary and fuel handling buildings, of which 40% have been cleaned thus far; and

"Whereas, there also exists about 57,000 curies of krypton gas which must be disposed of before the containment building can be made accessible for reasonable periods of time for maintenance and cleanup purposes; and

"Whereas, officials of the troubled reactor have not been in the containment building since before the accident to inspect, service or replace the possibly damaged equipment used to monitor the reactor coolant system and the reactor core; and

"Whereas, the TMI–2 facility was designed, constructed and licensed to be used as a nuclear generating unit and not a nuclear waste depository; and

"Whereas, the status of the situation at TMI–2 will remain volatile and the stability of the reactor core will remain uncertain until the radioactive fission products are removed from the site; and

"Whereas, this situation presents a potential health hazard to both residents of the area and workers at the site; and

"Whereas, the decontamination of TMI–2 is inevitable and delay will serve to deteriorate the situation at the site and to increase the potential for a major release of radioactive material from the site, thus perpetuating a potential radiation hazard both within and outside the plant's boundary; and

"Whereas, in order to properly plan for and schedule the TMI–2 cleanup efforts, parameters must be established and criteria adopted as soon as possible to serve as guidelines for the decontamination process; and

"Whereas, in order to insure the health and safety of the people residing near the nuclear facility and the workers at the plant site, the decontamination of this facility should proceed as soon as possible and the contaminated water, nuclear waste and noble gases should be properly disposed and/or removed from this site and placed in storage or disposal facilities specifically designed and licensed for that purpose; therefore be it

"*Resolved* (*the Senate concurring*), That the General Assembly of the Commonwealth of Pennsylvania respectfully memorializes the President and Congress of the United States to urge the Nuclear Regulatory Commission to rapidly formulate criteria which will be used as guidelines for the decontamination of TMI–2 and that these guidelines be developed to insure that the best available technology will be utilized which maximizes public and worker safety and minimizes the risk for any potential radiation emergency problem; and be it further

"*Resolved*, That once these guidelines are established, the Commonwealth of Pennsylvania, in conjunction with the Nuclear Regulatory Commission, is directed to undertake a campaign designed to educate the public on the decontamination process so that they may gain a better understanding of what this process involves and why these guidelines are sufficient to insure public health and safety; and be it further

"*Resolved*, That the Commonwealth of Pennsylvania, through its Department of Environmental Resources, continues to monitor all decontamination and cleanup activities at TMI–2; and be it further

"*Resolved*, That copies of this resolution be forwarded to the House of Representatives and the Senate of the Congress of the United States, to the President of the United States and to each member of the Pennsylvania delegation in the Congress of the United States of America, to the Chairman of the Nuclear Regulatory Commission and to the House Subcommittee on Energy and the Environment and to the Senate Subcommittee on Nuclear Regulation."

POM–778. A resolution adopted by the Legislature of the State of New York; to the Select Committee on Indian Affairs:

"Legislative Resolution

"Whereas, The State of New York, acting through its Governor, the United States Departments of the Interior and Agriculture, and the Cayuga Nation of Indians have reached a tentative settlement of Cayuga land claims under the Federal Non-Intercourse Act of 1790; and

"Whereas, This Legislative Body supports said settlement; and

"Whereas, Should the Cayuga Nation pursue court action, mortgage payments and tax payments for 64,000 acres of land in Cayuga and Seneca counties may be held in an escrow account, and legal expenses will be required, resulting in severe economic hardship for both individual property owners and the counties involved; and

"Whereas, Should the Cayuga Nation prevail in such a suit, the state might incur substantial contingent liabilities, to be borne by all the taxpayers of New York state; and

"Whereas, This Legislative Body shares with the signers of The Joint Memorandum of Understanding a desire to remove any cloud on title resulting from the Tribe's claim; and

"Whereas, It is appropriate that the state of New York promote the preservation of the Cayuga Indian Nation and its cultural, social, and economic well-being; now, therefore, be it

"*Resolved*, That the President and the Congress of the United States be and are hereby respectfully memorialized by this Legislative Body to enact legislation implementing the August twentieth, nineteen hundred seventy-nine Joint Memorandum of Understanding with regard to Indian land claims; and be it further

"*Resolved*, That copies of this resolution, suitably engrossed, be transmitted to the President Pro Tem of the Senate of the United States, the Speaker of the House of Representatives, to each member of the Congress of the United States from the state of New York, and to the President of the United States."

POM–779. A resolution adopted by the Second Joint Conference of the New York Conference of the United Church of Christ, and the Northeast Region of the Christian Church (Disciples of Christ), in Ithaca, N.Y., calling upon the U.S. Government to use political and economic leverage to eliminate torture in all countries; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, with amendments:

S. 2597. A bill to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 96–839).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. 1916. A bill to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China (Rept. No. 96–840).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without reservation, but with understandings:

Ex. B, 95–2. Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Protocol, signed at Vienna, November 18, 1977 (Rept. No. 96–42).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Robert Oberndoerfer Harris, of the District of Columbia, to be a Member of the National Mediation Board.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 2889. A bill for the relief of Johnny M. Guzon and Juanita R. Guzon; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. Boren, Mr. Hatfield, Mr. DeConcini, and Mr. Bumpers):

S. 2890. A bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 2891. A bill to authorize the Secretary of the Interior to engage in a feasibility study of certain water resource developments; to the Committee on Energy and Natural Resources.

By Mr. BAYH (for himself, Mr. Thurmond, Mr. Mathias, Mr. Morgan, and Mr. Percy):

S. 2892. A bill to amend the patent law to restore the term of the patent grant for the period of time that non-patent regulatory requirements prevent the marketing of a patented product; to the Committee on the Judiciary.

By Mr. DURKIN:

S. 2893. A bill to amend the Internal Revenue Code of 1954 to provide a retirement savings deduction for persons covered by pension plans; to the Committee on Finance.

By Mr. PELL:

S. 2894. A bill to provide nutritionally superior school lunches; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE (by request):

S. 2895. A bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 2896. A bill for the relief of Pilar C. Hipolito; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 2897. A bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims; to the Committee on Veterans' Affairs.

S. 2898. A bill to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation; to the Committee on Veterans' Affairs.

By Mr. CRANSTON:

S. 2899. A bill to establish the Orange Coast National Urban Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENSON (for himself, Mr. Dole, Mr. Biden, Mr. Domenici, Mr. Durkin, Mr. Eagleton, Mr. Huddleston, Mr. Packwood, Mr. Pryor, Mr. Randolph, and Mr. Ribicoff):

S.J. Res. 189. Joint resolution to establish a Commission on Presidential Nominations; to the Committee on Rules and Administration.

By Mr. SCHMITT (for himself and Mr. Stevenson):

S.J. Res. 190. Joint resolution to designate "Space Week '80," and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. Boren, Mr. Hatfield, Mr. DeConcini, and Mr. Bumpers):

S. 2890. A bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko; to the Committee on the Judiciary.

● Mr. LEVIN. Mr. President, today, Senators Boren, Hatfield, DeConcini, and I are introducing a bill to assist the seven Pentecostals living in the American Embassy in Moscow: Maria Chmykhalov and her son, Timofei, and the five members of the Peter Vashchenko family. Our legislation would issue these seven courageous people American visas and would allow them to be admitted to the United States for permanent residence.

Today, June 27, 1980, marks the second anniversary of the Vashchenko and Chmykhalov families' refuge in the American Embassy. Their 2-year stay has been the culmination of their 18-year struggle for freedom which began in 1962—the time of the most violent anti-religious campaign in the Soviet Union since the 1930's. The three oldest Vashchenko children were taken from their parents and placed in an orphanage for "reeducation" at young ages. Peter Vashchenko, their father, was imprisoned. This episode led to the first of six attempts the family has made to seek help from the American Embassy. The Embassy could do nothing, however, and Peter Vashchenko remained in prison for 2 years and the children stayed in the orphanage for over 6 years.

In 1968, the second appeal for emigration was made. This time the family has successfully obtained an invitation from the American consulate to emigrate. After traveling the 2,000 miles from their Siberian home in Chernogorsk to the Embassy in Moscow, Soviet police arrested Peter outside the Embassy. He was placed in a psychiatric hospital for 2 months and then sent to prison for 1 year. His examiner told him that his insanity manifested itself in a desire to emigrate.

Peter's wife, Augustina, was also imprisoned and was later placed in a labor camp for 3 years. The years following were market by increased Soviet repression and brutality.

In 1976, the oldest son, Sasha, was imprisoned. Finally, in June of 1978, the Vashchenko family received the necessary invitation to emigrate to the United States. They went to three Soviet visa offices but were refused the necessary papers.

In order to report this newest injustice and to get advice, they again turned to the American Embassy. They were accompanied by Maria and Timofei Chmykhalov, who had also been subjected to repression for many years. They never intended to stage a sit-in or to remain at the Embassy. But when they arrived at the Embassy gates carrying the necessary passes, the Soviet guards tried to stop them from entering. In fear for their safety, they rushed into the Embassy for refuge. John Vashchenko, the second oldest son, was caught by the guards and dragged away. Concerned and fearing for their son's safety, they decided to remain in the Embassy. They promised to leave when John was returned. The Soviets refused to admit to American officials that they had taken John.

By the time that the Vashchenkos learned that their son had returned home to Chernogorsk, they had been in the Embassy for almost 2 weeks and felt that they could not safely return to their home and family. They wanted assurances from the Soviet Government that they would be allowed to leave the country and that reprisals would not be brought against any remaining family members.

For 2 years now they have resisted all pressures to leave. When they first arrived, they were allowed to take up residence in the waiting room of the consular section. They were able to meet with visitors to the Embassy. Late in August 1978, after gentle persuasion failed to coax them to leave, Ambassador Malcolm Toon had the families removed to an area which staffers refer to as "the dungeon." "Their presence," Toon explained in a letter to the seven, "was jeopardizing other believers' chance to emigrate." They have lived now nearly 2 years in one room in the basement—approximately 12 by 15 feet. Articles have been published against them in their hometown newspapers denouncing them as traitors of their country. The room is furnished with two twin beds, which the children sleep on while the adults sleep on the floor. They pass the time studying English, praying, and reading the Bible. The Embassy provides them with food and clothing.

They have not been able to see any other members of their family since they arrived at the Embassy. The other members of the families, outside the Embassy, have been persecuted. The Vashchenkos' son, Sasha, has been sentenced to a 3-year term in a labor camp for his beliefs and has been beaten into unconsciousness on several occasions by Soviet guards. Sasha has reported increased coercion on the part of the KGB to make him renounce his family and condemn their efforts to obtain exit visas.

Moscow still refuses to let the seven leave. Both families have received official invitations and affidavits of sponsorship from families in the United States, which were necessary for emigration. Since then, however, Moscow has changed its regulations so that persons can leave only if invited by a close relative abroad. Attempts to locate relatives outside of the U.S.S.R. have been unsuccessful. In recent months, the Vashchenkos and Chmykhalovs have been attracting more and more attention in Europe and the United States. British author John Pollack has written a book entitled "The Siberian Seven," relating the story of their 18-year struggle. In addition, articles have appeared in many newspapers and periodicals, such as the National Catholic Register, the New York Times, Time, and the Christian Science Monitor, relating the tragic story of the Vashchenko and Chmykhalov families.

Kevin Lynch, of the National Review, has written two insightful articles in that publication. In the first article, "Down and Out in the American Embassy," Lynch describes their situation this way:

> Unless they make it out this time, the children said, none of them would ever make it out. This was the Vashchenkos' six visit to the Embassy, and this time they had committed an unforgivable offense. They had sullied the image of the socialist motherland . . . They have two options: they can remain in the Embassy, where they know they are not wanted; or they can walk outside into the sturdy arms of the KGB.

Fortunately, by the time the second article appeared in March of this year, the Vashchenko and Chmykhalov situation has improved. Ambassador Toon has retired and his successor, Thomas J. Watson, Jr., is, according to Lynch, "believed to be more sympathetic to the families." Interviews with the press have taken place indoors, as well as in the outside courtyard, more mail from the West has gotten through, and the families are now permitted to attend mass in the Embassy chapel. In a letter, the Chmykhalovs wrote:

> On Feb. 20th, Ambassador Watson came to see us . . . Mr. Watson said to us, "we are not going to evict you, we will let you have this room and provide your meals. You see some Americans who can give you advice, but the Americans do not understand the USSR system well enough. So it is up to you to decide what to do, because you are the ones who know the Soviet government best of all. However, I wouldn't advise you to leave now, because the US-USSR relations are not good at this particular time . . ." We thanked the Ambassador for his prayers and his help to us. Mr. Watson spent 30 minutes with us and we think that he is a good man who wants to help us.

Congressional and diplomatic action thus far has been slow and cautious. Early last year, the families received their first visits from American Members of Congress. Congressmen JACK EDWARDS and RICHARD SHELBY visited the families around Easter. Later, others met with them in the basement of the Embassy. Senator BOREN and I met with them in August of last year. Several resolutions mentioning the families have been introduced in Congress, but stronger measures must be taken. In May of this year, 49 of our colleagues joined me in sending a letter to President Brezhnev urging that visas be granted to the families on a humanitarian basis. We wrote that this "would be in the best interests of amicable relations between our countries." There has been no answer.

The Vashchenko family recently wrote an open letter to the hostages in Iran, whom they feel are in a similar situation.

The world is beginning to hear the cries of the Embassy Seven, thanks to the dedicated efforts of a group of supporters in the United States and around the world. In the United States, the Reverend Blahoslav Hruby, and his wife, Olga, who publish the respected journal, Religion in Communist Dominated Areas, and who lead the Research Center for Religion and Rights in Closed Societies, have aggressively pursued the goal of freedom for the families. The Society of Americans for Vashchenko Emigration (SAVE), led by Mrs. Jane Drake and the Reverend Cecil Williamson, of Montgomery, Ala., has been instrumental in organizing support for the Vashchenkos and the Chmykhalovs. Amnesty International has recently announced the beginning of a major campaign on behalf of both families.

These vigorous efforts demonstrate the importance so many people have given this fight for freedom. But success can only be measured in one way—the granting of exit visas and the subsequent emigration of the families to the United States. It is time for the U.S. Congress to take substantive action on this matter. The legislation which we are introducing today grants permanent resident status in the United States to the seven in the Embassy. The passage of the bill will clarify the status of the families with respect to their residence in the Embassy. Currently, the State Department "refugees" because they are not in a believes that they cannot be considered third country. They cannot be considered as "candidates for asylum" because they are not, according to the State Department, considered to be in the United States.

I asked the Immigration and Naturalization Service whether the families might qualify for refugee status while they remain in the Embassy. They reported to me that—

> The provisions of the Refugee Act of 1980 are such that they do not permit the two families to obtain refugee status while they are still in Russia.

Permanent resident status will extend constitutional protections to the Vashchenkos for the duration of their stay in the Embassy and will expedite their emigration to the United States if the Soviets allow them to receive exit visas. It will allow the United States to make more significant efforts on their behalf, as it establishes a closer relationship between the families and the United States.

But this legislation is tightly constructed so that it cannot become a broad precedent for other possible asylum/refugee situations. In the legislation, we specifically state the unique qualities of the situation, which involves two families, who, since 1962, have requested that they be released from Soviet citizenship and who have lived in the U.S. Embassy in Moscow since June 27, 1978.

We realize that there are thousands of other Soviet citizens who have been unable to emigrate from the Soviet Union. Yet the efforts of the Vashchenkos and the Chmykhalovs are unique because, as a result of their efforts to gain permission to leave the Soviet Union, they were forced to seek refuge in the American Embassy for their personal safety. Now, after 2 years in the Embassy, they have no assurances of their safety in their homeland. It is incumbent upon the United States to do all that we can to assist them in their struggle to gain permission to leave the Soviet Union and to do all that we can to protect them while they wait for that permission to be granted.

Granting them permanent resident status will help to alleviate one of the most unfortunate byproducts of the families' 2 years without status. The alienation they have experienced in the Embassy has made them outcasts in the very place they seek refuge. The daily conditions they must contend with need to be improved. With our legislation we believe that the Embassy will have more authority to properly deal with their case. Most upsetting to the seven, and to their friends and supporters outside of the Embassy, has been the difficulties involving communications.

Often, letters and cards sent via the international mails are not delivered by the U.S.S.R. to the Embassy for the Seven Pentecostals. According to the Society of Americans for Vashchenko Emigration, thousands of letters mailed to the Vashchenkos and Chmykhalovs have been confiscated by the KGB in the past 2 years. Literally thousands of pieces of American mail addressed to the families have been lost permanently but the State Department has not made a formal complaint to the Soviets regarding the lost mail.

I understand that there may be other possible ways than international mail for the Pentecostals to receive mail from the United States and I hope that these channels will be explored by the State Department and the Embassy. It astounds me to learn that Soviet citizens who are Embassy employees have been able to use a portion of their wages to purchase American goods through American mail order facilities and use the "diplomatic pouch" to do so. However, the Pentecostals have been told that they cannot use the "pouch" at any time. For the Vashchenkos and the Chmykhalovs, mail deprivation is only one of the undesirable aspects of daily life. With clearly defined status, our Embassy should be able to provide better channels of communication than are available to the families now.

Greater access to telephones would make it more convenient for them to talk with family members and to keep in touch with the world outside of the Embassy walls. The families would also appreciate closer contact with the Embassy staff, who have been discouraged at times in the past from being friendly with the seven. Free time outside their basement room, not conflicting with the normal functions of the Embassy, could also be arranged to lessen the unwarranted alienation of the Vashchenkos and Chmykhalovs. Their exposure to the Embassy personnel and daily routine matters would greatly enhance their perspective and morale. It is also very likely that the staff, as well, could benefit from contact with these good people.

Perhaps some of the family members could be given jobs within the Embassy. Currently, there are about 200 Soviet citizens employed by the Embassy. Allowing the families to work to "earn" their support would make them less dependent on the "good will" of the Embassy and the staff and would boost their self-esteem and prepare them for their eventual release.

These actions on the part of the Embassy, would do no more than see to it that the Vashchenkos and Chmykhalovs are treated respectably and judiciously—not like unwanted intruders. The religious persecution which the families have faced throughout their lives is not unusual. The endurance, faith, and perseverance they have displayed, and the circumstances surrounding their many attempts to emigrate makes this a unique situation. It is a unique situation in need of a unique solution. I urge my colleagues to support the Vashchenkos and Chmykhalovs by supporting this legislation. Let this second anniversary of their refuge be their last one spent in our Embassy in Moscow.

I ask unanimous consent that the following documents be printed in the RECORD:

A letter from 50 Senators to President Brezhnev, May 9, 1980;

A letter from Vashchenkos to Senator LEVIN;

A letter from families to hostages in Iran;

An article from the September 18, 1979, Birmingham News;

An article from the September 16, 1979, National Catholic Register;

Two articles from the National Review;

An article from the June 11, 1980, Christian Science Monitor; and

A letter from Immigration and Naturalization Service, June 26, 1980.

U.S. SENATE,
Washington, May 9, 1980.

Your Excellency LEONID ILICH BREZHNEV,
Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, Moscow, U.S.S.R.

DEAR PRESIDENT BREZHNEV: We are writing on behalf of the Vashchenko and Chmykhalov families, who, as you know, have been living in the United States Embassy in Moscow since June 27, 1978. For over seventeen years, these families have been attempting to emigrate from the Soviet Union in order to be able to express their religious faith freely and in order to teach their children similar values.

These families have requested that they be released from Soviet citizenship and be permitted to receive exit visas in accordance with the Universal Declaration of Human Rights and the Final Act of the Conference on Security and Cooperation in Europe. These international instruments provide for the right of freedom of movement to all people. They also assure the basic human right of freedom to profess and practice religion or belief in accordance with the dictates of conscience.

Many of our constituents have contacted each of us personally to ask that we assist these families in their efforts to emigrate. Both families have received official invitations and affidavits of sponsorship from families in the United States. The families would be most welcome here.

We believe that the expeditious granting of exit visas, on a humanitarian basis, to the members of the Vashchenko and Chmykhalov families would be in the best interests of amicable relations between our countries. We urge you to consider these applications favorably.

Sincerely,

David Boren, Lloyd Bentsen, John Heinz, Charles H. Percy, William L. Armstrong, Birch Bayh, Rudy Boschwitz, Dale Bumpers, William S. Cohen, John C. Danforth, Robert Dole, James Exon, Barry Goldwater, Carl Levin, Robert C. Byrd, Roger W. Jensen, Donald W. Stewart, Max Baucus, Joseph R. Biden, Jr., Bill Bradley, Frank Church, Alan Cranston, Dennis DeConcini, David Durenberger, Jake Garn, Mark O. Hatfield;

S. I. Hayakawa, Walter D. Huddleston, Nancy Landon Kassebaum, Warren G. Magnuson, James A. McClure, Howard M. Metzenbaum, Sam Nunn, Donald W. Riegle, Jr., Harrison H. Schmitt, Richard (Dick) Stone, Paul E. Tsongas, Milton R. Young, Howell Heflin, J. Bennett Johnston, Richard G. Lugar, Spark M. Matsunaga, John Melcher, Daniel Patrick Moynihan, Larry Pressler, Paul S. Sarbanes, Alan K. Simpson, Strom Thurmond, Harrison A. Williams, Jr., Edward Zorinsky.

EMBASSY OF THE UNITED STATES,
Moscow, U.S.S.R., March 27, 1980.

DEAR SENATOR AND MRS. LEVIN: A few days ago we listened to your speech on the radio. You said that your voices will be heard even in Moscow for the protection of all oppressed people in this country.

We also have read the copies of the letters addressed to your Colleagues and to President Brezhnev.

We were glad to hear that so many of your Colleagues responded to the request to help us to emigrate to your country and that many of them signed their names in the letter to Brezhnev to urge him to consider this appeal.

We want so much to thank you and your Colleagues for participating in this deed.

We also remember with thanks your visit to us and we pray to God to continue to inspire you and guide you in your work.

Sincerely yours,
THE VASHCHENKO FAMILY.

LETTER BY THE VASHCHENKO AND CHMYKHALOV FAMILIES AT THE U.S. EMBASSY IN MOSCOW TO U.S. HOSTAGES IN TEHERAN

April 11, 1980.

DEAR FRIENDS WHO BECAME HOSTAGES IN TEHERAN: In this difficult time we would like to console you. We are praying for you and believe that you as well as ourselves can be helped by our All-Powerful God. He listens to prayers and will save you.

We are in a similar situation as you, except that we are not facing a dangerous situation here, in the American Embassy, as you and the other members of our families do.

We understand you very well and your hardships and we remember you in our prayers.

Be courageous, help will come from God! 1 Kings 8: 47, 48, 39, 60: "If they repent with all their heart and all their soul in the land of their enemies, which led them away captive, and pray unto thee toward their land, which thou gavest unto their fathers, the city which thou hast chosen, then hear thou their prayer and their supplication in heaven thy dwelling place, and maintain their cause, and forgive, and do, and give to every man according to his ways, whose heart thou knowest; (for thou, even thou only, knowest the hearts of all the children of men), that all the people of the earth may know that the LORD is GOD, and that there is none else."

Your Friends in Christ,
THE VASHCHENKO AND
CHMYKHALOV FAMILIES,
U.S. Embassy, Moscow, USSR.

DIVERSE GROUP, BUT ONE GOAL

(By Tom Scarritt)

WASHINGTON.—It was a diverse delegation that visited the Soviet embassy here Monday, but they were united in their aim—freedom for Soviet Christians.

A Protestant, a Catholic and a Jew—along with a Republican congressman and a Democratic one—left the Soviets a petition from Alabama asking the USSR to release two Pentecostal families who have sought sanctuary in the U.S. embassy in Moscow.

They got no immediate response from the Soviets, but they expected none.

"It's like a stonecutter who is trying to crack a large stone," said Rep. Bill Dickinson of Montgomery. "He chisels half a day and the stone splits.

"Who can say which blow split the stone? Was it the final blow or the ones that went before?," he asked.

Monday's visit, he said, changing his imagery, "was one more weight on the scale, that someday may tip."

Jane Drake of the Society of Americans for Vashchenko Emigration and Babette Wampold of the Alabama Council to Save Soviet Jews came up from Montgomery for the mission. They were joined by Dickinson, Rep. Richard Shelby of Tuscaloosa and Sister Ann Gillen of the National Interreligous Task Force on Soviet Jewry.

What they want is freedom for the five members of the Peter Vashchenko family and Maria Petrovna Chmykhalova and her son to leave the Soviet Union.

The two families entered the American embassy in Moscow June 27, 1978, and have been living in a 12-by-20 foot room ever since, according to Dickinson's staff.

The effort to get the families out of the Soviet Union has been a community project in the Montgomery area and across Alabama, the women said.

A Selma church has agreed to sponsor the families if they are released.

But the Soviets will not talk about letting the families go. Sergei Chetverikov at the embassy refused to take the petition, signed by more than 6,000 people, most of them Alabamians.

The group left their petition on a table, though, figuring the Soviets would not ignore it.

"They have to report what happened to the people over them," Mrs. Wampold said. "It probably will have to be reported all the way up to the ambassador."

The visit, she said, "was much more productive than usual visits to the embassy are," primarily because the Soviets had dealt with Dickinson before on the issue.

The group did not expect a direct response from the Soviets, Mrs. Drake said. But they did want to call attention once again to the plight of the Vashchenkos.

"This is not the beginning of our movement, and it is not the end," she said. "It is just the middle."

The Soviet reception, Dickinson said, was "cool, courteous, but far from cordial."

"I feel sure they'll look at (the petition)," Shelby said. But he added he believes it will take a high-level decision, perhaps negotiation by the President himself, to win freedom for the Christian families.

EMBASSY LIFE: GOLGOTHA FOR A SOVIET FAMILY

(By Karen Platt)

MONTGOMERY, ALA.—"If you walked down the street here, I'd say nine out of ten people would know who the Vashchenkos are, but if you go outside a 200-mile radius of here, I'm not sure most people have even heard Christians are persecuted in the Soviet Union," says Jane Drake of Montgomery, Alabama, director of SAVE—the Society of Americans for Vashchenko Emigration.

SAVE, and the local Committee to Save Soviet Jewry, work together in Alabama to promote emigration of religious dissidents from the Soviet Union. Mrs. Drake is also in close contact with the Research Center for Religion and Human Rights in Closed Societies, formed 18 years ago by Rev. Bladislaw Hruby and his wife, Olga.

Peter and Augustina Vashchenko, as well as three of their children and Maria Petrovna Chmykhalova and her son, have been living in a 12-by-20 foot room in the basement of the U.S. embassy in Moscow since June 27, 1978. On that day, as the families made their sixth visit to the embassy in an attempt to secure exit visas from the Soviet Union, one of the Vashchenkos' sons, Ioan, was apprehended by the Soviet police. The Vashchenkos and the Chmykhalovas stayed on at the embassy to insure Ioan's safe return. Thirteen days later, the Soviet police returned Ioan, badly beaten, to the Vashchenko home in Siberia. Peter and Augustina's children at home then called their parents and begged them to remain in the embassy until they either received a firm guarantee that neither family would suffer reprisals, or that all would be permitted to emigrate. No such guarantees have been forthcoming.

Approximately 30,000 "Christians for the Evangelical Faith" (Pentecostal Christmas) and an estimated 400,000 other religious believers including Lutherans, Seventh Day Adventists, Moslems, and Lithuanian and Ukrainian Catholics, wish to leave the Soviet

Union. Religious belief is considered a psychological disturbance by the Soviet government. Peter Vashchenko has spent two years in a mental hospital for his Christian faith.

U.S. Ambassador to the Soviet Union Malcolm Toon has refused to talk to reporters, but in an official statement issued by the State Department press office, Toon responded to an article about the Vashchenkos which ran in National Review Magazine (August 31, 1979) entitled, "Down and Out at the American Embassy." The State Department denied allegations that embassy officials attempted on several occasions to pressure the Vashchenkos into leaving the embassy, even as autos pulled up outside the Embassy doors. The ambassador has denied ever having "suggested to the Pentecostalists that American Christians have not intended to help them because they are considered fanatics." He noted that the U.S. has given these Soviet citizens a room at the embassy even though "housing space at the embassy is very tight because of the general lack of housing in Moscow."

MAIL LOST

Toon acknowledged that literally thousands of pieces of American mail addressed to the Vashchenkos have been lost permanently in the Soviet mails but said, "We cannot permit mail to be sent to them through the diplomatic pouch. To do so," he said, "would be a violation of our own regulations as well as of the Vienna Convention on Diplomatic Practices."

According to government sources in Washington however, the State Department has lodged no formal complaint with the Soviets regarding the sabotage of American mail to the Vashchenkos.

Additionally, several key allegations in the National Review story were not denied by the State Department press release. Among these is the assertion that Ambassador Toon has forbidden all press photographs of the two families inside their quarters.

"An unidentified person called us at our headquarters," says Mrs. Hruby. "She said she was from Time Magazine and wanted to know if we had, and where we got, a certain photograph of the Vashchenkos and Chmykhalovas taken indoors. I told her it was available if she wanted it, but she never called back and I was never able to find anyone by that name working at Time."

Press interviews are also disallowed the Pentecostalists, except outdoors—even in mid-winter.

"We were notified that last winter, after an interview which took place in the embassy compound because of this rule, that the Vashchenkos were ill for several weeks because they stood out in the below-freezing weather with only light sweaters and thin shoes, because that's all they had."

"The State Department wanted to keep this thing quiet," said Jane Drake. "They made it very difficult, initially, for the news media to interview these people. And even Congressman Richard C. Shelby (D.-Ala.) who went over there this Easter week had trouble seeing them. Mr. Shelby even had a letter from our governor requesting the congressman be given permission to see these people on behalf of the people of Alabama."

RELUCTANTLY PERSUADED

"Six senators had already gone to Moscow last January but were not able to see the Vashchenkos," Mrs. Drake continued. "We have a letter from Senator Baker of Tennessee saying he was 'reluctantly persuaded' by Malcolm Toon *not* to see the Vashchenkos."

Mrs. Drake has also encountered personal difficulties in her efforts to help the Vashchenkos.

"I remember the first phone call I made to the Moscow embassy. I talked to a Marine embassy guard. I said, 'I can't believe that you don't know about those people,' and he kept saying 'I have no one by that name on the register.' I said, 'Of course they're not on the register. They don't *work* in the embassy. They're in the basement room.' He never lost his cool, he stayed totally calm.

"We later realized this man had been instructed to say just what he said. He actually never *lied* to me. He just continued to go back to that same statement. 'They are not on the register.' "

Late last year, President Carter sent Olin Robinson, president of Middleburg College in Vermont, to study the situation. Mrs. Hruby calls Robinson's visit "a half-hearted attempt at best."

"He asked the Russian Orthodox Church to intervene. Asking an official, state-controlled church to intervene in Soviet affairs is like asking the New York Sanitation Department to intervene in the Middle East."

CARTER UNHELPFUL

She adds: "Carter has his excuse that he's tried to help, but he hasn't . . . He hasn't forwarded even one letter to the Vashchenkos sent 'care of President Carter.' "

In Montgomery, the combined efforts of SAVE and the local Committee to Save Soviet Jewry have not gone unnoticed by the local media. Last June, just prior to the first anniversary of the Vashchenkos' stay at the U.S. embassy, all three national television networks were given permission to enter the embassy to photograph the family and tell their story. The film was flown back immediately to the United States, but someone "pulled the plug." Only WSOV—a local network affiliate—has a copy of that video tape today.

"Although the local Alabama station pulled a few strings and got the whole tape down here for us," says Mrs. Drake, "evidently the entire report was shown nowhere else in the country; in fact, only portions of it were aired, and in only a few cities across the nation."

Supporters of the Vashchenko family agree that the number one difficulty is that the American Christian community lacks proper information about what is going on in Russia.

VIRTUAL BLACKOUT

"There is a virtual press blackout on the entire subject of Christian dissidents in the Soviet Union, because our government chooses to ignore it completely," says Mrs. Hruby. "They cannot ignore the Jewish situation because of the pressure of an articulate Jewish lobby which Christians, unfortunately, haven't developed."

Rabbi Seymour Siegal, professor at the Jewish Theological Seminary in New York, agrees. A member of the Council on Religious and International Affairs at the seminary and a dedicated human rights and prolife activist, Siegal says that, "Obviously, religious oppression of Jews and Christians—Catholics, Evangelicals, Baptists and Adventists—exists in the Soviet Union, and there are several avenues interested American citizens can explore.

"One is information. All interested parties should constantly keep the public informed of what the real situation is in the USSR. The other more active alternative is to put pressure on the Soviet government through our elected representatives and other public officials. Interested groups and individuals must express their viewpoint that concessions to the Soviet Union by the United States should be made contingent upon the granting of human rights to all Soviet citizens.

"Two examples that immediately come to mind are the Jackson-Vanik Amendment [which bars most-favored-nation trading status to the Soviets] and SALT II ratification. We should not give the USSR what they want, until they are willing to allow freedom."

"The Jewish community has been agitating for over 10 years now, and although there is much to be done, it has been successful to the extent that the Soviet government has permitted 150,000 Jews to leave the Soviet Union," adds Rabbi Siegal. At the same time, almost no Christian dissidents have been allowed to emigrate from the USSR.

CHRISTIANS UNORGANIZED

"We Christians desperately need a lobby," says Jane Drake of SAVE. "We're just not organized. You know, Christianity started with persecution, and the Soviet Christians are so spiritual. It's really uplifting to have any association with them. Two years ago, I didn't know there were any Christians in the Soviet Union. Now, next to my husband and children, it's my whole life."

Russian Christians in the Catacombs: Down and Out in the American Embassy

(By Kevin Lynch)

Of the few things known about Yuri Vlasenko, two stand out: he wanted to leave the Soviet Union; he is dead.

Late on the afternoon of March 28, Vice Consul Robert Pringle walked outside the U.S. Embassy in Moscow to escort Vlasenko past the Soviet guards who patrol the three entrances to the Embassy. Once inside, Vlasenko asked that the Embassy issue him an exit visa to leave the Soviet Union. When Pringle told him that only Soviet authorities could grant his request, the would-be émigré, a 27-year-old merchant seaman, reportedly revealed a home-made bomb, which he threatened to detonate if refused the exit visa. The bomb elevated the episode into a matter for the U.S. Ambassador to Moscow, Malcolm Toon.

Though only Toon knows exactly what happened then, Western news accounts reported that he tried to negotiate with Vlasenko, but eventually gave up and turned the matter over to Soviet authorities, telling them, he later recounted, that "it was their responsibility and they should handle it the way they saw fit." The Soviets handled it by lobbing tear gas into the consular area where Vlasenko was confined and, when that failed to oust him, bringing in a marksman. The marksman had fired two shots when Vlasenko detonated his bomb, killing himself.

Instead of hushing up the incident, Soviet authorities capitalized on it. Izvestia charged the American Embassy with "cowardice" and "unseemly" behavior that reflected an attitude of: "Let Russians rather than Americans be killed." The paper then got to the point it wanted seared on the consciousness of all Soviet citizens: "This is not the only case when Embassy members have established contacts with dubious persons and invited them into the Embassy. One would hope that the incident will serve as a lesson."

Whether or not the incident will serve as a lesson for Vlasenko's countrymen, one thing is sure: it served as a lesson for Ambassador Toon. In a report from Moscow a few weeks later, New York Times correspondent David K. Shipler wrote that Toon had instituted regulations making it virtually impossible for Soviet citizens to enter the U.S. Embassy in Moscow or U.S. consulates in Leningrad or Kiev unless they either could furnish permission from Soviet authorities in the form of a passport or were personally known to American officials. Prior to the incident, diplomats from the Embassy regularly escorted people past the Soviet guards; now, said Shipler, U.S. "diplomats appear unwilling to continue the practice for unkown Russians, partly because of the physical risk and partly because the officer who escorted the man into the Embassy grounds has received a negative efficiency report that is expected to damage his career." In May, Pringle and his negative efficiency report were transferred to South Africa, probably owing to the absence of a U.S. consulate in Siberia.

In contrast to Izvestia, the Western press maintained its cool. The few papers that mentioned Vlasenko's death treated it much the same way New York papers report a mugging on the subway. After all, Vlasenko isn't the first person to die trying to leave the Soviet Union.

But for seven residents of Moscow the death was far from routine. The seven are themselves would-be émigrés, and all the while the tragedy of Yuri Vlasenko was being played out, they were, like him, inside the U.S. Embassy.

In June of last year, six members of the Peter Vashchenko family left their home in Chernogorsk, Siberia. The Vashchenkos are Christians, members of a sect called Christians of the Evangelical Faith, commonly known as Pentecostals, one of the fastest-growing and most persecuted religious groups in the Soviet Union. With them they carried official invitations from an American, the Reverend Cecil Williamson Jr. of Selma, Alabama, who has promised to sponsor them in the United States. Soviet authorities had persistently rejected their applications to emigrate, so they decided to seek the counsel of the American Embassy. On June 27 of last year, six members of this family—Peter and Augustina, and four of their 13 children (daughters Lidia, Liubov, and Lilia, and Ioan, their 16-year-old son)—along with two members of another Chernogorsk family, Maria Petrovna Chmykhalova and her son Timofei, approached the Embassy.

The Pentecostals knew they would have to dodge the guards. Seven of them made it. But from the safety of the Embassy they watched the guards hustle Ioan away. His arrest turned what was intended to be a brief consultation into a confinement now nearing its 14th month. From years of jousting with Soviet authorities, the Vashchenkos had learned how to maximize whatever leverage they have in their encounters with the state. They chose to remain inside the Embassy until they received assurances of Ioan's safety. Thirteen days later they got a telephone call from their children in Chernogorsk. The police had brought Ioan home two days earlier. He had been beaten. The children implored their parents to remain inside the Embassy until they received a firm guarantee from the Soviets that all 15 Vashchenkos would not suffer reprisals or, better, would be allowed to emigrate. Unless they made it this time, the children said, none of them would ever make it out. This was the Vashchenkos' sixth visit to the Embassy, and this time they had committed an unforgiveable offense. They had sullied the image of the socialist motherland.

The Vashchenkos first collided with Soviet law back in 1962, during the most violent anti-religious campaigns since the thirties. In the years since, they have endured constant harassment and persecution, all carefully documented in a recent issue of Religion in Communist Dominated Areas, published by the Research Center for Religion and Human Rights in Closed Societies.

Three of the girls—Lidia, Liuboy, and Nadezhda—were sent in 1963 to a boarding school for orphaned children in Achinsk, a 24-hour train ride from Chernogorsk. It was six months before someone smuggled word of the girls' whereabouts to their parents, who then arranged clandestine meetings with them in believers' homes, in cemeteries, any place they wouldn't be discovered. A year went by before the authorities permitted the parents to see their daughters, and even then they had to agree not to talk of God or religion. The room where they met was divided into three parts: one for the parents, one for the girls, and one for their teachers. After a few of these sanctioned meetings, the family returned to meeting in secret, which it did until the girls were old enough to leave school.

Other members of the family have suffered other punishments. The oldest boy, Aleksandr, is now confined in a labor camp in the Krasnoiarsk territory for refusing to serve in the Soviet army. After his attempted visit to the U.S. Embassy in 1968, the authorities arrested Peter and placed him in a psychiatric ward—his insanity, his examiner told him, manifested itself in a desire to emigrate—followed by a year of hard labor. (Actually, Peter Vashchenko is doubly insane. In the eyes of Soviet psychiatry, belief in God is a symptom of psychological illness.) At the same time, Augustina, Peter's wife, and Natalia, his sister, were sentenced to three years in prison. Natalia never recovered completely from her imprisonment and died last November, while her brother was inside the Embassy.

An Embassy source, who (not desiring a transfer to South Africa) requests anonymity, reports that when the families first arrived at the Embassy well over a year ago, they were allowed to take up residence in the waiting room of the consular section, enabling them to come in contact with visitors to the Embassy. Late last August, however, when gentle persuasion failed to coax them to leave, the Embassy turned off the charm.

Ambassador Toon wrote to them suggesting that they leave. Their presence, the letter said, was jeopardizing other believers' chances to emigrate. According to Lidia Vashchenko, the official who read them the letter (Toon has never met them himself) suggested that American Christians haven't

The taping went asmoothly, and the Vashchenkos and Chmykhalovs to the fanatics. When this harangue failed to drive them out to the KGB cars that had mysteriously arrived in front of the Embassy, Toon had the families shunted to a 20- by 12-foot room far removed from the mainstream of Embassy life, in an area the Embassy's Marine guards refer to as the "dungeon."

They have been made as uncomfortable as possible. No longer are they allowed Embassy food; however, they are well fed, thanks to an Embassy staffer who stands in Moscow's endless queues to gather foodstuffs for them.

Since last August, Embassy policy has forbidden all but a few people—the Protestant and Catholic chaplains among them—to visit the families. Up until November, they had no radio, presumably lest they take heart from messages of support beamed from beyond the Iron Curtain.

Ambassador Toon has forbidden all press photographs of the Pentecostals inside their quarters. While press interviews are permitted, there is one catch: they must be conducted outdoors, even in winter.

Up until June, the Embassy rejected requests by ABC and NBC to film reports on the families, but the occasion of their first anniversary inside the Embassy forced Toon to bend. Even then, he would allow television cameras only as far as the courtyard.

The taping went smoothly, and the Vashchenko and Chmykhalov supporters in the U.S. waited anxiously for the interviews to be broadcast. A few minutes of national exposure, the feeling was, would be enough to impress their plight on the conscience of the nation. Apparently, other people also realized this. After spending thousands of dollars ferrying television crews to Moscow, somebody pulled the plug. With the exception of Alabama, whose citizens bombarded their local stations with demands that the interviews be shown, the families got their message into few living rooms.

The Embassy's policy on mail for the families is that it will deliver any and all mail that arrives through the "international" route, i.e., through the Soviet postal service. Last Christmas, a group of Alabama Christians, led by Jane Drake, mounted a Christmas card campaign that generated more than seven thousand cards. Through her sources, Mrs. Drake learned that only ten cards trickled through to the families. Of the tens of thousands of letters sent through the international route since they first took asylum in the Embassy, only twenty to thirty have reached the dungeon. Ambassador Toon detects a silver lining in the Soviet blockade, however. In a recent letter to James A. Gittings, Associate Editor of AD Publications Incorporated, a religious publishing house, Toon assured him that "this is not a complete loss since the large number of letters which are never delivered may serve at least to help inform the Soviet government about the concern of American citizens for the fate of these Soviet Christians." No member of the Embassy, or of the Carter Administration, has ever protested the Soviets' interference with the international mail.

There remains one other mail route—the diplomatic pouch. Unfortunately, since the families aren't official members of the Embassy staff, Toon refuses to allow them to see mail sent this way. It has been suggested that the Embassy could at least show the families *copies* of the letters mailed them through the diplomatic pouch, but nothing has come of this. Working together, in a stirring example of detente, the Soviets and Americans have almost completely insulated the two families from the outside world, denying them messages of support that might encourage them to believe that they haven't been forgotten, that they aren't fanatics. The White House even refuses to forward mail sent them care of Jimmy Carter.

What torments the Vashchenkos even more than all this is the months of separation and the thought of the punishments the Soviet authorities are inflicting on the rest of their family. In March, four of the children—Vera, Ioan, Sara, and Avram—journeyed to Krasnoiarsk to visit Aleksandr in the labor camp. Instead of allowing them to see their brother, the director gave them a guided tour of the camp, showing them such points of interest as the solitary confinement cell where Aleksandr spent 15 days for possession of a page from the Gospels. Turning to Ioan, who was due to be drafted in May and who is, like Aleksandr and all Pentecostals, a conscientious objector, the director said, "Since you won't go into the army, this spring they will be bringing you here. After you have been here for six months, we'll give you back dead to your parents." Although Ioan has yet to be drafted, it most definitely is not an idle threat. In 1966, Peter Vashchenko's brother Andrei, also a conscientious objector, died in an "accident" with only three months remaining of his five-year sentence. Camp authorities have promised Aleksandr that a similar fate awaits him.

What fate awaits the seven Pentecostals inside the Embassy? Late last year Carter sent a personal emissary, Olin Robison, president of Middlebury College in Vermont, to study the situation. Robison's solution was to have the Orthodox hierarchy press the Kremlin to allow the families to leave the country. But since the Orthodox hierarchy is controlled by the Kremlin, its refusal to intercede was surprising perhaps only to Robison.

As for Ambassador Toon, he no longer attempts to disguise his displeasure. In his letter to Mr. Gittings, for example, he admitted that "I have, from the beginning of the sojourn in the Embassy of these two families, encouraged them to depart in order to pursue their efforts to emigrate through established channels."

What would happen if the families left the Embassy? The Soviets will give no assurances that the Vashchenkos and Chmykhalovs won't be arrested if they leave. But Toon claims he has the Soviets' word that the families haven't violated any law, and he apparently concludes that they would be able to return to Chernogorsk and live happily ever after. If Peter Vashchenko hadn't spent one year in confinement as a result of his visit to the Embassy in 1968, maybe he too would radiate the same faith in the Kremlin. "Whatever the Soviets have told the Americans," Peter recently told a newsman, "we do not believe them. They will promise the Americans one thing and then they will cheat them, as they have always cheated us. We have been through their prisons, their labor camps, their psychiatric wards. Do you think that after we have been living in the American Embassy for a year they will let us go home and do nothing to us?"

Yet there is one condition under which the seven Pentecostals would leave the Embassy: if in return the Soviets would allow the other members of their families to emigrate. "If they would let Sasha [Aleksandr] and our other children emigrate," says Augustina Vashchenko, "then we would walk out of here and let them do with us what they will."

Mrs. Chmykhalova echoes her: "My son, Timofei, and I—we too will walk out of here if they let my family in Chernogorsk emigrate. We may die at their hands, but at least the children will know a new life."

Early in April, former Senator Dick Clark, who is now U.S. Coordinator of Refugee Affairs, testified on Capitol Hill to a "dramatic increase in the number of refugees from the Soviet Union because the Soviet government has liberalized its policy of issuing exit visas." The Kremlin freed thirty thousand of its citizens last year; extrapolating from the number freed in the first three months of this year, over fifty thousand Soviets will be permitted to emigrate in 1979, a figure far surpassing the 34,733 released in 1973, the highest annual total to date. Needless to say, if the Soviets continue to free their people at this rate, the chances that they will get some items they want from the U.S. Congress—most importantly, approval of SALT and most-favored-nation status—will be greatly enhanced.

Since the Soviets seem to be opening the gates, why don't the Vashchenkos and Chmykhalovs bide their time until their turn comes?

Because it will never come. With few exceptions, the only people the Soviets allow to emigrate are Jews, beneficiaries of an extraordinary Western campaign. Refugee sources report that of the *thirty thousand Pentecostals* who have applied to emigrate, not one has succeeded. And the Pentecostals aren't the only ones who want out. The Tolstoy Foundation, a New York organization involved in refugee relocation, says thousands of people of varying religious beliefs also want to emigrate, including Russian Orthodox, Lutherans, Seventh-Day Adventists, and Moslems. Although their religions differ, these groups all want to leave for the same reasons: to practice their religion and to teach their children about God without breaking the law. Ethnic Germans and Ukrainians, among others, also want out. Pressure for emigration is so intense that in some areas entire communities have applied for exit visas.

Thus, it is no wonder that Clark concentrated on the good news of increased emigration of Soviet Jews; and no wonder that the Administration ignores the seven Pentecostals. There are seventy times seventy more Christians like them in the Soviet Union. If the Pentecostals were to gain their freedom, the ensuing stampede would register on every Richter scale in the world.

What, then, are the chances for the Vashchenkos and Chmykhalovs? Life in the dungeon is taking its toll, physically and psychologically. Augustina, worn down by her months in confinement, has developed ulcerative colitis; she may not make it through the year. The psychological toll is evident on all seven. A visitor to the Embassy writes: "Seven people sit in one small room day after day, month after month, with virtually no evidence that anyone in the West knows or cares about them." As of now they have two options: they can remain in the Embassy, where they know they are not wanted; or they can surrender and walk outside into the sturdy arms of the KGB. There is no doubt which option Ambassador Toon would prefer—and which the Soviets expect. Chernogorsk authorities have begun telling townspeople that the "traitors" will soon be out of the Embassy.

There remains the flickering hope of yet a third option. The world is beginning to hear the cries of the seven, thanks to the efforts of people like Vladimir Bukovsky, who spoke movingly of them in an address to the Coalition for a Democratic Majority in June:

"I think that perhaps present-day political trends reveal themselves the most in the fate of seven Russian faithful Pentecostals who have been living in the U.S. Embassy in Moscow [for 12 months]. These plain, ordinary people have to fight equally against the Soviet persecutors and their American helpers. The U.S. Ambassador in Moscow, Mr. Toon, does everything possible to throw these people out of the Embassy and to condemn them to the tortures of psychiatric hospitals, prisons, and camps. The lofty tasks of American diplomacy seem to this official immeasurably more important than human lives. These people are kept at the Moscow Embassy as if they were prisoners; neither the U.S. press nor Embassy personnel are allowed to speak to them, so that you would not know the truth about their fate. Are they the only ones, though? No! Every day at the gates of the U.S. Embassy in Moscow anywhere from ten to 15 people are arrested despite the Consular Convention between the U.S.A. and the USSR, which provides for free access to the U.S. Embassy. The American Government is not brave enough to insist on the observance of this agreement. In view of this, I would like to ask the American people, To whom do you send your envoys? To the people of our country or to its executioners? I have a question to ask: Why conclude new treaties if you are not brave enough to insist on observance of the old ones?"

Spurred on by the burgeoning support, backers of the seven have launched a campaign to alert the world to what is happening to them and to compel the Soviets to grant them their freedom. Those concerned about their fate are being implored to write President Carter, members of Congress, Ambassador Toon, as well as Chairman Brezhnev and Anatoly Dobrynin, Toon's Soviet counterpart. Besides communicating their interest in the seven, the letter writers are urged to make the crucial linkage between the fate of the seven and the fate of SALT II and most-favored-nation status for the Soviets—now barred by the Jackson-Vanik amendment. To show the families that the outside world, contrary to what the Embassy claims, does care about them. people are also being urged to write them directly, with copies of the letters sent to the Research Center for Religion and Human Rights in Closed Societies, which can then monitor the flow of mail.

The Reverend Blahoslav Hruby and his wife, Olga, the indefatigable team that runs the Research Center, cite several congressmen as especially helpful: Senators Richard Schweiker (R., Pa.) and Charles Percy (R., Ill.), and Representatives Millicent Fenwick (R., N.J.), Allen Ertel (D., Pa.), and Richard Shelby (D.), John Buchanan (R), and William Dickinson (R.), all of Alabama. Dickinson, Mrs. Hruby recounts with relish, has instigated a letterwriting campaign to Leonid Brezhnev on behalf of the families. The campaign has provoked such a deluge that the Soviet Embassy in Washington contacted Dickinson to ask him to halt it—a request Dickinson politely refused on the grounds that he can't interfere with Americans' constitutional right to use the mails.

The seven are only the tip of the iceberg. In an appeal recently smuggled to the West, thousands of Pentecostals declared that "we regard the Jackson-Vanik amendment as the only law that in fact guarantees our right to leave this country where we are being persecuted for our faith. . . . We do not believe that the early Christians would feed the animals that devoured their fellow believers in amphitheaters or collaborate with the tormentors of Christ. However, many Christians in the free world are inadvertently helping the hands of those who are torturing and persecuting God's people in the USSR. We beg of you: Do not make them stronger; let them show in deeds that they have a human face."

Meanwhile, the two families wait in their Embassy gulag. Their room differs from most orthodox dungeons in that they have a window, enabling them to look out onto the streets of Moscow (when the guards don't place a garbage pail in front of it). They watch helplessly as the guards pummel Soviet citizens who attempt to enter the Embassy of the flagship nation of the free world. They find it difficult to understand why the Embassy does nothing to stop the pummeling. "People come here," they said in a message, "who are resolved to face death, who have been driven to despair by the KGB, whose last hope is the Embassy. They come here and no one gives them any help. When we addressed the employees of the Embassy, the following was their response. 'This happens all the time and we have become accustomed to it.' Is it really possible to become accustomed to it? Is it really possible to be so indifferent to such misfortunes?"

THE SIBERIAN SEVEN: THE GUESTS IN THE BASEMENT

(By Kevin Lynch)

"It is also wrong, and patently unfair, to imply that we in the Embassy are indifferent to the plight of these people, and indeed of others like them in the Soviet Union. I can assure you that the U.S. Government is deeply cocnerned about these families, and is continuing to do everything it can to help them." —Thomas R. Hutson, American Consul, U.S. Embassy, Moscow.

"Which one of you is going to have the courage to go back to Chernogorsk first?"—Unnamed U.S. Embassy official, as quoted in the Los Angeles Times, December 29.

The third day of Christmas—December 27—marked the 18th month of asylum for seven Russian Pentecostals sealed inside the U.S. Embassy in Moscow. From one perspective, little has changed since NR's first report on the seven, five members of the Vashchenko family and two members of the Chmykhalov family ("Down and Out in the U.S. Embassy," August 31). They haven't seen any members of their families in Chernogorsk, Siberia since they surprised the Soviet guards and dashed inside the Embassy on June 27, 1978; their only contact remains by mail and telephone, when the Soviets permit. In all these months Soviet officials have offered no promise that they will allow the families to emigrate. As for the U.S. Embassy, it persists in its stated position that the families would be better off if they returned to their homes in Chernogorsk and, as seen above, continues to urge them to do so. But while the overall picture remains the same, details have changed, some of them for the better.

The day-to-day existence of the seven inside the Embassy has improved somewhat since NR's first report.

—First of all, Ambassador Malcolm Toon retired in October. Usually classed as a hardliner on the Soviet Union (an image he buffed in all his farewell interviews), those close to the seven readily grant one thing: Toon was a hard-liner on them. It's too soon to judge Toon's successor, Thomas J. Watson Jr., the former head of IBM, but he is believed to be more sympathetic to the families than was Toon. The main concern is that Watson, a diplomatic novice, is very much a team player, and never in 18 months has any member of the Carter team extended himself on behalf of the families.

—Interviews with the press may now take place indoors rather than in the Embassy courtyard. This concession is especially welcome now in winter.

—Mail is getting through to them from the West, thanks largely to the efforts of two Alabama dynamos, Jane Drake, head of the Society of Americans for Vashchenko Emigration, and Babette Wampold, president of the Alabama Council to Save Soviet Jews. The two women succeeded in getting Congress to approve a resolution condemning Soviet interference with the mails. Prior to the resolution, about two dozen letters had trickled through to the families in the first ten months of 1979; since the resolution, about 1,200 letters have reached them.

—Perhaps most important of all, the deeply religious families are now permitted to attend Catholic Mass inside the Embassy. This concession came last autumn, and, as with most of the Embassy's humanitarian gestures, it came only after pressure was applied, in the form of an open letter from the seven to Pope John Paul II. "We should like very much to attend the Catholic services here in the Embassy," the families wrote, "however, we did not receive permit from the Consulate. The Consulate has not refused us flatly, so the whole world would not get the impression that we are being confined here like in prison." A short while later the families were worshipping with their fellow Christians.

Some things haven't changed at all. Their living quarters remain the same—a room in the basement of the Embassy. The State Department, in its form letter reply to those who inquire about the families, reassuringly notes that they have been "provided with a furnished apartment equipped for cooking." The "apartment" is one room, approximately 12 feet by 15 feet, and is furnished with two single beds for the seven (three of them sleep on the floor). But the seven never complain of being cramped. The Vashchenkos, who have a total of 15 people in their family, have about as much room in the Embassy as they do in their two-room house in Chernogorsk. In addition to such undreamt-of luxuries as a refrigerator, washer, and drier, they have something their kinsmen back in Chernogorsk would really covet—an indoor toilet. In short, though their living quarters are minuscule by Western standards, the families are well cared for physically. Whether they are well cared for politically is another question.

Toward the end of August, four congressmen descended into the cellar to visit them, one of whom was Representative Robert K. Dornan (R., Calif.). Obviously moved by what he had seen, Dornan later confronted a Soviet official and asked if he could take the seven and the other members of their families back to the States with him on the congressional plane. The Soviet official replied that he couldn't let him do that since the U.S. Embassy had never officially requested permission for the families to leave. At the time of Dornan's request, the families had been confined in the Embassy for 14 months, during every one of which the U.S. Government supposedly was, as Mr. Hutson wrote in his letter quoted above, "continuing to do everything it can to help them."

Toward the end of September, word came of a possible breakthrough; America's quiet diplomacy, it appeared, had finally triumphed. The Soviet Union offered the seven a chance to emigrate. There was only one catch: they would have to leave the Embassy and return to Chernogorsk. The U.S. Embassy, predictably, jumped at the offer and, as the New York Times put it, "recommended strongly" that the families accept it. The families, however, refused to budge. Several members had already spent years in Soviet prisons and psychiatric hospitals in punishment for previous visits to the Embassy; this time the punishment would undoubtedly be more severe. In their earlier visits they had quickly departed the Embassy after brief conversations with U.S. officials; this visit, at the time of the Soviet offer, had lasted 15 months. Though Toon was extremely perturbed by their decision, a different sort of hard-liner was greatly relieved. Soviet dissident Aleksandr Ginzburg dismissed the offer as a trick to get the families out.

Having failed to lure them out by diplomatic means, the Soviets reverted to methods they're more familiar with. Peter and Augustina Vashchenko have ten children not in the Embassy. Maria Chmykhalov has a husband and four children in Chernogorsk. If the Soviets can't punish the seven physically, they can still punish them psychologically.

Both families have suffered from their months of separation, but of all those outside of the Embassy, Aleksandr Vashchenko—Sasha—is probably the most vulnerable. Imprisoned in a labor camp in the Krasnoyarsk territory for his conscientious refusal to serve in the army, he is separated from both wings of his family, the five in the Embassy and his nine brothers and sisters in Chernogorsk.

No inmate of a Soviet labor camp enjoys anything but a miserable existence, but there are degrees of misery. Late in December the Vashchenkos learned that Sasha had been sent to the isolation cell, a place harrowingly described by Vladimir Bukovsky in To Build a Castle. Food every other day. Bed is a wooden plank. "The place is indescribably filthy," writes Bukovsky. "Dried globs of bloody saliva adorn the walls before you. And right here is where you start to go under, to slip down to the very bottom, into the ooze and the slime."

Denied correspondence privileges by the camp authorities, Sasha tried to smuggle a letter to his family in the Embassy. He was caught and sentenced to an extraordinary six months in the isolation cell. Upon learning of Sasha's sentence, the families immediately smuggled word to the West. The Research Center for Religion and Human Rights in Closed Societies, located in New York City, relayed the appeal to its network of supporters, who thereupon sent letters to the chief Soviet prosecutor as well as the head of Sasha's camp. Weighing upon everybody's mind was the belief that Sasha would never survive his sentence—five and a half months longer than the usual term in the isolation cell. Three weeks after the letter-writing campaign began, the families learned that Sasha had been removed from the isolation cell and permitted to rejoin his fellow prisoners. The authorities gave no reason for their action, but the letters from the West undoubtedly made a difference.

In the midst of the turmoil over Sasha, Embassy officials demonstrated once more their special sensitivity toward the families. Recipients of the State Department form letter are led to believe that anyone who wishes to may visit them: the families, the letter states, "have received numerous visitors, including members of Congress, members of the President's Commission on the Holocaust, and American religious leaders." On December 19, five prominent Baptist leaders went to the Embassy and requested permission to see the families. Since the five were in Moscow for the Congress of the All-Union Council of Evangelical Christians-Baptists in the Soviet Union, they obviously had passed inspection by the Soviets, but American standards appear to be even higher. An Embassy official denied them permission to see the families. Six days later, Christmas Day, a member of the Embassy sought permission to see the families (except for about half a dozen members of the Embassy, all other Embassy personnel must first receive permission before they can visit the families). Once again the answer was no. These rejections are by no means unusual. Not once in all the months the families have been in the basement, the State Department letter to the contrary notwithstanding, has an American religious leader been granted permission to see them.

A few days before the clergymen were shown the door, four U.S. congressmen—Senators Roger Jepsen (R., Iowa) and David Boren (D., Okla.) and Representatives Jack Kemp (R., N.Y.) and Jim Howard (D., N.J.)—held a press conference to launch what Jepsen called a "national awareness campaign" on behalf of Christian dissidents seeking religious freedom and human rights in the Soviet Union. The campaign centers on two congressional resolutions. The first—S. Con. Res. 60—urges the Administration to communicate to Soviet rulers American abhorrence of their religious harassment of Christians and the restrictions on Christian emigration. The second resolution—S. Con. Res. 61—names forty individuals, from Soviet-occupied Lithuania to Yugoslavia, who have been persecuted.

The Vashchenkos and Chmykhalovs figured prominently in the press conference. Boren, who visited them during a recent trip to Moscow, said he has never been more inspired than he was by their courage. Since his return he has organized a letter-writing campaign on their behalf that has netted two thousand letters, and it is his hope that a similar effort can be mobilized on behalf of all Soviet Christians.

Howard, stressing that the congressional efforts on behalf of Christian emigration wouldn't interfere with similar efforts on behalf of Jewish emigration, suggested that Christian and Jewish groups should work together and said he looked forward to the day "when we have not two groups, but one united group."

In another congressional action, Representative Dornan has introduced a resolution stating that no grain or soybeans be exported to the Soviet Union until such time as the President reports that the USSR has ceased its religious persecution of Christians, Jews, and other religious groups. Dornan's resolution specifically mentions the sufferings of the Vashchenkos and Chmykhalovs.

It appears that the ordeal of the seven, and of all Soviet Christians, has at last registered on the American consciousness. As Bently Elliott wrote in Human Events, "The voices of imprisoned Christians . . . crying out so long in loneliness, pain, and despair, are finally getting through." Many people are responsible, but in a way perhaps Thomas Hutson and his State Department colleagues deserve most of the credit. It is their seemingly unshakable indifference that prompted Congress to mind what formerly was the State Department's business.

MOSCOW'S SIBERIAN SEVEN: TWO YEARS IN U.S. EMBASSY

(By David K. Willis)

MOSCOW.—They sat at a wooden picnic table at the far end of the asphalt courtyard of the U.S. Embassy in Moscow. Small children from embassy families played loudly under their feet and in the tree above them.

Once the group was a curiosly: seven Russian Christian dissidents, dramatically sheltering inside the embassy grounds from Soviet guards.

But now children play around them and some embassy staffers wander by with scarcely a glance. They have become almost part of the landscape.

Still unsolved, however, is the fundamental challenge they pose to Soviet atheism and to American Christianity.

On June 27, the so-called Siberian seven will have been inside the embassy grounds for two full years. After 16 years of trying to emigrate to the United States to worship God in their own Pentecostal, evangelical way, they rushed in past the guards that stand at embassy gateways 24 hours a day.

For two years they have resisted all embassy pressure to get them to leave. They insist that they will be beaten, tortured, or even killed if they so much as set foot outside embassy territory.

A few days ago, embassy consular officers asked the Siberian seven what they would do if they were given air tickets to Helsinki or Paris, rather than to the U.S.

At once their hopes rose. They assumed the embassy had been in touch with Soviet officials and that their departure was imminent. When Scandinavian correspondents came to interview them, the group plied them with questions about Helsinki.

But embassy sources told this newspaper there had been no contact with Soviet officials. The conversation with the consular officials had been "part of an ongoing dialogue involving discussion of a number of possible alternatives to see what the group's reactions would be in case any of them did materialize."

In a long talk with this correspondent, Augusta Vashchenko, wife of Pyotr Vashchenko and mother of three grown daughters also at the U.S. Embassy, said she had asked the consular officials why they had raised the possibility of Helsinki or France.

She herself thought it was because of a meeting she heard about on the Voice of America shortwave radio, on Capitol Hill in Washington May 21. It discussed the fate of Nobel Prize winner Andrei Sakharov (internally exiled to the city of Gorky in January), other dissidents, and the Siberian seven, she said.

Her daughters, listening to our conversation, said they were puzzled. "What's behind it?" they asked. "Why talk about Helsinki if something isn't happening?"

For some months, the seven have hoped that the Soviet authorities might expel them or let them leave before the Moscow Olympics open on July 19.

They reason that the Soviets, who have been exiling and arresting dissidents so they can't mingle with overseas visitors to the games, don't want foreigners flocking to the embassy to see the group.

The case of the seven—the five Vashchenkos plus Maria Chymkhalova and her teenaged son Timofei, all from the Siberian city of Chernogorsk—has been attracting more attention in the US and Western Europe in recent months.

A book entitled "The Siberian Seven" by British author John Pollack has been published in the United Kingdom, the US, and in Europe, in several languages. Mr. Pollack states in his prologue that the group provided more than a quarter of a million words about its experiences, as well as official documents naming specific KGB agents the seven say have harassed them and other members of their families.

The case raises basic issues uncomfortable for both Soviets and Americans.

For the Soviets, it is an emigration issue involving Russians rather than Jews. ("Jew" is a separate nationality in the USSR, and is so marked on internal passports.) More than 30,000 other Pentecostalists have openly appealed to leave the country. If the Vashchenkos succeed in leaving, the floodgates could open and even more Pentecostalists apply—and perhaps other Christians and human-rights campaigners.

So far Moscow has steadfastly refused to let the seven leave. Last October it offered to let the group return home to Chernogorsk to await processing of exit applications, and said the seven would not be punished for entering the embassy. The group flatly refused, saying it simply didn't believe the Soviet word.

The Vashchenkos have an invitation from a US clergyman, the Rev. Cecil Williamson, to live in Selma, Alabama. It has been processed by the Soviet Embassy in Washington. But since then Moscow has changed its regulations and says the group can leave only if invited by a close relative abroad—which it does not have.

For the US, the challenge is twofold.

The US government is apprehensive. If the group leaves the USSR from the US Embassy, the embassy could be besieged by other applicants—and mob scenes may be repeated in East European capitals as well.

Western Christians in Moscow see a second basic issue: whether American Christians can get together and help their fellow believers in the USSR the way US Jews work ceaselessly on behalf of Soviet Jewry. Some in the embassy think much more should be done to galvanize US public opinion. Yet the poor state of détente today means less incentive for the Soviets to take positive action.

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., June 26, 1980.

Hon. Carl Levin,
U.S. Senate,
Washington, D.C.

Dear Senator Levin: Reference is made to your letter regarding Vashchenko and Chmykhalov families who have found temporary refuge at the American Embassy in Moscow.

The provisions of the Refugee Act of 1980 are such that they do not permit the two families to obtain refugee status while still in Russia. Section 101(a)(42)(B) of the Act states in part "in such special circumstances as the President after appropriate consultation * * * may specify, any person who is within the country of such person's nationality and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion * * *." The President has specified 3 groups of persons within their countries of nationality who may be considered refugees.

1. Persons in Vietnam with past or present ties with the United States.
2. Past and present political prisoners and their family members in Argentina.
3. Past and present political prisoners and their family members and persons in Cuba with relatives in the United States.

However, there exists a procedure known as third country processing (TCP) by which the two families may obtain refugee status but it is contingent upon their ability to obtain an exit permit from the Soviet government. Once the permit is obtained, processing for refugee status will be begun at the Embassy. The families would then proceed to Rome for the completion of the processing as refugees and then ultimately on to the United States, where they would be admitted as refugees.

The issue at this point hinges on the ability of the families to obtain permission of the Soviet government to exit that country.

Should you need additional information please let me know.

Sincerely,

Cornelius J. Leary,
Executive Assistant.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. The Congress finds that—

(1) since 1962, members of the Vashchenko and Chmykhalov families have requested that they be released from Soviet citizenship and be permitted to receive exit visas so that they may leave the Union of Soviet Socialist Republics legally and in accordance with the Universal Declaration of Human Rights; and

(2) since June 27, 1978, the Vashchenko and Chmykhalov families have resided in the United States Embassy in Moscow and have been living in accordance with United States laws.

Sec. 2. Notwithstanding any numerical limitations or any other provision of the Immigration and Nationality Act, for purposes of such Act, Maria and Timofei Chmykhalov, and Iilia, Peter, Liubov, Lidia and Augustina Vashchenko shall be issued visas and admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 202 of such Act.

Sec. 3. Notwithstanding section 316 of the Immigration and Nationality Act or any other provision of law, for purposes of the Immigration and Nationality Act, Maria and Timofei Chmykhalov, and Lilia, Peter, Liuboy, Lidia and Augustine Vashchenko shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 27, 1978, and to have been physically present and residing therein continuously since such date.●

By Mr. WALLOP:

S. 2891. A bill to authorize the Secretary of the Interior to engage in a feasibility study of certain water resource developments; to the Committee on Energy and Natural Resources.

GUERNSEY DAM POWERPLANT

● Mr. WALLOP. Mr. President, today I am introducing a bill which would authorize the Secretary of the Interior to conduct a feasibility study on the expansion of the Guernsey Dam Powerplant.

Every hour of every day energy opportunities are flowing unutilized or underutilized through the dams of America. Energy is our No. 1 domestic priority, yet we continue in our failure to maximize the use of existing structures which offer hydroelectric potential. The retrofitting and upgrading of hydroelectric powerplants at existing dams is probably the most environmentally sound, safe, and cost-effective energy source for the last quarter of the 20th century.

The existing Guernsey Powerplant was

constructed in 1927. It is located on the North Platte River and is part of the North Platte River Hydroelectric Power, Pick-Sloan Missouri Basin program, western division.

This bill would authorize a study to determine the feasibility of enlarging the 4,800-kilowatt powerplant to approximately 10,000 kilowatts. No new powerlines would be required as the enlargement would be integrated into existing transmission lines of the Missouri River Basin project. Enlargement of the powerplant would enable power generation with irrigation releases of water that now must by-pass the present plant due to its limited capacity.

I hope the Senate will support this bill. Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a study to determine the feasibility of expanding the Guernsey Dam Power Plant, North Platte River Hydroelectric Power, Pick-Sloan Missouri Basin program, Western Division, located in Goshen County, Wyoming.●

By Mr. BAYH (for himself, Mr. Thurmond, Mr. Mathias, Mr. Morgan, and Mr. Percy):

S. 2892. A bill to amend the patent law to restore the term of the patent grant for a period of time that non-patent regulatory requirements prevent the marketing of a patented product; to the Committee on the Judiciary.

PATENT TERM RESTORATION ACT

● Mr. BAYH. Mr. President, today I am introducing the Patent Term Restoration Act of 1980. This bill has been drafted as a part of a package of bills that I have introduced to strengthen the patent and trademark system which is one of the greatest incentives to innovation and productivity.

The legislation that I am introducing is designed to restore up to 7 years of a patent's 17-year life that is effectively lost due to Government required premarket review requirements. The bill is in no way an attack on the necessity of making sure that new products such as drugs are safe for public consumption, but addresses the inequity of the Government's granting a 17-year patent with one hand and then saying that the product cannot be used until certain tests are completed during which time the life of the patent is ticking away.

In the past 15 to 20 years a number of laws have been enacted requiring that certain products be tested to assure that they are safe for marketing in the areas of public health and the environment. Gradually as more and more sophisticated tests are relied on, the time period needed to clear this review has grown. In 1962, for example, it took approximately 2 years and $4 million to bring a new pharmaceutical product from the laboratory to the marketplace. It now takes 8 years and $50 million to complete this testing period. Thus, it is not uncommon for a company to find itself having used up one-half of the patent's life without having recovered anything in the market. This fact coupled with the known failure rate of new products is a very real discouragement to innovation which has been the historic basis of our prosperity.

In the mid-1960's the United States was introducing about 42 new pharmaceutical entities a year; today that average is merely 16 new drugs a year which is a decline of 62 percent in 15 years. This type of trend has occurred in a number of areas where the United States was once preeminent and represents a very serious threat to our standard of living. Unless these trends are turned around we will find ourselves not only dependent on foreign sources for our oil but for our technology. Right now the importation of foreign manufactured goods is the second biggest drain on our economy behind oil imports. While the West Germans and Japanese are redoubling their research and development efforts, many of our own companies are cutting back on their research. Strengthening the patent and trademark system is one of the most effective means of turning this dangerous trend around. The present bill is a part of this endeavor.

As Thomas Jefferson said while drafting the United States' first patent law in 1793, "ingenuity should receive a liberal encouragement." The 17-year term of our patents was designed under this philosophy, but when our regulatory processes effectively cut this term in half it should be no surprise that innovation suffers. If this trend is left unchanged we will witness continuing losses of leadership in important economic field to foreign competitors who fully understand the importance of rewarding innovation.

The thrust of the present bill is that for products subject to Government premarket review requirements (which toll against the life of the patent) a period equal to the time required for this clearance will be granted to extend the patent's life up to a maximum of 7 years. If the product does not clear the review no extension of the patent will be granted. Further, such restoration of the patent will apply only to the specific product or use involved in the regulatory approval and not to the entire range of products that might result from the original patent grant.

It is my wish that next year the Senate Judiciary Committee conduct hearings on the patent and trademark system and its effect on American innovation and productivity. The patent restoration bill will be a part of this hearing. The Judiciary Committee has already reported out and the Senate has overwhelmingly passed two pieces of legislation that I introduced; S. 414, the Bayh-Dole patent policy bill, and S. 2446, on patent reexamination. Many of my colleagues from both sides of the aisle have joined in these efforts because of overwhelming evidence that has been compiled showing patents and trademarks to be essential to innovation. The patent and trademark system has received more attention in the past 2 years than at any time since I have been in the Senate as our innovation and productivity slump has focused attention on what factors actually contribute to developing new products and inventions. This effort must continue, and I feel sure that the present bill will be an important part of this investigation. I urge my colleagues to give this legislation very serious consideration and hope that they will join me in supporting the Patent Restoration Act of 1980.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Patent Term Restoration Act of 1980."

Sec. 2. (a) The congress finds that—

(1) the United States patent system has provided a major incentive for the investment necessary for innovation and new product development;

(2) protection of health and the environment is a necessary concern of the Federal Government and many patented products may not be marketed commercially until the product has been approved in accordance with various Federal health and environmental laws;

(3) the time necessary for the testing of such products and the regulatory review or notification period substantially reduce the period of commercial exclusivity which the Congress intended a patented product to enjoy;

(4) such a reduction in the commercial exclusivity period discourages research and innovation and prevents important new products from being made available to the public;

(5) restoration of the rights afforded by the grant of patents to their full period of exclusivity is a necessary prerequisite to restoring the United States to an innovative leadership position.

(b) It is the policy of the United States that the term of patents for products subject to premarketing regulatory review or notification should be extended to compensate for delays in commercialization of such products resulting from government regulation.

Sec. 3. Title 35 of the United States Code, entitled "Patents" is amended by adding the following new section immediately after Section 154:

"Sec. 155. Restoration of Patent Term

"(a) (1) Except as provided in paragraph (2), the term of a patent which encompasses within its scope a chemical product, a process for use of a chemical product, or a device subject to a regulatory review period shall be extended by the amount of time equal to the regulatory review period for such chemical product or device if—

"(A) the owner of record of the patent gives notice to the Commissioner in compliance with the provisions of subsection (b) (1);

"(B) the regulatory review period resulted in the removal of restrictions on the commercial marketing of such product, or device; and

"(C) the patent has not expired prior to notice to the Commissioner under subsection (b) (1).

"The rights derived from any claim of any patent so extended shall be limited in scope during the period of any extension to the chemical product or device subject to the regulatory review period and to the statutory use for which regulatory review was required.

"(2) In no event shall the term of any patent be extended for more than seven years.

"(b)(1) Within 90 days after termination of a regulatory review period, the owner of record of the patent shall notify the Commissioner that the regulatory review period has ended. Such notification shall be in writing and shall:

"(A) state the date on which the regulatory review period commenced and ended;

"(B) identify the device or specify the chemical identity of the chemical product and the statutory use for which regulatory review was required;

"(C) state that the requirement of subsection (a)(1)(B) has been satisfied; and

"(D) identify the claim of the patent to which the extension is applicable and the length of time of the regulatory review period for which the term of such patent is to be extended.

"(2) Upon receipt of the notice required by paragraph (1), the Commissioner shall promptly publish the information noticed in the Official Gazette of the Patent and Trademark Office.

"(3) The Commissioner shall issue a certificate of extension, under seal, stating the fact and length of the extension and identifying the product or device and the use and the claim to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended, and such certificate shall be considered as part of the original patent.

"(4) Any patent extension granted under this section shall be revoked by the Commissioner if the person subject to the regulatory review period is convicted by a court of a criminal violation for submitting false, fictitious, fraudulent, or misleading data in support of the application, petition, request, or notification described in subsection (c)(4) on which such patent extension is based.

"(c) As used in this section:

"(1) The term 'chemical product' means—

"(A) any new drug, new animal drug, food additive, and color additive as defined in section 201 of the Federal Food, Drug, and Cosmetic Act;

"(B) any human or veterinary biological product as defined in section 351(a) of the Public Health Service Act or in regulations issued under the virus, serum, toxin and analogous products provisions of the Act of Congress of March 4, 1913;

"(C) any pesticide as defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act; and

"(D) any chemical substance or mixture as defined in section 3 of the Toxic Substances Control Act.

"(2) The term 'device' means any device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act and described in section 513(a)(1)(C) of such Act.

"(3) The term 'major health or environmental effects test' means an experiment to determine or evaluate health or environmental effects which requires at least six months to conduct, not including any period for analysis or conclusions.

"(4) The term 'regulatory review period' means—

"(A) with respect to a new drug or a human biological product, a period commencing on the date the patentee, his assignee, or his licensee has requested an exemption for investigation with respect to such drug or biological product under section 505(i) or section 507(d) of the Federal Food, Drug, and Cosmetic Act and ending on the date an application with respect to such drug submitted under section 505(b) or section 507(f) of such Act is approved or such biological product is licensed under section 351(d) of the Public Health Service Act;

"(B) with respect to a new animal drug, a period commencing on the date the patentee, his assignee, or his licensee has requested an exemption for investigation with respect to such animal drug under section 512(j) of the Federal Food, Drug, and Cosmetic Act and ending on the date an application with respect to such animal drug submitted under section 512(b) of such Act is approved;

"(C) with respect to a veterinary biological product, a period commencing on the date the patentee, his assignee, or his licensee has requested authority to prepare an experimental product under the virus, serum, toxin and analogous products provisions of the Act of Congress of March 4, 1913 and ending on the date such biological product is licensed under such Act;

"(D) with respect to a food additive, a period commencing on the date the patentee, his assignee, or his licensee initiates a major health or environmental effects test relied upon to establish the safety of such food additive in a petition submitted under section 409 of the Federal Food, Drug, and Cosmetic Act requesting issuance of a regulation prescribing the conditions under which such additive may be safely used and ending on the date such regulation becomes effective;

"(E) with respect to a color additive, a period commencing on the date the patentee, his assignee, or his licensee initiates a major health or environmental effects test relied upon to show that such color additive will be safe for its intended uses in a petition requesting the issuance of a regulation listing such use and ending on the date such a regulation becomes effective;

"(F) with respect to a pesticide, a period commencing on the earlier of the date the patentee, his assignee, or his licensee (i) initiates a major health or environmental effects test on such pesticide, the date from which is submitted in a request for registration of such pesticide under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, (ii) requests the grant of an experimental use permit under Section 5 of such Act, or (iii) submits an application for registration of such pesticide pursuant to Section 3 of such Act, and ending on the date such pesticide is first registered, either conditionally or fully;

"(G) with respect to a chemical substance or mixture for which notification is required under section 5(a) and which is subject to a rule requiring testing under section 4(a) of the Toxic Substances Control Act, a period commencing on the date the patentee, his assignee, or his licensee has initiated the testing required in such rule and ending on the expiration of the premanufacture notification period for such chemical substance or mixture, or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or injunction is dissolved or set aside;

"(H) with respect to a chemical substance or mixture for which notification is required under Section 5(a) but which is not subject to a testing rule under Section 4 of the Toxic Substances Control Act, a period commencing on the earlier of the date the patentee, his assignee or his licensee—

(i) submits a premanufacture notice, or

(ii) initiates a major health or environmental effects test on such substance, the data from which is included in the premanufacture notice for such substance,

and ending on the expiration of the premanufacture notification period for such substance or if an order or injunction is issued under Section 5(e) or 5(f) of such Act, the date on which such order or such injunction is dissolved or set aside; and

"(I) with respect to a device, a period commencing on the date the patentee, his assignee or his licensee has requested an exemption for investigation with respect to such device under section 520(g) of the Federal Food, Drug, and Cosmetic Act and ending on the date an application with respect to such device submitted under section 515(c) of such Act is approved,

"except that the regulatory review period shall not be deemed to have commenced until a patent has been granted for the chemical product or device or the use of such product or device subject to the regulatory review period. In the event the regulatory review period has commenced prior to the effective date of this section, then the commencement of the regulatory review period shall be considered to be such effective date."

Section-by-Section Analysis of Patent Term Restoration Act

Overview.—The bill compensates a patent holder for time lost in which to commercialize the patented product because of Federal premarket testing or regulatory review requirements. This is accomplished by extending the patent by a period of time equal to the time spent doing the testing and undergoing the regulatory review. In no case may the patent be extended by more than 7 years. A product may receive a patent extension only if the relevant regulatory agency permits it to be marketed. Patented products eligible for the extension are human drugs and biologicals, animal drugs and biologicals, food additives, color additives, pesticides, other chemical substances, and medical devices.

The extension applies only to the specific product which is subject to the testing and review requirements. This means that if a single patent covers a generic chemical class, the extension applies only to the chemical entity which has undergone the regulatory review. Moreover, the extension is limited to the particular statutory use of the chemical for which the review was required. For example, a chemical may be used as a drug, and it may also be used in a cosmetic. Because the product does not have to undergo premarket testing and review for the cosmetic use, the patent extension would apply to the chemical when it was used as a drug but not as a cosmetic.

A patent holder obtains the extension by notifying the Commissioner of Patents that his or her patented product has just undergone premarket testing and regulatory review (this is called a "regulatory review period" in the bill). The notice tells the Commissioner how long the review period has lasted. The Commissioner then issues a certificate extending the patent by a period equal to the regulatory review period.

Following is a section by section explanation of the bill.

Section 1.—Section 1 provides that the act will be called the Patent Term Restoration Act.

Section 2.—Section 2 contains the Congressional findings and policy. They include findings relating to the importance of the patent system to provide incentives for investment in innovation and new product development. The findings recognize the importance of Federal health and environment laws, but also note that the premarket testing and regulatory review required under such laws may substantially reduce the period of commercial exclusivity for patented products. The Congressional policy is that the term of patents on products subject to premarket review and testing requirements should be extended to compensate for delays in commercialization resulting from such requirements.

Section 3 adds a new section, section 155, to Title 35 of the U.S. Code. The new section 155 contains three subsections as follows:

Subsection (a).—Subsection (a) provides that a patent applicable to a product subject to a regulatory review period, or a patent applicable to a process for use of such a product, may be extended by a period of time equal to the regulatory review period. In order to obtain the extension, three conditions must be met. First, the patentee must give notice to the Commissioner of Patents. Second, the regulatory review process must have resulted in the removal of restrictions on marketing the product commercially. Third, the patent must not have expired before the Commissioner receives the required notice.

The subsection limits the extension to the specific product subject to the regulatory review period and to the statutory use for which review was required.

In no event may the patent be extended for more than 7 years.

Subsection (b).—Subsection (b)(1) spells out what must be included in the notice to the Commissioner. The notice must be given to the Commissioner within 90 days after the regulatory review period has ended. The notice must state the date on which the regulatory review period began and ended; it must identify the product and use subject to the regulatory review period; it must contain a statement that the restrictions on marketing have been removed; and it must identify the particular claim of the patent to which the extension applies and how long the extension should be.

Subsection (b)(2) requires the Commissioner to publish the information received in the notice in the Official Gazette of the Patent and Trademark Office.

Subsection (b)(3) requires the Commissioner to issue a certificate to be recorded in the official file of the patent spelling out the details of the extension.

Subsection (b)(4) provides that any extension shall be revoked by the Commissioner if the person subject to the regulatory review period is convicted of submitting false or fraudulent data to obtain the regulatory approval.

Subsection (c).—Subsection (c) defines the products eligible for extension and it defines the regulatory review period for those products.

Products covered are human drugs, animal drugs, food additives, color additives, human or veterinary biological products, pesticides, chemical substances or mixtures, and medical devices.

The following is an explanation of the regulatory review period for each of the products:

Human drug or biological.—The regulatory review period begins on the date the patentee submits an investigational new drug application to the FDA, and it ends on the date FDA approves the drug or biological.

Animal drug.—The period begins on the date the patentee submits an investigational new drug application to FDA, and it ends on the date FDA approves the drug.

Veterinary biological.—The period begins on the date the patentee asks the USDA for permission to begin testing, and it ends on the date USDA approves the biological.

Food additive.—The period begins on the date the patentee initiates a major health or environmental effects test on the food additive, and it ends on the date FDA issues a regulation approving the food additive.

Color additive.—The period begins on the date the patentee begins a major health or environment effects test on the additive, and it ends on the date FDA issues a regulation approving the additive.

Pesticide.—The period begins on the earlier of the date the patentee initiates a major health or environmental effects test, applies for an experimental use permit, or applies for registration, and it ends on the date EPA registers the pesticide.

Chemical substance or mixture.—If EPA has issued a testing rule for the substance or mixture, the regulatory review period begins on the date the patentee begins the required testing. If no testing rule has been issued, then the regulatory review period begins on the date the patentee either submits a premanufacture notice or begins a major health or environmental effects test. The period ends on the date the substance or mixture may be legally manufactured for commercial purposes.

If a patent has not been granted at the time the regulatory review period begins, then the extension period is measured from the time the patent is granted until the end of the regulatory review period. If a product is undergoing regulatory review at the time the bill is enacted, then the regulatory review period will be considered to have started on the effective date of the bill.●

Mr. PERCY. Mr. President, I am pleased to join the Senator from Indiana (Mr. BAYH) in introducing the Patent Term Restoration Act of 1980.

This legislation extends the applicable time for patents on pharmaceutical products to make up, in part, for the delay in the marketability of such products caused by Government regulatory action. The current patentable life for drugs is 17 years. However, the patent term begins to run as soon as application is made for Government approval of the right to market the drug. The average approval period for the Food and Drug Administration is from 10 to 12 years. Thus, the marketable patent life is reduced to as little as 5 years. This legislation will credit the manufacturer with an additional year of patent life for each year of lost marketability, up to a total additional period of 7 years.

I am supporting this legislation for two reasons. First, it is critical that American businesses have the incentive to invest risk capital in the research and development of new drugs. This is important not only to the individual consumer but to our international competitive position in this industry as well.

The benefit to the consumer from the development of lifesaving, curative, and preventive drugs and medicines cannot be estimated. Drugs are really the least expensive form of health care and their cost as a percentage of the health care dollar is declining. One cannot estimate how many days in the hospital or how many days lost from work drugs have prevented, but the total is significant. With continued research this figure will increase. But the research and development of the drugs that will make a significant difference in the rate of illness and death in the years ahead will be extremely expensive. Without the possibility of sufficient return on this investment it will not be made.

Increased research and development will benefit us economically in another important way. The United States has been preeminent in pharmaceutical products in world markets. Some would say that we have lost that preeminence. Certainly most would agree that we are in danger of losing it. In either case, we will lose out to our competitors if we do not continue to develop more and better products.

My second reason for supporting this legislation is to help highlight what is referred to as the "drug lag." Is the 10 to 12 years that approval of a new drug typically takes necessary to protect the consumer, or does it instead delay the time when potentially lifesaving drugs will be available to the public? Certainly new drugs must be thoroughly tested, but if the general public were aware of the length of time that new drugs are kept off the market I think they would begin to ask their Representatives in Government some questions. I think these questions should be addressed. Where delay is the result of the necessity to protect the consumer, then we must accept it. But where it is the result of excessive Government regulation, it must be stopped.

I commend this legislation to the attention of my colleagues and look forward to early action by the Judiciary Committee.

By Mr. DURKIN:

S. 2893. A bill to amend the Internal Revenue Code of 1954 to provide a retirement savings deduction for persons covered by pension plans; to the Committee on Finance.

● Mr. DURKIN. Mr. President, public employees and other hard-working citizens of this country are being discriminated against by an unfair provision in the Federal Tax Code. While self-employed individuals contributing to individual pension plans can claim income tax deductions for their pension contributions, other Americans who are often compelled to pay into a mandatory pension plan cannot claim an income tax deduction. This inequity in the Internal Revenue Code discriminates against government workers on the Federal, State, and local level, as well as other public employees such as policemen, firemen, and teachers.

Today I am introducing a bill that would remedy this situation. It would enable those who contribute to a mandatory pension plan to take a partial deduction in their income tax—the lesser of $7,500 or 15 percent of the employees' gross income during the taxable year. This deduction would be analogous to the income tax breaks that are now provided for the affluent taxpayers who can afford payments to Keough plans or individual retirement accounts.

I remain convinced that this sort of tax deduction will stimulate the further extension of pension plans, while at the same time limiting to some extent their direct cost to contributors and employers alike.

The key idea behind this bill is fairness to our public employees. Those public employees who contribute to compulsory pension plans are in fact deprived of a certain amount of choice over their investment income. It is simply unfair that affluent individuals who contribute to the Keough plan or similar arrangements should receive a tax break but not our hard-working public employees.

Again, I reiterate my support for this proposal, and for all public employees who need immediate tax relief. I hope the Senate will not delay in taking action on this important matter.●

By Mr. PELL:

S. 2894. A bill to provide nutritionally superior school lunches; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. PELL. Mr. President, a report entitled "Toward Healthful Diets" was recently issued by the National Academy of Sciences' Food and Nutrition Board. This launched a public furor centering around the report's major theme that Americans need not worry about the saturated fats, cholesterol, salt or sugar in their diet.

The study's clear implication was that recent reports as to the dangers of excessive amounts of these substances in the American diet, by Congress, Federal agencies and a number of noted scientists were not to be taken seriously.

Expert analysis of the Food and Nutrition Board's report reveals that its conclusions did not take into consideration recent scientific evidence demonstrating a causal relationship between American eating habits and the leading causes of death in this country.

Most Americans eat too many saturated fats and too much cholesterol, thus increasing their risks of encountering circulatory problems.

Most Americans eat too much salt, thus increasing their risks of developing high blood pressure.

Most Americans eat too much sugar, thus encouraging obesity, diabetes, and other maladies.

Our rather deplorable eating habits begin literally in the cradle. All too often infants are fed foods that have too much sugar, and all too often our youth indulge in junk food of every known variety. Soft drinks, sweets, and candy are the order of the day.

We do not do a good job of teaching our children about nutrition and health, and too frequently we do not set a good example in our own dietary habits. Therefore, the terrible eating habits of their youth usually stay with them for a lifetime. Even if, as they mature, they learn something about nutrition and health, many of them have been eating a nutritionally inadequate diet during their formative years.

A couple of decades ago, the Federal Government decided to try to do something about this growing and needless tragedy by establishing a national school lunch program. Those schools that participated received a Federal subsidy in exchange for providing a "nutritionally adequate" lunch. As a result, many children began to get at least one good meal a day and, in the process, started to learn something about nutrition and health.

The national school lunch program has done much to improve both the physical and mental well-being of our Nation's schoolchildren. However, through the years, educators and nutritionists have pointed out two major areas in which the program could and should be greatly improved.

The first involves so-called competitive foods, that is, those sold in competition with the federally subsidized school lunch. For example, despite certain Federal laws and regulations which have been in effect at varying times, school cafeterias have been permitted to sell a wide variety of foods that are of questionable nutritional value but often have a greater appeal to children. In addition, many schools have continued to permit in school cafeterias vending machines which are chock full of candies, soft drinks and other sweets.

In 1977, Congress issued new directives to the Secretary of Agriculture to control the sale of junk foods. For more than 2 years now, the Secretary has been wrestling with the regulations required to implement this legislative mandate.

The new rules, which are to become effective on July 1, are already under attack in the U.S. District Court here in Washington. They are being criticized by some as "too weak" and others as being "too strong." While the interested parties debate this issue, our children will continue to purchase and enjoy "junk food."

The second major flaw in the school lunch program goes to the content of the lunch itself. Although "nutritionally adequate," Federal lunches are not required to be "nutritionally superior," nor are they required to minimize the amount of salt, sugar and fat contained in the foods which are part of the school lunch program.

In view of this, several school districts around the country have decided to upgrade their school lunch programs in order to provide their children with "nutritionally superior" lunches.

Mr. President, I would like to see this trend continued. Therefore, I am introducing today a bill which would amend the National School Lunch Act so that schools and school districts will be given a choice between the current "nutritionally adequate" program and a new "nutritionally superior" program. A similar bill (H.R. 6496) has been introduced in the House by Representative Fred Richmond.

To qualify for the new program, schools would have to offer low fat as well as whole milk. All breads would have to be whole grain. Desserts would consist of fresh fruit only. Meals would have to be low salt, low sugar, and low fat and the sale of soft drinks, candy and sweets would be strictly limited.

I am hopeful that over a period of years, more and more children will participate in this new program. This should encourage them to adopt good eating habits early on and enable them to build strong bodies and strong minds.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 9 of the National School Lunch Act is amended—

(1) by inserting "Except as provided in subsection (d)," after "(a)".

(2) by adding the following new subsection at the end thereof:

"(d)(1) Schools and school food authorities may participate in a program to provide school lunches that are nutritionally superior to the lunches that meet the minimum requirements of all lunches as provided in subsection (a). To participate in such program, a school or school food authority shall—

"(A) include in nutritionally superior lunches—

"(i) one or more half pints of fluid milk, both whole and low fat, as a beverage;

"(ii) two ounces of lean meat, poultry, or fish, or two ounces of cheese, or one egg, or one-half cup of cooked dry beans or peas, or four tablespoons of peanut butter, or an equivalent quantity of any combination of the above listed foods;

"(iii) a cup of two or more vegetables or a salad, or both;

"(iv) one slice of whole grain bread or a serving of cornbread, biscuit, or roll, made of whole grain flour; and

"(v) a fresh fruit;

"(B) provide that nutritionally superior school lunches have a low content of fat, sugar, and salt, and refrain from making sugar and salt available in containers on cafeteria tables;

"(C) limit competitive food items sold on school premises to food items that could be included in nutritionally superior school lunch under this subsection;

"(D) prohibit the sale on school premises of all soft drinks, candy, ice cream, cake, cookies, and chewing gum;

"(E) offer in the cafeteria of such school or of each school in a school food authority participating in the program (during all hours of operation) one fresh fruit, at least one pure fruit drink, and milk (both whole and low fat); and

"(F) establish a nutrition council to oversee the nutritionally superior school lunch program and recommend improvements in such program.

"(3) In addition to the payments made under sections 4 and 11 of this Act, a school or school food authority shall receive 10 cents for each nutritionally superior school lunch served in accordance with this subsection.".●

By Mr. CRANSTON (by request):

S. 2897. A bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 2897, a bill to amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims. Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—(a) Subsection (b) of section 718 of title 38, United States Code, is amended by—

(1) striking out "his" and inserting in lieu thereof "such person's"; and

(2) inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

(b) Section 753 of title 38, United States Code, is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

VETERANS' ADMINISTRATION,
Washington, D.C., June 13, 1980.
Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, "To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims." It is requested that it be introduced and considered for enactment.

This measure would affect the portions of the insurance chapter relating to assignments in National Service Life Insurance and United States Government Life Insurance cases. The statutory provisions on assignments are contained in sections 718 and 753, respectively and enumerate classes of relatives of the insured to whom the beneficiary may assign an interest in the proceeds. For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents.

The class for USGLI assignments encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured. It should be noted that the insured is not restricted to a particular class in designating a beneficiary despite the limitations imposed on the beneficiary in disposing of the proceeds through assignment.

The current restrictions on assignments are considered to be administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may only direct payment to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases.

In many NSLI and USGLI cases, however, there is a contest between two or more persons as to the last designated beneficiary. These contests may not necessarily involve members of the class to which an assignment is possible, such as a former spouse with custody of children of the veteran or a close friend.

It has been the experience of the Veterans' Administration that contested claims to insurance proceeds may be resolved by an agreement between the claimants as to a division of the proceeds.

An assignment from the named beneficiary to the contesting claimant of part of the proceeds is an efficient mechanism for effecting such an agreement and provides full acquittance of liability for the Veterans' Administration.

This method of resolution is not available, however, when the potential assignee is not within the classes set forth in sections 718 and 753. Accordingly, claimants in those cases are forced to engage in time-consuming and expensive litigation, abandon their claims or resort to an unsanctioned agreement, in which the agency is not a participant, to divide the proceeds.

In view of the frequency with which similar situations occur, amendments to sections 718 and 753 are proposed in this draft bill which would permit assignments to be made in contested cases without regard to the restrictions now imposed. Thus, if this measure is enacted, extrajudicial settlement with full release of the Government's liability will be possible in virtually all contested cases when the parties have reached an amicable agreement regarding the proceeds.

The draft bill, if enacted, would not result in any additional cost to the Government.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this draft legislation to the Congress.

Sincerely,

MAX CLELAND,
Administrator.●

By Mr. CRANSTON (by request):

S. 2898. A bill to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 2898, a bill to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation. Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 1622(a) of title 38, United States Code, is amended by striking out the figures "$50" and "$75" from the second sentence and inserting in lieu thereof the figures "$25" and "$100", respectively.

DEPARTMENT OF THE ARMY,
Washington, D.C., June 12, 1980.
Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Inclosed is a draft of legislation "To amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation."

This proposal is a part of the Department of Defense Legislative Program for the 96th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Army has been designated the representative of the Department of Defense for this legislation. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to change the minimum and maximum contributions authorized for participants in the Post-Vietnam Era Veterans' Education program. In 1976, Congress adopted the Post-Vietnam Era Veterans' Educational Assistance Act of 1977, which established, for servicemembers who enter the Armed Forces after December 31, 1976 a contributory Veterans' Education Assistance Program in place of the earlier non-contributory program. Current law restricts members' contributions to from $50 to $75 per month. The servicemember's maximum contribution is $2,700. Experience has shown that the limits on monthly contributions are too restrictive. Many junior enlisted members cannot afford the minimum contribution and thus do not participate in the program. Moreover, the $75 monthly ceiling prevents all except those who contribute at the maximum rate for three full years from earning the maximum benefit: 36 months × $75/month = $2,700.

As most initial enlistments in the Army are for 36 months, a soldier must contribute at the maximum amount for his entire enlistment to earn the maximum benefits. Accordingly, a decision to participate at the maximum rate must be made in the hectic, confusing, first days of a soldier's enlistment in order to gain the maximum benefit. It is estimated that the suggested lower minimum and higher maximum permissible contributions will increase participation by five percent.

COST AND BUDGET DATA

This proposal will cause no apparent increase in budgetary requirements for the Department of Defense. It is estimated that direct benefit costs borne by the Veterans Administration will increase by approximately .765M in FY 1983 and 1.935M in FY 1984.

Sincerely,

WILLIAM E. PEACOCK,
Assistant Secretary of the Army.●

By Mr. CRANSTON:

S. 2899. A bill to establish the Orange Coast National Urban Park, and for other purposes; to the Committee on Energy and Natural Resources.

ORANGE COAST NATIONAL URBAN PARK

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish the Orange Coast National

Urban Park in the State of California. The legislation is similar to H.R. 4975 as it passed the House on May 19, 1980. H.R. 4975 is sponsored by Congressmen JERRY PATTERSON and BOB BADHAM.

Mr. President, the Irvine Coast Area of Orange County protected by this legislation comprises about 11,000 acres between the cities of Newport Beach and Laguna Beach. Earlier this year, the State of California completed the acquisition of 1,900 acres and 3 miles of Irvine coastline at a cost of $33 million for the establishment of the Crystal Cove State Park. The purchase is the single largest park acquisition in the State's history.

The bill I am introducing today would protect the Irvine Coast further through Federal acquisition of another 9,000 acres. The bill authorizes $38 million from the existing Land and Water Conservation Fund for the acquisitions. Lands owned by the State of California and its political subdivisions would be acquired only by donation or exchange. Under the bill, the Secretary of the Interior is authorized to convey properties to the State of California or to enter into a cooperative agreement with the State or its political subdivision for State or local management of the park.

The bill also requires the Secretary of the Interior to convey rights-of-way to the State for two roads through the park. The California Coastal Commission has indicated its concern about the standard of one of the roads to be developed and its impact on coastal resources. I want to point out that any road constructed within the coastal zone would be subject to review by the Coastal Commission. The legislation is not intended to override any decision of this State agency.

The Irvine Coast is one of the last remaining stretches of coastal open space south of Los Angeles. Federal acquisition of this area would provide outstanding recreational opportunities within a 2-hour drive of over 10 million people.

Last year upon completion of a congressionally mandated study, the National Park Service reported to Congress that the Irvine Coast has several unique and nationally significant resources worthy of protection in addition to its value as open space. The Park Service noted that the coastal shelf, inland canyons and mountains contain archeological and paleontological remains of national significance. Additionally, the area contains two plants listed on the endangered species list and five rare and endangered birds, including the American Golden Eagle.

There is tremendous local support, including support from the affected property owners, for this park proposal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of the Irvine Coast-Laguna area of California, and to protect the area's unique ecology and topography, its watershed, vegetation, and other natural and cultural resources, there is hereby established the Orange Coast National Urban Park (hereinafter in this Act referred to as the "park").

SECTION 1. The park shall consist of the lands and interests in lands within the boundary generally depicted on the map entitled "Boundary Map, Irvine Coast National Urban Park," numbered 20,064B, and dated May, 1980, and the accompanying inset map, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. Except as otherwise provided in this Act, it is the intention of the Congress that all the property within the park be acquired by December 31, 1984, and accordingly, any lands, or interests therein not acquired by that date shall no longer be deemed included in the park. Any land or interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation or exchange. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, with respect to the property acquired pursuant to this Act, (1) to convey the property to the State of California or any political subdivision thereof, subject to such terms, conditions, and reversionary provisions as will assure preservation of the property for public park or open-space purposes, and (2) to enter into an agreement with the State or a political subdivision thereof pursuant to which the State or such political subdivision shall administer, protect, and manage the property for public park or open-space purposes.

SEC. 3. Except as otherwise provided in this Act, the Secretary is authorized to acquire lands and interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange, or otherwise, which authority is expressly conditioned upon the following events occurring within the time periods indicated:

(a) On or before June 30, 1981, the California Coastal Commission shall have approved and certified, and the County of Orange shall have accepted, a Local Coastal Program (as defined in the California Coastal Act of 1976), for the entire area identified as the "Irvine Coastal Area" on the map referred to in Section 2 of this Act, which Local Coastal Program shall provide, among other things, for a watershed management program for the area identified on such map as "Los Trancos Canyon."

(b) On or before June 30, 1981, the County of Orange and the owner of record of the area identified as "Area C" on such map shall have entered into an agreement, and the California Coastal Commission shall have approved such agreement, containing among other things an irrevocable offer to donate the entirety of "Area C" to the Secretary, the State of California or to a political subdivision thereof, which donation may be in phases and conditioned upon performance by the County of Orange of its obligations under such agreement, provided, however, that the Secretary may, at his sole discretion, waive the foregoing condition.

(c) On or before December 31, 1980, the owner of record of the area identified on such map as "Moro Ridge" shall have conveyed said area to the State of California or to a political subdivision thereof, provided, however, that the Secretary may, at his sole discretion, waive the foregoing condition.

(d) On or before December 31, 1981, the State of California shall have exercised its right to acquire the area identified as "State Expansion Area" on such map, provided, however, that the Secretary may, at his sole discretion, waive the foregoing condition.

(e) The Secretary shall use all due diligence to acquire from the owner of record of the areas identified on such map as "Muddy Canyon," "Laurel Canyon," and the "Frontal Slopes of Wishbone Hill" a right to acquire said lands by purchase under the threat of condemnation, in a form acceptable to the Secretary. This right shall remain in effect until December 31, 1984. In the event said right is exercised on or before October 1, 1981, the total purchase price shall be $32,000,000, or the fair market value, whichever is less. In the event said right is exercised after October 1, 1981, said total purchase price shall be increased monthly in pro rata increments at the simple rate of 10 per centum per annum. Such right to acquire shall be in favor of the United States of America or such other public entity as the Secretary may designate and shall be assignable at any time by the Secretary, for consideration he deems in his discretion to be adequate, to the State of California or any political subdivision thereof or such other non-profit, tax-exempt organization as the Secretary shall, in his discretion, deem appropriate; provided, however, that any such assignment shall only be for park and/or open-space purposes.

In the event the total purchase price, as adjusted in accordance with the preceding formula, exceeds the total sum of $37,000,000, the Secretary, in his sole discretion, may either:

(1) Delete from the areas to be purchased under the option the entire area shown on such map as the "Frontal Slopes of Wishbone Hill," in which case the total purchase price shall be recomputed on the basis of an original purchase price of $16,000,000 or the fair market value, whichever is less, instead of $32,000,000 subject to the adjustment provided above; and/or

(2) Assign all his rights, which shall be severable for this purpose only, to the State of California, or to a political subdivision thereof, to purchase the "Frontal Slopes of Wishbone Hill" for a total purchase price recomputed on the basis of an original purchase price of $16,000,000, or the fair market value, whichever is less, subject to the adjustment provided above.

SEC. 4. (a) In carrying out his authorities under this Act, the Secretary shall expeditiously take such actions as may be necessary to convey and transfer for purposes of the proposed San Joaquin Hills transportation corridor (as designated on the general plan of the County of Orange, California) and the proposed Sand Canyon Road as agreed upon by the County of Orange and the California Coastal Commission, such rights-of-way through the park as may be necessary for the establishment of such corridor and/or road. Such actions may also include the establishment by the Secretary of such conditions for the protection and utilization of the park as will facilitate the construction of such corridor and such road, the issuance of any certification required under the Act of August 27, 1958 (23 U.S.C. 317), for the transfer of lands within the park to the State highway department, or its nominee, and any combination of the foregoing actions and other action which the Secretary is required to take as a condition to the construction of such portions of the proposed corridor, and road.

(b) In exercising his authorities under regulations and applicable provisions of law (including, but not limited to, section 4(f) of the Department of Transportation Ac (49 U.S.C. 1653(f)); and section 15(a) o the Act of September 13, 1966 (23 U.S.C 138); and section 2(a)(1) of the Act of September 8, 1966 (49 U.S.C. 1610)), the Secretary of Transportation shall expeditiously take the actions required under such regulations and applicable provisions of law in such manner as will facilitate, to the maximum extent practicable, the construction of so much of the transportation corridor and road referred to in subsection (a) of this section as is within the boundaries of the park or as otherwise affects the park.

Sec. 5. There are hereby authorized to be appropriated $38,000,000 and such additional sums as may be required to fulfill the provisions of Section 3(e) for acquisition of land and interests therein pursuant to this Act.●

By Mr. STEVENSON (for himself, Mr. Dole, Mr. Biden, Mr. Domenici, Mr. Durkin, Mr. Eagleton, Mr. Huddleston, Mr. Packwood, Mr. Pryor, Mr. Randolph, and Mr. Ribicoff):

S.J. Res. 189. Joint resolution to establish a Commission on Presidential Nominations; to the Committe on Rules and Administration.

COMMISSION ON PRESIDENTIAL NOMINATIONS RESOLUTION

● Mr. STEVENSON. Mr. President in February 1976, the Senator from Minnesota, Mr. Mondale, and I and a number of our colleagues introduced a joint resolution calling for the establishment of a Commission on Presidential Nominations. We all were alarmed about the manner in which we nominate and elect the Nation's President. The resolution, in the form of an amendment to the Federal Election Campaign Act Amendments of 1976, passed the Senate, only to be eliminated in conference because of the House's failure to consider the proposal.

In the belief that the need for a comprehensive review of the Presidential nominating process is even more urgently required now than 4 years ago, I and many colleagues of both parties are again offering a resolution to create a Commission on Presidential Nominations.

This year the American people have endured 37 Presidential primary elections and hundreds of precinct, district, and statewide caucuses. Out of this unmanageable chaos have emerged the probable Republican and Democratic candidates for President, neither of whom appears to enjoy broad and deep public support. The support enjoyed by a third candidate—an Independent who finally disavowed the primary process—is evidence of the voting public's discontent generally with the nominating process and the candidates it produces for the Presidency.

Those who seek the Presidency today are reduced to an endurance test—a contest which gages and rewards the physical, organizational and financial prowess of candidates rather than their competence and fitness to govern. Wise and strong prospects for the Presidency sometimes withdraw from or avoid altogether a system which subsists upon sensation and a welter of detail and regulation, all largely beyond their control and comprehension.

It is a process in which substance has little place. Instead of serious comments by serious figures on serious issues, the press itself spread thin by a profusion of elections and candidates, offers the public episodes, spectacles, and weekly scorecards. Not only does the process conspire against new ideas, but against late-entering or independent candidates for the Presidency.

Despite the promise of a decade of reform, public participation in the Presidential selection process, has not, as once expected, been enhanced. The importance of early caucuses and elections is so exaggerated as to discourage voter turnout in later and theoretically more significant primaries. In addition, the process, supported by millions of dollars in public revenue, has reduced the influence of public and party officials, contributed to the decline of political parties, and largely eliminated the need by candidates to fashion coalitions which strong Presidents once wisely relied upon in governing the Nation.

There must be a better way to select the American President. I do not offer an answer, but the Commission could examine alternatives and discover it. If created now, it could formulate its recommendations well in advance of the 1984 Presidential elections, thus sparing the Nation the confusion recently experienced. If we wait, it will again be too late.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 189

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Commission on Presidential Nominations Resolution".

DECLARATION OF POLICY

Sec. 2. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

Sec. 3. (a) There is established the Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) Six members shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority and minority leaders. At least two of the members so appointed shall be Members of the Senate and at least two shall be elected or appointed State officials.

(2) Six members shall be appointed by the Speaker of the House of Representatives. At least two of the members so appointed shall be Members of the House and at least two shall be elected or appointed State officials.

(3) Six members shall be appointed by the President.

(4) The chairman of each of the two national political parties shall serve as ex officio members.

(c) The majority and minority leaders of the Senate shall make recommendations for the appointments to be made pursuant to subsection (b) within 60 days after enactment of this resolution.

(d) All appointments made in accordance with subsection (b) shall be made within 90 days after enactment of this resolution.

(e) At no time shall more than three members appointed under either paragraph (1), (2), or (3) of subsection (b) be from the same political party.

(f) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, and shall be subject to the same limitations with respect to party affiliations as the original appointment.

(g) Twelve members shall constitute a quorum, but a lesser number may conduct hearings.

(h) The Chairman of the Commission shall be selected by the members from among members, other than ex officio members. The term of office of the Chairman shall be for the life of the Commission.

(i) the term of office for members of the Commission shall be for the term of the Commission.

(j) the first meeting of the Commission shall be called by the President within 60 days following the date such appointments to the Commission are made.

FUNCTIONS OF THE COMMISSION

Sec. 4. (a) The Commission shall make a full and complete investigation with respect to the presidential nominating process. Such investigation shall include consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this subsection;

(6) alternative nominating systems, including a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which State laws and the Federal Election Campaign Act of 1971, as amended, promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit a written report to the President and Congress not later than one year after the date of the appointments made pursuant to section 2 of this resolution. Such report of the study and investigation shall—

(1) be based upon full consideration of alternatives to the current system of nominating presidential candidates;

(2) include an analysis of the strengths and weaknesses of all such alternatives studied; and

(3) include recommendations regarding the best system for the 1984 presidential elections.

(c) The Commission shall submit to the President and Congress such interim reports as it deems advisable.

(d) The Commission shall cease to exist 60 days after the final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

Sec. 5. (a) The Commission may, or on the authorization of the Commission, any subcommittee may for the purpose of carrying out its functions and duties pursuant to the provisions of this joint resolution, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not exceeding $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 6. Each member of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.●

By Mr. SCHMITT (for himself and Mr. STEVENSON):

S.J. Res. 190. Joint resolution to designate "Space Week '80," and for other purposes; to the Committee on the Judiciary.

SPACE WEEK '80

● Mr. SCHMITT. Mr. President, the expansion of human activities in space is of fundamental significance to the history of our civilization. As James A. Michener testified before the Senate Science, Technology and Space Subcommittee:

> I also believe that there are moments in history when challenges occur of such compelling nature that to miss them is to miss the whole meaning of an epoch. Space is such a challenge. It is the kind of challenge William Shakespeare sensed nearly 400 years ago when he wrote:
>
> "There is a tide in the affairs of men
> Which, taken at the flood, leads on to fortune;
> Omitted, all the voyage of their life Is
> bound in shallows and in miseries.
> On such afull set are we now afloat.
> And we must take the current when it serves,
> Or lose our ventures."
>
> We risk great peril if we kill off this spirit of adventure, for we cannot predict how and in what seemingly unrelated fields it will manifest itself. A nation which loses its forward thrust is in danger, and one of the most effective ways to retain that thrust is to keep exploring possibilities.

It is necessary for this Nation to retain our forward thrust, and in doing so, to commend those who have participated in moving our Nation forward through their involvement in our national space program. Therefore, Senator STEVENSON and I introduce this joint resolution to congratulate the men and women of the U.S. space programs and the industries, businesses and educational institutions supporting them.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD at this point.

S.J. RES. 190

Whereas the decision by this Nation to land men on the Moon and return them safely to Earth was a bold decision unlike any other; and

Whereas the success of the Apollo, Skylab, and Space Shuttle programs represent an unparalleled triumph of this country's scientific and technological genius; and

Whereas the steadfast courage of the American astronauts recalls the heroic spirit of earlier Americans and serves as a model for skill and bravery in the future; and

Whereas the creativity and dedication of the scientists, engineers, and skilled workers serves as a model for inventiveness, productivity, and dedication in the future; and

Whereas the openness and peaceful nature of the American space program underscores the freedoms and desire for peace so characteristic of American society; and

Whereas the contribution of the space program to the economy and in providing the technical capability for resolving certain major problems in the future is recognized; and

Whereas in the week of July 16 through July 24, 1969, the first manned exploration of the Moon occurred: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress congratulates the men and women who made these space programs possible; and be it further

Resolved, That the President is authorized and directed to issue a proclamation designating the period of July 13 through July 20, 1980, as "Space Week '80", and calling upon the people of the United States to observe such period with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 1275

At the request of Mr. BAYH, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1275, a bill to amend the Tariff Schedules of the United States to provide for the proper classification of cold-finished steel bars and for other purposes.

S. 1790

At the request of Mr. BAYH, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 1790, a bill entitled the "Privacy Protection Act of 1979."

S. 2643

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2643, a bill to amend title XII of the Public Health Service Act to provide demonstration programs relating to emergency child health care.

S. 2718

At the request of Mr. STEVENSON, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2748

At the request of Mr. BAYH, the Senator from California (Mr. CRANSTON) and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 2748, a bill to simplify trade procedures regarding sales of U.S. products abroad, and for other purposes.

S. 2749

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2749, an original bill to establish a Federal program to assist innovative small businesses by strengthening the role of such businesses in federally funded research and development and by fostering the formation and growth of such business.

S. 2877

At the request of Mr. CHURCH, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2877, a bill to amend title II of the Social Security Act to prevent payment, in certain cases, of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction, and to deem convicted felons to have refused rehabilitation services under certain circumstances.

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

SENATE JOINT RESOLUTION 182

At the request of Mr. INOUYE, the Senator from North Dakota (Mr. YOUNG) and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 182, a joint resolution to authorize and request the President to designate November 14 of each year as "Operating Room Nurses Day."

SENATE RESOLUTION 481

At the request of Mr. NUNN, his name was withdrawn as a cosponsor of Senate Resolution 481, a resolution directing the Committee on Finance to study and report on a tax program.

AMENDMENT NO. 1927

At the request of Mr. CRANSTON, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of amendment No. 1927 proposed to H.R. 7542, a bill making supplemental appropriations for the fiscal year ending September 30, 1980, resciding certain budget authority, and for other purposes.

AMENDMENT NO. 1929

At the request of Mr. BELLMON, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of amendment No. 1929 proposed to H.R. 7542, a bill making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

RECONCILATION SPENDING REDUCTIONS—S. 2885

AMENDMENT NO. 1933

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (on behalf of the Committee on the Budget) submitted an amendment intended to be proposed by him to S. 2885, a bill to provide for reconciliation as provided by section 310 of the Congressional Budget Act of 1974.

SUPPLEMENTAL APPROPRIATIONS, 1981—H.R. 7542

AMENDMENT NO. 1934

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to H.R. 7542, an act making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

● Mr. CHILES. Mr. President, I would like to announce that the Senate Special Committee on Aging will hold a business meeting on Monday, June 30, 1980, in room S–126 of the Capitol Building, beginning at 10 a.m.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate today to discuss routine business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today, to hold a markup session on the Colorado wilderness bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to mark up S. 1480, the hazardous substances bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE ON FOREIGN RELATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair inquires of the Senator from Alaska whether the Chair precipitately agreed to the unanimous-consent request with respect to the meeting of the Finance Committee.

Mr. STEVENS. Mr. President, the Senator from Alaska, as the acting minority leader, objected to the meeting of the Committee on Energy and Natural Resources and the meeting of the Committee on Environment and Public Works. The other requests were not objected to.

The PRESIDING OFFICER. The Chair thanks the Senator from Alaska.

ADDITIONAL STATEMENTS

JAPANESE DEFENSE STUDY

● Mr. GLENN. Mr. President, I want to take this opportunity just a few days after the 20th anniversary of the United States-Japanese Mutual Security Treaty (June 23) to emphasize the importance of the close relationship that exists between Japan and the United States and the need to continue that association in the future.

Today I released a new study entitled Japan's Contribution to Military Stability in Northeast Asia. The study was prepared for the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations which I chair. The study broadly outlines the security objectives of the major powers in the region, analyzes the military balance of power, sketches Japan's indigenous military posture and discusses Japanese domestic politics and the economic environment.

The study was prepared by analysts in the U.S. Arms Control and Disarmament Agency under the direction of Dr. Barry M. Blechman. While the study does not in every instance accurately reflect my personal views, nor those of the committee, I do believe that the study will be particularly timely in stimulating discussion of the increasing feeling among certain groups within and outside of the American Government that the Japanese should shoulder a greater proportion of their defense burden. The conclusions of the Japanese Defense Study point to the need to insure that the Japanese Government take no rash steps toward building up their military capabilities. In my view Japanese attitudes and policies will change only slowly.

I would certainly agree with the study that it would be neither in the Japanese interest, nor in our interest, for Japan to embark on a sudden, massive build-up of its military forces. And I firmly believe Japan will not do so. Although the study cautions against a rapid military build-up program on the part of the Japanese, it does note that Japan will have to start paying greater attention to its defense needs and resources in the future. Responding to the continually evolving relationships among the Pacific powers, especially the growth of Soviet power in the region, the Japanese today have undertaken a realistic, open and constructive reexamination of their security policies.

I doubt that any Japanese military reappraisal will lead them to loosen ties with the United States. To the contrary, I believe it has afforded us new opportunities to strengthen even further our manifold security ties. I am confident that both sides will proceed deliberately and wisely to assure that our respective policies complement each other to the benefit of peace and stability in the region.●

S. 2878—THE TAX REDUCTION-JOB CREATION ACT

● Mr. HAYAKAWA. Mr. President, during consideration of the Debt Limit Extension bill yesterday the Senate defeated an attempt to fight inflation by providing the American taxpayer with a 10-percent across-the-board tax cut. Instead, my friends in the other party proposed to study the matter, and take immediate action—after the results of the proposed study are released, probably around the first of September. The reason they gave for defeating the tax-cut initiative was to keep this very important problem from becoming enmeshed in the Presidential campaign. This of course, is nonsense.

I am proud to be an original cosponsor of S. 2878, the Tax Reduction-Job Creation Act, introduced by the distinguished senior Senator from Kansas, and offered as an amendment to House Joint Resolution 569, the debt limit extension. Until my colleagues and I put forth this bill, no effort had been made to reduce the burden of taxes on the American taxpayer. The President has steadfastly, until yesterday that is, objected to the suggestion of a tax cut. The introduction of S. 2878 should not have come as a surprise to our Democrat friends because it is sum and part of various pieces of legislation previously offered by my colleagues, and cosponsored by me. Some, as long as 3 years ago. So, the notion that the defeat of this very much needed tax cut was an effort to depoliticize the issue is certainly nonsense.

The sham that was foisted on us by President Carter, as an anti-inflation package has only served to push the American taxpayer further into economic uncertainty. Unemployment is rising at a frightening pace, and until recently, we have experienced unprecedented peacetime inflation rates. The dollar buys less and less as taxes and inflation continue to take their toll. This bill addresses those needs and offers some relief. It is not a band-aid approach, but a long-range solution to solving our Nation's economic ills.

By providing a 10-percent across-the-board tax cut for individuals we are giving the American taxpayer an opportunity to catch his breath in his effort to stay financially afloat, and restoring the incentive for greater productivity.

I have long been concerned about the declining productivity in this country. Government has killed initiative and productivity by enacting regulations which stifle industrial growth and tax policies that discourage modernization and expansion, thereby eliminating the creation of new jobs.

The second part of this legislation enacts what I have been advocating for several years now. It puts into place a simple depreciation schedule, which I firmly believe will have the effect of spurring economic growth. It will provide businesses with tax incentives to invest in modernization, new plants, and new equipment. This is a long overdue step, which should not be delayed any longer.

We need this tax cut now. Our economy needs the boost that I feel would result from the knowledge that a tax cut is forthcoming. It is clear to me that we cannot continue in the direction we are headed, we need to enact S. 2878, to spur the economy and to provide the opportunity for competition and growth.●

THE TRADE PROCEDURES SIMPLIFICATION ACT OF 1980

● Mr. STONE. Mr. President, I recently joined as a cosponsor of S. 2748, the Trade Procedures Simplification Act of 1980, introduced on May 21 by Senator BAYH.

My good friend, Secretary of Commerce of the State of Florida, Sidney H. Levin, recently wrote to me expressing his support for this measure. Sid Levin has done a tremendous job for Florida. Through programs his department administers, Florida exports increased 17 percent between 1978 and 1979. He believes that this legislation would be most helpful in increasing export opportunities for small- and medium-sized businesses.

Mr. President, I hope the Congress will soon enact S. 2748 and other appropriate legislation to encourage export opportunities for American business.

I ask that the text of this letter from the distinguished Secretary of Commerce of the State of Florida, Sidney H. Levin, be printed in the RECORD.

The letter follows:

FLORIDA DEPARTMENT OF COMMERCE,
June 20, 1980.

Hon. RICHARD STONE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STONE: I would like to take this opportunity to urge your support of Senate Bill 2748—The Procedures Simplification Act of 1980.

Faced with a large domestic market, many small and medium sized companies in Florida have little incentive to export. What incentive they may have is further diminished in their lack of know-how management, financial resources and the inhibiting effect of some of our regulatory mechanisms.

Through our Departmental programs we have been able to significantly increase the number of Florida companies involved in the export process. Florida's trade statistics for 1979 show a 17 percent increase in exports over 1978.

We are extremely pleased with our successes but I am certain that Senate Bill 2748 will aid in our efforts to mobilize potential exporters and eliminate the uncertainty over the application of the antitrust laws to export.

When every $20,600 in exports creates one job in Florida, we must leave no stone unturned in our search for additional ways to expand our export markets.

Sincerely,

SIDNEY H. LEVIN,
Secretary.●

RETIREMENT OF ROBERT HAUBERG

● Mr. COCHRAN. Mr. President, today Robert Hauberg, U.S. attorney for the southern district of Mississippi, is retiring after a long and distinguished career of public service.

Having obtained his law degree in 1932 from the Jackson School of Law, Mr. Hauberg served as a city prosecutor and a city judge in Jackson. He was a member of the Mississippi Senate from 1940 to 1944. After that term in the legislature, Mr. Hauberg worked as an assistant U.S. attorney for 9 years. In 1953 President Dwight Eisenhower appointed Mr. Hauberg to head the U.S. attorney's office in Jackson, Miss. Since his swearing in on January 5, 1954, Robert Hauberg has served 26½ years as U.S. attorney. According to all available records at the Department of Justice this is the longest service by any U.S. attorney in the history of the Republic. Altogether Robert Hauberg received seven Presidential appointments to the position as chief Federal prosecutor in the southern district of Mississippi: two by President Eisenhower one by President Kennedy, one by President Johnson, two by President Nixon, and one by President Carter.

This is a remarkable record of dedication to serving the public in the cause of justice under the law. For over 35 years Robert Hauberg has made an outstanding contribution in the U.S. attorney's office. I want to congratulate Mr. Hauberg and wish him well in his retirement and any new endeavors he decides to pursue.●

NATIONAL ATHLETIC BOOSTERS WEEK

● Mr. BAYH. Mr. President, I would like to take this opportunity to express my wholehearted support in proclaiming the week of June 22, 1980 as "National Athletic Boosters Week," which was signed by the President on June 18, 1980. This resolution did not ask for any new appropriation or increased funding levels for a particular program. It merely declared the week of June 22, as a week of special recognition to the billions of volunteers across the Nation who have arisen to the need of school athletic programs.

School athletics have been a tradition of this country since its foundation. They greatly contribute to the physical fitness of our youth as well as teach cooperation, good teamwork, discipline and responsibility. The training program which our youth learn from sports programs is an important function of the educational process and provides our youth with the necessary tools to lead an active life. But, amateur sports programs are being threatened because of financial problems. Budget pressures in every corner of the United States have forced schools and amateur sports organizations to seek new ways to pay for their sports programs. National booster clubs have arisen to address this need and help alleviate this growing financial burden.

The Boosters Clubs of America is designed to form a national network of the thousands of organizations in America to help schools throughout the Nation raise the necessary funds to conduct sports activities and physical education. It is important for our young people to develop their bodies as well as their minds, and athletic programs should be available to all students in order for them to achieve these goals.

Students of both sexes are beginning to enjoy equal access to athletic programs. However, participation by women in sports, which is an encouraging and important trend, has doubled in recent years, yet the funding for women's programs has not, thereby having a tremendous effect on the athletic budget. Fewer women coaches are available to coach young women's teams, and those that are available are moving to colleges and universities where opportunities are more beneficial. Budget cuts, compounded by the cost of inflation, reduce even further the number of coaches and teachers in our Nation's schools, which in turn has an adverse effect on both sports and educational programs for our young people.

Mr. President, the boosters clubs important support keeps these athletic programs in existence. Boosters contribute time and money to cover the rising costs of athletic programs through car washes, bake sales, operating flea markets, selling bumper stickers, and many other contributing activities during these financial difficulties.

In many Indiana schools, yearly decisions are made in determining which athletic programs will be funded. Through this process, some sports benefit greatly, whereas, the less popular sports suffer. In the past, school dollars spent on athletic programs through means of grants and scholarships have afforded many high school students an opportunity to further their education and a chance to develop their athletic abilities.

Mr. President, I commend them for their hard work, dedication, fine performances and achievements that are being undertaken for the sake of our Nation's youth. Their efforts must continue to be supported in order to maintain many successful sports programs.●

ANALYSIS OF CAREER DEVELOPMENT BILL

● Mr. PRESSLER. Mr. President, I ask that an article entitled "Analysis of Career Development Bill" which originally appeared in the April 10, 1980 issue of the Stars and Stripes Newspaper be printed in the Record. The article has been updated by its author, Forrest Lindley, to make it applicable to the amendment that Senator Heinz and I intend to offer to S. 1188 the Disabled Veterans Rehabilitation Act. I ask that my colleagues give this thoughtfully written article their serious consideration. The article addresses the major concerns of the Veterans' Administration and veterans organizations with regard to the career development, advancement, and training amendment.

The article follows:

An Analysis: The Career Development, Advancement And Training Program

The "Career Development, Advancement and Training Program" codifies and improves existing readjustment and employment initiatives to provide unemployed and underemployed Vietnam era and disabled veterans, with meaningful private and public sector employment, training, and advancement opportunities.

The proposal would create two new categories of employment programs: a Career Development and Advancement program, and a Career Development and Training program. Those eligible under the two programs would be veterans who served between August 4, 1964 and January 1, 1977; the ten year delimiting period now provided in the law would be "waived" for the purpose of the program, and veterans would be required to be unemployed or underemployed and have readjustment entitlement remaining under their GI Bill educational assistance program.

Maximum benefits would vary according to the the four categories of these veterans:

(1) 18 months of benefits for those veterans determined after counseling under section 1663 and 612A of title 38 United States Code, to have "serious rehabilitation, readjustment, or employment problems,"

(2) 12 months of benefits for those veterans who are disabled,

(3) 9 months of benefits for those veterans who served in the Indochina theater of operations or Korea during the Vietnam era.

The program would become effective January 1, 1981.

The program would permit Vietnam era veterans to utilize their earned GI Bill readjustment entitlement to pay employers an allowance to hire, train, or promote them. The amount would depend on whether the program pursued would be a training program or a career development and advancement program. Under the Career Development and Advancement program the allowance could be as much as one-third of the veterans annual wages, whereas under the training program, the VA would pay the employer for the cost of training and subsidize up to 50 percent of the individual's training and wages. In the case of underemployed veterans whose careers were advanced under the "Career Development, Advancement and Training" program the allowance could cover the cost of training up to twice the amount of a raise if training were involved, or the amount of the raise if no training were involved.

Payment would be made to the employer every three months after the veteran and employer had certified to the VA that the veteran had been satisfactorily employed and in training (if the program involved training) at a specified wage for the period for which payment was made. Eligibility would be limited to those whose annual incomes did not exceed $13,000 at the time of application. The Administrator would be given the authority to waive the income ceiling when determined to be necessary and appropriate.

In its report, the VA summarized its objections to the legislation as follows:

"First, we believe that the measure would simply layer a new program on top of available programs that are in place and working. No jurisdiction is advanced to indicate why existing programs should not be utilized or, if appropriate, be strengthened. Nor is there any evidence adduced to show that this program could deal with veteran employment problems more effectively than those currently available."

The "Career Development, Advancement and Training Program" would not layer a new program on top of existing programs; it would codify existing programs and initiatives into a single comprehensive program targeted and structured to serve the unique readjustment, rehabilitation and employment needs of veterans while insuring those veterans productive careers, training and advancement opportunities.

The principal justification why existing programs have not and can not be effectively used was advanced by President Carter:

"We must recognize that, in far too many cases, the Vietnam Veteran has been a victim of governmental insensitivity and neglect. Large bureaucracies of the Federal Government have often been incompetent, inefficient and unresponsive in their fulfillment of responsibilities to veterans. "The poor record of the government bureaucracy has been especially bad in programs to help veterans find jobs. In 1973 and 1974 Congress passed legislation requiring special consideration for veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the Federal Government. None of these requirements has been fully and effectively carried out.

"For example, despite the mandates of the law, many Federal Departments and Agencies have few disabled veterans or Vietnam Veterans serving within them. The record of placement in the private sector has been no better. Job training slots go unfilled largely due to inadequate administrative procedures.

"The reason for this is clear: it is a failure of leadership."—Jimmy Carter before the American Legion 8–24–73.

Today, as they were when President Carter made those remarks the large bureaucracies of the Federal Government, especially the VA and the Department of Labor, are still "Incompetent, inefficient, and unresponsive to their fulfillment of responsibilities to veterans" and in the utilization and strengthening of existing programs.

(1) In January 1977, the Administration promised Vietnam Veterans 35 percent of the public service jobs under the PSE expansion program. Vietnam era veterans received only 15 percent of those jobs.

(2) In January 1977, the Administration promised veterans 100,000 private sector jobs under the HIRE program, less than 50,000 jobs ever went to veterans.

(3) Since the law was enacted in 1974, the VA has emphasized it would link its OJ program with the HIRE II program and CETA. Out of a potential 60,000 plus linkages, less than 3,000 have ever been made.

(4) In October 1978, the Veterans Appropriate Steps provisions of CETA mandated comprehensive supportive service and private sector initiatives for veterans in the 435 prime sponsor areas. The Veterans Employment Service in 18 months has just begun to provide technical assistance and training to its staff on these provisions. It has made little effort to implement them.

(5) After more than one year, the Targeted Tax Credit Program has provided less than 3,000 veterans with jobs.

Even with competent, inspired and responsive leadership, few existing programs can deal effectively with veterans employment problems. Existing programs are primarily social welfare programs, such as CETA, HIRE, and the Targeted Tax Credit, designated to address serious social welfare problems among disadvantaged youth, the hard core unemployed, and ex-offenders. Since the employment problems and potentials of these groups are dramatically different from those of Vietnam and disabled veterans, few employment opportunities commensurate with the veterans abilities and aspirations can be developed under these social welfare programs.

The "Career Development, Advancement and Training Program" was drafted solely and exclusively to utilize the unique readjustment and rehabilitation benefits and programs accorded veterans and to address their unique employment problems, potential and aspirations. No other comprehensive employment programs currently available are designed and structured to serve only veterans.

The Veterans Administration's second objection is the following:

"Second, the proposed program would, in our opinion and in the opinion of the inspector General of this agency, be rife for abuse and likely to produce substantial wasted taxpayer expenditures which, in turn, would require greatly expanded bureaucracy and Government regulation."

Apart from some specific technical points and areas where legislative clarifications are required, the VA fails to substantiate its case for abuse or wasted taxpayer expenditures, or expanded bureaucracy and regulation. The "Career Development, Advancement and Training Program" approval and safeguard provisions are drawn almost entirely from existing VA criteria governing OJT programs, approval and benefits payments. If anything, they are tighter than existing laws. If the VA seriously believes its argument that the provisions of the "Career Development, Advancement and Training Program" would be "rife for abuse," then its existing laws and procedures are rife for abuse.

No payments are authorized to be made under the program until the veteran has been in his or her job and/or training for 90 days. Payment then can be made only for employment and training completed and only after both the veteran and employer sign separate certificates that the employment and training was actually completed.

The program utilizes almost entirely existing approval mechanisms and delivery systems and thus would not require greatly expanded bureaucracy and government regulation. Veterans participation in readjustment programs has declined by 50 percent since 1976.

The VA and approving agencies should be able to handle the "Career Development, Advancement and Training Program" without undue problems.

Of all the Federal employment and training programs, the "Career Development, Advancement and Training Program" is the least likely to produce substantial wasted taxpayer expenditures. A veteran must be progressing satisfactorily in a secure career, with specified training and advancement opportunities for ninety days before any taxpayers money is spent. However, the following provide an instructive contrast of substantial taxpayer expenditures that are wasted on:

(1) Ineffectual GI Bill Correspondence, Courses with less than 40 percent completion rates-cost to taxpayer so far, $500 million;

(2) Unemployment compensation for unemployed veterans—$500 million a year;

(3) Ripoff trade, and technical school under the GI Bill;

(4) GI Bill training that fails to provide a veteran with a career once he completes training;

(5) $8.700 to put a veteran in a public service job, and $18,000 to successfully tran-

sition a veteran from public service employment to the private sector; and

(6) CETA DoL on the job training programs which often provide only short term menial jobs.

The following is the Veterans Administration's third objection to the legislation:

"Third, the conversion of an educational assistance allowance which is based on educational and subsistence expenses of veterans into a direct employer subsidy is illogical, unprecedented, and contrary to established on-job training assistance programs for veterans."

The conversion of readjustment assistance allowance which has used education and training as an indirect means for a veteran to acquire employment (the prime objective of readjustment) to a program which will insure that the veteran acquires secure employment with training and advancement opportunities is logical, precedented and fully compatible with established on-the-job training programs for veterans.

According to Title 38, U.S. Code Section 1651, the purpose of the veterans educational assistance program explicitly states that it is for the purpose of aiding veterans "in attaining the vocational status which they might normally have aspired to and obtained had they not served their country."

The logic of providing a direct employer subsidy was clear to the VA when it told the House Veterans Affairs Committee last year:

"The lack of tangible benefits to the employer has been a major deterrent to greater use of on-the-job training programs.

"To counteract this tendency on the part of employers, we recommend that in the case of vocational rehabilitation, that a direct financial incentive in individual instances to the employer-trainer should be in the form of a subsidy. This subsidy would help cover the cost of training."

In 1978, the VA prepared draft legislation which would provide direct employer subsidies for veterans participating in VA OJT programs.

The HIRE program was drafted explicitly with the intent of providing an employer subsidy so that VA OJT programs could be interfaced with VA OJT. Lack of support in VA and Labor failed to make the necessary linkages.

The Targeted Tax Credit provides financial incentives in the form of tax credits of up to $6,000 to employers who hire disadvantaged veterans under 35 and others with serious social welfare and employment problems. Career development does the same thing more effectively for veterans at an average of $3,000 in incentives.

The "Career Development, Advancement and Training Program" is not only precedented, logical and compatible with established on-the-job training assistance and employment programs, but it is also more target effective than other veterans readjustment programs, less costly and would produce higher quality jobs.

The following is the Veterans Administration's fourth objection to the legislation:

"Fourth, ignoring the basic purpose for readjustment assistance, the measure would provide for a general across-the-board extension of the delimiting date for veterans, something which Congress in recent years has consistently refused to do."

The delimiting date authorized by the "Career Development, Advancement and Training Program" is targeted to unemployed and underemployed Vietnam Veterans who would be assured productive careers with advancement and training opportunities before any extension of entitlement would be granted. The Administration has legislation before Congress providing for an extension of the delimiting period for veterans in On-The-Job Training Programs. Seventy percent of the veterans who served in Indochina will be delimited by 1981. It is too late for the majority of those men who still need readjustment assistance to benefit from institutional training.

During fiscal year 1979, 600,000 Vietnam era veterans and 100,000 disabled veterans sought employment assistance through the veterans employment service but were not provided with the assistance they sought. Only one-third of those who seek employment assistance this year will be satisfactorily served.

One of the strongest arguments for the "Career Development, Advancement and Training Program" is the Bureau of Census population survey which shows most veterans have attained higher incomes than their non-veteran counterpart. These figures affirm the unique employment potentials and attributes of veterans and stand as strong evidence of the need for an employment program equal to the veterans abilities and aspirations. They need a program that will permit the unemployed and underemployed veteran to achieve the status their fellow veterans have attained in the Labor Force rather than being relegated to demeaning social welfare programs.

The Presidential Review Memorandums on the status of Vietnam veterans have portrayed the Vietnam veteran as the victim of his own educational deficiencies, racial status, and psychological shortcomings, rather than admit or rectify major shortcomings and inadequacies in government programs and efforts for Vietnam veterans.

While minority and educationally disadvantaged veterans do have problems disproportionate to their numbers, they represent only 11 percent and 15 percent of the total veterans population respectively.

The "Career Development, Advancement and Training Program" provides for nine months of entitlement for veterans who served in the Indochina theatre of operations realising the greater difficulty of service in hazardous duty areas, and the social and employment problems of those who served in Indochina. The veterans provisions of CETA make similar distinctions as do most state veterans bonuses. The amount of entitlement available to a WW II veteran under the WW II GI Bill was a factor of his duty station. As a matter of equity, any veteran who, after counseling by the VA, is determined to have serious readjustment, rehabilitation or employment problems, is entitled to up to 18 months of entitlement under the "Career Development, Advancement and Training Program," regardless of his place of duty.

The VA's report claims a lack of information and data "on questions of difference between patterns of readjustment among Vietnam or Vietnam era veterans." This is indicative of insensitivity and serious inabilities on the part of the VA to identify and help those who need the help the most. The VA contends that some 400,000 Vietnam veterans are experiencing readjustment problems as a result of their Vietnam service. It is reasonable to assume that those readjustment problems would have a significant affect on the veteran's employment in many instances. This would be particularly true in the case of veterans who lost good jobs as a consequence of delayed stress.

Instead of the proposals made in the bill, the VA suggested certain alternatives. On balance, these alternatives provide less likelihood of providing meaningful employment for veterans, and more likelihood for abuse.

The VA's report stated:

"First, the current GI Bill (38 U.S.C. 1787) provides for a program of on-job and apprentice training opportunities for eligible veterans. A married veteran training under this program who has two dependents may be paid a training assistance allowance by the VA of $277 per month in addition to the salary the veteran receives from the employer. The assistance allowance is available over a 2-year period with the basic allowance declining each 6 months during the veteran's employment and with the salary being paid the veteran increasing as he or she attains more experience. More than 500,000 Vietnam era veterans have participated in this program since the enactment of Pub. L. No. 90-77. In Fiscal Year 1979, approximately 84,000 veterans received benefits under this program.

On May 15, 1979, the Chief Benefits Director of the VA stated to the House Veterans Affairs Committee:

"The Veterans Administration has long recognized job training as an especially beneficial, effective means of readjustment. Under VA job training, the veteran achieves immediate employment in which the majority of cases continue after training is completed. Furthermore, the veteran obtains job skills which serve him now and in the future.

"Despite the effectiveness and advantages of job training, participation in this part of the readjustment program has always been disappointingly low, only 6.5 percent of all GI Bill trainees.

"A very significant factor in the low usage rates for job training programs has been employer resistance. The typical employer, when asked to participate in the VA's job training program is inclined to ask, 'What's in it for me?' Although our outreach personnel can point out the advantages to the employer, such as the maturity and reliability of the veterans, the lack of tangible benefits to the employer has been a major deterrant to greater use of the on-the-job training program.

"To counteract this tendency on the part of employers we recommend that consideration be given to providing a direct financial incentive in individual instances to the employer trainer in the form of a subsidy. This subsidy would help cover the cost of training." [Emphasis supplied by the writer.]—VA Testimony, 15 March 1979.

This is exactly what the "Career Development, Advancement and Training Program" does. It provides a direct financial incentive in individual instances to the employer trainer in the form of a subsidy. The subsidy would help cover the cost of training. It is structured and modeled after the VA OJT program; most of the legislative language is derived from the laws governing VA OJT programs.

With regard to the potential for success of the "Career Development, Advancement and Training Program," the VA states:

"We have found in our program that job training is probably one of the most successful and most effective of all of the programs under the GI Bill.

"The highest completion rate is in the job training program. According to a survey we made, about 80 percent of the persons who enter job training complete the program, at least 95 percent of them use the skill that they learn in the program in an occupation following completion of the program. And of the full time trainees under the GI Bill, the wages upon employment following training for those trainees under the job training program are higher than any other type training we have."—Andrew Thorton, Director of Education and Rehabilitation, Service of the Veterans Administration.

It is significant to note that the VA projects that more veterans will use the "Career Development, Advancement and Training Program" than have ever used the current VA on-the-job training program.

The "Career Development, Advancement and Training Program" is more cost effective than the VA's OJT program. Over a two year period, VA OJT will pay a veteran with two dependents $4620, whereas the average payment under the Career Program for a veteran wth two dependents will be $3798. Thus, the Career Program will not only improve the programatic effectiveness of the VA's OJT program but also the cost effectiveness.

The VA reports states:

"Second, there are a variety of programs available to veterans under the Comprehensive Employment and Training Act (CETA) including Help through the Industry Retraining and Employment (HIRE) program which created over 38,000 on-job slots for veterans. Under this program, private sector employers are reimbursed for any extraordinary costs to them of training Vietnam era veterans hired by them. The Secretary of Labor is required by law to take special steps under CETA to maximize the opportunities for Vietnam era veterans and disabled veterans in all programs conducted by prime sponsors such as job training, upgrading and retraining, public service employment, and private sector initiatives. It is estimated that approximately 3 million of these veterans have been served by this program since it commenced in 1973."

There are a variety of social welfare programs available to disadvantaged veterans under the Comprehensive Employment and Training Act (CETA) including Help through Industry Retraining and Employment (HIRE) program which have been incompetently and inffectively implemented, if an effort has been made to implement them at all.

A case in point is the HIRE program. In 1977, the Administration promised 100,000 jobs a year under the HIRE program. Three years later, only 38,000 jobs have been provided. The incompetency, inefficiency and unresponsiveness of the DoL and the VA are primarily to blame for the failure of the HIRE and CETA programs to realize their potential or attain their goals.

In the few areas where HIRE has been competently and effectively implemented, HIRE has been a significant success. The "Career Development, Advancement and Training Program" carries on valid concepts in the HIRE program, while circumventing the governmental insensitivity and neglect that severely impeded HIRE.

The VA and the DoL have made little more than superficial and rhetorical efforts to implement the veterans provisions of CETA. Eighteen months after enactment of the CETA reauthorization, the DoL and the Veterans Employment Service have only begun to provide the VES field staff with the technical assistance and training necessary to implement the veterans "appropriate steps" provisions of CETA. They have yet to make any significant effort to implement those provisions. Most Prime Sponsors have developed and have had their CETA master plans approved, totally disregarding responsibilities to veterans mandated by law and regulation.

CETA services to veterans have declined every year since the Administration took office. The Administration promised Vietnam veterans 35 percent of the jobs under the Public Service Expansion Program of 1977, yet Vietnam era veterans received only 15 percent of those jobs. The total enrollment of veterans in CETA declined over that same year. How 3 million veterans have not been served and how programatically and cost effectively they have not been served is one of the principal reasons for development of the "Career Development, Advancement and Training Program."

Because CETA is a social welfare program, its target group and eligibility criteria preclude it from ever providing meaningful and effective service to more than 25 percent of the nation's unemployed and underemployed veterans.

The VA report stated:

"Third, there is the Targeted Jobs Tax Credit program authorized in October 1978 by Pub. L. No. 95-600. Employers under this program receive a tax credit of up to $3,000 for hiring individuals who are members of certain targeted groups, including certain low-income Vietnam era veterans."

The Targeted Tax Credit is also a social welfare program targeted at such groups as the hard corps disadvantaged, welfare recipients, long term unemployed and the ex-offender. Since the employment potentials of these groups are dramatically different from those of Vietnam and disabled veterans, few employment opportunities commensurate with the veteran's abilities and aspirations can be developed. Only veterans under 35 years of age who are eligible for food stamps qualify to participate in the Targeted Tax Credit.

The VA report states:

"In our recommendations to the Congress a year ago, embodied in H.R. 3272 and S. 870 (recently included by the Senate in H.R. 5288 in a somewhat differing form), we urged extension of the delimiting date under the GI Bill to permit those veterans who are educationally disadvantaged or who need vocational or job training, an additional two years to pursue OJT and apprentice, vocational, and high school training. We believe such a proposal would induce a substantial number of veterans to enroll in these programs and thereby enhance their employment opportunities."

The Career Program incorporates a delimiting date extension for veterans who need vocational or job training. At an average cost of $2,500 per veteran, the program is less costly than the VA's On-the-Job Training Program. Given our limited fiscal constraints, it is more programatically and cost effective per veteran.

The VA report states:

"We note that the Senate, in its version of H.R. 5288, has included a provision which would require that all eligible Vietnam era veterans, regardless of the length of time they have been out of service, be covered for at least 2 years by the affirmative action and mandatory listing requirements imposed by law in connection with Federal contracts. Under those requirements, any firm with a contract with the Federal Government involving more than $10,000 must have an approved affirmative action plan for vietnam era veterans and disabled veterans and is required to list job openings with local employment services which in turn are required to give eligible veterans priority in referral to jobs. (Current law limits the provision to veterans who have been discharged within the prior 48 months.) It is estimated that over 540,000 Vietnam era veterans have been placed in jobs as a result of this provision of law. Broadening of the base would, it is believed, result in more hirings of these veterans."

Affirmative action and listing requirements mandated by law have never been fully or effectively carried out. Government emphasis has declined significantly in recent years. The estimate that 540,000 veterans have been placed as a result of affirmative action or mandatory listings or that broadening the base would result in many more hirings of veterans is questionable. The "Career Development, Advancement and Training Program", working with mandatory listings and affirmative action provisions of the bill, can have a very significant potential for accessing veterans to new job opportunities.

The VA report states:

"We would point out that the Department of Labor and the Veterans Administration are working to more closely coordinate efforts to improve the utilization of the on-job training benefits program authorized by section 1787 of title 38, and are also working very closely to coordinate the efforts of the two agencies in conjunction with the Targeted Jobs Tax Credit Program and the Comprehensive Employment and Training Act. Both of these programs are capable in and of themselves of providing appropriate incentives to employers to participate in the VA on-the-job training program and thus provide needed training for those veterans who have remaining entitlement under the GI Bill. We believe greater efforts at making existing programs work would considerably enhance the job opportunities for veterans."

The VA and the DoL have for years expressed a rhetorical commitment to more closely coordinate efforts to improve the utilization of the on-the-job training benefits program authorized by section 1787 of title 38 and to coordinate the efforts of the two agencies. In reality, few substantive actions have been taken to back up the VA's rhetoric.

With the HIRE II program, the VA and the DoL were given the ideal opportunity to link CETA incentives with VA OJT programs. Despite the great promise that linkages between HIRE II, and CETA with VA OJT held for unemployed and under employed veterans, the VA and the DoL undermined and almost totally destroyed their potential by refusing to establish the necessary linkages between the VA OJT and the Apprenticeship Program and the Targeted Tax Credit Program to provide employers the incentives to participate in veterans on-the-job training programs.

Labor and VA refused to provide the critically needed technical assistance and training to CETA Prime Sponsors and the Veterans Employment Service field staff to effectively implement linkages. Few of the 60,000 approved VA OJT employers were ever notified that money was now available under HIRE to pay their training costs if they would hire a veteran.

It is too late to establish linkages in the concluded HIRE program. In order to participate in CETA and the Targeted Tax Credit Program, veterans must be disadvantaged. Most of the jobs created are dead end, menial, entry level jobs, far below the veteran's abilities, aspirations, and the financial needs of his family.

If greater effort had been made at making existing programs work, thousands of veterans would not have suffered needless unemployment and underemployment.

The VA report states:

"We would also point out that the program proposed by S. 1872 would impose a significant paperwork burden on the employer at a time when the Federal Government is attempting to reduce such a burden and would also increase the Federal agency's paperwork due to new approval requirements that do not accord with those currently followed by VA programs."

The "Career Development, Advancement and Training Program" will not impose a significant paperwork burden on the employer at a time when the Federal Government is attempting to reduce such burdens and would not significantly increase the Federal agency's paperwork. Its approval requirements are in accord with those currently followed for existing VA programs.

Finally, the VA sought to discuss the potential cost aspects of the "Career Development, Advancement and Training Program."

Throughout its report, the VA sought to dismiss the magnitude of veterans unemployment and underemployment, hailed as successful and effective the current employment initiatives, portrayed the Career Program as unnecessary, and then, contended that more than 500,000 veterans would participate in the program.

The VA estimates the cost per veteran in the "Career Development, Advancement and Training Program" to be less than $2,900. The Congressional Budget Office (CBO) figures of $223,000,000, and the VA's figures of $500,000,000 are predicated upon the VA's estimate being based upon more than twice the number of participants in the program.

Either cost estimate makes the "Career Development, Advancement and Training

Program" less costly and more effective per veteran than any other Federal employment and training program.

Cost per veteran of current programs and of the "Career Development," advancement and Training Program":

Program and cost per year:

Career development program, $2500.

Unemployment compensation/lost tax, $3600.

GI bill participation, $3798 (9 months × $422 GI Bill payment for veteran + 2 dependents).

VA on-the-job training, $4000.

CETA public service employment, $7800.

HIRE II, $3684 (includes unobligated funds).●

THE AGRICULTURAL COMMODITY EXPORT EMBARGO

● Mr. COCHRAN. Mr. President, it is time to officially end the charade imposed on our American farmers called the "Agricultural Trade Suspension" to the Soviet Union. Therefore, I am pleased to join Senator Dole and other concerned Senators in cosponsoring S. 2855, a bill to rescind the agricultural commodity export embargo to the Union of the Soviet Socialist Republics.

Most analysts agree that this embargo has been ineffective. With the announcement by the Department of Agriculture on June 20 that the large multinational grain companies may sell foreign-produced grain to the Soviets, the embargo has been called off for everyone except the American farmer. This latest decision is but another in a series of bad decisions starting with the embargo of grain to the Soviet Union.

It would not have taken much review of past embargoes to quickly see that they do not work and have always hurt the American farmer both in the short run and the long run.

I thought we learned a lesson with the embargo of soybean exports to Japan several years ago. That decision led to the rapid development of soybean production in Brazil with the support of considerable financial interests from Japan. One clear example of how the soybean industry is developing was reported in a Washington Star article by Bill Hieronymus on March 3, 1980, entitled "Brazil Pushes Production of Soybeans." In this article he reported on a visit to a 50,000-acre farm in the center of South America near Paraguay which included over 27,000 acres of soybeans. The land itself is part of an interior region of Brazil called the cerrados which includes about 650,000 square miles or a fifth of Brazil's land surface. Agricultural specialists both in Brazil and elsewhere believe that much if not most of the cerrados can be easily cleared. With the application of calcium or limestone to correct the acid soil and other fertilizers, the land can provide a giant new breadbasket for the world. At the top of the list of reasons for the accelerated development of soybean production in this region is the embargo on Japan in 1973.

The current embargo is having similar effects despite early assurances by President Carter that the other major grain and soybean producing countries would support the embargo. The fact of the matter is that the Soviets have been able to purchase most of the grain and meat they needed through Argentina, Canada, West Europe, neighbors in East Europe and even China. By USDA's own estimates, the Soviets will import 30.5 million metric tons of grain this year. By purchasing grain from the other sources, USDA estimates that the Soviets will fall only 3-percent short of their projected need. Often these purchases have been at premium prices while the prices in the United States have been depressed.

To add further to the problem, the Soviets and Argentina are discussing entering into a multiyear trade agreement. This is a direct effort by the Soviets to replace the United States as the primary source of supply. There is no doubt that the U.S. farmer has lost a permanent market for this grain and will be reduced in the future to the position of residual supplier in a market that was our largest cash customer of grain in 1979.

The President knew in advance that embargoes do not work and that the impact has always hurt the American farmer and economy, yet he chose this course of action when there were other alternatives available to him.

The decision to impose the embargo went counter to the strong commitment that President Carter made to the American farmer when he ran for office in 1976. In his Presidential campaign he stated:

> But I prefer to go on from my farm to the White House and stop embargoes once and for all.

He also said:

> It's not my idea of a fair shake when the Government promotes foreign sales, and then cuts them off for political convenience.

This position was further strengthened in late 1977 when he assured farmers in the State of Iowa that—

> One of the promises I made to the farmers of this State and others during my campaign was there would be no more grain embargoes—and you can depend on that. There will not be as long as I am in the White House.

Not only has he gone against repeated promises, but the insuing decisions have been to the detriment of farmers. The most recent announcement to let the large multinationals continue to sell to the Soviet Union is the straw that broke the camel's back. This decision has in effect ended the embargo since there is no way to keep up with grain once it leaves our shores. The problem is that no one will admit that the grain going to the Soviets is from the United States, thus the potential is great that the U.S.S.R. will get our grain at the same time that our farmers are told that it is not theirs. The result will be continued low prices.

It is time to treat our farmers as fairly as the large grain companies. The best way to do this is to end the embargo.●

IMPRUDENT YEAR-END SPENDING PRACTICES OF FEDERAL AGENCIES

● Mr. INOUYE. Mr. President, I want to share with my colleagues an article that appeared in the June 18 editorial of the Washington Star discussing the imprudent year-end spending practices of Federal agencies.

As my colleague, Representative Herbert Harris, so adequately states in the article:

If Congress is going to be serious about trimming Federal expenditures and balancing the budget, it must put a lid on wasteful year-end spending sprees by Federal agencies which are costing millions, perhaps billions, of dollars.

In an attempt to establish controls on year-end expenditure practices of federal agencies, Representative Harris in early May introduced legislation, H.R. 7287, to insure greater prudence and foresight on the part of Federal employees with responsibility for passing out the bucks.

Likewise, early this month, I introduced similar legislation, S. 2790, to limit the amount that may be obligated by any agency of the Federal Government for contracts in the last 3 months of any fiscal year.

Although the two bills differ somewhat in composition and spending limitations, both bills will encourage better management throughout the Federal sector and save the taxpayers money. I commend Representative Harris' attempts to make our Federal agencies become more fiscally responsible. I hope that others in the Congress will have the wisdom and foresight, as does Representative Harris, in making such needed budget policy changes.

I ask that the article from the Washington Star be printed in the Record.

The article follows:

YEAR-END SPREES

There is no more dread phrase in the handbook of bureaucratic zigs and zags than "unobligated funds."

The prospect of having to explain on Capitol Hill why one's agency has not spent all its money can turn strong undersecretaries into parodies of bureaucratic self-assurance. The reason for such terror, of course, is that a federal barony that hasn't disposed of its appropriation can hardly argue with a straight face that the fate of the republic demands a threefold increase in its budget.

A confession of anemic spending would represent an institutional death wish—which is why in the waning fiscal year invariably involves a multi-million dollar frenzy of letting contracts, signing off of grant applications and commissioning consultant studies. "Use it or lose it," the song goes. This routinely involves an abysmal waste of tax dollars and frequently a distortion of the programs and policies the money is appropirated to sustain.

"If Congress is going to be serious about trimming federal expenditures and balancing the budget," says Rep. Herbert Harris, D-Va., "it must put a lid on wasteful year-end spending sprees which are costing millions, perhaps billions, of dollars." In joint hearings earlier this year, Mr. Harris and Sen. David Pryor, D-Ark., took a look at consultant contracts—54 percent of the contracts in a General Accounting Office sample were awarded at the shank of the year and, in many cases, the agencies had the capability to do the work they were paying consultants to do.

Mr. Harris has fashioned a tourniquet that could slow, if not staunch, the bleeding. He will offer amendments to the 1981 appropriations bills, which the House begins considering this week, to prohibit agencies from spending more than 20 percent of their budgets in the last two months of the fiscal year.

While the restriction cannot end the awarding of marginal contracts or grants, it may compel some greater prudence and foresight on the part of federal employees with responsibility for passing out the bucks.

To counter any skepticism about the pervasiveness of year-end spending. Mr. Harris released an interim report of a broad GAO investigation, which took a close look at the Fiscal 1979 performance of four agencies. All were over 20 percent. The velocity of spending during the last two months, as a percentage of annual budget, for two of the agencies was astounding: 47.2 percent at HUD, or $16 billion, and 41.7 percent at the Environmental Protection Agency both then-HEW and the Interior Department were above 20 percent, but not so far as that.

Those figures represent a goodly amount of money from any perspective. The GAO's unsurprising conclusion: "Waste occurs through the funding of low-priority projects, the stimulation of demand for unplanned, nice-to-have products or services, short-cutting the procurement process that lessens competition, or inadequate prerequisites for the negotiation of sole-source contracts."

The study was backed by a roster of horrible examples. A tale of Interior's Bureau of Indian Affairs was engaging. In May 1979, BIA submitted a requisition for one road grader, but in September the bureau found it had excess money on its hands and called around to other "possible users" to see if road graders appealed to them. On Sept. 24, a $460,440 contract was awarded for eight graders. On Oct. 5 three more greaders were added to the contract which then was backdated to Sept. 28 to get the expenditure under the fiscal-year wire. The contract finally cost $633,105.

The Harris proposal should commend itself to his austerity-minded House colleagues. If successful there, the Senate surely would find its logic unassailable.●

THE PROPOSED EXPORT OF NUCLEAR FUEL TO INDIA

● Mr. CRANSTON. Mr. President, I have stated on previous occasions my opposition to the proposed export of nuclear fuel to India. I believe that there are compelling foreign policy and nuclear nonproliferation arguments which militate against this sale. And I urge my colleagues to join in support of a resolution of disapproval blocking this export.

While this issue rests before the Senate Foreign Relations Committee for further consideration by its membership, a strong majority of the House Foreign Affairs Committee has already indicated near unanimous, bipartisan support for a resolution of disapproval. At a hearing before the House Committee yesterday, Representative Jonathan Bingham elaborated on the position taken by his committee colleagues and outlined his arguments for opposing the export of more nuclear fuel to India.

I submit for the Record the full text of Representative Bingham's testimony which I commend to my colleagues' attention.

The statement follows:

Statement of Hon. Jonathan B. Bingham

Thank you, Mr. Chairman. I appreciate this opportunity to testify before the Committee and will be pleased to answer any questions.

First, of all, I would like warmly to commend the distinguished Chairman for his leadership role in the Committee and the Congress on many nuclear nonproliferation matters, and particularly on this crucial test case of the policy involving India. You have consistently offered sage advice and guidance to the Administration. When they have chose not to follow it—as in the present situation—you have inspired efforts to forge viable compromises in the Congress.

Last Thursday, you, the Chairman of the Asian and Pacific Affairs Subcommittee, Mr. Wolff, and more than 20 other members of this Committee joined me in introducing resolutions to disapprove only two of the seven proposed nuclear exports to India (H. Con. Res. 367 and 368). The seven licenses now at issue before the Congress were rejected on June 9, 1980, by unanimous vote of the Nuclear Regulatory Commission. As you all know, President Carter overruled the NRC last week and sent everything to us under a single Executive Order.

Our collective decision to oppose the transfer of nearly 40 tons of low-enriched uranium to India but to seek support in the Congress for continued supply of a wide range of essential safety-related component parts for the Tarapur reactors is clearly intended as a gesture of good will toward India. It is a signal of hope that U.S.-Indian nuclear differences might eventually be resolved. This course of action, which I believe represents a very positive and constructive compromise, will uphold vital U.S. international interests in a strong and viable nuclear nonproliferation policy while permitting a continued dialogue with India on the nuclear question. Moreover, it underscores our belief that there is ample room for strengthened bilateral relations with India in the areas of trade, economic development assistance and security assistance which do not demand reversals of U.S. policy as a precondition for success.

Against this background of compromise and hope, it is my conviction that there are no benefits to allowing the transfer of 38 tons of nuclear fuel to India which are not greatly overshadowed by the crippling blow it would deal to U.S. nonproliferation strategies, and to our credibility generally in the conduct of difficult foreign and security policies. Mrs. Gandhi's flagrant violation of peaceful use guarantees given to the U.S. by exploding a nuclear device in 1974, and her repeated and conclusive rebuffs to all U.S. efforts to negotiate fullscope safeguards remove—in my view—any moral or legal obligations to continue the nuclear supply relationship. I believe the United States must draw the line here and now until India commits itself to what nearly 110 nations already have: comprehensive international safeguards and unequivocal peaceful use guarantees. These requirements are at the heart of the international Nuclear NonProliferation Treaty regime, and of the Nuclear NonProliferation Act.

I would like to explain my position by systematically addressing each of the arguments you will hear today from those who feel we must send the fuel.

It will be said that the United States should send more uranium to India in order to remove an irritant in our bilateral relationship, particularly in the wake of developments in Afghanistan. This position assumes a great deal. It assumes that the removal of an irritant is a more important foreign policy goal than our nonproliferation and security objectives in that region of the world—such as avoiding an Indo-Pakistani nuclear arms race. It assumes that U.S.-Indian relations rest precariously on the nuclear fuel issue alone—ignoring the fact that India is dependent on the U.S. for significant high technology and chemical products, that U.S. development assistance to India is substantial, that the United States will still be providing vital nuclear components for the safe operation of the Tarapur reactors, and that Mrs. Gandhi clearly wants from us sophisticated military hardware—such as 3,700 TOW missiles—to balance somewhat India's supply relationship with the U.S.S.R. Finally, it assumes that sending more nuclear fuel will actually produce not just a good atmosphere, but concrete results. I would note that Mrs. Gandhi concluded a $1.6 billion military supply agreement with the Soviet Union *after* she received assurances from President Carter that he would support these fuel shipments. She has also since signed a long-term trade agreement with Iran that directly undermines U.S. sanctions policy.

It seems apparent that India will conduct a post-Afghanistan foreign policy which best serves her perceived self-interests—one of which clearly is not to become overly dependent on the U.S.S.R., something to keep in mind when the spectre of throwing India into the Soviets' hands for uranium is raised in defense of shipping the 38 tons in question here.

Proponents of approving the pending nuclear fuel applications will also argue that this will have important nuclear nonproliferation benefits. This argument must be clearly seen for what it is and where it leads.

The U.S. and India concluded a nuclear Agreement for Cooperation in 1963 under which the United States supplied the two Tarapur nuclear reactors—on extremely concessional terms, by the way—and fuel for those reactors. India interprets that agreement (as amended in 1971) as permitting it to remove agreed-upon safeguards over U.S.-supplied fuel if the U.S. for any reason should slow or halt nuclear supply. The U.S. has vociferously disagreed with this interpretation—and I would recommend you pursue with the Administration witnesses the reasons for that. Both the Administration and the Congress made very clear their views about that Agreement in the very wording of the Nuclear NonProliferation Act. We all agreed on a provision for eventual cut-off of supplies for countries that didn't accept fullscope safeguards and that clearly included India, although we knew then that India would claim that such a cut-off would violate our 1963 supply agreement. Now the Administration seems to be backing away from that posture and it is now suggested that, if the United States wants to prevent the misuse of previously exported uranium, it must in effect accede to India's interpretation of the 1963 Agreement, ignore the requirements of the U.S. law, and transfer more uranium.

What this comes down to is that we are dressing up blackmail as a nonproliferation argument. Moreover, those who advocate this approach imply that the pending shipments, if made, will buy us the protection which the United States seeks. They won't. If we accept the Indian logic, we will have to approve every fuel shipment between now and 1993, when the Agreement expires. And, even having done all of this, we will be faced in 1993 with another Indian interpretation of the 1963 Agreement: that she will then be under no obligation to maintain safeguards or U.S. controls over what will then be 480 tons of accumulated U.S.-origin spent fuel, enough for several hundred bombs. In the meantime, Mrs. Gandhi will no doubt continue to take the view that India is free to reprocess and even to make "peaceful" bombs out of the existing non-U.S., non-safeguarded stockpiles of weapons-grade material.

Thus, looking at the case as if only India were involved, there are not only no significant nuclear nonproliferation benefits to allowing the fuel to be sent, but there are very grave dangers and costs involved.

Looking at the issue in a broader, worldwide frame, the case is even stronger: for the U.S. to back away now from the Nuclear Nonproliferation Act's most fundamental requirement and to do so for India—the world's first nuclear violator—would critically undermine the credibility of the U.S. position in every other non-proliferation negotiation now underway. These include efforts to upgrade dozens of deficient bilateral and multilateral nuclear cooperation agreements, to persuade allies like Italy and Switzerland not to transfer weapons-related technology to countries like Pakistan and Iraq, and to negotiate controls for the future on plutonium use.

Moreover, the timing of such a concession could not possibly be worse. This is because a U.S. reversal comes at the very moment other nuclear suppliers—at our persistent urging—are on the verge of considering a fullscope safeguards requirement of their own. Rest assured that factions in the French, Swiss, German and other governments which have long resisted such a stand will make hay out of the U.S. backdown. Also, how can we expect Canada, which took the brave step in 1974 of cutting off nuclear trade with India and which has maintained an unswerving commitment to fullscope safeguards, not to feel sorely undercut?

Finally, and very importantly, by failing to follow through on our commitment to uphold the fullscope safeguards standard and to demand unequivocal peaceful use guarantees, the U.S. risks sending the signal that countries may violate agreements and acquire nuclear arms without incurring any costly penalties. Such a precedent will surely not go unnoticed by those countries—Argentina, Iraq, Korea, and other danger areas down the road—that at some point themselves calculate whether abrogating an agreement is worth it. The threat of sanctions in the nuclear nonproliferation area, as in every other aspect of our foreign and security policy, must be credible to have any deterrent effect.

In closing, I strongly urge my colleagues to consider the very real and the perceived costs of allowing the Indian nuclear fuel shipments to go forward. When you listen to finely-tuned legal arguments about whether the two shipments fall within or outside the "grace period" provided by the NonProliferation Act, keep in mind the unanimous NRC vote, the fact that two years of negotiations with India have produced nothing, and the more than two dozen editorials from major and small newspapers around the country casting this as a crucial test case of our nuclear nonproliferation policy. When you hear clarion calls to consider this a matter of "U.S. reliability" as an international nuclear supplier, remember who first broke faith with the U.S. and precipitated this crisis by violating peaceful use agreements.

I urge the Committee to support and report out H. Con. Res. 367 and 368 which will leave no doubt about U.S. commitments to pursue our enlightened self-interest through a tough nuclear nonproliferation strategy. At the same time, unlike the other resolutions pending before the Committee, these vehicles will allow the transfer of important safety components which do not fall under the fullscope safeguards requirement and which can provide a "mutual self-interest" basis for seeking cooperation in the nuclear area.●

YEAREND SPENDING

● Mr. LEVIN. Mr. President, yesterday evening my colleague from Maine, Senator Cohen, expressed his concern over the problem of yearend spending. He has been thorough in his understanding of the procurement process and relentless in his desire to get to the heart of this matter. I believe that his efforts to resolve the yearend spending binge by Federal agencies to be highly constructive.

The Subcommittee on Oversight of Government Management has held extensive hearings on this matter, and recommendations that will be offered will not necessarily be simple. As we researched the yearend spending problem, it became apparent that the real problem is generic. This Government's entire procurement and contracting management system must be reordered—not just to solve the yearend spending problem, but to make sure that stories like the ones we have been reading for the past week on the front page of the Washington Post will be only history.

The Senate Appropriations Committee has expressed a commitment to include language in the appropriations bills for fiscal year 1981 that will restrict fourth quarter spending by Federal agencies to 30 percent of that expended by those agencies over the entire year. I, along with Senator Cohen, have concluded that the 30 percent cap on fourth quarter spending is probably not a viable approach in itself to solving the yearend spending problem. This Government needs the imposition of tight management controls over the procurement process. As Senator Cohen said, the cap idea not only can be subverted, by pushing yearend spending back to the 9th or 10th month, but it can also take the eye of the public and the Congress off the real target, and delay if not indefinitely postpone, our wrestling with the more complicated but more productive solutions.

I join with Senator Cohen in urging the Appropriations Committee not to adopt a yearend cap for fiscal year 1981, but to give Congress the opportunity to draft and enact a real contracting and procurement reform measure.●

AFFIRMATIVE ACTION AGAINST EQUAL PROTECTION—XII

● Mr. HATCH. Mr. President, up until now in this series, I have been discussing affirmative action in theoretical terms. This is necessary, because it is above all an issue of principle. But to many ordinary Americans, it is a matter of most harsh and pressing reality. We in public life, and our friends in the media, have simply chosen to ignore this aspect of the lives of the American people. Therefore, I think we should occasionally consider reports from the front line such as a recent "Point of View" column written by Bruce Alan Johnson and published by the U.S. Industrial Council in Nashville, Tenn. Mr. Johnson is international services assistant of the American Radio Relay League. What he is describing is not merely a further example of bureaucratic imperialism, but an unmistakeable shadow upon the first amendment.

I commend this item to my colleagues, and ask that it be placed in the Record.

The column follows:

Pressures on Electronic Journalism

(By Bruce Alan Johnson)

"Minorities don't want special favors!" exclaimed the accomplished black UCLA economist Thomas Sowell recently on Milton Friedman's "Free To Choose" television series. He added that he had never met a black who favored so-called "Affirmative Action" programs inculcated by the federal government in an effort to reapportion America's labor force through unfair legislation.

Now the Federal Communications Commission has announced that radio stations must immediately meet tighter minority hiring requirements, or face automatic review of their entire operations when the time comes to renew their public licenses. (The only radio and television stations to be exempted are those having five or fewer employees.)

An article in the Feb. 14 Wall Street Journal reports that the new guidelines ". . . call for stations with staffs of 11 to 50 people to have a percentage of minority and female workers on their staffs that is at least half the percentage of them in the local work force." As usual, there are grand generalizations around which painful and time-consuming "interpretations" are bond to arise, as stations begin to test this vague formula against both the available work force in the local area and the station's own specific needs. (There are several stations in Fargo, North Dakota, for example. But how many minority and women candidates are there in Fargo who are qualified for a job in broadcasting?)

Capitol Hill has recently been focusing a good deal of attention on the FCC, as criticism of this federal bureaucracy continues to draw fire from both the executive and legislative branches in Washington (not to mention the private sector!). It is long overdue. With the present re-writing of the 1934 Communications Act by Congress, even more attention is finally being paid to the sound arguments for freeing the broadcast industry altogether from federal regulation.

In a time when the information industry itself is growing like topsy the world over, this latest move by the FCC should be publicized loudly and widely as a further encroachment into the rights of free Americans to hire the best qualified employees regardless of race, color, religion, or creed. It's time, in other words, to stand up for free communications unfrettered by a federal agency claiming to play a watchdog role in an industry already being strangled by ever-increasing federal controls.●

FEDERAL HIGHWAY FUNDING

● Mr. BUMPERS. Mr. President, during consideration of the supplemental appropriations bill, I raised the issue of the administration's proposed deferral of Federal highway funds and the subsequent redistribution of remaining obligation authority among the States. Senators Bayh and Schmitt and I agreed on the necessity for reducing the obligation limit this year, and also agreed that some States, such as Arkansas, New Mexico, and Vermont, were adversely affected.

After a meeting with the Federal Highway Administrator, Mr. Hassell, we decided to insert report language to indicate to the FHWA that any redistribution of funds made on August 1 ought to be redistributed with an eye towards alleviating the underfunding of States' apportionments as a result of the FHWA formula.

I might also express my support for the Bentsen amendment to the urban mass transit authorization bill, which will hopefully prevent a recurrence of what happened this year.

Mr. President, I ask that the opinion issued on June 23, 1980, by the U.S. district judge in the case State of Arkansas against Neil Goldschmidt be printed in the Record.

The opinion follows:

[In the U.S. District Court, Eastern District of Arkansas, Western Division—No. LR-C-80-192]

State of Arkansas, ex rel. Arkansas State Highway Commission, Plaintiff v. Neil Goldschmidt, Secretary of Transportation of the United States, Defendant

MEMORANDUM AND ORDER

In compliance with the Court's directive, the parties have addressed the issue of the recalculation of the ceiling on budget authority which Arkansas is entitled to have obligated to it in fiscal year ("FY") 1980 under the Federal-Aid Highway Act ("F-AHA"), 23 U.S.C. §§ 101-156, and this Court's decision of 21, 1980, *Arkansas v. Goldschmidt*, —— F.Supp. —— (E.D. Ark. 1980). A hearing was held on June 19, 1980, at which both parties were heard on the issue. Having carefully considered all the written pleadings, briefs, and oral arguments in the case, the Court now resolves the issue. This Memorandum and Order should be read in conjunction with the Memorandum Opinion of May 21, 1980. *Id.* It should also be read in the light of the Court's comments and the parties' arguments at the June 19 hearing.

The phrase "obligational ceiling" is used to describe a limit on the amount which may be "obligated" in a particular fiscal year. The imposition of an obligational ceiling on F-AHA budget authority for FY 1980 has made it impossible to satisfy all elements of congressional intent embodied in the F-AHA. To the extent possible, however, the Court should require that any administration of the F-AHA conform with and implement ascertainable statutory intent.

In its Memorandum Opinion the Court determined that each state should have the opportunity to obligate its pro rata share of the restricted amount of budget authority which may be obligated in FY 1980. The Court agrees with both parties that each state's basic obligational ceiling should reflect that state's share of the nationwide total of the budget authority apportioned or allocated under statutory or administrative formulas ("formula funds"). That is, the Court adopts as a starting point the "first possibility" identified in the Memorandum Opinion and discussed by both parties in their pleadings.

Having adopted this starting point, the Court must decide what, if any, other factors should be considered in establishing state obligational ceilings. The most difficult issue is whether each state's obligational ceiling should reflect not only that state's share of the formula funds, but also its share of budget authority allocated at the discretion of the Secretary of Transportation ("discretionary funds").

The defendant has argued that each state's ceiling should be proportional only to its share of the *formula* funds. In other words, each state's obligational ceiling should be a percentage of the nationwide obligational ceiling which is equal to the percentage of nationwide formula funds represented by that state's formula funds. Since Arkansas receives slightly less than 1 percent of the nation's formula funds, Arkansas' overall obligational ceiling would, under this approach, be slightly less than 1 percent of the nationwide ceiling of $8.567 billion.[1]

The plaintiff objects that such an approach is not warranted, since the formula funds represent only about 90 percent of the total FY 1980 budget authorizations. Roughly 10 percent of the FY 1980 authorizations are *discretionary* funds which are not distributed pursuant to stautory and administrative formulas, but are allocated at the discretion of the Secretary of Transportation ("the Secretary"). The Secretary's approach would not take account of the distribution of these discretionary funds in calculating individual state ceilings. It would completely ignore the defendant's own decisions controlling the distribution of roughly 10 percent of the total F-AHA budget authorizations and would derive percentages for each state based on only the remaining 90 percent. The Secretary has offered no tenable rationale for distributing obligational authority among the states on the basis of *parts* of the F-AHA's distributional scheme while ignoring other equally significant parts of the distributional scheme. And the Court can find no rational basis for such an approach.

The Court therefore finds merit in the plaintiff's objection. Obviously, the reason to tie each state's obligational ceiling to the statutory provisions is to preserve the congressional scheme for distributing spending power among the states. Reference to each state's share of formula funds is designed to preserve the statutory intent to apportion and allocate formula funds, the bulk of F-AHA budget authority, pursuant to specific formulas. There is, however, no statutory intent that discretionary funds be allocated pursuant to any specific formula or formulas. Rather, there is a clear statutory intent that the discretionary funds part of the budget authority authorized each year be allocated at the discretion of the Secretary. This provides a distribution scheme which allows some flexibility for dealing with the most pressing highway needs each year.

The plaintiff suggests that the statutory scheme of providing separately for formula and discretionary funds can be maintained under the FY 1980 ceiling and should, therefore, be reflected in each state's obligational ceiling. The Court agrees and concludes that the clear statutory intent requires such an approach. To determine the basic obligational ceiling for each state, one should first determine what percentage of the total fiscal year authorization is represented by the nationwide fiscal year ceiling. For FY 1980 the ceiling is approximately 97.799 percent of the FY 1980 F-AHA authorizations.[2] That percentage may then be applied to the formula funds for each state to determine the basic ceiling for each state, which will thereby reflect that state's share of the formula funds.

This basic ceiling should then be augmented by the same percentage of any discretionary funds allocated to each state during the year. Adding the augmentation to the basic ceiling, we find that each state's proper obligational ceiling for FY 1980 is approximately 97.799 percent of the state's formula funds plus approximately 97.799 percent of the state's discretionary funds, which is equal to approximately 97.799 percent of each state's total apportionments and allocations (formula and discretionary) for FY 1980. The plaintiff has indicated in its latest pleading that the total formula and discretionary funds apportioned and allocated to Arkansas in FY 1980 amount to $93.482 million. Based on this figure, Arkansas' ceiling, before adjustments, is estimated to be $91,424,461.

The disparity between this result and the result which would obtain under the Secretary's approach reinforces the Court's decision. While Arkansas receives slightly less than 1 percent of the nation's formula funds, it has received over 2 percent of the nation's discretionary funds in FY 1980. These discretionary funds will lapse if not obligated by the end of the fiscal year and will no longer be available to Arkansas. If Arkansas' obligational ceiling does not take account of Arkansas' relatively high percentage of discretionary funds in FY 1980, the Arkansas ceiling will be lower (approximately $83.588 million), and Arkansas will be forced to make considerable sacrifices in formula funds spending in order to obligate the discretionary allocations. This result would skew the clear statutory intent to make spending power available to each state pursuant to *both* specific formulas *and* the Secretary's exercise of discretion with respect to special programs.

The Secretary has proposed two types of adjustments to the ceiling, to which the plaintiff has objected. The first is an adjustment which reduces the ceilings for most states, including Arkansas, by a pro rata amount of the excess obligations of states which have already obligated amounts above their appropriate ceilings, as defined in this Memorandum and Order. A few states appear to have exceeded their appropriate FY 1980 ceilings because the policy heretofore followed by the Secretary permitted greater obligations by some states than does the Court's approach. These excesses cannot be recovered. They are irretrievably contractually committed to the states. If an adjustment were not permitted for them, there would not be enough obligational authority to allow each state to obligate to the full extent of its appropriate ceiling under any nationwide remedial scheme. Even though the relief granted by the Court is for only Arkansas, the approach utilized by the Court should be one which could be evenly and fairly applied to all states.

The Court, therefore, agrees with the Secretary that adjustments should be made to take care of these over-obligations, not on the theory that this approach reflects statutory intent, but rather in recognition of the fact that a mistake has been made which cannot be otherwise corrected. A solution which spreads the mistake proportionately among all the states is an appropriate use of discretion in such circumstances. The statute does not preclude the Secretary from exercising discretion in this way.

The adjustment will be allowed only for excesses obligated on or before May 21, 1980, however, since on that date the Court ordered the Secretary to preserve sufficient budget authority to effectuate any relief to which Arkansas might be entitled. If data for May 21 are not available, data from the latest possible prior date may be used in making the adjustments. As indicated in the defendant's latest pleading, the adjustments will probably have to be made in at least two stages.

The Secretary has also proposed an adjustment to avoid any state's being forced to let budget authority lapse in FY 1980. The Court agrees with the Secretary that an "anti-lapse" adjustment, which finds precedent in prior practice, is not contrary to statutory intent. Therefore, such an adjustment will be permitted.

The Court does not have before it all the figures necessary to determine precisely how much budget authority must be made available to Arkansas for obligation in this fiscal year. Nevertheless, time being so critical in this case, the Court considers it appropriate now to order the defendant to cease delaying approval of Arkansas' proposed F-AHA projects. The Court will consider granting a stay of this order if a notice of appeal and a motion to expedite appeal are filed within ten days from the date of this order. If a notice of appeal and a motion to expedite are not filed within that period, this Court will not be inclined to grant a stay. In the meantime, the order is effective immediately.

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[1] Congress imposed a nationwide obligational ceiling of $8.75 billion for FY 1980. After a deduction for administrative costs, aproximately $8.567 billion remains available for obligation to the states.

[2] In the plaintiff's latest pleading, the following figures were used, and the Secretary has not objected that they are inaccurate: $8.567 billion (FY 1980 ceiling after administrative cost deduction) divided by $8.7599 billion (FY 1980 authorizations after administrative cost deduction) equals 97.799 percent.

It is therefore Ordered that the defendant be, and he is hereby, directed to immediately begin the standard and usual processes for the approval or disapproval of Arkansas' proposed F–AHA projects and to complete the processes within the usual and ordinary time-frames for project review. The defendant is further directed to forthwith make available to Arkansas for obligation the amount of budget authority to which it is entitled under this Memorandum and Order. That amount, and the manner of its calculation, shall be reported to the Court by the defendant or his representative by 2:00 p.m., Central Daylight Time, on Friday, June 27, 1980. Any objections thereto shall be reported to the Court by 12:00 noon on Tuesday, July 1, 1980.

It is further Ordered that the defendant be, and he is hereby, directed to retain and protect under the F-AHA sufficient obligational authority to make available to Arkansas a total of $91,424,461 for FY 1980.

It is further Ordered that the defendant be, and he is hereby, directed to preserve, until final resolution of this case, a record of the order of the filing of F-AHA project proposals for all states, based on the filing times and dates.●

RAPID DEPLOYMENT FORCES

● Mr. **STEVENSON**. Mr. President, the Senate will soon take up the DoD Authorization Act for fiscal year 1981. The bill provides $1.127 billion for the rapid deployment forces. This program could eventually cost $10 billion or more over the next decade. Congressional approval of these funds would imply a U.S. willingness to intervene around the world militarily—an implication we cannot afford to make lightly. We must consider this matter very carefully before reaching a decision. We have already heard from the administration and the Pentagon on the RDF. The staff of Members of Congress for Peace Through Law, in a study of the costs, foreign policy implications, mission, and capabilities of the RDF and its relevance to the War Powers Act, has raised some interesting questions which merit attention. The report is not intended to reflect the views of MCPL members but it does offer a useful perspective from which to view the RDF.

I ask that it be printed in the RECORD.

The report follows:

RAPID DEPLOYMENT FORCES: REASSURANCE OR THREAT TO AMERICAN SECURITY INTERESTS?

INTRODUCTION

The Carter Administration has proposed the establishment of a special, quick-strike Rapid Deployment Force (RDF) of up to 110,000 troops for use in future conflicts in turbulent regions such as the Persian Gulf. The new RDF proposal is designed to upgrade the United States' existing rapid deployment capabilities over the next five years. Its five-year estimated procurement cost is $9 to $10 billion; $354 million has been requested in the FY81 DOD budget.

The Administration proposals will come under increasing scrutiny as Congress deliberates not only requested procurement items, but also the larger question of whether an RDF will help the U.S. achieve its foreign policy objectives.

Proponents of an RDF contend that we must be able to move our ground, sea and air units to distant areas rapidly and with adequate supplies; that our present capabilities are not sufficient to cope with potential threats to crucial oil supplies; and that the creation of a force will demonstrate U.S. interest in the political stability of the Gulf.

Critics of the force content that it would be of little use in defending Persian Gulf oil; that it would be a destabilizing force in the Middle East and much of the Third World; that it would be very costly; that it could be abused as an interventionary force, involving the U.S. in a continuous string of hostilities around the world; and that diplomatic and economic initiatives—rather than a resort to military adventurism—represent the only policy which will effectively protect U.S. vital interests in the 1980's.

This paper addresses many aspects of the RDF, including its history; its structure, equipment and costs; its mission, along with commentary on its capabilities; an analysis of the attitude of Third World countries, especially in the Persian Gulf, toward U.S. military presence; and an analysis of Congress' role in sending RDF troops to combat.

THE HISTORY OF THE RDF CONCEPT

The RDF is not a new idea. The concept was first initiated, debated, and eventually rejected by Congress under the Johnson Administration 15 years ago. RDF's earliest beginnings can be traced to a 1958 Rockefeller Foundation report, authored by then Harvard Professor Henry Kissinger, which later came to the attention of Defense Secretary McNamara.

Despite early support for the RDF concept in 1965, the program was eventually rejected for two reasons. First, it was thought that this force would be a foreign policy liability, in that it would project a negative image of American intentions around the world. Second, as Senator Richard Russell (who had originally supported the RDF) noted: ". . . this will increase the dependence of our allies all over the world on the United States to straighten out anything that goes wrong anywhere. . . ." In short, the U.S. could find itself involved in an endless procession of small wars all over the world.

Military equipment requested for the RDF in 1965 is similar to that requested in the FY 81 DOD budget. In 1965, DOD proposed building a fleet of cargo planes (C–5As) of massive proportions that could carry huge payloads and deliver them on the short, rough runways of less developed countries. A fleet of 120 C–5As was originally planned; however, large cost overruns, inflation and the C–5A's inability to meet early expectations (such as landing on austere runways), forced the military planners to reduce the number to 81, of which 76 are still operational. (The C–5A is presently undergoing a wing modification program.)

Prepositioned ships, then called Forward Deployed Logistical ships (FDLs), were also requested 15 years ago. An original request for $131.8 million for the construction of four FDLs was cut back to half that in the 1966 Defense Procurement Act, largely due to the experimental aspects of the plan. High costs for a military escort for the FDLs, along with opposition to the project by the Merchant Marine, led to cancellation of the FDL program during debate over the FY 68 Defense Procurement Act.

The RDF concept remained relatively dormant for over a decade until anticipated threats to Persian Gulf oil and recent events in Iran and Afghanistan again raised concerns over rapid deployment of U.S. forces.

STRUCTURE, EQUIPMENT AND COST

RDF Joint Task Force: A Joint Task Force (JTF), headed by Marine Corps Lieutenant General Paul X. Kelley, has been established to "plan, train and exercise as well as prepare selected units . . . for deployment and employment." The JTF, based in Florida, will serve as a planning headquarters and, during times of crisis, as operational headquarters. A decision to activate the RDF would begin at the Presidential level, move down the chain of command to the National Security Council, then to the Joint Chiefs of Staff, and finally to the JTF. The JTF is designed primarily to correct the present lack of coordination between the various elements of the Armed Forces that would comprise the RDF.

Manpower: No additional manpower is presently planned for the RDF. The 110,000 troops will be drawn from existing forces in the various branches of the Armed Forces. The 82nd Airborne and the 101st Airmobile divisions of the Army are likely candidates because of their flexible and highly mobile nature. In addition to these forces, two to four Marine divisions are to participate in the RDF, along with elements of the Navy and the Air Force, including three Carrier Task Forces and several tactical fighter and airlift wings. The units to be used will depend on the contingency at hand and the expertise needed.

EQUIPMENT AND COSTS

The Department of Defense has requested $354 million for fiscal year 1981 for two new procurement items; the T–AKX ships and the CX aircraft. Total five-year cost is estimated at about $10 billion. Other related military equipment, while not exclusively for RDF use, is included in the enhancement of rapid deployment capabilities, and is estimated to total over $3 billion over the next five years.

T–AKX Maritime Prepositioned Ships will be loaded with military equipment—five T–AKXs will carry supplies for one Marine Amphibious Brigade—and will be positioned near potential trouble spots. These ships will be equipped with dehumidified storage—a necessity for some of the sophisticated weaponry which will be on-board. The T–AKX will also have Roll-On/Roll-Off (RO/RO) capabilities, which will allow mobile equipment to be loaded and unloaded under its own power.

Estimated Cost: A total of $280.5 million has been requested for the T–AKX program in fiscal year 1981: $174 million for construction of the first ship, $33 million in long-lead construction funds for the second, $66.7 million for the initial procurement of on-board military equipment, and $6.8 million for RDT&E. A total of 14 T–AKXs are to be built over the next five years at an estimated cost of $1.5 billion; the cost of on-board equipment over the next five years is also expected to reach $1.5 billion.

Comment: While these ships will no doubt be capable of prepositioning and maintaining equipment, it is questionable whether a new generation of ships can be justified in this period of budget austerity. W. Graham Claytor, Jr., Deputy Secretary of Defense, recently testified before the Seapower Subcommittee of the House Armed Services Committee that the Pentagon plans to procure or charter—for only $85 million—seven prepositioned ships for use in the Indian Ocean this year. According to Mr. Claytor, this force, which will be comprised of two to four RO/RO ships, two break bulk ships and two tankers, will be "an in-threatre logistical presence with unit equipment supplies, fuel and water sufficient to support roughly a Marine Amphibious Brigade of about 10,000 men and to sustain several USAF fighter squadrons."

The T–AKX is actually likely to be more efficient in loading and unloading, and will be better equipped to maintain on-board equipment, than these existing ships. However, the marginal utility of these improvements, given the high cost of the T–AKX and the five-year time lag before all 14 of them are fully operational raises serious questions about the cost-efficiency of the T–AKX.

The CX long-range cargo aircraft, now in the RDT&E stage, will be designed to carry outsize and heavy equipment (i.e. the XM-1 Main Battle Tank) over intercontinental distances. To date, DOD has not developed a specific design for this aircraft.

While design options are still being considered, ranging from planes as large as the C-5A to smaller planes able to land on austere runways, the design most likely to be approved will be a plane about one-half the size of the C-5A able to transport an XM-1 Main Battle Tank (weighing about 65 tons) over an unrefueled range of 2,000 to 3,000 miles. It has ben reported that Secretary Brown has been convinced that the intra-theatre capability of such a plane would be valuable, and that he has approved development of a design to allow the CX to use austere airfields that at present only the C-130 is able to use.

Estimated Cost: A total of $80.7 million has been requested for research on the CX program in FY 81.

The five-year cost estimate of the CX is $6 billion.

Comment: Critics of the CX have questioned the need for this aircraft for a number of reasons. First, the airlift of heavy equipment (tanks) in small numbers (one per plane) is not felt to be an efficient use of aircraft. Second, many believe that the plane's price-tag represents an unnecessary drain of military funds from more needed areas. Third, the delay in procurement time is thought to hamper our capability (some, remembering C-5A cost overruns and delays, suggest that delays might extend beyond five years.) Finally, many feel that ships rather than aircraft represent a more efficient way of moving heavy equipment long distances.

On March 27, the House Armed Services Committee voted 22-17 to reject the requested funds for the CX.

UPDATED BUDGET REQUEST "INDIAN OCEAN/RAPID DEPLOYMENT FORCE"

On March 31, 1980, the Department of Defense submitted requests for its budget supplemental for FY 80 and its budget amendment for FY 81, for a category entitled "Indian Ocean/Rapid Deployment Force." These items, totalling over $1 billion, include funds to provide an immediate rapid deployment capability in the Indian Ocean until the long-lead equipment for the RDF becomes available in the mid-1980's. The major provisions of the FY 81 Budget Amendment are as follows (in millions):

	Fiscal year—	
	1980	1981
Indian Ocean operations (O. & M. costs for 2 carrier task forces)	$139.4	$205.1
Maritime prepositioning ships	58.0	85.3
Maritime prepositioned equipment	4.1	-------
Military construction (planning and design of storage and operational facilities)	71.5	309.5
Other (communications, training, etc.)	135.0	19.5
Total	428.0	61.94

RELATED EQUIPMENT

Related military equipment, which can aid an RDF but also be used in NATO exercises, will also play a role in the upgrading of our rapid deployment capabilities. These systems include:

The acquisition of 26 KC-10 Advanced Tanker Aircraft to provide in-flight refueling and allow large aircraft to cross intercontinental distances without the need for en-route bases.

Estimated Cost: $309.7 million to construct six of these planes has been requested in FY81. The total cost of the program will approach $1.3 billion.

The C-5A cargo aircraft is undergoing wing modification to lengthen the life of each plane from 7,100 hours to more than 30,000 hours.

Estimated Cost: $178.6 million has been requested to modify 12 C-5As in FY81. Modification of the entire fleet is estimated at $1.1 billion.

The C-141 cargo aircraft is being "stretched" to enable each of the 271 aircraft to carry 30 percent more cargo, and to enable the planes to re-fuel in flight.

Estimated Cost: In FY81, 34 C-141s will be "stretched," at a cost of $25.6 million. Total cost for revamping the fleet is estimated at $190 million.

Thirty-six Commercial Aircraft will be adapted as part of the Civil Reserve Air Fleet (CRAF): this program makes commercial planes available for use in the armed forces in times of emergency, and adapts them to increase the amount of large cargo they can carry.

Estimated Cost: In FY81, seven planes are to be adapted at a cost of $78.9 million. The total cost for this program is estimated at $400 million.

Eight fast cargo ships (SL-7s) may be bought or leased.

Estimated Cost: $280 million purchase price is estimated.

Twelve dry cargo ships and 6 tankers are to be purchased and placed in the Ready Reserve Fleet.

Estimated Cost: The estimated FY80 cost for the cargo ships is $36 million; the tankers are estimated at $12 million over the next three years.

Modernization of nine CH-47 Army Helicopters has been requested for intra-theatre airlift of cargo and personnel.

Estimated Cost: $151.8 million has been requested for FY81.

THE USE OF THE MILITARY IN ACHIEVING U.S. FOREIGN POLICY OBJECTIVES IN THE THIRD WORLD

The most important question raised by the concept of rapid deployment forces is: Can the military achieve our foreign policy objectives in the Third World?

Recent Trends: Certainly, the lessons of Vietnam have shown the United States that a military response to a situation does not always secure the desired outcome. International condemnation of the Soviet Union for its military invasion of Afghanistan, and its difficulties in suppressing the Afghan rebels, are presently teaching the Soviets the same lessons.

The Persian Gulf is a region in which superpower rivalries are today coming to a head. The nations of the area voiced their opinions on superpower military presence often, and consistently, throughout the 1970's:

In 1971 and 1973, the United Nations General Assembly passed resolutions calling for the establishment of an Indian Ocean Zone of Peace—aiming to limit U.S. and Soviet military presence in this area;

In 1975, the State Department reported that none of the 29 littoral nations of the Indian Ocean supported proposed U.S. naval expansion on the island of Diego Garcia;

Iran seized the U.S. Embassy in retaliation for the injustices of the Shah's regime, whose survival depended on U.S. suoport;

Th Soviets were expelled from Egypt in 1972 and from the Sudan and Somalia in 1977.

Third World Concern over Superpower Intentions in the 1980's: Given the strength of the Non-Aligned Movement and the Islamic Revolution—with the resulting antipathy of many Third World countries to the presence or use of superpower military forces, it is appropriate to question whether RDF will be viewed as a threat or a reassurance by countries in the Third World, and whether its use would stabilize or destabilize a situation. While Defense Secretary Brown has pledged that RDF forces will not violate any nation's sovereignty, many nations have indicated that they view any superpower military presence in a negative light.

Fears of Soviet Expansionism: Only one Persian Gulf nation voted against the United Nations resolution condemning the Soviet invasion of Afghanistan: South Yemen. 13 other nations (Bahrain, Djibouti, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia and the United Arab Emirates) voted for the resolution. Syria and Yeman abstained.

More recently, statements from nations often regarded as Soviet "client states" have underlined their apprehension over Soviet military intentions. From Iraq, for example:

Iraq's President Hussein: "we reject Soviet expansionsm in the Arab world . . . We must take up arms against any foreigner who may violate Arab sovereignty."

Iraq's ruling party spokesman Tariq Aziz: "We are against Soviet influence—or its presence—on any inch of Arab land."

Fears of U.S. Expansionism: While certain nations, including Oman and Somalia, have made preliminary agreements to allow U.S. forces temporary basing rights, these negotiations are apparently proceeding at a slow pace. In part, the slowness of the negotiations is due to criticism by other Arab nations: Iraq, for instance, has criticized these states for accepting "a subservient stand."

Broader sentiment in the Persian Gulf and surrounding states seems to dictate against U.S. presence and against commitments to alliances with the U.S. as Pakistan has recently made clear. Specifically:

Jordan's King Hussein: "We oppose the deployment of any foreign troops in our area . . . Jordan would not allow its territory to be used by any foreign power in any context."

Kuwait's Minister of State for Foreign Affairs: "The people of this region are perfectly capable of preserving their own security."

Saudi Arabia's Prince Fahd: "We will never permit the creation of foreign bases on our territory because we do not want to enmesh our country in the intricacies of big-power conflicts."

United Arab Emirates' President Sheik Zaid: "The presence of American forces in the area is not something we expect from a friendly country like the United States. The peoples of the world would cooperate and live in peace if it were not for the intervention of the big powers. So these powers must work to keep the Gulf region clear of their rivalry."

Abu Dhabi's official newspaper, Al Wahdah, referring to the Carter Doctrine: "a suspect and malicious call aimed at surrounding the Arab area with U.S. influence and imposing political, economic, and military domination."

Iraq's Foreign Minister: ". . . The best thing that America can possibly do right now is to stop interfering in the affairs of this area."

Conclusion: In 1968, during debate on the first proposal for rapid deployment forces, Senator Richard Russell feared that "If it is easy for us to go anywhere and do anything, then we will always be going somewhere and doing something." This concern, along with worries that a U.S. military presence in the Third World would harm our diplomatic initiatives in this region, doomed the RDF concept a decade ago. They seem even more relevant to the RDF debate going on today—especially in an era of increasing U.S. strategic interests in the Third World.

MISSION AND CAPABILITIES

Defense Secretary Harold Brown has outlined the purpose of the Rapid Deployment Force as follows:

"In this challenging decade, getting there first with the right kind of capability may be even more important than getting there second with the most . . . Mobile, well-equipped, and trained conventional forces are essential to assist allies and other friends should conditions so dictate, and should our assistance be needed. . . . The units designated for the RDP will constitute a reservoir from which to draw a capability specifically tailored to the contingency at hand, (and) could be anywhere from a platoon of rangers to a multi-division corps."

While the RDF is designed generally to upgrade our capabilities to deploy U.S. forces abroad on short notice, specific missions are rarely discussed by Pentagon officials. Even such conceptual questions as whether the RDF will serve primarily as a deterrent force or as an intervention force have not been clearly defined.

Since U.S. forces are presently capable of conducting at least some short-term, "quick-strike" operations (such as evacuating American nationals from South Vietnam), it is assumed that an RDF is being developed primarily to perform new missions. In the absence of clear definitions by Administration officials, the following RDF contingencies are often used as examples:

(a) protection of an ally (usually in the Middle East) against aggression by a foreign power;

(b) protection of vital U.S. economic interests (also in the Middle East)—as in a mission to defend foreign oil fields against either foreign invasion or domestc disturbance;

(c) assistance to a friendly government (perhaps in Latin America) which is incapacitated by violent guerrilla activity;

(d) intervention against Soviet surrogate troops (perhaps Cubans) seeking territorial aggrandizement (perhaps in Africa.)

Limitless other contingencies are possible. There is, however, one acid test for RDF that can provide valuable insights into RDF capabilities and the implications of its use: this section will seek to address the use of RDF in the Persian Gulf, and the capability of RDF in several Persian Gulf contingencies.

SCENARIOS FOR RDF MISSIONS IN THE PERSIAN GULF

The two Persian Gulf scenarios most often discussed for RDF deployment are (1) at the request of an ally, to quell internal disruption; and (2) also at the request of an ally, to repel foreign invasion.

I. Domestic disruptions: Prior to discussing scenarios, it seems wise to evaluate the likelihood of an American RDF being invited by a Persian Gulf government to quell an internal disruption. Given the aversion of the peoples of the area to any outside interference in their internal affairs (as already discussed), and their desire to handle their problems within the Arab/Islamic framework, it seems unlikely that U.S. military force would be invited to settle most cases of domestic disruption in the area. Not one oil producing state in the Persian Gulf area today supports the presence of a permanent, direct U.S. military presence in the region.

In the unlikely but possible event that a Persian Gulf power requests an RDF, could RDF accomplish its mission of (1) protecting oil fields from destruction, and (2) saving a pro-U.S. government in the region?

Could RDF protect oil fields?

The threat of destruction to the oil fields and facilities, whether from revolution, splinter groups like those which invaded the Mosque in Mecca, or terrorists, would likely be of an extreme nature before the RDF were asked to provide help. In such a case, a number of liabilities could render ineffective even the most powerful RDF, for the following reasons.

First, the oil wells, refineries, pipelines, pumping stations and tankers comprise an extremely fragile—and therefore vulnerable—system open to constant sabotage and disruption. Even a small group of saboteurs, if armed with explosives, could continually disrupt oil production by destroying any part of the system or by starting a nearly uncontrollable series of fires.

Second, the oil facilities are spread out over large land areas and would be all but impossible to protect from attack. For example, to protect the Saudi Arabian oil fields, the RDF would need to secure an area that stretches 300 miles down the Persian Gulf coast and is approximately 200 miles wide at its broadest point, in the south. The RDF would have to cover an area of about 30,000 square miles, or a perimeter of over 1,200 miles.

Even if it were possible to secure these oil fields from direct sabotage, there is always the possibility that small rockets and mortars could be launched or fired over the secured perimeters to destroy the oil facilities.

Could RDF save pro-U.S. Government?

Again, if a Persian Gulf government were to request assistance from a U.S. RDF to quell domestic disorder, it can be assumed that (a) the domestic disorder is of major, perhaps revolutionary, proportions, and (b) the government is faced with overthrow. In such a case, a strong argument can be made that the presence of U.S. rapid deployment forces could even further destabilize an already volatile situation: in fact, it could trigger the very disruption it has been sent to prevent. Further, if the domestic situation has already reached extreme proportions, it is extremely questionable that fighting could resolve the final outcome: for example, the Shah's regime could probably not have been saved by RDF intervention. Such a situation would in fact require an army of occupation.

These two scenarios raise doubts about the efficacy on an RDF to quell domestic disorder, and suggest the possibility that an RDF might actually escalate the hostilites.

II. Foreign invasion: In the Persian Gulf, there is one scenario in which RDF would almost certainly be activated: under the Carter Doctrine, a Soviet invasion into the region would be repelled by whatever force is deemed necessary, "including military force." While the possibility exists that NATO countries would help resist a Soviet invasion, or that the nations of the region would jointly oppose it, this paper confines itself to U.S. unilateral reaction.

RDF as "tripwire:" The most probable and plausible role of an RDF is its use as a "tripwire" to Soviet military forces. The "tripwire" strategy holds that U.S. Forces will form the first line of defense in a region of vital importance; if the Soviets advance into this region, they will be forced to fight U.S. troops and risk all-out nuclear war with the United States. A "tripwire" force, therefore, would constitute a deterrent force to Soviet aggression in the Persian Gulf.

Under this "tripwire" scenario, moving U.S. troops into place immediately is crucial: the actual fighting capability of these troops is of only marginal utility. What comes into question, however, is the need for a *new* U.S. force, since the Pentagon has already stated that the U.S. presently has the capability of moving 24,000 troops, equipped for five days of active combat duty, into the Persian Gulf in about two weeks. This capability appears to be a viable "tripwire" force at present; and in light of this, it is appropriate to question what further advantages the RDF will give the U.S. in deterring Soviet aggression.

RDF in a major conventional war?

Is the RDF capable of defeating the Soviet Union in a major conventional war in the Persian Gulf?

Under the RDF proposal, a 110,000-troop force (once the T-AKK and CX programs are completed) could be placed on the Persian Gulf in 40-50 days—rather than the present six months. However, merely increasing the speed of deployment does not guarantee RDF's success.

The RDF will be well-trained, well-equipped, and could undoubtedly win some if not many of the battles with the Soviet forces. They could, at minimum, hold off the Soviet advance for most of the 30 days of active engagement. The U.S. forces are equipped, however, for only 30 days of active combat duty. It seems unlikely that in the span of a month the RDF could hope to win a conventional land war with the Soviet Union, who due to their inherent geographic advantage would unquestionably have both a superiority in numbers and better long-term supply lines.

Will RDF be properly equipped?

When completed, the 14 T-AKX supply ships are intended to supply the needed equipment for 36,000 Marines for 30 days in a hostile environment. Thus, the entire fleet of forward deployed ships would be capable of supplying only a third of the RDF. The CX and other cargo aircraft (C-141s and C-5As) would supply the needs of the rest of the forces. However, some critics feel the RDF will be ill-equipped, for the following reasons:

First, tanks will be in very short supply. The XM-1 Main Battle Tank weighs 65 tons. If transported by air, only one at a time can be shipped in either the CX or the C-5A. While a limited number of tanks would be sent by ships, is it doubtful that they can deliver enough tanks soon enough to confront the Soviets in their back yard.

Second, since the CX is designed to land on austere runways, close to battle, it will automatically be subject to increased risk of hostile fire, and its chances of survivability will be lessened.

Third, the T-AKX ships will face problems similar to those of the CX. These supply ships will undoubtedly become one of the primary targets of enemy forces. In such a situation, they will be made vulnerable to enemy aircraft fire and the Marines, having arrived by air, could be left with no equipment.

In fairness, the RDF will be backed up by carrier air support and will carry an impressive arsenal of anti-tank weaponry. In addition, its firepower is significant enough to call into doubt the ultimate success of any Soviet invasion—especially if local forces, who have used their oil revenues to develop impressive military arsenals, join the resistance to Soviet aggression.

As a unilateral force, however, the RDF may be out-gunned both qualitatively and quantitatively. Once its supplies dwindle, at the end of 30 days, the RDF could become a hostage for a larger and more long term U.S. commitment.

POSSIBLE FUTURE COSTS RELATED TO RDF

The questions raised about planned RDF capabilities also raise the possibility that additional weapons and equipment will be necessary for RDF to carry out its mission, especially in the Persian Gulf area. While the following list of future procurement items is not necessarily directly tied to RDF, it does represent legitimate possibilities for increased military expenditures to augment RDF capabilities.

Light Armor Procurement: Since even the huge CX or C-5A can transport only one XM-1 tank at a time, it may be necessary to develop a new generation of smaller tracked and wheeled armored vehicles—including tanks and armored personnel carriers—to make RDF more effective in combat. Present estimates hold that the Soviet Union could airlift over 2,500 light armored vehicles into the Persian Gulf.

The Army is currently developing a 14-ton tank with a rapid-fire 75mm gun effective enough to destroy Main Battle Tanks. The Marine Corps has also shown a keen interest in these smaller tanks. Approximately six to eight of these smaller tanks could be carried by each of the existing C–5A aircraft, and two each in a C–141. While a decision to procure a new generation of these light tanks might be forthcoming in any event, RDF needs would certainly provide extra support for such a decision.

While it is uncertain how many of these light tanks might be needed, procurement of 10,000 would cost about $6 billion—or the same as the cost of the CX program.

Additional Navy shipbuilding: Since the T–AKX will be somewhat vulnerable, more ships may be necessary to protect these cargo ships, their equipment and their civilian crews. The Navy is considering spending about $500 million each to modernize four WWII-vintage Iowa-class battleships to provide additional Naval presence in the Indian Ocean (this modernization cost is approximately five times the original construction cost of the vessels). Already, the House Armed Services Committee Seapower Subcommittee has recommended adding over half a billion dollars to the FY81 budget to begin modernization of one battleship and the WWII aircraft carrier Oriskany. Some have suggested that this recommissioning of ships is a precursor to a new Indian Ocean Fleet and, depending on the size and configuration, may add $10 to $15 billion in additional shipbuilding costs to future military budgets.

It may also be decided in the future that more prepositioned ships will be necessary to make the T–AKX force truly global. If the T–AKX fleet is increased from 14 to 30 ships, as some critics have suspected, the cost of the overall Maritime Prepositioning Ships Program—not including escort ships—may reach $12 billion.

T–AKX operation and maintenance costs, which are not reflected in the $3 billion estimate for the sealift program, will also be substantial, due to dehumidified storage costs and the need to maintain the onboard marine equipment at combat-ready status.

Additional KC–10 Tanker Aircraft: With the addition of 100 or more CX cargo aircraft, more KC–10 tankers will probably be needed to supply enroute fuel, unless basing rights can be guaranteed to fuel the CX. If such basing rights are not available, neither the CX nor the KC–10 will be able to refuel on land, making necessary a "buddy system" of re-fueling among several airborne KC–10s.

The Pentagon has already decided to speed up procurement of its KC–10 program, at a cost of $55 million per plane.

Additional Tactical Fighter Aircraft: Since the CX is designed to be a forward deployed cargo aircraft able to land on austere runways, its movement close to the battlefield may call for increased protection from our fighter/ground attack aircraft. If combat aircraft were forced into escort duty for a CX, more tactical aircraft might be necessary.

Increased Manpower costs: If these additional weapons systems and equipment are procured, it is likely that the armed forces will face manpower shortages and be forced to raise current force levels. Any such increased manpower levels would be reflected in significantly increased costs.

THE RDF AND THE WAR POWERS RESOLUTION: CONGRESSIONAL AUTHORITY TO MAKE WAR

Administration officials who have spoken or testified on the RDF have not to date explained whether they will request authority from the Congress to activate the RDF. However, the very concept of an RDF—a "quick-strike" force which would respond to emergencies, "get there first" (to use Secretary Brown's words), and be in and out of combat within a short period time—appears not to anticipate Congressional action prior to the deployment of troops. In either case the Congressional war-making powers come into play, and the question of Presidential powers to commit combat troops abroad—which was the most divisive question of the 1960's—will resurface in the 1980's.

Under all the scenarios described in this paper, the terms of the War Powers Resolution would be triggered: this would authorize Congress at least some say in the intervention. The clear intent of the War Powers Resolution was to reassert Congress' war-making authority not only in an advisory or a fiscal role, but in a decision-making role, under which it would have the power not only to terminate a military commitment, but to decide, in advance, whether or not it should be made.

Public Law 93–148: The war powers resolution

Articles I and II of the Constitution outline the war-making powers of the President and the Congress. The War Powers Resolution, enacted in 1973 over the veto of President Richard Nixon, further defines those powers by setting statutory limits on the President's powers to commit U.S. combat forces abroad without Congressional approval.

Major provisions: As enacted into law, the War Powers Resolution:

States that the President could commit U.S. armed forces to hostilities or to areas where hostilities may be imminent "only" pursuant to (a) a declaration of war; (b) specific statutory authorization; or (c) "a national emergency created by attack upon the United States, its territories or possessions, or its armed forces." (Section 2(c)).

Urges the President "in every possible instance" to consult with Congress before committing U.S. forces to hostilities or areas of imminent hostilities.

Requires the President to report in writing within 48 hours on any commitment of combat troops abroad or "substantial enlargement" of combat troops abroad, unless they relate "solely" to supply, replacement, repair or training.

Requires the termination of any such troop commitment within 60 days of the initial report unless Congress declared war, specifically authorized the commitment, or was unable to convene as a result of attack. The 60-day period may be extended for 30 days if the safety of the withdrawing troops was at stake and was certified to by the President.

Allows Congress to direct the President to disengage such troops at any time during those 60 days, by passage of a concurrent resolution (which is not subject to a Presidential veto), and under a priority legislative procedure.

War powers' impact on RDF

Termination deadline: Since most RDF strikes are intended to be of short duration (30 days), they would not likely be subject to the automatic termination deadline of 60 days (90 if the President so certified.) Under such circumstances, the troops would be in and out of conflict (with the resulting foreign or even domestic policy implications) before Congress was likely to take action.

The termination deadline would likely become effective, however, in the case of RDF intervention against the Soviets in a major conventional land war in the Persian Gulf. In such a case, barring the use of nuclear weapons, any such conflict would likely last more than 60 days. At this point, Congress would vote on whether to declare war or specifically to authorize the intervention.

Termination authority: Under the War Powers Resolution, Congress may vote at any time in the first 60 days to direct the withdrawal of the troops; not only is such a decision not veto-able, but a priority legislative procedure is authorized to ensure hasty action. Unfortunately, neither safeguard is fool-proof.

Although the War Powers Resolution authorizes passage of a Concurrent Resolution to direct the withdrawal of troops, President Nixon and others have raised questions about the constitutionality of this provision (as well as the 60-day deadline provision), holding that it infringes on the powers of the President as Commander in Chief by placing restrictions and conditions on his constitutional authority. Should Congress pass a resolution directing withdrawal of an RDF, certain Presidents—who had directed intervention in the first place, without Congressional authority—would be unlikely to comply with the Congressional instruction to withdraw. At this time, this confrontation would probably force the first legal test of the War Powers Act.

Under the speeded-up legislative procedure which is authorized by the Act to preclude filibusters, a worse case scenario (under which committee majorities either supported the President's deployment or desired to defer a decision on it) could defer action for up to 50 days from the date of intervention. By this time, an RDF would have performed its mission (whether or not with success), and Congress would have been denied a vote.

The actual power of Congress, then, in the case of a "quick-strike" RDF, is little more than it was prior to passage of the War Powers Resolution.

Consultation and Reporting: These provisions of the Act would become operative in the case of activation of an RDF, as they have in the past "quick strikes" of 1975 relating to evacuation from Vietnam and Cambodia and to the Mayaguez incident.

These provisions would also become operative in the event of the prepositioning of a significant number of combat-equipped ships directly off a coast for a military or quasi-military purpose—for instance in a military-enforced economic blockade of Iran.

Prior authorization: Section 2(c)

Whether a President would seek prior Congressional authorization for an RDF mission would depend not only on the mission, but on the President.

President Nixon would undoubtedly hold, based on his veto message, that his power as Commander-in-Chief authorized such action as long as Congress did not cut off his funds. Others, however, including some of the authors of the War Powers Resolution, would hold that despite all the negotiating done over the final language of this section, it still delineates the circumstances for unilateral use of troops, and prohibits intervention without Congressional approval in all other circumstances.

The controversy over Section 2(c) will not be resolved until tested in the courts: should an RDF be introduced to war by the unilateral decision of the Executive, it will be the courts—and not the Congress—which ultimately decide whether or not that action is legal.

Conclusion: While the War Powers Resolution was designed to give Congress an equal share in the war-making authority, its implementation in "quick-strike" scenarios is subject to numerous obstacles.

Whether Congress will use the powers as intended by the authors of the Act will depend primarily on continuing Congressional vigilance, and secondarily on the roles played by the other two branches of government, the President and the Courts.●

H.R. 6982, DOCTORS PAY BILL

● Mr. HART. Mr. President, H.R. 6982, the Uniformed Services Special Pay Act of 1980, is the amended version of S. 2460, which I introduced on March 20 and which was passed by the Senate on May 28, represents the culmination of the very considerable efforts of the Senate and House Armed Services Committees and their staffs to solve a serious problem in the uniformed armed services.

H.R. 6982 is designed to stem the loss of physicians and other health care professionals from the uniformed services. By restructuring the special pay system and by making permanent special pay provisions for health care professionals, we will be able to raise recruitment and retention levels of these critical personnel.

Today the Medical Corps of the Armed Forces is experiencing an attrition rate so high that there has been created an unprecedented shortage of qualified physicians in the uniformed services. The shortage is so severe that the Medical Corps would find it exceedingly difficult to meet its mobilization requirements.

In meeting its peacetime mission of providing medical care for active duty personnel, dependents, and retirees, the military has been forced to expand greatly its use of private physicians on a contract basis and under the civilian health and medical program of the uniformed services (CHAMPUS). Both these alternatives are costing the U.S. Government considerably more than would the use of active duty physicians. In fact, during the current fiscal year, expenditures for CHAMPUS will exceed $750 million and could even approach $1 billion if we do not reduce the high attrition rate of military physicians. I therefore urge the Senate to act favorably on this bill today.

Mr. President, I want to recognize the sustained efforts of my colleagues, whose efforts to work out this compromise bill have been essential to its reaching the floor today. Senator NUNN, Senator THURMOND, Senator WARNER, Senator EXON, and Senator JEPSEN have all played crucial roles in the formulation of this legislation. I also would like to thank Senator JACKSON and Senator GOLDWATER, whose willingness to iron our differences was so critical in drafting this bill. I want to express my appreciation as well to our colleagues in the other body, particularly those who serve so ably on the House Armed Services Committee. They recognized the importance of this issue and worked to expedite consideration of the bill by the full House. Representative NICHOLS, chairman of the Subcommittee on Military Compensation deserves special credit for helping to move this bill through the House.

Mr. President, I urge that the Members of the Senate act favorably on this bill and that it expeditiously be forwarded to the President. It is essential that the President sign this bill into law immediately so that we can encourage those physicians who are contemplating leaving the military at the end of this fiscal year to remain on active duty.

Mr. President, I ask that a letter from Lt. Gen. Paul W. Myers, Surgeon General of the U.S. Air Force, be printed in the RECORD.

The letter follows:

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS U.S. AIR FORCE,
Bolling AFB, D.C., June 24, 1980.

Hon. GARY W. HART,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: On behalf of all members of the Air Force Medical Service, I want to express my appreciation for your efforts toward increasing the special pays of scarce health professionals, particularly physicians, in the uniformed services.

We are now at a critical decision point in physician staffing. Because of the extended delay in the passage of special pay legislation (many of our physicians are already leaving the service). At the present time, the Air Force is at risk of losing 1171 physicians by the end of September if there is not immediate passage of the special pay legislation. Those physicians who are already eligible to leave and those whose obligated service ends in September must make their decision now to stay or leave. Congress is losing its credibility without people and, therefore, many are making the decision to leave. We are already understaffed to the point of affecting our readiness capability. I personally feel that any further delay in the passage of this legislation will seriously cripple the military medical services.

I extend an urgent plea to you and your colleagues for expeditious action on the special pay legislation.

Sincerely,

PAUL W. MYERS,
Lt. General, USAF, MC, Surgeon General.●

OPIC AND CARIBBEAN DEVELOPMENT

● Mr. JAVITS. Mr. President, those who have been involved in the questions of economic development must be constantly mindful of new approaches and solutions to development in the developing countries. In a recent article entitled "A New Approach to the Caribbean: 'Co-Venturing,'" which appeared in the Washington Post on June 16, 1980, Walker Williams, executive director of the Caribbean Council demonstrates how U.S. developmental programs, such as the Overseas Private Investment Corporation (OPIC), innovatively serve the developmental needs of the developing countries and also contribute significantly to fostering growth in the U.S. economy.

Last year, for example, OPIC sponsored a program with the Witherspoon Development Corp. to finance loans to U.S. minority entrepreneurs who were interested in doing business in the Caribbean. These loans provided an injection of capital not only into the developing Caribbean nations but also into the U.S. economy. OPIC's mandate recognizes the importance of the small business sector in our economy. OPIC's continued channeling of resources to small businesses, will result in employment opportunities and increased economic activity in both developing countries and the United States. Mr. Williams also points out that OPIC financing helping minority small businesses tends to revitalize our innercity communities and to support regional economic development programs.

The Witherspoon Development Corp. is a private voluntary organization (PVO) and, as such, benefits from a new OPIC program aimed at insuring that OPIC's activities benefit a broad spectrum of the poorer people in developing countries. This program enables PVO's and cooperatives from the developing countries to finance development projects, which, without OPIC support, probably would not be undertaken.

I believe that this program further demonstrates OPIC's continued determination to search out and assist those projects which serve to broaden the base of participation in OPIC's programs while carrying out developmental objectives.

Mr. Williams notes in his article that OPIC-sponsored programs are also playing an increasingly significant role in promoting U.S. concerns in the politically vulnerable and economically depressed Caribbean region. OPIC programs, which encourage economic coventuring and result in a stronger indigenous business sector, will help these countries become more economically self-reliant.

In addition, this country-to-country development program serves directly to promote a positive image of the United States in the Caribbean region. I believe that this article is very timely in light of the recent events in the Caribbean region.

Mr. President, I commend Mr. Williams' article to my colleagues and ask that it be printed in the RECORD.

The article follows:

A NEW APPROACH TO THE CARIBBEAN: "CO-VENTURING"

Some say the "domino theory" could soon be confirmed all the way from the Bahamas right down the Leeward and Windward Islands, including oil-rich Trinidad. With a coup in Grenada, a struggle for power in St. Lucia, unrest in Jamaica, boat people from Haiti and daily refugees from Cuba, the United States has been forced to recognize that there is a serious problem in the Eastern Caribbean.

Many Americans see the "freedom flotilla" from Cuba as proof that the communist model does not work, but several U.S. political strategists have called the Cuban exodus a "sideshow." The strategists believe the real danger for the United States stems from Castro's new drive for influence in the Caribbean, and they may well be right.

Trust in the United States is fading fast in the Caribbean. In the past, a U.S. policy of benign neglect has strengthened the appeal of leftists throughout the islands. Caribbean nationals, struggling against a colonial past and an impoverished present, want jobs and a decent lift.

In our efforts to restore trust, the United States' advantage is that we have more to give in the way of economic and technical assistance than Cuba does. Cuba's advantage, however, is that it has demonstrated an ability to move quickly and take advantage of emerging opportunities.

Although Cuba no longer has the second-highest per-capita income in the Latin American region (it is now seventh), it has succeeded in eliminating abject poverty by raising the income level of the poorest-of-the-poor. It is this fact that is so attractive to developing Caribbean nations. But even those countries hat have expressed admiration for this aspect of the Cuban model have remained open to trade and assistance from the United States. Clearly, our success in the Eastern Caribbean will depend in large part on our ability to deliver opportunities as quickly as Cuba can.

It is my opinion, based on numerous visits and conversations with Caribbean nationals, that small U.S. businesses—particularly minority businesses—could play a pivotal role in strengthening the economies of the developing Caribbean nations. Small business provides nearly half the GNP and more than half the jobs in the developed countries. By linking together entrepreneurs from the developed and developing countries and utilizing their respective talents to launch new cooperative business ventures, the small-business sector of the developing nations would be strengthened, and their economies could become increasingly self-sufficient.

A minority organization can have a significant impact on a developing economy, as evidenced by a program sponsored by the Overseas Private Investment Corporation (OPIC) and the Witherspoon Development Corporation in New York. (Witherspoon is the only minority-controlled organization funded to make loans in the Caribbean.)

Although OPIC unfortunately does not have a specific minority program, it has succeeded nevertheless in making some excellent beginnings in reaching out to minority entrepreneurs. Last year, OPIC provided a loan to the Witherspoon Development Corporation to make loans to minority entrepreneurs interested in doing business in the Caribbean. For example:

Two black American women, on vacation in Antigua, decided they would like to live and work there. Using their savings, they purchased land and obtained a government permit to operate a tourist-cottage business. They joined forces with an Antiguan lawyer, sold stock to 30 people (both Caribbean and American) for additional equity, and they were in business. Witherspoon, impressed by the stability of their operation, loaned them $50,000 to expand their business.

A Haitian-born U.S. citizen, in the midst of a successful career in top management, decided he wanted to return to his native land to share his expertise and to stimulate the economy there. What do Haitians import that could just as easily be produced in Haiti, he wondered. After talking with an umbrella wholesaler on the mainland, he decided an umbrella factory would be a welcome and profitable venture. His savings amounted to 34 to 40 percent of the total project cost; Witherspoon provided the rest. The factory now employs 30 Haitian nationals.

Projects such as these could be multiplied hundreds of thousands of times on islands throughout the Caribbean. And if another minority company—Univox—succeeds in marketing its product in the Caribbean, entire new islands could be made habitable and profitable.

Univox manufactures a portable water purification system that is capable of desalinating sea water and making brackish water drinkable. (Located in Los Angeles on the fringes of Watts, Univox currently has a contract to manufacture these systems for the U.S. Army.) Imagine the role Univox could play in the transfer of this new technology to Caribbean islands that are now uninhabitable because of lack of water for drinking and irrigation. But first, companies like Univox are going to need help from organizations such as Witherspoon.

By demonstrating the free-enterprise system, Witherspoon has succeeded in making new friends for the United States by enhancing local enterprise and entrepreneurship in those countries where new businesses were established and, at the same time, strengthening the U.S. minority businesses that participated. This type of program should be encouraged by our U.S. foreign policy. Witherspoon should not be the only minority institution aggressively making overseas business loans to minority firms.

What is occurring in th Caribbean in regard to free enterprise, unemployment and underemployment is also true of minority economic development here in the United States. Stimulating minority business here by promoting exporting and co-venturing in the Caribbean will serve two purposes: employment opportunities will increase in both the United States and the Caribbean, and inner-city communities, where most minority businesses exist, will be revitalized. Through co-venturing, both U.S. minority and Caribbean entrepreneurs will expand their businesses to include international as well as domestic markets.

The climate is right, both in the United States and in the Caribbean, for people-to-people diplomacy. Black Americans, because they share a common heritage and common goals with Eastern Caribbean nationals, are uniquely qualified to provide the kind of grass-roots assistance and involvement that are so desperately needed.

What black Americans have in common with Eastern Caribbean nationals are a history of bondage and poverty and a determination to obtain for themselves jobs, education and a decent standard of living. In societies that value democratic, free-enterprise principles, the only way to meet these goals is by strengthening the free-enterprise system.

Black American business persons are in a unique position to help Caribbean entrepreneurs build and expand the private sector in their countries. Certainly they are able to relate sensitivity to the frustrations that hamper Caribbean businesses—most notably, the lack of development capital and technical assistance.

Americans rarely recognize the true nature of the U.S. Caribbean relationship. The United States exports some $2 billion worth of U.S. products to the Caribbean each year; our direct private investment in the area is estimated at $4.3 billion. Half our oil imports travel through Caribbean sea lanes, and much of that oil is processed at Caribbean refineries. In fact, the Caribbean region is crucial to U.S. interests.

Nevertheless, the Soviet Union, through Cuba (and indirectly through Grenada) is becoming firmly entrenchd in the Caribbean. Clearly, it is not in our national interest to give the Soviet Union a clear field. Yet the United States has failed to identify clearly its national interest in the region or to devise policies to protect American interests.●

INSPIRATIONAL PRAYER OF THE REVEREND ERNEST VILLAS

● Mr. JAVITS. Mr. President, recently I addressed a dinner at the Scarsdale Republican Club in Scarsdale, N.Y., at which Mrs. Margaret Soter was honored for her distinguished service to the well-being of her fellow citizens in Scarsdale and Westchester County.

Mr. President, a prayer offered at this dinner by the director of the Department of Laity of the Greek Othodox Archdiocese of North and South America, Rev. Ernest A. Villas, was particularly moving and inspirational, and I ask that it be inserted in the Record.

The prayer follows:

Prayer

Heavenly Father, We ask Your blessings upon our gathering this evening as we come together in common commitment to community and nation. As we partake of this bountiful testimonial dinner we ask You to bless the honoree of our gathering, Margaret Soter, and her dear family, as we give thanks for her outstanding example of devotion to the high principles of truth, justice and service.

Lord, we pray for the leaders of our Nation. . . . O Lord, hear our prayer of thanks, as husbands and wives, mothers and fathers, friends and neighbors, citizens of this great land—seeking to be worthy of Thy precious gifts which so bountifully surround us, as they are likewise denied to so many of our brothers and sisters in distant parts of the world. Help us to better understand our responsibilities, so that with understanding and compassion we may fulfill them, and rather than looking upon them as burdens, we recognize and welcome responsibility as an opportunity to enrich and deepen our own lives. For truly it is in giving that we find the deepest secret of living. May the words and fellowship and thoughts that we share together this evening do honor to the eternal and holy Name of our God Almighty Creator, Amen.●

ANNIVERSARY OF THE MOON LANDING

● Mr. HAYAKAWA. Mr. President, California will be commemorating the anniversary of our landing on the Moon during "Space Week 1980," to be held from July 14 through July 20.

The program will be entitled "Youth, Space and the Imagination." It will include special exhibits, lectures, panel discussions, movies, and workshops. I feel this program will be beneficial to both the youth, to whom the future of space belongs, and to all those who have watched, and worked toward, our progress in space.

We have all benefited in many ways from our advancement in space. We have improved communications, better weather detection devices, more accurate naval and air navigation, and many products for medicine, computers, education, and energy. Many of the developments in our space program have come from research done in universities across the country. Youth involvement in our space programs, either through research, or enthusiasm, ideas, and dreams is needed to keep the programs alive.

This country's ventures in space must continue and that continuation depends on our youth and their knowledge of our previous and present programs. I am glad to see California centering this commemorative week on efforts to bring the space program to the youth of this country.●

ORDER TO VITIATE TIME OF THE TWO LEADERS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, the time of the two leaders be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TOMORROW AND TO RESUME CONSIDERATION OF THE PENDING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the prayer and the reference to the ournal, Mr. Harry F. Byrd, Jr., be recognized for not to exceed 15 minutes, that he be followed by Mr. Stewart for not to exceed 5 minutes, and that the Senate then resume consideration of the supplemental appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9:30 a.m. tomorrow morning.

The motion was agreed to; and at 10:56 p.m., the Senate recessed until tomorrow, Saturday, June 28, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1980:

FEDERAL ENERGY REGULATORY COMMISSION

John David Hughes, of Texas, to be a Member of the Federal Energy Regulatory Commission for the term expiring October 20, 1983, vice Don Sanders Smith, resigned.

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated and with date of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be captain

Graham, Garbeth S., [redacted].

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Broz, John S., [redacted].
Callahan, Robert L., [redacted].
Getz, Kaare, [redacted].
Gilcrest, Harry R., [redacted].
Hager, Jerome P., [redacted].
Hanlon, Thomas M., [redacted].
Huber, Stanley J., [redacted].
Jaurigue, Oscar L., [redacted].
Kaltenbaugh, Orie E., [redacted].
Kandell, William I., [redacted].
Mitchell, Ellis N., [redacted].
Ortiz, Eduardo A., [redacted].
Perschau, Richard A., [redacted].
Reed, Walter G., Jr., [redacted].

The following person for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Comens, Phillip, [redacted].

The following person for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, to perform the duties indicated.

LINE OF THE AIR FORCE

To be lieutenant colonel

Zimmerman, Robert B., [redacted].

The following officers for promotion in the Air Force Reserve under the provisions of sections 593 and 8376, title 10, United States Code.

MEDICAL CORPS

Lieutenant colonel to colonel

Owens, Wyeth E., [redacted].
Turner, John C., [redacted].

LINE OF THE AIR FORCE

Major to lieutenant colonel

Coladarci, Barbara, [redacted].
Hennessy, Ellen A., [redacted].
Justice, Dale S., [redacted].
Kennedy, Denis T., [redacted].
Kretlow, Thomas E., [redacted].
Kruschwitz, Albert M., Jr., [redacted].
Lawton, William P., III, [redacted].
Lockwood, Phillip D., [redacted].
Mallar, John L., [redacted].
Meyer, George E., Jr., [redacted].
O'Connor, Patrick S., [redacted].
Ross, James L., [redacted].
Toman, Ronald G., [redacted].

CHAPLAIN CORPS

Cardoza, Edward A., [redacted].
Hadalski, Andrew D., [redacted].
Stricklin, William M., [redacted].

MEDICAL CORPS

Anothayanontha, Opas, [redacted].
Desilva, Sunil R., [redacted].
Lee, Susan C., [redacted].
Pagsisihan, Francisco M., [redacted].
Smalley, James R., [redacted].

NURSE CORPS

Major to lieutenant colonel

Genco, Mattie K., [redacted].
Glenn, Mattie L., [redacted].
Jackson, Annie L., [redacted].

The following Air Force officers for appointment as Permanent Professor, U.S. Air Force Academy, under the provisions of section 9333(b), title 10, United States Code.

Sampson, Orwyn, [redacted].
Schiller, Harvey W., [redacted].

The following-named Air Force officer for reappointment to the active list of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Westfall, Jack D., [redacted].

The following-named Air Force officer for reappointment to the active list of the Regular Air Force, in the grade of major, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code.

LINE OF THE AIR FORCE

Sexson, Richard W., [redacted].

IN THE AIR FORCE

The following Air National Guard of the U.S. officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Bobby D. Ainsworth, [redacted].
Maj. William L. Akinson, [redacted].
Maj. Albert B. Baikauskas, Jr., [redacted].
Maj. Paul J. Burrows, [redacted].
Maj. Paul T. Cherenzia, [redacted].
Maj. Rendell F. Clark, Jr., [redacted].
Maj. Vincen J. Cooney, Jr., [redacted].
Maj. Wayne O. Craig, [redacted].
Maj. Robert J. Dennison, [redacted].
Maj. Homer L. DeWeese, [redacted].
Maj. Howard L. Dixon, [redacted].
Maj. John C. Fleming, [redacted].
Maj. Henry E. Forcier, [redacted].
Maj. James M. Fredregill, [redacted].
Maj. John R. Haack, [redacted].
Maj. Robert H. Harmon, [redacted].
Maj. Robert E. Jacobson, [redacted].
Maj. Christopher W. K. Jay, [redacted].
Maj. Charles P. Kieser, [redacted].
Maj. Kenneth D. Knight, [redacted].
Maj. George W. Luckett, Jr., [redacted].
Maj. Charles E. Martin, [redacted].
Maj. Larry B. Martin, [redacted].
Maj. Cecil W. Marty, [redacted].
Maj. Ronaldo F. Mastrocola, [redacted].
Maj. Donald G. Miller, [redacted].
Maj. Dennis P. Morell, [redacted].
Maj. Douglas B. Morey, [redacted].
Maj. Autry N. Noblitt, [redacted].
Maj. Randal A. Petroviak, [redacted].
Maj. Richard H. Pleister, [redacted].
Maj. Paul A. Pochmara, [redacted].
Maj. Joel A. Potter, [redacted].
Maj. Joseph W. Pruett, [redacted].
Maj. Bruce M. Schantz, [redacted].
Maj. Harold R. Schatz, [redacted].
Maj. Robert B. Simpson, [redacted].
Maj. James R. Sims, [redacted].
Maj. Michael B. Smith, [redacted].
Maj. Kenneth J. Sobzack, [redacted].
Maj. John C. Stafford, [redacted].
Maj. Julius J. Thurn, [redacted].
Maj. Richard M. Tracy, [redacted].
Maj. Donald L. VanBrunt, [redacted].
Maj. Melvin J. Walden, [redacted].
Maj. John M. Williams, Jr., [redacted].

JUDGE ADVOCATE

Maj. Curtis Griffith, Jr., [redacted].
Maj. John M. Lischak, [redacted].
Maj. Ronald J. Riach, [redacted].
Maj. Peter L. Scheid, [redacted].

BIOMEDICAL SCIENCES CORPS

Maj. Wesley E. Lerdon, [redacted].

MEDICAL CORPS

Maj. Ronald Apfelbaum, [redacted].
Maj. Richard A. Ellerby, [redacted].
Maj. Hugh S. Moseley, [redacted].

DENTAL CORPS

Maj. Thomas A. Shekoyan, [redacted].

VETERINARIAN CORPS

Maj. Donald L. Noah, [redacted].

IN THE NAVY

Lt. Comdr. William J. Phillips, Jr., U.S. Navy, for appointment to the grade of commander while serving as Leader of the U.S. Navy Band in accordance with article II, section 2, clause 2 of the Constitution.

IN THE NAVY

The following temporary lieutenants of the U.S. Navy for permanent promotion to that grade, pursuant to title 10, United States Code, sections 5780 and 5791.

LINE

Abel, Lloyd V.
Achille, Franklin S.
Adams, George F., Jr.
Adams, James J.
Adams, Robin L.
Agnor, Robert J.
Agostini, John M.
Ahart, John L.
Ahearn, James V., Jr.
Ahlberg, Steven J.
Ainsley, William L., III
Akins, Glendon L., Jr.
Akins, Joseph L.
Albright, Jeffrey H.
Alburger, John F.
Alcorn, Marion E.
Aldridge, James A.
Alexander, Douglas
Alexander, John W.
Alexander, Ronald K.
Alford, Ralph M., Jr.
Allard, Joseph M.
Alleman, David P.
Allen, Andrew J.
Allen, Harry E.
Allen, Robert C.
Allin, Robert W.
Allison, George B.
Allison, John S., Jr.
Almquist, Thomas V.
Alston, Robert W.
Andersen, James B.
Anderson, Eric B.
Anderson, Kenneth G.
Anderson, Richard M.
Anderson, Robert A.
Anderson, Robert K.
Anderson, Robert L.
Anderson, Timothy J.
Anderson, Wayne H.
Andre, Duane A.
Andrews, Kenton G.
Angelo, James W.
Annis, Robert E.
Anthony, Joseph D.
Appleby, Robert T.
Archdeacon, Francis J., Jr.
Archibald, Gary T.
Ardan, Nicholas I, III
Armistead, Reginald G., Jr.
Arnold, Berthold K.
Arnold, Robert B.

Arnold, William G.
Arnote, Stanley D.
Ashbridge, George, IV
Ashim, Larry D.
Askey, Charles B.
Aten, John J.
Aukland, Bruce M.
Ault, Jon F.
Austin, Simeon H.
Averill, Robert C.
Avery, Richard C.
Axelrod, William H.
Ayers, Carleton R., II
Baas, Daniel L.
Babbitt, James C., Jr.
Backes, Mark D.
Bagley, Edward G., III
Bahnmiller, Michael P.
Bailly, Richard M.
Baittinger, Eric W.
Baker, James D.
Baker, Leonyx G.
Baker, Peter A.
Baker, Thomas A.
Baker, Timothy L.
Baker, William H.
Bal, Eugene III
Baldwin, Gerald E.
Ball, John C.
Ballweber, Wililam A.
Banek, Edward A., Jr.
Banellis, Charles E.
Bangs, George H.
Banks, Willie B., Jr.
Barbor, Kenneth F.
Bardwell, Robert R.
Barkdull, Curtis R.
Barkell, Richard C.
Barnes, Leslie W.
Barnett, Peter G.
Barnett, Richard L.
Barnett, Stewart R., III
Barnhill, Arizona W.
Barrett, Donald H.
Barron, James D., Jr.
Barrowman, Glenn J.
Barry, John M.
Barry, Ronald E.
Barthold, Lee G., III
Bartlett, Ralph C., Jr.
Barton, Walter H.
Bartosh, Stephen A.
Bashore, Harry W., III
Bast, Michael K.
Bateman, Clifford B.
Bates, Edgar A., III
Bates, Richard S.
Bauer, Michael J.
Baugh, Dale E.
Baughman, Wilfred E., Jr.
Baur, Thomas H.
Baxter, Harry T.
Bayer, Karl G.
Beacham, Frederick B., Jr.
Bean, Jerry W.
Beasley, Drew W.
Beaudet, Carl A.
Beaver, Robert J.
Beavers, Michael C.
Beck, Ardie L.
Beelby, Michael H
Behre, Christopher P.
Behringer, Stephen E.
Beier, Werner J.
Belcher, John C.
Bell, John B.
Bellflower, James A.
Belrose, Benjamin G.
Bender, John P.
Benedict, William L.
Benham, Webster L., III
Bennett, John R.
Bennett, Robert W., Jr.
Benson, Eric J.
Bentley, Alan C.
Benziger, Philip E.
Berger, Robert D.
Berriman, John W.
Berry, Gale V.
Berry, George H.
Berry, George Z.
Bersticker, Keith P.
Besal, Robert E.
Betancourt, Jose L., Jr.
Betzler, David P.
Beukema, Paul
Biby, Dennis K.
Bickford, John C.
Bien, Jay K.
Bienhoff, Paul A.
Bierut, Jerome W.
Bigos, Randall E.
Bisceglia, Stephen V.
Bishop, David A.
Bishop, Phillip A.
Bishop, Stephen C.
Bixler, Charles H.
Blackman, Richard A.
Blackwell, Theodore I., Jr.
Blair, Coy L.
Blair, Gary W.
Blair, Thomas B. II
Blake, Jimmie O.
Blakey, Blake V., Jr.
Blanchard, Robert K.
Blanton, Sankey L. III
Blauvelt, Russell M.
Block, Terry J.
Blomeke, Hugh D.
Bloom, James A.
Blunt, James M.
Bogdewic, Daniel D.
Bogle, Ronald C.
Bohannan, James G.
Bohrer, Herbert A.
Bolan, Gregory E.
Boland, Lawrence J., Jr.
Bolcar, James A.
Bolin, Phil W.
Bolkcom, Daniel L.
Bolton, Patrick J.
Boniface, William S.
Booker, Robert W.
Boomhower, Paul M.
Boose, Marion S., Jr.
Booth, James E.
Boroff, Jeffrey L.
Bostaph, Joseph T.
Boswell, Daniel M.
Boucher, David L.
Bouck, William G.
Bouton, Edwin H., Jr.
Boutte, Andre L.
Bowen, John D., III
Bower, Michael J.
Bowley, Robert F., Jr.
Bowlin, James A.
Boy, David C., III
Boyd, John T.
Boyd, William K., Jr.
Boyd, William L.
Boyden, John P.
Boyer, Pelham G.
Boyes, Kenneth W.
Boyle, Jerome P.
Bozeman, Virgil, III
Bradford, Gregory C.
Brady, Bernard G.
Brady, Edward D.
Brady, Peter D.
Brainerd, Richard L.
Brake, Terry A.
Braman, Frederick A.
Brandes, John C.
Brandt, Edward L.
Brandt, Ted M.
Branson, James L.
Brattland, Michael G.
Breedlove, Rodger D.
Breitinger, Thomas L.
Brender, Mark E.
Brennan, Michael E.
Brennan, Michael F.
Brewer, Craig W.
Brinkac, Michael J.
Brod, Herbert L.
Brodengeyer, James R.
Brooks, Frederick M.
Brookshire, Derell T.
Brouhard, Jack W.
Brown, Alan J.
Brown, Daniel E.
Brown, David K.
Brown, David N., III
Brown, Frank H.
Brown, Harry P., Jr.
Brown, John R.
Brown, Steven A.
Brown, William B., Jr.
Brownsberger, Nicholas M.
Brubaker, Robert C.
Brucker, Blaine R.
Bruckman, David E.
Brunelli, Duane L.
Bruner, Todd T. W.
Bruninghaus, Ronald P.
Brunstad, William J.
Brust, Stephen R.
Bryan, Timothy R.
Bryant, James B.
Bryson, Ronald L.
Buchspics, Kenneth L., Jr.
Buckner, John O.
Bulai, Dennis M.
Bullard, George C., Jr.
Bullough, Bruce L.
Baumgardner, Paul R.
Bunn, Bennie G., III
Burdett, Peter S.
Burdette, Allen L., II
Buresh, Jon A.
Burgess, James R.
Burgin, William E., Jr.
Burke, Thomas S.
Burkhart, Larry W.
Burnett, Joseph L.
Burnham, Robert M.
Burroughs, Bruce D.
Burton, Fred E.
Burton, John H.
Burtt, Chester A.
Bury, Stephen J.
Buschbaum, Dennis E.
Buschmann, Roger L.
Butous, Stephen B.
Butler, Bruce A.
Butler, Charles S.
Butler, James P.
Butler, Lester E., Jr.
Butler, William A.
Butt, Cyrus H., IV
Byrd, John T.
Cadden, Charles J.
Cady, William D.
Cahoon, David C.
Calcaterra, Frank S.
Caldwell, Warren L., Jr.
Calhoun, Brian M.
Cameron, Gerald P.
Campbell, Clifford B.
Campbell, Richard D.
Campbell, Richard P.
Canavan, Michael P.
Candalor, Michael B.
Cantfil, Scott T.,
Canty, Benjamin K.
Capello, Leonard W.
Caplinger, Lanny W.
Carle, Mark V.
Carlin, James J., Jr.
Carlin, Thomas J.
Carlson, Donald J.
Carlson, James A.
Carmichael, John S.
Carmody, Michael J.
Carnahan, Thomas M.
Carnevale, Joseph A., Jr.
Carpenter, John R.
Carr, Russell M.
Carrier, Guy J.
Carrington, David R.
Carro, Anthony
Carro, Stephen J.
Carson, Thomas H., III
Carter, Larry J.
Carter, Leslie R.
Carter, Michael W.
Carter, William L.
Cash, Louie O.
Casmer, Dennis R.
Casper, David C.
Cassidy, Kevin G.
Castleman, Lexie C.
Cauchon, Richard P.
Ceaglio, Lawrence B.
Cech, Ladd M.
Cerveny, Alvin E.
Chacon, Gerald M.
Chaffee, Edmund J.
Chambers, Regan S.
Champagne, Lee W.
Champion, William T.
Chandler, Michael E.
Chapman, Glenn M.
Chapman, Robert G.
Chapple, Leroy W.
Charvat, David E.
Chattin, James W.
Cheliras, Richard M.
Chin, Sheck G.
Choate, John P.
Christensen, Steven D.
Christian, Robert H.
Christiansen, Terry G.
Christy, Leonard C.
Chung, William G.
Ciarula, Thomas A.
Cillo, Richard C.
Cincotta, Paul E.
Claeboe, Gregory M.
Clark, Arthur E.
Clark, Augustus W., III
Clark, Lawrence F.
Clark, Mackenzie C.
Clawson, Stephen H.
Clayman, William D.
Clayton, Irving B., III
Closs, John W.
Cochrane, Michael J.
Cocolin, David P.
Coffer, Alan B.
Coggins, Andrew O., Jr.
Cohrs, Fred L.
Cole, Christopher W.
Cole, Fred L.
Coleman, David S.
Coleman, Robert O.
Collier, Dewey R.
Collins, James P.
Colton, Arthur, II
Combs, Osie "V", Jr.
Comer, Stephen A.
Condon, John K.
Condon, Robert W.
Condon, Thomas J.
Conkey, John A.
Connelly, Joseph B.
Connelly, Michael J.
Connelly, Richard J.
Conner, Hilton L., Jr.
Conners, Jeffrey D.
Connolly, Paul M.
Conrad, Allen S.
Conroy, James L.
Conroy, Thomas, Jr.
Consuegra, Albert R.
Conte, Enrico E.
Conway, Robert T., Jr.
Cook, Louis J., III
Cook, Robert B., Jr.,
Cook, Rogert D.
Cook, William E., Jr.
Cooke, Wilbur O., Jr.
Coolbaugh, Robert J.
Coon, Ralph H., Jr.
Coonan, Robert P.
Cooper, Michael R.
Cooper, Thomas C.
Cooper, Ward J.
Corbin, James H.
Corcoran, Thomas C.
Cordasco, Michael F., Jr.
Corder, Robert A.
Corkill, Christopher J.
Cosgriff, Kevin J.
Cosgrove, Patrick E.
Cosgrove, Ronald P.
Coste, Peter F.
Costello, Thomas P.
Costigan, Kenneth M.
Cottrel, William R.
Coulter, Daley T.
Covington, George B.
Covington, Richard B.
Coward, Thomas W.
Coyle, Gary L.
Crabtree, Thomas E., Jr.
Cradduck, David C.
Craig, Michael C.
Crall, Max R.
Cramer, Mark J.
Crane, Jeffrey R.
Crane, Norman H.
Crawford, John T.
Crawford, Lyle D., Jr.
Creath, Timothy G.
Crim, Mark A.
Cross, James K.
Cross, Raymond S.
Crossen, James R.
Crossland, Edward E.
Crouse, David L.
Crowe, Robert K.
Crowell, Charles D.
Crowell, Michael A.
Crowley, Thomas N.
Crumley, Glenn D.
Culbertson, Frank L., Jr.
Cummings, Darryl P.
Cummings, Harold H. Jr.
Cummings, John A.
Cummings, Jon R.
Curley, Timothy J.
Curry, Daniel L.
Curry, Peter W.
Curry, Ronald N.
Curtin, Bruce E.
Curtsinger, Delbert A.
Custer, Robert C.
Cutter, David M.
Cutter, Duane S.
Cuzzocrea, John L.
Dahlquist, Paul W.
Dale, Charles J.
Daley, Michael J.
Daley, Joseph T., III
Danco, Thomas R.
Danforth, Lawrence W.
Daniel, Gerald L.
Daniel, James M.
Daniels, Thomas L.
Darcy, Thomas F.
Darling, Ralph E.
Darton, Terry H.
Darwin, George R.
Daugherty, Terry L.
Davidson, Michael A.
Davidson, William E.
Davidsson, Jeffrey J.
Davis, Dan A.
Davis, Eric S.
Davis, Jack M.
Davis, John M.
Davis, John R.
Davis, Michael E.
Davis, Nelson C.
Davis, Richard E., Jr.
Davis, Rodney M.
Day, Edward W., Jr.
Day, Ralph D.
Deacon, Glenn R.
Deal, Rocklun A.
Dean, Dennis R.
Debutts, Harry A., II
Deering, Ronald D.
Defoore, Charles W., Jr.
Deibler, Michael J.
Dejaegher, Richard H.
Delaney, Dennis M.
Delauder, Roy A., Jr.
Deloof, Ronald M.
Demain, William R.
Demasi, Francis D.
Demeo, Michael J.
Demmon, William, Jr.
Dengler, Robert J.
Denham, Stanley A.
Dennis, Ronald W.
Dentico, John P.
Dentler, John C.
Deputy, Robert A., Jr.
Dessommes, Jack C.
Detwiler, Alan R.
Deuley, Thomas P.
Devillier, Julian P.
Devin, James D.
Devlin, John C.
Devries, Robert D.
Dick, Lawrence L.
Dickey, Thomas P., Jr.
Dies, Gregory B.
Dilgren, Glen A.
Dillon, David R.
Dimambro, Ronald E.
Disney, Donald B., Jr.
Disy, Edward G., Jr.
Dobrydney, Frank J.
Dobson, Joseph O., III
Dohse, John F.
Dolle, James E.
Dom, Stuart N.
Donihi, Burleson M.
Donlan, Joseph A.
Donlon, Stephen E.
Donovan, Michael D.
Doorly, Dale M.
Doran, Milton D., Jr.
Dougherty, Barry L.
Dougherty, Terryll, Jr.
Dowling, Stephen J.
Doyle, Patrick M.
Doyle, Patrick R.
Drake, Carroll M.
Drake, Stephen L.
Dreiling, David L.
Dresel, Jon W.
Dresner, Jay D.
Drews, Robert A.
Driscoll, Edmund F., II
Driscoll, Joseph F.
Driscoll, Michael L.
Droz, Charles A., III
Drummond, Thomas F.
Dubois, William L.
Duclos, Edward D.
Dudash, Terrence M.
Dudek, David P.
Dufek, David F.
Duffy, Michael E.
Duggan, Michael J.
Duguid, Roger A.
Duke, Bovce W.
Duma, David W.
Duncan, Michael G.
Duncan, Richard R.
Dundas, Geoffrey W.
Dunlap, Philip S.
Dunn, James P., Jr.
Dunne, Patrick W.
Dunscombe, Bruce E.
Duquette, Marc R.
Durst, David P.
Dussman, Thomas R., Jr.
Duzy, Charles A.
Dykstra, David A.
Eakin, David M.

Eakin, Philip J.
Easter, David T.
Easterday, Kenneth P., Jr.
Easton, William R. Jr.
Ebeling, Charles W., II
Ebright, Arthur L.
Eckert, Frederick F.
Edelstein, Daniel N.
Eden, Michael S.
Edholm, Steven W.
Edwards, Charels T.
Edwards, Mark J.
Eger, John G.
Eichel, Laurence A.
Eichelberger, Kenneth L.
Eiland, Garland B, Jr.
Einsidler, Barry D.
Elder, Alfred
Eldridge, John K.
Elfelt, James M.
Elfervig, Leonard R., II
Elles, Christopher .
Elliker, John S., Jr.
Elliott, Mack T.
Elliott, Richard M.
Ellis, Jimmy L.
Ellis, Mark E.
Ellis, Robert B.
Elsen, Morris E.
Emerson, Ralph W., Jr.
Emigh, Gerald L.
Emmert, Mark A.
Enderle, John P.
Enderly, Richard H.
Endicott, David C.
Endo, Victor
Engel, Douglas T.
Engel, Gregory A.
Engelhardt, Bruce B.
Engh, Robert H.
Englehart, William P.
Enright, Joseph E.
Ensley, Lee M.
Erazo, Luis R.
Erickson, David P.
Erwin, Troy J.
Esposito, Vincent J., III
Etnyre, Terrance T.
Etter, Alan Y.
Etter, Stephen S.
Evans, Gary G.
Evans, John C.
Everett, James L., IV
Everett, Jon B.
Evers, William B.
Eyerly, Louis G.
Ezzell, Stephen M.
Faith, Everette W., Jr.
Falkey, Mark S.
Fargo, Dennis K.
Farley, David L.
Farmer, Linwood E., Jr
Farwell, Bruce K.
Fauquet, Ronald L.
Federici, Dennis C.
Fee, John F.
Feeley, Michael E.
Feldman, Brian D.
Fellin, Tom S.
Fennessey, Donald B.
Fergione, John A., Jr.
Ferguson, Jerry F.
Ferguson, Kevin J.
Ferree, William D.
Filanowicz, Robert W.
Filka, Ronald A.
Finch, Randal C.
Finegold, Brian D.
Fink, George E.
Finkelstein, Mark A.
Finley, Richard G.
Finn, Michael P.
Finney, Robert D.
Fischbeck, Jeffrey A.
Fishel, Henry G.
Fisher, Calvin
Fisher, John W.
Fisher, Joseph T.
Fisher, Richard J.
Fisher, Robert S., Jr.
Fitzgerald, James P.
Fitzsimmons, Michael
Fitzsimons, John R.
Flanagan, Thomas J.
Flanigan, Richard J. '
Fleming, Daniel E.
Fleming, Kenneth W.
Fleming, Richard P., Jr.
Fletcher, Patrick J.
Flood, Jeffrey L.
Flood, John T., Jr.
Flowers, Philip R.
Fodor, Louis C.
Foltz, Ricky A.
Fondren, Steven V.
Foraker, Allen S.
Ford, John F.
Ford, Thom W.
Forman, Samuel E.
Foster, Larry A.
Foster, Thomas H. II
Foster, Thomas W.
Foti, Stephen G.
Foulk, Donald L., Jr.
Fournier, Dean N.
Foust, John T.
Fowler, John D.
Fowler, Larry R.
Fox, Donald C.
Fox, Phillip A.
Frahler, Donald A.
Frame, Danny R.
Frank, Joel S.
Frank, Richard R.
Frankenfield, Howard O.
Franklin, Richard A.
Franklin, Roland M.
Franz, Lornie A.
Franze, Charles R.
Fraser, Powell A. Jr.
Frederick, Stephen E.
Fredericks, John A., Jr.
Freeland, Newland F., Jr.
Freeman, Russell D.
French, Michael J.
Frieden, Charles O.
Frimenko, Michael Jr.
Fritchman, Wilson J.
Frohlich, Thomas W.
Froman, James C.
Frump, David A.
Fry, Scott A.
Frye, Mark K.
Fujimoto, Gene T.
Fulham, Thomas A., Jr.
Fullbright, Robert W.
Fullerton, John A.
Fulton, Thomas B.
Funk, Duane H.
Funk, Richard L.
Funk, William T.
Funke, Richard H.. III
Furrevig, Harold L.
Gage, Daniel E.
Gaffney, Michael G.
Gafney, Edward J. III
Gaines, James E., Jr.
Gallemore, James B.
Gallup, Frederick S. III
Gamber, Charles T.
Gammage, Patrick O.
Garcia, John S.
Garden, George C., Jr.
Gardner, Grant E.
Gardner, James A.
Garifalos, James E., II
Garrett, Patrick M.
Garrish, James W.
Gaskins, James Y.
Gastrock, Martin D., Jr.
Gates, Ronald A.
Gauthier, Normand C.
Gavett Wallace L., Jr.
Gavin, Donald E.
Gavito, Valentin F., Jr.
Gawlik, Joseph A.
Gay, James F.
Gear, Bud S.
Gearhart, Michael W.
Gebbia, Frank, Jr.
Geddes, Stephen S.
Geel, Richard A.
Gehl, Michael T.
Geiger, Donald G.
Geist, Gregory D.
Geister, Joel A., Jr.
Geopfarth, Robert N.
George, Calvin R., Jr.
Gerard, Gregory L.
Gershon, Joseph S.
Gessner, Robert L., Jr.
Giannotti, Bruce B.
Giarra, Paul S.
Gibney, William J.
Gibson, William L.
Gilchrist, Stephen D.
Gillespie, Roger A.
Gilley, Edward R.
Gilmer, Ernest V., Jr.
Girvin, Charles R., III
Givens, Joel D.
Glanzmann, Christopher F.
Glaser, Thomas L.
Glass, Joseph W.
Glenn, Lonnie L.
Glenn, Michael
Glick, Dean F.
Glick, Robert C.
Gloor, Louis O.
Glover, Ronald B.
Glynn, Dennis W.
Goad, Steven R.
Goddard, James R., Jr.
Goessling, James R.
Goetz, Michael L.
Gogolin, James H.
Gokey, James W.
Goldman, Michael J.
Goldsby, Richard E.
Goldstein, Robert J.
Golisch, James A., Jr.
Golubovs, Paul
Gomez, Daniel S.
Good, Mark I.
Gooding, Brent B.
Goodwin, Robert A., III
Goodwin, Thomas J.
Goodwin, William V.
Gordon, Douglas T.
Goreham, Leonard A.
Gorman, James F.
Gorman, John J., Jr.
Gorman, Michael A.
Gorris, Frederick D.
Gorski, Thomas H.
Gorton, Grant, J., II
Gossett, Jeffrey L.
Grabski, Timothy M.
Grafton, Thomas A., III
Graham, Clive, Jr.
Graham, William L.
Graham, William R.
Granade, Walter E.
Grant, Francis, J., Jr.
Grant, Geoffrey E.
Grant, Roderick C.
Grau, David G.
Graves, Davie W.
Graves, Marshall W., Jr.
Gray, Charles L.
Gray, Gary J.
Gray, Gary K.
Greaser, Donald C.
Green, James F.
Green, John M.
Green, Kevin P.
Green, Melvin C.
Green, Richard H.
Green, Terry A.
Greene, Brenton C.
Greene, Stephen D.
Gregoire, Barry L.
Gregory, Erik S.
Gregory, William H.
Griffin, Paul M.
Griffith, Carl D., Jr.
Griffiths, Charles H., Jr.
Gripp, Jan W.
Grissom, Mark P.
Gritzke, Arnold R.
Groefsema, Gary G.
Groenig, Stanley R.
Groff, George T.
Groff, Lawrence L.
Gronroos, William E.
Gross, Thomas M.
Grover, James C.
Grubbs, Albert J.
Grubbs, Kenneth K.
Guest, Frank B., III
Guiles, Richard H.
Guillot, Denis M.
Gullion, Joseph M.
Gunn, Donald P.
Gurke, Lee S.
Gusette, Charles J., III
Guzauskis, Steven A.
Haagensen, Brian C.
Haberlandt, Frederick R.
Haddock, James M.
Hagstrom, David W.
Hagy, Michael R.
Hahn, Keith D.
Haizlip, John T.
Hale, Christopher D.
Hales, David D.
Haley, Richard L., Jr.
Hall, Delmon B., III
Hall, Garry R.
Hall, Gary M.
Hall, Larry W.
Hallihan, Timothy J.
Halsted, David P.
Hamelin, Gregory R.
Hamilton, William L.
Hammar, Kevin D.
Hammond, Gary R.
Hammond, John T.
Hampton, John J.
Hanback, David L.
Hancock, Edward L., Jr.
Hancock, William A.
Hans, William F.
Hansell, Dennis R.
Hanson, Paul E.
Hardaway, James H.
Hardee, James B.
Harding, Richard W.
Hare, Robert L.
Harger, Tommy C.
Hargrave, Douglas F., Jr.
Harlow, William R., Jr.
Harmon, William C.
Harms, Alfred G., Jr.
Harper, Allen D., III
Harper, Gregory P.
Harris, Craig H.
Harris, Michael L.
Harris, Stephen A.
Harrison, Jeffrey A.
Harrison, John J.
Harrison, John T.
Harrop, John K.
Hart, David T., Jr.
Hart, William S.
Hartmuller, Roger L., Jr.
Hartrick, Thomas F.
Harvey, Gerald A.
Haseltine, Raymond F.
Hass, Timothy F.
Hastings, David C., Jr.
Hatcher, Russell L., Jr.
Hatcher, William L., III
Hatfield, Douglas P.
Hathaway, Carmrid G., II
Hathaway, Clifford N., Jr.
Hawkins, Bruce W.
Hawkins, Jeffrey A.
Hawver, William S.
Hayes, Bradd C.
Hayes, James A.
Hearding, David W.
Heath, Donald E.
Heath, Gregory G.
Heatley, Charles J., III
Hebert, Edward R.
Heckrodt, Gregory L.
Hedden, Charles R.
Hedegor, John W.
Hedrick, Michael K.
Heil, James P.
Heimgartner, Kenneth F.
Helgeson, Marc A.
Hemer, Glenn A.
Hemphill, Gregory L.
Hendershot, Robert P.
Henderson, Glenn
Hennessy, Paul B.
Henry, Christopher R.
Henson, John W.
Hergenroeder, James
Herger, Joseph F.
Hermanson, Bruce
Hermeling, Theodore A., Jr.
Hershey, Scott H.
Hess, Charles M.
Hess, Glenn E.
Hess, Mark W.
Hessdoerfer, Ronald C.
Hesser, Neal P.
Heuer, Edward D.
Hewett, Ronald E.
Hewitt, Robert A., Jr.
Heyworth, Gordon
Hickey, Daniel G.
Hicks, Leonard L.
Hieronymus, Dennis J.
Higgins, Paul M.
Higgins, Timothy
Hilfer, Roger T.
Hill, Billy P.
Hill, Clarence E.
Hill, James A.
Hill, Martin R.
Hill, Michael A.
Hill, Steven C.
Hilton, William R.
Hines, James M.
Hingle, Leander L., Jr.
Hinson, Larry A
Hirsch, Gerald R.
Hirst, William C., Jr.
Hitt, Curtis W.
Hobbs, Philip G.
Hobgood, Gordon B., Jr.
Hoden, John G II
Hodson, Brian J.
Hoert, Michael J.
Hoewing, Gerald L.
Hoffman, James H.
Hoffoss, Peter O.
Hogen, David J.
Holden, Timothy A.
Holdredge, Robert L.
Holdstein, Wallace W., Jr.
Holland, Frank L., Jr.
Holland, Howard M.
Holland, James E.
Holland, William W.
Hollands, Christopher C.
Hollingsworth, Arnold G.
Hollis, Stephen J.
Holm, John A. II
Holmes, Thomas R.
Holmquist, Kurt E.
Holmstrom, Garry
Holzmann, Kenneth R.
Honey, Ronald D.
Hoover, James D.
Hope, Roger K.
Hopkins, Hubert .D., Jr.
Hopkins, Robert L.
Hopper, James H. III
Hopper, William F.
Hoppus, Michael L.
Horais, Brain J.
Horn, Robert G.
Horne, Charles H., Jr.
Horne, Richard A.
Horner, John S.
Hornung, Scott A.
Horstmann, Richard F.
Hosier, Mark S.
Houck, Timothy L.
Hovermale, Mark D.
Howard, David G.
Howard, George R.
Howard, John F.
Howard, Walter G., Jr.
Howe, David B.
Howe, Robert H.
Howell, Wayne M.
Hower, James D., Jr.
Hrenko, John, Jr.
Hubbard, John H.
Huber, Michael E.
Hughes, John T., II
Hughes, Joseph A.
Hughes, Roger A.
Hughes, Ronald A.
Hughes, Thomas F.
Hughes, William R.
Hugill, Joseph R.
Hull, David C.
Humble, Alan D.
Hume, John G., Jr.
Humphries. Arthur A.
Humphries, Wofford F., III
Hunt, James C.
Hurd, Steven L.
Huss, Boyce W.
Husser, Louis A., Jr.
Huston, Norman E., Jr
Hutchins, Alfred G., Jr.
Hutchins, Stephen C.
Hutchison, Jeffrey A.
Ibert, Peter J.
Indorf, John W., Jr.
Ingalsbe, Stephen R.
Inglish, Gary K.
Innella, Michael J.
Irlam, Ross E.
Israel, John E.
Ives, Kenneth R.
Jackson, Andrew H.
Jackson, David L.
Jackson, Jimmie R.
Jackson, John E., Jr.
Jackson, William P., Jr.
Jacobs, Robert W.
Jacobs, Thomas E.
Jacobson, Jim H.
Jacobson, Robert A.
James, Robert B.
James, Ronald B.
Jamison, Christopher P.
Janes, Charles E.

Janiec, Jan D.
Jankura, Edwin S., Jr.
Jannusch, Craig M.
Jarabak, John P., Jr.
Jarosinski, John M.
Jarrett, Stephen M.
Jarvis, David E.
Jaskunas, Thomas M.
Jauernig, Robert R.
Jenkins, Craig W.
Jenkins, Jerry M.
Jenness, William A.
Jensen. Jens A.
Jensen, John A.
Jerome, Douglas J.
Jewell, Keith A.
Jewett, Charles E.
Jimenez, Jose S.
Johanek, James F.
John, Gary A.
Johns, Joseph H.
Johns, Stephen B.
Johnson, Arthur L.
Johnson, Charles C.
Johnson, Charles S.
Johnson, Dennis G.
Johnson, Dennis J.
Johnson, Garland R., Jr.
Johnson, Gregory H.
Johnson, Herman R.
Johnson, Jack M.
Johnson, James D.
Johnson, John L.
Johnson, Larry C.
Johnson, Michael B.
Johnson, Michael D.
Johnson, Michael J.
Johnson, Philip G.
Johnson, William F.
Johnston, John, Jr.
Johnston, Phillip L.
Johnston, William R.
Jones, Edward L.
Jones, James A.
Jones, Jimmie G.
Jones, John H., II.
Jones, Mark W.
Jones, Stanley L.
Jones, Thomas L.
Jones, Walter E.
Jones, Wayne M.
Jordan, James T.
Jordan, Kenneth S.
Jordan, Timothy G.
Jorvig, Daniel A.
Josefson, Carl E., Jr.
Joseph, Alfred M.
Joseph, William A.
Junge, Dennis M.
Jurkowsky, Thomas J.
Kaczmarek, Michael H.
Kaden, Glenn L.
Kaelin, Charles M.
Kagy, Rodney E.
Kallin, Peter L.
Kalstad, Kendall W.
Kane, Dennis L.
Karas, John G.
Karr, William K.
Kasdorf, Roy E.
Kaye, Theodore L.
Keane, Joseph P., Jr.
Keating, Timothy J.
Keck, Alan R.
Keefe, Daniel S.
Keefer, Joel D.
Keegan, Joseph W.
Kennan, John J., Jr.
Keenan, Philip V.
Kehoe, Michael J.
Keil, Robin F.
Keith, Douglas W.
Keith, James S.
Keith, Michael G.
Keithly, Thomas M.
Keleher, William P., Jr.
Kelley, Daniel W., Jr.
Kellogg, Robert L.
Kelly, Edward W.
Kelly, Frank B.
Kelly, Patrick R.
Kelly, Patrick W.
Kelly, Taylor D.
Kelly, Verland R., Jr.
Kelso, Jesse J.
Kelso, Robert B.
Keltner, Richard F.
Kemp, Curtis A.
Kemp, Dieter K.
Kemple, Steven J.
Kendall, David C.
Kendall, Gene R.
Kennedy, Clarence
Kennedy, Kristopher M.
Kenney, Paul S.
Kent, Lowell R.
Kern, Dennis J.
Kessler, Paul K., Jr.
Kester, Lawrence V.
Ketron, Michael G.
Keuhlen, Phillip J.
Keyser, Emmett M., III
Kibler, Adrian E., Jr.
Kidrick, James G.
Kilborn, Edgar L., Jr.
Killough, Robert C.
Kim, Theodore S.
Kimmel, Robert L.
Kindel, George F.
King, Kendall J.
King, Manton A.
Kirk, Bruce R.
Kirkpatrick, James R.
Kistler, Jay R., Jr.
Klein, Fred C.
Klein, James M.
Klinker, Patrick J.
Klobukowski, Jerome J.
Kluever, Patrick R.
Knight, John R.
Knight, William B.
Koch, Raymond W.
Kocmich, Eugene J.
Kodzis, Richard F.
Koehler, John A. III
Koelemay, Maurice M.
Koger, Gary L.
Kohinke, Edward G.
Kohne, John E.
Konopa, Steven J.
Konya, Bruce R.
Kopacz, Anthony J.
Kortman, Gregory M.
Koski, Carlos I.
Koss, Andrew J.
Kozusko, Frank P., Jr.
Kraay, Earl A.
Kraker, Lawrence L.
Kramer, Klaas
Krattli, Robert W.
Kraus, George F., Jr.
Kreeger, Theodore W.
Kren, John L.
Kreutzer, Kenneth L.
Krohn, Raymond L.
Krupski, Paul J.
Kryske, Lawrence M.
Kubic, Tad A.
Kubovchik, John F., Jr.
Kuehne, Kenneth W.
Kujat, Edward J.
Kulikowski, Joseph G.
Kutcher, Robert J.
Kwake, William E.
Kysar, Billy D.
Labarge, William H.
LaForce, Don C.
Lake, Gerald E.
Lalonde, Larry W.
Lambert, Robert B.
Lamkin, Harry B. III
Landers, Coleman A.
Lane, Douglas S.
Lane, Gregory B.
Lang, Thomas C.
Langley, William L., Jr.
Lanier, Richard J.
Lantta, Kenneth D.
Lantz, James S.
Large, William R., III
Larkin, Robert J.
Larsen, Christopher S.
Larsen, Thomas C.
Larson, David A.
Larson, Gregg D.
Larue, Larry D.
Lassman, Abraham J.
Lauderdale, Donnie A.
Laughter, Selwyn S.
Lautares, Peter G., II
Lavigne, Roger J.
Lawhon, James C.
Lawler, John C.
Lawrence, David E., Jr
Leary, Dennis J.
Lee, Richard P.
Lee, Thomas E.
Lee, Thomas J.
Leestma, David C.
Legacy, Alan E.
Legrow, Allan W.
Lehmann, Ralph H.
Leib, Robert C.
Leininger, Wilfred R.
Lemkin, Bruce S.
Lenfant, Philippe M.
Lengerich, Anthony W.
Lennon, Gerard T., Jr.
Lento, Peter
Leo, Barry L.
Leonard, Raymond E., III
Lepick, Mark H.
Leroy, Richard D.
Leverette, Glen
Lewandowski, Lawrence A.
Lewis, Jeffrey E.
Lewis, Jerry L.
Lewis, Joe T.
Lewis, Kirk T.
Lewis, Paul S.
Lewis, Timothy B.
Ley, Gary W.
Libera, Daniel C.
Liberatore, Donald J.
Liggett, Robert D.
Lillard, William A., III
Lind, David J.
Lindberg, David E.
Linder, Bruce R.
Lindner, Robert W.
Lindquist, Robert G.
Lindstrom, Jerry D.
Link, Joseph W.
Linn, Claud O.
Linnehan, John J., II
Lipscomb, Gary E.
Lipsey, Mark D.
Little, William H.
Littleton, Joseph S., II
Littleton, Leland K., Jr.
Livelsberger, Francis S
Lloyd, Gregory F.
Lobs, Warren M.
Lobue James J.
Locke, William N., Jr.
Logue, Stephen J.
Loiselle, James W.
Lombard, Peter N.
Long, John H.
Long, Paul B.
Long, Robert H.
Long, Stephen T.
Long, William H., Jr.
Longworth, Michael W.
Lopardo, John P.
Loring, Paul M.
Louden, Peter E.
Love, Glenn E.
Love, John B.
Love, Patrick S.
Loyd, Robert C.
Loynes, James L.
Luengen, David W.
Luhan, John B.
Lukaszewicz, Joseph T
Lulu, Michael J.
Lundsager, Soren
Lundy, Allen F.
Lunning, Robert M.
Lutkenhouse, Michael A.
Lynch, Michael J.
Lynch, Vincent J.
Lynch, William D.
Lyons, Thomas W.
Maahs, Carl E., Jr.
Mabry, Robert C., Jr.
Mac Donald, Douglas T.
Mac Donald, Thomas L.
Mack, Stanley J.
Mac Kinnon, David R.
Mac Luskie, John R.
Macon, Richard T.
Mader, James F.
Madison, Patrick T.
Madurski, Paul E.
Maggi, Robert W.
Mahaffey, Vaughn E.
Mahle, Gary G.
Mahoney, Stanton V., Jr.
Main, Glenn A.
Maixner, Michael R.
Makings, Dean M.
Mallgrave, Fred J., III
Mallon, Paul J.
Mallory, Harry B., III
Mannel, Robert P.
Manning, William B., III.
Mansfield, Philip S.
Manvel, John T., Jr.
Marich, Milutin.
Marinelli, Jay W.
Marion, Kenneth T.
Maris, James R.
Markiewicz, Thomas R.
Marle, William H.
Marlin, Robert D.
Marlow, Francis J.
Marra, Kenneth J.
Marshall, Robert E., Jr.
Marshall, William J.
Marszalek, Kenneth J.
Martello, Keith W.
Martin, Colin L.
Martin, Davis W.
Martin, John F., III
Martin, Michael R.
Martin, Robert R.
Martin, Ronald R.
Martin, Stephen D.
Martin, Stephen R.
Martini, Perry J., Jr.
Martino, Nathan P.
Martiny, Leon E.
Marvin, George R.
Marzola, David S.
Mashburn, Robert L., Jr.
Maskew, Rodney M.
Mason, Charles M., Jr.
Mason, James R.
Mason, Lee C., II.
Mason, Lewis G.
Massengale, Saint E. M.
Mast, Peter A.
Masters, William D.
Mathews, Kirk A.
Mathews, Monty G.
Mathewson, Raymond L., Jr.
Mathis, Don W.
Mathis, Michael G.
Matthews, John M., Jr.
Mattix, Thomas M.
Mattos, John C.
Matz, William P.
Mauro, Charles T.
Maxey, John D.
Maxwell, Walter R., III.
Mayes, Larry L.
Mayhan, Terence W.
Mazzeo, Daniel P.
McArthur, James D., Jr.
McAvinia, Thomas F.
McBride, Michael P.
McCabe, Robert J.
McCamish, Michael J.
McCarley, Theodore K.
McCarthy, John F.
McCarthy, Morton E., Jr.
McCartney, Patrick L.
McCarty, Franklin B.
McCarty, James D.
McCarville, Patrick A.
McCaskey, James W.
McClendon, Erwin L.
McCloskey, John D.
McClung, Doyle C.
McClure, Bruce P.
McComb, Lorne B.
McConchie, Robert W.
McConkey, David L.
McCort, Daniel R.
McCrae, James A.
McCrory, Ralph C.
McCroskey, Bruce A.
McCuddin, Michael E.
McCurdy, Russell A.
McCutchen, John M.
McDermott, James K.
McDevitt, Gerald R.
McDonald, Randal S.
McDougal, James M.
McDowell, Joel G.
McElraft, Ronald D.
McElroy, Daniel W.
McFarland, Thomas W.
McGee, Michael G.
McFerron, Donald J.
McGalliard, Gene R.
McGill, John B.
McGillvray, John W., Jr.
McGinn, Leo F., Jr.
McGrath, Joseph J.
McGraw, William L.
McHenry, William I.
McLane, Robert L.
McLaughlin, Timothy M.
McLean, Bruce D.
McLean, David G.
McLochlin, John M.
McLoughlin, William R.
McMacken, John C.
McManus, Donald E.
McMican, William J.
McWilliams, Hugh N.
Mead, Gregory G.
Mears, George H.
Mease, Frank B.
Meek, Terry L.
Meeley, William A., Jr.
Meier, David K.
Meister, John T.
Mellin, Peter J.
Mellor, Martin W.
Melton, Daryl K.
Melton, James D., Jr.
Mendez, Robert
Mendillo, Mark
Meriwether, Gordon K., III
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Merwin, Ronald J.
Metzger, James W.
Meurer, Robert H., Jr.
Meyer, Daniel H.
Meyer, John G.
Meyer, Stephen D.
Meyer, Thomas L.
Meyers, John E.
Meyers, William A.
Meyett, Robert S.
Miars, Thomas E.
Michalske, Ralph R.
Michell, William R.
Mihalak, Edward
Mihocik, Robert A.
Mikhalevsky, Peter N.
Milanette, Jeffrey C.
Millar, Randall H.
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Miller, Arlington, R., Jr.
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Miller, David B.
Miller, David R.
Miller, Donald P.
Miller, Dennis W., Jr.
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Miller, Steven M.
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Mills, Jack B.
Millis, Phillip H.
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Milsted, Charles E., Jr.
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Mitchell, Alfred W.
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Mitchell, Joseph A., II
Modes, Ronald W.
Moffatt, William G
Molloy, William E., Jr.
Montemarano, Anthony S.
Montgomey, Glenn H.
Montgomery, Henry E., Jr.
Moody, William V.
Moon, Eugene L.
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Moore, Gary E.
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Moore, Paul A., Jr.
Moore, Richard B.
Moore, Williams T., III
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Moranville, Mark S.
Morgan, James C., Jr.
Morgan, John G., Jr.
Mori, Donald P.
Morneau, Michael L.
Morral, Dennis G.
Morreale, Bruce V.
Morris, Ernest L., Jr.
Morris, John T.
Morris, William D.
Morrison, Thomas R.
Morton, Thomas W.
Moseley, James R.
Mosey, David M.
Moss, Brian W.
Moss, Charles M.
Mulder, Keith P.
Mulkern, Trent C.
Mullican, James N.
Mullins, Patrick C.
Mulvany, Gregg P.
Muncie, John C.
Murchison, Grover R.
Murdock, Thomas E.
Murphy, Allen M.
Murphy, Charles D.
Murphy, George J., III
Murphy, Robert T.
Murray, George M.
Musgrave, Clyde
Musselman, Warren E.
Musso, Thomas F.
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Myers, Ronald L.

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Nacht, John J.
Nadeau, William J.
Naedel, Daniel S.
Naughton, Michael J.
Nava, David
Naylor, William M.
Needham, William D.
Neely, Frederick G.
Neihart, Charles W., Jr.
Nelms, Larry W.
Nelson, David E.
Nelson, David J.
Nelson, Duane L.
Nelson, Frederick D.
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Nelson, Jeffrey R.
Nelson, Robert C.
Nelson, William H.
Nelson, Robert E.
Nelson, States L.
Nemec, Johnnie F.
Nesbitt, Alan P., III
Ness, Christian Q.
Nestor, Don A.
Neuhart, Mark D.
Newland, Charles R.
Newman, Don R.
Newman, Micajah W.
Newport, Paul T.
Newton, Danny R.
Neyer, Ronald C.
Nibbs, Alan M., Jr.
Nichols, Raymond J., Jr.
Nicholson, Harry X., III
Nickelson, Bobby L.
Nickodem, Peter W.
Nicolin, Kevin C.
Niebergall, Marc C.
Nielsen, Jack S.
Nise, James R.
Nitschke, Roy H.
Noland, James T., Jr.
Nold, William F.
Nolin, Bruce E.
Norrbom, Timothy J.
Norris, Donald O., Jr.
Norris, John A.
Nottke, Bruce A.
Noziglia, Robert E., Jr.
Nye, Eric B.
Oatley, Eugene T.
Oberg, David A.
Obryon, Raymond T.
O'Connell, Patrick M.
O'Connell, Timothy D.
O'Connor, Michael L.
Odea, James E.
Odland, David J.
O'Donnell, Brendan, J.
Offerle, Robert A.
O'Grady, Arthur J.
Ogurek, Robert F.
O'Keefe, James G.
Olechnovich, Paul, J. V.
Oleszko, Lawrence A.
Oliver, Thomas A.
Olsen, Alfred J.
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Olson, Donald T., Jr.
O'Neill, Richard P.
Onyon, Dale E.
Orbann, Carl T., III
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Ormsbee, Richard B.
Orr, Paul L., Jr.
Ortmann, Robert A.
Orton, Frederick C.
Osier, Christopher
Oslund, Dwayne A.
O'Sullivan, George D.
Oswald, Louis J., III
Oswald, Thomas J.
Ott, Andrew A.
Otto, David T.
Owens, Ronald L.
Ozehoski, Edward M.
Pacentrilli, Larry A.
Pache, Eugene P.
Pachuta, Mark T.
Padgett, Gerald A.
Palanca, Rodney A.
Paleck, Robert H.
Palmatier, Philip F., Jr.
Palmatier, Robert J.
Palmer, George W.
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Panos, Christopher W.
Panzigrau, Jerome E.
Paoletti, Aldo T.
Papin, Gregory A.
Papineau, Larry R.
Pariseau, Robert R.
Parker, Daniel M.
Parker, David J.
Parker, Jay P.
Parker, Lutrelle F., Jr.
Parker, Robin M.
Parker, Wendell E.
Parks, Edward J.
Parks, Philip D.
Parlet, Robert D.
Parr, Larry S.
Parrish, Joseph V.
Patterson, Wayne L.
Patton, James W.
Patton, John A.
Patullo, Kenneth E.
Paul, James
Paulson, John J.
Paulus, Richard A.
Peairs, Gregory R.
Pearce, Michael D.
Pearce, Richard I.
Pearson, Charles W., II
Pearson, Thomas W.
Pebley, James W.
Peck, James E.
Pence, Derry T.
Penix, Larry E.
Perin, Jeffery M.
Pernell, Larry E.
Perras, Wayne I.
Perry, James W.
Perry, Joseph L., Jr.
Perry, Robert P.
Peterman, Ronald R.
Peters, Jon C.
Peters, Kenneth M.
Peters, Kenneth W.
Peters, Steven L.
Peters, Wayne A.
Petersen, Richard M.
Petrea, Howard A., Jr.
Petrie, John N.
Petritz, George L.
Pettit, Hubert C.
Petty, Randolph A.
Pfeiffer, Frank G.
Pfister, Russell J.
Pflueger, Michael P.
Pharr, Alvis S., Jr.
Phelps, Norman, J.
Phillips, Donald W.
Phillips, James G., III
Phillips, James W.
Phillips, John L.
Pickett, Russell A.
Piecuch, John L.
Pieper, Richard W.
Pierce, Roger A.
Pierce, Steven D.
Pine, John S.
Pistochini, Mark D.
Plank, Richard G., Jr.
Plautz, Dennis H.
Pledger, James E.
Plourde, Elwood H.
Poe, Deen O.
Poland, Marc M.
Polatty, David P., III
Pollack, Michael A.
Poole, Timothy E.
Poorman, Kenneth A.
Porritt, Richard H., Jr.
Porter, Thomas P.
Porterfield, Richard B.
Posey, Kelley G.
Posnett, William L., III
Powell, Frank R.
Powell, John R.
Powers, Lynn F.
Powers, Thcmas J.
Prather, David W.
Preisel, John H., Jr.
Prendergast, Timothy E.
Preston, Randall D.
Prevar, John E.
Price, Michael L.
Prince, Thomas A.
Pruden, Glenn R.
Pryor, Hershel W., Jr.
Ptacek, John W.
Ptak, Alan C.
Puccini, Bruce A. J.
Pumilia, Michael P.
Purdy, G. James, Jr.
Purvis, Johnny G.
Pyles, Steve
Quadri, Anton S.
Quigley, Thomas K.
Quinn, Paul F.
Quinn, Timothy J., Jr.
Rable, William J.
Radich, Thomas F.
Ragen, Michael W.
Ragnetti, Michael J., Jr.
Rankin, Robert H.
Ransbotham, James I., Jr.
Ratcliff, Ronald E.
Rathbun, Michael S.
Ratliff, Perry M.
Rawls, Rodger C.
Rayhons, George A.
Read, Roger B.
Reasoner, James D., Jr.
Redmond, Douglas C.
Redshaw, Michael D.
Reece, Stephen M.
Reed, Billie M.
Reese, Gary A.
Reese, James C.
Reeve, Edward J.
Reeves, Jerry D.
Reeves, Thomas E.
Reeves, Wayne R.
Reilly, David J.
Reise, Jeffrey A.
Reitz, Stephen L.
Remshak, Christopher J.
Renninger, James B.
Renton, Irvine A., III
Repicky, John J., Jr.
Reppard, David B.
Resing, David C.
Ress, Charles M.
Reuter, David G.
Revolinsky, Joseph A.
Reynolds, Craig G.
Reynolds, John C.
Rhoades, William A.
Rhodes, Thomas W., Jr.
Ricciardi, Robert N.
Rice, Michael L.
Rice, Robert E., Jr.
Richards, Neil R.
Richards, Philip E.
Richardson, Isaac E., III
Richardson, James D.
Richardson, Kenneth A.
Rickman, Loy D., Jr.
Rickman, William L.
Rider, John D.
Ridgway, Donald C.
Riess, Robert E.
Rigot, William L., Jr.
Riley, Richard P.
Rimpau, James W.
Riordan, Michael E.
Rippel, David A.
Rivera, Robert
Roark, Louis K.
Robb, James A.
Roberts, Dana A.
Roberts, John D. F.
Roberts, Paul E.
Roberts, Ralph D., Jr.
Roberts, Warren L.
Robertson, Michael D.
Robertson, Ronald L.
Robinson, Frederick T. II
Robinson, Steven N.
Robinson, William J.
Robison, Richard A.
Roble, Woodrow J.
Rockwell, Donald E., III
Rockwell, Richard T.
Rodgers, Richard L.
Rodman, William B. V.
Roemer, Goeffrey S.
Rogers, George C., Jr.
Rogers, James E.
Rogers, Ted E.
Rogers, William A., Jr.
Rohlfs, H. Warren, Jr.
Rollins, David C.
Roman, Theodore R., Jr.
Romann, John E.
Romine, Steven L.
Rood, Homer J.
Roper, John N., III
Rosenthal, Mark L.
Ross, Jim A.
Ross, John C.
Ross, Robert R.
Ross, Stephen C.
Rotondo, Michael J.
Rough, James R.
Roulstone, Douglas R.
Route, Ronald A.
Rowe, Daniel J.
Rowe, Wayne J.
Rubel, Robert C.
Rubel, William R.
Rubino, Woody M.
Rucker, Steven W.
Ruggles, Clifford L.
Ruhl, Philip C.
Ruschmeier, Stephen J.
Rush, Robert J.
Russell, Donald C.
Russell, Howard S.
Russell, Robert W.
Russell, Roy W.
Russell, William D.
Rutherford, Allan
Rutherford, Lindell G.
Rutkowski, Edwin G.
Rutledge, William C.
Ryder, Curtis M.
Ryder, Robert M.
Ryskamp, Robert H.
Sack, Alvin L.
Sackett, Craig P.
Sagi, John P.
Salamon, James A.
Salemi, Edward M.
Salinas, Manuel G.
Salzer, Thomas B.
Samar, Jack J., Jr.
Sampson, John A.
Sands, Robert W.
Sanford, Gregory B.
Santangelo, James A.
Santapaola, Donald J.
Sare, Michael J.
Sarraino, Michael
Saunders, Kenneth P.
Saunders, William C.
Savage, Robert R.
Sax, Karl II
Scarbro, Kurt M.
Schaeffer, Jacob D.
Schaffter, Alan B.
Schalk, John E.
Schall, George E., Jr.
Schaufelberger, Albert A., III
Scheer, Andrew J.
Scheer, Michael R.
Schiesser, William A.
Schlieper, Fred J.
Schmidt, Jonathan B.
Schmidt, Robert H.
Schmidt, Wesley H., Jr
Schmiermann, John A.
Schmitt, William E.
Schneberger, Scott L.
Schneegas, David A.
Schnellenberger, James E.
Schnoover, Robert A.
Schopp, Dean W.
Schork, John F.
Schoulda, Craig C.
Schubert, Jerry L.
Schuknecht, Richard E.
Schuler, John J.
Schultz, George W.
Schultz, Paul S.
Schultzman, Jay S.
Schwalier, Charles D., II
Schwaller, Gregory A.
Schwartz, Michael N.
Schwenke, George W.
Schwiering, David A.
Scott, Bruce B.
Scott, James R.
Scott, John E.
Scott, Kenneth H., Jr.
Scott, Robert J.
Scott, Robert P.
Scudder, Stephen V.
Sebastian, Stacy E.
Seckinger, David N.
Secorsky, Thomas A.
Sedivy, Dean G.
Seeley, James R.
Seffers, William J.
Seigel, Thomas G.
Selde, Peter J.
Sellers, Ronald E.
Selman, William W.
Seminoff, Gregory N.
Sensat, Robert J.
Sentman, Orville L.
Shalles, Siegfried L.
Shankles, Jackie W.
Shatzer, Lewis A., Jr.
Shaver, Eric B.
Shaw, Daniel N.
Shaw, John D.
Shaw, Samuel D.
Shay, Jon V.
Shea, Daniel J.
Sheehy, Patrick T.
Sheffield, Harold L.
Shekem, Murat
Shemella, Paul
Shepherd, William M.
Sheppard, Walter T.
Sheppard, William L., Jr.
Sherk, Glenn E.
Sherman, Vining A., Jr.
Sherrard, John C.
Sherry, Kevin J.
Sherwood, Roger R.
Shields, Robert B.
Shiver, Wayne S.
Shoaff, Ray L., Jr.
Shockley, William R.
Shoemaker, James E.
Shon, Michael D.
Shuk, John G.
Shurtleff, William H., IV
Shutt, William L.
Sieve, Glennon L.
Sigmon, Kennis L.
Silcox, John H., Jr.
Silvers, Richard A.
Silvestri, Michael J.
Simeral, Robert L.
Simmons, Nathaniel P., Jr.
Simpkins, Earl L., Jr.
Simpson, Jeffrey P.
Simpson, John P. III
Simpson, Paul L.
Sinclair, William F., Jr.
Sine, Don T.
Sipe, Charles R., Jr.
Sisa, Steven A.
Sitler, Stephen D.
Skidmore, Maynard B.
Skinner, William E.
Skirm, George L. III
Skjoldager, Jack O.
Skurski, Paul R.
Slater, Arthur F.
Slocumb, Dennis A., Jr.
Smartt, Douglas A.
Smith, Bradley P.
Smith, Charles D.
Smith, Earl M.
Smith, Edward S., Jr.
Smith, Frederic D.
Smith, Gary J. E.
Smith, Gary L.
Smith, Gregory C.
Smith, Harris L.
Smith, Janvier K.
Smith, Jeffrey T.
Smith, John K.
Smith, Lawrence D.
Smith, Paul T.
Smith, Richard C.
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Smith, Robert E.
Smith, Robert S. K.
Smith, Russell L.
Smith, Scott T.
Smith, Stephen W.
Smith, Steven M.
Smith, Stuart W.
Smith, Wayne E.
Smith, William D.
Smoogen, James L.
Snead, Leonard A., III
Snell, Stephen F.
Snodgrass, Dale O.
Snow, Terry D.
Snyder, Michael D.
Snyder, Thomas E.
Snyder, William L.
Soderberg, Eric J.
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Sonn, Bruce E.
Sonntag, Steven J.
Sontheimer, Richard F.
Sorg, Robert E.
Sorrentino, Ludwig A.
Sowers, Gary G.
Speer, John P.
Speer, Robert G.
Spence, Maurice F.
Spencer, Charles H., Jr.
Spencer, William E.

Sperberg, Lester W., Jr.
Spinks, William H., Jr.
Spotts, William W.
Springman, Robert E.
Squires, Monte A.
Stack, John J.
Staebler, Francis
Stahler, William D.
Stamand, Richard A. J.
Stamets, Jon A.
Staniewicz, Matthew J.
Stansfield, James D., III
Stanton, Donald C.
Staples, Ralph E., Jr.
Stark, Richard R.
Stark, Terry M.
Starr, Kenneth W.
Staton, Ronald B.
Steding, Michael W.
Steele, Scott L.
Steelman, William J.
Steffen, Norman W.
Steinestel, Richard R.
Stenroos, Joseph R.
Stephens, Robert C.
Stephenson, Walter W.
Sterner, Robert C.
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Stettler, Gerald A.
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Stevens, Ira B.
Stevens, Paul H.
Stevens, William R.
Stevenson, Charles A.
Steward, Paul E., Jr.
Stewart, Frank W.
Stewart, George D., II
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Stewart, Melvin L.
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Stickler, Christopher A.
Stiles, Joseph E.
Stine, Jeffrey L.
Stites, Lloyd T., Jr.
Stockho, Robert E.
Stoddard, Larry C.
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Stone, Jeffrey M.
Stone, Timothy G.
Stoner, Donald W.
Storez, Robert A.
Storm, Bradley D.
Strain, Hugh J.
Stratton, James W.
Strawbridge, Carl N.
Streiff, Edward J.
Strickland, Peter B.
Strickler, Richard W.
Stricklin, Ted A.
Stringer, Richard H.
Struble, James F.
Stuart, Gary L.
Stuart, Robert W.
Stuckert, Bruce T.
Stuermann, Walter P.
Stuhlman, Robert H.
Stull, Mark J.
Stupfer, Bruce W.
Sturm, James R.
Stutzman, Galen D.
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Suman, Steven M.
Summerall, Daniel B
Sundin, Melvin L.
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Surratt, Randall L
Sutton, David B
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Swain, Donald A
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Tate, Russell E.
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Taylor, Lee B.
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Tennant, John W.
Teply, John F.
Terrell, Mark R.
Tetlow, Philip C.
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Thaggard, Robert S., Jr.
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Theis, James M.
Thiel, Kurt
Thies, Denzil D.
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Thompson, Alan J.
Thompson, Clarence E.
Thompson, Clark F.
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Thompson, George A.
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Thorne, Silas O., III
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Thorpe, James W., Jr.
Thorpe, Lloyd A.
Thurman, Alan B.
Tilden, Averill E.
Tilley, John A., Jr.
Tindle, John R.
Tipps, Richard D.
Tipsword, William H., Jr.
Titus, Frank A., II
Toalson, Vance L.
Tobiason, Erik A.
Todd, John L.
Tody, Stephen L.
Toennies, Peter E.
Toliver, Lynden R.
Tomaszeski, Steven J.
Tomlinson, Phillip F.
Tompkins, James M.
Toney, James H.
Torgerson, Jordan L.
Tornatore, Gary P.
Tornatore, William P.
Torres, Alexander G.
Townes, John W., III
Trabona, Robert J.
Traughber, John R.
Traverso, Timothy J.
Travis, Thomas L.
Treadwell, William P.
Treeman, Michael W.
Trenta, Richard F.
Tribelhorn, Ronald W.
Trickey, Tyler W.
Trowbridge, Frank R., Jr.
Troxell, Richard K.
Trudell, Michael A.
Trytten, Dean O.
Tuddenham, Read S.
Turner, Jay E.
Turner, Terry L.
Tussey, David A.
Tuttle, Larry J.
Tynan, Edward P.
Tyson, William J., III
Tzavellas, Theodore F.
Uebelherr, Michael F.
Ulaszewski, Terence J.
Ulrich, Edward D.
Ulrich, Henry G., III
Ulvestad, Robert E.
Underwood, Jonathan C.
Updegraff, William D., II
Uplinger, Joseph C.
Uricoli, Eugene F.
Ustick, Robert W. II
Utsch, Frank R.
Utschig, Thomas J.
Utterback, Robert A.
Uzenoff, Ronald J.
Vandeman, Frank L. IV
Vanderslice, John A. II
Vandover, David L.
Vanhoy, William A.
Vanorsdel, Robert R.
Verakin, Walter A. Jr.
Vaughn, David R.
Veatch, James M.
Veldstra, Daniel R.
Veneable, Ted J.
Vessely, Robert P.
Vetsch, William J.
Vick, Paul S.
Vickers, Sammy L.
Viglienzone, Dennis E.
Villarosa, John P.
Visage, Samuel J., Jr.
Voelker, George E.
Vogan, Charles S. Jr.
Vogt, Michael C.
Volpe, Joseph M. Jr.
Voros, Charles D.
Voss, Cary V.
Voter, James C.
Wagemaker, Wallace J.
Wagner, Cort D.
Wagner, Randall D.
Wagoner, Robert C.
Wainionpaa, John W.
Wais, Richard J.
Wakefield, Stanley I.
Wakeman, Mark
Walior, John T. Jr.
Walker, David L.
Walker, Donald B.
Walker, Frank T. Jr.
Walker, John B.
Walker, Rickey R.
Wall, Allan D.
Wallace, Edward C.
Wallmark, Walter W.
Walsemann, Donald W.
Walters, John J.
Ward, Charles R.
Ward, David A.
Ward, John J. Jr.
Wardlaw, William E.
Wardrobe, James E.
Ware, Jerry S.
Wargo, Joseph W.
Warr, Paul M.
Warren, Floyd D., Jr.
Washam, Gary I.
Waters, Cecil L.
Watson, John R.
Watson, Joseph A.
Watt, Alexander Y., Jr.
Watterson, Kent B.
Watwood, William B.
Waylee, Don H.
Weatherington, Michael W.
Weatherspoon, Stephen S.
Weaver, Charles S.
Weaver, Christopher E.
Weber, Frank C.
Wechselberger, Jacob F.
Weddel, David W.
Wedding, Gregory L.
Weidman, Richard D.
Weigand, Charles A.
Weigand, Charles J.
Weis, Timothy J.
Weise, Stephen P.
Weiss, Christopher L.
Welch, Daniel R.
Welch, John K.
Welles, Franklin G.
Welling, David C.
Wellman, William E.
Welsh, Edward J., III
Welsh, Harold K. Jr.
Welsh, Joseph L.
Werner, Gerald C.
Werner, James A.
Werson, Jan P.
Wessel, Kenneth J.
Wesselhoff, Stephen T.
Wessman, Mark D.
West, Michael C.
Westbrook, Gary M.
Westover, Steven B.
Wetterlin, Harold J.
Wharton, Darryl M.
Wheatley, Charles D.
Wheeler, Dennis R.
Wheeler, Richard C.
Wheeler, William G.
White, Grover L., III
White, James W.
White, Joseph W.
White, Paul M.
White, Phillip J.
White, William S.
Whitehead, Oliver W.
Whitehill, Archie R.
Whitelatch, Robert C.
Whitford, Daniel L.
Whitford, Dennis J.
Whitman, David A.
Whitney, John D.
Whittle, Alfred J., III
Wiestling, Stephen H.
Wigge, Conrad J., III
Wiggins, Ronald L., Jr.
Wile, Ted S.
Wiley, Ronald A.
Wilfong, Dallas G., III
Wilhelm, John R., Jr.
Wilhelmy, Mark D.
Wilkinson, Joseph B., Jr.
Willats, Steven J.
William, Bruce A.
Williams, David M.
Williams, Donald G., Jr.
Willams, Gary E.
Williams, Lee K.
Williams, Michael L.
Williams, Peter A.
Williams, Russell L.
Williams, Robert E., Jr.
Williams, Thomas R., Jr.
Williams, William R.
Williamson, John D.
Williamson, Richard C.
Willis, Clarence C.
Willis, Leland S., III
Wilson, Eric T.
Wilson, Gerald E.
Wilus, Michael S.
Wingert, Neil S.
Wingo, Theodore O.
Winney, Justin W., Jr.
Winsted, Bradley Y.
Winter, Dennis A.
Wise, John R.
Wismer, Stephen J.
Withers, Thomas R.
Wnek, Francis M.
Wolff, Conrad E.
Wolfsen, Terrence H.
Womack, Stephen L.
Womer, Rodney K.
Wood, Charles A.
Wood, David R.
Wood, Joseph A., Jr.
Wood, Marcelle E., Jr.
Woodall, James M.
Woodford, Joseph P.
Woolard, Reginald W., II
Worley, Dennis L.
Worthington, John R.
Worthington, Ralph L., Jr.
Wright, Oliver L., III
Wright, Richard F.
Wright, Wilbur G.
Wunsch, Charles S.
Wylie, James M., Jr.
Wyse, Frederick C.
Xefteris, Constantine L.
Yarrows, Edward P.
Yeatman, Lawrence L.
Yee, Thomas H.
Yirak, John L.
Yonce, William S.
Young, Cassin, II
Young, Charles S. B.
Young, David K.
Young, Gordon A.
Zajicek, Richard G.
Zakem, Jeffrey S.
Zanon, Richard J., Jr.
Zavaglia, Ronald F.
Zeigler, Howell C.
Zeller, Chester A., Jr.
Zimmerman, Kenneth R.
Zmuda, Raymond A., Jr.
Zuber, James D., Jr.
Zuorro, Kenneth J. P.

IN THE NAVY

The following-named Midshipman, Naval Academy, to be a permanent ensign in the staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Janie L. Mines

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Mark H. Neblett
Kirk L. Rimer

The following-named Navy Enlisted Scientific Education Program candidates to be permanent ensigns in the line of the U.S. Navy, subject to qualification therefor as provided by law:

Richard S. Chwaszczewski
Teri L. Howe
Randy E. Rhodes

The following-named Naval Reserve officers to be appointed permanent lieutenant commanders in the Medical Corps in the U.S. Navy, subject to qualification therefor as provided by law:

Monroe J. King
Richard A. Moriarty

The following-named Naval Reserve officer to be appointed a permanent lieutenant commander in the Dental Corps in the U.S. Navy, subject to qualification therefor as provided by law:

Eric T. Rippert

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers in the U.S. Navy, subject to qualification therefor as provided by law:

Rodolfo R. Castillo
Jeffrey L. Gough
Frederick R. Lord
James R. Ryan
Ronald E. Wainscott

The following-named retired U.S. Navy officer to be reappointed from the temporary disability retired list as a permanent commander in the Nurse Corps in the U.S. Navy, subject to qualification therefor as provided by law:

Helen B. Higgins

The following-named retired U.S. Navy officer to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the line of the U.S. Navy, subject to qualification therefor as provided by law:

William J. Fulton

The following-named Naval Reserve officer to be appointed a temporary commander in the Dental Corps in the U.S. Navy, subject to qualification therefor as provided by law:

Eric T. Rippert

The following-named civilian college graduates to be appointed permanent captains in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

John K. Legan
Robert W. Milam

The following-named ex-Naval Reserve officer to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Richard B. Michelson

The following-named civilian college graduates to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Edward J. Day
Robert V. E. Drennen
Edwin S. Gaither
Mark C. Levine
Jean L. Ray
Raul Rivera
David G. Thomson

The following-named U.S. Navy officer to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Bruce L. Daniels

The following-named U.S. Navy officers to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Thomas W. Coale
James F. Mayhew
Tom S. Neuman

The following-named civilian college graduate to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Lawrence M. Garges

The following named U.S. Navy officer to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Ronald F. Antimarino

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5780:

Charles N. Adams
Joe C. Adams
Larry G. Adams
Wayne T. Adams
John D. Alexander
David G. Amey
David L. Anderson
Donald F. Anderson
Donald K. Angel
Clair E. Averill, Jr.
Wayne A. Babb
Stephen A. Bamberger
Maurice R. Banning
Emory W. Baragar
Richard D. Barba
Richard K. Bardo
Brent J. Barents
Harvey C. Barnum, Jr.
John J. Barrett
Frederick W. Beekman III
James A. Bell
Coy T. Best, Jr.
Richard L. Bianchino
James W. Bierman
Arthur C. Blades
Clifford G. Blasi
Giles W. Bonds, Jr.
James A. Brabham, Jr.
Robert A. Bracy
John T. Braton
Watler J. Breede III
Harold L. Broberg
Charles O. Broughton
Gary E. Brown
Robert D. Brown
Samuel H. Brown, Jr.
Robert A. Browning
Frederick T. Bryan
Earl L. Bufton, Jr.
Arthur E. Burns III
Henery W. Buse III
Michael J. Byron
Richard D. Camp, Jr.
Thomas C. Carter
Paul R. Catalogne
Kurt J. Chandler
Theodore C. Cieplik, Jr.
John J. Clancy III
Joe Clark
William B. Clary
William F. Coenen
Ernest E. Collins
Bernis B. Conatser, Jr.
Thomas M. Conely
William J. Conley
Larry R. Cornwell
Everett E. Cossaboon
Walter J. Costello
Robert A. Courtemanche
Harold W. Courter
Paul H. Courtney
Miles H. Crafton, Jr.
Robert R. Craig
Robert A. Crane
John B. Creel, Jr.
Curtis T. Crews
Ronald R. Critser
Harvey F. Crouch, Jr.
Thomas B. Cullen
Marshall B. Darling
James A. Davis
James F. Davis
James R. Davis
Leslie H. Davis
Robert G. Dawson
Albert W. Deckel
Carmine J. Delgrosso
Thomas F. Dempsey
Chadwick H. Dennis
Harris H. Dinkins
Howard R. Donehower
Charles W. Dow
Leiland M. Duke, Jr.
Thomas J. Dumont, Jr.
Joseph M. Dwyer
Terry J. Ebbert
Ronald R. Eckert
James E. Edwards, Jr.
Paul R. Ek
Richard W. Elsworth
Russel A. Emerson
Robert E. Enis
John O. Enockson
Charles C. Entwistle, Jr.
Donald L. Evans
Donnie C. Evans
James L. Eyre
Brian J. Fagan
Fred T. Fagan, Jr.
Rupert E. Fairfield, Jr.
Robert W. Falkenbach
William J. Feind
William I. Ferrier
Peter B. Field
Alan J. Finger
Fredric L. Fish
Walter J. Fleming
George A. Focht
Bert R. Francis
Luis R. Fresquez
James R. Furleigh
William R. Gage
Sidney R. Gale
James A. Gallagher, Jr.
Isaac E. Garcia
Joel R. Gardner
Gerald G. Garwick
Ronald L. Gatewood
George R. Gay
Robert W. Gehring
Charles R. Geiger
John R. Gentry
Aultie G. Gerwig
Michael R. Getsey
Robert F. Gibson
Paul B. Goodwin
Henry F. Gotard
John E. Grant, Jr.
Jerry M. Green
Joseph P. Greeves, Jr.
Michael A. Gurrola
John J. Gutter
Joseph J. Hahn, Jr.
Mark L. Haiman
John F. Hales
Thomas L. Hampton
Donald L. Hand
Christian L. Harkness
John D. Harrill, Jr.
William G. Harris, Jr.
Robert H. Hart
Alan H. Hartney
Everett D. Haymore, Jr.
Jerry G. Henderson
Gene D. Hendrickson
Jerry L. Henson
Donald H. Hering
Jerome L. Hess
Martin C. Higgins
Jon C. Hill
Thomas F. Hinkle
Amos B. Hinson III
Alan W. Hitchens
Daniel A. Hitzelberger
James V. Hoekstra
John W. Hogue
Kenneth L. Holm
Richard J. Hooton, Jr.
John Y. Howo
Patrick J. Jones
Gerard T. Kalt
John R. Kelbaugh
Gerard H. Kelly
John A. Kelly
Francis T. Klabough
Timothy J. Klug
John R. Kopka
Charles C. Krulak
Larry J. Kuester
Nicholas J. Laduca, Jr.
Alfred Lardizabal, Jr.
Anthony V. Latorre, Jr.
Richard B. Lewis
Raymond A. List
David R. Little
Edward J. Lloyd
James F. Lloyd, Jr.
Richard E. Lochner
George P. Lombardo
Melvin H. Long
Matthew W. Lucas
Michael J. Lucci
Charles A. Lyle
Robert W. Maddox
Raymond C. Madonna
Phillip S. Makowka
Lyle D. Mathews
Ronald R. Matthews
John F. McCammon
Thomas C. McClay
Harry M. McCloy, Jr.
James L. McClung
Daniel B. McDyre
Gerald L. McKay
Bruce S. McKenna
Denis A. McKinnon
Donald M. McVay
Antonio Mediavilla
Laurence R. Medlin
Anthony F. Mielczarski
James R. Mires, Jr
Hubert Mitchell
Richard L. Morey
John R. Morgan
Charles H. Mulherin, Jr.
Thomas P. Mulkerin
Philip J. Murphy
Raymond M. Murphy
John A. Murray
William P. Negron
Eugene T. Nervo
Joseph Q. Nesmith, Jr.
David N. Noble
Charles F. Norton
Robert L. Oetting
Jeffrey W. Oster
Ray T. Pace
Robert L. Padgett
John F. Palchak
Edwin E. Parker
Carmen N. Pastino
Jerome T. Paull
William F. Percival
Nicola M. Pereira, Jr.
Marvin F. Pixton III
Charley L. Plunkett
Gary L. Post
Charles P. Preston, Jr.
Ernest E. Price III
David G. Purdy
Stafford D. Purvis, Jr.
Thomas F. Rafferty
Arch Ratliff, Jr.
Michael J. Reilly
Gregory A. Rengel
Ronald W. Rensch
John A. Ressmeyer
Jon K. Rider
John W. Ripley
Thomas W. Roberts
Donald J. Robinson II
William R. Roll
Christopher J. Rooney
James E. Sabow
Christopher B. Salmon
Melvin P. Sams
Vinson J. Sanangelo
Paul M. Schafer
Arthur J. Schmidt, Jr.
George T. Schmidt
Dennis A. Schoen
Ludwig J. Schumacher
John C. Sease
Edward R. Seiffert
Harry F. Sharp II
John F. Shea
Roy H. Shelton, Jr.
John C. Short, Jr.
Louis L. Simpleman
James M. Sims
Harold W. Slacum
George E. Smith, Jr.
Ray G. Snyder
Gary D. Solis
Edward W. Sonneborn, Jr.
Charles R. Sorensen
Don F. Sortino
Ronald D. Sortino
Peter B. Southmayd
William M. Sparks
James B. Sramek
Roger F. Staley
Robert O. Staples
John D. Steel
Kent O. Steen
John F. Stennick
J. K. Stringer, Jr.
Laurence A. Stults
Joseph J. Sucha, Jr.
John P. Sullivan
Michael V. Sullivan
Richard T. Tanner
Thomas C. Taylor
Gary L. Telfer
Theard J. Terrebonne, Jr.
Gary E. Thiry
Richard J. Toettcher
David A. Tomasko
Richard D. Tomlin
Richard B. Trapp
Timothy M. Treschuk
Robert L. Turley
John D. Tyson, Jr.
David F. Underwood III
Abromo L. Vallese
Klass Vanesselstyn
James E. Vangorder, Jr.
James K. Vanriper
Paul K. Vanriper
Peter J. Vanryzin
Achille J. Verbeck, Jr.
Michael H. Vidos
John L. Vogt
David L. Walker
John S. Walker
Larry D. Walker
Jck E. Wallace
Philip J. Walsh
John D. Weber
John D. Weides
John B. Whalen
Robert C. Whitener, Jr.
Harold W. Whitten
Charles E. Wilhelm
Billy L. Williams
James R. Williams
Peter D. Williams
Robert B. Williams
David J. Willis
David F. Winecoff
Robert M. Wright
Michael W. Wydo
Michael D. Wyly
Rufus C. Young, Jr.
Carl H. Yung
Frank J. Zanin

The following-named officers of the Marine Corps for permanent appointment to the grade of major under the provisions of title 10, United States Code, section 5780:

Travis M. Aiton
Laney D. Alexander
Cecil J. Amparan
Ralph C. Anderson
Victor V. Ashford
Raymond P. Ayres, Jr.
Peter R. Badger
David L. Baker
George D. Barnett
Richard L. Barton, Jr.
William A. Beebe, II
David E. Belatti
Richard W. Berger
Timothy L. Berry
Patrick C. Blackman
Marvin S. Blair, Jr.
Frank R. Blakemore
Dennis R. Blankenship
David W. Blizzard
Paul J. Bloom, Jr.
Jay F. Boswell
Robin R. Bowen
John W. Bowman, Jr.
Thomas A. Braaten
Kenneth L. Bradley
Wayne H. Brandon
Charles D. Breme
John L. Brennan
George L. Brewer
William R. Brignon
Larry W. Britton
Jon L. Brown
Michael B. Brown
Paul G. Brown
William R. Bunker
Glenn F. Burgess
Joseph H. Burney
Thomas Buscemi, Jr.
Richard L. Callihan
Larry E. Campbell
James M. Canario
James A. Cathcart
James M. Chapin
Jerry D. Chase
Clarence B. Cheatham, Jr.
Richard J. Choate
Clayton C. Christensen
Franklin J. Cizerle
Henry J. Clark
Dennis C. Clayton
James G. Conard
Roy A. Connelly
Patrick J. Connor
Edwin J. Cooke
Robert W. Coop
Ronald E. Crane
Chandler C. Crangle
Timothy J. Cunningham
Terrence R. Dake
Howard D. Daniel
Jimmie F. Davis
William J. Davis
Dennis G. Delmauro

Thomas R. Delux
Henry A. Detering
Eric D. Dick
Harry L. Dietz
Vincent D. Diloreto, Jr.
Wilbur C. Dishman
Francis J. Donnelly
Paul F. Drnec
Robert J. Eisenlohr
Richard H. Ellis
Gary L. Elsten
Clark D. Embrey
Robert S. Evasick
David E. Feiring
Ronald D. Fleming
Morris O. Fletcher
George S. Ford
James E. French
Barton J. Friebolin
William H. Frizell
Michael L. Garlick
Vincent L. Gennaro, Jr.
George E. Germann
Michael L. Gilman
Thomas C. Goodwin
Thomas Gotta
Lee C. Gound
Michael J. Graf
U. S. Grant, Jr.
Paul S. Hamilton
Bruce L. Harjung
Robert J. Harper
John R. Harris
Charles E. Hatch
William T. Hayes
Robert B. Haynes
Donald R. Head
David F. Herr
Judson D. Hilton, Jr.
Marshall G. Hodges
Terry L. Hodges
George R. Hofmann, Jr.
Richard F. Hoogerwerf
Richard G. Hoopes
George A. Houle, Jr.
Carl T. Hover
James R. Hughes
Charles J. Hutcheson III
Homer G. Hutchinson
Larry W. Hutson
Richard M. Jessie, Jr.
Albert P. Johns
Melford M. Johnson
James L. Jones, Jr.
Thomas A. Keene
George R. Keller, Jr.
Ronald R. Kersey
Daniel W. Kessler
Richard C. Kindsfater
John S. Kinsman
Novatus N. Kirby
John J. Kispert, Jr.
Richard T. Kohl
Donald E. Koppenhaver
Lester A. Kroeger
Earl A. Kruger
Jacob L. Larue
Fred C. Lash
Michael R. Layman
Robert C. Lewis
Frank Libutti
Frank E. Littlebury
Andrew M. Lloyd III
Everett Long III
Paul J. Lowery
James T. Luken, Jr.
Thomas E. MacDermant
Gary W. MacLeod
Vernon R. Maddux
James G. Magee
Charles J. Maloney, Jr.
Eugene F. Mares
Lee R. Marsh
James J. Marshall
Ronald W. Marsteller
Thomas D. Martin
E. T. Mattke
Joseph H. Matusic
Carl R. McClain
James F. McCool III
Daniel J. McCormick
James E. McDaniel
Patrick J. McDonald, Jr.
Patrick J. McElhinney
Michael M. McElwee
Harold S. McGinnis, Jr.
Frederic J. McGrath, Jr.
James L. McIntire, Jr.
James J. McKnight
John T. Mero
Richard E. Miller
Carleton H. Morrison, Jr.
Alvin C. Murray III
John R. Murray
Thomas E. Nadolski
James H. Nelson
Thomas S. Nelson III
Allen D. Nettleingham
Brian J. O'Donnell
Donald N. O'Leary
George P. Olin
Robert J. O'Rourke
Richard E. Quellette
Peter Pace
Leslie M. Palm
John A. Penneton
Larry D. Parsons
William T. Pedersen, Jr.
James A. Pelli, Jr.
Gordon L. Pirtle
Frank M. Platt III
John R. Pope
Alexander W. Powell
Ronald C. Rachow
David S. Randall, Jr.
Geoffrey K. Rasmussen
Robert K. Redlin
Albert A. Reed, Jr.
Douglas E. Reinika
John E. Rhodes
Ronald R. Rice
William M. Rice
Charles E. Richardson
Orin J. Riddell IV
Robert E. Rider
Manfred A. Rietsch
Edward J. Ritchie
Kenneth E. Roberts
David B. Robison
Richard D. Rodriguez
George E. Rosental
James A. Rumbley, Jr.
Daryl L. Russell
Woodson A. Sadler, Jr.
Martin J. Samuel
John A. Sawyer, Jr.
James H. Schaefer, Jr.
Klaus D. Schagat
William W. Scheffler
Klaus D. Schreiber
Russell W. Schumacher, Jr.
Peter G. Schutz
Gene D. Schwartzlow
James W. Seal
T. D. Seder
David J. Seeley
Fred D. Seth, Jr.
Dennis D. Shockley
Robert J. Short, Jr.
Thomas J. Singleton
Thomas D. Sizemore
Leonard L. Skatoff, Jr.
Gregory G. Sloan
Larry E. Smith
William J. Spangler
James L. Spence
Harry B. Sprague III
Norman E. Stahl
Billy C. Steed
Craig R. Steinmetz
Myles C. Still
Terry W. Stone
James M. Strickland
Kenneth R. Stuber
Terry P. Swanger
George P. Sweeney III
Stephen A. Tace
Bayard V. Taylor
Monty J. Tennes III
John W. Theisen
Edward L. Trainor
William D. Turnbull
James O. Vaughn
Eric P. Visser
Sidney S. Wade, Jr.
Jack R. Wagner
Richard G. Walls
Jon M. Walters
Thomas D. Walters
David J. Watson
John Wegl
Daniel L. Welker
Marshall R. Wells
Donald T. Welsh
John K. Wetter
James A. Wiley
Thomas L. Wilkerson
John F. Williams, Jr.
Joseph H. Williams
Michael J. Williams
William C. Wolfe
Larry A. Wood
Edward F. Wright, Jr.
Dale F. Wyrauch, Jr.
John L. Young, Jr.
John S. Zdanowski
Lawrence R. Zinser

The following-named officers of the Marine Corps for permanent appointment to the grade of captain under the provisions of title 10, United States Code, section 5780:

Gary L. Adams
Mark W. Adams
Arthur A. Adkins
Jerry S. Anderson, Jr.
Robert G. Anderson
Christopher M. Arey
Leon B. Arthur
William G. Ashley
Joseph L. Auzenne
Allan R. Bacon, Jr.
Larry E. Bankester
James H. Barnes
Paul B. Barron
Floyd L. Bass, Jr.
Frederick T. Beale, Jr.
David L. Beck
Eugene F. Behal
Stephen E. Berger
Robert M. Biddle, Jr.
Roger R. Birkholz
James T. Bishop
Rex P. Blankenhorn
Wayne F. Blankenship
Paul J. Blemberg
George A. Bode
David L. Bogardus
Gregory D. Borgert
Louis L. Boros
John C. Bowers
James C. Braddy
Gary R. Bradley
Kenneth A. Bridges
Bruce H. Brothers
Darrell A. Browning
Richard A. Broz
Everett R. Buck, Jr.
Edwin A. Burnette
Ronniere L. Burton
Aaron X. Butler
John Buzzi
Charles T. Byrd
Jimmie M. Byrem, Jr.
Joseph A. Byrtus, Jr.
Michael Cajohn
John Caldwell
Donald J. Call
William F. Campbell III
Louis J. Campomenosi III
William V. Cantu
Troydale Caraway
Thomas J. Card, Jr.
Cesare Cardi
David H. Carl
Steven D. Carlson
Stephen A. Carnevale
Thomas P. Carney, Jr.
Phillip K. Carreon
Robert W. Carrick
John W. Carter
James E. Cartwright
John G. Castellaw
Stephen W. Chambers
Wendell C. Chinn
Eric C. Christenson
John B. Christie
Paul F. Cibuzar
Frank H. Clayburn
Wendell D. Clemons
Johann A. Clendenin
Michael F. Clough
Stewart J. Cobain, Jr.
Raymond Cole
Ronnie T. Coley
Donald W. Collins
Russel C. Colten
Darrell L. Combs
Bartholomew J. Connolly
James A. Conrady
George M. Conroy
Douglas M. Cook
Michael G. Cooper
Stevens L. Corum
Tony L. Corwin
Phillip E. Cotton
David C. Covert
Russell M. Craft
Alan S. Craig
Walter M. Creech
Michael J. Crimmins
Timothy J. Cronley
John A. Cross
Jack C. Crutchfield
Andrew L. Davis
Douglas R. Davis
John R. Daymude
Michael N. Derchak
Daniel B. Diviney
Jerry L. Dixon
Charles L. Dockery
Paul F. Donohue
Timothy E. Donovan
Stephen E. Downing
Frederick J. Ducat
Francis G. Duggan
Jan M. Durham
William D. Durrett, Jr.
Brian E. Dyck
James S. Ebert
Arthur E. Edinger
Michael G. Edlebeck
William R. Edwards
Freddie E. Elkins, Jr.
Richard L. Engelen
Michael E. Ennis
James E. Evans, Jr.
Michael S. Fagan
Dennis F. Fallon
Gregory S. Fatovic
Jeremy R. Feedore
James M. Feigley
Elliott D. Fellman
Fisher A. Feltenberger
Paul M. Fenlon
John K. Feuerriegel
George S. Fick
James K. Fife
John L. Finklea
Donald H. Fischer
Donald L. Fleming, Jr.
John J. Forr
Charles C. Foss II
William J. Foster
Neil S. Fox II
David B. Franke
Richard J. Frawley
Douglas N. Frazier
Terry J. Frerker
Patrick F. Gallagher
Jon A. Gallinetti
Emerson N. Gardner, Jr.
Jackie L. Garner
John R. Garvin
John R. Gaumer, Jr.
John M. Gautreaux
Frederick J. Geier
Rodney S. Getz
James R. Gevock
Frank L. Gibson
Lewis C. Gibson, Jr.
Paul A. Gido
James A. Gillis, III
Clifford J. Gion
Dale E. Giordano
Philip E. Goble
John F. Goodman
Mark T. Goodman
Joseph P. Gordon, Jr.
Wellington H. Gordon
William R. Gossett
Brian P. Graham
Thomas K. Graham
Wyatt W. Grant, III
Roy E. Gray
Jeffrey D. Greene
William J. Grein
Bobby L. Grice
Robert R. Grider
Russell W. Grove
Gerald J. Guevin
Ronald G. Guilliams
Donald L. Hairston
Eugene H. Hall, Jr.
Johnny J. Hall
Marvin D. Hall
Philip T. Hamilton
Theodore N. Hamilton
Kenneth D. Hankins
Gregory L. Harm
Robert A. Harper
Neil T. Hartenstein
Glenn B. Hausold
Christopher N. Hawkins
James W. Head
Michael J. Hedin
James W. Heidrich
Joseph P. Heine
Ronald B. Helle
Patrick T. Henry
Michael R. Herbaugh
James W. Heusmann
James D. Hildreth
Kenneth W. Hill
David C. Hilmers
Douglas G. Hodsdon
Paul C. Hoover
James P. Hopkins
Harvey A. Hopson, Jr.
James A. Horn, Jr.
Michael W. Howard
Cass D. Howell
Robert C. Hubner
Larry K. Hudnall
Timothy P. Hudson
James O. Huggins
Roger D. Hughes
Phillip W. Hughey
Daniel C. Inghram
Richard B. Inghram
Robert G. Ingold
Terrence C. Jacobson
Brume D. Jameson
Joseph F. Jennings, Jr.
Dallas W. Johnson
Larry E. Johnson
Michael O. Johnson
Raymond H. Johnson
Stephen T. Johnson
Ronnie S. Johnston
Homer Jones
Nelson M. Jones III
Roy K. Jones III
Wayne A. Jones
Wilford G. Jones, Jr.
Donnie B. Jordan
Gregory J. Kammeyer
Gregory L. Kaufman
Eddie A. Keith
Ronald W. Kelemen
Frank R. King
James R. Kingham
John W. Kinsel
Roderick M. Kippen
Lawrence W. Koenig
John D. Kovacevich, Jr.
David A. Kratochvil
Fred A. Krumm
Michael M. Kurth
Wilfred A. LaChapelle
William P. Lannert
Michael J. Larkin
Patrick R. Larkin, Jr.
Robert W. Leas
Don R. Lecander
James Ledford
Robert E. Lee, Jr.
Thomas C. Lenke
Paul J. Leon
Charles D. Lewis
Donald C. Lewis
Richard J. Linhart, Jr.
Jonathan A. Link
George H. Linnemeier II
Russell L. Llewellyn III
Gilbert B. Loomis III
George F. Lord
Bradley M. Lott
Rudolph Lowery
Dean T. Lucas
Michael T. Lundblad
Bryant S. Lyndaker
Richard J. Macak, Jr.
Stephen Mack
John W. Macroglou
Michael A. Mahoney
Ralph F. Marchewka
Kenneth B. Marlin
James M. Marshall, Jr.
George F. Martin
Joseph Martin, Jr.
Lawrence R. Martin
Paul W. Martin
James N. Mattis
Henry R. Mayer
Robert H. McCormick, Jr.
Patrick H. McGann, Jr.
Bernard J. McGuire
Steven M. McLaughlin
Robert W. McLean
Terry L. McNeil
Walter F. McTernan III
Marshall Mead
Edward L. Melton
Harold A. Mercer
George A. Messier
Randolph M. Michaux
Michael P. Mihalik
Charles W. Miller
John E. Miller
Peter T. Miller
Henry P. Mitchell

Thomas P. Mitchell
Donald T. Mize
Donald N. Mizell
Steven W. Mock
Stephen T. Moffatt
William P. Moore, Jr.
Dennis A. Morga
Terry L. Morin
Richard W. Morrell II
Richard R. Morris
Ralph C. Morse, Jr.
Richard E. Motl
Patrick C. Murphy
Robert S. Nasby
Gordon C. Nash
Kip J. Naugle
Robert D. Neal
Roger L. Nesslage
John L. Niziolek
Dallas M. Nobles, Jr.
Wayne T. Nolan
Harry A. Nordgren, Jr.
Clayton W. Noto
Larry B. Nutt
Michael W. O'Boyle
Patrick D. C'Boyle
Dennis J. O'Brien
Ronald W. Ochse
John A. O'Donovan
Lewis R. Olshin
Jack E. Owen, Jr.
Thomas J. Padden III
Fred D. Parish
Larry B. Parker
Ralph E. Parker, Jr.
Thomas W. Parker
Robert M. Patten
Robert C. Peithman
Roger E. Penrod
Edward J. Perrott
Alfred M. Perry
George L. Peterson
Thomas S. Phillips
William J. Piatnitza
John R. Pipho
Steven L. Pipho
James C. Pisciottano
Bernard J. Pitchke
Mark B. Pizzo
Joseph M. Poirier
Richard K. Polly
Jerry L. Poole
Robert R. Pospischil
Truman C. Preston, Jr.
Gary J. Price
William S. Proctor
Michael G. Przepiora
Kenneth W. Quigley
Bryan S. Quint
Daniel G. Ralston
Donn W. Ramey
Michael F. Ramos
Stuart L. Randolph
Michael L. Rapp
Darryl J. Rasmussen
Randy F. Rasmussen
Robert D. Rasmussen
Thomas A. Reavis
Earl K. Reed
John W. Reed, Jr.
David A. Reid
Michael L. Reynolds
Donald E. Rice
Ronald W. Richards
Francis D. Rineer, Jr.
Roger L. Rippy
James P. Roach
Guy B. Roberts
Dale E. Robinson
James E. Robinson, Jr.
Russell A. Romagna
Henry A. Rose
John R. Rosewarne
Charles H. Rucks
Ronald L. Rueger
Gregory M. Russell
James L. Rust III
David K. Saffle
Robert F. Saikowski
James E. Salie
Wayne P. Samuelson
Fay G. Sanford, Jr.
Scott L. Sangberg
Thomas A. Santos
Ronald R. Sauer
Dirk B. Sayers
William H. Sbrocco III
Teryl W. Scalise
Michel P. Schaefer
Clarence Schanding, Jr.
Gordon K. Schmaus
Ernest M. Schneider
Frederick H. Schneider
Robert L. Schneider
Gerald C. Schoppe
Mark P. Schultz
William L. Scoggins
Benjamin B. Selvitelle
Robert H. Settle
Thomas E. Sheets
Gregory L. Sheffer
Peter J. Shoaf
William M. Sigler III
Mark S. Silvestri
Glenn D. Simon
Charles O. Skipper
Charles B. Smelcer
Byron E. Smith
Larry G. Smith
Randall T. Smith
Scott R. Smith
Sterling H. Smith
Walter L. Smith
James W. Smoots
James R. Snowden
Harold M. Snyder
Peter K. Solecki
John B. Sollis
James M. Solomon
Linden L. Sparrow
Wayne A. Spencer
Lawrence D. Staak
Creighton G. Staff
Keith J. Stalder
Edward J. Stanley, Jr.
Kenneth E. Starr
Thomas G. Stefek
Dennis L. Steigmann
Cortez D. Stephens
Nelson H. Stewart
Ronald P. Stirrat
James N. Strock
John M. Studenka
Michael W. Sullivan
John N. Summerlin
Steven D. Summers
Tommy L. Summers
David P. Sztuk
Kenneth W. Tarrant, Jr.
Gene F. Taxis
James J. Taylor
James L. Taylor
John A. Tempone
William G. Terry
Clayton R. Thomas
Lloyd M. Thorne
John F. Thornell III
George R. Thorpe
John F. Torsak
William C. Tourek
Carl E. Treutle
Henry K. Tripp, Jr.
Thomas G. Tucker, Jr.
John G. Upton
James L. Vance
Victor L. Vangrowski, Jr.
Perry E. Vanover
Thomas J. Venters
Kenneth A. Vincent
Joseph M. Vizzier
Robert J. Wallace
William R. Waller
James P. Walsh
Charles E. Walters
Norman E. Ward, Jr.
Stephen C. Ward
Douglas G. Warner
Gary E. Washburn
Charles R. Waters
Kenneth D. Watts
Dennis N. Weber
Joseph F. Weber
Robert A. Wehrle
Richard V. Weidner
Randall B. West
John A. Wester, Jr.
William P. Western
James R. Wheeler
Frank H. White III
Roderick E. White
Thomas E. White
Robert S. Whitehead
Ronald A. Wickes
Rodney J. Wijas
William A. Wilburn
Richard P. Wilks
Donald J. Williams
Mark G. Williamson
William J. Williamson
Larry D. Wilson
Edward D. Wilt
Gary F. Wines
Francis C. Winter
Thomas V. Wolf
Robert T. Wolfertz
Douglas K. Wood
Douglas L. Wood
Jack G. Woods
Michael B. Woods
William A. Woods
Michael S. Woodson
John A. Woodward
Norman J. Worrell
Stephen M. Yoakem
Stephen T. York
Robert L. Young
William R. Young
Gerald J. Zanardelli
Kenneth W. Zebal
Robert R. Zimmerman
Eric D. Zobel

The following-named officers of the Marine Corps for permanent appointment to the grade of first lieutenant under the provisions of title 10, United States Code, section 5788:

William T. Alexander
Randolph D. Alles
Thomas E. Archer II
John H. Aten
Peter L. Bann
Bruce L. Barnes
Mark P. Barthel
Curtis L. Beckner
Robert L. Biely
Benjamin A. Blair
Arthur L. Blodgett
Douglas F. Boag
John T. Boggs, Jr.
Stephen P. Bohlmann
Kenneth L. Boles
Steven K. Booth
Gordon C. Bourgeois
John F. Bower
Terry R. Bower
Miles S. Bozarth
Gary W. Bradley
John M. Brereton
Wayne E. Briggs
Jerry D. Bristow
Mark L. Broin
Alan A. Bromka
Greg D. Calhoun
Pamela F. Capatosto
Karl F. Carlson
Steven J. Cash
Roger C. Cecil
Gerald R. Chapman
Michael E. Clark
James W. Cluck, Jr.
Roger J. Cole
Samuel R. Coleman, Jr.
Donald B. Conrad
Allen Coulter
Donald E. Creighton
Ralph D. Dawson
Simmie R. Dean
William T. Decamp
Teresa L. Dillon
Stanley M. Donham II
Leo M. Donnelly
Rick O. Donovan
Michael S. Dossett
Michael J. Doughty
Harry M. Downey III
Robert D. Dozier
Vincent M. Dubois, Jr.
David B. Dunmore
Francis A. Dutches
Johnny W. Eason, Jr.
Marion E. Eason
Steven T. Elkins
Oregon Emerson III
Kenneth R. England
Mark C. Evans
John R. Farris, Jr.
Zenas E. Fearing, Jr.
Brian T. Fenlon
John S. Flanagan II
Roy W. Flentge
Colleen M. Flynn
Michael R. Fonteno
Michael F. Forrester
Frank E. Foster
Joseph H. Franzig
Kent R. Freeland
Mark L. Friedman
Martin A. Galchutt
Jack R. Gallino
Rodney J. Gerdes
Kevin M. Gilpin
Charles D. Godby
Gregory G. Golden
Darrell L. Goudge
Dirk S. Graham
Kenneth A. Granger
Robert W. Griffin
Mark A. Grubb
Pepper E. Guthrie
David L. Hackemeyer
James A. Haig
Patrick H. Hannum
Kenneth S. Harbin
Jon J. Hardwick
Carson E. Haury
John A. Hautala
Charles T. Hayes
Nancy A. Henshaw
Joseph B. Herlihy, Jr.
James B. Hill
James F. Holland, Jr.
Steven T. Holste
Harvey E. Howard, Jr.
Gordon A. Howe
Alan P. Howell
Glenn S. Huelskamp
Larry D. Huffman
Timothy M. Hutchison
Ernest D. Ibarra
Glen A. Inserra
Phillip M. Jackson
James F. Janecek
Richard E. Jannell
Erik L. Jorde
David A. Jorgensen
Joseph E. Joutras
Steven P. Junkersfeld
Robert M. Keane
Peter J. Keenan
William G. Kellogg
Barbara M. Keltz
David L. Kempf
Kit M. Kerkesner
Thomis H. Kitto
Gordon Klau
David P. Klemme
Donald R. Knauss
Rosa K. Knight
Calvin A. Knox
Robert M. Knutzen
Joseph W. Kosewicz
Carl F. Kusch
Robert L. Langrill
Paul W. Leblanc
Danny U. Lewis
Robert E. Lindsey, Jr.
Richard M. Linton
Alfredo Longoria, Jr.
Timothy S. Lucey
Michael J. Lyden
Gregg L. Lynes
Douglas C. Lynn
John F. Macdonald, Jr.
Gary J. Magnuson
David F. Maier
Shirley A. Manzi
Joel R. Mariani
Kevin B. Marsh
Anthony D. Martelli
Patricia B. Martin
Daniel P. Mathern
Gregory D. Mathis
Michael L. McCabe
James F. McCaffrey
Tommy B. McClelland, Jr.
Howell G. McCleskey
Charles R. McCord IV
Christine A. McKay
William L. McKenna
John T. McNeill IV
William M. Meade
Linda S. Mehalko
John M. Melink
Phil H. Meyer, Jr.
Jim B. Mickler
William F. Miller, Jr.
Steven R. Million
David M. Mitchell
John G. Molter
Robert B. Moore
William E. Moore III
Gregory S. Morin
Brian A. Murray
Bryan K. Murray
Dillard O. Myers
Alan J. Neff
Carl W. Neuhardt
Martin R. Nolan
Margaret M. Nordin
Eric N. Nyberg
Randy O'Neal
David B. Pabst
Steven A. Peak
Michael L. Pellegrini
Michael L. Philips
Merrill L. Pierce
Julian L. Pinner
Eugenio G. Pino
James M. Plumer
Swain C. Potter, Jr.
John S. Prather
Curtis G. Raetz
Stephen W. Randall
Pamela D. Ransome
Richard C. Rascher
Franklin V. Reagan
Michael R. Regner
Charles W. Reif
Eugene J. Richardson III
Guy S. Richardson
Rodney C. Richardson
Thomas C. Richardson
Chester A. Riley III
Ana M. Roberts
Gerald B. Robertson II
William G. Rohlfs, Jr.
Jerry A. Sammons
William A. Sanderson
Megan G. Sanford
Joanne L. Schilling
Charles W. Schmitt
Dennis R. Schroeck
Kenneth W. Schwenke
Arnold P. Segovia
James B. Sell
David J. Shaw, Jr.
Judith C. Shaw
Michael T. Shaw
Clifford M. Simmons
Raymond M. Simon
Douglas L. Smythe
Michael A. Sovacool
Marcus E. Sowl, Jr.
Edward J. Spooner
Mikal P. Stampke
Anthony Z. Stobiecki
John W. Stokes
Jeffrey M. Summers
Michael R. Suttle
Theodore M. Swendra, Jr.
Jo A. Taylor
Michael E. Taylor
Robert C. Thirion II
James M. Thomas
John A. Toolan, Jr.
Paul F. Turner
Tommy L. Tyrrell, Jr.
William S. Vandermeer, Jr.
James B. Vile
Derrell E. Wad
Rory J. Walsh
Kevin L. Warkentin
Brandford G. Washabaugh
William G. Washington, Jr.
Stanley W. Wende
James M. Wenk
Raymond W. Wersel
Timothy R. White
Paul L. Whitehouse
Kenneth D. Wickwire
Terrence W. Wilcutt
Jeffrey L. Wilkinson
Robert J. Wilkinson, Jr.
Denice T. Williams
Kenneth L. Williams
Lansdale B. Williams, Jr.
Russell E. Wilson
Cedric L. Windley
David M. Winn
Michael A. Woodcock
Robert W. Young, Jr.

The following named officers of the Marine Corps for temporary appointment to the grade of first lieutenant under the provisions of title 10, United States Code, section 5784:

Benny L. Adams
Robert K. Aiken
Bruce N. Akiyama
James V. Aldrich
Mark W. Allen
Kervyn B. Altaffer, Jr
Daryl E. Anderson
Mark P. Anderson
Gregory E. Andrews
Steven T. Andrews
James G. Antal
Steven M. Arbogast
Brian M. Ashworth
Arthur J. Athens
Michael L. Atwell
Morris Austin
Warren P. Averill
Joseph A. Bailey
Thomas B. Bailey
James P. Baker

Vincent M. Balderrama
John F. Baltz
David J. Barile
Kevin D. Bark
Jesse R. Barker
Daniel J. Barnd
Gregory J. Baur
Willie M. Beardsley
Miguel I. Becerril
Arlen R. Becker
Ronald R. Bennett
Mitchell W. Benson
Timothy P. Benson
Michael E. Bermel
Paul E. Blais
Ricardo J. Blanco
Russell C. Blevins
Thomas F. Blizzard
John A. Blum
Richard K. Boch
Gary W. Boettcher
Mark G. Bolin
Elliott F. Bolles
Robert G. Bond, Jr.
Roy A. Bookmiller
David S. Borsack
James T. Bourne
David J. Bowers
Eddie L. Bracey, Jr.
Robert M. Brady
David E. Brasuell
Robert M. Bravence
Roberta E. Breden
William O. Breden
Orlie T. Brewer, Jr.
Joseph A. Britt
Mark S. Bryant
James R. Buckley III
Kenneth R. Bunning
Donald E. Burke, Jr.
Donald P. Burnham
Joseph C. Burns
Donald W. Bussell
Toby J. Buttle
Victor B. Camargo
Terri K. Capatosto
Anthony A. Cardoza
Kevin M. Carmody
Kevin O. Carmody
Joe Carrasco, Jr.
Michael D. Carriger
Patrick D. Caslin
Kirk D. Casteel
Thomas E. Cavanaugh
Peter F. Ciesla
Jeffrey S. Clapp
Carl F. Clark
Mark L. Cleland
William L. Clemente
John M. Cobb III
Michael L. Combs
Michael J. Conklin
John C. Conrad
Arthur J. Corbett
Michael A. Corcoran
Gerald S. Cory
Raymond L. Coss
William S. Countryman
Craig W. Creamer
McKinley Crockett, Jr
William R. Cronin
Alan C. Crook
Daniel E. Cushing
David K. Daily
Richard C. Dale
George M. Dallas
Richard Danchak
Garry W. Daniel
Michael G. Dasovich
William M. Davenport
Derek M. Davey
Keith T. Davies
Cletis R. Davis
Edward V. Davis, Jr.
Steven T. Davis
William E. Davis
Terry L. Deen
Kirk M. Deissler
Russell A. Demeyere
James E. Deotte
Robert W. Destafney
Charles R. Dickinson
Dale A. Dicks
Douglas J. Diehl
Henry A. Digeser
Damon Z. Dillon
Alexander F. Dimitrew
Steven L. Ditmars
Calvin R. Dixon
Steven D. Dohanyos
Christopher E. Dougherty
Stephen M. Douma
Raymond J. Droll
Joel A. Drury
Jo L. Duden
Joseph Dugdale
Teddy D. Dull
Randall E. Duncan
Michael A. Dyer
Russell M. Edelen
Kenneth A. Edgerton
John J. Egan
Gary A. Eisenmann
Judson C. Engels
Howard E. Fawcett
Stefan A. Fedyschyn
William G. Fell, Jr.
James D. Felton
Curtis H. Fennell
Jeffrey D. Field
Wendell S. Finch
Richard J. Findlay
Byron J. Fink
Daniel M. Finley
Thomas A. Finn III
Daniel H. Fisher
Richard A. Fleming III
William B. Fox
David C. Francis
Michael Freitas
Raymond J. Fritsch
Vincent J. Fusca
Lawrence R. Gable
Michael E. Gaddis
Bruce A. Gandy
George P. Garrett
Carl J. Garvin
Michael C. Gasapo
Kenneth W. Gascoigne
Jeffery B. Gaut
Keith P. Geiges
Ronald C. Gerd
Ladislaus P. Gerencser
Reginald J. Ghiden
Albert Gidari
Gerald C. Gigon
Albert L. Giguere, Jr.
Robert J. Gillespie
Thomas J. Gilroy
Robert S. Godfrey
Roscoe A. Godfrey
John M. Godwin
Gary M. Goodale
Michael J. Gordon
Michael S. Gordon
Robert P. Gottlich II
Rex A. Grace
Peggy L. Graham
Dennis E. Granger
Walter M. Gray
Brian M. Green
Thomas E. Gregory
William H. Groscup III
Gerardo Guerrero
James P. Guerrero
Keith J. Haar
Ralph L. Haggerty, Jr.
John M. Haley
George W. Haliscak
Larry D. Hall
David J. Hallman
John T. Hamilton
Timothy C. Hanifen
Thomas L. Hanks
James E. Harbison
Gary P. Hardy
Benjamin F. Harris
Thomas R. Harris
Thomas M. Hastings
Mark L. Hayes
David R. Heinz
William J. Henderson
John D. Henley
David K. Henry
Stanley L. Henry
Edward C. Hertberg, Jr.
Donald H. Hildebrand, Jr.
Curtis W. Hintz
Peter D. Hodgens
Karen F. Hoey
Paul A. Hoff
Francis G. Hoffman
Joseph P. Holt
Dale A. Homire
Herbert A. Hopper III
Thomas W. Hovatter
Mark R. Howard
Michael F. Hurley
Kenneth G. Inhoff
Carlton B. James
William Javoroski
Dennis K. Johnson
Kenneth D. Johnson
Preston B. Johnson
Kevin L. Jones
James W. Kain
David P. Karcher, Jr.
Ian H. Keith
Michael A. Kelley
Allen W. King
Brian A. King
James J. Kinnerup III
Christophe W. Koenig
Daniel J. Koleos
Andrea E. Koran
Jeffery L. Kreinbring
Thomas D. Laboube
Robert W. Lamont
Robert O. Laughlin
Margaret S. Laws
Randall J. Laws
Georges E. Leblanc, III
Raymond T. Lee, III
William K. Lee
Lawrence W. Longcoy
Robert M. Longwell
Donald J. Lott
Charles A. Lowther, Jr.
Timothy S. Lucas
Mark D. Mahaffey
Roy J. Mahany
Stephen A. Maloney
Thomas V. Manobianco
Andrew Marafino, Jr.
Daniel Marigliano, Sr.
Tommy J. Martinez
Michael M. Mascarenas
Curtis F. Maszun
Steven H. Mattos
Lance R. McBrid
Michael E. McBride
Walter L. McCarty
Donald B. McGinnis, Jr.
Kevin F. McGrath
Kurtis J. McGrath
Kevin L. L. McKee
Mark F. McKeon
Michael S. McKinney
Terrence W. McKnight
Daniel L. McManus
Mark W. McNair
Joseph E. McNaughton, Jr.
Durk B. Merrell
Daniel J. Meurer
Charles D. Miles
William J. Miles
David D. Miller
Frederick R. Milton, Jr.
Michael J. Molidor
Timothy J. Moriarty, Jr.
Tracy L. Mork
Timothy L. Morrison
Earl K. Mosely
Curtis C. Moseley
Dale D. Mossbarger, II
Richard A. Muegge
Rogert P. Murdock
Michael J. Murphy
Timothy P. Murphy
David M. Myers
Wynn C. Myers
Dorel A. Nanna
Laurence H. Nelson
Gary C. Newcomb
Kevin J. Newland
Carlton B. Nicol
Edward J. Nimeth
Stephen J. Nolan
Richard A. Nordin
James H. Northing
Robert N. Norwood
Stephen P. Ohara
Kevin P. OKeefe
Joseph H. Okonek
Thomas D. Olsen
Dennis M. Osborne
John E. Page
Richard A. Palena
Jonas R. Palin, Jr.
Charles H. Pangburn III
David P. Paquette
Samuel L. Park
Jonathan T. Pasco
Stephen D. Peper
David J. Pernai
Curtis A. Perry
Marshall D. Perry
Daniel G. Peters
Phillip D. Peterson Jr.
Russell G. Petti
Roy E. Phillips
Scott S. Pihlaja
Theodore L. Plautz
Joseph R. Polansky
Stephen M. Pomeroy
Raymond J. Ponnath, Jr.
Mark T. Poston
Richard M. Powell, Jr.
Michael C. Rakaska
Michael P. Ralph
Omar M. Rashash
Michael J. Rebman
Richard L. Reckart
Rick L. Reece
Thomas A. Reeder
Thomas L. Rehrig
Douglas H. Reiland
Thomas H. Renken
Andrew Reynosa III
Vallin J. Richards
Jack B. Richardson
Gerald K. Robbins
John P. Robinson
Enrique A. Rodriguez
Robert A. Roe
Joseph J. Rowley
Steven M. Rubin
John D. Rudzis
John F. Rufo
Ralph C. Runolfson
Cecil G. Rupp
Steven M. Sagerian
Richard T. Salvadore
Lionel V. Sanders
Timothy L. Sawyer
William A. Sawyers
Jonathan R. Scharfen
Roy R. Schleiden
Ernest L. Schrader, Jr.
Frank V. Schraml
Seth H. Schwartz
Robert W. Scott, Jr.
Michael E. Sears
Steven W. Selvig
Lawrence S. Semanyk
Ronald A. Shafer
Walter G. Sharp
Gary P. Shaw
Robert W. Shaw II
David L. Shelton
Lesley V. Shimanek
Glen E. Shipman
Randy S. Siders
John L. Skelley
Bertram C. Smith
Colby B. Smith
David M. Smith III
Paul G. Smith
Ronald S. Smith
Francis P. Snarski
Gary T. Spargo
John J. Spegele
Michael T. Spencer
James B. Stallings
Haskell S. Stamps, Jr.
Larry D. Stark
Kurt E. Stein
Raymond D. Stivers
William A. Stokes, Jr.
Robert S. Street
William F. Stringer
Stephen W. Sublett
Thomas K. Sudbeck
Scott F. Sullivan
John A. Terrell
William M. Thamm
Michael W. Thomas
Scott R. Thomas
Gary L. Thompson
Patricia S. Thorn
Robert F. Tomon
Daniel C. Topolewski
Louis A. Toth II
Edward L. Trudeau III
David R. Trundy
Brian L. Unger
Mark S. Vandover
Anthony E. Vandyke
Mike L. Vannordheim
Jose R. Vazquez
Dennis Viera, Jr.
Blaine D. Vorgang
Terrence C. Walker
John T. Wallace
Craig T. Wallace
Kevin J. Walsh
Warren H. Walton
Terry L. Wampler
Gary A. Warner
Martin J. Wasielewski
George W. Watson, Jr.
Aaron E. Welch
Rex L. Westmeyer
Charles G. Wheeler, Jr.
Charles M. White
Dennis R. White
David G. Whittlesey
Phillip J. Wiecek
Robert B. Wieners
James R. Williams
John D. Williams
John W. Williams
Sedgwick A. Willingham
Robert G. Wilson, Jr.
David B. Winandy
Lor M. Windle
Frederick Winters
John K. Winzeler
Michael L. Wirth
John E. Wissler
Robert H. Withers
Frank B. Wolcott IV
Garry R. Wolfe
Michael D. Woodman
Christophe G. Wright
Thomas L. Wright III
David M. Wunder
Randle L. Yarberry
Lon M. Yeary
Gerald D. Yoder
Peter E. Yount
James D. Zartman
Larry E. Zimmerman
Martin W. Zimmerman

The following-named officer of the Marine Corps for permanent reappointment to the grade of major under the provisions of title 10, United States Code, section 1211:

Charles R. Keith

The following-named Naval Reserve Officer Training Corps graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, pursuant to title 10, United States Code, section 2107, subject to the qualifications therefor as provided by law:

Erica L. Bodner

EXTENSIONS OF REMARKS

A RATIFIED SALT II ALLOWS EFFECTIVE DEFENSE SPENDING

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. ZABLOCKI. Mr. Speaker, I would like to bring to my colleagues' attention a recent speech given by George M. Seignious II, a retired Army lieutenant general, former Director of the U.S. Arms Control and Disarmament Agency, and presently a member of the President's General Advisory Committee on Arms Control and Disarmament. General Seignious advances compelling arguments for the ratification of SALT II, citing it as an essential first step in insuring the proper allocation of our defense dollars.

General Seignious rightly questions the wisdom of punishing the Soviets for their invasion of Afghanistan by shelving SALT. It is hard to see how we can justify such a course of action as being in the national interest of the United States when it allows an unlimited number of nuclear weapons to be targeted against the United States. At the same time, however, he does not downplay the serious threat to world peace posed by the Soviet invasion of Afghanistan. Rather, he questions the effectiveness of an unrelenting nuclear buildup as the appropriate method by which to counter this danger. In the general's words: "Nuclear-tipped missiles sitting in silos in Montana are not the right weapon to stop Soviet tanks moving toward the Persian Gulf."

As we know, there exists now, as never before, a great public consensus on the need for increased defense spending. The most responsible way for Congress to implement this consensus is by spending defense dollars wisely. The ratification of SALT II will allow us to do just that. Only by putting a lid on the nuclear arms race will we be able to devote our resources to the building of an effective conventional military force capable of meeting Soviet aggression.

As we move to consider the defense budget, I would urge Members to read General Seignious' speech.

The text of the speech follows:

NATIONAL SECURITY IN THE WAKE OF AFGHANISTAN

Good afternoon, ladies and gentlemen. I am pleased and honored to be back in Atlanta today. A year ago I was privileged to address the Armed Forces Day luncheon sponsored by the Chamber of Commerce. As some of you may remember, my subject then was national security.

I feel compelled to address this subject again, because many, at home and abroad, believe that our nation is reeling from crisis to crisis with no clear purpose, direction, or confidence. This perception makes our task more difficult as we seek a secure America and a more hospitable world.

Part of the reason that many sense this drift is the difficulty we as a nation have in arriving at a judicious balance between hard-nosed pragmatism and idealism. The conflict between these two courses is a basic thread in our history. But today, with nuclear war a threat to every American, we must arrive at some way to weave them together. Our survival requires both, not one or the other.

I want to begin my discussion of this dilemma with the words of Andrei Sakharov. This man—a Russian whom we should all salute—continues to be a voice of courage, conscience, and power, despite his exile, despite his round-the-clock guards. Just two weeks ago, the New York Times published one of his letters. In it he warned:

"The world is facing very difficult times and cruel cataclysms if the West and the developing countries trying to find their place in the world do not now show the required firmness and consistency in resisting the totalitarian challenge."

But the same man who called us to resist the Soviet system also said:

"Despite all that has happened I feel that the questions of war and peace and disarmament are so crucial that they must be given absolute priority even in the most difficult circumstances. Most urgent of all are steps to avert a nuclear war, which is the greatest peril confronting the modern world."

Ladies and gentlemen, the central problem we face today is to stand firm against Soviet aggression while simultaneously preserving peace and stability in a nuclear world. Our resolution of this problem will be more than just a measure of our nation; it could well be the key to our continued existence, as individuals and as a nation.

We must begin by forming a durable national consensus for a strong defense. But this durable national consensus will not be present unless two conditions are met: sensible defense spending *combined* with every possible ounce of political imagination to control the threat these military measures are designed to confront. These are prerequisites that the public expects from its leadership.

There is no question of the threat. The Soviet Union—for nearly two decades—has relentlessly increased its military power. Its leaders are using this power—for influence, for support of political activities, and most recently to invade a neighboring Islamic nation. In Afghanistan, the Soviets used massed military forces in combat outside the Soviet Bloc for the first time since 1945. It will happen again if the Soviets misjudge our determination and strength.

To meet the reality of increasing Soviet military power, we must undertake a steady and responsible buildup of our own military forces. I strongly support our nation's planned increase in defense spending over the next five years, and I am pleased to see that draft registration has been adopted. It is a necessary, preparatory step.

Our military response will require consistency and constant purpose, for the proper answer to the Soviet invasion of Afghanistan does not consist of wild gyrations, panic programs, or posturing with power we do not fully intend to use. Nor should we respond by purchasing every new piece of military hardware in the salesman's catalog. We must also start getting more from what we have.

Last summer, during the Senate hearings on the SALT II Treaty, many of the opponents said that SALT would lull the American people into complacency about the ominous trends in Soviet military power. I never believed that argument, and I venture to say that there are few complacent Americans after Afghanistan. However, I also do not believe that the American people are about to sign a blank check for defense. They want their money well spent, and in today's economy—when we must face hard choices in national priorities—they will insist on it.

Several weeks ago we witnessed a spectacle of the President and the Congress arguing over the defense budget. Money was thrown at the military for projects they didn't want; dollars were shuffled from budget to budget for political expediency or to meet a percentage increase without due regard for the enhancement of national security. Playing politics with the defense budget when there is an economic squeeze on everyone is a sure way to squander the good will of the American public.

It is doubly important that we now spend wisely and carefully for defense, because—after a decade of questioning the need and utility of military force—there is an emerging defense consensus in the nation. If we squander this good will, if we waste this moment, then the opportunity for consensus will be lost, and we will have robbed the security of America.

Spending defense dollars sensibly means a great deal more emphasis on personnel, operations, training, maintenance—the unglamorous but fundamental necessities of a strong defense. I have heard that in some cases half the planes in squadrons of our newest aircraft are in the shop for repair. And no amount of technology, no numbers of weapons, will defend us if we keep losing our trained, skilled personnel because in today's economy they just cannot afford to remain in the service. An Air Force fighter pilot with twelve years in service has received pay, training, and experience worth close to $1.5 million. Yet, he leaves because he can't make ends meet. Which one of you, in running your business, would throw away a $1.5 million investment to save a few thousand dollars a year? And in what business do skilled technicians have to use food stamps to make ends meet?

Spending defense dollars sensibly also means targeting our response on the Soviet conventional military challenge—with better airlift, sealift, and rapid deployment forces. Nuclear-tipped missiles sitting in silos in Montana are not the right weapon to stop Soviet tanks moving toward the Persian Gulf. This is one reason why I am in favor of the SALT II Treaty. It offers us a chance to put a lid on the nuclear arms race and concentrate on countering Soviet conventional forces. Without this treaty, we

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

will certainly have to add to our nuclear arms, and that will mean less attention and less resources to meet the Soviets where I think they pose the greatest and most immediate threat.

This leads me to the second, essential task as we seek security in a decade of increased Soviet military power, and the second prerequisite that the public expects from its leadership today. We must preserve a stable balance of strategic forces and prevent the outbreak of nuclear war. The plain fact is that nuclear weapons leave us no other practical choice.

We cannot, however, provide for our security simply by minimum deterrence. The threat to destroy a certain number of Soviet cities is not enough. We must be able to *deter* the entire range of Soviet threats with a response appropriate to the provocation. And it must be clear to nations around the world, friend and foe alike, that we are the equal of the Soviet Union and intend to remain so.

But I am under no illusions that nuclear war would be anything less than a disaster for our country and for the Soviet Union. For those who survived, such a war would as surely extinquish our freedoms as Soviet troops upon our streets.

Albert Einstein once said:

"On the assumption that a third world war must escalate to nuclear destruction, I can tell you what the fourth world war will be fought with—bows and arrows."

There are some today who imagine that our two nations can trade selective nuclear strikes and limit the damage. That is sheer fantasy. Any soldier who has been in combat will tell you that even the best plans can go up in smoke in the midst of battle. I do not imagine for a moment that an American President would be allowed—even if he wanted—to stand by in the face of a "selective" Soviet strike upon our missiles, with a thousand megatons exploding on our soil, and anywhere from two to twenty million U.S. casualties.

No conceivable national interest can be served by nuclear war. The purpose of these weapons is to defend by deterrence. If they are put to use, then in truth they will have failed.

Today the nuclear arsenals of the United States and the Soviet Union are steadily increasing. We have over 9,000 deliverable strategic nuclear warheads; the Soviets over 6,000. It will require our utmost energies, dedication, and patience to restrain this race—especially in the atmosphere generated by Soviet actions such as their invasion of Afghanistan. But these actions—with the potential for conflict and escalation they pose—make SALT and limits on nuclear weapons more—not less—important than ever before. If this is to be a decade of competition and worldwide instability, then security and survival demand that we not compete in the uncertain shadow of an all-out nuclear arms race.

Limiting nuclear arms goes to the essence of our national security. This is not routine legislation to be shelved upon the requirement of political expediency. For this reason, I am deeply disturbed that the political mood in this country has forced the SALT II agreement to be placed on the shelf for 1980. We cannot, we should not, have business as usual with the Soviet Union. But SALT is unusual business. It is in our interest, and it is not based on trust.

Time is running out. Both our nations are now making major decisions for weapons systems that will last into the next century. Without negotiated limits, the Soviet warhead total will double, triple, possibly even quadruple by the end of this decade. These are cold, hard figures, not scare stories. If we reject SALT now, we will reward the Soviets by removing restraint on these warhead totals. I find it a strange way to punish the Soviets for invading Afghanistan by allowing them to field an unlimited number of nuclear warheads against our nation.

We would then be forced to equal the Soviets, but the result would be no greater security than we have today.

And the nuclear arms race sure to follow without SALT will not be easy or cheap. We will run that race when we could have avoided it.

There are some today who say the Soviet Union is stretched thin, that all we have to do is spend them into submission. That is also fantasy. You can't have it both ways—saying that the Soviets have a massive strategic buildup that we must match, and then saying that the Soviets won't be able to spend what it takes to keep even. Anyone who looks at the Soviet buildup and concludes that it won't continue unabated without SALT II is taking a rosy view of the Kremlin to which I cannot subscribe.

This is a fundamental point. In an arms race without limits, we can build more, but so can the Soviets. SALT is the only way I know that *we* can limit the number of Soviet missiles and warheads targeted at our country.

And SALT II does limit Soviet forces:

Without SALT, by 1985 we can expect an increase of 800 Soviet strategic missile launchers and heavy bombers over what they will have under SALT. Their production lines are open, ready to go;

Without SALT, the Soviets could quickly exceed the negotiated limit of 820 launchers of land-based intercontinental ballistic missiles with multiple independently-targetable warheads—their most threatening weapon. By the end of the decade, this 820 could be *many* hundreds higher;

Without SALT, the Soviets will be able to put many thousands more warheads on their land-based missile force. One SALT provision alone prevents the possible addition of 6,000 Soviet hydrogen warheads on just a single type of missile;

Without SALT, the Soviets would be free to conceal their strategic forces. We could find it much harder to determine how many strategic missiles and bombers they are deploying, and what their military capabilities and characteristics are. No leader, military or civilian, wants to plan with less rather than more information about an adversary.

For the United States, by contrast, SALT II will not limit any planned strategic weapons programs and will not require any reductions in our operational strategic forces. With thirty-five years of service for my country, I could not come before you and advocate any agreement that did not let us have the necessary capabilities to defend ourselves.

Failure to proceed with SALT, failure to ratify this agreement negotiated by three administrations over seven long years, failure would deny us not only the clear advantages SALT II provides for our military security, but we would forfeit also a painstakingly constructed platform for future negotiations. For the past decade, these arms control negotiations have been the centerpiece of superpower relations. A new generation of leaders is about to come to power in the Soviet Union. Do we want these leaders to operate in an unconstrained, nuclear arms race, or do we want to deal with them in a relationship wherein the most important element—the one that involves the very survival of our two societies—is subject to regulation and stability?

And this is not just a question between us and the Soviet Union. It is additionally a question of leadership among our allies. Since World War II, the Europeans have looked to us for leadership in the nuclear field. This means not only that we provide the nuclear weapons necessary for our joint defense, but also that we show imaginative leadership in the control of these weapons. SALT has become for the Europeans an important test of this leadership. Today newspaper stories tell of the erosion of the NATO alliance and our position as leader. Our allies troop off, one after another, to Moscow. There are obviously many reasons for these developments. But I can assure you that whether we lead—or whether our allies seek their own ways to survive—will ultimately depend in no small fashion how we meet the test that SALT has posed. It would be an unexpected and dangerous dividend for the Soviets if their aggression in Afghanistan was rewarded by the demise of our own leadership for peace and security.

This brings me to the final point I want to stress today. The pursuit of American security in the decade to come will require joining the interests of many nations.

When I was a boy growing up in South Carolina, the world outside was a far-off place, as it was for most Americans. Scarcely a decade before, the country had rejected the League of Nations. We were a relatively self-sufficient island.

The world—as every one of you knows—will never again be so easy or so hospitable to the demands of our economy and our well-being. And the luxury of choice between isolationism and internationalism is ours no longer.

The plain reality is that we are deeply dependent on the world around us for raw materials, for markets for our farm products, indeed for the stability and order of our very way of life.

We are not vulnerable just to oil shortages. In 1950, we imported more than half of our domestic requirements for only four of our industrial and strategically important minerals. By 1976, the four had risen to 23. For example, the United States is almost completely dependent upon foreign supplies for manganese, an essential ingredient in steel production. The cutoff of access to these materials could threaten our defense in time of war as surely as one hundred more Soviet divisions.

Today, even with the clear urgency of naked Soviet aggression in Afghanistan staring us in the face, we cannot abandon the requirements of interdependence as we meet Soviet action with appropriate counteraction. Nations of the world—many faced with problems more urgent to them than the U.S./Soviet conflict—will not permit us to focus only on a military response or even on the single adversary that is our military equal.

Today—as we stand with other nations—we must acknowledge the world of revolutionary change. Much is misguided, but much is constructive. Much is exported Communism, while much is a genuine search for liberty and independence. If we stand as a wall against change, we will exhaust our resources on the wrong enemy. Therefore, our emphasis on ideals and rights is not misguided or weak, nor is it a substitute for a firm, tough, effective foreign policy. It is a part of that policy. The strong and the *confident* can afford to be just, and humane, and compassionate.

Today—as we face multiple challenges—we must muster the strengths of our allies. They have immense political, economic, and social resources that can be brought to bear on the problems that create opportunities for Soviet expansion.

The plain fact is that from now on security for our nation—short of the forces of nuclear Armageddon—will be a function of our allies and friends. We can no longer draw the wagons in a circle against a hostile world. Therefore, the imagination and the skill by which we join together with our friends will be the final measure of success for our foreign policy in the decade ahead.

Ladies and gentlemen, as I close today, I ask you to remember the Great Seal of our nation on the dollar bill in your wallet. That American eagle is holding two things—an olive branch and a bundle of arrows. Our problem today is to determine the proper relation between the two, but never to forget that they belong together. Our founding fathers—wise beyond their time—put them there for a reason. We too must be wise in our time and keep them together.

Thank you.●

NATIONAL COLLECTION OF FINE ARTS

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. MINISH. Mr. Speaker, I would like to call the attention of my colleagues and the public to an exhibition at the National Collection of Fine Arts, which testifies to the thriving state of the arts in my home State of New Jersey. On display until August 17 are 22 paintings by John R. Grabach, an accomplished artist whose work has recently won fresh appreciation. These paintings reintroduce Mr. Grabach's achievement and development, representing a 70-year artistic career.

Upon entering the small room where his paintings are hung, one is immediately drawn to their impressionistic use of light and color, their vibrant images of street scenes, people, and nature. At the same time, however, it is clear that Mr. Grabach's human appreciation and rendition of urban life and contemporary civilization reflect a critical social consciousness and vision of the American economic and political situation.

Presently residing in Irvington, N.J., John Grabach still teaches painting and drawing there and in South Orange. Over the years, he has taught approximately 8,000 students the traditional artistic principles he once learned and has grown to value most. In the 22 works on exhibit, the respect for and command of such principles are clearly the tools of the creative imagination. He has also taught countless others through his book, "How To Draw the Human Figure."

I would like to invite my colleagues to visit this fine collection, entitled "John R. Grabach: Seventy Years An Artist," and join me in recognizing his creative achievement.●

CONGRESSMAN WILLIAM D. FORD RECEIVES HONORARY DOCTORAL DEGREE FROM NORTHERN MICHIGAN UNIVERSITY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BRADEMAS. Mr. Speaker, one of the ablest and most respected Members of the House of Representatives, Hon. WILLIAM D. FORD, was awarded recently the honorary degree of doctor of laws during the 80th annual commencement exercises of Northern Michigan University.

The gentleman from Michigan (Mr. FORD), has served with great distinction as the chairman of the Subcommittee on Postsecondary Education of the Committee on Education and Labor and on the Committee on the Post Office and Civil Service.

I congratulate him on receiving this honorary degree, as I am sure my colleagues do.

I am pleased at this point to insert in the RECORD the excerpts of remarks delivered by Mr. FORD at the commencement exercises of Northern Michigan University.

EXCERPTS OF REMARKS BY CONGRESSMAN WILLIAM D. FORD

What's happening here today is kind of satisfying to someone in my position. The people in this class are representative of a "guess" that we started to pursue a few years ago—a guess that seems to have been accurate. This school—Northern Michigan University—is evidence of the fact that some of the guesses that farsighted people made a decade or more ago have been paying off.

I suspect that what you see here at Northern Michigan University today is more likely to be a prototype of what postsecondary education will be in our best institutions for at least the next decade or on to the year 2000.

I had the privilege of being in the Michigan Constitutional Convention. And one of the few good things we did in that convention was to redesign and rename this college and the other state colleges, which had formerly been called "normal schools" as distinguished, I suppose, from "abnormal schools." I never did find out where that expression came from.

We examined and rejected the experts who were advising from all over the country that what Michigan really needed at the turn of the 1960's was a single, unified, monolithic higher education system in our public colleges and universities operated by one powerful head sitting someplace in Lansing with a board or a commission to advise him or her from time to time. One of the truly bipartisan decisions that was made in that convention was that that wasn't what the people of Michigan would like for their public institutions. And so instead we went in the other direction and we gave the schools that had been under the state Board of Education, for governance, independent boards.

Not everybody was happy about that. There are still politicians that are unhappy about it. But it made it possible for these universities to develop their own personalities. This University has developed a personality that is clearly identified as relevant, not only to Michigan, and relevant to the student population that it's serving, but also relevant to the future needs of this country. That's what I'm talking about when I refer to Northern as a progressive prototype for what education is going to look like at the college level in the 1980's and on into the 1990's.

Ten years ago when we began to anticipate the kind of mixture that's in this graduating class today, there were people even in this state who said that's not really it. We're going to continue as we always have with the same kind of mixture.

In 1976 my predecessor as chairman of the Higher Education Subcommittee was Congressman O'Hara from Michigan. We said in our 1976 report to the Congress when we were sending up higher education legislation that year, and I quote:

"The typical student is no longer young, no longer full-time, no longer just out of high school, no longer a stranger to the world of work, no longer necessarily seeking either a set of skills or an educational credential, and to be certain, he is no longer overwhelmingly he."

In the few short years since then, let me show you what's happened. Today all across this country we now have more people attending our colleges and universities who are above the age of 22, the traditional baccalaureate graduating age, than we have between 18 and 22. We've always referred to people above 22 as nontraditional students or other kinds of descriptions, because a traditional student was always someone who came directly from high school into college, and four years later they were graduating. That was the pattern that existed for so long that some people thought it would go on forever.

Now we know that a large number of people, fully one-half of the high school graduates who come out of school this year, will ultimately end up in college. However, they will not go to college their first year out of high school. And that's a real switch. But they will go to college in the same proportions ultimately as did their predecessors who went directly from high school.

I'm told that 40 percent of the graduates here exceed the age of the so-called traditional student, although the number of you receiving graduate degrees is relatively small as measured against the total group of graduates today. In 1978, only 54 percent of all the people who entered college that year were entering right out of high school. And each year that number has been going down. As a matter of fact, back at the beginning of the 1978 school year, 21 percent of all the people who were entering college as freshmen had been out of high school for four years or more. So what is happening is that graduating classes and college student bodies are changing.

We live at a time when it's no longer unthinkable for people to change their career goals several times during their life. We have managed to work our way into a position where people have the individual liberty to decide, not once in their life, but several times in their life, what they would really like to do to be productive citizens and happy Americans. We ought to all be very grateful that there is no other country in the world, communist or noncommunist, democratic or totalitarian, no other country in the world where a system has been allowed to grow like ours with the kind of individual freedom that we have. It covers every stage from the decision to become a student to the decision to do what we will with that education afterwards, and in fact, the decision to change your mind to do something entirely different.

In most other countries that we look at as civilized, fine progressive countries, once the initial choice is made it's too late to turn back for the rest of your life. * * * you discover that children are tracked someplace at the elementary level and forevermore they are either marked as somebody who is going to be a professional by going to college or they're going to be a mechanic or they're not going to have much education at all. Those decisions are not made by the children; they're made by other people. They're not made by parents; they're made by "professionals." No place in this country has that kind of thing ever reared its head for a moment.

What I'm saying is—unlike graduating classes of my generation—this graduating class is not finishing their education or finishing a life experience and putting it aside as if it's some kind of a termination of a period in their life. They're really beginning something that is much broader and much bigger than graduating classes of the past had to face. We know that statistically the chances are that more than half of the people who are graduating today are indeed going to have as much or more involvement in formalized educational situations during the rest of their life as they've already had when they receive their degree here today. I hope that doesn't disappoint anyone.

* * * no matter what you have heard from the doomsayers who suggest that it's a waste of time and money today to seek higher education, we know from the Bureau of Census and the IRS that consistently if you compare all people with college educations in this country with all people who did not have that privilege, we find that the college graduate is going to earn during his or her lifetime * * * about a quarter of a million dollars more than the non-college graduate.

This country needs not only the intellectual growth that has taken place in the people who are here graduating today * * * it needs their earning capacity. In my view the best possible way to beat something like inflation and guarantee a strong economy is to keep producing people like the people being produced here at Northern Michigan to participate in that economy as "tax makers" instead of "tax users" and as leaders and not always followers * * *.

You now are moving out of here as a kind of a threat to some of the old-timers who are looking over their shoulder at you. But it won't be long and you'll be looking over your shoulder. I can tell you something about the kind of people who are going to be coming behind you. You have an advantage because you came to a school that comes so close to what I believe the real prototype is going to be in the next decade. You look around you and you'll see what kind of people are going to be coming behind you and challenging you as you develop in your careers in the next decade or two before you level off and retire to Palm Beach with your millions that you're going to earn.

As you do that, I hope you will carry away from this institution, which is indeed one of the finest examples of American public education in the entire United States—and always be proud to say that—when you go away from this institution remember that you've got a continuing obligation to the people who are coming along behind to make sure that the opportunities they have are as free, not in terms of dollars * * * but free in terms of the ability of people to choose and to pursue their educational goals without economic barriers, racial barriers, or other kinds of barriers that over the years have filtered people out of our system.

This is really a kind of challenge that I throw to you because you and I, as beneficiaries of the American public school system, and people whose lives are much richer as a result thereof, have an obligation to the people who don't make it and don't get the chance that we had and don't have the luck that we have had.

This institution, and those like it across this country that are essential to the continuance of this country as a strong and moral country and a healthy country, has to depend on its alumni to defend, protect, and advance the objectives that you built for yourself while you were here.

I wish each and every one of the graduates and their families the very best. I know what a happy occasion it is. And let me thank you from the bottom of my heart for allowing me to come here and share with you this very important day in the lives of everybody here.

Thank you, and God bless you.●

A TRIBUTE TO A COMMANDER

HON. RAPHAEL MUSTO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. MUSTO. Mr. Speaker, it is with pleasure that I rise today in recognition of the commanding officer of the Scranton Army Ammunition Plant, Lt. Col. Denis C. Dice, for his honorable and dedicated service to our area. Colonel Dice is leaving us, but he will be warmly remembered as a man of valor in service to his country, a leader of men, a gentleman always, and a good friend. A native of Pittsburgh and a 1960 graduate of the U.S. Military Academy, he can be proud to have achieved an excellent record and a remarkable career.

I would like to recount some of the highlights of Colonel Dice's career. Soon after graduation from the Military Academy, he attended New Mexico State University and graduated in 1965 with an M.S.M.E. degree. After a year in Vietnam as a combat adviser to regional forces, he moved to West Point and was an assistant professor in mechanical engineering; teaching thermodynamics, fluid mechanics and heat mass, and momentum transfer. While at West Point, he attended Fairleigh Dickinson University and was awarded an M.B.A. degree (magna cum laude) with a major in management. Following a tour in Korea with the 2d Infantry Division, he attended the Command and General Staff College at Fort Leavenworth, Kans., and was then assigned to Picatinny Arsenal where he was chief of the Technical Support Division in the Office of the Project Manager for Base Modernization. He was then assigned as Commander of the Scranton Army Ammunition Plant, Scranton, Pa.

Colonel Dice has been awarded the Combat Infantryman's Badge, the Meritorious Service Medal, and the Bronze Star. He is a registered professional engineer, a member of the project manager development program and an avid handball player. Colonel Dice, his wife Ann, and their four children presently reside in Clarks Summit, Pa.

We wish to extend our good wishes to Colonel Dice for continued success, particularly in all his future endeavors and we bid him a fond farewell.●

CONFERENCE REPORT ON THE FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1981

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. FISHER. Mr. Speaker, now that the dust has cleared a bit after the consideration of the First Budget Resolution for Fiscal Year 1981, I would like to take a moment to talk about my votes on the two conference reports on the resolution which were brought before the House and to give a status report, as I see it, on the budget process to date.

As you recall, on May 29 the House voted down the first version of the conference report on the budget resolution. I voted in favor of the conference report because, although it may not have been exactly the way I would have drawn it, it still set out a reasonable framework in which the authorization and appropriation committees could have set a spending agenda for fiscal year 1981. And, importantly, it laid out a budget for 1981 that was balanced (actually it showed a small surplus of estimated revenues over outlays.) We must remember that the first budget resolution sets out guidelines, and I do not believe that we should spend an undue amount of time in fine-tuning those guidelines. That, instead, is properly the role of the authorization and appropriation process.

The controversy surrounding the first version of the conference report concerned whether the House conferees had agreed to too high a figure for defense spending. On the surface it did appear that the Senate got the better of the compromise. The House had earlier voted $147.9 billion for defense outlays and $160.8 billion for budget authority, whereas the Senate had earlier voted for $155.7 billion for outlays and $173.4 billion for budget authority. However, much of the difference between $147.9 billion figure for outlays which the House initially approved and the $153.7 billion in the conference report could be accounted for by reestimates necessitated by inflation in the costs of defense items and activities. As an indication of this, the Congressional Budget Office had calculated on May 29 that the President's budget request for defense of $150.5 billion in March would now require spending of $153.1 billion. True, the conference figure was slightly above even that amount. However, this is not the time, given international circumstances, to err on the side of too little defense spending, and the first budget resolution is really not the place to engage in extraordinary fine-tuning of spending figures. Therefore, I felt comfortable in supporting the first version of the first budget resolution conference report because I believe that the key element was retained—the framework was still there which would provide the guidelines for achieving a balanced budget.

However, as I indicated, this version of the conference report was defeated. When the question again came before the House on June 12 in the form of a second version of the conference report on the budget resolution, there were some minor modifications with respect to budget authority, which committed a little more spending for nondefense programs. Nevertheless, the basic tenor of the document remained the same. The budget was in balance, still with a slight surplus. For this reason I supported it, as did a majority of my colleagues.

Now, where are we? It appears that several of the authorizing committees are taking seriously the budget resolution's instructions for reconciliation, that is, legislative reductions in some eight program categories. I voted for the reconciliation procedure when it was considered by the House because I believe that it is essential to the integrity of the budgetary process that the attempt be made by the authorizing committees, to reach the fiscal goals set out by the first budget resolution. It is especially important that the Appropriations Committees in their turn pay attention to the approved budget guidelines. This does not mean that I support all of the recommendations in the resolution on how to achieve those goals. For example, I specifically and emphatically reject the recommendation that the twice-a-year cost-of-living adjustment for Federal retirees be reduced to once a year.

The Ways and Means Committee, of which I am a member, has responsibly approved measures which meet the budget resolution's goals. Ways and Means, incidently, was assigned the largest piece of the action of any committee: $4.2 billion in additional revenues and $2 billion in expenditure reductions. Interestingly enough, however, it chose to do so largely in ways other than the Budget Committee had recommended, which is entirely consistent with budget law and the intent of Congress as expressed in the budget resolution. I was pleased to see that the revenue raising package included legislation which I introduced to tax the gains realized by nonresident aliens on the sale of U.S. real estate, including farm property. Up until now, it had been possible for these individuals through a variety of techniques to avoid paying the same taxes which residents of this country have to pay. Basic equity demands that the current law be changed, and I, therefore, was pleased to see the committee adopt my legislation as part of the reconciliation package.

Finally, it is important to note that by mid-July the administration is required to release its new economic forecast. It is quite likely that this forecast, which will reflect the recent trend toward economic recession, will make it very difficult to achieve a balanced budget in fiscal year 1981, even if the specific spending cuts and revenue raising goals specified in the first budget resolution are realized. Unemployment is increasing and income tax revenues inevitably will be less than anticipated earlier. The Congress and the country will have to adjust to the new realities, which may involve higher recession related expenditures and lower tax revenues. What is important and what, I believe, is the essential value of what we have done with respect to the first budget resolution is that the Congress established a reasonable framework for balancing the budget and took responsible actions for bringing spending under control with the economic assumptions and outlook pertaining at that time. The benefits of these actions should last well beyond fiscal year 1981.●

JOHN O'HARA TO ENTER SEMINARY

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. COURTER. Mr. Speaker, come July 18, John J. O'Hara will be changing courses midstream in his life to become a student at St. Joseph's Seminary in Yonkers, N.Y., and pursue a vocation in the priesthood. For 9 years as news director of radio stations WDHA-FM and WMTR-AM in Morristown, N.J., John O'Hara worked hard to offer the best news coverage to his listeners.

I would like to take this opportunity to thank John for his many years of service in the communications field and his successful efforts in presenting a balanced view of State, national, and world events. I am sure my colleagues will wish to join me in extending the most sincere congratulations to John O'Hara on this wonderful occasion and offering our prayers for success in his new life ahead.●

PLO TERRORISM: THE RECORD IS CLEAR

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. ASHBROOK. Mr. Speaker, with the passage of time the PLO terrorists do not look better—they look worse. There has been a concerted effort to fantasize about this bunch of lawless, international bandits but it just will not wash. Unfortunately, there is a body of thinking internationally and in this country that holds to the idea that lawless elements can murder and terrorize their way into negotiations and respectability.

The attempt to make the Attica rioters a social reform group, to make rioters and looters appear to be driven by humanitarian concerns, to make the lawless appear to be in quest of a redress of their grievances is something that should never be accepted by law-abiding Americans. The PLO should never be able to assassinate or bomb their way to any negotiating table. An Arafat coming to the United Nations brandishing his gun and fiery rhetoric is no way to solve serious problems.

Martin H. Miller has written a succinct, and accurate article in today's Washington Star on this subject and I include it at this point in the RECORD:

PLO TERRORISM: THE RECORD IS CLEAR

As explained by Professor Yonah Alexander of the Georgetown University Center for Strategic and International Studies, terrorism is violence performed with a political or ideological end. Today it is a violence which menaces the survival of governments and the stability of society. All of us—even nations like the Soviet Union, which promote terrorism—are potential victims.

What is astounding, then, is the attitude of our media and government toward the most important member of the international terrorist network, the Palestinian Liberation Organization. The PLO is presented as an organization of "Freedom Fighters," "guerrillas" fighting to restore the Palestinian people to their homeland. Their leader, Yasser Arafat, is described as a "moderate" who attempts to control his more extreme colleagues so the PLO can achieve its aims by diplomatic means.

Generally ignored are the PLO's actions against the U.S., which include murdering American ambassadors in Lebanon and the Republic of Sudan, encouraging and counseling the militants and Ayatollah Khomeini in Iran, and providing training, haven, money, intelligence and weapons to terrorist movements in Ireland, Germany, Japan, Italy, Africa and Latin America. American revolutionaries, too, have been trained in PLO camps.

Al Fatah, the largest and most influential organization in the PLO, closed its recent conference in Damascus with a manifesto which proclaimed unequivocally the PLO's hatred for the U.S. Broadcast June 1 over Radio Palestine from Beirut, the manifesto proclaimed, "The U.S.A. is the leader of the enemies of our people and nation. It pursues a hostile policy to our nation, revolution, and Arab nations, strengthens the Zionist entity and makes military alliances designed to subjugate the region militarily, to despoil our national treasures. We have no choice but to strengthen the international front against the U.S.A., wage war on its policies and strike at U.S. interests in the region."

The PLO also spurned the efforts of France, England and the other Western European nations desiring to advance the PLO cause by diplomatic means. Al Fatah at Damascus underscored again its determination to conquer by violence. Yet, neither President Carter, Secretary of State Muskie nor their spokesmen have mentioned this latest PLO repudiation of any plan for a peaceful solution. Our leaders have again closed their eyes to the PLO's dedication to terrorism so that we, too, will overlook it.

What is also surprising is to see statements of PLO policy termed "rhetoric." The use of the word "rhetoric" casts doubt on the intentions of the PLO. It is as if the assassinations of American and European diplomats and of peace-minded Arabs in Gaza and the West Bank, the murder of infants in Israeli nurseries, the destruction of Lebanon as a viable nation, never happened.

During the winter of 1977-78, the *Near East Report* reveals, the PLO murdered three West Bank Palestinians who they considered collaborators. An Islamic religious leader in Gaza who supported the Israeli-Egyptian peace treaty was assassinated by Palestinian terrorists in June 1979. From 1973 through April 1979, there were 1,575 terrorist attacks across Israel's borders, costing 133 lives. From 1967 to 1978, Arab terrorists in Europe, Asia and Africa killed 1,133 people, wounded 2,498 and held 2,755 hostage.

Despite the media's presenting Arafat as taking the "moderate" way, the terrorist attacks have not diminished. For example, a compilation of terrorist operations against Israel from Jan. 13, 1979, to May 2, 1980, made from news reports by the Jewish Institute for National Security, shows 49 terror attacks in which 371 men, women and children were killed or injured.

Does this kind of record warrant labeling PLO Al Fatah threats of intensified violence as "rhetoric"?

Also disregarded by much of the media is the PLO's collaboration with the Soviet Union on ousting the U.S. from the Middle East. Arafat's visits to Moscow are reported, but conclusions are not drawn about what they may mean for us. Nor is attention paid to the strong PLO ideological ties with Soviet Russia, even though these, too, were reaffirmed at Damascus.

Nor is there more than passing attention to the havoc the PLO brings to Arabs wherever it settles. Lebanon, for example, once the Switzerland of the Middle East—the Arab country which came closest to democracy—is now a shambles. The PLO was a major contributor, along with the Syrian "peace-keeping forces," to the killing of 40,000 Lebanese and the physical destruction of their country. Incidentally, where is our human rights concern for the Christians and the anti-PLO Moslems of Lebanon?

The PLO has made no secret of its objectives. Why does our government and much of our media regard the PLO as an almost benign organization which might—any day—be persuaded to change its nature? When will we learn that terrorism is not divisible and cannot be stopped at someone else's borders?●

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT: PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. McDONALD. Mr. Speaker, in continuing my commentary on Dr. Rael Jean Isaac's probe of the Institute for Policy Studies (IPS), the Washington-based Marxist influence apparatus, I would like to point out that she has hit upon one of IPS's more interesting ploys, namely to utilize neoanarchist, libertarian, and isolationist arguments in support of U.S. acquiescence to Soviet imperialist aggression.

One of the individuals long associated with this IPS tactic is Earl Ravenal, a former Defense Department official radicalized by opposition to U.S. aid to South Vietnam against the Communist invaders. Ravenal is active not only with an IPS antidefense spinoff called the Center for Defense Information, but also with the libertarian Cato Institute of San Francisco, whose magazine, Inquiry, frequently publishes some of the most radical IPS "New Leftists."

Through a long series of left-right unity maneuvers initially promoted by Karl Hess, the Institute for Policy Studies has tried to persuade non-Marxist critics of the liberal administrations to join in making revolutionary changes in U.S. policy. "Unite with all with whom unity is possible," said the machiavellian V. I. Lenin. And one may seriously question the credentials of any libertarian who finds such Soviet approval as has Earl Ravenal that he accepted a 1978 invitation from the Institute of the U.S.A. and Canada to spend the summer as a guest in Moscow. The Institute of the U.S.A. has well-known KGB ties and functions.

Dr. Isaac's article on the Institute for Policy Studies defines the organization as "an enormous intelligence operation practicing both covert action and subversion. It is itself an adaptation of the multinational corporation, and serves as an 'imperial' nerve center, with endless subsidiary operations that in turn influence and shape a whole series of ostensibly independent groups."

An excerpt of Dr. Isaac's article follows:

[From the Midstream, June/July, 1980]

THE INSTITUTE FOR POLICY STUDIES: EMPIRE ON THE LEFT (PART II)

(By Rael Jean Isaac)

Although IPS is normally classified as a movement of the radical Left, it works readily with individuals and movements of the radical Right, and could easily move wholly in that direction. Karl Hess, a founding editor of National Review and a one-time speechwriter for Barry Goldwater, found that IPS corresponded to his own "right wing anarchist liberation" philosophy. IPS staffers fill the pages of Inquiry, the chief journal of the Libertarian movement, and IPS and the Libertarian Cato Institute have undertaken a joint project to "study the military, financial and political implications of a strictly non-interventionist United States foreign policy."

What IPS is really concerned about is assuring United States withdrawal of support from "reactionary" regimes world-wide. Once that is done, IPS is quite confident in the ability of "progressive" forces (backed presumably by the "progressive" arms of Cuba, the Soviet Union, etc.) to achieve victory. Although IPS, with its goal of some sort of decentralized communal socialism is more strictly in the anarchist tradition than the Libertarians with their belief in the free market, the two make common cause in calling for an end to U.S. intelligence services and for unilateral U.S. disarmament.

The radical Right orientation in IPS thought is visible in a book by IPS Fellow Earl Ravenal, who argues for "nonintervention." He contrasts this with appeasement, which he accurately observes, is a form of intervention. United States policy toward Israel, says Ravenal, is a policy of appeasement. Israel is pressured to make concessions to the Arab states—at present to relinquish the West Bank to some form of Arab rule. American aid and promises of future support are predicated on these concessions. Yet ironically, Ravenal notes, appeasement produces a more dependent ally in a position of less strength, more dependent than ever on a less reliable guarantor. Ravenal's solution is withdrawal. Countries to which the United States has made commitments will have to seek the best deal they can with their adversaries.

What of powers that might seek to advance as the United States withdraws? Ravenal says airily that we will have "to let our adversaries have their season of mischief in the world." The process of disengagement will not end until the United States has found "a new, obviously defensible security frontier." Europe? Canada? Mexico? The borders of the U.S.? Ravenal does not define what an "obviously defensible" frontier would be.

The strength of IPS has, indeed, been much less in its ideas than in its methods. IPS combined theory and action in what Raskin called "the project" and the "social invention." As Arthur Waskow, a founding Fellow who remained at the Institute until a wage dispute led him and a number of other long-time Fellows to begin a rival Policy Resource Center in 1977, described this approach: The Institute is not just an ordinary research center because it's committed to the idea that to develop social theory one must be involved in social action and in social experiment. And therefore, the Institute stands on the bare edge of custom in the United States as to what an educational research institution is, as against what a political institution is.

In IPS the distinction between research and political action virtually disappears. We shall show that the genius of IPS has been the use of all the political techniques whose legitimacy it denied and sought to eliminate from the arsenal of government. Major targets of IPS have been government intelligence agencies for their spying, covert actions, and subversion; the corporation, especially the multinational corporation; and U.S. "imperialism."

IPS can fairly be described as an enormous intelligence operation practicing both covert action and subversion. It is itself an adaptation of the multinational corporation, and serves as an "imperial" nerve center, with endless subsidiary operations that in turn influence and shape a whole series of ostensibly independent groups.

The most imaginative of the IPS intelligence operations is the so-called Government Accountability Project (GAP). The Government Accountability Project encourages government employees to expose wrongdoing in their agencies. It calls this "whistleblowing" and provides a whistleblower's hot line directly to IPS. A three-day Conference on Whistleblowing held in Washington in June 1977, featured a number of participants whose remarks centered on such areas as pilferage, bribery, discrimination, and conflict of interest, but IPS staffers at the conference made it clear that their primary area of interest was intelligence operations and Defense Department activities. To underscore the point they planned a special conference on whistleblowing in the national security agencies. IPS urges federal employees to push (through their unions) for the establishment of a written, guaranteed, and legislated right "to blow the whistle." IPS has provided model legislation to encourage and protect whistleblowers by, among other provisions, forcing the government to pay a whistleblower's legal fees, give him paid leaves of absence during litigation, and punish supervisors for harassment.

Another major information-gathering operation of IPS is directed against the large corporation. And while monitoring the large corporation for abuses has an appealing ring, it must be remembered that the purpose of IPS is not to force the corporation to live up to a high standard of behavior but, as IPS freely admits, to abolish it. One of the early projects was a 1970 study of "industrial security" in 500 corporations, most of them with government defense contracts. The corporations were asked, "as a starting point," to give information about the "person or persons in charge of your security program." According to Raskin, some 200 corporations cooperated in the study.

Another project is the Counter-Information Services of the Transnational Institute (the international arm of IPS). Information that IPS describes as "closely guarded behind boardroom doors or barred in secret files" is unveiled in a series of "anti-Reports" focusing upon, for example, the Rio Tinto Zinc Corporation, General Electric, British Leyland, Unilever, etc. The Corporate Data Exchange is a more ambitious project. Started in 1975, it is designed to investigate corporate control and economic concentration in all the major industries. Revealing the principal stockholders and investments of companies, the Exchange is useful in economic warfare campaigns in the name of "human rights' against countries targeted for "progressive" revolution.

The Transnational Institute also has a Multinational Monitoring Project that is "developing an international network of researchers who investigate the operations of different multinational coporations . . . analyzing their impact upon development abroad and economic dislocation at home." Similarly, the Institute for Southern Studies, an IPS subsidiary established in 1970, is directed against the "exploitation" of regional workers by major corporations and according to its own literature "is systematically collecting, evaluating and disseminating data on the operations of over 400 corporations in the South." As part of its Militarism and Disarmament Project, IPS "monitors" U.S. arms sales and transfers.

Spying on the spies, or more elegantly, the exposure and nullification of Western intelligence operations is an important part of IPS concern. In 1971, IPS began its own Internal Security Project to study the intelligence agencies. When around the same time, disenchanted military intelligence officers from Vietnam Veterans Against the War joined together to provide the basis for what was to become Counterspy, IPS made its facilities available to them. The key figure in Counterspy was to be CIA defector Philip Agee. Counterspy's revelations of the identity of CIA agents around the world was followed by the murder of one of them, Richard Welch, in Athens. IPS co-director Marcus Raskin was on the advisory board of the Organizing Committee for the Fifth Estate which published Counterspy.

Agee, in the British edition of his book, Inside the Company: CIA Diary, wrote of the debt he owed to the Cuban government and to three people who had provided him with information. One of the three was Michael Locker, who became the director of IPS/Transnational Institute's Corporate Data Exchange and a member of the IPS Ad Hoc Working Group on Latin America. (Agee now lives in Cuba, having been deported from both England and Holland for contacts with Soviet intelligence.)

IPS has also sought to discredit the intelligence agencies. It has made two films on defectors, one on former CIA officer John Stockwell revealing, in the words of IPS, "heretofore unknown information about CIA practices and policies," and another on former FBI agent Robert Wall, which has the additional merit of describing an FBI investigation of the Institute. A number of IPS Fellows took part in "A teach-in on Techno-Tyranny" in 1975 at the University of Michigan focussing on alleged "political assassination" and "police repression" in the United States.

The projects described above involve covert action by IPS as well as simple intelligence gathering. Government employees were not informed that the Government Accountability Project (GAP) was an IPS project operating from the ground floor of the IPA building at 1901 Q Street. The brochure distributed by IPS to government employees states that the Government Accountability Project is the work of a "public interest group to help restore confidence in the federal system." A typical IPS handout for the project has a red, white, and blue cover with an American flag. Government employees are made to believe that they engage in patriotic acts, preventing abuses in their agencies, not that they contribute toward bringing down what IPS likes to call the "national-security state." And while the Project's literature states that GAP "works directly with journalists" it does not mention that this builds up the influence of IPS Fellows with newsmen—making them a source of valuable "leaks"—to whom favors are due in return.

The Corporate Data Exchange also involves IPS in "covert action." The Corporate Data Exchange, in the literature it sends out describes itself as "an independent tax-exempt research organization." Actually it is a project of IPS's Transnational Institute and is listed as such in Transnational Institute material.

IPS activity on behalf of the PLO deserves to be characterized as yet another "covert operation." Since blatant identification with the PLO might be embarrassing to some IPS funders, support is given indirectly. MERIP, the Middle East Research and Information Project, founded in 1971, supports the major Middle East terror groups. IPS Fellows Joe Stork and Fred Halliday are editors of MERIP Reports and MERIP has repeatedly used IPS facilities for its meetings. IPS Fellow Eqbal Ahmad has engaged in fund-raising efforts for MERIP. The Institute for Policy Studies' Cambridge offshoot offered courses on the Middle East taught by MERIP staffers: the catalogue description stated that "research will be oriented towards eventual publication in MERIP Reports."

A number of IPS Fellows have been featured speakers at the conventions of the Association of Arab-American University Graduates and suggested speakers of the Organization of Arab Students in the U.S. and Canada. IPS Fellows attend PLO conferences: in November, 1976, IPS Fellow Joe Stork spoke at the "International Symposium on Zionism as a Racist Phenomenon" in Baghdad. Eqbal Ahmad is listed as a sponsor of the PLO support group, the Palestine Human Rights Campaign. An internal IPS memo sent on February 11, 1976 by IPS Fellow Saul Landau proposed a series of discussions among "friendly" members of Congress, such as James Abourezk and Anthony Moffett, members of the PLO, Jewish "doves," IPS people, and Arab-Americans not in Congress.●

TRIBUTE TO G. BROOKS ICE

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. ROYER. Mr. Speaker, I rise today to honor G. Brooks Ice, a judge of the Superior Court of the State of California in and for the county of San Mateo who is retiring after many years of distinguished service. Many of his friends and colleagues are gathering on Friday, July 18, 1980, at the Elks Club in San Mateo, Calif., in my congressional district to honor Brooks. I believe that it is fitting that we, who are legislators, pause in our deliberations to pay homage to one of those who are charged with the onerous duty of implementing the laws as duly passed. Surely, a more honorable calling is difficult to imagine.

And, in my opinion, Brooks has been a practitioner and scholar of the law of the highest caliber. I know that all the members of the bench and bar of the county of San Mateo join with me in making that statement.

I have been contacted by my colleague, Representative PAUL N. MCCLOSKEY, JR., who asked to join me in expressing my respect for Brooks Ice, with whom and against whom he was once privileged to try lawsuits in San Mateo County, Calif. Representative MCCLOSKEY's kind words in honor of Brooks are certainly appropriate because, as a representative of a portion of San Mateo County, Representative MCCLOSKEY has a great knowledge of Brooks' distinguished career which included a degree from Stanford University, in Representative MCCLOSKEY's 12th Congressional District.

Brooks' career, which has been spent entirely in California, has spanned the entire legal spectrum, from California highway patrol officer to deputy district attorney, to the private practice of the law, to judge of the superior court. He served honorably in all of these capacities, and has done credit to the high responsibilities of the legal profession.

I call upon you, my colleagues in the Congress, to join with me in expressing our deep appreciation to Brooks for his tremendous contributions to the legal fabric of the county of San Mateo and to wish him the best of all things in his future years.●

ERISA STUDY IN PENNSYLVANIA

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. WALGREN. Mr. Speaker, one of the greatest challenges we will face in the 1980's will be securing the futures of our retired populations. We passed a landmark piece of legislation in 1974, the Employee Retirement Income Security Act (ERISA). However, for a variety of reasons, public plans were excluded from coverage under ERISA. The importance of local government retirement systems to taxpayers, local government employees, municipal government officials, and the States cannot be overemphasized. The amount of tax money at stake is huge. Few responsibilities of local governments are as compelling as the insurance of a secure retirement income to employees whose loyal service over many years warrants a retirement of dignity and reasonable financial security.

Recently, State Senator Craig Lewis of Pennsylvania conducted a study, and issued a report entitled "Report on Activities of the Special Committee on Municipal Retirement Systems." The committee conducted hearings in Harrisburg, Pittsburgh, Wilkes-Barre, and Philadelphia. Testimony was heard from government officials, plan participants, taxpayers, service providers, and representatives of employee organizations.

The committee came to the following conclusions for Pennsylvania:

1. Pennsylvania to date has failed to develop a systematic and coordinated policy with regard to the numerous and complex issues relating to municipal retirement systems. In order to permit the development of such a policy, Pennsylvania should give serious consideration to the establishment of a permanent Commission on Municipal Government Public Employee Retirement.

2. Many cities in the Commonwealth currently experience, and in the future will continue to experience, severe financial crises as the obligations of such cities to fund the liabilities of their retirement systems threaten both retirement system bankruptcy and municipal bankruptcy. Pennsylvania should give serious consideration to the establishment of a Pension Recovery Fund, which would be made available to municipalities which (a) currently suffer from severely underfunded retirement systems, and (b) voluntarily agree to fund their retirement systems on a sound actuarial basis in the future.

3. Existing law in Pennsylvania does not adequately define a "fiduciary" of a local governmental retirement system or establish standards to govern the conduct of such persons. The Senate should give serious consideration to the enactment of fiduciary responsibility legislation which would, as its basis, (a) define a "fiduciary" to include any person who exercises any discretionary control or responsibility with respect to the administration of a local government retirement system or the management or investment of assets of such a system, and (b) require all plan fiduciaries to act prudently and solely in the interest of plan participants and beneficiaries.

4. The Public Employee Pension Forfeiture Act does not contain adequate enforcement provisions in the event that retirement system officials refuse to enforce the forfeiture provisions of the Act. Pennsylvania should give serious consideration to pending legislation which provides that (a) the local District Attorney and the Attorney General shall have standing, and shall be required, to bring suit to compel retirement system officials to give effect to the forefeiture provisions of the Act, and (b) local court officials shall be required to notify the Attorney General upon the return of a guilty verdict or entry of a guilty or no defense plea to any of the crimes enumerated in the Act.

5. Existing reporting practices of local government retirement systems appear to generally serve the information needs of the State. The Department of Community Affairs should regularly review existing reporting practices to determine whether the information required adequately informs the Department of significant fiscal events relating to retirement systems. The Department should promptly compile and publish the bi-annual Act 293 Reports. The Department should also promptly release the Report entitled "A Proposed Pension Recovery Program," dated December 15, 1978, which the Department commissioned but has never released.

6. Disclosure practices of municipal retirement systems are inadequate. Many retirement system participants and beneficiaries do not receive basic information regarding their retirement systems, the value of their accrued benefits, etc. Pennsylvania should give serious consideration to requiring all local government retirement systems to publish and distribute to participants and beneficiaries, on a regular basis, summary plan descriptions, containing basic information relating to the retirement system. Such booklets should be written in a manner calculated to be understood by the average plan participant. Information regarding employee contributions, percentage of vesting, and expected individual retirement benefits should be distributed to plan participants on a regular basis.

7. Local government retirement plan provisions relating to eligibility vesting and vesting and benefit levels vary widely. Because these issues are directly related to the retirement system expenses of a municipality, the Committee concludes that plan provisions relating to these issues should generally be a matter of local government determination. Pennsylvania, however, should give serious consideration to restraining local government actions in those instances in which plan provisions in these areas threaten to undermine the financial soundness of the retirement system or are inherently abusive.

Mr. Speaker, I feel strongly that these problems should be solved at a local or State level. However, I cannot overestimate the stake of the Federal Government. Congressmen THOMPSON and ERLENBORN have introduced the Public Employee Retirement Income Security Act, which many see as the first step toward inclusion of public employees in ERISA. As we evaluate this proposal, I commend Senator Lewis' study to my colleagues. If you are interested in seeing the entire report, I urge you to contact me for further information.●

DAVID BURPEE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. KOSTMAYER. Mr. Speaker, I rise to pay tribute to David Burpee, who died this week at the age of 87 in Doylestown, Pa. I speak not only for those friends and neighbors of David Burpee who live in Bucks County, Pa., in mourning the death of this remarkable man, but for all Americans as well.

For more than one-half a century David Burpee served as president of the Atlee Burpee Co. The legacy he leaves behind is unmatched in the world of gardening. Burpee seeds are an American institution. The arrival of the brightly illustrated Burpee catalog has long been a harbinger of spring for Americans throughout the land. But far more impressive to me, Mr. Speaker, than the success of his company or the sheer volume of his business is the variety of plants and flowers he offered to people around the world. Actually, Burpee was a great innovator, for during his 55 years as head of the company, he developed hundreds of varieties of plants and vegetables and made them all available to the people for just 25 cents a pack. His work included the development of hybrid cucumbers, tomatoes, zucchini, and cantaloupe.

Here in Washington, David Burpee was well known as the champion of the marigold. For years he campaigned, although unsuccessfully, to have the marigold designated the national flower. And the marigold could have no more rightful advocate, for Burpee himself developed the red and gold marigold in 1939, the first commercially sold seed producing a hybrid flower.

For David Burpee, gardening was more than a business. It was a way of life. He described his love for gardening when he said: "If you want to be happy for an hour, get drunk. If you want to be happy for a weekend, get married. If you want to be happy for a whole week, kill your pig and eat it. But if you want to be happy all your life, become a gardener."

David Burpee brought happiness and simple beauty to millions of people he never knew and who never knew him. And today while David Burpee is gone, the beauty, the sweetness and the gentleness he brought into a troubled world survive.

I knew David Burpee and his family and have visited his home where he converted me into a congressional champion of his beloved marigold.

Today, I speak for people everywhere when I bid farewell to a distinguished Pennsylvanian and a great American. David Burpee's contributions to horticulture and to the worldwide effort to improve the world's food supply were enormous and shall not be forgotten.

David Burpee's life enriched our own.●

ENVIRONMENTALISTS DRIVING INDUSTRY NUTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. ASHBROOK. Mr. Speaker, today is an appropriate time to call to the attention of this body a very timely and interesting column written by James A. Duerk, director of the Ohio Department of Economic and Community Development. It appeared on June 11 in the Cleveland Plain Dealer. Mr. Duerk has been working for many years in my home State to promote orderly business growth, expand job opportunities, and diversify Ohio's manufacturing and industrial base. He knows firsthand of the impediments to that work which come from excessive taxation and environmental restrictions which go beyond reason.

We just polished off another bureaucratic monstrosity that my liberal friends would have pressed upon the energy industry. A complicated, ill-fated synthetic fuels bill did clear this body yesterday and will result in more and more Government involvement in this field.

Mr. Duerk takes a good look at what really happens out in the real world as a result of emotionally inspired legislation which has lofty goals but creates a regulatory morass. I urge my colleagues to read it. The article follows:

ENVIRONMENTALISTS DRIVING INDUSTRY NUTS

In the early 1970s, the environmental movement got underway to attack some very real problems. A leading force was Ralph Nader. The original goals—protection of public health and safety—were genuinely positive.

Nader's popularity attracted a great number of followers. As the movement gathered momentum, Congress jumped on the bandwagon with legislation that opened the door to a whole wave of new government regulations.

Somewhere along the way, however, reason and balance were lost. Today there is an anti-business, anti-growth and anti-jobs attitude in official and unofficial circles in Washington that is severely harming the American economy and the security of the American family.

The extreme regulatory demands being made upon business and industry by the federal government, with their attendant costs, are too heavily straining our economic system.

As we enter the 1980s, Nader's new target has become "zero" pollution—a goal impossible to achieve. It is impossible because by far the largest sources of pollution are from nature itself.

Nature puts 60% of all particulates in the atmosphere. Sixty-five per cent of all the sulfur dioxide in the air comes from nature. Seventy per cent of the hydrocarbons are produced by nature. Ninety-three per cent of the carbon monoxide, 90% of the ozone and 99% of the oxides in nitrogen come from nature.

Nader and his followers so far have not told us they want to destroy our forests, or defoliate our croplands. But they are pushing basic industry in America to the regulatory wall, reducing the economic base that made America prosper like no other nation, and thereby taking jobs away from the workers of America and bread from their families.

No one quarrels with a reasonable, balanced approach to the problem of pollution, but when we find ourselves threatening the jobs of hundreds of thousands of our workers in the steel, rubber, glass, chemical, oil and automobile industries—the mainstays of any modern industrial economy—it is time to cry out.

The key word must be "balance." We must respect the balance of nature, and we must weigh the actual benefits of our environmental demands against the cost in human economic terms. Above all, environmental regulations should be backed on sound research, not emotionalism.

The problem is that, in their thirst for "zero pollution" the federal Environmental Protection Agency (EPA) and its extremist allies outside government, like Nader, are making incredible economic demands.

Take U.S. Steel's Fairfield, Ala., plant, where it cost the company $1,200 per pound per hour to control the first 99% of the emissions from the company's steelmaking furnace. But to handle the last 1% would cost $400,000 per pound per hour! All these costs, of course, will be passed on to the consumer.

In the next seven years, American industry will be forced to spend an average of $36 billion a year for environmental controls—an average of over $400 a year for every family in the United States. New-car buyers will be paying $435 for pollution control equipment on 1981 models.

By 1985, electricity will cost 6.6% more as a direct result of pollution controls. Indirect costs due to all types of government regulation push those figures much higher.

Less than two years ago, the average family spent approximately $640 a year for gasoline. Today, that cost has shot up to $1,200 a year. One big reason is that for 10 years Nader-backed groups have fought every effort to increase U.S. oil production, leaving us at the mercies of foreign oil producers.

The cost to Standard Oil Co. (Ohio) for developing the Alaskan pipeline skyrocketed from the original estimate of $900 million to $9 billion, primarily because of lawsuits, delays and regulatory overkill by environmental opposition. This additional cost is now being, and forever will be, passed on to consumers.

This litany of unbridled federal regulatory overkill is just the tip of the iceberg. The zealots advocating excessive environmental cleanup have plans that will steadily increase the regulatory costs upon the American people and endanger the jobs of thousands more workers. The federal EPA admits that its regulations now contribute as much as a half per cent to inflation each year. Some economists say it's much more than that, largely because of the cumulative effects.

Much of Nader's crusade has been carried out in the name of consumer protection. But in reality Nader has become part of the consumer's problem. Through scare tactics, harassment, demagoguery and widespread use of inconclusive data, Nader has worked to force unreasonable regulatory standards on small and large businesses, leading to rising price structures that have wrecked the budgets of nearly every family.

As Congress knuckled under to Nader-backed demands, it unleashed a torrent of government regulations that have contributed heavily to the loss of thousands of jobs, record inflation and our present disastrous energy situation.

A perfect example of Nader's irresponsibility took place recently in Columbus when he charged that corporations welcome 8% to 9% unemployment.

If Nader were right, there would always be 8% to 9% unemployment. He ignores the fact that unemployment costs are nonproductive costs to any industry and that any corporation thrives only on full production and full employment. Without sales, there can be no profit.

In the same speech, he flatly denounced tax abatements for industry in Ohio, saying that tax abatement means industry does not pay its fair share.

Nader obviously doesn't understand Ohio's limited tax abatement program. Tax abatement has helped Ohio attract thousands of new jobs and substantial additional taxes that more than compensate for any uncollected tax due to abatement programs. We do not recommend tax abatement in Ohio unless the total taxes produced by a new industry far exceed real property taxes that will not be collected.

Such new industries to Ohio as the Honda motorcycle assembly plant and Ford Motor Co.'s transmission plant are instances where new industry will pump new life into the Ohio economy.

In Marysville, Honda's taxes in 1980 will amount to $208,000 per year on a piece of ground that produced only $1,127 a year before Honda built its plant there. When Honda adds its automobile plant, more than $1 million in personal property taxes will be paid by the company annually to Union County and the Marysville school district treasuries.

In Clermont County, Ford's new transmission facility will contribute approximately $3.2 million a year in state and local taxes, nearly six times the amount abated. Most of the money will go to support local schools.

Nader has made a career masquerading as the savior of the consumer and the taxpayer, and now his real legacy is coming to light in the form of unprecedented increases in consumer prices and higher and higher taxes.

Perhaps the best way for consumers to judge Nader is to ask themselves whether after 10 years of Naderism they and their families are better off.

The genuine interest of consumers lies in a strong, competitive economy where goods are produced as cheaply as possible consistent with public safety and where Americans are employed in business and industry here, rather than seeing their jobs vanish to overseas manufacturers.●

WILLIAM A. LUDWIG WINS MISSOURI MEN'S STATE AMATEUR GOLF CHAMPIONSHIP

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. SKELTON. Mr. Speaker, last week William A. "Bud" Ludwig, of Blue Springs, won the Missouri Men's State amateur golf championship held in Springfield.

Bud is the first player from the Kansas City area to win the title since 1974. He has also won the Kansas City match play championship in 1978 and 1979.

He began to make a reputation for his play when he attended Blue Springs High School, where he also was a leader and served as his class valedictorian.

Bud currently attends Rice University and will be a senior next fall.

I wish to extend my personal congratulations to Bud and wish him the best of luck in his pursuits, both on and off the golf course.

Bud is the son of Mr. and Mrs. William A. Ludwig, Sr., 1017 18th, Blue Springs, Mo.●

ILLEGAL IMMIGRATION: ANSWER LIES IN SOCIAL SECURITY CARD

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BONKER. Mr. Speaker, it has been almost 3 years since I first introduced legislation that would establish a simple, equitable, and cost-effective program to stem the flow of illegal immigrants into this country. During that time, perhaps 2 or 3 million additional foreign aliens have illegally entered the United States in search of jobs. While Congress and the administration quibble over such things as immigrant quotas and the problems of political refugees, we blindly ignore an influx problem of huge proportions.

Rather than invest in costly and draconian measures to erect a Berlin Wall along our southern borders, as some suggest, or harass American citizens of foreign extraction, we must focus attention on the root cause of the illegal alien problem—the employment of illegal aliens in the United States.

It is well known that noncitizens pour into this country by the tens of thousands every month to look for work. Without the lure of employment in the United States, these people would probably never leave their homelands.

Jobs are now readily available to the undocumented worker. Some employers are eager to make use of the large, cheap, and willing pool of illegal labor, and they face no penalty for doing so. But sanctions against those who hire illegal aliens, without a simple and reliable system of identification, unfairly burden the employer. Most businesses have neither the resources nor the inclination to verify the identity of a worker who may possess a counterfeited temporary work permit—green cards—social security card, or other bogus forms of ID that are easily obtained. The question, then, is to document work eligibility and where to place the burden for identifying and enforcing the violations.

The Social Security Act has always required that all gainfully employed people have a social security number and that this number be given to the employer. Thus, the basic system for controlling employment eligibility through a single document is already in place.

My bill would require the Federal Government to issue "counterfeit-proof" social security cards. Anyone applying for a social security card must present proof of U.S. citizenship, or of legal entry confirmed by the Immigration and Naturalization Service, to the local social security office. An employer would be required to check a new employee's social security card and could ask for additional identification, approved by the Attorney General, in the case of an old social security card to assure that the bearer of the card is the valid holder.

What is important to remember about this approach is that the major responsibility for assuring the legal employability of a person is on the Government, not the employer. Using, an authentic social security card, shown only to obtain employment, would help to solve another problem—the harassment of Hispanic Americans and other citizens of foreign origin seeking work. The bill specifies that use of the card for identification is limited to the purposes of the bill.

With the careful issuing of counterfeit-proof social security cards, we would have a simple and efficient means of controlling the employment of illegal aliens. By removing the lure of jobs in the United States, the incentive for illegal immigration would be greatly diminished.

According to an article in the Washington Post, the President's Select Commission on Immigration and Refugee Policy, chaired by the Rev. Theodore M. Hesburgh, is now looking at the issue of employment identification. There is no way the Commission can reduce the mass influx of illegal aliens to the country without addressing this important issue.

Until we remove the incentives that attract illegal immigrants to this country, the problem will only get worse.

The article referred to follows:

MIGRATION PANEL SPLIT OVER PLAN TO ISSUE ID CARDS

A proposal to issue work identification cards to all American citizens and legal aliens is causing sharp disagreement among members of a high-level government commission studying U.S. immigration policy.

The controversy surfaced yesterday when the commission chairman, the Rev. Theodore M. Hesburgh, reiterated his support of the proposal amid strong opposition from a member of President Carter's Cabinet.

The Select Commission on Immigration and Refugee Policy, which includes members of Congress, the Cabinet and four persons appointed by Carter, is to submit a broad new immigration blueprint to Congress by next spring.

Supporters of the card idea argue it would help uncover illegal aliens because employers would be subject to penalties for hiring a person without a card.

Patricia Roberts Harris, secretary of health and human services and one of four Cabinet secretaries on the commission, outlined what she called "a strong and historical" case against such cards. She said the potential for fraud would be so great it could "threaten the very stability of the Social Security System" if associated with it.

The identification card proposal would call for a federal agency to issue cards, possibly linked to the Social Security numbering system, for all American citizens and legal aliens. Employers would be required to check the cards before hiring a person.

The 16-member panel is sharply divided on the card issue, with at least three members highly critical, a half-dozen favoring it to some degree and the rest "not leaning one way or the other," says a commission staff member.

At a public meeting yesterday, Hesburgh, president of Notre Dame University, insisted some form of identification is necessary to differentiate between workers in this country legally and the illegal aliens, who now are estimated to number between 3.5 million and 6 million.

The card proposal has been criticized by civil libertarians as a potential threat to a person's privacy.

In another development, the Senate approved a resolution yesterday urging that a limit be placed on the number of immigrants admitted to the United States during the next few months.

In a "sense of the Congress" resolution that carries no legal weight, the Senate said no more than 100,000 immigrants and refugees should be allowed into the country from July 1 to the end of the fiscal year on Sept. 30. The figure would exclude immediate relatives of U.S. citizens.●

FUTURE OF HELICOPTERS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BROOMFIELD. Mr. Speaker, a recent issue of Vertiflite, a publication of the American Helicopter Society, points out that the Federal Aviation Administration (FAA) has finally accorded helicopters the long-overdue attention their unique operational problems require.

FAA Administrator Langhorne Bond's experience with helicopters before taking over the agency is largely responsible for this change in attitude, according to the article.

At his direction the FAA has reestablished and expanded its helicopter operations task force under the chairmanship of Harlan Hosler.

As a long-time friend of Mr. Hosler, I can attest that the future of helicopters within the FAA is in capable and experienced hands.

Harlan has spent virtually all of his adult life involved in one way or another with helicopters. He is a charter member of the Twirly Birds, a group of Air Force pilots who began flying helicopters at Wright Field in 1945, shortly before the end of World War II.

After the war, Harlan worked as a test pilot for Bell Aircraft Corp., from 1946 to 1949. When the Korean war broke out, he was recalled by the Air Force and saw active duty as a helicopter pilot.

Following the Korean war, he returned to private industry working with the Parsons Corp., in Traverse City, Mich., and the Kaman Corp., both manufacturers of helicopters and helicopter parts.

He joined the Department of Transportation in 1969 as a congressional relations officer transferring to the FAA in 1974.

Mr. Speaker, the text of this very interesting article from Vertiflite follows:

THE HOT FORCE HEATING UP FAA'S HELICOPTER WORK

(By Frank McGuire)

Accused for years of virtually ignoring helicopters and their unique operational problems, the Federal Aviation Administration has now reached a point where it is so aware of helicopter needs that the attitude is taken for granted.

Much of this change is due to the influence of Administrator Langhorne Bond and his experience with helicopters prior to taking over FAA, but it is also generally considered an inevitable step regardless of who is at the top.

Granted, there is still a long way to go, and there are areas where industry is still quite unhappy with FAA (heliport promotion being one of these areas) but overall, the change has been somewhat dramatic if one looks back just about five years.

One of the most recent steps that reveals a totally new FAA approach to helicopter operations is the formal re-establishment and expansion of the Helicopter Operations Task Force (HOT FORCE). With permanently delegated members and a prepared agenda for its meetings, the HOT FORCE has new goals and responsibilities.

Unchanged is the fact that the HOT FORCE will have no authority to direct, order or otherwise carry out its wishes—and, in that sense, it is like the United Nations General Assembly: however, its recommendations are a matter of record and can be disregarded only with some semblance of good reason.

Harlan Hosler, FAA's Chairman of the HOT FORCE told us:

"It seems to me the HOT FORCE has a legitimate place in our communications, and we should continue this work. We have an Administrator who is pushing helicopter programs, and even if the next Administrator is not as much of an enthusiast, the momentum will probably carry over."

That momentum has thus far made FAA much more responsive to specific obstacles to the totally efficient use of helicopters throughout the U.S., and FAA has been applauded by many in the industry for its turnaround, regardless of the source of motivation.

Hosler, from FAA's Office of Aviation Safety (ASF-300) was appointed chairperson of the HOT FORCE succeeding Bob Barton of the Flight Standards Service. FSS has since been reorganized. Hosler's alternate is AVS's Dick Livingston, Jr., and one of them will alternate chairing the monthly sessions which draw about 15 to 20 FAA staffers to report and coordinate their work.

1975 GENESIS

Despite the formalizing of the HOT FORCE by Bond within the past few months, the advisory group really got its start in 1975 when it was set up as an advisory body to recommend low altitude IFR operations in the offshore airspace adjacent to the 48 contiguous states and Alaska.

Note the original charter for the HOT FORCE did not cover onshore operations, formal helicopter corridors or other types of activity. This is strictly an offshore approach.

Since the establishment of the HOT FORCE in April 1975, it has become obvious that its charter was too narrow. The original HOT FORCE met only at the behest of the chairperson, had no agenda, no reporting responsibility, no fixed membership, no structure, and no authority.

Administrator Bond has changed much of that, except for the last item, which is still true.

"The idea of having the task force report directly to the Administrator on an annual basis was Mr. Bond's," said one FAA source, "Because it was not in the original draft charter he received."

This is one firm indication of Bond's espousal of the helicopter's role in future aviation systems. Most FAA staffers—at least those connected with the HOT FORCE—seem to feel that increased helicopter awareness is a good thing. We have heard others, however, complain that it shows favoritism to a specific group.

Hosler encourages maximum cross-communication among those at the HOT FORCE meetings, and this will hopefully filter the special operational capabilities of the helicopter into other corners of the FAA.

HOT FORCE MAKEUP AND GOALS

As it now stands the HOT FORCE is made up of permanent members from each of the Aviation Standards, Air Traffic and Airway Facilities, Airports and the Engineering & Development services. Other offices and services in either the headquarters structure or the regional organizations can be called upon for specific projects.

Each of the four services has a full member and an alternate, with Aviation Standards Service providing the chairperson. At most meetings there are at least a dozen in attendance, and sometimes well over 20, with an occasional visitor from a regional office, industry or other organization.

For the first time, the HOT FORCE has specific goals; reports procedures; and has a long-term reason for existing. An interesting choice of words in one paragraph of the Bond memorandum shows where he stands on the subject.

Development of the helicopter industry, he said, "requires that we continue to coordinate and promote activities related to helicopter operational needs as effectively as possible."

The word "promote" would probably not have appeared in such a context just a short time ago.

"A major initial requirement will be to establish, in respect . . . to program objectives, time-referenced goals which can be associated with the continuation of the development of procedures and technology to accommodate helicopter operations in the National Airspace System," Bond wrote, concluding with: "A report to the Administrator with respect to these goals will be prepared expeditiously and on an annual basis thereafter."

The phrase "time-referenced goals" was a compromise over the originally suggested language, which would have set firm dates for completion of certain objectives. "It looked like a PERT (program evaluation and review technique) chart," said one staffer, prior to the change for more vague goal deadlines.

IMPROVED INTERNAL COMMUNICATIONS

Those inside FAA headquarters feel communication has been improved in a significant way between research & development people and the operational people who have to make things work properly.

"It's one of the prime reasons for having a helicopter operations task force," one commented, "and we've got the makings of a more effective task force with the minutes, agenda, and periodic reports."

The topic of minutes, agenda, and reports is one which met with mixed reactions from members of the original task force. These feel that spontaneity, informality, and lack of firm agenda encouraged an open exchange on the part of those involved, and allowed any pertinent subject to arise during the course of the meeting.

Advocates of the new approach using agenda, recorded minutes, and reports feel the HOT FORCE will be more clearly and offically on record with recommendations. The agenda will give notice in advance of what is to be discussed and thus allow preparation. The reports will tell the FAA Administrator if the group is accomplishing anything.

Recommendations which are called for under the charter are to be made to the appropriate Associate Administrator of the agency, and the HOT FORCE will also monitor and support various regional helicopter related activites.

A TYPICAL MEETING

A typical HOT FORCE meeting gets underway at FAA headquarters on a weekday morning in one of the agency conference rooms with each participant armed with file folders, writing pads and other paper or reports.

There may be an industry representative present by invitation to give a briefing on a specific subject, such as progress on new communication links that are being installed in the Gulf of Mexico, or what progress is being made in helicopter stabilization systems, avionics, or other hardware.

The HOT FORCE may—and probably will—review results in meetings held by other FAA groups, industry organizations or joint sessions. Then, a report is given by someone working on a specific program, for example, the discrete address beacon system (DABS).

He says the HOT FORCE has done an excellent job in an area where there was a strong need for communication and coordination among a wide variety of FAA offices.

While it has no authority for specific actions, the HOT FORCE is specifically charged with gathering and disseminating information, monitoring and coordinating activities, soliciting and focusing support, and recommending and advising courses of action.

GOALS SPECIFIED

Tangible objectives have been set up for the HOT FORCE in Bond's memorandum, numbering five specific requirements of the industry:

Appropriate procedures and parameters for helicopter operations in the National Airspace System.

Applicable air traffic procedures to accommodate helicopter operations.

Air navigation and communications equipment and facilities.

Research and development efforts to substantiate new or untried systems and procedures and to monitor and update, as necessary, those efforts.

Needed regulatory actions and/or the issuance of directives concerning helicopter programs.

It is these five major areas of effort where the "time-referenced goals" fit into the picture of FAA's involvement in helicopter operations.

As the first step in accomplishing these overall goals, Hosler has made it clear that he encourages maximum cross-talk about common interests at the meetings he chairs, and sends an advance agenda memo to all members and alternates.

Later, each delegate from an FAA service will give a brief verbal report of his organization's actions in the past few weeks that affect helicopters. When these are all given, others in the room may add input, but all take notes on the activities in other offices.

There is rarely any conflict because of the close tabs each FAA unit keeps on the others, but I have seen shortlived disputes arise in the old task force sessions when someone sprang a surprise comment that they were about to embark on a joint data-gathering program with another government agency outside FAA. On this particular occasion, a staffer across the room responded with something like:

"What are you guys doing? We already have a thing like that going on with them and it's nearly finished."

Seems one guy had missed a critical meeting where the joint activity was reported. However, since no minutes were kept, it could not be immediately evident that one group was duplicating another's work.

Now, the more formal approach to the business of the HOT FORCE should cut down the number of such missed connections, and that's what the HOT FORCE is all about. Other agencies, such as National Weather Service or NASA, may sit in.

Finally, any new business, or perhaps a guest to clear up a point of common confusion about a previously discussed subject, will be heard. Such a guest speaker was at one meeting to straighten out a misconception about the procedures and qualifications for getting federal funds for heliports.

Finally, Hosler asks for comments on any subject related to helicopters, just to catch those last bits and pieces of information which may not have been appropriate elsewhere in the meeting.

A typical meeting lasts about two to three hours, occasionally less, ending just about lunch time. In some instances where prolonged discussions occur, they run longer, but not too frequently.

I have heard no dissatisfaction whatsoever with the concept of the task force for helicopters from those who sit in the HOT FORCE meetings. Aside from what other staffers in FAA may think—particularly if they work with the large airlines most of the time—the task force is not a favoritism device, but a device to make certain we are all talking about the same thing.

To illustrate this, there was a case where one company with a stake in helicopter operations in the Gulf of Mexico did not want new IFR facilities installed because this would result in tighter air traffic control in the Gulf area. The company made a comment to a senior FAA official to that effect, and it took a long time to counter the influence by pointing out that most of the others involved felt the opposite. The FAA official was under the impression that he had heard the majority industry opinion, when in fact he had not.

This very situation arose in a task force discussion that ran for several months and was fully ironed out. It illustrates again what the task force is intended for: communication, coordination, and monitoring.

EFFECTIVENESS EVIDENT

It is always difficult to judge the accomplishments of an advisory group such as the Helicopter Operations Task Force.

Suffice to say that the discussions in each meeting reveal a staff of FAA people who are dedicated to trying to make things work better. The industry has a representative who frequently sits in, and regional FAA people often journey to Washington just to coordinate their plans or present work.

Industry would likely find things it would improve about the HOT FORCE, or change altogether, or eliminate, but from an objective viewpoint, it appears that the task force is doing an excellent job in a difficult area.

The dozen or two members of the HOT FORCE work hard at easing industry's task, it appears, and when glitches occur they are almost always due to communications problems between people.

There is no expiration date on the present HOT FORCE charter, which means it may be in business forever, but at least it is not facing a specific out-of-business date.

If improvement continues in the HOT FORCE as it has in the past, there is no reason why it can't just keep on trucking . . . or helicoptering, as the case may be.●

THE GOP INITIATIVE

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. CAMPBELL. Mr. Speaker, I never had any doubt that the American people would see the Democrat's Johnny-come-lately tax cut for what it is—an obvious attempt to co-opt a major Republican initiative. I am glad to note that the networks and major newspapers have seen through this blatant ploy, as well. Today's Wall Street Journal editorial says it particularly well, and I commend it to the attention of my colleagues.

THE GOP INITIATIVE

By deciding to push a set of specific tax cut proposals this year, the Republican Party has seized the political initiative. The unanimity of that decision, with even Senator Javits on board, will also, for a time at least, quiet speculation about Republican disunity. But most important of all, the policy itself is supportable by economic logic.

The tax initiative has been presented by some sources within the party as a compromise between the Kemp-Roth, three-year, 30 percent tax cut plan and the more conservative views of such party stalwarts as George Shultz and William Simon. There is some truth to this in the sense that it is only a one-year, 10 percent program. But, of course, it is essentially what Kemp-Roth called for in its first year, meaning that for all practical purposes it embraces Kemp-Roth. More to the point, the Republicans in Congress have begun pushing it immediately by attaching it to debt ceiling legislation, thus applying maximum pressure on the President and Democratic lawmakers.

Congressional Democrats now are faced with the options of defecting from the party and joining the Republican drive or of trying to co-opt the Republican initiative or of trying to fight it as rash and irresponsible. None of the three courses is attractive. Defections might gain something at the polls for individual Congressmen but probably would hurt the party and the President; an attempt to co-opt would look a Johnny-come-lately improvisation; a head-on fight would put the Democrats on the wrong side of a central political and economic issue.

Yesterday, the Democrats obviously were choosing the second course of trying to co-opt tax cutting. The Democrats sponsored a resolution in the Senate promising consideration of a tax-reduction program by September.

A tax cut is the only attractive option at this advanced stage of economic policy mismanagement. The President and Congress were piling on new taxes even as the country entered the recession, and the automatic tax increases caused by inflation-induced bracket creep are further enlarging the tax burden. Despite this, the Treasury already has piled up a deficit of $56.01 billion for the first eight months of the current fiscal year as the revenue stream has diminished. It defies both supply-side and demand-side economics to assume that somehow more juice is going to be squeezed out of a shriveling orange by continuing to squeeze it harder.

The only option, and it is coming very late, is to try to get the economy going again. An enormous task lies ahead if the government's oppressive tax and regulatory burden on the economy is to be relieved. But the only possible way to deal with the short-term is to cut taxes. As to the argument that this will generate more inflation, it won't so long as the Federal Reserve holds to its policy of restraining money growth and so long as the recession is exercising its dampening effect on borrowing and demand. Under present conditions, it is not hard at all to imagine the federal revenue stream suffering little from what, in effect, would be mainly an offset to rises in the tax burden.

That the Republicans have been able to pull an important policy together at this stage is encouraging. It is a welcome sight to see this once-reticent party going on the offensive.●

THE BRUCE AND SHIRLEY GUNNERSON STORY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. VANDER JAGT. Mr. Speaker, we often read newspaper accounts of personal tragedy and triumph which evoke a strong emotional response. I recently read just such an article in the Union Enterprise newspaper.

Ironically, the story involved the personal tragedy and truimph of a newspaperman who has himself reported similar stories and has become involved in the human side of tragic events.

Bruce Gunnerson and his family made a bold move in 1977, leaving a secure job in Chicago to move to Otsego, Mich., to become the owner of a small-town newspaper, the Union Enterprise. He and his wife Shirley have worked hard to establish themselves in the community and strengthen their paper. Bruce led an effort shortly after moving to the community to assist a 16-year-old boy who was paralyzed from a diving accident.

Just 1 year later, Bruce Gunnerson was himself stricken by a malignant brain tumor. He has valiantly fought the disease, but nevertheless was unable to continue managing the Union Enterprise which was sold earlier this month.

Mr. Speaker, the two communities served by the Union Enterprise declared Sunday, June 22, as Shirley and Bruce Gunnerson Day. I would like to include in the RECORD the following article from the Union Enterprise describing Bruce and Shirley Gunnerson's effort, as well as the response and recognition from their community:

THE BRUCE AND SHIRLEY GUNNERSON STORY

The cities of Otsego and Plainwell have declared Sunday, June 22nd 1980, as Shirley and Bruce Gunnerson Day. This unprecedented action by the "fraternal cities" is an expression of gratitude and appreciation for their tireless and selfishless devotion to community affairs for both cities during their ownership of the Union Enterprise.

The couple, along with their three children, Carolyn, Jennie, and Andrew, arrived in Otsego on February 1, 1977. They had purchased the Union Enterprise newspaper from Richard and Elise Dorothy.

It was a major move for them. They had sold their home in Evanston, Illinois, and Gunnerson had resigned his position as copy supervisor with Campbell-Mithun Advertising Agency in Chicago. It was a bold move. The kind of move most people dream of doing, yet never have enough courage to do, for a family to up-root themselves and seek a new life in a strange town and assume the responsibility of running a local newspaper took courage and true grit.

Once settled in the community of Otsego, Shirley and Bruce Gunnerson worked diligently to expand the Union Enterprise. Circulation increased. Advertising was up. Bruce Gunnerson worked long hours to report the happenings in both Otsego and Plainwell. Shirley Gunnerson, who was co-publisher, worked by his side and yet managed to take care of their three children. Slowly, they gained recognition and the quality of the newspaper markedly improved.

In December of 1977, just before Christmas, Bruce Gunnerson ran the Randy Boss story. Randy, 16, from Plainwell, was injured in a diving accident at Pine Creek Lake, near Otsego. He was paralyzed in both arms and both legs. His plight touched the Gunnersons, so they ran a story asking the people of Plainwell and Otsego for help. His editorial efforts, along with other public spirited individuals, helped Randy's parents to build an addition to their house, whereby the boy was enabled to function a little better with his disability.

Ironically, one year later, in December of 1978, Bruce Gunnerson suddenly was beset by severe headaches that increased in intensity. He suddenly worsened and was rushed by ambulance to Bronson. They operated immediately.

The diagnosis was a milignant brain tumor.

Bruce Gunnerson has shown remarkable resiliance and seems to be holding his own with chemotherapy, yet during the long year of 1979, found that being the editor-publisher of the Union Enterprise too exhausting. A dream is shattered through no fault of the Gunnersons. Consequently, they were forced to sell that dream.

The paper was sold to Patricia and Richard Lee on June 2, 1980. Bruce and Shirley Gunnerson are fighting the illness that has struck with wanton disregard. They are both making plans for the future. Shirley Gunnerson, that quiet, unassuming lady, has demonstrated, along with her husband, Bruce, that rare ingredient, namely grit. She and Bruce are keeping their family together. Bruce is going to free-lance write at their home at 491 Mortor Street. Shirley has obtained employment as personal secretary to Roger DenBraber, owner of the D. B. Nisbet Agency in Otsego.●

BEHAVIORAL SCIENCE AND THE COMPUTER REVOLUTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BROWN of California. Mr. Speaker, I have asked for this time to speak about information overload as a problem our society is just beginning to face, and to call attention to a remedy Congress could easily overlook.

The problem is that the computer revolution is giving us an ability to collect and store massive amounts of information that we do not quite know how to deal with. On the other hand, our best hope for improving the designing and programing of information processors appears to lie in basic research areas of linguistics and neural and behavioral science. As you may recall, Mr. Speaker, that is precisely the area of the National Science Foundation's program that seems to be a favored target for budget cutting. My purpose today is to indicate a compelling reason for not selectively reducing support in that area.

All of us are familiar with the remarkable development of hand-held calculators, home computers, and other marvels coming out of the computer industry. We are probably less aware that while the hardware development is making computers more affordable and increasing the potential volume of information processing, the sheer clutter of information is bringing new problems to the fore.

Right now, using available recording technology, we could put the entire content of the Library of Congress on a 200-foot bookshelf. But, we are far behind in developing ways to find anything in such a compressed mass. In fact, we are rapidly acquiring the technical capability of making a large portion of the world's information relatively inaccessible!

Fortunately, remedies are in sight. Research in linguistics and related areas of neural and behavioral science promises to improve our ways of processing and retrieving information, and thus to improve the usefulness of computer technology.

It is not transparently obvious that studying the behavior of pigeons or anthropoid apes, or studying the language of primitive peoples, could have anything useful to do with computers and data processing. But the fact is, it does. By studying language and behavior, scientists learn how the world's best computer—the human brain—deals with its complex tasks of information processing, storage, and retrieval, and how it learns to correct itself. Many believe that understanding the connections between language, behavior, and the brain will help to solve severe problems now arising in the management by computers of massive amounts of information.

Important segments of this work are funded by the National Science Foundation, and guided by an advisory panel that is well aware of the important practical implications. I call this important research to the attention of my colleagues to remind them that we have much to gain from studying how living things process information, and to appeal for caution the next time someone suggests cutting research funds because project titles in behavioral science are sometimes misunderstood.●

A DISCUSSION OF MISPERCEPTIONS OF THE IMPACTS OF THE MX LAND-BASED SYSTEM

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. SANTINI. Mr. Speaker, I am quite frankly disturbed by the misconceptions and lack of comprehension of many of my fellow colleagues in the House with regard to the very significant impacts the MX missile system will have on Nevada and Utah. Many of these misunderstandings came forth in the spring floor debates over the Department of Defense's 1981 authorization bill. I would like to discuss these unfounded congressional perceptions with you today.

PUBLIC LAND

The myth continues to be perpetuated that MX will disturb only 25 square miles of the Great Basin. Several

House Members have dismissed the public land impact, saying that most of the land is empty valleys, nobody lives there, and all that goes on is some mining and grazing. It is frequently repeated that the land is not farmland, but public land, and that MX's major impact will be to displace a few cows and sheep.

One Congressman in a recent MX floor debate dismissed the impact of MX by comparing it with the 150 Minutemen in his district. He said you hardly notice the silos, that they just become part of the landscape. In that same May 15, 1980, floor discussion, another Member continually referred to the system as being placed in Arizona and Utah.

I suggest the time has come to set the record straight for those who cavalierly dismiss the enormous impacts on public lands, who compare the MX to Minutemen deployment, and who think of the West as a dumping ground just because it does not contain a high percentage of prime farmland.

FACTS

The MX missile system will entirely close off to public access 25 square miles, but the total geographic area containing the MX installations is 12,000 to 15,000 square miles or almost 10 million acres. The fenced off areas plus the safety zones around them alone will consume almost 3 million acres.

For those who still unbelievably make comparisons between MX and the Minuteman and Trident systems, let me add another salient point. The MX missile system will be interconnected as those systems are not by 8,000 to 10,000 miles of roads which is approximately the size of one-fourth of the entire U.S. Interstate Highway System.

By way of a realistic comparison of MX and other defense systems in terms of land requirements, you could place over 1,000 Washington Trident bases in the geographical area which MX will encompass. You could put 300 Fort Dixes in the MX deployment area or 100 Fort Sills.

Environmentally, MX can and will be devastating. Heavy machinery and excavation will seriously damage grazing lands. It is true we are not talking about a land with vast green forests. But we are talking about a land of wide-open spaces and of stark, incomparable desert beauty.

WATER

A number of my colleagues in the Congress and in the U.S. Air Force have dismissed the impact that the MX system will have on that precious western resource—water—by saying that in its operational state MX will only use about the same amount of water as 12 Las Vegas golf courses. This attitude reflects a complete lack of knowledge about western water conditions.

Water is the single most limiting resource in the West. As noted in a recent congressional report, "The supply of surface and groundwater (in the Great Basin region) is presently inadequate to meet the demands placed upon it." The Water Resources Council has reported overdrafts of up to 75 feet in the Great Basin area.

Secretary of Defense Dr. Harold Brown's estimate that MX will consume only as much water as 12 Las Vegas golf courses is misleading. Dr. Brown's estimate is for steady State consumption or consumption after completion of construction and includes only MX-related demands. Water for service businesses and new public facilities necessitated by MX is not included.

Water demand at the height of construction—1966—is estimated at about 30,000 acre-feet per year or almost 2½ times Dr. Brown's figures. Again, this figure is for direct MX consumption only. In comparison, current water consumption in most of the towns in the deployment area is now less than 1,000 acre-feet per year, and yet these areas still experience overdraft problems. Tonopah uses 300 acre-feet per year—Pioche, 180 feet per year—Ely, 3,400 feet per year. Air Force water figures neglect the regional nature of the problem.

The Air Force is now touting underground water as the solution to MX water requirements. They fail to point out that these underground acquifers are not an unlimited water source. When water is mined or taken out in excess of the recharge rate, many problems occur. These water problems include increased salinity of ground water, reduced artesian pressure, increased costs of pumping water, fissures in the Earth, and declining stream and spring flows.

CEMENT

I have stated previously that the cement demands created by MX will have a very sharp impact on the construction industry in Nevada and Utah. Yet in a recent letter to House Members, this problem is casually discarded by saying that MX will consume less than 1 percent of all the cement used in construction in the Far West.

On the contrary, cement will be a surprisingly important factor with the MX project. At the height of construction—1986—MX demands will increase Nevada's consumption of cement, using 1978 figures, by 67 percent. Nevada already imports almost 30 percent of its cement. With MX, there will be a real demand, in 1986, of 100 percent over Nevada's production capability. These figures do not include cement demand outside of the actual MX construction, that is, for houses, schools, sewer lines, and roads. The major support markets of California and Texas, the two leading cement producers in the United States, are also experiencing a cement shortage.

Additional cement production capability currently under construction or proposed is scaled to accommodate present demand and will not be able to supply MX.

The cost of cement is skyrocketing in Nevada. Las Vegas experienced an inflationary rate of 30 percent per year for cement with no end in sight. The additional demand for cement generated by MX would drive the inflationary rate even higher, as well as draining supplies from other construction needs throughout the West if not the entire Nation.

The construction of a new cement plant in the same areas as MX would create as many problems as it would solve. It would compound the water shortage, increase the demand for labor, increase the need for new public works projects to accommodate plant effluent, increase the housing shortage driving up land prices, and increase energy consumption. The cement industry was tagged as the leading energy-guzzling industry in the United States.

In effect, MX's demand on the cement industry will be felt nationally by creating a national cement shortage, driving up its price as well as the price of other construction material.

IMPACT ON LOCAL COMMUNITIES

I am extremely concerned about the impact of MX on local communities. Yet, one House Member recently stated that MX's impact would probably not be as severe as was the case with the Minutemen system. I am shocked by this attitude that says to Nevada and Utah, take the whole system, sacrifice for the whole Nation, and don't worry about the consequences.

Secretary of Defense Harold Brown in March 1980 still referred to MX as "minimally intrusive" on the environment and on the people of the Great Basin. I disagree, and the Air Force's own Milestone II environmental impact statement disagrees with this evaluation of MX's impact.

Let me share just a few examples of the anticipated impacts. At its peak, MX is predicted to stimulate an immigration of over 75,000 people to Nevada and Utah, and in its steady state about 55,000 people are expected to migrate to the area. The sheer people problem will be enormous as local governments and businesses try to provide schools, sewer services, water, electricity, housing, and so forth to accommodate this huge population influx.

A major problem with the construction of the MX missile system in Nevada and Utah is the lack of an adequate local labor force. It is estimated that 90 percent of the direct construction labor force and 80 percent of the indirect service-oriented labor force will be imported. MX will provide jobs all right, but my fear is that they will go primarily to non-Nevada residents.

SUMMARY

In summary, I would like to remind my House colleagues that you are asking Nevada and Utah to shoulder alone what the Air Force terms "man's largest project, larger than the Great Wall, larger than the Pyramids, larger than the Alaska Pipeline or the Panama Canal." It is my plea that you will at least do it with your eyes open, knowing what it will do to us.

MX cannot be dismissed with spurious references to golf courses in Las Vegas or comparisons with existing silo ICBM systems. MX is a new world in defense. Let us be fair, acknowledge its mind-boggling impacts, and dedicate ourselves to mitigating them, preferably by looking at alternative basing modes or by splitting the system among several States.●

A TRIBUTE TO GLENN M. ANDERSON, OUTSTANDING AMERICAN COOPERATIVE LEADER

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. KASTENMEIER. Mr. Speaker, it is with deep regret and sadness that I rise to pay tribute to one of our country's most dedicated cooperative leaders. Glenn M. Anderson, president of the Cooperative League of the U.S.A., died at 52 years of age on June 25, of complications following heart surgery at the National Institutes of Health.

I have known Glenn since his early years in the cooperative movement in Wisconsin. He came to Madison in 1964 to be general manager of the Wisconsin Association of Cooperatives. When that group joined with the Wisconsin Council of Agricultural Cooperatives, he was chosen to lead the new organization, the Wisconsin Federation of Cooperatives.

Familiar with the cooperative movement from the time of his boyhood in Redwood Falls, Minn., he carried his expertise and his innovative ideas into the many different kinds of cooperatives with which he worked over the years. He capped his career when, in 1978, he was selected to head the Cooperative League, a national federation of 72 national, regional, and areawide cooperative organizations, with 80 million members.

The Cooperative League includes in its membership agricultural marketing and supply co-ops, federations of housing, electric, and telephone cooperatives, the National Association of Credit Unions, cooperative and mutual insurance organizations, and major urban-based consumer cooperatives such as Greenbelt Cooperative, Inc., of the Washington area. It has also been active in the formation of memorial societies, group health organizations, student and child-care co-ops, and travel groups.

Through its international department it is extensively involved in supplying technical and developmental services to assist in the formation of cooperatives overseas, particularly in the underdeveloped countries.

Here in the United States, Mr. Anderson has led CLUSA in advocating rural transportation cooperatives, a national central cooperative credit union, more active collaboration with land grant colleges and universities, and in forming channels in which to conduct more active international cooperative trade.

He held both bachelor of science and master of science degrees from the University of Minnesota; after teaching for 9 years in Minnesota schools, he moved into the Group Health Mutual Cooperative, Inc., of St. Paul.

Mr. Anderson's activities in the field of agricultural teaching were recognized by his election to the Honorary Society of Agriculture, Gamma Sigma Delta. In 1977 he was honored by the University of Wisconsin-Madison as a "Friend of the Extension Service." He was the first president of the Association of Cooperative Educators.

He was a member of the board of the American Judicature Society, and was a force in the reorganization of the Wisconsin State court system. He was also a president of the Wisconsin branch of the Christian rural overseas program (CROP), which has done such fine work in feeding hungry people all over the world.

Glenn was my friend. His active interest in the art of politics, his compulsion to help improve the lives of the less fortunate, and his understanding of the interdependence of cause and effect, made him a kind of natural politician. And although he never sought public office for himself, he found himself contributing ideas and long hours of work for those he felt would further the aims he espoused.

Glenn had an enthusiasm for every situation he entered. He never waited for old ideas to crumble—he was ready with a creative new thought to fill the need. I shall miss Glenn not only for his personal help, but for the warmth, good cheer, and fine sense of humor that he brought to every encounter. I shall miss him for the gentleman he was, and I want to express my deepest sympathy to Glenn's wife and children.●

H.R. 7674—THE CONSULTANT REFORM ACT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. HARRIS. Mr. Speaker, I have introduced H.R. 7674, the Consultant Reform Act of 1980. Identical legislation has been introduced in the other body by Senator PRYOR.

This concurrent submittal is a major milestone resulting from many hours of hearings held jointly by my subcommittee and the Senator's subcommittee, as well as a major investigative effort by staff and GAO auditors.

These investigations have produced shocking evidence that the policies of the American Government are not being made by accountable Government officials. Rather, executive branch policies and information being provided to this Congress by the executive branch are being developed by consultants and firms who stand to profit from the very policies they are determining.

The Department of Energy is a scandalous case study of the extent to which this is true. On Tuesday in a joint hearing with Senator PRYOR, I asked the question: "Who is actually running the Department of Energy and in whose interest is it being run?"

Before I undertook my investigation into the Government's use of contractors, I would have said that the energy policies of this Nation were being formulated by Secretary Duncan, his Under Secretary, and Assistant Secretaries under the guidance of this Congress. Many of my colleagues still believe that is the case.

However, Tuesday's hearing clearly demonstrated:

> That 80 percent of Department of Energy's budget, representing hundreds of thousands of "man-years" is spent on contracts;
>
> Multi-million dollar "support service" contracts held by firms with close ties to oil and utility companies are used throughout the Department to perform crucial planning, budgetary, and policy development activities;
>
> The reliance on contracts is so great that compliance with procurement laws and regulations would, according to an internal Department of energy memorandum, "seriously jeopardize the mission of both Department of Energy and its Office of Solar Applications", (i.e., delaying award of a disputed support service contract for the Office of Solar Applications until GAO issues a decision on the protest).
>
> Contractors write "scripts" for Department of Energy officials to use in Congressional appearances and answer "follow-up" questions from Congressional Committee members;
>
> Department of Energy cannot produce the results of millions of dollars of contracts and in many cases cannot even produce the contract itself.

Mr. Speaker, these facts give a haunting currency to the warning which President Eisenhower gave to us in his farewell address—a speech made when he had no future political ambitions.

> In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist * * * we must also be alert to the equal * * * danger that public policy could itself become captive of a scientific-technological elite.

I am afraid that we have not heeded this warning.

Two years ago, this Congress enacted a sweeping ethics and disclosure bill covering the visible Federal work force. As a member of the House Committee on the Judiciary, I spent many days insuring that there was "sunshine" on Government officials in crucial positions. It is now clear that we must act during this Congress to bring into the sunshine the invisible Federal work force as well.

I urge my colleagues to support this crucial legislation. I have attached a copy of the major provisions of this bill, H.R. 7674:

HIGHLIGHTS OF CONSULTING REFORM ACT OF 1980

SUNSHINE IN GOVERNMENT PROVISIONS

Clarifies that except for national security reasons, all contracts are considered public information.

Requires that all written agency reports prepared wholly or partially by contractors, clearly state:

(a) The name and address of the contractor and subcontractor;

(b) The cost of the contract and a description of the contract work;

(c) The type of procurement and the government officials who authorized the contract.

Requires that a notice of intent to enter into a contract over $10,000 (or a modification over $50,000) exceptions for national security and unusual and compelling emergency be published in the Commerce Business Daily.

Mandate that agencies shall maintain and make available to the public, complete lists of contracts (exception for national security) including:

(a) The contract number;

(b) The contractor's name;

(c) The award and completion date;

(d) The initial and current dollar value;

(e) A description of the work; and

(f) The name of the government contracting officer.

Clarifies that information produced or collected under contract shall be available to the public to the same extent as if collected by government officials.

CONFLICT-OF-INTEREST PROVISIONS

Defines organizational conflict of interest and requires disclosure of all information relevant to a potential conflict of interest when a proposal for a contract is submitted.

Places the responsibility on the agency to disqualify individuals or firms from receiving contracts when a conflict of interest exists.

YEAR-END SPENDING PROVISION

Limits spending on procurement in the last two months of the fiscal year to no more than 20 percent of the total year's procurement appropriations (except in an emergency situation).

PAY LIMITATION PROVISION

Stipulates that any consultant appointed to a position in a federal agency may not be paid at a rate exceeding top level career federal employees (currently $50,112.50 per year).

BUDGET ITEMIZATION PROVISION

Requires that agency budget requests itemize amounts requested for procurement of goods and procurement of services.

CONSULTANT JUSTIFICATION PROVISIONS

Requires that before action may be taken to initiate a contract, it must be certified that the services are needed and that the needed services can not be obtained by appointment.

Mandates that a contract evaluation occur for certain contracts over $50,000.

FEDERAL MANAGEMENT ACCOUNTABILITY PROVISION

Includes as a criterion of evaluation of Federal managers, compliance with procurement rules and regulations and furtherance of the policies in this bill.●

GUN CONTROL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. LEHMAN. Mr. Speaker, I have consistently supported legislation to control handguns. Recently, I received a letter from one of my constituents, Dr. Gunter Schwarzbart, M.D., FACS, FICS, that I believe needs to be read by all our colleagues.

The letter follows:

JUNE 19, 1980.

DEAR CONGRESSMAN: Yesterday morning my wife—a gracious homemaker and exemplary mother—was without her mid-weekly tennis partner. The charming young woman, wife of a respected local industrialist and philanthropist, broke down on the telephone and wept disconsolately. Their family's best friend was dead.

My wife had also met the young man in question and felt the irreparable loss herself. This is not the first time that we came face to face with criminal violence. *Our* best friend's brilliant young son was heinously murdered by a psychopath in 1977.

What had happened now, was that a highly gifted, 35-year-old trial attorney, gentle, a helpful neighbor, devoted son and brother, was gunned down by two "well-dressed" men, upon leaving his office, where he had worked late hours as he frequently did.

No motive is known at this point. Circuit Judge Alfonso Sepe said Wednesday "He was one of the most brilliant lawyers I have ever seen". The attorney according to the Miami Herald, was "the best in college, where he won the national Moot Court competition for the University of Miami. (G-) quickly rose to become known as the best in a courtroom".

Dear Congressman, our fair nation has not ceased to be a lusty shooting gallery. The exciting sport has gained a loyal and growing following. Its targets are presidents and civil rights leaders, law enforcement officers, errant husbands and wives, helpless filling station attendants, endearing senior citizens embarked on their last nostalgic reenactment of a honeymoon, casual passers-by, narcotics peddlers, henchmen of organized crime, union officials, innocents accidentally found in the way of stray bullet intended for another victim. But death is irreversible. Humanity at large now serves as convenient target practices for a host of callously misguided terrorists and homicidal psychopaths who dot the landscape like a perfidious growth. A civilized mind recoils in horror at such a barbarous recitation. The common denominator to the entire tragedy—at least as it relates to our homes and our streets—is the ready availability of firearms in the first place. The issue effectively bypasses the essentially academic question of the ultimate socio-economic-pathologic causation; which to be sure needs to be exhaustively and ongoingly addressed in its own right. "Guns do not kill people, People kill people" is so asinine a slogan as to cause outright embarrassment in any rational American. Please do a great, noble and courageous public service and endorse the Kennedy-Rodino Handgun Bill.

Recently, as reported by the Associated Press, the Treasury Department dropped proposed firearms regulations after "thousands of letter writers claimed the rules were the first step towards nationwide gun registration . . . Gun owners flooded the department and Congress with 200,000 letters".

Handgun Control, Inc., under the dedicated leadership of Nelson T. Shields, may not be able to mount the concerted campaign or raise the massive funds that the pro-gun lobby is able to muster.

I can only, with hope overwhelming the natural cynicism which was engendered, by the experience of National-Socialism, World War II and the painfully violent milieu of the last half of the Twentieth Century, place my confidence in the victory of humanity and common sense as represented by our legislators!

The stakes are too high for any sidetracking considerations. Our country must put an end to this slaughter of its children. Any and every fair measure which helps bring this about (or facilitate prosecution or discovery) is welcome.

If you contribute to passage of the Kennedy-Rodino Handgun Bill, you will have by that act justified your entire calling as elected public official. Your reward may not be as tangible as the vote of constituents. It will be of the deeper and more lasting nature which renders a man's entire life meaningful in the eyes of God, mankind and his own conscience.

Yours very truly,

GUNTER SCHWARZBART.●

ACTIVE AMERICANS OVER 65

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BIAGGI. Mr. Speaker, as an original member of the House Select Committee on Aging, I wish to pay a special tribute to two outstanding older Americans for two distinct but truly significant accomplishments.

The first is Mr. Don Almy, who this past Tuesday completed a 13-month, 3,100-mile cross-country run. He completed his run right at the foot of the Capitol steps looking fit. Almy at the age of 68 lives in Kailua, Hawaii, and teaches physical fitness to senior citizen groups. As all good teachers should—he teaches best through experience—and what better demonstration of physical fitness could there be than running 3,100 miles.

The second remarkable accomplishment was that of Philip Weld, a 65-year-old sailor from Gloucester, Mass., who set a new world's record in the Observer Single Handed Transatlantic

Race. Mr. Weld, a retired newspaper publisher completed the course from Plymouth, England, to Newport, R.I., in 17 days, 23 hours, and 12 minutes, breaking the course record by almost 3 days. He is the first American to ever win the grand prize of solo sailing.

Senior citizens in our Nation are growing rapidly in numbers but at the same time their activity levels in many instances remains quite high. What more proof do we need than the distinguished chairman of the Select Committee on Aging, CLAUDE PEPPER, who at the age of 79, is as active and committed to his work as any Member here.

During our efforts which led to the end of mandatory retirement at age 65, we said competency, not chronology should determine a person's fate in the working world. The two men I have mentioned are examples of how life can in fact get better with age.

At this point in the RECORD, I insert an article from the Washington Post detailing the accomplishment of Philip Weld.

The article follows:

[From the Washington Post, June 26, 1980]

THE FLYING BRAHMIN—AND HIS MOXIE

(By Christian Williams)

NEWPORT, R.I.—Philip Saltonstall Weld named his ocean racing trimaran Ms. Moxie, but if a new formula for the cure of "loss of manhood, imbecility and helplessness" were marketed in this seafaring town today it would surely be named after him.

Weld, at 65 the oldest competitor in the Observer Single-handed Transatlantic Race (OSTAR) swooped over the finish line here at 8:12 a.m. yesterday 17 days, 23 hours and 12 minutes after leaving Plymouth, England, breaking the course record by almost three days. He is the first American ever to win the grand prize of solo sailing. But more important than that trophy was his triumph of personal style.

Even before Weld's graceful three-hulled speedster docked here, the retired newspaper publisher from Gloucester, Mass., was thanking people and attempting to explain away his victory over 82 other contestants, many of them half his age.

The arrival of the tall, raw-boned, big-eared, super-enthusiastic Brahmin replicated a familiar scene in Europe and England, where sailors are national heroes and this race has been page one news. Weld waved an American flag while yacht horns sounded and minor boats careened around him, and at the wharf a swarming mass of 500 people trapped him for 15 minutes on his own deck.

Still wearing his personal safety harness and reporting that he was "not a bit tired" after racing more than 3,000 miles alone, he commenced almost to apologize for what was being called his "magnificant achievement," claiming many other competitors were more worthy.

But the crowd would not have it, and waves of cheers washed over his self-effacement: This race, co-founded 20 years ago by Sir Francis Chichester, is a test of one man's ability to keep going no matter what, in highly specialized vessels that cost upward of $200,000 and, unlike most ocean-going sailing boats, can turn upside down.

While attempting to answer dozens of questions at once, Weld was surprised to turn and find behind him the America's Cup yacht Courageous, its uniformed crew lined up in salute, with skipper Ted Turner doffing his hat in admiration.

Weld's reaction was immediately to offer his yacht to Turner to sail, saying, "I sailed conservatively, but Ted, you could really get her moving." Then, spotting a friend on the dock, Weld apologized for owing him a letter, which Weld said he had meant to write but never got around to before the race.

Weld continued this virtuoso display of the personal touch by singling out for special greeting 20 different acquaintances as if he were arriving at a party in their honor, not his.

The horde of journalists and cameramen on the floating dock then began to submerge as their weight caused the dock to sink, and Weld had to step quickly onto his first shore in 17 days. As race officials gasped. Weld quipped, "Oh my, I think this is the most dangerous part."

Whisked to a formal press conference nearby, Weld read a statement from his logbook dated 9:25 a.m. on June 21. What the log said was that had Alain Colas or Mike McMullen entered the race they would surely have beaten the skipper of Moxie. This was one piece of raw emotion on the part of the ebullient Weld: Colas was lost at sea racing alone in 1978, and McMullen disappeared during the OSTAR of 1976.

Weld insisted that his voyage had been an easy one, that credit should go to his boat and not him, and that he was not a "great seaman" but an "assiduous" one.

In his trademark half-lens reading glasses, Weld looked more like an athletic grandfather (he and his wife Anne have seven grandchildren and five children) come for a visit than an iron-willed tamer of the North Atlantic. But behind the spectacles the eyes were somewhat puffed.

Only gradually, as the questions continued, was Weld to reveal other aspects of his record voyage. How he had averaged less than four hours of sleep a night. How "the blood had drained from my face" upon hearing that his winning margin had deteriorated during the light winds of recent days. And how, in the only "imprudent" action of his crossing, he had adopted "yoga calm" and driven Moxie at speeds of 20 knots through thick fog the day before in a successful attempt to protect his lead.

Weld's triumph of style was all the more delightful for its eccentricity. In winning this race he combined the toughness of his war hero past with the organizational skills that made him wealthy, and leavened the mixture with the zany goodwill that made him a popular hero and a grand puzzlement to the makers of the beverage Moxie.

Commerical sponsorship has become a fact of life in serious single-handed ocean racing in recent years. The topseeded entrants in this race were men of stern reputation and vast experience in this difficult sporting adventure, but they were seldom independently wealthy. Weld, whose broad, aristocratic accent set him apart, was determined, however, to be one of the boys. Like them, he wanted his boat to have a commercial name, even if he was paying for everything himself.

"But when I called the Moxie office in Atlanta," he complained to friends often last year, "I can never get the president even to speak to me. He apparently thinks I am some kind of wild man."

One of Weld's first actions upon reaching land yesterday was to grasp a bottle of the antique beverage, turn it upside down and make a face for the cameras. He explained later that he was disappointed in Moxie's disinclination to become part of American adventures—"But I'm afraid Moxie has plenty of company in that regard," he said. "One of our top sailors, Tom Grossman, had to go to France to find financial support. I hope that by the next OSTAR American corporations will join in the fun, too."

Weld's own brand of moxie, however, was established beyond doubt in 1976, and it was his history of endeavor that charmed his audience yesterday.

In 1976 he was sailing his state-of-the-art trimaran Gulf Streamer en route to England for that year's single-handed race. He never made it to the starting line, because he was capsized by a giant wave and had to survive for four days in the upturned hull before being rescued by a ship.

Undeterred, Weld returned to naval architect Richard Newick and ordered a new, similar 60-foot boat, which he named Rogue Wave in honor of the sea that had tried to drown him.

Rogue Wave was to be his boat for this year's race, but in 1979 the race organizers reduced the overall length limitation to 56 feet. The ruling was intended to limit the fanatic competitiveness that in earlier races had led to one man attempting to sail a 236-foot, four-masted schooner all by himself. The ruling was intended to eliminate such absurd ventures, but it also meant that Weld's boat was disqualified by four feet.

Still undeterred, he ordered the 51-foot Moxie built. And it was in Moxie that he won, a day earlier than the winning time he himself had predicted in a magazine article published while he was at sea.

The psychology of the long-distance sailor—like the climber of Mount Everest—defies orderly analysis. In Europe, the tradition of heroizing yachtsmen has been fueled by rivalries like that between England and France.

To socialize with these independent sorts can be traumatic—their competitiveness is not always confined to the race course—or filled with long silences. The multi-hull contingent, even within this class of competitors, had been long considered a nest of gooneys, Rube Goldbergs and revolutionaries. It was Weld, more than any other person, who lent style, credibility and verve to their effort to gain a place in the sun for two-hulled and three-hulled boats.

He has been the force that has unified the indefatigable stiff-upper-lippers, the playboys, the professionals, the yachtees and the young. His game of scrunch is considered nearly perfect.

Scrunch is a team social event which apparently originated at the St. Martin's Tradewinds Race, a bonnie and sunstruck Caribbean sailing week.

Last summer, after finishing first in the Newport-to-Bermuda multi-hull race, Weld organized a game in the ballroom of the Royal Hamilton Amateur Dinghy Club there. Scrunch requires all present to seat themselves barefoot on a floor, dowagers, commodores and boat bums included. One then wiggles by buttock locomotion right or left as directed. Weld calls the direction. He announces violations of unknown rules, he cajoles the timid, he criticizes the over-enthusiastic. "Scrunch right! Scrunch forward! Scrunch rear!"

The goal is to form paragraphs, sentences and words. It is utterly meaningless and goes on for hours until personages hitherto seen only in blazers and club ties and women with earrings the size of the Isle of Wight are all upturned and giggling in a pile. At the conclusion, a human pyramid is formed until the ceiling is reached, while Weld—his demeanor absolutely correct—leads choruses of hoorays.

Neither the Caribbean nor the Royal Hamilton Amateur Dinghy Club has yet fully recovered, but Weld himself springs back quickly.

In the early 1970's, while a fleet of ocean-racing trimarans waited holed-up in Bermuda as a gale whipped Hamilton Harbor into a froth, Weld appeared on the dock and climbed onto his boat. Instead of adjusting the protective ropes, he cast them off and sailed alone into the storm. He reached New York four days later, declaring himself "refreshed."

"Oh, to Phil everything and everybody is always interesting," said Anne Weld, who was receiving a stream of visitors and well-wishers at dockside. Some of the Weld children and grandchildren had made a banner inscribed, "Moxie Quenches Your First."

"Have you ever tasted Moxie?" Mrs. Weld said, "It tastes terrible." She had an appropriately indulgent attitude toward her husband, though it probably does not extend to entering his scrunch games.

Weld made his money in newspapers. He's held various executive positions over the years, and in 1960 did a tour of duty as president and editor of the International Herald Tribune. He collected several newspapers around Boston and several years ago sold the family's prized Gloucester Times. Since then he has been theoretically retired.

"I think that when he tipped over the Gulf Streamer, he realized that he ought to sell the Times," Anne Weld said softly. "Otherwise, you know, if anything happened, it would be rather a mess," she said, letting the thought trail off.

But retirement for Weld has meant merely more time for his entrepreneurial brainstorming and his interest in other people's seagoing welfare. Judy Lawson of Annapolis, an OSTAR entrant who still is probably more than 1,000 miles from the finish line, had never met Weld before the race, but felt his influence anyway. She had been planning to ship her boat to England for the start, rather than sail it there, but Weld heard about her plan. Lawson reported receiving this Weldian advice: "Sailing over greatly enhances your pleasure in the race. One becomes practiced, you know." Said Lawson: "I sailed."

Weld is now devoting much of his time to the development of wind and solar power and he has sponsored the construction of a prototype cargo trimaran for possible use by Third World traders.

At his press conference, Weld said that his win in a very modern trimaran yacht exploiting many new theories of naval architecture was proof that the era of sail was coming back. "There are many breakthroughs being shown in the scientific use of wind power and my hope is that it can be commercially used. You know I did not burn a drop of fossil fuel on my way over here. I saw some of the great oil guzzler ships out there, and you know they have to throttle down nowadays to conserve their fuel. I actually passed a couple of them in my sailboat. There has to be a message there for people."

Weld's OSTAR win at age 65 will go down in the record books but fewer and fewer winners of these events are likely to maintain the Weld example. Of all his eccentricities, self-effacement is nowadays the most rare. The need for sponsorship and advertising potential has all but eliminated that.

Few observers knew, for example, that Weld as a young lieutenant won the silver and bronze stars in Burma as a member of Merrill's Marauders. "He was the last man to leave one area," Anne Weld confirmed. "He had malaria and a temperature of 106 and he walked out under fire carrying two other men." But the competitive sailing world did take note of Weld in the 1979 Route du Rhum single-handed race, a 4,000-mile race from Brittany to Guadeloupe. He came in third, and there was a cash prize of $10,000. Weld donated the money to a sailing club on the island.

"I would never want to give up my status as an amateur," he said in explanation.●

IN CELEBRATION OF COURAGE—HELEN KELLER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. PORTER. Mr. Speaker, I would like to remind my colleagues that 100 years ago today a woman was born whose courage, intelligence, and selflessness have seldom been matched. This exemplary woman was Helen Adams Keller, a blind deaf-mute, whose education and training represent a most extraordinary accomplishment made in the education of persons so handicapped.

Her sight and hearing were lost at the age of 19 months due to a severe illness. Keller's parents took her to Alexander Graham Bell when she was 6 for advice on her education. As a result they hired Ms. Anne Sullivan as her instructor.

Within 1 month Miss Sullivan taught Keller the gift of language. With constant guidance and perseverance, Keller not only learned to read, write and talk, but became very capable in the ordinary educational curriculum. She eventually graduated from Radcliffe College cum laude in 1904.

Keller went on to serve on the Massachusetts Commission for the Blind and started the Helen Keller Endowment Fund for the American Foundation of the Blind. At the end of World War II she visited American veterans' hospitals and made many tours in Europe, Asia, and Africa and spreading her message of courage and hope worldwide.

Let us remember her on the 100th anniversary of her birth and let us never forget the great inspiration she represents.●

BISHOP JAMES A. HICKEY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. STOKES. Mr. Speaker, thank you for giving me this opportunity to salute an extraordinary human being—Bishop James A. Hickey. Bishop Hickey has been the beacon of light which paved the way for cooperation between the Catholic Church and the community in Cleveland for the past 6 years.

As you may know, Pope John Paul II has announced that in August, Bishop James A. Hickey, bishop of the Cleveland Catholic Diocese, will become the archbishop of Washington, D.C. Mr. Speaker, I must admit at this juncture, that initially I had mixed feelings about his appointment.

On one hand, I realize that this is one of the most prestigious posts in the Catholic Church in this country. If history repeats itself, this post could be a great stepping stone for Bishop Hickey by virtue of the fact that the last two archbishops of Washington were named to the College of Cardinals at the Vatican. I know, in my heart, that that is a great move for him.

But, Mr. Speaker, Bishop Hickey has meant so much to the Cleveland area that my reservations and that of my constitutents are understandable. He is a man who has advocated the philosophy that the church extend farther than the building it is physically housed in. He impressed upon everyone in Cleveland that the church is only as good as the people who attend it. He constantly emphasized the church's commitment to the community.

He has taken a lot of criticism for this philosophy through the years. His efforts to bring the church in line with the needs of the community have led him to take a stand on the desegregation of the Cleveland public school system only last summer. He worked diligently to see that the desegregation process was implemented smoothly and peacefully.

In fact, Mr. Speaker, Bishop Hickey went so far as to order the Catholic schools in the Cleveland area not to admit students who were trying to avoid the desegregation process. Although this seems easy, this was a significant step for the spiritual leader of the Cleveland diocese to take.

Mr. Speaker, Bishop Hickey has been concerned with civil and human rights both here and abroad. He has been involved in the fight for human rights in El Salvador. He initiated diocesan support of a mission staffed by priests and others from the strife torn El Salvador. He has transferred his concern for Hispanics to the Cleveland diocese by instituting programs which assist that particular group.

Mr. Speaker, Bishop Hickey is a unique God-fearing individual. He is one of the greatest and most sincere spiritual leaders in the city of Cleveland.

Bishop Hickey is greatly committed to his faith. But, he is greatly committed to the human rights of all people and the welfare of the community regardless of the religious orientation of the people who dwell in it. Through the years, he has stood steadfast to those convictions.

Mr. Speaker, the stanza from the following song is an appropriate salute to the past achievements of Bishop

Hickey and the challenges in the days ahead:

I don't feel no ways tired,
Come too far from where I started from.
Nobody told me,
The road would be easy.
I don't believe He brought me this far
To leave me.

I know I speak for the entire community by saying that we wish Bishop Hickey well and that we will always have a special place for him in our hearts. At this time, I would like to enter several articles in the CONGRESSIONAL RECORD which appeared in the Cleveland newspapers on Bishop James A. Hickey.

HICKEY GETS PRESTIGIOUS ARCHBISHOP POST IN D.C.

(By Darrell Holland)

Bishop James A. Hickey, spiritual leader of the Cleveland Catholic Diocese, has been appointed archbishop of Washington, D.C. It is one of the most prestigious posts in the church in this country.

The 59-year-old prelate's voice quivered and tears glistened in his eyes as he told about his new post yesterday morning at a news conference here. The appointment by Pope John Paul II was announced earlier yesterday at the Vatican and also by the National Conference of Catholic Bishops in Washington.

When he is installed in Washington, Aug. 5, Hickey will head an archdiocese with 397,000 Catholics, nearly 600,000 fewer than in the eight-county Cleveland diocese he has headed since July 1974.

But the only two Washington Archbishops since the archdiocese was created in 1939 both have been named to the College of Cardinals, considered to be the highest honor for a clergymen in the church short of the papacy. Hickey succeeds Cardinal William Baum, who was named prefect of the Sacred Congregation for Catholic Education at the Vatican in January.

Hickey said it probably would be six to nine months before the Vatican appoints his successor here. He said an interim administrator would be appointed in August to serve the diocese.

Hickey also said he would, as is normal procedure in the church, make recommendations to Rome as to whom his successor should be, but that the appointment would be made by the pope.

Hickey was ordained a bishop in 1967 in Saginaw, Mich. He was sent to Rome in 1969 to begin a five-year stint as rector of North American College, which is attended by American students for the priesthood. He was ordained a priest 34 years ago.

He was flanked at the news conference by three of his four auxiliary bishops. He said he will go to Washington with "a very real and a very dear part of my heart left here in Cleveland."

He said he had come to love the diocese here both in days of frustration and of great joy.

"How much I shall miss all of you, your kindness and openness, your cultural diversity, your ethnic and racial pluralism which so distinguishes this area."

Among his greatest frustrations here Hickey said, was the misunderstanding in November 1975 when he ordered razed three older East Side Catholic churches because it would have taken more than $500,000 to repair each one.

The move, he said, was misunderstood by many who thought the diocese was deserting the city. But he said he preferred to spend the money on the church's ministry in the city rather than on buildings.

"One of the greatest joys here," Hickey said, "is that Cleveland has had peaceful desegregation and ordered that the Catholic schools not enroll children whose parents were attempting to avoid desegregation.

Hickey, a native of Midland, Mich., will be honored at a farewell mass at noon Sunday, July 27, at St. John Cathedral, followed by a reception in the park between the Chancery Building and Catholic Center, 1027 Superior Ave.

He also will be honored in an ecumenical service at the cathedral at 12:10 p.m. July 28.

BISHOP HICKEY BEST KNOWN FOR WORK IN INTERRACIAL AFFAIRS

(By Norman Mlachak)

"How much I shall miss all of you," Bishop James A. Hickey of the Cleveland Catholic Diocese said.

"Your kindness and openness, your cultural diversity, your ethnic and racial pluralism, which so distinguish this area and diocese. . . ."

He was talking from his heart in his offical announcement today that he'll be leaving this city after six years to become archbishop of Washington.

One will be held at noon July 27—a farewell mass at St. John Cathedral, followed by an open reception in the park betwen the Chancery Building and the Catholic Center.

Before that, at mid-day on July 8, an ecumenical service will be held at the cathedral. An invitation list is being compiled.

Best known in church circles for his work in interracial relationships, particularly among Hispanic and Spanish-speaking Americans, Hickey was one of three American prelates who traveled to strife-torn El Salvador for the funeral of assassinated Archbishop Oscar Romero earlier this year. At the time he cited the number of Cleveland diocesan priests working in El Salvador.

Bishop Hickey, a native of Midland, Mich., was born Oct. 11, 1920. A graduate of Sacred Heart Seminary College at Detroit in 1942, he was ordained at Saginaw, Mich., in 1946 after completing graduate studies at the Catholic University of America, Washington, D.C.

In the Saginaw area he organized the Mexican Apostolate, a diocesan-wide project for Spanish-speaking migrant workers.

He earned a doctorate in canon law at the Pontifical Lateran University in Rome, and later a theology doctorate at Rome's Pontifical Angelicum University.

Returning to the United States, he served for nine years as secretary to the bishop of Saginaw and was named founding rector of St. Paul Seminary there in 1957.

In 1968 Hickey was named a consultant to the Sacred Congregation for Catholic Education at the Vatican. He became rector of the Pontifical North American College in Rome the following year.

He was named bishop of Cleveland, with its 254 parishes, on June 5, 1974, and was installed the following month.

Hickey plunged into his duties here with enthusiasm and a perception that diocesan authority should be decentralized and brought closer to parishioners and priests. To that end three additional auxiliary bishops were ordained last summer, bring the total number of bishops to five.

He did not escape, nor did he try to, numerous controversies over the years.

Besides his outspoken support of Cleveland school desegregation and busing, he earned criticism for his refusal to support a group trying to keep Cathedral Latin school open and for his recent removal of Jesuit priests from St. Patrick Church on Bridge Ave.

He also had to brave the emotional protests when he allowed three old neighborhood churches, St. Thomas Aquinas, St. Agnes and St. Edward, to be torn down.

Just last month, however, Hickey was presented the Liberty Bell Award of the Bar Association of Greater Cleveland for his support of school desegregation and his efforts to promote improved human rights for all citizens.

Hickey added these words today to Cleveland as he girded himself for his new role in the nation's capital:

"Please keep me always joined with you in mind and heart as one who has rejoiced to be part of this distinguished local church, and as one who will always love you in Christ."

POPE ELEVATES HICKEY

Bishop James A. Hickey is to be congratulated on his appointment as Roman Catholic archbishop of Washington, D.C.

The Cleveland Catholic Diocese will lose an administrator, 951,000 Catholics in eight Ohio counties will lose a spiritual leader and the general community will lose a voice against injustice and racism.

Although the Washington Catholic archdiocese is smaller in numbers than Cleveland's, the post is one of the most prestigious ones. It will give Hickey a voice—one he has used so well on social and church issues—in the nation's capital.

Along with the prestige of the post is the possibility that Hickey may also be named a cardinal.

Obviously, the Vatican must believe that Hickey, 59, has been doing something very right in Cleveland since he was named bishop here six years ago. Physically, the diocese has increased the number of its parishes by 16 to 253, and has 165 elementary schools and 28 high schools. Despite the problems of high inflation and flight to the suburbs, Hickey has been able to maintain schools in the inner city.

Because of his stand on social issues, Hickey frequently has been labeled a "liberal." But he was a "progressive," one who while accepting the church reforms of Vatican Council II, vigorously maintained that the pope and bishops have final authority over what is presented as official teachings of the church.

Six months after he arrived in Cleveland, Hickey pointedly corrected a priest publicly for appearing to question church teachings on such subjects as birth control and celibacy for priests. "There must be freedom for the Catholic theologian to do his work, but this is not an absolute freedom," he warned. He said he was responsible for presenting the teachings and person of Christ.

Hickey also saw as his responsibility the need to speak out on controversial issues. When the federal court suit charging Cleveland public schools with segregation was scheduled to start in November 1975, Hickey emphasized to the diocese the moral obligation of Catholics as Christians to work for racial harmony, to obey the decision of the court and to refrain from confrontations that had scarred other cities.

Hickey will leave in August. But he will have left his mark on Cleveland, and Cleveland a better place for his being the leader of the diocese.●

NICARAGUANS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I am appalled that the administration is even hesitating in extending permission to 10,000 Nicaraguans to remain in the United States instead of being forced to return to the Marxist Sandinista regime of Nicaragua.

To consider deportation proceedings against these people, many of whom were Somoza supporters who would face an uncertain fate if forced to return, is an inhumane response by an administration supposedly concerned with human rights.

It is a ridiculous argument to say letting them stay would set an unfortunate precedent, the precedent has been set many times before, not just with the Cubans or Haitians, but also with the Ethiopians, Iranians, South Koreans, and others who faced unsettled political circumstances at home.

I call on the Carter administration and State Department to extend immediately the permission of these Nicaraguans to remain in the United States.●

HUMAN RIGHTS VIOLATIONS IN TAIWAN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

Mr. STARK. Mr. Speaker, I had one concern in mind when I introduced my resolution, House Resolution 603, the political and human rights of the people who live on Taiwan.

I strongly believe that our Government should not seek to impose our form of government on other peoples or nations. But an important corollary of that belief is that our Government should not undermine or restrain the impulse for democratic self-government present in all peoples.

For this reason, all U.S. military assistance to authoritarian regimes deserves close scrutiny.

We sell arms to the national government on Taiwan. That government is an authoritarian government. Its human rights' stance deserves careful monitoring, and, of course, congressional oversight is mandated by the 1979 Taiwan Relations Act.

We also have before us the standard laid down in section 502B of the Foreign Assistance Act. No security assistance, including sales, is permitted "to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."

That is, a government engaging in "torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty, or the security of person."

The question for the Congress is, Does the Government on Taiwan systematically violate these internationally recognized human rights norms? The question is not, Are there other governments that engage in more flagrant violations of these norms? In no way can the human rights record of the People's Republic of China justify human rights violations that occur on Taiwan. The danger is that by turning a blind eye toward Taiwan's rights violations, we shall drive the people of that land into the arms of the autocrats ruling mainland China.

May I suggest that the past human rights record and practices of the Kuomintang—KMT—and recent evidence stemming from the Kaohsiung case make a close look at the human rights situation on Taiwan imperative.

Lin Yi-hsiung is one of the "Kaohsiung Eight." A non-KMT Taiwan Provincial Assembly member, Lin was sentenced to a 12-year prison term by the military court that tried the Kaohsiung riot case. While Lin was in jail awaiting charges, his mother and twin daughters were murdered.

Recently, the text of a seven page letter written on February 25 by Mr. Lin—the murders took place February 28—was smuggled out of Taiwan. It describes Lin's treatment during interrogation that lasted from December 13, 1979, to the end of January 1980. Lin and the others were indicted on February 20. Here is a summary of Lin's letter:

> Six interrogators took turns questioning me. One of them was usually responsible for beating me. During the more than 40 days of interrogation, they asked me the same questions over and over again. Their assumption was that Formosa magazine had been set up with the intention to overthrow the government, and it was their (the interrogators') job for force me, as a member of the staff of Formosa, to confess to that basic premise.
>
> At the beginning of the interrogation I was not allowed to sleep at least for three full days. Then they beat me whenever they did not like an answer I gave them. The beating was so severe that finally I gave in and confessed to whatever they told me. After several days and nights of interrogation, I was allowed to sleep for a few hours, but then they started beating me again because I could not answer their questions. They wanted me to confess to things that had never occurred.
>
> Particularly during the first ten days they beat me everywhere: on the chest, the back, stomach and head. They also kicked my legs and abdomen. They put burning cigarettes in my face, and threatened to take me to the basement for even more severe torture. After about ten days of this they prepared a statement for me to sign: it said that I made a speech at the Kaohsiung rally, and that in that speech I incited the crowd. This was a big joke: I did not make any speech at Kaohsiung and the tape recordings can prove that.
>
> I can remember the following threats: (1) If you don't confess, then we will continue to beat you. If we beat you to death, then we will say you committed suicide. (2) If you don't confess we will pull out all your teeth. (3) If you do not cooperate we will label you a communist.
>
> I was alone in a state of horror and hopelessness. I could not see my family nor my friends. I was completely isolated from the outside world: I was not allowed to write or receive letters, nor was I allowed to listen to the radio or read newspapers. I was exasperated and finally just signed the statements they had drafted. I completely gave up, and only hoped that they would torture me less.

Testimony heard during the trials also makes clear that the confessions at the heart of the government's cases were not voluntary. The court simply took the word of the Ministry of Justice Investigation Bureau—the interrogators—that the confessions were properly obtained.

Now the Rev. Kao Chun-ming, General Secretary of the Presbyterian Church on Taiwan has been sentenced to 7 years imprisonment for harboring one of the "Kaohsiung Eight," Shih Ming-teh following the incident. This is another restriction the government has placed on the Presbyterian Church, primarily because of the Church's support of human rights and its outspoken encouragement of political opposition.

A recent article in the Far Eastern Economic Review—May 23, 1980—illustrates the continued lack of political and social freedoms on Taiwan and the recent renewal of government authority over every aspect of life on Taiwan.

THE CHURCH UNDER FIRE

THE TRIAL OF A LEADING CLERGYMAN AND NINE CO-RELIGIONISTS IS SEEN BY SOME AS A REPRISAL AGAINST THE PRESBYTERIANS

(By Bob King)

TAIPEI.—It was a statement of belief and personal spiritual responsibility, openly in conflict with civil authority. "As a Christian, one should not betray a person who has asked for help, and should sacrifice oneself rather than betray that person," said the Rev. Kao Chun-ming, general secretary of the Presbyterian Church in Taiwan. Along with nine other local Christians, he was recently put on trial before a martial law court on charges of harbouring and aiding the so-called mastermind of the Kaohsiung incident, Shih Ming-teh, during his flight from the authorities in December and January (Review, Apr. 25).

Other defendants also openly admitted helping Shih, but all denied knowledge that he was being sought on sedition charges—a key point, since conviction on a charge of harbouring a "seditious criminal" carries a sentence of from 10 years to life. (On the other hand, according to a recent newspaper report, a taxi driver who tried to help the escape of someone who had attacked a policeman with a knife received only five months.)

In Taiwan the Presbyterians are regarded in some quarters as a serious threat to secular authority. Much is made of a 1977 declaration on human rights in which the church called on the government "to face reality and to take effective steps whereby Taiwan may become a new and independent country." Such attitudes are directly opposed to a national policy which sees the communist rulers of China as rebels who sooner or later will be put down, and their acceptance may bring to an end the Kuomintang (KMT) domination of Taiwan's ruling and policymaking bodies.

Government authorities question the right of a religious organization to dabble in politics, while churchmen see the Presbyterians' position as nothing more than the logical extension of the Christian creed of concern for one's fellows, and an articulation of "the relevance of the Christian Gospel to daily life in this society."

Some observers see the arrest and trial of Kao and the others as the latest in a series of reprisals against the Presbyterian Church, which since 1865 has been actively propagating its faith in Taiwan. They point to an incident in which Bibles printed in local languages using romanised script were confiscated, and in particular to the draft by the government of proposed new regulations for the supervision of shrines and temples as examples of earlier and continuing harassment.

Although government spokesmen insist that the new religious law is not aimed at any particular body, it has Presbyterian leaders, as well as Christians of other denominations, frankly worried. Originally sent out from the Executive Yuan to the Legislative Yuan for implementation last summer, portions of the proposed draft came under heavy fire from various religious groups here and abroad. Under this barrage, the government took back the draft for reconsideration, but church leaders fear that the regulations may soon reappear with but slight alterations.

In particular, religious leaders point to Article 19 of an early draft, which states: "If a shrine, temple or church is against national policy or is in contravention of its established aim or against public interest, the government authorities may . . . give a warning, nullify any resolution which was made, order its reorganization, or dissolve the legal entity."

Other portions of the new law give the government powers to discharge religious figures who violate laws of the individual churches, require propagation to be done in public and in Chinese—a sore point with religious bodies which use languages such as Taiwanese, Hakka and the various aboriginal dialects in their ministries—and rule that each church's board of trustees must include at least three ministers, which churchmen claim is out of keeping with a situation in which the majority of churches are able to have only one.

Presbyterians also claim this latter clause is discriminatory, since it exempts those churches which are considered by the government to have a hierarchy (Roman Catholic churches are exempt, the Presbyterians are not). "It's a very sweeping kind of thing," said one Presbyterian who requested anonymity. "It gives them the right to do anything they want."

Although many religious leaders see the arrest and trial of Kao and other Christians in light of the proposed new regulations, few local or international churchmen would contest the right of the state to try those who break the law. During a recent visit by three international religious officials who stressed the right and duty of Christians to act according to the dictates of conscience and the Gospel, William Thompson, president of the World Alliance of Reformed Churches and a lawyer, stressed the validity both of the law and of opposition to the law. Kao himself stated during the trial that he accepted the consequences of his actions, and was willing to make the sacrifice because of "love, sympathy and Christian belief."

Opposition is not tolerated on Taiwan. The people of Taiwan are not adequately represented in their national government, yet they cannot question, criticize or otherwise express concern about this government.

When I look at Taiwan I see that it is ruled by an aging group of politicians who also claim to represent a land they were forced to leave over 30 years ago. To maintain this charade they rely on martial law to enforce severe restrictions on political activity while claiming to be a member in good standing of the "free world." I suppose it is consistent in this topsy-turvy scheme to sentence illegal paraders to 12 and 14 year prison terms—one defendant received a life sentence.

But we don't have to be accessories after the fact.

That's why I think we must look carefully at the human rights situation on Taiwan before we sell them the FX or any other arms. I feel the same about selling even so-called passive military systems to the PRC—but that is another issue.

It is always important to observe carefully the trends evident in nations with poor records on protecting basic human rights. Quite frankly, the aftermath of the Kaohsiung incident represents a reversal of an emerging positive trend in Taiwan, and this is what concerns me.

I do not underestimate the complexity of the situation in the Taiwan Strait area. Tensions are low now and we all hope they remain low.

But a permanent peaceful solution cannot be achieved by forcefully clamping the lid on the political aspirations of the Taiwanese. Relaxing the political restraints will not achieve the absolute political calm I imagine all authoritarians dream about. But it will help bring about the sort of society that most Americans and most Taiwanese desire.

In the new Library of Congress Madison Building, these words of our fourth President are enshrined:

> The essence of government is power, and power, lodged as it must be in human hands, will ever be liable to abuse.

In Taiwan, there is abuse and because of our special connection with the Taiwanese, we ought not ignore this abuse nor accept it.

PLEA TO SECRETARY BREZHNEV FOR THE RELEASE OF SOVIET JEWS CONVICTED AT THE LENINGRAD TRIALS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

Mr. BIAGGI. Mr. Speaker, on June 15, 1969, 20 courageous men and women were arrested for attempting to flee the Soviet Union to Israel. They were tried and sentenced to terms up to 15 years in the infamous Leningrad trials. Today, only 3 of the 20 who were sentenced remain in prison. Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko are still languishing in Soviet prisons.

Since coming to Congress in 1969, I have worked actively on behalf of Soviet Jews. My efforts have included visiting the Soviet Union and meeting with the Director of the Office of Visas and Registration as well as the head of the Soviet police. I was influential in obtaining the freedom of several individuals who had been imprisoned for their political activities. I will continue to work on behalf of Soviet Jews and others who wish to emigrate or who have been unfairly imprisoned or exiled.

Recently, I sent the following letter to Secretary Brezhnev asking for the release of Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko. I am inserting this plea in the CONGRESSIONAL RECORD in the hopes that my colleagues will join me in attempting to effect the release of these brave men:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 25, 1980.

His Excellency LEONID BREZHNEV,
General Secretary, Central Committee of the Communist Party of the Soviet Union, Moscow, U.S.S.R.

DEAR SECRETARY BREZHNEV: I am writing to you on behalf of Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko, who are the only three defendants from the Leningrad trials who remain in prison. Since April, 1979, all the other defendants have been released and have been reunited with their families in Israel. Yuri Federov and Aleskei Murzhenko are both suffering from serious physical problems relating to their long years in prison. All three men have served ten years of their sentences which ranged from twelve to fifteen years.

Your government has made noted progress in permitting a great degree of emigration in the past several years. The continued imprisonment of these three men represents a regrettable reversion to past practices. I implore your favorable consideration of this request.

With best wishes, I am
Sincerely,
MARIO BIAGGI,
Member of Congress.

THE 10TH ANNIVERSARY OF LENINGRAD HIJACKING ATTEMPT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. FISH. Mr. Speaker, I am once again relating to the House of Representatives, the Nation, and the Soviet Union my deepest regret for the treatment of prisoners of conscience in the Soviet Union. This month, during the anniversary of the trial of 11 Soviet citizens for attempting to live in a free society, I am once again constrained to call upon the Soviet Government to abide by the Helsinki accords and provide basic human rights for all its citizens.

Ten years ago, 20 Soviet citizens, all prominent in establishing human rights in the Soviet Union, were arrested for their allegedly anti-Soviet activities; 11 of these individuals were tried and sentenced to death as traitors. Only heroic and tireless efforts by Western nations prevented the death of these people. The only act that these 11 persons conspired to perform was to leave a country in which they had been continually persecuted, harassed, and degraded. The Soviet Government commuted these sentences to 10 to 15 years in the notoriously harsh and cold Soviet prisons.

In April of 1979, the Soviet Government released seven of the original defendants, who joined their families in Israel. The three remaining individuals, Iosef Mendelevich, Yuri Federov, and Aleksei Murzhenko are all suffering from severe illnesses and cannot survive much longer without proper medical care and humane treatment. Mendelevich suffers from malnutrition and heart disease due to his religious convictions, as a result of which he has volunteered to work long hours during the week so he does not have to work on Saturday. Murzhenko has an ulcer and suffers from tuberculosis; Federov has chronic bronchitis, kidney disease, and other illnesses. We are all fully aware of the mistreatment and nontreatment in Soviet prisons that have caused the death of many a prisoner of conscience. If these three men are not released soon, a similar fate could befall one or all of them.

After 10 years of arduous labor under brutal conditions, these men await liberty and proper medical care before it is too late. We in Congress call upon the Soviet Union to release these men now as a display of humanitarianism and justice.●

MONROEVILLE CENTER FOR SENIOR CITIZENS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. GAYDOS. Mr. Speaker, in the community of Monroeville in the 20th Congressional District of Pennsylvania stands a building which bears silent witness to the vigor and self-reliance of our senior citizens and to the benefits which flow to our people when Government at all levels works hand in hand with private citizens.

I was privileged recently to take part in the dedication of a new activities center by the Monroeville Council of Senior Citizens. This modern one-story building, built at a cost of $589,000, will serve as a leisure and activity center for those 55 and older from the communities of Monroeville and Pitcairn.

Owned by the municipality of Monroeville, the building has been leased to the council of senior citizens, a nonprofit corporation operated through a board of directors made up of 18 senior citizens and 5 members drawn from business, industry, and government. Representatives come to the board from the six senior citizen groups which belong to the council.

I have long held the belief, Mr. Speaker, that any enlightened society must serve the needs of its young people, who represent our future, and its senior citizens, who represent our heritage. For many years, we in America have served the needs of youth by allocating a significant share of our national resources to provide community service, education, and recreation opportunities for young people.

Now, there is a growing realization that older people, too, need these same kind of opportunities if they are to keep pace with a rapidly evolving society. Our senior citizens are seeking opportunities to be productive members of society rather than liabilities. They want a chance to participate in civic activities, do volunteer work, and in other ways make available the skills and experience they have over the years. And, like young people, they sometimes need help from the community to fully take advantage of their opportunities.

It is the necessary and vital role of Government and the private sector, working together, to provide that help. We are, in fact, making great strides in our efforts to develop systems of education, recreation, social nutrition, and health care services for older people.

No greater evidence of this progress could be found anywhere than in the construction of the new senior citizens center in Monroeville. Government at all levels—local, county, and Federal—worked closely with the private sector to make the dream of a senior citizen center become a reality. Behind it all was the driving force of the senior citizens themselves. In a display of self-help and self-reliance which should serve as an example to many of our young people, the older citizens of the community persevered in their dream through all the roadblocks they encountered. Their dream came true because they simply would not permit it to fail.

I extend congratulations to the officers and members of the council, headed by Dan Gunsallus, president; Bill Seaman, first vice president; Roselyn Drake, second vice president and Frank W. Keely, treasurer.

Others whose contributions should be recognized are the following members of the board of directors:

Vic Mosilunas and John Walter, Gateway AARP No. 2090; William Douglas, Ralph Freshwater, and Alfred V. McIlveen, Hillcrest AARP No. 2257; Sarah DiTommaso, Emmett Flynn, Ed Myers, and Helen Rosipal, Monroeville AARP No. 2582; Ted Wadkowski, Monroeville Senior Citizens; Thomas Irvine and W. R. Murphy, Pitcairn Senior Citizens; Helen Appleman, Anna C. Greb and Esther Logan, Vintage Club and Teresa Mirro and Michele A. Walko.●

BUS REGULATORY MODERNIZATION AND IMPROVEMENT ACT OF 1980

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

Mr. NOWAK. Mr. Speaker, on June 26, 1980, I introduced H.R. 7677, the Bus Regulatory Modernization and Improvement Act of 1980.

In light of recent legislative proposals to remove Federal regulation from other major industries, I feel that the bus industry should also be considered. Eliminating unnecessary economic regulation will strengthen our transportation services by providing an atmosphere of greater intermodal competition. The intent of this legislation is to refine and improve the current system of economic regulation of the bus industry. Its objective is to make the industry more efficient and responsive to the public needs without disrupting essential transportation services.

Excluding two major bus operators, the industry is composed of small businessmen who employ an average of 25 employees. The intercity bus industry is comprised of approximately 1,150 individual bus companies which carry passengers between communities in this country. This proposal will ease entry requirements enabling other small carriers to enter the market, thereby strengthening competitive principles on which our economy is based.

It is my feeling that the bus industry can make a meaningful contribution in offsetting the shortage in transportation capacity that develops with a necessary cutback in travel by car. I think the concept of regulatory reform of the bus industry is a timely one and I hope Congress will give it serious consideration.

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the 49 Orange County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens and I invite my colleagues to join me in welcoming the following newly naturalized Americans, extending to them our best wishes for a happy and prosperous life in their new homeland:

Roxi Aguilar, Mohammed Syeeduddinahmed Ansari, Jason Kumar Brauer, Silvia Simona Burte, Bessie Santos Calvet, Maria Elisa Chaplin, Song Chu Chu, Terence James Colman, Evelyn Javier Concepcion.

Maria Georgina Delgado, Patrick Terence Devine, Dominick DiMunno, Hsiu Ying Foo, Dwight Wilberforce Forbes, Carmeta Elaine Forbes, Marcy Nadine Friedman, Purnima Bipin Gandhi, Concepcion Aquino Garingan, Tina Kui Fong Georgson, Peter Gouvis.

Elvia Emily Rowe Henry, Ruth Elsa Hummel, Isolina Khouri, Deborah Elizabeth King, Jackson Chie Yan Kwong, Isak Loewy, Chong Ae Loy, Mariana Egda Manosalvas, Jean McGinty, Maria Carmen Miesner.

Jennifer Amy Nelson, Eric Goodwin Norberg, Mary Orfanos, Victor Pantoja, Ricardo Manuel Pantoja, Hee Myoung Park, Yun Park, Andres Mario Perez, Lourdes Magdalena Rodriguez.

Edatharayil Aleyamma Samuel, Brunhilde Berta Shaw, Neal Siena, Lucy Maria Siena, Yasuyo Slayton, Khin Maung Soe, Helen Isabelle Stewart, Marion Elizabeth Van Strander, Lakhbir Singh Virdi, Juan Arturo Zapata.●

WITHHOLDING TAX ON SAVINGS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, the President's proposed 15-percent withholding tax on savings and dividends continues to arouse public protest. At a time of economic peril, our Nation's leadership has no business thinking up more schemes to soak the taxpayers. As the Moultrie, Ill., County News points out: "If anyone else were doing this, we would be talking to the State's attorney about theft, fraud, misappropriation, and deceptive practices."

The excellent editorial of June 2 is one I would like to share with my colleagues. It follows:

SAVINGS WITHHOLDING NOT NEEDED

If your banker appears to be less friendly these days than he has been in the past, there are two very good reasons for it.

One is the institution of interest-bearing checking accounts and the other is the prospect of having to withhold and remit taxes from savings accounts.

The interest-bearing checking account is an accomplished fact. There is little that can be done about it except try to anticipate what the comptroller will come up with in the way of regulations. One thing is for sure, since there does not exist in this world a free lunch, and that is that somebody is going to have to pay the interest earned. The only question before the house is who.

As the banker sees it, the "who" will turn out to be loan customers and loan customers are just a little hard to deal with already because of what the federal reserve board has done. Another problem is that the cost of interest paid probably will be second to the cost computing and reporting interest paid. It will be no small matter.

Which brings us to the IRS's current brainchild of withholding 15 per cent of all money paid out from savings accounts to be remitted to the federal government just as taxes are withheld from salaries and wages.

The IRS seems to think that a lot of people do not report income received from interest and dividends received.

Which makes us wonder in return what the IRS does with all those Form 1099's that banks, savings and loans, and corporations are required to file under considerable duress and at considerable expense.

Taken together, it would seem that IRS is not simply content with getting a cut of your savings, it also wants to get into your checking account, too.

This goes along with the 10 cents a gallon gasoline tax that President Carter wanted as a "conservation" measure and that appeared in true colors as his method of balancing the budget that contained goodies for everyone.

And in the "left hand not knowing what the right hand is doing" department, it should be pointed out that the first $400 of savings interest or dividends is excluded from federal income tax now. So what the federal government is proposing is that it be allowed to use that $400 interest free for up to a year.

If anyone else were doing this, we'd be talking to the State's Attorney about theft, fraud, misappropriation and deceptive practices.

Because that is exactly what it is and that's why Congress should shoot down this scheme before it leaves the ground.●

H.R. 7235, RAIL ACT OF 1980

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. MURPHY of New York. Mr. Speaker, I submit for the RECORD a number of amendments, along with a brief explanation for each, which I intend to offer to H.R. 7235, the Rail Act of 1980, when it comes before the House.

The amendments follow:

AMENDMENT OFFERED BY MR. MURPHY TO SECTION 208(f) OF TITLE II

Page 118, lines 5 and 6: Strike out "surcharges under section 10705 (g) of this title,"

EXPLANATION BY MR. MURPHY

Mr. Chairman, this amendment foreshadows an amendment which I shall offer in due course to Section 301 of the bill authorizing unilateral surcharges and to substitute therefor the expedited divisions procedure provided in Section 107 of the Senate bill, S. 1946.

It has long been a principal purpose of the Interstate Commerce Act to prevent unreasonable discrimination in rail rates and predatory competitive practices—a purpose restated only four years ago in Section 202(f) of the 4R Act. Nothing that has happened in the past four years seems to me to justify reversing the course which Congress set nearly a century ago and so recently reaffirmed.

Section 208(f) of this bill, however, would exempt from the long-standing prohibition against unreasonable rate discrimination, the unilateral surcharges which Section 301 would authorize. The primary purpose of that portion of Section 301, as I understand it, is to enable Conrail to recoup its excessive costs at the expense of its connections or, to drive away the business if its connections cannot afford to meet Conrail's excessive costs.

Conrail is not necessarily to blame for these inflated costs. It inherited deteriorated track and equipment from its bankrupt predecessors which needed rehabilitation if it was to provide continued service.

Our entire interdependent national rail network has an immense stake in ConRail's survival, and the City and Port of New York has a special need for ConRail's service, because it has a virtual monopoly in my area.

Nevertheless, I do not believe that the answer to ConRail's difficulty is to shift the burden which has been foisted upon it to its connections and the shippers, receivers, communities and ports they serve by unilateral surcharge. The final solution to the ConRail problem does not lie in the slaughter of the innocents envisioned by the Southern-ConRail compromise embodied in Section 301.

The smaller local carriers, in particular, cannot be expected to assume the burden of ConRail's excessive costs. Their hauls are too short and their terminal expenses are too high. ConRail's extraterritorial line-haul connections to the South and West would therefore have the power, by absorbing surcharges selectively, to decide by remote control, so to speak, which of ConRail's local connections would survive, and after the three-year trial period proposed by Section 301 of this bill, we would have only the silence of the grave in many communities in the Northeast-Midwest region.

The result would be to frustrate the goals set forth in the 3R Act of 1973 under which ConRail came into being, and the recent reaffirmance of the long-standing ban against unreasonable discrimination in the 4R Act of 1976, and the goals enunciated in this bill.

I urge my colleagues to adopt my amendment which would simply preserve the long-standing prohibition against unreasonable discrimination to the extraordinary surcharges proposed by this bill. I do not believe that this House seriously intends to legalize unreasonable discrimination which the original Interstate Commerce Act of 1887 was intended to prevent.

AMENDMENT PROPOSED BY MR. MURPHY TO SECTION 208 OF TITLE II

At page 118, after line 11, insert:

"(g) Section 10711 of title 49, United States Code, is amended by adding to Subsection 4 at the end thereof a new sentence to read as follows: 'Notwithstanding any other provision of law or of this Act, the Commission shall have the duty, upon its own initiative or upon the complaint of any interested party, to ensure that existing routes shall be maintained, and that equal rates shall be applied, to all points served by rail within the same port.'"

EXPLANATION BY MR. MURPHY

Mr. Chairman, the purpose of this amendment is to give full force and effect to the amendment requiring the Commission to guarantee the equalization of rates within the same port which I proposed and Congress adopted as Section 202(f)(4) of the 4R Act of 1976, now recodified at 49 U.S.C. § 10711.

As Chairman of the Committee on Merchant Marine and Fisheries, I have held hearings on port problems—including rail service—at ports all around the continental United States. At every port, except the Port of New York which I represent, rail rates are equalized because there is competitive rail service. In the Port of New York, however, where ConRail has a virtual monopoly, rail rates are not uniform and surcharges prevail to New York points in the Port particularly to the new container port at Howland Hook in my district, where ironically, the rail facilities were constructed with a $2,000,000 grant from the federal government. The result, is to discriminate against the U.S.-flag ocean carriers which are committed to Howland Hook, and in favor of their foreign flag competitors who use the facilities on the New Jersey shore and enjoy lower rail rates.

The Commission, however, has been advised by its Rail Services Planning Office to treat my recent amendment to the 4R Act as of "questionable substantive effect". This too is ironic, since the Commission, as recently as 1978 in the *S & K Farms* Case, 357 I.C.C. 562, 570-571, recognized that "The tradition of rate uniformity began shortly after the first rail lines into New York were constructed."

This amendment would simply place on the Commission the affirmative duty to see to it that existing law is enforced and port parity is ensured within the same port, namely, the Port of New York.

This amendment is far from parochial, however, because the tidal wave of big railroad mergers, which threatens to engulf the industry, is only too likely to leave many, if not most, ports captive to one monopoly rail carrier which would be free, under this bill, to discriminate in favor of the points most convenient to it, and against points which are not so convenient to it, regardless of the investments made by shippers, receivers, short-line and terminal railroads in reliance on rail rate parity within the port.

Amendment Offered by Mr. Murphy to Section 301 of Title III

On page 125, strike line 14 and all that follows through page 138, line 17 and insert in lieu thereof the following:

Section 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for the transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceeding preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress".

EXPLANATION BY MR. MURPHY

Mr. Chairman, my amendment would substitute for the unprecedented unilateral surcharges and unilateral cancellations of joint rates on through routes, which Section 301 of this bill would authorize, the provisions for "Expeditious Divisions of Revenue" contained in Section 107 of the Senate bill, S. 1946. Under my amendment, the Interstate Commerce Commission must complete evidentiary proceedings to adjust the division of joint rates between the participating carriers within 9 months after a complaint is filed, and when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic involved, the Commission must give the proceeding preference over all other proceedings and take final action within 100 days after the evidentiary proceedings have been completed.

ConRail could thus obtain compensatory joint rate relief within 1 year, under my amendment, for the 40 percent of its traffic which is interlined where an expert, impartial public tribunal, the I.C.C., finds that relief is justified. The same would be true of any other carrier. I believe this approach is far preferable to the unprecedented, unilateral self-help which Section 301 would authorize in its present form.

In a divisions case, under 49 U.S.C. § 10705(b), "the Commission shall consider—

"(1) the efficiency with which the carriers concerned are operated;

"(2) the amount of revenue required by the carriers to pay their operating expenses and taxes and receive a fair return on the property held and used for transportation;

"(3) the importance of the transportation to the public;

"(4) whether a particular participating carrier is an originating, intermediate, or delivering line; and

"(5) other circumstances that ordinarily, without regard to the mileage traveled, entitled one carrier to a different proportion of a rate than another carrier".

If ConRail's difficulties still persist after expeditious division proceedings, its problems will have been defined on the record made before the Commission and the Congress can then tailor a remedy to fit the actual facts. This seems a wiser course than giving a blank check to raise rates through the roof, not only to ConRail, but also the big line-haul railroads, as Sections 201 and 301 of this bill would allow.

Amendment Offered by Mr. Murphy to Section 301 of Title III

At page 138, after line 13, insert the following new sub-section:

(m)(1) Notwithstanding any other provisions of law or of this Act, it shall be unlawful for any carrier to apply a surcharge to a joint rate or to cancel the application of a joint rate to a through route where the purpose or effect of such surcharge or cancellation may be substantially to lessen competition or tend to create a monopoly in any line of commerce, in any section of the country.

(2) Any person who shall be injured in his business or property by reason of anything forbidden in paragraph (1) of this subsection may sue therefore in any district court of the United States in the district in which the defendant resides or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fees.

(3) Notwithstanding anything to the contrary contained in Section 16 of the Clayton Act, 15 U.S.C. § 26, any person, firm, corporation or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this subsection where and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue. In any action under this subsection in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

EXPLANATION BY MR. MURPHY

Mr. Chairman, I offer this amendment in an effort to mitigate the anticompetitive effects of the unprecedented unilateral surcharges on joint rates and unilateral cancellations of joint rates on through routes which Section 301 of this bill would authorize, and which Section 208 would allow, even if they discriminate unreasonably.

When I wrote to the distinguished Chairman of the Committee on the Judiciary and of its Subcommittee on Monopolies and Commercial Law with respect to this amendment, he replied by pointing out that the rail industry was regulated before the Sherman Act came into being and that railroads, therefore, had never been fully subject to the antitrust laws. He stated: "* * * I certainly agree with you that in our economic system the alternative to regulation must be competition."

Since Section 301 largely lifts any regulatory restraints on these unprecedented unilateral rate increases or cancellations, even if they discriminate unreasonably, my amendment is designed to substitute the discipline of competition "where the purpose or effect of such rate increases or cancellations may be substantially to lessen competition or to tend to create a monopoly in any line of commerce, in any section of the country", following the familiar language of the Clayton Act. My amendment would give injured parties the usual remedies provided by the Clayton Act of treble damages and injunctive relief.

If this House is to lift the lid of regulation in the public interest in this area, then I submit it should substitute the discipline of competition which prevails in the unregulated sector of our economy.

On this amendment, Mr. Chairman, I trust that I will not find myself *vox clamantis in deserto*, the voice of one crying in the wilderness.●

HONDA MOTORCYCLE PLANT IN MARYSVILLE, OHIO, STRESSES TEAMWORK

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 27, 1980

● Mr. BROWN of Ohio. Mr. Speaker, one of the most serious concerns facing the American industrial community is the recent decline in productivity, which has resulted largely from rapidly deteriorating plant and equipment. We can help reverse this decline by restoring the incentive to invest through accelerated depreciation.

Beyond this necessary tax law change, we should also be looking for other important ways to stimulate American productivity in the workplace.

I would like to draw my colleagues' attention to a successful productivity technique which has been put to work in the Marysville, Ohio, Honda motorcycle plant, located in the Seventh Ohio Congressional District. Based upon the American principle of teamwork, this technique of overlapping job assignments has helped to assure a high level of productivity and job satisfaction.

The following article, written by Reporter Robin Yocum of the Columbus Dispatch, documents the success story at the Marysville Honda motorcycle plant:

MOTORCYCLES PUT TOGETHER BY BIG TEAM

MARYSVILLE.—A modern Japanese method of production in a modern Ohio manufacturing plant has been quite a change for some Americans, used to conventional ways of assembly line work.

The $25 million motorcycle assembly plant and the automobile assembly plant—soon to be under construction—near here are not only providing some 2,400 jobs for Ohio workers, but an unusual way of doing them.

The assembly line system, used at all of Honda's 40 factories world-wide, has overlapping job assignments with employees checking each other's work. This creates a "team-like atmosphere," says Sighe Yoshida, executive vice president and plant manager.

"The team effort is the basic idea we use to produce Honda," Yoshida said. "The basic concept was developed in Japan, but it is adaptable internationally.

"What it means is every individual associate will not only perform his own assignment, but make sure his assignment is properly done before sending it down the assembly line.

"Moreover, before doing your job, you make sure that the parts coming in are assembled correctly. So you're not just responsible for your assignment, but you have overlapping duties with the person before and after you," Yoshida said.

"The overlapping portion is the most important part of our operation, otherwise you can't get a quality product. We aim at a good finish in every step of our job. We develop our solid foundation through teamwork," he said.

All the workers in the plant, from Yoshida down to the last riveter, are called "associates" and wear the same uniform—white pants and smocks—which are furnished by Honda. Each associate receives two pair of uniforms, equipped with name tags, when he is hired, and these are washed daily by the company.

There are also no unions at the plant.

"Our basic philosophy is to treat every associate the same. We have no reserved parking spaces, it's all done on a first-come, first-serve basis," the executive said. The only reserved parking spaces are for visitors.

"All new associates receive a one-day training session in the cafeteria and are sometimes invited to plantwide meetings," Yoshida said.

According to Yoshida, the company stresses safety ahead of production. Since the plant opened, Honda has gone over 80,000 hours without an accident, with a 200,000-hour goal. "We have a clean and safe working area and are now trying to maintain it," he said.

The plant, which began production last fall, presently employs 200 and production is about 75 units per day. It is expected to reach maximum employment—400—by the end of the year and have an annual production of 60,000 units.

John Hofmann is a production coordinator for Honda and one of the first people hired for the Marysville plant. A former employee of a local camping trailer manufacturer, Hofmann says he enjoys Honda's new methods.

"This is a lot more challenging than my other job and there are more opportunities," Hofmann, whose position is similar to that of a foreman, said. "Sometimes I supervise and sometimes I work on the assembly line."●